BEFORE THE
ENERGY FACILITY SITING COUNCIL
OF THE STATE OF OREGON

In the Matter of Request for Amendment 2 of the Site Certificate for the Boardman to Hemingway Transmission Line	)	FINAL ORDER DENYING REQUESTS FOR CONTESTED CASE AND APPROVING SITE CERTIFICATE AMENDMENT 2

August 23, 2024

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ABBREVIATIONS AND ACRONYMS

ACEC	Area of Critical Environmental Concern
ASC	Application for Site Certificate
BCZSO	Baker County Zoning and Subdivision Ordinance
BLM	Bureau of Land Management
CHZO	City of Huntington Zoning Ordinance
CI	Commercial Industrial
CR	Commercial Residential
Council or EFSC	Energy Facility Siting Council
CTUIR	Confederated Tribes of the Umatilla Indian Reservation
dBA	A-weighted decibels
EFU	Exclusive Farm Use
ESH	Essential Salmonid Habitat
HAC	Historical, Archeological or Cultural
HPMP	Historic Properties Management Plan
IPC; certificate holder	Idaho Power Company
JPA	Joint Permit Application
kV	kilovolt
LiDAR	light detection and ranging
MCC	Malheur County Code
MCCP	Morrow County Comprehensive Plan
MCZO	Morrow County Zoning Ordinance
NED	National Elevation Dataset
NEPA	National Environmental Policy Act
NHD	National Hydrography Dataset
NRCS	Natural Resources Conservation Service
NRHP	National Register of Historic Places
NSR	noise-sensitive receptor
NWI	National Wetlands Inventory
NWSTF Boardman	Naval Weapons Systems Training Facility – Boardman
OAR	Oregon Administrative Rules
ODEQ	Oregon Department of Environmental Quality
ODFW	Oregon Department of Fish and Wildlife
ODOE	Oregon Department of Energy
ODSL	Oregon Department of State Lands
ORS	Oregon Revised Statutes
PA	Programmatic Agreement
Facility; B2H	Boardman to Hemingway Transmission Line
RFA1	Request for Amendment 1
RFA2	Request for Amendment 2
RSA	Rural Service Area
SHPO	State Historic Preservation Office

ABBREVIATIONS AND ACRONYMS

STATSGO	State Soil Geographic Database
UCCP	Umatilla County Comprehensive Plan
UCDO	Umatilla County Development Ordinance
UCZPSO	Union County Zoning, Partition, and Subdivision Ordinance
USDA	U.S. Department of Agriculture
USFS	U.S. Department of Agriculture, Forest Service
USGS	U.S. Geological Survey
WAGS	Washington ground squirrel

I. INTRODUCTION

On April 11, 2024 Idaho Power Company (certificate holder) filed Request for Amendment 2 of the Boardman to Hemingway Transmission Line site certificate (RFA2). Below is a summary of the changes approved in RFA2, see Section II.B of this order for an expanded description:

1. Redefining the site boundary and micrositing areas previously approved in the site certificate and first amended site certificate ("previously approved site boundary") to expand the site boundary for most of the facility; [1]
2. The addition of micrositing areas to:
    - Relocate the transmission line in 12 locations based on certificate holder coordination and agreement with the affected landowners. This includes approximately 40 miles of 500-kV transmission line alternatives with two communication alternatives and 98.5 miles of associated access road modifications, and 0.6 mile of 230-kV transmission line alternatives;
    - Refine 58 miles of roads outside the RFA2 transmission line alternatives resulting from additional design and engineering review;
    - Provide alternative temporary work areas;
3. The addition of a Midline Capacitor Substation, located on approximately 10 acres within the previously approved site boundary, and adjacent to an existing substation in Union County;
4. Widening the width of roads used for construction based on the slope of the terrain;
5. The amendment also requests Energy Facility Siting Council (EFSC or Council) approval to amend language of site certificate condition(s): GEN-GS-06, GEN-NC-01, PRE-RT-01, CON-TE-02, PRE-FW-03, PRE-FW-04, OPR-FW-03, OPR-FW-04 and OPR-RT-01.[2]

See Section II.B.1, for additional discussion and references to location in this order.

For amendments to the site certificate that include site boundary expansion and other changes, such as new or amended conditions, under the Scope of Council Review pursuant to OAR 345-027-0375, that the Council finds that the preponderance of evidence on the record supports the following conclusions[3]:

[1] In some locations, certificate holder is not requesting an expanded site boundary and will maintain the previously approved site boundary. Details are discussed further in this order, Section II.B.1 and in RFA2 Section 8.0.

[2] Council further amend conditions not limited to the certificate holder's RFA2 proposal. See Section II.B.4., *Amended Conditions*, applicable Sections in Section III., *Evaluation of Council Standards*, of this order, as well as Attachment 1 to this order, the Second Amended Site Certificate. Attachment 1 includes many but not all of the certificate holder's proposed revisions to the site certificate and conditions.

[3] Preponderance of the evidence means "Proof by a preponderance of the evidence means "that the facts asserted are more probably true than false." (*Riley Hill Gen. Contractor, Inc. v. Tandy Corp., 303 Or. 390, 402, 737 P.2d 595 (1987*)). Under OAR 345-021-0100(2), the applicant (certificate holder) has the burden of proving, by a preponderance of the evidence in the decision record, that the facility complies with all applicable statutes, administrative rules and applicable local government ordinances. In other words, it is the certificate holder's

1. That the portion of the facility within the area added to the site boundary by the amendment complies with all laws and Council standards applicable to an original site certificate application;
2. The amount of the bond or letter of credit required under OAR 345-022-0050 is adequate; and;
3. The facility, with RFA2 changes, complies with the applicable laws or Council standards that protect a resource or interest that could be affected by the RFA2 changes.

Based upon review of RFA2, the Draft Proposed Order (DPO), comments from reviewing agencies, comments on the DPO, certificate holder responses to DPO comments, and Council's review of the Proposed Order and requests for contested case, the Council approves the amendment request and adopts the Proposed Order as the Final Order on RFA2 granting issuance of the Second Amended Site Certificate subject to the existing, new and amended conditions set forth in this final order. This final order is issued by the Council in accordance with Oregon Revised Statute (ORS) 469.405(1) and Oregon Administrative Rule (OAR) 345-027-0371.

I.A. SITE CERTIFICATE PROCEDURAL HISTORY

The Council issued the Final Order on the Application for Site Certificate (*Final Order on ASC*) and granted issuance of the Boardman to Hemingway Transmission Line Site Certificate on September 27, 2022.

Council approved the certificate holders Request to Amend to the Site Certificate (RFA1) on September 22, 2023, and issued the Final Order on Request for Amendment 1 (*Final Order on RFA1*) and issued the first amended site certificate.

This is the certificate holder's second request for an amendment to the site certificate.

I.B. APPROVED FACILITY DESCRIPTION (ASC AND RFA1)

The approved, but not yet constructed facility, consists of an ASC approved route approximately 270.8-mile-long single-circuit 500-kV electric transmission line, the removal of 12 miles of existing 69-kV transmission line, rebuilding of 0.9 mile of a 230-kV transmission line, and the rebuilding of 1.1 miles of an existing 138-kV transmission line into a new Right of Way (ROW). The approved facility also includes four ASC alternative routes approximately 33.3 miles of transmission line and RFA1 approved routes include four alternative 500-kV transmission line routes equaling approximately 8.8 miles. The

responsibility to provide information to the record to support the RFA2 and to demonstrate the preponderance of evidence in the record supports Council consideration under its Scope of Review for amendments, which is provided in RFA2 and evaluated in this order.

approved facility, its related or supporting facilities, and location are described further below.

The below section summarizes the approved facility. Section II.B., Requested Amendment, describes the changes in RFA2. Attachment 1 to this order, the second amended site certificate, describes the approved facility with changes approved in RFA2.

I.B.1. Approved Energy Facility Description

The certificate holder is approved to construct, operate, and retire the following major components:

Transmission Lines: Final Order on the application for site certificate (ASC) consists of an approved route approximately 270.8-mile-long single-circuit 500-kV electric transmission line, removal of 12 miles of existing 69-kV transmission line, rebuilding of 0.9 mile of a 230-kV transmission line, and rebuilding of 1.1 miles of an existing 138-kV transmission line into a new ROW. *Final Order on ASC* approved four alternative routes which represent approximately 33.3 miles of transmission line. *Final Order on Request for Amendment 1* (RFA1) approved four alternative 500-kV transmission line routes equaling approximately 8.8 miles.

As discussed in this order, the Council approves the certificate holder request to separate the definition of site boundary and micrositing areas. An expanded site boundary is intended to be a larger area evaluated for potential resources, micrositing area are the areas that are surveyed for resource protected under Council standards, and as approved by Council, the certificate holder is approved to locate and microsite facility components within those areas. However, the approved right-of-way (ROW) widths are narrower than the evaluated site boundary/micrositing areas so facility components may be located anywhere within the approved site boundary/micrositing area. The ROW for the majority of the single-circuit 500-kV transmission line would be up to 250 feet. In forested areas, the ROW width may extend up to 300 feet which includes vegetative maintenance and the removal of hazardous trees. The ROW width requested by the Navy along the east edge of Naval Weapons Systems Training Facility (NWSTF) Boardman would be up to 90 feet. The ROW width for the 1.1-mile rebuilding of existing 138-kV transmission line would be up to 100 feet. The existing 138-kV transmission line ROW would be widened to 250 feet to facilitate placement of the 500-kV transmission line within it. The ROW width for the 0.9-mile single-circuit 230-kV rebuilding portion would be up to 125 feet. Finally, the existing 230-kV transmission line ROW would be widened to 250 feet to facilitate placement of the 500-kV line within it.[4]

Longhorn Station: A 20-acre switching station is approved to be located near the Port of Morrow, Oregon. The switching station provides a combination of switching, protection, and control equipment arranged to provide circuit protection and system switching flexibility for the transfer of electric power; it does not incorporate step-down or step-up voltage equipment.

[4] B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, pp. 53-54.

The station connects the transmission line to other 500-kV transmission lines and the Pacific Northwest power market.

Communication Stations: Ten communication station sites (and two alternative communication stations sites) associated with the ASC, each consisting of a communication shelter and related facilities. Each communication station site is less than 1/4-acre in size.

In the ASC and RFA1, certificate holder requested and Council approved route and road additions to the site boundary which are "additive;" certificate holder therefore would have more options and flexibility to accommodate landowner preferences and final facility design needs, however, the certificate holder will ultimately select one approved ASC route, approved ASC alternative route, or approved RFA1 route. Actual transmission line mileage, acreage/disturbance impacts from the facility will be significantly less than approved in Final Orders on ASC and RFA1.

Table 1, *Approved Route, Approved Alternative Routes Map References*, below, provides a summary description of the routes approved in the Final Order on ASC and RFA1. The table provides a specific map reference for the location of the routes, alternative routes, as well as the map reference to any additional road segments associated with an approved route.

Table 1: ASC Approved Route, ASC and RFA1 Approved Alternative Routes Map References

Approved Route Name[1]	County	Length of Transmission Line (miles)	Map Reference[2]
Final Order on ASC			
ASC approved route (270.8 total miles)	Morrow	47.5	-Route/Roads: ASC Exhibit C, Attachment C-2; Map 1-23 -Road alternatives: RFA1 Figure 4-2, Map 1-4
	Umatilla	40.9	-Route/Roads: ASC Exhibit C, Attachment C-2; Map 24-44-23 -Road alternatives: RFA1 Figure 4-2, Map 5-11
	Union	39.9	-Route/Roads: ASC Exhibit C, Attachment C-2; Map 44-62 -Road alternatives: RFA1 Figure 4-2, Map 12-14, 16-17
	Baker	68.4	-Route/Roads: ASC Exhibit C, Attachment C-2; Map 63-92 -Road alternatives: RFA1 Figure 4-2, Map 18-27
	Malheur	74.1	-Route/Roads: ASC Exhibit C, Attachment C-2; Map 93-125 -Road alternatives: RFA1 Figure 4-2, Map 28-41
West of Bombing Range Road alternative 1	Morrow	3.7	-ASC Exhibit C, Attachment C-3; Map 1-4 -Road alternatives: RFA1 Figure 4-2, Map 1
West of Bombing Range Road alternative 2	Morrow	3.7	-ASC Exhibit C, Attachment C-3; Map 1-4 -Road alternatives: RFA1 Figure 4-2, Map 1
Morgan Lake alternative	Union	18.5	-ASC Exhibit C, Attachment C-3; Map 5-14 -Road alternatives: RFA1 Figure 4-2, Map 14-15
Double Mountain alternative	Malheur	7.4	ASC Exhibit C, Attachment C-3; Map 15-19
Final Order on RFA1			
Little Juniper Canyon Transmission Line Alternative[3]	Morrow	1.4	RFA1 Figure 4-1, Map 1

Table 1: ASC Approved Route, ASC and RFA1 Approved Alternative Routes Map References

Approved Route Name[1]	County	Length of Transmission Line (miles)	Map Reference[2]
True Blue Gulch Transmission Line Alternative[4]	Baker	4.6	RFA1 Figure 4-1, Map 2-3
Durbin Quarry Transmission Line Alternative[5]	Baker	2.8	RFA1 Figure 4-1, Map 5-6

Notes:
[1] Table presents routes in order of north to south by county (Morrow, Umatilla, Union, Baker, Malheur County and then north to south within the county and corresponding mapset).
[2] When routes/roads approved in RFA1 overlap with routes approved in Final Order on ASC, ASC Exhibit C map number reflected.
[3] The Little Juniper Canyon Transmission Line alternative would be an alternative to 1.3 miles of ASC approved route.
[4] The True Blue Gulch Transmission Line alternative would be an alternative to 2.9 miles of ASC approved route.
[5] The Durbin Quarry Transmission Line alternative would be an alternative to 2.8 miles of ASC approved route.
Source: B2HAMD1 Final Order on RFA1, B2HAMD RFA1 2023-06-08, Table 4.1-1. B2HAPPDoc3-4 ASC 03_Exhibit C_Project_Location_ASC 2018-09-28

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I.B.2. Approved Related or Supported Facilities Summary

ORS 469.300(14) defines "facility" as an "energy facility together with any related or supporting facilities." The below section summarizes the approved related or supporting facilities. Section II.B., *Requested Amendment*, describes the changes in RFA2. Attachment 1 to this order, the second amended site certificate, describes the approved facility with changes approved in RFA2.

Access Roads

The facility includes permanent access roads for the approved route, including 217.1 miles of new roads and 233.3 miles of existing roads requiring substantial modification. The approved alternative routes include 32.0 miles of new roads and 20.5 miles of existing roads requiring substantial modification. Existing roads used for construction and operation of the facility, but which would not require substantial modification, are not "related or supporting facilities" and, therefore are not included in the site boundary.[5]

New Roads

For purposes of describing the disturbance width, new roads are classified as either "primitive" or "bladed." The approved site boundary for all new roads is 200 feet wide (100 feet on either side of the centerline). The typical construction disturbance for primitive roads would be 16 feet and the operational width would be maintained at 10 feet. For bladed roads, the typical construction disturbance would be 16 feet wide, but could be as wide as 35 feet as dictated by terrain and soil conditions, and the operational width for bladed roads is 14 feet.

Existing Roads with No Substantial Modification

Road maintenance activities will be limited to 20 percent or less of the road surface area and may include repair of the road prism to (i) produce a stable operating surface, (ii) ensure proper drainage and erosion control, and (iii) establish horizontal clearance, however will not include (i) increasing the width of the existing road prism, (ii) change the existing road alignment, (iii) use materials inconsistent with the existing road surface, and/or (iv) change the existing road profile.

Existing Roads Requiring Substantial Modification

If improvements to an existing road would involve one or more of the following activities, the road segment is classified as requiring substantial improvements:

[5] OAR 345-001-0010(27) states that "related or supporting facilities does not include any structure existing prior to construction of the energy facility, unless such structure must be substantially modified solely to serve the energy facility."

1. increasing the width of the existing road prism;
2. changing the existing road alignment;
3. using materials inconsistent with the existing road surface;
4. changing the existing road profile; or
5. involving repairs to more than 20 percent of the road surface area defined by road prism width and longitudinal distance over a defined road segment.

Typical construction disturbance for existing roads requiring substantial modification would be 16 feet wide but could be up to 30 feet wide when road modification exceeds 70 percent. The operational width would be 14 feet. The approved site boundary for a substantially modified existing road is 100 feet wide (50 feet on either side of the centerline).

Following construction, any new roads developed for access to multi-use areas would be removed and restored to preconstruction conditions, unless the landowner requests otherwise. Roads developed for pulling and tensioning sites would be permanent because they would also provide access to structures for operations and maintenance.

Temporary Multi-Use Areas

Temporary multi-use areas would be necessary approximately every 15 miles along the ROW. The approved multi-use areas (MUAs) are temporary construction areas that would serve as field offices; reporting locations for workers; parking space for vehicles and equipment; and sites for material delivery and storage, fabrication assembly of towers, cross arms and other hardware, concrete batch plants, and stations for equipment maintenance. Each MUA would be approximately 30 acres in size. After construction is complete, MUAs would be restored in a manner compatible with the land use and zone within which it is location at the time of restoration, in accordance with General Standard of Review Condition 9.

Temporary Pulling and Tensioning Sites and Light-Duty Fly Yards

Pulling and tensioning sites would be required approximately every 1.5 to two miles along the ROW and at angle points greater than 30 degrees and would require approximately five acres at each end of the wire section to accommodate required equipment. Construction of the ASC approved transmission line route would require approximately 299 approved pulling and tensioning sites. Nine alternative pulling and tensioning sites are associated with the approved RFA1 alternatives. Equipment at pulling and tensioning sites would include tractors and trailers with spooled reels that hold the conductors and trucks with the tensioning equipment.

Four pulling and tensioning sites associated with the ASC routes are approved to include light-duty fly yards. The counties in which the light-duty fly yards are approved to be located are Umatilla, Baker and Malheur counties. All of the equipment and activities that would occur at an MUA could also occur at a light-duty fly yard, except that oil, gas and explosive storage would not occur and no batch plants would be located at the light-duty fly yards within the

pulling and tensioning sites. The light-duty fly yards would be approximately five-acre sites spaced approximately 15 miles apart.

I.B.3. Facility Location

The facility traverses five counties in Oregon including Morrow, Umatilla, Union, Baker and Malheur; and two cities including North Powder and Huntington. The location of the approved facility is presented in Figure 1, *ASC Approved and Alternative Routes and Vicinity,* Figure 2, *ASC Approved Alternative Routes and Vicinity,* and Figure 3*, RFA1 Approved Alternative Routes and Vicinity,* below.

Figure 1: ASC Approved and Alternative Routes and Vicinity

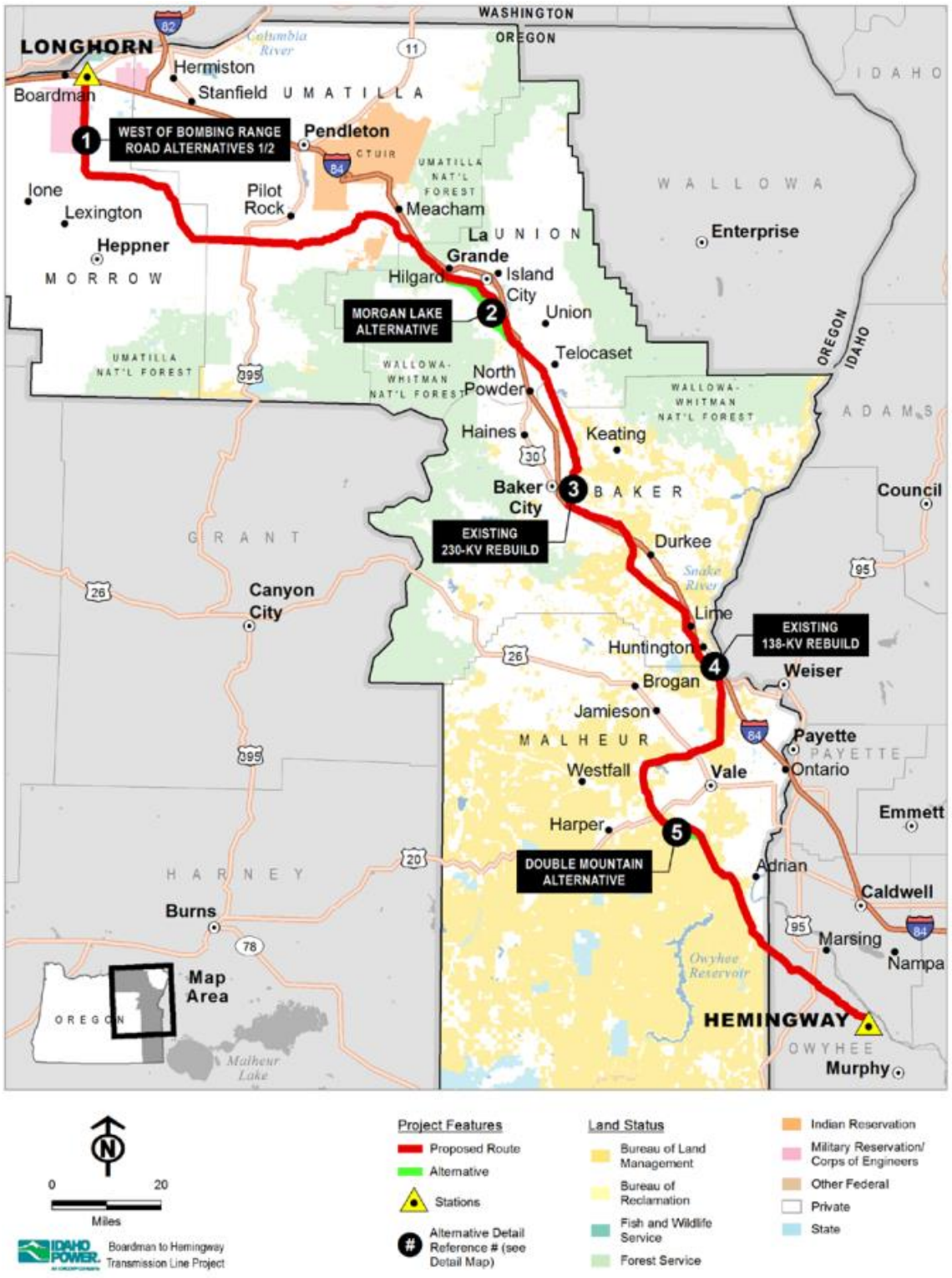

Figure 2: ASC Approved Alternative Routes and Vicinity

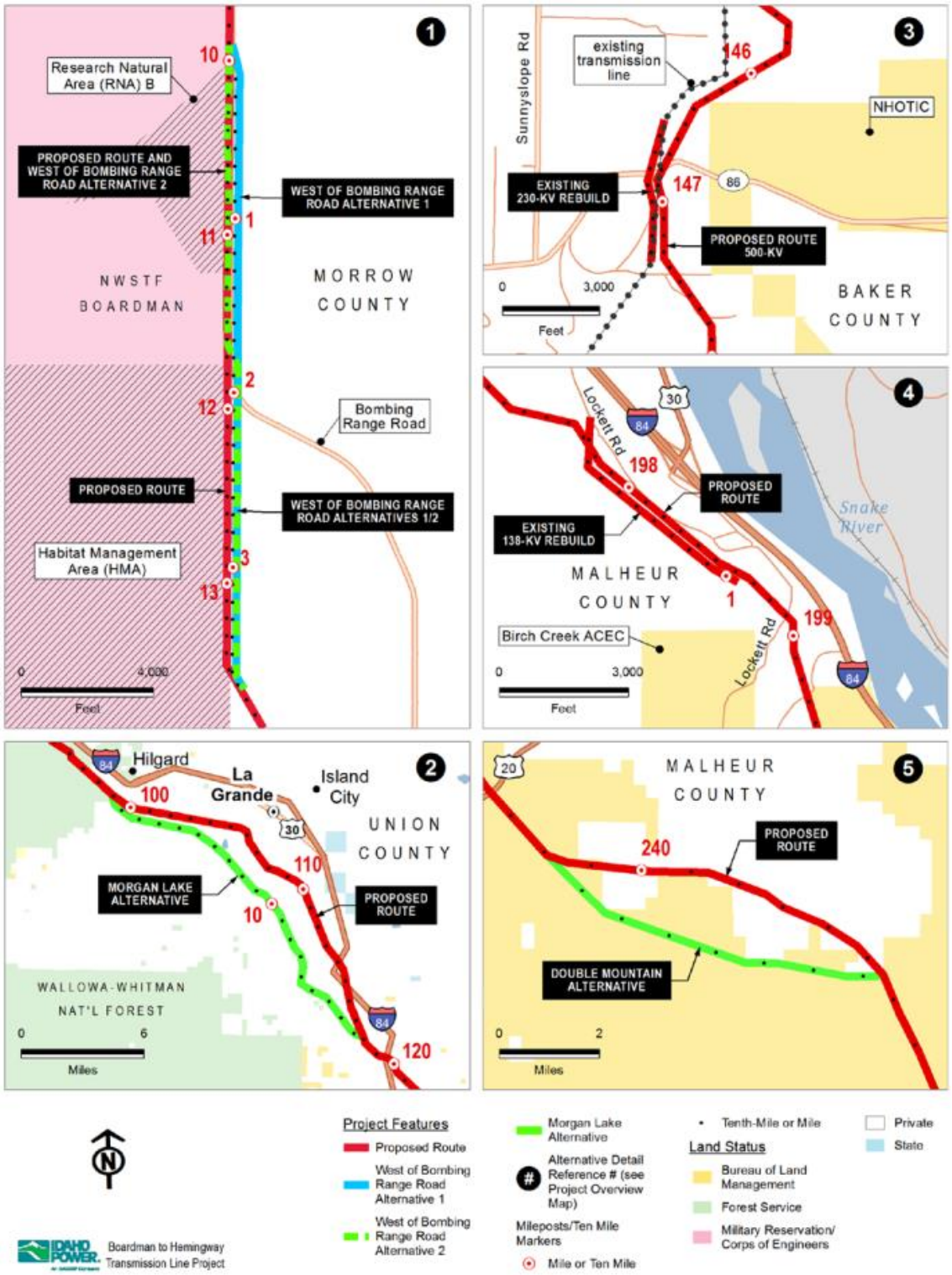

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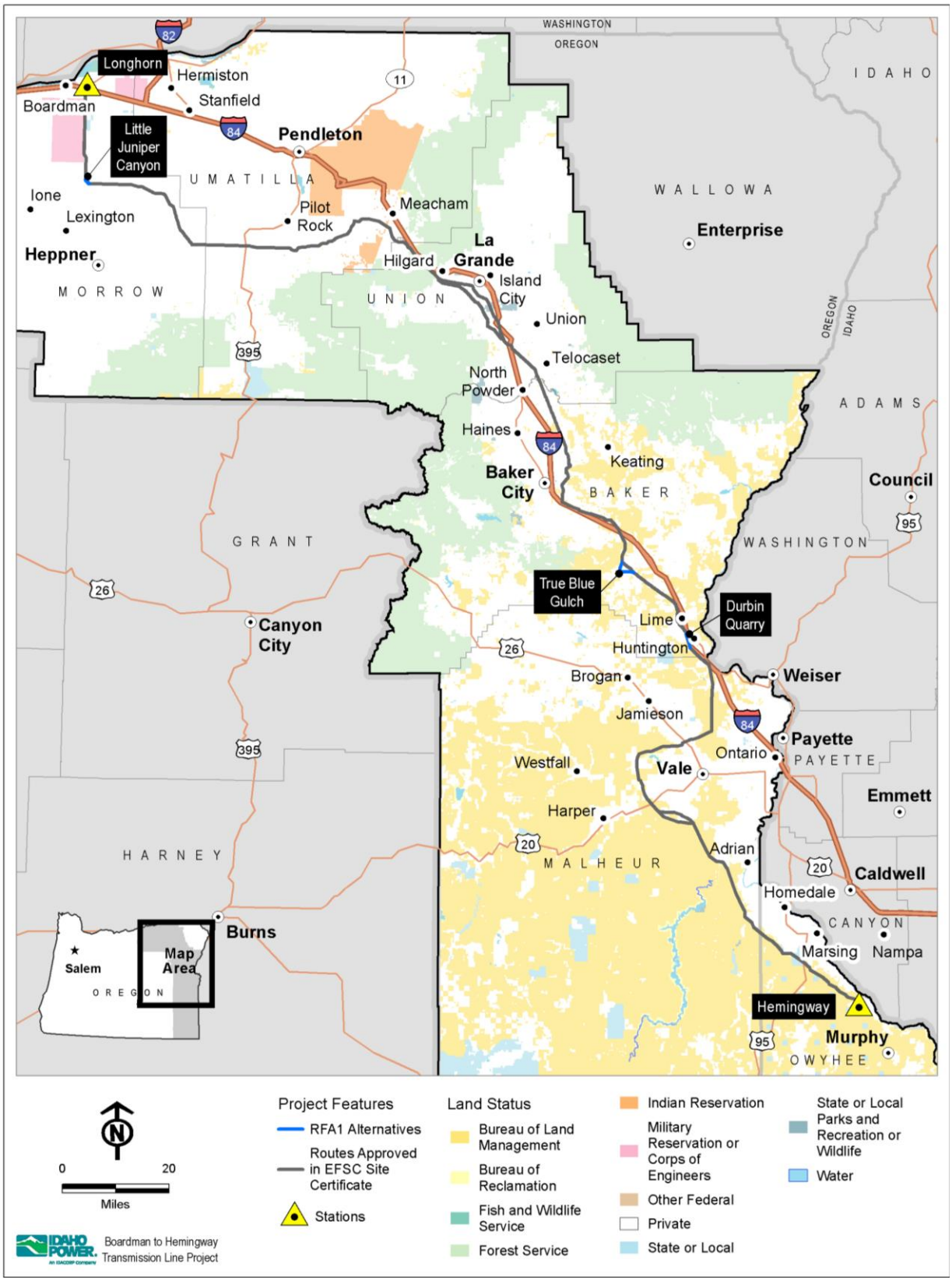
Figure 3: RFA1 Approved Alternative Routes and Vicinity



I.B.4. Facility Development: Construction, Operation and Retirement Activities

I.B.4.a Construction

Construction activities could occur simultaneously, by segment or phase. Construction activities will generally include the following phases:

Phase I - Civil construction
- Activities along the transmission line will involve clearing the corridor and constructing access roads and, if applicable, harvestable timber will be cleared then hauled off.

Phase II – Foundation Construction
- Foundations will be constructed at each structure site to support the steel towers. Track mounted drills and excavators will be mobilized to each structure site to excavate the site and concrete trucks will then deliver concrete to the sites to construct the foundations.

Phase III – Structure Erection
- Steel lattice towers will be assembled at each site and erected on the foundations. Material will be delivered via flatbed trucks to each structure site and unloaded with forklifts and cranes where it will be assembled in pieces in the work area around the foundations.

Phase IV – Conductor Pulling/Tensioning
- Conductor will be pulled along the corridor and through the structures via helicopters while large man lift trucks provide work crews access to each structure.[6]

Construction will include approximately 437 workers and crews for the following activities: switching station construction, ROW clearing, roads/pad grading, foundations, tower lacing, tower setting, wire stringing, restoration, blasting, materials management, mechanic & equipment management, refueling, dust control, construction inspection, materials testing, environmental compliance, and surveyors.

Construction traffic will include:
- Up to 486 one-way worker trips per day
- Up to 620 one-way light construction trips per day
- Up to 188 one-way heavy construction trips per day

I.B.4.b Operations and Maintenance

[6] B2HAPPDoc13 DPO IPC Responses to Select DPO Comments Rec'd by 2019-11-07; B2HAPP DPO IPC Responses - City of La Grande comments 2019-10-09.

Operations and maintenance (O&M) activities include routine inspection and maintenance of the transmission line, in compliance with the Transmission Maintenance and Inspection Plan (TMIP) (see Organizational Expertise Condition 1; Condition OPR-OE-01).

In accordance with the TMIP, three types of line maintenance patrols will be conducted: routine line patrols/inspections, unscheduled emergency line patrols, and aerial vegetation patrols. The routine line patrols include a detailed visual inspection of the entire line conducted at least once per year.

Emergency line patrols will be performed in response to any unexplained system outage or interruption, or whenever requested by a dispatcher, to identify major structural failures or issues.

Aerial vegetation patrols will be conducted by a transmission utility arborist to identify and manage vegetation encroachments that threaten the transmission lines.

Transmission Patrolmen will patrol and inspect the transmission lines at a minimum once a year to identify any transmission defects and any vegetation hazards that may develop between vegetation clearing cycles.

The TMIP requires that the certificate holder complete comprehensive 10-year maintenance inspection at least every 10-years.

O&M activities will also include short- and long-term monitoring and minimization measures for noxious weeds, restoration/reclamation, revegetation and habitat enhancement, as required by site certificate conditions provided in Section 5.0 of the amended site certificate (Attachment 1 of this order).

I.B.4.c Retirement/Decommissioning

The certificate holder shall retire or decommission the facility based on a retirement plan to be approved by the Council in accordance with the requirement of OAR 345-027-0110, consistent with the *Final Order on ASC*, and applicable conditions provided in Section 5.6 of the amended site certificate. Additional details associated with retiring the facility are discussed in Section III.G., of this order.

II. AMENDMENT PROCESS

With some exceptions, an amendment to a site certificate is required under OAR 345-027-0350(4) for any change in the design, construction, or operation of a facility in a manner substantially different from that described in the site certificate, if the proposed change: (1) could result in a significant adverse impact that the Council has not addressed in an earlier order and the impact affects a resource or interest protected by an applicable law or Council standard; (2) could impair the certificate holder's ability to comply with a site certificate condition; or (3) could require a new condition or a change to a condition in the site certificate ("three coulds").[7] As described below, the changes in RFA2 require review through the site certificate amendment process because the changes trigger the "three coulds" under OAR 345-027-0350(4).

II.A. SCOPE OF COUNCIL REVIEW

For amendments to the site certificate that include site boundary expansion and other changes, such as new or amended conditions and adding facility components not previously approved (midline capacitor station), the Scope of Council Review under OAR 345-027-0375 requires that Council determine whether the preponderance of evidence on the record supports the following conclusions:

1. That the portion of the facility within the area added to the site boundary by the amendment complies with all laws and Council standards applicable to an original site certificate application;
2. The amount of the bond or letter of credit required under OAR 345-022-0050 is adequate; and,
3. The facility, with proposed RFA2 changes, complies with the applicable laws or Council standards that protect a resource or interest that could be affected by the proposed RFA2 changes.

The certificate holder requests, and Council approves the expanded site boundary along specific portions of the transmission line route; redefine dimensional widths for some temporary roads; add additional road and transmission line route micrositing area options; add facility components and modify the language of previously imposed conditions.

The findings of fact and conclusions of law in Section III., *Evaluation of Council Standards*, vary depending on the applicability of each standard to the change and OAR 345-027-0375.

II.B. REQUESTED AMENDMENT

[7] OAR 345-027-0350(4).

Council approves RFA2 which includes:[8]

1. Redefinition of the site boundary and micrositing areas approved in the site certificate and first amended site certificate ("previously approved site boundary") to expand the site boundary for the facility,[9] specifically:
    - The expanded site boundary for transmission line routes would be 0.5 mile (2,640 feet) wide; or 0.25 mile (1,320 feet) from the center of the transmission line, with a micrositing area of 500 feet (the previously approved site boundary).
    - The expanded site boundary for facility roads would also be 0.5 mile (2,640 feet) wide, or 0.25 mile (1,320 feet) from the center of the road, and the micrositing area for roads is either 100 or 200 feet wide (the previously approved site boundary).

See Section II.B.1 and III.A., General Standard of Review for more details related to this requested change.

2. Addition of micrositing area alternatives to:
    - Relocate the transmission line in 12 locations based on certificate holder coordination and agreement with the affected landowners. This includes approximately 40 miles of 500-kV transmission line alternatives with two communication alternatives and 98.5 miles of associated access road modifications, and 0.6 mile of 230-kV transmission line alternatives;
    - Refine 58 miles of roads outside the RFA2 transmission line alternatives resulting from additional design and engineering review;
    - Add temporary work area alternatives including:
        - 5 light-duty fly yards;
        - 13 multi-use areas (MUAs)[10]; and
        - 115 pulling and tensioning sites.

See Section II.B.2 for more details related to this requested change.

[8] B2HAMD2 RFA2, Section 1.1.

[9] RFA2, Section 8.0 describes that the expanded site boundary generally encompasses a 0.5-mile-wide corridor centered on access roads and the transmission line centerline. In some locations, certificate holder is not requesting an expansion of the previously approved site boundary. Examples of this scenario include the previously approved site boundary/micrositing area associated with Double Mountain Alternative or the previously approved site boundary/micrositing area on Naval Weapons System Training Facility Boardman. In some locations the expanded site boundary extends beyond the previously approved site boundary/micrositing area but may not extend out to encompass the full 0.5-mile-wide corridor. In this scenario, certificate holder avoids expanding on to parcels whose owners have not been previously involved with the project, expanding across constraints such as Interstate 84, and/or sensitive resources (such as protected areas).

[10] RFA2 includes a cover letter submitted by the certificate holder. The cover letter indicates that the certificate holder has been working with individual landowners on finding suitable locations for temporary multi-use areas, and that after consultation with the Department and the respective counties, they are will no longer seeking approval for MUA UM-07, UN-05, UN-07, and MA-08 alternative locations. However, RFA2 Figure 4-1 and other RFA2 documents include these MUAS. As discussed further in Section III.E., *Land Use*, the Council approves 9 MUAs.

3. Construction and operation of a midline series capacitor station, located on approximately 5.5 acres within the previously approved site boundary in Union County.

See Section II.B.2.c.1 for more details related to this requested change.

4. Increased width of temporary roads used for construction.

See Section II.B.3 for more details related to this requested change.

5. The amendment also requested Energy Facility Siting Council (EFSC or Council) approval to amend language of site certificate condition(s): GEN-GS-06, GEN-NC-01, PRE-RT-01, CON-TE-02, PRE-FW-03, PRE-FW-04, OPR-FW-03, OPR-FW-04 and OPR-RT-01.

See Section II.B.4, below, for additional discussion and references to location in this order.[11] See also Attachment 1 to this order, the second amended site certificate for all of the final site certificate conditions.

II.B.1. RFA2 Expanded Site Boundary and Micrositing Corridor/Area Additions

In the *Final Order on ASC* and *RFA1*, Council approved the facility where the site boundary was equivalent to a micrositing transmission line corridor or micrositing area.[12]

Previously approved dimensions for the approved site boundary/micrositing areas are: [13]

- For the 500-kV transmission line, a 500-foot-wide area within which the transmission line, all transmission structures, and communication stations would be located.
- For Longhorn Station would be approximately 190 acres.
- For access roads would be either 100 or 200-feet in width, depending on the nature of the road.
- Temporary work areas (MUAs, pulling and tensioning sites, and light duty fly yards) vary in size from 4 to 23 acres.

RFA2 Section 1.1, 4.0, and 8.0 includes the certificate holder request, and Council approves the redefinition and separation of the site boundary and micrositing areas approved in the site certificate and amended site certificate and expand the site boundary at portions of the facility, as described below and in this order.

The expanded site boundary for transmission line routes is 0.5 mile (2,640 feet) wide; or 0.25 mile (1,320 feet) from the center of the transmission line, with a micrositing corridor/area of

[11] B2HAMD2 RFA2, Section 6.0.

[12] B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, pp. 52-53 and B2HAMD1Doc1 Final Order 2023-09-22_Signed_No Attachments 2023-09-22, page 2.

[13] B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, Section III.B. Site Boundary, Right-of-Way, and Facility Location; pp. 52-56.

500 feet (same width as the previously approved site boundary/micrositing area). The expanded site boundary for facility roads is also 0.5 mile (2,640 feet) wide, or 0.25 mile (1,320 feet) from the center of the road, and the micrositing area for roads is either 100 or 200 feet wide (same width as the previously approved site boundary/ micrositing area). The expanded site boundary expands the area evaluated for potential resources which could assist in accommodating minor adjustments associated with requests from landowners or stakeholders, the need to avoid impacts to sensitive resources, or needed to address constructability issues in the field.[14] In some locations, certificate holder did not request an expanded site boundary and maintains the previously approved site boundary/micrositing area. In some locations the expanded site boundary extends beyond the previously approved site boundary/micrositing area but may not extend out to encompass the full 0.5-mile-wide corridor. In this scenario, certificate holder attempted to avoid expanding on to parcels whose owners have not been previously involved with the facility or expanding across constraints such as Interstate 84 or sensitive resources (such as protected areas).[15] See Section III.A.1.a, *RFA2 Site Boundary Expansion and Micrositing Area Definition,* for the evaluation and findings associated with this request.

II.B.2. Micrositing Area and Facility Additions: Routes, Roads, Work Areas, and Facility Components

The RFA2 transmission line alternatives (see black box callouts on Figure 4 below), are; in Morrow County: Boardman Junction alternative, Bombing Range SE alternative, Ayers Canyon alternative; in Umatilla County: Rugg Canyon alternative, Sevenmile Creek alternative; in Union County: Rock Creek 1 alternative, Rock Creek 2 alternative, Baldy alternative; in Baker County: Hwy 203 Crossing alternative, ASC approved route (230-kV Rebuild) revised alternative; and in Malheur County: Willow Creek alternative, and the Cottonwood Creek alternative. The road, transmission line, and work area additions are discussed in more detail by county in the following section.

Table 2: *RFA2 Transmission Line Route, Access Road, and Work Area Additions*, below details the location, length, acreage impacts and reasoning for the transmission line alternative micrositing areas in RFA2.[16] In addition, Section II.B.2, below, describes the RFA2changes by county.

RFA2 also includes a Midline Capacitor Station within the previously approved site boundary located in Union County. The Midline Capacitor Station (Capacitor Station) is discussed further

[14] B2HAMD2Doc2 RFA2 2024-04-11, Section 8.0.

[15] B2HAMD2Doc2 RFA2 2024-04-11, Sections 1.1 and 8.0.

[16] The RFA2 transmission line, road, and work area micrositing area additions are "additive;" certificate holder therefore would have more options and flexibility to accommodate landowner preferences and final facility design needs, however, the certificate holder will ultimately select one approved route, approved RFA1 alternative routes, or routes in RFA2, if approved. Actual acreage/disturbance impacts from the facility will be significantly less than approved in the ASC, RFA1, and RFA2, if approved and evaluated in this order.

below under Union County in Section III.B.2.c.1., *Midline Capacitor Station*. Figure 4: RFA2 Midline Capacitor Station: Union County illustrates the location of the station.

Table 2: RFA2 Transmission Line Route, Access Road, and Work Area Additions

RFA2 Micrositing Area Additions[1]	Length of Addition – Transmission Line (miles)	Length of Addition – Access Road (miles)	Work Areas (acres)	Micrositing Area (acres)	Description of Micrositing Area Addition
Morrow County					
Boardman Junction alternative[2]	0.6	--	3.9	5.1	Slight design modification to west to span I-84
Bombing Range SE alternative[3]	1.0	0.4	0.8	5.7	Slight design modification to east to avoid impacts to pivot irrigation
West of Bombing Range Road Alternative 1 (ASC Approved Alternative)	--	--	1.8	--	Pulling-tensioning site adjustments
Ayers Canyon alternative[4]	8.7	24.2	63.6	893.9	Alignment shifted to southeast per landowner request
Other Access Road and Work Area Changes for ASC Approved Route	--	1.7	34.6	19.8	Road and pulling-tensioning site adjustments
Morrow County – Total	**10.3**	**25.4**	**75.4**	**924.5**	
Umatilla County					
Rugg Canyon alternative[5]	2.5	2.6	21.5	159.0	Alignment shifted to southern parcel boundary per landowner request
Sevenmile Creek alternative[6]	9.9	4.3	74.9	695.1	Alignment shifted northwest to adjacent ridge per landowner request
Other Access Road and Work Area Changes	--	8.6	67.6	241.4	Road, pulling-tensioning site, and MUA adjustments
Umatilla County – Total	**12.4**	**15.5**	**164.0**	**1,095.5**	
Union County					
Rock Creek 1 alternative[7]	1.4	2.1	10.8	49.3	Revised transition to Morgan Lake alternative to avoid isolated BLM parcel

Table 2: RFA2 Transmission Line Route, Access Road, and Work Area Additions

RFA2 Micrositing Area Additions[1]	Length of Addition – Transmission Line (miles)	Length of Addition – Access Road (miles)	Work Areas (acres)	Micrositing Area (acres)	Description of Micrositing Area Addition
Rock Creek 2 alternative[8]	1.5	0.7	5.4	33.4	Alternate transition to Morgan Lake alternative to avoid landowner
Morgan Lake Alternative (ASC Approved Alternative)	--	--	4.7	--	Pulling-tensioning site adjustments
Baldy alternative[9]	7.5	15.4	187.8	597.3	Alignment shifted to southwest per landowner requests
Wallowa Whitman NF H-Frames (ASC Approved Alternative)	--	--	8.8	--	Pulling-tensioning site adjustments
Other Access Road and Work Area Changes for ASC Approved Route	--	1.7	228.7	237.9	Road, pulling-tensioning site, and MUA adjustments
Union County – Total	**10.4**	**19.5**	**179.4**	**789.5**	
Baker County					
Hwy 203 Crossing alternative[10]	1.9	1.2	13.5	70.6	Alignment shifted east to avoid impacts to proposed pivot irrigation
ASC Approved Route (230-kV Rebuild) Revised Alternative[11]	0.6	0.1	0.6	10.2	Revised tie into existing 230-kV line
Other Access Road and Work Area Changes for ASC Approved Route	--	15.3	84.8	279.1	Road, pulling-tensioning site, and MUA adjustments
Baker County – Total	**2.5**	**16.64**	**98.9**	**359.9**	
Malheur County					
Willow Creek alternative[12]	1.4	1.1	10.2	32.8	Alignment shifted south to avoid impacts to pivot irrigation

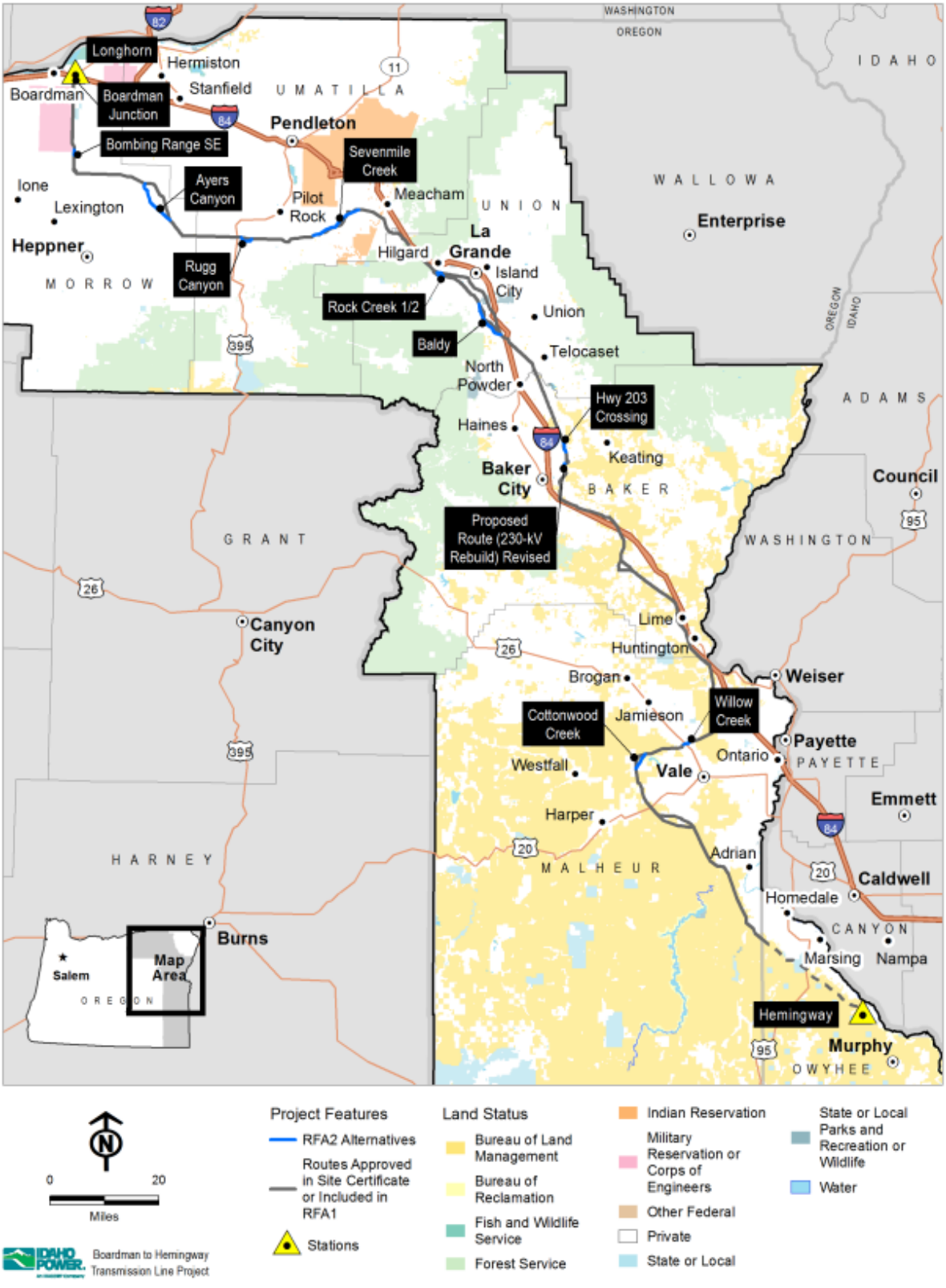
Table 2: RFA2 Transmission Line Route, Access Road, and Work Area Additions

RFA2 Micrositing Area Additions[1]	Length of Addition – Transmission Line (miles)	Length of Addition – Access Road (miles)	Work Areas (acres)	Micrositing Area (acres)	Description of Micrositing Area Addition
Cottonwood Creek alternative[13]	3.2	5.1	22.9	239.7	Alignment shifted to southeast to avoid potential noise impacts
Other Access Road and Work Area Changes for ASC Approved Route	--	18.6	197.4	476.2	Road, pulling-tensioning site, and MUA adjustments
Malheur County – Total	**4.6**	**24.8**	**230.5**	**748.7**	
Grand Total	**40.1**	**156.5**	**1,341.4**	**3,918.1-4,142.3***	

Notes:
[1] Table presents routes in order of north to south by county (Morrow, Umatilla, Union, Baker, Malheur counties and then north to south within the county and corresponding mapset). If RFA2 alternative routes are selected instead of ASC approved route(s), the total length of the transmission line would be reduced by approximately 0.4 miles.
[2] The Boardman Junction Transmission Line alternative would result in no change in the miles of transmission line compared to the ASC approved route.
[3] The Bombing Range SE Transmission Line alternative would result in no change in the miles of transmission line compared to the ASC approved route.
[4] The Ayers Canyon Transmission Line alternative would result in a decrease of 0.3 miles of transmission line compared to the ASC approved route.
[5] The Rugg Canyon Transmission Line alternative would result in an increase of 0.5 miles of transmission line compared to the ASC approved route.
[6] The Sevenmile Creek Transmission Line alternative would result in a decrease of 0.6 miles of transmission line compared to the ASC approved route.
[7] The Rock Creek 1 Transmission Line alternative would result in a decrease of 0.2 miles of transmission line compared to the ASC approved Morgan Lake alternative.
[8] The Rock Creek 2 Transmission Line alternative would result in a decrease of 0.1 miles of transmission line compared to the ASC approved Morgan Lake alternative.
[9] The Baldy Transmission Line alternative would result in no change in the miles of transmission line compared to the ASC approved route.
[10] The Hwy 203 Crossing Transmission Line alternative would result in no change in the miles of transmission line compared to the ASC approved route.
[11] ASC approved route (230-kV Rebuild) revised alternative.
[12] The Willow Creek Transmission Line alternative would result in no change in the miles of transmission line compared to the ASC approved route.
[13] The Cottonwood Creek Transmission Line alternative would result in a decrease of 0.4 miles of transmission line compared to the ASC approved route.
* RFA2 Table 4.1-1 identifies total micrositing area acreage as 3,918.1, however elsewhere in the RFA2, the maximum acreage of the micrositing area additions is 4,142.3.
Source: B2HAMD2Doc2 RFA2 2024-04-11, Table 4.1-1.

1

Figure 4: RFA2 Route Additions



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III.B.2.a Morrow County: Route, Road, and Facility Additions

The Boardman Junction alternative would be located where the facility crosses over I-84 near Boardman, Oregon. Adjustments to structure locations for spanning Interstate 84 extended outside of the previously approved site boundary. The predominant land use at the Boardman Junction alternative is agriculture and industrial development.

The Bombing Range SE alternative would be located between the southeast corner of the Naval Weapons System Training Facility Boardman and Bombing Range Road in an agricultural area. Adjustments are necessary for structure locations to avoid impacts on irrigated agricultural.

The Ayers Canyon alternative would be located between Big Butter Creek and Highway 74 in open rangeland. Per landowner request, the transmission line would be shifted approximately 2 miles to the west.

In addition to these three alternatives, several RFA2 micrositing area additions in Morrow County are associated with design updates to roads, pulling and tensioning sites, and MUAs along and adjacent to the previously approved site boundary. Table 3, below, identifies the major components and related or supporting facilities associated with each of the site boundary changes in Morrow County.

Table 3: Summary of RFA2 Additions – Morrow County

Facility Features	Ayers Canyon Alternative	Boardman Junction Alternative	Bombing Range SE Alternative	ASC Approved West of Bombing Range Road 1	Other Access Road and Work Area Changes	Total (count)
Towers – Single Circuit 500-kV Lattice	29	--	1	--	--	30
Pulling and Tensioning Sites	12	1	--	1	4	17
Light-Duty Fly Yards	--	--	--	--	--	--
Multiuse Areas	--	--	--	--	--	--
Communication Stations	--	--	--	--	--	--
Total (count)	41	1	1	--	4	48
Access Roads (miles)				**--**		**Total (miles)**
Existing, 21-70% Improved	11.2	--	0.4	--	0.6	12.2

Table 3: Summary of RFA2 Additions – Morrow County

Facility Features	Ayers Canyon Alternative	Boardman Junction Alternative	Bombing Range SE Alternative	ASC Approved West of Bombing Range Road 1	Other Access Road and Work Area Changes	Total (count)
Existing, 71-100% Improved	--	--	--	--	--	--
New, Bladed	12.1	--	--	--	--	12.1
New, Overland	0.9	--	--	--	0.2	1.1
Total (miles)	24.2	--	--	--	0.8	25.4
Crossings						**Total (count)**
High-Voltage Transmission Line Crossings	1	1	0	--	NA	2
Existing Road Crossings	0	12	0	--	NA	12
Existing Railroad Crossings	0	0	0	--	NA	0
Source: B2HAMD2 RFA2. Table 5.2-1						

III.B.2.b Umatilla County: Route, Road, and Facility Additions

The Rugg Canyon alternative would be located east of Highway 395, between the highway and Bear Creek Road in open rangeland. Per landowner request, the transmission line would be shifted approximately 2,000 feet to the south.

The Sevenmile Creek alternative would be located in the foothills near Rocky Ridge Road north of Birch Creek and crosses McKay Creek as the facility enters the Blue Mountains. The Sevenmile Creek alternative would cross open rangeland with occasional forested areas. Per landowner request, the transmission line would be shifted 1,000 to 3,000 feet.

The RFA2 micrositing area additions in Umatilla County also include changes to access roads, pulling and tensioning sites, light duty fly yards, and MUAs along the previously approved site boundary in open rangeland and forested areas. Table 4, below, identifies the major components and related or supporting facilities associated with each of the Micrositing area additions in Umatilla County.

Table 4: Summary of RFA2 Additions – Umatilla County

Facility Features	Rugg Canyon Alternative	Sevenmile Creek Alternative	Other Access Road and Work Area Changes	Total (count)
Towers – Single Circuit 500-kV Lattice	9	28	--	37
Pulling and Tensioning Sites	5	10	10	25
Light-Duty Fly Yards	--	1	1	2
Multiuse Areas	--	--	2	2
Communication Stations	--	1	--	1
Total (count)	14	40	13	67
Access Roads (miles)				**Total (miles)**
Existing, 21-70% Improved	0.41	0.1	2.2	2.4
Existing, 71-100% Improved	--	--	1.7	1.7
New, Bladed	1.5	3.9	4.7	10.1
New, Overland	1.0	0.3	--	1.3
Total (miles)	2.6	4.3	8.6	15.5
Crossings				**Total (count)**
High-Voltage Transmission Line Crossings	0	0	NA	0
Existing Road Crossings	0	0	NA	0
Existing Railroad Crossings	0	0	NA	0
Source: B2HAMD2 RFA2. Table 5.2-3				

III.B.2.c Union County: Route, Road, and Facility Additions

The Rock Creek alternative 1 and Rock Creek alternative 2 would be located immediately east of Highway 244 just south of Hilgard Junction State Park. The Rock Creek alternatives provide alternatives to where the previously approved site boundary for the Morgan Lake alternative connects to the previously approved site boundary for the ASC approved route. The Rock Creek alternatives occur mostly in open rangeland with some small, forested areas.

The Baldy alternative would be located near Ladd Canyon south of La Grande and would be approximately 2,000 feet south and west of the previously approved site boundary by request of landowners. It would cross open rangeland and forested areas. The RFA2 micrositing area additions in Union County also include access road, pulling tensioning site, and MUA changes along the previously approved site boundary in open rangeland and forested areas. Table 5, below, identifies the major components and related or supporting facilities associated with each of the RFA2 micrositing area additions in Union County.

Table 5: Summary of RFA2 Additions – Union County

Facility Features	Baldy Alternative	ASC Approved Morgan Lake Alternative	Rock Creek Alternative 1	Rock Creek Alternative 2	Other Access Road and Work Area Changes	Total (count)
Towers – Single Circuit 500-kV Lattice	29	--	2	2	--	33
Pulling and Tensioning Sites	8	2	2	2	7	25
Light-Duty Fly Yards	1	--	--	--	--	1
Multiuse Areas	--	--	--	--	3	3
Communication Stations	--	--	--	--	--	--
Midline Capacitor Station	--	--	--	--	1	1
Total (count)	40		5	2	19	66
Access Roads						**Total (miles)**
Existing, 21-70% Improved	8.5	--	1.1	0.3	1.2	11.1
Existing, 71-100% Improved	2.2	--	--	--	--	2.2
New, Bladed	4.5	--	0.8	0.3	0.1	5.7
New, Overland	0.2	--	0.2	0.1	--	0.5
Total (miles)	15.4	--	2.1	0.7	1.3	19.5
Crossings		**-**				**Total (count)**
High-Voltage Transmission Line Crossings	3	--	1	1	NA	5
Existing Road Crossings	0	--	1	0	NA	1
Existing Railroad Crossings	0	--	0	0	NA	0
Source: B2HAMD2 RFA2. Table 5.2-5, and Department review of RFA2						

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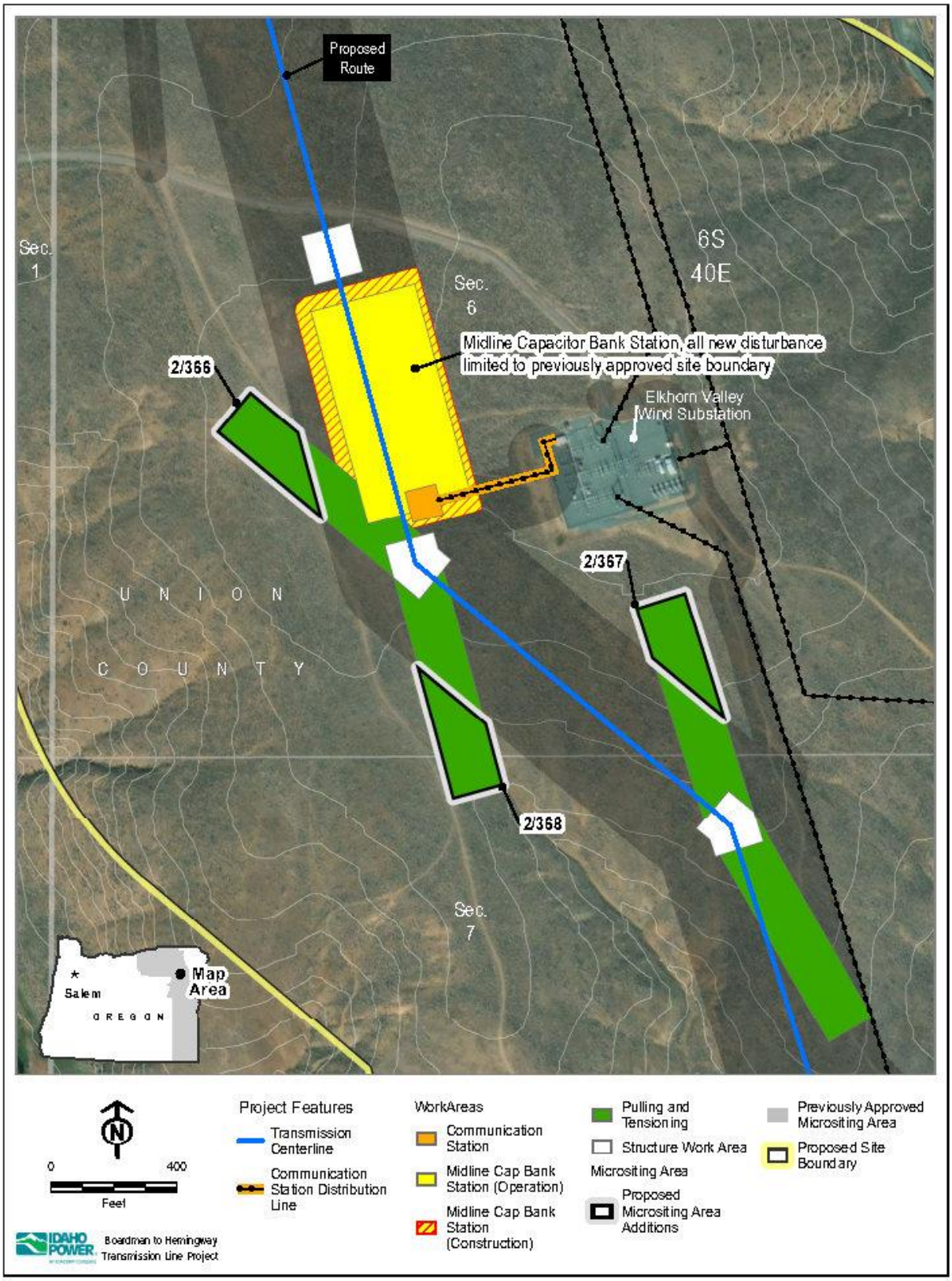
III.B.2.c.1 Midline Capacitor Station

Certificate holder also proposed, and Council approves a midline series capacitor substation near the midpoint of the facility in Union County, referred to as the Midline Capacitor Station (Figure 5 below).[17] The Midline Capacitor Station has series capacitor banks, which load the transmission line more efficiently and optimally by compensating for the impedance resulting from the line length.[18] Series capacitor banks are commonly installed on longer transmission lines. Certificate holder's experience includes operating eleven series capacitor banks across the utility's system. The Midline Capacitor Station includes two 500-kV circuit breakers, two high-voltage switches, three single bay 500-kV bus supports with foundations, two 500-kV transmission line termination structures, three 500-kV 4,000 amp air-break switches and three 500-kV series capacitor banks. Foundations for the 500 kV, 4,000 amp air brake switches with motor operators, structures would be approximately four feet in diameter and ten feet deep. The 500-kV transmission line termination structures are approximately 125 to 135 feet tall. A control building would be built to accommodate the necessary system communications and control equipment, fiber optic signal communication equipment will be installed. The site will be supplied by distribution power brought in from the nearby substation, North Powder substation. The approximately 10-acre Midline Capacitor Station would be fenced.

[17] See also RFA2 Attachment 2-1.

[18] B2HAMD2Doc2 RFA2 2024-04-11, Section 4.1.

Figure 5: Midline Capacitor Station: Union County



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III.B.2.d Baker County: Route, Road, and Facility Additions

The Highway (Hwy) 203 Crossing alternative would be approximately 6 miles northeast of Baker City on the eastern edge of Baker Valley. This alternative would shift the facility slightly to the east to avoid impacts to pivot irrigation fields. A minor redesign of the ASC approved route (230-kV Rebuild) revised alternative required extending the site boundary northeast of where the previously approved site boundary for the 230-kV rebuild started. The other access road and work area changes would be predominantly in open rangeland settings in Baker County. Table 6, below, identifies the major components and related or supporting facilities associated with each of the RFA2 micrositing area additions in Baker County.

Table 6: Summary of RFA2 Additions – Baker County

Facility Features	Hwy 203 Crossing Alternative	Route (230-kV Rebuild) Revised Alternative	Other Access Road and Work Area Changes	Total (count)
Towers – Single Circuit 500-kV Lattice	6	--	--	6
Pulling and Tensioning Sites	3	--	18	21
Light-Duty Fly Yards	--	--	1	1
Multiuse Areas	--	--	4	4
Communication Stations	--	--	--	--
Total (count)	9	--	23	32
Access Roads (miles)				**Total (miles)**
Existing, 21-70% Improved	--	--	13.3	13.3
Existing, 71-100% Improved	0.3	--	2.0	2.3
New, Bladed	0.9	--	--	0.9
New, Overland	--	0.1	--	0.1
Total (miles)	1.2	0.1	15.3	16.6
Crossings				**Total (count)**
High-Voltage Transmission Line Crossings	2	2	NA	2
Existing Road Crossings	2	1	NA	3
Existing Railroad Crossings	0	0	NA	0
Source: B2HAMD2 RFA2. Table 5.2-7				

III.B.2.e Malheur County: Route, Road, and Facility Additions

The Willow Creek alternative would cross Hwy 26 in an agricultural area approximately 7 miles north of Vale, Oregon. The Cottonwood Creek alternative would be less than one mile west of Bully Creek Reservoir in open rangeland. The other access road and work area changes in

Malheur County occur in a mix of open rangeland and agricultural areas. Table 7, below, identifies the major components and related or supporting facilities associated with each of the RFA2 micrositing area additions in Malheur County.

Table 7: Summary of RFA2 Changes – Malheur County

Facility Features	Cottonwood Creek Alternative	Willow Creek Alternative	Other Access Road and Work Area Changes	Total (count)
Towers – Single Circuit 500-kV Lattice	13	1	--	14
Pulling and Tensioning Sites	4	3	20	27
Light-Duty Fly Yards	--	--	1	1
Multiuse Areas	--	--	4	4
Communication Stations	1	--	--	1
Total (count)	18	4	25	47
Access Roads (miles)				**Total (miles)**
Existing, 21-70% Improved	2.2	0.4	17.3	19.9
Existing, 71-100% Improved	0.5	--	0.5	1.0
New, Bladed	2.3	0.1	0.7	3.1
New, Overland	<0.1	0.6	0.1	0.8
Total (miles)	5.1	1.1	18.6	24.8
Crossings				**Total (count)**
High-Voltage Transmission Line Crossings	1	--	NA	1
Existing Road Crossings	0	1	NA	1
Existing Railroad Crossings	0	0	NA	0
Source: B2HAMD2 RFA2. Table 5.2-9				

II.B.3. Related or Supporting Facilities: Temporary Road Dimension Change

RFA2 proposed, and Council approves the increase of temporary disturbance from new bladed and substantially modified roads, as presented in Table 8 below. Certificate holder indicates that wider widths would be necessary in areas where there is a steeper slope, so that the road width can accommodate construction equipment movement. For instance, for new, bladed roads, Council previously approved a maximum road width for construction of 35 feet. In RFA2 certificate holder indicates that in areas where the slope of the road is approximately 30 percent, the road may need to be widened to up to 120 feet, and then restored back to its operational width of 14 feet. Certificate holder indicates that the areas where road slopes may be up to 30 percent and need to be widened further would only occur in approximately 3

percent of all facility access roads (new and existing) fall into the category of greater than 30 percent cross slope.[19]

Table 8, *Summary of Access Road Classifications and RFA2 Temporary Dimensions* provides a summary of the road descriptions previously approved by Council. These road dimensions are provided in Attachment 1, amended site certificate and Attachment B-5, Road classification and Access Control Plan.

Additional discussion and potential impacts from the wider temporary roads are evaluated in Section III.D., *Soil Protection*, of this order.

Table 8: Summary of Access Road Classifications and RFA2 Temporary Dimensions

Access Road Classification		Micrositing Area	Construction Disturbance	Operations Disturbance	Road Prism or Profile Changes	Extent of Work
New Roads	Primitive	200 feet	> 16 feet	10 feet	Yes	Clearing of vegetation or obstructions. Create roads by direct vehicle travel.
	Bladed	200 feet	0-8% slope – 30 feet. 8-15% slope – 45 feet. 15-30% slope – 75 feet. >30% slope – 120	14 feet	Yes	Clearing of vegetation or obstructions. Create roads by cutting/filling existing terrain.

[19] B2HAMD2Doc2 RFA2 2024-04-11, Section 4.1.

Table 8: Summary of Access Road Classifications and RFA2 Temporary Dimensions

Access Road Classification		Micrositing Area	Construction Disturbance	Operations Disturbance	Road Prism or Profile Changes	Extent of Work
Existing Roads - Substantial Modification	Substantial Modification, 21-70% Improved	100 feet	0-15% slope – 25 feet >15% slope 60 - feet	14 feet	Yes	Reconstruct portions of existing road to improve road function. Possible road prism widening, profile adjustments, horizontal curve adjustments, or material placement.
	Substantial Modification, 71-100% Improved	100 feet	0-15% slope – 25 feet >15% slope 60 - feet	14 feet	Yes	Reconstruct portions of existing road to improve road function. Possible road prism widening, profile
Existing Roads – No Substantial Modification	No Substantial Modification, 0-20% Improved	NA[1]	NA[1]	NA[1]	No	Repair of existing road to maintain original road function. No betterment of existing road function or design.

[1] Existing roads with no substantial modifications are not included in the Site Boundary and do not have an operation or construction disturbance width assigned to them.

New Roads

For purposes of describing the disturbance width, new roads are classified as either "primitive" or "bladed." The micrositing area for all new roads is 200 feet wide (100 feet on either side of the centerline). The typical construction disturbance for primitive roads would be 16 feet and

the operational width would be maintained at 10 feet. For bladed roads, the typical construction disturbance would be 30 feet wide, but could be as wide as 120 feet as dictated by slope, terrain and soil conditions. The operational width for bladed roads is 14 feet.

Existing Roads with No Substantial Modification

Road maintenance activities will be limited to 20 percent or less of the road surface area and may include repair of the road prism to (i) produce a stable operating surface, (ii) ensure proper drainage and erosion control, and (iii) establish horizontal clearance, however will not include (i) increasing the width of the existing road prism, (ii) change the existing road alignment, (iii) use materials inconsistent with the existing road surface, and/or (iv) change the existing road profile.

Existing Roads Requiring Substantial Modification

If improvements to an existing road would involve one or more of the following activities, the road segment is classified as requiring substantial improvements:

1. increasing the width of the existing road prism;
2. changing the existing road alignment;
3. using materials inconsistent with the existing road surface;
4. changing the existing road profile; or
5. involving repairs to more than 20 percent of the road surface area defined by road prism width and longitudinal distance over a defined road segment.

Typical construction disturbance for existing roads requiring substantial modification would be 25 feet wide but could be up to 60 feet wide when road modification exceeds 70 percent. The operational width would be 14 feet. The micrositing area for a substantially modified existing road is 100 feet wide (50 feet on either side of the centerline).

Following construction, any new roads developed for access to multi-use areas would be removed and restored to preconstruction conditions, unless the landowner requests otherwise. Roads developed for pulling and tensioning sites would be permanent because they would also provide access to structures for operations and maintenance.

II.B.4. RFA2 Amended and New Conditions

RFA2 Attachment 6-1 incudes the certificate holder's proposed changes to the description of the site boundary, approved transmission line corridors and access roads; and amendments to site certificate conditions, and RFA2 Section 6.0 provides a basis for condition revisions. Certificate holder requests Council approval to amend language of site certificate condition(s): GEN-GS-06, GEN-NC-01, PRE-RT-01, CON-TE-02, PRE-FW-03, PRE-FW-04, OPR-FW-03, OPR-FW-04 and OPR-RT-01.

These are presented, evaluated, and adopted, with Council modifications, in the applicable Section III. *Evaluation of Council Standards,* of this order.

Council amends conditions not limited to the certificate holder's RFA2 proposal. Attachment 1 to this order, the Second Amended Site Certificate includes many but not all of the certificate holder's proposed revisions to the site certificate and conditions. The following list of site certificate conditions are amended as part of this order, and include whether the conditions change was originally proposed by the certificate holder or if the condition was recommended amended by the Department:

GEN-GS-06 (Cert holder)
CON-TE-02 (Cert holder/Department)
PRE-FW-03 (Cert holder)
PRE-FW-04 (Cert holder)
OPR-FW-03 (Cert holder)
OPR-FW-04 (Cert holder)
GEN-FW-06 (Department)
GEN-LU-10 (Department)
GEN-NC-01 (Cert holder)
PRE-RT-01 (Cert holder/Department)
OPR-RT-01(Cert holder/Department)
GEN-HC-02 (Department)

These conditions update the term "site boundary" to "micrositing area," See Section III.A.1.a *RFA2 Site Boundary Expansion and Micrositing Area Definition*, for a discussion of the expanded site boundary:

GEN-GS-06
GEN-PA-02
GEN-FW-08
GEN-NC-02
GEN-FP-01
PRE-SS-01
PRE-FW-01
PRE-FW-02
CON-FW-03

II.C. COUNCIL REVIEW PROCESS FOR AMENDMENTS

RFA2 was reviewed under the Type A review process pursuant to OAR 345-027-0351(2). The Type A review process includes a DPO public hearing and opportunity to request a contested case proceeding.

II.C.1. Request for Amendment and Revised Analysis Areas

On June 12, 2023, the certificate holder and Department conducted an in-person meeting that discussed, in part, the details of preliminary Request for Amendment 2 for the facility including schedule, proposed changes, analytical methods and analysis areas (pre-amendment conference).[20] On June 30, 2023, the certificate holder submitted its preliminary Request for Amendment 2 (pRFA2). On July 13, 2023, the Department issued Public Notice that pRFA1 had been received as required by OAR 345-027-0360(2).

The Department reviewed pRFA2 to determine whether or not the request contained sufficient information for the Council to make findings. On August 29, 2023, the Department notified the certificate holder that pRFA2 was incomplete and requested additional information (RAIs). In response to RAIs, certificate holder submitted RAI responses and revised attachments on September 22, 2023. On September 22, 2023 and October 30, 2023, the Department issued additional RAIs. Based on ongoing coordination with reviewing agencies, SAGs, the Department, and certificate holder coordination with landowners and facility engineering needs, certificate holder indicated its intent to add additional requests to pRFA2 for Council's consideration, which included a request to expand the site boundary in some facility locations and separate the definitions of site boundary and micrositing areas. On December 6, 2023 the Department provided guidance to certificate holder to support this request in pRFA2 for EFSCs review of this request (this guidance is summarized in RFA2 Table 8-1) and requested certificate holder to provide a cover letter explaining these changes. On December 7, 2023, certificate holder submitted a letter of intent to add additional requests to pRFA2.[21] On December 15, 2023, certificate holder submitted a revised pRFA2 and attachments which included responses to ongoing RAIs as well as the additional changes identified in the letter of intent. The revised pRFA2 and cover letter were posted to the project webpage, and updates were provided in the Departments monthly Energy Facility Siting Project Updates.[22]

Based on the request to distinguish micrositing areas/corridors approved in the ASC, RFA1, and proposed in pRFA2 from an expanded site boundary; where the site boundary would extend beyond areas fully evaluated for facility infrastructure siting (micrositing corridors/areas); under OAR 345-027-0360(3)[23], the Department provided its written approval of revised analysis areas

[20] B2HAMD2 Pre-Amendment Conference Coordination 2023-03-2023 and 2023-06-12. Where OAR 345-027-0359(1) states, prior to submitting a preliminary request for amendment to the site certificate as described in OAR 345-027-0360, the certificate holder may request a pre-amendment conference with the Department to discuss the scope, timing, and applicable laws and Council standards associated with the request for amendment.

[21] Letter of intent indicated the following changes: 1) Change certain site certificate conditions: PRE-FW-04, PRE-FW-03, OPR-FW-03, OPR-FW-04, and CON-TE-02. 2) Update the Road Classification Guide and Access Control plan (Attachment B-5 to Final Order on ASC) proposes to modify access road construction disturbance widths. 3) Remove inventory of stream crossings associated with pRFA2 that are currently under review between certificate holder and ODFW. 4) Proposes to expand the facility site boundary in some areas for the facility as ¼ mile each side (½ -mile total width) of the transmission line and access roads centerline. B2HAMD2 IPC_Intent Letter for Updates to pRFA2_2023-12-07

[22] B2HAMD2 EFSC-Project-Updates_2024-01-02 and 02-05.

[23] OAR 345-027-0360(3) For any Council standard that requires evaluation of impacts within an analysis area, the analysis area is the larger of either the study areas, as defined in OAR 345-001-0010(59), or the analysis areas

for the facility on December 20, 2023.[24] Table 9, below, represents the approved revised analysis areas under OAR 345-027-0360 for the facility. As discussed further in Section III.A.1.a., *RFA2 Site Boundary Expansion and Micrositing Area Definition*, of this order, Council permits final siting flexibility within a micrositing corridor when a certificate holder demonstrates that requirements of all applicable standards have been satisfied by adequately evaluating the entire corridor and location of facility components anywhere within the micrositing area or corridor. Adequate evaluation of most Council standards may be met with desktop studies or a literature review, however, several Council standards require field surveys in combination with a desktop review, which are discussed in each applicable section of this order.

RFA2 attachments and figures provides the certificate holder's evidence of the necessary field surveys, literature reviews, and desktop analysis within the analysis area (discussed in Section II.C.1) for resources protected under Council standards that may be impacted by the RFA2 changes, which are evaluated in the subsequent sections in this order.

described in the project order for the application for site certificate, unless otherwise approved in writing by the Department following a pre-amendment conference.

[24] B2HAMD2 ODOE Letter Approving Analysis Areas for pRFA2 OAR 345-027-0360(3) _2023-12-20.

1

Table 9: Revised Analysis Areas under OAR 345-027-0360 for the Facility

Affected Standard or Resource	Exhibit or RFA Section	Analysis Areas for ASC/RFA1	Analysis Areas for RFA2
Structural Standard	Exh. H	The area within the site boundary.	The area within the site boundary.
Soil Protection	Exh. I	The area within the site boundary.	The area within the site boundary.
Wetlands	Exh. J	The area within the site boundary.	The area within the site boundary.
Land Use	Exh. K	The area within and extending ½-mile from the site boundary.	The area within and extending ¼ -mile from the site boundary.
Protected Areas	Exh. L	The area within and extending 20-miles from the site boundary, including areas outside the state if applicable to the Council's standard.	The area within and extending 19.75-miles from the site boundary, including areas outside the state if applicable to the Council's standard
Fish and Wildlife Habitat	Exh. P	The area within the site boundary.	The area within the site boundary.
Threatened and Endangered Species	Exh. Q	The area within and extending ½-mile from the site boundary.	The area within and extending ¼ -mile from the site boundary.
Scenic Resources	Exh. R	The area within and extending 10-miles from the site boundary.	The area within and extending 9.75-miles from the site boundary.
Historic, Cultural and Archaeological Resources	Exh. S	The area within the site boundary.	The area within the site boundary
Recreational Opportunities	Exh. T	The area within and extending 2-miles from the site boundary.	The area within and extending 1.75-miles from the site boundary.
Public Service	Exh. U	The area within and extending 10-miles from the site boundary.	The area within and extending 9.75-miles from the site boundary.
Wildfire Prevention and Risk Mitigation	Exhibit V	The area within and extending ½ mile from the site boundary (RFA1).	The area within and extending ¼ mile from the site boundary.
Noise	Exh. Y	The area within and extending ½-mile from the site boundary.	The area within and extending ¼ -mile from the site boundary.

Table 9: Revised Analysis Areas under OAR 345-027-0360 for the Facility

Affected Standard or Resource	Exhibit or RFA Section	Analysis Areas for ASC/RFA1	Analysis Areas for RFA2
Electric Transmission Lines	Exh. AA and DD	The area within the site boundary.	The area within the site boundary.

1

Based on the ongoing review of the pRFA2, coordination with the certificate holder and reviewing agencies, and drafting the draft proposed order (DPO), the Department issued additional RAIs on March 13, 2024, March 20, 2024 and on an ongoing basis via email, as needed. Certificate holder provided additional responses and revised attachments and figures on April 5, 2024. On April 9, 2024 following receipt and review of the additional information requested, the Department notified the certificate holder that pRFA2 was complete.[25] Certificate holder filed the complete RFA2 on April 11, 2024.

On April 16, 2024 the Department posted the complete RFA2 to its project webpage. On April 16, 2024, the Department issued Public Notice of a comment period on the complete RFA and DPO, discussed further below.

II.C.2. Draft Proposed Order

The April 16, 2024 Public Notice of the DPO initiated a 45-day public comment period on RFA2 and the DPO, with a public comment deadline of the close of the May 30, 2024 DPO hearing. To raise an issue on the record of the DPO, a person must raise the issue in oral or written comments at the hearing on the DPO, or in a written comment submitted between the date of the Public Notice of the DPO and the written comment deadline established in the Public Notice, unless extended by Council upon request. At the May 30, 2014 Council Meeting and hearing on the DPO, Council received requests to extend the comment period, in response to the requests, Council extended the public comment period one day for a deadline of May 31, 2024 at 5:00 p.m.[26] The Council cannot accept or consider public comments on RFA2 or on the DPO received after the written comment deadline, which was May 31, 2024 at the close of the public hearing. The following agency and persons provided written and/or oral comments on the DPO:

1. Morrow County
2. City of La Grande
3. Oregon Department of Aviation
4. Oregon Department of Transportation
5. Cunningham Sheep Company
6. Susan Geer
7. Greg Larkin
8. Sam Myers
9. John Luciani
10. Irene Gilbert

[25] B2HAMD2Doc1 RFA2 Completeness Letter 2024-04-09.

[26] Council found there was "good cause" to provide commenters this time extension because it was not evident in the Notice of the DPO that participants at the hearing may be time-limited to provide oral comments. The Department and Council highlight that time-limiting commenters at DPO hearings and during EFSC meeting public comment periods is common practice. Nevertheless, the Department will ensure that EFSC meeting materials indicate that time-limiting participants may occur at future meetings and hearings. Council also reiterated to commenters, that written comments provides them a better ability to understand issues raised on the record for a facility. B2HAMD2Doc13 May 30-31 EFSC Meeting Final Meeting Minutes 2024-05-30-31.

11. Stop B2H
12. Greater Hells Canyon Council
13. Wendy King
14. Kevin March
15. Megan Cooke
16. Christopher and Margie Marie Lyon
17. Sue McCarthy
18. John Milbert
19. Amanda Baker

To properly raise an issue in a request for a contested case proceeding for an amendment (discussed further in the following section), the issue must be within the jurisdiction of the Council, and the person must have raised the issue in person or in writing on the record of the public hearing of the DPO. [27] If a person has not raised an issue at the DPO public hearing with sufficient specificity to afford the Council, Department and certificate holder an adequate opportunity to respond to each issue, the Council may not grant a contested case proceeding for that issue.[28] To have raised an issue with sufficient specificity, the person must have presented facts at the public hearing that support that person's position on the issue.[29, 30] Any issue that may be the basis for a contested case shall be raised not later than the close of the record at or following the final public hearing prior to issuance of the Department's proposed order.

The certificate holder was provided a June 3, 2024 deadline to submit its written responses to comments on the DPO, with an opportunity to request an extension. On June 3, 2024 the certificate holder requested a deadline extension of June 5, 2024 which was approved by the Department on the same day.[31] On June 5, 2025 the certificate holder provided responses to

[27] OAR 345-027-0371(5).

[28] *Id. See also* OAR 345-0270-0367(3)(f)(E).

[29] OAR 345-027-0371(5).

[30] Council does not consider incorporation by reference of statements or comments made by other persons, (whether they are comments on the DPO, raised by other commenters for this facility or past proceedings, comments on another agency proceeding, or other external references) to meet the sufficient specificity requirement under ORS 469.370(3) and OAR 345-015-0016(3). Blanket incorporations by reference do not afford the Department, Council or certificate holder an adequate opportunity to respond to each issue as required under ORS 469.370(3) because they typically do not specify which portion(s) of the other person(s) comments are to be incorporated or how those comments relate to any alleged shortcoming in the subject DPO. Attempts to incorporate by reference comments made regarding a matter being considered by another agency do not inform the Council, Department or applicant/certificate holder of any alleged error in the subject DPO sufficient to allow for a response. Further, incorporations by reference of another person's comments on the subject DPO, no matter how specific, are procedurally inefficient because they could result in multiple persons presenting evidence, examining witnesses, etc. regarding the same issue in a contested case. Council has also maintained that this position is consistent with the reasons why it is appropriate to limit the participation of persons seeking to participate in a contested case to the issues each properly raised in their respective DPO comments. B2HAMD1Doc1 Final Order 2023-09-22_Signed_No Attachments 2023-09-22, page 21.

[31] B2HAMD2Doc11 Certificate Holder Req to Extend Record to Respond and Dept Approval_2024-06-03.

comments on the DPO in table format grouped by commenter and by topic/issue. Certificate holder also provided responses, in Table format, to Ms. Irene Gilbert's comment table on site certificate conditions. In advance of Council's review of the DPO on June 14, 2024, Council was provided all DPO comments, and certificate holder and Department responses and recommendations for the Proposed Order.[32] As noted above, Council reviewed the DPO, DPO comments, certificate holder responses and Department recommendations at it June 14, 2024 EFSC Meeting.

II.C.3. Proposed Order

On June 28, 2024, the Department issued the Proposed Order[33]; which considered all comments received on the record of the DPO public hearing under OAR 345-027-0367 including oral comments made at the public hearing, and all written comments received before the close of the record of the public hearing. The Proposed Order also considered agency consultation, Council comments, and certificate holder response to DPO comments. Attachment 2 to the Proposed Order included all DPO comments by commenter, certificate holder and Department responses and recommendations for changes presented in the Proposed Order. Attachment 2 also included Department responses to select issues/topics raised in several DPO comments, which were provided in a staff report to Council in advance if its review of the DPO. Concurrent with issuing the Proposed Order, the Department sent notice of the Proposed Order to Council's general mailing list, any special mailing list for the facility, reviewing agencies, as well as property owners under OAR 345-027-0360(1)(f). Under OAR 345-027-0371(4), on the same date the notice of Proposed Order, the Department sent notice of the opportunity to request a contested case by mail or email to the certificate holder, and to all persons who commented in person or in writing on the record of the public hearing. The deadline to submit requests for contested case, as designated in the Notice, was July 29, 2024.

II.C.4. Council Evaluation of Requests for Contested Case Proceeding

As noted above, only those persons, including the certificate holder, who commented in person or in writing on the record of the DPO public hearing (April 16, 2024 through May 31, 2024) may request a contested case proceeding on the Proposed Order for an amendment to the site certificate. [34] Requests for contested case were received by the July 29, 2024 deadline from the following individuals or groups; Kevin March, Irene Gilbert, Sam Myers, Stop B2H, Wendy King, Greg Larkin, and Susan Geer.[35] On August 13, 2024, the Department issued the Agenda for the

[32] OAR 345-027-0367(7).

[33] OAR 345-027-0371(1).

[34] OAR 345-027-0371(5).

[35] All requests for contested case reviewed at the August 22-23, 2024 EFSC meeting were timely submitted to the Department on or before July 29, 2024 at 5:00 p.m.

August 22-23, 2024 EFSC Meeting which indicated that Council would be reviewing requests for contested case for RFA2 as Agenda Item G1 and G2.[36]

Attachment 2 to this order includes the August 13, 2024 staff report which Council adopted at its August 22-23, 2024 EFSC Meeting where it reviewed all requests for contested case, discussed further below and in Attachment 2 to this order. Attachment 3 to this order includes reviewing agency consultation and other documents referenced in this order and attachments.

Contested case requests must have been submitted in writing and must be received by the Department by the July 29, 2024 deadline which was at least 30 days from the date of notice of the Proposed Order. Contested case requests must include:[37]

- The person's name, mailing address and email address and any organization the person represents;

- A short and plain statement of the issue or issues the person desires to raise in a contested case proceeding;

- A statement that describes why the Council should find that the requester properly raised each issue, including a specific reference to the person's prior comments to demonstrate that the person raised the specific issue or issues on the record of the public hearing, if applicable;

- A statement that describes why the Council should determine that each identified issue justifies a contested case, under the evaluation described in section (9) of OAR 345-027-0371;

[36] The August 22-23, 2024 EFSC Meeting Agenda Item G1 and G2 contained a scriveners' error regarding the date for contested case requests: "Council will begin/continue its consideration of requests for contested case on the Department's Proposed Order on RFA2 submitted on or before *August 29, 2024*…" [Emphasis added] See Attachment 3 to this order and B2HAMD2Doc4 August 22-23 EFSC Meeting Agenda Notification ClickD 2024-08-13 and B2HAMD2Doc4-1 August 22-23 EFSC-Agenda 2024-08-13. The Notice of Proposed Order/Opportunity to Request a Contested Case issued June 28, 2024 provided the correct deadline for requesting a contested case of July 29, 2024. As indicated in this order, all requests or contested case were timely submitted by that date. The August 2024 EFSC Meeting Agenda was not a legal notice and was issued on August 13, 2024, 15 days after the deadline to submit contested case requests. The scriveners' error in the Agenda was explicitly discussed with Council at the initiation of the August 23, 2024 meeting, prior to the Council's continuation of review of the Boardman to Hemingway Transmission Line agenda item. The Department and Council acknowledged the error and reviewed the Notice for the Proposed Order, which specified July 29, 2024 as the deadline for submission of contested case requests and confirmed that the Council did not intend to extend the deadline for submission of contested case requests. The Council therefore continued and completed its review of the materials prepared for Agenda Item G1 and G2 See: See: https://www.youtube.com/watch?v=ByYTCyzBRiQ&list=PLIsoA8uJZ78ch5qids8WjIO3-4QpKjI-C&index=2 beginning at 00:40 and at 04:20:00.

[37] OAR 345-027-0371(6).

- Name and address of the person's attorney, if any;

- A statement of whether the person's request to participate in a contested case is as a party or a limited party, and if as a limited party, the precise area or areas in which participation is sought;

- If the person seeks to protect a personal interest in the outcome of the proceeding, a detailed statement of the person's interest, economic or otherwise, and how such interest may be affected by the results of the proceeding;

- If the person seeks to represent a public interest in the results of the proceeding, a detailed statement of such public interest, the manner in which such public interest will be affected by the results of the proceeding, and the person's qualifications to represent such public interest; and

- A statement of the reasons why others who commented on the record of the public hearing cannot adequately represent the interest identified in subsections (h) or (i) of this section.

Requests for contested case were evaluated by Council at its August 22-23, 2024 EFSC Meeting.[38] Under OAR 345-027-0371(7), before considering whether an issue justifies a contested case proceeding, the Council determined that the person requesting a contested case commented in person or in writing on the record of the DPO public hearing and properly raised each issue included in the request. To determine that a person properly raised each issue included in the request, the Council finds that:

- The person making the contested case request raised the issue on the record of the DPO public hearing described in OAR 345-027-0367 with sufficient specificity to afford the Council, the Department, and the certificate holder an adequate opportunity to respond to the issue;
    - To have raised an issue with sufficient specificity, the person must have presented facts at the public hearing that support that person's position on the issue. [39, 40]

[38] On August 29, 2024, Ms. Irene Gilbert sent two emails to the Department indicating that "I had.. stated my intent to submit additional requests due to the agenda for the EFSC meeting stating requests would be considered and reviewed if received by August 29, 2024." However, as indicated above, the Council understood that any requests for contested case submitted based on the Agenda, and not the Notice (with a deadline that already passed and was met by Ms. Gilbert), are not considered timely. Ms. Gilbert's emails were submitted after the record closed and after Council's final decision on RFA2, they were untimely and received after the Council's final decision on the Proposed Order, whereby the emails are not part of the administrative record for this proceeding.

[39] OAR 345-027-0371(5).

[40] No requests for contested case requests were submitted based on OAR 345-027-0371(7)(b) or (c).

Pursuant to OAR 345-027-0371(8), Council finds that the persons requesting a contested case commented in person or in writing on the record of the DPO public hearing and properly raised the issues identified in the August 13, 2024 staff report (Attachment 2 to this order).

However, properly raising an issue regarding a proposed site certificate amendment does not mean that Council must grant a contested case regarding the proposed amendment. After identifying the issues properly raised the Council determined whether any properly raised issue justifies a contested case proceeding on that issue. To determine that an issue justifies a contested case proceeding, the Council must find that the request raises a significant issue of fact or law that is reasonably likely to affect the Council's determination whether the facility, with the change proposed by the amendment, meets the applicable laws and Council standards included in chapter 345 divisions 22, 23 and 24.[41] Additionally, if the Council does not have jurisdiction over the issue raised in the request, the Council must deny the request.[42]

The Council must take one of the following actions when determining if a request identifying one or more properly raised issues justifies a contested case proceeding:

1. If the Council finds that the request identifies one or more properly raised issues that justify a contested case proceeding, the Council must conduct a contested case proceeding according to the applicable provisions of OAR 345-015-0012 to 345-015-0014 and 345-015-0018 to 345-015-0085. The parties to a contested case proceeding must be limited to those persons who commented on the record of the public hearing and who properly raised issues in their contested case request that the Council found sufficient to justify a contested case, except that the certificate holder is an automatic party to a contested case.[43] The issues a party to a contested case proceeding may

[41] OAR 345-027-0371(9).

[42] *Id*.

[43] During the contested case proceeding on the proposed order for ASC for this facility, the hearing officer permitted the Department, certificate holder, and petitioners to the contested case to provide written briefs regarding their positions on the matter or "full" or limited party status. Hearing officer concluded that petitioners for party status who met the eligibility requirements for standing in the contested case proceeding could participate as limited parties regarding the issues each properly raised in their respective comments on the DPO and petitions for party status in the contested case but could not participate in the contested case on issues that others, but not they themselves had raised. The hearing officer based this conclusion upon ORS 469.370(5), OAR 345-015-0016(3), OAR 137-003-0005(8) and (9), OAR 137-003-0040, and OAR 345-015-0083. (B2HAPPDoc219 Hearing Officer Order on Party Status and Issues_OAH_2020-10-29, pp. 7-10). Council received written appeals of the Hearing Officer's Contested Case Order and further briefed the issue concluding that, "The Council finds that Hearing Officer's designation of limited party status for petitioners granted standing in the contested case proceeding is affirmed for the reasons presented in the Order on Party Status." (B2HAPPDoc288 EFSC's Order on Appeals of Hearing Officer Order on Party Status, Auth Reps and Issues_2020-11-25, p. 18). Limited parties again raised the issue of limited party in their petitions to appeal the Final Order on ASC to the Oregon Supreme Court. The Court agreed with the hearing officer and EFSC's decisions, concluding that EFSC is expressly authorized to limit the participation of a party that it permitted to participate as a limited party – i.e., to treat a person as a limited party even if they requested full party status and that EFSC had authority to grant limited rather than full party status to petitioners STOP B2H and Irene Gilbert (among others). (B2HAPPDoc7 Supreme Court Decision Stop B2H Coalition v. Dept, of Energy 2023-03-09, pp. 801-804, 815.

participate on must be limited to those issues that party properly raised in its contested case request that the Council found sufficient to justify a contested case, except that the certificate holder may participate on any issue the Council found sufficient to justify a contested case proceeding.[44,45]

2. If the Council finds that the request identifies one or more properly raised issues that an amendment to the Proposed Order, including modification to conditions, would settle in a manner satisfactory to the Council, the Council may deny the request as to those issues and direct the Department to amend the Proposed Order and send a notice of the amended Proposed Order to the same persons who received notice of the Proposed Order and opportunity to request a contested case.[46]

3. If the Council finds that the request does not identify a properly raised issue that justifies a contested case proceeding, the Council must deny the request. In a written order denying the request, the Council must state the basis for the denial. The Council must then adopt, modify or reject the proposed order based on the considerations described under the Council's Scope of Review in OAR-345-027-0375.[47]

II.C.5. Final Order Denying Requests for Contested Case and Approving the Second Amended Site Certificate

At its meeting on August 22-23, 2024, Council evaluated the requests for contested case submitted by the seven petitioners noted above - Kevin March, Irene Gilbert, Sam Myers, Stop B2H, Wendy King, Greg Larkin, and Susan Geer.

For the reasons provided in the August 13, 2024 Staff Report, which is amended and adopted by Council to include Council's deliberation of the issues and is included with this order as Attachment 2, the Council finds that none of the requests for contested case raised a significant issue of fact or law that would be reasonably likely to affect the Council's determination whether the facility, with the changes proposed by the amendment, meets applicable laws and

[44] OAR 345-027-0371(10)(a).

[45] Should Council grant any request(s) for a contested case, when reviewing petitions to participate as a party or limited party in the contested case the Council-appointed hearing officer will follow the requirements set forth in Council's contested case rules then in effect, and also consider the factors set forth in OAR 137-003-0005(7) or OAR 137-003-0535(8). (At the time of this order, EFSC is in the process of revising its contested case rules. Under the proposed rules, Council will revise its own rules and adopt the Office of Administrative Hearings model contested case rules in OAR 137-003-0501 through 137-003-0700 in place of the model contested case rules in OAR 137-003-001 through 137-003-0092. The OAH model rule OAR 137-003-0535(8) sets for the same criteria as OAR 137-003-0005(7) for reviewing petitions to participate as a party or a limited party).

[46] OAR 345-027-0371(10)(b).

[47] OAR 345-027-0371(10)(c).

Council standards included in chapter 345 divisions 22, 23 and 24.[48] Therefore, pursuant to OAR 345-027-0371(10)(c), Council finds that none of the requests for contested case justify a contested case proceeding nor do they warrant an amendment to the Proposed Order.

Under OAR 345-027-0371(10)(c), the Council adopted the Proposed Order as the Final Order on RFA2 based on the considerations described in OAR 345-027-0375. The Council issues this Final Order granting issuance of an amended site certificate. [49]
The Council's Final Order, including any denials of requests for contested case, is subject to judicial review by the Oregon Supreme Court as provided in ORS 469.403, as indicated at the ed of this order.

III. EVALUATION OF COUNCIL STANDARDS

III.A. GENERAL STANDARD OF REVIEW: OAR 345-022-0000

(1) To issue a site certificate for a proposed facility or to amend a site certificate, the Council shall determine that the preponderance of evidence on the record supports the following conclusions:

(a) The facility complies with the requirements of the Oregon Energy Facility Siting statutes, ORS 469.300 to 469.570 and 469.590 to 469.619, and the standards adopted by the Council pursuant to 469.501 or the overall public benefits of the facility outweigh any adverse effects on a resource or interest protected by the applicable standards the facility does not meet as described in section (2);

(b) Except as provided in OAR 345-022-0030 for land use compliance and except for those statutes and rules for which the decision on compliance has been delegated by the federal government to a state agency other than the Council, the facility complies with all other Oregon statutes and administrative rules identified in the project order, as amended, as applicable to the issuance of a site certificate for the proposed facility. If the Council finds that applicable Oregon statutes and rules, other than those involving federally delegated programs, would impose conflicting requirements, the Council shall resolve the conflict consistent with the public interest. In resolving the conflict, the Council cannot waive any applicable state statute.

[48] Council emphasizes that, in evaluating the threshold for a contested case on a Type A Amendment, it not only reviews whether an issue of fact or law is significant, but also if a significant issue of fact or law is appropriately mitigated by existing site certificate conditions, as applicable under laws and Council standards included in chapter 345 divisions 22, 23 and 24. At the August 22-23, 2024 EFSC Meeting, Council determined that existing site certificate conditions were sufficient to mitigate issues raised in the contested case requests.
[49] OAR 345-027-0371(11).

(2) The Council may issue or amend a site certificate for a facility that does not meet one or more of the applicable standards adopted under ORS 469.501 if the Council determines that the overall public benefits of the facility outweigh any adverse effects on a resource or interest protected by the applicable standards the facility does not meet. The Council shall make this balancing determination only when the applicant has shown that the proposed facility cannot meet applicable Council standards or has shown, to the satisfaction of the Council, that there is no reasonable way to meet the applicable Council standards through mitigation or avoidance of any adverse effects on a protected resource or interest. The applicant has the burden to show that the overall public benefits outweigh any adverse effects on a resource or interest, and the burden increases proportionately with the degree of adverse effects on a resource or interest. The Council shall weigh overall public benefits and any adverse effects on a resource or interest as follows:

(a) The Council shall evaluate any adverse effects on a resource or interest by considering factors including, but not limited to, the following:

(A) The uniqueness and significance of the resource or interest that would be affected;

(B) The degree to which current or future development may adversely affect the resource or interest, if the proposed facility is not built;

(C) Proposed measures to reduce any adverse effects on a resource or interest by avoidance of impacts;

(D) The magnitude of any anticipated adverse effects on a resource or interest, taking into account any proposed mitigation.

(b) The Council shall evaluate overall public benefits by considering factors including, but not limited to, the following:

(A) The overall environmental effects of the facility, considering both beneficial and adverse environmental effects;

(B) The degree to which the proposed facility promotes Oregon energy policy as described in ORS 469.010 by demonstrating or advancing new efficiency or renewable technology or by expanding electric generating capacity from renewable energy sources;

(C) Recommendations from any special advisory group designated by the Council under ORS 469.480;

(D) Evidence that the benefits are likely to occur only if the proposed facility is built;

(E) For facilities that are subject to a need standard, evidence underlying the Council's decision on compliance with the rules in OAR 345, Division 23, except that the Council shall not find that need for a facility is sufficient, by itself, to outweigh any adverse effects on a resource or interest affected by the proposed facility.

(3) Notwithstanding section (2) of this rule, the Council shall not apply the balancing determination to the following standards:

(a) The organizational expertise standard described in OAR 345-022-0010;

(b) The land use standard described in OAR 345-022-0030;

(c) The retirement and financial assurance standard described in OAR 345-022-0050;

(d) The need standards described in OAR 345-023-0005;

(e) The standards for energy facilities that emit carbon dioxide described in OAR 345-024-0500 through 345-024-0720;

(f) The protected areas standard described in OAR 345-022-0040, if the statutes or administrative rules governing the management of the protected area prohibit location of the proposed facility in that area; or

(g) The sage-grouse specific habitat mitigation requirements under the Council's fish and wildlife habitat standard described in OAR 345-022-0060, except that the Council may apply the balancing determination to the requirements of 635-140-0025(2)(a) and (b) for indirect impacts on core and low density sage-grouse habitat, as defined in 635-140-0015, which are caused by transmission lines or pipelines as defined in ORS 469.300(11)(a), and by transmission lines or pipelines that are related or supporting facilities to an energy facility as defined in ORS 469.300(24), proposed to be sited entirely outside of core and low density sage-grouse habitat.

(4) In making determinations regarding compliance with statutes, rules and ordinances normally administered by other agencies or compliance with requirements of the Council statutes if other agencies have special expertise, the Department of Energy shall consult with such other agencies during the notice of intent, site certificate application and site certificate amendment

processes. Nothing in these rules is intended to interfere with the state's implementation of programs delegated to it by the federal government.[50]

III.A.1. Findings of Fact

Pursuant to OAR 345-027-0375, consistent with Council's General Standard of Review, in making a decision to grant or deny issuance of an amended site certificate, the Council must determine that the preponderance of evidence on the record supports that the facility, with proposed RFA2 changes, complies with the applicable laws or Council standards that protect a resource or interest that could be affected by the proposed change. Proof by a preponderance of the evidence means "that the facts asserted are more probably true than false."[51] Therefore, to issue an amended site certificate, the Council must determine that the evidence on the record, including information submitted to comply with Council-imposed site certificate conditions, demonstrates it is more probable than not that the certificate holder will comply with applicable standards.

When applying the preponderance of evidence test, Council takes into account the record as a whole and information obtained or demonstrated through compliance with existing, amended or new conditions.[52] For this order, the evidentiary record relied upon to make findings of fact and conclusions of law includes the record of the *Final Order on ASC*, *Final Order on Request for Amendment 1 (RFA1)* and *Draft Proposed Order on Request for Amendment 2*. For several standards, where field surveys are necessary to inform the presence of Council-protected resources and impacts, the preponderance of evidence test is demonstrated through available data and future compliance with previously imposed site certificate conditions. Field surveys are necessary under the Council's Fish and Wildlife Habitat standard, Threatened and Endangered Species standard, Historic, Cultural and Archeological Resources, and the Oregon Department of State Land's (DSL) Removal-Fill Law. For RFA2, literature and field surveys for resources protected under these standards and law were completed; however, complete survey coverage of the RFA2 micrositing area additions was not completed due to limitations on obtaining landowner right-of-entry and seasonal constraints concurrent with applicable survey timing constraints.

- RFA2 Section 7.1.5.2, Table 7.1-12. Biological Resources Surveys identifies the survey type and scope completed for Fish and Wildlife habitat including extent of unsurveyed areas.
- RFA2 Figure 7-15 and Attachment 7-13 identifies where pedestrian surveys for cultural resources were completed and identifies the extent of unsurveyed area.
- RFA2 Section 5.3.3 indicates that wetland and water delineation surveys were conducted on 80 percent of the RFA2 micrositing area additions.

[50] OAR 345-022-0000, effective March 8, 2017.

[51] *Riley Hill Gen. Contractor, Inc. v. Tandy Corp.*, 303 Or. 390, 402, 737 P.2d 595 (1987).

[52] ORS 469.503(1)

As evaluated in Section III.H *Fish and Wildlife Habitat*, Section III.I *Threatened and Endangered Species*, Section III.K *Historic, Cultural and Archeological Resources*, and Section III.R.2 *Removal-Fill Law*, Council previously imposed conditions requiring that, prior to construction, the certificate holder conduct surveys within any unsurveyed areas and either avoid or mitigate resources accordingly.[53]

III.A.1.a RFA2 Site Boundary Expansion and Micrositing Area Definition

In the *Final Order on ASC* and *RFA1*, Council approved the site boundary, where the site boundary was equivalent to a micrositing transmission line corridor or micrositing area.[54] A micrositing corridor is a continuous area of land within which construction of facility components may occur, subject to site certificate conditions.[55] Council permits final siting flexibility within a micrositing corridor (equivalent to the site boundary for the approved facility) when the certificate holder demonstrates that requirements of all applicable standards have been satisfied by adequately evaluating the entire micrositing area/corridor and location of facility components anywhere within the corridor.

Previously approved dimensions for the approved site boundary/micrositing areas are: [56]

- For the 500-kV transmission line and communication stations, a 500-foot-wide area.
- For Longhorn Station, approximately 190 acres.
- For access roads, 100 or 200-feet in width, depending on the nature of the road.
- For temporary work areas (MUAs, pulling and tensioning sites, and light duty fly yards), from 4 to 23 acres.

RFA2 Sections 1.1, 4.0, and 8.0 include the certificate holder's request for Council approval to redefine and separate the site boundary and micrositing areas and expand the site boundary along portions of the approved routes. The expanded site boundary for transmission line routes would be 0.5 mile (2,640 feet) wide; or 0.25 mile (1,320 feet) from the center of the transmission line, with a micrositing corridor/area of 500 feet (same width as the previously approved site boundary/micrositing area), consistent with Council's definition of a corridor.[57] The expanded site boundary for facility roads would also be 0.5 mile (2,640 feet) wide, or 0.25

[53] Previously imposed conditions requiring preconstruction surveys include Fish and Wildlife Condition 15 (Condition PRE-FW-01); Fish and Wildlife Condition 16 (Condition PRE-FW-02); Historic, Cultural and Archeological Resources Condition 2 (Condition GEN-HC-02); and Removal-Fill Condition 1 (Condition PRE-RF-01). Avoidance and mitigation of any resources identified during these surveys is required under Fish and Wildlife Condition 17 (Condition PRE-FW-03); Historic, Cultural and Archeological Resources Condition 2 and 3 (Condition GEN-HC-02 and OPS-HC-01); and, Removal-Fill Condition 2, 3 and 6 (Conditions GEN-RF-01, GEN-RF-02 and GEN-RF-04)

[54] B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, pp. 52-53 and B2HAMD1Doc1 Final Order 2023-09-22_Signed_No Attachments 2023-09-22, page 2.

[55] OAR 345-001-0010(21).

[56] B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, Section III.B. Site Boundary, Right-of-Way, and Facility Location; pp. 52-56.

[57] OAR 345-001-0010(7)

mile (1,320 feet) from the center of the road, and the micrositing area for roads is either 100 or 200 feet wide (same width as the previously approved site boundary/ micrositing area). The certificate holder's request to separate the application of the definitions of site boundary and micrositing area (OAR 345-001-0010(31) and OAR 345-001-0010(21), respectively) does not have an associated Council standard or statute to be evaluated against. Rather, the certificate holder must demonstrate that it has submitted the necessary information to the record to support the redefinition for the evaluation under applicable Council standards, which are described in RFA2 and in this order.

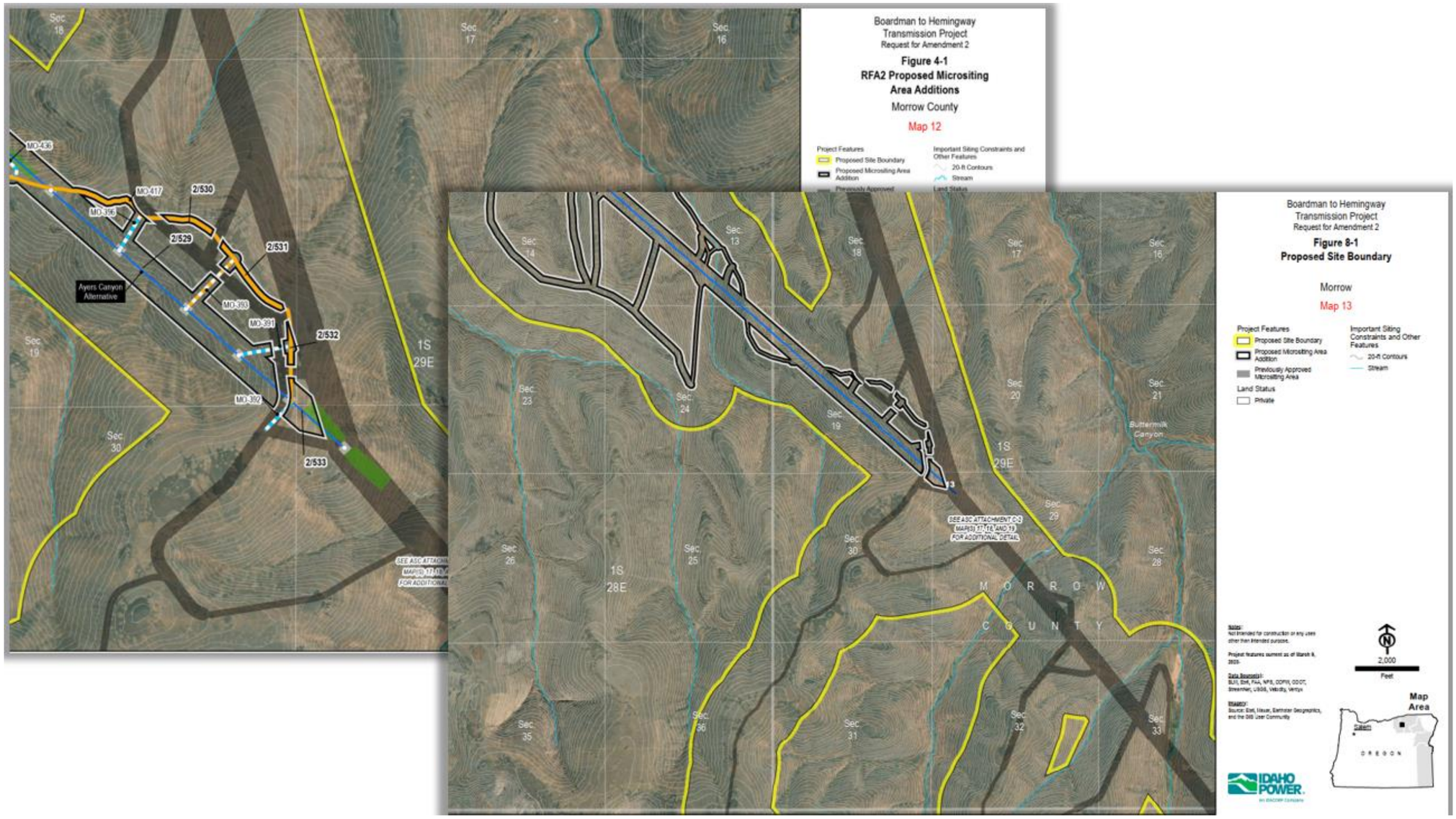
The expanded site boundary would expand the area evaluated for potential resources which could assist in accommodating minor adjustments associated with requests from landowners or stakeholders, the need to avoid impacts to sensitive resources, or needed to address constructability issues in the field.[58] See Figure 6, below for an example of a RFA2 micrositing area addition within the expanded site boundary, as well as an area of the expanded site boundary around the approved portion of the facility in Morrow County.

In some locations, certificate holder does not request an expanded site boundary and would maintain the previously approved site boundary/micrositing area. The expanded site boundary is intended to avoid expanding on to parcels not previously identified for siting of facility infrastructure, or expanding across constraints such as Interstate 84 or sensitive resources (such as protected areas).[59] For example, the certificate holder is not proposing to expand the site boundary around the previously approved site boundary/micrositing area associated with Double Mountain alternative or the previously approved site boundary/micrositing area on Naval Weapons System Training Facility Boardman (See RFA2 Figure 8-1 Maps 1-5). In some locations the expanded site boundary extends beyond the previously approved site boundary/micrositing area but may not extend out to encompass the full 0.5-mile-wide corridor.

[58] B2HAMD2Doc2 RFA2 2024-04-11, Section 8.0.

[59] B2HAMD2Doc2 RFA2 2024-04-11, Sections 1.1 and 8.0.

Figure 6: Example of RFA2 Micrositing Area Addition and Expanded Site Boundary for Approved Facility



Under OAR 345-001-0010(31), the site boundary is defined as "the perimeter of the site of a proposed energy facility, its related or supporting facilities, all temporary laydown and staging areas and all corridors and micrositing corridors *proposed by* the applicant" [Emphasis added]. Council's definition expressly gives the applicant, or in this instance the certificate holder, deference to define its site boundary. Under its own definition, Council is obligated to review a facility within a proposed site boundary, as proposed by the applicant or certificate holder, and does not otherwise have criteria or requirements that would grant Council the legal ability to deny a proposed site boundary unless specifically related to compliance with a Council standard or other applicable law or regulation.

As noted above, a micrositing corridor means a continuous area of land within which construction of facility components may occur, subject to site certificate conditions. Council recognizes the need for certificate holders to have flexibility to "microsite" the final location of facility components after issuance of a site certificate which is intended to allow flexibility in siting of facility components and locations of temporary disturbance.[60] Micrositing may be based on results of final surveys, landowner preferences, engineering considerations, avoidance of high-value wildlife habitat, and the desire to reduce conflict with farming practices, or other considerations. The Council permits final siting flexibility within a micrositing corridor when a certificate holder demonstrates that requirements of all applicable standards have been satisfied by adequately evaluating the entire corridor and location of facility components anywhere within the micrositing area or corridor. Adequate evaluation of most Council standards may be met with desktop studies or a literature review; however, several Council standards require field surveys in combination with a literature review, and these include:

- Fish and Wildlife Habitat (OAR 345-022-0060)
- Threatened and Endangered Species (OAR 345-022-0070)
- Historic, Cultural and Archaeological Resources (OAR 345-022-0090)
- Oregon Removal-Fill Law (OAR 141-085-0500 through 141-085-0785; ORS 196.795 - 196.990)

[60] B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, pp. 52-53. Recent examples where Council has approved larger site boundaries and micrositing areas with the site boundary include: Nolin Hills Wind Power Project: " The facility will be located within an approximately 48,196 acre site boundary in northwestern Umatilla County, Oregon…. Micrositing areas, when approved by Council, are intended to allow flexibility in siting of facility components and locations of temporary disturbance. For this ASC, the applicant seeks approval of an approximately 13,767 acre wind micrositing area, which includes each of the proposed 230 kV transmission lines, and an approximately 1,896 acre solar micrositing area…. Within the 13,767 acre wind micrositing area, turbine strings will include 1,000 to 1,700-foot wide corridors. Access roads and collector lines will be located in 300 to 360-foot wide corridors…. The 230 kV transmission line corridors will range from 300 to 1,600 feet and will extend the length of the lines…" NHWAPPDoc1 Final Order (clean) 2023-08-30 signed, page 30. Bakeoven Solar Project: "The facility may occupy up to approximately 2,717 acres, within an approximately 10,640 acre site boundary ….Within the site boundary, the certificate holder has an approved approximately 4,160 acre micrositing corridor, which allows flexibility in the final location of facility components…" BSPAPPDoc2 Final Order 2020-04-24, pp. 4, 14-15. Wheatridge Renewable Energy Facility East: Council approved an expanded site boundary by approximately 74,403 acres, including approximately 10,058 acres of new micrositing corridors and approximately 64,345 acres of other lands leased by the certificate holder. WREFEAMD1 Final Order Compiled 2024-06-05, pp. 14-15.

RFA2 attachments and figures provide the certificate holder's evidence of the necessary field and literature review within the analysis area (discussed in Section II.C.1) for resources protected under Council standards that may be impacted by the RFA2 changes, which are evaluated in the subsequent sections in this order. RFA2 Section 8.0 and Table 8-1 provides a crosswalk table that supports the certificate holder's evaluation of the analysis areas approved by the Department described in Table 9 of this order. RFA2 Table 8-1 indicates which mapsets were provided in RFA2 to support an evaluation of a resources within the expanded site boundary and micrositing areas if it was not already included in the record for the facility within the area to be expanded.

The certificate holder's request to separate the application of the definitions of site boundary and micrositing area (OAR 345-001-0010(31) and OAR 345-001-0010(21), respectively) does not have an associated Council standard or statute to be evaluated against. Rather, the certificate holder must demonstrate that it has submitted the necessary information to the record to support the redefinition for the evaluation under applicable Council standards, which are described in RFA2 and in this order. As provided above, Council frequently approves facilities with a larger site boundary and varying micrositing areas within the site boundary, which then also have a narrower final ROW within the micrositing area, such as this facility with RFA2changes. Therefore, because the existing record for the facility, in addition to information provided in RFA2, supports the evaluation of a wider site boundary and narrower micrositing area within, Council approves the application of the definitions from its rules. To clarify that the site boundary and micrositing areas would be different, the following conditions are revised, removing site boundary and replacing it with micrositing area. The Council reiterates that this is only a change in terminology, this change does not impact or change any of the areas that are required to be surveyed or requirements of conditions:

GEN-GS-06
GEN-PA-02
GEN-FW-08
GEN-NC-02
GEN-FP-01
PRE-SS-01
PRE-FW-01
PRE-FW-02
CON-FW-03

A Council approval of the micrositing areas in RFA2 would be limited to locating facility components within the approved micrositing areas, subject to site certificate conditions. Council approval of RFA2 would not be an approval to locate facility components within the expanded site boundary. Certificate holder indicates that the expanded site boundary would not impact any new landowners or result in the siting of facility components without further analysis.[61]

[61] B2HAMD2Doc2 RFA2 2024-04-11, Section 4.1

Certificate holder provides a memo in RFA2 that explains that the request to redefine and separate the definitions of site boundary and the micrositing area is also to enable a streamlined review of future micrositing adjustments under the Amendment Determination Request (ADR) pathway designated under OAR 345-027-0357.[62] Under OAR 345-027-0357(2), for a proposed change that would not add area to the site boundary, the certificate holder may submit an amendment determination request to the Department for a written determination of whether the proposed change requires an amendment under OAR 345-027-0350, by submitting to the Department in the ADR the necessary information, including an evaluation of potential impacts to resources protected under Council standards and any field survey data collected in the area of the change. OAR 345-027-0350(4) contains the criteria used by ODOE and EFSC to determine when a proposed modification requires a site certificate amendment.[63]

Upon receipt of an ADR, the Department must post an announcement on the Department's website to notify the public that an ADR has been received. The announcement must include a copy of the ADR.[64] As a courtesy, the Department includes receipt and determination status of any ADRs received in its Monthly Siting Report updates. After the Department issues its written determination, the Department must, as promptly as possible, provide the request and the written determination to the Council and post the written determination to its website. At the first Council meeting after the Department issues its written determination, the Department must provide verbal notice of the request and the written determination to the Council during the consent calendar agenda item. The Department may refer its determination to the Council for concurrence, modification, or rejection. At the request of the certificate holder or a Council member, the Department must refer its determination to the Council for concurrence, modification or rejection.[65]

Examples of ADRs received by the Department include an ADR submitted for the Wheatridge Renewable Energy Facility II, where the Department determined that a site certificate amendment would not be required for a modification that included approximately 4 new acres within approximately 400 feet of the existing site boundary, removing the approximate equivalent area within the existing site boundary due to geographic constraints limiting

[62] B2HAMD2Doc2 RFA2 2024-04-11, Attachment 4-2. The Attachment 4-2 Memo incorrectly references OAR 345-027-0357(1)(b). This rule has been determined by the Oregon Supreme Court to be invalid and will be removed via amendment rulemaking. The applicable rule/pathway for an amendment determination request would be under OAR 345-027-0357(2), as described in this order.

[63] OAR 345-027-0350(4) Design, construct, or operate a facility in a manner different from the description in the site certificate, if the proposed change:

(a) Could result in a significant adverse impact that the Council has not addressed in an earlier order and the impact affects a resource or interest protected by an applicable law or Council standard;
(b) Could impair the certificate holder's ability to comply with a site certificate condition; or
(c) Could require a new condition or a change to a condition in the site certificate.

[64] OAR 345-027-0357(5).

[65] OAR 345-027-0357(6).

feasibility of siting facility components for the construction and operation of an underground collector line using an alternative route.[66]

To address issues related to the expanded site boundary, landowner concerns about potential changes on their property without their knowledge, and concerns about the placement of facility components outside the micrositing areas and in the expanded site boundary, the certificate holder represented that, when the certificate holder submits an Amendment Determination Request (ADR) to the Council for proposed construction outside the approved micrositing areas but within the expanded site boundary on private property, they will submit to the Department documentation of landowner support or consent for the ADR on the landowners' property. To memorialize the certificate holder's representation and intent to coordinate with landowners to accommodate the facility and related or supporting facilities on their land, Council adopts the following condition which is revised by the Department to support ongoing implementation:[67]

> **New General Standard of Review Condition 12:** The certificate holder may submit Amendment Determination Requests to the Department for changes outside of the micrositing areas pursuant to OAR 345-027-0357. For these types of changes, certificate holder shall provide evidence of private landowner consent of changes on their property.
> [GEN-GS-07; AMD2]

The evaluation of requirements of the General Standard of Review (findings based on a preponderance of evidence on the record) are addressed in the findings of facts and conclusions of law in the sections that follow in this order. The facts and evidence in the record for *Final Order on ASC* and *Final Order on Request for Amendment 1 (RFA1)*, as applicable, and *Draft Proposed Order on Request for Amendment 2*, are directly incorporated and or by reference in this order.

III.A.2. Conclusions of Law

Based on the foregoing analysis, and subject to compliance with the existing and amended site certificate conditions presented in this order, Council finds that the facility, with RFA2 changes, comply with all laws and Council complies with the requirements of ORS 469.300 to 469.570 and 469.590 to 469.619, the Council's standards in OAR chapter 345, and all other Oregon statutes and administrative rules applicable to the issuance of an amended site certificate.

[66] WREFII ADR and ODOE Determination 2020-08-14.

[67] The Council emphasizes that the discussion of the expanded site boundary, ADR process, and the certificate holder represented condition are located in this order under General Standard of Review, however, also as discussed in this section, there is not a standard that must be met for Council to approve this change, rather Council finds that there is a demonstration that the record supports the change. Therefore, this condition is labeled under General Standard of Review, but the standard is not necessary to be met for this change.

III.B. ORGANIZATIONAL EXPERTISE: OAR 345-022-0010

(1) To issue a site certificate, the Council must find that the applicant has the organizational expertise to construct, operate and retire the proposed facility in compliance with Council standards and conditions of the site certificate. To conclude that the applicant has this expertise, the Council must find that the applicant has demonstrated the ability to design, construct and operate the proposed facility in compliance with site certificate conditions and in a manner that protects public health and safety and has demonstrated the ability to restore the site to a useful, non-hazardous condition. The Council may consider the applicant's experience, the applicant's access to technical expertise and the applicant's past performance in constructing, operating and retiring other facilities, including, but not limited to, the number and severity of regulatory citations issued to the applicant.

(2) The Council may base its findings under section (1) on a rebuttable presumption that an applicant has organizational, managerial and technical expertise, if the applicant has an ISO 9000 or ISO 14000 certified program and proposes to design, construct and operate the facility according to that program.

(3) If the applicant does not itself obtain a state or local government permit or approval for which the Council would ordinarily determine compliance but instead relies on a permit or approval issued to a third party, the Council, to issue a site certificate, must find that the third party has, or has a reasonable likelihood of obtaining, the necessary permit or approval, and that the applicant has, or has a reasonable likelihood of entering into, a contractual or other arrangement with the third party for access to the resource or service secured by that permit or approval.

(4) If the applicant relies on a permit or approval issued to a third party and the third party does not have the necessary permit or approval at the time the Council issues the site certificate, the Council may issue the site certificate subject to the condition that the certificate holder shall not commence construction or operation as appropriate until the third party has obtained the necessary permit or approval and the applicant has a contract or other arrangement for access to the resource or service secured by that permit or approval.[68]

III.B.1. Findings of Fact

[68] OAR 345-022-0010, effective April 3, 2002.

Changes in RFA2 include locational adjustments of previously approved infrastructure (transmission line, new and substantially modified roads) on lands under the same ownership as previously evaluated, and shifts and new locations of temporary work areas; and construction and operation of a capacitor station.[69] The organizational experience required to design, construct, operate and retire the facility, with RFA2 changes, would not differ from the experience previously evaluated by Council in the *Final Order on ASC* and *Final Order on Request for Amendment 1 (RFA1)*. Those prior findings are incorporated herein by reference and direct incorporation, as applicable.[70]

Organizational Expertise of Certificate Holder

The certificate holder is an investor-owned electric utility that serves over 530,000 customers within a service territory of approximately 24,000 miles in southern Idaho and eastern Oregon. Its power supply system currently includes 4,868 miles of transmission lines, including 692 miles in Oregon. It also operates 11 capacitor banks within its service territory.

Design, Construct and Operate RFA2 Changes in a Manner that Protects Public Health and Safety and the Environment

Engineering, design, procurement, and construction activities related to the capacitor station will be completed by third-party contractors. The transmission lines and towers are similar to those previously approved in the *Final Order on ASC and RFA1*, however, the midline capacitor station is a new type of facility component now previously reviewed by Council. The transmission lines, towers and capacitor station design, construction and operation will be required to comply with the minimum requirements of the National Electric Safety Code (NESC), Federal Energy Regulatory Commission (FERC), North American Electric Reliability Corporation (NERC), and Western Electricity Coordinating Council (WECC) standards.[71]

Once the capacitor station is operational, the requirements of the certificate holder's Station Maintenance Program would apply. Council previously imposed Organizational Expertise Condition 1 (OPR-OE-01) requiring in part that, during operations, the certificate holder

[69] Capacitor station includes: 500-kV circuit breakers, high-voltage switches, bus supports, two transmission line termination structures, and a 500-kV series capacitor bank.

[70] B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, pp. 97-107.

[71] Certificate holder indicates that based on the OPUC proceedings for Certificate of Public Convenience and Necessity (CPCN) 2023 OPUC Docket PCN 5, Order No. 23-225, the Commission found that, "Regarding the engineering behind B2H towers and transmission lines, we conclude that the record does not support a finding that Idaho Power's engineering is flawed. On the record before us, we find that Idaho Power selected a tower design that has been thoroughly studied and meets or exceeds all applicable and relevant standards. Indeed, the selected lattice towers are used throughout the Pacific Northwest and exceed tower design requirements, including for minimum loading criteria. The BPA lattice towers have wind loading of 120 miles per hour while the wire has wind loading of 100 miles per hour. With that wind loading, the MRI, which refers to how often a weather event is likely to occur, is between 700 and 10,000 years, while the NESC design requirement is for an MRI of greater than 50 years…" B2HAMD2Doc12 Idaho Power's RFA 2 DPO Comment Responses - By Party 2024-06-05; responses to B2HAMD2Doc10-10 DPO Public Comment_Myers 2024-05-30.

implement and adhere to the requirements of a Station Maintenance Program (monthly visual inspections of buildings, fencing, electrical equipment; and annual infrared assessments for hot spots). The condition requires that the dates, results and corrective actions associated with monthly and annual monitoring be reported annually to the Department. Based on the certificate holder's request to construct and operate the capacitor station, Council amends Organizational Expertise Condition 1 (OPR-OE-01) to ensure that the requirements of the Station Maintenance Program apply, and the outcomes annually reported to the Department, as follows:[72]

> **Amended Organizational Expertise Condition 1:** During operations, the certificate holder shall provide documentation of inspection, including date inspection(s) occurred, issues identified, and any corrective actions taken, within the annual report submitted to the Department pursuant to OAR 345-026-0080(1)(b), for the following:
> ***
> b. Longhorn Station, if applicable: Monthly inspections including visual inspections of buildings, fencing, and electrical equipment; monitoring of all protective relays, gauges, counters, meters, and communication devices; and annual infrared assessment of bus and operating equipment carrying capacity in accordance with the Station Maintenance Program.
> c. Midline Capacitor Station: Monthly inspections in accordance with the Station Maintenance Program; and annual infrared assessments.
> [Condition OPR-OE-01; Final Order on ASC; AMD2]

Council previously imposed conditions to ensure that the certificate holder's contractors are qualified and obligated to comply with applicable requirements during construction and operations:

- Organizational Expertise Condition 2 (GEN-OE-01) requires that, prior to construction, the certificate holder provides the Department and each affected county with the identity and qualifications of its construction contractors. The qualifications must demonstrate that the contractors have substantial experience in designing, engineering and constructing similar types of facilities (roads, high-voltage transmission lines, switching station).
- Organizational Expertise Condition 4 (PRE-OE-02) requires that the certificate holder contractually require its construction contractors to comply with the terms and conditions of the site certificate.

Demonstrated ability to restore the site to a useful, non-hazardous condition

[72] In this order, Council amends Organizational Expertise Condition 1(b) to clarify that the requirements for Longhorn Station only apply if the Longhorn Station is constructed and operated by the certificate holder – therefore, adding the language "if applicable." If the Longhorn Station is not constructed and operated by the certificate holder, the requirements in the condition under 1(b) do not apply.

The evaluation of the certificate holder's ability to restore the site to a useful, non-hazardous condition is presented in Section III.G *Retirement and Financial Assurance* of this order.

III.B.2. Conclusions of Law

Based on the above findings of fact, and subject to compliance with the existing and amended conditions described above and in the site certificate, Council finds that the certificate holder would continue to have the organizational expertise to construct, operate and retire the facility, with RFA2 changes, in compliance with Council standards and conditions of the site certificate, and in a manner that protects public health and safety and has demonstrated the ability to restore the site to a useful, non-hazardous condition.

III.C. STRUCTURAL STANDARD: OAR 345-022-0020

(1) Except for facilities described in sections (2) and (3), to issue a site certificate, the Council must find that:

(a) The applicant, through appropriate site-specific study, has adequately characterized the seismic hazard risk of the site; and

(b) The applicant can design, engineer, and construct the facility to avoid dangers to human safety and the environment presented by seismic hazards affecting the site, as identified in subsection (1)(a);

(c) The applicant, through appropriate site-specific study, has adequately characterized the potential geological and soils hazards of the site and its vicinity that could, in the absence of a seismic event, adversely affect, or be aggravated by, the construction and operation of the proposed facility; and

(d) The applicant can design, engineer and construct the facility to avoid dangers to human safety and the environment presented by the hazards identified in subsection (c).

(2) The Council may not impose the Structural Standard in section (1) to approve or deny an application for an energy facility that would produce power from wind, solar or geothermal energy. However, the Council may, to the extent it determines appropriate, apply the requirements of section (1) to impose conditions on a site certificate issued for such a facility.

(3) The Council may not impose the Structural Standard in section (1) to deny an application for a special criteria facility under OAR 345-015-0310. However, the Council may, to the extent it determines appropriate, apply the

requirements of section (1) to impose conditions on a site certificate issued for such a facility.[73]

III.C.1. Findings of Fact

The analysis area for the Structural Standard includes the area within the RFA2 expanded 0.5 mile site boundary (0.25 miles or 1,320 feet on either side of the center line for transmission lines and roads) which includes the micrositing area additions.

The micrositing area additions are approximately 4,142 acres extending across portions of Morrow, Umatilla, Union, Baker and Malheur counties.[74] The RFA2 micrositing area additions and areas of the expanded site boundary would be located in the same vicinity as the previously approved site boundary/micrositing area; therefore, the seismic and non-seismic geologic and soils hazards evaluated in the *Final Order on ASC* and *Final Order on RFA1* will not significantly differ for the RFA2 micrositing area additions and expanded site boundary associated with ASC, RFA1, and RFA2. Information on the record for the facility including data and maps which categorize seismic hazards, and potential geological and soils hazards (such as landslide data), describe the area within the previously approved site boundary/micrositing areas as well as the areas in the expanded site boundary.[75] For these reasons, Council relies on the record, its findings, and conditions in the *Final Order on ASC* and *Final Order on RFA1*,[76] which are incorporated and applied to the RFA2 analysis area below. The analysis below also relies upon RFA2 Section 7.1.1 and Figure 7-1, as well as ASC Exhibit H which provides a detailed analysis of the seismic hazards, and potential geological and soils hazards within the micrositing area additions and expanded site boundary. Seismic and non-seismic hazards within the analysis area were evaluated from the following sources:

- U.S. Geological Survey (USGS) Earthquake Search Database, the National Geophysical Data Center, and the Pacific Northwest Seismic Network;
- Review of GIS files compiled by Oregon Department of Geology and Mineral Industries (DOGAMI) in the Statewide Landslide Information Database for Oregon (SLIDO), version 3.4 (Burns and Watzig, 2017) and 2023 DOGAMI SLIDO data; the review included landslides within a one-mile wide route corridor;

[73] OAR 345-022-0020, effective October 18, 2017, as amended by minor correction filed May 28, 2019.

[74] B2HAMD2Doc2 RFA2 2024-04-11, Table 4.1-1 Proposed Micrositing area additions. B2HAMD2 ODOE Letter Approving Analysis Areas for pRFA2 OAR 345-027-0360(3) _2023-12-20.

[75] Geology inventory provided at 1,000-2,000 feet on both sides of the facility. B2HAPPDoc3-14 ASC 08a_Exhibit H_Geology_ASC_Part 1 2018-09-28, Appendix A. SSURGO soil erosion hazards provided at 0.5 mile buffer on both sides of centerline, seismic hazard mapping provided for 50-mile buffer from the facility, SLIDO Landslide inventory provided at 1,000-2,000 feet on both sides of the facility. B2HAPPDoc3-15 ASC 08b_Exhibit H_Geology_ASC_Part 2 2018-09-28, Appendix B, Appendix D, Appendix E. RFA1 geology, seismic data, and SLIDO landslide information for RFA1 routes and roads provided at a minimum of 2,000 feet on both sides of centerline. B2HAMD1 RFA1 Figure 7-2 Geology Access 2023-06-08 and B2HAMD1 RFA1 Figure 7-1 Geology Routes 2023-06-08.

[76] In the Final Order on RFA1, Council amended Structural Standard Condition 1 (Condition PRE-SS-01) and Soil Protection Condition 4 (Condition GEN-SP-04) to support effective implementation and enforcement.

- DOGAMI 2023 Oregon HazVu: Statewide Geohazards Viewer data;
- Review of existing geologic maps, including Engineering Geology of the La Grande Area, Union County, Oregon, by Schlicker and Deacon (1971); the maps were compiled and geo-referenced in GIS along the alignment to confirm the location of each SLIDO landslide along the route and to check that each mapped landslide was included in the SLIDO database*;*
- Site reconnaissance (by Shaw) along portions of the original alignment, conducted on October 26-28 and November 15-18, 2011;
- Site reconnaissance (by Shannon & Wilson) along portions of alignment alternatives and select alignment changes, conducted July 30 through August 2, 2012, and October 16-18, 2013;
- Review of aerial photography (Shaw reviewed 1:24,000 scale aerial photographs provided by 3Di, LLC, of Eugene, Oregon (3Di), and the ESRI Microsoft Virtual Earth Exhibit H - Attachment H-1 24-1-03820-006 E-2 layer in GIS; Shannon & Wilson reviewed aerial photographs from both ESRI and Google Earth);
- Review of Digital Terrain Models (DTMs) along one-mile-wide route corridors; and
- DOGAMI LiDAR Data Viewer (relevant LiDAR data was only available for portions of the Meacham Lake, Huron, Kamela SE, Hilgard, LaGrande SE, Glass Hill, Craig Mountain, North Powder, Telocaset, Baker, Virtue Flat, and Owyhee Dam quadrangles); No LiDAR data was available in Idaho.[77]

III.C.1.a Seismic Hazard Risk at Site

Earthquake and Seismic Hazards

The underlying earthquake and seismic hazards presented in the *Final Order on ASC* and *Final Order on RFA1* have not changed and remain valid as applicable to the changes in RFA2.[78] Three potential types of earthquake sources exist within the analysis area: crustal, intraslab, and interplate events. Of these, the Cascadia Subduction Zone (CSZ) interplate events have the potential to produce the largest magnitude earthquake, up to 9.0 magnitude. However, this earthquake source is located 280 miles or more from the analysis area. Seismic hazards from earthquake events include seismic shaking or ground motion, ground failure, liquefaction, subsidence, and lateral spreading, which are described below. Landslides are a secondary earthquake hazard, often triggered and exasperated by seismic events, however they are also a non-seismic geologic hazard and therefore discussed further below in Section III.C.1.b., *Non-Seismic Geologic and Soil Hazards*.

Table 10, below, summarizes seismic hazards identified within the RFA2 micrositing areas and provides certificate holder comments regarding the potential hazard. Figure 7, then illustrates

[77] B2HAPPDoc3-14 ASC 08a_Exhibit H_Geology_ASC_Part 1 2018-09-28, Section 3.7.6 and Attachment H-1 (Section 5.1.1).

[78] B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, pp. 111-114; B2HAMD1Doc1 Final Order 2023-09-22_Signed_No Attachments 2023-09-22, pp. 48-52.

Quaternary Faults[79] within 50 miles of Facility, which includes many of the faults listed below. Finally, Table 11, provides RFA2 map references (RFA2 Figure 7-1) and ASC Exhibit H references with potential faults outside micrositing areas and within the RFA2 expanded site boundary.

Table 10: Seismic Hazards within RFA2 Micrositing Area Additions

RFA2 Component/Reference	Mapped Hazard Reference	Certificate Holder Evaluation
Umatilla County[1]		
Umatilla County Work Area Addition 2/319 (Figure 7-1, Map 21)	Micrositing Area Mapped Faults: Cabbage Hill Fault, Fault ID 845 USGS Hite fault system, (Personius and Lidke 2003)	The fault has low slip rate (<0.2 mm/yr), therefore, impacts of the Cabbage Hill Fault on Micrositing Area Addition 2/319 would be low.
Umatilla County Sevenmile Creek Alternative and Work Areas 2/304, 2/538, 2/539, 2/540 (Figure 7-1, Maps 25-27)	Micrositing Area Additions Mapped Faults: Mapped trace of a series of faults likely part of the Hite fault system (USGS Fault ID 845).	The slip rate of the Hite fault system has a slip rate of <0.2 mm/yr. Because of low slip rate, impacts of the faults on these sites would be low.
Umatilla County Work Area Addition 2/317, (Figure 7-1, Map 30)	Micrositing Area Addition: Mapped Fault	Coleman Ridge Zone faults, Rock Creek West faults, and the Rock Creek East faults. Limited information available. Faults may not be active during the Quaternary period.
Union County		
Union County Rock Creek Alternative 1, Rock Creek Alternative 2 and Work Area Additions, 2/341, 2/345, 2/347, 2/350, 2/553, 2/567, 2/568, (Figure 7-1, Maps 31-34)	Routes and Work Areas: Mapped Faults	Coleman Ridge Zone faults, Rock Creek West faults, and the Rock Creek East faults. Limited information available. Faults may not be active during the Quaternary period.
Union County Baldy Alternative, Roads and Work Area 2/571: (Figure 7-1, Maps 39-40)	Routes and Work Areas, Mapped Faults Also, Hilgard Zone and the Mill Creek fault.	The Baldy Alternative crosses through mapped fault traces associated with the Hilgard Zone and the Mill Creek fault which are not included in the DOGAMI Oregon HazVu website or the USGS Fault and Fold Database website and

[79] A Quaternary fault is one that has been recognized at the surface and that has moved in the past 1,600,000 years (1.6 million years). That place's fault movement within the Quaternary Period, which covers the last 2.6 million years. https://www.usgs.gov/faqs/what-quaternary-fault Accessed 02-05-2024.

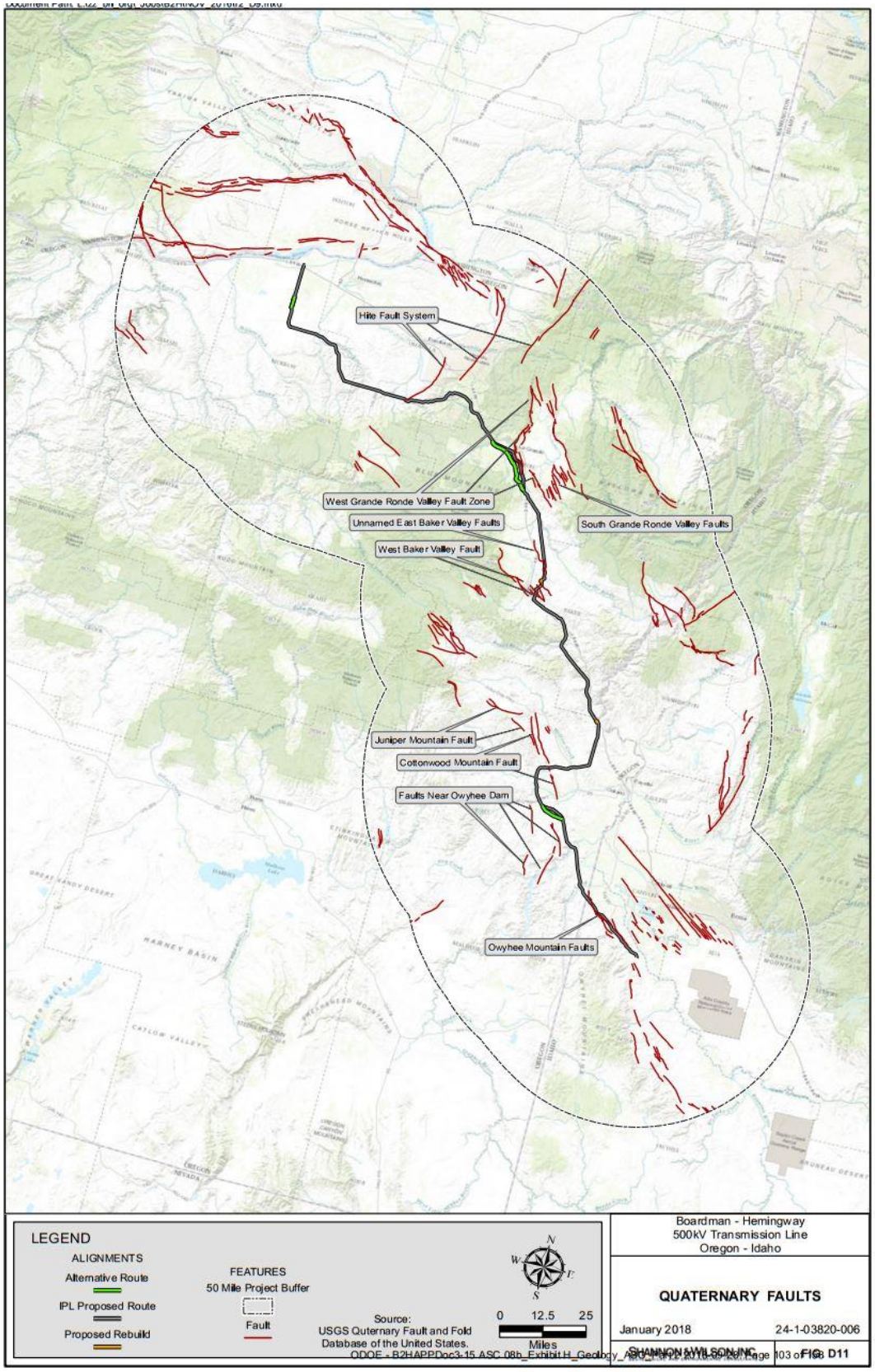
Table 10: Seismic Hazards within RFA2 Micrositing Area Additions

RFA2 Component/Reference	Mapped Hazard Reference	Certificate Holder Evaluation
		may not have geologic evidence demonstrating a tectonic fault exists and therefore it may not be active during the Quaternary period.
Union County Baldy Alternative and Work Areas: (Figure 7-1, Maps 41-43)	Mapped fault traces associated with the Clover Creek fault and the Baldy fault.	The Baldy Alternative crosses through mapped fault traces associated with the Clover Creek fault and the Baldy fault which are not included in the DOGAMI Oregon HazVu website or the USGS Fault and Fold Database website and may not have geologic evidence demonstrating a tectonic fault exists and therefore it may not be active during the Quaternary period
Malheur County		
Malheur County Access Roads and Work Areas 2/471 and 2/472 (Figure 7-1, Maps 76)	Micrositing Area Additions: Mapped Faults Micrositing Area Additions 2/471 and 2/472 cross through the approximate mapped trace of the Cottonwood Mountain fault (USGS Fault ID 806).	USGS Quaternary Fault and Fold database indicates the Cottonwood Mountain fault has a slip rate of <0.2 mm/year. Since the fault has such a low slip rate (<0.2 mm/yr) impact of the Cottonwood Mountain fault on Micrositing Area Additions 2/471 and 2/472 are low.
Malheur County Access Roads and Work Areas 2/503, 2/504, 2/510, 2/511 (Figure 7-1, Maps 92 and 94)	Micrositing Area Additions: Mapped Faults Micrositing Area Additions 2/503, 2/504, 2/510, and 2/511 cross through the approximate mapped traces of unnamed faults possibly associated with the Owyhee Mountains fault system in Idaho.	These areas will be investigated for the potential areas of soil instabilities during ongoing site-specific geotechnical work. Site-specific geotechnical design will consider the most recent version of the International Building Code (IBC 2018) to address the seismic hazards of the Micrositing Area Additions, like the evaluation performed in Attachment H-1 of the Final Order.

1. Work Area Addition 2/303 removed from RFA2. Summary in RFA2 Section 7.1.1 not applicable, see Figure 7-1, Map 19 is no longer applicable to RFA2 and has been removed.

Source: Derived from RFA2 Section 7.1.1, RFA2 Figure 7-1, and B2HAPPDoc3-15 ASC 08b_Exhibit H_Geology_ASC_Part 2 2018-09-28, Appendix D.

Figure 7: Quaternary Faults within 50 miles of Amended Site Boundary



1

Table 11: Faults Outside Micrositing Areas and within RFA2 Site Boundary

RFA2/ASC Map Reference	Fault Type
Umatilla County	
RFA2 Figure 7-1 Map 20 ASC Exhibit C Maps 31-32	Mapped fault - approximate
RFA2 Figure 7-1 Map 22 ASC Exhibit C Maps 33, 35, 36. Rocky Ridge Rd	Mapped faults - approximate
Union County	
RFA2 Figure 7-1 Maps 31-34 ASC Exhibit C Maps 49 and 50	Mapped Fault – Hilgard Zone - Map 34 Map 32 inferred fault
RFA2 Figure 7-1 Map 38 ASC Exhibit C Map 54 (for approved route), and Attachment C-3 Map 11 (morgan lake alternative)	Mapped fault Mill Creek
RFA2 Figure 7-1 Map 44-45 ASC Exhibit C Maps 58-61	Mapped fault - approximate.
Baker County	
RFA2 Figure 7-1 Map 49 ASC Exhibit C Maps 64 and 65	Mapped fault - inferred.
RFA2 Figure 7-1 Map 53 ASC Exhibit C Maps 68-69	Mapped fault - approximate
RFA2 Figure 7-1 Map 55-56 ASC Exhibit C Maps 70-72	Mapped fault - approximate and inferred.
RFA2 Figure 7-1 Maps 62-63 ASC Exhibit C Maps 79-80	Mapped faults – accurate and approximate.
RFA2 Figure 7-1 Map 64 ASC Exhibit C Maps 83-84	Mapped faults accurate and approximate.
Malheur County	
RFA2 Figure 7-1 Map 82 ASC Exhibit C 109-110	Mapped faults concealed, accurate, approximate.
RFA2 Figure 7-1 Map 87-89 ASC Exhibit C Maps 114 - 118	Mapped faults accurate,
RFA2 Figure 7-1 Map 95 ASC Exhibit C Maps 124-125	Mapped faults accurate.

Seismic Shaking/Ground Motion

Seismic shaking from a CSZ interplate event would attenuate over the approximately 280-mile distance to the analysis area and would therefore not represent the most significant earthquake hazard within the vicinity of the RFA2 micrositing area additions. Crustal faults,

which typically produce earthquakes of a maximum magnitude of 7.0, are in much closer proximity to the facility site and therefore represent the most significant seismic hazard to the facility.[80] Given the maximum magnitude of historic earthquakes in the vicinity of the RFA2 micrositing area additions and expanded site boundary, the facility seismic design will be based on earthquake magnitudes of 6.0 to 6.2.[81]

A preliminary evaluation of the estimated probabilistic peak ground acceleration (PGA) for a 500- and 5,000-year return period was included in ASC Exhibit H; these data were used to assess geo-seismic hazards such as seismic slope stability and liquefaction. These preliminary evaluations are based on the USGS 2002 and 2014 National Seismic Hazard Maps. The USGS developed these maps using a probabilistic seismic hazard analysis (PSHA) that considered multiple specific sources and regional seismicity to predict the probability of an earthquake of a given ground motion occurring anywhere in each area within a given return period.[82]

The 500-year return period PGA values within the analysis area range from 0.074g near Boardman, Oregon to 0.045g near Hemingway, Idaho. The PGA values for the 5,000-year return period within the analysis area range from 0.261g to 0.169g.[83] The 2,500-year return period PGA values within the analysis area range from 0.185g to 0.117g. For the same return period, the short period (0.2-second) spectral response acceleration values within the analysis area range from 0.416g to 0.262g, and the long period (1.0-second) spectral response acceleration values range from 0.137g to 0.082g.[84]

The assumed site class with the RFA2 micrositing area additions is between site class B and site class C (site class B/C), which is a soft rock profile, and used ground motion parameters that correspond to this profile. Site class is used to inform foundation and structure design.[85]

Ground Failure

Seismic hazards from earthquake events could include ground failure and fault displacement when an active fault ruptures. The following ten identified faults were identified within the micrositing area additions: Cabbage Hill Fault, Hite fault system, Coleman Ridge Zone faults, Rock Creek West faults, the Rock Creek East faults, Mill Creek fault, Clover Creek fault, the Baldy fault, Cottonwood Mountain fault, Owyhee Mountains fault system.

[80] B2HAPPDoc3-14 ASC 08a_Exhibit H_Geology_ASC_Part 1 2018-09-28, Section 3.7.3 and B2HAPPDoc3-14 ASC 08a_Exhibit H_Geology_ASC_Part 1 2018-09-28, Attachment H-1, Section 4.2.

[81] B2HAPPDoc3-14 ASC 08a_Exhibit H_Geology_ASC_Part 1 2018-09-28, Section 3.7.4.

[82] B2HAPPDoc3-14 ASC 08a_Exhibit H_Geology_ASC_Part 1 2018-09-28, Attachment H-1, Section 4.1.

[83] B2HAPPDoc3-14 ASC 08a_Exhibit H_Geology_ASC_Part 1 2018-09-28, Attachment H-1, Section 4.1.

[84] B2HAPPDoc3-14 ASC 08a_Exhibit H_Geology_ASC_Part 1 2018-09-28, Attachment H-1, Section 4.1.

[85] Code-based site specific ground motion parameters for use in evaluating geo-seismic hazards will be developed during design, upon completion of the subsurface exploration program and submitted in compliance with Structural Standard Condition 1 (PRE-SS-01). B2HAPPDoc3-14 ASC 08a_Exhibit H_Geology_ASC_Part 1 2018-09-28, Attachment H-1, Section, Section 4.6.

Liquefaction and Lateral Spreading

Seismic hazards from earthquake events include liquefaction and lateral spreading. Liquefaction refers to the saturation and cohesion of soils causing these soils to temporarily lose their strength, resulting from intense and prolonged ground shaking and seismic activity. Areas with a shallow water table (within 50 feet of the surface) and thick, unconsolidated sediments are the most susceptible to liquefaction in the event of ground shaking. Most of the analysis area has a low susceptibility to liquefaction because it mostly consists of relatively stable terrain with shallow bedrock and deep groundwater. Seismic activity also has the potential to cause lateral spreading, which is the permanent horizontal movement of liquefiable soil. Lateral spreading during seismic events is most likely to occur on gradual slopes or on flat sites with liquefiable soils.

Subsidence

Subsidence is the sinking or the gradual downward settlement of the land surface, and is often related to groundwater drawdown, compaction, tectonic movements, mining, or explosive activity. Seismic activity in the analysis area could lead to the settling of sediment and could also exacerbate potential subsidence associated with groundwater withdrawal in more populous regions. No historical cases of subsidence in the analysis area have been identified, and most of the analysis area has a low susceptibility to subsidence.

III.C.1.b Non-seismic Geologic and Soils Hazards

Non-seismic hazards include mass-wasting and landslides, flooding, and erosion.

Mass-wasting and Landslides

Mass wasting is a generic term for landslides, rockslides, rockfall, debris flows, soil creep, and other processes that include the downslope movement of masses of soil and rock. Mass wasting can be initiated by precipitation events, sometimes in conjunction with land use. Slope stability is a function of moisture content, slope gradient, rock and soil type, slope aspect, vegetation, seismic conditions and ground-disturbing activities.

Landslides are a subset of mass wasting events, which describe processes that include the downslope movement of masses of soil and rock. Seismic events have the potential to result in landslides, but non-seismic factors may also trigger landslides (e.g., from heavy precipitation events at unstable areas). Mapped landslides within one mile of the analysis area are presented in ASC Exhibit H, Attachment H-1, Appendix E and RFA2 Figure 7-1.[86]

[86] B2HAPPDoc3-14 ASC 08a_Exhibit H_Geology_ASC_Part 1 2018-09-28, Section 3.7.6 and Attachment H-1 (Section 5.1.1).

In preparation of RFA2, the certificate holder evaluated site specific hazards, including landslides, associated with the RFA2 micrositing area additions using the data sources listed above as well as information gathered from ongoing geotechnical field work conducted by Shannon & Wilson. Table 12, below presents the certificate holder and Council evaluation of potential landslide hazards within the RFA2 micrositing areas. Table 12 presents the certificate holder presentation of the Statewide Landslide Information Database for Oregon (SLIDO), which is a compilation dataset of landslides in Oregon that have been identified on published maps that provides location, type, and other attributes related to identified landslides in Oregon.

Table 13 provides RFA2 map references (RFA2 Figure 7-1) and ASC Exhibit H references with potential faults outside micrositing areas yet within the RFA2 expanded site boundary.

Table 12: Potential Landslides within RFA2 Micrositing Area Additions

RFA2 Component/Reference	Mapped Hazard Reference	Certificate Holder Evaluation
Union County		
Union County Baldy Alternative, Roads and Work Area 2/571: (Figure 7-1, Maps 39-40)	Routes and Work Areas, Mapped Faults and SLIDO 293: Micrositing Area Addition 2/571 crosses downslope of mapped landslide deposits associated with SLIDO "FernML2010_293" also referred to elsewhere in this project as SLIDO 293 (DOGAMI 2023b).	Based on aerial imagery the headscarp is heavily overgrown with trees and does not appear to be currently active and the landslide deposits are not mapped as extending down the slope to the area of Micrositing Area 2/571. Landslide is of minimal risk.
Union County Baldy Alternative and Work Areas: (Figure 7-1, Maps 41-43)	The Baldy Alternative at 2/573 crosses between mapped landslide deposits of SLIDO "FernML2010_2279" also referred to as SLIDO 2279 and deposits of "FernML2010_2282" also referred to as SLIDO 2282. Reconnaissance from boring locations BH-J-4/5 and BH-J-4/6 did not indicate current movement of the ridge on which the structures would be located. Baldy Alternative at 2/573 extends into mapped landslide deposits associated with SLIDO "FernML2001b_2281"	Due to the proximity of the two slides to facility structures, this area is considered to be of moderate risk; structures and the disturbance area should not be shifted or moved to within the mapped extents of the landslides. Based on boring BH-119/2 performed within the landslide deposits, and observations of the area performed during reconnaissance of boring location BH-119/2, the landslide feature appeared ancient and is minimal risk to the Baldy Alternative at 2/573.

Table 12: Potential Landslides within RFA2 Micrositing Area Additions

RFA2 Component/Reference	Mapped Hazard Reference	Certificate Holder Evaluation
Baker County		
Baker County Access Road Change 2/424 and Work Area 2/574 (Figure 7-1, Maps 62-63)	Micrositing Area Addition: Mapped Landslide, SLIDO 1103 Micrositing Area Addition 2/424 and Work Area 2/574 crosses through SLIDO feature "AshIRP1966_1103" which is mapped as an Alluvial Fan.	Access road near SLIDO 1103 is an alluvial fan not a landslide, however, construction would not include large cuts into the slope which would undercut the alluvial fan and destabilize it.
Access Roads 2/441, 2/442, 2/445, and 2/447 (Figure 7-1, Maps 66-67)[2]	Micrositing Area Additions: Mapped Landslide Deposits, SLIDO 1706, 1708, and 1711 Micrositing Area Additions cross through two landslide features mapped as SLIDO "BrooHC1979a_1706" or SLIDO 1706 and "BrooHC1979a_1708" or SLIDO 1708. LiDAR imagery and aerial imagery of both slides show rounded, eroded features and both are overgrown with vegetation. Northwest Pipeline corporation has installed a gas line through both features and there is an existing 138kV transmission line through both features.	Micrositing Area Additions 2/445 and 2/446 appear to be predominantly upslope of SLIDO 1708 and are access roads so any movement would occur below the site or would only affect the access roadway at 2/445, and 2/445 and 2/446 are at a low risk of being impacted by SLIDO 1708. Rounded features of SLIDO 1706 would indicate it is likely an ancient slide however in LiDAR there appear to be several small slides within the larger complex which may shift in a large seismic event. The risk of movement within SLIDO 1708 affecting Micrositing Area Additions 2/440, 2/441, and 2/442 is moderate, however these appear to be access roads so the impacts may be minimal. Presence of an existing pipeline and transmission line may indicate the features are stable.

1. Work Area Addition 2/303 removed from RFA2. Summary in RFA2 Section 7.1.1 not applicable, see Figure 7-1, Map 19 is no longer applicable to RFA2 and has been removed.
2. Some map numbers in RFA2, Section 7.1.1, identify the wrong map. The Department reviewed the maps, SLIDO data, and the map numbers in the above table reflect the correct map numbers to micrositing area additions and geologic hazards. For instance, RFA2 states that Map 68 shows micrositing area additions 2/440, 2/441, 2/442, 2/444, 2/445 and 2/446 which cross through two landslide features SLIDO 1706, however, map 68 does not have those work areas or geologic hazards, these areas are on Map 66, which is reflected in the above table.

Source: Derived from RFA2 Section 7.1.1, RFA2 Figure 7-1, and B2HAPPDoc3-15 ASC 08b_Exhibit H_Geology_ASC_Part 2 2018-09-28, Appendix E.

Table 13: Potential Landslides Outside Micrositing Areas and within RFA2 Site Boundary

RFA2 Component/Reference	Mapped Hazard Details
Morrow County	
RFA2 Figure 7-1 Map 5, Bombing Range Rd SE Alt. ASC Exhibit C Map 6	SLIDO 43: It is a broad, gently sloping alluvial fan and is not a landslide.
Union County	
RFA2 Figure 7-1 Maps 31-34 ASC Exhibit C Maps 49 and 50	SLIDO 138, 136, and 134: SLIDO 134 Review of aerial photos, the DTM, and LiDAR images suggest that most of this landslide has not recently been active. Rock Creek Alternative is outside mapped limits.
RFA2 Figure 7-1 Maps 39-40 ASC Exhibit C Maps 55-56 (for approved route), and Attachment C-3 Map 11 (morgan lake alternative)	SLIDO 117 and 293, 112: SLIDO 117 is located approximately 2,000 feet from the alternative route. SLIDO 112: Review of the DTM and aerial photos shows no evidence of a landslide, but the upper contact of the Grande Ronde Basalt is known to be landslide prone. Baldy alternative is outside mapped limits.
Baker County	
RFA2 Figure 7-1 Maps 62-63 ASC Exhibit C Maps 64-65	SLIDO 1113, 1115, 1114, 1677: SLIDO 1113 feature is mapped as alluvial fan deposits, not a landslide. SLIDO 1115 feature is mapped as alluvial fan deposits, not a landslide. SLIDO 1677 mapped as a landslide
Malheur County	
RFA2 Figure 7-1 Map 71 ASC Exhibit C Map 95	SLIDO 1690 and 384: SLIDO 1690 and 384 map an ancient landslide complex; lack of fresh scarps and maturity of the drainages suggests that the landslide is old and may not be currently active.

Flooding

Council evaluation of 2023 Federal Emergency Management Agency 100 Year Flood Effective Layer, portions of the Ayers Canyon Alternative and associated roads would be in the 100-year flood zone, within the area of Butter Creek/Big Butter Creek Road, similar to the approved route from the ASC. PRE-SS-01 (Structural Standard Condition 1) requires the submission of pre-construction site-specific geological and geotechnical investigation report(s), which would identify facility components within the 100-year flood zone and any related potential risk to the facility. GEN-LU-01 (Land Use Condition 1), requires that, for facility components in Morrow County, the certificate holder must provide to the Department a copy of the following Morrow County approved permits, if such permits are required by Morrow County zoning ordinances,

flood plain development permit(s), for work in the Flood Plain Overlay Zone. Finally, Butter Creek is a Morrow County Goal 5 stream and under MCZO Section 3.200(D)(3)(b) imposed by GEN-LU-02 (Land Use Condition 2), any buildings and the fixed bases of the transmission line towers must be setback at least 100 feet from the high-water mark of all Goal 5 streams.

Erosion

Soils most susceptible to erosion by wind and water are typically non-cohesive soils with low infiltration rates, residing on moderate to steep slopes, and soils that are sparsely vegetated.[87] Erosion potential within the analysis area is based on three factors: soil-erodibility (K) factor, wind erodibility, and slope. The potential for soil erosion by wind was evaluated using NRCS wind erodibility group data, which are based on the texture of the surface layer, the size and durability of surface clods, rock fragments, organic matter, and a calcareous reaction. Soil moisture and frozen soil layers also influence wind erosion. Construction activities that could expose soils to wind erosion include any surface disturbance (e.g., road construction and improvements, vegetation clearing). In general, steep slopes possess a greater potential for erosion by water or mass movements than flat areas. Areas containing greater than 25 percent slope were considered to have greater erosion potential.

Soil types, and potential impacts, and mitigation measures for soil erosion are discussed further in Section III.D., *Soil Protection*, of this order. Previously imposed GEN-SP-01 (Soil Protection Condition 1) would continue to apply to the RFA2 micrositing areas and requires the certificate holder to submit an Erosion Sediment Control Plan (ESCP), as included in the DEQ-issued 1200-C permit. GEN-SP-01 gives the Department the authority to require revisions to the ESCP to ensure that erosion impacts are minimized.

Expansive Soils

Expansive soils, which swell when exposed to moisture and shrink when dried, may impact structure foundations.

Groundwater Hazards

Groundwater may exacerbate slope instability and may require hydrogeological mitigation (such as surface drainage, shallow drainage, and deep drainage) to reduce the soil's water content. Groundwater can also impact construction, particularly where excavations extend below the water table. If shaft foundations for transmission line towers extend below the water table in granular soils, casing and/or slurry may be necessary to prevent soil heave and maintain shaft integrity.

*Corrosive Subsurface Condition*s

[87] B2HAPPDoc3-14 ASC 08a_Exhibit H_Geology_ASC_Part 1 2018-09-28, Section 3.8.3.

Corrosive soil can damage the metallic and concrete components of subsurface utilities and structures. Based on NRCS Soil Survey Geographic Database, the susceptibility of concrete to corrosion when in contact with the on-site surficial soils is expected to be low in most areas, and susceptibility of uncoated steel to corrosion when in contact with the onsite surficial soils is expected to be moderate to high. Metal materials may be protected through the addition of protective coatings or by increasing the metal thickness.

Council finds that the above facts represent an adequate characterization of the seismic and non-seismic risks within the analysis area, which includes the RFA2 micrositing areas and expanded site boundary.

III.C.1.c Design, Engineer and Construct Facility to Avoid Dangers to Human Safety and the Environment from Potential Seismic Hazards and non-Seismic Hazards

The Structural Standard requires the Council to find that, based on an adequate characterization of the seismic and non-seismic risks of the site, that the certificate holder demonstrates an ability to design, engineer and construct the facility to avoid potential seismic hazards (i.e., ground motion, ground failure, fault displacement, landslides, liquefaction, lateral spreading, and subsidence) and non-seismic hazards within the surrounding area.

Ground Failure and Fault Displacement

The Quaternary faults within the surrounding area should be considered during final facility design with regards to their potential to result in ground failure and fault displacement at or near the alignment. Ground failure including landslide, lateral spreading, liquefaction, and surface rupture or settlement will be evaluated once ground accelerations and subsurface conditions are known (following the pre-construction, site-specific geologic and geotechnical investigations). Council previously imposed Structural Standard Condition 1 (Condition PRE-SS-01) requiring that the certificate holder conduct a pre-construction site-specific geological and geotechnical investigation report to, in part, describe potentially active faults that may affect the facility, their potential risk to the facility, and measures to mitigate the identified hazards.

Landslides

Landslides could potentially affect the stability of the tower foundations or associated work areas. Facility structures would be located with sufficient setback from slopes to mitigate the potential for slope instability, and where structures cannot be moved or realigned, mitigation techniques may include modification of slope geometry (grading or removing soils), hydrogeological modification (drainage to reduce the soil's water content), and slope reinforcement methods.[88] Council previously imposed Structural Standard Condition 1 (Condition PRE-SS-01) requiring that the certificate holder conduct a pre-construction site-specific geological and geotechnical investigation report that, in part, will use agency approved

[88] B2HAPPDoc3-14 ASC 08a_Exhibit H_Geology_ASC_Part 1 2018-09-28, Section 3.9.2.1.

investigation methods such as LiDAR or field survey investigation of the site boundary to assess the potential for slope instability and landslide hazards, and to identify measures to mitigate the identified hazards.

Liquefaction and Lateral Spreading

Prior to the development of final engineering design, liquefaction studies will be conducted for susceptible areas, including areas that cross or approach rivers and areas where thick unconsolidated sediments are encountered in the field. Additional evaluation of liquefaction may also be needed as the final alignment and tower locations are chosen. The geotechnical engineer will recommend additional exploration and/or analysis as applicable to assess liquefaction hazards in the geotechnical design report for the transmission line.

In particular, the evaluation of liquefaction hazards will include susceptible areas, such as areas with thick unconsolidated sediments and areas that cross or approach rivers.[89] Council previously imposed Structural Standard Condition 1 (Condition PRE-SS-01) requiring that the pre-construction site-specific geological and geotechnical investigation report assess potential liquefaction hazards and to identify measures to mitigate the identified hazards.

The pre-construction, site-specific evaluation of liquefaction hazards will evaluate if lateral spreading is an additional hazard for areas susceptible to liquefaction.[90] Structural Standard Condition 1 (Condition PRE-SS-01) requires the pre-construction site-specific geological and geotechnical investigation report to, in part, assess potential lateral spreading hazards and to identify measures to mitigate the identified hazards.

Subsidence

Seismic activity has the potential to cause subsidence, which is the sinking or gradual downward settlement of the land surface. If the geotechnical investigation identifies any subsidence-prone areas, the facility design and siting of the transmission line will avoid subsidence hazards.[91]

Council previously imposed numerous conditions designed to ensure compliance with the Structural standard, which apply to RFA2 changes:

- Structural Standard Condition 1 (Condition PRE-SS-01) requires that, prior to construction, the certificate holder conduct a site-specific, geotechnical investigation within all areas where facility structures would be located to further evaluate risks and

[89] B2HAPPDoc3-14 ASC 08a_Exhibit H_Geology_ASC_Part 1 2018-09-28, Section 3.7.6.
[90] B2HAPPDoc3-14 ASC 08a_Exhibit H_Geology_ASC_Part 1 2018-09-28, Section 3.7.6.
[91] B2HAPPDoc3-14 ASC 08a_Exhibit H_Geology_ASC_Part 1 2018-09-28, Section 3.7.6.

hazards from geologic conditions, faults, slope instability/landslide hazards, liquefaction, soil expansion, groundwater, corrosive soils and flood risk.[92]

- Structural Standard Condition 3 (Condition GEN-SS-02) requires that the facility be designed to avoid seismic hazards.
- Structural Standard Condition 4 (Condition GEN-SS-03) requires that, if site investigations or trenching identify foundation rocks that differ significantly from those described in the ASC, the certificate holder notify and consult with the Department and DOGAMI on appropriate corrective or mitigation actions.
- Structural Standard Condition 5 (Condition GEN-SS-04) requires that, if shear zones, artesian aquifers, deformations or clastic dikes are found at or in the vicinity of the site, the certificate holder notify and consult with the Department and DOGAMI on appropriate corrective or mitigation actions.
- Structural Standard Condition 2 (Condition GEN-SS-01) requires that the certificate holder design facility structures in accordance with the versions of the Oregon Structural Specialty Code, International Building Code, and local building codes in effect at the time of construction.
- Siting Standards for Transmission Line Condition 3 (Condition GEN-TL-02) requires that that the certificate holder design facility structures in accordance with the National Electrical Safety Code in effect at the time of construction.
- Soil Protection Condition 1 (Condition GEN-SP-01) requires development and adherence to an Erosion and Sediment Control Plan, governed under the DEQ-issued 1200-C General Construction Permit.

III.C.2. Conclusions of Law

Based on the foregoing analysis, and subject to compliance with the existing site certificate conditions, Council finds that the certificate holder has adequately characterized potential seismic and geologic hazards within the RFA2 analysis area and that the certificate holder can design, engineer and construct the RFA2 micrositing area additions to avoid dangers to human safety and the environment presented by those hazards.

III.D. SOIL PROTECTION: OAR 345-022-0022

> *To issue a site certificate, the Council must find that the design, construction and operation of the facility, taking into account mitigation, are not likely to result in a significant adverse impact to soils including, but not limited to, erosion and chemical factors such as salt deposition from cooling towers, land application of liquid effluent, and chemical spills.*[93]

[92] Council previously imposed Land Use Condition 1 (Condition GEN-LU-01) and Land Use Condition 11 (Condition GEN-LU-08) requiring, in part, that flood plain development permits be obtained from Morrow and Malheur counties, prior to any development within a flood plain.

[93] OAR 345-022-0022, effective May 15, 2007.

III.D.1. Findings of Fact

The analysis area for the Soil Protection standard includes the area within the amended site boundary (28,150 acres). RFA2 micrositing area additions include approximately 4,142 acres. Under this standard, RFA2 changes evaluated include the adjustment of access road and transmission line segment locations, limited to lands under the same ownership as the approved site boundary, and the increase in temporary disturbance from new bladed and substantially modified roads (see Table 16 below for details).

Sources reviewed to evaluate soil types within the analysis area include the U.S. Department of Agriculture (USDA) Natural Resources Conservation Service's (NRCS) 2011 State Soil Geographic Database (STATSGO), which presents general soil properties, characterize soil erosion, and soil reclamation properties for the United States, as well as the U.S. Geological Survey (USGS) who maintains the National Elevation Dataset (NED) used for the slope analysis for RFA2.

The RFA2 micrositing area additions and the expanded site boundary are located adjacent to the approved site boundary as described in the *Final Order on ASC*, where the predominant soil types are Mollisols, Aridisols, Andisols and Entisols. The predominant soil type within the RFA2 micrositing area additions is Mollisols (79 percent); the second most predominant soil type is Andisols (11 percent). Mollisols include a variety of soils formed mainly under grasslands; these soils have a strong organic component formed by the decomposition of grass and other vegetation. These soils maintain high agricultural potential and are favorable for restoration.[94] RFA2 Attachment 7-1 provides a detailed analysis of the soil types, soil sub orders and soil properties such as erodibility, T factor, and K-factors within the RFA2 micrositing area additions; a summary of these soil properties is provided below in Table 14.[95] RFA2 Figure 8-2 illustrates the soil types within the expanded site boundary, which are the same soil types evaluated in the *Final Order on ASC*.

Table 14: Soil Properties for Construction Disturbance in RFA2 Micrositing Area Additions

County	Construction Disturbance Area (acres)	Highly Wind Erodible[1]		High K Factor[2]		Low T Factor[3]	
		Acres	%	Acres	%	Acres	%
Morrow	175.3	31.5	18.0%	148.1	84.5%	131.0	74.7%
Umatilla	279.0		0.0%	279.0	100.0%	137.8	49.4%
Union	372.6	180.8	48.5%	147.8	39.7%	79.6	21.4%
Baker	198.1	141.4	71.4%	27.4	13.8%	82.2	41.5%

[94] B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, page 129.

[95] Soils in wind erodibility groups 1 through 4 are considered highly wind erodible. Soil T factor is an indicator of soil loss tolerance, or the amount of soil loss that can be tolerated for soil to remain productive. Soils with a low T factor are more sensitive to the effects of erosion than soils with higher T factors. K factor is defined as the soil-erodibility factor. Soils high in clay have low K values because they are resistant to detachment. Medium textured soils, such as the silt loam soils, have moderate K values because they are moderately susceptible to detachment and produce moderate runoff. B2HAPPDoc3-16 ASC 09a_Exhibit I_Soil_ASC_Part 1 2018-09-28, Section 3.2.3.

Table 14: Soil Properties for Construction Disturbance in RFA2 Micrositing Area Additions

County	Construction Disturbance Area (acres)	Highly Wind Erodible[1]		High K Factor[2]		Low T Factor[3]	
		Acres	%	Acres	%	Acres	%
Malheur	287.8	269.2	93.5%	151.7	52.7%	48.1	16.7%
RFA 2 Total	***1,312.8***	***622.8***	***47.4%***	***754.0***	***57.4%***	***478.6***	***36.5%***

Notes:
[1] Highly wind erodible include STATSGO wind erodibility classes 1 through 4.
[2] High K factor defined as K factor greater than or equal to 0.37.
[3] Low T factor defined as T factor less than or equal to 2 tons per acre per year.
Source: B2HAMD2Doc2 RFA2 2024-04-11, Table 7.1-3

The zones crossed, land cover type and extent of high value farmland soils within the RFA2 micrositing area additions, by county, are presented in Table 15 below. Table 15 also identifies the temporary and permanent impacts from the RFA2 micrositing area additions, which are discussed further in the sections below.

Table 15: Acreage, Impacts, Land Use and Cover Types within RFA2 Micrositing Areas

County	Acres Within RFA2 Micrositing Areas	High Value Farmland Soils within RFA2 Micrositing Areas	Acres Temporarily Impacted	Acres Permanently Impacted*	Zone(s)	Land Cover Types
Morrow	957.1	466.6	175.3	44.3	Exclusive Farm Use	Agriculture; shrubland
Umatilla	1,141.5	758.4	279.0	30.4	Exclusive Farm Use; Grazing-Farm	Agriculture; forest/woodland; grassland; shrubland; riparian
Union	920.7	519.2	372.6	32.7	Exclusive Farm-Use; Agriculture-Grazing; Timber-Grazing	Forest/woodland; riparian; shrubland
Baker	413.9	288.1	198.1	28.4	Exclusive Farm Use	Forest/woodland; grassland; shrubland; riparian

Table 15: Acreage, Impacts, Land Use and Cover Types within RFA2 Micrositing Areas

County	Acres Within RFA2 Micrositing Areas	High Value Farmland Soils within RFA2 Micrositing Areas	Acres Temporarily Impacted	Acres Permanently Impacted*	Zone(s)	Land Cover Types
Malheur	709.1	185.9	297.8	43.2	Exclusive Farm Use – Exclusive Range Use	Agriculture; grassland; shrubland; open water
Total	**4,142.3**	**2,218.3**	**1,322.8**	**181.7**	-	-

Notes: The approximately 1,322.8 acres associated with the RFA2 micrositing areas includes routes, work areas and roads, however these would not be additive to the previously approved facility but would be offset by portions of the approved facility (roads, routes, and work areas) not selected for construction and operation. For instance, if the RFA2 transmission line routes are selected, these would be 0.4 miles less than the associated approved route segments.
Source: B2HAMD2Doc2 RFA2 2024-04-11, Tables 7.1-2, 7.1-3, 7.1-13, 5.2-2, 5.2-4, 5.2-6, 5.2-8, and 5.2-10.

Construction

The *Final Order on ASC* identified that facility construction activities would disturb approximately 4,348 acres (temporary impacts).[96] Within the RFA2 micrositing area additions, approximately 1,341.4 acres would be disturbed during construction activities.[97,98] Activities that would disturb soils during construction and operation of the facility are the same as those identified in the *Final Order on ASC* and include clearing, grubbing, grading, backfilling, and excavation activities along the right of way for transmission line routes and roads, and at additional temporary workspaces. These construction activities increase the potential for wind and water erosion, soil compaction, loss of soil productivity and topsoil loss.

RFA2 is approved to increase temporary disturbance from new bladed and substantially modified roads, as presented in Table 16 below. Certificate holder indicates that wider widths would be necessary in areas where there is a steeper slope, so that the road width can accommodate construction equipment movement. For instance, for new, bladed roads, Council previously approved a maximum road width for construction of 35 feet. In RFA2 certificate holder indicates that in areas where the slope of the road is approximately 30 percent, the road

[96] B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, page 129.

[97] B2HAMD2Doc2 RFA2 2024-04-11 Tables 5.2-2, 5.2-4, 5.2-6, 5.2-8, and 5.2-10 equal approximately 1,322.8; Table 7.1-3 under Soil Protection and Attachment 7-1 identifies approximately 1,312.9 acres of temporary disturbance to soils as a result of the RFA2 changes. See also B2HAPPDoc3-16 ASC 09a Exhibit I Soil ASC Part 1 2018-09-28, Section 3.5.1.1, page I-13.

[98] The Council emphasizes that the approximately 1,322.8 acres associated with the RFA2 micrositing areas would not be additive, yet would be offset by the routes, work areas, and roads previously approved but not selected for facility construction and operation.

may need to be widened to up to 120 feet, and then restored back to its operational width of 14 feet. Certificate holder indicates that the areas where road slopes may be up to 30 percent and need to be widened further would only occur in approximately 3 percent of all facility access roads (new and existing) fall into the category of greater than 30 percent cross slope.[99]

An access road may be bladed, with minor cutting of adjacent slopes with side casting of material scraped by the blade or filling toward the toe of the downward slope to achieve a sufficient operational width.[100] Large rocks or boulders may be removed from the driving surface by use of a trackhoe, backhoe or bobcat. Adjacent vegetation or vegetation deadfall that has fallen onto the road may be removed with the use of a masticator. Roads are not improved beyond what is necessary to pass equipment. In some cases, temporarily disturbed areas would be regraded as close as possible to the original grade and seeded with the appropriate seed mixture. Cut and fill areas created for road construction are required to remain in place to support the operational surface of the road (14 feet), however, temporarily disturbed areas would be regraded as close as possible to the original grade and seeded with the appropriated seed mixture. Roads would be maintained under applicable, State, local, or federal standards for operational roads, which is discussed further in Section III.M., Public Services, and under condition PRE-PS-02. Additional discussion of restoration and mitigation measures applicable to temporary facility roads, is provided below.

[99] B2HAMD2Doc2 RFA2 2024-04-11, Section 4.1.

[100] Bladed access roads are by their nature not sufficient to accommodate all-weather use because the roadway surface is not capped with gravel or other material or compacted. As a matter of practice, the certificate holder does not construct all-weather roads to support transmission infrastructure and does not propose that primitive access roads be constructed to accommodate all-weather use for the facility as it is unnecessary for public safety and will result in greater environmental impacts. Most access roads are on private land and will be used to access the during operation, and therefore no emergency access is required for public traffic and safety. B2HAMD2Doc12 Idaho Power's RFA 2 DPO Comment Responses – By Party 2024-06-05.

Table 16: Road Classification Summary with ASC and RFA2 Temporary Road Dimensions

Access Road Classification		ASC Site Boundary/RFA2 Micrositing Area Width	ASC Approved Construction Disturbance	RFA2 Construction Disturbance (in "red" font)	Operations Disturbance	Road Prism or Profile Changes	Extent of Work
New Roads	Primitive	200 feet	16 feet	16 feet	10 feet	Yes	Clearing of vegetation or obstructions. Create roads by direct vehicle travel.
	Bladed	200 feet	16–35 feet	0-8% slope – 30 feet. 8-15% slope – 45 feet. 15-30% slope – 75 feet. >30% slope – 120 feet	14 feet	Yes	Clearing of vegetation or obstructions. Create roads by cutting/filling existing terrain.
Existing Roads - Substantial Modification	Substantial Modification, 21-70% Improved	100 feet	16 feet	0-15% slope – 25 feet >15% slope 60 - feet	14 feet	Yes	Reconstruct portions of existing road to improve road function. Possible road prism widening, profile adjustments, horizontal curve adjustments, or material placement.

Table 16: Road Classification Summary with ASC and RFA2 Temporary Road Dimensions

Access Road Classification		ASC Site Boundary/RFA2 Micrositing Area Width	ASC Approved Construction Disturbance	RFA2 Construction Disturbance (in "red" font)	Operations Disturbance	Road Prism or Profile Changes	Extent of Work
	Substantial Modification, 71-100% Improved	100 feet	16–30 feet	0-15% slope – 25 feet >15% slope 60 - feet	14 feet	Yes	Reconstruct portions of existing road to improve road function. Possible road prism widening, profile adjustments, horizontal curve adjustments, or material placement.
Notes: In the Final Order on ASC, Existing Roads that required No Substantial Modification (defined as No Substantial Modification, 0-20% Improvements) are not included as related or supporting facilities to the facility. Source: Derived from RFA2 Section 4.0, Attachment 4-1, and Final Order on ASC.							

Soil Protection Condition 1 (Condition GEN-SP-01), would continue to apply to the RFA2 changes, including the wider temporary roads, and require that the certificate holder:

- Submit a final Erosion Sediment Control Plan (ESCP), as included in the DEQ-issued 1200-C permit, to the Department, prior to construction;
- Based on the final ESCP, conduct all work in compliance with the 1200-C permit requirements and ESCP;
- Under the 1200-C permit, an ESCP can be revised throughout construction to address numerous changes.[101] As noted above, in the *Final Order on RFA1*, Council amended Soil Protection Condition 1 to provide the Department the authority to require additional erosion controls or soil protection measures if the ESCP BMPs are not sufficient.[102]

The ESCP includes specific best management practices (BMPs) which would be implemented during construction, especially in areas with higher potential for soil erosion impacts. Those BMPs would include, but are not limited to:

- Silt Fencing**:** Silt fences would be used during construction to trap sediment, which would be removed before it reaches one-third of the aboveground silt fence height.
- Vegetation Buffers: Vegetation buffers would be used to treat sheet flow from adjacent surfaces by slowing runoff velocities and allowing sediment and other pollutants to partially infiltrate into underlying soils.
- Seeding and Stabilization: Seeding would be conducted to stabilize disturbed areas. If topsoil is removed, it would be separated from subsoil and stored separately. Topsoil would be returned to the removal site and would not be spread to other areas.
- Temporary Construction Entrances: Temporary construction entrance gravel pads would prevent mud and sediment from leaving the construction site.

As discussed in the *Final Order on ASC,* and in Section III.M.1.h*., Traffic Safety* of this order, Attachment B-5, Road Classification Guide and Access Control Plan (Public Services Condition 2 (PRE-PS-02)), discusses the construction needs for roads and designates standards for roads maintained during construction of the facility. New roads would be constructed so that proper drainage is not impaired.[103] Furthermore, certificate holder would (a) avoid earth-disturbing activities during wet weather; (b) implement sediment controls in work areas; (c) implement storm drain inlet protection; and (e) implement non-stormwater pollution controls.[104,105] To minimize construction-related erosion impacts, Council previously imposed Soil Protection Certificate holder's construction contractor will obtain encroachment permits or similar legal

[101] DEQ Construction Stormwater Application and Forms Manual. Accessed June 11, 2023: wqp1200cInfo.pdf (oregon.gov), pg. 17-18. ESCP revisions under the 1200-C permit can be made for: emergency situations; registrant change of address; change in size of project; change in size or location of disturbed areas; changes to best management practices; changes in erosion and sediment control inspector; and changes in DEQ or agent requests.

[102] B2HAMD1Doc1 Final Order 2023-09-22_Signed_No Attachments 2023-09-22, pp. 55-57.

[103] B2HAPPDoc3-16 ASC 09a_Exhibit I_Soil_ASC_ Part 1 2018-09-28, Section 3.6.4.

[104] B2HAPPDoc3-16 ASC 09a_Exhibit I_Soil_ASC_ Part 1 2018-09-28, Sections 3.6.

[105] B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, Section IV.D.

agreements from the public agencies responsible for affected roadways and other applicable rights-of-way. Certificate holder will require its construction contractor(s) to ensure that all suppliers of equipment and materials obtain applicable oversize and overweight permits and comply with all permit requirements.

In Section III.M.1.h*., Traffic Safety,* Council requires that the standards designated for road construction identified in RFA2, Attachment 4-1, the amended Attachment B-5, Road Classification Guide and Access Control Plan (Attachment B-5 to this order) which would be required to be implemented during construction. The revisions to the previously imposed conditions are limited to updating the reference from *Final Order on ASC*, to the *Final Order on RFA2*.

To address potential spills during construction, Council imposed Soil Protection Condition 2 (GEN-SP-02), requiring compliance with a Hazardous Waste Management and Spill Response Plan (HWMSRP) which will include a complete inventory of hazardous and non-hazardous materials (Material Safety Data Sheets, quantity, location), appropriate spill response plan/materials; and emergency response contact information.[106]

Other previously imposed conditions include:

- Soil Protection Condition 4 (Condition GEN-SP-04) requires that, prior to any planned blasting activity, the certificate holder finalize a Blasting Plan; and, during construction, as applicable to blasting activities, implement and adhere to the requirements of the final Blasting Plan.

Council finds that, subject to compliance with existing, new, and amended site certificate condition, construction of the facility will not result in adverse impacts to soil.

Operation

As highlighted in Table 16, RFA2 seeks approval to increase temporary disturbance from new bladed and substantially modified roads in locations where slope is greater than 8 percent. As discussed in the *Final Order on ASC* and amended Attachment B-5, Road Classification Guide and Access Control Plan, new access roads will conform to the most current edition of the American Association of State Highway and Transportation Officials' (AASHTO's) Guidelines for Geometric Design of Very Low-Volume Local Roads, for access roads with an anticipated average daily traffic of less than 400 vehicles.[107]

Roads on federal lands will meet USFS and BLM standards for roads that will be added to federal jurisdiction. Existing USFS and BLM roads which cannot be used in their existing condition will be brought up to these standards. For roads on state forest land, the certificate holder will work with ODOT, Oregon Department of Forestry, and other agencies to ensure

[106] B2HAMD1Doc1 Final Order 2023-09-22_Signed_No Attachments 2023-09-22, p. 57.

[107] B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, Section IV.M.6.

compliance with applicable road standards and to obtain any necessary approvals or permits. Updated Attachment B-5, Road Classification Guide and Access Control Plan also includes a supplement that lists construction and operational standards for roads based on the underlying jurisdiction or land ownership.

The facility would have the potential for soil erosion from O&M related disturbance at tower sites and use of access roads. Council previously imposed Soil Protection Condition 5 (Condition OPR-SP-01) requiring that the certificate holder inspect and repair any erosion related impacts resulting from O&M activities, and this would continue to apply to the facility, with RFA2 changes.

III.D.2. Conclusions of Law

Based on the foregoing analysis, and subject to compliance with existing and amended conditions[108] described above, the Council finds that the facility, with RFA2 changes, are not likely to result in a significant adverse impact to soils.

III.E. LAND USE: OAR 345-022-0030

(1) To issue a site certificate, the Council must find that the proposed facility complies with the statewide planning goals adopted by the Land Conservation and Development Commission.

(2) The Council shall find that a proposed facility complies with section (1) if:

(a) The applicant elects to obtain local land use approvals under ORS 469.504(1)(a) and the Council finds that the facility has received local land use approval under the acknowledged comprehensive plan and land use regulations of the affected local government; or

(b) The applicant elects to obtain a Council determination under ORS 469.504(1)(b) and the Council determines that:

(A) The proposed facility complies with applicable substantive criteria as described in section (3) and the facility complies with any Land Conservation and Development Commission administrative rules and goals and any land use statutes directly applicable to the facility under ORS 197.646(3);

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

[108] Amended Public Services Condition 2 (PRE-PS-02).

(C) For a proposed facility that the Council decides, under sections (3) or (6), to evaluate against the statewide planning goals, the proposed facility complies with the applicable statewide planning goals or that an exception to any applicable statewide planning goal is justified under section (4).

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

(4) The Council may find goal compliance for a proposed facility that does not otherwise comply with one or more statewide planning goals by taking an exception to the applicable goal. Notwithstanding the requirements of ORS 197.732, the statewide planning goal pertaining to the exception process or any rules of the Land Conservation and Development Commission pertaining to the exception process, the Council may take an exception to a goal if the Council finds:

(a) The land subject to the exception is physically developed to the extent that the land is no longer available for uses allowed by the applicable goal;

(b) The land subject to the exception is irrevocably committed as described by the rules of the Land Conservation and Development Commission to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable; or

(c) The following standards are met:

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

(B) The significant environmental, economic, social and energy consequences anticipated as a result of the proposed facility have been identified and adverse impacts will be mitigated in accordance with rules of the Council applicable to the siting of the proposed facility; and

(C) The proposed facility is compatible with other adjacent uses or will be made compatible through measures designed to reduce adverse impacts.

(5) If the Council finds that applicable substantive local criteria and applicable statutes and state administrative rules would impose conflicting requirements, the Council shall resolve the conflict consistent with the public interest. In resolving the conflict, the Council cannot waive any applicable state statute.

(6) If the special advisory group recommends applicable substantive criteria for an energy facility described in ORS 469.300(11)(a)(C) to (E) or for a related or supporting facility that does not pass through more than one local government jurisdiction or more than three zones in any one jurisdiction, the Council shall apply the criteria recommended by the special advisory group. If the special advisory group recommends applicable substantive criteria for an energy facility described in ORS 469.300(11)(a)(C) to (E) or a related or supporting facility that passes through more than one jurisdiction or more than three zones in any one jurisdiction, the Council shall review the recommended criteria and decide whether to evaluate the proposed facility against the applicable substantive criteria recommended by the special advisory group, against the statewide planning goals or against a combination of the applicable substantive criteria and statewide planning goals. In making the decision, the Council shall consult with the special advisory group, and shall consider:

(a) The number of jurisdictions and zones in question;

(b) The degree to which the applicable substantive criteria reflect local government consideration of energy facilities in the planning process; and

(c) The level of consistence of the applicable substantive criteria from the various zones and jurisdictions.[109]

III.E.1. Findings of Fact

The analysis area for the Land Use standard includes the area within ¼-mile from the amended site boundary, as presented in RFA2 Figures 7-3 (Morrow County); 7-4 (Umatilla); 7-5, 7-6, 7-7 (Union); 7-5 (Map 46, City of North Powder), 7-8 (Baker), and 7-9 (Malheur).[110] Within the

[109] OAR 345-022-0030, effective September 3, 2003, as amended by minor correction filed May 28, 2019.

[110] The Council's procedural requirements for site certificate amendments (OAR 345-027-0360(3)) allow the Department to authorize modifications to analysis areas established in a Project Order, if warranted based on the scope of changes in the Request for Amendment. The July 26, 2018 Second Amended Project Order establishes the analysis area as the area within and extending ½ mile from the site boundary. As authorized under OAR 345-027-

analysis area, the RFA2 micrositing area additions include approximately 4,142 acres within Morrow, Umatilla, Union, Baker and Malheur counties and City of North Powder, in the following zones/overlay zones:

- Morrow County: Exclusive Farm Use (EFU), General Industrial (M-G), Port Industrial (PI), Flood Hazard Overlay Zone (Special Flood Hazard Zone A)
- Umatilla County: EFU; Grazing Farm (GF)
- Union County: EFU; Agricultural Grazing (A-2); Timber-Grazing (A-4)
- Baker County: EFU, Industrial (I)
- Malheur County: EFU and Exclusive Range Use (ERU) Zone
- City of North Powder: Industrial

On October 7, 2011, the Council appointed the Morrow County Board of Commissioners, Umatilla County Board of Commissioners, Union County Board of Commissioners, Baker County Board of Commissioners, and Malheur County Court as Special Advisory Groups (SAG) for EFSC proceedings for the Boardman to Hemingway Transmission Line.[111] On March 15, 2013, the Council appointed the City of North Powder City Council as SAG for EFSC proceedings for the Boardman to Hemingway Transmission Line. [112]

Under OAR 345-027-0375(3)(a), the changes in RFA2 must comply with the applicable substantive criteria from the comprehensive plans and land use regulations of these counties and City in effect on the date preliminary Request for Amendment 2 (pRFA2) was submitted, June 30, 2023.

III.E.1.a Morrow County Applicable Substantive Criteria

RFA2 micrositing area additions in Morrow County include the following, by zone (use presented in parens):

<u>Exclusive Farm Use Zone (Utility Facility Necessary for Public Service)/Flood Hazard Overlay Zone</u>

- Ayers Canyon Alternative (8.7 miles of transmission line, 24.2 miles of new access road, 63.6 acres of temporary work areas)

<u>Exclusive Farm Use Zone (Utility Facility Necessary for Public Service)</u>

- Boardman Junction Alternative (0.6 miles of transmission line, 3.9 acres of temporary work area)

0360(3), following pre-amendment conferences on March 23 and June 12, 2023, the Department approved a modified analysis area for the Land Use standard based on the scope and extent of potential impacts associated with the RFA2 changes.

[111] B2HNOIDoc71 B2H SAG Order Union County 2011-10-07; B2HNOIDoc72 B2H SAG Order Morrow County 2011-10-07; B2HNOIDoc73 B2H SAG Order Baker County 2011-10-07; B2HNOIDoc112 B2H SAG Order Malheur County 2011-10-07; B2HNOIDoc111 B2H SAG Order Umatilla County 2011-10-07.

[112] B2HAPPDoc12 B2H SAG Appointment City of North Powder 2013-03-15.

- Bombing Road SE Alternative (1 mile of transmission line, 0.4 miles of new access road, 0.8 acres of temporary work areas)
- West of Bombing Range Road Alternative 1 (1.8 mile of temporary work area)

General Industrial Zone (Utility, transmission and communication towers less than 200 feet in height)

- Boardman Junction Alternative (0.6 miles of transmission line, 3.9 acres of temporary work area)

Port Industrial Zone (Power generating and utility facilities)

- Boardman Junction Alternative (0.6 miles of transmission line, 3.9 acres of temporary work area)
- Other Access Road and Work Area Changes (0.8 miles of new access roads, 5.3 acres of temporary work areas)

The zones and uses listed above were previously evaluated by Council in the *Final Order on ASC*. Council previously imposed conditions to ensure compliance with requirements within each zone; nonetheless, the following section presents an evaluation of the whether the RFA2 changes can comply with the applicable substantive criteria within Morrow County. The applicable substantive criteria from Morrow County are listed in Table 17 below.

Table 17: Morrow County Applicable Substantive Criteria

Section	Description
Morrow County Zoning Ordinance (MCZO)	
Section 3.010	**Exclusive Farm Use (EFU) Zone**[1]
Subsection B	Uses Permitted Outright
Subsection D(10)	Use Standards
Overlay Zone within EFU Zone	
Section 3.100	**Flood Hazard Overlay Zone**[2]
Section 4.1-1	Development Permit
Section 5.1-1	General Standards - Anchoring
Section 5.1-2	Construction Materials and Methods
Section 3.070	**General Industrial (M-G) Zone**[3]
Subsection A	Uses Permitted Outright
Subsection C	Use Limitations
Section 3.073	**Port Industrial (PI) Zone**[4]
Subsection A	Uses Permitted with a Zoning Permit
Subsection C	Use Limitations
Subsection D	Dimensional Standards
Subsection F	Transportation Impacts

Source:
1. B2HAMD2Doc3 MCZO Article 3 Section 3.010 Effective Nov. 1, 2018.
2. B2HAMD2Doc3-1 MCZO Article 3 Section 3.100 Effective Nov. 1, 2011.
3. B2HAMD2Doc3-2 MCZO Article 3 Section 3.070 Effective Nov. 1, 2011.

Table 17: Morrow County Applicable Substantive Criteria

Section	Description
4.	B2HAMD2Doc3-3 MCZO Article 3 Section 3.073 Effective Feb. 1, 2014.

MCZO 3.010 Exclusive Farm Use (EFU) Zone

> *"B. Uses Permitted Outright. In the EFU zone, the following uses and activities and their accessory buildings and uses are permitted subject to the general provisions set forth by this ordinance:*
>
> ** * * * **
>
> *"25. Utility facilities necessary for public service, including associated transmission lines as defined in Article 1 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 as provided in Subsection D.10.*

MCZO Section 3.010(B)(25) identifies utility facilities "necessary" for public service as a use permitted outright on EFU zoned land. Transmission lines are considered utility facilities; utility facilities are considered "necessary" for public service if the facility, after consideration of reasonable alternative locations on non-EFU zoned land, must be sited in EFU zoned land to provide a service, due to one or more factors listed in MCZO Section 3.010(D)(10), as presented below.

The Boardman Junction Alterative and Bombing Range SE Alternative include shifts in the location of the approved 500 kV transmission line, new and substantially modified roads and temporary works areas within EFU zoned lands. RFA2 Figure 7-3 demonstrates that these locational adjustments do not change the nature or extent of the use. Accordingly, the Council continues to rely on its previous findings that the portions of the facility, with RFA2 changes, located in Morrow County's EFU Zone, qualify as a utility facility necessary for public service.

Because the "use" associated with the RFA2 micrositing area additions is the same as the "use" previously evaluated by Council, Council finds that the RFA2 micrositing area additions is a permissible use under MCZO Section 3.010(B)(25).

> *D. Use Standards*
>
> ** * * * **
>
> *"10. A utility facility that is necessary for public service.*
>
> *a. A utility facility is necessary for public service if the facility must be sited in the exclusive farm use zone in order to provide the service.*

(1) To demonstrate that a utility facility is necessary, an applicant must show that reasonable alternatives have been considered and that the facility must be sited in an exclusive farm use zone due to one or more of the following factors:

(a) Technical and engineering feasibility;

(b) The proposed facility is locationally-dependent. A utility facility is locationally dependent if it must cross land in one or more areas zoned for exclusive farm use in order to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;

(c) Lack of available urban and nonresource lands;

(d) Availability of existing rights of way;

(e) Public health and safety; and

(f) Other requirements of state and federal agencies.

(2) Costs associated with any of the factors listed in Subsection (1) may be considered, but cost alone may not be the only consideration in determining that a utility facility is necessary for public service. Land costs shall not be included when considering alternative locations for substantially similar utility facilities and the siting of utility facilities that are not substantially similar.

(3) The owner of a utility facility approved under Subsection a shall be responsible for restoring, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this Subsection shall prevent the owner of the utility facility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration.

(4) The county shall impose clear and objective conditions on an application for utility facility siting to mitigate and minimize the impacts of the proposed facility, if any, on surrounding lands devoted to farm use in order to prevent a significant change in accepted farm practices or a significant increase in the cost of farm practices on surrounding farmlands.

(5) Utility facilities necessary for public service may include on-site and off-site facilities for temporary workforce housing for workers constructing a utility facility. Such facilities must be removed or converted to an allowed use under

the EFU Zone or other statute or rule when project construction is complete. Off-site facilities allowed under this Subsection are subject to Article 6. Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request. A minor amendment request shall have no effect on the original approval.

(6) In addition to the provisions of Subsection D.10.a(1) through (4), the establishment or extension of a sewer system as defined by OAR 660-011-0060(1)(f) shall be subject to the provisions of 660-011-0060.

(7) The provisions of Subsection a do not apply to interstate natural gas pipelines and associated facilities authorized by and subject to regulation by the Federal Energy Regulatory Commission.

** * * * *"*

The evaluation of reasonable alternatives on non-EFU zoned land does not require a parcel by parcel analysis or require an evaluation of every possible alternative route on non-EFU zoned land. Council previously found that the certificate holder demonstrated that reasonable alternative locations had been considered, none of which would be located entirely on non-EFU zoned land. Council found that the facility had to be sited on EFU zoned land and that therefore the facility qualified as a utility facility necessary for public service.[113]

The Ayers Canyon, Boardman Junction and Bombing Road SE Alternatives include shifts in the location of the approved 500 kV transmission line and new and substantially modified roads within EFU zoned lands. These shifts do not change the initiation or termination points of the overall transmission line route, and represent minor locational adjustments based on landowner requests and geographic/technical constraints. The changes do not change the underlying basis of Council's previous evaluation and findings. Accordingly, Council continues to rely on its previous findings that the facility, with RFA2 changes, located in Morrow County's EFU Zone, qualify as a utility facility necessary for public service, and Council continues to find that the facility, with RFA2 changes, complies with applicable MCZO 3.010(D) requirements.

MCZO 3.100.4.1 Flood Hazard Overlay Zone

4.1-1 Development Permit Required.

A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 3.2. The permit shall be for all structures including manufactured homes, as set forth in the "DEFINITIONS", and for all development including fill and other activities, also as set forth in the "DEFINITIONS".

[113] B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, pp. 148-164.

4.1-2 Application for Development Permit.

Application for a development permit shall be made on forms furnished by the Morrow County Planning Director and may include but not be limited to; plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

(1) Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;

(2) Elevation in relation to mean sea level to which any structure has been flood proofed;

(3) Certification by a registered professional engineer or architect that the flood proofing methods for any non-residential structure meet the flood proofing criteria in Section 5.2-2; and

(4) Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.

Portions of the Ayers Canyon Alternative (8.7 miles of transmission line, 26.6 miles of new access road, 103 acres of temporary work areas) fall within the Special Flood Hazard Zone A along Butter Creek.[114] Development within a Special Flood Hazard Zone is subject to the provisions of MCZO 3.100.4.1-1.

The Council previously imposed Land Use Condition 1 (GEN-LU-01) requiring that, in relevant part, the certificate holder comply with and provide to the Department an approved flood plain development permit for any work in the Morrow County Flood Plain Overlay Zone, consistent with the requirements of MCZO 3.100.4.1. Because existing conditions would ensure compliance with its provisions, Council finds that the facility, with RFA2 changes, would comply with MCZO 3.100.4.1.

MCZO 3.100.5.1 General Standards

In all areas of special flood hazards, the following standards are required:

5.1-1 Anchoring

(1) All new construction and substantial improvements shall be anchored

[114] B2HAMD2Doc2 RFA2 2024-04-11, Figure 7-3.

to prevent flotation, collapse, or lateral movement of the structure.

(2) All manufactured homes must likewise be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas: guidebook for additional techniques).

5.1-2 Construction Materials and Methods

(1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

(3) Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

** * *"*

5.4 FLOODWAYS
Located within areas of special flood hazard established in Section 3.2 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

(1) Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(2) If Section 5.4(1) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 5.0, PROVISIONS FOR FLOOD HAZARD REDUCTION.

Portions of the Ayers Canyon Alternative (8.7 miles of transmission line, 26.6 miles of new access road, 103 acres of temporary work areas) fall within the Special Flood Hazard Zone A

along Butter Creek.[115] Development within a Special Flood Hazard Zone is subject to the provisions of MCZO 3.100.5.1 and MCZO 3.100.5.4.

The Council previously imposed Land Use Condition 2 (GEN-LU-02) requiring that, in relevant part, that all buildings and the fixed bases of the transmission line towers located in Morrow County's EFU Zone be set back at least 100 feet from the high-water mark of all streams and lakes. Based upon compliance with the condition, Council finds that the facility, with RFA2 changes, would comply with MCZO 3.100.5.1 and MCZO 3.100.5.4.

MCZO 3.070(A) General Industrial Zone (M-G): Uses Permitted Outright

> *In an M-G Zone, the following uses and their accessory uses are permitted outright; except as limited by subsection C of this section. A Zoning Permit is required and projects larger than 100 acres are subject to Site Development Review (Article 4 Supplementary Provisions Section 4.170 Site Development Review).*
>
> *15. Utility, transmission and communications towers less than 200 feet in height.*

MCZO Section 3.070(A)(15) establishes utility and transmission towers less than or equal to 200 feet in height, and accessory uses, as a use permitted outright within a General Industrial (M-G) zone, subject to the requirements established in MCZO Section 3.070(C).[116] MCZO Section 3.070(A)(15) also establishes that a zoning permit is required and, for projects larger than 100 acres, requires Site Development Review under MCZO Section 4.170.

The facility is a "utility and transmission towers less than or equal to 200 feet in height", as provided under MCZO 3.070.A.15, quoted above. Access roads and other ancillary facilities located in the M-G Zone are accessory uses to the transmission line. The Boardman Junction Alternative includes shifts in the location of the approved 500 kV transmission line and new and substantially modified roads within the M-G zone.

Development within the M-G zone require a zoning permit from Morrow County; Council previously imposed Land Use Condition 1 (GEN-LU-01) requiring that the certificate holder obtain all ministerial county-level permits prior to any phase or segment of the facility where the permit is required. RFA2 changes within the M-G zone would be subject to use limitations under MCZO Section 3.070(C), evaluated below. Facility components within Morrow County M-G zoned land would occupy less than 100 acres; therefore, while MCZO Section 4.170 Site Development Review include applicable substantive criteria that would apply to uses within M-G zoned land, it would not apply to the facility, with RFA2 changes, based on the area impacted by facility components.

[115] B2HAMD2Doc2 RFA2 2024-04-11, Figure 7-3.

[116] Accessory use, as defined in MCZO Article 1 Section 1.030 defines "accessory use" as a use or structure incidental and subordinate to the main use of the property and located on the same lot as the main use.

MCZO 3.070(C): Use Limitations

In an M-G Zone, the following limitations and standards shall apply to all permitted uses:

1. *No use permitted under the provisions of this section that requires a lot area exceeding two (2) acres shall be permitted to locate adjacent to an existing residential lot in a duly platted subdivision, or a lot in a residential zone, except as approved by the Commission.*
2. *No use permitted under the provisions of this section that is expected to generate more than 20 auto-truck trips during the busiest hour of the day to and from the subject property shall be permitted to locate on a lot adjacent to or across the street from a residential lot in a duly platted subdivision, or a lot in a residential zone.*

The RFA2 changes within Morrow County M-G zoned land are presented in RFA2 Figure 7-3. As presented in RFA2 Figure 7-3, the RFA2 micrositing area additions within Morrow County M-G zoned land would not be located adjacent to an existing residential lot on a duly platted subdivision or a lot in a residential zone. Therefore, while MCZO Section 3.070(C) applies to uses within M-G zoned land, they are not applicable to the RFA2 micrositing area additions.

MCZO 3.073(A) Port Industrial (PI) Zone: Uses Permitted Outright with a Zoning Permit

Outside activities are permitted within the scope of allowed uses outlined below. Projects larger than 100 acres are subject to Site Development Review (Article 4 Supplementary Provisions Section 4.170 Site Development Review)

*****

9. Power generating and utility facilities.

MCZO Section 3.073(A) establishes permissible uses within PI zoned land, subject to zoning permit requirements and provisions of MCZO Section 3.073. Permissible uses under MCZO 3.073(A)(9) include "power generating and utility facilities." The facility, with RFA2 changes, meets this definition.[117] RFA2 changes within PI zoned land include other work areas, as presented in RFA2 Figure 4-1 (2/370 and 2/371).

MCZO Section 3.073(A) also requires Site Development Review per MCZO Section 4.170 for projects larger than 100 acres, and adherence to the provisions outlined in MCZO Section 3.073(C) Limitation on Uses, (D) Dimensional Standards and (G) Traffic Impact Analysis.

The Site Development Review under MCZO Section 4.170 is a ministerial review conducted by the county prior to issuance of a zoning permit, defined under MCZO 1.050 as "an

[117] MCZO Section 1.030 defines a utility facility as "[a]ny major structure owned or operated by a public, private, or cooperative electric, fuel, communication, sewage, or water company for the generation, transmission, distribution, or processing of its products or for the disposal of cooling water, waste, or byproducts, and including power transmission lines, major trunk pipelines, power substations, dams, water towers, sewage lagoons, sanitary landfills, and similar facilities, but excluding local sewer, water, gas, telephone and power distribution lines, and similar minor facilities allowed in any zone."

authorization issued prior to a building permit, or commencement of a use subject to administrative review, stating that the use is in accordance with the requirements of the corresponding land use zone." Zoning permits must be obtained from Morrow County prior to construction of the facility.[118] While the certificate holder must comply with the county's applicable Site Development Review requirements and process, the county's administration of its Site Development Review process itself is not under Council jurisdiction or review, and therefore, the Council cannot restrict or condition the county's authority in administering that process. Council previously imposed Land Use Condition 1 (GEN-LU-01) requiring that, prior to construction, the certificate holder obtain a zoning permit for all facility components with PI zoned land, as applicable.

Compliance with MCZO Section 3.073(C) Limitation on Uses, (D) Dimensional Standards and (G) Traffic Impact Analysis is presented below.

MCZO 3.073(C): Limitations on Uses

1. *Material shall be stored and grounds shall be maintained in a manner which will not create a health hazard.*
2. *All related provisions of the Oregon Revised Statutes shall be complied with, particularly those dealing with hazardous substances and radioactive materials.*

MCZO Section 3.073(C) establishes limitations on uses within PI zoned land and specifies that permitted uses must safely store materials, safely maintain grounds, and comply with all applicable ORS requirements for handling and storing hazardous materials.

RFA2 changes within PI zoned land include other work areas, as presented in RFA2 Figure 4-1 (2/370 and 2/371). Other than temporary, onsite usage of construction equipment and vehicles, there will be no onsite storage of hazardous and non-hazardous materials. Council previously imposed Soil Protection Condition 2 (GEN-SP-02) requiring adherence to the requirements of a Spill Prevention Countermeasure and Control (SPCC) Plan. Based on activities

[118] Pursuant to ORS 469.401(3), the county must issue a zoning permit upon submittal of the proper applications and fees, but without hearings or other proceedings and subject only to conditions set forth in the site certificate.

to occur within the areas and compliance with this condition, Council finds that the RFA2 changes within PI zoned land would satisfy the use limitations under MCZO Section 3.073(C).

MCZO 3.073(D): Dimension Requirements

The following dimensional requirements apply to all buildings and structures constructed, placed or otherwise established in the PI zone, subject to subsection F of this Section.

1. *Minimum front yard setback: Thirty (30) feet. No structure shall be erected closer than ninety (90) feet from the center line of any public, county or state road. Structures on corner or through lots shall observe the minimum front yard setback on both streets.*
2. *Minimum side and rear yard setback: ten (10) feet.*
3. *Minimum lot coverage: No limitation.*
4. *Maximum building height: No limitation.*
5. *Exceptions to the setback regulations are as follows:*
    a. *There shall be no setback requirement where a property abuts a railroad spur if the spur will be utilized by the permitted use.*
    b. *Side and rear lot requirements may be waived on common lot lines when adjoining lot owners enter into a joint development agreement for coordinating vehicular access and parking development. Party wall or adjoining building walls must meet fire separation requirements of the State of Oregon Structural Specialty Code and Fire and Life Safety Code. The joint development agreement must be approved by the Port of Morrow as to form and content, recorded in the Morrow County Clerk's office and a copy must be provided to the Planning Department.*

MCZO Section 3.073(D) establishes parcel size and setback requirements for buildings and structures within PI zoned land. Council previously imposed Land Use Condition 2 (GEN-LU-02) to ensure final design of facility components with PI zoned land complied. Based on compliance with Land Use Condition 2 (GEN-LU-02), Council finds that the facility, with RFA2 changes, would satisfy MCZO Section 3.073(D).

MCZO 3.073(G): Transportation Impacts Analysis

In addition to the other standards and conditions set forth in this section, a TIA will be required for all projects generating more than 400 passenger car equivalent trips per day. Heavy vehicles B trucks, recreational vehicles and buses B will be defined as 2.2 passenger car equivalents. A TIA will include: trips generated by the project, trip distribution for the project, identification of intersections for which the project adds 30 or more peak hour passenger car equivalent trips, and level of service assessment, impacts of the project, and, mitigation of the impacts. If the corridor is a State Highway, use ODOT standards. (MC-C-8-98).

MCZO Section 3.073(E) requires a Traffic Impact Analysis (TIA) for permitted uses within PI zoned land that would generate more than 400 passenger equivalent trips per day. O&M

activities would not generate more than 400 passenger equivalent trips per day; a TIA is therefore not required.

III.E.1.b Umatilla County Applicable Substantive Criteria

RFA2 micrositing area additions in Umatilla County include the following, by zone (use presented in parens):

Exclusive Farm Use Zone (Utility Facility Necessary for Public Service); Critical Winter Range Overlay[119]

- Rugg Canyon Alternative (2.5 miles of transmission line, 2.6 miles of new access road, 21.5 acres of temporary work areas)
- Sevenmile Creek Alternative (9.9 miles of transmission line, 4.3 miles of new access road, 74.9 acres of temporary work area)
- Multi-use areas (MUA-UM-02; MUA-UM-07)[120]

Grazing Farm Zone

- Other access road and work area changes (portions of 8.6 miles of new access road, 67.6 acres of temporary work area)

The zones and uses listed above were previously evaluated by Council in the *Final Order on ASC*. Council previously imposed conditions to ensure compliance with requirements within each zone; nonetheless, the following section presents an evaluation of the whether the RFA2 changes can comply with the applicable substantive criteria within Umatilla County. The applicable substantive criteria from Umatilla County are listed in Table 18 below.

Table 18: Umatilla County Applicable Substantive Criteria

Umatilla County Development Code (UCDC)[1]	
Exclusive Farm Use Zone	
Section 152.059	Land Use Decisions
Grazing Farm Zone	
Section 152.085	Conditional Uses Permitted
General Provisions	
Section 152.010	Access to Buildings
Section 152.016	Riparian Vegetation
Section 152.017	Conditions for Development Proposals
Source: 1. B2HAMD2Doc4 UCDC 1983, Amended; Revision Date: July 19, 2022.	

[119] UCDC's Critical Winter Range criteria apply to dwellings. RFA2 is not proposing construction of dwellings and therefore the criteria under UCDC 152.458 are not included in this order.

[120] B2HAMD2Doc2 RFA2 2024-04-11, Figure 4-1 (Map 26, 2); Figure 7-4 (Map 2, 26)

UCDC 152.059 Exclusive Farm Use Zone, Land Use Decisions

> *In an EFU zone the following uses may be permitted through a land use decision via administrative review (§ 152.769) and subject to the applicable criteria found in §152.617. Once approval is obtained a zoning permit (§ 152.025) is necessary to finalize the decision.*
>
> ** * * * **
>
> *(C) Utility facilities necessary for public service, including associated transmission lines as defined in ORS 469.300 and wetland waste treatment systems but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission or communication towers over 200 feet in height. A utility facility necessary for public service may be established as provided in § 152.617 (II) (7).*

UCDC §152.059 provides that a utility facility necessary for public service, excluding a commercial power generation facility or a transmission tower over 200 feet in height, is a permissible use in Umatilla County's EFU Zone, subject to the provisions under §152.617(II)(7). These criteria mirror the underlying provisions of ORS 215.275.

UCDC §152.617 (II)(7) identifies utility facilities "necessary" for public service as a Type II Land Use decision on EFU zoned land. Transmission lines are considered utility facilities; utility facilities are considered "necessary" for public service if the facility, after consideration of reasonable alternative locations on non-EFU zoned land, must be sited in EFU zoned land to provide a service, due to one or more factors listed in UCDC §152.617 (II)(7)(A).

In the *Final Order on ASC*, the Council determined that the transmission line qualifies as a utility facility necessary for public service under ORS 215.275 because there was no reasonably direct route that would allow the certificate holder to construct the transmission line while avoiding all impacts to EFU zoned land, that the certificate holder had demonstrated a "lack of available nonresource lands" for which to site the facility; and that the certificate holder had proposed the route to utilize some available rights-of-ways.[121]

The Rugg Canyon Alternative, Sevenmile Creek Alternative and new MUA locations (MUA-UM-02 and MUA-UM-07) include shifts in the location of the approved 500 kV transmission line, new and substantially modified roads and temporary works areas (MUAs) within EFU zoned lands. MUA-UM-07 is not located on the same lot as the principal use and therefore does not meet Umatilla County's definition of "accessory use."[122] The certificate holder confirmed that it no longer seeks Council review of MUA UM-07; this MUA location shall be omitted from the certificate holder's final site boundary.

[121] B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, p. 255-256 of 10586.

[122] UCDC 152.003 definition of accessory use.

Except for MUA-UM-07, based on RFA2 Figure 7-4 Maps 14-27, the locational adjustments in RFA2 do not change the nature or extent of the use previously evaluated by Council. Accordingly, Council continues to rely on its previous findings that the portions of the facility, with RFA2 changes, located in Umatilla County's EFU Zone, qualify as a utility facility necessary for public service.

UCDC 152.059 requires a zoning permit for uses approved through administrative review. The Council previously imposed Land Use Condition 3 (GEN-LU-03) requiring that the certificate holder, in relevant part, obtain a Zoning Permit for each tax lot in Umatilla County crossed by facility components evaluated under UCDC 152.059 including transmission lines, new roads, and substantially modified roads.

UCDC 152.085 Grazing Farm (GF) Zone, Conditional Uses Permitted.

> *In the GF Zone, the following uses may be permitted conditionally via administrative review (§ 152.769), subject to the requirements of § 152.086, applicable supplementary regulations in §§ 152.010 through 152.016 and §§ 152.545 through 152.562, and applicable §§ 152.610 through 152.615. Specific standards for some of the conditional uses listed below are contained in § 152.616. A zoning permit is required following the approval of a conditional use pursuant to § 152.025. Existing uses classified as conditional use and listed in this section may be expanded subject to administrative review and subject to the requirements listed in this section, except expansions on a parcel or tract meeting the definition of high value farmland will not be permitted.*
>
> ** * * * **
>
> *(S) Utilities:*
>
> ** * * * **
>
> *(5) New electric transmission lines on land predominately in forest use with right of way widths of up to 100 feet as specified in ORS 772.210. New distribution lines on land predominately in forest use (e.g., gas, oil, geothermal, telephone, fiber optic cable) with rights-of-way 50 feet or less in width on land predominately in forest use.*
>
> ** * * * **

Umatilla County's Grazing/Farm (GF) Zone is a hybrid zone that includes forest land, farmland, and rangeland. The Council previously evaluated all portions of the facility located in Umatilla

County's GF Zone as being located on lands predominately in forest use.[123] The location of RFA2 micrositing additions within Umatilla County's GF Zone are presented in RFA2 Figure 7-4 Maps 28, 29 and 30. These locational shifts are on the same tax lot/parcel and within 1,000 feet of previously approved facility components. Therefore, Council continues to evaluate the portions of the facility in Umatilla County's GF Zone as being located on lands predominately in forest use.

UCDC 152.085(S)(5) provides that "a new electric transmission line with a right-of-way width of up to 100 feet *as specified in ORS 772.210* (emphasis added)" is a conditionally authorized use in forest lands in Umatilla County's GF Zone. ORS 772.210 authorizes a public utility to condemn lands for the construction of a service facility that is reasonably necessary for its conduct. The statute provides, in relevant part, as follows:

> *(1) Any public utility, electrical cooperative association or transmission company may:*
>
> ** * **
>
> *(b) Condemn such lands not exceeding 100 feet in width for its lines (including poles, towers, wires, supports and necessary equipment therefor) and in addition thereto, other lands necessary and convenient for the purpose of construction of service facilities. If the lands are covered by trees that are liable to fall and constitute a hazard to its wire or line, any public utility or transmission company organized for the purpose of building, maintaining and operating a line of poles and wires for the transmission of electricity for lighting or power purposes may condemn such trees for a width not exceeding 300 feet, as may be necessary or convenient for such purpose.*
>
> *(2) Notwithstanding subsection (1) of this section, any public utility, electrical cooperative association or transmission company may, when necessary or convenient for transmission lines (including poles, towers, wires, supports and necessary equipment therefor) designed for voltages in excess of 330,000 volts, condemn land not to exceed 300 feet in width. In addition, if the lands are covered by trees that are liable to fall and constitute a hazard to its wire or line, such public utility or transmission company may condemn such trees for a width not exceeding 100 feet on either side of the condemned land, as may be necessary or convenient for such purpose.*
>
> ** * * * *"*

[123] B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, page 177 of 10586. Facility components sited on lands predominately in farm use in the GF Zone would be evaluated under UCDC Section 152.084, which provides that a utility facility necessary for public service, other than commercial utilities, is an outright permitted use in Umatilla County's GF Zone, subject to the standards provided in UCDC 152.617(II)(7).

The facility, with RFA2 changes within GF zoned land, is a new electric transmission line with a right-of-way width of up to 100 feet as specified in ORS 772.210. Council previously imposed Land Use Condition 15 (GEN-LU-12), which limits the right of way to 300 feet and limits activities other than vegetation management to the central 100 feet of the right-of-way.

The Council also found that permanent related or supporting facilities, new and substantially modified roads, located outside of the 300-foot right-of-way could not be considered allowed uses under OAR 660-006-0025(4)(q) and would require an exception to Statewide Planning Goal 4 be taken. However, none of the RFA2 micrositing area additions in Umatilla County involve new access roads outside the 300 foot-right-of way in the Grazing-Farm Zone/Goal 4 Forestlands.[124]

UCDC 152.010 General Provisions, Access to Buildings

> *(A) Every building hereafter erected or moved shall be on a lot that abuts a public street or a recorded easement. All structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection, and required off-street parking. In commercial and industrial zones, access points shall be minimized. To accomplish this, access shall be limited to one every 200 feet and shall be reviewed during the design review stage or the conditional use hearing. If necessary to accomplish this, driveways may be shared between two lots.*
>
> *(B) Private driveways and easements that enter onto a public or county road or state or federal highway shall be constructed of at least similar if not the same material as the public or county road or state or federal highway to protect the edge of the road from rapid deterioration. The improvements shall extend at least 25 feet back from the edge of the existing travel lane surface.*

Council previously imposed Land Use Condition 5 (GEN-LU-04(f)) requiring that, prior to construction in Umatilla County, the certificate holder demonstrate that the design of new roads includes similar material as the existing public or county road and that the road extend at least 25 feet from the edge of the existing travel land surface, consistent with UCDC 152.010(B) above.

Based on compliance with Land Use Condition 5 (GEN-LU-04(f)), Council finds that the RFA2 micrositing area additions would satisfy the applicable UCDC 152.010 requirements.

UCDC 152.016 General Provisions, Riparian Vegetation

[124] B2HAMD2Doc2 RFA2 2024-04-11, Section 7.1.3.12.

(A) The following standards shall apply for the maintenance, removal and replacement of riparian vegetation along streams, lakes and wetlands which are subject to the provisions of this chapter:

(1) No more of a parcel's existing vegetation shall be cleared from the setback and adjacent area than is necessary for uses permitted with a zoning permit, accessory buildings, and/or necessary access.

(2) Construction activities in and adjacent to the setback area shall occur in such a manner so as to avoid unnecessary excavation and/or removal of existing vegetation beyond that required for the facilities indicated in subdivision (A)(1) above. Where vegetation removal beyond that allowed in subdivision (A)(1) above cannot be avoided, the site shall be replanted during the next replanting season to avoid water sedimentation. The vegetation shall be of indigenous species in order to maintain the natural character of the area.

(3) A maximum of 25% of existing natural vegetation may be removed from the setback area.

(4) The following uses and activities are excepted from the above standards:

(a) Commercial forest practices regulated by the Oregon Forest Practices Act, being ORS 527.610 et seq.;

(b) Vegetation removal necessary to provide water access for a water dependent use;

(c) Removal of dead or diseased vegetation that poses a safety or health hazard;

(d) Removal of vegetation necessary for the maintenance or replacement of structural shoreline stabilization.

(5) In cases of zoning permits, conditional use permits, variances, and other land use actions which require site plan review or conditions for approval, and which are subject to provisions of this division, the review body shall prepare findings and address the maintenance, removal and replacement of riparian vegetation.

(B) Minor drainage improvements necessary to ensure effective drainage on surrounding agricultural lands shall be coordinated with the Oregon Department of Fish and Wildlife and Soil and Water Conservation District.

Existing drainage ditches may be cleared to original specifications without review.

Council previously imposed Land Use Condition 5 (GEN-LU-04(b)) requiring, in relevant part, that the certificate holder locate transmission towers and access roads at least 25 feet from Class I streams and retain at least 75 percent of vegetation within the riparian areas within Umatilla County, and coordinate with the Oregon Department of Fish and Wildlife and Soil and Water Conservation District on minor drainage improvements in Umatilla County necessary to ensure effective drainage on surrounding agricultural lands. This condition would apply to the RFA2 micrositing area additions. Because existing conditions would ensure compliance with Umatilla County's riparian vegetation standards, Council finds that the RFA2 micrositing area additions would comply with UCDC 152.016.

UCDC 152.017 General Provisions, Conditions for Development Proposals

(A) The proposed use shall not impose an undue burden on the public transportation system. Any increase meeting the definition of significant change in trip generation constitutes an undue burden.

(B) For developments likely to generate a significant increase in trip generation, applicant shall be required to provide adequate information, such as a traffic impact study or traffic counts, to demonstrate the level of impact to the surrounding system. The scope of the impact study shall be coordinated with the providers of the transportation facility. Proposals that meet the requirements in §152.019 (B) are subject to §152.019 (C), Traffic Impact Analysis Requirements.

(C) The applicant or developer may be required to mitigate impacts attributable to the project. Types of mitigation may include such improvements as paving, curbing, bridge improvements, drainage, installation or contribution to traffic signals, construction of sidewalks, bikeways, accessways or paths. The determination of impact or effect should be coordinated with the providers of affected transportation facilities.

(D) Dedication of land for roads, transit facilities, sidewalks, bikeways, paths, or accessways may be required where the existing transportation system will be impacted by or is inadequate to handle the additional burden caused by the proposed use.

Council previously imposed Public Services Condition 2 (PRE-PS-02) requiring in relevant part, that the certificate holder prepare and implement a county-specific Transportation and Traffic Plan that identifies expected traffic related impacts and mitigation measures. Because traffic related impacts associated with the RFA2 micrositing area additions in Umatilla County are subject to compliance with previously imposed conditions, Council finds that, subject to

compliance with Public Services Condition 2 (PRE-PS-02), the RFA2 micrositing area additions would continue to comply with UCDC 152.017.

III.E.1.c Union County Applicable Substantive Criteria

RFA2 micrositing area additions in Union County include the following, by zone (use presented in parens):

Exclusive Farm Use (A-1) Zone (Utility Facility Necessary for Public Service)

- Other Access Road and Work Area Changes (1.3 miles of new road, 61.9 acres of temporary work areas [MUA UN-05, MUA UN-06][125])

Agricultural-Grazing (A-2) Zone (Utility facilities, and similar minor facilities necessary for public service and repair, replacement and maintenance thereof..)

- Midline Capacitor Station

Timber Grazing (A-4) Zone (Utility facilities, and similar minor facilities necessary for public service and repair, replacement and maintenance thereof..)

- Baldy Alternative (7.5 miles of transmission line, 15.4 miles of new road, 87.8 acres of temporary work areas)
- Morgan Lake Alternative (4.7 acres of temporary work areas)
- Rock Creek Alternative 1 (1.4 miles of transmission line, 2.1 miles of new road, 10.8 acres of temporary work areas)
- Rock Creek Alternative 2 (1.5 miles of transmission line, 0.7 miles of new road, 5.4 acres of temporary work areas)
- Wallowa Whitman National Forest H-Frames (8.8 acres of temporary work areas)

The zones and uses listed above were previously evaluated by Council in the *Final Order on ASC*. Council previously imposed conditions to ensure compliance with requirements within each zone; nonetheless, the following section presents an evaluation of the whether the RFA2 changes can comply with the applicable substantive criteria within Union County. The applicable substantive criteria from Union County are listed in Table 19 below.

Table 19: Union County Applicable Substantive Criteria

Union County Zoning, Partition, and Subdivision Ordinance (UCZPSO)	
Article 2.00[1] A-1 Exclusive Farm Use Zone	
Section 2.04	Conditional Uses with General Review Criteria
Section 2.05	Use Standards
Article 3.00[2] Agriculture-Grazing Zone	
Section 3.04	Conditional Uses with General Review Criteria
Section 3.05	Use Standards

[125] B2HAMD2Doc2 RFA2 2024-04-11, Figure 4-1 Maps 36, 44.

Table 19: Union County Applicable Substantive Criteria

Section 3.17	Development Standards
Article 5.00[3] Timber-Grazing Zone	
Section 5.04	Conditional Uses with General Review Criteria
Section 5.06	Conditional Use Review Criteria
Section 5.08	Development and Fire Siting Standards
Article 20.00[4] Supplemental Provisions	
Section 20.08	Riparian Zone Setbacks
Section 20.09	Significant Goal 5 Resource Areas
Article 21.00[5] Conditional Uses	
Section 21.06	General Standards Governing Conditional Uses

Source:
1. B2HAMD2Doc5 UCZSPO Article 2.00.
2. B2HAMD2Doc5-1 UCZSPO Article 3.00 June 3, 2015.
3. B2HAMD2Doc5-2 UCZSPO Article 5.00.
4. B2HAMD2Doc5-3 UCZSPO Article 20.00.
5. B2HAMD2Doc5-4 UCZSPO Article 21.00.

UCZPSO 2.00 A-1 Exclusive Farm Use Zone

UCZPSO 2.04, Conditional Uses with General Review Criteria

> *In the A-1 Zone, the following uses and their accessory buildings and uses are permitted subject to county review under Article 24.03 Quasi-Judicial land use decision and the specific standards for the use set forth in Section 2.05, as well as the general standards for the zone and the applicable standards in Article 21.00 (Conditional Uses).*
>
> ** * * * **
>
> *11. Utility facilities necessary for public service, including associated transmission lines as defined in Section 1.08 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 as provided in Subsection 2.05.15.*

UCZSPO 2.04(11) provides that a utility facility necessary for public service, excluding a commercial power generation facility or a transmission tower over 200 feet in height, is a use

conditionally permissible use in Union County's EFU Zone, subject to provisions under UCZSPO Subsection 2.05(15). These criteria mirror the underlying provisions of ORS 215.275.

Under UCZSPO Subsection 2.05(15), utility facilities are considered "necessary" for public service if the facility, after consideration of reasonable alternative locations on non-EFU zoned land, must be sited in EFU zoned land to provide a service, due to one or more factors listed in UCZSPO Subsection 2.05(15)(A).

UCZPSO 2.05, Use Standards

> *15. A utility facility that is necessary for public service*
>
> *A. A utility facility is necessary for public service if the facility must be sited in the exclusive farm use zone in order to provide the service. To demonstrate that a utility facility is necessary, an applicant must show that reasonable alternatives have been considered and that the facility must be sited in an exclusive farm use zone due to one or more of the following*
>
> *(1) Technical and engineering feasibility;*
>
> *(2) The proposed facility is locationally-dependent. A utility facility is locationally-dependent if it must cross land in one or more areas zoned for exclusive farm use in order to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;*
>
> *(3) Lack of available urban and non-resource lands;*
>
> *(4) Availability of existing rights of way;*
>
> *(5) Public health and safety; and*
>
> *(6) Other requirements of state and federal agencies.*
>
> *B. Costs associated with any of the factors listed in subparagraph A. of this paragraph may be considered, but cost alone may not be the only consideration in determining that a utility facility is necessary for public service. Land costs shall not be included when considering alternative locations for substantially similar utility facilities and the siting of utility facilities that are not substantially similar.*
>
> *C. The owner of a utility facility approved under paragraph A shall be responsible for restoring, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or otherwise disturbed by the Article 2.00 Page 15 siting, maintenance, repair or*

reconstruction of the facility. Nothing in this paragraph shall prevent the owner of the utility facility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration.

D. The county shall impose clear and objective conditions on an application for utility facility siting to mitigate and minimize the impacts of the proposed facility, if any, on surrounding lands devoted to farm use in order to prevent a significant change in accepted farm practices or a significant increase in the cost of farm practices on surrounding farmlands.

E. Utility facilities necessary for public service may include on-site and off-site facilities for temporary workforce housing for workers constructing a utility facility. Such facilities must be removed or converted to an allowed use under the A-1 Zone or other statute or rule when project construction is complete. Off-site facilities allowed under this paragraph are subject to Section 2.06 Conditional Use Review Criteria. Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request. A minor amendment request shall have no effect on the original approval.

F. In addition to the provisions of subparagraphs A to D of this paragraph, the establishment or extension of a sewer system as defined by OAR 660-011-0060(1)(f) shall be subject to the provisions of 660-011-0060.

G. The provisions of subparagraphs A to D of this paragraph do not apply to interstate natural gas pipelines and associated facilities authorized by and subject to regulation by the Federal Energy Regulatory Commission.

Under UCZPSO 2.05(15)(A), the evaluation of reasonable alternatives on non-EFU zoned land does not require a parcel by parcel analysis or require an evaluation of every possible alternative route on non-EFU zoned land. Council previously found that the certificate holder demonstrated that reasonable alternative locations had been considered, none of which would be located entirely on non-EFU zoned land. Council found that the facility had to be sited on EFU zoned land and that therefore the facility qualified as a utility facility necessary for public service.

The RFA2 micrositing area additions include shifts in the location of new and substantially modified roads and temporary works areas (MUAs) within EFU zoned lands. These locational adjustments do not change the nature or extent of the use. Accordingly, Council continues to

rely on its previous findings that the portions of the facility, with RFA2 changes, located in Union County's EFU Zone, qualify as a utility facility necessary for public service.[126]

Because the "use" associated with the RFA2 micrositing area additions is the same as the "use" previously evaluated by Council, Council finds that the RFA2 micrositing area additions is a permissible use under UCZSPO 2.04(11).[127]

UCZPSO 3.00 A-2 Agriculture-Grazing Zone

UCZPSO 3.04, Conditional Uses with General Review Criteria

> *In the A-2 Zone, the following uses and their accessory buildings and uses are permitted subject to county review under Article 24.03 Quasi-Judicial land use decision and the specific standards for the use set forth in Section 3.05, as well as the general standards for the zone and the applicable standards in Article 21.00 (Conditional Uses).*
>
> * * * * *
>
> *11. Utility facilities necessary for public service, including associated transmission lines as defined in Section 1.08 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 as provided in Subsection 3.05.15.*

UCZPSO 3.05, Use Standards

> * * * * *
>
> *15. A utility facility that is necessary for public service*
>
> *A. A utility facility is necessary for public service if the facility must be sited in the exclusive farm use zone in order to provide the service. To demonstrate that a utility facility is necessary, an applicant must show that reasonable*

[126] MUA UN-07 is located on the same tax lot as the principal use. MUA UN-05 is not located on the same lot as the principal use; however, "accessory use" is not defined in UCZPSO Section 1.08. Therefore, Council evaluates the MUAs as an accessory use to the primary use, without an application of whether the use is on the same tax lot.

[127] During review of pRFA2, Union County Planning Director Scott Hartell requested an evaluation of alternatives to MUA UN-05 be required under UCZSPO Subsection 2.05(15). However, Council previously evaluated the primary use against reasonable alternatives on non-resource land and has not previously required an analysis of alternatives for accessory uses. Council maintains consistency with its prior analysis and application of the evaluation of alternatives – to apply to the primary use. The issue is moot however because the certificate holder affirms that it no longer seeks Council review of MUA UN-05. This MUA should be removed from the final site boundary.

alternatives have been considered and that the facility must be sited in an exclusive farm use zone due to one or more of the following factors:

(1) Technical and engineering feasibility;

(2) The proposed facility is locationally-dependent. A utility facility is locationally-dependent if it must cross land in one or more areas zoned for exclusive farm use in order to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;

(3) Lack of available urban and non-resource lands;

(4) Availability of existing rights of way;

(5) Public health and safety; and

(6) Other requirements of state and federal agencies.

B. Costs associated with any of the factors listed in subparagraph A. of this paragraph may be considered, but cost alone may not be the only consideration in determining that a utility facility is necessary for public service. Land costs shall not be included when considering alternative locations for substantially similar utility facilities and the siting of utility facilities that are not substantially similar.

C. The owner of a utility facility approved under paragraph A shall be responsible for restoring, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this paragraph shall prevent the owner of the utility facility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration.

D. The county shall impose clear and objective conditions on an application for utility facility siting to mitigate and minimize the impacts of the proposed facility, if any, on surrounding lands devoted to farm use in order to prevent a significant change in accepted farm practices or a significant increase in the cost of farm practices on surrounding farmlands.

E. Utility facilities necessary for public service may include on-site and off-site facilities for temporary workforce housing for workers constructing a utility facility. Such facilities must be removed or converted to an allowed use under the A-1 Zone or other statute or rule when project construction is complete. Off-site facilities allowed under this paragraph are subject to Section 2.06

Conditional Use Review Criteria. Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request. A minor amendment request shall have no effect on the original approval.

* * * * *

UCZPSO 3.04 provides that a utility facility necessary for public service, excluding a commercial power generation facility or a transmission tower over 200 feet in height, is a conditional use permitted in Union County's A-2 Zone subject to county review. The criteria for whether a utility facility is necessary for public service is provided under UCZPSO 3.05.15. These criteria mirror the underlying provisions of ORS 215.275. In the *Final Order on ASC*, the Council determined that the transmission line qualifies as a utility facility necessary for public service under ORS 215.275 because there was no reasonably direct route that would allow the certificate holder to construct the transmission line while avoiding all impacts to EFU zoned land, that the certificate holder had demonstrated a "lack of available nonresource lands" for which to site the facility; and that the certificate holder had proposed the route to utilize some available rights-of-ways.[128]

The RFA2 micrositing area additions include the Midline Capacitor Station within A-2 zoned lands. As presented in RFA2 Figure 7-5 Map 45, this new related or supporting facility does not change the nature or extent of the use. Accordingly, Council continues to rely on its previous findings that the portions of the facility, with RFA2 changes, located in Union County's A-2 Zone, qualify as a utility facility necessary for public service.

UCZPSO 3.05.15.D requires the County, or in this case, the Council, to impose clear and objective conditions to mitigate and minimize impacts of the facility on surrounding lands devoted to farm use in order to prevent a significant change in accepted farm practices or a significant increase in the cost of farm practices on surrounding farmlands.

The Council previously imposed Land Use Condition 14 (GEN-LU-11) requiring that the certificate holder prepare and implement an Agricultural Assessment and Mitigation Plan prescribing monitoring and mitigation of impacts to soils and activities. This condition applies to the RFA2 micrositing area additions.

UCZPSO 3.17, Development Standards

The following standards shall apply to all development in an A-2 Agriculture-Grazing Zone.

[128] B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, p. 255-256 of 10586.

1. Any proposed division of land included within the A-2 Zone resulting in the creation of one or more parcels of land shall be reviewed and approved or disapproved by the County (ORS 215.263).

2. Setbacks from property lines or road rights-of-way shall be a minimum of 20-feet front and rear yards and 10-feet side yards.

3. Animal shelters shall not be located closer than 100 feet to an R-1 or R-2 Zone.

4. Signs shall be limited to the following:

A. All off-premise signs within view of any State Highway shall be regulated by State regulation under ORS Chapter 377 and receive building permit approval.

B All on premise signs shall meet the Oregon Administrative Rule regulations for on premise signs which have the following standards:

(1) Maximum total sign area for one business is 8% of building area plus utilized parking area, or 2,000 square feet, whichever is less.

(2) Display area maximum is 825 square feet for each face of any one sign, or half the total allowable sign area, whichever is less.

(3) Businesses which have no buildings located on the premises or have buildings and parking area allowing a sign area of less than 250 square feet may erect and maintain on-premises signs with the total allowable area of 250 square feet, 125 square feet maximum for any one face of a sign.

(4) Maximum height of freestanding signs adjacent to interstate highways is 65 feet, for all other highways is 35 feet, measured from the highway surface or the premises grade, whichever is higher to the top of the sign.

C. All on premise signs within view or 660 feet of any State Highway shall obtain permit approval from the Permit Unit, Oregon State Highway Division. No sign shall be moving, revolving or flashing, and all lighting shall be directed away from residential use or zones, and shall not be located so as to detract from a motorist vision except for emergency purposes.

In the *Final Order on ASC*, the Council imposed Land Use Condition 7 (GEN-LU-06) requiring that the certificate holder construct the facility consistent with the requirements of UCZPSO 3.08, which has been renumbered as UCZPSO 3.17. This condition applies to the RFA2 micrositing area additions.

Because the Council previously imposed conditions that would ensure compliance with its provisions, Council finds that the RFA2 micrositing area additions would comply with UCZPSO 3.17.

UCZPSO 5.00 Timber-Grazing Zone

UCZPSO 5.04, Conditional Uses with General Review Criteria

> *In the A-4 Zone predominantly farmland lots and parcels shall comply with Section 5.06 Administrative Uses and predominantly forest land parcels may authorize the following uses and activities and their accessory buildings and uses subject to county review and the specific standards set forth in Article 21.00, as well as the general provision set forth by this ordinance.*
>
> ** * * * **
>
> *21. New electric transmission lines with right of way widths of up to 100 feet as specified in ORS 772.210…*
>
> ** * * * **

UCZPSO's Timber Grazing Zone is hybrid farm-forest zone requiring the application of farm or forest standards based on the predominate use of a tract for permissible uses. Under UCZPSO 5.04(21), permissible uses include new electrical transmission lines with right of way widths up to 100 feet as specified in ORS 772.210. Council previously determined that based on a parcel by parcel analysis, tracts were both predominately forest and farm use – and therefore both standards were applied. Similarly, the analysis in this section presents and evaluation of both farm and forest standards for the RFA2 micrositing area additions within A-4 zoned land.

ORS 772.210 authorizes a public utility to condemn lands for the construction of a service facility that is reasonably necessary for its conduct. The statute provides, in relevant part, as follows:

> *(1) Any public utility, electrical cooperative association or transmission company may:*
>
> ** * **
>
> *(b) Condemn such lands not exceeding 100 feet in width for its lines (including poles, towers, wires, supports and necessary equipment therefor) and in addition thereto, other lands necessary and convenient for the purpose of construction of service facilities. If the lands are covered by trees that are liable to fall and constitute a hazard to its wire or line, any public utility or transmission company organized for the purpose of building, maintaining and operating a line of poles and wires for the transmission of electricity for*

lighting or power purposes may condemn such trees for a width not exceeding 300 feet, as may be necessary or convenient for such purpose.

(2) Notwithstanding subsection (1) of this section, any public utility, electrical cooperative association or transmission company may, when necessary or convenient for transmission lines (including poles, towers, wires, supports and necessary equipment therefor) designed for voltages in excess of 330,000 volts, condemn land not to exceed 300 feet in width. In addition, if the lands are covered by trees that are liable to fall and constitute a hazard to its wire or line, such public utility or transmission company may condemn such trees for a width not exceeding 100 feet on either side of the condemned land, as may be necessary or convenient for such purpose.

** * * * *"*

In the *Final Order on ASC*, the Council found that while the right-of-way of the transmission line would exceed 100 feet, the facility would still qualify as a conditionally allowed use under OAR 660-006-0025(4)(q) because ORS 772.210(2) specifically authorizes a 300-foot right of way for high voltage transmission lines rated to carry more than 330-kilovolts.[129] To ensure that the facility would be designed and constructed in accordance with that subsection, the Council imposed Land Use Condition 15 (GEN-LU-12), which limits the right of way to 300 feet and limits activities other than vegetation management to the central 100 feet of the right-of-way.

The Council also found that permanent related or supporting facilities, new and substantially modified roads, located outside of the 300-foot right-of-way could not be considered allowed uses under OAR 660-006-0025(4)(q) and would require an exception to Statewide Planning Goal 4 be taken.

Because portions of the RFA2 micrositing area additions in Union County's A-4 Zone on forest lands are outside of the 300-foot transmission line right-of-way, Council finds that that the RFA2 micrositing area additions do not comply with UCPSO 5.04 and that an exception to Statewide Planning Goal 4 is required, as evaluated in Section III.E.1.h of this order.

UCZPSO 5.06, Conditional Use Review Criteria

A use authorized by Section 5.04 of this zone may be allowed provided the following requirements or their equivalent are met. These requirements are designed to make the use compatible with forest operations and agriculture and to conserve values found on forest lands.

[129] B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, p. 269 of 10586.

1. The proposed use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands.

2. The proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel.

3. A written statement recorded with the deed or written contract with the county or its equivalent is obtained from the land owner that recognizes the rights of adjacent and nearby land owners to conduct forest operations consistent with the Forest Practices Act and Rules for uses authorized in OAR 660-006-0025 Subsection 5(c).

In the *Final Order on ASC*, the Council evaluated the facility for compliance with OAR 660-006-0025(5), which is implemented by UCZPSO 5.06. The Council previously imposed Land Use Condition 16 (GEN-LU-13) requiring that the certificate holder finalize and implement a Right-of-Way Clearing Assessment that identifies mitigation measures to minimize potential impacts to, and the cost of, accepted forest practices. The Council found that, subject to compliance with this condition, that the facility would not result in significant adverse impacts to accepted forest practices nor result in a significant increase in the cost of accepted forest practices within the surrounding area.[130]

The Council also imposed Public Services Condition 6 (GEN-PS-02), requiring that the certificate holder prepare and implement a Fire Prevention and Suppression Plan; and Fish and Wildlife Condition 2 (GEN-FW-02), requiring that the certificate holder prepare and implement a Vegetation Management Plan. The Council found that, subject to compliance with the Fire Prevention and Suppression Plan, the impact minimization measures included in the Right of Way Clearing Assessment, and Vegetation Management Plan, that the use would not significantly increase the wildfire hazards, fire suppression costs, or risk to fire suppression personnel within the surrounding area.[131]

The RFA2 micrositing area additions would result in similar impacts to forest lands as evaluated in the Final Order on ASC and are not expected to significantly increase the amount of land taken out of forest use in Union County. Impacts to lands in Union County's A-4 zone would be addressed in the plans required under Land Use Condition 16 (GEN-LU-13); Public Services Condition 6 (GEN-PS-02); and Fish and Wildlife Condition 2 (GEN-FW-02). Subject to compliance with these conditions, Council finds that the facility, with RFA2 changes, complies with UCZPSO 5.06.

UCZPSO 5.08, Development and Fire Siting Standards

[130] B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, page 276 of 10586.

[131] B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, page 279 of 10586.

The following standards shall apply to all development in an A-4 Timber-Grazing Zone. Fire siting standards (items 5-8) shall apply only to new dwellings and related structures in the A-4 Zone where the predominant use is forestry [OAR 660-06-055(3)] and where dwellings are on rangeland within one quarter mile of forest land areas.

1. Any proposed division of land included within the A-4 Zone resulting in the creation of one or more parcels of land shall be reviewed and approved or disapproved by the County (ORS 215.263).

2. Setbacks from property lines or road rights-of-way shall be a minimum of 20-feet front and rear yards and 10-feet side yards.

3. Animal shelters shall not be located closer than 100 feet to an R-1 or R-2 Zone.

4. Signs shall be limited to the following:

A. All off-premise signs within view of any State Highway shall be regulated by State regulation under ORS Chapter 377 and receive building permit approval.

B. All on premise signs shall meet the Oregon Administrative Rule regulations for on premise signs which have the following standards:

(1) Maximum total sign area for one business is 8% of building area plus utilized parking area, or 2,000 square feet, whichever is less.

(2) Display area maximum is 825 square feet for each face of any one sign, or half the total allowable sign area, whichever is less.

(3) Businesses which have no buildings located on the premises or have buildings and parking area allowing a sign area of less than 250 square feet may erect and maintain on-premises signs with the total allowable area of 250 square feet, 125 square feet maximum for any one face of a sign.

(4) Maximum height of freestanding signs adjacent to interstate highways is 65 feet, for all other highways is 35 feet, measured from the highway surface or the premises grade, whichever is higher to the top of the sign

C. All on premise signs within view or 660 feet of any State Highway shall obtain permit approval from the Permit Unit, Oregon State Highway Division. No sign shall be moving, revolving or flashing, and all lighting shall be directed

away from residential use or zones, and shall not be located so as to detract from a motorist's vision except for emergency purposes.

D. All dwelling addresses shall be uniquely designated in accordance with the Union County Road Naming and Addressing Ordinance (Court Order 1988-03) on signs clearly visible and placed at the intersection of the driveway and named road. Rural address markers provided and installed by the Union County Public Works Department shall not be removed, modified or obstructed.

E. Signs identifying pertinent information such as "dead end road", "bridge out", and so forth, shall be appropriately placed as designated by Union County.

F. Signs identifying location of a fire-fighting water source and each assess to that source shall be permanently identified and shall indicate whether it is a fire hydrant, a dry hydrant, or another type of water supply.

** * * * **

In the *Final Order on ASC,* the Council imposed Land Use Condition 7 (GEN-LU-06) requiring that buildings located in Union County's A-4 Zone comply with setback requirements consistent with UCZPSO 5.08.2 and signs to comply with the requirements of UCZPSO 5.08.4. This condition applies to the RFA2 micrositing area additions. Because existing conditions would ensure compliance with its provisions, Council finds that the facility, with RFA2 changes, would comply with UCZPSO 5.08.

<u>UCZPSO 20.00 Supplemental Provisions</u>

<u>UCZPSO 20.08 Riparian Zone Setbacks</u>

In order to maintain vegetative cover along Class I streams, rivers and lakes known as riparian habitat a setback for any new development such as structures or roads shall be required on a sliding scale proportional to one-half the stream width, at right angles to the annual high-water line or mark. A minimum of 25-feet either side of streams will be recognized. Woody vegetation presently existing in the riparian zone shall be maintained, however, thinning or harvesting of merchantable tree species may occur within the riparian zone where 75 percent of the existing shade over the stream is maintained.

In the *Final Order on ASC,* the Council imposed Land Use Condition 6 (GEN-LU-06), which requires in relevant part, that the certificate holder locate transmission towers and access roads at least 25 feet from Class I streams and retain at least 75 percent of vegetation within

the riparian zone of all Class I streams within Union County. This condition applies to the RFA2 micrositing area additions.

Because existing conditions would ensure compliance with its requirement, Council finds that the facility, with RFA2 changes, would comply with UCDC 152.016.

UCZPSO 20.09, Significant Goal 5 Resource Areas

> *1. Any land use action requiring County zoning or partitioning approval or any activity listed as a conflict in this ordinance which is within 1320 feet of or could have an impact on:*
>
> *A. Significant historical sites or structures,*
>
> *B. Significant scientific or natural areas,*
>
> *C. Significant aggregate resource sites,*
>
> *D. Big game critical wildlife habitat area and big game winter range*
>
> *E. Significant avian habitat*
>
> *F. Significant wetlands, and*
>
> *G. Designated Scenic Waterways identified by the Union County Land Use Plan, shall be reviewed by the Planning Director for appropriate public notification measures and conflict resolution.*
>
> *2. Affected Land Management Agencies, landowners and interested persons will be notified of the proposed land use action and will be given an opportunity to submit testimony per the applicable application procedure prior to a decision on the land use action.*
>
> *3. Review Classifications*
>
> *A. When a 3A or 3C (limit conflicting uses) decision has been made as indicated in the comprehensive plan, the applicant must, in coordination with the responsible agency, develop a management plan which would allow for both Article 20.00 Page 6 resource preservation and the proposed use. If the responsible agency and the applicant cannot agree on such a management plan, the proposed activity will be reviewed through the conditional use process. 3A sites will be preserved where potential conflicts may develop. Conflicts will be mitigated in favor of the resource on 3C sites.*

B. When a 3B (allow conflicting uses) decision has been made as indicated on Goal 5 inventory sheets, the request shall not be subject to the standards of this Section.

4. Under the conditional use process land use decisions will consider the economic, social, environmental, and energy consequences when attempting to mitigate conflicts between development and resource preservation.

5. The following criteria shall be considered, as applicable, during the appropriate decision making process:

A. ECONOMIC: The use proposed is a benefit to the community and would meet a substantial public need or provide for a public good which clearly outweighs retention of the resources listed in Section 18.09 (1):

B. SOCIAL: The proposed development would not result in the loss of or cause significant adverse impact to, a rare, one of a kind or irreplaceable resource as listed in Section 18.09 (1).

C. ENERGY: The development, as proposed, would support energy efficient land use activities for such things as transportation costs, efficient utilization of urban services, and retention of natural features which create micro climates conducive to energy efficiency.

D. ENVIRONMENTAL: If alternative sites in Union County for proposed development are available which would create less of an environmental impact of any of the resources listed in Section 18.09 (1), major consideration should be given to these options.

6. The reviewing body may impose the following conditions, as applicable upon a finding of fact that warrants such restrictions:

A. SIGNIFICANT AGGREGATE SITES: Residences and uses listed as conditional uses may be required to provide screening, landscaping, and/or setbacks in excess of those required in the zone in which the lot or parcel is located. The required screening, landscaping, and setback shall be determined by the Planning Director after meeting with the applicant and the owner of the aggregate resource land to ensure compatibility between present and future Article 20.00 Page 7 uses on the properties. Such setback shall be no less than 50 feet and no greater than 1320 feet.

B. WETLANDS AND NATURAL AREAS: Limitations may be required on draining, filling, structural development, and/or removal of vegetation in order to

protect and preserve existing trees, vegetation, water resources, wildlife habitat or other significant natural resources.

C. BIG GAME WINTER RANGE AND BIG GAME CRITICAL HABITAT: A proposed new structure requiring a conditional use may be required to:

1. Be located as close as possible to an ADJACENT compatible structure (a compatible structure shall be any structure which does not adversely affect the intended use of another structure);

2. Share a common access road or where it is impossible to share a common access road, locate as closely as possible to the nearest existing public road in order to minimize the length of access from the nearest road.

D. AVIAN HABITAT: Any proposed activity permitted outright or conditionally may be required to establish a setback from critical nesting or roosting areas and to preserve existing trees, vegetation, and water resources.

E. DESIGNATED SCENIC WATERWAYS: The applicant for a proposed use that is to be located within the Minam River Scenic Waterway and that is regulated under the Oregon Scenic Waterways Rules shall obtain a notice to proceed from the State Highway Commission or the time limit for review by the State Highway Commission shall have expired prior to obtaining a zoning or building permit from the County.

Portions of the RFA2 micrositing area additions would be located in Union County's Big Game Winter Range Overlay Zone and are subject to the provisions of UCZPSO 20.09.

In the *Final Order on ASC*, the Council found that the facility complies with UCZPSO 20.09, in part because the certificate holder had attempted to utilize existing roads and to limit the development of new roads in critical habitat and winter range overlay areas to the extent possible.[132] Because the RFA2 micrositing area additions do not significantly change the nature of the previously approved facility or significantly increase the amount of roads located in Union County's Winter Range areas, Council continues to rely on its previous findings.[133]

<u>UCZPSO 21.00 Conditional Uses</u>

<u>UCZPSO 21.06 General Standards Governing Conditional Uses</u>

The following standards and criteria shall govern conditional uses, except as provided in subsection 21.07:

[132] B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, page 218 of 10586.

[133] B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, pages 209-211 of 10586.

1. A conditional use shall ordinarily comply with the standards of the zone concerned for uses permitted outright except as specifically modified by the Planning Commission in granting the conditional use.

******

UCZPSO 21.06 applies to all conditional uses in Union County. UCZPSO 21.06(1) requires that conditional uses meet the development standards relevant to uses permitted outright in the zone, including UCZPSO 5.06 (Minimum Parcel Size), UCZPSO 5.07 (Siting Standards for Dwellings and Structures), and UCZPSO 5.08 (Development and Fire Siting Standards), which would be satisfied via compliance with the previously imposed Land Use Condition 7 (GEN-LU-06). Land Use Condition 7 (GEN-LU-06) expressly requires transmission tower/building yard setbacks and establishes the applicable requirements for any permanent signage associated with the facility.

Based on compliance with Land Use Condition 7 (GEN-LU-06), Council continues to find that the facility, with RFA2 changes, would comply with UCZPSO 21.06(1) requirements.

III.E.1.d Baker County Applicable Substantive Criteria

RFA2 micrositing area additions and changes in Baker County include the following, by zone (use presented in parens):

<u>Exclusive Farm Use Zone (Utility Facility Necessary for Public Service)</u>

- Highway 203 Crossing Alternative (1.9 miles of transmission line, 1.2 miles of new access roads, 13.5 acres of temporary work areas);
- ASC Approved Route (230 kV Rebuild) Revised Alternative (0.6-of-a mile of transmission line, 0.1 new access road; 0.6 acres of temporary work areas);
- Other Access Road and Work Areas (15.3 miles of new access road, 84.8 acres of temporary work areas);
- MUA BA-01, MUA BA-12[134]

<u>Industrial Zone (Temporary Uses Requiring Permits)</u>

- MUA BA-05[135,136]

The use within EFU-zoned land, as listed above, was previously evaluated by Council in the *Final Order on ASC*. Council previously imposed conditions to ensure compliance with applicable requirements within the EFU zone. Uses within Baker County's Industrial Zone were not previously evaluated. RFA2 evaluates the use of MUA BA-05 as "Manufacturing, compounding,

[134] B2HAMD2Doc2 RFA2 2024-04-11, Figure 4-1 Map 52, 63.

[135] B2HAMD2Doc2 RFA2 2024-04-11, Figure 4-1 Map 66.

[136] MUA BA-05 (Figure 4-1 Map 66) presents the MUA site as covering a portion of the Oregon National Historic Trail. This section is represented as "non-intact" with no evidence of the trail in this location.

fabricating, processing, repairing, packaging, storage and warehousing." Council finds that the predominant uses at an MUA do not qualify or are not consistent with the intent of this land use category[137], but rather quality as a temporary use under BCZO Chapter 250.03(C) (Temporary Uses Requiring Permits). Because the certificate older did not propose the MUA as a temporary use in RFA2, Council finds that there is insufficient information to take further action at this time.

The following section presents an evaluation of whether the RFA2 changes can comply with the applicable substantive criteria within EFU-zoned land in Baker County. The applicable substantive criteria from Baker County are listed in Table 20 below.

Table 20: Baker County Applicable Substantive Criteria

Section[1,2]	Description
Chapter 410 Exclusive Farm Use Zone	
Section 410.03.E.2	Uses Permitted Through a Type II Procedure – Utility Facilities Necessary for Public Service
Chapter 620 Big Game Habitat Overlay Zone	
Section 620.03	Permitted Uses
Chapter 630 Flood Plain Development Zone	
Section 630.04(3)	Construction Materials and Methods
Chapter 710 Historic/Cultural and Natural Resources Protection	
Section 710.03	Permits Required

Notes:

1. RFA2 Table 7.1-8 identified BCZO Subsection 530.03(A)(6) as applicable substantive criteria. This subsection establishes "Used Permitted Through a Type I Procedure" in Industrial Zoned Land and includes a "use category" of "major utility facilities and local distribution utility facilities." In RFA2, the use within Baker County's Industrial Zoned land is a temporary, multi-use area (MUA BA-05) not located on the same tract as the primary use (utility facility). Because the temporary, multi-use area is not located on same tract as the primary use, it does not meet the definition of an accessory use to the transmission line. Therefore, Council disagrees with the certificate holder's analysis of the applicable "use category" applied to the temporary use in the Industrial Zone, based on BCZO Chapter 150 definition of a major utility facility.

Source: All applicable substantive criteria is based on Zoning Ordinances available on the Baker County planning Department website as of April 3, 2024 at: https://www.bakercountyor.gov/planning/planning.html B2HAMD2Doc6.

<u>BCZO 410.03 Uses Permitted Through a Type II Procedure</u>

In the EFU Zone, the following uses and their accessory uses may be permitted when authorized in accordance with the provisions of Section 115.06.

[137] Multi-use areas will serve as field offices; reporting locations for workers; parking spaces for vehicles and equipment; and sites for material delivery and storage, fabrication assembly of towers, cross areas and other hardware, concrete batch plants, and stations for equipment maintenance. B2HAPPDoc3-3 ASC 02a Exhibit B Project Description Section 3.3.2 2018-09-28.

** * * * **

E. Utility Facilities

** * * * **

2. Utility facilities necessary for public service, including associated transmission lines as defined in ORS 469.300 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 high. To demonstrate that a utility facility is necessary, as described in ORS 215.283(1)(c), an applicant must:

a. Show that reasonable alternatives have been considered and that the facility must be sited in an Exclusive Farm Use Zone due to one or more of the following factors:

i. Technical and engineering feasibility;
ii. The proposed facility is locationally-dependent. A utility facility is locationally-dependent if it must cross land in one or more areas zoned for exclusive farm use in order to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;
iii. Lack of available urban and non-resource lands;
iv. Availability of existing rights-of-way;
v. Public health and safety;
vi. Other requirements of state and federal agencies

b. Costs associated with any of the factors listed in Section 410.03(D)(1)(a) may be considered; however, cost alone may not be the only consideration in determining that a utility facility is necessary for public service. Land costs shall not be included when considering alternative locations for substantially similar utility facilities. The Land Conservation and Development Commission shall determine by rule how land costs may be considered when evaluating the siting of utility facilities that are not substantially similar.

c. The owner of a utility facility approved under this Section shall be responsible for restoring, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this Section shall prevent the owner of the utility facility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration.

d. The governing body of the county or its designee shall impose clear and objective conditions to mitigate and minimize the impacts of the proposed facility, if any, on surrounding lands devoted to farm use in order to prevent a significant change in accepted farm practices or a significant increase in the cost of farm practices on the surrounding farmlands.

** * * * **

BCZO 410.03(E)(2) provides that a utility facility necessary for public service, excluding a commercial power generation facility or a transmission tower over 200 feet in height, is a permissible use in Baker County's EFU Zone. These provisions mirror the requirements of ORS 215.275.

In the *Final Order on ASC*, the Council determined that the transmission line qualifies as a utility facility necessary for public service under ORS 215.275 because there was no reasonably direct route that would allow the certificate holder to construct the transmission line while avoiding all impacts to EFU zoned land, that the certificate holder had demonstrated a "lack of available nonresource lands" for which to site the facility; and that the certificate holder had proposed the route to utilize some available rights-of-ways.[138]

The Highway 203 Crossing Alternative, ASC Approved Route Reviewed Alternative, Other Access Road and Work Areas, MUA BA-01 and MUA BA-12 include shifts in the location of the transmission line, 230 kV transmission line rebuild, new and substantially modified roads and temporary works areas (MUAs) within EFU zoned lands. These locational adjustments do not change the nature or extent of the use. Accordingly, Council continues to rely on its previous findings that the portions of the facility, with RFA2 changes, located in Baker County's EFU Zone, qualify as a utility facility necessary for public service.

Because the "use" associated with the RFA2 micrositing area additions is the same as the "use" previously evaluated by Council, Council finds that the RFA2 micrositing area additions is a permissible use under BCZO 410.03(E)(2).

<u>BCZO 620.03 Big Game Habitat Overlay Zone, Permitted Uses</u>

A. Permitted uses. Uses permitted outright and conditionally in the underlying zoning district shall be permitted in the Big Game Habitat Overlay Zone if they will not result in the degradation of critical big game habitat.

** * * * **

Most of the RFA2 micrositing area additions in Baker County would be located in the Big Game Habitat Overlay Zone and therefore would result in direct ground disturbance and indirect

[138] B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, p. 255-256 of 10586.

(noise, vehicular collision risk) impacts within critical big game habitat.[139] These impacts will be mitigated to ensure that any direct and indirect impacts are minimized and offset. Designated Big Game Habitat is protected under the Council's Fish and Wildlife Habitat standard (OAR 345-022-0060) as Category 2 Habitat[140], and requires mitigation of impacts to ensure that there is no net loss of either habitat quantity or quality and to provide a net benefit of habitat quantity or quality.

To minimize and mitigate impacts to critical big game habitat, the Council previously imposed Fish and Wildlife Condition 4 (GEN-FW-04) requiring that the certificate holder provide adequate mitigation for impacts to habitat quantity and quality through mitigation banking, an in-lieu fee program, or permittee-developed mitigation projects. The Council also imposed Fish and Wildlife Condition 11 (Condition CON-FW-01) prohibiting the certificate holder from conducting ground-disturbing activities within elk or mule deer winter range between December and March without prior approval. These conditions apply to the RFA2 micrositing area additions.

These existing conditions ensure that any impacts to habitat within RFA2 micrositing area additions would be mitigated based on a mitigation goal of no net loss of either the quantity or quality of big game winter range. Therefore, Council finds that the RFA2 micrositing area additions within big game winter range would comply with BCZO 620.03.

<u>BCZO 630.04 Floodplain Development Zone</u>

> *Provisions for Flood Hazard Reduction*
> *A. General Standards. In all special flood hazard areas, the following standards shall be adhered to:*
> ***
> *3. Construction Materials and Methods.*
> *a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.*
> *b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.*

Baker County Zoning Ordinance Chapter 630 addresses requirements for development within the county's designated floodplain development zone. BCZO Chapter 630.03(C) establishes information requirements that must be provided to the county to obtain a floodplain development permit.

Portions of the RFA2 micrositing area addition cross rivers and streams, which may be located within the floodplain development zone.[141] Land Use Condition (GEN-LU-07) requires in part

[139] B2HAMD2Doc2 RFA2 2024-04-11, Table 7.1-8, p. 86.
[140] B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, p. 350 of 10586.
[141] B2HAMD2Doc2 RFA2 2024-04-11, Table 7.1-8, p. 86.

that, prior to construction in Baker County, the certificate holder obtain a Floodplain Development Permit from Baker County, if required for construction within Baker County's Floodplain Overlay Zone. Based on compliance with this previously imposed condition, Council finds that the RFA2 micrositing area additions would comply with BCZO Chapter 630.

BCZO 710.03 Historic/Cultural and Natural Area Protection Procedure

710.03 Permits Required

A. A permit shall be required to destroy or make major alteration to a historic/cultural/natural site or structure inventoried as significant in the County Comprehensive Plan. Upon receipt of an application for said permit, the Planning Department shall institute a 30-day hold. During that time various actions will be initiated by the County depending upon the nature of the threatened resource. All of the inventoried natural sites, historic sites and the cultural sites identified with one, two or three stars will be subject to a public hearing. Notice of the proposed change and public hearing will be provided to the general public, the State Historic Preservation Office, the State Natural Heritage Advisory Council, the State Department of Fish and Wildlife and/or affected local historical, cultural, or governmental entities. The opportunity to educate, persuade, pay for, and/or require the preservation of a significant resource will be provided by the County. At the hearing before the Planning Commission a review will be conducted to determine:

1. If the change will destroy the integrity of the resource.

2. If the proposal can be modified to eliminate its destructive aspects.

3. If any agency or individual is willing to compensate the resource owner for the protection of the resource.

4. If the resource can be moved to another location.

B. If, after this review, it is determined by the County that the integrity of a significant historic/cultural structure or townsite or a natural area resource is threatened, the following criteria will be applied to decide whether to allow, allow with conditions, or disallow the proposed change:

1. For significant historic/cultural structures and townsites.

a. The historic/cultural structure or townsite constitutes a hazard to the safety of the public occupants and cannot reasonably be repaired; or

b. The retention of the historic/cultural structure or townsite would cause financial hardship to the owner which is not offset by public interest in the structure's/townsite's preservation; or

c. The improvement project is of substantial benefit to the County and cannot be reasonably located elsewhere, and overrides the public's interest in the preservation of the historic/cultural structure or townsite; or

d. Major exterior alteration shall, to the extent possible, be consistent with the historic/cultural character of the structure.

2. For significant natural areas.

a. The Existence of a Site Report. The site's relative significance is indicated by the existence of a site report indicating a field survey with one or more elements verified.

b. Number of Elements. The site is elevated to a higher priority if it contains a diversity of natural elements.

c. Past Use of Land. The degree to which human activities have already impacted an area is a significant factor in determining the value of protecting the resource.

d. Abundance and Quality of the Same Resource Elsewhere on the County's Inventory. In reviewing such comparative information, the County will be able to make its decision knowing the relative significance of the resource in question.

e. Financial Impact. A determination that the retention of the natural area would cause financial hardship to the owner not offset by public interest in the site's preservation would be a determining factor in the County's decision.

f. Public Benefit from the Proposed Change. A finding that the change is of substantial benefit to the County and cannot be accommodated feasibly elsewhere on the applicant's property would be a significant factor in the County's decision.

3. For Resources on Federally Managed Lands. The findings and conclusions of Baker County relative to a proposed alteration or demolition of a significant cultural/ historic/natural site/structure shall be forwarded to the appropriate federal agency as a recommendation.

4. For Resources Not Inventoried or Designated as 1B. For resources of unknown significance or resources not on the inventory, a local review will be conducted by BLM and USFS personnel, Oregon Department of Fish and Wildlife, State and/or college historians, and local museum and historical society members to evaluate the resource's comparative worth and make a recommendation as to whether a full public hearing is warranted.

BCZSO 710 requires an analysis of significant historic/cultural structures and townsites, as well as significant natural areas and resources not inventoried or otherwise designated. As part of the record of prior proceedings for the Boardman to Hemingway Transmission Line, previous analysis was conducted to evaluate the inventory and potential impacts to Baker County's Goal 5 resources within the 0.5-mile land use analysis area. Baker County's inventoried Goal 5 resources within the Land Use analysis area include: Rattlesnake Springs Landmark; Farewell Bend State Park; Flagstaff Hill Monument; Virtue Flat Oregon Trail segment; Virtue Flat Mining Area. The RFA2 micrositing area additions in Baker County are located more than 0.5 miles from any of the inventoried Goal 5 resources. The Council's prior findings of fact and analysis are incorporated herein by reference.[142] Based on the prior analysis and the fact that the RFA2 micrositing area additions do not change those prior findings of fact and analysis, Council finds that the RFA2 micrositing area additions would not impact the certificate holder's ability to comply with BCZO 710.03.B.1 to B.3.

III.E.1.e Malheur County Applicable Substantive Criteria

RFA2 micrositing area additions in Malheur County include the following, by zone ("use" presented in parens):

<u>Exclusive Farm Use Zone, C-A1; Special Flood Hazard Overlay Zone (Utility Facility Necessary for Public Service)</u>

- Willow Creek Alternative (1.4 miles of transmission line; 1.1 miles of new road; 10.2 acres of temporary work areas)
- MUA BA-02, MUAs MA-08, MUA MA-10[143]

<u>Exclusive Range Use Zone, C-A2; Special Flood Hazard Overlay Zone (Utility Facility Necessary for Public Service)</u>

- Cottonwood Creek (3.2 miles of transmission line; 5.1 miles of new road; 22.9 acres of temporary work areas)
- MUA BA-02, MUA MA-09, MUA MA-11[144]

The zones and uses listed above were previously evaluated by Council in the *Final Order on ASC*. Council previously imposed conditions to ensure compliance with requirements within each

[142] B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, pp. 218-223.
[143] B2HAMD2Doc2 RFA2 2024-04-11, Figure 4-1 (Maps 73, 80, 92)
[144] B2HAMD2Doc2 RFA2 2024-04-11, Figure 4-1 (Maps 73, 93, 69)

zone; nonetheless, the following section presents an evaluation of the whether the RFA2 changes can comply with the applicable substantive criteria within Malheur County. The applicable substantive criteria from Malheur County are listed in Table 21 below.

Table 21: Malheur County Applicable Substantive Criteria

Section	Description
Title 6: Zoning	
Chapter 3, Article A	Resource Lands (Exclusive Farm Use, Exclusive Range Use, Exclusive Farm-Forest Use)
Section 6-3A-2	Permitted Uses
Title 5: Building and Flood Control Regulations	
Chapter 2 Flood Control	5-2-4-1 Establishment of Development Permit
Source: B2HAMD2Doc7 Malheur County 6-3A-2. B2HAMD2Doc7-1 Malheur County SFHA 5-2-5-1.	

MCC 6-3A-2 Permitted Uses

> *A. The following uses may be permitted outright by ministerial permit in each of the three (3) resource zones except as specifically added or excluded:*
>
> ** * * * **
>
> *14. Utility facilities necessary for public service, including wetland waste treatment systems but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over two hundred feet (200') in height. A utility facility necessary for public service may be established as provided in ORS 215.275 and section 6-6-8-8, "Wireless Telecommunication Facilities" of this title.*
> *(Ord. 86, 12-7-1993; amd. Ord. 146, 4-14-2004)*

MCC 6-3A-2 identifies utility facilities "necessary" for public service as a permitted use on EFU and ERU zoned land, subject to ORS 215.275. Transmission lines are considered utility facilities; under ORS 215.275, utility facilities are considered "necessary" for public service if the facility, after consideration of reasonable alternative locations on non-EFU zoned land, must be sited in EFU zoned land to provide a service, due to one or more factors listed in ORS 215.275.

In the *Final Order on ASC*, the Council determined that the transmission line qualifies as a utility facility necessary for public service under ORS 215.275 because there was no reasonably direct route that would allow the certificate holder to construct the transmission line while avoiding all impacts to EFU zoned land, that the certificate holder had demonstrated a "lack of available nonresource lands" for which to site the facility; and that the certificate holder had proposed the route to utilize some available rights-of-ways.[145]

[145] B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, p. 255-256 of 10586.

The Willow Creek Alternatives and MUAs (MUA BA-02, MUA MA-08, MUA MA-10) include shifts in the location of the transmission line, new and substantially modified roads and temporary works areas (MUAs) within EFU zoned lands. These locational adjustments do not change the nature or extent of the use. Accordingly, Council continues to rely on its previous findings that the portions of the facility, with RFA2 changes, located in Malheur County's EFU and ERU zoned lands, qualify as a utility facility necessary for public service.

Because the "use" associated with the RFA2 micrositing area additions is the same as the "use" previously evaluated by Council, Council finds that the RFA2 micrositing area additions is a permissible use under MCC 6-3A-2.

Malheur County Code 6-3K Flood Plain Management Zone

MCC 6-3K-3 Standards

> *The following standards shall be applicable to any area designated as being within the 100-year flood plain:*
>
> *A. Any development shall comply with Title 5, Chapter 2 of this Code and the Federal Insurance Administration requirements for minimizing flood hazards.*
>
> *B. Any development shall also comply with the standards of the underlying primary zone.*
>
> *C. If a conflict in regulations or procedures occurs, the more restrictive provisions shall govern. (Ord. 86, 12-7-1993)*

MCC 6-3K-3 establishes flood hazard minimization standards for development within Malheur County's Floodplain Overlay Zone including compliance with primary underlying zone development standards and MCC Title 5, Chapter 2 and the Federal Insurance Administration. MCC Title 5, Chapter 2, requires among other things, that a development permit be obtained prior to any construction or development in a flood zone:

> *5-2-4-1: ESTABLISHMENT OF DEVELOPMENT PERMIT:*
> *A development permit shall be obtained before construction or development begins within any area horizontally within the special flood hazard area established in subsection 5-2-3 B of this chapter. The development permit shall be required for all structures, including manufactured dwellings, and for all development as defined in 5-2-2, including fill and other activities. Application for a development permit shall be made on forms furnished by the Malheur County planning director/floodplain administrator and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the area in question; existing or proposed*

structures, fill, storage of materials, drainage of facilities and the location of the foregoing.

Specifically, the following information is required:

A. In riverine flood zones, the proposed elevation (in relation to mean sea level), of the lowest floor (including basement) and all attendant utilities of all new and substantially improved structures.

B. Proposed elevation in relation to mean sea level to which any non-residential structure will be flood proofed.

C. Certification by a registered professional engineer or architect licensed in the State of Oregon that the floodproofing methods for any non-residential structure meet the floodproofing criteria in subsection 5-2-5-2 C of this chapter.

D. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

E. Base flood elevation data for subdivision proposals or other development when required per sections 5-2-4-2 B and 5-2-5-1 F.

F. Substantial improvement calculations for any improvement, addition, reconstruction, renovation, or rehabilitation of an existing structure.

G. The amount and location of any fill or excavation activities proposed. (Ord. 54, 3-24-1987; amd. Ord. 147, 4-14-2004; Ord. 219, 11-13-2019)

The RFA2 micrositing area additions would be located in Malheur County's Floodplain Overlay Zone. The Council previously imposed Land Use Condition 11 (GEN-LU-08), which requires in part that the certificate holder obtain, from Malheur County, and submit, to the Department, a copy of a Floodplain Development Permit for construction within Malheur County's Floodplain Overlay Zone. Based on compliance with Land Use Condition 11 (GEN-LU-08), Council finds that the RFA2 micrositing area additions would comply with MCC 6-3K-3.

III.E.1.f City of North Powder Applicable Substantive Criteria

RFA2 micrositing area additions and changes in City of North Powder include the following, by zone (use presented in parens):

<u>Industrial Zone (Other Uses)</u>

- MUA UN-07[146]

The following section presents an evaluation of whether the RFA2 changes can comply with the applicable substantive criteria within Industrial-zoned land in City of North Powder. The applicable substantive criteria from City of North Powder are listed in Table 22 below.

[146] B2HAMD2Doc2 RFA2 2024-04-11, Figure 4-1 (Map 46). Figure 7-5 (Map 46).

Table 22: City of North Powder Applicable Substantive Criteria

North Powder Zoning Ordinance (NPZO)	
Industrial Zone	
Article V[1]	
Section 5.02	Conditional Uses/Other Uses
Article C Conditional Uses	
Section 10.02	Application for Conditional Uses
Notes: 1. RFA2 includes NPZO Article V Sections 5.04(2) Setback Requirements; 5.04(3) Outdoor Storage; and 5.05 Development Standards. Based on review of RFA2 Figure 7-5, and the location of MUA UN-07 in Industrial Zoned land adjacent to other Industrial and EFU zoned lands, these provisions do not apply. Source: B2HAMD2Doc9 City of North Powder Zoning Ordinance.	

The following analysis addresses the applicable substantive criteria identified in the NPZO.

NPZO Article V Section 5.02

> *North Powder Zoning Article V (I) Industrial Zone*
> *Section 5.02: Conditional Uses*
>
> *In an Industrial Zone the following uses and their accessory uses are permitted by conditional use approval when authorized in accordance with Articles VII and IX of this ordinance:*
> 1. *Any use permitted conditionally in the (C-I) Commercial Zone.*
> 2. *Single-family or two-family dwelling units.*
> 3. *Other uses similar to the above and not specifically listed under the Industrial Zone provided that:*
>   A. *The use is not objectionable due to odor, dust, smoke, noise, vibration, or appearance.*
>   B. *Other uses similar to the uses permitted outright or conditionally which are determined by the City Council not to create a nuisance to adjacent activities.*

NPZO Article V Section 5.02 authorizes "other uses" in the Industrial Zone, including uses that are similar to conditionally permissible uses within the Commercial (C-I) Zone, provided that the use is not objectionable and similar to other outright or conditionally permissible uses within the zone. Multi-use areas will serve as field offices; reporting locations for workers; parking spaces for vehicles and equipment; and sites for material delivery and storage, fabrication assembly of towers, cross areas and other hardware, concrete batch plants, and stations for equipment maintenance.[147] A conditionally permissible use in the C-I Zone includes a bus depot. Council finds that the actions and resulting levels of odor, dust, noise and vibration at an MUA are reasonably similar to a bus depot.

[147] B2HAPPDoc3-3 ASC 02a Exhibit B Project Description Section 3.3.2 2018-09-28.

Therefore, Council finds that the multi-use area within City of North Powder is a conditional use permitted within Industrial zoned land subject to the criteria in NPZO Article V Section 5.02.

NPZO Article X Section 10.02

> *Article X, Conditional Uses*
>
> *Section 10.02 APPLICATION FOR CONDITIONAL USES*
>
> *A request for a conditional use or modification of an existing conditional use may be initiated by property owner or his authorized agent by filing an application with the City Council. The application shall be accompanied by a site plan, drawn to scale, showing the dimensions and arrangement of the proposed development and the names of record and addresses thereof for all landowners within 300 feet of the parcel in question. The City Council may request other drawings or material essential to an understanding of the proposed use and its relationship to the surrounding properties.*

Pursuant to NPZO 5.02(3), the MUA (MUA UN-07) is conditionally permissible in Industrial Zoned land. Conditionally permissible uses require a conditional use permit from the City of North Powder, without substantive review or proceedings outside of the EFSC process. Conditional requirements are evaluated by Council under the Land Use standard. NPZO Article X provides no additional criteria to address specific to "other uses".

Council previously imposed Land Use Condition 13 (GEN-LU-10) requiring that a conditional use permit be obtained from the City for the MUA in the Commercial Interchange zone, demonstrating compliance with applicable signage and yard setback requirements. Council amends the condition to apply to the MUA in the Industrial zone, and require that a conditional use permit be obtained, prior to use and activities as presented below:

> **Amended Land Use Condition 13 (GEN-LU-10):** For the multi-use areas in City of North Powder, the certificate holder shall obtain a Conditional Use Permit from City of North Powder, providing sufficient information to the City to verify that the design of the site complies with the requirements in the Industrial Zone and Commercial Interchange Zone.
>
> In the Commercial Interchange Zone, the site plan shall demonstrate:
>
> a. All signs shall comply with NPZO 4.04(B) development standards (ASC Exhibit K p. K-275)
> b. Based solely on certificate holder representations in ASC, buildings shall not exceed 45 feet in height and shall be setback per NPZO Section 4.03 (ASC Exhibit K p. K-277):
> i. Front yards shall be set back at least 30 feet from property lines;
> ii. Side yards shall be setback at least 20 feet from a Residential Zone, street, or corner lot; and
> iii. Rear yards shall be set back at least 20 feet from a Residential Zone.

[Land Use Condition 13; Final Order on ASC, AMD2]

Based on compliance with the above amended condition, Council finds that the multi-use area would satisfy the NPZO Article X Section 10.02.

III.E.1.h Goal 4 Exception

In order to issue an amended site certificate, the Council must find that the facility, with proposed changes, complies with all applicable substantive criteria, Land Conservation and Development Commission administrative rules and goals, and any land use statutes directly applicable to the facility under ORS 197.646(3). If the proposed changes do not comply with one or more applicable substantive criteria, the Council must either find that the facility otherwise complies with the statewide planning goals or that an exception to any relevant goals is justified. Most commonly, an exception is evaluated against the standards in OAR 345-022-0030(4)(c):

> *(4) The Council may find goal compliance for a proposed facility that does not otherwise comply with one or more statewide planning goals by taking an exception to the applicable goal. Notwithstanding the requirements of ORS 197.732, the statewide planning goal pertaining to the exception process or any rules of the Land Conservation and Development Commission pertaining to the exception process, the Council may take an exception to a goal if the Council finds:*
>
> ** * **
>
> *(c) The following standards are met:*
>
> *(A) Reasons justify why the state policy embodied in the applicable goal should not apply;*
>
> *(B) The significant environmental, economic, social and energy consequences anticipated as a result of the proposed facility have been identified and adverse impacts will be mitigated in accordance with rules of the Council applicable to the siting of the proposed facility; and*
>
> *(C) The proposed facility is compatible with other adjacent uses or will be made compatible through measures designed to reduce adverse impacts.*

OAR 660-006-0025(4)(q) establishes conditional uses authorized in Goal 4 forest zoned lands and includes new electric transmission lines with right-of-way widths up to 300 feet, limited to 100 feet for the transmission line and 200 feet for vegetative maintenance. The RFA2 micrositing addition areas include approximately 25.8 acres within Union County's Timber-Grazing zone located outside of the 300 foot right-of-way, requiring Council review of whether

to grant an exception to Goal 4.[148] The 25.8 acres is associated with approximately 15.4 miles of new and substantially modified roads for the Baldy Alternative.[149]

The certificate holder proposes two reasons for Council consideration in extending the Goal 4 exception taken in the *Final Order on ASC*. These two reasons include: (1) the location of the approximately 15.4 miles of new and substantially modified roads are locationally dependent to the conditionally allowable use; and (2) impacts to forest land would be minimal.

RFA2 Figure 4-1 (Map 40) presents the location of the longest new road segment, which extends from I-84, a primary haul route to be used to deliver equipment and provide worker access, to existing roads that provide access to a pulling and tensioning site and the Baldy Alternative transmission line segment. The Baldy Alternative and location of new road segment allow the certificate holder to utilize 10.7 miles of existing road, while limiting new road construction in this area to 4.6 miles. Based on these facts, Council agrees and accepts the certificate holder's reasons.

In the *Final Order on ASC*, the Council granted an exception to Goal 4 for permanent new and substantially modified roads located outside of the 300-foot right-of-way. The reasons determined to justify an exception to Goal 4 included that the access roads were necessary for the construction of the facility, that there were no reasonable alternative routes that would result in fewer impacts to Forest Lands, and that the approved access road routes would result in relatively minor impacts on existing forest uses.[150] As described above, Council maintains the findings for two of these reasons.

The Council also found that the facility, when considering mitigation, would not cause significant adverse environmental consequences or impacts,[151] would represent a net economic benefit,[152] and would have no significant adverse impacts on public services or facilities.[153] The Council also found that the approved access roads would be compatible with adjacent land uses, and that, subject to compliance with conditions of approval, measures would be taken to reduce any potential adverse impacts.[154]

The new location and impacts associated with approximately 25.8 acres does not significantly change the nature or extent of the use, or its impacts on forest lands. Therefore, continues to rely on its previous findings and find that an exception to Statewide Planning Goal 4 is justified for the RFA2 site boundary located on Union County Forest lands.

[148] B2HAMD2Doc2 RFA2 2024-04-11, Tables 5.2-5 and 5.2-6.
[149] B2HAMD2Doc2 RFA2 2024-04-11, Figure 7-5, Map 38-41.
[150] B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, p. 290 of 10586.
[151] B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, p. 291 of 10586.
[152] B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, p. 292 of 10586.
[153] B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, p. 292 of 10586.
[154] B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, p. 293 of 10586.

III.E.2. Conclusions of Law

Based on the foregoing analysis, and subject to compliance with the existing and amended site certificate conditions described above, the Council finds that the RFA2 micrositing area additions comply with the identified applicable substantive criteria and the directly applicable state statutes and rules and, therefore, comply with the Council's Land Use standard.

III.F. PROTECTED AREAS: OAR 345-022-0040

(1) To issue a site certificate, the Council must find:

(a) The proposed facility will not be located within the boundaries of a protected area designated on or before the date the application for site certificate or request for amendment was determined to be complete under OAR 345-015-0190 or 345-027-0363;

(b) The design, construction and operation of the facility, taking into account mitigation, are not likely to result in significant adverse impact to a protected area designated on or before the date the application for site certificate or request for amendment was determined to be complete under OAR 345-015-0190 or 345-027-0363.

(2) Notwithstanding section (1)(a), the Council may issue a site certificate for:
(a) A facility that includes a transmission line, natural gas pipeline, or water pipeline located in a protected area, if the Council determines that other reasonable alternative routes or sites have been studied and that the proposed route or site is likely to result in fewer adverse impacts to resources or interests protected by Council standards; or

(b) Surface facilities related to an underground gas storage reservoir that have pipelines and injection, withdrawal or monitoring wells and individual wellhead equipment and pumps located in a protected area, if the Council determines that other alternative routes or sites have been studied and are unsuitable.

(3) The provisions of section (1) do not apply to:

(a) A transmission line routed within 500 feet of an existing utility right-of-way containing at least one transmission line with a voltage rating of 115 kilovolts or higher; or

(b) A natural gas pipeline routed within 500 feet of an existing utility right of way containing at least one natural gas pipeline of 8 inches or greater diameter that is operated at a pressure of 125 psig.

(4) The Council shall apply the version of this rule adopted under Administrative Order EFSC 1-2007, filed and effective May 15, 2007, to the review of any Application for Site Certificate or Request for Amendment that was determined to be complete under OAR 345-015-0190 or 345-027-0363 before the effective date of this rule. Nothing in this section waives the obligations of the certificate holder and Council to abide by local ordinances, state law, and other rules of the Council for the construction and operation of energy facilities in effect on the date the site certificate or amended site certificate is executed.[155]

III.F.1. Findings of Fact

The Protected Areas standard first prohibits Council from granting approval of a site certificate if a facility would be located within a designated protected area, unless a proposed facility, or amended facility is a transmission line located within 500 feet of an existing utility right-of-way containing at least one transmission line with a voltage rating of 115 kV or higher; and, if this cannot be met, a demonstration that alternative routes have been studied and determined to result in greater impacts. For facilities, or amended facilities located outside protected areas, including transmission lines, the Protected Areas standard requires the Council to find that, taking into account mitigation, the design, construction and operation of a facility are not likely to result in significant adverse impacts[156] from noise, increased traffic, water use, wastewater disposal, visual impacts of facility structures or plumes, and visual impacts from air emissions to any protected area under OAR 345-022-0040 as defined in OAR 345-001-0010(26). The analysis area is the area within and extending 19.75-miles from the site boundary, including areas outside the state if applicable to the Council's standard. [157]

III.F.1.a Protected Areas in Analysis Area

To identify protected areas impacted by the micrositing area additions in RFA2, the certificate holder reviewed geographic information system (GIS) data, maps, and other information on the

[155] OAR 345-022-0040, effective December 19, 2022.

[156] OAR 345-001-0010(29) defines "Significant" as "…having an important consequence, either alone or in combination with other factors, based upon the magnitude and likelihood of the impact on the affected human population or natural resources, or on the importance of the natural resource affected, considering the context of the action or impact, its intensity and the degree to which possible impacts are caused by the proposed action. Nothing in this definition is intended to require a statistical analysis of the magnitude or likelihood of a particular impact."

[157] See Section II.C.1., of this order and B2HAMD2 ODOE Letter Approving Analysis Areas for pRFA2 OAR 345-027-0360(3) _2023-12-20.

updated categories of protected area as listed in OAR 345-001-0010(26).[158] No new protected areas are within the analysis area for the RFA2 micrositing area additions.[159]

Table 23: *Protected Areas within Analysis Area for ASC Approved Routes, Approved RFA1 Micrositing Area Additions, RFA2 Micrositing Area Additions*, identifies protected areas withing the analysis area from the RFA2 micrositing area additions as well as the proximity of approved ASC routes and RFA1 micrositing area additions, and RFA2 micrositing area additions to each protected area. The *Final Order on ASC* identified 80 protected areas and RFA1 identified 8 additional protected areas that are within the 20-mile RFA1 micrositing area additions analysis area; there are not any new protected areas within the analysis area for RFA2, therefore there is a total of 88 protected areas within the analysis areas for the ASC, RFA1 and RFA2.

[158] The Council's protected area rulemaking, which updated the list of protected areas, the effective dates, and land management agency contact information, became effective on December 19, 2022. Council's approval of the Boardman to Hemingway Transmission Line Final Order on ASC was September 27, 2022, therefore the previous protected area rule language applied to Council's approval of the ASC. The review of protected areas for RFA2 is limited to the potential impacts from RFA2 micrositing areas to protected areas and not a re-evaluation of previously approved routes, roads and facility components.

[159] B2HAMD2Doc2 RFA2 2024-04-11, Section 7.1.4.

Table 23: Protected Areas within Analysis Area for ASC Approved Routes, Approved RFA1 Micrositing Area Additions, RFA2 Micrositing Area Additions

Protected Areas	Protected Area Category/Management Agency	County	ASC Approved Route		ASC Approved Alternative Route		RFA1 Approved Site Boundary/Micrositing Area Addition		RFA2 Micrositing Area Addition	
			Distance	Direction	Distance	Direction	Distance	Direction	Distance	Direction
Blue Mountain Forest State Scenic Corridor	State Parks and Waysides/OPRD	Umatilla, Union	0 mi[1]		3.7 mi	NW	0 mi[1] (Access Road Crosses)		0 mi[1] (Pulling and Tensioning Area Crosses)	
Ladd Marsh WA/SNHA	State Wildlife Areas and Management Areas/ODFW	Union	0 mi[1]		208.3 ft	E	4.5 mi (Access Road)	NW	0.1 mi (Multi-Use Area)	NE
Oregon Trail ACEC - NHOTIC Parcel	BLM ACECs/BLM	Baker	106 ft[160]	NE	-[2]	-[2]	2.1 mi (Access Road)	SW	0.1 mi NW (ASC Approved Route Revised 230-kV Rebuild)	NW
Owyhee River Below the Dam ACEC	BLM ACECs/BLM	Malheur	249 ft	SW	7.6 mi	SE	1.9 mi (Access Road)	E	<0.1 mi[5] SW (Pulling and Tensioning)	
Oregon Trail ACEC - Straw Ranch 1 Parcel	BLM ACECs/BLM	Baker	0.1 mi	SW	-[2]	-[2]	0.1 mi (Access Road)	E	0.2 mi NE (Pulling and Tensioning)	NE
Oregon Trail ACEC - Birch Creek parcel	BLM ACECs/BLM	Malheur	0.2 mi	SW	-[2]	-[2]	0.3 mi (Access Road)	E	0.2 mi (Existing Road, Substantial Modification, 21-70% Improvements)	NE
Hilgard Junction State Recreation Area	State Parks and Waysides/OPRD	Union	0.3 mi	E	0.4 mi	N	0.6 mi (Access Road)	SE	0.1 mi[5] (Rock Creek Alternative 1 Distribution Power Line to Communication Station)	SE
Deer Flat National Wildlife Refuge (including Snake River Island Units)	National and State Wildlife Refuge/ USFWS	Malheur	0.4 mi	E	12.2 mi	E	0.6 mi (Access Road)	SW	0.1 mi (Existing Road, Substantial Modification, 21-70% Improvements)	NW

[160] *Final Order on ASC* Table PA-1: Protected Areas within Analysis Area and Distance from Approved and Alternative Transmission Line Routes, identified the distance of the facility centerline to the boundary of NHOTIC as 123.4 feet. However, both the *Final Order on ASC* Table SR-1 Scenic Resources within Analysis Area and Section IV.K.1, Recreation, page 559 state that the distance of the facility centerline to NHOTIC outer boundary is 106 feet (0.02 miles). This is also reiterated in Idaho Power's Closing Arguments for Contested Case Issues R-1, R-2, R-3, R-4, SR-2, SR-3, and SR-7, 2022-02-28, beginning on page 36.

Table 23: Protected Areas within Analysis Area for ASC Approved Routes, Approved RFA1 Micrositing Area Additions, RFA2 Micrositing Area Additions

Protected Areas	Protected Area Category/Management Agency	County	ASC Approved Route		ASC Approved Alternative Route		RFA1 Approved Site Boundary/Micrositing Area Addition		RFA2 Micrositing Area Addition	
			Distance	Direction	Distance	Direction	Distance	Direction	Distance	Direction
Oregon Trail ACEC - Tub Mountain Parcel	BLM ACECs/BLM	Malheur	0.5 mi	W	17.2 mi	N	1.5 mi (Access Road)	E	1.0 mi (Pulling and Tensioning)	SE
Columbia Basin - Coyote Springs WA	State Wildlife Areas and Management Areas/ODFW	Morrow	0.5 mi	W	8.9 mi	N	12.2 mi (Access Road)	S	0.4 mi E (Pulling and Tensioning)	E
Farewell Bend State Recreation Area	State Parks and Waysides/OPRD	Baker	0.7 mi	NE	-[2]	-[2]	0.4 mi (Access Road)	W	0.6 mi (Pulling and Tensioning)	SE
Oregon Trail ACEC - Blue Mountain Parcel	BLM ACECs/BLM	Union	0.9 mi	NE	6.7 mi	NW	0.9 mi (Access Road)	SW	1.0 mi (Pulling and Tensioning)	W
Oregon Trail ACEC - Straw Ranch 2 Parcel	BLM ACECs/BLM	Baker	1.1 mi	NE	-[2]	-[2]	1.9 mi (Access Road)	SE	1.0 mi (Pulling and Tensioning)	SW
Oregon Trail ACEC - Powell Creek Parcel	BLM ACECs/BLM	Baker	1.2 mi	E	-[2]	-[2]	2.2 mi (Access Road)	W	1.0 mi (Pulling and Tensioning)	SW
Umatilla National Wildlife Refuge (NWR)	National and State Wildlife Refuge/ USFWS	Morrow	1.3 mi	N	9.6 mi	N	12.7 mi (Access Road)	S	1.4 mi (Pulling and Tensioning])	S
Powder River WSR (Scenic)	Scenic Waterway/BLM	Baker, Union	1.4 mi	E	14.8 mi	SE	9.8 mi (Access Road)	SW	1.3 mi (Existing Road, Substantial Modification, 71-100% Improvements)	W
Powder River Canyon ACEC	BLM ACECs/BLM	Baker	1.4 mi	E	16.3 mi	SE	8.8 mi (Access Road)	SW	1.1 mi (Existing Road, Substantial Modification, 71-100% Improvements)	SW
Lindsay Prairie Preserve/ SNHA	State Natural Heritage Areas/TNC	Morrow	1.6 mi	W	3.9 mi	SW	1.3 mi (Little Juniper Canyon Transmission Line Alternative)	E	2.8 mi (Bombing Range SE Transmission Centerline)	NE

Table 23: Protected Areas within Analysis Area for ASC Approved Routes, Approved RFA1 Micrositing Area Additions, RFA2 Micrositing Area Additions

Protected Areas	Protected Area Category/Management Agency	County	ASC Approved Route		ASC Approved Alternative Route		RFA1 Approved Site Boundary/Micrositing Area Addition		RFA2 Micrositing Area Addition	
			Distance	Direction	Distance	Direction	Distance	Direction	Distance	Direction
Glass Hill Preserve/ SNHA	State Natural Area/Blue Mtn. Land Trust	Union	x[2,3]	x[2,3]	x[2,3]	x[2,3]	1.6 mi (Access Road)	W	136.6 feet (Baldy Alternative)	NW
Boardman RNA	Lands Designated in Federal Management Plan/USDOD	Morrow	x[2,3]	x[2,3]	x[2,3]	x[2,3]	2.0 mi (Access Road)	S	0.1 mi (West of Bombing Range Road Alternative 1 Pulling and Tensioning)	E
Five Points Creek (Wild)	Scenic Waterway/USFS	Umatilla, Union	2.0 mi	NE	2.1 mi	NE	2.4 mi (Access Road)	S	1.9 mi (Rock Creek Alternative 1 Distribution Power Line to Communication Station)	S
South Alkali Sand Hills ACEC	BLM ACECs/BLM	Malheur	2.1 mi	E	12.6 mi	N	5.8 mi (Access Road)	W	2.0 mi (Pulling and Tensioning)	NW
Oregon Trail ACEC - White Swan Parcel	BLM ACECs/BLM	Baker	2.9 mi	E	-[2]	-[2]	2.9 mi (Access Road)	S	2.8 mi (Existing Road, Substantial Modification, 21-70% Improvements)	SW
Emigrant Springs State Heritage Area	State Parks and Waysides/OPRD	Umatilla	3.3 mi	N	16.5 mi	NW	2.9 mi (Access Road)	SW	3.2 mi (Pulling and Tensioning)	SW
Succor Creek State Natural Area/SNA	State Parks and Waysides/OPRD	Malheur	3.4 mi	SW	-[2]	-[2]	3.5 mi (Access Road)	NE	3.3 mi (Pulling and Tensioning)	NE
Red Bridge State Wayside	State Parks and Waysides/OPRD	Union	4.8 mi	SW	-[2]	-[2]	5.2 mi (Access Road)	NE	4.9 mi (Wallowa Whitman NF H-Frame [Pulling and Tensioning])	NE
Owyhee Views ACEC	BLM ACECs/BLM	Malheur	5.3 mi	SW	14.7 mi	S	7.2 mi (Access Road)	E	5.5 mi (Existing Road, Substantial Modification, 21-70% Improvements)	NE

Table 23: Protected Areas within Analysis Area for ASC Approved Routes, Approved RFA1 Micrositing Area Additions, RFA2 Micrositing Area Additions

Protected Areas	Protected Area Category/Management Agency	County	ASC Approved Route		ASC Approved Alternative Route		RFA1 Approved Site Boundary/Micrositing Area Addition		RFA2 Micrositing Area Addition	
			Distance	Direction	Distance	Direction	Distance	Direction	Distance	Direction
Umatilla Hatchery	National and State Fish Hatcheries/ODFW	Morrow	5.5 mi	N	15.0 mi	NE	18.3 mi (Access Road)	S	5.8 mi (Pulling and Tensioning)	SW
Oregon Trail ACEC - Keeney Pass Parcel	BLM ACECs/BLM	Malheur	5.7 mi	E	5.7 mi	NE	5.4 mi (Access Road)	W	5.6 mi (Pulling and Tensioning)	SW
Lake Owyhee State Park	State Parks and Waysides/OPRD	Malheur	6.0 mi	W	15.4 mi	S	8.1 mi (Access Road)	E	6.1 mi (Existing Road, Substantial Modification, 21-70% Improvements)	NE
Boardman/Willow Creek RNA	Lands Designated in Federal Management Plan/ODFW	Morrow	x[2,3]	x[2,3]	x[2,3]	x[2,3]	6.1 mi (Access Road)	E	6.1 mi (Route in Morrow County)	E
Eastern Oregon Ag Research Station	Agricultural Experimental Station	Union	6.4 mi	NE	7.0 mi	E	-[2]	-[2]	-[2]	
Irrigon Hatchery	National and State Fish Hatcheries/ODFW	Morrow	6.6 mi	N	14.7 mi	NE	17.7 mi (Access Road)	SW	7.0 mi (Pulling and Tensioning)	SW
Jump Creek Canyon ACEC	BLM ACECs	Idaho	6.8 mi	SE	-[2]	-[2]	6.9 mi (Access Road)	NW	8.3 mi (Pulling and Tensioning)	NW
Birch Creek Cove RNA	Lands Designated in Federal Management Plan/USFS	Umatilla	x[2,3]	x[2,3]	x[2,3]	x[2,3]	6.9 mi (Access Road)	N	7.3 mi (Pulling and Tensioning)	NE
Rogers Wildlife Area (WA)	State Wildlife Areas and Management Areas/ODFW	Malheur	7.1 mi	E	12.0 mi	SE	6.7 mi (Access Road)	SW	5.2 mi (Existing Road, Substantial Modification, 21-70% Improvements)	SW
Columbia Basin - Irrigon WA	State Wildlife Areas and Management Areas/ODFW	Morrow, Umatilla	7.4 mi	NE	14.9 mi	NE	17.9 mi (Access Road)	SW	7.7 mi (Pulling and Tensioning)	SW
Elkhorn - North Powder WA Tract	State Wildlife Areas and Management Areas/ODFW	Baker, Union	7.5 mi	W	7.8 mi	S	7.5 mi (Access Road)	NE	7.0 mi (Multi-Use Area)	E

Table 23: Protected Areas within Analysis Area for ASC Approved Routes, Approved RFA1 Micrositing Area Additions, RFA2 Micrositing Area Additions

Protected Areas	Protected Area Category/Management Agency	County	ASC Approved Route		ASC Approved Alternative Route		RFA1 Approved Site Boundary/Micrositing Area Addition		RFA2 Micrositing Area Addition	
			Distance	Direction	Distance	Direction	Distance	Direction	Distance	Direction
Catherine Creek State Park	State Parks and Waysides/OPRD	Union	7.7 mi	NE	-[2]	-[2]	9.0 mi (Access Road)	W	7.6 mi (Pulling and Tensioning)	SW
Elkhorn - Auburn WA Tract	State Wildlife Areas and Management Areas/ODFW	Baker	7.9 mi	SW	-[2]	-[2]	8.4 mi (Access Road)	NE	7.9 mi (Existing Road, Substantial Modification, 21-70% Improvements)	NE
Starkey Experimental Forest/Game Management Area	Experiment Area/USFS	Umatilla, Union	8.0 mi	S	12.8 mi	W	8.7 mi (Access Road)	NW	8.0 mi (Sevenmile Creek Alternative Transmission Centerline)	NW
Battle Mountain Forest State Scenic Corridor	State Parks and Waysides/OPRD	Umatilla	8.0 mi	S	-[2]	-[2]	8.4 mi (Access Road)	N	7.4 mi (Rugg Canyon Alternative Transmission Centerline)	N
McKay Creek National Wildlife Refuge	National and State Wildlife Refuge/USFWS	Umatilla	9.7 mi	N	-[2]	-[2]	9.6 mi (Access Road)	S	4.4 mi (Multi-Use Area)	SW
Unity Forest State Scenic Corridor	State Parks and Waysides/OPRD	Baker	10 mi	W	-[2]	-[2]	10.6 mi (Access Road)	NE	10.0 mi (Existing Road, Substantial Modification, 21-70% Improvements)	NE
Government Draw RNA	Lands Designated in Federal Management Plan/USFS	Union	x[2,3]	x[2,3]	x[2,3]	x[2,3]	10.8 mi (Access Road)	NW	9.4 mi (Sevenmile Creek Alternative Transmission Centerline)	NW
Upper Grande Ronde River (Recreational)	Scenic Waterway/USFS	Union	10.9 mi	SW	10.6 mi	S	11.0 mi (Access Road)	NE	10.8 mi (Rock Creek Alternative 2 Transmission Centerline)	NE
Oregon Trail ACEC - Echo Meadows Parcel	BLM ACECs/BLM	Umatilla	11.1 mi	NE	15.2 mi	E	10.9 mi (Access Road)	NE	4.1 mi (Multi-Use Area)	N

Table 23: Protected Areas within Analysis Area for ASC Approved Routes, Approved RFA1 Micrositing Area Additions, RFA2 Micrositing Area Additions

Protected Areas	Protected Area Category/Management Agency	County	ASC Approved Route		ASC Approved Alternative Route		RFA1 Approved Site Boundary/Micrositing Area Addition		RFA2 Micrositing Area Addition	
			Distance	Direction	Distance	Direction	Distance	Direction	Distance	Direction
Keating Riparian ACEC/RNA	BLM ACECs/BLM	Baker	11.2 mi	E	-[2]	-[2]	15.0 mi (Access Road)	W	11.2 mi (Highway 203 Crossing Alternative Tower [Single Circuit 500kV Lattice – Tangent)	SW
North Fork Catherine Creek (Recreational)	Scenic Waterway/USFS	Union	11.3 mi	E	17.2 mi	E	13.6 mi (Access Road)	W	11.2 mi (Pulling and Tensioning)	SW
Honeycombs RNA	BLM ACECs/BLM	Malheur	11.3 mi	SW	-[2]	-[2]	11.5 mi (Access Road)	NE	11.2 mi (Pulling and Tensioning)	NE
Squaw Creek RNA	BLM ACECs/BLM	Idaho	11.4 mi	SE	-[2]	-[2]	11.5 mi (Access Road)	NW	12.9 mi (Pulling and Tensioning)	NW
Elkhorn - Roth WA Tract	State Wildlife Areas and Management Areas/ODFW	Baker	11.6 mi	W	18.4 mi	S	13.1 mi (Access Road)	SE	9.7 mi (Multi-Use Area)	NE
Ontario State Recreation Site	State Parks and Waysides/OPRD	Malheur	11.9 mi	E	-[2]	-[2]	13.9 mi (Access Road)	NW	11.8 mi (Pulling and Tensioning)	NW
Elkhorn - Muddy Creek WA Tract	State Wildlife Areas and Management Areas/ODFW	Baker	12.1 mi	W	16.5 mi	S	14.5 mi (Access Road)	NE	9.0 mi (Multi-Use Area)	NE
Payette River Wildlife Area	State Wildlife Refuge or Management Areas/ODFW	Malheur	x[2,3]	x[2,3]	x[2,3]	x[2,3]	12.7 mi (Access Road)	NW	11.3 mi (Pulling and Tensioning)	W
Malheur Experiment Station	Agricultural Experimental Station/OSU	Malheur	13.1 mi	E	19.8 mi	NE	15.5 mi (Access Road)	NW	13.0 mi (Pulling and Tensioning)	NW
Hunt Mountain ACEC	BLM ACECs/BLM	Baker	13.1 mi	W	19.7 mi	W	12.9 mi (Access Road)	W	11.3 mi (Multi-Use Area)	NE
North Fork Catherine Creek (Wild)	Scenic Waterway/USFS	Union	13.4 mi	E	18.3 mi	E	15.2 mi (Access Road)	W	13.3 mi (Pulling and Tensioning)	SW

Table 23: Protected Areas within Analysis Area for ASC Approved Routes, Approved RFA1 Micrositing Area Additions, RFA2 Micrositing Area Additions

Protected Areas	Protected Area Category/Management Agency	County	ASC Approved Route		ASC Approved Alternative Route		RFA1 Approved Site Boundary/Micrositing Area Addition		RFA2 Micrositing Area Addition	
			Distance	Direction	Distance	Direction	Distance	Direction	Distance	Direction
Eagle Cap Wilderness	Wilderness area/USFS	Baker, Union, Wallowa	13.7 mi	NE	16.6 mi	NE	14.4 mi (Access Road)	W	13.7 mi (Pulling and Tensioning)	SW
Long-billed Curlew Habitat Area ACEC	BLM ACECs/BLM	Idaho	14.7 mi	E	19.6 mi	E	12.4 mi (Access Road)	E	9.9 mi (Existing Road, Substantial Modification, 21-70% Improvements)	SW
Dry Creek Gorge ACEC	BLM ACECs/BLM	Malheur	15 mi	W	18.7 mi	S	15.9 mi (Access Road)	NE	15.1 mi (Pulling and Tensioning)	NE
South Ridge Bully Creek RNA	BLM ACECs/BLM	Malheur	15.1 mi	W	-[2]	-[2]	17.4 mi (Access Road)	SE	15.2 mi (Cottonwood Creek Alternative Pulling and Tensioning)	SE
North Powder River (Scenic)	Scenic Waterway/USFS	Baker	15.2 mi	W	17.8 mi	S	16.5 mi (Access Road)	NE	11.7 mi (Multi-Use Area)	NE
McBride Creek RNA	BLM ACECs/BLM	Idaho	15.3 mi	S	-[2]	-[2]	15.4 mi (Access Road)	N	16.4 mi (Pulling and Tensioning)	N
Upper Grande Ronde River (Wild)	Scenic Waterway/USFS	Grant, Union	15.7 mi	SW	14.9 mi	S	16.4 mi (Access Road)	NE	14.5 mi (Baldy Alternative Tower Single Circuit 500kV Lattice – Dead-end)	NE
Columbia Basin - Power City WA	State Wildlife Areas and Management Areas	Umatilla	15.7 mi	NE	-[2]	-[2]	-[2]	-[2]	-[2]	
Hermiston Ag Research and Extension Center	Agricultural Experimental Station/OSU	Umatilla	15.8 mi	E	18.6 mi	E	19.3 mi (Access Road)	S	3.8 mi (Multi-Use Area)	SW
Indian Creek RNA	Lands Designated in Federal Management Plan/USFS	Union	x[2,3]	x[2,3]	x[2,3]	x[2,3]	16.3 mi (Access Road)	SW	12.2 mi (Multi-Use Area)	SW
Columbia Basin Ag Research Station	Agricultural Experimental Station/OSU	Sherman, Umatilla	16.6 mi	N	-[2]	-[2]	17.7 mi (Access Road)	S	11.7 mi (Multi-Use Area)	SW

Table 23: Protected Areas within Analysis Area for ASC Approved Routes, Approved RFA1 Micrositing Area Additions, RFA2 Micrositing Area Additions

Protected Areas	Protected Area Category/Management Agency	County	ASC Approved Route		ASC Approved Alternative Route		RFA1 Approved Site Boundary/Micrositing Area Addition		RFA2 Micrositing Area Addition	
			Distance	Direction	Distance	Direction	Distance	Direction	Distance	Direction
Eagle Creek (Recreational)	Scenic Waterway	Baker	16.7 mi	E	-[2]	-[2]	-[2]	-[2]	-[2]	
Rebecca Sand Hill RNA/ACEC	Lands Designated in Federal Management Plan/BLM	Idaho/Washington	X[2,3]	x[2,3]	x[2,3]	x[2,3]	16.8 mi (Access Road)	W	16.7 mi (Existing Road, Substantial Modification, 21-70% Improvements)	W
Hixon Columbian Sharp-tailed Grouse Habitat Area ACEC	BLM ACECs/BLM	Idaho/Washington	17.7 mi	NE	-[2]	-[2]	17.3 mi (Access Road)	SW	16.5 mi (Multi-Use Area)	SW
North Ridge Bully Creek RNA	BLM ACECs/BLM	Malheur	17.7 mi	W	-[2]	-[2]	20.0 mi (Access Road)	SE	17.8 mi (Cottonwood Creek Alternative Pulling and Tensioning)	SE
Horn Butte ACEC	BLM ACECs/BLM	Gilliam, Morrow	18.1 mi	W	18.2 mi	W	18.1 mi (Access Road)	W	18.2 mi (Route in Morrow County)	E
Leslie Gulch ACEC	BLM ACECs/BLM	Idaho	18.1 mi	SW	-[2]	-[2]	18.2 mi (Access Road)	NE	18.4 mi (Pulling and Tensioning)	NE
Columbia Basin - Willow Creek WA/SNHA	State Wildlife Areas and Management Areas/ODFW	Gilliam	18.3 mi	W	18.8 mi	NW	19.9 mi (Access Road)	SE	18.2 mi (Boardman Junction Transmission Centerline)	E
North Fork Umatilla Wilderness	Wilderness area/USFS	Umatilla, Union	18.7 mi	NE	-[2]	-[2]	18.7 mi (Access Road)	SW	18.6 mi (Pulling and Tensioning)	SW
North Fork John Day Wilderness	Wilderness area/USFS	Baker, Grant, Umatilla	19.1 mi	SW	19.2 mi	SW	19.1 mi (Access Road)	NE	15.8 mi NE (Multi-Use Area)	NE
Hammond Hill Sand Hills RNA	BLM ACECs/BLM	Malheur	19.2 mi	W	-[2]	-[2]	19.5 mi (Access Road)	NE	19.1 mi (Pulling and Tensioning)	NE
Ukiah-Dale Forest State Scenic Corridor	State Parks and Waysides/OPRD	Umatilla	19.3 mi	S	-[2]	-[2]	19.5 mi (Access Road)	N	18.8 mi (Rugg Canyon Alternative	N

Table 23: Protected Areas within Analysis Area for ASC Approved Routes, Approved RFA1 Micrositing Area Additions, RFA2 Micrositing Area Additions

Protected Areas	Protected Area Category/Management Agency	County	ASC Approved Route		ASC Approved Alternative Route		RFA1 Approved Site Boundary/Micrositing Area Addition		RFA2 Micrositing Area Addition	
			Distance	Direction	Distance	Direction	Distance	Direction	Distance	Direction
									Transmission Centerline)	
Minam River (Wild)	Scenic Waterway	Union, Wallowa	19.4 mi	E	-[2]	-[2]	-[2]	-[2]	-[2]	
The Minam Scenic Waterway	Scenic Waterway	Union, Wallowa	19.6 mi	E	-[2]	-[2]	-[2]	-[2]	-[2]	
Cold Springs National Wildlife Refuge	National and State Wildlife Refuge	Umatilla	20.9 mi[4]	NE	-[2]	-[2]	-[2]	-[2]	-[2]	
Sumpter Valley Dredge SNHA	State Natural Heritage Areas	Baker	21.3 mi[4]	W	-[2]	-[2]	19.5 mi (Access Road)	E	-[2]	
Hat Rock State Park	State Parks and Waysides	Umatilla	21.3 mi[4]	E	-[2]	-[2]	-[2]	-[2]	-[2]	
North Fork John Day River (Recreational)	Scenic Waterway	Grant, Umatilla	21.4 mi[4]	W	-[2]	-[2]	-[2]	-[2]	-[2]	
North Fork John Day River (Wild)	Scenic Waterway	Baker, Grant	21.7 mi[4]	W	-[2]	-[2]	19.1 mi (Access Road)	NE	-[2]	
McNary National Wildlife Refuge	National and State Wildlife Refuge	Umatilla	24.5 mi[4]	NE	-[2]	-[2]	-[2]	-[2]	-[2]	

1. Crossing of the protected area is allowed per OAR 345-022-0040(2), (3).
2. Outside analysis area for route or related or supporting facility.
3. Potential impacts from approved routes in *Final Order on ASC* not evaluated for protected area.
4. Location of protected areas associated with transmission line routes is relative to each route segment's centerline, not the micrositing area/site boundary. There may be values greater than 20 miles listed because temporary Project features (multi-use areas, pulling and tensioning sites) are located several miles away from route centerlines.
5. RFA2 Micrositing Area Additions are immediately adjacent to the given resource's boundary but do not cross the resource.

Source: Derived from *Final Order on ASC* Table PA-1: Protected Areas within Analysis Area and Distance from Approved and Alternative Transmission Line Routes and RFA1 Attachment 7-2, Table 1. Summary of Impact Determinations for Protected Areas; B2HAMD2 RFA2, Attachment 7-2.

Because there are not any newly identified protected areas within the analysis area of the micrositing area additions in RFA2, the descriptions of the protected areas within the analysis areas are those as summarized in the *Final Order on ASC* and *Final Order on RFA1* and described in the ASC; and RFA1 continue to be applicable to RFA2 and are not further described in this order.

III.F.1.b Potential Impacts to Protected Areas

III.F.1.b.1 Protected Areas Crossed by RFA2 Micrositing Area Additions – Exceptions (OAR 345-022-0040(2) and (3))

RFA2 includes a pulling and tensioning site that would also cross the Blue Mountain Forest State Scenic Corridor (see Figure 4-2; Map 31; Pulling and Tensioning Site 2/345). Pulling and tensioning site 2/345 is associated with its counterpart 2/343. Both of these pulling and tensioning sites are a small deviation from an angle in the previously approved route. The *Final Order on ASC* evaluated the facility crossing the Blue Mountain Forest State Scenic Corridor and Council found that the facility, including related or supporting facilities, would be located entirely within a utility corridor designated by the Wallowa Whitman National Forest as a "Power and Transportation Facility Retention Corridor;" and the analysis of alternative routes that would be more impactful was sufficient to allow the facility to be sited through the Blue Mountain Forest State Scenic Corridor in accordance with OAR 345-022-0040(2).[161] Council finds that the minor changes in the location of the pulling and tensioning site, which significantly overlap within the already approved site boundary, do not impact Council's previous findings of compliance with OAR 345-022-0040(2).

Protected Areas Condition 1 (Condition GEN-PA-01) requires that the certificate holder coordinate construction activities in Ladd Marsh Wildlife Area within ODFW's wildlife area manager, Protected Areas Condition 2 (Condition GEN-PA-02) requires that the final facility design avoid Ladd Marsh. These conditions apply to the certificate holder but are not implicated by the RFA2 micrositing area additions.

III.F.1.b.2 Potential Noise Impacts

As summarized in Section III.R.1., *Noise Control Regulations* of this order, predicted noise levels associated with the combined operation of five pieces of construction equipment is 83 dBA at 50 feet, 79 dBA at 100 feet, and attenuates to 46 dBA at 6,400 feet.[162] For reference, classroom chatter has an approximate dBA of 70 and a soft whisper is a dBA of approximately 40 dBA. The certificate holder provides an evaluation of noise at protected areas within the analysis area for RFA2 associated with each road and transmission line alternative in RFA2 Attachment 7-2, Table

[161] B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, page 297; B2HAMD1Doc1 Final Order 2023-09-22_Signed_No Attachments 2023-09-22, page 139.

[162] B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, page 299 and Table PA-2: Predicted Noise Levels from General Construction Activities.

1: *Summary of Impact Determinations for Protected Areas*. Council previously found that protected areas within approximately one-half mile from facility construction may experience short term impacts.[163] Twelve RFA2 micrositing area additions would be located within 0.5 miles of a protected area.[164] Noise from road construction would predominately result from construction vehicles and equipment (i.e. backhoe, dump truck, grader, pickup truck, and tractor), which generally operate at lower noise levels than other construction-related noise (i.e. blasting, augers). These impacts would be temporary and would progress along the corridor of the transmission line route, and no area would be exposed to construction noise for the entire construction period, and therefore would be less than significant. Further, noise also attenuates with distance, topography, and vegetative screening so construction noise at protected areas within one-half mile of the facility may be lower during actual facility construction. Council finds that construction noise experienced at protected areas from construction the RFA2 changes would be similar to those Council evaluated and approved in the *Final Order on ASC* and *RFA1*, and any noise would be for a short duration and temporary.

Operation

Operational noise includes potential corona noise generated from the transmission line and operations and maintenance (O&M) activities. Maintenance activities would include vegetation management, transmission line inspections, transmission line repair and maintenance activities, and access road repair. Maintenance activities are temporary and occur infrequently during facility operation, therefore not anticipated to have an impact on protected areas.

Final Order on ASC states that under typical operating conditions, corona noise from the transmission line is estimated at 27 dBA at the edge of the facility right of way (ROW). [165] A soft whisper three feet away has a noise level of approximately 40 dBA and a conversation at three feet away is approximately 60 dBA; 27 dBA is barely audible and would not cause a significant noise impact at any protected area. During certain foul weather conditions (light rain), when there is low wind, and low ambient environmental noise, corona noise could be greater than 27 dBA at the edge of the ROW and may be audible at certain locations in protected areas very near the RFA2 micrositing areas. However, the maximum sound level associated with the RFA2

[163] B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, page 301.

[164] Noise impact assessments predominantly is associated with users, managers, or visitors to a protected area, however, for protected areas that are managed for habitat and wildlife, the impact assessment also applies to wildlife.

[165] B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, pp. 301-302.

transmission line routes, in a "worse-case scenario" (during foul weather/low ambient noise) will be no greater than 45 dBA at any noise sensitive receptor.[166, 167]

The revised 230-kV rebuild in RFA2 would be located 0.1 miles (528 feet) from the outer boundary of the Oregon Trail ACEC, National Historic Oregon Trail Interpretive Center (NHOTIC) parcel. The revised portion of the rebuilding of the existing 230kV transmission line would be located approximately 400 feet further away from the parcel than the previously approved rebuild, therefore, any potential noise impacts would be less than any noise associated with the approved route/rebuild. The analysis provided in the *Final Order on ASC* applicable to NHOTIC is also applicable to the RFA2 changes, mainly that noise would not be audible from the NHOTIC center itself, and users of trail would not likely be using the trail during times of low ambient noise (e.g. 12:00 a.m. to 5:00 a.m.), or rainy conditions.[168]

A distribution line to a communication station associated with the Rock Creek Alternative 1, would be hung from existing poles to the extent practicable, and would be located 0.1 miles (528 feet) away from the Hilgard Junction State Recreation Area.[169] Distribution supply lines are typically 34.5-kV or lower and carried on wood poles.[170] Corona typically becomes a design concern for transmission lines at 345-kV and above, therefore would not be a concern for the distribution line.[171]

The RFA2 Baldy Alternative is 136.6 feet away from the Glass Hill Preserve State Natural Area. As discussed in the *Final Order on RFA1*, the Glass Hill Preserve/SNHA was established in 2020 and is part of a privately owned nature reserve under a conservation easement(s), managed for habitat and hunting by the landowner.[172] Conservation easements may allow public hunting and

[166] B2HAMD2Doc2 RFA2 2024-04-11, Attachment 7-19; Table2. Operational noise is discussed in the context of the DEQ noise regulations is to inform the potential noise impacts under the Council's Protected Areas standard, however, the analysis or compliance with the DEQ noise rules is not a requirement of the Protected Areas standard. OAR 340-035-0015(38) defines Noise Sensitive Property as "real property normally used for sleeping, or normally used as schools, churches, hospitals or public libraries…" Certificate holder's noise analysis refers to Noise Sensitive Properties as Noise Sensitive Receptors or NSRs.

[167] The noise analysis evaluates the "worst-case" noise generated from operation of the RFA2 transmission line routes by using baseline ambient noise levels during the quietest time of the night (12:00 a.m. to 5:00 a.m.), which for the noise analysis is assumed to be present at all times of the day. Such is not the case as during the daytime ambient noise levels are higher because they include noise from traffic, wildlife, and agricultural activities, etc.

[168] B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, pp. 302-303, and Table PA-3.

[169] B2HAMD2Doc2 RFA2 2024-04-11, Attachment 7-2.

[170] B2HAPPDoc3-3 ASC 02a_Exhibit_B_Project Description_ASC 2018-09-28, Section 3.2.2.3.

[171] B2HAPPDoc3-41 ASC 24_Exhibit X_Noise_ASC 2018-09-28, Section 3.3.2.1.

[172] Information in the record for the facility identifies the land management agency for the Glass Hill SNA as Blue Mountain Land Trust/ Blue Mountain Conservancy. However, in responses to pRFA2 RAIs, certificate holder indicates that the Blue Mountains Conservancy stated that although they have a record for the property/easement, they do not have any further information regarding usage or management plans. In a November 2020 Oregon Parks and Recreation Commission Natural Areas Program Dedication – Glass Hill, it states "The 1230-acre property is owned and managed by a private citizen, Dr. Joel Rice…" https://www.oregon.gov/oprd/CAC/Documents/2020-11-packetOPRC.pdf, Agenda Item 8b It appears the property

fishing by permission and open public access to the area is unclear.[173] This protected area is designated as a protected area for the research and protection of wildlife and sensitive plant resources; the low-level of corona noise expected to occur during certain foul weather conditions, is unlikely to impact those resources protected within the area. Any noise generated from the RFA2 route during the daytime hours would likely be masked by the higher ambient noise levels that occur during the daytime hours.

For the reasons presented above, and as found in the *Final Order on ASC* and *RFA1*, Council finds that the RFA2 transmission line routes are not likely to result in significant adverse impact from noise to protected areas.

III.F.1.b.3 Potential Traffic-Related Impacts

Construction

Construction of the roads and transmission line alternatives in RFA2 would cause short-term impacts to those protected areas that are near the micrositing area additions or where construction traffic routes pass near those protected areas, however, these potential impacts would be similar or less than Council previously evaluated and approved. Council previously found that traffic impacts would be short-term and limited in duration. Some protected areas would have no impacts from construction due to the distance from the micrositing area additions as well as planned haul and commuting routes. Some protected areas would have minor construction-related traffic impacts due to proximity of the micrositing area additions, or haul/commute routes, near the protected areas. The certificate holder provides an evaluation of traffic impacts at protected areas in the analysis area for RFA2 associated with each road and transmission line alternative in RFA2 Attachment 7-2, Table 1: *Summary of Impact Determinations for Protected Areas.* Attachment 7-2, Table 1 provides a description of the facility components associated with the proximity to each protected area and describes the haul routes that would be used, and alternative routes used to indicate that there would be a less than significant impact. Public Services Condition 2 requires the finalization of county-specific Transportation and Traffic Plan(s), which would include measures that would reduce construction related traffic impacts such as flagging, posting caution signs and using pilot cars. This condition continues to apply to the facility and certificate holder, and Council finds that the

and adjacent properties have participated in multiple programs administered by various agencies, including ODFW's Access and Habitat Program. https://www.dfw.state.or.us/lands/AH/minutes/2022/April/Glass%20Hill%20Rice%20for%20the%20web.pdf. Comments on the RFA2 DPO from Ms. Susan Geer indicate that she and Joel Rice are the land managers for the area. B2HAMD2Doc10-16.1 DPO Public Comment_Geer 2024-05-31.

[173] B2HAMD1Doc1 Final Order 2023-09-22_Signed_No Attachments 2023-09-22, page 124. Communication between Kristen Gulick, Tetra Tech, and Lindsey Wise, Oregon State University, Institute for Natural Resources, July 13, 2022, and Meghan Ballard, Blue Mountains Conservancy, July 23, 2022, Attachment 7-2. B2HAMD1 RFA1 2023-06-08. Section 7.1.4. Comments from Ms. Geer on AMD1 DPO indicated that the Glass Hill Preserve may be available for the public to access, however, 2022 ODFW Access and Habitat Program indicates that hunting access is based on permission, therefore open public access to the area remains unclear. https://www.dfw.state.or.us/lands/AH/minutes/2022/April/Glass%20Hill%20Rice%20for%20the%20web.pdf.

RFA2 changes would not cause significant traffic impacts to protected areas within the analysis area.

Operation

In the *Final Order on ASC* and *RFA1*, Council previously found that there would not be impacts to protected areas from operation of the facility anticipated during facility operation. Facility operation would involve very infrequent maintenance and inspections by the certificate holder, expected at one or two inspections per year. Council finds that the RFA2 changes would not be different from the *Final Order on ASC* and *RFA1*.

III.F.1.b.4 Potential Impacts from Water Use and Wastewater Disposal

Construction and Operation

Council previously found that construction-related water use would include approximately 36.5 million gallons over an approximately 36-month period for transmission line structures. Council also previously found that construction-related wastewater associated with foundation slurry and concrete washout would be properly managed and disposed of and would not be likely to result in significant adverse impacts to any protected areas. If selected for construction, the additional transmission line routes would be approximately 0.4 miles less than the routes they would replace approved in the ASC. Therefore, Council finds that this change would not alter its previous findings, and that water and wastewater generated from construction and operation of the facility, with RFA2 changes, would not impact protected areas.

III.F.1.b.5 Potential Visual Impacts from Facility Structures

III.F.1.b.5.1 *Methodology for Visual Impact Assessment*

As described in Section I.A., *Scope of Council's Review*, in this order, for amendments to the site certificate that would add area to the site boundary, Council must determine whether the preponderance of evidence on the record supports the conclusion that the portion of the facility within the area added to the site boundary/micrositing areas by the RFA complies with all laws and Council standards applicable to an original site certificate application. The Council must also find that the facility, with RFA2 changes, complies with the applicable laws or Council standards that protect a resource or interest that could be affected by the RFA2 changes. To evaluate the potential visual impacts to protected areas associated with the road segments and transmission line micrositing areas in RFA2, the certificate holder applied similar methodologies as what was conducted for the ASC and RFA1. As indicated in the beginning of this Section, the certificate holder identified protected areas within and extending 19.75-miles from the site boundary.

To update the visual impact analyses for the road and route alternatives in RFA 2, the certificate holder followed similar visual impact assessment methodology, described in ASC Exhibit L,

Attachment L-3, approved by Council in the *Final Order on ASC*.[174] For protected areas not located on BLM or USFS land, one of the two procedures based on whether the resource was located in forested or non-forested areas; resources located in non-forested areas were analyzed using the BLM methodology, and those located in forested areas were analyzed using the USFS methodology. The methodology incorporates elements from the USFS methodology to assess the baseline scenic conditions in forested areas and elements from the BLM's VRM to assess baseline scenic conditions in non-forested areas.[175] Similar to the ASC and RFA1, the visual impact assessment extends 5 miles from the micrositing area additions in non-forested settings, and 10 miles in forested settings. Beyond those distances, Council previously found that visibility of the facility components would be negligible.[176] In the *Final Order on RFA1*, Council found that for roads, most of which do not have a vertical visual component associated with them, the visual impact assessment is further refined by proximity, i.e., foreground (<0.5 miles), middleground (0.5 to 5 miles), or background distances (> 5 miles).

To determine whether potential visual impacts would be "significant," Council approved the methodology which takes into consideration the combined outcome of context of the impact, impact intensity, and the degree to which the possible impacts are caused by the action. This is done by applying the Council's definition of "significant," meaning having an important consequence, either alone or in combination with other factors, based upon the magnitude and likelihood of the impact on the affected human population or natural resources, or on the importance of the natural resource affected, considering the context of the action or impact, its intensity and the degree to which possible impacts are caused by the proposed action.[177] Table 24: *Definition of Significant (per Council's Rule OAR 345-001- 0010(29)) and Application for Visual Impacts for Protected Areas, Recreation, and Scenic Resources)*, below is taken from the *Final Order on ASC* to summarize how the certificate holder quantified the Council's definition into measurable and repeatable methodology.[178]

[174] Excerpt from Oregon Supreme Court Decision for the facility regarding methodologies for visual impact assessments, "… nothing in the rule required Idaho Power to utilize a particular methodology or specifically account for subjective perceptions and reactions in assessing whether the transmission line would be likely to result in "significant adverse visual impacts" to scenic resources. Moreover, as explained in the final order, the methodology used to assess the visual impacts of the transmission line did take viewers' subjective perceptions into account. Idaho Power developed a detailed visual-impact assessment methodology and prepared a comprehensive visual impact study…" B2HAPPDoc7 Supreme Court Decision Stop B2H Coalition v. Dept, of Energy 2023-03-09, page 811.

[175] Certificate holder notes that no site visits were completed for the RFA2 visual analysis, which solely relies on desktop and online data with the support of ASC field assumptions (e.g., existing vegetation screening, site usage, etc.), as applicable, that are not readily available from online sources. B2HAMD2 RFA2. Attachment 7-2, Table 1.

[176] B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, page 305.

[177] B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, pp. 305-306.

[178] B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, pp. 432; Table SR-2: Definition of Significance (per Council's Rule OAR 345-001- 0005(52)) and Interpretation for Visual Impacts in Exhibit L, R, T). Note that the Table name in this order has updated OAR reference.

As is noted in Sections IV.J., *Scenic Resources* and IV.L*, Recreation*, the same visual resource impact assessment methodology was used by the certificate holder to assess visual impacts from the micrositing area additions in RFA2 to resources considered in those sections.

Table 24: Definition of Significant (per Council's Rule OAR 345-001- 0010(29)) and Application for Visual Impacts for Protected Areas, Recreation, and Scenic Resources)

Excerpt	Interpretation for Exhibit L, R, T
"having an important consequence,"	An important consequence is considered a significant impact.
"either alone or in combination with other factors,"	Qualifying language suggests that an "important consequence" may be caused by the proposed development either alone or in combination with other past or present actions.
"based upon the magnitude and likelihood of the impact"	Magnitude represents the size and scale of the impact and is measured in terms of visual contrast and scale dominance. Likelihood represents the probability of occurrence of an impact; for the purposes of Exhibit L, impacts analyzed were assumed to be likely to occur.
"on the affected human population"	The impact on the human population is measured in terms of the viewer's perception of impacts to valued scenic attributes of the protected area.
"or [on the] natural resources"	The impact to the natural resource is measured in terms of the potential change in scenic quality and/or landscape character of the protected area.
"or on the importance of the natural resource affected"	The disjunction of the magnitude of the impact from the importance of the natural resource suggests that an impact to scenic values may not result in an "important consequence" if the scenic value affected is not considered important to the protected area.
"Considering the context of the action or impact,"	The Council shall also consider the other "mitigating" (or "aggravating") contextual factors, such as the extent to which impacts to visual values are consistent with the standards and guidelines of relevant land management objectives of the protected area.
"[the impact's] intensity…"	The intensity of the impact considers how impacts would manifest on the landscape by assessing the combined effect of resource change and viewer perception.
"…and the degree to which the possible impacts are caused by the proposed action."	Consider the extent to which adverse impacts are caused by the proposed facility, as opposed to other past or present actions. The contribution of this action to potential cumulative (additive) impacts should be disclosed.

Final Order on ASC and *RFA1* provided a summary of the reasons why Council concurred with the certificate holders visual impact assessment methodology:[179]

- The facility would cross both BLM and USFS land, and on those lands, the certificate holder is required to utilize those agency's respective visual resource impact assessment methods;
- Both the BLM and USFS approved the facility location in its ROD(s), indicating compliance with the respective visual impact methodologies and standards;
- The certificate holder adapted each of the methodologies to use evaluative criteria based upon the Council's definition of "significant" under OAR 345-001-0010(29);
- The BLM and USFS visual impact methodologies provide an objective system to evaluate visual impacts;
- Using the BLM and USFS methods to assess visual impacts to EFSC scenic resources is consistent with the statutory direction at ORS 469.370(13) to conduct a site certificate review in a "manner that is consistent with and does not duplicate the federal agency review;"
- Most facility roads do not have a vertical component, therefore, would not have a visual impact from middleground and background distances.

III.F.1.b.5.2 *Results of Visual Impact Assessment*

The certificate holder evaluates the visual impacts from RFA2 micrositing area additions in Attachment 7-2 regardless of distance and type of facility in the micrositing areas. In the *Final Order on ASC* and *RFA1*, the certificate holder evaluated and Council approved methodologies to assess visual impacts from facility transmission structures and permanent facility roads.[180] For instance, a visual impact assessment and significance are provided for protected areas within 5 miles from roads and within 10 miles from transmission line routes because Council previously found that facility structures beyond 10 miles of a protected area would not be visible or would have negligible visual impacts, and roads further than 5 miles away would not have a visual impact. RFA2 Attachment 7-2 provides certificate holder visual of RFA2 micrositing area additions including transmission line routes as well as an assessment of temporary features including multi use areas (MUAs) and pulling and tensioning sites. However, when Council considers visual impacts from energy facilities (for this and other EFSC -approved facilities), temporary construction facilities visual impacts are considered less than significant because they are temporary, and these areas are revegetated according to vegetation management plans and applicable site certificate conditions. This is reiterated in Table 25: *Visual Impact Summary for RFA2 Micrositing Areas within Analysis Area* when a temporary

[179] B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, pp. 432; Section IV.J., Scenic Resources. B2HAMD1Doc1 Final Order 2023-09-22_Signed_No Attachments 2023-09-22; pp. 142, 144, Table 17.

[180] B2HAMD2Doc2 RFA2 2024-04-11, Attachment 7-2, Table 2: Detailed Visual Analysis of Protected Areas, provides a summary of the results of the visual impact assessment including baseline characteristics, visual impact assessment, and significant determinations. Certificate holder conducted a zone of visual influence (ZVI) viewshed analysis provided in RFA2 Figure 7-11 Figure 7-11 illustrates the visibility of facility towers associated with the RFA2 transmission line micrositing area additions (shaded in pink) as well as the viewshed analysis associated with the previously approved ASC and RFA1 routes (shaded in grey).

feature is in close proximity to a protected area. Detailed visual impact assessments to protected areas (and scenic and recreational resources) are conducted for permanent facility features. Table 25 is compiled based on applicable information from the *Final Order on ASC* and *RFA1*, RFA2 Section 7.1.4, RFA2 Attachment 4-1, and RFA2 Attachment 7-2; Tables 1 and 2.

Table 25: Visual Impact Summary for RFA2 Micrositing Areas within Analysis Area

Micrositing Area Addition within Viewshed of Protected Area Resource[1]	State - County	Location of Protected Area Relative to the RFA 2 Road/Route	Visual Impacts[2]
Blue Mountain Forest State Scenic Corridor	OR - Umatilla, Union	Crosses (Pulling and Tensioning site)[3] 5.0 mi NW (Rock Creek Alternative 1 and 2, and Sevenmile Creek Alternative)	Facility (including temporary related or supporting facility (pulling and tensioning site) is allowed to be sited through the Blue Mountain Forest State Scenic Corridor in accordance with OAR 345-022-0040(2). Visual impacts from temporary features are less than significant because they do not have a permanent impact. Towers that would be visible within the protected area as a result of the nearby RFA2 Rock Creek Alternative 1 and 2, and Sevenmile Creek Alternative, which are approximately 5 miles away, would add minimal visual contrast. Steep viewing angles, tall mature vegetation, and topography will continue to screen views of the RFA2 micrositing area additions. Viewers would have primarily intermittent and peripheral views. The site is managed for scenic quality; however, users are generally traveling in vehicles therefore views would be intermittent. For the reasons presented in the *Final Order on ASC* and *RFA1*, and as presented here, finds that visual impacts to remain low intensity and less than significant as a result of RFA2.
Owyhee River Below the Dam ACEC	OR - Malheur	<0.1 mi[4] SW (Pulling and Tensioning site) Not within 20 mi of RFA2 Transmission Line Structure	Council approved the facility to be located approximately 249 feet outside of the Owyhee River Below the Dam ACEC, where facility structures would be sited approximately 0.75-1.0 mile from an interpretive site, and the BLM directed the location of the facility. Based on the evaluation provided in the *Final Order on ASC*, Council found that visual impacts to the protected area would be less than significant. Visual impacts from temporary features are less than significant because they do not have a permanent impact. Council finds that the minor adjustment to the temporary RFA2 pulling and tensioning site 2/493 does not impact the Council's previous findings.

Table 25: Visual Impact Summary for RFA2 Micrositing Areas within Analysis Area

Micrositing Area Addition within Viewshed of Protected Area Resource[1]	State - County	Location of Protected Area Relative to the RFA 2 Road/Route	Visual Impacts[2]
Hilgard Junction State Park	OR - Union	<0.1 mi[4] SE (Distribution Power Line to Communication Station for Rock Creek Alternative 1) 0.7 mi NW (Rock Creek Alternative 2)	Council approved the facility to be located approximately 0.8 miles west of the Hilgard Junction State Park and approximately 0.4 miles from the Morgan Lake alternative, in Union County. The site is managed for scenic quality. Based on the evaluation provided in the *Final Order on ASC* (due to the steep topography and forest vegetation adjacent to the Hilgard Junction State Park, views would be very limited, and the current/baseline landscape has existing infrastructure), Council found that visual impacts would have a "low intensity" visual impact, and as such, could not have a significant adverse impact. Aerial components of the distribution lines will be 34.5kV lines or lower and wooden poles, which are anticipated to be smaller than the transmission line approved in the ASC; note that the distribution power line will be hung from existing poles to the extent practicable, thus visual impacts will be negligible in these instances. Towers associated with the nearby RFA2 micrositing area addition, Rock Creek Alternative 2, and the Baldy Alternative, will likely not be visible for the same reasons as provided in the *Final Order on ASC*. Any visible facility towers associated with the two alternatives would have less of an impact than evaluated in the ASC because their orientation from north two south and that only one alternative would be selected to transmission route to the Morgan Lake alternative. For the reasons presented in the *Final Order on ASC*, and presented here, Council finds that visual impacts are anticipated to remain low intensity and less than significant as a result of RFA2.

Glass Hill Preserve/ SNHA	OR - Union	136.6 feet NW (Structure Work Area/Transmission Centerline Baldy Alternative)	Council approved the Morgan Lake alternative in the *Final Order on ASC*. The Morgan Lake alternative is an 18.5-mile departure from the approved route, located west of the approved route, leaving that route approximately one mile west of the Hilgard Junction State Park and rejoining the approved route southeast of Ladd Canyon. Compared to the approved route, the Morgan Lake alternative would cross fewer parcels with residences, would not cross the Ladd Marsh Wildlife Area/State Natural Heritage Area (the "Ladd Marsh Wildlife Area"), would not cross Interstate-84 (I-84) and would be 0.5 mile shorter than the approved route.[181] The certificate holder has indicated its intention to select the Morgan Lake alternative for construction and operation (rather than the associated segment of the ASC approved route). At the time of the submission of the ASC and issuance of the final order, the Glass Hill Preserve was listed or not protected under OAR 345-022-0040 in place at the time.[182, 183] Consequently, the approved Morgan Lake alternative crosses though portions of what now is the Glass Hill Preserve/SNHA, which is now a protected area under the Council's standard. The Glass Hill Preserve/SNHA was described as a protected area in the *Final Order on RFA1* because it was within the analysis area of the RFA1 changes (1.6 miles from an access road). Certificate holder further describes Glass Hill in RFA2 Attachment 7-2, which is summarized here. The preserve is 1,230 acre, privately owned nature reserve under a conservation easement managed by the Blue Mountain Land Trust. The Oregon Parks and Recreation Commission registered the property in the natural areas program in the fall of 2019, in October 2020, OPRD received a petition to upgrade the resource from a Registered Natural Area (as it was classified in the Draft 2020 Oregon Natural Areas Plan) to be a maximally subscribed resource in the State Natural Areas program as a Dedicated State Natural Area; granted by the Commission at its November 2020 meeting.[184] The area is dedicated for the purpose of promoting natural diversity of native species and ecosystems in Oregon. The owner allows hunting, thinning for fire protection, and non-motorized vehicles but no livestock, logging, or development. The land is managed for the protection of natural values, and the native plants and animals present site for natural elements.[185] The site is not managed for its scenic qualities. The Glass Hill Preserve is part of the collective Glass Hill Access Area (totaling over 4,180 acres), which includes both privately-owned property as well as ODFW land. Baseline characteristics are Natural Appearing for existing Landscape Character, offering both Transient and Stationary views based on the hills in the background of the resource, lined with mature forest vegetation, and pastures, or human land uses in the forefront of the resource, including existing

[181] B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, pp. 65-66.

[182] Hearing Officer granted the Motion for Summary Determination during the contested case proceeding, finding that because the Rice Glass Hill Natural Area was not registered as a Natural Area as of May 11, 2007, applicant had no obligation to evaluate the Rice Glass Hill Natural Area as a Protected Area in ASC Exhibit L. PCCO, pg. 27. Ms. Geer timely filed exceptions on this issue. After hearing argument, the Council agreed with the findings of facts, conclusions of law and conditions of approval in the PCCO. B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, pp. 38-39.

[183] Comments on RFA2 DPO requested Council reconsideration of previously approved Morgan Lake alternative within areas of the protected area. Under OAR 345-027-0375(2)(a), all existing laws and standards must be evaluated for the portions of the facility within the micrositing area additions and expanded site boundary; the rule does not allow review of previously approved facility components or routes as evaluated by Council in its Final Order on ASC and RFA1 that are not requested to be changed in RFA2. Under OAR 345-027-0375(2)(c), if the impacts of the proposed change would not alter Council's prior approval of the facility, the Council must find that the facility, with proposed changes, continues to meet the standard. As previously stated, the Council does not have the authority to reverse or re-evaluate its prior decision, as it is maintained as a final decision through prior Final Orders. B2HAMD2Doc10-16.1 DPO Public Comment_Geer 2024-05-31, B2HAMD2Doc10-14 DPO Public Comment_Stop B2H 2024-05-30.

[184] https://www.oregon.gov/oprd/CAC/Documents/2020-11-minutesOPRC.pdf Accessed 03-28-2024 Commissioner Allen moved to approve the dedication of the Glass Hill Natural Area. Commissioner Deur seconded. Motion passed, 6-0.

[185] Natural Areas Program Dedication – Glass Hill, Oregon Parks and Recreation Commission, November 18, 2020. https://www.oregon.gov/oprd/CAC/Documents/2020-11-packetOPRC.pdf Accessed 03-28-2024. Agenda Item 8b Dedication Agreement and Appendix 1.

Table 25: Visual Impact Summary for RFA2 Micrositing Areas within Analysis Area

Micrositing Area Addition within Viewshed of Protected Area Resource[1]	State - County	Location of Protected Area Relative to the RFA 2 Road/Route	Visual Impacts[2]
			utility and road infrastructure. Because Council previously approved the facility to be located within and directly adjacent to what is now the protected area, the approved facility is assumed to be part of the baseline development on the landscape. The Transient and Stationary observer categories were determined based on the potential viewers' location, i.e., the distance between the viewer and resource. Resource is defined as "C", i.e., Indistinctive, for Scenic Quality/Scenic Attractiveness Class, determined by the combination of valued landscape elements such as landform, water characteristics, vegetation, color, adjacent scenery, scarcity, and cultural features. There are not any RFA2 micrositing area additions that would cross this protected area. The RFA2 micrositing area addition closest in proximity is the Baldy Alternative which would be located approximately 137 feet from the boundary of the protected area (followed with minor adjustments to temporary pulling and tensioning sites 2/360 and 2/361 and modification to existing road 2/355 and 2/354). Road modification to road /355 and 2/354 is a minor modification from the previously approved road and would modify an already existing road that would not have vertical components. Because it is assumed that the approved facility/transmission line will be located within and adjacent to the SNHA, the minor relocation of the facility in RFA2, Council finds that the visual impact of the RFA2 changes would be less than significant.

Table 25: Visual Impact Summary for RFA2 Micrositing Areas within Analysis Area

Micrositing Area Addition within Viewshed of Protected Area Resource[1]	State - County	Location of Protected Area Relative to the RFA 2 Road/Route	Visual Impacts[2]
Boardman RNA	OR - Morrow	0.1 mi E (Pulling and Tensioning for West of Bombing Range Road Alternative 1) 3.4 mi NW (Bombing Range SE Alternative)	Council approved the ASC facility and ASC alternatives in Morrow County to be located adjacent to the Boardman RNA, which was not a protected area at that time. The Boardman RNA was added as a protected area as part of the 2022 protected area rule change. In the *Final Order on RFA1* Council approved road changes and alternative routes approximately 7 miles away from the RNA. The RNA is within the Boardman Bombing Range, owned and operated by the U.S. Department of Defense; otherwise, the RNA is monitored and maintained by The Nature Conservancy. The site is maintained for research and conservation. The public is excluded from the RNA. Existing developments on the landscape include the Naval Bombing Range, wind energy facilities, transmission lines, agricultural developments, and highways. Visual impacts from temporary features are less than significant because they do not have a permanent impact. Views of the Boardman Junction Alternative and Bombing Range SE Alternative 3.4 miles would be primarily peripheral and intermittent and from a neutral or elevated vantage point. Topography will partially screen the facility from view on an already developed landscape. The towers would add minimal visual contrast and the site is not managed for its scenic values. Council finds that visual impacts from the transmission line alternative would be low and less than significant.

Table 25: Visual Impact Summary for RFA2 Micrositing Areas within Analysis Area

Micrositing Area Addition within Viewshed of Protected Area Resource[1]	State - County	Location of Protected Area Relative to the RFA 2 Road/Route	Visual Impacts[2]
Oregon Trail ACEC – National Historic Oregon Trail Interpretive Center (NHOTIC) Parcel	OR - Baker	0.1 mi NW (Revised 230-kV Rebuild)	Council approved the facility to be located within one mile of the NHOTIC main building and within 123.4 feet of the western boundary of the NHOTIC Parcel. The findings of fact provided in the *Final Order on ASC* remain applicable to the RFA2 230 kV rebuild, as summarized here. The existing landscape include portions of the paved NHOTIC trail system, several light fixtures in the parking area, and the Lode Mine building on the NHOTIC property, an existing 230-kV transmission line is located to the west, OR Highway 86, and agricultural and residential developments within the Baker Valley to the west. Because Council previously approved the facility to be located adjacent to the NHOTIC outer boundary, the approved facility is assumed to be part of the baseline development on the landscape. The BLM approved and designated the location of the facility. The site is managed for scenic quality. Taking into account the mitigation (Scenic Resources Condition 3 – requiring the use of a modified structure [shorter tower height, natina finish, H-frame], and Historic, Cultural, and Archaeological Resources Condition 2 – mitigation required as part of Section 106), Council previously found that the facility would introduce low to medium magnitude impacts depending on tower and viewer location within the NHOTIC parcel. Views of the facility would be experienced from an elevated vantage point and would be predominantly peripheral or intermittent such that viewer perception would be up to medium. Impacts would slightly reduce the scenery adjacent to the NHOTIC parcel but would not alter the overall scenic quality of the NHOTIC parcel such that resource change would be medium. RFA2 micrositing area addition closest in proximity is the Revised 230-kV Rebuild. The rebuild would be located further away than the previously approved rebuild and previously approved facility, therefore based on the reasons discussed here and in the Final Order on ASC, Council finds that the visual impacts associated with the RFA2 change would be less than was previously approved, and less than significant.

Table 25: Visual Impact Summary for RFA2 Micrositing Areas within Analysis Area

Micrositing Area Addition within Viewshed of Protected Area Resource[1]	State - County	Location of Protected Area Relative to the RFA 2 Road/Route	Visual Impacts[2]
Deer Flat National Wildlife Refuge (NWR) (including Snake River Island Units)	OR - Malheur; ID - Ada, Canyon, Owyhee, Payette, Washington	0.1 mi NW (Existing Road, Substantial Modification, 21-70% Improvements) 13.8 mi NE (Willow Creek Alternative)	RFA2 micrositing area addition closest in proximity is a modification to an existing road (road segment 2/501; substantial modification, 21-70%). The site is not managed for scenic quality and is managed for habitat for fish and wildlife. The road improvements will introduce low-intensity impacts at a foreground viewing distance. One of 101 islands within the NWR will remain within 2 miles of the RFA 2 micrositing area Additions (i.e., Huffman Island), otherwise a majority of the NWR will continue to have no visual impacts. Due to roads not having an aerial component (and the roads in question being preexisting), Council finds that the visual impacts are anticipated to be low intensity as a result. The Willow Creek Alternative is completely outside of the RFA2 modeled bare earth viewshed/viewshed of transmission towers (thus no towers are visible).

Table 25: Visual Impact Summary for RFA2 Micrositing Areas within Analysis Area

Micrositing Area Addition within Viewshed of Protected Area Resource[1]	State - County	Location of Protected Area Relative to the RFA 2 Road/Route	Visual Impacts[2]
Ladd Marsh Wildlife Area/SNHA	OR - Union	0.1 mi N (Baldy Alternative)	Council approved the ASC approved route to cross the Ladd Marsh Wildlife Area/SNHA under OAR 345-022-0040(2). Council approved the Morgan Lake alternative to be located directly adjacent to (within 200 feet) Ladd Marsh, with no facility components approved to be located within the protected area boundaries (Protected Area Conditions 2), which remains applicable to the facility, with RFA2 changes. The findings of fact provided in the *Final Order on ASC* remain applicable to Ladd Marsh, as summarized here. Potential visual impacts of the Morgan Lake alternative route would include the introduction of moderate contrast and co-dominant visual features to natural and other man-made features with the protected area. Other man-made features within the protected area include an existing 230 kV transmission line, I-84, State Highway 203, four home sites, a wastewater treatment facility, and several scattered buildings. Because Council previously approved the facility to be located directly adjacent to the protected area, the approved facility is assumed to be part of the baseline development on the landscape. The site is not managed for scenic quality. The area is managed for its importance for the protection of wildlife and habitat, which would not be impacted by facility visibility. RFA2 micrositing area addition closest in proximity is the Baldy Alternative, approximately 528 feet away from the outer boundary. The Baldy Alternative would shift the route to the southwest and would be further away from the protected area. For the reasons provided in the *Final Order on ASC* and presented here, Council finds that visual impacts from the RFA2 changes would be less than significant at Ladd Marsh.
Oregon Trail ACEC - Straw Ranch 1 Parcel	OR - Baker	0.2 mi NE (Pulling and Tensioning site) 12.7 mi SE (230-kV Rebuild] Revised)	For the reasons provided in the *Final Order on ASC,* Council approved the facility to be located within 0.1 miles of the Straw Ranch Parcel 1 protected area. The RFA2 micrositing addition closest in proximity is pulling and tensioning sites 2/415 and 2/416 at 0.2 miles away. Visual impacts from temporary features are less than significant because they do not have a permanent impact. The revised 230 kV rebuild is completely outside of the RFA2 modeled bare earth viewshed/viewshed of transmission towers (thus no towers are visible).

Table 25: Visual Impact Summary for RFA2 Micrositing Areas within Analysis Area

Micrositing Area Addition within Viewshed of Protected Area Resource[1]	State - County	Location of Protected Area Relative to the RFA 2 Road/Route	Visual Impacts[2]
Oregon Trail ACEC - Birch Creek parcel	OR - Malheur	0.2 mi NE (Existing Road, Substantial Modification, 21-70% Improvements) 13.8 mi NE (Willow Creek Alternative)	For the reasons provided in the *Final Order on ASC*, Council approved the facility to be located within 0.2 miles from the Oregon Trail ACEC - Birch Creek parcel and found that, taking into account mitigation, visual impacts of the facility would be less than significant. The area around the Birch Creek Parcel is characterized by a mixture of privately owned rangeland and federal lands managed by the BLM, surrounded by some developments including a nearby windfarm. Because Council previously approved the facility to be located adjacent to the protected area, the approved facility is assumed to be part of the baseline development on the landscape. The Birch Creek Parcel has a historic landscape character because of the Historic Oregon Trail and relative lack of additional development in the foreground. The BLM Visual Resource Management (VRM) system characterizes the overall scenic quality low (class C), due to the simplicity and uniformity of landform, colors and textures of the landscape. The BLM approved the route to be located in this area. The RFA2 micrositing addition closest in proximity would be modifications to an existing road MA-565. Because the small road segment is largely located within the previously approved site boundary, where the facility will be located and due to roads not having an aerial component (and the roads in question being preexisting), Council finds that visual impacts will be less than significant. The Willow Creek Alternative is completely outside of the RFA2 modeled bare earth viewshed/viewshed of transmission towers (thus no towers are visible).
Farewell Bend State Recreation Area (SRA)	OR - Baker	0.6 mi SE (Pulling and Tensioning site) 15.8 mi NE (Willow Creek Alternative)	For the reasons provided in the *Final Order on ASC,* Council approved the facility to be located within 0.7 miles from the Farewell Bend Recreational Area. The RFA2 micrositing addition closest in proximity would be pulling and tensioning site approximately 0.6 miles away. Visual impacts from temporary features are less than significant because they do not have a permanent impact. The Willow Creek Alternative is completely outside of the RFA2 modeled bare earth viewshed/viewshed of transmission towers (thus no towers are visible).

Table 25: Visual Impact Summary for RFA2 Micrositing Areas within Analysis Area

Micrositing Area Addition within Viewshed of Protected Area Resource[1]	State - County	Location of Protected Area Relative to the RFA 2 Road/Route	Visual Impacts[2]
Oregon Trail ACEC - Blue Mountain Parcel	OR - Union	1.0 mi W (Pulling and Tensioning site) 7.7 mi NW (Rock Creek Alternative 2)	For the reasons provided in the *Final Order on ASC,* Council approved the facility to be located within 0.9 miles of the Oregon Trail ACEC – Blue Mountain Parcel. The RFA2 micrositing addition closest in proximity would be a pulling and tensioning site approximately 1.0 miles away. Visual impacts from temporary features are less than significant because they do not have a permanent impact. Council previously found that the facility would be less than a mile (0.9 mile) from the Blue Mountain Parcel, but the facility would be on the west side of I-84, and it would be unlikely that the facility would be visible from the Blue Mountain Parcel as there is a ridge and existing conifer trees that would screen the view. Because of the limited or absent visibility of the facility from Oregon Trail ACEC - Blue Mountain Parcel and because the facility would be on the other side of I-84 from the parcel, the RFA2 Rock Creek Alternative 2 which would be 7.7 miles away would not likely be visible and cause any visual impact.
Oregon Trail ACEC - Tub Mountain Parcel	OR - Malheur	1.0 mi SE (Pulling and Tensioning) 2.8 mi NE (Willow Creek Alternative)	For the reasons provided in the *Final Order on ASC,* Council approved the facility to be located within 0.5 miles of the Oregon Trail ACEC - Tub Mountain Parcel. The RFA2 micrositing addition closest in proximity would be a pulling and tensioning site approximately 1.0 miles away. Visual impacts from temporary features are less than significant because they do not have a permanent impact. Council previously found that the facility would run along the eastern and southern boundary of the ACEC approximately 0.5 mile from the ACEC at its closest point and approximately 1.5 miles east of the Alkali Springs interpretive site. Scenic quality of the existing landscape for the Tub Mountain Parcel is considered low (Class C). The BLM approved the facility location in this area. Viewers from Alkali Springs would have views of the facility transmission towers to the east that would be partially blocked by vegetation, at approximately 1.5 miles distant. The RFA2 Willow Creek Alternative would be located 2.8 miles away and would be screened from vegetation and topography. For the reasons provided in the *Final Order on ASC* and provided here, Council finds that visual impacts from the RFA2 changes would be less than significant.

Table 25: Visual Impact Summary for RFA2 Micrositing Areas within Analysis Area

Micrositing Area Addition within Viewshed of Protected Area Resource[1]	State - County	Location of Protected Area Relative to the RFA 2 Road/Route	Visual Impacts[2]
Oregon Trail ACEC - Straw Ranch 2 Parcel	OR - Baker	1.0 mi SW (Pulling and Tensioning site) 9.7 mi SE (Revised 230-kV Rebuild)	Council approved the facility to be located within 1.1 miles of the Straw Ranch Parcel 2 protected area. Where the approved facility would be visible, it would generally follow the alignment of existing 69- and 138-kV transmission lines. Potential views to the south toward the facility would be primarily blocked by a ridgeline approximately 0.4 mile southwest of the ACEC. Views to the west and northwest toward the facility would not be blocked; however, in this area, the facility would be located four miles or more from the ACEC. The RFA2 micrositing addition closest in proximity is pulling and tensioning site at 1.0 miles away. Visual impacts from temporary features are less than significant because they do not have a permanent impact. The RFA2 Revised 230-kV Rebuild would be located 9.7 miles away and is a minor adjustment to the approved facility in that location. Due to the distance, screening from vegetation and topography, it is not likely the rebuild will be visible, therefore Council finds that the visual impacts would be less than significant.
Oregon Trail ACEC - Powell Creek Parcel	OR - Baker	1.0 mi SW (Pulling and Tensioning site) Not within 20 mi of RFA 2 Transmission Line Structure	For the reasons provided in the *Final Order on ASC,* Council approved the facility to be located within 1.3 miles of the Oregon Trail ACEC - Powell Creek Parcel. The RFA2 micrositing addition closest in proximity would be a pulling and tensioning site approximately 1.0 miles away. Visual impacts from temporary features are less than significant because they do not have a permanent impact. No RFA2 transmission line alternatives within 20 miles of protected area.
Five Points Creek (Wild)	OR - Umatilla, Union	1.9 mi S (Distribution Power Line to Communication Station for Rock Creek Alternative 1) 2.5 mi N (Rock Creek Alternative 2)	Council approved the facility to be located approximately 2.0 miles west of Five Points Creek protected area. Council found that visual impacts would have a “low intensity” visual impact, and as such, could not have a significant adverse impact. Aerial components of the distribution lines will be 34.5kV lines or lower and wooden poles, which are anticipated to be smaller than the transmission line approved in the ASC; note that the distribution power line will be hung from existing poles to the extent practicable, thus visual impacts will be negligible in these instances. Towers associated with the nearby RFA2 micrositing area addition, Rock Creek Alternative 2 will likely not be visible or would have low intensity visual impacts and therefore, Council finds that the visual impacts from RFA2 changes would be less than significant.

Table 25: Visual Impact Summary for RFA2 Micrositing Areas within Analysis Area

Micrositing Area Addition within Viewshed of Protected Area Resource[1]	State - County	Location of Protected Area Relative to the RFA 2 Road/Route	Visual Impacts[2]
Lindsay Prairie Preserve/ State Natural Heritage Area (SNHA)	OR - Morrow	2.8 mi NE (Bombing Range SE Alternative)	Council approved the facility to be located approximately 1.6 miles west of the Lindsay Prairie Preserve/State Natural Heritage Area. Council found in the *Final Order on ASC* that the protected area isn't managed for its scenic values, rather it is dedicated to the preservation of grasslands. Existing developments within the viewshed include roads, a gravel quarry, agricultural fields, an existing 69-kV transmission line along the western border and dispersed rural development. The area has a cultural landscape character. The BLM VRM ranks the scenic quality as Class C. Views of the approved facility from the majority of Lindsay Prairie Preserve would be experienced from within the canyon and would be primarily blocked and intermittent such that viewer perception would be low. The RFA2 micrositing area addition closest in proximity would be the Bombing Range SE Alternative at 2.8 miles away. Views as a result of the RFA2 micrositing area addition will continue to be experienced from within the canyon and will be primarily blocked by topography. Any views that aren't screened will remain intermittent and further away than evaluated in the ASC, therefore, Council finds that the visual impacts from the RFA2 changes would be less than significant.
Oregon Trail ACEC - White Swan Parcel	OR - Baker	2.8 mi SW (Existing Road, Substantial Modification, 21-70% Improvements) 6.2 mi SE (Revised 230-kV Rebuild)	Council approved the facility to be located approximately 2.9 miles west of the Oregon Trail ACEC - White Swan Parcel. Council previously found that the facility would not be visible from the protected area. As such, there would be no visual impact to the protected area. The RFA2 micrositing area additions closest in proximity are modifications to an existing road 2.8 miles away and the revised 230 kV rebuild, 6.2 miles away. The protected area remains far outside of both the ASC modeled bare earth viewshed as well as the RFA2 viewshed and is therefore outside of the visual analysis area.

Table 25: Visual Impact Summary for RFA2 Micrositing Areas within Analysis Area

Micrositing Area Addition within Viewshed of Protected Area Resource[1]	State - County	Location of Protected Area Relative to the RFA 2 Road/Route	Visual Impacts[2]
Emigrant Springs State Heritage Area	OR - Umatilla	3.2 mi SW (Pulling and Tensioning site) 4.4 mi NE (Sevenmile Creek Alternative)	Council approved the facility to be located approximately 3.3 miles from the Emigrant Springs State Heritage Area. The facility was determined to have a "low intensity" visual impact, and as such, could not have a significant adverse impact ("low intensity" is defined as not having the potential to alter scenic quality or landscape character, or not be perceived by viewers) at Emigrant Springs State Heritage Area. The RFA2 micrositing area addition closest in proximity is a pulling and tensioning site, 3.2 miles away. Visual impacts from temporary features are less than significant because they do not have a permanent impact. The Sevenmile Creek Alternative would be 4.4 miles away which is further away than the approved route, therefore, Council finds that the RFA2 changes would have a less than significant visual impact to this protected area.
Succor Creek State Natural Area (SNA)	OR - Malheur	3.3 mi NE (Pulling and Tensioning site) Not within 20 mi of RFA 2 Transmission Line Structure	Council approved the facility to be located approximately 3.9 miles from the Succor Creek State Natural Area. Council found that the facility was determined to have a "low intensity" visual impact, and as such, could not have a significant adverse impact to the protected area. The RFA2 micrositing area addition closest in proximity is a pulling and tensioning site 3.3 miles away. Visual impacts from temporary features are less than significant because they do not have a permanent impact. No RFA2 transmission line alternatives within 20 miles of protected area.

Table 25: Visual Impact Summary for RFA2 Micrositing Areas within Analysis Area

Micrositing Area Addition within Viewshed of Protected Area Resource[1]	State - County	Location of Protected Area Relative to the RFA 2 Road/Route	Visual Impacts[2]
Boardman/Willow Creek RNA	OR - Morrow	6.1 mi E (access road changes and Pulling and Tensioning site) 6.4 mi W (Boardman Junction Alternative)	Council approved the ASC facility and ASC alternatives in Morrow County to be located along Bombing Range Road in Morrow County. The Boardman/Willow Creek RNA is immediately west of the Boardman Bombing Range and Boardman RNA and was not listed as a protected area at the time of the ASC. The Boardman/Willow Creek RNA was added as a protected area as part of the 2022 protected area rule change. In the *Final Order on RFA1* Council approved road changes and an alternative route approximately 6-8 miles away from the RNA. The RNA is part of a privately owned nature reserve/conservation easement managed by The Nature Conservancy and Oregon Department of Fish and Wildlife. The public is excluded from the Boardman/Willow Creek Research Natural Area, and it is not managed for its scenic values. Existing developments within the viewshed include views wind turbines, solar facilities, transmission lines, roads, and agricultural irrigation equipment. The RFA2 micrositing area addition closest in proximity are roads and pulling and tensioning sites. Visual impacts from temporary features are less than significant because they do not have a permanent impact. Views of the Boardman Junction Alternative and Bombing Range SE Alternative would be primarily peripheral and intermittent and from a neutral or elevated vantage point. Further views of the RFA2 changes would not increase visual impacts from the already approved facility. Topography will partially screen the facility from view on an already developed landscape. The towers would add minimal visual contrast and the site is not managed for its scenic values. Council finds that visual impacts from the transmission line alternative would be low and less than significant.

1. Visual impact assessment extends 5 miles from the micrositing area additions in non-forested settings, and 10 miles in forested settings. Table summarizes visual impacts within 5 miles for roads and 10 miles for transmission line routes.
2. See *Final Order on ASC*, Section IV.F.5., *Potential Visual Impacts from Facility Structures,* for a summary of methods for visual impact assessment and Exhibit L, Attachment L-3 of the ASC. Roads are further evaluated by proximity, i.e., foreground (<0.5 miles), middleground (0.5 to 5 miles), or background distances (> 5 miles), because they lack vertical features. *Final Order on RFA1*, Section III.F.1.b.5.1.
3. Crossing of the protected area is allowed per OAR 345-022-0040(2).
4. RFA2 micrositing area additions are immediately adjacent to the given resource's boundary but do not cross the resource.

Source: Derived from ASC Exhibit C, Final Order on ASC, RFA2 Figure 4-1, and RFA2 Attachment 7-2.

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Based on the reasons provided above in Table 25, the findings of fact in the *Final Order on ASC* and *RFA*, and the certificate holder's RFA2 visual impact assessment, Council finds that the RFA2 micrositing area additions would not create a significant adverse impact to protected areas within the analysis area.

III.F.2. Conclusions of Law

Based on the foregoing analysis, and subject to compliance with the existing site certificate conditions, Council finds that the design, construction and operation of the RFA2 micrositing areas are not likely to result in significant adverse impact to any protected areas.

III.G. RETIREMENT AND FINANCIAL ASSURANCE: OAR 345-022-0050

To issue a site certificate, the Council must find that:

(1) The site, taking into account mitigation, can be restored adequately to a useful, non-hazardous condition following permanent cessation of construction or operation of the facility.

(2) The applicant has a reasonable likelihood of obtaining a bond or letter of credit in a form and amount satisfactory to the Council to restore the site to a useful, non-hazardous condition.[186]

III.G.1. Findings of Fact

OAR 345-027-0375(2)(e) designates the Scope of Council's Review for all amendments to the site certificate. It states that for all requests for amendment, the amount of the bond or letter of credit required under OAR 345-022-0050 is adequate. Therefore, as presented below, the scope of the evaluation under OAR 345-022-0050 for RFA2 is an evaluation and findings limited to the new facility components (midline capacitor station) and updated unit costs for facility components, tasks, and actions. Certificate holder also provides updated evidence of their ability to secure a bond or letter of credit that reflects the updated cost to restore the site to a useful, nonhazardous condition.

III.G.1.a Restoration of the Site Following Cessation of Construction or Operation

OAR 345-022-0050(1) requires that the site, taking into account mitigation, can be restored adequately to a useful, non-hazardous condition following permanent cessation of construction or operation of the facility. Restoring the site to a useful, nonhazardous condition for the transmission line route alternatives and roads in RFA2 would involve the same activities as

[186] OAR 345-022-0050, effective April 3, 2002.

Council approved in the *Final Order on ASC*, therefore the Council provides a summary of decommissioning activities for transmission lines and roads below.

- Transmission line restoration involves the removal of the transmission line, including all support structures, conductors, overhead shield wires, and communication sites. The foundations for each support structure would be removed to a depth of three feet below grade within land zoned EFU and to a depth of one foot below grade (depending on ground slope) in all other areas.[187]
- All structure locations and access roads would be restored to a useful, nonhazardous condition that would be consistent with the site's zone and suitable for uses comparable to surrounding land uses.[188] Following gravel removal at the locations of tower pads and communication stations, these sites would be re-graded as necessary (for restoration of natural contours) and then re-seeded.[189]
- The majority of facility access roads would be primitive (non-graveled) overland travel roads. Following construction of the primitive roads, vegetation may regrow adjacent to and within the traveled roadway, and new or modified drainages may develop depending on the construction and location of the roads. Re-grading or reshaping primitive roads to match previous land contours would have the potential to create a greater impact compared to leaving in place the contours that developed during the service life of the transmission line. Therefore, restoration of primitive overland travel roads would consist of only minimal re-grading, as well as reseeding and scarifying the roadbed.
- Built-up all-weather roads, including all communication station roads, would be fully restored. Following gravel removal, built-up all-weather roads would be re-graded as necessary (for restoration of natural contours) and then re-seeded.[190]

Retirement of the midline capacitor station is detailed in RFA2 Attachment 7-20 (under tab 16) and Section 7.1.6 and would also be similar to those approved in the *Final Order on ASC* for the Longhorn Station and include:

- Deenergizing and disconnecting electrical equipment for capacitor including capacitor bank(s), switches, breakers, and instrumentation for the control and protection of the equipment. Disconnecting electrical equipment in the control

[187] Except within EFU zones, removal of concrete footings to a depth of one foot below grade is appropriate because it is more environmentally impactful to remove the concrete footings than it is to leave in place the portion of the footing below a one-foot depth. Increasing the removal depth from one foot to three feet would result in significantly more disturbance to the surrounding ground. Removing concrete footings to three feet below ground in EFU lands is appropriate because it allows sufficient clearance for farming equipment and installation of irrigation systems. B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, page 327.

[188] B2HAPPDoc3-40 ASC 23_Exhibit W_Retirement_ASC 2018-09-28, Section 3.2.

[189] B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, page 331; B2HAPPDoc3-40 ASC 23_Exhibit W_Retirement_ASC 2018-09-28, Attachment W-1.

[190] B2HAPPDoc3-40 ASC 23_Exhibit W_Retirement_ASC 2018-09-28, Section 3.2, Section 3.4, and Attachment W-1.

building and utility structures. Removal, hauling, disposal and recycling of electrical equipment.

- Demolition of control building. Take down of dead end and H frame structures. Hauling and disposal. Fencing and gate removal (fence would remain in place during decommissioning and would be removed once it would be safe to do so).
- Foundations for cap bank, switch, support/utility structures, and control building would be removed to a depth of three feet below grade within land zoned EFU.
- Any gravel would be removed, hauled, reused or disposed of.
- Access roads and the site would be re-graded as necessary (for restoration of natural contours) and then re-seeded.

Council finds that the tasks and actions associated with retiring the facility, with the RFA2 midline capacitor station, are substantially similar to those approved in the *Final Order on ASC* and *RFA1*.

III.G.1.b Amount of Bond or Letter of Credit under OAR 345-022-0050 is Adequate

OAR 345-027-0375(2)(e) requires the Council to find that the amount of the bond or letter of credit required under OAR 345-022-0050 is adequate, and OAR 345-022-0050(2), requires a finding that the certificate holder has a reasonable likelihood of obtaining a bond or letter of credit in a form and amount satisfactory to the Council to restore the site to a useful, non-hazardous condition.

The updated cost estimate is included in RFA2, Attachment 7-20 and attached to this order as Attachment W-1. The tasks, actions, unit costs, and assumptions were developed between the certificate holder, its engineers, and its construction manager, Quanta Infrastructure Solutions Group (QISG), and are based on real-time market costs of similar work. QISG manages multiple projects of similar size and has expertise in this field.[191] All unit costs are updated to first quarter 2024 dollars. All costs include the overall cost of work and, similar to the *Final Order on ASC*, include loaded crew rates which are applied to the site restoration cost estimate include contractor overhead charges, profit, and insurance costs.[192] RFA2 Attachment 7-20 and Attachment W-1, to this order includes additional assumptions for each facility component, task or action under the "tab" number in the notes column. For instance, tab 16 includes the methods and assumptions that were used to generate the costs associated with each of the line items for the Midline Capacitor Station.

[191] B2HAMD2Doc2 RFA2 2024-04-11, Section 7.1.6, and QISG Gateway West Transmission Line Project; project consisted of 145 miles of 500kV lattice tower construction and 5 miles of 345kV steel pole construction, 50 miles of 230kV and 4 substation upgrades. https://quantaisg.com/projects/energy-vision-2020-230kv-transmission-line/

[192] Loaded crew rates include wages and benefits, per diem, equipment rates, contractor overheads, and profit. RFA2 Section 7.1.6. B2HAPPDoc3-40 ASC 23_Exhibit W_Retirement_ASC 2018-09-28, Section 3.4 and ASC Attachment W-1.

Council previously reviewed the cost estimate and confirmed that the site restoration tasks, unit costs, labor rates, and cost estimate assumptions constitute a reasonable site restoration cost for the facility. In the 2022 *Final Order on ASC*, Council previously found that $140,779,000 (rounded to nearest $1,000 and in Q3 2016 dollars) was adequate to restore the site to a useful non-hazardous condition. In the 2023 *Final Order on RFA1*, because the total increase of transmission line routes would be 1.8 miles of transmission line and facility components would be less than 0.1% change in the total length of the facility, and Retirement and Financial Assurance Condition 4 and 5 allows updating the bond amount based on final design of the facility, the Council found that the approved decommissioning cost was still adequate.

As discussed in Section II.B., *Requested Amendment*, if the transmission line routes in RFA2 were selected for construction and operation, this would reduce the overall length of the approved facility by 0.4 miles. Applying the same logic that was approved in the *Final Order on RFA1*, because the overall length (and facility components) would be reduced, the previously approved cost estimate should still remain adequate. However, RFA2 includes the midline capacitor which was not previously included in the decommissioning cost estimate and is a different type of facility component not previously evaluated. As noted above, the certificate holder includes this component in an updated cost estimate discussed in RFA2 Attachment 7-20 (cost estimate worksheet), attached to this order as Attachment W-1. Additionally, as part of the review of RFA2, the Department provided certificate holder with a current table format for the cost estimate and certificate holder also updated the unit costs for other facility components so that all unit costs would be in the same Quarter and year (Q1 2024), which are directly referenced (related to adjusting for inflation) in Retirement and Financial Assurance Condition 4 and 5. As presented below in Table 26, the updated cost estimate to retire the facility, with RFA2 changes, is $170,276,273 (in Q1 2024 dollars).[193]

[193] Previously approved contingencies of 4 perfect of cost for Department Administration Project Management, 20 percent of cost for a Future Development Contingency, and a 1 percent for the performance bond remain applicable to the facility and equal approximately $32 million.

1

Table 26: RFA2 Updated Decommissioning Cost Estimate

Task or Component	Quantity	Unit Cost ($)[1]	Unit	Estimate ($)
General Costs				
Permits - Utilities/Temp Deconstruct	**1**	$ 49,183.12	Lump Sum[3]	$49,183.12
Mobilization/Demobilization	**1**	$ 5,889,975.50	Lump Sum[3]	$5,889,975.50
Engineering	**1300**	$ 120.00	Hour	$156,000.00
Overhead	**1**	$ 1,739,946.00	Lump Sum[3]	$1,739,946.00
Hazardous Materials	**4**	$ 15,000.00	EA	$60,000.00
Protection/Signage/Equipment	**1**	$ 173,320.00	Lump Sum[3]	$173,320.00
			Subtotal =	***$8,068,424.62***
Facility Components				
500 kV Transmission Line Removal				
500 kV Conductor Electrical Line	**275**	$ 76,743.60	MILES	$21,104,490.00
Steel Lattice Tower	**1138**	$ 53,650.00	EA	$61,053,700.00
Tubular steel H-Frame Tower	**141**	$ 21,460.00	EA	$3,025,860.00
Insulator Strings	Included in lattice wrecking and disposal costs			
Remove Foundations To Subgrade	**14200**	$ 300.36	Hours	$4,265,112.00
Load, Haul, Dispose	**1**	$ 6,431,729.00	Lump Sum[3]	$6,431,729.00
Re-grade tower pads	**640**	$ 5,585.00	Acre	$3,571,607.50
			Subtotal =	***$99,452,498.50***
230/138 kV Transmission Line Removal				
230/138kV Conductor Electrical Line	1	$ 118,030.00	Lump Sum3	$118,030.00
Monopole and structures	Included in electrical line costs			
Remove Foundations To Subgrade	None		Cubic Yd.	$0.00
Load, Haul, Dispose	Included in electrical line costs		Cubic Yd.	$0.00
Restore/Re-seed Site	Included in electrical line costs			$0.00

Table 26: RFA2 Updated Decommissioning Cost Estimate

Task or Component	Quantity	Unit Cost ($)[1]	Unit	Estimate ($)
			Subtotal =	***$118,030.00***
Midline Capacitor station				
Fence Removal	1	$ 50,000.00	Each	$50,000.00
Cap bank Removal	3	$ 31,714.04	Each	$95,142.12
Remove Control Building	1	$ 18,693.00	Each	$18,693.00
Switch Removal	2	$ 15,901.08	Each	$31,802.16
Dead-End Structure Removal	2	$ 569,974.40	Each	$1,139,948.80
UG Utility & Ground Removal	0	$ -	Day	$0.00
Restore/Re-seed Site	Seeding is captured in the road removal and site restoration			
			Subtotal =	***$1,335,586.08***
Longhorn Station Removal and Disposal				
Fence Removal	1	$ 50,000.00	Day	$50,000.00
Cap bank Removal	3	$ 29,010.80	Each	$87,032.40
Remove Control Building	1	$ 18,693.00	Day	$18,693.00
Reactor Removal	7	$ 12,505.40	Cubic Yd.	$87,537.80
Switch Removal	3	$ 19,505.40	Lump Sum[3]	$58,516.20
Dead-End Structure Removal	3	$ 54,934.40	Each	$164,803.20
UG Utility & Ground Removal	0	$ -	Day	$0.00
Restore/Re-seed Site	Seeding is captured in the road removal and site restoration			
			Subtotal =	***$466,582.60***
Communication Station Removal				
Fence Removal	10	$ 5,925.00	Each	$59,250.00
Control Building Removal	10	$ 105,930.00	Each	$1,059,300.00
Remove Foundations To Subgrade	10	$ 8,100.00	Each	$81,000.00
Electrical Removal	1	$ 186,374.40	Lump Sum[3]	$186,374.40

Table 26: RFA2 Updated Decommissioning Cost Estimate

Task or Component	Quantity	Unit Cost ($)[1]	Unit	Estimate ($)
Restore/Re-seed Site	Seeding is captured in the road removal and site restoration			
			Subtotal =	***$1,385,924.40***
Road Removal and Site Restoration/Revegetation				
Access road restoration	1	$ 8,920,264.00	Lump Sum[3]	$8,920,264.00
Decompact & Remove Gravel From Roads	68,000.00	$ 18.26	Ton	$1,241,680.00
Reconstruct temporary Multi-Use Areas	7.00	$ 430,811.00	Each	$3,015,677.00
Reconstruct pads >20 cross slope	305.00	$ 6,668.09	Acre	$2,033,767.45
Re-Seed With Native Vegetation - Roads & Areas Disturbed By Construction	1	$ 9,921,540.25	Lump Sum[3]	$9,921,540.25
			Subtotal =	***$25,132,928.70***
			B2H Max Potential Decommissioning Cost **(Cost)** *Subtotal =*	***$135,959,974.90***
Council Applied Contingencies				
Department Administration and Project Management (4% Of Cost)	4		Percent	$5,438,399.00
Future Development Contingency (20% Of Cost)	20		Percent	$27,191,994.98
			Contingency *Subtotal =*	***$32,630,393.98***
			Subtotal of Cost Contingencies (Q1 2024 Dollars) - *Rounded to nearest $1*	**$168,590,368.88**
Performance Bond	1		Percent	**$1,685,903.69**
Total Site Restoration Cost (Q1 2024 Dollars) *Rounded to nearest $1*				**$170,276,273**

Notes:
1. All unit costs are in Q1 2024 Dollars.
2. To allow continued use of the land for agricultural or other purposes deemed appropriate at the time of decommissioning purposes, all subsurface features may need to be removed to a minimum of 3 feet below ground surface or as agreed with the landowner.
3. Tasks associated with a Lump Sum unit cost may be calculated using a fraction (in decimal form) of the actual quantities constructed.

1

Council finds that $ $170,276,273.00 (in Q1 2024 dollars) is adequate to restore the site to a useful, nonhazardous condition and amends Retirement and Financial Assurance Condition 4 and 5 to reflect the updated total cost and unit costs as presented below (for brevity, applicable portions of amended conditions presented).

Retirement and Financial Assurance Condition 4 applies to the construction phase of the facility, where Council approved the amount of bond or letter of credit required during the construction phase be increased on a quarterly basis throughout the estimated four-year construction period (comprised of 16 quarterly periods) to generally correspond with the progress made on construction of the facility.

Amended Retirement and Financial Assurance Condition 4: Consistent with Mandatory Condition OAR 345-025-0006(8), before beginning construction of the facility, the certificate holder shall submit to the State of Oregon, through the Council, a bond or letter of credit naming the State of Oregon, acting by and through the Council, as beneficiary or payee. During the construction phase (defined as the period of time from the beginning of construction as defined in ORS 469.300(6) to the date when the facility is placed in service), the certificate holder shall adjust the amount of the bond or letter of credit on a quarterly basis, as follows:

….

c. The estimated total decommissioning cost for the facility is $170,276,273 in 1st Quarter 2024 dollars), to be adjusted to the date of issuance of the bond or letter of credit, and on a quarterly basis thereafter during the construction phase. For the purposes of calculating the bond or letter of credit amount required by section (a) of this condition, the certificate holder shall adjust the estimated total decommissioning cost using the following calculation:
    i. Adjust the estimated decommissioning cost to correspond with the progress of the construction of the facility at the beginning of each quarter, based on the unit costs and assumptions identified in the Final Order on RFA2, Attachment W-1.
    ii. Adjust the estimated total decommissioning cost (expressed in Q1 2024 dollars) to present value, using the U.S. Gross Domestic Product Implicit Price Deflator, Chain-Weight, as published in the Oregon Department of Administrative Services' "Oregon Economic and Revenue Forecast" or by any successor agency and using the first quarter 2024 index value and the quarterly index value for the date of issuance of the new bond or letter of credit. If at any time the index is no longer published, the Council shall select a comparable calculation to adjust first quarter 2024 dollars to present value.
    iii. Round the result total to the nearest $1,000 to determine the inflation-adjusted estimated total decommissioning cost.

……..

f. The amount of the bond or letter of credit may be amended from time to time by agreement of the certificate holder and the Department to account for adjustments in the construction schedule. Subject to Department approval, the certificate holder

may request an adjustment of the bond or letter of credit amount based on final design configuration of the facility by applying the unit costs and assumptions presented in the Final Order on RFA2 Attachment W-1. Such adjustments may be made without amendment to the site certificate. The Council authorizes the Department to agree to these adjustments in accordance with this condition.

[PRE-RT-01, Final Order on ASC, RFA2]

Amended Retirement and Financial Assurance Condition 5: Consistent with Mandatory Condition OAR 345-025-0006(8), no later than the date the facility is placed in service (the In-Service Date), the certificate holder shall submit to the State of Oregon, through the Council, a bond or letter of credit naming the State of Oregon, acting by and through the Council, as beneficiary or payee. The certificate holder shall maintain a bond or letter of credit as follows:

a. Notwithstanding subsections (b) – (g) of this condition, the Council retains the authority to require the certificate holder to submit a bond or letter of credit, in a timeframe identified by Council, and in an amount equal to the estimated total decommissioning cost for the facility ($170,276,273 in 1st Quarter 2024 dollars adjusted to present day value), or another amount deemed by the Council to be satisfactory to decommission the facility and restore the site to a useful, nonhazardous condition.

…..

e. The estimated total decommissioning cost for the facility is $170,276,273 in 1st Quarter 2024 dollars), to be adjusted to the date of issuance of the bond or letter of credit in In-Service Year 51, and on an annual basis thereafter. Subject to Department approval, the certificate holder may request an adjustment of the bond or letter of credit amount based on final design configuration of the facility by applying the unit costs and assumptions presented in the Final Order on RFA2 Attachment W-1. Such adjustments may be made without amendment to the site certificate. The Council authorizes the Department to agree to these adjustments in accordance with this condition. The certificate holder shall adjust the decommissioning cost for inflation using the following calculation:

(i) Adjust the estimated total decommissioning cost (expressed in Q~~3~~1 2024 dollars) to present value, using the U.S. Gross Domestic Product Implicit Price Deflator, Chain-Weight, as published in the Oregon Department of Administrative Services' "Oregon Economic and Revenue Forecast" or by any successor agency and using the first quarter 2024 index value and the quarterly index value for the date of issuance of the new bond or letter of credit. If at any time the index is no longer published, the Council shall select a comparable calculation to adjust first quarter 2024 dollars to present value.

(ii) Round the result total to the nearest $1,000 to determine the inflation-adjusted estimated total decommissioning cost.

……

[OPR-RT-01, Final Order on ASC, RFA2]

Retirement and Financial Assurance Condition 5 applies to operation of the facility, where Council found that, for an OPUC-regulated entity approved to construct a transmission line, the risk that the facility would be abandoned or retired after construction and before 50 years of service is very low, therefore the amount deemed satisfactory under the standard for the first 50 years of operation is $1.[194] Under the condition, Council retains the authority to adjust the bond or letter of credit amount up to the full amount at any time under the terms of the site certificate.[195] Further, as directed by Council, the condition requires that the 5-year report be presented to Council and include an evaluation and recommendation, based on review of report results, by the Department and, if appropriate, a third-party consultant.[196] The condition allows the Council to consider whether or not the approach towards the financial assurance instrument remains appropriate and would account for unforeseen shifts in the power grid or the certificate holder's financial condition. Because these provisions approved by Council are not impacted by the addition of the midline capacitor station, and that Council has approved this approach twice in the last two years since the issuance of this order, the Council does not change these aspects of the conditions.[197] The changes to conditions are limited under OAR 345-027-0375(2)(e) which requires that, that for all requests for amendment, the *amount* of the bond or letter of credit required under OAR 345-022-0050 is adequate.

[194] Council's rules require the certificate holder to have a bond/letter of credit "in a form and amount satisfactory to the Council" to restore the site. OAR 345-022-0050(2); OAR 345-025-0006(8). Accordingly, the rules give the Council the discretion to approve a bond/letter of credit in an amount less than the full cost of site restoration as long as that amount is satisfactory to the Council. The plain text of the rules allows the Council to exercise reasonable judgment in determining the appropriate form and amount of the bond/letter of credit. Indeed, OAR 345-025-0006(8) (Mandatory Condition 8), specifically authorizes the Council to "specify different amounts for the bond or letter of credit during construction and during operation of the facility." B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, Attachment 6 Contested Case Order, As Amended by Council 2022-09-27, pp. 255-257.

[195] Issue of operational bonding amount fully litigated during the contested case on proposed order of ASC, upheld by hearing officer, and Council found the amount to be satisfactory. B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, pp. 336-339. Final Order on ASC Attachment 6: Contested Case Order (CCO) as Amended and Adopted by Council, pages 26, 119-124, 142, 254-260, and 243-245/Contested Case Issue RFA- 1.

[196] See 2020-03-13-Approved-January-Minutes and 2020-01-24-EFSC-Meeting-Recording Pt 1 of 2; at approx. 11:00 minutes. B2H EFSC Meeting Day 1 PCCO-PO-Exception Hearing Condensed 2022-08-29, pages 132 -160.

[197] The underlying reasons, facts and conclusions of law relied upon by Council resulting in Retirement and Financial Assurance Condition 4 and 5 have not changed and are not impacted by the changes in RFA2. A summary of these are: facility has over 100 year life-span where the facility would be designed, constructed, and operated to be in service in perpetuity, certificate holder is a regulated utility by the Oregon Public Utility Commission and where, if necessary, the utility could recover costs from its ratepayers, and the facility would remain a valuable resource necessary to serve the region. B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, Section IV.G. Further, certificate holder estimates that the annual cost of maintaining a bond would be approximately $750,000. Over 50 years and assuming 3% inflation, requiring certificate holder to carry the full amount would add $84,600,000 to the total Project costs—which is significant in light of the very low risk of early retirement of the facility, and these costs may be passed on to ratepayers. B2HAMD2Doc12 Idaho Power's RFA 2 DPO Comment Responses - By Party 2024-06-05

III.G.1.c Ability of the Applicant to Obtain a Bond or Letter of Credit[198]

RFA2 Attachment 20 includes a letter from Wells Fargo Bank, N.A., dated March 21, 2024 describing its long standing business relationship with the certificate holder, which includes an arrangement where Wells Fargo acted as a joint book-runner for Idaho Power for senior secured debt and participated as a lender to Idaho Power under various credit agreements, including Idaho Power's current five year $400 million syndicated credit agreement, under which Wells Fargo Bank also acts as the administrative agent on behalf of all the lenders under the credit facility. The 2024 Wells Fargo letter indicates the financial institution's interest and ability to arrange a syndicated letter of credit in an amount up to $180 million for the purpose of ensuring Idaho Power's obligation that the site of the facility would be restored to a useful and non-hazardous condition. Wells Fargo is on the Council's list of pre-approved financial institutions. Because the 2024 Wells Fargo letter provides evidence of an existing financial relationship between the institution and the certificate holder and the amount listed in the letter is more than the updated estimate to retire the facility, Council finds that the certificate holder has a reasonable likelihood of obtaining a bond or letter of credit in a form and amount to restore the site to a useful, non-hazardous condition.

Other existing site certificate conditions that apply to the facility, with the in RFA2 changes include the following conditions which are also imposed under Mandatory Conditions (OAR 345-025-0006):

- Retirement and Financial Assurance Condition 1 (GEN-RT-01): The certificate holder must prevent the development of any conditions on the site that would preclude restoration of the site to a useful, non-hazardous condition.
- Retirement and Financial Assurance Condition 2 (RET-RT-01): The certificate holder must retire the facility in accordance with a retirement plan approved by the Council.
- Retirement and Financial Assurance Condition 3 (RET-RT-02): If the Council finds that the certificate holder has permanently ceased construction or operation of the facility without retiring the facility according to a final retirement plan approved by the Council, the Council must notify the certificate holder and request that the certificate holder submit a proposal. If the certificate holder does not submit a proposed final retirement plan by the specified date, the Council may direct the Department to prepare a proposed final retirement plan for the Council's approval.

III.G.2. Conclusions of Law

[198] Mandatory Condition OAR 345-025-0006(8) requires the certificate holder to submit a bond or letter of credit in a form and amount satisfactory to the Council to restore the site to a useful, non-hazardous condition. Council interprets "form" to include the bond or letter of credit as well as the issuing financial institution as a component of the form of the financial assurance. See May 15, 2015 EFSC Meeting Item D - Financial Assurance Staff Memo and Final EFSC Minutes 2015-05-14-15.

Based on the foregoing analysis, and subject to compliance with the amended and existing conditions described above, Council finds that under OAR 345-027-0375(2)(e), the amount of the bond or letter of credit required under OAR 345-022-0050 is adequate, and that under OAR 345-022-0050(2), the certificate holder has a reasonable likelihood of obtaining a bond or letter of credit in a form and amount satisfactory to the Council to restore the site to a useful, non-hazardous condition.

III.H. FISH AND WILDLIFE HABITAT: OAR 345-022-0060

> *To issue a site certificate, the Council must find that the design, construction and operation of the facility, taking into account mitigation, are consistent with:*
>
> *(1) The general fish and wildlife habitat mitigation goals and standards of OAR 635-415-0025(1) through (6) in effect as of February 24, 2017, and*
>
> *(2) For energy facilities that impact sage-grouse habitat, the sage-grouse specific habitat mitigation requirements of the Greater Sage-Grouse Conservation Strategy for Oregon at OAR 635-415-0025(7) and OAR 635-140-0000 through -0025 in effect as of February 24, 2017.*[199]

III.H.1. Findings of Fact (OAR 345-022-0060(1))

The analysis area for the Fish and Wildlife Habitat standard includes the area within the amended site boundary (28,150 acres).[200] RFA2 micrositing area additions include approximately 4,142 acres. Under this standard, RFA2 changes evaluated include temporary and permanent habitat impacts in new micrositing areas, limited to lands under the same ownership as the approved site boundary; sage grouse habitat impacts; and changes to sage-grouse conditions (Fish and Wildlife Condition 17, 19, 21 and 22 [PRE-FW-03, OPR-FW-03, PRE-FW-04, OPR-FW-04]).

III.H.1.a Methodology

Literature review and field surveys were conducted in 2022 and 2023 to inform the evaluation of potential impacts to habitat and state sensitive species within the RFA2 micrositing area additions. The literature review was also used to evaluate habitat and special status, and state listed T&E species within the expanded site boundary. Literature reviewed includes ODFW's

[199] OAR 345-022-0060, effective Mar. 8, 2017.

[200] The Department established the site boundary as the analysis area for the Fish and Wildlife Habitat standard. Consistent with the analysis area established in the Second Amended Project Order, the same previously established analysis area applies to review of future proposed changes. B2HAPPDoc15 ApASC Second Amended Project Order 2018-07-26. Table 2, Page 23.

current list of sensitive species (2021-2); ODFW's mapped elk and mule deer winter range;[201] Oregon Biodiversity Information Center database information as of February 2022; USGS 2011 landcover data; 2022 GIS data from U.S. Forest Service and BLM; and fish distribution data from StreamNet (last updated 2019).[202]

Various species, habitat and vegetation surveys were conducted in 2022 and 2023 to inform habitat type, category and location of state sensitive or state-listed T&E species. The type of surveys and survey protocols were established in the ASC phase – the same surveys and protocols were implemented and followed for RFA2. Surveys included: terrestrial visual encounter (TVES); pygmy rabbit; Washington ground squirrel (WAGS); raptor nest; avian (for target species: great gray owl, flammulated owl, northern goshawk and American three-toed woodpecker); wetland; and noxious weeds. Due to limitation in the certificate holder's ability to obtain landowner permission for right-of-entry[203] in advance of biological survey seasons, not all biological surveys applicable to the RFA2 micrositing area additions covered the entirety of the survey area. Where right of entry was either denied or not obtained, Council previously agreed to review desktop analysis combined with the results of preconstruction surveys to meet the evidentiary threshold. Council continues to authorize the same approach for this review.

Survey methods and results are provided in RFA2 Attachments 7-3 (WAGS); 7-4 (TVES), 7-5 (pygmy rabbit), 7-7 (noxious weeds), 7-8 (avian surveys), 7-21 (wetland), and 7-9 (raptor nest). Key facts regarding timing and survey area are presented below:

- TVES were conducted by biologists, during daylight hours, in late May through June, and late July/early August in 2023. TVES are intended to identify any unique habitat (such as rock-ash-calcareous outcroppings, talus slopes, cliffs, caves, riparian zones, sand inclusions, mature timber stands, permanent and seasonal ponds, lakes and wetlands) and includes visual and auditory confirmation of species focusing on special status species and their habitat.[204] The TVES area for the RFA2 micrositing addition areas include approximately 3,918 acres. Of 3,918 acres, 3,683 acres were surveyed. TVES recorded wildlife, wildlife signs and unique wildlife habitat; results included identification of 21 mammal species, 103 bird species, 3 reptile and 1 amphibian.[205]

[201] ODFW Winter Range for Eastern Oregon. GIS dataset available online at: https://nrimp.dfw.state.or.us/DataClearinghouse/default.aspx?p=202&XMLname=885.xml

[202] B2HAMD2Doc2 RFA2 2024-04-11, Section 11.

[203] Right of entry refers to obtaining landowner permission for survey crews to access private property. The Council previously concurred with the certificate holder's phased survey approach, where biological surveys were required where right of entry had been obtained. Where right of entry was either denied or not obtained, Council agreed to review desktop analysis combined with the results of preconstruction surveys. B2HAPPDoc32 Final Order on ASC and Attachments. Section III.D.

[204] B2HAPPDoc3-25 ASC 16A_Exhibit P1_Wildlife_ASC_Part 1_Main thru Attach P1-6 rev 2018-09-28. B2HAMD2Doc10-2.4 DPO Public Comment_Gilbert I_Ladd Marsh - Protected Area - T&E 2024-05-30; B2HAMD2Doc10-2.6 DPO Public Comment_Gilbert I_Site Cert Conditions 2024-05-31.

[205] B2HAMD2Doc2 RFA2 2024-04-11, Attachment 7-4.

- Pygmy rabbit surveys were conducted April 22-27, 2023 and May 11, 2023, using methods adapted from the Interagency Pygmy Rabbit Working Group's "Surveying for Pygmy Rabbits" and the United States Geological Survey's "Pygmy Rabbit Surveys on State Lands in Oregon."[206] Suitable pygmy rabbit habitat within the RFA2 micrositing area additions include approximately 492 acres. Of the 492 acres of suitable pygmy rabbit habitat, 127 acres were surveyed.
- Raptor nest surveys were conducted via two rounds of aerial surveys on April 9-12 and 17; and May 22-28, 2023. The survey area extended 1-mile from the RFA2 micrositing area additions in non-forest lands, and 0.5-mile from the RFA2 micrositing area additions in forest lands.
- WAGs surveys were conducted in April and May 2022 and 2023 in accordance with a protocol previously reviewed and approved during the ASC permitting phase.[207] The survey area included all suitable habitat area within and extending 1,000-feet from the RFA2 micrositing area additions. Suitable habitat includes native grassland, shrub-steppe, and planted native species in Conservation Recovery Program (CRP) habitat.[208] Suitable WAGs habitat within the RFA2 micrositing area additions include 894 acres. Of the approximately 894 acres of suitable WAGS habitat, 894 acres were surveyed.
- Avian surveys were conducted in April, May and June using calling stations.[209] The survey area for owls includes all areas within and extending ¼-mile of the RFA2 micrositing area additions Within the owl survey area, calling stations are placed approximately 528 feet apart. The survey area for diurnal species (American Three-toed Woodpecker and Northern Goshawk) included all area within and extending ½-mile from the RFA2 site boundary additions. Within the diurnal species survey area, calling stations were placed approximately 650 apart in areas with moderate to high conifer canopy cover within fairly contiguous stands of forest. For owl surveys, 14 calling stations were needed and established. For diurnal species, 13 callings stations were needed and established.
- Noxious weed surveys were conducted in 2022 and 2023. The RFA2 micrositing area additions include 4,142 acres. Of 4,142 acres, 3,765 acres were surveyed.

Survey results, potential impacts and avoidance/mitigation requirements are presented in Section III.H.1.c and III.H.1.d below.

III.H.1.b Fish and Wildlife Habitat

Habitat category and type within the RFA2 micrositing areas are presented in RFA2 Figure 7-12 mapset and presented in RFA2 Table 7.1-13. Within RFA2 micrositing area additions, identified habitat includes Categories 1 through 6; Categories 1 through 5 include: agriculture/developed,

[206] B2HAMD2 Request for Amendment 1 Attachment 7-5.

[207] B2HAPPDoc3-25 ASC 16A_Exhibit P1_Wildlfie_ASC_Part 1_Main thru AttachP1-6 rev 2018-09-28. Appendix B-1, pgs. B1-1 – B1-2.

[208] B2HAMD2Doc2 RFA2 2024-04-11, Attachment 7-3.

[209] B2HAMD1 Request for Amendment 1 Attachment 7-8 2023-06-08.

grassland, riparian vegetation, shrub/grass, shrubland, wetland, forest/woodland, bareground, open water/unvegetated wetlands.[210]

Estimated temporary, temporal and permanent habitat impacts by habitat category and types are presented in Tables 27, 28 and 29 below.

Table 27: RFA2 Micrositing Area Additions, Temporary Habitat Impacts (Acres)

Habitat Type	Habitat Category			
	2	3	4	5
Agriculture/Developed[1]	6.5	1	0.7	
Grassland	24	3		15
Riparian Vegetation	8.9			
Shrub/Grass[2]	342.9	5.7	74.4	13.3
Shrubland[2]	54.5	37.5	2.3	
Wetland	0.1			
Forest/Woodland[2]	68.8	42.6		
Bare Ground (bare ground, cliffs, talus)	3.2			
Open Water/Unvegetated Wetlands	0.8			
Approx. Temporary Habitat Impacts from RFA2 Micrositing Area Additions =	509.7	89.8	77.4	28.3

Notes:

1. Habitat type "agriculture/developed" is typically Category 6. In the areas identified for the RFA2 micrositing area additions, agriculture/developed as Categories 2, 3 and 4 are due to its location in in Conservation Reserve Program within ODFW's mapped elk or mule deer winter range.
2. These habitat types will experience a temporal loss. Temporal loss refers to loss of habitat function and values from the time an impact occurs to the time when the restored habitat provides a pre-impact level of habitat function. Habitat subtypes with a shrub component or forest/woodland are reasonably expected to require a longer restoration timeframe (5+ years) and therefore would be expected to result in temporal loss requiring compensatory mitigation beyond the certificate holder's revegetation obligation.

Table 28: RFA2 Micrositing Area Additions, Temporal Habitat Impacts (Acres)

Habitat Type[1]	Habitat Category			
	2	3	4	5
Shrub/Grass	342.9	5.7	74.4	13.3
Shrubland	54.5	37.5	2.3	
Forest/Woodland	68.8	42.6		

[210] These categories and habitat types were evaluated by Council in the *Final Order on ASC*. B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, pp. 342-347.

Table 28: RFA2 Micrositing Area Additions, Temporal Habitat Impacts (Acres)

Habitat Type[1]	Habitat Category			
	2	3	4	5
Approx. Temporal Habitat Impacts from RFA2 Micrositing Area Additions =	466.2	85.8	76.7	13.3

Notes:

1. These habitat types will experience a temporal loss. Temporal loss refers to loss of habitat function and values from the time an impact occurs to the time when the restored habitat provides a pre-impact level of habitat function. Habitat subtypes with a shrub component or forest/woodland are reasonably expected to require a longer restoration timeframe (5+ years) and therefore would be expected to result in temporal loss requiring compensatory mitigation beyond the certificate holder's revegetation obligation.

Table 29: RFA2 Micrositing Area Additions, Permanent Habitat Impacts (Acres)

Habitat Type	Habitat Category			
	2	3	4	5
Agriculture/Developed	2.5	--	0.3	--
Grassland	5.5	--	--	--
Riparian Vegetation	0.4	--	--	--
Shrub/Grass	109.1	8.4	14.2	2.3
Shrubland	9	1.2	--	--
Forest/Woodland	15.8	6.3	--	--
Bare Ground (bare ground, cliffs, talus)	0.1	--	--	--
Approx. Permanent Habitat Impacts from RFA2 Micrositing Area Additions =	142.4	15.9	14.5	2.3

III.H.1.c Habitat Impacts and Mitigation

As presented above, the RFA2 micrositing area additions would result in temporary, temporal and permanent impacts to Categories 2, 3, 4 and 5 habitats. Under the Council's Fish and Wildlife Habitat standard, the Council must find that the design, construction and operation are consistent with ODFW's fish and wildlife habitat mitigation goals, based on category of habitat impacted. The mitigation goals for Category 2, 3, 4 and 5 habitats are presented below.

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

If impacts are unavoidable, the mitigation goal for Category 2 habitat is no net loss of either habitat quantity or quality and provision of a net benefit of habitat quantity or quality. The Council interprets this to mean that both habitat quantity and quality must be preserved, and

the quantity of habitat preserved must be more than is impacted and the quality of the habitat of the preserved lands must be suitable for uplift or enhancement. To achieve this goal, impacts must be avoided, or unavoidable impacts must be mitigated through reliable "in-kind, in-proximity" habitat mitigation to achieve no net loss of either pre-development habitat quantity or quality. In addition, a net benefit of habitat quantity and quality must be provided.

> *"Habitat Category 3" is essential habitat for fish and wildlife, or important habitat for fish and wildlife that is limited either on a physiographic province or site-specific basis, depending on the individual species or population.*

The mitigation goal for Category 3 habitat is no net loss of either habitat quantity or quality. The Council interprets this to mean that both habitat quantity and quality must be preserved. The goal is achieved by avoidance of impacts or by mitigation of unavoidable impacts through reliable "in-kind, in-proximity" habitat mitigation to achieve no net loss in either pre-development habitat quantity or quality.

> *"Habitat Category 4" is important habitat for fish and wildlife species.*

Like Category 3, the mitigation goal for Category 4 habitat is no net loss in either existing habitat quantity or quality. The Council interprets this to mean that both existing habitat quantity and quality must be preserved. The goal is achieved by avoidance of impacts or by mitigation of unavoidable impacts. In contrast to Category 3, mitigation options are less constrained and may involve reliable "in-kind or out-of-kind, in-proximity or off-proximity" habitat mitigation to achieve no net loss in either pre-development habitat quantity or quality.

> *"Habitat Category 5" is habitat for fish and wildlife having high potential to become either essential or important habitat*.

If impacts are unavoidable, the mitigation goal for Category 5 habitat is to provide a net benefit in habitat quantity or quality. The Council has previously interpreted this to mean that there must be some improvement in either habitat quality or quantity. To clarify the "net benefit" goal, ODFW has advised: "The improvement in habitat quantity or quality achieved need not rise to the level of improvement required to meet a goal of 'no net loss' (i.e. the level required or recommended in the Mitigation Policy for Habitat Categories 2, 3, and 4)." The goal is achieved by avoidance of impacts or by mitigation of unavoidable impacts through "actions that contribute to essential or important habitat." To achieve the habitat mitigation goals for Category 2, 3, 4 and 5 habitats, the certificate holder is required to mitigate temporary, temporal and permanent habitat impacts.

To achieve a net benefit for Category 2 temporary impacts, and "no net loss" in quantity of Category 2, 3 and 4 temporary habitat impacts, certificate holder will restore impacts based on the following permanent mitigation approach:

- Category 2, 3 and 4 impacts: 1 acre permanently preserved for every 1 acre impacted (1:1 acreage ratio)

To achieve a net benefit for Category 2 permanent impacts, and "no net loss" in quantity of Category 2, 3 and 4 permanent habitat impacts, certificate holder will restore impacts based on the following permanent mitigation approach:[211]

- Category 2 impacts: 2 acres preserved for every 1 acre impacted (2:1 acreage ratio)
- Category 3 and 4 impacts: 1 acre preserved for every 1 acre impacted (1:1 acreage ratio)
- Category 5 impacts: less than 1 acre preserved for every 1 acre impacted (<1:1 acreage ratio)

Based on the above mitigation ratios, the RFA2 habitat mitigation obligation for approximately 880 impacted acres is approximately 1,016 acres.[212] As allowed under Fish and Wildlife Condition 4 (GEN-FW-04), the certificate holder finalized its Habitat Mitigation Plan through selection of the option to use a mitigation bank. The mitigation bank is the Northern Great Basin Conservation Bank (NGBCB), sponsored by Three Creek LLC. The NGBCB is set up to provide perpetual conservation offsets for compensatory mitigation for adverse impacts to identified species and habitat within its service area.

The certificate holder secured mitigation credits for temporary and permanent habitat impacts for the facility, inclusive of RFA2 impacts, through remittance of required funds to NGBCB with credits reviewed by ODFW. ODFW approved the mitigation credits on January 22, 2024.[213] The mitigation credits secured to date cover 3,989 acres of Category 2 habitat; 508 acres of Category 3 habitat; 323 acres of Category 4 habitat and 21 acres of Category 5 habitat, more than double the amount needed to mitigate estimated impacts from the RFA2 micrositing addition areas. All temporary habitat impacts will be revegetated and restored consistent with the current condition through General Standard of Review Condition 9 (OPR-GS-03), Fish and Wildlife Condition 1 (GEN-FW-01) and Soil Protection Condition 1 (GEN-SP-01).

Council previously imposed Fish and Wildlife Condition 5 (OPR-FW-01) requiring a post-construction true-up of habitat impacts to confirm the adequacy of the mitigation secured prior to construction. The existing condition requires that, during the third year of operations, the certificate holder must demonstrate that the final calculation for the certificate holder's habitat

[211] While temporal loss applies to habitat subtypes expected to require a longer restoration timeframe, and therefore would apply to impacted sagebrush steppe but not grasslands, the certificate holder did not delineate between habitat subtypes to be temporarily impacted and provides mitigation for temporal loss for Category 2, 3 and 4 regardless of habitat subtype. Therefore, temporary impacts are being mitigated comparable to permanent impacts.

[212] From Table 27, 509 acres + 89 acres + 77 acres + 24 acres = 700 acres. From Table 29, (142 acres x 2) + (15 + 15 + 2 acres) = 315 acres. Total = 1,016 acres.

[213] B2HAMD2Doc2 RFA2 2024-04-11, Attachment 7-10. ODFW's approval of the quantity and validity of the mitigation credits is provided in RFA2 Attachment 7-10.

mitigation obligation be based on the as-constructed facility (final facility design) and inclusive of all indirect impacts resulting from post-construction traffic studies within elk habitat.

Based on the evidence in the record, and compliance with existing conditions, Council finds that the certificate holder's mitigation demonstration provided in RFA2 Attachment 7-10 is consistent with all mitigation goals per category under the standard and ODFW's Fish and Wildlife Habitat Mitigation Policy.

III.H.1.d Species Impacts and Mitigation

Results of the 2022 and 2023 biological surveys did not identify any pygmy rabbits, owl or diurnal species. As described in Section III.H.1.a, surveys did not include all survey area. Council previously imposed the following conditions that will require surveys in unsurveyed areas to be completed prior to construction within suitable habitat.

- Fish and Wildlife Condition 15 (PRE-FW-01) requires that, prior to construction of the facility, facility phase or segment, as applicable, surveys be conducted on any portion of the site boundary not previously surveyed for the following: Northern Goshawk, American Three-Toed Woodpecker, Great Gray Owl, TVES, wetlands and fish.
- Fish and Wildlife Condition 16 (PRE-FW-02) requires that, prior to construction of the facility, facility phase or segment, as applicable, surveys be conducted on any portion of the site boundary not previously surveyed for the following: WAGS, raptor nests, and pygmy rabbits.

Surveys completed in 2022-23 identified 3 WAGs colonies and 51 raptor nests within 0.5 mile of potential disturbance activities.

Potential impacts to State Sensitive species during construction and operation include sensory disturbance (i.e., noise, vibration, and visual) from the presence of personnel, vehicles, and equipment; as well as permanent impacts from habitat loss/modification; collision with equipment and facilities; increased predation risk from transmission lines used for perching, and transmission line electrocution and collision. Council previously imposed the following conditions which will rely on the results of the preconstruction survey data from the above-referenced conditions and ensure avoidance to the greatest possible extent.

- Fish and Wildlife Condition 11 (CON-FW-01) limits ground-disturbing activities during the elk and mule deer winter range season.
- Fish and Wildlife Condition 12 (CON-FW-02) requires a minimization and avoidance plan in any locations identified during preconstruction surveys of pygmy rabbits or the roosts of State-sensitive bat species.[214]

[214] In the DPO, the Department recommended Fish and Wildlife Condition 12 (CON-FW-02) be amended to remove reference to preconstruction survey requirements because the condition applies to observation made during

- Fish and Wildlife Condition 13 (CON-FW-03) requires a minimization and avoidance plan for any locations identified during preconstruction surveys of ground-nesting bird species.
- Fish and Wildlife Condition 14 (CON-FW-04) requires a 300-foot to ½-mile avoidance buffer nearing the sensitive nesting season for occupied nests of raptors with suitable habitat within the analysis area.
- Threatened and Endangered Species Condition 1 (CON-TE-01) requires avoidance of ground-disturbance in Category 1 WAGs habitat (buffer of 785-from edge of colony), based on survey results no older than 3-years at the time of activity.

III.H.2. Findings of Fact (OAR 345-022-0060(2))

The EFSC Fish and Wildlife Habitat standard has two parts. Sub(1), as described in the section above, relates to all fish and wildlife habitat except for sage-grouse habitat. Sub(2) of the standard is specific to sage-grouse habitat. RFA2 micrositing addition areas would be located in Core Area and Low Density sage-grouse habitat within Malheur and Baker counties.

RFA2 also seeks approval to amend four previously imposed conditions related to sage-grouse habitat mitigation from indirect impacts, discussed below.

Sub(2) of the standard states:

> *To issue a site certificate, the Council must find that the design, construction, and operation of the facility, taking into account mitigation, are consistent with:*
>
> *****
>
> *(2) For energy facilities that impact sage-grouse habitat, the sage-grouse specific habitat mitigation requirements of the Greater sage-grouse conservation strategy for Oregon at OAR 635-415-0025(7) and OAR 635-140-0000 through -0025 in effects as of February 24, 2017.*

As referenced in the Council's standard above, OAR 635-415-0025(7) states:

> *For proposed developments subject to this rule with impacts to greater sage-grouse habitat in Oregon, mitigation shall be addressed as described in OAR 635-140-0000 through 635-140-0025, except that any energy facility that has submitted a preliminary application for site certificate pursuant to ORS 469.300 et seq. on or before the effective date of this rule is exempt from fulfilling the avoidance test contained in 635-140-0025, Policy 2, subsections (a), (b), (c) and (d)(A). Other mitigation provisions contained in 635-140-0025, Policy 2, subsections (d)(B) and (e), and Policies 3 and 4 remain applicable*.

construction. On the record of the DPO, Ms. Gilbert expressed concerns that the language removed was important in identifying the locations where the construction requirements would apply. The Council concurs with the comments and reverses the revision; previously imposed condition language is maintained.

OAR 635-415-0025(7) became effective upon its adoption in March 2016. The pASC for the proposed transmission line was submitted in February 2013. The Council interprets the exception to OAR 635-415-0025(7) to specifically apply during the permitting phase of the ASC – and allowed for projects that were in the pASC phase to be exempt from the requirement. The waiver, however, does not extend to future permitting phases, where changes to facility location, expanded site boundary, and micrositing areas are approved. Therefore, the requirements of OAR 635-140-0025, Policy 2, subsections (a), (b), (c), and (d)(A) are applicable to the RFA2 micrositing area additions that would occur within/impact sage-grouse habitat.[215]

The applicable[216] provisions of OAR 635-140-0025(2) and (3) state:

> *(2) Policy 2. The Department [ODFW] may approve or recommend approval of mitigation for impacts from a large-scale development permitted by a county; or development actions permitted by a state or federal government entity on public land, within sage-grouse habitat only after the following mitigation hierarchy has been addressed by the permitting entity, with the intent of directing the development action away from the most productive habitats and into the least productive areas for sage-grouse (in order of importance: core area, low density, general, and non-habitat).*
>
> *(a) Avoidance in Core Area Habitat. If the proposed development can occur in another location that avoids both direct and indirect impacts within core habitat, then the proposal must not be allowed unless it can satisfy the following criteria:*
> *(A) It is not technically feasible to locate the proposed development activity or its impacts outside of a core habitat area based on accepted engineering practices, regulatory standards or some combination thereof. Costs associated with technical feasibility may be considered, but cost alone may not be the only consideration in determining that the development must be located such that it will have direct or indirect impacts on sage-grouse core area habitat; or*
> *(B) The proposed development is dependent on a unique geographic or other physical feature(s) that cannot be found on other lands; and*
> *(C) If the proposal is for a large-scale development as defined in Oregon Land Conservation and Development OAR 660-023-0115 (Greater Sage-*

[215] OAR 345-027-0375(2)(a) requires that changes proposed in a Request for Amendment, specifically micrositing area additions, to be reviewed under the standards, rules and laws, that would be applied to a new site certificate application submitted to the same date. The Council interprets OAR 635-415-0025(7) only to apply to the proceedings of an ASC because applying the -0025(7) exemption to future EFSC proceedings for an approved facility is not consistent with OAR 345-027-0375 and 345-022-0030.

[216] Policy 2 states, "The Department [ODFW] may approve or recommend approval of mitigation for impacts from a large-scale development permitted by a county; or development actions permitted by a state or federal government entity *on public land*.." [*emphasis added*], because land ownership associated with RFA2 micrositing areas in sage grouse habitat is not identified in RFA2, Council evaluates compliance with OAR 635-140-0025(2), the "avoidance test", in this order. However, if the RFA2 micrositing areas within sage grouse habitat are entirely on private land ownership, this test is not necessary, yet applicable mitigation within ODFWs sage grouse rules is.

Grouse) and either (2)(a)(A) or (2)(a)(B) is found to be satisfied, the permitting entity must also find that it will provide important economic opportunity, needed infrastructure or public safety benefits for local citizens or the entire region.

(b) Avoidance in Low Density Habitat. If the proposed development action can occur in another location that avoids both direct and indirect impacts within low density sage-grouse habitat, then the proposal must not be allowed unless it can satisfy the following criteria:

(A) It is not technically or financially feasible to locate the proposed use outside of low density sage-grouse habitat based on accepted engineering practices, regulatory standards, proximity to necessary infrastructure or some combination thereof; or

(B) The proposed development action is dependent on geographic or other physical feature(s) found in low density habitat areas that are less common at other locations.

(c) Avoidance in General Habitat. If the proposed development activity and its direct and indirect impacts are in general sage-grouse habitat (within 3.1 miles of a lek), then the permitting entity may allow the activity based on satisfaction of the following criteria:

(A) Consultation between the development proponent and the Department that generates recommendations pursuant to the approach identified in minimization subsection (d), and

(B) Incorporation by the project proponent of reasonable changes to the project proposal based on the above consultation with the Department, and/or justification as to why a given recommendation is not feasible.

(d) Minimization. If after exercising the above avoidance tests, the permitting entity finds the proposed development action cannot be moved to non-habitat or into a habitat category that avoids adverse direct and indirect impacts to a habitat category of greater significance (i.e., core or low density), then the next step applied in the mitigation hierarchy will be minimization of the direct and indirect impacts of the proposed development action. Minimization consists of how to best locate, construct, operate and time (both seasonally and diurnally) the development action so as to avoid or minimize direct and indirect impacts on important sage-grouse habitat and sage-grouse.

(A) Minimizing impacts from development actions in general habitat shall include consultation between the development proponent and the Department that considers and results in recommendations on how to best locate, construct, or operate the development action so as to avoid or minimize direct and indirect impacts on important sage-grouse habitat within the area of general habitat.

(e) Compensatory Mitigation. If avoidance and minimization efforts have been exhausted, compensatory mitigation to address both direct and indirect impacts will be required as part of the permitting process for remaining adverse impacts from the proposed development action to sage-grouse habitat, consistent with the mitigation standard in (3) Policy 3 below.

(3) Policy 3. The standard for compensatory mitigation of direct and indirect habitat impacts in sage-grouse habitat (core low density, and general areas) is to achieve net conservation benefit for sage-grouse by replacing the lost functionality of the impacted habitat to a level capable of supporting greater sage-grouse numbers than that of the habitat which was impacted. Where mitigation actions occur in existing sage-grouse habitat, the increased functionality must be in addition to any existing functionality of the habitat to support sage-grouse. When developing and implementing mitigation measures for impacts to core, low density, and general sage-grouse habitats, the project developers shall:

(a) Work directly with the Department [ODFW] and permitting entity to obtain approval to implement a mitigation plan or measures, at the responsibility of the developer, for mitigating impacts consistent with the standard in OAR 635-140-0025 (3) or,
(b) Work with an entity approved by the Department [ODFW] to implement, at the responsibility of the developer, "in-lieu fee" projects consistent with the standard in OAR 635-140-0025 (3).
(c) Any mitigation undertaken pursuant to (a) or (b) above must have in place measures to ensure the results of the mitigation activity will persist (barring unintended natural events such as fire) for the life of the original impact. The Department will engage in mitigation discussions related to development actions in a manner consistent with applicable timelines of permitting entities.

OAR 635-140-0002 defines the sage grouse habitat categories as:

- *Areas of High Population Richness: Mapped areas of breeding and nesting habitat within core habitat that support the 75th percentile of breeding bird densities (i.e., the top 25%).*
- *Core Area: Mapped sagebrush types or other habitats that support greater sage-grouse annual life history requirements that are encompassed by areas: a) of very high, high, and moderate lek density strata; b) where low lek density strata overlap local connectivity corridors; or c) where winter habitat use polygons overlap with either low lek density strata, connectivity corridors, or occupied habitat." Core area maps are maintained by the Department.*
- *Low Density: Mapped sagebrush types or other habitats that support greater sage-grouse that are encompassed by areas where: a) low lek density strata overlapped with seasonal connectivity corridors; b) local corridors occur outside of all lek density strata; c)*

low lek density strata occur outside of connectivity corridors; or d) seasonal connectivity corridors occur outside of all lek density strata. Low density area maps are maintained by the Department.

- *General Habitat: Occupied (seasonal or year-round) sage-grouse habitat outside impact core and low density habitats. As explained in Exhibit P2 of the ASC, the analysis area for sage grouse includes the entire Site Boundary, which the ASC defines as "the perimeter of the site of a proposed energy facility, its related or supporting facilities, all temporary laydown and staging areas, and all corridors and micrositing corridors proposed by the applicant" (OAR 345-001-0010(54)).*

ODFW's Sage-Grouse Conservation Strategy focuses primarily on preserving the species' habitat and not on impacts to individual birds. As applicable to the RFA2 micrositing area additions, OAR 635-140-0025(2), Policy 2 requires compliance with a mitigation hierarchy, which is intended to "direct[] the development action away from the most productive habitats and into the least productive areas for sage-grouse (in order of importance: core area, low density, general, and non-habitat)." In areas where impacts cannot be avoided, Policy 2(d) requires the impacts to be minimized. As described in the rule, "[m]inimization consists of how to best locate, construct, operate and time (both seasonally and diurnally) the development action so as to avoid or minimize direct and indirect impacts on important sage-grouse habitat and sage-grouse." Policy 3 requires compensatory mitigation in the event avoidance and minimization efforts have been exhausted.

The Hwy 203 Crossing Alternative in Baker County, Cottonwood Creek Alternative in Malheur County, and Other Access Road and Work Area Changes in Baker and Malheur counties would be located in Core Area and Low Density habitat.[217] Policy 2 criteria (a) – (d) are evaluated below.[218]

Council finds that Policy 2 criteria (a)(B) and (b)(B) (*the proposed development is dependent on a unique or other physical feature(s) that cannot be found on other lands*) is met for the RFA2 micrositing addition areas within Core Area and Low Density habitat, based on the following facts.

The RFA2 micrositing area additions, as presented in RFA2 Attachment 7-10, are dependent on lands reasonably adjacent to the approved site boundary while attempting to shift the facility away from existing pivot irrigation infrastructure for protecting of agricultural practices and shift facility infrastructure closer to an existing geothermal facility, where those locations were also in Core Area and Low Density habitat but not previously evaluated under this rule provision due to timing of the pASC and applicability of the rule.

[217] B2HAMD2Doc2 RFA2 2024-04-11, Attachment 7-10.

[218] Policy 2 criteria (c) applies to general habitat; because the RFA2 micrositing area additions are located in Core and Low Density areas only, (c) is not evaluated in this order.

Council finds that Policy 2 criteria (a)(C) (..*find that it will provide important economic opportunity, needed infrastructure or public safety benefits for local citizens or the entire region)* is met for the RFA2 micrositing area additions, as presented in RFA2 Attachment 7-10, based on the following facts.

As evaluated in the *Final Order on RFA1*, the facility, with RFA2 changes, would create temporary, construction jobs and increase the tax base; facility operation would benefit the greater Pacific Northwest economy through increasing transmission capacity to allow for it to provide services to wholesale customers (potential energy sellers). The facility would provide transmission services to wholesale customers; increase transmission capacity and subsequently increase incentives to build and operate additional energy facilities near transmission substations.

The facility, with RFA2 changes, is a necessary part of the certificate holder's resource management strategy and is designed to support energy efficiency and demand response as an alternative to the construction of additional generation plants. Additionally, the facility, with RFA2 changes, is important for renewable resource development in northeastern Oregon such as wind and geothermal resources. The facility is expected to relieve congestion on the existing 230-kV transmission system, which could facilitate transmission of renewable energy.

Council finds that Policy 2 criteria (d)(A) (..*how to best locate, construct, or operate the development action so as to avoid or minimize direct and indirect impacts on important sage-grouse habitat within the area of general habitat.)* is met for the RFA2 micrositing area additions, as presented in RFA2 Attachment 7-10, based on the following facts.

The *Final Order on ASC* approved the siting of facility components in Core and Low Density habitat areas but that permitting decision did not require an evaluation of Policy 2 criteria (d)(A) because of the exemption under OAR 635-415-0025(7) for energy facilities that had submitted a preliminary application prior to March 2016. ODFW recommends and Council finds that that while the previously approved route did not have to evaluate Policy 2 criteria (d)(A), credit can be taken for future alternative routes that would have a lessor impact.[219] Council finds that the siting of the RFA2 micrositing area additions, as presented in RFA2 Attachment 7-10, would better avoid and minimize direct and indirect impacts to Core and Low density habitat, compared to the approved facility.

OAR 635-140-0025(2), Policy 3 requires that indirect and direct impacts within sage-grouse habitat achieve net conservation benefit for sage-grouse by replacing the lost functionality of the impacted habitat to a level capable of supporting greater sage-grouse numbers than that of the habitat which was impacted. Council has implemented this policy through Fish and Wildlife Condition 17 (PRE-FW-03). As allowed and required by the condition, the certificate holder finalized its Sage-Grouse Habitat Mitigation Plan through selection of the option to use a mitigation bank. The mitigation bank is the NGBCB, sponsored by Three Creek LLC. The NGBCB

[219] ODOE and ODFW communication. Ms. Esterson with Mr. Nigel Siedel. 2023-07-07.

is set up to provide perpetual conservation offsets for compensatory mitigation for adverse impacts to identified species and habitat within its service area.

The certificate holder secured mitigation credits for direct and indirect sage-grouse habitat impacts, as quantified by ODFW using the Habitat Quantification Tool. Credits have been secured for the facility, inclusive of RFA2 impacts, through remittance of required funds to NGBCB with credits reviewed by ODFW. ODFW approved the mitigation credits on January 22, 2024.[220] The mitigation credits secured to date cover 919 acres of sage-grouse habitat. Council previously imposed Fish and Wildlife Conditions 19 and 22 [OPR-FW-03, OPR-FW-04]) requiring a post-construction true-up of indirect sage-grouse habitat impacts to confirm the adequacy of the mitigation secured prior to construction. Based on the evidence in the record, and compliance with existing conditions, Council finds that the certificate holder's mitigation demonstration provided in RFA2 Attachment 7-10 is consistent with 635-140-0025(2) as required under the standard and ODFW's Fish and Wildlife Habitat Mitigation Policy.

RFA2 proposes to amend Fish and Wildlife Conditions 17, 19, 21 and 22 [PRE-FW-03, OPR-FW-03, PRE-FW-04, OPR-FW-04]), as presented below and in Attachment 1 of this order, to clarify that indirect impacts from new and substantially modified roads would be evaluated through a post-construction access control study, and not through a pre- *and* post-construction evaluation [Emphasis added]. The Council concurs based on the Department consultation with ODFW, and concur amends the conditions as requested because the Habitat Quantification Tool (HQT) required for use in quantifying sage-grouse mitigation already accounts for direct and indirect impacts from new and substantially modified roads.[221,222] For accounting purposes, the HQT is more conservative than a preconstruction survey, and the post-construction true-up of indirect impacts from new and substantially modified roads (21-100% modification) is still required to adjust the mitigation obligation of the certificate holder based on actual impacts. The Council-amended conditions are presented below:

> **Amended Fish and Wildlife Condition 17 (PRE-FW-03):** At least 90 days prior to construction of a facility phase or component in sage-grouse habitat as mapped by the Oregon Department of Fish and Wildlife (ODFW) at that time, unless otherwise agreed to by the Department, the certificate holder shall finalize, and submit to the Department for its approval, in consultation with ODFW, a final Sage-Grouse Habitat Mitigation Plan for the phase or segment to be constructed.***

[220] B2HAMD2Doc2 RFA2 2024-04-11, Attachment 7-10. ODFW's approval of the quantity and validity of the mitigation credits is provided in RFA2 Attachment 7-10.

[221] Indirect impacts from all new and substantially modified roads were included in the estimate of mitigation secured by the certificate holder with the mitigation bank. Because indirect impacts were already accounted for, it is not necessary for the certificate holder to obtain pre-disturbance traffic data but can rely on post-disturbance traffic counts to determine whether impacts beyond the estimate occurred and necessitate post-disturbance mitigation.

[222] B2HAMD2Doc2 RFA2 2024-04-11. Attachment 7-10. November 30, 2023 notes from conference call with ODOE, ODFW, Tetra Tech and IPC to discuss appropriateness of amending conditions requiring pre-construction traffic study.

i. The final Sage-Grouse Habitat Mitigation Plan shall include compensatory mitigation sufficient to address impacts from, at a minimum, all facility components-As referenced in Fish and Wildlife Condition 19, the certificate holder shall demonstrate during or about the third year of operation that sage-grouse habitat mitigation shall be commensurate with the final compensatory mitigation calculations, either by showing the already-implemented mitigation is sufficient to cover all facility component impacts, or by proposing additional mitigation to address any impacts incremental to the initial calculation. The final compensatory mitigation calculations must be based on the as-constructed facility as well as the post- construction access control study.

***

[Final Order on ASC, AMD2]

Amended Fish and Wildlife Condition 21 (PRE-FW-04) Prior to construction of a phase or segment of the facility, the certificate holder shall conduct a one-year traffic study in elk habitat (elk summer range and elk winter range, based on the most recent ODFW maps available at the time The certificate holder shall submit the traffic study to the Department for its review and approval in consultation with ODFW.
[Final Order on ASC, AMD2]

Amended Fish and Wildlife Condition 19 (OPR-FW-03): During the third year of operation, the certificate holder shall provide to the Department and ODFW the data from the access control study in Fish and Wildlife Condition-22 for ODFW to calculate the final amount of indirect impact from facility roads that are considered related or supporting facilities to sage-grouse habitat and corresponding compensatory mitigation required using Oregon's Sage-Grouse Habitat Quantification Tool. After receiving the calculations from the State, the certificate holder shall provide to the Department a report demonstrating that sage-grouse habitat mitigation shall be commensurate with the final compensatory mitigation calculations.

a. The final calculations shall be based on the as-constructed facility.
b. Oregon's Sage-Grouse Habitat Quantification Tool shall be used to calculate the amount of sage-grouse habitat compensatory mitigation required for the facility, and the information from the post-construction access control study shall be used in the calculation.

[Final Order on ASC, AMD2]

Amended Fish and Wildlife Condition 22 (OPR-FW-04): During the second year of facility operation, the certificate holder shall conduct a one-year traffic study in elk habitat (elk summer range and elk winter range, based on the same maps used for the pre-construction traffic study). During the second year of facility operation, the certificate older shall conduct a one-year access control study in sage-grouse habitat (areas of high population richness, core area habitat, low density habitat, and general habitat.
[Fish and Wildlife Condition 22; Final Order on ASC, AMD2]

III.H.3. Conclusions of Law

Based on the foregoing analysis, and subject to compliance with the existing and amended site certificate conditions, as presented in Attachment 1, Council finds that the design, construction and operation of the facility, with RFA2 changes, are consistent with the mitigation goals and requirements of the Oregon Department of Fish and Wildlife's Fish and Wildlife Habitat Mitigation Policy under OAR 635-415-0025.

III.I. THREATENED AND ENDANGERED SPECIES: OAR 345-022-0070

> *To issue a site certificate, the Council, after consultation with appropriate state agencies, must find that:*
>
> *(1) For plant species that the Oregon Department of Agriculture has listed as threatened or endangered under ORS 564.105(2), the design, construction and operation of the proposed facility, taking into account mitigation:*
>
> *(a) Are consistent with the protection and conservation program, if any, that the Oregon Department of Agriculture has adopted under ORS 564.105(3); or*
>
> *(b) If the Oregon Department of Agriculture has not adopted a protection and conservation program, are not likely to cause a significant reduction in the likelihood of survival or recovery of the species; and*
>
> *(2) For wildlife species that the Oregon Fish and Wildlife Commission has listed as threatened or endangered under ORS 496.172(2), the design, construction and operation of the proposed facility, taking into account mitigation, are not likely to cause a significant reduction in the likelihood of survival or recovery of the species.*[223]

The Council's T&E Species standard does not implement federal requirements. There is not a Council standard authorizing Council to impose or enforce regulations related to federally listed T&E species listed under 16 USC Section 1533.

III.I.1. Findings of Fact

The analysis area for the T&E Species standard includes the area within ¼-mile from the amended site boundary.[224] RFA2 micrositing area additions include approximately 4,142 acres.

[223] OAR 345-022-0070, effective May 15, 2007.

[224] The Council's procedural requirements for site certificate amendments (OAR 345-027-0360(3)) allow the Department to authorize modifications to analysis areas established in a Project Order, if warranted based on the

Under this standard, the Department consulted with ODFW and Oregon Department of Agriculture Native Plant Conservation Program (ODAg) throughout 2nd/3rd Quarter 2023 through 1st Quarter 2024 to evaluate temporary and permanent impacts to state-listed T&E species within the micrositing area additions and condition changes ((Fish and Wildlife Condition 7 [GEN-FW-06], Threatened and Endangered Species Condition 2 [CON-TE-02])).[225]

The methodology used to inform potential impacts to state-listed T&E species from RFA2 changes includes 2022 literature review and field surveys. Literature reviewed includes ODFW's current list of sensitive species; Oregon Biodiversity Information Center database information as of February 2022; ODA's current list of Threatened, Endangered and Candidate Species list; 2022 GIS data from U.S. Forest Service and BLM; and 2019 StreamNet fish distribution data.

Based on the literature review, state-listed T&E species with the potential to occur in the analysis area include Washington ground squirrel (WAGS), Snake River Chinook Salmon (Spring/Summer); Lawrence's milkvetch; Mulfurd's milkvetch; Smooth mentzelia; Cronquist's stickseed; Oregon semaphore grass; Snake River goldenweed; and Howell's spectacular thelypody.

Based on habitat of potential T&E listed species and locations of the RFA2 micrositing area additions, two specific surveys were conducted: WAGS surveys and rare plant surveys. WAGS surveys were conducted in April and May 2022 and 2023 in accordance with a protocol previously reviewed and approved during the ASC permitting phase.[226] The survey area included all suitable habitat area within and extending 1,000-feet from the RFA2 micrositing area additions. Suitable habitat includes native grassland, shrub-steppe, and planted native species in Conservation Recovery Program (CRP) habitat. Suitable WAGS habitat within the RFA2 micrositing area additions include 2,246 acres. Of the approximately 2,246 acres of suitable WAGS habitat, 2,246 acres were surveyed.[227] Survey results are described below.

Rare plant surveys were conducted on April 24, 2023 and concluded with later-blooming higher elevation species on July 31, 2023. The survey area includes 3,918 acres. Of the 3,918 acres,

scope of changes in the Request for Amendment. The July 26, 2018 Second Amended Project Order establishes the analysis area as the area within and extending ½ mile from the site boundary. As authorized under OAR 345-027-0360(3), following pre-amendment conferences on March 23 and June 12, 2023, the Department approved a modified analysis area for the Threatened and Endangered Species standard based on the scope and extent of potential impacts associated with the RFA2 changes.

[225] B2HAMD2 Preliminary Request for Amendment 2 Reviewing Agency Comments ODAg. 2024-03-11; Preliminary Request for Amendment 2 Reviewing Agency Comments ODFW. 2023-12-14.

[226] B2HAPPDoc3-25 ASC 16A_Exhibit P1_Wildlfie_ASC_Part 1_Main thru AttachP1-6 rev 2018-09-28. Appendix B-1, pgs. B1-1 – B1-2.

[227] B2HAMD2Doc2 RFA2 2024-04-11, Attachment 7-3. B2HAMD2 Preliminary Request for Amendment 2 Reviewing Agency Comments ODAg. 2024-03-11. ODFW received and reviewed the WAGS survey reports; and concurs with the protocol and results.

3,765 acres were surveyed in 2022 and 2023.[228] Field surveys included systematic transects within suitable habitat, using tablets running Esri's FieldMaps data collection software and linked to sub-meter accurate Geode GPS devices. Species were identified using *Flora of the Northwest* (Hitchcock and Cronquist 2018) *and Intermountain Flora* (Cronquist et al 1972; Holmgren et al 2012).[229]

III.I.1.a State listed Species

Three WAGS colonies were identified within the RFA2 micrositing area additions during the 2022-23 surveys.

Multiple populations of state-listed T&E plant species, Snake River goldenweed and Lawrence's Milkvetch, were identified within the RFA2 micrositing area additions during the 2022-23 surveys.[230]

III.I.1.b Potential Impacts to Identified Threatened and Endangered Species

Impacts of facility construction and O&M, within the RFA2 micrositing area additions, could result in direct and indirect impacts to state-listed T&E species: WAGS, Snake River goldenweed and Lawrence's Milkvetch. Because WAGS habitat is considered Category 1 habitat under the Council's Fish and Wildlife Habitat standard, impacts are prohibited. The certificate holder is prohibited from direct impacts to Category 1 habitat, as further described below. Impacts to state-listed T&E plant species are not automatically prohibited under the Council's T&E Species standard, however, infeasibility of avoidance must first be demonstrated along with evidence that adequate mitigation is planned/proposed and is demonstrated to be implementable/achievable in restoring impacts to the species.

RFA2 Attachment 7-11 Table 1 presents 2022-2023 survey results of the 3,765 acres associated with the RFA2 micrositing area additions. The results include identification of 34 occurrences of state-listed T&E plants Lawrence's milkvetch (32 occurrences in Morrow County/Ayers Canyon Alternative; 2 occurrences in Umatilla County/Rugg Canyon Alternative and other RFA2 areas) and Snake River goldenweed (1 occurrence in Baker County).

Of the 32 Lawrence's milkvetch occurrences identified in Morrow County, 9 occurrences will be avoided through micrositing.[231] The remaining 23 Lawrence's milkvetch occurrences within

[228] Council previously imposed Fish and Wildlife Condition 16 (Condition PRE-FW-02) requiring that the certificate holder complete surveys within previously unsurveyed areas, where facility-related temporary and permanent impacts would occur, for state-listed T&E plant species. This condition applies to any unsurveyed areas with suitable T&E plant habitat within the RFA2 micrositing area additions.

[229] B2HAMD2 Preliminary Request for Amendment 2 Reviewing Agency Comments ODAg. 2024-03-11. ODAg concurs with the survey methodology.

[230] B2HAMD2Doc2 Request for Amendment 2 2024-04-11, Attachment 7-11.

[231] B2HAMD2Doc2 Request for Amendment 2 2024-04-11, Attachment 7-11 Figures 1, 2, 8, 12, 13, 14, 15, 18 and 28.

Morrow County will not be avoided. Of the 2 Lawrence's milkvetch occurrences within Umatilla County, 1 occurrence will be avoided through micrositing.[232] The 1 occurrence of Snake River goldenweed in Baker County will not be avoided.

The certificate holder's basis for why impact avoidance is infeasible includes: population extends beyond micrositing area or survey area; and engineering constraints. RFA2 Attachment 7-11 figures do not include topography or any detail to support review of the engineering constraints. RFA2 Attachment 7-11 figures do not include parcel or taxlot boundary to support an understanding of whether further adjustments on participating landowner property is feasible. Given RFA2s request to expand the site boundary to allow potential further micrositing adjustments, in part, for resource protection, the Council cannot evaluate whether these reasons have merit. This evaluation is therefore considered preliminary and should be finalized, prior to construction in these RFA2 areas, based on final engineering. Council amends T&E Species Condition 2 [CON-TE-02] requiring that a final review of the final facility design be conducted by the Department in consultation with ODAg to determine whether there are further micrositing opportunities to either avoid or reduce impacts to the identified T&E plant species, as presented in the subsection below.

III.I.1.c Mitigation of Potential Impacts

Mitigation for potential impacts to WAGS is addressed in the site certificate. The site certificate precludes impacts within 785-feet of the boundary of a delineated WAGS colony (i.e., Category 1 WAGS habitat) (Fish and Wildlife Condition 7 [GEN-FW-06] and T&E Species Condition 1 [CON-TE-01]). Through these conditions, all temporary and permanent impacts/facility infrastructure must be sited a minimum distance of 0.15-mile from a delineated colony boundary.

Impact avoidance and mitigation for state-listed T&E plant species is addressed in the site certificate. The site certificate precludes impacts within 33-feet of a delineated state-listed T&E plant population unless avoidance is not possible. If avoidance is not possible, the existing site certificate allows for placement of construction matting to protect and avoid impacts (T&E Species Condition 2 [CON-TE-02]).

In RFA2 Attachment 6-1, the certificate holder requests to amend T&E Species Condition 2 (CON-TE-02) to allow use of matting *or* mitigation in the form of seed collection and long-term conservation storage, transplanting and seeding, and research/monitoring activities [Emphasis added]. The certificate holder's mitigation includes seed collection and long-term conservation storage, transplanting and seeding, and research/monitoring activities to be implemented by qualified experts at ODAg, in the areas of impact. The draft T&E Mitigation Plan was developed by the certificate holder and ODAg, based on these representations and is attached to this order as Attachment 5. The draft T&E Mitigation Plan (Attachment 5) describes the methods by which seed collection, banking & associated research would be conducted as well as monitoring, and success criteria. The legal mechanism to ensure that the mitigation will be

[232] B2HAMD2Doc2 Request for Amendment 2 2024-04-11, Attachment 7-11 Figure 33.

implemented is the site certificate coupled with an Inter-Agency Agreement between the Department and ODAg.

The Department consulted with ODAg on the certificate holder's proposed condition changes, as presented in RFA2 Attachment 6-1.[233] Based on this consultation, the Council and ODAg concur with the mitigation, but further require that the condition be amended to remove the previously allowed use of temporary placement of protective matting based on limited data supporting the adequacy of actual protection. In addition, as described above, the evaluation of feasibility of impact avoidance for the T&E plant species occurrences identified in RFA2 Attachment 7-11 needs to be finalized based upon final engineering, landowner input and the certificate holder's demonstration, as concurred with by the Department in consultation with ODAg, that impact avoidance is infeasible before proceeding with implementation of mitigation.

Amended Threatened and Endangered Species Condition 2 (CON-TE-02): During construction, the certificate holder shall not conduct ground-disturbing activities within a 33-foot buffer around state-listed threatened or endangered (T&E) plant species, based on pre-construction field surveys required per site certificate condition Fish and Wildlife Habitat 16, subject to the following:

a. Certificate holder shall demonstrate that final facility design includes avoidance through micrositing, consistent with the avoidance presented in RFA2 Attachment 7-11. Prior to construction within 33-feet of documented T&E plant species occurrences, as presented in RFA2 Attachment 7-11 Table 1, certificate holder shall submit a final micrositing evaluation that maximizes impact avoidance, subject to review and approval by the Department in consultation with ODAg. If the Department, in consultation with ODAg, determine that the certificate holder has demonstrated that complete avoidance is not possible (for example, if the threatened or endangered plant species is located within 33 feet of an existing road where upgrades are authorized) for the RFA2 Attachment 7-11 occurrence locations or other areas affected by final facility location, the certificate holder shall implement mitigation including but not limited to seed collection and long-term conservation storage, transplanting and seeding, and research/monitoring activities. The mitigation agreement shall be substantially similar to the draft mitigation agreement provided in Attachment 5 of the Final Order on Amendment 2.; and
b. If herbicides are used to control weeds, the certificate holder shall follow agency guidelines including guidelines recommended by the herbicide manufacturer, in establishing buffer areas around confirmed populations of threatened or endangered plant species and refrain from using herbicides within those buffers.

[Final Order on ASC, AMD2]

[233] B2HAMD2 Preliminary Request for Amendment 2 Reviewing Agency Comments ODAg. 2024-03-11. ODAg concurs with the condition changes, as presented in this order.

Based on the evidence in the record and compliance with the amended condition below, and based on the Departments' consultation with ODAg, Council finds that impacts to Snake River goldenweed and Lawrence's Milkvetch from the facility, with RFA2 changes, would not be likely to significantly impact the recoverability or survivability of the species.[234]

The site certificate also includes condition requirements for flagging and avoidance of all "state-protected plant species" (Fish and Wildlife Condition 7 [GEN-FW-06]). The requirement to flag and avoid all "state protected plant species" may cause conflict with the above condition (one condition requires avoidance and mitigation, the other condition requires avoidance without mitigation); and is ambiguous in use of an undefined term ("state protected plant species"). To minimize condition conflict, Council amends Fish and Wildlife Condition 7 (GEN-FW-06) to allow for clear interpretation of requirements applicable to state-listed T&E plant species (remove reference to "state protected plant species" in the condition below, to allow reliance on the avoidance and mitigation established in amended T&E Species Condition 2 [CON-TE-02]).

> **Amended Fish and Wildlife Condition 7 (GEN-FW-06):** Prior to and during construction, the certificate holder shall flag the following environmentally sensitive areas as restricted work zones:
>
> a. Wetlands and waterways that are not authorized for construction impacts;
> b. Areas with active spatial and seasonal restrictions; and
> c. Category 1 habitat.
>
> Prior to construction of a phase or segment of the facility, the certificate holder shall submit a mapset showing the location of environmentally sensitive areas and restricted work zones to the department for its approval. The certificate holder shall make the mapset available to all construction personnel.
> [Final Order on ASC, AMD2]

Council previously imposed the following condition to reduce and minimize any potential direct and indirect impacts to the state-listed T&E species described in this section:

- T&E Species Condition 1 (CON-TE-01) requires that the certificate holder ensure that construction-related ground-disturbing activities avoid all WAGS habitat identified during pre-construction surveys. The condition also requires that if any WAGS are identified during the 3-year validity period of the surveys within areas of anticipated ground-disturbance, but after construction has commenced, that the certificate holder develop and avoidance and impact minimization plan.
- Fish and Wildlife Condition 8 (GEN-FW-07) requires that the certificate holder employ an onsite speed limit on private facility access roads of 25 miles per hour. Reduced speed will minimize impacts to WAGS through vehicular collision.
- Fish and Wildlife Condition 16 (PRE-FW-02) requires that the certificate holder complete surveys within previously unsurveyed areas, where facility-related temporary and permanent impacts would occur, for state-listed T&E plant species. This condition applies

[234] B2HAMD2 Preliminary Request for Amendment 2 Reviewing Agency Comments ODAg. 2024-03-11.

to any unsurveyed areas with suitable T&E plant habitat within the RFA2 micrositing area additions.

III.I.2. Conclusions of Law

Based on the foregoing analysis, and subject to compliance with the existing and amended conditions described above, Council finds that the design, construction and operation of the facility, with RFA2 changes, are not likely to cause a significant reduction in the likelihood of survival or recovery of species listed as threatened or endangered by the Oregon Department of Agriculture or Oregon Fish and Wildlife Commission.

III.J. SCENIC RESOURCES: OAR 345-022-0080

(1) To issue a site certificate, the Council must find that the design, construction and operation of the facility, taking into account mitigation, are not likely to result in significant adverse visual impacts to significant or important scenic resources.

(2) The Council may issue a site certificate for a special criteria facility under OAR 345-015-0310 without making the findings described in section (1). In issuing such a site certificate, the Council may impose conditions of approval to minimize the potential significant adverse visual impacts from the design, construction, and operation of the facility on significant or important scenic resources.

(3) A scenic resource is considered to be significant or important if it is identified as significant or important in a current land use management plan adopted by one or more local, tribal, state, regional, or federal government or agency.

(4) The Council shall apply the version of this rule adopted under Administrative Order EFSC 1-2007, filed and effective May 15, 2007, to the review of any Application for Site Certificate or Request for Amendment that was determined to be complete under OAR 345-015-0190 or 345-027-0363 before the effective date of this rule. Nothing in this section waives the obligations of the certificate holder and Council to abide by local ordinances, state law, and other rules of the Council for the construction and operation of energy facilities in effect on the date the site certificate or amended site certificate is executed.[235]

[235] OAR 345-022-0080, effective December 19, 2022.

III.J.1. Findings of Fact

The analysis area for the Scenic Resources standard includes the area within and extending 9.75-miles from the amended site boundary.[236]

In preparation of RFA2, certificate holder reviewed the 47 applicable federal and local land use management plans or development codes within the analysis area of the facility approved in the *Final Order on ASC* and *RFA1* to determine if there had been updates to these plans that may identify new scenic resources. Based on this review of applicable land use plans,[237] there were not any updates to management plans since the review of RFA1, and plans did not identify any new significant or important scenic resources and values.[238]

III.J.1.a Significant or Important Scenic Resources Identified in Plans

Final Order on ASC provides a description of each of the plans that contain scenic resources or values which included:

- County Plans: Union and Baker Counties;
- City Plans: City of Pendleton;
- State Plans: Oregon State Park System/Oregon Parks and Recreation Department, State Wildlife Areas, State Scenic Byways;
- Federal Plans:
    - Bureau of Land Management (BLM) - Vale District, Baker Resource Area; BLM Baker RMP, Vale District, Malheur Resource Area; BLM SEORMP, Boise District, Owyhee Resource Area (Owyhee Resource Management Plan), Boise District, Cascade Resource Area (Cascade RMP), Spokane District (Spokane RMP);
    - U.S. Forest Service (USFS) - Wallowa-Whitman National Forest Land and Resource Management Plan, Umatilla National Forest Land and Resource Management Plan;
    - Department of Defense/US Navy
    - Bureau of Reclamation (BOR)
    - U.S. Fish and Wildlife Service (USFWS) - Umatilla National Wildlife Refuge (NWR), McKay Creek National Wildlife Refuge (NWR), Deer Flat National Wildlife Refuge (NWR)

[236] The Council's procedural requirements for site certificate amendments (OAR 345-027-0360(3)) allow the Department to authorize modifications to analysis areas established in a Project Order, if warranted based on the scope of changes in the Request for Amendment. The July 26, 2018 Second Amended Project Order establishes the analysis area as the area within and extending 10-miles from the site boundary. As authorized under OAR 345-027-0360(3), following pre-amendment conferences on March 23 and June 12, 2023, the Department approved a modified analysis area for the Scenic Resources standard based on the scope and extent of potential impacts associated with the RFA2 changes.

[237] Excerpts of plans provided in RFA1 Attachment 7-12.

[238] B2HAMD2Doc2 RFA2 2024-04-11, Section 7.1.7.

Based on the review of these plans and updates to the plans as part of RFA2, there are not any new scenic resources of values within the analysis area of RFA2. Table 30: Scenic Resources within Analysis Area for ASC, RFA1, and RFA2 Transmission Line Routes, below, lists the scenic resources in the analysis area for the ASC, RFA1, and RFA2 with the distance to the closest transmission line route associated with the ASC, RFA1, and RFA2. Table 30, below, focuses on transmission line routes, consistent with the evaluation conducted in the Final Order on ASC and RFA1. For an evaluation potential visual impacts of all RFA2 micrositing area additions to scenic resources that area also a protected area, see Section III.F., Protected Areas.

Table 30: Scenic Resources within Analysis Area for ASC, RFA1, and RFA2 Transmission Line Routes

Scenic Resource	Distance to Approved/RFA2 Routes	Designating Plan
Blue Mountain Forest Wayside (SR U1)	Crossed (ASC) 4.5 miles (RFA2)	Union County Comprehensive Plan and Oregon Parks and Recreation Department
OR Highway 203 (SR B1)	3.3 miles (ASC) 3.4 miles (RFA2)	Baker County Comprehensive Plan
OR Highway 86 (SR B2)	Crossed (ASC) Crossed (RFA2)	Baker County Comprehensive Plan
OR Highway 245 (SR B3)	7 miles (ASC)	Baker County Comprehensive Plan
Interstate 84, Pleasant Valley Durkee area (SR B4)	Crossed (ASC)	Baker County Comprehensive Plan
Interstate 84, Huntington to Baker/Malheur County line (SR B5)	0.2 miles (ASC) 0.1 miles (RFA1 Durbin Quarry)	Baker County Comprehensive Plan
Hells Canyon Scenic Byway	Crossed (ASC)	ODOT Hells Canyon Scenic Byway Management Plan
Grande Tour Route	0.2 miles (ASC)	ODOT Grande Tour Route Management Plan
Powder River Canyon – Keating (VRM B2)	5.7 miles (ASC) 5.8 miles (RFA2)	BLM – Vale District, Baker Resource Area Management Plan
Burnt River Canyon (VRM B3)	Crossed (ASC) Crossed (RFA1 True Blue Gulch)	BLM – Vale District, Baker Resource Area Management Plan
Brownlee Reservoir West (VRM B7)	2.1 miles (ASC)	BLM – Vale District, Baker Resource Area Management Plan
Oregon Trail ACEC – Blue Mountain Parcel (SR B6)	0.9 miles (ASC) 7.7 miles (RFA2)	BLM – Vale District, Baker Resource Area Management Plan
Oregon Trail ACEC – NHOTIC Parcel (SR B6)	0.02 miles (ASC)	BLM – Vale District, Baker Resource Area Management Plan

Table 30: Scenic Resources within Analysis Area for ASC, RFA1, and RFA2 Transmission Line Routes

Scenic Resource	Distance to Approved/RFA2 Routes	Designating Plan
	0.1 (RFA2 Revised 230 kV Rebuild)	
Oregon Trail ACEC – White Swan Parcel (SR B6)	2.9 miles (ASC) 6.2 miles (RFA2)	BLM – Vale District, Baker Resource Area Management Plan
Oregon Trail ACEC – Straw Ranch 2 Parcel (SR B6)	1.1 miles (ASC) 9.7 miles (RFA2)	BLM – Vale District, Baker Resource Area Management Plan
Oregon Trail ACEC – Straw Ranch 1 Parcel (SR B6)	0.1 miles (ASC)	BLM – Vale District, Baker Resource Area Management Plan
Oregon Trail ACEC – Powell Creek Parcel (SR B6)	1.2 miles (ASC)	BLM – Vale District, Baker Resource Area Management Plan
Powder River Canyon ACEC and WSR (SR B7)	1.4 miles (ASC) 3.2 miles (RFA2)	BLM – Vale District, Baker Resource Area Management Plan
Oregon Trail ACEC – Birch Creek parcel (VRM M1)	0.2 miles (ASC)	BLM, Vale District, Malheur Resource Area Management Plan
Oregon Trail ACEC – Tub Mountain Parcel (VRM M2)	0.5 miles (ASC) 2.8 miles (RFA2)	BLM, Vale District, Malheur Resource Area Management Plan
Sugarloaf Butte (VRM M3)	1.6 miles (ASC) 1.6 miles (RFA2)	BLM, Vale District, Malheur Resource Area Management Plan
Five Points Creek (WSR1)	2.0 miles (ASC) 2.5 miles (RFA2)	BLM, Vale District, Malheur Resource Area Management Plan
Lower Owyhee River (VRM M5)	Crossed (ASC)	BLM, Vale District, Malheur Resource Area Management Plan
Succor Creek (VRM M8)	3.9 miles (ASC)	BLM, Vale District, Malheur Resource Area Management Plan
Jump Creek Canyon and Jump Creek ACEC (VRM O1)	4.9 miles (in State of Oregon) (ASC)	BLM, Owyhee Resource Area Management Plan
Brownlee Reservoir Southeast (VRM C1)	0.6 miles (ASC)	BLM, Boise District, Cascade Resource Area Management Plan
Brownlee Reservoir Northeast (VRM C2)	6.0 miles (ASC)	BLM, Boise District, Cascade Resource Area Management Plan
VQO 1	Adjacent (ASC) 6.7 miles (RFA2)	USFW Wallowa Whitman National Forest Management Plan

Table 30: Scenic Resources within Analysis Area for ASC, RFA1, and RFA2 Transmission Line Routes

Scenic Resource	Distance to Approved/RFA2 Routes	Designating Plan
VQO 2	Crossed (ASC) 1.0 miles (RFA2)	USFW Wallowa Whitman National Forest Management Plan
OR 244 Corridor – Red Bridge West (VQO 3)	4.4 miles (ASC) 4.9 miles (RFA2)	USFW Wallowa Whitman National Forest Management Plan
OR 244 Corridor – Red Bridge East (VQO 4)	1.4 miles (ASC) 1.7 miles (RFA2)	USFW Wallowa Whitman National Forest Management Plan
Mt Emily (VQO 6)	5.2 miles (ASC) 6.3 miles (RFA2)	USFW Wallowa Whitman National Forest Management Plan
OR 203 Corridor – Catherine Creek (VQO 8)	8.0 miles (ASC)	USFW Wallowa Whitman National Forest Management Plan

III.J.1.b Visual Impact Assessment and Conclusions for RFA2 Micrositing Area Additions

III.J.1.b.1 Summary Methodology for Evaluation of Scenic Resources

As discussed, and summarized in Section III.F., *Protected Areas*, of this order, to evaluate the impact of the micrositing area additions on protected areas, scenic, and recreational resources, the certificate holder used the Council approved visual impact methodology which is based on the BLM and USFS visual impact assessment methods, and the Council's definition of significant. Council's rules do not require, or provide, a specific methodology for evaluating visual impacts to Scenic Resources (or Protected Areas or Recreation resources).[239] Also, as discussed in Section III.F., *Protected Areas*, of this order, the visual impact assessment extends 5 miles from the micrositing area additions in non-forested settings, and 10 miles in forested settings. Beyond those distances, Council previously found that visibility of the facility components would be negligible.[240]

Final Order on ASC described in detail each scenic resource identified as significant or important in an applicable management plan. Because there are no new scenic resources in the analysis area for RFA2, Council relies upon the descriptions and identification of scenic resources provided in the ASC and *Final Order on ASC*.

[239] Excerpt from Oregon Supreme Court Decision for the facility regarding methodologies for visual impact assessments, "… nothing in the rule required Idaho Power to utilize a particular methodology or specifically account for subjective perceptions and reactions in assessing whether the transmission line would be likely to result in "significant adverse visual impacts" to scenic resources. B2HAPPDoc7 Supreme Court Decision Stop B2H Coalition v. Dept, of Energy 2023-03-09, page 811. Visual impact assessment methodology, described in ASC Exhibit L, Attachment L-3, approved by Council in the final order on ASC.

[240] B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, page 305.

III.J.1.b.1 Potential Impacts to Scenic Resources from RFA2Micrositing Area Additions in RFA2

RFA2 Attachment 7-12, Table 2 provides an updated visual impact assessment of the micrositing area additions in RFA2. Attachment 7-12, Table 2 includes the type of micrositing area additions (transmission line route, road, or temporary work area), its proximity to the scenic resource, as well as baseline characteristics, impact assessment, and significance determinations. RFA2 Figure 7-13 illustrates the location of scenic resources as well as the proximity to RFA2 micrositing area additions. As provided in Table 30, above, the distance from the transmission line additions in RFA2 from scenic resources increased (would be further away from the resource) or remained the same compared to the evaluation done for the ASC, thus potential visual impacts would be less than or equal to what was previously approved.[241]

Previously imposed Scenic Resources Condition 1 (GEN-SR-01) would continue to apply to the RFA2 alternative transmission line routes and ensures that the certificate holder shall use dull-galvanized steel for lattice towers and non-specular conductors. All other previously imposed Scenic Resource conditions specially applied to a certain portion or route of the previously approved facility and does not apply to the micrositing area additions in RFA2.

III.J.2. Conclusions of Law

Based on the foregoing analysis, and subject to compliance with the existing site certificate conditions, Council finds that the design, construction and operation of facility components within the RFA2 micrositing area additions are not likely to result in significant adverse visual impacts to significant or important scenic resources.

III.K. HISTORIC, CULTURAL, AND ARCHAEOLOGICAL RESOURCES: OAR 345-022-0090

(1) Except for facilities described in sections (2) and (3), to issue a site certificate, the Council must find that the construction and operation of the facility, taking into account mitigation, are not likely to result in significant adverse impacts to:

(a) Historic, cultural or archaeological resources that have been listed on, or would likely be listed on the National Register of Historic Places;

(b) For a facility on private land, archaeological objects, as defined in ORS 358.905(1)(a), or archaeological sites, as defined in 358.905(1)(c); and

(c) For a facility on public land, archaeological sites, as defined in ORS 358.905(1)(c).

[241] B2HAMD2Doc2 RFA2 2024-04-11, Section 7.1.7.

(2) The Council may issue a site certificate for a facility that would produce power from wind, solar or geothermal energy without making the findings described in section (1). However, the Council may apply the requirements of section (1) to impose conditions on a site certificate issued for such a facility.

(3) The Council may issue a site certificate for a special criteria facility under OAR 345-015-0310 without making the findings described in section (1). However, the Council may apply the requirements of section (1) to impose conditions on a site certificate issued for such a facility.[242]

III.K.1. Findings of Fact

Section (1) of the Historic, Cultural and Archaeological Resources standard requires the Council to find that the facility, taking into account mitigation, is not likely to result in significant adverse impacts to identified historic, cultural, or archaeological resources. Mitigation means one or more of the following, in order of priority: avoidance; minimization; partial or complete restoration of affected resource; preservation and maintenance; partial or complete compensation for replacement or comparable substitute for the resource; or implementing other measures as approved by Council.

III.K.1.a Aligning EFSC and Section 106 Review:[243] *ORS 469.370(13)*

Final Order on ASC and RFA1 Sections IV.K. and III.K, respectively, explains how Council approved its review under OAR 345-022-0090 to align with the outcomes of the Section 106 of the National Historic Preservation Act (NHPA) of 1966 (Section 106) review process led by the Bureau of Land Management (BLM), the designated lead federal agency, as part of the federal National Environmental Policy Act (NEPA) review, summarized as follows.

Under ORS 469.370(13), for facilities that are subject to review by a federal agency under NEPA, such as the approved facility, the Council shall conduct its site certificate review, to the maximum extent feasible, in a manner that is consistent with and does not duplicate the federal agency review. This coordination shall include the elimination of duplicative application materials, study and reporting requirements; and the Council's use of information and documents prepared for the federal agency review. The NEPA review addresses, among other things, cultural, historic, and archaeological impacts from a facility and compliance with Section 106. Under 36 CFR 800.4(c)(1) and as part of the Section 106 process, the BLM is responsible for final eligibility determinations for listing on the National Register of Historic Places (NRHP), to

[242] OAR 345-022-0090, effective May 15, 2007, amended by minor correction filed on July 31, 2019.

[243] Section applicable to OAR 345-022-0090(1)(a): "(1) Except for facilities described in sections (2) and (3), to issue a site certificate, the Council must find that the construction and operation of the facility, taking into account mitigation, are not likely to result in significant adverse impacts to:
(a) Historic, cultural or archaeological resources that have been listed on, or would likely be listed on the National Register of Historic Places"***

which Council's standard relies upon. As part of the Section 106 compliance, the BLM issues determinations of eligibility for eligible resources or determines that a resource is not eligible for listing on the NRHP. Pending the BLM's final determinations, cultural resources may remain with the designation of "unevaluated" if there are no potential impacts from a facility. A resource designation of unevaluated indicates that the resource may have been investigated, however, additional investigations or evaluations are recommended so the resource is assumed to be likely eligible for listing on the NRHP. Council previously approved the designation of resources that may need further evaluation from the Section 106 review as "unevaluated" which treats the resource as likely eligible for listing on the NRHP and the impact analysis and mitigation (if any) is evaluated based on that designation.

Part of the Section 106 process requires a Programmatic Agreement (PA), which is the binding document to the signatory parties that outlines the process for identification and evaluation of historic and cultural properties, eligibility determinations of specific impacts on historic properties, and measures to avoid, minimize, or mitigate any adverse impacts from a facility. The PA is not a binding document upon the Department and EFSC, however, Council approved the use of the PA process, including the Historic Properties Management Plan (HPMP), to align to the maximum extent feasible, the final eligibility determinations, mitigation and monitoring for resources protected under the Council's standard.[244] The PA allows for the final determinations of the potential impacts from a facility to historic and cultural properties (including NRHP-listed, -eligible, and unevaluated resources) and for the mitigation of adverse impacts that are outlined in the HPMP. Discussed further in Section III.K.1.c., below, the PA-required Section 106 HPMP has been circulated to consulting parties as part of the Section 106 review and the most recent draft-final HPMP from Section 106 is included as Attachment S-9, to this order.

Council previously approved Historic, Cultural, and Archaeological Resources Condition 2, also discussed further below, which reflects Council's commitment to conduct its review, including its review of the micrositing area additions in RFA2, consistent with ORS 469.370(13) to the maximum extent feasible, in a manner that is consistent with and does not duplicate the federal agency review.[245] And because OAR 345-022-0090(a) relies upon NRHP eligibility, Council previously found that it could rely on the determinations resulting from the Section 106 review and that the final determinations and mitigation may be provided prior to construction of a phase or segment of the facility.[246]

III.K.1.b Survey Methods, Results, and Impact Assessment for RFA2

[244] In accordance with 36 CFR §800.6(c)(3), a concurring party is a consulting party invited to concur in the agreement document but who does not have the authority to amend or terminate the agreement.
[245] B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, pp. 470--472.
[246] "ORS 469.402 expressly authorizes EFSC to delegate future review and approval to ODOE…" B2HAPPDoc7 Supreme Court Decision Stop B2H Coalition v. Dept, of Energy 2023-03-09, page 811.

In preparation of RFA2 and as part of the ongoing survey efforts as the certificate holder gains access to properties, the certificate holder evaluated and surveyed for cultural, historical, and archaeological resources with similar methods as was done for the ASC. Record searches were done to identify previously recorded archaeological and historic sites for all micrositing area additions in RFA2, and that might be encountered during the field surveys.[247]

The Archaeological Survey Plan (ASP) and Visual Assessment of Historic Properties Study Plan (VAHP) were followed to guide the field surveys and documentation of cultural resources. The two-mile study area focuses on collecting information pertaining to archaeological and aboveground resources, as well as any traditional cultural properties (TCPs) or Historic Properties of Religious and Cultural Significance to Indian Tribes (HPRCSIT). The five-mile study area focused on collecting information pertaining to above ground resources and cultural resources that had the potential to be TCPs and/or HPRCSITs between the two-mile study area and up to five miles from the route's centerline. The Visual Assessment utilized this study area as well as applicable results from the two-mile study area. The five-mile study area is documented in the Reconnaissance Level Survey – Visual Assessment of Historic Properties (RLS) and Intensive Level Survey – Visual Assessment of Historic Properties (ILS).[248]

In preparation of RFA2, and consistent with survey methods approved in the *Final Order on ASC and RFA1*, archaeological surveys are being conducted in two phases. Phase 1 consists of completed surveys of an intensive pedestrian inventory of the entire direct analysis area to which the applicant had right of entry to access for surveys. Certificate holder indicates that, to date, 3,417 acres (82 percent) of the RFA2 micrositing area additions have been surveyed for cultural resources.[249] Any additional surveys required to complete an inventory of 100 percent of the final selected route, as well as any necessary subsurface inventory or evaluation efforts, would be conducted during Phase 2. Phase 2 is anticipated to occur after the amended site certificate has been issued, but prior to construction, when site access has been secured for all properties as captured in Historic, Cultural, and Archaeological Resources Condition 2.[250] Continued survey efforts would focus on high probability areas, confirming archaeological site boundaries, confirming archaeological isolated finds, NRHP-eligibility testing, and 100 percent inventory of the RFA2 micrositing area additions.

RFA2 Attachment 7-15 illustrates the locations where surveys were conducted associated with the transmission line routes and road additions.

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[247] Oregon State Historic Preservation Office (SHPO), Confederated Tribes of the Umatilla Indian Reservation (CTUIR) Tribal Historic Preservation Office, U.S. Department of Agriculture, Forest Service (USFS), and BLM offices. Oregon SHPO databases consulted include Oregon Archaeological Records Remote Access and Oregon Historic Sites Database. Other resources include Historic Trails website, USGS Mineral Resource Data System, General Land Office plats, early USGS and state maps, other historic maps and aerial photographs, ethnographic literature, and historical contexts.

[248] B2HAMD2Doc2 RFA2 2024-04-11, Section 7.1.8.2 and B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, pp. 538-539.

[249] B2HAMD2Doc2 RFA2 2024-04-11, Section 7.1.8.2.

[250] See Final Order on ASC Section III.D., Survey Data Based on Final Design and Site Access.

Survey Results and Potential Impacts for RFA2 Resources

Below, Table 31: *RFA2 Inventory and Potential Impacts to Historic, Cultural, Archeological Resources,* below provides the results from the surveys conducted in preparation of RFA2. Table 31 identifies if a resource is newly identified (not identified in the ASC or RFA1) or if it was previously identified, in both cases, certificate holder provides an updated impact assessment based on the proximity of the road or route segment in RFA2 to each resource and or updated mitigation measures.

During the review of the ASC and RFA1, the Department compiled all the inventoried resources and avoidance, and mitigation measures associated with each resource type into tables and added them to the HPMP as *Appendix A.1 Inventory Tables with Management under OAR 345-022-0090* (HPMP Appendix A.1 Inventory Tables). Similar to RFA1, the certificate holder and Department have added the RFA2 resources identified below in Table 31 to the HPMP Appendix A.1 Inventory Tables, in redline for convenient identification. The HPMP Appendix A.1 Inventory Tables are attached to this order as Attachment S-9.

Table 31: RFA2 Inventory and Mitigation Summary for Potential Impacts to Historic, Cultural, Archeological Resources

Resource Number	County	Generalized Resource Description/ Resource Type	NRHP Recommendation	Project Route	Project Component	Land Ownership	Applicable EFSC Standard	Impact Avoided?	Resource Newly Considered	Mitigation or Management Comments[1]
Oregon National Historic Trail Route	Morrow, Umatilla, Union, Baker, Malheur	Historic Trail	Listed (Criterion A)	RFA2 ASC Approved Route in Baker County	RFA2 Multi-Use Area; Existing Road, Substantial Modification, 21-70% Improvements	BLM, BOR, DOD, FWS, ODOT, PV, STL, STL, STP, USDA, USFS; PV	a) Potential Historic Property;	RFA2 No – potential physical impact	No	RFA2 Figure 4-1 Map 66 (MUA BA-05) and Map 69 (MUA MA-11), show Oregon Trail segments within the MUA area. No evidence of trail at access road, MUA BA-05, or MUA MA-11. MUA-BA-05 is located on the old Lime Cement Plant, which was demolished 10-years ago. This area has been surveyed for cultural resources. There is no evidence of the Oregon Trail at this location. The cement plant demolition was less than 75 years ago, OSHPO doesn't consider it archaeological yet. The historic buildings and structures that were previously recorded are gone. MUA-MA-11 was surveyed for cultural resources in 2023. No resources were identified. The area is zoned as Exclusive Range Use (ERU).
B2H-DM-07	Baker	Homestead / Historic Archaeological Site	Eligible (Criterion A), Unevaluated (Criterion D); Not Eligible (Criteria B and C)	Approved ASC Route	RFA2 Existing Road, Substantial Modification, 21-70% Improvements	PV	a) Historic Property; b) Archaeological site on private land	See management	No	RFA2 Physical impact is not significant with mitigation. Fill placement on existing road. Flag/avoid/monitor
4B2H-EK-07	Baker	Historic: Water Conveyance (Smith Ditch)	Unevaluated/Eligible	RFA2 Existing Road, Substantial Modification, 21-70% Improvements	RFA2 Existing Road, Substantial Modification, 21-70% Improvements	PV	a) Historic Property	See management	No	RFA2 physical impact is not significant with mitigation. No further management
Schuck Irrigation Ditch/ 35BA01370	Baker	Historic Water Conveyance	Eligible	Approved ASC Route	Existing Road, Substantial Modification, 21-70% Improvements	BLM	a) Historic Property	See management	No	Physical impact is not significant with mitigation. No evidence of ditch at road crossings. Flag/avoid/monitor.

Table 31: RFA2 Inventory and Mitigation Summary for Potential Impacts to Historic, Cultural, Archeological Resources

Resource Number	County	Generalized Resource Description/ Resource Type	NRHP Recommendation	Project Route	Project Component	Land Ownership	Applicable EFSC Standard	Impact Avoided?	Resource Newly Considered	Mitigation or Management Comments[1]
Corral Ditch/ 4B2H-EK-06	Baker	Historic Water Conveyance	Eligible	Hwy 203 Crossing	RFA2 Pulling and Tensioning	PV	a) Historic Property; b) Archaeological site on private lands	See management	Yes	Potential physical impact. To be determined in consultation with Parties to the Section 106 PA.
35BA01613/ 6B2H-SA-11	Baker	Historic Structural Remains	Unevaluated	Approved ASC Route	Direct Analysis Area (Construction Footprint), RFA2 Existing Road, Substantial Modification, 21-70% Improvements	PV	a) Potential Historic Property; b) Archaeological site on private lands	See management	No	Direct impact is not significant with mitigation. Fill placement on existing road. Flag/avoid/monitor.
35BA01521	Baker	Historic Refuse Scatter & Road: Historic refuse scatter 5 bottles, 30 cans, 20 metal, wood, several road cuts.	Not Eligible	Hwy 203 Crossing	Structure Work Area	State	Potentially protected under c) Archaeological sites on state lands contain archaeological objects and the contextual associations of the archaeological objects may be with each other. May have archaeological significance	Impact avoided, impact less than significant with mitigation	Yes	Avoided. To be determined in consultation with Parties to the Section 106 PA; With not eligible determination and Section 106 recordation, any impact would be less than significant. SHPO determined not eligible 8/15/2016, area surveyed Pre-Con Class III.
8B2H-DM-18	Baker	Historic Agriculture	To be determined/unevaluated. Potentially eligible for purposes of RFA2.	Approved ASC Route	Direct Analysis Area; RFA2 Existing Road, Substantial Modification, 71-100% Improvements	PV	a) Potential Historic Property; b) Archaeological site on private lands	See management	No	Direct impact avoided. Additional protective measures, if necessary, to be determined in consultation with Parties to the Section 106 PA. RFA2 physical impact is not significant with mitigation. Fill placement on existing road. Flag/avoid/monitor
35BA01560/ 3B2H-CH-04	Baker	Archaeological Site Historic Structural Remains including a cracked cement foundation, remnants of a cement cellar with timber segments, and a concentration of bricks.	Not Eligible (A-D)/No further management	Approved ASC Route	Direct Analysis Area (Construction Footprint); RFA2 Existing Road, Substantial Modification, 21-70% Improvements	PV	Recommended protected under b) Archaeological site on private lands because the materials are remains of past human life or activity that may be of archaeological significance and the site contains archaeological objects and the contextual associations of the archaeological objects with: (i) Each other	No, impact less than significant with mitigation	Yes	Existing Road (Substantial Modification, 21-70% Improvements) passes through eastern boundary of site. With not eligible determination and Section 106 recordation, impact is less than significant.

Table 31: RFA2 Inventory and Mitigation Summary for Potential Impacts to Historic, Cultural, Archeological Resources

Resource Number	County	Generalized Resource Description/ Resource Type	NRHP Recommendation	Project Route	Project Component	Land Ownership	Applicable EFSC Standard	Impact Avoided?	Resource Newly Considered	Mitigation or Management Comments[1]
B2H-DM-ISO-06	Baker	Historic Refuse One shard of cobalt bottle glass. Several unidentifiable crushed cans are also present.	Not Eligible (A-D)/No further management	Approved ASC Route	RFA2 Existing Road, Substantial Modification, 21-70% Improvements	PV	Recommended not protected under b) Archaeological site on private lands because the material remains are from past human life or activity, but they are not of archaeological significance	No, impact less than significant with mitigation	Yes	Existing Road (Substantial Modification, 21-70% Improvements) passes through isolate. Potential impact, pending NRHP eligibility findings. With not eligible determination and Section 106 recordation, impact is less than significant
B2H-DM-ISO-07	Baker	Historic Refuse includes 18 shards of milk glass and 17 shards of amber bottle glass.The shards appear to be from just two vessels/bottles and have therefore been recorded as an IF.	Not Eligible (A-D)/No further management	Approved ASC Route	RFA2 Existing Road, Substantial Modification, 21-70% Improvements	PV	Recommended not protected under b) Archaeological site on private lands because the material remains are from past human life or activity, but they are not of archaeological significance	No, impact less than significant with mitigation	Yes	Existing Road (Substantial Modification, 21-70% Improvements) passes through isolate. Potential impact, pending NRHP eligibility findings. With not eligible determination and Section 106 recordation, impact is less than significant
B2H-SA-29	Malheur	Lithic Scatter / Pre-Contact Archaeological Site	Unevaluated	Approved ASC Route	RFA2 Existing Road, Substantial Modification, 21-70% Improvements	BLM	a) Potential Historic Property	See management	No	RFA2 physical impact is not significant with mitigation. Fill placement on existing road. Flag/avoid/monitor.
4B2H-EK-48	Malheur	Quarry & Refuse Scatter / Multicomponent Archaeologic al Site/ Pre-Contact Lithic Procurement Site	RFA2 Eligible	Approved ASC Route	RFA2 Existing Road, Substantial Modification, 21-70% Improvements	BLM	a) Potential Historic Property	See management	No	RFA2 physical impact is not significant with mitigation. Fill placement on existing road. Flag/avoid/monitor.
4B2H-EK-50	Malheur	Lithic Scatter & Refuse Scatter /Multicomponent Archaeological Site	RFA2 Unevaluated	Approved ASC Route	Direct Analysis Area (Construction Footprint); RFA2 Existing Road, Substantial Modification, 21-70% Improvements	BLM	a) Historic Property	See management	No	RFA2 physical impact is not significant with mitigation. Fill placement on existing road. Flag/avoid/monitor.
35ML02152/ 6B2H-SA-01	Malheur	Mining / Historic Archaeological Site & Refuse Scatter	RFA2 To be determined. Potentially eligible for purposes of RFA 2.	Approved ASC Route	RFA2 Multi-Use Area	BLM	a) Potential Historic Property	See management	No	RFA2 potential physical impact. To be determined in consultation with Parties to the Section 106 PA.
7B2H-BB-04	Malheur	Pre-Contact Lithic Scatter	To be determined. Potentially eligible for purposes of RFA2.	Cottonwood Creek Alternative	Direct Analysis Area (Construction Footprint), New Road, Bladed	BLM	a) Potential Historic Property	See management	Yes	Potential direct impact. Mitigation, if necessary, to be determined in

Table 31: RFA2 Inventory and Mitigation Summary for Potential Impacts to Historic, Cultural, Archeological Resources

Resource Number	County	Generalized Resource Description/ Resource Type	NRHP Recommendation	Project Route	Project Component	Land Ownership	Applicable EFSC Standard	Impact Avoided?	Resource Newly Considered	Mitigation or Management Comments[1]
										consultation with Parties to the Section 106 PA.
7B2H-BB-07	Malheur	Pre-Contact Lithic Scatter	To be determined. Potentially eligible for purposes of RFA2.	Cottonwood Creek Alternative	Direct Analysis Area, New Road, Bladed	BLM	a) Potential Historic Property	See management	Yes	Direct impact avoided. Additional protective measures, if necessary, to be determined in consultation with Parties to the Section 106 PA.
7B2H-BB-ISO-03	Malheur	Pre-Contact Debitage	Unevaluated	Cottonwood Creek Alternative	Direct Analysis Area, New Road, Bladed	BLM	a) Potential Historic Property	See management	Yes	Direct impact avoided. Additional protective measures, if necessary, to be determined in consultation with Parties to the Section 106 PA.
7B2H-BB-ISO-05	Malheur	Pre-Contact Biface	To be determined. Potentially eligible for purposes of RFA2.	Cottonwood Creek Alternative	Direct Analysis Area, Structure Work Area	BLM	a) Potential Historic Property	See management	Yes	Direct impact avoided. Additional protective measures, if necessary, to be determined in consultation with Parties to the Section 106 PA.
8B2H-DM-17	Malheur	Historic Mining	To be determined. Potentially eligible for purposes of RFA2.	Approved ASC Route	Direct Analysis Area (Construction Footprint), Existing Road, Substantial Modification, 21-70% Improvements	BLM	a) Potential Historic Property	See management	Yes	Potential direct impact. Mitigation, if necessary, to be determined in consultation with Parties to the Section 106 PA.
8B2H-JS-ISO-11	Malheur	Pre-Contact Biface(s) & Debitage	To be determined. Potentially eligible for purposes of RFA2.	Cottonwood Creek Alternative	Direct Analysis Area (Construction Footprint), Structure Work Area	BLM	a) Potential Historic Property	See management	Yes	Potential direct impact. Mitigation, if necessary, to be determined in consultation with Parties to the Section 106 PA.
9B2H-DM-03	Malheur	Historic Survey Marker	To be determined. Potentially eligible for purposes of RFA2.	Approved ASC Route	Direct Analysis Area, Existing Road, Substantial Modification, 21-70% Improvements	BLM	a) Potential Historic Property	See management	Yes	Direct impact avoided. Additional protective measures, if necessary, to be determined in consultation with Parties to the Section 106 PA.
9B2H-DM-04	Malheur	Historic Refuse Scatter	To be determined. Potentially eligible for purposes of RFA2.	Approved ASC Route	Direct Analysis Area (Construction Footprint), Existing Road, Substantial Modification, 21-70% Improvements	BLM	a) Potential Historic Property	See management	Yes	Potential direct impact. Mitigation, if necessary, to be determined in consultation with Parties to the Section 106 PA.
9B2H-DM-05	Malheur	Historic Refuse Scatter	To be determined. Potentially eligible for purposes of RFA2.	Approved ASC Route	Direct Analysis Area (Construction Footprint), Existing Road, Substantial	BLM	a) Potential Historic Property	See management	Yes	Potential direct impact. Mitigation, if necessary, to be determined in

Table 31: RFA2 Inventory and Mitigation Summary for Potential Impacts to Historic, Cultural, Archeological Resources

Resource Number	County	Generalized Resource Description/ Resource Type	NRHP Recommendation	Project Route	Project Component	Land Ownership	Applicable EFSC Standard	Impact Avoided?	Resource Newly Considered	Mitigation or Management Comments[1]
					Modification, 21-70% Improvements					consultation with Parties to the Section 106 PA.
9B2H-DM-06	Malheur	Historic Refuse Scatter	To be determined. Potentially eligible for purposes of RFA2.	Approved ASC Route	Direct Analysis Area (Construction Footprint), Existing Road, Substantial Modification, 21-70% Improvements	BLM	a) Potential Historic Property	See management	Yes	Potential direct impact. Mitigation, if necessary, to be determined in consultation with Parties to the Section 106 PA.
Kingman Lateral Canal/ 8B2H-AB-01.1	Malheur	Historic Water Conveyance	To be determined. Potentially eligible for purposes of RFA2.	Approved ASC Route	Direct Analysis Area, Existing Road, Substantial Modification, 21-70% Improvements	BLM	a) Potential Historic Property	See management	Resource: No; Segment: Yes	Direct impact avoided. Additional protective measures, if necessary, to be determined in consultation with Parties to the Section 106 PA.
Kingman Lateral Canal/ 8B2H-AB-01.3	Malheur	Historic Water Conveyance	To be determined. Potentially eligible for purposes of RFA2.	Approved ASC Route	Direct Analysis Area (Construction Footprint), Existing Road, Substantial Modification, 71-100% Improvements; Existing Road, Substantial Modification, 21-70% Improvements	BLM	a) Potential Historic Property	See management	Resource: No; Segment: Yes	Potential direct impact. Mitigation, if necessary, to be determined in consultation with Parties to the Section 106 PA.
South Canal/ 9B2H-DM-02	Malheur	Historic Water Conveyance	To be determined. Potentially eligible for purposes of RFA2.	Approved ASC Route	Direct Analysis Area (Construction Footprint), Existing Road, Substantial Modification, 21-70% Improvements	BLM, PV	a) Potential Historic Property	See management	Resource: No; Segment: Yes	Potential direct impact. Mitigation, if necessary, to be determined in consultation with Parties to the Section 106 PA.
35ML01619/ 7B2H-BB-08	Malheur	Historic Water Conveyance & Refuse Scatter: Segment 7B2H-BB-08 includes a historic, abandoned canal segment and a historic refuse concentration, limited to nine heavily damaged, metal explosive containers.	Not eligible (A-D)/No further management (for specific segment).	Cottonwood Creek Alternative	Existing Road, Substantial Modification, 71-100% Improvements	BLM	c) Archaeological site on public lands. Recommended not protected under c) Archaeological site on public land because the material remains are from past human life or activity, but they are not of archaeological significance	No – not protected or impact not significant with mitigation.	Resource: No; Segment: Yes	Existing Road (Substantial Modification, 71-100% Improvements) crosses canal. With not eligible determination and Section 106 recordation, impact is less than significant. Prior to B2H reporting, canal was determined by SHPO to be not eligible through a separate project.
8B2H-DM-ISO-10	Malheur	Pre-Contact Debitage	To be determined. Potentially eligible for purposes of RFA2.	Cottonwood Creek Alternative	Direct Analysis Area, Existing Road, Substantial Modification, 21-70% Improvements	PV	a) Potential Historic Property; b) Archaeological object on private lands	See management	Yes	Direct impact avoided. Additional protective measures, if necessary, to be determined in

Table 31: RFA2 Inventory and Mitigation Summary for Potential Impacts to Historic, Cultural, Archeological Resources

Resource Number	County	Generalized Resource Description/ Resource Type	NRHP Recommendation	Project Route	Project Component	Land Ownership	Applicable EFSC Standard	Impact Avoided?	Resource Newly Considered	Mitigation or Management Comments[1]
										consultation with Parties to the Section 106 PA.
8B2H-DM-ISO-17	Malheur	Pre-Contact Debitage	To be determined. Potentially eligible for purposes of RFA2.	Approved ASC Route	Direct Analysis Area (Construction Footprint), Existing Road, Substantial Modification, 21-70% Improvements	PV	a) Potential Historic Property; b) Archaeological object on private lands	See management	Yes	Potential direct impact. Mitigation, if necessary, to be determined in consultation with Parties to the Section 106 PA.
8B2H-DM-16	Malheur	Pre-Contact Lithic Scatter	To be determined. Potentially eligible for purposes of RFA2.	Cottonwood Creek Alternative	Direct Analysis Area (Construction Footprint), Existing Road, Substantial Modification, 21-70% Improvements	PV	a) Potential Historic Property; b) Archaeological site on private lands	See management	Yes	Potential direct impact. Mitigation, if necessary, to be determined in consultation with Parties to the Section 106 PA.
Sand Hollow Battleground (SL-MO-001, SL-MO-005)	Morrow	HPRCSIT/TCP/Trail	Eligible (Criteria A and B)	RFA2 Bombing Range SE; Bombing Range SE Alternative; ASC Route	RFA2 Structure Work Area; Existing Road, Substantial Modification, 21-70% Improvements; New Road, Bladed	BLM, DOD, PV	a) Potential Historic Property	RFA2 - No – potential physical impact	No	RFA2 To be determined in consultation with Parties to the Section 106 PA.
Sisupa (SL-MO-004)	Morrow	HPRCSIT	Eligible	RFA2 Bombing Range SE, Bombing Range SE Alternative	RFA2 Structure Work Area; Existing Road, Substantial Modification, 21-70% Improvements; New Road, Bladed	DOD, PV	a) Potential Historic Property	RFA2 No – potential physical impact	No	RFA2 To be determined in consultation with Parties to the Section 106 PA.
8B2H-ZH-02	Morrow	Undetermined Stacked Rock Feature	To be determined. Potentially eligible for purposes of RFA2.	Ayers Canyon Alternative	Direct Analysis Area (Construction Footprint), New Road, Bladed	PV	a) Potential Historic Property; b) Archaeological site on private lands	See management	Yes	Potential direct impact. Mitigation, if necessary, to be determined in consultation with Parties to the Section 106 PA.
8B2H-ZH-03	Morrow	Historic Stacked Rock Feature	To be determined. Potentially eligible for purposes of RFA2.	Ayers Canyon Alternative	Direct Analysis Area (Construction Footprint), New Road, Bladed	PV	a) Potential Historic Property; b) Archaeological site on private lands	See management	Yes	Potential direct impact. Mitigation, if necessary, to be determined in consultation with Parties to the Section 106 PA.
B2H-UM-006 /Daly Wagon Road	Umatilla	Wagon Road / Historic Site/ Aboveground	Eligible (Criteria A and C)	Approved ASC Route	RFA2 Existing Road, Substantial Modification, 71-100% Improvements	BIA, BLM, BLM, BLM, BLM, PV	a) Historic Property	See management	No	RFA2– physical impact not significant with mitigation. To be determined in consultation with Parties to the Section 106 PA.
Charley Henry Hudson Homestead (35UM00603 / B2H-BS-40)	Umatilla	Historic Homestead	Eligible	Sevenmile Creek Alternative	Existing Road, Substantial Modification, 21-70% Improvements	PV	a) Historic Property; b) Archaeological site on private lands	See management	Yes	Physical impact is not significant with mitigation. Fill placement on existing

Table 31: RFA2 Inventory and Mitigation Summary for Potential Impacts to Historic, Cultural, Archeological Resources

Resource Number	County	Generalized Resource Description/ Resource Type	NRHP Recommendation	Project Route	Project Component	Land Ownership	Applicable EFSC Standard	Impact Avoided?	Resource Newly Considered	Mitigation or Management Comments[1]
										road. Flag/avoid/monitor.
7B2H-BB-09	Umatilla	Pre-Contact Stacked Rock Feature	Unevaluated	Sevenmile Creek Alternative	Direct Analysis Area, New Road, Primitive	BLM	a) Potential Historic Property	See management	Yes	Direct impact avoided. Flag/Avoid/Monitor.
6B2H-MC-17	Umatilla	Pre-Contact Stacked Rock Feature	Unevaluated	Sevenmile Creek Alternative	Direct Analysis Area, Structure Work Area	PV	a) Potential Historic Property; b) Archaeological site on private lands	See management	Yes	Direct impact avoided. Flag/Avoid/Monitor.
6B2H-MC-21	Umatilla	Pre-Contact Stacked Rock Feature	Unevaluated	Sevenmile Creek Alternative	Direct Analysis Area, Structure Work Area	PV	a) Potential Historic Property; b) Archaeological site on private lands	See management	Yes	Direct impact avoided. Flag/Avoid/Monitor.
9B2H-AL-01	Umatilla	Historic Agriculture	To be determined. Potentially eligible for purposes of RFA2.	Approved ASC Route	Direct Analysis Area (Construction Footprint); RFA2 New Road, Bladed	PV	a) Potential Historic Property; b) Archaeological site on private lands	See management	No	Potential direct impact. Mitigation, if necessary, to be determined in consultation with Parties to the Section 106 PA.
9B2H-AL-02	Umatilla	Historic Agriculture	To be determined. Potentially eligible for purposes of RFA2.	Approved ASC Route	Direct Analysis Area (Construction Footprint)	PV	a) Potential Historic Property; b) Archaeological site on private lands	See management	No	Potential direct impact. Mitigation, if necessary, to be determined in consultation with Parties to the Section 106 PA.
B2H-SA-24	Union	Rock Alignment /Undetermined Archaeological Site; Undetermined Stone Alignment	Unevaluated	Baldy Alternative	RFA2 Structure Work Area	PV	a) Potential Historic Property; b) Archaeological site on private land	See management	No	Potential direct/indirect impact. Avoid direct impact until eligibility is determined. Consultation Needed.
B2H-BS-ISO-29	Union	Pre-Contact Debitage	To be determined. Potentially eligible for purposes of RFA2.	Rock Creek Alternative 2	Direct Analysis Area, Structure Work Area	BLM	a) Potential Historic Property	See management	Yes	Direct impact avoided. Additional protective measures, if necessary, to be determined in consultation with Parties to the Section 106 PA.
8B2H-JS-ISO-06	Union	Pre-Contact Debitage	To be determined. Potentially eligible for purposes of RFA2.	Baldy Alternative	Direct Analysis Area (Construction Footprint), New Road, Bladed	PV	a) Potential Historic Property; b) Archaeological object on private lands	See management	Yes	Potential direct impact. Mitigation, if necessary, to be determined in consultation with Parties to the Section 106 PA.
8B2H-JS-ISO-07	Union	Pre-Contact Debitage	To be determined. Potentially eligible for purposes of RFA2.	Baldy Alternative	Direct Analysis Area (Construction Footprint), Structure Work Area	PV	a) Potential Historic Property; b) Archaeological object on private lands	See management	Yes	Potential direct impact. Mitigation, if necessary, to be determined in consultation with Parties to the Section 106 PA.
8B2H-ND-ISO-03	Union	Pre-Contact Debitage	To be determined. Potentially eligible for purposes of RFA2.	Approved ASC Route	Direct Analysis Area (Construction Footprint); RFA2 Multi-Use Area	PV	a) Potential Historic Property; b) Archaeological object on private lands	See management	No	Potential direct impact. Mitigation, if necessary, to be determined in consultation with Parties to the Section 106 PA.

Table 31: RFA2 Inventory and Mitigation Summary for Potential Impacts to Historic, Cultural, Archeological Resources

Resource Number	County	Generalized Resource Description/ Resource Type	NRHP Recommendation	Project Route	Project Component	Land Ownership	Applicable EFSC Standard	Impact Avoided?	Resource Newly Considered	Mitigation or Management Comments[1]
8B2H-DM-28	Union	Pre-Contact Lithic Scatter	To be determined. Potentially eligible for purposes of RFA2.	Approved ASC Route	Direct Analysis Area (Construction Footprint); RFA2 Multi-Use Area	PV	a) Potential Historic Property; b) Archaeological site on private lands	See management	No	Potential direct impact. Mitigation, if necessary, to be determined in consultation with Parties to the Section 106 PA.
8B2H-DM-40	Union	Historic Refuse Scatter	To be determined. Potentially eligible for purposes of RFA2.	Baldy Alternative	Direct Analysis Area, New Road, Bladed	PV	a) Potential Historic Property; b) Archaeological site on private lands	See management	Yes	Direct impact avoided. Additional protective measures, if necessary, to be determined in consultation with Parties to the Section 106 PA.
8B2H-DM-41	Union	Pre-Contact Lithic Scatter	To be determined. Potentially eligible for purposes of RFA2.	Baldy Alternative	Direct Analysis Area, Existing Road, Substantial Modification, 21-70% Improvements	PV	a) Potential Historic Property; b) Archaeological site on private lands	See management	Yes	Direct impact avoided. Additional protective measures, if necessary, to be determined in consultation with Parties to the Section 106 PA.
8B2H-DM-42	Union	Pre-Contact Lithic Scatter	To be determined. Potentially eligible for purposes of RFA2.	Baldy Alternative	Direct Analysis Area, Existing Road, Substantial Modification, 21-70% Improvements	PV	a) Potential Historic Property; b) Archaeological site on private lands	See management	Yes	Direct impact avoided. Additional protective measures, if necessary, to be determined in consultation with Parties to the Section 106 PA.
8B2H-DM-43	Union	Pre-Contact Lithic Scatter & Historic Refuse Scatter	To be determined. Potentially eligible for purposes of RFA2.	Baldy Alternative	Direct Analysis Area, Structure Work Area	PV	a) Potential Historic Property; b) Archaeological site on private lands	See management	Yes	Direct impact avoided. Additional protective measures, if necessary, to be determined in consultation with Parties to the Section 106 PA.
8B2H-JS-06	Union	Historic Mining	To be determined. Potentially eligible for purposes of RFA2.	Baldy Alternative	Direct Analysis Area, Structure Work Area	PV	a) Potential Historic Property; b) Archaeological site on private lands	See management	Yes	Direct impact avoided. Additional protective measures, if necessary, to be determined in consultation with Parties to the Section 106 PA.
8B2H-JS-07	Union	Pre-Contact Lithic Scatter	To be determined. Potentially eligible for purposes of RFA2.	Baldy Alternative	Direct Analysis Area (Construction Footprint), Structure Work Area	PV	a) Potential Historic Property; b) Archaeological site on private lands	See management	Yes	Potential direct impact. Mitigation, if necessary, to be determined in consultation with Parties to the Section 106 PA.
8B2H-DM-42	Union	Pre-Contact Lithic Scatter	To be determined. Potentially eligible for purposes of RFA2.	Baldy Alternative	Direct Analysis Area, Existing Road, Substantial Modification, 21-70% Improvements	PV	a) Potential Historic Property; b) Archaeological site on private lands	See management	Yes	Direct impact avoided. Additional protective measures, if necessary, to be determined in consultation with Parties to the Section 106 PA.

Table 31: RFA2 Inventory and Mitigation Summary for Potential Impacts to Historic, Cultural, Archeological Resources

Resource Number	County	Generalized Resource Description/ Resource Type	NRHP Recommendation	Project Route	Project Component	Land Ownership	Applicable EFSC Standard	Impact Avoided?	Resource Newly Considered	Mitigation or Management Comments[1]
8B2H-DM-43	Union	Pre-Contact Lithic Scatter & Historic Refuse Scatter	To be determined. Potentially eligible for purposes of RFA2.	Baldy Alternative	Direct Analysis Area, Structure Work Area	PV	a) Potential Historic Property; b) Archaeological site on private lands	See management	Yes	Direct impact avoided. Additional protective measures, if necessary, to be determined in consultation with Parties to the Section 106 PA.
8B2H-JS-06	Union	Historic Mining	To be determined. Potentially eligible for purposes of RFA2.	Baldy Alternative	Direct Analysis Area, Structure Work Area	PV	a) Potential Historic Property; b) Archaeological site on private lands	See management	Yes	Direct impact avoided. Additional protective measures, if necessary, to be determined in consultation with Parties to the Section 106 PA.
8B2H-JS-07	Union	Pre-Contact Lithic Scatter	To be determined. Potentially eligible for purposes of RFA2.	Baldy Alternative	Direct Analysis Area (Construction Footprint), Structure Work Area	PV	a) Potential Historic Property; b) Archaeological site on private lands	See management	Yes	Potential direct impact. Mitigation, if necessary, to be determined in consultation with Parties to the Section 106 PA.
8B2H-JS-08	Union	Pre-Contact Lithic Scatter & Historic Buildings & Refuse Scatter	To be determined. Potentially eligible for purposes of RFA2.	Baldy Alternative	Direct Analysis Area, New Road, Primitive	PV	a) Potential Historic Property; b) Archaeological site on private lands	See management	Yes	Direct impact avoided. Additional protective measures, if necessary, to be determined in consultation with Parties to the Section 106 PA.
8B2H-JS-09	Union	Historic Structures	To be determined. Potentially eligible for purposes of RFA2.	Baldy Alternative	Direct Analysis Area, Structure Work Area	PV	a) Potential Historic Property; b) Archaeological site on private lands	See management	Yes	Direct impact avoided. Additional protective measures, if necessary, to be determined in consultation with Parties to the Section 106 PA.

Notes:

1. See discussion of mitigation in Section III.K.1.c, of this order. Additional details of mitigation measures associated with direct and indirect impacts to various types of resources (e.g. lithic scatter, historic structures, trails, rock features, etc.), can be found in Attachment S-9, the HPMP Appendix A.1 Tables: HCA-4b: Council-Approved Mitigation for NRHP-Eligible Oregon Trail/NHT Segments, Table HCA-8: Potential Minimization and Mitigation of Direct Impacts to Resource Site Types Identified within the Direct Analysis Area, Table HCA-9 Potential Minimization and Mitigation Methods for Indirect Impacts, and Table HCA-10 Potential Minimization and Mitigation Methods for Indirect and Direct Impacts to Aboveground Resources, and in the applicable PSMMPs.

Source: Table 31 was drafted by the Department using resource information from RFA2 Table 7.1-17. Potentially Impacted Resources and RFA2 Attachment 7-16.

1

Under OAR 345-022-0090(1)(b), for a facility located on private land, the Council must find that the construction and operation of the facility, taking into account mitigation, are not likely to result in significant adverse impacts to archaeological objects, as defined in ORS 358.905(1)(a)[251], or archaeological sites, as defined in 358.905(1)(c).[252] Surveys for cultural, historic and archaeological resources potentially impacted by RFA2 were done using the same methodologies that was used for the *Final Order on ASC* and *RFA1*.[253] This includes the certificate holder assumption that historic archaeological objects and sites must have been constructed or created 50 years ago or more, compared to 75 years as identified under ORS 358.905(1)(a), because the federal Section 106 review uses 50 years and is a more conservative assumption for the EFSC review.[254]

As required under Historic, Cultural, and Archaeological Resources Condition 2, summarized in the next sub section, as part of the Historic Properties Management Plan, the certificate holder will submit updated tables provided in Appendix A.1 of the HPMP based on the outcomes of the Section 106 review, which will include NRHP eligibility, impacts and mitigation for impacts to resources. Several resources listed in Table 31 above state that they may be protected under (a) and (b) of the Council standard. As discussed in the beginning of this section, to align the EFSC process with the federal Section 106 compliance review, many resources have been designated as "unevaluated/likely eligible," and therefore assumed to be protected under OAR 345-022-0090(1)(a). However, it is anticipated that several resources would result in a final determination of "not eligible," therefore would not protected under OAR 345-022-0090(1)(a), however, these resources may qualify for protections under OAR 345-022-0090(1)(b) because they may meet the definition of archaeological objects or archaeological sites on private lands

[251] ORS 358.905(1)(a) states ""Archaeological object" means an object that: (A) Is at least 75 years old; (B) Is part of the physical record of an indigenous or other culture found in the state or waters of the state; and (C) Is material remains of past human life or activity that are of archaeological significance including, but not limited to, monuments, symbols, tools, facilities, technological by-products and dietary by-products."

[252] ORS 358.905(1)(c) states "(A) "Archaeological site" means a geographic locality in Oregon, including but not limited to submerged and submersible lands and the bed of the sea within the state's jurisdiction, that contains archaeological objects and the contextual associations of the archaeological objects with: (i) Each other; or (ii) Biotic or geological remains or deposits. (B) Examples of archaeological sites described in subparagraph (A) of this paragraph include but are not limited to shipwrecks, lithic quarries, house pit villages, camps, burials, lithic scatters, homesteads and townsites.

[253] ASC Exhibit S states, "Field surveys were conducted and results reported in accordance with the Guidelines for Conducting Field Archaeology in Oregon and State of Oregon Archaeological Reporting Guidelines issued by the Oregon SHPO. Definitions of sites and isolates are those provided in the Guidelines for Conducting Field Archaeology in Oregon, unless permit stipulations require otherwise." B2HAPPDoc3-36 ASC 19_Exhibit S_Cultural_ASC_Public 2018-09-28 2013, Section 2.3. Guidelines for Conducting Field Archaeology in Oregon 2013 (Minor Revision January 2016), states, "In general terms, an Archaeological Site is defined as:
A) Ten or more artifacts (including debitage) likely to have been generated by patterned cultural activity within a surface area reasonable to that activity.."
https://www.oregon.gov/oprd/OH/Documents/FieldGuidelines.pdf Page 9 of 153. Accessed by Department 01-09-2024.

[254] B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, pp. 526-527.

as defined in statute and based on SHPO Guidance in place at the time that the survey methodologies were agreed upon and conducted.

The confidential information in Attachments 7-14, Oregon Visual Assessment of Historic Properties Report and Attachment 7-13 the Oregon Class III Technical Survey Report[255] was evaluated for resources designated in RFA2 as "not eligible, but potentially protected under OAR 345-022-0090(1)(b) or OAR 345-022-0090(1)(c). A description of the site or object(s) is provided above in Table 31, with the omission of details of the site or objects' location. Table 31 designates protection under OAR 345-022-0090(1)(b) for resource 35BA01560/ 3B2H-CH-04, because it could be an archaeological site on private lands because the materials are remains of past human life or activity that may be of archaeological significance and the site contains archaeological objects and the contextual associations of the archaeological objects with each other.[256] Resources B2H-DM-ISO-06 and B2H-DM-ISO-07 are determined as not protected under OAR 345-022-0090(1)(b) because they are historic refuse and are not of archaeological significance. Resource 35BA01521 is potentially protected under OAR 345-022-0090(1)(c) because the site on public lands may have archaeological significance and the site contains archaeological objects, and the contextual associations of the archaeological objects could be associated with each other. Resource 35ML01619/ 7B2H-BB-08 is not protected under OAR 345-022-0090(1)(c) because the archaeological site on public land may have material remains from past human life or activity but they are not of archaeological significance.

These findings and conclusions are further validated by the reporting conducted under Section 106 where they are found to not have or lack contributing attributes under the four criteria that must be evaluated by SHPO and the lead federal agency for listing on the NRHP. Resources not protected under OAR 345-022-0090 may be directly impacted. The Council emphasizes that these resources have been surveyed and recorded during the Section 106 review and Council has relied on up historic and archaeological surveys and recordation for other energy facilities to serve as mitigation reducing a potential impact to less than significant. Therefore, and in the alternative to not being protected under the Council's standard, if the resources listed in Table 31 under OAR 345-022-0090(1)(b) or OAR 345-022-0090(1)(c), are potentially protected under the applicable sub parts of the standard, Council finds that, taking into account the Section 106 surveys and recordation, impacts to these resources would be less than significant.

III.K.1.c Mitigation: HPMP, PSMMPs, and Existing Site Certificate Conditions

As discussed in the *Final Order on ASC*, the Historic Properties Management Plan (HPMP – Final Order Attachment S-9), imposed under Historic, Cultural, and Archaeological Resources

[255] Pursuant to ORS 192.345(11) Information concerning the location of archaeological sites or objects are exempt from public disclosure, certificate holder submits this information under a confidential cover and the Department maintains the information confidential to the fullest extent of the law.

[256] Recommendations for resources located on private and public lands are based on the criteria identified in ORS 358.905(1)(a) and ORS 358.905(1)(c), which is provided in the footnotes above.

Condition 2, serves as a framework how to address resource surveys, and how to evaluate impacts to resources, avoid, minimize, and mitigate impacts to resources protected under OAR 345-022-0090. Since Council approval of the *Final Order on ASC* and RFA1, the certificate holder and its consultant have submitted documentation on an ongoing basis for the Section 106 review, which includes review and comment by state SHPO's, the BLM and affected Tribal Governments. The draft final HPMP (Section 106 HPMP) that has been circulated for comment by BLM via Section 106 is attached to this order as Attachment S-9.[257] Avoidance, mitigation, and monitoring for unavoidable impacts to various types of resources have been further developed and defined in Property-Specific Mitigation and Monitoring Plans (PSMMPs), which are required by the Section 106 HPMP.

The Council-approved HPMP Appendix A.1 Inventory Tables include the following tables, taken from ASC Exhibit S, which identify a specific type of mitigation suite[258] may be applied for various types of resources:[259]

- Table HCA-4b: Mitigation for NRHP-Eligible Oregon Trail/NHT Segments
- Table HCA-8: Potential Minimization and Mitigation of Direct Impacts to Resource Site Types Identified within the Direct Analysis Area
- Table HCA-9 Potential Minimization and Mitigation Methods for Indirect Impacts
- Table HCA-10 Potential Minimization and Mitigation Methods for Indirect and Direct Impacts to Aboveground Resources

The measures listed in these tables are reflected in Section 106 HPMP, Tables 6-1 and 6-2. These tables list the types of mitigation measures that are associated with different types of resources and offer additional mitigation options. These measures are further refined in Property-Specific Mitigation and Monitoring Plans (PSMMPs), which address unavoidable

[257] An August 2023 HPMP was circulated by BLM for comment to parties to the PA, in response to comments received, a September 2023 draft final HPMP was then re-circulated to parties and submitted to the Department by the certificate holder in November 2023, which is included in this order. B2HAMD2 pRFA2 Precon Coord w Cert Holder BLM Final HPMP and Draft PSMMPs_BLM_Theisen 2023-10-26 and 2023-11-23

[258] From the Oregon Supreme Court's Decision regarding the specificity of mitigation for certain types of resources, "EFSC's final order contains specific information identifying the resources that will be impacted, the extent of those impacts, and how those impacts will be mitigated…..final order prescribes in Table HCA-4b the specific types of mitigation that EFSC required for this project: design modification…plus "at least one of the" mitigation methods found in former OAR 345-001-0010(33)(c) - (e), "with a demonstrated direct benefit to affected area (county of resource site)," and with the priority of those additional mitigation methods further specified. The final order also requires Idaho Power to demonstrate that any mitigation efforts required by federal "section 106 review" are sufficient to meet the state law standards articulated in Table HCA-4b…" B2HAPPDoc7 Supreme Court Decision Stop B2H Coalition v. Dept, of Energy 2023-03-09, page 811.

[259] HPMP Appendix A.1 Inventory Tables HCA-4b, HCA-8, HCA-9, and HCA-10 were derived from ASC Exhibit S, Attachment S-9, HPMP (with Inadvertent Discovery Plan) Tables 6-1, 6-2, 6-3, and 6-4. B2HAPPDoc3-36 ASC 19_Exhibit S_Cultural_ASC_Public 2018-09-28.

adverse effects to NRHP eligible resources, consistent with PA Stipulation VII. C. The resource specific and site-specific PSMMPs have been and will continue to be developed in consultation with the parties to the PA. [260] PSMMPs may use the potential mitigation measures described in the tables above and in the Section 106 HPMP or certificate holder may develop alternative measures to be implemented, which would be defined in the PSMMPs and circulated to PA Parties. Further, each PSMMP also includes avoidance and monitoring plans for the properties included in the plan as well as for operation and maintenance and decommissioning of the facility. Where subsurface investigation, such as data recovery, is identified as appropriate mitigation and required in a PSMMP, the research design and strategies outlined in the HPMP Subsurface Investigation Strategy Plan (SISP) would be relied upon.

Though some PSMMPs may group similar resource types, the purpose of each PSMMP is to supplement the HPMP with site-specific information, including mitigation, treatment, and monitoring for unavoidable adverse effects to each historic property or potential historic property and resources. PSMMPs have been developed and circulated for the following resources, resource groups, or types of resources:

- Built Environment – six sites
- Oregon Trail – nine sites
- Water Conveyance – two sites
- Rock Shelters – four sites
- Stacked Rock Features – 45 sites
- 35UN 00097 - One large site
- Lithic Procurement Sites – three sites

As discussed in the *Final Order on ASC and RFA1,* Historic, Cultural and Archeological Resources Condition 2 (GEN-HC-02), the HPMP must be finalized, for a phase or segment of the facility, and submitted to the Department once the final resource eligibility determinations and mitigation are derived from the Section 106 process. Based upon the eligibility determinations the HPMP *Appendix A.1 Inventory Tables with Management under OAR 345-022-0090*, must be updated to determine a final impact assessment and then appropriate mitigation measures associated with direct or indirect impacts to the various historic, cultural, and archaeological resources listed in the tables. To reflect the work that has been ongoing via Section 106 consultation, including the PSMMPs, the Department has updated, in redline format, the HPMP Appendix A.1 Inventory Tables (included in the updated HPMP, Attachment S-9 to this order) to include that additional site-specific mitigation designated in resource specific PSMMPs may be relied upon to update mitigation and management designated in the HPMP Appendix A.1 Inventory Tables as part of pre-construction compliance, based on the outcomes of the Section

[260] Pursuant to OAR 345-021-0010(1)(s), information concerning the location of archaeological sites or objects may be exempt from public disclosure under ORS 192.502(4) or 192.501(11). Therefore, information submitted in confidential resource documents such as the PSMMPs, as attached to the HPMP, High Probability Area report, Cultural Resources Technical Report Reconnaissance Level Survey – Visual Assessment of Historic Properties Report, and Intensive Level Survey – Visual Assessment of Historic Properties Report, Analysis Area, Construction Footprint, and Resource Location Maps.

106 review. Council finds that the PSMMPs may be relied upon to designate site-specific and resource-specific avoidance and mitigation measure when updating the HPMP Appendix A.1 Inventory Tables in compliance with GEN-HC-02, because the PSMMPs provide additional detail about the resources, impacts, and site-specific mitigation which has been reviewed by Parties to the PA.

The Council also edited the HPMP Appendix A.1 Inventory Tables document front end which is intended to provide instructions to the certificate holder and its contractors on how to update, based on Section 106 outcomes, the HPMP Appendix A.1 Inventory Tables. An example of the instructions is provided below in *italics*:

> *How to Update Table HCA-6: Potentially Impacted Resources under OAR 345-022-0090(1)(a)*
>
> *a. In redline, update Table HCA-6 from:*
> - *Eligibility determinations from Section 106.*
> - *Mitigation outcome from Section 106. Applicable mitigation measures provided in:*
>   - *Table HCA-8: Potential Minimization and Mitigation of Direct Impacts to Resource Site Types Identified within the Direct Analysis Area;*
>   - *Table HCA-9 Potential Minimization and Mitigation Methods for Indirect Impacts;*
>   - *Table HCA-10 Potential Minimization and Mitigation Methods for Indirect and Direct Impacts to Aboveground Resources;*
>   - *Applicable PSMMP(s).*
>
> *Notes: Table HCA-6 includes resources that are or may be protected under OAR 345-022-0090(1)(a) and/or OAR 345-022-0090(1)(b). If a resource is determined to be eligible or likely eligible for listing on the NRHP, it will be reflected in both Table HCA-6 and Table HCA-7-1. However, as provided below, the impact assessment and mitigation for the resource in Table HCA-6 (OAR 345-022-0090(1)(a)) is sufficient for the same resource in Table HCA-7-1 (OAR 345-022-0090(1)(b)), if protected under the standard.*
>
> *b. If a resource is not eligible for listing on the NRHP (protected under OAR 345-022-0090(1)(a)), it may qualify as an archaeological object or archaeological site as defined in statute and covered under OAR 345-022-0090(1)(b) of the EFSC standard, and must be evaluated in Table HCA-7-1: Inventoried Resources under OAR 345-022-0090(1)(b, described below.*

Council also makes other administrative edits to the HPMP Appendix A.1 Inventory Tables which reflect the status of the site certificate such as removing narrative copied from the *Final Order on ASC* and updating terminology (e.g. approved rather than proposed, certificate holder rather than applicant, and Council finds rather than Department recommends). Council finds

that the administrative updates to the HPMP Appendix A.1 Inventory Tables provide clarity and accuracy to the document.

Finally, Council finds that the *HPMP Appendix A.1 Inventory Tables with Management under OAR 345-022-0090,* include resources identified in RFA2 to ensure that resources associated with RFA2 are included in the Appendix to the HPMP and updated consistent with Historic, Cultural and Archeological Resources Condition 2 (GEN-HC-02). To reflect the above discussion, Council amends GEN-HC-02 as designated below. The approved changes reflect that a finalized Section 106 HPMP would be submitted to the Department, that the Appendix A.1 Tables would be updated based on the Section 106 outcomes, and that the site-specific and general mitigation measures designated in the PSMMP's may be relied on to meet the mitigation necessary under Council's standard.

> **Amended Historic, Cultural and Archeological Resources Condition 2 (GEN-HC-02)**: Prior to construction of a phase or segment of the facility, subject to confidential material submission procedures, and based on 1) new survey data from previously unsurveyed areas and 2) the final design of the facility, the certificate holder shall submit to the Department, the State Historic Preservation Office (SHPO), and applicable Tribal Governments, for review and Department approval, a final Section 106 Historic Properties Management Plan (HPMP) (with a cover letter explaining changes from the Final Order on RFA2 Attachment S-9). The HPMP shall include updated Appendix A.1 Inventory Tables with Management under OAR 345-022-0090 based on the outcomes of Section 106 Review. Final Property-Specific Mitigation and Monitoring Plans (PSMMPs) shall be submitted as part of the Section 106 HPMP. The Department may engage its consultant to assist in review of the HPMP. The certificate holder shall conduct all construction activities in compliance with the final Department-approved HPMP. [Final Order on ASC, AMD1, AMD2]

Historic, Cultural, and Archaeological Resources Condition 1 (GEN-HC-01) continues to apply to the micrositing area additions in RFA2 and requires that during final design and construction of the facility, the certificate holder designs and locate facility components to avoid direct impacts to Oregon Trail/National Historic Trail resources, consistent with the HPMP as under GEN-HC-02.

Historic, Cultural, and Archaeological Resources Condition 3 (OPS-HC-01) continues to apply to the micrositing area additions in RFA2 and requires the submissions of the HPMP after construction is completed and any results of unanticipated discoveries addressed in the inadvertent Discovery Plan.

III.K.2. Conclusions of Law

Based on the foregoing analysis, and subject to compliance with the existing site certificate conditions described above, Council finds that construction and operation of the facility, with RFA2 changes, is not likely to result in significant adverse impacts to historic, cultural or

archaeological resources that have been listed on, or would likely be listed on the National Register of Historic Places or other archaeological objects or sites identified under OAR 345-022-0090.

III.L. RECREATION: OAR 345-022-0100

(1) To issue a site certificate, the Council must find that the design, construction and operation of a facility, taking into account mitigation, are not likely to result in a significant adverse impact to important recreational opportunities.

(2) The Council must consider the following factors in judging the importance of a recreational opportunity:

(a) Any special designation or management of the location;

(b) The degree of demand;

(c) Outstanding or unusual qualities;

(d) Availability or rareness;

(e) Irreplaceability or irretrievability of the opportunity.

(3) The Council may issue a site certificate for a special criteria facility under OAR 345-015-0310 without making the findings described in section (1). In issuing such a site certificate, the Council may impose conditions of approval to minimize the potential significant adverse impacts from the design, construction, and operation of the facility on important recreational opportunities.

(4) The Council must apply the version of this rule adopted under Administrative Order EFSC 1-2002, filed and effective April 3, 2002, to the review of any Application for Site Certificate or Request for Amendment that was determined to be complete under OAR 345-015-0190 or 345-027-0363 before the effective date of this rule. Nothing in this section waives the obligations of the certificate holder and Council to abide by local ordinances, state law, and other rules of the Council for the construction and operation of energy facilities in effect on the date the site certificate or amended site certificate is executed.[261]

[261] OAR 345-022-0100, effective December 19, 2022.

III.L.1. Findings of Fact

The Recreation standard requires the Council to find that the design, construction and operation of a facility are not likely to result in significant adverse impacts to 'important' recreational opportunities.[262] The analysis area for the Recreation standard includes the area within and extending 1.75-miles from the amended site boundary.[263]

In the *Final Order ASC* and *RFA1* Council evaluated whether the identified recreational opportunities are "important" using the factors listed in the sub-paragraphs of section (1) of the standard. The Council then evaluated whether the design, construction and operation of the facility and facility with proposed changes could adversely impact the identified important recreational opportunities. If the facility or proposed facility additions could adversely impact the resource, then the Council considered the significance of the possible impact using the definition of significance under OAR 345-001-0010(29).

III.L.1.a Important Recreational Opportunities within the Analysis Area

The certificate holder provides an evaluation of whether or not recreational opportunities within the RFA2 analysis area are important and an evaluation of potential impacts to those recreation opportunities in RFA2 Attachment 7-12, Figures 7-16 and 7-17. There are no new recreational opportunities within the analysis area for RFA2 or evidence that a previously evaluated recreational opportunity that was determined to be "not important," should now be considered "important" under the standard. Therefore, the RFA2 micrositing area transmission line route additions within the analysis area for RFA2 presented below in Table 32: *Proximity of ASC, RFA1, and RFA2 Transmission Line Routes to Important Recreation Opportunities in Analysis Area*, relies on recreational opportunities that Council has already determined to be important.[264] Table 32, below, presents important recreational opportunities within the analysis area of the ASC, RFA1, and the RFA2 route alternatives and their proximity to the ASC and RFA1 approved routes and transmission line alternativities in RFA2.

[262] OAR 345-001-0010(29) defines "significant" as "having an important consequence, either alone or in combination with other factors, based upon the magnitude and likelihood of the impact on the affected human population or natural resources, or on the importance of the natural resources affected, considering the context of the action or impact, its intensity and the degree to which possible impacts are caused by the proposed action. Nothing in this definition is intended to require a statistical analysis of the magnitude or likelihood of a particular impact."

[263] The Council's procedural requirements for site certificate amendments (OAR 345-027-0360(3)) allow the Department to authorize modifications to analysis areas established in a Project Order, if warranted based on the scope of changes in the Request for Amendment. The July 26, 2018 Second Amended Project Order establishes the analysis area as the area within and extending 2 miles from the site boundary. As authorized under OAR 345-027-0360(3), following pre-amendment conferences on March 23 and June 12, 2023, the Department approved a modified analysis area for the Recreation standard based on the scope and extent of potential impacts associated with the RFA2 changes.

[264] See B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, Section IV.L, and B2HAMD1Doc1 Final Order 2023-09-22_Signed_No Attachments 2023-09-22, Section III.L.

Table 32 below provides summary of the RFA2 transmission line alternatives and their proximity to important recreational opportunities.

Table 32: Proximity of ASC, RFA1, and RFA2 Transmission Line Routes to Important Recreation Opportunities in Analysis Area

Important Recreational Opportunity	Distance to Route Centerline	County
Blue Mountain Forest State Scenic Corridor	Crossed (ASC)	Union
Ladd Marsh Wildlife Area	Crossed (ASC) 208 feet (ASC Morgan Lake alternative) 528 feet (0.1 mile – RFA2 Baldy Alternative)	Union
Burnt River Extensive Recreation Management Area	Crossed (ASC) Crossed (True Blue Gulch alternative RFA1)	Baker
Grande Tour Scenic Bikeway	Crossed (ASC) Crosses (RFA2 Highway 203 Crossing Alternative)	Union and Baker
Blue Mountain Scenic Bikeway	Crossed (ASC) 0.7 mile (RFA2 Rugg Canyon alternative)	Morrow and Umatilla
Oregon Trail Area of Critical Environmental Concern – National Historic Oregon Trail Interpretive Center Parcel (NHOTIC)	106 feet (ASC) 528 feet (0.1 mile - RFA2 Revised 230-kV Rebuild)	Baker
Owyhee River Below Dam Special Recreation Management Area	250 feet (ASC)	Malheur
Morgan Lake Park	0.2 mile (ASC Morgan Lake alternative) 0.6 mile (ASC)	Union
Oregon Trail Birch Creek Special Recreation Management Area	0.2 mile (ASC)	Malheur
Hilgard Junction State Park	0.3 mile (ASC) 0.4 mile (ASC Morgan Lake alternative) 0.7 mile (RFA2 Rock Creek alternative 2)	Union
Deer Flat National Wildlife Refuge – Snake Island Unit	0.4 mile (ASC)	Malheur
Weiser Dunes Off-highway Vehicle Play Area	0.5 mile (ASC)	Washington County (Idaho)
Oregon Trail Tub Mountain Special Recreation Management Area	0.5 mile (ASC)	Malheur
Bully Creek Reservoir	0.7 mile (ASC)	Malheur

Table 32: Proximity of ASC, RFA1, and RFA2 Transmission Line Routes to Important Recreation Opportunities in Analysis Area

Important Recreational Opportunity	Distance to Route Centerline	County
	1.1 mile (RFA2 Cottonwood Creek alternative)	
Farewell Bend State Recreation Area	0.7 miles (ASC)	Baker
Snake River Breaks Extensive Recreation Management Area	0.8 mile (ASC) 1.2 miles (Durbin Quarry alternative RFA1)	Baker
Snake River Islands (Huffman Island) Wildlife Area	0.9 mile (ASC)	Malheur
Oregon Trail Interpretive Park at Blue Mountain Crossing	1.0 mile (ASC)	Union
Umatilla National Wildlife Refuge	1.3 miles (ASC)	Morrow
Powder River WSR, Area of Critical Environmental Concern	1.4 miles (ASC)	Union and Baker
Virtue Flat Off-highway Vehicle Area	1.5 miles (ASC) 1.9 mile (RFA2 Revised 230-kV Rebuild)	Baker

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III.L.1.b Potential Impacts to Important Recreation Opportunities

III.L.1.b.1 Direct and Indirect Loss of Recreational Opportunity

A direct loss of opportunity could occur where the RFA2 micrositing area additions result in permanent alteration such that the resource no longer exists in its current state. Indirect loss could result from temporary traffic and noise impacts, and permanent visual impacts of facility structures.

The RFA2 Highway 203 Crossing alternative would cross the Grand Tour Scenic Bikeway, similar to the previously approved route in the ASC. Council previously found that crossing a scenic bikeway could result in a direct loss of a small portion of the area included within the boundaries of the important recreational opportunity, however, the extent of the loss would not result in a change to the overall use or importance of the resource. Therefore, Council finds that the RFA2 micrositing area addition would not be likely to result in significant adverse impacts from potential direct losses to the important recreational opportunity.

Indirect loss could result from temporary traffic and noise impacts associated with the temporary work areas in RFA2 and transmission line alternatives, and permanent visual impacts of facility structures. Indirect loss from traffic and noise impacts would be reduced by measures outlined in the Traffic Management and Control Plan, imposed in Public Services Condition 2, and from noise attenuation due to the linear nature of construction activities. Visual impacts associated with permanent facility structures in RFA2 are discussed further below.

III.L.1.b.2 Potential Noise Impacts

Construction-related noise impacts from the temporary work areas, roads, and transmission line route additions in RFA2 would be similar to those evaluated in the *Final Order on ASC* and would cause some noise impact at recreational opportunity sites that are close to the micrositing area additions, however, these impacts would be short-term and temporary. Construction activities that would cause noise impacts at most recreation opportunities include blasting and rock breaking, implosive devices used during conductor stringing, helicopter operations, and vehicular traffic. The construction activities would progress along the corridor of the transmission line, and no area would be exposed to construction noise for the entire construction period. Recreational opportunities within a half-mile or less, would experience noise impacts during facility construction. However, noise would attenuate with distance, topography, and vegetative screening so it is possible that the decibel volume of typical construction equipment may be lower during actual facility construction.[265]

During typical operating conditions, corona noise is estimated at 34 dBA at the edge of the facility right of way (ROW). Thirty-four dBA is barely audible and would not cause a significant

[265] B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, page 547.

noise impact at any recreation opportunity.[266] Council also highlights that typical recreational activities occur during the day when ambient noise levels are higher and, even under conditions where corona noise may be elevated, it is likely that recreational activities would mask any operational transmission line noise.

III.L.1.b.3 Potential Traffic-Related Impacts

Construction of the RFA2 micrositing area additions would cause short-term impacts to those recreation opportunity sites that are near or crossed by the additions, or where construction traffic routes pass near those areas, similar to the potential impacts evaluated in the *Final Order on ASC*. The impacts would be short-term and limited in duration to construction related traffic. Construction traffic would include multiple vehicle types, but the majority of traffic trips would be for construction workers daily commuting to work sites.

Public Services Condition 2 which requires the finalization of a county-specific traffic management plan would continue to apply to the micrositing area additions in RFA2. Measures that would address construction-related impacts include the use of traffic control measures including flaggers, pilot vehicles, and temporary closures if necessary, and that road closures would be publicized in advance and coordinated with landowners, emergency services, and law enforcement.[267]

III.L.1.b.4 Potential Visual Impacts

As discussed, and summarized in Section III.F., *Protected Areas*; III.F.1.b.5.1, *Methodology for Visual Impact Assessment*, of this order, to evaluate the impact of the micrositing area additions on protected areas, scenic, and recreation resources, the certificate holder used the Council approved visual impact methodology which is based on the BLM and USFS visual impact assessment methods, and the Council's definition of significant. Council's rules do not require, or provide, a specific methodology for evaluating visual impacts to Recreational Resources (or Protected Areas or Scenic resources). Similar to the ASC and RFA1, the visual impact assessment extends 5 miles from the micrositing area additions in non-forested settings, and 10 miles in forested settings. Beyond those distances, Council previously found that visibility of the facility components would be negligible.[268] In the *Final Order on RFA1*, Council found that for roads, most of which do not have a vertical visual component associated with them, the visual impact assessment is further refined by proximity, i.e., foreground (<0.5 miles), middleground (0.5 to 5 miles), or background distances (> 5 miles).
Also, as discussed in Section III.F., *Protected Areas*, of this order, Council considers visual impacts associated with permanent facility components (structure towers for transmission

[266] B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, pp 547-548. Idaho Power - Rebuttal Testimony - Kling - Exhibit E page 5, 2022-11-12; Idaho Power / Rebuttal Testimony of Mark Bastasch / Issues NC-1, NC-2, NC-3, NC-4, and NC-6/ Exhibit L, Reanalysis of MP11 Area, p. 2-3 of 4, 2022-11-12.
[267] B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, page 547.
[268] B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, page 305.

lines), rather than visual impacts associated with temporary work areas because they are short term, and the sites are restored.

RFA2 Attachment 7-17 Table 1 provides the visual impact assessment for the micrositing area additions in RFA2. As noted above, temporary work areas (pulling and tensioning sites, MUAs, etc.) are not evaluated for permanent visual impacts because they are temporary. RFA2 micrositing area additions that are roads within the analysis area of recreational opportunities all are modifications to existing roads, which do not have vertical components, and are not likely to have a visual impact.

Certificate holder indicates that the distance from the transmission line routes in RFA2 from recreational resources increased or remained the same compared to the evaluation done for the ASC, thus potential visual impacts would be less than or equal to what was previously approved.[269] This is demonstrated by the summary provided above in Table 32. All of the RFA2 transmission line routes are similar or further away than what Council previously evaluated and approved, therefore, for this reason and the reasons provided in the *Final Order on ASC* and *RFA1*, Council finds that the operation of the facility, with RFA2changes, would not have significant adverse impacts to important recreational opportunities.

Previously imposed Recreation Condition 1, which requires modified h-frame towers within the viewshed of Morgan Lake Park is not impacted by RFA2 because there are not RFA2 transmission line alternative routes within the viewshed of Morgan Lake Park and continues to apply to the previously facility and certificate holder.[270]

III.L.2. Conclusions of Law

Based on the foregoing analysis, and subject to compliance with the existing site certificate conditions, the Council finds that the design, construction and operation of the facility, with RFA2 changes, are not likely to result in a significant adverse impact to important recreational opportunities.

III.M. PUBLIC SERVICES: OAR 345-022-0110

> *(1) Except for facilities described in sections (2) and (3), to issue a site certificate, the Council must find that the construction and operation of the facility, taking into account mitigation, are not likely to result in significant*

[269] B2HAMD RFA1 2023-06-08. Attachment 7-15.

[270] Certificate holder proposed to expand the site boundary within the area around Morgan Lake Park, as illustrated in RFA2 Figure 4-1, Map 22. As discussed in Section II.B and III.A., General Standard of Review, of this order, the expanded site boundary is not an approval to locate facility components within that area. Council's approval of the RFA2 micrositing areas is to located facility components only within the micrositing areas. Consistent with representations and the evaluation in the *Final Order on ASC*, the certificate holder is not proposing, and Council has not approved the location of any facility components within the Morgan Lake Park boundaries. B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, page 555.

adverse impact to the ability of public and private providers within the analysis area described in the project order to provide: sewers and sewage treatment, water, storm water drainage, solid waste management, housing, traffic safety, police and fire protection, health care and schools.

(2) The Council may issue a site certificate for a facility that would produce power from wind, solar or geothermal energy without making the findings described in section (1). However, the Council may apply the requirements of section (1) to impose conditions on a site certificate issued for such a facility.

(3) The Council may issue a site certificate for a special criteria facility under OAR 345-015-0310 without making the findings described in section (1). However, the Council may apply the requirements of section (1) to impose conditions on a site certificate issued for such a facility.[271]

III.M.1. Findings of Fact

The analysis area for public services is the area within and extending 10-miles from the expanded site boundary. The facility would cross through five Oregon counties: Morrow, Umatilla, Union, Baker, and Malheur.

Changes in RFA2 include locational adjustments of previously approved infrastructure (transmission line, new and substantially modified roads) on lands under the same ownership as previously evaluated, and shifts and new locations of temporary work areas; and construction and operation of a capacitor station.[272] The impacts to providers of public and private services from the facility, with RFA2 changes, would not differ from the impacts previously evaluated by Council in the *Final Order on ASC* and *Final Order on Request for Amendment 1 (RFA1)*. Those prior findings are incorporated herein by reference and direct incorporation, as applicable.[273]

The 40 miles of transmission line route alternatives and 156 miles of road additions and alternatives are "additive," so that certificate holder has more options and flexibility to accommodate landowner preferences and final facility design needs. However, the final facility design will ultimately select one approved route, approved alternative route, or routes in RFA1, therefore, the actual facility components installed would not be additive. If RFA2 alternative routes are selected instead of ASC approved route(s), the total length of the transmission line would be reduced by approximately 0.4 miles. Therefore, it's reasonable to assume that the

[271] OAR 345-022-0110, effective April 3, 2002.

[272] Capacitor station includes: 500-kV circuit breakers, high-voltage switches, bus supports, two transmission line termination structures, and a 500-kV series capacitor bank.

[273] B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, Section IV. M, and B2HAMD1Doc1 Final Order 2023-09-22_Signed_No Attachments 2023-09-22, Public Services.

previous assumptions about workers, water use, and potential impacts to public service providers would be similar to those previously evaluated.

III.M.1.a Sewer and Sewage Treatment

During construction, portable toilets will be utilized at multi-use areas and construction sites. The RFA2 micrositing area additions are not expected to result in significant changes to the volume of sanitary wastes generated during construction of the facility, and the certificate holder has not proposed any changes to the method of disposal of those wastes. The Council previously found that, subject to the compliance by the certificate holder's contractor with applicable state laws and rules, the disposal of sanitary wastes from the portable toilets was not likely to impact public and private sewer and sewage treatment providers within the analysis area.[274]

In addition, RFA2 does not propose any changes to facility components that would connect to public sewer and sewage treatment systems during operation of the facility. Accordingly, Council relies on the aforementioned findings from the *Final Order on ASC* as a basis for concluding that the RFA2 changes are not likely to impact public and private sewer and sewage treatment providers within the analysis area.

III.M.1.b Stormwater and Wastewater Drainage

The facility components to be located within the RFA2 micrositing area additions are not proposed to interconnect with nor impact any public or private stormwater or wastewater drainage systems. Therefore, Council finds that the construction and operation of facility components within the RFA2 micrositing area additions are not likely to result in significant adverse impacts to the ability of stormwater or wastewater drainage service providers to provide drainage and processing services.

III.M.1.c Water Use

Construction would require up to approximately 54.8 million gallons of water.[275] Primary water uses would include dust control, sanitation, foundation construction. Potential sources of water for the construction and operation of the facility include the City of Boardman, City of Pendleton, City of La Grande, Baker City, and the City of Ontario. The Council previously found that these providers had adequate capacity to provide the water needed for construction without significant impacts to their ability to meet other water needs.[276]

The scope and extent of construction activities involved with constructing the facility, with the changes in RFA2, would be similar to those evaluated in the *Final Order on ASC*. As a result, no significant changes to the volume of water needed for construction are expected. Accordingly,

[274] B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, page 579 of 10586.

[275] B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, page 580 of 10586.

[276] B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, page 582 of 10586.

the Council finds that the RFA2 micrositing area additions are not likely to result in significant adverse impacts on the ability of the aforementioned providers to provide water for the facility.

III.M.1.d Solid Waste Management

Construction is expected to generate approximately 3.7 million cubic yards (yd^3) of solid waste, including 3.5 million cubic yards of vegetative waste from site clearing, 197,218 yd^3 of excavation spoils, and 6,235 yd^3 of other solid wastes. Approximately 2.8 million cubic yards (76%) of the waste would be diverted from landfills, either by mulching vegetative wastes for use at the site, or recycling. The approximately 881,994 yd^3 of undiverted wastes would be transported by a waste disposal subcontractor to one of four landfills along the transmission line route: Finley Buttes Landfill in Morrow County, the Baker Sanitary Landfill in Baker County, the Lytle Boulevard Landfill in Malheur County and the Clay Peak Landfill in Payette County, Idaho.

The scope and extent of construction activities involved with constructing the facility, with RFA2 changes, would be similar to those evaluated in the *Final Order on ASC*. IPC represents that the changes in RFA2 will not result in a significant increase in the amount of solid waste estimated to be generated during construction of the facility.[277] Therefore, Council relies on its previous findings and conclude that the construction and operation of the facility, with RFA2 changes, and subject to compliance with waste minimization conditions, are not likely to result in significant adverse impacts to the ability of solid waste management providers to provide services to the facility.

III.M.1.e Housing

The scope and extent of construction activities involved with constructing the facility, with RFA2 changes, would be similar to those evaluated in the *Final Order on ASC*. The analysis area extends 10-miles from the expanded site boundary; based on housing capacity within the analysis area, there are adequate short-term housing options available within reasonable commuting distance to the facility.[278]

Local housing capacity impacts may be experienced in individual counties if construction workers rely on a specific type of housing – RV camping, for example – that may not have adequate supply. Local housing capacity impacts may be experienced based on cumulative development actions occurring at the time. Because the public services standard requires an evaluation of capacity impacts within the analysis area, targeted impacts to an individual type of housing resource have not been evaluated.

Council finds that the facility is not likely to result in significant adverse impacts to the ability of public and private housing and rental providers within the analysis area.

[277] B2HAMD2Doc2 RFA2 2024-04-11, p. 37.

[278] B2HAPPDoc3-38 ASC 21_Exhibit U_PublicServices_ASC 2018-09-28, Section 3.5.4.

III.M.1.f Health Care

The scope and extent of construction activities involved with constructing the facility, with RFA2 changes, would be similar to those evaluated In the *Final Order on ASC*. The RFA2 changes will not result in a need for additional workers during peak construction periods. As a result, no significant changes to the demand for health care services associated with construction of the facility are expected. Accordingly, Council continues to rely on its previous findings and again conclude that, subject to Public Services Condition 5 (PRE-PS-04)[279], construction and operation of the facility, with RFA2 changes, is not likely to result in significant adverse impacts to the ability of public and private health care providers to provide health care services within the analysis area.

III.M.1.g Schools

The scope and extent of construction activities involved with constructing the facility, with RFA2 changes, would be similar to those evaluated In the *Final Order on ASC*. The RFA2 changes will not result in a need for additional workers during peak construction periods, nor permanent employees within the facility area. Therefore, construction and operation of the facility, with RFA2 changes, is not likely to result in significant adverse impacts on the ability of public and private education providers to provide education services within the analysis area. Accordingly, Council continues to rely on its previous findings and again conclude that construction and operation of the facility, with RFA2 changes, is not likely to result in significant adverse impacts to the ability of public and private educations providers to provide educational services within the analysis area.

III.M.1.h Traffic Safety

The scope and extent of construction traffic volume and road use involved with constructing the facility, with RFA2 changes, would be similar to those evaluated In the *Final Order on ASC*. RFA2 road design changes could impact traffic safety providers, and therefore is evaluated below.

RFA2 seeks approval to increase the temporary disturbance width for new and substantially modified roads, as presented in Table 16 of this order, and discussed further in Section III.D., *Soil Protection*, of this order. Certificate holder includes an updated Road Classification Guide as RFA2 Attachment 4-1, which is attached to this order as Attachment B-5. During the review of pRFA2, the certificate holder provided a table identifying road construction and operation standards, which the Council includes in the attached B-5. Road design for temporary and permanent impacts must demonstrate road safety impacts are minimized. Council previously

[279] Council previously imposed Public Services Condition 5 (PRE-PS-04) requiring that, prior to construction, the certificate holder finalize and provide to the Department, for review and approval, an Environmental and Safety Training Plan designed to minimize health and safety risks during construction.

imposed Public Services Condition 2 (PRE-PS-02) requiring in part that, prior to construction, the certificate older finalize Transportation and Traffic Plans designed to minimize safety, road damage and congestion/access impacts. The condition also required finalization of a Road Classification Guide (Attachment B-5), which identifies the applicable road design standards based on the location and road improvement type.[280] Under the previously imposed condition, the Road Classification Guide requires that new access roads conform to the most current edition of the American Association of State Highway and Transportation Officials' (AASHTO's) Guidelines for Geometric Design of Very Low-Volume Local Roads, for access roads with an anticipated average daily traffic of less than 400 vehicles.[281] It requires that roads on federal lands meet USFS and BLM standards for roads that will be added to federal jurisdiction. Existing USFS and BLM roads which cannot be used in their existing condition will be brought up to these standards. For roads on state forest land, the certificate holder will work with ODOT, Oregon Department of Forestry, and other agencies to ensure compliance with applicable road standards and to obtain any necessary approvals or permits. The previously imposed condition requires that the certificate holder implement the measures identified in the Transportation and Traffic Plans and the Road Classification Guide (Attachment B-5).

Council amends Public Services Condition 2 (PRE-PS-02) to specify that the version of the Road Classification Guide and Access Control Plan to be finalized, prior to construction, is the version attached to the *Final Order on RFA2*. The revisions to the condition are limited to referencing the *Final Order on RFA2* and are shown in Attachment 1 to this order, the second amended site certificate. The updated Road Classification Guide and Access Control Plan is attached to this order as Attachment B-5. Because the Road Classification Guide will identify the appropriate and applicable road design standards for which roads will be designed and constructed, and will apply to the RFA2 road design changes per amended Public Services Condition 2 (PRE-PS-02), Council continues to find that construction and operation of the facility, with RFA2 changes, is not likely to result in significant adverse impacts to the ability of public and private traffic service providers to provide transportation services within the analysis area.

Air Traffic Safety

The locational adjustments of the RFA2 micrositing area additions do not result in new or different air traffic safety providers not previously evaluated (i.e., no new or different airports within 5-miles of the expanded site boundary).

Council previously imposed Public Services Condition 4 (PRE-PS-03) requiring that, prior to construction, the certificate holder submit a Notice of Proposed Construction or Alteration (FAA Form 7460-1) to the FAA and to the Oregon Department of Aviation prior to the construction of

[280] Attachment B-5 Road Classification Guide and Access Control Plan uses a road-specific label (an alpha-numeric name) which allows for individual identification of each access road. Many access roads do not and will not have "common names;" rather, the "Unique ID" will be the only name for access roads that are not pre-existing county roads. County road use agreements will identify existing county roads used for the Project with "common names" as applicable. B2HAMD2Doc12 Idaho Power's RFA 2 DPO Comment Responses - By Party 2024-06-05.
[281] B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, Section IV.M.6.

any transmission structures within 5-miles of a public airport or the use of any cranes exceeding 200-ft in height. The certificate holder has obtained a No Hazard Determinations from FAA and ODAv for all facility structures within 5-miles of a public airport.

The certificate holder may use helicopters to deliver equipment, materials, or personnel to areas with limited access by road during the construction of the facility. When used, helicopters are deployed from multi-use areas or light duty fly yards located within four of the facility's pulling and tensioning sites.[282] Under Public Services Condition 3 (GEN-PS-01), the certificate holder must submit to the Department and each affected County Planning Department a proposed Helicopter Use Plan. The plan must be approved by the Department, in consultation with each county where helicopter use is proposed, prior to use of a helicopter during construction. Based on compliance with Public Services Condition 3 (GEN-PS-01), construction-related helicopter use would not likely result in hazards to air navigation.

Based on the evidence in the record and compliance with previously imposed conditions, Council finds that the facility, with RFA2 changes, is not likely to result in significant adverse impacts to the ability of public and private air traffic safety providers within the analysis area.

III.M.1.i Fire Protection

RFA2 does not propose any changes that would affect fire safety service providers differently than what Council has previously evaluated.

Council previously imposed Public Services Condition 6 (GEN-PS-02) requiring that, prior to construction, the certificate holder finalize a construction Fire Prevention and Suppression Plan, designed to ensure the certificate holder and its contractors have adequate fire protection equipment and work limitations to respond and avoid construction-related fire risk. Council previously imposed Wildfire Prevention and Risk Mitigation Conditions 1 and 2 (GEN-WMP-01; OPR-WMP-01) requiring that prior to and during operations, the certificate holder provide its Wildfire Mitigation Plan, as required by and submitted to PUC, that applies to and requires operational measures designed to minimize fire risk from and to the facility.

Based on compliance with the conditions and associated mitigation plans, Council continues to find that construction and operation of the facility, with RFA2 changes, are not likely to result in significant adverse impact to the ability of public and private providers within the analysis area to provide fire protection.

III.M.1.j Police Protection

The scope and extent of construction activities involved with constructing the facility, with RFA2 changes, would be similar to those evaluated In the *Final Order on ASC*.

[282] B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, page 604 of 10586.

Council previously imposed Public Services Condition 5 (Condition PRE-PS-04), which requires the certificate holder to conduct all work in compliance with an approved Environmental and Safety Training Plan, which in part, specifies measures for securing multi-use areas and work sites when not in use to address the potential for construction sites to become targets for theft and vandalism. Council also imposed Public Services Condition 2 (Condition PRE-PS-02), which requires the certificate holder to develop and comply with a Transportation and Traffic Plan specifying measures to avoid, minimize, and mitigate impacts to law enforcement agencies due to the expected increase in construction-related traffic.

Council continues to rely on its previous findings and conclude that subject to existing Public Services Condition 2 (Condition PRE-PS-02) and Public Services Condition 5 (Condition PRE-PS-04), construction and operation of the facility, with RFA2 changes, are not likely to result in significant adverse impact to the ability to provide police services in the analysis area.

III.M.2. Conclusions of Law

Based on the foregoing analysis, and subject to compliance with the existing and recommended amended site certificate conditions described above, Council finds that the facility, with RFA2 changes, are not likely to result in significant adverse impacts to the ability of public and private providers to provide the services listed in OAR 345-022-0110.

III.N. WILDFIRE PREVENTION AND RISK MITIGATION: OAR 345-022-0115

(3) To issue a site certificate, the Council must find that:

(4) The applicant has adequately characterized wildfire risk within the analysis area using current data from reputable sources, by identifying:

(5) Baseline wildfire risk, based on factors that are expected to remain fixed for multiple years, including but not limited to topography, vegetation, existing infrastructure, and climate;

(6) Seasonal wildfire risk, based on factors that are expected to remain fixed for multiple months but may be dynamic throughout the year, including but not limited to, cumulative precipitation and fuel moisture content;

(7) Areas subject to a heightened risk of wildfire, based on the information provided under paragraphs (A) and (B) of this subsection;

(8) High-fire consequence areas, including but not limited to areas containing residences, critical infrastructure, recreation opportunities, timber and agricultural resources, and fire-sensitive wildlife habitat; and

(9) All data sources and methods used to model and identify risks and areas under paragraphs (A) through (D) of this subsection.

(b) That the proposed facility will be designed, constructed, and operated in compliance with a Wildfire Mitigation Plan approved by the Council. The Wildfire Mitigation Plan must, at a minimum:

(10) Identify areas within the site boundary that are subject to a heightened risk of wildfire, using current data from reputable sources, and discuss data and methods used in the analysis;

(11) Describe the procedures, standards, and time frames that the applicant will use to inspect facility components and manage vegetation in the areas identified under subsection (a) of this section;

(12) €Identify preventative actions and programs that the applicant will carry out to minimize the risk of facility components causing wildfire, including procedures that will be used to adjust operations during periods of heightened wildfire risk;

(13) Identify procedures to minimize risks to public health and safety, the health and safety of responders, and damages to resources protected by Council standards in the event that a wildfire occurs at the facility site, regardless of ignition source; and

(14) €Describe methods the applicant will use to ensure that updates of the plan incorporate best practices and emerging technologies to minimize and mitigate wildfire risk.

(2) The Council may issue a site certificate without making the findings under section (1) if it finds that the facility is subject to a Wildfire Protection Plan that has been approved in compliance with OAR chapter 860, division 300.

(3) This Standard does not apply to the review of any Application for Site Certificate or Request for Amendment that was determined to be complete under OAR 345-015-0190 or 345-027-0363 on or before the effective date of this rule.

III.N.1. Findings of Fact

The Wildfire Prevention and Risk Mitigation standard requires the Council to find the certificate holder has adequately characterized wildfire risk associated with a facility; and that the facility would be operated in compliance with a Council-approved wildfire mitigation plan; or the facility is subject to a Wildfire Protection Plan approved by the Oregon Public Utility Commission (OPUC). The analysis area to evaluate potential wildfire risks is the area within and extending ¼ miles from the site boundary.[283]

Council's Wildfire Prevention and Risk Mitigation standard under OAR 345-022-0115 first applied to the facility during the review and approval of RFA1. In the *Final Order on RFA1* Council found that the facility[284] is subject to a Wildfire Protection Plan (WMP), the certificate holder's 2022 WMP was approved in compliance with OPUC rules, and that the OPUC has approved the certificate holder's WMP, therefore subject to recommended site certificate conditions, the standard was met. Council previously imposed Wildfire Prevention and Risk Mitigation Conditions 1 and 2 (GEN-WMP-01; OPR-WMP-01) requiring that prior to and during operations, the certificate holder provide its OPUC-approved Wildfire Mitigation Plan, as that applies to and requires operational measures designed to minimize fire risk from and to the facility.

RFA2 Attachment 7-18 includes the certificate holder's 2023 WMP and the corresponding OPUC approval of the WMP.[285] A summary of the 2023 WMP applicable to facility operations below.

The discussion of the certificate holder's WMP applies to operation of the facility, however, construction-related fire is summarized in Section III.M.1.i, of this order where under existing Public Services Condition 6, a Fire Prevention and Suppression Plan requires the certificate holder to finalize and implement fire prevention measures during construction.

WMP Wildfire Risk Modeling Methodologies:[286, 287]

[283] OAR 345-001-0010(35)(c).

[284] Under OAR 860-300-0001(1), Scope and Applicability of OPUC Rules for Wildfire Mitigation Plans, states "The rules in this division prescribe the filing requirements for risk-based Wildfire Mitigation Plans filed by a Public Utility that provides electric service in Oregon pursuant to ORS 757.005." The certificate holder is a Public Utility that provides electric service in Oregon, and therefore must comply with the Wildfire Mitigation Plan (WMP) rules.

[285] OPUC Order No. 23-222 Approval of 2023 WMP. June 26, 2023. Docket UM 2209.

[286] B2HAMD1 RFA1 2023-06-08. Attachment 7-16 (redline WMP PDF page 23/259), Section 3.2

[287] The evaluation of this section summarizes information provided in certificate holder's 2022 WMP as it was submitted on the record for the facility for EFSC, however, at Council's request, after the issuance of the DPO, the

In preparation of the 2023 WMP, certificate holder used an external consultant that specializes in assessing and quantifying the threat of wildfire through a risk-based methodology that leverages weather modeling, wildfire spread modeling (LANDFIRE), and Monte Carlo simulation.

The simplistic WMP wildfire risk methodology formula is:

Wildfire Risk = Fire Probability x Consequence[288]

Where fire probability takes into consideration historical weather, topography, fuel types present, and fuel moisture content. Consequence is the number of structures (i.e., homes, businesses, other man-made structures) that may be impacted by a wildfire. Wildfire risk is fire probability multiplied by the consequence; therefore, the highest wildfire risk areas are those where the landscape, vegetation and weather are conducive for files and there is more dense man-made infrastructure.

III.N.1.a Results of Wildfire Risk Assessment for Facility and OPUC-Approved WMP

OAR 860-300-0020 establishes OPUC's Wildfire Protection Plan Filing Requirements. Under OAR 860-300-0020(1)(a)(A) and (B), a WMP must identify areas that are subject to a heightened risk of wildfire.[289] The 2023 WMP wildfire risk modeling considered the permitted, yet not constructed facility, and identified two locations along the route as having an increased wildfire risk (Yellow risk zone – YRZ or Tier 2) and no areas of higher risk (Red risk zone – RRZ or Tier 3). The resulting risk tiers reflect risk *relative* to certificate holder's service territory only and *not*

OPUC approved the certificate holder's 2023 WMP. An online review of the 2023 WMP indicates that the wildfire risk methodologies, conclusions, and preventative measures in the 2023 WMP are substantially similar to the 2022 WMP. 2023 WMP from OPUC Docket UM 2209 available here: https://edocs.puc.state.or.us/efdocs/HAQ/um2209haq151044.pdf. Accessed 08-03-2023. Further, under Wildfire Prevention and Risk Mitigation Conditions 1 and 2, the certificate holder will submit the most recent WMP prior to operation of the facility and submit OPUC-approved WMP's annually to ODOE/EFSC.

[288] Consequence is defined as "Number of structures (i.e., homes, businesses, other man-made structures) that may be impacted by a wildfire." These impacts to structures are a proxy for potential impacts to the individuals who would be in or use those structures. "[C]onsequence is the negative impacts to different assets at risk. Assets at risk that are typically prioritized when looking at utility caused fires are loss of life and loss of structures, and those were the two assets at risk that were considered consequences in the risk modeling that was conducted by the certificate holder to inform its Wildfire Mitigation Plan. B2HAMD1 DPO Certificate Holder Responses to RFA1 DPO Public Comments 2023-07-19, Attachment A, Dr. Christopher Lautenberger, expert witness in the Evidentiary Hearing for certificate holder's OPUC Petition for Certificate of Public Convenience and Necessity (CPCN).

[289] Which under OAR 860-300-0020(1)(a)(B), Wildfire Mitigation Plans and Updates, a WMP must identify areas that are subject to a heightened risk of wildfire within the service territory of the Public Utility, *and outside the service territory of the Public Utility but within the Public Utility's right-of-way for generation and transmission assets*. [Emphasis added] The 2023 WMP indicates that although the facility is not yet constructed, it is included in the wildfire modeling (with a on both sides of ROW) and that the WMP applies to the facility.

absolute risk within all the areas outside the certificate holder's service territory.[290] [Emphasis added][291]

The methodologies, programs, and mitigation actions in the 2023 WMP will apply to the facility once it is constructed including the micrositing areas in RFA2. These measures and programs include the Public Safety Power Shutoff Plan (PSPS Plan), annual updates by its Load Serving Operations (LSO) department of the Fire Season Temporary Operating Procedure, and a Red Risk Zone Transmission Operational Strategy. Other operational wildfire mitigation measures in the WMP include Transmission Asset Management Programs including an annual Aerial Visual Inspection Program, Ground Visual Inspection Program, Detailed Visual (High-resolution Photography) Inspection Program, Wood Pole Inspection and Treatment Program, Cathodic Protection and Inspection Program for select steel towers, and Thermal Imaging (Infra-red) Camera Inspections in RRZs. The WMP also includes a construction Wildland Fire Preparedness and Prevention Plan for certificate holder personnel and its construction contractors. Certificate holder also indicates that it must comply with the OPUC's Minimum Vegetation Clearance Requirements, which require the certificate holder to maintain vegetation clearances from the facility of at least 10 feet under reasonably anticipated operational conditions. The OPUC annually evaluates the vegetation management programs across the state for the investor-owned electric utilities, including the certificate holder, for compliance with these regulations. Additionally, on a 3-year cycle, the OPUC inspects vegetation as part of the National Electrical Safety Code ("NESC") inspection for consumer-owned utilities, where NESC is a minimum standard in Oregon for installation, operation, and maintenance of electric utility and communication lines.[292]

Under OAR 860-300-0020(2) Wildfire Mitigation Plans must be updated annually and filed with the OPUC no later than December 31 of each year, and public utilities are required to provide a plan supplement explaining any material deviations from the applicable Wildfire Mitigation Plan acknowledged by the OPUC.[293] OPUC staff acknowledge that WMPs are intended to be updated, iterative, and adaptable. OPUC orders approving WMPs, often include and adopt staff

[290] B2HAMD2Doc2 RFA2 2024-04-11, Attachment 7-16 Wildfire Mitigation Plan. Attachment 7-16. Section 3.2.2.

[291] From the 2023 OPUC Certificate for Public Convenience and Necessity, OPUC Docket PCN 5, Order No. 23-225: "The evidence in the record makes us conclude that Idaho Power has shown there is a low probability of fire ignition from the operation of the B2H transmission line and that Idaho Power's fire-related planning and mitigation documents will effectively reduce the probability of fire ignition during construction of the line. We note we approved Idaho Power's 2022 and 2023WMPs and we expect Idaho Power will continue submitting WMPs that will evolve as the B2H transmission line is constructed and once it is operational… In combination with Idaho Power's FPSP, Right-of-Way Clearing Assessment, and Vegetation Management Plan, we conclude these plans will ensure public safety during the construction, operation, and maintenance of the B2H transmission line…" B2HAMD2Doc12 Idaho Power's RFA 2 DPO Comment Responses - By Party 2024-06-05, in response to B2HAMD2Doc10-13 DPO Public Comment_King 2024-05-30 et al.

[292] B2HAMD2Doc12 Idaho Power's RFA 2 DPO Comment Responses - By Party 2024-06-05, in response to B2HAMD2Doc10-13 DPO Public Comment_King 2024-05-30 et al.

[293] The certificate holder submitted its 2024 WMP on December 29, 2023, which is currently under review by the OPUC. https://apps.puc.state.or.us/edockets/DocketNoLayout.asp?DocketID=23112. Accessed 3-14-2024.

recommendations in an attached staff report, OPUC recommendations "look ahead" to the next annual submission of the WMP and require additional information in that WPM.[294]

As indicated in RFA2 Attachment 7-18, on June 26, 2023, the OPUC approved the certificate holder's 2023 WMP. Under OAR 345-022-0115(2), the Council continues to find that the Wildfire Prevention and Risk Mitigation standard is met for the facility, including changes in RFA2, subject to existing site certificate conditions, summarized below.

Wildfire Prevention and Risk Mitigation Condition 1 requires that the WMP, consistent with OAR 860-300-0020(1)(a)(A) and (B), evaluate fire-related risks for the entire facility in all five counties in Oregon, regardless of certificate holder service territory or ownership of the facility. It also ensures that the required mitigation measures included in the WMP apply to the entire facility in all five counties in Oregon. Consistent with OAR 860-300-0020(2), Wildfire Prevention and Risk Mitigation Condition 2, requires that, during operation, in its annual report submitted to the Department the certificate holder submit the most recently-OPUC-approved WMP with evidence of the OPUC approval.

III.N.1.b Other Applicable Conditions Related to Fire Risk

Previously imposed site certificate conditions that address vegetative maintenance, inspections, and fire risk mitigation that continue to apply to the facility and micrositing area additions in RFA2 are;

- Fire Prevention and Suppression Plan (Public Services Condition 6): Requires the certificate holder to finalize and implement fire prevention measures during construction of the facility. Measures in the Fire Prevention and Suppression Plan(s) include training for construction workers, seasonal work restrictions, onsite fire-fighting equipment and necessary fire protection resources, and a description of the fire districts and rural fire protection districts that will provide emergency response services during construction and copies of any agreements between the certificate holder and the districts related to that coverage.
- Vegetation Management Plan (Fish and Wildlife Condition 2): Provides practices, protocols and management plans to manage wildfire risk. Vegetation management would be conducted in compliance with the American National Standards Institute (ANSI) Pruning Standards Best Management Practices for Utilities, Oregon Forest Products Act, the U.S. Department of Labor Occupational Safety and Health

[294] Utilities' annual Wildfire Mitigation Plans under the OPUC's jurisdiction are intended to be living documents, and changes to them are intended to be iterative. The OPUC approval for the 2023 WMP recommended additional actions that the certificate holder should take when preparing its 2024 Wildfire Mitigation Plan, the OPUC and other stakeholders, will continue to have the opportunity to participate in these annual WMP updates and provide comments and suggestions for updated wildfire mitigation strategies in Docket UM 2209. B2HAMD1Doc1 Final Order 2023-09-22_Signed_No Attachments 2023-09-22, Section III.N.

Administration (OSHA), and the North American Electric Reliability Council's (NERC) Standard FAC-003-3 Transmission Vegetation Management Program (TVMP).[295]

- Right-of-Way Clearing Assessment (Land Use Condition 16): Methods for clearing vegetation within forested areas to reduce the risk that combustible materials would come into contact with the conductors and ignite a fire.
- Organizational Expertise Condition 1: Requires that, during operation, certificate holder provide documentation of inspections for transmission line patrols/inspections, unscheduled emergency line patrols, aerial vegetation patrols, and comprehensive 10-year maintenance inspection conducted in accordance with its Transmission Maintenance and Inspection Plan and Transmission Vegetation Management Program (TMIP).

III.N.2. Conclusions of Law

Based on the foregoing analysis, and subject to compliance with the existing site certificate conditions described above, Council continues to find that the Wildfire Prevention and Risk Mitigation standard is met, for the micrositing area additions in RFA2 and for the facility, because it finds that the facility is subject to a Wildfire Protection Plan that has been approved in compliance with OAR chapter 860, division 300.

III.O. WASTE MINIMIZATION: OAR 345-022-0120

(1) Except for facilities described in sections (2) and (3), to issue a site certificate, the Council must find that, to the extent reasonably practicable:

(a) The applicant's solid waste and wastewater plans are likely to minimize generation of solid waste and wastewater in the construction and operation of the facility, and when solid waste or wastewater is generated, to result in recycling and reuse of such wastes;

(b) The applicant's plans to manage the accumulation, storage, disposal and transportation of waste generated by the construction and operation of the facility are likely to result in minimal adverse impact on surrounding and adjacent areas.

(2) The Council may issue a site certificate for a facility that would produce power from wind, solar or geothermal energy without making the findings described in section (1). However, the Council may apply the requirements of section (1) to impose conditions on a site certificate issued for such a facility.
(3) The Council may issue a site certificate for a special criteria facility under OAR 345-015-0310 without making the findings described in section (1).

[295] B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, page 615.

However, the Council may apply the requirements of section (1) to impose conditions on a site certificate issued for such a facility.[296]

III.O.1. Findings of Fact

The RFA2 micrositing area additions will not result in substantive changes to the type or amount of solid waste and wastewater generated during facility construction and operation. Therefore, Council relies on its findings and conditions in the *Final Order on ASC*, as referenced below.

Solid Waste

Facility construction would generate approximately 1,870 tons of solid waste including containers, boxes, bags, sacks, packing materials, broken insulators, scrap conductor, empty wire spools, and other miscellaneous non-hazardous paper, plastic or similar materials. As discussed in Section III.M., *Public Services*, waste not recycled would be disposed of in Finley Buttes Landfill in Boardman and Baker County Landfill in Baker City.

Council previously imposed Waste Minimization Condition 1 (Condition GEN-WM-01) requiring that, prior to construction, the certificate holder develop a Construction Waste Management Plan that would implement waste reducing measures including training employees to segregate and recycle recyclable materials. This condition would continue to apply to the facility, with RFA2 micrositing area additions.

During operations, the facility would generate an insignificant amount of solid waste, which would include replaced equipment and components, packing materials, and soil.

Wastewater

Construction-related wastewater would predominately be generated during foundation construction for transmission line towers, from concrete wash water. Concrete wash water would include water with residual concrete, concrete associated liquids, and the wash water from cleaning trucks, hoppers, and chutes. Washout liquids would generally be allowed to evaporate or would be pumped out and properly disposed of by the construction contractor. Washout liquids would not be discharged into storm drains, ditches, streams or other water bodies. Concrete washout areas would be located in designated aboveground earthen berms or straw bale enclosures lined with plastic, a storage tank, or other structure approved by the engineer or inspector.

Some foundations may require slurry to stabilize foundation shafts during drilling. Slurry fluids would consist of a mixture of bentonite and water. Excess and degraded slurry fluids would be contained in designated aboveground washouts similar to those described above for concrete.

[296] OAR 345-022-0120, effective May 15, 2007.

The slurry fluids would be allowed to completely evaporate, or they would be pumped out and properly disposed of by the construction contractor. Slurry fluids would not be discharged into storm drains, ditches, streams, or other water bodies.

Sanitary wastewater would also be generated during construction from portable toilets. Wastewater associated with portable toilets will be disposed by a local contractor in accordance with state law.[297] The subcontractor would ensure that a sufficient number of portable toilets are provided.

III.O.2. Conclusions of Law

Based on the foregoing analysis, and subject to compliance with existing site certificate conditions, Council continues to find that the certificate holder's waste management plan is likely to minimize generation of solid waste and wastewater in construction and the plan would result in recycling and reuse of such wastes, and will manage the accumulation, storage, disposal and transportation of wastes in a manner that will result in minimal adverse impacts to surrounding and adjacent areas.

Council finds that facility operations would not result in a significant generation of solid waste and wastewater and will result in minimal adverse impacts to surrounding and adjacent areas.

III.P. NEED FOR A FACILITY: OAR 345-023-0005

The Division 23 standards apply only to "nongenerating facilities" as defined in ORS 469.503(2)(e)(K), except nongenerating facilities that are related or supporting facilities.

> **** To issue a site certificate for a facility described in sections (1) through (3), the Council must find that the applicant has demonstrated the need for the facility. The Council may adopt need standards for other nongenerating facilities. This division describes the methods the applicant shall use to demonstrate need. In accordance with ORS 469.501(1)(L), the Council has no standard requiring a showing of need or cost-effectiveness for generating facilities. The applicant shall demonstrate need:*
>
> *(1) For electric transmission lines under the least-cost plan rule, OAR 345-023-0020(1), or the system reliability rule for transmission lines, OAR 345-023-0030, or by demonstrating that the transmission line is proposed to be located within a "National Interest Electric Transmission Corridor" designated by the U.S. Department of Energy under Section 216 of the Federal Power Act; *****

The Least-Cost Plan Rule, OAR 345-023-0020, states:

[297] B2HAPPDoc3-39 ASC 22_Exhibit V_Waste_ ASC 2018-09-28, Section 3.3.2.1

*(1) The Council shall find that the applicant has demonstrated need for the facility if the capacity of the proposed facility or a facility substantially similar to the proposed facility, as defined by OAR 345-001-0010, is identified for acquisition in the short-term plan of action of an energy resource plan or combination of plans adopted, approved or acknowledged by a municipal utility, people's utility district, electrical cooperative, other governmental body that makes or implements energy policy****

****

(2) The Council shall find that a least-cost plan meets the criteria of an energy resource plan described in section (1) if the Public Utility Commission of Oregon has acknowledged the least cost plan.

The System Reliability Rule for Electric Transmission Lines, OAR 345-023-0030, states:

The Council shall find that the applicant has demonstrated need for an electric transmission line that is an energy facility under the definition in ORS 469.300 if the Council finds that:

(1) The facility is needed to enable the transmission system of which it is to be a part to meet firm capacity demands for electricity or firm annual electricity sales that are reasonably expected to occur within five years of the facility's proposed in-service date based on weather conditions that have at least a 5 percent chance of occurrence in any year in the area to be served by the facility;

(2) The facility is consistent with the applicable mandatory and enforceable North American Electric Reliability Corporation (NERC) Reliability Standards in effect as of September 18, 2015 as they apply either internally or externally to a utility system; and

(3) Construction and operation of the facility is an economically reasonable method of meeting the requirements of sections (1) and (2) compared to the alternatives evaluated in the application for a site certificate.

III.P.1. Findings of Fact

For non-energy generating facilities such as transmission lines, a certificate holder must demonstrate that the facility is needed under the Need Standard for Nongenerating Facilities. In the *Final Order on ASC*, the certificate holder and the Council agreed that the certificate holder demonstrated that the facility was needed under the least-cost plan rule (OAR 345-023-0020) and the system reliability rule for electric transmission lines (OAR 345-023-0030). Certificate holder maintains, Council concurs that the micrositing area additions in RFA2 would not alter the findings Council relied upon in the *Final Order on ASC* for the Need Standard, as summarized below.

III.P.1.a Least Cost Plan

In the *Final Order on ASC*, Council approved the facility, which is an approximately 300-mile, single-circuit transmission line with a capacity of 500-kilovolts (kV).[298] Section (1) of OAR 345-023-0020 indicates that the least-cost plan rule requires the certificate holder to demonstrate that the capacity of the facility is identified for acquisition in an energy resource plan. Section (2) of the rule states that the Council shall find that a least-cost plan meets the criteria of an energy resource plan described in Section (1) if the Oregon Public Utility Commission (OPUC) has acknowledged the least cost plan. An Integrated Resource Plan (IRP), as defined in the OPUC's rules, meets the definition of an energy resource plan or combination or least cost plan in the Council's rules. OPUC regulates utilities in Oregon, including the review and acknowledgement IRPs which help ensure that an adequate and reliable supply of energy at the least cost to the utility and customers in a manner consistent with the long-term public interest; and the OPUC's acknowledgement of the IRP means that the OPUC finds that the utility's preferred portfolio is reasonable at the time of acknowledgement.[299]

As described in the *Final Order on ASC*, when the OPUC acknowledged the 2017 and 2019 Idaho Power IRP, it acknowledged construction of a 500-kV transmission line.[300] As explained in OPUC Order No. 18-176 (Docket LC 68), the objective of the IRP is to ensure an adequate and reliable supply of energy at the least cost to the utility and customers in a manner consistent with the long-run public interest and that the OPUC's acknowledgement of the IRP means that the OPUC finds that the utility's preferred portfolio is reasonable at the time of acknowledgement.[301]

Under OAR 345-023-0020(2), "The Council *shall* find that a least-cost plan meets the criteria of an energy resource plan described in section (1) if the Public Utility Commission of Oregon has acknowledged the least cost plan," the findings in the *Final Order on ASC* and in the record for the facility supported Council's finding that the Need Standard was met under the least cost plan rule [Emphasis added]. Certificate holder states in RFA2 that the changes in RFA2 would not affect the consideration of the facility under IPC's IRP reviewed by OPUC.[302] The Council agrees affirms, and finds that the micrositing area additions and other changes in RFA2 would not impact Council's previously approved findings because Council found that the Need Standard is met by the least cost plan rule because OPUC acknowledged the 2017 and 2019 IRPs, which acknowledged the permitting, construction, and operation of the facility as a new single-circuit 500-kV transmission line approximately 300 miles long.

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[298] Under ORS 469.300(11)(C), a high voltage transmission line is an energy facility if it is more than 10 miles in length with a capacity of 230,000 volts or more to be constructed in more than one city or county in this state. B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, Section IV.O.1. Need for a Facility: OAR 345-023-0005.

[299] B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, page 631.

[300] Final Order on ASC provided findings and approval of the Least Cost Plan Rule based upon the OPUC acknowledgments of Idaho Power's 2017 and 2019 IRP. ODOE - B2HAPPDoc903 RFA-1, RFA-2 IPC Rebuttal Testimony Exhibits A to H Ellsworth (Email 1 of 2) 2021-11-12. Page 298 of 374; Exhibit G: OPUC Order No. 21-184, Acknowledgement of B2H, "The B2H transmission project involves permitting, constructing, operating and maintaining a new single-circuit 500-kV transmission line approximately 300 miles long.." Page 11.

[301] B2HAPPDoc3-23 ASC14b_Exhibit N_Need_ASC_Part 2, Attachment N-10, pp. 2-3. 2018-09-28

[302] B2HAMD2Doc2 RFA2 2024-04-11, Table 7-1. Standards and Laws Relevant to Proposed Amendment.

III.P.1.b System Reliability

The system reliability rule under OAR 345-023-0030, allows for the certificate holder to demonstrate need for an electric transmission line that is an energy facility defined under ORS 469.300 if the Council finds that:

- The facility is needed to enable the transmission system of which it is to be a part to meet firm capacity demands for electricity or firm annual electricity sales,
- The facility is consistent with the applicable mandatory and enforceable North American Electric Reliability Corporation (NERC) Reliability Standards, and
- Construction and operation of the facility is an economically reasonable method of meeting the requirements of sections (1) and (2) of the rule compared to the alternatives evaluated in the application for a site certificate.

Certificate holder maintains that the RFA2 micrositing area additions would not impact the need of the facility to enable its transmission system under the system reliability rule.[303] The Council agrees and finds that the RFA2 micrositing area additions and other RFA2 changes would not impact Council's previous findings of facts and conclusions of law provided in the *Final Order on ASC* for the following reasons:

- The Council evaluated information and data in the certificate holder's IRP to support the certificate holder's position that the facility is needed to support the certificate holder's transmission system of which it is to be a part to meet capacity demands. The technical data evaluated was the same data the OPUC reviews to establish if the energy facility is needed to meet energy needs of the utility's customers, and it is the lowest cost option to meet demands. The Council concluded that the data supported the conclusion that the facility is needed to support the certificate holder's transmission system.[304] The micrositing area additions in RFA2 would not alter the certificate holder's need to add the facility to its transmission system to meet customer demands.
- Council previously found that, as a utility subject to NERC and Western Electricity Coordinating Council reliability criteria and compliance, the certificate holder must not only reliably serve customer demand but must also ensure system stability during both normal system operations and contingency/emergency events. The NERC transmission planning (TPL) standards prescribe acceptable system operating limits for a wide range of system conditions, including loss of generator units and transmission facilities. The facility is evaluated annually as part of NERC TPL compliance requirements, and those modeling results demonstrate that, with the facility in service, it can meet NERC TPL criteria for the planning horizon.[305] The micrositing area additions in RFA2 would not impact these requirements.

[303] B2HAMD2Doc2 RFA2 2024-04-11, Table 7-1. Standards and Laws Relevant to Proposed Amendment.

[304] B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, pp. 635-636.

[305] B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, pp. 636-638.

- Council previously evaluated the alternatives discussed in the certificate holder's IRP which included an expanded demand response capacity and development of new electric generating facilities (including natural gas and solar), a range of transmission line capacities (alternate voltages) for the facility, and various re-build scenarios as alternatives to construction and operation of the facility, the certificate holder evaluated a range of transmission line capacities for the facility.[306] The facility would include, in part, 270 miles of single-circuit 500-kV transmission line. Based upon the alternatives assessment, and in consideration of the OPUC's determination that the facility would be a least cost, least risk resource to meet the needs of the certificate holder's customers, the Council found that construction and operation of the facility is an economically reasonable method of meeting the requirements of sections (1) and (2) of the system reliability rule compared to the alternatives evaluated in the application for a site certificate. The micrositing area additions in RFA2 would not alter this alternatives evaluation of the findings of fact and conclusions of law established in the *Final Order on ASC*.

III.P.2. Conclusions of Law

Based on the foregoing reasoning and analysis summary from the *Final Order on ASC*, Council finds that the micrositing area additions and changes in RFA2 would not impact Council's previous findings of fact and conclusions of law that the certificate holder and facility, have met the Need Standard for Nongenerating Facilities, by both the least cost plan rule under OAR 345-023-0020 and the system reliability rule under OAR 345-023-0030.

III.Q. SITING STANDARDS FOR TRANSMISSION LINES – OAR 345-024-0090

To issue a site certificate for a facility that includes any transmission line under Council jurisdiction, the Council must find that the applicant:

(1) Can design, construct and operate the proposed transmission line so that alternating current electric fields do not exceed 9 kV per meter at one meter above the ground surface in areas accessible to the public;

(2) Can design, construct and operate the proposed transmission line so that induced currents resulting from the transmission line and related or supporting facilities will be as low as reasonably achievable.[307]

III.Q.1. Findings of Fact

[306] B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, pp. 638-640.

[307] OAR 345-024-0090, effective May 15, 2007.

The RFA2 micrositing area transmission line additions do not alter or change anything related to the previously approved facility components, other than potential final location. The changes in RFA2 would therefore not impact the Council's findings of fact and conclusions of law as presented in the *Final Order on ASC*.[308] Council continues to find that the facility, with RFA2 micrositing area additions and changes, satisfies the requirements of this standard. For reference, the key findings of fact are presented below.

III.Q.1.a Electro-magnetic fields

The 500-kV single-circuit lattice tower configuration would produce the highest electric fields, modeled is 8.9 kV per meter at 1 meter above the ground. This value is below the limit for electric fields from transmission lines (set at OAR 345-024-0090(1)) of not more than 9 kV per meter at 1 meter above the ground surface in areas that are accessible to the public.

Council previously imposed Siting Standards for Transmission Line Condition 1 (Condition GEN-TL-01) requiring minimum clearance distances for both the 230- and 500-kV transmission lines; and requiring that the facility design ensure that the alternating current electric fields do not exceed the 9 kV per meter at 1 meter limit established in the standard. This continues to apply to the facility, with RFA2 changes.

III.Q.1.b Induced-Currents and Grounding

Inducible charge within the ROW of a 500-kV lattice transmission line configuration was modeled to be less than the 5-mA, which is the threshold established by the NESC. Council previously imposed Siting Standards for Transmission Lines Condition 2 (Condition OPR-TL-01) requiring that the certificate holder provide landowners maps of any overheard transmission lines crossing their property with information about potential risks from induced current; and that the certificate holder have protocols for adhering to NESC grounding requirements.

To further address any potential electrical health and safety risks, Council imposed the following conditions:

- Siting Standards for Transmission Lines Condition 4 (Condition PRE-TL-01) requiring that, prior to construction, the certificate holder brief OPUC on the design, construction, and O&M of the facility.
- Siting Standards for Transmission Lines Condition 5 (Condition OPR-TL-02) requiring that the certificate holder provide annual updates to OPUC's Safety Staff on operations and maintenance; and report bi-annually to OPUC on operations and maintenance activities.

These continue to apply to the facility, with RFA2 changes.

[308] B2HAPPDoc31 Final Order on ASC. 2022-09-27. Section IV.P.1.

III.Q.2. Conclusions of Law

Based on the foregoing analysis, and subject to compliance with the existing site certificate conditions described above and in the site certificate, Council finds that the certificate holder can design, construct, and operate the RFA2 micrositing area transmission line additions so that alternating current electric fields do not exceed 9-kV per meter at one meter above the ground surface in areas accessible to the public and that induced currents resulting from the transmission line and related or supporting facilities will be as low as reasonably achievable.

III.R. OTHER APPLICABLE REGULATORY REQUIREMENTS UNDER COUNCIL JURISDICTION

Under ORS 469.503(3) and under the Council's General Standard of Review (OAR 345-022-0000), the Council must determine whether a proposed facility or approved facility, with proposed changes, complies with "all other Oregon statutes and administrative rules…, as applicable to the issuance of a site certificate for the proposed facility." This section addresses the applicable Oregon statutes and administrative rules that are not otherwise addressed in Council standards, including Oregon Noise Control Regulations, Removal Fill Law and Water Rights.

As stated in the Final Order on ASC, and as discussed in Council's review of the DPO for RFA1, the Council does not assert jurisdiction of the Forest Practices Act (FPA) and referred the certificate holder to submit necessary information directly to the Oregon Department of Forestry (ODF).[309] Certificate holder indicates that Forest Practices Reforestation Rules generally require a landowner to replant (or ensuring natural regeneration of) the forest after a timber harvest and maintain the seedlings to the point that they are "free to grow" at a stocking level that meets the Forest Practices Act's minimum stocking standards. If forestlands will be converted to a use not compatible with maintaining forest tree cover, the landowner must obtain written approval of a Plan for an Alternate Practice from ODF providing an exemption from the Forest Practices Act's reforestation requirements. Certificate holder states that it is working directly with ODF on its Plan of Alternate Practice, which applies to reforestation alternatives on private forestland requiring permanent clearance for the transmission line route and for roads, and it will address compliance with the applicable provisions of the FPA through direct coordination with ODF and the finalized plan prior to beginning construction in forestlands.[310]

In the *Final Order on ASC*, Council adopted various conditions related to compliance with FPA requirements based upon certificate holder representations. Compliance with these FPA-related requirements would minimize potential impacts and hazards in forest lands during construction and operation of the facility, with changes in RFA2. Council imposing such conditions is not intended to assume enforcement authority over FPA requirements, but rather

[309] B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, pp. 649-650. Placeholder for July 17-19, 2023 EFSC Meeting Minute citation reference,

[310] B2HAMD1 DPO Certificate Holder Responses to RFA1 DPO Public Comments 2023-07-19.

indicates Council found that compliance with the FPA requirements would reduce potential impacts evaluated under Council standards.[311]

III.R.1. Noise Control Regulations: OAR 340-035-0035

(1) Standards and Regulations:

*****

(b) New Noise Sources:

(A) New Sources Located on Previously Used Sites. No person owning or controlling a new industrial or commercial noise source located on a previously used industrial or commercial site shall cause or permit the operation of that noise source if the statistical noise levels generated by that new source and measured at an appropriate measurement point, specified in subsection (3)(b) of this rule, exceed the levels specified in Table 8, except as otherwise provided in these rules. For noise levels generated by a wind energy facility including wind turbines of any size and any associated equipment or machinery, subparagraph (1)(b)(B)(iii) applies.

(B) New Sources Located on Previously Unused Site:

(i) No person owning or controlling a new industrial or commercial noise source located on a previously unused industrial or commercial site shall cause or permit the operation of that noise source if the noise levels generated or indirectly caused by that noise source increase the ambient statistical noise levels, L10 or L50, by more than 10 dBA in any one hour, or exceed the levels specified in Table 8, as measured at an appropriate measurement point, as specified in subsection (3)(b) of this rule, except as specified in subparagraph (1)(b)(B)(iii).

(ii) The ambient statistical noise level of a new industrial or commercial noise source on a previously unused industrial or commercial site shall include all noises generated or indirectly caused by or attributable to that source including all of its related activities. Sources exempted from the requirements of section (1) of this rule, which are identified in subsections (5)(b)–(f), (j), and (k) of this rule, shall not be excluded from this ambient measurement.

*****

(3) Measurement:

[311] B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, pp. 649-650.

(a) Sound measurements procedures shall conform to those procedures which are adopted by the Commission and set forth in Sound Measurement Procedures Manual (NPCS-1), or to such other procedures as are approved in writing by the Department;

(b) Unless otherwise specified, the appropriate measurement point shall be that point on the noise sensitive property, described below, which is further from the noise source:

(A) 25 feet (7.6 meters) toward the noise source from that point on the noise sensitive building nearest the noise source;

(B) That point on the noise sensitive property line nearest the noise source.

(4) Monitoring and Reporting:

(a) Upon written notification from the Department, persons owning or controlling an industrial or commercial noise source shall monitor and record the statistical noise levels and operating times of equipment, facilities, operations, and activities, and shall submit such data to the Department in the form and on the schedule requested by the Department. Procedures for such measurements shall conform to those procedures which are adopted by the Commission and set forth in Sound Measurement Procedures Manual (NPCS-1);

*****

(5) Exemptions: Except as otherwise provided in subparagraph (1)(b)(B)(ii) of this rule, the rules in section (1) of this rule shall not apply to:
*****
(b) Warning devices not operating continuously for more than 5 minutes;

(c) Sounds created by the tires or motor used to propel any road vehicle complying with the noise standards for road vehicles;
*****
(g) Sounds that originate on construction sites.

(h) Sounds created in construction or maintenance of capital equipment;
*****
(6) Exceptions: Upon written request from the owner or controller of an industrial or commercial noise source, the Department may authorize exceptions to section (1) of this rule, pursuant to rule 340-035-0010, for:

(a) Unusual and/or infrequent events;

(b) Industrial or commercial facilities previously established in areas of new development of noise sensitive property;

(c) Those industrial or commercial noise sources whose statistical noise levels at the appropriate measurement point are exceeded by any noise source external to the industrial or commercial noise source in question;

(d) Noise sensitive property owned or controlled by the person who controls or owns the noise source;

(e) Noise sensitive property located on land zoned exclusively for industrial or commercial use.[312]

OAR 340-035-0010: Exceptions

(1) Upon written request from the owner or controller of a noise source, the Department may authorize exceptions as specifically listed in these rules.

(2) In establishing exceptions, the Department shall consider the protection of health, safety, and welfare of Oregon citizens as well as the feasibility and cost of noise abatement; the past, present, and future patterns of land use; the relative timing of land use changes; and other legal constraints. For those exceptions which it authorizes the Department shall specify the times during which the noise rules can be exceeded and the quantity and quality of the noise generated, and when appropriate shall specify the increments of progress of the noise source toward meeting the noise rules.

OAR 340-035-0100: Variances

(1) Conditions for Granting. The Commission may grant specific variances from the particular requirements of any rule, regulation, or order to such specific persons or class of persons or such specific noise source upon such conditions as it may deem necessary to protect the public health and welfare, if it finds that strict compliance with such rule, regulation, or order is inappropriate because of conditions beyond the control of the persons granted such variance or because of special circumstances which would render strict compliance unreasonable, or impractical due to special physical conditions or cause, or because strict compliance would result in substantial curtailment or closing down of a business, plant, or operation, or because no other alternative facility or method of handling is yet available. Such variances may be limited in time.

[312] OAR 345-035-0035, effective November 2, 2017, as amended by minor corrections filed on November 8, 2017 and April 2, 2018.

(2) Procedure for Requesting. Any person requesting a variance shall make his request in writing to the Department for consideration by the Commission and shall state in a concise manner the facts to show cause why such variance should be granted.
***

DEQ 23-2018, minor correction filed 04/02/2018, effective 04/02/2018
DEQ 24-2017, minor correction filed 11/08/2017, effective 11/08/2017
DEQ 14-2017, amend filed 10/30/2017, effective 11/02/2017

Council has the authority to interpret and implement other state agency and Commission rules and statutes that are relevant to the siting of an energy facility,[313] including noise rules adopted by the Environmental Quality Commission and previously administered by the Department of Environmental Quality (DEQ).[314, 315]

III.R.1.a Findings of Fact

The analysis area for the Noise Control Regulation includes the area extending ¼-mile from the amended site boundary; and, where the late-night baseline sound level was unusually low (i.e., less than 26 dBA), includes the area within and extending 1-mile from the amended site boundary. [316]

Exempt Construction Noise Summary

Under OAR 340-035-0035(5), noise generated during construction of RFA2 changes are exempt from the requirement to meet DEQ's noise standards. An evaluation of construction-related noise is provided under the Council's Protected Area, Scenic Resources, and Recreation

[313] See ORS 469.310 (stating that the legislative policy behind EFSC was to establish "a comprehensive system for the siting, monitoring and regulating of the location, construction and operation of all energy facilities in this state") and ORS 469.401(3) (giving EFSC the authority to bind other state agencies as to the approval of a facility).
[314] The Environmental Quality Commission and the DEQ suspended their own administration of the noise program because in 1991 the state legislature withdrew all funding for implementing and administering the program. A July 2003 DEQ Management Directive provides information on DEQ's former Noise Control Program and how DEQ staff should respond to noise inquiries and complaints. The Directive states (among other items) that the Energy Facility Siting Council (EFSC), under the Department of Energy, is authorized to approve the siting of large energy facilities in the State and that EFSC staff review applications to ensure that proposed facilities meet the State noise regulations.
[315] "We (the Oregon Supreme Court) conclude that EFSC had the authority to grant (1) an exception to the noise standards under OAR 340-035-0035(6)(a), and (2) a variance under OAR 340-035-0100 and ORS 467.060." B2HAPPDoc7 Supreme Court Decision Stop B2H Coalition v. Dept, of Energy 2023-03-09, pp 805-807.
[316] The Council's procedural requirements for site certificate amendments (OAR 345-027-0360(3)) allow the Department to authorize modifications to analysis areas established in a Project Order, if warranted based on the scope of changes in the Request for Amendment. The July 26, 2018 Second Amended Project Order establishes the analysis area as the area within and extending ½ mile from the site boundary. As authorized under OAR 345-027-0360(3), following pre-amendment conferences on March 23 and June 12, 2023, the Department approved a modified analysis area for the Noise Control Regulation based on the scope and extent of potential impacts associated with the RFA2 changes.

standards, Sections III.F., III.J., and IIIIII.L, respectively in this order, which reference the following summary of the record for the facility.

Construction noise related to the RFA2 changes would occur during general construction activities and include operation of construction vehicles and equipment (i.e. auger drill rig, backhoe, crane, dump truck, grader, pickup truck, and tractor).[317] The 1-hr average predicted noise level from the combined operation of five pieces of equipment is 83 dBA at 50 feet, 79 dBA at 100 feet, and attenuates to 46 dBA at 6,400 feet. For reference, classroom chatter has an approximate dBA of 70 and a soft whisper is a dBA of approximately 40.[318]

The certificate holder anticipates that tower foundations would typically be installed using drilled shafts or piers; however, blasting may be needed if hard rock is encountered. In such circumstances, impulse noise from blasts could reach up to 140 dBA at the blast location or over 90 dBA within 500 feet of the blast location.[319] Council previously required that a Blasting Plan (imposed under Soil protection Condition 4) be finalized and updated after site-specific geotechnical surveys are completed that would avoid blasting in potential rockslide/landslide areas to the maximum extent possible. Heavy-lift and light duty helicopters may be used during construction of the facility in areas where access roads and/or rough terrain would not permit the delivery of equipment, materials or personnel. Audible noise from light duty and heavy-lift helicopters ranges between 62 and 84 dBA, respectively, at a 1,000-foot distance and helicopter use would be limited to daylight hours. Council previously imposed Public Services Condition 3 (GEN-PS-01) which requires the submission of a Helicopter Use Plan, which has notification and safety measures and consultation with counties, agencies and landowners.

As noted above, construction noise is exempt from the noise standards pursuant to OAR 340-035-0035(5)(g) and (h). Therefore, the ability of construction-related noise to comply with DEQ noise control regulations is not evaluated further.

Operational Noise Rules

The DEQ noise rules set noise limits for new industrial or commercial noise *sources* based upon whether those sources would be developed on a previously used or unused *site* [Emphasis added].[320]

The facility is conservatively evaluated as a new industrial or commercial noise source located on previously unused industrial or commercial sites. Operational noise generated by a new industrial or commercial noise source to be located on a previously unused site must comply with two standards: the "ambient antidegradation standard" and the "maximum allowable

[317] B2HAPPDoc3-41 ASC 24_Exhibit X_Noise_ASC 2018-09-28, Section 3.3.1.

[318] Table NC-1: Predicted Noise Levels from General Construction Activities and Figure 13: Common Noise Sources and Expected Noise Levels, B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27.

[319] B2HAPPDoc3-41 ASC 24_Exhibit X_Noise_ASC 2018-09-28, Section 3.3.1.1.

[320] The noise "source" within a "site" of a transmission line is the noise generated within the micrositing area.

noise standard." Under the ambient antidegradation standard, facility-generated noise must not increase the ambient hourly L_{10} or L_{50} noise levels at an appropriate measurement point by more than 10 dBA. Within the RFA2 micrositing area additions, there are 41 potential locations meeting the OAR 340-035-0015(38) definition of a noise sensitive property (or noise sensitive receptor [NSR]). [321]

Under the maximum allowable noise standard at OAR 340-035-0035(1)(b)(B)(i), a new industrial or commercial noise source to be located on a previously unused site may not exceed the noise levels specified in Table 8 of the noise rules, as represented in Table 33, *Statistical Noise Limits for Industrial and Commercial Noise Sources* below.

Table 33: Statistical Noise Limits for Industrial and Commercial Noise Sources

Statistical Descriptor[1]	Maximum Allowable Noise Standards (dBA)	
	Daytime (7:00 AM - 10:00 PM)	Nighttime (10:00 PM - 7:00 AM)
L50	55	50
L10	60	55
L1	75	60

Notes:
1. The hourly L50, L10 and L1 noise levels are defined as the noise levels equaled or exceeded 50 percent, 10 percent, and 1 percent of the hour, respectively.

Source: OAR 340-035-0035, Table 8

Operational Noise – Transmission Line Corona Noise

Transmission line operation will result in corona noise under certain operational and climatic conditions within the RFA2 micrositing area additions.[322] Corona noise within the RFA2 micrositing area additions is evaluated through modeling, use of ambient monitoring data from locations identified as reasonably representative for conditions at the specific NSR location, and

[321] OAR 340-035-0015(38) defines Noise Sensitive Property as "real property normally used for sleeping, or normally used as schools, churches, hospitals or public libraries. Property used in industrial or agricultural activities is not Noise Sensitive Property unless it meets the above criteria in more than an incidental manner." The certificate holder refers to Noise Sensitive Properties as Noise Sensitive Receptors or NSRs. B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, pp. 660-661.

[322] Corona noise is a low hum and/or a hissing or crackling sound that occurs as a function of transmission line voltage, altitude, conductor diameter, condition of the conductor and suspension hardware, as well as foul weather conditions that result in rain, snow or condensation concentrating in the electric fields on the line. The highest levels of corona noise may occur under foul weather conditions when the conductors are wet.

under foul weather conditions.[323, 324] The multi-step noise assessment methodology was previously found to be reasonable and appropriate approach to evaluating the facility's compliance with the Noise Control Rules, and specific to using representative Monitoring Positions (MP), the methodology is reasonable because where there were multiple monitoring positions in proximity to NSRs, the certificate holder selected the MPs with the lower ambient sound level and that were generally located further from existing ambient sound sources than the NSRs to provide more conservative representative ambient sound levels.[325] Certificate holder explains that the RFA2 transmission line micrositing area additions are minor, therefore the previous determined representative MPs for the NSRs associated with the alternatives do not need to be altered. Further, the RFA2 review of acoustic environments of MPs compared to the respective NSR groups the acoustic environment of the MP represent locations with similar noise sources but are also located at greater distances than NSRs to noise sources and therefore a more conservative and acceptable ambient noise level for use in the evaluation of compliance with the DEQ Noise Rules.[326]

Results of Noise Analysis

RFA2 Section 7.2.1.3.3, RFA2 Attachment 7-19 and Figure 7-2 identify 41 NSRs within ¼-mile and out to a mile, in areas with low, 26 A-weighted decibels (dBA) ambient noise level, from the RFA2 micrositing addition areas. Of the 41 NSRs, 27 NSRs are predicted to experience a potential increase of more than 10 dBA above the L_{50} baseline noise levels, as presented in Table 34 below.

[323] Council previously reviewed and approved the certificate holder's methodologies for identifying NSRs, monitoring ambient noise conditions and correlating monitored ambient noise data to NSR location, based on environmental conditions. B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, pp. 659-652; B2HAMD1Doc1 Final Order 2023-09-22_Signed_No Attachments 2023-09-22, pp. 237-244.

[324] Council accepted the definitions of foul weather to be a rain rate ranging from 0.8 to five (5) millimeters (mm)/hour, this excludes precipitation heavy enough that it could be expected that the noise from the weather would increase ambient sound levels to the extent that the corona noise would be masked and not audible. B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, page 676.

[325] B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, page 669.

[326] B2HAMD2Doc2 RFA2 2024-04-11, B2H_RFA2_Main, Section 7.2.2.1; and B2HAMD2Doc12 Idaho Power's RFA 2 DPO Comment Responses_Combined 2024-06-05 page 53/136.

1

Table 34: Summary of Acoustic Modeling Results—Comparison of Predicted Sound Levels to Late Night Baseline L_{50} (NSR Exceedances) and Maximum Noise Levels for the RFA2 Micrositing Area Additions

NSR Sequential Number	Distance from NSR to RFA2 Micrositing Area Addition (feet)	County	Associated Monitoring Position	Late Night Baseline Sound Pressure Level (dBA)	Predicted Sound Level (dBA)		Foul Weather Increase over Late Night Baseline (dBA)
					Fair Weather	Foul Weather	
17	576	Umatilla	MP08	41	17	42	3
18	1,439	Umatilla	MP09	35	14	39	7
19	2,254	Umatilla	MP09	35	12	37	4
29*	1,867	Union	MP100	31	12	37	7
652	1,958	Union	MP11	32	12	37	6
132	610	Union	MP100	31	20	45	**14**
671	596	Union	MP100	31	20	45	**14**
69	2,169	Baker	MP15	27	12	37	10
70	1,749	Baker	MP15	27	13	38	**11**
71**	1,335	Baker	MP15	27	14	39	13
5012**	1,552	Baker	MP15	27	14	39	12
92*	2,434	Malheur	MP35	24	10	35	**12**
93	2,206	Malheur	MP34	24	11	36	**12**
94	1,456	Malheur	MP34	24	13	38	**13**
95	1,647	Malheur	MP34	24	12	37	**13**
96	1,122	Malheur	MP34	24	14	39	**15**
97	1,523	Malheur	MP34	24	12	37	**13**
98	931	Malheur	MP35	24	15	40	**16**
99	1,909	Malheur	MP35	24	11	36	**13**
100	2,228	Malheur	MP35	24	11	36	**12**
101*	673	Malheur	MP34	24	17	42	**17**
102*	607	Malheur	MP35	24	17	42	**18**
103*	2,575	Malheur	MP35	24	10	35	**11**
104*	1,598	Malheur	MP35	24	12	37	**14**
105*	745	Malheur	MP35	24	16	41	**17**
106*	2,621	Malheur	MP35	24	10	35	**11**
107*	2,474	Malheur	MP35	24	10	35	**12**

Table 34: Summary of Acoustic Modeling Results—Comparison of Predicted Sound Levels to Late Night Baseline L_{50} (NSR Exceedances) and Maximum Noise Levels for the RFA2 Micrositing Area Additions

NSR Sequential Number	Distance from NSR to RFA2 Micrositing Area Addition (feet)	County	Associated Monitoring Position	Late Night Baseline Sound Pressure Level (dBA)	Predicted Sound Level (dBA)		Foul Weather Increase over Late Night Baseline (dBA)
					Fair Weather	Foul Weather	
109*	2,595	Malheur	MP35	24	10	35	**11**
110*	2,648	Malheur	MP35	24	10	35	**11**
519	3,773	Malheur	MP34	24	9	34	10
526	3,796	Malheur	MP34	24	9	34	10
515	3,296	Malheur	MP35	24	9	34	**11**
520*	3,213	Malheur	MP35	24	9	34	**11**
521*	3,219	Malheur	MP35	24	9	34	**11**
662	849	Malheur	MP34	24	15	40	**16**
663	5,101	Malheur	MP34	24	7	32	8
664*	2,894	Malheur	MP35	24	9	34	**11**
665	4,641	Malheur	MP34	24	8	33	9
666*	2,750	Malheur	MP35	24	10	35	**11**
5011	4,148	Malheur	MP35	24	8	33	10
605***	2,596	Malheur	MP35	24	10	35	11

Notes:

Receptor IDs are provided for ease in cross-referencing older documentation. An incremental increase presented as (-) signifies that the future increase as a result of the Project is predicted to be less than 1 dBA when considered cumulatively with the baseline condition. The incremental increase is obtained by first logarithmically adding the Predicted Foul Weather Sound Level to the Late Night Baseline Sound Pressure Level. The Late Night Baseline Sound Pressure Level is then arithmetically subtracted from this total to quantify the incremental increase. Note that sound pressure levels cannot be added together linearly. For example, a baseline sound pressure level of 25 dBA plus a received sound pressure level of 33 dBA does not equal 58 dBA; rather, using logarithmic addition, the resultant sound pressure level would be 34 dBA. Sound levels in this table are reported in whole decibels.

* RFA2 seeks to change the alignment of certain segments of the transmission line route approved in the site certificate, leaving the remaining sections unchanged. For the NSRs noted with an asterisk, the NSRs are located closer to the sections of the site certificate route that are unaffected by RFA2 than those sections that are affected. In turn, because of the closer proximity, the noise impacts from the sections of the site certificate route that are unaffected by RFA2 will be greater than the impacts from those sections that are affected by RFA2. Therefore, for these NSRs, Idaho Power modeled the noise impacts from the sections of the site certificate route that are unaffected by RFA2.

**When considered in isolation, IPC's modeling shows NSR-71 is expected to have an estimated noise increase of +13 A-weighted decibels (dBA). However, there is an existing transmission line located between NSR-71 and the Project, and after taking into account the predicted foul weather corona noise from the existing line, the Project does not result in an exceedance at NSR-71. Similarly, when considered in isolation, NSR-5012 is expected to have an increase of +12 dBA; but when the noise from the nearby existing 230-kV line is considered as part of the baseline, the Project does not result in an exceedance at NSR-5012. Therefore, NSR-71 and NSR-5012 are not expected to result in exceedances after the noise from the existing transmission lines is taken into account.

***Note the Late Night Baseline Sound Pressure Level associated with NSR-605 is unrealistically low given the proximity of the NSR to a geothermal plant.

Table 34: Summary of Acoustic Modeling Results—Comparison of Predicted Sound Levels to Late Night Baseline L_{50} (NSR Exceedances) and Maximum Noise Levels for the RFA2 Micrositing Area Additions

NSR Sequential Number	Distance from NSR to RFA2 Micrositing Area Addition (feet)	County	Associated Monitoring Position	Late Night Baseline Sound Pressure Level (dBA)	Predicted Sound Level (dBA)		Foul Weather Increase over Late Night Baseline (dBA)
					Fair Weather	Foul Weather	

Red font indicates foul weather increase for residence over late night baseline of or greater than 11 dBA.
Green highlighted cells indicate an NSR not previously evaluated during the ASC and RFA1; new NSR for RFA2.
dBA = A-weighted decibel
ft = feet
ID = identification
m = meter
MP = milepost
NSR = noise sensitive receptor
ODEQ = Oregon Department of Environmental Quality
UTM = Universal Transverse Mercator

1

Compliance with DEQ Noise Rules: Maximum Allowable Sound Level Standard

The maximum allowable L_{50} sound level standard is 50 dBA. As presented in Table 34 above, and in RFA2 Attachment 7-19 Table 2, the maximum sound level in a "worse-case scenario" (during foul weather) will be no greater than 45 dBA. Council finds that because the maximum L_{50} sound levels would be less than the "Table 8" maximum allowable sound level, 50 dBA, even during foul weather conditions, noise impacts within the RFA2 micrositing area additions would be in compliance with the maximum allowable sound level standard identified in OAR 340-035-0035(1)(b)(B)(i). The facility, with RFA2 changes, would continue to comply with this standard.

Compliance with DEQ Noise Rules: Ambient Antidegradation Standard

The ambient antidegradation standard under OAR 340-035-0035(1)(b)(B)(i) allows a maximum increase in ambient statistical noise of 10 dBA, as measured at an "appropriate measurement point" from noise generated from a new industrial source.[327] Operational noise from the facility, within the RFA2 micrositing area additions, during foul weather, low wind, and quietest times during the early morning, may exceed the ambient antidegradation standard as represented by the evaluation at 27 NSRs. Of the 27 NSRs, 7 NSR locations represent new NSR locations not previously evaluated by Council, and the remaining 20 NSR locations were previously evaluated and granted an exception/variance for the ambient antidegradation standard exceedances.

OAR 340-035-0035(6)(a) allows the Council to consider exceptions to the rule, if the owner of a noise source submits a written request for an exception meeting the criteria in the rules. Additionally, OAR 340-035-0100 allows specific variances from particular requirements of any rule, regulation, or order under certain circumstances as described in the DEQ noise rules. In RFA2, the certificate holder requests that Council continue to grant an exception to the ambient antidegradation standard (L50 ambient sound level) for unusual or infrequent events, as authorized under OAR 340-035-0035(6)(a), for the entirety of the facility.

Request for Exception to the Ambient Antidegradation Standard – Unusual or Infrequent Events (OAR 340-035-0035(6)(a))

In the *Final Order on ASC* and *Final Order on Amendment 1*, the Council granted an exception to the certificate holder from strict compliance with the ambient antidegradation standard due to unusual or infrequent foul weather events, as authorized under OAR 345-035-0035(6)(a). Because the certificate holder followed and applied the same methodologies that Council previously approved in the *Final Order on ASC*, and the basis, assumptions, and interpretations for the approval of the exception have not changed, Council extends and grants the exception for the transmission line within the RFA2 micrositing area additions. Additional supporting findings of fact are provided below.

[327] B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, pp. 695-697, 661-671.

OAR 340-035-0010(2) provides a directive for considerations to be evaluated by Council in determining whether to grant an exception; these considerations include:

- the protection of health, safety, and welfare of Oregon citizens;
- the feasibility and cost of noise abatement;
- the past, present, and future patterns of land use;
- relative timing of land use changes; and

These considerations are presented below.

Protection of Health, Safety, and Welfare of Oregon Citizens

Council previously granted an exception, in part, based on findings that granting an exception to DEQ's ambient antidegradation standard would not preclude the protection of health, safety and welfare of Oregon citizens otherwise afforded through mitigation under Site Certificate conditions. Potential impacts from the ambient antidegradation standard exceedance along the transmission line and at the 7 new NSR locations would be infrequent as estimated under worse-case conditions and are anticipated to occur two to seven percent of the time. Further, actual noise-related impacts are anticipated to be minimal as residents are assumed to be indoors at the time of the exceedance during late night and very early mornings (12:00 a.m. to 5:00 a.m.) and during foul weather (i.e. when it is raining). Therefore, it is expected that NSRs would experience noise levels inside their houses 10 dBA (with windows open) to 20 dBA (with windows closed) lower than modeled in RFA2 Attachment 7-19 Table 2 due to noise attenuation and absorption by residential structures.[328]

Council previously imposed Noise Control Condition 1 (GEN-NC-01) requiring that the certificate holder work with impacted NSRs to attempt to resolve concerns which includes avoiding, monitoring, and mitigating noise at NSRs caused by audible corona noise and potential exceedances.[329, 330] Council also required that landowners receive notification of the certificate holder's outreach and mitigation planning with landowners, and that landowners receive notice

[328] The Federal Highway Administration (FHWA) guidance for estimating the reduction of traffic noise provided by buildings is 10 dBA with the windows open and 20 to 25 dBA for ordinary windows or storm windows, respectively. See U.S. Department of Transportation, Federal Highway Administration, Highway Traffic Noise: Analysis and Abatement Guidance, Table 6 (2011). B2HAPPDoc13 DPO IPC Responses to Select DPO Comments Rec'd by 2019-11-07; B2HAPP DPO IPC Responses - StopB2H - 4. Noise 2019-10-29.

[329] In accordance with the OAR 345-021-0010(1)(x) information requirement for DEQ's noise rules, the evaluation of compliance (and potential exceedances) is based on "predicted" noise levels – "predicted" noise levels are derived from acoustic noise modeling, as presented in ASC Exhibit X; monitoring of actual noise levels would only be necessary if required by the Department's or represented by the applicant. B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, pp. 683-684.

[330] While the DEQ noise rules do not expressly require mitigation for noise exceedances, an evaluation of the rule language related to the "Protection of Health, Safety, and Welfare of Oregon Citizens" for an exception to the noise rules may result in mitigation for impacts from operational noise if an applicant did not propose a mitigation and complaint programs, or if the applicant proposal is determined to be insufficient. *Id*.

of the requirements of the Noise Control Conditions.[331] The mitigation plan may include micrositing the relevant portions of the RFA2 transmission line within the site boundary based on landowner consent, the purchase and installation of sound attenuating window treatments shown to be effective in reducing indoor sound pressure levels or at the request of a property owner, an alternative mitigation proposal, such as performing air-sealing of the NSR residence, planting trees, or installing insulation.[332] Based on the new NSR locations, Council amends the condition as follows:

> **Amended Noise Control Condition 1 (GEN-NC-01)**: Prior to construction, the certificate holder will initiate discussions with the 48 NSR property owners at which it has estimated exceedances of the ambient antidegradation standard may occur identified in Attachment X-4 and/or X-5 of the Final Order on the ASC and Attachment 7-19 Table 2 of the Final Order on RFA2 (NSR: 8, 9, 10, 11, 5002, 69, 70, 5004, 46, 118, 125, 5010, 5011, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 518, 111, 112, 132, 133, 515, 520, 521, 662, 664, 666, 671, 5008, 5009, 113, and 115) to develop mutually agreed upon Noise Exceedance Mitigation Plans, specific to each NSR location. The site-specific Noise Exceedance Mitigation Plans will include agreed upon measures that would be implemented at the NSR location to minimize or mitigate the ambient antidegradation standard noise exceedance. Prior to and during construction, the certificate holder will initiate (a) – (c), below, to be finalized prior to operations.
> …
> [Noise Control Condition 1, Final Order on ASC, AMD1, AMD2]

Council previously imposed Noise Control Conditions 2 and 3 that ensure that all NSR locations receive mitigation for reducing noise-related impacts, as summarized below:

- Noise Control Condition 2 (GEN-NC-02) establishes a system for the certificate holder to receive and respond to complaints associated with potential operational corona noise from landowners not identified in Attachment X-5 of this order as well as a dispute mechanism for NSR property owners identified with an exceedance in Attachments X-4 and X-5. The complaint response plan includes a process for complaint filing, receipt, review and response for NSR exceedances evaluated in the ASC and RFA1, and NSRs that are not identified in the ASC or RFA1.
- Noise Control Condition 3 (CON-NC-01) requires the certificate holder to construct the transmission line using materials to reduce corona noise such as the use of a triple bundled conductor configuration for 500 kV transmission lines, maintain tension on all insulator assemblies to ensure positive contact between insulators,

[331] Stop B2H's concerns and suggestions regarding mitigation, notification, and filing complaints were litigated in the contested case and discussed and incorporated at Council's Exception Hearings on the Hearing Officer's Proposed Contested Case Order and are reflected in the Noise Control Conditions for the facility. B2H EFSC Meeting Day 3 PCCO-PO-Exception Hearing Condensed 2022-08-31, pages 561- 571.

[332] B2HAPPDoc3-41 ASC 24_Exhibit X_Noise_ASC 2018-09-28, Section 3.5. Attachment 6: Contested Case Order (CCO) as Amended and Adopted by Council, page 214 to 224.

maintain tension on all insulator assemblies to ensure positive contact between insulators, and to protect conductor surface to minimize scratching or nicking.

Based on the above analysis and compliance with the conditions, continues to grant an exception based on a finding that the exception would not preclude the protection of health, safety, and welfare of Oregon citizens otherwise afforded through compliance with DEQ's noise control regulation.

Feasibility and Cost of Noise Abatement

Council previously granted an exception, in part, based on findings that granting an exception is appropriate due to the limitations of the feasibility and cost of noise abatement. The Council previously found that typical noise abatement technologies, such as insulators, silencers, and shields, are not reasonable technologies for transmission lines due to length; and safety and operational limitations. Council previously imposed Noise Control Condition 3 (CON-NC-01 – presented below) requiring that the transmission line be designed in a manner that would reduce the potential for corona noise, including a requirement that the design include a triple bundled configuration with sufficient subconductor spacing (results in reduction in audible corona noise and radio interference). Noise Control Condition 3 also requires that tension of the transmission line as well as insulator assemblies be maintained to ensure positive contact between insulators, and was originally intended to apply to how the transmission line would be constructed and operated. Council updates the condition coding and to clarify that these design features would apply to construction and operation of the facility, as follows:[333]

Amended Noise Control Condition 3: During construction and operation, the certificate holder shall implement the following design measures and construction techniques to minimize potential corona noise during operations:
a. For 500 kV transmission lines, use a triple bundled conductor configuration.
b. Maintain tension on all insulator assemblies to ensure positive contact between insulators.
c. Protect conductor surface to minimize scratching or nicking.
[GEN-NC-03]

Because there have been no changes in transmission line design and based on compliance with Noise Control Condition 3 (CON-NC-01), Council continues to grant an exception based on a finding that the noise abatement technology is not feasible.

Past, Present, and Future Patterns of Land Use and Relative Timing of Land Use Changes

For the purposes of the Council's consideration of the past, present, and future patterns of land use and relative timing of land use changes for evaluating an exception to the DEQ noise rules,

[333] Changes made in response to concerns raised by Stop B2H on the DPO that condition would not apply to operation of facility. B2HAMD2Doc10-14 DPO Public Comment_Stop B2H 2024-05-30

this evaluation is the most informative in the context of residential areas because of the increased potential to impact NSRs in the future. The RFA2 micrositing area additions would not be located within a residential zone. Consistent with Council's previous evaluation, Council finds that because the RFA2 micrositing area additions would not be located in a residential zone, that there is a diminished likelihood of impacting additional NSRs in the future. For these reasons, Council continues to grant an exception based on a finding that it would not conflict with past, present and future land use changes.

Other Legal Constraints

Ambient antidegradation exceedances at 7 NSRs are due to site-specific micrositing outcomes.

NSR-671 will experience noise level increases of 10 dBA above ambient conditions, but the adjusted location of the transmission line was specifically requested by the landowner to preserve other resources at the subject property (RFA2 Figure 7-18). Council authorizes landowner requested adjustments.

NSRs -515, -520, -521, -662, -664, and -666 are in similar locations as NSR locations previously granted an exception (NSRs 92-110 and -518). These new NSRs will also experience noise level increases of 10 dBA above ambient conditions. The underlying basis of the location of the transmission line route in this area has not changed in that it is preferred by BLM to avoid Sage Grouse Core Area Habitat and Safe Grase Areas of High Population Richness. The specific locational adjustments presented in RFA2 (Figure 7-18 Maps 8 and 9) are based on areas where the certificate holder has obtained access to survey and construct the facility, while also avoiding pivot irrigation infrastructure.

Timing of an Exception

Council previously imposed Noise Control Condition 4 (OPR-NC-01) establishing that the ambient antidegradation standard may be exceeded at any time during foul weather events (defined as a rain rate of 0.8 to 5 millimeters per hour, as authorized through the OAR 340-035-0035(6)(a) exception. In accordance with OAR 340-035-0010(2), the Council specified via Condition 4, that the exceedance, as measured at any NSR location within the analysis area, shall not be more than 10 dBA above the ambient antidegradation standard (or ambient plus 20 dBA) and consist of corona noise.

Request for Variance to the Ambient Antidegradation Standard [OAR 340-035-0100]

In the *Final Order on ASC* Council's authorization of a variance under OAR 340-035-0100 from compliance with the ambient antidegradation standard was also for the entirety of the approved transmission line route, including alternative routes. Council interprets -0035(1)(b)(B)(i) for linear facilities, such as transmission lines, as establishing a 10 dBA ambient statistical noise level at identified NSRs but that NSRs would only establish the measurement

point for use as a proxy in determining compliance of the entire line, as the noise source.[334] Council reviewed and approved the request for variance of the ambient antidegradation standard for the entirety of the transmission line because of conditions beyond the control of the noise source owner, and special circumstances and physical conditions associated with the location of the noise source. As discussed in the *Final Order on ASC*, the approved routes in the ASC were derived from a lengthy siting process, much of which was directed by the BLM, in consultation with agencies, landowners, and affected counties. The routes in the ASC that Council approved were also constrained by factors related to the protection of resources under the EFSC standards. These constraints included the following:

- Federal land management agency requirements, including the federal land management plans governing many of the federal lands in the analysis area;
- Input on route locations from local governments, counties, and landowners;[335]
- The transmission line route on lands managed by the Bureau of Land Management as issued in the BLM's Record of Decision (ROD);
- Western Electricity Coordinating Council Common Corridor Criteria and prudent utility practice, including minimum separation distances from existing transmission lines to ensure reliability of facilities;
- EFSC's Fish and Wildlife Habitat Standard, adopts the Oregon Department of Fish and Wildlife's habitat mitigation policy; which does not permit siting of an energy facility on lands designated Category 1 habitat and recommends avoidance and minimizing impacts to Greater Sage Grouse habitat; and
- EFSC's Protected Area Standard, which does not permit siting of an energy facility in certain protected areas, such as parks, scenic waterways, and wildlife refuges, and certain federally designated areas, such as areas of critical environmental concern, wilderness areas, wild and scenic rivers, BLM Class I and U.S. Department of Agriculture, Forest Service Retention visual management areas, national monuments, and National Wildlife Refuges (NWRs).[336]

In the *Final Order on ASC*, Council also found a variance from the DEQ Noise Rules was justified because strict compliance may result in substantial curtailment of operation of the facility (i.e. the facility could not be constructed and operated) and there are a lack of opportunities for an alternative facility that could help meet the certificate holder's obligations to provide service to its rate payers as a utility.[337]

[334] Under OAR 340-035-0035(1)(b)(B)(i) as applying to the transmission line as the noise source, where identified NSRs represent the appropriate measurement points for which to determine overall compliance of the transmission line, is a much more practical approach than evaluating the request for an exception at each of the more than 41 identified NSR locations where exceedances could potentially occur. B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, page 696; Final Order Attachment 6: Contested Case Order (CCO) as Amended and Adopted by Council, page 207-210.

[335] OAR 340-035-0100 (special circumstances and physical conditions).

[336] B2HAPPDoc3-41 ASC 24_Exhibit X_Noise_ASC 2018-09-28, Section 3.4.5.1.

[337] B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, pp 696-698.

Because the certificate holder followed and applied the same methodologies that Council previously approved, and the basis, assumptions, and interpretations for the approval of the variance have not changed, the previously approved variance for the transmission line extends to the RFA2 micrositing area additions. Thus, Noise Control Condition 5 (Condition OPR-NC-02), which relates to the granted variance continues to apply to the certificate holder and would apply the RFA2 micrositing area addition.

III.R.1.b Conclusions of Law

Based on the foregoing analysis, Council finds that, subject to compliance with the existing and recommended amended conditions, and subject to the previously approved OAR 340-035-0035(6)(a) exception (unusual or infrequent events) and variance to compliance with the ambient antidegradation standard (OAR 340-035-0035(1)(b)(B)(i)), the areas added to the site boundary would otherwise comply with the Noise Control Regulations in OAR 340-035-0035(1)(b)(B).

III.R.2. Removal-Fill OAR 141-085-0500 through 141-085-0785

The Oregon Removal-Fill Law (ORS 196.795 through 196.990) and Department of State Lands (DSL) regulations (OAR 141-085-0500 through 141-085-0785) require a removal-fill permit if 50 cubic yards or more of material is removed, filled, or altered within any "waters of the state," (WOS).[338] A removal-fill permit is required for the facility because 50 cubic yards or more of material would be removed, filled or altered within waters of the state. The removal-fill permit is a state permit within the Council's jurisdiction as discussed in the introduction to Section III.A. Pursuant to ORS 469.503(3) and ORS 469.401(3), the Council must determine whether DSL should issue the removal-fill permit and, if so, the Council must determine the conditions of that permit.[339] During Council's prior review of the ASC for this facility, Council approved issuance of a removal-fill permit.

The analysis area for RFA2 for wetlands and other waters of the state is the area within the site boundary.[340]

III.R.2.a Findings of Fact

Wetlands and waters of the state potentially impacted by the RFA2 changes were evaluated through literature review and wetland field delineation surveys. Desktop studies included an evaluation of multiple existing data sources including the U.S. Fish and Wildlife Service National Wetlands Inventory (NWI), the USGS National Hydrography Dataset (NHD), and areas of hydric soil mapped by the Natural Resources Conservation Service.[341] Prior to conducting the field

[338] ORS 196.800(15) defines "Waters of this state." The term includes wetlands and certain other waterbodies.
[339] See also OAR 345-021-0010(1)(j)(E).
[340] B2HAMD2 ODOE Letter Approving Analysis Areas for pRFA2 OAR 345-027-0360(3) _2023-12-20.
[341] B2HAMD2Doc2 RFA2 2024-04-11, Section 5.3.1

surveys, wetland specialists plotted data from the Oregon Spatial Data Library (Oregon Wetlands database) and the NHD on high-resolution aerial photography to identify locations of probable wetlands and non-wetland waters within the micrositing area additions. These data sources were used to estimate potential impacts to wetlands and WOS where site access was not granted, which is summarized in RFA2 Table 5.3-2. Where site access was granted to evaluate the RFA2 micrositing area additions, field staff identified wetland presence using the methodology provided by the 1987 U.S. Army Corps of Engineers (USACE) *Wetlands Delineation Manual* as well as the USACE *Arid West Regional Supplement* (used in the majority of the analysis area) and the *Western Mountains, Valleys, and Coast Regional Supplement* (for the higher elevation areas of the analysis area around the Wallowa-Whitman National Forest). RFA2 Attachment 7-21 includes the 2023 wetland delineation report, which includes the micrositing areas in RFA2 and submitted to DSL for review and concurrence. The results of the field surveys, based on the 2023 wetland delineation report submitted and being reviewed by DSL, are provided below in Table 35: *Estimated Temporary and Permanent Impacts on Delineated Wetlands and WOS for RFA2*.

Results of Wetland Field Surveys for Wetlands/WOS for RFA2

RFA2 Figure 5-1 illustrates the locations of wetlands and WOS associated with the RFA2 site boundary transmission line route additions and Figure 5-2 illustrates the wetlands and WOS associated with the RFA2 micrositing area additions. As summarized in Table 35 below, the estimated impact to field surveyed/delineated wetland features includes 0.10 acres of total permanent impacts and 1.36 acres of total temporary impacts. The estimated impact to field surveyed/delineated non-wetland WOS includes 0.07 acres of total permanent impacts and 0.97 acres of total temporary impacts.

Table 35: Estimated Temporary and Permanent Impacts on Delineated Wetlands and WOS for RFA2

County	Source	Field Delineated Wetland ID	Sum of Area (Acres)	
			Permanent Disturbance	Temporary Disturbance
Wetlands				
Baker	Field Delineated	BA-W-1301	0.000	0.040
Baker	Field Delineated	BA-W-1302	0.000	0.057
Baker	Field Delineated	BA-W-1305	0.00	0.048
Baker	Field Delineated	BA-W-1306	0.00	0.027
Malheur	Field Delineated	MA-W-1202	0.007	0.010
Malheur	Field Delineated	MA-W-1203	0.004	0.301
Morrow	Field Delineated	MO-W-03	0.005	0.001
Umatilla	Field Delineated	UM-W-1200	0.006	0.009
Umatilla	Field Delineated	UM-W-1301	0.00	0.032
Umatilla	Field Delineated	UM-W-1302	0.00	0.036

Table 35: Estimated Temporary and Permanent Impacts on Delineated Wetlands and WOS for RFA2

County	Source	Field Delineated Wetland ID	Sum of Area (Acres)	
			Permanent Disturbance	Temporary Disturbance
Umatilla	Field Delineated	UM-W-1304	0.00	0.029
Umatilla	Field Delineated	UM-W-1305	0.00	0.094
Umatilla	Field Delineated	UM-W-1306	0.00	0.013
Umatilla	Field Delineated	UM-W-1307	0.00	0.044
Union	Field Delineated	UN-W-701	0.00	0.593
Union	Field Delineated	UN-W-800	0.017	0.003
Union	Field Delineated	UN-W-801	0.038	0.006
Union		UN-W-803	0.021	0.003
		Total	**0.10**	**1.36**
Streams				
Baker	Field Delineated	BA-ST-1300	0.00	0.271
Malheur	Field Delineated	MA-PR-ST-115	0.012	0.002
Malheur	Field Delineated	MA-ST-1216	0.00	0.200
Morrow	Field Delineated	MO-ST-1203	0.006	0.001
Umatilla	Field Delineated	UM-ST-1201	0.016	0.003
Umatilla	Field Delineated	UM-ST-1201A	0.003	0.001
Umatilla	Field Delineated	UM-ST-1301	0.028	0.476
Union	Field Delineated	UN-ST-701		0.018
Union	Field Delineated	UN-ST-800	0.001	0.000
		Total	**0.07**	**0.97**

To address site access issues associated with siting a transmission line and to allow for necessary survey information needed for the EFSC process, Council approved a phased approach to collect and submit the additional survey data to the Department and DSL.[342] To ensure that additional wetland delineation reports are submitted to the Department and to DSL prior to any construction activities on any unsurveyed parcels within micrositing areas (previously site boundary), the Council adopted Removal-Fill Condition 1 (PRE-RF-01), which includes stipulations to ensure that, prior to construction, the certificate holder completes wetland/WOS surveys for any unsurveyed areas where facility-related temporary or permanent impacts would occur; submits the resulting wetland delineation report(s) to the Department and DSL; and obtains and provides to the Department DSL's concurrence determination demonstrating that the wetlands/WOS and associated impacts have been accurately delineated. This condition applies to any unsurveyed areas associated with the RFA2 micrositing

[342] B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, Section III.D., Survey Data Based on Final Design and Site Access and IV.Q.2. Removal Fill Law: OAR 141-085-0500 through -0785.

area additions. Similarly, Removal Fill Condition 4 (PRE-RF-02) requires that, prior to construction, the certificate holder submit an updated Joint Permit Application (JPA) to the Department, which would also continue to apply.

The estimated 2.33 acres of temporary impacts to wetlands and WOS associated with the RFA2 micrositing area additions would be mitigated via a Site Rehabilitation Plan, reviewed and approved by the Department, in consultation with DSL (Removal-Fill Condition 2 [GEN-RF-01[). According to the draft Site Rehabilitation Plan, impacts to wetlands and non-wetland WOS would be mitigated within 24 months of disturbance. The draft Site Rehabilitation Plan (*Final Order on ASC*, Attachment J-2) requires re-establishing pre-existing contours of the site, soil decompaction, re-establishing the pre-existing vegetation community, and rapid site stabilization to prevent erosion.

Permanent impacts from the RFA2 micrositing area additions to wetlands and WOS are estimated at 0.17 acres. Permanent wetland/WOS impacts will be mitigated by the Compensatory Wetland and Non-Wetland Mitigation Plan (CWNWMP), adopted under Removal-Fill Condition 3 (GEN-RF-02). The CWNWMP designates mitigation actions for permanent impacts to wetland functions and values through the creation of functioning wetlands and enhancement of existing wetlands at a mitigation site (referred to as the Hassinger Mitigation Site) adjacent to Catherine Creek in the Grande Ronde Basin in Union County, Oregon.[343] The CWNWMP uses DSL's mitigation ratio calculators to designate appropriate mitigation acres at the mitigation site, to which DSL previously indicated that it meets DSL requirements.[344]

Removal-Fill Condition 2 (GEN-RF-02) requires that updates to the CWNWMP include the final amount of wetland mitigation credit required which shall be based on the final design configuration facility, and that following construction and during operation of a phase or segment of the facility, the certificate holder shall implement the actions described in the final CWNWMP. The condition also states that the Department will provide updates to Council on the certificate holder's implementation of the final CWNWMP.

Council previously imposed Removal-Fill Condition 6 to ensure that the removal-fill permit is updated prior to construction of the facility and prior to any impacts to wetlands or WOS. The condition also requires that following construction and during operation of the facility, the certificate holder shall implement the actions described in the removal-fill permit and maintain compliance with the General and Special Conditions set forth in the removal-fill permit. These conditions remain applicable to the RFA2 changes.

[343] B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, page 706; B2HAPPDoc3-18 ASC 10a_B2H_2018 Exhibit J Waters of the State Part 1 2018-09-28, Section 3.4.6.2.

[344] B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27, page 707; B2HAPPDoc13-3 ASC Reviewing Agency Comment DSL_Cary 2018-11-02.

III.R.2.b Conclusions of Law

Based on the foregoing analysis, and subject to compliance with the existing site certificate conditions, Council finds that the RFA2 micrositing area additions would comply with Oregon removal-fill law; that the removal-fill permit with conditions contained in the *Final Order on ASC*, and as updated under applicable conditions, apply to the RFA2 micrositing area additions; and that DSL shall continue to issue a removal-fill permit for the facility, with RFA2 micrositing area additions.

III.R.3. Water Rights

Under ORS Chapters 537 and 540 and OAR Chapter 690, the Oregon Water Resources Department (OWRD) administers water rights for appropriation and use of the water resources of the state. Under OAR 345-022-0000(1)(b), the Council must determine whether the facility, with proposed changes, would comply with the statutes and administrative rules identified in the project order. The project order identifies OAR 690, Divisions 310 and 380 (Water Resources Department permitting requirements) as the administrative rules governing use of water resources and water rights as applicable to the facility.

III.R.3.a Findings of Fact

In the *Final Order on ASC*, the Council found that the certificate holder had established that it can obtain adequate water for construction and operation of the facility from municipal water service providers in the vicinity of the facility, and would not need a groundwater permit, surface water permit, or water right transfer.[345]

In the proceedings on the ASC, the certificate holder estimated that between approximately 36.5 and 54.8 million gallons of water would be needed to construct the facility, depending on weather and other conditions during the 36-month construction period.[346] The certificate holder also estimated that approximately 30-gallons of water per day would be needed during operations for the facility's restroom at the Longhorn Substation.[347]

The scope and extent of construction activities involved associated with facility components located within the RFA2 micrositing area additions and other RFA2 changes would be similar to those evaluated In the *Final Order on ASC*. As a result, no significant changes to the volume of water needed for construction are expected. In addition, no changes to facilities that would require connection to a water source during operations are as part of RFA2, and the certificate holder has not requested approval to obtain water rights or other water use permits.

[345] B2HAPPDoc31 Final Order on ASC and Attachment 2022-09-27. Page 731 of 10586
[346] B2HAPPDoc3-24 ASC 15_Exhibit O_Water_Use_ASC 2018-09-28, Table O-1a
[347] B2HAPPDoc3-24 ASC 15_Exhibit O_Water_Use_ASC 2018-09-28. Page 8 of 32.

III.R.3.b Conclusions of Law

Because the RFA2 changes would not significantly increase demand for water during construction or operation of the facility, because the certificate holder previously demonstrated that it could obtain necessary water from municipal water providers under existing rights, and because the certificate holder has not requested authorization to obtain a water right or other water permit, Council concludes that the changes in RFA2 would not require a groundwater permit, surface water permit, or water right transfer. If such a permit is required by the certificate holder at a later time, a site certificate amendment would be required to review and consider such a permit application.

III.R.4. Fish Passage: OAR 635-412-0035

Pursuant to ORS 469.503(3) and under the Council's General Standard of Review (OAR 345-022-0000), the Council must determine whether the facility complies with "all other Oregon statutes and administrative rules…, as applicable to the issuance of a site certificate for the facility." In the ASC, the certificate holder requested that fish passage permits be governed by the site certificate and under EFSC jurisdiction. In the *Final Order on ASC* Council made findings of compliance with ODFW Fish Passage laws under OAR 635-412-0020.

Certificate holder indicates that they are not requesting that any new fish passage permits be governed by the site certificate under EFSC jurisdiction. Certificate holder states that they will coordinate directly with ODFW to obtain necessary fish passage/crossing permits.[348]

[348] B2HAMD2Doc2 RFA2 2024-04-11, Table 7.1.

IV. FINAL CONCLUSIONS AND ORDER

Based on the findings of fact and conclusions of law included in this order, under OAR 345-027-0375, Council finds that the preponderance of evidence on the record, including RFA2, the *Final Order on RFA1*, and the record of the *Final Order on ASC* which includes the record of the contested case on Proposed Order on ASC, supports the following conclusions:

1. The RFA2 changes comply with the applicable substantive criteria under the Council's Land Use standard, as described in OAR 345-022-0030, from the date RFA2 was submitted.

2. The RFA2 changes comply with the requirements of the Energy Facility Siting Statutes ORS 469.300 to 469.520.

3. The RFA2 changes comply with all applicable standards adopted by Council pursuant to ORS 469.501, in effect on the date Council issues its Final Order on RFA2.

4. The RFA2 changes comply with all other Oregon statutes and administrative rules identified in effect on the date Council issues its Final Order on RFA2.

5. Taking into account the RFA2 changes, the amount of the bond or letter of credit required under OAR 345-022-0050 is adequate.

In regards to the Requests for Contested Case submitted by July 29, 2024, the deadline established in the Notice of Proposed Order and Opportunity to Request a Contested Case, the Council finds that issues were properly raised under OAR 345-027-0371(7) as identified in Attachment 2 to this order; and for the reasons provided in Attachment 2 this this order, no issue identified in the requests raised a significant issue of fact or law that is reasonably likely to affect the Council's determination whether the facility, with the change proposed by the RFA2, meets the applicable laws and Council standards. Accordingly, the Council denies the contested case requests under OAR 345-027-0371(9) and (10)(c).

The Council finds that the facility, with the RFA2 changes, complies with the General Standard of Review OAR 345-022-0000 and OAR 345-027-0375. Council, therefore, approves Request for Amendment 2 of the Site Certificate for the Boardman to Hemingway Transmission Line, and issue the 2nd Amended Site Certificate included as Attachment 1 to this order.

Issued August 23, 2024

OREGONENERGY FACILITY SITING COUNCIL

By: Kent Howe (Sep 11, 2024 16:06 PDT)

Kent Howe, Chair; Oregon Energy Facility Siting Council

ATTACHMENTS:

Attachment 1: Second Amended Site Certificate
Attachment 2: August 13, 2024 Staff Report for B2H Agenda Item G for the August 22-23, 2024 EFSC Meeting –Adopted by Council to include EFSC Deliberation
Attachment 3: Reviewing Agency Consultation and Documents Referenced in Order
Attachment 4: Draft Threatened and Endangered (T&E) Plant Mitigation Plan
Attachment 7-19: Noise Sensitive Receptor Locations with Exceedances with the RFA2 Micrositing Addition Areas
Attachment B-5: Updated Road Classification Guide and Access Control Plan
Attachment S-9: Updated Section 106 HPMP with Appendix A.1 Tables Amended for RFA2
Attachment W-1: Updated Decommissioning Cost Estimate and Assumptions

Notice of the Right to Appeal

The right to judicial review of this final order approving an amendment to the site certificate is governed by ORS 469.403 and OAR 345-027-0372(5). Pursuant to ORS 469.403(3), the Oregon Supreme Court has jurisdiction for review of the Council's approval or rejection of an application for an amended site certificate. [349] To appeal EFSC's approval of the amendment to the site certificate you must file a petition for judicial review with the Oregon Supreme Court within 60 days from the day this final order was served. Under ORS 469.403(1), the date of service is the date a copy of this order was delivered or mailed, not the date you received it. The date of service for any persons to whom this final order was not e-mailed or mailed is the date it was posted to the Oregon Department of Energy Siting webpage. If you do not file a petition for judicial review within the applicable time period noted above, you lose your right to appeal.

[349] At this time, there is an appeal concerning EFSC's denial of a request for contested case in the B2H RFA 1 proceeding pending in the Union County Circuit Court. It is the Department's position that the appeal of an EFSC denial of a request for contested case should also be filed with the Oregon Supreme Court, rather than Circuit Court. However, the Department encourages those considering such an appeal to consult with their own legal counsel on this matter.

Certificate of Service

I hereby certify that on September 13, 2024 the foregoing Energy Facility Siting Council Final Order Denying Requests or Contested Case and Approving Site Certificate Amendment 2 for the Boardman to Hemingway Transmission Line was served by mailing or emailing a true copy of the above-listed document as set forth below:

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I further certify that on September 13, 2024, the Department posted the foregoing Energy Facility Siting Council Final Order Denying Requests for Contested Case and Approving Site Certificate Amendment 2 for the Boardman to Hemingway Transmission Line to the Oregon Department of Energy Siting webpage.

Dated this 13th of September, 2024

Kellen Tardaewether
X Kellen Tardaewether (Sep 12, 2024 14:52 PDT)

Kellen Tardaewether

Senior Siting Analyst
Oregon Department of Energy