

The Planning Commission voted on the proposal:

_____ Approve
_____ Deny

I. BACKGROUND

- A. **Project Summary:** The proposed project is a solar photovoltaic power generation facility with up to an undisclosed amount MW generating capacity. The proposed project site is up to 320 acres.
- B. **Site Description:** The project site is located southeast of Powell Butte in Crook County, approximately 6 miles southwest of the city of Prineville boundary, 2 miles west of the Crooked River, and 0.7 miles west of SW Millican Road. An existing transmission line corridor runs to the west of the project site boundary. The proposed site is north of the existing Gala Solar Facility. There are no existing structures on the subject property. There is no evidence of irrigation water rights on the properties or that it has been irrigated historically. The site no longer has Juniper on it. There may be other vegetation in the form of grasses and shrubs. The Juniper was cleared the first part of May 2025.

The project site is bisected by 500kV electrical transmission lines and easements operated by BPA (Bonneville Power Administration), identified on the BPA website as the Grizzly-Captain Jack No 1 and Grizzly-Summer Lake No 1 Transmission Lines, which run north and south and connect at the Ponderosa Substation to the north. There are existing easements for the energy transmission Right of Ways (ROWs).

- C. **Surrounding Land Uses:** Surrounding properties are held in private and public ownership and all zoned Exclusive Farm Use (EFU). The table below illustrates the existing use and approved land use for the surrounding area.

Direction	Map tax lot	Property owner	Structures	Acreage	Current use	Land Use
West	1615000000200	UNITED STATES	Vacant	7,705.53	Seasonal commercial cattle grazing	County Road Approach 217-15-000320-PLNG
South - west	1615000001300	EASTERLY ANDREW & JENNIFER	Non Farm dwelling	40	Single family dwelling	CU Nonfarm dwelling approval C-CU-873-95
South	1615000000201	THREE SPRINGS RANCH CO	Vacant	40	Seasonal commercial cattle grazing	none
South	1615000001800	FRUEND SPENCER INVESTMENT GROUP LLC	Existing Solar facility	392.96	Operating Solar Facility	Conditional Use approval Gala Solar Facility 217-14-000069-PLNG 320 acres

						Conditional Use Modification & Goal Exception Request approval– 1,553 acre, 103 mw - Empire Solar Facility 217-22-000152-PLNG & 217-22-000153-PLNG (not constructed)
South-east	1615000000800	POWELL BUTTE VISTAS LLC	Vacant	2,447.04	Seasonal commercial cattle grazing	Conditional Use Modification & Goal Exception Request approval– 1,553 acre, 103 mw - Empire Solar Facility 217-22-000152-PLNG & 217-22-000153-PLNG Conditional Use approval 217-21-000438-PLNG - Powell East Solar Farm LLC – up to 320 acres
East	1615000000300	RAASCH RONALD A	Vacant	2.438.63	Seasonal commercial cattle grazing	The proposed site is located inside of parcel, approximately 1,196.5 acres are east of the 500k transmission line bordering the west edge the project site.
North	1615000000400	THREE SPRINGS RANCH CO	Vacant	120	Seasonal commercial cattle grazing	None

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

E. Soils: Below is “Table 1: Soil Classifications” from the application material.

Map Unit Symbol	Map unit name	Rating	Acres In AOI	Percent of AOI
066	Avres cobbly loam 3 to 8 percent slopes	7	66.2	17.3%
076	Ayresbutte-Ayres complex, dry, 0 to 8 percent slopes	6	32.5	8.5%
109	Meadowridge-Era complex, 1 to 12 percent slopes	4	49.4	12.9%
121	Era ashy sandy loam, 0 to 3 percent slopes	6	8.1	2.1%
147	Ayresbutte-Ayres complex, 3 to 8 percent slopes	6	177.7	46.6%
156	Ginslerly-Hatrock complex, 12 to 30 percent north slopes	4	3.3	0.9%
187	Deschutes ashy sandy loam, 0 to 3 percent slopes	6	44.3	11.6%
262	Tristan extremely cobbly loam, 12 to 35 percent south slopes	7	0.1	0.0%
Totals for Area of Interest			381.7	100.0%

F. Wildlife – Sensitive Bird Habitat: The site is not identified as sage grouse habitat (Sensitive Bird Habitat). The subject property is in an area that is mapped by ODFW as winter range for elk, deer and antelope. The submitted Wildlife and Federal Sensitive Plant Review (application Exhibit L) includes other existing species of flora and fauna.

G. Access: The facility will be accessed by an existing private road from SW George Millican road. The proposal includes using the existing road approach from SW George Millican Rd.

H. Fire Protection: The subject property is located inside the Crook County Fire and Rescue District. Provisions for wildfire prevention and control shall be included in an Emergency Management Plan to be presented to Crook County Fire and Rescue for review and approval.

II. APPLICABLE CRITERIA

Crook County Code - Title 18, Zoning

CCC Title 18, Chapter 18.16 – Exclusive Farm Use Zones

CCC Title 18, Chapter 18.160 - Conditional Uses

CCC Title 18, Chapter 18.161 (Commercial power generating facilities)

Oregon Revised Statutes

ORS 215.274 (Associated transmission lines)

ORS 215.283 (Uses authorized on agricultural lands)

Oregon Administrative Rules

OAR 660-033-0120

OAR 660-033-0130(5) & (38) (Minimum standards for allowed uses)

III. **FINDINGS OF FACT:**

Crook County Code

Title 18, Zoning

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

18.16.010 Use Table

<i>6</i>	<i>Utility/Solid Waste Disposal Facilities</i>			
<i>6.4</i>	<i>Utility facilities necessary for public service, including associated transmission lines as defined in ORS <u>469.300</u> and wetland waste treatment systems but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over 200 feet in height.</i>	<i>STS</i>	<i>Notice and Opportunity for Hearing</i>	<i><u>18.16.015</u>(15)</i>
<i>6.8</i>	<i>Photovoltaic solar power generation facilities as commercial utility facilities for the purpose of generating power for public use by sale.</i>	<i>C</i>	<i>Planning Commission Hearing</i>	<i><u>18.16.060</u>(3) 18.161</i>

PROPOSED FINDING: The applicant has applied for a photovoltaic solar power generation facility up to 320 acres, listed as a conditional use 6.8 in the Use Table. The proposal includes an associated transmission line that is necessary for public service, identified as subject to standards and use 6.4 in the table. The applicable criteria are CCC 18.16.015(15), 18.16.060(3) and Chapter 18.161, which are addressed in this report.

18.16.015. Use Standards

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

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

PROPOSED FINDING: Per CCC 18.08.010 and ORS 469.300 (Definitions), “associated transmission lines” means transmission lines constructed “to connect an energy facility to the first point of junction with either a power distribution system or an interconnected primary transmission system or both or to the Northwest Power Grid”.

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

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

PROPOSED FINDING: The applicant response states, “Ground structures (i.e.; A TL poles) may be located exclusively on non-arable lands per the proposed A TL route. The soils along the proposed A TL route are all Class IV or higher soils and therefore there is no high-value farmland along the proposed route.” Prior to the submission of building permits. The applicant shall submit a site plan identifying the location of the associated transmission line and the identification of soils where the pole will be located. (Condition of Approval 1)

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

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

PROPOSED FINDING: The proposed transmission line runs northwest from the project site paralleling the existing PacifiCorp transmission line corridor with the minimum separation necessary for safety for the length of their respective routes; for general location the applicant has shown it on the updated Exhibit B of the application. As proposed, the new and existing associated transmission lines will comply with the criteria.

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

PROPOSED FINDING: There is an existing right-of-way for the existing transmission lines and the applicant may be able to locate the proposed ATL within that depending on real estate rights and agreements. The proposed transmission line meets one or more of the requirements of subsection (15)(b)(i) and is thus necessary for public service.

18.16.020 Conditional use review criteria

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

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

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

In the original application and supplemental materials for March 26, 2025, the postponed public hearing: The Applicant provided the following analysis of the surrounding properties:

“Property to the south is a solar photovoltaic facility. Property to the east is federal land managed by the Bureau of Land Management and Applicant, and there is no known accepted farming practice on that property. Other surrounding lands have limited seasonal grazing that will experience limited, if any impacts associated with the solar facility.”

In the narrative, the applicant lists potential impacts from a “temporary rise in traffic levels and dust from construction vehicles.” They conclude that those potential impacts are minimal and do not rise to the level of significant.

“Based on the lack of significant changes to surrounding uses as described above, applicant believes that the proposed solar facility will not have a significant impact (if any) on the cost of surrounding land uses. Solar PV plants have not demonstrated an appreciable impact to the uses of neighboring land. The facility will be self-contained and should not impede any currently utilized routes for accessing surrounding properties, except for the landowner providing the land for the facility who is comfortable with minor expected effects and planned accordingly for his own adaptations. The facility will not utilize any water rights and will not compete for equipment and services that support surrounding agricultural uses.”

Central Oregon Landwatch provided comments (Exhibit 3) with concerns; one of which was the level of detail and impact analysis done by the applicant to show a significant impact or increase in cost. Staff shared concern for the level of detail provided and the applicant provided Exhibit 10, which included a more complete level of analysis for the surrounding properties and their level of farm use. Staff’s concern regarding the 40 acre parcel adjacent to proposed facility was addressed in Exhibit 11, where the applicant provides reasoning that cattle will still be able to access the property from the southern property line and will cross the access road for the area.

Ron and Susan Raasch stated in Exhibit 6, “Also to confirm, as the longstanding landowner of the adjoining several thousand acres of relatively low-value agricultural ground, which are otherwise

surrounding by BLM, that we do not believe this project would have any significant adverse on surrounding agricultural practices, which are already very limited in nature.”

The Planning Commission found that the applicant had met their burden of proof through Exhibit 11 and Exhibit 6 that the proposed use will not have a significant impact on or increase in cost associated with existing farm use on surrounding properties.

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

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

PROPOSED FINDING: The Comprehensive Plan defines the objective for Air, Water and Land Resource as:

Natural resource policies are based upon the following three goals for the protection and preservation of Crook County's natural resources:

1. To maintain and improve the quality of the air, water and land resources of the county.
2. To minimize the impact of developments on the surrounding environment.
3. To direct growth in the most environmentally capable and satisfactory areas.

Policies applicable to the proposal include:

1. Encourage nonpollutant industries to locate in Crook County (Industrial Element, Chapter III).
4. Encourage “design with nature” considerations in the design and engineering of all development proposals (Housing, Industrial, Commercial and Transportation Elements, Chapters VIII, III, III, and IV).
5. Evaluate development proposals according to available scientific data pertaining to potential impact on the environment, including but not limited to:
 - (a) Depth of soil
 - (b) Slope
 - (c) Septic tank suitability
 - (d) Agricultural suitability
 - (e) Hazards
 - (f) Unique species or habitats
 - (g) Water availability and impact (Housing Element and Natural Resources Element, Chapters VIII and IX).”

The Applicant has responded in Exhibit 11:

“Air Water and Land Resource Goals and Policies: Photovoltaic solar power generation facilities produce renewable electricity with zero greenhouse gas emissions and are therefore a non-pollutant industry. [...] Compared to another, non-renewable power generating sources in Crook County, the proposed facility will improve the quality of the air in the county by generating electricity without producing emissions. Similarly, the proposed facility will impose minimal strains on water availability because solar facilities use little to no water once constructed; the Application states that panels may be washed once or twice annually as necessary. Further, the property is densely populated with juniper trees. [...] Per the proposed conditions of approval (Condition of Approval 6) Applicant will provide sit plans prior to site clearing and grading for project development, including the vegetation and trees to be included in any applicable setbacks. [...] Therefore, the proposed project will result in increased water availability due to juniper tree removal. The Application materials demonstrate that the design and engineering of the facility will minimize conflicts with surrounding landscape, housing, commercial, and transportation impacts. The facility will use industry standard materials that blend with the existing landscape (Proposed COA 7), will minimize lighting impacts (Proposed COA 7), will record a release of claims and waiver of remonstrances against farm and forest practices in the vicinity (Proposed COA 2), will be decommissioned as required under the CCC (Proposed COA 3), will have an erosion and stormwater control plan (Proposed COA 16), and will provided habitat mitigation. Therefore, the proposal is consistent with the Air, Water, and Land Resource Goals and Policies in the Comprehensive Plan.”

The Applicant’s response to the Comprehensive plan aligns with Air, Water and Land Resource goals and policies in that the proposal is for a solar energy facility, which is a non-pollutant industry, and generally not a water intensive use. They have also stated the buildout will be done in consideration of the natural setting and comply with the proposed condition of approval to ensure the project meets the standards. However, the additional statements regarding the vegetation for the proposed site is not accurate, as the Juniper trees have been removed from the ground and lie in piles.

It is expected that the project site will be cleared of vegetation, however the timing of which does lead to concerns. Those concerns are now addressed in the conditions of approval specifically, the biological study which the Applicant testified had taken place prior to the removal of Junipers, to include the nesting sites documented in the application submittal material where droppings had been observed. The fire season for Central Oregon is one of great concern to the county and residents, a condition of approval requiring the timely coordination with Crook County Fire and Rescue Department for the potential hazard which has been created without the emergency management plan in place is included.

The Economic Chapter objectives include:

8. To insure that public facilities and services, and other supportive services and facilities (including housing) are available at such levels to support existing industry and growth thereof. Such includes the provision of available land area and sites for expansion and development of industry.

10. To insure through the planning process that economic and environmental considerations are balanced.”

Policies applicable to the proposal include:

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

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

7. To insure that implementing regulations provide maximum protection for existing industry and for expansion thereof, and to provide ample land area for additional industrial growth.”

The Applicant’s response to the Economic Chapter states:

“The proposed facility would diversify, stabilize and improve the economy of Crook County. As stated in the Application materials, the proposed facility will contribute a significant increase in tax revenue, contributing a significant funding source to public services, will contribute significant labor benefits, benefiting local area businesses, and will not require significant additional housing resources. The underlying property is not adjacent to the City of Prineville Urban Growth Boundary, but the facility will be close enough to provide additional power resources to additional industrial uses. Therefore, the proposal is consistent with the Economic Objectives and Policies in the Comprehensive Plan.”

As evidenced in Exhibit 12, the energy will go back into the electrical grid at the Ponderosa substation as the interconnection report shows. The interconnect was applied for in 2016 connecting to the Ponderosa Substation, in service date of 2022 and Agreed To dated 11/15/2025. The proposal aligns with the goals and objectives of the Comprehensive Plan, through the conditional use process as it lays out criteria and considerations to ensure the proposal incorporates the livability, stability and growth for the County.

The Energy Chapter states:

“The following principles may be used as a basis for policies which maximize energy conservation and efficiency with the intent of alleviating potential energy shortages.

1. Prineville and Crook County receive about 300 days of sunshine per year. Solar energy will be a very feasible source of energy.”

Policies applicable to the proposal include:

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

7. To encourage all systems and efforts for the collection, reuse and recycling of metallic and non-metallic wastes.

The applicant's response in Exhibit 11 states:

"[...] The solar resource availability in Crook County is more than adequate to support photovoltaic solar power generation facilities because it will produce electricity at a capacity factor that enables competitive marketability of the electricity generated to be purchased through a Power Purchase Agreement. [...] Proposed COA 3 would require a decommissioning and reclamation of the subject property at the end of the useful life of the facility pursuant to CCC 18.161.010, including a decommissioning plan that addresses the reuse and recycling of metallic and non-metallic wastes and financial assurances provided to the County to ensure timely and appropriate facility decommissioning."

Other sections of the Comprehensive Plan were included in Exhibit 11 including: Agricultural, Industrial and Public Facilities and Services. The Applicant aligns the proposed use to be consistent with the Comprehensive Plan's objectives, goals and policies by identifying the codification of the regulations to allow and promote renewable energy systems. "The Project is allowed as a conditional use in the County's exclusive farm use (EFU) zones. In addition, the Crook County Court adopted specific standards in the zoning code (Chapter 18.161) for commercial wind and photovoltaic energy systems on June 16, 2010 to help promote development of renewable energy systems in the County and to address potential impacts associated with such developments."

The Applicant states that although the proposed site is located on EFU ground in the County, the proximity to Industrial development (mainly City of Prineville), allows "'behind-the-meter' clean energy for industrial uses, increased grid-stability for such industrial uses, and preserving industrially-zoned areas for appropriate industrial uses."

In response to siting and construction the applicant again cited the zoning code which provides guidance on how to identify impacts and address those in various ways. Applicant's response, "The proposed location of the solar PV facility adjacent to existing transmission and less than 2 miles from interconnect facilities, support the County's goals to maximize use of existing infrastructure." In addition, the proposed Project will be designed, sited, constructed, and operated to follow wildlife and habitat avoidance and minimization measures identified in the Applicant's Wildlife Impact and Mitigation Plan.

The Planning Commission will need to decide if the applicant has met their burden of proof to determine compliance with this standard. The Commission may ask for more information, condition the approval with supplying the information prior to a point in time, or finding that the applicant has not met their burden of proof.

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

PROPOSED FINDING: The leased portion of the parcel that makes up the proposed project site boundary is suitable for a solar power generation facility due to the availability of solar resources, topography, size, existing energy transmission facilities, and the undeveloped nature of the land. The

operating Gala Solar Facility located south of the proposed project site along the existing BPA and PacifiCorp transmission line corridor, further demonstrates the area is suitable for solar energy generation.

The topography of the area is predominantly flat, gently sloping up, westward away from SW Millican Road and is suitable for placement of the solar array and related infrastructure.

The proposed project site is limited to mainly nonarable, non-high-value farmland and avoids impacts to lands devoted to active agricultural uses such as cultivation. Therefore, the area is large enough to site a commercial-sized solar facility, without impacting farm operations in the County. The proximity of the existing BPA and PacifiCorp transmission line corridor, in conjunction with operating Gala Solar Facility, create a uniquely suitable site for the proposed solar facility to supply a new source of renewable energy for the regional grid.

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

PROPOSED FINDING: The proposed facility is located in a mostly undeveloped area of the County. As discussed above under CCC 18.16.020(1) and (2), the Applicant considers the surrounding area to include land adjacent to the proposed project site boundary. The character of the surrounding area is similar to the proposed project site in that the solar array will be located on up to 320 acres within a 2,438-acre parcel, the 320 acres shall be located as shown on the submitted vicinity and example site plan submitted with the application.

The subject tax lot (parcel) is privately owned and used for seasonal commercial cattle grazing. The surrounding properties to the north, south, and west generally include vacant and undeveloped land used for seasonal commercial cattle grazing operations. The surrounding properties to the west of the proposed project site boundary includes the existing PacifiCorp transmission line corridor, south is the operating Gala Solar Facility, a vacant parcel owned by Raasch Family Trust, and a nonfarm parcel with a dwelling on it. Although the proposed solar photovoltaic components will modify the existing landscape, it will be similar to the Gala Solar Facility with transmission lines, and will be setback from SW Millican Road.

Surrounding properties are all within are zoned EFU-3, which permits a wide range of uses as identified in CCC 18.16.010, including uses similar to the proposal (i.e. wind power generation facilities, other commercial utility facilities).

The fully built out solar facility will not alter the character of the surrounding area in a manner that substantially limits, impairs, or prevents the use of surrounding properties for the permitted uses in the underlying zoning district.

The Applicant's Exhibit 11 states:

"The character of the area includes minimal seasonal commercial grazing, vacant lands, public lands, and other solar facilities. The proposed use will not alter that character in a manner which

substantially limits, impairs or prevents the use of surrounding properties for the permitted uses listed in the underlying zoning district, nor other conditionally permitted uses. As stated in response to CCC 18.16.010(1) and (2) above, the proposal will not prevent grazing to occur on TL 161500000201 in the same limited quantities that have occurred historically. As stated in response to that criteria, there are physical pathways to continue accessing the property. In addition, the longstanding landowner submitted testimony stating that the parcel is low value agricultural land with limited agricultural practices and that the project would not significantly adversely affect the agricultural use.”

TL 1615000001800 to the south of the proposed project is the location of the existing Gala solar facility. As stated in response to CCC 18.16.010(1) and (2) above, Applicant has consulted with the landowner and solar facility owner of the existing facility located to the south of the proposed Project. Applicant will coordinate with the neighboring solar facility as necessary during construction to ensure the landowner and operator have access to the facility and to address any potential impacts from construction operations such as truck and car traffic for personnel and material delivery. Once construction concludes, there will be no potential impacts on the neighboring solar facility.”

The Planning Commission will need to decide if the applicant has met their burden of proof to determine compliance with this standard. The Commission may ask for more information, condition the approval with supplying the information prior to a point in time, or finding that the applicant has not met their burden of proof.

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

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

PROPOSED FINDING: For purposes of this analysis, the Applicant considers the “area” as the “surrounding area” discussed above under CCC 18.16.020(1), (2), and (3).

The subject property/tax lot is over 2,000 acres and is currently vacant and/or undeveloped land which is used for seasonal commercial cattle grazing operations. Surrounding properties and uses are detailed in this report and Exhibit The soils are generally nonarable, with the existing PacifiCorp transmission line corridor running north and south.

The lands surrounding the proposed Project Site Boundary are within the EFU-3 zone where, per CCC 18.16.010, uses similar in nature to the proposed Project are allowable as a conditional use and include wind power generation facilities, transmission towers, other commercial utility facilities.

The application submittal includes a section for ‘Timeline & Process – Development Construction, Operations’, which states a 4–8-month window of construction activity, dust control will happen as

needed, and worker peak time would be 8 to 12 weeks. During this time noise, traffic, dust, or other off-site impacts would be the most intense.

Once constructed, the Project will be a largely passive use that is operated remotely, with a limited staff. This means little to no noise, traffic, or other off-site impacts will be generated from Project operations.

In Exhibit 11, the Applicant states:

“[...] Applicant will coordinate with the neighboring solar facility as necessary during construction to ensure the landowner and operator have access to the facility and to address any potential impacts from construction operations such as truck and car traffic for personnel and material delivery. Once construction concludes, there will be no potential impacts on the neighboring solar facility.”

The County Code specifically allows for conditionally allowed uses as well. Exhibit 18 was submitted from the neighboring property Easterly. Easterly has an allowed approved single family nonfarm dwelling and raises, concerns include the clearing of Juniper trees to the property line, the lack of a specific site plan that shows the location of above ground structures, as well as the daily disruption during 4-8 months of construction of the facility. “When construction starts what are the days and hours of work? Is there going to be a speed limit on the road? (during clearing they were driving fast down the road). Is there a plan on controlling the dust from the extra traffic?”.

A proposed condition of approval has been added to address the neighboring property owner concern.

Exhibit 19 states that “Jake Stephens did reach out to me today and we discussed these questions we had and have a plan to resolve anything that we brought up.”

In addition, the proposed Project will not preclude access to the surrounding area, will not limit the ability to develop other allowed uses in the surrounding area, and will not change accepted practices for existing cattle grazing operations on lands in the surrounding area. For these reasons, the amended Project will remain compatible with existing and allowable uses in the area.

18.16.060. Commercial Facilities for Generating Power

(1) Commercial Power Generating Facility.

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

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

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

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

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

PROPOSED FINDING: The proposal is for a 320-acre solar facility. The proposed project site is not composed of high-value farmland. Workforce housing was not listed as a proposed use within the application submitted for review.

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

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

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

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

(d) "Nonarable soils" means soils that are not suitable for cultivation. Soils with an NRCS agricultural capability Class V – VIII and no history of irrigation shall be considered nonarable in all cases. The governing body or its designate may determine other soils, including soils with a past history of irrigation, to be nonarable based on substantial evidence in the record of a local land use application.

PROPOSED FINDING: The Applicant has provided detailed soils information for the project area, as well as information regarding water availability. The project site is comprised of eight different soil types and range from class 4 to class 7. The table included on page 3 of this document shows the acreage and percentage of acreage each soil type comprises. There is no history of irrigation on this parcel and the ephemeral streams identified have been approved for exemption through the Oregon Department of State Lands (Exhibit 1). Based on the materials and evidence submitted the soils meet the definition for nonarable. See the site plan submitted with Exhibit B in the application for soils locations.

(e) “Photovoltaic solar power generation facility” includes, but is not limited to, an assembly of equipment that converts sunlight into electricity and then stores, transfers, or both, that electricity. This includes photovoltaic modules, mounting and solar tracking equipment, foundations, inverters, wiring, storage devices and other components. Photovoltaic solar power generation facilities also include electrical cable collection systems connecting the photovoltaic solar generation facility to a transmission line, all necessary grid integration equipment, new or expanded private roads constructed to serve the photovoltaic solar power generation facility, office, operation and maintenance buildings, staging areas and all other necessary appurtenances. For purposes of applying the acreage standards of this section, a photovoltaic solar power generation facility includes all existing and proposed facilities on a single tract, as well as any existing and proposed facilities determined to be under common ownership on lands with fewer than 1,320 feet of separation from the tract on which the new facility is proposed to be sited. Projects connected to the same parent company or individuals shall be considered to be in common ownership, regardless of the operating business structure. A photovoltaic solar power generation facility does not include a net metering project established consistent with ORS 757.300 and Chapter 860 OAR, Division 39 or a feed-in-tariff project established consistent with ORS 757.365 and Chapter 860 OAR, Division 84.

PROPOSED FINDING: The applicant has responded to the definition by listing the specific project details.

“The proposed project meets the definition of a ‘photovoltaic solar power generation facility’ and includes the following equipment, components and facilities:

- PV solar panels using a fixed-tilt or single-axis racking system that would be supported by driven piles.
- Electrical equipment, including a direct current (DC) collection system from the solar panels to centralized inverters, and an altering current (AC) transformer system.
- A project substation and associated transmission line to interconnect to an existing utility substation.
- Perimeter fencing around the facility.
- Laydown and staging areas, including parking, storage for tools and parts, temporary office space, communications and facility monitoring hardware/software equipment.
- Storm water management facilities if necessary. The design of these facilities will be based on the final selection of the PV technology and layout.
- An existing access road will be utilized for project construction and operation.”

Staff ran a property inquiry utilizing the County GIS, Accela, and Assessor information for all properties within 1,320 feet from the subject tract where the project is proposed. The resulting information did not identify any existing and or proposed facilities determined to be under

common ownership on lands with fewer than 1,320 feet of separation from the tract on which the new facility is proposed to be sited. The applicant provided a site plan showing the distance to the nearest facility in shared ownership is more than 1,320 feet. Central Oregon LandWatch questioned the distance from the facility and the Applicant provided details that the distance is greater than 1,320 feet. The associated transmission lines are a part of the utility facility, which is subject to standards, not part of the review under this standard.

(f) For high-value farmland described at ORS 195.300(10), a photovoltaic solar power generation facility shall not preclude more than 12 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and Chapter 660 OAR, Division 4 or the requirements of subsection (3)(g) of this section are met. The governing body or its designate must find that:

PROPOSED FINDING: The project site is not located on high-value farmland.

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

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

(h) For nonarable lands, a photovoltaic solar power generation facility shall not preclude more than 320 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and Chapter 660 OAR, Division 4. The governing body or its designate must find that:

PROPOSED FINDING: The proposed project site is not more than 320 acres and does not require a goal exception.

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

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

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

(ii) No more than 12 acres of the project will be sited on high-value

farmland soils described at ORS 195.300(10);

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

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

PROPOSED FINDING: The proposed project site is not located on high-value soil. The proposed project site consists of 320 acres comprised of class IV (4) – class VII (7) soils. In the application states that there are 53 acres in the area study of class IV soils, no development will occur on more than 20 acres of those class IV soils. The applicant provided a revised site plan to show the soil locations for class IV soils (Exhibit B in the application material).

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

(vi) If a proposed photovoltaic solar power generation facility is located on lands where the potential exists for adverse effects to state or federal special status species (threatened, endangered, candidate, or sensitive), or to wildlife species of concern identified and mapped by the Oregon Department of Fish and Wildlife (including big game winter range and migration corridors, golden eagle and prairie falcon nest sites, and pigeon springs), the applicant shall conduct a site-specific assessment of the subject property in consultation with all appropriate state, federal, and tribal wildlife management agencies. A professional biologist shall conduct the site-specific assessment by using methodologies accepted by the appropriate wildlife management agency and shall determine whether adverse effects to special status species or wildlife species of concern are anticipated. Based on the results of the biologist's report, the site shall be designed to avoid adverse effects to state or federal special status species or to wildlife species of concern as described above. If the applicant's site-specific assessment shows that adverse effects cannot be

avoided, the applicant and the appropriate wildlife management agency will cooperatively develop an agreement for project-specific mitigation to offset the potential adverse effects of the facility. Where the applicant and the resource management agency cannot agree on what mitigation will be carried out, the county is responsible for determining appropriate mitigation, if any, required for the facility.

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

PROPOSED FINDING: The applicant has provided a Wildlife and Federal Sensitive Plant Review. The report includes a table which identifies birds, mammals, and amphibians:

Table 1. COMPASS Report Results

Ecoregion: Blue Mountains	
Strategy Habitats: Sagebrush Habitats, Grasslands	
Strategy Species:	
Birds	Mammals
Ferruginous Hawk (<i>Buteo regalis</i>)	California Myotis (<i>Myotis californicus</i>)
Flammulated Owl (<i>Psiloscops flammeolus</i>)	Hoary Bat (<i>Lasiurus cinereus</i>)
Lewis's Woodpecker (<i>Melanerpes lewis</i>)*	Long-legged Myotis (<i>Myotis volans</i>)
Loggerhead Shrike (<i>Lanius ludovicianus</i>)	Pallid Bat (<i>Antrozous pallidus</i>)
Long-billed Curlew (<i>Numenius americanus</i>)	Silver-haired Bat (<i>Lasionycteris noctivagans</i>)
Olive-sided Flycatcher (<i>Contopus cooperi</i>)	Townsend's Big-eared Bat (<i>Corynorhinus townsendii</i>)
Pileated Woodpecker (<i>Dryocopus pileatus</i>)	
Swainson's Hawk (<i>Buteo swainsoni</i>)	Amphibians/Reptiles
Trumpeter Swan (<i>Cygnus buccinator</i>)**	Western Toad (<i>Anaxyrus boreas</i>)
Western Burrowing Owl (<i>Athene cunicularia hypugaea</i>)	
White-headed Woodpecker (<i>Picoides albolarvatus</i>)	

* Species appears on both observed and modeled species lists

** Species appears on only the observed species list

The report also includes correspondence with USFWS. The two federally listed species are the Gray Wolf and Monarch butterfly. "There are no critical habitats within your project area under this office's jurisdiction. You are still required to determine if your project(s) may have effects on all above listed species." The study also list bald eagles, golden eagles, and sage thrashers as those most likely in the project area.

"PBS conducted a review of wildlife resources and federal sensitive plants within the study area. Several wildlife species were mapped as possibly present within the study area. On June 24 and 25, 2024, PBS scientists conducted a site visit to evaluate existing conditions of the study area and observe wildlife using the area. No threatened, endangered, or strategy species were observed." There were three nests located in the north-central portion of the project site, two of which had raptor pellets at the base. There is also no mention of bats which are included in the report.

Conclusions from the report regarding wildlife impact include:

“construction [to] take place outside the nesting season to avoid impacting active nest sites. If construction must start during the nesting season, [...] a pre-construction survey be conducted by a qualified biologist before construction starts to confirm that no active nests will likely be impacted within the project area. It also recommends the observed nests within the trees on the north-central portion of study area be examined to determine if eggs or chicks are present, and if deemed to be inactive, be destroyed.”

During the public hearing on June 25, 2025, the Applicant testified that the Juniper removal was conducted by the property owner and although not required, there was a pre-construction survey conducted by a qualified biologist. A condition of approval has been added to have the applicant provide that survey to the County for record with this application and property.

The Wildlife and Sensitive Plant study from Biologists with PBS, identified the site did not have the general characteristics for habitat of Bull Trout, Gray Wolf, or Monarch Butterflies. However, in their research they did confirm the mapped habitat, through consultation with ODFW, for deer, antelope, and elk. Wildlife maps utilized by Crook County show mapped winter range for deer and antelope.

The study followed the ODFW habitat flow chart for classification of habitat. PBS concluded that the habitat is category 4. The applicant has proposed a Habitat Mitigation plan for the developed acreage to be mitigated at a 2:1 ratio, to meet the “no net loss and a net benefit” standard associated with habitat category 2. ODFW comments (see Attachment A1) on the proposed Habitat Mitigation Plan ask the question of effect that multiple projects potentially have in preventing the movement of big game through the area. The PBS study does not take that into account and uses as a factor for habitat categorization that, “Big game movements are not expected to be significantly impacted or impinged by construction on the study area because surrounding parcels allow movement of big game species around the study area, where there is similar habitat, level of human disturbance, and road development compared to the study area.”

The impact of this development on the movement of big game, as expressed by ODFW, may be something to consider as the project goes forward.

Due to the non-listed nature of the other species mentioned above, the applicant has not provided impact analysis for those species’ habitats that may be present.

A Habitat Mitigation Plan for elk, deer and antelope has been developed and submitted from the applicant. ODFW has provided comments on the plan and staff recommendation is option 2, a payment in lieu of direct mitigation.

- Option 1 is juniper removal
- Option 2 is payment in lieu of mitigation at the same 2:1 ratio
- Option 3 is an alternative mitigation project that would be endorsed by ODFW and brought to the Planning Commission as a limited modification of the CUP.

(i) The project owner shall sign and record in the deed records for the county a

document binding the project owner and the project owner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices as defined in ORS 30.930(2) and (4).

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

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

PROPOSED FINDING: Decommissioning bonds are addressed in Chapter 18.161 of this report and are addressed in the conditions of approval. (see condition of approval 3, 4, & 5)

(k) Standards for solar photovoltaic generating facilities found in CCC 18.161.010 shall also apply.

PROPOSED FINDING: CCC 18.161.010 standards are addressed further in this report.

18.16.075 Development Standards

(2) In and EFU zone, the minimum setback of a structure shall be as follows:

(a) Front setback shall be:

(i) Twenty feet from the property line for a property fronting on a local minor or collector or marginal street access

(b) Each side setback shall be a minimum of 20 feet from property line

(c) Rear setback shall be a minimum of 25 feet from property line

PROPOSED FINDING: The applicant's submitted site plans do not show compliance with the development standards for minimum setbacks in the EFU zone. The plans state the setback requirement shall conform to the standards. The applicant shall submit a final development plan, including a site plan with setbacks clearly shown from all structures to the nearest property boundaries. (see condition of approval 6)

CCC Title 18, Chapter 18.160 - Conditional Uses

18.160.010 Authorization to grant or deny conditional uses.

A conditional use listed in this title shall be permitted, altered or denied in accordance with the standards and procedures of this title and this chapter by action of the planning director or planning commission. In the case of a use existing prior to the effective date of the ordinance

codified in this title and classified in this title as a conditional use, a change in use or in lot area or an alteration of structure shall conform with the requirements for a conditional use.

PROPOSED FINDING: The proposed use is not preexisting, and the applicant has provided an application and materials for addressing the standards and procedures of this title.

The Planning Commission will need to determine if the applicant has met their burden of proof and provided adequate material and evidence to issue a decision for the proposal.

18.160.020 General criteria.

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

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

PROPOSED FINDING: Consistency with the comprehensive plan, objectives of the zoning ordinance and other applicable policies and regulations of the county are the essence of this staff report. Comprehensive plan criteria are specifically addressed previously in code section 18.16.020.

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

PROPOSED FINDING: Summarizing the applicant's response to the above standard is that the proposed solar facility is a quiet, low-profile development that minimally impacts the livability and aesthetics of surrounding properties by maintaining natural vegetation in the setback areas and adhering to structural setback requirements. Compared to other permitted uses like composting, oil and gas exploration, or industrial farming, it has significantly fewer negative effects on surrounding property values due to its lack of noise, odor, and emissions. Additionally, it does not interfere with existing agricultural practices, imposing far less strain on the environment and neighboring land uses than other outright permitted uses, such as a commercial cattle operation with seasonal grazing, which historically on this property would be seasonal grazing.

In Exhibit 11, the Applicant provides further response:

"[...] Applicant has thoroughly analyzed the proposal in comparison to surrounding property uses. The proposal will have minimal adverse impacts on livability because there is only one occupied dwelling in vicinity to the Project. Applicant has consulted with that property owner on multiple occasions and is committed to maintaining ongoing communication to avoid or minimize potential conflicts. The proposal will have minimal adverse impacts on the value of

abutting properties because it will not change the usability of such properties for current, existing, and outright permitted uses. The proposal is also appropriate development compared to surrounding properties, which include an existing solar facility immediately to the south of the subject property. Compared to the impact of development that is permitted outright under the CCC provisions for EFU zones, the facility will have a minimal adverse impact on livability, value, and appropriate development because it will not impact the ongoing use of surrounding properties, will not alter the essentially non-residential nature of the area, and is a benign property use due to lack of noise, odor, and emissions.”

The Planning Commission will need to decide if the applicant has met their burden of proof to determine compliance with this standard. The Commission may find that the burden has been met, ask for more information, condition the approval with supplying the information prior to a point in time, or finding that the applicant has not met their burden of proof.

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

PROPOSED FINDING: The location of the proposal is in a high solar resource area: generally flat topography and large property size, the ‘vacancy’ of the property reduces impacts, and the proximity to the existing transmission lines and substations are attractions for this parcel. The applicant has stated it will be similar in appearance to the existing Gala site operating to the south.

The applicant has not provided a specific materials list or the provided sufficient specificity regarding the development of the site to be as attractive as the nature of the use and its setting warrant. The materials listed are generic, “factory pre-built power collection stations” are proposed to be installed throughout the site and steel foundation supports. There is no information provided regarding the color, building material, or anti-reflective materials or other steps the applicant may take to blend the proposed structures into the setting.

The Applicant provided additional information in Exhibit 11:

“Applicant has reviewed Proposed COA 7 and would agree to submit a specific materials list that describes the types of materials to be used on the Project prior to site clearing and grading (not including juniper removal). The Applicant will use industry-standard materials. Industry-standard materials generally include muted, non-reflective colors that blend with the surrounding environment. Other photovoltaic solar power generation facilities constructed in Oregon and throughout the Pacific Northwest generally use the same types of materials which include steel posts and racking, non-reflective modules, standard substation components, and chain link fencing. The facility will likely appear similar to the Gala facility to the South, and substation components will likely appear similar to other small facility-specific substations. Therefore, the proposal will be as attractive as the nature of the use and its setting warrant, and the proposal complies with CCC 18.160.020(3).”

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

PROPOSED FINDING: The proposed solar facility would further the County's support of solar development and increase diverse energy production. The proposal includes mitigation for big game habitat off-site, and the Planning Commission may look at conditions of approval to ensure the design is compatible with the natural rural setting.

Renewable energy is supported in the Comprehensive Plan and conditionally allowed use on resource ground. The applicant has shown the proposed site is not located on high-value farm ground; it is located on 'commercial agricultural land'. The applicant states that the property owner will be able to continue the existing farm practices on the other acreage of the parcel, not associated with the solar facility. The applicant states the proposed facility will not have adverse impacts on other County interests.

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

PROPOSED FINDING: The applicant states, "Applicant affiliates have successfully permitted and constructed Solar PV projects in central Oregon, in Harney and Lake County and continue to pursue further development investment."

18.160.030 General conditions.

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

- (1) Limiting the manner in which the use is conducted including restricting the time an activity may take place and restraints to minimize such environmental effects as noise, vibration, air pollution, glare and odor.*
- (2) Establishing a special yard or other open space or lot area or dimension.*
- (3) Limiting the height, size or location of a building or other structure.*
- (4) Designating the size, number, location and nature of vehicle access points.*
- (5) Increasing the amount of street dedication, roadway width or improvements within the street right-of-way.*
- (6) Designating the size, location, screening, drainage, surfacing or other improvement of a parking area or loading area.*
- (7) Limiting or otherwise designating the number, size, location, height and lighting of signs.*
- (8) Limiting the location and intensity of outdoor lighting and requiring its shielding.*
- (9) Requiring diking, screening, landscaping or another facility to protect adjacent or nearby property and designating standards for its installation and maintenance.*
- (10) Designating the size, height, location and materials for a fence.*
- (11) Protecting and preserving existing trees, vegetation, water resources, wildlife habitat or*

other significant natural resources.

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

Staff has reviewed the additional conditions above and suggests discussion specifically around the following:

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

PROPOSED FINDING: Prior to submission of a building permit the applicant shall submit an updated materials list including specific reference to glare and noise. (See condition of approval 7)

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

PROPOSED FINDING: The Applicant shall submit to the planning department, building plans for any structure indicating size, location and design. (see condition of approval 8)

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

PROPOSED FINDING: Signage has not been included with the application material. Prior to installation of any signage a separate application shall be required. Any lighting shall comply with CCC 18.126. (See condition of approval 9)

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

PROPOSED FINDING: The county has outdoor lighting standards in CCC 18.126, any outdoor lighting that is required to comply with that code section shall have submitted cut sheets for those fixtures showing compliance. (See condition of approval 9)

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

PROPOSED FINDING: The proposed Project is setback from SW Millican Road and the existing Gala Solar Facility. No landscape screening is proposed.

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

PROPOSED FINDING: The proposed Project will be fenced with chain link cyclone fencing no less than 8 feet in height, and without barbed wire on top. Fencing is required for security, but the design criteria for both wildlife and security/safety objectives are compatible. A detailed site plan has not been submitted for review. The site plans in the application material state, "for illustrative purposes only"

and do not include a fencing plan. A revised site plan and additional materials information is in the conditions of approval. (see condition of approval 10)

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

PROPOSED FINDING: The Applicant will continue to minimize impacts on surrounding habitat and ecosystem functions (e.g., water conveyances, wildlife movement corridors). Existing natural resources and ecosystem functions that do not require alteration or removal will be avoided. Areas with temporary Project impacts will be restored and revegetated (e.g., use of native seed mixes, control of noxious weeds) as identified and addressed in an amended Noxious Weed Control Plan. No additional conditions are required for compliance.

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

PROPOSED FINDING: The Planning Commission may review the above criteria to determine if and what conditions may be included that they find necessary to avoid a detrimental impact and to otherwise protect the best interests of the surrounding area or the county as a whole. Unless the commission deems it necessary, no additional conditions are identified to ensure the proposal meets the requirements of the Crook County Code or Comprehensive Plan.

18.160.040 Permit and improvements assurance.

The commission may require an applicant to furnish the county with an agreement and security in accordance with CCC 17.40.080 and 17.40.090 that the planning director or planning commission deems necessary to guarantee development in accordance with the standards established and the conditions attached in granting a conditional use permit.

PROPOSED FINDING: Should the Planning Commission choose to require the applicant to provide the above agreement and/or financial security, a condition of approval can be added. If the Commission chooses not to require the above standard, the proposed finding will reflect their direction.

18.160.050 Standards governing conditional uses.

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

PROPOSED FINDING: The general criteria and conditions in CCC 18.160.020 and 18.160.030 and the provisions of Chapter 18.161 are addressed elsewhere in this staff report.

18.160.070 Permit expiration dates

- (1) *A conditional use shall be void after four years unless development action has been initiated, the proposed use has occurred or the county has granted an extension of time in accordance with subsection (2) of this section.*
- (2) *The county shall grant two-year extensions to the four-year time period set forth in subsection (1) of this section as planning director decisions pursuant to CCC 18.172.060(2).*
- (3) *For the purposes of this section, the term “initiate development” means that substantial construction towards completion of the conditional use permit has taken place. Substantial construction has occurred when the land and/or structure has been physically altered or the use changed and such alteration or change is directed toward completion and is sufficient in terms of time, labor or money spent to demonstrate a good faith effort to complete the development. (Ord. 236 § 3 (Exh. C), 2010; Ord. 216 § 2, 2009; Ord. 178 §§ 1 – 3, 2007; Ord. 18 § 6.070, 2003)*

PROPOSED FINDING: The above highlight expiration dates for conditional use permits and address what is considered in determining the initiation of development. A condition is included in this report stating that the permit shall be valid for four years after final approval has been granted. Final approval is considered the end of the 12-day appeal period, or when a final determination has been made after any potential appeals. The application shall become void four years after final approval is received, unless an extension of time has been applied for prior to the expiration, or unless the substantial construction has occurred in accordance with CCC 18.160.170.

CCC Title 18, Chapter 18.161 (Commercial power generating facilities)
18.161.010 Criteria.

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

(2) Commercial Photovoltaic Energy Systems.

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

PROPOSED FINDING: Chapter 18.161 of the Crook County Code adopted the state model code for commercial energy facilities and mirrors the criteria in the applicable OARs. Compliance with the OARs and the Crook County Code is demonstrated in the findings throughout this staff report.

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

(i) A description of the proposed photovoltaic energy system, a tentative

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

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

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

PROPOSED FINDING: The Applicant has provided evidence of an active utility transmission interconnect (Exhibit 12). The application materials do include a proposed route for the transmission lines through tax lots 300, 400, 1208, 1209 and 2900 to connect to the Ponderosa Substation located north of the proposed site, as shown on Exhibit B of the application materials. The applicant has indicated that the specific layout and route will be finalized after the approval for the use and closer to when the project is scheduled to be constructed.

The Applicant provided further detail in Exhibit 11:

“Applicant’s affiliate has an active utility transmission interconnection request at the Ponderosa Substation complex with the Bonneville Power Administration (BPA) which is queue number G0539. Applicant’s Second Supplement includes a copy of the BPA queue showing G0539 in active status with an executed Large Generator Interconnection Agreement (LGIA).⁵ The interconnection request provides more than sufficient capacity to energize the proposed Project. Applicant also provided additional material in Applicant’s First Supplement that clarifies the proposed gen-tie route and permitting plan for associated transmission facilities. The gen-tie lines will run from the proposed Project footprint northwest approximately one (1) mile to the Ponderosa-Corral substation complex, in proximity to the existing rights-of-way owned by BPA or Avangrid for existing transmission lines. Therefore, Applicant has provided evidence in the record demonstrating compliance with CCC18.161.010(2)(b)(i).”

A detailed site plan showing the location of the associated transmission lines. (see condition of approval 1).

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

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

PROPOSED FINDING: The Applicant has identified noise, traffic and dust as potential conflicts during the development of the solar facility. They anticipate this disturbance to be minimal and have proposed to take actions limiting impacts. Including following the submitted erosion control plan, weed management plan and limiting disturbances especially during the peak 2-4 months of construction.

There is material in the record from adjoining property owners stating that the proposal is compatible with existing farm uses.

Exhibit 11 provides further response from the Applicant:

“Identification of potential conflicts with accepted farm practice as defined in ORS 215.203(2)(c) is provided in response to CCC 18.16.020(1) and (2). In particular, potential conflicts may include dust, construction traffic, and noise. As provided in the Application materials and Staff Report (including the proposed conditions of approval) these potential conflicts will be abated with erosion control and weed management plans, and will only occur during the construction period peak of 2 to 4 months. Potential conflict with grazing practices and livestock movement is discussed in response to CC 18.16.020(1) and (2) and (3)(c). Therefore, the proposal complies with this approval criterion.”

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

PROPOSED FINDING: The proposed project site is located on the southern portion of the 2,438 acre parcel. The Applicant states the proposal is consistent with the operational Gala solar facility to the south. The north boundary of the parcel is adjacent to other commercial electric infrastructure. Other resource practices, seasonal commercial cattle grazing operations, are still operating.

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

PROPOSED FINDING: Exhibit N of the application material is a Transportation Analysis Letter (TAL), submitted by Transight Consulting, LLC., Joe Bessman PE. The trip generating characteristics of the proposal are the construction period and the site access at Millican Road. There is existing access from Millican Road, which provides access to the existing Gala and proposed, Powell East and Empire solar facilities. Transight notes that there is a dashed centerline on the portion of Millican adjacent to the access point.

Trip generation for the solar facility is minimal as described in the TAL Table 1, showing weekday daily trips as 4; and weekday pm peak hour trips total as 1. Conclusion is that the total trips do not necessitate a full Traffic Impact Analysis. Transight provided recommended construction mitigation measures:

- "Trucks Entering Highway" temporary construction signage should be installed on either side of the access throughout the construction period to warn motorists of construction activity.

- The applicant should coordinate with the Crook County public works to ensure a plan is in place to prevent rocks and debris from entering Millican Road. This should include extending an asphalt driveway apron a minimum of 75-feet into the property.
- The allowed passing maneuvers along Millican Road should be restricted while construction activity is occurring. This may be provided through No Passing Zone (W14-3) or Do Not Pass/Pass with Care signage per the MUTCD.
- Separate on-site areas should be designated for passenger vehicle parking and truck staging. No parking should be permitted along the Millican Road shoulders.
- Since the proposed solar facility will use a shared access already approved for solar farms a new access permit onto Millican Road should not be required.

The County Road Superintendent has provided comment and is included in Attachment A.

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

PROPOSED FINDING: Portions of the site are located in an area identified in the ODFW inventory for big game habitat winter range elk, deer and antelope. This type of habitat is identified as being of concern in the Crook County Comprehensive Plan. The requirement for a technical advisory committee was waived. The Applicant submitted a mitigation plan to ODFW and the County and provided a summary of the proposed mitigation. The Applicant identified three possible choices for mitigation, which all include measures for ongoing monitoring. ODFW comments are in Attachment A1 and indicate they are able to support each of the options.

Planning Commission shall review the options and ODFW comments to identify a preferred mitigation program. The mitigation shall include any project to occur within the boundaries of Crook County. (see condition of approval 12, 13 and 14)

The Applicant testified during the June 25, 2025 public hearing, that they would like to have all three options preserved and have the Planning Commission adopt the submitted 'Wildlife Habitat Mitigation Proposal: Moffatt Road Solar Farm, LLC' as submitted.

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

PROPOSED FINDING: The applicant provided an emergency management plan (EMP) which addresses terrain, conditions, access and water. Crook County Fire and Rescue District will continue to work with the applicant and review a revised plan for approval and submission to the Planning Department.

At the June 25, 2025, public hearing, Crook County Fire and Rescue learned of the clearing and piling of Juniper trees on the proposed site. They stated those can pose a fire risk and that they will require immediate communication to address a plan for the removal. A condition of approval has been added to require within 14 days of signature on the decision, the Applicant provides evidence of communication with the CCFR to address the immediate fire risk.

The Crook County Fire and Rescue District has included comments regarding the proposal, which are included in Attachment A. To ensure compliance, a condition of approval has been included requiring a more detailed Emergency Management and Response plan for this facility (including final site design and layout information) to be provided to Crook County Fire & Rescue for approval, who will assess an impact fee consistent with their Board Policies for projects of this nature.

The plan will be reviewed under the Oregon Fire Code and shall include a full site plan and information on MW capacity. (See condition of approval 15)

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

PROPOSED FINDING: The applicant included an Erosion Control Plan (Exhibit G of the application), that addresses clearing and grading, topsoil removal and storage, temporary erosion and sediment control, reclamation and revegetation (including seeding), permanent erosion and sediment control, and waterbodies and riparian areas (of which there are none identified on site to be considered). It was not developed in consultation with the Crook County Soil and Water Conservation District, the Crook County Watershed Council, and the Oregon Agricultural Water Quality Management Program (administered by the Oregon Department of Agriculture and Department of Environmental Quality). Within 30 days from the Planning Commission signature of this decision, the applicant shall submit a

dust control plan. If the plan includes any reseeding, the applicant shall also provide consultation with the Crook County Soil and Water Conservation District, Crook County Weedmaster, and Oregon Department of Agriculture.

Prior to the submission of any electrical plan review, applicant will submit a copy of the final erosion and sediment control plan, developed in consultation with the Crook County Soil and Water Conservation District, the Crook County Watershed Council, and the Oregon Agricultural Water Quality Management Program (administered by the Oregon Department of Agriculture and Department of Environmental Quality) as provided to the Department of Environmental Quality for the National Pollutant Discharge Elimination System 1200-C permit. (see condition of approval 16)

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

PROPOSED FINDING: The applicant provided a Weed Control Plan (Exhibit H in the application), the plan states that “Applicant and its contractors will be responsible for implementing weed control. Applicant shall ensure that it and its service providers or contractors comply with the County-wide weed control standards and practices.” Within 30 days from the Planning Commission signature of this decision, the applicant shall submit evidence of consultation with the Crook County Weedmaster regarding the current project site’s vegetated state and provide approved weed management plan.. The Weedmaster’s comments are included as Attachment A. (see condition of approval 17)

(viii) Information pertaining to the impacts of the photovoltaic energy system on:

(A) Wetlands and streams;

PROPOSED FINDING: The applicant’s narrative states that there is a minimal impact on the intermittent streams and there are no wetland designations within the project site. The Department of State Lands has provided approval for development along and within the intermittent streams (see Exhibit 1).

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

PROPOSED FINDING: The applicant has provided a Wildlife and Federal Sensitive Plant Review. The report includes birds, mammals, and amphibians, as well as considerations for big game. The main impacts are loss of habitat and disruption of migratory patterns.

(C) Wildlife habitat; and

PROPOSED FINDING: The applicant provided a Wildlife and Sensitive Plant Study from. The study identified that the site did not have the general characteristics for habitat of Bull Trout, Gray Wolf, or

Monarch Butterflies. Their research did confirm the mapped habitat, through consultation with ODFW, for deer, antelope, and elk. “PBS conducted a review of wildlife resources and federal sensitive plants within the study area. Several wildlife species were mapped as possibly present within the study area. On June 24 and 25, 2024, PBS scientists conducted a site visit to evaluate existing conditions of the study area and observe wildlife using the area. No threatened, endangered, or strategy species were observed.” Due to the non-listed nature of the other species mentioned above the applicant has not provided impact analysis for those species habitats that may be present.

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

PROPOSED FINDING: Security fencing is proposed with gates at all access points to minimize any criminal activity. The applicant states that temporary fencing and security measures may be implemented during construction, potentially utilizing 24/7 security onsite. The Emergency Management Plan also addresses public safety, including criminal activity.

(ix) A dismantling and decommissioning plan of all components of the photovoltaic energy system, as provided in subsection (2)(e) of this section.

PROPOSED FINDING: The applicant has submitted a revised Solar Facility Decommission Plan (Exhibit 2), the plan describes the dismantling and decommissioning methods. Decommissioning is also discussed in more detail in this report within the findings for CCC 18.161.010(2)(c)(xv-xvi).

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

PROPOSED FINDING: The applicant has consulted with the State Historic Preservation Office and local Tribes, conducted a thorough archaeological inventory survey, and found no significant cultural or historical resources within the project boundaries, committing to avoidance or mitigation if any are discovered during construction. The project's design aligns with the visual character of the area, being consistent with surrounding land uses and situated alongside existing transmission lines to minimize visual impact. Additionally, the project is entirely on private land, avoiding recreational resources and ensuring no negative effects on local recreational opportunities.

The facilities are designed to avoid adverse socioeconomic impacts on the county while aiming to generate net positive economic benefits, including increased patronage of local businesses during development and construction. Construction is expected to span 4–8 months, requiring a mix of local

and non-local workers, with associated positive impacts on local food, lodging, and services. During operations, the facilities will require routine maintenance, contributing additional economic activity and property tax revenues. The project will not demand significant governmental services, except for rural fire protection and EMS, with any required improvements funded by the project. The Applicant provided additional response in Exhibit 11:

“Economic / Public Service: As discussed in response to CCC 18.16.020(3), the proposed use does not require public services like water or sewer. Water necessary for construction or very occasional panel washing as necessary during operation will likely be provided by truck procured by the facility owner or operator. No sewage service is necessary. Applicant’s affiliates have successfully worked with Crook County Fire & Rescue in the past and will engage on this project to ensure that there is appropriate fire access and material handling. Conversely, the projected tax revenue from the Project will contribute significant funding to expand public services for area residents, in addition to providing significant opportunities for local jobs, contracting, and ancillary economic benefits. Therefore, the project will have an overall net positive socioeconomic impact on public services.

Cultural: Applicant submitted evidence in Applicant’s First Supplement (Listed in the Hearing Packet as “Application Materials SHPO”) confirming the State Historic Preservation Office’s receipt of the archeological report for the Property prepared by Applicant’s cultural resource consultants. Applicant will comply with applicable statutes and regulations governing cultural, historic, and archaeological resources, which typically includes avoiding cultural resource sites. Therefore, the facility will have a minimal or neutral impact on historic, cultural, and archaeological resources.

Habitat: Applicant developed a Habitat Mitigation Plan in consultation with ODFW. The goal of the habitat mitigation is to achieve no net loss and a net benefit to habitat that may be impacted by the proposal. Accordingly, the project will have a mitigated impact on designated habitat. The Applicant has been in communication with Crook County Soil and Water Conservation District (“CCSWCD”), which has identified an area suitable to ODFW for mitigation ground and is finalizing a site-specific plan. The Applicant will continue to work with CCSWCD to provide the Option 2 plan under Applicant’s Habitat Mitigation Plan prior to the closing of the record.

Visual / Recreational: Applicant anticipates minimal visual impacts from the proposed facility. As outlined in Attachment A and as discussed in response to CCC 18.16.020, the majority of surrounding uses of the property are minimal seasonal grazing, other solar facilities, and only one occupied residence. The property is located West of Millican Road. Public lands on TL 1615000000200 provide spacing between the road and the proposed facility at a distance of approximately 685 feet (at the south) and over 3,300 feet (at the north) which will provide a natural visual buffer between the roadway and facility. All other surrounding properties are private properties with no existing recreational trails or usage that may be impacted by the facility.”

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

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

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

PROPOSED FINDING: The surrounding parcels are not zoned residential or designated residential through the comprehensive plan. There is a nonfarm residence on an adjoining parcel. As the final development plan has not been identified and although the proposed transmission lines are located on the west side of the proposed project site, the applicant shall include the distance from electrical transmission lines to the existing residence on the abutting property with submission of a detailed site plan. (see condition of approval)

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

PROPOSED FINDING: The proposed solar facility site will require the removal of all trees, vegetation and wildlife habitat from the project site up to 320 acres, so that the facility may absorb the most amount of sunlight to convert that into electricity. The applicant has provided studies for each of the considerations above, supporting the position that the proposed use will have minimal impact or provide mitigation for those impacts which there are standards in place to require it. The development proposal does say the applicant will be protecting or preserving any existing trees, vegetation, within the setbacks.

After the submission of the application, sometime in early May 2025, the property owner (as testified to by the Applicant) authorized the removal of Juniper trees with heavy equipment. Pictures of the site included in the staff presentation show the before and after. Exhibit 18 from the Easterly's also show the removal of vegetation including Juniper trees along their property line. A condition of approval has been added for the Applicant to submit the preconstruction survey, which they testified to having been conducted, even though it is not a requirement for a property owner clearing their own land. A detailed site plan is required in multiple conditions of approval which clearly shows the setbacks. No other significant natural resources are identified on the site.

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

PROPOSED FINDING: The applicant states that the site is relatively level and minimal leveling will be required. Staff reviewed the topographic imagery of the site and determined most of the proposed 320

acres to be relatively level as well.

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

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

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

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

PROPOSED FINDING: The applicant addresses the question by describing how the project design minimizes adverse effects on wildlife and their habitats. They highlight specific measures such as maintaining a low profile for structures, spacing components appropriately, and following a noxious weed plan to avoid creating artificial habitats for raptor prey. Post-construction, the same weed control practices will continue to prevent such habitats. Additionally, transmission lines are designed with proper conductor spacing and are located near taller existing infrastructure to discourage wildlife collisions and electrocutions. These efforts collectively demonstrate a commitment to reducing potential harm to local wildlife throughout the project's lifecycle.

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

PROPOSED FINDING: The project site is not in sage grouse habitat, however the study by PBS did identify three potential raptor nests, two of which showed signs of being in use. The following was included from PBS:

“No ground nests were observed during the site visit. However, three raptor nests were observed within juniper trees located in the north-central portion of the study area. No birds were observed occupying the nests or flying to and from the nests during the site visit. The Applicant's consulting biologist does not believe that these nests are bald eagle or golden eagle nests. The Habitat Mitigation Plan will include design features to reduce the likelihood of significant adverse effects on wildlife and wildlife habitat including migratory bird conservation measures and language agreeing to conduct vegetation removal and construction activities to avoid impacts to active nest sites if present (March 1 - August 1) or to monitor for nest sites if construction occurs during normal nesting periods.”

PBS's conclusions state: “Construction activities may disturb nesting birds, should they exist in

the area. PBS recommends that construction take place outside the nesting season to avoid impacting active nest sites. If construction must start during the nesting season, PBS recommends that a pre-construction survey be conducted by a qualified biologist before construction starts to confirm that no active nests will likely be impacted within the project area. The MBTA allows for inactive nests to be destroyed, to prevent their future reuse. PBS recommends the observed nests within trees on the north-central portion of the study area be examined to determine if eggs or chicks are present, and if deemed to be inactive, be destroyed.”

Within 15 days of the Planning Commission signature of this decision, the applicant shall provide the preconstruction survey they testified occurred prior to the vegetation removal which took place between the dates of March 1, 2025, and May 14, 2025.

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

PROPOSED FINDING: The facility is not a concentrating solar technology.

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

PROPOSED FINDING: The applicant is proposing an 8-foot fence with security gates at all access points, as well as gates near the corners for ease of stress on wildlife if they are inside. Prior to the submission of any electrical plan review, a site plan shall be submitted clearly showing the proposed location of perimeter fencing which is proposed to be a minimum height of 8 feet, with secure gates in place at the entrances to the project site from all access points and corners away from roads to allow any wildlife exit opportunities. The fence material shall be a chain link fence, without slats.

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

PROPOSED FINDING: The proposed facility is not within EFSC jurisdiction, (v) does not apply.

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

PROPOSED FINDING: The applicant posits that with proper installation the misdirection of solar radiation is unlikely. “Therefore, the proposed facility will be designed, constructed, and operated to prevent the misdirection of concentrated solar radiation onto nearby properties, public roadways or other areas accessible to the public.” The Department of Defense provided comment, see Attachment A. 19. All necessary permits shall be applied for and approved prior to any construction toward the development of the site for the proposed use.

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

PROPOSED FINDING: The application material states, “The facility will be fenced with security gates. All possible hazards (such as high voltage, for instance) within the facility shall be appropriately signed according to acceptable safety standards per NEC and other appropriate guidelines for high voltage guidelines. EMP discusses public safety issues and a final EMP will be submitted to both the CCFRD and Planning, prior to clearing and grading.”

As the conditions of the site have changed, the ‘clearing and grading’ language to has changed. Within 14 days from Planning Commission signature of this decision, the applicant shall provide evidence of communication with the Crook County Fire and Rescue Department to coordinate the management of the Juniper clearing and piling which has taken place on the proposed project site.

Prior to the submission of any electrical plan review a final Emergency Management and Response (EMR) plan for this facility (including final site design and layout information) shall be provided to Crook County Fire & Rescue for approval, who will assess an impact fee consistent with their Board Policies for projects of this nature. The impact fee is due prior to issuance of the electrical plan review.

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

PROPOSED FINDING: The proposed facility site is not adjacent to, or within, the control zone of Prineville or Redmond airport.

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

PROPOSED FINDING: The above criterion requires the use of cleaners that are low in volatile organic compounds when cleaning the photovoltaic panels or heliostats, and that recyclable or biodegradable products should be used to the extent possible. The applicant states in their application that they will meet this criterion, and that water alone suffices and is preferred for cleaning the panels. During construction and operation, site personnel and their subcontractors will be required to conform to site safety plans which include plans for spill containment of commonly used chemicals.

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

PROPOSED FINDING: The solar facility is proposed to have fencing and access gates, with security

measures, surrounding the project site.

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

PROPOSED FINDING: The applicant stated, “Solar collection cabling internal to the site may be installed underground, or aboveground to the extent underground cabling is not feasible, with several stations above ground used for Inverters, AC breakers, transformers and other required energy collection that will be appropriately signed and secured per safety standards.”

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

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

(B) The building will be removed or converted to farm use upon decommissioning of the photovoltaic energy system consistent with the provisions of subsection (2)(e) of this section.

PROPOSED FINDING: The Applicant stated in their application that “Any required maintenance/operations buildings such as substation control buildings will be designed and constructed generally consistent with the character of similar buildings in the vicinity and will be removed or converted to farm use upon decommissioning of the facility.” No detailed information has been provided showing the design or what is considered generally consistent with the character of similar buildings. Prior to the submission of any electrical plan review, the applicant shall provide specific materials list including but not limited to building elevations of all proposed structures, paint or siding colors, roofing material, anti-reflective and or noise materials or other design implements that the applicant may take to blend the proposed structures into the setting. (see condition of approval 7)

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

PROPOSED FINDING: Exhibit K, included in the application material, is an example of a covenant which aligns with the above standard. Prior to the submission of any electrical plan review, the applicant shall submit the non-remonstrance agreement to County Counsel for review prior to filing it with the Crook County Clerk. After approval from County Counsel the applicant shall sign and record in the deed

records for Crook County a document binding the Project owner and the Project owner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming practices as defined in ORS 30.930(2).

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

PROPOSED FINDING: The applicant proposes access from SW Millican Road, which is a county road. To ensure compliance, a condition of approval is included in this report requiring the applicant to enter into a road use agreement with the Crook County Road Department . The County Road Superintendent has provided comment for additional paving through the road right of way at the road approach onto SW Millican (see Attachment A). 20. Prior to submission of any electrical permit, the applicant shall construct the road approach at Millican Road to the satisfaction of the Crook County Roads Superintendent. The applicant shall also submit evidence of the road safety plan during construction. Including dust control for access roads during construction.

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

PROPOSED FINDING: The applicant submitted a decommissioning plan in accordance with the Crook County Code and Oregon Administrative Rules. The applicant stated in the application that the plan shall be implemented as part of the on-going project development. Staff notes that Crook County has not recognized the salvage value of materials in establishing the required amount of decommissioning bonds for other commercial solar projects permitted in the county.

(xvi) An agreement and security in accordance with CC 17.40.080 and 17.40.090 acceptable to the county shall be established to cover the cost of dismantling of uncompleted construction and/or decommissioning of the facility, and site rehabilitation; see subsection (2)(e) of this section. Upon approval of the planning commission, the agreement may allow that the security may be phased throughout the proposed project. If phasing is proposed the applicant shall submit a phasing schedule. For projects being sited by the state of Oregon's Energy Facility Siting Council (EFSC), the bond, letter of credit, or other form of security required by EFSC will be deemed to meet this requirement. For non-EFSC projects the EFSC requirements on bonds shall serve as a guideline for the amount of the bond or other financial mechanism required.

PROPOSED FINDING: The above criterion requires an agreement security in accordance with 17.40.080 & 17.40.090, acceptable to the county to cover the cost of dismantling an uncompleted facility or decommissioning the facility, and site rehabilitation. The applicant stated within their application that such financial instruments will be posted, such as a bond or letter of credit, for the estimated cost of decommissioning. They also state that the applicant will provide an update of projected cost based on

final design prior to construction, and an instrument will be posted at that time suitable to the county which meets those estimated cost requirements. A condition of approval is included in this report requiring this.

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

PROPOSED FINDING: The above standard requires a summary provided to the county of any as built changes in the facility from the original plan, if any. The application and tentative site plan submitted for review and approved through this application, will be considered the original plan. To ensure compliance, a condition of approval is included in this report requiring this summary to be provided prior to the facility being connected to the grid for power production. A final site plan shall be submitted prior to submitting building permits showing any changes from the tentative site plan submitted with the application. (see condition of approval 21)

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

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

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

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

(D) Success or failure of weed control practices.

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

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

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

PROPOSED FINDING: The applicant shall provide an annual report addressing the above information at

the request of the County. The applicant states the above information will be included in the contract for an Operation and Maintenance contract. Prior to the start of operations, a copy of the contract showing the above reporting requirements shall be provided to the Community Development Department. (proposed condition 22).

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

(i) Require an expansion of the established facility boundaries;

(ii) Increase the footprint of the photovoltaic energy system by more than 20 percent;

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

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

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

PROPOSED FINDING: The applicant has proposed a 320-acre facility within a larger acreage site boundary in conformance with the example site plan submitted. A condition of approval was included within CCC 18.16.060(3)(h) of this report stating that if the facility rises above the 320-acre threshold approved through this decision, the facility must be granted an exception to ORS 197.732 and OAR 660, Division 4.

To ensure further compliance with the above criterion, a condition of approval has been included in this report requiring an amendment to the original approval if the facility above the 320-acre limit for the solar facility, or if the facility expands or reconfigures its site boundary, increases the facility footprint by more than 20 percent, increases output by 25 percent, or changes access to the facility. (proposed condition 23).

(e) Decommissioning. Plan elements shall include:

(i) A plan for dismantling and/or decommissioning that provides for completion of dismantling or decommissioning of the facility without significant delay and

protects public health, safety and the environment in compliance with the restoration requirements of this section.

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

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

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

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

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

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

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

(E) Roads, fences, gates, and improvements may be left in place if a letter

from the landowner is submitted to Crook County indicating said landowner will be responsible for and will maintain said roads and/or facilities for farm or other purposes as permitted under applicable zoning.

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

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

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

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

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

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

(F) Crook County may impose additional clear and objective conditions in accordance with the Crook County comprehensive plan, county zoning code and state law, which Crook County considers necessary to protect the best interests of the surrounding area, or Crook County as a whole.

(G) Prior to commencement of any decommissioning work, all necessary permits shall be obtained, e.g., Crook County land use permits, road access and other permits from the Crook County road master and the Oregon Department of Transportation; or other entities.

PROPOSED FINDING: The applicant has submitted a revised “Retirement and Site Restoration Plan for Moffatt Road Solar Farm” (Exhibit 2), the plan addresses the County’s requirements. The plan describes the decommissioning process and outlines the anticipated schedule and cost of dismantling project components and restoring the site. The decommissioning plan and financial security are subject to approval by Crook County Legal Counsel. The plan and security must be approved prior to the issuance of any electrical permits. The applicant shall receive all necessary permits including permits, prior to commencing any decommissioning work. (proposed condition of approval 2,3,5 & 19).

IV. STAFF RECOMMENDATION

1. Approval of the proposed utility facility and solar facility, with the proposed amendments to findings and conditions as presented by staff.
2. Approval of the proposed utility facility and solar facility, with amendments to the findings and conditions as proposed by the Planning Commission.
3. Denial of the proposed utility facility and solar facility, based on specific grounds identified by the Planning Commission.

V. PROPOSED CONDITIONS OF APPROVAL

VI. PROPOSED CONDITIONS OF APPROVAL

1. Prior to the submission of any electrical plan review, a site plan shall be submitted showing the proposed location of the transmission line and poles with setbacks and specific soils where those poles are placed.
 - a. Prior to the submission of building permits. The applicant shall submit a site plan identifying the location of the associated transmission line and the identification of soils where the poles are located.
2. Prior to the submission of any electrical plan review, the applicant shall submit the non-remonstrance agreement to County Counsel for review prior to filing it with the Crook County Clerk. After approval from County Counsel the applicant shall sign and record in the deed records for Crook County a document binding the Project owner and the Project owner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming practices as defined in ORS 30.930(2).

- a. Prior to any site clearing or grading, the applicant shall sign and record in the deed records for Crook County a document binding the Project owner and the Project owner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming practices as defined in ORS 30.930(2). The Applicant shall submit this agreement to County Counsel for review prior to filing it with the Crook County Clerk. (Non-remonstrance agreement)
3. Prior to the submission of any electrical plan review a decommissioning plan and financial assurance shall be submitted to the Crook County Counsel for approval. County Counsel's approval of the decommissioning plan, including the financial assurance, shall not be unreasonably withheld. The financial assurance shall give consideration to the cost estimate and phasing schedule in the decommissioning plan, shall provide adequate funding to restore the site, regardless of when construction or operation ends, and shall be maintained for the life of the facility and adjusted annually to account for inflation.
 - a. Prior to the start of clearing and grading, a decommissioning plan and financial assurance shall be submitted to the Crook County Counsel for review and approval. County Counsel's approval of the decommissioning plan, including the financial assurance, shall not be unreasonably withheld. The financial assurance shall give consideration to the cost estimate and phasing schedule in the decommissioning plan, shall provide adequate funding to restore the site, regardless of when construction or operation ends, and shall be maintained for the life of the facility and adjusted annually to account for inflation.
4. Prior to the issuance of the electrical permits, the Applicant agrees to establish and deliver to the County, a sufficient bond, letter of credit or other financial assurance, as required by CCC 18.161.010(2)(xvi). Implementation of final decommissioning and financial assurance will be provided entirely at the cost of the Applicant. The financial assurance will be one of the following: an irrevocable letter of credit, a surety bond or a trust fund in accordance with the approved financial assurances to guarantee the deconstruction work will be completed in accordance with the decommissioning plan.
 - a. The Applicant agrees to establish a bond, letter of credit or other financial assurance, as required by CCC 18.161.010(2)(xvi). Implementation of final decommissioning and financial assurance will be provided entirely at the cost of the Applicant. The financial assurance will be one of the following: an irrevocable letter of credit, a surety bond or a trust fund in accordance with the approved financial assurances to guarantee the deconstruction work will be completed in accordance with the decommissioning plan.
5. Prior to the commencement of any decommissioning work, all necessary permits shall be obtained, (e.g., Crook County Land Use Permits, road access and other permits from the Crook County Road Department and the Oregon Department of Transportation, or other entities).
6. Prior to the submission of any electrical plan review, a site plan shall be submitted clearly

showing the proposed location of all above ground structures (temporary and permanent) and distance from property lines. It shall also include all Juniper trees to be preserved which are located within the setbacks.

- a. Prior to clearing and grading the applicant shall submit a site plan, including a site plan with setbacks clearly shown from all structures to the nearest property boundaries. The site plan shall also include the vegetation and trees to be preserved in the setbacks
7. Prior to the submission of any electrical plan review, the applicant shall provide specific materials list including but not limited to building elevations of all proposed structures, paint or siding colors, roofing material, anti-reflective and or noise materials or other design implements that the applicant may take to blend the proposed structures into the setting.
 - a. Prior to submission building permits the applicant shall provide specific materials list including but not limited to building elevations of all proposed structures, paint or siding colors, roofing material, anti-reflective and or noise materials or other design implements that the applicant may take to blend the proposed structures into the setting.
8. Prior to the submission of any electrical plan review, applicant shall include building plans for any structure, including size, location and design.
 - a. Prior to submission of any development permit the applicant shall submit to the planning department, building plans for any structure indicating size, location and design.
9. Prior to the submission of any electrical plan review, applicant shall submit to the planning department cut sheets for all lighting fixtures to show compliance with CCC 18.126.
 - a. Prior to submission of any development permit the applicant shall submit to the planning department cut sheets for all lighting fixtures to show compliance with CCC 18.126.
10. Prior to the submission of any electrical plan review, a site plan shall be submitted clearly showing the proposed location of perimeter fencing which is proposed to be a minimum height of 8 feet, with secure gates in place at the entrances to the project site from all access points and corners away from roads to allow any wildlife exit opportunities. The fence material shall be a chain link fence, without slats.
 - a. The solar facility enclosure will be completely fenced at a minimum height of 8 feet. Secure gates will be in place at the entrances to the project site from all access points. The fence shall be a chain link fence, without slats. Extra gates will be provided at the corners away from roads to allow the removal of wildlife trapped within the enclosed area.
11. The permit shall be valid for four years after final approval has been granted. Final approval is considered the end of the 12-day appeal period, or when a final determination has been made after any potential appeals. The application shall become void four years after final approval is

received, unless an extension of time has been applied for prior to the expiration, or unless the substantial construction has occurred in accordance with CCC 18.160.170.

12. Prior to the submission of any electrical plan review, the applicant shall provide evidence of implementation for the selected mitigation option. This option as discussed and approved. The Wildlife Impact and Monitoring Plan shall also incorporate the applicable conditions of approval in this report.

If the proposed photovoltaic project is not constructed, the applicant will revegetate the site such that functional equivalency or better is returned in areas of temporary impact and temporary impacts will be mitigated.

- a. Prior to any clearing or grading of the site, the Applicant shall provide written notice to the County documenting implementation of the selected mitigation option. The Applicant shall implement the Wildlife Habitat Mitigation Plan prepared in cooperation with ODFW and Crook County in alignment with the County Comprehensive Plan. The Wildlife Impact and Monitoring Plan shall also incorporate the applicable conditions of approval in this report. Mitigation payments, if any, shall be made to the third-party mitigation provider prior to any development action.

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

13. The wildlife habitat mitigation shall occur as outlined in the Wildlife Hazard Mitigation Plan submitted as Exhibit 17.

- a. Any wildlife habitat mitigation shall only occur within the boundaries of Crook County.

14. The wildlife habitat mitigation shall occur as outlined in the Wildlife Hazard Mitigation Plan submitted as Exhibit 17, including the approximate timeline for the proposal through the end of decommissioning the solar facility.

- a. Mitigation will occur up until the end of decommissioning.

15. Within 14 days from Planning Commission signature of this decision, the applicant shall provide evidence of communication with the Crook County Fire and Rescue Department to coordinate the management of the Juniper clearing and piling which has taken place on the proposed project site.

Prior to submission of any electrical plan review a final Emergency Management and Response (EMR) plan for this facility (including final site design and layout information) shall be provided to Crook County Fire & Rescue for approval, who will assess an impact fee consistent with their Board Policies for projects of this nature. The impact fee is due prior to issuance of the

electrical plan review. The EMR plan will be reviewed under the Oregon Fire Code and shall include the full site plan and information on MW capacity.

- a. A final Emergency Management and Response (EMR) plan for this facility (including final site design and layout information) shall be provided to Crook County Fire & Rescue for approval, who will assess an impact fee consistent with their Board Policies for projects of this nature. The impact fee and the EMR plan will be due prior to any clearing or grading at the site. The EMR plan will be reviewed under the Oregon Fire Code and shall include the full site plan and information on MW capacity.

16. Within 30 days from the Planning Commission signature of this decision, the applicant shall submit a dust control plan. If the plan includes any reseeding, the applicant shall also provide consultation with the Crook County Soil and Water Conservation District, Crook County Weedmaster, and Oregon Department of Agriculture.

Prior to the submission of any electrical plan review, the applicant will submit a copy of the final erosion and sediment control plan, developed in consultation with the Crook County Soil and Water Conservation District, the Crook County Watershed Council, and the Oregon Agricultural Water Quality Management Program (administered by the Oregon Department of Agriculture and Department of Environmental Quality) as provided to the Department of Environmental Quality for the National Pollutant Discharge Elimination System 1200-C permit.

- a. The Applicant will submit a copy of the final erosion and sediment control plan, developed in consultation with the Crook County Soil and Water Conservation District, the Crook County Watershed Council, and the Oregon Agricultural Water Quality Management Program (administered by the Oregon Department of Agriculture and Department of Environmental Quality) as provided to the Department of Environmental Quality for the National Pollutant Discharge Elimination System 1200-C permit, to the Crook County Community Development prior to the start of clearing and grading.

17. Within 30 days from the Planning Commission signature of this decision, the applicant shall submit evidence of consultation with the Crook County Weedmaster regarding the current project site's vegetated state and provide an approved weed management plan.

- a. Prior to any clearing or grading, the applicant will provide a site-specific weed control plan in consultation with the County Weedmaster.

18. Within 15 days of the Planning Commission signature of this decision, the applicant shall provide the preconstruction survey they testified occurred prior to the vegetation removal which took place between the dates of March 1, 2025, and May 14, 2025.

- a. Applicant will, if possible, aim to conduct vegetation removal and construction outside the nesting season (March 1 – August 1) to avoid impacts to active nest sites. A previous condition is included stating that If construction occurs during the nesting season, then

the Applicant will conduct a pre-construction survey through a qualified observer to confirm that no active nests will likely be impacted. If active nests are located within the Project site and are otherwise unavoidable, then Applicant will leave active nests undisturbed and monitored until a biologist determines that the nest is no longer occupied.

19. All necessary permits shall be applied for and approved prior to any construction toward the development of the site for the proposed use.

a. The Applicant shall acquire all necessary building permits prior to construction.

20. Prior to submission of any electrical plan review, the applicant shall construct the road approach at Millican Road to the satisfaction of the Crook County Roads Superintendent. The applicant shall also submit evidence of the road safety plan during construction, including dust control for access roads during construction.

a. Prior to initiation of construction, the Applicant shall consult with the Crook County Road Department. If required, the applicant will enter into a road use agreement with the Crook County Road Department prior to the start of construction.

21. A summary of any as built changes in the facility from the original plan shall be provided by the Applicant to the Crook County Community Development Department within 90 days of the facility being connected to the grid for power production.

22. The Applicant agrees to provide an annual report each January 1 to the County including:

- A summary of changes to the facility that do not require amendments
- A summary of the wildlife monitoring and mitigation plans
- Employment impacts during and after construction
- Success or failure of weed control practices
- A Summary comments of the operational status of the facility, including any changes to the design or operation of the facility over the last year. The Applicant shall describe any unusual events, such as earthquakes, extraordinary windstorms, major accidents or the like that occurred during the last year and that had a significant adverse impact on the facility.

23. The Applicant shall meet all requirements of Crook County Code 18.161.010(2)(d) regarding amendments to the facility including those changes that would:

- Require an expansion of the established facility boundaries;
- Increase the footprint of the photovoltaic system by more than 20%;
- Increase generator output by more than 25% relative to the generation capacity authorized by the initial permit due to the repowering or upgrading of power generation capacity;
- Changes to any road or access points.

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

The Applicant shall meet all requirements of Crook County Code 18.161.010(2)(d) regarding

24. Prior to the submission of any electrical plan review, Applicant shall provide documented guidance for all subcontractors including: a 5mph max on driveway/access road, operating hours Monday through Friday, 7:30 am through 6:00 pm; Saturdays 8:00 am through 4:30 pm.
25. As necessary to ensure conformance with this decision and pursuant to the authority in ORS 215.296(10), the violation of a condition of approval, as determined by the County's designated code compliance hearing authority and procedures, shall be deemed a public nuisance under CCC 8.08.090 and levied a civil penalty of \$500 per violation, with each day the applicant is in violation deemed a separate offense. Upon sufficient cause, the hearing authority may require the applicant provide sufficient security to cover ongoing or future violations, consistent with CCC 18.160.040.

Vicinity Map

Attachment A – Agency/Department Comments

Attachment A1 – Oregon Department of Fish and Wildlife Comments

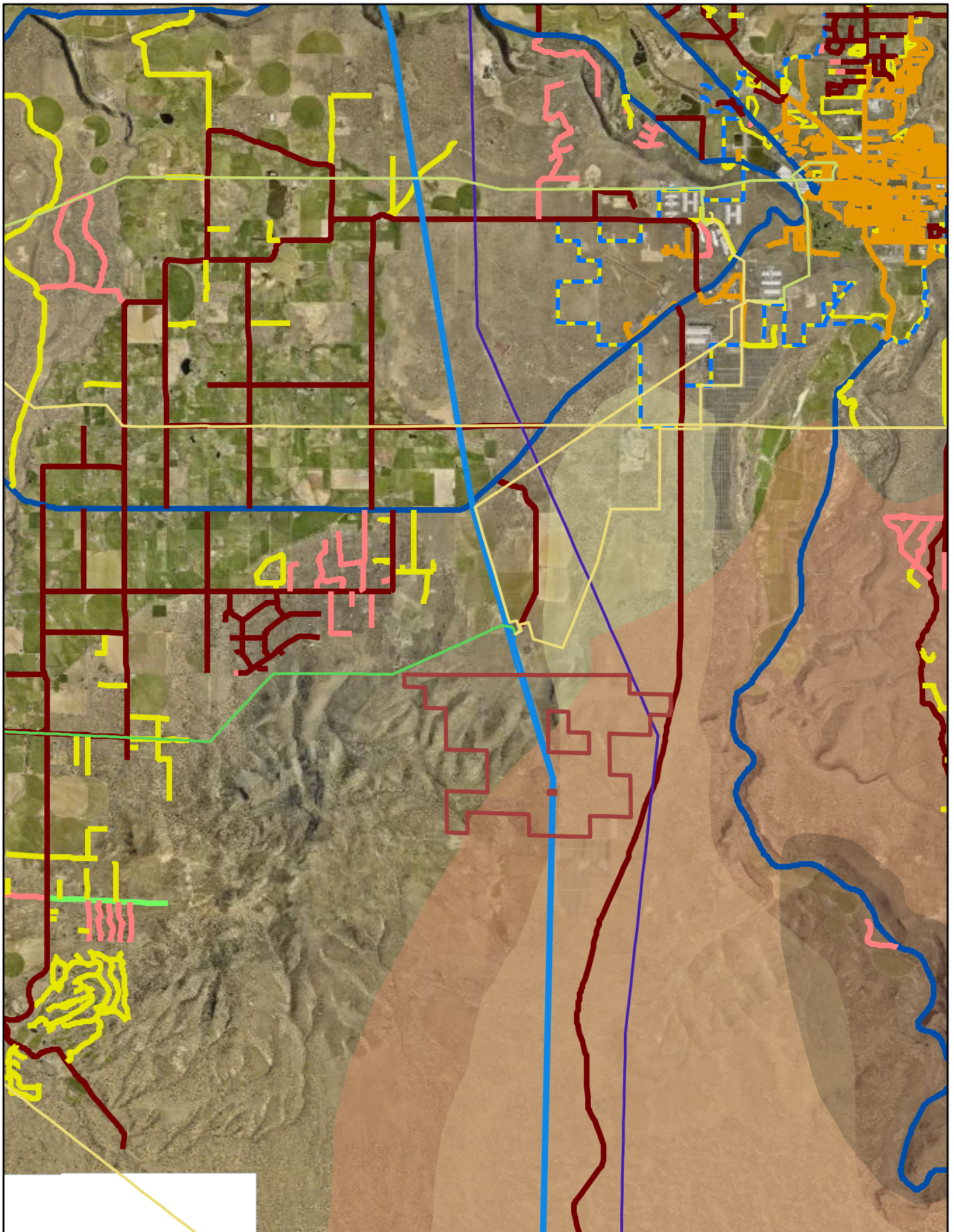
Respectfully submitted,

A handwritten signature in black ink, appearing to read "Katie McDonald", written in a cursive style.

Katie McDonald, Senior Planner
Crook County Planning Department

CC: Owner/Applicant

Crook County, Oregon



Disclaimer: CROOK COUNTY MAKES NO WARRANTY OF ANY KIND, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR ANY OTHER MATTER. THE COUNTY IS NOT RESPONSIBLE FOR POSSIBLE ERRORS, OMISSIONS, MISUSE, OR MISINTERPRETATION. COUNTY DIGITAL INFORMATION IS PREPARED FOR REFERENCE PURPOSES ONLY AND SHOULD NOT BE USED, AND IS NOT INTENDED FOR, SURVEY OR ENGINEERING PURPOSES OR THE AUTHORITATIVE AND/OR PRECISE LOCATION OF BOUNDARIES, FIXED HUMAN WORKS, AND/OR THE SHAPE AND CONTOUR OF THE EARTH. NO REPRESENTATION IS MADE CONCERNING THE LEGAL STATUS OF ANY APPARENT ROUTE OF ACCESS IDENTIFIED IN DIGITAL OR HANDCOPY MAPPING OF GEOSPATIAL INFORMATION OR DATA. DATA FROM THE CROOK COUNTY ASSESSOR'S OFFICE MAY NOT BE CURRENT. DATA IS UPDATED AS SCHEDULES AND RESOURCES PERMIT. PLEASE NOTIFY CROOK COUNTY GIS OF ANY ERRORS (541) 416-3930.

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Attachment A

Agency/Departments Comments:

1. Crook County Assessor, Jon Soliz - received 11/5/2024:

“Just wanted to make sure that it is known -we disqualify all the area the solar structures take up and collect 10 years back (so not a deferred thing but collection for a change of use, which is collectible).

Jason has the detail if need, but I wanted to connect so this message gets out there and owners know it will come once farm use ceases/changes, etc.”

2. Crook County Fire and Rescue, Russell Deboodt - received 11/5/2024:

“The fire district will require an Emergency Management and Response plan to be submitted and approved prior to construction on the site (the applicant does already refer to this which is great). The district will also require an Impact Fee be paid to the district according to CCFR’s Tax Exemption Policy and Fee Schedule. This is due prior to construction on the site as well.

The fire district will be interested in discussing the site layout of the proposed facility, and the construction of internal and perimeter roads.”

3. Department of Defense, Kimberly Peacher – received 11/5/2024

“Thank you for the project notice. This proposal is outside of Navy equities.”

4. Crook County Weed Master, Thomas Laird – received 3/13/2025

“Details of the written weed control plan (Page 111) is fairly vague, however it does state they shall comply with County weed control standards, as well as, noxious weed control measures will be implemented in accordance with existing State and County regulations. Of course, time will tell on the follow-through.

Would I like more specifics, sure. However, I don’t see any “red flags” at the moment.”

5. Crook County Road Department, Brad Haynes – Received 3/19/2025

Yes, I would like to have built an Asphalt apron from Milican Road to the ROW Boundary of the properties. I do realize this will be shared with multiple tenants of the adjacent properties. This project and future projects are going to be utilizing this off Milican Road and will cause damage to the edge of the County road. Please use a commercial standard drawing for this approach for heavy loads and truck traffic.



Oregon

Tina Kotek, Governor

Department of Fish and Wildlife

East Region

61374 Parrell Road

Bend, Oregon 97702

(541) 388-6363

FAX (541) 388-6281

Attachment A1

March 14, 2025

Crook County Planning Department
Attn: Katie McDonald, Planning Manager
300 NE 3rd Street, Room 12
Prineville, OR 97754

Recieved via email
3/14/2025
Community
Development
Department

RE: Application **217-24-000293-PLNG**
ODFW Response to Applicants Moffat Road Solar Farm LLC Wildlife Mitigation Plan
version March 7, 2025.

Dear Crook County Planning Department:

The purpose of this letter is to provide formal comments on the Moffat Road Solar Farm LLC Wildlife Mitigation Plan and to submit the attached documents into the record.

The Oregon Department of Fish and Wildlife (Department) is mandated by the Oregon Legislature to manage fish and wildlife to prevent serious depletion of indigenous species and provided optimum recreational and aesthetic benefits for present and future generations of the citizens of this state (ORS 496.012). The Department recognizes Crook County's authority to approve this application consistent with the County Code provisions and offers the following comments and recommendations regarding the potential impacts to wildlife and their habitats.

BACKGROUND

The Applicant is proposing to construct a photovoltaic solar power generation facility located on private land in the Crook County Exclusive Farm Use-3 (EFU-3) zone. The Project Site is located within big game winter range as mapped by the Department (*Oregon Department of Fish and Wildlife 2013 Big Game Winter Habitat White Paper*) and a small portion of the Project site is within pronghorn antelope and mule deer winter range as mapped by Crook County. The Applicant consulted with ODFW and is proposing avoidance, minimization, and mitigation measures to address any potential impacts the Project may have on big game winter range, including three compensatory mitigation options. The Applicant is proposing to mitigate to meet ODFW's goal of "no net loss of either habitat quantity or quality and to provide a net benefit of habitat quantity or quality" (Habitat Category 2; OAR Chapter 635, Division 415) within mapped big game winter range.

STAFF RECOMMENDATIONS

ODFW has reviewed the mitigation plan (March 7, 2025) and has the following comments and recommendations. ODFW supports in principal the mitigation plan submitted by Moffat Road Solar Farm LLC. ODFW will offer our preferred options for mitigation as well as some general considerations moving forward.

• Option 2 - One-Time Fee-In-Lieu Payment

ODFW supports option 2 A (**One-Time Fee-in-lieu Payment to Crook County Soil and Water Conservation District**) as our “preferred” option for mitigation –a one-time fee-in lieu payment utilizing the established formula, corrected for inflation or with 2025 cost variables for the formula. This example has been used in prior projects and ODFW has seen and supported projects that have been prepared by the Crook Soil and Water Conservation District (SWCD) as meeting ODFW’s fish and wildlife habitat mitigation policy.

ODFW can also support option 2.B (**One-Time Fee-in-lieu Payment to Other Established Conservation Organization**) and 2.C (**Mitigation Bank Project Approved by ODFW**). Both of these options also have the ability to satisfy the mitigation responsibility and allow the Applicant some flexibility. ODFW would suggest that if these options were chosen the County enter into a similar MOA or MOU with the organization performing the mitigation similar to what has been drafted between Crook County and Crook SWCD.

• Option 1 - Juniper Removal Mitigation

ODFW supports option 1 as written in the mitigation plan as one that could comply with ODFW’s fish and wildlife habitat mitigation policy. It has less certainty due to lack of a physical site, but the side boards that have been agreed to give ODFW confidence that even without a site selected, the “no net loss, net benefit” standard will be met. The Applicant has agreed to mitigate at a scale of 2 acres to every 1 acre impacted (2:1). The Applicant has agreed to an option 1 site that is within pronghorn winter range and a 3 mile buffer of mule deer range in Crook County (goal 5; see figure). This limitation on the location adds assurances that an option 1 project will truly account for the habitat loss from the project site. ODFW recommends that conflicting land uses, such as recreation, not occur over the current levels of use at the mitigation site. In other words, the proposed solar site currently has no recreation trails and likely limited recreation use during winter time. We ask that no increase in recreational use be allowed from December 1 – April 15 if there is the opportunity for that activity to be conducted on the habitat mitigation site.

Option 3 - Alternative Mitigation Project Approved by ODFW

ODFW can support option 3 as long as it is accompanied by a “Meyer” hearing that allows for the discussion of the details of the mitigation plan during a public process. This would be a modification of the CUP, but only dealing with the issue of mitigation if options 1 or 2 were not available. This is ODFW’s least preferred option because of the lack of specificity.

SUMMARY

ODFW supports this mitigation plan and would like to thank the Applicant for working through some of the issues to come to agreement.

ODFW would also like to continue the discussion of cumulative impacts with the Crook County Planning Commission. While one single project mitigated properly can offset the wildlife habitat impacts, the risk of cascading wildlife habitat loss due to multiple project impacts can have increasingly serious consequences. ODFW would like to work with the County and future applicants to identify a fair and balanced solution to this problem that we will face if solar build

out occurs on the Millican Plateau. ODFW envisions this as conditioning approval with additional mitigation requirements based on current and future development. So developers that build first don't avoid this standard, it should be discussed and settled on soon.

Thank you for the opportunity to comment and if you have any questions, please feel free to reach out.

Respectfully,

A handwritten signature in cursive script that reads "Greg Jackle".

Greg Jackle
ODFW Sage Grouse Mitigation Coordinator

cc: Sara Gregory – ODFW Deschutes Watershed District Manager
Jamie Bowles – ODFW Ochoco District Wildlife Biologist
Jeremy Thompson – ODFW Energy Coordinator
Jessica Wilkes – ODFW Deschutes Watershed Habitat Biologist

Mitigation Option 1 Areas

