BEFORE THE LAND USE BOARD OF APPEALS

OF THE STATE OF OREGON

ROBERT COSNER and CHERYL COSNER,

Petitioners,

and

RICHARD STEWART, TED REID, TOM BUELL, JO LYNN BUELL, BARBARA CLUTTER, KEN SCHIEWE, IDA SCHIEWE, GREG TSIATOS, DORIS TSIATOS, JIM HATLEY, HERB MARCH and FRED REICHOW,

V.

UMATILLA COUNTY BOARD OF COMMISSIONERS,

Respondent,

and

CONFEDERATED TRIBES OF THE UMATILLA INDIAN RESERVATION,

Intervenor-Respondent.

LUBA Nos. 2011-070, 2011-071, & 2011-072

RESPONDENT'S RESPONSE TO PETITIONERS' RECORD OBJECTION

Respondent Umatilla County Board of Commissioners responds to Petitioners' Record Objection. A Revised Table of Contents is being filed, along with any omitted items.

I. ITEMS OMITTED FROM THE RECORD.

The minutes of January 13, 2011 Planning Commission work session, November 18, 2010 Planning Commission, and February 22, 2011 Board of Commissioners meeting, have been

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added to the record. Also, weekly schedule of Board of Commissioners submitted for all Board

of Commissioners hearings or work sessions, have been added to the record.

II ITEMS IMPROPERTY LOCATED, DESCRIBED OR NUMBERED IN

THE RECORD.

All items have been added to the Revised Table of Contents and any incorrectly

numbered or referenced pages have been corrected.

III. ITEMS SUBMITTED IN COLOR FORMAT.

Except for items number 2 and 11, color copies of the exhibits are submitted with

Revised Table of Contents. Items number 2 and 11 were submitted in black and white to the

hearing body and will remain as originally submitted.

IV. ITEMS IN THE RECORD ARE UNREADABLE.

Except for items number 1 and 2, copies of the exhibits are re-submitted with the Revised

Table of Content, in a condition as good as the originals. Items 1 and 2 will remain in the same

poor quality format as originally submitted to the hearing body, and the quality is noted on the

Revised Table of Contents.

DATED this 27th day of September 2011.

Respectfully submitted,

Douglas R. Olsen, #84438

Umatilla County Counsel

Attorney for Respondent Umatilla County

Board of Commissioners

Revised/Updated September 27, 2011 Pursuant to Petitioners' Record Objection

COSNER V. UMATILLA COUNTY

LUBA NO. 2011-070, 2011-071, 2011-072

Local File Number Text Amendment, #T-10-042

CONSOLIDATED RECORD

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- NHMRC PUBLIC STATEMENT, July 2010, "Wind Turbines and Health"
- "Wind Turbines and Health A Rapid Review of the Evidence" July 2010
- "Wind Turbine Syndrome" testimony before the New York State Legislature Energy Committee March 7, 2006, Nina Peirpont, MD PhD
- Power point "Wind Turbine Syndrome & The Brain", Nina Peirpont, MD, PhD, November 15, 2010
- "Your Guide to Wind Turbine Syndrome ...a roadmap to this complicated subject"
- "Wind Tubine Noise What Audiologist Should Know" by Jerry Punch, Richard James, and Dan Pabst
- "Wind Turbines, Noise and Health" February 2007 by Dr. Amanda Harry M.B.Ch.B. P.G.Dip.E.N.T., and appendix
- National Wind Watch, "Living with the impact of windmills" Chris Luxemberger
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- "Submission to the Austrilian Federal Senate Inquiry on Rural Wind Farms" 10th February, 2011, Dr. Sarah Laurie
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- Article, "Wind Turbines Syndrome: Living Near Wind Farms May be Hazardous to Your Health" Katie Fehrenbacher, August 3, 2009, and posted comments
- "Wind turbines: Friend or foe?"
- Article, "Wind Turbine Syndrome prompts state lawmakers to propose 2-year 'wind farm' moratorium (Idaho)"
- Acoustical Society of America, "Noise annoyance from stationary sources: Relationships with exposure metric day-evening-night level (DENL) and their confidence intervals"
- Acoustical Society of America, "Response to noise from modern wind farms in The Netherlands" (abstract)
- Article, "Effects of Low Frequency Noise and Vibrations: Environmental and Occupational Perspectives" (abstract)
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- Summary, "Project WINDFARMperception Visual and acoustic impact of wind turbine farms on residents"
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- Health Concerns, "Safety Issues" and Clinical Study of 'Wind Turbine Noise Syndrome"
- National Wind Watch, "Sleep disturbance and wind

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- Article, "Sleep disturbance and wind turbine noise"
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- "A Primer on Adverse Health Effects and Industrial Wind Turbines", March 2010, Prepared by the Society for Wind Vigilance
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- "Wind Turbine Noise, Sleep and Health", Dr. Christopher Hanning BSc, MB, BS, MRCS< LRCP, FRCA, MD, November 2010
- Monitor On Psychology, "Sleep deprivation may be undermining teen health", Siri Carpenter, Monitor staff
- Article, "Urinary melatonin rhythms during sleep deprivation in depressed patients and normals" (abstract)
- Sleepmedicine Reviews, "Clinical effects of sleep fragmentation versus sleep deprivation" (abstract)
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- Occupational & Environmental Medicine, "Moderate sleep deprivation produces impairments in cognitive and motor performance equivalent to legally prescribed levels of alcohol intoxication" (abstract)
- Thieme eJournals, "Neurocognitive Consequences of Sleep Deprivation" (abstract)
- "SLEEP DURATION AND HYPERTENSION,

- Association of Usual Sleep Duration With Hypertension: The Sleep Heart Health Study" Daniel J. Gottlieb, MD, MPH, et al
- Article, American Heart Association, Hypertension, "Short Sleep Duration as a Risk Factor for Hypertension, Analyses of the First National Health and Nutrition Examination Survey"
- Best-seller-books.com, book summary, "The Promise of Sleep: A Pioneer in Sleep Medicine Explores the Vital Connection Between Health, Happiness, and a Good Night's Sleep"
- Online Information for the Defense Community, title,
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- Google books: sleep deprivation and health, "Sleep disorders and sleep deprivation: an unmet public health problem" by Harvey R. Colten, et al
- Article, "Stress and Infectious Disease in Humans", Sheldon Cohen and Gail M. Williamson
- The New England Journal of Medicine, "Psychological Stress and Susceptibility to the Common Cold"
- Article, Nutrition, "Relationship between stress, eating behavior, and obesity" (abstract)
- "Strategies for Measureing Stress in Studies of Psychiatric and Physical Disorders" Sheldon Cohen, Ronald Cl. Kessler, and Lynn Underwood Gordon
- PsycARTICLES: Citation and Abstract, "Emotional states and physical health" Salovey, Peter; Rothman, Alexander J.; Detweiler, Jerusha B.; Stewared, Wayne T.
- Article, "Stress-induced changes in cerebral metabolites, hippocampal volume, and cell proliferation are prevented by antidepressant treatment with tianeptine" (abstract)
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- Review, "The Concepts of Stress and Stress System Disorders" (abstract)
- American Psychosomatic Society, "Chronic Fatigue

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	Archives of Internal Medicine, "Stress and the Individual Mechanisms Leading to Disease" (abstract)	
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	 Comment Letter from Oregon Dept. of Energy dated March 1, 2011 from Oregon Fish & Wildlife on the proposed siting of the Horizon Antelope Ridge Wind Project, and letter Attachment 1- ODFW's Comments on Horizon's Final Application for Site Certificate & Recommended Terms & Conditions for Issuance of a Site Certificate. 	
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County Planning

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Letter from Tom and Jo Lynn Buell

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Values." 2009, updated 2010

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 "The Effect of Wind Development on Local Property Values." Renewable Energy Policy Project.
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 "Recommendations for Risk Assessments of Ice Throw and Blade Failure in Ontario."
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 "Infrasound Measurements from Wind Farms and Other Sources." November 2010
- Leventhall, Geoff. "Infrasound from Wind Turbines – Fact, Fiction or Deception." Canadian Acoustics 29-36. Vol. 34 No. 2 (2006).
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- "Wind Turine Acoustic Noise," A White Paper by Dr. Anthony Rodgers, James F. Manwell, and Sally Wright, at the University of Massachusetts at Amherst. January 2006
- Bass, Bowkler, McCaffery, Grimes. "Abstract: Fundamental Research in Amplitude Modulation – a project by RenewableUK." Italy. April 2011
- Dr. Ramani Ramakrishnan for the Ontario Ministry of the Environment. "Wind Turbine Facilities Noise Issues." December 2007

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- Clean. Affordable. Homegrown. American Wind Power, AWEA
- Wind Energy Myths, US Dept of Energy
- Rhetoric vs. Reality: Wind Energy and Birds, AWEA
- Wind Turbine Sound and Health Effects an Expert Panel Review, Executive Summary, AWEA & CANWEA
- Wind Turbine Sound and Health Effects an Expert Panel Review, AWEA & CANWEA
- Reviewing the Facts on Wind Turbine Sound Impact, Renewable Northwest Project
- Wind Energy: Clean and Reliable, AWEA
- Utility Scale Wind Energy and Sound, AWEA
- Wind Turbines and Health, AWEA
- Wind Energy and Wildlife, AWEA
- Building a Green Power Superhighway, AWEA
- The Hidden Costs of Energy: National Academy of Sciences, AWEA
- Presidential Documents, Executive Order 13212 of May 18, 2001: Actions To Expedite Energy-Related Projects, Federal Register/Vol. 66, No. 99/Tuesday, May 22, 2001/ Presidential Documents
- 74th Oregon Legislative Assemby-2007 Regular Session Enrolled Senate Bill 838
- Oregon Renewable Energy Standard: Progress Made and Remaining Opportunities, Renewable Northwest Project- 02/25/09
- 20 Percent Wind Energy by 2030 Increasing Wind Energy's Contribution to U.S. Electricity Supply, AWEA
- From Snack Bars to Rebar: How Project
 Development Boosted Local Businesses Up and
 Down the Wind Energy 'Supply Chain' in Lamar,
 Colorado (power point) by Craig Cox March 2004
- Oregon Facility Siting Rules and Statutes
- AWEA Siting Handbook Chapter 4: Regulatory

Framework

- Oregon Columbia Plateau Ecoregion Wind Energy Siting and Permitting Guidelines September 29, 2008
- Residents opposed to Kittias Turbines v. State Energy Facility Site Evaluation Council (EFSEC) and Christine O. Gregoire, Governor of the State of Washington, Respondents. (165 Wash.2d275, 197P.3d 1153)(2008)
- Wind Energy Technology, Renewable Northwest Project
- Oregon's Statewide Planning Goals & Guidelines GOAL 2: LAND USE PLANNING OAR 660-015-0000(2)
- Oregon's Statewide Planning Goals & Guidelines GOAL 5: NATURAL RESOURCES, SCENIC AND HISTORIC AREAS, AND OPEN SPACES OAR 660-015-0000(5)
- Oregon's Statewide Planning Goals & Guidelines GOAL 13: ENERGY CONSERVATION
- Umatilla County Comprehensive Plan: Energy Conservation pages XVI-1 and XVI-2
- 152.616 (HHH) Standards for review of conditional uses and land use decision, Page 23 of 24, Ordinance No. 2009-09
- PLANNING BASICS Legal Requirements of the Planning Office, prepared by Gary Darnielle, Lane Council of Governments September 2006
- Memorandum of Lease, Instrument No. 2010-5640354 between Cunningham Sheep & Land Company and RES North America Leasing, LLC
- Memorandum of Lease, Instrument No. 2010-5640355 between Pendleton Ranches, Inc., Cunningham Sheeep & Land Company and RES North America Leasing, LLC
- Memorandum of Lease, Instrument No. 2010-5640356 between Cunningham Sheep Company and RES North America Leasing, LLC
- Memorandum of Lease, Instrument No. 2010-5640357 between Pendleton Ranches, Inc. and RES

- North America Leasing, LLC
- Memorandum of Lease and Right of First Refusal (unrecorded document) between Cunningham Sheep Company and Element Power Wind Development, LLC
- Memorandum of Lease and Right of First Refusal (unrecorded document) between Hoke Ranches and Element Power Wind Development, LLC
- Memorandum of Lease and Right of First Refusal (unrecorded document) between Mud Springs Ranches and Element Power Wind Development, LLC
- Memorandum of Lease and Right of First Refusal (unrecorded document) between Pendleton Ranches, Inc. and Element Power Wind Development, LLC

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	"Are Wind farms a Health Risk? US Scientist Identifies 'Wind Turbine Syndrome'" by Margareto Pagano,	
	"Protected eagle halts Eastern Oregon wind farms" by Ted Sickinger, The Oregonian	
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June 28, 2011

To: Honorable Umatilla County Commissioners

Umatilla County Courthouse

216 SE 4th St.

Pendleton, OR 97801

From: Stephen K. Haddock

P.O. Box G

48020 Stewart Creek Road Pilot Rock, OR 97868

Re: Windmill siting ordinance – Walla Walla Watershed

Dear Sirs,

I would like to address the issue of soil erosion in the area of the Walla Walla Watershed that was raised at the meeting held at the Umatilla County Justice Center two weeks ago on June 14th.

The soils map that was shown at that meeting represented areas of slopes greater than 25% and most of the areas in the Walla Walla Watershed were red indicating that those slopes were more than 25%. I would like to state that the entire area should have been colored, not for slope but for the frangibility of the soils.

As you are aware, windmill sites are selected for the intensity of the wind. The wind moves loose soils on flat exposed areas just like water moves them on steep slopes. The wind will pick up any exposed soils and move them. When the wind velocities drop to the point they can no longer carry the soil it will deposit that soil in drifts in much the same way the wind forms snow drifts and usually in the same location that the snow drifts would form.

This means that the wind will move the soils to the location where the water is most likely to form in the greatest amounts and the water will take over moving the soils from there down to the draw and stream bottoms and from there into the river.

The fact is, building miles of roads in the Watershed in the most wind-exposed areas will increase the amount of soils ending up in the river, and, as Mr. Ron Brown stated, this will have a definite negative economic impact on those agricultural uses already existing downstream as they would have to give up more water to dilute the turbidity that would be introduced by the windmill projects.

Please see the attached photos for examples of wind erosion in process on a windmill project. These photos were taken in the Butler Grade area in 2004.

Sincerely, Stolk K. Waldock Stephen K. Haddock

Page 2
Photo showing soils carrying capacity of the wind.



Color copy 173

Page 3

Photos showing the drifiting of soils caused by the wind.

Photo 1. Fence corner at the ¼ section corner.

Photo 2. Same fence corner the next day.

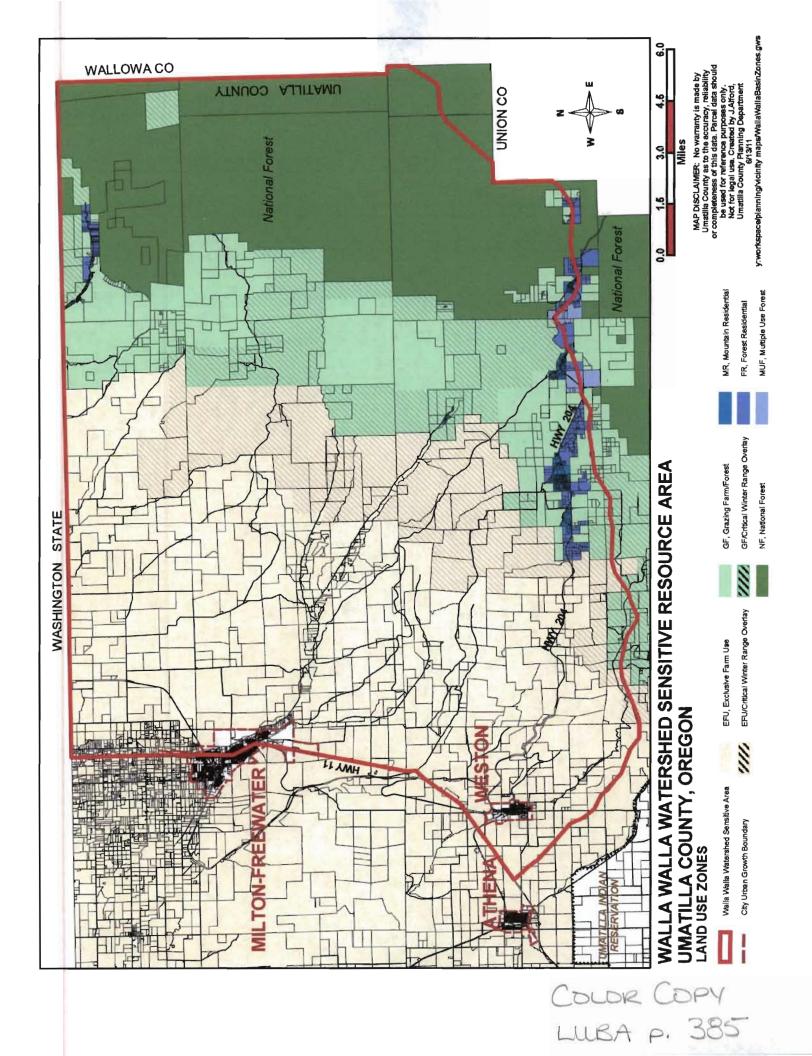


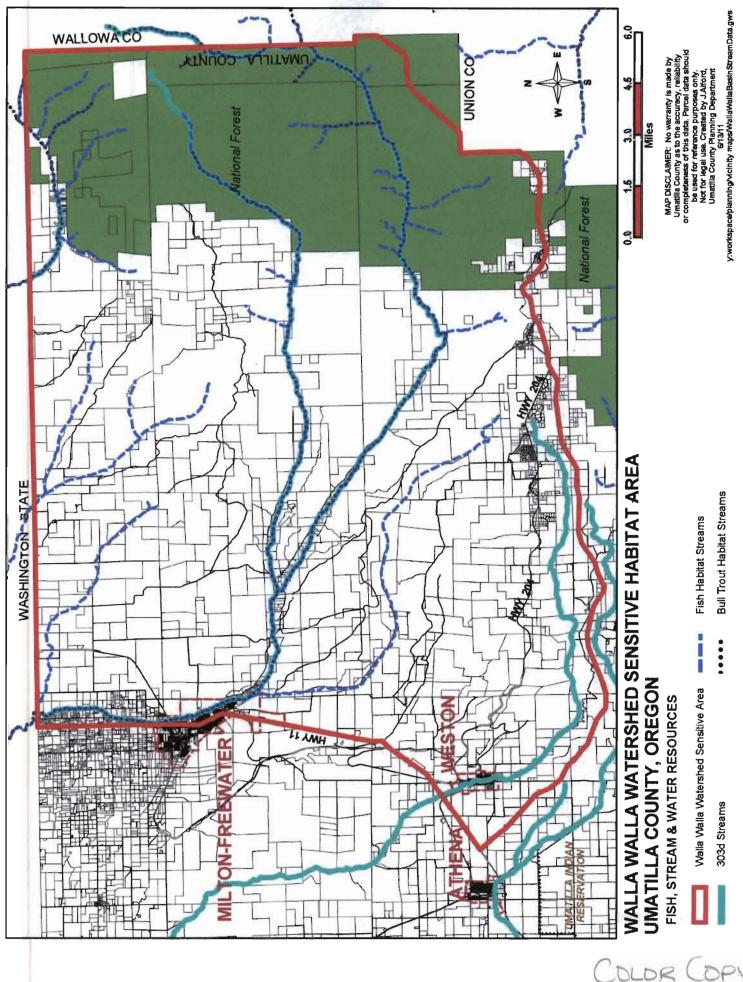
Photo 1



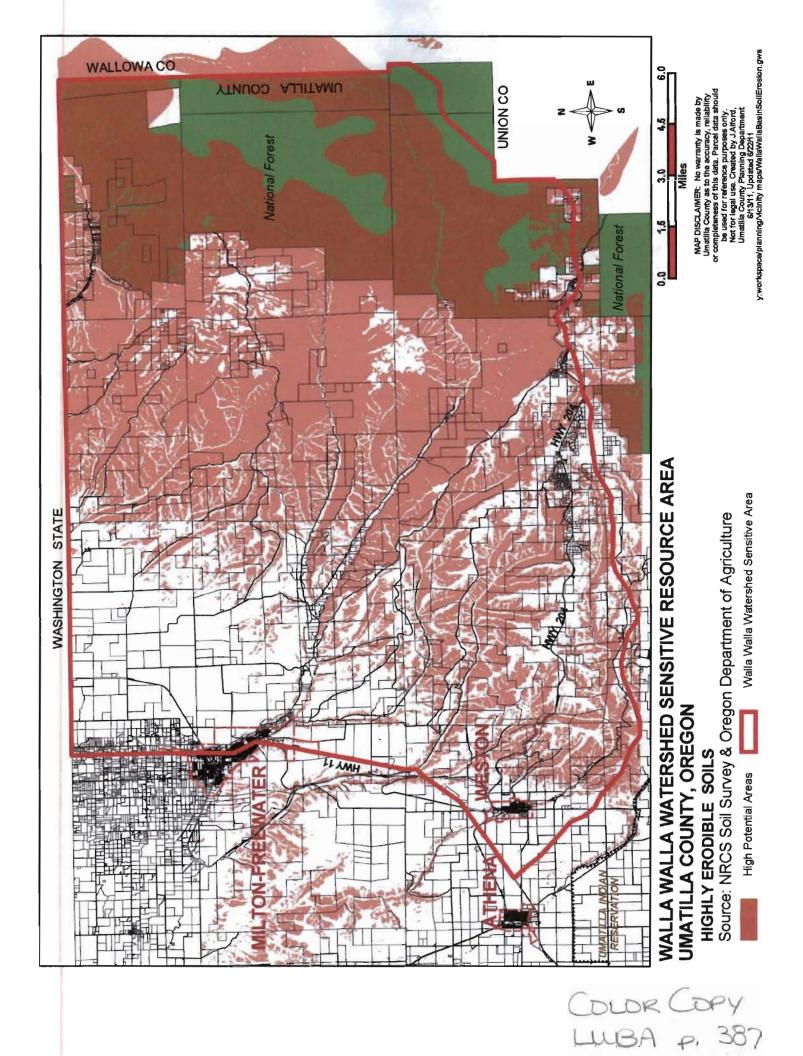
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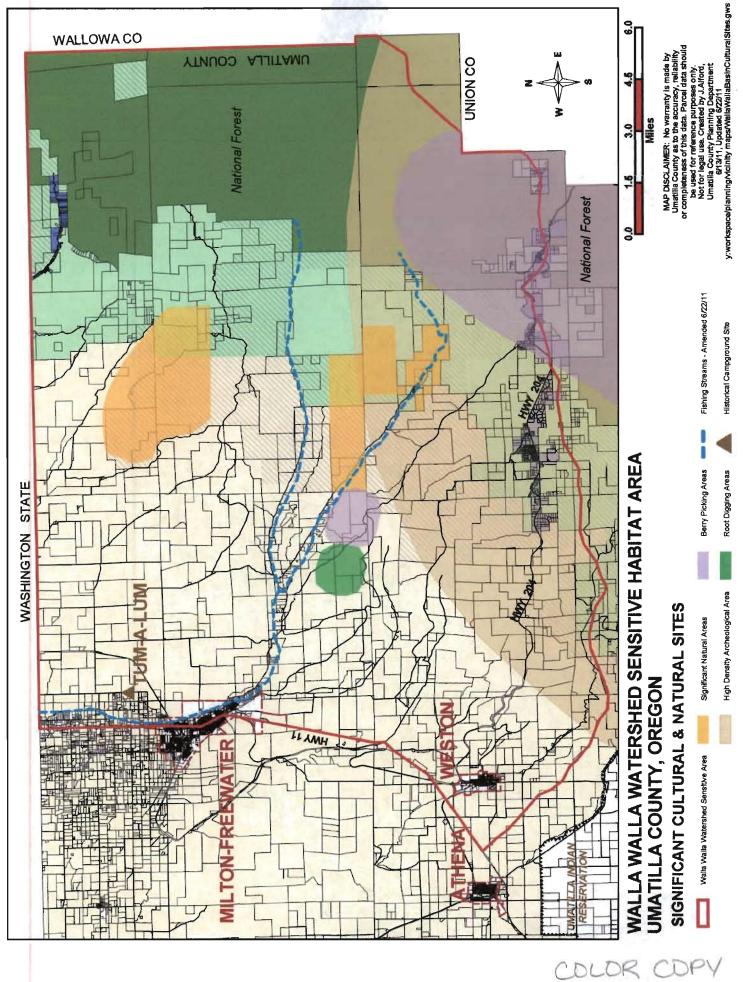
Photo 2



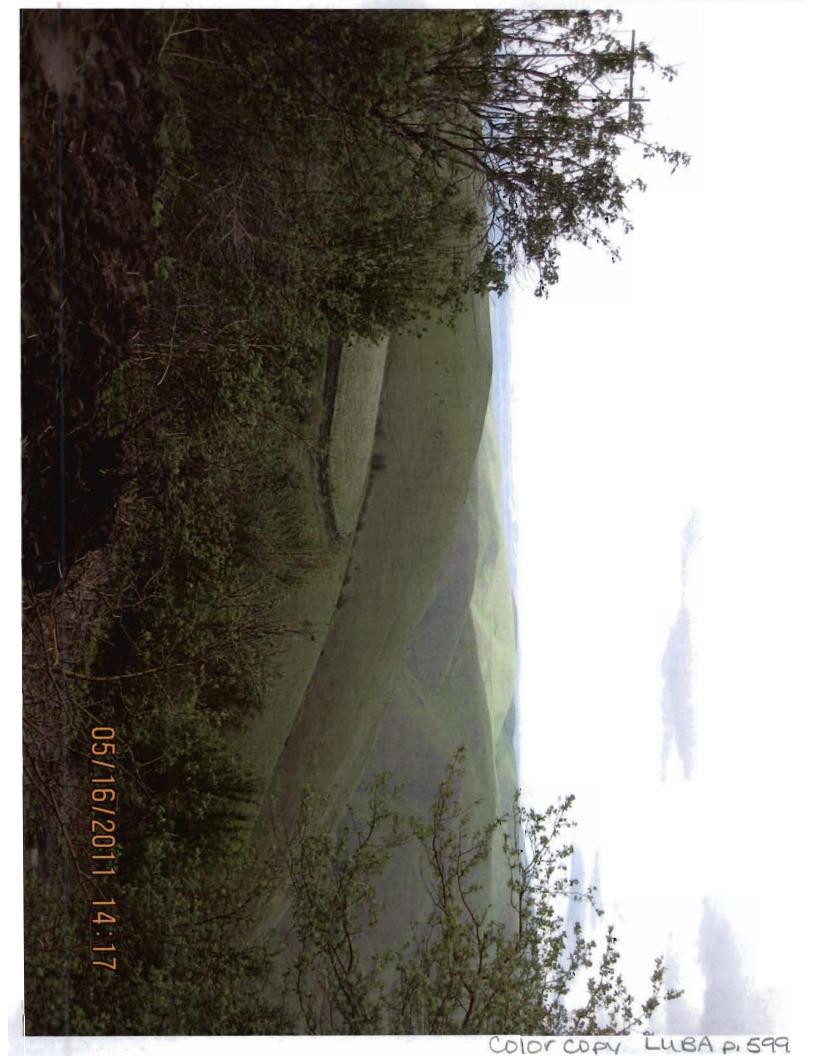


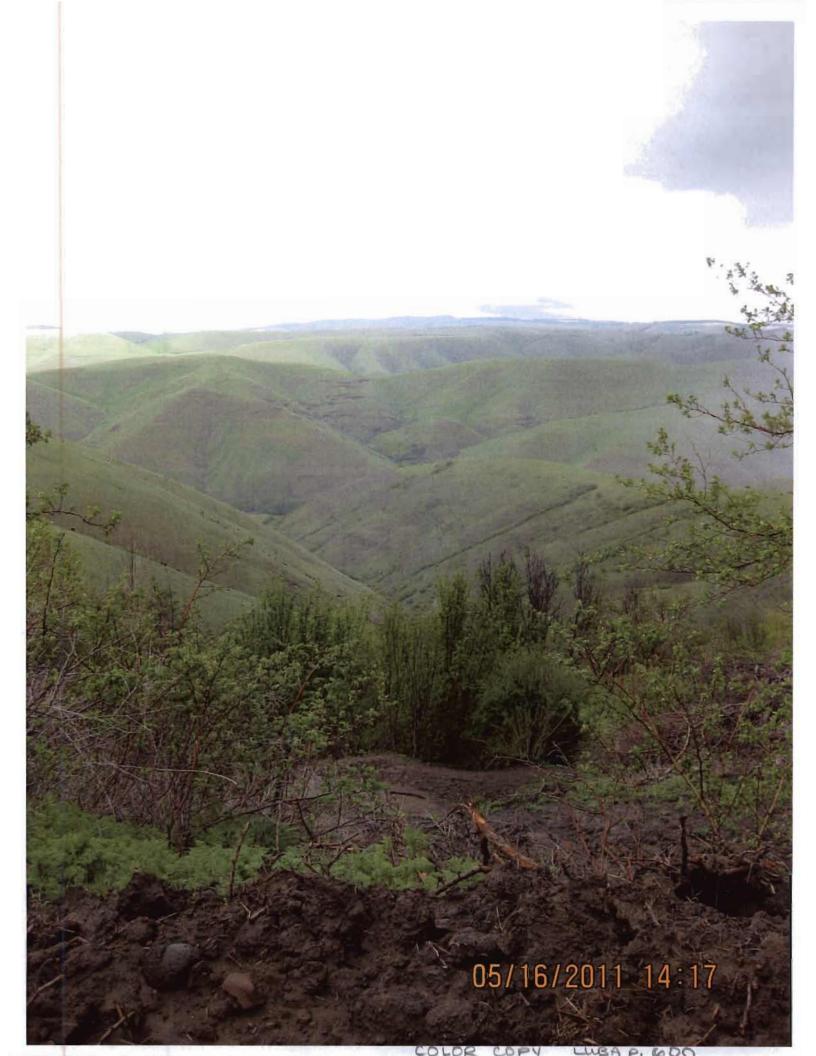
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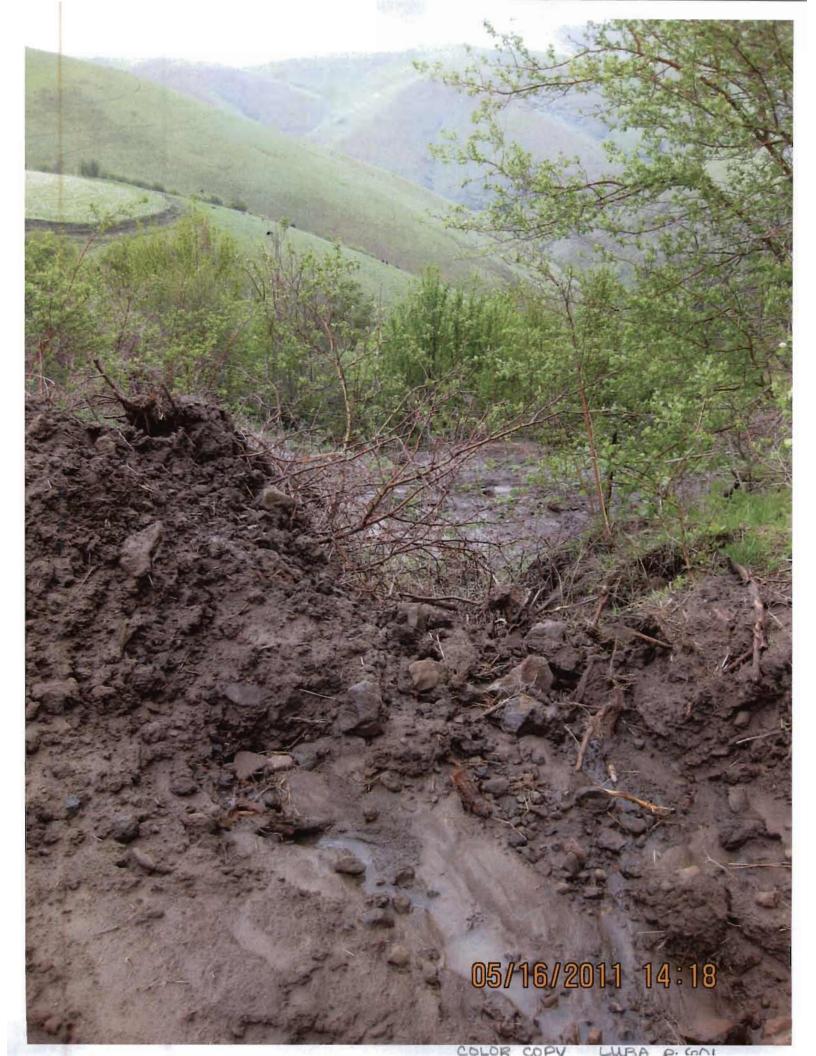




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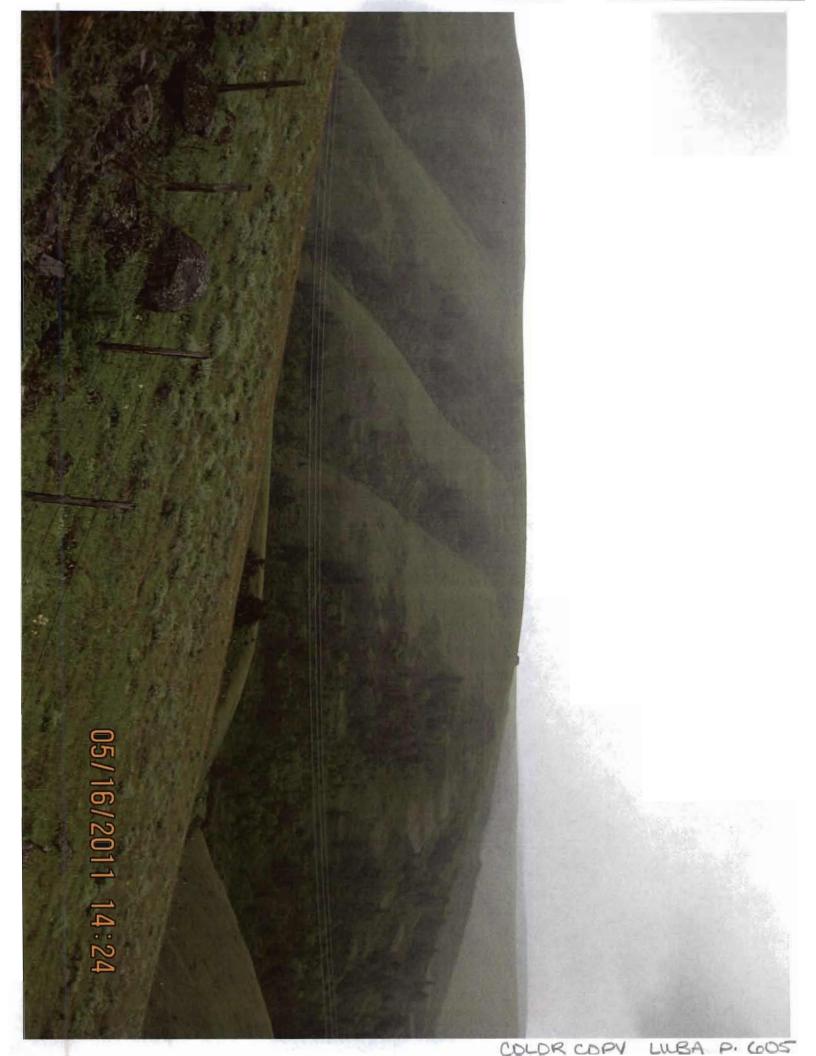




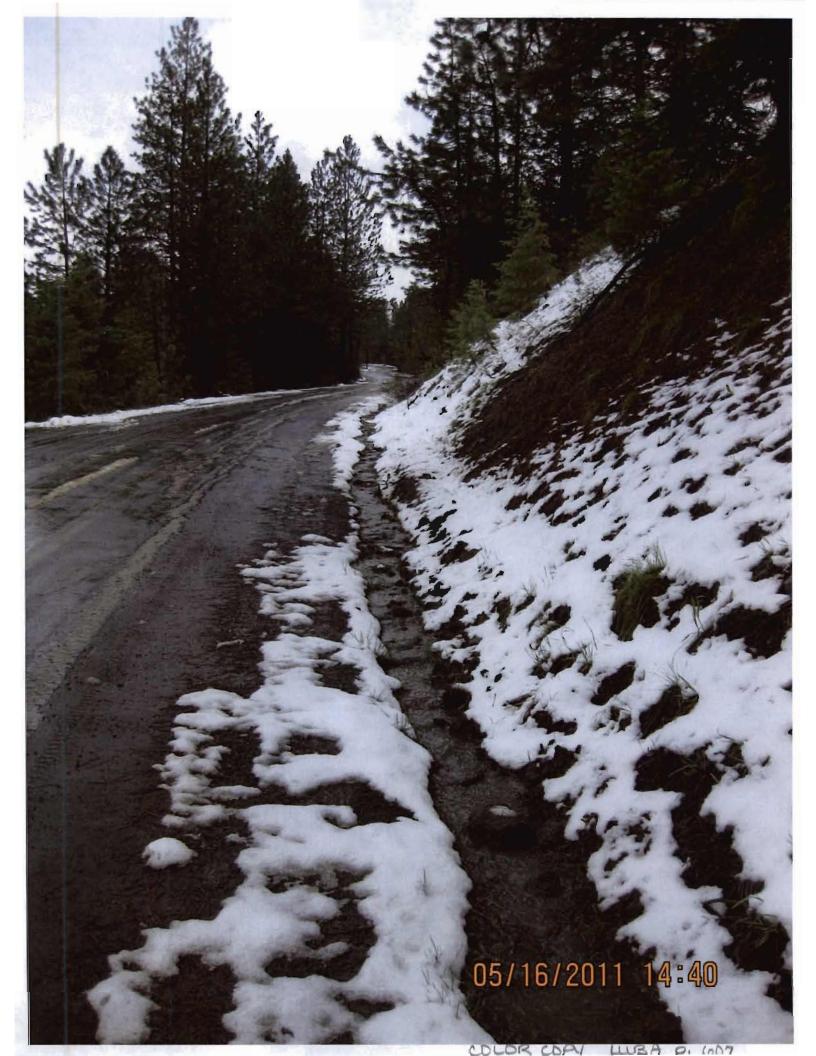
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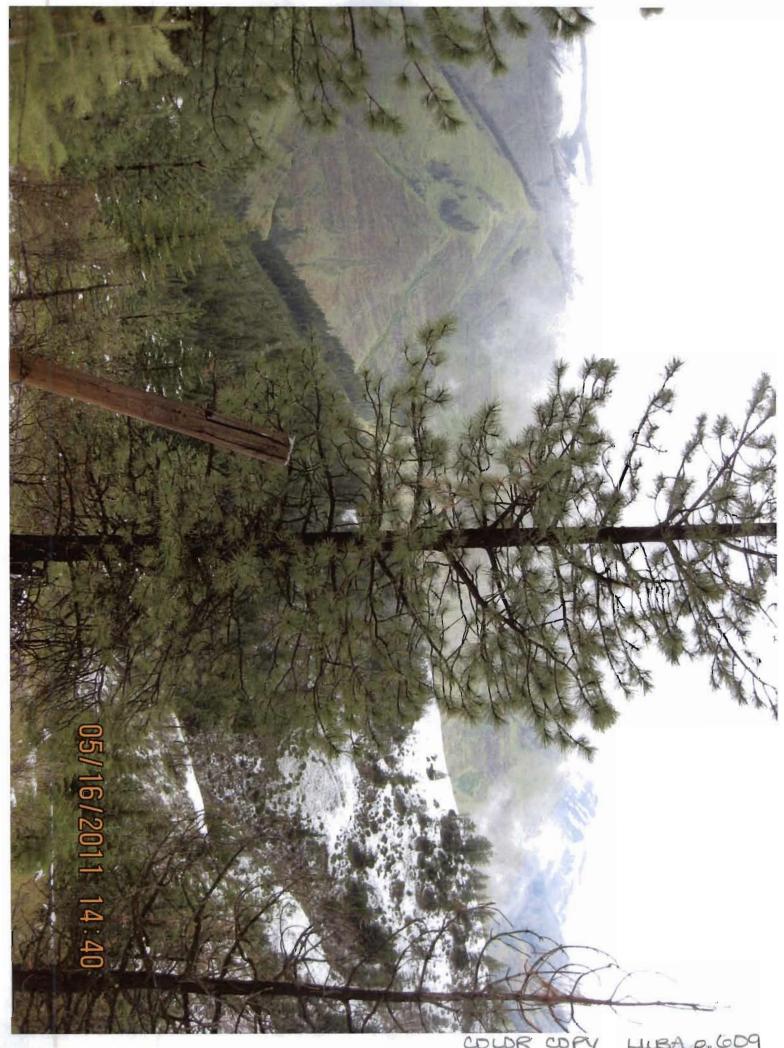




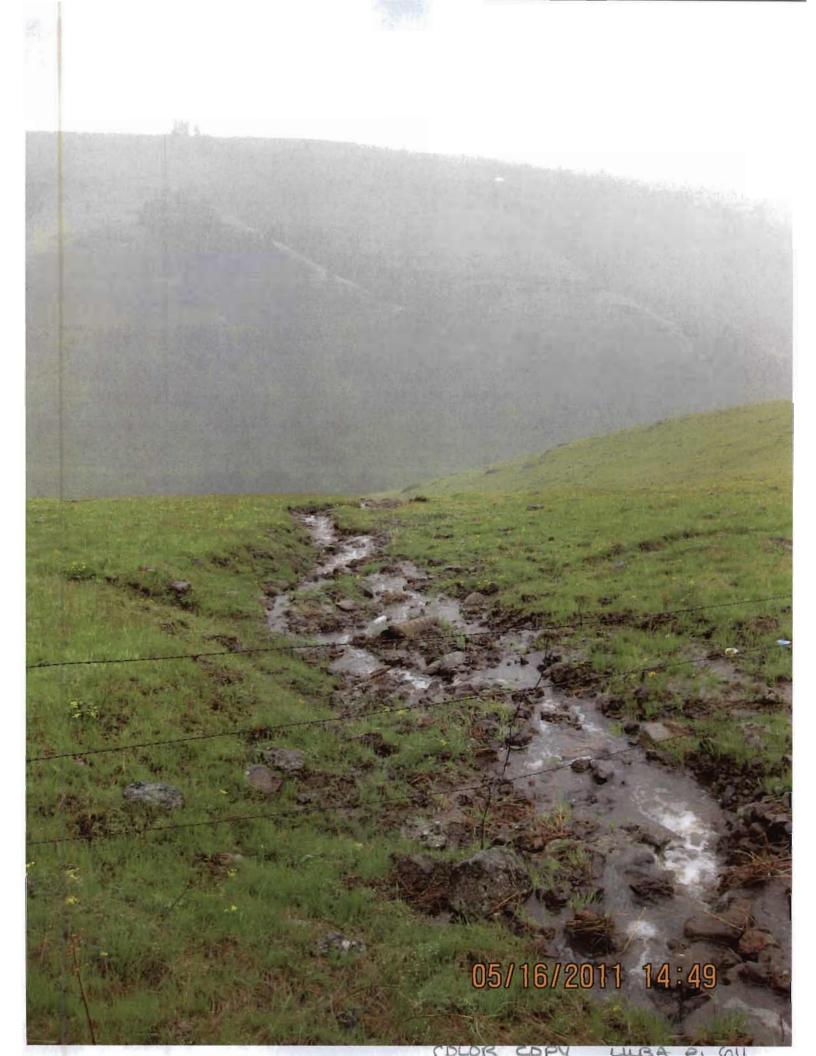






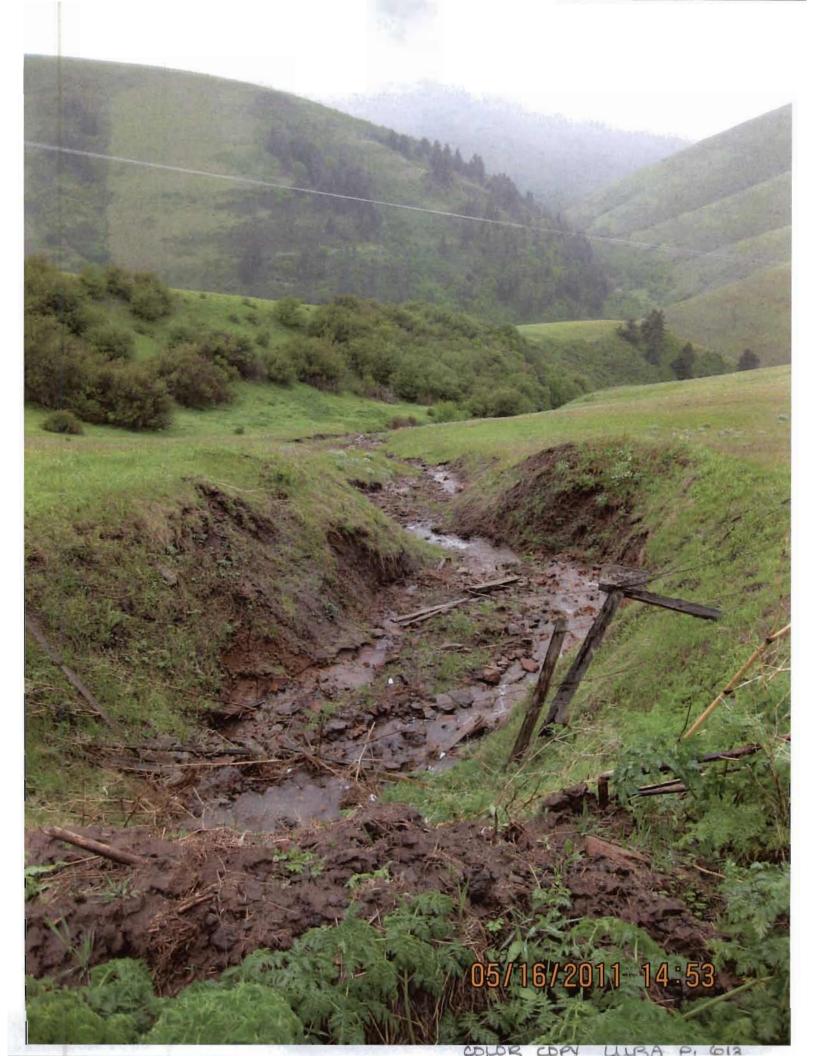


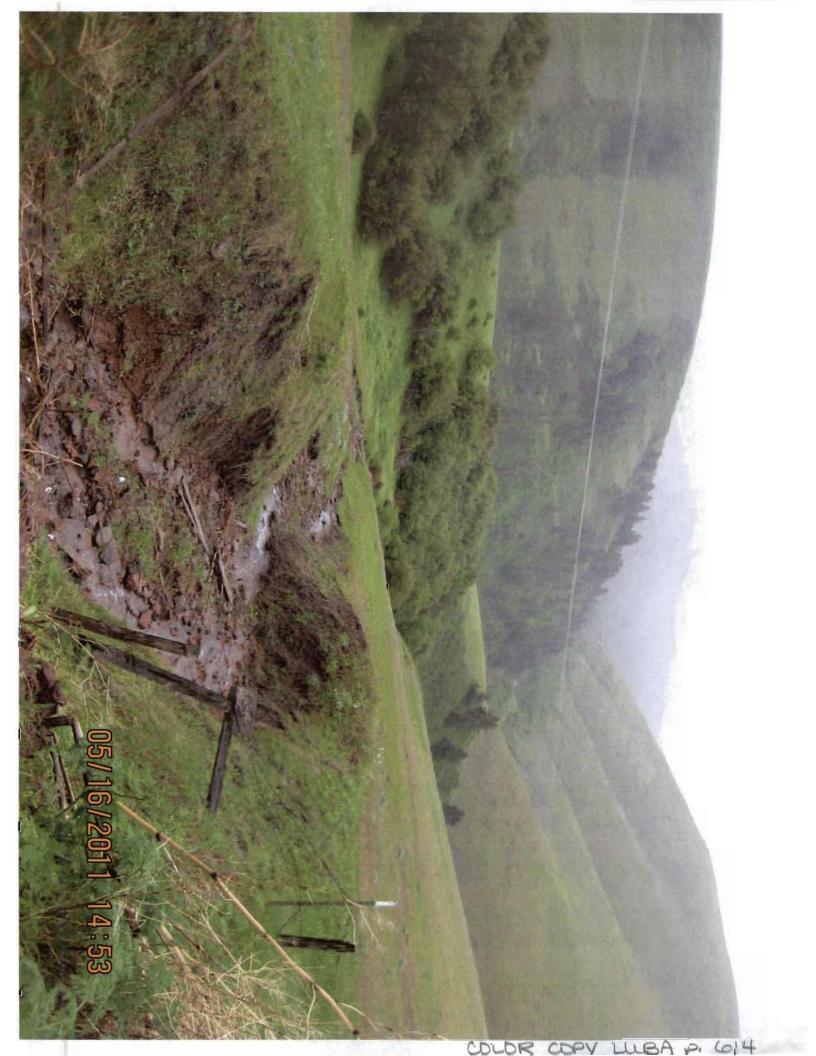


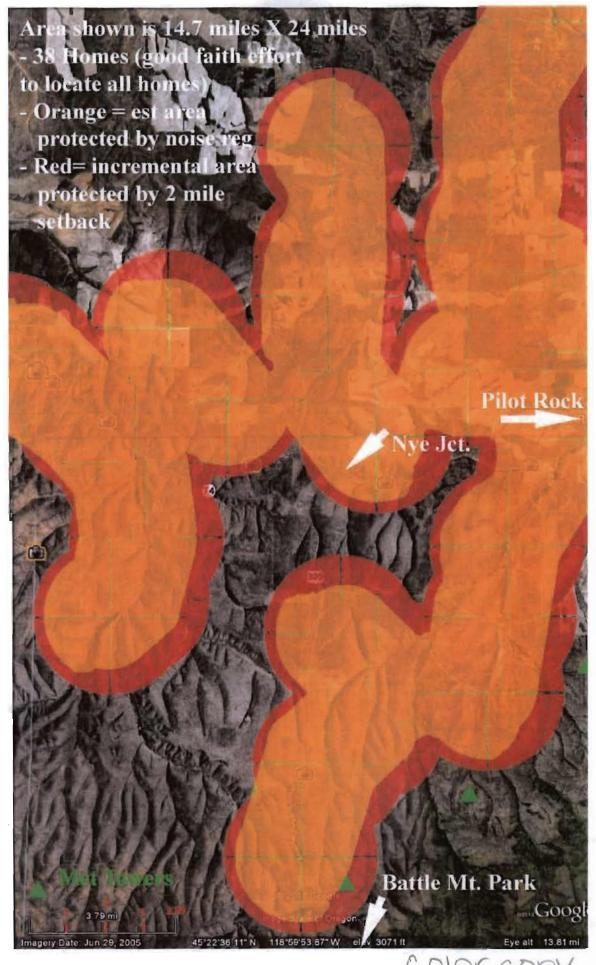




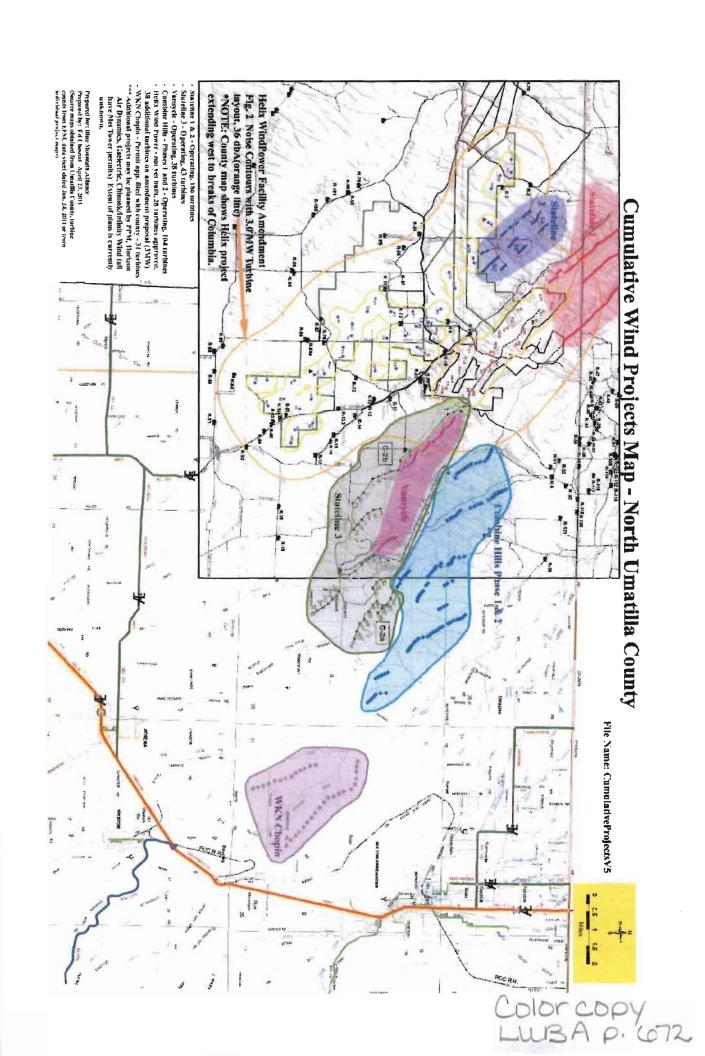
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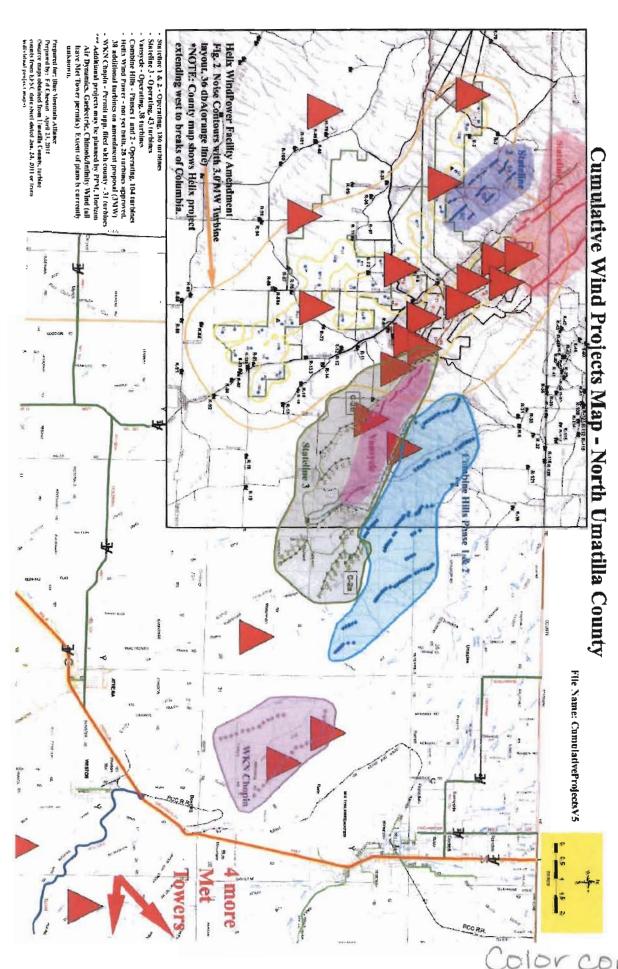






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- Wind 1 mph difference is make or break
- Land need willing landowners
- Permits wildlife and NIMBY issues
- Transmission (capacity and proximity)
- Buyer (Power Purchase Agreement)
- Financing need all 5 above to get it



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The 6 Key Elements of Wind Energy Development

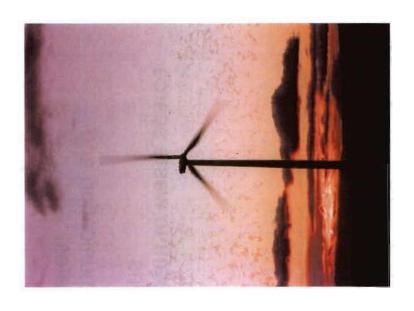


- Need <u>ALL</u> 6 elements to build a project
- The lack of any one kills a project
- we can not transport our "fuel" (wind) to a desirable location - we have to go to where the resource is Unlike natural gas, coal or nuclear power plants,
- question of "how much can we make?" but rather, Rate of return is set by capital markets- it is not a "can this project get built?"



Sequence of Development Process

- The sequence of evaluating each element varies by site, but often the order is:
- Wind evaluate the resource
- Land are landowners interested?
- Permits -initial review of permitting issues
- Transmission -capacity; cost
- Buyer general market; specific buyer(s)
- Financing- based on all of the above





Developer Sensitivity re. Confidentiality



- At early stages of a project, confidentiality is a very real business issue for us
- Agencies subject to FOIA/state sunshine laws
- Fierce competition for best sites and land
- Until you know you plan to develop a site, you don't want to waste scarce time and resources debating potential impact questions
- Confidentiality requirement causes great deal of miscommunication and mistrust between developers and wildlife agencies/advocates.
- Closer to actually applying for permits, developer should be willing to discuss

IBERDROLA RENEWABLES



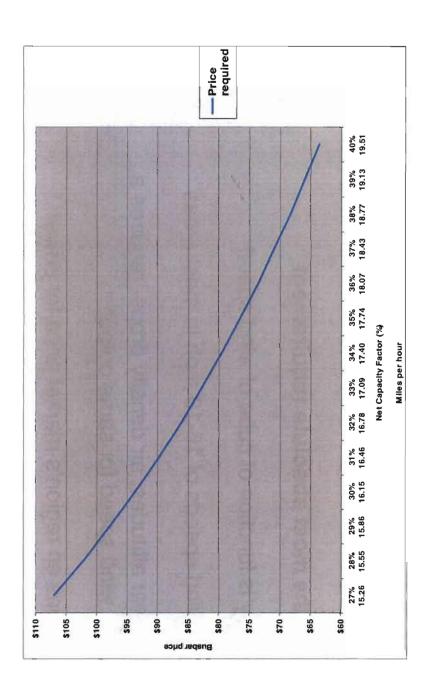
- Energy is function of cube of wind speed
- Avg. wind speeds of 16-19 mph in most areas
- At higher altitudes, air density drops- requires a higher wind speed for same output
- Depends on region's market price for power
- No mitigation for low wind speed!



Big Horn Wind Project Klickitat County, WA



Viability Very Sensitive to Wind Speed



Text Provided by Horizon Wind Energy

IBERDROLA RENEWABLES

Land - Owners must be willing

- Can't build without land.
- Need large, contiguous parcels.
- ranching, dry land (un-irrigated) Compatible land uses - e.g. agriculture, open space
- Developers do not have power of eminent domain.

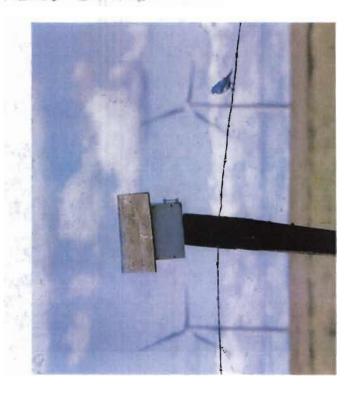


Participating landowners at Klondike II Project



Permits and Environmental

- Wildlife impacts are typically the top issue
- But many issues and stakeholders to address and potentially conflicting interests to reconcile (e.g. wildlife, NIMBY, archaeological)
- Different agencies and advocates have different agendas and concerns
- Developer has to strike a balance among all



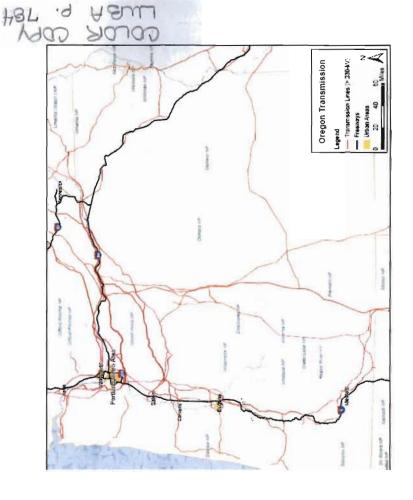
Big Horn Wind Project, Klickitat County, WA



IBERDROLA RENEWABLES

Transmission

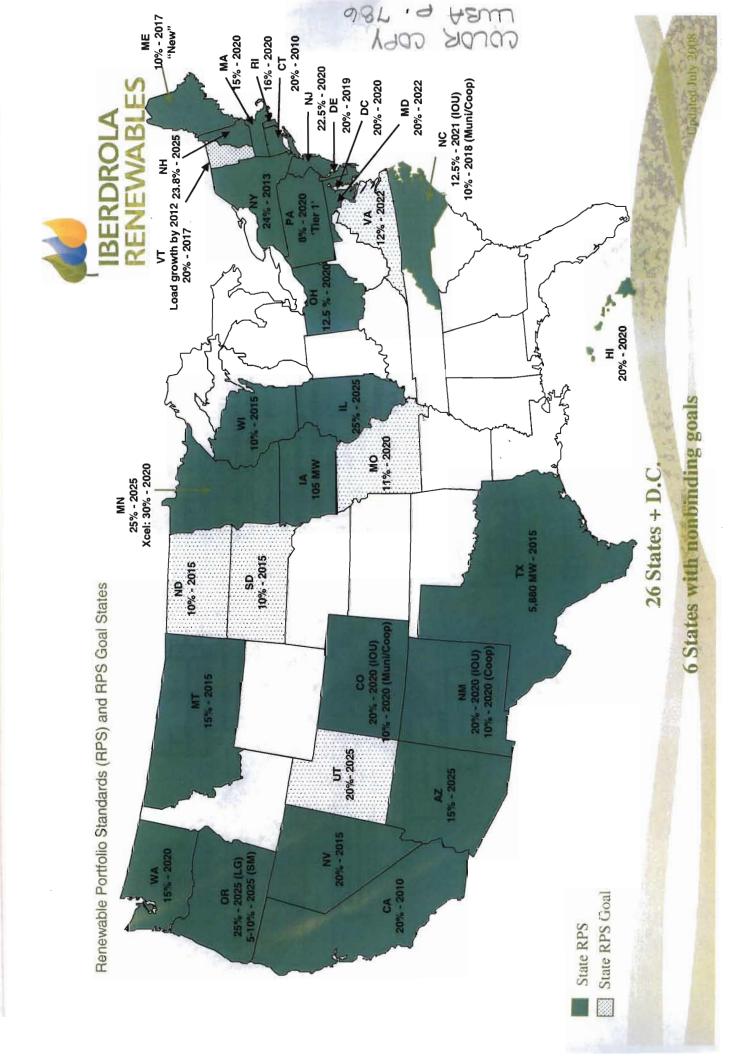
- Typically connect to 115/230/345-kV lines
- Transmission must have capacity available
- Feeder lines typically < 5 to 10 miles
- Ability to finance feeder lines and upgrades depends on project size and economics. Bigger projects with better winds can afford longer feeder lines and more upgrades
- Long feeder lines may be difficult and expensive to acquire and permit



Text Provided by Horizon Wind Energy

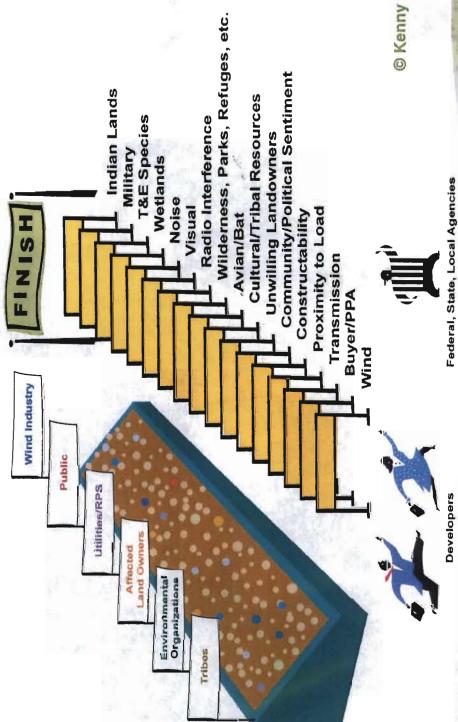


- Market Must have a buyer for power
- Most, but not all, areas of the country have growing need for power
- RPS and other policies drive demand
- This typically dictates the region more than the individual site (i.e. ND vs. NY)
- Closely related to transmission who owns the lines, where do they go, etc.





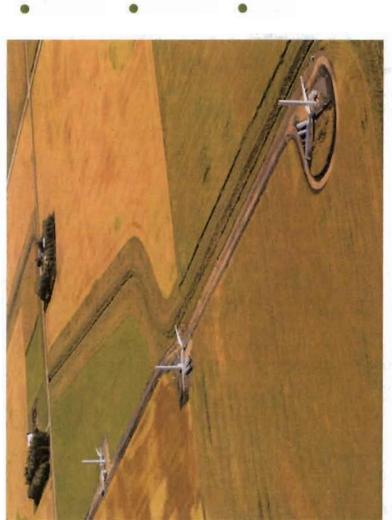
Wind Project Siting Hurdles



© Kenny Stein, FPL

What Else is Required?

IBERDROLA RENEWABLES



- Site must be accessible must be able to deliver and erect turbines over 400' tall
- Need adequate level ground around each turbine site crane pads, laydown areas
- Need adequate spacing between rows of turbines 1/3 to 1 mile

Wind Energy Facilities and Construction Sequence



Project Facilities

- Access Roads Gravel roads linking wind turbine strings to existing roads.
- Electrical Collection System Cables that electrically connect wind turbines to the project collection substation.
- Project Collection Substation –Steps up voltage to interconnection level.
- Operations & Maintenance Building Houses central office, computer systems for facility operations, equipment storage and maintenance areas.



Construction Sequence

- Construct Roads & Work Areas
- Excavate & Pour Foundations
- Install Wind Turbines
- Erect Tower Sections
- Set Nacelle
- Assemble and Set Rotor
- Connect Electrical Systems
- Install Electrical Collector System



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Roads: Grading and Drainage

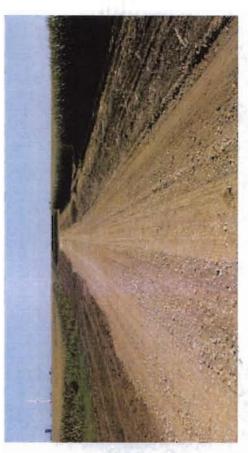


- Prepare road for construction
- Install culverts, fords at drainage areas



Roads: Install Base Material







Place 6 to 8 inches of gravel over road surface.

Finish road profile slightly above natural grade with a 2% crown in the center to promote drainage.

Construct shoulders with a maximum of 2% side slope for crane travel (reclaimed after construction)

Foundation: Tower Pier with Spreadfooter

IBERDROLA RENEWABLES







Pier: 16-20 ft diameter, 3ft height.

Apron: Compacted area over footing diameter with 4-6 in. rock surface.

Construction:

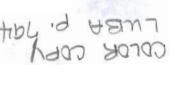
Excavation depth to ~8ft and +50ft base elevation.

Mud Mat - 2 to 4 inches lean concrete.

Rebar cage and anchor bolts cage.

Concrete (5000 psi) formed and poured in two lifts.

Backfilled with native soil



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Tower Erection

- The 80-meter turbine tower is composed of three to four cylindrical steel sections.
- The tower sections are typically unloaded adjacent to each wind turbine foundation to minimize handling of these heavy steel components.
- Each tower section typically weighs between 35 and 70 tons.





Tower Erection

- section allows it to be bolted to the top of the A flange on the bottom of this 15' diameter The lower tower section is set first. foundation pedestal.
- After the tower sections are set, the nacelle is raised and bolted to the top of the tower.
- A 2 megawatt class turbine nacelle weighs over 90 tons.



Wind Energy Development and Wildlife: Industry Challenges and Perspectives

Wind Energy and Wildlife Workshop

November 5, 2008 Sara McMahon Parsons, IBERDROLA RENEWABLES

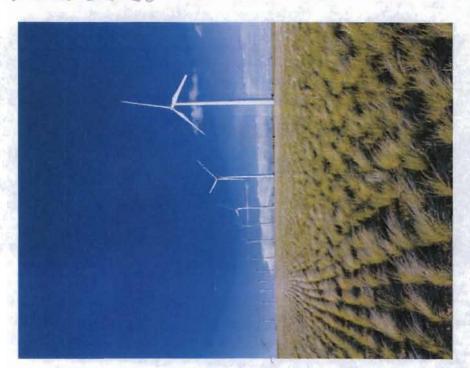
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Agenda

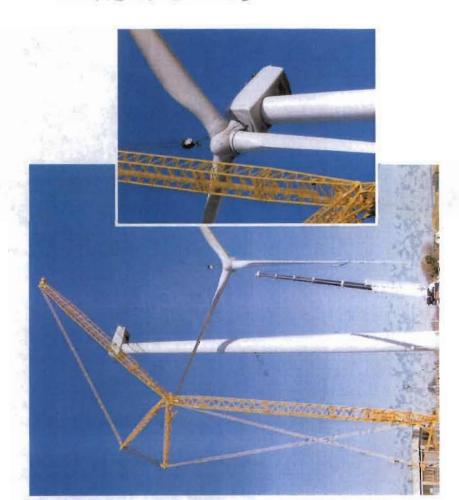
- Elements of Wind Energy
 Development
- Critical Issues to Wind Industry
- Key to Project Success with Environmental Stakeholders



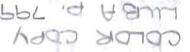
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Tower Erection

- The rotor assembly is erected last.
- The rotor consists of three blades and a hub that mount on the front of the nacelle.
- Typically, the blades and hub are assembled on the ground and then raised as a single unit, called the rotor, and attached to the nacelle.









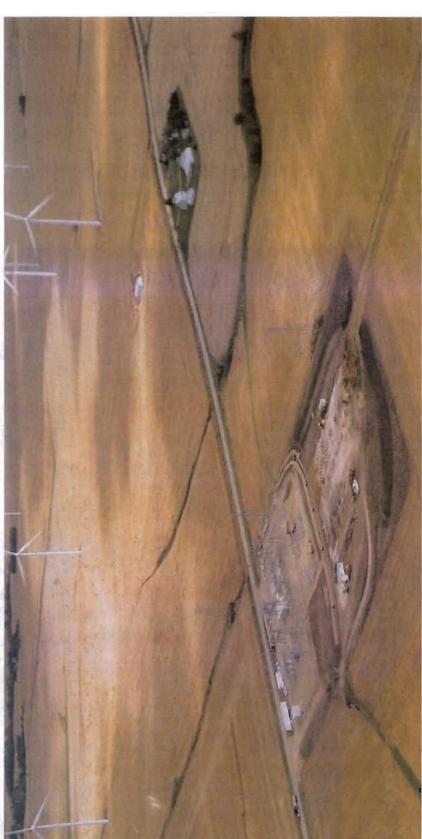
Collector Cable Construction







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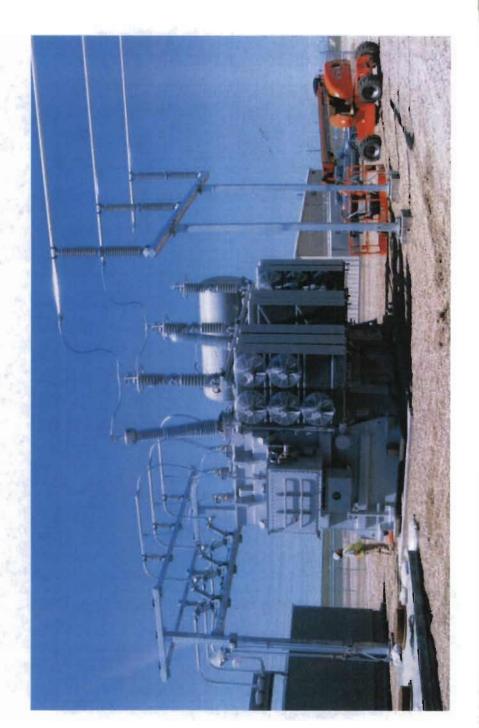


Collector Substation





Collector Substation Transformer





O&M Building

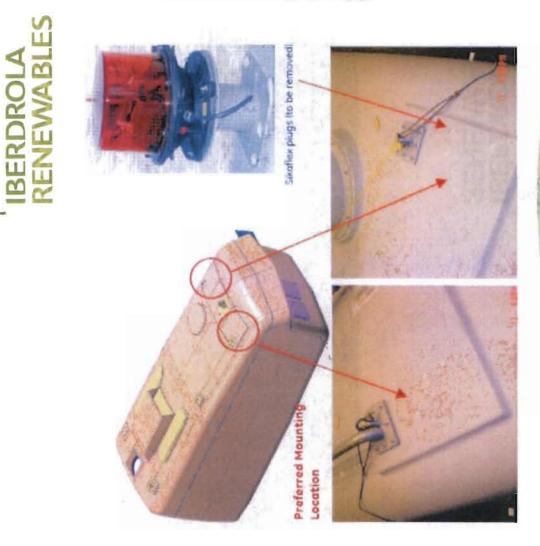


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FAA Lights

Red, synchronized flashing lights on ends of turbine strings and approximately every 1/2 mile

Standard turbine finish serves as daylight marking—no day-time lighting needed



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Critical Issues to Wind Industry

Flexibility in Final Project Design

Micrositing Corridors

- Allows developer flexibility to continually fine tune the layout based on turbine type, up to date meteorological data, and sensitive areas
- Defines the range of possible wind facility impacts and demonstrates that in all potential configurations, the facility will meet applicable regulatory standards
- Allows agencies to evaluate "worst-case" project impacts





Critical Issues to Wind Industry

Flexibility in Final Project Design

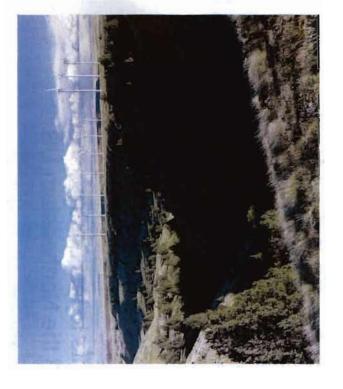
- Overhead (OH) vs. underground (UG) collector lines
- Majority will be UG, but developer needs flexibility to place OH for following
- -Steep terrain where the use of backhoes and trenching machines infeasible or unsafe
- -Stream and wetland crossings where an aboveground line avoids or minimizes environmental impacts
- -Soil with low thermal conductivity preventing adequate heat dissipation from the conductor, and rocky conditions that significantly increase trenching costs
- Agencies review max # miles of UG and OH



Critical Issues to Wind Industry

Certainty in Operational Costs

- Mitigation for Temporary and Permanent Impacts to Habitat
- Agencies concerned with viability of restoration of desert environments. Developers need certainty in terms of mitigation requirements and costs.
- ODFW habitat mitigation policy requires no net loss of valuable native habitat.
- Oregon Guidelines encourage development on land already used for cropland and recommend avoiding Category 1 and 2 habitats, and minimizing and mitigating for impacts to Category 3, 4 and 5 native habitat.



Applicability to OR/WA Wind Energy Task Force and Siting Guidelines

Certainty in Operational Costs, con't.

Mitigation for Avian/Bat Impacts

- Moving, altering or curtailing turbines post-construction adds uncertainty and risk to project. Tax equity investors are wary of these uncertainties.
- IBR and others are currently conducting experiments to test effectiveness of curtailment for reducing bat mortality in locations in the Northeastern US where bat mortality has raised concerns.
- Anticipated costs for habitat and wildlife mitigation are included in project capital and operational expenditure budgets prior to construction and disclosed to financial partners.
- Un-anticipated costs during operation are in excess of allocated budgets and affect financial partners.



Key to Project Success with Environmental Stakeholders

Follow OR Wind Siting Guidelines

- Conduct a fatal flaw or critical issues analysis and site projects in areas with fewer sensitive wildlife habitats
- Map and rate habitat, survey avian use, identify raptor nests, and conduct T/E other wildlife surveys
- Consult with agencies, environmental stakeholders and public
- Microsite layout to minimize habitat and wildlife impacts
- Educate and train construction and operational about sensitive wildlife and other environmental concerns
- Restore areas temporarily disturbed during construction with native vegetation
- Set up a conservation easement in native habitat to offset impacts to wildlife habitat
- Conduct fatality monitoring and work with Technical Advisory Committee
- Train operations staff to monitor site for avian and bat fatalities and respond to injured birds and bats

Steps to Follow OR Guidelines

Task Early evaluation of potential wind project site Timing 1 - Macrositing Phase

plants, and cumulative impacts; review of Information/desktop review of habitat, wildlife, scoping of potential issues with resource regulatory requirements; preliminary agencies and permitting authorities

mapping; early coordination with resource presentation of habitat mitigation proposa and initial calculation of habitat mitigation Identification of micrositing corridors, habitat surveys; assessment of project impacts; surveys; T/E species and other wildlife agencies regarding survey protocols; undertake raptor surveys; avian use acreages to resource agencies. During preparation of permit

application

Assessment

2- Pre-Project

Submit Permit Application for Agency and Public Review

Permit application review

Review of application by resource agencies and engage stakeholders with wildlife expertise. Scoping/public comment period. Wind project developers are encouraged to permitting authority for completeness.



Steps to Follow OR Guidelines (cont.)

Phase	Timing	Task
	Permit Issu	pen
3 - Micrositing	Can occur prior to or after permit issuance, and continues through	Initial micrositing to minimize habitat ar wildlife impacts. Continuation of discussions with resource agencie



4- Construction	After permit is issued, prior to and during construction.	Identification of key complication of key complication of consisting to avoid se implementation of consisting to avoid consistent and consistent of consistent and consistent of consist
5- Operation	After construction, during operations.	Implementation of habitat rewind project operation revegetation; operation

ensitive resources; g; flagging and nstruction best iance staff; s (BMPs).

potential additional mitigation with resource mitigation prior to engagement with the TAC; determine n start date; site onal monitoring; agencies and permitting authority as necessary.





Thank You!

Sara McMahon Parsons,
IBERDROLA RENEWABLES
1125 NW Couch St., Suite 700
Portland, Oregon, 97209
Telephone (503) 796-7732
Cellular (503) 709-3541
Sara Parsons @ Iberdrolause or

Arlo Corwin Horizon Wind Energy Director of Project Development 503-535-1517 Arlo.Corwin@Horizonwind.com



Table D-XVII (cont'd)

DESCRIPTION OF OUTSTANDING SITES AND VIEWS (Revised)

1		QUALITY OF INTEREST			HOW ENJOYED			D	EVALUATION					
SITES OUALITIES OR POTENTIALS	GOAL 5 ANALYSIS	Mater	60%	(0) /e0e;	"Cation"	Human	70/	10 (hou	10 / 12 / 10 / 10 / 10 / 10 / 10 / 10 /	To Be	Secretary Bess	Potential Conf. 1. ct.	Aggiting Majues	Notes
Minnehaha	1A			х						Х	NO		Residences, Hobby Farms	Attractive Suburban Vistas
Cooney Lane	1A			х						х	NO		Residences, Hobby Farms	Attractive Suburban Vistas
Westland School	1A					х	Х			х	NO	Industrial Area, Billboards	Possible Museum Historic	
McKay Reservoir	3C	х		х			х		x	х	NO	Summer draw-down	Recreation, Wildlife Refug	
Oregon Trail	1A					х	х	х		x	Par	Residential or Agriculture Development	Recreational	Public/ Private
Langdon Lake	3С	х		Х	-		Х			Х	NO		Recreation Recreational Homesites	Private Forest Service Campground on Wes En
Umatilla Forks Forest Campgrounds	1A	х		х					х	Х		Logging Operations	Camping Fishing Hiking	U.S.F.S. Managed
Cabbage Hill Vista	1A		x	х			_	х			X		Picknicking	On Indian Reservation
Squaw Creek Vista	1A		x	х				х			X		Picknicking	On Indian Reservation
Table Rock Lookout Tower	1A		х	X				Х		-		,	U.S.F.S. Fire Lookout Tower	In National Forest
High Ridge Lookout	1A		х	х				х			The Late of the La		U.S.F.S. Fire Lookout Tower	In National Forest
Goodman Ridge Lookout	1A		х	х				x			C. The second of the		U.S.F.S Fire Lookout Tower	In National Forest
Earnest S. Haney Vista	3C		Х	Х				x			X	Logging Activities	Picknicking	
								The state of the s		Table 1974 - 1-15 - 1-15 - 1-15 - 1-15 - 1-15 - 1-15 - 1-15 - 15 -	CO			
State Highway 204	3C			Х				х	Х	X	and the second s	Recreational Homesites	Important Transportation Route	Scenic Highway
Elephant Rock	3C		х				х				NO		Historic	

	·	

be resolved between NMFS and ODFW.

- (c) In addition to recent modifications to hatchery practices and programs, a new vision is needed for how Oregon will utilize hatcheries in the best and most effective manner. Therefore, the ODFW and the OFWC shall engage in a process to create a strategic plan for fish hatcheries in Oregon over the next decade (including state and federally-funded hatcheries, private hatcheries, and the STEP program). The essential elements of this process are as follows: (i) Impartial analysis -- conduct an impartial analysis of the scientific bases, and the social and economic effects of Oregon hatchery programs utilizing existing analyses and review where feasible, but conducting new analyses if necessary; (ii) Review the Wild Fish Management Policy (WFMP) -- because the future plan for hatcheries in Oregon is dependent on implementation of the WFMP, ODFW shall conduct a science and stakeholder review to determine if this significant policy should be revised and shall make any revision by July 2000; (iii) Frame alternative strategies -- convene a group of stockholders to frame alternative strategies, including outcomes and descriptions, of how hatcheries will be used in Oregon over the next decade (these strategies will address the use of hatcheries for wild fish population recovery including supplementation, research and monitoring, public education, and sport and commercial fishing apportunities); (iv) Public review and selection of a strategy -- the OFWC shall, after public review and comment, adopt a strategic plan to quide development of future hatchery programs, incorporating the strategy developed and adopted in accordance with subpart (iii) of this paragraph.
- (d) Criteria and guidelines directing the design of projects that may affect fish passage have been established in a Memorandum of Understanding (MOU) between the Oregon Department of Transportation (ODOT), ODFW, the Oregon Department of Forestry (ODF), the Oregon Department of Agriculture (ODA), the Division of State Lands (105) and the Foliational Highway. Administration of Enderthing Foliational Highway and Construction and consultations of projects affecting fish passage. Under the MOU, projects requiring regulatory approvals that follow these criteria and guidelines are expedited. Oregon agencies will continue to provide technical assistance to ensure that the criteria projects that may affect fish passage through road crossings and similar structures. ODFW will work with state agencies, local governments, and watershed councils to ensure that Oregon's standards for fish passage set forth in Exhibit A to the MOU are understood and are implemented.
- (e) Fish presence, stream habitat, road and culvert surveys have been conducted for roads within ODOT jurisdiction and county roads in coastal basins, the Lower Columbia basin, the Willamette basin, and the Grande Ronde/Imnaha basins. Among the results of

LUBA

Umatilla County

Department of Land Use Planning



Director Tamra Mabbott

April 20, 2011

Land Use Planning Division: 541-278-6252

ENFORCEMENT

541-278-6300

MEMO

TO: FROM: Board of Commissioners Milling

Tamra Mabbott

RE:

Code Update, Section 152.616 (HHH)

Maps to show effect of one mile and two mile wind turbine setback

Emergency Management Division:

EMERGENCY MANAGEMENT 541-966-3700

CHEMICAL STOCKPILE **EMERGENCY** PREPAREDNESS PROGRAM (CSEPP) 541-966-3700 1-877-367-2737

As a follow up to your March 17, 2011 hearing, Planning Staff developed maps to illustrate a one mile and a two-mile buffer area. There was quite a bit of discussion and speculation about what impact the different setbacks would have.

The three maps are based on locations of actual (permitted) existing meteorological towers, likely locations for future commercial wind energy development applications.

Our cartographer, Julie Alford, developed the maps. Each set of maps show a one-mile radius and a two-mile radius around existing dwellings within a township and range.

The three areas correspond to the base map entitled "Buffer Area Reference Map."

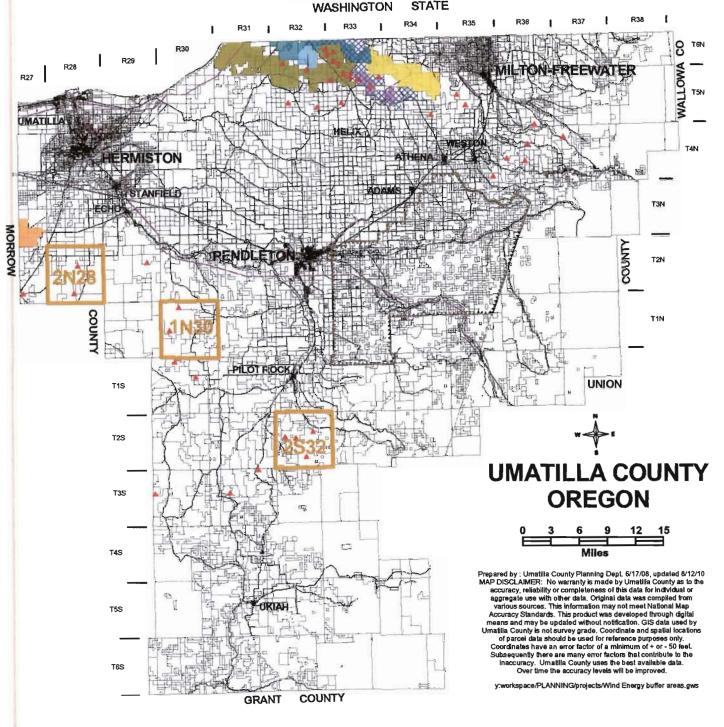
The three areas include:

Township 2 North Range 28 EWM

Township 1 North Range 30 EWM

Township 2 South Range 32 EWM

216 S.E. 4th Street Fax: 541-278-5480 Pendleton, OR 97801 Ph: 541-278-6252



Buffer Area Reference Map





2009 AERIAL PHOTO, T2N R28E, UMATILLA COUNTY 1 MILE BUFFER AREA FROM HOME SITE

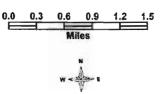
Legend

Home_site

1 mi Buffer around Home_site

Met_towers

Parcel_Boundary



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2009 AERIAL PHOTO, T2N R28E, UMATILLA COUNTY 2 MILE BUFFER AREA FROM HOME SITE

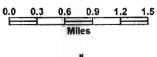
Legend

Home_site

2 mi Buffer around Home_site

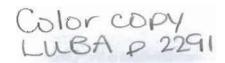
Met_towers

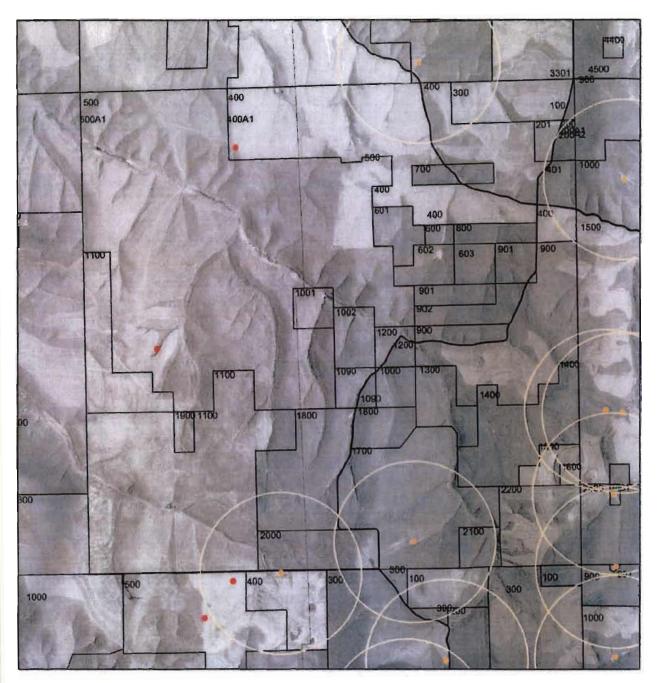
Parcel_Boundary



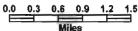


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2009 AERIAL PHOTO, T1N R30E, UMATILLA COUNTY 1 MILE BUFFER AREA FROM HOME SITES



Legend

Home_site

1 mi Buffer around Home_site

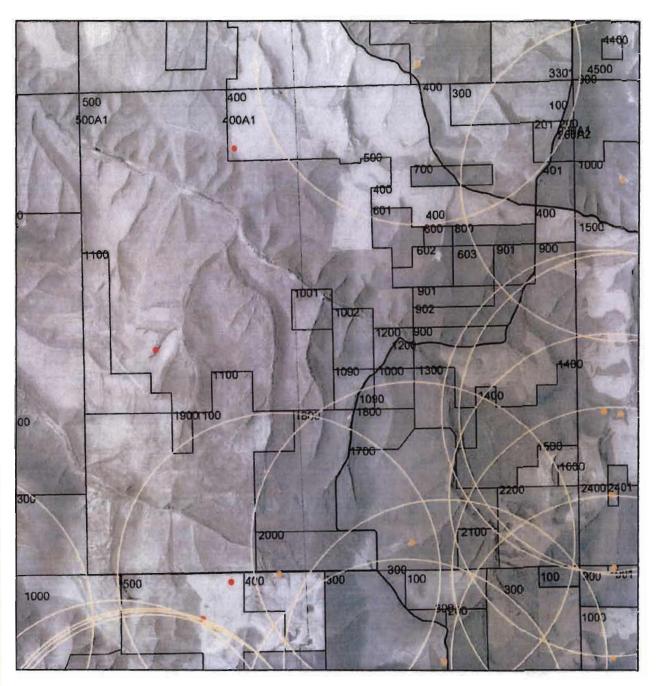
Met_towers

Parcel_Boundary



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2009 AERIAL PHOTO, T1N R30E, UMATILLA COUNTY 2 MILE BUFFER AREA FROM HOME SITES

2 mi Buffer around Home_site

Legend

Home_site

Met_towers

Parcel_Boundary



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2009 AERIAL PHOTO, T2S R31E, UMATILLA COUNTY 1 MILE BUFFER AREA FROM HOME SITE

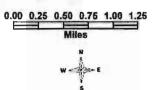
Legend

Home_site

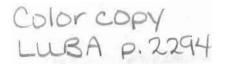
1 mi Buffer around Home_site

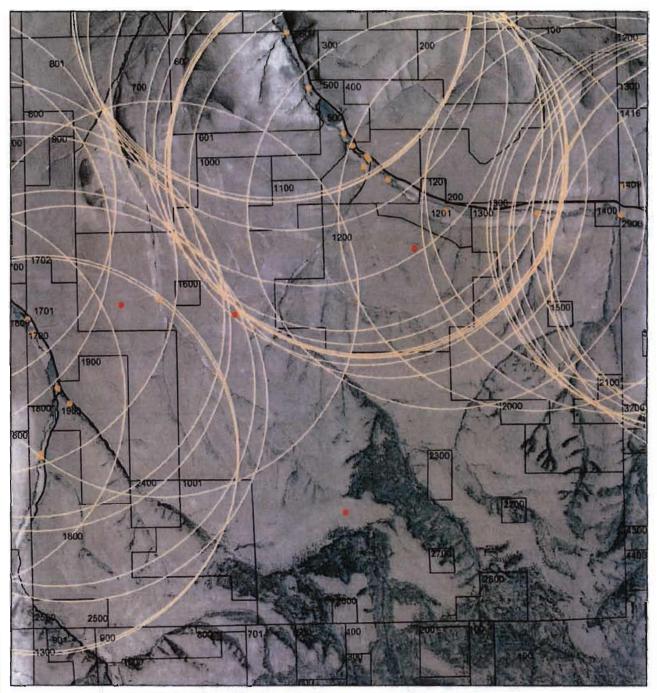
Met_towers

Parcel_Boundary



MAP DISCLAIMER. No warranty is made by Umatilia County as to the accuracy, reliability or completeness of this data. Parcel data should be used for reference purposes only Not for teger use Created by J Afford, Umatifa County Planning Department. 4/4/2011





2009 AERIAL PHOTO, T2S R31E, UMATILLA COUNTY 2 MILE BUFFER AREA FROM HOME SITE

Legend
Home_site
2 mi Buffer around Home_site
Met_towers

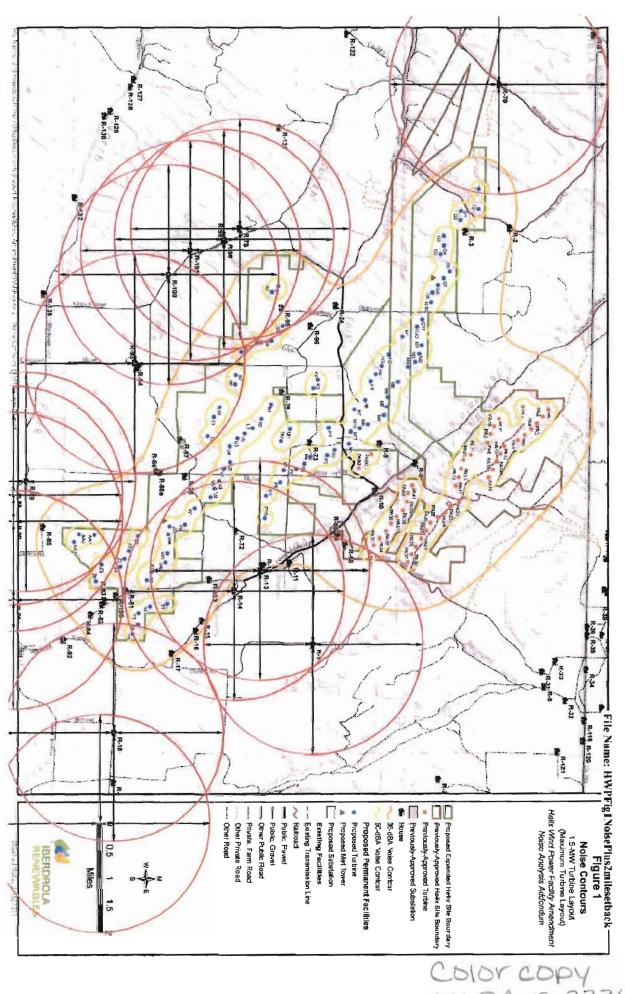
Parcel_Boundary

0.00 0.25 0.50 0.75 1.00 1.25 Miles

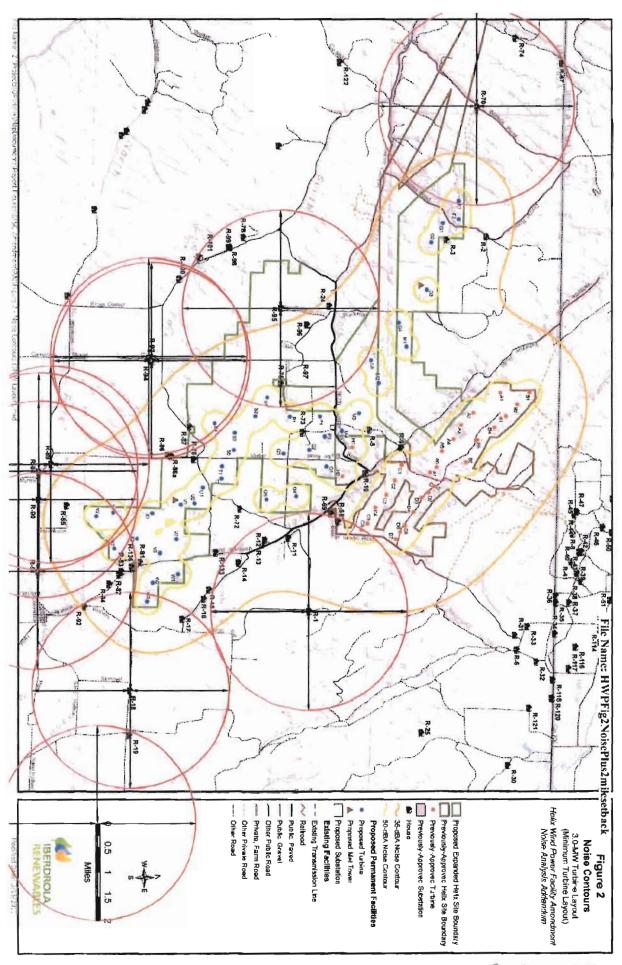


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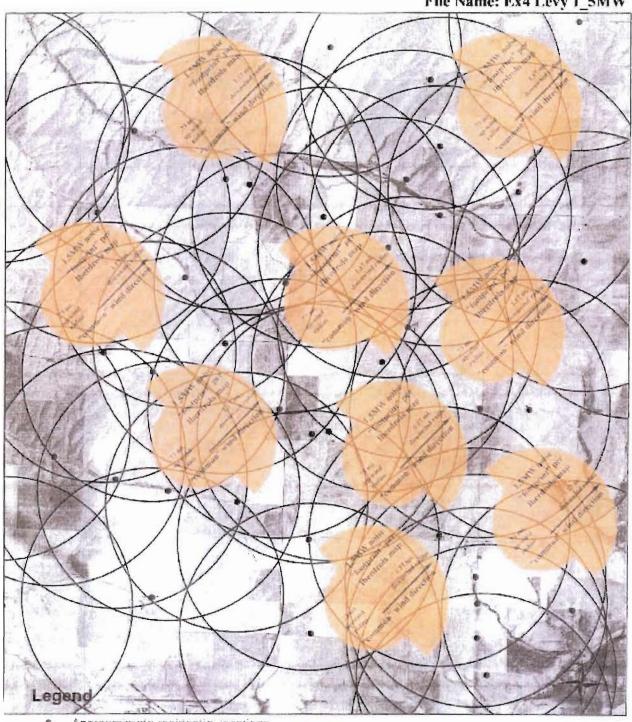


LUBA p. 3334



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File Name: Ex4 Levy 1_5MW



Approxmimate residentia locations

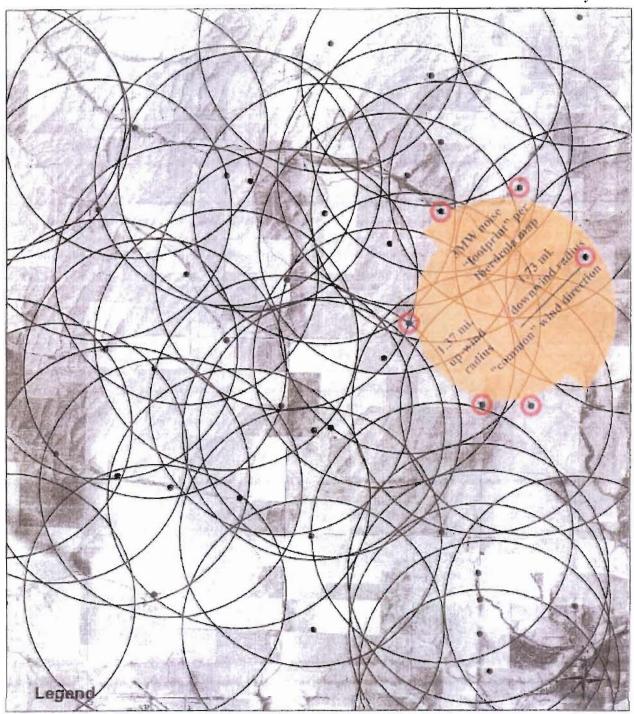
Radius O Miles and 2 mile radius 1.57ML

NOTES:

- FAA regulations prevent siting of tall structures near airports.
 Setback requirement of 10,000 feet from runway centerline applies to Pendleton Airport. (perhaps up to 20,000 feet from runway)
- Good faith layman estimate of 36+db noise footprint of 1.5 MW turbine derived from Iberdrola noise map.
- 3. Homes are "at risk" if noise predictions are not correct.
- 4. Standard "turbine string" layout would require noise waivers from most of the above home-owners.
- 5. This is not a good site for commercial wind energy generation with or without 2 mile setback.

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File Name: Ex4 Levy3MW



Approximate residentia locations

Radius

O Miles and 2 mile radius

0 0.5 1.0 1.5 2.0

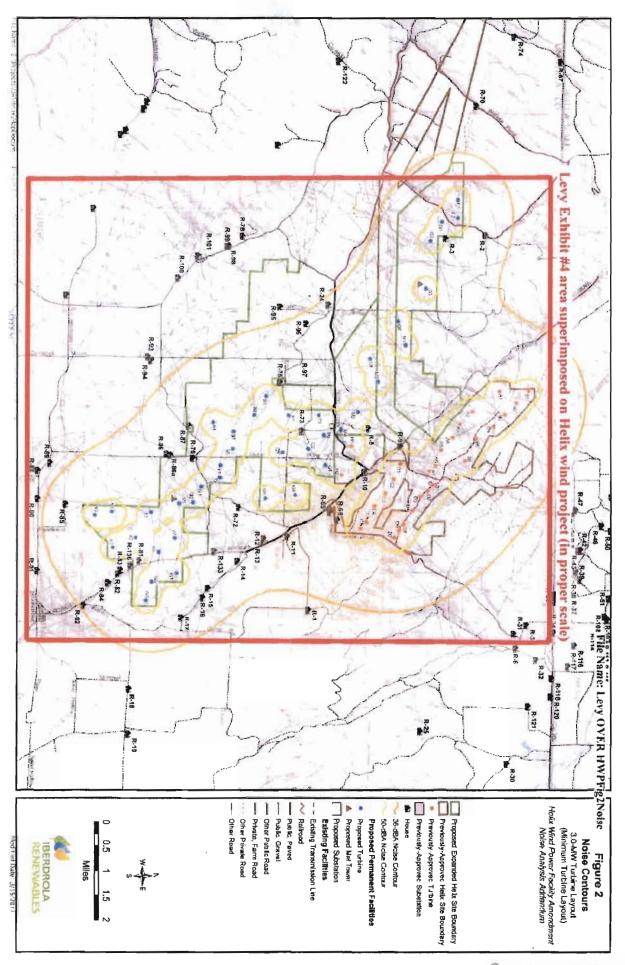
NOTES:

- FAA regulations prevent siting of tall structures near airports. Setback requirement of 10,000 feet from runway centerline applies to Pendleton Airport. (perhaps up to 20,000 feet from runway)
- Good faith layman estimate of 36+db noise footprint of 3 MW turbine derived from Iberdrola noise map.
- 3. It is not possible to place a 3 MW turbine on this map without signed noise waivers.

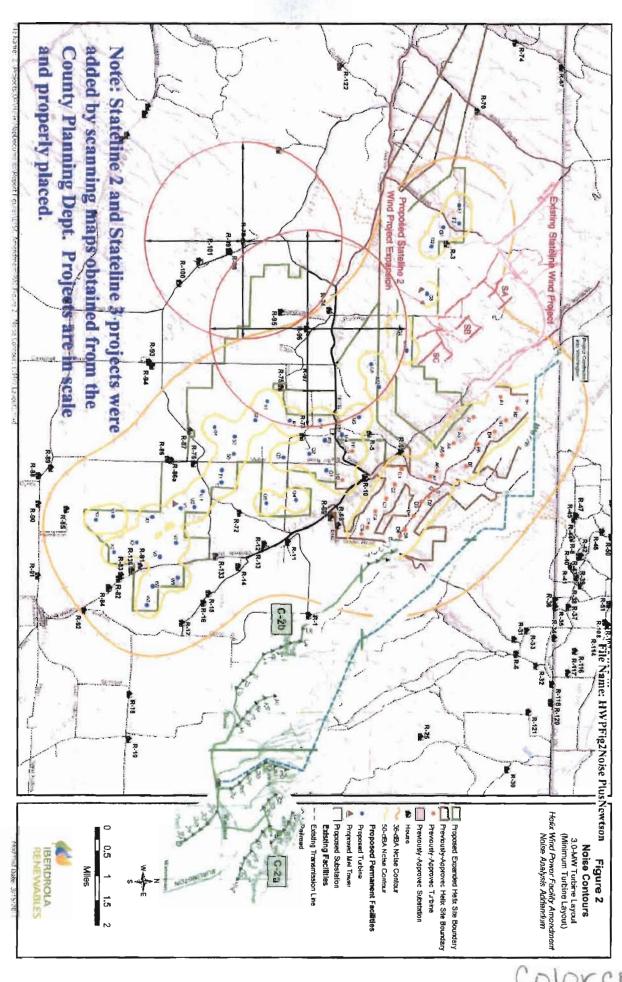
 Example above "covers" I home and puts an additional 5 homes at risk.
- This is not a good site for commercial wind energy generation - with or without 2 mile setback.

Exhibitte

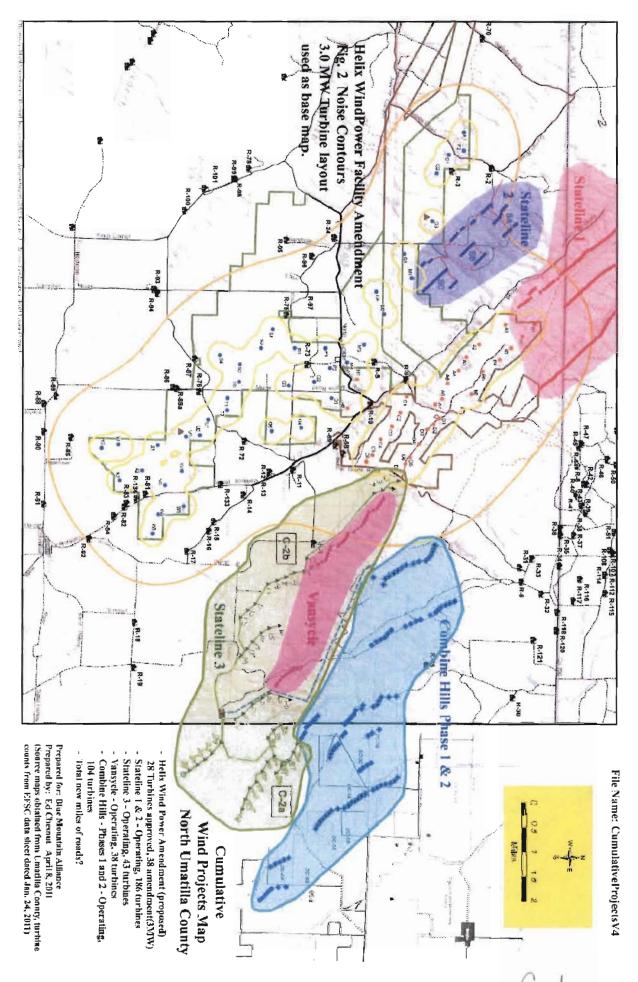
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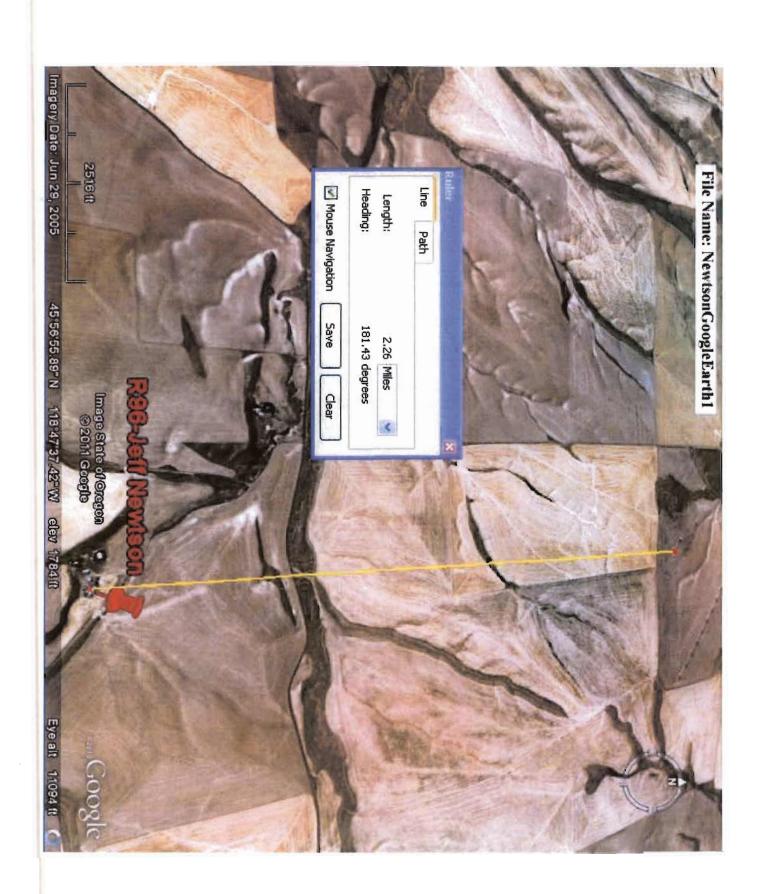
Colorcopy LUBA p. 3338



Color copy LUBA p. 3339



Color copy LUBA p. 3340



Color copy LUBA p. 3341 the state, the guidance needs to ensure the changes are understood and followed by the agency's regional staff.

- A. TMDL Development
- 1. Spatial Scale and sources of pollutants

Due in part to resource constraints, TMDLs are currently developed at large spatial scales, such as USGS 6-digit or 8-digit HUCs. Source assessment is required by the TMDL regulations, but the level of detail is not specified. The large spatial scale and lack of detail in source assessment in current TMDLs do not provide the information necessary to facilitate collaboration among stakeholders, DMAs, and the agency to identify specific options for implementation.

Applicability/Scope

This solution would be applied statewide, beginning with basins where TMDLs will be developed in the near future.

DEO Recommendation

Develop TMDLs at a manageable spatial scale and conduct detailed source assessment in addition to assigning a single load allocation that applies to all nonpoint sources. Work with stakeholders and DMAs to provide information for source assessment, confirm analysis results, determine implementation timelines and strategies, and allocate responsibilities.

Develop Internal Management Directive (IMD) for "Implementation Ready" TMDLs that provides guidance on how to develop TMDLs with stakeholders and DMAs. The IMD needs to include guidance on how to develop TMDLs:

- Involve stakeholders in the TMDL process at all levels [OAR 340-042-0050(1)]
- Select manageable spatial scale [OAR340-042-0040(2)]
- Conduct source assessment [OAR 340-042-0040(4)(f)]

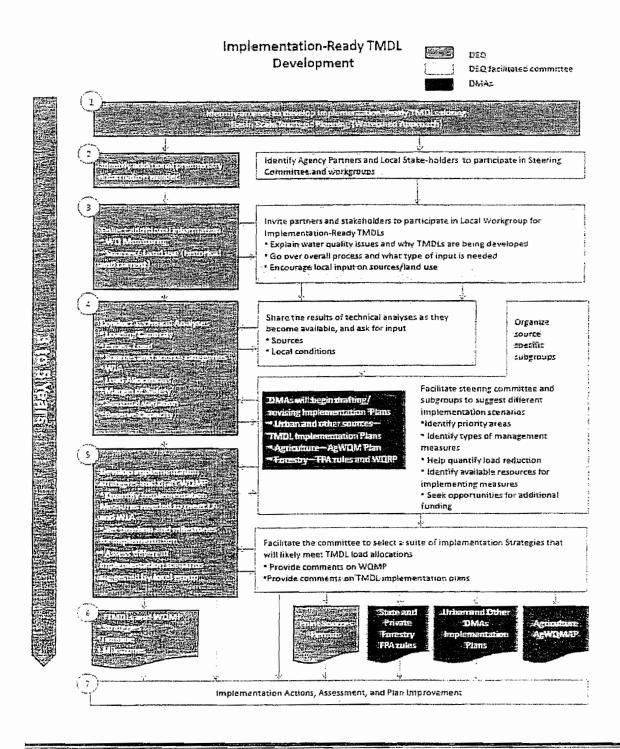
Corresponding paragraphs and subsections of OAR Division 42 TMDL rule are indicated for the items that will be included in the Implementation-Ready TMDL IMD.

Policy objective

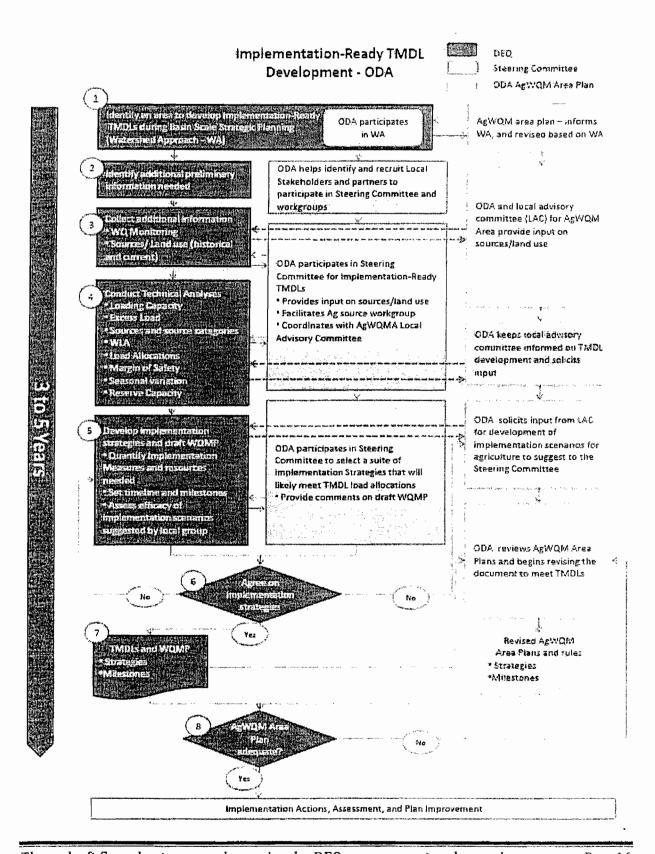
Identify sources of toxic pollutants to Oregon waters in order to prevent further impairment and move toward attainment of water quality standards.

Attachment A

Draft TMDL related flow charts

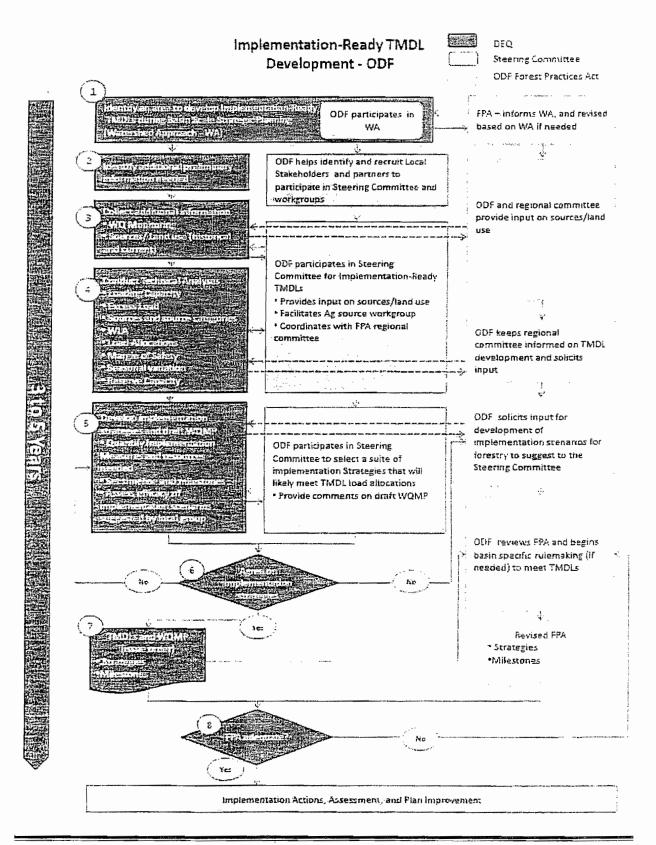


These draft flow charts are under review by DEQ management and agencies



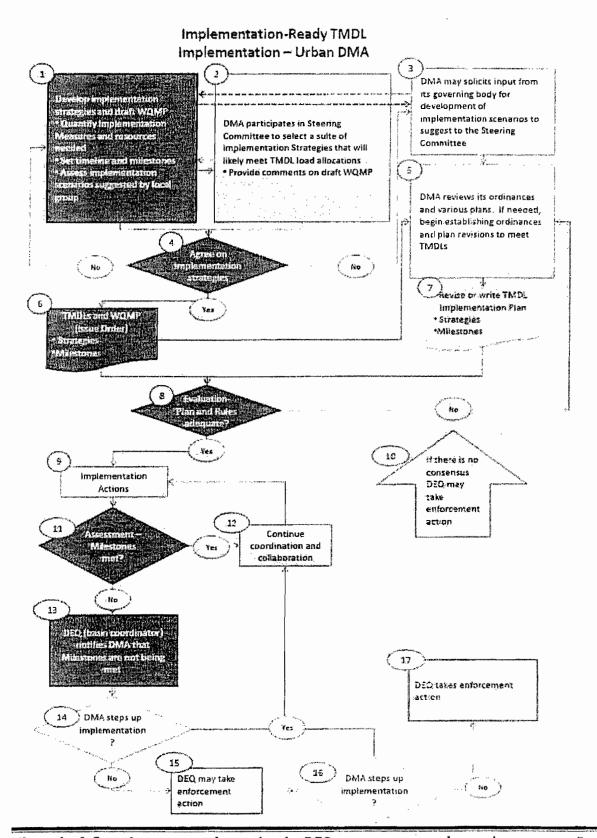
These draft flow charts are under review by DEQ management and agencies

Page 16



These draft flow charts are under review by DEQ management and agencies

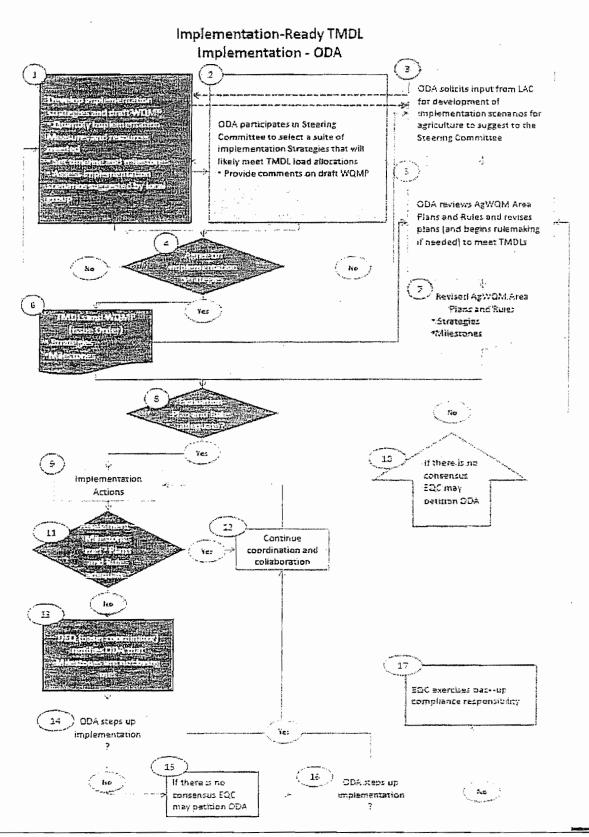
Page 17



These draft flow charts are under review by DEQ management and agencies

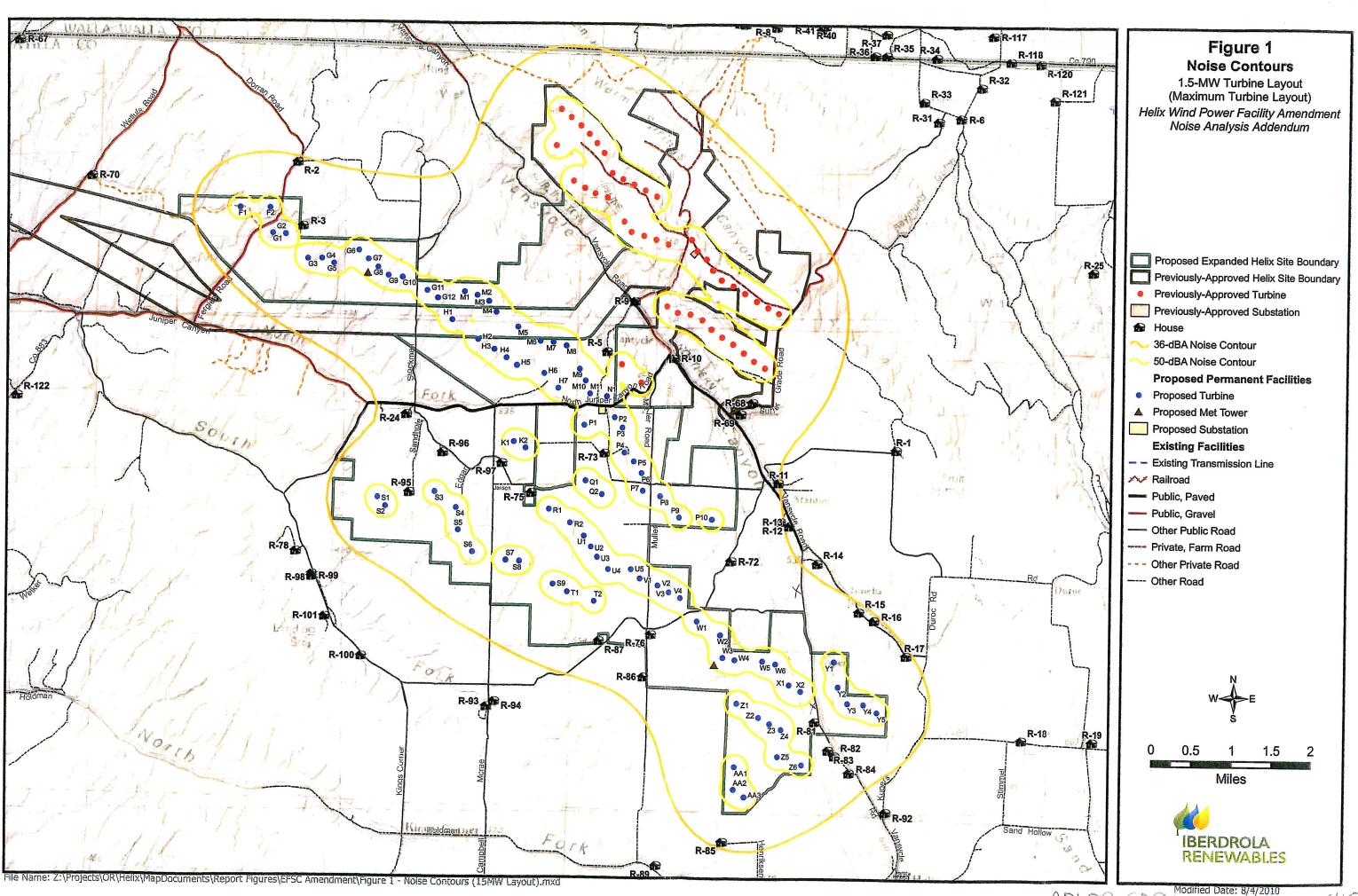
Page 18

LUBA 3447

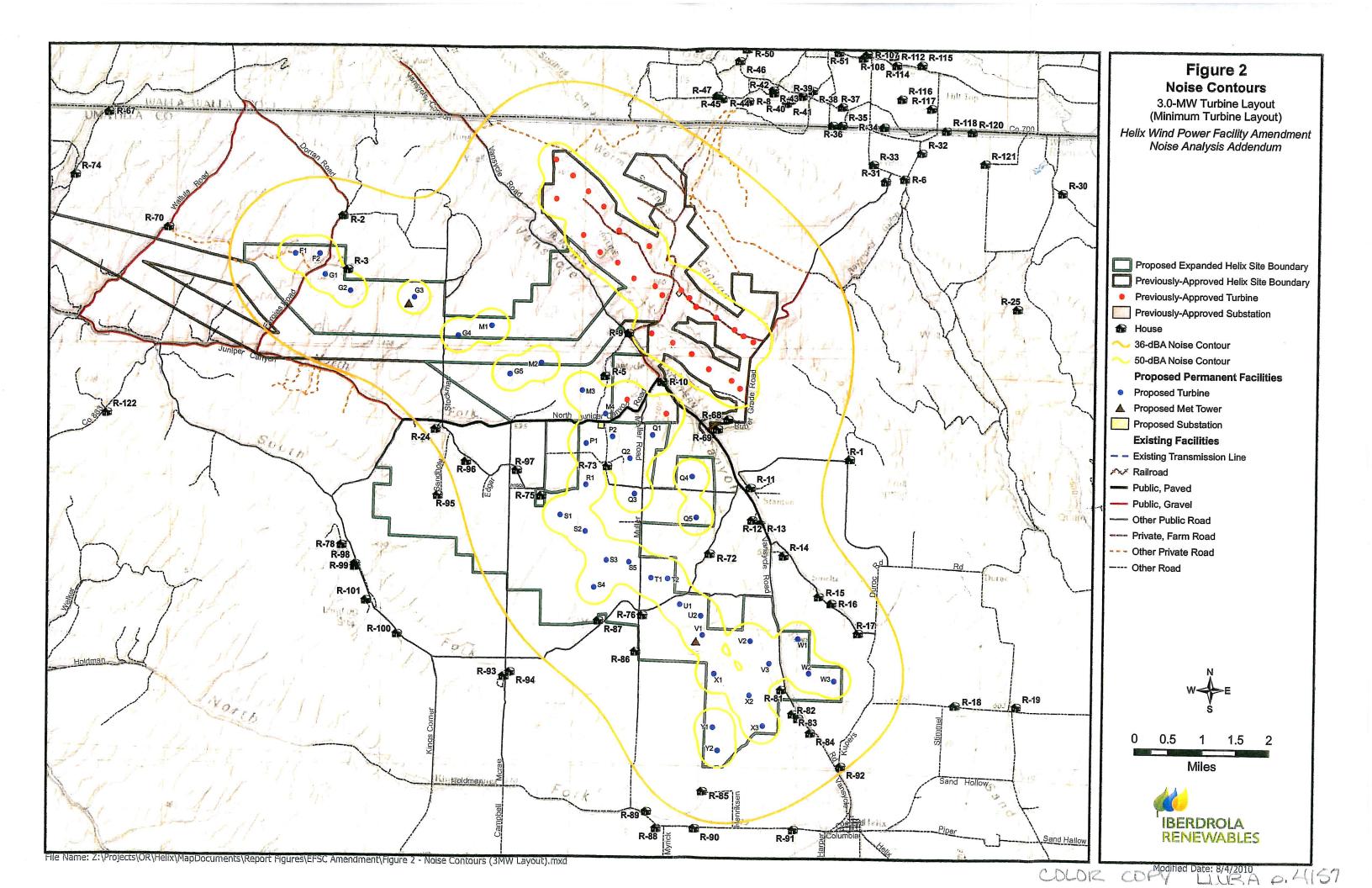


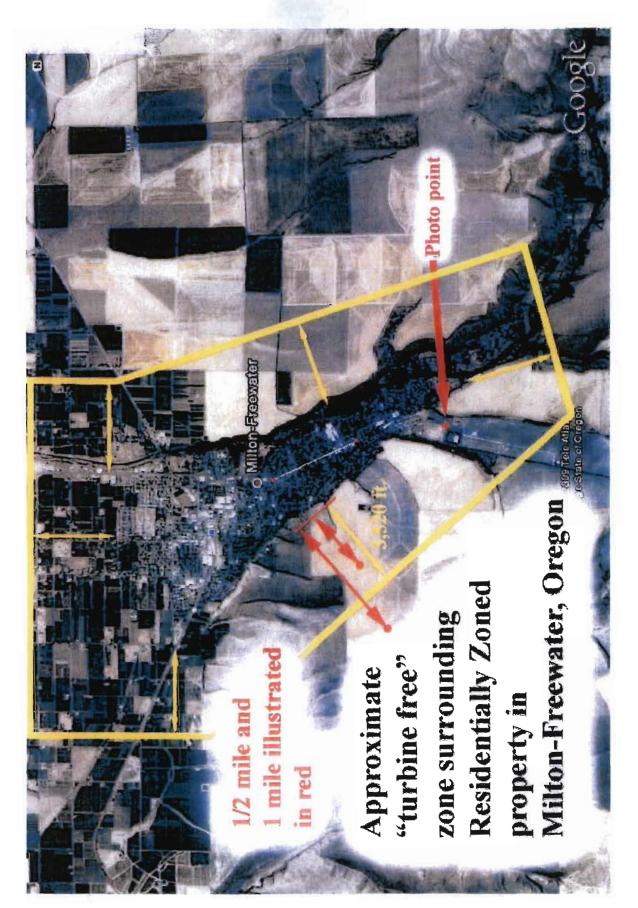
These draft flow charts are under review by DEQ management and agencies

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UMATILLA COUNTY PLANNING COMMISSION

Meeting of Thursday, November 18, 2010 4:00 p.m., Umatilla County Justice Center, Media Room Pendleton, OR

COMMISSIONERS

PRESENT: David Lynde, Clinton Reeder, Gary Rhinhart, John

Standley, Tammie Williams, Don Wysocki, David Lee,

Frank Kaminski, Randy Randall.

ABSENT: none

STAFF: Tamra Mabbott, Carol Johnson, Richard Jennings,

Heather Haueter, Gina Miller.

Note: The following is a summary of the meeting. A recording of the meeting is available at the Umatilla County Planning Department.

CALL TO ORDER:

Chairman Rhinhart called the hearing to order at 4:08 p.m., and welcomed Randy Randall as the newly appointed Planning Commission member.

APPROVAL OF MINUTES:

Chairman Rhinhart asked if everyone had reviewed the minutes from the last hearing of October 28, 2010. There were no corrections or additions, and the minutes were approved by consensus.

NEW HEARING:

• Amendment to Conditional Use Section 152. 616 (HHH) of the Umatilla County Development Code, pertaining to standards for large scale commercial wind energy projects.

Chairman Rhinhart called for abstentions, and there were no abstentions or objections to the jurisdiction of the Planning Commission. Chairman Rhinhart read the opening statement and called for the staff report.

<u>Staff report:</u> Carol Johnson, Senior Planner, presented a brief staff report. Last December the Planning Commission asked Commissioner Reeder and Commissioner Colgan to work with staff and draft updated language to the county's wind ordinance. The changes incorporated suggestions from two work sessions in 2009. The resulting draft ordinance has been posted on the county website for comments since last July. New

ordinance will continue to state the preferences that Umatilla County has always had when siting wind farms, and may or may not defer to EFSC on smaller projects.

Corporate Structure of Development Company vs. Bonding Requirement: When the larger development companies break their projects into smaller companies, it results in less risk for them as each company presents a lesser liability compared to the whole. But this strategy leaves the county under liability if one of the smaller projects goes into bankruptcy and has no means of decommissioning a wind farm. The county has required a form of financial assurance from wind developers to prevent this from happening. The county will continue to require a surety bond as it provides the most guaranteed form of financial assurance to the county. The developers must maintain an updated cost estimate of decommissioning and rehabilitation and this must be reflected continually in the surety bond amount. There is a language change to the formula and frequency in which this must occur included in this ordinance update. This measure is to protect the county taxpayer and the county budget from having the liability fall to them if a wind project should fail. County constituents are very firm about this particular topic and strongly resolved that it should be present in the ordinance.

Pre-application Consultation Process: There have always been pre-application meetings occurring with wind development in Umatilla County, but this ordinance update formalizes it into the process. This process is particularly effective when dealing with smaller wind developers and projects, as their experience levels are less than the larger companies. County budgets do not allow for additional staffing to process applications, so the better prepared an application is from the beginning, the better for all parties involved. The pre-application meeting is designed to improve efficiency, limit planning costs and minimize delays in permitting.

Evidence of Wind Monitoring Data: The county is not trying to acquire the proprietary data gathered by wind developers, but is looking to establish that the developers have utilized credible methods to gather the data. The county will continue to trust that developers are going ahead with plans to construct a wind farm based on technical and economic feasibility.

Electric Energy Transmission and Interconnections: Easements are sometimes difficult to obtain. The county will continue to require proof that a connection to the grid is established before approving their permit to develop the wind farm. Developers don't always agree with this step, and want to proceed with construction before the interconnection is done.

Fish, Wildlife, and Avian Technical Committee: In the earlier wind farms, there was very little data available. ODFW was asking the first developers to provide broad scale studies, essentially doing the research for ODFW. The county raised the question of why developers would generate this data for their competitors. The goal of the technical committee is to have local people who know the site be involved with working with the technical people from the project. The county encourages wind developers to form this

each tax lot will remain, as all permitting is tied to tax lots. There is language that allows for the Planning Director to defer an application to the Planning Commission if they feel it is warranted. This allows for public input to the process. Mrs. Mabbott clarified that these updates are applicable to all Conditional Use Permits, not just wind development. In the past several years, all wind development applications have been reviewed by the Planning Commission.

Commissioner Reeder commented on the standard of each tax lot in a project being required to take out a Zoning Permit. Guest Elaine Albrich, Stoel Rives, objected to the Planning Commission drafting any language changes prior to hearing public testimony. Commissioner Reeder stated that he would go through all the changes to the ordinance, and then go back to the points later where further discussion was needed.

The next proposed language addition was to add "water pollution" to Chapter 152.615 in response to public comments submitted as to how important it is to preserve the rivers in Umatilla County. Mrs. Mabbott advised that this chapter pertains to any Conditional Use application, so both air and water resources were added to the language.

Commissioner Reeder advised that the Critical Winter Range overlay zone is addressed in a different chapter. Commissioner Standley asked about prior cumulative effect comments from the floor, and would it be addressed in the Critical Winter Range overlay zone chapter. Mrs. Mabbott explained that wildlife issues will be addressed in the Critical Winter Range overlay zone, as are all Goal 5 protected resources, when reviewing impacts to proposed development.

Commissioner Reeder moved on to Chapter 152.616 (HHH), specific to wind power generation facilities. The word commercial was added to separate these standards from a personal wind tower on someone's property used to provide power to just a single property owner. The definition of commercial to be applied in this chapter is, "a project designed to sell generated power for profit." This definition is also found in Chapter 152.003 of the Umatilla County Development Code. This definition may have to be revisited in the future if larger farming operations propose to build several wind turbines to generate power to sell back to their farms, to reduce the footprint their operation leaves.

Chapter 152.616 (HHH)(2): The pre-application meeting component has been added to formalize it into the standards. Language was included in this section to ensure specialists with pertinent expertise to relevant fields may be included in this process. Sarah Parsons, Iberdrola Renewables, asked for clarification on this change. Commissioner Reeder explained that this pre-application meeting is not a public meeting; it is only for the applicant, planning staff and relevant agencies and experts.

Chapter 152.616 (HHH)(4): Commissioner Reeder explained that all permits must be obtained prior to any construction taking place. There is a specific sequence to the permits that must be followed.

Chapter 152.616 (HHH)(5)(F): The fish, avian and wildlife impact monitoring plan language was broadened to include species not included in the first ordinance. There are specific sampling procedures, frequency of evaluation of kills at the site, strategies for walking the site to obtain credible data, and forensic data collected. Mrs. Mabbott commented that the Blue Mountain Alliance had requested a full Environmental Impact Statement (EIS) for this standard, rather than a technical committee. Commissioner Reeder explained that an EIS is very complicated and expensive, and so the recommendations in the standard asks the applicant to look at issues similar to those an EIS would include.

Chapter 152.616 (HHH)(5)(G): Commissioner Reeder explained that the changes in this section are to clean up the language for the emergency management response plan criteria. Due to the nature of the weather in Umatilla County, special allowances have been made to anticipate such problems as run-off following a large snow or rain fall. Extraordinary weather events causing silt erosion into rivers should be addressed in the emergency management plan by developers. Changes in this section deal specifically with handling fire events. Commissioner Reeder stated that he would like to see the developers sit down with the fire districts located near the wind towers and decide who will purchase the specialized equipment needed to respond to fires on and around wind towers.

Suzi Asmus, Horizon Energy, asked about the timing to have these plans submitted. Developers would like to submit a typical plan of how they deal with emergencies with the application, and then a more detailed, site-specific plan later. Mrs. Mabbott agreed that this would be a part of the final condition of approval. Commissioner Reeder explained that the county needs a list of names and phone numbers of who to call in the event of any kind of emergency condition related to the wind projects for emergency dispatch to have on file. Commissioner Reeder briefly discussed the unique nature of wind development in the Blue Mountain area because of the water run-off and silt concerns for the rivers. Discussion followed about the impact of development of lands near water and effects on water quality.

Chapter 152.616 (HHH)(5)(H): Commissioner Reeder stated that comments had been received on archeological issues from Confederated Tribes of the Umatilla Indian Reservation (CTUIR). A list of agencies that have water quality related responsibilities in Oregon was added to this section; Soil and Water Conservation District, Department of Environmental Quality (DEQ), the Watershed Council, and Oregon Department of Agriculture.

Nate Rivera, Umatilla Electric, asked if sections 2, 3, and 4 also applied to the transmission line. Mrs. Mabbott explained that all the conditions applied to the towers in a Conditional Use Permit also apply to internal connector lines on the site. Once the transmission line leaves the project site, it has an entire different set of standards.

bankrupt, in which case the creditor is going to really think twice before lending additional monies for the decommission. A brief discussion followed on the merits of this method of insuring the decommissioning fund. Commissioner Reeder advised the representatives from Iberdrola Renewables to discuss this further with Mr. Olsen. Commissioner Standley reminded the speaker that the county deals with many companies and must have a consistent standard to apply to all of them.

Chapter 152.616 (HHH)(9): Mrs. Mabbott explained that the major change to this section was to add the fish and wildlife monitoring requirement in addition to avian monitoring to the annual report. Sub-section (H)(2) has new language that states the annual report can be modified as the project conditions, circumstances and compliance dictate.

Chapter 152.616 (HHH)(10)(B): Language has been changed to reflect updates on any amendments that need to be submitted to the permit. Any changes to ownership, emergency plans or contacts must be reported immediately to the county. Mrs. Mabbott advised that proof of insurance has always been a condition of approval in the final permitting process.

Commissioner Reeder called for a dinner break, and the Planning Commission would reconvene at 7 p.m.

Chairman Rhinhart reconvened the meeting at 7:04 p.m. He advised that all people presenting testimony should come forward to the testimony table and state their name and address for the record.

Public testimony: Wade Muller, Helix, stated that his family has been in the Helix area for over 120 years, and they have historical references. He commented on setbacks, voicing concern over the half mile setback, which he doesn't feel is adequate. They have enjoyed their scenic view for 120 years and he would like his children to also have this view to enjoy. He is not opposed to wind power, but is opposed to it affecting his quality of life. He also commented on the county road topic. If it is a county road, then it should be treated as such, even if it is just a two track road and should be considered in the transmission line setback criteria. He was also concerned about the size of the new towers going in, as they are much larger than the first projects that were constructed in that area. He commented on the Columbia River Gorge area and how many wind towers are there now. He said that the term "scenic" is subject to each person's perspective, and he believes the views around his home and area to also be "scenic", not just the Blue Mountains. He believes that the view should be more closely considered in the county's criteria. He has read the Oregon Revised Statutes (ORS) and knows that the Planning Commission is tasked with maintaining quality of life.

Commissioner Wysocki asked what Mr. Muller thought would be an adequate setback. Mr. Muller replied that he thought a mile from any residences would be appropriate and 2 miles from a residential district. He believes that the size of the towers does make a significant difference in the setback requirements. Commissioner Lynde asked what he

Ed Chestnut, 812 Jacquelyn Street, Milton-Freewater, OR, 97862, Public Testimony: representing the City Council of Milton-Freewater. He will be limiting his comments this evening to that of interest to the city council. Mr. Chestnut explained the contents of his packet to the Planning Commission. The first item was a copy of the Declaration #2106 of City of Milton-Freewater. The city is concerned that the proposed language updates do not adequately address the concerns of the city. The City of Milton-Freewater is surrounded with significant agri-tourism business which would be adversely affected by the presence of wind turbine development on the face of the Blue Mountains. Mr. Chestnut referred to the study done by Dr. Bruce Sorte, Oregon State University. This study shows the economic value of agri-tourism to the community. Mr. Chestnut commented that the requirement of a socio-economic study, or some version of it, should The study should identify what existing businesses be re-instated in the standards. would be adversely affected by the presence of wind turbines on the face of the Blue Mountains. He would like to see the setback standards improved, and cited the situation in Morrow County as an example of what can go wrong. Mr. Chestnut spoke to a resident of Morrow County and was told they have spent over \$30,000.00 of their own money to get legal representation and noise studies done to cause enforcement of the state noise standard. The problem with noise standards is that they are essentially a prediction of what may or may not occur as a result of a project. He feels that this situation could eventually put the City of Milton-Freewater in a position of having to spend tax payer Mr. Chestnut also noted the Department of dollars to enforce a noise standard. Environmental Quality (DEQ) has not been involved in investigating violations of state noise ordinances since 1991. He stated that the city feels that noise standards are not the best way to handle noise impacts, but would encourage setting physical setback requirements as a much more effective way to address the noise problem. Mr. Chestnut indicated that in the packet he submitted to the commission is a diagram of projected wind towers and how they would appear around the city of Milton-Freewater. He closed by asking that the Planning Commission not vote to send the proposed amendment to the Board of Commissioners tonight, and there should be another public hearing on this topic. The City of Milton-Freewater would be happy to host this hearing in Milton-Freewater, and would make a space available to the county at no charge. Commissioner Lynde asked Mr. Chestnut what he would suggest for a setback standard. Mr. Chestnut declined to offer an answer, but did state that the current standard of 3,520 foot is not enough. Commissioner Wysocki asked about the agri-tourism impact that Mr. Chestnut talked about, and wanted to know if the city had identified any other negative effects on agri-tourism beyond the visual impact. Mr. Chestnut stated that they didn't feel it necessary, as once you damage a business, it's damaged. That is why they recommend the socio-economic study be a part of the standards.

Public Testimony: Chase Whitney, Iberdrola Renewables, 1125 NW Couch Street, Suite 700, Portland, OR, 97209, was joined by Elaine Albrich, Stoel Rives, 900 SW 5th Ave., Portland, OR, 97204. Ms. Albrich spoke about the updates. They provided an outline of suggested language revisions to the Planning Commission. Mr. Whitney commented further on setbacks. They would like the county to be consistent with the EFSC process, and they feel that EFSC setbacks have proven to be protective of public health and safety. Mr. Whitney asked for clarification on the 3,520 setback requirement

Commissioner Kaminski asked for clarification on the center of the tower for set-back Ms. Parsons explained that the state has defined setbacks as points that are easily verifiable by GIS, such as the center of the tower, or center of the house. These are simply unified methods of measurement. Commissioner Randall asked what the largest tip height is currently for turbines. Ms. Parsons replied that the tip height is 492 feet for the 3 megawatt Vestas. Most of Iberdrola's turbines are 420 feet or less. offshore turbines are nearly 900 feet in length. Commissioner Lynde asked the representatives of Iberdrola if any of them had ever gone out and camped near the turbines to experience them first hand. He explained that his daughter, who is totally deaf, cannot stand to be anywhere near the turbines because the vibration causes her actual pain. Commissioner Lynde went on to say that most developers coming before the Planning Commission do not have to live near the turbines, like the residents of Umatilla County do. Ms. Parsons replied that Iberdrola takes this very seriously, and they do their best to reach out to residents where they are building projects, to see what problems do rise from the facilities. Commissioner Rhinhart commented that neighbors in this county who have been close friends for generations are now bitter enemies because of the presence of the wind towers on one neighbor's property affecting the other's quality of life who get no benefit from it. Commissioner Rhinhart asked the wind developers present how they would put a price tag on that. The Planning Commission has to look at balancing this question for the residents of the county.

Commissioner Lee asked Ms. Parsons about setbacks on streams. Ms. Parsons stated that the setbacks depended on the biological resources and are taken into consideration when placing the towers. They don't put turbines on land that is sloped more than 12%, and they have permanent setbacks from wetlands and streams based on coordination with Oregon Department of Fish and Wildlife (ODFW) and the U.S. Army Corps of Engineers. Commissioner Lee asked about vibrations, and drilling down to the bedrock. Mr. Whitney advised that there are several styles of foundations that can be used, depending on the specific site and soil conditions. When designing a facility, run-off into water ways is not acceptable. The federal guidelines are very stringent on this issue. Commissioner Lee asked if a study had been done on the fish and wildlife habitat in response to the effect of vibration caused by the turbines. Commissioner Reeder commented that if fish and wildlife respond to the vibration like Commissioner Lynde's daughter does to the vibration, this would be problematic. Vibration can act like a dam to fish, and they won't go through it. Ms. Parsons commented that they do studies like geotechnical and biological studies on the impacts to wildlife. Ms. Aldrich commented that Iberdrola Renewables would support having another hearing after the information presented at this hearing has been reviewed.

Public Testimony: Bill Timmerman, 81368 Kupers Road, Helix, OR, 97835. Mr. Timmerman stated he lives 3 miles north of Helix, and is 1.25 miles from the nearest wind turbine put up 2 years ago. Mr. Timmerman hears noise from the nearby turbines at his residence. He believes that a mile setback to residences is not enough. His family has been in this area for 4 generations. He has noticed that even since the smaller towers were first put up, animal behavior in the area has changed. The patterns of movement

effort, but he still feels that everyone is not educated enough to realistically address this topic. He feels that the Planning Commission should bring in experts from the Department of Energy to speak to the Commission about wind power issues. He feels that Umatilla County would take a nuclear plant for the money if offered. If the county doesn't pay attention to what the citizens are saying, then some people need to resign their positions and get people in that don't look at the money issue. The Blue Mountain Alliance's position is still the same, and they feel that the issue of cumulative effects is still not being addressed. Most of the other issues could be addressed through adequate Mr. Jolly stated that setbacks should be from property lines, not setback requirements. just residences, in case someone would want to build a residence there in the future. He suggested a four mile setback for residences to address the noise issues. Mr. Jolly suggested that in critical habitat areas, an EIS should be required. He is opposed to the removal of a socio-economic study, as the health department is now doing studies on human health impacts from the wind farms. Mr. Jolly would like to see the annual reports be standardized for all the projects, as the developers are manipulating the information about avian statistics. Commissioner Reeder asked Mr. Jolly how he felt about noise easements. Mr. Jolly replied that noise easements should be treated like any other easement.

Public Testimony: Dana Dibble, 84504 Weis Road, Milton-Freewater, OR, 97862. Mr. Dibble displayed a magazine article about the potential for wind development across the United States. The northwest states are not even listed as marginal according to the article. Mr. Dibble asked what the setback was for a main highway. Commissioner Reeder advised it is twice the height of the highest point of the tower. Mr. Dibble then asked about shadows produced from the turbines. He stated that the Blue Mountains are different than other parts of the county, and that the scenic highway has not been addressed. When the sun comes over the mountains, and the long shadows are produced from turbines, will it affect traffic on Highway 11. Mr. Dibble requested that the Planning Commission drive along Highway 11 early in the morning and in the evening to see what it would look like if towers were put there. Mr. Dibble commented that the first turbines to go up were much smaller than what is currently being constructed, and wondered how much bigger they will get over the years. He asked the Planning Commission where they will draw the line and stop development.

Public Testimony: Jim Burns, 78381 Hodgson Road, Weston, OR, 97886. Mr. Burns stated that he had already said most of what he came to say. He did want to go on the record and file a formal complaint about the hearing. The Planning Commission has tried three times to write this document and the last posting of the proposed changes was three days prior to the meeting. He spent a week writing comments on the last posted version and now found out that it was worthless. Mr. Burns requests that another hearing be scheduled to hear more on this topic, after the revised changes have been posted to give people a chance to review the changes prior to the meeting. Mr. Burns commented on the critical winter range. He stated that for the last several years the county has closed this area from vehicular traffic to protect the deer and elk. He commented on the bull trout in the Walla Walla River, and the Umatilla River. Mr. Burns stated that two years ago he asked a top man in Horizon Wind how much it would

Public Testimony: Ed Chestnut, 812 Jacquelyn Street, Milton-Freewater, OR, 97862. Mr. Chestnut asked to address the Planning Commission as a private citizen, and wanted to make it clear that he was not representing the Milton-Freewater City Council. Mr. Chestnut stated that he wanted to touch on the point brought up earlier by Mr. Dibble about wind turbine shadows. He feels that there needs to be a setback in the ordinance relating to wind turbine shadows in relationship to residences. Commissioner Wysocki asked Mr. Chestnut to now answer his question about what he thought would be a good setback distance. Mr. Chestnut replied that he was in favor of a minimum of two miles, but four miles would be better. He expects that the wind developers will fight this. There are thousands of acres with no residences nearby; he suggests they use those to develop wind farms.

Mrs. Mabbott advised that the Confederated Tribes and Mr. Steven Corey submitted written comments, but were not able to be present to provide testimony for this hearing, as Mr. Corey had to leave earlier. Chairman Rhinhart then asked for comments from other commission members as to how to proceed, and a brief discussion followed. Mrs. Mabbott offered up several options on meeting dates and times. Commissioner Lynde asked if they could have sound experts come and speak to the Planning Commission to help them better understand the problem.

Guest Sarah Parsons, Iberdrola Renewables, commented that they support bringing in specialists from the Department of Energy and BPA to provide further information to the Planning Commission. They would be able to also bring in acoustical engineers about sound, and how counties can enforce sound standards. There could also be biological consultants present to talk about how the vibration and sound affects the wildlife in the county.

Commissioner Standley offered some ideas on how to proceed, and there was further discussion on his suggestions. He would like to move forward on the information they have now such as setbacks and residences, and continue to look into and learn more about the remainder of the issues. Mrs. Mabbott reminded the Planning Commission that they can take all the time they need to work through this, but if an application is presented tomorrow, it will be processed under the existing ordinances. Commissioner Wysocki agreed to sit in and review the draft changes to replace Commissioner Colgan along with Commissioner Reeder and staff. It was decided to hold a work session for the Planning Commission in January. It will be open to the public, but there will be no testimony taken. The time and date for the work session will be announced and advertised later. The hearing will be continued until a later date and time, also to be announced at a later time following the work session.

Chairman Rhinhart adjourned the hearing at 9:07 p.m.

Respectfully submitted,

Gina Miller, Secretary

Intent of Planning Process

- 1. Provide Fairness (unbiased, rational outcomes) and Equity (all standards) among applicants and affected parties and properties. parties comply with same, or very similar site specific criteria and
- 2. Protect and Enhance the pubic interests while doing the same for other parties involved in land use, including resource protection, development and utilization.
- 3. Provide uniform criteria and standards, that is, provide a "level playing field" for all applicants and nearby properties
- 4. Assure a reasonable, transparent, credible quasi-judicial process, venture), disciplined process and findings of fact prior to decision including meeting records, presentation of factual evidence review and decision process making... assuring a credible, trustworthy land (resource) use (feelings, preferences, emotions are "facts" in any socio-economic

Minton Reeder presentation

Intent of Planning Process (cont'd)

- 5. Assure a reasonably efficient, effective process that minimizes including those who administer the process delays, costs, and associated burdens for all parties involved,
- 6. Periodically adapt to changing technology, conditions and economics, public preferences, political realities, etc circumstances, including changes in law, administrative rules,
- 7. Resolve and/or adapt to existing and evolving local, state, federal and international realities effecting local conditions and circumstances.
- 8. Develop and maintain an evolving planning process that retains and builds public confidence and trust.

What Is "Land Use Planning"?

- 1. No longer limited to just "Land".
- Any and all identified "Significant Resources"
- a. Water Quantity and Quality
- b. Air Primarily Quality
- c. Vegetation Trees, landscaping, etc.
- d. Habitat Conservation, Protection, Enhancement
- Land Quality, Quantity, Conflicts in Use, etc
- . "Resource Development"
- g. "Wind" (moving air)

Wind Power Development Concerns vs. Planning

Fundamentally — CONFLICT ANTICIPATION PLUS PRIOR RESOLUTION AND/OR MITIGATION, including Human Health and Safety, Technical Considerations, Community Threat Minimization, Endangered Species Protection and Environmental Protection and Conservation

- Minimize conflicts with other land uses on nearby properties, including but not necessarily limited to...
- Imposed costs and limitations upon preferred practices.
- 3. Access locations.
- Road, culvert and bridge damage.
- Iraffic exceeding carrying capacity of roads.
- Noise and Vibration.
- Trespass, vandalism, criminal activity.
- "Visibility Interference".
- Blocked view-shed.
- Erosion and weed control ("trespass" of silt and weed seed).
- 11. Wildlife, fisheries and avian habitat
- 12. Unreasonably diminished property values.

Oregon's Energy Facility Siting Council (EFSC)

Perceived Working Relationship between EFSC and

Umatilla County 's Planning Program

- Where EFSC is the primary siting authority, the county activity of EFSC. will generally defer to the regulatory framework and
- On the other hand, Umatilla County has from the decided that the county will at all times protect the beginning of the development process for wind energy wind energy development interests of the county.
- Therefore, the county ordinance will incorporate considered by EFSC as they make their decisions. criteria and standards which we expect / request be

Corporate Structure of Development Company vs. Bonding Requirement

- The county is well aware that an energy development company can qualify for additional public funding if they break up a larger entity and form a new LLC for each element of a larger development
- 2. This development strategy also spreads development risks for the developer, by allowing them to let one LLC fail while keeping others operating.
- 3. This potential company strategy might leave the county liable for company continues to thrive without liability for tailure of one element of a larger project, while the rest of the decommissioning the failed element.
- The county has considered investigating the corporate and project financing structure to determine the extent of this risk, planners. but readily concluded doing so went far beyond our obligation as

Corporate Structure of Development Company vs. Bonding Requirement (cont'd)

- source of funding, any abandoned or otherwise decommissioned development. No matter what the corporate structure, or the Therefore, by requiring separate surety bond for each company's facility will be covered by an appropriate and regularly updated bond, regardless of who owns or operates the facility at the
- This is a major reason why the developers are all required by requirement is fulfilled, regardless of ownership or operator and/or operator changes... to make sure the bonding ordinance language to notify the county if project ownership identity.
- Therefore, in some respects, the bond serves as collateral for a permit; hence, no bond, no permit.
- ∞ Citizens strongly support the bonding requirement.

Pre-Application Consultation Process

- 1. Indeed a process, NOT "just a meeting" (may include multiple meetings).
- 2. Purpose: to make sure developer is aware of the total range and nature of the application content, criteria and standards to be satisfied BEFORE THE APPLICATION IS CONSIDERED COMPLETE.
- To acquaint the developer with certain agency and other significant parties involved in project permitting process
- 4. Facilitate effective working relationships among involved parties.
- 5. Especially important for less experienced and/or less well financed developers who attempt to save money by shortcutting the application process.
- 6. Maintain an efficient, effective county administrative process.
- 7. Accelerate the planning and permitting process
- 8. Improve the efficiency and limit planning costs for the developer.
- 9. Minimize delays in the permitting processing.

Evidence of Wind Monitoring Data

- We have long respected the reality of proprietary data.
- 2. Respect the fact that the party who develops the data literally "owns" it.... On the other hand,
- 3. The county does not want developers to invest in land uses that are not technically AND economically feasible.
- 4. Therefore, please provide evidence that your wind will result in rational evidence to support your desired standards and/or procedures we can have confidence trustworthy manner; according to credible industry energy monitoring has been accomplished in a credible, development.
- 5. Beyond this, we generally trust you will not invest in projects not supported by reasonable evidence of longer term success.

Electric Energy Transmission and Interconnections

- A very major county planning concern!
- Easements are often not as easy to obtain as expected
- 3. Sometimes, one party along a proposed route threatens and/or in a troublesome delay and/or change of route initiates legal action to block a proposed route, at least resulting
- 4. Too often, developers expect a permit prior to being able to commercial energy sales. provide reasonable assurance of appropriate connection/s for
- 5. County has not generally, nor does it expect to permit wind power site development until there is reasonable evidence that are likely to result in appropriate connection contract/s. presented to demonstrate credible investment in negotiations

Fish, Wildlife and Avian Technical Committee

- Considered dropping this requirement, in favor of "boilerplate" this matter, and get approval from one or more appropriate language that simply required a developed to "give attention" to agencies... However,
- Experience suggests rather than being simply an additional cost savings to the developer... providing local knowledge of site burden on the developer, this committee actually can result in conditions not known to agency representatives
- We do not require more monitoring than is necessary to document potential problems and possible mitigation measures for the particular development site. Due to the cost factor, we do not support one developer having to conduct related contribute to the study costs. research that might benefit a number of developers who do not

General Emergency Management Plan

- County has an experienced Emergency Management Program, provided and updated immediately if changed. numbers... hence, the requirement that such information be but it cannot function appropriately without names and phone
- 2. If capabilities are not readily available from local sources, such as a local fire department or district, developers are required to plan how they might provide such services in an emergency.
- 3. Emergency response plans need to consider literally any kind of "fish" (actually, the law addresses "aquatic species", including potential, where silt moves down into waterways – endangering "emergency", in particular fire but also rain and snowmelt microscopic ones) and wildlife habitat.
- 4. Millions of dollars have been invested in stream restoration and passionately oppose any threats to this investment riparian area enhancements. Land owners and agencies

Fire Prevention and Response Plan.

- 1. This county has many locations where it is difficult, if not a fire response is almost immediate impossible to effectively fight fires, especially if driven by wind. iterally thousands of acres can burn in a very short period unless
- Much of the county's grassland and crop land extends up into the land tunnel wind currents that feed fire quickly into timber land, torested land. The brushy draw joining these different types of quick response strategies plan should focus on both fire prevention strategies as well as increasing the difficulty and cost of fire control. Hence, the fire
- 3. Just a few years ago, local farmers and ranchers responded in tighting teams responding to wildfires. the past few years, the number of farmers in the crop areas has large numbers to wildfires anywhere near their operations. In declined by about two-thirds, resulting in far fewer local fire

Vegetation and Erosion Control Plan

- Ordinance language requires "Consultation", not permits or letters authorizing certain practices. However, developers should keep in mind that, are included in the plan. authority to block development unless and until certain criteria and standards depending on the nature of an agency's authority, they may exercise an
- 2. Special Attention: the Oregon Agricultural Water Quality Management far-reaching authority, including EPA and DEQ approved enforcement agencies involved in protection of water quality, with the program changes in practices. Their jurisdiction and authority brings together multiple provisions. Enforcement starts with a "Warn and Inform" process. Failure to Program, administered by the Oregon Dept. of Agriculture. This program has respond reasonably can result in civil penalties coupled with mandatory administered via ODA staff. Their territory is basically "rural lands", not just and many are aware that this program could intervene in the development of properties draining into the watersheds of this county. "farm land". Rural property owners are becoming more aware of this program,

on Wind Power Development Sites Purpose of Facility Set-Backs

Fundamentally – Mitigate Anticipated Conflicts, including Human Health and Safety, Technical Considerations

Community Threat Minimization, Endangered Species Protection and Environmental Protection and Conservation

- Minimize conflicts with other land uses on nearby properties, including but not necessarily limited to...
- Imposed costs and limitations upon preferred practices
- Noise
- **Vibration**
- Flickering Shadows (seizure triggers?).
- "Invasion of Privacy".
- Sleep Interference.
- Blocked view-shed.
- Diminished property values.
- 10. Major Concern "Cumulative Effect" (as increasingly visible and in larger persons affected by their presence, with a perspective of personal loss numbers, opposition increases)... increasing numbers of uncompensated

Towers: 3,520 ft Residential zones Transmission Lines: 2,640 ft (1.5 mi) rural homes 500 ft from homes.. 2x tower + blade height, roads unless in public right-of-way

Requirement Concerning Wind Power Developers **Providing Financial Assurance**

- Issue carefully reviewed multiple times.
- Letters of Credit do not Guarantee Performance.
- In especially cases of project abandonment or for rehabilitation of project site/s. bankruptcy, the county is likely to end up responsible
- The county does not intend to incur such a performance liability and budget exposure
- Hence, all wind power projects will be required to provide a surety bond adequate to cover including removal of facilities decommissioning and site rehabilitation costs,
- Public strongly supports the surety bond requirement.

UMATILLA COUNTY PLANNING COMMISSION

Work Session of Thursday, January 13, 2011 4:00 p.m., Umatilla County Justice Center, Media Room Pendleton, OR

COMMISSIONERS

PRESENT: David Lynde, Clinton Reeder, Gary Rhinhart, John

Standley, David Lee, Frank Kaminski, Randy Randall.

ABSENT:

Tammie Williams, Don Wysocki

STAFF:

Tamra Mabbott, Carol Johnson, Richard Jennings,

Julie Alford.

Note: The following is a summary of the work session. A recording of the session is available at the Umatilla County Planning Department.

CALL TO ORDER:

Chairman Rhinhart called the work session to order at 4:08 p.m..

WORK SESSION:

• Discussion on code amendments to Conditional Use Section 152. 616 (HHH) of the Umatilla County Development Code, pertaining to standards for large scale commercial wind energy projects.

Planning Director, Tamra Mabbott, expressed her goal for the work session was to have a completed draft of Section 152.616 HHH of the Umatilla County Development Code ready for the next public hearing. Discussion was directed by Commissioner Clinton Reeder, who passed around a list of issues he had compiled, regarding wind turbine setbacks. He then walked through the added changes in the Conditional Use text.

When discussing the amendment to Section (F) regarding revegetation and erosion control plans, Commissioner Kaminski inquired about the involvement of other agencies regarding the plans. Clinton clarified that the referenced agencies in the text will be consulted prior to approval and Ms. Mabbott confirmed that this may be required as a condition of approval.

Questions raised previously regarding high altitude rescue lead to the decision of wind companies being responsible for those rescues. It was determined that the County should still examine road layout, addressing and access through private gates for emergency response.

Commissioner Rhinhart brought up concerns with projectiles from wind turbine blades, such as ice, and felt this should be considered in setback requirements from roads. Commissioner Reeder felt this issue should be added to areas of special concern.

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Discussion followed regarding noise standards and setbacks. Commissioner Reeder referred to noise studies he reviewed which predominately declared that there are no quantifiable direct human health effects, such as hearing loss, from noise of a wind turbine. He continued to explain the State noise standards are set as industrial standards. Direct effects are likely loss of hearing but indirect health issues may also occur, such as stress induced physiological health disorders.

Commissioner Reeder asked if current noise easement contracts were between the wind company and land owner or if the easement is attached to the property. Further research was recommended for more information.

In discussion regarding setbacks, Ms. Mabbott clarified that the proposed Conditional Use text does ask for a noise study as part of the permit process. The Planning Commission will have the ability to require a noise study before permit approval. Commissioner Reeder suggested adding text in Section (6)(A)(5) - setbacks based on noise study with wording suggested as 'number of feet or based on noise test, whichever is greater'. Ms. Mabbott believed the language was already in place.

Discussion on Section (J) regarding impact to roads followed with Commissioner Rhinhart suggesting to add requirement for private roads, within wind project boundaries, be built to best management practices. Ms. Mabbott then commented that the County Public Works Director should not be responsible for inspecting wind project roads to make sure they meet best management practices. Commissioner Rhinhart replied the Soil & Water Conservation District should be the consulting agency with Commissioner Reeder adding that NRCS should provide technical assistance with cost share.

After reviewing Section (6)(M) regarding surety bonds, Commissioner Reeder explained the intent was not to protect the developer but to protect the County. Commissioner Standley commented that the land owner should have more responsibility with the bonds. Commissioner Rhinhart proposed adding language to make the land owner accept residual liability and Commissioner Reeder suggested having the land owner sign an agreement with the County acknowledging responsibility prior to the development permits. Discussion followed regarding leases and County involvement. Commissioner Reeder recommended County Counsel verify nature of the residual liability and to clarify if it can be contracted away.

Issues for Discussion handout:

While reviewing the Aesthetic Intrusion and Deprivation section of the Issues handout, Commissioner Standley asked about assessed value of property with regards to a view. When asked if anyone had appealed to the Board of Property Tax Appeals regarding lower property values because of turbines affecting the view, Commissioner Kaminski, who resides on the BOPTA Board, reported no one had appealed to this date. Commissioner Standley concluded that a view on property can not be tied to assessed tax value.

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Commissioner Reeder noted that Oregon Department of Fish & Wildlife will soon submit their study of wildlife habitat areas regarding critical winter range and once the County adopts the study we will have effectively impacted the boundaries of wind power development.

With discussion on turbine setback of 3520' from a residential zone, Commissioner Rhinhart suggested to set a buffer area larger. Commissioner Randall expressed his desire to base the setbacks on blade height. The consensus for setback from a city residential zone was 20 x blade height. Commissioner Randall felt the public consensus of two miles would be the best minimum setback from a residential zone. Richard Jennings, Senior Planner, suggested including a distance of 3520 feet or 10 times blade height, which ever is greater.

After discussion about feedlot setbacks, all agreed to eliminate that portion of the text. Consensus on setbacks to all County Roads, paved or gravel, was 2 x blade height and State Highways and Interstates was 3 x blade height.

Archeological and cultural site setbacks shall be 2 x blade height. Commissioner Lynde urged the Commission to refer to the recommendation of related agencies. Commission consensus was to have 2 x blade height.

Commissioner Reeder asked for clarification on setbacks from a residence. The setback from a city was decided at 20 x blade height or 2 miles, whichever is greater.

Ms. Mabbott explained the Watershed Council Coordinators will meet with the Planning Department staff to come up with a check-off list of issues for wind companies to address before final approval of wind projects.

Ms. Mabbott then explained LCDC adopted a new emergency administrative rule regarding temporary workforce housing for large energy related construction projects. When asked if temporary RV parks should be permitted for wind project areas the Commission's general agreement was they should not be allowed. Staff shared a list of existing RV and mobile home parks in the county. Planning Commission acknowledged that there was a good supply and that contractors could occupy existing RV parks. It was agreed that the county code should therefore not be amended to adopt the new Administrative Rule provisions which are optional.

While clarifying setbacks, it was determined that turbine height shall be ground level to blade tip and the setbacks from city limits shall be 2 miles or 20 x blade height, which ever is greater. After more discussion regarding setbacks from urban growth boundaries, Commissioner Reeder suggested that planning staff come up with language and text to present at next meeting.

PUBLIC COMMENT:

Richard Jolly addressed the group regarding the critical winter range overlay zone and suggested the wildlife protection issues be considered during this HHH update process. Ms. Mabbott explained that the environmental analysis from ODFW would need to be 3000 (4470)

Umatilla County Planning Commission January 13, 2011

adopted before it could be included with the text update and she would like to move forward with the HHH code update as soon as possible and respond to the critical winter range overlay zone at a later date rather than hold up the HHH adoption.

Debbie Kelly spoke about the rural areas being invaded by the industrial noises of wind turbines. Commissioner Lynde inquired about decibel levels that the County can impose for a wind project. Commissioner Standley commented that industrial noise can go up to 54 decibels for a short period of time but there are no firm decibel levels set for an extended length in an industrial area.

Cindy Severe made comments regarding the turbine noise level at her home near Helix and stated that Iberdrola had run noise tests near her home and it was currently in the 50 decibel range.

OTHER BUSINESS:

Definition dealing with storage containers:

Senior Planner, Richard Jennings, asked the Commission to clarify if Cargo Containers should be exempt from a zoning permit in EFU & GF zones, except in a flood zone. Commission members decided cargo containers will need a zoning permit in the EFU & GF zones. Property owners will have a six month grace period to get a zoning permit at no cost for existing containers. Richard Jennings would make those changes in the upcoming code adoption.

Work Session adjourned at 8:32 pm.

Respectfully submitted,

Julie Alford, staff

Edited Prices

UMATILLA COUNTY BOARD OF COMMISSIONERS Administrative Meeting of February 22, 2011 9:00 a.m., Room 121, County Courthouse

MINUTES

Pendleton, Oregon

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COMMISSIONERS PRESENT:

Larry Givens, Vice Chairman; Dennis Doherty,

Commissioner; Bill Hansell (via telephone at 9:07 a.m.),

Chairman

COUNTY COUNSEL:

Doug Olsen

MEMBERS & GUESTS PRESENT: Connie Caplinger, Umatilla County Executive Assistant and Director of Health & Human Services and Human Resources; Randy Mills, Umatilla County Extension Agent; Glen Diehl, Umatilla County Department of Law Enforcement Criminal Division Watch Commander; Paul Chalmers, Umatilla County Assessment and Taxation Director; at 10:30 – Samantha Tipler, East Oregonian Reporter; Larry Lehman, Manager, City of Pendleton; Tim Simmons, Assistant Public Works Director, City of

Pendleton

CALL TO ORDER

The meeting was called to order at 9:03 a.m. Vice Chairman Givens reminded all present that the meeting is a public forum.

BUSINESS ON AGENDA

<u>Approval of Minutes</u>: The minutes of the February 10, 2011 Administrative Meeting were presented for approval. Commissioner Doherty moved to approve the minutes of February 10, 2011 as written. Commissioner Givens seconded. The motion carried 2-0.

Additions to agenda:

<u>Discussion of the lease proposal from BMCC for OSU Extension</u>: Commissioner Hansell called in for the discussion and the agenda items on the meeting at 9:07 a.m. Randy Mills reported that BMCC offered to extend the lease agreement between it and the extension program for 5 years as detailed in the handout provided (attached).

BMCC was proposing an increase in the rent base similar to that proposed the previous year, when the lease terms were extended for one year. The extension program had historically paid 50¢ per square foot. BMCC's goal was to get to about 80% of the business lease value for Pendleton within the 5 year proposed lease term. The program was not able to absorb the costs for the lease proposal due to the budgetary restraints imposed through the state funding stream. Randy Mills was seeking direction from the Board of Commissioners on the matter.

Commissioner Doherty asked for the current per square foot rate in Pendleton for commercial properties. Randy Mills estimated that to be about \$1 per square foot, which was what was related to him by BMCC. Connie Caplinger confirmed that estimate was close to the average, based on information provided at a recent Pendleton Chamber meeting. Randy Mills was also advised that BMCC planned to bring its other lessees into

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similar adjustments as their leases came up for renewal.

The extension program occupied about 4,000 square feet and he expected that there was a high likelihood of staff reduction through attrition due to the budget situation and the state reorganization of the extension program. Commissioner Hansell commented that he would be hesitant to enter into a long term lease due to the same uncertainty of the budget and the extension reconfiguration. Randy Mills suggested that if the program returned its meeting room to the college, it could fit the rental rate increase into its budget. He believed that the college liked having the extension program on site and thought that the program could make a counter offer. Randy Mills was to check on the total square footage of the west end of the floor in the building the program occupied.

Commissioner Doherty suggested that the counter offer could include the return of the meeting space to the college and a short 1 to 2 year lease. Randy Mills committed to performing due diligence with regard to scouting out alternative locations for the program. Commissioner Hansell concurred with Commissioner Doherty as to the suggestion of the counter offer terms. Randy Mills was to report back on March 2nd at the next Board of Commissioners' meeting.

Agenda Items:

- 1. Purchase of boat: Glen Diehl presented the request to purchase a boat in the amount of \$68905, using non General Fund revenue. The funds were the result of a grant distribution that had not been received for about 2 years. Each of the top eight counties in the state received \$45,000 to replace their marine patrol platform. Umatilla County was one of the counties. The grant came with the proviso that the program must sell its oldest boat and apply those proceeds as a match toward the new boat. The county sold the Seasport for about \$20,000, leaving the amount for equipping the boat to be funded. Commissioner Doherty asked whether there was any way the program could realize some savings on the equipment. Glen Diehl explained that although he was able to make savings on some items, those were balanced out by the costs of others. Also, with the grant terms, the program was required to use the full amount or lose the amount of the savings it generated in the next distribution. Commissioner Hansell move to authorize the program to place the order fo the Oregon State Marine Board approved boating platform and approve the purchase of the boat and its equipment. Commissioner Doherty seconded and the motion carried 3-0.
- 2. <u>Cold Springs Loop</u>: Doug Olsen reported on the history of the February 10, 2011 discussion when the Board directed that it would consider a petition to establish a snowmobile trail if one were received. The petition was received the day after the meeting and the Board was, at its discretion, to set the date for the public hearing on the matter. The Board directed that the public hearing should be scheduled for April 6, 2011, at 10:00 a.m. in Room 114 of the Pendleton Courthouse.
- 3. <u>Tax refund</u>: Doug presented the order refunding a double payment of taxes. Commissioner Doherty in the matter of refund of taxes, moved to adopt Order Number TX2011-05. Commissioner Hansell seconded. The motion carried 3-0.
- 4. <u>Head start appraisal</u>: Doug Olsen reported that a site had been tentatively identified by the program, but that an appraisal must be completed before the CDBG grant funds would be released. In the meantime, the county was in the position of fronting the funds for the appraisal and other costs associated with the grant administration and waiting until the funds were released for reimbursement. Commissioner Doherty moved to authorize the expenditure and award the contract for the appraisal to Rick Barnett. Commissioner Hansell seconded and the motion carried 3-0.

Admin Minutes 2/22/11 Page 2 of 5 5. <u>LADPC appointments</u>: Doug Olsen reported that the appointments were to reappoint Carolyn Mason, whose term had expired, and to appoint Kim Weissenfluh to the position held by Chuck Logan-Belford. Commissioner Hansell moved approval and Commissioner Doherty seconded and recited the order by title and Order Number BCC2011-013. The motion carried 3-0.

Consent Agenda:

- 1. Authorization of tuition for the 4 maintenance staff to attend the Building Operators Certification course
- 2. Authorization to waive the hiring freeze, recruit and hire a Technical Specialist
- 3. Approval of two updated policies 2.8 and 2.9

Connie Caplinger explained that the updated policies only required changes that reflected the changes to the county structure. No people were affected by the changes. Commissioner Doherty moved approval of the consent agenda as presented. Commissioner Hansell seconded and the motion carried 3-0.

Public input: None.

Other Discussion:

Milton-Freewater EMS: Commissioner Givens reported that Jim Stearns was assembling the Ambulance Service Advisory Committee for a meeting to discuss possible solutions to the situation. The commissioner was waiting for a call from the Walla Walla city manager regarding the possibility of contracting to cover that area served by Milton-Freewater EMS. The commissioner reported that he was receiving comments from citizens pointing out that other areas had taxing districts and that could be a possible solution.

The impasse seemed to have been reached when the Board of Commissioners requested that Milton-Freewater EMS produce its statistical data related to calls, responses and responses to event for which they were not dispatched. The information provided was not conclusive and did not seem to be complete.

Commissioner Doherty was to prepare an op-ed article for the Valley Herald from the BCC to educate the public on the organizational structure of the ambulance services as set by statute. Commissioner Doherty also suggested that the county negotiate a July 1, 2011 termination date with the service to allow time to reach a solution to the matter.

FEMA Council: Commissioner Givens reported that he was getting pressure from the governor and Senator Wyden to apply for appointment to the National Advisory Council for FEMA. He felt that was largely due to statements he made at the flood control district meeting. He was nominated by an anonymous source. Commissioner Doherty was not supportive and Commissioner Hansell asked how his participation on the council would benefit Umatilla County. Commissioner Givens explained that the council's business was related to the flood mapping and flood insurance rate decisions by FEMA. He felt that by being a member of the council, he would be better able to give the county a voice on the issue. The council consisted of 35 members. Commissioner Hansell was leaning toward Commissioner Doherty's opinion, but wanted to explore the subject more and asked for some time Friday, February 25th to do that.

Re-organization of the state court system: A bill had been introduced at the state legislative session proposing to reorganize the state court system. Pete Wells provided the Board of Commissioners with some information on the legislation and its effect on the local area. It would remove the statutory requirement for a court to be held in Hermiston as well as Heppner. Doug Olsen reported that from the information he received, Admin Minutes

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the state bar association was evenly split as to whether to support the bill and that the sense was that it was funding driven.

Recess and reconvene: Commissioner Givens recessed the meeting at 10:24 a.m., setting the time to reconvene at 10:30 a.m. The meeting was reconvened at 10:37 a.m. by Commissioner Givens with Commissioner Hansell having disconnected to attend a meeting at his location in Salem.

Water Control District 1: Doug Olsen reported that the district board had no members and at the time the last member was gone, the county took over the district. There was about \$35,000 in the district's account and the district held the easements for the levee. The question was whether there was any use for the district. Commissioner Givens observed that it extended from the freeway to Reith. Connie Caplinger commented that the current discussion resulted from a previous discussion with Bob Patterson. Doug Olsen explained that if the district was dissolved all the easements would be lost.

There was some discussion between Larry Lehman, Tom Simmons and the Board regarding the City's hope to extend the riverwalk and its difficulties with the continuous changes from FEMA as to what was acceptable to meet its flood control standards. Tom Simmons commented that Pendleton was finding itself in the same quandary as Milton-Freewater with respect to conflicting instructions and regulations from the federal agencies involved.

The certification of the levee was held up by these conflicts, particularly the matter of vegetation on the levee. The US Army Corps of Engineers would have no vegetation on the levee where US Fish & Wildlife would rather there was vegetation. The costs to remove the vegetation on the levee would be almost equal to that of the 30% reduction of potential aid from FEMA in the event of a flood. Any levee that did not provide prove up compliance would be decertified according to Tim Simmons' information, meaning that it was likely that mitigation would need to be done in Water Control District 1.

Larry Lehman stated that the City's primary interest was in the long term easements between the City and the Water Control District. Tim Simmons commented that dissolution on the district and possible decertification of the levees would have impacts on the sewage treatment plant.

Larry Lehman asked for confirmation that no taxes were currently being collected in the district, but that it had the potential to generate tax revenue. Doug Olsen affirmed that. Larry Lehman suggested that the City could obtain a loan to ensure the mitigation was completed for certification of the levees and that tax revenue from the district could be used for the debt service on that loan. He committed to do some further review to help formulate a plan.

Scheduling of Next Meeting: The next meeting will be held March 2, 2011.

ADJOURNMENT

The meeting was adjourned at 11:13 a.m.

Respectfully submitted,

Laura Headley

Executive Secretary
Umatilla County
Board of Commissioners

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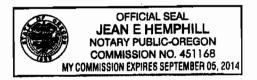
STATE OF OREGON)	AFFIDAVIT OF
) ss.	POSTING AND PUBLICATION
County of Umatilla)	

- I, DOUGLAS R. OLSEN, being first duly sworn, depose and say as follows:
 - 1. I am county counsel for Umatilla County.
- 2. The weekly schedule for the Umatilla County Board of Commissioners is posted on the Umatilla County website under Public Notices.
- 3. The notice is posted Friday of each week for the following week, when the previous week schedule is removed.
- 4. Attached to this affidavit is a true copy of the schedule for the following weeks:
 - A. March 13 through 19, 2011, posted March 11, 2011;
 - B. May 1 through 7, 2011, posted April 29, 2011;
 - C. May 8 through 14, 2011, posted May 6, 2011;
 - D. June 12 through 18, 2011, posted June 10, 2011;
 - D. June 26 through July 2, 2011, posted June 24, 2011.

 DATED this 26th day of September, 2011.

Douglas R. Olsen

SUBSCRIBED and SWORN to before me this 26th day of October, 2011.



Notary Public for Oregon

Umatilla County Board of Commissioners Schedule for the week of March 13 through 19, 2011

Day & Date	BOC Courthouse Meetings	Other Meetings and Events
Mon 3/14		All day AOC Legislative & Steering Committees – Salem – Comm Hansell, Comm Givens 10:00 AOC Water Policy Committee teleconference – Comm Doherty
Tues 3/15		7:30 Breakfast of Champions – Convention Ctr, Portland – Comm Hansell
		10:30 Al Bankendorf – SHGC – Comm Doherty, Tamra Mabbott
		1:30 Umatilla Basin Water Commission – Doherty Conf Rm, SHGC, Hermiston – Comm Doherty
		6:00 AWERE Committee - Elementary School, Athena - Comm Hansell
Wed 3/16	9:00 Board of Commissioners' Meeting – Room 114 1. Consent agenda 2. RCDC presentation (9:00) 3. Natural Resource council presentation 4. Purchase 2 new scanners for records 5. Supplemental budgets (5) (Public Hearing) 6. Establish fund balance allocations 7. Motor Grader Purchase 8. Used pressurized water truck 9. City of Echo request for Bike Path funds discussion 10. Authorization to purchase installation and testing services 11. Authorization to contract with Motorola 12. Eurus Benefit Plan grants	1:00 Constitutent meeting – Stafford Hansell Govt Center, Hermiston – Comm Doherty
Thurs 3/17	9:00 Board of Commissioners' Land Use Planning Hearing – Room 114 Text Amendments #T-10-039 and #T-10-040	
Fri 3/18		

Distribution of this notice will serve as Notice for Oregon Public Meeting Law. For additional information, contact 541-278-6204.

Umatilla County Board of Commissioners Schedule for the week of May 1 through 7, 2011

Day & Date	BOC Courthouse Meetings	Other Meetings and Events
Mon 5/2		All day AOC Legislative & Steering Committees – Salem – Comm Hansell, Comm Givens 10:00 Water Policy Committee teleconference – Comm Doherty
Tues 5/3	9:00 – 5:00 Umatilla County Planning Code Text Amendment work session – Media Rm, EOC, Pendleton	
Wed 5/4	9:00 Board of Commissioners' Meeting – Room 114 1. Consent agenda 2. Employee of the Month 3. Cold Springs Loop Snowmobile Trail designation (Public Hearing) 4. STF grant awards 5. Supplemental Budgets 6. Salvation Army Week Proclamation (May 9-15) 7. Request for authority to request bids for Weed Program UTV and trailer 8. Vacation of portion of old County Rd 407 – City of Adams 9. MOU re Milton-Freewater Ambulance Service 10. Approval for electronic records software for Public Health 11. West Umatilla Mosquito Control District Board appointment	12:00 Chamber – Milton-Freewater – Comm Givens 1:15 Road employee's union negotiation – Comm Hansell, Connie Caplinger (tentative)
Thurs 5/5		1:00 NFCSC Conference Call - Comm Hansell
Fri 5/6		

Distribution of this notice will serve as Notice for Oregon Public Meeting Law. For additional information contact 541-278-6204.

Umatilla County Board of Commissioners Schedule for the week of May 8 through 14, 2011

Day & Date	BOC Courthouse Meetings	Other Meetings and Events
Mon 5/9		All day Local Officials' Advisory Committee – Salem - Comm Givens
Tues 5/10	9:00 Administrative Meeting – Room 121 1. Consent agenda 2. Advance per diem 3. Payable for Eastern Oregon Visitor Guide – \$3500 4. Selling of Stafford Hansell Government Center's old generator 5. Authorization to purchase microwave equipment – Weston Mtn & E. Pendleton 6. OSU Extension Service Umatilla County Day Proclamation 7. Milton-Freewater Ambulance MOA	 7:00 State Rep's video conferences – Bd Rm, BMCC, Pendleton – Comm Doherty 1:00 – 4:00 Office Hours – Monahan Rm, Library, Milton-Freewater – Comm Givens 1:30 Umatilla Basin Water Coalition – Doherty Conf Rm, SHGC – Comm Doherty 6:00 AWERE Committee – Elementary School, Athena – Comm Hansell
Wed 5/11	9:00 Senior Managers' Meeting – Room 114 7:00 Milton-Freewater Ambulance	10:00 Interagency meeting re levee – Levee, Milton-Freewater - Comm Givens 11:30 Wildhorse Foundation – Tamastslikt – Comm
	Advisory Committee - Albee Rm, Library, Milton-Freewater	Hansell 1:00 Giant Cane Advisory Group HAREC, Hermiston Comm Hansell
Thurs 5/12	9:00 Land Use Planning Hearing Text Amendments #T-10-039 and #T-10-040 – Media Rm, EOC	
Fri 5/13		8:00 American Leadership Forum – Portland – Comm Hansell
		8:15 KUMA Coffee Hour – Comm Hansell

Distribution of this notice will serve as Notice for Oregon Public Meeting Law. For additional information, contact 541-278-6204.

Umatilla County Board of Commissioners Schedule for the week of June 12 through 18, 2011

Day & Date	BOC Courthouse Meetings	Other Meetings and Events
Mon 6/13		9:00 BCC Staff - Room 121 6:00 HELP Committee - City Hall, Helix - Comm Hansell
Tues 6/14	9:00 - 5:00 Text Amendment #T-10-039 Planning Hearing - Media Rm, EOC, Pendleton	7:00 Water Control District – Milton-Freewater – Comm Givens
Wed 6/15	9:00 Board of Commissioners' Meeting – Room 114 1. Consent agenda 2. Supplemental budgets (2) (Public Hearings) 3. Budget transfers (4) 4. Proposed formation of the Milton-Freewater Ambulance Service District (Public Hearing) 5. HELP grant awards 6. JCP Plan Update 7. Boyd Hydro option 8. Appointment of Financial Assistance Administrator 9. Master Gardener Civic Demonstration Garden 10. Agape (Martha's) House discussion	 1:30 UMADRA Meeting – Wenaha Rm, Nixyaawii Governance Ctr, CTUIR – Comm Hansell 6:00 OR Environmental Quality Commission Town Hall – Slickfork Saloon, Hamley's, Pendleton – Comm Givens
Thurs 6/16	9:00 2012 Fiscal Year Budget Hearing – Room 114	
Fri 6/17	-	

Distribution of this notice will serve as Notice for Oregon Public Meeting Law. For additional information, contact 541-278-6204. Revised 6/14/11 9:00 a.m.

Umatilla County Board of Commissioners Schedule for the week of June 26 through July 2, 2011

Day & Date	BOC Courthouse Meetings	Other Meetings and Events
Mon 6/27	9:00 Administrative Hearing – Room 121 1. Consent agenda 2. Budget transfers 3. Copier leases 4. Authorization to remove old office trailer from the Fair Grounds 5. Authorization of 1.5% salary for exempt employees for FY2011-2012 effective July 1 2011 6. Ratification of Road Department Agreement 7. Liability and Workers' Comp Insurance 8. Medical and dental insurance 9. Reauthorization of hiring freeze 10. Tax refund order	7:00 Salvation Army Board – Thrift Store, Pendleton – Comm Hansell
Tues 6/28	9:00 Board of Commissioners' Hearing – Wind Facility Ordinance Amendment – Media Room, EOC, Pendleton	
Wed 6/29	9:00 Administrative Hearing – Room 121 1. Supplemental budget – public hearing	1:30 Umatilla Basin Water Commission – Stafford Hansell – Comm Doherty
Thurs 6/30		3:00 Martha's House Groundbreaking – SE 4 th & E Newport, Hermiston
Fri 7/I		

Distribution of this notice will serve as Notice for Oregon Public Meeting Law. For additional information, contact 541-278-6204.

CERTIFICATE OF FILING AND SERVICE

I certify that on September 27, 2011, I filed the original and one copy of this Respondent's Response to Petitioners' Record Objection via first class mail with the Land Use Board of Appeals, PUC Building, 550 Capitol Street NE, Suite 235, Salem OR 97301-2552.

I further certify that on September 27, 2011, I served a true and correct copy of this Respondent's Response to Petitioners' Record Objection on the following persons by first class mail:

Jennifer M. Bragar 121 SW Morrison Street Eleventh Floor Portland, OR 97204-3141 Attorney for Petitioners James K. Hayner
PO Box 1757
Walla Walla, WA 99362
Attorney for Intervenor Reid

Richard Stewart 515 Fleetwood College Place, WA 93224 Intervenor-Petitioner JoLynn Buell 78441 Rayborn Road Weston, OR 97886 Intervenor-Petitioner Representative

Joe Pitt
CTUIR
46411 Timine Way
Pendleton, OR 97801
Attorney for Intervenor-Respondent

DATED: September 27, 2011

Douglas R. Olsen, OSB # 84438

Vmatilla County Counsel Attorney for Respondents