Umatilla County

Department of Land Use Planning

AGENDA

Umatilla County Planning Commission
Public Hearing
Thursday, January 28, 2016, 6:30 p.m.
Justice Center Media Room
Pendleton, OR

Members of Planning Commission
Randy Randall, Chair
Gary Rhinhart, Vice-Chair
Tammie Williams
Don Wysocki
David Lee
Don Marlatt
Suni Danforth
Cecil Thorne
Tami Green

Members of Planning Staff
Tamra Mabbott, Planning Director
Carol Johnson, Senior Planner
Bob Waldher, Senior Planner
Brandon Seitz, Assistant Planner
Julie Alford, GIS
Gina Miller, Code Enforcement
Tierney Dutcher, Administrative Assistant

1. **Call to order**

2. **Adopt minutes** (December 17, 2015)

3. **New Hearing:**

NEW HEARING: CONDITIONAL USE PERMIT REQUEST, #C-1252-15 and LAND USE DECISION, #LUD-194-15, CHOPIN WIND, LLC, Richard Nerzig, Project Manager, Applicant; Property Owners, Ferguson Ranch, Inc. & Smith Frozen Foods The applicant requests a Conditional Use Permit to construct and operate a 10 MW wind project on Ferguson Ranch land located north of Staggs Road and northeast of the City of Athena and southwest of the City of Milton-Freewater, identified as Tax Lots 3100 & 4900 on Assessors Map 5N 35. The conditional use permit request includes a project substation proposed on industrial zoned land owned by Smith Frozen Foods and identified as Tax Lot 500 on Assessors Map 4N 35 15. The proposed substation would be located on land south of the current PacifiCorp substation and east of the Smith Frozen Foods wastewater pond. The request includes a Land Use Decision to construct a 34.5 kV underground transmission line within public right of way from Ferguson Ranch property (Tax Lot 4900) to the project substation proposed on industrial land (Tax Lot 500) within the Urban Growth Boundary of the City of Weston.

The Conditional Use Permit Standards applicable to the applicant's request are found in the Umatilla County Development Code Sections 152.616 (HHH), 152.615, 152.061 and in the City of Weston Development Code Sections 4.4 and 2.3.160. The Land Use Decision Standards applicable to the request are found in Umatilla County Development Code Sections 152.617 (II) (7).

4. **Other Business:**

   2015 Year End Review by Staff

5. **Adjournment**

Next Scheduled Meeting:

Thursday, February 25, 2016, 6:30 p.m., Justice Center Media Room, Pendleton, OR.

DRAFT MINUTES
UMATILLA COUNTY PLANNING COMMISSION
Meeting of Thursday, December 17, 2015
6:30 p.m., Umatilla County Justice Center, Media Room
Pendleton, Oregon

** **

COMMISSIONERS PRESENT:	Randy Randall, Chair, Gary Rhinhart, David Lee, Suni Danforth, Don Marlatt, Don Wysocki, Tami Green.
ABSENT:	Cecil Thorne, Tammie Williams.
STAFF:	Carol Johnson, Bob Waldher, Brandon Seitz, Tierney Dutcher, Gina Miller.

** **

NOTE: THE FOLLOWING IS A SUMMARY OF THE MEETING. A RECORDING OF THE MEETING IS AVAILABLE AT THE PLANNING DEPARTMENT OFFICE.

CALL TO ORDER:

Chair Randy Randall called the meeting to order at 6:32 p.m. and read the opening statement.

MINUTES:

Chair Randall asked the Planning Commission to review the minutes from November 19, 2015 for adoption. Commissioner Marlatt moved to adopt the minutes and the motion was seconded by Commissioner Green. Motion carried by consensus.

CONTINUED HEARING:

MICHAEL PARKER REQUEST FOR HEARING #ZP-14-109, Landowner, Eva Swain. Hearing continued from September 24, 2015. On June 2, 2015, the County revoked a Zoning Permit issued to Michael Parker based on violations of conditions of the permit. Mr. Parker filed a request for a public hearing. The Permit allowed operation of a nursery business and excluded selling or dispensing of marijuana or marijuana products. The property is located on the east side of Highway 395, just north of Power City Road. The property is described as Tax Lot #300 of Assessor's Map 5N 28 15CC. Applicable code standards include Zoning Ordinance C-1, Zone 3.110-3.3.114 and Ordinance 2014-02.

STAFF REPORT: Tamra Mabbott, Planning Director, provided a staff report. The attorney representing Mr. Parker, Will Perkinson, sent an email stating that Mr. Parker would like to waive his Zoning Permit appeal with the Planning Commission and does

not wish to peruse the matter any further. Tamra responded via email to inform him that we will consider the appeal withdrawn and Mr. Parker is required to cease any commercial or residential use of the building until he has obtained a new Zoning Permit. Tamra will follow up with Code Enforcement to ensure compliance. Gina Miller, Code Enforcement Officer, explained that Code Enforcement is not able to take action when there is a pending application. Now that the application has been resolved, Code Enforcement will continue with their work.

Chair Randall closed the hearing, no action necessary.

NEW HEARING:

REQUEST FOR A PUBLIC HEARING FOR CONDITIONAL USE REQUEST #C-1249-15, Rodney J. Rainey, Applicant/ Kevin Gray, Owner. During the public comment period, a "Request for a Public Hearing" was submitted on September 30, 2015. The property is located on the north side of Diagonal Road (State Highway No. 207) on Tax Lot #2401 of Assessor's Map 4N 29 06A. The request is to develop a residential adult care facility for alcohol and drug treatment for up to 15 clients. The application is being processed as a Conditional Use Request for a convalescent home. The criteria of approval are found in the Umatilla County Development Code 152.616 (UU), 152.615 and 152.560.

Chair Randall called for declarations of ex-parte` contact, biases, conflicts of interest or abstentions, there were none.

Staff Report: Brandon Seitz, Planner, presented the staff report. He stated that, as a result of a previous Code Enforcement visit, the Planning Department learned that the applicant was operating an alcohol and drug treatment facility without land use approval. The applicant submitted a zoning permit for approval of the existing facility for up to 15 residents. Carol Johnson, Senior Planner, responded in a letter dated June 30, 2015, included in the Planning Commission's packet for review. In the letter, she informed them that the application could not be processed by a zoning permit and after discussion with County Counsel; it was recommended that they apply for a Conditional Use Permit as a convalescent home. A Conditional Use Permit application was submitted on August 17, 2015 and deemed complete on September 4, 2015. A public notice was sent to surrounding property owners and public agencies on September 9, 2015.

During the public comment period the Planning Department received two letters from notified land owners, included in the Planning Commission's packet for review. They also received two letters from notified agencies including the State Fire Marshall, included in the Planning Commission packets. Mr. Bernie Duffy from the Department of Environmental Quality phoned to make a statement. He said the current permits show a septic system for a three bedroom, single family dwelling and the proposed facility exceeds the capacity of the septic system. He requested that a condition of approval be added to bring the existing septic system up to the appropriate DEQ standards for the facility.

Mr. Seitz reminded the Commissioners about the standards of approval, found in County Code sections 152.616 (UU), 152.615 and 152.560. According to ORS 197.660 and the County Developmental Code, a residential home is an outright use allowed in a Residential Zone. A residential home is for less than five patients, while a residential treatment facility allows for six to fifteen. After discussion with County Counsel, it was determined that the proposed facility would require a Conditional Use Permit. The closest definition that matches the use of the facility is a convalescent home, so they chose to process the application that way. The generally accepted medical definition of a convalescent home is a person recovering from a sickness or disability, partially restored to health or strength. The Planning Department interpreted the code to mean that a person who is receiving treatment and recovering from drug or alcohol issues meets that definition.

There was a request for public hearing on September 30, 2015 from Mr. James Carmack. He cited his reasons for requesting a public hearing were the location of the facility in a residential zone and access easement issues. Mr. Seitz said the point of the actual access point in the resulting easement road is being contested by the appellant. The staff cannot determine the physical location of the property lines, at this time. The appellant claims the access point and easement road that are resulting are encroaching on his property. A survey would be required to determine the exact location of the property lines. There is conflict between the deeds. The deeds were reviewed and discussed with county counsel and Tracie Diehl, County GIS Manager, they determined the 12' easement belongs to the applicant and is not located on his property. Where the easement falls in relation to the access road cannot be determined at this time.

Chair Randall asked if other care facilities in the county were operating with a Conditional Use Permit. Mr. Seitz responded that it depends on the size and the zoning. A residential home, which is for five persons or less, is a use that is permitted in any residential zone with a Zoning Permit. If it's larger than that it would need to be processed as a Conditional Use Permit. This is only for residential zones. Other zones may have different standards. Mrs. Mabbott added that the Planning Department approved a Conditional Use Permit for a Residential Care Facility treating approximately eight patients outside of Reith. They had been operating over the threshold for a number of years and a neighbor complained. After looking into it, it was determined they could operate the business in an EFU Zone within an existing facility, but they needed a Conditional Use Permit. There are also some facilities operating in Milton-Freewater. She noted they sometimes slip through the cracks. She has asked the parent agency (Oregon Health Authority) that issues the licenses for the facilities to communicate with the Planning Department when they issue new licenses for these businesses. This applicant completed all the requirements they thought they needed. State agencies need to communicate better to help guide people through the complete process.

Mr. Seitz presented two additional letters received a few hours before the hearing and distributed copies to the Planning Commission. The Oregon Health Authority and Ronald

Wineland, adjacent landowner, submitted comments on the matter. The Planning Commission took time to review the letters.

Based on the information received from Bill Goss of the Drinking Water Division of the Oregon Health Authority, the Planning Department recommended that a condition of approval be added to obtain the necessary permits from the Drinking Water Division OHA for the water issue. They currently have a domestic well and will be required to submit for testing in the future.

Commissioner Danforth had questions about the two permits issued for two separate mobile homes. Mr. Seitz clarified that the older one had been removed when the newer one was brought on, then an addition came later.

Applicant Testimony: Rod Rainey, 32405 Diagonal Rd. in Hermiston. Mr. Rainey stated that they are in the process of upgrading the septic system and working with DEQ. The weather has delayed some of their progress. The septic system is working adequately. They had it pumped twice and added to the drain field. He understands it will need a bigger tank and more drain field and is in the process of doing that.

Mr. Rainey stated that staff tries to keep people from parking on the road. They have fifteen parking spaces in the site plan, and 15 patients maximum. Patients are not allowed to have a vehicle while in treatment. There are usually three or four vehicles onsite for the workers and plenty of room for delivery trucks to get in and out. If someone was parked by Mr. Wineland's property it's not likely it was someone from his facility. He has talked to Mr. Wineland a few times over the last year and he seemed to be pleased with them as neighbors.

The well was tested before applying for a state license. They have to submit to a water test done on a routine basis and plan to comply as needed.

Mr. Rainey's understanding of the easement is that it was given to Mr. Wineland in 1973. Since 1977, it has been used in the same manner it is now. They have six employees on a rotating twenty-four hour shift, but only three or four employees cars are parked out front at any given time. They try to keep noise down and don't allow for patients to leave the property. The police have not been called for any reason. He acknowledged that some clients were hitting golf balls over the fence at one time about a year ago, but they no longer have access to golf balls. He tries to talk to neighbors and check in from time to time, to ensure everyone is at ease. If there is a problem with the easement, he said they can figure out a way to have access off of Diagonal Rd., but that would be inconvenient to build.

Chair Randall stated that most of the properties on Diagonal already have a paved entrance and probably the state wouldn't get in the way of making another entrance. Mr. Rainey agreed but said it wouldn't be necessary. He referred to a picture displayed on the projector screen. When someone turns off of Diagonal into the easement road they go about 150' into a circular driveway to their facility.

Chair Randall asked how long they have been operating this type of facility at this location. Mr. Rainey stated they have been there about two years. He said when he applied and was going through the permitting and licensing process he asked the Fire Marshall, the city, and the Oregon State Health Authority what needed to be done. They told him he had to get the water sample done and inspection of kitchen and bathrooms. Nobody mentioned the county. If he was aware, he would have applied for proper permits through the county at that time.

Chair Randall asked if his purpose today was to continue current operation and not expand the current operation. The definition of the paperwork shows they're allowed up to fifteen patients, but they do not have fifteen patients at this time. Mr. Rainey confirmed that they have beds for up to fifteen clients and have been approved by the Fire Marshall to have up to fifteen. They will not exceed fifteen because he wants a smaller facility. Staying small allows for more individualized treatment in a home atmosphere. The facility is all fenced and their clients obey the rules in place.

Commissioner Rhinhart asked him to explain how clients are referred to his facility. Mr. Rainey said sometimes they come from courts or probation officers. Many come from the Buckley Detox Center. He presented a letter for the record to the Planning Commission Staff from the Buckley Center, in support of the good work they do. The need is great and there is a waiting list.

Commissioner Marlatt asked how many staff members they have and if they are on duty at all times. Mr. Rainey stated they have six total staff members and there are people on duty at the location at all times. There are usually three to four staff members working during the day, and one or two in the evening hours.

Commissioner Lee asked how many people each bathroom will accommodate. Mr. Rainey said they are meeting the requirements set by the Health Department and Fire Marshall. They have three bathrooms with showers/bathtubs. Commissioner Rhinhart asked how often they are inspected by the state. Mr. Rainey said every two years but the Community Care Organizations do checks more often.

Commissioner Green asked if the facility was secure, were clients allowed to come and go, and was there a curfew. Mr. Rainey said they stay on a voluntary agreement. If they leave, they are no longer welcome at the facility. They cannot walk up and down the road or go to the store. There are strict schedules they are required to follow. No person has been sent home for leaving the property or having any kind of violent or dangerous situation. The facility was co-ed for the first 8 months, but now it's all male. The program average is 30 days for each patient staying there. The longest has been 150 days, but depends on the diagnosis.

Commissioner Wysocki asked for explanation of the visitation policy. Mr. Rainey stated that visitation is always prearranged and only allowed on certain days and times. They screen all visitors and require that they abide by the facilities rules. Most clients are from outside the county and they don't receive many visitors.

Commissioner Danforth asked if Mr. Rainey operates any other facilities. Mr. Rainey said not at this time. He is considering it because of the success he has experienced and he knows there is a great need.

Applicant Testimony: Kevin Gray, property owner, PO Box 928, Hermiston, OR. Mr. Gray stated that he purchased the property approximately seven years ago. He comes and goes frequently to check on the house and is very happy with the way his renter is caring for his property. The facility has been operating on the premises for two years and in conversations with Mr. Wineland, he seemed pleased with the way things are going. It is shocking for him to hear that Mr. Wineland is upset at this time. He has never heard a complaint from any of the neighbors before today. When he purchased the home seven years ago he was told he had access to the property through the easement. He takes care of the 8 trees lining the drive, trimming and watering.

Chair Randall asked if the driveway is ever blocked. Mr. Gray stated that he has never seen more than four cars at one time. He has also never seen any clients roaming around the property or neighborhood. He feels it's going great.

Chair Randall asked if they own the home and rent the facility to the operator. Mr. Gray stated that he owns the property and rents the property to Mr. Rainey. Mr. Rainey owns the business. There is a lease written with an option to buy. Mr. Rainey intends to purchase the property eventually.

Commissioner Danforth asked if the rehab center was discussed when Mr. Rainey initially approached Mr. Gray to talk about renting the property. Mr. Gray replied yes. He was skeptical about the idea until he met with all the state and city offices/departments and was involved with the application process for the permitting of the facility. He wanted to be sure they were meeting all the requirements. There have been no complaints.

Commissioner Danforth asked about the question of existence of the 12' easement, and if he knows of a solution that would be conducive to the neighbors. She pointed it out that the GIS mapping managers noted that it should not be used as proof of legal access in preliminary findings and asked if there is a way to rectify this? Mr. Gray said they would need a surveyor to determine the exact property line. They could widen the road from 19' to 25', remove some landscaping and move the fence.

Commissioner Marlatt asked if the question is about the location of the easement or whether there is an easement at all. Mrs. Mabbott replied that both are in question. The

easement was not clear and the physical location of the roadway may or may not be on the properties. They would need to identify the exact location of the property boundary and put the entire roadway on Mr. Gray's property, unless he could prove legal right to use the roadway where it is currently located. The Planning Commission doesn't have enough information on the easement issue to take a side.

Chair Randall stated, according to the map, there is an easement of 15' on the other side. He asked if there is a fence between the two properties. Mr. Gray said there is a fence. Most of the road is gravel and a small piece is paved. Someone has lived in the house since 1976 and the roadway has been used continuously the entire time.

Applicant Testimony: Melissa Homan, 32405 Diagonal Rd., Hermiston. Ms. Homan stated that she works at the facility and has not seen an increase in traffic or noise. No clients are allowed in front of the house. She thinks this is about neighbors not wanting recovering drug users and alcoholics living near them. She understands the concern but there has been no problem in two years of operation. Clients are supervised twenty four hours a day and they are not allowed to step out of line. They do good work and the state recognizes them as one of the best. She doesn't understand why anyone would want to stop all the good they do because of a road issue.

Opponent Testimony: James Carmack and wife, Janet Carmack, eastbound property owners. Mr. Carmack stated that he has lived on this property since 1946 and when he moved in there was no road and no easement. The property was surveyed by Edwards Surveying in 2009 and the survey markers are visible at the location. He presented a copy of the filed map of the survey, which he previously registered with the county, to the Planning Commission. He used the map to show that there was an encroachment on his property from Mr. Wineland. He believes it was taken involuntarily. After the survey was completed he approached all his neighbors to inform them that the property line had moved west about 12'. He asked them to move their fences and had to take some to court over it. Mr. Wineland asked if he could purchase the property or get an easement on it. He made a private agreement through David Hadley to allow the easement, then when he was away they put the road in. They would have to remove the trees and build a new road to be within the property boundaries.

He did not know anything about a drug and alcohol treatment facility until he received a letter from the county about this matter. He sees many people hanging out and wandering around the area. He doesn't understand why they're running a commercial business in a residential area. He checked with others to find out how it may affect the value of his home, and it decreases it. Mr. Wineland has separate access to his property and doesn't need this easement. He feels like nobody showed a courtesy to him by informing him about the facility before it was permitted. There is no fence on the west side of the property that extends the length of the property, like Mr. Wineland had said.

He believes the patients have access to roam around the community. They have cut across his property to get to the Short Stop and he has seen them up and down the road.

They leave trash and make loud noise. His own place is kept clean. The devaluation of his property is unacceptable to him.

Mrs. Carmack said the facility does not have control over the people there. She sees them moving across the property and moving around the backside of their house. Things started to turn up missing and they now must lock everything up. They go to the Short Stop convenience store and return with bottles of alcohol. She stated that she doesn't want them there.

Chair Randall said he is familiar with the property and the area because he travels the road daily. He believes the people coming up and down the road are not from that facility, he has talked to them before. He believes she may be falsely accusing their neighbor by making those accusations without proof that these people are coming from the treatment center. He reminded them that it is important to be clear with facts when testifying.

Mr. & Mrs. Carmack disagree and both stated that they are only reporting true facts about things they have seen. He has seen women smoking cigarettes outside the facility recently. He does not want them there and is upset it was kept a secret from them from the start.

Chair Randall asked Mr. Carmack if he thought they intentionally put the business there illegally, or if there is a chance it was a misunderstanding. He said he has relatives who have been through a similar situation and were uninformed about the county requirements, even though they were permitted by the other agencies. He asked that they consider that mistakes can be made. Mr. Carmack stated that the land is zoned residential.

Mrs. Carmack said people might not want to buy her property, knowing there is a rehabilitation center nearby. This is a legitimate concern. If a buyer had young children they would not buy the property because they shouldn't be near that. She said other neighbors feel the same way.

Commissioner Wysocki asked if they were satisfied with the property line survey and if a fence was erected to keep others from walking across the property line, how might these changes affect their opinion? Mrs. Carmack responded that it would not change her opinion because the fact that they are there depreciates her property. Commissioner Rhinhart stated that if additional neighbors have concerns they should have attended the meeting to make them known.

Commissioner Rhinhart stated the easement issue is going to be a civil matter. The Planning Commission would like to work it out between landowners. Mr. Carmack has a legal right to fence the property and block the easement, if he chooses. The fact that he is upset because he was not notified beforehand is understandable. Mr. Carmack stated that he and his wife just don't want them there.

Opponent Testimony: JD Hamilton, 32451 Diagonal Rd. Hermiston. Mr. Hamilton referred to the projected picture showing the location of his property next to Mr. Carmack's property. He moved in to the home in 1979, and has lived there since. He received no notification that there would be a treatment facility operating in this area. He has noticed sewer companies working on the system at least three times in the last two months. They have had a lot of septic problems. He recently went over the property that was surveyed in the past, locating the marked boundary lines. After taking measurements he painted white lines in the road to identify the location so his neighbors are aware.

He has had issues with people being on his property. About a year ago he found a man prowling around his shop. He saw the man leave to a nearby motorhome. Another time recently, he was in his living room and noticed a woman looking through his window. He watched as she walked across Mr. Carmack's property and toward the facility. There are many people taking that path and crossing their yards. He asked how a business can operate for two years without a permit and he has never been contacted about anything. The sheriff's office can't help. He feels it would make more sense if the facility were located in the city, where the law enforcement is more accessible and can keep an eye on them. He feels like he needs to be armed and defend himself.

Commissioner Danforth asked if he has ever seen the police at the facility. Mr. Hamilton stated that he had never seen the police department at the facility, although he has placed calls before. They told him there was nobody to send. He feels threatened and has no way to defend himself and his wife.

Commissioner Wysocki asked Mr. Hamilton if the property lines were resolved, would he be satisfied. Mr. Hamilton said they have been running a business for two years knowing they were breaking the law. Moving a stake will not keep people from walking across his property. He doesn't care where the property line is. He feels they don't monitor the people enough because he sees them roaming around day and night.

Commissioner Green asked how many times he has called the county, and how long ago. Mr. Hamilton stated that he called them only once, about a year ago. They didn't have anyone to send out. He just found out about the facility about eight months ago and has not communicated with the facility, business owner or landowner about his concerns.

Applicant Rebuttal: Rod Rainey, 32405 Diagonal Rd. Hermiston, OR. Mr. Rainey stated that his clients do not leave the property and do not go to the store. In the first two months of operations they did allow clients who earned privileges to go to the store a few times. They no longer allow this, and haven't for over a year.

The easement is used by Mr. Wineland every day because it's the only way to his house. If there is a problem with the easement and they have to move it, they can. If there was a mistake with the easement, it was made when the easement was originally allowed, and has been used that way the whole time. Anyone parked on the road did it without permission has been asked to leave. He did not know he didn't comply with everything when he was applying for permits and working with state agencies. The fact that they

have been operating there for two years and the neighbors didn't even know shows how quiet and respectful they have been as neighbors.

Commissioner Lee asked why they never contacted the neighbors prior to putting the facility in. Mr. Rainey said the homes were far away from the facility and he didn't consider them neighbors. The only neighbor directly next to him is Mr. Wineland and they have talked. He explained what they were doing and asked about complaints. Mr. Wineland said there were no issues and he was pleased with how things were going.

Commissioner Danforth asked how many pieces of property he has purchased in his lifetime and Mr. Rainey replied approximately nine. Commissioner Danforth stated that he is aware of the zoning of the property, and asked if he thought he didn't have to do anything regarding that. Mr. Rainey said he thought he had done all he needed. He spoke with several agencies and they all told him he had done all he needed to do. He has been operating at that location for two years, licensed as a Residential Treatment Center. Mr. Rainey replied that they will do whatever is required of them.

Chair Randall asked if he is aware of the location where Mr. Hamilton painted the boundary marker and Mr. Rainey replied no. Chair Randall asked Mr. Gray if he was aware of the evidence of boundary encroachment. Mr. Gray said he was not aware of this issue at the time of purchase or any other time. He keeps the property and surrounding area neat and clean.

Chair Randall said that regardless of what the Commission decides to do with the Conditional Use Permit, the landowner will be left with the boundary line encroachment issue. He advised him to look into ways to resolve it. Mr. Gray said they will do what they need to do, including putting a new road in. They have gotten estimates on the septic tank; they have not been having septic issues. They will finish the septic project by March 2016.

There was discussion about possible avenues that can be taken to remedy the encroachment issue.

Public Agencies: No comments.

Chair Randall asked if there was new evidence to present in a continued hearing. A continued hearing would allow for more time to get the property surveyed properly. Mr. Gray stated he would like to request a continuance. Chair Randall accepted the request for a continued hearing. He asked the parties involved to try to reach a decision that will be beneficial to everybody. The hearing will be continued at the February 25, 2016 Planning Commission hearing. No new notice will be issued before the continued hearing.

OTHER BUSINESS:

Mrs. Mabbott provided a summary about a grant the County Planning Department and

County Public Health Department received. The Center for Disease Control has allotted $130,000 to the county for the project which will be called Plan 4 Health. The objective is to look at how Public Health and Land Use Planning can work together toward goals, including the promotion of healthy communities and access to mobility and exercise.

Mrs. Mabbott provided an update on the Highway 395 revitalization effort. They are currently working on phase three. They have a committee made up of land owners looking at ways to implement some of the ideas they discussed in previous phases. They are looking at parking standards and landscaping, among other things, to improve the appearance and attract redevelopment in the corridor. Working with Oregon Department of Transportation, there has been discussion about safety, speed limits, and potential signalization at Baggett Road. The committee is looking into grants to fund pieces of the project.

ADJOURNMENT:

Chair Randall adjourned the meeting at 8:53 p.m.

Respectfully submitted,

Tierney Dutcher
Administrative Assistant

(Minutes adopted by the Planning Commission on _____)

UMATILLA COUNTY

PLANNING COMMISSION

January 28, 2016

NEW HEARING:

NEW HEARING: CONDITIONAL USE PERMIT REQUEST, #C-1252-15 and LAND USE DECISION, #LUD-194-15, CHOPIN WIND, LLC, Richard Nerzig, Project Manager, Applicant; Property Owners, Ferguson Ranch, Inc. & Smith Frozen Foods The applicant requests a Conditional Use Permit to construct and operate a 10 MW wind project on Ferguson Ranch land located north of Staggs Road and northeast of the City of Athena and southwest of the City of Milton-Freewater, identified as Tax Lots 3100 & 4900 on Assessors Map 5N 35. The conditional use permit request includes a project substation proposed on industrial zoned land owned by Smith Frozen Foods and identified as Tax Lot 500 on Assessors Map 4N 35 15. The proposed substation would be located on land south of the current PacifiCorp substation and east of the Smith Frozen Foods wastewater pond. The request includes a Land Use Decision to construct a 34.5 kV underground transmission line within public right of way from Ferguson Ranch property (Tax Lot 4900) to the project substation proposed on industrial land (Tax Lot 500) within the Urban Growth Boundary of the City of Weston.

The Conditional Use Permit Standards applicable to the applicant's request are found in the Umatilla County Development Code Sections 152.616 (HHH), 152.615, 152.061 and in the City of Weston Development Code Sections 4.4 and 2.3.160. The Land Use Decision Standards applicable to the request are found in Umatilla County Development Code Sections 152.617 (II) (7).

CHOPIN WIND PROJECT

Chopin Wind LLC, Richard Nerzig, Project Manager

CONDITIONAL USE PERMIT, # C-1252-15 and LAND USE DECISION, # LUD-194-15

PACKET LIST JANUARY 28, 2016, PLANNING COMMISSION HEARING

Umatilla County

Department of Land Use Planning

DIRECTOR
TAMRA MABBOTT

LAND USE
PLANNING,
ZONING AND
PERMITTING

CODE
ENFORCEMENT

SOLID WASTE
COMMITTEE

SMOKE
MANAGEMENT

GIS AND
MAPPING

RURAL
ADDRESSING

LIAISON, NATURAL
RESOURCES &
ENVIRONMENT

MEMO

TO: **Umatilla County Planning Commissioners**
FROM: Carol Johnson, Senior Planner
DATE: January 20, 2016

RE: **January 28, 2016, Planning Commission Hearing**
Chopin Wind Project, Substation & Transmission Line
Conditional Use Permit Request, #C-1252-15
Land Use Decision, #LUD-194-15

Request

Chopin Wind LLC, requests a Conditional Use Permit to construct and operate a 10 MW wind project on EFU land owned by Ferguson Ranch located north of Staggs Road, northeast of the City of Athena and southwest of the City of Milton-Freewater. The conditional use request includes siting the project substation on industrial zoned land owned by Smith Frozen Foods located within the Urban Growth Boundary (UGB) of the City of Weston. Application for a Land Use Decision for the project 34.5 kV underground transmission line was submitted in conjunction with the Conditional Use Permit. The proposed transmission line route is five to six miles in length located within public rights-of-way from the Ferguson Ranch property to the Smith Frozen Foods property. At the project substation the power would be stepped up (increased) from 34.5 kV to 69 kV prior to interconnection at the adjacent PacifiCorp Weston Substation.

Applicable Standards

Applicable standards for the Chopin wind power generation facility, project substation and transmission line are provided in the table below:

Zone	Applicable Document and Section
EFU (Exclusive Farm Use)	Umatilla County Development Ordinance – Wind Facility Conditional Use Permit Section 152.616 (HHH), Section 152.615, Section 152.612 and Section 152.061
GI (General Industrial)	City of Weston Development Ordinance – Project Substation Conditional Use Section 4.4 and Section 2.3.160
EFU (Exclusive Farm Use)	Umatilla County Development Ordinance – Transmission Line Land Use Decision Section 152.617 (II) (7)

Conclusion

Umatilla County has responsibility to review and process the Chopin land use requests. Regulatory authority for siting wind projects generating 105 MW or more is with the Oregon Energy Facility Siting Council (EFSC). However, where the proposed wind project would produce 10 MW of wind power the decision is made by the local government. The Planning Commission's task for this application is to determine whether or not the application complies with the applicable land use standards.

Included in the Commissioners packets are copies of the applicant's Weed Control Plan, Erosion Control Plan, Re-vegetation Plan, as well as, the Transportation Plan and a Reinterpretation of the Baseline Survey for the modified Chopin Wind Project. All submitted application materials are posted on the Planning Department web page including some large exhibits (attachments) not contained in the Commissioner packets such as the project Emergency Response Plan which may be viewed at http://www.co.umatilla.or.us/planning/wind_energy.html In addition a hard copy of all of the posted application materials is available.

UMATILLA COUNTY BOARD OF COMMISSIONERS
DRAFT FINDINGS AND CONCLUSIONS
CHOPIN WIND PROJECT
CHOPIN WIND LLC – APPLICANT/PROJECT OWNER
CONDITIONAL USE PERMIT, # C-1252-15, and
LAND USE DECISION, # LUD-194-15
ASSESSOR'S MAP # 5N35; TAX LOTS # 3100 & 4900
ASSESSOR'S MAP # 4N 35 15, TAX LOT # 500

1. **APPLICANT/PROJECT OWNER:**
   Chopin Wind LLC, Richard Nerzig, Project Manager
   BayWa r. e. Wind, LLC[1]
   4365 Executive Drive, Suite 1470
   San Diego, CA 92121

2. **LANDOWNERS:**
   Ferguson Ranch, Inc.
   Smith Frozen Foods

3. **ASSESSOR MAP NUMBER AND TAX LOT NUMBERS:**
   Map # 5N35; Tax Lots # 3100 & 4900
   Map # 4N3515: Tax Lot #500

4. **PROJECT ACREAGE:** 1,157 acres for Tax Lots 3100 & 4900

5. **COUNTY COMPREHENSIVE PLAN MAP DESIGNATION**: North/South County Agriculture
   COUNTY ZONING MAP CLASSIFICATION: Exclusive Farm Use (EFU)
   CITY OF WESTON: Industrial

6. **PROJECT LOCATION:**
   The project area is located northeast of the City of Athena, between Pine Creek and Dry Creek north of Staggs Road and west of Ferguson Road. The project substation is proposed to be located to the south of the existing PacifiCorp Substation, west side of Highway 204/Williamson Road within the City of Weston Urban Growth Boundary.

7. **REQUESTS:**
   The applicant, Chopin Wind LLC, requests a conditional use permit and land use decision to construct and operate a 10 MW wind project. The Chopin Wind project would consist of four to six turbines depending on turbine availability for the final turbine model selection. The overall project consists of turbines, collector lines, permanent meteorological towers, access roads, project communication system, and the associated transmission line and project substation. The associated transmission line is reviewed as a Utility Facility Necessary and processed as a Land Use Decision. The project substation site is proposed on leased industrial zoned land within the urban growth area of the City of Weston and is processed by the County by applying the City's conditional use standards.

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1 BayWa r.e. Wind, LLC is a turn-key developer and operator of renewable energy projects in North America headquartered in San Diego, CA. Its parent company, BayWa r.e. renewable energy, Gmbh, is based in Munich, Germany. The company is backed by a single shareholder, BayWa AG, a 17,000 employee, 90 year-old company, with multiple business activities across three main sectors including building materials, agricultural products, and energy.

8. PROJECT FEATURES:

Turbine Selection: The applicant proposes to use one of three types of wind turbines depending on availability. The three turbine choices are GE 1.7 -103, Nordex N117 or Vestas V110. All three proposed turbine models are designed with transformers located at ground level inside the base of the turbine. The turbine choices consist of a three blade design common to current industry standards. Installation of the turbines includes attaching turbine blades to the hub and connecting to the generator and control systems enclosed by the nacelle. The nacelle sits on top of a tubular steel tower and the tower is typically composed of three sections. Access to the nacelle is from a ladder/lift system located inside the tower allowing for year-round maintenance availability. Access to the turbine from the ground is provided by exterior stairs to an elevated locked door. Turbine access is restricted to authorized personnel at all times.

All of the visible wind turbine components are white in color, similar to other installed wind turbines in the county. In addition to the color providing good visibility for aircraft, mandatory lighting will be installed on the turbines in accordance with the current available Federal Aviation Administration (FAA) guidelines. A map displaying the turbines determined to need FAA lighting will be available after final FAA consultations have been completed.

Turbine Foundation: As part of the micro-siting of the wind turbines, subsurface borings (Geotechnical Studies) will be analyzed for each preliminary turbine location. This information will be used to determine the final foundation design most suitable for the site. Preliminary Geotechnical Studies indicate that industry standard foundation types will be suitable for the Chopin Project.

Tower Construction: During construction, turbine components will be transported to the project via county roads (per executed Road Use Agreement). Components will be unloaded at each turbine location in preparation for turbine construction. The tower is erected first onto the completed foundation. The nacelle, which contains the generator and control equipment, is next mounted onto the tower. Turbine blades are then lifted and installed on the nacelle individually. Final turbine assembly and finish is conducted inside the turbine itself.

Due to the reduced overall scale of the project, traffic disruptions are expected to be minimal. The entire construction phase is expected to take less than six months from approximately May 2016 through October 2016.

During the construction phase, activities will be coordinated with the landowner and/or farming tenant to minimize impacts to agricultural activities. The acreage of land disturbed during construction will be greater than the final footprint. This temporary disturbance area will be restored and rehabilitated to pre-construction state upon completion of the project. Dust will be controlled on haul route roads as well as onsite with the use of water trucks and in some cases, road treatments. Weeds will be controlled during construction according to the Weed Control Plan.

At the close of the construction phase, the temporarily disturbed areas will be restored to agricultural production. Care will be taken to restore field areas consistent with previous soil types. Any large rock exposed in cultivated fields during the construction phase will be removed from the area so as to minimize impact on farm use. Project roads and turbine pads will be maintained according to the Weed Control Plan to prevent weed growth so that the surrounding crops are not affected. After construction is completed, agricultural equipment can cross and utilize project roads to access fields. Equipment can farm right up to project roads and turbine pads so that the final reduction in acreage will be minimized. Periodic maintenance of project features will be required which will take place using the project roads and turbine pads. Occasionally, a greater area may temporarily be needed to replace major components. These areas will be restored after completion of work.

4

Meteorological Towers: As part of the project's review of the potential for a wind project site in the area, two 80 meter meteorological (MET) towers were erected in late 2009 to measure wind speed and direction (CUP #C-1153-09). In addition to the two installed MET towers, the project utilizes an advanced Sonic Detection and Ranging (SODAR) unit to sample various points on the project area as well as serve as a "check" for the two MET towers. SODAR is a technology which uses sonic waves to measure wind speed and direction at various elevations from a mobile unit which can be transported by trailer from a standard size pick-up to and from sites. With over 5 years of wind data at turbine hub height collected and analyzed, the project has a firm understanding of the available wind resource on site.

During construction, one or both temporary MET towers will be removed. A permanent Project tower may be deployed to monitor wind conditions during the life of the Project. Any deployed MET towers will be removed upon decommissioning of the Project

Communication System: Each of the wind turbine models under consideration include advanced turbine condition component monitoring equipment to alert Operations and Maintenance staff of the potential need for repair or adjustments. This information, as well as production data, will typically be relayed to a project communications center or tower commonly located in the substation area. The transfer of data between the turbines and the communications tower may be through underground fiber optic cable, which is usually laid in the same general area, depth and routing pattern as the turbine collection lines. Another method of data transfer between the turbines and communication center or tower, which may be utilized, is wireless technology. Depending on availability of commercial grade high volume internet in the area, a wired T1 connection or wireless communications tower may be employed to communicate project data to O&M staff and other invested parties remotely. This system of project oversight is often referred to as Supervisory Control and Data Acquisition, or SCADA system. It allows both local and remote monitoring and operation of the project's infrastructure.

Operations and Maintenance Center (O & M): Prior to operation the project would rent, purchase or build an Operations and Maintenance building in either Milton-Freewater or the Athena area. This building would house office and workspace for permanent staff as well as room to store maintenance supplies and replacement parts

Access Roads: Access to the project site would be from state and county roads. Within the site area there will be one main all weather project access road, adjacent to the turbine locations. Where project access roads leave the county rights-of-way and enter private leased land, a gate will be installed for safety and to control access. Project roads will be sited and constructed in a manner which utilizes current Best Management Practices (BMPs) in order to control and minimize erosion and withstand heavy truck traffic during construction and subsequent project maintenance needs. Participating landowners will be able to utilize the project roads for their agricultural operations.

During the short construction phase, temporary project roads will be approximately twice the width of the permanent road. Half of this "construction" road will be compacted soil and not contain rock base. The remaining half will have a traditional rock base and gravel surface in preparation for the final project road. This temporarily widened portion of the road provides the stable surface for transporting the erection crane and allows for safe two lane work traffic during the construction period when there is the higher vehicle traffic. At the end of construction, the compacted soil portion of the road will be de-compacted and returned to its pre-construction agricultural use. When the temporary portions of the road have been removed and rehabilitated the edge of the permanent road will be defined.

At each turbine there will be a spur road for turbine access from the project road, typically 100 feet or less in length. During construction there will be a crane pad built for the safe operation of the crane off of the spur road. At the close of the construction period, the crane pad will be removed and rehabilitated and the soil will be de-compacted for agricultural use. The final spur road will be approximately 10 feet wide,

enough for routine maintenance vehicle access to the turbines.

Collector lines: The project will use an underground collector system between turbines which will connect to a small metering cabinet located within the project boundary. The collection lines will be buried at least 3 feet below grade in accordance with electrical code and to allow farming practices to continue. All disturbed areas associated with the collector system will be revegetated according to the Habitat Restoration Plan.

Transmission Line[2] and Project Substation: The project would deliver the power via 5 to 6 mile 34.5 kV underground transmission line to the project substation proposed on leased industrial land located approximately a hundred feet south of the existing PacifiCorp Substation. The substation lease area is zoned industrial and located within the City of Weston's Urban Growth Boundary. The project substation would step up the power to 69 kV to interconnect into the PacifiCorp Substation

Laydown Areas: There will be one primary 3.5 acre laydown area and smaller temporary staging areas with crane pads at each turbine location to facilitate assembly of each wind turbine. All staging and laydown areas will be restored to pre-disturbance condition, or better, at the close of the construction period.

9. **PROJECT ACCESS:** Access onto the project property would be via Staggs Road, County Road No. 674. Access to the project substation would be from State Highway 204/Williamson Road.

10. **ADJACENT LAND USES:** Surrounding the wind project area is agricultural land primarily in dryland wheat. The proposed substation land is industrial land and Smith Cannery, PacifiCorp Substation and other city industrial uses are to the north, south and west of the proposed substation site. State Highway 204/Williamson Road is along the east side of the substation site.

11. **SOIL CLASSIFICATIONS:** The subject property contains the following soil types. High Value Soils are defined as Land Capability Class I and II.

Soil Name, Unit Number, Description	Land Capability Class	
	Dry	Irrigated
114B: Walla Walla silt loam, 1 to 7 percent slopes	IIe	IIe
115D: Walla Walla silt loam, 12 to 25 percent slopes	IVe	---
6C: Anderly silt loam, 7 to 12 percent slopes	IIIe	IVe
8C: Athena silt loam, 7 to 12 percent slopes	IIIe	IIIe
60F: Nansene silt loam, 35 to 70 percent slopes	VIIe	---
8B: Athena silt loam, 1 to 7 percent slopes	IIe	IIe
50F: Lickskillet rock outcrop complex, 40 to 70 percent slopes	VIIe	---
48E: Lickskillet very stony loam, 7 to 40 percent slopes	VIIe	---

Soil Survey of Umatilla County Area, 1989, NRCS. The suffix on the Land Capability Class designations are defined as "e" – erosion prone, "c" – climate limitations, "s" soil limitations and "w" – water (*Survey*, page. 172).

[2] Transmission lines on towers less than 200 feet in height on EFU zoned land are processed as "utility facilities necessary." The County Planning Department processes the application for the transmission line as a Land Use Decision concurrently with the conditional use application. The project substation is in the City of Weston's UGB. The County will process the project substation request by applying the City of Weston's Conditional Use standards.

12. **WATER:** Property owner, Ferguson Ranch, has a Certificate of Water Right for place of use appurtenant to SE1/4 NE1/4 of Section 30, Township 5 North, Range 35 EWM, for watering approximately 100 head of beef cattle. In addition, the Ferguson dwelling located on Tax Lot 3100 is served by a domestic well.

    Water for the project construction and dust abatement is proposed to be trucked in from commercially available sources.

13. **WASTEWATER:** The Ferguson dwelling is served by an onsite sewage septic system. However, during project construction portable toilets will be provided to handle onsite sewage and would be pumped and cleaned regularly by a licensed contractor.

14. **SIGNIFICANT GOAL 5 SITES:** The review of the County's inventory of Goal 5 sites was conducted for the project site including a one mile area around the project. Likewise the route for the transmission line route was reviewed. Inventoried Goal 5 sites[3] were not found within the project site or along the proposed project transmission line.

15. **UTILITIES:** The area is served by Umatilla Electric and Qwest-Century Link

16. **PROPERTY OWNERS & AGENCIES HEARING NOTICE:** Mailed January 7, 2016
    Agencies Notified:
    FAA-Seattle, NAS-Whidbey Island, CTUIR-Natural Resources, USDA-NRCS, US Fish & Wildlife, BPA, Oregon Building Codes, DEQ, DLCD, ODF&W, ODOT, OWRD, SHPO, DOE-EFSC, Co Assessor, Co Public Works, East Umatilla Fire District, Milton-Freewater Rural Fire Dept, Hudson Bay Irrigation District, Walla Walla Irrigation District, Walla Walla Watershed Council, Pacific Power & Light, UEC, PacifiCorp, PUC, City of Milton-Freewater, City of Weston and City of Athena.

17. **PLANNING COMMISSION HEARING DATE:** January 28, 2016

18. **COMMENTS RECEIVED:** CTUIR recommends a condition of approval for a cultural resource monitor to be present during all ground disturbing activities. Notified property owner, Steve Thomason requests that the applicant use Ferguson Road instead of Staggs Road.

19. **CONDITIONAL USES PERMITTED ON LANDS ZONED EXCLUSIVE FARM USE (EFU) § 152.060 (F).** A Commercial Wind Power Generation Facility in an Exclusive Farm Use zone may be permitted conditionally subject to the applicable criteria in the Umatilla County Development Code § 152.061, § 152.615 and § 152.617 (I) (C) [152.616(HHH)]. Applications for Commercial Wind Power Generation Facilities are processed by following the county planning public hearing procedure. Approval of all conditional use permits, requires issuance of a zoning permit for each tax lot (parcel) pursuant to § 152.025. The criteria (standards) are presented in underlined text followed by responses and Findings of Fact presented in standard text.

STANDARDS FOR CONDITIONAL USE PERMIT Commercial Wind Power Generation Facilities §152.616 (HHH) (1) – (11): The process for taking action on a request to establish a Commercial Wind Power Generation Facility is a Conditional Use Permit. A public hearing is held pursuant to §§ 152.750-152.755 and 152.771 to determine if the request meets the County siting requirements for construction and operation of a Commercial Wind Power Generation Facility. Throughout the findings the Chopin Wind Project is referred to in several ways including: Chopin, the project, wind project and BayWa.

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[3] During the public hearing held in 2011 for the original WKN Chopin Wind Project, comments were raised about potential conflict with an inventoried Goal 5 Scenic Resource, specifically State Highway 204 (aka the Tollgate Highway). In 2011, the County found the WKN Chopin wind project would not conflict with Highway 204, as outlined in CUP, #C-1188-11.

§152.616 (HHH) (1) through (4) delineate the County Permit Procedure, Pre-Application Meeting, Authority to request Conditions of Approval and County and other agency permits.

(5) ***Application Requirements.*** Following is a summary of application requirements for a Commercial Wind Generation Facility Conditional Use Permit.

The following information shall be provided as part of the application:

(a) (1) A general description of the proposed Wind Power Generation Facility,
(2) A tentative construction schedule,
(3) The legal description of the property
(4) Identification of the general area for all components

(b) A map showing the location of components.

(c) (1) Provide information on wind monitoring data
(2) Transmission interconnect
(3) Route and plan for transmission line

(d) (1) Demonstrate compliance with § 152.061.
(2) Identify potential conflicts

(e) A Transportation Plan . . .

(f) A Re-vegetation and Erosion Control Plan . . .

(g) A Fish, Wildlife and Avian Impact Monitoring Plan. . . The plan shall include the formation of a technical oversight committee to review the plan, and consist of the following persons:
(1) The landowners/farm tenants.
(2) Wind Power Generation Facility owner/operator representative. (Chair)
(3) Oregon Department of Fish and Wildlife representative, if the agency chooses to participate.
(4) Two Umatilla County residents with no direct economic interest in the project and recommended by the applicants for appointment by the Umatilla County Board of Commissioners.
(5) U.S. Fish and Wildlife
(6) Umatilla County Planning Commission member.

(h) An Emergency Management Plan . . .
(1) . . . fire district and/or contract fire department responsible for providing emergency services.
(2) A Spill Prevention, Control and Counter Measure Plan (SPCC) . . .
(3) An Operations and Maintenance Plan . . .
(4) An Emergency Response Plan . . .

(i) A Weed Control Plan . . .

(j) A Socioeconomic Impact Assessment . . .

(l) A Dismantling, Decommissioning and Restoration Plan . . .

(k) Information on impacts:
(1) Wetlands and streams, including intermittent streams and drainages;
(2) Fish, avian and wildlife . . . ;
(3) Fish, avian and wildlife habitat;
(4) Criminal activity (vandalism, theft, trespass, etc.) . . .

(5) Open space, scenic, historic, cultural and archaeological resources as identified and inventoried in the Comprehensive Plan. The applicant shall consult with the CTUIR . . .

The application requirements listed above have been supplied by the applicant and are examined against the Standards of Approval in § 152.616 (HHH) (6) below.

(6) *Standards/Criteria of Approval.*

The following requirements and restrictions apply to the siting of a Wind Power Generation Facility:

(a) Setbacks. The minimum setback shall be a distance of not less than the following:

(1) From a turbine tower to a city urban growth boundary (UGB) shall be two miles. The measurement of the setback is from the centerline of a turbine tower to the edge of the UGB that was adopted by the city as of the date the application was deemed complete.

The project map shows the proposed locations for the selected project turbines and illustrates the two mile buffer line around the proposed project turbines. All proposed turbine locations are demonstrated at greater than two miles to the nearest urban growth boundary.

Findings and Conclusions

The County finds and concludes the proposed turbine locations would be greater than the two mile setback requirement to an urban growth boundary and satisfies the setback requirement.

(2) From turbine tower to land zoned Unincorporated Community (UC) shall be 1 mile.

The project map shows the proposed turbine locations would exceed the one mile setback to the nearest Unincorporated Community of Umapine. All turbine locations are demonstrated at greater than one mile to the nearest Unincorporated Community of Umapine.

Findings and Conclusions

The County finds and concludes the proposed turbine locations would be greater than the one mile setback requirement to an Unincorporated Community and satisfies the requirement.

(3) From a turbine tower to a rural residence shall be 2 miles. For purposes of this section, "rural residence" is defined as a legal, existing single family dwelling meeting the standards of §152.058 (F)(1)-(4), or a rural residence not yet in existence but for which a zoning permit has been issued, on a unit of land not a part of the Wind Power Generation Facility, on the date a Wind Power Generation Facility application is submitted. For purposes of this section, the setback does not apply to residences located on properties within the Wind Power Generation Facility project application. The measurement of the setback is from the centerline of the turbine tower to the center point of the rural residence.

The project map shows the proposed locations for the selected project turbines and illustrates the two mile buffer line around the project turbines. One residence is located within the Wind Power Generation Facility as shown on the project map. Setback requirements are not applicable to this residence. The map demonstrates that two rural residences are just outside of the two mile setback line.

Findings and Conclusions

The County finds and concludes that project mapping shows two rural residences near the two mile setback to the proposed turbine locations.

The County finds and concludes prior to construction updated mapping must be provided to show and confirm that the final design location, or micro-siting, of all project turbines would meet the two mile setback to all rural residences.

The County finds and concludes the condition of the approval requiring the project owner to provide an updated project map to confirm and show that the final design location, or micro-siting, of all project turbines would meet the two mile setback to all rural residences satisfies the requirement.

(4) From a turbine tower to the boundary right-of-way of County Roads, state and interstate highways, 110% of the overall tower-to-blade tip height. Note: The overall tower-to-blade tip height is the vertical distance measured from grade to the highest vertical point of the blade tip.

Project turbines would be located greater than 110% of the overall tower base-to-blade tip height from any public road right-of-way, as demonstrated by the project map.

Findings and Conclusions

The County finds and concludes the project turbines would meet the 110% setback to from the public road right-of-way and the Chopin project plan satisfies the requirement.

(5) From tower and project components, including transmission lines, underground conduits and access roads, to known archeological, historical or cultural sites shall be on a case by case basis, and for any known archeological, historical or cultural site of the Confederated Tribes of the Umatilla Indian Reservations the setback shall be no less than 164 feet (50 meters).

There are no proposed project features that would be located within 50 meters of a known archeological, historical, or cultural site of the Confederated Tribes of the Umatilla Indian Reservation. (See the CTUIR study in the Conditional Use Permit application for details.)

Comments from the Cultural Resources Protection Program of the CTUIR recommend during ground disturbance activities that a cultural resource monitor be present.

Findings and Conclusions

The County finds that archeological, historical or cultural sites are required to be setback 50 meters to towers, project components, transmission lines, underground conduits and access roads.

The County finds to ensure protection of archeological, historical and cultural sites a resource monitor be present during ground disturbance activities.

The County concludes the condition of approval requiring archeological, historical or cultural sites be setback 50 meters to towers, project components, transmission lines, underground conduits and access roads is imposed.

The County concludes a condition of approval is imposed requiring a resource monitor be present during ground disturbance activities to ensure the protection of existing or discovered archeological, historical and cultural sites.

(6) New electrical transmission lines associated with the project shall not be constructed closer than 500 feet to an existing residence without prior written approval of the homeowner, said written approval to be recorded with county deed records. Exceptions to the 500 feet setback include transmission lines placed in a public right of way. Note: Transmission and distribution lines constructed and owned by the applicant that are not within the project boundary are subject to a separate land use permit.

Where electrical transmission lines associated with a wind project are proposed outside of a public right-of-way the line must not be located closer than 500' to nearby residences without prior written consent of the homeowner

in the form of a written approval recorded with county deed records. While the vast majority of the Chopin transmission line would be located within public road right-of-way, the final approximate 200' near the point of interconnection would be on private land and within 500' of a nearby residence. Chopin Wind, LLC has secured and recorded a waiver with this residence landowner.(A copy of the signed and recorded waiver is in the Chopin Wind Project conditional use file.)

Findings and Conclusions

The County finds that there is one residence within the 500' setback requirement of a proposed project transmission line located outside of a public right-of-way.

The County finds the Chopin Wind Project has secured and recorded a waiver with the residence located within the 500' setback to the project transmission line and the criterion is satisfied.

(7) The turbine/towers shall be of a size and design to help reduce noise or other detrimental effects. At a minimum, the Wind Power Generation Facility shall be designed and operated within the limits of noise standard(s) established by the State of Oregon. A credible noise study may be required to verify that noise impacts in all wind directions are in compliance with the State noise standard.

The State of Oregon noise standard is found in OAR 340-035-0035. Noise levels generated by wind energy facilities are based on an assumed background L_{50} ambient noise level of 26 dBA unless the person owning the wind energy facility conducts measurements to determine the actual ambient L_{10} and L_{50} background level.

OAR 340-035-0035 essentially limits the median noise level from an industrial or commercial use to 50 dB at night and 55 dB during the day and evening. A facility complies with the ambient background standard if the increase in noise over either the assumed ambient noise level of 26 dBA, or to the actual ambient background L_{10} and L_{50} noise level, if measured, is not more than 10 dBA over this entire range of wind speeds.

The original Noise Impact Analysis by Bruce Walker, Ph. D, with Channel Islands Acoustics was completed for the 99 MW Chopin Wind Project proposed in 2011. The chosen measurement location for the noise investigation followed the requirements in OAR 340-035-0035. In December 2015 the applicant requested Dr. Walker to make a comparison with the revised 10 MW wind project plan.

The comparison used all three proposed turbine selections. This resulted in the Ferguson residence (located on the project property) being below 35 dBA and all other residence locations shown well below 35 dBA and most below the 26 dBA ambient noise level.

Findings and Conclusions

The County finds and concludes the Chopin Wind Project must comply with the state noise standard in OAR 340-035-0035.

The County finds and concludes the condition of approval for the project owner/operator to operate the Chopin Wind Project in compliance with the State noise standard in OAR 340-035-0035 is imposed.

(b) Reasonable efforts shall be made to blend the wind turbine/towers with the natural surrounding area in order to minimize impacts upon open space and the natural landscape.

To minimize impacts with natural surrounding all of the visible wind turbine components would be white in color, similar to the other installed wind turbines in the area.

Findings and Conclusions

The County finds and concludes the Chopin Wind Project turbines would be white in color, similar to the other installed wind turbines in the area.

The County finds and concludes reasonable efforts to blend the wind turbines to the area are proposed.

(c) The development and operation of the Wind Power Generation Facility will include reasonable efforts to protect and preserve existing trees, vegetation, water resources, wildlife, wildlife habitat, fish, avian, resources, historical, cultural and archaeological site.

The project will be constructed on farmland that has been previously cultivated to agricultural crops and this agricultural activity previously displaced trees and native vegetation. However, site specific surveys have been conducted to identify, avoid and minimize the project's potential impacts; this includes conducting professional reviews of plant and animal habitats, culturally sensitive areas, noise emissions as well as the constructability of the site. Additional studies may be undertaken as deemed necessary or appropriate. These factors have been incorporated into the preliminary location of project infrastructure as depicted.

Findings and Conclusions

The County finds and concludes the project owner has previously completed surveys of the property to identify, avoid and minimize project impacts and used this study information to determine the proposed location of project infrastructure as depicted on the project map.

(d) The turbine towers shall be designed and constructed to discourage bird nesting and wildlife attraction.

The turbines are smooth hollow-steel tower structures designed without nesting attractions.

Findings and Conclusions

The County finds and concludes the towers are designed of smooth steel towers without nesting attractions and satisfies the criterion.

(e) Private access roads established and controlled by the Wind Power Facility shall be gated and signed to protect the Wind Power Generation Facility and property owners from illegal or unwarranted trespass, illegal dumping and hunting and for emergency response.

Security during construction will be provided by a private security firm and a gate would be constructed where the project access road enters public right-of-way.

Findings and Conclusions

The County finds and concludes the access entrance to the project site is proposed to be gated.

The County finds and concludes as a condition of the permit the access road entrance to the project site is required to be gated.

(f) Where practicable the electrical cable collector system shall be installed underground, at a minimum depth of 3 feet; elsewhere the cable collector system shall be installed to prevent adverse impacts on agriculture operations.

The project will use an underground collector system between turbines which will connect to a small metering cabinet located within the project boundary. The collection lines will be buried at least 3 feet below grade in accordance with electrical code to allow area farming practices to continue.

Findings and Conclusions

The County finds and concludes the electrical cable collector system would be buried a minimum of 3 feet below grade and installed in accordance with electrical code to allow farming practices to continue and satisfies the criterion.

(g) Required permanent maintenance/operations buildings shall be located off site in one of Umatilla County's appropriately zoned areas, except that such a building may be constructed on site if:

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

(2) The building will be removed or converted to farm use upon decommissioning of the Wind Power Generation Facility consistent with the provisions of §152.616 (HHH) (7).

Prior to operation, the project would rent, purchase or build an Operations and Maintenance (O & M) building in either Milton-Freewater or the Athena area. This building would house an office and workspace for permanent staff as well as room to store maintenance supplies and replacement parts.

Findings and Conclusions

The County finds and concludes the project Operations and Maintenance building is not proposed on the project site.

(h) A Wind Power Generation Facility shall comply with the Specific Safety Standards for Wind Energy Facilities delineated in OAR 345-024 -0010 (as adopted at time of application).

OAR 345-024-0010:

(1) Can design, construct and operate the facility to exclude members of the public from close proximity to the turbine blades and electrical equipment.

(2) Can design, construct and operate the facility to preclude structural failure of the tower or blades that could endanger the public safety and to have adequate safety devices and testing procedures designed to warn of impending failure and to minimize the consequences of such failure.

BayWa r.e. Wind, LLC is a turn-key developer and operator of renewable energy projects in North America. Headquartered in San Diego, CA, the company has been active in the U.S. since 2001. BayWa Wind's principals and management staff have decades of U.S. wind development experience and have successfully completed several hundred megawatts of operating wind assets in multiple U.S. markets, collectively.

The Chopin Wind Project will be constructed with one of three turbine choices, GE 1.7 -103, Nordex N117 or Vestas V110. All three proposed turbine models are designed with transformers located at ground level inside the base of the turbine. The turbine choices are three blade design common to current industry standards. Installation of the turbines will include attaching turbine blades to the hub and connecting to the generator and control systems, which are enclosed by the nacelle. The nacelle sits on top of a tubular steel tower typically constructed out of three sections. Access to the nacelle is from a ladder/lift system located inside the tower allowing for year-round maintenance availability. Access to the turbine from the ground is provided by exterior stairs to an elevated locked door. Turbine access is restricted to authorized personnel at all times.

Where project access roads leave the county rights-of-way and enter private leased land, a gate will be installed for safety and to control access. To increase public safety and minimize unwanted illegal trespass and criminal activity, warning and "danger" signs will be posted to inform the public of construction activities and recommend that the public not enter the site. Likewise, signs will be posted in the project area to prevent construction traffic from inadvertently leaving the main access roads and entering public or private roadways that could endanger members of the public. For areas where public safety risks could exist and site personnel would not be available to control public access (such as excavated foundation holes and electrical collection system trenches), warning signs and/or temporary fences will be erected.

Fencing may also be installed around material storage, staging, and/or laydown areas. Other areas determined to be hazardous, or where issues of security or theft are of concern, may also be fenced. Temporary fencing around unfinished turbine bases, excavations, and other hazards will typically be a high-visibility plastic mesh. Security guards, cameras, and/or additional fencing will be used if necessary to protect public health and safety and project

facilities.

The project Emergency Response Plan outlines protocols for providing prompt response to each of the following types of emergencies:

1. Fire or medical emergency at the facility
2. Abnormal operating conditions
3. Fire or explosion
4. Natural disaster
5. Civil disturbance

The Project development team has recently communicated with both the Milton Freewater Rural Fire Department (MFRFD) and East Umatilla Rural Fire Department (EURFD) chiefs and discussed project updates. The project owner will coordinate with both fire protection services for effective and efficient fire protection for the project. Training specific to the selected turbine will take place to help the fire departments safely respond to fire emergencies. The project owners will continue to communicate with MFRFD and EURFD as the project develops.

O&M Inspections and Maintenance will consist of monthly and yearly onsite inspections by staff qualified for electrical and civil work (switching and light maintenance, road maintenance, snow and weed removal, etc.). For scheduled and unscheduled maintenance as well as back up for switching, BayWa will contract third party companies in line with below strategy to support the operation of the Chopin Wind Farm.

Unscheduled Maintenance-Substation/Collection System

- Contracts with multiple nationally recognized Electrical Contractors and Specialists to support unplanned outages and unscheduled maintenance activities at the plant.
- Selection of contractors with demonstrated expertise in unscheduled maintenance on Substations and Collection Systems and commitments to guarantee a response time of less than 4 hours. They will also have access to parts and tooling to troubleshoot and repair the root cause of any outage situation and repair these issues within a reasonable amount of time depending on the specific incident.
- Procurement and maintenance of a stock of specific spare parts to aid in the timely restoration of the substation or collection system in the event of a failure.

Scheduled Maintenance – Substation/Collection System

- Contracts with multiple nationally recognized Electrical Contractors and Specialists to perform, in coordination with BayWa Wind, scheduled maintenance activities on the Project.
- Selection of contractors with demonstrated expertise in performing scheduled maintenance on Substations and Collection systems. They have the tools, equipment, and expertise to complete all scheduled service activities in accordance with individual component requirements and maintenance schedules.

Switching Activites – Substation/Collection System

- Contracts with multiple nationally recognized Electrical Contractors and Specialists to perform, in coordination with BayWa Wind, switching activities on the Project site.
- Contractors trained and certified in the operation of all substation and collection system equipment. Additionally these contractors must have strong and thorough safety policies and procedures that they

follow which will maximize efficiency and minimize risk to equipment or people. The chosen contractor will guarantee a response time of less than 4 hours.

Road Maintenance and Weed Removal

- Operations team will negotiate with local contractors who have the skills and equipment necessary to both remove weeds from the project grounds and maintain and repair roads.
- Weed removal will be on an as needed basis with local contractors who can provide the service under short notice to allow access to turbines or Substation/Collection System/Met Tower equipment.
- Road Maintenance will be performed no less than once per year by local contractors with the proper equipment. These contractors will also be capable of performing repairs on roads in the event that damage occurs due to inclement weather or other factors.

The BayWa Wind Asset Management/Operations team is responsible for the management of O&M related activities on its U.S. operating fleet of owned and managed wind turbine power plants. In addition to the wind turbine generators and substations, the BayWa Wind team operates and maintains each project's transmission lines.

Findings and Conclusions

The County finds BayWa r. e. Wind, LLC has experience in designing, constructing and operating multiple wind facilities in the U.S.

The County finds BayWa Wind Asset Management/Operations team would be responsible for the management of the wind turbine power plant, substation and transmission line.

The County finds the access entrance to the project site would be gated and onsite informational and safety signs installed.

The County finds and concludes BayWa r.r. Wind, LLC can design, construct, and operate, the wind project facility and implement public and project safety plans to minimize negative consequences.

The County finds and concludes BayWa Wind Asset Management/Operations team is responsible for the management of the wind turbine power plant, substation and transmission line and to implement the wind project safety and maintenance protocols.

The County finds and concludes as a condition of the permit BayWa Wind Asset Management/Operations team shall implement the wind project safety and maintenance protocols in the management of the wind turbine power plant, substation and transmission line.

(i) A Covenant Not to Sue with regard to generally accepted farming practices shall be recorded with the County. Generally accepted farming practices shall be consistent with the definition of Farming Practices under ORS 30.930. . The Wind Power Generation Facility owner/operator shall covenant not to sue owners, operators, contractors, employees, or invitees of property zoned for farm use for generally accepted farming practices.

A Covenant Not to Sue document will covenant the Chopin Wind Project from bringing suit against the landowners of property zoned for Exclusive Farm Use (EFU) for conducting generally accepted farming practices.

Findings and Conclusions

The County finds and concludes a Covenant Not to Sue is a requirement of the conditional use permit and imposes as a condition of the permit that the Chopin Wind Project owner sign and record a Covenant Not to Sue.

(j) Roads.

(1) County Roads. A Road Use Agreement with Umatilla County regarding the impacts and mitigation on county roads shall be required as a condition of approval.

(2) Project Roads. Layout and design of the project roads shall use best management practices in consultation with the Soil Water Conservation District. The project road design shall be reviewed and certified by a civil engineer. Prior to road construction the applicant shall contact the State Department of Environmental Quality and if necessary, obtain a storm water permit (National Pollution Discharge Elimination System).

Access to the project site would be from state and county roads. The project has consulted with the Umatilla County Public Works Department to develop a road use agreement (to be updated) for the haul route and heavy truck traffic routes and address concerns. County roads used by the project will be upgraded where necessary and restored to their previous state or better upon the completion of construction. The Road Use Agreement will contain language to ensure that dust control is adequate to protect residents in the area and crops along the route.

Within the site area there will be one main all weather project access road, adjacent to the turbine locations. Where project access roads leave the county rights-of-way and enter private leased land, a gate will be installed for safety and to control access. Project roads will be sited and constructed in a manner which utilizes current Best Management Practices (BMPs) to control and minimize erosion and withstand heavy truck traffic during construction and subsequent project maintenance needs. Participating landowners will be able to utilize the project roads for their agricultural operations.

Findings and Conclusions

The County finds the project owner/operator has consulting with the Umatilla County Public Works Director and will coordinate on updating the Road Use Agreement.

The County finds County Roads used by the project will be upgraded where necessary and restored to their previous state or better upon the completion of construction.

The County finds project roads will be sited and constructed in a manner that uses current Best Management Practices.

The County finds project roads would be available for use by the landowners for their transportation use.

The County finds and concludes as a condition of the permit the project owner/operator coordinate with the Umatilla County Public Work Director in updating the County Road Use Agreement and provide verification the Road Use Agreement update has been completed.

The County finds and concludes as a condition of the permit the project owner/operator comply with road improvements, limitations, and maintenance requirements according to the updated road use agreement.

The County finds and concludes as a condition of the permit the applicant is required prior to project road construction to contact DEQ and if necessary, obtain a storm water permit.

(k) Demonstrate compliance with the standards found in OAR 660-033-0130 (37). See OAR 660-033-0130 (37) provided below.

OAR 660-033-0130 (37) For purposes of this rule a wind power generation facility includes, but is not limited to, the following system components: all wind turbine towers and concrete pads, permanent meteorological towers

and wind measurement devices, electrical cable collection systems connecting wind turbine towers with the relevant power substation, new or expanded private roads (whether temporary or permanent) constructed to serve the wind power generation facility, office and operation and maintenance buildings, temporary lay-down areas and all other necessary appurtenances . . .

(a) For high-value farmland soils described at ORS 195.300(10), the governing body or its designate must find that all of the following are satisfied:

(A) Reasonable alternatives have been considered to show that siting the wind power generation facility or component thereof on high-value farmland soils is necessary for the facility or component to function properly or if a road system or turbine string must be placed on such soils to achieve a reasonably direct route considering the following factors:

(i) Technical and engineering feasibility;
(ii) Availability of existing rights of way; and
(iii) The long term environmental, economic, social and energy consequences of siting the facility or component on alternative sites, as determined under paragraph (B);

Reasonable Alternatives

OAR 660-033-0130 (37)(a)(A) requires the applicant to consider "reasonable alternatives" to locating the facility, or components of the facility, on high-value farmland. The applicant must show that the siting of the wind power generation facility on high-value farmland soils is necessary for the facility to function properly; and that access roads and turbine strings must be place on high-value farmland soil to achieve a reasonably direct route, considering the factors listed in subsections (i) through (iii).

Although the rule does not give specific factors to be considered in determining whether an alternative is reasonable, the applicant must analyze whether the facility could function properly in an alternative location. One consideration would be to determine whether an alternate project location on non-high value farmland is reasonable, given that a substantially similar wind resource is available on the non-high value farm land comparable to the wind resource at the proposed site. If there is not, then the alternative could not be determined to be reasonable.

Additionally, considering alternatives, technical and engineering feasibility supports locating the project on a consolidated area of land large enough to accommodate a facility capable of producing 10 MW of energy including the project support facilities, and be located in an area with well-developed wind data with wind resources necessary for a viable commercial wind energy facility.

The Chopin Wind Project has developed over five years of high quality, hub height meteorological data including wind speeds, wind direction, temperature and air pressure from existing met towers for an accurate prediction of the wind resources at project site. The objective of a wind resource assessment is to assess the wind conditions at a particular position and/or within a described area. The wind measurements are analyzed through a wind flow model representing the wind project area based on the terrain description, and local wind statistics to derive wind conditions and calculate the energy output for each planned turbine location. This data shows a robust wind resource which would support an economically viable wind project. In contrast it is reasonable to believe that a project solely on non-high value soils located at a lower elevation would have less wind energy available and be significantly less commercially viable.

Approximately 32% of the project area is classified as high value soils [Walla Walla Silt Loam - 114B]. These high value soils occur on broad summit hill tops where there are 1 to 7 % slopes. The above ground wind project features and access roads are necessary to be built on slopes that do not exceed 8% slopes to meet technical and engineering specifications. Thus the project turbines and roads for access would need to be located on land that is relatively flat. This is where high value soils occur. The project area does consist of a small fraction of non-high value soils and although some of these non-high value soils do occur on acceptable slopes for construction

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limiting turbines to these areas would reduce the overall size of the project making the project unfeasible and still would require access roads through high value soils. Therefore, limiting the project to non-high value soils would not result in a reasonable alternative. Development on steeper slopes also requires a larger construction footprint and increases possibilities for erosion and a potential of causing greater impact to agricultural.

The project would use existing public rights-of-way for delivery of materials. In addition, the project will utilize and upgrade existing private roads where practical for the developer and the land owner. A substantial length of access road would use an existing farm road, therefore it is estimated that between 3 to 3.5 acres of land would be taken out of production during the life of the project. This would represent an approximate loss of less than 1% of the total high value soils production during the life of the project.

Conclusion
Configuration of a wind power generation facility on land that does not contain high-value farmland soil would not be a reasonable alternative where the location is characterized with steep slopes at elevations with less wind energy levels. Development in areas with non-high value farmland soils provides a greater potential for erosion and more impacts to the land than development in areas with 1-7 percent slopes where high-value farmland soils are located. Therefore, siting the wind power generation facility and project features on non-high value farmland soils is not a reasonable alternative as described in OAR 660-033-013(37)(a)(A).

Alternative configurations of the Chopin Wind Project would also affect high-value farmland. The anticipated environmental, economic, social and energy consequences of an alternative facility configuration would substantially be the same as the proposed configuration. Considerations to alternate configurations of siting the wind power generating facility on other high-value farmland soils also have been made. Siting the facility or features of the facility, on high-value farmland soils is necessary for the facility to function properly and siting the road system and turbine string on high-value farm land is necessary to achieve a reasonably direct route.

> (B) The long-term environmental, economic, social and energy consequences resulting from the wind power generation facility or any components thereof at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located on other agricultural lands that do not include high-value farmland soils;

Environmental, Economic, Social and Energy Consequences

OAR 660-033-0130(37)(a)(B) requires the applicant to show that the long term environmental, economic social and energy consequences of the facility taking mitigation into account, are not significantly more adverse than would typically result from the same proposal being located on agricultural lands that do not include high-value farmland soils.

The project income to the landowners would outweigh the loss of farm income from the reduced acreage. In addition, the county also will receive additional tax revenue as a result of the project. Area businesses would benefit during project construction and therefore, as planned, the project would provide a net economic benefit to the community and effected landowners.

In contrast if the project were feasible to be sited on lands classified as non-high value soils, it would result in building at lower elevations where there is reduced wind energy and thus resulting in significantly less commercial value to the project owner and the landowner.

The resulting income from the development enjoyed by the landowners, the county (by way of tax revenue) and area businesses during construction will outweigh the loss of income from the reduced farmland acreage and as viable alternatives do not exist on non-high value soil lands, the project as planned provides a net benefit to the community and landowners. A project on non-high value land will have the same impact on other agricultural

lands as it would on high value land because of the small footprint and ability to farm near and around project features.

Siting a wind facility likely is beneficial to the landowners. Though the facility may affect some agricultural routines of the landowners, the wind turbines will provide a source of additional, stable income to the landowners. In addition, environmental, economic, social and energy effects of locating the Chopin facility on high-value farmland may not be significantly more adverse than if the facility were located on non-high value farmland, steeper slopes with potential erosion issues.

> (C) Costs associated with any of the factors listed in paragraph (A) may be considered, but costs alone may not be the only consideration in determining that siting any component of a wind power generation facility on high-value farmland soils is necessary;

OAR 660-033-0130(37)(a)(C) requires the applicant to show that costs associated in considering "reasonable alternatives" may not be the determining factor in selecting to site the project on high value farmland soils.

The selected turbine locations were driven by long term wind measurement and forecasting. Consistent wind measurement is the most important factor in turbine location. These locations were also selected with consideration of the engineering feasibility for constructing roads and installing turbines at the selected sites. Alternative lands without high value soils consistently required consideration of areas with severe slopes. These steep slope areas would not be considered reasonable alternatives where it is not feasible for turbine development or access road construction. Additionally, development on steep slopes posed an increase in impacts from a larger development footprint and the increase in potential for erosion.

Feasibility of the project, as well as agricultural impacts, is the primary consideration in locating the project on high-value farmland soil. Project location is driven by long term wind measurement and forecasting. Locating the turbines in the proposed sites are the most reasonable option for the project as well as the best option in terms of agricultural impacts given the greater impacts for construction on steep slope land.

> (D) The owner of a wind power generation 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 facility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration; and
> (E) The criteria of subsection (b) are satisfied.

OAR 660-033-130(37)(a)(D) requires the owner of the a wind facility to restore agricultural land damaged by installation of the wind power facility. During the construction phase, the acreage of land disturbed will be greater than the final footprint. This temporary disturbance area will be restored and rehabilitated to pre-construction state upon completion of the Project. This includes restoring disturbed field areas to previous soil types and removal of large rocks exposed during construction.

At the end of the project lifecycle, project features will be removed and land will be restored to the previous or better land condition. All restoration will follow re-vegetation and erosion control plans. The condition to restore agricultural land damaged by the construction of the facility satisfies the obligation contained OAR 660-033-0130(37)(a)(D).

(b) For arable lands, meaning lands that are cultivated or suitable for cultivation, including high-value farmland soils described at ORS 195.300(10), the governing body or its designate must find that:

> (A) The proposed wind power facility will not create unnecessary negative impacts on agricultural operations conducted on the subject property. Negative impacts could include, but are not limited to, the

unnecessary construction of roads, dividing a field or multiple fields in such a way that creates small or isolated pieces of property that are more difficult to farm, and placing wind farm components such as meteorological towers on lands in a manner that could disrupt common and accepted farming practices;
(B) The presence of a proposed wind power facility will not result in unnecessary soil erosion or loss that could limit agricultural productivity on the subject property. This provision may be satisfied by the submittal and county approval of a soil and erosion control plan prepared by an adequately qualified individual, showing how unnecessary soil erosion will be avoided or remedied and how topsoil will be stripped, stockpiled and clearly marked. The approved plan shall be attached to the decision as a condition of approval;
(C) Construction or maintenance activities will not result in unnecessary soil compaction that reduces the productivity of soil for crop production. This provision may be satisfied by the submittal and county approval of a plan prepared by an adequately qualified individual, showing how unnecessary soil compaction will be avoided or remedied in a timely manner through deep soil decompaction or other appropriate practices. The approved plan shall be attached to the decision as a condition of approval; and
(D) Construction or maintenance activities will not result in the unabated introduction or spread of noxious weeds and other undesirable weeds species. This provision may be satisfied by the submittal and county approval of a weed control plan prepared by an adequately qualified individual that includes a long-term maintenance agreement. The approved plan shall be attached to the decision as a condition of approval.

(c) For nonarable lands, meaning lands that are not suitable for cultivation, the governing body or its designate must find that the requirements of OAR 660-033-0130(37)(b)(D) are satisfied. (d) In the event that a wind power generation facility is proposed on a combination of arable and nonarable lands as described in OAR 660-033-0130(37)(b) and (c) the approval criteria of OAR 660-033-0130(37)(b) shall apply to the entire project.

Arable Lands

OAR 660-033-130(37)(b), (c) and (d) provide additional criteria for wind power generation facilities located on "arable" or "non-arable" land. Subsection (b) defines "arable land" as "lands that are cultivated or suitable for cultivation, including high value farmland soils" and provides criteria for locating a facility on arable land. Subsection (c) defines "non-arable land" as land "not suitable for cultivation" and identifies the criteria applicable on non-arable land. Subsection (d) provides that when a proposed wind power generation facility is located on a combination of arable and non-arable land, then the criteria in subsection (b) apply to the entire facility.

The proposed project would be located on arable land and includes high-value farmland; therefore, subsection (b) applies. Negative impacts to agricultural operations are minimized by the design and minimum layout of the Project. The construction and layout of the roads are designed so that they follow along existing field boundaries when possible and consist of the minimum amount of primary and spur roads necessary to access each turbine location. The layout is proposed not to cut the field up into inaccessible, difficult to farm areas. Project roads are designed with sweeping curves so farm equipment can cultivate right up to the edge of the access road, thus allowing the maximum amount of land for farm production. The Project roads will be available for farm use for the life of the project.

The Project will not require a new meteorological tower. All electrical cable collection systems will be run underground between the turbines and the terminus at the Project substation. During construction, one or both temporary MET towers will be removed. A permanent Project tower may be deployed to monitor wind conditions during the life of the Project. All MET towers will be removed upon decommissioning of the Project

The project soil and erosion control plan shall be utilized during the construction, operation, and decommissioning of the project unless a more effective plan is deemed appropriate based on the Best Management Practices (BMPs) of the time. Road construction and other Project plans will be designed and implemented consistent with the soil and erosion control plan. During the operations phase of the project, the

effectiveness of the design will be monitored by Operations & Maintenance (O&M) staff and impacts to project roads or other project features will be repaired and adjusted to ensure proper drainage and flow management. Topsoil stripped or graded from the surface during project construction will be stockpiled and protected until used to recover disturbed field areas.

During construction a crane pad will be built for the safe operation of the crane. At the close of the construction period the crane pad will be removed rehabilitated and the compacted soil will be de-compacted and made available for agricultural use. The de-compacted soils will be cleared of any rock unsuitable for agricultural activities and graded to the native, pre-disturbed, grade or better. Final spur roads will be reduced to approximately 10 feet wide, enough for routine maintenance vehicle access to the turbines.

Construction, operations, and decommissioning phases of the project will implement and follow the project Weed Control Plan. The project owner and maintenance staff will monitor and adjust the plan in response to conditions on the ground. The condition to follow and implement an acceptable long-term Weed Control Plan satisfies the obligation contained OAR 660-033-0130(37)(a)(D).

Findings and Conclusions

The County finds the applicant considered "reasonable alternatives" and the applicant must site the wind power generation facility on high-value farmland soils for the facility to function properly and for access roads and the turbine string to achieve a reasonably direct route.

The County finds the applicant has shown that the long term environmental, economic social and energy consequences of the facility are not significantly more adverse than would typically result from the same proposal located on agricultural lands that do not include high-value farmland soils.

The County finds at the close of the construction phase, the temporary disturbed field areas will be restored to previous soil types.

The County finds the proposed wind power facility will not create unnecessary, or significant, negative impacts on agricultural operations conducted on the project property.

The County finds the proposed wind power facility will not result in unnecessary soil erosion and that facility construction or maintenance activities would not result in unnecessary soil compaction.

The County finds the construction and maintenance activities would not result in the "unabated introduction or spread of noxious weeds and other undesirable weeds species."

The County finds and concludes, as conditions of the permit, the applicant is required to implement Erosion Control, Revegetation, and Weed Control Plans for all project development.

The County Concludes the Chopin Wind Project complies with the standards found in OAR 660-033-0130 (37).

(l) Submit a plan for dismantling of uncompleted construction and/or decommissioning and/or re-powering of the Wind Power Generation Facility as described in §152.616 (HHH) (7).

The applicant submitted a plan for dismantling and decommissioning as provided in §152.616 (HHH) (7).

(m) A surety bond shall be established to cover the cost of dismantling uncompleted construction and/or decommissioning of the Wind Power Generation Facility, and site rehabilitation pursuant to §152.616 (HHH) (7) and (8). The intent of this requirement is to guarantee performance (not just provide financial insurance) to protect the public interest and the county budget from unanticipated, unwarranted burden to

decommission wind projects. For projects being sited by the State of Oregon's Energy Facility Siting Council (EFSC), the bond or letter of credit required by EFSC will be deemed to meet this requirement.

The cost of decommissioning for some components will be null or a net profit on the secondary market. These include the turbine towers and generators, transformers, substation and the transmission line. Below are cost estimates for decommissioning and rehabilitation of the property to a useful non-hazardous condition resembling, or better, than the condition of the land prior to construction of the Chopin Wind Project.

ESTIMATED COSTS FOR SITE RESTORATION
(Reclamation bond Requirements)

Foundation Removal: Blasting to a depth of 3-4 feet below the surface, demolition and removal of concrete, earth work to restore the area.	$3,000 each
Re-vegetation of 5 acres of disturbed area: (Decommissioning)	$500. per/ac
Remove roads (approximately 5,280 feet) not kept by land owners	$12.50 per/ft
Crane and mob for removing turbine towers (Salvage value will offset the cost of removal from project property)	$12,000. each
Removal of one MET Tower (Savage value will offset the cost of removal from project property)	$3,000. each
Project Substation equipment removal, de-energize and fluid removal: (Salvage value will offset the cost of removal from project property)	$5,000.
Power line removal (5.5 miles of underground power lines): (Salvage value will offset the cost of removal from project property	$0

Chopin Wind, LLC has proposed a decommissioning fund in the form of a bond. Umatilla County requires the project owner to obtain a bond in a dollar amount that would allow Umatilla County to decommission the project and pay for the removal of all project facility features in the event the project owner cannot fulfill the obligation to decommission the Chopin Wind Project.

Findings and Conclusions

The County finds and concludes the Chopin Wind Project owner has proposed a decommissioning bond.

The County finds and concludes the condition to require Chopin Wind LLC obtain a bond in a dollar amount that allows Umatilla County to decommission the project and pay for the removal of all facility features in the event the project owner cannot fulfill its' obligation to decommission the Chopin Wind Project satisfies the criterion.

(n) The actual latitude and longitude location or Stateplane NAD 83(91) (suitable for GPS mapping) coordinates of each turbine tower, connecting lines, O & M building, substation, project roads and transmission lines, shall be provided to Umatilla County on or before starting electrical production.

Actual latitude and longitude location of each turbine, connecting [collector] lines, project substation and transmission lines is required to be submitted to Umatilla County. A condition of the permit approval would require the project owner to submit actual latitude and longitude coordinates of each turbine tower, connecting [collector] lines, project substation and transmission lines within 90-days of the date commercial electrical production begins.

Findings and Conclusions

The County finds and concludes that the condition of approval to submit the latitude and longitude location of

each turbine, connecting [collector] lines, project substation and transmission lines to Umatilla County within 90-days of the date commercial electrical production begin satisfies the requirement.

(o) An Operating and Facility Maintenance Plan shall be submitted and subject to County review and approval.

O&M Inspections and Maintenance will consist of monthly and yearly onsite inspections by its own staff qualified for electrical and civil work (switching and light maintenance, road maintenance, snow and weed removal, etc.). For scheduled and unscheduled maintenance as well as back up for switching, BayWa will contract third party companies in line with below strategy to support the operation of the Chopin Wind Farm.

Unscheduled Maintenance-Substation/Collection System

- Contracts with multiple nationally recognized Electrical Contractors and Specialists to support unplanned outages and unscheduled maintenance activities at the plant.
- Selection of contractors with demonstrated expertise in unscheduled maintenance on Substations and Collection Systems and commitments to guarantee a response time of less than 4 hours. They will also have access to parts and tooling to troubleshoot and repair the root cause of any outage situation and repair these issues within a reasonable amount of time depending on the specific incident.
- Procurement and maintenance of a stock of specific spare parts to aid in the timely restoration of the substation or collection system in the event of a failure.

Scheduled Maintenance – Substation/Collection System

- Contracts with multiple nationally recognized Electrical Contractors and Specialists to perform, in coordination with BayWa Wind, scheduled maintenance activities on the Project.
- Selection of contractors with demonstrated expertise in performing scheduled maintenance on Substations and Collection systems. They have the tools, equipment, and expertise to complete all scheduled service activities in accordance with individual component requirements and maintenance schedules.

Switching Activites – Substation/Collection System

- Contracts with multiple nationally recognized Electrical Contractors and Specialists to perform, in coordination with BayWa Wind, switching activities on the Project site.
- Contractors trained and certified in the operation of all substation and collection system equipment. Additionally these contractors must have strong and thorough safety policies and procedures that they follow which will maximize efficiency and minimize risk to equipment or people. The chosen contractor will guarantee a response time of less than 4 hours.

Road Maintenance and Weed Removal

- Operations team will negotiate with local contractors who have the skills and equipment necessary to both remove weeds from the project grounds and maintain and repair roads.
- Weed removal will be on an as needed basis with local contractors who can provide the service under short notice to allow access to turbines or Substation/Collection System/Met Tower equipment.

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- Road Maintenance will be performed no less than once per year by local contractors with the proper equipment. These contractors will also be capable of performing repairs on roads in the event that damage occurs due to inclement weather or other factors.

The BayWa Wind Asset Management/Operations team is responsible for the management of O&M related activities on its U.S. operating fleet of owned and managed wind turbine power plants. In addition to the wind turbine generators and substations, the BayWa Wind team operates and maintains each project's transmission lines.

The County finds and concludes an Operating and Facility Maintenance Plan was submitted and satisfies the requirement.

(p) A summary of as built changes to the original plan, if any, shall be provided by the Wind Power Generation Facility owner/operator 90 days of starting electrical production.

The Chopin Wind facility owner/operator shall provide Umatilla County a detailed copy of the facility plan and as-built changes, if any. The Condition of Approval requires the facility owner/operator to submit a detailed copy of the plan and as-built changes, if any, to Umatilla County.

Findings and Conclusions

The County finds and concludes the condition requiring the Chopin Wind Project facility owner/operator to submit a detailed copy of the facility plan and as built changes if any, to Umatilla County within 90-days of commencing commercial electrical production satisfies the criterion.

(q) Submit a Socioeconomic Assessment of the Wind Power Generation Facility.

The following socioeconomic impact assessment is an evaluation of the social, economic, public service, cultural, visual, and recreational impacts on affected communities during the construction, operation, and decommissioning phases of the proposed Chopin Wind Facility. For the purpose of this assessment the affected communities refer to herein are considered to be the nearby incorporated communities of Athena, Helix, Milton-Freewater, Pendleton, Weston and Umatilla County as a whole.

Social Impacts

Social impacts will be examined that could create a potential change in the population. During the construction phase, Chopin is expected to employ approximately 50 people. These positions will be temporary due to the short term nature of the construction phase of the Project. A job fair will be held after a final EPC contractor is selected. This job fair is used to fill as many jobs as possible from the local labor/trade and materials suppliers' pool. Some of the workforce will be hired from the local community; however, due to the need for a specialized skill set many of the positions will require hiring from outside the community. Most of the temporary work force brought in from outside the community is expected to leave upon completion of the construction phase. During the operations phase of the project, Chopin is expected to employ two to three full or part time staff. These are permanent positions which may be filled by locals if an experienced and properly trained local work force is available for the position.

Fewer individuals are expected to be hired during the decommissioning of the project compared to the construction phase. These positions will be temporary due to the short term nature of the decommissioning phase of the project. There is the expectation that only some of the workforce will be hired from the local community because the decommissioning of this project requires specialized personal and equipment that may not be available in the immediate area. The temporary work force is expected to leave upon completion of the decommissioning phase.

Economic Impacts

Economic impacts will be examined that could create a potential change in the local economy. During the construction phase the Chopin Wind Energy Facility is expected to stimulate the local economy through its construction workforce. Any workforce brought in from outside the immediate community will be purchasing local goods and services as well as paying for housing, food, meals and other personal necessities. Local earth moving contractors and local building materials such as gravel and concrete may also be utilized in the construction of the facility. Secondary and tertiary economic benefits of wind projects are well documented, resulting from meals served in local establishments, buying fuel and vehicle repairs from local service stations, and supplies from local hardware and building supply stores.

During the operations phase the Chopin Wind Energy Facility is expected to add to the tax base of the county which in turn will stimulate the local economy. Permanent employees will have jobs that pay a living wage or greater. They will also be added to the local tax base which will increase county tax revenue. Because they will be living in the immediate community they will also be part of the local economy, purchasing local goods and services as well as paying for housing. Secondary and tertiary economic benefits are well documented, resulting from meals served in local establishments, buying fuel and vehicle repairs from local service stations, and supplies from local hardware and building supply stores.

During the decommissioning phase the Chopin Wind Energy Facility is expected to stimulate the local economy through its decommissioning workforce. Any workforce brought in from outside the immediate community will be purchasing local goods and services as well as paying for temporary housing. Secondary and tertiary economic benefits are well documented, resulting from meals served in local establishments, buying fuel and vehicle repairs from local service stations, and supplies from local hardware and building supply stores. Local wrecking contractors may also be utilized in the decommissioning of the facility.

Public Services

The impacts on community public services during the construction, operations, and decommissioning phases will be considered. Construction related traffic is short term in nature and not expected to have an impact on normal traffic patterns or an emergency response crew's ability to provide service. Temporary workers hired from outside the community are not expected to have an impact on emergency response crews since housing for these workers consists of existing buildings or RV facilities already covered by fire and emergency response plans. See the emergency response plan (Attachment 8) for details on how the project construction will interface with local emergency response crews in the event of an emergency. During the operations phase the Chopin Wind Project is not expected to hinder day to day operations of local emergency response services. Safety measures observed during operations will minimize any need for emergency response to the Project site. The decommissioning phase will employ fewer people than the construction phase and will similarly have a minimal impact on emergency response.

The construction, operations and decommissioning of a wind project may create the potential for criminal activity (theft, vandalism, trespassing). The Project will provide appropriate security measures to dissuade and mitigate such potential. Therefore little to no criminal activity is expected to occur during or after the Project's construction. Wind projects do not attract criminal activity from outside the area.

The nearby health facilities in the area include St. Anthony's Hospital in Pendleton and Providence St. Mary Medical Center and Walla Walla General Hospital in Walla Walla, WA. All three facilities provide 24-hour emergency care and are expected to adequately deliver services to construction, operations and decommissioning personal if it is necessary. The temporary workforce is not large enough to be expected to add any increased strain on these community health facilities.

No impacts on local school systems are expected. The majority of the project's construction will fall within the summer months when public schools are typically not in session. Also, the temporary work force is not expected to move their families to the area due to the short term nature of a construction phase. The permanent workforce hired from outside the community is expected to bring their families with them. If the average number of children per household is two that would mean four to six children at most would be added to the affected communities for the additional families moving to the area. These children spread across the affected communities would not add any additional strain on the local school systems. Similar to the construction phase, the decommissioning phase will have no impact on the local school system.

The temporary work force that is expected to be hired from outside the immediate community will need adequate temporary housing during construction and decommissioning. The temporary work force will presumably find housing in rental houses, rental apartments, hotel rooms, and RV camp sites. According to the US Census Bureau, 25.7% of rental units were vacant in Umatilla County in 2010. A Google search reveals at least 10 hotels or motels in the Milton- Freewater region alone. There are numerous RV parks in the immediate region as well. This abundance of rental, hotel, and camping options provides for adequate temporary housing for the construction workforce. Additionally, the temporary housing obtained by the workforce will result in increased profits to local housing providers. The permanent workforce for the operations of the facility who are expected to be hired from outside the immediate community will need adequate permanent housing during the 20 plus year operation phase. The permanent work force will presumably find permanent housing through either rental properties or home ownership, although the latter is more likely because these permanent positions will provide a wage substantial enough to fund a mortgage. According to the 2010 US Census Bureau there is a home vacancy rate of 9.4% in Umatilla County. This rate is similar for the towns of Pendleton, Milton-Freewater, and Athena and even greater for the town of Helix. This abundance of vacant housing units will provide adequate housing for the permanent workforce. Additionally, the new permanent home owners will provide local economic stimulus as well as a slight increase in county revenues due to these new property tax payers.

There will be a minimal impact on local sewage and water services. All sewage generated on site during construction and decommissioning will be collected in portable toilets and disposed of on a regular basis by a local contractor. This is not expected to add any strain on local sewage systems. All drinking water is expected to be brought onto the site by a local bottled water provider. This will not affect local water treatment or delivery systems. The operations and maintenance building will generate sewage waste at a rate expected for a work area of two to three people. Sewage will be disposed of through either a septic system which or the local sewer system, depending on location in town, which will not cause any strain on the existing sewage systems. The building will be hooked up to the local water system and will have no impact on that system.

During the construction period there is expected to be a short term increase in local traffic due to the delivery of the project components and the construction crew commuting to and from the project site. During this period, the number of trucks per day is estimated to be from 20 to 30. Similarly there will be an uptick in traffic during the decommissioning phase due to the transportation of outgoing components. Day to day operations of the Chopin Wind Project may involve multiple trips by the permanent workforce between the operations and maintenance building and the wind turbines. These trips utilize standard pickup truck vehicles (no heavy or large trucks) and are not expected to add a significant increase in or disrupt local traffic flows. See the transportation plan (Attachment D) for a more detailed explanation on how local transportation systems will be utilized.

All solid waste generated on site during construction and decommissioning will be properly disposed of in trash receptacles to be routinely collected by a local solid waste management firm. The amount of solid waste is not expected to adversely impact solid waste disposal services and will provide additional revenue to the local disposal service. The operations and maintenance building will contract all solid waste removal with a local waste removal service.

Cultural Impacts

The history and culture of the area is strongly tied to agriculture including wheat farming, sheep and cattle ranching along with several other livestock products, timber harvesting and more recently a transition to wine making. Like power generation, most of these products are exported outside the community.
During prior application phases, the Project contracted with the Confederated Tribes (CTUIR) of the Umatilla Indian Reservation to perform an Archaeological Study and a Traditional Use Study for the Project area. Archaeological studies completed (Attachment 9) at that time revealed no pre-historic objects. Further evaluation of found historic sites impacted by project construction will occur per CTUIR recommendations and applicable laws. CTUIR has previously completed their Traditional Use Study report (Attachment 10) for the original project. The Project is currently in communication with CTUIR to obtain their feedback for the current, smaller layout and power line right of way. During construction, an archaeological monitor will be onsite during ground disturbance activities to ensure any inadvertent discoveries are properly recognized and handled according to applicable laws. See also the Inadvertent Discovery Plan as (Attachment 11).

Recently there has been a transformation in other sectors of the local economy such as traditional farm land turning into wine production and the growth of wind farming, as well as IT companies in the area due to technological advancements and changing demands in the economy. The Chopin Wind Project will allow local land owners to diversify and expand how they use their land to provide products the economy demands. There has already been a precedent in the county that wind farms are compatible with farming practices and community values with the Eurus Combine Hills or FPL's Stateline wind energy facilities. The Chopin Project will not be in any conflict with other wind Projects in Umatilla county or traditional energy producers such as the Boardman Coal Fire plant, which is scheduled for closure.

Recreational Activities Impacts

Common recreational activities associated with Umatilla County include hunting, fishing, camping, hiking, off road vehicle riding, horseback riding, mountain biking, and bird watching. There is no history of these activities taking place within the Project area due to its agricultural usage. The Project property has not been licensed in the past for the ODFW hunting program. All of the Project's property is Existing Farm Use (EFU) land, making it off limits to camping, hiking, ORV riding, horseback riding, and mountain biking activities. Due to intensive agricultural usage, it is not particularly suitable location for bird watching. Due to the lack of recreational activities in the Project area the Chopin Wind Project is not expected to have any significant impacts on recreational activities.

Other Impacts

This section is intended to address the visual impacts of the Chopin Wind Project during the construction, operation, and decommissioning phases. As currently reconfigured and sited, the Project's overall impact is limited. Milton Freewater, the nearest town is over four miles away.

Unavoidable impacts during the short construction phase will consist primarily of truck noise, road dust (mitigated through dust control measures) and occasional traffic congestion. Once the project is fully assembled, it will impart a visual impact in specific locations however this will be limited due to the location and relatively small number of turbines. FAA warning lights may be visible from certain locations at night. It should also be noted that the Chopin Wind Project sits outside the proposed "Goal 5 Amendment Area" east of State Highway 11.

Through careful siting and appropriate setbacks visual impacts during operations of the Project will be kept to a minimum.

During the decommissioning phase there will be minimal additional visual impact while large equipment and

decommissioning crews work to dismantle the facility. As a result of the decommissioning process, the visual impact of the project will be eliminated. Project components, including turbines, transmission lines, and substation will be dismantled, salvaged locally and or removed from the area. The project footprint will be reasonably restored to its original condition.

Finding and Conclusions

The Chopin Wind application has been reviewed against the County Commercial Wind Power Generation Facility conditional use standards. The socioeconomic assessment can be viewed as either positive or negative and provides information on potential benefits or problematic impacts that are likely to occur.

The County finds the Socioeconomic Assessment may be viewed as either positive or negative on benefits or impacts.

The County finds and concludes the applicant satisfied the criterion to submit a Socioeconomic Assessment.

(7) ***Dismantling/Decommissioning.***

A plan for dismantling and/or decommissioning that provides for completion of dismantling or decommissioning of the Wind Power Generation Facility without significant delay and protects public health, safety and the environment in compliance with the restoration requirements of this section.

In accordance with Umatilla County Development Code, the following language describes a plan for decommissioning of the wind Project in the event construction is not completed or after the lifetime of the Project. For this plan, decommissioning pertains to the removal of all installed features related to the wind Project to a depth of at least 3-4 feet below the surface and the rehabilitation of the land to a condition consistent with its pre-construction state. Some roads, fences and other improvements will be left for landowner usage as requested by the landowner and allowed by the applicable zoning. If the project is permitted for a re-power then features which are used in the next life of the project would be reused. All project features which are not used in a re-powered project will be removed according to this plan.

All permits necessary to decommission the project will be obtained by the project owner in a timely manner once decommissioning is deemed necessary. Oil and other lubricants/fluids will be removed before dismantling of wind turbine and the substation components to avoid contamination of surrounding land. Best Management Practices will be utilized to control dust and debris from the dismantling and decommissioning of the Project features. Notice will be given to the appropriate Fire Department(s) prior to the commencement of operations and BMPs will ensure that wildfire danger as a result of operations will be minimized. All Project features will be removed from the site and sold on the secondary market or disposed of in an appropriate manner according to the laws and regulations at that time.

The site will be returned to as near pre-construction condition as practical by contouring the land to match the surrounding land and spreading soils over areas previously farmed. Project features will be removed to at least 3-4 feet below surface in order to allow farming practices where practices occurred at the time before construction. Some project roads, fences and/or other improvements may be left as requested by the landowner and as allowed under applicable law. Any improvements left for the landowners use will become owned and maintained by the landowner. Rehabilitation of the land will occur according to the standards of the Re-vegetation, Erosion Control Plan and the Weed Control Plan.

The Project will secure a bond for the estimated cost of decommissioning and rehabilitation.

Findings and Conclusions

The applicant' plan would follow the Decommissioning and Rehabilitation Plan utilizing Best Management Practices (BMPs) to control dust and debris from the dismantling and decommissioning of the project features. The project would maintain erosion control, weed control and revegetation plans during decommissioning. Oil

and other lubricants/fluids will be removed using BMPs before dismantling of wind turbines and substation components to avoid contamination of surrounding land.

The County finds the Chopin Wind Project decommissioning plan includes the removal of all installed features related to the wind project, including the removal of turbine bases to a depth of at least 3 feet below the ground surface and the rehabilitation of the land to pre-construction condition.

The County finds some Chopin Wind Project roads or other improvements could remain at the request of the landowner.

The County finds the Chopin Wind Project would follow the Decommissioning and Rehabilitation Plan utilizing Best Management Practices to control dust and debris, maintain erosion plans, and weed control plans, and revegetation plans while dismantling and decommissioning project features.

The County finds and concludes as a condition of the permit the project owner is required to follow the Decommissioning and Rehabilitation Plan utilizing Best Management Practices (BMPs) to control dust and debris from the dismantling and decommissioning of the project features. Maintain erosion control, weed control and revegetation plans during decommissioning and remove oil and other lubricants/fluids using BMPs before dismantling wind turbines and substation components to avoid contamination of surrounding land.

The County finds and concludes a condition of approval requiring the Chopin Wind Project follow the project Decommissioning and Rehabilitation Plan satisfies the requirement.

(8) ***Decommissioning Fund.***

The Wind Power Generation Facility owner/operator shall submit to Umatilla County a bond acceptable to the County, in the amount of the decommissioning fund naming Umatilla County beneficiary or payee.

The Chopin Wind Project has applied to Umatilla County for land use approval of a 10 MW Commercial Wind Power Generation Facility and has not applied for a site certificate from the State Energy Facility Siting Council (EFSC); therefore, Umatilla County's financial assurance requirements apply. A Condition of Approval requires the Chopin Wind Project owner/operator to submit an acceptable bond in the amount of the required decommissioning fund naming Umatilla County as the beneficiary or payee.

Findings and Conclusions

The County finds and concludes that the Chopin Wind Project is not a project application to the Energy Facility Siting Council and Umatilla County's financial assurance requirement applies.

The County finds and concludes a condition of the permit requires the Chopin Wind Project provide an acceptable bond in the amount of the decommissioning fund naming Umatilla County as the beneficiary or payee satisfies the requirement.

(9) ***Annual Reporting.***

Within 120 days after the end of each calendar year the Wind Power Generation Facility owner/operator shall provide Umatilla County a written and oral annual report including the following information, in part:

(a) Energy production,
(b) Wind conditions,
(c) Minor changes to the project,
(d) Summary of fish, wildlife and avian monitoring program,
(e) Summary of employment impacts during and after construction,
(f) Update on weed control practices,
(g) Status of the bond,
(h) Summary of erosion control activities and effectiveness,
(i) Summary comments on the project.

Findings and Conclusions

An annual report that includes the above list of information is required after the end of each calendar year. A Condition of Approval requires the Chopin Wind Project facility owner/operator to submit an annual report containing the above list of information.

The County finds and concludes as a condition of the permit the Chopin Wind Project owner/operator is required to provide Umatilla County an annual report including the information listed in Section 152.616 (HHH) (9) satisfies the requirement.

(10)(a) ***Permit Amendments.***

The Wind Power Generation Facility requirements shall be facility specific, but can be amended as long as the Wind Power Generation Facility does not exceed the boundaries of the Umatilla County conditional use permit where the original Wind Power Generation Facility was constructed.

(b) An amendment to the conditional use permit shall be subject to the standards and procedures found in §152.611. Additionally, any of the following would require an amendment to the conditional use permit:

(1)Expansion of the established Wind Power Generation Facility boundaries;

(2) Increase the number of towers;

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

(4) Changes to project private roads or access points to be established at or inside the project boundaries.

(c) In order to assure appropriate timely response by emergency service providers, Notification (by the Wind Power Generation Facility owner/operator) to the Umatilla County Planning Department of changes not requiring an amendment such as a change in the project owner/operator of record, a change in the emergency plan or change in the maintenance contact are required to be reported immediately. An amendment to a Site Certificate issued by EFSC will be governed by the rules for amendments established by ESC [EFSC].

Findings and Conclusions

The County finds and concludes the Chopin Wind Project is a new conditional use permit and not an amendment of a conditional use permit.

(11) ***Walla Walla Watershed.***

Lands located within the Walla Walla Sub-basin east of Highway 11 shall be subject to additional standards. The purpose of these criteria is to prevent impacts to the following: highly erodible soils (as defined by the Oregon Department of Agriculture) and federally listed threatened and endangered species. The standards are also designed to protect sensitive streams and to be consistent with the Clean Water Act.

(a) There shall be no construction of project components, including wind turbines, transmission lines and access roads on soils identified as highly erodible. The highly erodible soils are those soils identified by the Oregon Department of Agriculture as highly erodible.

(b) The application shall demonstrate that the Wind Power Generation Facility and its components will be setback a minimum of two miles from streams and tributaries that contain federally listed threatened and endangered species, and, that the project will generate no runoff or siltation into the streams.

The project turbines and roads are planned for construction on land with moderate soils (114B, 8B) and slopes of 1 to 7 percent. These soils are not considered highly erodible (Umatilla County soil survey). The project team prepared and submitted a map showing the nearest project features in relation to the setback requirement specified in §152.616 (11) (b). The nearest project features are illustrated far outside of the minimum two mile stream setback requirement identified in §152.616 (11) (b).

Findings and Conclusions

The County finds and concludes that the project mapping shows that the project features meet the two mile stream setback.

20. STANDARDS FOR ALL CONDITIONAL USES ON EFU LANDS § 152.061

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

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

The predominant farming operation in the area and on the subject property is dryland wheat. Wheat is grown in the area mostly on land with moderate slopes above and between surrounding drainages. Farming practices and activities on dryland wheat include, tilling, seeding, fertilizing, weed spraying and harvesting of a grain crop, which commonly includes the use of farm equipment such as tractors, farm implements, combines/harvesters and grain trucks for harvest. These farm practices occur at specific times of the year and not necessarily on a daily basis. Similar farming operations happen in the general area and on neighboring lands. In addition, there are irrigated wine grape vineyards farmed approximately two miles to the northeast of the project area.

Cultivation areas temporarily disturbed around project towers and roads would be rehabilitated and made available to be placed into farm production. As depicted in the photo below, the growing of a grain crop using common farm practices can continue to occur up to, and around, wind turbine locations and project roads. The cost of weed abatement on disturbed areas around the project towers and along project roads that are not placed into grain production would be provided and paid for by the project owner. Project roads also would be available to the landowners to use in management of their farm operations such as moving farm equipment. Additionally, the project owner would coordinate with the landowner and/or farming tenant during the construction phase in order to minimize farm interruptions.

Due to that the project turbines would be located approximately ½ a mile from nearby non participating landowners, impacts from operation of the 4 to 6 turbine wind project at the proposed location would be to the participating landowner who would remove crop ground from production for the project. While this small amount of acreage (10 acres) would be out of farm production for the construction and operation of the wind project

facility, the affected landowner gains a greater financial benefit from the operation of the wind project than if the small acreage continues to be rotating in a grain crop.

The project owners have reached out to all landowners within 1000' of proposed turbine locations and 500' of the proposed transmission route and made efforts to meet with landowners and discuss concerns. Some landowners expressed concern over problems of crop dusting adjacent to transmission lines. In response, the project owner, BayWa, has elected to construct the transmission line underground; this would allow area farmers to more easily continue to use crop dusting as they have in the past or as needed in the future.

Upon decommissioning of the project, the towers would be removed and the land reclaimed at the expense of the project owner to its pre-construction condition or better. Costs associated with project construction and decommissioning would be paid by the project owner.

Lands managed for forest use occur miles from the subject property, due to the distance to these timbered and forest designated lands, it is reasonable to believe that changes in forest practices or an increase in the cost of forest practices from construction and operation of the wind project would not occur on the subject property or surrounding and nearby properties.

Findings and Conclusions:

The County finds the predominant farming operation on the subject property and in the surrounding area is dryland wheat.

The County finds that temporarily disturbed ground around the proposed wind turbines and along the project roads would be rehabilitated for farm crops.

The County finds the areas disturbed around the towers and along the project road, not replanted, will be controlled for weeds under appropriate conditions and in consideration of other properties and area corps, the cost of the on-going weed control would be the responsibility of the Chopin Wind Project owner.

The County finds that project roads would be available to the landowner for use in management of the farming operation.

The County finds that the project owner would consult and coordinate with the landowner to minimize farming interruptions prior to commencing wind project construction.

The County finds that income loss from the cultivation of a grain crop would be compensated by lease agreement payments to the property owner.

The County finds that upon decommissioning of the project the project features would be removed and the land reclaimed to its pre-construction condition (or better) at the expense of the Chopin Wind Project owner.

The County finds lands managed for timber and forest use are located miles from the project site and do not occur within the project area or on lands surrounding the project area.

The County finds and concludes that the Chopin Wind Project would not force a significant change in accepted farm practices on surrounding lands devoted to farm use nor significantly increase the cost of accepted farm practices on lands devoted to farm use.

The County concludes the Chopin Wind Project would not force a significant change in accepted forest practices nor significantly increase the cost of accepted forest practices on the subject property or surrounding lands.

The County finds and concludes the condition of approval requiring the project owner to consult and coordinate

with the landowner to minimize farming interruptions prior to wind project construction is imposed.

21. ADDITIONAL CONDITIONAL USE PERMIT RESTRICTIONS § 152.615

In addition to the requirements and criteria listed in this subchapter, the Hearings Officer, Planning Director or the appropriate planning authority may impose the following conditions upon a finding that circumstances warrant such additional restrictions:

(A) Limiting the manner in which the use is conducted, including restricting hours of operation and restraints to minimize such environmental effects as noise, vibration, air pollution, glare or odor;

The hours of operation would be consistent with other energy power producers, including other wind projects that operate 24 hours per day per year, as wind conditions dictate. The facility would be monitored remotely by one or more technicians via laptop or smartphone technologies. Noise, vibration and flicker effects are essentially mitigated by the two mile setback requirements. Environmental effects such as odor, air or water pollution are not commonly emitted by wind facilities. Turbine noise is addressed in Section 152.616 (HHH) (6) (a) (7).

Findings and Conclusions

The County finds the Chopin Wind Project would operate 24 hours per day per year as wind conditions dictate and as other wind projects operate in the County.

The County finds effects such as odor, air or water pollution are not common to a wind facility.

(B) Establishing a special yard, other open space or lot area or dimension;

During construction the project would establish a temporary 3.5 acre special yard area as a laydown area. In addition, there will be 4 to 6 smaller temporary yard areas at each turbine site. After construction is completed all of the temporary yard areas would be restored to preconstruction condition.

Findings and Conclusions

The County finds and concludes that the area proposed to be used as the laydown area and the 4 to 6 special yard area at each turbine are sufficient special yards areas and circumstances do not warrant additional special yards, open spaces, lot area or dimensions.

The County finds and concludes that the area proposed to be used as the laydown area and the 4 to 6 special yard area at each turbine would be restored to preconstruction condition.

(C) Limiting the height, size or location of a building or other structure;

Besides the project turbines no buildings or other structures would be built within the project area. The project Operation and Maintenance Building is proposed to be located in either Milton-Freewater or Athena.

Findings and Conclusions

The County finds the project plan does not include the construction of buildings within the project site; therefore, conditions limiting building height, size or location are not warranted.

The County finds and concludes no buildings or other structures would be built within the project area and circumstances do not warrant additional limitations to the height, size or location of a building or other structure.

(D) Designating the size, number, location and nature of vehicle access points;

Access points onto County Roads require an access approach permit. The applicant plans one access point onto Staggs Road, County Road No. 674. Therefore, the project will need to obtain an access approach permit from

the County Public Works Department.

Findings and Conclusions

The County finds the proposed vehicle access point for the wind project is a circumstance that warrants a condition.

The County finds and concludes the condition to obtain an access approach permit from the County Public Works Department would satisfy the requirement for a vehicle access point.

(E) Increasing the required street dedication, roadway width or improvements within the street right of way;

The project owner proposes to build a portion of Staggs Road for all weather use in consultation with the County Public Works Director. Additional road improvements are planned along the route according to the Project Transportation Plan and would be undertaken to allow the delivery of project components. In addition the project would be required to maintain road improvements within the County Road rights-of-way according to the Road Use Agreement with Umatilla County.

Findings and Conclusions

The County finds and concludes the condition requiring the Chopin Wind Project comply with proposed upgrades to County Road rights-of-way and the creation and maintaining improvements within the road rights-of-way during the entirety of the project operations, as described in Road Use Agreement between the Chopin Wind Project and Umatilla County, is warranted and satisfies the requirement.

(F) Designating the size, location, screening, drainage, surfacing or other improvement of a parking or loading area;

The project's temporary laydown area would be used for parking during the construction period. The area would be designed and constructed using Best Management Practices for erosion control as prescribed in the Project Civil Plan. After project construction is complete the laydown area would be restored to pre-construction condition.

Findings and Conclusions

The County finds and concludes the parking area is part of the laydown area and is a temporary improvement.

The County also finds the location, drainage, surfacing and improvements of the temporary parking area are adequately detailed and planned for in the Chopin Wind Project Civil Plan.

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

The project would not require business identification or advertising signage. The project owner proposes onsite informational and safety signage to increase public safety and minimize unwanted illegal trespass and criminal activity; warning and "danger" signs would be posted to inform the public of construction activities and that the public is not to enter the site. Likewise, signs will be posted in the project area to prevent construction traffic from inadvertently leaving the main access road and entering public or private roadways and possibly endangering others.

Findings and Conclusions

The County finds and concludes the project proposes onsite informational and safety signage and additional signage is not planned or required.

(H) Limiting the location and intensity of outdoor lighting and requiring its shielding;

Safety lighting on selected wind turbines is planned for installation as prescribed by Federal Aviation Administration (FAA). Additional outdoor lighting is not proposed elsewhere on the project site.

Outdoor lighting is proposed at the project substation. The substation lighting would be shielded and directed away from neighboring properties.

Findings and Conclusions

The County finds safety lighting would be installed on selected wind turbines as prescribed by the Federal Aviation Administration.

The County finds no additional outdoor lighting is proposed or required on the project site.

(I) Requiring diking, screening, landscaping or other methods to protect adjacent or nearby property and designating standards for installation and maintenance;

The need for diking, screening and landscaping are most often circumstances that warrant conditions where the conditional use request is for approval on a commercial or industrial zoned parcel and the parcel is adjacent to residential, or other commercial and industrial zoned parcels located along a public road.

The Chopin project is proposed on farm zoned property and landscaping would not helpful or even visible to nearby properties. However, erosion controls and revegetation are proposed to be used to protect the project area and neighboring properties by use of Best Management Practices (BMPs) in the Civil Plan. Such measures would be incorporated into the project's storm water pollution prevention plan.

Findings and Conclusions

The County finds to protect the project property and nearby properties compliance with erosion and revegetation plans, according to the Chopin Wind Project Revegetation Plan, and use of erosion controls for project roads protects adjacent and nearby property.

The County finds and concludes the condition of the permit to require the Chopin Wind Project comply with revegetation, according to the Chopin Wind Project Revegetation Plan, and use of erosion controls for project roads protects adjacent and nearby properties.

(J) Designating the size, height, location and materials for a fence;

Additional fencing is not proposed on the project site located on the Ferguson property. Fencing is proposed around the project substation and is planned to be constructed in accordance with all applicable building and safety codes.

Findings and Conclusions

The County finds circumstances do not warrant a condition requiring fencing at the wind turbine project site.

The County finds circumstances do warrant a condition for construction of fencing around the project substation, in according with building and safety codes.

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

The Chopin Wind Project will be constructed on farmland that has been previously cultivated. Trees and native vegetation that may have been grown on the farmland have been previously disturbed by agricultural activities.

Extensive wildlife data has been collected, analyzed, the results of which are being incorporated into detailed designs. Additional field studies are anticipated to be completed to ensure reliability of the data being used prior to the commencement of construction. According to the biological studies and report, the land impacted by the project is considered low value wildlife habitat because of agriculture. Consultation with state and federal agencies has been done on potential impacts to natural resources in the area. There are no trees or significant vegetation that would need to be removed or disturbed during the construction of the project.

Findings and Conclusions

The County finds the Chopin Wind Project would be constructed on previously disturbed farm land and is considered to be low value wildlife habitat.

The County finds disturbed project areas would be restored according to the Revegetation Plan satisfies protecting and preserving vegetation.

(L) Parking area requirements as listed in §§ 152.560 through 152.562 of this chapter.

The project does not propose or need permanent parking areas. There would be area used for temporary parking during the construction phase of the project. After project construction is complete the temporary parking area would be restored by the project owner to preconstruction condition.

Findings and Conclusions

The County finds and concludes parking is temporary occurring during the project construction phase and permanent parking areas are not proposed or needed; therefore, circumstances do not warrant a condition applying parking area requirements in §§ 152.560 through 152.562 to the project.

22. CONDITIONAL USE PERMIT CITY OF WESTON DEVELOPMENT CODE CHAPTER 4.4 AND SECTION 2.3.160

Chopin Project Substation

The Chopin project substation is proposed to be located on tax lot 500 in 4N35E. This tax lot is within the City of Weston (City) Urban Growth Boundary (UGB) thus subject to City permitting standards, though processed through the County, per Joint Management Agreement with Umatilla County dated July 19th, 1978.

Tax Lot 500 is zoned General Industrial and, per City zoning ordinance 2.3.11.A, a substation is deemed a permitted use though requires the development to comply with the standards of a Conditional Use Permit and those in Section 2.3.160.

Chapter 4.4 – Conditional Use Permits

Sections:

4.4.100 –Purpose
4.4.200 –Approvals Process
4.4.300 –Application Submission Requirements
4.4.400 –Criteria, Standards and Conditions of Approval
4.4.500 –Additional Development Standards for Conditional Use Types

4.4.300 – Application Submission Requirements:
In addition to the submission requirements in Section 4.1 (see below), a CUP application must include the *applicable* information in A-H below (as further described in Section 4.2.5):

A. Existing site conditions;

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B. Site plan;

C. Architectural drawings of all structures;

Please see the Exhibit B map for the substation and transmission line and the preliminary architectural drawing.

D. Preliminary grading plan;

The proposed substation construction is not expected to grade 1,000 cubic yards or greater. However once the final location is determined and a construction design has been drafted, a detailed grading plan would be submitted to the City of Weston Planning Commission, if requested. The development will be designed so that final contours do not create erosion problems to the area. Additionally, disturbed soils will be stabilized by implementing the revegetation plan and maintained by monitored from maintenance staff to ensure the design holds up after rain events.

During construction, Best Management Practices (BMPs), such as straw waddles and other filter berms, would be installed prior to land clearing, excavation, trenching, or other disturbance.

E. Landscape plan;

The proposed substation does not include a landscape plan. The proposed substation would be of a size and appearance in keeping with the adjacent interconnection Weston substation. If requested by the City of Weston Planning Commission, BayWa (Chopin) will develop a satisfactory landscape plan that accomplishes the goals of the City of Weston.

F. Drawings of all proposed signs;

The proposed development would only contain the necessary signage as directed by the National Electrical Code, City of Weston Sign Code, and other jurisdictional requirements. Typical signage may include safety signs at entrances. All signage details will be provided to the City of Weston Planning Commission at their request once final design has been completed.

G. Copy of all existing and proposed restrictions or covenants;

BayWa has begun discussion with Smith Frozen Foods Company (owner of the parcel) to enter into a long term lease for the development area. Through these negotiations, restrictions and covenants will be developed and supplied to the City of Weston Planning Commission per their request.

H. Narrative report or letter documenting compliance with all *applicable* approval criteria in Section 4.4.4.

See Section 4.4.4 below.

4.4.400 – Criteria, Standards and Conditions of Approval:

A. Use Criteria

1. The site size, dimensions, location, topography and access are adequate for the needs of the proposed use, considering the proposed building mass, parking, traffic, noise, vibration, exhaust/emissions, light, glare, erosion, odor, dust, visibility, safety, and aesthetic considerations;

The proposed substation occupies approximately 95'x125' of surface on a potential 1 acre lease on a ~6 acre parcel. The development, once constructed, would not emit emissions, light, odor, dust, or create public concerns. Access will be via the existing Smith Foods access from Highway 204.

The proposed substation is a use in keeping with the uses permitted in the industrial zone and locating the substation on the parcel prevents the wind project from the need to install an overhead transmission line and thus helps in reducing area impacts. The attached map shows the proposed substation location.

2. The negative impacts of the proposed use on adjacent properties and on the public can be mitigated through application of other Code standards, or other reasonable conditions of approval; and

The proposed development would essentially result in minimal impact to the area. While there may be quiet humming from the transformer, it is located adjacent to an existing substation thus effectively containing the impact.

3. All required public facilities have adequate capacity to serve the proposal.

Other than electric service, no additional public services would be required to operate the substation. Electrical service is adequately available at the proposed location.

B. Site Design Standards: The criteria for Site Design Review Approval in Section 4.2.6 shall be met.

C. Conditions of Approval.

The City of Weston may impose conditions that are found necessary to ensure that the use is compatible with other uses in the vicinity, and that the negative impact of the proposed use on the surrounding uses and public facilities is minimized. These conditions include, but are not limited to, the following:

1. Limiting the hours, days, place and/or manner of operation;
2. Requiring site or architectural design features which minimize environmental impacts such as noise, vibration, exhaust/emissions, light, glare, erosion, odor and/or dust;
3. Requiring larger setback areas, lot area, and/or lot depth or width;
4. Limiting the building height, size or lot coverage, and/or location on the site;
5. Designating the size, number, location and/or design of vehicle access points or parking areas;
6. Requiring street right-of-way to be dedicated and street(s), sidewalks, curbs, planting strips, pathways, or trails to be improved;
7. Requiring landscaping, screening, drainage, water quality facilities, and /or improvement of parking and loading areas;
8. Limiting the number , size, location, height and/or lighting of signs;
9. Limiting or setting standards for the location , design, and/or intensity of outdoor lighting;
10. Requiring berms, screening or landscaping and the establishment of standards for their installation and maintenance;
11. Requiring and designating the size, height, location and /or materials for fences;
12. Requiring the protection and preservation of existing trees, soils, vegetation, watercourses, habitat areas, drainage areas, historic resources, cultural resources, and /or sensitive lands (Chapter 3.7);
13. Requiring the dedication of sufficient land to the public, and/or construction of pedestrian/bicycle pathways in accordance with the adopted plans. Dedication of land and construction shall conform to the provision of chapter 3.1, and Section 3.1.0.D in particular.

The proposed substation development does not emit significant noise, light/glare, dust or vibration, or cause traffic during normal operation. While there may be work lights within the substation, these will be hooded (shielded) to ensure the light is directional onto the site and does not cause light pollution. These lights would not be in use during normal operations but only used during maintenance work.

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The substation would occupy approximately 95'x125' of surface on a potential 1 acre lease on a ~6 acre parcel. The development, once constructed, would not emit emissions, light, odor, dust, or other public concerns. Access will be through the existing Smith Foods access from Highway 204. The use is in keeping with uses permitted in the industrial zone and locating the substation on this parcel prevents the wind project from the need to install an overhead transmission line thus reducing area impacts.

Construction of the proposed substation is not expected to grade 1,000 cubic yards or greater. However once the final location is determined and a construction design is completed, a detailed grading plan would be submitted to the City of Weston Planning Commission, if requested. The development will be designed so that final contours do not create erosion problems in the area. Disturbed soils will be stabilized through implementation of the project revegetation plan. Monitored will be ongoing by project maintenance staff to ensure the design holds up after rain events. During construction, Best Management Practices (BMPs), such as straw waddles and other filter berms, will be installed prior to land clearing, excavation, trenching, or other disturbance. There is no significant vegetation on the parcel except for one small tree located in the southern portion of the parcel. Substation construction work would not be performed in the southern portion of the property thus no impacts to the tree should result.

The proposed substation would be of a size and appearance in keeping with the adjacent interconnection Weston substation. If requested by the City of Weston Planning Commission, BayWa [Chopin Wind Project] will develop a satisfactory landscape plan that accomplishes the goals of the City of Weston. Fencing is proposed around the project substation and planned to be constructed in accordance with all applicable building and safety codes.

The proposed development would contain the necessary signage as directed by the National Electrical Code, City of Weston Sign Code, and other jurisdictional requirements. Typical signage may include safety signs at entrances. All signage details will be provided to the City of Weston Planning Commission at their request once final design has been completed.

BayWa [Chopin Wind LLC] has begun discussion with Smith Frozen Foods Company (owner of the parcel) to enter into a long term lease for the development area. Through these negotiations, restrictions and covenants would be developed and supplied to the City of Weston Planning Commission per their request.

Chapter 4.1 – Types of Applications and Review Procedures
Section 4.1.400 – Type II Procedure (Quasi-Judicial).

B. Application Requirements

(1) Application form.
(2) Content: Type II application shall:
a. Include the information requested on the application form;
b. Be filed with copes of a narrative statement that explains how the application satisfies each and all of the relevant criteria in sufficient detail for review and action;
c. Be accompanied by the required fee;
d. Records for ownership from Umatilla County Assessment. . .
e. Impact study and effect of the development on public facilities and services . . .

The proposed development will have no effect on public service in terms of water, sewer, gas, electricity, or garbage. The substation has no need for these services except for electricity and only for backup power for the substation as a requirement of the power off taker. There will be no traffic generated by the presence of the substation except for occasional standard pickup truck traffic for maintenance purposes. There would be temporary increases in traffic during the

substation construction and the project owner will consult with ODOT and coordinate with the City of Weston to prevent unreasonable negative impacts.

There is no significant vegetation on the parcel except for one small tree in the southern portion of the parcel, where there will be no impact. The landowner does not use this area of the parcel for any routine uses thus they have had no significant concerns during the initial discussions for the long term lease.

Chapter 2.3.16 Special Standards for Certain Uses

A. Uses With Significant Noise, Light/Glare, Dust, Vibration, or Traffic Impacts.

1. Uses With Significant Noise, Light/Glare, Dust and Vibration Impacts

Uses which are likely to create significant adverse impacts beyond the Industrial District boundaries, such as noise, light/glare, dust, or vibration, shall require conditional use approval, in conformance with Chapter 4.4. The following criteria shall be used in determining whether the adverse impacts of a use are likely to be "significant":

a. Noise.

The noise level beyond the property line exceeds 55 dBA (24-hour average) on a regular basis. A dBA of 55 is generally considered to be normally acceptable for low-density residential uses.

b. Light/glare.

Lighting and/or reflected light from the development exceeds ordinary ambient light and glare levels (i.e., levels typical of the surrounding area).

c. Dust and/or Exhaust.

Dust and/or exhaust emissions from the development exceeds ambient dust or exhaust levels, or levels that existed prior to development.

d. Vibration.

Vibration (e.g., from mechanical equipment) is sustained and exceeds ambient vibration levels (i.e., from adjacent roadways and existing land uses in the surrounding area).

e. Odor.

Odor is sustained and exceeds ordinary ambient levels from adjacent roadways and existing land uses in the surrounding area.

The proposed substation development does not emit significant noise, light/glare, dust or vibration, or traffic during normal operation. While there may be work lights within the substation, these will be hooded (shielded) to ensure the light is directional and does not cause light pollution. These lights would not be in use during normal operations but only used during maintenance work.

2. Traffic.

Uses which are likely to generate unusually high levels of vehicle traffic due to shipping and receiving. "Unusually high levels of traffic" means that the average number of daily trips on any existing street would increase by 20 percent and 100 vehicles per day or more as a result of the development. The city may require a traffic impact analysis prepared by a qualified professional prior to deeming a land use application complete, and determining whether the proposed use requires conditional use approval. Applicants may be required to provide a traffic analysis for review by ODOT for developments that increase traffic on state highways.

Development of the proposed substation would increase traffic during the construction phase but would not increase traffic by 100 vehicles per day. Once the substation is operational, only maintenance personal would be onsite resulting in minimal traffic in the area. Therefore, there would not be "unusually high levels of traffic" resulting from approval of a conditional use permit for the construction and operation of the substation.

3. Resource Extraction.
Resource extraction such as the operation of mineral and aggregate quarries and similar uses, shall require a Conditional Use Permit. The applicant shall also be required to prepare a site reclamation plan for review and approval by the city and other affected agencies, prior to commencing resource extraction. The required scope of the reclamation plan shall be identified by the Conditional Use Permit, and shall comply with applicable requirements of State natural resource regulatory agencies.

The applicant proposes development of a small substation and is not proposing or applying to extract minerals or aggregate. This criterion is not applicable.

B. Residential Caretakers.
One residential caretaker unit shall be permitted for each primary industrial use . . .

Caretaking of the substation will take the form of an Operations and Maintenance team, which would be located offsite in a yet to be determined location. The project owner will rent, lease, or build a small building of sufficient size to allow a team of personnel to perform necessary tasks. The O & M building would typically consist of several office spaces along with a work area to service and store certain maintenance supplies and equipment. This space would comply will all required codes and zoning standards.

"Residential Caretaker homes" are allowed for each primary industrial use where the caretaker home would be subject to certain conditions. The applicant is not requesting a caretaker home and therefore, this section is not applicable.

C. Wireless Communication Equipment.
Wireless communication equipment includes radio (i.e., cellular), television and similar types of transmission and receiving facilities. The requirements for wireless communication equipment are provided in Chapter 3.6.3. Wireless communication equipment shall also comply with required setbacks, lot coverage and other applicable standards of the Industrial District.

The substation will not likely require wireless communication equipment though if it does, it will comply with Chapter 3.6.2 [conformance with Federal Telecommunication Act (1996)] as well as all other applicable standards.

D. Transportation Improvements.
Construction, reconstruction, or widening of highways, road, bridges or other transportation facilities that are (1) not designated in the city's adopted Transportation System Plan, or (2) not designed and construction as part of an approved subdivision or partition, are allowed in all Districts subject to a Conditional Use Permit and satisfaction of all . . . criteria>
The substation development would not require construction, reconstruction, or widening of public highways, roads, bridges, or other transportation facilities.

1. Not Applicable. No transportation facilities are required for the new substation construction or operation.
2. The substation does not generate noise above that which is acceptable in abutting properties. The

substation would be fenced thus providing public safety.
3. The parcel on which the substation is proposed does not contain wetlands or wildlife habitat nor would it impact air or water quality. Best Management Practices for construction would mitigate environmental impacts related to drainage or erosion. Any disturbed soils will be re-vegetated and monitored to ensure said vegetation establishes itself.
4. Not Applicable. No significant traffic would be generated to serve the proposed substation development, except for a maintenance vehicle. No changes to traffic flow are required for the development.
5. Not Applicable. The proposed development is on private land and would not be accessible to the general public.

The application is for a conditional use permit for the construction of a substation. Development of the substation does not require transportation improvements nor is the applicant requesting transportation improvements such as widening of highways, roads, bridges or other transportation facilities.

23. LAND USE DECISIONS – EFU LANDS.

The Exclusive Farm Use Code Section 152.059 (C) allows the establishment of certain utility facilities through the approval of a local Land Use Decision. Umatilla County has incorporated State standards from ORS 215.274 and 215.275 into §152.617(II) (7) of the Umatilla County Development Code (UCDC) for utility facilities. Approval of Land Use Decisions is followed by issuance of a county zoning permit for each project tax lot prior to establishing the land use, as provided in §152.025 & §152.612 (D).

Project Description

Chopin Wind, LLC's wind project Chopin would generate up to 10 MWs of electricity per hour for sale to area utility PacifiCorp. Chopin Wind, LLC is applying for a route to construct a 34.5kV underground transmission line which will connect its wind generation project located west of State Highway 11 to a proposed project substation constructed just south of the Point of Interconnect with the utility (PacifiCorp) at the Weston Substation, north of the City of Weston. A Small Generation and Interconnection Agreement (SGIA) and Power Purchase Agreement with PacifiCorp have been executed.

Underground Transmission Line Features

The transmission line will be of the same 34.5kV size and materials as the collection line that comes from each of the turbines. Onsite, the transmission line will be located within the project access road in order to minimize disturbance to the landowner's agricultural operations. As with the collection line, the transmission line will be located at a depth of 3' or greater below grade.

While the entire length of the transmission line likely will be entirely underground, there may be 1-3 small aboveground splice boxes located along the route within the road right of way. These splice boxes are of a size, 3'x 4' x 3' and style typical of small neighborhood transformers and will be locked and protected by bollards. A comparison to these splice boxes would be the telecommunication boxes commonly seen along road shoulders. These junction boxes are used by maintenance staff to perform tests to the transmission line which helps aid in both routine maintenance and in locating issues in the line.

The project substation would be constructed adjacent to the existing (interconnection) PacifiCorp substation, located in the City of Weston's General Industrial zone.

Cultural and Environmental Considerations

WKN Chopin, LLC contracted with the Confederated Tribes of the Umatilla Indian Reservation (CTUIR) to perform an Archaeological Study and a Traditional Use Study for the Chopin project area. Archaeological studies have been completed and no pre-historic objects have been found on the Chopin project area. Once road right of way and property boundary surveys have been completed and a precise transmission line route is decided, the CTUIR will review the transmission route to voice any concerns before final design and construction.

Archaeological studies will be performed over the final transmission route prior to construction as required.

The proposed transmission line is located almost exclusively within public road rights of way and thus would provide for a minimum of disturbance to the landscape. Best Management Practices during construction will ensure erosion will be controlled for the life of the project. A comprehensive weed control program will be in place prior to construction and would be managed by the project Operations and Maintenance program. In addition, an inadvertent discovery plan would be implemented.

As part of ongoing development, Chopin Wind, LLC will continue consultation with stakeholders, including the Walla Walla Watershed Council, Oregon Department of Fish and Wildlife and other area groups and agencies. Chopin Wind, LLC will work with the Umatilla County Road Department and ODOT to develop the transmission line pole locations in a manner that is safe for vehicle, farm equipment and pedestrian traffic as well as to minimize disturbance to neighboring agricultural practices. Chopin Wind, LLC will work with the Walla Walla Watershed Council and the Oregon Department of Agriculture to address concerns they have regarding impacts to water quality in the area streams. Any and all necessary Federal, State, local and crossing permits will be obtained prior to final design and construction.

Setbacks

Where electrical transmission lines associated with a wind project are proposed outside of a public right of way the line must not be located closer than 500' to nearby residences without prior written consent of the homeowner in the form of a document recorded with county deed records. While the vast majority of the Chopin transmission line would be located within public road right of way, the final approximate 200' near the point of interconnection would be on private land and within 500' of a nearby residence. Chopin Wind, LLC has secured and recorded a waiver with this residence landowner.

The final ½ mile of the transmission line would be located east (south) of Highway 11within the Walla Walla Watershed and thus is subject to additional standards. These standards preclude wind farm components, including transmission lines, to be located in a manner that would not require construction on soils identified as highly erodible as well as be a minimum of two miles from streams and tributaries that contain federally listed threatened and endangered species, and not create runoff or siltation into said streams.

The transmission line for the Chopin Wind Project will comply with all of these standards. There are no highly erodible soils identified along the preferred and alternate route, south of Highway 11.The nearest stream or tributary that bears federally listed threatened and/or endangered species is Couse Creek. The closest portion of the proposed project transmission line route is nearly 3.5 miles away from Couse Creek. To ensure that siltation and runoff will not be issues during construction, operations, and decommissioning Engineered Best Management Practices (BMPs) will be implemented.

Operation and Maintenance

Chopin Wind, LLC will own the transmission line described in this application. The line will be managed by BayWa Wind's Asset Management and Operations team based in San Diego in close coordination with local service providers who will be selected based upon specific criteria, such as the ability to respond to certain issues in less than 4 hours.

The contact information for issues related to the transmission line will be provided along with (if different) the contact for the completed wind project once finalized and before commercial operation of the facility.

This project transmission line is expected to be approximately 5-6 miles in length, all but just under a mile of it would be located within existing public road rights of way. Chopin Wind, LLC has contracted with a local surveyor to determine the location and availability of public road right of way along the intended transmission route and determined that there is sufficient space to run an underground transmission line. The Exhibit B map offers an overview of the transmission route though final dimensions, lengths and locations will be subject to

adjustments after engineering and design work is completed.

Chopin Wind, LLC has identified a preferred route with relatively minor options. All options would utilize primarily the same routing north of Highway 11 but diverge in how they progress onto the parcel proposed for construction of the project Substation. Route options are described below.

Transmission Route from the Project Site to intersect with State Highway 11:

As depicted in the Exhibit B map, the transmission line will leave the Chopin project area, (Tax Lot 4900, Map 5N35) head south into the road right of way of Staggs Road, County Road No. 674, for approximately 2 miles to the intersection with York Road, County Road No. 647. The transmission route then heads south along the right of way of York Rd for a length of approximately 1 mile to its intersection with Watts Road, County Road No. 6676. The transmission route then follows Watts Road to the west within the right of way west approximately 660 feet to its intersection with York Road. The route then turns south and follows York Road for approximately 1.7 miles to its intersection with the State Highway 11 right of way.

Highway 11 to Weston Substation Preferred Route:

The transmission line will cross State Highway 11 underground by boring through the berm. South of State Highway 11, the transmission line will continue underground along the county right of way for Road 15 for approximately a quarter mile. It will then cross the Union Pacific Railroad to the southeast and enter the State Highway 204 right of way. It then continues south within Highway 204 right of way for approximately 1,100 feet where it turns west into Tax Lot 500 (Map 4N3515) either just north or south of the existing PacifiCorp substation and enter into the proposed project substation. At the project substation the 34.5 kV would be stepped up to 69kV and then interconnect with the Weston PacifiCorp substation.

Highway 11 to Weston Substation Alternative Route:

The transmission line will continue east within the State Highway 11 right of way for a distance of approximately 630 feet, cross the Union Pacific Railroad, and enter the State Highway 204 right of way. The transmission line then continues south along the Highway 204 right of way approximately 3,290 feet where it turns west into Tax Lot 500 (Map 4N3515) either north or south of the exiting PacifiCorp substation and then enter the project substation. At the project substation the 34.5 kV would be stepped up to 69kV to interconnect with the Weston PacifiCorp substation.

The criteria in §152.617(II) (7) (B) applies to the project associated transmission line and is reviewed below. The criteria are provided in underlined text followed by responses in standard text.

§152.617(II) (7) *Utility Facility Necessary for Public Service.*

(B) An associated transmission line is necessary for public service and shall be approved by the governing body of a county or its designee if an applicant for approval under ORS 215.283(1)(c) demonstrates to the governing body of the county or its designee that the associated transmission line meets either the requirements of paragraph (1) of this subsection or the requirements of paragraph (2) of this subsection.

(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.

The associated transmission line route is proposed for construction within public road rights-of-way from the project site to the City of Weston Urban Growth Boundary. The entire route would be in public right-of-way except for where the line crosses and exits the wind project lease ground. Therefore, the associated transmission line is evaluated under paragraph (2) below.

(2) After an evaluation of reasonable alternatives, an applicant demonstrates that the entire route of the associated transmission line meets, subject to paragraphs (C) and (D) [(3) & (4)] of this subsection, *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 paragraph (2), the applicant shall present findings to the governing body of the county or its designee on how the applicant will mitigate and minimize the impacts, if any, of the associated transmission line on surrounding lands devoted to farm use in order to prevent a significant change in accepted farm practices or a significant increase in the cost of farm practices on the surrounding farmland.

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

The Chopin Wind Project is proposed to be constructed on land zoned Exclusive Farm Use (EFU). The project's associated transmission line would deliver the generated power from the project site via a 5 to 6 mile underground 34.5 kV transmission line to the point of interconnect at the PacifiCorp Weston substation. After leaving the project site the transmission line would enter public right-of-way for the entire route to where the line enters the City of Weston Urban Growth Boundary (UGB). All of the land from the project site to the City's UGB is zoned EFU. Therefore, the transmission line must cross EFU zoned land, including arable land as defined in ORS 195.300, to achieve a reasonably direct route to the point of interconnect at the PacifiCorp Weston substation.

The original plan for the project transmission line was a 69 kV traditional overhead design. In October of 2015, BayWa reached out to all adjacent landowners to the proposed transmission line in an effort to inform those landowners of the plan and to receive questions, comments, and concerns. BayWa received several responses with a common concern about how agricultural practices could be negatively impacted by an overhead transmission line along field edges due to limiting aerial crop treatment applications (crop dusting). After careful consideration and discussions of other options with the project engineering group, BayWa was able to present an option to build a 34.5 kV underground transmission line. The underground line would be the same size and depth as the onsite project collected lines (3' deep or greater). Because of the nature of an underground line verses overhead line and pole structures impacts to farming would be temporary during installation.

Where farmers have planted crops into the public right of way areas there would be disturbance to those areas during installation of the transmission line. Where possible the transmission line constructed in the right of way would be located in such a manner as not to disturb the existing fields. BayWa offers to compensate those landowners or tenant farmers the fair market rate for the square footage of crop taken out of production during the construction phase in an effort to mitigate loss of revenue to the farmer during construction. This would be calculated by multiplying the acreage of the disturbed planted field by the estimated bushel per acre yield and by the fair market rate per bushel.

Topsoil that would be removed would be preserved for replacement after the transmission line trench is filled. Consultation with the adjacent landowner will occur prior to trenching in order to ensure the safety of project staff and the adjacent farmers and to coordinate any necessary crop loss payments.

Findings and Conditions

The County finds and concludes the project site would be located on land zoned Exclusive Farm Use and the point of interconnect (substation) is located south of the project area on industrial zoned land located within the Urban Growth Boundary of the City of Weston.

The County finds and concludes all of the land between the proposed project site and the point of interconnect are zoned Exclusive Farm Use and non-resource zoned lands are not available within this area.

The County finds and concludes the associated transmission line would utilize existing public rights of way along the entire route except for that segment across the project lease land.

The County finds and concludes land disturbed by construction of the project, the substation, and the associated transmission line are required to be restored as nearly as possible to former pre-project condition.

The County finds and concludes the condition requiring the project owner design and construct the transmission line in compliance with Oregon Public Utility Commission (OPUC) is imposed.

The County finds and concludes the condition requiring the applicant to obtain all necessary Federal, State and local crossing permits as well as all other applicable Federal and State permits, including, but not limited to, a storm water permit from DEQ, is imposed.

The County finds and concludes the condition to require the project owner/operator submit final design and survey work for the transmission line route is imposed.

The County finds and concludes the condition requiring the project owner/operator provide Umatilla County with contact information for the operation and maintenance provider prior to beginning power generation is imposed.

The County finds and concludes the condition requiring the project owner/operator secure a surety bond for the decommissioning and rehabilitation of the project area, the project substation, and the associated transmission line is imposed.

24. PROCEDURE FOR TAKING ACTION ON A CONDITIONAL USE OR LAND USE DECISION APPLICATION § 152.612.

(D) An applicant granted a conditional use permit or land use decision must obtain a County zoning permit for each tax lot before commencing construction.

The County finds and concludes as a condition of approval for a conditional use permit and/or a land use decision the applicant/project owner must obtain a County Zoning Permit for each tax lot prior to commencing construction on project features including towers, collector lines, access roads, substation, and transmission line.

DECISION: BASED ON THE FOREGOING FINDINGS OF FACT AND CONCLUSIONS OF LAW, UMATILLA COUNTY COULD APPROVE THE CHOPIN WIND PROJECT CONDITONAL USE PERMIT AND LAND USE DECISION REQUEST FOR A 10 MW WIND POWER GENERATION FACILITY, PROJECT SUBSTATION AND TRANSMISSION LINE UPON COMPLETION OF THE CONDITIONS LISTED BELOW.

PRECEDENT CONDITIONS: Umatilla County Planning Department must be presented with verification that the precedent conditions are satisfied prior to commencing project construction.

1. The applicant/project owner shall obtain a bond in a dollar amount that allows Umatilla County to decommission the project and pay for the removal of all facility features in the event the project owner cannot fulfill its' obligation to decommission the Chopin Wind Project.

2. The applicant/project owner shall consult with area landowners prior to commencing project construction and implement measures to reduce or avoid adverse impacts to farming practices.

3. The applicant/project owner shall sign and record a Covenant Not to Sue.

4. The applicant/project owner shall coordinate with the Umatilla County Public Work Director in revising the County Road Use Agreement and provide verification that the update has been completed.

5. The applicant/project owner shall contact DEQ prior to project road construction and if necessary, obtain a storm water permit.

6. The applicant/project owner shall provide an acceptable bond in the amount of the decommissioning fund naming Umatilla County as the beneficiary or payee.

7. The applicant/project owner shall obtain an access approach permit from the County Public Works Department for access onto the County Road.

8. The applicant/project owner shall submit final design and survey work for the final transmission line route.

9. The applicant/project owner shall obtain a County Zoning permit from the Umatilla County Planning Department for each tax lot where project features will be constructed prior to commencing construction. Each zoning permit requires a site plan illustrating the location of all project features such as the turbine tower locations, access roads, laydown areas, collector line routes, temporary construction and contractor parking. The site plan for the Zoning Permit shall include an updated project map to confirm and show the final design location, or micro-siting, of all project turbines meet the two mile setback to all rural residences.

SUBSEQUENT CONDITIONS:

10. The applicant/project owner shall gate the access road entrance to the project site.

11. The applicant/project owner shall implement the wind project safety and maintenance protocols in the management of the wind turbine power plant, substation and transmission line.

12. The applicant/project owner shall observe the 50 meter setback to all archeological, historical or cultural sites from all project components including project towers, transmission lines, underground conduits and access roads.

13. The applicant/project owner shall have a resource monitor present during ground disturbance activities to ensure the protection of existing or discovered archeological, historical and cultural sites.

14. The applicant/project owner shall operate the Chopin Wind Project in compliance with the State noise standard in OAR 340-035-0035.

15. The applicant/project owner shall implement Erosion Controls and the Revegetation and Weed Control Plans.

16. The applicant/property owner submit the latitude and longitude location of each turbine, connecting

[collector] lines, project substation and transmission lines to Umatilla County within 90-days of the date commercial electrical production begins.

17. The applicant/project owner shall submit a detailed copy of the facility plan and as built changes if any, to Umatilla County within 90-days of commencing commercial electrical production.

18. The applicant/project owner shall implement and follow the revised Road Use Agreement.

19. The applicant/project owner shall provide Umatilla County an annual report including the information listed in Section 152.616 (HHH) (9).

20. The applicant/project owner shall comply with the revegetating project disturbed areas, according to the Chopin Wind Project Revegetation Plan, and implement erosion controls on project roads.

21. The applicant/project owner shall fence the project substation, in according with building and safety codes.

22. The applicant/project owner shall design and construct the transmission line in compliance with Oregon Public Utility Commission (OPUC).

23. The applicant/project owner shall obtain all necessary Federal, State and local crossing permits as well as all other applicable Federal and State permits, including, but not limited to, a storm water permit from DEQ.

24. The applicant/project owner shall provide Umatilla County with contact information for the operation and maintenance provider prior to beginning power generation.

25. The applicant/project owner shall keep enforce a surety bond for the decommissioning and rehabilitation of the project area, the project substation, and the associated transmission line.

26. The applicant/project owner shall implement and follow the Decommissioning and Rehabilitation Plan utilizing Best Management Practices (BMPs) to control dust and debris from the dismantling and decommissioning of the project features. Maintain erosion control, weed control and revegetation plans during decommissioning and remove oil and other lubricants/fluids using BMPs before dismantling wind turbines and substation components to avoid contamination of surrounding land.

UMATILLA COUNTY PLANNING COMMISSION

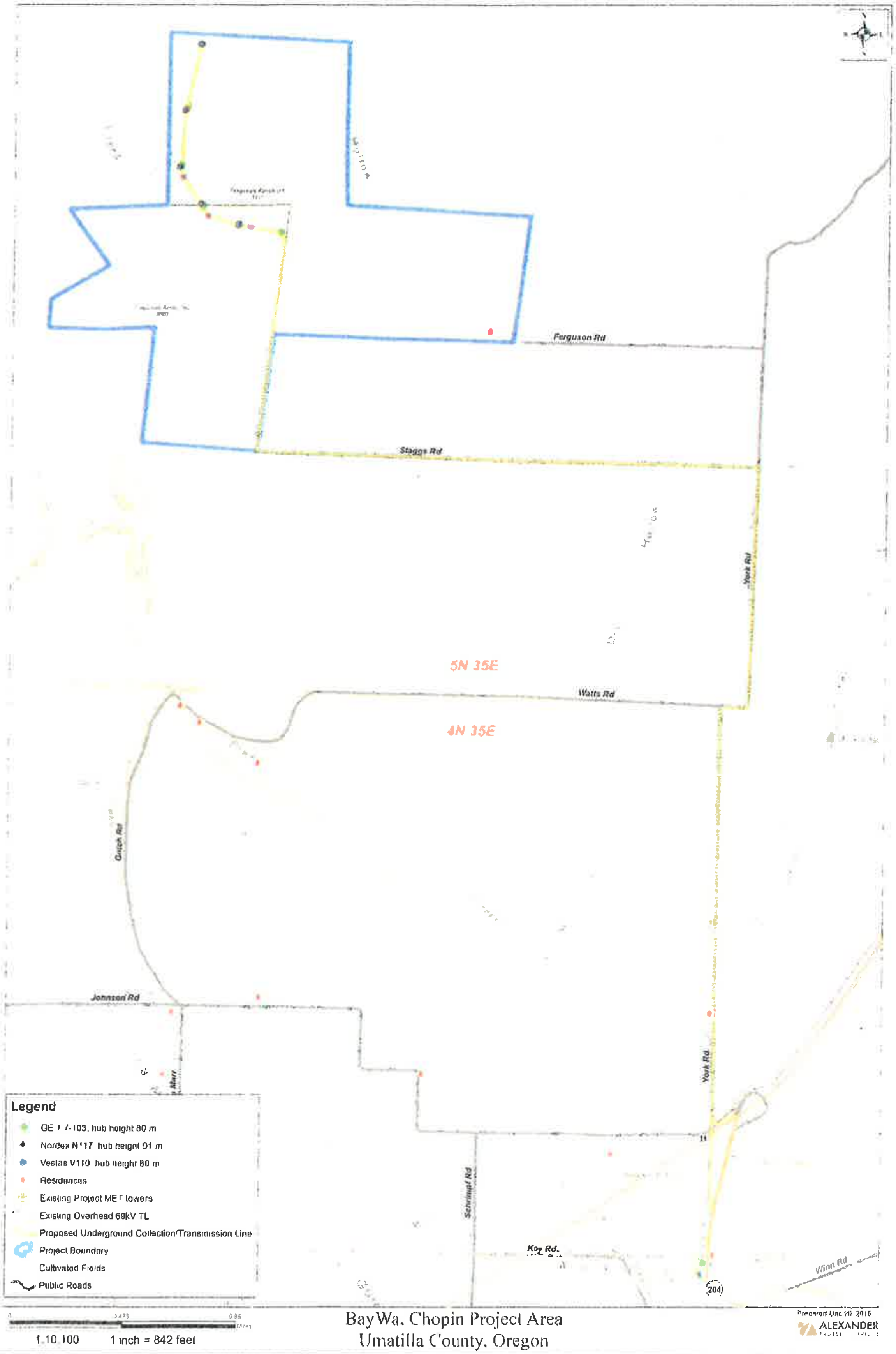
Dated _____day of _____, 20____

_____

Randy Randall, *Planning Commission Chair*

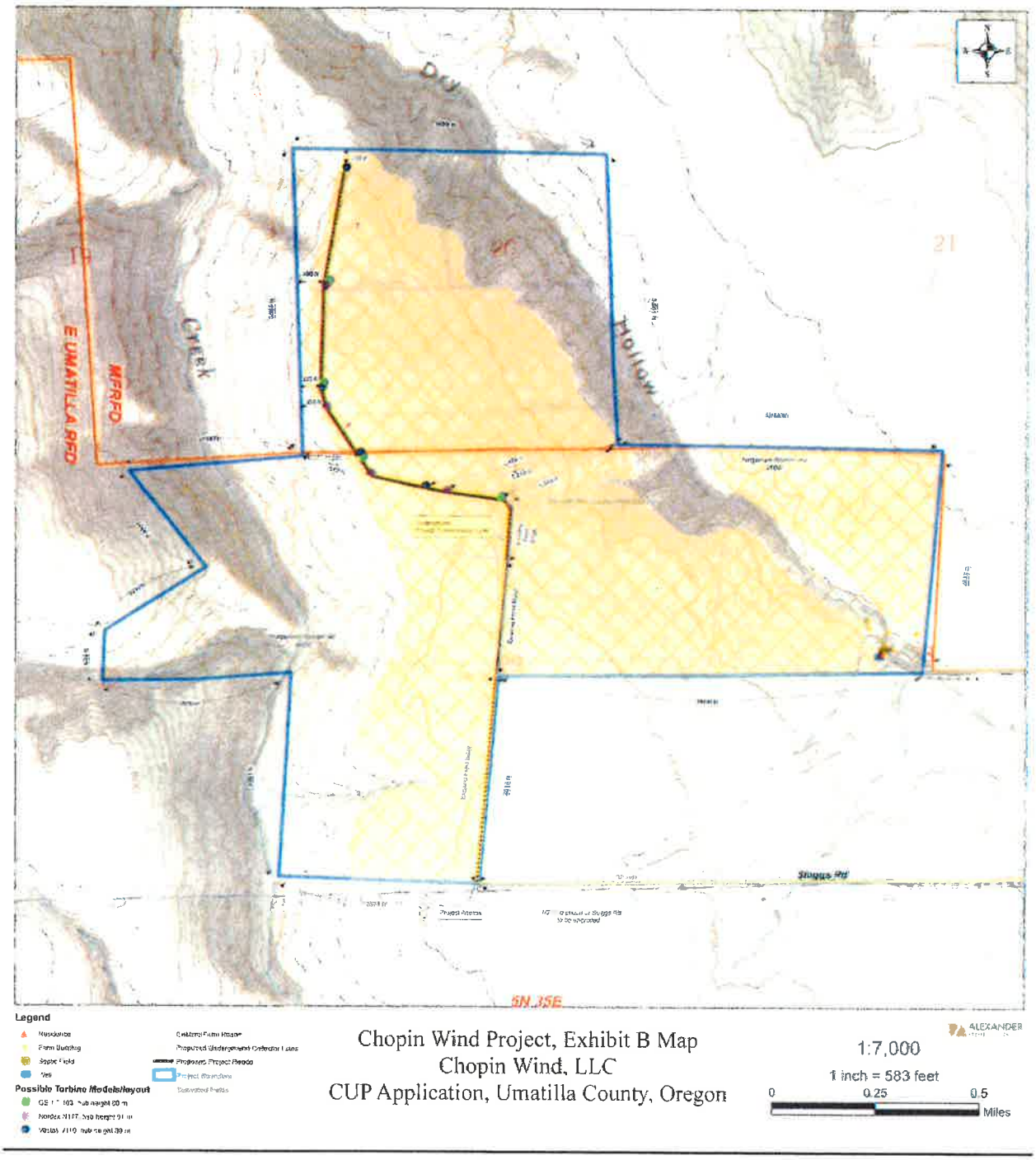
Mailed _____day of _____, 20____

4/8

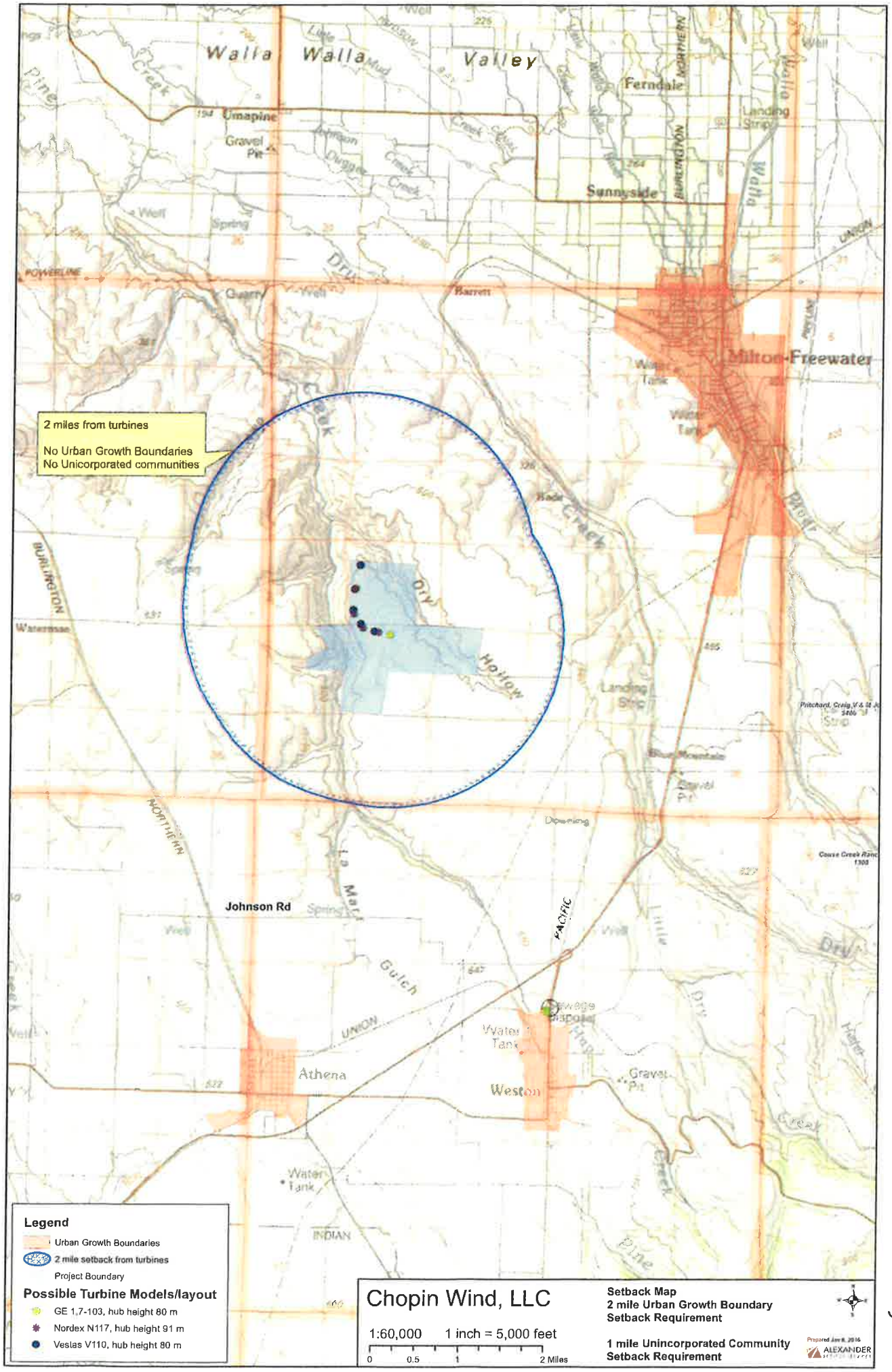


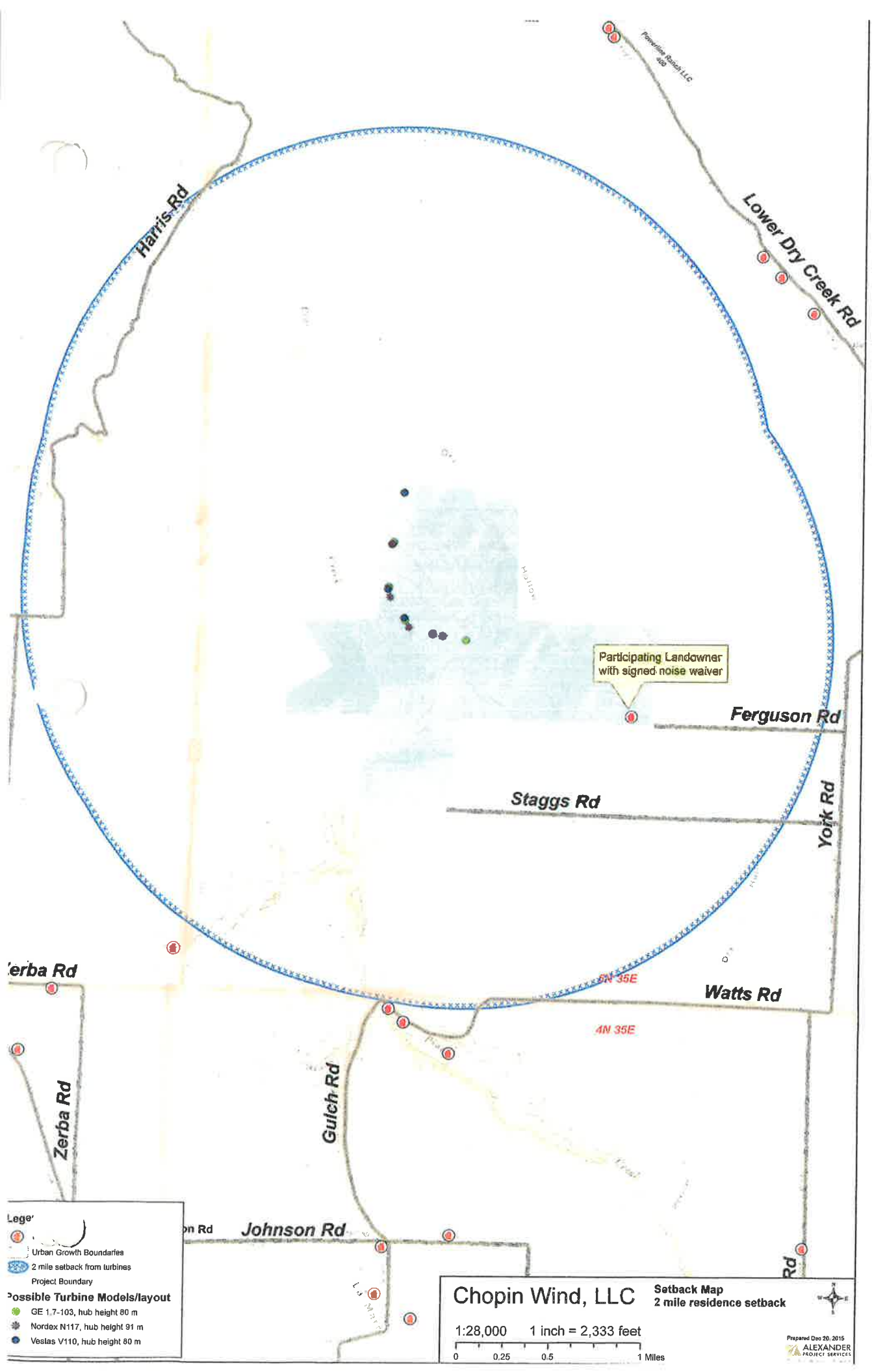
BayWa. Chopin Project Area
Umatilla County, Oregon

Chapter 5 (b) Overview Map

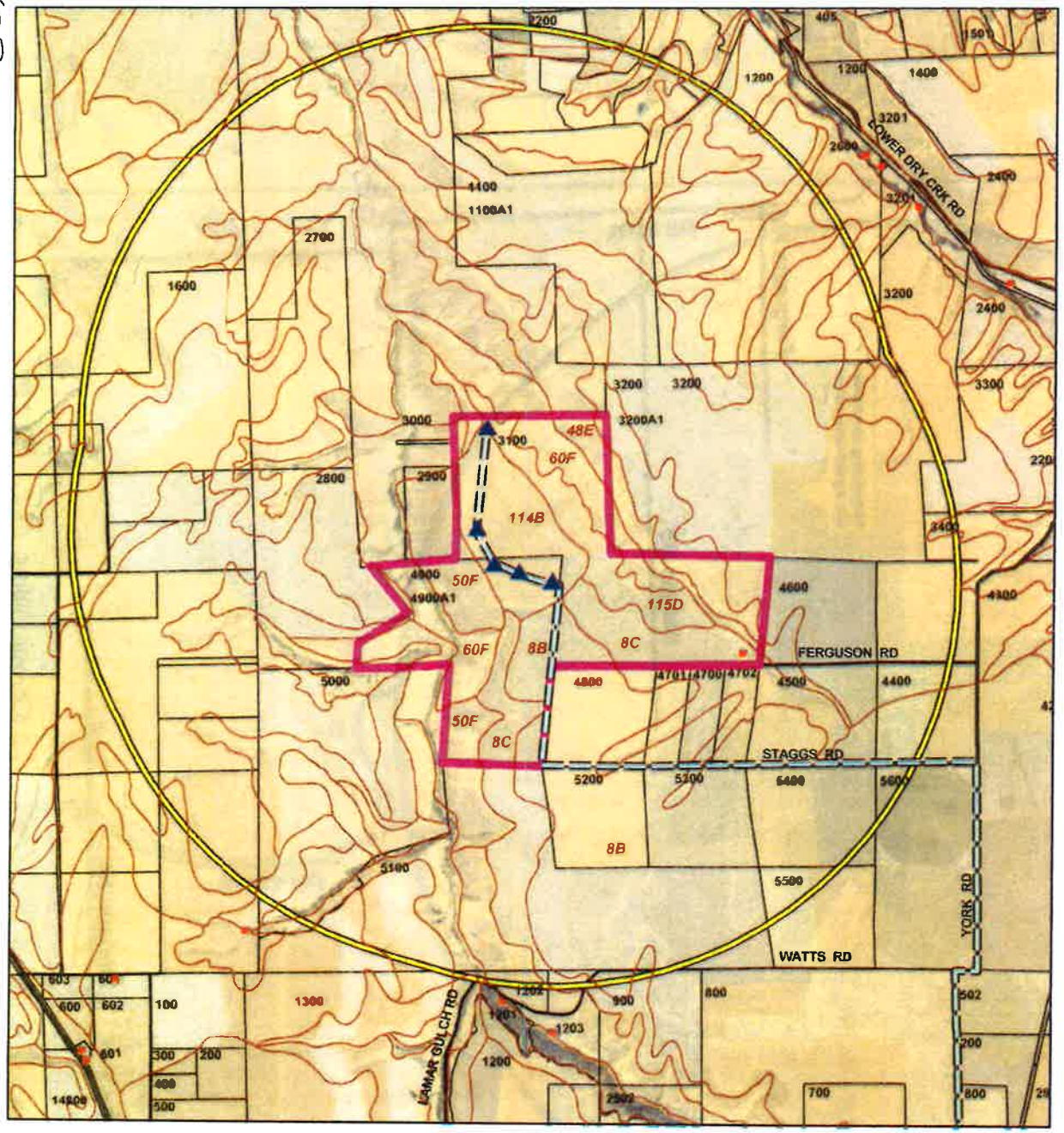


50


Walla Walla Valley
Ferndale
Sunnyside
Umapine
Gravel Pit
Milton-Freewater
Athena
Weston
Johnson Rd
2 miles from turbines
No Urban Growth Boundaries
No Unincorporated communities
Legend
Urban Growth Boundaries
2 mile setback from turbines
Project Boundary
Possible Turbine Models/layout
GE 1.7-103, hub height 80 m
Nordex N117, hub height 91 m
Vestas V110, hub height 80 m
Chopin Wind, LLC
1:60,000 1 inch = 5,000 feet
0 0.5 1 2 Miles
Setback Map
2 mile Urban Growth Boundary
Setback Requirement
1 mile Unincorporated Community
Setback Requirement
Prepared June 8, 2016
ALEXANDER


Powerline Ranch LLC
Harris Rd
Lower Dry Creek Rd
Participating Landowner with signed noise waiver
Ferguson Rd
Staggs Rd
York Rd
5N 35E
Watts Rd
4N 35E
Zerba Rd
Gulch Rd
Johnson Rd
Urban Growth Boundaries
2 mile setback from turbines
Project Boundary
Possible Turbine Models/layout
GE 1.7-103, hub height 80 m
Nordex N117, hub height 91 m
Vestas V110, hub height 80 m
Chopin Wind, LLC
Setback Map
2 mile residence setback
1:28,000 1 inch = 2,333 feet
0 0.25 0.5 1 Miles
Prepared Dec 20, 2015
ALEXANDER PROJECT SERVICES

52



Legend

- BayWa Chopin Project Area
- Proposed Turbine Site
- 2 Mile Buffer
- Home Site
- Proposed Transmission Line
- Soil Boundary
- A — Soil ID

2014 AERIAL PHOTO

N W E S

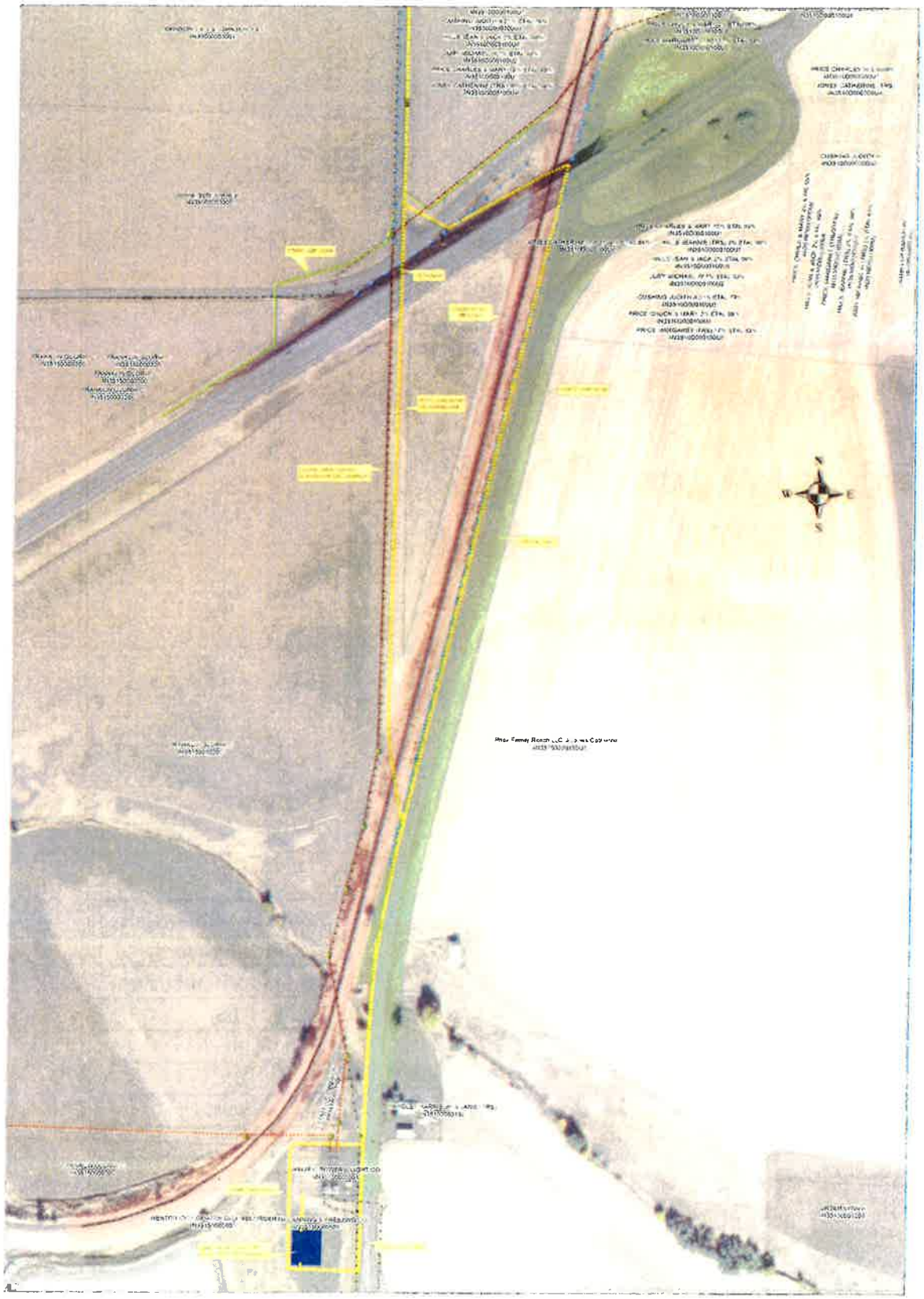
0.0 0.5 1.0 1.5
Miles

DATE: 1/4/16

MAP DISCLAIMER: No warranty is made by Umatilla County as to the accuracy, reliability or completeness of this data. Parcel data is for reference purposes only. Not intended for legal use. Created by Julie Alford, Umatilla County Planning Dept.

y:workspace/planning/vicinity maps/A-D/Bay1 1251_15.gws

CONDITIONAL USE REQUEST #C-1252-15 & LAND USE DECISION #LUD-194-15
BAYWA WIND, APPLICANT / FERGUSON RANCH INC., OWNER



1:1,525

0 200 400 Feet

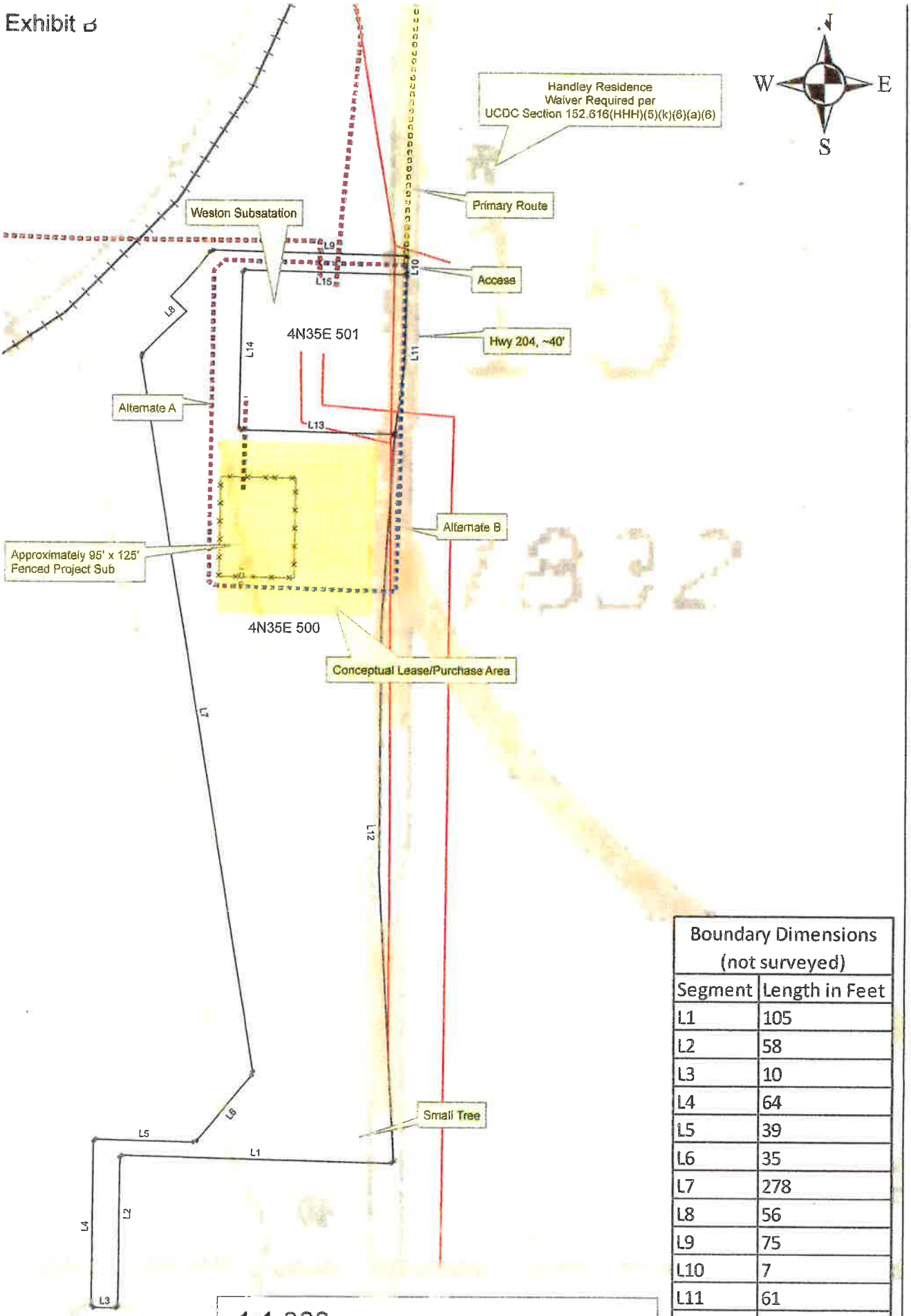
BayWa
Transmission Line Route

ALEXANDER PROJECT SERVICES

Prepared by APS
Dec 20, 2014

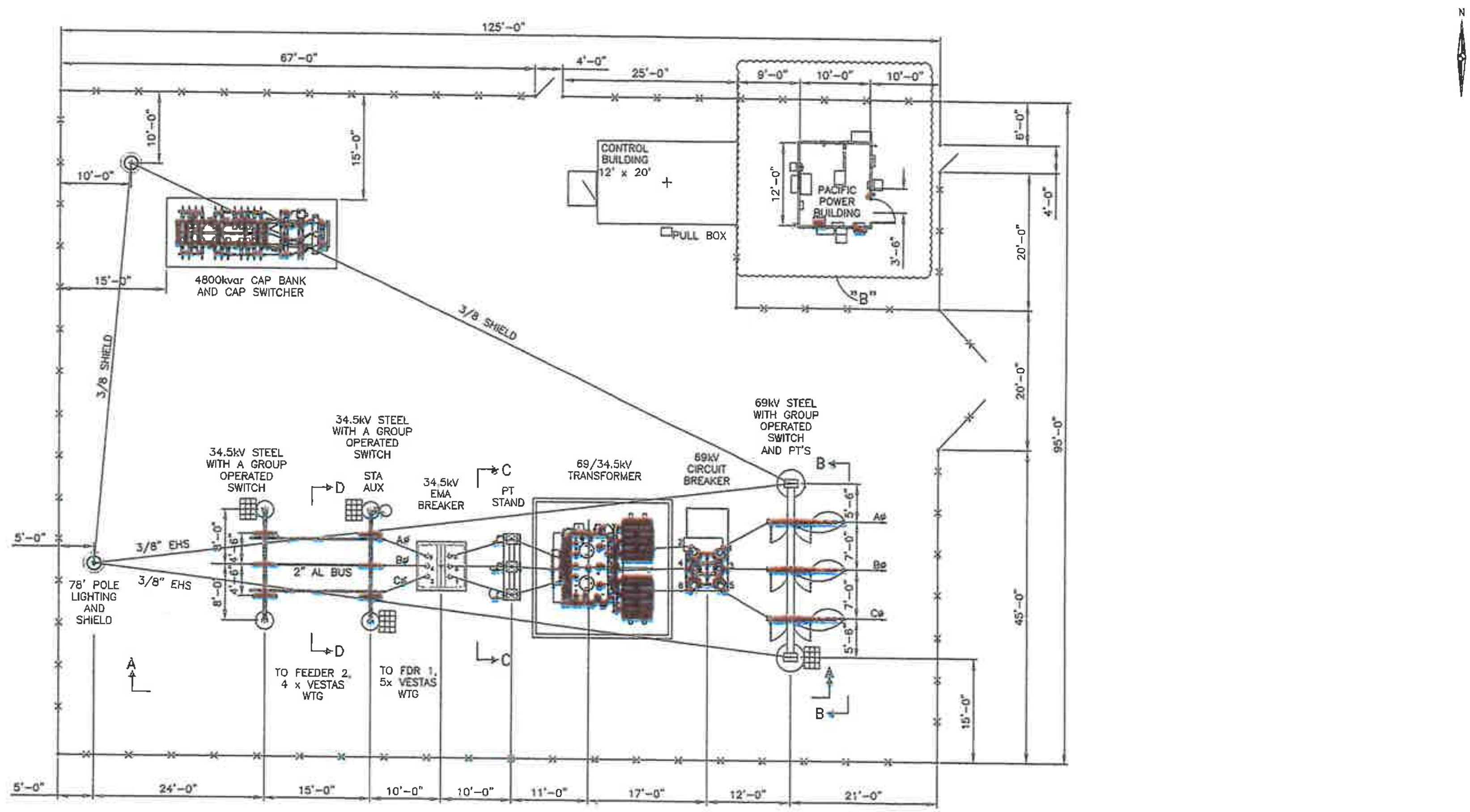
54

Exhibit B



Boundary Dimensions (not surveyed)	
Segment	Length in Feet
L1	105
L2	58
L3	10
L4	64
L5	39
L6	35
L7	278
L8	56
L9	75
L10	7
L11	61
L12	279
L13	59
L14	61
L15	62

55



PRELIMINARY

MINIMUM CLEARANCES	69kV	34.5kV
ø TO GROUND	25"	13"
MIN. METAL TO METAL	31"	18"
ABOVE GRADE IN SUB	11'	10'

NOTE:

ADD BOLLARDS FOR PHYSICAL PROTECTION OF 8" SCH 40 PVC.

SCALE: 1/8"=1'-0"

THIS LINE IS ONE INCH WHEN DRAWING IS FULL SIZE, IF NOT ONE INCH, SCALE ACCORDINGLY.

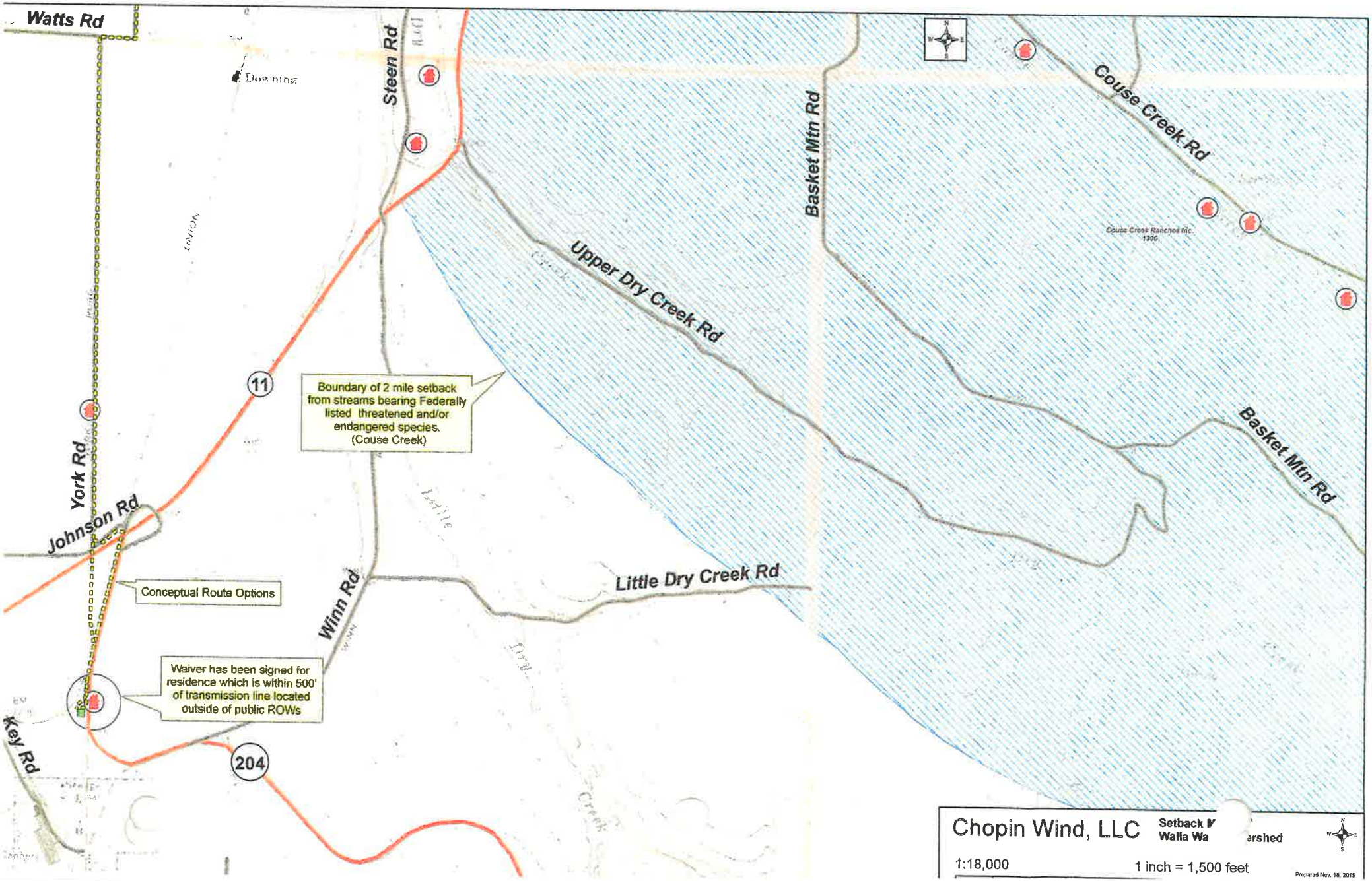
BayWa r.e. renewable energy

CEG CONSULTING ENGINEERS GROUP
FARMINGTON, MINNESOTA

CHOPIN WIND FARM SUBSTATION
ELECTRICAL LAYOUT PLAN

CHECKED JH
DATE 11/04/15
DRAWN MAK
DATE 11/02/15
SCALE: AS SHOWN
PROJECT# CEGBAY02
DWG. NO.
CHO-EL-01RB

56


Watts Rd
Steen Rd
Downing
Basket Mtn Rd
Couse Creek Rd
Couse Creek Ranches Inc.
1300
Upper Dry Creek Rd
Basket Mtn Rd
11
Boundary of 2 mile setback from streams bearing Federally listed threatened and/or endangered species. (Couse Creek)
York Rd
Johnson Rd
Conceptual Route Options
Winn Rd
Little Dry Creek Rd
Waiver has been signed for residence which is within 500' of transmission line located outside of public ROWs
Key Rd
204
Chopin Wind, LLC
Setback M
Walla Wa
ershed
1:18,000
1 inch = 1,500 feet
Prepared Nov. 18, 2015

Welcome to Umatilla County

Carol Johnson <carol.johnson@umatillacounty.net>

Conditional Use Permit Request #C-1252-15 and Land Use Decision #LUD-194-15, BayWa r.e. Wind, LLC

Teara Farrow Ferman <TearaFarrowFerman@ctuir.org> Thu, Jan 14, 2016 at 3:31 PM
To: "carol.johnson@umatillacounty.net" <carol.johnson@umatillacounty.net>

Carol,

The Confederated Tribes of the Umatilla Indian Reservation conducted the archaeological survey for this project and submitted the final report and recommendations to the Oregon State Historic Preservation Office. The recommendations were to have a cultural resources monitor be present during all ground disturbing activities. The CTUIR strongly recommends this be a condition within the conditional use permit.

Thank you,

TEARA FARROW FERMAN

Manager | Cultural Resources Protection Program

Confederated Tribes of the Umatilla Indian Reservation

46411 Timíne Way | Pendleton | Oregon 97801

541.276.3447 Office | 541.429.7230 Fax

TearaFarrowFerman@ctuir.org

E-mailed on January 18, 2016:

Dear Mr. Nerzig,

Thank you for your response to my previous letter regarding the request to put transmission lines underground.

More recently as stated by Carol Johnson (Umatilla County) and Granella Thompson, your firm agreed to put transmission lines underground instead of using above ground poles. That is very much appreciated by all of us affected by the planned installation of the transmission lines for the Chopin project. Thank you!

You may have already been contacted with regard to a request for putting transmission lines between the wind towers and York road via Ferguson road, in lieu of using Staggs road. There are several key reasons in favor of using Ferguson road as stated by Granella Thompson such as it being a more direct and closer route to the wind towers from York road. Ferguson road has already been widened and does not have high banks that will be created from widening Staggs road. Also, the Staggs road is used by four or more farmers to move their equipment, conflicting and presenting safety and economic issues with use of Staggs road for the Chopin project.

I support Granella Thompson's suggestions 100% as the Thompson family, who farm our property, has exceptional farming skills and experience to recognize the impact of the project on our farm and the other farms surrounding the wind tower project. Thank you for working with us on these issues!

Steve Thomason
sdtniblick@gmail.com
(253) 377-3622

Welcome to
Umatilla County

Carol Johnson <carol.johnson@umatillacounty.net>

Conditional Us Permit Request #C-1252-15

1 message

Charles Doughdrill <vp4cwd@msn.com> Tue, Jan 19, 2016 at 4:10 PM
To: "carol.johnson@umatillacounty.net" <carol.johnson@umatillacounty.net>
Cc: "Nerzig@baywa-re.us" <nerzig@baywa-re.us>

Dear Carol,

Thank you for returning my call and for the notice of public hearing regarding this project. I would appreciate consideration by the Planning Committee of my comments and objections. First, let me say, that on balance, I favor green power and that I also support Smith Frozen Foods in their effort to utilize same.

While I do not object to this request per se, I do object to the route of the underground transmission line as proposed. Instead of the route proposed along Staggs Rd, I would suggest that:

the transmission line run from the last turbine site, across Ferguson land to the Southeast corner of Tax Lot 3100, thence, along the North side of Ferguson Rd to York Rd and then South along York Rd to the substation, located on Tax Lot 500.

I offer the following rationale.

Staggs Rd, although designated a county road, is in reality a dead-end access road for farm equipment to reach the farms lying along this road and is not maintained during the winter months. Ferguson Rd, on the other hand, is maintained throughout the year and very little improvement, if any, would be required to place the transmission line there.

The proposed transmission line, as proposed, will adversely affect ten landowners and, at least, four farm operators along Staggs Rd. The route I suggest along Ferguson Rd will only impact two landowners, Tax Lot 4500 and Tax Lot 4400. While it will require more of the transmission line to cross Ferguson land, I feel certain it can follow existing field roads and should not be objectionable to Ferguson Ranch because they are the beneficiaries of the project. Furthermore, the original Chopin Wind Project had turbine sites extending East to York/Ferguson Rd and should there be need for additional turbines, it would most likely be along this line. I am puzzled why the developer did not propose this route in the first place.

In making this proposal to use Ferguson Road for the transmission line instead of Staggs Rd, I would like to reiterate that I am not against the project. In fact, the land interest I represent, Tax Lot 4400, would have an increased exposure to the transmission line. Nevertheless, keeping Staggs Rd a farming access road is more important to me. I believe this proposal reduces the impact on those who have no vested interest in the project and allows the interested parties a reasonable means of completion.

Sincerely,
Charles Doughdrill, Administrator
Elsie M. Killgore Trust
P.O. Box 1240
Fraser, CO 80442

RECEIVED
JAN 19 2016
UMATILLA CO.
PLANNING DEPT.

60

November 6, 2015

Chopin Wind, LLC
4365 Executive Drive
Suite 1470
San Diego, CA 92121

RE: Umatilla County farm land subject to potential power lines

Dear Chopin Wind, LLC:

Thank you for the opportunity to respond to the planned installation of 69 kV transmission lines and poles. We, as owners of the farmland, would like to learn more about the installation and provide our comments and suggestions to you.

We do object to new infrastructure for means of alternative energy when it interferes with the existing source of revenue and raises environmental issues. Some of the issues and concern with poles and transmission lines associated with the Chopin wind project are as follows:

- Poles and lines across existing land used for production of crops, thereby affecting potential revenue from farming operations due to land being used for transmission lines and not available for farming.
- Poles and lines located along property lines of farmland thereby increasing expenses to farm the land due to dusting planes unable to treat land close to the poles and lines. Manual spraying is not effective due to lessening effect of spray caused by tractor kicking up dust covering on weeds.
- Foundations of poles on or along farmland property lines pose for the inevitable breaking of tines on the plows, thereby making it difficult to properly prepare ground near the poles for farming.
- The poles and lines affecting the "bird way". We understand the wind towers are killing high numbers of migrating birds.
- The beauty of the rolling farm land we have enjoyed over the years from before the homesteading of the land is destroyed with above ground poles and lines. The 60 foot poles and lines are an "eyesore".

The following are questions or requests for additional information:

- May we have a map showing the poles and lines relative to the property lines for the entire length of the planned installation from the wind towers to the sub-station? Also, please show and identify the existing "Public Right of Ways"?
- What is the time frame for installation and completion of the project?
- What are the negatives with regard to putting the lines underground in lieu of on 60 foot poles?

Please provide information on future plans, i.e. additional wind towers, etc.... Thank you!

Sincerely,

Steve Thomason, (253) 377-3622 sdtniblick@gmail.com
Staggs-Thomason, LLC
M/A: 7383 SW View Park Rd, Port Orchard, WA

CC: Gary Edwards, gary@renuexec@gmail.com
Carole Johnson, Umatilla Planning Dept. Carol.johnson@Umatillacounty.net
Scott Thomason, sthomason@momentumautogroup.com
Grannella Thompson, Jessgranthompson@gmail.com

BRUCE WALKER, PH.D., INCE BD. CERT.
ACOUSTICAL ENGINEERING AND RESEARCH
676 WEST HIGHLAND DRIVE
CAMARILLO, CA 93010
805-484-8000
NOISEYBW@AOL.COM

December 16, 2015

Mr. Richard Nerzig
Chopin Wind, LLC
4365 Executive Drive, Suite 1470
San Diego, CA 92121

Subject: Chopin Wind project, Umatilla County, OR, updated review of revised configuration relative to acoustical impacts.

Dear Mr. Nerzig,

In accordance with your request, I have reviewed the study done by Channel Islands Acoustics (now retired) in 2010 for the Chopin project and made a comparison with the current revised plan options. In summary, based on information obtained as of December 12, 2015, the off-site noise levels resulting from any of the 10 MW revised project configurations would be well below the 36 dB(A) state noise standard and would be between 3 and 14 dB lower than predicted levels for the 99 MW project analyzed in 2010.

Figure 1 below shows the plan layouts of the original 99 MW and three alternative revised 10 MW Chopin Wind projects.

The original project consisted of 33 ea 3 MW Vestas V-112 turbines on 84-meter tall towers in two rows, with rated sound emission LWA 106.5 dB. The revised project consists of either 4 ea Nordex N117 on 91 meter towers, 5 ea 2 MW Vestas V-110 turbines on 80-meter tall towers or 6 ea GE 1.7-103 turbines on 80-meter tall towers, in a small cluster. In the figures, grid lines are 1,000 meters apart. In the original plan, the nearest residences were approximately 1,500 meters from the nearest turbine (with the exception of Ferguson, located between the two rows). In the revised plan, Ferguson is approximately 2,000 meters from the nearest turbine and all other residences are 3,500 m or more (two miles) from the nearest turbines.

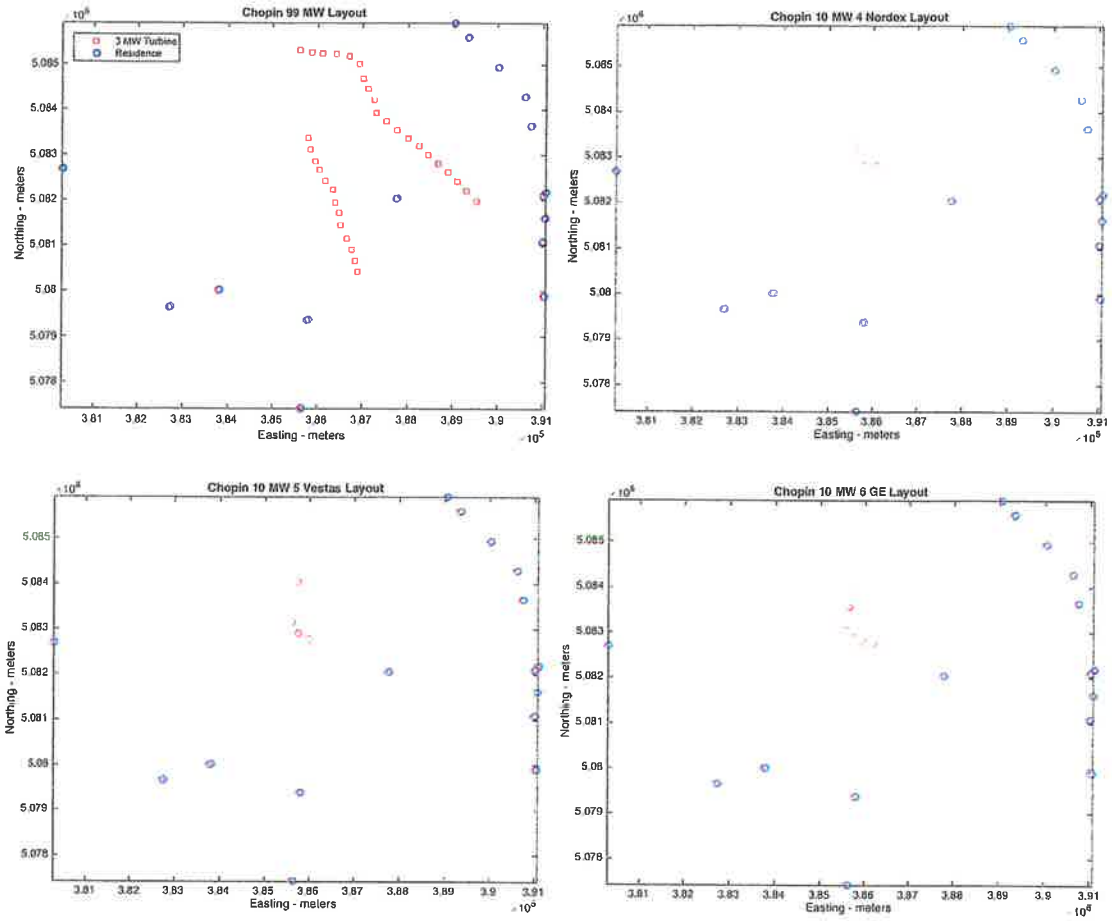


Figure 1. Configuration Plans of 99 MW and 10 MW Projects. Nearest Residences Shown in Blue

Noise contours on 5 dB increments were computed for the original using SoundPlan (ISO 9613) with turbine sound emission levels adjusted to LWA (A-weighted Sound Power Level) 110 dB from the manufacturer stated 106.5 dB per state policy at the time. Results are shown in Figure 2. With the exception of Ferguson, surrounding residences are just outside the 35 dB(A) contour.

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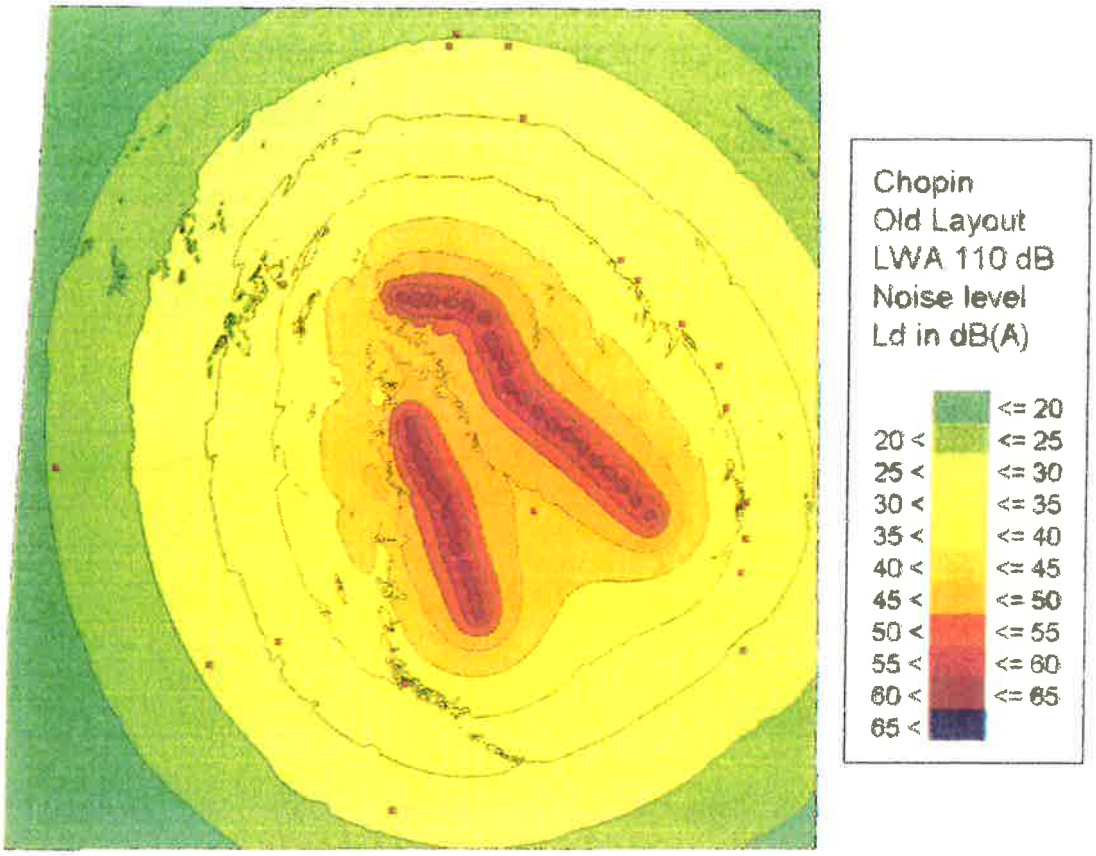

Figure 2. SoundPlan Noise Contour Model of Original 99 MW Project. Residences are Shown as Small Red Squares

A simplified SoundPlan model was used to compute residence location noise levels for the four configurations. Terrain configuration effects were ignored to reduce computation time. Turbine noise emissions were modeled in octave frequency bands as shown in Figure 3. Adjusted sound power levels were estimated from the manufacturer-provided worst case noise vs wind speed data in each octave band and corrected upward per state policy to be roughly comparable to the original modeling.

Nordex – 108.5 dB

Vestas – 111 dB

GE – 111 dB

Table 1. Project Noise Comparison (A-weighted SPL re 10 µPa), without Terrain Shielding

Name	X m	Y m	Z m	99 MW dB(A)	4 Nordex	5 Vestas	6 GE	Minimum Reduction
Res 1	380287	5082680	1.5	26.6	12.5	21.9	23.7	2.9
Res 2	382712	5079654	1.5	29.5	16.1	23.8	25.8	3.7
Res 3	383774	5080008	1.5	32.4	20.2	26.4	28.4	4
Res 4	385615	5077420	1.5	29.5	12.1	21.2	23.5	6
Res 5	385781	5079376	1.5	36.5	20.3	26.3	28.5	8
Ferguson	387749	5082042	1.5	43.8	29	32.5	35.4	8.4
Res 7	389026	5085905	1.5	35.6	17.3	25.2	27.2	8.4
Res 8	389319	5085587	1.5	35.6	17.1	25	27	8.6
Res 9	390007	5084927	1.5	35.2	16	24.1	26.2	9
Res 10	390602	5084276	1.5	34.8	14.6	23.1	25.3	9.5
Res 11	390725	5083640	1.5	35.7	14.6	23	25.3	10.4
Res 12	390988	5081089	1.5	34.4	12.4	21.5	23.9	10.5
Res 13	391008	5082108	1.5	36.0	13.3	22.1	24.5	11.5
Res 14	391024	5079899	1.5	31.5	10.5	20.4	22.7	8.8
Res 15	391049	5081615	1.5	35.2	12.8	21.8	24.1	11.1
Res 16	391067	5082182	1.5	35.7	13.2	22	24.4	11.3

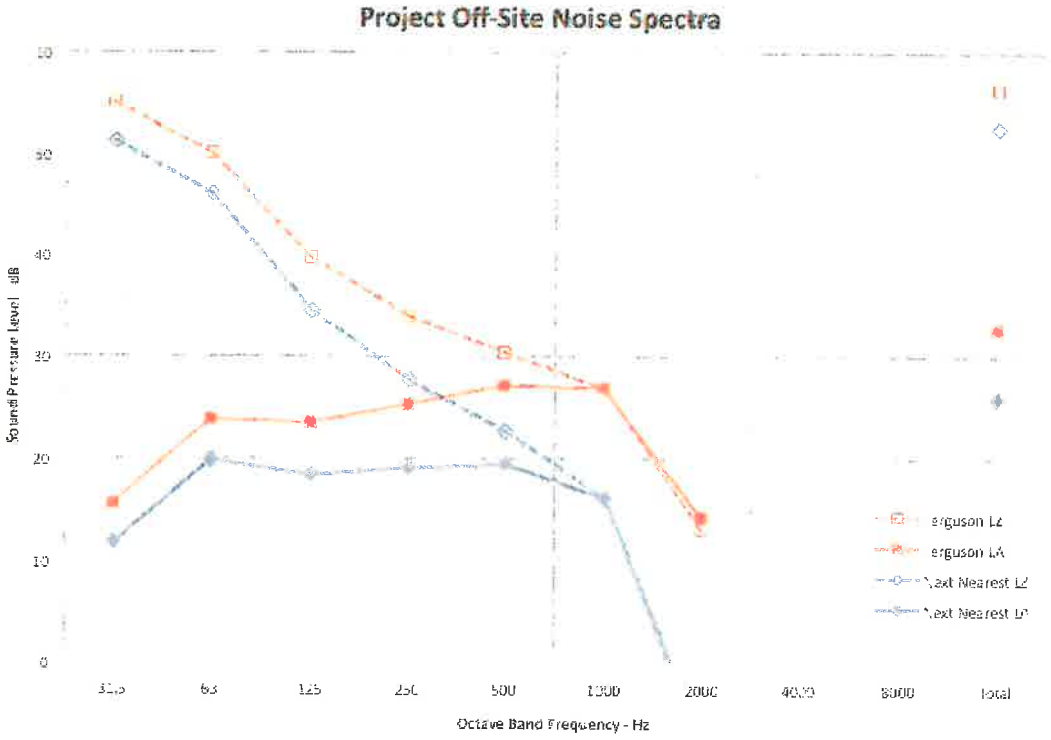

Figure 4. Example of Computed Off-Site Noise Spectra from 10 MW Project

lele

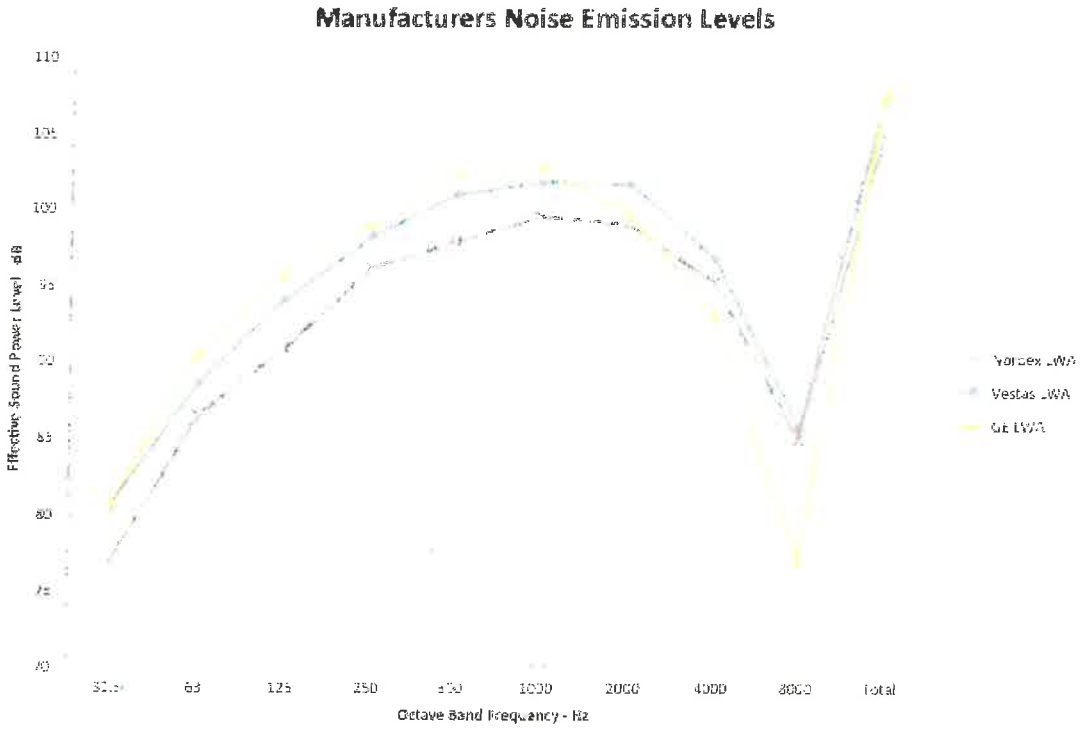

Figure 3. Manufacturers Noise Emission Spectrum the three alternative turbines

The results of the comparison computations are shown in Table 1. It may be noted that the Ferguson residence has been reduced to below 35 dB(A), all other residence locations are well below 35 dB(A) and most are below the state's presumptive 26 dB(A) ambient noise level.

Representative A-weighted and Z-Weighted octave band spectra computed by SoundPlan are shown in Figure 4. Components above 2,000 Hz are below 0 dB due to atmospheric absorptionl The predicted overall Sound Pressure Level (unweighted or Z-weighted) at the nearest off-site residence location is 52-53 dB while the predicted A-weighted level is 26 dB. The spectrum Next Nearest LZ corresponds to Preferred Noise Criterion 20, which is 5 points below the bottom of the PNC 25-40 range recommended for bedrooms in Beranek *Noise and Vibration Control* (p 585).

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An issue that has come to the fore in the time since the original 99 MW project analysis is the sound frequency range below 20 Hz, or "Infrasound." For five turbines at a distance of 4,000 meters, infrasound is very unlikely to have a significant effect, but the following is a brief overview in case the issue is raised.

It should be noted that various explanations and theories are being posited for explaining the subjective impact of turbine infrasound. Much of the lore is based on studies conducted at signal amplitudes many, sometimes thousands, of times greater than experienced at reasonable distances from wind turbines.

A turbine rotor turning in a stratified flow field radiates a pressure fluctuation that is periodic at a frequency equal to the rotation rate time the blade count. In a narrow region upwind of the support tower the interaction between the turbine blade and the tower results in radiated pulses that are typically approximately 88 dB in peak level at 100 meters and 1/10 to 1/5 seconds in width. A measured wave example 150 meters from a 2.7 MW turbine is shown in Figure 5. Sound Pressure 0.4 pascals (Pa) corresponds to peak sound pressure level 86 dB. The shaft order spectrum for this wave is also shown in Figure 5. [To convert from shaft order to frequency, divide by approximately 4.]

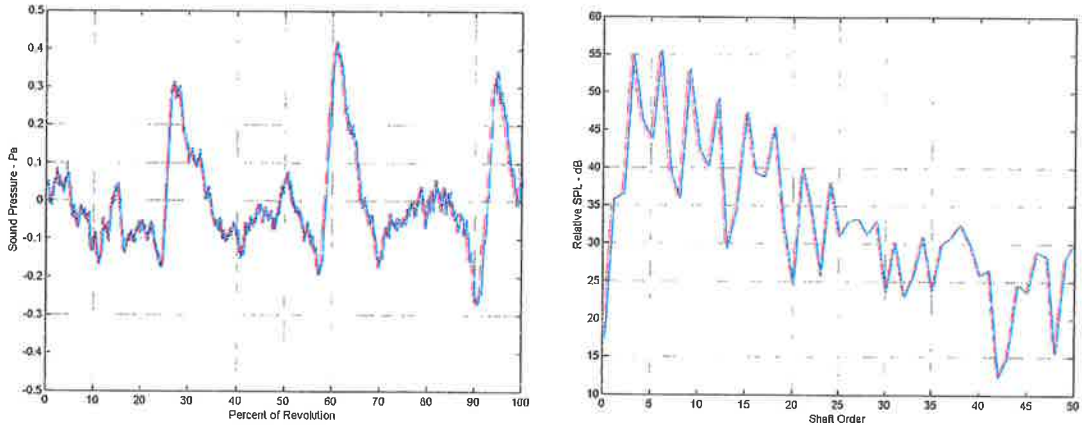

Figure 5. Measured Wave Form and Shaft Order Spectrum of Turbine Infrasound at 150 meters

It is seen from the spectrum that most of the energy is below shaft order 25 (6 Hz). Downwind sound propagation at these very low frequencies has been shown to be slower than the normal spherical divergence rate of 6 dB per distance doubling. Computed pulse peak SPL for 4000 meters downwind is 68-69 dB for a single turbine. The effect of multiple turbines on these pulse waves is also different from the usual 3 dB per doubling of sources, and is dependent upon the relative synchronization of the turbines. The theoretical maximum combined effect for 5 turbines would be +14 dB, or a total of 82-83 dB peak SPL at 4000 meters. For turbines running at slightly different speeds, this theoretical maximum increase is highly improbable. For a technical paper at the International Wind Turbine Noise conference in 2011, a five-turbine array was modeled for 6 hours of operation and the peak SPL relative to that of a single turbine was computed once per rotation.

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The +14 condition was never encountered, and the single turbine level was exceeded by 10 dB or more only once, for about one minute.

Controlled tests of synthesized pulses with spectra similar to Figure 5 have shown that peak levels of 94-100 dB (12-18 dB above the theoretical maximum for five turbines at 4000 meters) are required to elicit subjective response. Recent data from Australia has shown that some turbines produce pulses with spectral components that extend into the audible frequency range, illustrated by the spectral peaks in the range 40-55 Hz in Figure 6. Although at 4,000 meters, these sounds would be below hearing threshold, the turbine manufacturer should provide assurance that no blade-passage periodic signal components are audible at residences.

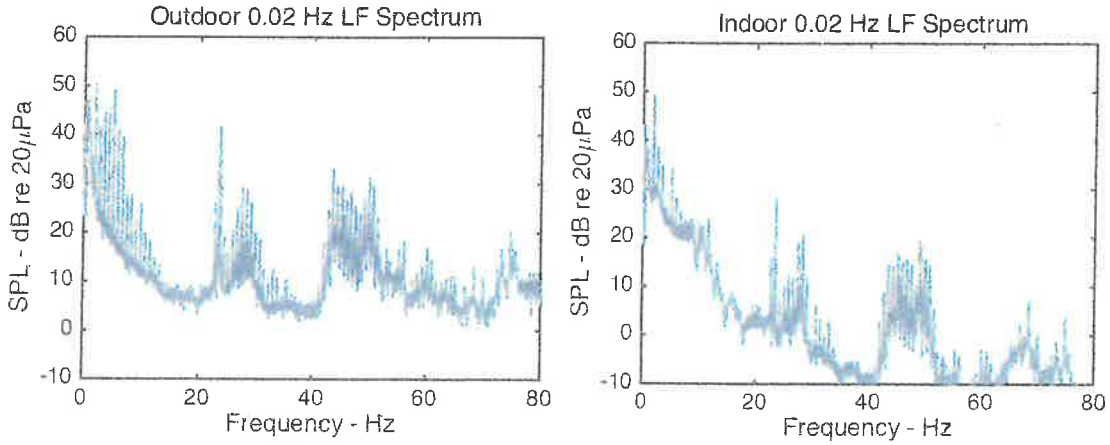

Figure 6. Outdoor and Indoor Spectra from Australian Data, 1400 meters from Nearest Turbine

In conclusion, comparison calculations show that all three of the the revised 10 MW configurations at Chopin Wind development would produce several dB less audible noise at surrounding residences and would be well below the 36 dB(A) state noise limit. Low-frequency noise from the five-turbine array would be below accepted levels for bedroom environments. Turbine-generated infrasound would be at a level that has not been demonstrated to elicit subjective response in absence of synchronized audible signals.

Respectfully,

Bruce Walker

Bruce Walker, Ph.D., INCE Bd. Cert.

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1. NOXIOUS WEED OCCURRENCES AND DENSITIES FOR THE PROJECT WILL NEED TO BE IDENTIFIED AND RECORDED BY QUALIFIED INVESTIGATORS.
2. PRIOR TO CONSTRUCTION COMMENCING, IT IS RECOMMENDED THAT THE CONTRACTOR AND ANY SUBCONTRACTORS ATTEND AND ACQUIRE INFORMATION AND TRAINING REGARDING NOXIOUS WEED MANAGEMENT, WEED IDENTIFICATION, AND THE IMPACTS OF THE NOXIOUS WEEDS ON AGRICULTURE, LIVESTOCK AND WILDLIFE.
3. ANY NOXIOUS WEED AREAS OF CONCERN SHOULD BE IDENTIFIED AND FLAGGED IN THE FIELD BY THE QUALIFIED INVESTIGATORS OR THEIR REPRESENTATIVES ON SITE.

PREVENTATIVE MEASURES:

1. TRAINING
   1.1. EMPLOYEE TRAINING AND AWARENESS PROGRAMS TO IDENTIFY AND PROTECT NOXIOUS WEED SPECIES.
2. CLEANING
   2.1. ALL CONSTRUCTION EQUIPMENT SHALL BE CLEANED PRIOR TO ENTERING THE PROJECT SITE AND PRIOR TO LEAVING THE PROJECT SITE.
   2.2. CLEANING SHALL BE COMPLETED BY THE USE OF MEANS TO REMOVE SEEDS, ROOTS AND ANY SOIL DEBRIS FROM THE ENTIRE VEHICLE, THIS SHALL INCLUDE BUT IS NOT LIMITED TO TIRES, UNDERCARRIAGE, BUMPERS, TRAILERS, VEHICLE CABS, ETC.
   2.3. ALL EQUIPMENT CLEANING STATIONS SHALL BE NOTED ON PLAN AND THE LOCAL JURISDICTIONAL CONTACT SHALL BE NOTIFIED OF SUCH LOCATIONS.
   2.4. CLEANING STATIONS SHALL BE KEPT WEED FREE BY THE USE OF ALLOWED HERBICIDES BY UMATILLA COUNTY, OR APPROVED EQUAL. HERBICIDES SHALL BE APPROVED WITH THE LOCAL JURISDICTION PRIOR TO BEING USED.
   2.5. THE CONTRACTOR, WITH OVERSIGHT FROM AN ENVIRONMENTAL INSPECTOR, SHALL ENSURE THAT VEHICLES AND EQUIPMENT ARE FREE OF SOIL AND DEBRIS CAPABLE OF TRANSPORTING NOXIOUS WEED SEEDS, ROOTS, AND SOIL DEBRIS BEFORE THE VEHICLES AND EQUIPMENT ARE ALLOWED USE OF PROJECT ACCESS ROADS.
3. SOIL MANAGEMENT
   3.1. AREAS WHERE NOXIOUS WEEDS HAVE BEEN IDENTIFIED AND FLAGGED THAT NEED TO BE STRIPPED FOR CONSTRUCTION ACTIVITIES, SHALL BE STOCKPILED IN LOCATIONS NEAR THEIR ORIGINATION. WEED INFESTED STOCKPILES SHALL BE PROPERLY MARKED AND PLANNED TO BE PLACED IN AREAS FROM WHICH THEY WERE STRIPPED TO REDUCE THE TRANSPORTATION OF SEEDS, ROOTS AND SOIL DEBRIS. STOCKPILES SHALL HAVE THE PROPER EROSION AND SEDIMENT CONTROL MEASURES INSTALLED TO REDUCE THE AMOUNT OF EXPOSED SOILS THAT MAY BE TRANSPORTED BY STORM WATER, WIND OR OTHER CONVEYANCE METHODS.
   3.2. DISTURBED PROJECT AREA THAT IS NO LONGER BEING ACTIVELY GRADED SHALL BE REVEGETATED TO PREVENT THE INVASION OF NOXIOUS WEEDS.

TREATMENT METHODS:

1. ALL TREATMENTS MUST BE APPROVED BY UMATILLA COUNTY OR ANY OTHER JURISDICTIONAL AUTHORITIES.
2. ANY HERBICIDAL CHEMICALS USED FOR TREATMENT OF NOXIOUS WEEDS MUST BE APPROVED BY UMATILLA COUNTY OR ANY OTHER JURISDICTIONAL AUTHORITIES. ANY SPILLS ASSOCIATED WITH HERBICIDAL APPLICATION SHALL BE CLEANED IMMEDIATELY.
3. PRE-CONSTRUCTION HERBICIDAL TREATMENTS OF WEED INFESTATIONS MAY BE CONDUCTED TO REDUCE INFESTATIONS PRIOR TO PROJECT DISTURBANCE. ONLY TARGETED NOXIOUS WEEDS SHALL BE TREATED, METHODS SHALL BE USED TO PRESERVE EXISTING VEGETATION THAT ARE NOT IDENTIFIED AS NOXIOUS WEEDS.
4. POST-CONSTRUCTION HERBICIDAL TREATMENTS MAY BE USED AFTER THE SEEDBED HAS BEEN ESTABLISHED AND NOXIOUS WEEDS CAN BE IDENTIFIED. HERBICIDAL APPLICATIONS SHALL BE CONTROLLED TO MINIMIZE IMPACTS TO SURROUNDING VEGETATION. SEEDING SHALL BE COMPLETED FOLLOWING TREATMENT TO RE-VEGETATE INFESTATION AREAS.
5. MOWING OR DISCING INFESTATION AREAS AND SEEDING AS SOON AS POSSIBLE TO REVEGETATE DISTURBED AREA TO SLOW THE RE-INVASION OF NOXIOUS WEEDS.
6. SEEDING AND RE-VEGETATION OF DISTURBED AREAS SHALL FOLLOW IMMEDIATELY AFTER CONSTRUCTION ACTIVITIES.

MONITORING:

1. MONITORING OF ALL RE-VEGETATED AREAS SHALL BE COMPLETED THROUGHOUT THE DURATION OF THE PROJECT RE-VEGETATION TIMELINE, AND SHALL BE COMPLETED DURING THE GROWING SEASONS.
2. IF MONITORING IDENTIFIES AREAS OF NOXIOUS WEED GROWTH, TREATMENT METHODS SHALL BE IMPLEMENTED TO REDUCE THE POPULATION OF THE NOXIOUS WEEDS.
3. ALL MONITORING REPORTS SHALL BE SUBMITTED TO UMATILLA COUNTY AND ANY OTHER JURISDICTIONAL AUTHORITIES.

RE-VEGETATION:

1. THE CONTRACTOR SHALL COORDINATE THE SEEDING OPERATIONS WITH THE GRADING OPERATIONS TO DETERMINE MOBILIZATION FREQUENCY AS EMBANKMENT AND CUT SLOPES ARE FINISHED THROUGHOUT THE DURATION OF THE PROJECT. SEEDING SHALL BE DONE DURING SUITABLE WEATHER AND SOIL CONDITIONS FOR TILLAGE AND PLACEMENT OF MATERIALS. SEEDING OPERATIONS SHALL NOT BE PERFORMED WHEN WIND WOULD PREVENT UNIFORM APPLICATION OF MATERIALS OR WOULD CARRY SEEDING MATERIALS INTO AREAS NOT DESIGNATED TO BE SEEDED.
2. FOLLOWING FINAL GRADING, THE AREAS TO BE RE-VEGETATED SHALL BE PREPARED WITH A RIPPER BAR, CHISEL PLOW OR WITH OTHER MECHANICAL DEVICES WHICH WILL PROVIDE THOROUGH SOIL CULTIVATION. FOR AREAS TOO STEEP TO BE PREPARED FOR SEEDING AFTER THE SLOPE HAS BEEN COMPLETED, TILLAGE SHALL BE ACCOMPLISHED WITH APPROPRIATE EQUIPMENT AS THE SLOPE IS BEING CONSTRUCTED. ON SLOPE AREAS, ALL TILLAGE SHALL BE DIRECTIONAL ALONG THE CONTOURS OF THE AREAS INVOLVED. ALL AREAS WHICH ARE ERODED SHALL BE RESTORED TO THE SPECIFIED CONDITION, GRADE AND SLOPE AS SHOWN ON PLANS PRIOR TO SEEDING.
3. CUT SLOPES FLATTER THAN 3:1 (HORIZONTAL TO VERTICAL) SHALL BE TILLED TO A MINIMUM DEPTH OF 12 INCHES. FILL SLOPES FLATTER THAN 3:1 (HORIZONTAL TO VERTICAL) SHALL BE TILLED TO A MINIMUM DEPTH OF 6 INCHES.
4. DEBRIS/TRASH/ROCKS OF SIGNIFICANT SIZE SHALL BE REMOVED PRIOR TO TILLING AND SEEDING OF SOIL.
5. SOIL TESTING SHALL BE COMPLETED PRIOR TO PERMANENT SEEDING COMMENCING TO DETERMINE IF FERTILIZERS AND/OR SOIL AMENDMENTS ARE NECESSARY FOR RE-VEGETATION GROWTH.
6. APPLY FERTILIZERS AND/OR SOIL AMENDMENTS AS NECESSARY FOLLOWING SOIL TESTING.
7. TEMPORARY AND PERMANENT SEED APPLICATION SHALL BE IMPLEMENTED UTILIZING DRILL SEEDING, HYDROSEEDING OR BROADCASTING.
   - 7.1. DRILL SEEDING WITH STRAW MULCH AND HYDROSEEDING SHALL BE CONSIDERED AS THE PREFERRED METHOD OF SEED APPLICATION.
   - 7.2. SEEDS NOT SUITABLE FOR DRILL SEEDING AND HYDROSEEDING SHALL BE BROADCASTED MANUALLY AFTER THE FINAL SOIL TILLAGE.
   - 7.3. STRAW MULCH OR HYDRAULICALLY APPLIED STRAW MULCH SHALL BE APPLIED ON DRILLED OR HYDROSEEDED AREAS WITH CRIMPING AND TACKING WITHIN 24 HOURS OF SEED APPLICATION.
8. TEMPORARY SOIL STABILIZATION SHALL BE COMPLETED USING THE SEED MIXTURE QUICKGUARD, A STERILE, NON-RESEEDING VEGETATION BY GRANITE SEED. APPLICATION RATES FOR QUICKGUARD CAN BE FOUND IN TABLE 3.
9. PERMANENT SOIL STABILIZATION SHALL USE THE SEED MIXTURE IN TABLE 4 OR APPROVED EQUAL.

TABLE 3: TEMPORARY SEED APPLICATION RATES FOR QUICKGUARD	
APPLICATION METHOD	APPLICTION RATE (LB/ACRE)
DRILL SEEDING	60 LB/ACRE
HYDROSEEDING	80 LB/ACRE
BROADCAST SEEDING	100 LB/ACRE

TABLE 4: PERMANENT SEED APPLICATION RATES	
SEED MIX	APPLICTION RATE (LB/ACRE)
INDIAN RICE GRASS	4 LB/ACRE
SQUIRREL TAIL	2 LB/ACRE
SLENDER WHEAT GRASS	3 LB/ACRE
IDAHO FESCUE	1 LB/ACRE
BASIN WILD RYE	3 LB/ACRE
SANDBURG BLUEGRASS	0.5 LB/ACRE
BLUEBUNCH WHEAT GRASS	3 LB/ACRE
QUICKGUARD	2 LB/ACRE

BMP MATRIX FOR CONSTRUCTION PHASES

	Clearing	Mass Grading	Utility Installation	Civil & Turbine Foundation Const.	Turbine Erection	Final Stabilization	Wet Weath (Oct. 1-May 31st)
Erosion Prevention							
Preserve Natural Vegetation	**X	X	X	X	X	X	X
Ground Cover							
Hydraulic Applications							
Plastic Sheeting	X	X					
Matting							
Dust Control	X	X	X	X	X		X
Temporary/Permanent Seeding	X	X	X	X	X	X	X
Buffer Zone							
Other: EC Blankets		X		X	X	X	X
Sediment Control							
Sediment Fence (Perimeter)							
Sediment Fence (Interior)	**X	X	X	X	X		X
Straw Waddles		X		X			X
Filter Berm							
Inlet Protection							
Dewatering					X		
Sediment Trap							
Other:							
Run Off Control							
Construction Entrance	X	X	X	X	X		X
Pipe Slope Drain							
Outlet Protection							
Surface Roughening	X	X	X	X	X		X
Check Dams	X	X		X			X
Other:							
Poilution Prevention							
Proper Signage	X	X	X	X	X	X	X
Hazardous Waste Management	X	X	X	X	X	X	X
Spill Kit On-Site	X	X	X	X	X	X	X
Concrete Washout Area				X	X		
Other:							

** Signifies BMP will be installed prior to any upslope disturbance

INSPECTION FEQUENCY	
1. ACTIVE PERIOD	DAILY WHEN STORMWATER RUNOFF, INCLUDING RUNOFF FROM SNOWMELT, IS OCCURRING
2. PRIOR TO THE SITE BECOMING INACTIVE OR IN ANTICIPATION OF SITE INACCESSIBILITY	ONCE TO ENSURE THAT EROSION AND SEDIMENT CONTROL MEASURES ARE IN WORKING ORDER. ANY NECESSARY MAINTENANCE AND REPAIR MUST BE MADE PRIOR TO LEAVING THE SITE
3. INACTIVE PERIODS GREATER THAN SEVEN (7) CONSECUTIVE CALENDER DAYS	ONCE EVERY TWO (2) WEEKS
4. PERIODS DURING WITH THE SITE IS INACCESSIBLE DUE TO INCLEMENT WEATHER	IF PRACTICAL, INSPECTIONS MUST OCCUR DAILY AT A RELEVANT AND ACCESSIBLE DISCHARGE POINT OR DOWNSTREAM LOCATION

SY

STANDARD EROSION & SEDIMENT CONTROL PLAN DRAWING NOTES

HOLD A PRE-CONSTRUCTION MEETING OF PROJECT CONSTRUCTION PERSONNEL THAT INCLUDES THE INSPECTOR TO DISCUSS EROSION AND SEDIMENT CONTROL MEASURES AND CONSTRUCTION LIMITS. (SCHEDULE A.5.B.ii.(3))

THE ESCP MUST BE KEPT ONSITE AND ALL EROSION AND SEDIMENT CONTROL MEASURES SHOWN ON THE PLAN MUST BE INSTALLED IN SUCH A MANNER TO ENSURE THAT SEDIMENT OR SEDIMENT LADEN WATER THAT ENTERS OR IS LIKELY TO ENTER SURFACE WATERS OR CONVEYANCE SYSTEMS LEADING TO SURFACE WATER, ROADWAY, OR OTHER PROPERTIES DOES NOT OCCUR. (SCHEDULE A.3.A.) AND (SCHEDULE B.3.B.)

THE IMPLEMENTATION OF THE ESCP AND CONSTRUCTION, MAINTENANCE, REPLACEMENT, AND UPGRADING OF THE EROSION AND SEDIMENT CONTROL MEASURES IS THE RESPONSIBILITY OF THE PERMIT REGISTRANT UNTIL ALL CONSTRUCTION IS COMPLETED AND APPROVED BY THE LOCAL DEVELOPMENT AGENCY AND VEGETATION/LANDSCAPING IS ESTABLISHED. (SCHEDULE A.4.A.) AND (SCHEDULE D.3.)

THE PERMIT REGISTRANT MUST BE RESPONSIBLE FOR PROPER INSTALLATION AND MAINTENANCE OF ALL EROSION AND SEDIMENT CONTROL MEASURES, IN ACCORDANCE WITH LOCAL, STATE, OR FEDERAL REGULATIONS. (SCHEDULE A.5.A.) AND (SCHEDULE A. 5.A.)

EROSION AND SEDIMENT CONTROL MEASURES INCLUDING PERIMETER SEDIMENT CONTROL MUST BE IN PLACE BEFORE VEGETATION IS DISTURBED AND MUST REMAIN IN PLACE AND BE MAINTAINED, REPAIRED, AND PROMPTLY IMPLEMENTED FOLLOWING PROCEDURES ESTABLISHED FOR THE DURATION OF CONSTRUCTION, INCLUDING PROTECTION FOR ACTIVE STORM DRAIN INLETS AND CATCH BASINS AND APPROPRIATE NON-STORMWATER POLLUTION CONTROLS. (SCHEDULE A.5.B.ii.(2)), (SCHEDULE A.5.B.ii.(7)), (SCHEDULE A.7.D.i.(2)) & (SCHEDULE A.7.F.)

BEGIN LAND CLEARING, EXCAVATION, TRENCHING, CUTTING OR GRADING AND EARTHWORK-SURFACE ROUGHING AFTER INSTALLING APPLICABLE SEDIMENT, EROSION PREVENTION AND RUNOFF CONTROL MEASURES NOT IN THE DIRECT PATH OF WORK. (SCHEDULE A.5.B.ii.(5)(A)), (SCHEDULE A.7.C.i.(1)) AND (SCHEDULE A.7.C.ii.(1))

APPLY TEMPORARY AND/OR PERMANENT SOIL STABILIZATION MEASURES IMMEDIATELY ON ALL DISTURBED AREAS AS GRADING PROGRESSES AND FOR ALL ROADWAYS INCLUDING GRAVEL ROADWAYS. (SCHEDULE A.5.B.ii.(5) (8), (SCHEDULE A.5.B.ii.(5)(C) & SCHEDULE A.5.B.ii.(6).)

WET WEATHER BMPS: CONSTRUCTION ACTIVITIES MUST AVOID OR MINIMIZE EXCAVATION AND CREATION OF BARE GROUND ON SLOPES GREATER THAN FIVE (5) PERCENT FROM OCTOBER 1 THROUGH MAY 31 EACH YEAR. (SCHEDULE A.7.A.i.)

WET WEATHER BMPS: TEMPORARY STABILIZATION OF THE SITE MUST BE INSTALLED AT THE END OF THE SHIFT BEFORE A HOLIDAY OR WEEKEND OR AT THE END OF EACH WORKDAY IF RAINFALL IS FORECAST IN THE NEXT 24 HOURS AND EACH WEEKEND AND HOLIDAY. (SCHEDULE A.7.A.ii.)

0. IDENTIFY, MARK, AND PROTECT (BY FENCING OFF OR OTHER MEANS) CRITICAL RIPARIAN AREAS AND VEGETATION INCLUDING IMPORTANT TREES AND ASSOCIATED ROOTING ZONES AND VEGETATION AREAS TO BE PRESERVED. IDENTIFY VEGETATIVE BUFFER ZONES BETWEEN THE SITE AND SENSITIVE AREAS (E.G., WETLANDS), AND OTHER AREAS TO BE PRESERVED, ESPECIALLY IN PERIMETER AREAS. PRESERVE EXISTING VEGETATION AND RE-VEGETATE OPEN AREAS WHEN PRACTICABLE BEFORE AND AFTER GRADING OR CONSTRUCTION. (SCHEDULE A.5.B.i.(1) & (2)) AND (SCHEDULE A.7.C.iii.(1))
1. PROVIDE PERMANENT EROSION PREVENTION MEASURES ON ALL EXPOSED AREAS TO PREVENT FROM BECOMING A SOURCE OF EROSION AND REMOVE ALL TEMPORARY CONTROL MEASURES, UNLESS LOCAL ORDINANCES REQUIRE OTHERWISE, AS AREAS ARE STABILIZED. (SCHEDULE A.5.B.ii.(8)) AND (SCHEDULE A.7.C.ii.(2))
2. ALL TEMPORARY SEDIMENT CONTROLS MUST REMAIN IN PLACE UNTIL PERMANENT VEGETATION OR OTHER PERMANENT COVERING OF EXPOSED SOIL IS ESTABLISHED. IDENTIFY THE TYPE OF VEGETATIVE SEED MIX USED. (SCHEDULE A.7.C.iii.(3)) & (SCHEDULE A.7.C.iii.(4))
3. SEDIMENT CONTROLS MUST BE INSTALLED AND MAINTAINED ALONG THE SITE PERIMETER ON ALL DOWN GRADIENT SIDES OF THE CONSTRUCTION SITE AND AT ALL ACTIVE AND OPERATIONAL INTERNAL STORM DRAIN INLETS AT ALL TIMES DURING CONSTRUCTION. (SCHEDULE A.7.D.i.(1) - (2))
4. PRIOR TO ANY LAND DISTURBING ACTIVITIES EACH SITE MUST HAVE GRAVELED, PAVED, OR CONSTRUCTED ENTRANCES, EXITS AND PARKING AREAS WITH EXIT TIRE WASH TO REDUCE THE TRACKING OF SEDIMENT ONTO PUBLIC OR PRIVATE ROADS. (SCHEDULE A.7.D.ii.(1))
5. WHEN TRUCKING SATURATED SOILS FROM THE SITE, EITHER WATERTIGHT TRUCKS MUST BE USED OR LOADS MUST BE DRAINED ON-SITE UNTIL DRIPPING HAS BEEN REDUCED TO MINIMIZE SPILLAGE ON ROADS. (SCHEDULE A.7.D.iii(3))
6. TEMPORARY STABILIZATION OR COVERING OF SOIL STOCKPILES AND PROTECTION OF STOCKPILE LOCATED AWAY FROM CONSTRUCTION ACTIVITY MUST OCCUR AT THE END OF EACH WORKDAY OR OTHER BMPS, SUCH AS DIVERSION OF UNCONTAMINATED FLOWS AND INSTALLATION OF SEDIMENT FENCES AROUND STOCKPILES, MUST BE IMPLEMENTED TO PREVENT TURBID DISCHARGES TO SURFACE WATERS. (SCHEDULE A.7.E.i.(1)) & (SCHEDULE A.7.E.ii.(1) - (3))
17. BMPS WILL BE USED TO PREVENT OR MINIMIZE STORMWATER FROM BEING EXPOSED TO POLLUTANTS FROM SPILLS, NO DISCHARGE OF CONCRETE TRUCK WASH WATER, VEHICLE AND EQUIPMENT CLEANING, VEHICLE AND EQUIPMENT FUELING, MAINTENANCE, AND STORAGE, OTHER CLEANING AND MAINTENANCE ACTIVITIES, AND WASTE HANDLING ACTIVITIES. THESE POLLUTANTS INCLUDE FUEL, HYDRAULIC FLUID, AND OTHER OIL FROM VEHICLES AND MACHINERY, AS WELL AS DEBRIS, LEFTOVER PAINTS, SOLVENTS, AND GLUES FROM CONSTRUCTION OPERATIONS. (SCHEDULE A.7.E.i.(2))
18. ANY USE OF TOXIC OR OTHER HAZARDOUS MATERIALS MUST INCLUDE PROPER STORAGE, APPLICATION, A DISPOSAL. (SCHEDULE A.7.E.iii.(2))
19. SOLID WASTE AND HAZARDOUS MATERIALS MANAGEMENT. FOLLOW PROJECT WRITTEN SPILL PREVENTION AND RESPONSE PROCEDURES, EMPLOYEE TRAINING ON SPILL PREVENTION AND PROPER DISPOSAL PROCEDURES; REGULAR MAINTENANCE SCHEDULE FOR VEHICLES AND MACHINERY; AND MATERIAL DELIVER AND STORAGE CONTROLS, TRAINING AND SIGNAGE, MATERIAL USE, COVERED STORAGE AREAS FOR WASTE AND SUPPLIES. (SCHEDULE A.7.E.iii.(3))
20. THE PERMITTEE MUST PROPERLY MANAGE HAZARDOUS WASTES, USED OILS, CONTAMINATED SOILS, CONCRETE WASTE, SANITARY WASTE, LIQUID WASTE, OR OTHER TOXIC SUBSTANCES DISCOVERED OR GENERATED DURING CONSTRUCTION AND MEET ALL STATE AND FEDERAL REGULATIONS AND APPROVALS (SCHEDULE A.7.E.iii.(4))
21. THE ESCP MEASURES SHOWN ON THIS PLAN ARE MINIMUM REQUIREMENTS FOR ANTICIPATED SITE CONDITIONS. DURING THE CONSTRUCTION PERIOD, THESE MEASURES MUST BE UPGRADED AS NEEDED TO COMPLY WITH ALL APPLICABLE LOCAL, STATE, AND FEDERAL EROSION AND SEDIMENT CONTROL REGULATIONS. CHANGES TO THE ESCP MUST ALSO BE SUBMITTED IN THE FORM OF AN ACTION PLAN TO DEQ OR ITS AGENT FOR APPROVAL. (SCHEDULE A.7.F.)
22. SIGNIFICANT AMOUNTS OF SEDIMENT, WHICH LEAVES THE SITE, MUST BE CLEANED UP WITHIN 24 HOURS A PLACED BACK ON THE SITE AND STABILIZED OR PROPERLY DISPOSED. THE CAUSE OF THE SEDIMENT RELEASE MUST BE FOUND AND PREVENTED FROM CAUSING A RECURRENCE OF THE DISCHARGE WITHIN TH SAME 24 HOURS. ANY IN-STREAM CLEAN UP OF SEDIMENT SHALL BE PERFORMED ACCORDING TO THE OREGON DIVISION OF STATE LANDS REQUIRED TIME FRAME. (SCHEDULE A.7.F.i.(1))
23. VACUUMING OR DRY SWEEPING MUST BE USED TO CLEAN-UP RELEASED SEDIMENT AND MUST NOT BE INTENTIONALLY WASHED INTO STORM SEWERS, DRAINAGE WAYS, OR WATER BODIES. (SCHEDULE A.7.F.i.(2)
24. THE APPLICATION RATE OF FERTILIZERS USED TO REESTABLISH VEGETATION MUST FOLLOW MANUFACTURER RECOMMENDATIONS TO MINIMIZE NUTRIENT RELEASES TO SURFACE WATERS. TIME-RELEASE FERTILIZERS SHOULD BE USED WITH CARE WITHIN ANY WATERWAY RIPARIAN ZONE. (SCHEDULE A.7.F.i.(3))
25. SEDIMENT MUST BE REMOVED FROM BEHIND A SEDIMENT FENCE WHEN IT HAS REACHED A HEIGHT OF 1/3 THE HEIGHT OF THE FENCE ABOVEGROUND AND BEFORE FENCE REMOVAL. (SCHEDULE A.7.F.ii.(1))
26. SEDIMENT MUST BE REMOVED FROM BEHIND BIO BAGS AND OTHER BARRIERS IT HAS REACHED A HEIGHT TWO (2) INCHES AND BEFORE BMP REMOVAL. (SCHEDULE A.7.F.ii.(2))
27. REMOVAL OF TRAPPED SEDIMENT IN A SEDIMENT BASIN OR SEDIMENT TRAP OR CATCH BASINS MUST OCCU WHEN THE SEDIMENT RETENTION CAPACITY HAS BEEN REDUCED BY FIFTY (50)% AND AT COMPLETION OF PROJECT. (SCHEDULE A.7.F.ii.(3) & (4))
28. DEQ MUST APPROVE OF ANY TREATMENT SYSTEM AND OPERATIONAL PLAN THAT MAY BE NECESSARY TO TREAT CONTAMINATED CONSTRUCTION DEWATERING OR SEDIMENT AND TURBIDITY IN STORMWATER RUNOFF. (SCHEDULE A.7.F.iii.)
29. SHOULD ALL CONSTRUCTION ACTIVITIES CEASE FOR THIRTY DAYS OR MORE, THE ENTIRE SITE MUST BE TEMPORARILY STABILIZED USING VEGETATION OR A HEAVY MULCH LAYER, TEMPORARY SEEDING, OR OTHER METHOD. (SCHEDULE A.8.A.)
30. SHOULD CONSTRUCTION ACTIVITIES CEASE FOR FIFTEEN (15) DAYS OR MORE ON ANY SIGNIFICANT PORTION OF A CONSTRUCTION SITE TEMPORARY STABILIZATION IS REQUIRED FOR THAT PORTION OF THE SITE WITH STRAW, COMPOST, OR OTHER TACKIFIED COVERING THAT PREVENT SOIL OR WIND EROSION UNTIL WORK RESUMES ON THAT PORTION OF THE SITE. (SCHEDULE A.8.B.)
31. DAILY INSPECTIONS WHEN RAINFALL AND RUNOFF OCCURS OF THE BMPS AND DISCHARGE OUTFALLS MUST BE BY THE PROJECT ESCP INSPECTOR. THESE INSPECTIONS AND OBSERVATIONS MUST BE RECORDED IN A LOG THAT IS AVAILABLE ON SITE. (SCHEDULE A.6.B.i.) & (SCHEDULE B.1.B(1))
32. BMPS MUST BE INSPECTED BEFORE, DURING, AND AFTER SIGNIFICANT STORM EVENTS. (SCHEDULE A.7.F.)
33. ALL ESCP CONTROLS AND PRACTICES MUST BE INSPECTED VISUALLY ONCE TO ENSURE THAT BMPS ARE IN WORKING ORDER PRIOR TO THE SITE BECOMING INACTIVE OR IN ANTICIPATION OF SITE INACCESSIBILITY AN MUST BE INSPECTED VISUALLY ONCE EVERY TWO (2) WEEKS DURING INACTIVE PERIODS GREATER THAN SEVEN (7) CONSECUTIVE CALENDAR DAYS. (SCHEDULE B.1.B.(2)-(3))
34. IF PRACTICAL, INSPECTIONS MUST OCCUR DAILY AT A RELEVANT AND ACCESSIBLE DISCHARGE POINT OR DOWNSTREAM LOCATION DURING PERIODS WHICH THE SITE IS INACCESSIBLE DUE TO INCLEMENT WEATHER. (SCHEDULE B.1.B.(4))

Reinterpretation of Baseline Survey Results for the modified Chopin Wind Energy Facility Umatilla County, Oregon

Prepared for:

Chopin Wind, LLC
4365 Executive Drive, Suite 1470
San Diego, CA 92121

Prepared by:

Western EcoSystems Technology, Inc.
415 W 17th St, Suite 200
Cheyenne, WY 82001

April 29, 2015

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BACKGROUND

In 2010 and 2011, Western EcoSystems Technology, Inc. (WEST) was contracted by WKN Chopin LLC to complete Baseline Wildlife Surveys for the proposed Chopin Wind Energy Facility (Proposed Facility) in Umatilla County, Oregon. The survey efforts included avian use, raptor nest, bat acoustic, sensitive species, and rare plant surveys. Furthermore, wetlands and streams were delineated, and general habitat availability was mapped. These studies were developed for the original boundary for the Facility (Original Facility), which was based on a 33 turbine, 99-megawatt (MW) project (Original Project Area; Figure 1). However, Chopin Wind, LLC (a subsidiary of BayWa r.e. Wind, LLC) now proposes a smaller footprint five turbine, 10-MW project in order to reach compliance with Umatilla County permitting requirements (Current Project Area; Figures 1-3). The Proposed Facility would occur only on agricultural lands and fall entirely within the Original Project Area (Figures 1-3). This report offers a reinterpretation of existing baseline data for the proposed Chopin Wind, LLC Facility plans. Additional details on baseline survey methodology and results can be found in the *Wildlife Baseline Studies for the Chopin Wind Resource Area, Umatilla County, Oregon* report prepared by WEST in 2011 (Enk et al. 2011a).

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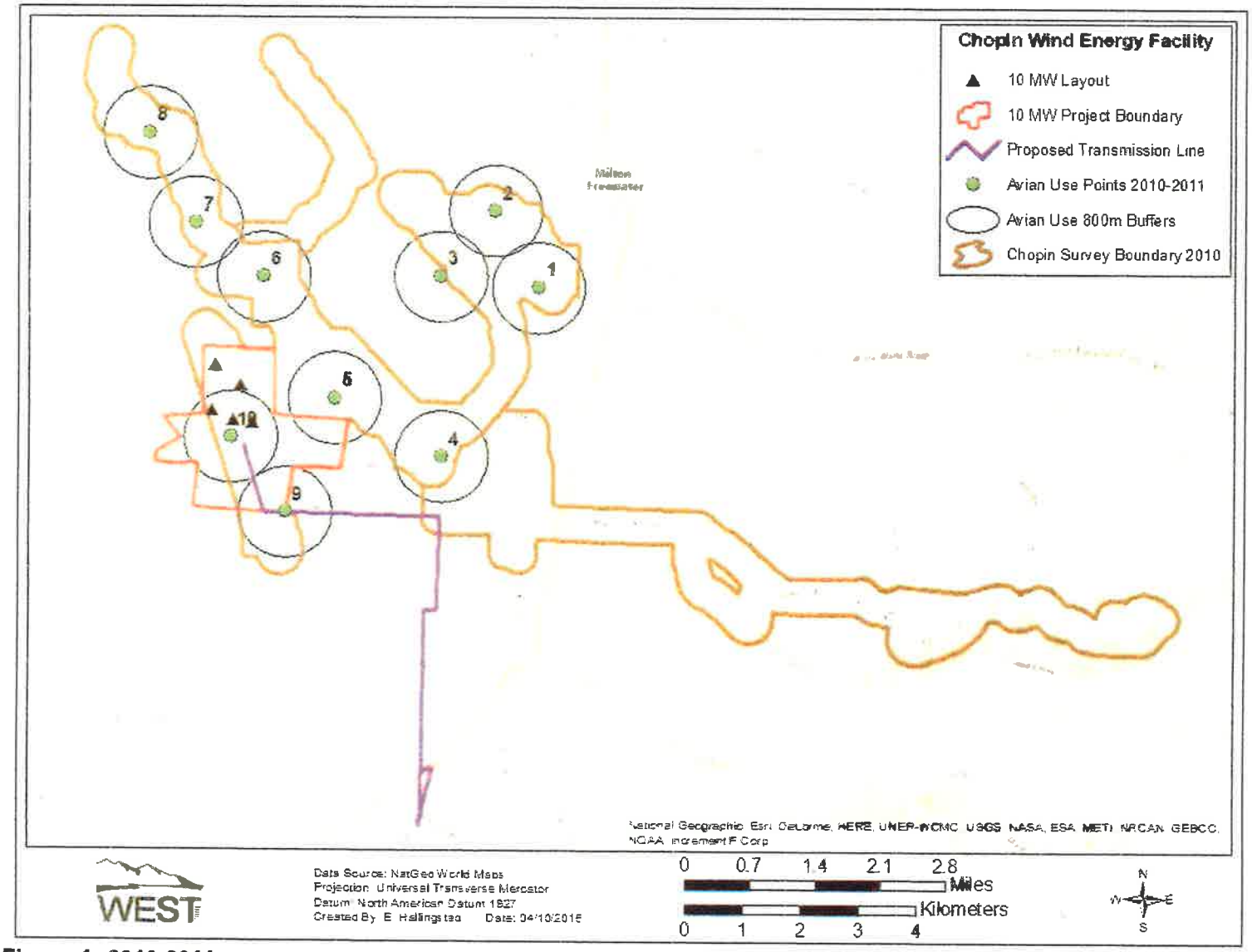

Figure 1. 2010-2011 survey areas and point count locations, based on the Original Project Area, for the proposed Chopin Wind Energy Facility. The current turbine and transmission line layout is also shown.

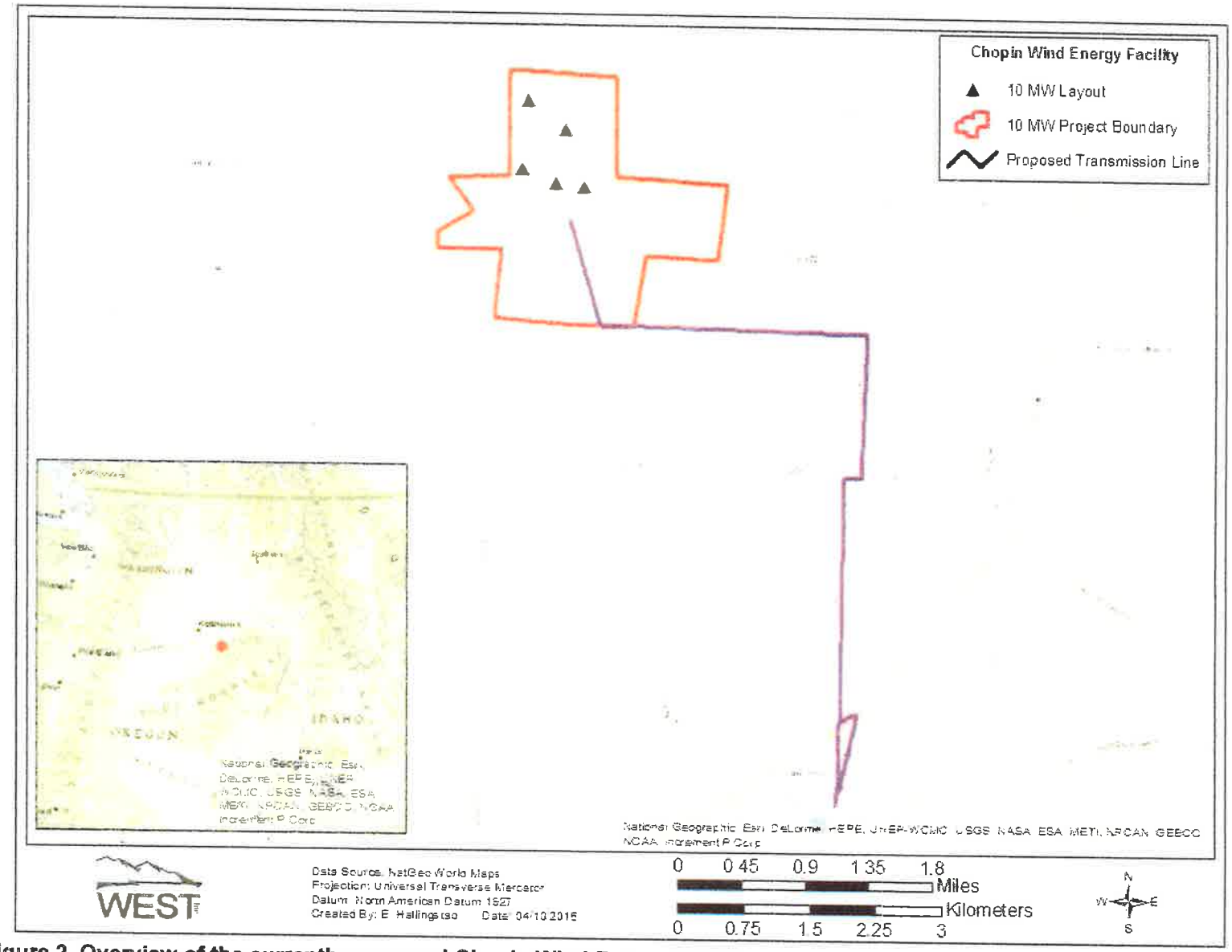

Figure 2. Overview of the currently proposed Chopin Wind Energy Facility.

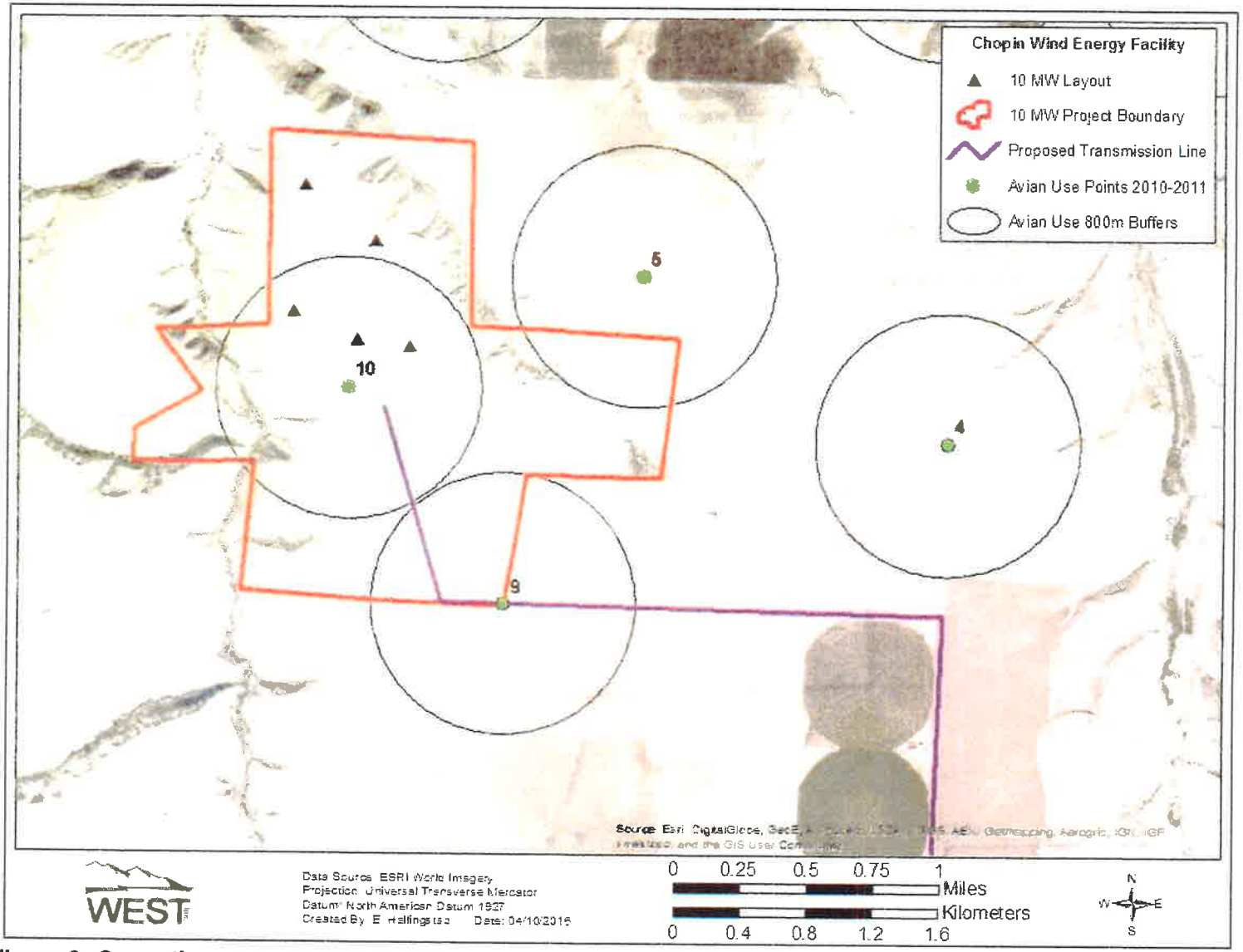

Figure 3. Currently proposed Chopin Wind Energy Facility with 2010-2011 avian use survey points and 800-meter survey buffers.

PROJECT AREA

The Current Project Area encompasses approximately 1,319 acres (5.3 square kilometers [km^2]) in northeastern Umatilla County, Oregon, downsized from the Original Project Area of 10,350 acres (41.9 km^2; Figures 1 and 2). The site is in the Columbia Plateau Ecoregion (CPE; Thorson et al. 2003), although native habitats have largely been converted to agricultural uses and the current turbine layout lies exclusively in dryland wheat fields (Figure 3). For the purposes of this evaluation, the Proposed Facility includes both the proposed wind farm site and an approximately 5.4 mile (8.6 km) transmission line (Transmission Corridor) that extends from the site to an existing substation to the south (Figure 2).

The Current Project Area is comprised of a small plateau that lies between two small forks of the Pine Creek drainage (Figure 2). All lands are privately-owned. The predominant habitat types are dry land wheat and Columbia Basin Grassland-steppe, which has been significantly degraded and is almost entirely comprised of non-native and invasive plant species. The entire Original Project Area was considered to have "limited value as wildlife habitat due to the absence of natural habitats and native vegetation communities, although the riparian corridors do support raptor nests and a variety of bird species" (Enk et al. 2011a). Elevations in the Current Project Area generally range between 1,200 and 1,900 feet (ft; 366 and 579 m) above mean sea level. The Transmission Corridor runs along an existing public right of way and does not cross any wetlands (Figure 3). The interconnection will occur at PacifiCorp's Weston substation.

METHODS

All survey protocols were based on WEST's experience studying wildlife at proposed wind energy facilities throughout the US as well as input from the Oregon Department of Fish and Wildlife (ODFW). The overall approach to the studies is consistent with past and current pre-construction studies of wind energy developments in Oregon as well as the Oregon Columbia Plateau Ecoregion Wind Energy Siting and Permitting Guidelines (ODFW 2008). These studies were designed to help predict potential impacts to bird (particularly diurnal raptors) and bat species and to compare baseline study results with operational wind energy facilities in the CPE to estimate avian and bat fatality rates.

Avian Use Surveys

The objective of the fixed-point bird use surveys was to estimate the seasonal and spatial use of the Original Project Area by birds, particularly diurnal raptors (defined here as kites, accipiters, buteos, harriers, eagles, falcons, and ospreys). Ten points were selected to survey representative habitats and topography within the Original Project Area, while achieving relatively even coverage of the area (Figure 1). Points 5, 9, and 10 were all within 1 mile (1.6 km) of the current turbine locations, with three turbines within the 800-m survey radius of Point

10. Furthermore, Point 4 was within 0.6 miles (1 km) of the current Transmission Corridor (Figure 3).

Surveys were conducted for 20 minutes (min) at each point to be consistent with methodologies utilized at other wind energy facilities in 2010 and 2011. The survey area for large birds was an 800-m radius around each point. The survey area for small birds was a 400-m (1,312-ft) radius around each point.

Raptor Nest Surveys

The objective of the raptor nest survey was to locate nests that may be subjected to disturbance and/or displacement effects from Facility construction and/or operation. In 2010, the raptor nest survey area included 1) a 2-mile (3.2-km) buffer associated with the Original Project Area and 2) a half-mile (0.80-km) buffer of the original transmission line route (Figure 4). The survey was conducted from a helicopter by a qualified raptor biologist. All suitable substrate was surveyed.

In 2010 and 2011, the US Fish and Wildlife Service (USFWS) released documents emphasizing concern over potential impacts of wind energy developments on bald and golden eagles (Pagel et al. 2010, USFWS 2011). In these documents, USFWS recommend a 10-mile (16.1-km) survey buffer for eagle nest surveys. To meet compliance with this recommendation, WEST conducted an eagle nest survey within a 10-mile buffer of the Original Project Area in May 2011 (Figure 5). The survey was conducted from a helicopter by a qualified raptor biologist.

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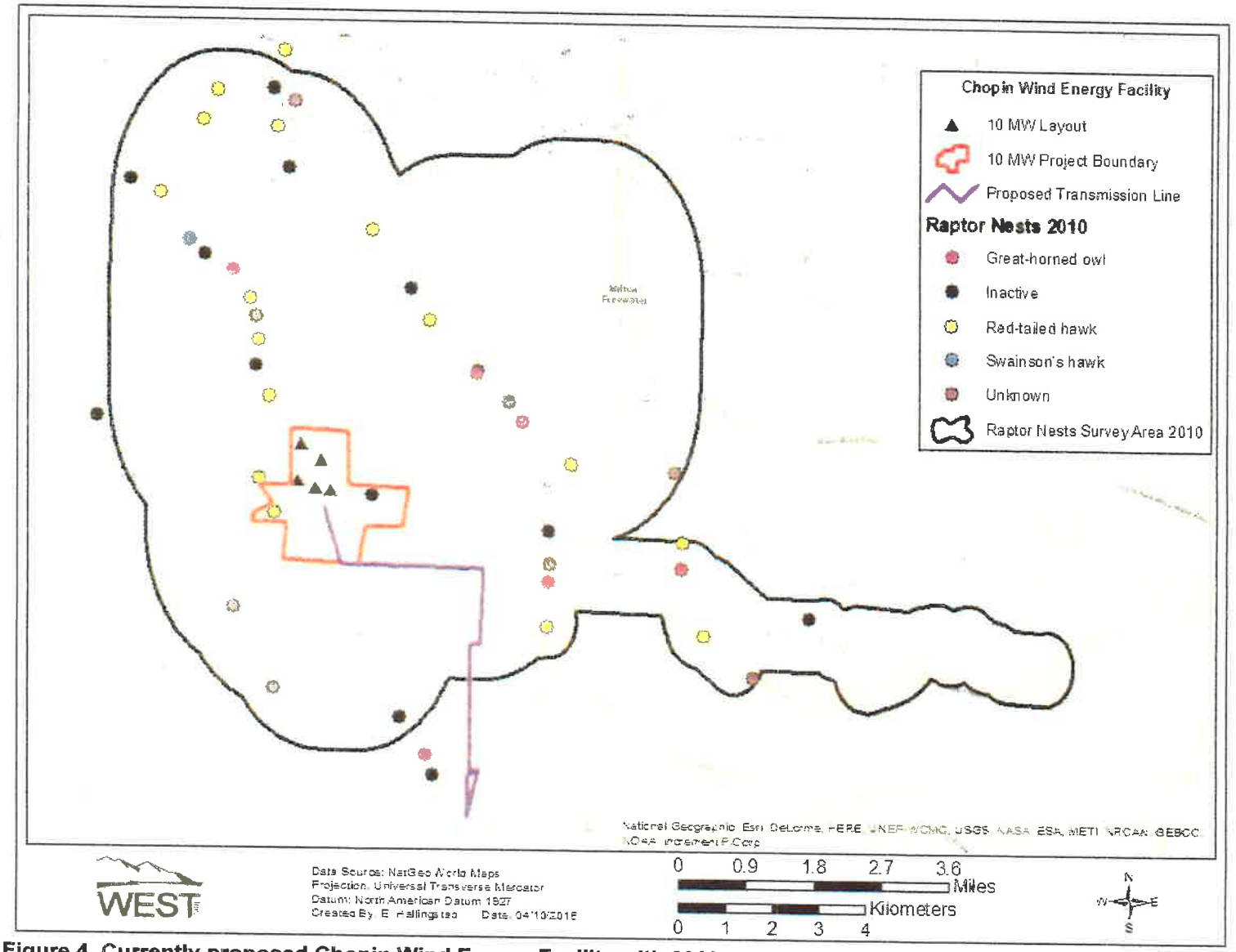

Figure 4. Currently proposed Chopin Wind Energy Facility with 2010 raptor nest survey area and nests.

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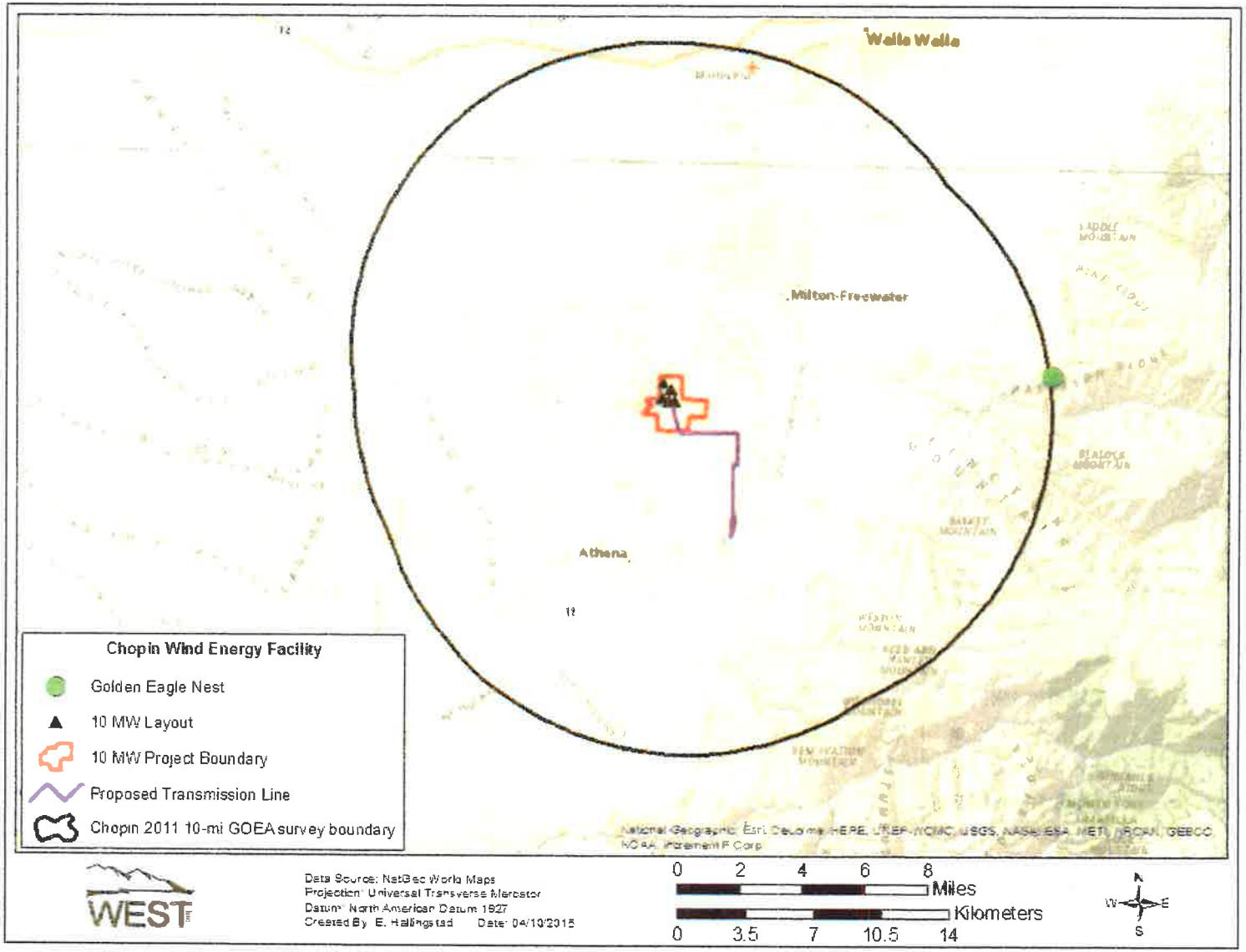

Figure 5. Currently proposed Chopin Wind Energy Facility with 2011 eagle nest survey area and nests.

Sensitive Species Surveys

The objective of the sensitive species surveys was to document presence and spatial occurrence of sensitive species in the Original Project Area (Figure 1). For the purpose of these surveys, sensitive species were defined as any species classified as 1) any federal or state endangered, threatened, candidate, or proposed species that have the potential to occur in Umatilla County, 2) Oregon state sensitive (Critical and Vulnerable) species in the CPE, and 3) bald and golden eagles which are protected under the federal Bald and Golden Eagle Protection Act (BGEPA; BGEPA 1940). A list of target species was compiled from the ODFW, USFWS, and Oregon Biodiversity Information Center (ORBIC) databases, and through consultation with the ODFW.

The survey area included all non-cultivated lands within the Original Project Area. Surveys consisted of field biologists walking transects spaced approximately 50 m (164 ft) apart (scanning 25 m [82 ft] to either side), and were conducted from dawn to no later than 1:00 PM. All observation locations were recorded using a GPS unit and later mapped using a GIS.

Bat Acoustic Surveys

The objective of the bat acoustic surveys was to estimate the seasonal and spatial patterns of bat activity in the Original Project Area. Bats surveys were conducted using Anabat™ SD2 bat detectors (Titley Scientific™, Australia). The use of bat detectors for calculating an index to bat impacts is a primary bat risk assessment tool for baseline wind development surveys (Arnett 2007, Kunz et al. 2007).

Detectors were placed at ground level at five fixed stations (Figure 6). At one of these stations (CH2), a second Anabat unit was raised approximately 80 m (262 ft) on a meteorological tower to compare bat activity at different heights and to provide information on bat activity in the rotor-swept zone. All units were programmed to turn on each night approximately 30 min before sunset and turn off approximately 30 min after sunrise.

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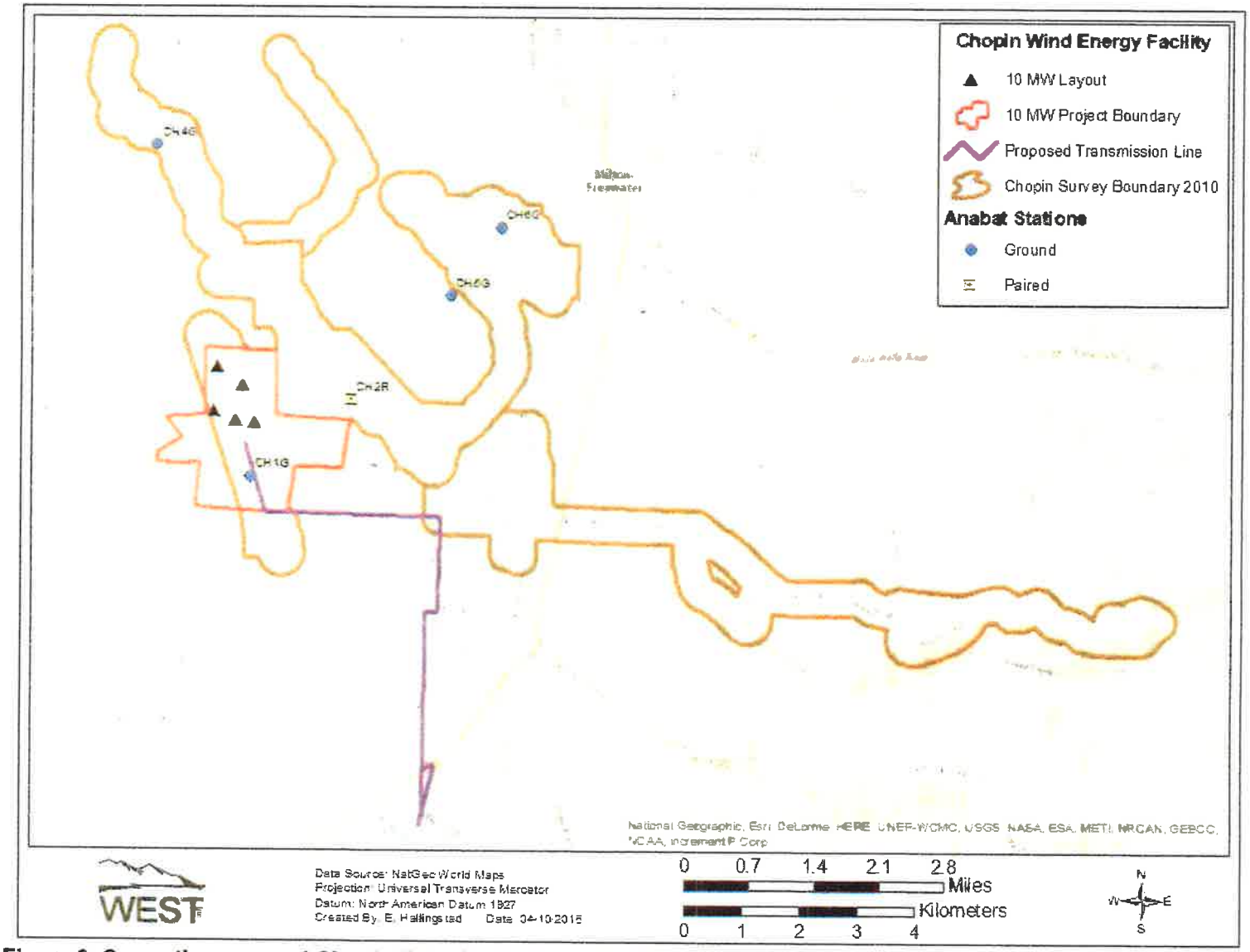

Figure 6. Currently proposed Chopin Wind Energy Facility with 2010 sensitive species survey area.

Rare Plant Surveys

The objective of these surveys was to document presence and locations by rare plant species within the Original Project Area (Figure 1). For the purposes of these surveys, rare plants were defined as species classified as 1) endangered, threatened, proposed or candidate by the USFWS or the Oregon Department of Agriculture and 2) Category 1, 2, and 3 by the ORNHIC.

Rare plant surveys were conducted by trained botanists during the peak flowering or fruiting periods of many target species. During the survey, botanists utilized meandering transects, effectively zigzagging back and forth across the survey corridor. Botanists maintained a list of all vascular plants encountered and made informal collections of unknown species for later identification using *Flora of the Pacific Northwest* (Hitchcock and Cronquist 1973).

Wetland and Stream Delineations

The objective of wetland and stream delineation was to determine those areas which need to be avoided and mitigated for during wind project construction activities. Delineation efforts were limited to the Dry Creek and Pine Creek transmission line crossings based on the original transmission line route. The current Transmission Corridor crosses Pine Creek further upstream than the area surveyed in 2010 (Figures 1 and 2) and runs along an existing transmission right-of-way; therefore, no impacts on wetlands or streams are anticipated for the Facility.

RESULTS

While baseline survey methodology was based on the Original Project Area, the data collected can be accurately reinterpreted for the Current Project Area for several reasons. The current footprint lies entirely within the original footprint; therefore, data collected during all surveys is directly applicable to the Current Project Area. Secondly, the baseline survey methodology is generally consistent with methods being used during current baseline studies at proposed wind facilities within the region (e.g., 10-mile eagle nest survey, 800-m radius point counts). Finally, baseline surveys for the Original Facility were comprehensive in addressing questions related to potential project risks posed on birds, bats, and sensitive species.

Baseline surveys were conducted from April 27, 2010 through April 18, 2011. The following section presents the results of the fixed-point bird use surveys, raptor nest surveys, sensitive species surveys, acoustic bat surveys, and rare plant surveys from the Original Project Area in the context of the currently proposed, smaller Chopin Wind, LLC Facility footprint. A summary of incidental observations of sensitive species near the Current Project Area is also included.

Avian Use Surveys

Fixed-point bird use surveys were conducted from April 27, 2010 through April 18, 2011. A total of 75 unique species were observed over the course of 369 20-min fixed-point bird use surveys, with a mean of 1.83 large bird species/800-m plot/20-min survey and 1.50 small bird species/400-m plot/20-min survey (Enk et al. 2011a). Overall, two species accounted for 63.7%

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of all bird observations: European starling (*Sturnus vulgaris*) and horned lark (*Eremophila alpestris*). A total of 857 individual raptors representing eleven species were recorded, with red-tailed hawk (*Buteo jamaicensis*), American kestrel (*Falco sparverius*), and northern harrier (*Circus cyaneus*) comprising 79.3% of all raptor observations. Waterbird, waterfowl, and shorebird numbers were generally very low, and few observations of owls occurred (Enk et al. 2011a). California quail (*Callipepla californica*), ring-necked pheasant (*Phasianus colchicus*), and gray partridge (*Perdix perdix*) were the most commonly recorded upland game birds.

Diurnal Raptors

For the entire Facility, diurnal raptor use was highest in the summer (2.23 birds/plot/20-min survey), followed by spring (1.68), fall (1.52) and winter (1.47). Buteos had the highest use of any raptor species in all seasons (1.15 in the spring, 1.32 in the summer, 0.69 in the fall, and 0.80 in the winter). Eight golden eagles (*Aquila chrysaetos*) were recorded during fixed-point surveys (four in the spring and four in the winter), as well as three bald eagles (*Haliaeetus leucocephalus*) observations (one in spring and two in winter); eagle use was relatively low during the spring (0.03) and winter (0.06). Red-tailed hawk (76.7%), Swainson's hawk (*Buteo swainsoni*; 88.9%), and rough-legged hawk (*Buteo lagopus*; 65.0%) were seen within the rotor swept height (RSH; 35 – 130 m AGL) at least 50% of the time (Enk et al. 2011a). Red-tailed hawk was the only raptor with a relatively high exposure index, as based on their high observation frequency and propensity for flying within the RSH. Swainson's hawk and bald eagle are both Sensitive—Vulnerable in Oregon (ORBIC 2013), and both eagle species are protected by the Bald and Golden Eagle Protection Act (BGEPA 1940).

The Current Project Area lies closest to Point 10, with Points 5 and 9 also within one mile of proposed turbine locations (Figure 3). Table 1 shows the mean use by point for all bird types recorded during baseline surveys. Average mean use values for Points 5, 9, and 10 were below the Facility-wide averages for the Diurnal Raptors group and all raptor subtypes. Diurnal raptor mean use values for each point are shown in Figure 7. Flight paths were digitized and mapped; while no distinct flyways were documented during the fixed-point bird use surveys, buteo and falcon activity was concentrated along the Pine Creek and Dry Creek corridors (Appendix A). Most flight paths recorded within the Current Project Area were of red-tailed hawks and northern harriers.

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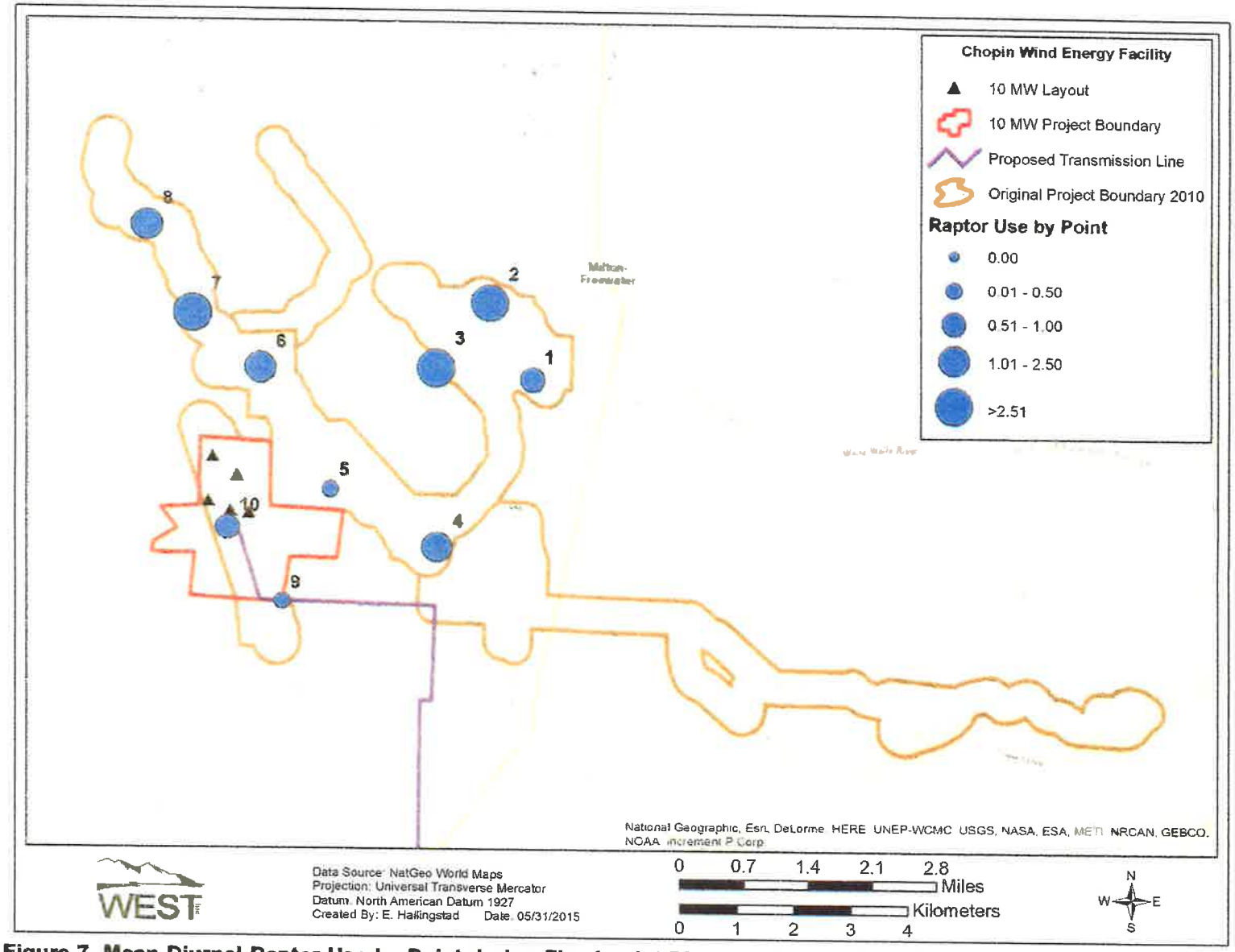

Figure 7. Mean Diurnal Raptor Use by Point during Fixed-point Bird Use Surveys from April 27, 2010 – April 18, 2011 at theChopin Wind Energy Facility.

Table 1. Mean use (number of birds/20-minute survey) by point for all birds[a], major bird types, and raptor subtypes observed at the Chopin Wind Energy Facility during fixed-point bird use surveys between April 27, 2010 – April 18, 2011. Points 5, 9, and 10 were within 0.5 mile of the Current Project Area, while Point 4 was within 0.5 mile of the current Transmission Corridor. All other points are more than 0.5 mile from proposed infrastructure.

	Survey Point									
Bird Type	**1**	**2**	**3**	**4**	**5**	**6**	**7**	**8**	**9**	**10**
Waterbirds	0.03	0	0.03	0	0	0	0	0	0	0
Waterfowl	0	0.41	0.30	0	0.03	0.11	0	0	0	0
Shorebirds	0	0	0.03	0	0.03	0	0.03	0	0	0
Gulls/Terns	0	0	0	0	0	0	0	0	0	0.03
Diurnal Raptors	0.92	3.03	3.73	1.54	0.41	1.11	3.22	1.65	0.38	0.81
Accipiters	0	0.03	0.03	0	0	0.03	0	0	0	0
Buteos	0.59	1.41	2.62	0.86	0.22	0.56	1.43	1.27	0.14	0.54
Northern Harrier	0.14	1.16	0.19	0.54	0.19	0.28	0.57	0.05	0.22	0.16
Eagles	0	0	0.03	0	0	0.03	0.03	0.14	0	0
Falcons	0.19	0.43	0.86	0.14	0	0.22	1.14	0.16	0.03	0.11
Osprey	0	0	0	0	0	0	0.03	0	0	0
Other Raptors	0	0	0	0	0	0	0.03	0.03	0	0
Owls	0.03	0	0.46	0.08	0	0	0	0.19	0	0.03
Upland Game Birds	0	0.24	3.97	0.03	0.11	0.11	0.03	0.19	0.84	0.41
Doves/Pigeons	0.32	0	0.38	0.03	0.05	0	0	0.03	0	0.03
Large Corvids	0.76	0.84	2.00	0.68	0.51	0.69	2.38	2.65	0.16	0.41
Goatsuckers	0	0	0	0.03	0	0	0	0	0	0
All Large Birds	**2.05**	**4.51**	**10.89**	**2.38**	**1.14**	**2.03**	**5.65**	**4.70**	**1.38**	**1.70**
Passerines	10.81	5.00	32.54	9.95	1.46	3.14	6.19	6.59	16.00	7.32
Swifts/Hummingbirds	0.03	0.27	0.14	0	0	0.14	0.22	0.16	0	0
Woodpeckers	0	0.03	0.49	0.03	0	0	0	0	0	0
All Small Birds	**10.84**	**5.30**	**33.16**	**9.97**	**1.46**	**3.28**	**6.41**	**6.76**	**16.00**	**7.32**

a. 800-meter (m) radius plot for large birds, 400-m for small birds.
b.

Passerines and Small Birds

As a 400-m viewshed was used for small birds, use estimates calculated for small birds are not directly comparable to large bird estimates. For the entire Facility (Original Project Area), passerine use was highest in the winter (15.66 birds/plot/20-min survey) and fall (13.83), compared to the spring (4.65) and summer (5.88). Passerines were observed during 88.3% of summer surveys, 84.8% of spring surveys, 68.3% of fall surveys, and 60.0% of winter surveys (Enk et al. 2011a). The majority of passerines within the 400-m plot were observed below 35 m AGL (74.0%). Two sensitive small bird species were observed during fixed-point surveys (Table 2): one Lewis's woodpecker (*Melanerpes lewis*; Sensitive--Critical) and two grasshopper sparrows (*Ammodramus savannarum*; Sensitive--Vulnerable).

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Raptor Nest Surveys

A total of 29 active and 10 inactive raptor nests were recorded within the survey area during the 2010 aerial survey (Figure 4). Active nests were occupied by red-tailed hawk (15), great horned owl (*Bubo virginianus;* four), and Swainson's hawk (one). Nine nests could not be assigned to species because although there were eggs in the nest, no adults were ever observed on or near the nests.

Of the 39 raptor nests recorded in 2010, eight were within two miles of the currently proposed turbine locations. These include four active red-tailed hawk nests, two active nests for unidentified species, and two inactive nests. The nests were all located in mature, deciduous trees within the Pine Creek drainage. These nests could be used by other species, such as great horned owl or Swainson's hawk, in other years. The Swainson's hawk nest in 2010 was three miles (4.8 km) from currently proposed turbines. No other nests associated with golden eagle, ferruginous hawk (*Buteo regalis*), burrowing owl (*Athene cunicularia*), or other raptor species of concern were found within the survey area.

The eagle nest survey flight took place on May 18 and 20, 2011. No golden eagle nests were found within the survey area; one active golden eagle nest was found just outside the eastern edge of the survey area (Figure 5), over 10 miles away from the Current Project Area. Generally, habitat quality for bald and golden eagles (nesting and foraging habitat) is poor in the vicinity of the Facility; golden eagle habitat improves towards the eastern edge of the 10-mile survey area, which contained native grassland and sagebrush habitats that support primary prey species, including ground squirrels and rabbits (Enk 2011).

Sensitive Species Surveys

Sensitive species surveys were conducted on two separate occasions between April and May 2010 to coincide with the spring breeding season. No state or federal endangered, threatened, or candidate species were observed during sensitive species surveys. A total of four state sensitive species and the bald eagle (protected under BGEPA along with golden eagle) were observed during the sensitive species surveys; most of these species are also USFWS Birds of Conservation Concern (BCC; Table 2). Tallies for sensitive species in some cases may represent repeated observations of the same individual. Locations of all sensitive wildlife species observed during all survey types are shown in Appendix G of the *Baseline Wildlife Studies* report (Enk et al. 2011a).

Grasshopper sparrow was the most common sensitive species (161 individuals), and represented 85% of all sensitive species observed during sensitive species surveys (Table 2). Grasshopper sparrow observations were concentrated in grassland habitats. Twenty-three Swainson's hawks were observed, with most observations along Pine Creek and Dry Creek. This likely reflects the presence of foraging habitats in these areas as well as the nest site in lower Pine Creek canyon. Other species recorded during sensitive species surveys included three golden eagles, two Lewis's woodpeckers, and one long-billed curlew (*Numenius americanus*). The curlew is classified as Sensitive-Vulnerable in Oregon (ORBIC 2013). Only

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grasshopper sparrow was observed within the Current Project Area, and in low numbers (Figure 8; see Appendix G of baseline report [Enk et al. 2011a]).

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Table 2. Summary of sensitive species observed at the Chopin Wind Energy Facility during fixed-point bird use surveys (FP), sensitive species surveys (SenSpp), and as incidental wildlife observations (Inc.), April 27, 2010 – April 18, 2011.

			FP		SenSpp		Inc.		Total	
Common Name	**Scientific Name**	**Status[1]**	**# of grps**	**# of obs**	**# of grps**	**# of obs**	**# of grps**	**# of obs**	**# of grps**	**# of obs**
grasshopper sparrow	*Ammodramus savannarum*	SV, BCC	2	2	135	161	0	0	137	163
Swainson's hawk	*Buteo swainsoni*	SV	44	55	16	23	1	2	61	80
golden eagle	*Aquila chrysaetos*	EA, BCC	8	8	2	3	1	1	11	12
ferruginous hawk	*Buteo regalis*	SC, BCC	0	0	0	0	3	3	3	3
Lewis's woodpecker	*Melanerpes lewis*	SC, BCC	1	1	2	2	0	0	3	3
loggerhead shrike	*Lanius ludovicianus*	SV, BCC	0	0	0	0	2	2	2	2
long-billed curlew	*Numenius americanus*	SV, BCC	0	0	1	1	0	0	1	1
bald eagle	*Haliaeetus leucocephalus*	EA, BCC	3	3	0	0	0	0	3	3
Total	**8 Species**		**58**	**69**	**156**	**190**	**7**	**8**	**221**	**267**

EA = Federal Bald and Golden Eagle Protection Act (BGEPA 1940);[1] BCC = USFWS Bird of Conservation Concern (USFWS 2008); SV = State--Vulnerable (ORBIC 2013); SC = State Critical (ORBIC 2013); grps = groups; obs = observed.

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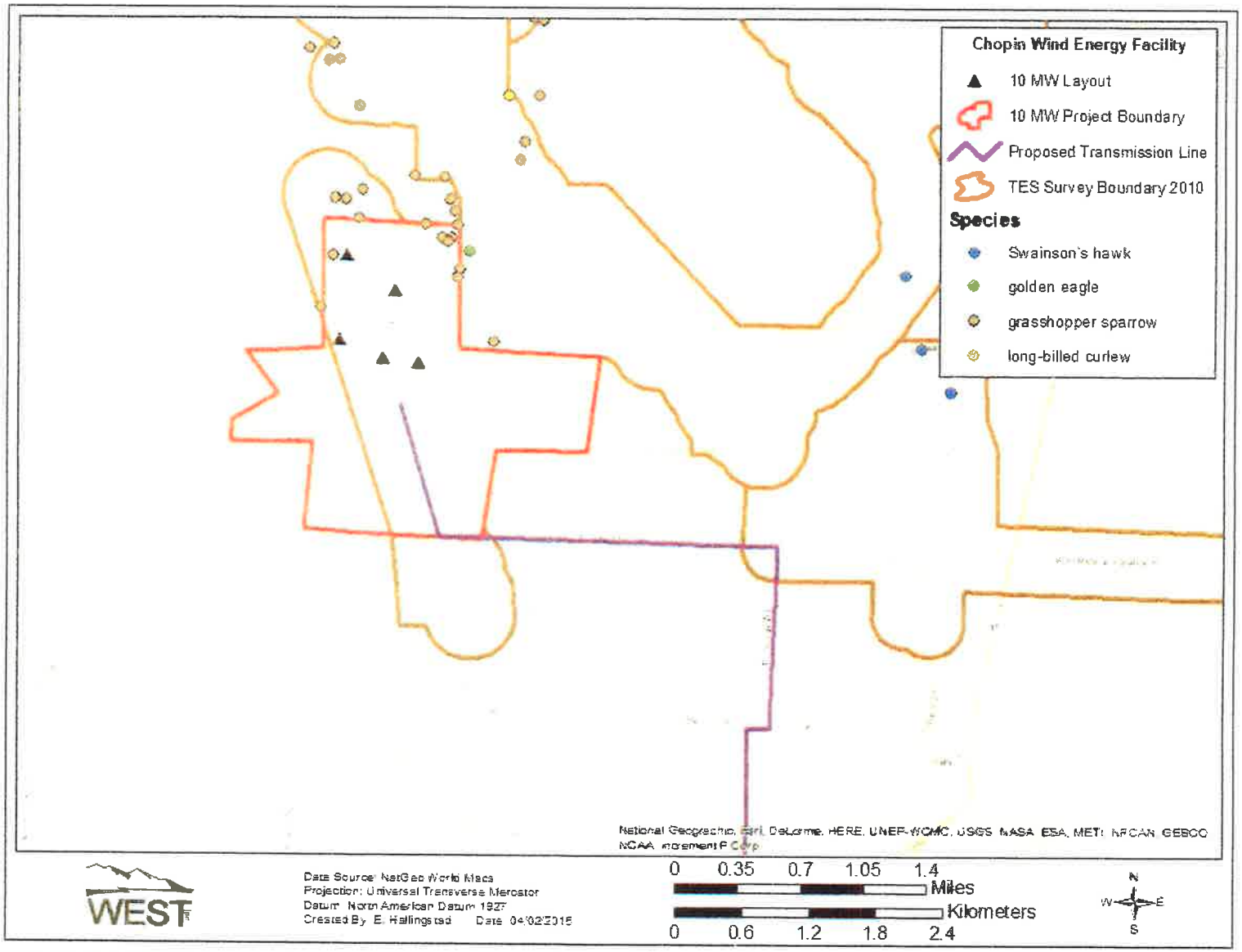

Figure 8. Sensitive species observations recorded during sensitive species surveys at the Chopin Wind Energy Facility.

Incidental Observations

Four sensitive species (golden eagle, ferruginous hawk, Swainson's hawk, and loggerhead shrike (*Lanius ludovicianus*]) were also recorded as incidental observations during baseline surveys (Table 2). The ferruginous hawk, Swainson's hawk, and loggerhead shrike are classified as state sensitive (ORBIC 2013); the golden eagle, ferruginous hawk, and loggerhead shrike are also BCC (USFWS 2008).

Bat Acoustic Surveys

Bat activity was monitored at six sampling locations for a total of 170 nights during the period May 10 to October 26, 2010. Bat stations CH1g, CH2g, and CH2r were closest to the Current Project Area (Figure 6). Average bat passes/detector-night at these stations ranged from 1.23 ± 0.14 to 1.63 ± 0.14 (Table 3). These averages are considerably lower than the bat activity observed at station CH5g, which was considered a bat feature station due to its proximity to Dry Creek. Weekly bat activity was relatively consistent throughout the study period (zero – three passes/detector-night (Figure 9), gradually increasing from early May through mid-July, and peaking during early August. Higher activity continued through September, with a gradual decline into October.

Overall, LF bats accounted for 95.1% of all passes recorded during the bat acoustic surveys (Table 3; Figure 9), and this pattern was consistent among non-feature ground stations and across seasons. LF bats accounted for about 99% of passes at the raised station (Table 3). Hoary bats accounted for 6.1% of total passes detected within the study area, and 6.4% of all LF passes (Table 3). The majority of hoary bat passes were detected at the raised unit CH2r. Hoary bats were recorded on 35 nights between mid-June and mid-October; the highest number of hoary bat passes in a single night was on August 10 (four passes). No spotted bats (very low-frequency calls [less than 15 kHz]) were detected during the study.

Table 3. Results of acoustic bat surveys conducted at the Chopin Wind Energy Facility by call frequency (HF = high frequency, MF = mid frequency, LF = low frequency). No very low frequency (VLF) bat passes were recorded.

Anabat Station	Location	# of HF Bat Passes	# of MF Bat Passes	# of LF Bat Passes	# of Hoary Bat Passes*	Total Bat Passes	Detector-Nights	Bat Passes/ Night**
CH1g	ground	4	4	183	13	191	155	1.23±0.14
CH2g	ground	6	5	176	9	187	115	1.63±0.20
CH2r	raised	0	1	220	15	221	147	1.50±0.17
CH4g	ground	7	5	103	7	115	147	0.78±0.10
CH6g	ground	10	4	208	13	222	162	1.37±0.15
Total Ground		**27**	**18**	**670**	**42**	**715**	**579**	**1.25±0.11**
Total Raised		**0**	**1**	**220**	**15**	**221**	**147**	**1.50±0.17**
Grand Total		**27**	**19**	**890**	**57**	**936**	**726**	**1.30±0.11**
CH5g	bat feature	4,900	352	910	59	6,162	83	74.24±6.18

*Passes by hoary bats included in LF numbers.
**± bootstrapped standard error.

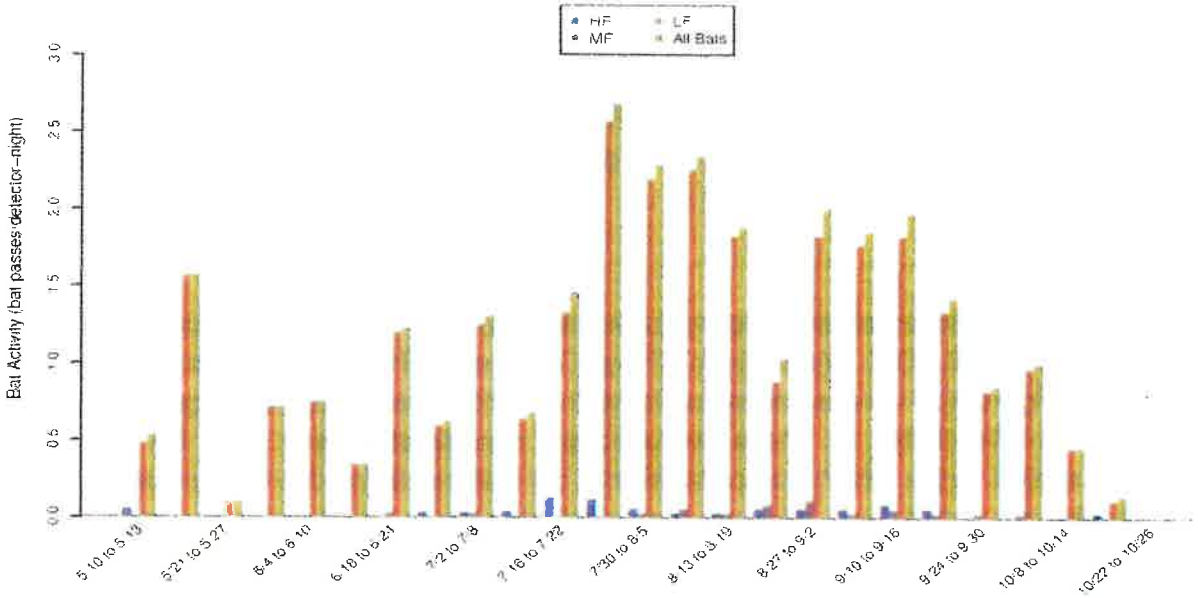

Figure 9. Weekly bat activity for high-frequency (HF), mid-frequency (MF), low-frequency (LF), and all bats at non-feature Anabat stations in the Chopin Wind Energy Facility.

Rare Plant Surveys

Rare plant surveys were conducted from June 25-30, 2010. No rare plant species were recorded during these surveys. Non-agricultural habitats consisted almost entirely of non-native and introduced plant species. The few small scattered patches of native habitat that were documented by the botanists supported extensive weed populations and a low diversity of native species. A complete list of plant species observed in the Original Project Area during the rare plant surveys is presented in Appendix H of the baseline report.

DISCUSSION AND IMPACT ASSESSMENT

The construction, operation, and decommissioning of wind energy facilities result in potential direct and indirect impacts to wildlife resources. Direct impacts include habitat loss and mortality resulting from construction, operation, and decommissioning activities. Indirect impacts include temporary and permanent displacement of wildlife as a result of the construction and operation of a wind energy facility and associated activities. A full evaluation of potential direct and indirect impacts predicted to result from the Original Facility (99-MW) was presented in the 2011 baseline report (Enk et al. 2011a). This section summarizes that discussion and updates the assessment for the Proposed Facility scope, focusing on potential impacts within the Current Project Area. No significant impacts are anticipated for the Transmission Corridor or substation area, as these features occur along a public right of way and within an already heavily fragmented and disturbed landscape, respectively.

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Avian Species

Direct Effects

The original 99-MW facility was generally predicted to have minimal direct impacts on birds resulting from habitat loss, mortalities, and injuries. Passerines represented 78% of all birds observed during baseline surveys at the Facility, and are expected to make up the largest proportion of fatalities. Of these, horned lark was predicted to account for a high percentage based on this species having the highest exposure index of all passerine species at the Facility and other post-construction studies conducted within the region (Johnson and Erickson 2011). Based on abundance and flight behavior, other passerine species at risk of collision include European starling and cliff swallow (*Petrochelidon pyrrhonota*). All other small bird species had relatively low exposure indices.

Mean annual diurnal raptor use (1.70 raptors/plot/20-min survey) within the Original Project Area was ranked third highest of 42 other wind energy facilities for which similar data are available (see Enk et al. 2011a). However, raptor use was concentrated along Pine Creek and Dry Creek due to the occurrence of active nests and foraging habitats in these areas. At the three points closest to currently proposed turbines (Points 5, 9, and 10), mean annual diurnal raptor use averaged 0.53 raptors/plot/20-min survey. For the Original Project Area, the diurnal raptors with the highest exposure indices were red-tailed hawk (0.27) and Swainson's hawk (0.06), primarily due to relatively high use estimates for these species. Flight path maps show that few Swainson's hawks were observed within the Current Project Area during baseline surveys. Red-tailed hawks were shown to nest in close proximity (<1.0 mile) to the current turbine locations. For these reasons, red-tailed hawk is the diurnal raptor considered to be at relatively high risk of collision from the currently proposed Facility. The exposure indices for the golden eagle and bald eagle were less than 0.01 due to low use estimates.

Bird fatality rates at the Proposed Facility are expected to be similar or lower than those documented at other wind energy facilities in Umatilla County, which have averaged 2.23 birds/MW/year (Table 4). Raptor fatality rates at operational wind energy facilities are typically much lower than fatality rates for other avian species. Common species (e.g., horned lark) may have relatively higher mortality rates by virtue of their abundance, but it was considered unlikely that the original 99-MW facility would result in population-level impacts to any passerine species. Decreasing the facility size to the proposed 10 MW size eliminates the potential for population-level impacts resulting from the Facility.

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Table 4. Estimated annual bird fatality rates at wind energy facilities in the Pacific Northwest.

Wind Energy Facility	Fatality Estimate[A]	No. of Turbines	Total MW
Pacific Northwest			
Leaning Juniper, OR	6.66	67	100.5
Stateline, OR/WA (2002)[B]	3.48	454	263
Klondike II, OR	3.14	50	75
Klondike III, OR	3.02	122	375
Hopkins Ridge, WA (2008)	2.99	83	150
Stateline, OR/WA (2003)[B]	2.95	454	263
Nine Canyon, WA	2.76	37	48
Combine Hills, OR[B]	2.56	41	41
Big Horn, WA	2.54	133	199.5
Biglow Canyon, OR (Phase I; 2009)	2.47	76	125.4
Biglow Canyon, OR (Phase I; 2008)	1.76	76	125.4
Wild Horse, WA	1.55	127	229
Stateline II, OR/WA (2006)[B]	1.23	454	263
Hopkins Ridge, WA (2006)	1.23	83	150
Vansycle, OR[B]	0.95	38	24.9
Klondike, OR	0.95	16	24
Elkhorn, OR	0.64[B]	61	101
Marengo I, WA	0.27	78	140.4
Marengo II, WA	0.16	39	70.2

A=number of bird fatalities/MW/year

B=Located in Umatilla County, Oregon

Data from the following sources:

Wind Energy Facility	Fatality Estimate	Wind Energy Facility	Fatality Estimate
Leaning Juniper, OR	Gritski et al. 2008	Biglow Canyon, OR (Phase I; 08)	Jeffrey et al. 2009a
Stateline, OR/WA (02)	Erickson et al. 2004	Wild Horse, WA	Erickson et al. 2008
Klondike II, OR	NWC and WEST 2007	Stateline II, OR/WA	Erickson et al. 2007
Klondike III, OR	Gritski et al. 2010	Hopkins Ridge, WA (06)	Young et al. 2007
Hopkins Ridge, WA (08)	Young et al. 2009	Vansycle, OR	Erickson et al. 2000b
Stateline, OR/WA (03)	Erickson et al. 2004	Klondike, OR	Johnson et al. 2003b
Nine Canyon, WA	Erickson et al. 2003	Elkhorn, OR	Jeffrey et al. 2009c
Combine Hills, OR	Young et al. 2006	Marengo I, WA	URS Corporation 2010b
Big Horn, WA	Kronner et al. 2008	Marengo II, WA	URS Corporation 2010d
Biglow Canyon, OR (Phase I; 09)	Enk et al. 2010		

Indirect Effects

Construction activities may temporarily disturb and/or displace wildlife species in the vicinity of work areas, including nesting raptors. The long-term presence of wind turbines may also alter the landscape to such a degree that wildlife is permanently displaced from otherwise suitable habitats in the vicinity of project facilities. Birds displaced from wind energy facilities might move to lower quality habitat with fewer disturbances, with an overall effect of reducing breeding success.

In the Original Facility baseline report, concerns of grassland passerine displacement are discussed. For the Current Project Area, construction impacts will be limited to agricultural areas and disturbance of native habitats will be avoided. Therefore, reductions in habitat quality or in grassland-nesting passerine densities are not anticipated.

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Concerns regarding potential indirect effects of wind energy facilities on raptor species include displacement and reduced reproductive success as a result of human activities in primary foraging areas and/or near active nest. In 2010, active red-tailed hawk nests were documented within two miles of currently proposed turbine locations; other raptor species may also utilize these nests or nest areas in other years. Diurnal raptors and owls continued to nest at a wind energy facility in eastern Washington at approximately the same levels after construction, with several nests located within a half-mile of turbines (Erickson et al. 2004). In Oregon, a Swainson's hawk also nested within a quarter-mile of a turbine string at the Klondike I wind energy facility (Johnson et al. 2003b). These observations suggest that there may be limited displacement of nesting diurnal raptors at the Facility. The establishment of seasonal construction buffers around active nests during construction could minimize temporary displacement effects.

Sensitive Species

Grasshopper sparrow and Swainson's hawk were the most common sensitive species observed in the Original Project Area during baseline surveys or incidentally (163 and 80 observations, respectively). Other sensitive species recorded during these surveys included golden eagle (12), bald eagle (three), Lewis' woodpecker (three), ferruginous hawk (three), loggerhead shrike (two), and long-billed curlew (one).

Generally, sensitive species observations were uncommon within and near the Current Project Area (Figure 8). Grasshopper sparrows depend on grassland habitat and are rarely found as casualties at wind facilities in the Columbia Plateau (one fatality during studies at 23 facilities; Johnson and Erickson 2011). Swainson's hawk had the highest use (0.17 birds/plot/20-min survey) and exposure index (0.06) than the other sensitive species. This suggests some risk to Swainson's hawk;, however, the location of the Swainson's hawk nest was three miles away from the Current Project Area and there were few observations of this species on the plateau in the vicinity of proposed turbines. The baseline data suggest that actual risk to Swainson's hawks is relatively low. Golden eagle use was very low (0.01) and the associated exposure index was less than 0.01. Furthermore, no golden eagle nests were found within 10 miles of the Facility. Therefore, very low direct or indirect impacts are anticipated for this species. Loggerhead shrike and long-billed curlew have relatively low risk based upon habitat use and flight characteristics. To WEST's knowledge, no loggerhead shrikes and only one long-billed curlew have been documented as fatalities at CPE wind energy facilities (see Gritski and Kronner 2010b, Johnson and Erickson 2011). Finally, only three ferruginous hawk observations were made, and all incidentally. Four ferruginous hawk fatalities have been documented in the Pacific Northwest (Appendix B). For these reasons, this species is considered to have an extremely low risk of collision at the Facility.

Bats

The studies that have collected both pre- and post-construction data at wind energy facilities show a limited correlation between bat use and fatality rates (see Appendix J of baseline report [Enk et al. 2011a]). Bat activity recorded at the non-feature stations within the Original Project Area was 1.25 ± 0.11 bat passes/detector-night. The Proposed Facility is not located near any

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known bat colonies or features that would attract large numbers of bats, and activity was uniformly low among all non-feature ground stations. These stations were located in agricultural and grassland-steppe habitats, and bat use at these stations is representative of the proposed turbine locations which are located exclusively in agricultural habitat. Low overall use and the reduced Facility size suggest limited risk of bat collisions. Based on bat use data (including seasonal and spatial patterns) during the baseline survey, and fatality data from existing facilities in Umatilla County and the CPE, the estimated range of bat fatality rates for the Proposed Facility is 0.4 – 2.5 bats/MW/year.

CONCLUSIONS AND RECOMMENDATIONS

The original 99-MW Chopin layout has been reduced to a smaller footprint 10-MW Facility. Like the Original Facility, the Proposed Facility is located in an agricultural-dominated landscape and all proposed turbines will be located in wheat fields. This turbine siting greatly minimizes potential adverse effects to wildlife, including habitat loss and displacement. The location of turbines in cultivated fields also greatly reduces the potential risk of bird fatalities as most avian species of concern do not forage or nest in agricultural habitats. The riparian corridors, which will not be disturbed by the project, represent the primary native habitat in the area. While the riparian areas are used for nesting and foraging by raptors, the turbines will be sited on the plateau. No rare plants or jurisdictional wetlands occur within the Current Project Area.

Data collected during the baseline studies for the Original Facility indicated slightly lower general bird use and slightly higher diurnal raptor use in the Original Project Area compared to other wind resource areas in the CPE. Bat activity levels were similar to other regional projects. Based on the results of the baseline studies, general bird and bat fatality rates for the original 99-MW layout were anticipated to be similar to those documented at existing wind energy facilities in the region. Diurnal raptor use estimates and nest densities suggested raptor fatality rates at the Original Facility might have been somewhat higher than other CPE projects. However, these estimates are likely to be biased due to the concentration of diurnal raptor activity along the riparian corridors. An assessment of data from points near where the turbines will be sited indicated raptor use in the vicinity of turbines is similar to other CPE wind energy facilities. Therefore, raptor fatality rates are anticipated to be similar to the regional average. The reduced size of the Proposed Facility decreases the potential for impacts on bird and bat populations.

As stated earlier, baseline surveys for the Original Facility were comprehensive in addressing questions related to potential Original (and, therefore, Current) Facility impacts on birds, bats, and sensitive species. However, WEST recommends that Chopin Wind, LLC complete another raptor nest study for the Proposed Facility close to the proposed construction period in order to minimize and avoid construction impacts to locally nesting raptors (e.g., through seasonal construction restrictions). In following the Wind Energy Guidelines, Chopin Wind, LLC should also plan to complete a Tier IV avian and bat post-construction monitoring study once the Facility is built in order to document the anticipated low impacts from Facility operations (USFWS 2012). An Avian Impact Plan for the current Facility layout is in preparation.

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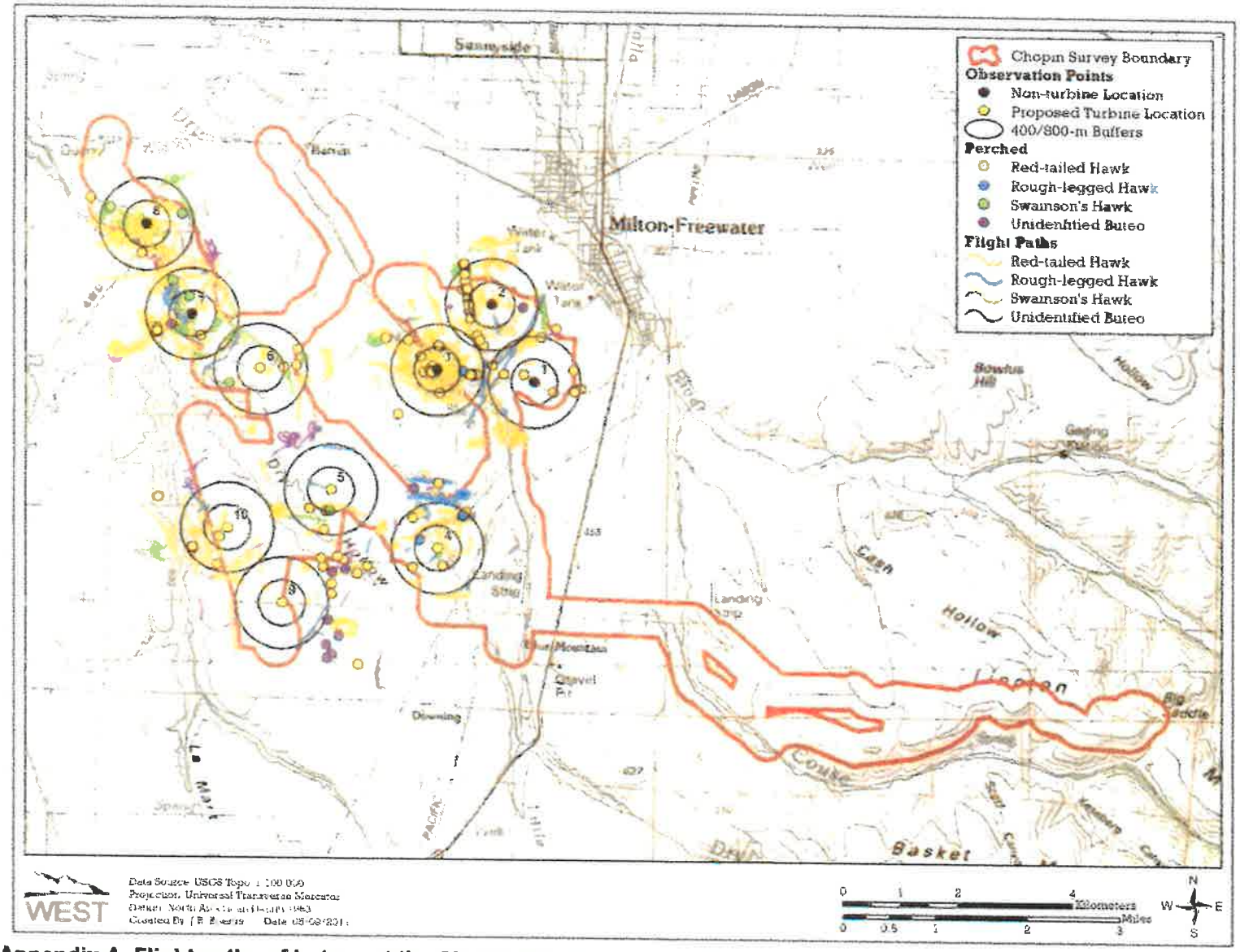
Appendix A: Raptor Flight Paths during Fixed-point Bird Use Surveys from April 27, 2010 – April 18, 2011 at the Chopin Wind Energy Facility



Appendix A. Flight paths of buteos at the Chopin Wind Energy Facility.

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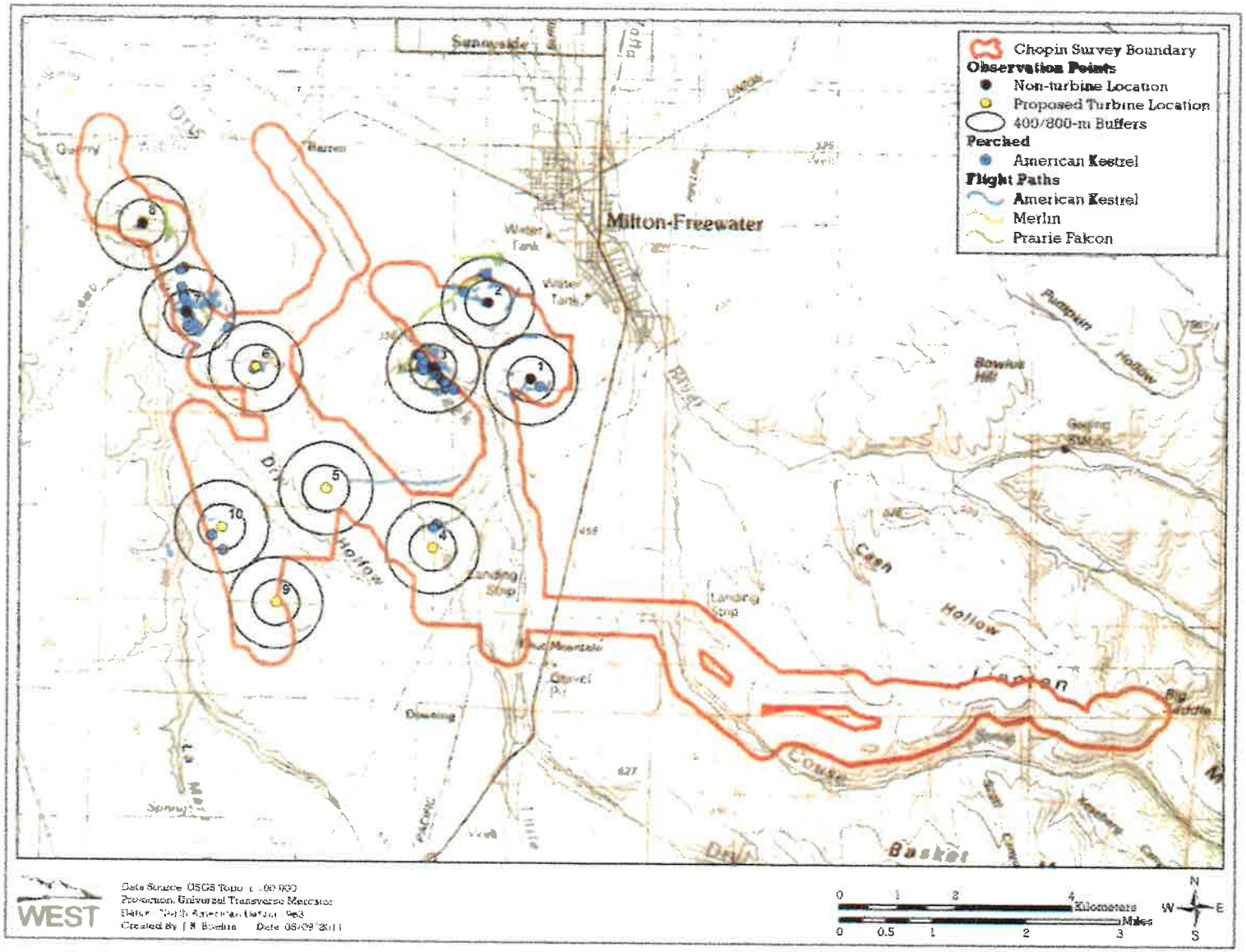
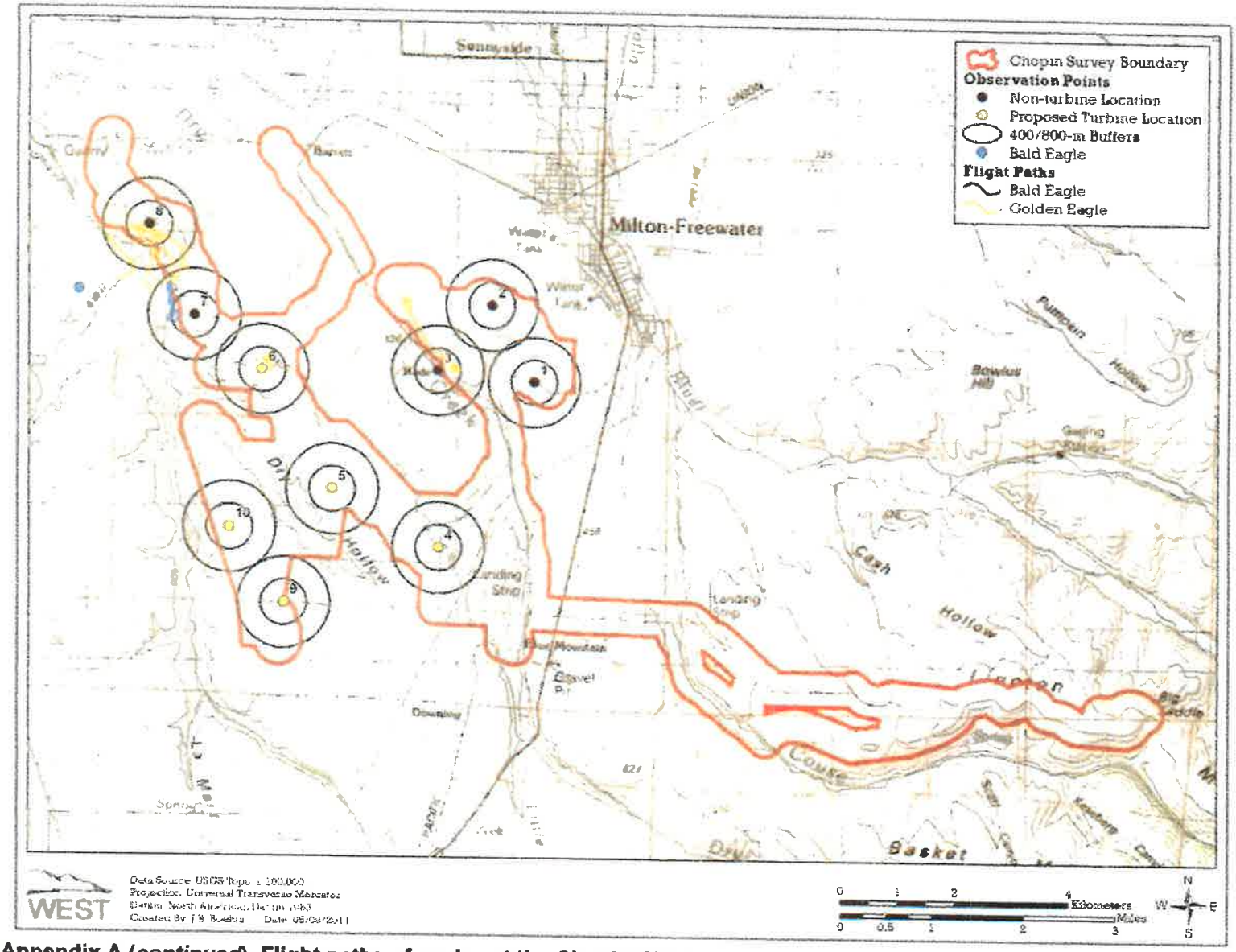
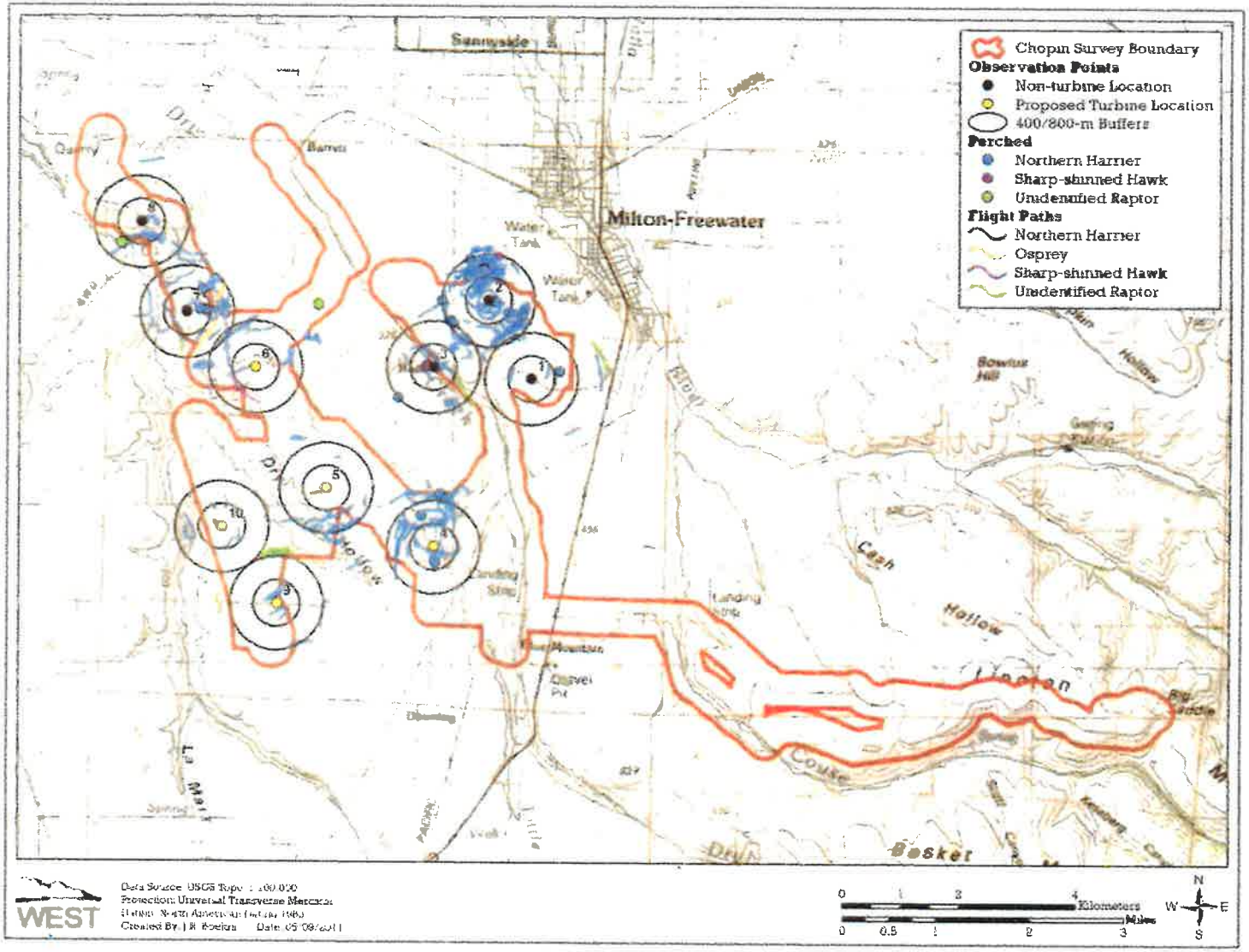


Appendix A (*continued*). Flight paths of falcons at the Chopin Wind Energy Facility.



Appendix A (*continued*). Flight paths of eagles at the Chopin Wind Energy Facility.



Appendix A (*continued*). Flight paths of other raptors at the Chopin Wind Energy Facility.

Appendix B: Publicly available studies at wind energy facilities in the Pacific Northwest

Appendix B. Publicly available studies at wind energy facilities in the Pacific Northwest.

Project	Study Reference	Project	Study Reference
Big Horn, WA (06-07)	Kronner et al. 2008	Klondike II, OR (05-06)	NWC and WEST 2007
Biglow Canyon, OR (Phase I; 08)	Jeffrey et al. 2009a	Klondike III (Phase I), OR (07-09)	Gritski et al. 2010
Biglow Canyon, OR (Phase I; 09)	Enk et al. 2010	Klondike IIIa (Phase II), OR (08-10)	Gritski et al. 2011
Biglow Canyon, OR (Phase II; 09-10)	Enk et al. 2011b	Leaning Juniper, OR (06-08)	Gritski et al. 2008
Biglow Canyon, OR (Phase II; 10-11)	Enk et al. 2012b	Linden Ranch, WA (10-11)	Enz and Bay 2011
Biglow Canyon, OR (Phase III; 10-11)	Enk et al. 2012a	Marengo I, WA (09-10)	URS Corporation 2010b
Combine Hills, OR (Phase I; 04-05)	Young et al. 2006	Marengo II, WA (09-10)	URS Corporation 2010d
Combine Hills, OR (11)	Enz et al. 2012	Nine Canyon, WA (02-03)	Erickson et al. 2003
Condon, OR	Fishman Ecological Services 2003	Pebble Springs, OR (09-10)	Gritski and Kronner 2010b
Elm Creek, MN (09-10)	Derby et al. 2010	Stateline, OR/WA (01-02)	Erickson et al. 2004
Elm Creek II, MN (11-12)	Derby et al. 2012	Stateline, OR/WA (03)	Erickson et al. 2004
Goodnoe, WA (09-10)	URS Corporation 2010a	Stateline, OR/WA (06)	Erickson et al. 2007
Harvest Wind, WA (10-12)	Downes and Gritski 2012a	Tuolumne (Windy Point I), WA (09-10)	Enz and Bay 2010
Hay Canyon, OR (09-10)	Gritski and Kronner 2010a	Vansycle, OR (99)	Erickson et al. 2000a
Hopkins Ridge, WA (06)	Young et al. 2007	Vantage, WA (10-11)	Ventus Environmental Solutions 2012
Hopkins Ridge, WA (08)	Young et al. 2009	White Creek, WA (07-11)	Downes and Gritski 2012b
Kittitas Valley, WA (11-12)	Stantec Consulting 2012	Wild Horse, WA (07)	Erickson et al. 2008
Klondike, OR (02-03)	Johnson et al. 2003a	Windy Flats, WA (10-11)	Enz et al. 2011

ENVIRONMENTAL & STATISTICAL CONSULTANTS

415 West 17th Street, Suite 200, Cheyenne, WY 82001
Phone: 307-634-1756 • www.west-inc.com • Fax: 307-637-6981

March 12, 2015

Kate Valentine
BayWa r.e. Wind, LLC
4365 Executive Drive, Suite 1470
San Diego, CA 92121

RE: Chopin Wind Energy Facility

Dear Ms. Valentine,

In 2010 and 2011, Western EcoSystems Technology, Inc. (WEST) was contracted by WKN Chopin LLC to complete Baseline Wildlife Surveys, consistent with the current USFWS Land-Based Wind Energy Guidelines Tier III surveys, for the proposed Chopin Wind Energy Facility (Facility) in Umatilla County, Oregon. The survey efforts included avian use, raptor nest, bat acoustic, sensitive species, and rare plant surveys. Furthermore, wetlands and streams were delineated, and general habitat availability was mapped. These studies were based on the original boundary for the Facility, which was based on a 33 turbine, 99 MW project (Figure 1). However, Chopin Wind, LLC (a subsidiary of BayWa r.e. Wind, LLC) now proposes a 5 turbine, 10 MW project in order to reach compliance with Umatilla County permitting requirements. The revised Facility would occur on agricultural lands and falls entirely within the former survey areas (Figure 2). This letter offers our recommendations for the applications and shortcomings of existing Tier 3 data to the current Chopin Wind, LLC Facility plans.

Generally, 2010-2011 survey results indicate that the originally proposed 99 MW project would not have significant direct or indirect impacts on plants or wildlife. Avian use data was consistent with data from other wind energy studies conducted within Umatilla County. Raptor use was relatively high, but was focused within the Pine Creek and Dry Creek riparian corridors. Swainson's hawk (*Buteo swainsoni*) and grasshopper sparrow (*Ammodramus savannarum*) were the only sensitive species (both State Vulnerable) observed with frequency, but few of these observations were associated with agricultural fields. Bat use was generally low throughout the 2010-2011 study area, and very low (<1 pass/night) at survey points nearest the current turbine layout. No rare plants were found in 2011, and wetlands were not documented within the current anticipated development corridors. Based on these results, as well as the current size, land cover (agricultural), and location of the currently proposed turbines, repeating the Tier III surveys is likely not warranted.

Raptor nest data documented extensive use of the drainages within the old boundary, including several red-tailed hawk (*Buteo jamaicensis*) nests in close proximity to the current turbine layout (Figure 2). Direct and indirect impacts to raptor species nesting near turbines remain a concern for the Facility. WEST recommends that Chopin Wind, LLC completes another raptor nest study close to the proposed construction period in order to minimize and avoid impacts to locally nesting raptors (e.g., through seasonal construction restrictions). In following the Wind Energy Guidelines, Chopin Wind, LLC should plan to complete a Tier IV avian and bat post-construction

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WEST inc.

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monitoring study once the Facility is built in order to document the anticipated low impacts from Facility operations.

In summary, WEST feels that existing Tier III data adequately supports the conclusion that overall Facility impacts will be low and consistent with other wind energy facilities within Umatilla County. However, WEST recommends the completion of another raptor nest survey shortly before construction begins, as well as post-construction monitoring of impacts, in order to minimize, avoid, and mitigate potential development impacts.

Sincerely,

Eric Hallingstad
Project Manager

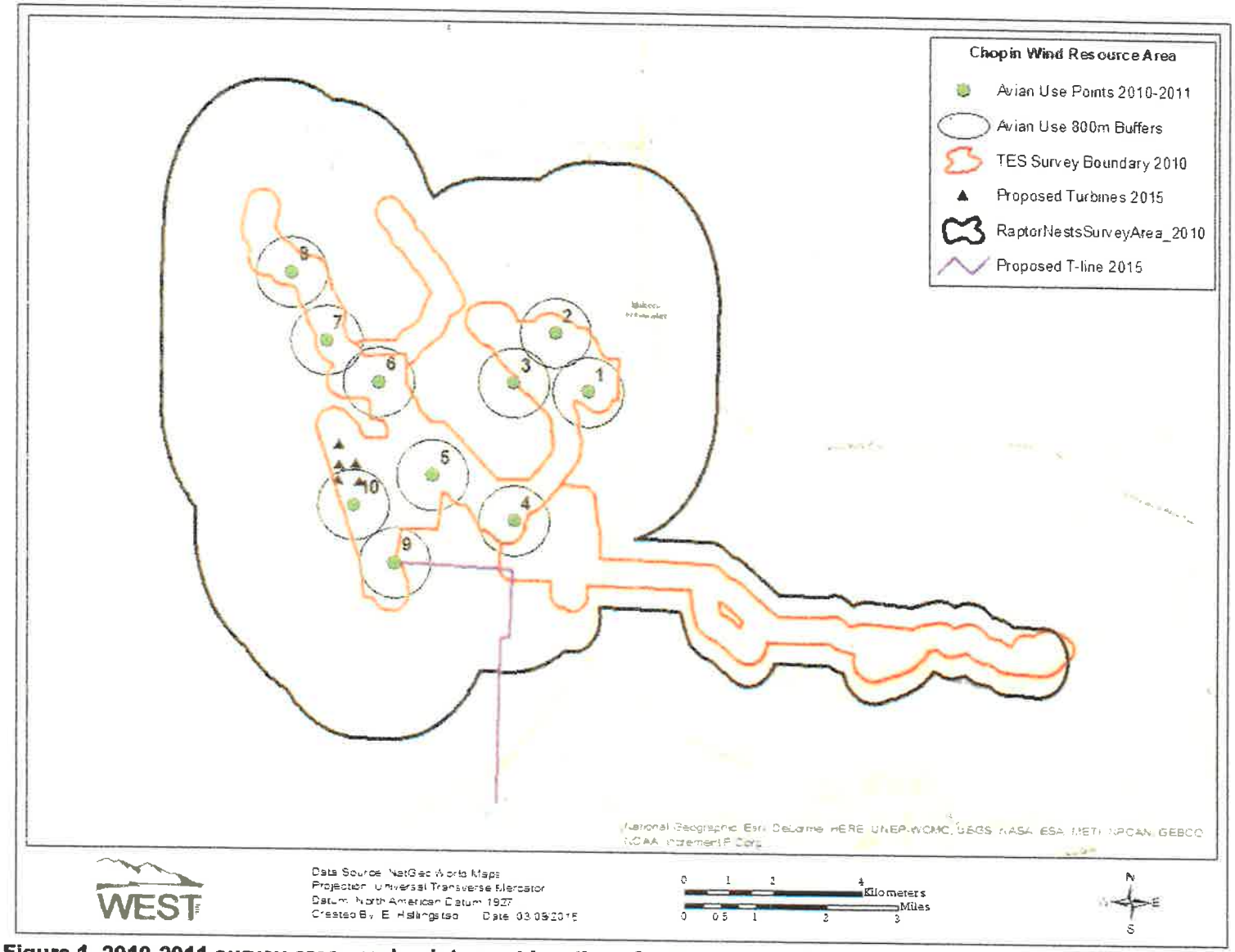


Figure 1. 2010-2011 survey areas and point count locations for the proposed Chopin Wind Energy Facility. The current turbine and transmission line plans are also shown.

811

611

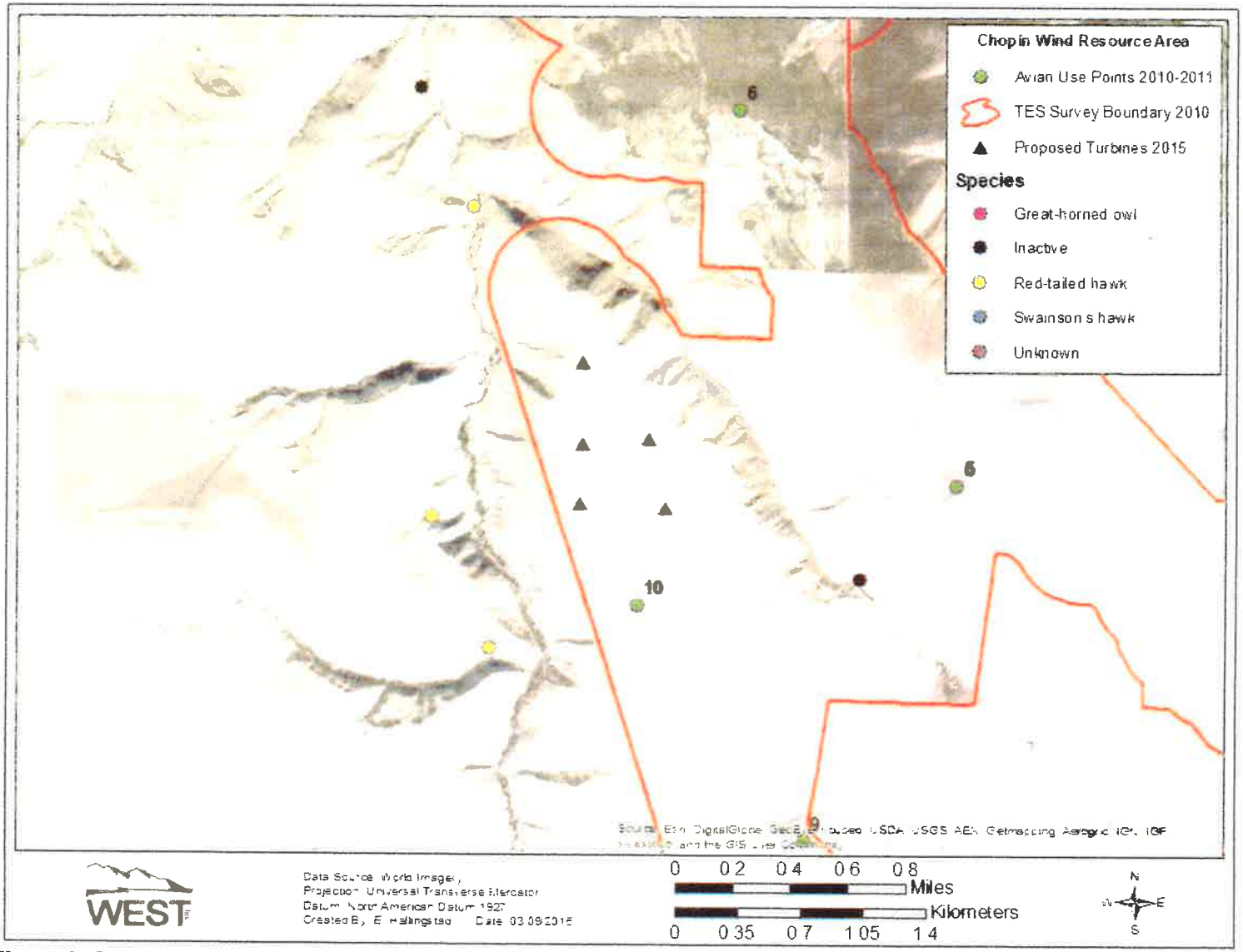


Figure 2. Current turbine layout for the Chopin Wind Energy Facility with 2010 raptor nest locations and sensitive species survey area.

www.barnhartcrane.com

June 15, 2015

Kate Valentine
Development Manager
BayWa r.e. Wind, LLC
4365 Executive Drive, Suite 1470 | San Diego, CA 92121
Phone 858.450.6800
Fax 858.450.6801
valentine@baywa-re.us
www.baywa-re.us

Re: Chopin Wind Project Route Survey

Kate,

The attached route survey for the Chopin Wind project from was detailed around the V112 platform. With the new turbine specification being a V110, this will add no additional level of difficulty to the project given the overall blade length will be shorter and the heaviest load being the nacelle (weight increase of ~ 15,000lbs given it ships with gearbox installed). The overall impact is fewer loads per turbine and no additional route modifications would need to be performed other than those previously recommended if nothing has changed since the original site visit in mid 2011.

If you have any questions, please don't hesitate to call. Barnhart has been serving the industry for almost 40 years with machinery moving, crane service, engineered heavy lifts, and heavy transportation. Your consideration of our services is greatly appreciated.

Regards,

Brian Thomas (BT)
Vice President Business Development
133A N. Gay Street
Knoxville, TN 37902
865-603-5782 cell
865-342-2509 desk
brian@barnhartcrane.com
www.barnhartcrane.com

Chopin Wind Energy Facility Transport Study

For Vestas V112 3MW wind turbine generators

84m HH

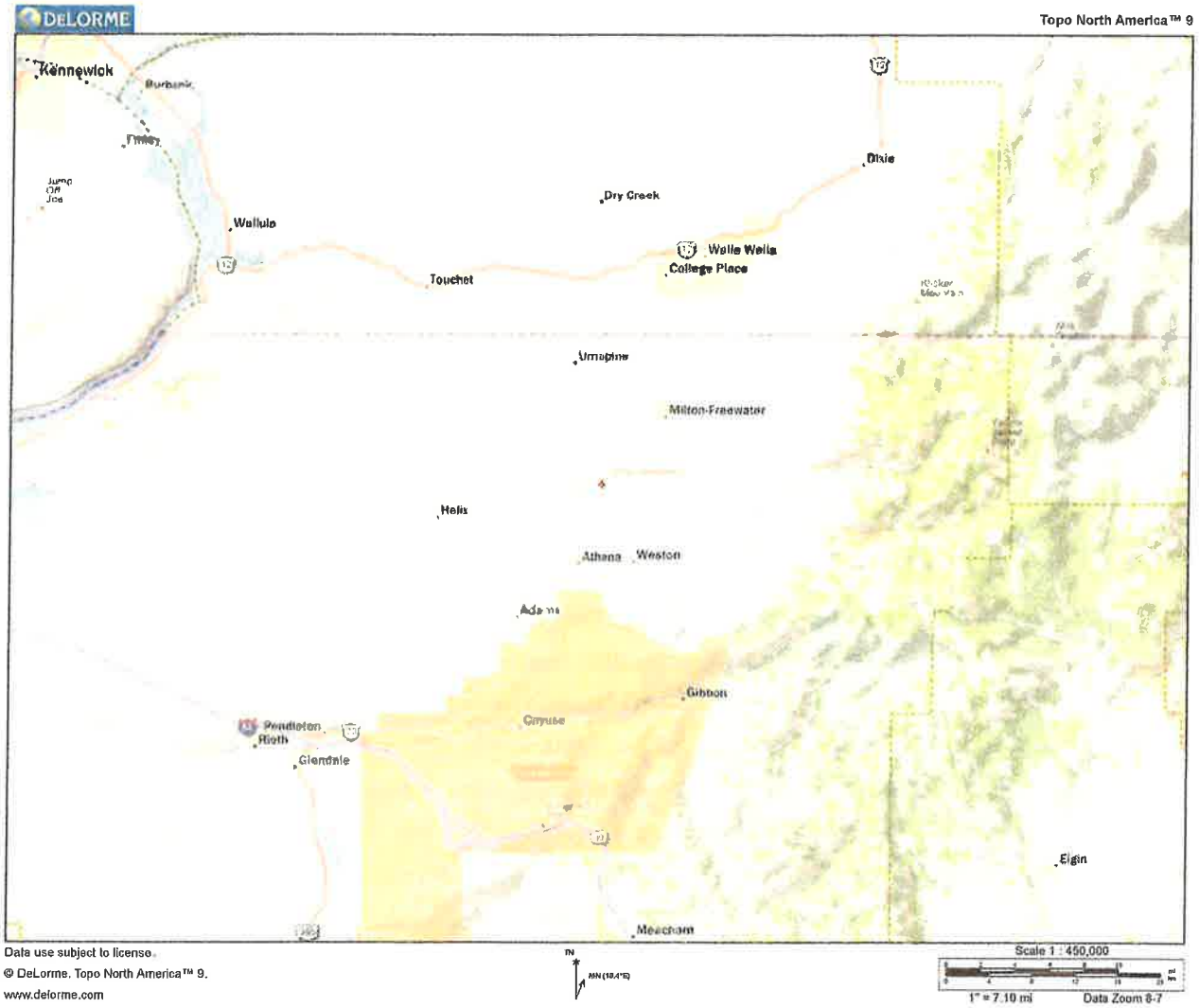
Prepared by:

Brian Thomas
865.603.5782
brian@barnhartcrane.com
February 11, 2011
8187-6200

Chopin Wind Energy Facility Transport Study

Overview

The following is a transport study for the Chopin Wind Energy Facility located approximately 30 miles North East of Pendleton, OR. The project consist of 33 Vestas 3MW V112 wind turbine generators located on 84m hub height towers with generation capacity of 99 MW.



The site can be accessed from I-84 from the south and from Walla Walla via Highway 11 from the north.

The south access is the most likely for the proposed wind turbine and components for the Chopin Project. The Vestas V112 components are typically delivered from factories in Colorado or overseas. Either of these delivery origination points would lead to the delivery of components accessing thethe site will come from the south via I-84.

122

Component Dimensions

Vestas V-112 Component Transport Weights and Dimensions

Component	Length (m)	(ft)	Width (m)	(ft)	Height (m)	(ft)	Weight (tons)	Kips
Bed frame	12.80	41.98	4.00	13.12	3.40	11.15	65	143
Drive train	6.90	22.63	4.00	13.12	3.00	9.84	62	136.4
Hub	3.90	12.79	3.70	12.14	3.70	12.14	40	88
Blade*	55.00	180.40	4.98	16.33	2.60	8.53	13.5	29.7

**Blade support saddles are located 10m (32.8') in from each end of blade. Weights & dimensions include transport fixtures*

Tower Components

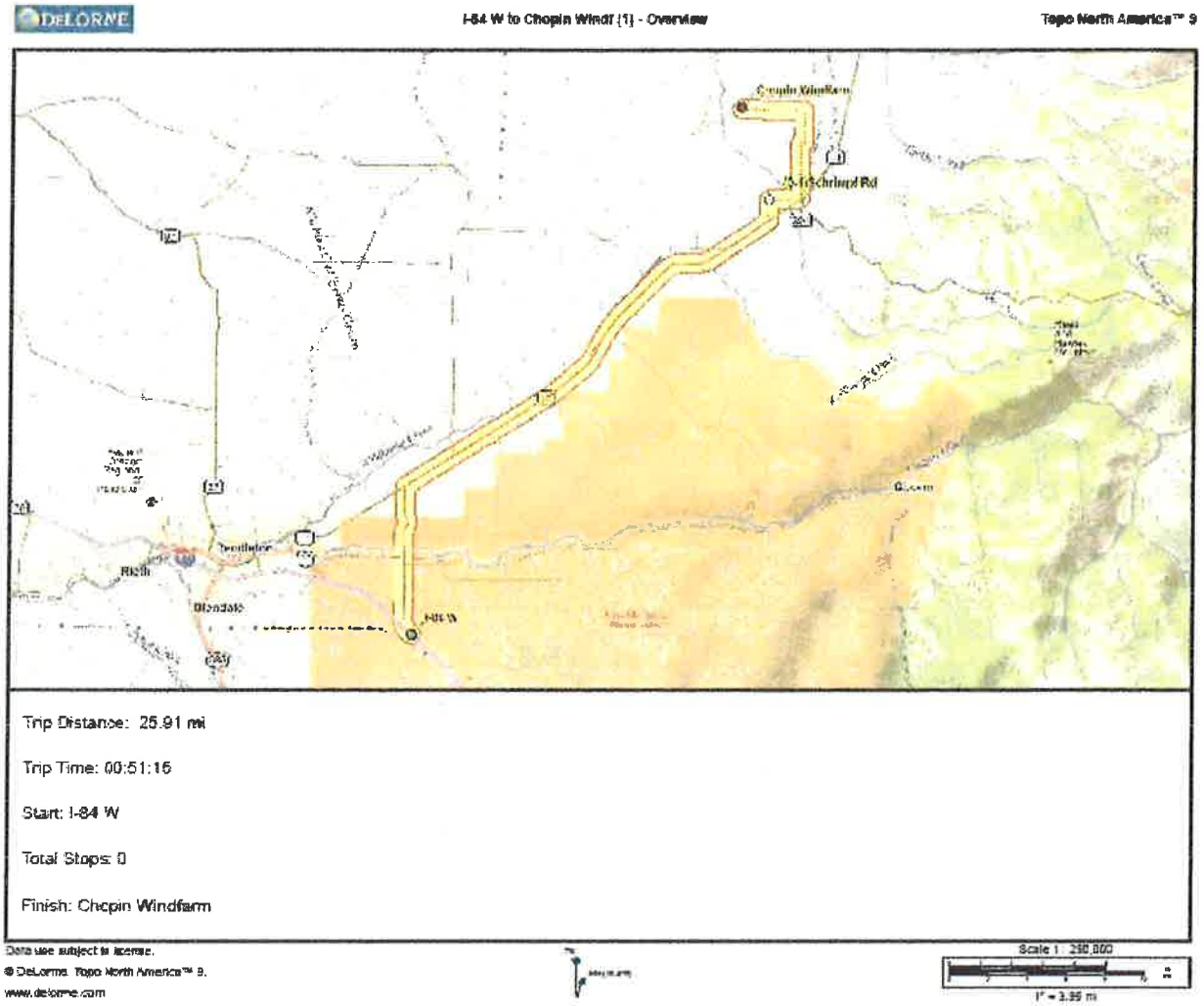
Hub Height	Length (m)	(ft)	Top Dia (m)	(ft)	Bottom Dia (m)	(ft)	Weight (tons)	Kips
Top (ALL hub heights)	32.2	105.6	3.26	10.7	3.67	12.0	41	90.2
Mid (ALL hub heights)	28.9	94.8	3.67	12.0	3.92	12.9	54	118.8
84m HH								
Base	20.6	67.6	3.92	12.9	4.15	13.6	64	140.8

The heaviest tower section is the base section weighing 140,800lbs with an outer diameter of 13.6'. This section would most likely be delivered using a Schnabel trailer (attachment of the tower section at each end with transport frames with the tower becoming the trailer). The nacelle has even been divided into manageable loads with the heaviest being the nacelle bed frame weighing 143,000lbs which keeps the load in the 13-axle range much less than the nacelle loads that were delivered to the project to the east. Other recent projects in the area using similar sized components, turbine steel tower sections, nacelles and other components should not have an issue getting to site. The majority of the modifications discussed in this Transportation Study relate to the length of the blades. The 112 meter rotor diameter has a single blade length of 180.4'. This presents a series of turns that need to be investigated for any minor modifications to accommodate turning radius and blade length.

Attached to this Transportation Study is the manufacturer provided information on transporting the components.

Suggested Route

The suggested route into the site is via I-84. Exit 216 off I-84 will provide the best access to the site when traveling along the suggest route, coming from the east.



Trip directions:

1. From I-84 east take Exit 216
2. Turn right on Highway 331 and proceed 4.4 miles.
3. Turn right on Highway 11 and then proceed 14.3 miles.
4. Turn left on Schrimpf Road and proceed .7 miles
5. Turn right on Johnson Road and proceed 1.0 miles.
6. Turn left on York Road and proceed 1.8 miles.
7. Turn right on La Mar Gulch Road and proceed .2 miles.
8. Turn left on Dry Creek Road and proceed 1 mile.

9. Turn left and proceed 1.1 mile into the southern string of turbines of the jobsite.

Given this route, the first area of possibly improvements or modifications will be the exit ramp of I-84 exit 216.

Looking north on Hwy 331. Shows adequate space on west side of road and exit has enough room for tailswing of trailer. Stop signs may have to be removed temporarily for blade clearance.

The turn from Hwy 331 onto Highway 11 has sufficient clearance for all component loads and will not require any modifications.

Looking south west on Hwy 11. Loads will come from 331 from the road entering on the left.

Route continues to Schrimpf Road

Looking North at turn onto Schrimpf Rd entrance. Sufficient clearance for all loads to make turn.

Turn from Schrimpf onto Johnson Rd

Looking north on Schrimpf Rd at Johnson Rd intersection. Turn will have to be widened for all components according to transport vehicle needs. All adjacent properties have sufficient area for widening at minimal cost.

All components would proceed east on Johnson Rd. The major issue that exists on Johnson Rd is the dip into the stream crossing at Pine Creek. The grades are approximately 12-13% leading into the crossing with approximately 9% coming out.

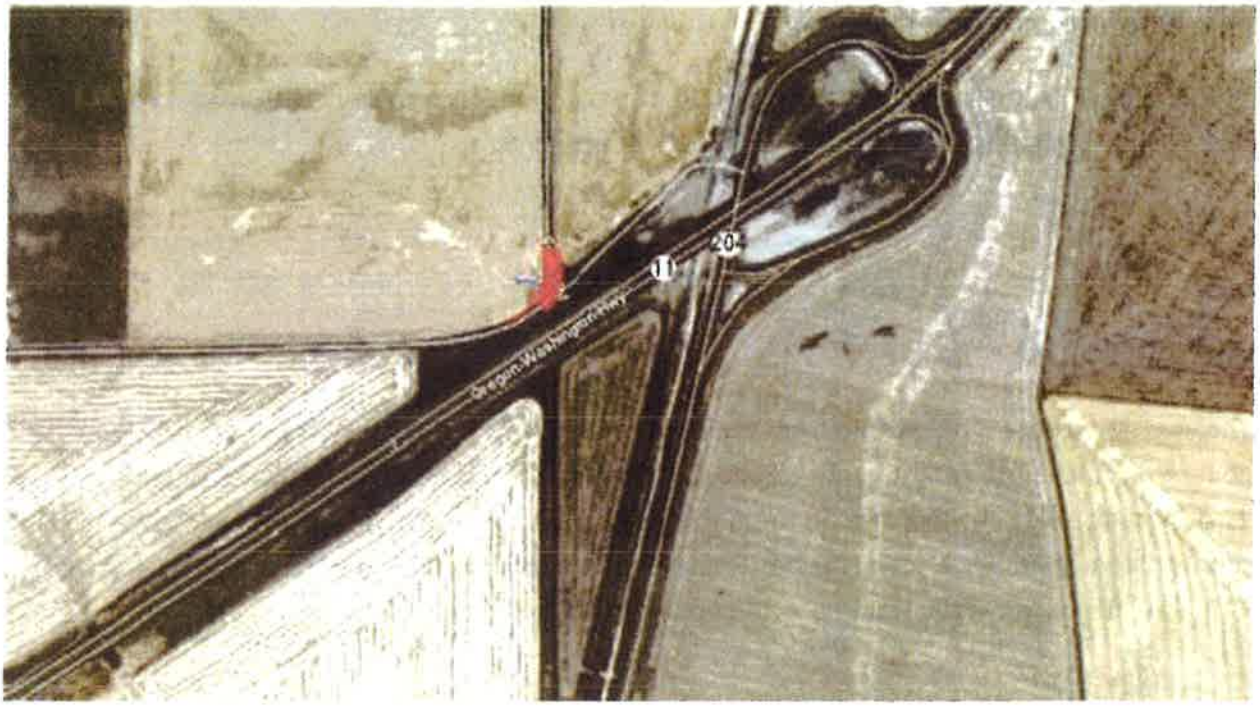
The current vertical curve is insufficient for the typical blade trailer and would require either a trailer modification to raise the tip of the blade or a laydown yard that would switch blades

from an over-the-road trailer to a site specific trailer that would accommodate the current vertical curve.

Picture of site specific trailer that has the ability to overcome vertical and horizontal curve issues.

Once past the Pine Creek crossing the route continues on Johnson Rd and then turns north on York Rd.

The turn from Johnson to York looking south at the Highway 11 overpass. Johnson Road is entering from the right side of the picture.



The balance of the route has turns that allow for sufficient clearance with ability to widen as necessary for equipment movement.

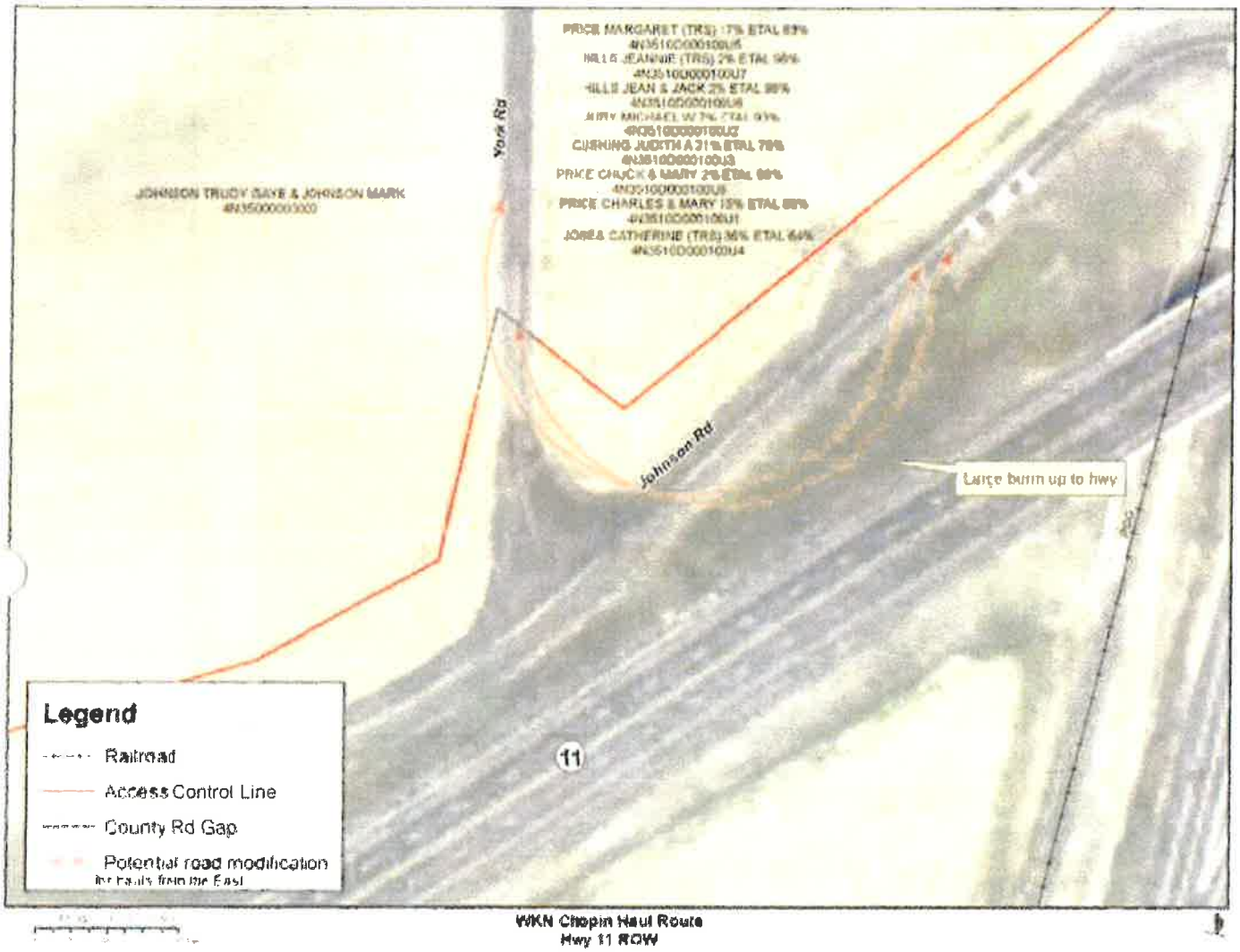
Both the turn from York to La Mar Gulch and from La Mar Gulch to Dry Creek may require minor curve widening, but both have sufficient space to do so.

Alternate Route

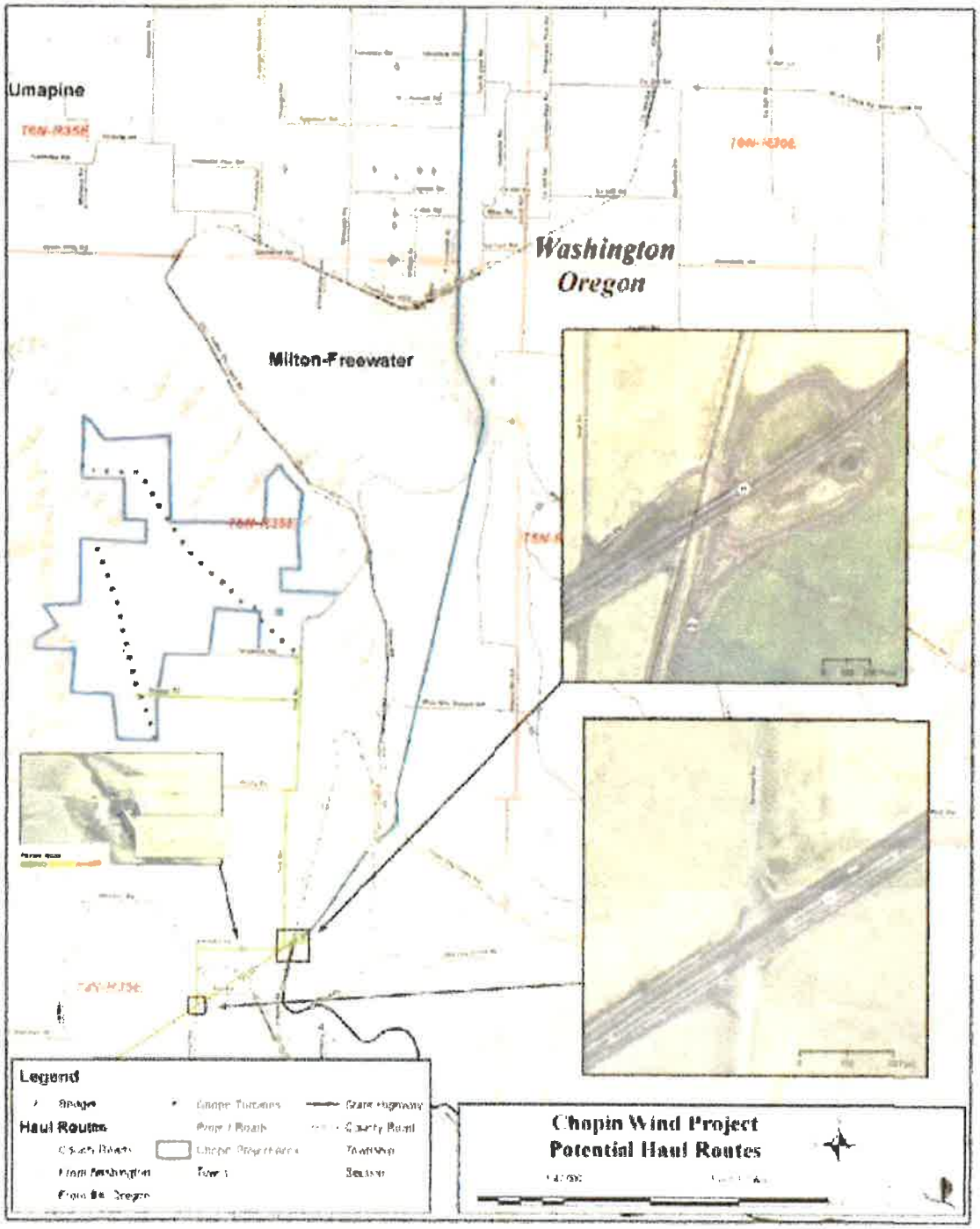
The alternate route would come from the north on Highway 11 from Walla Walla or if loads still come from the south components would have to pass Schrimpf Rd going northeast on Highway 11 passing the exit, turning around then exiting off Highway 11 heading southwest down to the Johnson Road/York Road intersection. There exists an area on the southeast side of Highway 11 that with modifications could provide an area for truck turnaround.

Potential turn around location

The turn radius to get onto York Rd coming from this direction will require modification to accommodate component travel.



Overview map of transport options



Summary

In summary, the Chopin Wind Energy facility has adequate access for the Vestas V112 components with minor modifications to the route to accommodate the blades. The nacelle weights are lighter than most turbines over 2MW and the tower sections can work within the limitations that the blade transport will require. There would also exist the alternative of relocating the blades from over-the-road blade trailers to site specific that would have the ability to overcome the additional obstacles that exist from Highway 11 to the project site. A suitable site will also have to be located for such activity. The V112 nacelle also lends itself to have pre-assembly performed in a laydown yard and then deliver "just in time" to the main erection crane. Given this need a laydown yard would be preferable and would help absorb the cost of constructing the laydown yard. A preferable location would be just off Schrimpf Road before the Johnson Road intersection.

Vestas V112 Transport data

Attached are transport storyboards for the Vestas V112 3MW turbine showing potential transport trailer options that may be applicable for the Chopin project.

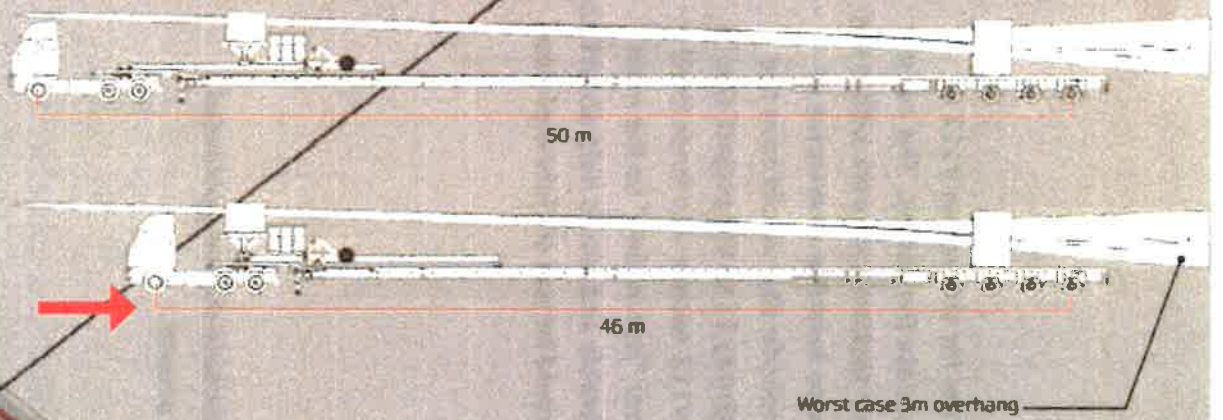
- End of Report -

35

½ hrs
(½ man hrs)

x 1

02 Truck on roads



Goldhofer, Blade trailer

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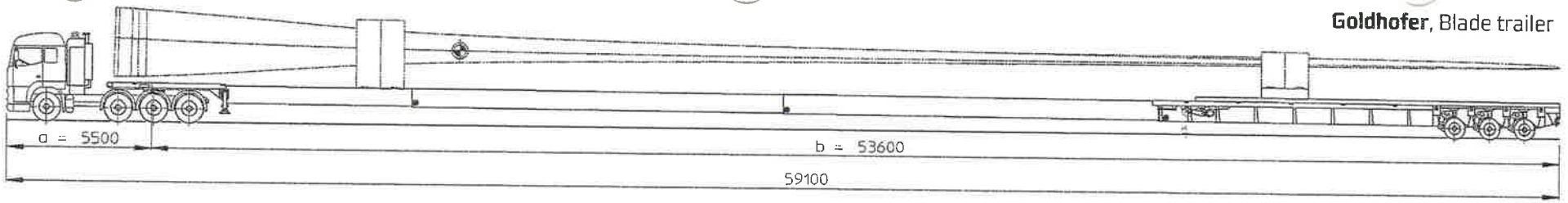

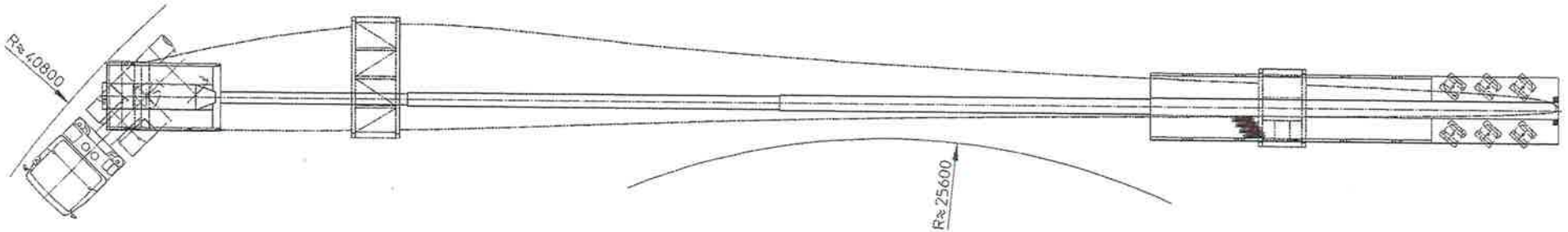

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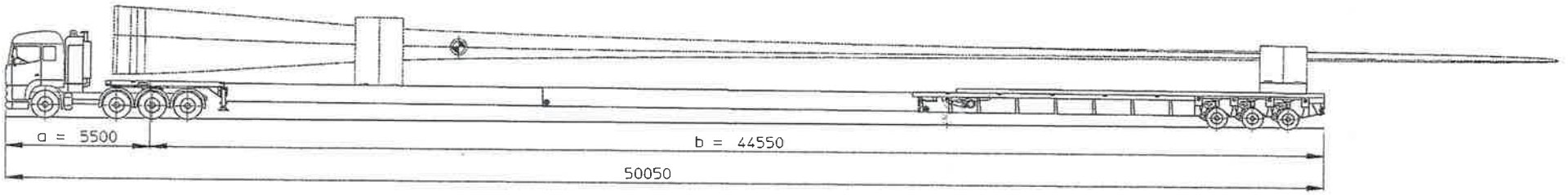

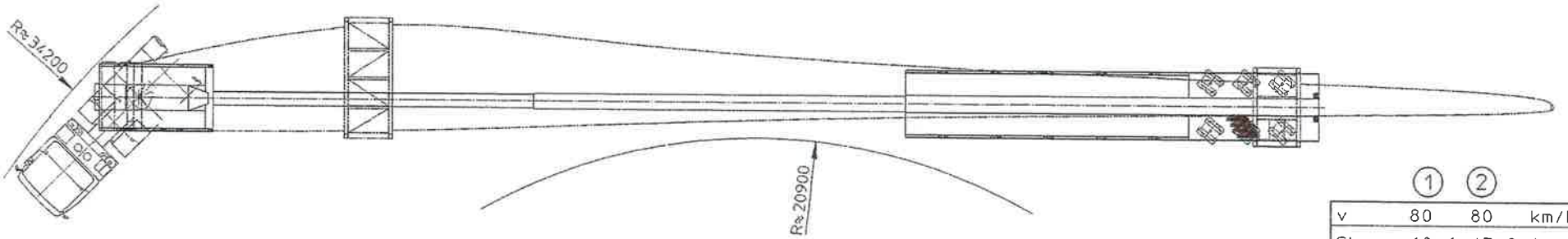

	①	②	
v	80	80	km/h
SL	18,6	17,9	t
AL 3x	6,2	6,4	t
GG	37,2	37,2	t
EG ≈	23,7	23,7	t
NL ≈	13,5	13,5	t

Goldhofer www.goldhofer.de	SPZ-XH 3-38/80 AAA with blade / mit Fluegel				
	Name	Datum	Zeichnungs-Nr./drawing #:	Index	Blatt/sheet
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02 Truck on roads

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(½ man hrs)

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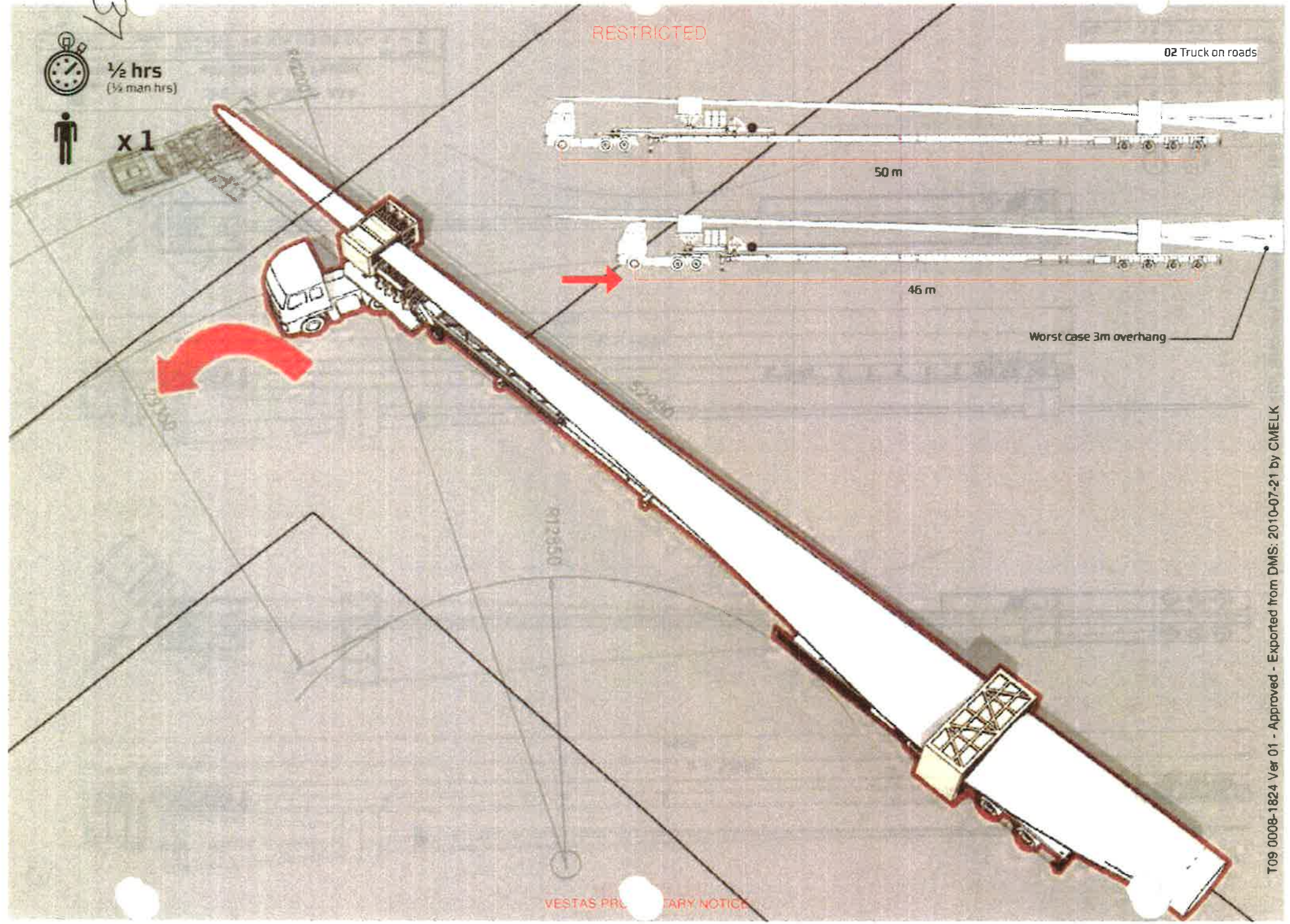

Goldhofer, Blade trailer

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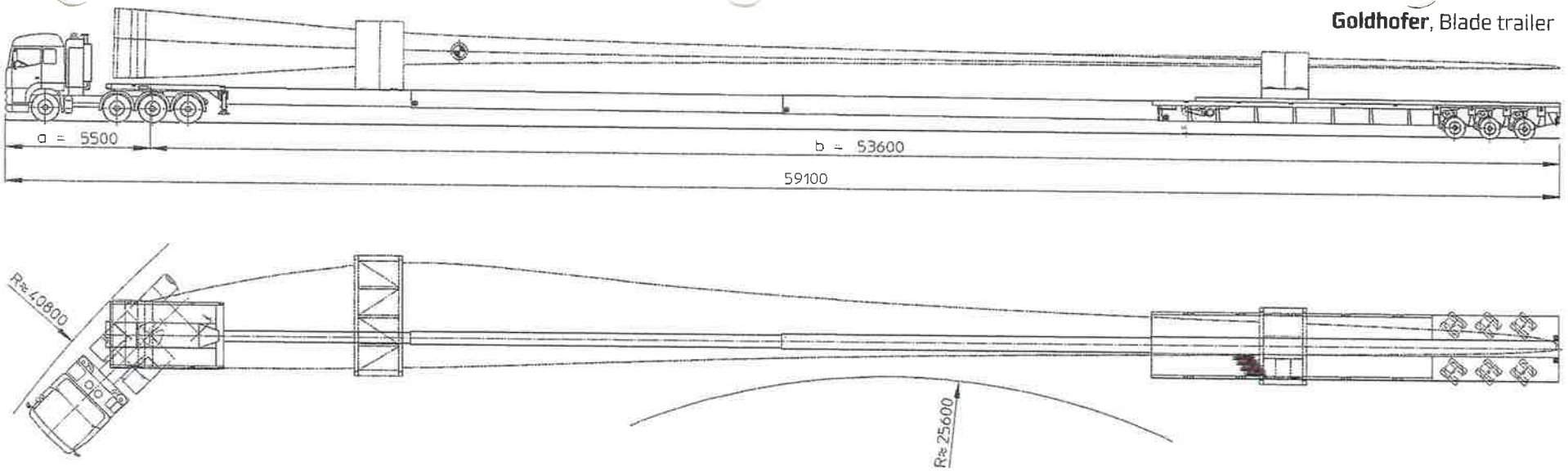

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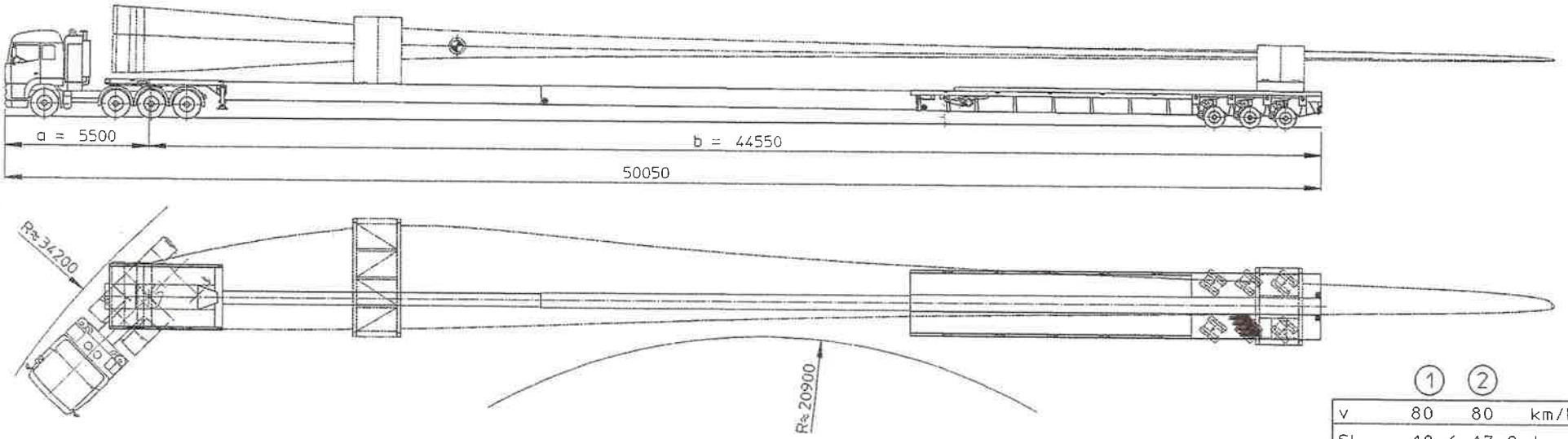

	①	②	
v	80	80	km/h
SL	18,6	17,9	t
AL 3x	6,2	6,4	t
GG	37,2	37,2	t
EG ≈	23,7	23,7	t
NL ≈	13,5	13,5	t

Goldhofer www.goldhofer.de	SPZ-XH 3-38/80 AAA with blade / mit Fluegel			
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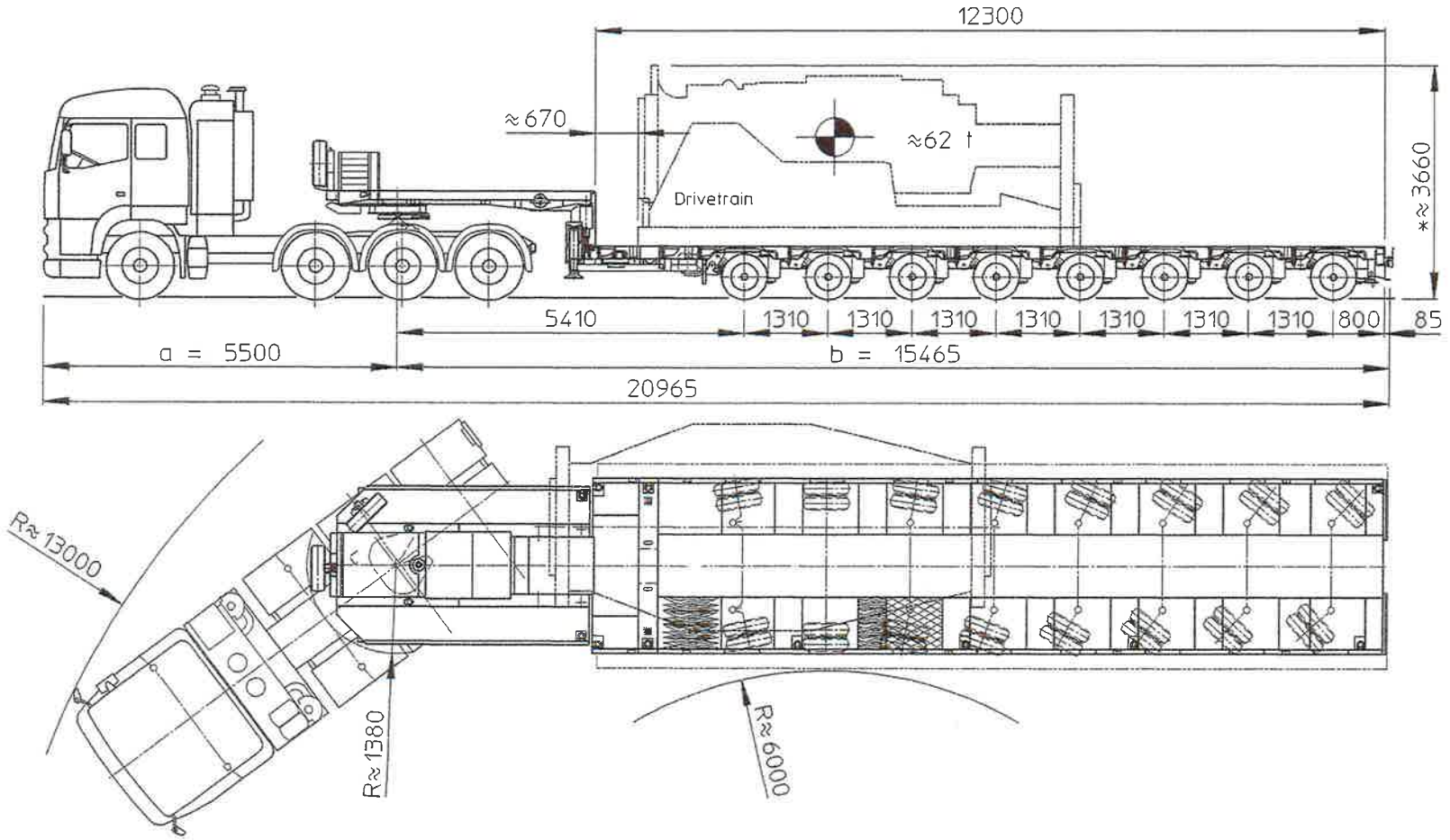
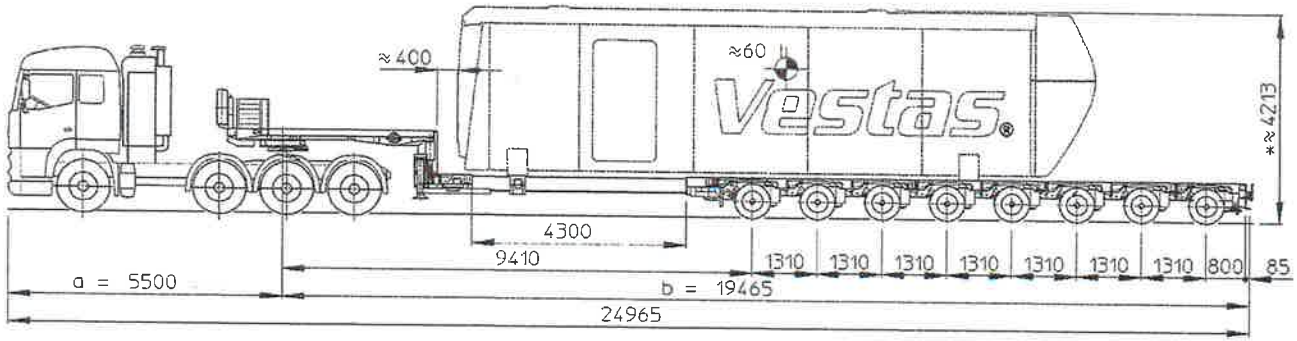
38

Goldhofer, 8 axel Flatbed



v	80	km/h
SL	23,2	t
AL 8x	7,6	t
GG	84,0	t
EG ≈	22,0	t
NL ≈	12,0	t

Goldhofer	STZ-L 8-61/80 A F1 with / mit "drivetrain"			
www.goldhofer.de	Name	Datum	Zeichnungs-Nr./drawing-№	Index / Blatt/sheet
© 40266	nirchal	14.12.2009	P4004.21.01.11- 1 - 3	



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GG	≈ 82,1	t
EG	≈ 22,0	t
NL	≈ 60,0	t

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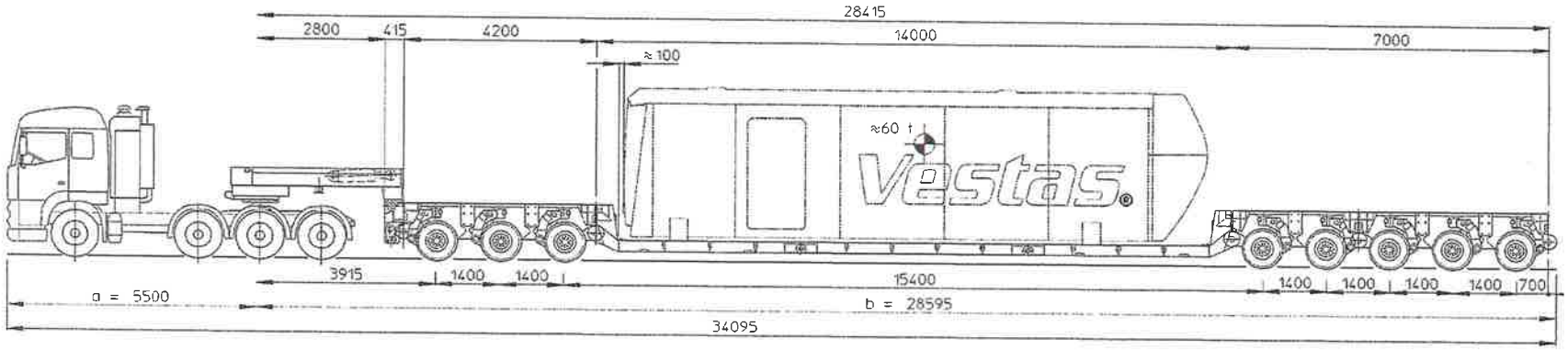

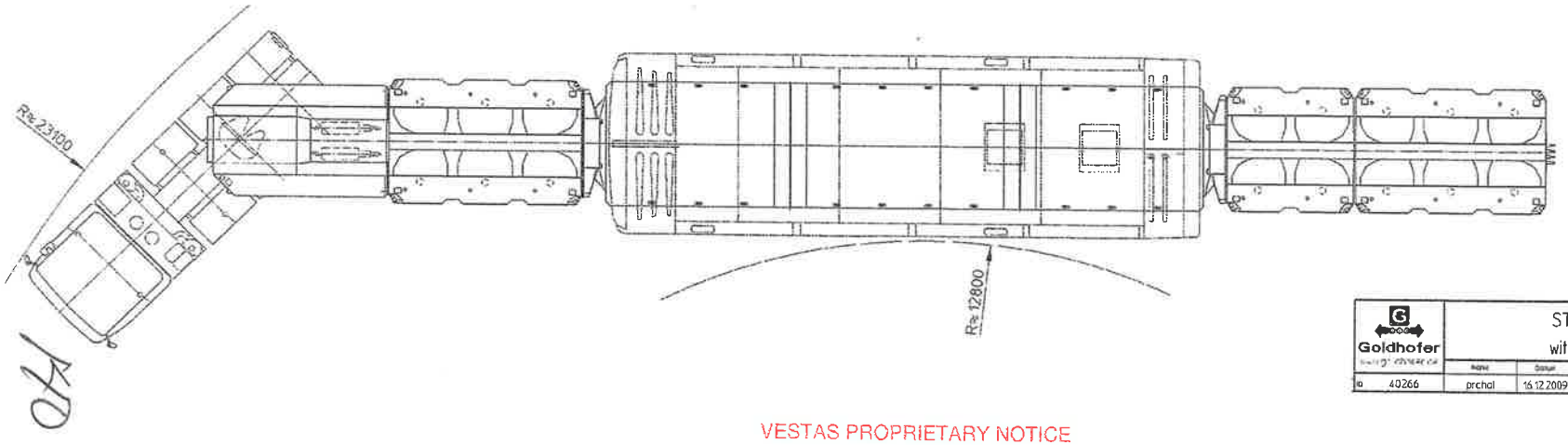

v	80	km/h
SL	20,2	t
AL v 2x	≈ 10,4	t
AL h 6x	≈ 11,3	t
GG	108,6	t
EG	≈ 48,6	t
NL	≈ 62,0	t

Goldhofer	STHP/ET 8 (3+FB+5) with / mit "NACELLE"			
Nr.	Name	Datum	Zeichnungs-Nr. / Drawing #	Index / Stellfläche
40266	prchal	16.12.2009	P1002.63.07.99	– 0 – 2

- hrs
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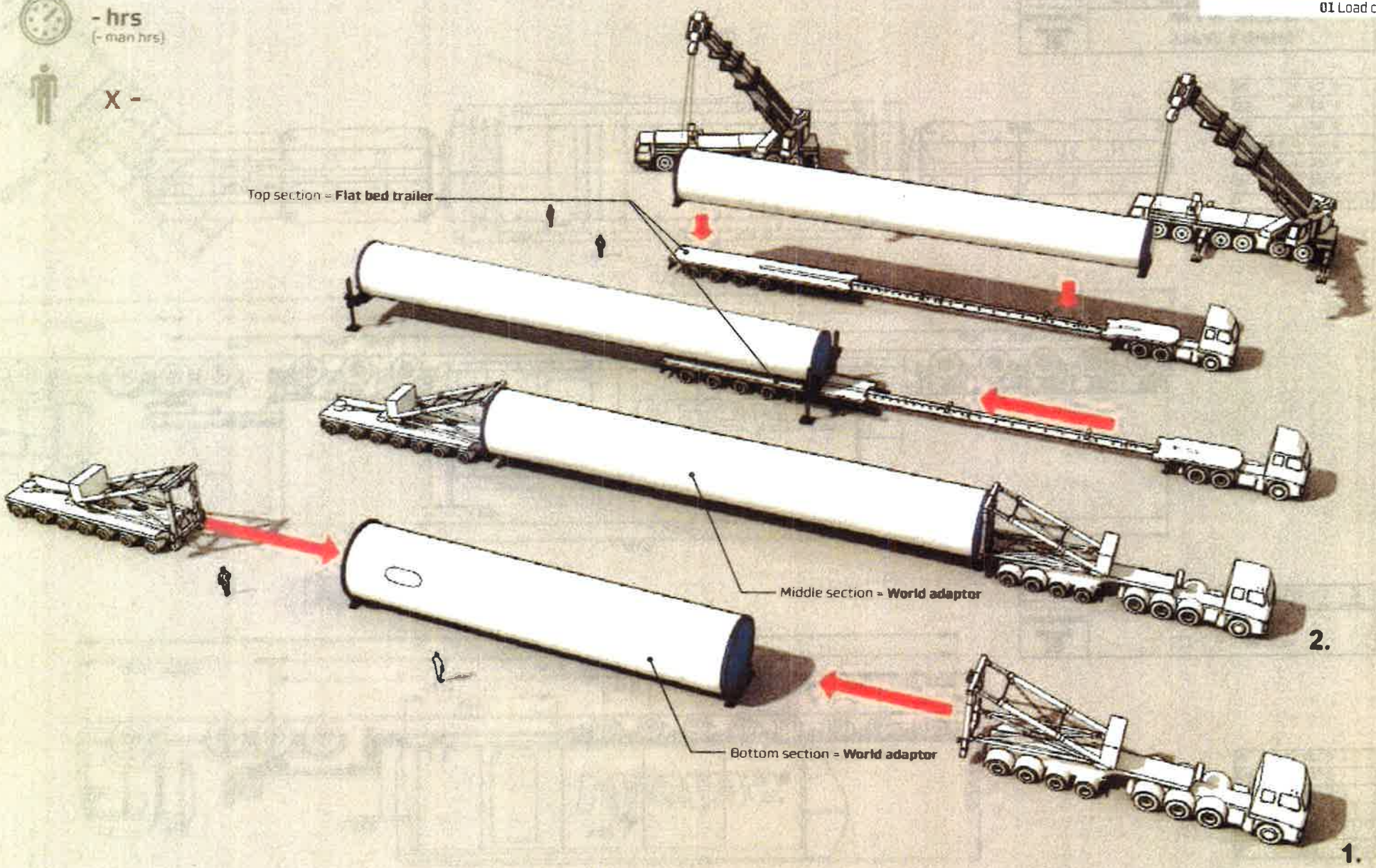
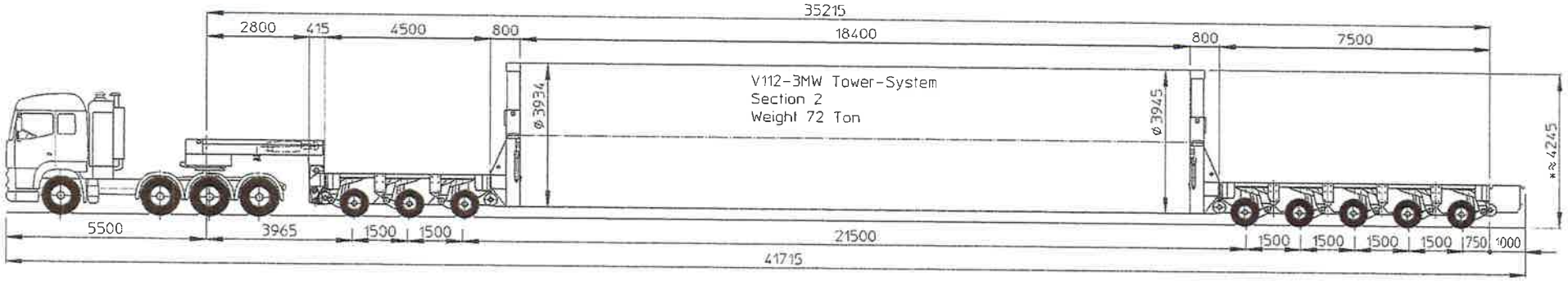
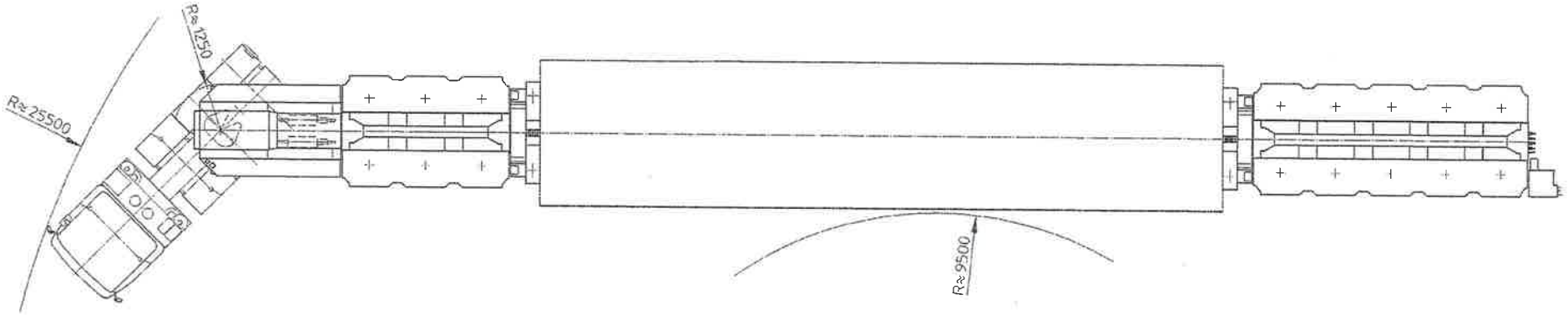
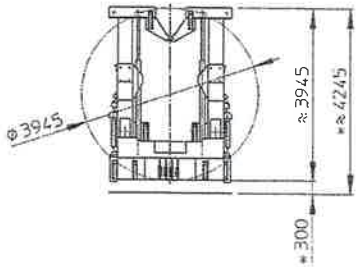
X -

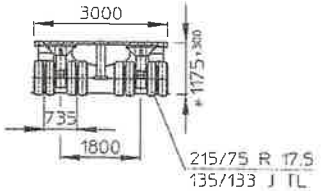
01 Load on truck











Goldhofer www.goldhofer.de	STHP/SL 8 (3 + 5) Rohrtransport-Konzept			
	Name	Datum	Zeichnungs-Nr./Drawing #	Index / Bemerkung
40266	prchal	12.11.2009	P1002.65.04.30 – 0 – 1	