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June 1, 2009

**VIA ELECTRONIC FILING  
& FIRST CLASS MAIL**

Oregon Public Utilities Commission  
Filing Center  
550 Capitol Street NE, Ste 215  
Salem, OR 97301-2551

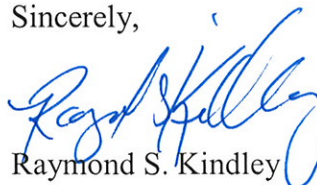
Re: Docket Nos. UA-141 & UA-143  
Wasco's Response to PacifiCorp's Explanatory Statement

Dear Filing Center:

Enclosed for filing is Wasco Electric Cooperative, Inc.'s ("Wasco") Response to PacifiCorp's Explanatory Statement in the above-referenced proceeding.

Should you any questions concerning this filing, please contact the undersigned.

Sincerely,



Raymond S. Kindley  
General Counsel for Wasco Electric Cooperative, Inc.

RSK/tb  
Enclosures  
cc: UA-141 & UA-143 Service List

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**BEFORE THE PUBLIC UTILITY COMMISSION**

**OF OREGON**

**UA 143 & UA 141**

In the Matter

PACIFICORP, dba PACIFIC POWER  
Application for Allocation of Exclusive  
Service Territory (UA 141)

WASCO ELECTRIC COOPERATIVE'S  
RESPONSE TO PACIFICORP'S  
EXPLANATORY STATEMENT

and

WASCO ELECTRIC COOPERATIVE, INC.  
Application for Allocation of Exclusive  
Service Territory (UA 143)

Wasco Electric Cooperative, Inc. ("Wasco") provides this Response to Pacific Power's Explanatory Statement ("Statement") that it filed to comply with the Prehearing Conference Memorandum ("Memorandum") issued May 8, 2009 in these dockets.

As an initial matter, Wasco respectfully notes that Pacific Power's position in its Statement that it does not want to serve the idle station service of the Iberdrola wind farm has resolved the issue of whether the docket UA-141 needs to be reopened and whether a second prehearing conference is necessary. Pacific Power's position makes both actions unnecessary.

The purpose of Pacific Power's Statement was for Pacific Power to explain how it might be in the public interest for the Commission to allocate to Pacific Power the area encompassing the 17 turbines now served by Wasco in the unallocated territory. Specifically, Pacific Power was to explain the public interest of Pacific Power serving the 17 turbines while Wasco served the remaining 31 turbines of the Iberdrola wind farm located in Wasco's existing service territory. Pacific Power's position makes any further inquiry unnecessary.

It is also unnecessary for Wasco and Pacific Power to further negotiate an allocation of customers in the Hay Canyon area. As explained in more detail below, Wasco's application for exclusive service territory expressly excludes Pacific Power's existing customers in the Hay Canyon area. At the prehearing conference held on May 7, 2009, the Pacific Power representative stated that Pacific Power does not want to be allocated the area in Hay Canyon that encompasses Wasco's two domestic customers. Given those facts and Pacific Power's position that it does not wish to serve Iberdrola's load at the 17 wind turbines, it is unnecessary for Wasco and Pacific Power to negotiate an allocation of existing customers in the Hay Canyon area.

The Commission's approval of Wasco's application for exclusive service territory in UA-143 would, in effect, memorialize the current allocation of Wasco's existing customers to Wasco and Pacific Power's existing customers would not be included in that allocation. Therefore, Wasco respectfully requests that the Commission proceed with the approval of Wasco's application for exclusive territory in UA-143 without further proceedings.

#### **I. Procedural History**

Pacific Power filed an application for exclusive service territory on January 16, 2009 to provide electric service for a specific region in the Hay Canyon area. Pacific Power filed its application pursuant to ORS 758.435 and OAR 860-025-0020, which allow the Commission to grant exclusive service territory only if no other utility is providing similar utility service in the area described in the application.

Pacific Power filed a notice with the Commission on February 2, 2009 withdrawing its application.

On February 3, 2009, Wasco filed a letter with the Commission identifying the customers that it serves in the area that Pacific Power had applied for. Wasco objected to Pacific Power's application under ORS 758.435 and OAR 860-025-0020. Wasco argued that Pacific Power's application contained incorrect information because Wasco had for decades served customers in the area that Pacific Power had applied for. Wasco contended that the Commission lacked authority to approve Pacific Power's application due to Wasco's customers in the applied for territory. When Wasco filed its objection, Wasco was unaware of Pacific Power's withdrawal of its application. Pacific Power notified Wasco on February 4, 2009 that it had withdrawn its application on February 2, 2009.

The Commission issued an order on February 9, 2009, confirming Pacific Power's withdrawal of its application on February 2, 2009 and closed the UA-141 proceeding.

On February 4, 2009, Wasco filed an Application for Exclusive Service Territory pursuant to ORS 758.435 and OAR 860-025-0020 for a territory in the Hay Canyon region. On February 8, 2009 the Commission staff notified Wasco that the legal description included in the application contained typographical errors. Wasco filed a letter to correct those errors on February 9, 2009.

On March 30, 2009 Pacific Power filed a petition to intervene in UA-143 and a motion to dismiss and request for hearing.

Wasco filed an amendment to its application on April 7, 2009 to correct the boundaries of the applied for territory. It again made a typographical error in the legal description and submitted a correction of the new legal description on April 14, 2009.

Pacific Power filed a motion in Docket UA-141 on April 2, 2009 to re-open that proceeding. With that motion, Pacific Power also amended the legal description of the area it

had applied for. The amended legal description still included the two domestic customers served by Wasco and the 17 wind turbines of Iberdrola's wind farm located in the unallocated territory served by Wasco.

Wasco filed on April 24, 2009 a petition to intervene in UA-141. In its petition, Wasco again argued that Pacific Power's application was defective because the territory that Pacific Power applied for included Wasco's domestic load customers and the 17 turbines served by Wasco. Wasco stated in its petition that the Commission has no statutory authority to approve the initial application or Pacific Power's motion to re-open the proceeding with the amended legal description pursuant to ORS 758.435 and OAR 860-025-0020.

The Commission issued an order on April 28, 2009 in UA-141 and UA-143 notifying the parties of a joint prehearing conference for May 7, 2009. During the prehearing conference on May 7, 2009 the Administrative Law Judge noted that the Commission has not re-opened UA-141.

During the prehearing conference, Pacific Power's representative stated Pacific Power wanted to exclude the areas encompassing the two domestic customers of Wasco from the territory that Pacific Power included in its application.

Pacific Power has further amended the area it wants to serve in the Hay Canyon area by filing its Statement on May 21, 2009. In the Statement, Pacific Power declares that it does not wish to serve the Iberdrola load arising from service to the 17 wind turbines located in the unallocated territory.

## **II. Facts Relating to Service to Iberdrola's Wind Farm**

Wasco serves Iberdrola's wind farm with power that Wasco purchases pursuant to its wholesale power purchase agreement with the Bonneville Power Administration ("BPA").

Pursuant to a network transmission agreement, BPA delivers that power to Wasco across BPA's 230 kV transmission line extending from the John Day Substation to the Iberdrola Klondike Schoolhouse Substation. See Attachment A. In Attachment A the area in white is Wasco's existing service territory and those areas shaded in pink are Pacific Power's existing service territory. The yellow area in the lower portion of Attachment A is the unallocated territory in Hay Canyon.

Wasco transfers title and ownership of the power to Iberdrola at the Klondike Schoolhouse Substation located in the center of Attachment A. Iberdrola transmits its power from the Klondike Schoolhouse substation to Iberdrola's Hay Canyon collector substation via Iberdrola's 230 kV line between those two points, which is depicted as the green line extending into the lower yellow area.

Wasco does own and operate a 115 kV line between BPA's DeMoss Substation and the Klondike Schoolhouse Substation. That line is depicted as the broken blue line labeled in Attachment A as "(DKS) 115 kV". Wasco does not currently serve the Iberdrola load via its DeMoss to Klondike Schoolhouse Substation line.

Wasco sells power to Iberdrola at its General Services/Generators Connected Directly to Bonneville Power Administration's Transmission Lines Rate, Rate Class 35. Rate Class 35 consists of an energy charge of \$0.0400 per kWh and a demand charge of \$4.50 per kW. If Iberdrola adds additional load at its Hay Canyon wind farm or expands its operations in the area, Wasco will continue to offer power to those loads pursuant to this rate and pursuant to its current power purchase and delivery arrangements with BPA.

### **III. Wasco's Applied for Service Territory**

A map of the area that Wasco has applied for exclusive service in the Hay Canyon area is set forth in Attachment B. The boundaries of that area are delineated with the blue boarder. Wasco's existing distribution lines and domestic customers in that area are delineated with black lines. Wasco's existing service area is shaded in pink.

Pacific Power's existing distribution lines and customers are delineated in magenta or red on the map. Yellow lines demonstrate the boundary of the territory for which Pacific Power has applied for exclusive service territory. The territory that Wasco has applied for does not include the three existing customers of Pacific Power in this portion of Hay Canyon.

Attachment C shows the approximate location of wind turbine in Iberdrola's Hay Canyon wind farm. The turbines are aligned along a North to South axis, which follows the ridge lines in this area. As shown on Attachment C, the majority of the existing wind turbines in Iberdrola's Hay Canyon wind farm are located in Wasco's existing service territory.

### **IV. Only One Valid Application for Service Territory in the Hay Canyon Area Is Pending Before the Commission.**

As argued by Wasco in several prior filings, Pacific Power does not have an application now pending before the Commission. Commission Docket UA-141 is closed and has not been re-opened. To the extent the Commission could re-open UA-141, Pacific Power's application cannot meet the requirements of ORS 758.435 and OAR 860-025-0020 because boundaries of the territory that Pacific Power has applied for in its initial application and amended filing includes Wasco's existing customers.

Additionally, Pacific Power has extensively changed its position and the area that it wishes to serve since its initial application filing. From January 16, 2009 to the recent filing of its Statement, Pacific Power has (i) filed on April 2, 2009 a written amendment to the legal

description of the territory it wishes to serve with its motion to re-open UA-141, (ii) stated in the prehearing conference on April 28, 2009 that it does not want to serve Wasco's domestic customers in the area it applied for and, (iii) declared in its Statement filed on May 21, 2009 that it does not want to serve the 17 wind turbines in the same area. Taking into account all of Pacific Power's statements, there is little area left in the Hay Canyon territory for which Wasco has applied that Pacific Power has not excluded.

Given these facts, Wasco's application is the only valid application pending before the Commission for exclusive service territory in Hay Canyon.

**V. Further Negotiation Concerning the Allocation of Territory is Unnecessary**

Wasco does not see any need to conduct any negotiations with Pacific Power concerning the allocation of existing customers in the Hay Canyon area. The Hay Canyon area that Wasco has applied for is approximately seven to ten square miles. Wasco has three customers in the territory it has applied for and Pacific Power has three in the area adjacent to that territory. Due to the extreme low density of customers, the Hay Canyon area is not a mixed use territory. As stated above, the Commission's approval of Wasco's application will effectively allocate Wasco's and Pacific Power's existing customers to each respective utility.

The only new loads in the unallocated territory arise from Iberdrola's development of its wind generation facilities. Given that Pacific Power has declared a position that it does not want to serve the Iberdrola load. There is no need to further negotiate service in the territory Wasco has applied for.

Pacific Power has not provided any of that information requested in the memorandum, but instead implies that it's in the public interest for Pacific Power and Wasco to negotiate an allocation of territory in the Hay Canyon Area and then present a negotiated settlement to the

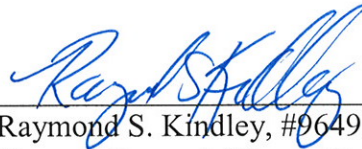


Commission. Pacific Power argues that there still remain areas of overlap between Wasco's and Pacific Power's applications and the service to existing customers needs to be clarified. Given that Pacific Power has voluntarily withdrawn its application and it has declared it does not want to serve Wasco's existing customers, including Iberdrola's load arising from station service to wind generators, there are no issues left to negotiate concerning existing customers.

Wasco sees no reason it should negotiate with Pacific Power given Pacific Power's positions. Wasco believes the Commission should address Wasco's application pursuant to ORS 758.435 and OAR 860-025-0020. If Pacific Power reverses its position in its reply to this response by Wasco or submits new factual information, Wasco respectfully requests an opportunity to reply to any new issues or facts advanced by Pacific Power.

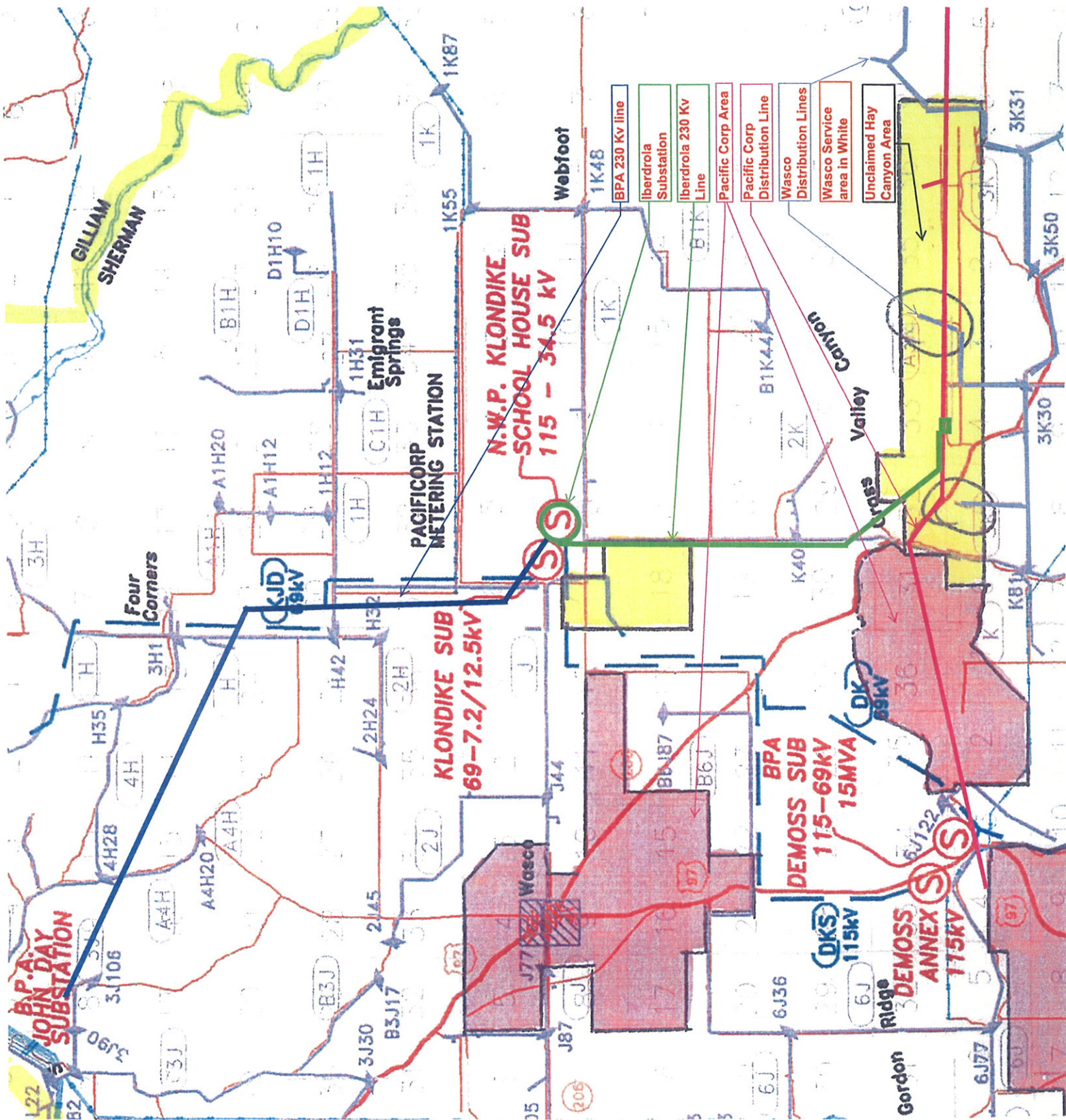
DATED this 1<sup>st</sup> day of June, 2009.

Respectfully Submitted,

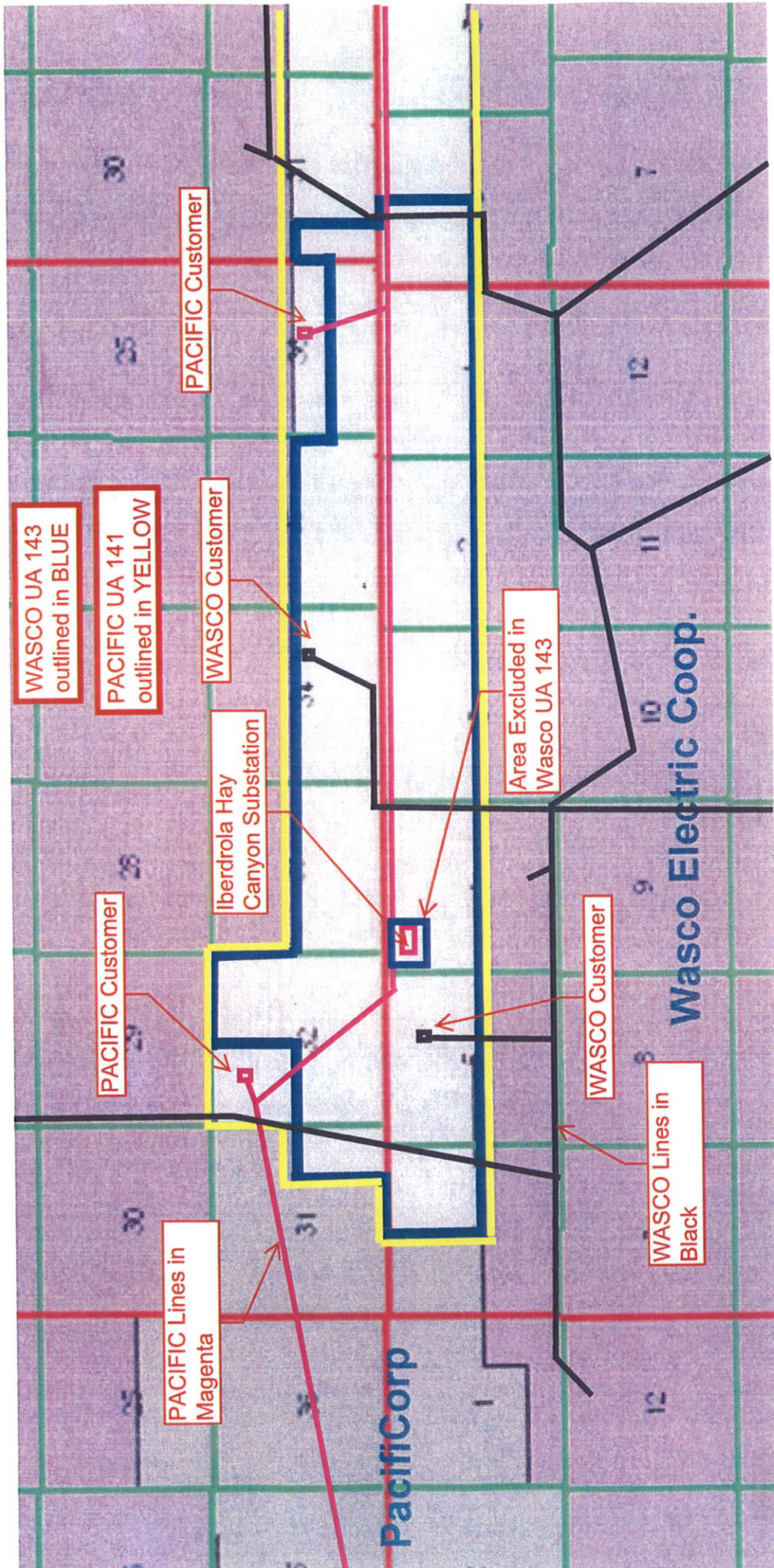


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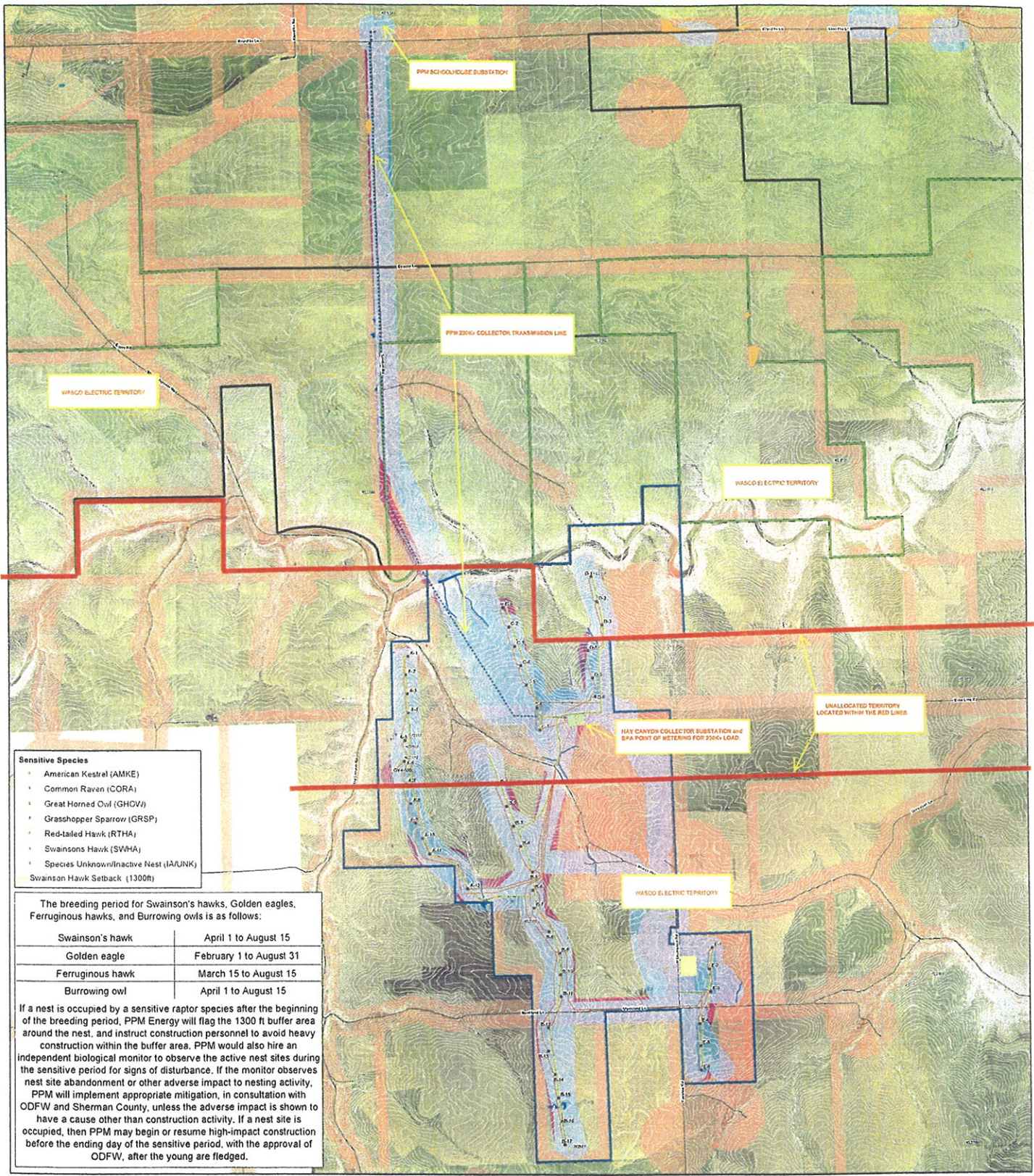
Raymond S. Kindley, #964910  
General Counsel, Wasco Electric Cooperative, Inc.











- Sensitive Species**
- \* American Kestrel (AMKE)
  - \* Common Raven (CORA)
  - \* Great Horned Owl (GHOV)
  - \* Grasshopper Sparrow (GRSP)
  - \* Red-tailed Hawk (RTHA)
  - \* Swainsons Hawk (SVHA)
  - \* Species Unknown/Inactive Nest (IAUNK)
  - \* Swainson Hawk Setback (1300ft)

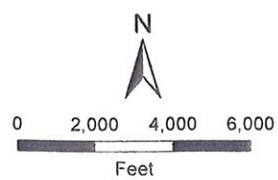
The breeding period for Swainson's hawks, Golden eagles, Ferruginous hawks, and Burrowing owls is as follows:

Swainson's hawk	April 1 to August 15
Golden eagle	February 1 to August 31
Ferruginous hawk	March 15 to August 15
Burrowing owl	April 1 to August 15

If a nest is occupied by a sensitive raptor species after the beginning of the breeding period, PPM Energy will flag the 1300 ft buffer area around the nest, and instruct construction personnel to avoid heavy construction within the buffer area. PPM would also hire an independent biological monitor to observe the active nest sites during the sensitive period for signs of disturbance. If the monitor observes nest site abandonment or other adverse impact to nesting activity, PPM will implement appropriate mitigation, in consultation with ODFW and Sherman County, unless the adverse impact is shown to have a cause other than construction activity. If a nest site is occupied, then PPM may begin or resume high-impact construction before the ending day of the sensitive period, with the approval of ODFW, after the young are fledged.

**Legend**

- Construction Disturbance Corridor
- Area to be Surveyed
- Proposed Turbine
- Proposed Permanent Met Tower
- Proposed Overhead 34.5-kV Collector Line
- Proposed Underground 34.5-kV Collector Line
- Proposed Access Roads
- Proposed Crane Path
- Proposed 230-kV Transmission Line
- 10-Acre Staging Area
- Proposed Substation and O&M Facility
- Site Boundary
- Kill
- Klondike Illa
- Hay Canyon
- Existing Roads
- Contours (10ft)
- Setbacks
- Archaeological Isolates
- Archaeological Sites
- CH2M-Mapped Stream Channel
- CH2M-Mapped Wetland



# Constraints Map

## Hay Canyon Wind Project





**CERTIFICATE OF SERVICE**

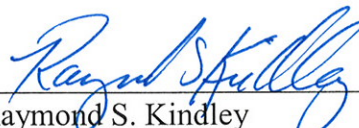
I hereby certify that I served the foregoing **WASCO'S RESPONSE LETTER TO PACIFICORP'S EXPLANATORY STATEMENT** via electronic mail and/or First Class Mail on the Service List below:

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DATED this 1<sup>ST</sup> day of June, 2009.

  
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