



PLANNING DEPARTMENT

P.O. Box 40 • Irrigon, Oregon 97844
 (541) 922-4624 or (541) 676-9061 x 5503
 FAX: (541) 922-3472

AGENDA

Morrow County Planning Commission
Tuesday, August 30th, 2022 7:00 pm
Bartholomew Building
Heppner, OR

For Electronic Participation See Meeting Information on Page 3

Members of Commission

Jeff Wenholz, Chair
 Stacie Ekstrom
 Mary Killion

Greg Sweek, Vice Chair
 Wayne Seitz
 Rod Taylor

Stanley Anderson
 Karl Smith
 Brian Thompson

Members of Staff

Tamra Mabbott, Planning Director
 Stephen Wrecsics, GIS Planning Tech
 Katie Keely, Compliance Planner

Stephanie Case, Planner II
 Justin Nelson, County Counsel

1. Call to Order

2. Roll Call

Pledge of Allegiance: "I pledge allegiance to the flag of the United States of America and to the republic for which it stands: one nation under God, indivisible with liberty and justice for all."

3. Minutes: July 26th, 2022 [Pages 4-7](#)

4. PUBLIC HEARINGS to begin at 7:00 pm (COMMISSION ACTION REQUIRED):

Conditional Use Permit CUP-N-356-22: Vance Dairy Construction, Applicant and Threemile Canyon Farms, Owner. [Pages 8-20](#)

The property is described as tax lot 100 of Assessor's Map 3N 23E and tax lot 110 of 4N 23E. The property is zoned Exclusive Farm Use (EFU) and is located approximately 10 miles southwest of Boardman on Sim-Tag Road. Request is to approve a concrete batch plant. Criteria for approval includes Morrow County Zoning Ordinance (MCZO) Article 3 Section 3.010(C)(14) and Article 6 Sections 6.020 – 6.040 and 6.050(I).

**Conditional Use Permit CUP-N-355-22 and Comprehensive Plan Amendment
AC-140-22: OneEnergy Development, LLC., applicant, and Madison Ranches Land 4, LLC.,
owner.** [Pages 21-140](#)

The properties are described as Tax Lots 1701, 1101, 1400, and 1401 of Assessor's Map 3N 27E. The properties are zoned EFU and located between the Boardman Bombing Range and Highway 207, approximately 6-miles southwest of the intersection of I-84 and I-82. Request is to allow the construction and operation of a 74-Megawatt Photovoltaic Solar Array with optional battery storage. Approval criteria for the Comprehensive Plan Amendment (AC-140-22) includes Morrow County Zoning Ordinance (MCZO) Article 8 Amendments, ORS 197.732 and OAR 660-033-0130(38) for the exception to Statewide Planning Goal 3 Agricultural Lands to allow a solar development on up to 600-acres in the EFU zone. Criteria for approval for the Conditional Use Permit (CUP-N-355-22) includes the MCZO Article 3 Section 3.010 EFU and Article 6 Conditional Uses.

This is the first of at least one hearing with the final decision being issued by the Planning Commission for CUP-N-355-22. This is the first of at least two public hearings with the final hearing before the Board of Commissioners for AC-140-22. Opportunity to voice support or opposition to the above applications or to ask questions will be provided. Failure to raise an issue in person or by letter or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based on those issues.

5. OTHER BUSINESS

6. Correspondence

Directors Report – August [pages 141-142](#)

7. Public Comment

8. Adjourn

Next Meeting: September 27th, 2022 at 7:00 p.m.
Location: Morrow County Government Building, Irrigon. OR

ELECTRONIC MEETING INFORMATION

Morrow County Planning is inviting you to a scheduled Zoom meeting. Topic: Planning Commission
Time: August 30th, 2022 07:00 PM Pacific Time (US and Canada)

Join Zoom Meeting

<https://us06web.zoom.us/j/3696517452?pwd=dm9kTG1UbWM1OUUpqRDdyVXA1TmU2dz09>

Meeting ID: 369 651 7452

Passcode: 335454

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Dial by your location

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+1 312 626 6799 US (Chicago)

+1 646 558 8656 US (New York)

Meeting ID: 369 651 7452

Passcode: 335454

Find your local number: <https://us06web.zoom.us/j/kcSPLVYIP7>

Should you have any issues connecting to the Zoom meeting, please call 541-922-4624. Staff will be available at this number after hours to assist.

This is a public meeting of the Morrow County Planning Commission, and may be attended by a quorum of the Morrow County Board of Commissioners. Interested members of the public are invited to attend. The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired, or for other accommodations for persons with disabilities, should be made at least 48 hours before the meeting to Tamra Mabbott at (541) 922-4624, or by email at tmabbott@co.morrow.or.us.



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**Minutes of the Public Meeting of the
 Morrow County Planning Commission
 Tuesday, July 26, 2022 7:00 p.m.
 Morrow County Government Building, Irrigon, Oregon
 (Meeting was held in person and through video conferenced via Zoom)**

Morrow County Planning Commissioners Present: Mary Killion, Stanley Anderson

Attendance via Zoom: Vice Chair Greg Sweek, Stacey Ekstrom, Wayne Seitz

Excused Absent: Chair Jeff Wenholz, Brian Thompson, Rod Taylor, Karl Smith

Morrow County Staff Present: Tamra Mabbott, Planning Director, Stephanie Case, Planner II, Stephen Wreccics, GIS Planning Technician, Katie Keely, Compliance Planner.

Called to Order: Meeting was called to order by Vice Chair Sweek at 7:00pm.

The Pledge of Allegiance was recited.

Approval of Minutes: *Commission Ekstrom moved approval of the June 28, 2022 minutes Commissioner Seitz seconded. Called for vote, approved unanimously.*

Public Hearings: Planning Commission Vice Chair Sweek read the Planning Commission Statement and Hearing Procedures.

PUBLIC HEARING Morrow County Subdivision Ordinance and Zoning Ordinance Amendment AS-138-22 and AZ-139-22 This action is to update the Morrow County Subdivision Ordinance and relevant sections of MCZO Articles 9 and 1. Applicable criteria include MCZO Section 8.040 Amendments. This is the first of at least two public hearings with the final hearing before the Board of Commissioners.

Presented by: Planner II, Stephanie Case who summarized the request and the history which included Planning staff, County Assessor and County Surveyor working together to make recommended changes to the Subdivision Ordinance and relevant sections of Articles 9 and 1 of the Morrow County Zoning Ordinance.

Staff recommendation is to approve the findings and recommend the Board of Commissioners amend the Morrow County subdivision Ordinance and relevant portions of Article 9 and 1 of the Morrow County Zoning Ordinance.

Vice Chair Sweek called for questions from Commissioners for staff. Commissioner Killion asked if it was a subdivision was it smart to have it not come before Planning Commission? Vice Chair Sweek advised that the streamline changes would apply to a land partition not a subdivision application. Vice Chair Sweek and Commissioner Seitz noted that they like the simplified Administrative Review process if it is straight forward and if planning has no issues. It will save people time. Commissioner Ekstrom noted that as someone who has gone through the process, she is 100% in favor of having it be a decision with in the Planning Department.

Planner II, Stephanie Case advised that something more complex would still come to the Planning Commission for input and approval. Planning Director Tamra Mabbott clarified the process for administrative decisions which require public notice, etc. Counsel Dan Kearns added information to commissioners and staff for clarifications.

Vice Chair Sweek opened the testimony for the Public Hearing, from those in favor. No comments in person or through Zoom.

No one spoke in opposition in person or through Zoom. No other comments were made.

Vice Chair Sweek closed Public Hearing.

Commissioner Anderson moved to recommend to the Board of Commissioners approval of AS-138-22 and AZ-139-22 with Findings, including the changes that would allow land Partitions as a type 2 or administrative decision as presented to go forward to the BOC hearing scheduled for August 24th, 2022. Commissioner Killion seconded motion. Called for a vote, unanimous approval

PUBLIC HEARING: Land Use Decision LUD-N-43-22: Umatilla Electric Cooperative, applicant. Landowners include Amazon Data Services, Inc., Farmland Reserve, Inc and Terra Poma Land, LLC. Request is to construct an approximately one-half mile of 230 kV transmission line to connect a new data center to an existing substation. Properties are described as tax lot 1701 of Assessors Map 4N 25 EWM; tax lot 3416 of Assessors Map 4N 26; tax lot 100 of Assessor's Map 4N 25 13. The properties are zoned Exclusive Farm Use (EFU). The new transmission line will connect to an existing substation located on the east side of Bombing Range Road and crossing over to the west cross three parcels. Approval criteria includes MCZO Section 3.010(B)(25) and (D)(10).

Report was presented by Planner II, Stephanie Case who explained the application will allow construction and operation of an approximate 0.5-mile-long double circuit 230kV transmission line and related facilities on lands zone Exclusive Farm Use. Staff recommendation is to approve Land Use Decision LUD-N-43-22 subject to the list of conditions in the Findings.

Vice Chair Sweek called for questions from Commissioners for staff. Vice Chair Sweek inquired on the Letter received from the Confederated Tribes of the Umatilla Indian Reservation. Planner Case explained that Kristen with the Cultural Resource Protection Program (CRPP) requested that if there are any new poles required as part of the transmission line construction outside of the right of way on Bombing Range Road the CTUIR recommends an archeological subservice testing on the pole location due to the proximity to historic property of religious and cultural significance. Vice Chair Sweek asked if this has that been something that has been a condition of approval on previous powerline approvals? Planner Case responded that she does not believe so in the last few years although this property is close to a historic property of religious and cultural significance.

Planning Director Tamra Mabbott noted that county routinely sends notice to CTUIR CRPP and there is often no response. Their (CTUIR) response is directed at the location, not the type of use.

Commissioner Killion noted that she had reached out to Planner Case and she answered a question for her in regards to private and public use and confusion that she had in regards to this land use decision.

Counsel Dan Kearns elaborated on the private and public use and with power poles it is not common that it is private use. This is a public service being provided to a private development.

Vice Chair Sweek opened the testimony for the Public Hearing, from those in favor.

Umatilla Electric Cooperative (UEC) legal representative Laura Westmeyer spoke in favor of the Land Use Decision.

Commissioner Killion asked if the power or need for power would be used for more than just the data center. She noted her concern for farm land and the use of the EFU zone for this purpose. UEC engineer Cole Bode spoke about how the addition to the substation would allow better capacity to surrounding needs on Bombing Range Road and not just the data center.

No one spoke in opposition in person or through Zoom. No other comments were made. Vice Chair Sweek closed Public Hearing.

Planning Director Mabbott noted that if the Commission moves to approve the application the Planning Department would recommend adding a condition in response to the Confederated Tribes request. To include language such as 'if there is ground disturbance that they would conduct an archeological subservice testing for the poles.'

Commissioner Seitz moved to approve the record for LUD-N-43-22 with the added condition for the Confederated Tribes. Commissioner Ekstrom seconded motion. Called for vote, approved unanimously.

Planning Director Tamra Mabbott responded to a question raised by Commissioner Killion about a potential conflict and noted a reply from Counsel. Before the vote Commissioner Killion would like to ask the question. Commissioner Killion asked if she was able to vote because she had received funds from UEC while sitting on a nominating committee. Counsel Dan Kearns advised that this would not be a violation of ethics, because she does not have a direct financial stake in the business. Additionally, because it is not current, and she is not an employee and does not have a business that is benefiting directly. Vice Chair Sweek advised that a person can always call the Oregon Ethics Committee as well, as they are very helpful.

Called for vote, approved unanimously.

PUBLIC HEARING Land Partition LP-N-511-22: Scott and Jaime Meakins, Applicants and Owners. The property is described as tax lot 3400 of Assessor's Map 5N 26E 23B. The property is zoned Rural Residential (RR) and located east of Eighth Road West between Washington Avenue and Usage Lane. Criteria for approval includes MCZO Section 3.040 Rural Residential Zone and MCSO Article 5 Land Partitioning.

Staff report presented by Planner and GIS staff Stephen Wrecsics who summarized the request is to partition an approximate 6.40-acre property into two parcels. Staff recommendation is to approve LP-N-511-22 subject to list of conditions.

Vice Chair Sweek called for questions from Commissioners for staff. No questions from Commissioners.

Vice Chair Sweek opened the testimony for the Public Hearing, from those in favor.

No other comments through Zoom.

No one spoke in opposition in person or through Zoom. No other comments were made.

Vice Chair Sweek closed Public Hearing.

Vice Chair Sweek called for questions from Commissioners for Staff.

Commissioner Seitz moved to approve the record for LP-N-511-22 Commissioner Killion seconded motion. Called for vote, approved unanimously

PUBLIC HEARING Land Partition LP-N-512-22 and Replat R-N-078-22: Port of Morrow, Applicant and Owner. The property is described as tax lot 107 of Assessor's Map 4N 26E 6. The property is zoned Port Industrial (PI) and located between Lewis and Clark Drive and Gar Swanson Road, along Internet Parkway. The request is to reconfigure Parcel 2 of Partition Plat 2021-18, creating three new parcels. Criteria for approval includes the Morrow County Zoning Ordinance (MCZO) Section 3.073 Port Industrial Zone and Morrow County Subdivision Ordinance (MCSO) Article 5 Land Partitioning.

Staff report presented by Stephen Wrecsics who summarized the request was to partition by replat parcel 2 of Partition plat 2021-18 into 2 parcels. Recommendation is to approve LP-N-512-22 and Replat R-N-078-22 subject to list of conditions.

Vice Chair Sweek called for questions from Commissioners for staff. No questions from Commissioners.

Vice Chair Sweek opened the testimony for the Public Hearing, from those in favor.

No other comments through Zoom.

No one spoke in opposition in person or through Zoom. No other comments were made.

Vice Chair Sweek closed Public Hearing.

Vice Chair Sweek called for questions from Commissioners for Staff.

Commissioner Seitz moved to approve the record for LP-N-512-22 and Replat R-N-078-22 Commissioner Ekstrom seconded motion. Called for vote, approved unanimously

Correspondence / Staff Comment:

- Directors Report – July
- DLCD- Transportation Funding Grant

The next meeting of the Morrow County Planning Commission is scheduled for Tuesday, August 30, 2022 at 7:00 pm. The meeting will be offered via Zoom and in person at the Bartholomew Building, Heppner, Oregon. If we do not have an action to come before the Commission the next meeting will be Sept 27th, 2022.

Adjournment: Meeting was adjourned at 8:40 pm.

Respectfully Submitted,

Katie Keely

**PRELIMINARY FINDINGS OF FACT
CONDITIONAL USE REQUEST
Application Number CUP-N-356-22**

REQUEST: To approve a temporary concrete batch facility to produce ready-mix concrete.

APPLICANT: Vance Dairy Construction, Inc.
PO Box 7
Homedale, ID 83628

PROPERTY OWNER: Threemile Canyon Farms
75906 Threemile Road
Boardman, OR 97818

PROPERTY DESCRIPTION: Tax lot 100 of Assessor's Map 3N 23E and Tax Lot 110 of Assessor's Map 4N 23E

PROPERTY LOCATION: Approximately 10 miles southwest of Boardman on Sim-Tag Road.

FINDINGS OF FACT:

I. BACKGROUND INFORMATION:

The subject property is zoned Exclusive Farm Use (EFU). The subject property is situated within Threemile Canyon Farms, a 93,000 total acre farming operation. The applicant has applied for a Conditional Use Permit to allow the placement and use of a portable concrete batch plant at the site for dairy construction and modifications over the next several years.

II. COMPLIANCE WITH MORROW COUNTY ZONING ORDINANCE SECTIONS 3.010(C)(14), 6.020, 6.025, 6.030 and 6.050(I). The requirements for approval are listed below in **bold type**, followed by a response in standard type.

MORROW COUNTY ZONING ORDINANCE SECTION 3.010(C)(14) CONDITIONAL USES PERMITTED.

The Morrow County Zoning Ordinance allows for operations conducted for the mining, stockpiling, or processing of mineral, aggregate and other mineral resources or other subsurface resources. This application is for the processing and stockpiling, no onsite mining is involved with this request.

SECTION 6.020 GENERAL CRITERIA.

In judging whether or not a conditional use proposal shall be approved or denied, the Commission shall weigh the proposal's appropriateness and desirability, or the public convenience or necessity to be served against any adverse conditions that would result from authorizing the particular development at the location proposed and, to approve such use, shall find that the following criteria are either met or can be met by observance of conditions.

- A. The proposal will be consistent with the Comprehensive Plan and the objectives of the Zoning Ordinance and other applicable policies and regulations of the County.**

The concrete batch plant may be allowed as a Conditional Use in the Morrow County Zoning Ordinance. The use is consistent with the Comprehensive Plan and objectives of the Zoning Ordinance and other applicable policies and regulations of the County. It is listed as a condition of approval that the applicant comply with the Morrow County Solid Waste Ordinance for any hauling or disposal of solid waste, which may include concrete or materials.

- B. If located within the Urban Growth Boundary of a city, that said city has had an opportunity to review and comment on the subject proposal.**

This criterion is not applicable as the concrete batch plant site is not within an Urban Growth Boundary.

- C. The proposal will not exceed carrying capacities of natural resources or public facilities.**

The proposed use is on a large farming tract and no proposed aggregate operation is associated with this application. Aggregate will be sourced from a local, properly permitted site. The application states that water will be from existing infrastructure at the site and no below ground disturbances will be required. No public facilities are required for the request. This criterion is met.

SECTION 6.025. RESOURCE ZONE STANDARDS FOR APPROVAL.

- A. In the Exclusive Farm Use zone, a conditional use may be approved only when the County finds that the use will not:**

- 1. Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or**
- 2. Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.**

The proposed use is in conjunction with farming and dairy operations and will pose no adverse impacts to farm practices on surrounding areas or increase in farming costs will be associated with this activity. This criterion is met.

- B. In the Forest Use Zone, a conditional use may be approved only when requirements that are designed to make the use compatible with forest operations and agriculture and to conserve values found on forest lands are met. A conditional use may be approved only when the County finds that the use will not:**

- 1. Force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands;**
- 2. Significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel; and**

These criteria are not applicable as the Subject Parcel is zoned EFU.

SECTION 6.030 GENERAL CONDITIONS.

In addition to the standards and conditions set forth in a specific zone, this article, and other applicable regulations; in permitting a new conditional use or the alteration of an existing conditional use, the Commission may impose conditions which it finds necessary to avoid a detrimental impact and to otherwise protect the best interests of the surrounding area or the County as a whole. These conditions may include the following:

- A. Limiting the manner in which the use is conducted including restricting the time an activity may take place and restraints to minimize such environmental effects as noise, vibration, air pollution, glare and odor.**
The application does not state hours of use or any other restriction of the concrete batch plant having to do with minimization of environmental effects such as noise, vibration, air pollution, glare and odor. Compliance with DEQ required permits would meet this requirement, therefore, it is recommended and listed as a Condition of Approval that the Applicant contact the Oregon Department of Environmental Quality to obtain all necessary permits. No additional operational limitations are required on this site as it is in an Exclusive Farm Use area in the middle of a large tract.
- B. Establishing a special yard or other open space or lot area or dimension.**
The application shows that the proposed site is in the middle of Threemile Canyon Farms near existing dairy operations. The location is shown on the vicinity map and the site plan provided with the application. Due to the location and inherent to the surrounding activities, this criterion is met.
- C. Limiting the height, size or location of a building or other structure.**
The Exclusive Farm Use Zone does not restrict building height. There will be no local restrictions placed on height, or size of a building or structure at the subject location.
- D. Designating the size, number, location and nature of vehicle access points.**
- 1. Where access to a county road is needed, a permit from Morrow County Public Works department is required. Where access to a state highway is needed, a permit from ODOT is required.**
Current access is from Sim-Tag Road. The use as proposed will not cause a significant change in size, number, location and nature of vehicle access points. A copy of these Preliminary Findings was provided to the Morrow County Public Works Department for their review.
 - 2. 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. 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.**
According to the application, the proposal will not reach a level to trigger the need for a TIA and there will be no additional traffic associated with the batch plant relative to the site. This criterion is met.
- E. Increasing the amount of street dedication, roadway width or improvement within the street right-of-way.**
There are no proposed street dedications or roadway improvements proposed by the Applicant and none would be required with this activity. This criterion is not applicable.
- 1. It is the responsibility of the land owner to provide appropriate access for emergency vehicles at the time of development.**
The proposal is within the Boardman Rural Fire Protection District which has been provided a copy of these Preliminary Findings for their review.
- F. Designating the size, location, screening, drainage, surfacing or other improvement of a parking area or loading area.**

The nature of a concrete batch plant operation creates, or uses, open space. The applicant does need to provide adequate parking and loading areas for the operation, and those locations are available at the site. Because these areas may move over the lifetime of the operation no paving or permanent installations are required, but management of fugitive dust does need to be accomplished.

G. Limiting or otherwise designating the number, size, location, height, and lighting of signs.

Should temporary signage and lighting be required they will need to comply with MCZO Article 4 Section 4.070. This is recommended and listed as a condition of approval.

H. Limiting the location and intensity of outdoor lighting and requiring its shielding.

See the discussion in (G) above.

I. Requiring diking, screening, landscaping or another facility to protect adjacent or nearby property and designating standards for its installation and maintenance.

These provisions would not be required due to the location of the operation and the surrounding uses.

J. Designating the size, height, location and materials for a fence.

The application does not state the need for fencing. If fencing six feet in height or higher is installed a Zoning Permit and Building Permits may be required.

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

The batch plant is wholly within property operated by the applicant as shown on the plot plan provided with the application. There are no existing trees, vegetation, water resources, evidence of wildlife habitat or other significant natural resources at the site. This preliminary Staff Report will be provided to Oregon Department of Fish and Wildlife (ODFW) and Oregon Water Resources Department (OWRD).

The County has been established as a Weed Control District and has identified noxious weeds to be controlled by local landowners. It is therefore recommended and listed as a Condition of Approval that the Applicant abide by coordinate with the Morrow County Weed Supervisor to control noxious weeds as necessary.

L. Other conditions necessary to permit the development of the County in conformity with the intent and purpose of this Ordinance and the policies of the Comprehensive Plan.

No other conditions would be necessary for the proposal.

SECTION 6.050(I). MINING, OR OTHER EXTRACTION ACTIVITY.

The following uses shall be permitted subject to the review standards of this Ordinance: mining more than 1000 cubic yards of material or excavation preparatory to mining of a surface area of more than one acre on land zoned for Farm Use (EFU and RRI) and 5000 cubic yards in other zones (i.e. PI, MG, SAI and FU) of material, stockpiling and processing of mineral and aggregate materials. Temporary use of offices, shops or other accessory structures used for the management and maintenance of mining and processing equipment; sale of mining products extracted and processed on-site; storage of transportation equipment or storage of machinery or equipment used in conjunction with on-site mining or processing; other activities including buildings and structures

necessary and accessory to development or reclamation of a mineral or aggregate resource should be part of the overall conditional permit application. (MC OR-1-2013)

GENERAL PERMITTING PROVISIONS.

1. **New Permit:** For an application for mining to be complete an applicant must provide a map and other documentation to show the permit area boundary, property lines and other pertinent information that will address the requirements of the Approval Criteria.
2. **Continuation:** When a mine has been lawfully permitted in the County and the owner or operator was issued and continuously renewed a State permit, the permit will remain valid as long as the operation still conforms to the Conditions of the local and State permits. After a period of inactivity of 12 years, and the owner or operator wishes to renew mine activity, a Zoning Permit re-validation letter (along with the usual Zoning Permit fee) must be submitted to the Planning Department in order to review the Conditions of Approval. Approval of this type of request is not a land use decision and shall be an administrative action by the Planning Director without a public hearing but shall be subject to an at least 14-day notice to affected landowners.
3. **Alteration:** Requests for permit alteration shall be made when the operator or owner proposes changes to the mining activity that no longer conform to the requirements of the original permit. For alterations if the decision does not involve an amendment to the Comprehensive Plan, it shall be an administrative decision by the Planning Director without a public hearing but shall be subject to an at least 14-day public notice period to provide an opportunity for any person adversely affected, or who is entitled to notice, to file an appeal.
4. **Emergency Permits.** In concurrence with a DOGAMI emergency operating permit, the Planning Director may issue an emergency aggregate mining approval in response to a natural disaster with the intent to abate the imminent threat. The permit will be valid for the duration of the concurrent DOGAMI permit. If after termination of the emergency operating permit the operator wishes to continue the mining operation, the operator shall follow the procedures for an aggregate mine approval as required in the use zone the mining operation is located in. (MC OR-1-2013)

These criteria are not applicable as the application is for a concrete batch plant.

LOCAL PERMIT APPROVAL CRITERIA.

An application for mineral or aggregate mining must address provisions found in Article 6 Conditional Uses Section 6.020 General Criteria, Section 6.025 Resource Zone Standards for Approval when in a Farm or Forest Zone, and the following:

1. **Proposed hours and/or days of operation.** The conditions as to when the mining and processing would be restricted to specific hours of operation or days when mining operations would be limited. For operations conducted after dark, limiting the location and intensity of outdoor lighting and requiring its shielding.
See above discussion under Criteria 6.030(A) and 6.030(G)
2. **Limiting or otherwise designating the number, size, location, height, and lighting of signs.** Signs other than safety signs must comply with the sign requirements in Section 4 of the Zoning Ordinance.
See above discussion under Criterion 6.030(G).
3. **A rock crusher, washer or sorter shall not be located within 500 feet from a residential or commercial use unless it can be established that the use will meet DEQ performance standards for noise and not be expected to cause a noise**

nuisance at nearby residential or commercial uses. In farm or forest use zones the processing of rock, aggregate or minerals shall not be within one-half mile of a noise sensitive area if the operation operates more than nine hours per day or for more than five days per week. (ORS 467.120(2).

This criterion is not applicable as the proposed operation is located several miles from any established residential or commercial use that would be impacted.

4. All water necessary for the proposed operation shall be appropriated and legally available to the site.

Please see above discussion under criterion 6.020(C). It is listed as a condition of approval that the applicant comply with all rules, regulations, and requirements of the Oregon Water Resources Department.

5. The discharge of airborne contaminants and dust created by mining shall comply with applicable DEQ ambient air quality and emissions standards, or approval shall be conditioned to ensure that such standards will not be violated.

Please see above discussion under criterion 6.030(A).

6. A Reclamation Plan approved by DOGAMI will be required for mining operations. When reviewing an applicant's submittal regarding a proposed reclamation plan, Morrow County will review the plan against the following criteria:

- a. **A description of the present land use and planned beneficial use of the site following the mining activity. The applicant must demonstrate that the planned beneficial use is compatible with the Comprehensive Plan and Zoning Ordinance.**
- b. **Provisions for the backfilling, recontouring, topsoil replacement, seedbed preparation, mulching, fertilizing, selection of plant species, seeding or planting rates, and schedules;**
- c. **Provisions for adequate setbacks and slopes to protect adjacent property and public safety;**
- d. **A proposed time schedule for surface mining and reclamation procedures for the removal or disposal of all equipment, refuse, structures, and foundations from the permit area except permanent structures that are part of an approved Reclamation Plan.**

These criteria are not applicable as the application is for a concrete batch plant.

7. In accordance with the Transportation System Plan, the requirements of the Public Works Department or the Oregon Department of Transportation shall be complied with regarding the minimization of potential conflicts to local roads used for access and egress to the mining site.

The applicant shall comply with any requirements of the Morrow County Public Works Department regarding access to the site. This is listed as a condition of approval.

8. Designating the size, number, location and nature of vehicle access points.

- a. **Where access to a county road is needed, a permit from Morrow County Public Works department is required. Where access to a state highway is needed, a permit from ODOT is required.**
- b. **In addition to the other standards and conditions set forth in this section, a Traffic Impact Analysis (TIA) will be required for all projects generating more than 400 passenger car equivalent trips per day. 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)

Please see the above discussion under criterion 6.030(D)(1).

9. Increasing the amount of street dedication, roadway width or improvements within the street right-of-way. It is the responsibility of the land owner to provide appropriate access for emergency vehicles at the time of development. (MC-C-8-98)

Please see the above discussion under criterion 6.030(E).

10. An application for a mining operation contiguous to an existing operation approved under this section shall be evaluated in conjunction with the existing site when it appears the sites will be managed and operated as one.

This criterion is not applicable as the application is for a temporary concrete batch plant.

11. Ensuring adequate space for parking and loading.

Please see the above discussion under criterion 6.030(B).

12. Approvals for or that include operations that batch and blend mineral and aggregate into asphalt cement may not be authorized within two miles of a planted vineyard. (one or more vineyards totaling 40 acres or more that are planted as of the date the application for batching and blending is filed).

Using the best data available, planning staff could not identify any vineyards within 2-miles of the proposed use. Planning Staff would find this criterion met.

13. A plan for the control of noxious weeds. (MC OR-1-2013)

Please see the above discussion in criterion 6.303(K)

III. AGENCIES NOTIFIED: Dawn Hert, DLCD; Steve Cherry, ODFW; Nancy Swofford, Oregon DEQ ; Ben Mundie, DOGAMI; Eric Imes, Public Works Director; Mike Gorman, Morrow County Assessor; Greg Silbernagel, Watermaster; Chris Cowitz, Oregon Water Resources Department; Dave Pranger, Morrow County Weed Coordinator; Michael Hughes, Boardman Rural Fire Protection District; Glenn McIntire, Building Official; Cindy Boyd, State Building Codes Division.

IV. LEGAL NOTICE PUBLISHED: East Oregonian
August 9, 2021

Heppner Gazette Times
August 10, 2021

V. PROPERTY OWNERS NOTIFIED: August 10, 2022

VI. HEARING DATES: August 30, 2022
Bartholomew Building
Heppner, Oregon

VII. DECISION OF PLANNING COMMISSION:
Recommendation of staff is to approve the application subject to the following
CONDITIONS OF APPROVAL:

1. The Applicant shall contact the Oregon Department of Environmental Quality to obtain all necessary permits.

2. Any temporary signage and lighting required will need to comply with MCZO Article 4 Section 4.070.
3. The applicant shall comply with any requirements of the Morrow County Public Works Department regarding access to the site.
4. The Applicant shall coordinate with the Morrow County Weed Supervisor to control noxious weeds as necessary.
5. Applicant is required to comply with all rules, regulations, and requirements of the Oregon Water Resources Department in regards to this project.
6. Comply with the Morrow County Solid Waste Ordinance.

Jeff Wenholz, Chair

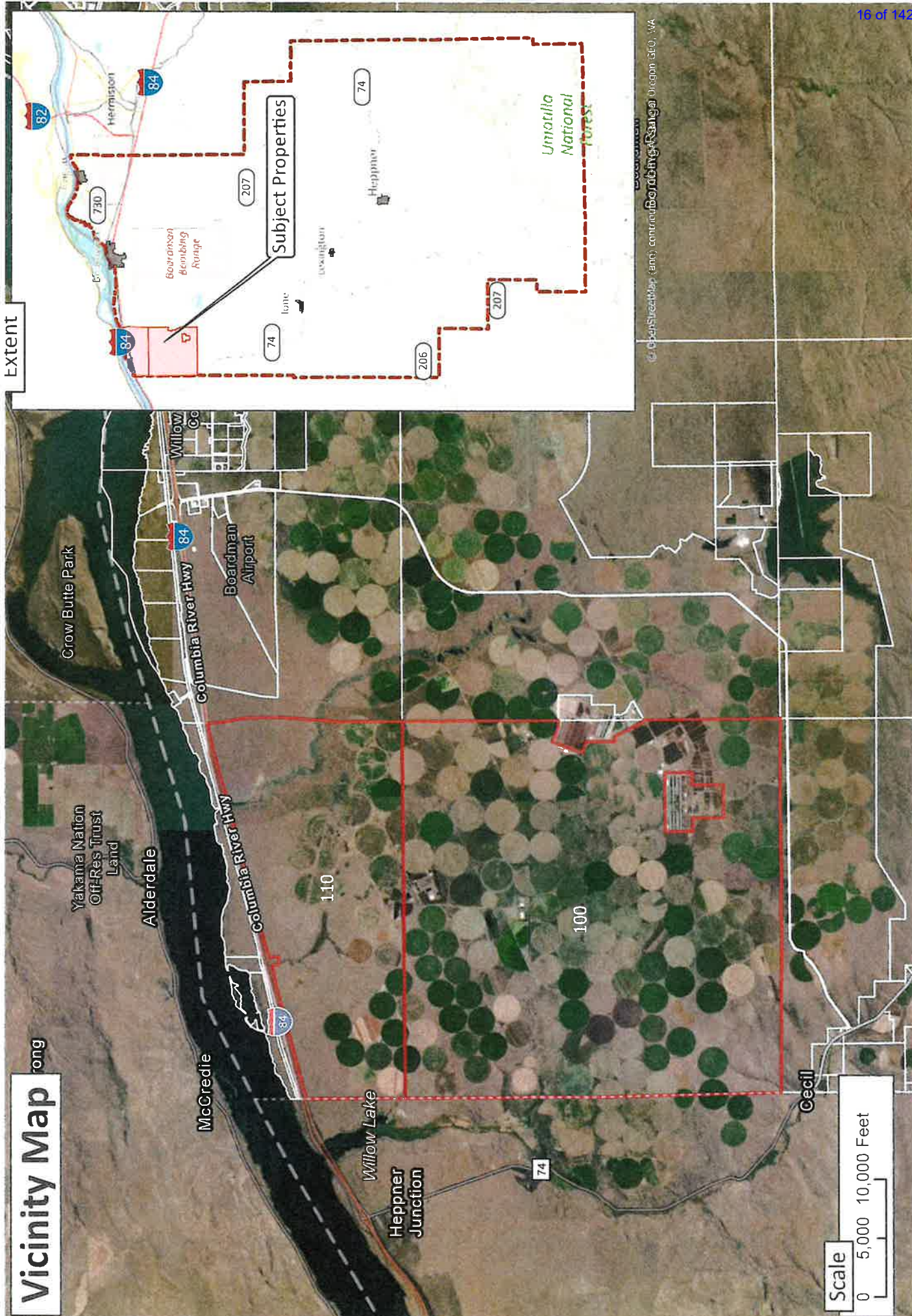
Date

ATTACHMENTS:

Vicinity Map

Application with attached statement and site plan

Vicinity Map



CUP-N-356-22
Threemile Canyon
Farms

Legend

Taxlot Taxlot selection



Cartography By: Stephen Wireccics
Morrow County Planning Department
Coordinate System: NAD83 Oregon GIC Lambert ft
Datum: North American 1983
Projection: Lambert Conformal Conic

Date Saved: 7/7/2022 10:18 AM



Extent

Subject Properties

74

110

100

Cecil

Willow Lake

Heppner Junction

McCredie

Alderdale

Yakama Nation
Off-Res Trust
Land

Crow Butte Park

Columbia River Hwy

Willow Co

Boardman Airport

Boardman Range

Hermiston

Lone

Heppner

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PAID
1119 PNP K. Keely

RECEIVED
JUL 19 2022

LAND USE APPLICATION
CONDITIONAL USE REQUEST

BY: K. Keely

FILE NUMBER CWP-N-356-22

Date Received 7/19/2022

Date Deemed Complete 7/20/2022

Applicable Zoning Ordinance Criteria: 3.010 C 14

Applicant:

Name(s) VANCE DAIRY CONSTRUCTION, INC

Address P.O. Box 7 HOMEDALE, IDAHO 83628

Phone 208-337-3191 E-mail address KVANCE@DAIRYPLANS.COM

Legal Owner: (if different from applicant)

Name(s) BILL ANTILLA - PRESIDENT THREEMILE CANYON FARMS

Address 75906 THREEMILE CANYON ROAD, BOARDMAN OR 97818

Proposed Conditional Use:

Description of Request and the Proposed Use:

SEE ATTACHED

Existing Property Description:

Township 3N Range 23E Section _____ Tax Lot(s) 100

Zoning Designation N/A (Along line w/ 4N 23 TL 110)
(If EFU or FU, soil information is required with your statement)

Located within an UGB? N/A NO If yes, which city? _____

Physical Address SIM-TAG ROAD @ THREEMILE CANYON FARMS

General Location TAKE LEFT AT SIM-TAG RD OFF OF THREEMILE RD

SITE LOCATION IS 1/2 MILE DOWN SIM-TAG RD ON THE RIGHT

Public Road Access NO

Improvement Type and Condition of Road GRAVEL FARM ROAD

Fire Protection District or Method BOARDMAN OREGON

Solid Waste Disposal Method PORTA POTTIES

Existing Use of the Property FARM STORAGE AREA

Please provide a statement with the following information to the Planning Department:

1. A plot plan of the property with existing and proposed structures and roads and accesses
2. Existing and proposed water supply
3. Existing and proposed sewage disposal method
4. Utilities and other public services provided
5. Signs and/or lighting required
6. Parking/loading and fencing required
7. Drainage, is the land or any portion of it subject to flooding?
8. What, if any, change will there be in traffic use of the existing access?
9. Will the proposed use generate more than 400 automobile trips per day?
10. Will any new access be required?
11. A description of how the proposal will be compatible with surrounding land uses.
12. How the proposal will protect and preserve existing natural resources such as trees, vegetation, water resources and wildlife habitat and whether diking, screening or other landscaping will be required to protect nearby properties and habitats.

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

Signatures:

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

Signed: Kelly Vance _____
 (Applicant) (Applicant)

B. Antilla _____
 (Legal Owner) (Legal Owner)

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

Date: _____ Fee: _____

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

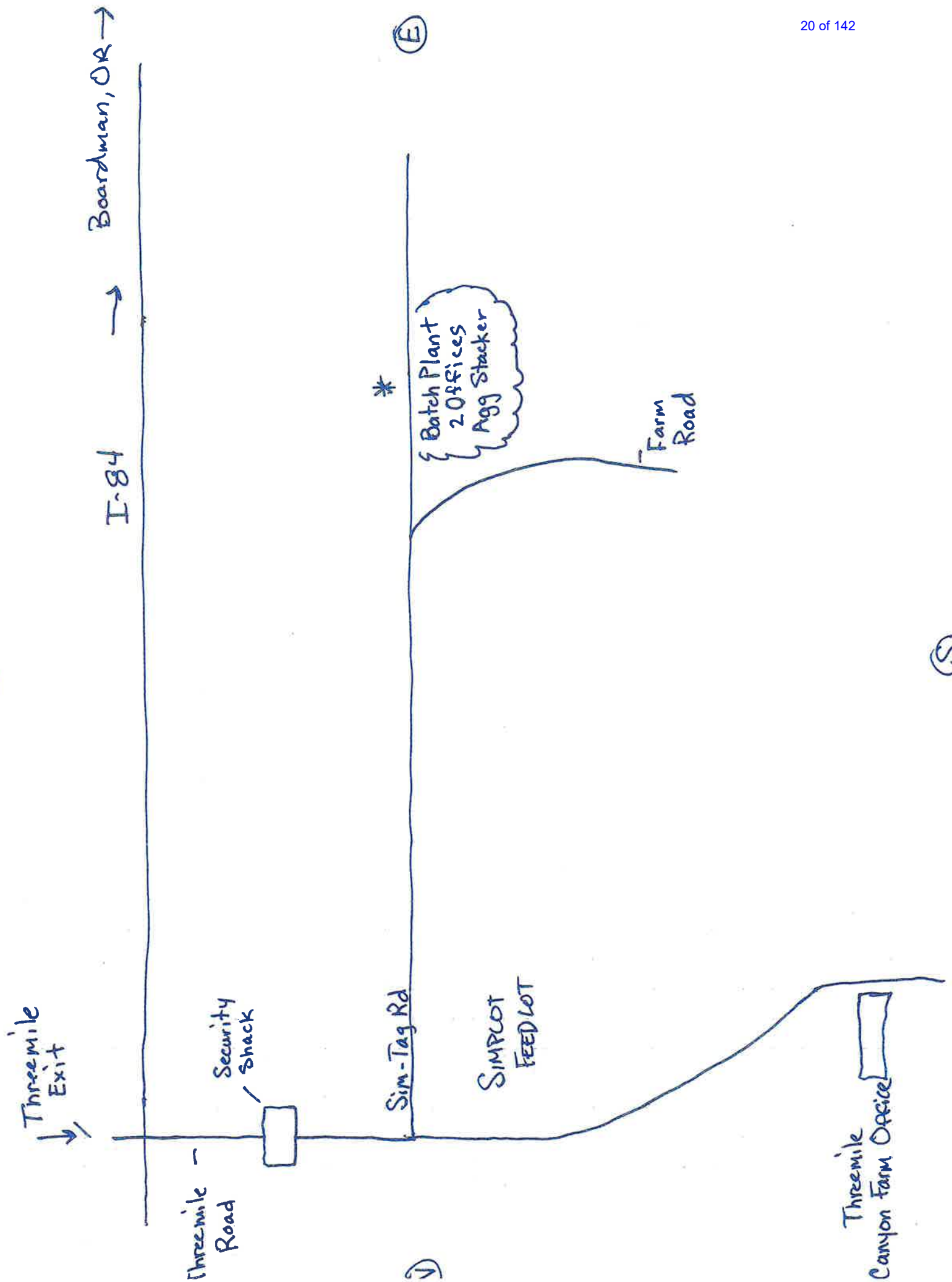
Proposed Conditional Use

To drop power to our concrete batch plant, two offices, and aggregate stacker. All of these are temporary and portable via attached axles.

The concrete plant is used to provide Threemile Canyon Farms with concrete for their expansion. These projects are ag-exempt construction projects ranging from heifer lots to dairies. This concrete plant has been on Threemile Canyon Farms since 2009. This plant sits on a concrete pad and is currently running off of a generator. We would like to run temporary power to it via Pacific Power. It will be removed when we move to a new location on site.

Water for the concrete is provided by the farm. The batch plant will be active on this farm for approximately five years and will require two to three relocations on the farm. Concrete will be used for flatwork, walls, etc. and will assist us in completing the projects in a timely manner. The plant will operate between the hours of 6 AM and 6 PM Monday through Friday.

1. Site plan for equipment: see attached drawing.
2. On site potable water for concrete use only. This is provided by Threemile Canyon Farms well on Sim-Tag road. (See attached water resource department information)
3. Sewage disposal is through Jimmy John's portable toilets.
4. Electricity is the only utility required.
5. No signs are required but we may put up temporary lighting during inclement weather and depending on the season.
6. N/A
7. Not in a flood zone.
8. No change to existing farm traffic. There is no public access to the farm.
9. It will not generate more than four hundred automobile trips per day.
10. No new access required.
11. & 12. As stated these pieces of equipment are temporary and portable (on axles). When the farm requests us to move to a new location, the temporary power will be removed, the concrete slab will be removed, and the batch plant site will be returned to the farm. We use water trucks for dust abatement around the batch plant site. There are no trees on site or water sources at the batch plant site, water is piped in from the farms existing water source. There are no adjacent properties since the plant is located well inside Threemile Canyon Farms property.



**PRELIMINARY FINDINGS OF FACT
CONDITIONAL USE REQUEST
CUP-N-355-22
ASSOCIATED WITH
COMPREHENSIVE PLAN AMENDMENT REQUEST
AC-140-22**

REQUEST: This request is to allow by conditional use the construction and operation of a 74-megawatt Photovoltaic Solar Array on up to 600-acres of land zoned for Exclusive Farm Use.

APPLICANT: Trail Solar, LLC.
2003 Western Ave, Suite 225
Seattle, WA 98121

PROPERTY OWNER: Madison Ranches Land 4, LLC
29299 Madison Road
Echo, OR 97826

PROPERTY DESCRIPTION: 3N 27E: TL's 1701, 1101, 1400, and 1401.

PROPERTY LOCATION: Located approximately 7-miles east of the Boardman Bombing Range, 5-miles west of Highway 207, approximately 12.5-miles southeast of Boardman.

I. BACKGROUND INFORMATION:

The Trail Solar project is a 74-megawatt photovoltaic (PV) energy generation facility proposed by OneEnergy Development, LLC. The Project as proposed, will occupy up to 600-acres across four tax lots in the 1280-acre Project Tract. All impacted lands are zoned Exclusive Farm Use and wholly located in Morrow County Oregon. Trail Solar will interconnect via Umatilla Electric Cooperative's (UEC) Oregon Trail Substation. The applicant is concurrently seeking a Goal 3 exception for this Project as will occupy more than 12-acres of High-Value Farmland and more than 20-acres of arable land.

II. APPROVAL CRITERIA: The Applicant has filed under the Morrow County Zoning Ordinance (MCZO), ARTICLE 3, USE ZONES, Section 3.010 Exclusive Farm Use Zone. Section 3.010 includes REQUIREMENTS FOR APPROVAL which are listed below in **bold type**, followed by a response in standard type:

Summary of applicable MCZO Sections:

- MCZO Section 3.010. Exclusive Farm Use, EFU Zone
- MCZO Section 3.200. Significant Resource Overlay Zone, SRO
- MCZO Article 4 Supplementary Provisions
- MCZO Article 6 Conditional Uses

MORROW COUNTY ZONING ORDINANCE

MCZO Section 3.010. Exclusive Farm Use, EFU Zone.

MCZO 3.010(C) Conditional Uses.

The following uses are permitted subject to county review, any specific standards for the use set forth in Section D, Article 6, the general standards for the zone, and any other applicable standards and review process in the ordinance:

24. Photovoltaic solar power generation facilities as commercial utility facilities for the purpose of generating power for public use by sale subject to Subsection K.3.

Finding: The Project is a solar photovoltaic generation Project which will operate as a “commercial utility facility” and interconnect with the regional power grid. It is therefore allowed as a conditional use in the EFU zone.

MCZO 3.010(K) Commercial Facilities for Generating Power

3. Photovoltaic Solar Power Generation Facility. A proposal to site a photovoltaic solar power generation facility shall be subject to the following definitions and provisions:

Finding: Since MCZO 3.010(K)(3) was adopted by Morrow County, the Oregon Land Conservation and Development Commission has subsequently amended OAR 660-033-Trail Solar 0130(38) (“DLCD solar siting standards”), which MCZO 3.010(K)(3) implements. Because MCZO 3.010(K)(3) does not implement all the current provisions of the DLCD solar siting standards, Applicant directly applies OAR 660-033-0130(38), but notes where the provisions of the DLCD solar siting standards and the MCZO are the same with footnotes.

OAR 660-033-0130(38)(a) “Arable land” means land in a tract that is predominantly cultivated or, if not currently cultivated, predominantly comprised of arable soils.1

Finding: The Project Tract is predominately cultivated and therefore the Project Area Extent is considered arable land.

OAR 660-033-0130(38)(b) “Arable soils” means soils that are suitable for cultivation as determined by the governing body or its designate based on substantial evidence in the record of a local land use application but do not include high-value farmland soils described at ORS 195.300(10) unless otherwise stated.2

Finding: Based on the definition of non-arable soils below (which states non-arable soils are NRCS Class V-VIII, the Applicant is considering “arable soils” to mean soils with a NRCS Class I-IV. As demonstrated in Table 2 of the Soils Analysis, there are 370.2 acres of Class I-IV soils within the Project Area Extent. However, the definition states that arable soils “do not include high-value farmland soils.” A portion totaling 171.3 acres of the 284.1 acres of high-value farmland soils within the Project Area Extent are within the 370.2 acres of arable soils. Therefore, the Project Area Extent has 198.9 acres of arable soils.

OAR 660-033-0130(38)(c) “Dual-use development” means developing the same area of land for both a photovoltaic solar power generation facility and for farm use.³

Finding: Applicant is not proposing dual-use development for the Project.

OAR 660-033-0130(38)(d) “Nonarable land” means land in a tract that is predominately not cultivated and predominately comprised of nonarable soils.⁴

Finding: The Project Tract is predominately cultivated therefore the land on the Project Tract cannot be considered “nonarable land.”

OAR 660-033-0130(38)(e) “Nonarable soils” means soils that are not suitable for cultivation. Soils with an NRCS agricultural capability class V-VIII and no history of irrigation shall be considered nonarable in all cases. The governing body or its designate may determine other soils, including soils with a past history of irrigation, to be nonarable based on substantial evidence in the record of a local land use application.⁵

Finding: The Project Area Extent is predominantly cultivated, however outside of the agriculture pivots, the Project Area Extent consists of 203.3 acres of non-irrigated Class V-VIII soils.

OAR 660-033-0130(38)(f) “Photovoltaic solar power generation facility” includes, but is not limited to, an assembly of equipment that converts sunlight into electricity and then stores, transfers, or both, that electricity. This includes photovoltaic modules, mounting and solar tracking equipment, foundations, inverters, wiring, storage devices and other components. Photovoltaic solar power generation facilities also include electrical cable collection systems connecting the photovoltaic solar generation facility to a transmission line, all necessary grid integration equipment, new or expanded private roads constructed to serve the photovoltaic solar power generation facility, office, operation and maintenance buildings, staging areas and all other necessary appurtenances. For purposes of applying the acreage standards of this section, a photovoltaic solar power generation facility includes all existing and proposed facilities on a single tract, as well as any existing and proposed facilities determined to be under common ownership on lands with fewer than 1320 feet of separation from the tract on which the new facility is proposed to be sited. Projects connected to the same parent company or individuals shall be considered to be in common ownership, regardless of the operating business structure. A photovoltaic solar power generation facility does not include a net metering project established consistent with ORS 757.300 and OAR chapter 860, division 39 or a Feed-in-Tariff project established consistent with ORS 757.365 and OAR chapter 860, division 84.⁶

Finding: As further described in Section 2, the Applicant proposes to construct and operate a PV solar generation project sized up to 74 MW. The County may find that the Project, as proposed, qualifies as a “photovoltaic solar power generation facility” under this rule. Further, the County may find that the review and approval of the Project is solely within the County’s jurisdiction based on the fact that the Project will not permanently occupy more than 160 acres of high-value farmland or 1,280 acres of arable land.

It is recommended and listed as a Condition of Approval that the Applicant provide the County with a Final Site Development Plan and Construction Schedule prior to the start of construction.

OAR 660-033-0130(38)(g) For high-value farmland described at ORS 195.300, a photovoltaic solar power generation facility shall not use, occupy, or cover more than 12 acres unless:

(A) The provisions of paragraph (h)(H) are satisfied. 7

Finding: As demonstrated in the response to OAR 660-033-0130(38)(k) below, the Applicant is pursuing a Goal 3 exception pursuant to ORS 197.732 and OAR chapter 660, division 4 to exceed 12 acres of high-value farmland.

As further described in the Soils Analysis (**Attachment C**), the Project Area Extent has 284.1 acres of high-value farmland. However, the final Project Area, which is micro-sited within the Project Area Extent, will impact no more than 160 acres of HVF. As currently designed, the Project Area impacts 155.2 acres of HVF.

OAR 660-033-0130(38)(h) The following criteria must be satisfied in order to approve a photovoltaic solar power generation facility on high-value farmland described at ORS 195.300(10).

(A) The proposed photovoltaic solar power generation facility will not create unnecessary negative impacts on agricultural operations conducted on any portion of the subject property not occupied by project components. Negative impacts could include, but are not limited to, the unnecessary construction of roads dividing a field or multiple fields in such a way that creates small or isolated pieces of property that are more difficult to farm, and placing photovoltaic solar power generation facility project components on lands in a manner that could disrupt common and accepted farming practices; 8

Finding: For purposes of applying this standard, Applicant defines the “subject property” as the Project Tract. The agricultural operations and accepted farming practices on the Project Tract are defined as irrigated agriculture and grazing. For the reasons below, the Project will not create unnecessary negative impacts on agricultural operations and farm access around the Project will be maintained. In addition, the landowner is re-locating their irrigation rights to different portions of their property. As further described in the Landowner Support Letter, the landowner plans to re-locate their water rights to areas with more suitable soils which will produce higher value crops compared to the soils currently being utilized. As part of the Project, the Applicant will build an access road in the southern portion of the Project Area to provide the landowner greater access to ongoing agricultural operations to the east of the Project. The Project design also allows for continued farming of the southern half of the southernmost pivot and will not result in small, irregular shaped or isolated pieces of property. Beyond the fenced project footprint, access road and the approximately 2,750-foot gen-tie line, no roads or other facilities will be constructed. The remainder of the Project Tract can continue to be farmed using current accepted farming practices. For these reasons, the Project meets subsection (38)(h)(A).

(B) The presence of a photovoltaic solar power generation facility will not result in unnecessary soil erosion or loss that could limit agricultural productivity on the subject property. This provision may be satisfied by the submittal and county approval of a soil and erosion control plan prepared by an adequately qualified individual, showing how unnecessary soil erosion will be avoided or remedied. The approved plan shall be attached to the decision as a condition of approval; 9

Finding: The Project will not result in unnecessary soil erosion or soil loss that would limit agricultural productivity on the remainder of the Project Tract. After construction, the areas under the panels will be planted with a native grass seed mix. In combination with the Vegetation and Weed Management Plan, these grasses will help reduce soil erosion. All civil work will be conducted in compliance with the Project's Erosion and Sediment Control Plan, required as part of the Project's NPDES Construction Stormwater Permit issued by the Department of Environmental Quality, this document will be drafted once final site plans are completed. The Erosion and Sediment Control plan will utilize general "best management practices" for erosion control during and after construction. For these reasons, the Project meets subsection (38)(h)(B).

(C) Construction or maintenance activities will not result in unnecessary soil compaction that reduces the productivity of soil for crop production. This provision may be satisfied by the submittal and county approval of a plan prepared by an adequately qualified individual, showing how unnecessary soil compaction will be avoided or remedied in a timely manner through deep soil decompaction or other appropriate practices. The approved plan shall be attached to the decision as a condition of approval; 10

Finding: Construction and maintenance of the Project will not result in unnecessary soil compaction that reduces the productivity of the remaining Project Tract that will continue to be farmed. Construction and maintenance will be confined to the Project Area within the Project Area Extent. Additionally, the Applicant will develop an Erosion and Sediment Control Plan once the Site Plan is finalized, outlining further actions and "best management practices" to prevent unnecessary soil compaction during construction. For these reasons, the Project meets subsection (38)(h)(C).

(D) Construction or maintenance activities will not result in the unabated introduction or spread of noxious weeds and other undesirable weed species. This provision may be satisfied by the submittal and county approval of a weed control plan prepared by an adequately qualified individual that includes a long-term maintenance agreement. The approved plan shall be attached to the decision as a condition of approval; 11

Finding: The Vegetation and Weed Management Plan (***Attachment L***) provides measures to prevent or reduce the introduction or spread of noxious weeds and other undesirable weed species on the Project site. This plan was drafted in accordance with guidance provided by the Morrow County Weed Control Supervisor. For these reasons, the Project meets subsection (38)(h)(D).

(E) Except for electrical cable collection systems connecting the photovoltaic solar generation facility to a transmission line, the project is not located on those high-value farmland soils listed in OAR 660-033-0020(8)(a);12

Finding: OAR 660-033-0020(8)(a) defines high-value farmland as “(A) Irrigated and classified prime, unique, Class I or Class II; or (B) Not irrigated and classified prime, unique, Class I or Class II.” 13 As noted in the Soils Analysis (**Attachment C**), the Project Area Extent does not include any soils that fit this definition.

Additionally, as demonstrated in the response to OAR 660-033-0130(38)(k) below, the Applicant is pursuing a Goal 3 exception pursuant to ORS 197.732 and OAR chapter 660, division 4 to exceed 12 acres of high-value farmland.

(F) The project is not located on those high-value farmland soils listed in OAR 660-033-0020(8)(b)-(e) or arable soils unless it can be demonstrated that:

- (i) Non-high-value farmland soils are not available on the subject tract;**
- (ii) Siting the project on non-high-value farmland soils present on the subject tract would significantly reduce the project’s ability to operate successfully; or**
- (iii) The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract than other possible sites also located on the subject tract, including those comprised of non-high-value farmland soils.¹⁴**

Finding: As shown in Figure 6, the Project Tract has HVF soils spread throughout the Project Area Extent. There are 175.5 acres of HVF soils within the Project Area Extent, but the final footprint of the Project will impact no more than 160 acres of HVF soils. As currently designed, the Project Area impacts 155.2 acres of HVF.

Avoiding HVF soils altogether would require an irregularly shaped layout (see map showing areas of HVF within the Project Area Extent in Figure 6), which would result in greater impacts and less Project efficiency. Additionally, this layout would create small irregularly shaped patches of HVF, which would not be accessible to the landowner for farming due to their small size and lack of access.

Further the Project Area Extent as currently shown is preferable due to its proximity to UEC’s Oregon Trail substation; if the Project was relocated to another area of the tract, it would require a larger electrical gen-tie line causing additional impacts. For these reasons, the County may find that the Project site is better suited to allow for the continuation of agriculture on the remainder of the Project Tract.

(G) A study area consisting of lands zoned for exclusive farm use located within one mile measured from the center of the proposed project shall be established and:

- (i) If fewer than 48-acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits within the study area no further action is necessary.**
- (ii) When at least 48 acres of photovoltaic solar power generation have been constructed or received land use approvals and obtained building permits, either as a single project or as multiple facilities, within the study area the local government or its designate must find that the photovoltaic solar energy generation facility will not materially alter the stability of the overall land use pattern of the area. The stability of the land use pattern will be materially altered if the overall effect of existing and potential photovoltaic solar energy generation facilities will make it more difficult for the existing farms and ranches in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water**

rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area. 15

Finding: Per an e-mail from Morrow County Planning Department on June 22, 2022, there are no other solar projects constructed or permitted within a one-mile study area from the Project Area Extent. Therefore, no further action is necessary.

(I) The project owner shall sign and record in the deed records for the county a document binding the project owner and the project owner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices as defined in ORS 30.930(2) and (4).

Finding: It is recommended and listed as a Condition of Approval that the project owner shall sign and record with the Morrow County Clerk's Office, a Right to Farm Disclaimer within 30 days after the initiation of construction. Applicant will provide a copy to the Morrow County Planning Department within those 30 days.

(J) Nothing in this Section shall prevent the county from requiring a bond or other security from a developer or otherwise imposing on a developer the responsibility for retiring the photovoltaic solar power generation facility.

Finding: See discussion below on facility retirement.

OAR 660-033-0130(38)(i) For arable lands, a photovoltaic solar power generation facility shall not use, occupy, or cover more than 20 acres. The governing body or its designate must find that the following criteria are satisfied in order to approve a photovoltaic solar power generation facility on arable land:

Finding: As demonstrated in the response to OAR 660-033-0130(38)(k) below, the Applicant is pursuing a Goal 3 exception pursuant to ORS 197.732 and OAR chapter 660, division 4 to exceed 20 acres of arable land.

(A) Except for electrical cable collection systems connecting the photovoltaic solar generation facility to a transmission line, the project is not located on those high-value farmland soils listed in OAR 660-033-0020(8)(a); 17

Finding: OAR 660-033-0020(8)(a) defines high-value farmland as "(A) Irrigated and classified prime, unique, Class I or Class II; or (B) Not irrigated and classified prime, unique, Class I or Class II." 18 As noted in the Soils Analysis (***Attachment C***), the Project Area Extent does not include any soils that fit this definition.

Additionally, as demonstrated in the response to OAR 660-033-0130(38)(k) below, the Applicant is pursuing a Goal 3 exception pursuant to ORS 197.732 and OAR chapter 660, division 4 to exceed 20 acres of arable land.

(B) The project is not located on those high-value farmland soils listed in OAR 660-033-0020(8)(b)-(e) or arable soils unless it can be demonstrated that:

(i) Nonarable soils are not available on the subject tract;

- (ii) Siting the project on nonarable soils present on the subject tract would significantly reduce the project's ability to operate successfully; or***
- (iii) The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract than other possible sites also located on the subject tract, including those comprised of nonarable soils;***¹⁹

Finding: The Project Tract is composed predominately of arable soils, with nonarable soils limited to small areas that are in the corners between pivots and along ridges and in gullies leading to the canyon to the east of the Project Area Extent. These areas are unsuitable for the Project because of the steeper terrain and because they are non-contiguous with not enough area to fit the Project.

(C) No more than 12-acres of the project will be sited on high-value farmland soils described at ORS 195.300) (10);²⁰

Finding: As demonstrated in the response to OAR 660-033-0130(38)(k) below, the Applicant is pursuing a Goal 3 exception pursuant to ORS 197.732 and OAR chapter 660, division 4 to exceed 12 acres of high value farmland therefore this standard does not apply.

(D) A study area consisting of lands zoned for exclusive farm use located within one mile measured from the center of the proposed project shall be established and:

- (i) If fewer than 80-acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits within the study area no further action is necessary.***
- (ii) When at least 48 acres of photovoltaic solar power generation have been constructed or received land use approvals and obtained building permits, either as a single project or as multiple facilities, within the study area the local government or its designate must find that the photovoltaic solar energy generation facility will not materially alter the stability of the overall land use pattern of the area. The stability of the land use pattern will be materially altered if the overall effect of existing and potential photovoltaic solar energy generation facilities will make it more difficult for the existing farms and ranches in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area;***

Finding: Per an e-mail from Morrow County Planning Department on June 22, 2022, there are no other solar projects constructed or permitted within a one-mile study area from the Project Area Extent. Therefore, no further action is necessary.

(E) The requirements of OAR 660-033-0130(38)(h)(A), (B), (C) and (D) are satisfied.²²

Finding: See the responses to subsections OAR 660-033-0130 (38)(h)(A), (B), (C) and (D) above.

OAR 660-033-0130(38)(k) An exception to the acreage and soil thresholds in subsections (g), (h), (i), and (j) of this section may be taken pursuant to ORS 197.732 and OAR chapter 660, division 4.23

Finding: The Applicant is pursuing a Goal 3 exception in conjunction with this CUP in order to comply with this subsection. Upon approval of the Goal 3, the Project will then have an exception to the acreage and soil thresholds in the noted subsections.

OAR 660-033-0130(38)(l) The county governing body or its designate shall require as a condition of approval for a photovoltaic solar power generation facility, that the project owner sign and record in the deed records for the county a document binding the project owner and the project owner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices as defined in ORS 30.930(2) and (4).24

Finding: The Applicant agrees to execute a covenant not to sue for farm activities as a condition of approval.

OAR 660-033-0130(38)(m) Nothing in this section shall prevent a county from requiring a bond or other security from a developer or otherwise imposing on a developer the responsibility for retiring the photovoltaic solar power generation facility.25

Finding: As further described in the Decommissioning Plan (***Attachment N***), the Applicant proposes to provide financial assurance for 100% of the estimated costs of the decommissioning efforts at the later of i) ten years after the Project's Commercial Operation Date or ii) at the expiry of the Project's Power Purchase Agreement, which is not yet executed.

The financial assurance shall be in the form of a bond from an individual or entity engaged in the construction business, a surety bond, a corporate guarantee, a letter of credit issued by a financial institution, or a cash deposit. The amount of the financial assurance shall be based on a written estimate from a company with experience with such matters which sets forth such company's estimate of the cost of removing the solar facilities, net of their estimated salvage value.

MCZO 3.010(M) Yards.

In an EFU Zone, the minimum yard setback requirements shall be as follows:

- 1. The front yard setback from the property line 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.***
- 3. Rear yards shall be a minimum of 25 feet.***

Finding: As demonstrated in the Preliminary Site Plan (***Attachment A***), the Applicant proposes setbacks that meet or exceed these requirements. There are no public roads

around the Project Tract. The Project will maintain a minimum setback of 50 feet around the perimeter of the Project Tract with the exception of the gen-tie line.

4. Stream Setback. *All sewage disposal installations such as outhouses, septic tank and drain field 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.*

Finding: The Project does not require any sewage disposal installations. As demonstrated in the Wetland Delineation Report, there are no streams within 100 feet of the Project Area Extent.

MCZO 3.010(N) Transportation Impacts.

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. (MC-C-8-98)*

Finding: There are no anticipated long-term adverse traffic impacts associated with the Project's construction or operation.

During construction, major material and equipment will be delivered by tractor-trailers utilizing an existing private road, known as Madison Salyer Road, which is publicly accessed at the intersection of Umatilla County Road 1325 and Umatilla County Road 1334 (see Transportation Plan, **Attachment M**). Throughout the nine-to-eighteen-month construction period, it is estimated that up to 80-100 truck trips (40-50 round trips) per day would be required, largely occurring at the beginning of construction. Truck trips will include construction equipment and material deliveries. Daily construction traffic for personnel is estimated to be up to 150 vehicles per day (or 300 one-way trips) and will include cars, light-duty trucks, and other personnel vehicles. In total up to 200 round-trips per day will be added to the background traffic patterns along the primary transportation route.

Once operational, there will be limited traffic to and from the Project. Traffic will mostly be limited to maintenance crews for mowing and vegetation maintenance. Quarterly to yearly maintenance on the solar array components will most likely occur, along with site visits for any operational issues that may arise during normal operation. Based on discussions with Morrow County Planning Department, the need for a TIA is based on operational impacts. Because of the temporary nature of traffic impacts and the very limited impacts once operational, a TIA is not required.

MCZO Article 3.200 Significant Resource Overlay Zone, SRO

MCZO 3.200(C) Categories.

1. Aggregate and Mineral Sites. *The Zoning Map will be amended to apply the Overlay Zone to an approved mining site including an impact area. Mineral and aggregate sites approved in Morrow County may have an impact area of up to 1500 feet when permitted under certain Comprehensive Plan approval processes. Based on the Comprehensive Plan analysis development in an Overlay Zone impact area is subject to the following standards:*

b. Uses Allowed Conditionally. Uses permitted conditionally in the underlying zone and conflicting uses shall be reviewed as conditional uses subject to the standards and criteria of the underlying zone and the criteria listed in paragraph 4 below.

d. Approval Criteria for proposed uses allowed conditionally in the impact area. The applicant must demonstrate compliance with the following criteria:

i. The proposed use will not interfere with or cause an adverse impact on lawfully established and lawfully operating mining operations;

ii. The proposed use will not cause or threaten to cause the mining operation to violate any applicable standards of this Section or County approval in the Comprehensive Plan;

iii. An application for a new noise or dust sensitive use shall demonstrate that the mining operation in the adjacent extraction area will maintain compliance with DEQ noise control standards and ambient air quality and emission standards as measured at the new noise or dust sensitive use. If deemed necessary by the Planning Director, the applicant for a new noise sensitive use shall submit an analysis prepared by an acoustical engineer, demonstrating that the applicable DEQ noise control standards are met or can be met by a specified date. If noise mitigation measures are necessary to ensure continued compliance on the part of the mining operation such measures shall be a condition of approval. If noise mitigation measures are inadequate to ensure compliance with DEQ noise control standards, the noise sensitive use shall not be approved within the impact area. (MC OR-1- 2013)

Finding: The Project Area Extent is within a large area with “widely scattered deposits of pumice or pumicite” (not identified as a Goal 5 resource), which encompasses the northern third of the County as shown in the Morrow County Comprehensive Plan Map of Aggregate and Mineral Resources effective October 1, 2013. However, there are no lawfully established and lawfully operating mining operations within a mile of the Project Area Extent. The closest Goal 5 Significant Site shown on the Aggregate and Mineral Resources Map is identified as 25-018, which is located to the north and is more than five miles from the Project Area Extent. Therefore, the Project will not impact any existing mining operations. It follows that the Project will not cause any mining operation to violate any regulations and therefore the Applicant has demonstrated compliance with these criteria.

2. Sensitive Bird Nesting Sites.

a. Bald and golden eagle nest sites and communal roost sites shall be protected in accordance with U.S. Fish and Wildlife Service "Oregon-Washington Bald Eagle Management Guidelines."

b. No development shall be allowed within a 300' radius of a sensitive bird nesting site. Exceptions to this standard shall be based on written recommendations from ODFW.

Finding: As further described in the Wildlife and Habitat Survey Report, there are no sensitive bird nesting sites within 300' of the Project. The Wildlife and Habitat Survey Report included surveys for wildlife species listed by federal and state agencies as threatened, endangered and sensitive species, and raptor nests. During the surveys biologists did not observe any evidence of nesting for any species within the Project area. Suitable nesting habitat for threatened, endangered and sensitive species as well as state sensitive species was limited within the Project area due to little native vegetation to support nesting.

3. Riparian Vegetation/Wetlands.

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

b. All dwellings and other non-water dependent structures shall be set back a minimum of 100 feet from the high-water level of the stream or the water body reaches during normal seasonal run-off.

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

Finding: There is a riverine to the east of the Project Area Extent located within Four-mile Canyon (see Wetland Delineation Report, and all permanent fixtures will be a minimum of 100 feet from the high-water mark per MCZO 3.010(M)(4) and demonstrated in the Preliminary Site Plan (**Attachment A**).

4. Big Game Range Restrictions.

Finding: The Project Tract is not within an area identified as Big Game Range and this criterion is therefore not applicable.

5. Wildlife Habitat Zone.

a. Land areas incorporated in wildlife preserves, refuges or private or governmental game management areas or hunting preserves, or areas identified by the Wildlife Commission, State of Oregon or Agricultural /Wildlife Management Areas, both public or private owned and operated, and land areas providing habitat for wild, rare or endangered species listed by the Wildlife Commission, State of Oregon or by the Bureau of Sport Fisheries and Wildlife, United State Department of the Interior, upon state and federally owned land.

Finding: A site review for any potential impact to Federally endangered species was completed via the US Fish and Wildlife Service's ("USFWS") Information for Planning and Conservation (IPaC) Trust Resource Report and no critical habitats were found within the Project Area Extent (see USFWS IPaC Report, **Attachment H**). The Project

Tract is not within any of the listed wildlife habitat zones and this criterion is therefore not applicable.

MCZO Article 4 Supplementary Provisions

MCZO 4.010 Access.

B. Access Permit Requirement.

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

Finding: The Project would be accessed via a private road: Madison Sayler Road. The private road heads south from the intersection of Umatilla County Road 1325 and Umatilla County Road 1334 to the Project Tract (see Transportation Plan, **Attachment M**).

The Applicant has obtained all necessary easements from the Landowner for this access. The Applicant has consulted with the Public Works departments from both Morrow County and Umatilla County. Neither are requiring a Road Use Agreement for the Project.

C. Emergency Vehicle Access.

It is the responsibility of the landowner to provide appropriate access for emergency vehicles at the time of development. A dead-end private street exceeding one hundred-fifty (150) feet in length shall have an adequate turn around facility approved by the appropriate Fire Marshal or, if the Fire Marshal fails to review the private street, approval by the Building Official or his designee.

Finding: The Applicant has consulted with the Boardman Fire Rescue District for the Project. Except where provided an exception by the Fire Marshal, Project roads will be sufficiently sized for emergency vehicle access in accordance with 2019 Oregon Fire Code Section 1204 and Appendix D. Specifically, roads will be all-weather gravel, compacted and 20 feet wide, with an internal turning radius of 28 feet and less than 10 percent grade. Dead-end roads will be provided with turnaround provisions as detailed in the 2019 Oregon Fire Code, Appendix D. Access to the Project will be gated and locked with gates 20 feet in width with accessible hardware per fire department requirements. Subsection 1204.4 of the 2019 Oregon Fire Code requires a non-combustible base be installed and maintained under and around the installation. In consultation with the Boardman Fire Rescue District, the Applicant has received approval for a variance from the requirements of subsection 1204.4 and will instead provide a 26-foot non-vegetative buffer around the perimeter of the Project as a firebreak (see Fire Code Variance Letter, **Attachment O**), this is recommended and listed as a Condition of Approval.

The Project will be equipped with fire protection equipment in accordance with the 2019 Oregon Fire Code. The equipment will meet National Electric Code and Institute of

Electrical and Electronics Engineers standards and will not pose a significant fire risk. In the rare event of an electrical fire, it is likely that Project staff will monitor and contain the fire, but not try to extinguish it. The Project will be designed in accordance with the 2019 Oregon Fire Code. Accordingly, the Project will incorporate the minimum requirements that will provide a reasonable degree of fire prevention and control to safeguard life, property, or public welfare from: (1) The hazards of fire and explosion arising from the storage, handling, or use of substances, materials, or devices; and (2) Conditions hazardous to life, property, or public welfare in the use or occupancy of buildings, structures, sheds, tents, lots, or premises.

During construction, there could be some risk of accidental grass fires on the site. Measures will be taken to prevent fires during construction and will include construction vehicles using established roads to keep vehicles away from dry grassland areas, using diesel vehicles whenever possible (to prevent potential ignition by catalytic converters), avoiding idling vehicles in grassy areas, and keeping cutting torches and similar equipment away from grass.

During both construction and operations, Applicant will minimize accidental fire ignition at the project site by developing, implementing, and maintaining strict standard practices as an integral part of daily activities in compliance with National Fire Protection Association (NFPA) NFPA 1, NFPA 30, NFPA 70E, 29 CFR 1926, 29 CFR 1926 Subpart F and 29 CFR 1910 Subpart E. Applicant will notify the Boardman Fire Rescue District of construction plans, provide the location of and access to the project structures, and provide assistance in the rare event of fire within or around the site boundary.

For the optional battery energy storage system, each lithium-ion BESS would contain a fire suppression system in accordance with Fire Code and National Fire Protection Association (NFPA) standards; specifically, NFPA 855 – “Standard for the Installation of Stationary Energy Storage Systems.” The BESS would include monitoring equipment and alarm systems with remote shut-off capabilities. Installation, maintenance, and decommissioning of BESS components would be done in compliance with 49 CFR §173.185, which regulates the transportation of lithium-ion batteries.

D. Easements and Legal Access.

All lots must have access onto a public right of way. This may be provided via direct frontage onto an existing public road, a private roadway, or an easement.

Finding: The Project would be accessed via a private road: Madison Saylor Road. The private road heads south from the intersection of Umatilla County Road 1325 and Umatilla County Road 1334 to the Project Tract. There would be direct frontage to access the Project from Madison Saylor Road.

H. Access Spacing Requirements for Development Accessing County Facilities. All developments shall have legal access to a County or public road. Except for interim access as provided in Section 4.010 H [Interim Access], access onto any County Road in the unincorporated or incorporated urban area shall be permitted only upon issuance of an access permit upon demonstration of compliance with the provisions of the County Road standards and the standards of Section 4.010. For County roadways designated as major collector or arterial in the Transportation System Plan, the standards in Table 4.010-2 apply for intersections created by

a new public roadway, new private roadway or new private driveway. For County roadways designated as minor collectors or local access roads, intersections created by a new public roadway, new private roadway or new private driveway shall meet minimum County traffic safety and operational requirements, including sight distance, as determined by the County Engineer.

Finding: The Applicant has consulted with the Morrow County Public Works Director and the Umatilla County Public Works Director. There are no new access points required off of public roadways for the Project.

MCZO 4.040 Off-Street Vehicle Parking Requirements.

Because vehicle parking facilities can occupy large amounts of land, they must be planned and designed carefully to use the land efficiently while maintaining the visual character of the community. At the time of construction, reconstruction, or enlargement of a structure, or at the time a use is changed in any zone, off-street parking space shall be provided as follows unless greater requirements are otherwise established. When the requirements are based on the number of employees, the number counted shall be those working on the premises during the largest shift at peak season. Fractional space requirements shall be counted as a whole space. Off-street parking spaces may include spaces in garages, carports, parking lots, and/or driveways if vehicles are not parked in a vehicle travel lane (including emergency or fire access lanes), public right-of-way, pathway or landscape area. The County may allow credit for "on-street parking", as provided in Section 4.050. For uses not specified in Table 4.040-1, parking requirements shall be determined by the use in Table 4.040-1 found to be most similar in terms of parking needs.

Finding: During construction, sufficient space for storage of vehicles and materials and for personnel passenger vehicle parking will be provided. During operations, adequate space for parking up to four vehicles will be provided next to the O&M building.

MCZO Article 6 Conditional Uses

MCZO 6.020. General Criteria In judging whether or not a conditional use proposal shall be approved or denied, the Commission shall weigh the proposal's appropriateness and desirability, or the public convenience or necessity to be served against any adverse conditions that would result from authorizing the particular development at the location proposed and, to approve such use, shall find that the following criteria are either met or can be met by observance of conditions.

A. The proposal will be consistent with the Comprehensive Plan and the objectives of the Zoning Ordinance and other applicable policies and regulations of the County.

Finding: The Project is consistent with the applicable Comprehensive Plan and objectives of the MCZO. Specifically, the County's Comprehensive Plan includes the following applicable goals and policies:

- Economic Element (Goal 9)
 - General Findings: "Comprehensive Plan Goals and Policies...need to outline the benefits of the energy sector and provide mechanisms to maintain and improve energy generation and movement in and through Morrow County."

- Goal 3: “Diversify local businesses, industries and commercial activities and promote the economic growth and stability of the County.”
- Policy 3A: “To encourage local producers to new markets for local products and to seek out new products that are in demand in the market place and that can be produced locally.”
- Public Facilities and Services Element (Goal 11)
 - General Policies: “Programs should be continued to develop additional sources of electric and other power sources to assure adequate service to the County area and its projected growth.”
- Energy Conservation Element (Goal 13)
 - Findings: “Morrow County receives about 300 days of sunshine per year. Solar energy may be a very feasible source of energy.”
 - Policy 1: “To encourage renewable and/or efficient energy systems design, siting and construction materials in all new development and improvements in the County.”
 - Policy 2: “To conserve energy and develop and use renewable energy sources.”
 - Policy 3: “Encourage development of solar and wind resources.”
 - Policy 9: “The County will encourage development of alternative energy sources in County industries and businesses.”
 - Policy 15: “All plans should be directed toward energy conservation and should consider as a major determinant the existing and potential capacity of the renewable energy sources to yield useful energy output.
 - Renewable energy sources include water, sunshine, wind, geothermal heat and municipal, forest and farm waste.”

The County adopted specific standards in the MCZO to implement these applicable policies for commercial wind and solar PV energy systems. Further, the MCZO requires that an applicant evaluate potential adverse impacts on accepted farming practices, natural environments, and built environments and to avoid, minimize, and mitigate impacts to the extent necessary. The Applicant demonstrates that the proposed Project will comply with all applicable criteria and standards and, in doing so, further promote the development of renewable energy in the County. As such, the County may find that the Project is consistent with the applicable Comprehensive Plan goals and policies.

C. The proposal will not exceed carrying capacities of natural resources or public facilities.

Finding: The Applicant will obtain an NPDES 1200-C permit if necessary. The Project will result in no air emissions and any wastewater will be discharged in accordance with County standards. The Project will not exceed resource or public facility carrying capacity given the Project’s limited impact on air, water, and land resources and the Project’s limited dependence on public facilities. Furthermore, the Applicant will comply with all applicable air, water, land, solid waste, and noise pollution standards, and proposes that such compliance be included as a condition of approval.

MCZO 6.025. Resource Zone Standards for Approval

A. In the Exclusive Farm Use zone a conditional use may be approved only when the County finds that the use will not:

- 1. Force a significant change in accepted farm or forest use practices on surrounding lands devoted to farm or forest use; or**
- 2. Significantly increase the cost of accepted farm or forest use practices on surrounding lands devoted to farm or forest use.**

Finding: The Project will be located on private property and will occupy a maximum of 600 acres of the landowner's approximately 17,000 acres in Morrow and Umatilla County. The landowner will continue to utilize land in all surrounding directions for their current farm uses. The landowner has provided a letter of support.

For purposes of this analysis, Applicant considers a ¼ mile from the Project Area Extents "surrounding lands." Within the defined surrounding lands, there are no accepted forest use practices. The accepted farm use practices include irrigated and dryland agriculture. Potential impacts from the Project on these ongoing operations is likely minimal, limited to potentially dust, weeds, and traffic during construction. During Trail Solar operation, the potential impact would likely be even more limited given the passive nature of the solar operation, with weed management being the likely potential impact. None of these potential impacts, however, would rise to the level of significant within the meaning of MCZO 6.025(A).

Plowing and harvesting patterns will continue unchanged in the areas surrounding the Project. Given the nature and intensity of the existing farm uses and the isolated nature and minimal impacts associated with the Project's construction and operation, the County may conclude that the Project would not force a significant change in accepted farm practices on surrounding lands and, in turn, would also not significantly increase the cost of such practices.

As discussed above under MCZO 3.010(K)(3)(f)(4), the Applicant will coordinate with the Morrow County Weed Control Supervisor to control weeds at the Project and a Vegetation and Weed Management Plan is included as **Attachment L**.

The Applicant has agreed to reroute any private roads that would be affected by the Project in order to retain access to the landowner's remaining land. The Project will not result in small, irregular shaped or isolated pieces of property. Beyond the fenced project footprint, access road and point of interconnection, no roads or other facilities will be constructed. The adjacent property will continue to be farmed using common farming practices. For these reasons, the Project will not force any change in accepted farm use practices on surrounding lands or increase the cost of those practices.

MCZO 6.030. General Conditions.

In addition to the standards and conditions set forth in a specific zone, this article, and other applicable regulations; in permitting a new conditional use or the alteration of an existing conditional use, the Commission may impose conditions which it finds necessary to avoid a detrimental impact and to otherwise protect the best interests of the surrounding area or the County as a whole. These conditions may include the following:

A. Limiting the manner in which the use is conducted including restricting the time an activity may take place and restraints to minimize such environmental effects as noise, vibration, air pollution, glare and odor.

Finding: During construction, the Applicant would implement dust control measures using standard industry practices. Any noise associated with construction would be limited in duration and would typically only occur during daylight hours. The closest residences are 1.6 miles north, 2.3 miles west and 2.8 miles east. Any glare or reflection would not affect these residences. Any glare or reflection would not affect these residences. See the Forge Solar Glare Analysis (**Attachment I**).

The Applicant conducted outreach to the Federal Aviation Administration (“FAA”) and the U.S. Navy during due diligence. The Project was issued letters by the FAA demonstrating a “Determination of No Hazard to Air Navigation” (see FAA Determination of No Hazard Letters, **Attachment P**). The Navy, through the Community Planning and Liaison Officer at the Northwest Training Range Complex, also confirmed that the Project will have no impacts to the Navy’s operations.

B. Establishing a special yard or other open space or lot area or dimension.

Finding: No special setback is required.

C. Limiting the height, size or location of a building or other structure.

Finding: If built, the O&M building would be limited to one story in height. The PV panels themselves would not exceed a total height of 13 feet with the tallest possible panel configuration.

D. Designating the size, number, location and nature of vehicle access points.

1. Where access to a county road is needed, a permit from Morrow County Public Works department is required. Where access to a state highway is needed, a permit from ODOT is required.

2. In addition to the other standards and conditions set forth in this section, a Traffic Impact Analysis (TIA) will be required for all projects generating more than 400 passenger car equivalent trips per day. 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)

Finding: The Project does not require any new access points to public roads. There will be one designated access points to the Project off of the private Madison Saylor Road as demonstrated in the Transportation Plan (**Attachment M**).

As discussed above in the response to MCZO 3.010(N), a TIA is not required for the Project. Access to a state highway is not needed, and as such, a permit from ODOT is not required.

E. Increasing the amount of street dedication, roadway width or improvements within the street right-of-way.

1. It is the responsibility of the land owner to provide appropriate access for emergency vehicles at the time of development. (MC-C-8-98)

Finding: No new dedication is needed in public road rights-of-way to accommodate the Project. As described above in response to MCZO 4.010(C), Applicant will provide appropriate access for emergency vehicles.

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

Finding: A 4.36-acre laydown area would be utilized within the Project fence. This location would include a small gravel parking area on relatively flat ground to accommodate staff and visitors to the Project. See the Preliminary Site Plan (**Attachment A**).

G. Limiting or otherwise designating the number, size, location, height, and lighting of signs.

Finding: A small sign would be placed at the entrance to the Project site from Baseline Lane to identify the Project's location and meet any requirement specified by the County.

H. Limiting the location and intensity of outdoor lighting and requiring its shielding.

Finding: The Project would limit the amount of lighting and would shield lighting as needed. Lighting is needed for security and occasional after-hours work.

I. Requiring diking, screening, landscaping or another facility to protect adjacent or nearby property and designating standards for its installation and maintenance.

Finding: Not applicable.

J. Designating the size, height, location and materials for a fence.

Finding: The Project would include a security fence up to eight (8) feet in height

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

Finding: The Applicant would minimize impacts on surrounding habitat and ecosystem functions (e.g., water conveyances, wildlife movement corridors) to the extent practical. Areas with temporary Project impacts would be restored and revegetated using industry-accepted best management practices (e.g., use of native seed mixes, control of noxious weeds). All such measures are described in the Vegetation and Weed Management Plan (**Attachment L**) and were developed in coordination with ODFW, and Morrow County.

The Project Area Extent is not located on or within 100 feet of any known inventoried Significant Resource Overlay Zones as described in MCZO 3.200 and in the Morrow

County Comprehensive Plan. Additional information related to mitigation of impacts to habitat are included below in the response to ORS 215.446.

L. Other conditions necessary to permit the development of the County in conformity with the intent and purpose of this Ordinance and the policies of the Comprehensive Plan.

Finding: The Applicant will comply with all other conditions imposed by the County.

MCZO 6.040. General Conditions.

The Commission may require an applicant to furnish the County with a performance bond or such other form of assurance that the Commission deems necessary to guarantee development in accordance with the standards established and the conditions attached in granting a conditional use permit.

Finding: Applicant will construct and operate the Project consistent with the conditions of approval contained in the final conditional use permit. Other than the decommissioning bond described at OAR 660-033-0130(38)(m) above, the Applicant maintains that no performance bond or other form of financial assurance is necessary to ensure compliance with the County's approval for the Project's construction and operation.

MCZO 6.050. Standards Governing Conditional Uses.

A conditional use shall comply with the standards of the zone in which it is located and with the standards set forth in this subsection.

O. Radio, television tower, utility station or substation:

1. In a residential zone, all equipment storage on the site may be required to be within an enclosed building.

Finding: The Project is not located in a residential zone; therefore, this criterion is not applicable.

2. The use may be required to be fenced and provided with landscaping.

Finding: The Project will include a security fence up to eight (8) feet in height.

3. The minimum lot size for a public utility facility may be waived on finding that the waiver will not result in noise or other detrimental effects to adjacent property.

Finding: The Project is located on leased property and will not require the creation of a new lot. Therefore, this criterion does not apply.

4. Transmission towers, hoses, overhead wires, plumbing stations, and similar gear shall be so located, designed and installed as to minimize their conflict with scenic values.

Finding: The Project requires a gen-tie line to connect the Project substation to the UEC-owned Oregon Trail substation. The gen-tie line is estimated at 2,750 feet and will require new few poles. The design is subject to change following final interconnection design by UEC and BPA. In its Comprehensive Plan, Morrow County has not designated any sites or areas as being particularly high in scenic-resource value.

SECTION 3B. ORS 215.446

The 2019 Oregon Legislature adopted House Bill (HB) 2329 imposing additional siting standards on “mid-tier” sized solar projects. HB 2329 is implemented through ORS 215.446, which has not yet been adopted into the MCZO. Accordingly, the Applicant responds to the applicable standards in ORS 215.446 directly.

215.446 Renewable energy facility; application; standards; notices.

(3) In order to issue a permit, the county shall require that the applicant:(A) Consult with the State Department of Fish and Wildlife, prior to submitting a final application to the county, regarding fish and wildlife habitat impacts and any mitigation plan that is necessary;

Finding: The Applicant began consultation for the Project with the Oregon Department of Fish and Wildlife (ODFW) in February 2020 which led to ODFW issuing a letter dated March 17, 2020 outlining their recommendations for wildlife and habitat surveys. The recommended surveys included habitat mapping, raptor nest surveys, Washington ground squirrel surveys, avian use data, and surveys for State Sensitive Species.

(B) Conduct a habitat assessment of the proposed development site;

Finding: The Applicant contracted with Western Ecosystems Technology (WEST) to perform the habitat assessment for the area that includes the entirety of the Project Area Extent. The surveys were conducted in April and May 2020. The full results of these surveys are found in the Wildlife and Habitat Survey Report.

The results of the Wildlife and Habitat Surveys did not identify any evidence of nesting within or near the Project Area Extent. Suitable nesting habitat was limited within the Project Area Extent where the vast majority of the vegetation was Russian thistle and cheatgrass providing little native vegetation to support nesting. Excluding irrigated wheat fields, land cover within the Project Area consisted primarily of eastside grasslands. Eastside grasslands were separated into two ODFW habitat categories based on the species composition and degree of habitat degradation observed during surveys. The Project Area Extent includes habitat within Category 4, 5 and 6, as defined under OAR 635-415-0025. Category 6 is made up of irrigated wheat fields. The Project Area is generally characterized by vast expanses of cheatgrass and tumbleweed resulting in a habitat Category 5 determination for most of the Project Area outside of wheat fields. Within Category 5 habitat, several small patches of Habitat Category 4 were identified which contained comparatively higher percent ground cover of native grasses. Although non-native plants were present and patches lacked sagebrush cover, the comparatively higher percent ground cover of native grasses areas resulted in the patches being classified as Habitat Category 4. Table below details the results of the habitat assessment within the Project Area Extent.

ODFW habitat categories within the Project Area Extent

| Habitat Type | ODFW Habitat Category | Acres |
|--------------------|-----------------------|-------|
| Eastside Grassland | 4 | 14.4 |
| Eastside Grassland | 5 | 189.5 |
| Cropland | 6 | 419.3 |
| Total | | 623.2 |

(C) Develop a mitigation plan to address significant fish and wildlife habitat impacts consistent with the administrative rules adopted by the State Fish and Wildlife Commission for the purposes of implementing ORS 496.012; and

Finding: The Applicant contracted again with WEST to prepare a Habitat Mitigation Plan (HMP) for the Project. The HMP is based on the Wildlife and Habitat Survey Report discussed above and discussions with ODFW. Table 2 summarizes the categories of habitat within Project Area Extent, as identified in the Wildlife and Habitat Survey Report based on the ODFW habitat category definitions found in OAR 635-415-0025, *Implementation of Department Habitat Mitigation Recommendations*. The ODFW mitigation recommendations for Categories 4, 5, and 6 are set out below:

(4) "Habitat Category 4" is important habitat for fish and wildlife species.

(a) The mitigation goal is no net loss in either existing habitat quantity or quality.

(b) The Department shall act to achieve the mitigation goal for Category 4 habitat by recommending or requiring:

(A) Avoidance of impacts through alternatives to the proposed development action; or

(B) Mitigation of impacts, if unavoidable, through reliable in-kind or out-of-kind, in-proximity or off-proximity habitat mitigation to achieve no net loss in either pre-development habitat quantity or quality. Progress towards achieving the mitigation goals and standards shall be reported on a schedule agreed to in the mitigation plan performance measures. The fish and wildlife mitigation measures shall be implemented and completed either prior to or concurrent with the development action.

(c) If neither 635-415-0025(4)(b)(A) or (B) can be achieved, the Department shall recommend against or shall not authorize the proposed development action.

(5) "Habitat Category 5" is habitat for fish and wildlife having high potential to become either essential or important habitat.

(a) The mitigation goal, if impacts are unavoidable, is to provide a net benefit in habitat quantity or quality.

(b) The Department shall act to achieve the mitigation goal for Category 5 habitat by recommending or requiring:

(A) Avoidance of impacts through alternatives to the proposed development action; or

(B) Mitigation of impacts, if unavoidable, through actions that contribute to essential or important habitat.

(c) If neither 635-415-0025(5)(b)(A) or (B) can be achieved, the Department shall recommend against or shall not authorize the proposed development action.

(6) "Habitat Category 6" is habitat that has low potential to become essential or important habitat for fish and wildlife.

- (a) The mitigation goal is to minimize impacts.*
- (b) The Department shall act to achieve the mitigation goal for Category 6 habitat by recommending or requiring actions that minimize direct habitat loss and avoid impacts to off-site habitat.*

The Applicant has coordinated with ODFW to develop the HMP consistent with the above ODFW habitat mitigation recommendations. A draft of the HMP has been provided to ODFW for review. The Applicant will finalize the HMP and provide it to the County prior to issuance of the Conditional Use Permit.

As part of the HMP, the Applicant has executed an Option for Conservation Easement for off-site habitat mitigation. During the Project's operation period the Applicant will work with qualified persons to ensure habitat enhancements and protections are in place at the designated habitat mitigation area to meet the goals of the HMP and ODFW's requirements.

It is recommended and listed as a Condition of Approval that prior to development, the Trail Solar project would need to comply with all requests as listed in ODFW letter dated March 17, 2020

(D) Follow administrative rules adopted by the State Fish and Wildlife Commission and rules adopted by the Land Conservation and Development Commission to implement the Oregon Sage-Grouse Action Plan and Executive Order 15-18.

Finding: There is no Oregon Sage-Grouse habitat within the Project Area Extent or vicinity.

(b) Demonstrate that the construction and operation of the renewable energy facility, taking into account mitigation, will not result in significant adverse impacts to historic, cultural and archaeological resources that are:

(A) Listed on the National Register of Historic Places under the National Historic Preservation Act (P.L. 89-665, 54 U.S.C. 300101 et seq.);

(B) Inventoried in a local comprehensive plan; or

(C) Evaluated as a significant or important archaeological object or archaeological site, as those terms are defined in ORS 358.905.

Finding: The Applicant has consulted with the Oregon State Historic Preservation Office (SHPO) and the Confederated Tribes of the Umatilla Indian Reservation (CTUIR) for the Project. Based on feedback from these groups, the Applicant hired Tetra Tech to complete a cultural resources survey, which resulted in the Cultural Resources Survey Report.

The report was submitted to the State Historic Preservation Office ("SHPO") and confirmation of receipt was sent from SHPO on March 16, 2022 which indicated that if SHPO chose not to respond within 30 days from receipt of the submittal, then the Applicant's responsibilities under local permitting processes are complete. SHPO did not provide further response. The assigned SHPO Case Number is 20-0428.

The report was also shared with CTUIR for their review and comment. Through this consultation, the Project has been designed to minimize impacts to cultural resources which

has included changing the Project Area Extent to avoid direct impacts to certain resources. The only cultural resource found within the current Project Area Extent is described as “historic refuse” which is not eligible for the National Register of Historic Places (“NRHP”) and does not require any avoidance or mitigation. Indirect impacts to a cultural resource of concern for CTUIR are being mitigated through a Confidential Mitigation Agreement which will be provided to the County prior to construction as a condition of the Conditional Use Permit. This is recommended and listed as a Condition of Approval.

(c) Demonstrate that the site for a renewable energy facility, taking into account mitigation, can be restored adequately to a useful, nonhazardous condition following permanent cessation of construction or operation of the facility and that the applicant has a reasonable likelihood of obtaining financial assurances in a form and amount satisfactory to the county to secure restoration of the site to a useful, nonhazardous condition.

Finding: As further described in the Decommissioning Plan (***Attachment N***), the Applicant proposes to provide financial assurance for 100% of the estimated costs of the decommissioning efforts at the earlier of i) ten years after the Project’s Commercial Operation Date or ii) at the expiry of the Project’s Power Purchase Agreement, which is not yet executed.

The financial assurance shall be in the form of a bond from an individual or entity engaged in the construction business, a surety bond, a corporate guarantee, a letter of credit issued by a financial institution, or a cash deposit. The amount of the financial assurance shall be based on a written estimate from a company with experience with such matters which sets forth such company’s estimate of the cost of removing the solar facilities, net of their estimated salvage value.

(d) Meet the general and specific standards for a renewable energy facility adopted by the Energy Facility Siting Council under ORS 469.470 (2) and 469.501 that the county determines are applicable.

Finding: None of these standards apply as Morrow County has not incorporated any of the standards into the MCZO.

(e) Provide the financial assurances described in paragraph (c) of this subsection in the form and at the time specified by the county.

Finding: See the response to ORS 215.446(3)(c) above.

(4) Upon receipt of a reasonable cost estimate from the state agency or tribe, the applicant and county may jointly enter into a cost reimbursement agreement administered by the county with:

(a) The State Department of Fish and Wildlife to receive comments under subsection (3)(a) of this section.

(b) The State Historic Preservation Officer or any affected federally recognized Indian tribe to receive comments under subsection (3)(b) of this section.

(c) The State Department of Energy to receive comments under subsection (3)(c) and (d) of this section as well as comments regarding other matters as the county may require.

Finding: Given the size and scale of the Project, Applicant does not anticipate Morrow County will need to enter into a cost reimbursement under ORS 215.446(4).

(5) A county that receives an application for a permit under this section shall, upon receipt of the application, provide notice to persons listed in subsection (6) of this section. The notice must include, at a minimum:

(a) A description of the proposed renewable energy facility;
(b) A description of the lots or parcels subject to the permit application;
(c) The dates, times and locations where public comments or public testimony on the permit application can be submitted; and
(d) The contact information for the governing body of the county and the applicant.

(6) The notice required under subsection (5) of this section must be delivered to:

(a) The State Department of Fish and Wildlife;
(b) The State Department of Energy;
(c) The State Historic Preservation Officer;
(d) The Oregon Department of Aviation;
(e) The United States Department of Defense; and
(f) Federally recognized Indian tribes that may be affected by the application.

Finding: Applicant will coordinate with Morrow County to confirm that the notices are issued as required by ORS 215.446(5) and (6).

III. LEGAL NOTICE: Heppner Gazette-Times: August 09, 2022

East-Oregonian: August 10, 2022

IV. AGENCIES NOTIFIED: Jim Johnson, Oregon Department of Agriculture; Dawn Hert and Hilary Foote, Department of Land Conservation and Development; Steve Cherry, Oregon Department of Fish and Wildlife; Greg Silbernagel and Chris Kowitz, Oregon Water Resources Department; Greg Svelund, Oregon Department of Environmental Quality; Eric Imes, Public Works Director; Dave Pranger, County Weed Coordinator/Inspector; Justin Nelson, County Counsel; Mike Gorman, Morrow County Assessor; Kevin Payne, Morrow County Soil and Water Conservation; Todd Cornett, Oregon Department of Energy; Seth Thompson, Oregon Department of Aviation; Virgil Mike Hughes, Boardman Fire Protection District; Tod Farmer, Oregon Military Department; Kim Peacher, United States Navy;

V. PROPERTY OWNERS NOTIFIED: August 10, 2022

VI. HEARING DATE: August 30, 2022
 Bartholomew Building
 Heppner, Oregon

VII. DECISION OF PLANNING COMMISSION: Recommendation of staff is to approve the application subject to the approval of AC-140-22 and the following CONDITIONS OF APPROVAL:

1. Provide the County with a Final Site Development Plan and Construction Schedule prior to the start of construction.
2. Submit final Hazard Mitigation Plan (HMP) and approval of HMP by ODFW.
3. The project owner shall sign and record with the Morrow County Clerk's Office, a Right to Farm Disclaimer within 30 days after the initiation of construction and provide a copy to Morrow County Planning Department.
4. Comply with Decommissioning Plan as submitted, provide Morrow County Planning Department proof of financial assurance prior to construction.
5. Obtain the necessary Zoning and Building Permits for all buildings associated with the solar photovoltaic electricity generating facility as well as any fencing greater than 6-feet in height prior to construction.
6. Obtain approval from, and meet all requirements of the Morrow County Public Works Department for all required permanent or temporary access points and crossing points.
7. If required by Umatilla County, sign a Road Use Agreement with Umatilla County Public Works and provide a copy to Morrow County Planning Department.
8. Comply with Fire Code Variance Letter, (**Attachment O**). The applicant will provide a 26-foot non-vegetative buffer around the perimeter of the Project as a firebreak, rather than a non-combustible base where required by Subsection 605.12 of the 2014 Oregon Fire Code.
9. Comply with Confidential Mitigation Agreement with CTUIR. Applicant will provide a copy of the agreement to Morrow County Planning Department prior to construction.
10. Approval of the associated Goal 3 Exception, AC-140-22.

Jeff Wenholz, Chair

Date

ATTACHMENTS:

- Summary of Attachments
- Vicinity Map
- Applicant's Preliminary Site Design Map

**PRELIMINARY FINDINGS OF FACT
CONDITIONAL USE REQUEST
CUP-N-355-22
SUMMARY OF ATTACHMENTS**

*Attached to Final Findings **in bold print.**

- A. **Preliminary Site Plan**
- B. Landowner Support Letter
- C. **Soils Analysis**
- D. Wetland Delineation Report
- E. Wildlife and Habitat Survey Report
- F. CONFIDENTIAL- Cultural Resources Survey Report
- G. Habitat Mitigation Plan
- H. USFWS IPaC Report
- I. **Forge Solar Glare Analysis**
- J. FEMA Map
- K. SHPO Email
- L. **Vegetation and Weed Management Plan**
- M. **Transportation Plan**
- N. **Decommissioning Plan**
- O. **Fire Code Variance Letter- Boardman Fire Rescue District**
- P. FAA Determination of No Hazard Letters
- Q. Navy Correspondence Letter

ATTACHMENT C

TRAIL SOLAR



TRAIL SOLAR

SOILS ANALYSIS

July 2022 (Revised August 2022)

OneEnergy Renewables
2003 Western Ave, Suite 225
Seattle, Washington 98121

oneenergy
renewables
.com

The purpose of this document is to define the soil types found at the Trail Solar project site, including a calculation of high-value farmland acres and arable vs non-arable land. Conclusions from this document are used throughout the Conditional Use Permit application and the Goal 3 Exception Request for the project.

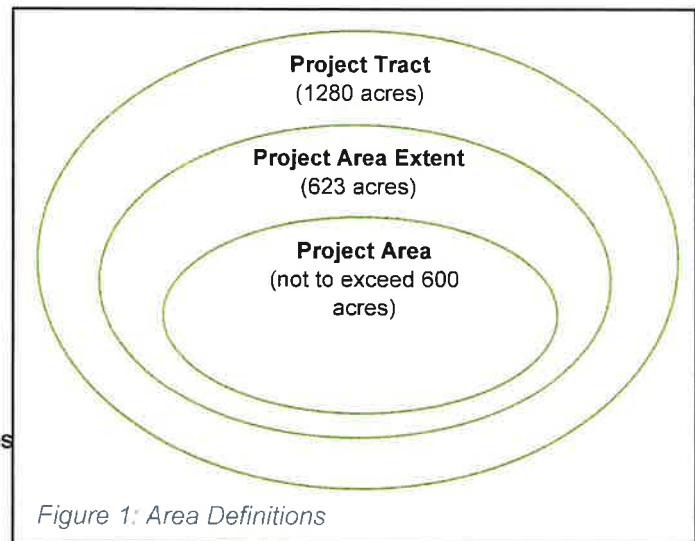
I. DEFINITIONS

Project: Trail Solar is a proposed photovoltaic (PV) solar generation facility sized up to 74 megawatt (MW) alternating current (AC) located approximately 12 miles southeast of Boardman in Morrow County, Oregon (the "Project").

Project Area: The Project's maximum footprint, including all Project components, shall not exceed 600 acres ("Project Area").

Project Area Extent: The Project Area will be located wholly within a broader microsite boundary encompassing approximately 623 acres ("Project Area Extent").

Project Tract: The Project will be located within a 1,280-acre tract of land owned by Madison Ranches 4, LLC which is composed of the four parcels listed in Table 1.



| Tax Lot | Acres |
|----------------|--------------|
| 03N27000001701 | 640 |
| 03N27000001101 | 400 |
| 03N27000001400 | 180 |
| 03N27000001401 | 60 |
| TOTAL | 1,280 |

Table 1: Tax Lots within Project Tract

Permitting Approach: Trail Solar, LLC ("Applicant") requests that the conditional use permit ("CUP") and the Goal 3 exception give the Applicant flexibility to microsite the precise location of Project components within the Project Area Extent based on a final design layout. The design layout included in Applicant's permit package is preliminary but demonstrates that the Project does, or can subject to conditions, satisfy the applicable Morrow County approval criteria and development standards and any directly applicable state statutes or administrative rules. The permitting approach allows Applicant the ability to refine the spacing of solar modules and the location for the associated access roads, collector lines, staging areas, and other above-ground facilities within the Project Area Extent when finalizing the construction design. It also allows Applicant the ability to further minimize potential impacts and deliver the most effective and efficient Project consistent with landowner needs. This approach is consistent with other projects previously approved by Morrow County, including the Harp Solar project approved in 2018.

II. SOIL TYPES

Applicant evaluated the soil types within the Project Area Extent and the Project Tract. Applicant then classified the soils within the Project Area Extent and the Project Tract under the Natural Resource Conservation Service ("NRCS") land capability classification system.

Project Area Extent

The soils types and NRCS soil classifications within the Project Area Extent are shown in Table 2 below and in the NRCS Soils Map, **Appendix 1**. Applicant took into account whether the soil was currently irrigated or non-irrigated when defining the soil types and classes.

| Soil Map Unit Name (Map Unit Symbol) | NRCS Land Capability Class | Irrigated/Non-irrigated (Current Irrigation Status) | Acres | % of Project Area Extent | Prime Farmland (with current irrigation) ¹ |
|--|----------------------------|---|------------|--------------------------|---|
| Royal fine sandy loam, 5-12% slopes (52C) | 3e | Irrigated | 13.8 | 2.2% | No |
| Sagehill fine sandy loam, 12-20% slopes (54D) | 4e | Non-irrigated | 3.7 | 0.6% | No |
| Taunton fine sandy loam, 0-2% slopes (58A) | 4e | Irrigated | 39.6 | 6.4% | Yes |
| Taunton fine sandy loam, 2-5% slopes (58B) | 4e | Irrigated | 96.0 | 15.4% | Yes |
| Taunton fine sandy loam, 5-12% slopes (58C) | 4e | Irrigated | 40.2 | 6.5% | No |
| Taunton fine sandy loam, hummocky, 0-5% slopes (59B) | 4e | Irrigated | 176.9 | 28.4% | No |
| Ellum fine sandy loam, 2-5% slopes (10B) | 6 | Irrigated | 12.0 | 1.9% | No |
| Ellum fine sandy loam, 5-12% slopes (10C) | 6 | Irrigated | 7.6 | 1.2% | No |
| Ellum fine sandy loam, 2-5% slopes (10B) | 6e | Non-irrigated | 0.3 | 0.2% | No |
| Ellum fine sandy loam, 5-12% slopes (10C) | 6e | Non-irrigated | 18.0 | 3.0% | No |
| Royal fine sandy loam, 12-20% slopes (52D) | 6e | Non-irrigated | 4.3 | 0.8% | No |
| Royal fine sandy loam, 2-5% slopes (52B) | 6e | Non-irrigated | 3.6 | 0.7% | No |
| Royal fine sandy loam, 5-12% slopes (52C) | 6e | Non-irrigated | 13.6 | 2.2% | No |
| Taunton fine sandy loam, 0-2% slopes (58A) | 6e | Non-irrigated | 22.7 | 3.6% | No |
| Taunton fine sandy loam, 2-5% slopes (58B) | 6e | Non-irrigated | 51.2 | 8.2% | No |
| Taunton fine sandy loam, 5-12% slopes (58C) | 6e | Non-irrigated | 33.4 | 5.4% | No |
| Taunton fine sandy loam, hummocky, 0-5% slopes (59B) | 6e | Non-irrigated | 32.5 | 5.2% | No |
| Gravden very gravelly loam, 20-40% slopes (13E) | 7 | Irrigated | 1.0 | 0.2% | No |
| Gravden very gravelly loam, 20-40% slopes (13E) | 7e | Non-irrigated | 9.0 | 1.5% | No |
| Dune Land (9) | 8 | Non-irrigated | 14.6 | 2.3% | No |
| Dune Land (9) | 8 | Irrigated | 29.3 | 4.7% | No |
| TOTAL | | | 623 | | |

Table 2: Soil Types within Project Area Extent

Project Tract

Some of the following analysis depends on an assessment of the tract of land on which the Project is located, rather than just the Project Area Extent. A tract is defined at OAR 660-033-0020 as "one or more

¹ The Prime Farmland column indicates a portion of land that i) has a soil type with a "Prime farmland if Irrigated" designation (as defined in the Prime Farmland List for Oregon) and ii) is currently irrigated.

contiguous lots or parcels under the same ownership. The soil types within the Project Tract are shown below in Table 3.

| Soil Map Unit Name (Map Unit Symbol) | Land Capability Class | Current Irrigation Status | Acres | % of Total Acres | Prime Farmland (with current irrigation) |
|--|-----------------------|---------------------------|--------------|------------------|--|
| Sagehill fine sandy loam, 2-5% slopes (54B) | 2e | Irrigated | 14.0 | 1.2% | Yes |
| Royal fine sandy loam, 5-12% slopes (52C) | 3e | Irrigated | 13.8 | 1.1% | No |
| Sagehill fine sandy loam, 5-12% slopes (54C) | 3e | Irrigated | 0.4 | 0.0% | No |
| Sagehill fine sandy loam, 12-20% slopes (54D) | 4e | Non-irrigated | 10.2 | 0.8% | No |
| Sagehill fine sandy loam, 2-5% slopes (54B) | 4e | Non-irrigated | 5.3 | 0.4% | No |
| Sagehill fine sandy loam, 5-12% slopes (54C) | 4e | Non-irrigated | 16.5 | 1.4% | No |
| Taunton fine sandy loam, 0-2% slopes (58A) | 4e | Irrigated | 132.6 | 10.9% | Yes |
| Taunton fine sandy loam, 2-5% slopes (58B) | 4e | Irrigated | 119.0 | 9.8% | Yes |
| Taunton fine sandy loam, 5-12% slopes (58C) | 4e | Irrigated | 67.3 | 5.6% | No |
| Taunton fine sandy loam, hummocky, 0-5% slopes (59B) | 4e | Irrigated | 319.28 | 20.8% | No |
| Ellum fine sandy loam, 2-5% slopes (10B) | 6 | Irrigated | 12.0 | 1.0% | No |
| Ellum fine sandy loam, 5-12% slopes (10C) | 6 | Irrigated | 7.6 | 0.6% | No |
| Ellum fine sandy loam, 2-5% slopes (10B) | 6e | Non-irrigated | 0.3 | 0.0% | No |
| Ellum fine sandy loam, 5-12% slopes (10C) | 6e | Non-irrigated | 21.8 | 1.8% | No |
| Royal fine sandy loam, 2-5% slopes (52B) | 6e | Non-irrigated | 5.5 | 0.5% | No |
| Royal fine sandy loam, 5-12% slopes (52C) | 6e | Non-irrigated | 69.5 | 5.7% | No |
| Royal fine sandy loam, 12-20% slopes (52D) | 6e | Non-irrigated | 14.8 | 1.2% | No |
| Taunton fine sandy loam, 0-2% slopes (58A) | 6e | Non-irrigated | 56.3 | 4.6% | No |
| Taunton fine sandy loam, 2-5% slopes (58B) | 6e | Non-irrigated | 86.2 | 7.1% | No |
| Taunton fine sandy loam, 5-12% slopes (58C) | 6e | Non-irrigated | 82.6 | 6.8% | No |
| Taunton fine sandy loam, hummocky, 0-5% slopes (59B) | 6e | Non-irrigated | 55.9 | 4.6% | No |
| Gravden very gravelly loam, 20-40% slopes (13E) | 7 | Irrigated | 1.0 | 0.1% | No |
| Gravden very gravelly loam, 20-40% slopes (13E) | 7e | Non-irrigated | 72.9 | 6.0% | No |
| Dune Land (9) | 8 | Non-irrigated | 66.4 | 5.5% | No |
| Dune Land (9) | 8 | Irrigated | 29.3 | 2.4% | No |
| TOTAL | | | 1,280 | | |

Table 3: Soil Types within Project Tract, bold formatting pertains to analysis under ORS 215.710(1)

III. HIGH-VALUE FARMLAND

Using the information above regarding soil types and soil class, Applicant can then categorize the soils within the Project Area Extent under Oregon Administrative Rule ("OAR") 660-033-0130(38) (hereafter known as the "DLCD siting standards"). The DLCD siting standards provide different rules for siting photovoltaic solar power generation facilities depending on the type of land found at the project site. The standards delineate between high-value farmland, arable land and non-arable land. OAR 660-033-0130 (38) is attached as **Appendix 2** and refers to all the definitions within the soils analysis.

As further detailed in the analysis below and summarized in Figure 2, there are 122.2 acres of high-value farmland as defined by ORS 195.300(10)(c)(A) and 175.5 acres of high-value farmland as defined by ORS 195.300(10)(f)(C). However, as shown in Figure 3, there are 13.6 acres of overlap for these two definitions, so in total there are 284.1 acres of high-value farmland within the Project Area Extent.

As further described in the Conditional Use Permit application and Goal 3 exception request, the Project will be micro-sited within the broader Project Area Extent; the Project Area will not permanently occupy more than 160 acres of high-value farmland which keeps the Project within Morrow County's jurisdiction.

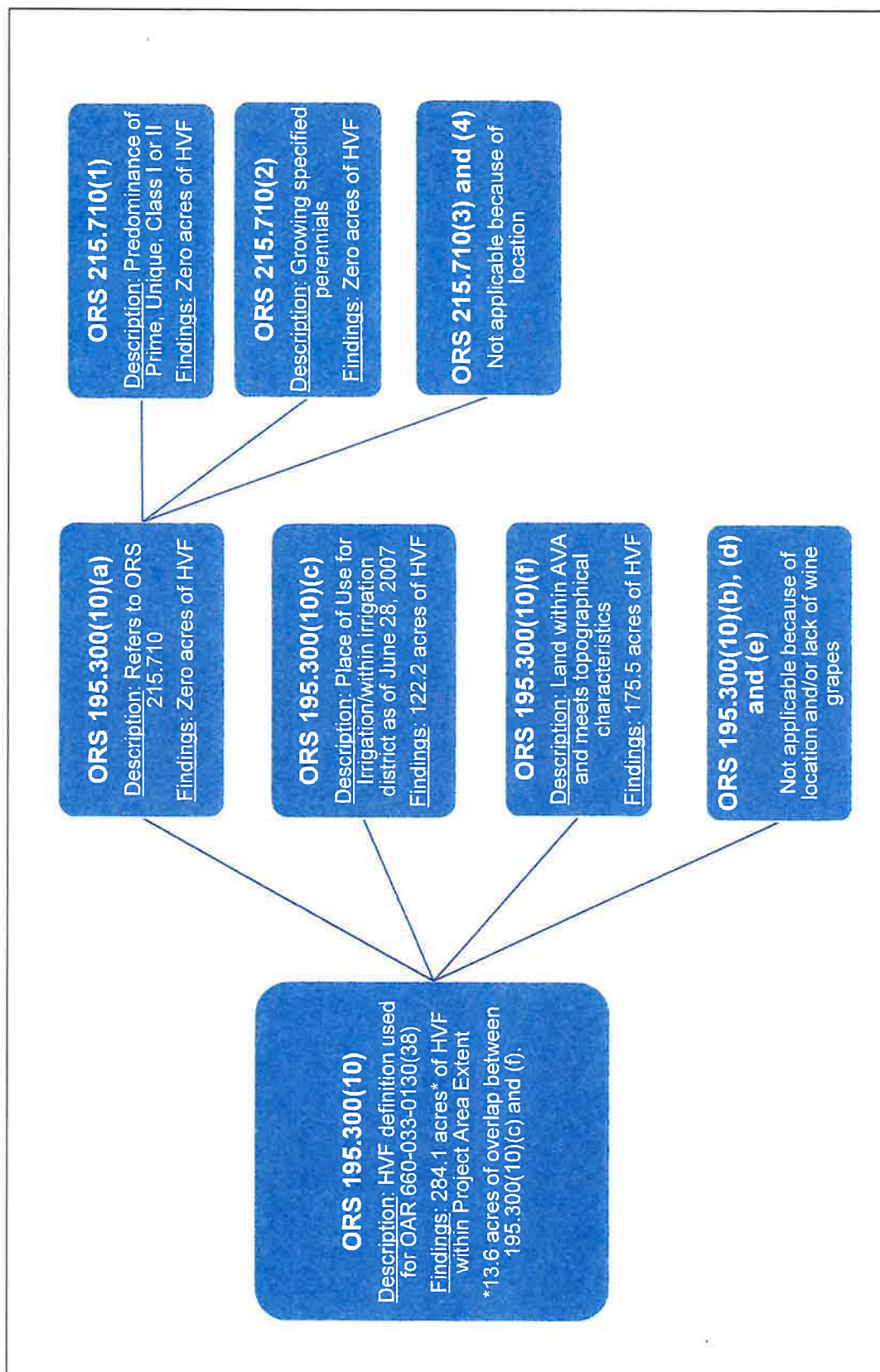


Figure 2: HVF Definition Flowchart

Legal Analysis

OAR 660-033-0130(38) relies on the definition of high-value farmland described at ORS 195.300(10). The Applicant analyzes those provisions below.² Figure 2 above summarizes these findings and Figure 3 below shows these areas on a map.

ORS 195.300(10) “High-value farmland” means:

ORS 195.300(10)(a) High-value farmland as described in ORS 215.710 (High-value farmland description for ORS 215.705) that is land in an exclusive farm use zone or a mixed farm and forest zone, except that the dates specified in ORS 215.710 (High-value farmland description for ORS 215.705) (2), (4) and (6) are December 6, 2007.

ORS 215.710(1) For purposes of ORS 215.705 (Dwellings in farm or forest zone), high-value farmland is land in a tract composed predominantly of soils that, at the time the siting of a dwelling is approved for the tract, are:

(a) Irrigated and classified prime, unique, Class I or Class II; or

(b) Not irrigated and classified prime, unique, Class I or Class II.

Response: ORS 195.300(10)(a) incorporates by reference the definition of high-value farmland from ORS 215.710. As demonstrated with the rows formatted in bold in Table 3 above, the Project Tract contains 265.6 acres that are irrigated and prime, unique, Class I or Class II soils; it does not contain any not irrigated and prime, unique, Class I or Class II soils. With only 265.6 acres out of the total 1,280 acres fitting the definition of subsections a and b, the Project Tract is *not* composed predominately of high-value farmland under ORS 215.710(1) and therefore none of the Project Tract is considered high-value farmland under this criterion.

ORS 215.710(2) In addition to that land described in subsection (1) of this section, for purposes of ORS 215.705 (Dwellings in farm or forest zone), high-value farmland, if outside the Willamette Valley, includes tracts growing specified perennials as demonstrated by the most recent aerial photography of the Agricultural Stabilization and Conservation Service of the United States Department of Agriculture taken prior to November 4, 1993. For purposes of this subsection, specified perennials means perennials grown for market or research purposes including, but not limited to, nursery stock, berries, fruits, nuts, Christmas trees or vineyards but not including seed crops, hay, pasture or alfalfa.

Response: The Project Tract is not used for growing perennials and the land is therefore not considered high-value farmland by this criterion.

ORS 195.300(10)(c) Land that is in an exclusive farm use zone or a mixed farm and forest zone and that on June 28, 2007, is:

(A) Within the place of use for a permit, certificate or decree for the use of water for irrigation issued by the Water Resources Department;

(B) Within the boundaries of a district, as defined in ORS 540.505 (Definitions); or

(C) Within the boundaries of a diking district formed under ORS chapter 551.

Response: Critical to the analysis of this criterion is the look-back date of June 28, 2007 included in the definition.³ It requires a look-back to a certain place in time. As of June 28, 2007, the Project Area Extent

² Some sections are not applicable and were not analyzed, including ORS 215.710(3)-(4) and ORS 195.300(10) (b), (d), and (e).

³ It is important when reading the statute to note the use of the word “on” when establishing the June 28, 2007 date. The language does not say “since” or “on or following” it specifically says “on.” The plain language of the statute

was the place of use for one water right, identified as Permit S-51017⁴. Permit S-51017 had one place of use within the Project Area Extent which covers 122.2 acres as seen in Figure 3 below. There are other existing water rights within the Project Area Extent that were issued after June 28, 2007. All water rights will be moved to other parts of the landowner's property as part of the Project.

As of June 28, 2007, the Project Area Extent was not within the boundaries of a district as defined in ORS 540.505 or of a diking district formed under ORS Chapter 551. Note that the Project Area Extent is now in the Columbia Improvement District, however it was only added to the district as of January 1, 2020.

Therefore the Project Area Extent contains 122.2 acres of high-value farmland per ORS 195.300(10)(c).

ORS 195.300(10)(f) *Land that is in an exclusive farm use zone and that is no more than 3,000 feet above mean sea level, with an aspect between 67.5 and 292.5 degrees and a slope between zero and 15 percent, and that is located within:*

- (A) *The portion of the Columbia Gorge viticultural area as described in 27 C.F.R. 9.178 that is within the State of Oregon;*
- (B) *The Rogue Valley viticultural area as described in 27 C.F.R. 9.132;*
- (C) *The portion of the Columbia Valley viticultural area as described in 27 C.F.R. 9.74 that is within the State of Oregon;*
- (D) *The portion of the Walla Walla Valley viticultural area as described in 27 C.F.R. 9.91 that is within the State of Oregon; or*
- (E) *The portion of the Snake River Valley viticultural area as described in 27 C.F.R. 9.208 that is within the State of Oregon.*

Response: The Project Area Extent is located within the Exclusive Farm Use ("EFU") zone, is below 3,000 feet above mean sea level and is located within the Columbia Valley AVA. The critical factor for whether the Project Area Extent consist of high-value farmland under this criterion is the slope and aspect of the land⁵. To evaluate slope and aspect, the Applicant utilized a dataset created by the Oregon Ocean-Coastal Management Program - Department of Land Conservation and Development (titled sde.gis.pln_or_viticultural_areas_2007), which identifies land that meets these conditions. As shown in Figure 3, that dataset shows that some portions of the Project Area Extent are considered high-value farmland by this criterion because the land has a slope between 0 and 15 percent and an aspect that is between 67.5 and 292.5 degrees. In total, 175.5 acres of the Project Area Extent are considered high-value farmland under ORS 195.300(10)(f)(C).

makes clear that the legislature intended to impose a specific "look back date" for purposes of applying the new high-value farmland definitions adopted under the Measure 37/49 regime.

⁴ Transfer T-13367 caused the S-51017 permit to be replaced by S-55323 by a Final Order issued by the Oregon Water Resources Department on July 28, 2021.

⁵ Aspect refers to the compass direction that a slope is facing.

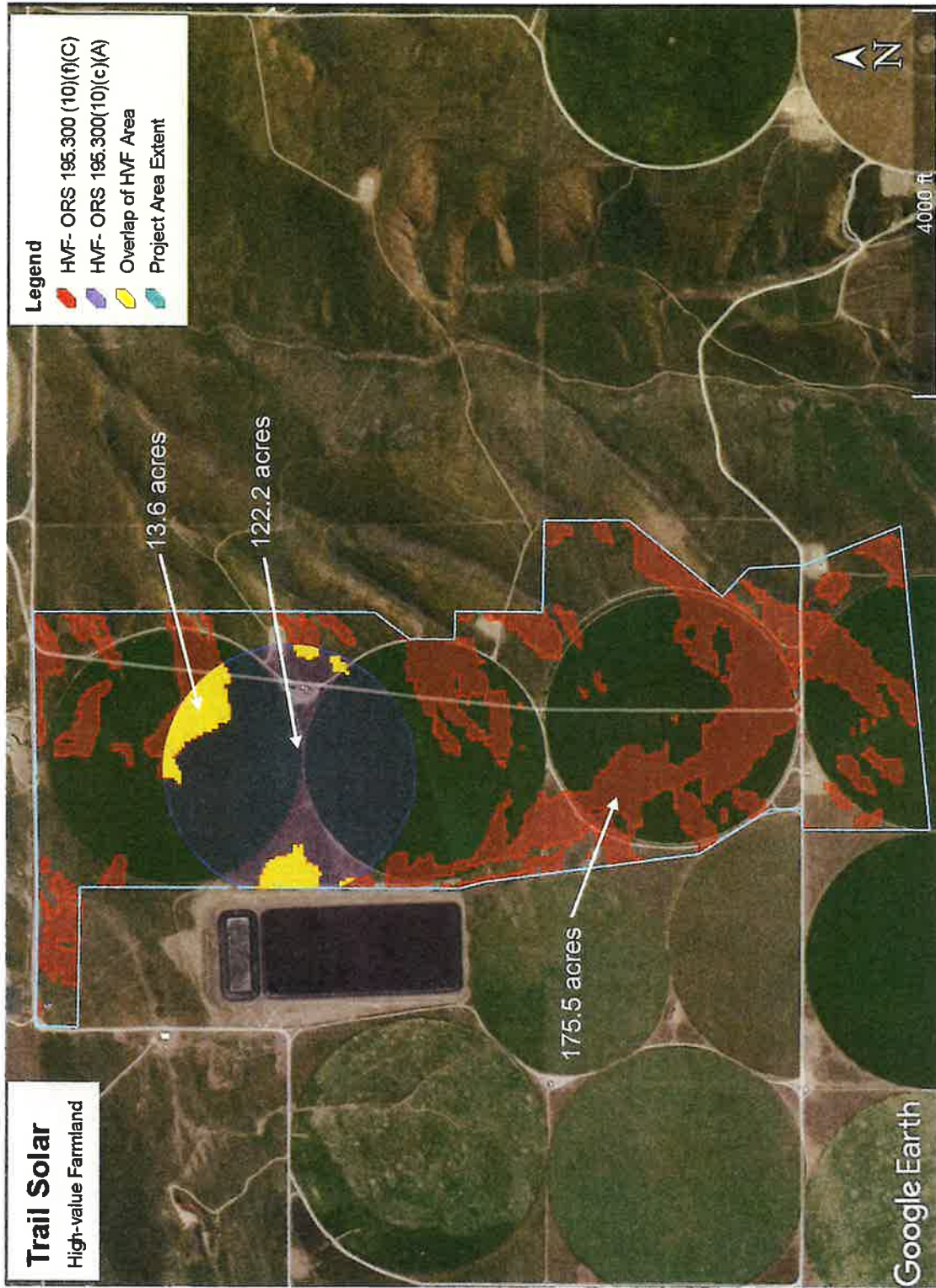


Figure 3: High-Value Farmland Soils Map within the Project Area Extent

IV. Arable and Non-Arable Land

OAR 660-033-0130(38) provides the following definitions for arable and non-arable land and soils.

OAR 660-033-0130(38)(a) *"Arable land" means land in a tract that is predominantly cultivated or, if not currently cultivated, predominantly comprised of arable soils.*

Response: The Project Tract is predominately cultivated and therefore the Project Area Extent is considered arable land.

OAR 660-033-0130(38)(b) *"Arable soils" means soils that are suitable for cultivation as determined by the governing body or its designate based on substantial evidence in the record of a local land use application but do not include high-value farmland soils described at ORS 195.300(10) unless otherwise stated.*

Response: Based on the definition of non-arable soils below (which states non-arable soils are NRCS Class V-VIII), the Applicant is considering "arable soils" to mean soils with a NRCS Class I-IV. As demonstrated in Table 2, there are 370.2 acres of Class I-IV soils. However, the definition states that arable soils "do not include high-value farmland soils." A portion totaling 171.3 acres of the 284.1 acres of high-value farmland soils within the Project Area Extent are within the 370.2 acres of arable soils. Therefore, the Project Area Extent has 198.9 acres of arable soils.

OAR 660-033-0130(38)(d) *"Nonarable land" means land in a tract that is predominately not cultivated and predominately comprised of nonarable soils.*

Response: The Project Tract is predominately cultivated therefore the land on the Project Tract cannot be considered "nonarable land."

OAR 660-033-0130(38)(e) *"Nonarable soils" means soils that are not suitable for cultivation. Soils with an NRCS agricultural capability class V-VIII and no history of irrigation shall be considered nonarable in all cases. The governing body or its designate may determine other soils, including soils with a past history of irrigation, to be nonarable based on substantial evidence in the record of a local land use application.*

Response: The Project Area Extent is predominantly cultivated with irrigated agriculture. However outside of the agriculture pivots, the Project Area Extent consists of 203.3 acres of soils that are class V-VIII and non-irrigated.

V. Appendix 1 NRCS Soils Map

OAR 660-033-0130(38)

(38) A proposal to site a photovoltaic solar power generation facility shall be subject to the following definitions and provisions:

(a) “Arable land” means land in a tract that is predominantly cultivated or, if not currently cultivated, predominantly comprised of arable soils.

(b) “Arable soils” means soils that are suitable for cultivation as determined by the governing body or its designate based on substantial evidence in the record of a local land use application, but “arable soils” does not include high-value farmland soils described at [ORS 195.300 \(Definitions for ORS 195.300 to 195.336\)](#)(10) unless otherwise stated.

(c) “Dual-use development” means developing the same area of land for both a photovoltaic solar power generation facility and for farm use.

(d) “Nonarable land” means land in a tract that is predominantly not cultivated and predominantly comprised of nonarable soils.

(e) “Nonarable soils” means soils that are not suitable for cultivation. Soils with an NRCS agricultural capability class V–VIII and no history of irrigation shall be considered nonarable in all cases. The governing body or its designate may determine other soils, including soils with a past history of irrigation, to be nonarable based on substantial evidence in the record of a local land use application.

(f) “Photovoltaic solar power generation facility” includes, but is not limited to, an assembly of equipment that converts sunlight into electricity and then stores, transfers, or both, that electricity. This includes photovoltaic modules, mounting and solar tracking equipment, foundations, inverters, wiring, storage devices and other components. Photovoltaic solar power generation facilities also include electrical cable collection systems connecting the photovoltaic solar generation facility to a transmission line, all necessary grid integration equipment, new or expanded private roads constructed to serve the photovoltaic solar power generation facility, office, operation and maintenance buildings, staging areas and all other necessary appurtenances. For purposes of applying the acreage standards of this section, a photovoltaic solar power generation facility includes all existing and proposed facilities on a single tract, as well as any existing and proposed facilities determined to be under common ownership on lands with fewer than 1320 feet of separation from the tract on which the new facility is proposed to be sited. Projects connected to the same parent company or individuals shall be considered to be in common ownership, regardless of the operating business structure. A photovoltaic solar power generation facility does not include a net metering project established consistent with ORS 757.300 (Net metering facility allowed to connect to public utility) and OAR chapter 860, division 39 or a Feed-in-Tariff project established consistent with ORS 757.365 (Pilot program for small solar energy systems) and OAR chapter 860, division 84.

(g) For high-value farmland described at ORS 195.300 (Definitions for ORS 195.300 to 195.336)(10), a photovoltaic solar power generation facility shall not use, occupy, or cover more than 12 acres unless:

(A) The provisions of paragraph (h)(H) are satisfied; or

(B) A county adopts, and an applicant satisfies, land use provisions authorizing projects subject to a dual-use development plan. Land use provisions adopted by a county pursuant to this paragraph may not allow a project in excess of 20 acres. Land use provisions adopted by the county must require sufficient assurances that the farm use element of the dual-use development plan is established and maintained so long as the photovoltaic solar power generation facility is operational or components of the facility remain on site. The provisions of this subsection are repealed on January 1, 2022.

(h) The following criteria must be satisfied in order to approve a photovoltaic solar power generation facility on high-value farmland described at ORS 195.300 (Definitions for ORS 195.300 to 195.336)(10).

(A) The proposed photovoltaic solar power generation facility will not create unnecessary negative impacts on agricultural operations conducted on any portion of the subject property not occupied by project components. Negative impacts could include, but are not limited to, the unnecessary construction of roads dividing a field or multiple fields in such a way that creates small or isolated pieces of property that are more difficult to farm, and placing photovoltaic solar power generation facility project components on lands in a manner that could disrupt common and accepted farming practices;

(B) The presence of a photovoltaic solar power generation facility will not result in unnecessary soil erosion or loss that could limit agricultural productivity on the subject property. This provision may be satisfied by the submittal and county approval of a soil and erosion control plan prepared by an adequately qualified individual, showing how unnecessary soil erosion will be avoided or remedied. The approved plan shall be attached to the decision as a condition of approval;

(C) Construction or maintenance activities will not result in unnecessary soil compaction that reduces the productivity of soil for crop production. This provision may be satisfied by the submittal and county approval of a plan prepared by an adequately qualified individual, showing how unnecessary soil compaction will be avoided or remedied in a timely manner through deep soil decompaction or other appropriate practices. The approved plan shall be attached to the decision as a condition of approval;

(D) Construction or maintenance activities will not result in the unabated introduction or spread of noxious weeds and other undesirable weed species. This provision may be satisfied by the submittal and county approval of a weed control plan prepared by an adequately qualified individual that includes a long-term maintenance agreement. The approved plan shall be attached to the decision as a condition of approval;

(E) Except for electrical cable collection systems connecting the photovoltaic solar generation facility to a transmission line, the project is not located on those high-value farmland soils listed in [OAR 660-033-0020 \(Definitions\)](#)(8)(a);

(F) The project is not located on those high-value farmland soils listed in [OAR 660-033-0020 \(Definitions\)](#)(8)(b)-(e) or arable soils unless it can be demonstrated that:

(i) Non high-value farmland soils are not available on the subject tract;

(ii) Siting the project on non high-value farmland soils present on the subject tract would significantly reduce the project's ability to operate successfully; or

(iii) The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract than other possible sites also located on the subject tract, including those comprised of non high-value farmland soils; and

(G) A study area consisting of lands zoned for exclusive farm use located within one mile measured from the center of the proposed project shall be established and:

(i) If fewer than 48 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits within the study area, no further action is necessary.

(ii) When at least 48 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits, either as a single project or as multiple facilities within the study area, the local government or its designate must find that the photovoltaic solar power generation facility will not materially alter the stability of the overall land use pattern of the area. The stability of the land use pattern will be materially altered if the overall effect of existing and potential photovoltaic solar power generation facilities will make it more difficult for the existing farms and ranches in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights, or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area.

(H) A photovoltaic solar power generation facility may be sited on more than 12 acres of high-value farmland described in ORS 195.300 (Definitions for ORS 195.300 to 195.336)(10)(f)(C) without taking an exception pursuant to ORS 197.732 (Goal exceptions) and OAR chapter 660, division 4, provided the land:

(i) Is not located within the boundaries of an irrigation district;

(ii) Is not at the time of the facility's establishment, and was not at any time during the 20 years immediately preceding the facility's establishment, the place of use of a water right permit, certificate, decree, transfer order or ground water registration authorizing the use of water for the purpose of irrigation;

(iii) Is located within the service area of an electric utility described in [ORS 469A.052 \(Large utility renewable portfolio standard\)](#)(2);

(iv) Does not exceed the acreage the electric utility reasonably anticipates to be necessary to achieve the applicable renewable portfolio standard described in [ORS 469A.052 \(Large utility renewable portfolio standard\)](#)(3); and

(v) Does not qualify as high-value farmland under any other provision of law; or

(i) For arable lands, a photovoltaic solar power generation facility shall not use, occupy, or cover more than 20 acres. The governing body or its designate must find that the following criteria are satisfied in order to approve a photovoltaic solar power generation facility on arable land:

(A) Except for electrical cable collection systems connecting the photovoltaic solar generation facility to a transmission line, the project is not located on those high-value farmland soils listed in OAR 660-033-0020 (Definitions)(8)(a);

(B) The project is not located on those high-value farmland soils listed in OAR 660-033-0020 (Definitions)(8)(b)-(e) or arable soils unless it can be demonstrated that:

- (i) Nonarable soils are not available on the subject tract;
- (ii) Siting the project on nonarable soils present on the subject tract would significantly reduce the project's ability to operate successfully; or
- (iii) The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract than other possible sites also located on the subject tract, including those comprised of nonarable soils;

(C) No more than 12 acres of the project will be sited on high-value farmland soils described at [ORS 195.300 \(Definitions for ORS 195.300 to 195.336\)](#)(10);

(D) A study area consisting of lands zoned for exclusive farm use located within one mile measured from the center of the proposed project shall be established and:

- (i) If fewer than 80 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits within the study area, no further action is necessary.
- (ii) When at least 80 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits, either as a single project or as multiple facilities within the study area, the local government or its designate must find that the photovoltaic solar power generation facility will not materially alter the stability of the overall land use pattern of the area. The stability of the land use pattern will be materially altered if the overall effect of existing and potential photovoltaic solar power generation facilities will make it more difficult for the existing farms and ranches in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights, or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area; and

(E) The requirements of [OAR 660-033-0130 \(Minimum Standards Applicable to the Schedule of Permitted and Conditional Uses\)](#)(38)(h)(A), (B), (C) and (D) are satisfied.

(j) For nonarable lands, a photovoltaic solar power generation facility shall not use, occupy, or cover more than 320 acres. The governing body or its designate must find that the following criteria are satisfied in order to approve a photovoltaic solar power generation facility on nonarable land:

(A) Except for electrical cable collection systems connecting the photovoltaic solar generation facility to a transmission line, the project is not located on those high-value farmland soils listed in [OAR 660-033-0020 \(Definitions\)](#)(8)(a);

(B) The project is not located on those high-value farmland soils listed in [OAR 660-033-0020 \(Definitions\)](#)(8)(b)-(e) or arable soils unless it can be demonstrated that:

- (i) Siting the project on nonarable soils present on the subject tract would significantly reduce the project's ability to operate successfully; or

(ii) The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract as compared to other possible sites also located on the subject tract, including sites that are comprised of nonarable soils;

(D) No more than 20 acres of the project will be sited on arable soils;

(E) The requirements of [OAR 660-033-0130 \(Minimum Standards Applicable to the Schedule of Permitted and Conditional Uses\)](#)(38)(h)(D) are satisfied;

(F) If a photovoltaic solar power generation facility is proposed to be developed on lands that contain a Goal 5 resource protected under the county's comprehensive plan, and the plan does not address conflicts between energy facility development and the resource, the applicant and the county, together with any state or federal agency responsible for protecting the resource or habitat supporting the resource, will cooperatively develop a specific resource management plan to mitigate potential development conflicts. If there is no program present to protect the listed Goal 5 resource(s) present in the local comprehensive plan or implementing ordinances and the applicant and the appropriate resource management agency(ies) cannot successfully agree on a cooperative resource management plan, the county is responsible for determining appropriate mitigation measures; and

(G) If a proposed photovoltaic solar power generation facility is located on lands where, after site specific consultation with an Oregon Department of Fish and Wildlife biologist, it is determined that the potential exists for adverse effects to state or federal special status species (threatened, endangered, candidate, or sensitive) or habitat or to big game winter range or migration corridors, golden eagle or prairie falcon nest sites or pigeon springs, the applicant shall conduct a site-specific assessment of the subject property in consultation with all appropriate state, federal, and tribal wildlife management agencies. A professional biologist shall conduct the site-specific assessment by using methodologies accepted by the appropriate wildlife management agency and shall determine whether adverse effects to special status species or wildlife habitats are anticipated. Based on the results of the biologist's report, the site shall be designed to avoid adverse effects to state or federal special status species or to wildlife habitats as described above. If the applicant's site-specific assessment shows that adverse effects cannot be avoided, the applicant and the appropriate wildlife management agency will cooperatively develop an agreement for project-specific mitigation to offset the potential adverse effects of the facility. Where the applicant and the resource management agency cannot agree on what mitigation will be carried out, the county is responsible for determining appropriate mitigation, if any, required for the facility.

(k) An exception to the acreage and soil thresholds in subsections (g), (h), (i), and (j) of this section may be taken pursuant to [ORS 197.732 \(Goal exceptions\)](#) and [OAR chapter 660](#), division 4.

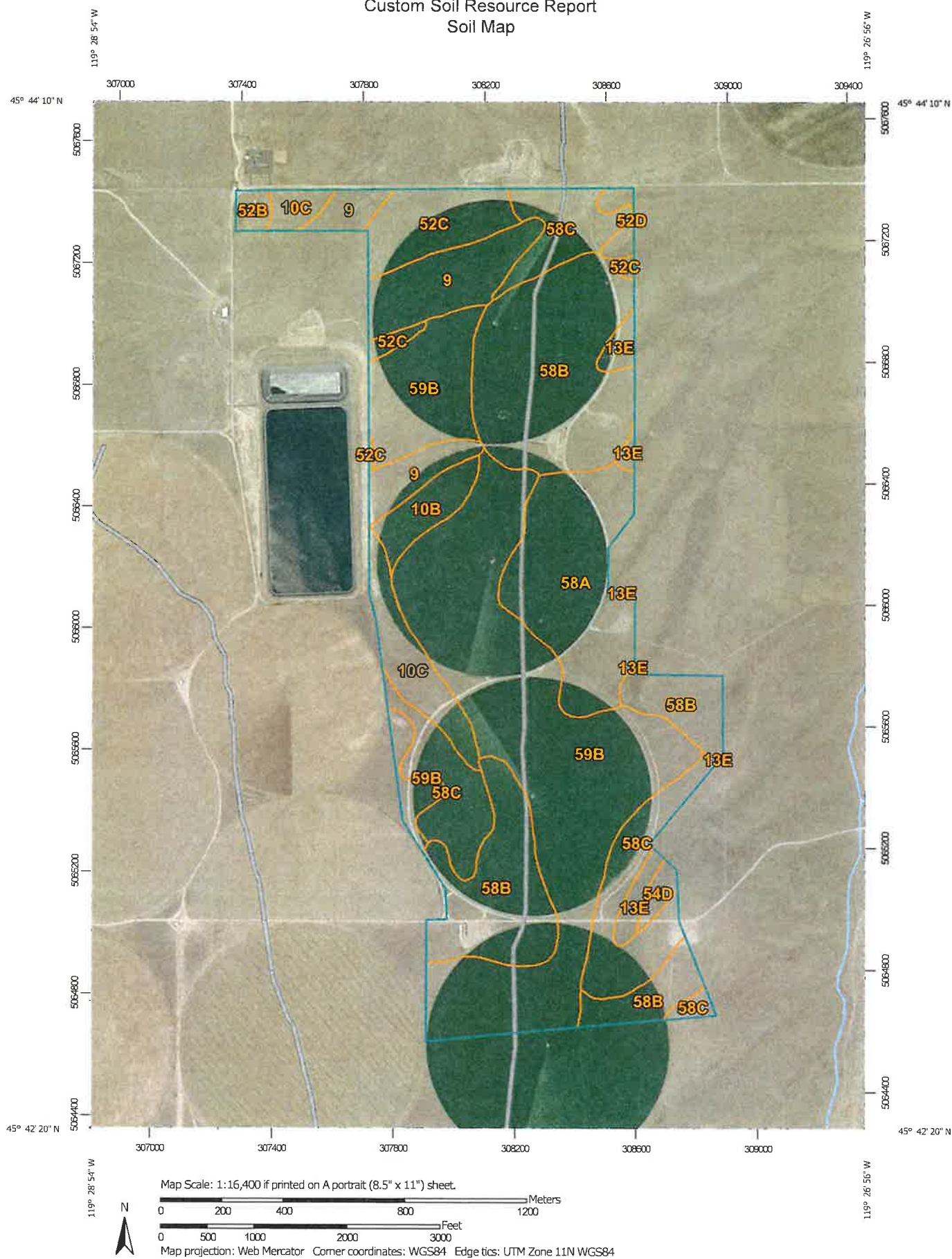
(l) The county governing body or its designate shall require as a condition of approval for a photovoltaic solar power generation facility, that the project owner sign and record in the deed records for the county a document binding the project owner and the project owner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices as defined in [ORS 30.930 \(Definitions for ORS 30.930 to 30.947\)](#)(2) and (4).

(m) Nothing in this section shall prevent a county from requiring a bond or other security from a developer or otherwise imposing on a developer the responsibility for retiring the photovoltaic solar power generation facility.

(n) If [ORS 469.300 \(Definitions\)](#)(11)(a)(D) is amended, the commission may re-evaluate the acreage thresholds identified in subsections (g), (i) and (j) of this section.

VI. Appendix 2 OAR 660 011-0130

Custom Soil Resource Report Soil Map




MAP LEGEND

Area of Interest (AOI)

Area of Interest (AOI)

Soils

Soil Map Unit Polygons

Soil Map Unit Lines

Soil Map Unit Points

Special Point Features

Blowout

Borrow Pit

Clay Spot

Closed Depression

Gravel Pit

Gravelly Spot

Landfill

Lava Flow

Marsh or swamp

Mine or Quarry

Miscellaneous Water

Perennial Water

Rock Outcrop

Saline Spot

Sandy Spot

Severely Eroded Spot

Sinkhole

Slide or Slip

Sodic Spot

Water Features

Streams and Canals

Transportation

Railroads

Interstate Highways

US Routes

Major Roads

Local Roads

Background

Aerial Photography

Spill Area

Spill Area

Stony Spot

Stony Spot

Very Stony Spot

Very Stony Spot

Wet Spot

Wet Spot

Other

Other

Special Line Features

Special Line Features

MAP INFORMATION

The soil surveys that comprise your AOI were mapped at 1:24,000.

Please rely on the bar scale on each map sheet for map measurements.

Source of Map: Natural Resources Conservation Service
Web Soil Survey URL:
Coordinate System: Web Mercator (EPSG:3857)

Maps from the Web Soil Survey are based on the Web Mercator projection, which preserves direction and shape but distorts distance and area. A projection that preserves area, such as the Albers equal-area conic projection, should be used if more accurate calculations of distance or area are required.

This product is generated from the USDA-NRCS certified data as of the version date(s) listed below.

Soil Survey Area: Morrow County Area, Oregon
Survey Area Data: Version 8, Oct 27, 2021

Soil map units are labeled (as space allows) for map scales 1:50,000 or larger.

Date(s) aerial images were photographed: Jun 3, 2020—Jun 26, 2020

The orthophoto or other base map on which the soil lines were compiled and digitized probably differs from the background imagery displayed on these maps. As a result, some minor shifting of map unit boundaries may be evident.

Custom Soil Resource Report

Map Unit Legend

| Map Unit Symbol | Map Unit Name | Acres in AOI | Percent of AOI |
|------------------------------------|--|--------------|----------------|
| 9 | Dune land | 43.9 | 7.0% |
| 10B | Ellum fine sandy loam, 2 to 5 percent slopes | 12.3 | 2.0% |
| 10C | Ellum fine sandy loam, 5 to 12 percent slopes | 25.6 | 4.1% |
| 13E | Gravden very gravelly loam, 20 to 40 percent slopes | 10.0 | 1.6% |
| 52B | Royal fine sandy loam, 2 to 5 percent slopes | 3.6 | 0.6% |
| 52C | Royal fine sandy loam, 5 to 12 percent slopes | 27.4 | 4.4% |
| 52D | Royal fine sandy loam, 12 to 20 percent slopes | 4.3 | 0.7% |
| 54D | Sagehill fine sandy loam, 12 to 20 percent slopes | 3.7 | 0.6% |
| 58A | Taunton fine sandy loam, 0 to 2 percent slopes | 62.3 | 10.0% |
| 58B | Taunton fine sandy loam, 2 to 5 percent slopes | 147.2 | 23.6% |
| 58C | Taunton fine sandy loam, 5 to 12 percent slopes | 73.6 | 11.8% |
| 59B | Taunton fine sandy loam, hummocky, 0 to 5 percent slopes | 209.4 | 33.6% |
| Totals for Area of Interest | | 623.3 | 100.0% |

ATTACHMENT I

TRAIL SOLAR

FORGESOLAR GLARE ANALYSIS

Project: **Oregon Large**

Site configuration: **Trail Solar**

Site description: Trail Solar will include approximately 600 acres of EFU zoned land. Located in Morrow County, OR. Some light grading and clearing may take place but there will be little change to the quantity of impervious surface. It is expected that the project will generate 95 of MW of power.

Created 20 May, 2022

Updated 20 May, 2022

Time-step 1 minute

Timezone offset UTC-8

Site ID 69402.11837

Category 10 MW to 100 MW

DNI peaks at 1,000.0 W/m²

Ocular transmission coefficient 0.5

Pupil diameter 0.002 m

Eye focal length 0.017 m

Sun subtended angle 9.3 mrad

Methodology V2



Summary of Results No glare predicted

| PV Array | Tilt | Orient | Annual Green Glare | | Annual Yellow Glare | | Energy kWh |
|------------------|----------------|----------------|--------------------|-----|---------------------|-----|---------------|
| | | | min | hr | min | hr | |
| Trail Solar 95MW | SA tracking | SA tracking | 0 | 0.0 | 0 | 0.0 | - |

Total annual glare received by each receptor, may include duplicate times of glare from multiple reflective surfaces

| Receptor | Annual Green Glare | | Annual Yellow Glare | |
|----------|--------------------|-----|---------------------|-----|
| | min | hr | min | hr |
| OP 1 | 0 | 0.0 | 0 | 0.0 |

Component Data

PV Arrays

Name: Trail Solar 95MW

Description: Morrow County Oregon

Axis tracking: Single-axis rotation

Backtracking: Shade-slope

Tracking axis orientation: 180.0

Max tracking angle: 60.0°

Resting angle: 0.0°

Ground Coverage Ratio: 0.5

Rated power: -

Panel material: Light textured glass with AR coating

Reflectivity: Vary with sun

Slope error: correlate with material



| Vertex | Latitude (°) | Longitude (°) | Ground elevation (ft) | Height above ground (ft) | Total elevation (ft) |
|--------|--------------|---------------|-----------------------|--------------------------|----------------------|
| 1 | 45.733651 | -119.459477 | 871.68 | 7.00 | 878.68 |
| 2 | 45.720469 | -119.459906 | 926.18 | 7.00 | 933.18 |
| 3 | 45.718611 | -119.455014 | 918.51 | 7.00 | 925.51 |
| 4 | 45.715645 | -119.454885 | 846.83 | 7.00 | 853.83 |
| 5 | 45.712049 | -119.458404 | 929.89 | 7.00 | 936.89 |
| 6 | 45.709202 | -119.458447 | 960.97 | 7.00 | 967.97 |
| 7 | 45.708843 | -119.467588 | 962.88 | 7.00 | 969.88 |
| 8 | 45.717593 | -119.469047 | 921.22 | 7.00 | 928.22 |
| 9 | 45.717922 | -119.466730 | 935.85 | 7.00 | 942.85 |
| 10 | 45.721518 | -119.469906 | 906.80 | 7.00 | 913.80 |
| 11 | 45.733441 | -119.469734 | 788.44 | 7.00 | 795.44 |

Discrete Observation Point Receptors

| Name | ID | Latitude (°) | Longitude (°) | Elevation (ft) | Height (ft) |
|------|----|--------------|---------------|----------------|-------------|
| OP 1 | 1 | 45.757688 | -119.457169 | 605.05 | 5.50 |

Glare Analysis Results

Summary of Results No glare predicted

| PV Array | Tilt | Orient | Annual Green Glare | | Annual Yellow Glare | | Energy kWh |
|------------------|----------------|----------------|--------------------|-----|---------------------|-----|---------------|
| | | | min | hr | min | hr | |
| Trail Solar 95MW | SA tracking | SA tracking | 0 | 0.0 | 0 | 0.0 | - |

Total annual glare received by each receptor; may include duplicate times of glare from multiple reflective surfaces.

| Receptor | Annual Green Glare | | Annual Yellow Glare | |
|----------|--------------------|-----|---------------------|-----|
| | min | hr | min | hr |
| OP 1 | 0 | 0.0 | 0 | 0.0 |

PV: Trail Solar 95MW no glare found

Receptor results ordered by category of glare

| Receptor | Annual Green Glare | | Annual Yellow Glare | |
|----------|--------------------|-----|---------------------|-----|
| | min | hr | min | hr |
| OP 1 | 0 | 0.0 | 0 | 0.0 |

Trail Solar 95MW and OP 1

Receptor type: Observation Point

No glare found

Assumptions

"Green" glare is glare with low potential to cause an after-image (flash blindness) when observed prior to a typical blink response time.

"Yellow" glare is glare with potential to cause an after-image (flash blindness) when observed prior to a typical blink response time.

Times associated with glare are denoted in Standard time. For Daylight Savings, add one hour.

The algorithm does not rigorously represent the detailed geometry of a system: detailed features such as gaps between modules, variable height of the PV array, and support structures may impact actual glare results. However, we have validated our models against several systems, including a PV array causing glare to the air-traffic control tower at Manchester-Boston Regional Airport and several sites in Albuquerque, and the tool accurately predicted the occurrence and intensity of glare at different times and days of the year.

Several V1 calculations utilize the PV array centroid, rather than the actual glare spot location, due to algorithm limitations. This may affect results for large PV footprints. Additional analyses of array sub-sections can provide additional information on expected glare. This primarily affects V1 analyses of path receptors.

Random number computations are utilized by various steps of the annual hazard analysis algorithm. Predicted minutes of glare can vary between runs as a result. This limitation primarily affects analyses of Observation Point receptors, including ATCTs. Note that the SGHAT/ ForgeSolar methodology has always relied on an analytical, qualitative approach to accurately determine the overall hazard (i.e. green vs. yellow) of expected glare on an annual basis.

The analysis does not consider obstacles (either man-made or natural) between the observation points and the prescribed solar installation that may obstruct observed glare, such as trees, hills, buildings, etc.

The subtended source angle (glare spot size) is constrained by the PV array footprint size. Partitioning large arrays into smaller sections will reduce the maximum potential subtended angle, potentially impacting results if actual glare spots are larger than the sub-array size. Additional analyses of the combined area of adjacent sub-arrays can provide more information on potential glare hazards. (See previous point on related limitations.)

The variable direct normal irradiance (DNI) feature (if selected) scales the user-prescribed peak DNI using a typical clear-day irradiance profile. This profile has a lower DNI in the mornings and evenings and a maximum at solar noon. The scaling uses a clear-day irradiance profile based on a normalized time relative to sunrise, solar noon, and sunset, which are prescribed by a sun-position algorithm and the latitude and longitude obtained from Google maps. The actual DNI on any given day can be affected by cloud cover, atmospheric attenuation, and other environmental factors.

The ocular hazard predicted by the tool depends on a number of environmental, optical, and human factors, which can be uncertain. We provide input fields and typical ranges of values for these factors so that the user can vary these parameters to see if they have an impact on the results. The speed of SGHAT allows expedited sensitivity and parametric analyses.

The system output calculation is a DNI-based approximation that assumes clear, sunny skies year-round. It should not be used in place of more rigorous modeling methods.

Hazard zone boundaries shown in the Glare Hazard plot are an approximation and visual aid based on aggregated research data. Actual ocular impact outcomes encompass a continuous, not discrete, spectrum.

Glare locations displayed on receptor plots are approximate. Actual glare-spot locations may differ.

Refer to the Help page at www.forgesolar.com/help/ for assumptions and limitations not listed here.

Default glare analysis parameters and observer eye characteristics (for reference only):

- Analysis time interval: 1 minute
- Ocular transmission coefficient: 0.5
- Pupil diameter: 0.002 meters
- Eye focal length: 0.017 meters
- Sun subtended angle: 9.3 milliradians

ATTACHMENT L

TRAIL SOLAR



Trail Solar

VEGETATION AND WEED MANAGEMENT PLAN

July 2022

OneEnergy Renewables
2003 Western Ave, Suite 225
Seattle, Washington 98121

[oneenergy
renewables
.com](http://oneenergyrenewables.com)

1 INTRODUCTION

Trail Solar, LLC (the Applicant) proposes to construct and operate Trail Solar (Project), a solar photovoltaic project sized up to 95 megawatt (MW) with an optional battery storage system capable of storing up to 95 MW of energy located in Morrow County, Oregon.

This document addresses vegetation management activities related to the Project construction and operation and specifically methods that will be implemented for effective noxious weed control and revegetation. The Applicant has consulted with the Morrow County Noxious Weed Control Board to develop these methods.

2 VEGETATION MANAGEMENT

2.1 CURRENT VEGETATION

The Project may be located on up to 623 acres (Project Area). The Project Area is comprised of land owned by Madison Ranches consisting of 4 land tracts (1701, 1101, 1400 and 1401) including a total of 1,280 acres (see Figure 1).

The Project is located on the Umatilla Plateau across private land that is used for a combination of irrigated wheat, timothy, and alfalfa hay crops. The Project Area consists of agricultural pivots, access roads and small range areas. The terrain consists of generally flat topography with the exception of Fourmile Canyon which is located directly east of the Project. The Project Parcel is accessed via a private road; Madison Saylor Road.

Land use surrounding the Project Area consists primarily of agriculture and livestock grazing. An existing conditions survey was completed in April and May of 2020 during the habitat assessment by Western EcoSystems Technology Inc. (**Attachment K** of the CUP). The dominant habitat type within the Project Area Extent is eastside grassland that has been degraded primarily by Russian thistle and cheatgrass. Small patches identified within the eastside grassland contained comparatively higher percent ground cover of native grasses including needle-and-thread and blue bunch wheatgrass. The remainder of the Project area is compromised of irrigated wheat fields. The portion considered “degraded” shrub-steppe consists of areas with active grazing resulting in reduced shrub heights or an absence of intact shrub altogether, herbaceous cover and compacted soils.

2.2 CONSTRUCTION IMPACTS TO VEGETATION

During construction, Applicant will employ Best Management Practices (BMPs) to avoid impacts to native plant species when possible. These include erosion control and temporary fencing protection. In addition, site preparation will consist of clearing the existing vegetation only in those areas where construction, grading, and road improvements will occur and leaving existing vegetation intact when feasible. Once the site is prepared, the installation of racking systems, modules and inverter pads will use internal access roads. Reclamation measures will be implemented to restore the temporarily disturbed near-surface soils at the Project site. Permanent impacts from project construction will be minimized whenever possible, enabling the land to return to agricultural uses at the end of its useful life.

2.3 REVEGETATION

Revegetation will be conducted following construction and decommissioning. At the conclusion of construction, disturbed areas will be re-seeded with a certified weed-free, low-growing native seed mix, selected in coordination with the Oregon Department of Fish and Wildlife. The existing conditions will inform the selection of the appropriate seed mix. Applicant may replace lost topsoil in disturbed areas. The method and timing of planting will depend on the seed mix, site conditions and weather, with typical seeding occurring around Fall during the wetter months.

2.4 OPERATIONAL VEGETATION MANAGEMENT

Minimal on-site maintenance will be required over the life of the Project. Once the Project is operational, mechanical control (i.e. mowing) will be conducted on a monthly and/or bi-monthly basis, depending on the season and as-needed, over the entire lifespan of the Project. The Project is purposefully designed to allow inter-row spaces wide enough to allow more efficient and effective mower decks access to the majority of the Project's acreage.

2.5 MONITORING

Operations and maintenance staff will routinely monitor buffer areas for vegetation loss to ensure vegetation replacement occurs quickly. A grounds maintenance schedule will be put into place prior to the start of construction to document the mowing, watering, and vegetation monitoring schedules. The plan will also include approved vegetation management measures to control undesirable plant species, eliminate shading of panels, and maintain reliable access for operations, maintenance, and emergency response purposes should mowing be insufficient.

2.6 WEED MANAGEMENT

The primary species of concern are described in the Morrow County Noxious Weed List (attached as Appendix 1) which is jointly maintained by the Oregon State Noxious Weed Control Board and the Morrow County Weed Control District. The list contains the non-native weeds classified as "A", and "B" state designated noxious weeds. As defined by the Oregon Department of Agriculture Noxious Weed Policy, and OAR 603-052-1200, A List weeds are of known economic importance which occurs in the state in small enough infestations to make eradication or containment possible; or is not known by the Morrow County Weed Control District to occur, but its presence in neighboring states make future occurrence in Oregon seem imminent. B List weeds are of economic importance which is regionally abundant, but which may have limited distribution in some counties.

The Project will comply with OAR 603-052-1200 and ORS 569.175 to 569.195 related to the landowner's duty to control the spread of noxious weeds. All "A" weeds found at the Project site before or during construction and during operation will be eradicated. "B" weeds will be controlled or eradicated, and the Project will work with the Oregon Department of Agriculture or the County to develop a plan for mitigating the risk of spreading those weeds. In addition the applicant will comply with Morrow County Code Enforcement Ordinance (ORD-2019-4).

The Applicant has consulted with Dave Pranger, Weed Control Supervisor with Morrow County. Rush skeleton weed, yellow star thistle and scotch thistle are of primary concern in this area. These weeds revegetate with mechanical treatment and will also be controlled using a broadleaf control herbicide when necessary. Additionally, Morrow County expressed the importance of weed prevention. The Applicant has addressed this by incorporating truck/equipment wash stations on-site to further control the spread of weeds into and out of the site during construction (see Section 3.1- Preventative Measures).

Applicant will exercise the following combination of efforts for the most cost-effective and practical approach to managing noxious weed populations:

- Preventative Measures: Monitoring, detection, best management practices, preventative planning and training;
- Control Measures: Mechanical treatment, seed head clipping, and/or herbicide treatment, as appropriate.
- Herbicide Application and Handling Guidelines: Relevant application standards, methods, and transport guidelines.

3.1 PREVENTATIVE MEASURES

Soil preservation and preparation techniques represent the foundation of a successful noxious weed control as disturbed soils are the most common vector for noxious weeds to colonize an area. The likelihood of invasion by noxious weeds can be reduced by rehabilitating ground that is temporarily disturbed during construction. The Project will minimize soil disturbance during construction, and will replant disturbed areas with low-growing native seed mixes.

One of the main preventative measures in weed control includes equipment washing which limits the spread of weeds into and out of sites. The Applicant will incorporate a wash station on-site during construction for trucks and equipment to use before entering the site and prior to exiting the site. Additionally, a survey of the existing conditions has been conducted by Western Ecosystems Technology Inc. where the primary weeds identified on-site included Russian thistle and cheatgrass. These weeds will be removed during site preparation using a combination of mechanical control and herbicide application to limit spread during construction activities.

3.2 CONTROL MEASURES

Once the Project is operational, mechanical control (i.e. mowing) will be conducted on a monthly and/or bi-monthly basis, depending on the season and as needed, over the entire lifespan of the Project.

The Project will retain a qualified landscaping contractor to provide regular weed control and eliminate the spread of new noxious weed presence resultant from construction and operations activity at the Project site. If herbicide treatment is necessary, Applicant will only use herbicides that are approved for use in the state of Oregon by the U.S. Environmental Protection Agency (EPA) and the Oregon Department of Agriculture (ODA). In such cases,

Applicant will notify landowners of the herbicide proposed for use on their lands and obtain approval prior to application. Applicant will apply herbicides to identified treatable noxious weed populations as described below. If a weed population is deemed to be untreatable (e.g., too widespread and established in area to successfully control), Applicant will implement all the control measures discussed above except treatment with herbicides. Applicant will coordinate with the Morrow County Weed Control District and reference the “Pacific Northwest Weed Management Handbook” in determining the appropriate application of herbicides.

The success of the combined targeted chemical control, mechanical control, and low-growing native seed mix will be documented and reported by the operation and maintenance team responsible for maintaining the site.

3.3 HERBICIDE APPLICATION AND HANDLING GUIDELINES

Herbicide application would adhere to EPA and ODA standards. Only herbicides approved by the EPA and ODA will be used. In general, application of herbicides would not occur when the following conditions exist:

- Wind velocity exceeds 15 miles per hour for granular application or 10 miles per hour for liquid applications;
- Snow or ice covers the foliage of target species; or
- Adverse weather conditions are forecasted in the next few days.

Hand application methods (e.g., backpack spraying) may be used in roadless areas or in rough terrain. Calibration checks of equipment would be conducted at the beginning of spraying and repeated periodically to ensure that proper application rates are achieved.

Herbicides would be transported to the Project site with the following provisions:

- Only the quantity needed for that day’s work would be transported.
- Concentrate would be transported in approved containers only, in a manner that prevents tipping or spilling, and in a compartment that is isolated from food, clothing, and safety equipment.
- Mixing would be done off site and at a distance greater than 200 feet from open or flowing water, wetlands, or other sensitive resources such as known Threatened and Endangered and sensitive species habitat. No herbicides would be applied at these areas unless authorized by the appropriate regulatory agencies.
- All herbicide equipment and containers would be inspected for leaks daily.
- Herbicide use would be in accordance with all manufacturer label recommendations and warnings. All herbicide treatments will fall within label guidelines since “the label is the law.”

During the operation of the Project, chemical control measures shall be conducted on an as-needed basis in a frequency and intensity to be determined by trained professionals according to the guidelines set forth by the Pacific Northwest Weed Management Handbook (PEA, 2020).

4. ADAPTIVE MANAGEMENT

The plan outlined in this document will follow adaptive management practices, whereby management activities will be assessed on a continual basis and amendments to this plan may occur if specific site conditions warrant an alteration to this plan. The Applicant would coordinate any amendments to this plan with the permitting authority and other parties involved in the management of the Project.

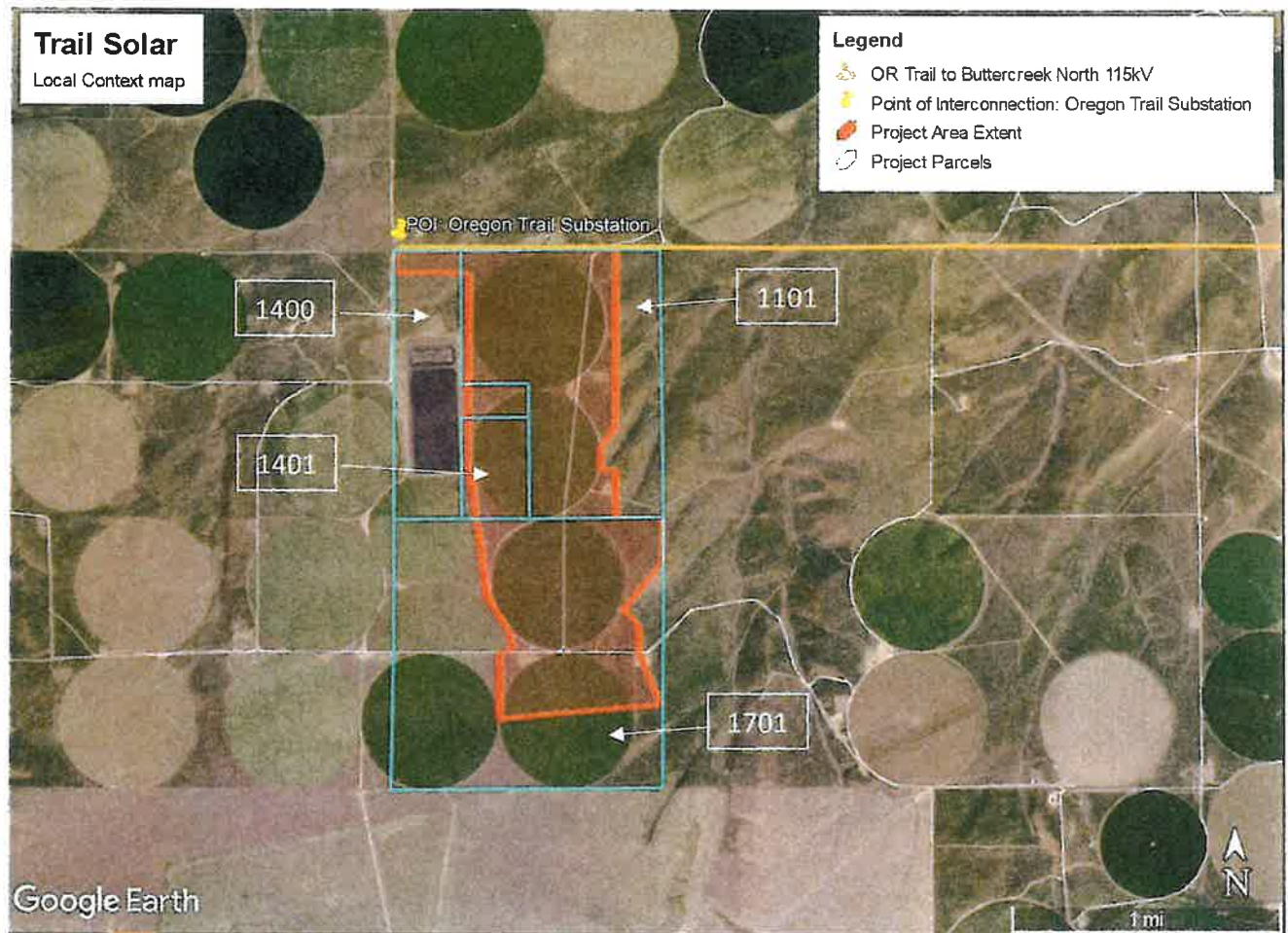


Figure 1: Local Context Map

8078188

Morrow County. 2017. Morrow Soil and Water Conservation District Board: Weed List (serves as the Weed Advisory Board for the Morrow County Weed Control District).

<http://www.co.morrow.or.us/publicworks/page/weed-department> . Accessed June 3, 2022.

(Enclosed as Appendix 1)

Co.morrow.or.us. 2022. *Morrow County Code Enforcement Ordinance*. [online] Available at:

https://www.co.morrow.or.us/sites/default/files/fileattachments/planning/page/16373/0705_2021_effective_2021_code_enforcement_ordinance.pdf Accessed 16 June 2022.

Oregon Department of Agriculture. 2020. Oregon Department of Agriculture Noxious Weed Policy and Classification System 2020.

<https://www.oregon.gov/ODA/shared/Documents/Publications/Weeds/NoxiousWeedPolicyClassification.pdf#:~:text=The%20Oregon%20Department%20of%20Agriculture%20%28ODA%29%20Noxious%20Weed,assessments%2C%20and%20maintaining%20the%20state%20noxious%20weed%20list>. Accessed June 3, 2022

Peachey, E., editor. 2020. Pacific Northwest Weed Management Handbook. Corvallis, OR: Oregon State University.

AS PART OF NORFOLK COUNTY'S 2015 BUDGET
THE JUVENILE JUSTICE CENTER WAS OPENED

Excerpted from Morrow County Weed Department website on June 3, 2022

Morrow County Weed List: NOXIOUS WEEDS

Noxious Weeds – “A” List – Any plant that is determined by the weed advisory board, and so declared by the County Board of Commissioners to be injurious to public health, crops, livestock, land or property under provisions of Oregon State Statute and thus mandated for control.

Rush Skeletonweed
 Yellow Starthistle
 Tansy Ragwort
 Yellow Toadflax
 Dalmatian Toadflax
 Mediterranean Sage
 Leafy Spurge
 Spikeweed
 Musk Thistle
 Scotch Thistle
 Purple Loosestrife
 Common Crupina
 Whitetop (Hoary Cress)
 Houndstongue
 Flowering Rush
 Yellow Flag Iris
 Plumeless Thistle

WEEDS OF ECONOMIC IMPORTANCE

Weeds of Economic Importance – “B” List – Weeds of limited distribution in the county and subject to intensive control or eradication where feasible.

Poison Hemlock
 Canada Thistle
 Jointed Goatgrass
 St. Johnswort
 Perennial Sowthistle
 Field Bindweed
 Cereal Rye
 Johnsongrass
 Russian Knapweed
 Diffuse Knapweed
 Spotted Knapweed
 Field Dodder

Water Hemlock
Medusahead Rye
Puncturevine
Kochia
Perennial Pepperweed
Myrtle Spurge
Ventenata

ATTACHMENT M

TRAIL SOLAR



Trail SOLAR

TRANSPORTATION PLAN

July, 2022

OneEnergy Renewables
2003 Western Ave, Suite 225
Seattle, Washington 98121

[oneenergy
renewables
.com](https://oneenergyrenewables.com)

GENERAL TRANSPORTATION INFORMATION

Based on similar sized solar projects, the following estimated vehicle usage during site preparations and installation of array and equipment is expected:

- Construction Period: 9-18 months
- Deliveries: During peak construction it is estimated up to 80-100 truck trips per day (or 40-50 round trips) to deliver equipment (gravel, cement, electrical equipment, panels). Peak construction is estimated to last only 1-4 weeks, and then subsiding to much smaller numbers for the remainder of construction.
- Construction Personnel: Up to 150 vehicles per day (300 one way trips) including light-truck and passenger vehicles. At peak the Project will require approximately 300 construction personnel. Vehicle use is estimated based on 1-3 personnel per vehicle.
- In total up to 200 vehicles per day will be added to the background traffic patterns along the primary transportation route including truck trips and personnel trips.
- Operations: Limited traffic for maintenance crews, this includes quarterly to yearly electrical and PV maintenance and limited vegetation maintenance crews.

PRIMARY TRANSPORTATION ROUTE - TO Madison Sayler Road

Transportation routes will be used to bring in equipment, materials and the labor force to the Project. The main transportation route to the general vicinity are I-84 and I-82. As Interstate Highways, these roads are designated freight routes and provide a safe and efficient transportation route. The primary transportation route will use Exit 180 off I-84 to take Umatilla County Road 1325 for one mile south and continue onto Madison Sayler Road. Madison Sayler Road is a private road where trucks will continue approximately 6.7 miles until they reach the Project. From that location, a new access point into the Project will be created.

This route is preferred due to its close proximity to the existing exit on I-84, and the minimization of traffic on state and local roads. All transporter routes will use only existing highways, local county roads and private roads. Any new road construction will occur only within the Project Area. Construction related traffic is not expected to cause any traffic delays on either highways or local roadways.

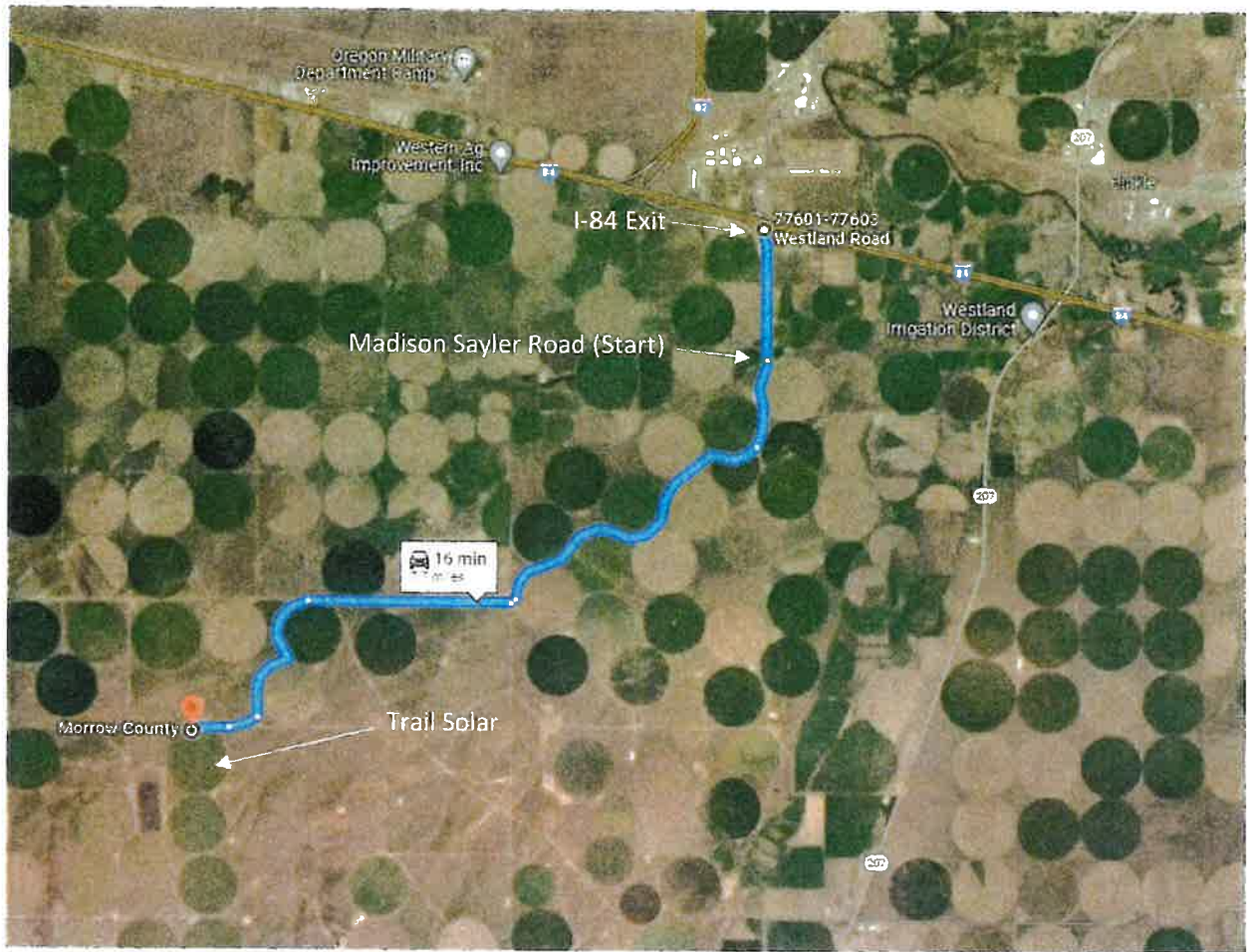


Figure 1: Map of Transportation Route

ATTACHMENT N

TRAIL SOLAR



Trail SOLAR

DECOMMISSIONING PLAN

OneEnergy Renewables
2003 Western Ave, Suite 225
Seattle, Washington 98121

oneenergy
renewables
.com



DECOMMISSIONING PLAN

The Project has an estimated useful life of 35 years, with the possibility of extending that useful life in the case of equipment replacement, upgrading, and repowering later in life. When the useful life of the Project has reached its end, power generation will cease, the Project will be decommissioned, and all components of the Project will be removed from the property. Finally, the site will be returned to the farmable conditions in place prior to construction of the Project.

This Decommissioning Plan contains the current industry best practices and may change as these practices evolve and improve between now and the end of the useful life.

Decommissioning Process

The Project's infrastructure will consist of mostly recyclable materials, including semiconductor material, aluminum, glass, steel, copper, and plastic. At the time of decommissioning, these components will be dismantled, separated by material, and sorted according to salvageable value and recyclability. Salvage value is expected to provide a significant portion of the funding for the decommissioning of the Project.

Improvements made to the land (including access roads, driveways, and plantings) during the construction and operation will be reclaimed using industry best practices. Some may remain on the site per the wishes of the landowner. All improvements not reclaimed and returned to agricultural use will be approved by the Morrow County Department of Planning Services.

Decommissioning is planned to include the following steps:

1. The project owner will schedule a pre-closure meeting with the Morrow County Planning Department up to one year prior to the planned decommissioning of the Project. Final details of the decommissioning will be discussed at this meeting and developed in coordination with Morrow County.
2. Any necessary permits will be acquired prior to the commencing of decommissioning.
3. Any agencies and other local departments necessary will be contacted and coordinated with.
4. The Project will be disconnected from the electric grid in coordination with Umatilla Electric Cooperative (UEC) and Bonneville Power Administration (BPA).
5. Within 12 months of disconnection, the following decommissioning activities will take place:
 - a. PV modules will be disconnected and removed for salvage or recycling.
 - b. All electrical cabling (both above and below ground) shall be removed for salvage or recycling.
 - c. Aluminum racking used to support PV modules will be removed for salvage or recycling.
 - d. Steel foundation piles will be removed for salvage or recycling. These piles will either be moved in their entirety or will be cut off approximately 3' below grade, deep enough to allow the land to return to agricultural use.
 - e. All electric interconnection equipment, including inverters and transformers, shall be removed for salvage or recycling.



- f. All concrete foundations shall be removed and properly disposed of.
- g. All fencing shall be removed and properly disposed of.
- h. All soils disturbed during the decommissioning process will be re-graded to meet existing contours and seeded with a native, dryland seed mix.

Financial Assurance

The capital investment represented by the Project will create significant value from the materials used to construct the Project. The salvage value of the electronics, semiconductor materials, aluminum, steel, and copper from the decommissioned Project, will cover most or all of the decommissioning cost. The Applicant proposes to provide financial assurance for 100% of the estimated costs of the decommissioning efforts at the later of i) ten years after the Project's Commercial Operation Date or ii) at the expiration of the Project's Power Purchase Agreement, which is not yet executed. The financial assurance shall be either in the form of a bond from an individual or entity engaged in the construction business, a surety bond, a corporate guarantee, a letter of credit issued by a financial institution, or a cash deposit. The amount of the financial assurance shall be based on a written estimate from a company with experience with such matters which sets forth such company's estimate of the cost of removing the solar facilities, net of their estimated salvage value.

ATTACHMENT O

TRAIL SOLAR

Marty Broadbent
 Fire Marshal
 Boardman Fire Rescue District
 300 SW Wilson Lane,
 Boardman, OR 97818

June 13, 2022

RE: Trail Solar Project – Fire Variance

The Trail Solar project (“Project”) is a proposed photovoltaic solar power generation facility in Morrow County on tax lots 1101, 1400, 1401 and 1701 in Township 3 North, Range 27 East. The Project developer, Trail Solar, LLC, has consulted with the Boardman Fire Rescue District regarding fire prevention, fire management and access plans for the Project.

Subsection 1204.4 of the 2019 Oregon Fire Code requires a non-combustible base be installed and maintained under and around the installation. This requirement is contrary to the developer’s goals of minimally invasive development and would drastically increase the permanently impacted acreage. In consultation with the Oregon Department of Fish and Wildlife (ODFW) and the Morrow County Weed Control Supervisor, the preference is to seed the ground with a native grass seed mix as an alternative. As such, OneEnergy seeks a variance from the 2019 Oregon Fire Code Subsection 1204.4 requirements for the Project.

This variance is acceptable per the 2019 Oregon Fire Code Chapter 1:

104.8 Modifications. Whenever there are practical difficulties involved in carrying out the provisions of this code, the fire code official shall have the authority to grant modifications for individual cases, provided the fire code official shall first find that special individual reason makes the strict letter of this code impractical and the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, life and fire safety requirements. The details of action granting modifications shall be recorded and entered in the files of the department of fire prevention.

This modification does not lessen health, life and fire safety requirements. The Project will be constructed following all other guidance found in the 2019 Oregon Fire Code, including “Appendix D: Fire Apparatus Access Roads”, and the Project will be managed in accordance with Oregon Fire Code requirements 2104.1.

Access to the Project will lead to a security fence, which will frame the complete perimeter of the project, with an access gate that is twenty (20) feet in width. This entry gate will contain accessible hardware (i.e. an installed lockbox or padlock) in compliance with requirements imposed by the fire code official.

Inside the security fence there will be interior roads that will be sized for emergency vehicle access in accordance with the 2019 Oregon Fire Code. The roads will be twenty (20) feet in width, with an inner turning radius of twenty-eight (28) feet and an outer turning radius of forty-eight (48) feet and built on no greater than ten percent (10%) slopes, except where allowed by

the fire code official. A fire break of twenty-six (26) feet will encircle one hundred percent of the facility components to provide a noncombustible defensible space clearance. This area is more expansive than the 10-foot clearance required under 2019 Oregon Fire Code Section 1204.4 and will serve as a fire break, kept clear and brush-free.

As the fire code official for the Boardman Fire Rescue District, I hereby grant a variance waiving the requirements of subsection 1204.4 of the 2019 Oregon Fire Code for the Trail Solar project.

Sincerely,

A handwritten signature in black ink that reads "Marty K. Broadbent". The signature is fluid and cursive, with the first name "Marty" and last name "Broadbent" clearly legible.

Marty Broadbent
Fire Marshal
Boardman Fire Rescue District



CUP-N-355-22
AC-140-22

Madison Ranches Land 4, LLC.
3N 27E TL's 1701, 1101,
1400, and 1401

Legend

Taxlot

Taxlot selection



Date Saved: 8/5/2022 4:37 PM

Cartography By: Stephen Wreccics
Morrow County Planning Department
Coordinate System: NAD83 Oregon GIC Lambert ft
Datum: North American 1983
Projection: Lambert Conformal Conic



Extent

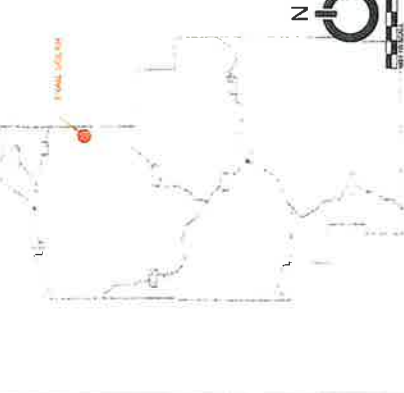
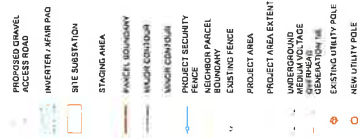


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ECHO, OR

SOLAR PV PROJECT
89.288MWDC / 74,000 MWAC

MORROW COUNTY VICINITY MAP



PROJECT DETAILS

THIS PROJECT CONSISTS OF THE DESIGN AND INSTALLATION OF 74 606 MMx606 SOLAR PHOTOVOLTATIC SYSTEM MODULES ARE TO BE MOUNTED IN A SINGLE AXIS TRACKERS WHICH FOLLOW THE SUN FROM EAST TO WEST THROUGHOUT THE DAY OR MOUNTED AT A FIXED TILT FACING SOUTH

[illegible]

ADDITIONAL NOTES:

BASEMAP DEVELOPED FROM GIS DATA
PARCEL MAP TAKEN FROM GIS DATA
THE PROJECT IS IN THE BOARDMAN FIRE PROTECTION DISTRICT. UNLESS OTHERWISE APPROVED BY THE
OFFICIAL, IT WILL BE CONSIDERED AS A PROJECT WITHIN THE FIRE PROTECTION DISTRICT. THE PROJECT IS
LOCATED IN THE BOARDMAN FIRE PROTECTION DISTRICT. THE PROJECT IS LOCATED IN THE BOARDMAN
FIRE PROTECTION DISTRICT. THE PROJECT IS LOCATED IN THE BOARDMAN FIRE PROTECTION DISTRICT.

OneEnergy
RENEWABLES

PRELIMINARY
NOT FOR CONSTRUCTION

98 of 142

TRAIL SOLAR
MADISON SAYLER RD
ECHO OR 97026

CONCEPTUAL LAYOUT

A-001

[illegible]

BOARD OF COMMISSIONERS STAFF REPORT AND FINDINGS

PLAN AMENDMENT (AC-140-22)

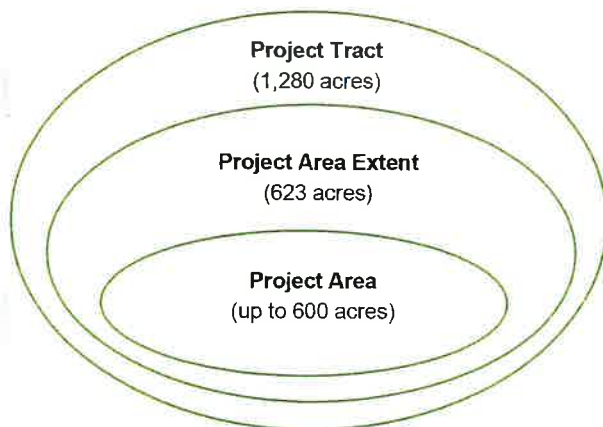
I. GENERAL INFORMATION AND FACTS

Applicant: Blake Bjornson
One Energy Renewables
2003 Western Ave., Suite 225
Seattle, Washington 98121

Landowner: Madison Ranches Land 4, LLC
29299 Madison Road, Echo, Oregon 97826-9016

Summary of Land Use Review: This Plan Amendment is intended to amend the Agricultural Lands Element of the Morrow County Comprehensive Plan by adopting an exception to Statewide Planning Goal 3 to allow a solar facility on land zoned Exclusive Farm Use. The exception to Statewide Planning Goal 3 is required where the project will occupy more than 12 acres of high-value farmland and more than 20 acres of arable land. The applicant is concurrently filing Conditional Use Permit application CUP-N-355-22.

The project would be located on up to 600 acres including four tax lots owned by Madison Ranches Land 4, LLC.



Morrow County has jurisdiction for permitting as the project is below the Energy Facility Siting Council (EFSC) jurisdictional threshold set forth in ORS 469.300(11)(a)(D). Specifically, the project will not permanently occupy more than 160 acres of high-value farmland as defined in ORS 195.300 and will occupy less than 1,280 acres in total.

II. NATURE OF REQUEST AND GENERAL FACTS

Findings of Fact
AC-140-22

The Project is proposed to be located on private land located between Bombing Range Road and Highway 207, approximately 5.5 miles southwest of the intersection of I-82 and I-84 and 12.5 miles southeast of Boardman. The Project will interconnect to Umatilla Electric Cooperative's (UEC) Oregon Trail Substation, which is immediately adjacent to the Project Tract. The Project would be sited on property zoned Exclusive Farm Use (EFU). The Project is allowed in the EFU zone subject to a Conditional Use Permit (CUP), per Article 6 of the MCZO. Per MCZO 3.010(K)(3). The Project also requires a Goal 3 exception because it will occupy more than 12 acres of High-Value Farmland (HVF) and more than 20 acres of arable land.

The Applicant is concurrently filing CUP-N-355-22 application and the Goal 3 exception request. The landowner supports the Project and has given the Applicant authorization to apply for all necessary permits on its behalf. The Project will be located on up to 600 acres across four tax lots, 1400, 1401, 1101, 1701 of Assessor's Map 3N 27 20 known as the Project Tract. Coordinates for the Project coordinates 45°43'47.01" north latitude and 119°27'59.63" west longitude. The Applicant has executed a site control agreement with the Landowner and is negotiating a power purchase agreement to sell the power. The subject tax lots historically consisted of undeveloped/vacant lands from the early 1900s to 1960s. Small areas of agricultural cultivation became present in the 1970s and has steadily increased until today. Currently the subject property is mostly used for irrigated agriculture with small sections of undeveloped land around the edges of the fields. No tree cutting or clearing will be required. No wetlands or floodplains will be affected. As shown in the Preliminary Site Plan (Attachment A) the Project would consist of PV panels, inverters, mounting infrastructure, an electrical collection system, operation and maintenance building, access roads, interior roads, security fencing, a new collector substation and electrical interconnection infrastructure. The Applicant proposes an optional battery storage system within the fenced area that would support the solar generation by balancing the resource and injecting energy onto the power grid during lower solar resource conditions.

| Tax Lot | Acres |
|-----------------|--------------|
| 03N270000001701 | 640 |
| 03N270000001101 | 400 |
| 03N270000001400 | 180 |
| 03N270000001401 | 60 |
| TOTAL | 1,280 |

III. MORROW COUNTY ZONING CODE STANDARDS APPLICABLE TO LEGISLATIVE DECISIONS.

The following sections of the Morrow County Zoning Ordinances apply to this land use application. The relevant County Ordinance sections are shown below in bold italic text, followed by a Finding in standard text. All of the following criteria must be satisfied in order for this request to be approved.

MORROW COUNTY ZONING ORDINANCE Section 8. Amendments

SECTION 8.040. CRITERIA. The proponent of the application or permit has the burden of proving justification for its approval. The more drastic the request or the greater the

impact of the application or permit on the neighborhood, area, or county, the greater is the burden on the applicant. The following criteria shall be considered by the Planning Commission in preparing a recommendation and by the County Court in reaching their decision.

A. The local conditions have changed and would warrant a change in the zoning of the subject property(ies).

Finding: The application notes that Article 8 applies to text or zone map amendments. While this is not a map amendment it is a text amendment insofar as approval of an exception will become part of the Agricultural Lands section of the Comprehensive Plan. Additionally, there is a local precedent in which Section 8 applied to similar goal exceptions and to all legislative amendments (text, map, plan, etc). Additionally, in similar legislative decisions Morrow County adopted Findings to show compliance with Article 8. (See Harp Solar 2018).

The proposed Goal 3 exception is a legislative request to amend the text of the Comprehensive Plan Agricultural Lands Section. The request is not to rezone the subject property. The scope of the request is to allow an exception only for the solar photovoltaic power generation facility.

This standard requires findings to show that local conditions have changed and would warrant a change in the zoning. The application does not claim that local conditions have changed, however, state and national markets for renewable energy have changed and so has management of farm land. In this case, the landowner has adapted historic business practices so that a portion of the farm may be set aside for renewable energy. Development of a solar array on a portion of the farm may have the added benefit of making water rights available for transfer and use on other lands. The demand for solar energy has effectively changed the cost of doing business comparatively given other opportunities for land development in the local area.

The application can be found to show that the application does comply with this standard.

B. The public services and facilities are sufficient to support a change in designation including, but not limited to, water availability relevant to both quantity and quality, waste and storm water management, other public services, and streets and roads.

Finding: The project will have minimal impacts to water quantity and quality, waste or storm water or other public infrastructure including the transportation system. The applicant further considers impacts in the companion Conditional Use Permit Application. This application may be found to meet this standard.

2. A plan or land use regulation amendment significantly affects a transportation facility if it: a.) Changes the functional classification of an existing or planned transportation facility; b.) Changes standards implementing a functional classification; c.) Allows types or levels of land use that would result in levels of travel or access that are inconsistent with the functional classification of a transportation facility; or d.) Would reduce the level of service of the facility below the minimal acceptable level identified in the Transportation System Plan. (MC-C-8-98)

Finding: The applicant included a traffic analysis as Attachment M of their Conditional Use Permit application. The majority of impacts on public roadways will be in Umatilla County. All local haul routes will be on roads owned by the landowner. A copy of the CUP application was provided to Umatilla County Public Works; where a road use agreement or traffic mitigation is requested, a condition of approval was included in the CUP permit. County may find the application complies with this standard.

C. *That the proposed amendment is consistent with unamended portions of the Comprehensive Plan and supports goals and policies of the Comprehensive Plan, that there is a public need for the proposal, and that the need will be best served by allowing the request. If other areas in the county are designated for a use as requested in the application, then a showing of the necessity for introducing that use into an area not now so zoned and why the owners there should bear the burden, if any, of introducing that zone into their area.*

Finding: The proposed solar photovoltaic energy generation facility requires an exception to Statewide Planning Goal 3 Agricultural Lands as it will impact over 20 acres of arable land and it will use, occupy or cover more than 12 acres of high value farmland. Below the applicant addresses how the proposed Goal 3 exception supports and furthers the goals and policies of the Comprehensive Plan and how the Project implements goals and policies under MCCP's Goal 13 (Energy Conservation), Goal 9 (Economic Development), and Goal 11 (Public Facilities and Services). Further, Applicant has shown why other areas within the County cannot accommodate the Project (**Attachment R**). Applicant maintains that because it is not proposing a new zone or zone change to the Project Site this criterion is not directly applicable given that the focus of MCZO 8.040(C) is introducing a new use or a new zone in an area. Nonetheless for the reasons discussed above, the Goal 3 exception request is consistent with the unamended portion of the MCCP, furthers the goals of the MCCP, and the public need for the benefits promoted by the applicable MCCP goals and policies is well served by allowing the Goal 3 exception request. Accordingly, the County may find MCZO 8.040(C) met.

The Morrow County Comprehensive Plan Economic Element (Goal 9) was updated in 2016 in part to recognize that county supports responsible energy sector development. Goal 9 policy supports county ability to "maintain and improve energy generation and movement in and through Morrow County."

Further, Economic Element Goal 9 policy "to diversity local business, industries and commercial activities and to promote economic growth and stability of the county" lends support for the proposed solar project.

Economic Element Policy 4 is "[t]o encourage the development of compatible land uses throughout the county and to protect areas suitable for industrial development from encroachment of incompatible uses."

Based on the above policies in MCCP Economic Element, the proposed solar project can be found to be in compliance with this standard.

D. *The request addresses issues concerned with public health and welfare, if any. This Plan Amendment application does not directly impact specific public health and welfare. However, the updated TSP will serve to promote and streamline the development of more transit services, with an emphasis on*

serving all residents, employees and employers in Morrow County.

Finding: Applicant maintains that the Goal 3 exception request does not present any public health or welfare concerns. While unlikely, possible public health or welfare concerns could be related to construction related impacts like dust or prevention of public access to electrical equipment. Applicant proposes to manage such potential impacts by implementation of dust control measures, stormwater prevention and control, noxious weed prevention and control and by following all applicable fire code as described in Section 3a of the conditional use permit. Accordingly, the County may find MCZO 8.040(D) met.

IV. APPLICABLE STATEWIDE PLANNING GOALS

Statewide Planning Goal 1: Citizen Involvement

Goal 1 requires a citizen involvement program that is widespread, allows two-way communication, allows for citizen involvement through all planning phases and is understandable, responsive and funded.

Generally, Goal 1 is satisfied when a county complies with public notice and hearing requirements in the Oregon Statutes and in the local Comprehensive Plan and Land Use Code. The County's Zoning Ordinance is consistent with State law with regards to notification requirements. Pursuant to Section 9 of Morrow County Zoning Ordinance at least one public hearing before the Planning Commission and Board of Commissioners is required. Legal notice in a newspaper of general circulation is required. The County has met these requirements and notified DLCD 35 days prior to the first evidentiary hearing.

Finding: Given the public vetting of the report, scheduled public hearings and notice provided, Goal 1 is satisfied.

Statewide Planning Goal 3: Farmland

This application includes a request for county to approve an exception to Statewide Planning Goal 3 which is required if a photovoltaic solar power generation facility is built on more than 12 acres of high-value farmland or 20 acres of arable land. The exception is subject to OAR 660-033-0130(38). Specifically, subsections (g), (i) and (k) state:

OAR 660-033 -0130(38)(g): (g) For high-value farmland described at ORS 195.300(10), a photovoltaic solar power generation facility shall not use, occupy, or cover more than 12 acres unless: (A) The provisions of paragraph (h)(H) are satisfied; or (B) A county adopts, and an applicant satisfies, land use provisions authorizing projects subject to a dual-use development plan. Land use provisions adopted by a county pursuant to this paragraph may not allow a project in excess of 20 acres. Land use provisions adopted by the county must require sufficient assurances that the farm use element of the dual-use development plan is established and maintained so long as the photovoltaic solar power generation facility is operational or components of the facility remain on site. The provisions of this subsection are repealed on January 1, 2022.

OAR 660-033 -0130(38)(i): For arable lands, a photovoltaic solar power generation facility shall not use, occupy, or cover more than 20 acres.

OAR 660-033-0130(38)(k): *An exception to the acreage and soil thresholds in subsections (g), (h), (i), and (j) of this section may be taken pursuant to ORS 197.732 and OAR chapter 660, division 4.*

As summarized in the Soils Analysis (**Attachment C**), the entire Project Tract is predominately cultivated and therefore considered arable land under OAR 660-033-0130(38)(a). The Project will use, occupy, or cover up to 600 acres of land within a portion of the Project Tract and therefore triggers a Goal 3 exception under OAR 660-033-0130(38)(i).

The Project also triggers a Goal 3 exception under OAR 660-033-0130(38)(g) because it will use, occupy, or cover more than 12 acres of HVF. As further described in the Soils Analysis¹ (**Attachment C**), the Applicant analyzed the Project Area Extent and Project Tract under ORS 195.300(10) and found that there are 284.1 acres of HVF within the Project Area Extent. However, the Project will be micro-sited within the Project Area Extent and will limit the impacts to HVF to less than 160 acres in order to stay within the permitting jurisdiction of Morrow County.

In total, the Project may permanently impact up to 160 acres of HVF and up to 600 acres of arable land within the Project Area Extent. The Applicant therefore requests a Goal 3 exception of up to 600 acres within the Project Area Extent.

Legal Framework for Goal 3 Exception

The County may adopt an exception to Goal 3 and amend the Morrow County Comprehensive Plan under the “reasons” exception in ORS 197.732(2)(c), which states:

ORS 197.732(2): *A local government may adopt an exception to a goal if:*

(c) The following standards are met:

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

(B) Areas that do not require a new exception cannot reasonably accommodate the use;

(C) The long-term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site; and

(D) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.

The following sections 3.2.A-D are Applicant’s response to subsections A-D of ORS 197.732(2)(c).

ORS 197.732(2)(c)(A)

ORS 197.732(2)(c)(A): *“Reasons justify why the state policy embodied in the*

applicable goals should not apply”

OAR 660-004-0022 provides reasons necessary to justify an exception under ORS 197.732(2)(c)(A). Relevant here are the reasons contained in OAR 660-004-0022(1) (the “Other Reasons Test”), which states:

OAR 660-004-0022(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: 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.

The following sections demonstrate that the Applicant can satisfy ORS 197.732(2)(c)(A) under the Other Reasons Test. The Other Reasons Test has two prongs which are analyzed below under Section 3.2.A.1 and Section 3.2.A.2. First, the Applicant must demonstrate a need for the proposed Project based on one or more of the requirements of Goals 3 to 19 (section 3.2.A.1). Then, the Applicant must demonstrate that the proposed Project has special features or qualities that necessitate its location on or near the proposed exception site (section 3.2.A.2).²

Requirements of Other Goals Justify an Exception to Goal 3

Statewide Planning Goals are implemented at the local level via the County’s comprehensive plan. The County’s comprehensive plan is acknowledged as being consistent with the Statewide Planning Goals. Therefore, for purposes of analyzing the Project, the Applicant demonstrates why the requirements contained in the County’s goals and policies implementing Goal 13 (Energy Conservation), Goal 9 (Economic Development), and Goal 11 (Public Facilities and Services) evidence a need for the proposed Project and justify removing up to 600 acres of the Project Area Extent from cultivation.

Energy Conservation Element (Goal 13)

Goal 13 of the Morrow County Comprehensive Land Use Plan includes the following:

Introduction:

"In general terms, the primary goals set forth in the element of the "Plan" are directed at conserving energy, maintaining energy sources and costs, and identification of alternate energy sources."

Energy Resources:

*"Morrow County residents may be able to utilize solar and wind resources to provide power in the future. * * * Conflicting uses are mainly agriculture in nature with the exception of the Navy Bombing Range area which has height limitations and the privately operated Boeing Airport which has height limitations. The agricultural conflicts are minor as they are related to the amount of land occupying by wind generators. Many sites are available which are not suitable for agricultural*

2 The Applicant opts to show reasons under OAR 660-004-0022(1) and -0022(1)(b). A market area analysis is only required if the Applicant opted to show reasons under OAR 660-004-0022(1) and -0022(1)(a).

Goal 3 Exception Request

Energy Developments and Potentials

" * * National concern, resultant congressional actions and funding could expand opportunities for alternative energy sources such as solar and wind power generation. Such sources appear environmentally preferable over the above referenced facilities [coal and nuclear power plants in the Boardman area], although economical and efficiency factors may prevail."*

Findings:

"2...economic sources of energy that could feasibly be developed in Morrow County include solar, and wind-power electrical generation."

"4. Morrow County receives about 300 days of sunshine per year. Solar energy may be a very feasible source of energy."

Policies:

"1. To encourage renewable and/or efficient energy systems design, siting and construction materials in all new development and improvements in the County."

"2. To conserve energy and develop and use renewable energy sources."

"3. Encourage development of solar and wind resources."

"9. The County will encourage development of alternative energy sources in County

industries and businesses.”

“15. All plans should be directed toward energy conservation and should consider as a major determinant the existing and potential capacity of the renewable energy sources to yield useful energy output. Renewable energy sources include water, sunshine, wind, geothermal heat and municipal, forest and farm waste.”

The goals, findings, and policies of Morrow County’s Energy Conservation Element make direct and frequent reference to the benefits of developing solar energy and in fact, encourage the development of renewable energy siting. The County, while recognizing that conflicting uses with renewable energy development are mainly agricultural in nature, promotes through its Goal 13 policies the development and use of solar resources. The Project enables the County to advance many of its policies found here. Policies 2 and 3 could not be clearer in supporting a Goal 3 exception for the Project in order to advance Goal 13. The Goal 13 policies do not require Applicant to perform a conflicts analysis or evaluate whether a project site is unsuitable for agriculture. Consideration of potential agricultural impacts are evaluated through Applicant’s conditional use permit application under the applicable MCZO EFU provisions.

Economic Element (Goal 9)

Goal 9 of the Morrow County Comprehensive Land Use Plan includes the following:

Introduction

“Upon undertaking a substantial update to the Comprehensive Plan (Plan) in 2015, the Planning Commission opined that “economics” is something that should play a role throughout the Plan. The Planning Commission determined that to best understand the role of economics the best place to begin an update was with the Economic Element. Through discussions the Planning Commission hypothesized that the four economic sectors should be evaluated – the large industrial sector, agriculture and food processing, energy, and tourism. This Economic Element will provide the foundation for the economic situation in Morrow County in 2015 and will design a program and set forth policies for land use purposes for the next 20 years and beyond.”

Focused Economic Sectors: Energy Sector:

*“The first Comprehensive Plan identified the vast opportunity available in and around Morrow County relative to energy – its development, movement, and consumption. * * * For purposes of land use planning energy may best be considered into four major categories: generation and related transmission, bulk market transmission, local service delivery, and consumption. Comprehensive Plan Goals and Policies found later in this element, need to outline the benefits of the energy sector and provide mechanisms to maintain and improve energy generation and movement in and through Morrow County.”*

Economic Element Goals and Policies:

Goal 3: “To diversify local businesses, industries and commercial activities and promote the economic growth and stability of the County.”

Policy 3A: "To encourage local producers to new markets for local products and to seek out new products that are in demand in the market place and that can be produced locally."

The Economic Element in the County's comprehensive plan specifically addresses the need to outline the benefits of the energy section and maintain and improve energy generation in the County. The element further encourages diversifying businesses and industries and encouraging local producers to new markets.

In the case of solar energy production, the *"local producers"* are the County's landowners who for generations have cultivated the land for its agricultural products. Just like with wheat (the traditional crop grown in this part of Morrow County), a farmer can produce and harvest the solar energy via a solar land lease which generates a profit from the occupied acreage. The Project will create solar generation capacity of up to 74 MW, resulting in approximately 160,000 MWh of renewable electricity each year. That is enough to power over 14,000 average households and results in an annual emissions reduction of over 113,000 metric tons CO₂e based off data from the US Environmental Protection Agency.

The state's Clean Energy Targets bill (HB 2021, 2021) and the Renewable Portfolio Standard (RPS), discussed further below under state policies (section 3.3), has created new *demand* for renewable energy created in Oregon. This demand must be accompanied by new *supply* of renewable energy, thus the birth of a *"new market"*. Morrow County's high insolation rate, abundance of sunny days and robust electrical infrastructure make it an ideal location for efficiently producing renewable energy as a *"local product"*.

The requested Goal 3 exception will facilitate solar development that directly supports the County in achieving its Economic Element goals. The County can find that promoting, facilitating, and encouraging the development of solar projects will create a new product that can be efficiently produced locally and is in demand in a new marketplace.

Further, the development, construction, and ongoing operation of the Project will deliver economic benefits to the Morrow County community and the broader region in the form of direct and indirect spending. Capital investment directly in the local and regional economy will include project development technical support, sub-contracting for construction, construction material procurement, property taxes estimated at over \$12 million over the life of the Project, landowner lease payments and long-term operations and maintenance. Applicant estimates that during the construction phase, the Project will directly employ up to 300 jobs during peak construction. Additional "indirect" spending that occurs as a result of this Project, including lodging and meals during the construction period, is expected to provide further benefit for the local economy.

Public Facilities and Services Element (Goal 11)

Goal 11 of the Morrow County Comprehensive Land Use Plan includes the following:

Introduction

*"The Public Facilities and Services Element of the Morrow County Comprehensive Plan is intended to provide the basic framework for the future growth of the County * **

*

General

Policies: "5.

Utilities

A. Programs should be continued to develop additional sources of electric power and other power sources to assure adequate service to the County area and its projected growth."

Now more than ever, the County is seeing growth requiring additional electricity. This Project will generate power that may feed the local power grid and growing industries in the county and region, although the forthcoming power purchase agreement will dictate the locations where power will be transmitted.

The Project Requires Specific Site Characteristics

The second prong of the Other Reasons Test requires that the Project have "special features or qualities that necessitates" locating the Project in the Project Area Extent.

The Project is locationally dependent and the Project Area Extent was identified as a prime location due to its immediate proximity to electrical infrastructure capable of economically interconnecting the Project and its access to the County's high solar insolation rates.

The Project Area Extent is located on parcels adjacent to Umatilla Electric Cooperative's (UEC) Oregon Trail Substation. Through the interconnection study process with UEC and BPA, it has been determined that interconnecting the Project to this substation is both technically and economically feasible. Because the substation is immediately adjacent to the Project, only a 2,750-foot generation-tie line is required to interconnect, avoiding the need for a longer new transmission line to connect to existing infrastructure.

As stated in Goal 13 of the Morrow County Comprehensive Plan, the County receives 300 days of sunshine per year, making it a favorable location for siting solar projects. Solar data collected by the U.S. Department of Energy show that this area provides some of the best solar resource in Oregon. The combination of a good solar resource and access to feasible interconnection to the grid constitutes a unique resource upon which the Project is dependent.

ORS 197.732(2)(c)(B)

ORS 197.732(2)(c)(B): *Areas that do not require a new exception cannot reasonably accommodate the use*

It is appropriate to consider multiple factors when determining whether there is alternate land that could "reasonably accommodate" solar development. It is not simply whether the zoning would allow the development without a Goal 3 exception. The feasibility and

practicality of developing such lands for a successful solar project must be considered as well as access to existing electrical and transportation infrastructure. These factors help determine whether a project could “reasonably” be accommodated on other land.

The Applicant has prepared a Goal 3 Alternatives Analysis (**Attachment R**) that reviewed and analyzed potential sites within Morrow County that met the siting criteria such as land use, acreage, and interconnection ability. In addition to meeting the siting criteria the alternative site must be reasonably able to accommodate the Project without a goal exception. Section 3 of the Alternatives Analysis show that there are no sites in Morrow County that meet the Project’s defined siting criteria and would not require a goal exception.

ORS 197.732(2)(c)(C)

ORS 197.732(2)(c)(C): *The long term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site; and*

Environmental

The Applicant does not anticipate any unmitigated adverse impacts on soils, wetlands, protected areas, water resources, threatened and endangered species, scenic resources, historic, cultural, archaeological resources, or public services as a result of this Goal 3 exception request, particularly given that the Project will be subject to conditional use review.

Wetlands and Water

As demonstrated in the Wetland Delineation Report and the FEMA Map the Project is located outside any wetlands and is outside the 100-year floodplain. The applicant has also prepared a Vegetation and Weed Management Plan that outlines actions to mitigate erosion and surface runoff during construction as well as operation, therefore impacts to waters and wetlands have a low potential to occur.

Wildlife and Habitat

In consultation with the Oregon Department of Fish and Wildlife (ODFW), the Applicant contracted with Western Ecosystems Technology, Inc. (WEST) to complete a Threatened Endangered and Sensitive Species (TESS) survey, raptor nest survey and habitat mapping for the Project Area Extent in 2020. The results of these surveys are found in the Wildlife and Habitat Survey Report.

The report shows that the Project Area Extent is composed predominately of Category 6 habitat with some areas of Category 4 and Category 5, as defined in the ODFW Habitat Mitigation Policy. Table 2 below is a summary of the type and acreage of each habitat.

Table 2: ODFW habitat categories within the Project Area Extent

| Habitat Type | ODFW Habitat Category | Acres |
|--------------------|-----------------------|-------|
| Eastside Grassland | 4 | 14.4 |
| Eastside Grassland | 5 | 189.5 |
| Cropland | 6 | 419.3 |
| Total | | 623.2 |

The Applicant has prepared a Habitat Mitigation Plan (HMP) with the help of WEST, which details the plan for mitigating the impacts to existing habitat. A draft of the HMP has been provided to ODFW for review. The Applicant will finalize the HMP and provide it to the County prior to issuance of the Conditional Use Permit. Approval of the HMP by the county is required in ORS 215.446 and is included in the Conditional Use Permit.

Provided the Habitat Mitigation Plan is approved by Oregon Department of Fish & Wildlife the Goal 3 exception can be found to adequately mitigate impacts to wildlife.

A site review for any potential impact to Federal endangered species was completed in January 2020 via the United States Fish & Wildlife Service's (USFWS) Information for Planning and Conservation (IPaC) Trust Resource Report. No critical habitats were found within the Project Area Extent.

Historic, Cultural and Archaeological

A Cultural Resources Survey Report was prepared by Tetra Tech. A copy of the "confidential" report is on file at the County Planning Office. The report was submitted to the State Historic Preservation Office (SHPO) and confirmation of receipt was sent from SHPO on March 16, 2022 which indicated that if SHPO chose not to respond within 30 days from receipt of the submittal, then the Applicant's responsibilities under local permitting processes are complete. SHPO did not provide further response. The assigned SHPO Case Number is 20-0428.

The report was shared with the Confederated Tribes of the Umatilla Indian Reservation (CTUIR) for their review and comment. According to the application, through this consultation with CTUIR, the Project has been designed to minimize impacts to cultural resources to avoid direct impacts to certain resources. The only cultural resource found within the current Project Area Extent is described as "historic refuse" which is not eligible for the National Register of Historic Places (NRHP) and does not require any avoidance or mitigation. Indirect impacts to a cultural resource of concern for CTUIR are being mitigated through a Confidential Mitigation Agreement which will be provided to the County prior to construction as a condition of the Conditional Use Permit.

Soils and Stormwater

The Project must adhere to the solar siting standards in OAR 660-033-0130(38), which require a project-specific Soil Erosion and Sediment Control plan, and a Vegetation and

Weed Management plan. The Applicant has prepared a Vegetation and Weed Management Plan in consultation with the Morrow County Weed Supervisor. In addition, the Applicant will prepare a separate Soil Erosion and Sediment Control Plan prior to construction as part of the National Pollutant Discharge Elimination System (NPDES) permit application. The Applicant will use general "best management practices" for erosion control during and after construction.

The Soil Erosion and Sediment Control Plan will also provide for permanent drainage and erosion control facilities as necessary to allow stormwater passage without damage to local roads or to adjacent areas and without increasing sedimentation of intermittent streams.

Due to the relatively low presence of habitat, water, and other environmental resources present on the site, other sites that would also require a Goal 3 exception would either have the same or greater environmental impacts from the development of a solar project.

Socioeconomic

The Project does not appear to have any adverse socioeconomic consequences. The development, construction, and ongoing operation of the Project will deliver economic benefits to Morrow County and the broader region in the form of direct and indirect spending. Capital investment directly in the local and regional economy will include project development technical support, sub-contracting for construction, construction material procurement, property taxes, landowner lease payments and long-term operations and maintenance. Applicant estimates that during the construction phase, the Project will directly employ up to 300 jobs during peak construction. Additional "indirect" spending that occurs as a result of this Project, including lodging and meals during the construction period, is expected to provide further benefit for the local economy.

Due to the location of the Project in relation to the Oregon Trail substation the gen-tie is significantly small relative to other renewable energy projects in Morrow County where Trail Solar only crosses one property compared to multiple properties. Additionally, the Project will foster traditional rural lifestyles and opportunities by offering the landowner a long-term, predictable annual revenue stream to supplement the financial impacts of fluctuating market forces inherent in farming.

Energy

The Project will create solar generation capacity of up to 74 MW, resulting in approximately 160,000 MWh of renewable electricity each year. That is enough to power over 14,000 average households and results in an annual emissions reduction of over 113,000 metric tons CO₂. Thus, the energy consequences of removing the Project Area from Goal 3 protection will be positive. The renewable, emissions-free energy produced by the Project will help the region meet increasing energy demands.

Additionally, the Project will support HB 2021, an Oregon law passed in 2021, which sets 100% clean energy targets for the State. The Project's electricity generation would contribute towards the requirements of Oregon retail electricity providers to provide electricity that does not emit greenhouse gas into the atmosphere.

ORS 197.732(2)(c)(D)

ORS 197.732(2)(c)(D): *The Proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.*

Solar development within the Project Area is compatible with adjacent land uses, which include agricultural use and residences.

Beyond the fenced project footprint and the 2,750-foot generation-tie line, no roads or other facilities will be constructed and accommodations for the Project will not negatively impact the landowner's current operations. The landowner will continue to farm the remainder of their cultivated land.

The Project requires minimal new infrastructure to be built by UEC or BPA for interconnection to the grid and as such, the Project will not require any new overhead generation lines across adjacent properties. Thus, this site minimizes potential impacts from solar development. The adjacent parcels will continue to be farmed used for common agricultural practices. The Project will be unoccupied and will not cause any change to or increase in the cost of accepted agricultural practices. Access from Madison Sayler Road to adjacent parcels will not be affected. Plowing and harvesting patterns on adjacent properties can continue unchanged. In compliance with OAR 660-033-0130(38), Applicant has consulted with the Morrow County Weed Control Supervisor to develop and implement the Vegetation and Weed Management Plan. This will prevent the spread of noxious weeds and reduce further impacts to nearby agricultural operations.

There are some residences to the north, east and west of the Project Area with the nearest residence located approximately 1.6 miles from the Project Area Extent. A glare analysis utilizing the Forge Solar Glare Analysis was conducted and no significant glare was found at these residences submitted with the Conditional Use Permit application.

There are no anticipated long-term adverse traffic impacts associated with the Project's construction or operation. As discussed under MCZO 3.010(N) in the associated conditional use permit application, traffic impacts will mainly occur during the construction period. Impacts to traffic will largely occur at the beginning of construction during delivery of construction equipment and materials. Truck delivery trips is estimated to be up to 40-50 vehicles per day at peak construction. Daily construction traffic for personnel is estimated to be up to 150 vehicles per day, for a total of 200 vehicles per day. Based on discussions with Morrow County Planning Department, the need for a Traffic Impact Analysis (TIA) is based on operational impacts. Because of the temporary nature of traffic impacts and the very limited impacts once operational, a TIA is not required.

There will be limited traffic to and from the Project during operation. Traffic will mostly be limited to maintenance crews for mowing and vegetation maintenance. Quarterly to yearly maintenance on the solar array components will most likely occur, along with site visits for any operational issues that may arise during normal operation.

The Project Will Further Important State Policies

According to the application, the Project will advance state policies, specifically, it “will help Oregon achieve its 100% clean energy targets set by the Clean Energy Targets bill (HB 2021) which was passed by the Oregon Legislature and signed into law in 2021. The Clean Energy Targets bill requires certain electricity providers serving electricity in Oregon to reduce the greenhouse gas emissions associated with the electricity they provide. Ultimately, those electricity providers must reduce their greenhouse gas emissions to 100% below baseline emissions by 2040.”

The Oregon Legislative Assembly has enacted numerous tax credits and economic development incentives favoring renewable energy development, including House Bill 3492 that was effective October 5, 2015. Oregon's numerous programs together reflect a comprehensive state policy of supporting renewable energy development. See further ORS 757.612 (creating system benefit charge, a portion of the funds from which go to renewable energy); ORS 757.603(2) (requiring Oregon electric utilities to provide retail customers with at least one option including significant percentage of renewable energy); ORS 469A.205.

Statewide Planning Goal 12: Transportation

A transportation plan shall (1) consider all modes of transportation including mass transit, air, water, pipeline, rail, highway, bicycle and pedestrian; (2) be based upon an inventory of local, regional and state transportation needs; (3) consider the differences in social consequences that would result from utilizing differing combinations of transportation modes; (4) avoid principal reliance upon any one mode of transportation; (5) minimize adverse social, economic and environmental impacts and costs; (6) conserve energy; (7) meet the needs of the transportation disadvantaged by improving transportation services; (8) facilitate the flow of goods and services so as to strengthen the local and regional economy; and (9) conform with local and regional comprehensive land use plans. Each plan shall include a provision for transportation as a key facility. Transportation -- refers to the movement of people and goods. Transportation Facility --

refers to any physical facility that moves or assists in the movement of people and goods excluding electricity, sewage and water. Transportation System -- refers to one or more transportation facilities that are planned, developed, operated and maintained in a coordinated manner to supply continuity of movement between modes, and within and between geographic and jurisdictional areas. Interchange Area Management Plan -- refers to a strategic plan designed to protect the long-term function of an interchange by preserving capacity of the interchange while providing safe and efficient operations between connecting roadways.

Finding: The proposed Goal exception will only temporarily impact local roads, primarily roads located in neighboring Umatilla County. For purposes of this plan amendment, this application satisfies Goal 12 requirements.

Energy Conservation Element (Goal 13)

Goal 13 of the Morrow County Comprehensive Land Use Plan includes the following:

Introduction:

“In general terms, the primary goals set forth in the element of the “Plan” are

directed at conserving energy, maintaining energy sources and costs, and identification of alternate energy sources."

Energy Resources:

*"Morrow County residents may be able to utilize solar and wind resources to provide power in the future. * * * Conflicting uses are mainly agriculture in nature with the exception of the Navy Bombing Range area which has height limitations and the privately operated Boeing Airport which has height limitations. The agricultural conflicts are minor as they are related to the amount of land occupying by wind generators. Many sites are available which are not suitable for agricultural purposes."*

Energy Developments and Potentials

" * * National concern, resultant congressional actions and funding could expand opportunities for alternative energy sources such as solar and wind power generation. Such sources appear environmentally preferable over the above referenced facilities [coal and nuclear power plants in the Boardman area], although economical and efficiency factors may prevail."*

Findings:

"2...economic sources of energy that could feasibly be developed in Morrow County include solar, and wind-power electrical generation."

"4. Morrow County receives about 300 days of sunshine per year. Solar energy may be a very feasible source of energy."

Policies:

"1. To encourage renewable and/or efficient energy systems design, siting and construction materials in all new development and improvements in the County."

"2. To conserve energy and develop and use renewable energy sources."

"3. Encourage development of solar and wind resources."

"9. The County will encourage development of alternative energy sources in County industries and businesses."

"15. All plans should be directed toward energy conservation and should consider as a major determinant the existing and potential capacity of the renewable energy sources to yield useful energy output. Renewable energy sources include water, sunshine, wind, geothermal heat and municipal, forest and farm waste."

The goals, findings, and policies of Morrow County's Energy Conservation Element make reference to the benefits of developing solar energy and in fact, encourage the development of renewable energy siting. The County, while recognizing that conflicting uses with renewable energy development are mainly agricultural in nature, promotes through its Goal 13 policies the development and use of solar resources. More specifically, Policies 2 and 3

support a Goal 3 exception for the Project in order to advance Goal 13.

VI. SUMMARY AND RECOMMENDATION

With this application, the County can reasonably find that a Goal 3 exception is justified for the Project Area (623 acres) as each criterion in ORS 197.732(2)(c)(A)-(D) and MCZO Section 8 is met. There are compelling reasons that justify removing the Project Area from Goal 3 protection, which include: 1) the location provides a comparative advantage for the renewable energy development which will benefit the county economy and cause only minimal loss of resource lands, and 2) the Project is consistent with requirements of Goals 9, 11 and 13. Other areas that do not require a new exception and that could otherwise reasonably accommodate the use are not available (see Attachment R (Alternatives Analysis)). The Project does not create any significant adverse economic, social, environmental, or energy consequences. Solar development on the Project Area Extent is compatible with adjacent land uses. For these reasons and those set forth in the record, County map approve the Goal 3 exception request.

VII. AGENCIES NOTIFIED:

Eric Imes, Morrow County Public Works Director; Dawn Hert and Hilary Foote, Land Conservation & Development; Robert Waldher, Umatilla county Planning Director; ODOT Region 5 Teresa Penninger; ODOT District 12, Rich Lani; Steve Cherry, ODFW District Biologist, Jim Johnson, Oregon Department of Agriculture; State Historic Preservation Office (SHPO); Duane Kilsdonk, ODOE; Federal Aviation Administration; Kimberly Peacher, NAS Whidbey Island Liaison Officer; Todd Farmer, Oregon Military Department; Steve Rhea, Heppner Fire District; Charlie Sumner, Lexington Fire Department; Town of Lexington, City of Echo; Mike Gorman, County Assessor; Glenn McIntire, Building Official; Eric Imes and Sandy Patton, Morrow county Public Works; Weed Coordinator; Jared Huddelston, SWCD District Office; Tom Fellows, Umatilla County Public Works Director; Teara Farrow Fuhrman, CTUIR CRPP Director; UEC Land Use; Tommy Brooks, UEC Land Use Attorney, Bureau of Land Management.

35-Day Notice for this Post Acknowledgement Plan Amendment (PAPA) was submitted to Department of Land Conservation and Development on July 26, 2022.

VIII. Hearing Dates:

- Planning Commission Hearing: August 30, 2022
- Board of Commissioners September 28, 2022 Land Use Hearing and First Reading
- Board of Commissioners October 12, 2022 Second Reading

VIII. RECOMMENDATION: Adopt the attached Goal 3 Exception as an amendment to Agricultural Lands Element of the Comprehensive Plan.

MORROW COUNTY BOARD OF COMMISSIONERS

Jim Doherty, Chair

Melissa Lindsay, Vice-Chair

Don Russell, Commissioner

Approved as to Form:

Morrow County Counsel

Attachments:

- Goal 3 Exception and Amendment to Agricultural Element of the Morrow County Comprehensive Plan
- Applicant's "Attachment R", Goal 3 Alternatives Analysis

Goal 3 Alternatives Analysis

Trail Solar Project Morrow County, Oregon

Submitted to

Morrow County Planning Department

Applicant

Trail Solar, LLC

2003 Western Avenue, Ste. 223

Seattle, WA 98121

Prepared by

Tetra Tech Inc.

1750 SW Harbor Way, Suite 400



TETRA TECH

Portland, OR 97201

April 2022

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1.0 Executive Summary

Trail Solar, LLC (Applicant), a wholly-owned subsidiary of OneEnergy Development, LLC proposes to develop the Trail Solar Project (Project), a solar PV project sized up to 95-megawatt alternating current (MWac) with an optional battery energy storage system capable of storing up to 95 MW of energy located in Morrow County, Oregon¹. The Project will be sited on parcels zoned exclusive farm use (EFU) under the Morrow County Zoning Ordinance (MCZO). The Project is allowed in the EFU zone subject to a Conditional Use Permit (CUP) and a Goal 3 exception, per MCZO 3.010(K)(3). The Applicant is concurrently filing the CUP permit application and the Goal 3 exception request.

The Project will be located on four parcels in unincorporated Morrow County: tax lots 1400, 1401, 1101, and 1701 in Township 3 North, Range 27 East (known hereafter as the "Project Tract"). The Project is located approximately 5 miles south of Interstate 84 and 1 mile west of Morrow County's eastern boundary with Umatilla County. The Project Tract is privately-owned by Madison Ranches Land 4 LLC. Coordinates for the center of the Project are 45° 43' 11.22" north latitude and 119° 27' 50.38" west longitude.

The Project's total footprint would not exceed 600 acres, defined as the Project Area. The Project Area would be located wholly within a broader micro-siting boundary of 623 acres, defined as the Project Area Extent. The Project Area Extent is wholly within the 1,280-acre Project Tract.

The Project will interconnect to the Umatilla Electric Cooperative (UEC) transmission system at the UEC Oregon Trail Substation which is located approximately 450 feet north of the Project Area. Interconnection requires minimal new facilities given the orientation of the Project and the adjacent location of the existing UEC substation.

The Applicant is seeking an exception to Statewide Planning Goal 3 (Agriculture), per Oregon Revised Statutes (ORS) 197.732 and Oregon Administrative Rule (OAR) Chapter 660, Division 4. Under ORS 197.732(1)(b), "exception" means a comprehensive plan provision, including an amendment to an acknowledged comprehensive plan. Furthermore, OAR 660-004-0000(2) specifies that the documentation of an exception must be set forth in a local government's comprehensive plan and such documentation must support a conclusion that the standards for an exception have been met. OAR 660-004-0020 Goal 2, Part II(c), Exception Requirements specifies the process and standards for an exception. Compliance with OAR 660-004-0020 is discussed in the Project's Comprehensive Plan Amendment Application (under separate cover). Under OAR 660-004-0020(2)(b), the applicant must show that "areas that do not require a new exception cannot

¹ Applicant notes that the initial project design was for 95 MW. The current project design presented in the corresponding Conditional Use Permit seeks approval for a 74 MW project. The difference in acreage is about 100 acres. Applicant maintains that the initial and proposed projects are of relatively the same size and that this alternatives analysis supports the Goal 3 exception request for a 74 MW project as well as a 95 MW project.

reasonably accommodate the use” and subparts (A) and (B) under this provision require an alternative analysis to show why the particular site is justified.

This report describes the alternative analysis that was conducted in response to the requirements under OAR 660-004-0020(2)(b)(A) and (B). The alternatives analysis study area includes the entire area of Morrow County. The Applicant identified siting criteria that includes the minimum requirements necessary for a site to reasonably accommodate the proposed 95 MWac solar photovoltaic project use. The siting criteria was applied to the entire area of Morrow County in an investigation to find alternative sites that do not require a new goal exception. The results of the analysis show that there are no sites in Morrow County that meet the Project’s defined siting criteria and would not require a new goal exception. Thus, there are no sites within the alternatives analysis study area that can reasonably accommodate the Project without a goal exception.

2.0 Analysis Approach and Siting Criteria

Before Morrow County can grant the requested goal exception, the Applicant must demonstrate that “areas that do not require a new exception cannot reasonably accommodate the use” (OAR 660-004-0020(2)(b)). Furthermore, the following subsections of OAR 660-004-0020(2)(b) must be met:

- (A) The exception shall indicate on a map or otherwise describe the location of possible alternative areas considered for the use that do not require a new exception. The area for which the exception is taken shall be identified;*
- (B) To show why the particular site is justified, it is necessary to discuss why other areas that do not require a new exception cannot reasonably accommodate the proposed use. Economic factors may be considered along with other relevant factors in determining that the use cannot reasonably be accommodated in other areas. Under this test the following questions shall be addressed:*
 - i. Can the proposed use be reasonably accommodated on nonresource land that would not require an exception, including increasing the density of uses on nonresource land? If not, why not?*
 - ii. Can the proposed use be reasonably accommodated on resource land that is already irrevocably committed to nonresource uses not allowed by the applicable Goal, including resource land in existing unincorporated communities, or by increasing the density of uses on committed lands? If not, why not?*
 - iii. Can the proposed use be reasonably accommodated inside an urban growth boundary? If not, why not?*
 - iv. Can the proposed use be reasonably accommodated without the provision of a proposed public facility or service? If not, why not?*

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(C) The “alternative areas” standard in paragraph B may be met by a broad review of similar types of areas rather than a review of specific alternative sites. Initially, a local government adopting an exception need assess only whether those similar types of areas in the vicinity could not reasonably accommodate the proposed use. Site specific comparisons are not required of a local government taking an exception unless another party to the local proceeding describes specific sites that can more reasonably accommodate the proposed use. A detailed evaluation of specific alternative sites is thus not required unless such sites are specifically described, with facts to support the assertion that the sites are more reasonable, by another party during the local exceptions proceeding.

Based on OAR 660-004-0020(2)(b)(B), “economic factors may be considered along with other relevant factors in determining that the use cannot reasonably be accommodated in other areas.” Additionally, OAR 660-004-0020(2)(b)(C) allows that the alternative area analysis “may be met by a broad review of similar types of areas rather than a review of specific alternative sites.”

The alternative analysis study area includes the entire area of Morrow County to allow for a broad review of similar types of areas that could accommodate the proposed use, but not require a new exception. In consideration of both physical and economic factors, the alternatives analysis employs the following assumptions regarding the minimum criteria that must be met for a site to be a viable alternative:

1. Requires the proposed use be sited on vacant land (to accommodate the ground-mounted photovoltaic solar array design) and be located within a Morrow County land use district that allows for solar development. This includes the following districts: Exclusive Farm Use (EFU), Port Industrial (PI), Rural Light Industrial (RLI), Airport Light Industrial (ALI), Resource Related Industrial (RRI), and Space Age Industrial (SAI). The General Industrial (MG) district does not list solar energy facilities (or any type of energy facilities) as an allowed use (conditionally or otherwise). However, given that other energy facilities such as the Boardman Coal Plant have been located in the MG zone, this analysis includes the MG zone as a potentially viable zone for utility scale solar.
2. Requires a minimum of 600 acres of contiguous vacant land owned by one landowner to accommodate a 95-MWac solar photovoltaic project.
 - a. Ground-mounted solar photovoltaic projects typically require 5 to 7 acres per MW.
 - b. The Project lease area is composed of just under 600 acres of vacant land over several adjacent parcels all owned by Madison Ranches. Alternative sites can include more than one parcel as long as they are adjacent and owned by a single landowner (similar to the Project lease area).
3. Requires an alternative site to be sited immediately adjacent to a reliable existing transmission line or existing substation with available capacity.
 - a. The Project proposes to interconnect to the northwest grid via the Umatilla Electric Cooperative (UEC) Oregon Trail Substation which is located within approximately

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200 feet of the Project site boundary. Therefore, no lengthy generation-tie line would be required to interconnect the Project to the grid.

- b. For the Project to be financially viable, alternative sites must provide similar interconnection opportunity as the cost of building a generation-tie line can be considerable.
 - c. The Project can only directly connect (via a wiretap) into a transmission line with a minimum of 115-kilovolts (kV) capacity due to the Project's voltage requirements. Transmission lines with higher capacity than 115k -kV (i.e. 230 kV) were also excluded from the siting criteria due to the infrastructure investment necessary to directly connect (via a wiretap) to transmission lines with voltage higher than 115-kV. Therefore, all lands within 200 feet of all existing 115-kV lines in Morrow County were evaluated in this analysis.
 - d. The Project can only connect into a substation that can currently accommodate a 115-kV transmission line due to the infrastructure investment necessary to connect to a substation that currently only accepts voltages lower than 115-kV.
 - e. Information regarding available capacity of existing substations is not publicly available; therefore, the Applicant assumed all substations evaluated in the analysis have available capacity.
4. Requires alternative sites located on land with agricultural uses to be located adjacent to a public road with the 600-acre alternative area located within close proximity (e.g. within 100 feet or less) of public right-of-way access to allow for direct or near direct access to the Project site and avoid the construction of new access roads that may divide the existing agricultural land; thus, minimizing the impacts to the existing agricultural uses.
 5. Requires alternative sites to have a grade of 15 percent or less to reduce grading/ground disturbance, and the costs and environmental impacts associated with larger amounts of grading/ground disturbance.
 6. Requires alternative sites to have a minimum of 600 acres available outside of any sensitive environmental features, including Federal Emergency Management Agency-designated 100-year floodplains, U.S. Fish and Wildlife Service-designated critical habitat, Oregon Department of Fish and Wildlife-designated big game winter ranges, and any National Hydrography Dataset or National Wetland Inventory-mapped wetlands or waters.
 7. Requires alternative sites be located where there is a solar resource available without obstruction (e.g., not blocked for large periods of the day by adjacent buildings or trees); and
 8. Requires alternative sites to be available to lease and/or be owned by a landowner willing to develop a photovoltaic solar facility on their parcel, and that the proposed use be compatible with surrounding neighbors and land uses.

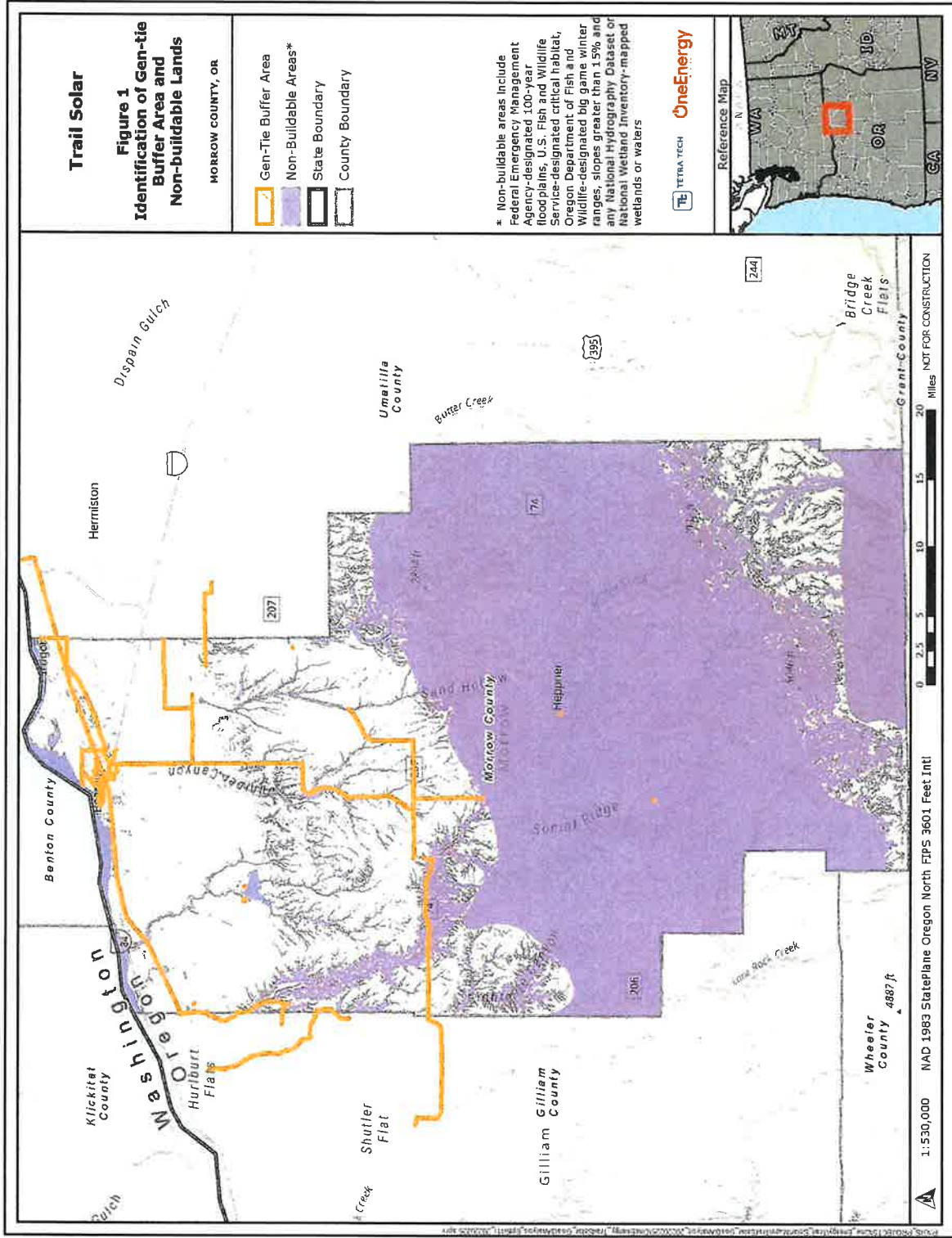
9. Requires alternative sites to be permittable within 1 year or less to meet the Project's Commercial Operation Date in the Project's Power Purchase Agreement requirements.

Using the analysis tools in ArcMap (a geospatial processing program) and publicly available data sets, a series of analyses were performed to evaluate whether there are alternative areas in Morrow County that can reasonably accommodate the Project and do not require a new exception from a Statewide Planning Goal.

A Transmission Line Buffer Area was developed in ArcMap that included all land in Morrow County within a 200-foot buffer of existing 115-kV transmission lines or existing substations that can accommodate a 115-kV transmission line. Locations of existing transmission lines and substations in Morrow County was obtained from UEC and Homeland Infrastructure Foundation (HIFLD 2021 and 2022) data.² Figure 1 shows the Transmission Line Buffer Area outlined in orange, which includes the identified 115-kV transmission lines and 33 substations from the available dataset.

The Non-buildable Areas or areas that have slopes over 15 percent or are constrained by sensitive environmental features (e.g., areas within winter game range, within the 100-year flood plain, within a wetland, etc.) are identified in Figure 1 in purple. The following analysis investigates all parcels in Morrow County located within or intersecting with the Transmission Line Buffer Area that have 600 acres or more land not constrained by the Non-Buildable Area layer. These parcels/alternative sites were then evaluated for locations that would meet the remaining siting criteria (vacant land, permissive zoning designation, etc.) and would not require a Goal 3 exception (i.e. be located on non-resource land, within a UGB, or on mostly non-arable agricultural land).

² Transmission line and substation spatial data is limited in its availability, comprehensiveness, and accuracy.



3.0 Analysis/Results

3.1 Non-Resource Lands

If the Project were located on non-resource land, it would avoid the need for a Goal 3 exception.

OAR 660-004-0020(2)(b)(B)(i) and (iii) asks the applicant:

- "Can the proposed use be reasonably accommodated on non-resource land that would not require an exception, including increasing the density of uses on non-resource land? If not, why not?"
- "Can the proposed use be reasonably accommodated inside an urban growth boundary? If not, why not?"

"Resource Land" is defined under OAR 660-004-0005(2) as land subject to one or more of the statewide goals listed in OAR 660-004-0010(1)(a) through (g) except subsections (c) and (d). This includes Agricultural Lands (subpart a), Forest Lands (subpart b), Estuarine Resources (subpart e), Coastal Shorelands (subpart f), and Beaches and Dunes (subpart g). Per OAR 660-033-0020(1)(c), Agricultural Land does not include land within acknowledged urban growth boundaries (UGB). Therefore, non-resource land in Morrow County would include land within a UGB or land not located on Agricultural Lands or Forest Lands.

3.1.1 Land Within an Urban Growth Boundary

Using ArcMap, a query was made to find all 600-acre or larger vacant areas located within a UGB and intersect with the Transmission Line Buffer Area (i.e., within 200 miles of an existing 115-kV transmission line or existing substation). There are five UGBs in Morrow County associated with the cities of Boardman, Lone, Irrigon, Heppner, and Lexington. No areas were identified within a UGB in Morrow County that met the minimum acreage requirement and is located within 200 feet of an existing 115-kv transmission line or existing substation. Therefore, the proposed use cannot reasonably be accommodated within an urban growth boundary in Morrow County.

3.1.2 Land Not Located on Agricultural Lands or Forest Lands

Agricultural Land is defined under OAR 660-033-0020(1)(a) as including:

- (A) Lands classified by the U.S Natural Resource Conservation Service (NRCS) as predominately Class I-VI soils in Eastern Oregon;

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- (B) Land in other soil classes that is suitable for farm use as defined in ORS 215.203(2)(a)³, taking into consideration soil fertility; suitability for grazing; climatic conditions; existing and future availability of water for farm irrigation purposes; existing land use patterns; technological and energy inputs required; and accepted farming practices; and
- (C) Land that is necessary to permit farm practices to be undertaken on adjacent or nearby agricultural lands.

Similarly, the Morrow County Zoning Ordinance (MCZO) Section 1.030 defines "Agricultural Land" as "lands classified by the U.S. Soil Conservation Service (SCS) as predominately Class I-VI soils, and other lands in different soil classes that are suitable for farm use taking into consideration soil fertility, suitability for grazing and cropping, climatic conditions, existing and future availability of water for farm irrigation purposes, existing land use patterns, technological and energy inputs required, and accepted farming practices. Lands in other classes that are necessary to permit farm practices to be undertaken on adjacent or nearby lands shall be included as agricultural land in any event."

"Forest Lands" are defined under OAR 660-006-0005(7) as "those lands acknowledged as forest lands, or, in the case of a plan amendment, forest lands shall include: (a) Lands that are suitable for commercial forest uses, including adjacent or nearby lands which are necessary to permit forest operations or practices; and (b) Other forested lands that maintain soil, air, water and fish and wildlife resources."

A query was made to find vacant areas (including multiple contiguous parcels owned by the same landowner) 600 acres or more in size located outside a UGB, not within Agricultural Lands or Forest Lands, and intersecting with the Transmission Line Buffer Area. To simplify this query, the analysis investigated lands based on their zoning designation, assuming that all lands located within the EFU, Small Farm (SF), or Forest Use (FU) zones would qualify as Agricultural Lands or Forest Lands. However, per the Project's siting criteria, the alternative site must also be located within a zoning district that allows photovoltaic solar energy facilities as a use. This includes the PI, RLI, ALI, MG, RRI, and SAI zones.

³ "Farm use" under ORS 215.203(2)(a) means the current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof. "Farm use" includes the preparation, storage and disposal by marketing or otherwise of the products or by-products raised on such land for human or animal use. "Farm use" also includes the current employment of land for the primary purpose of obtaining a profit in money by stabling or training equines including but not limited to providing riding lessons, training clinics and schooling shows. "Farm use" also includes the propagation, cultivation, maintenance and harvesting of aquatic, bird and animal species that are under the jurisdiction of the State Fish and Wildlife Commission, to the extent allowed by the rules adopted by the commission. "Farm use" includes the on-site construction and maintenance of equipment and facilities used for the activities described in this subsection. "Farm use" does not include the use of land subject to the provisions of ORS chapter 321, except land used exclusively for growing cultured Christmas trees as defined in subsection (3) of this section or land described in ORS 321.267 (Lands not eligible for special assessment) (3) or 321.824 (Lands not eligible for special assessment) (3).

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Five sites were identified as potentially meeting the minimum acreage, intersecting with the Transmission Line Buffer Area, and not being in the EFU, SF, or FU zone (see Table 1 and Figures 2a to 2f). However, after further review of current aerial photos and tax lot information, it was determined that two of the five sites did not have sufficient vacant land to accommodate the siting criteria (Alternative Site IDs #34_PGE and #32_Port of Morrow) and one of the five sites was on federal military lands (Alternative Site ID #10_USA/Boardman Bombing Range) and is not feasible due to unexploded ordinance and federal nexus issues that would make the permitting of the Project within a year unfeasible.

Two sites were identified as meeting the vacant lands acreage criteria, not being in the EFU, SF, or FU zone, and intersecting with the Transmission Line Buffer Area. See below and Table 1 for an evaluation of these two sites as potential alternative sites.

- Alternative Site ID# 31_Port of Morrow; Parcel 04N24E000000110 (Figure 2d):
 - This site is located immediately north of the Boardman Airport and is primarily zoned ALI.
 - According to MCZO Section 3.076, the ALI zone is intended to permit airport-compatible light industrial uses and other airport-compatible uses on existing industrial land near the Boardman airport. MCZO Section 3.076 defines light industrial uses as manufacturing, assembly, processing, packaging and other industrial uses that do not generate noise, odor, dust, glare, or vibration in amounts that might otherwise be objectionable to nearby land uses. Per MCZO Section 3.076, airport-compatible uses are uses that do not create glare, light, smoke, dust, steam, bird attractants or electrical interference in amounts that could interfere with airport operations and airport safety. Although “solar energy projects” are a conditionally allowed use in the ALI zone (per Section 3.076.D.1), the Federal Aviation Administration has rules regarding the siting of photovoltaic solar power generation facilities near airports due to concerns with glint and glare.
 - In the Morrow County Planning Commissions Final Findings of Fact for the Comprehensive Plan Amendment Request AC-121-18 for the HARP Solar Project (a utility scale solar project in Morrow County), the County stated the following under Section II.C: “The Airport Light Industrial use zone does allow for solar energy development when certain standards are met; there is currently an application for a project on property so zoned which will consume much of that available land (Morrow County 2018). It is the Applicant’s understanding that this site is already being developed and is therefore not available for the Trail Solar Project and does not qualify as a viable alternative.
- Alternative Site ID# 39_Threemile Canyon Farms; Parcels 04N23E000000110, 03N23E000000100, 04N24E000000121 and 03N24E000000100 (Figures 2e and 2f);

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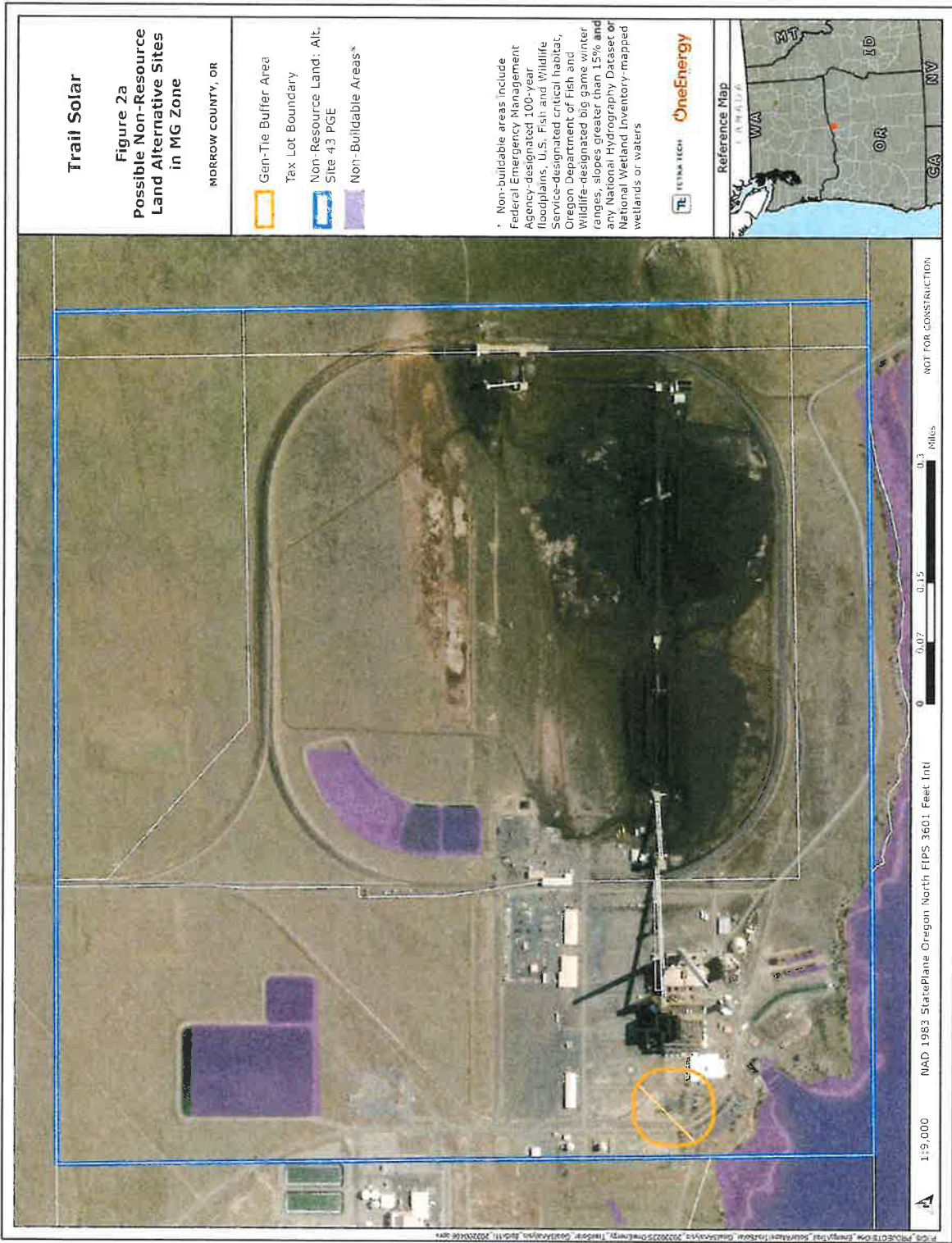
- Alternative Site 39_Threemile Canyon Farms is subject to three zoning designations: EFU, SAI, and GI (see Figure 2f). There is approximately 5,561 acres of non-resource lands within this alternative site:
 - 642 acres of GI on Parcel 03N23E000000100. However, based on aerial photo review, the GI zoned area does not have a minimum of 600 acres of vacant land available.
 - 4,919 acres of SAI on Parcels 04N24E000000121 and 03N24E000000100.
- According to MCZO Section 3.072, the SAI Zone is intended to recognize those areas devoted to, or most suitable for, space age technology research and development. Although a photovoltaic solar power generation facility would be a conditionally allowed use in this zone, it is not related to space age technology research and development. Therefore, if the solar facility were sited in the SAI zone, it would take up limited SAI zoned land in the county. There is a total of 13,840 acres of SAI zoned land in Morrow County (1 percent of total county lands) as compared to 953,530 acres of EFU zoned land (74 percent of total county lands).
- Furthermore, the majority of the area zoned SAI in this alternative site is currently used by Threemile Canyon Farms for irrigated agricultural uses. Water right permit S 41645 provides irrigation water for a total of 6,835 acres and a portion of this permit's place of use water rights are within the SAI zoned portion of this alternative site (OWRD 1977). Only 324 acres (immediately west of the Boardman Airport) and approximately 260 acres (immediately south of the Boardman Airport) are within the SAI zone and appear to have no active irrigation (see Figures 2e and 2f); however, this is an insufficient area to accommodate the Project.

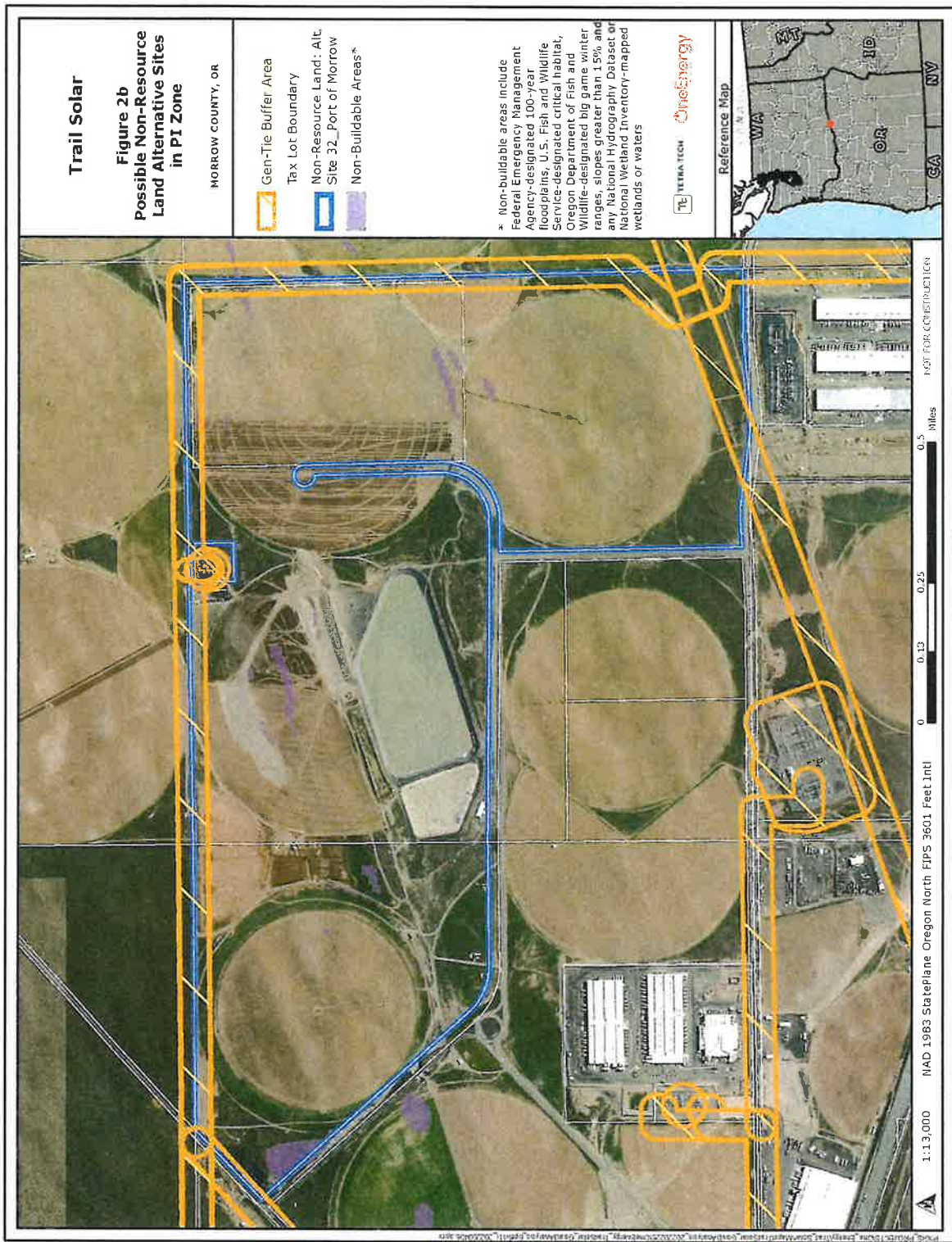
Based on the results of this analysis, the proposed use cannot reasonably be accommodated on non-resource lands in Morrow County.

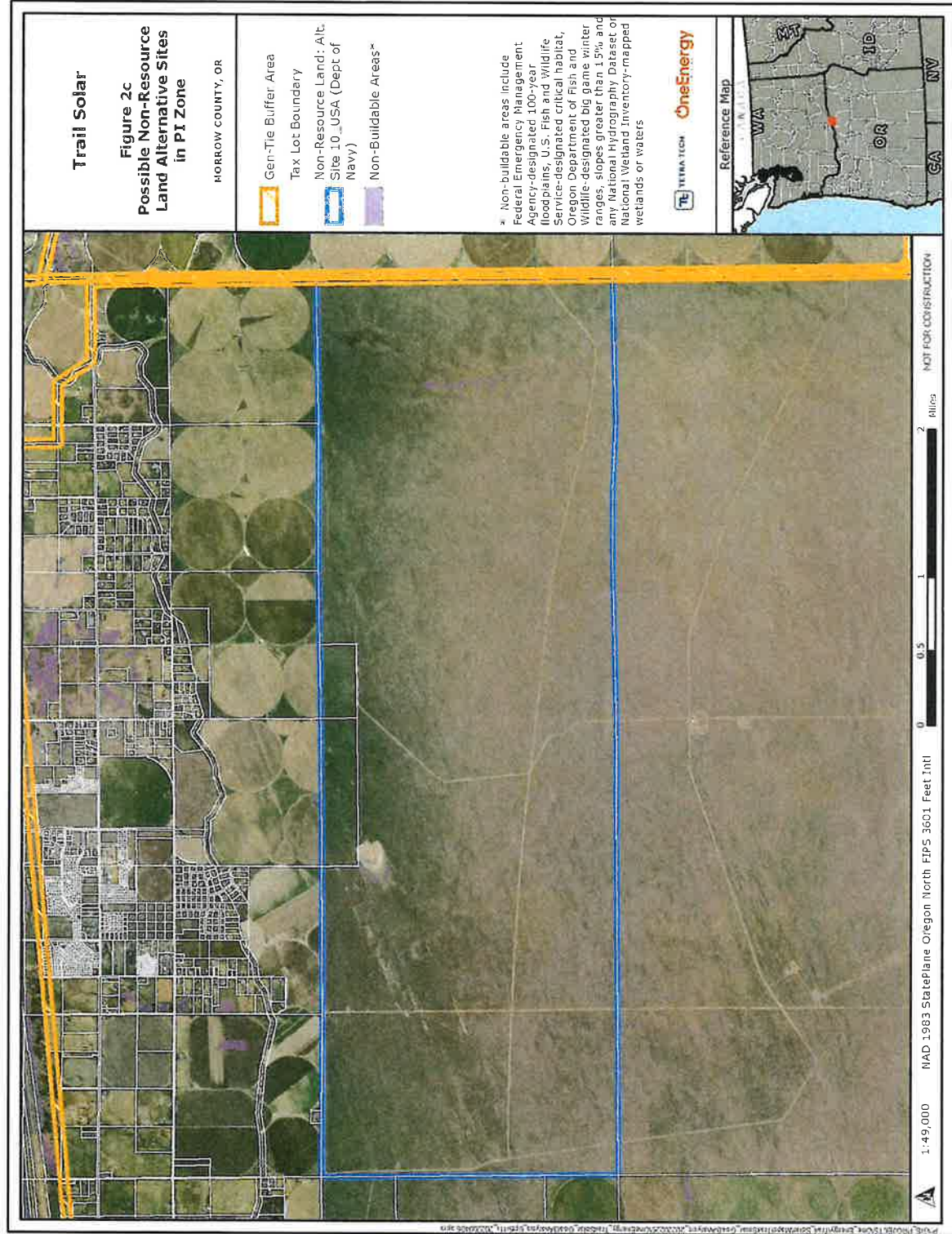
ALTERNATIVES ANALYSIS

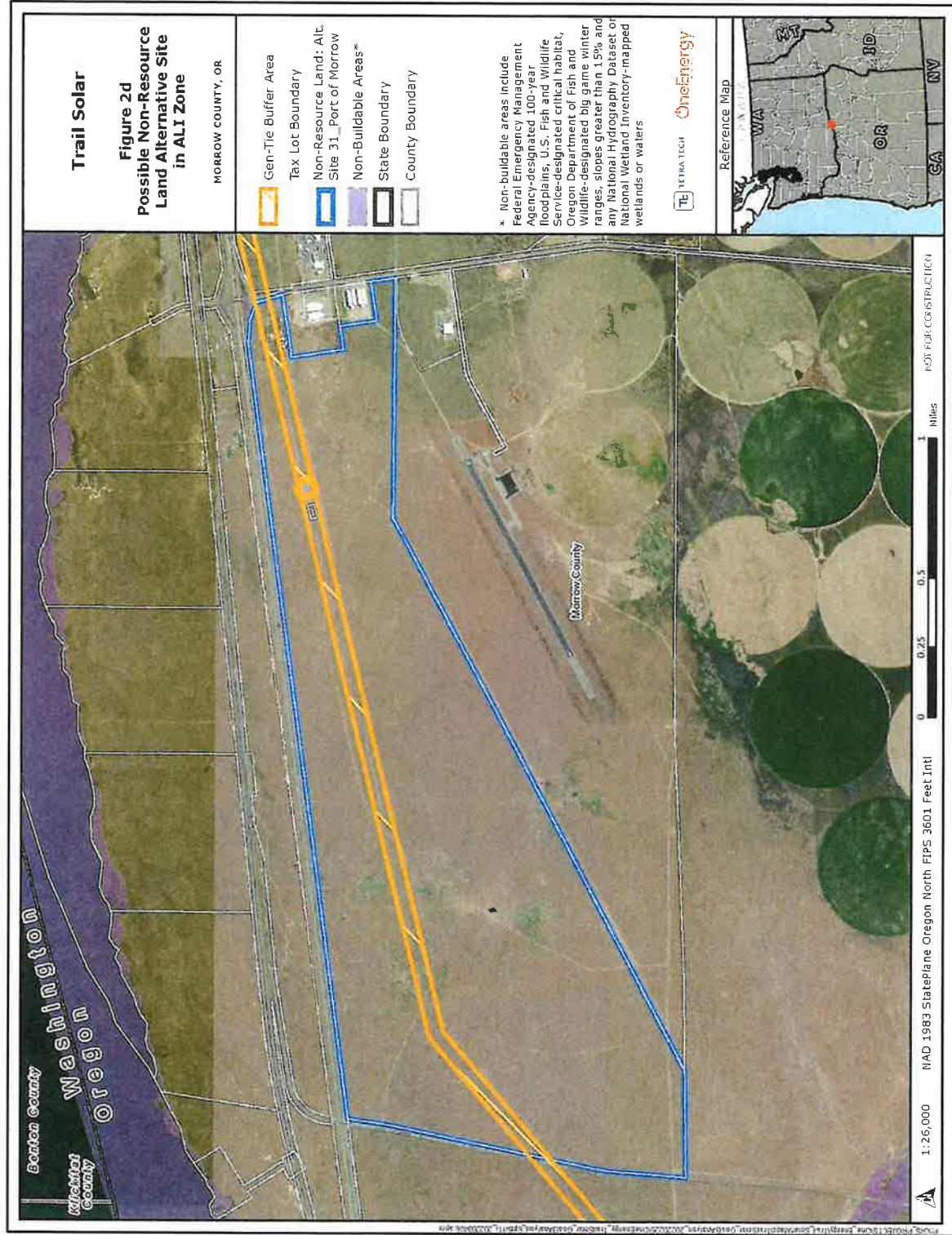
Table 1. Possible Non-Resource Land Alternative Sites Based on GIS Analysis

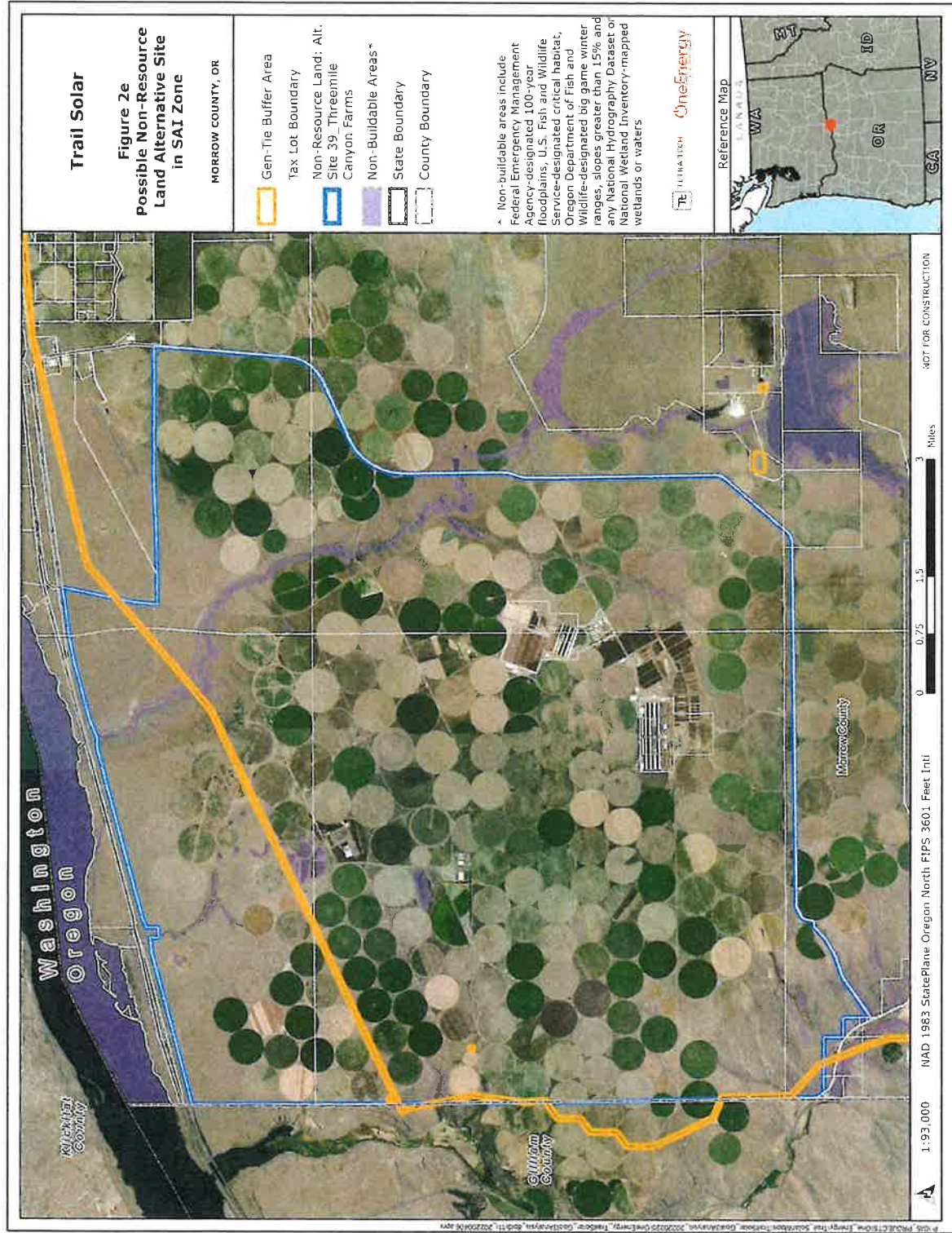
| Assigned ID | Tax Lot #s | Landowner | Zone | Area (acres) | Development Status | Availability for Proposed Use |
|----------------------------|--|-----------------------------|-------------------|---------------------------------------|---|--|
| 34_PGE | 03N24E00 0000114 through 0115; 03N24E00 0000102 | PGE | MG | 639 | Industrial development – Boardman Coal Fired Power Plant. See Figure 2a. | Site constrained by existing industrial uses and does not have sufficient acreage of vacant land. Additionally, this site is part of PGE's proposed Carty Generation Station Project and therefore is unavailable for development by the Applicant. |
| 32_Port of Morrow | 04N25E01 0000100; 04N26E06 0000101; 04N26E06 0000105; | Port of Morrow | PI | 642 | Site is located within the Port of Morrow's East Beach Industrial Park and includes a food processing wastewater facility, agricultural storage facilities, and irrigated farmland from the wastewater facility. See Figure 2b. | Site constrained by existing industrial uses and does not have sufficient acreage of vacant land. |
| 10_USA (Dept of Navy) | 04N25E00 0001600; 04N25E00 0001601; 04N25E00 0001602 | USA (DEPT OF NAVY) | PUB | 7,743 | Vacant; active military bombing range. See Figure 2c. | Active military bombing range. Not available for development. |
| 31_Port of Morrow | 04N24E00 0000110 | Port of Morrow | ALI (portion) | 1,367 (within ALI) | Vacant. See Figure 2d. | Site not available for development as it is already being developed by a different entity. |
| 39_Three mile Canyon Farms | 03N23E00 0000100, 04N24E00 0000121, and 03N24E00 0000100 | Threemile Canyon Farms, LLC | SAI, MG (portion) | 4,919 (within SAI) 642 (within MG) | Active irrigated agriculture (approximately 4,000 acres), vacant lands (approximately 584 acres), waterbodies. See Figure 2e. | Not enough vacant lands in the SAI zone to accommodate the Project. Other SAI land is in active irrigated agricultural production and it is unclear based on available information whether the Goal 3 exception associated with the SAI zoning would require a Goal 3 exception modification to allow solar. |

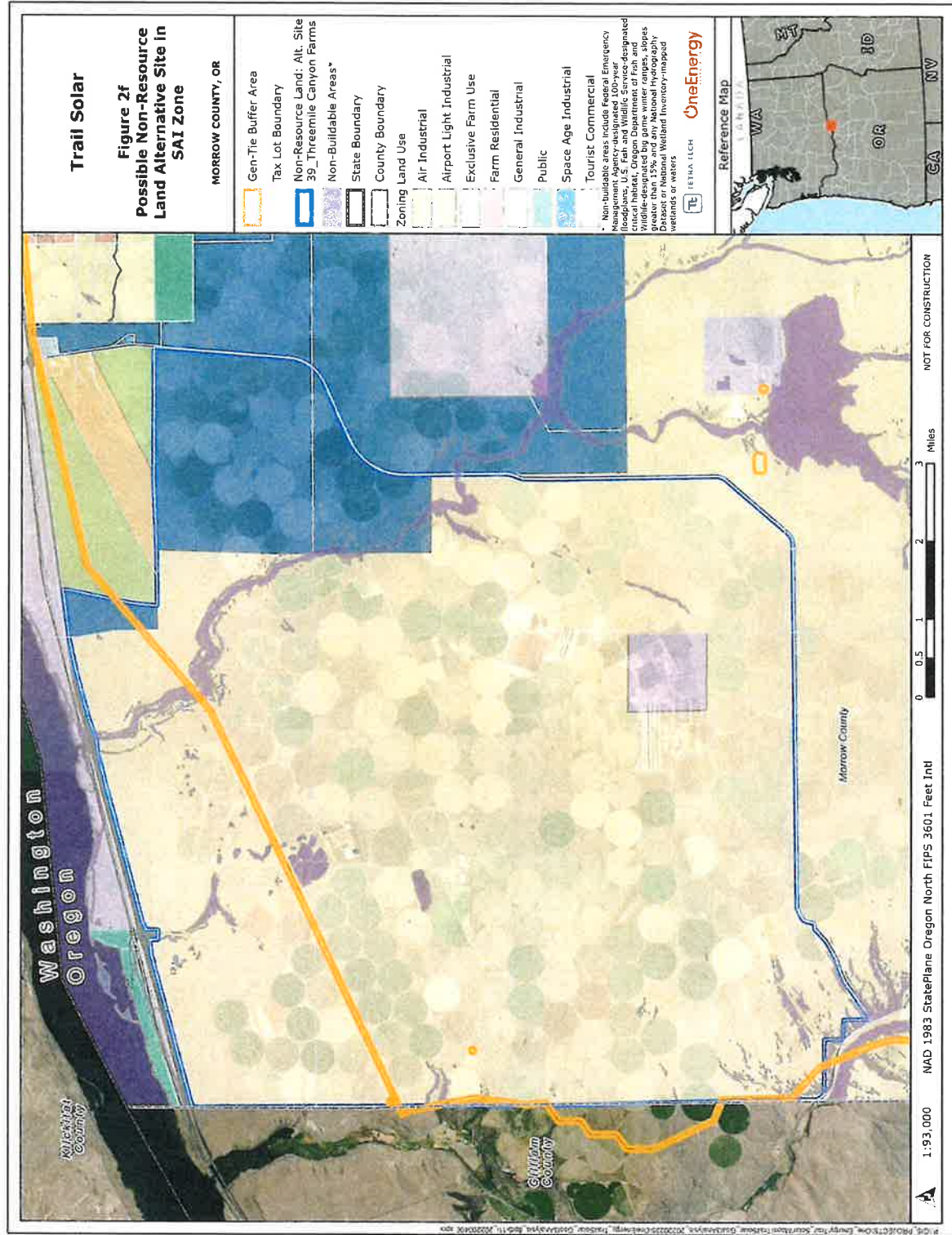












3.2 Resource Lands Not Requiring a Goal 3 Exception

The next analysis was to evaluate whether the Project could be sited within resource land without requiring an exception. Per OAR 660-033-0130(38), the following restrictions are placed on photovoltaic solar power generation facilities cited in agricultural lands:

(g) For high-value farmland described at ORS 195.300(10), a photovoltaic solar power generation facility shall not use, occupy, or cover more than 12 acres unless:

....

(i) For arable lands, a photovoltaic solar power generation facility shall not use, occupy, or cover more than 20 acres...

....

(j) For nonarable lands, a photovoltaic solar power generation facility shall not use, occupy, or cover more than 320 acres.....

Per OAR 660-033-0130(38)(k), an exception to the acreage and soil thresholds cited in subsections (g), (i), and (j) above may be taken pursuant to ORS 197.732 and OAR chapter 660, division 4.

As the Project would require over 320 acres, it would require an exception from Goal 3 even if it were sited primarily on non-arable lands. Therefore, all alternative sites located on agricultural/resource lands, regardless of the underlying high-value farmland designations or soil classifications (arable or non-arable), would require a Goal 3 exception.

4.0 References

- Homeland Infrastructure Foundation Level Database (HIFLD). 2021. Electric Power Transmission Lines Dataset. Downloaded from: <https://hifld-geoplatform.opendata.arcgis.com/datasets/geoplatform::electric-power-transmission-lines/about> on Dec. 23, 2021.
- HIFLD. 2022. Electric Substations Dataset. Downloaded from: <https://hifld-geoplatform.opendata.arcgis.com/datasets/electric-substations-/about> on February 9, 2022.
- Morrow County. 2018. Planning Commission Findings of Fact, Comprehensive Plan Amendment Request, AC-121-18, Associated with Conditional Use Request CUP-N-331. Applicant: OE Solar 1, LLC. Available at:
[https://www.co.morrow.or.us/sites/default/files/fileattachments/planning/page/9231/exceptions element - harp solar project.pdf](https://www.co.morrow.or.us/sites/default/files/fileattachments/planning/page/9231/exceptions%20element%20-%20harp%20solar%20project.pdf)
- Oregon Water Resources Department. 1977. Permit: S 41945. Available here:
https://apps.wrd.state.or.us/apps/wr/wrinfo/wr_details.aspx?snp_id=144780



MEMORANDUM

To: Morrow County Board of Commissioners
 From: Tamra Mabbott, Planning Director
 CC: Planning Commission
 BOC Date: August 10, 2022
 RE: Monthly Planning Update

Mission Statement

Morrow County Planning Department provides guidance and support to citizens for short term and long-range planning in land use, to sustain and improve the county's lands for future generations. Our goal is to foster development where people can live, work & play.

Planning Commission Update

Planning Commission held their regular meeting on Heppner and approved five applications.

Current Planning Activity Month of July 2022

- Zoning Permits – 7
- Land Use Compatibility Reviews – 7
- Land Partition – 1
- Land Use Decision – 1
- Rural Address – 3
- CUP- 1

Code Enforcement Activity

- 3 new complaints- Animal, Stored RV's and Commercial Business in Residential area
- 1 Complaint- 8 RV's being stored at a residence all moved in on the same weekend.
- 1 Complaint- Animal barking all hours of the day, mostly at night (MCSO advised for 24 hour)
- 1 complaint- Reports of a commercial business being conducted in residential area.
- 1 case closed – Compliance Met per Judge Diehl
- 1 Closed- Subject met compliance by cleaning up junk, removing vehicles and getting subjects out of RV.
- Communicating with 10 non-permitted trucking business operations located in residential zones.
- Other outstanding/ongoing cases - **39**



Energy Projects

Staff continue to coordinate and host pre-application meetings for permitting new solar and other energy developments. List of pending and approved projects can be found here:

<https://www.co.morrow.or.us/planning/page/renewable-energy-1>

The 500 kV interstate Boardman to Hemingway Transmission line is currently under contested case review at the State of Oregon. Morrow County is working with Umatilla, Union, Baker and Malheur Counties to coordinate review of permit conditions and compliance if the state permit is granted.

TRANSPORTATION PLANNING

Tower Road Informational Meeting

Planning and Public Works are hosting an informal discussion on August 11th about Tower Road and the Interstate 84 Impacts. Staff has received commitment that Oregon Department of Transportation (ODOT) will fund a formal Interchange Area Management Plan next year. Interested landowners and residents are welcome to attend the meeting at the North Morrow Annex Building in Irrigon.

Access to Transportation

Planning and Morrow County Transit were awarded a Rural Transportation Equity Grant from the Department of Land Conservation & Development. The grant is designed to help underserved communities in rural areas gain access to critical services and destinations by identifying and pursuing transportation options like biking, walking and public transportation.

Coordinated Transportation Plan for Morrow County and Umatilla County is in the update process. Planning staff is serving as part of the advisory committee, along with staff from The Loop.

Other Grants Planning Staff is serving as part of an inter-departmental team to create a program for county-wide grant writing and grant compliance services. The team will review proposals from consultants and make recommendations to the Board of Commissioners. Additionally, together with Cities of Lone, Lexington and Heppner, a consultant was recently selected to conduct the Goal 9 Economic Development and Employment Lands Inventory and Analysis. That work will begin in late August.

Umatilla Army Depot

Planning staff continue to provide support on matters related to the future transfer of the US Army lands to the Columbia Development Authority (CDA). The land transfer from U.S. Army Corps of Engineers to the CDA is scheduled to take place by the end of 2022. More information about the CDA and Army Depot lands is available on the CDA web page. <https://umadra.com/meetings>



Data Dashboard Stephen Wreccics, GIS and Planner Tech continues to add data to the recently developed a dashboard for Morrow County. Population by Zip Code is the newest addition. Available here: www.co.morrow.or.us/planning/page/dashboards



Drone Update In late July, Planning purchased a DJI Phantom 4 Unmanned Aerial System (UAS). The UAS will be used for creating accurate basemaps, 3D terrain modeling, and aerial surveys of project areas within Morrow County. Google Earth and other 3rd Party basemaps are typically greater than a year old with some basemap imagery greater than five years, the UAS will allow real-time imagery acquisition that will better inform planning processes in Morrow County. Currently, Stephen is working on obtaining FAA Part 107 Licensing and should complete the FAA test by the end of August.