



# PLANNING DEPARTMENT

PO Box 40 • 205 Third Street NE  
Irrigon, Oregon 97844  
(541) 922-4624

## MEMORANDUM

To: Planning Commission  
From: Stephanie Case, Interim Planning Director  
Date: August 25, 2020  
RE: Appeal of Planning Director Decision regarding Land Use Decision LUD-N-26-20

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This appeal is to be heard by the Planning Commission at the special meeting on September 4, 2020. The hearing will be at the Bartholomew Building and via Zoom video conference at 9:00 a.m.

This memorandum serves as a cover sheet to the Preliminary Findings of Fact for the Morrow County Planning Commission. The following summarizes the actions to date and the appellants request.

- On March 11, 2020 a request for a Land Use Decision was received by the Planning Department and the application was deemed complete on March 23, 2020.
- On March 26, 2020 notice was mailed to adjoining landowners and interested/affected agencies, requesting comments on the proposal by April 10, 2020.
- On March 30, 2020 an e-mail was received from Gary Frederickson in opposition of the proposal.
- On April 2, 2020 written opposition was received from The Blanc Firm, LLC on behalf of Gary and Casey Frederickson.
- All comments received for the proposal were incorporated as part of the Findings of Fact by the Planning Director.
- On July 21, 2020 approval of Land Use Decision LUD-N-26-20 was issued by the Planning Director.
- On July 21, 2020 an approval letter was sent to the applicant and participating parties with two Conditions of Approval, which outlined the options for appeal by 5:00 p.m. on August 5, 2020.
- On August 5, 2020 the Planning Department received a timely Notice of Appeal via Priority Mail from The Blanc Firm, LLC on behalf of the appellants, Gary and Casey Frederickson.

The appellants' specific grounds for the appeal state that "The record before the Commission is insufficient to determine that UEC's fourth possible route is not a reasonable alternative to using resource land, and that the proposed transmission line does not qualify as an "associated transmission line" as defined in ORS 469.300."

Planning staff, and particularly the Planning Director, will not provide a recommendation for the Planning Commission as this is an Appeal of a Planning Director Decision. The Public Hearing, scheduled on September 4, is the proper venue for the Planning Commission to consult with the Planning Director, Planning Staff and County Counsel on this appeal and the options available. Also to be discussed at that time is the necessary procedural steps based on the Planning Commission decisions and possible recommendations.

If you have any questions concerning this appeal prior to the scheduled Public Hearing please give the Planning Department a call at 541-922-4624.

attachments: Planning Commission Preliminary Findings of Fact  
Approval Letter dated July 21, 2020  
Land Use Decision LUD-N-26-20, Approval Letter of Planning Director Decision  
Land Use Decision LUD-N-26-20 Findings of Fact of Planning Director Decision

distribution: Tamra Mabbott, Department of Land Conservation and Development; Thomas Lapp, Marilyn Holt, and Teresa Penninger, Oregon Department of Transportation; Maxwell Woods, Oregon Department of Energy; Jevra Brown, Department of State Lands; Karen Pettigrew and Barry Beyeler, City of Boardman; Mike Gorman, Morrow County Assessor; Matt Scrivner, Morrow County Public Works Director; Morrow County Board of Commissioners; Justin Nelson, Morrow County Counsel; Gregg Zody, Morrow County Community Development Director; Nick Blanc, The Blanc Firm, LLC; Gary and Casey Frederickson, appellants; Robert Echenrode, Wendy Neal, and Joshua Lankford, Umatilla Electric Cooperative; Tommy Brooks, Cable and Huston; Sage Hollow Ranch, LLC; Stiffler, LLC; Jonathan Tallman.

**PRELIMINARY FINDINGS OF FACT  
MORROW COUNTY PLANNING COMMISSION  
LAND USE DECISION  
Application No. LUD-N-26-20**

**REQUEST:** To allow construction and operation of a double circuit 230 kV transmission line on single-poles ranging from ~90' to ~130' in height on lands zoned Exclusive Farm Use.

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**APPLICANT:** Umatilla Electric Cooperative  
750 W Elm Avenue  
Hermiston, OR 97838

**OWNERS:** Umatilla Electric Cooperative  
PO Box 1148  
Hermiston, OR 97838

Sage Hollow Ranch, LLC  
3620 Independence Rd.  
Sunnyside, WA 98944

Stiffler, LLC  
33896 E. Walls Rd.  
Hermiston, OR 97838

**PROPERTY DESCRIPTION:** Tax Lot 3400 of Assessor's Map 4N 25 10; Tax Lots 500 and 600 of Assessor's Map 4N 25 11; Tax Lot 101 of Assessor's Map 4N 25 13; Tax Lot 201 of Assessor's Map 4N 26 07

**PROJECT LOCATION:** Project alignment runs generally from the northeast of the intersection of Highway 730 and Interstate 84 from a planned electrical switch station, westerly to a planned electrical substation located just west of Olson Road and south of Interstate 84.

**FINDINGS OF FACT:**

**I. BACKGROUND INFORMATION:** Zoning of the area subject to this Land Use Decision is Exclusive Farm Use (EFU) with a 160-acre minimum lot size. This approval will facilitate transmission ensuring adequate service to the area as electrical load growth continues in the northern portion of Morrow County. This application applies only to the portion of the transmission line located within unincorporated areas of Morrow County. The Applicant will need to coordinate with the City of Boardman for those portions of the project located within City Limits. The City of Boardman was provided notice of this action as well as a copy of these findings.

**II. APPROVAL CRITERIA:** The applicant has filed under the Morrow County Zoning Ordinance, ARTICLE 3, USE ZONES, Section 3.010 Exclusive Farm Use Zone. Section

3.010 includes REQUIREMENTS FOR APPROVAL which are listed below in **bold type**, followed by a response in standard type:

**B. Uses Permitted Outright. In the EFU zone, the following uses and activities and their accessory buildings and uses are permitted subject to the general provisions set forth by this ordinance:**

**24. Utility facilities necessary for public service, including associated transmission lines as defined in Article 1 and wetland waste treatment systems, but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over 200 feet in height as provided in Subsection D.10.**

The proposed 230kV transmission line is a utility facility that is designed to serve industrial activities in this area of Morrow and Umatilla Counties. Planning staff have determined that the proposed use meets the definition of a Utility Facility Necessary for Public Service and can be allowed if the standards found in subsection D10 can be met.

#### **D. Use Standards**

**10. A utility facility that is necessary for public service.**

**a. A utility facility is necessary for public service if the facility must be sited in the exclusive farm use zone in order to provide the service.**

The proposed transmission line will be providing service to this area of Morrow and Umatilla Counties. The route presented is the most efficient route from the source to the demand available. Impacts to the agricultural operations are limited as the line is proposed to travel along already existing transmission corridors and farm roads. The proposed transmission line meets this criterion.

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

- (a) Technical and engineering feasibility;**
- (b) The proposed facility is locationally-dependent. A utility facility is locationally-dependent if it must cross land in one or more areas zoned for exclusive farm use in order to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;**
- (c) Lack of available urban and nonresource lands;**
- (d) Availability of existing rights of way;**
- (e) Public health and safety; and**
- (f) Other requirements of state and federal agencies.**

The proposed alignment of the Utility Facility Necessary for Public Service is locationally-dependent as there is no other route to connect the two end points except to cross lands zoned EFU. The route chosen by the applicant was designed in consultation with landowners along the route to minimize impacts to agricultural operations. This proposed route also takes in consideration the design limitations for crossing the Bonneville Power Administration (BPA) corridor. Planning staff would find these criteria met.

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

**alternative locations for substantially similar utility facilities and the siting of utility facilities that are not substantially similar.**

Cost has not been the lone factor in identifying the location for the proposed transmission line. The proposed location limits impact to agricultural operations and was a consensus of the landowners in this particular segment within the County's jurisdiction. Planning staff would find this criterion met.

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

The applicant has indicated that contractors doing work for the cooperative are required to be insured and bonded for the full value of their respective contracts. It is listed as a Condition of Approval that the applicant is responsible for restoration of adjacent agricultural lands that could be disturbed.

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

The applicant has outlined in the application current design work that limits impacts during both construction, operation and maintenance. Planning staff do list as a Condition of Approval that the applicant provide to the Planning Department both pre- and post-construction design to include the final route and tower placement locations.

**(5) Utility facilities necessary for public service may include on-site and off-site facilities for temporary workforce housing for workers constructing a utility facility. Such facilities must be removed or converted to an allowed use under the EFU Zone or other statute or rule when project construction is complete. Off-site facilities allowed under this Subsection are subject to Article 6. Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request. A minor amendment request shall have no effect on the original approval.**

This criterion is not applicable as there are no housing facilities proposed.

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

This criterion is not applicable as no sewer system facilities or extensions will be required.

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

This criterion is not applicable as this utility is not a natural gas pipeline.  
**b. An associated transmission line is necessary for public service upon demonstration that the associated transmission line meets either the following requirements of Subsection (1) or Subsection (2) of this Subsection.**

Planning staff have deemed this criterion not applicable as this installation does not qualify as an "associated transmission line" as defined in the Morrow County Zoning Ordinance as it is not associated with an energy generation facility.

**III LEGAL NOTICE PUBLISHED:** August 15, 2020  
East Oregonian

**IV AGENCIES NOTIFIED:** Tamra Mabbott, Department of Land Conservation and Development; Thomas Lapp, Marilyn Holt, and Teresa Penninger, Oregon Department of Transportation; Maxwell Woods, Oregon Department of Energy; Jevra Brown, Department of State Lands; Karen Pettigrew and Barry Beyeler, City of Boardman; Mike Gorman, Morrow County Assessor; Matt Scrivner, Morrow County Public Works Director

**V PROPERTY OWNERS NOTIFIED:** August 14, 2020

**VI HEARING DATE:** September 4, 2020  
Bartholomew Building  
Heppner, Oregon

**ACTION OF THE PLANNING COMMISSION:** Approval subject to the following Conditions of Approval:

1. The applicant is responsible for restoration of adjacent agricultural lands that could be disturbed.
2. Provide to the Planning Department both a pre- and post-construction design to include the final route and tower placement locations.

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Jeff Wenholz, Chair

Date

**ATTACHMENTS:**

Notice of Appeal

Final Findings of Fact of Morrow County Planning Director dated July 21, 2020



**NOTICE OF APPEAL**  
**Against a Decision of the Planning Director**  
**or Planning Commission**

Date Received: 08052020

Date Deemed Complete: 8/13/2020

**A person may appeal a decision of the Planning Director or Planning Commission within 15 days after the decision was made.**

Appellant: Gary and Casey Frederickson

Address: 79206 Rippee Rd, Boardman, OR 97818

Telephone: (541) 481-5415

E-mail address: Send to attorney Nick R. Blanc at nblanc@blancfirm.com

**Subject of Appeal:**  Planning Director  Planning Commission

Type of Original Application (e.g. Conditional Use Permit, Land Partition, Variance, Property Line Adjustment):

Land Use Decision

File Number of the Original Application: LUD-N-26-20

Date of Decision: July 21, 2020

Please state the specific decision made by the Planning Director or Planning Commission that is being appealed: Conditional approval allowing construction and operation of a

double circuit 230 kV transmission line on single poles ranging from ~90' to ~130' in height on lands zoned EFU.

Please state the specific grounds for the appeal: The record before the Commission is

insufficient to determine that UEC's fourth possible route is not a reasonable alternative to using resource land, and that the proposed transmission line does not qualify as an "associated transmission line" as defined in ORS 469.300.

Signature: [Handwritten Signature]

Date: 8-4-20

**PAID**  
08 05 2020 *BNB*

Fee: \$250.00

**Morrow County Planning Department**  
P.O. Box 40, Irrigon Oregon 97844  
(541) 922-4624 FAX: (541) 922-3472

Nick R. Blanc  
nblanc@blancfirm.com  
\*Licensed in OR & CA

David M. Blanc  
dblanc@blancfirm.com  
\*Licensed in OR & WA



39 SE Court Ave.  
Pendleton, OR 97801  
Phone: (541) 215-4810  
Fax: (541) 215-6609  
www.blancfirm.com

August 4, 2020

SENT VIA PRIORITY MAIL

Stephanie Case  
Interim Planning Director  
Morrow County Planning Department  
P.O. Box 40  
Irrigon, OR 97844

Re: Notice of Appeal  
Application No. LUD-N-26-20  
Our File No. 020-054

Dear Ms. Case:

Please find enclosed with this letter the Notice of Appeal that is being submitted by Gary and Casey Frederickson in the above-referenced matter, as well as check made out to Morrow County in the amount of \$250.00.

Your attention to this matter is appreciated.

Sincerely,

A handwritten signature in blue ink, appearing to read "N. Blanc", is written over a light blue horizontal line.

Nick R. Blanc

w/encl.  
cc. Gary and Casey Frederickson





## PLANNING DEPARTMENT

PO Box 40 • 205 Third Street NE  
Irrigon, Oregon 97844  
(541) 922-4624

July 21, 2020

Umatilla Electric Cooperative  
c/o Robert Echenrode  
PO Box 1148  
Hermiston, Oregon 97838

Dear Mr. Echenrode:

A Land Use Decision, LUD-N-26-20, has been made on property described as Tax Lot 3400 of Assessor's Map 4N 25 10; Tax Lots 500 and 600 of Assessor's Map 4N 25 11; Tax Lot 101 of Assessor's Map 4N 25 13; Tax Lot 201 of Assessor's Map 4N 26 07. The request, further outlined in the attached Final Findings of Fact and Applicant Narrative, is to allow construction and operation of a double circuit 230 kV transmission line on single-poles ranging from ~90' to ~130' in height on lands zoned Exclusive Farm Use. The request has been authorized by the Planning Director as Land Use Decision LUD-N-26-20, effective July 21, 2020. This decision is APPROVED subject to the following Conditions of Approval:

**DECISION OF THE PLANNING DIRECTOR:** The Planning Director approves Land Use Decision LUD-N-26-20 subject to the following CONDITIONS OF APPROVAL:

- The applicant is responsible for restoration of adjacent agricultural lands that could be disturbed.
- Provide to the Planning Department both a pre- and post-construction design to include the final route and tower placement locations.

If you do not agree with this decision you can appeal it to the Morrow County Planning Commission within 15 days of the decision, or by 5:00 p.m. on Wednesday, August 5, 2020. Appeal application forms are available through the Planning Department and may be submitted with the required \$250 fee by 5:00 p.m. on August 5, 2020. Should you have any questions please feel free to call us at 541-922-4624 or by email at [scase@co.morrow.or.us](mailto:scase@co.morrow.or.us).

Cordially,

A handwritten signature in cursive script that reads "Stephanie Case".

Stephanie Case  
Interim Planning Director

enc: Final Findings of Fact (with attachments)

cc: Sage Hollow Ranch, LLC, landowner  
Stiffler, LLC, landowner  
Mike Gorman, Morrow County Assessor (via email)  
Joshua Lankford and Wendy Neal, Umatilla Electric Cooperative (via email)  
Tommy A. Brooks, Cable Huston (via email)  
Karen Pettigrew and Barry Beyeler, City of Boardman (via email)  
Gary Frederickson (via email)  
Nick R. Blanc, The Blanc Firm LLC (via email)  
Casey Huxoll (via email)  
Terry Tallman (via email)  
Jonathan Tallman (via email)  
Jim Doherty (via email)  
J. Fletcher Hobbs (via email)  
Wes and Mary Killion (via email)  
Morrow County Board of Commissioners (via email)

**FINAL FINDINGS OF FACT  
LAND USE DECISION  
Application No. LUD-N-26-20**

**REQUEST:** To allow construction and operation of a double circuit 230 kV transmission line on single-poles ranging from ~90' to ~130' in height on lands zoned Exclusive Farm Use.

---

**APPLICANT:** Umatilla Electric Cooperative  
750 W Elm Avenue  
Hermiston, OR 97838

**OWNERS:** Umatilla Electric Cooperative  
PO Box 1148  
Hermiston, OR 97838

Sage Hollow Ranch, LLC  
3620 Independence Rd.  
Sunnyside, WA 98944

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33896 E. Walls Rd.  
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**PROPERTY DESCRIPTION:** Tax Lot 3400 of Assessor's Map 4N 25 10; Tax Lots 500 and 600 of Assessor's Map 4N 25 11; Tax Lot 101 of Assessor's Map 4N 25 13; Tax Lot 201 of Assessor's Map 4N 26 07

**PROJECT LOCATION:** Project alignment runs generally from the northeast of the intersection of Highway 730 and Interstate 84 from a planned electrical switch station, westerly to a planned electrical substation located just west of Olson Road and south of Interstate 84.

**FINDINGS OF FACT:**

- I. **BACKGROUND INFORMATION:** Zoning of the area subject to this Land Use Decision is Exclusive Farm Use (EFU) with a 160-acre minimum lot size. This approval will facilitate transmission ensuring adequate service to the area as electrical load growth continues in the northern portion of Morrow County. This application applies only to the portion of the transmission line located within unincorporated areas of Morrow County. The Applicant will need to coordinate with the City of Boardman for those portions of the project located within City Limits. The City of Boardman was provided notice of this action as well as a copy of these findings.
- II. **APPROVAL CRITERIA:** The applicant has filed under the Morrow County Zoning Ordinance, ARTICLE 3, USE ZONES, Section 3.010 Exclusive Farm Use Zone. Section 3.010 includes REQUIREMENTS FOR APPROVAL which are listed below in **bold type**, followed by a response in standard type:

**B. Uses Permitted Outright.** In the EFU zone, the following uses and activities and their accessory buildings and uses are permitted subject to the general provisions set forth by this ordinance:

**24. Utility facilities necessary for public service, including associated transmission lines as defined in Article 1 and wetland waste treatment systems, but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over 200 feet in height as provided in Subsection D.10.**

The proposed 230kV transmission line is a utility facility that is designed to serve industrial activities in this area of Morrow and Umatilla Counties. Planning staff have determined that the proposed use meets the definition of a Utility Facility Necessary for Public Service and can be allowed if the standards found in subsection D10 can be met.

#### **D. Use Standards**

##### **10. A utility facility that is necessary for public service.**

**a. A utility facility is necessary for public service if the facility must be sited in the exclusive farm use zone in order to provide the service.**

The proposed transmission line will be providing service to this area of Morrow and Umatilla Counties. The route presented is the most efficient route from the source to the demand available. Impacts to the agricultural operations are limited as the line is proposed to travel along already existing transmission corridors and farm roads. The proposed transmission line meets this criterion.

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

- (a) Technical and engineering feasibility;**
- (b) The proposed facility is locationally-dependent. A utility facility is locationally-dependent if it must cross land in one or more areas zoned for exclusive farm use in order to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;**
- (c) Lack of available urban and nonresource lands;**
- (d) Availability of existing rights of way;**
- (e) Public health and safety; and**
- (f) Other requirements of state and federal agencies.**

The proposed alignment of the Utility Facility Necessary for Public Service is locationally-dependent as there is no other route to connect the two end points except to cross lands zoned EFU. The route chosen by the applicant was designed in consultation with landowners along the route to minimize impacts to agricultural operations. This proposed route also takes in consideration the design limitations for crossing the Bonneville Power Administration (BPA) corridor. Planning staff would find these criteria met.

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

Cost has not been the lone factor in identifying the location for the proposed transmission line. The proposed location limits impact to agricultural operations and was a consensus of the landowners in this particular segment within the County's jurisdiction. Planning staff would find this criterion met.

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

The applicant has indicated that contractors doing work for the cooperative are required to be insured and bonded for the full value of their respective contracts. It is listed as a Condition of Approval that the applicant is responsible for restoration of adjacent agricultural lands that could be disturbed.

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The applicant has outlined in the application current design work that limits impacts during both construction, operation and maintenance. Planning staff do list as a Condition of Approval that the applicant provide to the Planning Department both pre- and post-construction design to include the final route and tower placement locations.

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This criterion is not applicable as there are no housing facilities proposed.

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

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

This criterion is not applicable as this utility is not a natural gas pipeline.

**b. An associated transmission line is necessary for public service upon demonstration that the associated transmission line meets either the following requirements of Subsection (1) or Subsection (2) of this Subsection.**

Planning staff have deemed this criterion not applicable as this installation does not qualify as an "associated transmission line" as defined in the Morrow County Zoning Ordinance as it is not associated with an energy generation facility.

**III. DECISION OF THE PLANNING DIRECTOR:** The Planning Director approves Land Use Decision LUD-N-26-20 subject to the following CONDITIONS OF APPROVAL:

1. The applicant is responsible for restoration of adjacent agricultural lands that could be disturbed.
2. Provide to the Planning Department both a pre- and post-construction design to include the final route and tower placement locations.



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Stephanie Case  
Interim Planning Director

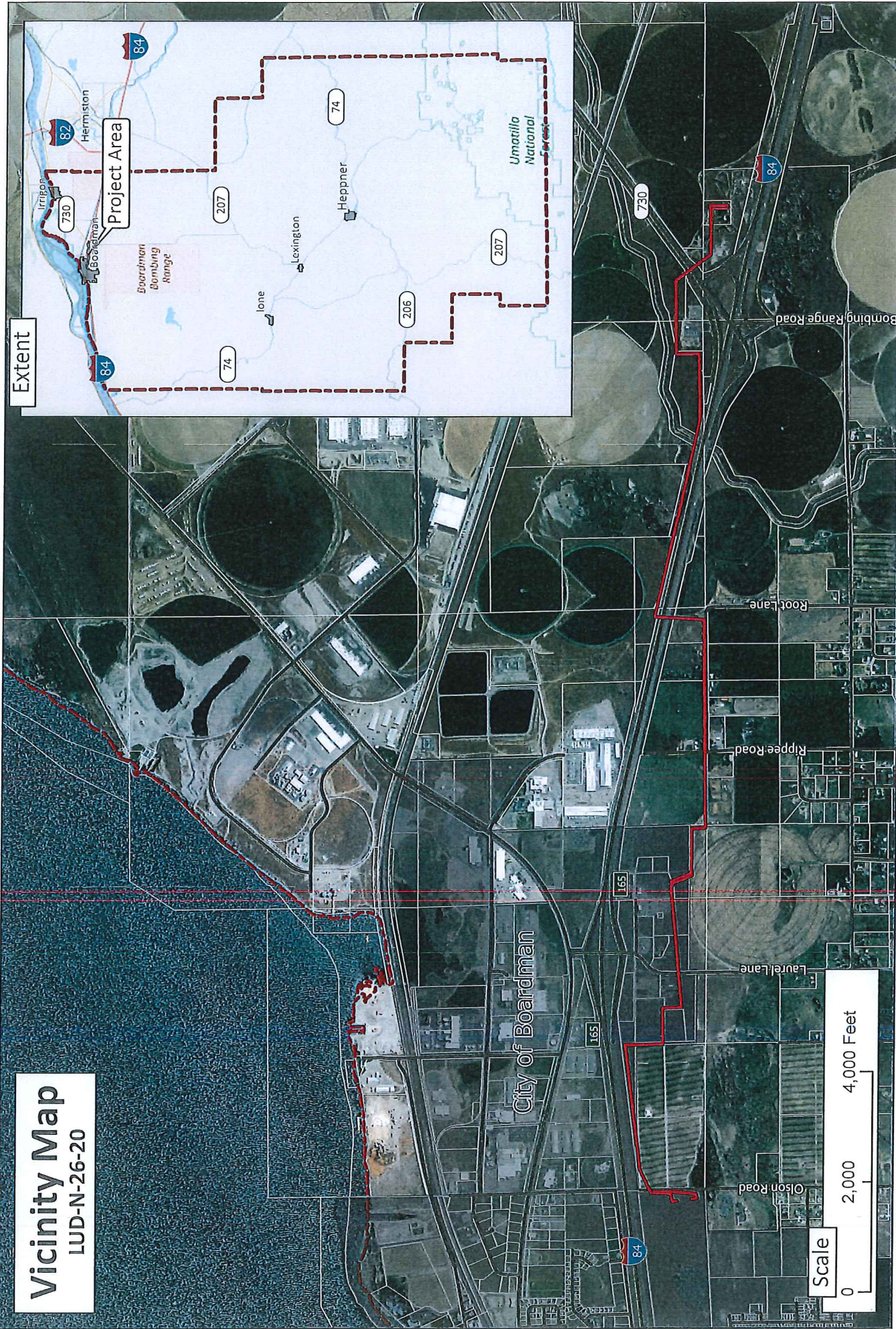


Date

Attachments:  
Vicinity Map  
Applicant Narrative  
Public Comments Received  
Applicant's Response to Comments

# Vicinity Map

LUD-N-26-20



- Legend**
- Tax Lots
  - City Limits
  - Proposed UEC 230kV Line

**Umatilla Electric Cooperative**  
**230 kV Transmission Line**  
 Multiple Tax Lots



**Cartography By: Stephen Wreccits**  
 Morrow County Planning Department  
 Coordinate System: NAD83 Oregon GIC Lambert ft  
 Datum: North American 1983  
 Projection: Lambert Conformal Conic  
 Date Saved: 3/25/2020 4:54 PM  
 Folder: S:\Planning\Land Use Decisions\2020\Year1\UD-26-20 UEC 230kV(UEC)

# **Umatilla Electric Cooperative**

**Olson Rd 230 kV Planned Transmission Line**

**Morrow County Land Use Request**



**Umatilla Electric Cooperative**  
**Olson Rd 230 kV Planned Transmission Line**  
**Land Use Application**  
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  - b. Table B - Subject Parcels
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  - e. Exhibit C - Pole Diagram
  - f. Exhibit D - Landowner Consent Documentation
4. Application Fee (submitted separately)

Submitted by Umatilla Electric Cooperative. Direct questions/comments to:

Wendy Neal  
wendy.neal@umatillaelectric.com  
(541) 289-1522

Gopala Borchelt  
gborchelt@tothassociates.com  
(417) 888-0645

# Application Form



# LAND USE APPLICATION

**PAID**  
03112020 DM

FILE NUMBER LD-N-26-20

Fee \$200  
Date Received 03-11-2020  
Date Deemed Complete 23MAR20

**Type of Application (check one):**

- Non-Farm Use
- Temporary Use
- Dwelling Authorization
- Agri-tourism
- Event(s)
- Other **Utility Facility Necessary for Public Service**

**Applicant:**

Name(s) Umatilla Electric Cooperative

Address 750 W Elm P.O. Box 1148  
Hermiston, OR 97838

Phone 541-289-1522 E-mail address wendy.neal@umatillaelectric.com  
417-888-0645 gborchelt@tothassociates.com

**Legal Owner (if different from the applicant):**

Name(s) See parcels list in Table B accompanying this application.

Address \_\_\_\_\_

**Legal and Physical Description:**

Township 4N Range 25E, 26E Section 11, 12, 07 Tax Lot(s) 500, 600, 400, 201

Physical Address See Table B and Exhibit D: Landowner Consent Documentation.

General Location Project alignment runs generally from the northeast of the intersection of Hwy 730 and I-84 from a planned electrical switch station, westerly to a planned electrical substation location just west of Olson Road and south of I-84.

**PROPOSAL (Identify what you are proposing):**

A double circuit, 230 kV transmission line on single-pole structures ranging from approximately 90 ft to 130 ft tall.

**APPROVAL CRITERIA:**

Zoning Designation EFU Acreage See attached Table A

List the applicable Article, Section(s), and Subsection(s): Article 2, Sections 3.010 Subsection D.10

*A Planner can assist you in identifying the review criteria that apply to your request. The review criteria are used to determine whether your application will be approved or denied. It is your responsibility to provide adequate written justification and any other evidence you feel is relevant to explain how your request complies with the review criteria. Failure to provide adequate justification may result in your application being denied, or deemed incomplete until additional information is provided. For additional space on any questions, please attach a separate sheet of paper.*

**PHYSICAL FEATURES (Describe the site):**

Vegetation on the property: Property has some cultivated agricultural land use and some irrigated areas.

Topography of the property (i.e. rocky, hilly, forested): Gently rolling hills, 2 to 12 percent slopes.

Any significant features of the property (i.e. steep slopes, water bodies, etc.): No

Soil type(s): Quincy loamy fine sand.

Is the land or any portion of it subject to flooding? Minimal, if any. None expected to affect project.

Most current use of the property: Cultivated agricultural land use.

Has the location been utilized as an integral part of the farming operation on the property? No

Does the location have water rights for irrigation? Proposed utility does not affect water rights or use.

What are the predominant farming types in the area? Center pivot irrigation, row crops.

Is the property currently under special assessment by the County Assessor's Office? EFU

**EXISTING IMPROVEMENTS:**

What structures or development does the property contain? Will any structure be removed or demolished? No buildings within proposed use area (easement area). No structures will be removed.

**DESCRIBE THE ACCESS TO THE PROPERTY (check one):**

State Highway     County Road     Public Road     USFS     Private Easement

Road Name: Hwy 730, Root Lane, Olson Rd, private farm roads.

Improvement type and condition of road: Paved and unpaved 2 lane roads.

Will any new access be required? No

**EXISTING SERVICES:**

Fire protection district or method: Not applicable.

Solid waste disposal method: Not applicable.

Utilities and other public services provided: Not applicable.

**Please include a map or plot plan with the following information:**

Existing and proposed water supply; Not applicable.

Existing and proposed sewage disposal method; Not applicable.

Location of existing and proposed structures; and Not applicable.

Existing and proposed roads and accesses. Existing roads shown on Exhibit A.

**With the map please provide a description of:**

How the proposal will be compatible with surrounding land uses: Proposed alignment has been developed in collaboration with landowners to mitigate any impact to existing farm use.

How the proposal will protect and preserve existing natural resources such as trees, vegetation, water resources and wildlife habitat: No impacts are expected to water and vegetative resources.

Design will adhere to the applicant's Avian Protection Plan which conforms to APLIC guidelines.


Whether you believe diking, screening or other landscaping will be required to protect nearby properties and habitats: Silt fence or other methods may be used when building across canal or ditch if deemed necessary.

The applicant is responsible for providing all of the information to show compliance with the standards for approval. If you are unsure of the standards required by the code, the Planning Department will work with you to identify them. It is the applicant's duty to prove the proposal meets all of the given code requirements. Your plot plan and narrative should show or answer the above questions as well as address specific issues about your particular application.

*Through applying for this application I authorize the Morrow County Planning Director or designee to enter upon the property subject of the application to conduct a site visit necessary for processing the requested application. Morrow County shall contact the Land Owner prior to the site visit to arrange an appropriate time for the site visit.*

**Signatures:**

I(we), the undersigned, acknowledge that I am familiar with the standards and limitations set forth by the Morrow County Zoning Ordinance and that additional information and materials may be required, as provided by the Zoning Ordinance and Comprehensive Plan. I propose to meet all standards set forth by the County's Zoning Ordinance and any applicable State and Federal regulations. I(we) certify that the statements and information provided with this application are true and correct to the best of my(our) knowledge.

Signed:  (Applicant)      Wendy Neal, Land Use Specialist (Applicant)  
See attached Exhibit D: Landowner Consent Documentation (Legal Owner)      (Legal Owner)

If this application is not signed by the property owner a letter authorizing signature by the applicant must be attached.

Morrow County Planning Department  
P.O. Box 40, Irrigon Oregon 97844  
(541) 922-4624 FAX: (541) 922-3472

# Land Use Request

## Project Narrative

## Umatilla Electric Cooperative

### Olson Rd 230 kV Proposed Transmission Line

#### Project Narrative

**APPLICANT:** Umatilla Electric Cooperative  
750 W Elm P. O. Box 1148  
Hermiston, OR 97838

**OWNERS:** Umatilla Electric Cooperative (UEC) is proposing to construct the Olson Road 230 kV Transmission Line (Proposed Line) in Morrow County near Boardman, OR. The Proposed Line crosses several parcels which fall in Morrow County and the City of Boardman jurisdictions. Each parcel is identified with its respective landowner, and Exclusive Farm Use (EFU) zoned parcels subject to the application (See Tables A and B). These landowners have given consent for a Land Use Decision application to be submitted to the County either by signing a Land Use Consent Form, or through grant of an Easement or Easement Option to UEC. Written consent documentation is provided (See Exhibit D).

**PROPOSAL:** The Proposed Line is needed to reliably accommodate electrical growth in the Boardman area. The Proposed Line will be integrated into UEC's electric system grid as a new electrical source into the area. UEC's electrical load in the Boardman area has grown from 62 MW in 2009 to 260 MW in 2019, with forecasted growth to be above 535 MW by the end of 2029. This growth is the main reason behind the need for the new transmission line into the area. See attached Exhibits A and B showing the Proposed Line that is the subject of this Application and that will be needed to continue providing adequate service to the area as electrical load growth continues.

The Proposed Line will extend from the planned Hwy 730 Switchyard, to the planned Olson Rd Substation, approximately 4.3 miles (See Exhibit B). Proposed Line construction will consist of a double circuit 230 kV transmission configuration on single steel pole structures with typical heights between 90 and 130 feet (See Exhibit C). In order to minimize impacts related to construction activities tied to the line, as well as minimize potential impacts of the line regarding existing land use and future area development, several criteria were utilized in development of the line route. These criteria include route selection that is adjacent to roadways, on the edge of property boundaries, and near existing electric transmission corridors where reasonably feasible. The need for the Proposed Line to cross EFU parcels is due in large part to restrictive BPA crossing locations for reasons of safety, and the spanning requirements related to crossing Hwy 730. See 3.010.D.10(1)(b) for additional information.

Several alternate routes for this transmission line have been explored and the Proposed Line is considered the preferred alternative. Minimization of land use impacts, input from landowners and design feasibility were primary factors in determining the preferred route. Considering that the anticipated demand for electrical power is in the Boardman area, as stated above, a more southerly route alternative for the Proposed Line is less desirable because it would have to be considerably longer to reach the

needed service area and would also require crossing more EFU land. No workable alternate route exists directly north of and adjacent to I-84 (Columbia River Hwy) due to there being no feasible crossing of the BPA transmission lines on the north side of and adjacent to I-84. An alternate route running parallel and just south of the existing BPA transmission lines would have to be longer than the Proposed Line in order to reach a feasible location to cross the BPA lines. The BPA transmission lines in this area consist of three separate lines with three separate sets of tower structures which are staggered. The staggered nature of the towers limits possible crossing locations due to needed clearances and structure requirements. An alternate route running south of and adjacent to BPA's lines would also impact irrigated croplands, wetlands and residential areas. An alternate route running just south of I-84 in the Laurel Lane Rd interchange would cause new impacts to commercial properties in this area. With the Proposed Line, total impacts are lower by the line running parallel to the existing BPA transmission lines where possible.

**REQUEST:** UEC requests a determination that the Proposed Line is a Use Permitted Outright as a *Utility Facility Necessary for Public Service* pursuant to the Morrow County Zoning Ordinance governing Exclusive Farm Use (EFU) stated in Section 3.010, Subsection B.25.

**LOCATION:** The Proposed Line location is identified in the attached Exhibits A and B.

**ZONING:** This application for a Land Use Decision only applies to areas zoned EFU, which are shown in Table B.

The Proposed Line traverses through other zones and jurisdictions where the use does not require separate land use approval, including Morrow County and the City of Boardman. The Proposed Line lies in county zoned areas, General Industrial (MG), Farm Residential (FR2), and Port Industrial (PI). It also lies in two Commercial Districts of the City of Boardman, which include the Service Center Sub District (SC) and General Industrial (GI). Refer to Table A for a list of all parcels designated by jurisdiction.

**COMPLIANCE:** The Proposed Line is permitted outright in the County EFU zone, subject to Use Standards provided in section 3.010 Subsections B.25 and D.10. The following includes narrative from the applicable Morrow County Zoning Ordinance (Zoning Ordinance) Sections (**in bold**) with compliance justification and responses following each subsection.

**EFU – 3.010.B. Uses Permitted Outright. In the EFU zone, the following uses and activities and their accessory buildings and uses are permitted subject to the general provisions set forth by this ordinance:**

**3.010.B.25. Utility facilities necessary for public service, including associated transmission lines as defined in Article 1 and wetland waste treatment systems, but not including commercial facilities for the purpose of generating**



**electrical power for public use by sale or transmission towers over 200 feet in height as provided in Subsection D.10.**

Article 1 of the Zoning Ordinance defines “utility facility” in part as a “major structure owned or operated by a public, private, or cooperative electric, fuel, communication, sewage, or water company for the generation, transmission, distribution, or processing of its products or for the disposal of cooling water, waste, or byproducts, and including power transmission lines....” The Proposed Line does not include towers of 200 feet in height. The Proposed Line is therefore a power transmission line and qualifies as a Utility Facility under the County’s definition.

A Utility Facility is “necessary” under this provision of the Zoning Ordinance, which implements ORS 215.275, if it is necessary to be in the farm zone. The Use Standards addressed below also determine when a Utility Facility is necessary.

The following parcels are in this zone: 500, 600, 400, and 201. The eastern most portion of the Proposed Line is the Hwy 730 Switchyard. That parcel where the switchyard is, and the parent parcel it was created from, is completely surrounded by EFU parcels. The line cannot avoid crossing all EFU parcels in that area, largely because of the constraints that exist at the intersection of Highway 730 and Interstate 84. Even if such a crossing were feasible, once the line got to the west side of Highway 730, there would be more EFU parcels adjacent to that area that would still have to be crossed. Even if those parcels did not exist, the line would have to then double back to the east, then north toward the existing BPA lines. As noted above, and explained in more detail below, such a northerly route is not feasible.

Given the prevalence of EFU parcels around the Highway 730 Switchyard site, there is no feasible route that completely avoids EFU parcels. The Proposed Line, however, is designed to have minimal impact to current and future agriculture land use in the area.

### **3.010.D. Use Standards**

#### **10. A utility facility that is necessary for public service.**

**a. A utility facility is necessary for public service if the facility must be sited in the exclusive farm use zone in order to provide the service.**

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

**(a) Technical and engineering feasibility;**

The Proposed Line is feasible from an engineering perspective and utilizes existing transmission corridors, runs along roadways and minimizes road crossings. UEC analyzed multiple alternative routes in part to determine whether EFU parcels could be avoided. Because of the prevalence of EFU parcels in this area, no route exists that would avoid all EFU parcels. An alternative route located along the north side of I-84 would avoid several EFU parcels, but would still require crossing one EFU parcel, and that alternative is not feasible from an engineering standpoint. As stated above, there is not a feasible location where the BPA transmission lines can be crossed on

the north side of I-84 due in part to the proximity of industrial buildings to the interstate Right-of-Way in this area and partly due to the locations of the BPA transmission towers. There are three adjacent BPA transmission lines that transect this area which are supported by towers that are not in line but are staggered along the transmission corridor. These conditions create a scenario where the clearance needed for the safe crossing of the 230 kV line under the BPA transmission lines is not available.

A more southerly route or a route adjacent to and just south of the BPA Transmission lines would not only have a greater impact on EFU parcels than the Proposed Line route but would also add to the overall length of the line.

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

The siting of the Proposed Line in the EFU-Zoned parcels is locationally dependent for multiple reasons. As explained above, the area around the Highway 730 Switchyard parcel is completely surrounded by the EFU zone, except for the I-84 right of way where the line cannot be constructed. To completely avoid EFU parcels, the Proposed Line would be forced to cross the intersection of Highway 730 and Interstate 84 in a manner that is not technically feasible. Further, even such a crossing would force the route to zig-zag around other EFU parcels, creating a route that is not direct, much less reasonably direct.

The crossing of tax lots 500 and 600 specifically is due to the limited safe crossing locations under the three existing BPA transmission lines in the area. Access across these parcels will not impact the farming operations due to placement of the Proposed Line, which will be situated along the roadway and will be the most direct route for the line. This feasible BPA transmission line crossing is located just within the City of Boardman city limits approximately 1500 feet east of Laurel Ln Rd.

EFU-zoned parcel 400, is located north of Interstate 84. The siting of the Proposed Line on this parcel will parallel the interstate Right-of-Way and the BPA transmission line, and little to no impact on agricultural use is expected.

Siting of the Proposed Line on the EFU-Zoned parcel 201 is due to this location being the only feasible access to the planned 730 Switchyard on the adjacent parcel, parcel 4703. Tax Lot 201 current use is for equipment parking and is not currently in crop production. In addition, the structures will be located to provide the least amount of impact to the property, based on the landowner input.

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

The Proposed Line utilizes urban and non-resource lands where available (Parcels 900, 1100, 1200, 1201, 200, 300, 200, and 4703). However, as explained above, there is a lack of urban or non-resource lands that would otherwise allow the Proposed Line to avoid EFU parcels altogether.

**(d) Availability of existing rights of way;**

The Proposed Line utilizes existing rights of way where available. In areas where there are none, the Proposed Line is routed to avoid and minimize impacts to EFU lands while taking into consideration the other factors listed here.

**(e) Public health and safety; and**

Public health and safety are taken into consideration by minimizing unnecessary road crossings, crossing the BPA lines in a safe manner, and avoiding proximity to buildings and residences.

**(f) Other requirements of state and federal agencies.**

As noted above, the crossing of the BPA lines is very limited, and the crossing proposed in this application is one of the few areas where BPA would allow such a crossing.

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

The primary factors in determining the specific location of the Proposed Line include; input from landowners along the route, design feasibility and cost, and minimization of current land use impacts. While cost was a factor, this was not the only consideration.

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

UEC acknowledges these requirements and affirms its responsibility for compliance. UEC contractors will be required to restore damages as near to their former condition as can reasonably be expected. UEC contractors are required to be insured and bonded for the full value of their respective contracts.

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

The siting of the Proposed Line is designed to follow existing power lines and road corridors to minimize the impact of construction and maintenance activities. Structure heights and

placement are designed to minimize ground clearances impacts on farm activities, such as center pivots, and farm equipment. The structures will be designed to meet requirements of RUS Bulletin 1724E-200 and 2017 National Electrical Safety Code (NESC).

**(5) Utility facilities necessary for public service may include on-site and off-site facilities for temporary workforce housing for workers constructing a utility facility. Such facilities must be removed or converted to an allowed use under the EFU Zone or other statute or rule when project construction is complete. Off-site facilities allowed under this Subsection are subject to Article 6. Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request. A minor amendment request shall have no effect on the original approval.**

This criterion does not apply. The proposed use will not include facilities for temporary workforce housing.

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

This criterion does not apply. The proposed use will not include facilities for sewage disposal.

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

This criterion does not apply. The proposed use will not include natural gas pipelines or facilities associated with natural gas pipelines.

**b. An associated transmission line is necessary for public service upon demonstration that the associated transmission line meets either the following requirements of Subsection (1) or Subsection (2) of this Subsection.**

The Proposed Line is not an "associated transmission line" as defined by ORS 215.274. The standards set forth in this section of the Zoning Ordinance therefore do not apply.

# **EXHIBITS**

**Table A - Landowner list**

**Table B - Subject parcels**

**Exhibit A - Vicinity map**

**Exhibit B - Project Map**

**Exhibit C - Pole Diagram**

**Exhibit D - Landowner consent documentation**

**TABLE A**

| Owner  | Address/Phone#                                      | Physical Address of Property            | Map Number/Tax Lot   | Size (Acres) | Zoning/Jurisdiction | Easement Status  |
|--|---|---|----------------------|--------------|---------------------|------------------|
| VADATA, INC                                    | P.O. Box 80416<br>Seattle, WA 98108                 |   | 04N25E 09<br>TL 411  | 80.19        | City of Boardman    | Expected to Sign |
| STIFFLER, LLC (Land Use Decision: LUD 9-19-19) | 33896 E Walls Rd.<br>Hermiston OR 97838             |   | 04N25E 10<br>TL 3400 | 77.98        | EFU (LUD 9-19-19)   | Signed           |
| PORT OF MORROW                                 | P.O. Box 200<br>Boardman, OR 97818<br>(541)481-7678 |   | 04N25E 10<br>TL 3000 | 11.43        | City of Boardman    | Signed           |
| PORT OF MORROW                                 | P.O. Box 200<br>Boardman, OR 97818<br>(541)481-7678 |   | 04N25E 10<br>TL 3300 | 1.29         | City of Boardman    | Signed           |
| TERRY K & CHERYL TALLMAN                       | 706 Mt. Hood Ave.<br>Boardman, OR 97818             |   | 04N25E 10<br>TL 3302 | 10           | City of Boardman    | Negotiating      |
| TERRY K & CHERYL TALLMAN                       | 706 Mt. Hood Ave.<br>Boardman, OR 97818             | 452 Laurel Ln Rd.<br>Boardman, OR 97818 | 04N25E 10<br>TL 3205 | 11.88        | City of Boardman    | Negotiating      |
| FE & FRANCES T GLENN                           | PO Box 281<br>Boardman, OR 97818                    | 105 Laurel Ln Rd.<br>Boardman, OR 97818 | 04N25E 10<br>TL 3201 | 7.61         | City of Boardman    | Signed           |
| WALO, LLC                                      | PO Box 909<br>Irrigon, OR 97844                     | 325 Yates Ln<br>Boardman, OR 97818      | 04N25E 10<br>TL 3206 | 11.75        | City of Boardman    | Negotiating      |
| RANDALL E & CATHERINE A YATES                  | PO Box 669<br>Boardman, OR 97818                    | 335 Yates Ln<br>Boardman, OR 97818      | 04N25E 11<br>TL 403  | 7.57         | City of Boardman    | Negotiating      |
| JOSEPH TAYLOR - DOUBLE T FARMING               | 77458 Threemile Rd<br>Boardman, OR 97818            |   | 04N25E 11<br>TL 402  | 28.33        | City of Boardman    | Signed           |

**TABLE A CONTINUED**

| Owner                  | Address/Phone#  | Physical Address of Property       | Map #/Tax Lot     | Size (Acres) | Zoning/Jurisdiction | Easement Status |
|------------------------|---|------------------------------------|-------------------|--------------|---------------------|-----------------|
| SAGE HOLLOW RANCH, LLC | 3620 Independence Rd Sunnyside, WA 98944 (509)391-1111                          |                                    | 04N25E 11 TL 500  | 10           | EFU                 | Signed          |
| SAGE HOLLOW RANCH, LLC | 3620 Independence Rd Sunnyside, WA 98944 (509)391-1111                          | 79252 Rippee Rd Boardman, OR 97818 | 04N25E 11 TL 600  | 41.5         | EFU                 | Signed          |
| SAGE HOLLOW RANCH, LLC | 3620 Independence Rd Sunnyside, WA 98944  | 79269 Rippee Rd Boardman, OR 97818 | 04N25E 11 TL 900  | 30.71        | FR2                 | Signed          |
| SHOOK, EDWARD L        | PO Box 185 Troutdale, OR 97050  | 79307 Root Ln Boardman, OR 97818   | 04N25E 11 TL 1100 | 12.06        | FR2                 | Negotiating     |
| RIEKKOLA FARMS, INC    | PO Box 95 Boardman, OR 97818  | 79115 Root Ln Boardman, OR 97818   | 04N25E 11 TL 1200 | 10.03        | FR2                 | Signed          |
| PORT OF MORROW         | P.O. Box 200 Boardman, OR 97818   |                                    | 04N25E 11 TL 1201 | 5.2          | PI                  | Signed          |
| PORT OF MORROW         | P.O. Box 200 Boardman, OR 97818   |                                    | 04N25E 12 TL 200  | 20.83        | PI                  | Signed          |
| PORT OF MORROW         | P.O. Box 200 Boardman, OR 97818   |                                    | 04N25E 12 TL 300  | 16.79        | PI                  | Signed          |
| CITY OF BOARDMAN       | P.O. Box 229 Boardman, OR 97818 (541)481-9252                                   |                                    | 04N25E 12 TL 400  | 147.12       | EFU                 | Signed          |
| PORT OF MORROW         | P.O. Box 200 Boardman, OR 97818   |                                    | 04N26E 07 TL 200  | 81.5         | PI                  | Signed          |
| TERRA POMA LAND, LLC   | PO Box 862 1645 W. Orchard Ave, Hermiston, OR 97838 (541)567-1010 (541)571-1912 | 72063 Hwy 730, Irrigon OR 97844    | 04N26E 07 TL 201  | 2            | EFU                 | Signed          |

**TABLE B**

Subject Parcels (with addresses)

| Owner                  | Address/Phone#   | Physical Address of Property       | Map #/Tax Lot    | Size (Acres) | Zoning/Jurisdiction | Easement Status |
|------------------------|--|------------------------------------|------------------|--------------|---------------------|-----------------|
| SAGE HOLLOW RANCH, LLC | 3620 Independence Rd Sunnyside, WA 98944 (509)391-1111                         |                                    | 04N25E 11 TL 500 | 10           | EFU                 | Signed          |
| SAGE HOLLOW RANCH, LLC | 3620 Independence Rd Sunnyside, WA 98944 (509)391-1111                         | 79252 Rippee Rd Boardman, OR 97818 | 04N25E 11 TL 600 | 41.5         | EFU                 | Signed          |
| CITY OF BOARDMAN       | P.O. Box 229 Boardman, OR 97818 (541)481-9252                                  |                                    | 04N25E 12 TL 400 | 147.12       | EFU                 | Signed          |
| TERRA POMA LAND, LLC   | PO Box 862 1645 W. Orchard Ave Hermiston, OR 97838 (541)567-1010 (541)571-1912 | 72063 Hwy 730, Irrigon OR 97844    | 04N26E 07 TL 201 | 2            | EFU                 | Signed          |



# EXHIBIT A

## VICINITY MAP

### Proposed 230 kV Transmission Line

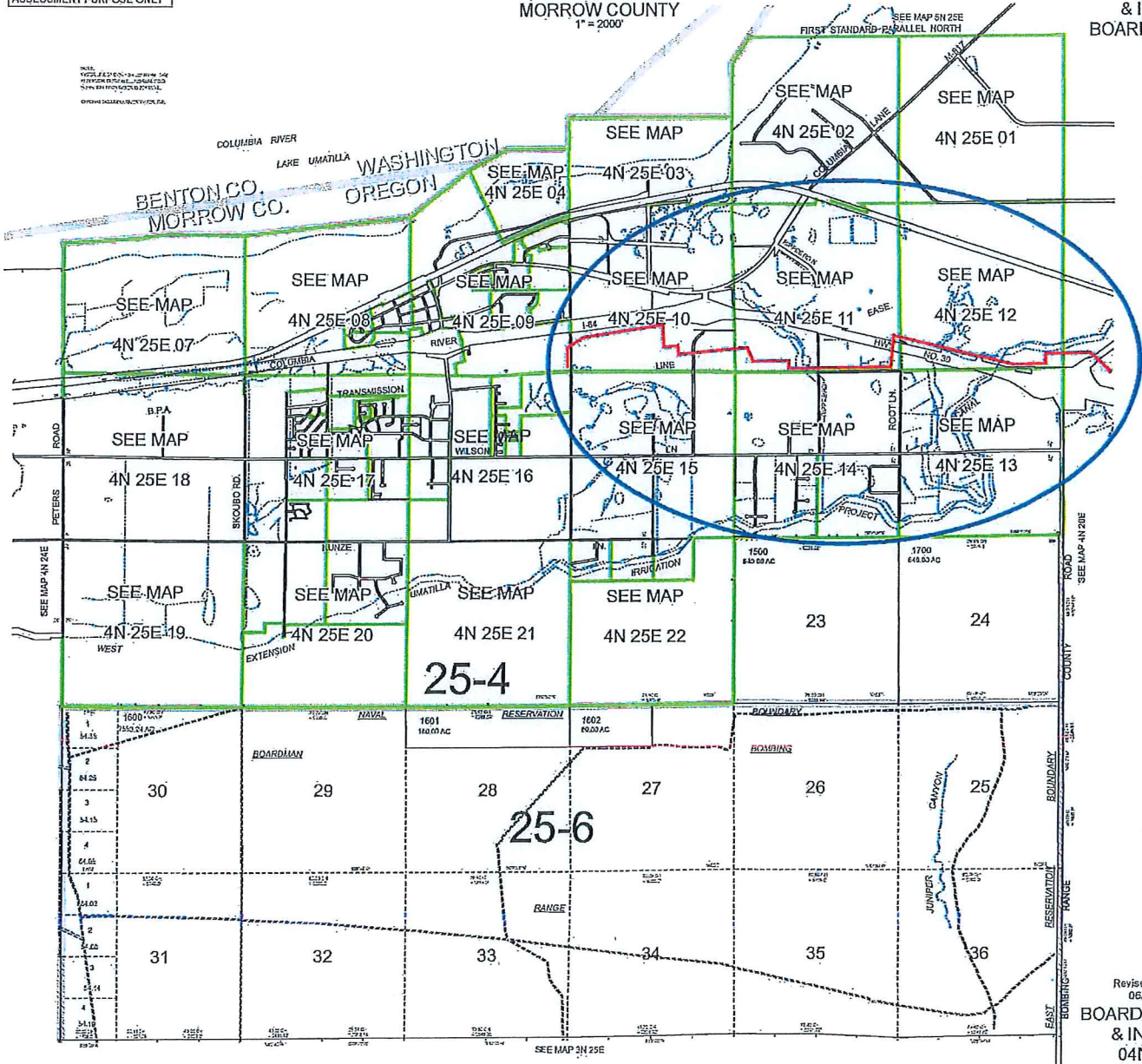
THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSE ONLY



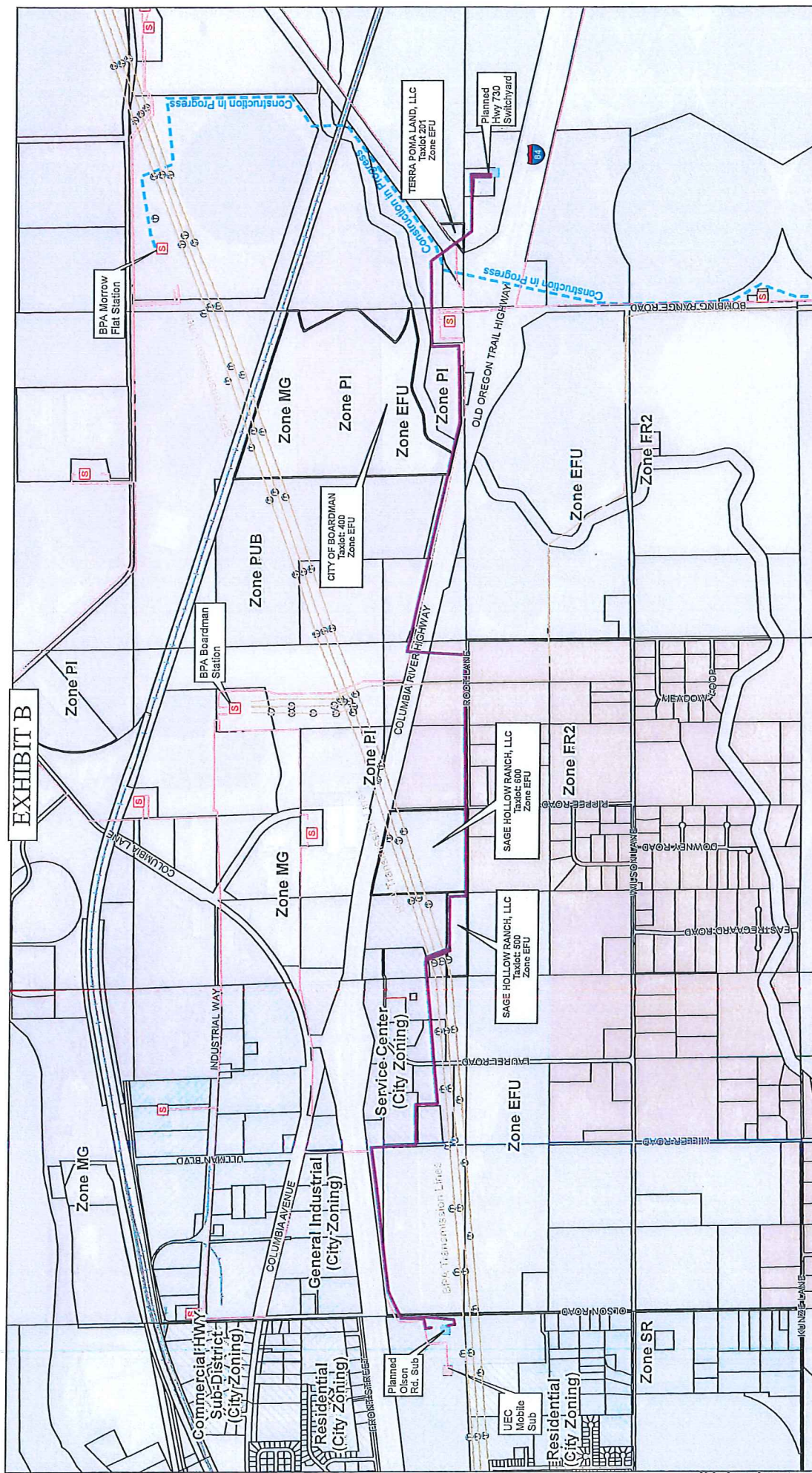
T.4N. R.25E. W.M.  
MORROW COUNTY  
1" = 2000'

04N25E  
& INDEX  
BOARDMAN

- Corrected
- 100
  - 100
  - 101
  - 200
  - 300
  - 400
  - 500
  - 600
  - 700
  - 701
  - 800
  - 900
  - 1000
  - 1100
  - 1200
  - 1300
  - 1400
  - 1800



Revised: DWC  
06/18/2014  
BOARDMAN  
& INDEX  
04N25E



**EXHIBIT B**

**Legend:**

- +— Railroads
- 230 kV Transmission Line (Construction in progress)
- BPA Towers
- Substations
- Morrow County Parcel Lines
- Preferred Route
- Planned Station
- Morrow County Parcel Lines

**Map Information:**

MAP BY: dhalley    Date: 2/27/2020    Map Number: M10

**Umatilla Electric Cooperative**  
 A Tri-State Energy Cooperative

**AT&T**  
 ASSOCIATES  
 8350 PRINCEVILLE DRIVE, SUITE 200  
 P.O. BOX 10000    THE CLATSOP  
 WASHINGTON

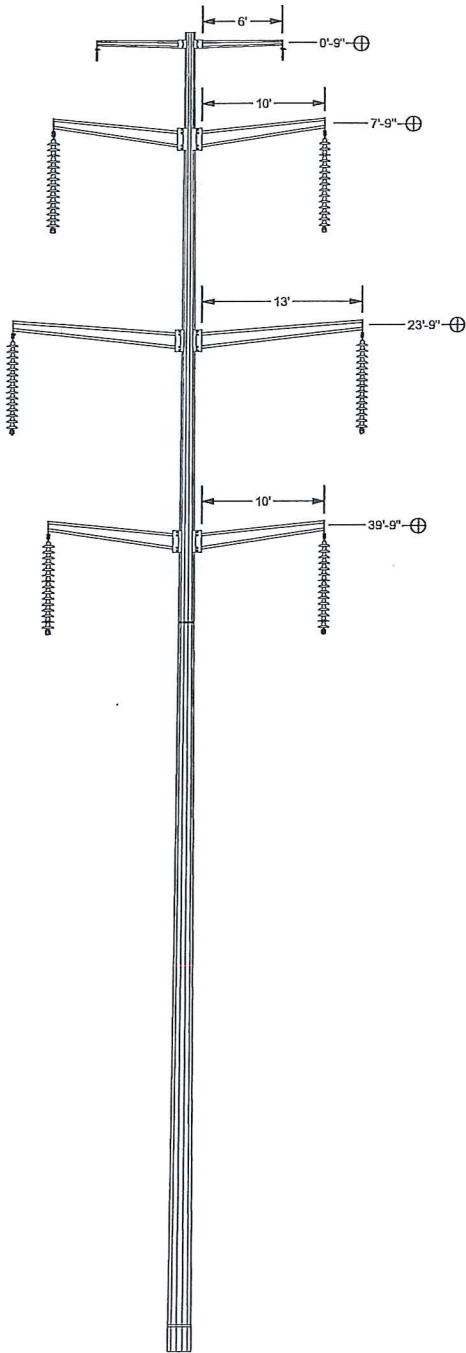
**Umatilla Electric Cooperative**  
 HERMISTON, OREGON  
 OREGON 14, UMATILLA

Olson Rd 230kV Planned Transmission Line

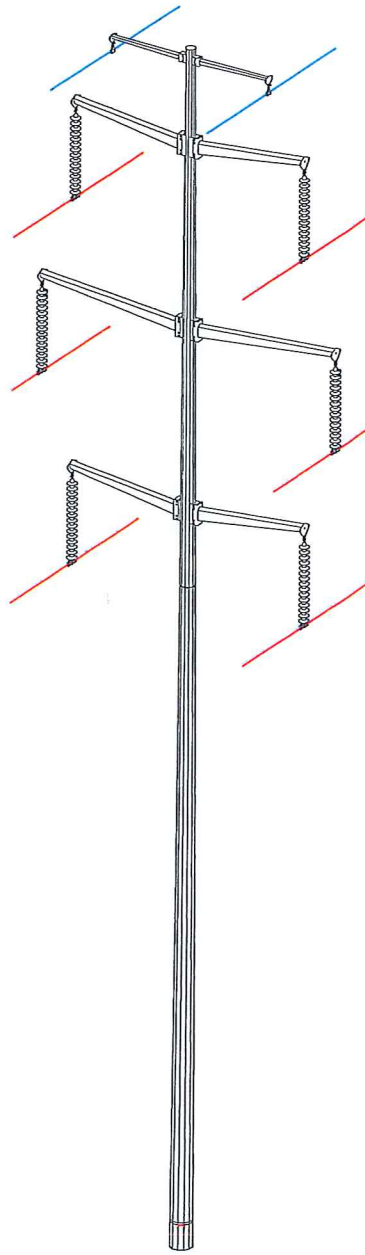
Scale: 0 100 Feet

DISCLAIMER: This exhibit is for informational purposes only, and should only be relied upon as such.

EXHIBIT C



ELEVATION  
FACING 90°



ISOMETRIC

| DATE | REVISION | # |
|------|----------|---|
|      |          |   |
|      |          |   |
|      |          |   |
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|      |          |   |
|      |          |   |

**ATOIH**  
R ASSOCIATES  
839 E FLEMING RD, SUITE 200  
SPRINGFIELD, MO 65117  
Ph: 417-418-0445 Fax: 417-418-0137  
www.atoihassociates.com  
CERTIFICATE OF AUTHORITY:  
OSR 1002-F-010-010  
© 2010 ATOIH AND ASSOCIATES, INC.

|               |   |
|---------------|---|
| PROJECT:      | OLSON RD 230KV TRANSMISSION LINE  |
| LOCATION:     | LC: 41837127, LN: -118 840207 TO LC: 41834151, LN: -118 818224, MORROW COUNTY, OR |
| CLIENT:       | UMATILLA ELECTRIC COOPERATIVE<br>HERMISTON, OREGON<br>OREGON-14-UMATILLA          |
| DATE:         | 01/03/20  |
| SCALE:        | DOUBLE CIRCUIT TANGENT  |
| DATE PLOTTED: | TAN   |

# **Exhibit D**

## **Landowner Consent Documentation**

AFTER RECORDING RETURN TO:

Umatilla Electric Cooperative  
P.O. Box 1148  
Hermiston, OR 97838

UEC REFERENCE: Tax Lots 500, 600 & 900

MORROW COUNTY, OREGON **2019-45212**  
E-EAS  
Cnt=1 Stn=23 TC **10/17/2019 10:34:26 AM**  
\$55.00 \$11.00 \$60.00 \$10.00 **\$136.00**



I, Bobbi Childers, County Clerk for Morrow County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.

Bobbi Childers - County Clerk



**MEMORANDUM OF EASEMENT OPTION AGREEMENT**

BETWEEN: Sage Hollow Ranch, LLC ("Grantor")  
3620 Independence Rd.  
Sunnyside, WA 98944

AND: Umatilla Electric Cooperative ("Grantee")  
P.O. Box 1148  
Hermiston, OR 97838

Pursuant to a Utility Line Option and Easement Agreement dated 10/8, 2019, ("Option Agreement"), Grantor granted to Grantee an option to purchase an easement, described in the attached Exhibit A, for utility purposes on certain property in Morrow County, Oregon ("Property"), more particularly described as:

Parcel 1 and Parcel 2 of the property located in Section 11, Township 4 North, Range 25 East of the Willamette Meridian, in Morrow County, Oregon, described as recorded in Morrow County Public Records on December 2, 2011, as instrument number 2011-29237

ALSO, Parcel 5 of the property located in Section 11, Township 4 North, Range 25 East of the Willamette Meridian, in Morrow County, Oregon, described as recorded in Morrow County Public Records on January 31, 2011 as instrument number 2011-27546:

The Property is subject to the terms and conditions of the Option Agreement, for a term commencing \_\_\_\_\_ and terminating \_\_\_\_\_, subject to Grantee's right to extend the term for four additional one-year periods as set forth in the Option, after which it will be of no further force or effect.


A complete copy of the Option Agreement may be obtained from Grantor or Grantee.

This Memorandum is being executed and recorded in the Official Records of Morrow County, Oregon, to give notice of the provisions of the Option Agreement and will not be deemed or construed to define, limit, or modify the Option Agreement in any manner.



Made and dated this 20<sup>th</sup> day of Sept., 2019 (the "Effective Date").

Sage Hollow Ranch, LLC, GRANTOR  
John Bosma, member/manager

  
Signature

**ACKNOWLEDGEMENT**

State of Washington

County of Yakima §§

This certifies that on this 20<sup>th</sup> day of Sept., 2019, before me the undersigned personally appeared the above-named **John Bosma**, member/manager of **Sage Hollow Ranch, LLC**, on behalf of the company, known to me to be the person described in and who executed the foregoing instrument and acknowledged to me that he executed the same.

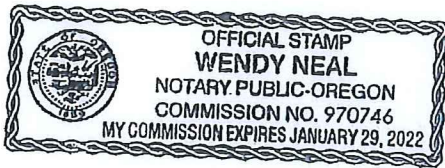


My Commission Expires 12/23/22









UMATILLA ELECTRIC COOPERATIVE, GRANTEE

Sonja Bogart  
Signature

Sonja Bogart  
Printed Name

COO  
Title

**ACKNOWLEDGEMENT**

State of Oregon )  
County of Umatilla ) SS.

This certifies that on this 8<sup>th</sup> day of October, 2019, before me the undersigned personally appeared the above named Sonja Bogart, on behalf of **UMATILLA ELECTRIC COOPERATIVE**, in his/her capacity as Chief Operating Officer, known to me to be the person who executed the foregoing instrument and acknowledged to me that they executed the same.

Wendy Neal  
\_\_\_\_\_

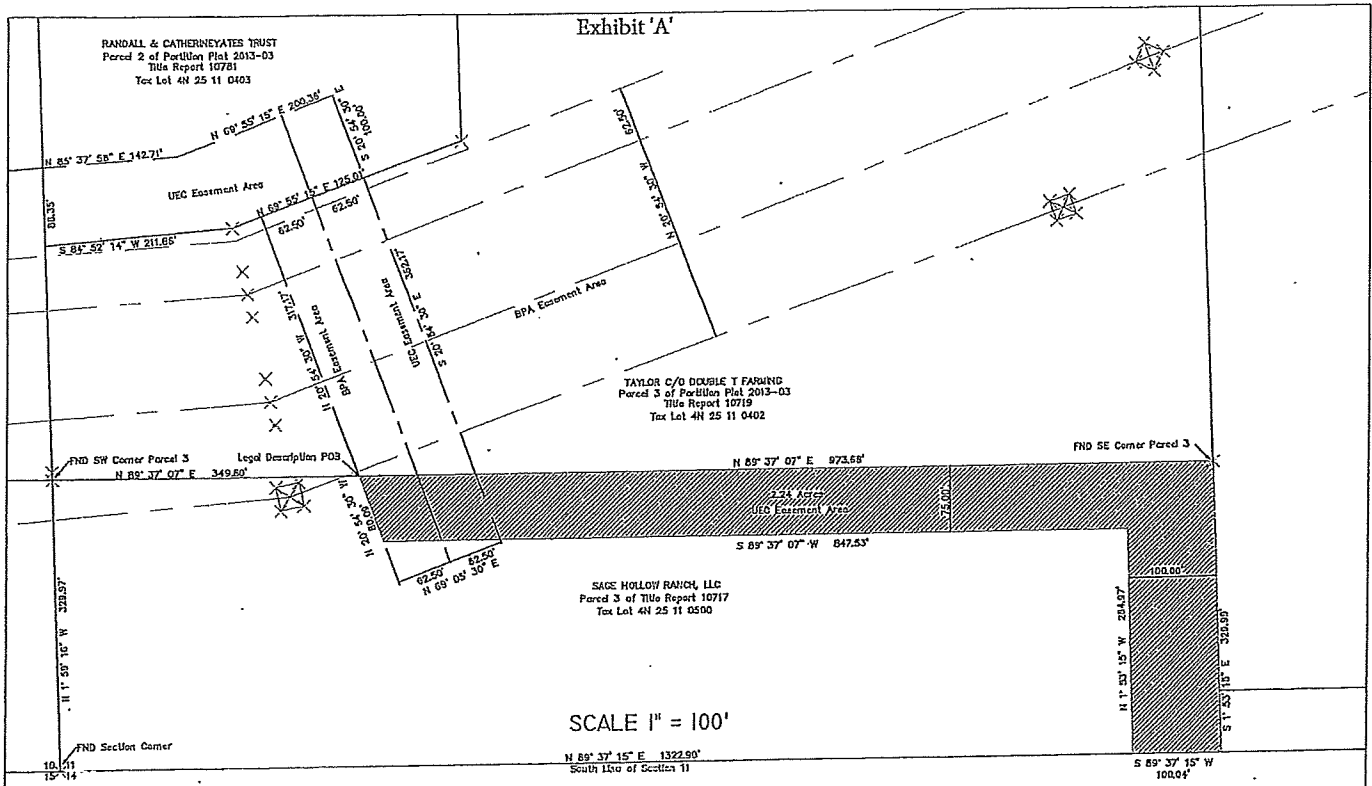
My Commission Expires Jan 29, 2022

Exhibit 'A'  
Sage Hollow Ranch, LLC  
Easement Legal Description:

A 100 foot wide strip of land and a 75 foot wide strip of land located in the Southwest Quarter of the Southwest Quarter of Section 11, Township 4 North, Range 25, East of the Willamette Meridian, in the County of Morrow and State of Oregon, more particularly described as follows:

Commencing at the Southwest Corner of said Section 11; thence North 1° 59' 16" West a distance of 329.97 feet to the Southwest corner of Parcel 3 of Partition Plat 2013-3, as filed in the files of Partition Plats of Morrow County; thence North 89° 37' 07" East along the South line of said Parcel 3 a distance of 349.80 feet to the Point of Beginning of this Easement Description; thence continuing North 89° 37' 07" East along the South line of said Parcel 3 a distance of 973.68 feet to the East line of said Southwest Quarter of the Southwest Quarter of Section 11; thence South 1° 53' 15" East a distance of 329.99 feet to the South line of said Section 11; thence South 89° 37' 15" West along the South line of said Section 11 a distance of 100.04 feet; thence North 1° 53' 15" West a distance of 254.97 feet; thence South 89° 37' 07" West a distance of 847.53; thence North 20° 54' 30" West a distance of 80.09 feet to the Point of Beginning.





For:

Umatilla Electric Cooperative  
P.O. Box 1148  
Hermiston, OR 97838

Rev. 09-16-2019

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

*R. V. McKINNIS*

RONALD V. MCKINNIS  
JAN 23, 1993  
2531  
Expires 12/31/20

ENGINEERING - LAND SURVEYING - WATER RIGHTS

**R. V. McKINNIS ENGINEERING**

79980 Prindle Loop Road  
Hermiston, Oregon 97838  
(541)-567-2017

Exhibit 'A'  
Sage Hollow Ranch, LLC  
Easement Legal Description:

A 70 foot wide strip of land located in the Southwest Quarter of the Southeast Quarter of Section 11, Township 4 North, Range 25, East of the Willamette Meridian, in the County of Morrow and State of Oregon, more particularly described as follows:  
The Southerly 70 feet the Southwest Quarter of the Southeast Quarter of said Section 11;  
EXCEPTING any and all road rights of way.

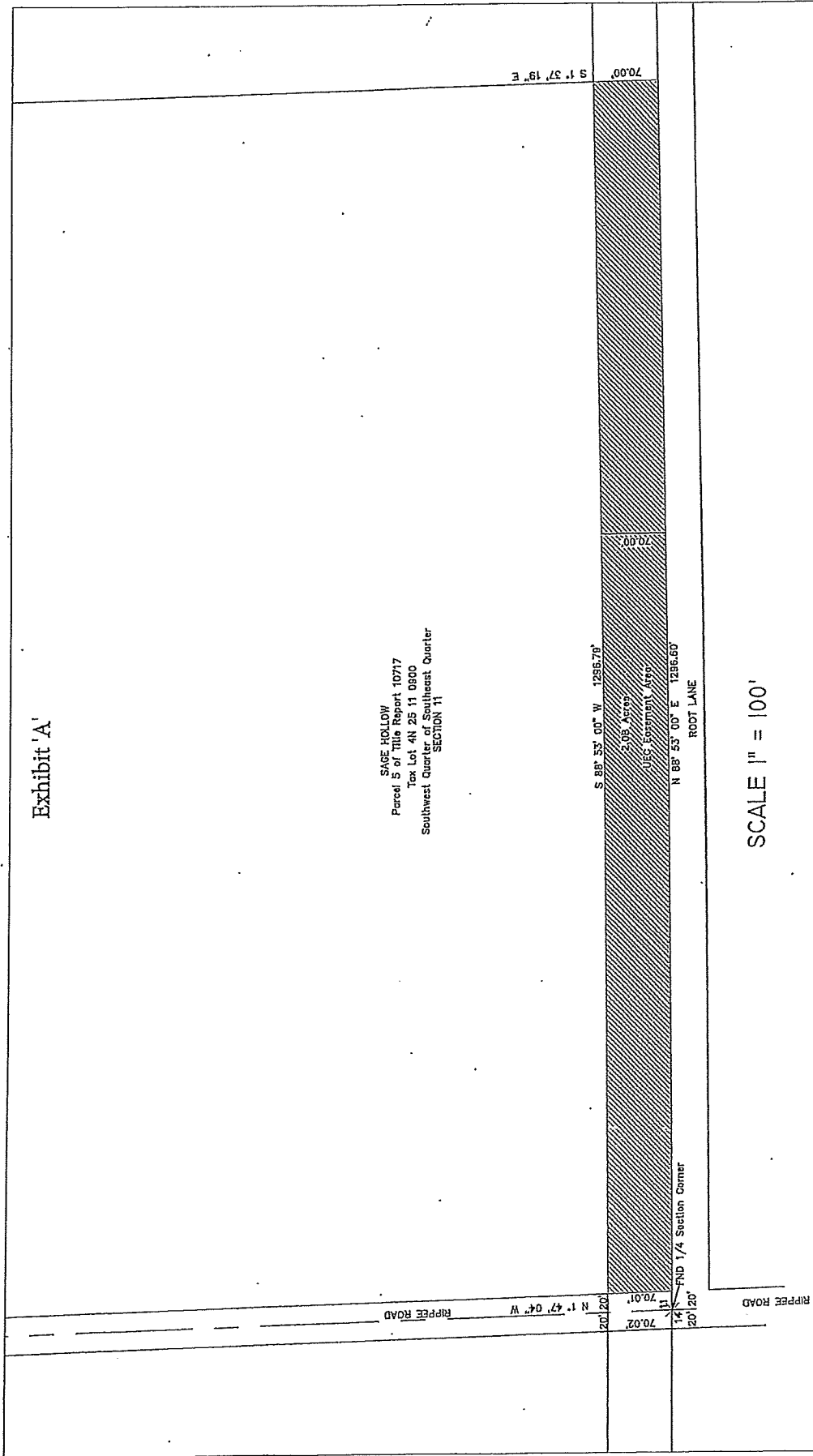
REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

OREGON  
RONALD V. McKINNIS  
JAN. 23, 1990  
2431

Expires 12-31-20

Exhibit 'A'

SAGE HOLLOW  
 Parcel 5 of Title Report 10717  
 Tax Lot 4N 25 11 0800  
 Southwest Quarter of Southeast Quarter  
 SECTION 11

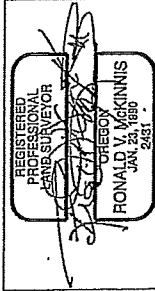


SCALE 1" = 100'

For:

*Umatilla Electric Cooperative*  
 P.O. Box 1148  
 Hermiston, OR 97838

Rev. 09-16-2019



ENGINEERING - LAND SURVEYING - WATER RIGHTS  
**R. V. McKINNIS ENGINEERING**  
 79980 Prindle Loop Road  
 Hermiston, Oregon 97838  
 (541) -667-2017

Exhibit 'A'  
Sage Hollow Ranch, LLC  
Easement Legal Description:

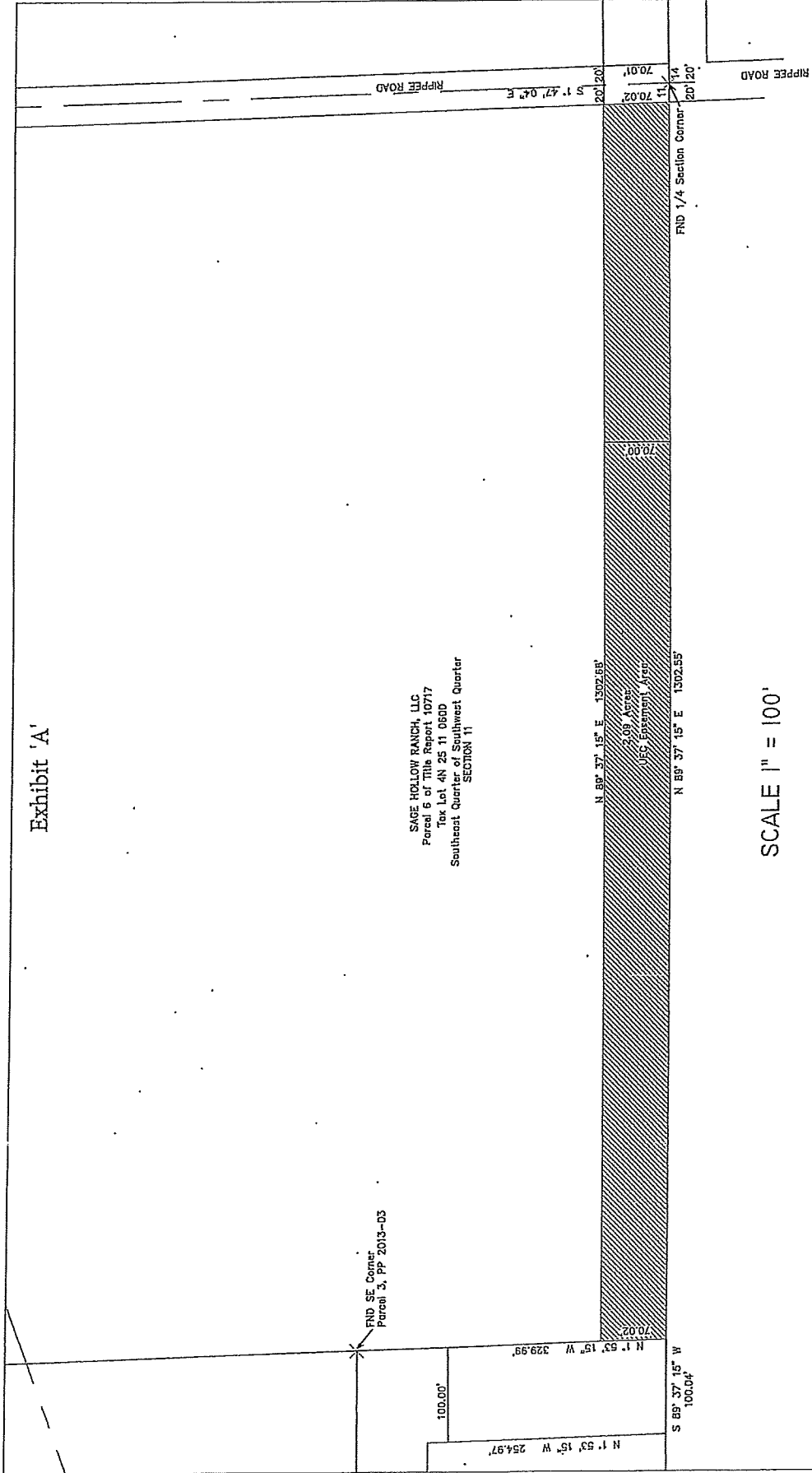
A 70 foot wide strip of land located in the Southeast Quarter of the Southwest Quarter of Section 11, Township 4 North, Range 25, East of the Willamette Meridian, in the County of Morrow and State of Oregon, more particularly described as follows:  
The Southerly 70 feet the Southeast Quarter of the Southwest Quarter of said Section 11;  
EXCEPTING any and all road rights of way.

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

OREGON  
RONALD V. MCKINNIS  
JAN. 23, 1990  
2431

Expires 12-31-20

Exhibit 'A'



SAGE HOLLOW RANCH, LLC  
 Parcel 6 of Title Report 10717  
 Tax Lot 4N 25 11 0600  
 Southeast Quarter of Southwest Quarter  
 SECTION 11

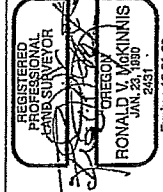
FND SF Corner  
 Parcel 3, PP 2013-03

SCALE 1" = 100'

For:

*Umatilla Electric Cooperative*  
 P.O. Box 1148  
 Hermiston, OR 97838

Rev. 09-16-2019



ENGINEERING - LAND SURVEYING - WATER RIGHTS  
**R. V. McKINNIS ENGINEERING**  
 79980 Prindle Loop Road  
 Hermiston, Oregon 97838  
 (541) 567-2017

**RECORDING COVER SHEET**  
**(Please Print or Type)**

The information on this sheet is a reflection of the attached instrument for the purpose of meeting first page requirements, ORS 205.234.

If this cover page is included with your document, please add \$5.00 to the total recording fees.


MOTC-ACCOM

**AFTER RECORDING RETURN TO:**

City of Boardman  
 200 City Center Circle, PO Box 229  
 Boardman, OR 97818

|                                 |                        |
|---------------------------------|------------------------|
| MORROW COUNTY, OREGON           | <b>2019-45626</b>      |
| E-EAS                           | 12/17/2019 11:46:02 AM |
| Cnt=1 Stn=23 TC                 | \$116.00               |
| \$35.00 \$11.00 \$10.00 \$60.00 |                        |

I, Bobbi Childers, County Clerk for Morrow County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.  
 Bobbi Childers - County Clerk



**1) TITLE(S) OF THE TRANSACTION(S) ORS 205.234(a)**

UEC and City of Boardman Easement of Township 4 North, Range 25 East of the Willamette Meridian, Section 12, M2002-3060

**2) DIRECT PARTY / GRANTOR(S) ORS 205.125(1)(b) and 205.160**

City of Boardman

**3) INDIRECT PARTY / GRANTEE(S) ORS 205.125(1)(a) and 205.160**

Umatilla Electric Co-Op

**4) TRUE AND ACTUAL CONSIDERATION**

ORS 93.030(5) - Amount in dollars or other

\$ \_\_\_\_\_  Other

**5) SEND TAX STATEMENTS TO:**

**6) SATISFACTION of ORDER or WARRANT**

ORS 205.125(1)(e)

CHECK ONE:  FULL  
 (If applicable)  PARTIAL

**7) The amount of the monetary obligation imposed by the order or warrant. ORS 205.125(1)(c)**

\$ \_\_\_\_\_

**8) If this instrument is being re-recorded, complete the following statement, in accordance with ORS 205.244:**

"Re-recorded at the request of \_\_\_\_\_ to correct

\_\_\_\_\_ previously recorded in Book \_\_\_\_\_ and page \_\_\_\_\_, or as Fee Number \_\_\_\_\_."



AFTER RECORDING, RETURN TO:

Umatilla Electric Cooperative  
P.O. Box 1148  
Hermiston, Oregon 97838

UEC REF: Tax Lot 400

EASEMENT

City of Boardman, a municipal corporation, Grantor, for good and valuable consideration, receipt of which is hereby acknowledged, grants to Umatilla Electric Cooperative, an Oregon cooperative corporation, Grantee, and to its licensees, successors or assigns, a perpetual and non-exclusive easement and right of way, the purpose of which is to construct, operate, maintain, repair and replace utility lines and facilities, including, but not limited to, lines for the transmission or distribution of electrical power, telephone lines, television and communication lines, or any related system and facilities on, across, over, or under a strip of land 100 feet wide located on property described below:

Township 4 North, Range 25 East of the Willamette Meridian, Section 12, and more particularly described in a deed recorded in Morrow County on January 3<sup>rd</sup>, 2002, as M2002-3060, Morrow County Records Office in Morrow County, State of Oregon.

See Exhibit "A" for Easement Legal Description and depiction of easement area.

Grantor further grants the right to inspect and make repairs, changes, alterations, improvements, removals from, substitutions and additions to the facilities as Grantee may from time to time deem advisable, including, by way of example and not by way of limitation, the right to increase or decrease the number of conduits, wires, cables, handholes, manholes, connection boxes, transformers and transformer enclosures; to cut, trim and control the growth by chemical means, machinery or otherwise of trees, shrubbery and vegetation located within the easement area (including any control of the growth of other vegetation in the easement area which may incidentally and necessarily result from the means of control employed); to fell or trim any trees or brush located on Grantor's land adjoining the above described easement area which may pose a hazard to the operation of the facilities within the easement area; to keep the easement clear of all buildings, structures or other obstructions; to license, permit or otherwise agree to the joint use or occupancy of the lines, system or, if any of said system is placed underground, of the trench and related underground facilities, by any other person, association or corporation; and to cross over and to install guys and anchors on Grantor's land adjoining the above described easement area.

Grantor agrees that all poles, wires and other facilities including any equipment, installed in, upon or under the above-described lands at the Grantee's expense shall remain the property of the Grantee, removable at the option of the Grantee.

Because governmental approvals may be necessary from the land owning Grantor for Grantee to use the easement, Grantor appoints Grantee as Grantor's attorney in fact, agent, and authorized representative, to make and progress on Grantor's behalf, any and all land use and regulatory requests, and to make applications and requests to governmental entities and agencies, so Grantee may make use of this easement and its rights, including but not limited to the following: (1) applying for conditional use permits and progressing those applications through to completion and any modifications thereof, including defending the applications and appealing adverse decisions; and (2) applying for any other necessary governmental and administrative approvals and progressing them through to completion and any modifications thereof, including defending the applications and appealing adverse decisions. Grantor agrees not to make any objections to the above applications, or to oppose them in any way at any time. Grantor may not revoke these appointments during the effective period of this easement. All Grantee's applications and work shall be at its sole cost and expense.

Grantor covenants that it is the owner of the above-described lands and that the said lands are free and clear of encumbrances and liens of whatsoever character except those held by the following person: Easement; Microfilm No. M-46988, Morrow County Microfilm Records.

SIGNATURE PAGES TO FOLLOW

**EXHIBIT "A"**  
 City of Boardman  
 Easement Legal Description:

A strip of land 100 feet in width along the southern boarder of Tax Lot number 400, described as follows:

A parcel of land located in Section 12 of Township 4 North, Range 25 East of the Willamette Meridian, in the County of Morrow and State of Oregon, being more particularly described as recorded in Morrow County Public Records on January 4, 2002 as document number 2002-3060:

COMMENCING at the Southeast corner of Section 12, of Township 4 North, Range 25 East of the Willamette Meridian in Morrow County; thence North 1° 36' 46" West along the East Line of said Section 12, a distance of 756.32 feet to the North right of way line of the West Extension Irrigation District Canal and True Point of Beginning of this description; thence continuing North 01° 36' 46" West along the East line of said Section 12, a distance of 52.05 feet to the outer edge of an irrigation circle with a radius of 881.67 feet; thence Northwesterly along the perimeter of said 881.67 foot circle a distance of 595.32 feet through an arc of 38° 41' 13" of which the cord of said arc bears North 67° 49' 18" West a distance of 583.07 feet; thence North 41° 14' 20" East, a distance of 787.52 feet to the intersection of the East Section line of said Section 12; thence North 1° 36' 46" West along said East line of Section 12 a distance of 202.22 feet; thence North 27° 17' 15" West a distance of 733.88 feet to the perimeter of an 881.67 foot circle; thence Northeasterly along the arc of said 881.67 foot circle a distance of 331.00 feet through an arc of 21° 30' 36" whose chord bears North 72° 46' 11" East and a distance of 328.32 feet to the intersection of the East line of said Section 12; thence along the East line of said Section 12 North 1° 36' 46" West a distance of 132.88 feet to the South right of way line of the Union Pacific Railroad mainline; thence North 72° 08' 58" West along said South right of way line of the Union Pacific Railroad a distance of 2790.73 feet to North-South center line of said Section 12; thence South 1° 38' 29" East along the said North-South centerline of Section 12, a distance of 3454.68 feet to the North Right of way of Interstate Highway No. 84; thence South 77° 06' 26" East along the North right of way of Interstate No. 84 a distance of 290.98 feet to the intersection with the North right of way of the West Extension Irrigation District Canal; thence Northeasterly along the North right of way of the West Extension Irrigation District Canal to the Point of Beginning of this description. Said parcel containing 147.12 Acres.

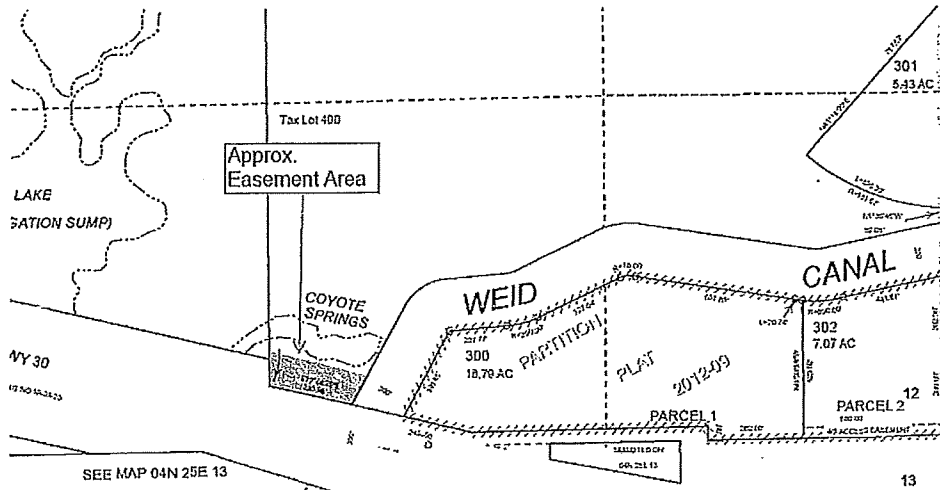
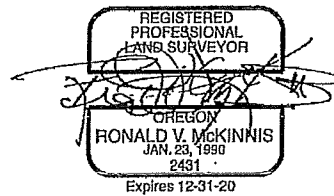


Illustration NOT TO SCALE

Exhibit 'A'  
City of Boardman  
Tax Lot 4N 25 12 #400  
Easement Legal Description:

A 100 foot wide strip of land located in the Southwest Quarter of the Southeast Quarter of Section 12, Township 4 North, Range 25, East of the Willamette Meridian, in the County of Morrow and State of Oregon, more particularly described as follows:

Commencing at the South Quarter Corner of said Section 12; thence North 1° 13' 08" West, along the Center Section Line of said Section 12, a distance of 219.45 feet to a point on the North right of way line of Interstate 84, AKA Columbia River Highway and True Point of Beginning of this description; thence South 77° 06' 28" East along the said North right of way line a distance of 295.89 feet to a point on the Intersection with the West right of way line of the West Extension Irrigation District Canal; thence North 29° 07' 08" East along the said West right of way line of said Canal, a distance of 104.17 feet; thence North 77° 06' 28" West a distance of 350.14 feet to the Center Section line of said Section 12; thence South 01° 13' 08" East along the said center Section line of said Section 12 a distance of 103.10 feet to the Point of Beginning.





Dated this 3<sup>rd</sup> day of December, 2019.

CITY OF BOARDMAN, GRANTOR

Signature *Sandra F. Toms*

Printed Name Sandra F. Toms

Title of Officer Mayor

**ACKNOWLEDGEMENT**

State of Oregon )  
County of Morrow ) SS

This certifies that on this 3<sup>rd</sup> day of December, 2019, before me the undersigned personally appeared the above named Sandra F. Toms, who is the Mayor for the City of Boardman, on behalf of the corporation, known to me to be the identical person described in and who executed the foregoing instrument and acknowledged to me that they executed the same.



*Toni Renea Connell*

My Commission Expires May 30, 2020

## Consent to Land Use Application

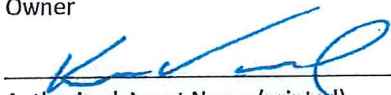
This document serves as notice that **Terra Poma Land, LLC**, as owner of the real property commonly known as Tax ID: **T04N R26E Section 07 Tax Lot 201**, and as more particularly described below, expressly gives permission for Umatilla Electric Cooperative to file a land use application with the County of Morrow for permits necessary for the construction of a proposed transmission line and related facilities that may pass upon its Property.

### Property Description

|                                 |  |
|---------------------------------|--|
| Property Location:              | Directly east of Hwy 730 at I-84 in Morrow County OR. (See attached) |
| Landowner(s) in Title:          | Terra Poma Land, LLC   |
| Assessor's Tax Map Description: | 04N26E07 Section 07 Tax Lot 201                                      |
| Landowner Mailing Address:      | PO Box 862 Hermiston OR 97838  |
| Landowner Telephone No:         | [if known]   |

Terra Poma Land, LLC

Owner

  
\_\_\_\_\_  
Authorized Agent Name (printed)

Ken Vandewest  
\_\_\_\_\_  
Authorized Agent Signature

1/16/2020  
\_\_\_\_\_  
Date

# Morrow County

## Authorization to File a Land Use Permit Application

Attachment

### County Assessor's Map:

| Township | Range | Section | Subsection | Tax Lot |
|----------|-------|---------|------------|---------|
| 4N       | 26E   | 07      |            | 201     |
|          |       |         |            |         |
|          |       |         |            |         |
|          |       |         |            |         |
|          |       |         |            |         |

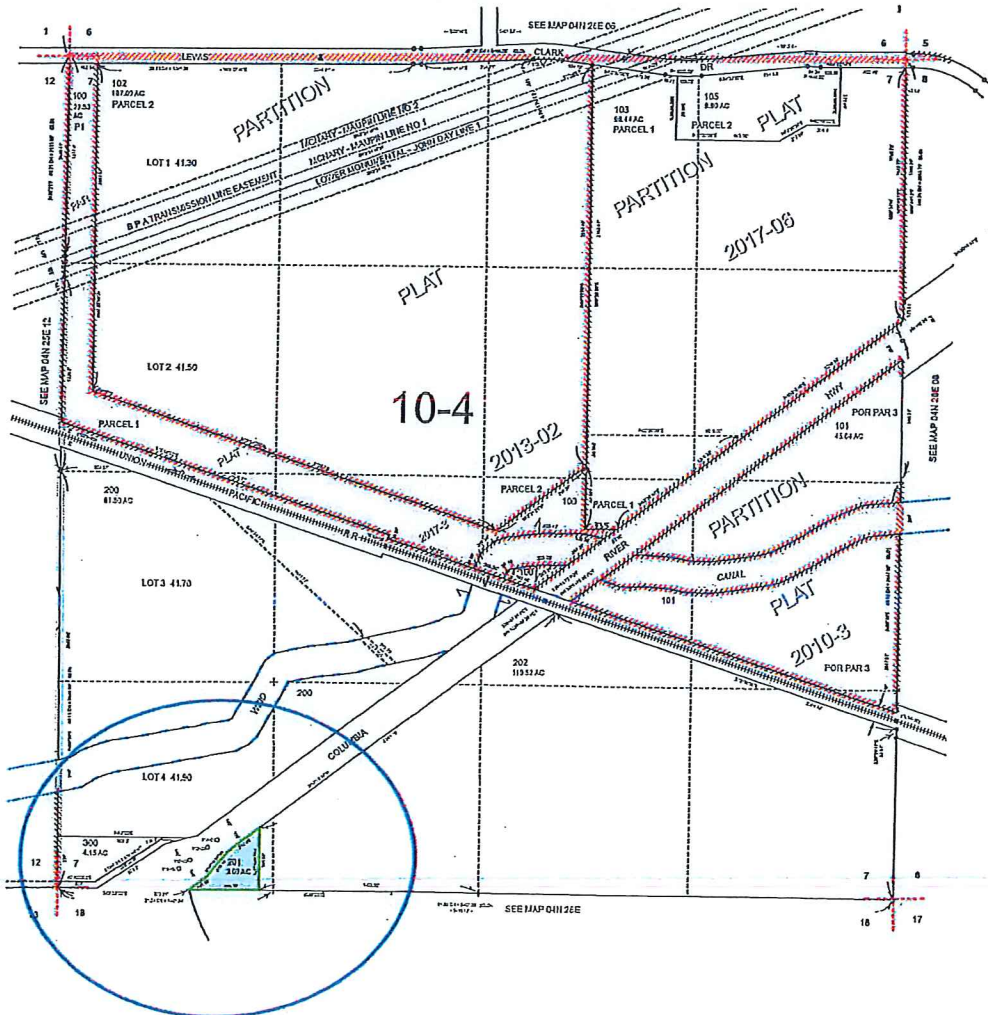
THIS MAP WAS PREPARED FOR  
ASSESSMENT PURPOSE ONLY



SECTION 7 T.4N. R.26E. W.M.  
MORROW COUNTY  
1" = 400'

04N26E07

Cancelled  
104



Revised: EB  
01/05/2018

04N26E07



## Stephanie Case

---

**From:** Gary Frederickson <gf@integra.net>  
**Sent:** Monday, March 30, 2020 9:30 AM  
**To:** Stephanie Case  
**Cc:** David Blanc  
**Subject:** Application No. LUD-N-26-20

**STOP and VERIFY - This message came from outside of Morrow County Government.**

---

Dear Stephanie,

We have received the preliminary findings of fact for a proposed power line that would border several properties our family owns along Root Lane in Boardman. We are very opposed to the proposal. There are several residences sited very close to the proposed line that will be negatively impacted by this construction and power line if it is sited. There are several routes that would be less disruptive north of I-84. We are checking the preliminary findings and will be following up with our opinion of whether this is even permitted under the existing ordinances. Please continue to keep us informed of all plans of action on this project.

Please confirm receipt of this email.

Regards

Gary Frederickson

Nick R. Blanc  
nblanc@blancfirm.com  
\*Licensed in OR & CA

David M. Blanc  
dblanc@blancfirm.com  
\*Licensed in OR & WA



39 SE Court Ave.  
Pendleton, OR 97801  
Phone: (541) 215-4810  
Fax: (541) 215-6609  
www.blancfirm.com

April 2, 2020

SENT VIA FIRST CLASS MAIL AND  
CERTIFIED MAIL, RETURN RECEIPT REQUESTED



Stephanie Case  
Interim Planning Director  
Morrow County Planning Department  
P.O. Box 40  
Irrigon, OR 97844

Re: Preliminary Findings of Fact/Land Use Decision  
Application No. LUD-N-26-20  
Our File No. 020-054

Dear Ms. Case:

Our firm represents Gary and Casey Frederickson who have asked us to review the Preliminary Findings of Fact (the "Findings") referenced above. The Fredericksons are adjoining landowners affected by the placement of the proposed transmission lines. I am submitting this letter as public comment on their behalf and in opposition to the Findings. This letter supplements the statement of opposition of Gary Frederickson that was submitted by email on March 30, 2020.

The Planning Department found that the proposed utility facility qualifies as a utility facility necessary for public service, including associated transmission lines as defined in Article 1 of the Morrow County Zoning Ordinances. In my review of Article 1, there is no separate definition for "associated transmission lines." Rather, there is a definition for "utility facility" which includes in that definition the facility's "power transmission lines." Basically, the proposed utility facility and its associated transmission lines are defined as one single entity, not separately.

This brings me to the requirements for approval of a utility facility necessary for public service as outlined in Section 3.010(D)(10) of the Zoning Ordinances. In its Findings, the Planning Department went through the factors to determine whether the utility facility must be cited in an exclusive farm use zone, which is the required course of action. However, the Planning Department did not go through this process in accessing the proposed location of the associated transmission lines.

The Findings state that "[p]lanning staff have deemed this criterion not applicable as this installation does not qualify as an 'associated transmission line' as defined in the Morrow County Zoning Ordinance and is not associated with an energy generation facility." Once again, Article

1 of the Zoning Ordinances does not have a definition for “associated transmission lines,” nor does Section 3.010(D)(10) have an exception for facilities “not associated with an energy generation facility.” Put simply, these are not valid reasons to find that the criteria of Section 3.010(D)(10) do not apply to the associated transmission lines. The Zoning Ordinances definition of “utility facility” includes in that definition its associated transmission lines. Therefore, the applicant in this situation, Umatilla Electric Cooperative, must demonstrate that the associated transmission lines meet either of the following requirements of subsection (1) or (2) of Section 3.010(D)(10)(b):

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

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

(b) The associated transmission line is co-located with an existing transmission line;

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

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

(2) After an evaluation of reasonable alternatives, an applicant demonstrates that the entire route of the associated transmission line meets, subject to Subsections D.10.b(3) and (4), two or more of the following criteria:

(a) Technical and engineering feasibility;

(b) The associated transmission line is locationally-dependent because the associated transmission line must cross high-value farmland, as defined in ORS 195.300, or arable land to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;

(c) Lack of an available existing right of way for a linear facility, such as a transmission line, road or railroad, that is located above the surface of the ground;

(d) Public health and safety; or

(e) Other requirements of state or federal agencies.

(3) As pertains to Subsection (2), the applicant shall demonstrate how the applicant will mitigate and minimize the impacts, if any, of the associated transmission line on surrounding lands devoted to farm use in order to prevent a significant change in accepted farm practices or a significant increase in the cost of farm practices on the surrounding farmland.

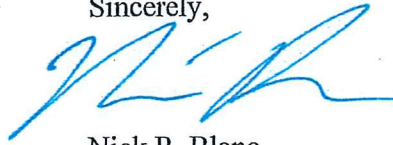
Stephanie Case  
Page 3  
April 2, 2020

Because there is not an exception in the Zoning Ordinances that would allow the Planning Department to forego the analysis set forth above, the County would be derelict in its duty if it were to allow the installation of these transmission lines along the Frederickson's property without following the procedure set forth in its own ordinances.

For these reasons, the Fredericksons object to these Preliminary Findings and ask that the application as to the transmission lines be denied. The Fredericksons would rather see that these lines be installed to the north of I-84.

If I have overlooked a separate exception that would allow the Planning Department to forego the requirements for approving the associated transmission lines of a utility facility for public service, please let me know. Any communications can be sent directly to me at my office. Thank you.

Sincerely,



Nick R. Blanc

cc. Gary and Casey Frederickson

## Stephanie Case

---

**From:** Casey Huxoll <caseyh@integra.net>  
**Sent:** Monday, April 6, 2020 11:53 AM  
**To:** Stephanie Case  
**Subject:** 230kv line on Root Ln

STOP and VERIFY - This message came from outside of Morrow County Government.

---

Stephanie

We are writing to you about the concerns we have with the proposal to install a new 230kv transmission line that will run down Root Ln.

We feel like this would be a horrible thing to have in our neighborhood. We feel this will lower our property values as well as being added traffic to an already inadequate county road. As well as other health and noise concerns with being that close to high powered lines.

These high powered lines always crackle and pop in the winter time and seems to create much static underneath them. Not only would this line be a major eyesore from my house, the current proposed route would bring this line very close to my grandmas house and this is very concerning to us. She lives on the corner of Rippee rd and Root Ln.

We don't understand why they would want to run a line like this close to dwellings when it seems there could be so many other options to stay away from the houses. Such as run this line through the industrial zone on the north side of I-84. Or along the interstate.

We hope that our concerns get recognized and the commission will deny this proposal.

Can you please confirm receipt

Thanks

Casey and Nikki Huxoll

## Stephanie Case

---

**From:** Terry Tallman <terry@tallman.cx>  
**Sent:** Wednesday, April 8, 2020 4:27 PM  
**To:** Stephanie Case  
**Subject:** Planning Action for Morrow County

STOP and VERIFY - This message came from outside of Morrow County Government.

---

My name is Terry Tallman. I am an adjoining Land owner for land being considered in a Land Use Decision in Morrow County. This action will provide power for the use of one property owner being promoted by Umatilla Electric Cooperative for "Public Service". There are other concerns as well. I would ask for re definition of public service in this matter. One land owner benefits, other may not even though publicly it is characterized as a far different situation. Therefore I ask for further discussion of the matter.

Sincerely,

Terry K. Tallman  
Morrow County landowner

Sent from my iPhone

**From:** [Stephanie Case](#)  
**To:** [Stephen Wrecsics](#)  
**Subject:** FW: Morrow county land use on Umatilla electric line  
**Date:** Friday, April 10, 2020 5:13:45 PM

---

**From:** Jonathan Tallman <jonathan@tallman.cx>  
**Sent:** Thursday, April 9, 2020 9:02 AM  
**To:** Stephanie Case <scase@co.morrow.or.us>  
**Subject:** Morrow county land use on Umatilla electric line

**STOP and VERIFY - This message came from outside of Morrow County Government.**

---

Stephanie,

Hello Jonathan Tallman here. I am writing in response to the information to the fact finding letter that you sent the letter about.

The question I have is this just one line for 230k? Right now the amazon data facility has power but now they need more then what they have currently? Is there an end to their power consumption needs or will this 230k line be enough going ahead into the future or will another line have to be constructed too?

Thank you for you time.

Sincerely,

Jonathan Tallman

--

Jonathan Tallman  
(208) 570-7589

## Stephanie Case

---

**From:** Jim Doherty  
**Sent:** Friday, April 10, 2020 5:00 PM  
**To:** Stephanie Case  
**Subject:** Comments on UEC

Stephanie,

I think we need to have clarity on when a variance was approved by the city to allow overhead lines, as it would have been impossible for former Judge Tallman to negotiate something out of his authority.

I think we need to revisit the minutes of the temporary 115kv discussion indicating that the potential 230kv line would replace and was for an end user. Discussion now is more centered around greater good.

During negotiations with UEC they indicated it would take 500k more to go around morrow county. Why now the long more expensive way. I would prefer to put on county than on constituents.

This is why PLANNING is so important this is a sad sad sad day that we bow at the dlter of greed. A few people used their positions to enrich sad

Jim

Sent from my U.S.Cellular© Smartphone



Land use decision LUD-N-26-20 is coming before you today as a result of the lack of planning, from the City of Boardman on the PDX project. Today, there is no path forward for this 230kV transmission line without the condemnation of our land, and all the unsigned landowners on exhibit A & B. What is concerning here is that VADATA, the end user and likely the main reason this land use meeting is happening, has not signed any agreements.

UEC has filed against all the landowners with the PUC.

In the Matter of UMATILLA ELECTRIC COOPERATIVE, Petition for Certification of Public Convenience and Necessity. Filed by Tommy Brooks. Filed 3/19/2020  
This land use hearing is no more than an attempt to strengthen a position. Those within the City of Boardman in the Commercial district will not have a hearing opportunity. This meeting will be their only voice.

The Umatilla Electric Cooperative has been aware of this project since the inception, but pretends it was a surprise. Minutes of the Boardman City planning department reflect a UEC board member was present at the 1st land use hearing in Boardman. He was not there over concerns about the soccer field. The applicant and the City hid the use to the planning department, thus no planning, this created a mess for everyone involved.

The power that UEC has represented as a public need, ends at Amazon for redundancy. They currently have 230kV to the site. Make the temp power permanent and move on.

UEC has the power of condemnation, but can you fathom that they would use it against retired citizens of Morrow County, Cheryl and Terry Tallman that have given a lifetime of service to their community, his 92 year old father and brother. Also, the Yates family are business owners in Morrow County and Edward Shook lives in a rural farm 2 acre zone.

There is a dead end at the county line. UEC does not have easements in place to ensure the project's completion. They want this piece meal, so it appears that everything is in place. You have to look at the whole project. This land use application may certainly only address the unincorporated area of the County, but the effects will be seen across the entire UBG.

One planning commissioner knows the impact of potentially having private property condemned. I hope he speaks out today.

The impacts of this action go far beyond the county lines. Take into consideration that one End Point is located in the city limits and crosses service center zoned lands. Service center zoned land inventories in Boardman proper are a scarce commodity and need to be preserved. Commercial land usually means a population center. Boardman has a restriction on above ground utilities( see Below), for good reason the county needs to protect those lands. Perhaps with conditions set forth in Use standards; 10 (4) conditions if approved.

## Chapter 13.12 - UNDERGROUND WIRING CONTROL DISTRICT

### 13.12.010 - Findings.

The council finds that a program for the establishment of an underground wiring control district is highly desirable to beautify the city and to promote its orderly development; that the underground wiring shall be required for installation of underground utility facilities in the city, except as hereinafter provided; that such a program is in the public interest and will allow property owners who must provide on-premises facilities to make such plans as are necessary to take the underground service; that such a program is in conformity with ORS Chapter 221, which provides that the city may prescribe by ordinance the character of service to be furnished by any public utility and the conditions upon which such utility may be permitted to occupy the streets and public property within the city; that such an underground wiring program is necessary in such area in order to protect and promote the public health, safety and welfare.

### 13.12.020 - Boundaries.

The underground wiring control district shall mean and include the entire city of Boardman.

### 13.12.030 - Overhead wires prohibited.

It is unlawful for any person to erect, construct or maintain on or over the surface of any of the streets in the underground wiring control district any wires, poles, cables, appliances, or apparatus of any kind, on, through, or by means of which electric current is transmitted or used for operating any telephone, telegraph, television, television cable, messenger, or electric light or power system or for any other

Additionally the county needs to protect the adjacent small farm 40 and farm residential lands. Overhead power lines have negative effects on property values. Morrow County has just purchased a Public Works parcel. The transmission line will surround the property, making uses more difficult and safety issues more probable.

Furthermore, this application fails to comply with any statewide goals; 1,2,3,5,6,8,9,13. Our Comprehensive plan is acknowledged by the state and therefore needs to comply with these goals. None of the goals have been met. If power distribution lines are part of the Utility Facility they are not outright uses in EFU and all criteria that pertains to them will need to be met. Thus it is our belief staff has erred in applying the correct approval criteria. Morrow County Zoning ordinance; Article 3 USE ZONES section 3.010 Part D. Use Standards 10 (b) as not applicable. Staff should find. Testimony provided by Louis Toth P.E., Dated March 19, 2020 referenced here: <https://edocs.puc.state.or.us/efdocs/HTB/pcn4htb123331.pdf> / PCN \_\_\_\_ - UEC100 - Toth Testimony -03182020 .pdf provides that information.

"Circuits other than the Transmission Line to Olson Rd Substation that will be initially connected to the "breaker and half scheme" will be 230 kV lines connecting to the new

Wheatridge West wind turbine generation complex and BPA's Morrow Flat source substation.

The Hwy 730 Switchyard will be designed and sized for long term flexibility and expansion to accommodate future needs". Clearly this states this project will be tied to an " associated transmission line" and thus will need to be added to the criteria for approval and addressed.

Public health and safety has clearly not been addressed. Overhead power lines can present health challenges. "Implantable medical devices are becoming increasingly common. Two such devices, pacemakers and implantable cardioverter defibrillators (ICDs), have been associated with problems arising from interference caused by magnetic and electric fields. This type of interference is often termed electromagnetic interference or EMI. EMI can cause inappropriate triggering of a device or inhibit the device from responding appropriately."

Butrous, G.S., J.C. Male., et. al. 1983. The Effect of Power Frequency High Intensity Electric Fields on Implanted Cardiac Pacemakers. *Pacing & Clinical Electrophysiology*. 6:1282-1292.

2002 Report from the State of California In response to a California Public Utilities Commission request, three scientists from the California Department of Health Services reviewed the studies related to possible health problems from exposure to EMF created by power lines. The report's major conclusions are:

- To one degree or another, scientists from DHS are inclined to believe that EMFs can cause some degree of increased risk of childhood leukemia, adult brain cancer, Lou Gehrig's Disease, and miscarriage.

The currents induced in the body by magnetic fields are greatest near the periphery of the body and smallest at the center of the body. It is believed the magnetic field might induce a voltage in the tissue of human body which causes a current to flow through it due to its conductivity of around them. The magnetic field has influence on tissues in the human body. These influences may be beneficial or harmful depending upon its nature. The magnitude of surface charge and internal body currents that are induced by any given source of power-frequency fields depends on many factors. These include the magnitude of the charges and currents in the source, the distance of the body from the source, the presence of other objects that might shield or concentrate the field, and body posture, shape, and orientation.

For this reason the surface charges and currents in which a given field is induced are very different for different human and animals. When a person who is isolated from ground by some insulating material comes in close proximity to an overhead transmission line, an electrostatic field is set in the body of human being, having a resistance of about 2000 ohms. When the same person touches a grounded object, it will discharge through his body causing an amount of discharge current to flow through the body. Discharge currents from 50-60 Hz electromagnetic fields are weaker than

natural currents in the body, such as those from the electrical activity of the brain and heart.

For human beings the limit for an undisturbed field is 15 kV/m, R.M.S., to experience possible shock. Strong, artificial EMFs like those from power lines can scramble and interfere with your body's natural EMF, harming everything from your sleep cycles and stress levels to your immune response and DNA! cell enlargement. Further, the growth can be stunted which may be due to poor action of hormones responsible for cell division and cell enlargement. The bio-chemical changes produced in this plant due to EMF stress quite obvious and it affects the production leading to economic loss. It is concluded that the reduced growth parameter shown in the crop plants would indicate that the EMF has exerted a stress on that plants and this EMF stress was quite obvious and it affects the production leading to economic loss. So further research activities are needed to safe guard plants from EMF stress. (\* The Tallman's grow a garden for their business)

This 115 kV alternative would not be as economically effective as building the Transmission Line since it would not only require 115 kV line upgrades, but it would also require major revisions to the BPA Boardman 230/115 kV source transformer and related facilities. These items would be in addition to existing 115 kV line upgrades.

In summary, this testimony indicates merely upgrading 115 kV conductors to larger sizes is not an optimal alternative since it involves adding a very expensive new source 230/115 kV transformer(s) to the area system to provide for added 115 kV capacity. In addition, it is noted

Cost alone may not be considered when considering alternatives. This criteria has not been met. As upgrading the lines would have no impacts to agricultural operations, no resource consumption and affect no new landowners. Therefore, they have not met the use standards.

The application speaks of construction, operation, maintenance, but does not address distribution. Is that because it is not a transmission line, but a power distribution line? The UEC has indicated that the power will be redistributed to residences and industries throughout the city and county. There will be many more impacts to come as this distribution occurs. The county needs to protect future impacts on property owners and agricultural lands by requesting that all distribution lines be constructed underground. This will mitigate impacts to the City and surrounding commercial and residential land and eliminate impacts to EFU lands.

Morrow County Morrow County Zoning Ordinance Article 3 Section 3.010

This is the adopted definition of a Utility Service by Morrow County, this is not what they are asking.

Utility facility service lines are utility lines and accessory facilities or structures that end at the point where the utility service is received by the customer and that are located on one or more of the following:

- a. A public right of way;
  - b. Land immediately adjacent to a public right of way, provided the written consent of all adjacent property owners has been obtained; or
  - c. The property to be served by the utility.
- Specifically , the applicant asks for, "Utility facility necessary for public service" a utility facility line ends at the end user and that is not what this application is asking.

#### Morrow County Zoning Ordinance Article 1

Utility Facility. Any major structure owned or operated by a public, private, or cooperative electric, fuel, communication, sewage, or water company for the generation, transmission, distribution, or processing of its products or for the disposal of cooling water, waste, or byproducts, and including power transmission lines, major trunk pipelines, power substations, dams, water towers, sewage lagoons, sanitary landfills, and similar facilities, but excluding local sewer, water, gas, telephone and power distribution lines, and similar minor facilities allowed in any zone.

This utility facility proposal is being sold as a transmission line, It is clearly a power distribution line. Coming from a switch yard directly to an end user. This use is not accepted under Utility Facility and does not serve the public good.


If and when the power will be redistributed to residences and industries throughout the city and county there will be many more impacts to come as this distribution occurs. The county needs to protect future impacts on property owners and agricultural lands by requesting that all distribution lines be constructed underground. This will mitigate impacts to the City and surrounding commercial and residential land and eliminate impacts to EFU lands.

#### Use Standards 10 (1) (f) "locationally-dependent"

Lack of consideration was given by someone in the process as it was initiated. [ie The final land owner (the site selection group), the City or County Planning staff.] The matter seems to have been "oh well, it will come out in the end, the EFU landowner can bear the burden". This should have been a question of considerable thought before purchase and construction start, not as a matter to bring pressure prior to a public preliminary finding of fact land use decision or Public Utilities Commission hearing.

Thank you.

Sincerely,

  
Terry & Cheryl Tallman, Morrow County Landowners

## Stephanie Case

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**From:** J. Fletcher Hobbs <fletcher@cfsilage.com>  
**Sent:** Wednesday, May 20, 2020 8:23 PM  
**To:** Stephanie Case  
**Subject:** Umatilla Electric Cooperative PUC  
**Attachments:** Case letter UEC PUC.pdf

**STOP and VERIFY - This message came from outside of Morrow County Government.**

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Greetings,

Attached is a letter. Thank you in advance for reading it.

Respectfully,

J. Fletcher Hobbs

## WALO LLC

325 Yates Lane  
Boardman, OR 97818  
(541)377-3349

Stephanie Case,

I am writing to you because I received the preliminary findings of facts for a power distribution line to the Vadata buildings. I own property under the proposed preferred route as well as the proposed alternate route. I have been in contact with TOTH and UEC and most of my neighbors. I have also attended several meetings related to the effort to get power to Vadata.

After initially rejecting the idea of the power distribution line over my property, I attempted to make a deal with UEC to allow a city street to share part of the proposed easement with the City of Boardman because the city is going to be required to install one to comply with DOT interstate regulations. I offered any proceeds from the easement to be given to the city to help complete the project. After several planning meetings; UEC agreed, but returned agreements with ambiguous language regarding the street which would prevent the project from coming to fruition. I have offered to draft an agreement and looked at their revised agreements, but have met resistance.

There are routes available to get the power to the site through an industrial area North of I-84. The cost is said to be greater, but in all the meetings I have attended relating to getting power to Vadata, I have not seen evaluation of that route. Even if the cost truly is greater; the burden should be placed on the customer needing the distribution line, not the surrounding community which already afforded Vadata hundreds of millions of dollars in tax deferments.

I have struggled to come to terms with this project. I understand that growth is part of human existence, and that things don't always end up the way I want them to. The reality for me is that if I allow UEC to take 1.5 acres for a distribution line to Vadata, and the City of Boardman to take 1.5 acres for their street; I will no longer be able to operate at the facility I spent my life's wealth on. I am one of the largest employers in this area. I pay my employees well, and I ensure my customer's profits. Custom Feed Services is now a keystone company in this community. I did all due diligence before even buying this property to ensure it would work for my company and the community we chose for our home.

When I speak with the Tallmans and hear that UEC's offer would have Terry leave his garden; I am angered about the things they say regarding him being unreasonable. When I look at the map of the proposed route with the Fredericksons; my heart breaks thinking about each of their homes being affected by this project.

I think there are good people leading our community, but there is a misguided group mentality that this Vadata project needs to be pushed through. There are rules, laws, and guidelines that are being bent to the will of Vadata. Those rules, laws, and guidelines were put there to help leaders make the right decisions when dealing with people or entities that we need, but don't necessarily carry the same values that make a successful community.

Let's be good leaders,



J. Fletcher Hobbs

## Stephanie Case

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**From:** Mary Killion <mary.killion@outlook.com>  
**Sent:** Monday, July 6, 2020 1:03 PM  
**To:** Stephanie Case  
**Subject:** Morrow County Planning

**STOP and VERIFY - This message came from outside of Morrow County Government.**

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Hello, Stepahnie-

My name is Mary Killion. I have lived in Morrow County, Boardman area, since mid-2002. Recently, I have been made aware of an issue involving land use in Morrow that I would like to oppose. Umatilla Electric Cooperative plans to condemn a piece of land in order to upgrade utilities for the City of Boardman and Port of Morrow. The current utility needs are being met, but they claim that this is an essential upgrade. In the Introduction of the Morrow County Comprehensive Plan, paragraph 5(b) it states; "...all too often land use policies therefor take a totally negative view toward growth. In actuality, such plans and regulations should only take a negative view toward unplanned or poorly planned growth; the results, thereof ultimately costing the general public and the taxpayer uncalled for and unnecessary damages to their physical, social, economical and environmental well-being..."

I believe this section of the Comprehensive Plan behooves the Morrow County Planning Department to take a strong stance against the negative impacts of development.

The intention of Umatilla Electric Cooperative (UEC) to condemn the land where Fletcher Hobbs currently operates CFS, a profitable and sustainable business; is a detriment to our county. CFS provides a vital service to Morrow County; it supports several other businesses and also has plans to grow and employ even more than the current staff of 50 employees. Without CFS in our county, those businesses will have to find another outlet for the very services that are currently being provided by CFS. Mr. Hobbs has personally and professionally been an advocate and supporter for our local FFA groups and other youth activities such as the Morrow County Fair. He embodies everything that Morrow County needs from a business.

Mr. Hobbs has been compliant with the PUC and UEC with trying to develop a plan that is mutually beneficial. Even though such plans have been attainable, UEC insists that they declare Eminent Domain over the majority of Mr. Hobbs's property and push him out of business. I have searched public records for reasons why such a drastic improvement is necessary for this area and I cannot find anything on record. The current system is completely adequate for the current need. It is therefore my belief that there is more going on than meets the eye. If this is allowed to go through and "more power" is available; what is the benefit to our county? We would have lost a thriving and growing business that enhances our county industry and employs currently 50+ employees and also provided the means necessary to further destroy our county land with Vadata and assorted other tax-deferred entities.

Umatilla Electric has the responsibility to ethically meet the needs of their customers. By pushing through this upgrade, while other options remain available for routing, they are not being ethical nor are they serving our county- they are only serving the agenda of one customer. I propose that the Morrow County Planning Department either prove that this improvement is required for current use or take a stand against it. Public comment on this issue is closing on July 16<sup>th</sup>.

Please address this issue with a strong stand for Morrow County and our future.

Thank-you for your service to Morrow County.

Sincerely,

Wes Killion  
Mary Killion

Sent from [Mail](#) for Windows 10





TOMMY A. BROOKS

tbrooks@cablehuston.com  
[cablehuston.com](http://cablehuston.com)

May 20, 2020

**VIA EMAIL**

Stephanie Case  
Interim Planning Director  
Morrow County Planning Department  
P.O. Box 40  
205 Third Street NE  
Irrigon, OR 97784  
scase@morrow.county.or

**RE: LUD-N-26-20 - UEC 230kV Line  
Applicant's Response to Comments**

Dear Ms. Case:

This firm represents Umatilla Electric Cooperative ("UEC"), applicant in the above-captioned land use matter. The purpose of this letter is to provide the County with a response to the comments it received regarding its Preliminary Findings of Fact. Please include this letter in the record for this matter.

**Background and Legal Context**

As an initial matter, UEC would like to provide the County with a more detailed explanation of the legal context in which this application is being made. As explained in UEC's application, the proposed Transmission Line will be partially sited within the County's Exclusive Farm Use ("EFU") zone. Unlike most zoning designations, the EFU zone is statutorily controlled at the state level. Any analysis of whether and how a use is allowed in EFU zone, therefore, relies on the application of state statutes – specifically those statutes in ORS Chapter 215.

While the provisions in ORS Chapter 215 generally allow only farm uses in the EFU zone, ORS 215.283 expressly allows several nonfarm uses as well. ORS 215.283 is further divided into two primary subsections. The Oregon Supreme Court has concluded that the legislature intended the uses delineated in ORS 215.283(1) to be uses "as of right," and "a county may not enact or apply legislative criteria of its own" to those uses. *Brentmar v. Jackson Cty.*,

321 Or 481, 496 (1995). As a result, the only applicable criteria in the EFU zone for uses listed in ORS 215.283(1) are those criteria found in state statute or in state rules implementing those statutes.

ORS 215.283(1)(c) identifies “utility facilities necessary for public service” as one of the nonfarm uses allowed in the EFU zone as of right. The Land Use Board of Appeals (“LUBA”), in a case involving Umatilla County, acknowledged that a transmission line is a type of utility facility that falls within the scope of ORS 215.283(1)(c). *WKN Chopin LLC v. Umatilla County*, 66 Or LUBA 1 (2012) (“*WKN Chopin*”).

The *WKN Chopin* case is highly relevant to UEC’s current proposal in Morrow County. First, applying the standard set forth in *Brentmar*, LUBA confirmed that “the uses allowed under subsection (1) [of ORS 215.283] are permitted outright and are only subject to *statutory* standards.” (Emphasis original). Second, LUBA acknowledged in that case the distinction between a transmission line that serves a wind facility and the wind facility itself, the latter of which falls within the scope of ORS 215.283(2) and, therefore, can be further governed by local criteria. Based on the holdings in *Brentmar* and *WKN Chopin*, the only standards applicable to UEC’s Line are the statutory standards in ORS 215.275 (relating generally to utility facilities necessary for public service). As long as the Transmission Line meets those criteria, the County must approve the portions of the use located in the EFU zone.

As used in ORS 215.283 and refined by ORS 215.275, the “necessity” of a utility facility refers to the necessity to be in the EFU zone. LUBA has explained that, to comply with ORS 215.275, an applicant must first make a reasonable effort to identify reasonable non-EFU zoned sites. This includes considering any reasonable non-EFU zoned sites that are identified by other parties. If non-EFU sites are identified, the applicant must demonstrate that those alternative sites are not feasible based on one or more of the factors set out in ORS 215.275(2). *Getz v. Deschutes County*, 58 Or LUBA 559 (2009).

For UEC, locating the line in the EFU zone is necessary because the end of the line at the 730 Switchyard is completely surrounded by EFU zoned land, and there is no way to get to other non-resource zoned lands without crossing the EFU. UEC also explains in its application the technical and engineering basis for the route it selected. Those materials are supported by the testimony UEC provided to the Oregon Public Utility Commission (“PUC”), portions of which we are providing for the County to include in the record of this proceeding.

It is noteworthy that the consideration of alternative sites applies only to the determination of whether the facility must be sited in the EFU. Once that decision is made, the applicant does not have to consider alternative locations that are also within an EFU zone. See *WKN Chopin* at \*11.

It is in this context that the County should consider the comments it received regarding UEC’s application.

## **Response to Comments**

The County received comments in opposition to the line from Gary Frederickson, both directly and through his attorney Mr. Blanc. The comments from Mr. Frederickson primarily state the he was still reviewing the application, and he does not cite any approval criteria that UEC has not satisfied. Mr. Frederickson does state his belief that there are other routes for the transmission line that could be “less disruptive” north of I-84. However, Mr. Frederickson’s email does not identify what disruptions he believes are associated with the proposed route. UEC therefore cannot respond to that specific argument.

The letter from Mr. Blanc on behalf of Mr. Frederickson goes into more detail. Mr. Blanc first states that UEC’s transmission line is a “utility facility” with “associated transmission lines.” Based on that statement, and a statement that the County’s code does not define “associated transmission lines,” Mr. Blanc believes the County should have applied the criteria for associated transmission lines in addition to the standards for utility facilities necessary for public service. To the contrary, an “associated transmission line” is only one type of “utility facility necessary for public service” that is not relevant here.

The regulations for associated transmission lines are found in ORS 215.274, which establishes the criteria for when such lines are necessary. That statute defines an “associated transmission line” by reference to ORS 469.300, which in turn states that such lines are “new transmission lines constructed to connect an energy facility to the first point of junction of such transmission line or lines with either a power distribution system or an interconnected primary transmission system or both or to the Northwest Power Grid.” This same definition appears in Article 1 of the Morrow County Zoning Ordinance. UEC’s proposed transmission line is not being used to connect an energy facility to UEC’s system or to BPA’s transmission grid. It therefore does not qualify as an associated transmission line, and none of the associated transmission line regulations apply to UEC’s proposal.

The County received email comments from Casey and Nikki Huxoll. In those comments, the Huxolls urge the County to deny the application based on concerns of lower property values, increased traffic, and other health and noise concerns. Of note, none of these concerns address the criteria in ORS 215.275 (or the County’s zoning ordinance implementing those regulations), and the Huxolls do not assert that UEC’s application fails to meet the applicable approval criteria. As stated above, as long as the transmission line satisfies the statutory requirements for being necessary to be in the farm zone, it must be approved. Those statutory requirements do not impose any compatibility requirements such as those raised by the Huxolls, especially compatibility with areas outside of the EFU zone. Moreover, it is not clear from the Huxolls’ comments how such impacts would actually exist. The transmission line, for example, is a very passive use and will not result in increased traffic as the Huxolls suggest.

The County received email comments from Jonathan Tallman. Those comments, however, do not address UEC’s application or the approval criteria. Instead, these comments pose a question regarding whether there will be a need for future transmission lines. UEC has an obligation to provide service in its service territory. It is constantly assessing the needs of its customers and engages in long-term planning efforts to identify what lines will be needed and

when those lines will be needed. The proposed transmission line is part of that effort and UEC has determined that the line is necessary in light of recent and future load growth in the Boardman area. This includes not just customers close to the proposed line, but also the area where the Port of Morrow has planned for significant growth.

The County also received comments from Terry and Cheryl Tallman. With respect to land use issues, the comments from the Tallmans state that the application does not comply with several Statewide Planning Goals (“Goals”) and various provisions of the County’s comprehensive plan. However, the Goals and comprehensive plan provisions are not applicable. Once a county has an acknowledged comprehensive plan in place, the Goals cease to apply to specific land use applications. Further, comprehensive plans are implemented by specific land use regulations and are not, in and of themselves, approval standards. *See Von Lubken v. Hood River County*, 104 Or App 683, 689 (1990). Based on these established legal doctrines, only the County’s land use regulations apply and, in this case, those regulations must implement ORS 215.275, which does not impose any additional criteria grounded in the Goals or local comprehensive plan provisions. *See W.K. Chopin* at \*19 (“As we have already noted, under *Brentmar v. Jackson County*, the county is not permitted to impose local land use standards on uses that are permitted under subsection (1) of ORS 215.283.”).

The Tallmans state that the transmission line UEC proposes is in fact a distribution line that should be viewed under different criteria. This argument is based on the Tallmans’ belief that the line will go “directly to an end user.” To the contrary, as described in the application, the transmission line will connect a switchyard to a substation and will not be directly connected to any single customer.

The Tallmans’ comments raise concerns similar to those raised by Mr. Frederickson and the Huxolls relating to associated transmission lines and compatibility issues. For the same reasons stated above, those concerns are not related to the approval criteria applicable to UEC’s application.

The Tallmans’ comments raise concerns about impacts in the City of Boardman. UEC has been in close communication with the City to ensure its application is consistent with the City’s land use regulations. Because those regulations are not relevant to the County’s consideration of the portion of the transmission line in the EFU zone, UEC will not be responding to each of those concerns as part of this proceeding, with one exception. The Tallmans mention that the City of Boardman has an undergrounding requirement for new utilities. That is true, except the requirement does not apply to lines that are at transmission-level voltage that are not traditionally placed underground. UEC has confirmed with the City that this requirement will therefore not apply to the proposed transmission line.

Finally, separate from land use issues, the Tallmans’ comments reference the Oregon Public Utility Commission (“PUC”) proceeding UEC is currently engaged in. It is important to recognize the distinction between that process and the County’s land use process. The County, as the land use regulator, will determine if it is necessary for the transmission line to be within the EFU zone. The County must determine that it is, because there is no route, much less a feasible route, that would allow UEC to connect a line from the 730 Switchyard to the rest of its

system, as that site is completely surrounded by EFU parcels. The PUC, for its part, will consider if the transmission line is necessary from a technical standpoint, and the PUC will not independently decide whether the line meets the County's land use requirements. Contrary to the statement made by the Tallmans, the PUC will hold multiple hearings during which landowners along the route can provide input into the PUC's proceedings.

The final comment the County received was from Jim Doherty. Mr. Doherty's email primarily requests clarification regarding the City's variance process relating to undergrounding utilities. As noted above, UEC has been working with the City to ensure the transmission line is compatible with the City's regulations, and the undergrounding requirements are not applicable to the transmission line. Mr. Doherty also expresses concern whether UEC has chosen the right route for the transmission line. UEC has been working diligently to find the best route that is the most compatible with landowner needs and the needs of its member customers. The alternatives analysis UEC performed to determine the route for the transmission line is explained in great detail in the UEC's application to the PUC. Those materials are publicly available on the PUC's website at the following address:

<https://apps.puc.state.or.us/edockets/edocs.asp?FileType=HTB&FileName=pcn4htb123331.pdf&DocketID=22349&numSequence=3>

Included with this letter is a portion of those materials – specifically, we are providing the testimony of UEC's engineering consultant that describes the need for the transmission line and the alternatives analysis performed to determine the route of the line.

At the end of the day, the route chosen by UEC strikes the best balance. The specific question before the County in this land use application is not whether there are other routes available to UEC, but whether the proposed route meets the approval criteria. UEC will continue to work with landowners to make sure it sites facilities in a manner that serves the greatest public good with the least private detriment.

Based on the foregoing, most of the comments the County received do not identify approval criteria that have not been satisfied. Further, for the few land use criteria that are identified, UEC has demonstrated that those criteria are not applicable to this land use application. The County should therefore proceed with approval of the transmission line as set forth in its original notice.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Tommy A. Brooks', written in a cursive style.

Tommy A. Brooks