

Exhibit K Land Use

Boardman to Hemingway Transmission Line Project



*1221 West Idaho Street
Boise, Idaho 83702*

Mark Stokes, Project Leader
(208) 388-2483
mstokes@IdahoPower.com

Zach Funkhouser, Permitting
(208) 388-5375
zfunkhouser@IdahoPower.com

Amended Preliminary Application for Site Certificate

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- Attachment K-1. Agricultural Lands Assessment
- Attachment K-2. Right-of-Way Clearing Assessment

ACRONYMS AND ABBREVIATIONS

ACEC	Area of Critical Environmental Concern
Amended Project Order	First Amended Project Order, Regarding Statutes, Administrative Rules and Other Requirements Applicable to the Proposed Boardman to Hemingway Transmission Line (December 22, 2014)
ASC	Application for Site Certificate
B2H	Boardman to Hemingway Transmission Line Project
BCCP	Baker County Comprehensive Plan
BCZSO	Baker County Zoning and Subdivision Ordinance
BLM	Bureau of Land Management
BPA	Bonneville Power Administration
CAP	Community Advisory Process
CH	critical habitat
CHZO	City of Huntington Zoning Ordinance
CWR	Critical Winter Range
DLCD	Department of Land Conservation and Development
EA	environmental assessment
EIS	Environmental Impact Statement (DEIS for Draft and FEIS for Final)
EFSC or Council	Energy Facility Siting Council
EFU	Exclusive Farm Use
ERU	Exclusive Range Use
FERC	Federal Energy Regulatory Commission
GF	Grazing Farm Zone
GIS	geographic information system
HAC	Historic, Archaeological, or Cultural Site/Structure Overlay
HMA	Habitat Management Area
I-84	Interstate 84
IPC	Idaho Power Company
IRP	integrated resource plan
kV	kilovolt
LCDC	Land Conservation and Development Commission
LUBA	(Oregon) Land Use Board of Appeals
MCC	Malheur County Code
MCWMO	Morrow County Waste Management Ordinance
MCZO	Morrow County Zoning Ordinance
MP	milepost
MW	megawatt
NEPA	National Environmental Policy Act of 1969
NERC	North American Electric Reliability Corporation
NF	National Forest
NHOTIC	National Historic Oregon Trail Interpretive Center
NOI	Notice of Intent to File an Application for Site Certificate

NRCS	Natural Resources Conservation Service
NWSTF Boardman	Naval Weapons Systems Training Facility Boardman
OAR	Oregon Administrative Rules
OATT	Open Access Transmission Tariff
ODA	Oregon Department of Agriculture
ODEQ	Oregon Department of Environmental Quality
ODFW	Oregon Department of Fish and Wildlife
ODOE	Oregon Department of Energy
ODOT	Oregon Department of Transportation
OPRD	Oregon Parks and Recreation Department
OPUC	Public Utility Commission of Oregon
OR	Oregon (State) Highway
ORS	Oregon Revised Statutes
pASC	Preliminary Application for Site Certificate
PGE	Portland General Electric
Project	Boardman to Hemingway Transmission Line Project
RMP	resource management plan
ROD	Record of Decision
RNA	research natural area
ROW	right-of-way
SFHA	Special Flood Hazard Area
SPCC	Spill Prevention, Containment, and Countermeasures
SSURGO	Soil Survey Geographic Database
UBAR	Umatilla Basin Aquifer Restoration
UBWC	Umatilla Basin Water Commission
UCDC	Umatilla County Development Code
UCZPSO	Union County Zoning, Partition and Subdivision Ordinance
U.S.	United States
USDA	U.S. Department of Agriculture
USFS	U.S. Forest Service
VAHP	Visual Assessment of Historic Properties
WECC	Western Electricity Coordinating Council
WMA	Wildlife Management Area
WR	winter range
WW LRMP	Land and Resource Management Plan for the Wallowa-Whitman National Forest

1 **Exhibit K**
2 **Land Use**

3 **1.0 INTRODUCTION**

4 Exhibit K addresses the local substantive criteria in Morrow County, Umatilla County, Union County,
5 Baker County, Malheur County, the City of North Powder, and the City of Huntington that are
6 applicable to Idaho Power Company's (IPC) Boardman to Hemingway Transmission Line Project
7 (Project). Moreover, Exhibit K demonstrates that the Project complies with the statewide planning
8 goals adopted by the Land Conservation and Development Commission (LCDC). To demonstrate
9 the same, IPC elects under Oregon Administrative Rule (OAR) 345-022-0030(2)(b) to have the
10 Energy Facility Siting Council (EFSC or Council) determine that: (i) the Project complies with
11 applicable substantive criteria, LCDC administrative rules, and directly applicable land use statutes;
12 or (ii) the Project does not comply with one or more applicable substantive criteria, but the Project
13 otherwise complies with the statewide planning goals or an exception is justified.

14 **2.0 APPLICABLE STATUTES, RULES, AND AMENDED PROJECT**
15 **ORDER PROVISIONS**

16 **2.1 General Standards for Siting Facilities**

17 The Land Use Standard at OAR 345-022-0030 provides, in relevant part:

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

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

22 . . .

23 *(b) The applicant elects to obtain a Council determination under ORS*
24 *469.504(1)(b) and the Council determines that:*

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

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

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

39 *(3) As used in this rule, the "applicable substantive criteria" are criteria from the affected*
40 *local government's acknowledged comprehensive plan and land use ordinances that are*

1 required by the statewide planning goals and that are in effect on the date the applicant
2 submits the application. If the special advisory group recommends applicable
3 substantive criteria, as described under OAR 345-021-0050, the Council shall apply
4 them. If the special advisory group does not recommend applicable substantive criteria,
5 the Council shall decide either to make its own determination of the applicable
6 substantive criteria and apply them or to evaluate the proposed facility against the
7 statewide planning goals.

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

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

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

20 (c) The following standards are met:

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

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

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

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

33 (6) If the special advisory group recommends applicable substantive criteria for an
34 energy facility described in ORS 469.300(10)(a)(C) to (E) or for a related or supporting
35 facility that does not pass through more than one local government jurisdiction or more
36 than three zones in any one jurisdiction, the Council shall apply the criteria
37 recommended by the special advisory group. If the special advisory group recommends
38 applicable substantive criteria for an energy facility described in ORS 469.300(10)(a)(C)
39 to (E) or a related or supporting facility that passes through more than one jurisdiction or
40 more than three zones in any one jurisdiction, the Council shall review the
41 recommended criteria and decide whether to evaluate the proposed facility against the
42 applicable substantive criteria recommended by the special advisory group, against the
43 statewide planning goals or against a combination of the applicable substantive criteria
44 and statewide planning goals. In making the decision, the Council shall consult with the
45 special advisory group, and shall consider:

- 1 (a) *The number of jurisdictions and zones in question;*
 2 (b) *The degree to which the applicable substantive criteria reflect local*
 3 government consideration of energy facilities in the planning process; and
 4 (c) *The level of consistence of the applicable substantive criteria from the various*
 5 zones and jurisdictions.

6 **2.2 Site Certificate Application Requirements**

7 OAR 345-021-0010(1)(k) provides Exhibit K must include the following Information regarding the
 8 Project's compliance with the statewide planning goals:

9 *The applicant shall state whether the applicant elects to address the Council's land use*
 10 *standard by obtaining local land use approvals under ORS 469.504(1)(a) or by obtaining*
 11 *a Council determination under ORS 469.504(1)(b). An applicant may elect different*
 12 *processes for an energy facility and a related or supporting facility but may not otherwise*
 13 *combine the two processes. Once the applicant has made an election, the applicant may*
 14 *not amend the application to make a different election. In this subsection, "affected local*
 15 *government" means a local government that has land use jurisdiction over any part of*
 16 *the proposed site of the facility. In the application, the applicant shall:*

17 (A) *Include a map showing the comprehensive plan designations and land use*
 18 zones in the analysis area.

19 ¹

20 (C) *If the applicant elects to obtain a Council determination on land use:*

21 (i) *Identify the affected local government(s).*

22 (ii) *Identify the applicable substantive criteria from the affected local*
 23 government's acknowledged comprehensive plan and land use
 24 regulations that are required by the statewide planning goals and that are
 25 in effect on the date the application is submitted and describe how the
 26 proposed facility complies with those criteria.

27 (iii) *Identify all Land Conservation and Development Commission*
 28 administrative rules, statewide planning goals and land use statutes
 29 directly applicable to the facility under ORS 197.646(3) and describe how
 30 the proposed facility complies with those rules, goals and statutes.

31 (iv) *If the proposed facility might not comply with all applicable substantive*
 32 criteria, identify the applicable statewide planning goals and describe how
 33 the proposed facility complies with those goals.

34 (v) *If the proposed facility might not comply with all applicable substantive*
 35 criteria or applicable statewide planning goals, describe why an exception
 36 to any applicable statewide planning goal is justified, providing evidence
 37 to support all findings by the Council required under ORS 469.504(2).

38 (D) *If the proposed facility will be located on federal land:*

¹ The Amended Project Order provides Subsection (B) of OAR 345-021-0010(1)(k) does not apply to the Project (see Amended Project Order, p.14).

- 1 (i) Identify the applicable land management plan adopted by the federal
2 agency with jurisdiction over the federal land.
- 3 (ii) Explain any differences between state or local land use requirements
4 and federal land management requirements.
- 5 (iii) Describe how the proposed facility complies with the applicable
6 federal land management plan.
- 7 (iv) Describe any federal land use approvals required for the proposed
8 facility and the status of application for each required federal land use
9 approval.
- 10 (v) Provide an estimate of time for issuance of federal land use approvals.
- 11 (vi) If federal law or the land management plan conflicts with any
12 applicable state or local land use requirements, explain the differences in
13 the conflicting requirements, state whether the applicant requests Council
14 waiver of the land use standard described under paragraph (B) or (C) of
15 this subsection and explain the basis for a waiver.

16 **2.3 Statutes Relevant to Exclusive Farm Use Zones**

17 Oregon Revised Statute (ORS) 215.283(1) provides, in relevant part:

18 (1) *The following uses may be established in any area zoned for exclusive farm use:*

19 . . .

20 (c) *Utility facilities necessary for public service, including wetland waste treatment*
21 *systems but not including commercial facilities for the purpose of generating*
22 *electrical power for public use by sale or transmission towers over 200 feet in*
23 *height. A utility facility necessary for public service may be established as*
24 *provided in:*

25 (A) *ORS 215.275; or*

26 ORS 215.275 provides, in relevant part:

27 (1) *A utility facility established under ORS 215.213 (1)(c)(A) or 215.283 (1)(c)(A) is*
28 *necessary for public service if the facility must be sited in an exclusive farm use zone in*
29 *order to provide the service.*

30 (2) *To demonstrate that a utility facility is necessary, an applicant for approval under*
31 *ORS 215.213 (1)(c)(A) or 215.283 (1)(c)(A) must show that reasonable alternatives have*
32 *been considered and that the facility must be sited in an exclusive farm use zone due to*
33 *one or more of the following factors:*

34 (a) *Technical and engineering feasibility;*

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

39 (c) *Lack of available urban and nonresource lands;*

1 (d) Availability of existing rights of way;

2 (e) Public health and safety; and

3 (f) Other requirements of state or federal agencies.

4 (3) Costs associated with any of the factors listed in subsection (2) of this section may
5 be considered, but cost alone may not be the only consideration in determining that a
6 utility facility is necessary for public service. Land costs shall not be included when
7 considering alternative locations for substantially similar utility facilities. The Land
8 Conservation and Development Commission shall determine by rule how land costs may
9 be considered when evaluating the siting of utility facilities that are not substantially
10 similar.

11 (4) The owner of a utility facility approved under ORS 215.213 (1)(c)(A) or 215.283
12 (1)(c)(A) shall be responsible for restoring, as nearly as possible, to its former condition
13 any agricultural land and associated improvements that are damaged or otherwise
14 disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in
15 this section shall prevent the owner of the utility facility from requiring a bond or other
16 security from a contractor or otherwise imposing on a contractor the responsibility for
17 restoration.

18 (5) The governing body of the county or its designee shall impose clear and objective
19 conditions on an application for utility facility siting under ORS 215.213 (1)(c)(A) or
20 215.283 (1)(c)(A) to mitigate and minimize the impacts of the proposed facility, if any, on
21 surrounding lands devoted to farm use in order to prevent a significant change in
22 accepted farm practices or a significant increase in the cost of farm practices on the
23 surrounding farmlands.

24

25 ORS 215.276 provides:

26 (1) As used in this section:

27 (a) "Consult" means to make an effort to contact for purpose of notifying the
28 record owner of the opportunity to meet.

29 (b) "High-value farmland" has the meaning given that term in ORS 195.300.

30 (c) "Transmission line" means a linear utility facility by which a utility provider
31 transfers the utility product in bulk from a point of origin or generation, or between
32 transfer stations, to the point at which the utility product is transferred to
33 distribution lines for delivery to end users.

34 (2) If the criteria described in ORS 215.275 for siting a utility facility on land zoned for
35 exclusive farm use are met for a utility facility that is a transmission line, the utility
36 provider shall, after the route is approved by the siting authorities and before
37 construction of the transmission line begins, consult the record owner of high-value
38 farmland in the planned route for the purpose of locating and constructing the
39 transmission line in a manner that minimizes the impact on farming operations on high-
40 value farmland. If the record owner does not respond within two weeks after the first
41 documented effort to consult the record owner, the utility provider shall notify the record
42 owner by certified mail of the opportunity to consult. If the record owner does not

1 respond within two weeks after the certified mail is sent, the utility provider has satisfied
2 the provider's obligation to consult.

3 (3) The requirement to consult under this section is in addition to and not in lieu of any
4 other legally required consultation process.

5 **2.4 Amended Project Order Provisions**

6 The Amended Project Order provides paragraphs (A), (C), and (D) of OAR 345-021-0010(1)(k)
7 apply to the Project. Paragraph (B) does not apply. Additionally, the Amended Project Order
8 includes the following discussion:

9 *The NOI indicates that there is federal land within the site boundary, therefore the*
10 *applicant shall include in its application the information required under Paragraph (D).*
11 *The NOI states that applicant will seek a Council determination of compliance with the*
12 *Council's land use standard under ORS 469.504(1)(b). The applicant shall review the*
13 *comments received from each county and city and contact each affected county and city*
14 *planning department to ensure that the application addresses the applicable land use*
15 *criteria in each jurisdiction.*

16 *Although local comprehensive plans and land use ordinances may have been amended*
17 *since local comments were provided, ORS 469.504(1)(b)(A) and OAR 345-021-*
18 *0050(6)(b)(A) require that the applicable local land use criteria are those in effect on the*
19 *date the preliminary application for site certificate was submitted, February 27, 2013, for*
20 *the local jurisdictions identified in the preliminary application. This includes Morrow,*
21 *Union, Umatilla, Baker, and Malheur counties, and the city of North Powder. The*
22 *governing bodies of these five counties were designated as special advisory groups*
23 *(SAGs) on October 7, 2011, following receipt by ODOE of the B2H NOI. The City*
24 *Council of North Powder was designated as a SAG on March 15, 2013.*

25 *After submittal of the preliminary application, ODOE received a letter from IPC on July*
26 *12, 2013, in which IPC identified a need for two new multi-use areas. One of the new*
27 *multi-use areas is located in Huntington, and the second multi-use area is located in*
28 *both La Grande and Island City. As Huntington, Island City, and La Grande were not*
29 *identified in the preliminary application, the applicable substantive criteria for these*
30 *jurisdictions will be those in effect on the date that ODOE received the information from*
31 *IPC, July 12, 2013.² As provided in ORS 469.401(3), if the Council issues a site*
32 *certificate, the counties and cities will be bound to issue all required permits and other*
33 *land use approvals, subject to the conditions set forth in the site certificate. The Island*
34 *City and Huntington city councils were designated as SAGs on August 2, 2013, and the*
35 *La Grande city council was designated as a SAG on September 27, 2013.*

36 *Exhibit K shall include information necessary to demonstrate compliance with the*
37 *applicable substantive criteria from each county and city code and comprehensive plan*
38 *that are applicable to issuance of the required permits and approvals. Due to the number*
39 *of land use jurisdictions through which the project is proposed to cross, there may be*
40 *substantive criteria applicable in more than one jurisdiction.*

² The July 12, 2013 letter through which IPC notified ODOE of the addition of the City of Huntington as an affected local government also indicated that, based on the route proposed at that time, IPC would be proposing to locate multi-use areas in the cities of La Grande and Island City as well. However, due to subsequent route changes, no multi-use areas will be located in La Grande and Island City, and accordingly, those cities are no longer affected local governments.

1 *Exhibit K shall also provide evidence that the proposed facility would comply with the*
2 *applicable statutory requirements related to the proposed facility, including ORS 215.283*
3 *and 215.275, and specifically including all requirements regarding the location of the*
4 *proposed facility within EFU zones.*

5 (Amended Project Order, Section III(k)).

6 **3.0 PROJECT OVERVIEW**

7 **3.1 Project Facilities and Location**

8 IPC is proposing to construct, operate, and maintain a high-voltage electric transmission line
9 between Boardman, Oregon, and the Hemingway Substation in southwestern Idaho as an
10 extension of IPC's electric transmission system. This Amended Preliminary Application for Site
11 Certificate (Amended pASC) seeks authorization for the Project features within the Site
12 Boundary located in Oregon and not Idaho.³ The Site Boundary for the 500-kilovolt (kV)
13 transmission line is a 500-foot-wide area within which IPC will locate the transmission line and is
14 described in Exhibit C, Section 3.5, Site Boundary. The Site Boundary for the remaining Project
15 features varies by the type of feature (see Exhibit C, Section 3.5, Table C-24).

16 The Project consists of approximately 296.6 miles of electric transmission line, with 272.8 miles
17 located in Oregon and 23.8 miles in Idaho. The Project includes 270.8 miles of single-circuit
18 500-kV transmission line, removal of 12 miles of existing 69-kV transmission line, rebuilding of
19 0.9 mile of a 230-kV transmission line, and rebuilding of 1.1 miles of an existing 138-kV
20 transmission line into a new right-of-way (ROW).

21 The Site Certificate will authorize the following Project features in Oregon:

- 22 • **Transmission Lines.** The Proposed Corridor consists of an approximately 270.8-mile-
23 long single-circuit 500-kV electric transmission line, removal of 12 miles of existing 69-kV
24 transmission line, rebuilding of 0.9 mile of a 230-kV transmission line, and rebuilding of
25 1.1 miles of an existing 138-kV transmission line into a new ROW.⁴ The Amended pASC
26 includes four alternative routes of the Proposed Corridor, totaling approximately 33.3
27 miles of transmission line.
- 28 • **Station.** IPC proposes to build a 20-acre switching station (station) located near the Port
29 of Morrow, Oregon. A switching station provides a combination of switching, protection,
30 and control equipment arranged to provide circuit protection and system switching
31 flexibility for the transfer of electric power, but does not incorporate step-down or step-up
32 voltage equipment.⁵ The proposed station will serve to connect the Project to other 500-
33 kV transmission lines and the Pacific Northwest power market. For ease of reference,
34 both the proposed switching station and the Hemingway Substation are referred to
35 simply as "stations" throughout this Amended pASC.
- 36 • **Communication Station Sites.** Communication station sites will consist of a
37 communication shelter and related facilities. The Project will include 10 communication
38 station sites of less than ¼ acre in size and 2 alternative communication station sites.

³ ODOE has jurisdiction over the features located in Oregon and not Idaho. While the Amended pASC discusses the Project features located in Idaho, it does so only to provide context for the analysis related to the Oregon Project features.

⁴ The Project features located in Idaho would include an additional 23.8 miles of transmission line leading to the Hemingway Substation.

⁵ A switching station is not a substation, which provides the additional function of stepping voltage up and down to allow for distribution to customers. The Project does not include a substation.

- 1 • **Related and Supporting Facilities.** The Project will include permanent access roads
2 for the Proposed Route, including 206.3 miles of new roads and 223.2 miles of existing
3 roads requiring substantial modification, and for the Alternative Routes including 30.2
4 miles of new roads and 22.7 miles of existing roads requiring substantial modification
5 (see Exhibit B, Attachment B-5 – Road Classification Guide and Access Control Plan).
- 6 • **Temporary Features.** The Project will include 31 temporary multi-use areas and 299
7 temporary pulling and tensioning sites, of which four will have light-duty fly yards within
8 the pulling and tensioning sites.

9 A map of the Project location is set forth in Figure B-1 and details of the alternatives and rebuild
10 routes are shown in Figure B-2. Additional information regarding the location of the Project
11 features is set forth in Exhibit C.

12 Exhibit K addresses only the Oregon portions of the Project for which IPC seeks a Site
13 Certificate.

14 **3.2 Analysis Area**

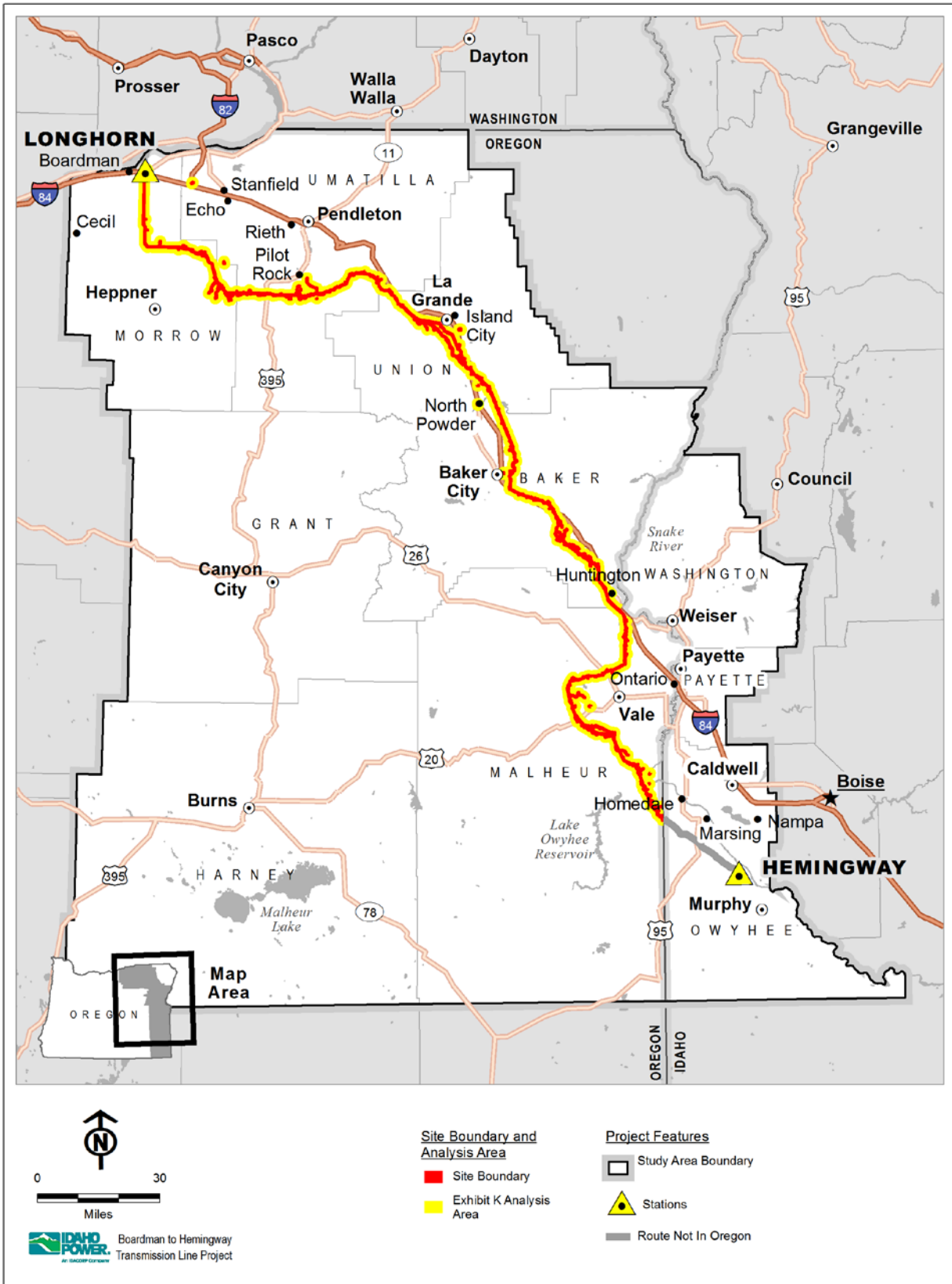
15 The analysis area for Exhibit K includes all areas within the Site Boundary and one-half mile
16 from the Site Boundary. The Site Boundary is defined as “the perimeter of the site of a proposed
17 energy facility, its related or supporting facilities, all temporary laydown and staging areas, and
18 all corridors and micrositing corridors proposed by the applicant” (OAR 345-001-0010(55)).

19 The Site Boundary encompasses the following facilities in Oregon:

- 20 • The Proposed Route, consisting of 270.8 miles of new 500-kilovolt (kV) electric
21 transmission line, removal of 12 miles of existing 69-kV transmission line, relocation of
22 0.9 mile of a 230-kV transmission line, and relocation of 1.1 miles of an existing 138-kV
23 transmission line;
- 24 • Four alternatives that each could replace a portion of the Proposed Route, including the
25 West of Bombing Range Road Alternative 1 (3.7 miles), West of Bombing Range Road
26 Alternative 2 (3.7 miles), Morgan Lake Alternative (18.5 miles), and Double Mountain
27 Alternative (7.4 miles);
- 28 • One proposed 20-acre station (Longhorn Station);
- 29 • Ten communication station sites of less than ¼-acre each and two alternative
30 communication station sites;
- 31 • Permanent access roads, including 206.3 miles of new roads and 283.4 miles of existing
32 roads; and
- 33 • Thirty-one temporary multi-use areas and 299 pulling and tensioning sites of which four
34 will have light-duty fly yards within the pulling and tensioning sites.

35 The Project features are fully described in Exhibit B and the Site Boundary for each Project
36 feature is described in Exhibit C, Table C-24. The location of the Project features and the Site
37 Boundary is outlined in Exhibit C.

38 Figure K-1 below is a map overview of the Site Boundary and Exhibit K analysis area across the
39 Project. The Project Site Boundary is described in Exhibit C, Table C-16, which is incorporated
40 below as Table K-1.



1
2 **Figure K-1. Site Boundary and Exhibit K Analysis Area**

1 **Table K-1. Site Boundary by Project Component**

Component	Length (miles) or Count	Site Boundary ¹	Construction Disturbance	Operations Disturbance
Transmission Lines				
Single-Circuit 500-kV	Proposed (270.8 miles), Alternatives (33.3 miles)	500' (width)	- ²	- ²
Single-Circuit 230-kV	Proposed (0.9 miles)	500' (width)	- ²	- ²
Single-Circuit 138-kV	Proposed (1.1 miles)	500' (width)	- ²	- ²
Transmission Structures				
Proposed 500-kV Single-Circuit Lattice Steel Structure (Figure B-15)	Proposed (1,076), Alternatives (114)	- ³	250' x 250' (1.4 acres)	50' x 50' (0.06 acres)
Proposed/Alternative 500-kV Single-Circuit Tubular Steel Pole H-Frame Structure (NWSTF Boardman area) (Figure B-17)	Proposed (70), Alternatives (33)	- ³	250' x 90' (0.5 acres) on NWSTF / 250' x 150' (0.9 acres) off NWSTF	10' x 40' (0.001 acres)
Proposed/Alternative 500-kV Single-Circuit Tubular Steel Pole H-Frame (Figure B-18)	Proposed (6)	- ³	250' x 250' (1.4 acres)	10' x 40' (0.001 acres)
Alternative 500-kV Single-Circuit Tubular Steel Pole Y-Frame (NWSTF Boardman area) (Figure B-16)	Alternatives (8)	- ³	Varies (0.4 acres)	8' x 8' (0.001 acres)
Proposed 500-kV Single Circuit Tubular Steel 3-Pole Dead-end (NWSTF Boardman area)	Proposed (3), Alternatives (2)	- ³	250' x 90' (0.5 acres)	10' x 90' (0.02 acres)
Proposed 500-kV Single-Circuit Tubular Steel 3-Pole Dead-end	Proposed (3)	- ³	250' x 250' (1.4 acres)	10' x 90' (0.02 acres)
500-kV Single-Circuit, H-Frame Dead-end (NWSTF Boardman area)	Alternatives (2)	- ³	250' x 90' (0.5 acres)	10' x 50' (0.01 acres)
Proposed Route Rebuild Single-Circuit 230-kV Steel H-Frame Structure (Figure B-19)	Proposed (5)	- ³	250' x 100' (0.6 acres)	25' x 5' (0.01 acres)
230-kV H-Frame (Removal)	Proposed (9)	- ³	150' x 100' (0.3 acres)	- ⁴
Proposed 230-kV Single-Circuit Tubular Steel 3-Pole Dead-end	Proposed (4)	- ³	250' x 150' (0.6 acres)	40' x 130' (0.1 acres)

Component	Length (miles) or Count	Site Boundary ¹	Construction Disturbance	Operations Disturbance
Proposed Route Rebuild Single-Circuit 138-kV Wood H-Frame Structure (Figure B-20)	Proposed (9)	— ³	150' x 250' (0.9 acres)	16.5' x 5' (0.001 acres)
138-kV H-Frame (Removal)	Proposed (10)	— ³	100' x 100' (0.2 acres)	— ⁴
138-kV Single-Circuit 3-Pole Dead-end	Proposed (3)	— ³	250' x 150' (0.9 acres)	30' x 130' (0.09 acres)
69-kV H-Frame (Removal)	Proposed (94)	— ³	90' x 90' (0.2 acres)	— ⁴
Stations				
Longhorn	1	188.9 acres	24.4 acres	19.6 acres
Access Roads⁵				
Existing Road, No Substantial Modification (0-20% improved)	Proposed (61.2 miles), Alternatives (34.8 miles)	—	—	—
Existing Road, Substantial Modification (21-70% improved)	Proposed (148.8 miles), Alternatives (13.2 miles)	100' (width)	16' (width)	14' (width)
Existing Road, Substantial Modification (71-100% improved)	Proposed (73.4 miles), Alternatives (6.3 miles)	100' (width)	30' (width)	14' (width)
New, Bladed	Proposed (88.8 miles), Alternatives (12.8 miles)	200' (width)	35' (width)	14' (width)
New, Primitive	Proposed (117.5 miles) Alternatives (12.8 miles)	200' (width)	16' (width)	10' (width)
Permanent Facilities				
Communication Station	Proposed (10), Alternatives (2)	— ²	100' x 100' (0.2 acres)	75' x 75' (0.1 acres)
Distribution Power Lines to Communication Station ^{7/}	Proposed (7), Alternatives (2)	50' (width)	25' (width)	14' (width)
Temporary Facilities				
Multi-use Areas	Proposed (36), Alternatives (4)	Mapped Area Outside of Transmission Line Site Boundary	23 acres	—
Light Duty Fly Yards	Proposed (4)	Mapped Area Outside of Transmission Line Site Boundary	5 acres	—

Component	Length (miles) or Count	Site Boundary ¹	Construction Disturbance	Operations Disturbance
Pulling and Tensioning Sites	Proposed (299), Alternatives (32)	Mapped Area Outside of Transmission Line Site Boundary	4 acres	–

¹ Site Boundary size may be less than indicated in specific areas to avoid impacts to protected areas or other features.

² No temporary or permanent disturbance expected along centerline other than for specific Project features indicated in table.

³ Component will be sited entirely within centerline Site Boundary.

⁴ No permanent disturbance expected once existing towers are removed.

⁵ Existing roads with no substantial modification are not included in site boundary, and accordingly, are not considered in the temporary or permanent disturbance analysis. Moreover, the distinction between the construction disturbance widths for roads needing 21-70% improvement and 71-100% improvement is as follows—the existing roads falling into the 21-70% modification classification will require improvements that will be limited to the driving surface or close thereto; the roads in the 71-100% improvement classification will need more substantial modifications to the entire road prism or beyond.

⁶ Existing roads with no substantial modification are defined as existing roads that require improvements along 20% or less of the entire road segment. These roads have minimal to no temporary or permanent disturbance impacts beyond their existing road surface/profile.

⁷ Idaho Power Company will construct distribution lines to communication stations within their service territory.

4.0 STATUTORY EXCLUSIVE FARM USE ZONE SITING REQUIREMENTS

4.1 Utility Facilities Necessary for Public Service

4.1.1 Non-EFU Alternatives Considered

ORS 215.283(1): The following uses may be established in any area zoned for exclusive farm use: . . . (c) Utility facilities necessary for public service, including wetland waste treatment systems but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over 200 feet in height. A utility facility necessary for public service may be established as provided in: (A) ORS 215.275; or . . .

ORS 215.275: (1) A utility facility established under ORS 215.213 (1)(c)(A) or 215.283 (1)(c)(A) is necessary for public service if the facility must be sited in an exclusive farm use zone in order to provide the service. (2): To demonstrate that a utility facility is necessary, an applicant for approval under . . . ORS 215.283 must show that reasonable alternatives have been considered . . .

ORS 215.275(2) requires an applicant, as a threshold matter, to demonstrate that it considered reasonable alternatives to siting the facility within an Exclusive Farm Use (EFU) zone. The following is a summary of certain Oregon court and Land Use Board of Appeals (LUBA) interpretations of the scope of the “reasonable alternatives” analysis required by ORS 215.275:

- **Defining What Is a “Reasonable” Alternative.** The reasonable alternatives analysis “refers to reasonable alternative sites to EFU land.”⁶ In other words, “under ORS 215.275, the focus of the alternative site analysis is on non-EFU land; and an applicant

⁶ *Sprint PCS v. Washington County*, 186 Or. App. 470, 479 (2003).

1 for a utility facility on EFU land is not required to evaluate alternative sites that are also
 2 zoned EFU.”⁷ Reasonable alternatives to EFU zone locations refers to alternatives that
 3 are fair, proper, just, moderate, and suitable under circumstances, not merely
 4 alternatives that have some likelihood of success.⁸

- 5 • **Efforts to Identify Alternatives.** According to LUBA, ORS 215.275 requires utilities to
 6 “make reasonable efforts to identify . . . non-EFU-zoned alternative facility sites,”
 7 including consideration of reasonable alternative sites identified by other parties.⁹ Thus,
 8 the utility must provide evidence regarding how it identified and analyzed non-EFU
 9 alternative locations. This analysis is by necessity “a case-specific inquiry based upon
 10 the nature of the project and the characteristics of the surrounding area.”¹⁰
- 11 • **No Need to Consider Alternative Types of Projects.** The alternatives analysis “need
 12 not consider every hypothetical possibility for siting the facility on non-EFU land.”¹¹
 13 Moreover, the alternatives analysis does not require the utility to consider different
 14 technological methods of providing the necessary utility service.¹² Thus, for purposes of
 15 ORS 215.275, the implementation of additional energy conservation measures or the
 16 construction of new generating plants is not a “reasonable alternative” to the
 17 construction of a transmission line.¹³
- 18 • **Should Consider EFU Zone as a Unit.** When analyzing reasonable alternatives,
 19 applicants are not required to perform a property-by-property analysis but rather must
 20 focus on the EFU zone as a whole unit.¹⁴ Utility facilities do not have to be placed in the
 21 best location, and the project proponent does not have to analyze *all* alternative routes.¹⁵

22 4.1.1.1 Project Objectives

23 An applicant’s objectives may inform the scope of alternatives that are considered “reasonable”
 24 for purposes of the ORS 215.275(2).¹⁶ Here, IPC is required, by both federal and state laws, to
 25 plan for and meet forecasted load and transmission requirements. IPC has identified the Project
 26 as a critical component of an overall resource portfolio that best balances cost, risk, and
 27 environmental concerns and, as explained in detail in Exhibit N (Need for Facility), both the
 28 Idaho and Oregon public utility commissions have acknowledged resource portfolios that

⁷ *Hamilton et al v. Jackson County et al.*, 2011 WL 1302345 (Or LUBA Mar. 16, 2011).

⁸ *Friends of Parrett Mountain v. Northwest Natural Gas Company*, 336 Or. 93, 108 (2003).

⁹ *Getz v. Deschutes County*, 58 Or. LUBA 559, 564 (2009) (internal citation omitted).

¹⁰ *Jordan v. Douglas County*, 40 Or. LUBA 192, 201 (2001).

¹¹ *Id.*

¹² *Sprint PCS v. Washington County*, 186 Or. App. 470, 478-79 (2003).

¹³ *See Dayton Prairie Water Assoc. v. Yamhill County*, 170 Or. App. 6, 9 (2000) (petitioner’s argued that “if an electrical power utility wished to develop wind-driven turbines on EFU lands, the utility would first have to demonstrate (1) that energy conservation measures are not a feasible way to address the identified need; (2) that fossil fuel, nuclear, hydro, solar or other alternative ways of generating power on non-EFU lands are not feasible alternatives, and (3) that there are no other non-EFU sites that could feasibl[y] accommodate the wind-driven turbine. We believe that [ORS 215.283 and ORS 215.283] impose the third requirement, but do not impose the first two requirements.” (quoting a LUBA opinion with which the Court of Appeals agreed with the conclusion and analysis)). Although this case predated the enactment of ORS 215.275, it has been cited for this proposition by the Oregon Court of Appeals in a case subsequent to the enactment of ORS 215.275. *See Sprint PCS v. Washington County*, 186 Or. App. 470, 478-79 (2003).

¹⁴ *Friends of Parrett Mountain v. Northwest Natural Gas Company*, 336 Or. 93, 108 (2003) (“The text of [ORS 215.275(2)] focuses on EFU zones only as whole units, not as collections of discrete subdivided properties . . .”).

¹⁵ *Re Application for a Site Certificate for the Northwest Natural South Mist Pipeline Feeder Extension, NWN SMPE Final Order Attachment B at 8 (EFSC Mar. 13. 2003) (“NWN SMPE Final Order Attachment B.”)*

¹⁶ *See Sprint PCS v. Washington County*, 186 Or. App. 470, 481 (2003) (the aspects of a cellular tower proponent’s objectives which advance the statutory goal of providing utility services should be considered in determining what is a reasonable alternative to siting the tower on EFU lands).

1 identify the Project as a key resource. The Project will enable IPC to accomplish the following
2 critical objectives:

- 3 • **Serve Native Loads.** The primary objective of the Project is to create additional
4 transmission capacity that would allow IPC to import power from the Pacific Northwest
5 market to serve its retail customers located in the states of Idaho and Oregon.
6 Historically, IPC has been a “summer peaking” utility, while most other utilities in the
7 Pacific Northwest experience system peak loads during the winter. Currently, however,
8 IPC does not have adequate transmission capacity to increase its on-peak power
9 purchases on the western side of its system. As described in IPC’s 2013 and 2015
10 Integrated Resource Plans (IRPs), the Project will remedy this transmission constraint by
11 allowing IPC to import an average of 350 megawatts (MW) (500 MW in the summer, 200
12 MW in the winter) of market purchases to serve its native load (IPC 2013, 2015). In this
13 way, the Project is properly viewed as a supply-side resource, similar to a generation
14 plant, which will allow IPC to meet its expected loads. Further, better access to the
15 Pacific Northwest power market is critical because that market is very liquid with a high
16 number of participants and transactions. On the other hand, the accessible power
17 markets south and east of IPC’s system tend to be smaller, less liquid, and have greater
18 transmission distances. Historically, during IPC’s peak-hour load periods, off-system
19 market purchases from the south and east have proven to be unavailable or very
20 expensive. Many of the utilities to the south and east of IPC also experience a summer
21 peak, and the weather conditions that drive IPC’s summer peak-hour load are often
22 similar across the Intermountain Region. Therefore, IPC imports from the Intermountain
23 Region are not a viable alternative to the Project.
- 24 • **Meet Transmission Reliability Standards.** The Project is an integral component of
25 regional transmission planning because it will serve as a crucial high-capacity
26 connection between two key points in the existing bulk electric system that currently
27 lacks sufficient transmission capacity. The Project will relieve congestion of the existing
28 transmission system and enhance the reliable, efficient, and cost-effective energy
29 transfer capability between the Pacific Northwest and Intermountain regions. The
30 addition of B2H to the regional grid would create additional redundancy in pathways that
31 will enable IPC and other transmission providers to maintain reliable electric service
32 pursuant to the standards set forth by the North American Electric Reliability Corporation
33 (NERC) and implemented by the Western Electricity Coordinating Council (WECC).
34 Excess transmission capacity created by the Project could accommodate additional
35 regional energy transaction and would likely be utilized by other regional transmission
36 providers.
- 37 • **Provide Transmission Service to Wholesale Customers.** The Project allows IPC to
38 comply with the requirements of the Federal Energy Regulatory Commission (FERC),
39 which require IPC to construct adequate transmission infrastructure to provide service to
40 wholesale customers in accordance with IPC’s Open Access Transmission Tariff
41 (OATT). IPC expects interconnection and transmission requests to continue as
42 renewable resources are developed in northeast Oregon.
- 43 • **Provide Sufficient Capacity.** The Project will provide sufficient capacity to: 1) transfer an
44 additional 1,050 MW of power from the Bonneville Power Administration (BPA) 500-kV
45 transmission system in the Pacific Northwest west-to-east across the Idaho-Northwest
46 transmission path; 2) transfer an additional 1,000 MW of power east-to-west across the
47 Idaho-Northwest transmission path; and 3) allow for actual power flows on the Project of

1 up to approximately 1,500 MW, accounting for variations in actual power flows of the
2 various transmission lines comprising the Idaho-Northwest transmission path.

3 Through study and planning, IPC concluded the Project objectives would best be met by
4 connecting IPC's existing transmission system to the existing Pacific Northwest 500-kV
5 transmission grid.

6 *4.1.1.2 Project Endpoints*

7 When IPC began the federal permitting process for the Project in 2007, other transmission
8 development projects were being proposed in the Pacific Northwest that influenced IPC's
9 northern terminus location options for the Project. Portland General Electric's (PGE) Cascade
10 Crossing 500-kV project was of particular note. In fact, in 2008, IPC and PGE executed a MOU
11 concerning Boardman area transmission development, with the intent of sharing development
12 plans and developing facilities collaboratively to assist each company in fulfilling their respective
13 service and system reliability obligations. The proposed Grassland Station was contemplated as
14 an interconnection point between the two projects that could help each company with their
15 respective project objectives. In IPC's 2013 pASC, the proposed termination point in the
16 Boardman area was the Grassland Station.

17 However, since the 2013 pASC, the transmission development landscape has changed. Several
18 of the development projects under consideration during the time of original application have
19 subsequently been cancelled. Notably, in 2013, PGE indefinitely suspended the Cascade
20 Crossing project. Even though the Grassland Station has been developed in connection with
21 PGE's Carty Generating station, with the cancellation of the Cascade Crossing project,
22 additional 500-kV transmission infrastructure would have been required to provide connection
23 into the transmission grid to meet the needs of the Project. Therefore, in the absence of
24 Cascade Crossing, the Grassland and Horn Butte stations do not meet the Project objectives
25 because neither one would provide the required approximate 1,000 MW of bi-directional
26 capacity and up to 1,500 MW of actual power flow capability. Therefore, neither the Grassland
27 Station nor the Horn Butte Station are analyzed in the Amended pASC as a termination point.
28 Rather, IPC is proposing to terminate the Project at the Longhorn Station.

29 *4.1.1.3 Siting Process*

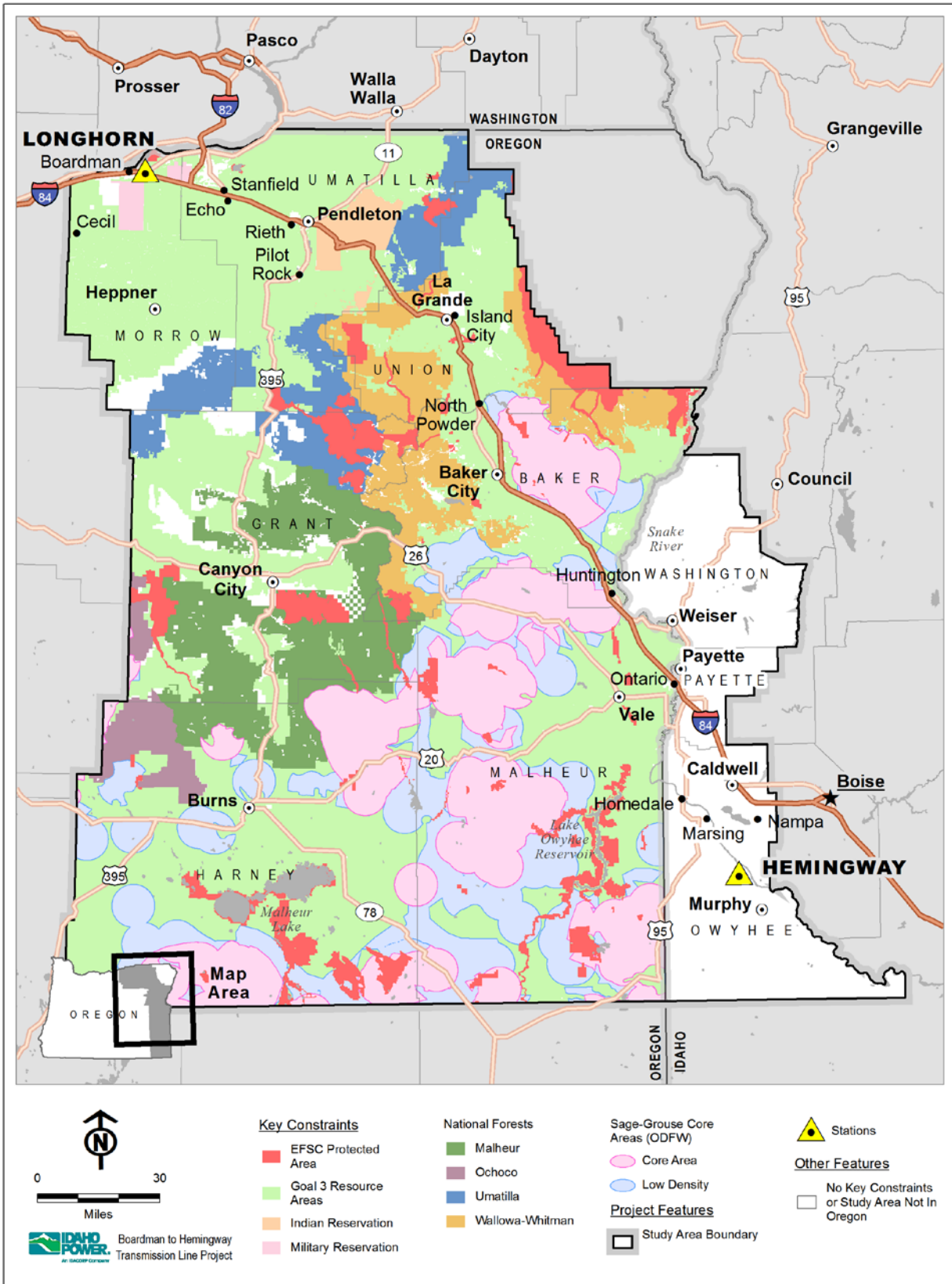
30 IPC faced a unique set of challenges in selecting a Proposed Corridor for the Project. For the
31 Project to meet IPC's objectives, the Project endpoints represented the only initial corridor
32 selection criteria; the Project does not have necessary midpoints (i.e., other substations) that
33 constrain the location of the corridor and there was no existing utility corridor that could be
34 followed for all or a majority of the Project. Thus, IPC's initial corridor selection process involved
35 evaluation of a large study area and a virtually unlimited number of possible corridors that could
36 connect the identified endpoints.

37 As illustrated in a broad sense in Figure K-2, which shows selected key constraints, the study
38 area identified by IPC includes an extremely complex assortment of siting constraints, including
39 the following:

- 40 • Extensive areas of agricultural land (land zoned EFU);
- 41 • Vast areas that are owned and managed by the Bureau of Land Management (BLM),
42 U.S. Forest Service (USFS), and other federal agencies charged with managing the
43 numerous resources in the mountains and high desert; and
- 44 • The presence of many sensitive resources, including key wildlife habitat, protected
45 areas, and cultural resources.

1 In order to select a corridor for the Project that avoids impacts to lands zoned EFU as well as
2 other resources, IPC engaged in an extensive corridor selection process. The resulting
3 Proposed Corridor between the northern Project terminus near Boardman, Oregon, and the
4 southern terminus at the Hemingway Substation in Idaho is over 300 miles long, which is nearly
5 75 miles longer than the shortest direct line.

6 IPC's corridor selection process occurred primarily in three phases: Phase One between 2008
7 and 2010, Phase Two between 2010 and 2012, and Phase Three between 2013 and 2015. IPC
8 has provided three studies that detail its siting process for the Project; see Exhibit B, Attachment
9 B-1, 2010 Siting Study; Attachment B-2, 2012 Supplemental Siting Study; and Attachment B-4,
10 2015 Supplemental Siting Study. Those documents describe IPC's general approach to siting,
11 each phase of IPC's corridor selection process, and how IPC selected its Proposed Corridor
12 based on careful consideration of numerous siting criteria, including the eight criteria set forth in
13 OAR 345-021-0010(1)(b)(D) and six factors in ORS 215.275(2).



1
2 **Figure K-2. Key Constraints**

1 **4.1.1.4 Non-EFU Alternatives**

2 During the siting process, IPC considered numerous alternative corridors that were proposed by
3 local stakeholders as part of the Community Advisory Process (CAP) process, by IPC, or by
4 BLM in the National Environmental Policy Act (NEPA) process. Each of the alternative corridors
5 located primarily in Oregon would have impacted EFU lands because the land use in the
6 relevant areas of Oregon are mostly comprised of EFU lands and there is no corridor running
7 through eastern Oregon that would avoid all EFU lands (see Figure K-3). Unless the Project is
8 sited almost entirely outside of Oregon, IPC must site the Project in EFU lands to provide its
9 intended service.¹⁷

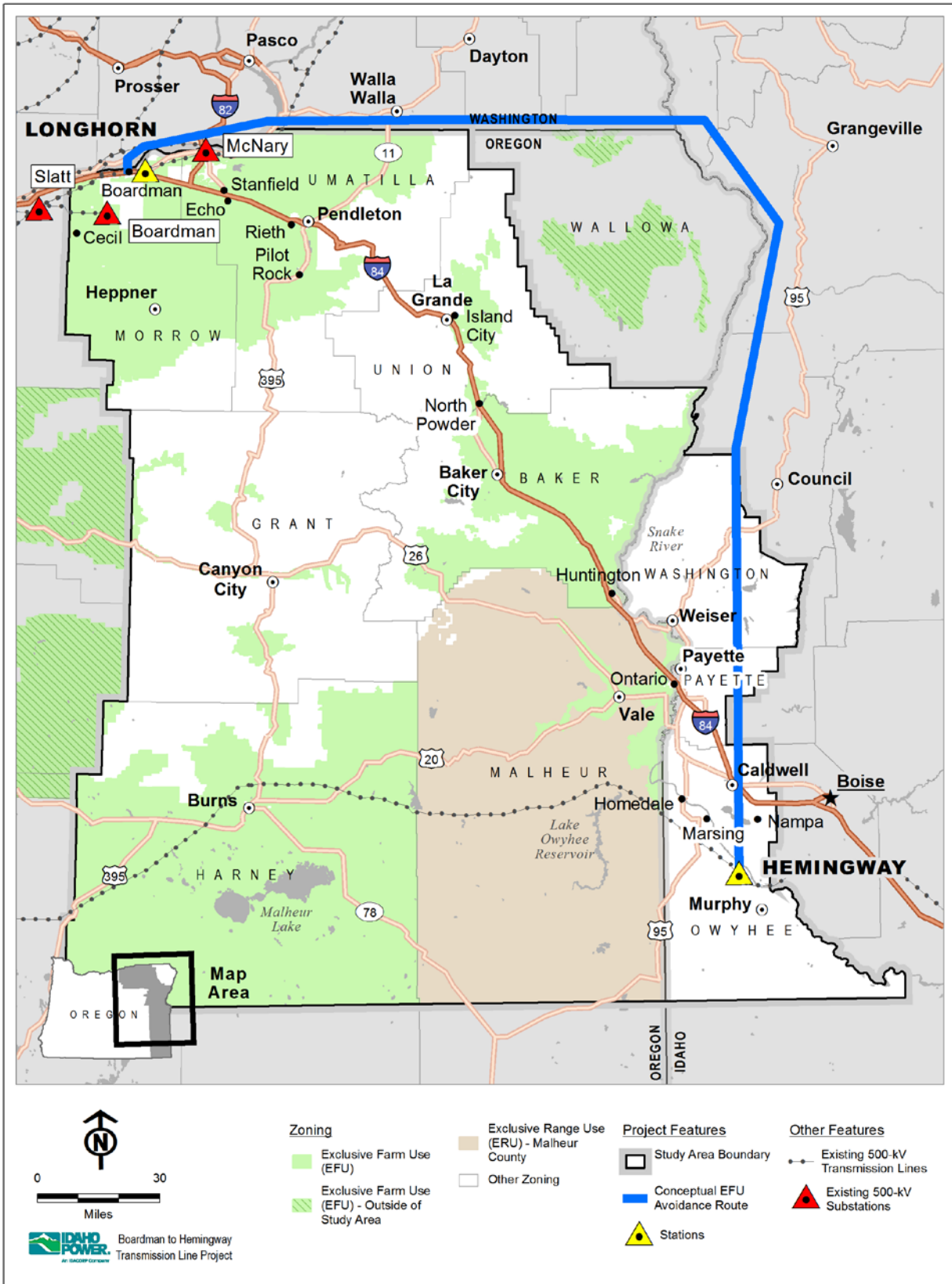
10 IPC considered an alternative route sited almost entirely outside of Oregon in order to
11 completely avoid EFU lands (see Figure K-3). The EFU avoidance route provides substantially
12 the most direct route between the Project endpoints while avoiding EFU lands where possible.
13 Because that approach to siting the EFU avoidance route was fair, proper, just, moderate, and
14 suitable under the circumstances, the EFU avoidance route is a “reasonable” alternative for
15 purposes of ORS 215.275(2).¹⁸

16 IPC applied the following principles as part of its ORS 215.275 alternatives analysis:

- 17 • Under the Malheur County Code, both EFU and Exclusive Range Use (ERU) are
18 grouped together as resource lands, and the Malheur County Code expressly applies
19 ORS 215.275 in both EFU and ERU for the siting of utility facilities necessary for public
20 service. During a November 23, 2015 phone call, the Department of Land Conservation
21 and Development (DLCD) confirmed to IPC that Malheur County’s ERU zone was
22 established under the same authority as the EFU zone, and that the ERU zone is
23 considered EFU for purposes of the alternatives analysis in ORS 215.275. DLCD
24 explained that the same statutory criteria apply in an EFU and ERU zone, and the only
25 distinction is that the minimum lot or parcel sizes are greater for ERU than for EFU.
26 Additionally, the Malheur County Planning Director confirmed this approach at the
27 October 25, 2012 pre-pASC submittal meeting in La Grande. Accordingly, IPC
28 considered ERU lands in Malheur County to be EFU lands for purposes of the ORS
29 215.275 analysis.
- 30 • Several of the agricultural areas in the project area are zoned a combination of timber
31 and farm use, or rangeland and farm use. Based on discussions with DLCD, IPC did not
32 consider such hybrid zoned lands to be EFU lands for purposes of the ORS 215.275
33 analysis.

¹⁷ While EFU lands could not be avoided entirely, IPC has sited the Project to avoid or minimize impacts to EFU lands to the extent practicable. Furthermore, during construction and depending on final design and engineering, IPC will work with landowners to further avoid, minimize, or mitigation impacts to agricultural practices.

¹⁸ See *Friends of Parrett Mountain v. Northwest Natural Gas Co.*, 336 Or. 93, 108 (2003) (the term “reasonable” in ORS 215.275(2) means fair, proper, just, moderate, or suitable under the circumstances).



1
2 **Figure K-3. Conceptual EFU Avoidance Route**

4.1.2 Requirements for Siting the Project on EFU Lands

ORS 215.275(2): . . . and that the facility must be sited in an exclusive farm use zone due to one or more of the following factors: (a) Technical and engineering feasibility; (b) The proposed facility is locationally dependent. A utility facility is locationally dependent if it must cross land in one or more areas zoned for exclusive farm use in order to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands; (c) Lack of available urban and nonresource lands; (d) Availability of existing rights of way; (e) Public health and safety; and (f) Other requirements of state or federal agencies.

ORS 215.275(2) requires IPC, after demonstrating that the company considered reasonable alternatives to placing the Project within an EFU zone, to show that it nevertheless must site the Project in an EFU zone due to one or more of six factors. Here, IPC demonstrates the Project must be sited in an EFU zone due to five of those factors: technical and engineering considerations; locational dependence; lack of available urban or nonresource lands; availability of existing ROWs; and public health and safety (see ORS 215.275(2)(a), (b), (c), (d), and (e)).

4.1.2.1 Technical and Engineering Feasibility

The need for siting the Project in EFU lands generally was not driven by technical or engineering feasibility considerations (see ORS 215.275(2)(a)). However, as discussed in Section 4.1.2.7, multiple technical and engineering considerations dictated the need to site the Longhorn Station in certain EFU lands and certain Project features necessarily cross EFU lands in order to connect to the Longhorn Station.

4.1.2.2 Locational Dependence

A utility facility that must be sited in EFU lands due to the facility's locational dependency is considered necessary for public service under ORS 215.275(2)(b). A utility facility is considered locationally dependent if it "must cross land in one or more areas zoned for exclusive farm use in order to achieve a reasonably direct route" (ORS 215.275(2)(b)). Related to this factor, a transmission line may be necessary for public service even when it is not necessarily serving the public in the land it crosses, as long as it "must cross an EFU in order to serve territory beyond it."¹⁹ Here, the Proposed Route represents the most direct route possible after taking into consideration the myriad of applicable siting constraints, and therefore, it should be considered a reasonably direct route for purposes of ORS 215.275(2)(b). Moreover, because the Project must cross EFU lands in order to achieve the reasonably direct route represented by the Proposed Route, the Project should be considered locationally dependent and necessary under ORS 215.275(2)(b).

The conceptual EFU-avoidance route set forth in Figure K-3, which was designed in part to provide the shortest route that would avoid EFU lands, is not a reasonably direct route. At roughly 338 miles long, the EFU-avoidance route is 42.5 miles or approximately 15% longer than the Proposed Route. Because the EFU-avoidance route would be much longer than the Proposed Route (which already was lengthened beyond the most direct route in order to avoid non-EFU constraints), the EFU-avoidance route cannot be considered a reasonably direct route for purposes of ORS 215.275(2)(b).

¹⁹ 42 Or. Op. Atty. Gen. 77 (Aug. 19, 1981).

1 In sum, the Project must be sited in EFU lands in order achieve a reasonably direct route
2 between the Project endpoints, and therefore, the Project is necessary for public service under
3 ORS 215.275(2)(b).

4 *4.1.2.3 Lack of Available Nonresource Lands*

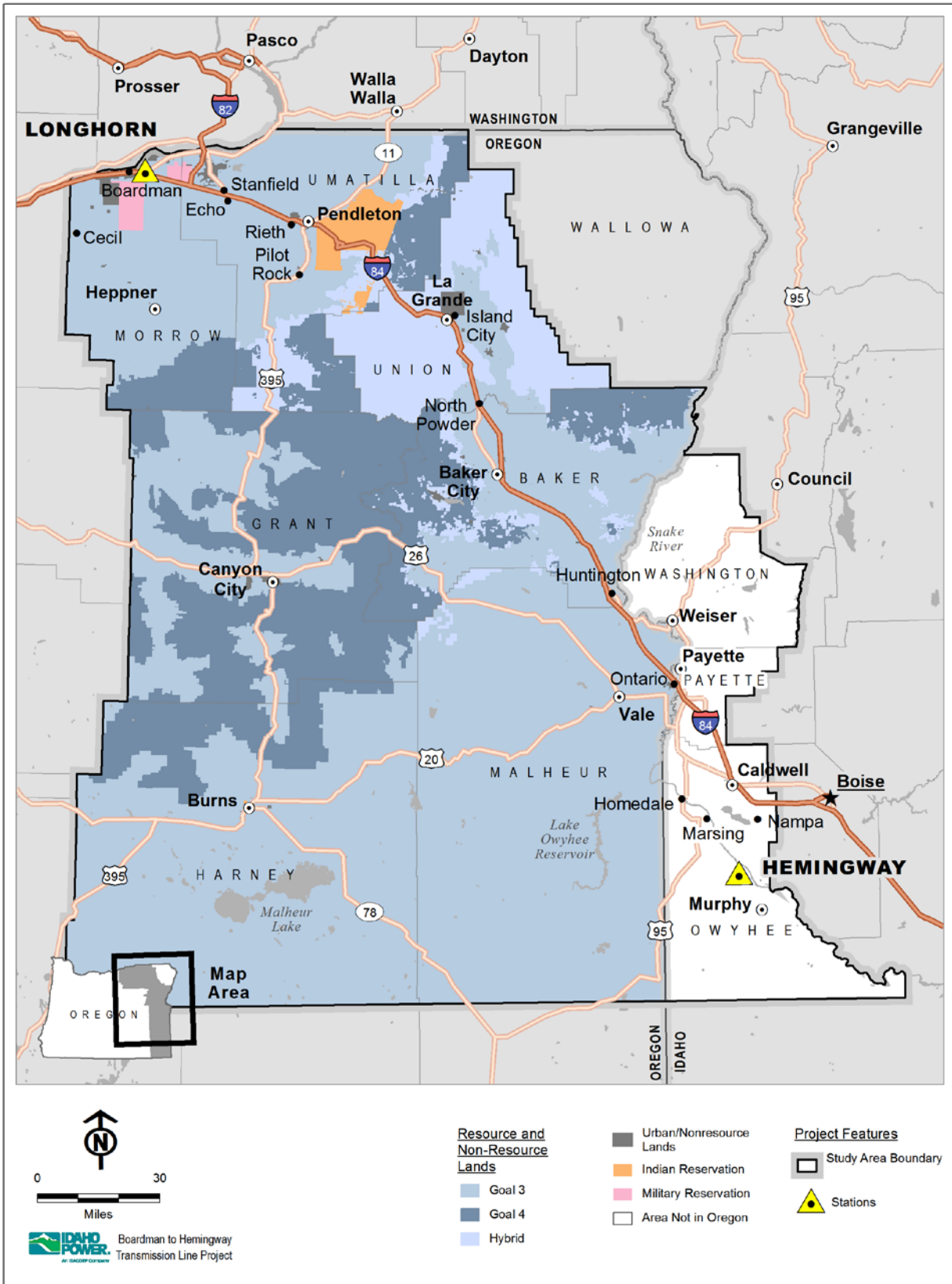
5 A utility facility that must be sited in EFU lands due to a lack of available urban and nonresource
6 lands is considered necessary for public service under ORS 215.275(2)(c). “Nonresource lands”
7 are lands that are not subject to statewide planning Goal 3 (Agricultural Land) or Goal 4 (Forest
8 Land).²⁰ In other words, for purposes of the ORS 215.275(2)(c) analysis, “the lack of availability
9 of nonresource lands” means the lack of lands in the Project area that are not zoned in
10 accordance with Goal 3, Goal 4, or hybrid lands subject to both Goal 3 and Goal 4. The DLCDC
11 confirmed to IPC that, while hybrid lands subject to both Goal 3 and Goal 4 are not considered
12 EFU for purposes of identifying a non-EFU alternative under the first level of analysis of ORS
13 215.275(2), hybrid lands are considered resource lands under ORS 215.275(2)(c).

14 In at least one other proceeding, EFSC has determined that an applicant’s assessment of the
15 availability of urban and nonresource lands need only focus on lands “in reasonable proximity to
16 the intended site of the proposed facility,” the use of which would cause a reduction in use of
17 EFU lands.²¹ Generally, this factor favors siting of utility facilities on nonresource lands where
18 such lands are available.

19 Figure K-4 illustrates that the vast majority of the land in the Oregon study area is designated as
20 either Goal 3 or Goal 4 land, with few areas comprising urban or nonresource lands. Indeed,
21 approximately only 1.2 percent of the Oregon study area is comprised of urban or nonresource
22 lands. Due to the lack of urban or nonresource lands in the Oregon study area providing
23 alternative siting opportunities, the Project must be sited in EFU lands and the Project is
24 necessary for public service under ORS 215.275(2)(b).

²⁰ OAR 660-004-0005(3).

²¹ *NWN SMPE Final Order Attachment B* at 9. While the Council’s finding in the *NWN SMPE* order may not have been a general policy statement, it should be considered at least persuasive precedent here.



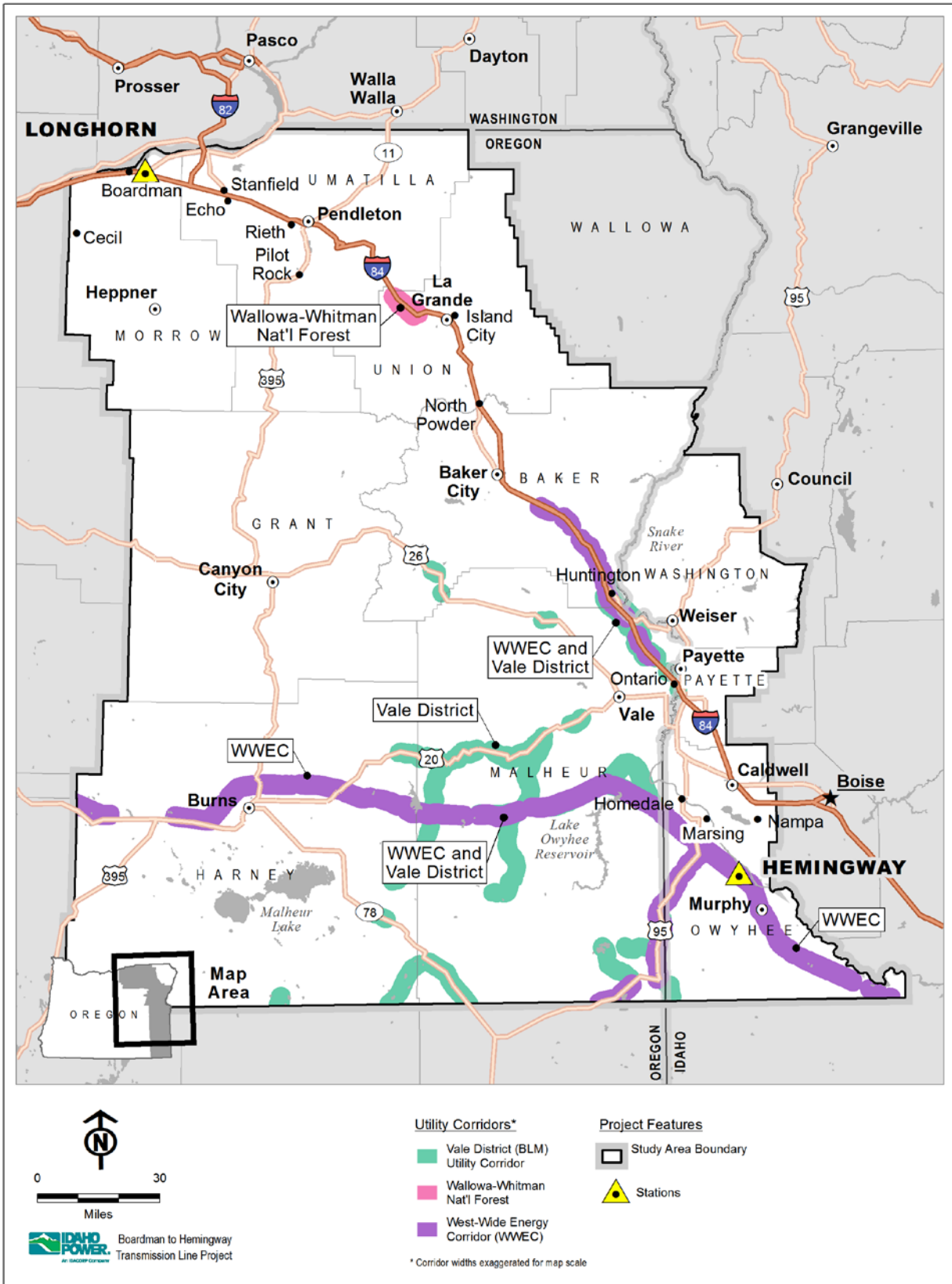
1
2 **Figure K-4. Resource and Urban/Nonresource Lands**

1 4.1.2.4 Availability of Existing Rights-of-Way

2 A utility facility that must be sited in EFU lands due to the availability of existing ROWs is
3 considered necessary for public service under ORS 215.275(2)(d). This factor “reflects a
4 preference for placing new linear facilities in existing public and private rights-of-way, as
5 opposed to creating new right-of-way.”²² The phrase “existing right-of-way” refers to existing
6 transportation and utility ROWs within which the Project could potentially co-locate.²³ Here,
7 there was no existing utility ROW that traveled the entire path between the Project endpoints in
8 a reasonably direct route. Even so, as discussed in Exhibit B, IPC made reasonable efforts to
9 locate the Project in or adjacent to existing federal ROW corridors where possible, including the
10 BLM Vale District Utility Corridor, West-wide Energy Corridor, and Wallowa-Whitman National
11 Forest Utility Corridor. Indeed, 35.1 line miles of the Proposed Route were located in one of
12 those utility corridors (see Figure K-5). Because most of eastern Oregon is zoned EFU, the
13 Project must cross EFU lands to enter and exit the utility corridors. Therefore, to take advantage
14 of the available utility corridors, the Project must be sited in EFU lands and the Project is
15 necessary for public service under ORS 215.275(2)(c).

²² NWN SMPE Final Order Attachment B at 9-10.

²³ There is no statutory definition of the term “rights-of-way,” but Webster’s defines the term right-of-way as “(1) a legal right of passage over another person’s ground; or (2) (a) the area over which a right-of-way exists; (b) the strip of land over which is built a public road; (c) the land occupied by a railroad especially for its main line; and (d) the land used by a public utility (as for a transmission line). Webster’s Third New Int’l Dictionary, 1956 (unabridged 1993).



1
2 **Figure K-5. Utility Corridors**

1 4.1.2.5 Public Health and Safety

2 The need for siting the Project in EFU lands generally was not driven by public health and safety
3 considerations (see ORS 215.275(2)(e)).²⁴ However, as discussed in Section 4.1.2.7, certain
4 public health and safety considerations dictated the need to site the multi-use areas in certain
5 EFU lands.

6 4.1.2.6 Other Requirements of State and Federal Agencies

7 The need for siting the Project in EFU lands was not driven by state or federal requirements
8 beyond those set forth at ORS 215.275(a) through (e) (see ORS 215.275(2)(f)). However, the
9 following additional state and federal requirements influenced the ultimate location of the
10 Project, by creating constraints on particular EFU lands, thereby influencing which EFU lands
11 the Project crosses.

12 **USFS Preference for Designated Utility Corridors**

13 Almost 58 percent of the land within the study area is owned by federal land management
14 agencies. As illustrated in Figure K-2, the Wallowa-Whitman, Umatilla, Malheur, and Ochoco
15 National Forests (NFs) are located within the study area from northeast to southwest and must
16 be crossed by any line that is sited in a reasonably direct route from the proposed Longhorn
17 Station to the Hemingway Substation. A key planning requirement that influenced the location of
18 the Proposed Corridor in the central part of the study area, especially in Union and Umatilla
19 counties, is the presence of a designated utility corridor crossing of the Wallowa-Whitman NF
20 along Interstate 84 (I-84) west of La Grande and the absence of any designated corridor or
21 existing utility corridor crossing National Forest elsewhere. The Land and Resource
22 Management Plan for the Wallowa-Whitman National Forest (USFS 1990) (WW LRMP) states:
23 “One Existing Utility Corridor [...] is designated in order to facilitate authorization of future utility
24 rights-of-way. It lies along I-84 west of La Grande and presently includes several facilities.”
25 Additionally, the WW LRMP provides that “[w]hen applications for rights-of-way for utilities are
26 received, the Forest’s first priority will be to utilize residual capacity in existing rights-of-way.”²⁵

27 **EFSC Protected Area Standard**

28 One key state requirement that influenced siting of the Project is EFSC’s protected area
29 standard, which does not permit siting of an energy facility in certain protected areas. For the
30 Project, the key protected areas that the Project has been sited to avoid include state parks,
31 multiple BLM Area of Critical Environmental Concern (ACECs), and other areas described in
32 detail in Exhibit L. The trade-off for avoiding these resources often resulted in impacts to
33 additional EFU lands.

²⁴ The public health and safety factor does not require an applicant to demonstrate that siting a facility on non-EFU land is fundamentally unsafe in order for this factor to authorize siting the facility on EFU land. *NWN SMPE Final Order* at 27.

²⁵ See WW LRMP at page 4-33, Standards and Guidelines for Energy Resources. The WW LRMP is consistent with the federal mandate that the land management agencies to take steps to avoid the proliferation of utility ROW corridors. See *Federal Land Policy and Management Act*, 43 United States Code 1763 (“In order to minimize adverse environmental impacts and the proliferation of separate rights-of-way, the utilization of rights-of-way in common shall be required to the extent practical, and each right-of-way or permit shall reserve to the Secretary concerned the right to grant additional rights-of-way or permits for compatible uses on or adjacent to rights-of-way granted pursuant to this Act. In designating right-of-way corridors and in determining whether to require that rights-of-way be confined to them, the Secretary concerned shall take into consideration national and State land use policies, environmental quality, economic efficiency, national security, safety, and good engineering and technological practices. The Secretary concerned shall issue regulations containing the criteria and procedures he will use in designating such corridors. Any existing transportation and utility corridors may be designated as transportation and utility corridors pursuant to this subsection without further review.”)

1 **Environmentally Sensitive Areas**

2 As discussed in Exhibit P3, IPC spent significant effort to avoid or minimize impacts to Greater
3 sage-grouse habitat. BLM, in selecting the routes across BLM-administered lands, also sought
4 to avoid or minimize sage-grouse habitat impacts. Avoiding sage-grouse habitat resulted, in
5 many cases, in re-routing the Project onto EFU lands. Similar trade-offs occurred in trying to
6 avoid Oregon Department of Fish and Wildlife (ODFW) Category 1 Habitat.

7 **4.1.2.7 Longhorn Station, Communication Stations, and Related and Supporting** 8 **Facilities**

9 As discussed above, the transmission line must be sited in an EFU zone due to locational
10 dependence; lack of available urban or nonresource lands; and availability of existing ROWs.
11 For similar reasons, the Longhorn Station, communication stations, related and supporting
12 facilities also must be located in EFU lands.

13 **Longhorn Station**

14 The Longhorn Station will be located on EFU lands purchased from the Port of Morrow for the
15 purpose of constructing the station. Because the land on which the Longhorn Station would be
16 located is already reserved for the station, siting it there constitutes using an existing ROW
17 under ORS 215.275(2)(d). Additionally, the Longhorn Station site provides technical and
18 engineering efficiencies for the Project, as the station is located immediately adjacent to the
19 high-voltage transmission lines that the Project is designed to connect to. Those technical and
20 engineering considerations support siting the Longhorn in EFU lands under ORS 215.275(2)(a).

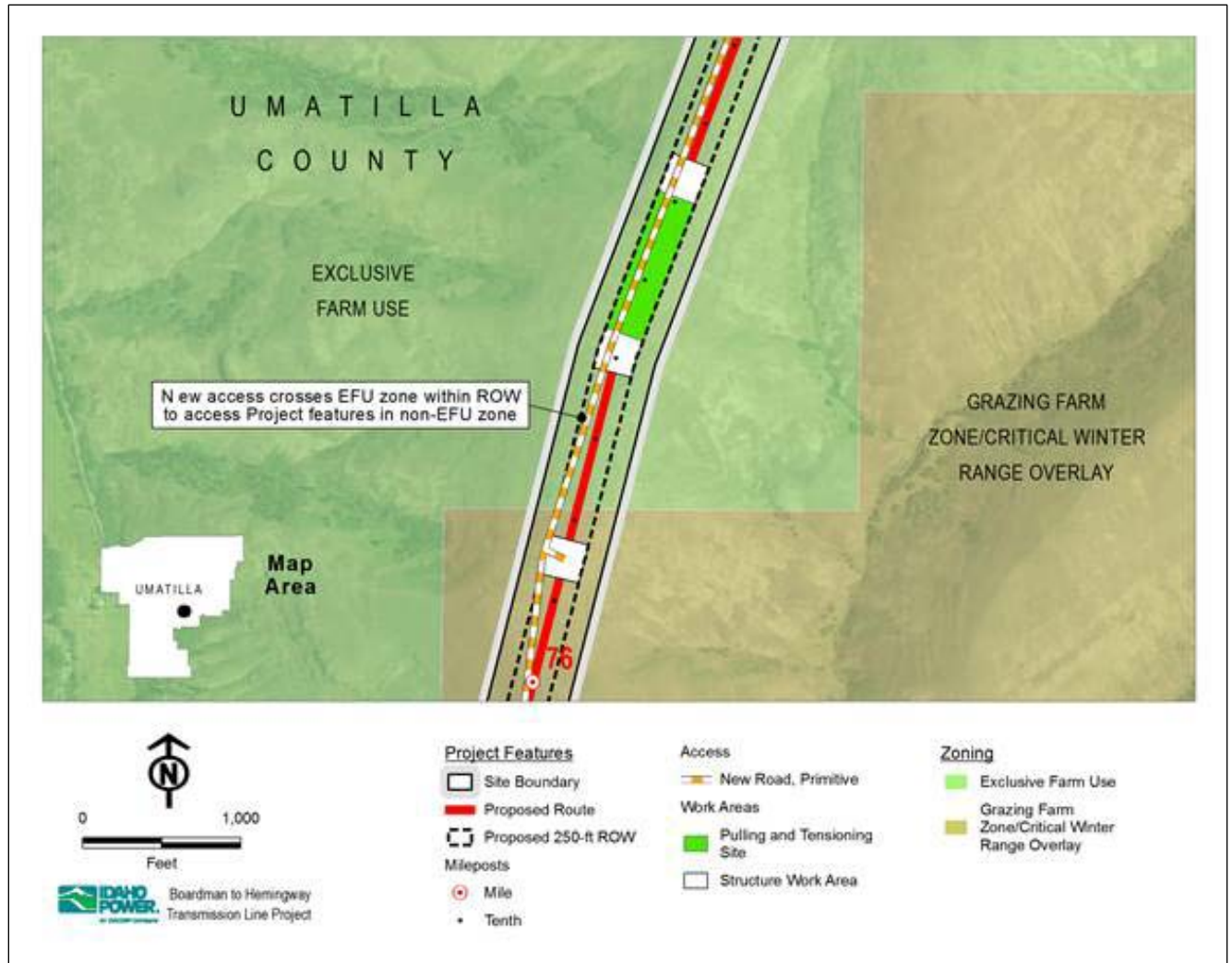
21 **Communication Stations**

22 The Project communication stations will be located within the transmission line ROW. For those
23 communication stations in EFU lands, they are located there because the adjacent transmission
24 line section is also located in EFU lands. For that reason, the communication stations in EFU
25 lands are locationally dependent under ORS 215.275(2)(b).

26 **Access Roads**

27 The Project involves both new access roads and existing roads requiring substantial
28 modification. Regarding IPC's use of existing roads, IPC sought to utilize existing roads as
29 much as possible to, among other things, minimize new land and resource impacts that
30 otherwise are associated with creating new roads. Where IPC will use existing roads in EFU
31 lands, IPC will be using the existing road ROWs and therefore IPC's use of existing roads will
32 be consistent with ORS 215.275(2)(d).

33 For new access roads in EFU lands, where the transmission line is located on EFU lands, new
34 access roads serving those sections of the transmission line must necessarily cross EFU lands
35 to connect to the transmission line because the transmission line itself is on EFU lands. That
36 being so, new access roads serving transmission line segments on EFU lands are locationally
37 dependent under ORS 215.275(2)(b). With respect to the new access roads serving sections of
38 the transmission line located on non-EFU lands, none of those new access roads cross EFU
39 lands, except where the access road is located within the transmission line ROW and it
40 continues down the ROW to serve a transmission line tower on EFU lands. In that sense, even
41 those roads are locationally dependent under ORS 215.275(2)(b) because they necessarily
42 must cross onto EFU lands to serve a tower on EFU lands. Figure K-6 provides an example of
43 an access road on the ROW that crosses both EFU and non-EFU lands.



1
2 **Figure K-6. Access Road Crossing EFU and Non-EFU Lands**

3 ***Multi-Use Areas***

4 Several multi-use areas will be located in EFU lands. IPC sited the multi-use areas in these
5 locations to, among other reasons, provide safe and efficient transportation access and provide
6 for the safe operation of helicopter operations. For those reasons, the need to site the multi-use
7 areas in EFU lands was driven by public health and safety considerations under ORS
8 215.275(2)(e). Additionally, the multi-use areas must be sited in reasonable proximity to the
9 transmission line corridor and must be staged throughout the Project area to provide efficient
10 access for ground transport vehicles and helicopters. Combining the need for efficient siting
11 throughout the Project with providing safe and efficient transportation access and safe
12 surroundings for helicopter operations narrows the potential areas for siting the multi-use areas.
13 In those areas, there is a lack of urban and non-resource areas under ORS 215.275(2)(d), and
14 the multi-use areas must be sited in EFU lands.

15 ***Pulling and Tensioning Sites***

16 Pulling and tensioning sites are located immediately adjacent to the transmission line. To the
17 extent pulling and tensioning sites are located in EFU lands it's because the transmission line

1 itself is on EFU lands. Accordingly, pulling and tensioning sites in EFU lands must be located
2 within the EFU zone because they are locationally dependent (see ORS 215.275(2)(b)).

3 **Communication Station Distribution Lines**

4 The Project communication stations will be located within the transmission line ROW. For those
5 communication stations in EFU lands, they are located there because the adjacent transmission
6 line section is also located in EFU lands. In turn, distribution lines serving those communication
7 stations also must be located in EFU lands. For those reasons, the communication station
8 distribution lines in EFU lands are locationally dependent under ORS 215.275(2)(b).

9 **4.1.3 Siting Costs Were Considered but Were Not Determinative**

10 ORS 215.275(3): Costs associated with any of the factors listed in subsection (2) of this
11 section may be considered, but cost alone may not be the only consideration in determining
12 that a utility facility is necessary for public service. Land costs shall not be included when
13 considering alternative locations for substantially similar utility facilities. The Land
14 Conservation and Development Commission shall determine by rule how land costs may be
15 considered when evaluating the siting of utility facilities that are not substantially similar.

16 Costs were not the only factor in IPC's corridor selection process or its ORS 215.275(2)
17 analysis. As discussed in Exhibit B and the siting studies, there were a variety of factors driving
18 the Proposed Route, including permitting difficulty, construction difficulty, and engineering
19 difficulty.

20 **4.1.4 Restoration of Farmland and Associated Improvements**

21 ORS 215.275(4): The owner of a utility facility approved under ORS 215.213(1)(c)(A) or
22 215.283(1)(c)(A) shall be responsible for restoring, as nearly as possible, to its former
23 condition any agricultural land and associated improvements that are damaged or otherwise
24 disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this
25 section shall prevent the owner of the utility facility from requiring a bond or other security
26 from a contractor or otherwise imposing on a contractor the responsibility for restoration.

27 Once IPC receives approval to locate the Project on EFU lands due to one or more of the
28 factors discussed in Section 4.1.2, ORS 215.275(4) requires IPC to take reasonable measures
29 to restore agricultural lands and associated improvements that are disturbed during the
30 construction and operation of the Project.²⁶ IPC prepared an Agricultural Lands Assessment,
31 attached as Attachment K-1, which describes the current agricultural uses within the analysis
32 area and analyzes impacts of the Project on those uses. Most of the impacts will be temporary;
33 however, impacts on certain portions of agricultural crops will be present for the life of the
34 Project. Table K-2 shows the acres of temporary and permanent impacts to agricultural lands,
35 compared to the total acreage of agricultural lands for each county.

²⁶ IPC expects minimal disturbance to agricultural lands during operation of the Project. See Attachment K-1, Agricultural Lands Assessment for additional information.

1 **Table K-2. Agricultural Impact by County**

Route	County	Total Agricultural Area (acres) ¹	Construction Impacts (acres)	Operation Impacts (acres)
Proposed Route	Morrow	3,391.5 ²	199.4	38.1
	Umatilla	450.3	15.0	1.4
	Union	316.1 ³	115.9	<0.1
	Baker	576.5	53.0	1.6
	Malheur	1,074.2 ⁴	64.2	5.1
Proposed Route - Total		5,808.6	447.5	46.2
Double Mountain Alternative	Malheur	1,074.24	–	–
Morgan Lake Alternative	Union	316.13	97.2	–
West of Bombing Range Road Alternative 1	Morrow	3,391.52	4.2	0.9
West of Bombing Range Road Alternative 2	Morrow	3,391.52	2.4	0.5

¹ The total agricultural area is comprised of the acres within the Site Boundary and a 500-foot buffer around the Site Boundary that were identified as having agricultural uses (see Attachment K-1, Agricultural Lands Assessment). For purposes of this calculation, agricultural uses did not include: cattle, fallow, poultry, rangeland, timber, river/stream, road/transport, or sheep/goats.

² The total agricultural area for Morrow County includes the assessment area for the Proposed Route, West of Bombing Range Alternative 1, and West of Bombing Range Alternative 2.

³ The total agricultural area for Union County includes the assessment area for the Proposed Route and the Morgan Lake Alternative.

⁴ The total agricultural area for Malheur County includes the assessment area for the Proposed Route and the Double Mountain Alternative.

2 Land used during construction of the transmission line will be restored, as nearly as possible, to
 3 former productivity. Crop reestablishment, where permissible, and crop production are expected
 4 to resume following construction. Structures (drainage systems, irrigation systems, fences, etc.)
 5 will be repaired, or landowners will be compensated to make repairs. Damage to crops and
 6 other crop losses due to construction of the transmission line will be assessed, and
 7 compensation will be paid at fair market rates. Specific measures to minimize and mitigate
 8 impacts to agricultural lands, both during the construction and operational phases, are set forth
 9 in IPC's Agricultural Lands Assessment (Attachment K-1). County-level analysis for each county
 10 is provided in Section 5, discussing measures to minimize and mitigate impacts to agricultural
 11 lands in the context of compliance with applicable local substantive criteria.

12 In sum, the majority of the proposed ROW will remain available for most agricultural uses after
 13 completion of the construction and restoration phases. Construction of the transmission line will
 14 temporarily impact farm uses and practices within the construction areas. However, with the
 15 exception of the permanent Project features, IPC will restore all farmland disturbed during the
 16 construction process, as described in the Agricultural Assessment.

4.1.5 Mitigation and Minimization of Impacts to Farmland and Agricultural Practices

ORS 215.275(5): The governing body of the county or its designee shall impose clear and objective conditions on an application for utility facility siting under ORS 215.213(1)(c)(A) or 215.283(1)(c)(A) to mitigate and minimize the impacts of the proposed facility, if any, on surrounding lands devoted to farm use in order to prevent a significant change in accepted farm practices or a significant increase in the cost of farm practices on the surrounding farmlands.

To comply with the requirements of ORS 215.275(5), the Agricultural Assessment proposes specific measures to avoid, mitigate, and minimize impacts to agricultural practices and uses on lands within the Site Boundary. These measures are based upon the assessment of all agricultural crops and practices on lands within the analysis area of the Agricultural Assessment and are similar to the restoration measures described above. To the extent required in order to “prevent a significant change in accepted farm practices or increase in the cost of farm practices on surrounding farmlands,” IPC will implement the measures described in the Agricultural Lands Assessment, Attachment K-1, Section 7.0 to mitigate and minimize impacts to agricultural practices. The minimization and mitigation measures described in detail in the Agricultural Assessment include the following general provisions:

- Coordination with Landowners—IPC will approach each landowner to engage in discussions regarding minimization and mitigation measures for impacts on privately-owned agricultural lands.
- IPC Agricultural Specialists or Qualified Contractors—Unless otherwise specified, IPC may use its own qualified agricultural specialists or will retain qualified contractors to execute mitigation actions. However, IPC may be willing to negotiate mitigation actions to be performed by the landowner or landowner’s designee or others.
- Agricultural Monitor—During construction and initial restoration, IPC will designate an inspector to serve as an Agricultural Monitor. IPC may use a qualified member of its staff or retain a qualified contract to serve as the Agricultural Monitor. The Agricultural Monitor will provide technical assistance to construction managers, other inspectors, and construction inspectors to facilitate the effective implementation of agricultural mitigation measures.
- Contact Information—Prior to construction, IPC will provide each landowner and landowner’s designee with a telephone number and address that can be used to contact IPC regarding the agricultural impact mitigation work that is performed on the landowner’s property. IPC will respond to Project inquiries and correspondence within a reasonable time.
- ROW Safety—IPC will communicate with landowners and designees regarding safe practices while working around transmission lines.

Additionally, IPC proposes the following specific minimization and mitigation measures described in detail in the Agricultural Assessment include the following general provisions:

- Tower Placement—IPC’s engineering, land rights, and permitting staff will work together with landowners to address tower placement issues. Where feasible, IPC will avoid sensitive areas such as those with the potential to interrupt irrigation equipment and other areas identified by landowners.

- 1 • Construction Scheduling—Landowners will be contacted as soon as possible once
2 construction time frames have been developed. IPC will consult with landowners when
3 planning the construction schedule to minimize impacts on soils, crops, harvesting, and
4 other activities.
- 5 • Drainage Tiles—IPC will make every attempt to locate and avoid impacts to drainage
6 tiles. In the event that drainage tiles are damaged or adversely impacted by construction
7 of the Project, IPC will repair affected drainage tiles as quickly as possible. IPC will
8 install additional tile and other drainage measures as are necessary to properly drain wet
9 areas in the ROW caused by construction of the Project. Additional standards and
10 policies regarding drainage tiles are set forth in further detail in the Agricultural Lands
11 Assessment, Attachment K-1, Sections 7.3.3 and 7.3.4.
- 12 • Construction Debris—Project-related construction debris and material will be removed
13 from the landowner's property at IPC's cost. Such material would include excess
14 construction materials or debris generated by the construction crews.
- 15 • Compaction—Agricultural land that has been compacted will be restored to its original
16 condition using appropriate tillage equipment during suitable weather conditions.
- 17 • Ruted land—Ruted lands will be restored to preconstruction condition as much as
18 practical.
- 19 • Soil conservation practices—Terraces and grassed waterways damaged by the Project
20 construction will be restored as nearly as possible to their preconstruction condition.
- 21 • Weed Control— On permanent ROW areas where IPC has control of the surface use of
22 the land such as towers, access roads, or stations, IPC will provide weed control in a
23 manner that does not allow the spread of weeds to adjacent lands used for agriculture
24 (see Exhibit P1, Attachment P1-5, Noxious Weed Plan).
- 25 • Equipment cleaning—Contractors will be required to thoroughly clean construction
26 equipment with high-pressure washing prior to the initial move of those units to the
27 general Project Site Boundary (see Exhibit P1, Attachment P1-5, Noxious Weed Plan).
- 28 • Certified Seed—When available, IPC will use Oregon-certified seed or equivalent for
29 revegetation.
- 30 • Irrigation Systems—If Project construction or temporary work areas intersect a spray
31 irrigation system, IPC will coordinate with the landowner and/or landowner's designee
32 regarding the amount of time that the irrigation system will be unavailable and take
33 appropriate and mutually agreeable steps to limit the interruption and/or implement
34 temporary measures to allow irrigation to continue. To avoid damaging the pipes or
35 creating difficult access to the irrigation lines for maintenance, IPC will work with
36 landowners to identify the location of underground water lines to avoid siting the towers
37 above or adjacent to buried lines. If irrigation lines or access to those lines for
38 maintenance are adversely affected by the construction of the Project, IPC will restore
39 the function of the irrigation lines, including the relocation, reconfiguration, and
40 replacement of existing lines.
- 41 • Ingress and Egress Routes—IPC will seek a mutually acceptable agreement with the
42 landowner on the proposed path(s) that will be used for entering and leaving the
43 construction area prior to initiation of construction.
- 44 • Access Ramps or Pads—Where access ramps or pads from a road or highway to the
45 construction area are required in agricultural fields, IPC will place a durable geotextile
46 matting over the soil surface prior to the installation of temporary rock access fill
47 material. Rock and geotextile matting will be completely removed upon completion of the

1 Project, unless otherwise agreed upon by a mutually acceptable agreement with the
2 landowner.

- 3 • Temporary Roads—The location of temporary roads to be used for construction
4 purposes will be agreed upon with the landowner and/or landowner's designee. Upon
5 abandonment, temporary roads may be left intact through mutual agreement of the
6 landowner and IPC. If a temporary road is to be removed, the agricultural land upon
7 which it is constructed will be returned to its previous use and restored as nearly as
8 possible to the condition that existed prior to construction.
- 9 • Topsoil Separation and Storage—To preserve productive soils, topsoil on agricultural
10 land will be removed and stored separately prior to construction of temporary access
11 roads, towers, and possibly specific locations within staging areas (see Exhibit I,
12 Attachment I-3, Erosion and Sediment Control Plan, and Exhibit P1, Attachment P1-3,
13 Reclamation and Revegetation Plan).
- 14 • Excess Rock—Any excess surface rock brought to the construction area by IPC for
15 construction will be completely removed from agricultural land following the completion
16 of all site restoration activities, unless otherwise specified in an agreement with the
17 landowner.
- 18 • Construction in Wet Conditions—On excessively wet soils, IPC will restrict certain
19 construction activities so that soil productivity is preserved or restored. As feasible, IPC
20 will schedule construction activities to avoid the months of greatest precipitation.
21 Damages that result from construction that occurs in wet conditions will be restored as
22 determined by the Agricultural Monitor described in Section 7.0 of the Agricultural
23 Assessment.
- 24 • Dust Control—IPC will control excessive dust generated during construction by
25 controlling vehicle speed, by wetting the construction area, or by other means, and will
26 coordinate with farm operators to provide adequate dust control in areas where specialty
27 crops are susceptible to damage from dust.
- 28 • Prevention of Soil Erosion—IPC will implement erosion prevention and sediment control
29 measures during construction in accordance with all applicable permit conditions and
30 coordinate with the local Natural Resources Conservation Service soil conservation
31 experts. IPC will follow best management practices set forth in approved stormwater and
32 erosion control plans for the Project, which may include applying temporary mulch in the
33 event of a seasonal shutdown, if construction or restoration activity is interrupted or
34 delayed for an extended period, or if permanent seeding of non-cultivated areas is not
35 completed during the recommended seeding period prior to the winter season.
- 36 • Reseeding—Following construction, cultivated agricultural land will generally be
37 reseeded or replanted by the landowner. IPC will reseed and mulch non-cultivated
38 agricultural land such as pastures and perennial grass hayfields in consultation with
39 landowners, or will make arrangements with landowners who prefer to conduct the
40 reseeded of these areas. IPC will reseed and mulch non-agricultural land in accordance
41 with the Vegetation Management Plan found in Exhibit P1.
- 42 • Induced Voltage—Very rarely, barbed wire or other metal fences paralleling transmission
43 lines may acquire induced voltage. Electric fences around livestock enclosures may also
44 acquire an increase in voltage levels. Cathodic protection may be required to prevent
45 excessive corrosion of irrigation distribution lines as a result of induced voltage. IPC will
46 assist landowners in determining the best ways to safely ground permanent or
47 temporary fences if problems arise and will compensate landowners for any additional

1 materials needed to properly ground or protect fences or irrigation equipment from
2 induced voltage.

- 3 • Livestock Operations—IPC will work with the landowner or landowner’s designee to
4 coordinate and schedule construction activities to minimize impacts to livestock
5 operations. The Agricultural Monitor will ensure that construction activities follow
6 guidelines established with the landowner and/or landowner’s designee to protect
7 livestock and livestock operations.
- 8 • Livestock-Related Infrastructure—Any fences, gates, cattle guards, or corrals damaged
9 by construction will be repaired or replaced. IPC will also construct temporary fences
10 and gates during construction, as necessary.
- 11 • Temporary Relocation of Livestock—In the event livestock must be relocated
12 temporarily, or supplemental feed is necessary, IPC will reimburse the reasonable cost
13 incurred for the transport of livestock, acquisition of temporary pasture land and/or
14 additional supplemental feed during construction and restoration activities.

15 To ensure compliance with the Agricultural Assessment, IPC proposes that the Council include
16 the following conditions in the site certificate:

17 **Land Use Condition 1:** *Prior to construction, the site certificate holder shall*
18 *finalize, and submit to the department for its approval, a final Agricultural*
19 *Assessment. The protective measures described in the draft Agricultural*
20 *Assessment in ASC Exhibit K, Attachment K-1, shall be included and*
21 *implemented as part of the final Agricultural Assessment, unless otherwise*
22 *approved by the department.*

23 **Land Use Condition 8:** *During construction, the site certificate holder shall*
24 *conduct all work in compliance with the final Agricultural Assessment referenced*
25 *in Land Use Condition 1.*

26 For these reasons, IPC demonstrates that ORS 215.275(5) is satisfied.

27 **4.1.6 Conclusions**

28 The foregoing discussion demonstrates the Project’s compliance with ORS 215.283(1)(c)(A)
29 and ORS 215.275. The Project is a utility facility necessary for public service because it must be
30 sited in an EFU zone: (i) due to its locational dependency; (ii) a lack of available urban and
31 nonresource lands to site the Project on; and (iii) in order to take advantage of existing ROWs.
32 IPC has completed a survey of existing conditions and uses of the agricultural lands within the
33 Project’s Site Boundary and, through implementation of the measures in the Agricultural
34 Assessment, will minimize and mitigate the Project’s impacts on those agricultural lands.

35 **4.2 Consulting Requirement**

36 ORS 215.276: (1) As used in this section: (a) “Consult” means to make an effort to contact
37 for purpose of notifying the record owner of the opportunity to meet. (b) “High-value
38 farmland” has the meaning given that term in ORS 195.300. (c) “Transmission line” means a
39 linear utility facility by which a utility provider transfers the utility product in bulk from a point
40 of origin or generation, or between transfer stations, to the point at which the utility product is
41 transferred to distribution lines for delivery to end users. (2) If the criteria described in ORS
42 215.275 for siting a utility facility on land zoned for exclusive farm use are met for a utility
43 facility that is a transmission line, the utility provider shall, after the route is approved by the
44 siting authorities and before construction of the transmission line begins, consult the record

owner of high-value farmland in the planned route for the purpose of locating and constructing the transmission line in a manner that minimizes the impact on farming operations on high-value farmland. If the record owner does not respond within two weeks after the first documented effort to consult the record owner, the utility provider shall notify the record owner by certified mail of the opportunity to consult. If the record owner does not respond within two weeks after the certified mail is sent, the utility provider has satisfied the provider's obligation to consult. (3) The requirement to consult under this section is in addition to and not in lieu of any other legally required consultation process.

Following issuance of the site certificate, IPC will consult with landowners of high-value farmland regarding micrositing of the transmission line as required by ORS 215.276(2) (see also Attachment K-1, Agricultural Lands Assessment). As a practical matter, IPC will consult with *all* landowners regarding micrositing of the Project.

5.0 COUNTY AND CITY APPLICABLE SUBSTANTIVE CRITERIA

5.1 Land Use Zone Designation Maps

OAR 345-021-0010(1)(k)(A): Include a map showing the comprehensive plan designations and land use zones in the analysis area.

Maps showing the comprehensive plan designations and land use zones in the analysis area are shown in Figure K-7 (Morrow County); Figure K-27 (Umatilla County); Figure K-36 (Union County); Figure K-46 (City of North Powder); Figure K-47 (Baker County); Figure K-52 (City of Huntington); and Figure K-53 (Malheur County).

5.2 Affected Local Governments

OAR 345-021-0010(1)(k)(C)(i): Identify the affected local government(s).

OAR 345-021-0010(1)(k)(C)(i) requires IPC to identify each "affected local government," which is defined as "a local government that has land use jurisdiction over any part of the proposed site of the facility" (OAR 345-021-0010(1)(k)). Here, the local governments affected by the Project include Morrow County, Umatilla County, Union County, the City of North Powder, Baker County, the City of Huntington, and Malheur County.²⁷

5.3 Applicable Substantive Criteria from the Affected Local Governments

OAR 345-021-0010(1)(k)(C)(ii): Identify the applicable substantive criteria from the affected local government's acknowledged comprehensive plan and land use regulations that are required by the statewide planning goals and that are in effect on the date the application is submitted and describe how the proposed facility complies with those criteria.

The following sections analyze the Project's compliance with the applicable substantive criteria provided by each of the five counties and two cities traversed by the Project. The applicable substantive criteria were identified via letters from the local governments to Oregon Department of Energy (ODOE).

Additionally, the following sections also address certain local government ordinances that were identified by IPC and not the relevant local governments. Because those ordinances were not

²⁷ Exhibit U identifies local governments in the analysis area that provide services—such as sewers and sewage treatment, water, stormwater drainage, solid waste management, police and fire protection, health care, and schools—that would likely be affected by the Project. Certain local governments identified in Exhibit U may not appear in Exhibit K as "affected local governments" because they do not have land use jurisdiction over any part of the Project.

1 identified by the local governments, they are not considered applicable substantive criteria
2 under OAR 345-021-0010(1)(k)(C)(ii). IPC addresses those ordinances for informational
3 purposes only.

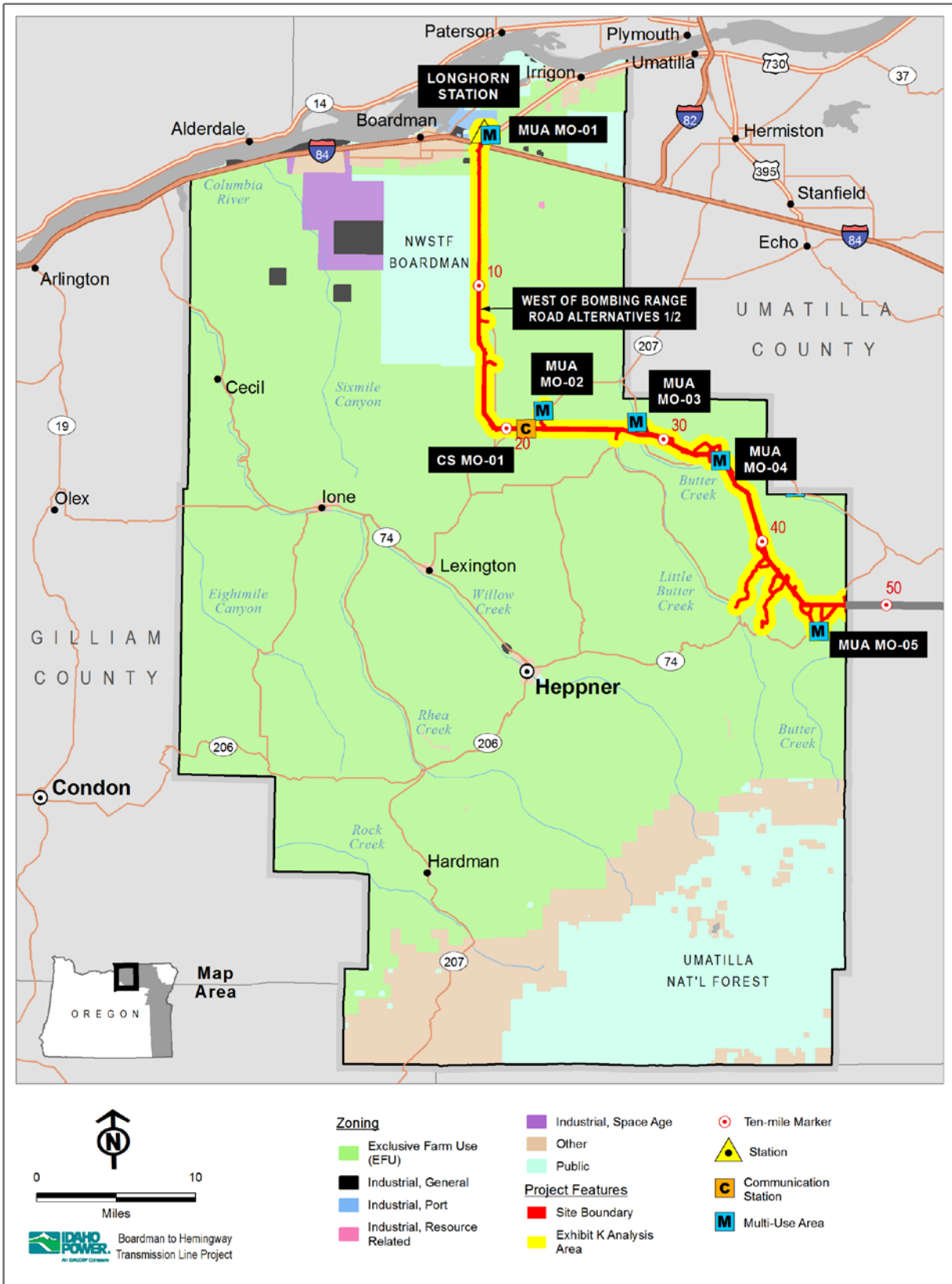
4 **5.4 Morrow County**

5 The following section describes the elements of the Project that will be located in Morrow
6 County and provides analysis regarding compliance with the applicable local substantive
7 criteria.

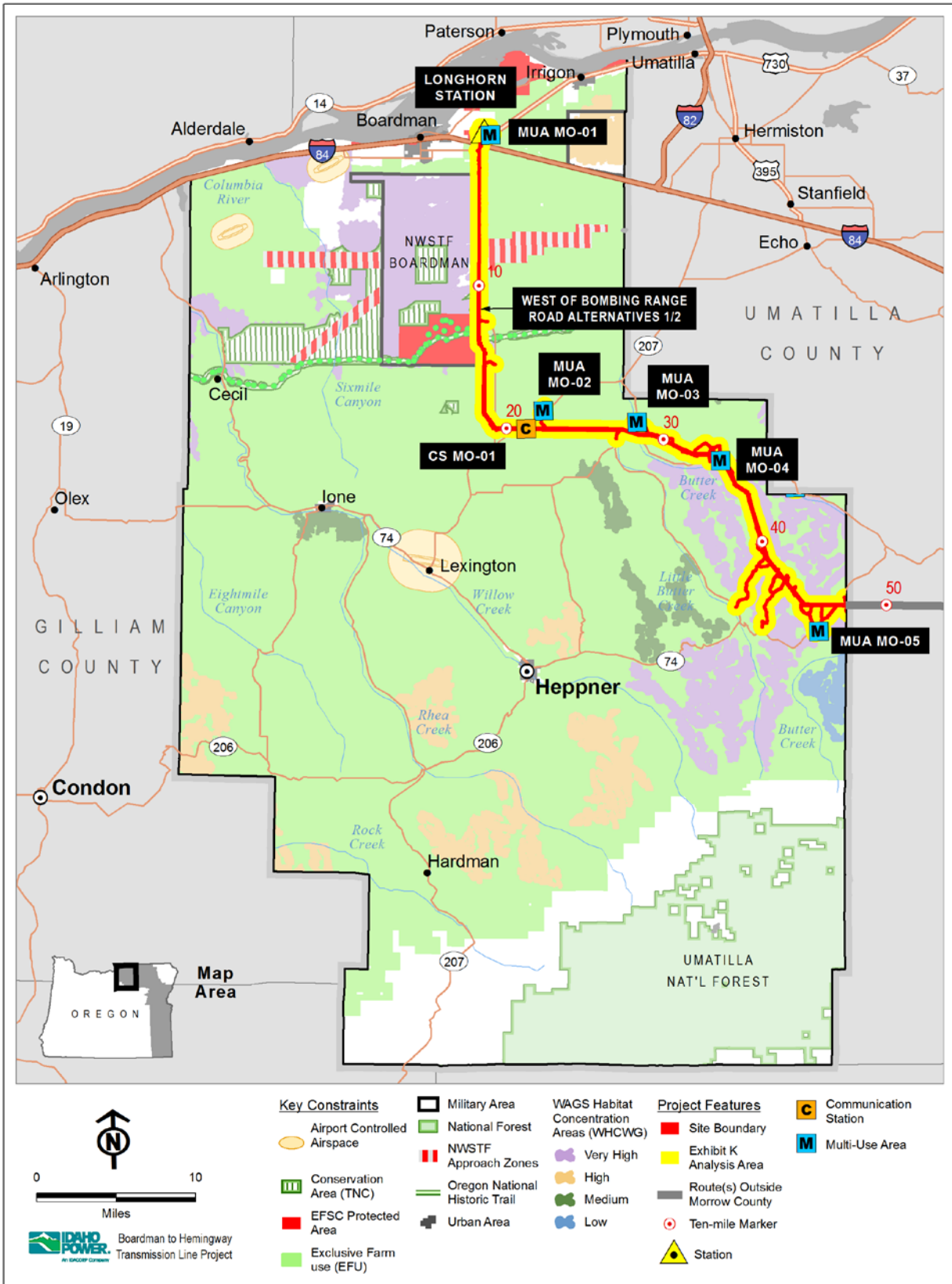
8 **5.4.1 Project Features and Location in Morrow County**

9 **5.4.1.1 Maps Showing the Project in Morrow County**

10 Figure K-7 shows the location of the Project in Morrow County and the land use designations of
11 the affected lands. Figure K-8 identifies additional land use constraints in the county.



1
2 **Figure K-7. Zoning**



1
2 **Figure K-8. Constraints**

1 5.4.1.2 Proposed Longhorn Station

2 The northern terminus for the Project is the proposed Longhorn Station. BPA has planned the
3 Longhorn Station on land it purchased from the Port of Morrow. In this application, IPC is
4 requesting authorization to develop (construct and operate) the Longhorn Station if BPA does
5 not develop the Longhorn Station on a timely basis.

6 The Longhorn Station will be 20 acres in size and will be located just west of the Port of Morrow,
7 about 0.25 to 0.5 mile north of I-84 (see Figure K-9). BPA has planned the Longhorn Station to
8 allow a 230-kV connection to the 500-kV transmission grid for an unrelated wind project. Typical
9 equipment proposed to support the Project termination is described in Exhibit B.

10 5.4.1.3 Proposed Route in Morrow County

11 **Location**

12 The Proposed Route crosses approximately 47.5 miles in Morrow County beginning at the
13 proposed Longhorn Station (see Figure K-9; Exhibit C, Attachment C-2, Maps 1-23). The
14 Proposed Route exits the Longhorn Station to the west, generally paralleling an existing 500-kV
15 transmission line for about 0.3 mile. The Proposed Route then turns south and crosses I-84,
16 coming in parallel with Bombing Range Road on the east side until milepost (MP) 1.2. At that
17 point, the Proposed Route crosses but stays in parallel with the west side of Bombing Range
18 Road. At MP 3.0, the Proposed Route enters the Naval Weapons Systems Training Facility
19 Boardman (NWSTF Boardman) property utilizing the existing 90-foot-wide BPA 69-kV ROW.
20 Structures for the portion of the Project within the existing BPA ROW will be 100 feet or less in
21 height. From MP 7 to MP 9, the Proposed Route passes through the NWSTF Boardman
22 approach zone easement; tower heights in this stretch also will be less than 100 feet.

23 From MP 10 to MP 11.2, the Proposed Route crosses a portion of the Boardman Research
24 Natural Area (RNA) located on NWSTF Boardman. The Boardman RNA was established in
25 1978 as part of a federal government system established for research and educational
26 purposes. It is co-managed by the Navy and The Nature Conservancy.

27 From MP 11.7 to MP 13.5 the Proposed Route crosses a portion of the NWSTF Boardman's
28 Habitat Management Area (HMA). The Boardman HMA was established in 2016 as mitigation
29 for training impacts to the Washington ground squirrel.

30 At MP 13.5, the Proposed Route leaves the existing BPA 69-kV ROW and the NWSTF
31 Boardman and proceeds in a southeasterly direction. At MP 15.4, the irrigated agriculture along
32 the Proposed Route comes to an end and dryland farming becomes the dominant land use. At
33 MP 18, the Proposed Route turns southeast and then at MP 19.3 turns due east crossing
34 Bombing Range Road. The Proposed Route continues due east crossing lands under dryland
35 farming practices. At MP 21.2 the Proposed Route crosses State Highway 207, at MP 27.5 it
36 crosses Pine City Road and Little Butter Creek, at MP 28.3 it crosses Butter Creek and Big
37 Butter Creek Lane, and at MP 34 it again crosses Big Butter Creek Lane and Butter Creek.

38 From MP 34, the Proposed Route proceeds generally south paralleling a tributary of Buttermilk
39 Creek. At MP 43.2, the Proposed Route crosses Huges-Hirl Road and Matlock Canyon. At
40 MP 44.9, the Proposed Route turns due east and, at MP 47.1, it crosses State Highway 74.
41 The Proposed Route exits Morrow County at MP 47.5 and continues into Umatilla County.

42 **Towers, Access Roads, and Crossings**

43 Table K-3 lists the towers, access roads, and crossings by the Proposed Route in Morrow
44 County.

1 **Table K-3. Towers, Access Roads, and Crossings – Proposed Route**

Project Features	Number of Features
Towers – Single Circuit 500-kV Lattice	147
Towers – Single Circuit 500-kV H-Frame	73
Towers – Single Circuit 500-kV 3-Pole Dead-end	1
Access Roads	Miles
Existing, 21-70% Improved	19.4
Existing, 71-100% Improved	10.8
New, Bladed	1.4
New, Primitive	36.1
Crossings	Number of Crossings
High Voltage Transmission Line Crossings ¹	2
Existing Road Crossings ²	4
Existing Railroad Crossings ³	1

¹ Source: ABB Ventyx (2016) and Idaho Power Company; includes only transmission lines over 69-kV.

² Source: Esri (2013); includes Interstate, federal, and state highways; existing roads include all federal and state highways.

³ Source: Oregon Department of Transportation (2013).

2 **Multi-Use Areas, Pulling and Tensioning Sites, Light-Duty Fly Yards, and**
3 **Communication Stations**

4 There will be five multi-use areas in Morrow County.

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- MUA MO-01 will be located approximately 0.75 mile northeast of MP 1.0 and approximately 0.25 mile southeast of the Longhorn Station. This site is immediately north of United States (U.S.) Highway 730. The land comprises grassland and is zoned Port Industrial by Morrow County (Exhibit C, Attachment C-2, Map 1).
 - MUA MO-02 will be located approximately 2 miles southeast of MP 18.8, adjacent to State Highway 207. The land comprises grassland and is zoned as Agriculture - Exclusive Farm Use by Morrow County (Exhibit C, Attachment C-2, Map 10).
 - MUA MO-03 will be located along Big Butter Creek Lane. The land comprises grassland and is zoned as Agriculture - Exclusive Farm Use by Morrow County (Exhibit C, Attachment C-2, Map 13).
 - MUA MO-04 will be located approximately 0.1 mile south of MP 34 along Big Butter Creek Lane. The land comprises grassland and is zoned as Agriculture - Exclusive Farm Use by Morrow County (Exhibit C, Attachment C-2, Map 15).
 - MUA MO-05 will be located approximately 1.6 miles south of MP 46 along State Highway 74. The land comprises grassland and is zoned as Agriculture - Exclusive Farm Use by Morrow County (Exhibit C, Attachment C-2, Map 23).

21 There will be 39 pulling and tensioning sites in Morrow County.

22 There are no light-duty fly yards in Morrow County.

23 There is one communication station in Morrow County.

- 1 • CS MO-01 will be located at approximately MP 21.2 and is directly north of State
2 Highway 207. The land comprises a dryland wheat field and is zoned as Agriculture -
3 Exclusive Farm Use by Morrow County (Exhibit C, Attachment C-2, Map 9).

4 **Affected Land Use Zones**

5 Table K-4 identifies the Morrow County zoning designations for the lands affected by the
6 Proposed Route.

7 **Table K-4. Land Use Zone Designations – Proposed Route**

Zone Designation	Centerline (miles)	Site Boundary (acres)	Existing Roads, Substantial Modifications (miles)	New Roads (miles)
Exclusive Farm Use	35.4	2,731.5	26.0	32.7
General Industrial	0.3	7.9	0	0.1
Major Road or RR ROW	0.3	8.6	0	0.1
Port Industrial	0.9	245.3	0	0
Public	10.5	140.3	5.3	4.5
Total¹	47.4	3,129.2	31.2	37.5

Source: Morrow County 2015

¹ Sums may not total due to rounding.

8 **5.4.1.4 West of Bombing Range Road Alternative 1**

9 **Location**

10 The 3.7-mile West of Bombing Range Road Alternative 1 leaves the Proposed Route at MP
11 10.0 and crosses to the east side of Bombing Range Road (see Figure K-9; Exhibit C,
12 Attachment C-3, Maps 1-2). This alternative continues along the east side of road until it rejoins
13 the Proposed Route at MP 13.6.

14 The primary difference between West of Bombing Range Road Alternative 1 and the Proposed
15 Route is that the alternative route shifts a portion of the Project from Navy land on the west side
16 of the road to private land on the east side of the road. This alternative will result in impacts to
17 agricultural operations on the east side that otherwise would be avoided with the Proposed
18 Route. West of Bombing Range Road Alternative 1 was developed to avoid the Navy's RNA
19 and HMA.

20 **Towers, Access Roads, and Crossings**

21 Table K-5 lists the towers, access roads, and crossings by West of Bombing Range Road
22 Alternative 1.

23

Table K-5. Towers, Access Roads, and Crossings – West of Bombing Range Road Alternative 1

Project Features	Number of Features
Towers – Single Circuit 500-kV Lattice	1
Towers – Single Circuit 500-kV H-Frame	22
Access Roads	Miles
Existing, 21-70% Improved	1.1
Existing, 71-100% Improved	0
New, Bladed	0
New, Primitive	2.1
Crossings	Number of Crossings
High Voltage Transmission Line Crossings ¹	0
Existing Road Crossings ²	0
Existing Railroad Crossings ³	0

¹ Source: ABB Ventyx (2016) and Idaho Power Company; includes only transmission lines over 69-kV.

² Source: Esri (2013); includes Interstate, federal, and state highways.

³ Source: Oregon Department of Transportation (2013).

Affected Land Use Zones

Table K-6 identifies the Morrow County zoning designations for the lands affected by the Bombing Range Road Alternative 1.

Table K-6. Land Use Zone Designations – Bombing Range Road Alternative 1

Zone Designation	Centerline (miles)	Site Boundary (acres)	Existing Roads, Substantial Modifications (miles)	New Roads (miles)
Exclusive Farm Use	3.7	97.8	1.1	2.3
Public	0.1	1.0	<0.1	0
Total¹	3.8	98.8	1.1	2.3

Source: Morrow County, 2015

¹ Sums may not total due to rounding.

5.4.1.5 West of Bombing Range Road Alternative 2

Location

The 3.7-mile West of Bombing Range Road Alternative 2 starts at MP 10.0 (see Figure K-9; Exhibit C, Attachment C-3, Maps 3-4). From MP 10.0 to MP 11.6, West of Bombing Range Road Alternative 2 is located on Navy land on the west side of Bombing Range Road. At MP 11.6, it crosses to the east side of the road, continuing along the road until it rejoins the Proposed Route at MP 13.6.

Both the Proposed Route and West of Bombing Range Road Alternative 2 are located on Navy land between MP 10.0 to MP 11.6. However, West of Bombing Range Road Alternative 2 differs from the Proposed Route along that stretch by making use of an alternative Y-frame structure-type and by avoiding the Boardman RNA. After West of Bombing Range Road Alternative 2 crosses the road onto private lands at MP 11.6, it follows the same path as West of Bombing Range Road Alternative 1. The West of Bombing Range Road Alternative 2 was

1 developed to avoid the agricultural impacts associated with West of Bombing Range Road
2 Alternative 1 on the east side of Bombing Range, while also avoiding the Boardman RNA.

3 **Towers, Access Roads, and Crossings**

4 Table K-7 lists the towers, access roads, and crossings by West of Bombing Range Road
5 Alternative 2.

6 **Table K-7. Towers, Access Roads, and Crossings – West of Bombing Range Road**
7 **Alternative 2**

Towers	Number of Features
Towers – Single Circuit 500-kV Lattice	1
Towers – Single Circuit 500-kV H-Frame	12
Towers – Single Circuit 500-kV H-Frame Dead-end	3
Towers – Single Circuit 500-kV Y-Frame	8
Towers – Single Circuit 500-kV 3-Pole Dead-end	1
Access Roads	Miles
Existing, 21-70% Improved	0.8
Existing, 71-100% Improved	0
New, Bladed	0
New, Primitive	1.5
Crossings	Number of Crossings
High Voltage Transmission Line Crossings ¹	0
Existing Road Crossings ²	0
Existing Railroad Crossings ³	0

¹ Source: ABB Ventyx (2016) and Idaho Power Company; includes only transmission lines over 69-kV.

² Source: Esri (2013); includes Interstate, federal, and state highways.

8 ³ Source: Oregon Department of Transportation (2013).

9 **Affected Land Use Zones**

10 Table K-8 identifies the Morrow County zoning designations for the lands affected by West of
11 Bombing Range Road Alternative 2.

12 **Table K-8. Land Use Zone Designations – West of Bombing Range Road**
13 **Alternative 2**

Zone Designation	Centerline (miles)	Site Boundary (acres)	Existing Roads, Substantial Modifications (miles)	New Roads (miles)
Exclusive Farm Use	2.0	73.2	0.8	1.4
Public	1.7	18.9	0	0.1
Total¹	3.7	92.1	0.8	1.5

Source: Morrow County 2015

¹ Sums may not total due to rounding.

14 **5.4.2 Morrow County Zoning Ordinance Provisions**

15 On August 18, 2010, the Morrow County Planning Department submitted a letter to ODOE in
16 response to IPC's July 2010 Notice of Intent to File an Application for Site Certificate (NOI) in
17 which the Morrow County Planning Department identified local substantive criteria potentially

- 1 applicable to the Project, including certain Morrow County Zoning Ordinance (MCZO)
 2 provisions.²⁸ During preparation of Exhibit K, IPC identified potentially applicable MCZO
 3 provisions that were not identified by Morrow County in its August 18, 2010 letter. Table K-9
 4 sets forth the potentially applicable MCZO provisions identified by Morrow County and IPC.

5 **Table K-9. Potentially Applicable MCZO Provisions**

Land Use Zone	Permit	Project Feature(s)	MCZO or Other Provision	Entity that Identified MCZO Provision
Exclusive Farm Use Zone	Land Use Decision	All Project Features	MCZO 3.010(C)(16) Uses Permitted Outright / Utility and Transmission Towers	Morrow County
			MCZO 3.010(D)(17) Conditional Uses Permitted / Utility Facilities	Morrow County
			ORS 215.283(1) Uses Permitted in Nonmarginal Lands Counties	Morrow County
			ORS 215.275 Utility Facilities Necessary for Public Service	Morrow County
			MCZO 3.010(G) Dimensional Standards	IPC
			MCZO 3.010(H) Yard Setbacks	IPC
			MCZO 3.010(I) Traffic Impact Analysis	IPC
General Industrial Zone	Zoning Permit	All Project Features	MCZO 3.070(A)	Morrow County
			MCZO 3.070(C) ¹	Morrow County
			MCZO 3.070(D)	Morrow County
			MCZO 3.070(E)	Morrow County
Port Industrial Zone	Zoning Permit	All Project Features	MCZO 3.073(A)	IPC
			MCZO 3.070(C)	IPC
			MCZO 3.070(D)	IPC
			MCZO 3.070(G)	IPC
Major Road or Rail Road Right-of-Way Zone	None applicable	All Project Features	None applicable	IPC
Public Zone	None applicable	All Project Features	None applicable	IPC

²⁸ On December 8, 2008, Morrow County submitted a letter in response to the 2008 NOI. The December 2008 and August 2010 letters contained the same local substantive criteria.

Land Use Zone	Permit	Project Feature(s)	MCZO or Other Provision	Entity that Identified MCZO Provision
Flood Plain Overlay Zone	Flood Plain Development Permit	All Project Features	MCZO 3.100(2)	Morrow County
Forest Use Zone	Not Applicable	Not Applicable	MCZO 3.020 ²	Morrow County
All	Utility Crossing Permit	Access Roads	MCZO 4.010(B)	Morrow County
All	Access Approach Site Permit	Access Roads	MCZO 4.010(B)	Morrow County
All	Construction Permit to Build on Right-of-Way	Access Roads	MCZO 4.010(B)	Morrow County
N/A	None	All Project Features	MCCP, Energy Conservation Element	Morrow County
N/A	None	All Project Features	MCCP, Agricultural Lands Element, Finding 19	Morrow County
N/A	None	All Project Features	MCCP, Agricultural Lands Element, Policy 1	Morrow County
N/A	None	All Project Features	MCCP, Natural Hazards Element	Morrow County
N/A	None	All Project Features	MCCP, General Policy F	Morrow County
N/A	None	All Project Features	MCCP, Utility Finding C	Morrow County
N/A	None	All Project Features	MCCP, Utility Finding D	Morrow County
N/A	None	All Project Features	MCCP, Utility Policy B	Morrow County
N/A	None	All Project Features	MCCP, Utility Policy C	Morrow County
Significant Resource Overlay Map	None	All Project Features	MCCP, Goal 5 Resources	Morrow County

1 ¹ Morrow County also identified MCZO 3.070(B) as being potentially applicable to the Project. However, that provision
2 relates to conditional uses in the General Industrial Zone and each of the Project features here are permitted outright
3 under MCZO 3.070(A) as discussed below, and therefore, MCZO 3.070(B) does not apply to the Project.

4 MCCP = Morrow County Comprehensive Plan; N/A = not applicable

5 ² Morrow County identified MCZO 3.020 as being potentially applicable to the Project. Even so, MCZO 3.020 applies
6 in the Forest Use Zone, and here, no Project features will be located in the Forest Use Zone. Therefore, MCZO 3.020
7 does not apply to the Project.

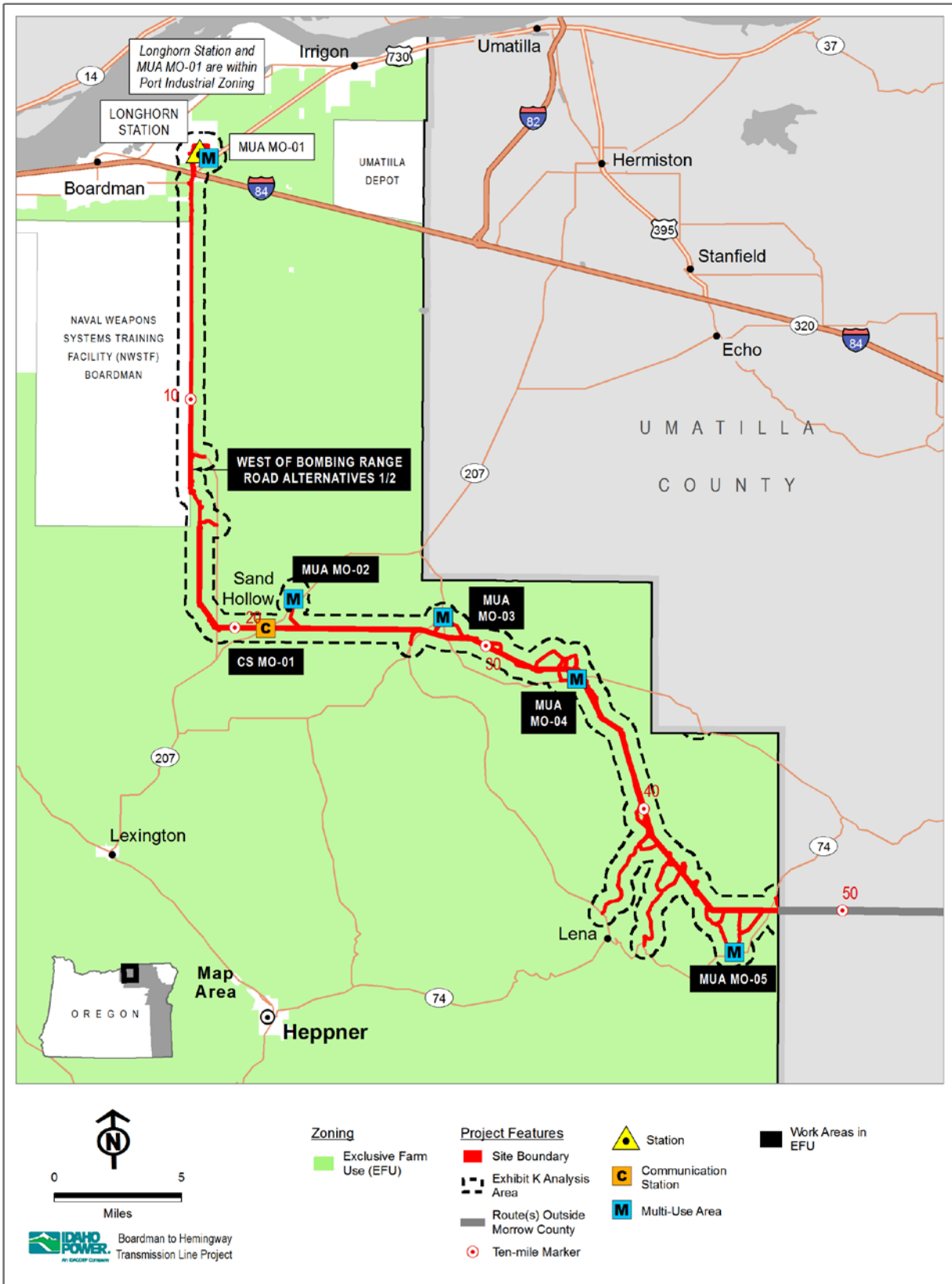
1 **5.4.2.1 EFU Zone MCZO Provisions**

2 With the Proposed Route, the transmission line (35.4 line miles), new access roads (32.7 miles),
3 substantially modified existing access roads (26 miles), four multi-use areas (MUA MO-02,
4 MUA MO-03, MUA MO-05, and MUA MO-05), and one communication station (CS MO-01) will
5 be located in the EFU Zone in Morrow County (see Figure K-9 through Figure K-14; Table K-3).
6 There will be no light-duty fly yards in the EFU Zone or elsewhere in Morrow County.

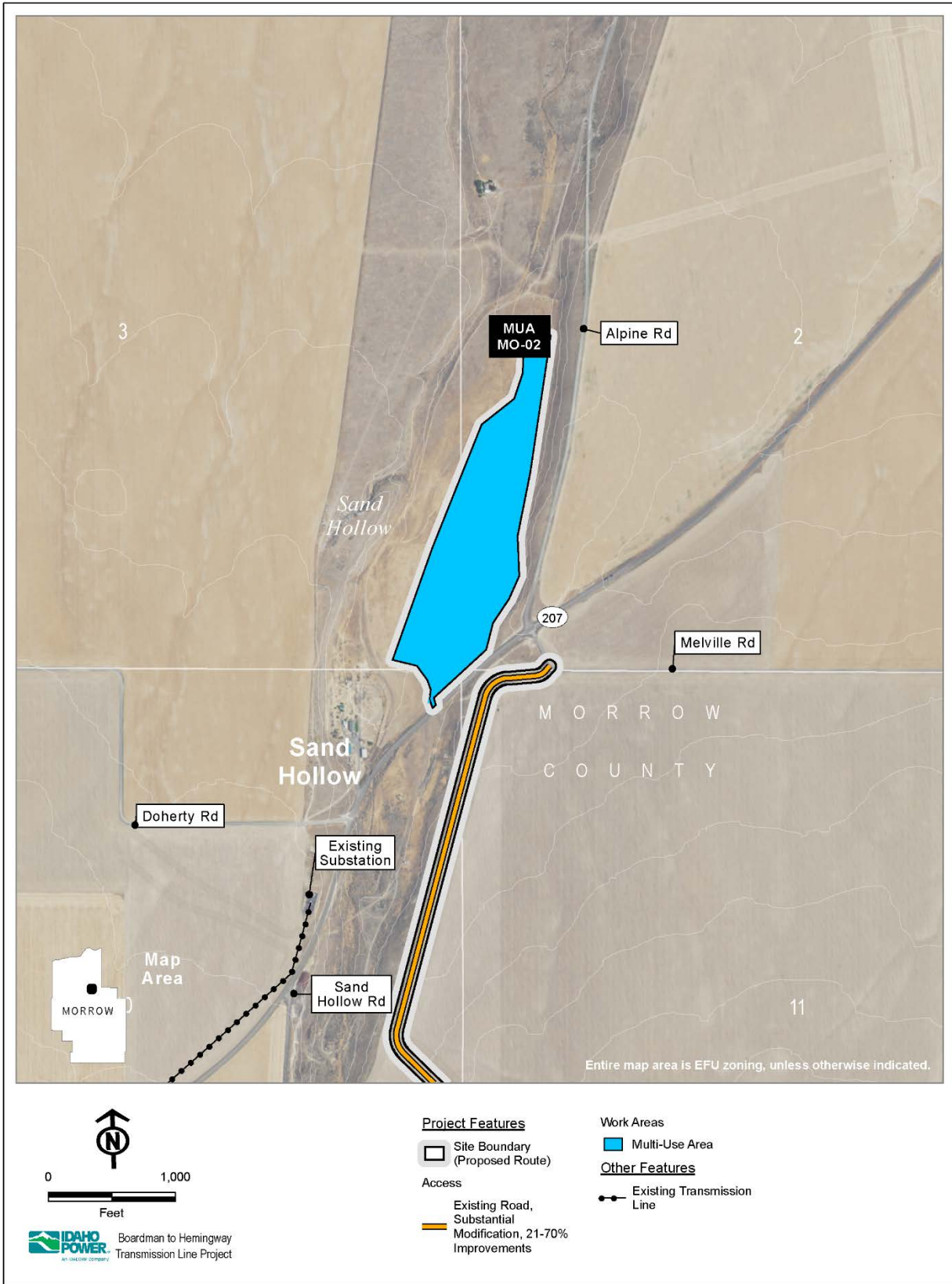
7 Bombing Range Road Alternative 1 would include the transmission line (3.7 line miles), new
8 access roads (2.3 miles), and substantially modified existing access roads (1.1 miles) in the
9 EFU Zone (see Figure K-9; Table K-3).

10 Bombing Range Road Alternative 2 would include the transmission line (2.0 line miles), new
11 access roads (1.4 miles), and substantially modified existing access roads (0.8 mile) in the EFU
12 Zone (see Figure K-9; Table K-3).

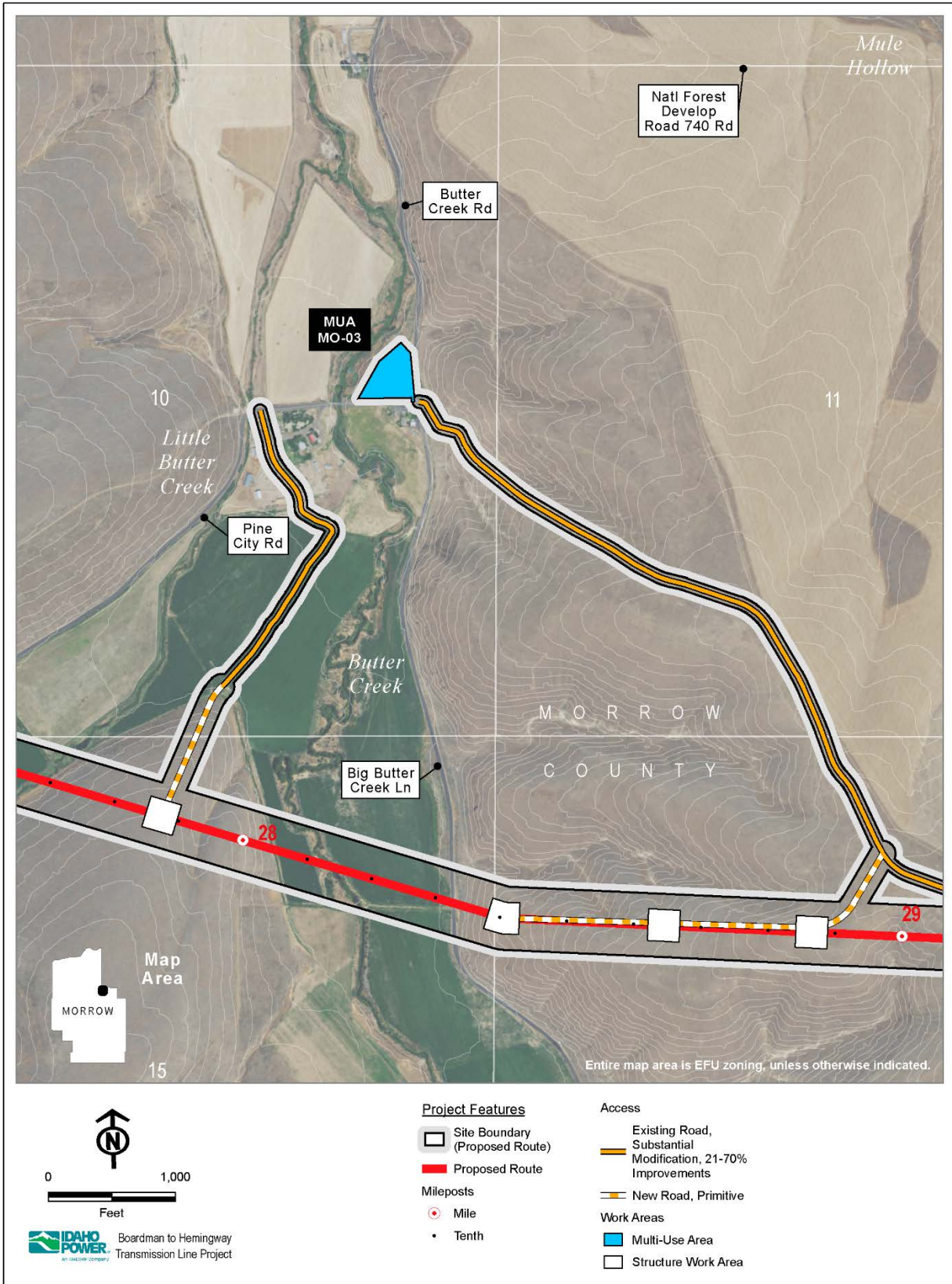
13 Figure K-9 through Figure K-14 show the location of the Project in the EFU Zone.



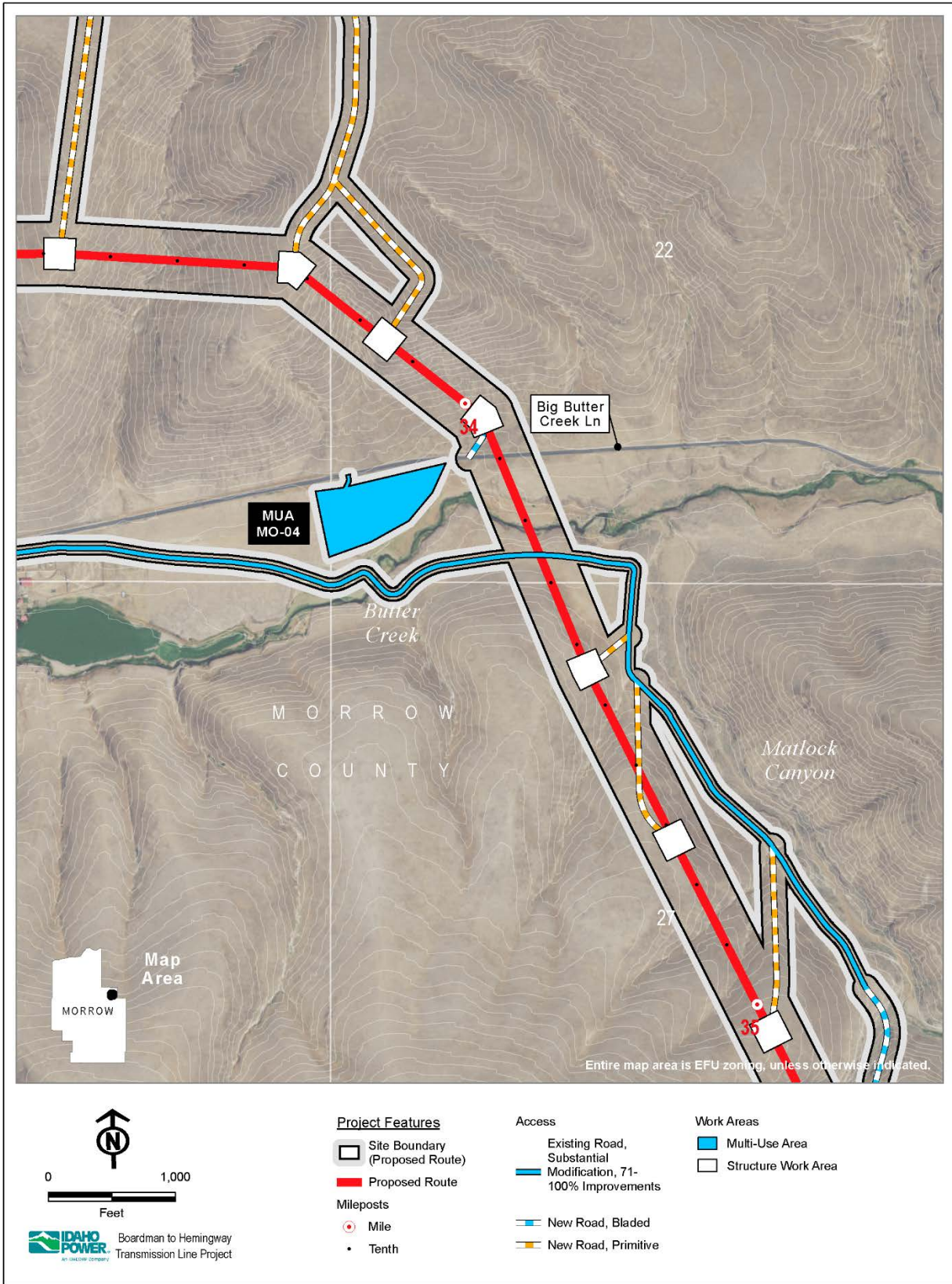
1
2 **Figure K-9. Project Features in EFU Zone – All Features**



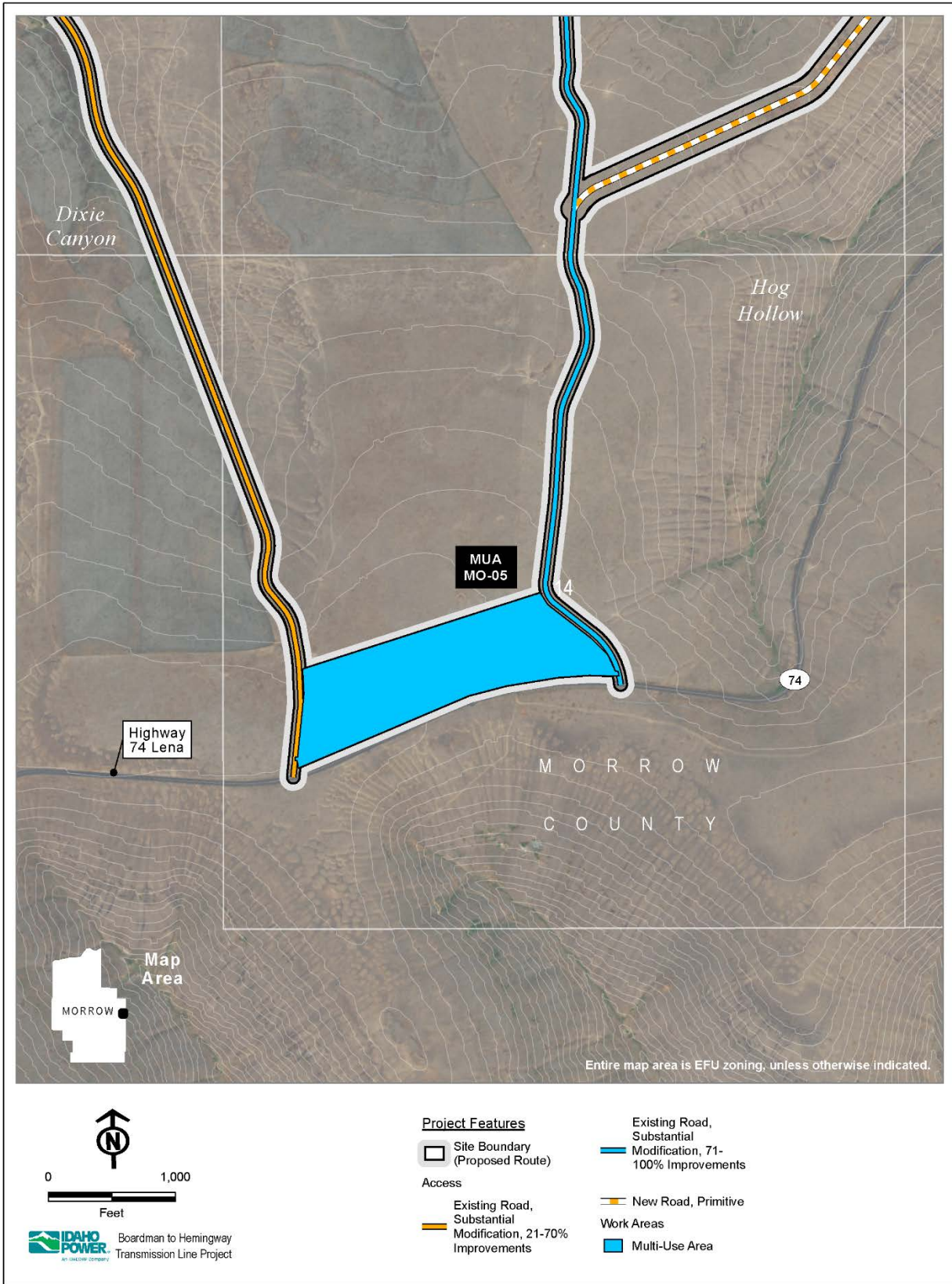
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2 **Figure K-10. Project Features in EFU Zone – MUA MO-02**



1
2 **Figure K-11. Project Features in EFU Zone – MUA MO-03**

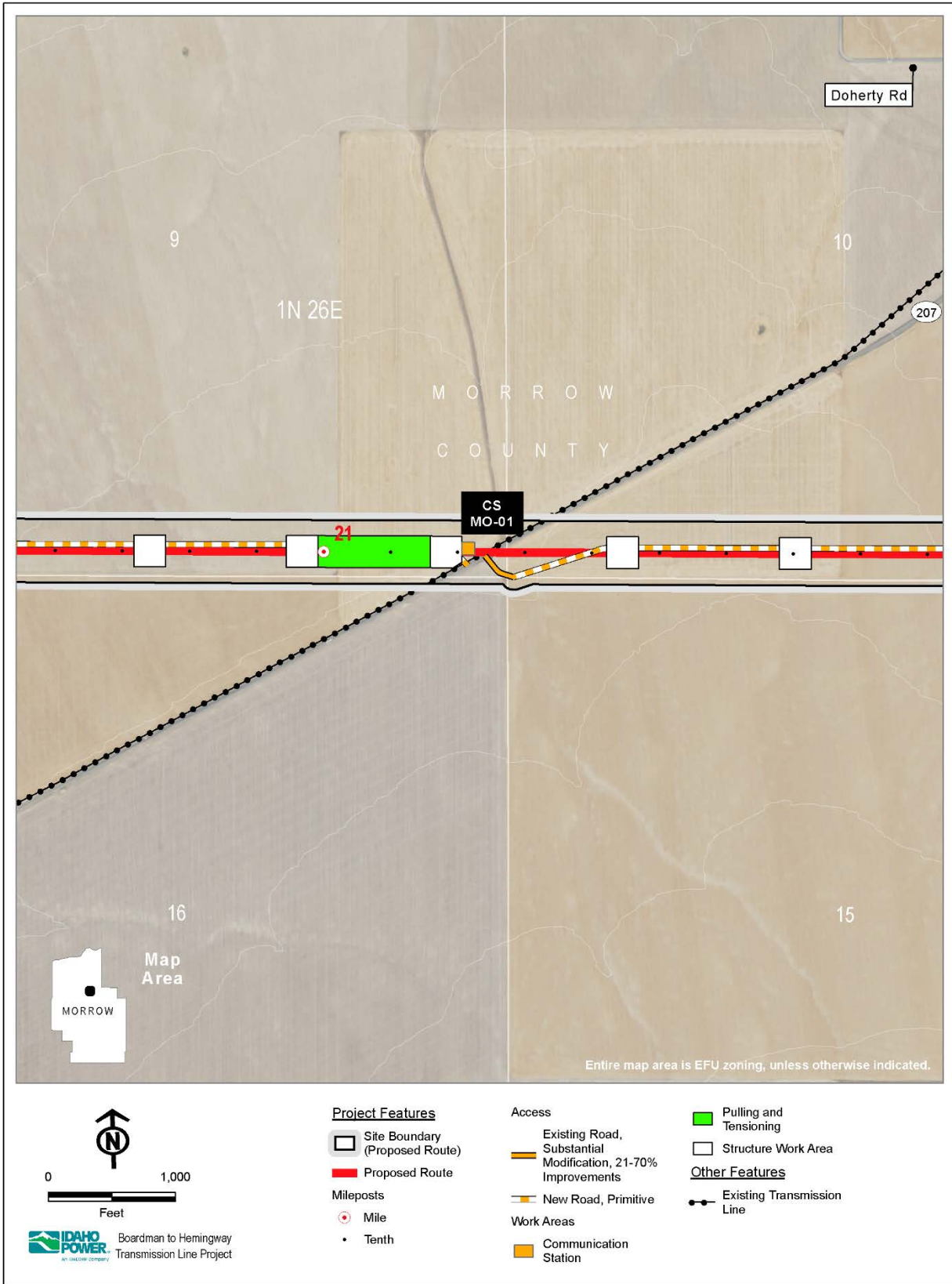


1
2 **Figure K-12. Project Features in EFU Zone – MUA MO-04**



1
2

Figure K-13. Project Features in EFU Zone – MU MO-05



1
2 **Figure K-14. Project Features in EFU Zone – CS MO-01**

1 **Zoning Permit (All Project Features)**

2 **Utility Facilities Defined**

3 Under ORS 215.283(1)(c), transmission lines are permitted outright in EFU lands, provided the
4 towers are no greater than 200 feet in height. Additionally, the Oregon courts have interpreted
5 the term “utility facilities necessary for public service” as also including ancillary facilities.²⁹
6 Here, the Project consists of a transmission line with towers no greater than 200 feet in height,
7 as well as the following ancillary³⁰ facilities: access roads, multi-use areas, light-duty fly yards,
8 pulling and tensioning sites, communication stations, and communication station distribution
9 lines (see Exhibit B). Therefore, the Project transmission line and its ancillary facilities are
10 permitted outright in EFU lands under ORS 215.283(1)(c).

11 **MCZO Provisions Identified by Morrow County**

12 MCZO 3.010(C): USES PERMITTED OUTRIGHT. In an EFU Zone the following uses and
13 accessory uses thereof are permitted outright: . . . 16. Utility and transmission towers not
14 exceeding 200 feet in height.

15
16 MCZO 3.010(D): CONDITIONAL USES PERMITTED. In an EFU Zone, the following uses
17 and their accessory uses are permitted subject to the demonstration of compliance with the
18 requirements of Article 6 of this ordinance and Section (G) below: . . . 17. Utility facilities
19 “necessary” for public service, excluding commercial utility facilities for the purpose of
20 generating power for public use by sale, and transmission towers over 200 feet in height. A
21 utility facility is necessary for public service if the facility must be sited in an exclusive farm
22 use zone in order to provide the service. To demonstrate that a utility facility is necessary, an
23 applicant must show that reasonable alternatives have been considered and that the facility
24 must be sited in an exclusive farm use zone due to one or more of the factors list in OAR
25 660-033-0130(16).

26
27 ORS 215.283(1): USES PERMITTED IN NONMARGINAL LANDS COUNTIES. The following
28 uses may be established in any area zoned for exclusive farm use: . . . (c) Utility facilities
29 necessary for public service, including wetland waste treatment systems but not including
30 commercial facilities for the purpose of generating electrical power for public use by sale or
31 transmission towers over 200 feet in height. A utility facility necessary for public service may
32 be established as provided in: (A) ORS 215.275

33
34 ORS 215.275: UTILITY FACILITIES NECESSARY FOR PUBLIC SERVICE. (1) A utility
35 facility established under ORS 215.213 (1)(c)(A) or 215.283 (1)(c)(A) is necessary for public
36 service if the facility must be sited in an exclusive farm use zone in order to provide the
37 service. (2) To demonstrate that a utility facility is necessary, an applicant for approval under
38 ORS 215.213 (1)(c)(A) or 215.283 (1)(c)(A) must

39 In its August 18, 2010 letter, Morrow County identified as potentially applicable substantive
40 criteria the provisions of MCZO 3.010(C)(16) and MCZO 3.010(D)(17), which relate to permitting
41 utility facilities in an EFU Zone. In the same letter, Morrow County stated that those provisions

²⁹ See *Save Our Rural Or. v. Energy Facility Siting Council*, 339 Or. 353, 384 (2005) (upholding EFSC’s determination that ancillary facilities are considered “utility facilities necessary for public service”); *Cox v. Polk County*, 174 Or. Ct. App. 332, 343-44 (2001) (“utility facilities necessary for public service” may include ancillary or off-site equipment).

³⁰ See Black’s Law Dictionary (10th ed. 2014) (defining “ancillary” as meaning “supplementary; subordinate”).

1 were out of date and in conflict with the Oregon Supreme Court's decision in *Brentmar v.*
2 *Jackson County*, 321 Or. 481 (1995) because the provisions applied conditional criteria on utility
3 facilities that are permitted outright under ORS 215.283(1).³¹ The County indicated it would
4 apply ORS 215.283(1) and ORS 215.275 to the Project, instead of MCZO 3.010(C)(16) and
5 MCZO 3.010(D)(17).

6 As discussed above, the Project is considered a utility facility necessary for public service under
7 ORS 215.283(1)(c)(A) and ORS 215.275 because it must be sited in an EFU zone: (i) due to its
8 locational dependency; (ii) a lack of available urban and nonresource lands to site the Project
9 on; and (iii) in order to take advantage of existing ROWs. Additionally, IPC has completed a
10 survey of existing conditions and uses of the agricultural lands within the Project's Site
11 Boundary and, through implementation of the measures in the Agricultural Lands Assessment
12 (Exhibit K, Attachment K-1), will minimize and mitigate the Project's impacts on those
13 agricultural lands. Having shown the Project is permitted outright in EFU lands under
14 ORS 215.283(1) and ORS 215.275, it is also permitted outright in EFU lands for purposes of
15 Morrow County approval.

16 ORS 215.283(1)(c)(A) requires IPC demonstrate the need to site the Project on EFU lands only
17 at a macro, project-wide level across all five relevant counties. Though beyond what is required
18 by the statute, Section 5.4.5 makes a similar showing at the micro or county level, by discussing
19 the necessity of siting the Project in EFU specifically in Morrow County.

20 Finally, in an undated conversation, Morrow County indicated to IPC that the zoning permit
21 provisions of MCZO 3.010(C) applicable to utility facilities in an EFU Zone may not cover the
22 helipad activities associated with the relevant multi-use areas. However, in an April 7, 2016
23 email from Morrow County Planning Department to IPC, the county stated that no separate
24 conditional use permit was required for temporary helipads in EFU Zone lands, provided the
25 Site Certificate include a condition of approval that the helipads are removed following
26 construction. While it's IPC position that the helipads are ancillary to the Project and therefore
27 permitted outright in EFU lands under ORS 215.283(1)(c)(A), IPC will use the helipads only
28 temporarily as part of Project construction and not as permanent helipads as requested by the
29 county. Further, to address other concerns regarding impacts from the helipad operations, IPC
30 proposes the following site certificate condition in response to Morrow County's request related
31 to the helipads:

32 ***Public Services Condition 2:*** *Prior to construction, the site certificate holder*
33 *shall submit to the department for its approval a Helicopter Use Plan, which*
34 *identifies or provides:*

- 35 *a. The type of helicopters to be used;*
36 *b. The duration of helicopter use;*
37 *c. Roads or residences over which external loads will be carried;*
38 *d. Multi-use areas and light-duty fly yards containing helipads shall be located: (i)*
39 *in areas free from tall agricultural crops and livestock; (ii) at least 500 feet from*
40 *organic agricultural operations; and (iii) at least 500 feet from existing dwellings*
41 *on adjacent properties; and*
42 *e. Flights shall occur only between sunrise and sunset.*

³¹ In *Brentmar v. Jackson County*, the Oregon Supreme Court concluded a county may not enact or apply criteria of its own beyond those found in ORS 215.283(1). Therefore, Morrow County must authorize the Project outright on EFU lands if it complies with ORS 215.283(1) and ORS 215.275 despite any MCZO provisions that may be stricter than ORS 215.283(1). For example, the provisions of MCZO 3.010(D)(17) indicating that a utility facility necessary for public service is a conditional use, and not a use permitted outright, would be contrary to the holding in *Brentmar v. Jackson County* and would not apply to the Project.

1 **Public Services Condition 6:** During construction, the site certificate holder
 2 shall conduct all work in compliance with the Helicopter Use Plan referenced in
 3 Public Services Condition 2.

4 **MCZO Provisions Identified by IPC**

5 The following MCZO provisions were identified by IPC and not Morrow County. IPC discusses
 6 these provisions for informational purposes only. The Project need not meet these provisions to
 7 satisfy the Land Use Standard, and the Council should not condition the Project based on these
 8 provisions, for the following reasons. First, the local governments have not identified these
 9 provisions as being potentially applicable substantive criteria under OAR 345-021-
 10 0010(1)(k)(C)(ii). Second, Morrow County stated that it will apply ORS 215.283(1) and
 11 ORS 215.275, and not the MCZO, in EFU lands. Third, applying these provisions to the Project
 12 would be akin to imposing requirements that are stricter than ORS 215.283(1) and thus would
 13 be contrary to the holding in *Brentmar v. Jackson County*.

14 **Dimensional Standards**

15 MCZO 3.010(G): In an EFU Zone, the following dimensional standards shall apply: 1. A lot or
 16 parcel of 160 acres or more shall be considered a farm unit. 2. A lot or parcel of less than 160
 17 acres may be approved as a farm unit pursuant to the Conditional Use Permit process and
 18 when found to comply with the Agricultural Lands policies of the Comprehensive Plan and the
 19 provisions of Section 5.120 of the Morrow County Subdivision Ordinance. 3. The minimum
 20 average lot width shall be 150 feet with a minimum street frontage of 150 feet, excepting lots
 21 within an approved subdivision. 4. The minimum average lot depth shall be 150 feet. 5. Big
 22 Game Range Restrictions: In the case of Farm Use areas identified as Big Game Habitat no
 23 dwelling will be authorized where the overall density within a square mile exceeds one dwelling
 24 per 160 acres. Section 3.200 also applies to the siting of a dwelling on Big Game Habitat. 6.
 25 New parcels for nonfarm uses only as authorized by ORS 215.263 may be created. Such new
 26 parcels shall be the minimum size needed to accommodate the use in a manner consistent
 27 with other provisions of law except as required for the nonfarm dwellings authorized by Section
 28 F. The creation of new lots or parcels for dwellings not in conjunction with farm use may be
 29 created pursuant to Section F and ORS 215.263(4). The county shall not approve a
 30 subdivision or series partition for a dwelling not provided in conjunction with farm use. The
 31 provisions of MCZO 3.010H this subsection regarding a series partition apply only to
 32 applications for a land division submitted after July 1, 1997. For purposes of this subsection,
 33 "series partition" shall have the meaning given that term in ORS 92.305.

34 MCZO 3.010(G) addresses the size of subdivided parcels and is applicable only to the extent
 35 that a partition of a parcel zoned EFU in Morrow County is required. IPC intends to secure
 36 easements for the majority of Project features and does not expect to require the partitioning of
 37 any parcel zoned EFU in Morrow County. Because the Project likely will not involve lot splits,
 38 MCZO 3.010(G) likely will not be applicable to the Project. In the event that a partition becomes
 39 necessary, IPC will obtain approval of the partition directly from Morrow County prior to
 40 construction and will attempt to comply with the dimension standards of MCZO 3.010(G).
 41 However, for a partition in EFU lands, Morrow County may not unreasonably withhold the
 42 partition approval based on the dimension standards of MCZO 3.010(G), because doing so
 43 would be akin to imposing requirements on the Project that are stricter than ORS 215.283(1)
 44 and thus would be contrary to the holding in *Brentmar v. Jackson County*.

45 **Yard and Stream Setbacks**

46 MCZO 3.010(H): In an EFU Zone, the minimum yard setback requirements shall be as
 47 follows: 1. The front yard setback from the property line shall be a minimum of 100 feet if the

property line is adjacent to an intensive agricultural use except as approved by the Commission; otherwise, front yards shall be 20 feet for property fronting on a local minor collector or marginal access street ROW, 30 feet from a property line fronting on a major collector ROW, and 80 feet from an arterial ROW unless other provisions for combining accesses are provided and approved by the County. 2. Each side yard shall be a minimum of 20 feet except that on corner lots or parcels the side yard on the street side shall be a minimum of 30 feet, and for parcels or lots with side yards adjacent to an intensive agricultural use the adjacent side yard shall be a minimum of 100 feet, except as approved by the Commission. 3. Rear yards shall be a minimum of 25 feet, except for parcels or lots with rear yards adjacent to an intensive agricultural use rear yards shall be a minimum of 100 feet, except as approved by the Commission. 4. Stream Setback. All sewage disposal installations such as outhouses, septic tank and drainfield systems shall be set back from the high-water line or mark along all streams and lakes a minimum of 100 feet measured at right angles to the high-water line or mark. All structures, buildings, or similar permanent fixtures shall be set back from the high-water line or mark along all streams or lakes a minimum of 100 feet measured at right angles to the high-water line or mark.

Yard Setbacks

MCZO 3.010(H)(1) through (3) establish yard setback requirements. MCZO 1.030 defines the terms “front setback,” “rear setback,” and “side setback” as consisting of a certain minimum distance between lot lines and buildings. The term “building” is defined as a “structure built for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind” (MCZO 1.030). Therefore, the yard setback requirements of MCZO 3.010(H)(1) through (3) apply only to projects involving structures that support, shelter, or enclose persons or things. MCZO 1.030 defines the term “structure” as “[s]omething constructed or built and having a fixed base on, or fixed connection to, the ground or another structure.”

- **Access Roads:** The Project access roads will not be built to support, shelter, or enclose anything. Therefore, the access roads are not considered buildings under the MCZO, and the yard setback requirements of MCZO 3.010(H)(1) through (3) do not apply to the access roads.
- **Transmission Line Towers:** The transmission line towers will be constructed objects with a fixed connection to the ground. Therefore, the transmission line towers are considered structures under the MCZO, and the setback requirements of MCZO 3.010(H)(1) through (3) will apply to the relevant transmission line towers.
- **Multi-Use Areas and Communication Stations:** The multi-use areas and communication station in the EFU Zone in Morrow County will include structures providing shelter for persons and property. Therefore, the multi-use areas and communication station are considered building under the MCZO, and the yard setback requirements of MCZO 3.010(H)(1) through (3) will apply to those project features.

While IPC is not required to do so under the Court’s ruling in *Brentmar v. Jackson County*, IPC will site the Project buildings at the multi-use areas and communication station in the EFU zone in Morrow County to comply with yard setback requirements of MCZO 3.010(H)(1) through (3). To ensure compliance with such requirements, IPC proposes the following site certificate condition:

Land Use Condition 11: *During construction in Morrow County, the site certificate holder shall construct the facility to comply with the following setback distances and other requirements:*

...

In the EFU Zone:

c. Buildings and the fixed bases of the transmission line towers shall be setback as follows: (i) front yards shall be set back at least 20 feet from minor collector road rights-of-way, 30 feet from major collector road rights-of-way, 80 feet from arterial road rights-of-way, and 100 feet from intensive agricultural uses; (ii) side yards shall be set back at least 20 feet from the property line, 30 feet for corner lots, and 100 feet from intensive agricultural uses; and (iii) rear yards shall be set back at least 25 feet from the property line, and 100 feet from intensive agricultural uses.

....

Stream Setbacks

With respect to MCZO 3.010(H)(4), the first part of that provision relates to sewage disposal installations. The Project will not include any sewage disposal installations, and therefore, the provisions of MCZO 3.010(H)(4) related to sewage disposal installations are not applicable to the Project. The second part of MCZO 3.010(H)(4) applies to structures, buildings, and similar permanent fixtures, providing the same must be set back a minimum of 100 feet from the high water mark of any stream or lake.

- Access Roads: In a May 10, 2016, email to IPC, the Morrow County Planning Department provided the Project access roads—both new roads and substantially modified existing roads—are not considered “structures” under the MCZO, and therefore, the stream setback requirements of MCZO 3.010(H)(4) do not apply to the access roads.
- Transmission Line Towers: The transmission line towers will be constructed objects with a fixed connection to the ground. Therefore, the transmission line towers are considered structures under the MCZO, and the stream setback requirements of MCZO 3.010(H)(4) will apply to the relevant transmission line towers.
- Multi-Use Areas and Communication Stations: The multi-use areas and communication stations will include buildings. Therefore, the stream setback requirements of MCZO 3.010(H)(4) will apply to the relevant multi-use areas and communication stations.

While IPC is not required to do so under the Court’s ruling in *Brentmar v. Jackson County*, IPC will site the fixed bases of the transmission line towers (i.e., the foundations) and the buildings at the multi-use areas and communication station in the EFU zone in Morrow County to comply with stream setback requirements of MCZO 3.010(H)(4). To ensure compliance with such requirements, Idaho Power proposes the following site certificate condition:

Land Use Condition 11: *During construction in Morrow County, the site certificate holder shall construct the facility to comply with the following setback distances and other requirements:*

...

In the EFU Zone:

...

d. Buildings and the fixed bases of the transmission line towers shall be set back at least 100 feet from the high-water mark of all streams and lakes.

....

Traffic Impact Analysis

MCZO 3.010(l): 1. Traffic Impact Analysis (TIA). In addition to the other standards and conditions set forth in this section, a TIA will be required for all projects generating more than 400 passenger car equivalent trips per day. Heavy vehicles – trucks, recreational vehicles and buses – will be defined as 2.2 passenger car equivalents. A TIA will include: trips generated by the project, trip distribution for the project, identification of intersections for which the project adds 30 or more peak hour passenger car equivalent trips, and level of service assessment, impacts of the project, and, mitigation of the impacts. If the corridor is a State Highway, use ODOT standards. (MCC-8-98).

Under MCZO 3.010(l), a traffic impact analysis is required if a project involves 400 passenger car equivalent trips per day in the EFU Zone in Morrow County. During construction, the heaviest construction-related traffic will be located at the multi-use areas, which will be the centralized hubs of activity during construction. Each multi-use area will create approximately 174 passenger car equivalent trips per day (see Exhibit U and Attachment U-2 – Transportation and Traffic Plan). This number was determined through an analysis of the draft construction schedule and distribution of construction “sections” along the Proposed Route. The analysis considered the daily construction traffic impacts resulting from the maximum number of construction crews that may operate within that section at any one time. This analysis determined an estimated maximum number of 1,294 daily one-way trips divided over five sections of more concentrated traffic. Of these 1,294 trips, approximately 368 are estimated to be heavy vehicle trips. Therefore, using the heavy vehicle factor (2.2 passenger car equivalents per heavy vehicle) a factored total of approximately 1,736 passenger car equivalents trips per day are estimated in the first construction section. However, many of these trips are heavy vehicles moving from one work area to another, thus IPC concluded that 50 percent of heavy vehicles would not operate daily on public roads. This reduces passenger car equivalent trips to approximately 868 in the first construction section. The contractor is expected to locate approximately five multi-use sites per section. For planning purposes, the 868 trips were distributed among the five multi-use areas within the first construction section, for a total of 174 passenger car equivalents per multi-use area. During a December 21, 2015, discussion with the Morrow County Planning Department, Morrow County indicated that the 400-trip threshold applies to individual sites and not the cumulative impact of multiple sites associated with the same project. Accordingly, because IPC does not expect any individual multi-use area, the Longhorn Station, or any other discrete Project feature to produce 400 trips per day, no traffic impact analysis is required under MCZO 3.010(l) for construction activities.

During operation of the Project, traffic will be limited to maintenance trips to the Longhorn Station, communication stations, towers, and conductors. At no point will such maintenance require 400 passenger car equivalent trips per day in Morrow County. Therefore, no traffic impact study is triggered by traffic related to the operation of the Project.

While IPC is not required to do so, IPC proposes the following site certificate condition to mitigate the effects of the temporary increase in traffic related to construction activities:

Land Use Condition 12: *During construction in Morrow County, the site certificate holder shall complete the following to address traffic impacts in the county:*

- a. The site certificate holder shall work with the Morrow County Road Department to identify concerns related to Project construction traffic;*
- b. The site certificate holder shall develop a traffic management plan that includes traffic control measures to mitigate the effects of Project construction traffic;*

- 1 c. The site certificate holder shall conduct all work in compliance with traffic
- 2 management plan; and
- 3 d. The site certificate holder shall provide a copy of the traffic management plan
- 4 to the department.

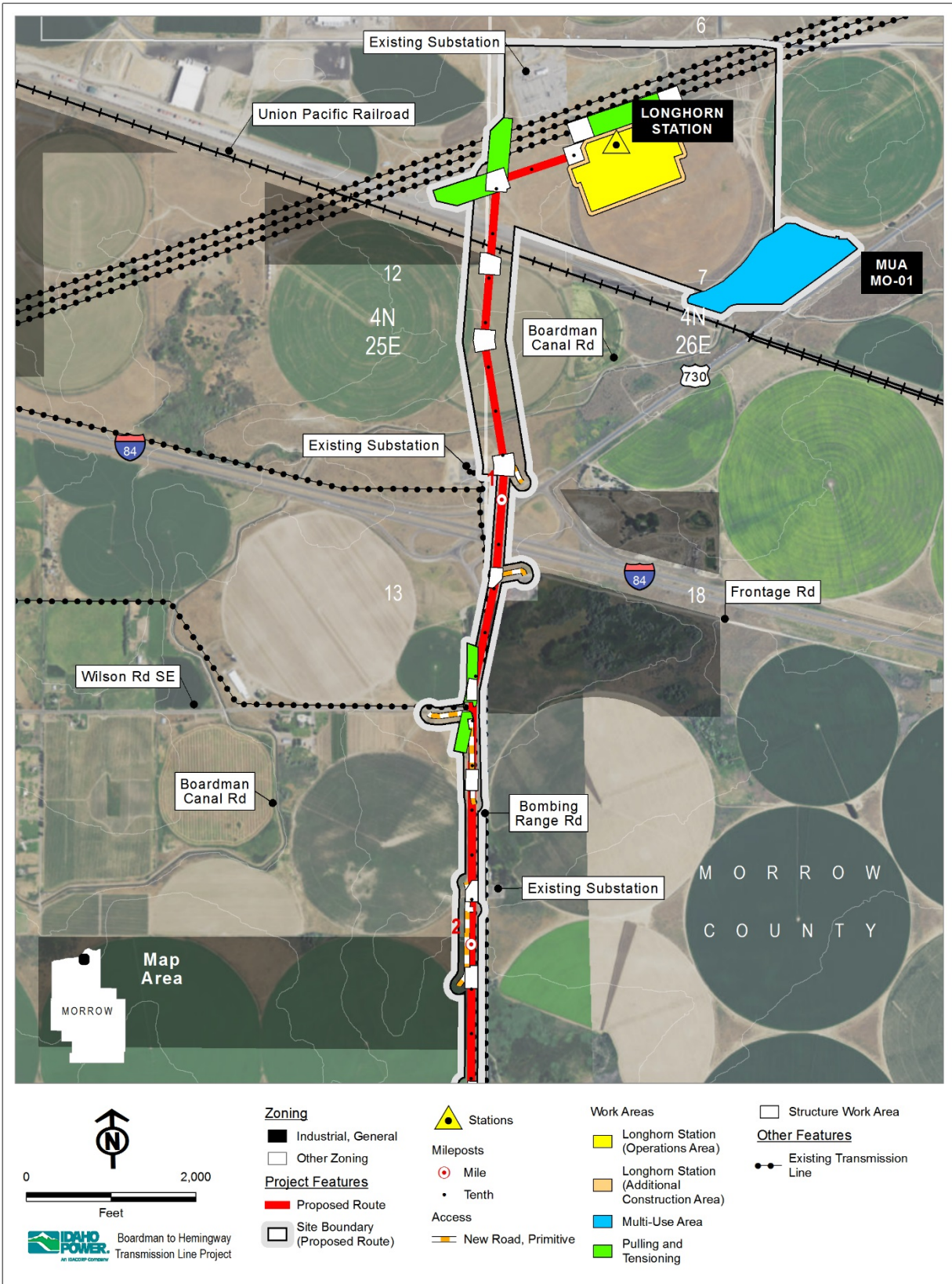
5 **5.4.2.2 General Industrial Zone MCZO Provisions**

6 With the Proposed Route, the transmission line (0.3 line miles) and a small new access road
7 (0.1 miles) will be located in the General Industrial Zone in Morrow County. No multi-use areas,
8 light-duty fly yards, communication stations, or substantially modified existing access roads will
9 be located in the General Industrial Zone (see Figure K-15; Table K-3). The impacts to General
10 Industrial lands will be mostly incidental, crossing the corner of two General Industrial zoned lots
11 and running along the border of a third lot along Bombing Range Road as shown in Figure K-15.

12 Neither West of Bombing Range Road Alternative 1 nor West of Bombing Range Road
13 Alternative 2 will include any project features in the General Industrial Zone.

14 Figure K-15 shows the location of the Proposed Route project features that will occur in the
15 General Industrial Zone.

16



1
2 **Figure K-15. Project Features in General Industrial Zone**

1 **Zoning Permit (All Project Features)**

2 **MCZO Provisions Identified by Morrow County**

3 Each of the MCZO provisions discussed below as being potentially applicable to the Project
4 features in the General Industrial Zone were identified by Morrow County.

5 **Uses Permitted Outright**

6 MCZO 3.070(A): In an M-G Zone, the following uses and their accessory uses are permitted
7 outright; except as limited by subsection C of this section. A Zoning Permit is required and
8 projects larger than 100 acres are subject to Site Development Review (Article 4
9 Supplementary Provisions Section 4.170 Site Development Review). . . . 15. Utility,
10 transmission and communications towers less than 200 feet in height.

11 MCZO 3.070(A) provides utility towers less than 200 feet—and their accessory uses—are
12 permitted outright in the General Industrial (MG) Zone in Morrow County³² The term “accessory
13 use” is defined as “[a] use or structure incidental and subordinate to the main use of the
14 property and located on the same lot as the main use.” MCZO 1.030. Here, in the General
15 Industrial Zone, IPC will be constructing transmission lines less than 200 feet tall along with a
16 small access road. Because the access road will serve the transmission lines and will be
17 located on the same lot as the transmission lines, the access road is considered an accessory
18 use to the transmission lines. No multi-use areas, light-duty fly yards, or communication stations
19 will be located in the General Industrial Zone. Accordingly, the transmission line and its
20 accessory access road are permitted outright in the General Industrial Zone under
21 MCZO 3.070(A)(15).

22 MCZO 3.070(A) states that a site development review is required for projects larger than 100
23 acres. Here, because the Project will affect less than 100 acres of the General Industrial Zone in
24 Morrow County (see Table K-3, showing 7.9 acres of General Industrial Zone lands within the
25 site boundary), the Project will not require a site development review by Morrow County.

26 **Use Limitations**

27 MCZO 3.070(C): In an M-G Zone, the following limitations and standards shall apply to all
28 permitted uses: 1. No use permitted under the provisions of this section that requires a lot
29 area exceeding two (2) acres shall be permitted to locate adjacent to an existing residential
30 lot in a duly platted subdivision, or a lot in a residential zone, except as approved by the
31 Commission. 2. No use permitted under the provisions of this section that is expected to
32 generate more than 20 auto-truck trips during the busiest hour of the day to and from the
33 subject property shall be permitted to locate on a lot adjacent to or across the street from a
34 residential lot in a duly platted subdivision, or a lot in a residential zone.

35 MCZO 3.070(C) limits uses located adjacent to an existing residential lot in a duly platted
36 subdivision or a lot in a residential zone. Here, the Project will not be located adjacent to an
37 existing residential lot in a duly platted subdivision or a lot in a residential zone, and therefore,
38 MCZO 3.070(C) does not apply to the Project.

³² In its August 18, 2010 letter, Morrow County noted that at the time of writing the letter, utility facilities were treated as a conditional use in the general industrial zone, but that the zoning ordinance was under review and there was a proposed change to designate transmission towers under 200 feet as a use permitted outright. By April 2011, Morrow County adopted that proposed change, and utility, transmission and communication towers less than 200 feet in height are a use permitted outright.

1 **Dimension Requirements**

2 MCZO 3.070(D): The following Dimensional requirements apply to all buildings and
 3 structures constructed, placed or otherwise established in the MG zone. 1. Lot size and
 4 frontage: A minimum lot size has not been determined for this zone although the lot must be
 5 of a size necessary to accommodate the proposed use, however, it is anticipated that most, if
 6 not all uses will be sited on lots of at least two acres. The determination of lot size will be
 7 driven by the carrying capacity of the land given the proposed use. Minimum lot frontage
 8 shall be 300 feet on an arterial or collector; 200 feet on a local street. 2. Setbacks: No
 9 specific side or rear yard setbacks are identified within this zone, but may be dictated by
 10 provisions of the Building Code or other siting requirements. The minimum setback between
 11 a structure and the right-of-way of an arterial shall be 50 feet. The minimum setback of a
 12 structure from the right-of-way of a collector shall be 30 feet, and from all lower class streets
 13 the minimum setback shall be 20 feet. There shall be no setback requirement where a
 14 property abuts a railroad siding or spur if the siding or spur will be utilized by the permitted
 15 use. 3. Stream Setback: All sewage disposal installations such as outhouses, septic tank and
 16 drainfield systems shall be set back from the high-water line or mark along all streams and
 17 lakes a minimum of 100 feet, measured at right angles to the high-water line or mark. All
 18 structures, buildings, or similar permanent fixtures shall be set back from the high-water line
 19 or mark along all streams or lakes a minimum of 10 feet measured at right angles to the high-
 20 water line or mark. 4. Uses adjacent to residential uses. A sight-obscuring fence shall be
 21 installed to buffer uses permitted in the General Commercial Zone from residential uses.
 22 Additional landscaping or buffering such as diking, screening, landscaping or an evergreen
 23 hedge may be required as deemed necessary to preserve the values of nearby properties or
 24 to protect the aesthetic character of the neighborhood or vicinity.

25 MCZO 3.070(D)(1) addresses the size of parcels and is applicable only to the extent that a
 26 partition of a parcel zoned General Industrial in Morrow County is required. IPC intends to
 27 secure easements for the majority of Project features and does not expect to require partition of
 28 any parcel zoned General Industrial in Morrow County. Because the Project likely will not
 29 involve lot splits, MCZO 3.070(D)(1) likely will not be applicable to the Project. In the event that
 30 a partition becomes necessary, IPC will obtain approval of the partition directly from Morrow
 31 County prior to construction.

32 MCZO 3.070(D)(2) provides setback requirements applicable to buildings and structures. Here,
 33 the Project will include construction of transmission line towers, a small access road (0.1 miles),
 34 and no buildings on lands zoned as General Industrial lands.

- 35 • Access Roads: The Project access roads will not be built to support, shelter, or enclose
 36 anything. Therefore, the access roads are not considered buildings under the MCZO.
 37 Moreover, the Morrow County Planning Department in a May 10, 2016 email to IPC
 38 provided the Project access roads—both new roads and substantially modified existing
 39 roads—are not considered structures under the MCZO. Accordingly, because the
 40 access roads are neither buildings nor structures, the setback requirements of
 41 MCZO 3.070(D)(2) do not apply to the access roads.
- 42 • Transmission Line Towers: The transmission line towers will be constructed objects with
 43 a fixed connection to the ground. Therefore, the transmission line towers are considered
 44 structures under the MCZO, and the setback requirements of MCZO 3.070(D)(2) will
 45 apply to the relevant transmission line towers.

46 MCZO 3.070(D)(2) provides, in part, that structures must be set back 30 feet from collector road
 47 ROWs. Here, in the General Industrial Zone, the fixed bases of certain transmission line towers

1 (i.e., the foundations) will be located near Bombing Range Road, which the County considers a
 2 collector road. Therefore, the fixed bases of the towers must be set back at least 30 feet from
 3 the Bombing Range Road ROW. To ensure compliance with the requirements of
 4 MCZO 3.070(D)(2), IPC proposes the following site certificate condition:

5 **Land Use Condition 11:** *During construction in Morrow County, the site*
 6 *certificate holder shall construct the facility to comply with the following setback*
 7 *distances and other requirements:*

8 . . .

9 *In the General Industrial Zone:*

10 *e. Buildings and the fixed bases of the transmission line towers shall be set back*
 11 *at least 50 feet from arterial road rights-of-way, 30 feet from collector road rights-*
 12 *of-way, and 20 feet from lower-class road rights-of-way.*

13

14
 15 MCZO 3.070(D)(3) requires structures be setback 10 feet from streams or lakes in the General
 16 Industrial Zone. In this instance, there are no streams or lakes within 10 feet of the portion of the
 17 route that goes through the General Industrial Zone. Therefore, the Project will be in compliance
 18 with MCZO 3.070(D)(3).

19 MCZO 3.070(D)(4) provides for fencing, landscaping, or buffering for uses adjacent to
 20 residential uses. Here, there are no residences adjacent to the portion of the route that goes
 21 through the General Industrial Zone. Accordingly, the Project will be in compliance with
 22 MCZO 3.070(D)(4).

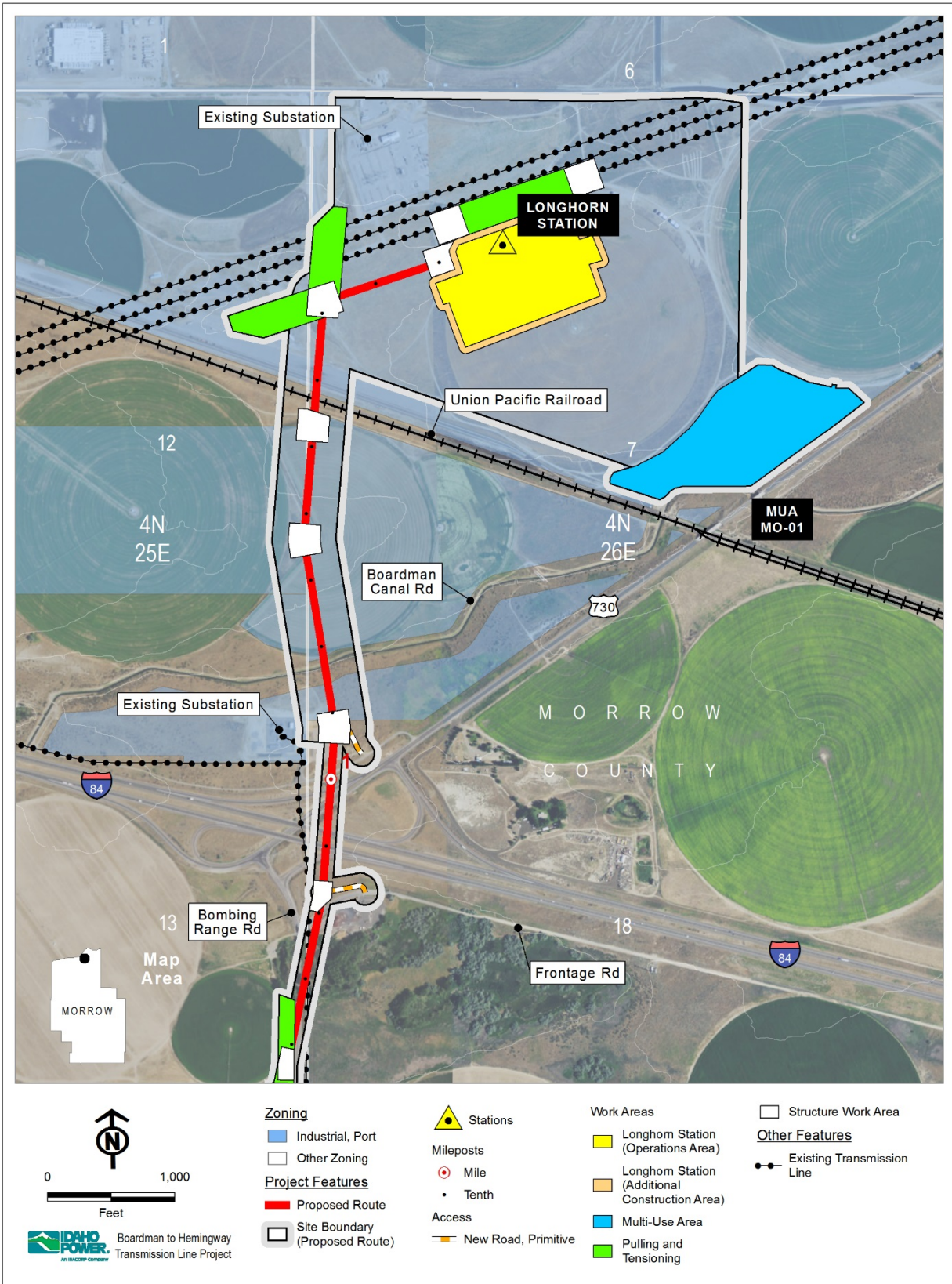
23 **Transportation Impacts Analysis**

24 MCZO 3.070(E): 1. Traffic Impact Analysis (TIA). In addition to the other standards and
 25 conditions set forth in this section, a TIA will be required for all projects generating more than
 26 400 passenger car equivalent trips per day. Heavy vehicles - trucks, recreational vehicles
 27 and buses - will be defined as 2.2 passenger car equivalents. A TIA will include: trips
 28 generated by the project, trip distribution for the project, identification of intersections for
 29 which the project adds 30 or more peak hour passenger car equivalent trips, and level of
 30 service assessment, impacts of the project, and, mitigation of the impacts. If the corridor is a
 31 State Highway, use ODOT standards. (MC-C-8-98).

32 Under MCZO 3.070(E), a traffic impact analysis is required if a project involves 400 passenger
 33 car equivalent trips per day in the General Industrial Zone in Morrow County. Here, neither the
 34 construction nor operation of the Project in the General Industrial Zone will produce 400 trips
 35 per day, and therefore, no traffic impact analysis is required under MCZO 3.070(E). While IPC is
 36 not required to do so, IPC is proposing Land Use Condition 12 to mitigate the effects of the
 37 temporary increase in traffic related to construction activities.

38 **5.4.2.3 Port Industrial Zone MCZO Provisions**

39 The transmission line (0.9 line miles), the Longhorn Station, and one multi-use area (MUA MO-
 40 01) will be located in the Port Industrial Zone in Morrow County. No light-duty fly yards,
 41 communication stations, new access roads, or substantially modified existing access roads will
 42 be located in the Port Industrial Zone (see Figure K-16; Table K-3).



1
2 **Figure K-16. Project Features in Port Industrial Zone**

1 **Zoning Permit (All Project Features)**

2 **MCZO Provisions Identified by IPC**

3 Each of the MCZO provisions discussed below as being potentially applicable to the Project
4 features in the Port Industrial Zone were identified by IPC and not Morrow County.

5 **Uses Permitted Outright with a Zoning Permit**

6 MCZO 3.073(A): Outside activities are permitted within the scope of allowed uses outlined
7 below. Projects larger than 100 acres are subject to Site Development Review (Article 4
8 Supplementary Provisions Section 4.170 Site Development Review). . . . 9. Power
9 generating and utility facilities.

10 A utility facility is a land use that is permitted outright in the Port Industrial Zone. The term “utility
11 facility” means “[a]ny major structure owned or operated by a public, private, or cooperative
12 electric, fuel, communication, sewage, or water company for the generation, transmission,
13 distribution, or processing of its products or for the disposal of cooling water, waste, or
14 byproducts, and including power transmission lines, major trunk pipelines, power substations,
15 dams, water towers, sewage lagoons, sanitary landfills, and similar facilities, but excluding local
16 sewer, water, gas, telephone and power distribution lines, and similar minor facilities allowed in
17 any zone” (MCZO 1.030). Here, the transmission line and its related and supporting facilities will
18 be owned and operated for the transmission of electricity, and therefore, each of the Project
19 features located in the Port Industrial Zone is considered a utility facility or part thereof under
20 MCZO 3.073(A)(9), and is permitted outright in the Port Industrial Zone.

21 MCZO 3.073(A) states that a site development review is required for projects larger than 100
22 acres. Here, the Project will affect more than 100 acres of the Port Industrial Zone in Morrow
23 County (see Table K-3, showing 245.3 acres of Port Industrial Zone lands within the site
24 boundary). Here, the site development review is not related to siting and not included or
25 governed by the site certificate.

26 **Limitations on Uses**

27 MCZO 3.073(C): 1. Material shall be stored and grounds shall be maintained in a manner
28 which will not create a health hazard. 2. All related provisions of the Oregon Revised
29 Statutes shall be complied with, particularly those dealing with hazardous substances and
30 radioactive materials.

31 MCZO 3.010(C) provides projects in the Port Industrial Zone must store and manage materials
32 in a manner so as not to create a health hazard and must comply with applicable hazardous
33 materials statues. Here, IPC will fully comply with applicable non-hazardous waste handling and
34 disposal regulations on all lands associated with the Project, during construction and operations.
35 Solid waste will be stored in a manner that does not constitute a fire, health, or safety hazard
36 until it can be hauled off for recycling or disposal, as appropriate. Exhibit V provides details on
37 the types and amounts of waste, and procedures and systems for handling and disposal of non-
38 hazardous waste materials. Exhibit G discusses hazardous waste, and describes IPC’s
39 compliance with the applicable Oregon Revised Statutes. Table G-3 provides a summary of
40 type, quantity, and method for storing explosives and hazardous materials that will be used on
41 the Project. To ensure compliance with MCZO 3.010(C), IPC request that the Council adopt the
42 following conditions in the site certificate:

43 **Soil Protection Condition 1:** *Prior to construction, the site certificate holder*
44 *shall provide the department a copy of an Oregon Department of Environmental*

1 Quality (ODEQ)-approved construction Spill Prevention, Control, and
2 Countermeasures (SPCC) Plan.

3 **Soil Protection Condition 2:** During construction, the site certificate holder shall
4 conduct all work in compliance with the ODEQ-approved construction SPCC
5 Plan referenced in Soil Protection Condition 1.

6 **Soil Protection Condition 3:** Prior to operation, the site certificate holder shall
7 provide the department a copy of a ODEQ-approved operation SPCC Plan, if
8 required by ODEQ statutes or regulations.

9 **Soil Protection Condition 4:** During operation, the site certificate holder shall
10 conduct all work in compliance with the ODEQ-approved operation SPCC Plan
11 referenced in Soil Protection Condition 3, if required by ODEQ statutes or
12 regulations.

13 Dimension Requirements

14 MCZO 3.073(D): The following dimensional requirements apply to all buildings and structures
15 constructed, placed or otherwise established in the PI zone, subject to subsection F of this
16 Section. 1. Minimum front yard setback: Thirty (30) feet. No structure shall be erected closer
17 than ninety (90) feet from the center line of any public, county or state road. Structures on
18 corner or through lots shall observe the minimum front yard setback on both streets. 2.
19 Minimum side and rear yard setback: ten (10) feet. 3. Minimum lot coverage: No limitation. 4.
20 Maximum building height: No limitation. 5. Exceptions to the setback regulations are as
21 follows: a. There shall be no setback requirement where a property abuts a railroad spur if
22 the spur will be utilized by the permitted use. b. Side and rear lot requirements may be
23 waived on common lot lines when adjoining lot owners enter into a joint development
24 agreement for coordinating vehicular access and parking development. Party wall or
25 adjoining building walls must meet fire separation requirements of the State of Oregon
26 Structural Specialty Code and Fire and Life Safety Code. The joint development agreement
27 must be approved by the Port of Morrow as to form and content, recorded in the Morrow
28 County Clerk's office and a copy must be provided to the Planning Department.

29 MCZO 3.073(D) provides certain setback requirements for buildings and structures in the Port
30 Industrial Zone.

- 31 • Longhorn Station: The Longhorn Station will include a building. Therefore, the setback
32 requirements of MCZO 3.073(D) will apply to the Longhorn Station.
- 33 • Transmission Line Towers: The transmission line towers will be constructed objects with
34 a fixed connection to the ground. Therefore, the transmission line towers are considered
35 structures under the MCZO, and the setback requirements of MCZO 3.073(D) will apply
36 to the relevant transmission line towers.
- 37 • Multi-Use Areas: The multi-use areas will include buildings. Therefore, the setback
38 requirements of MCZO 3.073 will apply to the relevant multi-use areas.

39 There is sufficient land around the fixed bases of the transmission line towers (i.e., the
40 foundations), and the buildings at the Longhorn Station and multi-use areas, in the Port
41 Industrial Zone in Morrow County that the structures and buildings can meet the setback
42 requirements of MCZO 3.073(D). To ensure compliance with such requirements, Idaho Power
43 proposes the following site certificate condition:

Land Use Condition 11: During construction in Morrow County, the site certificate holder shall construct the facility to comply with the following setback distances and other requirements:

In the Port Industrial Zone:

f. Buildings and the fixed bases of the transmission line towers shall be setback as follows: (i) front yards shall be set back at least 30 feet from the property line, and 90 feet from the centerline of any public, county, or state road; (ii) side yards shall be set back at least 10 feet from the property line; and (iii) rear yards shall be set back at least 10 feet from the property line.

Transportation Impacts Analysis

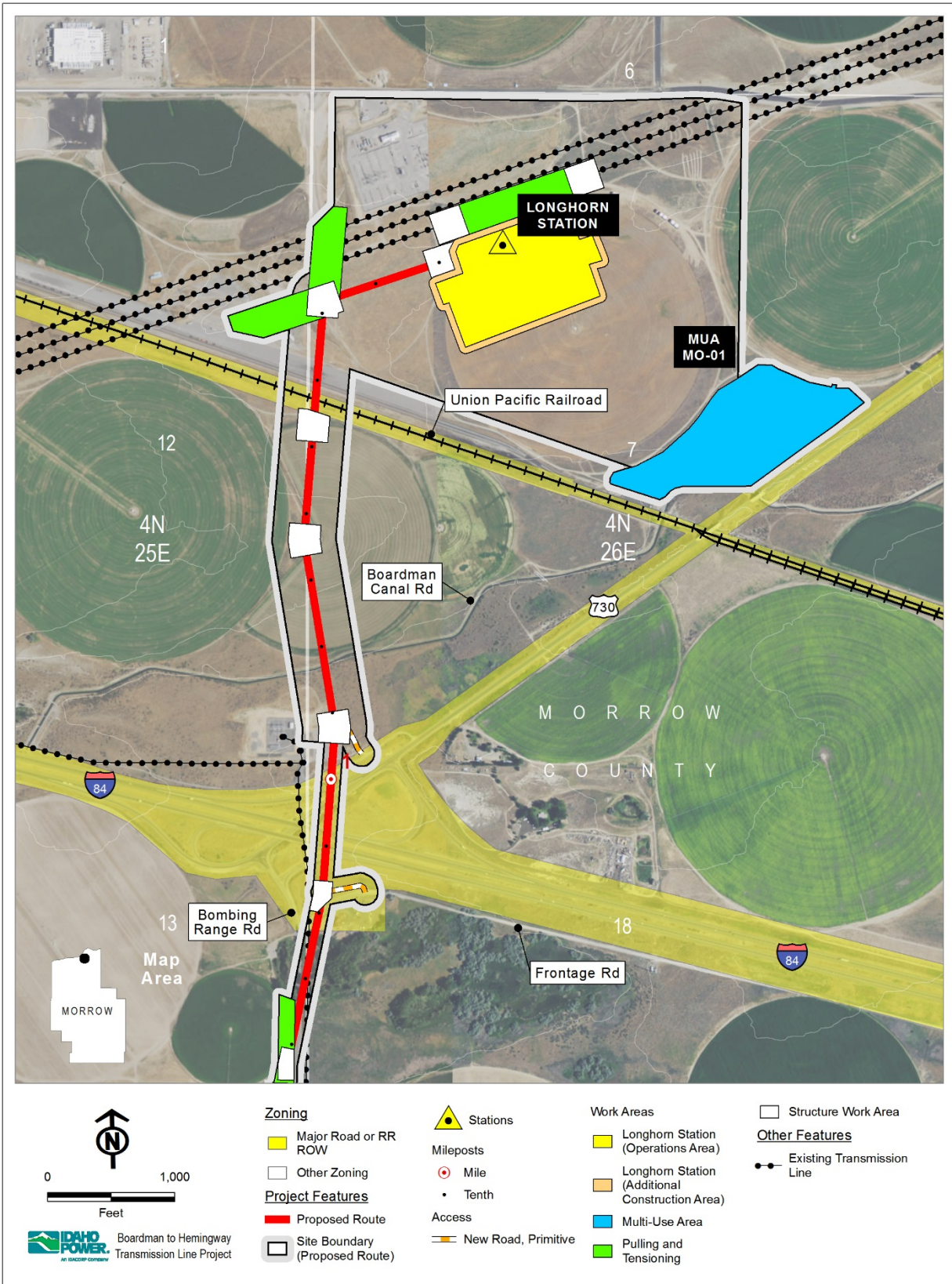
MCZO 3.073(G): 1. Traffic Impact Analysis (TIA). In addition to the other standards and conditions set forth in this section, a TIA will be required for all projects generating more than 400 passenger car equivalent trips per day. Heavy vehicles B trucks, recreational vehicles and buses B will be defined as 2.2 passenger car equivalents. A TIA will include: trips generated by the project, trip distribution for the project, identification of intersections for which the project adds 30 or more peak hour passenger car equivalent trips, and level of service assessment, impacts of the project, and, mitigation of the impacts. If the corridor is a State Highway, use ODOT standards. (MC-C-8-98).

Under MCZO 3.073(G), a traffic impact analysis is required if a project involves 400 passenger car equivalent trips per day in the Port Industrial Zone in Morrow County. Here, neither the construction nor operation of the Project in the Port Industrial Zone will produce 400 trips per day, and therefore, no traffic impact analysis is required under MCZO 3.073(G). While IPC is not required to do so, IPC is proposing Land Use Condition 12 to mitigate the effects of the temporary increase in traffic related to construction activities.

5.4.2.4 Major Road or Railroad Right-of-Way Zone MCZO Provisions

The transmission line (0.3 line mile) and one small new access road (0.1 mile) will be located in the Major Road or Railroad Right-of-Way Zone in Morrow County (see Figure K-17; Table K-3). No multi-use areas, light-duty fly yards, communication stations, or substantially modified existing access roads will be located in this zone.

There are no MCZO provisions related specifically to the Major Road or Railroad Right-of-Way Zone—i.e., there are no approval criteria for uses in this zone. No analysis is required, and no standard must be met, to comply with the MCZO with respect to Project activities within the Major Road or Railroad Right-of-Way Zone.



1
2 **Figure K-17. Project Features in Major Road and Railroad Zone**

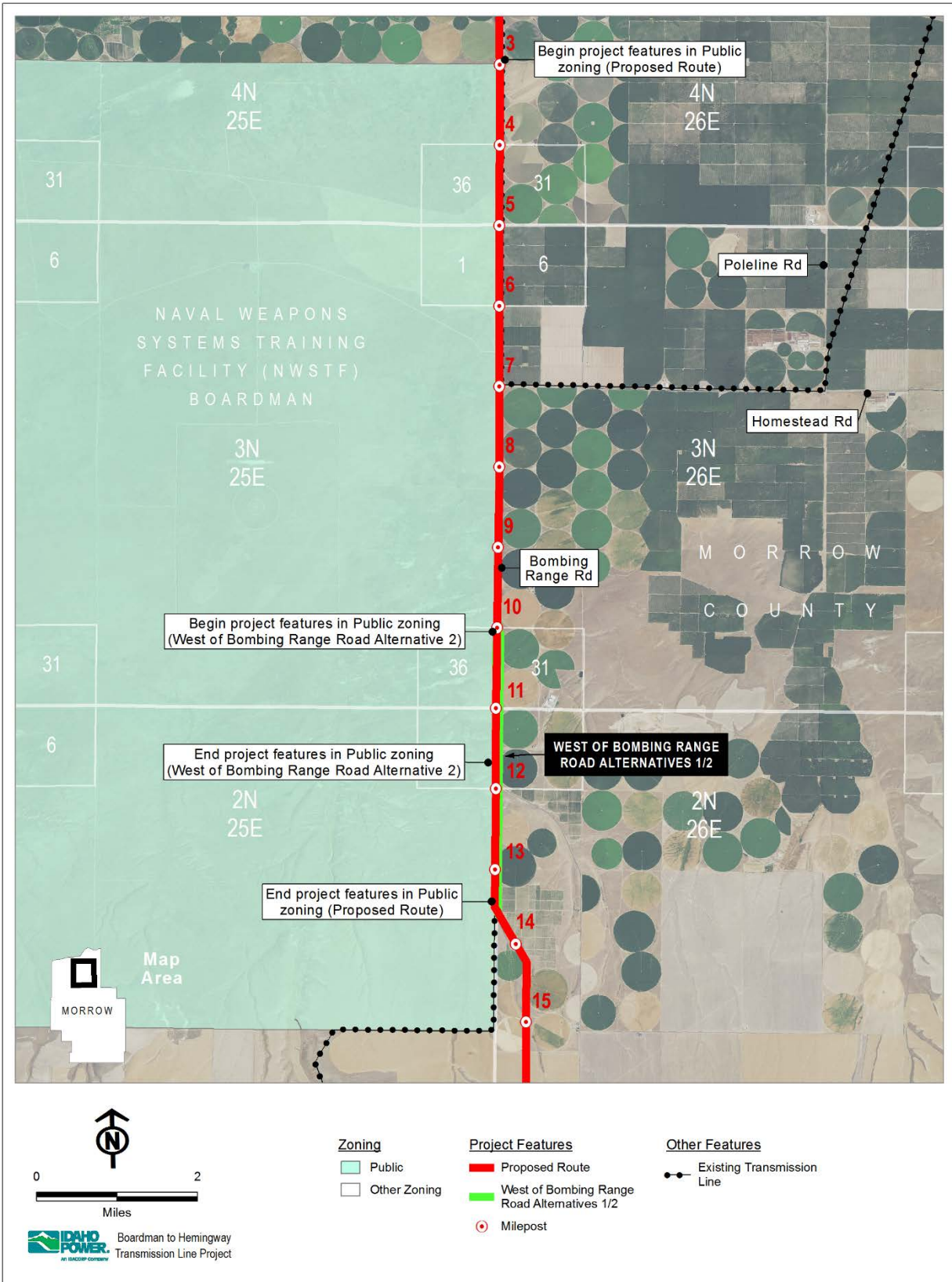
1 **5.4.2.5 Public Zone MCZO Provisions**

2 For the Proposed Route, the transmission line (10.5 line miles), new access roads (4.5 miles),
3 and substantially modified existing access roads (5.3 miles) will be located in the Public Zone in
4 Morrow County (see Figure K-18; Table K-3). No multi-use areas, light-duty fly yards, or
5 communication stations will be located in this zone.

6 Bombing Range Road Alternative 1 would include the transmission line (0.1 line miles) and new
7 access roads (<0.1 mile) in the Public Zone (see Figure K-18; Table K-3).

8 Bombing Range Road Alternative 2 would include the transmission line (1.7 line miles) and new
9 access roads (0.1 mile) in the Public Zone (see Figure K-18; Table K-3).

10 There are no MCZO provisions related specifically to the Public Zone—i.e., there are no
11 approval criteria for uses in this zone. No analysis is required, and no standard must be met, to
12 comply with the MCZO with respect to Project activities within the Public Zone.



1
2 **Figure K-18. Project Features in Public Zone**

1 **5.4.2.6 Flood Plain Overlay Zone MCZO Provisions**

2 In the April 13, 2012, teleconference, the Morrow County Planning Department identified the
3 Flood Plain Overlay Zone as potentially applicable to the Project.

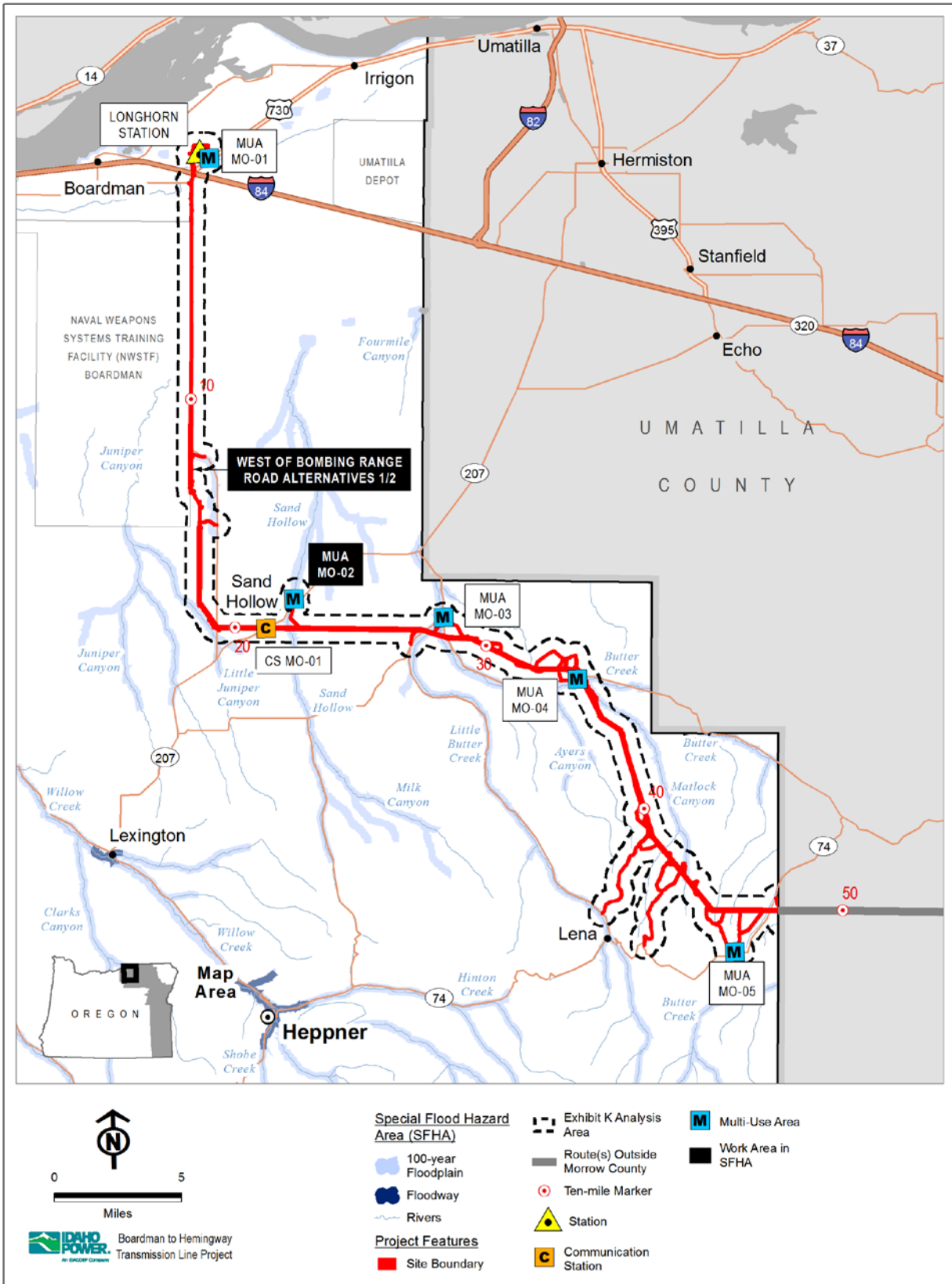
4 The MCZO discusses certain different types of flood-related management areas. Under the
5 MCZO, a “floodway” is a channel of a river or other watercourse and the adjacent land areas
6 that must be reserved to discharge the base flood without cumulatively increasing the water
7 surface elevation more than one foot (see MCZO 3.100(2)). Once established, nothing can be
8 placed in the floodway that would cause any rise in base flood elevation—i.e., 0.0 feet.

9 A “floodplain” is any land area susceptible to being inundated by water from any source. The
10 Special Flood Hazard Areas (SFHAs) are comprised of the land in the floodplain within a
11 community subject to a one-percent or greater chance of flooding in any given year (see
12 MCZO 3.100(2)).

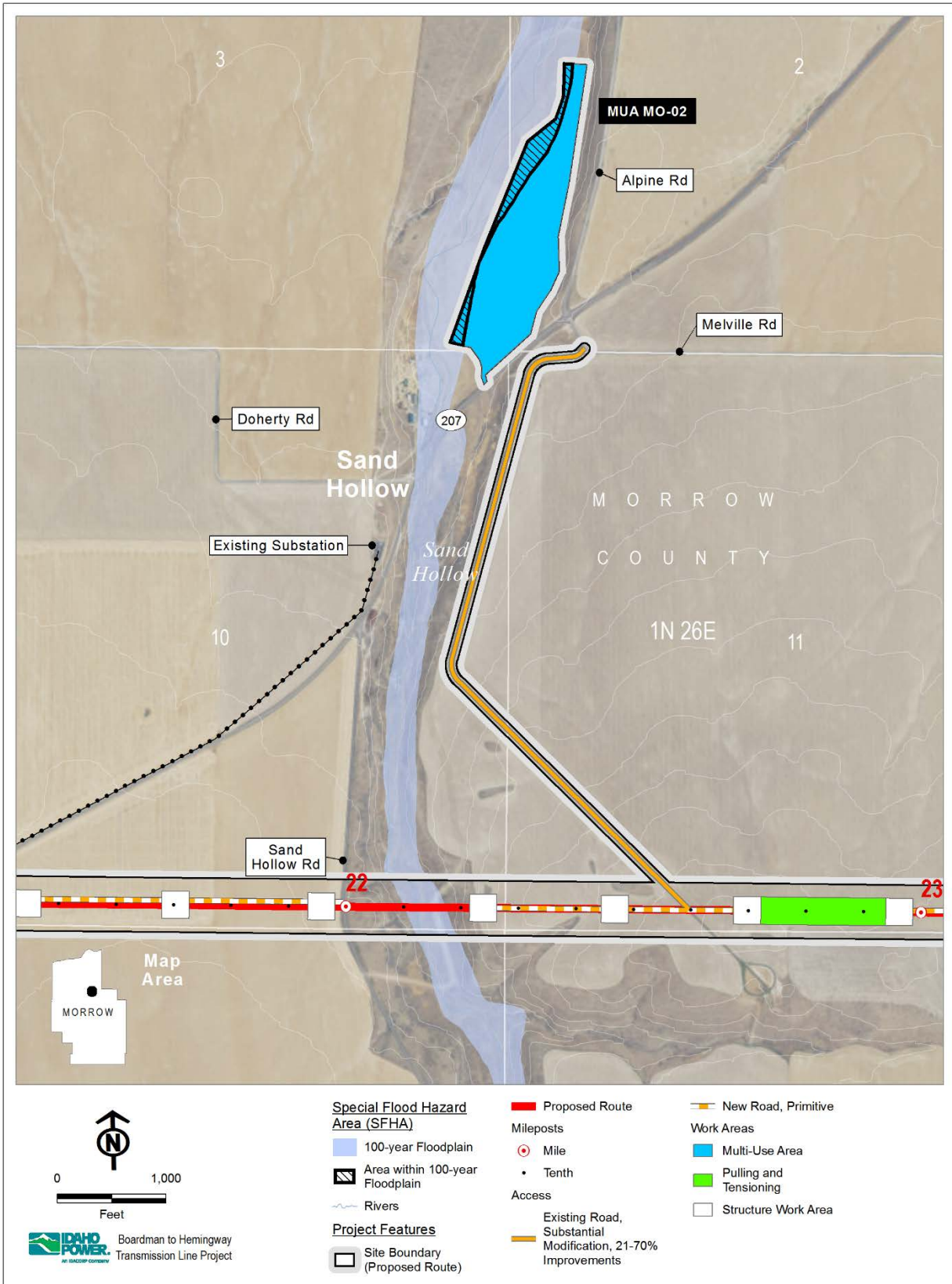
13 To identify the location of SFHAs in Morrow County, IPC used SFHA data from the State of
14 Oregon’s Hazards Framework, which in turn utilizes spatial data from the Federal Emergency
15 Management Agency or existing Flood Insurance Rate Maps (FIRM). Per that data, the
16 following Project features will be located in a SFHA in Morrow County: one multi-use area and
17 five access roads (three for the Proposed Route and two for the West of Bombing Range Road
18 alternative routes), each of which roads is an existing road needing substantial modification and
19 not a new road (see below Figure K-19). No new permanent Project features will be located in
20 an SFHA.

21 There are no designated “floodways” in Morrow County. Therefore, no Project features are
22 located in a designed floodway in Morrow County.

23 Figure K-19 and Figure K-20 show the relevant SFHAs in Morrow County.



1 Figure K-19. Special Flood Hazard Areas



1
2

Figure K-20. Multi-Use Area within Special Flood Hazard Area

1 **Flood Plain Development Permit**

2 **Development Permit Required**

3 MCZO 3.100(4.1-1): A development permit shall be obtained before construction or
4 development begins within any area of special flood hazard established in Section 3.2. The
5 permit shall be for all structures including manufactured homes, as set forth in the
6 "DEFINITIONS", and for all development including fill and other activities, also as set forth in
7 the "DEFINITIONS".

8 Under MCZO 3.100(4.1-1), construction activities within a Special Flood Hazard Area require a
9 flood plain development permit. Here, IPC will obtain directly from Morrow County a flood plain
10 development permit for the multi-use area and existing road improvement construction activities
11 related to the Project. The flood plain development permit will not be included in or governed by
12 the site certificate (see Exhibit E, Section 3.2.9.4).

13 To ensure compliance with the flood plain development permit requirements, IPC proposes the
14 following site certificate conditions:

15 **Land Use Condition 3:** *Prior to construction in Morrow County, the site*
16 *certificate holder shall provide to the department a copy of the following Morrow*
17 *County-approved permits, if such permits are required by Morrow County zoning*
18 *ordinances:*

19 *a. Flood plain development permit, for work in the Flood Plain Overlay Zone;*
20 *. . . .*

21
22 **Land Use Condition 13:** *During construction in Morrow County, the site*
23 *certificate holder shall conduct all work in compliance with the Morrow County-*
24 *approved permits referenced in Land Use Condition 3, if such permits are*
25 *required by Morrow County zoning ordinances.*

26 **Provisions for Flood Hazard Reduction; General Standards**

27 MCZO 3.100(5) provides the following standards are required for all projects in a Special Flood
28 Hazard Area.

29 **Anchoring**

30 MCZO 3.100(5.1-1): (1) All new construction and substantial improvements shall be
31 anchored to prevent flotation, collapse, or lateral movement of the structure. (2) All
32 manufactured homes must

33 MCZO 3.100(5.1-1)(1) provides new construction and substantial improvements must be
34 sufficiently anchored. Here, the relevant multi-use area extends slightly into the Sand Hollow
35 SFHA. While the multi-use area will include a temporary office building, that building will be
36 located outside the SFHA. Further, no other Project buildings or structures will be located in the
37 SFHA. Therefore, no Project features requiring anchoring will occur in the SFHA and the Project
38 will be in compliance with MCZO 3.100(5.1-1)(1).

39 MCZO 3.100(5.1-1)(2) relates to mobile homes. Because the Project does not involve the
40 construction of mobile homes, MCZO 3.100(5.1-1)(2) does not apply to the Project.

41 **Construction Materials and Methods**

42 MCZO 3.100(5.1-2): (1) Improvements shall be constructed with materials and utility
43 equipment resistant to flood damage. (2) All new construction and substantial improvements

1 shall be constructed using methods and practices that minimize flood damage. (3) Electrical,
 2 heating, ventilation, plumbing, and air-conditioning equipment and other service facilities
 3 shall be designed and/or otherwise elevated or located so as to prevent water from entering
 4 or accumulating within the components during conditions of flooding.

5 MCZO 3.100(5.1-2)(1) and (2) provide projects in a SFHA must be constructed to resist and
 6 minimize flood damage. MCZO 3.100(5.1-2)(3) requires electrical and other service facilities to
 7 be designed to prevent water from entering its components during flooding conditions. The
 8 Project building and transmission line towers will be located outside the SFHA. Therefore, no
 9 Project features requiring flood protection will occur in the SFHA and the Project will be in
 10 compliance with MCZO 3.100(5.1-2)(1) and (2).

11 **Utilities**

12 MCZO 3.100(5.1-3) relates to water supply systems, sanitary sewage systems, and on-site
 13 waste disposal systems. Because the Project will not include any of those relevant systems,
 14 MCZO 3.100(5.1-3) does not apply to the Project.

15 **Subdivision Proposals**

16 MCZO 3.100(5.1-4) relates to subdivision developments. Because the Project will not include
 17 any of subdivision proposals, MCZO 3.100(5.1-4) does not apply to the Project.

18 **Specific Standards; Non-Residential Construction**

19 MCZO 3.100(5.2-1) through (5.2-5) provide standards for residential construction, non-
 20 residential construction, below-grade crawl spaces, manufactured homes, and recreation
 21 vehicles, respectively. Because the Project does not involve residential construction, below-
 22 grade crawl spaces, manufactured homes, or recreation vehicles, only subsection 5.2-2 applies
 23 to the Project.

24 MCZO 3.100(5.2-2): New construction and substantial improvement of any commercial,
 25 industrial or other non-residential structure shall either have the lowest floor, including
 26 basement, elevated to the level of the base flood elevation; or together with attendant utility
 27 and sanitary facilities, shall

28 MCZO 3.100(5.2-2) requires new industrial structures either have their lowest floor elevated to
 29 the level of the base flood elevation or meet certain conditions to show that the structures are
 30 flood proof. In this instance, the Project building and transmission line towers will be located
 31 outside the SFHA. Therefore, no Project features involving a “floor” will occur in the SFHA and
 32 the Project will be in compliance with MCZO 3.100(5.2-2).

33 **Before Regulatory Floodway**

34 MCZO 3.100(5.3): In areas where a regulatory floodway has not been designated, no new
 35 construction, substantial improvements, or other development (including fill) shall be
 36 permitted within Zones A1-30 and AE on the county’s FIRMs, unless it is demonstrated that
 37 the cumulative effect of the proposed development, when combined with all other existing
 38 and anticipated development, will not increase the water surface elevation of the Base Flood
 39 more than one foot (1.0 ft.) at any point within the county.

40 Under MCZO 3.100(5.3), if no regulatory floodways have been designated, no new construction
 41 or development is allowed in Zones A1-30 and AE on the county’s FIRMs unless certain
 42 circumstances apply. In this instance, no regulatory floodways have been designated in Morrow
 43 County and therefore the MCZO 3.100(5.3) restrictions apply. However, the Project will not be

1 located in Zones A1-30 and AE, and therefore, the Project will be in compliance with MCZO
2 3.100(5.3).

3 **Floodways**

4 MCZO 3.100(5.4): Located within areas of special flood hazard established in Section 3.2 are
5 areas designated as floodways. Since the floodway is an extremely hazardous area due to
6 the velocity of floodwaters which carry debris, potential projectiles, and erosion potential, the
7 following provisions apply: (1) Prohibit encroachments, including fill, new construction,
8 substantial improvements, and other development unless certification by a registered
9 professional engineer or architect is provided demonstrating that encroachments shall not
10 result in any increase in flood levels during the occurrence of the base flood discharge. (2) If
11 Section 5.4(1) is satisfied, all new construction and substantial improvements shall comply
12 with all applicable flood hazard reduction provisions of Section 5.0, PROVISIONS FOR
13 FLOOD HAZARD REDUCTION.

14 MCZO 3.100(5.4) applies to new encroachments and development in floodways. Because the
15 Project will not involve permanent encroachments or development, and because there are no
16 designated floodways in Morrow County, MCZO 3.100(5.4) does not apply to the Project.

17 **5.4.2.7 Public Right-of-Way Access MCZO Provisions**

18 **Utility Crossing Permit**

19 MCZO 4.010(B): Where access to or construction on a county road is needed, an access
20 permit or right-of-way permit from Morrow County Public Works department is required
21 subject to the requirements in this Ordinance. Where access to a state highway is needed,
22 an access permit from ODOT is required as part of the land use application. Where access is
23 needed to a road managed by the Forest Service or other entity, an access permit or other
24 authorization from the appropriate entity shall be required as part of the land use application.

25 A utility crossing permit from Morrow County is required any time a utility is constructed within or
26 across a public ROW (see MCZO 4.010(B)).³³ Here, the Project will cross county ROWs and
27 IPC will apply for a Utility Crossing Permit. IPC will obtain any necessary utility crossing permits
28 directly from the Morrow County Public Works Department. The utility crossing permit will not be
29 included in or governed by the site certificate (see Exhibit E, Section 3.2.9.1).

30 To ensure compliance with the Utility Crossing Permit requirements, IPC proposes the following
31 site certificate conditions:

32 **Land Use Condition 3:** *Prior to construction in Morrow County, the site*
33 *certificate holder shall provide to the department a copy of the following Morrow*
34 *County-approved permits, if such permits are required by Morrow County zoning*
35 *ordinances:*

- 36 . . .
- 37 *b. Utility crossing permit;*
- 38

39
40 **Land Use Condition 13:** *During construction in Morrow County, the site*
41 *certificate holder shall conduct all work in compliance with the Morrow County-*

³³ See also ORS 374.305(1) (providing a person may not place, build, or construct on ROW of any county road without first obtaining written permission from the relevant county court or board of county commissioners).

1 approved permits referenced in Land Use Condition 3, if such permits are
2 required by Morrow County zoning ordinances.

3 **Access Approach Site Permit**

4 MCZO 4.010(B): Where access to or construction on a county road is needed, an access
5 permit or right-of-way permit from Morrow County Public Works department is required
6 subject to the requirements in this Ordinance. Where access to a state highway is needed,
7 an access permit from ODOT is required as part of the land use application. Where access is
8 needed to a road managed by the Forest Service or other entity, an access permit or other
9 authorization from the appropriate entity shall be required as part of the land use application.

10 An access approach site permit from Morrow County will be required if the Project access roads
11 intersect with public roads, or if necessary upgrades to existing access roads affect a public
12 road (see MCZO 4.010(B)). IPC intends to develop access roads that will intersect with public
13 roads, and IPC will obtain any necessary access approach site permits directly from the Morrow
14 County Public Works Department. The access approach site permit will not be included in or
15 governed by the site certificate (see Exhibit E, Section 3.2.9.2).

16 To ensure compliance with the access approach site permit requirements, IPC proposes the
17 following site certificate conditions:

18 **Land Use Condition 3:** Prior to construction in Morrow County, the site
19 certificate holder shall provide to the department a copy of the following Morrow
20 County-approved permits, if such permits are required by Morrow County zoning
21 ordinances:

- 22 . . .
23 c. Access approach site permit; and
24

25
26 **Land Use Condition 13:** During construction in Morrow County, the site
27 certificate holder shall conduct all work in compliance with the Morrow County-
28 approved permits referenced in Land Use Condition 3, if such permits are
29 required by Morrow County zoning ordinances.

30 **Construction Permit to Build on Right-of-Way**

31 MCZO 4.010(B): Where access to or construction on a county road is needed, an access
32 permit or right-of-way permit from Morrow County Public Works department is required
33 subject to the requirements in this Ordinance. Where access to a state highway is needed,
34 an access permit from ODOT is required as part of the land use application. Where access is
35 needed to a road managed by the Forest Service or other entity, an access permit or other
36 authorization from the appropriate entity shall be required as part of the land use application.

37 A construction permit from Morrow County is required to make improvements to access roads
38 that intersect with county road rights-of-way (see MCZO 4.010(B)). Here, Project access roads
39 will intersect with public roads, and IPC will obtain a construction permit to build on a ROW
40 directly from the Morrow County Public Works Department, as necessary. The construction
41 permit to build on ROW will not be included in or governed by the site certificate (see Exhibit E,
42 Section 3.2.9.3).

43 To ensure compliance with the Utility Crossing Permit requirements, IPC proposes the following
44 site certificate conditions:

1 **Land Use Condition 3:** Prior to construction in Morrow County, the site
 2 certificate holder shall provide to the department a copy of the following Morrow
 3 County-approved permits, if such permits are required by Morrow County zoning
 4 ordinances:

5 . . .
 6 d. Construction permit to build on right-of-way.

7
 8 **Land Use Condition 13:** During construction in Morrow County, the site
 9 certificate holder shall conduct all work in compliance with the Morrow County-
 10 approved permits referenced in Land Use Condition 3, if such permits are
 11 required by Morrow County zoning ordinances.

12 Additionally, IPC notes that it will obtain from the Oregon Department of Transportation (ODOT)
 13 any authorizations for work to be done on or across roadways under the Department's
 14 jurisdiction, as necessary.

15 **5.4.3 Morrow County Comprehensive Plan Provisions**

16 In its August 18, 2010 letter, the Morrow County Planning Department identified the following
 17 provisions of the Morrow County Comprehensive Plan (MCCP) as being potentially applicable to
 18 the Project: the energy conservation element; Finding 19 and Policy 1 of the agricultural lands
 19 element; the natural hazards element; and General Policy F, Utility Policies B and C, and Utility
 20 Findings B and C of the public facilities and services element.

21 **5.4.3.1 Energy Conservation Element**

22 Energy Conservation Element: In general terms, the primary goals set forth in this element of
 23 the "Plan" are directed at conserving energy, maintaining energy sources and costs, and
 24 identification of alternative energy sources.

25 The energy conservation element contains no planning criteria directly relevant to the Project.
 26 However, the August 18, 2010, letter from the Morrow County Planning Department states that
 27 the Project generally appears to be consistent with the goals of the energy conservation
 28 element. Exhibit N (Need) demonstrates that the Project fits into IPC's overall resource
 29 management strategy and is designed to support IPC in its continuing efforts to promote energy
 30 efficiency and demand response as an alternative to the construction of additional generation
 31 plants. Additionally, the Project is important for renewable resource development in
 32 northeastern Oregon such as wind and geothermal resources. The 500-kV transmission line is
 33 expected to relieve congestion on the existing 230-kV transmission system which could facilitate
 34 transmission of renewable energy. The Project is consistent with the energy conservation
 35 element of the MCCP because it will promote energy efficiency and integration of renewable
 36 generation resources.

37 **5.4.3.2 Agricultural Lands Element**

38 **Maintaining Availability of Low-Cost Power**

39 Agricultural Lands Element, Finding 19: Northern Morrow County's irrigated agricultural
 40 economy depends on the continued availability of relatively less expensive hydro-electric
 41 power.

42 Although IPC does not serve Morrow County, the County's August 18, 2010 letter indicated that,
 43 if the Project "can sustain or increase available power and keep it reasonably priced," the
 44 Project "would be considered to be in support of the Comprehensive Plan," particularly
 45 mentioning Finding 19 of the agricultural lands element.

1 Finding 19 of the agricultural lands element addresses the importance of low-cost power to the
2 development and sustenance of Morrow County's irrigation systems. Here, as discussed in
3 Exhibit N, the transmission system connecting the Pacific Northwest and Intermountain West
4 regions—i.e., the Idaho-Northwest transmission path—is at capacity limits during peak electrical
5 demand and is causing congestion-related issues. IPC operates the Idaho-Northwest
6 transmission path, which consists of multiple high voltage transmission lines, connecting Idaho
7 and eastern Oregon with the Pacific Northwest region. In the past, IPC has needed to utilize all
8 of the transmission capacity on the path to serve the company's load. Also, due to congestion,
9 IPC has had to cut transmission service schedules across the transmission path in order to
10 maintain WECC accepted reliability limits.

11 The Project is designed to alleviate transmission constraints and provide operational flexibility
12 by adding approximately 1,000 MW of much needed bi-directional capacity between the Pacific
13 Northwest and Intermountain West regions. The additional capacity will help improve the
14 regions' ability to transmit low-cost energy from a variety of generation sources to serve
15 residences, farms, businesses, and other customers throughout the regions. The ability to
16 exchange additional energy between the regions increases efficiencies, possibly helping to
17 avoid the need to construct new power plants, which is good for the environment and helps to
18 keep electricity rates lower. Accordingly, the Project is consistent with Finding 19 of the
19 agricultural lands element.

20 ***Preservation of Agricultural Lands***

21 **Agricultural Lands Element, Policy 1:** It shall be the policy of Morrow County, Oregon, to
22 preserve agricultural lands, to protect agriculture as its main economic enterprise, to balance
23 economic and environmental considerations, to limit noncompatible nonagricultural
24 development, and to maintain a high level of livability in the County.

25 The Agricultural Lands Element, Policy 1 is consistent with the Oregon statutes and rules
26 regarding protection of Goal 3 resources. As discussed above in the description of the Project's
27 compliance with the applicable Oregon statutes and Morrow County EFU zoning ordinances,
28 Sections 4.1 and 5.4.2.1, the Project will minimize its impacts on agricultural lands as much as
29 possible, and that the impacts to agricultural land that will occur are required to achieve the
30 Project objectives. Where the Project will impact agricultural lands, construction and operations
31 of the Project will minimize impacts to agricultural operations to the maximum extent possible,
32 as described in detail in the Agricultural Lands Assessment (Attachment K-1, Appendix A-1).
33 Additional discussion regarding the Project's compliance with statewide planning goals, and
34 particularly Goal 3, is provided in Section 6.0. The discussion in the above-referenced sections
35 demonstrates that IPC has made all possible efforts to avoid disruption to agricultural lands, and
36 that the Project is consistent with Policy 1 of the agricultural lands element. To mitigate the
37 effects on agricultural lands related to the Project, Idaho Power will conduct all work in
38 compliance with the final Agricultural Assessment (see Land Use Conditions 1 and 8).

39 ***5.4.3.3 Natural Hazards Element***

40 Morrow County's August 18, 2010, letter acknowledges the natural hazards element of the
41 MCCP is outdated, but requests analysis demonstrating that the Project will not conflict with any
42 identified natural hazards. The MCCP defines natural hazards "as areas that are subject to
43 natural events that are known to result in death or endanger the works of man, such as stream
44 flooding, ocean flooding, ground water, erosion and deposition, landslides, earthquakes, weak
45 foundation soils and other hazards unique to local or regional areas" (MCCP p. 139). During the
46 route selection process, IPC considered natural hazard constraints, including erodible soils
47 (high, moderate, and low), slope conditions, fault lines, floodplains, and Oregon landslide

1 features. The Project has and will be designed to avoid or minimize conflicts with natural
2 hazards, and therefore, the Project is consistent with the natural hazards element.

3 In connection with the natural hazards element, in an April 13, 2012, teleconference, Morrow
4 County requested analysis regarding compliance with the Flood Plain Overlay Zone set forth in
5 MCZO 3.100 and analysis regarding potential liquefaction hazards. The Project's compliance
6 with the construction standards set forth in MCZO Section 3.100(5) is set forth above in
7 Section 5.4.2.6. Analysis of liquefaction hazards is provided in Section 5.4.6.2.

8 **5.4.3.4 Public Facilities and Services Element**

9 **General Policies**

10 General Policy F: All utility lines and facilities shall be located on or adjacent to existing
11 public or private right-of-way or through generally unproductive lands to avoid dividing
12 existing farm units.

13 In its August 18, 2010, letter, Morrow County states that the public facilities and services
14 element focus on local providers of electric service and may not be directly relevant to a
15 transmission line at the scale proposed by the Project. IPC believes that the public facilities and
16 services element applies to local electrical distribution projects and to not long-distance
17 transmission line projects, and therefore, the public facilities and services element is not
18 applicable to the Project. Nonetheless, IPC addresses the findings and policies identified by the
19 County and shows compliance with the same.

20 With respect to General Policy F, due to the size of the ROW required for a 500-kV transmission
21 line, it is usually not possible to locate Project facilities directly on existing ROWs. However,
22 where feasible, the proposed facilities will be located on or adjacent to existing utility and
23 transportation facilities. Additionally, IPC sited the Project on or near property lines to avoid
24 dividing existing farm units to the extent practicable, and will work with landowners during
25 construction to accomplish the same objective. IPC's siting efforts are consistent with General
26 Policy F of the public facilities and services element.

27 **Substation Siting**

28 Utility Finding C: Electrical power substations can create negative impacts on nearby
29 property. Careful site planning and physical design can minimize adverse environmental
30 effects.

31 Utility Finding D: Power and other energy substations should be centrally located to the area
32 served as much as possible to facilitate economic and energy conservation goals.

33 Utility Policy B: Power substations should be centrally located to the service area as much as
34 possible to assure economic service and facilitate energy conservation.

35 Utility Policy C: Power substations should be planned and designed in a manner which will
36 minimize the negative environmental impacts on nearby properties and the public as a
37 whole.

38 IPC chose the Longhorn Station as the Project termination point after careful planning and
39 consideration of the Project objectives. In order for the Project to meet its objective of adding
40 approximately 1,000 MW of bi-directional capacity between the Pacific Northwest and
41 Intermountain West regions, the point of interconnection at the northern terminus must provide
42 sufficient capacity to: 1) transfer an additional 1,050 MW of power from the BPA 500-kV
43 transmission system in the Pacific Northwest west-to-east across the Idaho-Northwest
44 transmission path; 2) transfer an additional 1,000 MW of power east-to-west across the Idaho-

1 Northwest transmission path; and 3) allow for actual power flows on the Project of up to
2 approximately 1,500 MW, accounting for variations in actual power flows of the various
3 transmission lines comprising the Idaho-Northwest transmission path.

4 When IPC began the federal permitting process for the Project in 2007, other transmission
5 development projects were being proposed in the Pacific Northwest that influenced IPC's
6 northern terminus location options for the Project. PGE's Cascade Crossing 500-kV project was
7 of particular note. In fact, in 2008, IPC and PGE executed a Memorandum of Understanding
8 concerning Boardman Area transmission development, with the intent of sharing development
9 plans and developing facilities collaboratively to assist each company in fulfilling their respective
10 service and system reliability obligations. The proposed Grassland Station was contemplated as
11 an interconnection point between the two projects that could help each company with their
12 respective project objectives. The proposed Horn Butte Station was introduced as an alternative
13 location to connect to the Cascade Crossing project.

14 However, since the EFSC process was initiated, the transmission development landscape has
15 changed. Several of the development projects under consideration during the time of original
16 application have subsequently been cancelled. Notably, in 2013, PGE indefinitely suspended
17 the Cascade Crossing project. In the absence of the Cascade Crossing project, the Grassland
18 and Horn Butte stations no longer meet the Project objectives. Neither the Grassland nor Horn
19 Butte substations would provide the required approximate 1,000 MW of bi-directional capacity
20 and up to 1,500 MW of actual power flow capability. Therefore, the Project will terminate at the
21 proposed Longhorn Station and not the Grassland or Horn Butte stations.

22 As discussed above, the Longhorn Station was chosen as the Project termination point after
23 careful planning and consideration of the Project objectives. By ensuring that the termination
24 point provides sufficient connection to the BPA 500-kV transmission system, IPC has sited the
25 termination point in a manner that maximizes the economic and energy conservation benefits of
26 the Project (see Public Facilities and Services Element, Utility Finding D and Utility Policy B).

27 The proposed Longhorn Station will be located on land that the Port of Morrow sold to BPA for
28 the purpose of constructing an electrical switching station or substation. The Longhorn Station
29 site is adjacent to existing transmission lines and a new substation. It will be surrounded by
30 lands similarly zoned in the Port Industrial Zone. Given the similar existing impacts and land use
31 zoning designations in the area, the incremental impact of constructing the Longhorn Station on
32 the public and the environment will be minimal (see Public Facilities and Services Element,
33 Utility Finding C and Utility Policy C).

34 For these reasons, the Project is consistent with the relevant findings and policies of the public
35 facilities and services element.

36 **5.4.4 Morrow County Goal 5 Resources**

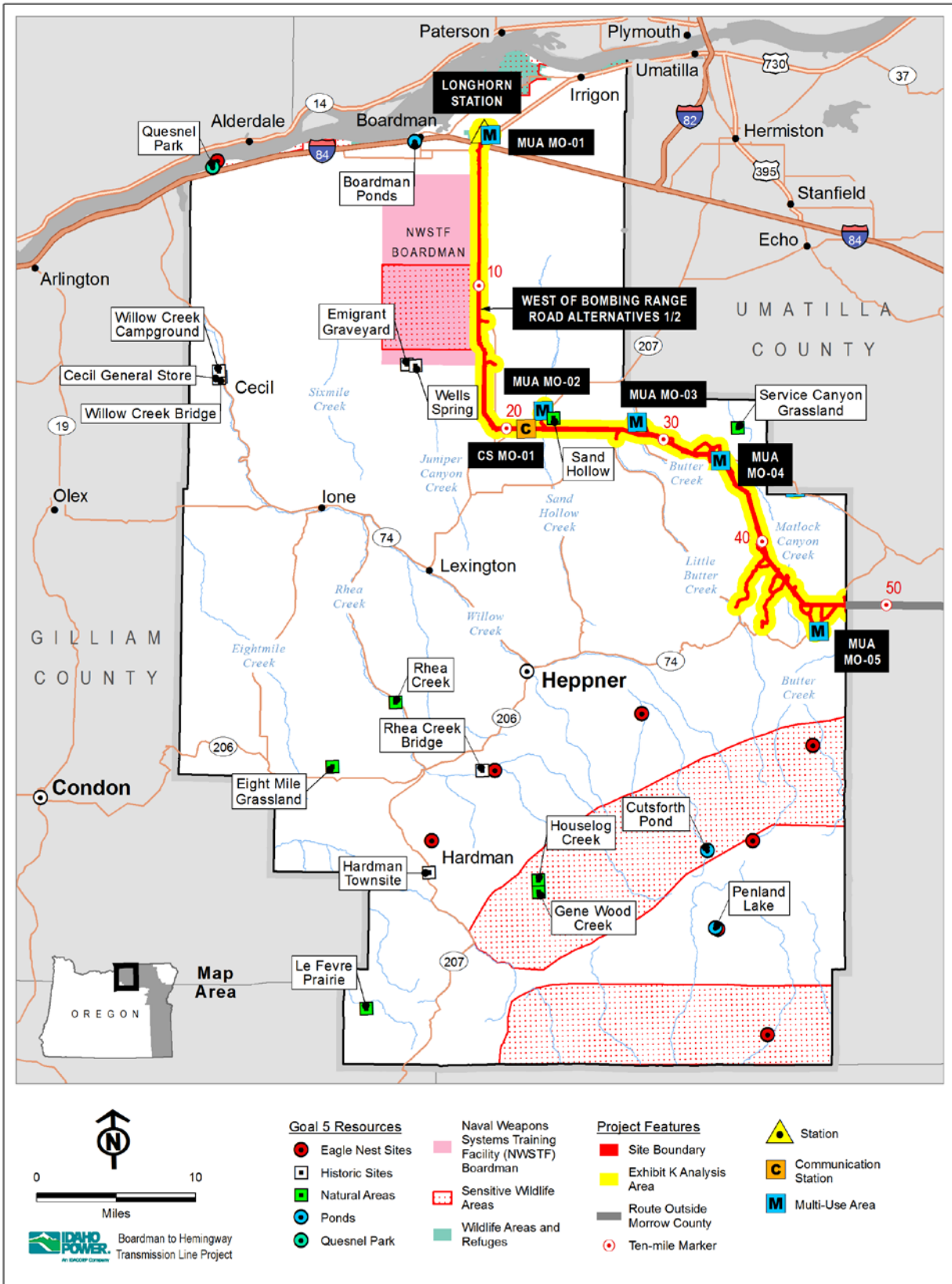
37 In its August 18, 2010, letter, Morrow County identified the following Goal 5 resources as
38 potentially applicable substantive criteria: the Cecil General Store, the Oregon Trail, Washington
39 ground squirrel, long-billed curlew, bald and golden eagles, and furbearers. Additionally, Morrow
40 County identified and recommended surveys for and analysis of impacts to the following species
41 which are not inventoried Goal 5 resources in the Comprehensive Plan: the ferruginous hawk,
42 loggerhead shrike, and sage sparrow. Although not initially identified in the August 18, 2010,
43 letter, through conversations with the Morrow County Planning Department during
44 summer 2012, the Willow Creek Campground was identified as an inventoried resource that
45 may be in the vicinity of the Project.

1 On August 25, 2015, IPC sent a letter to Morrow County, requesting additional information
2 regarding the County's Goal 5 protections. On November 9, 2015, Morrow County responded,
3 providing direction on interpreting and applying the County's Goal 5 provisions of the MCZO and
4 MCCP. The County indicated that only those resources depicted on the 1986 Significant
5 Resource Overlay Map were considered Goal 5 designated resources in Morrow County. On
6 December 7, 2015, the County provided to IPC Geographic Information System (GIS)
7 information identifying the location of the Goal 5 designated resources in Morrow County under
8 the 1986 Significant Resource Overlay Map and the MCCP. Figure K-21 shows the 1986
9 Significant Resource Overlay Map information provided by Morrow County.

10 The following Goal 5 resources occur within the Site Boundary:

- 11 • Butter Creek;
- 12 • Matlock Canyon Creek;
- 13 • Little Butter Creek;
- 14 • Sand Hollow Creek;
- 15 • NWSTF Boardman; and
- 16 • Certain Washington ground squirrel habitat.

17 In the following discussion, IPC addresses each of the Goal 5 resources occurring within the
18 Site Boundary as well as other Goal 5 resources of interest.



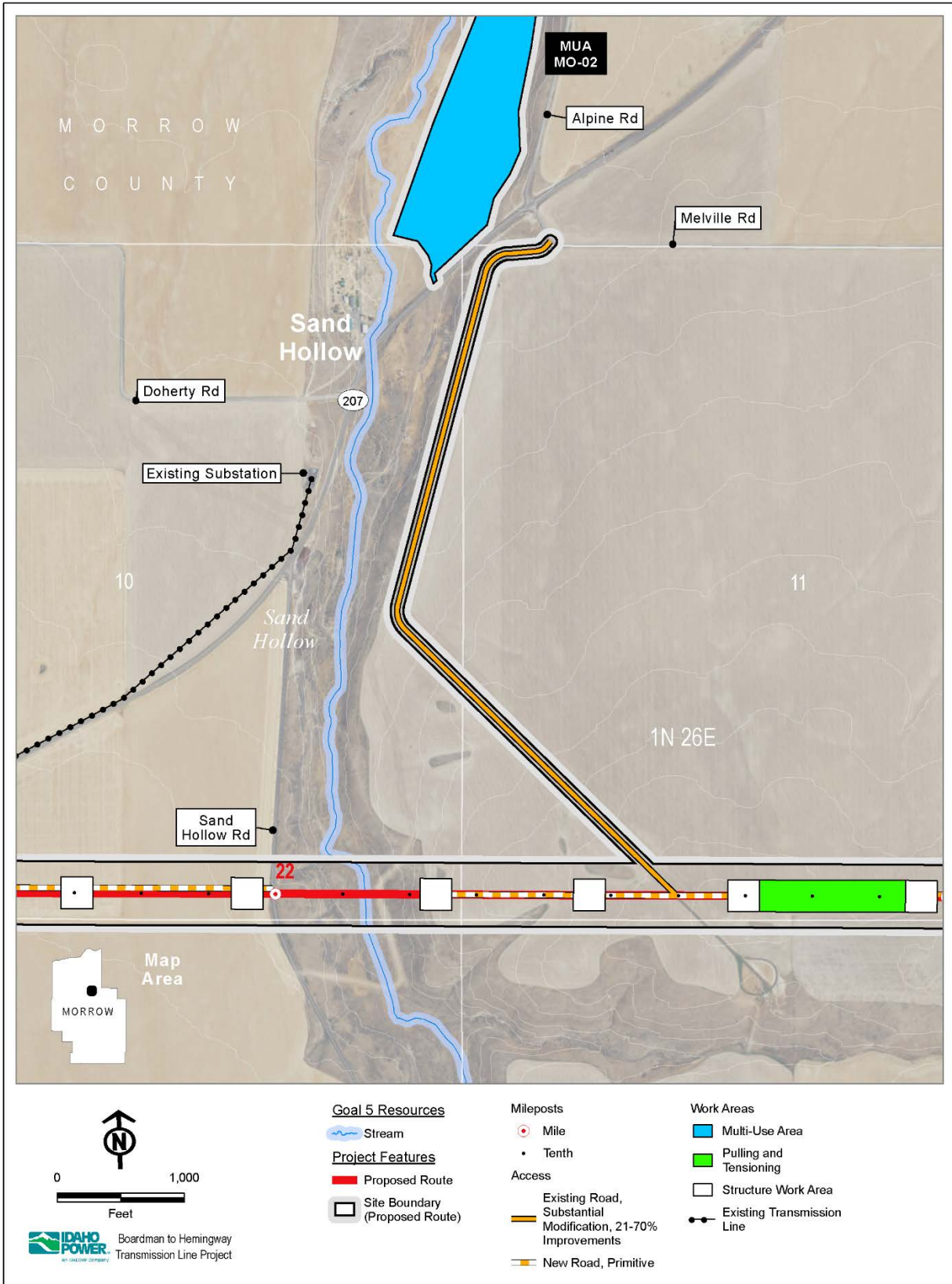
1
2 **Figure K-21. Significant Resource Overlay Map**

1 **5.4.4.1 Riparian Habitat**

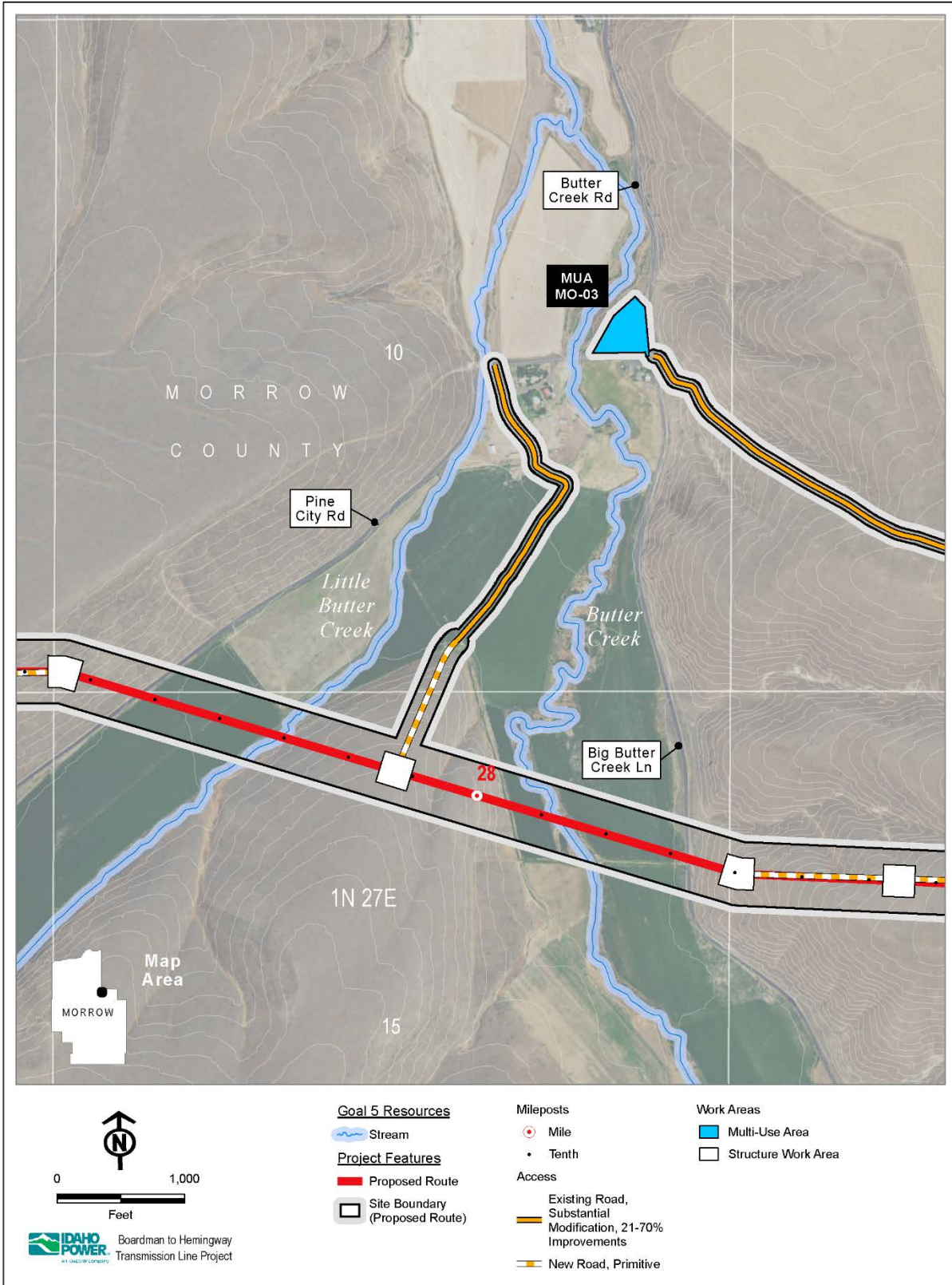
2 None of the riparian habitats identified in the Significant Resource Overlay Map, if any, occur
3 within the Analysis Area (see Figure K-21). No analysis is required, and no standard must be
4 met, to comply with the county's Goal 5 planning goals for protecting riparian habitat.

5 **5.4.4.2 Streams**

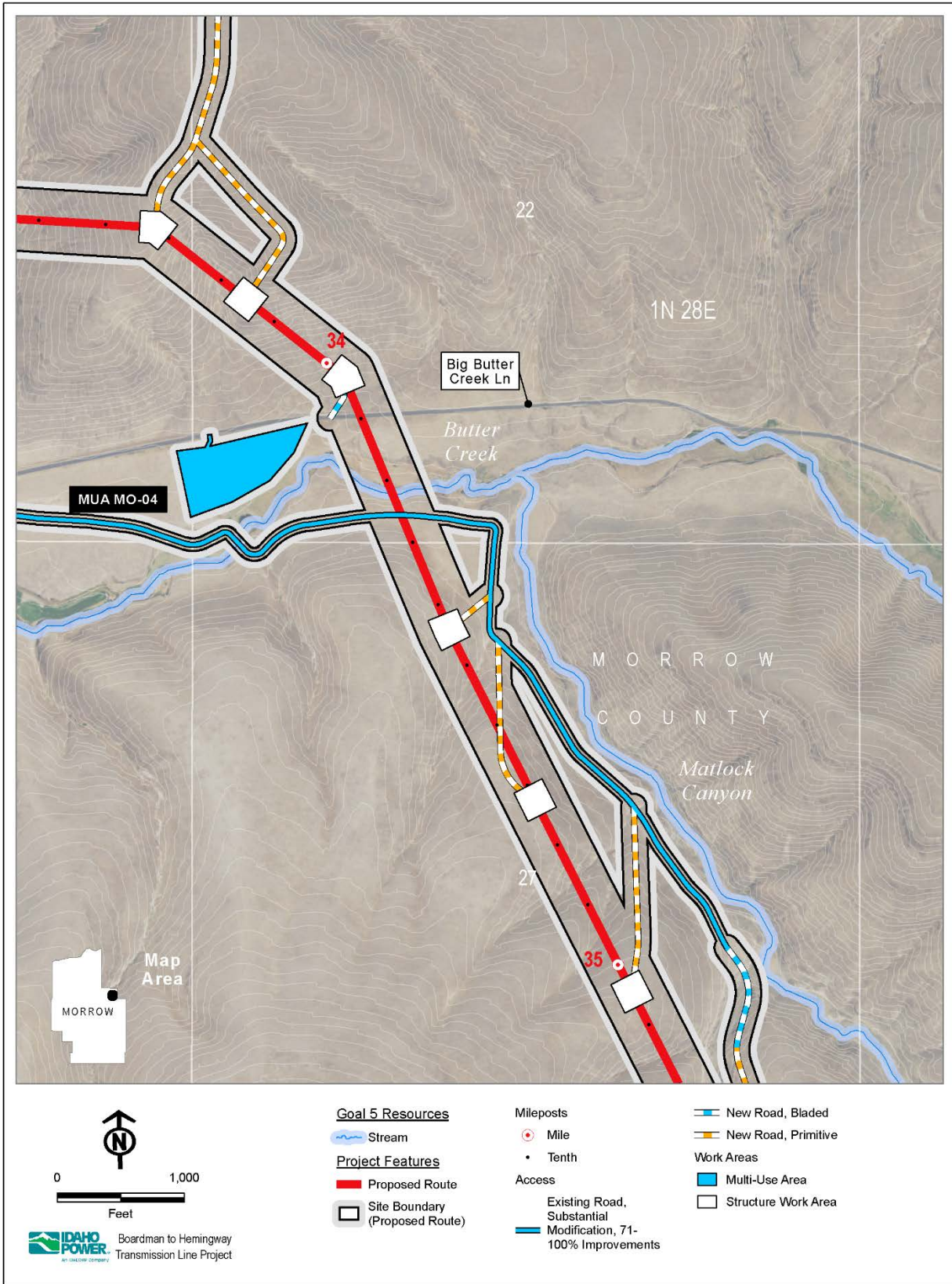
6 The following streams identified in the Significant Resource Overlay Map occur within the Site
7 Boundary: Butter Creek; Matlock Canyon Creek; Little Butter Creek; and Sand Hollow Creek.
8 The Project features that may impact these streams include: (a) a transmission line span across
9 Sand Hollow Creek (see Figure K-22); (b) a transmission line span across Little Butter Creek
10 (see Figure K-23); (c) two transmission line spans across Butter Creek (see Figures K-23 and
11 K-24); (d) an existing access road requiring substantial modification, which is adjacent to Little
12 Butter Creek (see Figure K-23); (e) an existing access road requiring substantial modification,
13 which crosses Butter Creek (see Figure K-24); and (f) a transmission line span across Matlock
14 Canyon Creek (see Figure K-25).



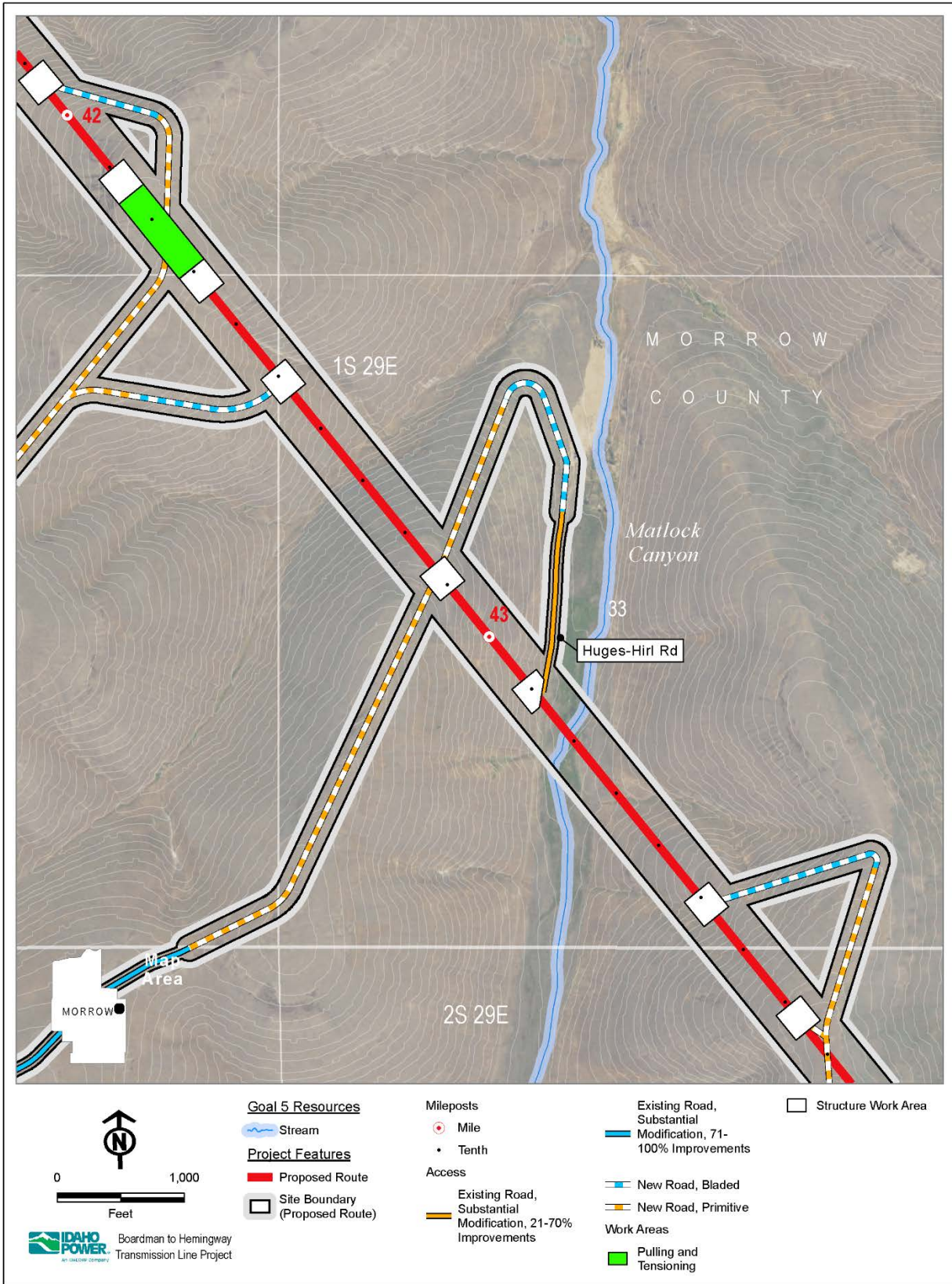
1
2 **Figure K-22. Goal 5 Resources within the Site Boundary – Sand Hollow Creek**



1
2 **Figure K-23. Goal 5 Resources within the Site Boundary – Butter Creek and Little**
3 **Butter Creek**



1
2 **Figure K-24. Goal 5 Resources within the Site Boundary – Butter Creek**



1
2 **Figure K-25. Goal 5 Resources within the Site Boundary – Matlock Canyon**

1 The portions of the Goal 5 designated streams located on private or state lands are designed as
 2 3C resources (see MCCP pp. 100, 147-53). The portions of the Goal 5 designated streams
 3 located on federal lands are designated as 2A resources. For the 3C designated streams or
 4 stream segments, MCZO 3.200(D)(3), 3.200(E)(2), and certain provisions of 3.020 are the only
 5 MCZO provisions applicable to compliance with the county's Goal 5 planning goals regarding
 6 Goal 5 designated streams.³⁴ With respect to the 2A designated streams or stream segments,
 7 there are no applicable MCZO provisions or standards to meet to comply with the county's
 8 Goal 5 planning goals regarding Goal 5 designated streams.

9 **Review Criteria**

10 **Review Criteria for All Significant Resource Sites**

11 MCZO 3.200(D)(1)(a): The resource site shall not be altered or impacted to the point where it
 12 no longer has significant resource value. Such a point would be reached when the altered or
 13 impacted site would no longer meet the significant resource requirements used to designate
 14 the site in the comprehensive plan.

15 MCZO 3.200(D)(1)(a) provides the Goal 5 resource site shall not be impacted to the point where
 16 the resource loses its significant resource value. Here, the impacts to the affected Goal 5
 17 streams will be minimal. IPC will be improving an existing road adjacent to Little Butter Creek
 18 (see Figure K-23) and an existing road that crosses Butter Creek (see Figure K-24). To the
 19 extent there are any impacts to the streams, they will only be minor and incremental to the
 20 impacts that already exist from the road. Moreover, the impacts will only occur along small
 21 segments of the streams, leaving the resource value of the streams as a whole largely
 22 unaffected. For these reasons, the Project will not alter or impact the streams to a point where
 23 they no longer will have significant resource value, and therefore, the Project will be in
 24 compliance with MCZO 3.200(D)(1)(a).

25 MCZO 3.200(D)(1)(b): The amount of alteration of or impact to the significant resource shall
 26 be the minimum necessary to accomplish the purpose of the proposed use or activity.

27 MCZO 3.200(D)(1)(b) provides the impacts to the Goal 5 resource shall be as minimal as
 28 possible. Here, IPC will limit any improvements to the existing roads along the Goal 5 streams
 29 to what is minimally necessary for Project vehicles to access the roads for Project construction
 30 and operations purposes. That being so, the Project will be in compliance with
 31 MCZO 3.200(D)(1)(b).

32 MCZO 3.200(D)(1)(c): There shall be no significant loss of habitat for threatened or
 33 endangered species of animals or plants as listed by the U.S. Fish and Wildlife Service or the
 34 Oregon Department of Fish and Wildlife.

35 MCZO 3.200(D)(1)(c) provides there shall be no significant loss of habitat for threatened or
 36 endangered species as listed by the U.S. Fish and Wildlife Service or ODFW. Here, there are

³⁴ MCZO Section 3.200 is applicable to significant mineral resources, scenic areas, natural areas, and fish and wildlife habitat and not the remaining categories of Goal 4 resources (see MCZO 3.200 ("The purpose of the Significant Resource Overlay Zone is to protect significant mineral resources, scenic areas, natural areas, and fish and wildlife habitat in Morrow County, and to permit development which is compatible with such protection.")). However, in discussions with IPC, the County identified MCZO 3.200(D)(3), 3.200(E)(2), and 3.200(H)(4) as being applicable to 3C Goal 5 designated streams. IPC addresses MCZO 3.200(D)(3) and 3.200(E)(2) in this section. Nonetheless, MCZO 3.200(H)(4) does not appear in the version of the MCZO in place at the time IPC filed its pASC, and therefore, it is not applicable to the Project.

1 no ODFW or U.S. Fish and Wildlife Service listed species in Little Butter Creek or Butter Creek,
2 and therefore, the Project will be in compliance with MCZO 3.200(D)(1)(c).

3 MCZO 3.200(D)(1)(d): An alternative site for the proposed use or activity, which would have
4 less impact to the resource value of the site, does not exist on the applicant's lot or parcel or
5 on contiguous lots or parcels. For purposes of this section, continuous means lots or parcels
6 with a common boundary, not separated by a public road, and in which greater than
7 possessory interests are held by the same person, spouse or single partnership or business
8 entity, separately or in tenancy in common.

9 MCZO 3.200(D)(1)(d) requests information on whether there is an alternative site for the
10 proposed activity that does not impact the Goal 5 resource. In this instance, the Project will be
11 improving existing roads that already occur along the two streams. IPC has diligently planned
12 the Project road system to minimize impacts as much as possible. By using existing roads, the
13 Project avoids creating new roads that would cause new impacts that are avoided by improving
14 existing roads instead. There are no existing roads located on the same or contiguous lots as
15 the ones proposed along the Goal 5 streams providing similar access for the Project. That being
16 so, the Project will be in compliance with MCZO 3.200(D)(1)(d).

17 **Riparian Vegetation/Wetlands Review Criteria**

18 MCZO 3.200(D)(3)(a): Road construction within riparian zones shall be reviewed in
19 cooperation with the responsible agency listed in Section 3.200.F. Road construction shall
20 seek alternative methods whenever possible, to avoid disturbing wildlife; reducing the size of
21 the riparian zone; and impacting water quality in the aquatic zone. New roads built along
22 streams shall be avoided whenever possible unless no other alternative route is available.
23 The safety and welfare of all road users shall be considered in determining the appropriate
24 management strategy.

25 MCZO 3.200(D)(3)(a) requires that road construction projects avoid and minimize impacts to
26 Goal 5 stream riparian zones and consult with appropriate agencies regarding the same. Here,
27 IPC will be improving an existing road adjacent to Little Butter Creek (see Figure K-23) and an
28 existing road that crosses Butter Creek (see Figure K-24). Both of the relevant roads are public
29 roads, and therefore, IPC must obtain from Morrow county an access approach site permit,
30 construction permit to build on ROW, or both. IPC will obtain relevant access approach site
31 permits as discussed above.

32 MCZO 3.200(D)(3)(b): All dwellings and other non-water dependent structures shall be set
33 back a minimum of 100 feet from the high water level of the stream or the water body
34 reaches during normal seasonal run-off.

35 MCZO 3.200(D)(3)(b) includes Goal 5 stream setback requirements for dwellings and non-water
36 dependent structures.

- 37
- 38 • Access roads: The Morrow County Planning Department in a May 10, 2016 email to IPC
39 provided that the Project access roads—both new roads and substantially modified
40 existing roads—are not considered “structures” under the MCZO and therefore the
41 Goal 5 stream setback requirements of MCZO 3.200(D)(3)(b) do not apply to the
42 relevant access roads.
 - 43 • Transmission Line Towers: The transmission line towers will be constructed objects with
44 a fixed connection to the ground. Therefore, the transmission line towers are considered
45 structures under the MCZO, and the stream setback requirements of
MCZO 3.200(D)(3)(b) will apply to the relevant transmission line towers.

- 1 • Longhorn Station, Multi-Use Areas, and Communication Stations: The Longhorn Station,
2 multi-use areas, and communication stations will include buildings. Therefore, the
3 stream setback requirements of MCZO 3.200(D)(3)(b) will apply to the Longhorn Station,
4 multi-use areas, and communication stations.

5 The fixed bases of the transmission line towers (i.e., the foundations), and the buildings at the
6 Longhorn Station, multi-use areas, and communication stations, in Morrow County will be sited
7 to comply with stream setback requirements of MCZO 3.200(D)(3)(b). To ensure compliance
8 with such requirements, IPC proposes the following site certificate condition:

9 **Land Use Condition 11:** *During construction in Morrow County, the site*
10 *certificate holder shall construct the facility to comply with the following setback*
11 *distances and other requirements:*

12 In All Zones:

13 a. *Buildings and the fixed bases of the transmission line towers shall be setback*
14 *at least 100 feet from the high-water mark of all Goal 5 streams.*

15

16 MCZO 3.200(D)(3)(c): Permanent vegetation removal within the area defined as the riparian
17 zone shall retain 75% of all layers or stratas of vegetation (e.g., deciduous trees, shrubs,
18 sedges, rushes and emergents).

19 MCZO 3.200(D)(3)(c) requires permanent vegetation removal activities retain 75 percent of
20 vegetation stratas. In general, transmission line stream crossings may require vegetation
21 removal along the streams being crossed if necessary to provide sufficient clearance to protect
22 against falling trees or other vegetation interference. Also, road crossing improvements may
23 also require vegetation clearing along streams to accommodate the improvements. Here, the
24 transmission line crossings and road improvements will meet the vegetation clearing
25 compliance requirements of MCZO 3.200(D)(3)(c). To ensure compliance with such
26 requirements, IPC proposes the following site certificate condition:

27 **Land Use Condition 11:** *During construction in Morrow County, the site*
28 *certificate holder shall construct the facility to comply with the following setback*
29 *distances and other requirements:*

30 In All Zones:

31 . . .

32 b. *Permanent vegetation removal within the riparian zone of all Goal 5 streams*
33 *shall retain 75% of all layers or stratas of vegetation.*

34

35 **Permissible Uses; List of Conflicting Uses and Activities**

36 MCZO 3.200(B): Permissible Uses. If a use or activity permitted outright in the underlying
37 zone, or a use or activity requiring a zoning permit in the underlying zone is listed in Section
38 3.200.E as a conflicting use or activity, it shall become a conditional use subject to the
39 provisions of Article 6 and the provisions of this ordinance.

40 MCZO 3.200(E)(2): a. Road construction. b. Campgrounds. c. Any long term use adversely
41 impacting water quality and quantity (including temperature). d. Any use impeding the
42 movement of wildlife from one habitat to another. e. Any long term use adversely resulting in
43 the loss of vegetation diversity within the riparian zone. f. Mining.

44 MCZO 3.200(B) indicates that a permitted use in the underlying zone shall become a conditional
45 use if the use overlaps with the Significant Resource Overlay Map. MCZO 3.200(E)(2) identifies

1 the conflicting uses relevant to Goal 5 designated streams in Morrow County. In this case, the
2 areas where the Project will potentially impact Little Butter Creek and Butter Creek are zoned
3 EFU. As discussed above, utility facilities and their related and supporting access roads are
4 permitted outright by statute under ORS 215.283(1)(c). Because a county ordinance cannot
5 conflict with state statute, the provisions of MCZO 3.200(B) and MCZO 3.200(E)(2) indicating
6 that the Project access roads should be conditional uses and not permitted outright are in error
7 and do not apply in this case. In the alternative, to the extent Project features will be located
8 within the Goal 5 designated stream areas, IPC has shown that the Project will comply with the
9 review criteria under MCZO 3.200(D), and therefore, the Project is an authorized conditional use
10 (see MCZO 3.200(B)).

11 **5.4.4.3 Ponds**

12 None of the ponds identified in the Significant Resource Overlay Map, if any, occur within the
13 Analysis Area (see Figure K-21). No analysis is required, and no standard must be met, to
14 comply with the county's Goal 5 planning goals for protecting ponds.

15 **5.4.4.4 Wetlands**

16 None of the wetlands identified in the Significant Resource Overlay Map, if any, occur within the
17 Analysis Area (see Figure K-21). No analysis is required, and no standard must be met, to
18 comply with the county's Goal 5 planning goals for protecting wetlands.

19 **5.4.4.5 Water Projects**

20 There are no Goal 5 protected water projects in Morrow County. No analysis is required, and no
21 standard must be met, to comply with the county's Goal 5 planning goals for protecting water
22 projects.

23 **5.4.4.6 Wildlife Habitat**

24 **Big Game**

25 None of the big game habitat identified in the Significant Resource Overlay Map, if any, occur
26 within the Analysis Area (see Figure K-21). No analysis is required, and no standard must be
27 met, to comply with the county's Goal 5 planning goals for protecting big game habitat.

28 **Upland Game Bird**

29 None of the upland game bird habitats identified in the Significant Resource Overlay Map occur
30 within the Analysis Area (see Figure K-21). No analysis is required, and no standard must be
31 met, to comply with the county's Goal 5 planning goals for protecting upland game bird habitat.

32 **Waterfowl Habitat**

33 To the extent designated waterfowl habitat coincides with the Goal 5 designated streams
34 identified in the Significant Resource Overlay Map, waterfowl habitat may occur within the Site
35 Boundary (see Figure K-21; Section 5.4.4.2).

36 The portions of the Goal 5 designated waterfowl habitat located on private or state lands and
37 within riparian habitat are designated as 3C resources (see MCCP pp. 134-36). Goal 5
38 designated waterfowl habitat on private or state lands and not located within riparian habitat is
39 designated as a 2A resource. The portions of the Goal 5 designated riparian habitat located on
40 federal lands are designated as 2A resources. For the 3C designated waterfowl habitat,
41 MCZO 3.200(D)(3), 3.200(E)(2), and certain provisions of 3.020 are the only MCZO provisions
42 applicable to compliance with the county's Goal 5 planning goals regarding Goal 5 designated

1 waterfowl habitat.³⁵ With respect to the 2A designated resources on federal lands, the County
 2 defers to the relevant federal management agency and its management prescriptions for the
 3 protection of the resource and the County does not impose any additional MCZO or M CCP
 4 protections for compliance with the County's Goal 5 planning goals. For these reasons, no
 5 analysis is required, and no standard must be met, to comply with the County's Goal 5 planning
 6 goals for protecting 2A designated waterfowl habitat.

7 There are no applicable MCZO provisions or standards to meet to comply with the county's
 8 Goal 5 planning goals regarding Goal 5 designated waterfowl habitat.

9 The provisions of MCZO 3.200(D)(3), 3.200(E)(2), and 3.020 are addressed above in
 10 Section 5.4.4.2 related to impacts to Goal 5 designated streams. The same analysis applies
 11 here.

12 **Washington Ground Squirrels**

13 The entire NWSTF Boardman property is 2A designated Goal 5 habitat for Washington ground
 14 squirrels.³⁶ No other property in the county is considered a Goal 5 designated Washington
 15 ground squirrel habitat resource. The Proposed Route will be located on the NWSTF Boardman
 16 property, and therefore, it will impact 2A designated Goal 5 Washington ground squirrel habitat.

17 **Review Criteria**

18 **Review Criteria for All Significant Resource Sites**

19 MCZO 3.200(D)(1)(a): The resource site shall not be altered or impacted to the point where it
 20 no longer has significant resource value. Such a point would be reached when the altered or
 21 impacted site would no longer meet the significant resource requirements used to designate
 22 the site in the comprehensive plan.

23 MCZO 3.200(D)(1)(a) provides the Goal 5 resource site shall not be impacted to the point where
 24 the resource loses its significant resource value. Here, the impacts to the NWSTF Boardman
 25 will be minimal. To the extent there are any impacts to Washington ground squirrel habitat on
 26 the NWSTF Boardman, the impacts will only be minor and incremental to the impacts that
 27 already exist from the existing transmission line. Moreover, the impacts will only occur along a
 28 small portion of the NWSTF Boardman and only along the edge of the same, leaving the habitat
 29 value of the NWSTF Boardman as a whole largely unaffected. Finally, as discussed in
 30 Exhibit P1 and Exhibit Q, the Project will not impact any Category 1 Washington ground squirrel
 31 habitat—the most important habitat to the species—or cause a significant adverse impact to the
 32 squirrel or its habitat. For these reasons, the Project will not alter or impact Washington ground
 33 squirrel habitat on the NWSTF Boardman to a point where the NWSTF Boardman no longer will
 34 have significant resource value to the squirrels, and therefore, the Project will be in compliance
 35 with MCZO 3.200(D)(1)(a).

36 MCZO 3.200(D)(1)(b): The amount of alteration of or impact to the significant resource shall
 37 be the minimum necessary to accomplish the purpose of the proposed use or activity.

³⁵ MCZO Section 3.200 is applicable to significant mineral resources, scenic areas, natural areas, and fish and wildlife habitat and not the remaining categories of Goal 4 resources (see MCZO 3.200 ("The purpose of the Significant Resource Overlay Zone is to protect significant mineral resources, scenic areas, natural areas, and fish and wildlife habitat in Morrow County, and to permit development which is compatible with such protection.")). However, in discussions with IPC, the County identified MCZO 3.200(D)(3), 3.200(E)(2), and 3.200(H)(4) as being applicable to 3C Goal 5 designated streams.

³⁶ NWSTF Boardman is also designated as a Goal 5 natural area. IPC discusses NWSTF in that context below in Section 5.4.4.10.

1 MCZO 3.200(D)(1)(b) provides the impacts to the Goal 5 resource shall be as minimal as
 2 possible. Here, IPC will be replacing an existing transmission line in the NWSTF Boardman and
 3 staying within the existing ROW of that line to minimize new impacts. IPC largely will use the
 4 existing road system within the natural area rather than creating unnecessary new roads.
 5 Finally, as discussed in Exhibit P1 and Exhibit Q, the Project will not impact any Category 1
 6 Washington ground squirrel habitat—the most important habitat to the species—or cause a
 7 significant adverse impact to the squirrel or its habitat. Accordingly, IPC has designed the
 8 portion of the Project located in Washington ground squirrel habitat on the NWSTF Boardman to
 9 minimize impacts to only what is necessary for the Project. That being so, the Project will be in
 10 compliance with MCZO 3.200(D)(1)(b).

11 MCZO 3.200(D)(1)(c): There shall be no significant loss of habitat for threatened or
 12 endangered species of animals or plants as listed by the U.S. Fish and Wildlife Service or the
 13 Oregon Department of Fish and Wildlife.

14 MCZO 3.200(D)(1)(c) provides there shall be no significant loss of habitat for threatened or
 15 endangered species as listed by the U.S. Fish and Wildlife Service or ODFW. Here, the
 16 Washington ground squirrel is a state-listed endangered species. Even so, as discussed in
 17 Exhibit P1 and Exhibit Q, the Project will not impact any Category 1 Washington ground squirrel
 18 habitat—the most important habitat to the species—or cause a significant adverse impact to the
 19 squirrel or its habitat. Therefore, the Project will be in compliance with MCZO 3.200(D)(1)(c).

20 MCZO 3.200(D)(1)(d): An alternative site for the proposed use or activity, which would have
 21 less impact to the resource value of the site, does not exist on the applicant's lot or parcel or
 22 on contiguous lots or parcels. For purposes of this section, continuous means lots or parcels
 23 with a common boundary, not separated by a public road, and in which greater than
 24 possessory interests are held by the same person, spouse or single partnership or business
 25 entity, separately or in tenancy in common.

26 MCZO 3.200(D)(1)(d) requests information on whether there is an alternative site for the
 27 proposed activity that does not impact the Goal 5 resource. In this instance, the Navy owns the
 28 NWSTF Boardman lot and no other contiguous lots, and the entirety of the NWSTF Boardman
 29 lot is considered a Goal 5 resource for Washington ground squirrels. Accordingly, there is no
 30 alternative location on the NWSTF Boardman lot or alternative location on a contiguous lot
 31 owned by the Navy where the Project could be located. That being so, the Project will be in
 32 compliance with MCZO 3.200(D)(1)(d).

33 **Washington Ground Squirrel Review Criteria**

34 Morrow County has not adopted any Goal 5 protection program specific to Washington ground
 35 squirrel habitat. Moreover, Washington ground squirrel habitat is a 2A designated resource, and
 36 the NWSTF Boardman property where it is located is owned and administered by the Navy (see
 37 MCCP pp. 144-47). For 2A designated resources on federal lands, the County defers to the
 38 relevant federal management agency and its management prescriptions for the protection of the
 39 resource and the County does not impose any additional MCZO or MCCP protections for
 40 compliance with the County's Goal 5 planning goals. For these reasons, no analysis is required,
 41 and no review criteria specific to Washington ground squirrel habitat must be met, to comply
 42 with the County's Goal 5 planning goals for protecting natural areas.

43 Regardless, IPC has proposed the following site certificate condition to ensure protection of
 44 Washington ground squirrel habitat on the NWSTF Boardman property and elsewhere:

1 **Threatened and Endangered Species Condition 1:** During construction, the
 2 site certificate holder shall not conduct ground-disturbing activities within
 3 Category 1 Washington ground squirrel (WAGS) habitat, subject to the following:
 4 a. The identification and categorization of WAGS habitat shall be based on the
 5 surveys referenced in Fish and Wildlife Condition 2 and the results of the surveys
 6 shall apply for up to three years.
 7 b. The site certificate holder may span Category 1 WAGS habitat and may work
 8 within Category 1 WAGS habitat, provided such work does not cause any ground
 9 disturbance.
 10 c. If an occupied WAGS colony is encountered in non-Category 1 habitat (based
 11 on the surveys referenced in Fish and Wildlife Condition 2), the site certificate
 12 holder shall submit to the department for its approval a notification addressing
 13 the following:
 14 i. Location of the colony; and
 15 ii. Any actions the site certificate holder will take to avoid, minimize, or
 16 mitigate impacts to the colony.

17 **Permissible Uses; List of Conflicting Uses and Activities**

18 MCZO 3.200(B): Permissible Uses. If a use or activity permitted outright in the underlying
 19 zone, or a use or activity requiring a zoning permit in the underlying zone is listed in Section
 20 3.200.E as a conflicting use or activity, it shall become a conditional use subject to the
 21 provisions of Article 6 and the provisions of this ordinance.

22 MCZO 3.200(B) indicates that a permitted use in the underlying zone shall become a conditional
 23 use if the use overlaps with the Significant Resource Overlay Map. In this case, the areas where
 24 the Project will potentially impact Washington ground squirrel habitat are zoned as a Public
 25 Zone. As discussed above, the Project is permitted outright in the Public Zone since there are
 26 no MCZO provisions related to the Public Zone and there are no approval criteria for uses in
 27 that zone. To the extent Project will be located within Goal 5 designated Washington ground
 28 squirrel habitat, IPC has shown that the Project will comply with the review criteria under MCZO
 29 3.200(D), and therefore, the Project is an authorized conditional use (see MCZO 3.200(B)).

30 **Non-Game Birds and Mammals**

31 None of the non-game or mammal habitat identified in the Significant Resource Overlay Map, if
 32 any, occur within the Analysis Area (see Figure K-21). No analysis is required, and no standard
 33 must be met, to comply with the county's Goal 5 planning goals for protecting non-game or
 34 mammal habitat.

35 **Eagle Nest Sites**

36 None of the eagle nest sites identified in the Significant Resource Overlay Map, if any, occur
 37 within the Analysis Area (see Figure K-21). No analysis is required, and no standard must be
 38 met, to comply with the county's Goal 5 planning goals for protecting eagle nest sites.

39 Although beyond what is required by the MCZO or MCCP, IPC has conducted field surveys for
 40 eagle nest sites in the Project area. IPC's surveys did not identify any eagle nests within the Site
 41 Boundary in Morrow County. Further, to avoid and minimize impacts to eagle nest sites and
 42 other bird species, IPC will implement the avian protection measures described in Exhibit P1,
 43 which would include restricting vegetative clearing to times outside of the avian breeding
 44 season, restoring disturbed habitats, and building the Project in compliance with IPC's Fish and
 45 Wildlife Habitat Mitigation Plan (see Exhibit P1, Attachment P1-6).

1 **Long-Billed Curlews**

2 None of the long-billed curlew habitats identified in the Significant Resource Overlay Map, if
3 any, occur within the Analysis Area (see Figure K-21). Further, Morrow County has not adopted
4 any Goal 5 protection program for long-billed curlew habitat. No analysis is required, and no
5 standard must be met, to comply with the county's Goal 5 planning goals for protecting long-
6 billed curlew habitat.

7 Although beyond what is required by the MCZO or MCCP, to avoid and minimize impacts to
8 long-billed curlews and other bird species, IPC will implement the avian protection measures
9 described in Exhibit P1, which would include restricting vegetative clearing to times outside of
10 the avian breeding season, restoring disturbed habitats, and building the Project in compliance
11 with IPC's Fish and Wildlife Habitat Mitigation Plan (see Exhibit P1, Attachment P1-6).

12 **Furbearers**

13 None of the furbearer habitats identified in the Significant Resource Overlay Map, if any, occur
14 within the Analysis Area (see Figure K-21). Further, Morrow County has not adopted any Goal 5
15 protection program for furbearer habitat. No analysis is required, and no standard must be met,
16 to comply with the county's Goal 5 planning goals for protecting furbearer habitat.

17 Although beyond what is required by the MCZO or MCCP, IPC will implement measures to
18 avoid and minimize impacts to furbearers including restoring impacted habitats and mitigating
19 for impacts that could not be avoided or minimized. For additional discussion of proposed
20 restoration and mitigation of impacted habitats, refer to Exhibit P1 and IPC's Fish and Wildlife
21 Habitat Mitigation Plan (Exhibit P1, Attachment P1-6).

22 **Ferruginous Hawk, Loggerhead Shrike, and Sage Sparrow**

23 In its August 18, 2010 letter, Morrow County identified the ferruginous hawk, loggerhead shrike,
24 and sage sparrow as "species of concern." The habitat for these species is not a Goal 5
25 designated resource and there are no applicable MCZO or MCCP criteria for protecting these
26 species. No analysis is required, and no standard must be met, to comply with the County's
27 Goal 5 planning goals for protecting ferruginous hawk, loggerhead shrike, and sage sparrow
28 habitat.

29 Although beyond what is required by the MCZO or MCCP, IPC will implement measures to
30 avoid and minimize impacts to ferruginous hawk, loggerhead shrike, and sage sparrow habitat
31 including restoring impacted habitats and mitigating for impacts that could not be avoided or
32 minimized. For additional discussion of proposed restoration and mitigation of impacted
33 habitats, refer to Exhibit P1 and IPC's Fish and Wildlife Habitat Mitigation Plan (see Exhibit P1,
34 Attachment P1-6).

35 **5.4.4.7 Federal Wild and Scenic Rivers and Oregon Scenic Waterways**

36 Morrow County has not designated any federal Wild and Scenic Rivers or Oregon Scenic
37 Waterways as Goal 5 designated resources. No analysis is required, and no standard must be
38 met, to comply with the County's Goal 5 planning goals for protecting federal Wild and Scenic
39 Rivers or Oregon Scenic Waterways.

40 **5.4.4.8 Groundwater Resources**

41 None of the groundwater resources identified in the Significant Resource Overlay Map, if any,
42 occur within the Analysis Area (see Figure K-21). No analysis is required, and no standard must
43 be met, to comply with the county's Goal 5 planning goals for protecting groundwater resources.

1 **5.4.4.9 Approved Oregon Recreation Trail**

2 Morrow County has not designated any approved Oregon Recreation Trails as Goal 5
3 designated resources. No analysis is required, and no standard must be met, to comply with the
4 County's Goal 5 planning goals for protecting approved Oregon Recreation Trails.

5 **5.4.4.10 Natural Areas**

6 The following natural area identified in the Significant Resource Overlay Map occurs within the
7 Site Boundary: NWSTF Boardman (see Figure K-21).³⁷

8 **Review Criteria**

9 **Review Criteria for All Significant Resource Sites**

10 MCZO 3.200(D)(1)(a): The resource site shall not be altered or impacted to the point where it
11 no longer has significant resource value. Such a point would be reached when the altered or
12 impacted site would no longer meet the significant resource requirements used to designate
13 the site in the comprehensive plan.

14 MCZO 3.200(D)(1)(a) provides the Goal 5 resource site shall not be impacted to the point where
15 the resource loses its significant resource value. Here, the impacts to the NWSTF Boardman
16 will be minimal. To the extent there are any impacts to the natural area, they will only be minor
17 and incremental to the impacts that already exist from the existing transmission line. Moreover,
18 the impacts will only occur along a small portion of the natural area and only along the edge of
19 the same, leaving the resource value of the natural area as a whole largely unaffected. For
20 these reasons, the Project will not alter or impact the streams to a point where they no longer
21 will have significant resource value, and therefore, the Project will be in compliance with
22 MCZO 3.200(D)(1)(a).

23 MCZO 3.200(D)(1)(b): The amount of alteration of or impact to the significant resource shall
24 be the minimum necessary to accomplish the purpose of the proposed use or activity.

25 MCZO 3.200(D)(1)(b) provides the impacts to the Goal 5 resource shall be as minimal as
26 possible. Here, IPC will be replacing an existing transmission line in the NWSTF Boardman and
27 staying within the existing ROW of that line to minimize new impacts. Additionally, IPC largely
28 will use the existing road system within the natural area rather than creating unnecessary new
29 roads. Accordingly, IPC has designed the portion of the Project located on the natural area to
30 minimize impacts to only what is necessary for the Project. That being so, the Project will be in
31 compliance with MCZO 3.200(D)(1)(b).

32 MCZO 3.200(D)(1)(c): There shall be no significant loss of habitat for threatened or
33 endangered species of animals or plants as listed by the U.S. Fish and Wildlife Service or the
34 Oregon Department of Fish and Wildlife.

35 MCZO 3.200(D)(1)(c) provides there shall be no significant loss of habitat for threatened or
36 endangered species as listed by the U.S. Fish and Wildlife Service or ODFW. Here, there are
37 no ODFW or U.S. Fish and Wildlife Service listed species within the site boundary on the
38 NWSTF Boardman, and therefore, the Project will be in compliance with MCZO 3.200(D)(1)(c).

³⁷ The Sand Hollow natural area is 0.75 miles from MUA MO-02 but not within the Site Boundary. The Service Canyon Grassland is 0.4 miles away from and not within the Site Boundary. Coyote Springs Wildlife Management Area is 0.4 miles from the Site Boundary and is not impacted by the Project.

1 MCZO 3.200(D)(1)(d): An alternative site for the proposed use or activity, which would have
 2 less impact to the resource value of the site, does not exist on the applicant's lot or parcel or
 3 on contiguous lots or parcels. For purposes of this section, continuous means lots or parcels
 4 with a common boundary, not separated by a public road, and in which greater than
 5 possessory interests are held by the same person, spouse or single partnership or business
 6 entity, separately or in tenancy in common.

7 MCZO 3.200(D)(1)(d) requests information on whether there is an alternative site for the
 8 proposed activity that does not impact the Goal 5 resource. In this instance, the Navy owns the
 9 NWSTF Boardman lot and no other contiguous lots, and the entirety of the NWSTF Boardman
 10 lot is considered a Goal 5 resource. Accordingly, there is no alternative location on the NWSTF
 11 Boardman lot or alternative location on a contiguous lot owned by the Navy where the Project
 12 could be located. That being so, the Project will be in compliance with MCZO 3.200(D)(1)(d).

13 **Natural Area Review Criteria**

14 Morrow County has not adopted any Goal 5 protection program specific to natural areas.
 15 Moreover, the NWSTF Boardman property is a 2A designated resource, and it is owned and
 16 administered by the Navy (see MCCP pp. 144-47). For 2A designated resources on federal
 17 lands, the County defers to the relevant federal management agency and its management
 18 prescriptions for the protection of the resource and the County does not impose any additional
 19 MCZO or MCCP protections for compliance with the County's Goal 5 planning goals. For these
 20 reasons, no analysis is required, and no review criteria specific to natural areas must be met, to
 21 comply with the County's Goal 5 planning goals for protecting natural areas.

22 ***Permissible Uses; List of Conflicting Uses and Activities***

23 MCZO 3.200(B): Permissible Uses. If a use or activity permitted outright in the underlying
 24 zone, or a use or activity requiring a zoning permit in the underlying zone is listed in Section
 25 3.200.E as a conflicting use or activity, it shall become a conditional use subject to the
 26 provisions of Article 6 and the provisions of this ordinance.

27 MCZO 3.200(B) indicates that a permitted use in the underlying zone shall become a conditional
 28 use if the use overlaps with the Significant Resource Overlay Map. In this case, the areas where
 29 the Project will potentially impact the NWSTF Boardman are zoned as a Public Zone. As
 30 discussed above, the Project is permitted outright in the Public Zone since there are no MCZO
 31 provisions related to the Public Zone and there are no approval criteria for uses in that zone. To
 32 the extent Project will be located within Goal 5 designated natural area, IPC has shown that the
 33 Project will comply with the review criteria under MCZO 3.200(D), and therefore, the Project is
 34 an authorized conditional use (see MCZO 3.200(B)).

35 ***5.4.4.11 Wilderness Areas***

36 Morrow County has not designated any wilderness areas as Goal 5 designated resources. No
 37 analysis is required, and no standard must be met, to comply with the County's Goal 5 planning
 38 goals for protecting wilderness areas.

39 ***5.4.4.12 Mineral Aggregate***

40 None of the mineral aggregate resources identified in the Significant Resource Overlay Map, if
 41 any, occur within the Site Boundary (see Figure K-21). No analysis is required, and no standard
 42 must be met, to comply with the county's Goal 5 planning goals for protecting mineral aggregate
 43 resources.

1 **5.4.4.13 Energy Resources**

2 Morrow County has not designated any energy resources as Goal 5 designated resources. No
3 analysis is required, and no standard must be met, to comply with the County's Goal 5 planning
4 goals for protecting energy resources.

5 **5.4.4.14 Cultural Resources**

6 Morrow County has not designated any cultural resources as Goal 5 designated resources. No
7 analysis is required, and no standard must be met, to comply with the County's Goal 5 planning
8 goals for protecting cultural resources.

9 **5.4.4.15 Historic Resources**

10 None of the historic resources identified in the Significant Resource Overlay Map, if any, occur
11 within the Analysis Area (see Figure K-21). No analysis is required, and no standard must be
12 met, to comply with the county's Goal 5 planning goals for protecting historic resource.

13 Although beyond what is required by the MCZO or MCCP, the following discussion addresses
14 the three historic resources identified by the County in its August 18, 2010 letter: Cecil General
15 Store; Willow Creek Campground; and Oregon Trail.³⁸

16 **Cecil General Store**

17 MCCP p. 123: Cecil General Store: Is private property and is used for what it was intended.
18 The store is on the State Historic Preservation office list and subject to county historical
19 resource policy and ordinances. Conflicts: Any action that would alter or destroy the store.

20 The Cecil General Store is located approximately 16.5 miles from the Proposed Route. The
21 Project will not alter or destroy the Cecil General Store, and therefore development of the
22 Project is not a conflict. Although not required through the protection afforded to the store under
23 the MCCP, potential impact to the setting of the store will be assessed as part of a historic
24 structures survey and described in Exhibit S.

25 **Willow Creek Campground**

26 MCCP p. 131: Willow Creek Campground (Near Cecil): Was used by travelers along the
27 Oregon Trail. There are no distinguishing features. The campground site is part of a private
28 homestead. Conflicts: The campground site is within an agricultural section of the county.
29 Homesteads and cropland usually occupy flats along stream courses. Although land use may
30 change, the character of the land will most likely remain the same. The campground site is
31 under private ownership and no conflicts anticipated. Designation: 2A (no conflicts).

32 The Willow Creek Campground is included as a Goal 5 historic resource in the MCCP. The text
33 describing the Willow Creek Campground in the MCCP describes the location as being near
34 Cecil. Additional information collected during IPC's Visual Assessment of Historic Properties
35 (VAHP) study (see Exhibit S, Attachment S-2) has revealed maps of the Oregon Trail prepared
36 by the BLM. The mapping reveals the location of the Willow Creek Campground but it is a
37 generalized location. The mapping location is based solely upon historical narratives and no
38 physical evidence of the campground has been previously recorded. The campground area is
39 located on private property where access has been restricted so the exact location has not been
40 physically verified. Once access is gained, IPC will ensure that archaeological study is

³⁸ For a discussion of IPC's efforts to identify cultural or historic resources located in the Project area in Morrow County and which may not be identified in the MCCP, refer to Exhibit S.

1 undertaken to determine if any physical remains of the campground exist. The visual effect to
2 the campground will also be analyzed in Phase II of the VAHP Study. Due to restricted access
3 to the campground location, these studies will be performed pursuant to the Programmatic
4 Agreement and in consultation with the State Historic Preservation Office, BLM, and ODOE.

5 **Oregon Trail**

6 MCCCP p. 131: Oregon Trail: Wells Spring Segment: This portion of the Oregon Trail contains
7 visible wagon ruts. It is fenced and within the boundary of the Boardman Bombing Range.
8 Designation: 2A (No conflicts).

9 Again, the Project does not cross the Oregon Trail segments identified in the Significant
10 Resource Overlay Map (see Figure K-21). Even so, the portion of the Oregon Trail inventoried
11 in the MCCCP is fenced and within the boundary of the Boardman Bombing Range (see MCCCP p.
12 131). And for 2A resources on federal lands, the county defers to the relevant federal
13 management agency and its management prescriptions for the protection of the resource and
14 the county does not impose any additional MCZO or MCCCP protections for compliance with the
15 county's Goal 5 planning goals. Accordingly, to the extent the Project will impact Oregon Trail
16 segments not identified in the Significant Resource Overlay Map, no analysis is required, and no
17 standard must be met, to comply with the County's Goal 5 planning goals for protecting the
18 Oregon Trail as a historic resource.

19 **5.4.4.16 Open Spaces**

20 Morrow County has not designated any open spaces as Goal 5 designated resources. No
21 analysis is required, and no standard must be met, to comply with the County's Goal 5 planning
22 goals for protecting open spaces.

23 **5.4.4.17 Scenic Views or Sites**

24 Morrow County has not designated any scenic views or sites as Goal 5 designated resources.
25 No analysis is required, and no standard must be met, to comply with the County's Goal 5
26 planning goals for protecting scenic views or sites.

27 **5.4.5 Morrow County EFU Micro Analysis**

28 As shown above in Section 4, the Project must be sited in an EFU zone in order to provide its
29 intended services due to one or more of the factors set forth in ORS 215.275(2).
30 ORS 215.283(1)(c)(A) requires IPC make that showing only at the "macro"³⁹ level, examining
31 the need to site on EFU lands at a project-wide level across all five relevant counties. Though
32 beyond what is required by the statute, the following section makes a similar showing at the
33 "micro" or county level, by providing a detailed discussion of the necessity of siting the Project in
34 EFU in Morrow County. This section is organized in the same way as the macro analysis,
35 providing information specific to the siting of the Project in Morrow County.

36 **5.4.5.1 Reasonable Alternatives Considered**

37 As discussed in more detail above, locating the proposed terminus of the Project at the
38 Longhorn Station is crucial to serving the Project's objectives. The Longhorn Station will be
39 located along or near the existing 500-kV line in Morrow County. It will be constructed in Port
40 Industrial zoned lands but cannot reasonably be reached without crossing EFU-zoned land (see
41 Figures K-7 and K-8).

³⁹ In the context of Exhibit K, "macro" analysis refers to analysis of the Project across all five counties, and "micro" analysis is a county-specific analysis.

1 Through the CAP, IPC considered approximately 16 alternative routes or segments in Morrow
2 County, all of which cross EFU (see Exhibit B, Attachment B-1, 2010 Siting Study and
3 Attachment B-2, 2012 Supplemental Siting Study). The Supplemental Siting Study contains
4 additional discussion regarding the consideration of alternatives in this area that led to the
5 selection of the Proposed Corridor and identification of alternate corridor segments. However,
6 EFU-zoned lands in Morrow County are unavoidable in reaching the Longhorn Station from the
7 designated Wallowa-Whitman NF utility corridor. As a result, there are no reasonable non-EFU
8 alternative routes in Morrow County.

9 **5.4.5.2 Factors Requiring Siting of the Project on Morrow County Land Zoned EFU**

10 Of the six factors justifying location of a utility facility necessary for public service on EFU, two
11 factors drove IPC's location of the Project in Morrow County: locational dependence and lack of
12 available urban and nonresource land.

13 **Technical and Engineering Feasibility**

14 As discussed above, certain technical and engineering feasibility considerations required the
15 Project to terminate at the Longhorn Station. To reach that end point, the Project was required
16 to cross EFU lands in Morrow County. Accordingly, the need for siting the Project in EFU lands
17 in Morrow County was driven in part by technical and engineering feasibility considerations.

18 **Locational Dependence**

19 A utility facility is considered locationally dependent if it must cross land in one or more areas
20 zoned EFU in order to achieve a reasonably direct route or to meet unique geographical needs
21 that cannot be satisfied on non-EFU lands. As shown in Figures K-6 and K-7, the Longhorn
22 Station is surrounded by EFU lands and there is no feasible way to reach the station (let alone
23 achieve a reasonably direct route) from the point at which the Project enters Morrow County
24 (i.e., the designated utility corridor across the Wallowa-Whitman NF) without crossing EFU
25 lands. Therefore, at a county level of analysis, the Project must be sited in EFU lands due to the
26 Project's locational dependence.

27 **Lack of Available Urban and Nonresource Lands**

28 There is no path connecting the Longhorn Station and the point where the Project enters
29 Morrow County that consists entirely of urban and nonresource lands. To the contrary, the
30 Longhorn Station is surrounded by EFU lands. Consequently, there is a lack of available urban
31 and nonresource lands in Morrow County, and EFU lands must be crossed by the Project.

32 **Availability of Existing Rights of Way**

33 The Project will be sited in place of the BPA line on the NWSTF Boardman allowing the Project
34 to avoid certain impacts to EFU lands on the east side of Bombing Range Road. In order to take
35 advantage of siting the Project within the existing BPA ROW, the Project must be sited in EFU
36 lands to enter and exit the BPA ROW.

37 **Public Health and Safety**

38 The need for siting the Project in EFU lands in Morrow County was not driven by public health
39 and safety considerations.

1 **Other Requirements of State or Federal Agencies**

2 The need for siting the Project in EFU lands in Morrow County was not driven by state or federal
3 requirements other than those set forth in ORS 215.275(2)(a) through (e).

4 **5.4.5.3 Costs Were Not the Only Factor Considered**

5 As discussed in Exhibit B and the attached siting studies, costs were not the only consideration
6 in selecting IPC's Proposed Route. Avoidance of sensitive resources, permitting and
7 construction factors, and extensive input from local citizens and officials and many other
8 stakeholders were the primary factors in corridor selection (see ORS 215.275(3)).

9 **5.4.5.4 Restoration of Agricultural Land**

10 Table K-10 describes the temporary and permanent impacts on agricultural lands in Morrow
11 County. The Agricultural Lands Assessment (Exhibit K, Attachment K-1) contains aerial
12 photographs showing affected agricultural areas in the EFU zone. It discusses measures IPC
13 will take to minimize and mitigate for potential impacts to agricultural operations within each
14 zone. These measures can be adopted as conditions of approval to ensure that the Project will
15 not result in significant adverse impacts to agricultural lands within this portion of the Project
16 (see ORS 215.275(4)).

17 **Table K-10. Temporary and Permanent Impacts on Agricultural Lands**

Route	Agriculture Type ¹	Temporary/ Construction Impacts (acres)	Permanent/ Operations Impacts (acres)
Proposed Route	Dryland Farming	137.0	17.9
	Irrigated Agriculture	26.2	19.5
	Pasture/Hay ²	36.2	0.7
Total³		199.4	38.1
West of Bombing Range Road Alternative 1	Dryland Farming	–	–
	Irrigated Agriculture	4.2	0.9
	Pasture/Hay ²	–	–
Total³		4.2	0.9
West of Bombing Range Road Alternative 2	Dryland Farming	–	–
	Irrigated Agriculture	2.4	0.5
	Pasture/Hay ²	–	–
Total³		2.4	0.5

¹ Agricultural type determined from Agricultural Lands Assessment provided in Attachment K-1.

² Pasture/hay includes irrigated alfalfa/hay.

³ Sums may not total due to rounding.

1 5.4.5.5 Mitigation and Minimization Conditions

2 As discussed in the Agricultural Assessment, IPC does not expect that the Project will have
3 adverse impacts on surrounding lands, result in significant changes in accepted farm practices
4 or a significant increase in the cost of farm practices on the surrounding farmlands (see ORS
5 215.275(5)). To the extent the Council has concerns about impacts to surrounding agricultural
6 land, the Council may incorporate elements of the agricultural mitigation plan into the conditions
7 required for issuance of a site certificate. Additionally, through its role as a Special Advisory
8 Group, Morrow County may provide recommendations to the Council regarding conditions to
9 include in the site certificate.

10 5.4.6 Additional Morrow County Comments

11 5.4.6.1 Blue Mountain National Scenic Byway Interpretive Guide

12 The August 18, 2010, letter from Morrow County identified the Blue Mountain National Scenic
13 Byway Interpretive Guide (Guide) as potentially containing relevant local substantive criteria,
14 although the document is not regulatory and Morrow County has not adopted any ordinances
15 providing land use management direction relevant to the Blue Mountain National Scenic Byway
16 (Byway).

17 The 130-mile Byway begins at I-84 and proceeds south and east along State Route 74 through
18 Morrow County. It was designated in 1989 as a National Scenic Byway and in 1997 it was made
19 a State Scenic Byway. In 1993, the Guide was issued by the Umatilla NF. The Guide states,
20 "The purpose of this document is to guide development of a logical sequence of complimentary
21 [sic] interpretive services and visitor accommodations associated with the Blue Mountain Scenic
22 Byway. Included in the plan are guidelines and recommendations to accomplish this ambitious
23 endeavor."

24 The Project no longer crosses the Blue Mountain Scenic Byway. A prior version of the Project
25 crossed the byway. However, the Proposed Route is now approximately 8 to 10 miles from the
26 byway. Accordingly, the Project will not affect the Blue Mountain Scenic Byway in Morrow
27 County.

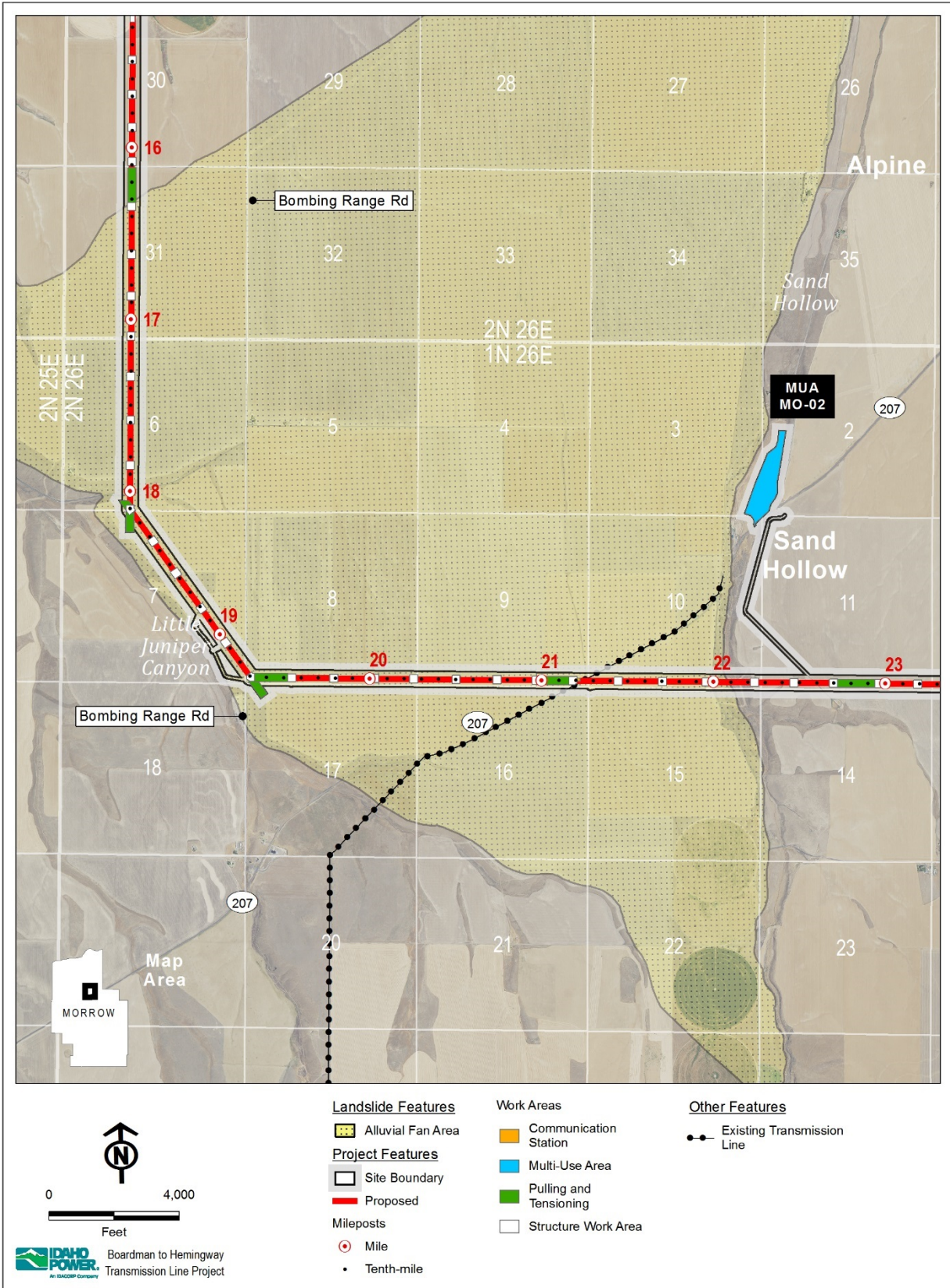
28 5.4.6.2 Pre-Disaster Mitigation Plan

29 In its August 18, 2010, letter, Morrow County identified the Morrow County Pre-Disaster
30 Mitigation Plan as potentially applicable to the Project to determine if there are landslide or flood
31 hazards along the final route. Although the Plan contains no applicable substantive criteria with
32 which IPC must demonstrate compliance, IPC includes in this section discussion of its siting
33 process relevant to the natural hazards identified in the Pre-Disaster Mitigation Plan.

34 Those hazards relative to this Project have been considered in siting, impact assessment,
35 design, and mitigation of the proposed transmission facilities. During the final route selection
36 process, natural hazard constraints included erodible soils, slope conditions, fault lines,
37 floodplains, and Oregon landslide features. All of these factors (Siting Study, Appendix A, Table
38 A-1, Constraints and Opportunities; and Appendix C, Table C-1, Constraints Crossed-
39 Permitting Difficulty, August 2010) were included in the evaluation and selection of the
40 Proposed Corridor and alternate corridor segments. Since submittal of the Siting Study, the
41 information on these resources has been used to adjust the centerlines and/or tower spacing,
42 where feasible, and to select access routes and work areas away from hazards. This
43 information is being used to assess the impact of the Proposed Corridor and alternate corridor
44 segments and to develop mitigation plans and procedures to the extent necessary.

1 *Landslide Hazards*—Geologic mapping to date indicates the Project may cross Statewide
2 Landslide Information Database for Oregon 1316 in Morrow County, a known alluvial fan area
3 that may be conducive to debris flow paths (e.g., fan landslide) (see Figure K-26). In areas
4 where micro-siting is not feasible for hazard mitigation, the geotechnical consultant will
5 characterize each project tower area located within known or suspected alluvial fans. The
6 consultant will evaluate each alluvial fan foundation area status, including active or potentially
7 active debris flow type landslides, and/or what activities or improvements might activate the land
8 sliding. Debris flows are typically associated with large precipitation events, but dry debris flows
9 may also result from seismic events. The geotechnical consultant will evaluate the fan
10 geometry, including depth to stable geologic materials, and debris flow frequency, direction, and
11 thickness (see Exhibit H, Section 3.10.2). The geotechnical consultant will provide foundation
12 design recommendations with consideration to each alluvial fan debris area, including the
13 proposed project impact to the fan area (i.e., stability), and tower foundation mitigation
14 measures. Tower foundation design to mitigate lateral forces imparted by debris flows (or
15 landslides) typically requires larger diameter and/or deeper shafts. The geotechnical consultant
16 may also consider mitigation measures to reduce the debris flow (i.e., fan landslide) impacts
17 upon proposed tower foundations. For example, deflection berms or similar can divert debris
18 flows from tower foundation areas. Where economical, mitigation may consider stability
19 measures to reduce the landslide frequency or velocity (see Exhibit H, Section 3.10.2).

20



1
2 **Figure K-26. Alluvial Fan Area Crossed by Project – Morrow County**

1 *Liquefaction*—Liquefaction is a phenomenon in which saturated, primarily cohesionless soils
2 temporarily lose their strength and liquefy when subjected to dynamic forces such as intense
3 and prolonged ground shaking and seismic activity. All portions of the Site Boundary have the
4 potential for ground shaking from earthquakes. Areas that are most susceptible to liquefaction
5 have a combination of thick unconsolidated sediments, and a shallow water table (within 50 feet
6 of the surface). Because the majority of the transmission line crosses relatively stable terrain
7 with shallow bedrock and deep groundwater, the majority of the Site Boundary has a low
8 susceptibility to liquefaction.

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

15 *Flood Hazards*—Section 5.4.2.6 describes floodplains and measures to mitigate potential
16 floodplain hazards.

17 For additional detail relevant to geologic or soil stability hazards, see Exhibits H and I.

18 5.4.6.3 *Solid Waste Management Plan and Ordinance*

19 The August 18, 2010, letter from Morrow County identified the following Morrow County Waste
20 Management Ordinance (MCWMO) provisions as potentially relevant local substantive criteria.

21 **Public Responsibilities**

22 MCWMO 5.000: Public responsibility requires the citizens of Morrow County comply with
23 items two and five of Section 3.000 Purpose and Policy of this Ordinance.

24
25 MCWMO 3.000: To protect the health, safety and welfare of the people of Morrow County,
26 hereafter referred to as the County, and to meet the goals of the Solid Waste Management
27 Plan, it is declared to be the policy of the County to regulate solid waste management by: . . .
28 (2) Providing for the safe and sanitary accumulation, storage, collection, transportation and
29 disposal of solid waste; . . . (5) Prohibiting accumulation of waste or solid waste on private
30 property in such manner as to create a public nuisance, a hazard to health or a condition of
31 unsightliness, and to provide for the abatement of such conditions were found.

32 Exhibit V estimates the amount of construction waste associated with construction and
33 operation of the transmission line, communication sites, and substation. This includes
34 vegetation waste, native earth materials (soil, rock and similar), and household-type solid waste.
35 Exhibit V describes the management and disposal of the waste materials. IPC will store solid
36 waste in a manner that does not constitute a fire, health or safety hazard until such waste can
37 be hauled off for recycling or disposal, as appropriate. For instance, solid waste generated at a
38 substation will be collected on site for recycling or disposal in accordance with ODEQ
39 regulations. IPC will manage and dispose of solid waste in compliance with the Morrow County
40 Solid Waste Ordinance Section 5.000.

1 **Transportation of Solid Waste**

2 MCWMO 5.010: No person shall transport or self-haul, as defined in the Solid Waste
 3 Management Plan, solid waste on a public road unless such waste or solid waste is covered
 4 and secured. "Covered and Secured" includes: 1. Loads which are totally contained within an
 5 enclosed vehicle or container; 2. Loads of solid waste contained in garbage cans with tightly
 6 fitting lids, tied plastic solid waste disposal bags or similar totally enclosed individual
 7 containers that are completely contained within the walls of a vehicle or container, such that
 8 no solid waste can reasonably be expected to escape during hauling; 3. Loads of brush,
 9 building materials and similar bulky materials which are secured in or on the hauling vehicle
 10 or completely contained within the walls of a vehicle or container, such that none can
 11 reasonably be expected to escape during hauling; or 4. Loads consisting entirely of rock,
 12 concrete, asphalt paving, stumps and similar materials that are completely contained within
 13 the walls of a vehicle or container, such that none can reasonably be expected to escape
 14 during hauling.

15 Solid waste suitable for disposal at municipal facilities will be transported by a disposal
 16 subcontractor. In Morrow County, the solid waste will be transported to the Finley Buttes Landfill
 17 in compliance with the above regulations. Finley Buttes Landfill is a modern municipal solid
 18 waste disposal facility permitted by the ODEQ and is in full compliance with ODEQ rules and
 19 regulations. The landfill is privately owned, but was approved by Morrow County in 1987 (see
 20 Exhibit U, Attachment U-1, for records of IPC's communications with Finley Buttes Landfill).
 21 IPC's transportation of solid waste in Morrow County related to the Project will be in compliance
 22 with Morrow County Solid Waste Ordinance Section 5.010.

23 **Accumulation, Littering and Disturbance of Solid Waste**

24 MCWMO 5.020. No person shall accumulate or store wastes in violation of the Morrow
 25 County Nuisance Ordinance or in violation of regulations of the Oregon Littering Provisions
 26 (ORS 164.775 - 805). No unauthorized person shall remove the lid from any solid waste
 27 container or collect, disturb or scatter solid waste stored in the container or deposit solid
 28 waste into the container.

29 As described in detail in Exhibit B, the multi-use areas⁴⁰ will serve as the collection points for
 30 solid waste generated at each of the tower construction or road construction sites along the Site
 31 Boundary. Waste generated at the Longhorn Station will be collected on-site for recycling or
 32 disposal in accordance with ODEQ regulations. Stockpile protection measures will be in place to
 33 reduce the potential for air and storm water pollution originating from stockpiles of construction
 34 materials, including the following:

- 35 • Stockpiles will be located a minimum of 100 feet away from storm drains, ditches,
 36 streams, and other water bodies.
- 37 • Physical diversions will be provided to protect stockpiles from concentrated runoff.
- 38 • Stockpiles will be covered with plastic or comparable material prior to a rain event and
 39 during the rainy season.

⁴⁰ The multi-use areas will serve as field offices; reporting locations for workers; parking space for vehicles and equipment; and sites for material delivery and storage, fabrication assembly of towers, cross arms and other hardware, concrete batch plants, and stations for equipment maintenance. Limited helicopter operations may be staged out of multi-use areas. Multi-use areas locations are listed in Exhibit C, Table C-16 and shown on maps in Exhibit C, Attachment C-2.

- 1 • Silt fences, fiber filtration tubes, or straw wattles will be placed around stockpiles to limit
2 sediment migration.

3 Vegetative waste will be crushed, chipped, spread, or stacked and left on-site as vegetation
4 growth medium or wildlife habitat, disposed of at a landfill, or used off-site as fill material.

5 Disposal of slash is discussed in Exhibit V, Table V-1, Solid Waste Generation from
6 Construction Activities.

7 Sanitary wastewater from portable toilets will be handled by a sanitary system subcontractor
8 used to provide the sanitary facilities. This typically consists of periodic removal of the sanitary
9 waste using a vacuum truck and proper disposal off-site into a sanitary sewer system. IPC's
10 management of solid waste in Morrow County related to the Project will be in compliance with
11 Morrow County Solid Waste Ordinance Section 5.020.

12 **Responsibility for Proper Disposal of Hazardous Waste**

13 MCWMO 5.030: The owner, operator, or occupant of any premise, business, establishment,
14 or industry shall be responsible for the satisfactory and legal disposal of all hazardous solid
15 waste generated or accumulated by them on the property. All hazardous solid wastes shall
16 be disposed of at an appropriate solid waste disposal site licensed to receive such waste, or
17 in a manner consistent with Department of Environmental Quality regulations. It shall be
18 unlawful for any person to dump, deposit, bury, or allow the dumping, depositing or burying
19 of any hazardous solid waste onto or under the surface of the ground or into the waters of
20 the state, except at a State permitted solid or hazardous waste disposal site.

21 Although hazardous materials such as fuel, vehicle fluids and lubricants, herbicides, and
22 blasting materials will be used, this Project will generate little or no hazardous waste. As
23 discussed in Exhibit G, IPC will comply with ODEQ regulations for the management and
24 disposal of any hazardous waste generated by the Project. The Project will not involve the
25 dumping, depositing, or burying of any hazardous solid waste onto or under the surface of the
26 ground or into the waters of the state, except at a State permitted solid or hazardous waste
27 disposal site. Therefore, IPC's disposal of solid waste in Morrow County related to the Project
28 will be in compliance with Morrow County Solid Waste Ordinance Section 5.030.

29 **Open Burning**

30 MCWMO 5.040: Woody debris, brush, leaves, grass, tumbleweeds, wood and cuttings from
31 trees, lawns, shrubs and gardens (excepting paper, cardboard, or wood containers in
32 commercial quantities) may be burned on private property only if the method of burning is
33 approved by the local fire department and is done in accordance with the rules and
34 regulations of the Oregon Department of Environmental Quality. Agricultural open burning is
35 allowed pursuant to Oregon air pollution laws (ORS 468A.020) and the requirements and
36 prohibitions of local jurisdictions and the State Fire Marshal.

37 Open burning of any waste materials, including on agricultural lands, that normally emit
38 dense smoke, noxious odors, or that create a public nuisance is prohibited. These materials
39 include, but are not limited to, household garbage, plastics, wire, insulation, auto bodies,
40 asphalt, waste petroleum products, rubber products, animal remains, and animal or
41 vegetable wastes resulting from the handling, preparation, cooking, or service of food.

42 There will be no open burning as any part of construction or operations of the Project. Thus, the
43 Project will be in compliance with Morrow County Solid Waste Ordinance Section 5.040.

1 **5.4.6.4 Aggregate Sourcing**

2 During a phone conversation on July 12, 2012, Morrow County requested information regarding
3 aggregate sourcing for the Project. Aggregate will be sourced from aggregate providers using
4 existing permitted aggregate pits. For additional discussion of materials for the Project, refer to
5 Exhibit G.

6 **5.4.7 Idaho Power's Proposed Site Certification Conditions Relevant to MCZO**
7 **Compliance**

8 IPC proposes the following site certificate conditions to ensure the Project complies with the
9 applicable Morrow County substantive criteria, as well as other relevant requirements.

10 **Prior to Construction**

11 **Land Use Condition 1:** *Prior to construction, the site certificate holder shall*
12 *finalize, and submit to the department for its approval, a final Agricultural*
13 *Assessment. The protective measures described in the draft Agricultural*
14 *Assessment in ASC Exhibit K, Attachment K-1, shall be included and*
15 *implemented as part of the final Agricultural Assessment, unless otherwise*
16 *approved by the department.*

17 **Public Services Condition 2:** *Prior to construction, the site certificate holder*
18 *shall submit to the department for its approval a Helicopter Use Plan, which*
19 *identifies or provides:*

- 20 *a. The type of helicopters to be used;*
21 *b. The duration of helicopter use;*
22 *c. Roads or residences over which external loads will be carried;*
23 *d. Multi-use areas and light-duty fly yards containing helipads shall be located: (i)*
24 *in areas free from tall agricultural crops and livestock; (ii) at least 500 feet from*
25 *organic agricultural operations; and (iii) at least 500 feet from existing dwellings*
26 *on adjacent properties; and*
27 *e. Flights shall occur only between sunrise and sunset.*

28 **Soil Protection Condition 1:** *Prior to construction, the site certificate holder*
29 *shall provide the department a copy of an Oregon Department of Environmental*
30 *Quality (ODEQ)-approved construction Spill Prevention, Control, and*
31 *Countermeasures (SPCC) Plan.*

32 **Soil Protection Condition 3:** *Prior to operation, the site certificate holder shall*
33 *provide the department a copy of a ODEQ-approved operation SPCC Plan, if*
34 *required by ODEQ statutes or regulations.*

35 **Prior to Construction in Morrow County**

36 **Land Use Condition 3:** *Prior to construction in Morrow County, the site*
37 *certificate holder shall provide to the department a copy of the following Morrow*
38 *County-approved permits, if such permits are required by Morrow County zoning*
39 *ordinances:*

- 40 *a. Flood plain development permit, for work in the Flood Plain Overlay Zone;*
41 *b. Utility crossing permit;*
42 *c. Access approach site permit; and*
43 *d. Construction permit to build on right-of-way.*

During Construction

Land Use Condition 8: During construction, the site certificate holder shall conduct all work in compliance with the final Agricultural Assessment referenced in Land Use Condition 1.

Public Services Condition 6: During construction, the site certificate holder shall conduct all work in compliance with the Helicopter Use Plan referenced in Public Services Condition 2.

Soil Protection Condition 2: During construction, the site certificate holder shall conduct all work in compliance with the ODEQ-approved construction SPCC Plan referenced in Soil Protection Condition 1.

Threatened and Endangered Species Condition 1: During construction, the site certificate holder shall not conduct ground-disturbing activities within Category 1 Washington ground squirrel (WAGS) habitat, subject to the following:

a. The identification and categorization of WAGS habitat shall be based on the surveys referenced in Fish and Wildlife Condition 2 and the results of the surveys shall apply for up to three years.

b. The site certificate holder may span Category 1 WAGS habitat and may work within Category 1 WAGS habitat, provided such work does not cause any ground disturbance.

c. If an occupied WAGS colony is encountered in non-Category 1 habitat (based on the surveys referenced in Fish and Wildlife Condition 2), the site certificate holder shall submit to the department for its approval a notification addressing the following:

i. Location of the colony; and

ii. Any actions the site certificate holder will take to avoid, minimize, or mitigate impacts to the colony.

During Construction in Morrow County

Land Use Condition 11: During construction in Morrow County, the site certificate holder shall construct the facility to comply with the following setback distances and other requirements:

In All Zones:

a. Buildings and the fixed bases of the transmission line towers shall be setback at least 100 feet from the high-water mark of all Goal 5 streams.

b. Permanent vegetation removal within the riparian zone of all Goal 5 streams shall retain 75% of all layers or stratas of vegetation.

In the EFU Zone:

c. Buildings and the fixed bases of the transmission line towers shall be setback as follows: (i) front yards shall be set back at least 20 feet from minor collector road rights-of-way, 30 feet from major collector road rights-of-way, 80 feet from arterial road rights-of-way, and 100 feet from intensive agricultural uses; (ii) side yards shall be set back at least 20 feet from the property line, 30 feet for corner lots, and 100 feet from intensive agricultural uses; and (iii) rear yards shall be set back at least 25 feet from the property line, and 100 feet from intensive agricultural uses.

d. Buildings and the fixed bases of the transmission line towers shall be set back at least 100 feet from the high-water mark of all streams and lakes.

In the General Industrial Zone:

1 e. Buildings and the fixed bases of the transmission line towers shall be set back
2 at least 50 feet from arterial road rights-of-way, 30 feet from collector road rights-
3 of-way, and 20 feet from lower-class road rights-of-way.

4 In the Port Industrial Zone:

5 f. Buildings and the fixed bases of the transmission line towers shall be setback
6 as follows: (i) front yards shall be set back at least 30 feet from the property line,
7 and 90 feet from the centerline of any public, county, or state road; (ii) side yards
8 shall be set back at least 10 feet from the property line; and (iii) rear yards shall
9 be set back at least 10 feet from the property line.

10 **Land Use Condition 12:** During construction in Morrow County, the site
11 certificate holder shall complete the following to address traffic impacts in the
12 county:

13 a. The site certificate holder shall work with the Morrow County Road Department
14 to identify concerns related to Project construction traffic;

15 b. The site certificate holder shall develop a traffic management plan that
16 includes traffic control measures to mitigate the effects of Project construction
17 traffic;

18 c. The site certificate holder shall conduct all work in compliance with traffic
19 management plan; and

20 d. The site certificate holder shall provide a copy of the traffic management plan
21 to the department.

22 **Land Use Condition 13:** During construction in Morrow County, the site
23 certificate holder shall conduct all work in compliance with the Morrow County-
24 approved permits referenced in Land Use Condition 3, if such permits are
25 required by Morrow County zoning ordinances.

26
27 **During Operation**

28 **Soil Protection Condition 4:** During operation, the site certificate holder shall
29 conduct all work in compliance with the ODEQ-approved operation SPCC Plan
30 referenced in Soil Protection Condition 3, if required by ODEQ statutes or
31 regulations.

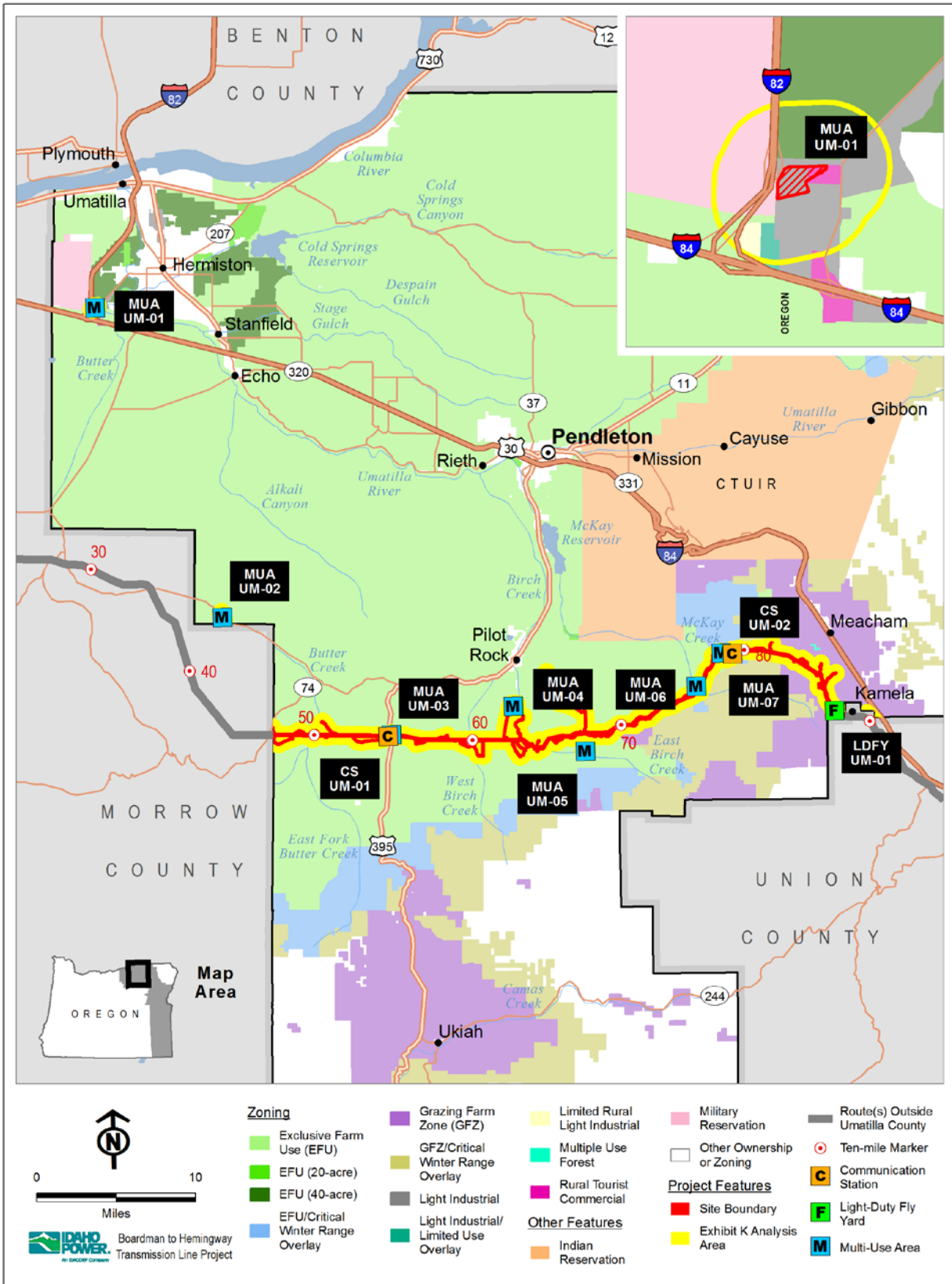
32 **5.5 Umatilla County**

33 The following section describes the Project features that will be located in Umatilla County and
34 provides analysis regarding compliance with applicable local substantive criteria.

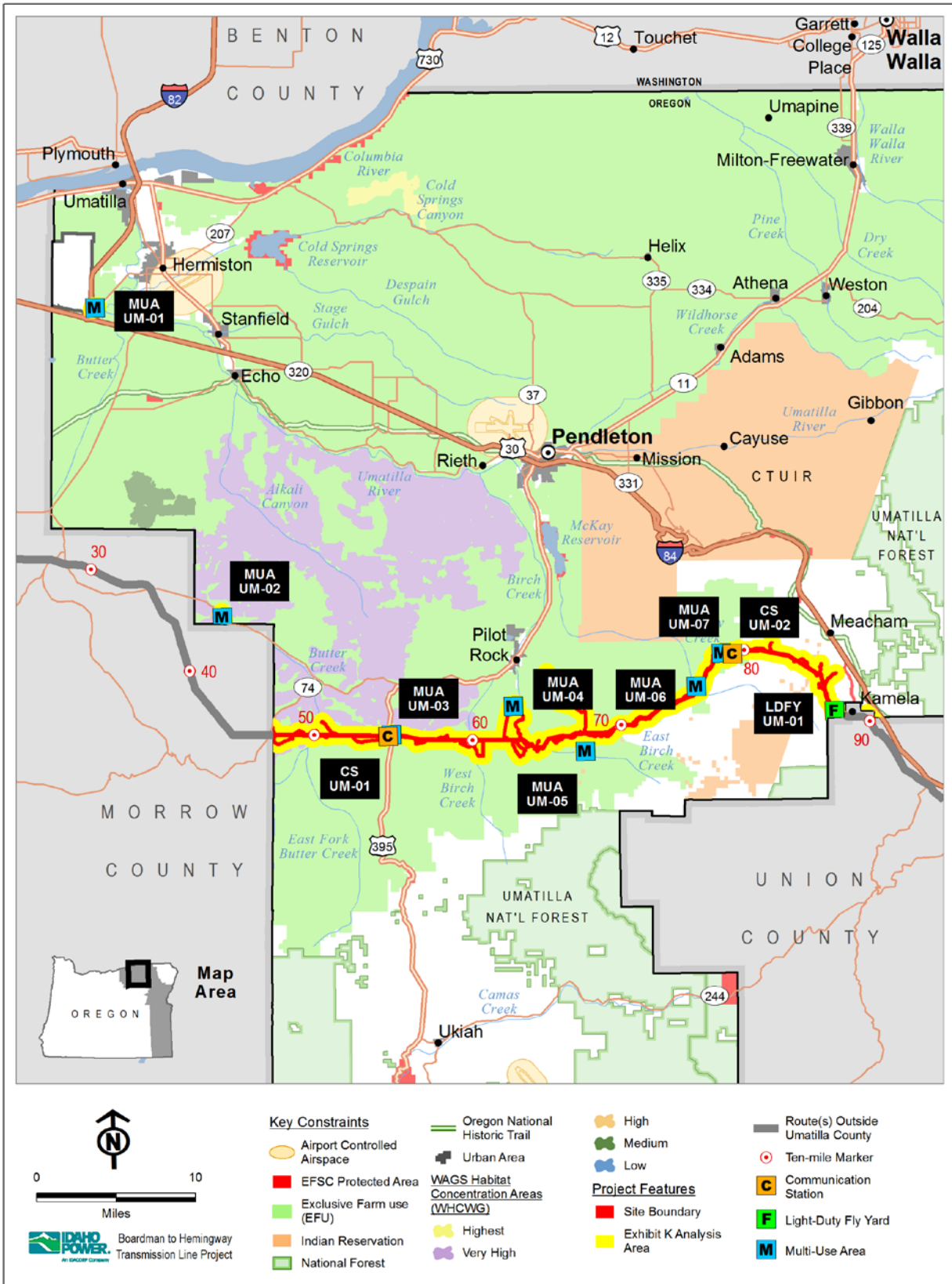
35 **5.5.1 Project Features in Umatilla County**

36 **5.5.1.1 Maps showing the Project in Umatilla County**

37 Figure K-27 shows the location of the Project in Umatilla County and the land use designations
38 of the affected lands. Figure K-28 identifies additional land use constraints in the county.



1
2 **Figure K-27. Umatilla County Zoning**



1
2 **Figure K-28. Umatilla County Key Constraints**

1 5.5.1.2 Location

2 The Proposed Route crosses approximately 40.8 miles of privately-owned land in Umatilla
 3 County (see Exhibit C, Attachment C-2, Maps 24-44). The Proposed Route crosses into
 4 Umatilla County from Morrow County at MP 47.5, approximately 4 miles southwest of the
 5 community of Vinson, Oregon. The Proposed Route proceeds due east through lands
 6 predominantly under dryland farming practice and zoned as Exclusive Farm Use. At MP 50.0,
 7 the Proposed Route crosses U.S. Route 395 and Butter Creek. At MP 58.6, the Proposed Route
 8 crosses Bear Creek, and then at MP 59.7 it crosses West Birch Creek. At MP 64.7, the
 9 Proposed Route crosses East Birch Creek. At this point, the Proposed Route is approximately
 10 5.5 miles south of the town of Pilot Rock. Now heading northeast, the Proposed Route begins
 11 climbing into the foothills of the Blue Mountains. Land use transitions from dryland farming to
 12 open rangeland with scattered timber stands along north-facing slopes. At MP 75.6, the
 13 Proposed Route crosses McKay Creek.

14 After crossing McKay Creek, the Proposed Route turns north and proceeds across rangeland
 15 with scattered stands of trees for about 2.5 miles before turning again to the east. Here the
 16 Proposed Route enters predominantly forested lands for roughly the next 10 miles. Between
 17 MP 84 and MP 85, approximately 2.8 miles southwest of the community of Meacham, the
 18 Proposed Route remains west of a segment of the Blue Mountain Forest State Scenic Route,
 19 passing into Union County at MP 88.3.

20 5.5.1.3 Towers, Access Roads, and Crossings

21 Table K-11 lists the towers, access roads, and crossings by the Proposed Route in Umatilla
 22 County.

23 **Table K-11. Towers, Access Roads, and Crossings – Umatilla County**

Towers	Number of Sites
Towers – Single Circuit 500-kV Lattice	161
Access Roads	Total Miles
Existing, 21-70% Improved	15.6
Existing, 71-100% Improved	21.2
New, Bladed	5.1
New, Primitive	28.7
Crossings	Number of Crossings
High-Voltage Transmission Line Crossings ¹	0
Existing Road Crossings ²	1
Existing Railroad Crossings ³	0

¹ Source: ABB Ventyx (2016) and Idaho Power Company; includes only transmission lines over 69-kV.

² Source: Esri (2013); includes Interstate, federal, and state highways; existing roads include all federal and state highways.

³ Source: Oregon Department of Transportation (2013).

24 5.5.1.4 Multi-Use Areas, Pulling and Tensioning Sites, Light-Duty Fly Yards, and 25 Communication Stations

26 There will be seven multi-use areas in Umatilla County.

- 27 • MUA UM-01 will be in the northwest part of the county adjacent to Interstate 82 (I-82)
 28 approximately 0.6 mile north of I-84. The land is bare. The western two-thirds is zoned

- 1 by Umatilla County as Light Industrial while the eastern third is zoned Rural Tourist
2 Commercial (Exhibit C, Attachment C-2, Map 24).
- 3 • MUA UM-02 will be approximately 3.0 miles east of MP 37, on the west side of Big
4 Butter Creek Road. The land comprises grassland and is zoned by Umatilla County as
5 Agriculture - Exclusive Farm Use (Exhibit C, Attachment C-2, Map 25).
 - 6 • MUA UM-03 will be located just north of MP 54.9 and west of U.S. Highway 395. The
7 land comprises rangeland and is zoned by Umatilla County as Agriculture - Exclusive
8 Farm Use (Exhibit C, Attachment C-2, Map 28).
 - 9 • MUA UM-04 will be located approximately 2.8 miles south of Pilot Rock and west of East
10 Birch Creek Road. The land comprises grassland and zoned by Umatilla County as
11 Agriculture - Exclusive Farm Use (Exhibit C, Attachment C-2, Map 32).
 - 12 • MUA UM-05 will be located approximately 1.2 mile south of MP 68 on the south side of
13 East Birch Creek Road. The land comprises grassland and is zoned by Umatilla County
14 as Agriculture - Exclusive Farm Use (Exhibit C, Attachment C-2, Map 37).
 - 15 • MUA UM-06 will be located approximately 0.2 mile northwest of MP 75.5 on the west
16 side of McKay Creek Road. The land comprises grassland and is zoned by Umatilla
17 County as Agriculture - Exclusive Farm Use (Exhibit C, Attachment C-2, Map 39).
 - 18 • MUA UM-07 will be located approximately 0.3 mile northeast of MP 78. The land
19 comprises grassland and is zoned by Umatilla County as Agriculture - Exclusive Farm
20 Use and Critical Winter Range Overlay (Exhibit C, Attachment C-2, Map 41).

21 There will be 41 pulling and tensioning sites in Umatilla County.

22 There will be one light-duty fly yard in Umatilla County.

- 23 • LDFY UM-01 will be located at MP 87.6 and is zoned by Umatilla County as Grazing
24 Farm Zone (Exhibit C, Attachment C-2, Map 44).

25 There are two communication station in Umatilla County.

- 26 • CS UM-01 will be located at approximately MP 54.6 and is 0.4 mile west of U.S. Route
27 395. The land comprises grassland and is zoned by Umatilla County as Agriculture -
28 Exclusive Farm Use (Exhibit C, Attachment C-2, Map 28).
- 29 • CS UM-02 will be located at approximately MP 79.2 and just south of Ross Road. The
30 land comprises grassland and is zoned by Umatilla County as Agriculture - Exclusive
31 Farm Use and Critical Winter Range Overlay (Exhibit C, Attachment C-2, Map 41).

32 5.5.1.5 *Affected Land Use Zones*

33 Table K-12 identifies the Umatilla County zoning designations for the lands affected by the
34 Project.

35

1 **Table K-12. Umatilla County Land Use Zone Designations**

Zoning Designation	Centerline (miles)	Site Boundary (acres)	Existing Roads, Substantial Modifications (miles)	New Roads
Exclusive Farm Use	27.9	2,397.8	27.7	27.8
Exclusive Farm Use/Critical Winter Range	3.1	230.7	1.2	1.8
Exclusive Farm Use – 20 Acre	0.0	0.0	0.0	0.0
Grazing Farm Zone	7.1	493.7	6.1	2.7
Grazing Farm Zone/Critical Winter Range	2.8	192.6	1.9	1.6
Light Industrial	0.0	31.8	0.0	0.0
Rural Tourist Commercial	0.0	5.8	0.0	0.0
Total¹	40.9	3,804.3	36.9	33.9

2 ¹ Sums may not total due to rounding.

3 **5.5.2 Umatilla County Development Code Provisions**

4 On September 15, 2010, the Umatilla County Planning Department submitted a letter to ODOE
5 in response to IPC's July 2010 NOI, in which the Umatilla County Planning Department
6 identified local substantive criteria potentially applicable to the Project, including certain Umatilla
7 County Development Code (UCDC) provisions. During preparation of Exhibit K, IPC identified
8 potentially applicable UCDC provisions that were not identified by Umatilla County in its
9 September 15, 2010 letter. Table K-13 sets forth the potentially applicable MCZO provisions
10 identified by Umatilla County and IPC.

1 **Table K-13. Potentially Applicable UCDC Provisions**

Land Use Zone	Permit	Project Feature(s)	UCDC or Other Provision	Entity that Identified UCDC Provision
Exclusive Farm Use Zone	Land Use Decision and Zoning Permit	All Project Features	UCDC 152.059(C) Land Use Decisions / Utility Facilities Necessary for Public Service	Umatilla County
			UCDC 152.617 Standards for Review of Conditional Uses and Land Use Decisions on EFU Zoned Land	Umatilla County
			UCDC 152.062 Parcel Sizes	IPC
			UCDC 152.063 Development Standards	IPC
	Conditional Use Permit	Helipads ¹	UCDC 152.060(G) Conditional Uses Permitted	Umatilla County
			UCDC 152.061 Standards for All Conditional Uses	IPC
			UCDC 152.617 Standards for Review	IPC
			UCDC 152.545 Zoning Permit Required to Erect, Move, or Alter Signs	IPC
			UCDC 152.546(C) Types of Signs	IPC
			UCDC 152.547 Limitations on Signs	IPC
			UCDC 152.560 Off-Street Parking Requirements	IPC
			UCDC 152.561 Off-Street Loading Requirements	IPC
			UCDC 152.562 Additional Off-Street Parking and Loading Requirements	IPC

Land Use Zone	Permit	Project Feature(s)	UCDC or Other Provision	Entity that Identified UCDC Provision
Grazing Farm Zone	Conditional Use Permit	All Project Features	UCDC 152.085(R) Conditional Uses Permitted	Umatilla County
			OAR 660-006-0025(4)(q) Uses Authorized in Forest Zones	IPC
			OAR 660-006-0025(5) Standards for Authorized Uses	IPC
	Conditional Use Permit and Land Use Decision	Helipads ²	UCDC 152.085(G) Conditional Uses Permitted	IPC
			UCDC 152.617(I)(N) EFU and Grazing Zone Conditional Uses	IPC
			UCDC 152.086 Limitations on Conditional Uses	IPC
			UCDC 152.616(B) Standards for Review of Conditional Uses and Land Use Decisions	IPC
	Conditional Use Permit	Access Roads ³	UCDC 152.085(U) Conditional Uses Permitted	IPC
			UCDC 152.086 Limitations on Conditional Uses	IPC
			UCDC 152.545 Zoning Permit Required to Erect, Move, or Alter Signs	IPC
			UCDC 152.546(C) Types of Signs	IPC
			UCDC 152.547 Limitations on Signs	IPC
UCDC 152.616(CCC) Standards for Review of Conditional Uses and Land Use Decisions			IPC	

Land Use Zone	Permit	Project Feature(s)	UCDC or Other Provision	Entity that Identified UCDC Provision	
Light Industrial Zone	Conditional Use Permit	All Project Features	UCDC 152.303(A)(19) Conditional Uses Permitted	IPC	
			UCDC 152.303(B) General Criteria	IPC	
			UCDC 152.304 Limitations on Use	IPC	
			UCDC 152.306 Dimensional Standards	IPC	
			UCDC 152.306(C) Setback Requirements	IPC	
			UCDC 152.306(D) Stream Setback	IPC	
	Conditional Use Permit	Batch Plant ⁴	UCDC 152.303(A)(8) Conditional Uses Permitted	IPC	
			UCDC 152.616(U) Standard for Review of Conditional Uses and Land Use Decisions	IPC	
	Rural Tourist Commercial Zone	Conditional Use Permit	All Project Features	UCDC 152.283(D) Conditional Uses Permitted	IPC
				UCDC 152.284 Limitations on Use	IPC
UCDC 152.286 Dimensional Standards				IPC	
UCDC 152.286(C) Setback Requirements				IPC	
UCDC 152.286(D) Stream Setback				IPC	
General UCDC Provisions	n/a	All Project Features	UCDC 152.010 Access to Buildings	Umatilla County	
			UCDC 152.016 Riparian Vegetation	Umatilla County	
			UCDC 152.017 Conditions for Development Proposals	Umatilla County	
			UCDC 152.615 Additional Conditional Use Permit Restrictions	Umatilla County	
			UCDC 152.439 Historical,	Umatilla County	

Land Use Zone	Permit	Project Feature(s)	UCDC or Other Provision	Entity that Identified UCDC Provision
			Archeological or Cultural Site/Structure Overlay; Criteria for Review	
			UCDC 152.456 Critical Winter Range Overlay; Applicability	Umatilla County
			Goal 5 Technical Report D-63	Umatilla County

¹ As discussed below, the Umatilla County Planning Department indicated to IPC that the zoning permit provisions of UCDC 152.059(C) applicable to utility facilities in the EFU Zone may not cover the helipads associated with the multi-use areas. Umatilla County indicated that, instead, the provisions of UCDC 152.060(G) relating to personal-use airports might apply. However, under ORS 215.283(1)(c)(A) and UCDC 152.059(C), utility facilities and their related and supporting facilities—such as the helipads—are permitted outright in the EFU Zone. Regardless, and in the alternative, IPC discusses the provisions of UCDC 152.060(G), showing the helipads would be permitted in the EFU Zone as conditional uses under UCDC 152.060(G).

² As discussed below, OAR 660-006-0025(4)(q) should be interpreted as authorizing new electric transmission lines as well as all related and supporting facilities in the Grazing Farm Zone. Nonetheless, and in the alternative, IPC shows below that the Project features in the Grazing Farm Zone beyond the transmission line are permitted as conditional uses under UCDC 152.085(G) (helipads) and UCDC 152.085(U) (access roads).

³ *Id.*

⁴ Umatilla County commented to ODOE, as discussed below, that in order to operate a batch plant at the multi-use area in the Light Industrial Zone, IPC would need a separate conditional use permit from the one related to the multi-use area itself. IPC disagrees—the batch plant is related to and supports the Project transmission line, and therefore, the batch plant is considered a utility facility under UCDC 152.303(A)(16) just like the multi-use area. Regardless, and in the alternative, ICP shows that batch plant should be authorized as a conditional use as a concrete manufacturing plant under UCDC 152.303(A).

1 5.5.2.1 EFU Zone UCDC Provisions

2 The transmission line (31 line miles), new access roads (29.6 miles), substantially modified
3 existing access roads (28.9 miles), six multi-use areas (MUA UM-02 through MUA UM-07), and
4 two communication station (CS UM-01 and CS UM-02) will be located in an EFU Zone⁴¹ in
5 Umatilla County. No light-duty fly yards will be located in the EFU Zone.

6 **Utility Facility Land Use Decision and Zoning Permit (All Project Features)**

7 **Utility Facilities Defined**

8 Under ORS 215.283(1)(c), “utility facilities necessary for public service” are permitted outright in
9 EFU lands. Here, the Project includes a transmission line of up to 200 feet in height and the
10 following related and supporting facilities: access roads, multi-use areas, light duty fly yards,
11 pulling and tensioning sites, communication stations, and communication station distribution
12 lines (see Exhibit B, Section 3.2 and Section 3.3). By its plain text, ORS 215.283(1)(c) defines
13 “utility facilities necessary for public service” as including transmission lines up to 200 feet in

⁴¹ This includes lands zoned by Umatilla County as EFU, EFU/Critical Winter Range, or EFU-20 acres.

1 height. Additionally, the Oregon courts have interpreted the term “utility facilities necessary for
 2 public service” as also including ancillary facilities.⁴² Because the Project’s related and
 3 supporting facilities supplement the transmission line, those facilities are considered ancillary
 4 facilities included in the definition of “utility facilities necessary for public service.”⁴³ Therefore,
 5 the Project transmission line and its related and supporting facilities are permitted outright in
 6 EFU lands under ORS 215.283(1)(c)(A).

7 **UCDC Provisions Identified by Umatilla County**

8 In its September 15, 2010 letter, the Umatilla County Planning Department identified
 9 UCDC 152.029(c), 159.059, and no other UCDC provisions as being potentially applicable to
 10 the Project in the EFU Zone. In this section, we discuss UCDC 152.029(c) and 152.617(II)(7),
 11 which is referenced in UCDC 152.029(c).

12 **Land Use Decision and Zoning Permit**

13 UCDC 152.059: In an EFU zone the following uses may be permitted through a land use
 14 decision via administrative review (§ 152.769) and subject to the applicable criteria found in
 15 152.617. Once approval is obtained a zoning permit (§ 152.025) is necessary to finalize the
 16 decision§ (C) Utility facilities necessary for public service, including wetland waste
 17 treatment systems but not including commercial facilities for the purpose of generating
 18 electrical power for public use by sale or transmission or communication towers over 200 feet
 19 in height. A utility facility necessary for public service may be established as provided in ORS
 20 215.275 and in § 152.617(II)(7).

21 UCDC 152.059(C) provides that a utility facility necessary for public service may be permitted
 22 through a land use decision, and, once approval is obtained, a zoning permit is necessary to
 23 finalize the decision. Under Oregon law, utility facilities necessary for public service are
 24 permitted outright in an EFU zone and a county may not enact or apply criteria of its own that
 25 supplement those found in ORS 215.283(1).⁴⁴ Here, because the Project is authorized on EFU
 26 lands as a utility facility necessary for public service under ORS 215.283(1)(c)(A) (see above),
 27 the county must also authorize the Project outright on EFU lands despite any UCDC provisions
 28 that may be more strict than ORS 215.283(1)(c)(A).

29 ORS 215.283(1)(c)(A) requires IPC demonstrate the need to site the Project on EFU lands only
 30 at a macro, project-wide level across all five relevant counties. Though beyond what is required
 31 by the statute, Section 5.5.5 makes a similar showing at the micro or county level, by discussing
 32 the necessity of siting the Project in EFU specifically in Umatilla County.

33 **Standards for Review of Conditional Uses and Land Use Decisions on EFU** 34 **Zoned Land**

35 UCDC 152.617: The following standards shall apply for review by the Planning Director or
 36 designated planning authority of the specific conditional uses and land use decisions listed
 37 below: . . . (II) EFU LAND USE DECISIONS . . . (7) Utility Facility Necessary for Public
 38 Service. (a) Demonstrate that reasonable alternatives have been considered and that the
 39 facility must be sited in an exclusive farm use zone due to one or more of the following
 40 factors: (1) Information provided in the technical and engineering feasibility; (2) The proposed

⁴² See *Save Our Rural Or. v. Energy Facility Siting Council*, 339 Or. 353, 384 (2005) (upholding EFSC’s determination that ancillary facilities are considered “utility facilities necessary for public service”); *Cox v. Polk County*, 174 Or. Ct. App. 332, 343-44 (2001) (“utility facilities necessary for public service” may include ancillary or off-site equipment).

⁴³ See *Black’s Law Dictionary* (10th ed. 2014) (defining “ancillary” as meaning “supplementary; subordinate”).

⁴⁴ See *Brentmar v. Jackson County*, 321 Or. 481 (1995).

1 facility is locationally dependent. (It must cross land in one or more areas zoned for exclusive
 2 farm use in order to achieve a reasonably direct route or to meet unique geographical needs
 3 that cannot be satisfied on other lands.) (A) Show a lack of available urban and non-resource
 4 lands; (B) Due to availability of existing rights of way. (C) Due to public health and safety
 5 concerns; and (D) Show it must meet other requirements of state and federal agencies. (b)
 6 Costs associated with any of the factors listed above may be considered, but cost alone,
 7 including the cost of land, may not be the only consideration in determining that a utility
 8 facility is necessary for public service. (c) The owner of a utility facility approved under this
 9 section shall be responsible for restoring, as nearly as possible, to its former condition any
 10 agricultural land and associated improvements that are damaged or otherwise disturbed by
 11 the siting, maintenance, repair or reconstruction of the facility. (d) Mitigate and minimize the
 12 impacts of the proposed facility, if any, on surrounding lands devoted to farm use in order to
 13 prevent a significant change in accepted farm practices or a significant increase in the cost of
 14 farm practices on surrounding farmlands. (e) Any proposed extension of a sewer system as
 15 defined by OAR 660-011-0060(1)(f) in an exclusive farm use zone shall be subject to the
 16 provisions of OAR 660-011-0060. (f) The provisions of this section do not apply to interstate
 17 natural gas pipelines and associated facilities authorized by and subject to regulation by the
 18 Federal Energy Regulatory Commission.

19 Again, the Project is permitted outright on EFU lands according to ORS 215.283(1)(c)(A) and
 20 ORS 215.275 (see Section 4), and the county may not impose any conditions on those portions
 21 of the Project in EFU Zone lands that are more strict than ORS 215.283(1)(c)(A). Even so, the
 22 provisions of UCDC 152.617(II)(7)(a) through (d) mirror ORS 215.275, and IPC demonstrates in
 23 Section 5.5.5 that the Project must be located on EFU lands in Umatilla County, meeting the
 24 requirements of UCDC 152.617(II)(7)(a) through (d).

25 UCDC 152.617(II)(7)(e) applies to sewer system extensions. Because the Project does not
 26 involve sewers, UCDC 152.617(II)(7)(e) does not apply to the Project.

27 UCDC 152.617(II)(7)(f) states that UCDC 152.617(II)(7) does not apply to certain gas pipelines.
 28 Because the Project does not involve a gas pipeline, UCDC 152.617(II)(7)(f) does not apply to
 29 the Project.

30 **UCDC Provisions Identified by IPC**

31 Each of the UCDC provisions discussed below as being potentially applicable to the Project
 32 features in the EFU Zone were identified by IPC and not Morrow County.

33 **Parcel Sizes**

34 UCDC 152.062: In an EFU zone, the following standards shall apply for the creation of new
 35 parcels:

36 UCDC 152.062 addresses the size of parcels and is applicable only to the extent that a partition
 37 of a parcel zoned EFU is required. IPC intends to secure easements for the majority of Project
 38 features and does not expect to require partition of any parcel zoned EFU. Because the Project
 39 likely will not involve lot splits, UCDC 152.062 likely will not be applicable to the Project. In the
 40 event that a partition becomes necessary, IPC will obtain approval of the partition directly from
 41 Umatilla County prior to construction. In no event, however, may the Council or the county rely
 42 on UCDC 152.062 to refuse to site the Project on EFU lands (see *Brentmar v. Jackson County*,
 43 321 Or. 481 (1995)).

Development Standards; Minimum Parcel Frontage

UCDC 152.063: In the EFU zone, the following dimensional and development standards shall apply: (A) *Minimum parcel frontage*. A parcel shall have a minimum street or road frontage of 30 feet.

UCDC 152.063(A) addresses the size of parcels and is applicable only to the extent that a partition of a parcel zoned EFU is required. IPC intends to secure easements for the majority of Project features and does not expect to require partition of any parcel zoned EFU. Because the Project likely will not involve lot splits, UCDC 152.063(A) likely will not be applicable to the Project. In the event that a partition becomes necessary, IPC will obtain approval of the partition directly from Umatilla County prior to construction. In no event, however, may the Council or the county rely on UCDC 152.062 to refuse to site the Project on EFU lands (see *Brentmar v. Jackson County*, 321 Or. 481 (1995)).

Front Yard Setbacks

UCDC 152.063(B): All buildings shall be set back from front property lines and side or rear property lines adjoining county roads, public roads, state highways, or public or private access easements as follows: (1) At least 30 feet from the property line or easement boundary; or (2) At least 60 feet from the center line of the road, highway, or easement, whichever is greater.

UCDC 152.063(B) provides that buildings must meet certain lot line and road setback requirements. UCDC 152.003 defines the term “building” as “[a] structure built for the support, shelter or enclosure of person, animals, chattels, or property of any kind. For the purposes of this chapter, a canopy is not a building.”

- **Access roads:** The Project access roads will not be built to support, shelter, or enclose anything. Therefore, the yard setback requirements of UCDC 152.063(B) do not apply to the relevant access roads.
- **Transmission Line Towers:** The Project transmission towers will not be built to support, shelter, or enclose anything. Therefore, the yard setback requirements of UCDC 152.063(B) do not apply to the relevant transmission towers.
- **Multi-Use Areas:** By letter dated May 12, 2016, the Umatilla County Planning Department stated the UCDC setback requirements do not apply to temporary facilities such as the Project multi-use areas, and therefore, the yard setback requirements of UCDC 152.063(B) do not apply to the relevant multi-use areas.
- **Communication Stations:** The communication stations will contain permanent buildings, and therefore, the yard setback requirements of UCDC 152.063(B) will apply to the relevant communication station.

While IPC is not required to do so under the Court’s ruling in *Brentmar v. Jackson County*, IPC will site the Project buildings at the communication stations in the EFU zone in Umatilla County to comply with yard setback requirements of UCDC 152.063(B). To ensure compliance with such requirements, IPC proposes the following site certificate condition:

Land Use Condition 14: *During construction in Umatilla County, the site certificate holder shall construct the facility to comply with the following setback distances and other requirements:*

...

In the EFU Zone:

b. Buildings shall be setback as follows: (i) at least 30 feet from the property line or private road easement boundary; or (ii) at least 60 feet from the center line of the road, highway, or private road easement, whichever is greater.

.....

Side and Rear Yard Setbacks

UCDC 152.063(C): Except as provided in division (B) above, the following standards shall apply for side and rear yard setbacks: (1) The minimum yard setback for farm or non farm dwellings shall be 20 feet. (2) The minimum yard setback for accessory buildings or structures, for both farm and non farm uses, shall be five feet, except as otherwise provided in applicable conditions of approval, or as constrained by division (D) below. (3) Special minimum yard setbacks may be established for an approved conditional use to protect the public health, safety and welfare and to mitigate possible adverse impacts to adjacent land uses.

UCDC 152.063(C) provides certain yard setback requirements. UCDC 152.003 defines the term “setback” as “[t]he open yard space on a lot between any building and a lot line or a line defining an access easement or road right-of-way.” Applying this definition, the side and rear yard setback requirements of UCDC 152.063(C) apply only to buildings.

- Access roads: The Project access roads will not be built to support, shelter, or enclose anything. Therefore, the yard setback requirements of UCDC 152.063(C) do not apply to the relevant access roads.
- Transmission Line Towers: The Project transmission towers will not be built to support, shelter, or enclose anything. Therefore, the yard setback requirements of UCDC 152.063(C) do not apply to the relevant transmission towers.
- Multi-Use Areas: By letter dated May 12, 2016, the Umatilla County Planning Department stated the UCDC setback requirements do not apply to temporary facilities such as the Project multi-use areas, and therefore, the yard setback requirements of UCDC 152.063(C) do not apply to the relevant multi-use areas.
- Communication Stations: The communication stations will contain permanent buildings, and therefore, the yard setback requirements of UCDC 152.063(C) will apply to the relevant communication station.

IPC is not required to comply with yard setback requirements of UCDC 152.063(B) under the Court’s ruling in *Brentmar v. Jackson County*. Even so, because the Project will comply with the setbacks in subsection (B) of UCDC 152.063, the setbacks will exceed those in subsection (C). Therefore, the setbacks in UCDC 152.063(C) are duplicative and already covered by the condition proposed in the preceding section.

Stream Setback

UCDC 152.063(E): To permit better light, air, vision, stream pollution control, to protect fish and wildlife areas, and to preserve the natural scenic amenities and vistas along the streams, lakes, and wetlands, and to prevent construction in flood prone areas along streams not mapped as part of the National Flood Insurance Program, the following setbacks shall apply: (1) All sewage disposal installations such as septic tanks and drainfields shall be set back from the mean water line or mark along all streams, lakes or wetlands a minimum of 100 feet, measured at right angles to the high water line or mark. In those cases where practical difficulties preclude the location of the facilities at a distance of 100 feet, and the DEQ

1 sanitarian finds that a chosen location will not endanger health, the Planning Director may
 2 permit the location of these facilities closer to the stream, lake, or wetland, but in no case
 3 closer than 50 feet. (2) All structures, buildings or similar permanent fixtures shall be set back
 4 from the high water line along all streams, lakes or wetlands a minimum of 100 feet
 5 measured at right angles to the high water line or mark, except that this setback can be
 6 reduced to 20 feet if all of the following criteria are met: (a) The parcel contains one acre or
 7 less; and (b) It can be shown with photographs and maps that due to topography the
 8 proposed building will be located outside of a flood-prone area; and (c) Location of the
 9 proposed building in compliance with the 100 foot setback would be inconvenient and
 10 inefficient with respect to the location of existing buildings on the property or due to
 11 topographic constraints.

12 UCDC 152.063(E) provide certain setback requirements related to streams. The Project will not
 13 include any form of sewage disposal installations, and therefore, the provisions of
 14 UCDC 152.063(E)(1) related to such installations are not applicable to the Project.

15 The remaining provisions of UCDC 152.063(E)(2) apply to structures, buildings, and similar
 16 permanent fixtures.

- 17 • Access roads: The Project access roads will not be built to support, shelter, or enclose
 18 anything; and therefore, they are not considered “buildings” (see UCDC 152.003).
 19 Moreover, the Umatilla Planning Department in a May 18, 2016 email to IPC provided
 20 that the Project access roads—both new roads and substantially modified existing
 21 roads—are not considered “structures” under the UCDC. Accordingly—because the
 22 access roads are neither buildings nor structures—the stream setback requirements of
 23 UCDC 152.063(E) do not apply to the access roads.
- 24 • Multi-Use Areas: By letter dated May 12, 2016, the Umatilla County Planning
 25 Department stated the UCDC setback requirements do not apply to temporary facilities
 26 such as the Project multi-use areas, and therefore, the stream setback requirements of
 27 UCDC 152.063(E) do not apply to the relevant multi-use areas.
- 28 • Transmission Line Towers: The Project transmission towers are considered structures,
 29 and therefore, the stream setback requirements of UCDC 152.063(E) will apply to the
 30 relevant transmission towers.
- 31 • Communication Stations: The communication stations will contain permanent buildings,
 32 and therefore, the stream setback requirements of UCDC 152.063(E) will apply to the
 33 relevant communication station.

34 While IPC is not required to do so under the Court’s ruling in *Brentmar v. Jackson County*, IPC
 35 will site the fixed bases of the transmission line towers (i.e., the foundations) and the buildings
 36 at the communication stations in the EFU zone in Umatilla County to comply with stream
 37 setback requirements of UCDC 152.063(E)(2). To ensure compliance with such requirements,
 38 Idaho Power proposes the following site certificate condition:

39 ***Land Use Condition 14: During construction in Umatilla County, the site***
 40 ***certificate holder shall construct the facility to comply with the following setback***
 41 ***distances and other requirements:***

42 . . .

43 *In the EFU Zone:*

44 . . .

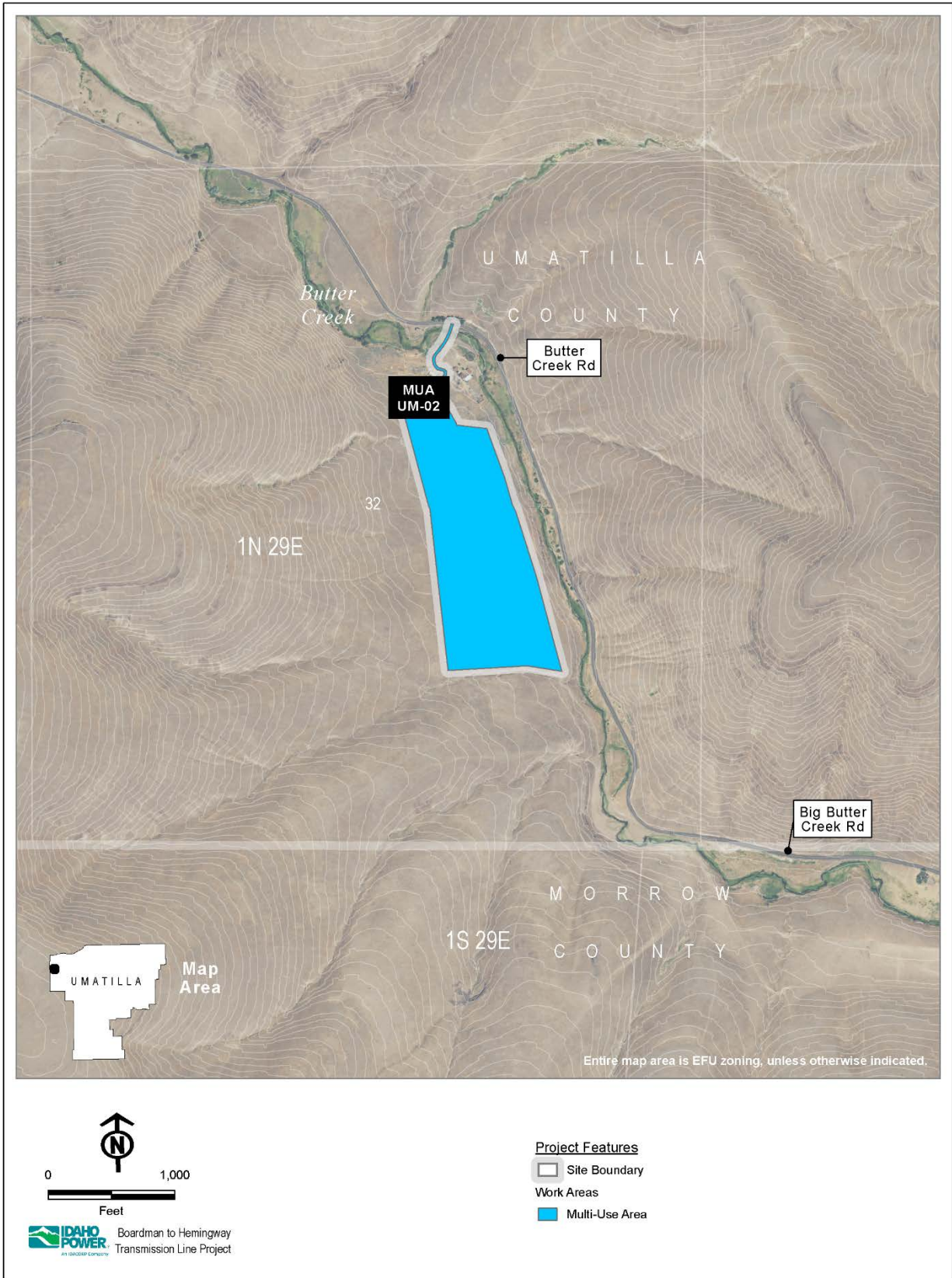
45 *c. Buildings and the fixed bases of the transmission line towers shall be set back*
 46 *at least 100 feet from the high-water mark of all streams, lakes, and wetlands.*

47

1 **Conditional Use Permit (Helipads)**

2 In its September 15, 2010, letter, the Umatilla County Planning Department identified
3 UCDC 152.059(C) and no other UCDC provisions as being potentially applicable to the Project
4 in EFU lands. In subsequent conversations, the Planning Department indicated to IPC that the
5 zoning permit provisions of UCDC 152.059(C) applicable to utility facilities in the EFU Zone may
6 not cover the helipads associated with the multi-use areas. Umatilla County indicated that,
7 instead, the provisions of UCDC 152.060(G) relating to personal-use airports might apply.
8 However, under ORS 215.283(1)(c)(A) and UCDC 152.059(C), utility facilities are permitted
9 outright in the EFU Zone. And, here, the helipads relate to and support the utility transmission
10 line Project, and therefore, the helipads should be considered utility facilities or parts thereof for
11 purposes of UCDC 152.059(C) and should be permitted outright in the EFU Zone. Regardless,
12 and in the alternative, the helipads would be permitted in the EFU Zone as conditional uses
13 under UCDC 152.060(G).

14 Figures K-29a through K-29f show the multi-use area locations where the helipads may occur in
15 the EFU Zone.



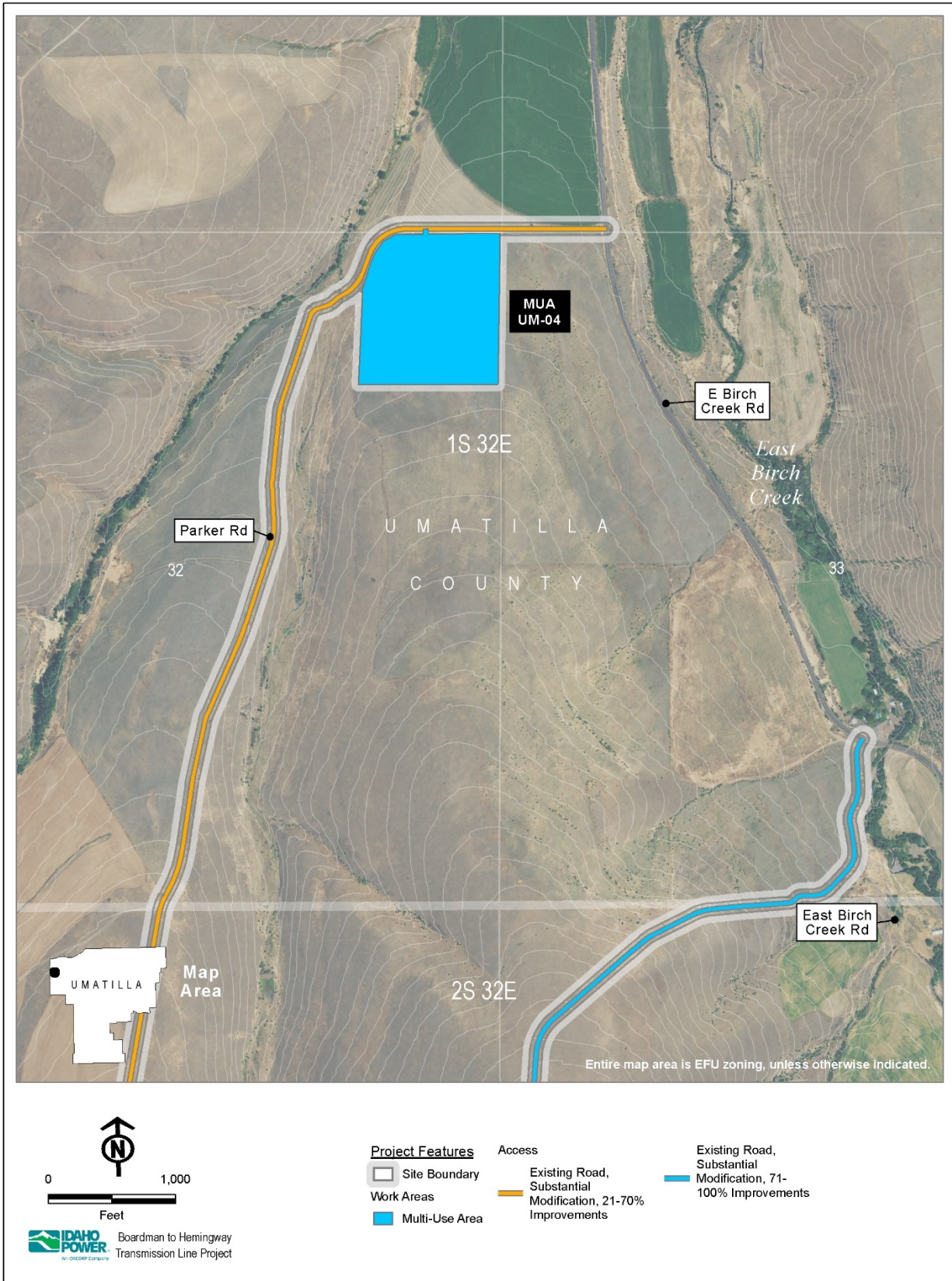
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Figure K-29a. Multi-Use Areas in EFU Zone – Umatilla County (MUA UM-02)

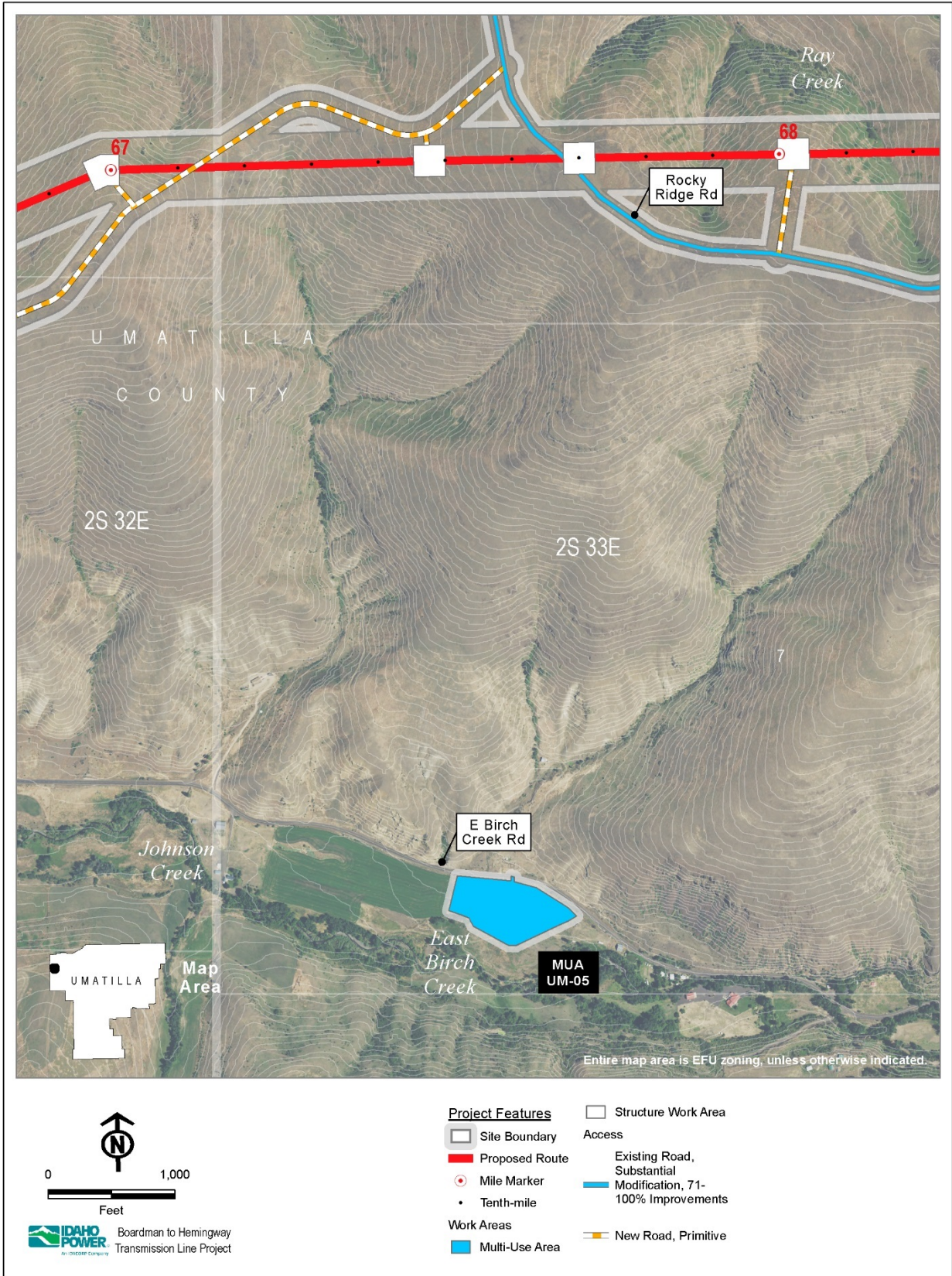


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Figure K-29b. Multi-Use Areas in EFU Zone – Umatilla County (MUA UM-03)

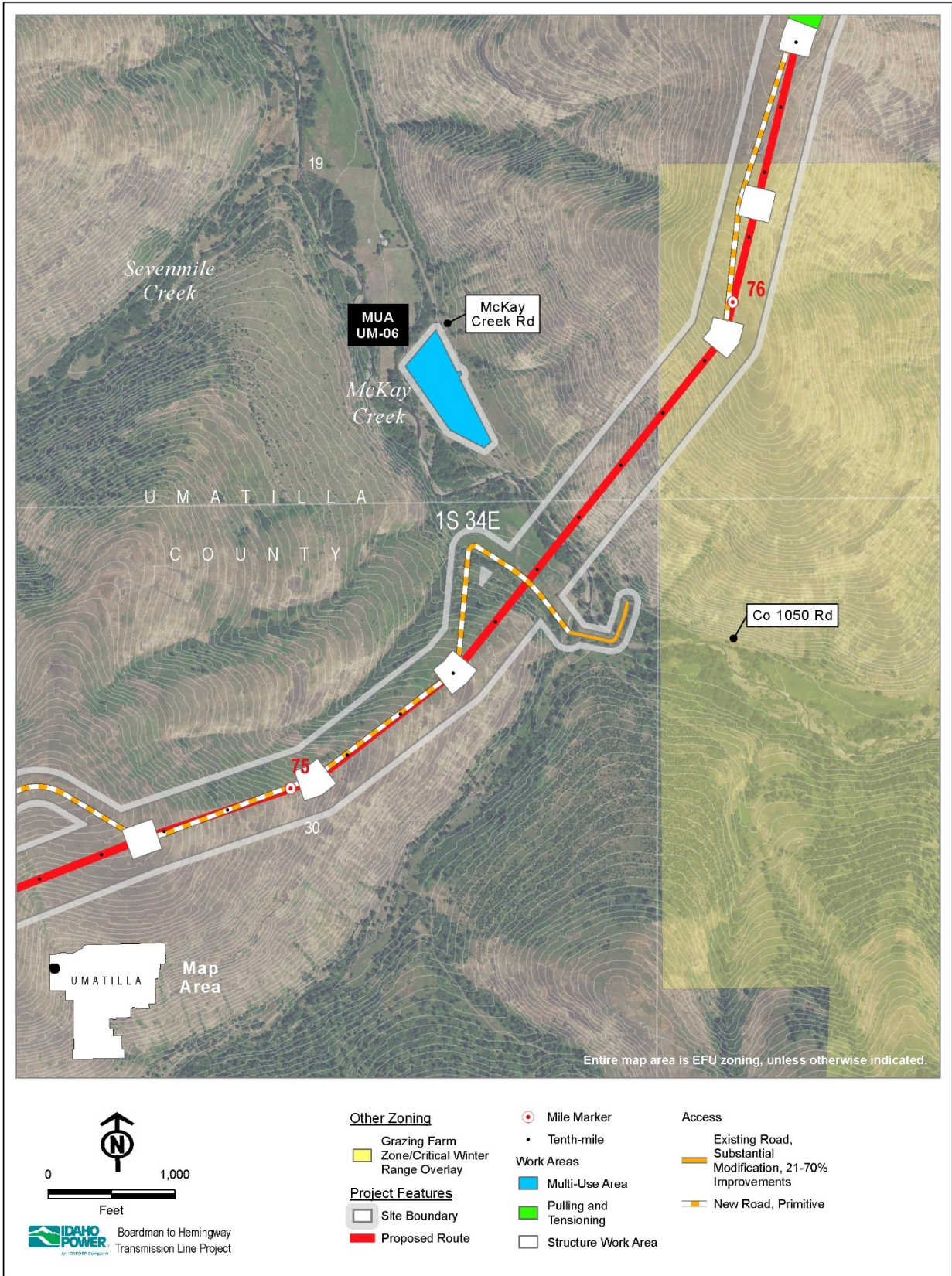


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2 **Figure K-29c. Multi-Use Areas in EFU Zone – Umatilla County (MUA UM-04)**



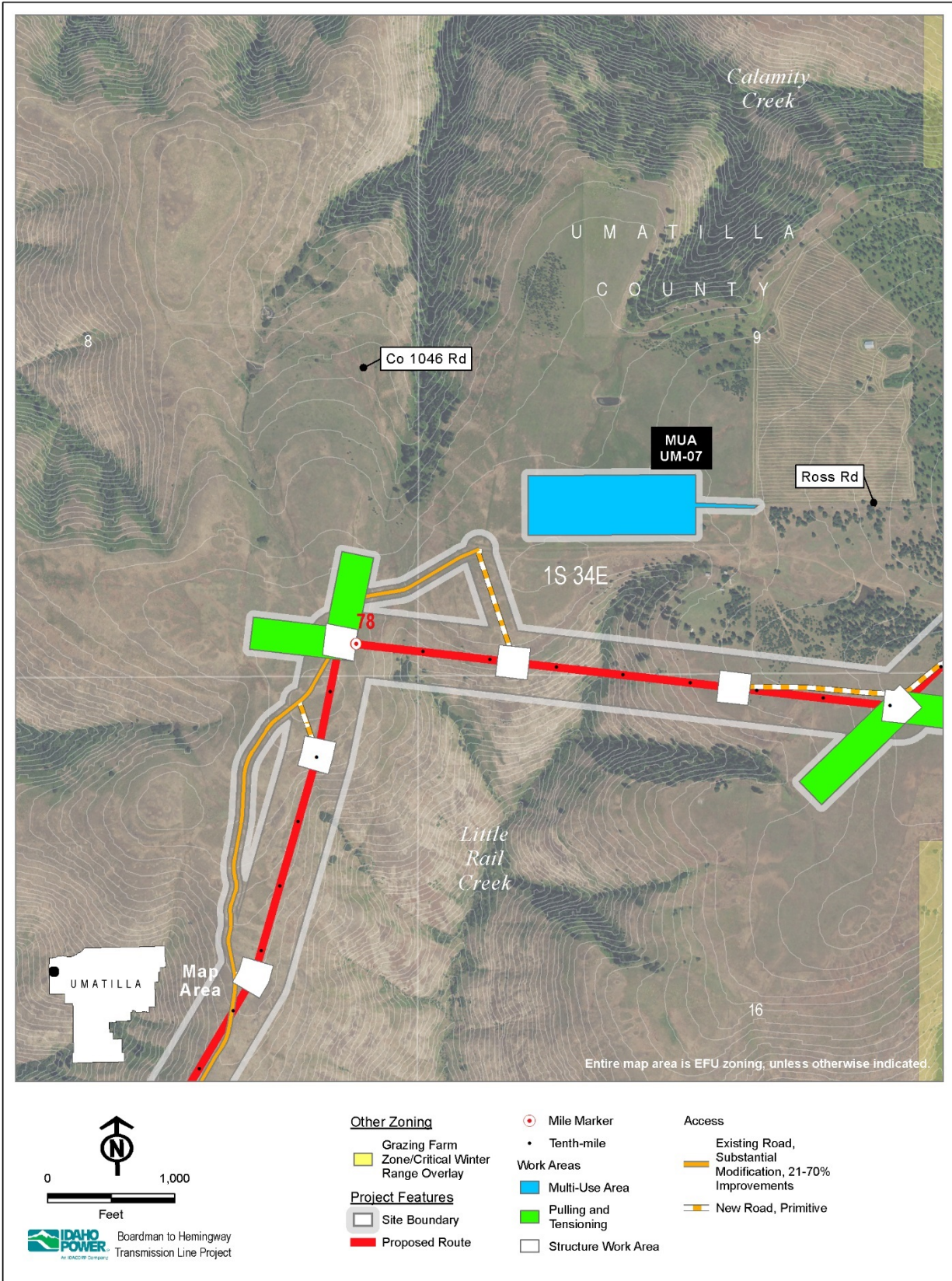
1
2

Figure K-29d. Multi-Use Areas in EFU Zone – Umatilla County (MUA UM-05)



1
2

Figure K-29e. Multi-Use Areas in EFU Zone – Umatilla County (MUA UM-06)



1
2

Figure K-29f. Multi-Use Areas in EFU Zone – Umatilla County (MUA UM-07)

UCDC Provisions Identified by Umatilla County

Umatilla County identified UCDC 152.060(G) and no other UCDC provisions as being potentially applicable to the helipads in EFU lands.

Conditional Uses Permitted

UCDC 152.060: In an EFU zone the following uses may be permitted conditionally via administrative review (§ 152.769), subject to the requirements of this section, the applicable criteria in § 152.061, §§ 152.610 through 152.615, 152.617 and §§ 152.545 through 152.562. A zoning permit is required following the approval of a conditional use pursuant to § 152.025. . . . (G) Personal use airports for airplanes and helicopter pads, including associated hangar, maintenance and service facilities.

Six multi-use areas (MUA UM-02 through MUA UM-07) will be located in lands zoned as EFU. Helicopter operations may be staged out of the multi-use areas in Umatilla County. Project construction activities potentially facilitated by helicopters may include delivery of construction laborers, equipment, and materials to structure sites; structure placement; hardware installation; and wire stringing operations. Helicopters may also be used to support the administration and management of the Project by IPC, the Construction Contractor, or both.

IPC will own or control each helicopter that uses the helipads. Thus, the Project helipads are considered “personal-use airports” under UCDC 152.060(G) (see UCDC 152.617(N)(defining personal use airport)) and may be authorized as conditional uses in the EFU Zone.

UCDC Provisions Identified by IPC

Each of the UCDC provisions discussed below as being potentially applicable to the helipads in the EFU Zone were identified by IPC and not Umatilla County.

Standards for All Conditional Uses

UCDC 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.

UCDC 152.061 provides that conditional uses must not force significant changes to farm or forest practices or significantly increase costs to the same. Here, helicopter operations at the multi-use areas have the potential to affect adjacent agricultural and forestry operations through:

- Blow down of tall crops, such as corn, from rotor wash;
- Spread of weed seeds and/or insect pests to other fields. This potential impact is of particular importance if helicopters are to be used in close proximity to organic farming operations;
- Noise impacts from helicopters on livestock; and
- Temporary reduction in the area of pasture/range available to livestock during line construction.

(see Attachment K-1, Agricultural Lands Assessment, and Attachment K-2, Right-of-Way Clearing Assessment, for further discussion of impacts to agricultural and forestry practices). The helipads will only be used during construction activities and will not be permanent airports, and therefore, any such impacts will be temporary and not significant. Even so, to ensure

1 impacts to surrounding agricultural lands are avoided or minimized, IPC proposes the following
2 site certificate conditions:

3 **Public Services Condition 2:** *Prior to construction, the site certificate holder*
4 *shall submit to the department for its approval a Helicopter Use Plan, which*
5 *identifies or provides:*

6 *a. The type of helicopters to be used;*

7 *b. The duration of helicopter use;*

8 *c. Roads or residences over which external loads will be carried;*

9 *d. Multi-use areas and light-duty fly yards containing helipads shall be located: (i)*
10 *in areas free from tall agricultural crops and livestock; (ii) at least 500 feet from*
11 *organic agricultural operations; and (iii) at least 500 feet from existing dwellings*
12 *on adjacent properties; and*

13 *e. Flights shall occur only between sunrise and sunset.*

14 **Public Services Condition 6:** *During construction, the site certificate holder*
15 *shall conduct all work in compliance with the Helicopter Use Plan referenced in*
16 *Public Services Condition 2.*

17 **Standards for Review: Conditional Uses and Land Use Decisions on EFU and**
18 **GF Zoned Lands**

19 UCDC 152.617: Standards for Review of Conditional Uses in EFU lands: (N) *Personal Use*
20 *Airport or Airstrip.* PERSONAL USE AIRPORT, as used in this division, means an airstrip
21 restricted, except for aircraft emergencies to use by the owner, and on an infrequent and
22 occasional basis by his invited guests, and by commercial aviation activities in connection
23 with agricultural operation. (1) No aircraft shall be based on a personal use airport other than
24 those owned or controlled by the owner of the airstrip;

25 UCDC 152.617(1) provides no aircraft may be used at a personal use airport other than those
26 owned or controlled by the airstrip owner. In this instance, IPC will own or control each
27 helicopter that uses the helipads, and therefore, the Project helipads will be in compliance with
28 UCDC 152.617(N)(1).

29 UCDC 152.617(2): A site plan is submitted with the application showing topography of the
30 surrounding area;

31 UCDC 152.617(2) requires a site plan for the helipads. Site plans for typical multi-use area
32 setups, including the helipads, are provided in Exhibit C Section 3.3.2. Maps showing the
33 location and topography of each multi-use area in the EFU Zone in Umatilla County are set forth
34 at Exhibit C, Attachment C-2, Maps 25, 28, 32, Mp 37, 39, and 41.

35 UCDC 152.617(3): The location of the facility will not be hazardous to the safety and general
36 welfare of surrounding properties;

37 UCDC 152.617(3) provides personal use airports must not be hazardous to the surrounding
38 properties. In siting the helipads, IPC chose areas where there are few, if any, overhead
39 obstructions or nearby noise sensitive uses. Specifically, no multi-use area helipad will be
40 located within 500 feet from an existing dwelling. Moreover, IPC designed the helipads and
41 helipad setbacks to provide safe clearance for helicopter operations. As a result of those efforts,
42 the location and design of the helipads will not be hazardous to the safety or general welfare of
43 the surrounding properties (see UCDC 152.617(3)).

1 UCDC 152.617(4): The facility is designed not to materially alter the stability of the overall
2 land use pattern of the area;

3 UCDC 152.617(3) requires that personal use airports not materially alter the stability of the
4 overall land use pattern in the area. Here, the multi-use area helipads will be used temporarily
5 during construction activities and will not be permanent airports. Because the helipads will only
6 have temporary impacts, if any, on the surrounding lands, they will not materially alter the
7 stability of the overall land use pattern of the area (see UCDC 152.617(3)).

8 UCDC 152.617(5): Land or construction clearing shall be kept to a minimum to minimize soil
9 disturbance and help maintain water quality.

10 As required by UCDC 152.617(5), IPC will keep land and construction clearing at the helipads to
11 a minimum.

12 UCDC 152.617(6): Facility be located 500 feet or more from existing dwellings on adjacent
13 properties;

14 UCDC 152.617(6) provides that personal use airports not be located within 500 feet of a
15 dwelling. Here, no Project helipad will be located 500 feet from an existing dwelling. To ensure
16 compliance with UCDC 152.617(6), IPC proposes the following site certificate condition:

17 **Public Services Condition 2:** *Prior to construction, the site certificate holder*
18 *shall submit to the department for its approval a Helicopter Use Plan, which*
19 *identifies or provides:*

- 20 . . .
- 21 d. *Multi-use areas and light-duty fly yards containing helipads shall be located: . .*
- 22 *. (iii) at least 500 feet from existing dwellings on adjacent properties*

23 UCDC 152.617(7): The location will not necessarily restrict existing and future development
24 of surrounding properties as indicated in the Comprehensive Plan;

25 UCDC 152.617(7) provides personal use airports must not necessarily restrict existing or future
26 development. The Project helipads will be used only temporarily during construction activities
27 and will not be permanent airports. Because the helipads will only have temporary impacts, if
28 any, on the surrounding lands, they will not necessarily restrict existing or future development in
29 the area (see UCDC 152.617(7)).

30 UCDC 152.617(8): Complies with other conditions deemed necessary.

31 UCDC 152.617(8) provides the county may impose necessary conditions on a personal use
32 airport. Here, the Council will impose conditions on the Project to ensure the Project meets the
33 Council’s standards, if necessary. Further, IPC shows in this exhibit that the Project will comply
34 with the provisions of the UCDC, Umatilla County Comprehensive Plan (UCCP), and statewide
35 planning goals. For these reasons, no further conditions are necessary under
36 UCDC 152.617(8).

37 UCDC 152.617(9): The personal use landing strip lawfully existing as of September 13,
38 1975, shall continue to be permitted subject to any applicable rules of the Department of
39 Aviation.

40 UCDC 152.617(9) applies to personal use airports existing as of September 13, 1975. Because
41 the Project involves new helipads, UCDC 152.617(9) does not apply to the Project.

UCDC 152.617(10): Exceptions to the activities permitted under this definition may be granted through waiver action by the Aeronautics Division in specific instances.

UCDC 152.617(10) provides for exceptions to the personal use airport definition. Because the Project will involve activities consistent with UCDC 152.060 and 152.617, UCDC 152.617(10) does not apply to the Project.

Zoning Permit Required to Erect, Move, or Alter Signs; Exemptions; Permitted Signs

UCDC 152.545: (A) No sign shall hereafter be erected, moved, or structurally altered without a zoning permit, except for a Type 1 and Type 3 sign, and without being in conformity with the provisions of this chapter. Official signs of the state, county or municipalities are exempt from all provisions of this chapter. All signs shall be on the same lot as the subject matter of the sign, except as specifically allowed otherwise. (B) Allowed signs in the various zones are indicated by the following tables (for types of signs, see § 152.546):

<i>Zone</i>	<i>Types Allowed</i>
EFU-10, EFU-20, EFU-40, EFU, GF	1, 2, 3, 4, 5, 6
UC	1, 2, 3, 4, 5, 8, 9
RR-2, RR-4, RR-10	1, 2, 3, 4, 5, 6
MUF, FR, MR	1, 2, 3, 4, 5, 6
RSC, RRSC, CRC	1, 2, 3, 4, 5, 7, 8, 9, 10, 11
TC, RTC	1, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12
AB	1, 3, 4, 5, 7, 8, 9, 11
LI	1, 3, 4, 5, 7, 8, 9, 10, 11, 12
RLI, LRLI	1, 3, 4, 5, 7, 8, 9, 10, 11
HI, RHI, LRHI	1, 3, 4, 5, 8, 9, 11
FU-10	1, 2, 3, 4, 5, 6

<i>Zone</i>	<i>Types Permitted</i>
EFU-10, EFU-20, EFU-40, EFU, GF	2, 3, 4, 5, 6
UC	2, 3, 4, 5, 8, 9
RR-2, RR-4, RR-10	2, 3, 4, 5, 6
MUF 10, FR-5	2, 3, 4, 5, 6
MR	1, 2, 3, 4, 5, 6
RSC, RRSC, CRC	2, 3, 4, 5, 7, 8, 9, 10, 11
TC	3, 4, 5, 6, 7, 8, 9, 10, 11, 12
RTC	3, 4, 5, 6, 7, 8, 9, 10, 11, 12

AB	3, 4, 5, 7, 8, 9, 11
LI	3, 4, 5, 7, 8, 9, 10, 11, 12
RLI, LRLI	3, 4, 5, 7, 8, 9, 10, 11
HI, RHI, LRHI	3, 4, 5, 8, 9, 11
FU-10	2, 3, 4, 5, 6

UCDC 152.545 identifies the types of signs that require a permit or that do not need a permit. Here, each of the signs associated with the multi-use areas in Umatilla County where the helipads will be located are considered Type 3 signs under the UCDC (see discussion of sign types below.) Therefore, no permit is required for the multi-use area helipad signs (see UCDC 152.545(A)).

Types of Signs

UCDC 152.546(C): *Type 3.* (1) Signs permitted in all zones and exempt from zoning permit requirements. Type 3 signs include: . . . (d) Temporary signs identifying proposed or existing construction; . . . (f) Signs for the purpose of protection of property, such as no hunting, trespassing, or dumping signs; or signs warning of potential danger due to physical or health hazards; (2) Type 3 signs shall not exceed 32 square feet in area and shall not be placed or extend into a road right-of-way. Type 3 signs shall not require a zoning permit.

The types of signs that may be used at the multi-use areas include: temporary signs identifying construction areas; “no trespassing” or similar signs; and signs warning of potential dangers. Each of the signs that potentially will be used at the multi-use areas are Type 3 signs under UCDC 152.546(C), and therefore, no permit is required for the signage (see UCDC 152.545(A)).

Limitations on Signs

UCDC 152.547: (A) No sign shall be placed as to interfere with visibility or effectiveness of any official traffic sign or signal, or with driver vision at any access point or intersection. (B) No sign shall be illuminated by flashing lights. (C) No sign shall contain, include, or be composed of any conspicuous animated part. (D) Light from signs shall be directed away from and not be reflected upon adjacent premises. (E) Signs shall be maintained in a neat, clean and attractive condition. (F) Signs shall be removed by the property owner within 60 days after the advertising business, product or service is abandoned or no longer in use. (G) In addition to the limitations on signs as provided by divisions (A) through (C) of this section, additional sign restrictions may be required as determined by the Hearings Officer in approving conditional uses, as provided by §§ 152.610 through 152.616 of this chapter or by the Planning Director in approving a Type 5, Type 9, Type 10 or Type 11 sign.

UCDC 152.547 provides limitations on signs. IPC’s signage at the multi-use areas in Umatilla County will comply with the limitations set forth in UCDC 152.547.

Off-Street Parking Requirements

UCDC 152.560:⁴⁵ (A) Each use shall provide the following minimum off-street parking spaces. Each parking space shall be a minimum of nine feet wide and 20 feet in length. (B) Off-street parking requirements. . . . (10) Industrial uses: one space per 200 square feet of public space, plus one space per employee.

⁴⁵ UCDC 152.060 provides conditional uses in the EFU Zone must comply with, among other things, the applicable criteria in UCDC 152.545 through 152.562. However, there are no UCDC sections numbered 152.549 through 152.559.

1 UCDC 152.560(A) provides minimum dimensions for each required parking space. The parking
 2 spaces at the multi-use areas will comply with the minimum dimension requirements of
 3 UCDC 152.560(A).

4 UCDC 152.560(B)(10) addresses the number of parking spaces required. The multi-use areas
 5 will not include any public space, so the off-street parking requirements of
 6 UCDC 152.560(B)(10) regarding the same do not apply to the Project. The multi-use areas will
 7 provide for at least one space per employee, consistent with the remaining provisions of
 8 UCDC 152.560(B)(10).

9 ***Off-Street Loading Requirements***

10 UCDC 152.561: (A) Passengers. A driveway designed for continuous forward flow of
 11 passenger vehicles for the purpose of loading and unloading children shall be located on the
 12 site of any school having a capacity greater than 25 students. (B) Merchandise. Off-street
 13 parking areas used to fulfill the requirements of this chapter shall not be used for loading and
 14 unloading operations except during periods they are not required for parking.

15 UCDC 152.561(A) relates to offloading of children. The Project will not involve offloading of
 16 children, and therefore, UCDC 152.561(A) does not apply to the Project.

17 UCDC 152.561(A) prohibits using required parking spaces for loading or unloading except when
 18 parking is not required. Here, the multi-use areas will not use the off-street parking areas for
 19 loading or unloading, as required by UCDC 152.561(B).

20 ***Additional Off-Street Parking and Loading Requirements***

21 UCDC 152.562(A): Should the owner or occupant of a lot or building change the use to which
 22 the lot or building is put, thereby increasing off-street parking or loading requirements, it shall
 23 be a violation of this chapter to begin such altered use until the required increase in off-street
 24 parking or loading is provided;

25 UCDC 152.562(A) prohibits proceeding with a conditional use until the requisite parking is
 26 provided. IPC will not begin using the multi-use area for construction purposes until the requisite
 27 off-street parking and loading is provided.

28 UCDC 152.562(B): Requirements for types of buildings and uses not specifically listed herein
 29 shall be determined by the Planning Commission or Hearings Officer, based upon the
 30 requirements of comparable uses listed;

31 UCDC 152.562(B) provides that the county may impose additional requirements for buildings or
 32 uses not specifically listed in UCDC 152.560. Because the helipads are addressed in
 33 UCDC 152.560 as "industrial uses" under subsection (10), UCDC 152.562(B) does not apply to
 34 the Project.

35 UCDC 152.562(C): In the event several uses occupy a single structure or parcel of land, the
 36 total requirements for off-street parking shall be the sum of the requirements of the several
 37 uses computed separately;

38 UCDC 152.562(C) provides that, if there are several uses at a parcel, the off-street parking
 39 requirements will be cumulative. Here, the multi-use areas will be used for the sole purpose of
 40 constructing the Project. The off-street parking requirements of UCDC 152.560(A)(10)
 41 (providing for at least one space per employee) are the only requirements applicable to the
 42 Project.

1 UCDC 152.562(D): Owner of two or more uses, structures or parcels of land may agree to
2 utilize jointly the same parking and loading spaces when the hours of operation do not
3 overlap, provided that satisfactory legal evidence is presented to the Planning Director in the
4 form of deeds, leases, or contracts to establish the joint use;

5 UCDC 152.562(D) allows owners of two or more uses, structures, or parcels to jointly use
6 parking and loading spaces. IPC will not share the parking or loading spaces at the multi-use
7 areas, therefore, UCDC 152.562(D) does not apply to the Project.

8 UCDC 152.562(E): Off-street parking spaces for dwellings shall be located on the same lot
9 with the dwelling. Other required parking spaces shall be located no farther than 500 feet
10 from the building or use they are required to serve, measured in a straight line from the
11 building;

12 UCDC 152.562(E) prohibits locating parking spaces farther than 500 feet from the building they
13 are intended to serve. Here, the parking spaces at the multi-use areas will be located no farther
14 than 500 feet from the building or use they are required to serve.

15 UCDC 152.562(F): Required parking spaces shall be available for the parking of operable
16 passenger automobiles of residents, customers, patrons and employees only, and shall not
17 be used for storage of vehicles or materials or for the parking of trucks used in conducting
18 the business or use;

19 The required parking spaces at the multi-use areas will be used for employees and contractors
20 only, and will not be used for storage of vehicles or materials or for parking of trucks (see UCDC
21 152.562(F)).

22 UCDC 152.562(G): Unless otherwise provided, required parking and loading spaces shall not
23 be located in a required yard;

24 Required parking and loading spaces at the multi-use areas will not be located in a required
25 yard (see UCDC 152.562(G)).

26 UCDC 152.562(I): Design requirements for parking lots: (1) Areas used for standing and
27 maneuvering of vehicles shall have paved surfaces maintained adequately for all weather
28 use and so drained as to avoid flow of water across public sidewalks; (2) Except for parking
29 to serve residential use, parking and loading areas adjacent to residential use shall be
30 designed to minimize disturbance of residents by the erection between the uses of a sight
31 obscuring fence of not less than five feet in height except where vision clearance is required;
32 (3) Parking spaces along the outer boundaries of a parking lot shall be contained by a curb at
33 least four inches high and set back a minimum of four and one-half feet from the property
34 line, or by a bumper rail; (4) Artificial lighting which may be provided shall not create or reflect
35 glare in a residential zone or on any adjacent dwelling; (5) Service drives to off-street parking
36 areas of four or more spaces shall be clearly and permanently marked and defined through
37 use of rails, fences, walls, or other barriers or markers on frontage not occupied by service
38 drives; (6) Service drives shall have a minimum vision clearance area bounded by the
39 driveway centerline, the street right-of-way line, and a straight line joining said lines 20 feet
40 from their intersection.

1 UCDC 152.562(I) provides design requirements for parking lots. The multi-use areas in the EFU
2 Zone in Umatilla County will be consistent with UCDC 152.562(I) as follows:

- 3 • Areas used for standing and maneuvering of vehicles at the multi-use areas will have
4 paved surfaces maintained adequately for all weather use and so drained as to avoid
5 flow of water across public sidewalks (see UCDC 152.562(1)).
- 6 • The multi-use areas will not be located adjacent to residential uses; therefore,
7 UCDC 152.562(2) does not apply to the Project.
- 8 • Parking spaces along the outer boundaries of any multi-use area parking lot will be
9 contained by a curb at least four inches high and set back a minimum of four and one-
10 half feet from the property line, or by a bumper rail (see UCDC 152.562(3)).
- 11 • Artificial lighting, if provided, will not create or reflect glare in a residential zone or on any
12 adjacent dwelling (see UCDC 152.562(4)).
- 13 • There will be no service drives at the multi-use areas. Accordingly, UCDC 152.562(5)
14 and (6) do not apply to the Project.

15 To ensure compliance with such requirements, IPC proposes the following site certificate
16 condition:

17 **Land Use Condition 14:** *During construction in Umatilla County, the site*
18 *certificate holder shall construct the facility to comply with the following setback*
19 *distances and other requirements:*

20 . . .

21 *In the EFU Zone:*

22 . . .

23 *d. Parking lots shall be designed and operated as follows: (i) areas used for*
24 *standing and maneuvering of vehicles at the MUAs will have paved surfaces*
25 *maintained adequately for all weather use and will be drained as to avoid flow of*
26 *water across public sidewalks; (ii) parking spaces along the outer boundaries of*
27 *any MUA parking lot will be contained by a curb at least four inches high and set*
28 *back a minimum of four and one-half feet from the property line, or by a bumper*
29 *rail; and (iii) artificial lighting, if provided, will not create or reflect glare in a*
30 *residential zone or on any adjacent dwelling.*

31 5.5.2.2 Grazing/Farm Zone UCDC Provisions

32 The transmission line (9.9 line miles), new access roads (4.3 miles), substantially modified
33 existing access roads (8.0 miles), and one light-duty fly yard will be located in the Grazing/Farm
34 Zone⁴⁶ in Umatilla County. No multi-use areas or communication stations will be located in this
35 zone.

36 **Description and Purpose**

37 UCDC 152.080: The GF, Grazing/Farm, Zone is designed to protect grazing lands, forest
38 uses, and inclusions of agricultural land that are found within the county's mixed use
39 farm/forest areas. The predominant use of the land is for grazing of livestock; however, there
40 are some areas that are under agricultural cultivation and other areas where forest uses
41 occur. The zone is also designed to conserve and protect watersheds, wildlife habitat and
42 scenic values and views within the Blue Mountains. Certain land uses may be allowed
43 conditionally. It is also the purpose of this zone to provide the automatic farm use valuation

⁴⁶ This includes lands zoned by Umatilla County as Grazing Farm Zone or Grazing Farm Zone/Critical Winter Range.

1 for farms and ranches which qualify under the provisions of ORS Chapter 308. Please see
2 definition of farm use in § 152.003.

3 In Umatilla County, the Grazing/Farm (GF) Zone is a hybrid farm-forest zone that includes
4 agricultural land, rangeland, and forest land. Under OAR 660-006-0050(1), a county may
5 establish “agriculture/forest zones” in accordance with Goal 3 (agriculture) and Goal 4
6 (forestlands). Pursuant to OAR 660-006-0050(2), uses authorized in EFU zones in
7 ORS Chapter 215 and uses authorized by OAR 660-006-0025 (forest lands) may be allowed in
8 any agricultural/forest zone, subject to the requirements of the applicable section.

9 The UCDC does not specify an approach for determining whether a particular parcel zoned GF
10 is Goal 3 or Goal 4 land. Consistent with Umatilla County Planning Department policy, county
11 planning staff reviewed aerial photographs and determined that the land within the Site
12 Boundary in the GF Zone is forested Goal 4 land (see Figure K-27 and Figure K-28). Therefore,
13 for purposes of this Amended pASC, the portion of the GF Zone that is crossed by the Project is
14 considered to be located entirely in Goal 4 forestlands.

15 **Conditional Use Permit (All Project Features)**

16 **UCDC Provisions Identified by Umatilla County**

17 In its September 15, 2010 letter, the Umatilla County Planning Department identified
18 UCDC 152.085(R) and no other UCDC provisions as being potentially applicable to the Project
19 in the Grazing Farm Zone.

20 **Conditional Uses Permitted; Commercial Utility Facilities**

21 UCDC 152.085: In the GF Zone, the following uses may be permitted conditionally via
22 administrative review (§ 152.769), subject to the requirements of § 152.086, applicable
23 supplementary regulations in §§ 152.010 through 152.016 and §§ 152.545 through 152.562,
24 and applicable §§ 152.610 through 152.615. Specific standards for some of the conditional
25 uses listed below are contained in § 152.616. A zoning permit is required following the
26 approval of a conditional use pursuant to § 152.025. Existing uses classified as conditional
27 use and listed in this section may be expanded subject to administrative review and subject
28 to the requirements listed in this section, except expansions on a parcel or tract meeting the
29 definition of high value farmland will not be permitted. . . . (R) Construction of new utility
30 facilities, including transmission lines and towers, necessary for public service as provided in
31 § 152.617(I)(C).

32
33 UCDC 152.617(I)(C): Commercial utility facilities for the purposes of generating and
34 distributing power for public use by sale. Such facilities shall include, but are not limited to,
35 electrical substations, power trams, water storage tanks, sewage disposal facilities, water
36 treatment facilities, towers or transmitting facilities for radar and television, and dams. This
37 does not include Wind Power Generation Facility (See specific criteria, Section 152.616
38 (HHH), or local distribution lines for sewer, water, gas, telephone, and power and similar
39 minor facilities. These uses are allowed provided that:

40 In its September 15, 2010 letter, Umatilla County identified UCDC 152.085(R) as being
41 potentially applicable to the Project. However, UCDC 152.085(R) does not appear to apply to
42 the Project for the following reasons. First, UCDC 152.085(R) references UCDC 152.617(I)(C),
43 which provides conditional use criteria for commercial utility facilities that “generat[e] and
44 distribut[e] power for public use by sale.” Here, there is no power generation component to the
45 Project, and therefore, the Project does not meet the definition of a commercial utility facility
46 under UCDC 152.617(I)(C) or in turn the definition of a utility facility necessary for public service

1 under UCDC 152.085(R). Second, UCDC 152.085(R) addresses “utility facilities necessary for
 2 public service,” which is a term of art describing certain utility facilities that be sited in
 3 agricultural lands under ORS 215.283(1)(c). Because the GF Zone lands affected by the Project
 4 are considered forest lands and not agricultural lands, UCDC 152.085(R) and its agricultural-
 5 lands-based analysis are not applicable to the Project. Further, the remaining provisions of the
 6 UCDC in the GF Zone also do not include a Goal 4 analysis methodology related to siting
 7 electric transmission lines in Goal 4 forest lands. Therefore, because the GF Zone lands
 8 affected by the Project are considered Goal 4 forest lands and the UCDC GF Zone provisions
 9 do not include a Goal 4 analysis methodology applicable to forest lands, IPC analyzes the
 10 Project in the following section as a conditional use under OAR 660-006-0025(4) regarding
 11 “uses authorized in forest zones” and not under the UCDC.

12 **UCDC Provisions Identified by IPC**

13 Each of the OAR or UCDC provisions discussed below as being potentially applicable to the
 14 Project features in the Grazing Farm Zone were identified by IPC and not Umatilla County.

15 **Uses Authorized in Forest Zones**

16 OAR 660-006-0025(4): The following uses may be allowed on forest lands subject to the
 17 review standards in section (5) of this rule: . . . (q) New electric transmission lines with right
 18 of way widths of up to 100 feet as specified in ORS 772.210. . . .

19 Under OAR 660-006-0025(4)(q), a “new electric transmission line with right of way widths of up
 20 to 100 feet as specified in ORS 772.210” is a “conditional use,” meaning a use allowed on
 21 Goal 4 forest lands subject to certain conditions. For the reasons explained below, the ROW
 22 required by the Project falls well within the “new electric transmission line” use set forth in OAR
 23 660-006-0025(4)(q), and the Project ROW is therefore a conditional use on Goal 4 forest lands
 24 in Umatilla County.

25 While OAR 660-006-0025(4)(q) expressly refers only to transmission lines with up to a 100-foot
 26 ROW, the Oregon Supreme Court has concluded that the use category defined in OAR 660-
 27 006-0025(4)(q) also includes new electric transmission lines with ROWs greater than 100 feet
 28 because of that provision’s specific reference to ORS 772.210 (regarding condemnation) (see
 29 *Save Our Rural Oregon v. EFSC*, 339 Or. 353, 375-76 (2005) (concerning the EFSC application
 30 of the COB Energy Facility LLC, and hereinafter referred to as *COB*)). ORS 772.210 relates to
 31 “Rights of Ways for Public Uses” and public utility condemnation authority. It authorizes public
 32 utilities to “[c]ondemn such lands not exceeding 100 feet in width for its [transmission] lines.” In
 33 addition, ORS 772.210(1) provides that “[i]f the lands are covered by trees that are liable to fall
 34 and constitute a hazard to its wire or line,” the public utility may “condemn such trees for a width
 35 not exceeding 300 feet.” ORS 772.210(2), a parallel provision tailored to address high-voltage
 36 transmission lines, similarly provides that a public utility may:

37 [W]hen necessary or convenient for transmission lines (including poles, towers,
 38 wires, supports and necessary equipment * * *) designed for voltages in excess of
 39 330,000 volts, condemn land not to exceed 300 feet in width. In addition, if the
 40 lands are covered by trees that are liable to fall and constitute a hazard to its wire
 41 or line, such public utility or transmission company may condemn such trees for a
 42 width not exceeding 100 feet on either side of the condemned land, as may be
 43 necessary or convenient for such purpose. (Emphasis added).

44 Thus, including the vegetative maintenance zone of 100 feet on either side of a 300-foot ROW,
 45 ORS 772.210(2) authorizes condemnation of a corridor of up to 500 feet for a 500-kV
 46 transmission line.

1 This approach is consistent with the precedent set in the *COB* case, cited above, in which the
2 Oregon Supreme Court interpreted OAR 660-006-0025(4)(q),⁴⁷ taken together with ORS
3 772.210(1), to allow a new electric transmission line with a ROW in excess of 100 feet on Goal 4
4 forest lands without requiring an exception to Goal 4. In *COB*, the facility proposed for development
5 in the forest zone included a 100-foot-wide corridor for a transmission line, as well as a vegetative
6 maintenance zone of 54 feet on each side of the ROW and access roads.⁴⁸ In that case, the
7 Supreme Court concluded that the 100-foot ROW was a permissive use, and that “ORS 772.210
8 allows a vegetative maintenance zone of up to 100 feet on either side of such a corridor.”⁴⁹
9 Accordingly, the Court reasoned that no Goal 4 exception was required for the entire 154-foot
10 corridor proposed by the applicant, and the entire 154-foot ROW was allowed in the forest zone as a
11 conditional use.⁵⁰

12 Given that OAR 660-006-0025(4)(q) specifically refers to ORS 772.210 in its entirety, not just
13 subsection (1) of ORS 772.210,⁵¹ the analysis in *COB* must be applied to include the wider
14 ROWs identified in ORS 772.210(2) as within the scope of conditional uses authorized in Goal 4
15 forest lands. Although the *COB* opinion does not expand on the court’s reasoning, it appears
16 that the Court determined that the conditional use described in Klamath County analogue of
17 OAR 660-006-0025(4)(q) should be read broadly to include the wider corridors described in
18 ORS 772.210. Thus, applying the reasoning in *COB*, OAR 660-006-0025(4)(q) should be read
19 to authorize up to a 300-foot ROW corridor for a new electric transmission line “designed for
20 voltages in excess of 330,000 volts,” as well as up to 100 feet on either side of such corridor for
21 vegetative maintenance, in Goal 4 forest land. Accordingly, the Project is a “new electric
22 transmission line” for the purposes of OAR 660-006-0025(4)(q) and up to a 500-foot ROW
23 corridor should be considered a conditional use on Goal 4 forest lands in Umatilla County.

24 While IPC’s position is that the *COB* decision provides for a 500-foot ROW in Goal 4 forest
25 lands, ODOE disagrees. Instead, ODOE has stated that only a 300-foot ROW is authorized,
26 unless a Goal 4 exception is provided. Without waiving its argument, IPC is agreeing to limit its
27 ROW to no more than 300 feet in Goal 4 forestlands, which under ODOE’s interpretation
28 complies with OAR 660-006-0025(4)(q), ORS 772.210, and the *COB* decision. To ensure
29 compliance with ODOE’s direction, IPC requests that the Council adopt the following conditions
30 to be included in the site certificate:

31 ***Land Use Condition 10:*** *During construction, the site certificate holder shall limit*
32 *its transmission line right-of-way in Goal 4 forest lands to no wider than 300 feet.*
33 *The site certificate holder shall limit its use of the outer 100 feet on each side of*
34 *the ROW primarily to vegetation maintenance.*

35 ***Land Use Condition 23:*** *During operation, the site certificate holder shall limit its*
36 *transmission line right-of-way in Goal 4 forest lands to no wider than 300 feet.*
37 *The site certificate holder shall limit its use of the outer 100 feet on each side of*
38 *the ROW primarily to vegetation maintenance.*

⁴⁷ In the *COB* case, the Court was interpreting a provision of the Klamath County Land Development Code containing the same language as OAR 660-006-0025(4)(q).

⁴⁸ *Save Our Rural Oregon v EFSC*, 339 Or. 353.375.376 (2005).

⁴⁹ *Id.*

⁵⁰ The Supreme Court noted that “the council determined that the roads did not meet Goal 4, reviewed the Goal exception criteria of ORS 469.504(2)(c), and took an exception to Goal 4 for access roads.”

⁵¹ When interpreting the meaning of an administrative rule, the standard rules of statutory construction apply and courts use the same methodology to interpret rules as they use to construe statutes. *PGE v. BOLI*, 317 Or. 606, 611 (1993). When examining the text and context of the rule, one must not “insert what has been omitted, or . . . omit what has been inserted.” ORS 174.010. If possible, rules and statutes should be read in such a way as to give full effect to both.

1 The Project’s compliance with the three conditional use siting criteria for forest lands provided in
2 OAR 660-006-0025(5) is discussed below.

3 IPC’s position is that the term “new electric transmission line” includes related and supporting
4 facilities, including access roads, communication stations, and other such facilities, all of which
5 should be conditionally permitted. Therefore, all Project features and related and supporting
6 facilities are conditionally permitted in Goal 4 forest lands under OAR 660-006-0025(4)(q).
7 However, arguably, even if the Council finds that OAR 660-006-0025(4)(q) does not cover
8 access roads outside the transmission line corridor, IPC demonstrates in Section 6 that the
9 substantially modified existing roads outside of the corridor are permitted outright on forest
10 lands under OAR 660-006-0025(3)(h), and that new roads outside the corridor nonetheless
11 comply with statewide planning Goal 4. Alternatively, in the event EFSC concludes that the
12 roads outside the transmission line corridor are not conditionally permitted as part of the new
13 electric transmission line and are inconsistent with Statewide Planning Goal 4, IPC shows in
14 Section 7.0 that the Council should provide an exception to Goal 4.

15 OAR 660-006-0025(5): A use authorized by section (4) of this rule may be allowed provided
16 the following requirements or their equivalent are met. These requirements are designed to
17 make the use compatible with forest operations and agriculture and to conserve values found
18 on forest lands: (a) The proposed use will not force a significant change in, or significantly
19 increase the cost of, accepted farming or forest practices on agriculture or forest lands;

20 The Agricultural Lands Assessment, Attachment K-1, analyzes in detail the accepted farm
21 practices in the area surrounding the Project and the potential impacts of the Project on the
22 same. The following is a summary of that information. The Agricultural Lands Assessment
23 evaluates farm practices either observed or expected on lands within the Site Boundary and on
24 surrounding lands within 500 feet of the Site Boundary (Agricultural Assessment Area). The
25 agricultural practices within the Agricultural Assessment Area in Umatilla County included
26 rangeland, rangeland/timber, pasture, Conservation Reserve Program lands, livestock, wheat,
27 fallow lands, and alfalfa hay (see Attachment K-1, Table 3-4). Potential impacts of the Project
28 include temporary (construction) and permanent (operational) disturbances, as well as the
29 indirect impacts associated with these disturbances and the type of agricultural use disturbed.
30 Indirect impacts may include growth inducing effects caused by the Project but occur later in
31 time or farther removed in distance. Indirect impacts may include changes in the pattern of land
32 use, population density or growth rate, and the related effects of those changes on agriculture.
33 IPC will take certain minimization and mitigation actions to address potential impacts to
34 agriculture, including but not limited to restoring land to its former condition, compensating
35 landowners for damages and/or impacts to agricultural operations caused as a result of Project
36 construction, micro-siting the towers to avoid agricultural areas, instituting weed control
37 measures, preventing soil erosion, and other measures (see Attachment K-1, Section 7.3). The
38 Project, taking into account measures to minimize or mitigate impacts, will not force a significant
39 change in, or significantly increase the cost of, accepted farming practices in the areas
40 surrounding the Project in Umatilla County (see Attachment K-1, Section 14.0).

41 The Right-of-Way Clearing Assessment, Attachment K-2, addresses existing forestry practices
42 adjacent to the Project and impacts to those practices that may occur as a result of the
43 construction and operation of the Project. The Right-of-Way Clearing Assessment looked at
44 forest practices in the Site Boundary and within 500 feet of the Site Boundary (Forestry
45 Assessment Area). In the forest lands in Umatilla County, forestry was the predominant land
46 use within the Forestry Assessment Area (see Attachment K-2, Section 3.2). Range or
47 managed pastureland also is intermixed among the forested lands. Potential impacts to existing
48 forestry practices resulting from the logging operations for the new transmission corridor and

1 associated with permanent removal of trees from the right of the way include: land on the
 2 corridor may need to be converted from forestry to agriculture; future timber harvesting
 3 operations of trees within a tree length of the power line will have a higher risk factor; there may
 4 be some loss in tree volume along the new edges of the power line corridor; the risk of wildfire
 5 may be increased; new roads may allow access to more area for authorized and unauthorized
 6 users of the land; new roads may provide new, beneficial access to the underlying landowner;
 7 and well-maintained powerline corridors can serve as a fire break or provide access for
 8 firefighting purposes (see Attachment K-2, Section 4.2.1 and Section 4.4). To address potential
 9 impacts to forestry practices on surrounding lands, IPC will implement certain minimization and
 10 mitigation measures, such as: seasonal access restrictions; wildlife habitat restrictions; riparian
 11 area protections; herbicide best management practices; fire protection; and erosion control (see
 12 Attachment K-2, Section 5). The Project, taking into account measures to minimize or mitigate
 13 impacts, will not force a significant change in, or significantly increase the cost of, accepted
 14 forestry practices in the areas surrounding the Project in Umatilla County (see Attachment K-1,
 15 Section 6.0). To ensure compliance with the Right-of-Way Clearing Assessment, IPC proposes
 16 the following conditions:

17 **Land Use Condition 2:** *Prior to construction, the site certificate holder shall*
 18 *finalize, and submit to the department for its approval, a final Right-of-Way*
 19 *Clearing Assessment. The protective measures described in the draft Right-of-*
 20 *Way Clearing Assessment in ASC Exhibit K, Attachment K-2, shall be included*
 21 *and implemented as part of the final Right-of-Way Clearing Assessment, unless*
 22 *otherwise approved by the department.*

23
 24 **Land Use Condition 9:** *During construction, the site certificate holder shall*
 25 *conduct all work in compliance with the final Right-of-Way Clearing Assessment*
 26 *referenced in Land Use Condition 2.*

27 OAR 660-006-0025(5)(b): The proposed use will not significantly increase fire hazard or
 28 significantly increase fire suppression costs or significantly increase risks to fire suppression
 29 personnel; and

30 Fire protection and risk mitigation begins with the Project design and continues through
 31 construction with a strict set of rules governing worker activities and equipment use, and during
 32 operations through surveillance, maintenance, and coordination with local fire responders.
 33 Exhibit U, Section 3.3.6 and the Fire Protection and Suppression Plan (Exhibit U, Attachment U-
 34 3) describe measures in detail.

- 35 • **Design:** During design IPC will comply with design codes that prevent fire hazards
 36 including Public Utility Commission of Oregon (OPUC) Construction Standards, the
 37 National Electric Safety Code requirements pertaining to the prevention of fire hazards
 38 related to outdoor public utility installations and the National Fire Protection Association
 39 Uniform Fire Code Handbook guidance related to the clearance of brush and vegetative
 40 growth in and around transmission lines.
- 41 • **Construction:** During construction, IPC and its contractor will maintain an active
 42 program of worker training, strict requirements for smoking, equipment standards,
 43 fueling, road management, assistance in fire-fighting, and following restricted operations
 44 during high risk periods.
- 45 • **Operation:** IPC will maintain coordination with the Oregon Department of Forestry and
 46 USFS for state and federal lands, respectively, and local fire protection agencies.
 47 Routine maintenance of roads and ROWs in forested areas will reduce the risk that

1 combustible materials would come into contact with the conductors and ignite a fire.
2 Transmission line protection and control systems will be incorporated into the system
3 and are designed to detect faults (such as arcing from debris contacting the line) and will
4 rapidly shut off power flow (in 1/60th to 3/60th of a second) if arcing is detected.

5 Accordingly, the Project will not significantly increase fire suppression costs or significantly
6 increase risks to fire personnel and this criterion is met.

7 OAR 660-006-0025(5)(c): A written statement recorded with the deed or written contract with
8 the county or its equivalent is obtained from the land owner that recognizes the rights of
9 adjacent and nearby land owners to conduct forest operations consistent with the Forest
10 Practices Act and Rules for uses authorized in subsections (4)(e), (m), (s), (t) and (w) of this
11 rule.

12 This subsection is not applicable to the Project as a use authorized under subsection (4)(q)
13 (new electrical transmission line). Rather, OAR 660-006-0025(5)(c) applies only to uses
14 authorized under subsections (4)(e) (private parks and campgrounds), (m) (reservoirs and water
15 impoundments), (s) (home occupations), (t) (hardship dwellings) and (w) (private fishing
16 accommodations) of this rule.

17 **Conditional Use Permit (Helipads)**

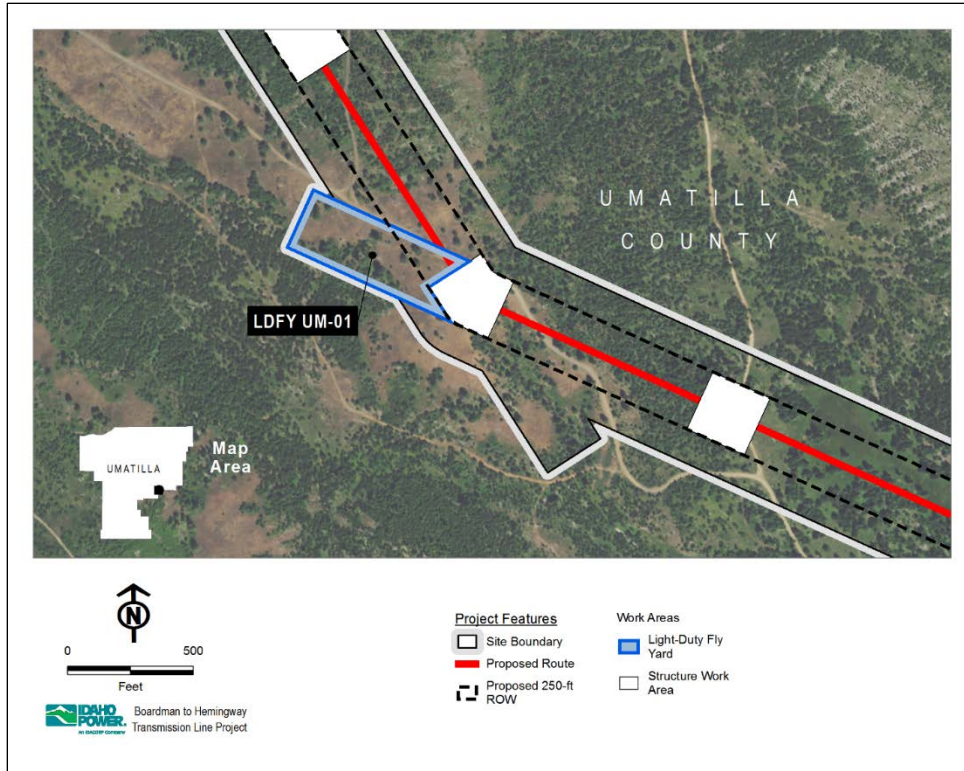
18 **UCDC Provisions Identified by IPC**

19 OAR 660-006-0025(4)(q) authorizes new electric transmission lines in the GF Zone. IPC's
20 position is that OAR 660-006-0025(4)(q) should be construed to authorize, in addition to the
21 transmission line, the Project features that relate to and support the Project transmission line,
22 including any light-duty fly yards and the Project access roads.

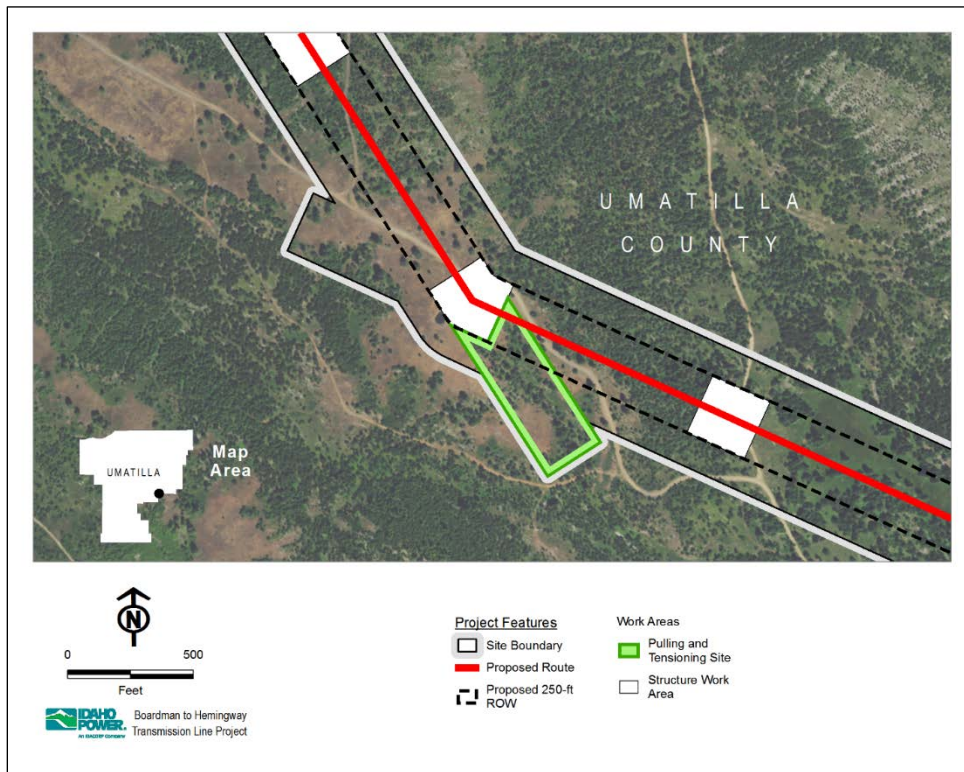
23 Nonetheless, and in the alternative, IPC shows below that the Project features in the GF Zone
24 beyond the transmission line are permitted as conditional uses under UCDC 152.085.
25 Specifically, the light-duty fly yard is an authorized conditional use under UCDC 152.085(G).
26 Each of the UCDC provisions discussed below as being potentially applicable to the light-duty
27 fly yard were identified by IPC and not Umatilla County.

28 There will be two helipads potentially located in the GF Zone: one at LDFY UM-01, and one at a
29 pulling and tensioning site immediately adjacent to LDFY UM-01.

30 Figure K-30 and Figure K-31 show the location of helipads in the GF Zone that may be located
31 at LDFY UM-01 and the pulling and tensioning sites.



1
2 **Figure K-30. Light-Duty Fly Yard in Grazing Farm Zone – Umatilla County (LDFY**
3 **UM-01)**



4
5 **Figure K-31. Pulling and Tensioning Site in Grazing Farm Zone – Umatilla County**

1 **Conditional Uses Permitted**

2 UCDC 152.085: In the GF Zone, the following uses may be permitted conditionally via
 3 administrative review (§ 152.769), subject to the requirements of § 152.086, applicable
 4 supplementary regulations in §§ 152.010 through 152.016 and §§ 152.545 through 152.562,
 5 and applicable §§ 152.610 through 152.615. Specific standards for some of the conditional
 6 uses listed below are contained in § 152.616. A zoning permit is required following the
 7 approval of a conditional use pursuant to § 152.025. Existing uses classified as conditional
 8 use and listed in this section may be expanded subject to administrative review and subject
 9 to the requirements listed in this section, except expansions on a parcel or tract meeting the
 10 definition of high value farmland will not be permitted . . . (G) Personal use airports for
 11 airplanes and helicopter pads, including associated hangar, maintenance and service
 12 facilities as provided in § 152.617(I)(N).

13
 14 UCDC 152.617: The following standards shall apply for review by the Hearings Officer, the
 15 Planning Director or designated planning authority of the specific conditional uses and land
 16 use decisions listed below: (I) EFU CONDITIONAL USES . . . (N) *Personal Use Airport or*
 17 *Airstrip.*

18 As discussed above in Section 5.5.2.2 above, the Project helipads are considered personal use
 19 airports under UCDC 152.617(I)(N). Therefore, light-duty fly yard LDFY UM-1 may be
 20 authorized as a conditional use in the Grazing Farm Zone under UCDC 152.085(G).

21 IPC analyzes and shows compliance with UCDC 152.010 and 152.016 above in Section 5.5.2.1.
 22 Compliance with UCDC 152.011 through 152.015, UCDC 152.545 through 152.562, and UCDC
 23 152.610 through 152.615 is shown above in Section 5.5.2.2. The following discussion
 24 addresses the remaining UCDC sections referenced in UCDC 152.085—that is, UCDC 152.086
 25 and UCDC 152.616.

26 **Limitations on Conditional Uses**

27 UCDC 152.086: The following limitations shall apply, if determined appropriate, to all
 28 conditional uses in the GF Zone as found in OAR 660-006-0025(5), except as noted for non-
 29 farm dwellings in § 152.059(K)(IV) and referenced in §152.084(K)(I): (A) The proposed use
 30 will not force a significant change in, or significantly increase the cost of, accepted farming or
 31 forest practices on agriculture or forest lands; (B) The proposed use will not significantly
 32 increase fire hazard or significantly increase fire suppression costs or significantly increase
 33 risks to fire suppression personnel; and (C) A written statement (i.e. Covenant Not to Sue
 34 Agreement) recorded with the deed or written contract with the County or its equivalent is
 35 obtained from the land owner that recognizes the rights of adjacent and nearby land owners
 36 to conduct forest operations consistent with the Forest Practices Act and Rules for uses
 37 authorized in § 152.085 (H), (J), (BB), (HH), and (NN) of this chapter.

38 UCDC 152.086 is made applicable to the Project by reference in UCDC 152.085.
 39 UCDC 152.086(A) provides the personal use airports must not significantly change or increase
 40 costs of farming or forest practices in the surrounding area. Here, the helipads will be used
 41 temporarily during construction activities and will not be permanent airports. Because the
 42 helipads will only have temporary impacts, if any, on the surrounding lands, they will not force a
 43 significant change in, or significantly increase the cost of, accepted farm or forest practices on
 44 surrounding lands or significantly increase costs on affected farm or forest practices (see UCDC
 45 152.086(A)).

1 UCDC 152.086(B) provides the personal use airports must not significantly increase fire
 2 hazards or fire suppression costs. In siting the helipads, IPC chose areas where there are few, if
 3 any, overhead obstructions to reduce accidents, which will reduce the possibility of an accident
 4 that might start a fire (see Figure K-32 and Figure K-33 in Sections 5.3.2.3 and 5.5.2.4,
 5 respectively). As a result of those efforts, the location and design of the helipads will not
 6 significantly increase fire hazard or significantly increase fire suppression costs or significantly
 7 increase risks to fire suppression personnel (see UCDC 152.086(B)).

8 UCDC 152.086(C) requires a written statement from adjacent land owners recognizing their
 9 rights under the Forest Practices Act and Rules. If the Council determines a conditional use
 10 permit is required for the helipads in the GF Zone in Umatilla County, IPC will obtain prior to
 11 construction written recognition by the relevant landowners of the rights of adjacent and nearby
 12 land owners to conduct the forest operations specified in UCDC 152.086(C).

13 **Standards for Review of Conditional Uses and Land Use Decisions; Airport or**
 14 **Landing Strips**

15 UCDC 152.616(B): *Airport or landing strips.* (1) The proposed use will not be hazardous to
 16 the safety and general welfare of surrounding properties; (2) The location of the airport or
 17 landing strip will not unnecessarily restrict existing or future development of surrounding
 18 lands as indicated in the Comprehensive Plan; (3) The airport or landing strip is located 500
 19 feet from the existing dwellings on adjacent lands; (4) A site plan is submitted with the
 20 application showing topography of the surrounding area, especially those areas in the flight
 21 path.

22 UCDC 152.616(B) is made applicable to the Project by reference in UCDC 152.085.
 23 UCDC 152.616(B)(1) and (2) provide personal use airports must not be hazardous or
 24 unnecessarily restrict existing or future development. In siting the helipads, IPC chose areas
 25 where there are few, if any, overhead obstructions or nearby noise sensitive uses. Moreover,
 26 IPC designed the helipads and helipad setbacks to provide safe clearance for helicopter
 27 operations. As a result of those efforts, the location and design of the helipads will not be
 28 hazardous to the safety or general welfare of the surrounding properties (see
 29 UCDC 152.616(B)(1)). Also, the helipads will be used only temporarily during construction
 30 activities and will not be permanent airports. Because the helipads will only have temporary
 31 impacts, if any, on the surrounding lands, they will not unnecessarily restrict existing or future
 32 development in the area (see UCDC 152.616(B)(2)).

33 Consistent with 152.616(B)(3), no helipad will be located 500 feet from an existing dwelling (see
 34 Land Use Condition 3(a)(iii)).

35 UCDC 152.616(B)(4) relates to the forms of certain Umatilla County applications. Because the
 36 Council and not the county has jurisdiction over the land use decisions and conditional use
 37 authorizations covered by the site certificate, the Council's and not the county's procedures for
 38 obtaining such decisions and authorizations apply to the Project. Even so, a site plan for a
 39 typical light-duty fly yard setup is provided in Exhibit B, Section 3.3.3, Figure B-25. Also, a map
 40 showing the location and topography of light-duty fly yard LDFY UM-01 is set forth at Exhibit C,
 41 Attachment C-2, Map 44.

42 **Conditional Use Permit (Access Roads)**

43 **UCDC Provisions Identified by IPC**

44 OAR 660-006-0025(4)(q) authorizes new electric transmission lines in the GF Zone. IPC's
 45 position is that OAR 660-006-0025(4)(q) should be construed to authorize, in addition to the

1 transmission line, the Project features that relate to and support the Project transmission line,
2 including any light-duty fly yards and the Project access roads.

3 Nonetheless, and in the alternative, IPC shows below that the Project features in the GF Zone
4 beyond the transmission line are permitted as conditional uses under UCDC 152.085.
5 Specifically, the access roads are authorized as a conditional use under UCDC 152.085(U).
6 Each of the UCDC provisions discussed below as being potentially applicable to the access
7 roads in the Grazing Farm Zone were identified by IPC and not Umatilla County.

8 **Conditional Uses Permitted**

9 UCDC 152.085: In the GF Zone, the following uses may be permitted conditionally via
10 administrative review (§ 152.769), subject to the requirements of § 152.086, applicable
11 supplementary regulations in §§ 152.010 through 152.016 and §§ 152.545 through 152.562,
12 and applicable §§ 152.610 through 152.615. Specific standards for some of the conditional
13 uses listed below are contained in § 152.616. A zoning permit is required following the
14 approval of a conditional use pursuant to § 152.025. Existing uses classified as conditional
15 use and listed in this section may be expanded subject to administrative review and subject
16 to the requirements listed in this section, except expansions on a parcel or tract meeting the
17 definition of high value farmland will not be permitted. . . . (U) Construction, reconstruction, or
18 widening of highways, roads, bridges or other transportation projects that are: (1) not
19 improvements designated in the Transportation System Plan or (2) not designed and
20 constructed as part of a subdivision or planned development subject to site plan and/or
21 conditional use review, shall comply with the Transportation System Plan and applicable
22 standards, and shall address the following criteria. For State projects that require an
23 Environmental Impact Statement (EIS) or EA (Environmental Assessment), the draft EIS or
24 EA shall be reviewed and used as the basis for findings to comply with the following criteria:
25 (1) The project is designed to be compatible with existing land use and social patterns,
26 including noise generation, safety, and zoning. (2) The project is designed to minimize
27 avoidable environmental impacts to identified wetlands, wildlife habitat, air and water quality,
28 cultural resources, and scenic qualities. (3) The project preserves or improves the safety and
29 function of the facility through access management, traffic calming, or other design features.
30 (4) Project includes provision for bicycle and pedestrian circulation as consistent with the
31 comprehensive plan and other requirements of this ordinance.

32 UCDC 152.085(U) provides road construction projects that are not designated in the
33 Transportation System Plan and are not constructed as part of a subdivision or planned
34 development may be authorized as a conditional use in the Grazing Farm Zone. Here, the
35 construction of new access roads and improvements to existing roads that will occur as part of
36 this Project are not designated in the Transportation System Plan and are not constructed as
37 part of a subdivision or planned development. Therefore, IPC’s access road activity may be
38 authorized as a conditional use under UCDC 152.085(U).

39 Review criteria (1) under UCDC 152.085(U) provides the project must be compatible with
40 existing land use and social patterns, including noise generation, safety, and zoning. As
41 discussed throughout this application, the Project—including the access roads—was designed
42 to be compatible with existing land use, social patterns, and zoning (Exhibit K); noise generation
43 (Exhibit X); and safety (Exhibit U) (see UCDC 152.085(U)(1)).

44 Regarding review criteria (2), the Project, including the access roads, was designed to minimize
45 avoidable environmental impacts to wetlands (Exhibit J), wildlife (Exhibits P1 and P2), air quality
46 (Exhibit BB), water quality (Exhibits J and O), cultural resources (Exhibit S), and scenic
47 resources (Exhibit R) (see UCDC 152.085(U)(2)).

1 Consistent with review criteria (3), access to the Project access roads will be managed to meet
2 safety needs as well as to protect certain natural resources (see Exhibits P1 and P2) (see
3 UCDC 152.085(U)(3)).

4 With respect to review criteria (4), IPC is not aware of any Umatilla County Comprehensive Plan
5 or UCDC provisions requiring bicycle or pedestrian accommodations related to IPC's access
6 road activities (see UCDC 152.085(U)(4)).

7 IPC analyzes and shows compliance with UCDC 152.010 and 152.016 above in Section 5.5.2.1.
8 Compliance with UCDC 152.011 through 152.015 and UCDC 152.610 through 152.615 is
9 shown above in Section 5.5.2.2. The following discussion addresses the remaining UCDC
10 sections referenced in UCDC 152.085: UCDC 152.086, UCDC 152.545 through 152.562, and
11 UCDC 152.616(CCC)(8) and (9).

12 **Limitations on Conditional Uses**

13 UCDC 152.086: The following limitations shall apply, if determined appropriate, to all
14 conditional uses in the GF Zone as found in OAR 660-006-0025(5), except as noted for non-
15 farm dwellings in § 152.059(K)(IV) and referenced in §152.084(K)(I): (A) The proposed use
16 will not force a significant change in, or significantly increase the cost of, accepted farming or
17 forest practices on agriculture or forest lands; (B) The proposed use will not significantly
18 increase fire hazard or significantly increase fire suppression costs or significantly increase
19 risks to fire suppression personnel; and (C) A written statement (i.e. Covenant Not to Sue
20 Agreement) recorded with the deed or written contract with the County or its equivalent is
21 obtained from the land owner that recognizes the rights of adjacent and nearby land owners
22 to conduct forest operations consistent with the Forest Practices Act and Rules for uses
23 authorized in § 152.085 (H), (J), (BB), (HH), and (NN) of this chapter.

24 UCDC 152.086 is made applicable to the Project by reference in UCDC 152.085.

25 UCDC 152.086(A) provides the access roads must not significantly change or increase costs of
26 farming or forest practices in the surrounding area. On this project, Improvements to existing
27 roads will occur within the existing road ROW, and in most cases, will not involve expanding the
28 road prism beyond its current scope. Therefore, impacts to the underlying land from road
29 improvements should be limited. Further, the improvements should make vehicle travel easier,
30 and not more difficult, for farm and forestry uses, providing a benefit to the same. For new
31 access roads, IPC will obtain ROWs from the underlying landowners and negotiate acceptable
32 terms related to impacts on the landowner's use of the property. Accordingly, new roads and
33 improvements to existing roads will not force a significant change in, or significantly increase the
34 cost of, accepted farming or forest practices on agriculture or forest lands (see Agricultural
35 Lands Assessment [Attachment K-1] and Right-of-Way Clearing Assessment [Attachment K-2]).

36 UCDC 152.086(B) provides the access roads must not significantly increase fire hazards or fire
37 suppression costs. As discussed in Exhibit U, Sections 3.4.6 and 3.5.6, the Project, including
38 the access roads, will not will not significantly increase fire hazard or significantly increase fire
39 suppression costs or significantly increase risks to fire suppression personnel (see UCDC
40 152.086(B)).

41 UCDC 152.086(C) requires a written statement from adjacent landowners recognizing their
42 rights under the Forest Practices Act and Rules. If the Council determines a conditional use
43 permit is required for the access roads in the GF Zone in Umatilla County, IPC will obtain prior
44 to construction written recognition by the relevant landowners of the rights of adjacent and
45 nearby landowners to conduct the forest operations specified in UCDC 152.086(C).

Zoning Permit Required to Erect, Move, or Alter Signs; Exemptions; Permitted Signs

UCDC 152.545: (A) No sign shall hereafter be erected, moved, or structurally altered without a zoning permit, except for a Type 1 and Type 3 sign, and without being in conformity with the provisions of this chapter. Official signs of the state, county or municipalities are exempt from all provisions of this chapter. All signs shall be on the same lot as the subject matter of the sign, except as specifically allowed otherwise. (B) Allowed signs in the various zones are indicated by the following tables (for types of signs, see § 152.546):

<i>Zone</i>	<i>Types Allowed</i>
EFU-10, EFU-20, EFU-40, EFU, GF	1, 2, 3, 4, 5, 6
UC	1, 2, 3, 4, 5, 8, 9
RR-2, RR-4, RR-10	1, 2, 3, 4, 5, 6
MUF, FR, MR	1, 2, 3, 4, 5, 6
RSC, RRSC, CRC	1, 2, 3, 4, 5, 7, 8, 9, 10, 11
TC, RTC	1, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12
AB	1, 3, 4, 5, 7, 8, 9, 11
LI	1, 3, 4, 5, 7, 8, 9, 10, 11, 12
RLI, LRLI	1, 3, 4, 5, 7, 8, 9, 10, 11
HI, RHI, LRHI	1, 3, 4, 5, 8, 9, 11
FU-10	1, 2, 3, 4, 5, 6

UCDC 152.545 is made applicable to the Project by reference in UCDC 152.085. IPC may use the following signs along the access roads: temporary signs identifying construction areas, “no trespassing” or similar signs, and signs warning of potential dangers. Each of these signs are considered Type 3 signs under the UCDC, and therefore, no permit would be required for the signs (see UCDC 152.545(A)).

Types of Signs

UCDC 152.546(C): *Type 3.* (1) Signs permitted in all zones and exempt from zoning permit requirements. Type 3 signs include: . . . (d) Temporary signs identifying proposed or existing construction; . . . (f) Signs for the purpose of protection of property, such as no hunting, trespassing, or dumping signs; or signs warning of potential danger due to physical or health hazards; (2) Type 3 signs shall not exceed 32 square feet in area and shall not be placed or extend into a road right-of-way. Type 3 signs shall not require a zoning permit.

UCDC 152.546 is made applicable to the Project by reference in UCDC 152.085. The temporary signs identifying construction areas, “no trespassing” or similar signs, and signs warning of potential dangers are Type 3 signs under UCDC 152.546(C), and no permit is required for the signage (see UCDC 152.545(A)).

Limitations on Signs

UCDC 152.547: (A) No sign shall be placed as to interfere with visibility or effectiveness of any official traffic sign or signal, or with driver vision at any access point or intersection. (B) No sign shall be illuminated by flashing lights. (C) No sign shall contain, include, or be composed of any conspicuous animated part. (D) Light from signs shall be directed away from and not be reflected upon adjacent premises. (E) Signs shall be maintained in a neat,

1 clean and attractive condition. (F) Signs shall be removed by the property owner within 60
 2 days after the advertising business, product or service is abandoned or no longer in use. (G)
 3 In addition to the limitations on signs as provided by divisions (A) through (C) of this section,
 4 additional sign restrictions may be required as determined by the Hearings Officer in
 5 approving conditional uses, as provided by §§ 152.610 through 152.616 of this chapter or by
 6 the Planning Director in approving a Type 5, Type 9, Type 10 or Type 11 sign.

7 UCDC 152.547 is made applicable to the Project by reference in UCDC 152.085. IPC's signage
 8 associated with the access roads in Umatilla County will comply with the limitations set forth in
 9 UCDC 152.547.

10 **Standards for Review of Conditional Uses and Land Use Decisions**

11 UCDC 152.616(CCC): *Utility facility*. . . . (8) Access roads or easements be improved to a
 12 standard and follow grades recommended by the Public Works Director; (9) Road
 13 construction be consistent with the intent and purposes set forth in the Oregon Forest
 14 Practices Act or the 208 Water Quality Program to minimize soil disturbance and help
 15 maintain water quality;

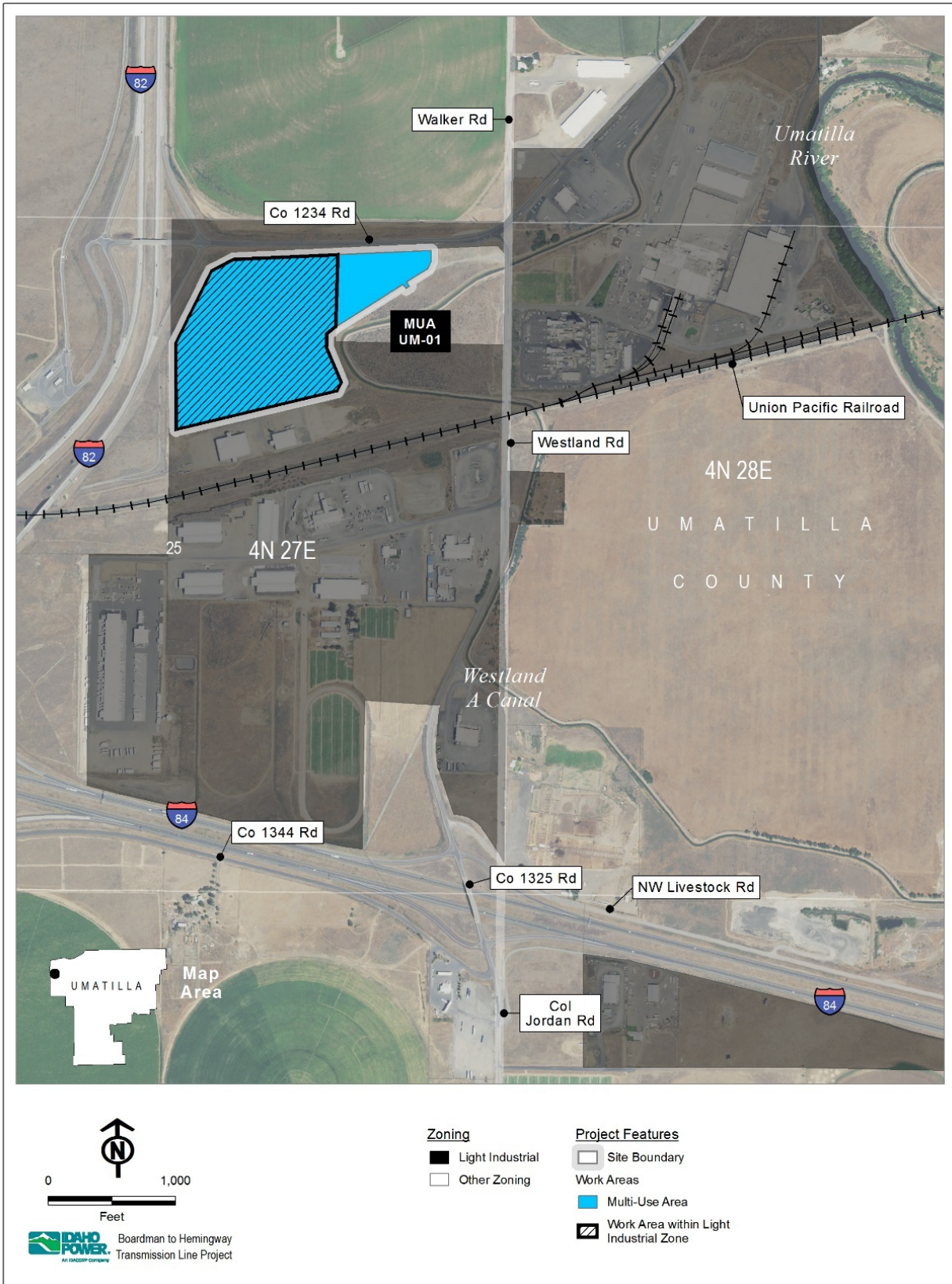
16 UCDC 152.616 is made applicable to the Project by reference in UCDC 152.085. However,
 17 there is no UCDC 152.616 category directly related to the construction of new roads or
 18 modification of existing roads. Accordingly, there are no standards under UCDC 152.616 that
 19 IPC must meet to obtain a conditional use for the access roads.

20 Even so, and in the alternative, IPC addresses the access road provisions of the Utility Facility
 21 category under UCDC 152.616(CCC), which seem to be the most relevant provisions of
 22 UCDC 152.616. With respect to UCDC 152.616(CCC)(8) and (9), IPC will consult with the
 23 Public Works Director on building standards for the road improvements and construction, and
 24 will ensure road construction is consistent with the Oregon Forest Practices Act. To ensure
 25 compliance with 152.616(CCC)(8) and (9), IPC proposes the following site certificate condition:

26 ***Land Use Condition 4:*** *Prior to construction in Umatilla County, the site*
 27 *certificate holder shall work with the Public Works Department on building*
 28 *standards for the road improvements and construction, and will ensure road*
 29 *construction is consistent with the Oregon Forest Practices Act.*

30 **5.5.2.3 Light Industrial Zone UCDC Provisions**

31 The western two-thirds of multi-use area MU UM-1 will be located in the Light Industrial (LI)
 32 Zone (see Figure K-32). No transmission line, light-duty fly yards, or communication stations will
 33 be located in this zone.



1
2

Figure K-32. Multi-Use Areas in Light Industrial Zone – Umatilla County

1 **Permitted Use (All Project Features)**

2 **UCDC Provisions Identified by IPC**

3 In its September 15, 2010 letter, the Umatilla County Planning Department did not identify any
4 potentially applicable local substantive criteria regarding Project features in the Light Industrial
5 Zone. Accordingly, each of the UCDC provisions discussed below as being potentially
6 applicable to the multi-use area in the Light Industrial Zone were identified by IPC and not
7 Umatilla County.

8 **Conditional Uses Permitted; General Criteria**

9 UCDC 152.303(A): In a LI Zone, the following uses and their accessory uses are permitted,
10 conditionally, subject to the requirements of §§ 152.610 through 152.616, and upon the
11 issuance of a zoning permit: . . . (19) Construction of . . . temporary storage, and processing
12 sites;

13 UCDC 152.303(A) authorizes as a conditional use in the Light Industrial Zone temporary
14 storage and processing sites. Here, the relevant multi-use area will be a temporary storage,
15 staging, and processing site to support the construction of the Project. Therefore, it may be
16 conditionally permitted in the Light Industrial Zone (see UCDC 152.303(A)(19)).

17 IPC analyzes and shows compliance with UCDC 152.610 through 152.615, as they related to
18 multi-use areas, above in Section 5.5.2.2. The following discussion addresses the general
19 criteria for conditional uses in the LI Zone, UCDC 152.303(B) through 152.306.

20 **General Criteria**

21 UCDC 152.303(B): The following general criteria shall be used to review all conditional uses
22 listed in the LI Zone, notwithstanding any other criteria listed in this chapter for a particular
23 use: (1) The use will be compatible with other uses allowed in a LI Zone; (2) The use will be
24 in conformance with policies listed in the text of the Comprehensive Plan; (3) The use would
25 not have an adverse impact on existing industrial uses in that it would not be incompatible
26 with the noise, dust, vibrations and odors that may emanate from or be caused by the
27 existing adjacent industrial uses.

28 UCDC 152.303(B) provides conditional uses must be consistent with other uses in the Light
29 Industrial Zone. UCDC 152.302(B)(8) lists as a permitted use in the Light Industrial Zone
30 “[h]auling, freighting and trucking yard or terminal,” which are the same types of construction
31 related activities proposed at the relevant multi-use area. Moreover, MU UM-01 is bordered on
32 the north by County Road 1234, large industrial and shipping distribution facilities to the east
33 and south, and I-82 to the west. The Hermiston Generating Plant is less than one-quarter mile
34 to the east. The constructed related staging, distribution, and construction related activities that
35 will take place at the multi-use area are light industrial activities consistent with the surrounding
36 uses in the area. Thus, the multi-use area uses will be compatible with the other uses in the
37 Light Industrial Zone (see UCDC 152.303(B)(1)).

38 The site where the multi-use area will be located was zoned for industrial use because, among
39 other reasons, it has direct access to the freeway system making it attractive for industrial
40 development (see UCCP p. 18-348). Here, highway access was one of the primary drivers for
41 IPC choosing the site for the multi-use area, and in that sense, IPC’s use of the site will be in
42 conformance with the policies that the County relied on to designate the site as light industrial
43 (see UCDC 152.303(B)(2)).

1 The multi-use area will be used temporarily during construction activities and will not be a
 2 permanent facility. Because the multi-use area will only have temporary impacts, if any, on the
 3 surrounding lands, it will not have any long-term adverse impacts on existing industries (see
 4 UCDC 152.303(B)(3)). Moreover, temporary activities, including helipad operations, will be
 5 conducted in a manner that is compatible with the noise, dust, vibrations, and odors emanating
 6 or caused by existing industrial uses (see UCDC 152.303(B)(3)).

7 For these reasons, the Project will be in compliance with UCDC 152.303(B).

8 **Limitations on Use**

9 UCDC 152.304: (A) All business, commercial and industrial activities, and storage allowed in
 10 an LI Light Industrial Zone shall be conducted wholly within a building or shall be screened
 11 from view from adjacent public roads or surrounding properties in farm, residential or
 12 commercial zones, unless the entire activity is conducted more than 500 feet from said
 13 surrounding property or road. Outdoor storage of farm and forest products or equipment shall
 14 not be subject to this limitation; (B) All off-street loading areas shall be screened from view if
 15 adjoining properties are in a residential zone; (C) All noise, vibration, dust, odor, smoke,
 16 appearance or other objectionable factors involved in any activity shall comply with
 17 appropriate state and federal regulations.

18 UCDC 152.304 provides for screening of certain activities within the Light Industrial Zone, or in
 19 the alternative, such activities must be set back 500 feet from surrounding properties or roads.
 20 By letter dated May 12, 2016, the Umatilla County Planning Department stated the UCDC
 21 setback requirements do not apply to temporary facilities, such as the Project multi-use areas. It
 22 would appear that screening requirements should similarly be excluded. As such UCDC
 23 152.304(b)(A) would not apply to the Project.

24 UCDC 152.304(b) applies only where the adjacent property is zoned residential. Because none
 25 of the properties adjacent to the multi-use area is zoned residential, this UCDC provision does
 26 not apply to the Project.

27 All noise, vibration, dust, odor, and smoke involved with IPC's multi-use area activities will
 28 comply with applicable state and federal regulations (see UCDC 152.304(c)).

29 **Dimensional Standards; Lot Size; Minimum Lot Width**

30 UCDC 152.306: In a LI Zone, the following dimensional standards shall apply: (A) *Lot size*.
 31 The minimum lot size shall be one acre unless written proof from the Department of
 32 Environmental Quality is provided which shows that an approvable subsurface disposal
 33 system can be located on less than one acre; (B) *Minimum lot width*. The minimum average
 34 lot width shall be 100 feet with a minimum of 25 feet fronting on a dedicated county or public
 35 road or state highway;

36 UCDC 152.306 applies to all uses in the Light Industrial Zone. UCDC 152.306(A) and (B)
 37 provide for minimum lot sizes and lot frontages. IPC intends to secure easements for the
 38 majority of Project features and does not expect to require partition of any parcel zoned EFU.
 39 Because the Project likely will not involve lot splits, UCDC 152.306(A) and (B) likely will not be
 40 applicable to the Project. In the event that a partition becomes necessary, IPC will obtain
 41 approval of the partition directly from Umatilla County prior to construction.

42 **Setback Requirements**

43 UCDC 152.306(C): The minimum setback requirements shall be as follows: (1) Front yard:
 44 20 feet, except if the front yard area is used for off-street parking space, then the front yard

1 shall be a minimum of 40 feet; (2) Side yard: 20 feet; (3) Rear yard: 20 feet; (4) The minimum
2 side and rear yard setbacks may be modified upon the request of a property owner, pursuant
3 to § 152.625 through 152.630. Under no circumstance shall the setback requirements be
4 modified when the reduced setback would adjoin residentially zoned property.

5 UCDC 152.306(C) provides certain setback requirements. By letter dated May 12, 2016, the
6 Umatilla County Planning Department stated the UCDC setback requirements do not apply to
7 temporary facilities, such as the Project multi-use areas. Here, the only Project feature proposed
8 in the Light Industrial Zone is an multi-use area, and therefore, the setback requirements of
9 UCDC 152.306(C) do not apply to the Project.

10 **Stream Setback**

11 UCDC 152.306(D): To permit better light, air, vision, stream or pollution control, protect fish
12 and wildlife areas, and to preserve the natural scenic amenities and vistas along the streams,
13 lakes and wetlands, the following setbacks shall apply: (1) All sewage disposal installations,
14 such as septic tanks and septic drainfields, shall be setback from the mean high-water line or
15 mark along all streams, lakes or wetlands a minimum of 100 feet, measured at right angles to
16 the high-water line or mark. In those cases where practical difficulties preclude the location of
17 the facilities at a distance of 100 feet and the DEQ finds that a closer location will not
18 endanger health, the Planning Director may permit the location of these facilities closer to the
19 stream, lake or wetland, but in no case closer than 50 feet. (2) All structures, buildings or
20 similar permanent fixtures shall be set back from the high-water line along all streams, lakes
21 or wetlands a minimum of 100 feet measured at right angles to the high-water line or mark.

22 UCDC 152.306(D) provides certain setback requirements. UCDC 152.306(D)(1) relates to
23 sewage disposal installations. The Project will not include any sewage disposal installations,
24 and therefore, the provisions of UCDC 152.306(D)(1) do not apply to the Project.

25 UCDC 152.306(D)(2) relates to permanent structures. By letter dated May 12, 2016, the
26 Umatilla County Planning Department stated the UCDC setback requirements do not apply to
27 temporary facilities, such as the Project multi-use areas. Here, the only Project feature proposed
28 in the Light Industrial Zone is a multi-use area, and therefore, the setback requirements of
29 UCDC 152.306(D)(2) do not apply to the Project.

30 **Conditional Use Permit (Batch Plant)**

31 Umatilla County's comments to ODOE on the pASC indicated that, if IPC uses a batch plant at
32 the multi-use area in the LI Zone, IPC may need to permit the batch plant separately from the
33 multi-use area. IPC disagrees. The batch plant is related to and supports the Project
34 transmission line, and therefore, the batch plant is considered a utility facility under
35 UCDC 152.303(A)(16) and will be conditionally permitted in the LI Zone as part of the multi-use
36 area (see discussion of multi-use area Conditional Use Permit in the LI Zone above).
37 Nevertheless, and in the alternative, the batch plant would be permitted as a conditional use
38 under UCDC 152.303(A)(8) as follows.

UCDC Provisions Identified by IPC

Neither in its September 15, 2010, letter nor its comments on the pASC did Umatilla County Planning Department identify any potentially applicable local substantive criteria regarding Project features in the Light Industrial Zone. Accordingly, each of the UCDC provisions discussed below as being potentially applicable to the batch plant in the Light Industrial Zone were identified by IPC and not Umatilla County.

Conditional Uses Permitted

UCDC 152.303(A): In a LI Zone, the following uses and their accessory uses are permitted, conditionally, subject to the requirements of §§ 152.610 through 152.616, and upon the issuance of a zoning permit: . . . (8) Concrete manufacturing plant as provided in §152.616 (U); . . .

The concrete batch plants at the multi-use areas will be used to combine ingredients to form concrete. Therefore, the concrete batch plants at the multi-use areas are considered concrete manufacturing plants under UCDC 152.303(A)(8) and are conditional uses in the LI Zone in Umatilla County.

IPC analyzes and shows compliance with UCDC 152.610 through 152.615 above in Section 5.5.2.2 Compliance with UCDC 152.303(B) through 152.306 is shown above in this Section 5.5.2.4, as they related to multi-use area activities including batch plant operations. The following discussion addresses the remaining UCDC provisions related to the batch plant conditional use permit—that is, UCDC 152.616(U).

Standard for Review of Conditional Uses and Land Use Decisions

UCDC 152.616(U): Concrete manufacturing plant or concrete block or dice manufacturing plant. (1) The activity is compatible with the existing surrounding land uses; (2) Adequate area is available for the activity and expansion of the activity in the future; (3) Areas used for stockpiling, storing and parking of vehicles are constructed of a durable, all weather surface; (4) Measures are taken to eliminate dust created by the activity conducted on the site; (5) Measures are taken to minimize dust and vibration caused by the activity; (6) Haul roads are constructed on an oil mat surface, at a minimum, and are maintained by the applicant in good repair, as determined by the County Public Works Director; (7) Complies with other conditions as deemed necessary provided in § 152.615.

UCDC 152.616(U) provides standards for review for conditional use concrete manufacturing facilities. UCDC 152.616(U)(1) requires that the use be compatible with existing surrounding uses. Here, the surrounding uses include a warehouse area, manufacturing facility, natural gas plant, and a highway interchange. The construction related activities at the multi-use area are similar to or compatible with the industrial and transportation related uses on the surrounding lands (see UCDC 152.616(U)(1)).

Consistent with UCDC 152.616(U)(2), the site identified for the multi-use area will be sufficient to allow for the concrete batch plant. Use of the multi-use area, including the batch plant, will be temporary and there will be no need for expansion (see UCDC 152.616(U)(2)).

Areas used for stockpiling, storing and parking of vehicles will be constructed of a durable, all-weather surface (see UCDC 152.616(U)(3)).

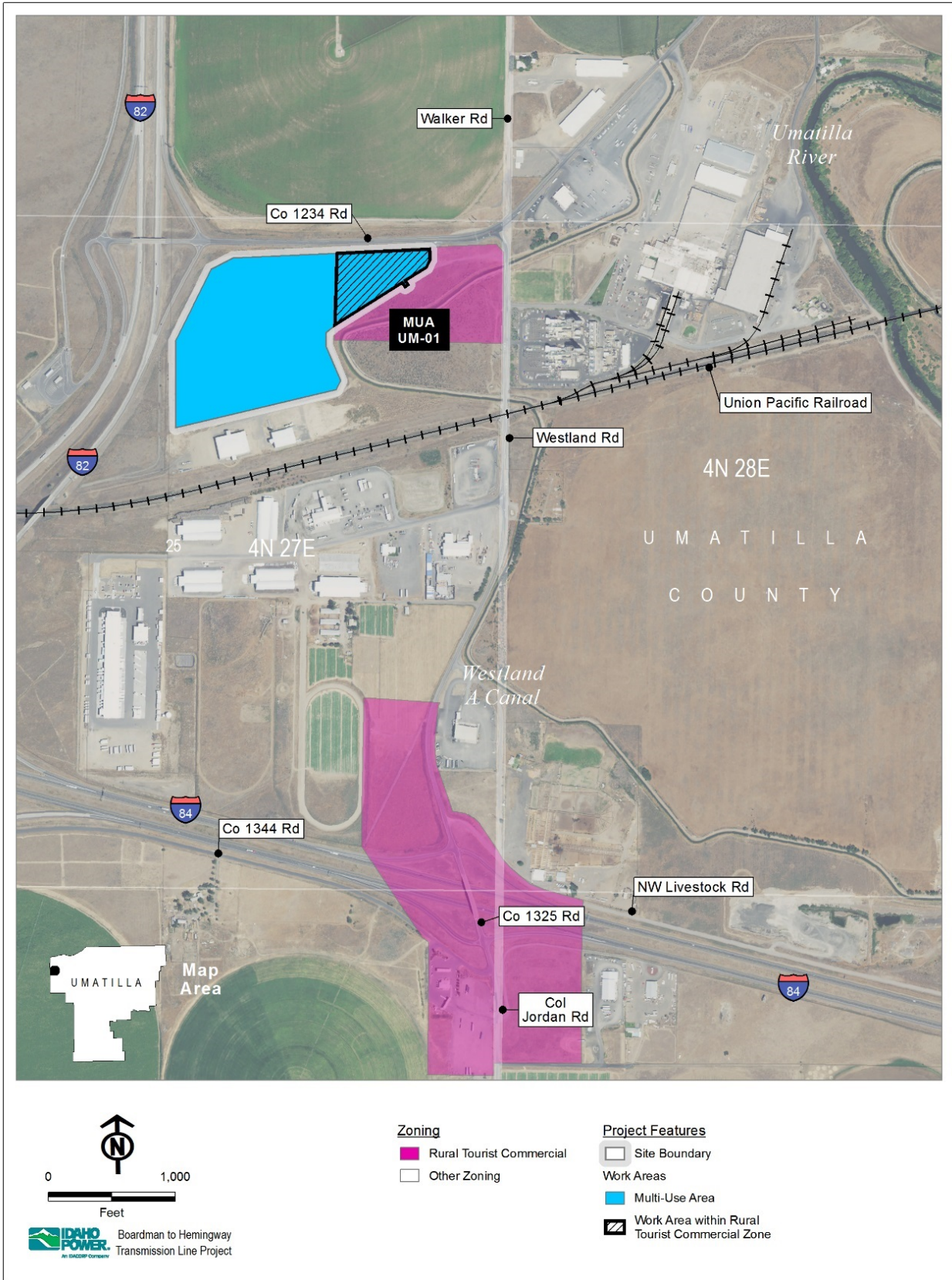
Measures will be taken to eliminate or minimize dust and vibration created by the activity conducted on the site (see UCDC 152.616(U)(4) and (5)).

1 No haul roads will be used to access the relevant multi-use area. Therefore, UCDC
2 152.616(U)(6) does not apply to the Project.

3 UCDC 152.616(U)(7) provides the county may impose certain additional conditions on the
4 conditional use. Here, the Council will impose conditions on the Project to ensure the Project
5 meets the Council's standards, if necessary. Further, IPC shows in this exhibit that the Project
6 will comply with the provisions of the UCDC, UCCP, and statewide planning goals. For these
7 reasons, no further conditions are necessary under UCDC 152.616(U)(7).

8 *5.5.2.4 Rural Tourist Commercial Zone UCDC Provisions*

9 The eastern one-third of multi-use area MU UM-1 will be located in the Rural Tourist
10 Commercial (RTC) Zone (see Figure K-33). No transmission line, new access roads,
11 substantially modified existing access roads, light-duty fly yards, or communication stations will
12 be located in this zone.



1
2 **Figure K-33. Multi-Use Areas in Rural Tourist Commercial Zone – Umatilla County**

1 **Conditional Use Permit (All Project Features)**

2 **UCDC Provisions Identified by IPC**

3 In its September 15, 2010, letter, the Umatilla County Planning Department did not identify any
4 potentially applicable local substantive criteria regarding Project features in the Rural Tourist
5 Commercial Zone. Accordingly, each of the UCDC provisions discussed below as being
6 potentially applicable to the multi-use area in the Rural Tourist Commercial Zone were identified
7 by IPC and not Umatilla County.

8 **Conditional Uses Permitted**

9 UCDC 152.283: In an RTC Zone, the following uses and their accessory uses are permitted
10 subject to the requirements of §§152.610 through 152.616 and 152.284 through 152.286 of
11 this chapter, and upon the issuance of a zoning permit: . . . (D) Utility facility as provided in §
12 152.616(CCC);

13 The relevant multi-use area is considered a utility facility or part thereof under the UCDC
14 152.283(D) and 152.616(CCC) (see above Section 5.5.2.4, discussing multi-use areas under
15 152.616(CCC)), and therefore, it may be authorized as a conditional use in the Rural Tourist
16 Commercial Zone.

17 IPC analyzes and shows compliance with UCDC 152.610 through 152.615, as they related to
18 multi-use areas, above in Section 5.5.2.2. Compliance with UCDC 152.616(CCC) is shown
19 above in Section 5.5.2.4. The following discussion addresses the remaining UCDC provisions
20 referenced in UCDC 152.283—that is, UCDC 152.284 through 152.286.

21 **Limitations on Uses**

22 UCDC 152.284: In the RTC Zone, the following limitations on uses shall apply: (A) Outside
23 storage areas shall be screened with a site-obscuring fence so that the area shall not be
24 exposed to view from the traveling public and surrounding properties; (B) Storage of scrap or
25 salvage materials shall be prohibited. (C) Except as provided in Paragraphs D and E of this
26 Section, buildings shall not exceed 3,500 square feet of floor space. (D) Motels and hotels
27 that existed on July 1, 2005 may expand up to 35 units or up to 50% of the number of
28 existing units, whichever is larger, with no limitation on square footage. (E) Structures that
29 existed on July 1, 2005 may expand to a building size of 4,500 square feet or to a size that is
30 50% larger than the building size that existed on July 1, 2005, whichever is larger.
31 (F) Notwithstanding the size limitations for structures contained in this chapter, a lawfully
32 approved or lawfully constructed structure existing as of July 1, 2005 shall not be considered
33 a non-conforming use, and in the event the structure is destroyed or substantially damaged,
34 the structure may be restored to its prior lawfully approved size.

35 UCDC 152.284 is made applicable to the Project by reference in UCDC 152.283.

36 UCDC 152.284(A) provides outside storage must be screened. By letter dated May 12, 2016,
37 the Umatilla County Planning Department stated the UCDC setback requirements do not apply
38 to temporary facilities, such as the Project multi-use areas. It would appear that screening
39 requirements should similarly be excluded. As such, UCDC 152.304(b)(A) would not apply to
40 the Project.

41 UCDC 152.284(B) prohibits the storage of scrap or salvage materials in the RTC Zone. The
42 term “scrap” refers to small pieces of materials that are left over after the greater part has been
43 used (see Oxford Dictionaries online at http://www.oxforddictionaries.com/us/definition/american_english/scrap). “Salvage” materials are materials taken from a wrecked or disabled
44 vehicle or ship (see Oxford Dictionaries online at <http://www.oxforddictionaries.com/us/>
45

1 definition/ american_english/salvage). "Storage" is the action of storing something for future use
 2 (see Oxford Dictionaries online at [http://www.oxforddictionaries.com/us/definition/](http://www.oxforddictionaries.com/us/definition/american_english/storage)
 3 [american_english/storage](http://www.oxforddictionaries.com/us/definition/american_english/storage)). Here, the materials stored at the multi-use areas will be used in the
 4 construction of the transmission line and related and supporting facilities. Materials left over
 5 from construction will be sent offsite for recycling or disposal (see Exhibit V). Because IPC will
 6 not be storing the leftover construction materials for future use, UCDC 152.284(B) does not
 7 apply to the Project.

8 UCDC 152.284(C) relates to buildings over 3,500 square feet. In this instance, the multi-use
 9 areas will not include any buildings exceeding 3,500 square feet in floor space, and therefore,
 10 UCDC 152.284(C) does not apply to the Project.

11 UCDC 152.284(D) and (E) apply only to projects involving the expansion of existing buildings.
 12 Activities at the multi-use areas will not include expanding any existing buildings. Accordingly,
 13 UCDC 152.284(D) and (E) do not apply to the Project.

14 UCDC 152.284(F) addresses existing structures. Because the relevant multi-use area will not
 15 involve an existing structure, UCDC 152.284(F) does not apply to the Project.

16 ***Dimensional Standards; Lot Size; Minimum Lot Width***

17 UCDC 152.286: In an RTC Zone, the following dimensional standards shall apply: (A) *Lot*
 18 *size*. The minimum lot size shall be one acre unless written proof from the Department of
 19 Environmental Quality is provided that shows that an approvable subsurface disposal system
 20 can be located on less than one acre; (B) *Minimum lot width*. The minimum average lot width
 21 shall be 100 feet with a minimum of 25 feet fronting on a dedicated county or public road or
 22 state highway;

23 UCDC 152.286 is made applicable to the Project by reference in UCDC 152.283.
 24 UCDC 152.286(A) and (B) provide for minimum lot sizes and lot frontages and are applicable
 25 only to the extent that a partition of a parcel is required. IPC intends to secure easements for the
 26 majority of Project features and does not expect to require partition of any parcel. Because the
 27 Project likely will not involve lot splits, UCDC 152.286(A) and (B) likely will not be applicable to
 28 the Project. In the event that a partition becomes necessary, IPC will obtain approval of the
 29 partition directly from Umatilla County prior to construction.

30 ***Setback Requirements***

31 UCDC 152.286(C): No building shall be located closer than 20 feet from a property line,
 32 except on the street/road side of a corner lot used for a side yard the setback shall be 55 feet
 33 from the center line of the road, highway, or easement, or 25 feet from the property line,
 34 whichever is greater. The minimum side and rear yard setbacks may be modified upon the
 35 request of a property owner, pursuant to § 152.625 through 152.630. Under no circumstance
 36 shall the setback requirements be modified when the reduced setback would adjoin
 37 residentially zoned property.

38 UCDC 152.286(C) provides certain setback requirements. By letter dated May 12, 2016, the
 39 Umatilla County Planning Department stated the UCDC setback requirements do not apply to
 40 temporary facilities, such as the Project multi-use areas. Here, the only Project feature proposed
 41 in the Rural Tourist Commercial Zone is a multi-use area, and therefore, the setback
 42 requirements of UCDC 52.286(C) do not apply to the Project.

Stream Setback

UCDC 152.286(D): To permit better light, air, vision, stream or pollution control, protect fish and wildlife areas, and to preserve the natural scenic amenities and vistas along the streams, lakes or wetlands, the following setbacks shall apply: (1) All sewage disposal installations, such as septic tanks and septic drainfields, shall be set back from the mean high-water line or mark along all streams, lakes or wetlands a minimum of 100 feet measured at right angles to the high water line or mark. In those cases where practical difficulties preclude the location of the facilities at a distance of 100 feet and the DEQ finds that a closer location will not endanger health, the Hearings Officer may permit the location of these facilities closer to the stream, lake or wetland, but in no case closer than 50 feet; (2) All structures, buildings or similar permanent fixtures shall be set back from the high-water line or mark along all streams, lakes or wetlands a minimum of 100 feet measured at right angles to the high-water line or mark.

UCDC 152.286(D) provides certain setback requirements. UCDC 152.286(D)(1) relates to sewage disposal installations. The Project will not include any sewage disposal installations, and therefore, the provisions of UCDC 152.286(D)(1) do not apply to the Project.

UCDC 152.286(D)(2) relates to permanent structures. By letter dated May 12, 2016, the Umatilla County Planning Department stated the UCDC setback requirements do not apply to temporary facilities, such as the Project multi-use areas. Here, the only Project feature proposed in the Rural Tourist Commercial Zone is a multi-use area, and therefore, the setback requirements of UCDC 52.286(D)(2) do not apply to the Project.

Conditional Use Permit (Batch Plant)

Umatilla County's comments on the pASC indicated that the conditional use provisions of UCDC 152.283(D) applicable to utility facilities in the RTC Zone may not cover the batch plants associated with the multi-use areas. However, the batch plant is related to and supports the Project transmission line, and therefore, the batch plant is considered a utility facility or part thereof under UCDC 152.283(D) and may be authorized as conditional use in the RTC Zone as part of the multi-use area (see discussion above on the multi-use area Conditional Use Permit in the RTC Zone). In the alternative, if the batch plant cannot be authorized under UCDC 152.283(D) or otherwise, IPC will locate the batch plant on the portion of the multi-use area parcel that is zoned Light Industrial, which allows batch plants as conditional use under UCDC 152.303(A)(8).

5.5.2.5 General UCDC Provisions

UCDC Provisions Identified by Umatilla County

In its September 15, 2010 letter, the Umatilla County Planning Department identified the following UCDC general provisions.

Access to Buildings; Private Driveways and Easements

UCDC 152.010: (A) Every building hereafter erected or moved shall be on a lot that abuts a public street or a recorded easement. All structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection, and required off-street parking. In commercial and industrial zones, access points shall be minimized. To accomplish this, access shall be limited to one every 200 feet and shall be reviewed during the design review stage or the conditional use hearing. If necessary to accomplish this, driveways may be shared between two lots. (B) Private driveways and easements that enter onto a public or county road or state or federal highway shall be constructed of at least similar if not the same material as the public or county road or state or federal highway to protect the edge of the road from rapid deterioration. The improvements shall extend at least 25 feet back from the edge of the existing travel lane surface.

Each of the multi-use areas in Umatilla County will include a temporary building. Communication station CS UM-01 will involve construction of a permanent building. Both the multi-use areas and communication station CS UM-01 will be located on lots that abut a public street or a recorded easement, that include access for servicing and fire protection, and that provide required off-street parking (see Figures K-32 and K-33 above, showing Umatilla County multi-use areas and communication station CS UM-01). Accordingly, the Project will be in compliance with UCDC 152.010(A).

UCDC 152.010(B) provides private driveways must be constructed using the same or similar material as the receiving roadway, extending at least 25 feet from the edge of the existing travel surface. Here, private Project driveways or easements will be constructed using the same or similar material as the receiving roadway, extending at least 25 feet, in compliance with UCDC 152.010(B).

Riparian Vegetation; Wetland Drainage

UCDC 152.016: (A) The following standards shall apply for the maintenance, removal and replacement of riparian vegetation along streams, lakes and wetlands which are subject to the provisions of this chapter: (1) No more of a parcel's existing vegetation shall be cleared from the setback and adjacent area than is necessary for uses permitted with a zoning permit, accessory buildings, and/or necessary access. (2) Construction activities in and adjacent to the setback area shall occur in such a manner so as to avoid unnecessary excavation and/or removal of existing vegetation beyond that required for the facilities indicated in subdivision (A)(1) above. Where vegetation removal beyond that allowed in subdivision (A)(1) above cannot be avoided, the site shall be replanted during the next replanting season to avoid water sedimentation. The vegetation shall be of indigenous species in order to maintain the natural character of the area. (3) A maximum of 25% of existing natural vegetation may be removed from the setback area. (4) The following uses and activities are excepted from the above standards: . . . (B) Minor drainage improvements necessary to ensure effective drainage on surrounding agricultural lands shall be coordinated with the Oregon Department of Fish and Wildlife and Soil and Water Conservation District. Existing drainage ditches may be cleared to original specifications without review.

As discussed in Exhibit J, IPC has designed and located the transmission line and related and supporting facilities to avoid impacts to water resources including streams, rivers, and lakes, and where avoidance is not practicable, IPC will use stream crossing techniques to minimize impacts to waters and adjacent riparian zones. However, given the Project's linear nature, it will not be feasible to avoid crossing riparian zones. The location of conductors between transmission structures may require thinning of vegetation in riparian zones and temporary access roads will

1 cross riparian zones. For areas where temporary construction disturbance results in removal of
2 riparian vegetation, natural vegetation will be replanted with indigenous species in the next
3 replanting season as outlined in the Reclamation and Revegetation Plan (see Exhibit P1,
4 Attachment P1-3). IPC will aim to meet the 25 percent maximum removal criteria of subsection
5 (3), except where necessary to protect the transmission line from potential falling trees and other
6 vegetation obstructions (see Vegetation Management Plan, Exhibit P1, Attachment P1-4). To
7 ensure compliance with UCDC 152.016(A)(1) through (3), IPC proposes the following condition:

8 **Land Use Condition 14:** *During construction in Umatilla County, the site*
9 *certificate holder shall construct the facility to comply with the following setback*
10 *distances and other requirements:*

11 *In All Zones:*

12 *a. Within the transmission line right-of-way, a maximum of 25% of existing natural*
13 *vegetation along streams, lakes, and wetlands may be removed, unless necessary*
14 *for reliability purposes.*

15

16 In compliance with UCDC 152.016(B), IPC will coordinate minor drainage improvements with
17 ODFW and Soil and Water Conservation District where required.

18 **Conditions for Development Proposals**

19 UCDC 152.017(A): The proposed use shall not impose an undue burden on the public
20 transportation system. Any increase meeting the definition of significant change in trip
21 generation constitutes an undue burden.

22 UCDC 152.003: For the purpose of this chapter, the following definitions shall apply unless
23 the context clearly indicates or requires a different meaning: . . . SIGNIFICANT CHANGE IN
24 TRIP GENERATION. A change in the use of the property, including land, structures or
25 facilities, or an expansion of the size of the structures or facilities causing an increase in the
26 trip generation of the property exceeding: (1) for gravel surfaced County roads, 30 vehicles of
27 less than 10,000 pounds Gross Vehicle Weight (GVW) and/or 20 vehicles of greater than
28 10,000 pounds GVW; (2) for paved County roads, 75 vehicles of less than 10,000 GVW; and
29 (3) for State paved Highways, 150 vehicles Of 10,000 pounds GVW or less and/or 100
30 vehicles of greater than 10,000 pounds GVW.

31 During construction of the Project, site-specific traffic impacts are expected to be limited in
32 duration to approximately 36 months. In Umatilla County, Project construction activities and
33 related vehicle trips will be centered around multi-use areas.⁵² Typical activities at multi-use
34 areas include material deliveries, show-up sites for construction workers, and the dispatching of
35 material to tower work areas. If a batch plant is co-located at a multi-use area, concrete trucks
36 will also be making several daily trips during foundation construction. In Umatilla County, there
37 will be seven multi-use areas. For each of the multi-use areas, there will be approximately 130
38 vehicle trips per day, and it is possible that the threshold of 75 trips per day could be exceeded,
39 but because there are two or more roads from which vehicles will travel to and from each multi-
40 use area, it is more likely that traffic will be dispersed between the two or more roads and that
41 the total for any road will be under the threshold. Even so, by letter dated May 12, 2016, the

⁵² The multi-use areas will serve as field offices; reporting locations for workers; parking space for vehicles and equipment; and sites for material delivery and storage, fabrication assembly of towers, cross arms and other hardware, concrete batch plants, and stations for equipment maintenance. Limited helicopter operations may be staged out of multi-use areas. Multi-use area locations are listed in Exhibit C, Table C-16 and shown on maps in Exhibit C, Attachment C-2.

1 Umatilla County Planning Department stated Umatilla County would not require a traffic impact
 2 analysis for construction-related traffic. To the extent that the proposed use may exceed the trip
 3 generation threshold for local paved or gravel roads, IPC will address such impacts in a Road
 4 Use Agreement with Umatilla County. IPC requests that the Council adopt the following site
 5 certificate condition regarding the same:

6 ***Land Use Condition 15:*** *During construction in Umatilla County, the site*
 7 *certificate holder shall complete the following to address traffic impacts in the*
 8 *county:*

- 9 *a. The site certificate holder shall work with the Umatilla County Road*
 10 *Department to identify concerns related to Project construction traffic;*
 11 *b. The site certificate holder shall develop a traffic management plan that*
 12 *includes traffic control measures to mitigate the effects of Project construction*
 13 *traffic;*
 14 *c. The site certificate holder shall conduct all work in compliance with traffic*
 15 *management plan; and*
 16 *d. The site certificate holder shall provide a copy of the traffic management plan*
 17 *to the department.*

18 During operation of the Project, IPC expects to generate two trips per year for maintenance
 19 inspections along the length of the line, which is below the traffic study threshold in
 20 UCDC 152.003.

21 For these reasons, the Project will not impose an undue burden on the public transportation
 22 system (see UCDC 152.017(A)).

23 UCDC 152.017(B): For developments likely to generate a significant increase in trip
 24 generation, applicant shall be required to provide adequate information, such as a traffic
 25 impact study or traffic counts, to demonstrate the level of impact to the surrounding system.
 26 The scope of the impact study shall be coordinated with the providers of the transportation
 27 facility. Proposals that meet the requirements in §152.019(B) are subject to §152.019(C),
 28 Traffic Impact Analysis Requirements.

29 As discussed above, IPC does not expect to exceed the “undue burden” threshold for impacts
 30 during the operational phase of the Project. To the extent that IPC may generate a significant
 31 increase in trip generation during construction, IPC will comply with UCDC 152.017(B). The
 32 Transportation and Traffic Plan (Transportation Plan; see Exhibit U, Attachment U-2) describes
 33 existing traffic conditions, the potential impacts of the Project, and IPC’s proposed measures to
 34 mitigate these potential impacts. The Transportation Plan outlines measures that the
 35 construction contractor(s) and timber contractor(s) will implement during Project construction.
 36 These contractors will be required to submit detailed traffic and transportation plans to IPC that
 37 are consistent with the provisions in the Transportation Plan. The Transportation Plan will be
 38 submitted to and approved by the appropriate federal, state, and local agencies with authority to
 39 regulate use of public roads prior to construction. The construction contractor’s plan will
 40 describe the following:

- 41 • Materials and equipment
- 42 • Final material/equipment transportation routes
- 43 • Total number of trips associated with delivery of materials and equipment
- 44 • Total number of construction workers and their distribution throughout the construction
- 45 schedule
- 46 • Likely commuting routes and total number of trips for construction workers

- 1 • Specific road improvements needed to allow use of transportation routes
- 2 • Construction Best Management Practices that will be required

3 Similarly, IPC will require its timber contractor to develop plans describing the transportation
 4 routes for logs and logging slash/biomass (if slash removal is required). Final mitigation
 5 measures will be developed in consultation with appropriate federal, state, and local agencies.
 6 This will include IPC entering into a Road Use Agreement with Umatilla County.

7 In its May 12, 2016, letter, the Umatilla County Planning Department provided that the County
 8 would not require a traffic impact analysis to assess traffic related to Project construction
 9 activities, which will be temporary.

10 UCDC 152.017(C): The applicant or developer may be required to mitigate impacts
 11 attributable to the project. Types of mitigation may include such improvements as paving,
 12 curbing, bridge improvements, drainage, installation or contribution to traffic signals,
 13 construction of sidewalks, bikeways, accessways or paths. The determination of impact or
 14 effect should be coordinated with the providers of affected transportation facilities.

15 IPC expects that there will be very few impacts to roads during operations of the Project. To the
 16 extent necessary, mitigation for temporary impacts to local roads related to construction of the
 17 Project will be coordinated with Umatilla County and addressed in the Road Use Agreement.

18 UCDC 152.017(D): Dedication of land for roads, transit facilities, sidewalks, bikeways, paths,
 19 or accessways may be required where the existing transportation system will be impacted by
 20 or is inadequate to handle the additional burden caused by the proposed use.

21 Because impacts to local roads will occur for a limited time during construction of the Project,
 22 and IPC expects only minimal impacts to local roads during operation of the Project, this
 23 criterion will not apply.

24 *5.5.2.6 Flood Hazard Overlay Zone UCDC Provisions*

25 In its September 15, 2010, letter, the Umatilla County Planning Department did not identify any
 26 directly applicable local substantive criteria regarding the flood hazard overlay zone. However,
 27 in subsequent conversations, the Department indicated an analysis of flood hazards should be
 28 presented in this application.

29 **Project Features Affecting Special Flood Hazard Areas**

30 The Project does not cross, and the Site Boundary does not include, any SFHAs in Umatilla
 31 County.

32 **Flood Plain Development Permit**

33 **General Provisions; Floodplain Development Permit Required**

34 UCDC 152.353(D): A Floodplain Development Permit shall be required prior to initiating
 35 development activities in any Areas of Special Flood Hazard established in § 152.353,
 36 Section B.

37 Under UCDC 152.353(D), development activities within a SFHA require a flood plain
 38 development permit. As currently proposed, the Project does not cross, and the Site Boundary
 39 does not include, any SFHAs in Umatilla County. Therefore, no Floodplain Development Permit
 40 is required and the Floodplain Development Permit UCDC requirements are not applicable to
 41 the Project.

1 5.5.2.7 *Historic, Archeological or Cultural Site/Structure Overlay Zone UCDC*
2 *Provisions*

3 UCDC 152.437(A): When a development, alteration or demolition is proposed for a HAC site
4 or structure, the Planning Director or Hearings Officer shall review the proposal to insure that
5 it meets the requirements of this section. A zoning permit is required for any alteration or
6 demolition of a HAC site or structure.

7 The Historic, Archeological or Cultural Site/Structure Overlay (HAC) Zone is located at the north
8 end of Umatilla County along the Columbia River, over 25 miles away from Project. As a result,
9 no impact to resources in the HAC Overlay Zone is expected.

10 Additionally, UCDC 152.439 sets forth specific criteria applicable to proposed uses for HAC
11 sites. UCDC 152.436 defines a HAC site as “any historic, archeological or cultural site or
12 structure, or geographic area listed on the Umatilla County Register of Historic Landmarks or
13 recognized as significant by the County Comprehensive Plan and Technical Report.” Umatilla
14 County has not identified any specific HAC sites or structures in the Project analysis area (see
15 UCDC 152.422 (providing that the Umatilla County Planning Commission is responsible for
16 preparing and maintaining the inventory of HAC sites and structures).

17 As explained in detail in Exhibit S, IPC has conducted extensive analysis of historic, cultural, and
18 archeological resources in the analysis area (see Exhibit S, Section 3.2 (discussing survey methods)).

19 5.5.2.8 *Critical Winter Range Overlay Zone UCDC Provisions*

20 UCDC 152.458: (A) Dwelling units shall be limited to a maximum density of three dwellings
21 within a radius of one half mile of any proposed dwelling. All requests for dwellings or land
22 divisions that will result in eventual placement of a dwelling, or administrative review of non-
23 resource dwellings, shall be referred to the Oregon Department of Fish and Wildlife (ODFW)
24 for review and recommendation. (B) Dwellings shall be sited to minimize impact on critical
25 winter range by application of the following:

26 The Critical Winter Range Overlay (CWR) Zone is intended to protect elk and deer winter range
27 (see UCDC 152.455). The requirements and standards included in the CWR Zone apply to
28 requests for dwellings or land divisions that will result in placement of a dwelling (see
29 UCDC 152.458). Because the construction of the Project does not include the construction of
30 dwellings, the requirements and standards of the CWR Zone do not apply to the Project.

31 Even so, potential impacts on deer and elk are discussed in Exhibit P1. The Proposed Route
32 centerline crosses 2.2 miles of EFU/Critical Winter Range and 2.0 miles of Grazing Farm
33 Zone/Critical Winter Range, for a total of 4.2 miles of CWR crossed in Union County. The Site
34 Boundary includes 642.3 acres and 142.3 acres, respectively, for a total of 784.6 acres. As
35 discussed in Exhibit P1, while there may be short-term impacts to elk and deer winter range
36 during construction, the Project overall will not result in significant impacts to elk and deer winter
37 range. For the elk and deer winter range crossed by the Proposed Route in Umatilla County, IPC
38 will establish construction windows at time periods when big game are less sensitive to
39 disturbances (these windows would be applied to ODFW-designated big game areas during the
40 appropriate season; see Exhibit P1, Section 3.3.7), thereby minimizing the risk of disturbing big
41 game during sensitive periods. There is a risk of big game mortalities occurring due to wildlife-
42 vehicle collisions; however, the risk of vehicle collisions would be minimized by speed limits that
43 would be imposed on construction vehicles within the Site Boundary (see Exhibit P1, Section
44 3.3.7). For additional discussion of impacts and proposed mitigation for big game, see Exhibit
45 P1, Sections 3.3.6 and 3.3.7, and IPC’s Fish and Wildlife Habitat Mitigation Plan (Exhibit P1,
46 Attachment P1-6).

5.5.2.9 Additional Conditional Use Permit Restriction UCDC Provisions

UCDC 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, water pollution, glare or odor; (B) Establishing a special yard, other open space or lot area or dimension; (C) Limiting the height, size or location of a building or other structure; (D) Designating the size, number, location and nature of vehicle access points; (E) Increasing the required street dedication, roadway width or improvements within the street right of way; (F) Designating the size, location, screening, drainage, surfacing or other improvement of a parking or loading area; (G) Limiting or otherwise designating the number, size, location, height and lighting of signs; (H) Limiting the location and intensity of outdoor lighting and requiring its shielding; (I) Requiring diking, screening, landscaping or other methods to protect adjacent or nearby property and designating standards for installation and maintenance. (J) Designating the size, height, location and materials for a fence; (K) Protecting and preserving existing trees, vegetation, water resources, air resources, wildlife habitat, or other significant natural resources; (L) Parking area requirements as listed in §§ 152.560 through 152.562 of this chapter.

In its September 15, 2010, letter, the Umatilla County Planning Department identified UCDC 152.615 as constituting potentially applicable local substantive criteria. UCDC 152.615 provides the county may impose certain conditions on a conditional use. Here, the Council will impose conditions on the Project to ensure the Project meets the Council's standards, if necessary. Further, IPC shows in this exhibit that the Project will comply with the provisions of the UCDC, UCCP, and statewide planning goals. For these reasons, no further conditions are necessary under UCDC 152.615.

5.5.3 Umatilla County Comprehensive Plan Provisions

Umatilla County identified in its September 15, 2010, letter the following provisions of the UCCP as being potentially applicable to the Project: Finding 37 and Policy 37 of the open space, scenic and historic areas, and natural resources element; Finding 19 and Policy 19 of the public facilities and services element; and Finding 20 and Policy 20 of the transportation element.

5.5.3.1 Open Space, Scenic and Historic Areas, and Natural Resources Element

Finding 37: Areas specifically set aside for natural resource exploitation, future development of reservoirs, energy generation and transmission facilities, and industry will lower the cost of eventual use as compared to allowing incompatible development on the same lands before such eventual use.

Policy 37: The County shall ensure compatible interim uses provided through Development Ordinance standards, and where applicable consider agriculturally designated land as open space for appropriate and eventual resource or energy facility use.

IPC is not aware of any areas specifically set aside for natural resource exploitation, future development of reservoirs, energy generation and transmission facilities in the analysis area for the Project. However, it appears that the Project is consistent with Finding 37 and Policy 37 because, for the majority of the lands crossed in Umatilla County, the Project will be located on agriculturally designated land that may be considered open space appropriate for energy facility use. For additional discussion of the location of the Project on agricultural lands, see Section 4.2.3.

1 5.5.3.2 Public Facilities and Services Element

2 Finding 19: Utility facilities can remove valuable resource lands and create development
3 problems for new developments and detract from existing development.

4 Policy 19: Where feasible, all utility lines and facilities shall be located on or adjacent to
5 existing public or private rights-of-way so as to avoid dividing existing farm or forest units;
6 and transmission lines should be located within existing corridors as much as possible.

7 Due to the size of the ROW required for a 500-kV transmission line, and NERC and WECC
8 reliability requirements that provide minimum separation distances for high voltage transmission
9 lines, it is not feasible to site the Project on or adjacent to existing public or private ROWs.
10 Additionally, where feasible, IPC has followed property lines to avoid dividing existing farm or
11 forest units. To the extent this finding and policy create local land use standards additional to
12 the criteria contained in ORS 215.275, the finding and policy are inapplicable.⁵³

13 5.5.3.3 Transportation Element

14 Finding 20: Major transmission lines (natural gas and electricity) traverse the county with
15 additional expansion proposed, and additional new lines or pipelines could be proposed
16 through the county.

17 Policy 20: The county will review right-of-way acquisitions and proposals for transmission
18 lines and pipelines so as to minimize adverse impacts to the community.

19 Through the Community Advisory Process (CAP) process, IPC worked extensively with local
20 landowners to select the Proposed Corridor. To the extent practicable, and in conjunction with
21 consideration of other siting constraints, IPC considered and incorporated community input into
22 its final corridor selection. Umatilla County, through its role as a Special Advisory Group and in
23 the EFSC process, will review the Project proposal in compliance with Finding 20 and Policy 20.

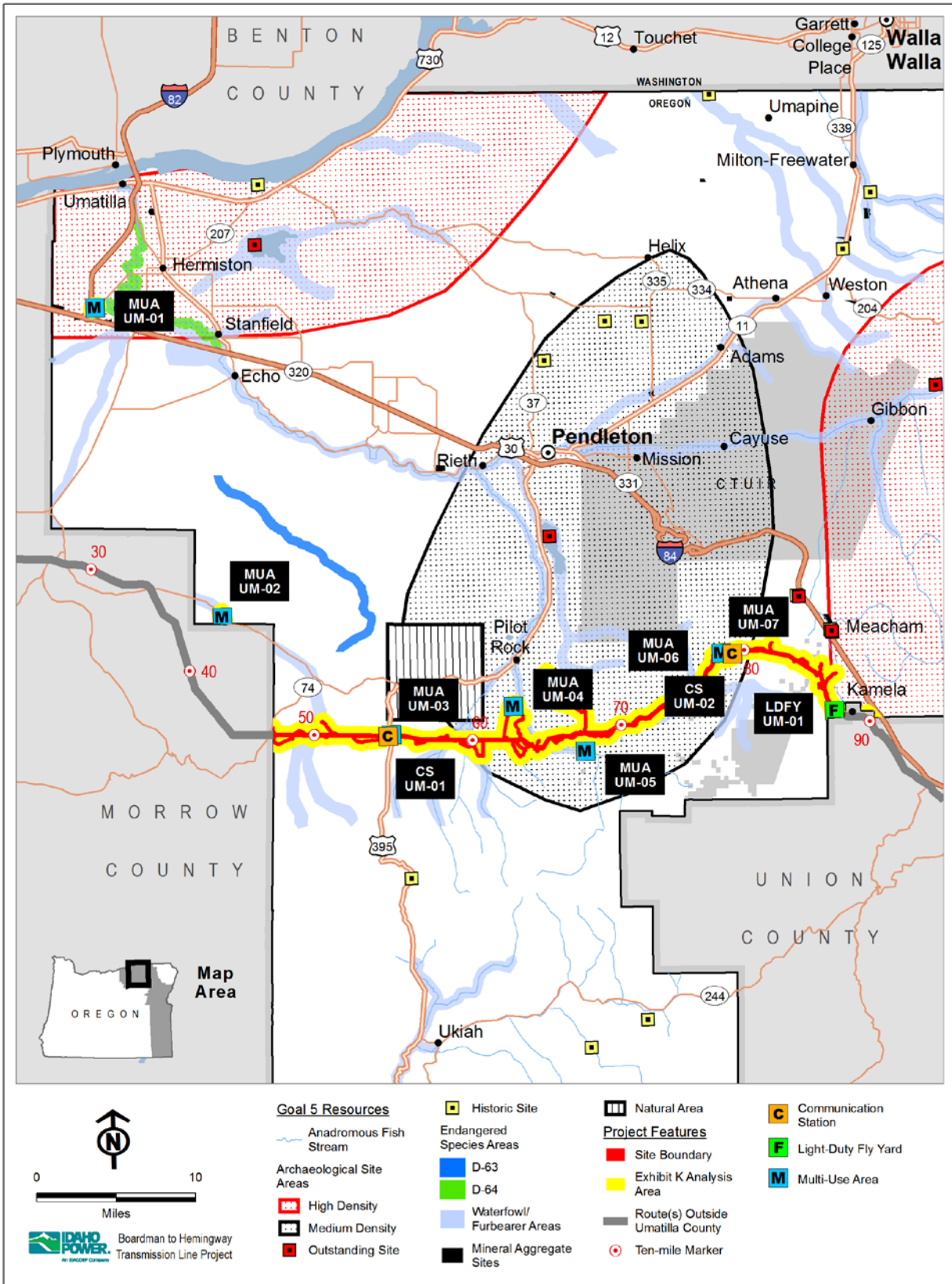
24 5.5.4 Umatilla County Goal 5 Resources

25 In correspondence dated September 15, 2015 and November 13, 2015, Umatilla County
26 provided to IPC information regarding the county's Goal 5 resources and applicable substantive
27 criteria regarding the same. Figure K-34 shows the Goal 5 resources in Umatilla County.

28 The following Goal 5 resources are crossed by the Project site boundary:

- 29 • Five (5) waterfowl/furbearer areas are crossed: Butter Creek, Bear Creek, West Birch
30 Creek, East Birch Creek, and McKay Creek;
- 31 • Four (4) anadromous fish streams are crossed: Bear Creek, West Birch Creek,
32 California Gulch Creek, and East Birch Creek;
- 33 • MU UM-01 is within a high density archaeological area near the Columbia River, and the
34 site boundary (including two structures and one pulling-tensioning site) clips the
35 southwest corner of another high density area in the Blue Mountains; and
- 36 • Project Site Boundary crosses a medium density archaeological area between MP 59.5 and
37 MP 80.5; 78 structures, several pulling-tensioning sites, four (4) multi-use areas (MU UM-04
38 to -07), and one (1) communication station site (CS UM-02) are within this large area.

⁵³ LUBA recently reviewed Umatilla County's application of Policy 19, wherein Umatilla County required that the proponent for development of a transmission line consider co-location. Relying on *Brentmar v. Jackson County*, LUBA determined that "the county is not permitted to impose local land use standards on uses that are permitted under subsection (1) of ORS 215.283" and found that Umatilla County erred in so doing. *WKN Chopin, LLC v. Umatilla County*, LUBA No. 2012-016 at 20 (July 11, 2012).



1
2 **Figure K-34. Umatilla County Goal 5 Resources**

1 **5.5.4.1 Riparian Habitat**

2 Umatilla County has not adopted any Goal 5 protection program for riparian habitat. No analysis
3 is required, and no standard must be met, to comply with the county's Goal 5 planning goals for
4 protecting riparian habitat.

5 **5.5.4.2 Streams**

6 Umatilla County has not adopted any Goal 5 protection program for streams. No analysis is
7 required, and no standard must be met, to comply with the county's Goal 5 planning goals for
8 protecting streams.

9 **5.5.4.3 Wetlands, Lakes, Ponds, and Reservoirs**

10 No Goal 5 designated wetlands, lakes, ponds, or reservoirs occur within the Site Boundary (see
11 Figure K-34). No analysis is required, and no standard must be met, to comply with the county's
12 Goal 5 planning goals for protecting wetlands, lakes, ponds, or reservoirs.

13 **5.5.4.4 Wildlife Habitat**

14 **Big Game Critical Winter Range Habitat**

15 In its November 13, 2015, letter to IPC, the Umatilla County Planning Department indicated that
16 the Goal 5 designated big game critical winter range habitat is included in the Critical Winter
17 Range Overlay Zone. The Proposed Route centerline crosses 3.1 miles of EFU/Critical Winter
18 Range and 2.8 miles of Grazing Farm Zone/Critical Winter Range, for a total of 5.9 miles of
19 critical winter range crossed. The Site Boundary includes 230.7 acres and 192.6 acres,
20 respectively, for a total of 423.3 acres.

21 Big game critical winter range habitat is considered a 3C resource (see UCCP Tech Report D-5
22 through D-27; Umatilla County November 13, 2015, letter). UCDC 152.455 through 152.458 are
23 the only UCDC provision applicable to complying with the county's Goal 5 planning goals for big
24 game critical winter range habitat.

25 UCDC 152.455 through 152.457 address the purpose, applicability, and effect of the Critical
26 Winter Range Overlay Zone, and provide no standards that IPC must meet to show compliance
27 with the county's Goal 5 planning goals. UCDC 152.458 is addressed above in Section 5.5.2.8,
28 where IPC shows that the Project will be in compliance with the same. Therefore, the Project
29 will comply with the county's Goal 5 planning goals for big game critical winter range habitat.

30 **Prairie Falcons**

31 Goal 5 designated prairie falcon habitat consists of: (i) Alkali Canyon Area D-63; and (ii) Pilot
32 Rock Area D-96 (see UCCP Technical Report p. D-62, rev. Sept. 1984). Each of these areas
33 are 3C designated Goal 5 resources (see UCCP Technical Report p. D-62). The Proposed
34 Route will not cross any Goal 5 designated prairie falcon habitat. Moreover, Umatilla County has
35 not adopted any Goal 5 protection program for prairie falcon habitat. No analysis is required,
36 and no standard must be met, to comply with the county's Goal 5 planning goals for protecting
37 prairie falcon habitat.

38 Although beyond what is required by the UCCP, IPC has been in regular consultation with
39 ODFW regarding avoidance and minimization of impact to prairie falcon habitat, and IPC has
40 developed a habitat mitigation plan in collaboration with ODFW. For additional information, refer
41 to IPC's Fish and Wildlife Habitat Mitigation Plan (Exhibit P1, Attachment P1-6).

1 Long-Billed Curlews

2 Goal 5 designated long-billed curlew habitat consists of: (i) Deer Flat (T2N R30 S25, S36) D-90;
3 (ii) Cold Springs National Wildlife Refuge D-45; (iii) Pilot Rock Grassland; (iv) along Umatilla
4 River (between Stanfield and .3-mile dam) D-64; (v) Alkali Canyon Area D-63; and Echo
5 Meadows D-51 (see UCCP Technical Report p. D-62, rev. Sept. 1984). The Proposed Route
6 will not cross any Goal 5 designated long-billed curlew habitat. Moreover, Umatilla County has
7 not adopted any Goal 5 protection program for long-billed curlew habitat. No analysis is
8 required, and no standard must be met, to comply with the county's Goal 5 planning goals for
9 protecting prairie falcon habitat.

10 Although beyond what is required by the UCCP, IPC has been in regular consultation with
11 ODFW regarding avoidance and minimization of impact to long-billed curlew habitat, and IPC
12 has developed a habitat mitigation plan in collaboration with ODFW. For additional information,
13 refer to IPC's Fish and Wildlife Habitat Mitigation Plan (Exhibit P1, Attachment P1-6).

14 Bald Eagle Nests

15 Certain bald eagle nests are 1A designated Goal 5 resources in Umatilla County (see UCCP
16 Technical Report p. D-62). The Proposed Route does not cross the designated bald eagle nest
17 habitat—i.e., Bob's Sled Ridge (see Figure K-34; UCCP Technical Report D-62). Therefore, no
18 analysis is required, and no standard must be met, to comply with the county's Goal 5 planning
19 goals for protecting bald eagle nests.

20 Osprey Nests

21 Certain osprey nests are 1A designated Goal 5 resources in Umatilla County (see UCCP
22 Technical Report p. D-62). The Proposed Route does not cross the designated osprey nest
23 habitat—i.e., along Umatilla River below Mission Bridge (see Figure K-34; UCCP Technical
24 Report D-62). Therefore, no analysis is required, and no standard must be met, to comply with
25 the county's Goal 5 planning goals for protecting osprey nests.

26 Heron Rookeries

27 Certain heron rookeries are 1B designated Goal 5 resources in Umatilla County (see UCCP
28 Technical Report p. D-62). The Proposed Route does not cross the designated heron rookery
29 habitat—i.e., along Walla Walla River near Tum-a-Lum or along Umatilla River near Nolin (see
30 Figure K-34; UCCP Technical Report D-62). Therefore, no analysis is required, and no standard
31 must be met, to comply with the county's Goal 5 planning goals for protecting heron rookeries.

32 Regardless, Umatilla County has not adopted any Goal 5 protection program for bald eagle
33 nests, osprey nests, or heron rookeries. Therefore, even if such habitats were impacted by the
34 Project, no analysis would be required, and no standard must be met, to comply with the
35 county's Goal 5 planning goals for protecting bald eagle nests, osprey nests, or heron rookeries.

36 Upland Game Birds

37 Umatilla County has not adopted any Goal 5 protection program for upland game birds. No
38 analysis is required, and no standard must be met, to comply with the county's Goal 5 planning
39 goals for protecting upland game birds.

1 **Waterfowl**

2 Umatilla County has not adopted any Goal 5 protection program for waterfowl. No analysis is
3 required, and no standard must be met, to comply with the county's Goal 5 planning goals for
4 protecting waterfowl.

5 **Furbearers and Hunted Non-Game Wildlife**

6 The Project will cross five (5) waterfowl/furbearer areas: Butter Creek, Bear Creek, West Birch
7 Creek, East Birch Creek, and McKay Creek. Even so, Umatilla County has not adopted any
8 Goal 5 protection program for furbearers and hunted non-game wildlife. No analysis is required,
9 and no standard must be met, to comply with the county's Goal 5 planning goals for protecting
10 furbearers and hunted non-game wildlife.

11 **Other Non-Game Wildlife**

12 Umatilla County has not adopted any Goal 5 protection program for other non-game wildlife. No
13 analysis is required, and no standard must be met, to comply with the county's Goal 5 planning
14 goals for protecting other non-game wildlife.

15 **5.5.4.5 Fish Habitat**

16 The Project will cross four (4) anadromous fish streams: Bear Creek, West Birch Creek,
17 California Gulch Creek, and East Birch Creek. Umatilla County has not adopted any Goal 5
18 protection program for Goal 5 fish streams. And to the extent the UCDC includes stream
19 setback requirements applicable in the land use zones where the Project will be located, IPC
20 has proposed site certificate conditions ensuring that the Project will comply with the same (see
21 Site Certificate Condition 8.c). No further analysis is required, and no additional standards must
22 be met, to comply with the County's Goal 5 planning goals for protecting fish habitat.

23 **5.5.4.6 Federal Wild and Scenic Rivers and Oregon Scenic Waterways**

24 Umatilla County has not designated any federal Wild and Scenic Rivers or Oregon Scenic
25 Waterways as Goal 5 designated resources. No analysis is required, and no standard must be
26 met, to comply with the county's Goal 5 planning goals for protecting federal Wild and Scenic
27 Rivers or Oregon Scenic Waterways.

28 **5.5.4.7 Groundwater Resources**

29 Umatilla County has not designated any groundwater resources as Goal 5 designated
30 resources. No analysis is required, and no standard must be met, to comply with the county's
31 Goal 5 planning goals for protecting groundwater resources.

32 **5.5.4.8 Approved Oregon Recreation Trail**

33 Umatilla County has not designated any approved Oregon Recreation Trails as Goal 5
34 designated resources. No analysis is required, and no standard must be met, to comply with the
35 county's Goal 5 planning goals for protecting approved Oregon Recreation Trails.

36 **5.5.4.9 Natural Areas**

37 No designated natural areas are located within the Site Boundary. No analysis is required, and
38 no standard must be met, to comply with the county's Goal 5 planning goals for protecting
39 natural areas.

1 **5.5.4.10 Wilderness Areas**

2 Umatilla County has not designated any wilderness areas as Goal 5 designated resources. No
3 analysis is required, and no standard must be met, to comply with the county's Goal 5 planning
4 goals for protecting wilderness areas.

5 **5.5.4.11 Mineral Aggregate**

6 No designated mineral aggregate sites are located within the Site Boundary. No analysis is
7 required, and no standard must be met, to comply with the county's Goal 5 planning goals for
8 protecting mineral aggregate sites.

9 **5.5.4.12 Energy Resources**

10 Umatilla County has not adopted any Goal 5 protection program for energy resources. No
11 analysis is required, and no standard must be met, to comply with the county's Goal 5 planning
12 goals for protecting energy resources.

13 **5.5.4.13 Cultural Resources**

14 Umatilla County has not designated any cultural resources as Goal 5 designated resources,
15 except to the extent they are protected as Goal 5 designated historic sites. No analysis is
16 required, and no standard must be met, to comply with the county's Goal 5 planning goals for
17 protecting cultural resources.

18 **5.5.4.14 Historic Resources**

19 MUA UM-01 is within a high density archaeological area near the Columbia River, and the site
20 boundary (including two structures and one pulling-tensioning site) clips the southwest corner of
21 another high density area in the Blue Mountains; and the Project site boundary crosses a
22 medium density archaeological area between MP 59.5 to MP 80.5; 78 structures, several
23 pulling-tensioning sites, four (4) multi-use areas (MU UM-04 to 07), and one (1) communication
24 station site (CS UM-02) are within this large area.

25 The Historic, Archeological or Cultural Site/Structure Overlay Zone UCDC provisions,
26 UCDC 152.435 through 152.443, are the only UCDC provisions applicable to compliance with
27 the County's planning goals regarding Goal 5 designated historic resource. UCDC 152.439 sets
28 forth specific criteria applicable to proposed uses on HAC sites. UCDC 152.436 defines a HAC
29 site as "any historic, archeological or cultural site or structure, or geographic area listed on the
30 Umatilla County Register of Historic Landmarks or recognized as significant by the County
31 Comprehensive Plan and Technical Report." Umatilla County has not identified any specific
32 HAC sites or structures in the Project analysis area (see UCDC 152.422 (providing that the
33 Umatilla County Planning Commission is responsible for preparing and maintaining the
34 inventory of HAC sites and structures)). Therefore, no analysis is required, and no standard
35 must be met, to comply with the County's Goal 5 planning goals for historic resources.

36 As explained in detail in Exhibit S, IPC has conducted extensive analysis of historic, cultural,
37 and archeological resources in the analysis area (see Exhibit S, Section 3.2 (discussing survey
38 methods)). IPC will continue to work with Umatilla County to ensure no HAC sites are impacted
39 by the Project. If the Project will impact a HAC site, IPC will comply with the provisions of
40 UCDC 152.435 through 152.443.

1 5.5.4.15 Open Spaces

2 Umatilla County has not designated any open spaces as Goal 5 designated resources. No
3 analysis is required, and no standard must be met, to comply with the county's Goal 5 planning
4 goals for protecting open spaces.

5 5.5.4.16 Scenic Views or Sites

6 No designated scenic views or sites are located within the Site Boundary. No analysis is
7 required, and no standard must be met, to comply with the county's Goal 5 planning goals for
8 protecting scenic views or sites.

9 **5.5.5 Umatilla County EFU Micro Analysis**

10 As shown in Section 4.0 above, the Project must be sited in an EFU zone in order to provide its
11 intended services due to one or more of the factors set forth in ORS 215.275(2).
12 ORS 215.283(1)(c)(A) requires IPC make that showing only at the "macro"⁵⁴ level, examining
13 the need to site on EFU lands at a project-wide level across all five relevant counties. Though
14 beyond what is required by the statute, the following section makes a similar showing at the
15 "micro" or county level, by providing a detailed discussion of the necessity of siting the Project in
16 EFU in Umatilla County. This section is organized in the same way as the macro analysis,
17 providing information specific to the siting of the Project in Umatilla County.

18 5.5.5.1 Reasonable Alternatives Considered

19 Through the CAP, IPC considered approximately 11 alternative routes or segments in Umatilla
20 County, all of which cross EFU (see Exhibit B, Attachment B-1, 2010 Siting Study and
21 Attachment B-2, 2012 Supplemental Siting Study). The Supplemental Siting Study contains
22 additional discussion regarding the consideration of alternatives in this area that led to the
23 selection of the Proposed Corridor and identification of alternative corridor segments. However,
24 EFU-zoned lands in Umatilla County are unavoidable in reaching the Longhorn Station from the
25 designated Wallowa- Whitman NF utility corridor (see Figure K-27 and Figure K-28). As a result,
26 there are no reasonable non-EFU alternative routes in Umatilla County.

27 5.5.5.2 Factors Requiring Siting of the Project on Umatilla County Land Zoned EFU

28 Of the six factors justifying location of a utility facility necessary for public service on EFU, four
29 factors drove IPC's location of the Project in Umatilla County: locational dependence; lack of
30 available urban and nonresource land; availability of existing ROWs; and federal requirements
31 related to the existing ROWs.

32 **Technical and Engineering Feasibility**

33 The need for siting the Project in EFU lands in Umatilla County was not driven by technical or
34 engineering feasibility considerations.

35 **Locational Dependence**

36 A utility facility is considered locationally dependent if it must cross land in one or more areas
37 zoned EFU in order to achieve a reasonably direct route or to meet unique geographical needs
38 that cannot be satisfied on non-EFU lands. Here, the Project must travel between the
39 northwestern portion of Umatilla County near where the Longhorn Station will be located to the
40 eastern portion of the county near the Wallowa-Whitman National Forest Utility Corridor (see

⁵⁴ In the context of Exhibit K, "macro" analysis refers to analysis of the Project across all five counties, and "micro" analysis is a county-specific analysis.

1 Figure K-5). As shown in Figure K-27 and Figure K-28, there is no reasonably direct route
2 between these two points that avoids crossing EFU lands in Umatilla County. Therefore, at a
3 county level of analysis, the Project must be sited in EFU lands due to the Project's locational
4 dependence.

5 ***Lack of Available Urban and Nonresource Lands***

6 There is no path connecting the northwestern portion of Umatilla County near where the
7 Longhorn Station will be located to the eastern portion of the county near the Wallowa-Whitman
8 National Forest Utility Corridor that consists entirely of urban and nonresource lands. To the
9 contrary, a large swath of Umatilla County running north to south where the Project must cross
10 is EFU lands (see Figure K-27). Consequently, there is a lack of available urban and
11 nonresource lands in Umatilla County, and EFU lands must be crossed by the Project.

12 ***Availability of Existing Rights of Way***

13 There was no existing utility ROW traveling between the Project endpoints in Umatilla County.
14 Even so, IPC made reasonable efforts to locate the Project in the Wallowa-Whitman NF Utility
15 Corridor in Union County. In order to enter the utility corridor, the Project must cross the
16 Umatilla County-Union County border near or at the location where the Proposed Route crosses
17 the border. As well, the Project must cross EFU to get to the northwestern portion of the county
18 from the current Umatilla County-Union County border crossing. Therefore, to take advantage of
19 the Wallowa-Whitman NF Utility Corridor, the Project must be sited in EFU lands in Umatilla
20 County.

21 ***Public Health and Safety***

22 The need for siting the Project in EFU lands in Umatilla County was not driven by public health
23 and safety considerations.

24 ***Other Requirements of State or Federal Agencies***

25 As stated above, the Project's use of the Wallowa-Whitman National Forest Utility Corridor
26 drove the location of the Umatilla County-Union County border crossing. The use of the corridor
27 was a matter of federal regulation. To take advantage of the Wallowa-Whitman NF Utility
28 Corridor, the Project must be sited in EFU lands in Umatilla County.

29 ***5.5.5.3 Costs Were Not the Only Factor Considered***

30 As discussed in Exhibit B and the attached siting studies, costs were not the only consideration
31 in selecting IPC's Proposed Route. Avoidance of sensitive resources, permitting and
32 construction factors, and extensive input from local citizens and officials and many other
33 stakeholders were the primary factors in corridor selection (see ORS 215.275(3)).

34 ***5.5.5.4 Restoration of Agricultural Land***

35 Table K-14 describes the temporary and permanent impacts on agricultural lands in Umatilla
36 County. The Agricultural Lands Assessment (Exhibit K, Attachment K-1) contains aerial
37 photographs showing affected agricultural areas in the EFU zone. It discusses measures IPC
38 will take to minimize and mitigate for potential impacts to agricultural operations within each
39 zone. These measures can be adopted as conditions of approval to ensure that the Project will
40 not result in significant adverse impacts to agricultural lands within this portion of the Project
41 (see ORS 215.275(4)).

Table K-14. Temporary and Permanent Impacts on Agricultural Lands in Umatilla County

Route	Agriculture Type ¹	Temporary/ Construction Impacts (acres)	Permanent/ Operations Impacts (acres)
Proposed Route	Conservation Reserve Program	–	–
	Dryland Farming	6.8	1.2
	Pasture/Hay ²	8.2	0.2
Proposed Route – Total³		15.0	1.4

¹ Agricultural type determined from Agricultural Lands Assessment provided in Attachment K-1.

² Pasture/hay includes irrigated alfalfa/hay.

³ Sums may not total due to rounding.

5.5.5.5 Mitigation and Minimization Conditions

As discussed in Section 4.0 and in the Agricultural Assessment, IPC does not expect that the Project will have adverse impacts on surrounding lands, result in significant changes in accepted farm practices or a significant increase in the cost of farm practices on the surrounding farmlands (see ORS 215.275(5)). To the extent the Council has concerns about impacts to surrounding agricultural land, the Council may incorporate elements of the agricultural mitigation plan into the conditions required for issuance of a site certificate. Additionally, through its role as a Special Advisory Group, Umatilla County may provide recommendations to the Council regarding conditions to include in the site certificate.

5.5.6 Additional Umatilla County Comments

In its September 15, 2010, letter, the Umatilla County Planning Department raised the following additional issues.

5.5.6.1 Fire and Emergency Response Plan

The Umatilla County Planning Department identified UCDC 162.615 as being potentially applicable to the Project with respect to fire and emergency response. However, that code provision does not appear in the relevant version of the UCDC, and therefore, there is no applicable local substantive criteria to respond to. Even so, IPC developed—as part of Exhibit U—a Fire Prevention and Suppression Plan (see Exhibit U, Attachment U-3) that details how IPC will prevent, respond to, and manage fire risk during the Project's construction and operations. Specific measures and precautions will be taken on forest lands to address fire risks. IPC will coordinate with the Oregon Department of Forestry and the USFS for state and federal lands, respectively, and will manage fire prevention activities on privately owned timber lands. Section 2 of the Fire Prevention and Suppression Plan discusses fire precautions during construction and operations. Accordingly, IPC has shown that it has sufficiently addressed fire and emergency response, and that the Project will not significantly increase fire suppression costs or significantly increase risks to fire personnel.

5.5.6.2 Landowner Authorization

Umatilla County Comment: The EFSC process does not require landowner authorization prior to submittal of an application. However, landowner authorization is required by Umatilla County prior to action on a land use permit application, for example before the processing a

1 Conditional Use Permit pursuant to issuance of a Site Certificate. Authorization may be
2 provided in the form of a landowner signature(s) or other legal authorization.

3 IPC will obtain landowner signatures or other legal authorization after issuance of the site
4 certificate and prior to construction, and will provide the landowner signatures or other legal
5 authorization as required by applicable conditions of the site certificate.

6 5.5.6.3 Regional Transmission Impacts

7 Umatilla County Comment: While the scope of this specific NOI is the pending Idaho Power
8 Company Project, Planning Commission expressed concern about the cumulative impacts of
9 multiple transmission lines in Umatilla County and the region. To that end, Planning
10 Commission request EFSC and the state give consideration to the methods of planning for
11 and consolidating transmission corridors, over sizing projects and otherwise preventing
12 excessive or redundant transmission lines.

13 As described in Exhibit N, IPC has demonstrated need for the Project under both the least-cost
14 plan rule, OAR 860-023-0020, and the system reliability rule for transmission lines, OAR 345-
15 023-0030. Where a proposed facility or a substantially similar proposed facility is included in the
16 preferred portfolio of an IRP acknowledged by the OPUC, EFSC must find that the need
17 standard has been satisfied. As explained in detail in Exhibit N, IPC also demonstrates need for
18 the Project under the system reliability rule for transmission lines.

19 Under EFSC's rules, the Council is not authorized or required to consider "methods of planning
20 for and consolidating transmission corridors" in the sense contemplated by Umatilla County's
21 comment. Rather, so long as the Council finds that OPUC has recognized the need for a
22 proposed transmission line in an acknowledged IRP, the Council must conclude that the Project
23 meets the EFSC need standard. This is a public policy approach established by the legislature
24 and is based on the fact that, in order to meet the OPUC's guidelines and goals, the IRP
25 process requires a utility to identify several portfolios of different combinations of resources that
26 can be used to meet the utility's load over a twenty-year planning horizon. OPUC
27 acknowledgement of an IRP means that the IRP is "reasonable, based on information available
28 at the time." The OPUC's IRP guidelines recognize that all utility planning encompasses
29 uncertainty and requires only that utilities consider the uncertainties in their planning and that
30 the preferred portfolio represent the best combination of expected costs and associated risks
31 and uncertainties. Exhibit N provides a detailed summary of IPC's least-cost plan (or IRP). IPC's
32 2009, 2011, 2013, and 2015 IRPs include the Project as an essential component. The 2009,
33 2011, 2013, and 2015 IRPs were acknowledged by the OPUC. The 2017 IRP is pending before
34 the OPUC. To the extent that the Planning Commission believes that additional transmission
35 planning should be required at the state level, that issue must first be raised with the legislature.

36 Moreover, since 2001, several regional initiatives have evaluated the cost and benefits of new
37 transmission additions in the Northwest. These studies have all identified constraints on the
38 existing transmission system between the Mid-Columbia market in the Pacific Northwest and
39 load centers in the intermountain region, including southeastern Oregon and southwestern
40 Idaho, and have identified the need for new transmission additions to alleviate constraints.
41 Several studies have specifically concluded that the Project would provide key benefits to the
42 region, both with regard to reliability and cost of power (see Northern Tier Transmission Group's
43 2009, 2011, and 2013 Biennial Transmission Plans). In summary, the Project will provide
44 additional capacity of needed energy to IPC's service area, alleviate reliability constraints, and
45 relieve existing transmission congestion in the two affected regions.

1 **5.5.6.4 Forest Rules OAR 660-006-0025(4)(q)**

2 Umatilla County Comment: The Forest Rules allow for the “construction of a new utility
3 facility, including transmission lines and towers, necessary for public service with right-of-way
4 widths of up to 100 feet as specified in ORS 772.210.” This Rule limits the right-of-way to 100
5 feet; however, by reference to ORS 772.210 an applicant may request a larger right-of-way.
6 Verification of compliance with this rule should be included in the application.

7 For analysis of application of the Forest Rules OAR 660-006-0025(4)(q), see the discussion of
8 the GF zone in Section 5.5.2.3.

9 **5.5.6.5 Use of Easement and Right-of-Way**

10 Umatilla County Comment: The NOI appears to use the terms right-of-way and easement
11 interchangeably. Idaho Power officials have indicated that they intend to secure leases
12 (easements) for most of the transmission line. For certain segments and appurtenances, for
13 example a substation, Idaho Power may want to own the land outright. Where the land
14 purchase is for a portion of an existing parcel, a land partition application would be required.
15 A county land partition application would be separate from the Site Certificate Application.

16 IPC intends to secure easements for the majority of Project features and, therefore, does not
17 expect to require partition of any parcel in Umatilla County. In the event that a partition becomes
18 necessary, IPC will obtain approval of the partition directly from Umatilla County prior to
19 construction.

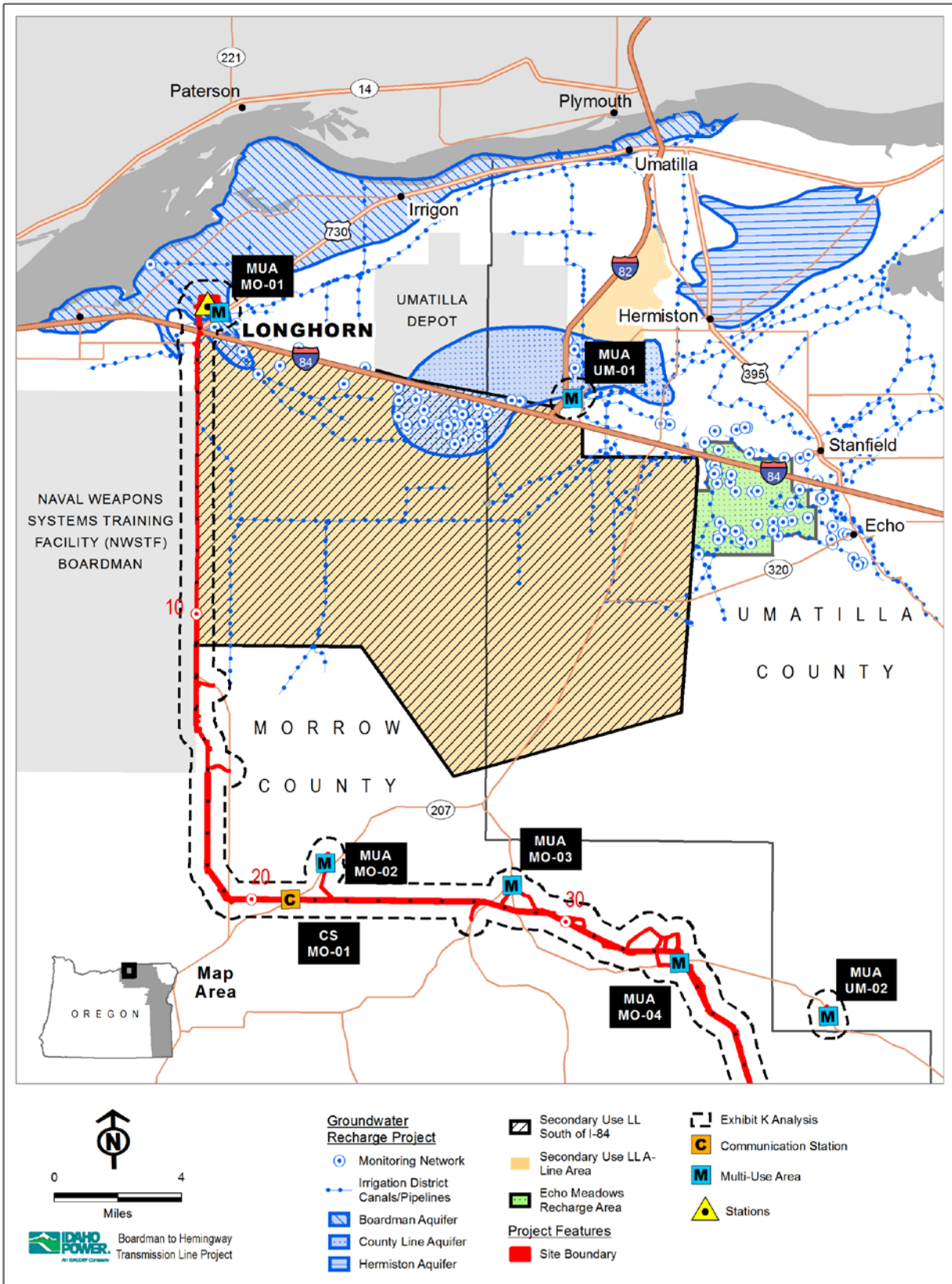
20 **5.5.6.6 Umatilla Basin Water Commission**

21 Umatilla County Comment: The recently formed Umatilla Basin Water Commission is working
22 on an important groundwater recharge project in the western region of Umatilla County. A
23 portion of the proposed routes may cross some of the recharge area. Planning Commission
24 encouraged Idaho Power to coordinate closely with the UBWC so that the transmission
25 towers and route would not conflict with the recharge project. . . .

26 The Umatilla Basin Water Commission (UBWC) is an intergovernmental entity formed in 2012 to
27 coordinate implementation of the Umatilla Basin Aquifer Restoration (UBAR Project), a regional
28 project authorized and funded by the Oregon Legislature. The Commission members are the
29 Confederated Tribes of the Umatilla Indian Reservation, Morrow County, Umatilla County, and
30 the Westland Irrigation District. Stage I of the UBAR Project was completed in March 2011, and
31 the UBWC anticipates full build-out within 5 years. Ultimately, UBWC intends to operate the
32 recharge system indefinitely.

33 An IPC representative contacted the Executive Director of the UBWC by telephone on
34 August 14, 2012, and learned that UBWC’s primary concern regarding the Project’s potential
35 impacts on the UBAR Project is access. The UBWC wants to be sure that there will not be
36 access restrictions along the Project that would impact pipeline maintenance or its ability to
37 reach a recharge or monitoring area that may be accessible only by crossing the Project ROW
38 or may be located within the Project ROW.

39 Based on IPC’s review of the UBWC’s preliminary GIS mapping data, shown in Figure K-35, it
40 appears that the Project, the Site Boundary, or both crosses the UBAR Project. IPC will
41 continue to review this information with the UBWC to ensure that the Project will not limit access
42 to the UBAR Project components.



1
2 **Figure K-35. Groundwater Recharge Project**

1 **5.5.6.7 Use of Land Underneath the Transmission Lines**

2 Umatilla County Comment: Planning Commission recommended that Idaho Power Company
 3 make reasonable efforts to allow farming and agricultural practices to continue in the area
 4 underneath the power lines. That would help minimize the resource ground that is removed
 5 from production, which includes grazing, cultivation, irrigation, and a large number of natural
 6 resource management practices.

7 As discussed in the Agricultural Assessment, IPC will make every effort to ensure that
 8 agricultural practices may continue in the area underneath the transmission lines to minimize
 9 the impact of the Project on agricultural and farming practices.

10 **5.5.6.8 Mitigation**

11 Umatilla County Comment: Planning Commission expressed concerns that the impacts of
 12 the transmission line may be greater than the benefits. The potential tax revenue is limited
 13 and therefore the commission requested that EFSC give some consideration to provision of
 14 an impact fee.

15 Umatilla County notes in its letter that the Planning Commission expressed concerns that the
 16 impact of the transmission line may be greater than the benefits, and requests that the Council
 17 consider requiring an “impact fee” from IPC. As discussed in the Agricultural Assessment, the
 18 impacts of the transmission line to agricultural and farming practices will be minimal and the site
 19 certificate will fully address all mitigation required by law by imposing relevant mitigation
 20 conditions.

21 **5.5.6.9 Project Roads**

22 Umatilla County Comment: You requested input on a road standard. The county does not
 23 have a particular design to recommend but acknowledges the merit of a single design for the
 24 entire project. Generally, it is recommended that roadways be designed to minimize impact
 25 to resource ground and that the surface be managed to abate noxious weeds.

26 As discussed in additional detail in Exhibit B, IPC has designed and sited roads to minimize
 27 impact to resource lands. IPC will manage areas within the Site Boundary to abate noxious
 28 weeds. IPC’s Reclamation and Revegetation Plan and Vegetation Management Plan (see
 29 Exhibit P1, Attachments P1-3 and P1-4), including management of noxious weeds, is discussed
 30 further in Exhibit P1. IPC will develop a Road Use Agreement with Umatilla County and IPC will
 31 apply for any necessary road access permits for new access roads connecting with or crossing
 32 an existing road. IPC will work directly with Umatilla County to obtain any necessary road
 33 access permits, and expects to obtain the permits prior to construction (see Section 5.5.2.10).

34 **5.5.6.10 Permits Outside the Site Certificate**

35 Certain Umatilla County permits are related to the siting of the Project and not included in or
 36 governed by the site certificate. IPC will obtain those permits prior to construction in Umatilla
 37 County, IPC proposes the following site certificate conditions regarding the same:

38 **Land Use Condition 5:** *Prior to construction in Umatilla County, the site*
 39 *certificate holder shall provide to the department a copy of the following Umatilla*
 40 *County-approved permits, if such permits are required by Umatilla County zoning*
 41 *ordinances:*

- 42 *a. Installation of Utilities on County and Public Roads Permit;*
 43 *b. Road Approach and Crossing Permit; and*
 44 *c. Flood plain development permit.*

1 **Land Use Condition 16:** During construction in Umatilla County, the site certificate
2 holder shall conduct all work in compliance with the Morrow County-approved
3 permits referenced in Land Use Condition 5, if such permits are required by Umatilla
4 County zoning ordinances.

5 **5.5.7 Idaho Power's Proposed Site Certification Conditions Relevant to UCDC** 6 **Compliance**

7 IPC proposes the following site certificate conditions to ensure the Project complies with the
8 applicable Umatilla County substantive criteria, as well as other relevant requirements.

9 **Prior to Construction**

10 **Land Use Condition 1:** Prior to construction, the site certificate holder shall
11 finalize, and submit to the department for its approval, a final Agricultural
12 Assessment. The protective measures described in the draft Agricultural
13 Assessment in ASC Exhibit K, Attachment K-1, shall be included and
14 implemented as part of the final Agricultural Assessment, unless otherwise
15 approved by the department.

16 **Land Use Condition 2:** Prior to construction, the site certificate holder shall
17 finalize, and submit to the department for its approval, a final Right-of-Way
18 Clearing Assessment. The protective measures described in the draft Right-of-
19 Way Clearing Assessment in ASC Exhibit K, Attachment K-2, shall be included
20 and implemented as part of the final Right-of-Way Clearing Assessment, unless
21 otherwise approved by the department.

22 **Public Services Condition 2:** Prior to construction, the site certificate holder
23 shall submit to the department for its approval a Helicopter Use Plan, which
24 identifies or provides:
25 a. The type of helicopters to be used;
26 b. The duration of helicopter use;
27 c. Roads or residences over which external loads will be carried;
28 d. Multi-use areas and light-duty fly yards containing helipads shall be located: (i)
29 in areas free from tall agricultural crops and livestock; (ii) at least 500 feet from
30 organic agricultural operations; and (iii) at least 500 feet from existing dwellings
31 on adjacent properties; and
32 e. Flights shall occur only between sunrise and sunset.

33 **Prior to Construction in Umatilla County**

34 **Land Use Condition 4:** Prior to construction in Umatilla County, the site
35 certificate holder shall work with the Public Works Department on building
36 standards for the road improvements and construction, and will ensure road
37 construction is consistent with the Oregon Forest Practices Act.

38 **Land Use Condition 5:** Prior to construction in Umatilla County, the site
39 certificate holder shall provide to the department a copy of the following Umatilla
40 County-approved permits, if such permits are required by Umatilla County zoning
41 ordinances:

- 42 a. Installation of Utilities on County and Public Roads Permit;
43 b. Road Approach and Crossing Permit; and
44 c. Flood plain development permit.

During Construction

Land Use Condition 8: During construction, the site certificate holder shall conduct all work in compliance with the final Agricultural Assessment referenced in Land Use Condition 1.

Land Use Condition 9: During construction, the site certificate holder shall conduct all work in compliance with the final Right-of-Way Clearing Assessment referenced in Land Use Condition 2.

Land Use Condition 10: During construction, the site certificate holder shall limit its transmission line right-of-way in Goal 4 forest lands to no wider than 300 feet. The site certificate holder shall limit its use of the outer 100 feet on each side of the ROW primarily to vegetation maintenance.

Public Services Condition 6: During construction, the site certificate holder shall conduct all work in compliance with the Helicopter Use Plan referenced in Public Services Condition 2.

During Construction in Umatilla County

Land Use Condition 14: During construction in Umatilla County, the site certificate holder shall construct the facility to comply with the following setback distances and other requirements:

In All Zones:

a. Within the transmission line right-of-way, a maximum of 25% of existing natural vegetation along streams, lakes, and wetlands may be removed, unless necessary for reliability purposes.

In the EFU Zone:

b. Buildings shall be setback as follows: (i) at least 30 feet from the property line or private road easement boundary; or (ii) at least 60 feet from the center line of the road, highway, or private road easement, whichever is greater.

c. Buildings and the fixed bases of the transmission line towers shall be set back at least 100 feet from the high-water mark of all streams, lakes, and wetlands.

d. Parking lots shall be designed and operated as follows: (i) areas used for standing and maneuvering of vehicles at the multi-use areas will have paved surfaces maintained adequately for all weather use and will be drained as to avoid flow of water across public sidewalks; (ii) parking spaces along the outer boundaries of any multi-use area parking lot will be contained by a curb at least four inches high and set back a minimum of four and one-half feet from the property line, or by a bumper rail; and (iii) artificial lighting, if provided, will not create or reflect glare in a residential zone or on any adjacent dwelling.

Land Use Condition 15: During construction in Umatilla County, the site certificate holder shall complete the following to address traffic impacts in the county:

a. The site certificate holder shall work with the Umatilla County Road Department to identify concerns related to Project construction traffic;

b. The site certificate holder shall develop a traffic management plan that includes traffic control measures to mitigate the effects of Project construction traffic;

c. The site certificate holder shall conduct all work in compliance with traffic management plan; and

1 d. The site certificate holder shall provide a copy of the traffic management plan
2 to the department.

3 **Land Use Condition 16:** During construction in Umatilla County, the site
4 certificate holder shall conduct all work in compliance with the Morrow County-
5 approved permits referenced in Land Use Condition 5, if such permits are
6 required by Umatilla County zoning ordinances.

7 **During Operation**

8 **Land Use Condition 23:** During operation, the site certificate holder shall limit its
9 transmission line right-of-way in Goal 4 forest lands to no wider than 300 feet.
10 The site certificate holder shall limit its use of the outer 100 feet on each side of
11 the ROW primarily to vegetation maintenance.

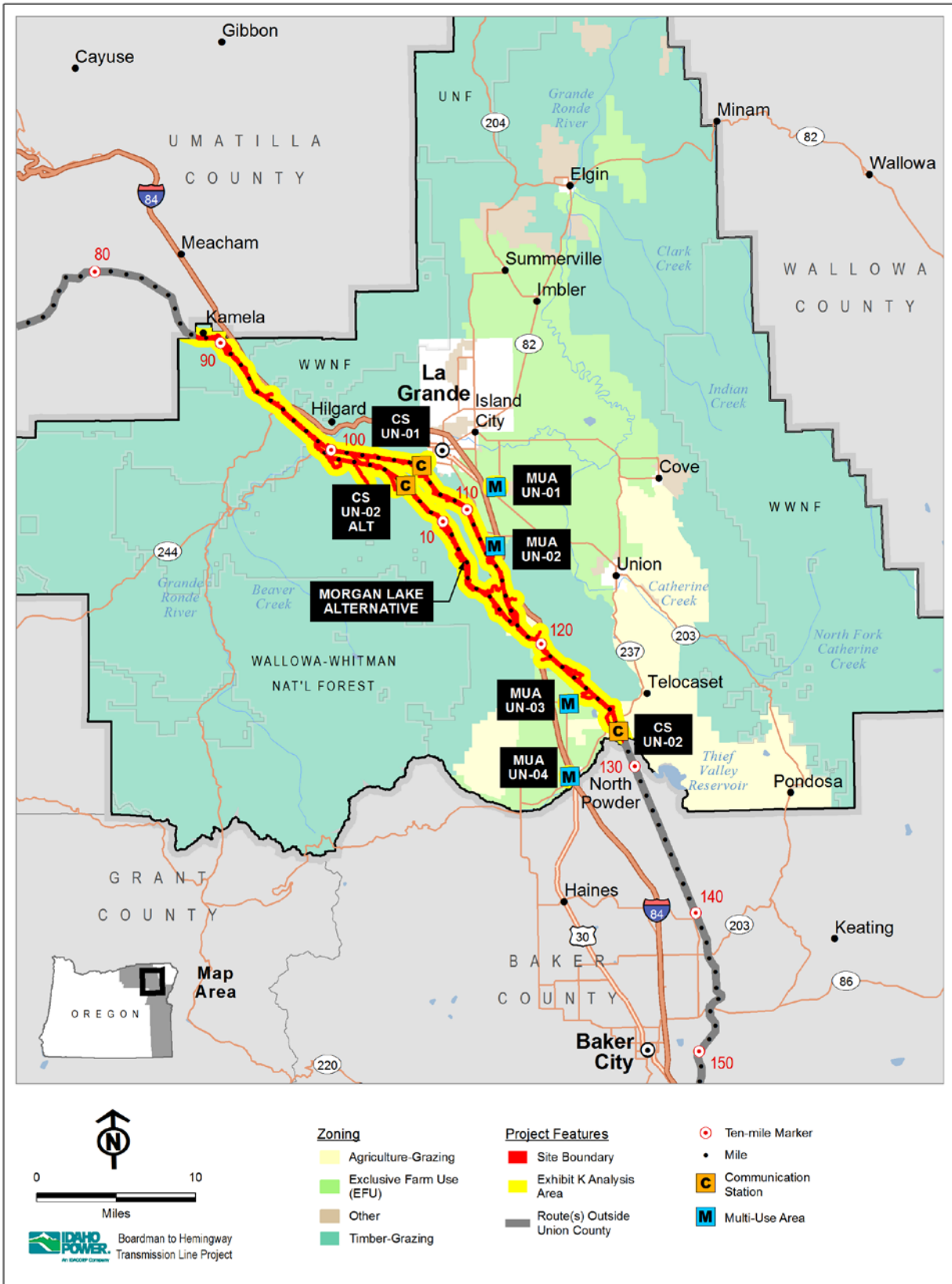
12 **5.6 Union County**

13 The following section describes the elements of the Project that will be located in Union County
14 and provides analysis regarding compliance with applicable local substantive criteria.

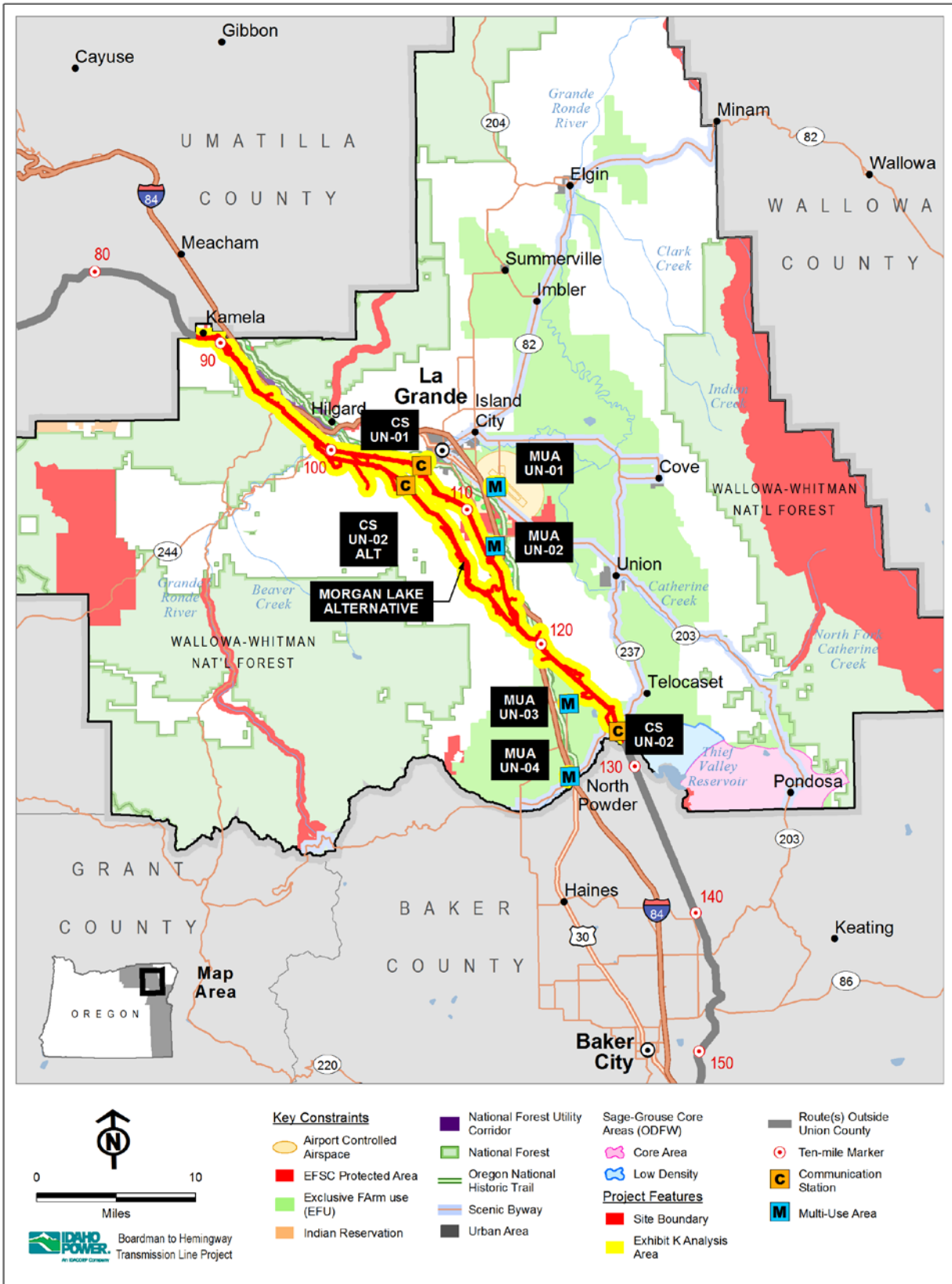
15 **5.6.1 Project Facilities and Location in Union County**

16 **5.6.1.1 Maps Showing the Project in Union County**

17 Figure K-36 shows the location of the Project in Union County and the land use designations of
18 the affected lands. Figure K-37 identifies additional land use constraints in the county, including
19 the Wallowa-Whitman NF Utility Corridor, Wildlife Management Areas, and State Parks.



1
2 **Figure K-36. Union County Zoning**



1
2 **Figure K-37. Union County Constraints**

1 5.6.1.2 Proposed Route in Union County

2 **Location**

3 The Proposed Route traverses Union County for 39.9 miles (see Exhibit C, Attachment C-2,
4 Maps 45-62). After entering Union County at MP 88.3, the Proposed Route turns southeast,
5 passing between two segments of the Blue Mountain Forest State Scenic Corridor, adjacent
6 and offset to the southwest from the existing BPA 230-kV transmission line. At MP 91.4, the
7 Proposed Route enters the Wallowa-Whitman National Forest (NF), where it is within the
8 designated utility corridor for 6.3 of the total 7.5 miles of Wallowa-Whitman NF land crossed.
9 The utility corridor of the Wallowa-Whitman NF is designated NF Management Area 17, and is
10 identified as the Power Transportation Facility Retention Corridor (USFS 1990). The Proposed
11 Route shares the Wallowa-Whitman NF utility corridor with I-84, a Union Pacific railway line, a
12 230-kV transmission line, a refined petroleum products pipeline, and a large diameter natural-
13 gas pipeline. The land is predominantly forested with areas of open shrub and grassland on
14 some south facing slopes.

15 Between MP 94.6 and 94.8, while still inside the designated utility corridor, the Proposed Route
16 crosses Railroad Canyon, a portion of the Blue Mountain Forest State Scenic Corridor. The Blue
17 Mountain Forest State Scenic Corridor comprises six separate areas located along I-84 and the
18 Old Oregon Trail Highway. These parcels extend from Deadman's Pass Rest Area in Umatilla
19 County south to Spring Creek in Union County (OPRD 2011a).

20 Between MP 96 and 105.8, the Proposed Route parallels within 250 feet of BPA's existing
21 Round Up to La Grande 230-kV transmission line.

22 At MP 98.8, the Proposed Route exits the Wallowa-Whitman NF and the designated utility
23 corridor. At MP 99.6, the Proposed Route crosses over the Grande Ronde River approximately
24 1.0 mile south of Hilgard Junction State Park. Hilgard Junction State Park is located 8 miles
25 west of La Grande at the intersection of I-84 and State Highway 244 near the Grande Ronde
26 River (OPRD 2011b). At MP 100, the Proposed Route proceeds easterly for approximately
27 5.8 miles, generally parallel to the south side and offset 250 feet from the existing BPA 230-kV
28 transmission line.

29 At MP 105.8, the Proposed Route angles to the south, away from the existing 230-kV line,
30 which continues east into the city of La Grande. At this point, the Proposed Route is
31 approximately 0.4 mile west of the La Grande city limits. The Proposed Route continues south
32 until reaching MP 107.9, at which point it again turns to the east. At MP 110, the Proposed
33 Route turns to the southeast. For the next 43.4 miles, the Proposed Route parallels at varying
34 distances to the existing Quartz to La Grande 230-kV transmission line. In most cases, the two
35 lines will be separated by 250 feet for this distance.

36 Between MP 110.5 and MP 111.5, the Proposed Route crosses over the Glass Hill Unit of the
37 Ladd Marsh Wildlife Management Area (WMA). The Ladd Marsh WMA was established in 1949,
38 with the primary objectives of protecting and improving waterfowl habitat and providing a public
39 hunting area. The portion of the Ladd Marsh WMA crossed by the Project is an area that
40 supports forest and mixed shrub uplands and the existing Quartz to La Grande 230-kV
41 transmission line. The Proposed Route crosses over Ladd Creek and I-84 at MP 114.1, crosses
42 I-84 again at MP 115.6 and a third time at MP 119.4.

43 The Proposed Route continues southeast crossing mostly open rangeland. At MP 126.8, the
44 Proposed Route crosses State Highway 237, which is a segment of the state designated scenic
45 byway called the Grande Tour Route. At MP 128.2, the Proposed Route is approximately

1 3.5 miles northeast of the city of North Powder. At this point, the Proposed Route crosses the
2 Union Pacific Railroad and the Powder River, and exits Union County crossing into Baker County.

3 **Towers, Access Roads, and Crossings**

4 Table K-15 lists the towers, access roads, and crossings by the Proposed Route in Union
5 County.

6 **Table K-15. Towers, Access Roads, and Crossings – Proposed Route in Union**
7 **County**

Towers	Number of Features
Towers – Single Circuit 500-kV Lattice	169
Access Roads	Miles
Existing, 21-70% Improved	31.1
Existing, 71-100% Improved	6.4
New, Bladed	7.2
New, Primitive	9.4
Crossings	Number of Crossings
High Voltage Transmission Line Crossings ¹	3
Existing Road Crossings ²	5
Existing Railroad Crossings ³	3

¹ Source: ABB Ventyx (2016) and Idaho Power Company; includes only transmission lines over 69-kV.

² Source: Esri (2013); includes Interstate, federal, and state highways.

8 ³ Source: Oregon Department of Transportation (2013).

9 **Multi-Use Areas, Light-Duty Fly Yards, and Communication Stations**

10 There will be four multi-use areas in Union County.

- 11 • MUA UN-01 will be located approximately 0.9 mile east of I-84 and U.S. Highway 30
12 interchange (Exit 265) on Pierce Road. It will be directly across Pierce Road from the
13 La Grande Municipal Airport. The land is under agricultural production and zoned by
14 Union County as Exclusive Farm Use A-1 (Attachment C-2, Map 52).
- 15 • MUA UN-02 will be located approximately 0.2 mile west of the ODOT Charles Reynolds
16 East Bound Rest Area on I-84. The land is under agricultural production and zoned by
17 Union County as Exclusive Farm Use A-1 (Attachment C-2, Map 54).
- 18 • MUA UN-03 will be located approximately 1.8 miles west of MP 125 on the corner of
19 Olsen and Bagwell roads. The land is grassland but may have previously supported
20 agricultural production and is zoned by Union County as Exclusive Farm Use A-1
21 (Attachment C-2, Map 60).
- 22 • MUA UN-04 will be southwest of North Powder along the west side of I-84 and along the
23 north side of U.S. Highway 30. It will be partially within the city limits of North Powder.
24 This multi-use area will be located on a parcel of land that is bare ground. A portion of
25 the site is zoned by North Powder as Commercial Interchange. The remainder of the
26 parcel is zoned by Union County as Exclusive Farm Use A-1 (Attachment C-2, Map 62).

27 There are no light-duty fly yards in Union County.

1 There are two communication stations in Union County:

- 2 • CS UN-01 will be located at approximately MP 105.8 and approximately 0.4 mile west of
3 the La Grande city limits. The land comprises shrub land with scattered trees and is
4 zoned by Union County as Timber-Grazing (Attachment C-2, Map 51).
- 5 • CS UN-02 will be located at approximately MP 127.5 and is 0.7 mile south of State
6 Highway 237. The land comprises shrub land and is zoned by Union County as
7 Agriculture – Grazing (Attachment C-2, Map 61).

8 **Affected Land Use Zones**

9 Table K-16 identifies the Union County zoning designations for the lands affected by the
10 Proposed Project.

11 **Table K-16. Union County Land Use Zone Designations, Proposed Route**

Zoning Designation	Centerline (miles)	Site Boundary (acres)	Existing Roads, Substantial Modifications (miles)	New Roads
Exclusive Farm Use A-1	1.5	217.1	1.9	0.5
Agricultural Grazing A-2	6.1	448.3	6.1	3.1
Timber-Grazing A-4	32.1	2,302.8	29.5	13.1
Total¹	39.7	2,968.2	37.5	16.7

12 ¹ Sums may not total due to rounding.

13 **5.6.1.3 Morgan Lake Alternative**

14 **Location**

15 The 18.5-mile Morgan Lake Alternative leaves the Proposed Route at MP 98.2 approximately
16 1.0 mile west of the Hilgard Junction State Park (see Attachment C-3, Maps 5-14). The Morgan
17 Lake Alternative proceeds south and then southeast crossing the Grand Ronde River at MP 0.8.
18 This alternative then turns east crossing open rangeland with scattered forest stands on north
19 facing slopes. At MP 4.7, the alternative turns southeast and at MP 6.3 passes about 0.2 mile
20 southwest of Morgan Lake. Morgan Lake is a park managed by the City of La Grande. The
21 Morgan Lake Alternative continues to the southwest and MP 11.0 crosses just to the west of the
22 Ladd Marsh WMA. At that point, the alternative crosses lands that are predominantly forested or
23 have undergone recent timber harvest. At MP 15, the Morgan Lake Alternative crosses over
24 Ladd Canyon and at MP 18.5 rejoins the Proposed Route at MP 117.9.

25 In comparison with the Proposed Route, the Morgan Lake Alternative crosses fewer parcels
26 with residences, does not cross the Ladd Marsh WMA, does not cross I-84, and is 0.5 mile
27 shorter. The Morgan Lake Alternative was developed by IPC based on input from land owners.

28 Table C-9 lists the Project features and existing roads, railroads, and transmission lines crossed
29 by the Morgan Lake Alternative. Table C-21 lists the acres along the alternative route that would
30 be disturbed during construction or affected during operations.

31 **Towers, Access Roads, and Crossings**

32 Table K-17 lists the towers, access roads, and crossings by the Proposed Route in Union
33 County.

1 **Table K-17. Towers, Access Roads, and Crossings – Morgan Lake Alternative**

Towers	Number of Sites
Towers – Single Circuit 500-kV Lattice	82
Access Roads	Total Miles
Existing, 21-70% Improved	12.0
Existing, 71-100% Improved	2.5
New, Bladed	5.9
New, Primitive	0
Crossings	Number of Crossings
High Voltage Transmission Line Crossings ¹	0
Existing Road Crossings ²	1
Existing Railroad Crossings ³	0

¹ Source: ABB Ventyx (2016) and Idaho Power Company; includes only transmission lines over 69-kV.

² Source: Esri (2013); includes Interstate, federal, and state highways.

³ Source: Oregon Department of Transportation (2013).

2 **Multi-Use Areas, Light-Duty Fly Yards, and Communication Stations**

3 With the Morgan Lake Alternative, there will be no new multi-use areas or light-duty fly yards in
4 Union County.

5 There is one alternative communication station in Union County:

- 6 • CS UN-01 ALT will be located at approximately MP 6.6 of the Morgan Lake Alternative
7 Route and is 0.3 mile south of Morgan Lake. The land comprises grass land and is
8 zoned by Union County as Timber – Grazing (Attachment C-3, Map 7).

9 **Affected Land Use Zones**

10 Table K-18 identifies the Union County zoning designations for the lands affected by the Morgan
11 Lake Alternative.

12 **Table K-18. Union County Land Use Zone Designations, Morgan Lake Alternative**

Zoning Designation	Centerline (miles)	Site Boundary (acres)	Existing Roads, Substantial Modifications (miles)	New Roads
Exclusive Farm Use A-1	–	78.5	–	–
Agricultural Grazing A-2	1.3	85.0	–	1.0
Timber-Grazing A-4	17.2	1,333.0	15.8	14.3
Total¹	18.5	1,496.5	15.8	15.3

¹ Sums may not total due to rounding.

13 **5.6.2 Union County Zoning, Partition, and Subdivision Ordinance Provisions**

14 On October 30, 2008, the Union County Planning Department submitted a letter to ODOE in
15 response to IPC's 2008 NOI, in which the Planning Department identified local substantive
16 criteria potentially applicable to the Project, including certain Union County Zoning, Partition,
17 and Subdivision Ordinance (UCZPSO) provisions. During preparation of Exhibit K, IPC identified
18 potentially applicable UCZPSO provisions that were not identified by Union County in its

- 1 October 30, 2008 letter. Table K-19 sets forth the potentially applicable UCZPSO provisions
 2 identified by Union County and IPC.

3 **Table K-19. Potentially Applicable UCZPSO Provisions**

Land Use Zone	Permit	Project Feature(s)	UCZPSO or Other Provision	Entity that Identified UCZPSO Provision
Exclusive Farm Use Zone	Utility Facility Land Use Decision	All Project Features	UCZPSO 2.03 Administrative Uses	Union County
			UCZPSO 2.07 Development Standards	Union County
			UCZPSO 2.06 Minimum Parcel Size	IPC
	Helipad Conditional Use Permit and Land Use Decision	Helipads ¹	UCZPSO 2.04 Conditional Uses with General Review Criteria	Union County
			UCZPSO 1.08 Definitions	Union County
			UCZPSO 21.06 General Standards Governing Conditional Uses	Union County
			UCZPSO 21.05 Time Limit on a Conditional Use	IPC
Agricultural-Grazing Zone	Utility Facility Land Use Decision	All Project Features	UCZPSO 3.03 Administrative Uses	IPC
			UCZPSO 3.07 Development Standards	IPC
			UCZPSO 3.08 Development and Fire Siting Standards	IPC
Timber-Grazing Zone	Predominant Use Land Use Decision	All Project Features – Timber Grazing Zone	UCZPSO 5.03 Administrative Uses	Union County
			UCZPSO 1.08 Definitions	Union County
	Utility Facility Land Use Decision – Predominantly Farmland Parcels	All Project Features – Predominantly Farmland Parcels	UCZPSO 5.03(8) Administrative Uses	Union County
			UCZPSO 5.07 Siting Standards for Dwellings and Structures	Union County

Land Use Zone	Permit	Project Feature(s)	UCZPSO or Other Provision	Entity that Identified UCZPSO Provision	
			UCZPSO 5.08 Development and Fire Siting Standards	Union County	
			UCZPSO 5.06 Minimum Parcel Size	IPC	
	Transmission Line Conditional Use Permit – Predominantly Forestland Parcels	Transmission Line	UCZPSO 5.04(3) Predominantly Forestland Conditional Uses	IPC	
			UCZPSO 5.06 Minimum Parcel Size	IPC	
			UCZPSO 5.08 Development and Fire Siting Standards	IPC	
			UCZPSO 21.05 Time Limit on a Conditional Use	IPC	
			UCZPSO 21.06 General Standards Governing Conditional Uses	Union County	
			Access Roads Conditional Use Permit – Predominantly Forestland Parcels	Access Roads	UCZPSO 5.04(8) Predominantly Forestland Conditional Uses
		UCZPSO 5.06 Minimum Parcel Size	IPC		
		UCZPSO 5.08 Development and Fire Siting Standards	IPC		
		UCZPSO 21.05 Time Limit on a Conditional Use	IPC		
		UCZPSO 21.06 General Standards Governing Conditional Uses	Union County		
	Supplementary Provisions	N/A	All Project Features	UCZPSO 20.08 Riparian Zone Setbacks	Union County
		N/A		UCZPSO 20.09 Significant Goal 5 Resource Areas	

Land Use Zone	Permit	Project Feature(s)	UCZPSO or Other Provision	Entity that Identified UCZPSO Provision
			UCZPSO 20.10 Site Plan Requirements	
			UCZPSO 20.14 Nonfarm Use Partitions	
Conditional Uses	N/A	All Project Features	UCZPSO 25.09(8) General Design & Improvement Standards	
Land Division Regulations	N/A	All Project Features	UCZPSO 25.05(1) Tentative Plan Requirements	
			UCZPSO 25.06(1) Final Plat Requirements	
Variance	N/A	All Project Features	UCZPSO 30.01 Authorization to Grant or Deny Variances	
			UCZPSO 30.03 Variance Procedure	

¹ As discussed below, the Union County Planning Department indicated to IPC that the zoning permit provisions of UCZPSO 2.03(7) applicable to utility facilities in the EFU Zone may not cover the helipads associated with the multi-use areas. Union County indicated that, instead, the provisions of UCZPSO 2.04(21) relating to personal-use airports might apply. However, under ORS 215.283(1)(c)(A) and UCZPSO 2.03(7), utility facilities and their related and supporting facilities—such as the helipads—are permitted outright in the EFU Zone. Regardless, and in the alternative, IPC discusses the provisions of UCZPSO 2.04(21), showing the helipads would be permitted in the EFU Zone as conditional uses under UCZPSO 2.04(21).

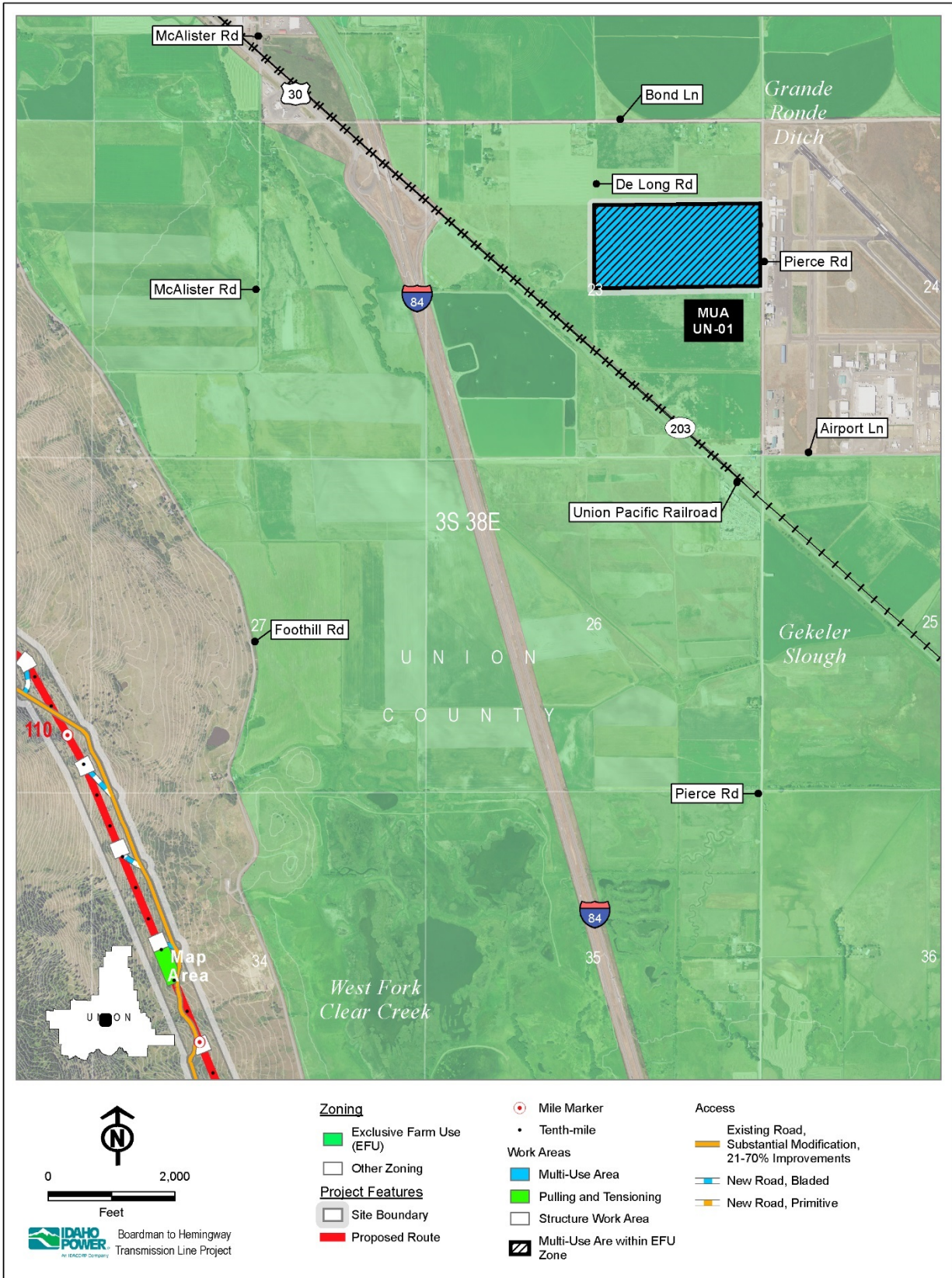
N/A = not applicable

1 5.6.2.1 EFU Zone (A-1) UCZPSO Provisions

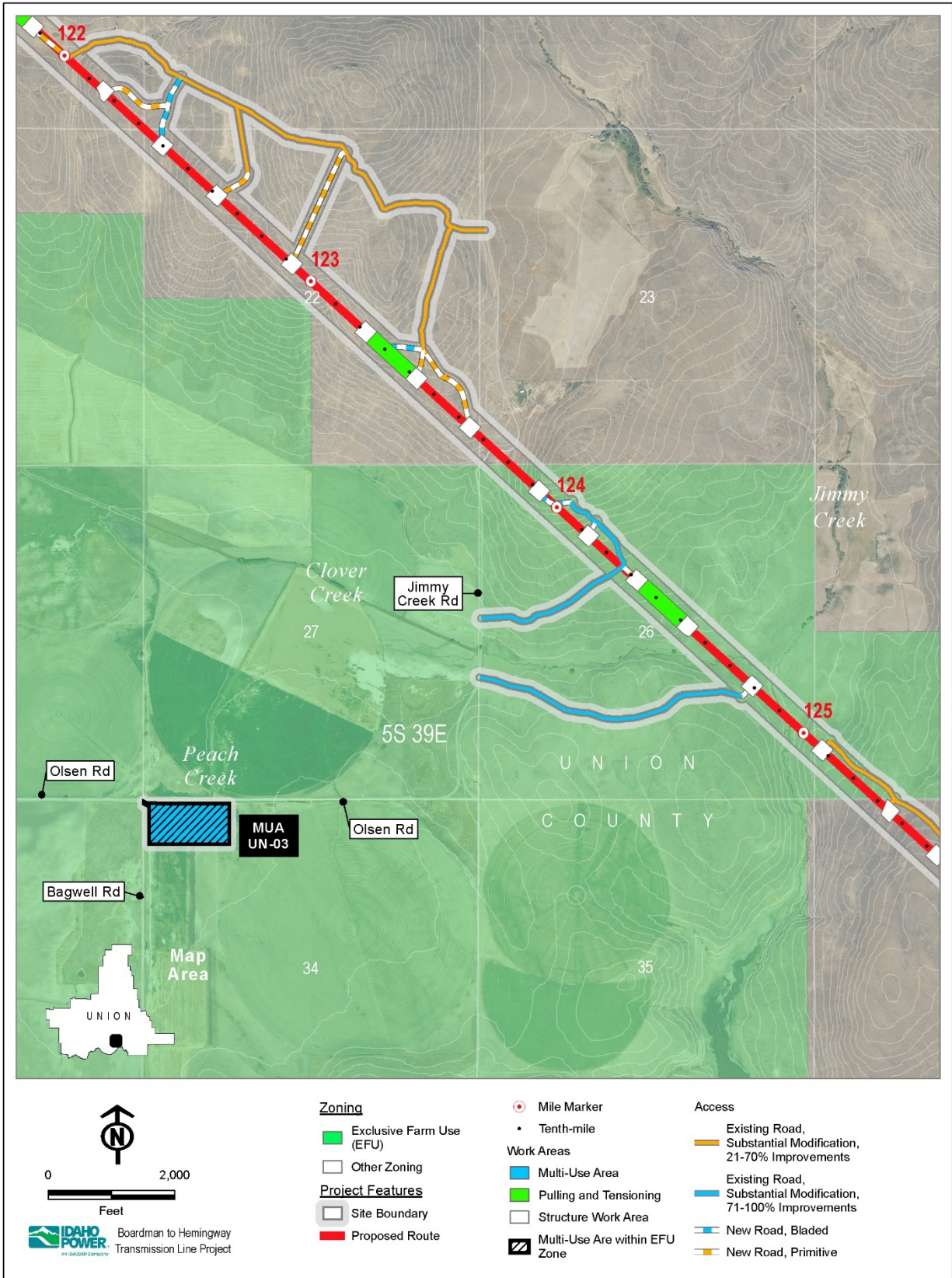
2 With the Proposed Route, the transmission line (1.5 line miles), new access roads (0.5 miles),
3 substantially modified existing access roads (1.9 miles), and four multi-use areas (MUA UN-01,
4 UN-02, MUA UN-03, and MUA UN-05) will be located in the EFU Zone in Union County (see
5 Figure K-38a through Figure K-38c). There will be no light-duty fly yards or communication
6 stations in the EFU Zone in Union County.

7 The Morgan Lake Alternative includes no transmission lines, new roads, substantially modified
8 existing access roads, multi-use areas, light-duty fly yards, or communication stations in the
9 EFU Zone in Union County.

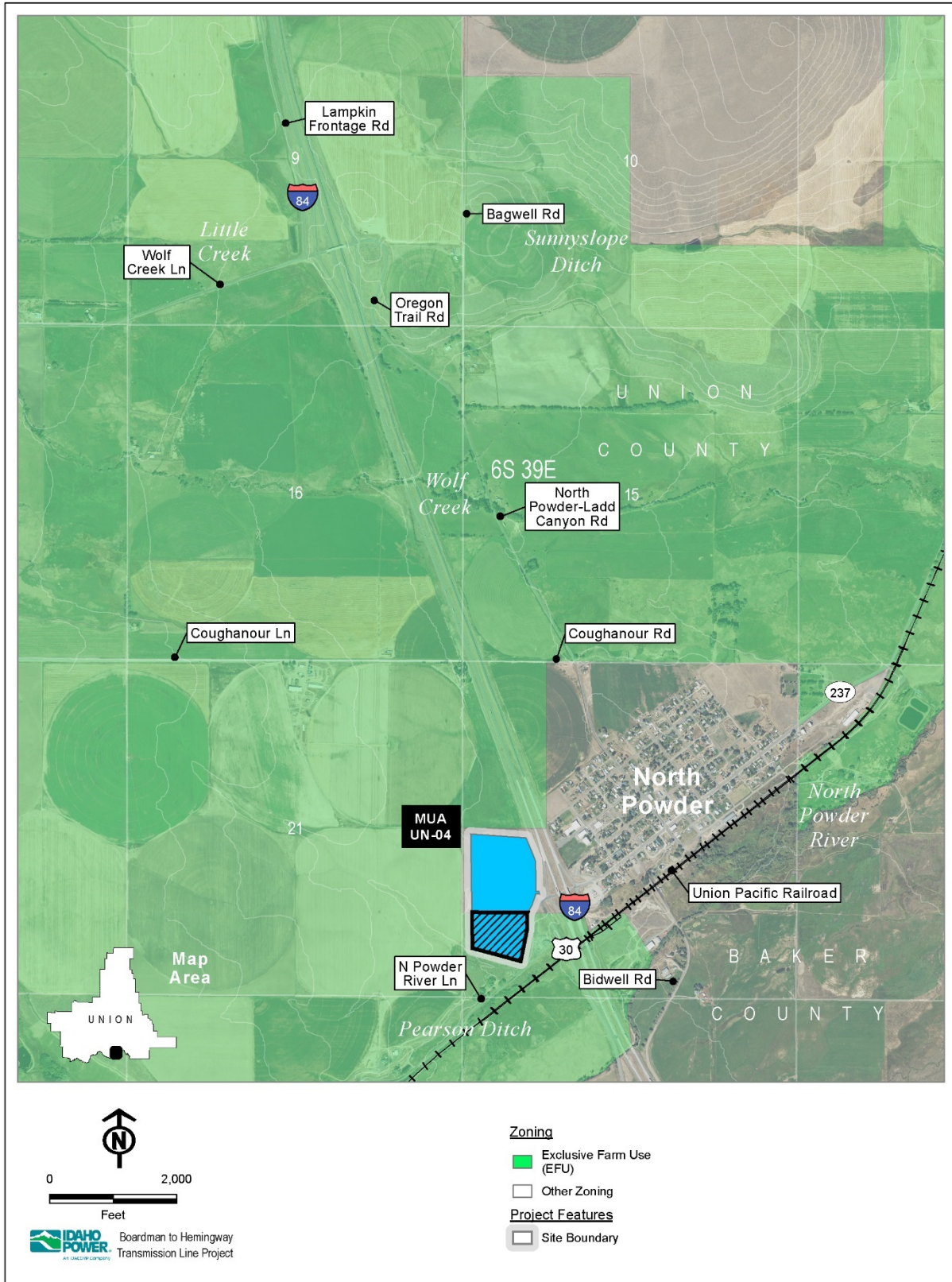
10 Figure K-38a through Figure K-38c show the location of the Project in the EFU Zone.



1
2 **Figure K-38a. Project Features in Exclusive Farm Use (EFU) Zone – Union County**



1
2 **Figure K-38b. Project Features in Exclusive Farm Use (EFU) Zone – Union County**



1
 2 **Figure K-38c. Project Features in Exclusive Farm Use (EFU) Zone – Union County**

1 **Land Use Decision (All Project Features)**

2 **UCZPSO Provisions Identified by Union County**

3 In its October 30, 2008 letter, the Union County Planning Department identified UCZPSO 2.07
4 and no other UCZPSO provisions as being potentially applicable to the Project in the EFU Zone.
5 In this section, we discuss UCZPSO 2.07 as well as UCZPSO 2.03, which applies by implication
6 through UCZPSO 2.07.

7 **Administrative Uses**

8 UCZPSO 2.03: The following uses may be established in an A-1 Zone subject to the review
9 process identified in Section 24.02 (Planning Director Land Use Decision). The USDA
10 Natural Resources Conservation Service soil information shall be used to determine the
11 applicable standards to identify rangeland vs. cropland. . . . 7. Utility facilities, and similar
12 minor facilities necessary for public service and repair, replacement and maintenance
13 thereof, except commercial facilities for the purpose of generating power for public use by
14 sale and transmission towers over 200 feet in height. A facility is considered necessary if it
15 must be situated in an agricultural zone in order for the service to be provided.

16 UCZPSO 2.03(7) provides that a utility facility necessary for public service may be permitted in
17 the EFU Zone in Union County through a land use decision. However, under Oregon law, utility
18 facilities necessary for public service are permitted outright in an EFU zone and a county may
19 not enact or apply criteria of its own that supplement those found in ORS 215.283(1).⁵⁵ Here,
20 because the Project is authorized on EFU lands under ORS 215.283(1)(c)(A) (see Section 4.0),
21 the county must also authorize the Project on EFU lands. To the extent UCZPSO Article 2.00 or
22 other related provisions of the UCZPSO are more strict than ORS 215.283(1)(c)(A), those more
23 onerous provisions of the UCZPSO do not apply to the Project (see *Brentmar v. Jackson*
24 *County*, 321 Or. 481 (1995)).

25 ORS 215.283(1)(c)(A) requires IPC to demonstrate the need for siting the Project on EFU lands
26 only at a macro, project-wide level across all five relevant counties. Though beyond what is
27 required by the statute, IPC makes a similar showing at the micro or county level in
28 Section 5.6.5, by discussing the necessity of siting the Project in EFU specifically in Union
29 County.

30 Additionally, while also not required under the UCZPSO, Union County requested that IPC
31 determine the predominant uses of the EFU zoned lands affected by the Project. Section 5.6.5
32 also discusses the predominate uses affected by the Project in the EFU Zone.

33 **Development Standards**

34 UCZPSO 2.07: The following standards shall apply to all development in an A-1 Exclusive
35 Farm Use Zone. 1. Any proposed division of land included within the A-1 Zone resulting in
36 the creation of one or more parcels of land shall be reviewed and approved or disapproved
37 by the County (ORS 215.263).

38 UCZPSO 2.07 applies to all uses in the EFU Zone. UCZPSO 2.07(1) applies to projects
39 involving lot splits or the creation of new lots in the EFU Zone. Because the Project likely will not
40 involve lot splits UCZPSO 2.07 likely will not be applicable to the Project. In the event that a
41 partition becomes necessary, IPC will obtain approval of the partition directly from the county
42 prior to construction. In no event, however, may the Council or the county rely on UCZPSO 2.07

⁵⁵ See *Brentmar v. Jackson County*, 321 Or. 481 (1995).

1 to refuse to site the Project on EFU lands (see *Brentmar v. Jackson County*, 321 Or. 481
2 (1995)).

3 UCZPSO 2.07(2): Setbacks from property lines or road rights-of-way shall be a minimum of
4 20-foot front and rear yards and 10-foot side yards.

5 UCZPSO 2.07(2) provides certain lot line and road setback requirements. The following
6 UCZPSO 1.08 definition of “building setback line” indicates that the lot line and road setback
7 requirements of UCZPSO 2.07(2) apply only to buildings: “A line beyond which a building
8 cannot be constructed. The building setback line is referenced by and measured from the
9 property line or road or street ROW line where applicable.” And the term “building” means “[a]
10 structure built for the shelter or enclosure of persons, animals, chattels or property of any kind”
11 (UCZPSO 1.08).

- 12 • Access roads: The Project access roads will not be built to support, shelter, or enclose
13 anything. Therefore, the access roads are not considered buildings and the lot line and
14 road setback requirements of UCZPSO 2.07(2) do not apply to the relevant access
15 roads.
- 16 • Transmission Line Towers: The Project transmission towers will not be built to support,
17 shelter, or enclose anything. Therefore, the transmission towers are not considered
18 buildings and the lot line and road setback requirements of UCZPSO 2.07(2) do not
19 apply to the relevant towers.
- 20 • Multi-Use Areas and Communication Stations: The Project multi-use areas will include
21 buildings. Therefore, the lot line and road setback requirements of UCZPSO 2.07(2) will
22 apply to the relevant multi-use areas and Communication Stations.

23 While IPC is not required to do so under the Court’s ruling in *Brentmar v. Jackson County*, IPC
24 will site the Project buildings at the multi-use areas in the EFU zone in Union County to comply
25 with the lot line and yard setback requirements of UCZPSO 2.07(2). To ensure compliance with
26 such requirements, IPC proposes the following site certificate condition:

27 ***Land Use Condition 17: During construction in Union County, the site certificate***
28 ***holder shall construct the facility to comply with the following setback distances***
29 ***and other requirements:***

30 . . .
31 *In the EFU Zone:*
32 *c. Buildings shall be setback as follows: (i) front yards shall be set back at least*
33 *20 feet from property lines and road rights-of-way; (ii) and rear yards shall be set*
34 *back at least 10 feet from property lines and road rights-of-way.*

36 UCZPSO 2.07(3): Animal shelters shall not be located closer than 100 feet to an R-1 or R-2
37 Zone.

38 UCZPSO 2.07(3) addresses siting standards for animal shelters. Because the Project does not
39 involve an animal shelter, UCZPSO 2.07(3) does not apply to the Project.

40 UCZPSO 2.07(4): Signs shall be limited to the following: a. All off-premise signs within view
41 of any State Highway shall be regulated by State regulation under ORS Chapter 377 and
42 receive building permit approval. b. All on-premise signs shall meet the Oregon
43 Administrative Rule regulations for on-premise signs which have the following standards: A.
44 Maximum total sign area for one business is 8% of building area plus utilized parking area, or
45 2,000 square feet, whichever is less. B. Display area maximum is 825 square feet for each

1 face of any one sign, or half the total allowable sign area, whichever is less. C. Businesses
 2 which have no buildings located on the premises or have buildings and parking area allowing
 3 a sign area of less than 250 square feet may erect and maintain on-premises signs with the
 4 total allowable area of 250 square feet, 125 square feet maximum for any one face of a sign.
 5 D. Maximum height of freestanding signs adjacent to interstate highways is 65 feet, for all
 6 other highways is 35 feet, measured from the highway surface or the premises grade,
 7 whichever is higher to the top of the sign. c. All on-premise signs within view or 660 feet of
 8 any State Highway shall obtain permit approval from the Permit Unit, Oregon State Highway
 9 Division. No sign shall be moving, revolving or flashing, and all lighting shall be directed
 10 away from residential use or zones, and shall not be located so as to detract from a motorists
 11 vision except for emergency purposes.

12 UCZPSO 2.07(4) includes siting and other standards for signs. IPC's signage will comply with
 13 UCZPSO 2.07(4).

14 **UCZPSO Provisions Identified by IPC**

15 IPC and not Union County identified the following UCZPSO provisions as potentially applicable
 16 to the Project in the EFU Zone. IPC addresses these ordinances for informational purposes
 17 only.

18 ***Minimum Parcel Size***

19 UCZPSO 2.06: 1. Farm Related Parcels. a. The minimum parcel size for farm related parcels
 20 in the A-1 Exclusive Farm Use Zone shall be as follows: A. 160 acres for land not designated
 21 rangeland. B. 320 acres for land designated rangeland. C. On a predominantly agricultural
 22 parcel a variance application may be submitted per Article 30.00 to create parcels per ORS
 23 215.780(1) for resource related purposes only. 2. Non-farm Parcels. a. Parcels that are not
 24 related to farm use may be created only if all of the following criteria can be satisfied: A. No
 25 new lot or parcel may be created for this purpose until the dwelling to be sited on the new
 26 parcel is first approved pursuant to Section 2.05 4. (non-farm dwelling), and B. The new
 27 parcel is a pre-existing substandard lot or parcel created prior to the adoption of this
 28 ordinance and when the parcel is the result of a transfer of a portion of land between
 29 adjacent landowners as described in the definition of a minor partition in Section 1.08.

30 UCZPSO 2.06 applies to all uses in the EFU Zone. It provides for minimum lot sizes and is
 31 applicable only to the extent that a partition of a parcel zoned EFU is required. IPC intends to
 32 secure easements for the majority of Project features and does not expect to require partition of
 33 any parcel. Because the Project likely will not involve lot splits, UCZPSO 2.06 likely will not be
 34 applicable to the Project. In the event that a partition becomes necessary, IPC will obtain
 35 approval of the partition directly from the county prior to construction. In no event, however, may
 36 the Council or the county rely on UCZPSO 2.06 to refuse to site the Project on EFU lands (see
 37 *Brentmar v. Jackson County*, 321 Or. 481 (1995)).

38 ***Conditional Use Permit and Land Use Decision (Helipads)***

39 In undated communications subsequent to its October 30, 2008 letter, the Union County
 40 Planning Department indicated that the land use decision provisions of UCZPSO 2.03(7)
 41 applicable to utility facilities in the EFU Zone may not cover the helipads associated with the
 42 multi-use areas. The county indicated that, instead, the provisions of UCZPSO 2.04(21) relating
 43 to personal-use airports might apply. However, under ORS 215.283(1)(c)(A) and UCZPSO
 44 2.03(7), utility facilities are permitted outright in the EFU Zone. Here, the helipads are related
 45 and supporting facilities of the utility transmission line, and therefore, the helipads should be

1 considered utility facilities or parts thereof for purposes of UCZPSO 2.03(7) and should be
2 authorized in the EFU Zone under that UCZPSO provision.

3 Regardless, and in the alternative, the helipads are permitted in the EFU Zone as conditional
4 uses under UCZPSO 2.04(21).

5 **UCZPSO Provisions Identified by Union County**

6 The Union County Planning Department identified UCZPSO 2.04(21) and UCZPSO 21.06, no
7 other UCZPSO provisions, as being potentially applicable to the Project in the EFU Zone. In this
8 section, we discuss UCZPSO 2.04(21) and UCZPSO 21.06, as well as UCZPSO 1.08(1), which
9 is incorporated by reference in UCZPSO 2.04(21).

10 **Conditional Uses with General Review Criteria**

11 UCZPSO 2.04: In addition to the applicable standards in Article 21.00 the following uses may
12 be established in an A-1 Zone subject to the review process identified in Section 24.03 and
13 subject to the applicant demonstrating with adequate findings to the Planning Commission
14 that the following criteria [OAR 660-33-130(5)] have been satisfied: Criteria No. 1-Such uses
15 will not force a significant change in accepted farm or forest practices on surrounding lands
16 devoted to farm or forest use; and Criteria No. 2-Such uses will not significantly increase the
17 cost of accepted farm or forest practices on lands devoted to farm or forest use. . . . 21.
18 Personal use airports for airplanes and helicopter pads, including associated hangar,
19 maintenance and service facilities (personal use airport definition Section 1.08).

20 UCZPSO 1.08(1): For the purpose of this Ordinance certain words, terms and phrases are
21 defined as follows: . . . PERSONAL USE AIRPORT: Means an airstrip restricted, except for
22 aircraft emergencies, to use by the owner and on an infrequent and occasional basis by
23 invited guests and by commercial aviation activities in connection with agricultural
24 operations. No aircraft may be used on a personal-use airport other than those owned or
25 controlled by the owner of the airstrip. Exceptions to the activities permitted under this
26 definition may be granted through waiver action by the Aeronautics Division in specific
27 instances. A personal-use airport lawfully existing as of September 13, 1975, shall continue
28 to be permitted subject to any applicable regulations of the Aeronautics Division.

29 The following four multi-use areas will be located in lands zoned as EFU: MUA UN-1, MUA UN-
30 2, MUA UN-03, and MUA UN-4. Helicopter operations may be staged out of the multi-use areas.
31 Project construction activities potentially facilitated by helicopters may include delivery of
32 construction laborers, equipment, and materials to structure sites; structure placement;
33 hardware installation; and wire stringing operations. Helicopters may also be used to support
34 the administration and management of the Project by IPC, the Construction Contractor, or both.

35 The helipads will be used by IPC or its contractor on IPC’s behalf. IPC will own or control each
36 helicopter that uses the helipads. Thus, the Project helipads are considered “personal-use
37 airports” under UCZPSO (see UCZPSO 1.08(1)(defining personal use airport)), and are
38 conditional uses authorized in the EFU Zone (see UCZPSO 2.04(21)).

39 With respect to review criteria no. 1 and no. 2, the helipads will be used temporarily during
40 construction activities and will not be permanent airports. Because the helipads will only have
41 temporary impacts, if any, on the surrounding lands, the helipads will not force a significant
42 change in accepted farm or forest practices on surrounding lands (see UCZPSO 2.04 Criteria
43 No. 1) or significantly increase costs on affected farm practices or forest use (see UCZPSO 2.04
44 Criteria No. 2).

1 UCZPSO 2.04 provides that conditional uses must not force significant changes to farm or
 2 forest practices or significantly increase costs to the same. Here, helicopter operations have the
 3 potential to affect adjacent agricultural and forestry operations through:

- 4 • Blow down of tall crops, such as corn, from rotor wash;
- 5 • Spread of weed seeds and/or insect pests to other fields. This potential impact is of
 6 particular importance if helicopters are to be used in close proximity to organic farming
 7 operations;
- 8 • Noise impacts from helicopters on livestock; and
- 9 • Temporary reduction in the area of pasture/range available to livestock during line
 10 construction.

11 (See Attachment K-1, Agricultural Lands Assessment, and Attachment K-2, Right of Way
 12 Clearing Assessment, for further discussion of impacts to agricultural and forestry practices.)
 13 The helipads will only be used during construction activities and will not be permanent airports,
 14 and therefore, any such impacts will be temporary and therefore not significant. Even so, to
 15 ensure impacts to surrounding agricultural lands are avoided or minimized, IPC proposes the
 16 following site certificate conditions:

- 17 **Public Services Condition 2:** *Prior to construction, the site certificate holder*
 18 *shall submit to the department for its approval a Helicopter Use Plan, which*
 19 *identifies or provides:*
- 20 *a. The type of helicopters to be used;*
 - 21 *b. The duration of helicopter use;*
 - 22 *c. Roads or residences over which external loads will be carried;*
 - 23 *d. Multi-use areas and light-duty fly yards containing helipads shall be located: (i)*
 24 *in areas free from tall agricultural crops and livestock; (ii) at least 500 feet from*
 25 *organic agricultural operations; and (iii) at least 500 feet from existing dwellings*
 26 *on adjacent properties; and*
 - 27 *e. Flights shall occur only between sunrise and sunset.*

- 28
- 29 **Public Services Condition 6:** *During construction, the site certificate holder*
 30 *shall conduct all work in compliance with the Helicopter Use Plan referenced in*
 31 *Public Services Condition 2.*

32 **General Standards Governing Conditional Uses**

33 UCZPSO 21.06: The following standards and criteria shall govern conditional uses, except
 34 as provided in subsection 21.07: 1. A conditional use shall ordinarily comply with the
 35 standards of the zone concerned for uses permitted outright except as specifically modified
 36 by the Planning Commission in granting the conditional use. 2. Other uses similar to those
 37 enumerated within specified zones except in the A-1, A-2, A-3 and A-4 Zones which are
 38 consistent with the purposes and intent of the applicable zone may be modified by the
 39 Planning Commission if the use is found: A. To be compatible with outright or conditional
 40 uses of the applicable zone. B. Not to interfere seriously with established and accepted
 41 practices on adjacent lands. C. Not to materially alter the stability of the overall land use
 42 pattern of the area. D. That the proposed use can comply with the standards of the zone, and
 43 E. To comply with such other conditions as the Planning Commission or its designate
 44 considers necessary to carry out the purposes of this ordinance.

45 UCZPSO 21.06 applies to all conditional uses in Union County. UCZPSO 21.06(1) provides
 46 conditional uses in EFU lands must meet the standards relevant to uses permitted outright in

1 the zone—that is, UCZPSO 2.06 and 2.07. Here, the minimum parcel size provisions of
2 UCZPSO 2.06 and development standards of UCZPSO 2.07 are addressed above in this
3 Section 5.6.2.1 in relation to utility facilities in the EFU Zone in Union County. The same
4 analysis applies here.

5 UCZPSO 21.06(2) provides the Planning Commission may modify conditional uses in the EFU
6 Zone under certain circumstances. Here, the Council will impose conditions on the Project to
7 ensure the Project meets the Council's standards, if necessary. Further, IPC shows in this
8 exhibit that the Project will comply with the provisions of the UCZPSO and statewide planning
9 goals. For these reasons, no further conditions are necessary under UCZPSO 21.06(2).

10 **UCZPSO Provisions Identified by IPC**

11 IPC and not Union County identified the following UCZPSO provisions as potentially applicable
12 to the helipads in the EFU Zone. IPC addresses these ordinances for informational purposes
13 only.

14 ***Time Limit on a Conditional Use***

15 UCZPSO 21.05: Authorization of a conditional use shall be void after one year unless
16 substantial construction pursuant thereto has taken place. However, one year time
17 extensions may be granted by the Planning Director if the applicable circumstances are
18 unchanged.

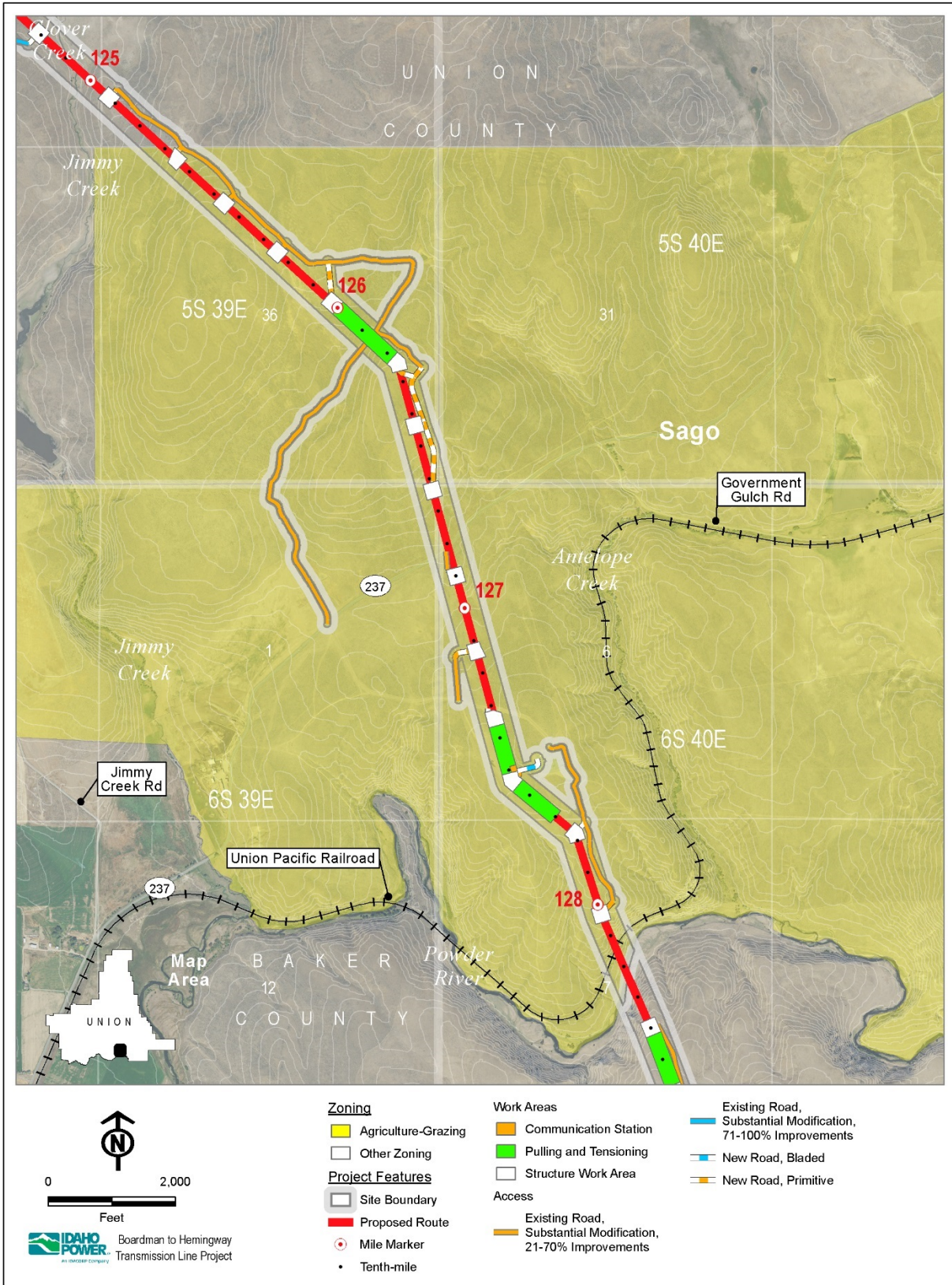
19 UCZPSO 21.05 applies to all conditional uses in Union County. It provides all conditional use
20 permits are void after one year unless substantial construction has taken. Because the Council
21 and not the county has jurisdiction over the land use decisions and conditional use
22 authorizations covered by the site certificate, the Council's and not the county's construction
23 deadlines apply to the Project.

24 ***5.6.2.2 Agriculture-Grazing Zone (A-2) UCZPSO Provisions***

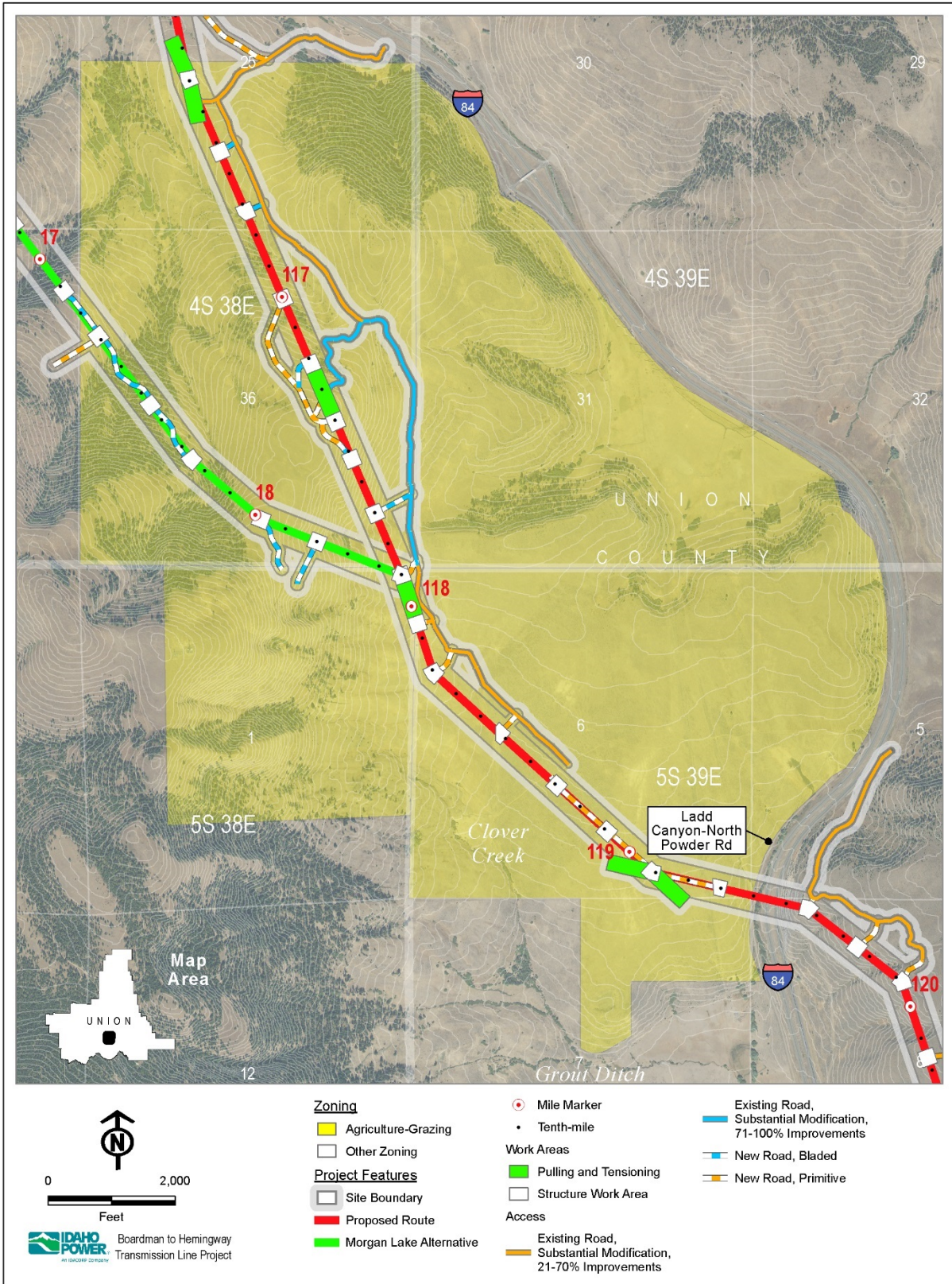
25 With the Proposed Route, the transmission line (6.1 line miles), new access roads (3.1 miles),
26 substantially modified existing access roads (6.1 miles), and one (1) communication station (CS
27 UN-02) will be located in the Agricultural-Grazing Zone in Union County. There will be no multi-
28 use areas or light-duty fly yards in the Agricultural-Grazing Zone in Union County with the
29 Proposed Route.

30 With the Morgan Lake Alternative, the transmission line (1.3 line miles), new access roads (1.0
31 miles), and one (1) alternative communication station (CS UN-01) will be located in the
32 Agricultural-Grazing Zone in Union County. There will be no multi-use areas or light-duty fly
33 yards in the Agricultural-Grazing Zone in Union County with the Morgan Lake Alternative.

34 Figure K-39a and Figure K-39b show the location of the Project in the Agricultural-Grazing
35 Zone.



1
2 **Figure K-39a. Project Features in Agriculture-Grazing Zone – Union County**



1
2 **Figure K-39b. Project Features in Agriculture-Grazing Zone – Union County**

1 **Land Use Decision (All Project Features)**

2 **UCZPSO Provisions Identified by IPC**

3 In its October 30, 2008, letter, the Union County Planning Department identified no
4 UCZPSO provisions as being potentially applicable to the Project in the Agriculture-Grazing
5 Zone. However, IPC and not Union County identified the following UCZPSO provisions as
6 potentially applicable to the Project in the Agriculture-Grazing Zone. IPC addresses these
7 ordinances for informational purposes only.

8 **Administrative Uses**

9 UCZPSO 3.03: The A-2 Agriculture-Grazing Zone allows the following uses to be established
10 in an A-2 Zone subject to the review process identified in Section 24.02 (Planning Director
11 Land Use Decision). The USDA Natural Resources Conservation Service soil information
12 shall be used to determine the applicable standards to identify rangeland vs. cropland. . . . 7.
13 Utility facilities, and similar minor facilities necessary for public service and repair,
14 replacement and maintenance thereof, except commercial facilities for the purpose of
15 generating power for public use by sale and transmission towers over 200 feet in height. A
16 facility is considered necessary if it must be situated in an agricultural zone in order for the
17 service to be provided.

18 Under UCZPSO 3.03, the Agricultural-Grazing Zone includes both rangeland and cropland. As
19 stated in UCZPO 3.03, Union County uses the U.S. Department of Agriculture (USDA) Natural
20 Resources Conservation Service soil information to identify whether a particular parcel zoned
21 Agricultural-Grazing is considered either rangeland or cropland. On August 6, 2012, IPC
22 representatives received clarification from the Union County Planning Department that a “utility
23 facility necessary for public service” in the Agricultural-Grazing Zone is permitted consistent with
24 ORS 215.283(1)(c)(A) and ORS 215.275, regardless of whether it is considered rangeland or
25 cropland according to the relevant soil type. Accordingly, if a utility facility complies with
26 ORS 215.283(1)(c)(A) and ORS 215.275, it is considered compliant with UCZPSO 3.03(7).
27 Here, because the Project meets the standards of ORS 215.283(1)(c)(A) and ORS 215.275
28 (see Section 4), the Project also is an authorized use in the Agricultural-Grazing Zone.

29 Additionally, while not required under the UCZPSO 3.03(7), Union County requested that IPC
30 discuss the predominant uses of the Agricultural-Grazing Zone lands affected by the Project.
31 IPC discusses those predominant uses in Section 5.6.5 below.

32 **Development Standards**

33 UCZPSO 3.07(1): Any proposed division of land included within the A-2 Zone resulting in the
34 creation of one or more parcels of land shall be reviewed and approved or disapproved by
35 the County (ORS 215.263).

36 UCZPSO 3.07 applies to all uses in the Agricultural-Grazing Zone. UCZPSO 3.07(1) applies to
37 projects involving lot splits or the creation of new lots in the EFU Zone. Because the Project
38 likely will not involve lot splits UCZPSO 3.07(1) likely will not be applicable to the Project. In the
39 event that a partition becomes necessary, IPC will obtain approval of the partition directly from
40 the county prior to construction.

41 UCZPSO 3.07(2): Setbacks from property lines or road rights-of-way shall be a minimum of
42 20-foot front and rear yards and 10-foot side yards.

43 UCZPSO 3.07(2) provides certain lot line and road setback requirements. The following
44 UCZPSO 1.08 definition of “building setback line” indicates that the lot line and road setback
45 requirements of UCZPSO 3.07(2) apply only to buildings: “A line beyond which a building

1 cannot be constructed. The building setback line is referenced by and measured from the
 2 property line or road or street right-of-way line where applicable.” And the term “building” means
 3 “[a] structure built for the shelter or enclosure of persons, animals, chattels or property of any
 4 kind” (UCZPSO 1.08).

- 5 • Access roads: The Project access roads will not be built to support, shelter, or enclose
 6 anything. Therefore, the lot lit and road setback requirements of UCZPSO 3.07(2) do not
 7 apply to the relevant access roads.
- 8 • Transmission Line Towers: The Project transmission towers will not be built to support,
 9 shelter, or enclose anything. Therefore, the lot lit and road setback requirements of
 10 UCZPSO 3.07(2) do not apply to the relevant transmission towers.
- 11 • Communication Station: The Project communication stations will include a building.
 12 Therefore, the lot lit and road setback requirements of UCZPSO 3.07(2) will apply to the
 13 relevant multi-use areas.

14 To ensure compliance with the setback requirements of UCZPSO 3.07(2), IPC proposes the
 15 following site certificate condition:

16 ***Land Use Condition 17: During construction in Union County, the site certificate***
 17 ***holder shall construct the facility to comply with the following setback distances***
 18 ***and other requirements:***

19 . . .

20 ***In the Agricultural Grazing Zone:***

21 ***d. Buildings shall be setback as follows: (i) front yards shall be set back at least***
 22 ***20 feet from property lines and road rights-of-way; and (i) rear yards shall be set***
 23 ***back at least 10 feet from property lines and road rights-of-way.***

24 UCZPSO 3.07(3): Animal shelters shall not be located closer than 100 feet to an R-1 or R-2
 25 Zone.

26 UCZPSO 3.07(3) addresses siting standards for animal shelters. Because the Project does not
 27 involve an animal shelter, UCZPSO 3.07(3) does not apply to the Project.

28 UCZPSO 3.07(4): Signs shall be limited to the following: a. All off-premise signs within view
 29 of any State Highway shall be regulated by State regulation under ORS Chapter 377 and
 30 receive building permit approval. b. All on-premise signs shall meet the Oregon
 31 Administrative Rule regulations for on-premise signs which have the following standards:
 32 A. Maximum total sign area for one business is 8% of building area plus utilized parking area,
 33 or 2,000 square feet, whichever is less. B. Display area maximum is 825 square feet for each
 34 face of any one sign, or half the total allowable sign area, whichever is less. C. Businesses
 35 which have no buildings located on the premises or have buildings and parking area allowing
 36 a sign area of less than 250 square feet may erect and maintain on-premises signs with the
 37 total allowable area of 250 square feet, 125 square feet maximum for any one face of a sign.
 38 D. Maximum height of freestanding signs adjacent to interstate highways is 65 feet, for all
 39 other highways is 35 feet, measured from the highway surface or the premises grade,
 40 whichever is higher to the top of the sign. E. All on-premise signs within view or 660 feet of
 41 any State Highway shall obtain permit approval from the Permit Unit, Oregon State Highway
 42 Division. No sign shall be moving, revolving or flashing, and all lighting shall be directed
 43 away from residential use or zones, and shall not be located so as to detract from a motorists
 44 vision except for emergency purposes.

45 UCZPSO 3.07(4) includes siting and other standards for signs. IPC’s signage will comply with
 46 UCZPSO 3.07(4).

1 **Development and Fire Siting Standards**

2 UCZPSO 3.08 applies to all uses in the Agricultural-Grazing Zone. The development standards
3 set forth in UCZPSO 3.08(1) through 3.08(4)(c) are identical to the provisions of
4 UCZPSO 2.07(1) through 2.07(4)(b)(E), which are discussed above in Section 5.6.2.1. The
5 analysis is the same here.

6 The fire siting standards of UCZPSO 3.08(5) through (8) apply only to new dwellings and related
7 structures. Because the Project does not include any dwellings, those provisions do not apply to
8 the Project. Nonetheless, IPC recognizes the importance of fire prevention and suppression,
9 and has developed a draft Fire Prevention and Suppression Plan (see Exhibit U, Attachment U-
10 3). Further, IPC will comply with design codes that prevent fire hazards including OPUC
11 Construction Standards, the National Electric Safety Code requirements pertaining to the
12 prevention of fire hazards related to outdoor public utility installations, and the National Fire
13 Protection Association Uniform Fire Code Handbook guidance related to the clearance of brush
14 and vegetative growth in and around transmission lines.

15 The remaining provisions of UCZPSO 3.08—that is, UCZPSO 3.08(4)(d) through (f)—are
16 discussed as follows.

17 UCZPO 3.08(4)(d): All dwelling addresses shall be uniquely designated in accordance with
18 the Union County Road Naming and Addressing Ordinance (Court Order 1988-03) on signs
19 clearly visible and placed at the intersection of the driveway and named road. Rural address
20 markers provided and installed by the Union County Public Works Department shall not be
21 removed, modified or obstructed.

22 UCZPSO 3.08(4)(d) includes siting and other standards for signs. IPC's signage will comply with
23 UCZPSO 3.08(4)(d).

24 UCZPO 3.08(4)(e): Signs identifying pertinent information such as "dead end road", "bridge
25 out", and so forth, shall be appropriately placed as designated by Union County.

26 UCZPSO 3.08(4)(e) includes siting and other standards for signs. IPC's signage will comply with
27 UCZPSO 3.08(4)(e).

28 UCZPSO 3.08(4)(f): Signs identifying location of a fire-fighting water source and each
29 access to that source shall be permanently identified and shall indicate whether it is a fire
30 hydrant, a dry hydrant, or another type of water supply.

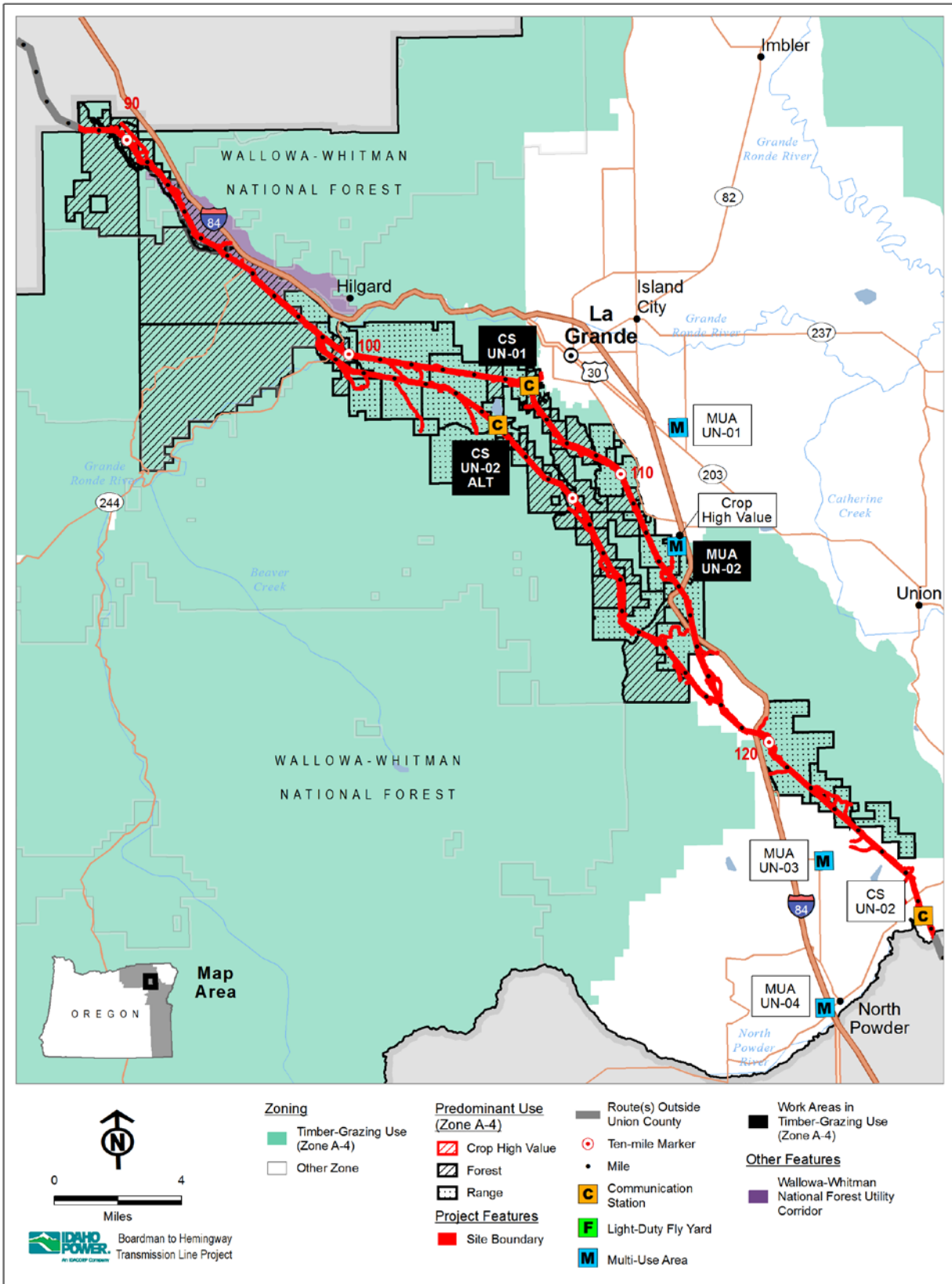
31 UCZPSO 3.08(4)(f) includes siting and other standards for signs. IPC's signage will comply with
32 UCZPSO 3.08(4)(f).

33 **5.6.2.3 Timber-Grazing Zone (A-4) UCZPSO Provisions**

34 With the Proposed Route, the transmission line (32.1 line miles), new access roads (13.1 miles),
35 substantially modified existing access roads (29.5 miles), and one communication station (CS
36 UN-01) will be located in the Timber-Grazing Zone in Union County (see Figures K-40a and K-
37 40b). There will be no multi-use areas or light-duty fly yards in the Timber-Grazing Zone in
38 Union County with the Proposed Route.

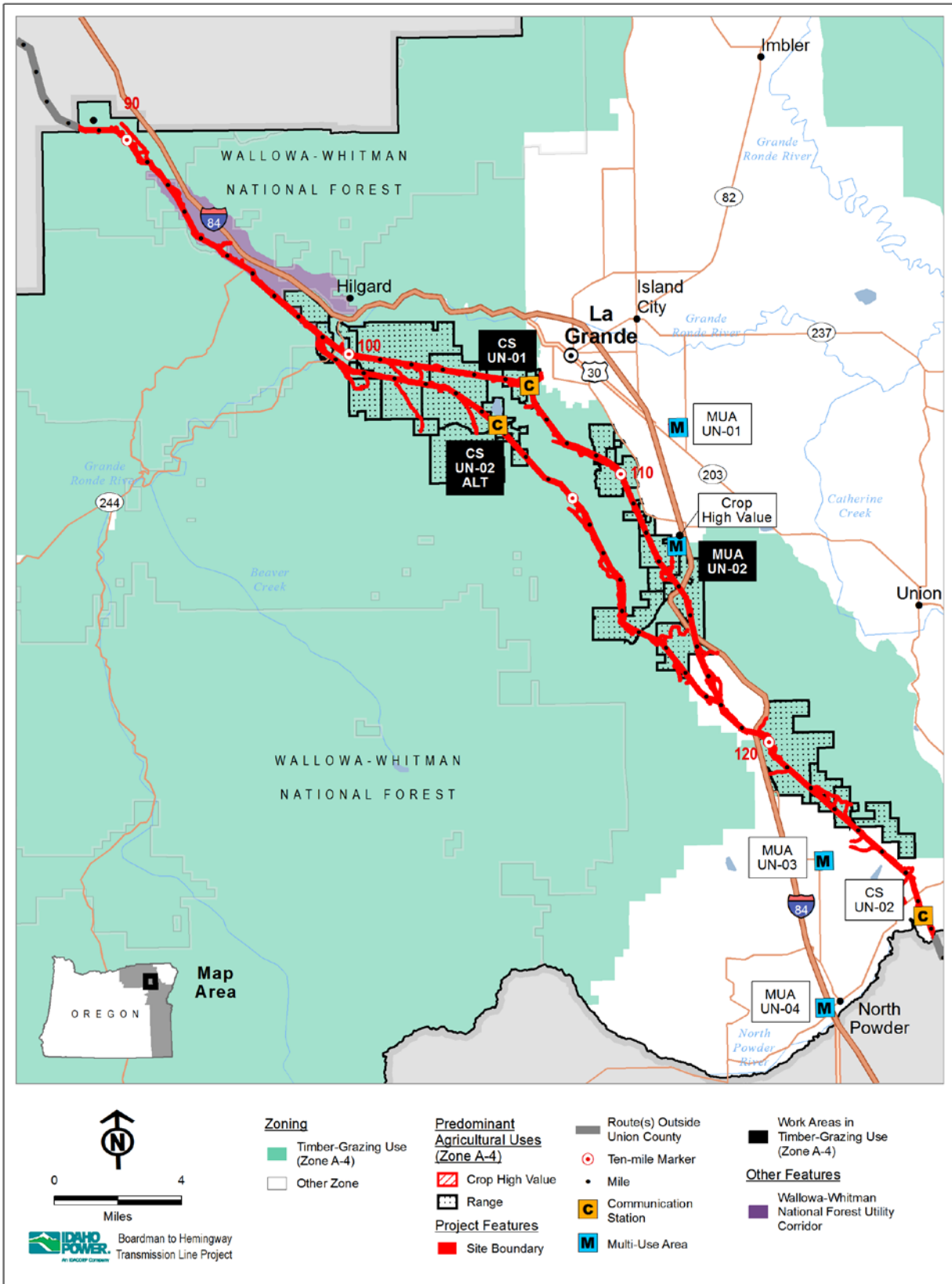
39 With the Morgan Lake Alternative, the transmission line (17.2 line miles), new access roads
40 (14.3 miles), substantially modified existing access roads (15.8 miles), and one alternative
41 communication station (CS UN-01 ALT) will be located in the Timber-Grazing Zone in Union
42 County (see Figures K-40a and K-40b). There will be no multi-use areas or light-duty fly yards in
43 the Timber-Grazing Zone in Union County with the Morgan Lake Alternative.

44 Figure K-40a and Figure K-40b show the location of the Project in the Timber-Grazing Zone.



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2

Figure K-40a. Project Features in Timber-Grazing Zone – Union County



1
2

Figure K-40b. Project Features in Timber - Grazing Zone – Union County

1 **Predominant Use Land Use Decision**

2 **UCZPSO Provisions Identified by Union County**

3 In its October 30, 2008, letter, the Union County Planning Department identified UCZPSO 5.07
4 and UCZPSO 5.08, and no other UCZPSO provisions, as being potentially applicable to the
5 Project in the Timber-Grazing Zone. In this section, we discuss UCZPSO 5.03 and
6 UCZPSO 1.08, which apply by implication through UCZPSO 5.07 and UCZPSO 5.08.

7 **Administrative Uses; Definitions**

8 UCZPSO 5.03: The A-4 Timber-Grazing Zone allows both farm and forest uses, is
9 acknowledged to be in compliance with Statewide Planning Goals 3 (agriculture) & 4
10 (forestry) and is a qualifying exclusive farm use zone. The County shall apply either forest or
11 farm standards for siting a dwelling in the A-4 Timber-Grazing Zone based on the
12 predominant use of the tract on January 1, 1993. Predominant use shall be determined as
13 defined in Section 1.08. . . .

14 UCZPSO 1.08: For the purpose of this Ordinance certain words, terms and phrases are
15 defined as follows: . . . PREDOMINANT USE: The term used to describe the most common
16 use of a parcel when differentiating between farmland and forest land. In determining
17 predominant use NRCS Soil Conservation Service soil maps will be used to determine soil
18 designations and capabilities. The results of this process will be the most important method
19 in determining the predominant use of the parcel. Other factors which may contribute to
20 determining predominant use include parcel characteristics such as a commercial stand of
21 timber, and the current use of the property. Removing a commercial stand of timber from a
22 property will not result in a conversion of predominant use unless the property is disqualified
23 as forest land by the Oregon Department of Forestry. . . .

24 The Timber-Grazing Zone is a hybrid zone and includes both farm and forest uses.⁵⁶ Under
25 UCZPSO Section 5.03, the Timber-Grazing Zone “is acknowledged to be in compliance with
26 Statewide Planning Goals 3 (agriculture) and 4 (forestry) and is a qualifying exclusive farm use
27 zone.” The applicable standards are dependent on the predominant use of the tract of land as of
28 January 1, 1993.⁵⁷ Here, IPC worked closely with Union County to determine the predominant
29 use on each of the 61 parcels that are crossed by the Site Boundary that are located wholly or
30 partially within the Timber-Grazing Zone. In order to determine the predominant use on each
31 parcel, data from Soil Survey Geographic Database (SSURGO) was used along with the Union
32 County taxlot data (parcel data). GIS mapping software was used to determine which SSURGO
33 soil type comprised the most acres within each parcel. Using a table provided by Union County
34 listing each SSURGO soil type and the corresponding predominant use value,⁵⁸ each parcel
35 was then initially given one of the following predominant use values: Crop High Value, Crop
36 High Value if Irrigated, Crop, Range, Forest, Gravel Pit, Miscellaneous/Water or Urban/Not
37 Rated. This analysis resulted in a preliminary predominant use value for each parcel within the
38 Site Boundary based on SSURGO soils data. Union County then reviewed each parcel’s initial

⁵⁶ Under OAR 660-006-0050(1), a county may establish “agriculture/forest zones” in accordance with both Goals 3 (agriculture) and 4 (forestlands). Pursuant to OAR 660-006-0050(2), uses authorized in EFU zones in ORS Chapter 215 and uses authorized by OAR 660-006-0025 (forest lands) may be allowed in any agricultural/forest zone, subject to the requirements of the applicable section.

⁵⁷ This treatment is consistent with OAR 660-006-0050(1), which authorizes governing bodies (*i.e.*, cities or counties) to establish “agriculture/forest zones” in accordance with Goals 3 and 4. OAR 660-006-0050(2) states that uses authorized in EFU zones in ORS Chapter 215 and uses authorized by OAR 660-006-0025 (forest lands) may be allowed in any agricultural/forest zone, subject to the requirements of the applicable section.

⁵⁸ Union County provided IPC with a table listing the SSURGO soil types found throughout Union County and the corresponding predominant use value for each soil type. This table was developed through the Pilot Program Soil Rating system for Union County in March 1993.

1 predominant use value against 2011 aerial photography and tax lot records and adjusted the
 2 predominant use to reflect current land use. In the Timber-Grazing zone, none of the parcels
 3 involved in the analysis had their initial predominant use value adjusted through the Union
 4 County review process. However, SSURGO data for 18 of the total 61 parcels was not available
 5 and therefore the above analysis could not be performed. These 18 parcels are located in the
 6 vicinity of the National Forest. For these parcels, the predominant use analysis was determined
 7 solely by Union County review process. All 18 parcels were determined to have a predominant
 8 use of forest.

9 Table K-20 and Figure K-40a show the predominant uses of the Timber-Grazing Zone lands
 10 affected by the Project. Figure K-40b shows whether the predominantly farmland parcels in the
 11 Timber-Grazing Zone are being used for crop, high value crop, or range use.

12 **Table K-20. Timber-Grazing Zone Predominant Uses**

Predominant Use	Number of Parcels ¹	Centerline (miles)	Site Boundary (acres)
Proposed Route			
Forest	33	15.2	1,063.7
Range	28	16.5	1,205.2
Crop High Value	1	–	0.1
Proposed Route – Total²	62	31.7	2,269.0
Morgan Lake Alternative			
Forest	20	7.0	525.2
Range	18	10.1	802.0
Crop High Value	–	–	–
Morgan Lake Alternative – Total²	38	17.1	1,327.2

13 ¹ Number of parcels crossed by the site boundary.

14 ² Sums may not total due to rounding.

15 Where the Project will be sited in predominant use agricultural lands in the Timber-Grazing
 16 Zone, it is considered an administrative use under UCZPSO 5.03(8), subject the standards for
 17 siting in EFU-zoned land (see OAR Chapter 660, Division 33 and ORS Chapter 215). Where the
 18 Project will be sited in predominant use forest lands in the Timber-Grazing Zone, it is considered
 19 a conditional use under UCZPSO 5.04(3), subject to the siting standards for forest zones (see
 20 OAR Chapter 660, Division 6).

21 ***Land Use Decision – Predominantly Farmland Parcels (All Project Features)***

22 With the Proposed Route, the transmission line (6.0 line miles), new access roads (3.1 miles),
 23 substantially modified existing access roads (6.0 miles), and 1 communication station (CS UN-
 24 02) will be located in predominantly farmland parcels in the Timber-Grazing Zone in Union
 25 County. No multi-use areas or light-duty fly yards will be located in predominantly farmland
 26 parcels in the Timber-Grazing Zone.

27
 28 With the Morgan Lake Alternative, the transmission line (1.3 line miles) and new access roads
 29 (1.0 mile) will be located in predominantly farmland parcels in the Timber-Grazing Zone in Union
 30 County. No substantially modified existing access roads, communication stations, multi-use
 31 areas, or light-duty fly yards will be located in predominantly farmland parcels in the Timber-
 32 Grazing Zone.

33

UCZPSO Provisions Identified by Union County

In its October 30, 2008 letter, the Union County Planning Department identified UCZPSO 5.07 and UCZPSO 5.08, and no other UCZPSO provisions, as being potentially applicable to the Project in the Timber-Grazing Zone. In this section, we discuss UCZPSO 5.07 and UCZPSO 5.08, as well as UCZPSO 5.03(8), which applies by implication through UCZPSO 5.07 and UCZPSO 5.08.

Administrative Uses

UCZPSO 5.03: . . . The following uses may be established in an A-4 Zone subject to the Planning Director Land Use Decision review procedure identified in Section 24.02. . . . 8. On predominantly farmland parcels utility facilities, and similar minor facilities necessary for public service and repair, replacement and maintenance thereof, except commercial facilities for the purpose of generating power for public use by sale and transmission towers over 200 feet in height. A facility is considered necessary if it must be situated in an agricultural zone in order for the service to be provided. [OAR 660-33-130(16)]

UCZPSO 5.03(8) references OAR 660-33-130(16), which provides criteria for determining whether a utility facility is necessary. The criteria under OAR 660-33-130(16) are the same as, or similar to, the criteria under ORS 215.283(1)(c)(A) and ORS 215.275. Here, as discussed in Section 4, the Project is considered a utility facility necessary for public service under ORS 215.283(1)(c)(A) and ORS 215.275. Thus, the Project is also considered necessary under OAR 660-33-130(16) and UCZPSO 5.03(8), and is an administrative use authorized in predominant use agricultural lands in the Timber-Grazing Zone (see UCZPSO 5.03(8); Table K-20). Further, because the access roads and communication station located in predominantly farmland parcels support and relate to the utility transmission line, those Project features are considered utility facilities or parts thereof for purposes of UCZPSO 5.03(8) and are permitted uses in the Timber-Grazing Zone.

ORS 215.283(1)(c)(A) requires IPC demonstrate the need to site the Project on EFU lands only at a macro, project-wide level across all five relevant counties. Though beyond what is required by the statute, Section 5.6.5 makes a similar showing at the micro or county level, by providing a detailed discussion of the necessity of siting the Project in EFU specifically in Union County.

Siting Standards for Dwellings and Structures

UCZPSO 5.07: The following siting standards shall apply to all new dwellings and related structures in the A-4 Zone where the predominant use is forestry [OAR 660-06-050(3)] and where dwellings are on rangeland within one quarter mile of forest land areas. These standards are designed to make such uses compatible with forest operations and agriculture, to minimize wildfire hazards and risks, and to conserve values found on forest lands. The standards in Sections 5.07 and 5.08 shall be considered when identifying the building site. . .

UCZPSO 5.07 provides siting standards for dwellings and their related structures. "Dwellings" are buildings containing one or more rooms designed for occupancy by a family (see UCZPSO 1.08, defining "single-family dwelling" and "dwelling unit"). Here, the Project includes no buildings designed for family occupancy, and thus, there are no Project dwellings or dwelling-related structures, and UCZPSO 5.07 does not apply to the Project.

Development and Fire Siting Standards

The provisions of UCZPSO 5.08 are identical to the provisions of UCZPSO 3.08, which are discussed above in relation to utility facilities in the Agricultural-Grazing Zone. The analysis is the same here.

UCZPSO Provisions Identified by IPC

In its October 30, 2008 letter, the Union County Planning Department identified UCZPSO 5.07 and UCZPSO 5.08, and no other UCZPSO provisions, as being potentially applicable to the Project in the Timber-Grazing Zone. IPC and not Union County identified the following UCZPSO provisions as potentially applicable to the Project features in predominantly farmland parcels in the Timber-Grazing. IPC addresses these ordinances for informational purposes only.

Minimum Parcel Size

UCZPSO 5.06: 1. For farmland not designated rangeland the minimum parcel size shall be 160 acres. 2. For land designated rangeland the minimum parcel size shall be 320 acres. 3. For new parcels which will be predominantly comprised of forest land the minimum parcel size shall be 240 acres. 4. On predominantly agricultural parcels (cropland or rangeland) a variance application may be submitted per Article 30.00 to create parcels per ORS 215.780(1) for resource related purposes only. 5. New land divisions less than required in Section 5.06 3. above: [OAR 660-06-026(2)] a. New land divisions on predominantly forest land parcels less than the parcel size in 5.06 3. may be approved only for the uses listed in 5.02 3. & 12.; 5.04 1., 2., 5., 6., 10., & 11.; and 5.05 3. provided that such uses have been approved pursuant to 5.04 Criteria No's 1, 2 & 3. b. Such divisions shall create a parcel that is the minimum size necessary for the use. 6. Non-farm parcels on predominantly farmland parcels. a. Predominantly farmland parcels that are not customarily provided in conjunction with farm use may be created only if all of the following criteria can be satisfied: A. No new lot or parcel may be created for this purpose until the dwelling to be sited on the new parcel is first approved pursuant to Section 5.05 4. (non-farm dwelling). B. The new parcel is a pre-existing substandard lot or parcel created prior to the adoption of this ordinance and when the parcel is the result of a transfer of a parcel of land between adjacent landowners as described in the definition of a minor partition in Section 1.08.

UCZPSO 5.06 provides for minimum lot sizes and is applicable only to the extent that a partition is required. IPC intends to secure easements for the majority of Project features and does not expect to require partition of any parcel. Because the Project likely will not involve lot splits, UCZPSO 5.06 likely will not be applicable to the Project. In the event that a partition becomes necessary, IPC will obtain approval of the partition directly from the county prior to construction.

Conditional Use Permit – Predominantly Forestland Parcels (All Project Features)

With the Proposed Route, the transmission line (31.6 line miles), new access roads (13.1 miles), substantially modified existing access roads (29.4 miles), 1 communication station (CS UN-01), and 1 multi-use area (MUA UN-02) will be located in predominantly forestland parcels in the Timber-Grazing Zone in Union County. No light-duty fly yards will be located in predominantly forestland parcels in the Timber-Grazing Zone.

With the Morgan Lake Alternative, the transmission line (17.1 line miles), new access roads (14.2 miles), substantially modified existing access roads (15.9 miles), 1 communication station (CS UN-02 ALT), and 1 multi-use area (MUA UN-02) will be located in predominantly forestland parcels in the Timber-Grazing Zone in Union County. No light-duty fly yards will be located in predominantly forestland parcels in the Timber-Grazing Zone.

UCZPSO Provisions Identified by IPC

IPC and not Union County identified the following UCZPSO provisions as potentially applicable to the portion of the Project occurring in predominantly forestland parcels in the Timber-Grazing. IPC addresses these ordinances for informational purposes only.

Predominantly Forestland Conditional Uses

UCZPSO 5.04: The following uses may be established on predominantly forestland parcels or tracts in an A-4 Zone subject to the review procedures identified in Section 24.03 and subject to approval by the Planning Commission based on applicable standards in Article 21.00 and the following criteria: . . . 3. New electrical transmission lines with right of way widths of up to 100 feet as specified in ORS 772.210. New distribution lines (e.g., gas, oil, geothermal) with rights-of-way 50 feet or less in width.

UCZPSO 5.04(3) provides that new electric transmission lines are considered conditional uses in predominant use forest lands in the Timber-Grazing Zone. UCZPSO 5.04(3) contains criteria identical to OAR 660-006-0025(4)(q), and Union County identified OAR 660-006-0025(4)(q) as a substantive criterion applicable to the Project. That being so, IPC analyzes the Project in the following section as a conditional use subject to the provisions of OAR 660-006-0025(4) regarding “uses authorized in forest zones.”

Uses Authorized in Forest Zones

OAR 660-006-0025(4): The following uses may be allowed on forest lands subject to the review standards in section (5) of this rule: . . . (q) New electric transmission lines with right of way widths of up to 100 feet as specified in ORS 772.210. . . .

Under OAR 660-006-0025(4)(q), a “new electric transmission line with right of way widths of up to 100 feet as specified in ORS 772.210” is a “conditional use,” meaning a use allowed on Goal 4 forest lands subject to certain conditions. For the reasons explained below, the ROW required by the Project falls well within the “new electric transmission line” use set forth in OAR 660-006-0025(4)(q), and the Project ROW is therefore a conditional use on Goal 4 forest lands in Union County.

While OAR 660-006-0025(4)(q) expressly refers only to transmission lines with up to a 100-foot ROW, the Oregon Supreme Court has concluded that the use category defined in OAR 660-006-0025(4)(q) also includes new electric transmission lines with ROWs greater than 100 feet because of that provision’s specific reference to ORS 772.210 (regarding condemnation) (see *Save Our Rural Oregon v. EFSC*, 339 Or. 353, 375-76 (2005) (concerning the EFSC application of the COB Energy Facility LLC, and hereinafter referred to as COB)). ORS 772.210 relates to “Rights of Ways for Public Uses” and public utility condemnation authority. It authorizes public utilities to “[c]ondemn such lands not exceeding 100 feet in width for its [transmission] lines.” In addition, ORS 772.210(1) provides that “[i]f the lands are covered by trees that are liable to fall and constitute a hazard to its wire or line,” the public utility may “condemn such trees for a width not exceeding 300 feet.” ORS 772.210(2), a parallel provision tailored to address high-voltage transmission lines, similarly provides that a public utility may:

[W]hen necessary or convenient for transmission lines (including poles, towers, wires, supports and necessary equipment * * *) designed for voltages in excess of 330,000 volts, condemn land not to exceed 300 feet in width. In addition, if the lands are covered by trees that are liable to fall and constitute a hazard to its wire or line, such public utility or transmission company may condemn such trees for a width not exceeding 100 feet on either side of the condemned land, as may be necessary or convenient for such purpose. (Emphasis added).

Thus, including the vegetative maintenance zone of 100 feet on either side of a 300-foot ROW, ORS 772.210(2) authorizes condemnation of a corridor of up to 500 feet for a 500-kV transmission line.

1 This approach is consistent with the precedent set in the *COB* case, cited above, in which the
2 Oregon Supreme Court interpreted OAR 660-006-0025(4)(q),⁵⁹ taken together with ORS
3 772.210(1), to allow a new electric transmission line with a ROW in excess of 100 feet on Goal
4 4 forest lands without requiring an exception to Goal 4. In *COB*, the facility proposed for
5 development in the forest zone included a 100-foot wide corridor for a transmission line, as well
6 as a vegetative maintenance zone of 54 feet on each side of the ROW and access roads.⁶⁰ In
7 that case, the Supreme Court concluded that the 100-foot ROW was a permissive use, and that
8 “ORS 772.210 allows a vegetative maintenance zone of up to 100 feet on either side of such a
9 corridor.”⁶¹ Accordingly, the Court reasoned that no Goal 4 exception was required for the entire
10 154-foot corridor proposed by the applicant, and the entire 154-foot ROW was allowed in the
11 forest zone as a conditional use.⁶²

12 Given that OAR 660-006-0025(4)(q) specifically refers to ORS 772.210 in its entirety, not just
13 subsection (1) of ORS 772.210,⁶³ the analysis in *COB* must be applied to include the wider
14 ROWs identified in ORS 772.210(2) as within the scope of conditional uses authorized in Goal 4
15 forest lands. Although the *COB* opinion does not expand on the court’s reasoning, it appears
16 that the Court determined that the conditional use described in Klamath County analogue of
17 OAR 660-006-0025(4)(q) should be read broadly to include the wider corridors described in
18 ORS 772.210. Thus, applying the reasoning in *COB*, OAR 660-006-0025(4)(q) should be read
19 to authorize up to a 300-foot ROW corridor for a new electric transmission line “designed for
20 voltages in excess of 330,000 volts,” as well as up to 100 feet on either side of such corridor for
21 vegetative maintenance, in Goal 4 forest land. Accordingly, the Project is a “new electric
22 transmission line” for the purposes of OAR 660-006-0025(4)(q) and up to a 500-foot ROW
23 corridor should be considered a conditional use on Goal 4 forest lands in Union County.

24 While IPC’s position is that the *COB* decision provides for a 500-foot ROW in Goal 4 forest
25 lands, ODOE disagrees. Instead, ODOE has stated that only a 300-foot ROW is authorized,
26 unless a Goal 4 exception is provided. Without waiving its argument, IPC is agreeing to limit its
27 ROW to no more than 300 feet in Goal 4 forestlands, which under ODOE’s interpretation
28 complies with OAR 660-006-0025(4)(q), ORS 772.210, and the *COB* decision. To ensure
29 compliance with ODOE’s direction, IPC requests that the Council adopt the following conditions
30 to be included in the site certificate:

31 ***Land Use Condition 10:*** *During construction, the site certificate holder shall limit*
32 *its transmission line right-of-way in Goal 4 forest lands to no wider than 300 feet.*
33 *The site certificate holder shall limit its use of the outer 100 feet on each side of*
34 *the ROW primarily to vegetation maintenance*

35 ***Land Use Condition 23:*** *During operation, the site certificate holder shall limit its*
36 *transmission line right-of-way in Goal 4 forest lands to no wider than 300 feet.*
37 *The site certificate holder shall limit its use of the outer 100 feet on each side of*
38 *the ROW primarily to vegetation maintenance.*

⁵⁹ In the *COB* case, the Court was interpreting a provision of the Klamath County Land Development Code containing the same language as OAR 660-006-0025(4)(q).

⁶⁰ *Save Our Rural Oregon v EFSC*, 339 Or. 353.375.376 (2005).

⁶¹ *Id.*

⁶² The Supreme Court noted that “the council determined that the roads did not meet Goal 4, reviewed the Goal exception criteria of ORS 469.504(2)(c), and took an exception to Goal 4 for access roads.

⁶³ When interpreting the meaning of an administrative rule, the standard rules of statutory construction apply and courts use the same methodology to interpret rules as they use to construe statutes. *PGE v. BOLI*, 317 Or. 606, 611 (1993). When examining the text and context of the rule, one must not “insert what has been omitted, or . . . omit what has been inserted.” ORS 174.010. If possible, rules and statutes should be read in such a way as to give full effect to both.

1 The Project's compliance with the three conditional use siting criteria for forest lands provided in
2 OAR 660-006-0025(5) is discussed below.

3 IPC's position is that the term "new electric transmission line" includes related and supporting
4 facilities, including access roads, communication stations, and other such facilities, all of which
5 should be conditionally permitted. And therefore, all Project features and related and supporting
6 facilities are conditionally permitted in Goal 4 forest lands under OAR 660-006-0025(4)(q).
7 However, arguably, even if the Council finds that OAR 660-006-0025(4)(q) does not cover
8 access roads outside the transmission line corridor, IPC demonstrates in Section 6 that the
9 substantially modified existing roads outside of the corridor are permitted outright on forest
10 lands under OAR 660-006-0025(3)(h), and that new roads outside the corridor nonetheless
11 comply with statewide planning Goal 4. Alternatively, in the event EFSC concludes that the
12 roads outside the transmission line corridor are not conditionally permitted as part of the new
13 electric transmission line and are inconsistent with Statewide Planning Goal 4, IPC shows in
14 Section 7.0 that the Council should provide an exception to Goal 4.

15 OAR 660-006-0025(5): A use authorized by section (4) of this rule may be allowed provided
16 the following requirements or their equivalent are met. These requirements are designed to
17 make the use compatible with forest operations and agriculture and to conserve values found
18 on forest lands: (a) The proposed use will not force a significant change in, or significantly
19 increase the cost of, accepted farming or forest practices on agriculture or forest lands;

20 The Agricultural Lands Assessment, Attachment K-1, analyzes in detail the accepted farm
21 practices in the area surrounding the Project and the potential impacts of the Project on the
22 same. The following is a summary of that information. The Agricultural Lands Assessment
23 evaluates farm practices either observed or expected on lands within the Site Boundary and on
24 surrounding lands within 500 feet of the Site Boundary (Agricultural Assessment Area). The
25 agricultural practices within the Agricultural Assessment Area in Union County included
26 rangeland, rangeland/timber, and pasture (see Attachment K-1, Table 3-4). Potential impacts of
27 the Project include temporary (construction) and permanent (operational) disturbances, as well
28 as the indirect impacts associated with these disturbances and the type of agricultural use
29 disturbed. Indirect impacts may include growth inducing effects caused by the Project but occur
30 later in time or farther removed in distance. Indirect impacts may include changes in the pattern
31 of land use, population density or growth rate, and the related effects of those changes on
32 agriculture. IPC will take certain minimization and mitigation actions to address potential impacts
33 to agriculture, including but not limited to restoring land to its former condition, compensating
34 landowners for damages and/or impacts to agricultural operations caused as a result of Project
35 construction, micro-siting the towers to avoid agricultural areas, instituting weed control
36 measures, preventing soil erosion, and other measures (see Attachment K-1, Section 7.3). The
37 Project, taking into account measures to minimize or mitigate impacts, will not force a significant
38 change in, or significantly increase the cost of, accepted farming practices in the areas
39 surrounding the Project in Union County (see Attachment K-1, Section 14.0).

40 The Right of Way Clearing Assessment, Attachment K-2, addresses existing forestry practices
41 adjacent to the Project and impacts to those practices that may occur as a result of the
42 construction and operation of the Project. The Right of Way Clearing Assessment looked at
43 forest practices in the Site Boundary and within 500 feet of the Site Boundary (Forestry
44 Assessment Area). In the forest lands in Union County, forestry was the predominant land use
45 within the Forestry Assessment Area (see Attachment K-2, Section 3.2). Range or managed
46 pastureland also is intermixed among the forested lands. Potential impacts to existing forestry
47 practices resulting from the logging operations for the new transmission corridor and associated
48 with permanent removal of trees from the right of the way include: land on the corridor may

1 need to be converted from forestry to agriculture; future timber harvesting operations of trees
 2 within a tree length of the power line will have a higher risk factor; there may be some loss in
 3 tree volume along the new edges of the power line corridor; the risk of wildfire may be
 4 increased; new roads may allow access to more area for authorized and unauthorized users of
 5 the land; new roads may provide new, beneficial access to the underlying landowner; and well-
 6 maintained powerline corridors can serve as a fire break or provide access for firefighting
 7 purposes (see Attachment K-2, Section 4.2.1 and Section 4.4). To address potential impacts to
 8 forestry practices on surrounding lands, IPC will implement certain minimization and mitigation
 9 measures, such as: seasonal access restrictions; wildlife habitat restrictions; riparian area
 10 protections; herbicide best management practices; fire protection; and erosion control (see
 11 Attachment K-2, Section 5). The Project, taking into account measures to minimize or mitigate
 12 impacts, will not force a significant change in, or significantly increase the cost of, accepted
 13 forestry practices in the areas surrounding the Project in Union County (see Attachment K-1,
 14 Section 6.0). To ensure compliance with the Right-of-Way Clearing Assessment, IPC proposes
 15 the following conditions:

16 **Land Use Condition 2:** *Prior to construction, the site certificate holder shall*
 17 *finalize, and submit to the department for its approval, a final Right-of-Way*
 18 *Clearing Assessment. The protective measures described in the draft Right-of-*
 19 *Way Clearing Assessment in ASC Exhibit K, Attachment K-2, shall be included*
 20 *and implemented as part of the final Right-of-Way Clearing Assessment, unless*
 21 *otherwise approved by the department.*

22
 23 **Land Use Condition 9:** *During construction, the site certificate holder shall*
 24 *conduct all work in compliance with the final Right-of-Way Clearing Assessment*
 25 *referenced in Land Use Condition 2.*

26 OAR 660-006-0025(5)(b): The proposed use will not significantly increase fire hazard or
 27 significantly increase fire suppression costs or significantly increase risks to fire suppression
 28 personnel; and

29 Fire protection and risk mitigation begins with the Project design and continues through
 30 construction with a strict set of rules governing worker activities and equipment use, and during
 31 operations through surveillance, maintenance, and coordination with local fire responders.
 32 Exhibit U, Section 3.3.6 and the Fire Protection and Suppression Plan (Exhibit U, Attachment U-
 33 3) describe measures in detail.

- 34 • **Design:** During design IPC will comply with design codes that prevent fire hazards
 35 including OPUC Construction Standards, the National Electric Safety Code requirements
 36 pertaining to the prevention of fire hazards related to outdoor public utility installations
 37 and the National Fire Protection Association Uniform Fire Code Handbook guidance
 38 related to the clearance of brush and vegetative growth in and around transmission
 39 lines.
- 40 • **Construction:** During construction, IPC and its contractor will maintain an active
 41 program of worker training, strict requirements for smoking, equipment standards,
 42 fueling, road management, assistance in fire-fighting, and following restricted operations
 43 during high risk periods.
- 44 • **Operation:** IPC will maintain coordination with the Oregon Department of Forestry and
 45 USFS for state and federal lands, respectively, and local fire protection agencies.
 46 Routine maintenance of roads and ROWs in forested areas will reduce the risk that
 47 combustible materials would come into contact with the conductors and ignite a fire.

1 Transmission line protection and control systems will be incorporated into the system
2 and are designed to detect faults (such as arcing from debris contacting the line) and will
3 rapidly shut off power flow (in 1/60th to 3/60th of a second) if arcing is detected.

4 Accordingly, the Project will not significantly increase fire suppression costs or significantly
5 increase risks to fire personnel and this criterion is met.

6 OAR 660-006-0025(5)(c): A written statement recorded with the deed or written contract with
7 the county or its equivalent is obtained from the land owner that recognizes the rights of
8 adjacent and nearby land owners to conduct forest operations consistent with the Forest
9 Practices Act and Rules for uses authorized in subsections (4)(e), (m), (s), (t) and (w) of this
10 rule.

11 This subsection is not applicable to the Project as a use authorized under subsection (4)(q)
12 (new electrical transmission line). Rather, OAR 660-006-0025(5)(c) applies only to uses
13 authorized under subsections (4)(e) (private parks and campgrounds), (m) (reservoirs and water
14 impoundments), (s) (home occupations), (t) (hardship dwellings) and (w) (private fishing
15 accommodations) of this rule.

16 **Predominantly Forestland Conditional Uses – Review Criteria**

17 UCZPSO 5.04: . . . Criteria No. 1- The proposed use will not force a significant change in, or
18 significantly increase the cost of, accepted farming or forest practices on agriculture or forest
19 lands; and

20 As discussed above in relation to OAR 660-006-0025(5)(a), the Project will not force a
21 significant change in or significantly increase the cost of accepted farming or forestry practices
22 in the predominantly forest lands in the Timber-Grazing Zone in Union County.

23 UCZPSO 5.04: . . . Criteria No. 2- The proposed use will not significantly increase fire hazard
24 or significantly increase fire suppression costs or significantly increase risks to fire
25 suppression personnel; and

26 As discussed above in relation to OAR 660-006-0025(5)(b), the Project will not significantly
27 increase fire suppression costs or significantly increase risks to fire personnel in the
28 predominantly forest lands in the Timber-Grazing Zone in Union County.

29 UCZPSO 5.04: . . . Criteria No. 3- A written statement recorded with the deed or written
30 contract with the county or its equivalent is obtained from the landowner which recognizes
31 the rights of adjacent and nearby landowners to conduct forest operations consistent with the
32 Forest Practices Act and Rules for 12. home occupations, 5. parks and campgrounds, and 4.
33 temporary hardship dwellings.

34 Criteria No. 3 applies to uses authorized under UCZPSO 5.04 subsections (4) (hardship
35 dwellings), (5) (parks and campgrounds), and (12) (home occupations). Criteria No. 3 is not
36 applicable to the Project as a use authorized under subsection (3) (new electrical transmission
37 line).

38 **Minimum Parcel Size**

39 UCZPSO 5.06: 1. For farmland not designated rangeland the minimum parcel size shall be
40 160 acres. 2. For land designated rangeland the minimum parcel size shall be 320 acres.
41 3. For new parcels which will be predominantly comprised of forest land the minimum parcel
42 size shall be 240 acres. 4. On predominantly agricultural parcels (cropland or rangeland) a
43 variance application may be submitted per Article 30.00 to create parcels per ORS

215.780(1) for resource related purposes only. 5. New land divisions less than required in Section 5.06 3. above: [OAR 660-06-026(2)] a. New land divisions on predominantly forest land parcels less than the parcel size in 5.06 3. may be approved only for the uses listed in 5.02 3. & 12.; 5.04 1., 2., 5., 6., 10., & 11.; and 5.05 3. provided that such uses have been approved pursuant to 5.04 Criteria No's 1, 2 & 3. b. Such divisions shall create a parcel that is the minimum size necessary for the use. 6. Non-farm parcels on predominantly farmland parcels. a. Predominantly farmland parcels that are not customarily provided in conjunction with farm use may be created only if all of the following criteria can be satisfied: A. No new lot or parcel may be created for this purpose until the dwelling to be sited on the new parcel is first approved pursuant to Section 5.05 4. (non-farm dwelling). B. The new parcel is a pre-existing substandard lot or parcel created prior to the adoption of this ordinance and when the parcel is the result of a transfer of a parcel of land between adjacent landowners as described in the definition of a minor partition in Section 1.08.

UCZPSO 5.06 provides for minimum lot sizes and is applicable only to the extent that a partition is required. IPC intends to secure easements for the majority of Project features and does not expect to require partition of any parcel. Because the Project likely will not involve lot splits, UCZPSO 5.06 likely will not be applicable to the Project. In the event that a partition becomes necessary, IPC will obtain approval of the partition directly from the county prior to construction.

Development and Fire Siting Standards

The provisions of UCZPSO 5.08 are identical to the provisions of UCZPSO 3.08, which are discussed above in relation to utility facilities in the Agricultural-Grazing Zone. The analysis is the same here.

Time Limit on a Conditional Use

UCZPSO 21.05: Authorization of a conditional use shall be void after one year unless substantial construction pursuant thereto has taken place. However, one year time extensions may be granted by the Planning Director if the applicable circumstances are unchanged.

UCZPSO 21.05 provides all conditional use permits are void after one year unless substantial construction has taken. Because the Council and not the county has jurisdiction over the land use decisions and conditional use authorizations covered by the site certificate, the Council's and not the county's construction deadlines apply to the Project.

UCZPSO Provisions Identified by Union County

In its October 30, 2008, letter, the Union County Planning Department identified UCZPSO 21.06 as being potentially applicable to conditional uses related to the Project.

General Standards Governing Conditional Uses

UCZPSO 21.06: The following standards and criteria shall govern conditional uses, except as provided in subsection 21.07: 1. A conditional use shall ordinarily comply with the standards of the zone concerned for uses permitted outright except as specifically modified by the Planning Commission in granting the conditional use. 2. Other uses similar to those enumerated within specified zones except in the A-1, A-2, A-3 and A-4 Zones which are consistent with the purposes and intent of the applicable zone may be modified by the Planning Commission if the use is found: A. To be compatible with outright or conditional uses of the applicable zone. B. Not to interfere seriously with established and accepted practices on adjacent lands. C. Not to materially alter the stability of the overall land use pattern of the area. D. That the proposed use can comply with the standards of the zone, and

E. To comply with such other conditions as the Planning Commission or its designate considers necessary to carry out the purposes of this ordinance.

UCZPSO 21.06(1) provides conditional uses ordinarily must meet the standards relevant to uses permitted outright in the relevant zone—that is, in the Timber-Grazing Zone, UCZPSO 5.06 (Minimum Parcel Size), UCZPSO 5.07 (Siting Standards for Dwellings and Structures), and UCZPSO 5.08 (Development and Fire Siting Standards). Here, the minimum parcel size provisions of UCZPSO 5.06, siting standards for dwellings and related structure in UCZPSO 5.07, and the development standards of UCZPSO 5.08 are addressed above in relation to utility facilities in the predominantly farmland parcels in Union County. The same analysis applies here.

UCZPSO 21.06(2) provides the Planning Commission may modify conditional uses under certain circumstances. Here, the Council will impose conditions on the Project to ensure the Project meets the Council's standards, if necessary. Further, IPC shows in this exhibit that the Project will comply with the provisions of the UCZPSO and statewide planning goals. For these reasons, no further conditions are necessary under UCZPSO 21.06(2).

Conditional Use Permit – Predominantly Forestland Parcels (Access Roads)

UCZPSO 5.04(3) and OAR 660-006-0025(4)(q) authorize new utility facilities and new electric transmission lines, respectively, in the Timber-Grazing Zone. UCZPSO 5.04(3) and OAR 660-006-0025(4)(q) should be construed to authorize, in addition to the transmission line, the access roads.

Nonetheless, and in the alternative, IPC shows below that the access roads in the predominantly forestland parcels in the Timber-Grazing Zone would be permitted as conditional uses under UCZPSO 5.04(8).

UCZPSO Provisions Identified by IPC

In its October 30, 2008 letter, the Union County Planning Department identified UCZPSO 5.07 and UCZPSO 5.08, and no other UCZPSO provisions, as being potentially applicable to the Project in the Timber-Grazing Zone. IPC and not Union County identified the following UCZPSO provisions as potentially applicable to the Project features—other than the transmission line—occurring in predominantly forestland parcels in the Timber-Grazing. IPC addresses these ordinances for informational purposes only

Predominantly Forestland Conditional Uses

UCZPSO 5.04: The following uses may be established on predominantly forestland parcels or tracts in an A-4 Zone subject to the review procedures identified in Section 24.03 and subject to approval by the Planning Commission based on applicable standards in Article 21.00 and the following criteria: . . . 8. Roads, highways and other transportation facilities, and improvements not otherwise allowed under this rule subject to the adoption of an exception to Statewide Planning Goal 3, Agricultural Lands, and to any other applicable goal with which the facility or improvement does not comply.

UCZPSO 5.04(8) provides that road construction projects are considered conditional uses in predominant use forest lands in the Timber-Grazing Zone, subject to adoption of an exception, if necessary, to applicable planning goals. Here, as discussed below in Section 6.0, if the Council finds that the Project's proposed access roads do not comply with all applicable substantive criteria for predominant use forest lands in the Timber-Grazing Zone, the Project and all or some of its proposed access roads nonetheless comply with all statewide planning goals.

Predominantly Forestland Conditional Uses – Review Criteria

UCZPSO 5.04: . . . Criteria No. 1- The proposed use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands; and

As discussed above in relation to OAR 660-006-0025(5)(a), the Project will not force a significant change in or significantly increase the cost of accepted farming or forestry practices in the predominantly forest lands in the Timber-Grazing Zone in Union County.

UCZPSO 5.04: . . . Criteria No. 2- The proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel; and

As discussed above in relation to OAR 660-006-0025(5)(b), the Project will not significantly increase fire suppression costs or significantly increase risks to fire personnel in the predominantly forest lands in the Timber-Grazing Zone in Union County.

UCZPSO 5.04: . . . Criteria No. 3- A written statement recorded with the deed or written contract with the county or its equivalent is obtained from the landowner which recognizes the rights of adjacent and nearby landowners to conduct forest operations consistent with the Forest Practices Act and Rules for 12. home occupations, 5. parks and campgrounds, and 4. temporary hardship dwellings.

Criteria No. 3 applies to uses authorized under UCZPSO 5.04 subsections ((4) (hardship dwellings), (5) (parks and campgrounds), and (12) (home occupations). Criteria No. 3 is not applicable to the Project as a use authorized under subsection (8) (roads).

Minimum Parcel Size

UCZPSO 5.06: 1. For farmland not designated rangeland the minimum parcel size shall be 160 acres. 2. For land designated rangeland the minimum parcel size shall be 320 acres. 3. For new parcels which will be predominantly comprised of forest land the minimum parcel size shall be 240 acres. 4. On predominantly agricultural parcels (cropland or rangeland) a variance application may be submitted per Article 30.00 to create parcels per ORS 215.780(1) for resource related purposes only. 5. New land divisions less than required in Section 5.06 3. above: [OAR 660-06-026(2)] a. New land divisions on predominantly forest land parcels less than the parcel size in 5.06 3. may be approved only for the uses listed in 5.02 3. & 12.; 5.04 1., 2., 5., 6., 10., & 11.; and 5.05 3. provided that such uses have been approved pursuant to 5.04 Criteria No's 1, 2 & 3. b. Such divisions shall create a parcel that is the minimum size necessary for the use. 6. Non-farm parcels on predominantly farmland parcels. a. Predominantly farmland parcels that are not customarily provided in conjunction with farm use may be created only if all of the following criteria can be satisfied: A. No new lot or parcel may be created for this purpose until the dwelling to be sited on the new parcel is first approved pursuant to Section 5.05 4. (non-farm dwelling). B. The new parcel is a pre-existing substandard lot or parcel created prior to the adoption of this ordinance and when the parcel is the result of a transfer of a parcel of land between adjacent landowners as described in the definition of a minor partition in Section 1.08.

UCZPSO 5.06 applies to all uses in the Timber-Grazing Zone. It provides for minimum lot sizes and is applicable only to the extent that a partition is required. IPC intends to secure easements for the majority of Project features and does not expect to require partition of any parcel. Because the Project likely will not involve lot splits, UCZPSO 5.06 likely will not be applicable to

1 the Project. In the event that a partition becomes necessary, IPC will obtain approval of the
2 partition directly from the county prior to construction.

3 **Development and Fire Siting Standards**

4 UCZPSO 5.08 applies to all uses in the Timber-Grazing Zone. The provisions of UCZPSO 5.08
5 are identical to the provisions of UCZPSO 3.08, which are discussed above in relation to utility
6 facilities in the Agricultural-Grazing Zone. The analysis is the same here.

7 **Time Limit on a Conditional Use**

8 UCZPSO 21.05: Authorization of a conditional use shall be void after one year unless
9 substantial construction pursuant thereto has taken place. However, one year time
10 extensions may be granted by the Planning Director if the applicable circumstances are
11 unchanged.

12 UCZPSO 21.05 provides all conditional use permits are void after one year unless substantial
13 construction has taken. Because the Council and not the county has jurisdiction over the land
14 use decisions and conditional use authorizations covered by the site certificate, the Council's
15 and not the county's construction deadlines apply to the Project.

16 **UCZPSO Provisions Identified by Union County**

17 In its October 30, 2008 letter, the Union County Planning Department identified UCZPSO 21.06
18 as being potentially applicable to conditional uses related to the Project.

19 **General Standards Governing Conditional Uses**

20 UCZPSO 21.06: The following standards and criteria shall govern conditional uses, except
21 as provided in subsection 21.07: 1. A conditional use shall ordinarily comply with the
22 standards of the zone concerned for uses permitted outright except as specifically modified
23 by the Planning Commission in granting the conditional use. 2. Other uses similar to those
24 enumerated within specified zones except in the A-1, A-2, A-3 and A-4 Zones which are
25 consistent with the purposes and intent of the applicable zone may be modified by the
26 Planning Commission if the use is found: A. To be compatible with outright or conditional
27 uses of the applicable zone. B. Not to interfere seriously with established and accepted
28 practices on adjacent lands. C. Not to materially alter the stability of the overall land use
29 pattern of the area. D. That the proposed use can comply with the standards of the zone, and
30 E. To comply with such other conditions as the Planning Commission or its designate
31 considers necessary to carry out the purposes of this ordinance.

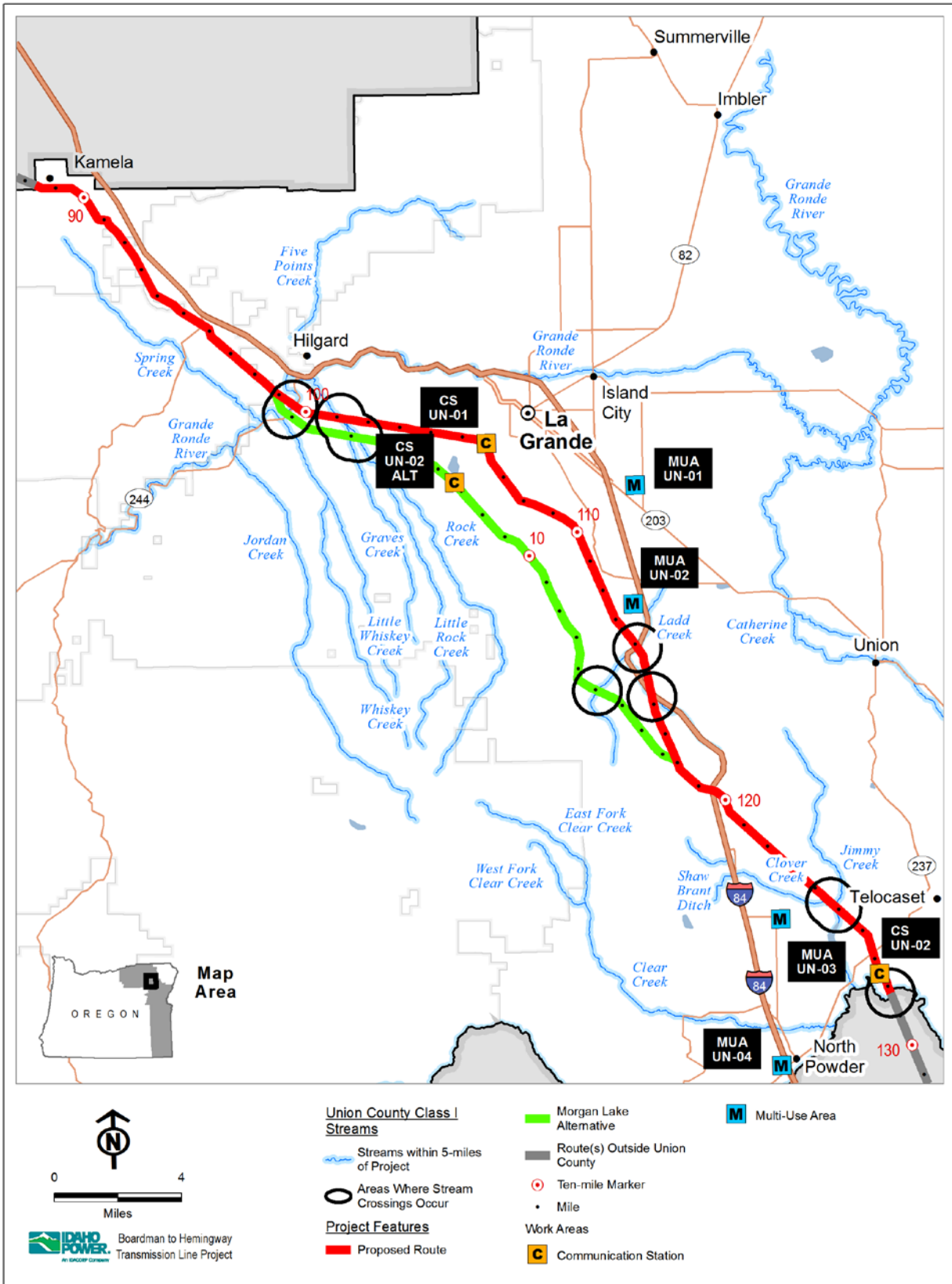
32 UCZPSO 21.06(1) provides conditional uses ordinarily must meet the standards relevant to
33 uses permitted outright in the relevant zone—that is, in the Timber-Grazing Zone,
34 UCZPSO 5.06 (Minimum Parcel Size), UCZPSO 5.07 (Siting Standards for Dwellings and
35 Structures), and UCZPSO 5.08 (Development and Fire Siting Standards). Here, the minimum
36 parcel size provisions of UCZPSO 5.06, siting standards for dwellings and related structure in
37 UCZPSO 5.07, and the development standards of UCZPSO 5.08 are addressed above in
38 relation to utility facilities in the predominantly farmland parcels in Union County. The same
39 analysis applies here.

40 UCZPSO 21.06(2) provides the Planning Commission may modify conditional uses under
41 certain circumstances. Here, the Council will impose conditions on the Project to ensure the
42 Project meets the Council's standards, if necessary. Further, IPC shows in this exhibit that the
43 Project will comply with the provisions of the UCZPSO and statewide planning goals. For these
44 reasons, no further conditions are necessary under UCZPSO 21.06(2).

1 5.6.2.4 Riparian Zone Setbacks UCZPSO Provisions

2 UCZPSO 20.08: In order to maintain vegetative cover along Class I streams, rivers and lakes
3 known as riparian habitat a setback for any new development such as structures or roads
4 shall be required on a sliding scale proportional to one-half the stream width, at right angles
5 to the annual high-water line or mark. A minimum of 25-feet either side of streams will be
6 recognized. Woody vegetation presently existing in the riparian zone shall be maintained,
7 however, thinning or harvesting of merchantable tree species may occur within the riparian
8 zone where 75 percent of the existing shade over the stream is maintained.

9 UCZPSO 20.08 provides certain riparian area setback requirements applicable to new
10 structures and roads near Class I streams. Figure K-41 shows the locations where the Project
11 will cross or be near Class I streams.



1
2

Figure K-41. Potentially Affected Class I Streams – Union County

1 UCZPSO 1.08 defines “structure” as meaning: “That which is built or constructed. An edifice or
 2 building of any kind or any piece of work artificially built up or composed of parts joined together
 3 in some manner and which requires location on the ground or which is attached to something
 4 having a location on the ground.” And the term “building” means “[a] structure built for the
 5 shelter or enclosure of persons, animals, chattels or property of any kind” (UCZPSO 1.08).

- 6 • Access roads: UCZPSO 20.08 applies “new developments” including “roads.” Because
 7 substantially modified existing roads are not “new developments,” the certain riparian
 8 area setback requirements or UCZPSO 20.08 do not apply to the Project’s substantially
 9 modified existing roads. However, UCZPSO 20.08 does apply to the Project’s new
 10 access roads.
- 11 • Transmission Line Towers: The Project transmission towers are built and constructed,
 12 and are located on the ground. Therefore, the riparian area setback requirements or
 13 UCZPSO 20.08 will apply to the relevant transmission line towers.
- 14 • Multi-Use Areas and Communication Stations: The Project multi-use areas and
 15 communication stations will include a building. Therefore, the riparian area setback
 16 requirements or UCZPSO 20.08 will apply to the multi-use areas and communication
 17 stations.

18 To ensure compliance with the riparian area setback requirements of UCZPSO 20.08, IPC
 19 proposes the following site certificate condition:

20 ***Land Use Condition 17: During construction in Union County, the site certificate***
 21 ***holder shall construct the facility to comply with the following setback distances***
 22 ***and other requirements:***

23 *In All Zones:*

24 *a. Buildings, the fixed bases of transmission line towers, and new access roads*
 25 *shall be set back from Class I streams at least 25-feet or one-half the stream*
 26 *width, whichever is greater.*

27 *b. Permanent vegetation removal within the riparian zone of all Class I streams*
 28 *shall retain 75% of all layers or stratas of vegetation.*

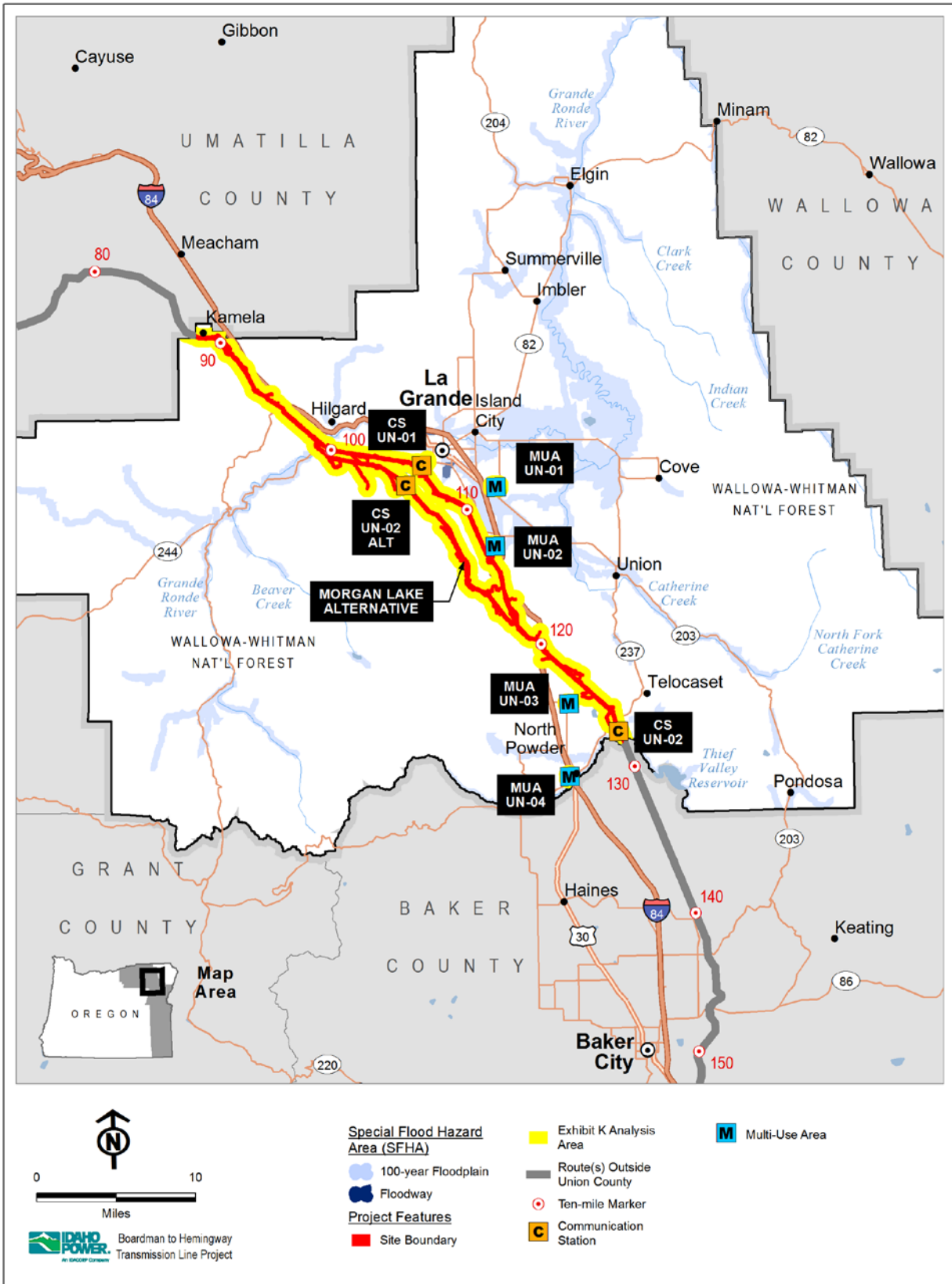
29

30 5.6.2.5 Flood Plain Overlay Zone UCZPSO Provisions

31 The Proposed Route spans SFHAs in Union County where it spans the Grande Ronde River at
 32 MP 95.7 and the Powder River at MP 124.0.

33 The Morgan Lake Alternative spans SFHAs in Union County where it spans the Grande Ronde
 34 River at MP 0.8.

35 Figure K-42 shows where the Project spans the SFHAs.



1
2 **Figure K-42. Union County Special Flood Hazard Areas**

1 **Flood Plain Development Permit**

2 **Permit Requirement**

3 UCZPSO 17.03(1)(A): Filing of a development permit or building permit, where applicable,
4 shall be obtained before construction or development begins within any area of special flood
5 hazard. Development permits are required for all structures including manufactured homes
6 and for all other development including fill, except low investment structures; building permits
7 shall be for all structures. Application for a development and building permit shall be made to
8 and maintained by the County Building Inspector and findings submitted to the County
9 Planning Department.

10 UCZPSO 17.03 applies to all uses in an SFHA. Under UCZPSO 17.03(1)(A), development
11 activities within a SFHA require a flood plain development permit. To the extent the Project will
12 include development activities within a SFHA, IPC will obtain directly from Union County any
13 necessary flood plain development permit. The flood plain development permit will not be
14 included in or governed by the site certificate (see Exhibit E, Section 3.2.10.3).

15 To ensure compliance with the flood plain development permit requirements, IPC proposes the
16 following site certificate conditions:

17 **Land Use Condition 6:** *Prior to construction in Union County, the site certificate*
18 *holder shall provide to the department a copy of the following Union County-*
19 *approved permits, if such permits are required by Union County zoning*
20 *ordinances:*

21 *a. Flood plain development permit;*

22 *. . . .*

23
24 **Land Use Condition 18:** *During construction in Union County, the site certificate*
25 *holder shall conduct all work in compliance with the Union County-approved*
26 *permits referenced in Land Use Condition 6, if such permits are required by*
27 *Union County zoning ordinances.*

28 **Anchoring**

29 UCZPSO 17.03(1)(B)(1): All new construction and substantial improvements shall be
30 anchored to prevent flotation, collapse or lateral movement of the structure.

31 UCZPSO 17.03(1)(B) applies to all uses in an SFHA. Typical lattice and tubular steel structures
32 on the Project will be anchored to large drilled pier foundations, which are designed to resist the
33 heavy loads that are transferred from the structure from the application of various temperature,
34 wind, and icing conditions to the conductors. The foundations are also designed to resist uplift
35 pressures (buoyancy forces) that can occur in areas with high water tables. That being so, the
36 relevant Project features will be anchored to prevent flotation, collapse, or lateral movement of
37 the structure, and will be in compliance with UCZPSO 17.03(1)(B)(1).

38 UCZPSO 17.03(1)(B)(2): All mobile homes shall be anchored to resist floatation, collapse, or
39 lateral movement by providing over-the-top and frame ties to ground anchors. Specific
40 requirements shall be that:

41 UCZPSO 17.03(1)(B)(2) applies to mobile homes. Because the Project does not involve mobile
42 homes, UCZPSO 17.03(1)(B)(2) does not apply to the Project.

1 UCZPSO 17.03(1)(B)(3): An alternative method of anchoring may involve a system designed
2 to withstand a wind force of 90 miles-per-hour or greater. Certification must be provided to
3 the County Building Inspector that this standard has been met.

4 UCZPSO 17.03(1)(B)(3) provides for methods other than those otherwise set forth in
5 UCZPSO 17.03(1)(B). Here, IPC intends to comply with UCZPSO 17.03(1)(B)(1) and not need
6 an exception. If IPC needs an exception, IPC will comply with this provision.

7 UCZPSO 17.03(1)(B)(4): All manufactured homes must likewise be anchored to prevent
8 flotation, collapse or lateral movement

9 UCZPSO 17.03(1)(B)(4) applies to mobile homes. Because the Project does not involve mobile
10 homes, UCZPSO 17.03(1)(B)(4) does not apply to the Project.

11 **Construction, Materials and Methods**

12 UCZPSO 17.03(1)(C): (1) All new construction and substantial improvements shall be
13 constructed with materials and utility equipment resistant to flood damage. (2) All new
14 construction and substantial improvements shall be constructed using methods and practices
15 that minimize flood damage. (3) Electrical, heating, ventilation, plumbing, and air-
16 conditioning equipment and other service facilities shall be designed and/or otherwise
17 elevated or located so as to prevent water from entering or accumulating within the
18 components during conditions of flooding.

19 UCZPSO 17.03(1)(C)(1) and 17.03(1)(C)(2) provide all Project features will be constructed to
20 resist and minimize flood damage. The concrete drilled piers that will be used in the Project are
21 highly resistant to the presence of water and are commonly used in the utility industry for
22 structures located in high water tables or standing or flowing water. The foundations will also
23 have a minimum foundation reveal, the length the foundation extends above the ground line, of
24 one foot or more to protect the steel structure from low levels of standing or flowing water. In the
25 rare event of free standing water above the top of the foundation, the structures are made of
26 galvanized or weathering steel for corrosion protection. For these reasons, the transmission line
27 towers located in a SFHA in Union County will be constructed with materials and equipment
28 resistant to flood damage (see UCZPSO 17.03(1)(C)(1) and 17.03(1)(C)(2)).

29 UCZPSO 17.03(1)(C)(3) requires electrical and other service facilities to be designed to prevent
30 water from entering its components during flooding conditions. Here, the transmission line
31 towers will be located above the elevation of the 100-year floodplain, and otherwise will be
32 designed and located to prevent water from entering the equipment components during flooding
33 conditions (see UCZPSO 17.03(1)(C)(3)).

34 **Utilities**

35 UCZPSO 17.03(1)(D): (1) All new and replacement water supply systems shall be designed
36 to minimize or eliminate infiltration of flood waters into the system. (2) New and replacement
37 sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood
38 waters into the systems and discharge from the systems into flood waters; and (3) On-site
39 waste disposal systems shall be located to avoid impairment to them or contamination from
40 them during flooding.

41 UCZPSO 17.03(1)(D) relates to water supply systems, sanitary sewage systems, and on-site
42 waste disposal systems. Because the Project will not include any of those relevant systems,
43 UCZPSO 17.03(1)(D) does not apply to the Project.

1 **Specific Standards; Non-Residential Construction**

2 UCZPSO 17.03(2)(B): New construction and substantial improvement of any commercial,
3 industrial or non-residential structure other than low investment accessory structures shall
4 either have the lowest floor, including the basement, elevated to the level of the base flood
5 elevation, or together with the attendant utility and sanitary facilities, shall: (1) Be flood
6 proofed so that below the base flood level the structure is watertight with walls substantially
7 impermeable to the passage of water. (2) Have structural components capable of resisting
8 hydrostatic and hydrodynamic loads and effects of buoyancy, and (3) Be certified by a
9 registered professional engineer or architect that the standards of this subsection are
10 satisfied. Such certifications shall be provided to the County Building Inspector.

11 UCZPSO 17.03(2)(B) requires that the lowest floor of a structure within an SFHA be elevated
12 above the base flood elevation. Because the transmission line towers will be located above the
13 elevation of the 100-year floodplain, UCZPSO 17.03(2)(B) does not apply to the Project.

14 **Floodways**

15 UCZPSO 17.03(2)(E): Since the floodway is an extremely hazardous area due to the velocity
16 of flood waters which carry debris, potential projectiles, and have erosion potential, the
17 following provisions apply: (1) Encroachments are prohibited, including fill, new construction,
18 substantial improvements, and other development unless certification by a registered
19 professional engineer or architect is provided demonstrating that encroachments shall not
20 result in any increase in flood levels during the occurrence of the base flood discharge. (2) If
21 Section (1) above is satisfied, all new construction and substantial improvements shall
22 comply with all applicable flood hazard reduction provisions of Section 17.03 limitations. . . .

23 To the extent Project features will be located in a floodway, IPC will obtain certification by a
24 registered professional engineer or architect providing that the encroachments will not result in
25 an increase in flood levels during the occurrence of the base flood discharge. Therefore, the
26 Project will be in compliance with UCZPSO 17.03(2)(E).

27 **5.6.2.6 Public Right-of-Way Access Provisions**

28 **Road Approach Permit**

29 ORS 374.305(1): A person may not place, build or construct on the right of way of any state
30 highway or county road, any approach road, structure, pipeline, ditch, cable or wire, or any
31 other facility, thing or appurtenance, or substantially alter any such facility, thing or
32 appurtenance or change the manner of using any such approach road without first obtaining
33 written permission from the Department of Transportation with respect to state highways or
34 the county court or board of county commissioners with respect to county roads.

35 A road approach permit will be required if the Project access roads intersect with public roads,
36 or if necessary upgrades to existing access roads affect a public road (see ORS 374.305(1)).
37 IPC intends to develop access roads that will intersect with public roads, and IPC will obtain any
38 necessary access approach site permits directly from the Union County. The access approach
39 site permit will not be included in or governed by the site certificate (see Exhibit E, Section
40 3.2.9.2).

41 To ensure compliance with the road approach permit requirements, IPC proposes the following
42 site certificate condition:

43 **Land Use Condition 6:** *Prior to construction in Union County, the site certificate*
44 *holder shall provide to the department a copy of the following Union County-*

1 approved permits, if such permits are required by Union County zoning
2 ordinances:

3 . . .

4 b. Road approach permit; and

5

6
7 **Land Use Condition 18:** During construction in Union County, the site certificate
8 holder shall conduct all work in compliance with the Union County-approved
9 permits referenced in Land Use Condition 6, if such permits are required by
10 Union County zoning ordinances.

11 **Work in County Right-of-Way Permit**

12 ORS 374.305(1): A person may not place, build or construct on the right of way of any state
13 highway or county road, any approach road, structure, pipeline, ditch, cable or wire, or any
14 other facility, thing or appurtenance, or substantially alter any such facility, thing or
15 appurtenance or change the manner of using any such approach road without first obtaining
16 written permission from the Department of Transportation with respect to state highways or
17 the county court or board of county commissioners with respect to county roads.

18 A work in county ROW permit is required for any construction on a county road or county ROW
19 (see ORS 374.305(1)). Here, the Project may require improvements to county roads,
20 construction of the transmission line across a county road, or both; and IPC will obtain any
21 necessary work in county ROW permits directly from the Union County. The access approach
22 site permit will not be included in or governed by the site certificate (see Exhibit E, Section
23 3.2.9.2).

24 To ensure compliance with the work in county ROW permit requirements, IPC proposes the
25 following site certificate conditions:

26 **Land Use Condition 6:** Prior to construction in Union County, the site certificate
27 holder shall provide to the department a copy of the following Union County-
28 approved permits, if such permits are required by Union County zoning
29 ordinances:

30 . . .

31 c. Work in county right-of-way permit.

32
33 **Land Use Condition 18:** During construction in Union County, the site certificate
34 holder shall conduct all work in compliance with the Union County-approved
35 permits referenced in Land Use Condition 6, if such permits are required by
36 Union County zoning ordinances.

37 **5.6.2.7 Supplementary Provisions**

38 **Site Plan Requirements**

39 UCZPSO 20.10: Land development in areas classified within the Zoning Ordinance as I-1:
40 Light Industrial; I-2: Heavy Industrial; PA: La Grande Public Airport; SM: Surface Mining; AP:
41 Airport Overlay Zone; and multi-family dwellings, allowed either outright or conditionally shall
42 be subject to the provisions of this section. Before a new building may be constructed or an
43 existing building may be enlarged or substantially altered, a site development plan shall be
44 submitted to the Planning Commission for approval. . . .

1 UCZPSO 20.10 provides for a site plan review by the Union County Planning Commission.
2 Because the Council and not the county has jurisdiction over the land use decisions and
3 conditional use authorizations covered by the site certificate, the Council's and not the county's
4 procedures for obtaining such decisions and authorizations apply to the Project. Even so, with
5 respect to UCZPSO 20.10, site plans for typical multi-use area and communication station are
6 provided in Exhibit C Section 3.3. Maps showing the location and topography of each multi-use
7 area and communication station in Union County are set forth at Exhibit C, Attachment C-2,
8 Maps 51, 52, 60, 61, and 62.

9 ***Nonfarm Use Partitions***

10 UCZPSO 20.14: Partition applications to create a parcel for a nonfarm use, except dwellings,
11 shall be processed according to this ordinance's Article 25.00 Land Division Regulations and
12 reviewed through a quasi-judicial land use process per Sections 24.09 through 24.12 and the
13 following criteria:

14 UCZPSO 20.14 relates to proposed land partitions. IPC intends to secure easements for the
15 majority of Project features and does not expect to require partition of any parcel in Union
16 County. Because the Project likely will not involve lot splits, UCZPSO 20.14 likely will not be
17 applicable to the Project. In the event that a partition becomes necessary, IPC will obtain
18 approval of the partition directly from Union County prior to construction.

19 ***Tentative Plan Requirements***

20 UCZPSO 25.05(1): A tentative plan map shall be prepared by a registered professional land
21 surveyor for all partitions and subdivisions creating parcels and lots. The boundaries of
22 parcels in partitions greater than 80 acres in size shall be described by a registered
23 professional land surveyor but are not required to be drawn on the tentative plan. [ORS
24 92.025(3)]

25 UCZPSO 25.05(1) relates to proposed land partitions. IPC intends to secure easements for the
26 majority of Project features and does not expect to require partition of any parcel in Union
27 County. Because the Project likely will not involve lot splits, UCZPSO 20.14 likely will not be
28 applicable to the Project. In the event that a partition becomes necessary, IPC will obtain
29 approval of the partition directly from Union County prior to construction.

30 ***Final Plat Requirements***

31 UCZPSO 25.06(1): Surveys and final plats of all partitions, subdivisions, property line
32 adjustments and re-plats shall be prepared by a registered professional land surveyor and
33 shall conform to requirements in ORS Chapter 92 (ORS 92.050 - 92.100) and ORS 209.250
34 and the plat standards of the Union County Surveyor.

35 UCZPSO 25.06(1) relates to proposed land partitions. IPC intends to secure easements for the
36 majority of Project features and does not expect to require partition of any parcel in Union
37 County. Because the Project likely will not involve lot splits, UCZPSO 20.14 likely will not be
38 applicable to the Project. In the event that a partition becomes necessary, IPC will obtain
39 approval of the partition directly from Union County prior to construction.

40 ***General Design and Improvement Standards***

41 UCZPSO 25.09(8): Road Widths and Improvements (a) Road standards shall not be less
42 than those set forth in Table 7-2 in the Transportation System Plan, except where it can be
43 shown that probable future traffic development or physical characteristics are such as to

1 unquestionably justify modification of the standards. (b) In areas designed and zoned for
 2 commercial use, road widths may be increased by such amount as may be deemed
 3 necessary by the Commission to provide for the free flow of through traffic without
 4 interference by parked or parking vehicles, and to provide safe parking space for such
 5 commercial or business districts. (c) Road and related improvements shall be completed or
 6 bonded for completion prior to final plat consideration and shall be constructed under the
 7 direction of the County Planning Department, according to the minimum Road Standard
 8 Table 7-2:

9 IPC will coordinate with the Union County Planning Department to ensure that road
 10 improvements and the development of any new roads for the Project are consistent with
 11 UCZPSO 25.09(8) and Road Standard Table 7-2, to the extent applicable.

12 **Authorization to Grant or Deny Variances**

13 UCZPSO 30.01: The Planning Commission may authorize variances from the requirements
 14 of this Ordinance where it can be shown that, owing to special and unusual circumstances
 15 related to a specific piece of property, strict application of the Ordinance would cause an
 16 undue or unnecessary physical hardship. No variance shall be granted to allow the use of
 17 property for a purpose not authorized within the zone in which the proposed use would be
 18 located. In granting a variance, the Planning Commission may attach conditions which it
 19 finds necessary to protect the best interest of the surrounding property or vicinity and
 20 otherwise achieve the purposes of this Ordinance.

21 IPC intends to satisfy EFSC’s land use standard, OAR 345-022-0030, by seeking a Council
 22 determination under ORS 469.504(1)(b) rather than by obtaining local land use approval under
 23 ORS 469.504(1)(a).

24 **5.6.3 Union County Comprehensive Plan Provisions**

25 The October 30, 2008, letter from Union County identifying applicable substantive criteria for the
 26 Project did not identify applicable substantive criteria from the Union County Comprehensive
 27 Plan.

28 **5.6.4 Union County Goal 5 Resources**

29 Union County indicated to IPC that big game habitat may be applicable to the Project as a
 30 Goal 5 resource, and Union County requested that IPC provide analysis of potential impacts to
 31 big game habitat. In correspondence dated October 20, 2015, Union County provided to IPC
 32 additional information regarding the county’s Goal 5 resources and applicable substantive
 33 criteria regarding the same.

34 **5.6.4.1 Riparian Habitat**

35 No riparian habitat areas are located within the Site Boundary. No analysis is required, and no
 36 standard must be met, to comply with the county’s Goal 5 planning goals for protecting riparian
 37 habitat.

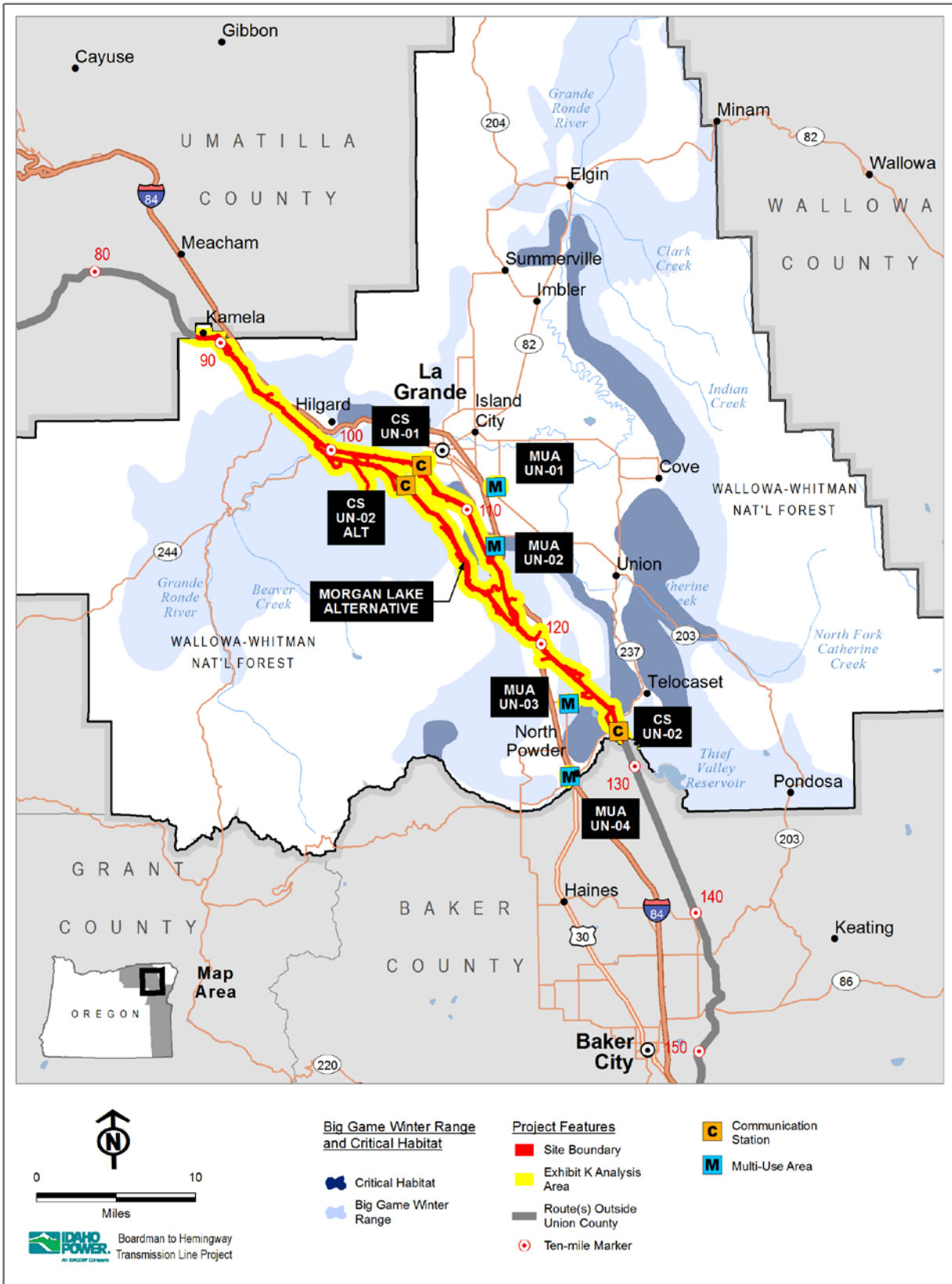
38 **5.6.4.2 Wetlands**

39 Union County has not designated any wetlands as Goal 5 designated resources. No analysis is
 40 required, and no standard must be met, to comply with the county’s Goal 5 planning goals for
 41 protecting wetlands.

1 5.6.4.3 *Wildlife Habitat*

2 ***Big Game Critical Wildlife Habitat and Winter Range***

3 Big game habitat is mapped in the Union County Comprehensive Plan as winter range (WR)
4 and critical habitat (CH) Overlay areas. Figure K-43 shows the location of the WR and CH
5 Overlays in the portion of Union County crossed by the Project. Union County has indicated that
6 its mapping is intended to be over-inclusive of possible habitat areas.



1
2

Figure K-43. Union County Big Game Winter Range and Critical Habitat

1 With the Proposed Route, the transmission line (28.0 line miles), new access roads (9.7 miles),
 2 substantially modified existing access roads (25.5 miles), 2 communication stations (CS UN-01
 3 and CS UN-02), and 2 multi-use areas (MUA UN-02 and MUA UN-03) will be located in Big
 4 Game Winter Range or Critical Habitat Zone in Union County. No light-duty fly yards will be
 5 located in the Big Game Winter Range or Critical Habitat Zone.

6 With the Morgan Lake Alternative, the transmission line (16.4 line miles), new access roads
 7 (14.5 miles), substantially modified existing access roads (13.1 miles), 1 communication stations
 8 (CS UN-02 ALT), and 1 multi-use area (MUA UN-02) will be located in Big Game Winter Range
 9 or Critical Habitat Zone in Union County. No light-duty fly yards will be located in the Big Game
 10 Winter Range or Critical Habitat Zone.

11 Table K-21 shows the length of Proposed Route and Morgan Lake Alternative transmission
 12 lines affecting critical habitat or winter range.

13 **Table K-21. Big Game Habitat Crossed by Proposed Route**

Habitat ¹	Proposed Route (miles)	Morgan Lake Alternative (miles)
Critical Habitat	7.5	0.9
Winter Range	20.5	15.5

14 Source: Union County Goal 5 resources (2015).

15 IPC has sited the transmission line structures and roads to minimize impacts to wildlife where
 16 possible, as discussed in Exhibit P1. However, given the Project's linear nature, it will not be
 17 feasible to avoid all temporary or permanent disturbance in big game CH and big game WR.⁶⁴
 18 As discussed in Exhibit P1, even where the Project will intersect with CH and WR, IPC has
 19 considered impacts to CH and WR and expects the Project will not result in significant impacts
 20 to these habitat areas.

21 There may be short-term impacts to CH and WR during construction. For example,
 22 displacement of big game from both winter and parturition area can affect winter survival by
 23 causing animals to use energy reserves that are needed to survive the winter. For the CH and
 24 WR crossed by the Project in Union County, IPC will establish construction windows at time
 25 periods when big game are less sensitive to disturbances (these windows would be applied to
 26 ODFW designated big game areas during the appropriate season; see Exhibit P1, Section
 27 3.3.7), thereby minimizing the risk of disturbing big game during sensitive periods. There is a
 28 risk of big game mortalities occurring due to wildlife-vehicle collisions; however, the risk of
 29 vehicle collisions would be minimized by speed limits that would be imposed on construction
 30 vehicles within the Site Boundary (see Exhibit P1, Section 3.3.7). For additional discussion of
 31 impacts and proposed mitigation for big game, see Exhibit P1, Sections 3.3.6 and 3.3.7, and
 32 IPC's Fish and Wildlife Habitat Mitigation Plan (Exhibit P1, Attachment P1-6).

33 **Review Classification**

34 UCZPSO 20.09(3)(A): When a 3A or 3C (limit conflicting uses) decision has been made as
 35 indicated in the comprehensive plan, the applicant must, in coordination with the responsible
 36 agency, develop a management plan which would allow for both resource preservation and
 37 the proposed use. If the responsible agency and the applicant cannot agree on such a
 38 management plan, the proposed activity will be reviewed through the conditional use

⁶⁴ UCZPSO 20.09 governs both the WR and CH Overlays and makes no distinction between the two overlay zones.

1 process. 3A sites will be preserved where potential conflicts may develop. Conflicts will be
2 mitigated in favor of the resource on 3C sites.

3 In its October 20, 2015, correspondence, Union County indicated that big game habitat is
4 considered a 3C resource.

5 IPC's Fish and Wildlife Habitat Mitigation Plan (see Exhibit P1, Attachment P1-6) will comply
6 with the substantive requirements of UCZPSO 20.09 and demonstrate that the Project will have
7 no significant conflicts with big game habitat and will, to the extent necessary, mitigate any
8 minor conflicts.

9 Review Criteria

10 UCZPSO 20.09(4): Under the conditional use process land use decisions will consider the
11 economic, social, environmental, and energy consequences when attempting to mitigate
12 conflicts between development and resource preservation.

13
14 UCZPSO 20.09(5): The following criteria shall be considered, as applicable, during the
15 appropriate decision making process: A. ECONOMIC: The use proposed is a benefit to the
16 community and would meet a substantial public need or provide for a public good which
17 clearly outweighs retention of the resources listed in Section 20.09 (1): . . .

18 As described below, the Project has been proposed by IPC to meet a substantial public need for
19 increased transmission capacity. For additional discussion of need for the Project, see also
20 Exhibit N. Section 3.1.1.2 of this Exhibit describes the purpose and public need for the Project,
21 presented herein in summary form:

- 22 • **Serve Native Loads.** The primary objective of the Project is to create additional
23 transmission capacity that would allow IPC to import power from the Pacific Northwest
24 market to serve its retail customers located in the states of Idaho and Oregon.
25 Historically, IPC has been a "summer peaking" utility, while most other utilities in the
26 Pacific Northwest experience system peak loads during the winter. Currently, however,
27 IPC does not have adequate transmission capacity to increase its on-peak power
28 purchases on the western side of its system. As described in the Company's 2013 and
29 2015 Integrated Resource Plans (IRPs), the Project will remedy this transmission
30 constraint by allowing IPC to import an average of 350 MW (500 MW in the summer, 200
31 MW in the winter) of market purchases to serve its native load (IPC 2013, 2015). In this
32 way, the Project is properly viewed as a supply-side resource, similar to a generation
33 plant, which will allow IPC to meet its expected loads. Further, better access to the
34 Pacific Northwest power market is critical because that market is very liquid with a high
35 number of participants and transactions. On the other hand, the accessible power
36 markets south and east of IPC's system tend to be smaller, less liquid, and have greater
37 transmission distances. Historically, during IPC's peak-hour load periods, off-system
38 market purchases from the south and east have proven to be unavailable or very
39 expensive. Many of the utilities to the south and east of IPC also experience a summer
40 peak, and the weather conditions that drive IPC's summer peak-hour load are often
41 similar across the Intermountain Region. Therefore, IPC imports from the Intermountain
42 Region are not a viable alternative to the Project.
- 43 • **Meet Transmission Reliability Standards.** The Project is an integral component of
44 regional transmission planning because it will serve as a crucial high-capacity
45 connection between two key points in the existing bulk electric system that currently lack
46 sufficient transmission capacity. The Project will relieve congestion of the existing

1 transmission system and enhance the reliable, efficient, and cost-effective energy
 2 transfer capability between the Pacific Northwest and Intermountain regions. The
 3 addition of B2H to the regional grid would create additional redundancy in pathways that
 4 will enable IPC and other transmission providers to maintain reliable electric service
 5 pursuant to the standards set forth by NERC and implemented by WECC. Excess
 6 transmission capacity created by the Project could accommodate additional regional
 7 energy transaction and would likely be utilized by other regional transmission providers.

- 8 • **Provide Transmission Service to Wholesale Customers.** The Project allows IPC to
 9 comply with the requirements of the FERC, which require IPC to construct adequate
 10 transmission infrastructure to provide service to wholesale customers in accordance with
 11 IPC's OATT. IPC expects interconnection and transmission requests to continue as
 12 renewable resources are developed in northeast Oregon.
- 13 • **Provide Sufficient Capacity.** The Project will provide sufficient capacity to: 1) transfer
 14 an additional 1,050 MW of power from the BPA 500-kV transmission system in the
 15 Pacific Northwest west-to-east across the Idaho-Northwest transmission path; 2) transfer
 16 an additional 1,000 MW of power east-to-west across the Idaho-Northwest transmission
 17 path; and 3) allow for actual power flows on the Project of up to approximately 1,500
 18 MW, accounting for variations in actual power flows of the various transmission lines
 19 comprising the Idaho-Northwest transmission path.

20 In addition, as discussed Exhibit U, development of the Project creates direct economic
 21 benefits, including creation of new jobs, increased ad valorem taxes, new dollars supporting the
 22 local economy, and a stimulus to the local economy in the form of expenditures on materials
 23 and supplies. During construction, the Project will result in the creation of up to 250 construction
 24 jobs during peak construction in Union County.

25 As discussed in Exhibit P1, IPC does not expect that the Project will result in long-term adverse
 26 impacts to big game. Because expected impacts to big game will be for a limited duration, the
 27 public benefit from the Project clearly outweighs the limited impacts on the resource. For these
 28 reasons, the Project complies with UCZPSO 20.09(5)(A).

29 UCZPSO 20.09(5)(B): SOCIAL: The proposed development would not result in the loss of or
 30 cause significant adverse impact to, a rare, one of a kind or irreplaceable resource as listed
 31 in Section 20.09(1).

32 Land within the WR and CH Overlays provides big game areas historically used by big game
 33 during periods of above normal snowfall and low temperatures. These are known areas that
 34 provide habitat for big game and are critical to the continued welfare of animals dependent upon
 35 such areas. As discussed in Exhibit P1, these areas of big game habitat are regarded as
 36 Category 2 habitat in accordance with ODFW's Fish and Wildlife Habitat Mitigation Policy, and
 37 by definition are not "irreplaceable." IPC does not expect that the Project will result in a loss or
 38 significant adverse impact to areas used by big game, and to the extent there are potential
 39 impacts, IPC will mitigate for such impacts in favor of the resource. For these reasons, the
 40 Project complies with UCZPSO 20.09(5)(B).

41 UCZPSO 20.09(5)(C): ENERGY: The development, as proposed, would support energy
 42 efficient land use activities for such things as transportation costs, efficient utilization of urban
 43 services, and retention of natural features which create micro climates conducive to energy
 44 efficiency.

45 This criterion is focused on traditional development and, consequently, is not directly relevant to
 46 the Project, which is intended to transmit power and enhance reliability of the regional electric

1 transmission system. The Project has minimal impact to the existing land uses in Union County.
 2 Further, as noted in Exhibit U, the Project will have no adverse impacts on the transportation
 3 system or municipal facilities or services, including urban services. Operation of the Project will
 4 free up capacity constraints on the lower voltage distribution system thereby allow for orderly
 5 development within Union County. Finally, as described in Exhibit B, Section 3.1 and below, IPC
 6 considered big game habit and many natural features as constraints during the siting process.
 7 The selected location strikes an acceptable balance of impacts to the many natural and man-
 8 made resources taken into consideration. For these reasons, the Project complies with
 9 UCZPSO 20.09(5)(C).

10 UCZPSO 20.09(5)(D): ENVIRONMENTAL: If alternative sites in Union County for proposed
 11 development are available which would create less of an environmental impact of any of the
 12 resources listed in Section 20.09(1), major consideration should be given to these options.

13 In order to select a corridor for the Project that avoids impacts to these and other resources
 14 where an alternative with lesser impacts exists, IPC engaged in a 4-year corridor selection
 15 process including consideration of alternative corridors in Union County as well as in six other
 16 Oregon counties. In choosing the Proposed Corridor and the Glass Hill Alternate, IPC evaluated
 17 over 200 data sets developed through data collection and county meetings including Union
 18 County. Approximately 49 routes and route segments totaling over 3,000 miles were developed
 19 during the initial phase of the study. As the study narrowed down, six discrete route segments
 20 and multiple variations were evaluated in Union County. No other route was found to be
 21 preferred over the selected Proposed Corridor or Glass Hill Alternate. As discussed in greater
 22 detail in Exhibits B, J, P, and Q, a comprehensive avoidance and minimization analysis was
 23 done for all environmental resources and other resources to create the least impact, which in
 24 some instances has required portions of the Project to be relocated. For these reasons, the
 25 Project complies with UCZPSO 20.09(5)(D).

26 UCZPSO 20.09(6): The reviewing body may impose the following conditions, as applicable
 27 upon a finding of fact that warrants such restrictions: . . . (C) BIG GAME WINTER RANGE
 28 AND BIG GAME CRITICAL HABITAT: A proposed new structure requiring a conditional use
 29 may be required to: 1. Be located as close as possible to an ADJACENT compatible
 30 structure (a compatible structure shall be any structure which does not adversely affect the
 31 intended use of another structure); . . .

32 The Project follows an existing electric, natural gas, and highway corridor as much as feasible in
 33 Union County. The Proposed Corridor follows segments of the existing 230-kV transmission line
 34 from Baker to La Grande and then from La Grande through the Wallowa-Whitman NF, deviating
 35 only to meet reliability criteria or to avoid steep terrain or site-specific constraints.⁶⁵ Certain
 36 portions of the Union County Proposed Route also follow the I-84 corridor, both adjacent to
 37 existing transmission lines and separately. Accordingly, IPC has located the Project as close as
 38 possible to adjacent compatible structures, consistent with UCZPSO 20.09(6)(C)(1).

39 UCZPSO 20.09(6)(C)(2): Share a common access road or where it is impossible to share a
 40 common access road, locate as closely as possible to the nearest existing public road in
 41 order to minimize the length of access from the nearest road.

42 Access roads fall into two categories: existing roads needing improvement and new roads. Both
 43 categories of access roads are shown on maps in Exhibit C, Attachment C-2. As part of Project

⁶⁵ To meet reliability criteria as minimum separation from existing transmission lines of 230-kV or greater is required except in limited circumstances. For siting purposes that distance was assumed to be 1,500 feet, thereby dictating the minimum distance between existing and proposed transmission lines serving the same load.

1 design, IPC has made every effort to use existing roads and to limit the development of new
2 roads in CH and WR. These efforts have resulted in the development of an access road system
3 to support the construction of the transmission line that substantially relies on the system of
4 publicly maintained roads as well as unimproved roads on public and private lands. IPC has
5 minimized the length of access roads to the extent practicable, consistent with UCZPSO
6 20.09(6)(C)(2).

7 For these reasons, the Project will be in compliance with the substantive requirements in
8 UCZPSO 20.09, and the Project, taking into account mitigation, will not conflict with Union
9 County's big game resource areas.

10 ***Critical Avian Wildlife Areas***

11 No designated critical avian wildlife areas are located within the Site Boundary. No analysis is
12 required, and no standard must be met, to comply with the county's Goal 5 planning goals for
13 protecting critical avian wildlife areas.

14 ***5.6.4.4 Federal Wild and Scenic Rivers and Oregon Scenic Waterways***

15 Union County has not adopted any Goal 5 protection program for federal Wild and Scenic
16 Rivers or Oregon Scenic Waterways. No analysis is required, and no standard must be met, to
17 comply with the county's Goal 5 planning goals for protecting federal Wild and Scenic Rivers or
18 Oregon Scenic Waterways.

19 ***5.6.4.5 Groundwater Resources***

20 Union County has not designated any groundwater resources as Goal 5 designated resources.
21 No analysis is required, and no standard must be met, to comply with the county's Goal 5
22 planning goals for protecting groundwater resources.

23 ***5.6.4.6 Approved Oregon Recreation Trail***

24 Union County has not designated any approved Oregon Recreation Trails as Goal 5 designated
25 resources. No analysis is required, and no standard must be met, to comply with the county's
26 Goal 5 planning goals for protecting approved Oregon Recreation Trails.

27 ***5.6.4.7 Natural Areas***

28 No designated natural areas are located within the Site Boundary. No analysis is required, and
29 no standard must be met, to comply with the county's Goal 5 planning goals for protecting
30 natural areas.

31 ***5.6.4.8 Wilderness Areas***

32 The Project will not be located in the Eagle Cap Wilderness, the only Goal 5 designated
33 wilderness area in Union County.

34 ***5.6.4.9 Mineral Aggregate***

35 Union County has not adopted any Goal 5 protection program for mineral aggregate resources.
36 No analysis is required, and no standard must be met, to comply with the county's Goal 5
37 planning goals for protecting mineral aggregate resources.

1 **5.6.4.10 Energy Resources**

2 No designated energy resources are located within the Site Boundary. No analysis is required,
3 and no standard must be met, to comply with the county's Goal 5 planning goals for protecting
4 energy resources.

5 **5.6.4.11 Cultural Resources**

6 Union County has not designated any cultural resources as Goal 5 designated resources. No
7 analysis is required, and no standard must be met, to comply with the county's Goal 5 planning
8 goals for protecting cultural resources.

9 **5.6.4.12 Historic Resources**

10 The Site Boundary intersects the Ladd Canyon site (35), which is considered a 1A resource.
11 Union County has not adopted any Goal 5 protection program for 1A historic resources. No
12 analysis is required, and no standard must be met, to comply with the county's Goal 5 planning
13 goals for protecting 1A historic resources.

14 **5.6.4.13 Open Spaces**

15 Union County has not designated any open spaces as Goal 5 designated resources. No
16 analysis is required, and no standard must be met, to comply with the county's Goal 5 planning
17 goals for protecting open spaces.

18 **5.6.4.14 Scenic Views or Sites**

19 The transmission line crosses the Blue Mountain State Scenic Corridor in one area located
20 between MP 94.6 and MP 94.8. Union County has not adopted any Goal 5 protection program
21 for scenic views or sites—i.e., there are no standards in the UCZPSO, 1979 Land Use Plan, or
22 the 1984 Goal 5 Resources Supplement addressing specifically protections of designated
23 scenic views or sites. No analysis is required, and no standard must be met, to comply with the
24 county's Goal 5 planning goals for protecting scenic views or sites.

25 **5.6.5 EFU Micro Analysis (Zones A-1, A-2, and A-4 Agricultural Lands)**

26 During the CAP, IPC received input from stakeholders requesting avoidance of irrigated
27 agriculture and high value cropland, and IPC considered the avoidance of these areas as a high
28 priority during the development of the Proposed Corridor and alternate corridor segments.
29 Although the analysis required by ORS 215.275 does not require separate consideration of
30 range, cropland, irrigated cropland, or high value cropland, IPC nonetheless made efforts to
31 avoid these areas to the extent practicable.

32 As shown in Section 4.0 above, the Project must be sited in an EFU zone in order to provide its
33 intended services due to one or more of the factors set forth in ORS 215.275(2).

34 ORS 215.283(1)(c)(A) requires IPC make that showing only at the macro level, examining the
35 need to site on EFU lands at a project-wide level across all five relevant counties. Though
36 beyond what is required by the statute, the following section makes a similar showing at the
37 micro or county level, by providing a detailed discussion of the necessity of siting the Project in
38 EFU in Union County. This section is organized in the same way as the macro analysis,
39 providing information specific to the siting of the Project in Union County.

40 **5.6.5.1 Reasonable Alternatives Considered**

41 Through the CAP, IPC considered approximately eight alternative routes or segments in Union
42 County, all of which cross EFU (see Exhibit B, Attachment B-1, 2010 Siting Study; Attachment

1 B-2, 2012 Supplemental Siting Study). The Supplemental Siting Study contains additional
2 discussion regarding the consideration of alternatives in this area that led to the selection of the
3 Proposed Corridor and identification of alternative corridor segments. However, as discussed
4 above in Section 3.1, the Project must cross EFU to connect the Project southern endpoint at
5 the Hemingway Substation with the northern endpoint at the Longhorn Station. As a result, there
6 are no reasonable alternatives that would avoid EFU lands at a macro level. At the micro,
7 county level, the impacts on EFU lands are minimal, with the transmission line crossing only 3.5
8 miles of EFU.

9 **5.6.5.2 Factors Requiring Siting of the Project on EFU**

10 Of the six factors requiring the siting of the Project on EFU, the following three primary factors
11 drove the Project onto EFU lands: locational dependence; lack of available urban and
12 nonresource lands; and other federal agency requirements.

13 **Technical and Engineering Feasibility**

14 The need for siting the Project in EFU lands in Union County was not driven by technical or
15 engineering feasibility considerations.

16 **Locational Dependence**

17 A utility facility is considered locationally dependent if it must cross land in one or more areas
18 zoned EFU in order to achieve a reasonably direct route or to meet unique geographical needs
19 that cannot be satisfied on non-EFU lands. Here, the Project must travel between the
20 northwestern portion of Union County through the Wallowa-Whitman National Forest Utility
21 Corridor (see Figure K-5) and the certain border crossing with Baker County. As shown in
22 Figures K-36 and K-37, there is no reasonably direct route between these two points that avoids
23 crossing EFU lands in the southeast corner of Union County. Therefore, at a county level of
24 analysis, the Project must be sited in EFU lands due to the Project's locational dependence.

25 **Lack of Available Urban and Nonresource Lands**

26 The lack of available urban and nonresource lands was a primary factor resulting in the Project
27 location in EFU. As shown on Figures K-36 and K-37, there is little in the way of available urban
28 and nonresource lands in the vicinity of the Project in Union County. As a result there are no
29 urban or nonresource lands upon which to locate the Project in Union County between the point
30 at which the Project exits Umatilla County and point at which the Project enters Baker County.
31 Consequently, EFU lands must be crossed by the Project.

32 There is no path connecting the point where the Project crosses the Umatilla County-Union
33 County border and the point where the Project crosses the Union County-Baker County border
34 that consists entirely of urban and nonresource lands (see Figure K-4). Indeed, there is no way
35 to cross Union County north-to-south without crossing urban or nonresource lands.
36 Consequently, there is a lack of available urban and nonresource lands in Union County.

37 **Availability of Existing Rights of Way**

38 The need for siting the Project in EFU lands in Union County was not driven by the availability
39 of existing rights of way.

40 **Public Health and Safety**

41 The need for siting the Project in EFU lands in Union County was not driven by public health
42 and safety considerations.

1 **Other Requirements of State or Federal agencies**

2 This factor influenced the location of the Project in Union County. As stated above in Section
3 3.1.2.6, an important planning requirement in the development of the Project was the presence
4 of the USFS-designated utility corridor to cross the Wallowa-Whitman NF. The most direct route
5 proceeding south and east from the Wallowa-Whitman NF utility corridor toward the Hemingway
6 Substation passes through EFU in Union County.

7 **5.6.5.3 Costs Were Not the Only Factor Considered**

8 As discussed in Exhibit B and the attached siting studies, costs were not the only consideration
9 in selecting IPC's Proposed Route. Avoidance of sensitive resources, permitting and
10 construction factors, and extensive input from local citizens and officials and many other
11 stakeholders were the primary factors in corridor selection (see ORS 215.275(3)).

12 **5.6.5.4 Restoration of Agricultural Land**

13 Table K-22 describes the temporary and permanent impacts on agricultural lands in Union
14 County. The Agricultural Lands Assessment (Exhibit K, Attachment K-1) contains aerial
15 photographs showing affected agricultural areas in the EFU zone. It discusses measures IPC
16 will take to minimize and mitigate for potential impacts to agricultural operations within each
17 zone. These measures can be adopted as conditions of approval to ensure that the Project will
18 not result in significant adverse impacts to agricultural lands within this portion of the Project
19 (see ORS 215.275(4)).

20 **Table K-22. Temporary and Permanent Impacts on Agricultural Lands in Union**
21 **County**

Route	Agriculture Type ¹	Temporary/ Construction Impacts (acres)	Permanent/ Operations Impacts (acres)
Proposed Route	Dryland Farming	–	–
	Irrigated Agriculture	78.5	–
	Pasture/Hay ²	37.4	<0.1
Total³		115.9	<0.1
Morgan Lake Alternative	Dryland Farming	–	–
	Irrigated Agriculture	78.5	–
	Pasture/Hay ²	18.7	–
Total³		96.6	–

¹ Agricultural type determined from the Agricultural Lands Assessment provided in Attachment K-1.

² Pasture/hay includes irrigated alfalfa/hay.

³ Sums may not total due to rounding.

22 **5.6.5.5 Mitigation and Minimization Conditions**

23 As discussed in Section 4.0 and in the Agricultural Lands Assessment, IPC does not expect that
24 the Project will have adverse impacts on surrounding lands, result in significant changes in
25 accepted farm practices or a significant increase in the cost of farm practices on the surrounding
26 farmlands (see ORS 215.275(5)). To the extent the Council has concerns about impacts to
27 surrounding agricultural land, the Council may incorporate elements of the agricultural mitigation
28 plan into the conditions required for issuance of a site certificate. Additionally, through its role as

1 a Special Advisory Group, Union County may provide recommendations to the Council
2 regarding conditions to include in the site certificate.

3 **5.6.6 Additional Union County Comments**

4 **Predominant Use – EFU Zone**

5 The Project is an outright permitted use in the EFU Zone (see Section 5.6.2.1). Even so, Union
6 County requested that IPC voluntarily conduct a predominant use analysis for those parcels that
7 are crossed by the Site Boundary within the EFU Zone. IPC worked closely with Union County
8 to determine the predominant use on each of the 11 parcels that are crossed by the Site
9 Boundary that are located within or partially within the EFU Zone. In order to determine the
10 predominant use on each parcel, data from SSURGO was used along with the Union County
11 taxlot data (parcel data). GIS mapping software was used to determine which SSURGO soil
12 type comprised the most acres within each parcel. Using a table provided by Union County
13 listing each SSURGO soil type and the corresponding predominant use value,⁶⁶ each parcel
14 was then initially given one of the following predominant use values: crop high value, crop high
15 value if irrigated, crop, range, forest, gravel pit, miscellaneous/water, or urban/not rated. This
16 analysis resulted in a preliminary predominant use value for each parcel within the Site
17 Boundary based on SSURGO soils data. Union County then reviewed each parcel's initial
18 predominant use value against 2011 aerial photography and taxlot records and adjusted the
19 predominant use to reflect current land use. Five of the 11 parcels involved in the EFU Zone
20 analysis had their initial predominant use value adjusted through the Union County review
21 process.

22 Table K-23 and Figure K-44 show the predominant uses of the EFU Zone lands affected by the
23 Project.

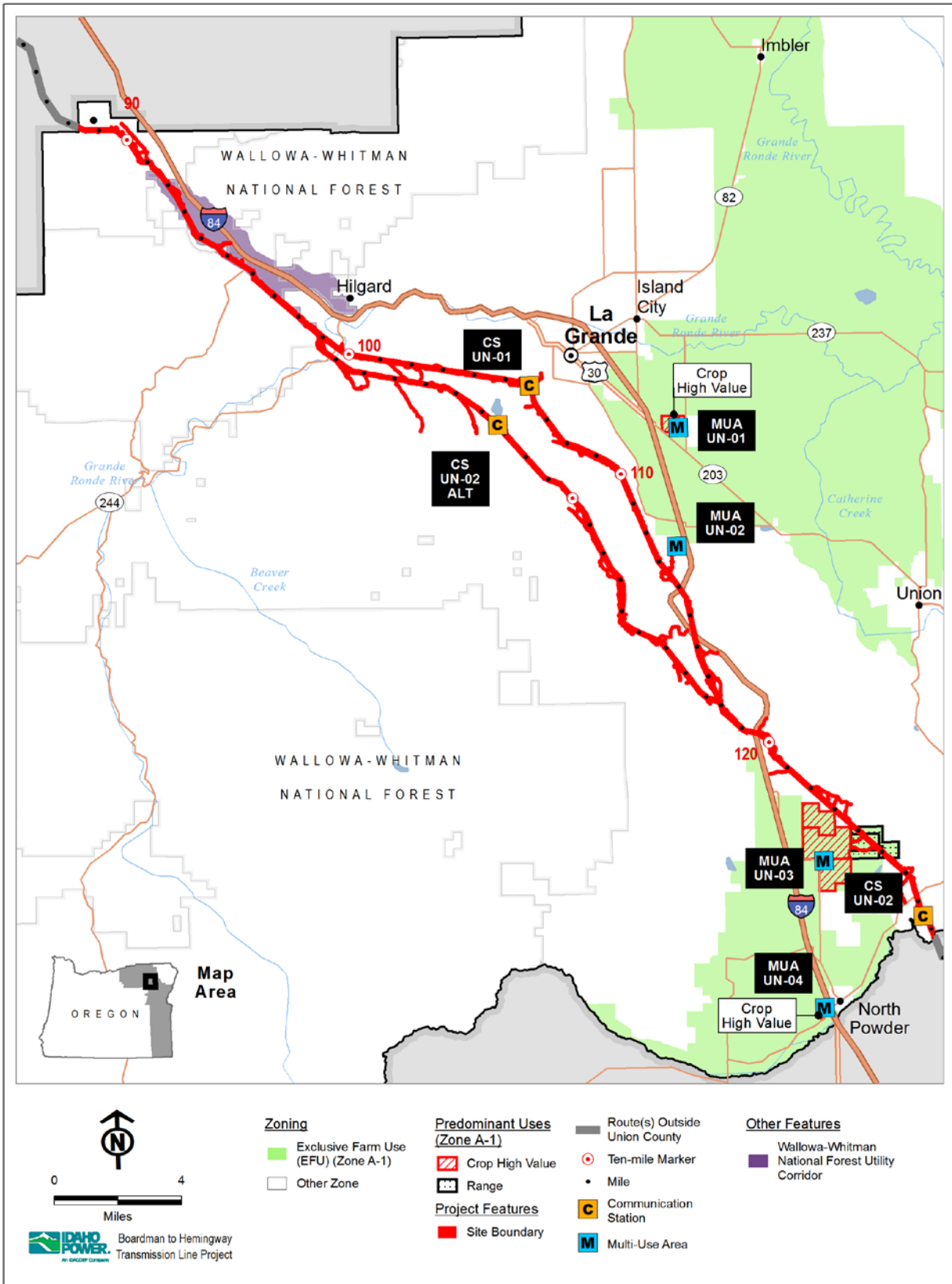
24 **Table K-23. Union County EFU A-1 Zone Predominant Uses, Proposed**
25 **Route and Morgan Lake Alternative**

Predominant Use	Number of Parcels ¹	Centerline (miles)	Site Boundary (acres)
Proposed Route			
Crop, High Value	6	–	110.1
Crop	–	–	–
Range	2	1.5	106.6
Total²	8	1.5	216.7
Morgan Lake Alternative			
Crop, High Value	2	–	78.5
Crop	–	–	–
Range	–	–	–
Total²	–	–	78.5

¹ Number of parcels crossed by the Site Boundary.

² Sums may not total due to rounding

⁶⁶ Union County provided IPC with a table listing the SSURGO soil types found throughout Union County and the corresponding predominant use value for each soil type. This table was developed through the Pilot Program Soil Rating system for Union County in March 1993.



1
2 **Figure K-44. Exclusive Farm Use Zone Predominant Parcel Use**

1 **Predominant Use – Agriculture-Grazing Zone**

2 The Project is an outright permitted use in the Agricultural-Grazing Zone (see Section 5.6.2.2).
 3 Even so, Union County requested that IPC voluntarily conduct a predominant use analysis for
 4 those parcels that are crossed by the Site Boundary within the Agriculture-Grazing zone. IPC
 5 worked closely with Union County to determine the predominant use on each of the 11 parcels
 6 that are crossed by the Site Boundary that are located within or partially within the Agricultural-
 7 Grazing Zone. In order to determine the predominant use on each parcel, data from SSURGO
 8 was used along with the Union County taxlot data (parcel data). GIS mapping software was
 9 used to determine which SSURGO soil type comprised the most acres within each parcel. Using
 10 a table provided by Union County listing each SSURGO soil type and the corresponding
 11 predominant use value,⁶⁷ each parcel was then initially given one of the following predominant
 12 use values: crop high value, crop high value if irrigated, crop, range, forest, gravel pit,
 13 miscellaneous/water, or urban/not rated. This analysis resulted in a preliminary predominant use
 14 value for each parcel within the Site Boundary based on SSURGO soils data. Union County
 15 then reviewed each parcel's initial predominant use value against 2011 aerial photography and
 16 taxlot records and adjusted the predominant use to reflect current land use. Only 3 of the 11
 17 parcels involved in the Agricultural-Grazing Zone analysis had their initial predominant use
 18 value adjusted through the Union County review process.

19 Table K-24 and Figure K-45 show the predominant uses of the Agriculture-Grazing Zone lands
 20 affected by the Project.

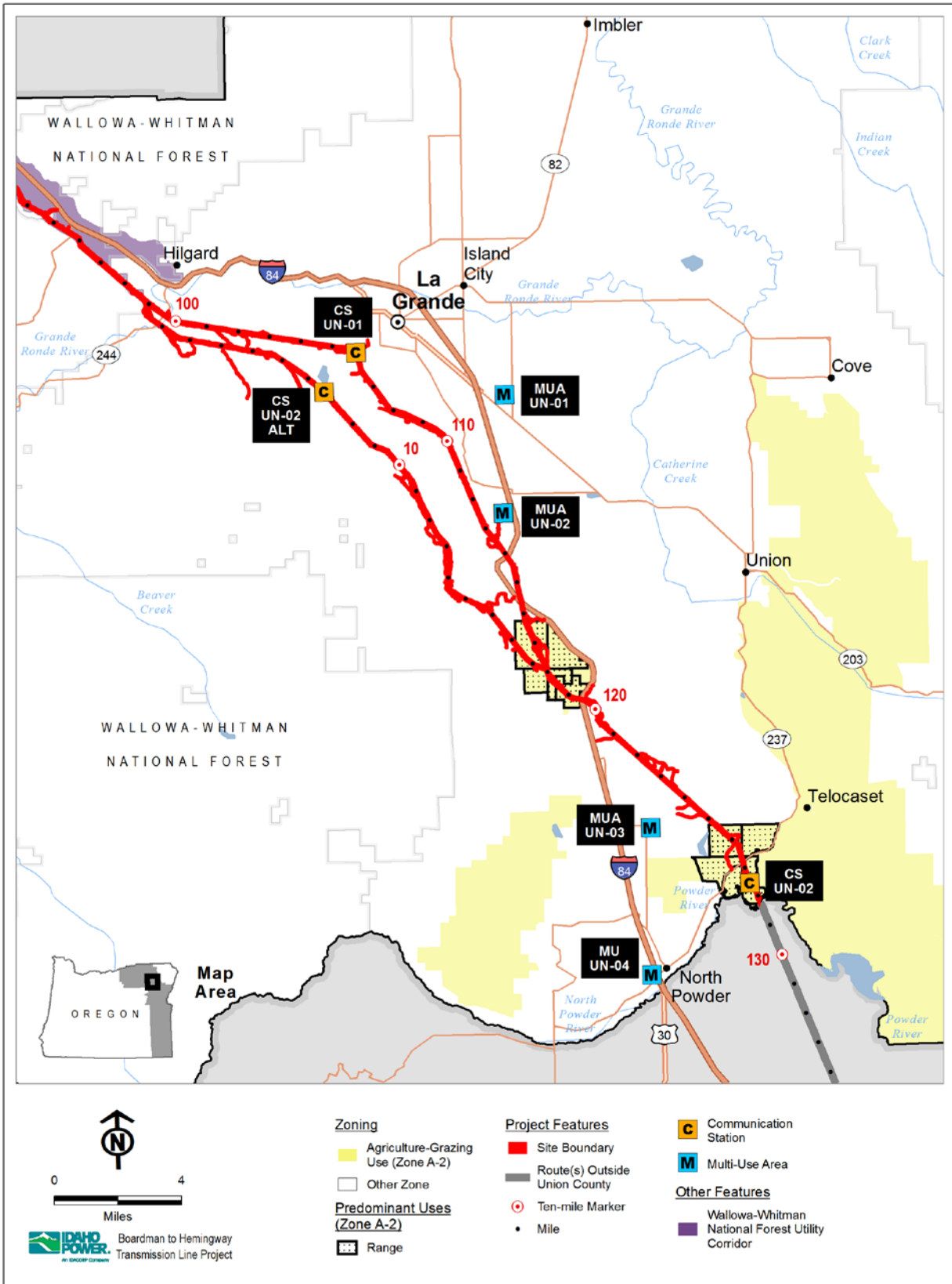
21 **Table K-24. Union County Agriculture-Grazing Zone Predominant Use**

Predominant Use	Proposed Route		
	Number of Parcels	Centerline (miles)	Site Boundary (acres)
Range	8	4.9	321.6
Other ¹	NA	<0.1	3.5
Agriculture-Grazing A-2 Zone - Total	8	4.9	325.1

¹ This category comprises rail and road parcels in Union County tax lot data and therefore was not included in the predominant use analysis.

22

⁶⁷ Union County provided IPC with a table listing the SSURGO soil types found throughout Union County and the corresponding predominant use value for each soil type. This table was developed through the Pilot Program Soil Rating system for Union County in March 1993.



1
2

Figure K-45. Agriculture-Grazing Zone Predominant Parcel Use

1 **5.6.7 Idaho Power's Proposed Site Certification Conditions Relevant to UCDC**
2 **Compliance**

3 IPC proposes the following site certificate conditions to ensure the Project complies with the
4 applicable Union County substantive criteria, as well as other relevant requirements.

5 **Prior to Construction**

6 **Land Use Condition 1:** *Prior to construction, the site certificate holder shall*
7 *finalize, and submit to the department for its approval, a final Agricultural*
8 *Assessment. The protective measures described in the draft Agricultural*
9 *Assessment in ASC Exhibit K, Attachment K-1, shall be included and*
10 *implemented as part of the final Agricultural Assessment, unless otherwise*
11 *approved by the department.*

12 **Land Use Condition 2:** *Prior to construction, the site certificate holder shall*
13 *finalize, and submit to the department for its approval, a final Right-of-Way*
14 *Clearing Assessment. The protective measures described in the draft Right-of-*
15 *Way Clearing Assessment in ASC Exhibit K, Attachment K-2, shall be included*
16 *and implemented as part of the final Right-of-Way Clearing Assessment, unless*
17 *otherwise approved by the department.*

18 **Public Services Condition 2:** *Prior to construction, the site certificate holder*
19 *shall submit to the department for its approval a Helicopter Use Plan, which*
20 *identifies or provides:*

- 21 a. *The type of helicopters to be used;*
22 b. *The duration of helicopter use;*
23 c. *Roads or residences over which external loads will be carried;*
24 d. *Multi-use areas and light-duty fly yards containing helipads shall be located: (i)*
25 *in areas free from tall agricultural crops and livestock; (ii) at least 500 feet from*
26 *organic agricultural operations; and (iii) at least 500 feet from existing dwellings*
27 *on adjacent properties; and*
28 e. *Flights shall occur only between sunrise and sunset.*

29 **Prior to Construction in Union County**

30 **Land Use Condition 6:** *Prior to construction in Union County, the site certificate*
31 *holder shall provide to the department a copy of the following Union County-*
32 *approved permits, if such permits are required by Union County zoning*
33 *ordinances:*

- 34 a. *Flood plain development permit;*
35 b. *Road approach permit; and*
36 c. *Work in county right-of-way permit.*

37 **During Construction**

38 **Land Use Condition 8:** *During construction, the site certificate holder shall*
39 *conduct all work in compliance with the final Agricultural Assessment referenced*
40 *in Land Use Condition 1.*

41 **Land Use Condition 9:** *During construction, the site certificate holder shall*
42 *conduct all work in compliance with the final Right-of-Way Clearing Assessment*
43 *referenced in Land Use Condition 2.*

44 **Land Use Condition 10:** *During construction, the site certificate holder shall limit*
45 *its transmission line right-of-way in Goal 4 forest lands to no wider than 300 feet.*

1 The site certificate holder shall limit its use of the outer 100 feet on each side of
2 the ROW primarily to vegetation maintenance.

3 **Public Services Condition 6:** During construction, the site certificate holder
4 shall conduct all work in compliance with the Helicopter Use Plan referenced in
5 Public Services Condition 2.

6 **During Construction in Union County**

7 **Land Use Condition 17:** During construction in Union County, the site certificate
8 holder shall construct the facility to comply with the following setback distances
9 and other requirements:

10 In All Zones:

11 a. Buildings, the fixed bases of transmission line towers, and new access roads
12 shall be set back from Class I streams at least 25-feet or one-half the stream
13 width, whichever is greater.

14 b. Permanent vegetation removal within the riparian zone of all Class I streams
15 shall retain 75% of all layers or stratas of vegetation.

16 In the EFU Zone:

17 c. Buildings shall be setback as follows: (i) front yards shall be set back at least
18 20 feet from property lines and road rights-of-way; (ii) and rear yards shall be set
19 back at least 10 feet from property lines and road rights-of-way.

20 In the Agricultural Grazing Zone:

21 d. Buildings shall be setback as follows: (i) front yards shall be set back at least
22 20 feet from property lines and road rights-of-way; and (i) rear yards shall be set
23 back at least 10 feet from property lines and road rights-of-way.

24 **Land Use Condition 18:** During construction in Union County, the site certificate
25 holder shall conduct all work in compliance with the Union County-approved
26 permits referenced in Land Use Condition 6, if such permits are required by
27 Union County zoning ordinances.

28 **During Operation**

29 **Land Use Condition 23:** During operation, the site certificate holder shall limit its
30 transmission line right-of-way in Goal 4 forest lands to no wider than 300 feet.
31 The site certificate holder shall limit its use of the outer 100 feet on each side of
32 the ROW primarily to vegetation maintenance.

33 **5.7 City of North Powder**

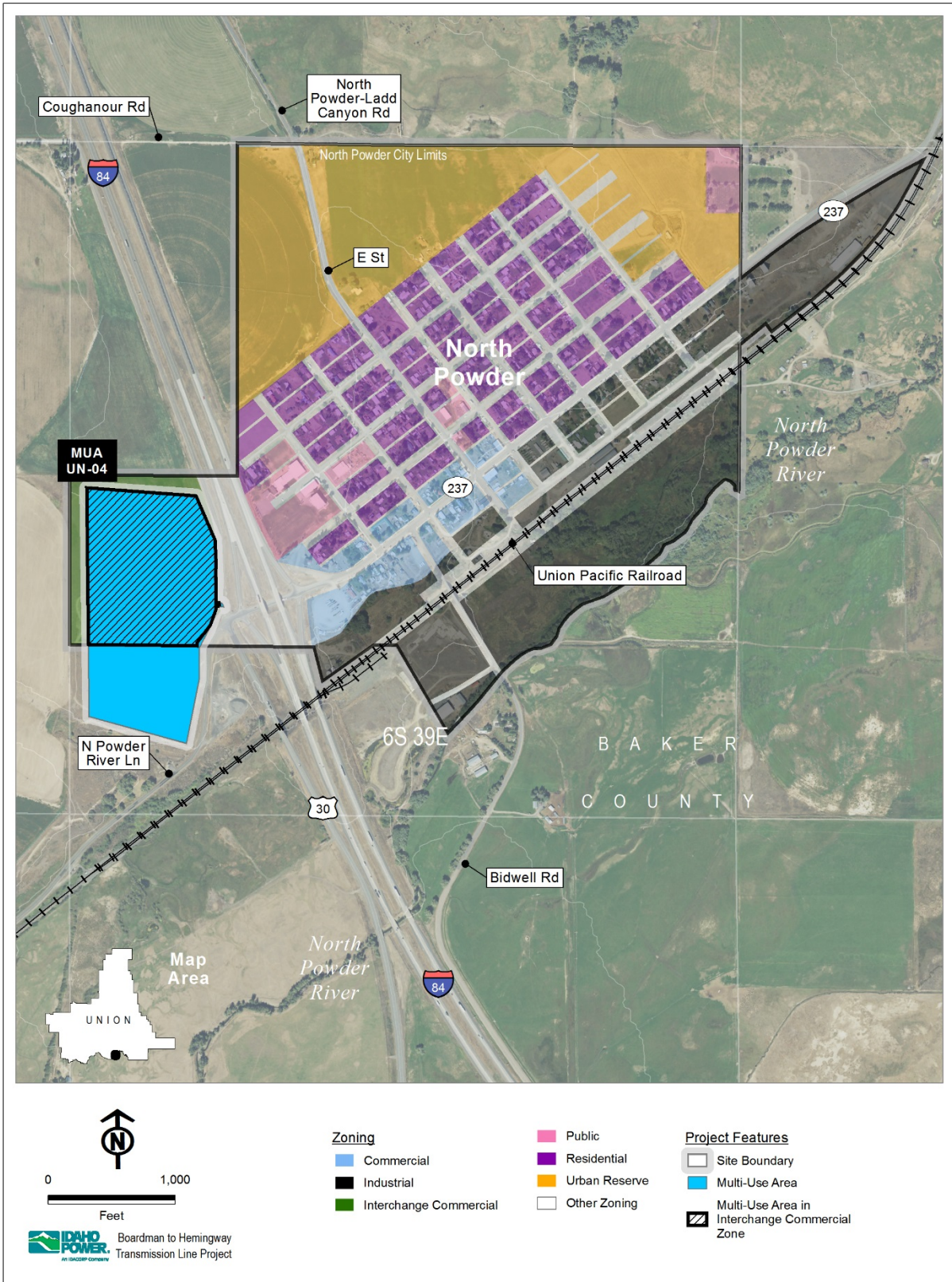
34 The following section describes the Project features that will be located within the city limits of
35 the City of North Powder and provides analysis regarding compliance with applicable
36 substantive criteria.⁶⁸

37 **5.7.1 Project Features and Location in the City of North Powder**

38 5.7.1.1 Maps Showing the Project in the City of North Powder

39 Figure K-46 shows the location of the Project in the City of North Powder and the land use
40 designations of the affected lands.

⁶⁸ IPC's July 2010 Notice of Intent to file an application for site certificate for the Project did not include any proposed features in the City of North Powder. Accordingly, ODOE did not notify the City of North Powder as a reviewing agency or request that it provide substantive local criteria as a Special Advisory Group. The City Council of North Powder was designated as a SAG on March 15, 2013 (see Amended Project Order p. 14).



1

2 **Figure K-46. City of North Powder**

1 **5.7.1.2 Multi-Use Area**

2 The Project is a utility facility necessary for public service, and includes related and supporting
 3 facilities. As shown on Figure K-46, an approximately 27.2-acre portion of one of the Project's
 4 related and supporting features—i.e., a multi-use area—will be located within the city limits of
 5 the City of North Powder. The remaining portion of the multi-use area is located outside the city
 6 limits and under the jurisdiction of Union County, and is analyzed in accordance with applicable
 7 provisions of the UCZPSO. The multi-use site is located southwest of the City of North Powder
 8 along the west side of I-84 and along the north side of U.S. Highway 30. The City of North
 9 Powder has zoned this area as Commercial Interchange.

10 The multi-use area is a temporary use and will be used only during construction of the Project.
 11 The multi-use area will serve as field offices; reporting locations for workers; parking space for
 12 vehicles and equipment; and sites for material delivery and storage, fabrication assembly of
 13 towers, cross arms and other hardware, concrete batch plants, and stations for equipment
 14 maintenance. Limited helicopter operations may be staged out of multi-use areas.

15 **5.7.2 City of North Powder Zoning Ordinance Provisions**

16 On April 10, 2013, the City of North Powder submitted a memorandum to ODOE in which the
 17 City identified local substantive criteria potentially applicable to the Project, including certain
 18 North Powder Zoning Ordinance (NPZO) provisions. During preparation of Exhibit K, IPC
 19 identified potentially applicable NPZO provisions that were not identified by the City in its
 20 April 10, 2013 memorandum. Table K-25 sets forth the potentially applicable NPZO provisions
 21 identified by City of North Powder and IPC.

22 **Table K-25. Potentially Applicable NPZO Provisions**

Land Use Zone	Permit	Project Feature(s)	NPZO or Other Provision	Entity that Identified NPZO Provision
Commercial Interchange Zone	Multi-Use Area Conditional Use Permit	Multi-Use Area	NPZO 4.02(12) Conditional Uses/ Other Uses	City of North Powder
			NPZO 3.02(9) Conditional Use Findings	City of North Powder
			NPZO 10.02 Application for Conditional Uses	City of North Powder
			NPZO 4.03 Dimension Standards	IPC
			NPZO 8.06 Front Yard Exception	IPC

1 5.7.2.1 Multi-Use Area Conditional Use Permit

2 **NPZO Provisions Identified by Union County**

3 In its April 10, 2013, memorandum, the City of North Powder identified NPZO 4.02(12), NPZO
4 3.02(9), and NPZO 10.02—and no other NPZO provisions—as being potentially applicable to
5 the Project in North Powder.

6 **Conditional Uses**

7 NPZO 4.02: In a (C-2) Commercial Interchange Zone the following uses and their accessory
8 uses are permitted by conditional use approval when authorized in accordance with Articles
9 VIII and X of this ordinance: . . . 12. Other uses per criteria in Section 3.02(9).

10 In its April 10, 2013, memorandum, the City of North Powder indicated that the Project, including
11 the relevant multi-use area, can be permitted as an “other use” under NPZO 4.02(12).

12 **Conditional Use Findings**

13 NPZO 3.02(9): Based upon the following finding the City Council may approve other uses
14 similar to those enumerated and consistent with purpose and intent of this zone if: a. The
15 proposed use will be compatible with the traffic flow of vehicles and/or pedestrians
16 frequenting the area.

17 NPZO 3.02(9) is made applicable to the Project by reference in NPZO 4.02. At the outset, it is
18 important to note that the proposed use, the multi-use area, is a temporary use. Based on
19 undated consultation with a representative from the City of North Powder, there is not significant
20 pedestrian or vehicle traffic in the Commercial Interchange Zone. The majority of the pedestrian
21 traffic occurs on the east side of I-84, with very limited pedestrian traffic occurring in the
22 vicinity of the Commercial Interchange Zone. Vehicle traffic in the Commercial Interchange Zone
23 is primarily related to adjacent agricultural operations. IPC expects that vehicle traffic at this
24 multi-use area will primarily use the on and off-ramps for I-84, as well as Highway 30, and will
25 not significantly impact traffic within the city. During undated communications with ODOT,
26 ODOT indicated this interchange is currently under capacity and will easily accommodate
27 increased traffic resulting from the multi-use area. Accordingly, IPC expects that the proposed
28 multi-use area will be compatible with the existing flow of traffic and pedestrians in the area (see
29 NPZO 3.02(9)(a)).

30 NPZO 3.02(9)(b): The site plan and use are compatible with the surrounding commercial
31 uses and the intent of this zone.

32 The surrounding commercial uses include a motel, restaurants, and convenience stores, and
33 are located in the Commercial Zone on the east side of I-84. Because those commercial uses
34 are located on the opposite side of I-84 from the multi-use area site and I-84 will act as a buffer
35 between the multi-use area site and the surrounding commercial uses, any noise or dust
36 associated with construction activities at the multi-use area should not impact the commercial
37 uses. Therefore, the multi-use area will be compatible with the surrounding commercial uses.

38 The intent of the commercial zone is to provide a place for businesses to operate, and the multi-
39 use area will occupy a lot that has been vacant for many years and will generate activity in the
40 surrounding commercial uses (see NPZO 3.02(9)(b)).

41 NPZO 3.02(9)(c): The proposed use will encourage an influx of people who are likely to
42 benefit from the availability of adjacent commercial wares and/or services.

1 The multi-use area will serve as field offices, reporting locations for workers, parking space for
2 vehicles and equipment, sites for material delivery and storage, fabrication assembly of towers,
3 cross arms and other hardware, concrete batch plants, and stations for equipment maintenance.
4 Accordingly, during construction of the Project, the multi-use area will encourage an influx of
5 people working on the Project who will consume goods and services from local businesses in
6 the City of North Powder (see NPZO 3.02(9)(c)).

7 **Application for Conditional Uses**

8 NPZO 10.02: A request for a conditional use or modification of an existing conditional use
9 may be initiated by property owner or his authorized agent by filing an application with the
10 City Council. The application shall be accompanied by a site plan, drawn to scale, showing
11 the dimensions and arrangement of the proposed development, and the names of record and
12 addresses thereof for all landowners within 300 feet of the parcel in question. The City
13 Council may request other drawings or material essential to an understanding of the
14 proposed use and its relationship to the surrounding properties.

15 NPZO 10.02 relates to the forms of certain City of North Powder applications. Because the
16 Council and not the city has jurisdiction over the land use decisions and conditional use
17 authorizations covered by the site certificate, the Council's and not the city's procedures for
18 obtaining such decisions and authorizations apply to the Project. Even so, a site plan for a
19 typical multi-use area setup is provided in Exhibit B, Section 3.3. Also, a map showing the
20 location and surrounding zoning of the multi-use area is set forth above.

21 **NPZO Provisions Identified by IPC**

22 IPC and not the City of North Powder identified the following NPZO provisions as potentially
23 applicable to the Project. IPC addresses these ordinances for informational purposes only.

24 **Dimension Standards**

25 NPZO 4.03: In the (C-2) Commercial Interchange Zone, yards shall be maintained as follows:
26 1. There shall be a front yard of at least thirty (30) feet. 2. There shall be no side yard
27 setback except at least twenty (20) feet when adjacent to a Residential Zone, or on the street
28 side of a corner lot. 3. There shall be no rear yard setback, except at least twenty (20) feet
29 when adjacent to a Residential Zone. 4. No buildings or structure hereafter erected or
30 enlarged shall exceed a height of forty-five (45) feet.

31 NPZO 4.03 provides for certain setbacks in the Commercial Interchange Zone. NPZO 4.03(1)
32 requires a 30-foot front yard setback, measured from the front lot line to the nearest point of a
33 building (see NPZO 1.03, defining "front yard"). Here, any building at the relevant multi-use area
34 will be set back 30 feet from the front lot line in compliance with NPZO 4.03(1).

35 NPZO 4.03(2) requires a 20-foot side yard setback when adjacent to a Residential Zone, street,
36 or corner lot. Here, the sides of the relevant multi-use area will not be adjacent to a Residential
37 Zone, street, or corner lot; and therefore, NPZO 4.03(2) does not apply to the Project.

38 NPZO 4.03(3) requires a 20-foot rear yard setback when adjacent to a Residential Zone. Here,
39 the rear of the relevant multi-use area will not be adjacent to a Residential Zone; and therefore,
40 NPZO 4.03(3) does not apply to the Project.

41 NPZO 4.03(4) provides that no building or structure shall exceed 45 feet in height. Because the
42 buildings at the multi-use areas will not exceed 45 feet, the Project will be in compliance with
43 NPZO 4.03(4).

1 To ensure compliance with the setback requirements of NPZO 4.03, IPC proposes the following
2 site certificate condition:

3 ***Land Use Condition 19:*** *During construction in City of North Powder, the site*
4 *certificate holder shall construct the facility to comply with the following setback*
5 *distances and other requirements:*

6 *In the Commercial Interchange Zone:*

7 *a. Buildings shall be setback as follows: (i) front yards shall be set back at least*
8 *30 feet from property lines; (ii) side yards shall be setback at least 20 feet from a*
9 *Residential Zone, street, or corner lot; and (iii) rear yards shall be set back at*
10 *least 20 feet from a Residential Zone.*

11 *b. Buildings shall not exceed 45 feet in height.*

12 **Front Yard Exception**

13 NPZO 8.06: The front yard requirement of this ordinance shall not apply where the average
14 depth of the existing front yard on developed lots, located within one hundred (100) feet on
15 each side of the lot and within the same block and zoning area and fronting on the same
16 street as such lot, differs from the minimum specified front yard depth. In such cases, the
17 depth of the front yard on such lot shall not be less than the average existing front yard depth
18 on said developed lots.

19 NPZO 8.06 provides that the depth of the front yard setback shall not be less than the average
20 existing front yard depth of buildings on neighboring lots. Here, there are no buildings on the lots
21 neighboring the relevant multi-use area, and thus, NPZO 8.06 does not provide for a front yard
22 setback different than what's set forth in NPZO 4.03(1).

23 **5.7.3 Idaho Power's Proposed Site Certification Conditions Relevant to NPZO** 24 **Compliance**

25 IPC proposes the following site certificate condition to ensure the Project complies with the
26 applicable City of North Powder substantive criteria, as well as other relevant requirements.

27 **During Construction in North Powder**

28 ***Land Use Condition 19:*** *During construction in City of North Powder, the site*
29 *certificate holder shall construct the facility to comply with the following setback*
30 *distances and other requirements:*

31 *In the Commercial Interchange Zone:*

32 *a. Buildings shall be setback as follows: (i) front yards shall be set back at least*
33 *30 feet from property lines; (ii) side yards shall be setback at least 20 feet from a*
34 *Residential Zone, street, or corner lot; and (iii) rear yards shall be set back at*
35 *least 20 feet from a Residential Zone.*

36 *b. Buildings shall not exceed 45 feet in height.*

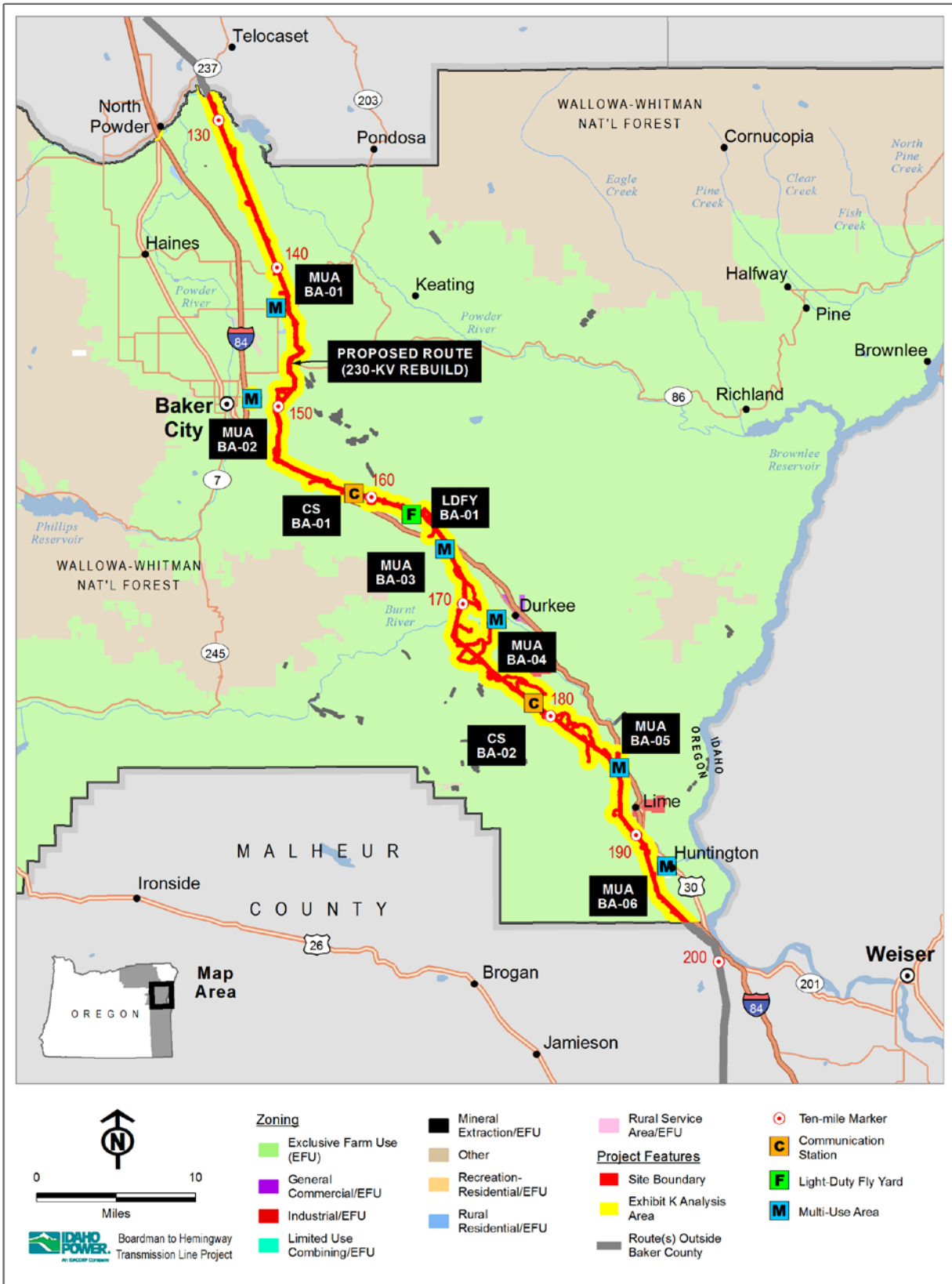
37 **5.8 Baker County**

38 The following section describes the Project features that will be located in Baker County and
39 provides analysis regarding compliance with applicable local substantive criteria.

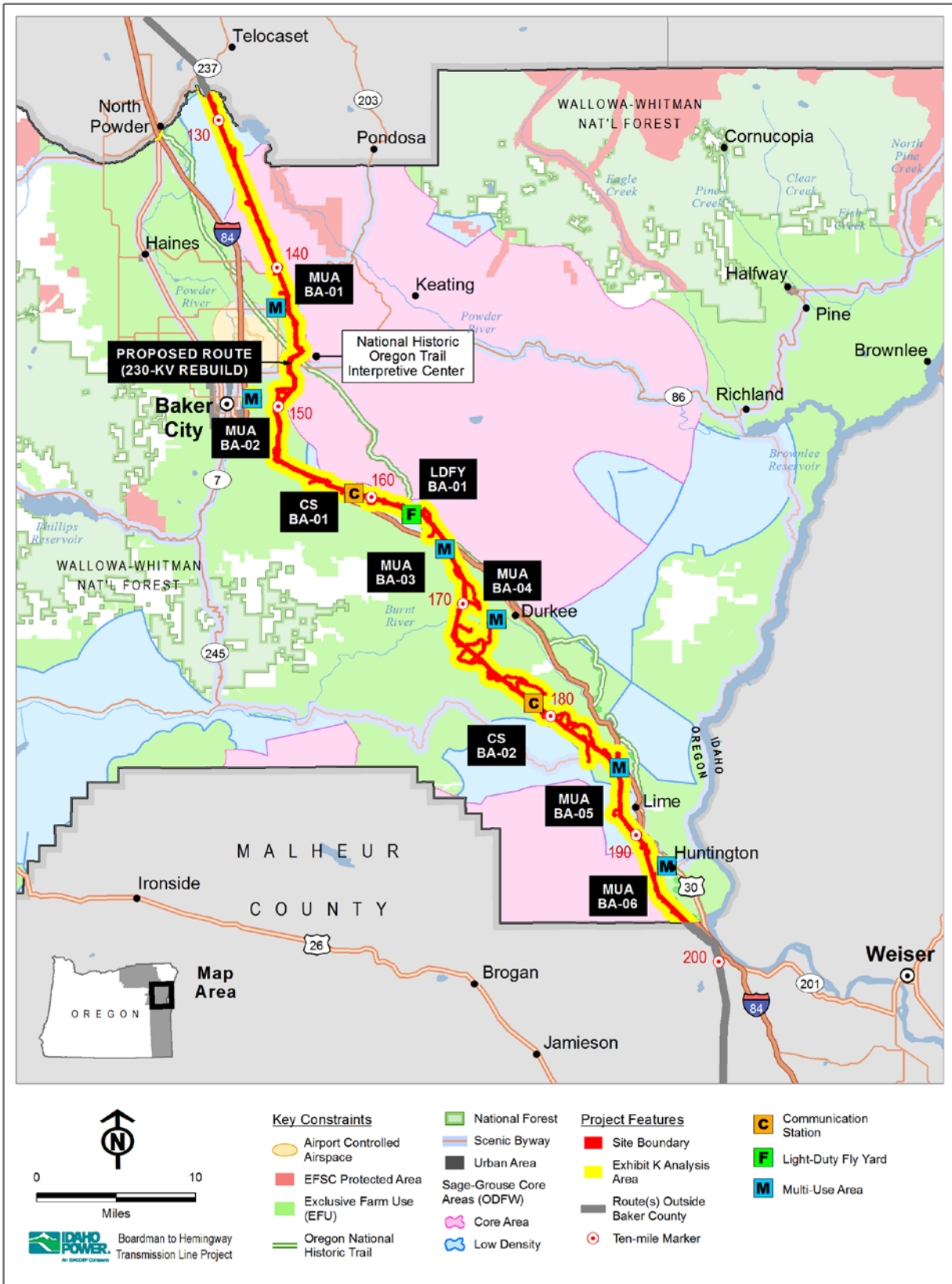
40 **5.8.1 Project Features and Location in Baker County**

41 **5.8.1.1 Maps Showing the Project in Baker County**

42 Figure K-47 shows the location of the Project in Baker County and the land use designations of
43 the affected lands. Figure K-48 identifies additional land use constraints in the county.



1
2 **Figure K-47. Baker County Zoning**



1
2 **Figure K-48. Baker County Key Constraints**

1 5.8.1.2 Location

2 The portion of the Proposed Route in Baker County includes 68.4 miles of new transmission line
3 and the 0.9-mile 230-kV rebuild (see Exhibit C, Attachment C-2, Maps 63-92). Once across the
4 Powder River (the border between Baker and Union Counties in this location) and into Baker
5 County, the Proposed Route crosses about 13.1 miles of rangeland as it continues southeast,
6 parallel and offset about 250 feet west of the existing IPC Quartz to La Grande 230-kV
7 transmission line. At MP 132, the Proposed Route passes about 2 miles west of the Thief Valley
8 Reservoir, which is located on the North Powder River.

9 At MP 142.7, the Proposed Route angles to the southeast, across State Highway 203.
10 Approximately 0.8 mile beyond this road crossing, the Proposed Route crosses over the existing
11 IPC 230-kV transmission line proceeding almost due south about 2.2 miles along the eastern
12 edge of agricultural fields to MP 146.2.

13 Between MP 146.2 and MP 146.9, the Proposed Route crosses the Oregon Trail and passes west
14 of the National Historic Oregon Trail Interpretive Center (NHOTIC). Between MP 146.5 and 147.3,
15 the existing 230-kV line would be rebuilt to allow both the 500-kV and 230-kV towers to be co-
16 located in a valley between ridgelines in the Prospects Range. The rebuild shifts the 230-kV
17 towers several hundred feet to the east to make room for the 500-kV towers within this valley,
18 minimizing visibility from surrounding vantage points by locating the towers at the lowest elevation
19 for maximum screening from topography of the surrounding landscape. At MP 146.8, the
20 Proposed Route crosses over State Highway 86, a designated scenic route by Baker County.

21 Land use in the area between State Highway 203 to State Highway 86 includes 0.1 mile of
22 irrigated agricultural land and 4.0 miles of shrub-steppe and grassland at the eastern edge of
23 the Baker Valley. The Proposed Route passes within 125 feet of a segment of the Oregon Trail
24 ACEC and within about 0.7 mile of the NHOTIC.

25 At MP 147.3, the Proposed Route temporarily leaves the corridor with the existing IPC 230-kV
26 transmission line. The Proposed Route then crosses an abandoned gravel pit and continues
27 south around an agricultural pivot. At MP 150.3, the Proposed Route again parallels the existing
28 IPC 230-kV transmission line. After crossing another 3.0 miles of rangeland, the Proposed
29 Route turns southeast at MP 153.4.

30 The Proposed Route angles and proceeds southeasterly from MP 153.4 and begins to parallel
31 the existing IPC Quartz to Weiser 138-kV transmission line and a 69-kV line and an existing
32 pipeline along the northeast side of I-84. At MP 157.0, the existing transmission line is crossed
33 to avoid indirect impacts to sage-grouse habitat. At MP 159.4, the existing 69-kV line is crossed
34 and at MP 162.7 the 138-kV transmission line is again crossed to avoid the Oregon Trail Straw
35 Ranch 1 ACEC, an ODOE protected area. Once around the ACEC, the Proposed Route once
36 again crosses to the south side of the existing transmission lines at MP 164.7 and MP 165.4,
37 and at MP 166 crosses I-84, the Union Pacific Railroad, and an existing underground pipeline.

38 For the next 5 miles, the route diverts from I-84 heading south and crosses open rangeland with
39 little or no development. At MP 171.2, the Proposed Route crosses the Burnt River about 1.2
40 miles upstream from the mouth of the Burnt River Canyon. The Proposed Route at this point is
41 approximately 3.9 miles east of the community of Durkee. At MP 172.3, the Proposed Route turns
42 east crossing the hills to the south and east of the irrigated farmlands of the Durkee Valley.

43 After crossing the Burnt River, the Proposed Route climbs steeply, crossing the hills south of
44 Durkee reaching over 5,000 feet in elevation as it crosses the shoulder of Juniper Mountain.
45 This area consists of open range land with scattered stands of juniper and ponderosa pine on
46 north facing slopes. At MP 185.4, the Proposed Route crosses Dixie Creek and Dixie Creek

1 Road. From here, the Proposed Route turns south and again parallels the existing IPC Quartz
2 to Weiser 138-kV transmission line and an existing underground pipeline. In this section, the
3 Proposed Route crosses through steep terrain that supports open range lands.

4 At the southern end of the Weatherby Mountains, near MP 191, the Proposed Route leaves the
5 Burnt River Canyon and no longer parallels the existing 138-kV transmission line. From here,
6 the Proposed Route begins paralleling the west side of I-84 at a distance of approximately
7 0.3 mile. At MP 193, the Proposed Route is about 1.3 miles west of the city of Huntington. From
8 MP 192 to MP 194.4 and again from MP 196.2 to MP 196.8, the Proposed Route is located
9 within the West-wide Energy corridor. The Proposed Route exits Baker County and crosses into
10 Malheur County at MP 196.5.

11 5.8.1.3 Towers, Access Roads, and Crossings

12 Table K-26 lists the towers, access roads, and crossings by the Proposed Route in Baker
13 County.

14 **Table K-26. Towers, Access Roads, and Crossings – Proposed Route in Baker County¹**

Towers	Number of Features
Towers – Single Circuit 500-kV Lattice	281
Towers – Single Circuit 500-kV H-Frame	5
Towers – Single Circuit 500-kV H-Frame Dead-end	4
Access Roads	Miles
Existing, 21-70% Improved	41
Existing, 71-100% Improved	22.2
New, Bladed	22.2
New, Primitive	26.2
Crossings	Number of Crossings
High Voltage Transmission Line Crossings ²	9
Existing Road Crossings ³	4
Existing Railroad Crossings ⁴	1

¹ Includes single-circuit 230-kV and double-circuit 138/69-kV rebuilds.

² Source: ABB Ventyx (2016) and Idaho Power Company; includes only transmission lines over 69-kV.

³ Source: Esri (2013); includes Interstate, federal, and state highways.

⁴ Source: Oregon Department of Transportation (2013).

15 5.8.1.4 Multi-Use Areas, Light-Duty Fly Yards, and Communication Stations

16 There will be five multi-use areas in Baker County.

- 17 • MUA BA-01 will be located approximately 0.6 mile east of MP 142.7 on State Highway
18 203. The area is vacant land and appears to support shrub-steppe, and is zoned by
19 Baker County as Agriculture – Exclusive Farm Use (Attachment C-2, Map 68).
- 20 • MUA BA-02 will be located approximately 0.25 mile east of I-84 immediately east and
21 south of Baker City. It will be about 1.6 miles northwest of the Proposed Route at MP
22 150. The area is vacant and appears to be predominantly shrub-steppe; however, there
23 is evidence that it may have been farmed in the past. It is zoned by Baker County as
24 Agriculture - Exclusive Farm Use (Attachment C-2, Map 71).

- 1 • MUA BA-03 will be located just west of MP 166 on Hill Creek Road. The land consists of
2 grassland and shrub-steep, and is zoned by Baker County as Agriculture – Exclusive
3 Farm Use (Attachment C-2, Map 78).
- 4 • MUA BA-04 will be located approximately 1.2 miles east of the community of Durkee and
5 2.5 miles northeast of MP 174 on Oxman Ranch Road. The land is vacant and
6 predominantly shrub-steppe, and is zoned by Baker County as Agriculture – Exclusive
7 Farm Use EFU. It is bounded on three sides by irrigated agriculture (Attachment C-2,
8 Maps 81 and 82).
- 9 • MUA BA-05 will be located approximately 0.25 mile southwest of the I-84 Exit 340 on
10 Rye Valley Lane. It is directly adjacent to the Proposed Route between MP 185.2 and
11 MP 185.3. The land is currently vacant but may have supported agriculture in the past. It
12 is zoned by Baker County as Agriculture – Exclusive Farm Use (Attachment C-2, Map
13 88).

14 There will be one light-duty fly yard in Baker County.

- 15 • LDFY BA-01 will be located at MP 167.7. The area is zoned by Baker County as
16 Agriculture – Exclusive Farm Use (Attachment C-2, Map 76).

17 There will be two communication stations in Baker County.

- 18 • CS BA-01 will be located at approximately MP 158.9 and is approximately 0.5 mile
19 northeast of I-84. The land comprises shrub land and is zoned by Baker County as
20 Agriculture – Exclusive Farm Use (Attachment C-2, Map 75).
- 21 • CS BA-02 will be located at approximately MP 178.6 and is just west of Shirttail Creek
22 Road. The land comprises shrub land and is zoned by Baker County as Agriculture –
23 Exclusive Farm Use (Attachment C-2, Map 85).

24 5.8.1.5 Affected Land Use Zones

25 Table K-27 identifies the Baker County zoning designations for the lands affected by the Project.

26 **Table K-27. Baker County Land Use Zone Designations¹**

Zoning Designation ²	Centerline (miles)	Site Boundary (acres)	Existing Roads, Substantial Modifications (miles)	New Roads
Exclusive Farm Use	69.2	5,436.6	63.0	48.2
Rural Service Area/Exclusive Farm Use	–	2.2	0.2	–
Total²	69.2	5,438.8³	63.2	48.2

¹ Includes single-circuit 230-kV and double-circuit 138/69-kV rebuilds.

² Source: Bake County (2015).

³ Sums may not total due to rounding.

⁴ 8.8 acres of the 5,483.9-acre Site Boundary in Baker County is located in the city of Huntington and is analyzed in Section 5.9.

27 **5.8.2 Baker County Zoning and Subdivision Ordinance Provisions**

28 By letter dated September 22, 2010, Baker County identified certain applicable substantive
29 criteria from the Baker County Zoning and Subdivision Ordinance (BCZSO). During preparation
30 of Exhibit K, IPC identified potentially applicable BCZSO provisions that were not identified by
31 Baker County in its September 22, 2010, letter. Table K-28 sets forth the potentially applicable
32 NPZO provisions identified by Baker County and IPC.

1 **Table K-28. Potentially Applicable NPZO Provisions**

Land Use Zone	Permit	Project Feature(s)	BCZSO or Other Provision	Entity that Identified BCZSO Provision
Exclusive Farm Use Zone	Utility Facility Land Use Decision	All Project Features	BCZSO 401 Setbacks and Frontage Requirements	Baker County
			BCZSO 1001, 1001.01, 1001.02, and 1001.03 Subdivisions, Partitions, and Lot Line Adjustments	Baker County
			BCZSO 1002 Applications for Approval of Tentative Plans	Baker County
			BCZSO 1006, 1006.01, 1006.02, and 1006.03 Approval of Preliminary Partition Plans	Baker County
			BCZSO 301.01 Permitted Uses	IPC
			BCZSO 301.02(D) Conditional Uses	IPC
			BCZSO 301.05 Minimum Parcel Size	IPC
			BCZSO 401 Setbacks and Frontage Requirements	IPC
Rural Service Area Zone	Utility Facility Conditional Use Permit	All Project Features	BCZSO 305.02 Conditional Uses	IPC
			BCZSO 602 Standards for Granting a Conditional Use	IPC

2 **5.8.2.1 EFU Zone BCZSO Provisions**

3 The transmission line (69.2 line miles), five multi-use areas, one light-duty fly yard, and two
4 communication stations will be located in an EFU Zone in Baker County.

5 **Land Use Decision (All Project Features)**6 **BCZSO Provisions Identified by Baker County**

7 In its September 22, 2010, letter, Baker County identified BCZSO 401, BCZSO 1001,
8 BCZSO 1002, and BCZSO 1006 as being potentially applicable to the Project. Those BCZSO
9 provisions apply generally to certain zoning decisions and are not specific to uses in the EFU
10 Zone. The County identified no BCZSO provisions relating to the EFU Zone specifically. In this

1 section, IPC discusses certain BCZSO provisions identified by IPC and not Baker County as
 2 being potentially applicable to the Project features in the EFU Zone. IPC addresses these
 3 ordinances for informational purposes only.

4 ***Permitted Uses; Conditional Uses***

5 BCZSO 301.01: In the EFU zone the following uses and their accessory uses are permitted. .
 6 . .
 7 BCZSO 301.02: In the EFU zone the following uses may be permitted when authorized in
 8 accordance with the requirements of Subsections 301.05 and 301.06 of this Section and
 9 Article 6 of this Ordinance. . . . D. Major utility facilities as defined in Section 108(B) of this
 10 ordinance.

11 The list of permitted uses in the EFU Zone in Baker County does not include electrical
 12 transmission line projects (see BCZSO 301.01). Instead, BCZSO 301.02(D) indicates that an
 13 electrical transmission line project would be considered a conditional use in the EFU Zone in
 14 Baker County. Even so, under Oregon law, utility facilities necessary for public service are
 15 permitted outright in an EFU zone and a county may not enact or apply criteria of its own that
 16 supplement those found in ORS 215.283(1).⁶⁹ Here, because the Project is authorized on EFU
 17 lands under ORS 215.283(1)(c)(A) (see Section 4), Baker County must also permit outright the
 18 Project on EFU lands. Accordingly, IPC discusses the BCZSO provisions related to permitted
 19 uses under BCZSO 301.01 and not conditional uses under BCZSO 301.02.

20 Baker County's response to the NOI appears to be consistent with treating the Project as a
 21 permitted use. The county did not identify local substantive criteria from the BCZSO regarding
 22 permitting utility facilities in EFU land. Instead, Baker County identified ORS 215.283(1)(d), ORS
 23 215.275, and OAR 660-033-0130(16) as applicable criteria—the same criteria discussed in
 24 Section 4 above.

25 ORS 215.283(1)(c)(A) requires IPC demonstrate the need to site the Project on EFU lands only
 26 at a macro, project-wide level across all five relevant counties. Though beyond what is required
 27 by the statute, Section 5.8.5 makes a similar showing at the micro or county level, by providing
 28 a detailed discussion of the necessity of siting the Project in EFU in Baker County.

⁶⁹ See *Brentmar v. Jackson County*, 321 Or. 481 (1995).

1 **Minimum Parcel Sizes**

2 BCZSO 301.05: Except as provided for under Section 502 of this Ordinance, new parcels in
 3 the EFU Zone shall comply with the following minimum parcel size requirements. A. 80 acres
 4 if fully covered by valid primary water rights. B. 160 acres for non-irrigated land, or two acres
 5 for each dry acre less than 80 for land partially covered by valid primary water rights. For
 6 example, 60 acres of irrigated land would require a minimum parcel size of 100 acres (80 -
 7 60 = 20; 20 x 2 = 40; 60 irrigated acres + 40 non-irrigated acres = 100 acres). C. In the EFU
 8 Zone, a parcel created to accommodate a conditional use shall comply with the following
 9 requirements. 1) The proposed parcel shall be the minimum amount of land necessary for
 10 the proposed use, considering applicable state and local standards and the criteria set forth
 11 in this Ordinance, but shall be no less than 2 acres; and 2) The remaining parcel complies
 12 with the requirements under Section 301.05(A) or (B), as applicable. D. If land in the EFU
 13 Zone is also located in the Big Game Habitat Overlay, the minimum parcel size for a non-
 14 farm or lot of record dwelling shall be 40 acres, unless the parcel on which the dwelling is to
 15 be located was legally created prior to January 1, 1986. If the parcel was legally created prior
 16 to January 1, 1986, a dwelling may be allowed subject to the following conditions: 1) The
 17 dwelling will be located within 200 feet of a public road. If the road access to the dwelling is
 18 owned or maintained by the Oregon Department of Forestry, the Bureau of Land
 19 Management, or the U.S. Forest Service, the applicant shall provide proof of a road access
 20 use agreement. For non-farm partitions in the Big Game Habitat Overlay, generally, the
 21 minimum parcel size shall be 40 acres. 2) There is no other dwelling located on the property.
 22 E. The minimum parcel size for a farm related dwelling based on minimum parcel sizes
 23 established by statute and/or rule shall be 160 acres irrigated or 320 acres nonirrigated, or a
 24 combination thereof in accordance with 301.05(b) above, except that there shall be 2 acres
 25 for each dry acre less than 160. For example, 100 acres of irrigated land would require a
 26 minimum parcel size of 220 acres (160 - 100 = 60; 60 x 2 = 120; 100 irrigated acres + 120
 27 non-irrigated acres = 220 acres).

28 BCZSO 301.05 is applicable to all uses in the EFU Zone. It addresses the size of parcels and is
 29 applicable only to the extent that a partition of a parcel zoned EFU in Baker County is required.
 30 IPC intends to secure easements for the majority of Project features and does not expect to
 31 require partition of any parcel zoned EFU in Baker County. Because the Project likely will not
 32 involve lot splits, BCZSO 301.05 likely will not be applicable to the Project. In the event that a
 33 partition becomes necessary, IPC will obtain approval of the partition directly from Baker County
 34 prior to construction.

35 **BCZSO Provisions Identified by IPC**

36 In its September 22, 2010, letter, Baker County identified BCZSO 401, BCZSO 1001,
 37 BCZSO 1002, and BCZSO 1006 as being potentially applicable to the Project.

38 **Setbacks and Frontage Requirements**

39 BCZSO 401(B)(1): The minimum land width at the front building lines shall be 220 feet.

40 BCZSO 401(B)(1) appears to provide that the front yard of building must be set back 220 feet.
 41 BCZSO 108a(B) defines the term "building" as "[a] structure designed or intended for the
 42 support, shelter or enclosure of persons, animals, goods, chattel, or property of any kind."

- 43 • Access roads: The Project access roads will not be built to support, shelter, or enclose
 44 anything. Therefore, the access roads are not considered buildings, and the yard
 45 setback requirements of BCZSO 401(B)(1) do not apply to the relevant access roads.

- 1 • Transmission Line Towers: The Project transmission towers will not be built to support,
2 shelter, or enclose anything. Therefore, the transmission towers are not considered
3 buildings, and the yard setback requirements of BCZSO 401(B)(1) do not apply to the
4 relevant towers.
- 5 • Light-Duty Fly Yards: The light-duty fly yards will not contain any structures that will be
6 built to support, shelter, or enclose anything. Therefore, the light-duty fly yards are not
7 considered buildings, and the yard setback requirements of BCZSO 401(B)(1) do not
8 apply to the relevant light-duty fly yards.
- 9 • Multi-Use Areas: The multi-use areas will contain buildings, and therefore, the yard
10 setback requirements of BCZSO 401(B)(1) will apply to the relevant multi-use areas.
- 11 • Communication Stations: The communication stations will contain buildings, and
12 therefore, the yard setback requirements of BCZSO 401(B)(1) will apply to the relevant
13 communication stations.

14 In *Brentmar v. Jackson County*, the Oregon Supreme Court concluded that a county may not
15 enact or apply criteria of its own beyond those found in ORS 215.283(1). Under
16 ORS 215.283(1), there are no criteria requiring that transmission lines meet any specific
17 setback requirements, and therefore, the setback requirements of BCZSO 401(B)(1) are beyond
18 those set forth in ORS 215.283(1) and IPC is not required to meet those setbacks under the
19 decision in *Brentmar*.

20 While not required to do so under *Brentmar*, IPC is willing to follow certain building setbacks in
21 EFU lands. However, those setbacks must be more reasonable than the 220-foot setbacks
22 under BCZSO 401(B)(1). First, the typical communication station sites will be 100 feet by 100
23 feet (see Exhibit C, Section 3.2.2.3) and therefore a 220-foot setback would not allow for any
24 buildings on the site. Second, and similarly, a 220-foot setback would potentially affect IPC’s
25 ability to configure the multi-use areas as currently proposed. Moreover, the multi-use areas will
26 be active, and the buildings at the multi-use areas will be present, only temporarily during
27 construction; therefore, any impacts from the multi-use area buildings will only be temporary.
28 Third, the Project complies with statewide planning goals for the reasons discussed below in
29 Section 6.0.⁷⁰ For these reasons, the setback requirements for buildings in the EFU lands in
30 Baker County should be less than 220-feet. Specifically, IPC proposes the following site
31 certificate condition providing the same setbacks in EFU Zone that are required in nearby Union
32 County:

33 ***Land Use Condition 20: During construction in Baker County, the site certificate***
34 ***holder shall construct the facility to comply with the following setback distances***
35 ***and other requirements:***

36 ***In the EFU Zone:***

37 ***a. Buildings shall be setback as follows: front yards shall be set back at least 20***
38 ***feet from property lines and road rights-of-way.***

39

⁷⁰ Pursuant to OAR 345-022-0030(2)(b)(B), if a facility “does not comply with one or more of the applicable substantive criteria,” the Council must find that “the facility otherwise complies with the statewide planning goals or an exception to any applicable statewide planning goal is justified under section (4)” in order to issue a Site Certificate. Accordingly, where the Project may not comply with an applicable substantive criterion such as the EFU setback requirements, IPC demonstrates how the Project otherwise complies with the applicable statewide planning goal by providing a full discussion of each statewide planning goal in Section 6.0 of Exhibit K.

1 BCZSO 401(B)(2): No part of a structure shall be constructed or maintained closer than 60
2 feet to the center line of a road or street, or 30 feet from any right-of-way in excess of 60 feet.

3 BCZSO 401(B)(2) provides for a 60-foot setback from roads and streets, and a 30-foot setback
4 from rights-of-way greater than 60 feet. BCZSO 108a(B) defines the term “structure” as
5 “[s]omething constructed or built and having fixed base on, or fixed connection to, the ground or
6 another structure.”

- 7 • Access roads: By email dated May 4, 2016, the Baker County Planning Department
8 provided that roads are not considered structures under the BCZSO. Therefore, the
9 setback requirements of BCZSO 401(B)(2) do not apply to the Project access roads.
- 10 • Transmission Line Towers: The Project transmission line towers will have fixed bases
11 connected to the ground. Therefore, the transmission towers are considered structures,
12 and the setback requirements of BCZSO 401(B)(2) will apply to the relevant towers.
- 13 • Light-Duty Fly Yards: The light-duty fly yards will not contain anything constructed or
14 built that will be fixed to the ground or other structures. Therefore, the light-duty fly yards
15 will not involve any structures, and the yard setback requirements of BCZSO 401(B)(2)
16 do not apply to the relevant light-duty fly yards.
- 17 • Multi-Use Areas: The multi-use areas will contain buildings, and therefore, the yard
18 setback requirements of BCZSO 401(B)(2) will apply to the relevant multi-use areas.
- 19 • Communication Stations: The communication stations will contain buildings, and
20 therefore, the yard setback requirements of BCZSO 401(B)(2) will apply to the relevant
21 communication stations.

22 While IPC is not required to do so under the Court’s ruling in *Brentmar v. Jackson County*, IPC
23 will site the Project buildings and transmission line towers in the EFU zone in Baker County to
24 comply with yard setback requirements of BCZSO 401(B)(2). To ensure compliance with such
25 requirements, IPC proposes the following site certificate condition:

26 ***Land Use Condition 20: During construction in Baker County, the site certificate***
27 ***holder shall construct the facility to comply with the following setback distances***
28 ***and other requirements:***

29 ***In the EFU Zone:***

30 . . .

31 ***b. Buildings and the fixed bases of transmission line towers shall be set back at***
32 ***least 60 feet from the center line of a road or street or 30 feet from any right-of-***
33 ***way in excess of 60 feet.***

34

35 BCZSO 401(B)(3): No part of a building or other structure, except for a sign, shall be
36 constructed or maintained closer than 10 feet to any property line.

37 BCZSO 401(B)(3) provides no building or other structure may be constructed within 10 feet of a
38 lot line.

- 39 • Access roads: By email dated May 4, 2016, the Baker County Planning Department
40 provided that roads are not considered structures under the BCZSO. Therefore, the
41 setback requirements of BCZSO 401(B)(3) do not apply to the Project access roads.
- 42 • Transmission Line Towers: The Project transmission line towers will have fixed bases
43 connected to the ground. Therefore, the transmission towers are considered structures,
44 and the setback requirements of BCZSO 401(B)(2) will apply to the relevant towers.

- 1 • Light-Duty Fly Yards: The light-duty fly yards will not contain anything constructed or
2 built that will be fixed to the ground or other structures. Therefore, the light-duty fly yards
3 will not involve any structures, and the yard setback requirements of BCZSO 401(B)(3)
4 do not apply to the relevant light-duty fly yards.
- 5 • Multi-Use Areas: The multi-use areas will contain buildings, and therefore, the yard
6 setback requirements of BCZSO 401(B)(3) will apply to the relevant multi-use areas.
- 7 Communication Stations: The communication stations will contain buildings, and
8 therefore, the yard setback requirements of BCZSO 401(B)(3) will apply to the relevant
9 communication stations.

10 While IPC is not required to do so under the Court's ruling in *Brentmar v. Jackson County*, IPC
11 will site the Project buildings and transmission line towers in the EFU zone in Baker County to
12 comply with yard setback requirements of BCZSO 401(B)(3). To ensure compliance with such
13 requirements, IPC proposes the following site certificate condition:

14 ***Land Use Condition 20: During construction in Baker County, the site certificate***
15 ***holder shall construct the facility to comply with the following setback distances***
16 ***and other requirements:***

17 *In the EFU Zone:*

18 . . .

19 *c. Buildings and the fixed bases of transmission line towers shall be set back at*
20 *least 10 feet from property lines.*

21

22 BCZSO 401(B)(4): No part of a building or other structure requiring a building permit or farm
23 use affidavit or a road to access such development, shall be constructed within 50 feet of a
24 naturally occurring riparian area, bog, marsh or waterway.

25 BCZSO 401(B)(4) provides no building or other structure requiring a building permit or farm use
26 affidavit may be constructed within 50 feet of a riparian area, bog, marsh, or waterway.

- 27 • Access roads: By email dated May 4, 2016, the Baker County Planning Department
28 provided that roads are not considered structures under the BCZSO. Therefore, the
29 setback requirements of BCZSO 401(B)(3) do not apply to the Project access roads.
- 30 • Transmission Line Towers: The Project transmission line towers will have fixed bases
31 connected to the ground. Therefore, the transmission towers are considered structures,
32 and the setback requirements of BCZSO 401(B)(2) will apply to the relevant towers.
- 33 • Light-Duty Fly Yards: The light-duty fly yards will not contain anything constructed or
34 built that will be fixed to the ground or other structures. Therefore, the light-duty fly yards
35 will not involve any structures, and the yard setback requirements of BCZSO 401(B)(3)
36 do not apply to the relevant light-duty fly yards.
- 37 • Multi-Use Areas: The multi-use areas will contain buildings, and therefore, the yard
38 setback requirements of BCZSO 401(B)(3) will apply to the relevant multi-use areas.
- 39 Communication Stations: The communication stations will contain buildings, and
40 therefore, the yard setback requirements of BCZSO 401(B)(3) will apply to the relevant
41 communication stations.

42 While IPC is not required to do so under the Court's ruling in *Brentmar v. Jackson County*, IPC
43 will site the Project buildings and transmission line towers in the EFU zone in Baker County to

1 comply with riparian area setback requirements of BCZSO 401(B)(4). To ensure compliance
2 with such requirements, IPC proposes the following site certificate condition:

3 **Land Use Condition 20:** During construction in Baker County, the site certificate
4 holder shall construct the facility to comply with the following setback distances
5 and other requirements:

6 In the EFU Zone:

7 . . .

8 d. Buildings and the fixed bases of the transmission line towers shall be set back
9 at least 50 feet from the high-water mark of naturally-occurring riparian area, bog,
10 marsh, or waterway.

11 **Subdivisions, Partitions, and Lot Line Adjustments**

12 BCZSO 1001: As authorized by law, subdivisions, major and minor partitions and streets
13 created for the purpose of partitioning land shall be approved in accordance with this Article.
14 This Article applies to all land within the unincorporated territory of the County. A person
15 desiring to subdivide land, to partition land, or to create a street or a private road shall submit
16 preliminary plans and final documents for approval as provided in this Article and state
17 statutes.

18 BCZSO 1001—including subsections BCZSO 1001.01 through 1001.03—addresses
19 applications for partitions and is applicable only to the extent that a partition is required. IPC
20 intends to secure easements for the majority of Project features and does not expect to require
21 partition of any parcel. Because the Project likely will not involve lot splits, BCZSO 1001 likely
22 will not be applicable to the Project. In the event that a partition becomes necessary, IPC will
23 obtain approval of the partition directly from the county prior to construction. In no event,
24 however, may the Council or the county rely on BCZSO 1001 to refuse to site the Project on
25 EFU lands (see *Brentmar v. Jackson County*, 321 Or. 481 (1995)).

26 **Applications for Approval of Tentative Plans**

27 BCZSO 1002: A. Any landowner, or landowner's authorized agent or representative,
28 proposing to create a subdivision shall make application to the Planning Department for a
29 public hearing before the Planning Commission for review and approval of the subdivision.
30 Application for a subdivision shall be on forms provided for that purpose and shall be
31 accompanied by the required fee and twenty-one copies of the tentative plan of the proposed
32 subdivision. The tentative plans required by this Section shall meet the standards for such
33 plans as required by this Ordinance and ORS Chapters 92, 197 and 209. Tentative plans for
34 subdivisions can only be approved in nonresource zones. Tentative plans for partitions can
35 be approved in both resource zones and nonresource zones. . . .

36 BCZSO 1002 relates to the forms of certain Baker County subdivision applications. Because the
37 Council and not the county has jurisdiction over the land use decisions and conditional use
38 authorizations covered by the site certificate, the Council's and not the county's procedures for
39 obtaining such decisions and authorizations apply to the Project. Even so, site plans for typical
40 multi-use area and communication station setups are provided in Exhibit B, Section 3.3. Also, a
41 map showing the location and surrounding zoning of the multi-use areas and communication
42 stations in the EFU Zone in Baker County is set forth above.

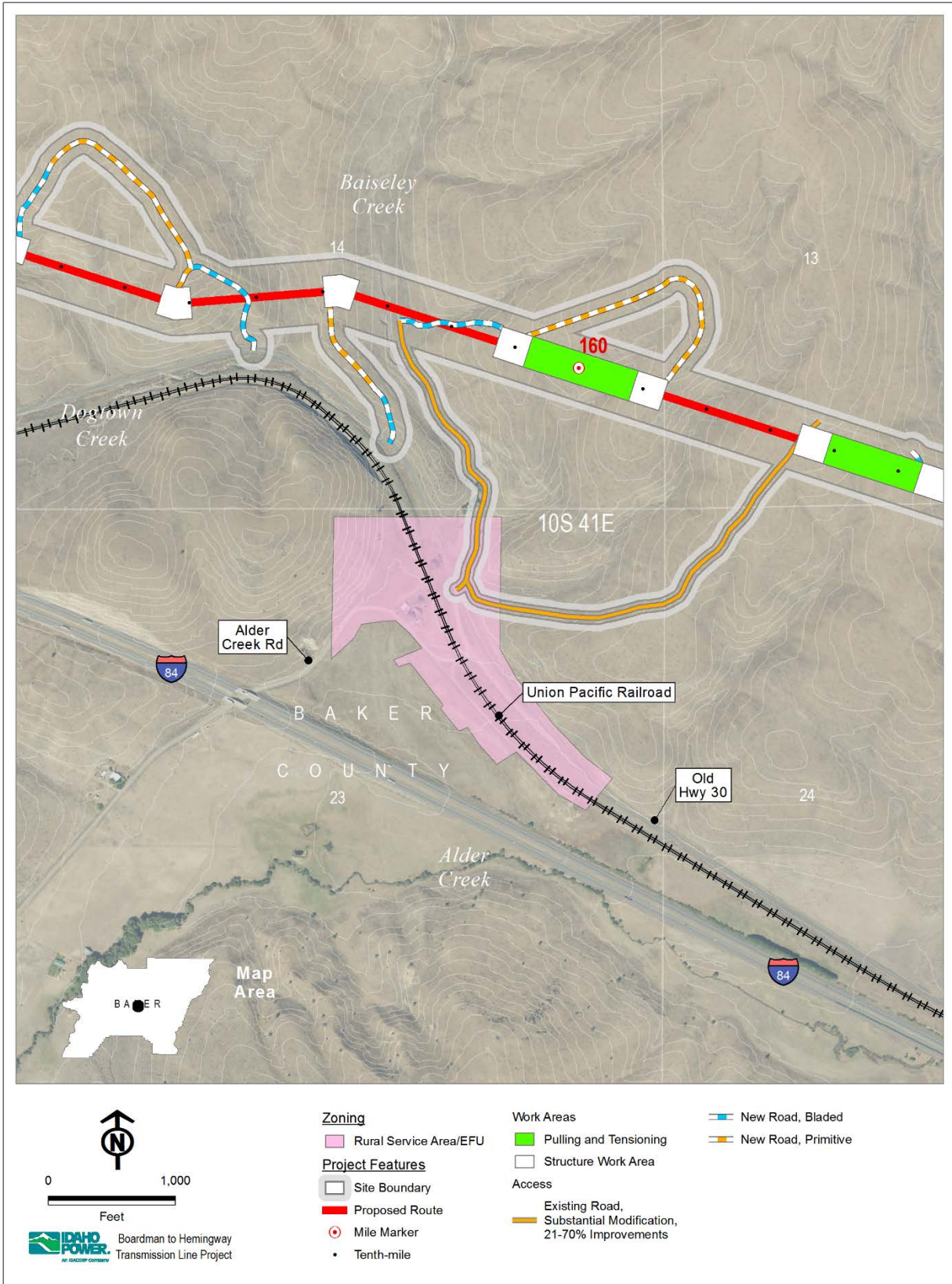
1 **Approval of Preliminary Partition Plans**

2 BCZSO 1006: An application for a partition in any zone shall be reviewed by the Planning
3 Director, subject to the applicable provisions in this Ordinance, statutory requirements, and
4 the notice requirements contained in ORS 215.416(11). The Planning Director may refer an
5 application to the Planning Commission if the Director determines that the proposal could
6 have significant impacts beyond the abutting properties that are not likely to be adequately
7 addressed by response to the notice requirements under ORS 215.416(11), or that the
8 proposal requires a public hearing to clarify County policy regarding issues of concern raised
9 by the proposal that are not otherwise addressed by this Ordinance. . . .

10 BCZSO 1006—including subsections BCZSO 1006.01 through 1006.03—addresses the form of
11 applications to partition a land use zone in Baker County. Here, IPC is not proposing to partition
12 any land use zone in Baker County, and therefore, BCZSO 1006 does not apply to the Project.

13 **5.8.2.2 Rural Service Area Zone**

14 Certain of the Project access roads will cross land in Baker County that is zoned as Rural
15 Service Area Zone (see Figure K-49).



1
2 **Figure K-49. Rural Service Area Zone – Baker County**

1 **Conditional Use Permit (All Project Features)**

2 **UCZPSO Provisions Identified by IPC**

3 In its September 22, 2010 letter, Baker County identified no BCZSO provisions relating
4 specifically to the Rural Service Area Zone. In this section, IPC discusses certain BCZSO
5 provisions identified by IPC and not Baker County as being potentially applicable to the Project
6 features in the Rural Service Area Zone. IPC addresses these ordinances for informational
7 purposes only.

8 **Conditional Uses**

9 BCZSO 305.02: In an RSA zone the following uses and their accessory uses are permitted
10 when authorized in accordance with the provisions of Article 6 of this Ordinance and the
11 provisions of Subsection 305.03 of this Section. . . . D. Major utility facilities as described in
12 Section 108(B) of this Ordinance.

13 As discussed above, the Project and its related and supporting facilities (including access
14 roads) is considered a utility facility for purposes of BCZSO 108(B). Therefore, the Project
15 features in the Rural Service Area Zone are permitted conditional uses.

16 **Standards for Granting a Conditional Use**

17 BCZSO 602: To determine whether a Conditional Use proposal shall be approved or denied,
18 the Commission shall find that the following standards, where applicable, are met. A. The
19 proposal will be consistent with the Comprehensive Plan and objectives of this Zoning and
20 Subdivision Ordinance and other applicable policies of the County. B. Taking into account
21 location, size, design and operating characteristics, the proposal will have a minimal adverse
22 impact on the (1) livability, (2) value, and (3) appropriate development of abutting properties
23 and the surrounding area compared to the impact of development that is permitted outright.
24 C. The location and design of the site and structures for the proposal will be as attractive as
25 the nature of the use and its setting warrant. D. The proposal will preserve assets of
26 particular interest to the community. E. In permitting a new Conditional Use or the alteration
27 of an existing Conditional Use, the Planning Commission may impose in addition to those
28 standards and requirements expressly specified by this Ordinance, additional conditions
29 which the Planning Commission considers necessary to protect the best interests of the
30 surrounding area or the County as a whole. These conditions may include, but are not limited
31 to,

32 As discussed in this section, the Project is consistent with the BCZSO and Baker County
33 Comprehensive Plan (BCCP) (see BCZSO 602(A)).

34 The Project will include only access roads in the Rural Service Area Zone, which roads will not
35 impact the livability, value, or development of the surrounding lands. If anything, the roads will
36 provide more access to such lands (see BCZSO 602(B)).

37 The access roads have been sited to minimize impacts in the area as much as possible (see
38 BCZSO 602(C)).

39 IPC has not identified any assets of particular interest that will be impacted by the access roads
40 (see BCZSO 602(D)).

41 Due to the limited impacts in the Rural Service Area Zone, no conditions specific to the Project
42 in the Rural Service Area Zone are necessary (see BCZSO 602(E)).

1 5.8.2.3 Historic, Cultural, and Natural Area Protection BCZSO Provisions

2 **Historic/Cultural and Natural Area Protection Procedure**

3 BCZSO 412: This Section shall not apply to sites designated as 3A or 3B sites, pursuant to
4 OAR 660-16-010 (1) and (2), respectively. Major alteration or destruction of a Natural Area
5 designated as 2A or 3C shall first require an ESEE analysis, justification, and Plan
6 Amendment.

7 A permit shall be required to destroy or make major alteration to a historic/cultural/natural site
8 or structure inventoried as significant in the County Comprehensive Plan. Upon receipt of an
9 application for said permit, the Planning Department shall institute a 30-day hold. During that
10 time various actions will be initiated by the County depending upon the nature of the
11 threatened resource. All of the inventoried natural sites, historic sites and the cultural sites
12 identified with one, two or three stars will be subject to a public hearing. Notice of the
13 proposed change and public hearing will be provided to the general public, the State Historic
14 Preservation Office, the State Natural Heritage Advisory Council, the State Department of
15 Fish and Wildlife and/or affected local historical, cultural, or governmental entities. The
16 opportunity to educate, persuade, pay for, and/or require the preservation of a significant
17 resource will be provided by the County. At the hearing before the Planning Commission a
18 review will be conducted to determine: A. If the change will destroy the integrity of the
19 resource. B. If the proposal can be modified to eliminate its destructive aspects. C. If any
20 agency or individual is willing to compensate the resource owner for the protection of the
21 resource. D. If the resource can be moved to another location. If, after this review, it is
22 determined by the County that the integrity of a significant historic/cultural structure or other
23 to allow, allow with conditions, or disallow the proposed change.

24 Baker County Planning Department provided to IPC information on inventoried historic/cultural
25 resources that may be in the analysis area and that should be considered in the resources
26 analysis below. IPC integrated the information into the archaeological study and VAHP study
27 (see Exhibit S, Attachment S-2), and impacts to the identified historic/cultural sites or structures
28 will be further analyzed during the intensive level survey of the VAHP study that will be
29 appended to Exhibit S.

30 There are no inventoried natural areas within the Site Boundary.

31 BCZSO 412: . . . FOR SIGNIFICANT HISTORIC/CULTURAL STRUCTURES AND
32 TOWNSITES. A. The historic/cultural structure or townsite constitutes a hazard to the safety
33 of the public occupants and cannot reasonably be repaired; or B. The retention of the
34 historic/cultural structure or townsite would cause financial hardship to the owner which is not
35 offset by public interest in the structure's/townsite's preservation; or C. The improvement
36 project is of substantial benefit to the County and cannot be reasonably located elsewhere,
37 and overrides the public's interest in the preservation of the historic/cultural structure or
38 townsite; or D. Major exterior alteration shall, to the extent possible, be consistent with the
39 historic/cultural character of the structure.

40 IPC does not expect that development of the Project will result in destruction or alteration of any
41 of the historic/cultural structures or townsites. As explained further in Exhibit S, IPC has
42 conducted analysis of historic, cultural, and archeological resources in the analysis area. See
43 Exhibit S, Section 3.2 for a discussion of survey methods. As shown on Figure K-50, IPC has
44 reviewed Baker County's inventory of Historic and Cultural Sites, Structures, Districts contained
45 within the BCCP Goal V Supplement and has identified the following resources that may be
46 located in the analysis area for the Project:

	Twp	Rge	Sec	Tax Lot	Date	Inventory	Ownership
Rattlesnake Springs Landmark	12	44	30	2200	1922	1 ***	ODOT

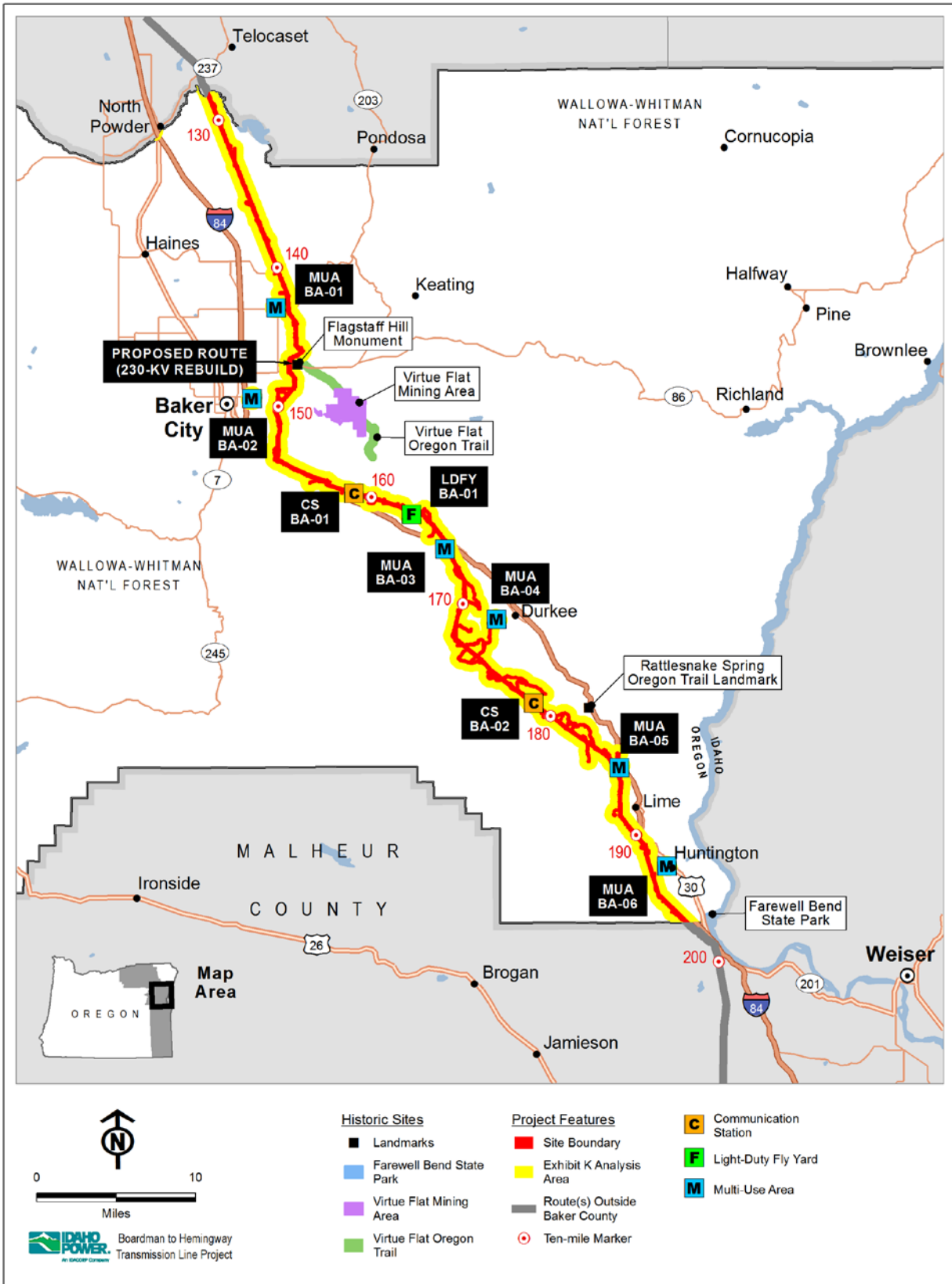
- 1 The Rattlesnake Springs Landmark is designated as a significant resource on Baker County's
 2 inventory of Historic and Cultural Sites, Structures, Districts. The Rattlesnake Springs Landmark
 3 is located in the analysis area approximately 0.5 mile west of the Proposed Route and would
 4 largely be screened from view by Gold Hill. It is not in the Site Boundary. The Project will not
 5 directly or indirectly impact the Rattlesnake Springs Landmark.

	Twp	Rge	Sec	Tax Lot	Date	Inventory	Ownership
Virtue Flat Oregon Trail (visible undisturbed wagon train ruts)	9	41			1843	6**	BLM

- 6 The Virtue Flat Oregon Trail (visible undisturbed wagon train ruts) is designated "of probable
 7 National Register eligibility or local significance" in Baker County's inventory of Historic and
 8 Cultural Sites, Structures, Districts. The resource may be indirectly affected by the Project and
 9 potential impacts will be discussed in the forthcoming intensive level survey for the VAHP study
 10 (see Exhibit S, Attachment S-2).

	Twp	Rge	Sec	Tax Lot	Date	Inventory	Ownership
Farewell Bend State Park	14	45	33	1600		1***	ODOT

- 11 The Project will not directly or indirectly impact the Farewell Bend State Park. The Farewell
 12 Bend State Park is located more than a mile from permanent Project features. Exhibit T, Section
 13 3.3.2, analyzes potential impacts of the Project to the Farewell Bend State Park, and finds that
 14 the Project would have no long-term adverse effect on the opportunity for visitors to use
 15 Farewell Bend. Indirect/disturbance impacts would be limited to visual resource effects, which
 16 would be minimal or nonexistent. Therefore, the recreational experience for park users would
 17 not be adversely affected by the Project.



1
2 **Figure K-50. Baker County Historic Sites**

	Twp	Rge	Sec	Tax Lot	Date	Inventory	Ownership
Flagstaff Hill Monument	9	41	6	500	1943	1,2***	BLM

1 The Flagstaff Hill Monument is in the analysis area of the Project but is not within the Site
 2 Boundary of the Project. Based on a review of photographs taken from this location along with
 3 site visits, it appears that the Proposed Route would not be viewed from this location; however,
 4 several structures may be visible at a distance of about 0.6 mile and backdropped by the valley
 5 and mountains in the background. Due to the nature of the resource and the fact that the Project
 6 will not affect the characteristics that make the monument important, no additional analysis will
 7 be conducted as a part of the VAHP.

8 BCZSO 412: . . . FOR SIGNIFICANT NATURAL AREAS. A. The existence of a site report:
 9 The site's relative significance is indicated by the existence of a site report indicating a field
 10 survey with one or more elements verified. B. Number of elements: The site is elevated to a
 11 higher priority if it contains a diversity of natural elements. C. Past use of land: The degree to
 12 which man's activities have already impacted an area is a significant factor in determining the
 13 value of protecting the resource. D. Abundance and quality of the same resource elsewhere
 14 on the County's inventory: In reviewing such comparative information the County will be able
 15 to make its decision knowing the relative significance of the resource in question. E.
 16 Financial impact: A determination that the retention of the natural area would cause financial
 17 hardship to the owner not offset by public interest in the site's preservation would be a
 18 determining factor in the County's decision. F. Public benefit from the proposed change: A
 19 finding that the change is of substantial benefit to the County and cannot be accommodated
 20 feasibly elsewhere on the applicant's property would be a significant factor in the County's
 21 decision.

22 There are no inventoried natural areas within the analysis area for the Project in Baker
 23 County.⁷¹

24 BCZSO 412: . . . FOR RESOURCES NOT INVENTORIED OR DESIGNATED AS 1B. For
 25 resources of unknown significance or resources not on the inventory, a local review will be
 26 conducted by BLM and USFS personnel with the consent of their supervisors, Oregon
 27 Department of Fish and Wildlife, State and/or college historians and local museum and
 28 historical society members to evaluate the resource's comparative worth and make a
 29 recommendation as to whether a full public hearing is warranted.

30 IPC is unaware of any resources of unknown significance or resources not on the inventory
 31 which are be located within the analysis area of the Project. IPC has conducted extensive
 32 analysis of historic, cultural, and archeological resources in the analysis area. See Exhibit S,
 33 Section 3.2 for a discussion of survey methods.

34 **5.8.3 Baker County Goal 5 Resources**

35 **5.8.3.1 Riparian Habitat**

36 Baker County has not designated any riparian habitats as Goal 5 designated resources. No
 37 analysis is required, and no standard must be met, to comply with the county's Goal 5 planning
 38 goals for protecting riparian habitat.

⁷¹ See Baker County Comprehensive Plan, Part 2. Section V., page 35 referencing Technical Information and Inventory Data for Land Use Planning in Baker County, Plate 17.

1 **5.8.3.2 Wetlands and Other Waters**

2 No designated wetlands or other waters are located within the Site Boundary. No analysis is
3 required, and no standard must be met, to comply with the county's Goal 5 planning goals for
4 protecting riparian habitat.

5 **5.8.3.3 Fish and Wildlife Habitat**

6 **Big Game Habitat**

7 IPC has contacted Baker County to identify the appropriate scope of the Goal 5 designated Big
8 Game Habitat. However, IPC has not received the necessary information to date.

9 **Rookeries**

10 Baker County has not designated any rookeries as Goal 5 designated resources. Baker County
11 has not adopted any Goal 5 protection program for rookeries. No analysis is required, and no
12 standard must be met, to comply with the county's Goal 5 planning goals for protecting rookeries.

13 **Fish Habitat**

14 Baker County has not designated any fish habitats as Goal 5 designated resources. Baker County
15 has not adopted any Goal 5 protection program for fish habitat. No analysis is required, and no
16 standard must be met, to comply with the county's Goal 5 planning goals for protecting fish habitat.

17 **5.8.3.4 Federal Wild and Scenic Rivers and Oregon Scenic Waterways**

18 Baker County has not designated any federal wild and scenic rivers or Oregon scenic
19 waterways as Goal 5 designated resources. Baker County has not adopted any Goal 5
20 protection program for federal wild and scenic rivers or Oregon scenic waterways. No analysis
21 is required, and no standard must be met, to comply with the county's Goal 5 planning goals for
22 protecting federal wild and scenic rivers or Oregon scenic waterways.

23 **5.8.3.5 Groundwater Resources**

24 Baker County has not adopted any Goal 5 protection program for groundwater resources. No
25 analysis is required, and no standard must be met, to comply with the county's Goal 5 planning
26 goals for protecting groundwater resources.

27 **5.8.3.6 Approved Oregon Recreation Trails**

28 Baker County has not adopted any Goal 5 protection program for approved Oregon recreation
29 trails. No analysis is required, and no standard must be met, to comply with the county's Goal 5
30 planning goals for protecting approved Oregon recreation trails.

31 **5.8.3.7 Natural Areas**

32 No designated natural areas are located within the Site Boundary. No analysis is required, and
33 no standard must be met, to comply with the county's Goal 5 planning goals for protecting
34 natural areas.

35 **5.8.3.8 Wilderness Areas**

36 Baker County has not adopted any Goal 5 protection program for wilderness areas. No analysis
37 is required, and no standard must be met, to comply with the county's Goal 5 planning goals for
38 protecting wilderness areas.

1 **5.8.3.9 Mineral Aggregate Sites**

2 No designated mineral aggregate sites are located within the Site Boundary. No analysis is
3 required, and no standard must be met, to comply with the county's Goal 5 planning goals for
4 protecting mineral aggregate sites.

5 **5.8.3.10 Energy Resources**

6 Baker County has not adopted any Goal 5 protection program for energy resources. No analysis
7 is required, and no standard must be met, to comply with the county's Goal 5 planning goals for
8 protecting energy resources.

9 **5.8.3.11 Cultural Resources**

10 See information regarding cultural resources above in Section 5.8.2.5.

11 **5.8.3.12 Historic Resources**

12 Baker County has combined historic and cultural resources into one analysis, inventory, and
13 map (see BCCP p. V-69). Those resources are addressed above in Section 5.8.3.11 regarding
14 cultural resources.

15 **5.8.3.13 Open Spaces**

16 Baker County has not designated any open spaces as Goal 5 designated resources. Baker County
17 has not adopted any Goal 5 protection program for open spaces. No analysis is required, and no
18 standard must be met, to comply with the county's Goal 5 planning goals for protecting open spaces.

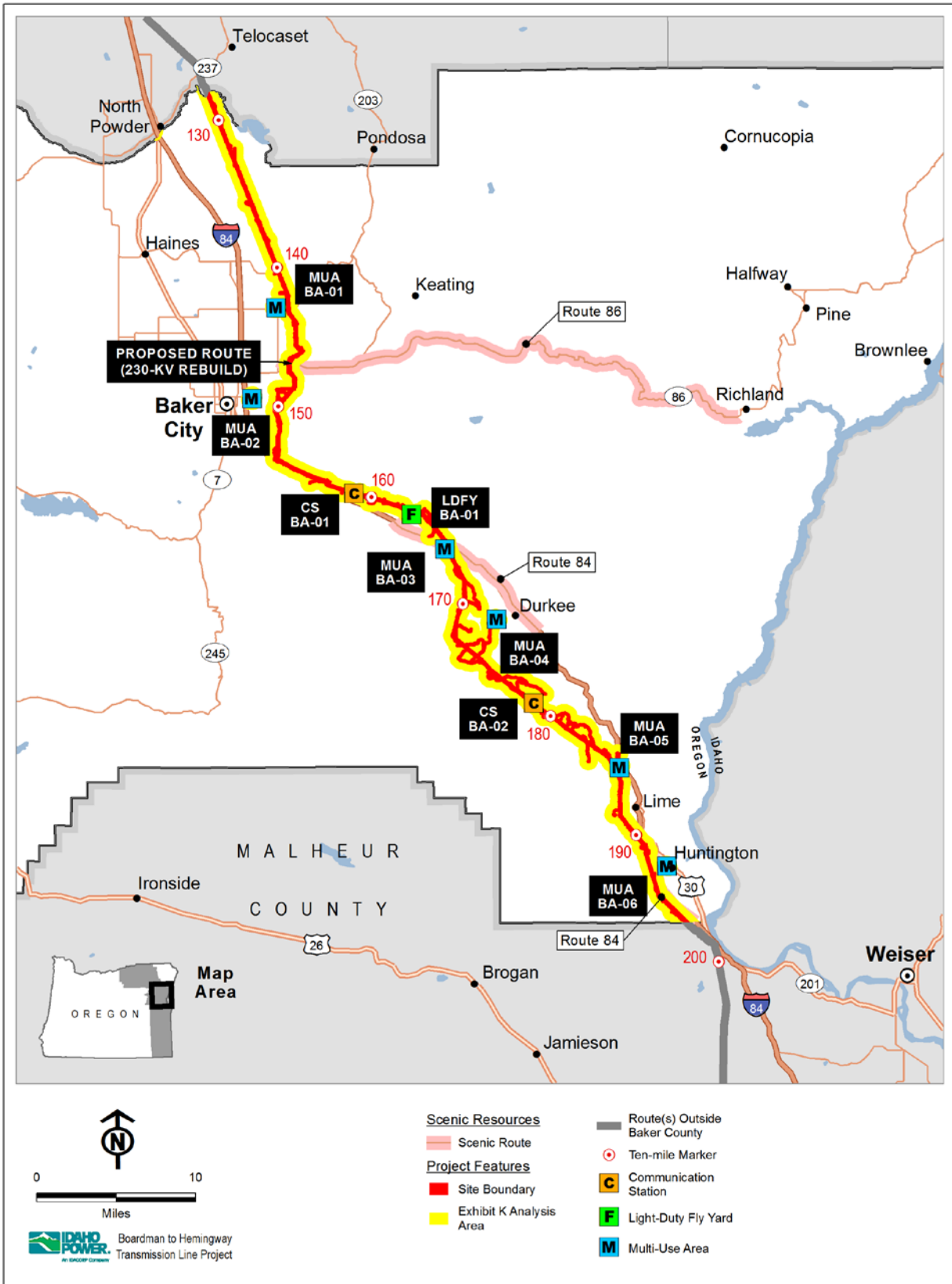
19 **5.8.3.14 Scenic Views/Sites**

20 Baker County appears to consider the following resources to be important scenic resources per
21 OAR 345-022-0080: (i) Oregon State Route 86 (OR 86), including the Transamerica Bikeway;
22 (ii) the NHOTIC ACEC, adjacent to I-84 near MP 142 (Figure K-51); and (ii) I-84. Baker County
23 has not adopted any Goal 5 protection program for scenic views or sites—i.e., there are no
24 standards in the BCZSO, 1993 Comprehensive Plan, or Goal 5 Resources Supplement
25 addressing specifically protections for designated scenic views or sites. Therefore, no analysis
26 is required, and no standard must be met, to comply with the county's Goal 5 planning goals for
27 protecting scenic views or sites. Even so, IPC discusses OR 86 and the NHOTIC, and shows
28 impacts to the same resulting from the Project will be less than significant.

29 **Oregon State Route 86**

30 OR 86 is a designated scenic corridor representing scenic views and sites considered indigenous
31 to Baker County (Baker County 2000). The designated scenic segment of OR 86 extends for
32 approximately 36 miles from MP 4.81 (near Sunnyslope Lane) to MP 40.64 (Eagle Creek). OR 86
33 is used as a primary travel corridor between Baker City and the towns of Richland and Keating.
34 This road is also used by people touring on the scenic byway. This stretch of the highway
35 experiences average daily traffic volume of approximately 930 vehicles [ODOT 2012]).

36 Visual impacts to OR 86 will be of medium intensity, resulting from low viewer perception and
37 medium resource change. Impacts will result from the combined influence of the Project and
38 other past or present actions, notably the existing and rebuilt 138-kV transmission line. Since no
39 specific management direction has been established for this scenic resource, and IPC's impacts
40 are localized, IPC has not found the Project to preclude the resource from providing the scenic
41 value for which it is recognized. Therefore, visual impacts to OR 86 are less than significant
42 (see Scenic Resources Impact Assessment, Exhibit R, Attachment R-3, Section 3.0 for a
43 comprehensive assessment of visual impacts to this area).



1
2 **Figure K-51. Baker County Scenic Routes**

1 **National Historic Oregon Trail Interpretive Center (NHOTIC)**

2 The NHOTIC ACEC is designated and managed by the BLM as an ACEC to preserve the
3 unique historic resource and visual qualities of this area. Because of this management direction,
4 the NHOTIC ACEC is considered an important scenic resource per OAR 345-022-0080. The
5 Proposed Route would not bisect the ACEC and therefore would not fragment the resource.

6 Visual impacts to the Oregon Trail ACEC – NHOTIC Parcel will be medium intensity, resulting
7 from both medium resource change and viewer perception. Impacts will result from the
8 combined influence of the Project and other past or present actions. Medium intensity impacts
9 will not preclude the NHOTIC Parcel from providing the visual qualities that exist within the
10 ACEC, or as influenced from the surrounding landscape. Therefore, visual impacts to the
11 NHOTIC Parcel will be less than significant (see Scenic Resources Impact Assessment, Exhibit
12 R, Attachment R-3, Section 9.0 for a comprehensive assessment of visual impacts to this area).

13 **Interstate 84**

14 Route I-80N - Highway 6

15 a. From milepoint 317.39 (Pleasant Valley Interchange) To milepoint 329.24 (1.81 miles SE
16 Durkee Interchange)

17 b. From milepoint 345.78 (Huntington Interchange) To milepoint 352.00 (Baker/Malheur
18 County Line)

19 The BCCP includes "I80-N" as an inventoried scenic resource. Since the time of adoption of the
20 BCCP, I-80N has been renamed I-84. The Proposed Corridor parallels two portions of I-84 that
21 are designated as scenic.

22 **Pleasant Valley—Durkee**

23 The northerly segment of I-84 that is identified by Baker County as a scenic highway extends
24 from MP 317.39 (at the Pleasant Valley Interchange) to MP 329.24 (1.8 mile southeast of the
25 Durkee Interchange), a distance of about 12 miles. The Proposed Route is roughly parallel to
26 the entire scenic highway segment. For the majority of this segment, the Proposed Route
27 parallels two existing transmission lines (138-kV and 69-kV).

28 In some locations, particularly where the Project would be close to the freeway, the facilities
29 would be seen against a backdrop of low ridges flanking the highway. At other locations, the
30 Project facilities would be skylined along those ridges. In those locations where the Project
31 would be visible, it would be viewed in conjunction with one or two existing transmission lines. In
32 other locations, there would be limited visibility of the Project, particularly in the central portion of
33 the scenic segment where the Proposed Route ranges from 1 to 3 miles from I-84.

34 The Project would have a variable visual presence along the Pleasant Valley to Durkee scenic
35 highway segment, with the degree of contrast at specific locations ranging from none to
36 moderate or strong. Viewed within a context limited to this 12-mile freeway segment, there
37 would be some degree of visual impact for approximately half of the identified scenic resource.
38 Throughout this highway segment, existing development features have had a substantial
39 influence on the character of the landscape. The freeway itself introduces considerable contrast
40 and often dominates the landscape. In addition, Old Highway 30 runs directly adjacent to I-84 in
41 most of the segment and is never more than about 0.5 mile distant; an active Union Pacific
42 railroad line is similarly close for more than 10 miles of the highway segment; existing 69-kV and
43 138-kV transmission lines are typically within 0.5 mile and are a nearly continuous visual
44 presence; and developed land uses are noticeable in the Durkee area and at several scattered

1 locations along I-84. The existing landscape surrounding the scenic highway segment exhibits
 2 considerable modification as a result of human activity, and the incremental change to that
 3 landscape as a result of the Project would be relatively small.

4 Impacts to the I-84 Pleasant Valley-Durkee Area will be of high intensity, resulting from high
 5 resource change and medium viewer perception. Impacts will result solely from the Project, and
 6 not from other past or present actions. The Project will not preclude the ability of the resource to
 7 provide the scenic value for which it was designated, as impacts would be localized and not
 8 affect scenic resources at a regional scale. Therefore, visual impacts will be less than significant
 9 (see Scenic Resources Impact Assessment, Exhibit R, Attachment R-3, Section 4.0 for a
 10 comprehensive assessment of visual impacts to this area).

11 **Huntington Area**

12 The southerly segment of I-84 that is identified by Baker County as a scenic highway extends
 13 from MP 345.78 (at the Huntington Interchange) to MP 352.0 (at the Baker/Malheur County
 14 line), a distance of about 6 miles. The Proposed Route northwest of Huntington approaches
 15 within about 0.3 mile of the northern end of the scenic highway segment. The Proposed Route
 16 continues to parallel within 0.3 mile to the east and then southwest of the remainder of the
 17 scenic highway segment, before angling to the southeast and away from I-84.

18 Visual impacts to the I-84 Huntington to Baker/Malheur County Line will be of high intensity,
 19 resulting from high resource change and medium viewer perception. Impacts will result solely
 20 from the Project, and not from other past or present actions. The Project will not preclude the
 21 ability of the resource to provide the scenic value for which it was designated, as impacts would
 22 be localized and not affect scenic resources at a regional scale. Therefore, visual impacts will
 23 be less than significant (see Scenic Resources Impact Assessment, Exhibit R, Attachment R-3,
 24 Section 5.0 for a comprehensive assessment of visual impacts to this area).

25 **5.8.4 Noxious Weed Management Plan**

26 Baker County identified the Baker County Noxious Weed Management Plan and ORS 570.500
 27 through ORS 570.575 as applicable substantive criteria. The above-referenced sections of the
 28 statutes identified by Baker County have since been renumbered, and are now contained within
 29 Chapter 569 (specifically ORS 569.350 through ORS 569.450). Relevant portions of the statutes
 30 and the Baker County Noxious Weed Management Plan are excerpted below:

31 **ORS 569.390 Owner or occupant to eradicate weeds.**

32 Each person, firm or corporation owning or occupying land within the district shall destroy or
 33 prevent the seeding on such land of any noxious weed within the meaning of ORS 569.360
 34 to 569.495 in accordance with the declaration of the county court and by the use of the best
 35 means at hand and within a time declared reasonable and set by the court, except that no
 36 weed declared noxious shall be permitted to produce seed.

37

38 **Baker County Noxious Weed Management Plan**

39 **THEREFORE, IT SHALL BE THE POLICY OF BAKER COUNTY TO:**

- 40 1. Increase awareness of potential economic loss due to existing and new invading weeds
- 41 through continuous education with the public.
- 42 2. Rate and classify weeds at the county level
- 43 3. Prevent the establishment and spread of noxious weeds.

- 1 4. Encourage and implement the control or containment of infestations of designated weed
 2 species and, where possible, their eradication. When budgets allow, offer a landowner cost
 3 share program for “A” rated weeds, as well as those weeds designated appropriate for cost
 4 share assistance by the Board of Commissioners.
- 5 5. Manage a biological control of weeds program for yellow starthistle, leafy spurge, St.
 6 Johnswort, Canada thistle, rush skeletonweed, diffuse knapweed, spotted knapweed, and
 7 others, in cooperation with ODA's Biological Control of Weeds Program.
- 8 6. Cooperate with other states, federal agencies, private citizens, the Tri-County Weed
 9 Management Area and other groups in enhancing the Baker County Vegetation Management
 10 Program.

11 IPC will undertake measures to manage noxious weeds consistent with ORS 569.350 through
 12 ORS 569.450 and consistent with Baker County’s Noxious Weed Management Plan. For
 13 additional discussion, refer to IPC’s Reclamation and Revegetation Plan (Exhibit P1,
 14 Attachment P1-3) and Vegetation Management Plan (Exhibit P1, Attachment P1-4).

15 **5.8.5 EFU Micro Analysis for Baker County**

16 As shown above in Section 4, the Project must be sited in an EFU zone in order to provide its
 17 intended services due to one or more of the factors set forth in ORS 215.275(2).
 18 ORS 215.283(1)(c)(A) requires IPC make that showing only at the “macro”⁷² level, examining
 19 the need to site on EFU lands at a project-wide level across all five relevant counties. Though
 20 beyond what is required by the statute, the following section makes a similar showing at the
 21 “micro” or county level, by providing a detailed discussion of the necessity of siting the Project in
 22 EFU in Baker County. This section is organized in the same way as the macro analysis,
 23 providing information specific to the siting of the Project in Baker County.

24 **5.8.5.1 Reasonable Alternatives Considered**

25 Through the CAP, IPC considered approximately 31 alternative routes or segments in Baker
 26 County, nearly all of which cross EFU (see 2010 Siting Study).⁷³ The Supplemental Siting Study
 27 contains additional discussion regarding the consideration of alternatives in this area that led to
 28 the selection of the Proposed Corridor and identification of alternative corridor segments.
 29 However, EFU-zoned lands in Baker County are unavoidable in reaching the Wallowa- Whitman
 30 NF utility corridor from the Hemingway Substation. As a result, there are no reasonable non-
 31 EFU alternative routes in Baker County.

32 **5.8.5.2 Factors Requiring Siting of the Project on Baker County Land Zoned EFU**

33 Of the six factors justifying location of a utility facility necessary for public service on EFU, three
 34 factors drove IPC’s location of the Project in Baker County: locational dependence, lack of
 35 available urban and nonresource land, and availability of existing ROWs.

36 **Technical and Engineering Feasibility**

37 The need for siting the Project in EFU lands in Baker County was not driven by technical or
 38 engineering feasibility considerations.

⁷² In the context of Exhibit K, “macro” analysis refers to analysis of the Project across all five counties, and “micro” analysis is a county-specific analysis.

⁷³ Although two of the route segments identified in the southwestern portion of Baker County during the CAP did not cross EFU in Baker County, the route segments were not considered viable because they would force the Project to cross several EFSC-designated protected areas and other sensitive resources. See Exhibit B, Attachment B-1, 2010 Siting Study.

1 **Locational Dependence**

2 A utility facility is considered locationally dependent if it must cross land in one or more areas
3 zoned EFU in order to achieve a reasonably direct route or to meet unique geographical needs
4 that cannot be satisfied on non-EFU lands. As shown in Figures K-47 and K-48, the two points
5 where the Project enters and exits Baker County are surrounded by EFU lands and there is no
6 feasible way to connect those endpoints (let alone achieve a reasonably direct route between
7 the points) without crossing EFU lands. Therefore, at a county level of analysis, the Project must
8 be sited in EFU lands due to the Project's locational dependence.

9 **Lack of Available Urban and Nonresource Lands**

10 As shown in Figure K-4, there are very few urban and nonresource lands in Baker County and
11 there is no apparent path through urban or nonresource lands upon which to locate the Project
12 from the Union County line south to the Malheur County line. Consequently, there is a lack of
13 available urban and nonresource lands in Baker County, and EFU lands must be crossed by the
14 Project.

15 **Availability of Existing Rights of Way**

16 A utility facility that must be sited in EFU lands due to the availability of existing ROWs is
17 considered necessary for public service under ORS 215.275(2)(d). This factor "reflects a
18 preference for placing new linear facilities in existing public and private rights-of-way, as
19 opposed to creating new right-of-way."⁷⁴ The phrase "existing right-of-way" refers to existing
20 transportation and utility ROWs within which the Project could potentially co-locate.⁷⁵ Here,
21 there was no existing utility ROW that traveled the entire path between the Project endpoints in
22 a reasonably direct route. Even so, as discussed in Exhibit B, Section 3.1.1.2, IPC made
23 reasonable efforts to locate the Project in or adjacent to existing federal ROW corridors where
24 possible, including the West-wide Energy Corridor traveling through Baker County. Indeed, 35.7
25 line miles of the Proposed Route were located in one of those utility corridors (see Figure K-5).
26 Because most of Baker County is zoned EFU, the Project must cross EFU lands to enter or exit
27 the utility corridors. Therefore, to take advantage of the available utility corridors, the Project
28 must be sited in EFU lands and the Project is necessary for ORS 215.275(2)(c).

29 **Public Health and Safety**

30 The need for siting the Project in EFU lands in Baker County was not driven by public health
31 and safety considerations.

32 **Other Requirements of State or Federal Agencies**

33 The need for siting the Project in EFU lands was not driven by state or federal requirements
34 beyond those set forth at ORS 215.275(a) through (e) (see ORS 215.275(2)(f)). However, the
35 following certain state and federal requirements influenced the ultimate location of the Project,
36 by creating constraints on particular EFU lands, thereby influencing which EFU lands the Project
37 crosses. The BLM-managed lands traversed by the Proposed Route are protected by several
38 federal and state requirements, including key sage-grouse habitat recognized by both BLM and

⁷⁴ NWN SMPE Final Order Attachment B at 9-10.

⁷⁵ There is no statutory definition of the term "rights-of-way," but Webster's defines the term right-of-way as "(1) a legal right of passage over another person's ground; or (2) (a) the area over which a right-of-way exists; (b) the strip of land over which is built a public road; (c) the land occupied by a railroad especially for its main line; and (d) the land used by a public utility (as for a transmission line). Webster's Third New Int'l Dictionary, 1956 (unabridged 1993).

1 ODFW and the BLM Virtue Flats ACEC. Those federal and state requirements drove the
2 location of the Proposed Route on EFU land in Baker County.

3 **5.8.5.3 Costs Were Not the Only Factor Considered**

4 As discussed in Exhibit B and its attached siting studies, costs were not the only consideration
5 in selecting IPC's Proposed Route. Avoidance of sensitive resources, permitting and
6 construction factors, and extensive input from local citizens and officials and many other
7 stakeholders were the primary factors in corridor selection (see ORS 215.275(3)).

8 **5.8.5.4 Restoration of Agricultural Land**

9 Table K-29 describes the temporary and permanent impacts on agricultural lands in Baker
10 County. Appendix A of the Agricultural Lands Assessment (Attachment K-1) contains aerial
11 photographs showing affected agricultural areas in the EFU zone.

12 **Table K-29. Temporary and Permanent Impacts on Agricultural Lands in Baker**
13 **County¹**

Route	Agriculture Type ²	Temporary Impacts (acres)	Permanent Impacts (acres)
Proposed	Dryland Farming	–	–
	Irrigated AG	3.4	–
	Pasture/Hay	49.7	1.6

¹ Includes single-circuit 230-kV and double-circuit 138/69-kV rebuilds.

² Agricultural type determined from the Agricultural Lands Assessment provided in Attachment K-1.

14 The Agricultural Lands Assessment (Attachment K-1) discusses measures IPC will take to
15 minimize and mitigate for potential impacts to agricultural operations within each zone. These
16 measures can be adopted as conditions of approval to ensure that the Project will not result in
17 significant adverse impacts to agricultural lands within this portion of the Project.

18 **5.8.5.5 Mitigation and Minimization Conditions**

19 As discussed in the Agricultural Lands Assessment, IPC does not expect that the Project will
20 have adverse impacts on surrounding lands, result in significant changes in accepted farm
21 practices or a significant increase in the cost of farm practices on the surrounding farmlands.

22 **5.8.6 Idaho Power's Proposed Site Certification Conditions Relevant to BCZSO** 23 **Compliance**

24 IPC proposes the following site certificate conditions to ensure the Project complies with the
25 applicable Baker County substantive criteria, as well as other relevant requirements.

26 **Prior to Construction**

27 **Land Use Condition 1:** *Prior to construction, the site certificate holder shall*
28 *finalize, and submit to the department for its approval, a final Agricultural*
29 *Assessment. The protective measures described in the draft Agricultural*
30 *Assessment in ASC Exhibit K, Attachment K-1, shall be included and*
31 *implemented as part of the final Agricultural Assessment, unless otherwise*
32 *approved by the department.*

33 **Public Services Condition 2:** *Prior to construction, the site certificate holder*
34 *shall submit to the department for its approval a Helicopter Use Plan, which*
35 *identifies or provides:*

- 1 a. The type of helicopters to be used;
- 2 b. The duration of helicopter use;
- 3 c. Roads or residences over which external loads will be carried;
- 4 d. Multi-use areas and light-duty fly yards containing helipads shall be located: (i)
- 5 in areas free from tall agricultural crops and livestock; (ii) at least 500 feet from
- 6 organic agricultural operations; and (iii) at least 500 feet from existing dwellings
- 7 on adjacent properties; and
- 8 e. Flights shall occur only between sunrise and sunset.

9 **During Construction**

10 **Land Use Condition 8:** During construction, the site certificate holder shall

11 conduct all work in compliance with the final Agricultural Assessment referenced

12 in Land Use Condition 1.

13 **Public Services Condition 6:** During construction, the site certificate holder

14 shall conduct all work in compliance with the Helicopter Use Plan referenced in

15 Public Services Condition 2.

16 **During Construction in Baker County**

17 **Land Use Condition 20:** During construction in Baker County, the site certificate

18 holder shall construct the facility to comply with the following setback distances

19 and other requirements:

20 In the EFU Zone:

- 21 a. Buildings shall be setback as follows: front yards shall be set back at least 20
- 22 feet from property lines and road rights-of-way.
- 23 b. Buildings and the fixed bases of transmission line towers shall be set back at
- 24 least 60 feet from the center line of a road or street or 30 feet from any right-of-
- 25 way in excess of 60 feet.
- 26 c. Buildings and the fixed bases of transmission line towers shall be set back at
- 27 least 10 feet from property lines.
- 28 d. Buildings and the fixed bases of the transmission line towers shall be set back
- 29 at least 50 feet from the high-water mark of naturally-occurring riparian area, bog,
- 30 marsh, or waterway.

31 **5.9 City of Huntington**

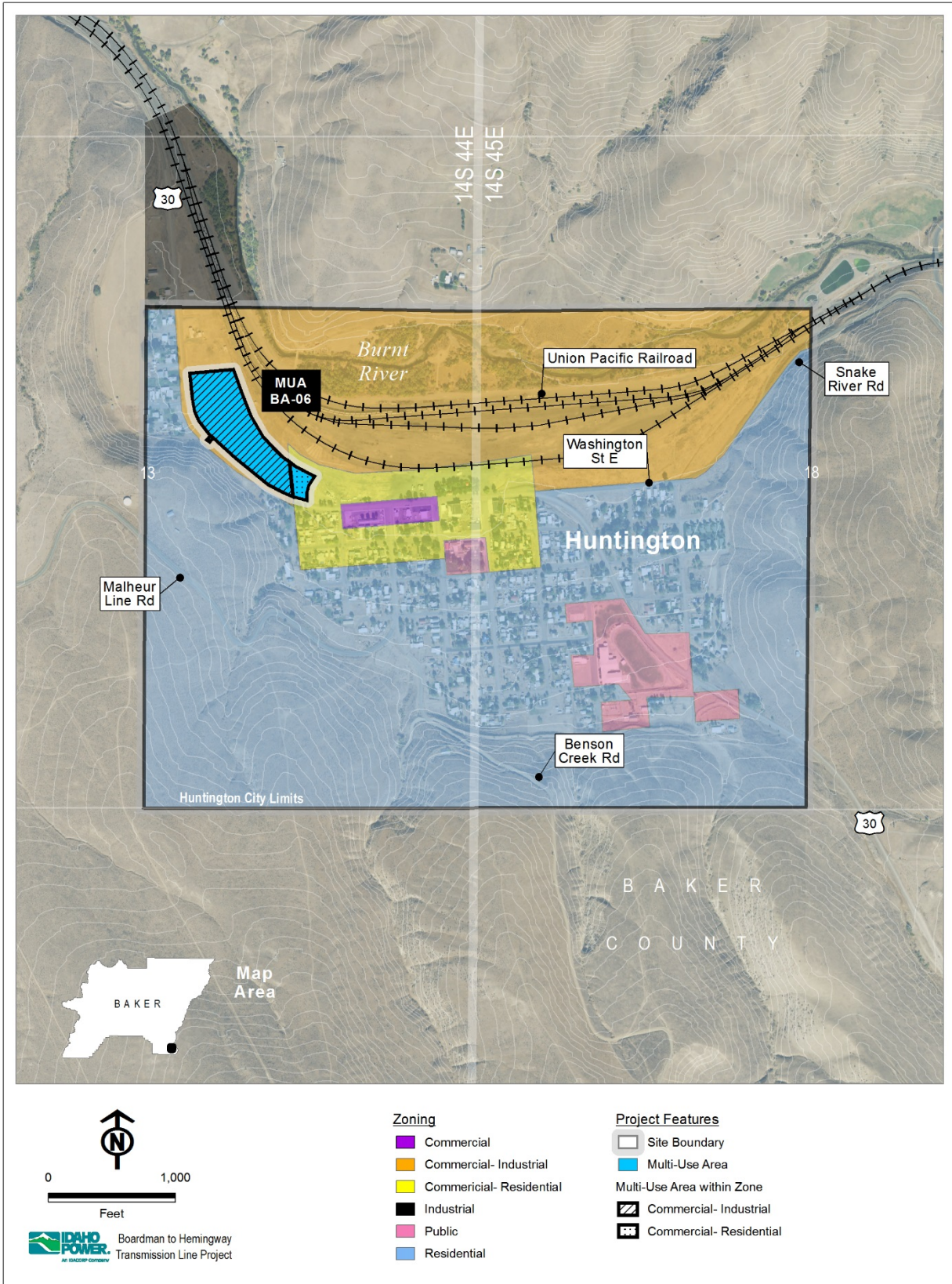
32 **5.9.1 Project Features in Huntington**

33 Multi-use area MUA BA-6 will be located inside limits of the City of Huntington (Attachment C-2,

34 Map 91). Zoning is split, with approximately 85 percent being Commercial Industrial and the

35 remaining portion being Commercial Residential according to the City of Huntington (see Figure

36 K-52).



1
2

Figure K-52. Multi-Use Area (MUA BA-06) within the City of Huntington

1 **5.9.2 City of Huntington Zoning Ordinance Provisions**

2 **5.9.2.1 Commercial Industrial Zone CHZO Provisions**

3 **City of Huntington Zoning Ordinance Provisions Identified by the City**

4 The City of Huntington has not provided a letter to ODOE identifying potentially applicable local
5 substantive criteria. However, the City indicated to IPC in a June 2, 2016, email that the multi-
6 use area would require no City permits because it will be a temporary and not a permanent use.

7 **City of Huntington Zoning Ordinance Provisions Identified by Idaho Power**

8 IPC identified the following City of Huntington Zoning Ordinance (CHZO) provisions as being
9 potentially applicable to the Project. IPC discusses these provisions for informational purposes only.

10 **Multi-Use Area Land Use Decision**

11 **Uses Permitted Outright**

12 CHZO 153.080: (A) In the CI Zone, the following uses are permitted outright: (l) Any
13 commercial use permitted outright in the CR Zone. (2) Industrial: manufacturing, compounding,
14 fabricating, processing, repairing, packing or storage. (B) Any industrial or commercial use
15 according to this section shall meet the requirements of § 153.050(B) and (C).

16 The multi-use area activities are considered industrial uses, and therefore, they are permitted
17 outright in the Commercial Industrial Zone (see CHZO 153.080(A)(2)).

18 **Minimum Lot Size**

19 CHZO 153.082: In the CI Zone, the minimum lot size shall be the same as provided for
20 commercial uses in the CR Zone.

21 CHZO 153.052: (A) In the CR Zone, the minimum lot or parcel size for dwellings shall be as
22 follows: (1) Single, two-family, and mobile dwellings: 4,000 square feet. (2) Multiple-family
23 dwellings and rooming houses: 4,000 square feet, plus the additional areas according to §
24 153.032. (3) Mobile home parks or recreational vehicle parks: See §§ 153.095 et seq. (B) In
25 the CR Zone, the minimum lot or parcel size for commercial use shall be 4,000 square feet.
26 (C) All uses shall have adequate area to meet the property line setback requirements and
27 off-street parking requirements of this chapter.

28 CHZO 153.082 applies to all uses in the Commercial Industrial Zone. CHZO 153.052 is made
29 applicable to the Project by reference in CHZO 153.080. Both CHZO 153.082 and CHZO 153.052
30 address the size of parcels and is applicable only to the extent that a partition is required. IPC
31 intends to secure easements for the majority of Project features and does not expect to require
32 partition of any parcel. Because the Project likely will not involve lot splits, CHZO 153.080 and
33 CHZO 153.052 likely will not be applicable to the Project. In the event that a partition becomes
34 necessary, IPC will obtain approval of the partition directly from the city prior to construction.

35 **Property Line Setback**

36 CHZO 153.083: In the CI Zone, the property line setback distances shall be the same as
37 provided for commercial uses in the CR Zone.

38 CHZO 153.053(A): In the CR Zone, all dwellings, including attached structures and
39 accessory buildings, and any other building, including attached structures and accessory
40 buildings, providing dwelling units, boarding or rooming facilities shall maintain a setback

1 distance from property lines as follows: (1) Front property line: 10 feet. (2) Side and rear
2 property lines: 5 feet.

3 CHZO 153.083 applies to all uses in the Commercial Industrial Zone. CHZO 153.053 is made
4 applicable to the Project by reference in CHZO 153.083. CHZO 153.053(A) provides all
5 dwellings, and other buildings that include dwelling facilities, must be certain setback
6 requirements. Here, the Project includes no buildings or structures that will be used for living
7 purposes or intended to be lived in. Therefore, the setback requirements of
8 CHZO 153.053(A)(1) do not apply to the Project

9 CHZO 153.053(B): In the CR zone, commercial buildings and structures shall not be required
10 to maintain a setback distance from property lines, except where a property line abuts or
11 faces the R Zone, in which case a setback distance of 15 feet from the abutting or facing
12 property line or lines shall be maintained.

13 CHZO 153.053(B) provides commercial buildings and structures requires a 15-foot setback
14 where the relevant property abuts or faces a Residential Zone. Here, because the City indicated
15 that no permits are required for temporary facilities such as the multi-use area, the setback
16 requirements of CHZO 153.053(B) will not apply to the Project.

17 5.9.2.2 Commercial-Residential Zone CHZO Provisions

18 **City of Huntington Zoning Ordinance Provisions Identified by Idaho Power**

19 IPC and not the City identified the following CHZO provisions as being potentially applicable to
20 the Project. IPC discusses these provisions for informational purposes only.

21 **Multi-Use Area Conditional Use Permit**

22 **Permitted Uses; Conditional Uses**

23 CHZO 153.050: (A) In the CR Zone, the following uses are permitted outright: (1) Any use
24 permitted outright in the CR Zone. (2) Commercial: limited to the customary and ordinary
25 sales and/or services establishments conforming to divisions (B) and (C) of this section.
26 (B) Any commercial use according to this section, except for parking and loading activity,
27 shall be conducted entirely within buildings and shall require no outside storage of materials,
28 supplies or products. (C) Any commercial use according to this section shall be reasonably
29 free of objectionable odor, noise, smoke, glare, heat, vibration, or other adverse effect on
30 neighboring property.

31 CHZO 153.051: In the CR Zone, the following uses and their accessory uses are permitted
32 when authorized in accordance with §§ 153.145 et seq.: (A) Any use that is subject to such
33 approval in the R Zone. (B) Any commercial use that reasonably cannot meet the standards
34 of§ 153 .050(B) and (C).

35 Zoning for the multi-use area is split, with approximately 85 percent being Commercial Industrial
36 and the remaining portion being Commercial Residential. Here, because the City indicated that no
37 permits are required for temporary facilities such as the multi-use area, the setback requirements
38 of CHZO 153.053(B) will not apply to the Project. Even so, the Project nonetheless complies with
39 statewide planning goals for the reasons discussed below in Section 6.0.⁷⁶

⁷⁶ Pursuant to OAR 345-022-0030(2)(b)(B), if a facility “does not comply with one or more of the applicable substantive criteria,” the Council must find that “the facility otherwise complies with the statewide planning goals or an

1 **5.10 Malheur County**

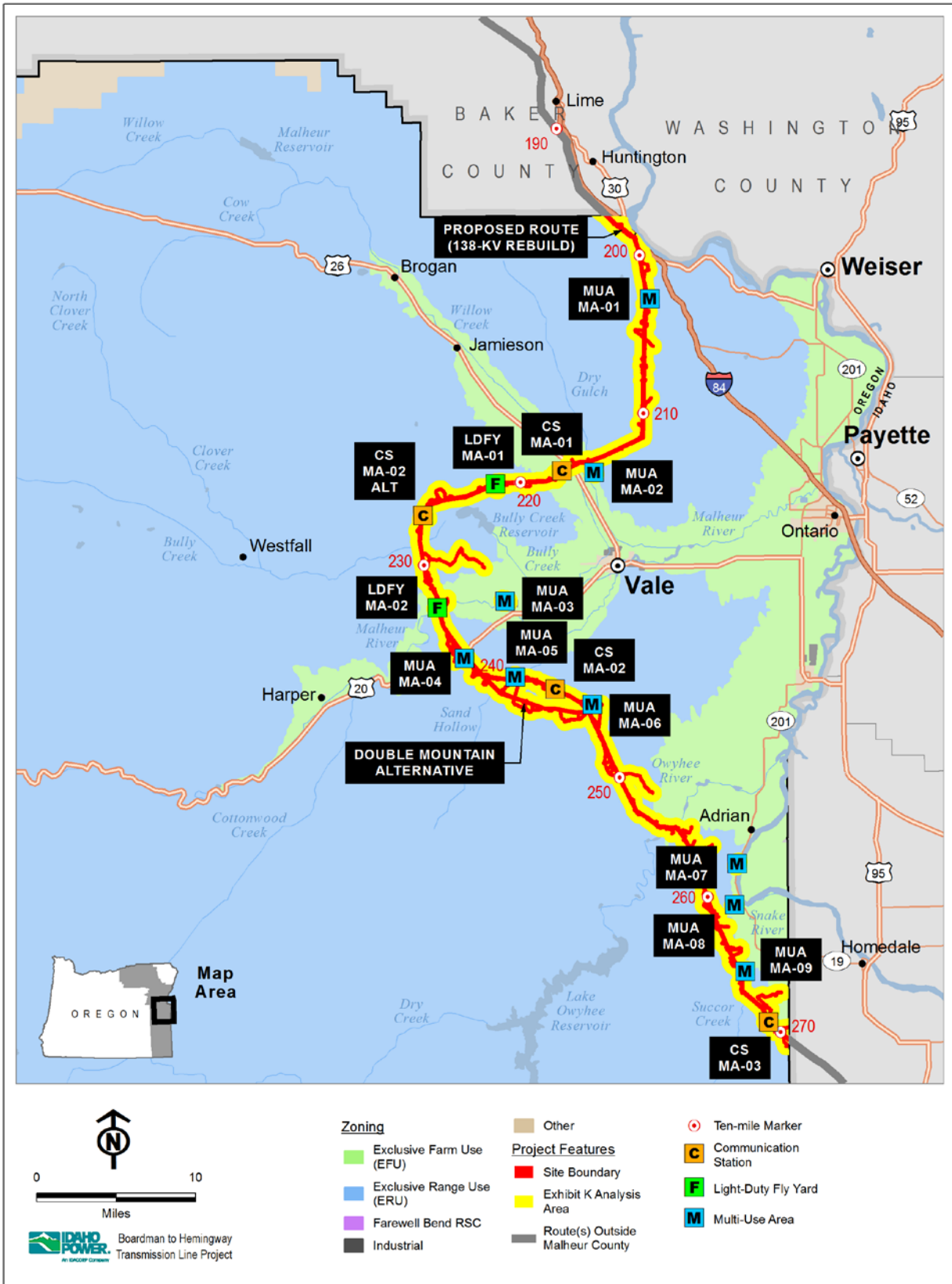
2 The following section describes the elements of the Project that will be located in Malheur
3 County and provides analysis regarding compliance with the applicable local substantive
4 criteria.

5 **5.10.1 Project Facilities and Location in Malheur County**

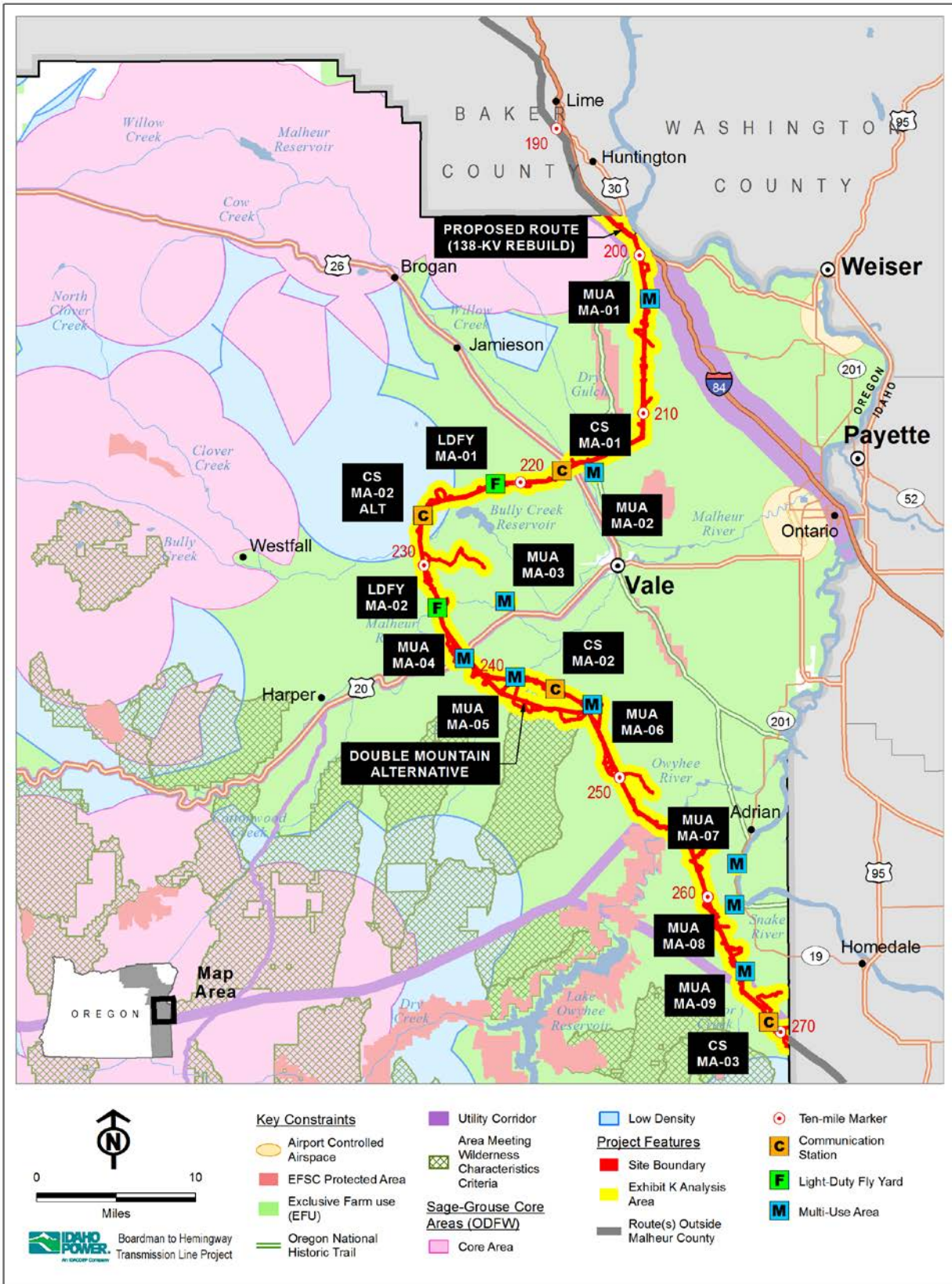
6 **5.10.1.1 Maps Showing the Project Location in Malheur County**

7 Figure K-53 shows the location of the Project in Malheur County and the land use designations
8 of the affected lands. Figure K-54 identifies siting constraints in the county.

exception to any applicable statewide planning goal is justified under section (4)" in order to issue a Site Certificate. Accordingly, where the Project may not comply with an applicable substantive criterion such as the EFU setback requirements, IPC demonstrates how the Project otherwise complies with the applicable statewide planning goal by providing a full discussion of each statewide planning goal in Section 6.0 of Exhibit K.



1
2 **Figure K-53. Malheur County Zoning**



1
2 **Figure K-54. Malheur County Key Constraints**

1 5.10.1.2 Proposed Route in Malheur County

2 **Location**

3 The Proposed Route traverses 75.1 miles across northeast Malheur County (see Exhibit C,
4 Attachment C-2, Maps 93-125). Heading southeast across rangeland from the Malheur County
5 line, the Proposed Route crosses several small segments of the West-wide Energy corridor.
6 The Proposed Route crosses several parallel sections of the Oregon National Historic Trail and
7 it passes directly to the east of the Oregon Trail Birch Creek ACEC, an ODOE protected area at
8 MP 199. Between MP 197.6 and MP 198.8, the Proposed Route will be located in the existing
9 IPC 138-kV transmission line ROW. The 138-kV transmission line will be rebuilt to the
10 southwest of the Proposed Route in a new ROW. This is being done to reduce visual impacts to
11 the Oregon Trail Birch Creek ACEC. In addition, between MP 198 and MP 199, the Proposed
12 Route will use H-frame structures ranging in height from 65 to 100 feet.

13 Shortly thereafter, the Proposed Route turns sharply south at MP 199 and continues until
14 reaching MP 211.5 and some challenging topography. The Oregon Trail Tub Mountain ACEC,
15 another ODOE protected area, is located approximately 1 mile west of the Proposed Route for
16 nearly this entire segment. To avoid steep terrain and the South Alkali Sand Hills ACEC,
17 another ODOE protected area, the Proposed Route angles southwest and crosses Willow
18 Creek and U.S. Highway 26 at MP 216.4. The highway is a designated utility corridor under the
19 BLM's Southeastern Oregon Resource Management Plan (BLM 2002). The Proposed Route
20 crosses through approximately 3 miles of irrigated agriculture along both sides of Willow Creek.
21 From MP 218, the Proposed Route continues to the west passing north of Bully Creek Reservoir
22 until it is about 1 mile north of Cottonwood Creek at MP 226. At this point, the Proposed Route
23 turns abruptly south, crosses Cottonwood Creek, and proceeds south along the eastern foothills
24 of the Cottonwood Mountains.

25 The Proposed Route continues south, crossing Bully Creek at MP 228.5, the Vale Irrigation
26 Canal at MP 231.6, the Union Pacific Railroad at MP 232, and the Malheur Canyon, which the
27 Malheur River flows through, at MP 232.1. Headed southeasterly, the Proposed Route crosses
28 U.S. Highway 20 near Vines Hill at MP 236.4. U.S. Highway 20 is a BLM designated utility
29 corridor under BLM's Southeastern Oregon Resource Management Plan (BLM 2002). The
30 Proposed Route passes to the north avoiding the Double Mountain Wilderness Characteristic
31 Unit between MP 238.1 and MP 245.4. The Proposed Route continues southeasterly, crossing
32 Cow Hollow and passing west of Leaky Reservoir and east of Chalk Reservoir.

33 At MP 253.2, the Proposed Route enters a BLM designated utility corridor. This segment of the
34 utility corridor was developed to provide a corridor that avoided the area of the Owyhee Dam,
35 and to provide an alternative to the utility corridor designated along the existing PacifiCorp
36 500-kV line that crosses the Owyhee River below the Owyhee Dam.

37 At MP 254.2, the Proposed Route turns to the east to avoid crossing the Owyhee River Below
38 the Dam ACEC (an ODOE protected area). At MP 254, the Proposed Route passes within
39 1,000 feet of the northeast boundary of the Owyhee River Below the Dam ACEC. At MP 254.8,
40 the Proposed Route exits the utility corridor and proceeds across the Owyhee River at
41 approximately MP 255.3. From here, the Proposed Route turns to the south and, at MP 256, re-
42 enters the BLM utility corridor. At MP 266.1, the Proposed Route crosses the existing PacifiCorp
43 Summer Lake to Hemingway 500-kV transmission line at MP 266.1. At MP 266.4, the Proposed
44 Route exits the utility corridor and turns to the southeast. From here, the Proposed Route
45 proceeds parallel to and offset approximately 1,500 to 3,500 feet from the southwest side of the
46 existing 500-kV line to the Oregon/Idaho state line at MP 270.7.

1 **Towers, Access Roads, and Crossings**

2 Table K-30 lists the towers, access roads, and crossings by the Proposed Route in Malheur
3 County.

4 **Table K-30. Towers, Access Roads, and Crossings – Proposed Route – Malheur**
5 **County**

Towers	Number of Sites
Towers – Single Circuit 500-kV Lattice	327
Towers – Single Circuit 500-kV H-Frame	6
Towers – Single Circuit 500-kV 3-Pole Dead-end	3
Towers – Single Circuit 138-kV H-Frame	8
Towers – Single Circuit 138-kV 3-Pole Dead-end	3
Access Roads	Total Miles
Existing, 21-70% Improved	41.7
Existing, 71-100% Improved	12.8
New, Bladed	53.1
New, Primitive	13.8
Crossings by Proposed Route	Number of Crossings
High Voltage Transmission Line Crossings ¹	4
Existing Road Crossings ²	2
Existing Railroad Crossings ³	1

¹ Source: ABB Ventyx (2016) and Idaho Power Company; includes only transmission lines over 69-kV.

² Source: Esri (2013); includes Interstate, federal, and state highways.

³ Source: Oregon Department of Transportation (2013).

6 **Multi-Use Areas, Light-Duty Fly Yards, and Communication Stations**

7 With the Proposed Route, there will be nine multi-use areas in Malheur County.

- 8 • MUA MA-01 will be approximately 0.2 mile east of MP 203 on Love Reservoir Road. The
9 area is undeveloped and comprises shrub-steppe habitat, and is zoned by Malheur
10 County as Agriculture – Exclusive Range Use (Attachment C-2, Map 95).
- 11 • MUA MA-02 will be approximately 0.5 mile south of MP 215 and 1 mile east of U.S.
12 Highway 26 on Old Oregon Trail Road and is zoned by Malheur County as Agriculture –
13 Exclusive Range Use and Agriculture – Exclusive Farm Use (Attachment C-2, Map 100).
- 14 • MUA MA-03 will be approximately 4 miles east of MP 233 and 0.75 mile north of U.S.
15 Highway 20 on Loop Road. The area is vacant land but previously supported agricultural
16 production. It now supports non-native grasses and mixed shrubs, and is zoned by
17 Malheur County as both Agriculture – Exclusive Farm Use and Rural Industrial
18 (Attachment C-2, Map 108).
- 19 • MUA MA-04 will be adjacent to the Proposed Route between MP 236.5 and MP 236.6
20 and directly south of U.S. Highway 20. The area supports shrub-steppe and grassland
21 habitat, and is zoned by Malheur County as Agriculture – Exclusive Range Use
22 (Attachment C-2, Map 109).
- 23 • MUA MA-05 will be 0.1 mile north of MP 240 on Rock Canyon Road. The area supports
24 shrub-steppe and grassland habitat, and is zoned by Malheur County as Agriculture –
25 Exclusive Range Use (Attachment C-2, Map 111).

- 1 • MUA MA-06 will be located 0.5 mile northeast of MP 245 at the intersection of Cow
2 Hollow Road and Twin Springs Road. The area supports shrub-steppe and grassland
3 habitat, and is zoned by Malheur County as Agriculture – Exclusive Range Use
4 (Attachment C-2, Maps 112 and 113).
- 5 • MUA MA-07 will be approximately 2.1 miles south of the town of Adrian, Oregon. It will
6 be immediately adjacent to State Highway 201 and about 2.4 miles east of MP 258. The
7 area is vacant and comprised entirely of non-native grassland habitat. Zoning is split
8 nearly equally between Agriculture – Exclusive Farm Use and Agriculture – Exclusive
9 Range Use. Industrial, agricultural, and residential uses are apparent on all sides of this
10 area except the west side. The Union Pacific Railroad shown on the maps for this area
11 has been abandoned and all infrastructure has been removed (Attachment C-2,
12 Map 119).
- 13 • MUA MA-08 will be approximately 1.3 miles east of MP 260.5 and 0.4 mile west of State
14 Highway 201. The area is vacant and comprised of non-native grassland, and is zoned
15 by Malheur County as Agriculture – Exclusive Farm Use (Attachment C-2, Map 121).
- 16 • MUA MA-09 will be located approximately 0.3 mile northwest of MP 265 on Succor
17 Creek Road. The area is undeveloped and supports shrub-steppe habitat, and is zoned
18 by Malheur County as Agriculture – Exclusive Range Use (Attachment C-2, Map 123).

19 With the Proposed Route, there will be two light-duty fly yards in Malheur County.

- 20 • LDFY MA-01 will be located at approximately MP 222.4. The area is zoned by Malheur
21 County as Agriculture – Exclusive Range Use (Attachment C-2, Map 102).
- 22 • LDFY MA-02 will be located at approximately MP 232.9. The area is zoned by Malheur
23 County as Agriculture – Exclusive Range Use (Attachment C-2, Map 107).

24 With the Proposed Route, there will be three communication stations in Malheur County.

- 25 • CS MA-01 will be located at approximately MP 218.9 and is 0.6 mile southwest of U.S.
26 Route 26. The land comprises irrigated farm field and is zoned by Malheur County as
27 Agriculture – Exclusive Farm Use (Attachment C-2, Map 101).
- 28 • CS MA-02 will be located at approximately MP 242.8. The land comprises shrub and
29 grass land and is zoned by Malheur County as Agriculture – Exclusive Range Use
30 (Attachment C-2, Map 112).
- 31 • CS MA-03 will be located at approximately MP 269 and is 1.7 miles northwest of the
32 Oregon-Idaho state line. The land comprises shrub and grass land and is zoned by
33 Malheur County as Agriculture – Exclusive Range Use (Attachment C-2, Map 125).

34 **Affected Land Use Zones**

35 Table K-31 identifies the Malheur County zoning designations for the lands affected by the
36 Proposed Route.

1 **Table K-31. Land Use Zone Designations – Proposed Route¹ – Malheur**
 2 **County**

Zoning Designation	Centerline (miles)	Site Boundary (acres)	Existing Roads, Substantial Modifications (miles)	New Roads
EFU Zone	5.7	458.5	4.9	3.2
ERU Zone	69.4	5,380.6	49.6	66.8
Rural Industrial Uses Zone	<0.1	48.4	–	–
Total²	75.1	5,887.5	54.5	70.3

¹ Includes 138-kV Rebuild.

² Sums may not total due to rounding.

3 **5.10.1.3 Double Mountain Alternative**

4 **Location**

5 The 7.4-mile Double Mountain Alternative leaves the Proposed Route at MP 238.1, stays north
 6 of the Double Mountains, and rejoins the Proposed Route at MP 245.4 (see Attachment C-3,
 7 Maps 15-19). The large majority of land along the Double Mountain Alternative, which is located
 8 entirely on BLM-managed land, is rangeland and sagebrush. Almost the entire length of this
 9 alternative route is located within the BLM-designated Double Mountain Wilderness
 10 Characteristic Unit.

11 **Towers, Access Roads, and Crossings**

12 Table K-32 lists the towers, access roads, and crossings by the Double Mountain Alternative in
 13 Malheur County.

14 **Table K-32. Towers, Access Roads, and Crossings – Double Mountain Alternative**
 15 **– Malheur County**

Towers	Number of Sites
Towers – Single Circuit 500-kV Lattice	34
Communication Station(s)	1
Access Roads	Total Miles
Existing, 21-70% Improved	1.2
Existing, 71-100% Improved	3.8
New, Bladed	7.0
New, Primitive	0
Crossings by Proposed Alternative	Number of Crossings
High Voltage Transmission Line Crossings ¹	0
Existing Road Crossings ²	0
Existing Railroad Crossings ³	0

¹ Source: ABB Ventyx (2016) and Idaho Power Company; includes only transmission lines over 69-kV.

² Source: Esri (2013); includes Interstate, federal, and state highways.

³ Source: Oregon Department of Transportation (2013).

1 **Multi-Use Areas, Light-Duty Fly Yards, and Communication Stations**

2 With the Double Mountain Alternative, there will be no alternative multi-use areas or light-duty
3 fly yards in Malheur County.

4 With the Double Mountain Alternative, there is one alternative communication station in Malheur
5 County:

- 6 • CS MA-02 ALT will be located at approximately MP 226.7 of the Proposed Route and is
7 0.2 mile north of Bully Creek Road. The land comprises shrub and grass land and is
8 zoned by Malheur County as Exclusive Range Use (Attachment C-3, Map 19).

9 **Affected Land Use Zones**

10 Table K-33 identifies the Malheur County zoning designations for the lands affected by the
11 Double Mountain Alternative.

12 **Table K-33.** Malheur County Land Use Zone Designations, Double Mountain Alternative

Zoning Designation	Centerline (miles)	Site Boundary (acres)	Existing Roads, Substantial Modifications (miles)	New Roads
ERU Zone	7.4	669.3	6.0	11.3
Total¹	7.4	669.3	6.0	11.3

13 ¹ Sums may not total due to rounding.

14 **5.10.2 Malheur County Code Provisions**

15 **5.10.2.1 EFU and ERU Zone MCC Provisions**

16 **Land Use Decision (All Project Features)**

17 **MCC Provisions Identified by Malheur County**

18 In a letter dated November 19, 2009, Malheur County identified Section 6-3A-2 of the Malheur
19 County Code (MCC), and no other MCC provision, as being potentially applicable to the Project.

20 **Permitted Uses**

21 MCC 6-3A-2: (A) The following uses may be permitted outright by ministerial permit in each
22 of the three (3) resource zones except as specifically added or excluded: . . . (14) Utility
23 facilities necessary for public service, including wetland waste treatment systems but not
24 including commercial facilities for the purpose of generating electrical power for public use or
25 sale or transmission towers over two hundred (200) feet in height. A utility facility necessary
26 for public service may be established as provided in ORS 215.275 and section 6-6-8-8-
27 "Wireless Communication Facilities" of this title.

28 MCC 6-3A-2 provides that utility facilities necessary for public service are a permitted use in
29 land zoned in EFU and ERU and "may be established as provided in ORS 215.275."
30 Additionally, Malheur County identified ORS 215.283(1)(d), ORS 215.275, and OAR 660-033-
31 0016(16) as applicable criteria in its letter. Under Oregon law, utility facilities necessary for
32 public service are permitted outright in an EFU zone and a county may not enact or apply
33 criteria of its own that supplement those found in ORS 215.283(1).⁷⁷ Here, because the Project

⁷⁷ See *Brentmar v. Jackson County*, 321 Or 481 (1995).

1 is authorized on EFU lands under ORS 215.283(1)(c)(A) (see Section 4), the county must also
 2 authorize the Project outright on EFU lands despite any MCC provisions that may be stricter
 3 than ORS 215.283(1)(c)(A).⁷⁸

4 ORS 215.283(1)(c)(A) requires IPC demonstrate the need to site the Project on EFU lands only
 5 at a macro, project-wide level across all five relevant counties. Though beyond what is required
 6 by the statute, Section 5.9.5 makes a similar showing at the micro or county level, by providing
 7 a detailed discussion of the necessity of siting the Project in EFU and ERU specifically in
 8 Malheur County.

9 **MCC Provisions Identified by IPC**

10 In its November 19, 2009 letter, Malheur County identified MCC 6-3A-2, and no other MCC
 11 provision, as being potentially applicable to the Project. In this section, IPC discusses certain
 12 MCC provisions identified by IPC and not Malheur County as being potentially applicable to the
 13 Project in the EFU Zone. IPC addresses these ordinances for informational purposes only.

14 ***Division of Land***

15 MCC 6-3A-5: Subdivisions and planned developments are not consistent with the purpose
 16 and intent of this zone and are prohibited. Proposed lot line adjustments and partitions of
 17 land in an EFU, ERU or EFFU zone are subject to the provisions of the Malheur County
 18 subdivision and partitioning ordinance 1 . In addition, proposed lot line adjustments and
 19 partitions shall meet the following requirements:

20 MCC 6-3A-5 applies to all uses in the EFU or ERU zones. It addresses the size of parcels and
 21 is applicable only to the extent that a partition is required. IPC intends to secure easements for
 22 the majority of Project features and does not expect to require partition of any parcel. Because
 23 the Project likely will not involve lot splits, MCC 6-3A-5 likely will not be applicable to the Project.
 24 In the event that a partition becomes necessary, IPC will obtain approval of the partition directly
 25 from the county prior to construction. In no event, however, may the Council or the county rely
 26 on MCC 6-3A-5 to refuse to site the Project on EFU lands (see *Brentmar v. Jackson County*,
 27 321 Or. 481 (1995)).

28 ***Dimensional Standards***

29 MCC 6-3A-6(A): Setbacks: No building or sight obscuring fence, other than a fence or facility
 30 associated with irrigation activities, shall be located closer than forty feet (40') from a street or
 31 road right of way line and fifteen feet (15') from any other property line. . . .

32 MCC 6-3A-6(A) provides certain setback requirements. The first setback requires all buildings
 33 and site-obscuring fences to be set back 40 feet from roads and 15 feet from lot lines. MCC 6-1-
 34 2 defines the term "building" as "[a]ny temporary or permanent structure built and maintained for
 35 the support, shelter or enclosure of people, motor vehicles, animals or personal or real property
 36 of any kind."

- 37 • Access roads: The Project access roads will not be built to support, shelter, or enclose
 38 anything. Therefore, the access roads are not considered buildings, and the first setback
 39 requirements of MCC 6-3A-6(A) do not apply to the relevant access roads.
- 40 • Transmission Line Towers: The Project transmission towers will not be built to support,
 41 shelter, or enclose anything. Therefore, the transmission towers are not considered
 42 buildings, and the first setback requirements of MCC 6-3A-6(A) do not apply to the
 43 relevant towers.

⁷⁸ *Id.*

- 1 • Light-Duty Fly Yards: The light-duty fly yards will not include any structure built to
2 support, shelter, or enclose anything. Therefore, the light-duty fly yards will not include
3 buildings, and the first setback requirements of MCC 6-3A-6(A) do not apply to the
4 relevant light-duty fly yards.
- 5 • Multi-Use Areas: The multi-use areas will contain buildings, and therefore, the first
6 setback requirements of MCC 6-3A-6(A) will apply to the relevant multi-use areas.
- 7 • Communication Stations: The communication stations will contain buildings, and
8 therefore, the first setback requirements of MCC 6-3A-6(A) will apply to the relevant
9 communication stations.

10 While IPC is not required to do so under the Court’s ruling in *Brentmar v. Jackson County*, IPC
11 will site the Project buildings in the EFU zone in Malheur County to comply with the setback
12 requirements of MCC 6-3A-6(A). To ensure compliance with such requirements, IPC proposes
13 the following site certificate condition:

14 ***Land Use Condition 21: During construction in Malheur County, the site***
15 ***certificate holder shall construct the facility to comply with the following setback***
16 ***distances and other requirements:***

17 ***In the EFU and ERU Zones:***

18 ***a. Buildings shall be setback as follows: (i) at least 40 feet from a street or road***
19 ***right-of-way; and (ii) at least 25 feet from any other property line.***

20

21 MCC 6-3A-6(A): Setbacks: . . . No sight obscuring fence exceeding three feet (3') in height
22 shall be placed within the forty foot (40') street setback, also within this setback shrubbery
23 other than trees shall be maintained at heights not exceeding three feet (3'). . . .

24 The second part of MCC 6-3A-6(A) provides that no sight obscuring fences over three feet may
25 be placed in the 40-foot setback and trees in the setback must be no taller than three feet.

- 26 • Access roads: The Project access roads will not involve fences. Therefore, the second
27 part of MCC 6-3A-6(A) does not apply to the relevant access roads.
- 28 • Transmission Line Towers: The Project transmission towers will not involve fences.
29 Therefore, the second part of MCC 6-3A-6(A) does not apply to the relevant towers.
- 30 • Light-Duty Fly Yards: The light-duty fly yards will not involve fences. Therefore, the
31 second part of MCC 6-3A-6(A) does not apply to the relevant light-duty fly yards.
- 32 • Multi-Use Areas: The multi-use areas may involve fences, and therefore, the fencing
33 requirements of MCC 6-3A-6(A) will apply to the relevant multi-use areas.
- 34 • Communication Stations: The communication stations may involve fences, and
35 therefore, the fencing requirements of MCC 6-3A-6(A) will apply to the relevant
36 communication stations.

37 While IPC is not required to do so under the Court’s ruling in *Brentmar v. Jackson County*, IPC
38 will site the Project buildings in the EFU zone in Malheur County to comply with the fencing
39 requirements of MCC 6-3A-6(A). To ensure compliance with such requirements, IPC proposes
40 the following site certificate condition:

41 ***Land Use Condition 21: During construction in Malheur County, the site***
42 ***certificate holder shall construct the facility to comply with the following setback***
43 ***distances and other requirements:***

44 ***In the EFU and ERU Zones:***

45

1 ***b. No sight obscuring fence exceeding 3 feet in height shall be placed within the***
 2 ***40-foot street setback, also within this setback shrubbery other than trees shall***
 3 ***be maintained at heights not exceeding 3 feet.***

4 MCC 6-3A-6(A): Setbacks: . . . Dwellings and inhabitable structures, including associated
 5 sewage disposal facilities and removal of vegetation, shall be prohibited within one hundred
 6 feet (100') of rivers, streams, lakes, reservoirs and other wetlands, unless topographic
 7 features make such setback unnecessary to protect riparian habitat.

8 The third part of MCC 6-3A-6(A) provides dwellings and inhabitable structures must be setback
 9 100 feet from rivers, streams, lakes, reservoirs, and other wetlands. MCC 6-1-2 defines the term
 10 “dwelling” as “[a]ny building or portion thereof which is not an apartment house, lodging house
 11 or hotel, which contains one dwelling unit intended or designed to be built, used, rented, leased,
 12 let or hired out or sold to be occupied or which is occupied for living purposes. . . .” The term
 13 “inhabitable” means “suitable to live in.”⁷⁹

14 Here, the Project includes no buildings or structures that will be used for living purposes or
 15 intended to be lived in. Therefore, setback requirements of the third part of MCC 6-3A-6(A) do
 16 not apply to the Project.

17 ***Conditional Use Permit (Helipads)***

18 In conversations subsequent to its November 19, 2009 letter, Malheur County indicated that the
 19 land use decision provisions of MCC 6-3A-2 applicable to utility facilities in the EFU and ERU
 20 zones may not cover the helipads associated with the multi-use areas and light-duty fly yards.
 21 The County indicated that, instead, the provisions of MCC 6-3A-3(I) relating to personal-use
 22 airports might apply. However, under ORS 215.283(1)(c)(A) and MCC 6-3A-2, utility facilities
 23 are authorized in the EFU Zone. And, here, the helipads relate to and support the utility
 24 transmission line Project, and therefore, the helipads should be considered utility facilities or
 25 parts therefore for purposes of MCC 6-3A-2 and should be authorized in the EFU and ERU
 26 zones under that MCC provision.

27 Regardless, and in the alternative, the helipads would be permitted in the EFU and ERU zones
 28 as conditional uses under MCC 6-3A-3.

29 **MCC Provisions Identified by Malheur County**

30 Malheur County identified MCC 6-3A-3, and no other MCC provision, as being potentially
 31 applicable to the helipads in the EFU Zone.

32 ***Conditional Uses***

33 MCC 6-3A-3: The following conditional uses and their accessory uses may be established
 34 when authorized in accordance with chapter of this title: . . . (I) Personal use airports for
 35 airplanes and helicopter pads, including associated hangar, maintenance and service
 36 facilities. A "personal use airport" means an airstrip restricted, except for aircraft
 37 emergencies, to use by the owner and, on an infrequent and occasional basis, by invited
 38 guests, and by commercial aviation activities in connection with resource management
 39 operations.

40 Nine multi-use areas and two light-duty fly yards will be located in lands zoned as EFU or ERU.
 41 Helicopter operations may be staged out of the multi-use areas or light-duty fly yards in Malheur

⁷⁹ Oxford Dictionaries, at http://www.oxforddictionaries.com/us/definition/american_english/inhabitable (last visited May 23, 2016).

1 County. Project construction activities potentially facilitated by helicopters may include delivery
2 of construction laborers, equipment, and materials to structure sites; structure placement;
3 hardware installation; and wire stringing operations. Helicopters may also be used to support
4 the administration and management of the Project by IPC, the Construction Contractor, or both.

5 IPC will own or control each helicopter that uses the helipads. Thus, the Project helipads will be
6 considered "personal-use airports" (see MCC 6-3A-3(I), defining personal use airport), and IPC
7 will need a conditional use permit for the helipads.

8 **MCC Provisions Identified by Idaho Power**

9 Malheur County identified MCC 6-3A-3, and no other MCC provision, as being potentially
10 applicable to the helipads in the EFU Zone. In this section, IPC discusses certain MCC
11 provisions identified by IPC and not Malheur County as being potentially applicable to the
12 helipads in the EFU Zone. IPC addresses these ordinances for informational purposes only.

13 **General Criteria to Evaluate Suitability**

14 MCC 6-6-7: In considering the suitability of proposed conditional uses, the planning
15 commission shall base its decision upon the following criteria: A. Comprehensive Plan Goals:
16 Comprehensive plan goals and policies, as applicable. . . .

17 MCC 6-6-7 applies to all conditional uses in Malheur County. Because the multi-use area and
18 light-duty fly yard helipads are proposed to be located in ERU and EFU, Goal 3 of the Malheur
19 County Comprehensive Plan may be applicable. While the multi-use areas and helipads may
20 have temporary impacts in EFU and ERU, there will be no permanent impacts to Goal 3
21 Agricultural Lands. As described in Section 5.9.3 and Section 5.9.5, IPC will restore all restore
22 all temporary impacts to agricultural lands associated with multi-use areas and helipads. The
23 proposed use is consistent with Goal 3. While it is IPC position that the helipads are ancillary to
24 the Project and therefore permitted outright in EFU lands under ORS 215.283(1)(c)(A), IPC
25 proposes the following site certificate conditions in response to Morrow County's request related
26 to the helipads:

- 27 **Public Services Condition 2:** *Prior to construction, the site certificate holder*
28 *shall submit to the department for its approval a Helicopter Use Plan, which*
29 *identifies or provides:*
30 *a. The type of helicopters to be used;*
31 *b. The duration of helicopter use;*
32 *c. Roads or residences over which external loads will be carried;*
33 *d. Multi-use areas and light-duty fly yards containing helipads shall be located: (i)*
34 *in areas free from tall agricultural crops and livestock; (ii) at least 500 feet from*
35 *organic agricultural operations; and (iii) at least 500 feet from existing dwellings*
36 *on adjacent properties; and*
37 *e. Flights shall occur only between sunrise and sunset.*

38 **Public Services Condition 6:** *During construction, the site certificate holder shall*
39 *conduct all work in compliance with the Helicopter Use Plan referenced in Public*
40 *Services Condition 2.*

41 MCC 6-6-7(B). Specific Plans: Specific plan recommendations.

42 The site plans for typical multi-use area and light-duty fly yard setups are provided in Exhibit C,
43 Sections 3.3.2 and 3.3.3, respectively. Maps showing the location and topography of each
44 specific multi-use area and light-duty fly yard in Malheur County are set forth at Exhibit C,
45 Attachment C-2, Maps 95, 100, 102, 107, 108, 109, 111, 112-113, 119, 121, and 123.

1 MCC 6-6-7(C). Developments And Viewpoints: Existing development and viewpoints of
2 property owners in the surrounding area.

3 The Project, including each multi-use area, has been designed to minimize conflicts with scenic
4 resources (see Exhibit R). Moreover, because the multi-use areas and helipads are temporary,
5 they will have no significant adverse impact on existing developments and viewpoints of
6 property owners in the surrounding area.

7 MCC 6-6-7(D). Services And Utilities: Availability of services and utilities.

8 The multi-use areas and helipads have been designed to be centrally located to provide access
9 to the Project as well as access to major transportation corridors and services.

10 MCC 6-6-7(E). Effect: The effect of the proposed use on the stability of the community's
11 social and economic characteristics.

12 Because the multi-use areas and helipads are temporary, there will be no negative effect of the
13 proposed use on the stability of the community's social and economic characteristics. The multi-
14 use areas are a show-up site for construction workers, thus potential positive effects may
15 include increased activity for local businesses.

16 MCC 6-6-7(F). Fish and Wildlife: It does not interfere with traditional fish and wildlife use of
17 habitats determined critical or sensitive in the fish and wildlife habitat protection plan for
18 Malheur County.

19 In a June 15, 2017, phone conversation, Malheur County Planning Department indicated that
20 the County does not have a county-adopted fish and wildlife habitat protection plan. Rather, the
21 County consults with ODFW on a case-by-case basis to determine critical or sensitive habitat.
22 Here, consultation with ODFW has occurred through ODOE and compliance with EFSC's Fish
23 and Wildlife Habitat Standard and Threatened and Endangered Species Standard (see
24 Exhibits P1, P2, P3, and Q). Because the Project will comply with those standards, by
25 extension, the Project will comply with the requirements and intent of MCC 6-6-7(F).

26 MCC 6-6-7(G): General Criteria: 1. Increasing setbacks of structures to reduce possibilities of
27 overshadowing adjoining property, noise, odor or night lighting nuisances. 2. Landscaping
28 improvements for the visual benefit of the subject site and for the improved appearance of
29 the neighborhood and county. 3. Location and size of driveway access points and right of
30 way widening and improvement for present and future traffic circulation consistent with the
31 adopted county road standards or the standards of the appropriate road district and the
32 access management standards of the Malheur County transportation system plan. 4. Visual
33 screening of outdoor waste and storage areas. 5. Control and focusing of outdoor lighting to
34 avoid glare being directed beyond property limits. 6. Special criteria listed below, as
35 applicable.

36 IPC designed the multi-use areas and multi-use area setbacks to provide safe clearance for
37 helicopter operations. All noise, vibration, dust, odor, and smoke involved with IPC's multi-use
38 area activities will comply with applicable state and federal regulations. (MCC 6-6-7(G)(1)).

39 IPC's multi-use area activities likely will not be fenced, landscaped, or screened. The proposed
40 use is temporary and the area will be restored to pre-construction conditions. (MCC 6-6-7(G)(2)
41 and (4)).

42 IPC will design driveway access points and right of way widening and improvements to be
43 consistent with the adopted county road standards or the standards of the appropriate road

1 district and the access management standards of the Malheur County transportation system
2 plan. (MCC 6-6-7(G)(3)).

3 Artificial lighting, if provided, will not create or reflect glare in a residential zone or be directed
4 beyond property limits. (MCC 6-6-7(G)(6)).

5 There are no special criteria applicable to the proposed multi-use area and helipad use. MCC 6-
6 6-7(G)(6)).

7 MCC 6-6-7(H). Allowance of Certain Uses: A use allowed under section 6-3A-3 of this title
8 shall be approved only where it is found that the use will not: 1. Force a significant change in
9 accepted farm or forest practices on surrounding lands devoted to farm or forest use; or 2.
10 Significantly increase cost of accepted farm or forest practices on surrounding lands devoted
11 to farm or forest use.

12 The multi-use areas and helipads will be used temporarily during construction activities and will
13 not be permanent airports. Because the multi-use areas and helipads will only have temporary
14 impacts, if any, on the surrounding lands, they will not force a significant change in accepted
15 farm or forest practices on surrounding lands or significantly increase costs on affected farm
16 practices or forest uses.

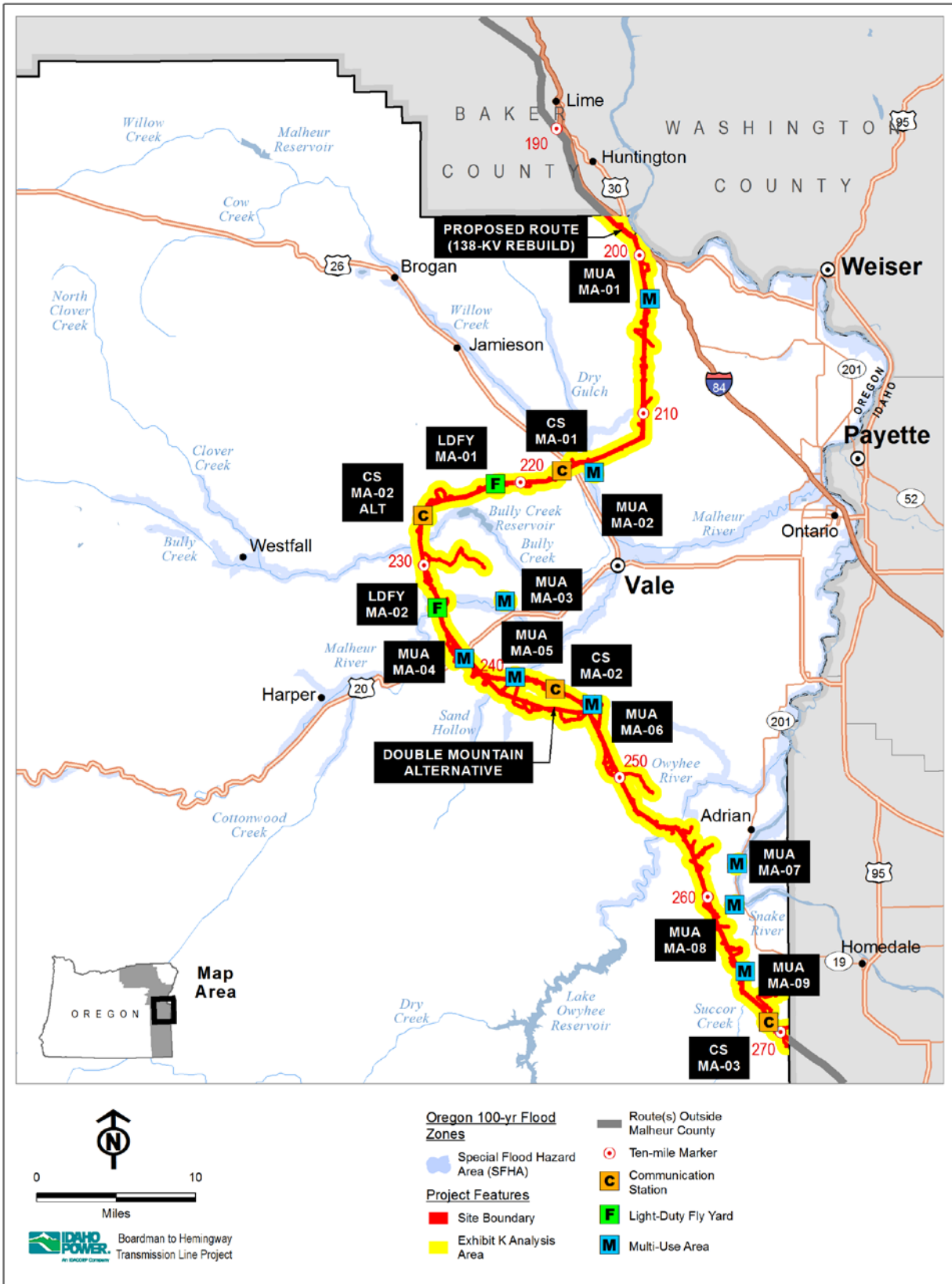
17 *5.10.2.2 Rural Industrial Uses Zone*

18 The Site Boundary for the Project includes 48.4 acres in the Rural Industrial Uses Zone in
19 Malheur County (see Table K-31). While the site boundary includes Rural Industrial Uses Zone,
20 no Project features are proposed to be located within this zone. Malheur County has not
21 adopted any Malheur County Code provisions regulating activities within the Rural Industrial
22 Uses Zone. No analysis is required, and no standard must be met, to comply with the Malheur
23 County Code with respect to Project activities within the Rural Industrial Uses Zone.

24 *5.10.2.3 Flood Plain Management Zone*

25 In an email dated January 22, 2014, Alvin Scott, Malheur County Interim Planning Director,
26 identified the Flood Plain Management Zone as potentially applicable to the Project, and
27 indicated that permits may be required if Project structures infringe on the Flood Plain
28 Management Zone. At this time, IPC does not have spatial data from Malheur County to identify
29 its Flood Plain Management Zone. Based on analysis of spatial data available from Federal
30 Emergency Management Agency, it appears that the Proposed Route will cross a number of
31 floodplains and a SFHA in Malheur County.

32



1
2 **Figure K-55. Malheur County Special Flood Hazard Areas**

MCC 6-3K-3: The following standards shall be applicable to any area designated as being within the 100-year flood plain: A. Any development shall comply with Title 5, Chapter 2 of this Code and the Federal Insurance Administration requirements for minimizing flood hazards. B. Any development shall also comply with the standards of the underlying primary zone. C. If a conflict in regulations or procedures occurs, the more restrictive provisions shall govern.

Under MCC 6-3K-3, any development within the 100-year flood plain requires compliance with MCC Title 5, Chapter 2, the Federal Insurance Administration requirements, and the standards of the underlying primary zone. IPC does not anticipate that any permanent Project features will be located within the 100-year flood plain in Malheur County. To the extent the Project will include construction activities within the 100-year flood plain, IPC will obtain directly from Malheur County any necessary flood plain development permit. The flood plain development permit will not be included in or governed by the site certificate (see Exhibit E, Section 3.2.13.2). To ensure IPC obtains the flood development permit, IPC proposes the following site certificate conditions:

Land Use Condition 7: *Prior to construction in Malheur County, the site certificate holder shall provide to the department a copy of the following Malheur County-approved permits, if such permits are required by Malheur County zoning ordinances:*

a. Flood plain development permit.

Land Use Condition 22: *During construction in Malheur County, the site certificate holder shall conduct all work in compliance with the Malheur County-approved permits referenced in Land Use Condition 7, if such permits are required by Malheur County zoning ordinances*

Flood Hazard Reduction

MCC 5-2-5-1 and 5-2-5-2 include provisions for reducing flood hazards. Those provisions appear to relate only to development of new encroachments, substantial improvements to existing encroachments, or deposit of fill in the SFHAs. Because the Project will not include installing any new Project features in the SFHAs, including any fill, or improving any existing encroachments, the provisions of MCC 5-2-5-1 do not apply to the Project.

5.10.3 Malheur County Comprehensive Plan Provisions

On April 17, 2012, Malheur County provided to IPC a copy of the Goal 3, Agricultural Lands Policies in the Malheur County Comprehensive Plan. Malheur County amended its Goal 3, Agricultural Lands Policies on December 8, 2010.

5.10.3.1 Goal 3: Agricultural Lands

Goal 3: Agricultural Lands

Goal: To preserve and maintain the agricultural land in the county for agricultural purposes.

1. Public and private land classified by the Natural Resources Conservation Service (formerly U.S. Department of Agriculture Soil Conservation Service) as being in Capability Classes I through VI, as well as High Value Farmland as defined by applicable Oregon Revised Statutes and Oregon Administrative Rules and any other lands determined to be necessary and required for farm use, are considered to be agricultural lands.

2. High Value Farmlands (ORS and OAR designated) shall be given the greatest protection. Lands classified by the Natural Resources Conservation Service, as Capability Classes I through VI shall be afforded the next highest protection with Class I having the highest protection and Class VI the least.

3. In addition to the Natural Resources Conservation Service classification system, county assessor's records may be considered in evaluating individual parcels for the purpose of planning and zoning.
4. Urban growth boundaries, exclusive farm use zoning, and farm use tax assessment be will be the major tools used to protect agricultural lands.
5. The county will support viable water resource projects for additional storage, power generation, water quality, conservation and recreation.
6. The county will review and consult with the irrigation and drainage districts on land use decisions to assure they will not negatively impact the integrity or operation of water for irrigation or drainage purposes.
7. In addition to county code and the State of Oregon's land use laws and administrative rules for non-farm dwellings, it is the policy of Malheur County that there be no net loss of farmlands listed on the High Value Farmlands Soils list or soils classified as types I-III by the Natural Resources Conservation Service.
8. Current and future accepted farming and ranching practices and activities shall have priority and continue without interference.
9. Any utility transmission line should avoid adverse impacts on any agricultural operation in the entire agricultural area. This protection should prioritize High Value Farmland [ORS and OAR designated] and the Natural Resources Conservation soil classes I through III.
10. The County Court will appoint a citizens advisory committee on agriculture to review the agricultural lands element of the comprehensive plan on an as needed basis.
11. The county will not discourage the creation of special land use districts so that landowners can impose more restrictive land use regulations than those imposed by the county.

Malheur County's Goal 3 policies provide direction to the county to guide its land use decision-making in Goal 3 agricultural lands. Policies 1, 3, 4, 5, 6, 10, and 11 direct the county's classification of agricultural lands and provide policy statements concerning the protection of agricultural lands that do not appear to apply to analysis regarding siting the Project in agricultural lands. Policies 2, 7, 8, and 9 could be considered to be applicable to siting the Project, however, to the extent that these criteria constitute additional substantive criteria beyond those provided by the legislature in ORS 215.275 for a use permitted under ORS 215.283(1) they are inapplicable.⁸⁰

Policies 2 and 9

Policies 2 and 9 direct Malheur County to prioritize protection of High Value Farmland and Natural Resources Conservation Service (NRCS) Soil Classes I through III. Policy 2 provides generic direction to the county and Policy 9 specifically addresses transmission lines. Although beyond what is required to demonstrate that the Project must be located in EFU and ERU, IPC worked extensively with landowners in Malheur County to avoid impacts to irrigated agricultural land located within the EFU zone through the CAP process. As shown on Figure K-56, the EFU zone encompasses both High Value Farmland soils⁸¹ and the NRCS soil classes I through III⁸² across Malheur County. As shown in Table K-34 and Figure K-56, through IPC's efforts to avoid the EFU zone, IPC has also avoided High Value Farmland soils and NRCS soil classes I through III to the extent possible.

⁸⁰ See *Brentmar v. Jackson County*, 321 Or. 481 (1995).

⁸¹ For this analysis, IPC considered high value farmland soils as defined in ORS 215.710.

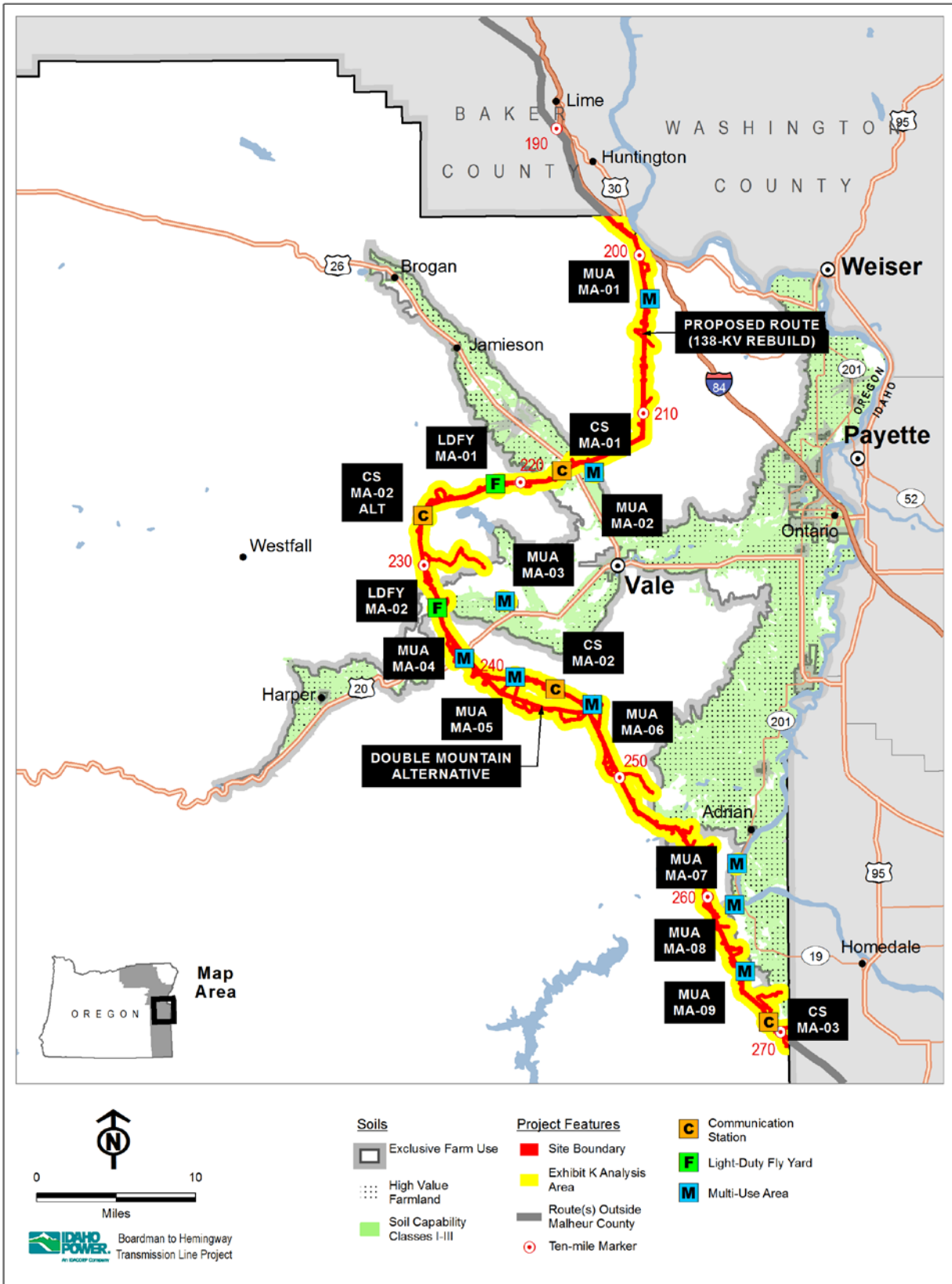
⁸² For a definition of the NRCS soil classes I-III, see the USDA Soil Capability Class Definitions, Land Capability Classification (622.02): <http://soils.usda.gov/technical/handbook/contents/part622.html>.

- 1 **Table K-34. Temporary and Permanent Impacts on High Value Farmland Soils and**
 2 **NRCS Soil Classes I-III in Malheur County, Proposed Route¹**

Route	Type	Construction Impacts (acres)	Operations Impacts (acres)
Proposed Route	EFU Zone	99.8	13.7
	NRCS Soil Classes I-III	76.3	4.9
	High Value Farmland Soils	42.5	3.0
Total²		218.6	16.3

¹ Double Mountain Alternative does not cross High Value Farmland Soils or NRCS Soil Classes I-III.

² Sums may not total due to rounding.



1
2 **Figure K-56. Malheur County Soils**

1 As the Proposed Route has evolved since the CAP, IPC has continued to avoid irrigated
2 agricultural land to the extent possible. When the Proposed Route was moved from northeast of
3 the original CAP corridor in the vicinity of the Owyhee River to its current location, it was sited to
4 avoid irrigated agricultural lands. In this relocation, an additional short segment of the EFU zone
5 was crossed by the transmission line in order to avoid an ACEC, a protected area in Oregon
6 under EFSC standards. However, the land crossed by the transmission line within the EFU zone
7 at the north end of the ACEC is not irrigated or comprising High Value Farmland soils or NRCS
8 soil classes I through III. An earlier route variation avoided further impacts to EFU by staying to
9 the west of EFU as the route continued north around Brogan and into Baker County, however,
10 this route has not been carried forward for additional analysis by the BLM. Instead, the BLM
11 selected a route that would avoid and minimize impacts to sage-grouse habitat in Malheur
12 County, but which resulted in additional impacts to EFU.⁸³ To the extent that the Project may be
13 inconsistent with Policies 2 and 9, the Project nonetheless complies with applicable statewide
14 planning goals as discussed in Section 6.0.

15 **Policy 7**

16 Policy 7 directs Malheur County to protect High Value Farmland and NRCS Soil Classes I
17 through III to achieve “no net loss” of these lands. To the extent that this criterion constitutes
18 additional substantive criteria beyond those provided by the legislature in ORS 215.275 for a
19 use permitted under ORS 215.283(1) it is inapplicable.⁸⁴ Although beyond what is required, as
20 explained above, IPC has attempted to avoid and minimize impacts to High Value Farmland and
21 NRCS Soil Classes I through III to the extent practicable. However, due to the BLM’s selection
22 of a route that crosses EFU, IPC was not able to avoid all impacts to High Value Farmland and
23 NRCS Soil Classes I through III. To the extent that the Project may be inconsistent with Policy
24 7, the Project nonetheless complies with applicable statewide planning goals as discussed in
25 Section 6.0.

26 **Policy 8**

27 Policy 8 directs Malheur County to prioritize current and future accepted farming and ranching
28 practices and to provide that they shall continue without interference. To the extent that this
29 criterion constitutes additional substantive criteria beyond those provided by the legislature in
30 ORS 215.275 for a use permitted under ORS 215.283(1) it is inapplicable.⁸⁵ To the extent that
31 Policy 8 is intended to be consistent with ORS 215.275(4) and (5), IPC discusses compliance
32 with those criteria in Sections 5.9.5.4 and 5.9.5, below. To the extent that the Project may be
33 inconsistent with Policy 8, the Project nonetheless complies with applicable statewide planning
34 goals as discussed in Section 6.0.

35 **5.10.4 Malheur County Goal 5 Resources**

36 On September 3, 2015, IPC requested that Malheur County provide information regarding the
37 identification of certain Goal 5 resources and the applicable MCC provisions regarding the
38 same. To date, however, Malheur County has not responded.

⁸³ In Malheur County, the original corridor selected through the CAP crossed only one short segment (less than a mile) of the EFU zone where the land was not irrigated or comprised of High Value Farmland soils or NRCS soil classes I through III. Malheur County Planning Director Jon Beal provided a letter dated February 9, 2011, in support of this corridor and which states “[the Proposed Corridor] is not located on, or near any irrigated farmland to have any significant negative effects. The “Proposed Corridor” referenced in the letter from Malheur County is an alternative that has been removed from consideration by the BLM, previously referred to as the “Malheur S Alternate.”

⁸⁴ See *Brentmar v. Jackson County*, 321 Or. 481 (1995).

⁸⁵ See *Brentmar v. Jackson County*, 321 Or. 481 (1995).

1 **5.10.4.1 Riparian Habitat**

2 Malheur County has not designated any riparian habitats as Goal 5 designated resources. No
3 analysis is required, and no standard must be met, to comply with the county's Goal 5 planning
4 goals for protecting riparian habitat.

5 **5.10.4.2 Wetlands and Other Waters**

6 Malheur County has not designated any wetlands or other waters as Goal 5 designated
7 resources. No analysis is required, and no standard must be met, to comply with the county's
8 Goal 5 planning goals for protecting wetlands or other waters.

9 **5.10.4.3 Fish and Wildlife Habitat**

10 **Fish Habitat**

11 The Proposed Route will cross the following inventoried fish habitat resources: Bully Creek near
12 MP 223.5; and Owyhee River at MP 250. However, Malheur County has not adopted any Goal
13 5 protection program for fish habitat. No analysis is required, and no standard must be met, to
14 comply with the county's Goal 5 planning goals for protecting fish habitat.

15 **Wildlife Habitat**

16 The Proposed Route will cross the following inventoried wildlife habitat resources: antelope
17 winter range near MP 200; and deer winter range near MPs 220-30. However, Malheur County
18 has not adopted any Goal 5 protection program for wildlife habitat. No analysis is required, and
19 no standard must be met, to comply with the county's Goal 5 planning goals for protecting
20 wildlife habitat.

21 **5.10.4.4 Federal Wild and Scenic Rivers and Oregon Scenic Waterways**

22 There are no Federal Wild and Scenic Rivers or Oregon Scenic Waterways in the Analysis
23 Area. No analysis is required, and no standard must be met, to comply with the county's Goal 5
24 planning goals for protecting groundwater resources.

25 **5.10.4.5 Groundwater Resources**

26 Malheur County has not designated any groundwater resources as Goal 5 designated
27 resources. No analysis is required, and no standard must be met, to comply with the county's
28 Goal 5 planning goals for protecting groundwater resources.

29 **5.10.4.6 Approved Oregon Recreation Trail**

30 Malheur County has not designated any approved Oregon recreation trails as Goal 5
31 designated resources. No analysis is required, and no standard must be met, to comply with the
32 county's Goal 5 planning goals for protecting approved Oregon recreation trails.

33 **5.10.4.7 Natural Areas**

34 No inventoried natural areas occur in the Analysis Area. Malheur County has not adopted any
35 Goal 5 protection program for natural areas. No analysis is required, and no standard must be
36 met, to comply with the county's Goal 5 planning goals for protecting natural areas.

37 **5.10.4.8 Wilderness Areas**

38 Malheur County has not designated any wilderness areas as Goal 5 designated resources. No
39 analysis is required, and no standard must be met, to comply with the county's Goal 5 planning
40 goals for protecting wilderness areas.

1 **5.10.4.9 Mineral Aggregate**

2 Malheur County has not adopted any Goal 5 protection program for mineral aggregate sites. No
3 analysis is required, and no standard must be met, to comply with the county's Goal 5 planning
4 goals for protecting mineral aggregate sites.

5 **5.10.4.10 Energy Resources**

6 The Proposed Route may impact the Vale Potential Geothermal Resource Area or Vale Known
7 Geothermal Resource Area near MP 220 to the Oregon-Idaho state line (MCCP p. 73).
8 However, Malheur County has not adopted any Goal 5 protection program for energy resources.
9 No analysis is required, and no standard must be met, to comply with the county's Goal 5
10 planning goals for protecting energy resources.

11 **5.10.4.11 Cultural Resources**

12 Malheur County has not designated any cultural resources areas as Goal 5 designated
13 resources. No analysis is required, and no standard must be met, to comply with the county's
14 Goal 5 planning goals for protecting cultural resources areas.

15 **5.10.4.12 Historic Resources**

16 Malheur County has not adopted any Goal 5 protection program for historic resources areas. No
17 analysis is required, and no standard must be met, to comply with the county's Goal 5 planning
18 goals for protecting historic resources areas.

19 **5.10.4.13 Open Spaces**

20 Malheur County has not designated any open spaces as Goal 5 designated resources. Malheur
21 County has not adopted any Goal 5 protection program for open spaces. No analysis is
22 required, and no standard must be met, to comply with the county's Goal 5 planning goals for
23 protecting open spaces.

24 **5.10.4.14 Scenic Views or Sites**

25 Malheur County has not designated any scenic views or sites as Goal 5 designated resources.
26 Malheur County has not adopted any Goal 5 protection program for scenic views or sites. No
27 analysis is required, and no standard must be met, to comply with the county's Goal 5 planning
28 goals for protecting scenic views or sites.

29 **5.10.5 EFU Micro Analysis**

30 As shown above in Section 4, the Project must be sited in an EFU zone in order to provide its
31 intended services due to one or more of the factors set forth in ORS 215.275(2).
32 ORS 215.283(1)(c)(A) requires IPC make that showing only at the "macro"⁸⁶ level, examining
33 the need to site on EFU lands at a project-wide level across all five relevant counties. Though
34 beyond what is required by the statute, the following section makes a similar showing at the
35 "micro" or county level, by providing a detailed discussion of the necessity of siting the Project in
36 EFU in Malheur County. This section is organized in the same way as the macro analysis,
37 providing information specific to the siting of the Project in Malheur County.

38 During the CAP, IPC received input from stakeholders requesting avoidance of irrigated
39 agriculture and high value farmland, and IPC considered the avoidance of these areas as a high
40 priority during the development of the Proposed Route. Although the analysis required by ORS

⁸⁶ In the context of Exhibit K, "macro" analysis refers to analysis of the Project across all five counties, and "micro" analysis is a county-specific analysis.

1 215.275 does not require separate consideration of range, irrigated agriculture, or high value
2 farmland, IPC nonetheless made efforts to avoid irrigated agriculture and high value farmland to
3 the extent practicable.

4 *5.10.5.1 Reasonable Alternatives Considered*

5 Through the CAP, IPC considered approximately 13 alternative routes or segments in Malheur
6 County, all of which cross EFU (see Exhibit B, Attachment B-1, 2010 Siting Study and
7 Attachment B-2, 2012 Supplemental Siting Study). The Supplemental Siting Study contains
8 additional discussion regarding the consideration of alternatives in this area that led to the
9 selection of the Proposed Corridor and identification of alternative corridor segments. However,
10 because EFU lands in Malheur County comprise approximately 99 percent of the county (see
11 Malheur County Comprehensive Plan, page 12), EFU lands are unavoidable. As a result, there
12 are no reasonable non-EFU alternative routes in Malheur County.

13 *5.10.5.2 Factors Requiring Siting of the Project on EFU in Malheur County*

14 Of the six EFU factors, three factors primarily drove the necessity to cross EFU-zoned land:
15 locational dependence, the lack of available urban and nonresource lands, and other
16 requirements of state and federal agencies.

17 **Technical and Engineering Feasibility**

18 The need for siting the Project in EFU lands in Malheur County was not driven by technical or
19 engineering feasibility considerations.

20 **Locational Dependence**

21 A utility facility is considered locationally dependent if it must cross land in one or more areas
22 zoned EFU in order to achieve a reasonably direct route or to meet unique geographical needs
23 that cannot be satisfied on non-EFU lands. Any route proceeding through Malheur County and
24 to the south and east toward the Hemingway Substation must cross EFU-zoned land. As shown
25 in Figure K-53 and Figure K-54, there is no reasonably direct route that avoids crossing EFU
26 lands in Malheur County. Therefore, at a county level of analysis, the Project must be sited in
27 EFU lands due to the Project's locational dependence.

28 **Lack of Available Urban and Nonresource Lands**

29 As shown on Figure K-53 and Figure K-54, almost all of the lands in Malheur County are zoned
30 as Goal 3 and Goal 4 resources. There is no path connecting the northern Malheur County with
31 the Hemingway Station that consists entirely of urban and nonresource lands. Consequently,
32 there is a lack of available urban and nonresource lands in Malheur County, and EFU lands
33 must be crossed by the Project.

34 **Availability of Existing Rights-of-Way**

35 There was no existing utility ROW traveling between the Project endpoints in Malheur County.
36 Even so, IPC made reasonable efforts to locate the Project in existing ROWs, and sited the
37 Project to be co-located with 73.8 miles of major road ROWs in Malheur County and to be co-
38 located with 14.3 miles of transmission line ROW. The Project is sited within a BLM-designated
39 utility corridor for approximately 12 miles. The opportunity to site the Project parallel to existing
40 ROWs, as well as the opportunity to site the Project within a BLM-designated utility corridor, has
41 influenced the location of the Project in Malheur County. To take advantage of the BLM-
42 designated utility corridor, the Project must be sited in EFU lands in Malheur County.

1 **Public Health and Safety**

2 The need for siting the Project in EFU lands in Malheur County was not driven by public health
3 and safety considerations.

4 **Other Requirements of State or Federal Agencies**

5 The requirements of state and federal agencies influenced the location of the Project in Malheur
6 County. In Malheur County, there are many state and federal routing constraints, including
7 sage-grouse core and low-density habitat (as designated by ODFW), ACECs, federally
8 designated Wilderness Areas, Wilderness Characteristic Units, Wild and Scenic Rivers, state
9 parks, and RNAs. Because of these state and federal siting constraints, the Project must be
10 sited in EFU lands in Malheur County.

11 **5.10.5.3 Costs Were Not the Only Factor Considered**

12 As discussed in Exhibit B and the attached siting studies, costs were not the only consideration
13 in selecting IPC's Proposed Route. Avoidance of sensitive resources, permitting and
14 construction factors, and extensive input from local citizens and officials and many other
15 stakeholders were the primary factors in corridor selection (see ORS 215.275(3)).

16 **5.10.5.4 Restoration of Agricultural Land**

17 Table K-35 describes the temporary and permanent impacts on agricultural lands in Malheur
18 County. The Agricultural Lands Assessment (Exhibit K, Attachment K-1) contains aerial
19 photographs showing affected agricultural areas in the EFU zone. It discusses measures IPC
20 will take to minimize and mitigate for potential impacts to agricultural operations within each
21 zone. These measures can be adopted as conditions of approval to ensure that the Project will
22 not result in significant adverse impacts to agricultural lands within this portion of the Project
23 (see ORS 215.275(4)).

24 **Table K-35. Temporary and Permanent Impacts on Agricultural Lands in**
25 **Malheur County, Proposed Route¹**

Route	Agriculture Type ²	Construction Impacts (acres)	Operations Impacts (acres)
Proposed Route	Dryland Farming	<0.1	–
	Irrigated ³	30.9	3.3
	Pasture/Hay ⁴	37.2	2.6
Total⁵		68.1	5.9

¹ Double Mountain Alternative does not cross agricultural lands.

² Agricultural type determined from the Agricultural Lands Assessment provided in Attachment K-1.

³ Irrigated totals do not include fallow land.

⁴ Pasture/hay includes irrigated alfalfa/hay.

⁵ Sums may not total due to rounding.

26 **5.10.5.5 Mitigation and Minimization Conditions**

27 As discussed in Section 4.1.5 and in the Agricultural Assessment, IPC does not expect that the
28 Project will have adverse impacts on surrounding lands, result in significant changes in
29 accepted farm practices or a significant increase in the cost of farm practices on the surrounding
30 farmlands (see ORS 215.275(5)). To the extent the Council has concerns about impacts to
31 surrounding agricultural land, the Council may incorporate elements of the agricultural mitigation

1 plan into the conditions required for issuance of a site certificate. Additionally, through its role as
2 a Special Advisory Group, Malheur County may provide recommendations to the Council
3 regarding conditions to include in the site certificate.

4 **5.10.6 Idaho Power's Proposed Site Certification Conditions Relevant to MCC** 5 **Compliance**

6 IPC proposes the following site certificate conditions to ensure the Project complies with the
7 applicable Malheur County substantive criteria, as well as other relevant requirements.

8 **Prior to Construction**

9 **Land Use Condition 1:** *Prior to construction, the site certificate holder shall*
10 *finalize, and submit to the department for its approval, a final Agricultural*
11 *Assessment. The protective measures described in the draft Agricultural*
12 *Assessment in ASC Exhibit K, Attachment K-1, shall be included and*
13 *implemented as part of the final Agricultural Assessment, unless otherwise*
14 *approved by the department.*

15 **Public Services Condition 2:** *Prior to construction, the site certificate holder*
16 *shall submit to the department for its approval a Helicopter Use Plan, which*
17 *identifies or provides:*

- 18 a. *The type of helicopters to be used;*
19 b. *The duration of helicopter use;*
20 c. *Roads or residences over which external loads will be carried;*
21 d. *Multi-use areas and light-duty fly yards containing helipads shall be located: (i)*
22 *in areas free from tall agricultural crops and livestock; (ii) at least 500 feet from*
23 *organic agricultural operations; and (iii) at least 500 feet from existing dwellings*
24 *on adjacent properties; and*
25 e. *Flights shall occur only between sunrise and sunset.*

26 **Prior to Construction in Malheur County**

27 **Land Use Condition 7:** *Prior to construction in Malheur County, the site*
28 *certificate holder shall provide to the department a copy of the following Malheur*
29 *County-approved permits, if such permits are required by Malheur County zoning*
30 *ordinances:*

- 31 a. *Flood plain development permit.*

32 **During Construction**

33 **Land Use Condition 8:** *During construction, the site certificate holder shall*
34 *conduct all work in compliance with the final Agricultural Assessment referenced*
35 *in Land Use Condition 1.*

36 **Public Services Condition 6:** *During construction, the site certificate holder*
37 *shall conduct all work in compliance with the Helicopter Use Plan referenced in*
38 *Public Services Condition 2.*

39 **During Construction in Malheur County**

40 **Land Use Condition 21:** *During construction in Malheur County, the site*
41 *certificate holder shall construct the facility to comply with the following setback*
42 *distances and other requirements:*

43 **In the EFU and ERU Zones:**

- 44 a. *Buildings shall be setback as follows: (i) at least 40 feet from a street or road*
45 *right-of-way; and (ii) at least 25 feet from any other property line.*

1 *b. No sight obscuring fence exceeding 3 feet in height shall be placed within the*
 2 *40-foot street setback, also within this setback shrubbery other than trees shall*
 3 *be maintained at heights not exceeding 3 feet.*

4 **Land Use Condition 22:** *During construction in Malheur County, the site*
 5 *certificate holder shall conduct all work in compliance with the Malheur County-*
 6 *approved permits referenced in Land Use Condition 7, if such permits are*
 7 *required by Malheur County zoning ordinances.*

8 **6.0 STATEWIDE PLANNING GOALS**

9 OAR 345-021-0010(1)(k)(C): . . . (iii) Identify all Land Conservation and Development
 10 Commission administrative rules, statewide planning goals and land use statutes directly
 11 applicable to the facility under ORS 197.646(3) and describe how the proposed facility
 12 complies with those rules, goals and statutes. (iv) If the proposed facility might not comply
 13 with all applicable substantive criteria, identify the applicable statewide planning goals and
 14 describe how the proposed facility complies with those goals.

15 Section 6.0 describes each of the 19 statewide planning goals and discusses how the Project
 16 complies with each goal.

17 **6.1 Citizen Involvement**

18 Goal 1: To develop a citizen involvement program that insures the opportunity for citizens to
 19 be involved in all phases of the planning process.

20 Goal 1 requires counties, or in this case EFSC, to ensure public participation in the land use
 21 process.⁸⁷ The EFSC site certificate process provides public involvement opportunities through
 22 informational meetings, public hearings, a written comment period, and the option of a
 23 contested case proceeding, if requested by a member of the public. The EFSC process satisfies
 24 Goal 1 as it applies to the Project. Moreover, beginning in 2008 and continuing today, IPC has
 25 made it a priority to involve the public in the siting process for the Project. Through the CAP,
 26 which took place in 2009 and 2010, IPC partnered with communities from northeast Oregon to
 27 southwest Idaho to identify possible routes for the Project. The CAP allowed substantial citizen
 28 involvement, provided a meaningful mechanism for communication between IPC and affected
 29 landowners and the general public, and allowed IPC to provide technical information to the
 30 public regarding the transmission line itself and its routing.

31 In addition to the CAP, in August 2010, BLM and ODOE conducted public scoping meetings that
 32 led to consideration of additional routes. These meetings were held along the potential routes
 33 under consideration at the time and allowed another opportunity for public involvement in the
 34 siting process.

35 In December 2014, BLM released its Draft Environmental Impact Statement for the Project,
 36 identifying the agency's preliminary preferred route. The public was given 90 days to provide
 37 comments to BLM.

38 Exhibit B and the siting studies (Attachments B-1, B-2, B-4, and B-6) provide a more detailed
 39 description of the public involvement that has occurred to date and further demonstrates the
 40 Project's compliance with this goal.

⁸⁷ See *Oregon's Statewide Planning Goals & Guidelines* at 1-2 (Oregon Department of Land Conservation and Development, March 2010) (hereinafter *DLCD Guidelines*).

6.2 Land Use Planning

Goal 2: To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.

Goal 2 requires the development of land use plans by local governments.⁸⁸ Strictly speaking, Goal 2 does not apply to the Project, because IPC has elected to have EFSC provide the land use approval for the Project, pursuant to ORS 469.504(1)(b). The EFSC siting process is, however, consistent with the general policies of Goal 2. In order to obtain a land use approval from EFSC, an applicant must demonstrate compliance with applicable substantive criteria from the affected local governments or, alternatively, demonstrate that the Project is consistent with the statewide planning goals or is entitled to an exception to a statewide planning goal. The Project's compliance with local applicable substantive criteria is discussed above in Section 4.0.

6.3 Agricultural Lands

Goal 3: To preserve and maintain agricultural lands.

Goal 3 is designed to preserve and maintain agricultural lands for farm use.⁸⁹ For the most part, Goal 3 is implemented at the county level through establishment of EFU zones. Oregon law specifically regulates how land zoned EFU can be used so as to minimize significant adverse effects on agricultural lands and accepted farming practices. For example, as a part of Goal 3, counties are required to establish minimum parcel sizes to preserve large tracts of agricultural land.

As demonstrated above in Section 4.0, the Project is permitted outright in Goal 3 EFU lands because it is a utility facility necessary for public service under ORS 215.283(1)(c)(A) and ORS 215.275. In compliance with ORS 215.275, IPC will both minimize impacts to accepted farming practices, and mitigate temporary and permanent impacts where necessary, in accordance with the measures outlined in the Agricultural Lands Assessment (Attachment K-1).

As explained above in Section 5.0, certain aspects of the Project may not meet local substantive setback development standards or dimensional requirements that apply to development on EFU lands. These setbacks are, however, a development standard or dimensional requirement imposed at each county's discretion, and are not among the Goal 3 land use requirements identified by LCDC in OAR Chapter 660, Division 33 (Agricultural Land). In fact, the particular circumstances in which the Project may not meet an EFU setback requirement may involve Project design or construction decisions that IPC has made specifically to reduce impacts to agricultural lands and practices. For example, IPC may intentionally opt to locate a transmission tower or related ROW as close as possible to the edge of a property line or irrigation system in order to minimize impacts on affected agricultural land. While decisions aimed at preserving agricultural lands may cause the Project to be in conflict with a setback that a county has set for development in its EFU zones, the Project is in fact more consistent with Goal 3 than it would be if it strictly complied with the setback requirements and had greater impacts on the Goal 3 lands.

Further, in *Brentmar v. Jackson County*, the Oregon Supreme Court concluded a county may not enact or apply criteria of its own that supplement those found in ORS 215.283(1). Here, because the Project is authorized on EFU lands as a utility facility necessary for public service under ORS 215.283(1)(c)(A) (see Section 4.0 above), the counties must also authorize the

⁸⁸ DLCD Guidelines for Goal 2.

⁸⁹ DLCD Guidelines for Goal 3.

1 Project outright on EFU lands despite any zoning provisions that may be more strict than
 2 ORS 215.283(1)(c)(A). For example, setback or other dimensional standards not found in
 3 ORS 215.283(1) cannot be relied upon by the Council or the counties to refuse to site the
 4 Project on EFU lands because doing so would be contrary to the holding in *Brentmar v. Jackson*
 5 *County*.

6 Moreover, the Project is consistent with Goal 3's policy of protecting and preserving agricultural
 7 lands, because IPC will mitigate for temporary and permanent impacts to agricultural practices,
 8 as discussed above in Section 4.0 and more fully in the Agricultural Lands Assessment,
 9 Attachment K-1. There are adequate reasons to support a finding that even though the Project
 10 may not meet all setback standards or dimensional requirements in EFU, it can nonetheless
 11 comply with Goal 3 and demonstrate that the Project meets the EFSC land use standard.

12 **6.4 Forest Lands**

13 **Goal 4:** To conserve forest lands by maintaining the forest land base and to protect the
 14 state's forest economy by making possible economically efficient forest practices that assure
 15 the continuous growing and harvesting of forest tree species as the leading use on the forest
 16 land consistent with sound management of soil, air, water, and fish and wildlife resources
 17 and to provide for recreational opportunities and agriculture.

18 **6.4.1 Project as a Whole**

19 The purpose of Goal 4 is to conserve forest lands.⁹⁰ To comply with Goal 4, an applicant must
 20 demonstrate compliance with LCDC's applicable rules set forth in OAR Chapter 660, Division 6.
 21 IPC has demonstrated that, for the majority of the Goal 4 forest lands that the Project crosses in
 22 Umatilla and Union counties, it is conditionally permitted as a "new electric transmission line."
 23 IPC's position is that the term "new electric transmission line" includes related and supporting
 24 facilities, including access roads, communication stations, and other such facilities, all of which
 25 should be conditionally permitted. And therefore, all Project features and related and supporting
 26 facilities are conditionally permitted in Goal 4 forest lands under OAR 660-006-0025(4)(q).

27 **6.4.2 Access Roads**

28 Arguably, roads proposed for development in Goal 4 forest lands outside of the transmission
 29 line corridor should not be included as part of the "new electric transmission line" that would be
 30 conditionally approved under OAR 660-006-0025(4)(q).⁹¹ However, even if the Council finds
 31 that OAR 660-006-0025(4)(q) does not cover access roads outside the transmission line
 32 corridor, IPC demonstrates that the substantially modified existing roads outside of the corridor
 33 are permitted outright on forest lands under OAR 660-006-0025(3)(h), and that new roads
 34 outside the corridor nonetheless comply with statewide planning Goal 4.

35 **6.4.2.1 Substantially Modified Existing Roads**

36 OAR 660-006-0025(3)(h) provides that the following uses are allowed outright on forest lands:
 37 "[w]idening of roads within existing rights-of-way in conformance with the transportation element
 38 of acknowledged comprehensive plans and public road and highway projects as described in
 39 ORS 215.213(1) and 215.283(1)." Here, the Project's "substantially modified existing roads"
 40 represent existing roads that will require improvements. The exact nature of the improvements

⁹⁰ DLCD Guidelines for Goal 4.

⁹¹ IPC notes that all of some of the Project's access roads may qualify as uses permitted in Goal 4 lands pursuant to OAR 660-006-0025((3)(h) (widening of roads within existing right-of-way permitted outright) or OAR 660-006-0025(4)(v)(certain public road and highway projects).

1 will vary depending on the condition of the existing roads, but generally will include widening of
 2 roads to provide a 14-foot-wide travel surface, with a 16- to 20-foot-wide travel surface for
 3 horizontal curves. Additional improvements may be made to allow for the passage of heavy
 4 equipment. Importantly, none of these activities will result in the removal of a significant amount
 5 of Goal 4 land from forest use. Accordingly, the Project's substantially modified existing roads
 6 should be considered "widening of roads" and should be permitted outright in forest lands under
 7 OAR 660-006-0025(3)(h).

8 Alternatively, in the event EFSC concludes that the substantially modified existing roads outside
 9 the transmission line corridor are not conditionally permitted as part of the new electric
 10 transmission line or permitted outright under OAR 660-006-0025(3)(h), the Council should find
 11 that such roads nonetheless comply with statewide planning Goal 4 or grant IPC an exception to
 12 Goal 4 as discussed in Section 7.0.

13 6.4.2.2 New Access Roads

14 Pursuant to OAR 345-022-0030(b)(B) and (C), if a facility does not comply with one or more
 15 substantive criteria, the Council may nonetheless issue a site certificate if it finds (1) that the
 16 facility complies with the applicable statewide planning goals; or (2) that an exception to a
 17 statewide planning goals is justified under OAR 345-022-0030(4). In this instance, new access
 18 roads needed to access the transmission line will cross forest lands in Umatilla and Union
 19 counties. IPC has attempted to minimize the development of new roads in forested areas,
 20 relying on existing roads where possible. While the new access roads will inevitably require a
 21 certain amount of forest lands to be removed from forest use, the overall acreage will not be
 22 significant.

23 Thus, while the new access roads outside of the transmission line corridor may not satisfy all
 24 applicable use criteria for siting in a forest zone, there is substantial evidence to support a
 25 finding by the Council that the Project is consistent with Goal 4 because the Project access
 26 roads will remove minimal Goal 4 land from forest use, will not restrict forest practices on
 27 adjacent land, and may even promote economically efficient forest practices on and recreational
 28 use of adjacent forest lands.

29 Alternatively, in the event EFSC concludes that the new roads outside the transmission line
 30 corridor are not conditionally permitted as part of the new electric transmission line and are
 31 inconsistent with Statewide Planning Goal 4, notwithstanding *COB* and ORS 772.210, IPC
 32 seeks an exception to Goal 4 in Section 7.0 below.

33 6.5 Natural Resources, Scenic and Historic Areas, and Open Spaces

34 **Goal 5: To conserve open space and protect natural and scenic resources.**

35 Goal 5 is focused on protecting inventoried natural resources. The DLCD Guidelines identify the
 36 following as Goal 5 resources: riparian corridors, wetlands, wildlife habitat, federal wild and
 37 scenic rivers, state scenic waterways, groundwater resources, approved Oregon recreational
 38 trails, natural areas, wilderness areas, mineral and aggregate resources, energy sources, and
 39 cultural areas.⁹² Goal 5 is quite broad, and the resources identified above as Goal 5 resources
 40 are specifically provided with additional protection by the following EFSC standards:

- 41 • **Protected Areas:** The Council must find that, taking into account mitigation, the design,
 42 construction and operation are not likely to result in significant adverse impact to the

⁹² DLCD Guidelines for Goal 5.

1 protected areas listed in the standard (including inventoried Goal 5 resources if
2 enumerated in standard) (see Exhibit L).

- 3 • **Wildlife Habitat:** The Council must find that the design, construction, and operation of
4 the facility, taking into account mitigation, are consistent with ODFW's habitat mitigation
5 policy. This standard will protect inventoried Goal 5 wildlife and habitats that are also
6 protected by ODFW's habitat mitigation policy (see Exhibits P1, P2, P3, and Q).
- 7 • **Scenic Resources:** The Council must find that the design, construction, and operation
8 of the facility, taking into account mitigation, are not likely to result in significant adverse
9 impact to scenic resources and values identified as significant or important in local land
10 use plans, tribal land management plans, and federal land management plans for any
11 lands located within the analysis area (see Exhibit R).
- 12 • **Historic, Cultural and Archaeological Resources:** The Council must find that the
13 construction and operation of the facility, taking into account mitigation, are not likely to
14 result in significant adverse impacts to qualified historic, cultural, and archaeological
15 resources (including all inventoried Goal 5 cultural and historic resources that fall within
16 definitions of protected resources under the standard) (see Exhibit S).
- 17 • **Wetlands:** The Council must conclude that the Project will comply with the criteria
18 required for issuance of Removal/Fill permit from the Department of State Lands,
19 including impacts to any inventoried Goal 5 riparian corridors, wetlands (see Exhibit J).
- 20 • **Recreation:** The Council must find that the design, construction, and operation of a
21 facility, taking into account mitigation, are not likely to result in a significant adverse
22 impact to important recreational opportunities in the analysis area, including inventoried
23 Goal 5 recreation resources if "important" (see Exhibit T).

24 With the exception of riparian zones, the Project will satisfy the local criteria implementing
25 Goal 5 protections in all five counties with regard to each of the above resources (see above
26 Section 5.4.4, Section 5.5.4, Section 5.6.4, Section 5.8.3, and Section 5.9.4).

27 **Riparian Zones, Setbacks, and Corridors**

28 As discussed in Exhibit J, IPC has designed and located the transmission line and related and
29 supporting facilities to avoid impacts to water resources including streams, rivers and lakes, and
30 where avoidance is not practicable, IPC will use stream crossing techniques to minimize
31 impacts to waters and adjacent riparian zones. However, given the Project's linear nature, it will
32 not be feasible to avoid crossing riparian zones. The location of conductors between
33 transmission structures may require thinning of vegetation in riparian zones and temporary
34 access roads will cross riparian zones. IPC will continue to collaborate with federal, state, and
35 local resource agencies to minimize impact to riparian areas and to incorporate agreements into
36 final plans and specifications. For areas where temporary construction disturbance results in
37 removal of riparian vegetation, natural vegetation will be replanted with indigenous species in
38 the next replanting season as outlined in the Reclamation and Revegetation Plan (see Exhibit
39 P1, Attachment P1-3).

40 However, to the extent the Project cannot satisfy stream setbacks or riparian vegetation removal
41 standards, the Project is nonetheless consistent with the policies underlying Goal 5. This is
42 because IPC will minimize, mitigate and ultimately provide compensatory mitigation for
43 permanent impacts in riparian zones. IPC has proposed a draft Compensatory Wetland and
44 Stream Mitigation Plan that will compensate for removal-fill impacts to streams, as well as
45 wetlands. Additionally, for areas where temporary construction disturbance results in removal of
46 riparian vegetation, natural vegetation will be replanted with indigenous species in the next

1 replanting season as outlined in the Reclamation and Revegetation Plan (see Exhibit P1,
2 Attachment P1-3).

3 Accordingly, the Project is consistent with the underlying policies of Goal 5 because of IPC's
4 efforts to minimize and mitigate for impacts to riparian zones. In the event that EFSC does not
5 conclude that the Project is consistent with Goal 5, IPC will demonstrate that the Project
6 warrants an exception to Goal 5.

7 **6.6 Air, Water, and Land Resources Quality**

8 **Goal 6: To maintain and improve the quality of the air, water and land resources of the state.**

9 Goal 6 provides for the maintenance of the quality of air, water, and land resources.⁹³ To
10 comply with this goal, the applicant must demonstrate that its waste and process discharges do
11 not threaten to violate or actually violate applicable local, state, or federal environmental quality
12 statutes, rules, or standards.⁹⁴ As discussed extensively in Exhibit V, the Project will have
13 minimal waste discharges and will not degrade any air, water, or land resources. IPC
14 demonstrates compliance with this goal in Exhibit G (Materials Analysis), Exhibit E (Other
15 Permits), and Exhibit V (Waste and Wastewater). Accordingly, the Project is consistent with
16 Goal 6.

17 **6.7 Areas Subject to Natural Hazards**

18 **Goal 7: To protect life and property from natural disasters and hazards.**

19 Goal 7 requires the protection of people and property from natural hazards, which for purposes
20 of Goal 7 include floods, landslides, earthquakes, tsunamis, coastal erosion, and wildfires.⁹⁵ To
21 comply with Goal 7, an applicant must demonstrate that the proposed facility can be constructed
22 in such a way that it does not pose a risk to people and property in the event of a natural
23 disaster or demonstrate that the risks posed are appropriately mitigated.

24 As set forth in Exhibit H (Geological Hazards and Soil Stability), the Project has been designed
25 and will be constructed to account for floods, landslides, and earthquakes in a manner that will
26 not pose a risk of injury to persons or property. Furthermore, IPC has proposed adequate
27 safeguards for those portions of the Project that do cross hazardous areas, including addressing
28 geological risks and landslide hazards (see Exhibit H). For the reasons outlined in Exhibit H,
29 IPC has demonstrated that the Project complies with Goal 7.

30 **6.8 Recreation Needs**

31 **Goal 8: To satisfy the recreational needs of the citizens of the state and visitors and, where
32 appropriate, to provide for the siting of necessary recreational facilities including destination
33 resorts.**

34 Goal 8 protects the recreational needs of Oregon's citizens and visitors. As demonstrated in
35 Exhibit T (Recreation), the Project will not result in a significant adverse impact to any
36 recreational opportunities or facilities within the analysis area. Accordingly, the Project is
37 consistent with Goal 8.

⁹³ DLCD Guidelines for Goal 6.

⁹⁴ DLCD Guidelines for Goal 6.

⁹⁵ DLCD Guidelines for Goal 7.

6.9 Economic Development

Goal 9: To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare and prosperity of Oregon's citizens.

The purpose of Goal 9 is to "provide an adequate land supply for economic development and employment growth in Oregon."⁹⁶ In particular, the planning guidelines in the Goal emphasize the use of "geographically appropriate" sites for major facilities and also the expansion and increased productivity of such facilities." IPC's proposed Project is consistent with Goal 9 in that the purpose of the Project is to strengthen the state and region's critical transmission infrastructure as described more fully in Exhibit N. Additionally, as discussed extensively in Section 3.0 of this Exhibit, the Project has been carefully sited to maximize positive impacts to Oregon's economy, while minimizing impacts to protected resources, including agricultural and forest lands. Additionally, construction of the Project will provide economic development opportunities as described in Exhibit U (Public Services).

In Morrow County, it is possible that the Project will not comply with setback requirements applicable to development in the Port Industrial zone. However, the Project as a whole is nonetheless consistent with Goal 9. The focus of Goal 9 is to provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare and prosperity of Oregon's citizens, and Morrow County has designated the Port Industrial zone pursuant to statewide planning Goal 9. The setback requirements, however, are not directly relevant to Goal 9. Thus, while the Project may not comply with certain setback requirements in a Goal 9 zone, the Project is nonetheless consistent with Goal 9 because the Port Industrial zone is a "geographically appropriate" site for a substation, and the purpose of the Project is to strengthen the state and region's critical transmission infrastructure.

6.10 Housing

Goal 10: To provide for the housing needs of citizens of the state.

Goal 10 ensures that land use planning provides for the housing needs of Oregon's citizens.⁹⁷ The rule that defines the standards for compliance with Goal 10, is intended to "assure opportunity for the provision of adequate numbers of needed housing units, the efficient use of buildable land within urban growth boundaries, and to provide greater certainty in the development process so as to reduce housing costs."⁹⁸ The Project is not located in any residential zones, and should not have any impact on local government's ability to meet projected housing needs. The Project will not prevent residential development on buildable lands and will not result in any land being removed from the inventoried buildable lands. Accordingly, the Project is consistent with Goal 10.

⁹⁶ OAR 660-009-0000; *DLCD Guidelines* for Goal 9.

⁹⁷ *DLCD Guidelines* for Goal 10.

⁹⁸ OAR 660-008-0000(1).

6.11 Public Facilities and Services

Goal 11: To plan and develop timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

Goal 11 requires local governing bodies to “plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.”⁹⁹ This goal applies primarily to local governments and not necessarily to applicants. The Project will not require public sewer or water facilities, and impacts to public roads during construction will be minimized in accordance with site certificate conditions. Accordingly, the Project is consistent with Goal 11.

6.12 Transportation

Goal 12: To provide and encourage a safe, convenient and economic transportation system.

The purpose of Goal 12 is to “provide and encourage a safe, convenient and economic transportation system.”¹⁰⁰ Goal 12 requires local governments to develop and implement transportation planning consistent with LCDC’s rules in OAR Chapter 660, Division 12.

As discussed in Exhibit U (Public Services) and the Project’s Transportation and Traffic Plan (Exhibit U, Attachment U-2), the Project does involve construction of both temporary and permanent access roads, most of which will be private roads. Project operations will not result in any permanent impacts to local transportation systems, other than improvements to public roads in some cases. IPC will coordinate with the affected local public works and road departments during the final design phase preconstruction regarding any such improvements. With regard to traffic impacts during construction, the Project will have only temporary short-term impacts, which are not addressed by Goal 12 or its implementing rules. Accordingly, the Project is consistent with Goal 12.

6.13 Energy Conservation

Goal 13: To conserve energy.

Goal 13 provides for land and uses authorized on the land to be managed and controlled so as to maximize energy conservation.¹⁰¹ To the extent that this goal is applicable to the Project, which does not itself consume energy, Exhibit N (Need) demonstrates that this resource fits into IPC’s overall resource management strategy and is designed to support IPC in its continuing efforts to promote energy efficiency and demand response as an alternative to the construction of additional generation plants. Exhibit V (Waste and Wastewater) also addresses IPC’s efforts to reuse and recycle waste to the maximum extent practicable.¹⁰²

⁹⁹ DLCD Guidelines for Goal 11; see also OAR 660-011-0000 *et seq.*

¹⁰⁰ OAR 660-012-0000(1).

¹⁰¹ DLCD Guidelines for Goal 13.

¹⁰² DLCD Guidelines for Goal 13.

6.14 Urbanization

Goal 14: To provide for an orderly and efficient transition from rural to urban land use.

The purpose of Goal 14 is to “provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.”¹⁰³ The Project is located primarily in rural areas, but development of the Project does not represent a transition of those areas from rural to urban. The Project is consistent with rural land uses, and is not expected to result in any short-term or permanent urbanization in the Project vicinity. Accordingly, Goal 14 is not directly applicable to the Project.

6.15 Willamette River Greenway; Estuarine Resources; Coastal Shorelands; Beaches and Dunes; Ocean Resources

Goal 15 through Goal 19: Willamette Greenway, Estuarine Resources, Coastal Shorelands, Beaches and Dunes

Goal 15 through Goal 19 are related to the Willamette Greenway or ocean resources. Because the Project does not implicate those resources, Goal 15 through Goal 19 do not apply to the Project and the Project complies with the same.

7.0 GOAL 4 EXCEPTION

ORS 469.504(2): The council may find goal compliance for a facility that does not otherwise comply with one or more statewide planning goals by taking an exception to the applicable goal. Notwithstanding the requirements of ORS 197.732, the statewide planning goal pertaining to the exception process or any rules of the Land Conservation and Development Commission pertaining to an exception process goal, the council may take an exception to a goal if the council finds: (a) The land subject to the exception is physically developed to the extent that the land is no longer available for uses allowed by the applicable goal; (b) The land subject to the exception is irrevocably committed as described by the rules of the Land Conservation and Development Commission to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable; or (c) The following standards are met: (A) Reasons justify why the state policy embodied in the applicable goal should not apply; (B) The significant environmental, economic, social and energy consequences anticipated as a result of the proposed facility have been identified and adverse impacts will be mitigated in accordance with rules of the council applicable to the siting of the proposed facility; and (C) The proposed facility is compatible with other adjacent uses or will be made compatible through measures designed to reduce adverse impacts.

OAR 345-022-0030(4): The Council may find goal compliance for a proposed facility that does not otherwise comply with one or more statewide planning goals by taking an exception to the applicable goal. Notwithstanding the requirements of ORS 197.732, the statewide planning goal pertaining to the exception process or any rules of the Land Conservation and Development Commission pertaining to the exception process, the Council may take an exception to a goal if the Council finds: (a) The land subject to the exception is physically developed to the extent that the land is no longer available for uses allowed by the applicable goal; (b) The land subject to the exception is irrevocably

¹⁰³ DLCD Guidelines for Goal 14.

committed as described by the rules of the Land Conservation and Development Commission to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable; or (c) The following standards are met: (A) Reasons justify why the state policy embodied in the applicable goal should not apply; (B) The significant environmental, economic, social and energy consequences anticipated as a result of the proposed facility have been identified and adverse impacts will be mitigated in accordance with rules of the Council applicable to the siting of the proposed facility; and (C) The proposed facility is compatible with other adjacent uses or will be made compatible through measures designed to reduce adverse impacts.

7.1 Access Roads Outside the Transmission Line Right-of-Way

7.1.1 Overview of Access Roads

For development of the Project in forested areas of the GF zone in Umatilla County, and the Timber-Grazing zone in Union County, the Project is a “new electric transmission line” within the meaning of OAR 660-006-0025(4)(q). Moreover, the Project complies with the applicable conditional use criteria set forth in OAR 660-006-0025(5). Arguably, however, access roads outside of a 500-foot ROW corridor are not included in the “new electric transmission line” conditional use. Accordingly, IPC seeks a finding by the Council that the Project (1) nevertheless complies with the policies underlying Goal 4 (see Section 6.0), or, alternatively, (2) warrants an exception to Goal 4 for any permanent access roads in forest lands that are outside of the transmission line corridor included in the “new electric transmission line” use.

IPC estimates that the Proposed Route and Morgan Lake Alternative will require approximately 28.5 miles and 17.1 miles, respectively, of new or substantially modified existing access roads in Goal 4 forest lands in Umatilla and Union counties outside the transmission line corridor (see Table K-36). As described in detail in Exhibit B, the Project’s Site Boundary conservatively provides for a 15-foot buffer on each side of each 30-foot-wide access road. The forestland around the road would need to be removed from Goal 4 protection and commercial forest operations in order to facilitate construction and operation of the Project.

Table K-36. Miles of Access Roads Outside 500-foot Corridor on Goal 4 Forest Lands

Corridor	County ¹	Access Road Type	Total (miles)
Proposed Route	Umatilla	Existing Roads, Substantial Modifications	5.8
		New Roads	0.5
	Union	Existing Roads, Substantial Modifications	18.2
		New Roads	14.0
Total			28.5
Morgan Lake Alternative	Union	Existing Roads, Substantial Modifications	13.0
		New Roads	4.1
Total			17.1

¹ Goal 4 forest lands include “GF” zone in Umatilla County, and “Timber-Grazing” zone in Union County.

7.1.2 Reasons that Justify an Exception

ORS 469.504(2): [T]he council may take an exception to a goal if the council finds: . . . (c) The following standards are met: (A) Reasons justify why the state policy embodied in the applicable goal should not apply;

1 In accordance with OAR 660-015-0000(4), the policy of Goal 4 is:

2 *To conserve forest lands by maintaining the forest land base and to protect the state's*
3 *forest economy by making possible economically efficient forest practices that assure*
4 *the continuous growing and harvesting of forest tree species as the leading use on*
5 *forest land consistent with sound management of soil, air, water, and fish and wildlife*
6 *resources and to provide for recreational opportunities and agriculture.*

7 In the following discussion, IPC will explain that Goal 4 should not apply to the forest lands that
8 would be impacted by proposed access roads because: (1) the Project—which cannot be built
9 without the proposed access roads—serves an important public interest; (2) the adverse impact
10 to forest lands imposed by the access roads would be relatively small; and (3) concerns
11 regarding the relatively minor impacts to forest lands raised by the Project are outweighed by
12 the harm that would be caused if the Project could not be permitted.

13 *7.1.2.1 The Project Cannot be Built Without the Proposed Access Roads in Forest* 14 *Lands*

15 As described in Section 3.3.2 of Exhibit B, the proposed access roads are an essential
16 component of the Project facilities. During the construction phase, the access roads are
17 required to allow materials, equipment, and personnel to access the construction sites. During
18 operations, the access roads are required to allow for necessary maintenance of the
19 transmission line and structures. Therefore, without the access roads, the Project could not be
20 built or maintained.

21 Moreover, the location of certain access roads in Goal 4 forest lands cannot reasonably be
22 avoided. As described in Exhibit B and Attachment B-1 (2010 Siting Study), IPC engaged in a
23 detailed and thorough process to identify its Proposed Corridor connecting a substation in the
24 Boardman area with IPC's existing Hemingway Substation. As further discussed in detail in
25 Section 4.0, the Project is locationally-dependent, in that there were a limited number of
26 potential routes that would meet the Project's purpose and need. More specifically, the Project's
27 fairly limited crossing of Goal 4 forest lands is necessary for the Project to cross the Wallowa-
28 Whitman NF in the designated utility corridor. Alternative routes would, in fact, have resulted in
29 a far greater number of acres of Goal 4 forest land being removed from forest or related uses.

30 *7.1.2.2 The Project Serves a Critical Public Interest*

31 Exhibit N explains in detail the critical public interest served by the Project. That information is
32 summarized here.

33 IPC is required, by both federal and state laws, to plan for and meet load and transmission
34 requirements. IPC has identified the Project as a critical component of an overall resource
35 portfolio that best balances cost, risk, and environmental concerns and, as explained in detail in
36 Exhibit N (Need for Facility), both the Idaho and Oregon public utility commissions have
37 acknowledged resource portfolios that identify the Project as a key resource.

38 The Project will enable IPC to accomplish the following critical objectives:

- 39 • **Serve Native Loads.** The primary objective of the Project is to create additional
40 transmission capacity that would allow IPC to import power from the Pacific Northwest
41 market to serve its retail customers located in the states of Idaho and Oregon.
42 Historically, IPC has been a “summer peaking” utility, while most other utilities in the
43 Pacific Northwest experience system peak loads during the winter. Currently, however,
44 IPC does not have adequate transmission capacity to increase its on-peak power

1 purchases on the western side of its system. As described in IPC's 2013 and 2015
2 Integrated Resource Plans (IRPs), the Project will remedy this transmission constraint by
3 allowing IPC to import an average of 350 MW (500 MW in the summer, 200 MW in the
4 winter) of market purchases to serve its native load (IPC 2013, 2015). In this way, the
5 Project is properly viewed as a supply-side resource, similar to a generation plant, which
6 will allow IPC to meet its expected loads. Further, better access to the Pacific Northwest
7 power market is critical because that market is very liquid with a high number of
8 participants and transactions. On the other hand, the accessible power markets south
9 and east of IPC's system tend to be smaller, less liquid, and have greater transmission
10 distances. Historically, during IPC's peak-hour load periods, off-system market
11 purchases from the south and east have proven to be unavailable or very expensive.
12 Many of the utilities to the south and east of IPC also experience a summer peak, and
13 the weather conditions that drive IPC's summer peak-hour load are often similar across
14 the Intermountain Region. Therefore, IPC imports from the Intermountain Region are not
15 a viable alternative to the Project.

- 16 • **Meet Transmission Reliability Standards.** The Project is an integral component of
17 regional transmission planning because it will serve as a crucial high-capacity
18 connection between two key points in the existing bulk electric system that currently lack
19 sufficient transmission capacity. The Project will relieve congestion of the existing
20 transmission system and enhance the reliable, efficient, and cost-effective energy
21 transfer capability between the Pacific Northwest and Intermountain regions. The
22 addition of B2H to the regional grid would create additional redundancy in pathways that
23 will enable IPC and other transmission providers to maintain reliable electric service
24 pursuant to the standards set forth by the North American Electric Reliability Corporation
25 (NERC) and implemented by the Western Electricity Coordinating Council (WECC).
26 Excess transmission capacity created by the Project could accommodate additional
27 regional energy transaction and would likely be utilized by other regional transmission
28 providers.
- 29 • **Provide Transmission Service to Wholesale Customers.** The Project allows IPC to
30 comply with the requirements of the FERC, which require IPC to construct adequate
31 transmission infrastructure to provide service to wholesale customers in accordance with
32 IPC's OATT. IPC expects interconnection and transmission requests to continue as
33 renewable resources are developed in northeast Oregon.
- 34 • **Provide Sufficient Capacity.** The Project will provide sufficient capacity to: 1) transfer
35 an additional 1,050 MW of power from the BPA 500-kV transmission system in the
36 Pacific Northwest west-to-east across the Idaho-Northwest transmission path; 2) transfer
37 an additional 1,000 MW of power east-to-west across the Idaho-Northwest transmission
38 path; and 3) allow for actual power flows on the Project of up to approximately 1,500
39 MW, accounting for variations in actual power flows of the various transmission lines
40 comprising the Idaho-Northwest transmission path.

41 Through study and planning, IPC concluded that the Project objectives would best be met by
42 connecting IPC's existing transmission system to the existing Pacific Northwest 500-kV
43 transmission grid.

44 *7.1.2.3 The Benefit to the Public of the Project Outweighs the Minimal Detriment* 45 *Posed by the Project, Justifying an Exception*

46 As described above, the access roads proposed to be improved or constructed in forest lands
47 will impose relatively minor impacts. Moreover, the improvements proposed for existing roads
48 will not remove any significant amount of forest lands from existing uses. For these reasons, the

1 Council can be assured that the Project will not result in significant adverse impacts to, or
2 significantly increase the cost of, commercial forest operations. Indeed, as noted above, in
3 some cases the new and improved roads might actually assist commercial forest operations.

4 In this case, IPC has demonstrated that the access roads are necessary to the construction and
5 maintenance of the Project, that the Project is necessary to serve a critical public interest, and
6 that the access roads are locationally-dependent.¹⁰⁴ The evidence provided by IPC is sufficient
7 to override the competing Goal 4 policy to preserve forest lands; therefore, if the Council
8 determines that an exception to Goal 4 is required, the Council should grant the exception.¹⁰⁵

9 For these reasons, EFSC should find that the public interest in developing the Project outweighs
10 the state policy embodied in Goal 4, and the state policy embodied in Goal 4 should not apply to
11 the Project's related and supporting facility (access roads).

12 **7.1.3 ESEE Analysis**

13 ORS 469.504(2)(c)(B): The significant environmental, economic, social and energy
14 consequences anticipated as a result of the proposed facility have been identified and
15 adverse impacts will be mitigated in accordance with rules of the council applicable to the
16 siting of the proposed facility; and

17 IPC has carefully identified and considered the environmental, economic, social, and energy
18 consequences that can be anticipated as a result of the Project, and will mitigate any adverse
19 impacts.¹⁰⁶

20 **7.1.3.1 Environmental**

21 There are approximately 776 acres of forest land within the Project site boundary and 500 feet
22 of the site boundary.¹⁰⁷ All forest clearing will occur in accordance with Forest Practices Act (see
23 Exhibit BB, Attachment BB-1, Plan for an Alternate Practice).

24 The Project would result in permanent habitat conversion in forested areas, where trees would
25 be cleared and mature forest would be permanently replaced by shrub-scrub or other non-
26 forested habitat. Most of the habitat conversion attributable to roads proposed in forest lands
27 would be the result of development of new access roads, and to a lesser extent, improvements

¹⁰⁴ See OAR 660-04-022(1) ("1) For uses not specifically provided for in this division, or in OAR 660-011-0060, 660-012-0070, 660-014-0030 or 660-014-0040, the reasons shall justify why the state policy embodied in the applicable goals should not apply. Such reasons include but are not limited to, the following:

(a) There is a demonstrated need for the proposed use or activity, based on one or more of the requirements of Goals 3 to 19; and either: (A) A resource upon which the proposed use or activity is dependent can be reasonably obtained only at the proposed exception site and the use or activity requires a location near the resource. An exception based on this paragraph must include an analysis of the market area to be served by the proposed use or activity. That analysis must demonstrate that the proposed exception site is the only one within that market area at which the resource depended upon can reasonably be obtained; or (B) The proposed use or activity has special features or qualities that necessitate its location on or near the proposed exception site.

¹⁰⁵ See e.g., *Hammack & Associates, Inc., Burns Bros., Inc., Ralph Elligsen, Cmty. First Fed. Sav. & Elvin H. Foster, Petitioners.*, 16 Or LUBA 75 (1987) ("It is the demonstrated need for the proposed use and the uniqueness of the site under OAR 660-04-022(1) that warrants overriding the competing state policies and other goals to allow an exception. This demonstration requires more than simply showing a proposed use would be consistent with another goal.").

¹⁰⁶ For purposes of this discussion, IPC focuses on the environmental, economic, social, and energy consequences of development of the Project, including access roads, on Goal 4 forest lands. For analysis of the impacts from the entire Project, see discussion and analysis in Exhibits J, L, M, O, P, Q, R, S, T, U, V, and X.

¹⁰⁷ See Exhibit K, Attachment K-2, Right-of-Way Clearing Assessment.

1 to existing roads. However, once the Project and associated access roads have been
2 developed, no further habitat conversion will take place. Permanent impacts to forest lands will
3 be mitigated in accordance with the Fish and Wildlife Habitat Mitigation Plan (see Exhibit P1,
4 Attachment P1-6).

5 7.1.3.2 Economic

6 The Project is a crucial regional transmission project that will have a positive economic impact
7 for the region over both the short term (construction jobs) and long term (Pacific Northwest
8 power market and bringing renewables to market). As discussed under Reasons that Justify an
9 Exception (Section 6.1.1), the Project has been selected as one of seven vital national
10 transmission projects. According to the Council on Environmental Quality:¹⁰⁸

11 *These seven pilot projects are estimated to create more than 11,000 construction and*
12 *operation jobs. In selecting the seven pilot projects, the following principles were*
13 *considered:*

- 14 • *Projects that address reliability and/or provide capacity for new commercial scale*
15 *renewable and clean energy sources (on and off Federal lands);*
- 16 • *Projects with some level of geographic diversity in both the eastern and western*
17 *interconnections;*
- 18 • *Projects with opportunities to expand or improve agency cooperation such as*
19 *"Qualifying Projects" as defined by the 2009 MOU with unique permitting challenges*
20 *and near-term critical milestones; and*
- 21 • *Projects (in the west) which use corridors designated on Federal lands through*
22 *Section 368 of the Energy Policy Act of 2005.*

23 Transmission development will create many regional economic benefits. Indeed, as discussed
24 Exhibit U, development of the Project creates direct economic benefits, including creation of
25 new jobs, increased ad valorem taxes, new dollars supporting the local economy, and a
26 stimulus to the local economy in the form of expenditures on materials and supplies.

27 Moreover, as discussed in Section 5.0, the development and improvement of access roads
28 associated with the Project may provide for more efficient entry of personnel and vehicles for
29 the harvesting and removal of trees for existing timber operations.

30 7.1.3.3 Social/Energy

31 The Project will have no significant adverse impacts on public services or facilities, including
32 hospitals, schools, or transportation systems, as discussed in Exhibit U.

33 Exhibit N (Need) demonstrates that the Project fits into IPC's overall resource management
34 strategy and is designed to support IPC in its continuing efforts to promote energy efficiency and
35 demand response as an alternative to the construction of additional generation plants.
36 Additionally, the Project is important for renewable resource development in northeastern
37 Oregon such as wind and geothermal resources. The 500-kV transmission line is expected to
38 relieve congestion on the existing 230-kV transmission system, which could facilitate
39 transmission of renewable energy. The Project will promote energy efficiency and integration of
40 renewable generation resources.

¹⁰⁸ See also <http://www.whitehouse.gov/administration/eop/ceq/initiatives/interagency-rapid-response-team-for-transmission>.

1 **7.1.4 Compatibility with Adjacent Uses**

2 **ORS 469.504(2)(c)(C):** The proposed facility is compatible with other adjacent uses or will be
3 made compatible through measures designed to reduce adverse impacts.

4 The development of access roads associated with the Project is compatible with adjacent land
5 uses. Although there may be temporary disturbances to adjacent commercial forest operations
6 during the development of access roads, there will likely not be any long-term impacts
7 associated with the Project.

8 Commercial forest operations on surrounding lands occur periodically and may occur during
9 construction of the Project. Potential interference with such use during Project construction
10 would be limited to traffic interference between logging activities—primarily log hauling—and
11 movement of Project construction equipment and supplies, or improvement of access roads that
12 may be used by the Project and concurrent non-Project forest operations. To the extent
13 necessary, IPC will coordinate with local road departments and other forest operators to time
14 large-load deliveries to the extent such deliveries could potentially conflict with other forest or
15 agricultural uses on surrounding lands. Ongoing forestland maintenance activities on
16 surrounding lands are unlikely to be impacted by the development of access roads associated
17 with the Project.

18 IPC will implement erosion control measures in these areas to minimize impacts to wetlands,
19 wildlife habitat, and agricultural operations and forest roads. Any grading to prepare the roads
20 will be conducted under a National Pollutant Discharge Elimination System 1200-C permit,
21 which will incorporate an erosion and sediment control plan (Exhibit I, Attachment I-3). As
22 described in the Reclamation and Revegetation Plan and the Vegetation Maintenance Plan (see
23 Exhibit P1, Attachments P1-3 and P1-4), IPC will restore temporarily disturbed areas to
24 preconstruction conditions and will implement a weed control plan.

25 During Project operations, limited activities will occur on access roads, and will be compatible
26 with adjacent land uses. IPC will use the access roads to inspect the Project components
27 located within the ROW and manage vegetation, consistent with the Vegetation Management
28 Plan (Exhibit P1, Attachment P1-4, Section 2), but generally, such activities will have relatively
29 low impact and are unlikely to cause potential adverse impacts on surrounding forest
30 operations. Access roads will be monitored for drainage or erosion control problems and
31 repaired as necessary.

32 For the foregoing reasons, IPC demonstrates that the Project is compatible with adjacent land
33 uses, and that measures will be taken to reduce any potential adverse impacts.

34 **7.2 Light-Duty Fly Yard in Goal 4 Forestlands**

35 **7.2.1 Overview**

36 Light-duty fly yard LDFY UM-01 will be located at MP 87.6 in land zoned by Umatilla County as
37 Grazing Farm Zone, which is considered Goal 4 forestland (see Exhibit C, Attachment C-2, Map
38 39). As discussed above, the light-duty fly yards are considered personal use airports under
39 UCDC 152.617(I)(N) and may be authorized as a conditional use in the Grazing Farm Zone
40 under UCDC 152.085(G). That said, OAR 660-006-0025 identifies uses that may be authorized
41 in Goal 4 forestlands and development of new temporary airports is not included in that list. In
42 the event the Council finds Light-duty fly yard LDFY UM-01 cannot be authorized without a
43 Goal 4 exception, IPC herein provides information supporting such an exception under
44 ORS 469.504(2).

1 **7.2.2 Reasons that Justify an Exception**

2 ORS 469.504(2): [T]he council may take an exception to a goal if the council finds: . . . (c)
3 The following standards are met: (A) Reasons justify why the state policy embodied in the
4 applicable goal should not apply;

5 In accordance with OAR 660-015-0000(4), the policy of Goal 4 is:

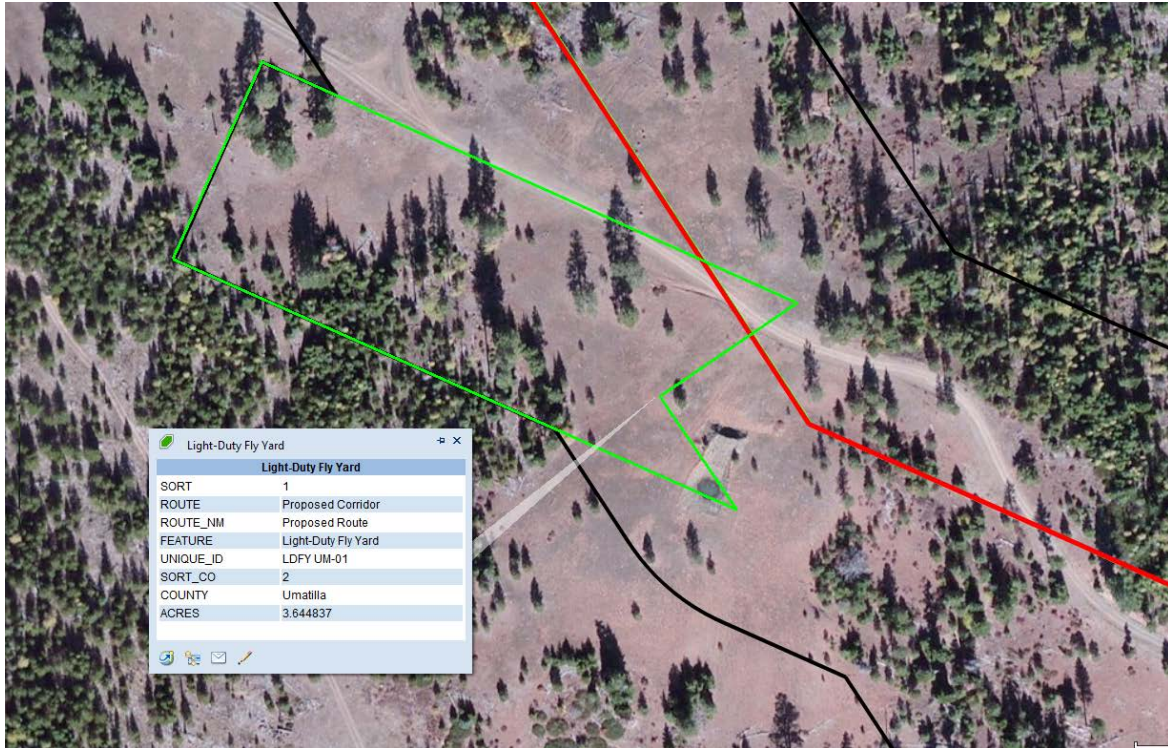
6 *To conserve forest lands by maintaining the forest land base and to protect the state's*
7 *forest economy by making possible economically efficient forest practices that assure*
8 *the continuous growing and harvesting of forest tree species as the leading use on*
9 *forest land consistent with sound management of soil, air, water, and fish and wildlife*
10 *resources and to provide for recreational opportunities and agriculture.*

11 In the following discussion, IPC will explain that Goal 4 should not apply to the forest lands that
12 would be impacted by the proposed light-duty fly yard because: (1) the Project—which cannot
13 be built without the proposed light-duty fly yards—serves an important public interest; (2) the
14 adverse impact to forest lands imposed by the light-duty fly yards would be relatively small and
15 temporary; and (3) concerns regarding the relatively minor impacts to forest lands raised by the
16 Project are outweighed by the harm that would be caused if the Project could not be permitted.

17 **7.2.2.1 The Project Cannot be Built Without the Proposed Light-Duty Fly Yard in** 18 **Forest Lands**

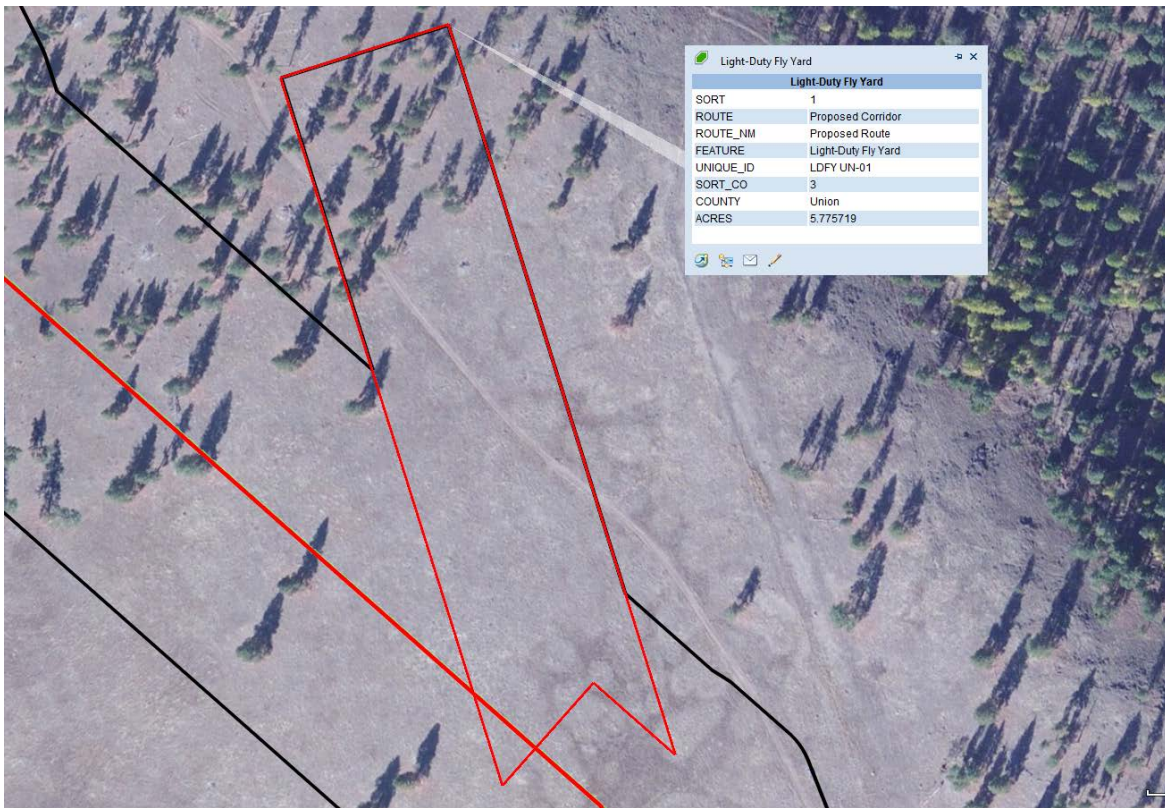
19 As described in Section 3.3.2 of Exhibit B, the proposed light-duty fly yards are an essential
20 component of the Project facilities. During the construction phase, helicopter operations may be
21 staged out of the light-duty fly yards. Project construction activities potentially facilitated by
22 helicopters may include delivery of construction laborers, equipment, and materials to structure
23 sites; structure placement; hardware installation; and wire stringing operations. Helicopters may
24 also be used to support the administration and management of the Project by IPC, the
25 Construction Contractor, or both. Therefore, without the light-duty fly yards, the Project could not
26 be constructed.

27 Moreover, locating the light-duty fly yards in Goal 4 forest lands cannot reasonably be avoided.
28 The light-duty fly yards are located at certain pulling and tensioning sites. IPC sited the light-
29 duty fly yards at those sites in order to, among other reasons: (i) reduce the flight times
30 necessary to construct the Project by locating the helicopter operations nearest to the
31 transmission line; and (ii) minimize resource impacts by siting the helipads in areas already
32 impacted by the pulling and tensioning sites. In this instance, the transmission line section to be
33 served by the light-duty fly yards will be located primarily in Goal 4 forestlands and the light-duty
34 fly yard sites provide the best location in the area for a helipad because it has few overhead
35 obstructions and will require minimal, if any, clearing of vegetation. Figure K-57, Figure K-58,
36 and Figure K-59 provide an aerial view of the sites.

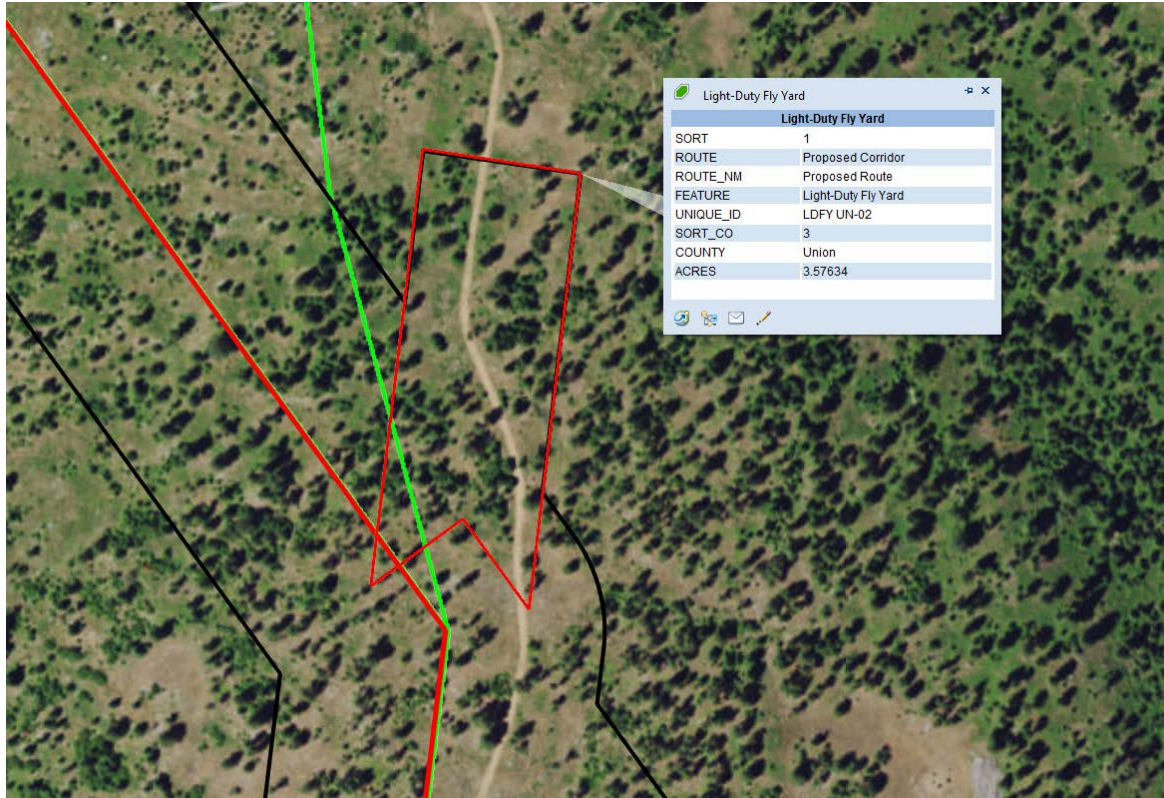


1
2 **Figure K-57. Light-Duty Fly Yard UM-01**

3



4
5 **Figure K-58. Light-Duty Fly Yard UN-01**



1
2 **Figure K-59. Light-Duty Fly Yard UN-02**

3 Because the pulling and tensioning sites are authorized in the Grazing-Farm Zone and Timber-
4 Grazing Zone as part of the transmission line construction area under OAR 660-006-0025(4)(q),
5 the sites already will be impacted by the Project. That being so, the cumulative impacts of
6 adding helicopter operations to the pulling and tensioning site will be minimal.

7 **7.2.2.2 The Project Serves a Critical Public Interest**

8 As explained above in Section 7.1.2.2, the Project, including the necessary light-duty fly yards,
9 serves a critical public interest.

10 **7.2.2.3 The Benefit to the Public of the Project Outweighs the Minimal Detriment**
11 **Posed by the Project, Justifying an Exception**

12 As described above, the light-duty fly yards will impose relatively minor impacts. Moreover, the
13 light-duty fly yards will only be used during construction and areas cleared of forestland, if any,
14 may be revegetated to the extent consistent with the Project's vegetation management plan. For
15 these reasons, the Council can be assured that the Project will not result in significant adverse
16 impacts to, or significantly increase the cost of, commercial forest operations.

17 In this case, IPC has demonstrated that the light-duty fly yards are necessary to the construction
18 of the Project, the Project is necessary to serve a critical public interest, and the relevant the
19 light-duty fly yards are locationally-dependent. For these reasons, EFSC should find that the
20 public interest in developing the Project outweighs the state policy embodied in Goal 4, and the
21 state policy embodied in Goal 4 should not apply to LDFY UM-01, LDFY UN-01, and LDFY UN-
22 02.

1 **7.2.3 ESEE Analysis**

2 ORS 469.504(2)(c)(B): The significant environmental, economic, social and energy
3 consequences anticipated as a result of the proposed facility have been identified and
4 adverse impacts will be mitigated in accordance with rules of the council applicable to the
5 siting of the proposed facility; and

6 IPC has carefully identified and considered the environmental, economic, social, and energy
7 consequences that can be anticipated as a result of the Project, and will mitigate any adverse
8 impacts.

9 **7.2.3.1 Environmental**

10 The light-duty fly yards are located within pulling and tensioning sites and are small in acreage.
11 Because the light-duty fly yard areas already are authorized as pulling and tensioning sites, the
12 sites already may be impacted by the Project. That being so, the cumulative impacts of adding
13 helicopter operations to the pulling and tensioning sites will be minimal. Moreover, because the
14 light-duty fly yard work will be temporary, any permanent forest clearing would be attributable to
15 transmission line or access road maintenance and not to the helipads. Any forest clearing will
16 occur in accordance with Forest Practices Act (see Exhibit BB, Attachment BB-1, Plan for an
17 Alternate Practice) and will be mitigated in accordance with the Fish and Wildlife Habitat
18 Mitigation Plan (see Exhibit P1, Attachment P1-6).

19 Additionally, one of the reasons for using helicopters to help construct the Project is to avoid
20 using ground-based equipment that would have greater impacts on local natural resources. On
21 balance, the minimal impacts of the helipad may avoid greater impacts to Goal 4 forestlands if
22 ground-based equipment was used in the alternative.

23 **7.2.3.2 Economic**

24 The economic justifications for the Project and a Goal 4 exception are discussed above in
25 Section 7.1.3.2.

26 **7.2.3.3 Social/Energy**

27 The social and energy justifications for the Project and a Goal 4 exception are discussed above
28 in Section 7.1.3.3.

29 **7.2.4 Compatibility with Adjacent Uses**

30 ORS 469.504(2)(c)(C): The proposed facility is compatible with other adjacent uses or will be
31 made compatible through measures designed to reduce adverse impacts.

32 The development of the helipads to support the Project is compatible with adjacent land uses.
33 Although there may be temporary noise or dust impacts to adjacent commercial forest
34 operations during the use of the helipads, there will be no long-term impacts associated with the
35 helipads (see Right-of-Way Clearing Assessment, Exhibit K, Attachment K-2).

36 For the foregoing reasons, IPC demonstrates that the Project is compatible with adjacent land
37 uses, and that measures will be taken to reduce any potential adverse impacts.

8.0 EVIDENCE OF COMPLIANCE WITH FEDERAL MANAGEMENT PLANS

8.1 Applicable Land Management Plans Adopted by Federal Government

OAR 345-021-0010(1)(k)(D)(i): Identify the applicable land management plan adopted by the federal agency with jurisdiction over the federal land.

8.1.1 *Wallowa-Whitman National Forest Land and Resource Management Plan*

The Wallowa-Whitman NF is in the northeast corner of Oregon and on the border between Oregon and Idaho encompassing over 23 million acres of land. The WW LRMP (USFS 1990) guides all natural resource management activities and establishes management standards and guidelines for the Wallowa-Whitman NF, those portions of the Nez Perce and Payette National Forests that are administered by the Wallowa-Whitman NF Supervisor, and other lands within the Hells Canyon National Recreation Area.

The forest provides a wide variety of recreation activities, such as snowmobiling, skiing, hiking, horseback riding, and camping. The Wallowa-Whitman NF contains two complete wilderness areas plus portions of two others, for a total designated wilderness of 582,700 acres. There are 10 Wild and Scenic Rivers on the Wallowa-Whitman NF for a total of 269 miles. Of the 2.3 million acres of the NF, approximately 1.3 million are classified as suitable for livestock grazing under controlled management conditions that will maintain or improve the range resource. About 1.09 million acres (46 percent of the NF) are classified as suitable forest land—land at least 10 percent forested which is available for timber management activities and which can be managed with existing technology. At present there are some 173,000 acres on the Wallowa-Whitman NF that meet the definition of old growth; there are 131 specifically defined areas varying in size from 100 to 3,000 acres that are to be managed for old-growth forest. Transportation facilities for the Forest include 9,300 miles of road (7,000 miles of which are open for use), 1,750 miles of trail, and five landing strips. Goals and objectives for each resource are described in the LRMP. The LRMP states, “When applications for rights-of-way for utilities are received, the Forest’s first priority will be to utilize residual capacity in existing rights-of-way” and “Additional utility rights-of-way or corridors may be identified and approved subject to site-specific environmental analysis” (USFS 1990).

8.1.2 *BLM Vale District Resource Management Plan*

The BLM land use planning process (43 Code of Federal Regulations 1610) combines Section 202 of the Federal Land Policy and Management Act of 1976 and NEPA regulations. To ensure the best balance of uses and resource protections for America’s public lands, the BLM undertakes extensive land use planning through a collaborative approach with local, state, and Tribal governments; the public; and stakeholder groups. BLM RMPs provide land use planning and management direction on a broad scale and guide future actions on BLM-managed lands. Land use plan decisions consist of desired outcomes (goals and objectives) and allowable uses and management actions. Land use plans are used by managers and the public to allocate resources and determine appropriate multiple uses for the public lands; develop a strategy to manage and protect resources; and set up systems to monitor and evaluate status of resources and effectiveness of management practices over time.

Land use plans and planning decisions are the basis for every on-the-ground action the BLM undertakes. Land use plans ensure that the public lands are managed under the principles of multiple use and sustained yield. As required by Federal Land Policy and Management Act and BLM policy, the public lands must be managed in a manner that protects the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and

1 archaeological values; that, where appropriate, will preserve and protect certain public lands in
2 their natural condition; that will provide food and habitat for fish and wildlife and domestic
3 animals; that will provide for outdoor recreation and human occupancy and use; and that
4 recognizes the nation's need for domestic sources of minerals, food, timber, and fiber from the
5 public lands by encouraging collaboration and public participation throughout the planning
6 process (BLM and Office of the Solicitors 2001). The Vale District is addressed by the Baker
7 RMP and the Southeastern Oregon RMP.

8 **8.1.3 BLM Baker Resource Management Plan**

9 The Baker RMP/Record of Decision (BLM 1989) provides direction for managing public lands
10 under the jurisdiction of the Vale District Office, Baker Resource Area, Oregon. The RMP
11 planning area encompasses approximately 429,754 acres bordered by the Snake River to the
12 east; the Umatilla NF to the west; the Oregon-Washington state line and the Columbia River to
13 the north, including portions of Asotin and Garfield counties in Washington; and by Gilliam,
14 Wheeler, Grant, and Malheur counties to the west and south. Wallowa-Whitman NF, a portion of
15 the Umatilla NF, the Hells Canyon National Recreation Area, Boardman Bombing Range and
16 the Umatilla Army Depot are other major federal lands within the boundaries of the planning
17 area. The Umatilla Indian Reservation and Bureau of Reclamation (BOR)-managed lands are
18 also within the planning area.

19 The RMP identifies the following key planning issues regarding management of resources or
20 uses on the planning area's public lands:

- 21 • Manage the total forestland base of 88,603 acres (29,330 acres commercial forestland,
22 59,273 acres woodlands);
- 23 • Continue to authorize grazing permits/leases for 55,437 Animal Unit Months of livestock
24 forage on 418,601 acres (374 allotments);
- 25 • Range improvements will continue to be implemented on 61 I and M category grazing
26 allotments. Non-intensive management will continue on 277 Custodial (C) category
27 allotments;
- 28 • Inventory and implement riparian recovery and enhancement as needed for 240 miles of
29 currently known and classified riparian habitat;
- 30 • Continue inventories, develop and implement habitat management plans to protect or
31 enhance important wildlife habitat for big game animals, native fisheries, bald eagles and
32 other raptors, and native game birds including sage grouse and Columbian sharp-tailed
33 grouse;
- 34 • Implement land tenure adjustments through exchange, transfer or sale of 18,306 acres
35 in Zone 2 areas to consolidate or otherwise promote efficient management of the public
36 lands in Zone 1 areas;
- 37 • Off-road vehicle use is open on approximately 287,611 acres, limited on 138,042 acres,
38 and closed on 4,101 acres of public lands;
- 39 • Nine areas totaling 38,988 acres are designated ACECs, with one area designated as
40 an Outstanding Natural Area and one area designated as a Research Natural Area;
- 41 • Maintain the public lands open to locatable mineral entry under the 1872 Mining Law, as
42 amended. Pursue withdrawal from mineral entry under the mining laws on 907.31 acres
43 to protect natural and historic values. Maintain the availability of the public mineral estate
44 for mineral leasing, except for 16,531 acres which are closed; and

- 1 • Cultural resources, soil, water, botanical, visual resources and recreational opportunities
2 will be protected or enhanced.

3 **8.1.4 BLM Southeastern Oregon Resource Management Plan**

4 The Southeastern Oregon RMP (BLM 2002) provides direction for managing public lands under
5 the jurisdiction of the Malheur and Jordan resource areas, Vale District, Oregon, in southeastern
6 Oregon. The Southeastern Oregon RMP planning area covers approximately 4.4 million acres
7 of BLM-administered land in Malheur, Grant, and Harney counties.

8 The RMP establishes and addresses the following key planning issues regarding management
9 of resources or uses on the planning area's public lands:

- 10 • Management of resource uses to improve unacceptable upland conditions or maintain
11 acceptable upland conditions;
- 12 • Management of resource uses to improve unacceptable riparian conditions or maintain
13 acceptable riparian conditions;
- 14 • Maintain or improve forest and woodland communities, and management of woodlands
15 to maintain or improve rangeland and wildlife habitat;
- 16 • Management of energy and mineral resources on public land;
- 17 • Management of special management areas, including ACECs, Wilderness Study Areas,
18 National Wild and Scenic Rivers, caves, historic interpretive sites and districts, national
19 trails, and other areas of national significance;
- 20 • Management of wildland fire to be consistent with resource objectives while protecting
21 life and property;
- 22 • Management of recreation opportunities for both developed and dispersed recreation
23 uses;
- 24 • Provide for fish and wildlife habitat, botanical resources, and special status species while
25 considering other resource uses; and
- 26 • Consider exchanging BLM-administered land for other land with higher public values or
27 consider selling isolated or difficult-to-manage land, level of access to public land,
28 consider selling land for public purposes and community.

29 **8.1.5 Sage-Grouse Amendments to Resource Management Plans**

30 In September 2015, BLM issued a record of decision approving amendments to its resource
31 management plans in Oregon to provide certain conservation measures for Greater sage-
32 grouse. The Project was exempt from the new conservation measures set forth in the
33 amendments; instead, conservation measures for sage-grouse are being analyzed through the
34 Project's NEPA process (see Oregon Greater Sage-Grouse Approved Resource Management
35 Plan Amendment, p. 2-28 [BLM 2015]).

36 **8.2 Differences between State and Federal Requirements**

37 OAR 345-021-0010(1)(k)(D)(ii): Explain any differences between state or local land use
38 requirements and federal land management requirements.

39 The local and state land use requirements and the federal land management requirements are
40 different, and compliance with local and state plans does not necessarily ensure compliance
41 with the applicable federal land management plans, or vice versa. However, because the NEPA
42 review for the Project will include an evaluation of the Project's consistency with the applicable

1 federal land management plans, the Council is required to review the Application, to the extent
2 feasible, in a manner that is consistent with and does not duplicate review under NEPA.¹⁰⁹ At
3 this time, IPC has not identified any differences between state/local and federal land
4 management requirements that require discussion here.

5 **8.3 Compliance with Federal Land Management Plans**

6 OAR 345-021-0010(1)(k)(D)(iii): Describe how the proposed facility complies with the
7 applicable federal land management plan.

8 BLM's 2017 record of decision included amendments to the relevant resource management
9 plans to ensure the Project is in compliance with the same.

10 **8.4 Status of Federal Land Use Approvals and Timing**

11 OAR 345-021-0010(1)(k)(D)(iv): Describe any federal land use approvals required for the
12 proposed facility and the status of application for each required federal land use approval.

13 The Project will cross lands managed by the BLM and USFS. IPC must obtain ROW grants from
14 the BLM and a special use authorization from the USFS. The BLM is the lead federal agency for
15 purposes of environmental analysis under NEPA and will coordinate preparation of the EIS,
16 which will cover the Project and any needed plan amendments. In November 2015, IPC
17 submitted to the BLM, USFS, and Bureau of Reclamation updated SF 299 Applications for
18 Transportation and Utility Systems and Facilities on Federal Lands and a Plan of Development.
19 The Plan of Development provides general information on the Project's purpose and need, the
20 currently proposed Project facilities, and the steps that IPC would follow during construction,
21 operation, and maintenance. The timeline for issuance of ROW grants from the BLM
22 and Bureau of Reclamation and a special use authorization from the USFS is a function of
23 the NEPA review process and any required forest plan amendments and the ROW negotiation
24 between IPC and the agencies regarding appropriate mitigation.

25 OAR 345-021-0010(1)(k)(D)(v): Provide an estimate of time for issuance of federal land use
26 approvals.

27 Records of decision from the relevant federal agencies are expected in 2017 or 2018. ROW
28 grants for the Project would be issued shortly thereafter.

29 **8.5 Request for Waiver Because of Conflicting Land Use Requirements**

30 OAR 345-021-0010(1)(k)(D)(vi): If federal law or the land management plan conflicts with any
31 applicable state or local land use requirements, explain the differences in the conflicting
32 requirements, state whether the applicant requests Council waiver of the land use standard
33 described under paragraph (B) or (C) of this subsection and explain the basis for a waiver.

34 There are no conflicts between federal law or applicable land management plans and applicable
35 state or local land use requirements.

¹⁰⁹ ORS 469.370(13).

9.0 IDAHO POWER'S PROPOSED SITE CERTIFICATE CONDITIONS

IPC proposes the following site certificate conditions to ensure compliance with the EFSC Land Use Standard, among other standards:

Prior to Construction

Land Use Condition 1: Prior to construction, the site certificate holder shall finalize, and submit to the department for its approval, a final Agricultural Assessment. The protective measures described in the draft Agricultural Assessment in ASC Exhibit K, Attachment K-1, shall be included and implemented as part of the final Agricultural Assessment, unless otherwise approved by the department.

Land Use Condition 2: Prior to construction, the site certificate holder shall finalize, and submit to the department for its approval, a final Right-of-Way Clearing Assessment. The protective measures described in the draft Right-of-Way Clearing Assessment in ASC Exhibit K, Attachment K-2, shall be included and implemented as part of the final Right-of-Way Clearing Assessment, unless otherwise approved by the department.

Public Services Condition 2: Prior to construction, the site certificate holder shall submit to the department for its approval a Helicopter Use Plan, which identifies or provides:

- a. The type of helicopters to be used;
- b. The duration of helicopter use;
- c. Roads or residences over which external loads will be carried;
- d. Multi-use areas and light-duty fly yards containing helipads shall be located: (i) in areas free from tall agricultural crops and livestock; (ii) at least 500 feet from organic agricultural operations; and (iii) at least 500 feet from existing dwellings on adjacent properties; and
- e. Flights shall occur only between sunrise and sunset.

Soil Protection Condition 1: Prior to construction, the site certificate holder shall provide the department a copy of an Oregon Department of Environmental Quality (ODEQ)-approved construction Spill Prevention, Control, and Countermeasures (SPCC) Plan.

Soil Protection Condition 3: Prior to operation, the site certificate holder shall provide the department a copy of a ODEQ-approved operation SPCC Plan, if required by ODEQ statutes or regulations.

Prior to Construction in Morrow County

Land Use Condition 3: Prior to construction in Morrow County, the site certificate holder shall provide to the department a copy of the following Morrow County-approved permits, if such permits are required by Morrow County zoning ordinances:

- a. Flood plain development permit, for work in the Flood Plain Overlay Zone;
- b. Utility crossing permit;
- c. Access approach site permit; and
- d. Construction permit to build on right-of-way.

Prior to Construction in Umatilla County

Land Use Condition 4: Prior to construction in Umatilla County, the site certificate holder shall work with the Public Works Department on building standards for the road improvements and construction, and will ensure road construction is consistent with the Oregon Forest Practices Act.

Land Use Condition 5: Prior to construction in Umatilla County, the site certificate holder shall provide to the department a copy of the following Umatilla County-approved permits, if such permits are required by Umatilla County zoning ordinances:

- a. Installation of Utilities on County and Public Roads Permit;
- b. Road Approach and Crossing Permit; and
- c. Flood plain development permit.

Prior to Construction in Union County

Land Use Condition 6: Prior to construction in Union County, the site certificate holder shall provide to the department a copy of the following Union County-approved permits, if such permits are required by Union County zoning ordinances:

- a. Flood plain development permit;
- b. Road approach permit; and
- c. Work in county right-of-way permit.

Prior to Construction in Malheur County

Land Use Condition 7: Prior to construction in Malheur County, the site certificate holder shall provide to the department a copy of the following Malheur County-approved permits, if such permits are required by Malheur County zoning ordinances:

- a. Flood plain development permit.

During Construction

Land Use Condition 8: During construction, the site certificate holder shall conduct all work in compliance with the final Agricultural Assessment referenced in Land Use Condition 1.

Land Use Condition 9: During construction, the site certificate holder shall conduct all work in compliance with the final Agricultural Assessment referenced in Land Use Condition 2.

Land Use Condition 10: During construction, the site certificate holder shall limit its transmission line right-of-way in Goal 4 forest lands to no wider than 300 feet. The site certificate holder shall limit its use of the outer 100 feet on each side of the ROW primarily to vegetation maintenance.

Public Services Condition 6: During construction, the site certificate holder shall conduct all work in compliance with the Helicopter Use Plan referenced in Public Services Condition 2.

Soil Protection Condition 2: During construction, the site certificate holder shall conduct all work in compliance with the ODEQ-approved construction SPCC Plan referenced in Soil Protection Condition 1.

1 **Threatened and Endangered Species Condition 1:** During construction, the
2 site certificate holder shall not conduct ground-disturbing activities within
3 Category 1 Washington ground squirrel (WAGS) habitat, subject to the following:
4 a. The identification and categorization of WAGS habitat shall be based on the
5 surveys referenced in Fish and Wildlife Condition 2 and the results of the surveys
6 shall apply for up to three years.
7 b. The site certificate holder may span Category 1 WAGS habitat and may work
8 within Category 1 WAGS habitat, provided such work does not cause any ground
9 disturbance.
10 c. If an occupied WAGS colony is encountered in non-Category 1 habitat (based
11 on the surveys referenced in Fish and Wildlife Condition 2), the site certificate
12 holder shall submit to the department for its approval a notification addressing
13 the following:
14 i. Location of the colony; and
15 ii. Any actions the site certificate holder will take to avoid, minimize, or
16 mitigate impacts to the colony.

17 **During Construction in Morrow County**

18 **Land Use Condition 11:** During construction in Morrow County, the site
19 certificate holder shall construct the facility to comply with the following setback
20 distances and other requirements:

21 **In All Zones:**

22 a. Buildings and the fixed bases of the transmission line towers shall be setback
23 at least 100 feet from the high-water mark of all Goal 5 streams.
24 b. Permanent vegetation removal within the riparian zone of all Goal 5 streams
25 shall retain 75% of all layers or stratas of vegetation.

26 **In the EFU Zone:**

27 c. Buildings and the fixed bases of the transmission line towers shall be setback
28 as follows: (i) front yards shall be set back at least 20 feet from minor collector
29 road rights-of-way, 30 feet from major collector road rights-of-way, 80 feet from
30 arterial road rights-of-way, and 100 feet from intensive agricultural uses; (ii) side
31 yards shall be set back at least 20 feet from the property line, 30 feet for corner
32 lots, and 100 feet from intensive agricultural uses; and (iii) rear yards shall be set
33 back at least 25 feet from the property line, and 100 feet from intensive
34 agricultural uses.

35 d. Buildings and the fixed bases of the transmission line towers shall be set back
36 at least 100 feet from the high-water mark of all streams and lakes.

37 **In the General Industrial Zone:**

38 e. Buildings and the fixed bases of the transmission line towers shall be set back
39 at least 50 feet from arterial road rights-of-way, 30 feet from collector road rights-
40 of-way, and 20 feet from lower-class road rights-of-way.

41 **In the Port Industrial Zone:**

42 f. Buildings and the fixed bases of the transmission line towers shall be setback
43 as follows: (i) front yards shall be set back at least 30 feet from the property line,
44 and 90 feet from the centerline of any public, county, or state road; (ii) side yards
45 shall be set back at least 10 feet from the property line; and (iii) rear yards shall
46 be set back at least 10 feet from the property line.

47 **Land Use Condition 12:** During construction in Morrow County, the site
48 certificate holder shall complete the following to address traffic impacts in the
49 county:

- 1 a. The site certificate holder shall work with the Morrow County Road Department
2 to identify concerns related to Project construction traffic;
3 b. The site certificate holder shall develop a traffic management plan that
4 includes traffic control measures to mitigate the effects of Project construction
5 traffic;
6 c. The site certificate holder shall conduct all work in compliance with traffic
7 management plan; and
8 d. The site certificate holder shall provide a copy of the traffic management plan
9 to the department.

10 **Land Use Condition 13:** During construction in Morrow County, the site
11 certificate holder shall conduct all work in compliance with the Morrow County-
12 approved permits referenced in Land Use Condition 3, if such permits are
13 required by Morrow County zoning ordinances.

14 **During Construction in Umatilla County**

15 **Land Use Condition 14:** During construction in Umatilla County, the site
16 certificate holder shall construct the facility to comply with the following setback
17 distances and other requirements:

18 **In All Zones:**

- 19 a. Buildings, the fixed bases of transmission line towers, and new access roads
20 shall be set back from Class I streams at least 25-feet or one-half the stream
21 width, whichever is greater.
22 b. Permanent vegetation removal within the riparian zone of all Class I streams
23 shall retain 75% of all layers or stratas of vegetation.
24 c. Within the transmission line right-of-way, a maximum of 25% of existing natural
25 vegetation along streams, lakes, and wetlands may be removed, unless necessary
26 for reliability purposes.

27 **In the EFU Zone:**

- 28 d. Buildings shall be setback as follows: (i) at least 30 feet from the property line
29 or private road easement boundary; or (ii) at least 60 feet from the center line of
30 the road, highway, or private road easement, whichever is greater.
31 e. Buildings and the fixed bases of the transmission line towers shall be set back
32 at least 100 feet from the high-water mark of all streams, lakes, and wetlands.
33 f. Parking lots shall be designed and operated as follows: (i) areas used for
34 standing and maneuvering of vehicles at the multi-use areas will have paved
35 surfaces maintained adequately for all weather use and will be drained as to
36 avoid flow of water across public sidewalks; (ii) parking spaces along the outer
37 boundaries of any multi-use area parking lot will be contained by a curb at least
38 four inches high and set back a minimum of four and one-half feet from the
39 property line, or by a bumper rail; and (iii) artificial lighting, if provided, will not
40 create or reflect glare in a residential zone or on any adjacent dwelling.

41 **Land Use Condition 15:** During construction in Umatilla County, the site
42 certificate holder shall complete the following to address traffic impacts in the
43 county:

- 44 a. The site certificate holder shall work with the Umatilla County Road
45 Department to identify concerns related to Project construction traffic;
46 b. The site certificate holder shall develop a traffic management plan that
47 includes traffic control measures to mitigate the effects of Project construction
48 traffic;

- 1 c. The site certificate holder shall conduct all work in compliance with traffic
2 management plan; and
3 d. The site certificate holder shall provide a copy of the traffic management plan
4 to the department.

5 **Land Use Condition 16:** During construction in Umatilla County, the site
6 certificate holder shall conduct all work in compliance with the Morrow County-
7 approved permits referenced in Land Use Condition 5, if such permits are
8 required by Umatilla County zoning ordinances.

9 **During Construction in Union County**

10 **Land Use Condition 17:** During construction in Union County, the site certificate
11 holder shall construct the facility to comply with the following setback distances
12 and other requirements:

13 In All Zones:

14 a. Buildings, the fixed bases of transmission line towers, and new access roads
15 shall be set back from Class I streams at least 25-feet or one-half the stream
16 width, whichever is greater.

17 b. Permanent vegetation removal within the riparian zone of all Class I streams
18 shall retain 75% of all layers or stratas of vegetation.

19 In the EFU Zone:

20 c. Buildings shall be setback as follows: (i) front yards shall be set back at least
21 20 feet from property lines and road rights-of-way; (ii) and rear yards shall be set
22 back at least 10 feet from property lines and road rights-of-way.

23 In the Agricultural Grazing Zone:

24 d. Buildings shall be setback as follows: (i) front yards shall be set back at least
25 20 feet from property lines and road rights-of-way; and (i) rear yards shall be set
26 back at least 10 feet from property lines and road rights-of-way.

27 **Land Use Condition 18:** During construction in Union County, the site certificate
28 holder shall conduct all work in compliance with the Union County-approved
29 permits referenced in Land Use Condition 6, if such permits are required by
30 Union County zoning ordinances.

31 **During Construction in City of North Powder**

32 **Land Use Condition 19:** During construction in City of North Powder, the site
33 certificate holder shall construct the facility to comply with the following setback
34 distances and other requirements:

35 In the Commercial Interchange Zone:

36 a. Buildings shall be setback as follows: (i) front yards shall be set back at least
37 30 feet from property lines; (ii) side yards shall be setback at least 20 feet from a
38 Residential Zone, street, or corner lot; and (iii) rear yards shall be set back at
39 least 20 feet from a Residential Zone.

40 b. Buildings shall not exceed 45 feet in height.

41 **During Construction in Baker County**

42 **Land Use Condition 20:** During construction in Baker County, the site certificate
43 holder shall construct the facility to comply with the following setback distances
44 and other requirements:

45 In the EFU Zone:

46 a. Buildings shall be setback as follows: front yards shall be set back at least 20
47 feet from property lines and road rights-of-way.

1 *b. Buildings and the fixed bases of transmission line towers shall be set back at*
2 *least 60 feet from the center line of a road or street or 30 feet from any right-of-*
3 *way in excess of 60 feet.*

4 *c. Buildings and the fixed bases of transmission line towers shall be set back at*
5 *least 10 feet from property lines.*

6 *d. Buildings and the fixed bases of the transmission line towers shall be set back*
7 *at least 50 feet from the high-water mark of naturally-occurring riparian area, bog,*
8 *marsh, or waterway.*

9 **During Construction in Malheur County**

10 ***Land Use Condition 21:*** *During construction in Malheur County, the site*
11 *certificate holder shall construct the facility to comply with the following setback*
12 *distances and other requirements:*

13 **In the EFU and ERU Zones:**

14 *a. Buildings shall be setback as follows: (i) at least 40 feet from a street or road*
15 *right-of-way; and (ii) at least 25 feet from any other property line.*

16 *b. No sight obscuring fence exceeding 3 feet in height shall be placed within the*
17 *40-foot street setback, also within this setback shrubbery other than trees shall*
18 *be maintained at heights not exceeding 3 feet.*

19 ***Land Use Condition 22:*** *During construction in Malheur County, the site*
20 *certificate holder shall conduct all work in compliance with the Malheur County-*
21 *approved permits referenced in Land Use Condition 7, if such permits are*
22 *required by Malheur County zoning ordinances.*

23 **During Operation**

24 ***Land Use Condition 23:*** *During operation, the site certificate holder shall limit its*
25 *transmission line right-of-way in Goal 4 forest lands to no wider than 300 feet.*

26 *The site certificate holder shall limit its use of the outer 100 feet on each side of*
27 *the ROW primarily to vegetation maintenance.*

28 ***Soil Protection Condition 4:*** *During operation, the site certificate holder shall*
29 *conduct all work in compliance with the ODEQ-approved operation SPCC Plan*
30 *referenced in Soil Protection Condition 3, if required by ODEQ statutes or*
31 *regulations.*

32 **10.0 CONCLUSION**

33 Exhibit K demonstrates that the Project complies with the EFSC approval standard for land use,
34 in accordance with OAR 345-022-0030, based on information provided pursuant to OAR 345-
35 021-0010(1)(k), paragraphs (A), (C), and (D).

36 Exhibit K provides comprehensive evidence and analysis of the local, state, and federal land
37 use requirements applicable to the Project, and demonstrates that the Project either complies
38 with applicable local land use laws, complies with Oregon's statewide planning goals, or
39 qualifies for an exception. Exhibit K also demonstrates that the Project complies with applicable
40 federal land management plans.

1 11.0 COMPLIANCE CROSS-REFERENCES

2 Tables K-37 and K-38 provide cross references between Exhibit submittal requirements of OAR
 3 345-021-0010 and the Council's approval standards of OAR 345-022-0000 and where
 4 discussion can be found in the Exhibit.

5 Table K-37. Compliance Requirements and Relevant Cross-References

Requirement	Location
OAR 345-021-0010(1)(k)	
(k) Exhibit K. Information about the proposed facility's compliance with the statewide planning goals adopted by the Land Conservation and Development Commission, providing evidence to support a finding by the Council as required by OAR 345-022-0030. The applicant shall state whether the applicant elects to address the Council's land use standard by obtaining local land use approvals under ORS 469.504(1)(a) or by obtaining a Council determination under ORS 504(1)(b). An applicant may elect different processes for an energy facility and a related or supporting facility but may not otherwise combine the two processes. Notwithstanding OAR 345-021-0090(2), once the applicant has made an election, the applicant may not amend the application to make a different election. In this subsection, "affected local government" means a local government that has land use jurisdiction over any part of the proposed site of the facility. In the application, the applicant shall:	Exhibit K, Section 1.0, Section 2.0, Section 3.0, Section 5.0
(A) Include a map showing the comprehensive plan designations and land use zones in the analysis area;	Section 5.1, Section 5.4.1, Section 5.5.1, Section 5.6.1, Section 5.7.1, Section 5.8.1, Section 5.9.1, and Section 5.10.1
(B) If the applicant elects to obtain local land use approvals: * * *	N/A
(C) If the applicant elects to obtain a Council determination on land use:	Section 2.1
(i) Identify the affected local government(s);	Section 5.2
(ii) Identify the applicable substantive criteria from the affected local government's acknowledged comprehensive plan and land use regulations that are required by the statewide planning goals and that are in effect on the date the application is submitted and describe how the proposed facility complies with those criteria;	Section 5.4 through Section 5.10
(iii) Identify all Land Conservation and Development Commission administrative rules, statewide planning goals and land use statutes directly applicable to the facility under ORS 197.646(3) and describe how the proposed facility complies with those rules, goals and statutes;	Section 6.0

Requirement	Location
(iv) If the proposed facility might not comply with all applicable substantive criteria, identify the applicable statewide planning goals and describe how the proposed facility complies with those goals; and	Section 6.0
(v) If the proposed facility might not comply with all applicable substantive criteria or applicable statewide planning goals, describe why an exception to any applicable statewide planning goal is justified, providing evidence to support all findings by the Council required under ORS 469.504(2); and	Section 7.0
(D) If the proposed facility will be located on federal land:	Section 8.0
(i) Identify the applicable land management plan adopted by the federal agency with jurisdiction over the federal land;	Section 8.1
(ii) Explain any differences between state or local land use requirements and federal land management requirements;	Section 8.2
(iii) Describe how the proposed facility complies with the applicable federal land management plan;	Section 8.3
(iv) Describe any federal land use approvals required for the proposed facility and the status of application for each required federal land use approval;	Section 8.4
(v) Provide an estimate of time for issuance of federal land use approvals; and	Section 8.4
(vi) If federal law or the land management plan conflicts with any applicable state or local land use requirements, explain the differences in the conflicting requirements, state whether the applicant requests Council waiver of the land use standard described under paragraph (B) or (C) of this subsection and explain the basis for a waiver;	Section 8.5
Amended Project Order Section VI(k) Comments	
Paragraphs (A), (C), and (D) of the rule apply.	Discussed above in response to OAR 345-021-0010(1)(k).
ORS 215.275 Utility facilities necessary for public service; criteria; rules; mitigating impact of facility.	Section 4.1.1
(1) A utility facility established under ORS 215.213(1)(c) or 215.283(1)(c) is necessary for public service if the facility must be sited in an exclusive farm use zone in order to provide the service.	Section 4.1.1

Requirement	Location
<p>(2) To demonstrate that a utility facility is necessary, an applicant for approval under ORS 215.213 (1)(c) or 215.283(1)(c) must show that reasonable alternatives have been considered and that the facility must be sited in an exclusive farm use zone due to one or more of the following factors:</p> <p>(a) Technical and engineering feasibility;</p> <p>(b) The proposed facility is locationally dependent. A utility facility is locationally dependent if it must cross land in one or more areas zoned for exclusive farm use in order to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;</p> <p>(c) Lack of available urban and nonresource lands;</p> <p>(d) Availability of existing rights of way;</p> <p>(e) Public health and safety; and</p> <p>(f) Other requirements of state or federal agencies.</p>	Section 4.1
<p>(3) Costs associated with any of the factors listed in subsection (2) of this section may be considered, but cost alone may not be the only consideration in determining that a utility facility is necessary for public service. Land costs shall not be included when considering alternative locations for substantially similar utility facilities. The Land Conservation and Development Commission shall determine by rule how land costs may be considered when evaluating the siting of utility facilities that are not substantially similar.</p>	Section 4.1.3
<p>(4) The owner of a utility facility approved under ORS 215.213 (1)(c) or 215.283 (1)(c) shall be responsible for restoring, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this section shall prevent the owner of the utility facility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration.</p>	Section 4.1.5 and Attachment K-1
<p>(5) The governing body of the county or its designee shall impose clear and objective conditions on an application for utility facility siting under ORS 215.213 (1)(c) or 215.283 (1)(c) to mitigate and minimize the impacts of the proposed facility, if any, on surrounding lands devoted to farm use in order to prevent a significant change in accepted farm practices or a significant increase in the cost of farm practices on the surrounding farmlands.</p>	Section 4.1.5, Section 5.4.7, Section 5.5.7, Section 5.6.7, Section 5.7.3, Section 5.8.6, Section 5.10.6, and Attachment K-1
<p>(6) The provisions of subsections (2) to (5) of this section do not apply to interstate natural gas pipelines and associated facilities authorized by and subject to regulation by the Federal Energy Regulatory Commission.</p>	N/A

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1 **Table K-38. Approval Standard**

Approval Standard	Location
OAR 345-022-0030	
(1) To issue a site certificate, the Council must find that the proposed facility complies with the statewide planning goals adopted by the Land Conservation and Development Commission.	Section 6.0
(2) The Council shall find that a proposed facility complies with section (1) if: * * * (b) The applicant elects to obtain a Council determination under ORS 469.504(1)(b) and the Council determines that:	Section 5.4, Section 5.5, Section 5.6, Section 5.7, Section 5.8, Section 5.9, and Section 5.10
(A) The proposed facility complies with applicable substantive criteria as described in section (3) and the facility complies with any Land Conservation and Development Commission administrative rules and goals and any land use statutes directly applicable to the facility under ORS 197.646(3); (B) For a proposed facility that does not comply with one or more of the applicable substantive criteria as described in section (3), the facility otherwise complies with the statewide planning goals or an exception to any applicable statewide planning goal is justified under section (4); or (C) For a proposed facility that the Council decides, under sections (3) or (6), to evaluate against the statewide planning goals, the proposed facility complies with the applicable statewide planning goals or that an exception to any applicable statewide planning goal is justified under section (4).	
(3) As used in this rule, the "applicable substantive criteria" are criteria from the affected local government's acknowledged comprehensive plan and land use ordinances that are required by the statewide planning goals and that are in effect on the date the applicant submits the application. If the special advisory group recommends applicable substantive criteria, as described under OAR 345-021-0050, the Council shall apply them. If the special advisory group does not recommend applicable substantive criteria, the Council shall decide either to make its own determination of the applicable substantive criteria and apply them or to evaluate the proposed facility against the statewide planning goals.	Section 5.4, Section 5.5, Section 5.6, Section 5.7, Section 5.8, Section 5.9, and Section 5.10

Approval Standard	Location
<p>(4) The Council may find goal compliance for a proposed facility that does not otherwise comply with one or more statewide planning goals by taking an exception to the applicable goal. Notwithstanding the requirements of ORS 197.732, the statewide planning goal pertaining to the exception process or any rules of the Land Conservation and Development Commission pertaining to the exception process, the Council may take an exception to a goal if the Council finds:</p> <p>(a) The land subject to the exception is physically developed to the extent that the land is no longer available for uses allowed by the applicable goal;</p> <p>(b) The land subject to the exception is irrevocably committed as described by the rules of the Land Conservation and Development Commission to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable; or</p> <p>(c) The following standards are met:</p> <p>(A) Reasons justify why the state policy embodied in the applicable goal should not apply;</p> <p>(B) The significant environmental, economic, social and energy consequences anticipated as a result of the proposed facility have been identified and adverse impacts will be mitigated in accordance with rules of the Council applicable to the siting of the proposed facility; and</p> <p>(C) The proposed facility is compatible with other adjacent uses or will be made compatible through measures designed to reduce adverse impacts.</p>	Section 7.0

1

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