

**EXHIBIT K**  
**LAND USE**  
 OAR 345-021-0010(1)(k)

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## K.1 LAND USE REVIEW APPROACH

**OAR 345-021-0010(1)(k)** *Information about the proposed facility’s compliance with the statewide planning goals adopted by the Land Conservation and Development Commission, providing evidence to support a finding by the Council as required by OAR 345-022-0030. The applicant shall state whether the applicant elects to address the Council’s land use standard by obtaining local land use approvals under ORS 469.504(1)(a) or by obtaining a Council determination under ORS 469.504(1)(b). An applicant may elect different processes for an energy facility and a related or supporting facility but may not otherwise combine the two processes. Once the applicant has made an election, the applicant may not amend the application to make a different election. In this subsection, “affected local government” means a local government that has land use jurisdiction over any part of the proposed site of the facility. In the application, the applicant shall:*

**Response:** To issue a site certificate, the Energy Facility Siting Council (Council) must find that the Boardman Solar Energy Facility (Facility) complies with Oregon’s Statewide Planning Goals adopted by the Land Conservation and Development Commission (LCDC). See Oregon Administrative Rule (OAR) 345-022-0030(1). Boardman Solar Energy LLC (Applicant) has elected to seek a Council determination of compliance under Oregon Revised Statute (ORS) 469.504(1)(b). Under this election, the Application for Site Certificate (ASC) complies with the Council’s land use standard if the Council determines:

**ORS 469.504(1)(b)(A)** *The facility complies with applicable substantive criteria from the affected local government’s acknowledged comprehensive plan and land use regulations that are required by the statewide planning goals and in effect on the date the application is submitted, and with any Land Conservation and Development Commission administrative rules and goals and any land use statutes that apply directly to the facility under ORS 197.646;*

**ORS 469.504(1)(b)(B)** *For an energy facility or a related or supporting facility that must be evaluated against the applicable substantive criteria pursuant to subsection (5) of this section, that the proposed facility does not comply with one or more of the applicable substantive criteria but does otherwise comply with the applicable statewide planning goals, or that an exception to any applicable statewide planning goal is justified under subsection (2) of this section; or*

**ORS 469.504(1)(b)(C)** *For a facility that the council elects to evaluate against the statewide planning goals pursuant to subsection (5) of this section, that the proposed facility complies with all applicable statewide planning goals or that an exception to any applicable statewide planning goal is justified under subsection (2) of this section.*

**Response:** Exhibit K demonstrates the Facility’s compliance with the applicable substantive criteria from the applicable comprehensive plans and zoning codes for the jurisdictions in which the Facility is located. In addition, Exhibit K demonstrates the Facility’s compliance with the LCDC administrative rules and goals and any land use statutes directly applicable to the Facility. Exhibit K also demonstrates that a reasons exception to statewide planning Goal 3, agriculture, is justified under ORS 469.504(2). Finally, Exhibit K provides evidence upon which the Council may find that the proposed Facility meets OAR 345-022-0030.

## K.2 OVERVIEW OF FACILITY, PERMITTING APPROACH, APPLICABLE LOCAL CRITERIA, AND APPLICABLE STATE LAW

### K.2.1 Facility Overview and Permitting Approach

As explained in Exhibit B, the Applicant proposes to construct and operate a solar energy facility with approximately 75 megawatts (MW) of nominal and average electric generating capacity. The Facility will generate electricity using multiple arrays of photovoltaic panels connected to electrical infrastructure. The major components, structures, and systems include solar modules (i.e., solar panels on steel racks and solar tracker systems) to absorb the sun’s energy, as well as inverters and transformers to convert the electricity and step it up as required to interconnect to the existing electrical grid. The related or supporting facilities consist of underground collection cables, 34.5-kilovolt (kV)/115-kV generator step-up transformer and substation, 115-kV transmission line, point of interconnection (POI), control house, operations and maintenance (O&M) building, internal service roads, a main access road, a temporary staging area, and a temporary batch plant.

The Facility is located on land within the land use jurisdictions of Morrow and Gilliam counties (see Figure K-1) in county-specific zoning districts (see Figure K-2). In order to comply with the Council’s land use standard, the Applicant must demonstrate compliance with both state law and the applicable criteria from the local governments’ comprehensive plans and land use codes.<sup>1</sup> The applicable local criteria and state law are summarized directly below in Sections K.2.2 (Applicable Local Criteria), and K.2.3 (Applicable State Law).

For the purposes of addressing applicable substantive criteria from Morrow and Gilliam counties, the analysis area consists of the Facility site boundary and the area within one-half mile of the site boundary. However, for the purposes of addressing OAR 660-0130(38)(f)(E) and (g)(A), the Facility site boundary and surrounding tract that includes all land owned by Threemile Canyon Farms, LLC, and BAIC, Inc., are analyzed.

Table K-1 provides a summary of the Facility site boundary soils classifications as defined by the Natural Resources Conservation Service (NRCS) and acreages. Figures K-3, K-4, K-5, and K-6 show the NRCS soils classifications, prime farmlands, irrigated soil capability classes, and nonirrigated soil capability classes, respectively, within the Facility site boundary, analysis area, and subject tract.

**Table K-1. Soil Classifications within the Facility Site Boundary**

NRCS Soil Unit	Map Code	Acreage	Percentage	NRCS Irrigated Soil Capability Class	NRCS Nonirrigated Soil Capability Class
<b>Facility Site Boundary – Morrow County, Tax Lot 04N23E000000110</b>					
Prosser-Rock outcrop complex, 1 to 20 percent slopes	38D	396.6	49.7	IV	IV
Prosser silt loam, 2 to 7 percent slopes	37B	0.3	0.04	III	IV
Prosser silt loam, 0 to 2 percent slopes	37A	321.2	40.3	III	IV

<sup>1</sup> The Applicant may satisfy the Council’s land use standard by complying with applicable local criteria, by seeking a Council determination of compliance with directly applicable statewide land use planning goals, or through the goal exception process.



Table K-1. Soil Classifications within the Facility Site Boundary

NRCS Soil Unit	Map Code	Acreage	Percentage	NRCS Irrigated Soil Capability Class	NRCS Nonirrigated Soil Capability Class
Quinton-Rock outcrop complex, 2 to 20 percent slopes	42D	3.3	0.4	IV	VII
Gravden very gravelly loam, 20 to 40 percent slopes	13E	9.5	1.2	N/A <sup>a</sup>	VII
Rock outcrop-Rubble land complex, very steep	49F	28.1	3.5	N/A <sup>a</sup>	VIII
Prosser-Rock outcrop complex, 1 to 5 percent slopes	27B	0.003	0.0004	III	IV
Subtotal		759.0	95.1		
<b>Facility Transmission Line – Gilliam County, Tax Lot 04N22E000000200</b>					
Prosser-Rock outcrop complex, 1 to 20 percent slopes	38D	0.001	0.0001	IV	IV
Prosser-Rock outcrop complex, 1 to 5 percent slopes	27B	15.3	1.9	III	IV
Olex gravelly silt loam, 20 to 40 percent slopes	24E	2.1	0.3	N/A <sup>a</sup>	VI
Taunton loamy fine sand, 2 to 5 percent slopes	45B	2.0	0.3	IV	VII
Subtotal		19.4	2.4		
<b>Facility Transmission Line – Gilliam County, Tax Lot 03N22E000000100</b>					
Sagehill fine sandy loam, 20 to 40 percent slopes	40E	1.6	0.2	VI	IV
Taunton loamy fine sand, 2 to 5 percent slopes	45B	17.9	2.2	IV	VII
Subtotal		19.5	2.4		
Totals (Acres):					
Arable Lands					758.2 <sup>b</sup>
Nonarable Lands					39.7
Total Impact					797.9

Source: NRCS, 2016

<sup>a</sup> N/A indicates that the soil is not rated or the capability class is not available.

<sup>b</sup> Per OAR 660-033-0130(38)(f), no high-value farmland as identified by soil capability class is located within the Facility site boundary. However, the entire Facility site boundary is within the Columbia Valley American Viticulture Area (AVA), which is considered high-value farmland under ORS 195.300(10)(f)(C).

Table K-1 shows that the area within the Facility site boundary is predominantly Class III-IV soils if irrigated and Class IV soils if nonirrigated. The area within the Facility site boundary has never

been irrigated as confirmed by the landowner, Threemile Canyon Farms, LLC (Threemile Canyon Farms). Attachment K-1 is a letter from Marty Myers, General Manager of Threemile Canyon Farms. In the letter, Mr. Myers describes the history of irrigation in the area, as well as water rights. An affiliate of Threemile Canyon Farms holds water rights certificates (Certificate Nos. 76709 and 76711 included as Attachment K-2) that authorize the irrigation of lands to the south of the Facility, but those certificates do not allow Threemile Canyon Farms to irrigate the area encompassed by the Facility site boundary. Each of the certificates specifies an authorized place of use where irrigation water must be applied, and the Facility site boundary is not included within this authorized place of use. A water rights map from the Oregon Water Resources Department is included as Attachment K-3. Although it would be possible to transfer the authorized place of use to the proposed site, the transfer would require Threemile Canyon Farms to dry up an equivalent number of acres of the existing place of use. An irrigation system already exists to irrigate the existing place of use, and it does not extend to the area within the Facility site boundary.

The area within the Facility site boundary is not and has never been irrigated. Table K-1 shows that the majority of the area within the site boundary is nonirrigated soil capability class IV (Figure K-6). Figure K-4 shows that based on NRCS data, none of the area within the site boundary is prime or unique farmland as no irrigation is present. ORS 215.710 defines “high-value farmland” as land “in a tract composed predominantly of soils that are either [irrigated or not irrigated] classified prime, unique, Class I, or Class II by the NRCS.” Thus, based on NRCS data and lack of irrigation the area within the site boundary is not technically high-value farmland. However, the Facility site is located within the approximately 11-million acre Columbia Valley AVA that in Oregon generally stretches from The Dalles to Milton-Freewater (see AVA map in Attachment K-4). Therefore, by law, the land within the Facility site boundary is considered high-value farmland under ORS 195.300(10)(f)(C). Pursuant to ORS 469.300(11)(a)(D), a solar photovoltaic power generation facility is an “energy facility” subject to the jurisdiction of the Council if it uses more than 100 acres located on high-value farmland as defined in ORS 195.300 or 100 acres located on land that is predominantly cultivated or that, if not cultivated is predominantly composed of soils that are in capability classes I to IV. Thus, in either case, the Facility is an “energy facility” under the Council’s jurisdiction per ORS 469.300(11)(a)(D).

#### **K.2.1.1 Morrow County**

The Facility’s major components, structures, and systems are proposed in Morrow County, and include the solar modules, inverters, and transformers. The related or supporting facilities proposed within Morrow County include the underground collection cables, generator step-up transformer and substation, control house, O&M building, private service roads, a private access road, temporary staging area, and a temporary batch plant.

The components of the Facility proposed in Morrow County’s exclusive farm use (EFU) zone are assessed as “*Commercial utility facilities for the purposes of generating power for public use by sale*” under the Morrow County Zoning Ordinance (MCZO), Section 3.010(D)(14) (Morrow County, 2016b). OAR 660-033-0130(38) is the more specific state law that regulates photovoltaic solar power generation facilities within EFU zones as discussed in Section K.5.3.

Finally, because the Facility does not comply with one of the applicable substantive criteria for Morrow County, a demonstration is provided in Section K.5.5 to show that an exception to Statewide Planning Goal 3 is justified.

### **K.2.1.2 Gilliam County**

The related or supporting facilities proposed in Gilliam County include the approximately 2.1-mile-long, 115-kV transmission line, the associated private service road proposed within the transmission line easement, and the POI where the transmission line interconnects with the existing electrical grid.

The components of the Facility proposed in Gilliam County’s EFU zone are assessed as “*Utility facilities necessary for public service*” (consisting of the transmission line and POI) and “*Transportation improvements on rural lands*” (consisting of the private access road proposed within the transmission line easement) under the Gilliam County Zoning Ordinance (GCZO), Sections 4.020(D)(16) and 4.020(C)(23), respectively (Gilliam County, 2011a). ORS 215.274 is the more specific state law that regulates a transmission line associated with an energy facility within EFU zones as discussed in Section K.5.3. In OAR 660-033-0120, transportation improvements on rural lands are allowed by OAR 660-012-0065 if incidental to the principle use (the Facility) and if providing safe and efficient access. The various private service roads proposed with the Facility are subject to the standards and requirements applicable to the principal use (the Facility). The standards and requirements applicable to the principal use are contained in OAR 660-033-0130(5) and (38). The Applicant demonstrates compliance with OAR 660-033-0130(5) and (38) below in Section K.5.3.

The Facility complies with all of the applicable substantive criteria for Gilliam County as demonstrated in Section K.5.2. However, as noted above, the Facility as a whole requires an exception to Statewide Planning Goal 3, which is justified below. The Applicant’s request for an exception to Goal 3 is included in Section K.5.5.

### **K.2.2 Applicable Local Criteria**

The applicable local substantive criteria from the MCZO, *Morrow County Comprehensive Plan* (MCCP) (Morrow County, 2016a), GCZO, and *Gilliam County Comprehensive Plan* (GCCP) (Gilliam County, 2011b) are as follows:

#### **Morrow County Zoning Ordinance**

##### Article 1 (Introductory Provisions)

- Section 1.050 (Zoning Permit)

##### Article 3 (Use Zones)

- Section 3.010 (Exclusive Farm Use [EFU] Zone) – Subsections D, G, H, and I
- Section 3.200 (Significant Resource Overlay [SRO] Zone) – Subsection A
- Section 3.300 (Historic Buildings and Sites) – Subsection A

##### Article 4 (Supplementary Provisions)

- Section 4.020 (Sight Distance) – Subsection A
- Section 4.040 (Off-Street Vehicle Parking Requirements)
- Section 4.050 (Off-Street Parking and Loading) – Subsections A, B, and F
- Section 4.060 (Design and Improvement Standards – Parking Lots) – Subsections A, B, C, E, F, G, H, and I
- Section 4.165 (Site Plan Review) – Subsections A, C, and D

### Article 6 (Conditional Uses)

- Section 6.015 (Requirements Under a State Energy Facility Site Certificate)
- Section 6.020 (General Criteria) – Subsections A through C
- Section 6.025 (Resource Zone Standards for Approval) – Subsection A
- Section 6.030 (General Provisions) – Subsections A through L
- Section 6.040 (Permit and Improvements Assurance)
- Section 6.050 (Standards Governing Conditional Uses) – Subsection O

### **Morrow County Comprehensive Plan**

- Agricultural Lands Element – Policies 1 and 4
- Economic Element – Policies 2A, 3A, 4B, 5A and 6C
- Energy Conservation Element – Policies 3 and 9

### **Gilliam County Zoning Ordinance**

#### Article 4 (Use Zones)

- Section 4.020 (Exclusive Farm Use) – Subsections A, C, D, H, and J

#### Article 7 (Conditional Uses)

- Section 7.010 (Authorization to Grant or Deny Conditional Uses) – Subsection A
- Section 7.020 (Standards Governing Conditional Uses) – Subsections A and Q

#### Article 8 (Supplementary Provisions)

- Section 8.140 (Site Plan Review) – Subsections A through N

### **Gilliam County Comprehensive Plan**

- Goal 3 (Agricultural Lands) – Policy 3
- Goal 5 (Natural Resources, Scenic, and Historic Areas, and Open Spaces) – Policies 2 and 12
- Goal 8 (Recreation Needs) – Policy 3
- Goal 13 (Energy Conservation) – Policy 3

### **K.2.3 Applicable State Law**

The applicable substantive criteria for the State of Oregon are as follows:

#### **Oregon Statewide Planning Goals**

- Goal 3 – Agricultural Lands

#### **Oregon Revised Statutes**

- 215.283 – Uses Permitted in Exclusive Farm Use Zones in Nonmarginal Lands Counties
- 215.274 – Associated Transmission Lines Necessary for Public Service

#### **Oregon Administrative Rules**

- 660-033-0130(5) – Minimum Standards Applicable to the Schedule of Permitted and Conditional Uses
- 660-033-0130(38) – Photovoltaic Solar Power Generation Facility

- 660-012-0065 – Transportation Improvements on Rural Lands

### K.3 LAND USE ANALYSIS AREA AND OTHER MAPS

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

**Response:** Figure K-2 (Zoning Map) shows the Morrow and Gilliam county zoning districts and comprehensive plan designations within the one-half mile analysis area.

The entire area encompassed by the Facility site boundary and the entire area within the analysis area south of Interstate 84 (I-84) is zoned EFU by Morrow and Gilliam counties. The area within the analysis area north of I-84 is zoned EFU by Gilliam County and general industrial (MG) and public/federal (PUB) by Morrow County (see Figure K-2).

The following additional maps are provided to support the analysis in this exhibit:

- Figure K-1 (Aerial Photograph) shows the proposed Facility location and layout in Morrow and Gilliam counties.
- Figure K-3 (Natural Resources Conservation Service Soils Map Units) shows the NRCS soil types within the Facility site boundary. Figure K-3A shows a close-up view of the Facility site boundary, Figure K-3B shows a zoomed-out view, and Figure K-3C contains a legend of the soils map units.
- Figure K-4 (Natural Resources Conservation Service Prime Farmlands) displays NRCS data regarding the location of prime farmlands.
- Figure K-5 (Natural Resources Conservation Service Irrigated Soil Capability Class) shows NRCS irrigated soil capability classes within the Facility site boundary.
- Figure K-6 (Natural Resources Conservation Service Nonirrigated Soil Capability Class) shows NRCS nonirrigated soil capability classes within the Facility site boundary.
- Figure K-7 (Property Ownership) displays property ownership in the vicinity of the Facility.
- Figure K-8 (Farm Practices in the Analysis Area) shows agricultural use by type within the analysis area.
- Figure K-9 (FEMA Flood Hazard Zones) shows flood hazards within the one-half mile analysis area.

### K.4 LOCAL LAND USE APPROVAL

**OAR 345-021-0010(1)(k)(B)** *If the applicant elects to obtain local land use approvals:*

- (i) *Identify the affected local government(s) from which land use approvals will be sought.*
- (ii) *Describe the land use approvals required in order to satisfy the Council's land use standard.*
- (iii) *Describe the status of the applicant's application for each land use approval.*
- (iv) *Provide an estimate of time for issuance of local land use approvals.*

**Response:** OAR 345-021-0010(1)(k)(B) is not applicable. The Applicant has elected to obtain a Council determination on land use.

## **K.5 COUNCIL DETERMINATION ON LAND USE**

**OAR 345-021-0010(1)(k)(C)** *If the applicant elects to obtain a Council determination on land use:*

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

**Response:** The Facility will be sited in Morrow and Gilliam counties, which are the affected local governments.

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

**Response:** The applicable substantive criteria from Morrow and Gilliam counties are identified and addressed below in Sections K.5.1 and K.5.2.

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

**Response:** The applicable Land Conservation and Development Commission administrative rules, statewide planning goals, and land use statutes are identified and addressed below in Section K.5.3.

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

**Response:** The Facility does not meet MCZO 3.010(D)(14) as it will preclude more than 12 acres of high-value farmland or 20 acres of other land from commercial farm use. The Applicant demonstrates below in Section K.5.5 that an exception to Statewide Planning Goal 3 is justified.

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

**Response:** Pursuant to OAR 660-033-0130(38)(f) and (g), a photovoltaic solar power generation facility cannot preclude more than 12 acres of high-value farm land or 20 acres of arable land from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and OAR Chapter 660, Division 4. As discussed above, the Facility site is located within the approximately 11-million acre Columbia Valley AVA and therefore, by law, the land within the Facility site boundary is considered high-value farmland under ORS 195.300(10)(f)(C). Whether the soils are high-value or arable, however, the exception threshold is met; the Facility will permanently occupy more than 12 acres of high-value farmland or 20 acres of arable land. Thus, pursuant to OAR 660-033-130(38)(f),(g), constructing the Facility requires an exception to

Statewide Planning Goal 3. The Applicant demonstrates below in Section K.5.5 that an exception to Statewide Planning Goal 3 is justified.

### **K.5.1 Morrow County**

This section includes a demonstration of compliance with the applicable substantive criteria from the MCZO and M CCP.

#### **K.5.1.1 Applicable Substantive Criteria from the Morrow County Zoning Ordinance**

##### **Article 1. Introductory Provisions**

###### **Section 1.050 Zoning Permit**

*Prior to the construction, reconstruction, alteration, or change of use of any structure larger than 100 square feet or use for which a zoning permit is required, a zoning permit for such construction, reconstruction, alteration, or change of use or uses shall be obtained from the Planning Director or authorized agent thereof. A zoning permit shall become void after 1 year unless the development action has commenced. A 12-month extension may be granted when submitted to the Planning Department prior to the expiration of the approval period.*

**Response:** As described in Exhibit B, the Facility exceeds 100 square feet and as such, the Facility is subject to a zoning permit from Morrow County prior to construction. Under MCZO 4.165(C), a Site Plan Review is “required for all land use actions requiring a Zoning Permit.” The Applicant meets the 13 review criteria provided for Site Plan Review in MCZO 4.165(D) as discussed below under Article 4 (Supplementary Provisions).

##### **Article 3. Use Zones**

###### **Section 3.010 Exclusive Farm Use, EFU Zone**

*D. CONDITIONAL USES PERMITTED. In an EFU Zone, the following uses and their accessory uses are permitted subject to demonstration of compliance with the requirements of Article 6 of this ordinance and Section (G) below:*

- 14. Commercial utility facilities for the purposes of generating power for public use by sale. A power generation facility shall not preclude more than 12 acres of high value farmland or 20 acres of other land from commercial farm use unless an exception is approved pursuant to OAR 660 Division 4.*

**Response:** The Facility components located in Morrow County are described in detail in Exhibit B and include photovoltaic panels connected to electrical and supporting infrastructure consisting of the collection system, generator step-up transformer and substation, control house, O&M building, private service roads, a private access road, temporary staging area, and a temporary batch plant.

The Facility is a “commercial utility facility for the purpose of generating power for public use by sale” that includes a “power generation facility” on approximately 798 acres, of which approximately 759 acres are within Morrow County. MCZO 3.010(B)(3) refers to ORS 215.710 for the definition of “high-value farmland” (see discussion below in Section K.5.5). ORS 215.710 defines “high-value farmland” as land “in a tract composed predominantly of soils that are either [irrigated or not irrigated] classified prime, unique, Class I or Class II by the NRCS.” Since

the area within the Facility site boundary is not and has never been irrigated, Table K-1 shows that the majority of the area within the site boundary is nonirrigated soil capability class IV (Figure K-6). Figure K-4 shows that based on NRCS data, none of the area within the site boundary is prime or unique farmland as no irrigation is present. Thus, based on NRCS data and lack of irrigation the area within the site boundary is not technically high-value farmland. However, the Facility site is located within the approximately 11-million acre Columbia Valley AVA that in Oregon generally stretches from The Dalles to Milton-Freewater (see AVA map in Attachment K-4). Therefore, by law, the land within the Facility site boundary is considered high-value farmland under ORS 195.300(10)(f)(C). In either case, whether the Facility site is high-value farmland or arable soils, the exception threshold is met; the area occupied by the “power generation facility” in Morrow County’s EFU zone will preclude more than 12 acres of high-value farmland or 20 acres of land from commercial farm use. In either case, based on the impacts shown in Table K-1, a Goal 3 exception is required for the Facility. Therefore, the Facility will comply with MCZO 3.010(D)(14) with an approved exception pursuant to OAR 660 Division 4, as discussed in Section K.5.5.

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



**Response:** Uses permitted under MZCO 3.010(D) need to demonstrate compliance with the provisions of MZCO 3.010(G) listed above. MZCO 3.010(G) addresses dimensional standards for new lots or parcels within the EFU zone, restrictions on new dwellings within “Farm Use areas identified as Big Game Habitat,” and new parcels (subdivisions or partitions) for nonfarm uses. The Facility will be located on leased land and will not require new lots or parcels, and it will not include new dwellings. Therefore, none of the subsections of MZCO 3.010(G) apply to the Facility.

- H. *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 a minimum of 100 feet if the property line is adjacent to an intensive agricultural use except as approved by the Commission; otherwise, front yards shall be 20 feet for property fronting on a local minor collector or marginal access street ROW, 30 feet from a property line fronting on a major collector ROW, and 80 feet from an arterial ROW unless other provisions for combining accesses are provided and approved by the County.*
  2. *Each side yard shall be a minimum of 20 feet except that on corner lots or parcels the side yard on the street side shall be a minimum of 30 feet, and for parcels or lots with side yards adjacent to an intensive agricultural use the adjacent side yard shall be a minimum of 100 feet, except as approved by the Commission.*
  3. *Rear yards shall be a minimum of 25 feet, except for parcels or lots with rear yards adjacent to an intensive agricultural use rear yards shall be a minimum of 100 feet, except as approved by the Commission.*

**Response:** MZCO 3.010 addresses minimum yard setback requirements in the EFU zone. The Applicant proposes setbacks that meet or exceed the minimum setbacks for front yard, side yard, and rear yard distances which range from 20 to 100 feet (a 100-foot distance applies where the property line is adjacent to an “intensive agricultural use”). The only agricultural uses adjacent to the Facility site boundary are the agricultural crop circles located south of the Facility and owned by Threemile Canyon Farms, owner of the land underlying the entire Facility site. Accordingly, the south side of the Facility site boundary will maintain a minimum 100-foot setback consistent with MZCO 3.010(H)(1). The north side of the Facility site boundary will maintain a minimum 25-foot rear yard setback consistent with MZCO 3.010(H)(3), and the east and west sides of the Facility site boundary will maintain the minimum 20-foot setbacks consistent with MZCO 3.010(H)(2).

4. *Stream Setback. All sewage disposal installations such as outhouses, septic tank and drainfield systems shall be set back from the high-water line or mark along all streams and lakes a minimum of 100 feet, measured at right angles to the high-water line or mark. All structures, buildings, or similar permanent fixtures shall be set back from the high-water line or mark along all streams or lakes a minimum of 100 feet measured at right angles to the high-water line or mark.*

**Response:** The Facility will include an O&M building just inside the main access gate on the southeastern side of the Facility (see Figure C-1 in Exhibit C). The building will include sewage

disposal installations for the bathroom and breakroom facilities. The bathroom, kitchen, and utility sink within the O&M building will drain into an onsite septic system which will be located at least 100 feet from the nearest stream located along the east side of Threemile Canyon Road. Additionally, no structure, building, or permanent fixture associated with the Facility, including solar modules, will be located within 100 feet of any stream or lake (measured at right angles to the high-water line or mark). Again, the nearest stream to the Facility is located along the east side of Threemile Canyon Road. The solar modules nearest this stream will be at least 300 feet away.

*I. 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)*

**Response:** Morrow County did not request a traffic impact analysis (TIA) for the Facility, likely because this provision does not apply to Facility construction. However, even if the TIA requirement were to apply to construction, construction of the Facility will generate fewer than 400 passenger car equivalent trips per day. The Applicant estimates that traffic to and from the Facility will amount to approximately 398 passenger car equivalent trips daily during peak construction. This estimate includes 90 truck trips “heavy vehicles” per day (45 trucks making one inbound trip and one outbound trip) at 2.2 passenger car equivalents for a total of 198 passenger car equivalent trips. It also includes 200 passenger cars per day (100 cars making one inbound trip and one outbound trip) assuming 250 workers travel together in two- or three-person carpools. Traffic impacts during Facility operation will be insignificant and will generally consist of four trips (two inbound and two outbound) from passenger cars or pickup trucks during the work week and infrequent heavy vehicle trips. The anticipated traffic generated by daily construction and operation trips to the Facility is below the threshold of “400 passenger car equivalent trips per day” that would trigger the TIA described in this provision. Therefore, a TIA would not be required for the Facility.

*Section 3.200 Significant Resource Overlay Zone, SRO*

- A. *PURPOSE. The purpose of the Significant Resource Overlay Zone is to provide a mechanism to recognize and protect resources deemed significant in Morrow County and listed in the Morrow County Comprehensive Plan Inventory of Significant Resources.*

**Response:** As described above, MZCO 3.200 applies to sites designated as Significant Resource sites on the M CCP Goal 5 resource map. The analysis area is not located within the SRO zone and significant resource sites, as designated on the M CCP Goal 5 resource map, are not located within the analysis area. Therefore, the provisions of MCZO 3.200 do not apply to the construction and operation of the Facility.

Section 3.300 Historic Buildings and Sites

- A. *Alteration/Demolition Permits. A permit is required for alteration or demolition of any structure listed in the Comprehensive Plan inventory of significant historic resources.*

**Response:** MCZO 3.300 applies to the alteration or demolition of any structure listed in the MCCP inventory of significant historic resources. No structures listed in the MCCP inventory of significant historic resources are located within the analysis area. In addition, the evidence provided in Exhibit S demonstrates that no cultural or archaeological resources identified as eligible or potentially eligible for the National Register of Historic Places (NRHP) listing will be affected by construction, operation, or retirement of the proposed Facility. Therefore, this provision is met.

Article 4. Supplementary ProvisionsSection 4.020 Sight Distance

*In all zones, adequate sight distance shall be maintained at the intersection of two roads (public or private), a road intersecting a private driveway, or a road crossing a railroad.*

- A. *Sight Distance Requirements for New Accesses. It is the intent of this section to ensure that each new access point or each new lot or parcel created or development in the County will have a safe access to a public road, with the exception of development actions listed in Section 4.020.B. but are subject to improvements to maximize sight distance to the extent practicable by the County Operations Division through an Access Permit or Right-of-way Permit:*
1. *Existing access points that do not satisfy the sight distance standards and are on property included with a development action which will not add any additional vehicle trips to that access, are exempt from this Section. Improvements at these existing access points may be required of the applicant to maximize sight distance to the extent practicable through an Access Permit application.*
  2. *The minimum intersectional sight distance shall be based on the vehicular speeds of the road. The vehicular speeds for the purpose of determining intersectional sight distance shall be the greater of the following, to be selected by the County Engineer or designee.*
    - a. *Design Speed - A speed selected by a registered engineer (Oregon) for purposes of design and correlation of those features of a road, such as curvature, superelevation, and sight distance, upon which the safe operation of vehicles is dependent.*
    - b. *Posted Speed - That speed which has been established by the Oregon State Speed Control Board and is posted by the County.*
    - c. *Eighty-fifth Percentile Speed - That speed as certified by a registered engineer (Oregon) below which 85 percent of all traffic units travel, and above which 15 percent travel. The eighty-fifth percentile speed shall be measured at the point where the sight restriction occurs.*

3. *The intersectional sight distance shall:*
- a. *Be based on an eye height of 3.5 feet and an object height of 4.25 feet above the road; and*
  - b. *Be assumed to be 10 feet from the near edge of pavement or the extended curb line or the near edge of the graveled surface of a gravel road to the front of a stopped vehicle.*

4. *Minimum intersectional sight distance shall be equal to ten (10) times the vehicular speed of the road such as in the table below.*

<i>INTERSECTIONAL SIGHT DISTANCE</i>	
<i>MPH</i>	<i>DISTANCE ALONG CROSSROAD (FT)</i>
<i>25</i>	<i>250</i>
<i>30</i>	<i>300</i>
<i>35</i>	<i>350</i>
<i>40</i>	<i>400</i>
<i>45</i>	<i>450</i>
<i>50</i>	<i>500</i>
<i>55</i>	<i>550</i>

5. *Intersectional sight distance values shall conform to (3) above. For significant road improvement projects, the above intersectional standards shall be met in addition to the applicable AASHTO roadway sight distance standards.*

6. *In those instances where there are no access locations available to the site that meet or can meet the sight distance requirements, a written request for modification may be submitted to the County Engineer or designee. The request for modification of the sight distance requirements shall be subject to the following requirements:*

- a. *Submitted and certified by a registered engineer (Oregon);*
- b. *Nationally accepted specifications or standards are documented and referenced;*
- c. *Certification that the modification will not compromise safety or the intent of the County’s transportation standards;*
- d. *Agreement that the cost of any modifications agreed to must be borne by the applicant; and*
- e. *Statement that there is no location available to provide an alternative access location which currently meets the sight distance requirements, or which can be altered to meet the sight distance requirements. Alterations needed to provide adequate sight distance include but are not limited to grading and the removal of vegetation. For the purpose of this subsection alternative access location means:*
  - i. *Any location on the proposed development site which meets or can meet the sight distance requirements; or*

*ii. Any location off the proposed development site which can provide access to the site by an existing access easement or through an access easement which will be provided to the site as part of the development application. Such an off-site access must be shown to meet or be able to meet sight distance requirements.*

**Response:** Adequate sight distance will be maintained at the intersection of Threemile Canyon Road and the improved road to the Willow Creek Wildlife Area as well as the intersection of the access road to the Facility and the road to the Willow Creek Wildlife Area (see Exhibit U Section U.3.7.2 Construction Traffic and Design Standards).

*Section 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.*

*Section 4.050 Off-Street Parking and Loading*

*Buildings or structures to be built or substantially altered which receive and distribute materials and merchandise by trucks shall provide and maintain off-street loading berths in sufficient number and size to handle adequately the needs of the particular use. Off-street parking areas used to fulfill the requirements of this Ordinance shall not be used for loading and unloading operations except during periods of the day when not required to care for parking needs. General provisions are as follows:*

- A. The provisions and maintenance of off-street parking and loading space is a continuing obligation of the property owner. Should the owner or occupant of any lot or building change the use to which the lot or building is put, thereby increasing off-street parking and loading requirements, it shall be a violation of this Ordinance to begin or maintain such altered use until such time as the increased off-street parking or loading requirements are complied with.*
- B. Requirements for types of buildings and uses not specifically listed in this Ordinance shall be determined by the Planning Commission based upon the requirements for comparable use listed.*
- F. Required parking spaces shall be available for the parking of passenger automobiles of residents, customers, patrons, and employees only, and shall not*

*be used for storage of vehicles or materials or for the parking of trucks used in conducting the business or use.*

Section 4.060 Design and Improvement Standards – Parking Lots

- A. *Except for single-family and duplex dwellings, areas used for parking for more than two vehicles shall have durable and dustless surfaces adequately maintained.*
- B. *Except for parking in connection with single-family and duplex dwellings, parking and loading areas adjacent to or within a residential zone or adjacent to a dwelling shall be designed to minimize disturbance to residents by the erection between the uses of a sight-obscuring fence or planted screen of not less than six (6) feet in height except where vision clearance is required.*
- C. *Parking spaces along the outer boundaries of a parking lot shall maintain a minimum setback from the property line of five feet, unless a greater setback is specified for a structure in the zoning district, and shall be contained by a bumper rail or by a curb which is at least four inches high.*
- E. *Access aisles shall be a minimum of 24 feet wide for two-way traffic. The minimum aisle width for emergency vehicle access (with one-way traffic) is 20 feet.*
- F. *Except for single-family and duplex dwellings, groups of more than two parking spaces shall be so located and served by a driveway that their use will require no backing movements or other maneuvering within a street right-of-way other than an alley.*
- G. *Service drives to off-street parking areas shall be a minimum of 24 feet wide for two-way traffic flow, and 20 feet wide for one-way traffic flow. The number of service drives shall be limited to the minimum that will accommodate anticipated traffic.*
- H. *Driveways shall maintain minimum sight distance per the standards of Section 4.020 of this Ordinance.*
- I. *The standards set forth in the table below shall be the minimum for parking lots approved under this Ordinance (all figures are in feet except as noted). The letters in the first row of the table correspond to the letters in the following diagram.*

**Response:** Exhibit U (Sections U.3.7.2 Construction Traffic and Design Standards and U.3.7.3 Operational Impacts) demonstrates that the Facility will comply with the applicable MCZO 4.020, 4.040, 4.050, and 4.060 standards. Specifically, sufficient space for storage of vehicles, materials and trucks used in building the Facility and parking spaces for employee passenger vehicles will be provided in the main temporary staging area. The access road will be 20 feet wide for one-way traffic flow and emergency vehicle access, will maintain proper sight distances, and will not require maneuvering within a street right-of-way.

Adequate parking spaces for customer, patron and employee vehicles will be provided next to the O&M building and designed in accordance with the MCZO 40.060 standards.

Section 4.165 Site Plan Review

Site Plan Review is a nondiscretionary or “ministerial” review conducted without a public hearing by the County Planning Director or designee. Site Plan Review is for less complex developments and land uses that do not require site development or conditional use review and approval through a public hearing.

- A. *Purpose. The purpose of Site Plan Review (ministerial review) is based on clear and objective standards and ensures compliance with the basic development standards of the land use district, such as building setbacks, lot coverage, maximum building height, and similar provisions. Site Plan review also addresses conformity to floodplain regulations, consistency with the Transportation System Plan, and other standards identified below.*
- C. *Applicability. Site Plan Review shall be required for all land use actions requiring a Zoning Permit as defined in Section 1.050 of this Ordinance. The approval shall lapse, and a new application shall be required, if a building permit has not been issued within one year of Site Review approval, or if development of the site is in violation of the approved plan or other applicable codes.*
- D. *Review Criteria.*
  - 1. *The lot area shall be adequate to meet the needs of the establishment.*

**Response:** The Facility will be located on leased land and will not require new lots or parcels. The Applicant has leased an adequate area of land to meet the needs of the Facility.

- 2. *The proposed land use is permitted by the underlying land use district.*

**Response:** The portion of the Facility located in Morrow County is entirely within Morrow County’s designated EFU zone. As described in response to MCZO 3.010.D(14) above, the Facility meets the definition of a commercial utility facility for the purpose of generating power for public use by sale and is therefore permitted as a conditional use in Morrow County’s EFU zone.

- 3. *The land use, building/yard setback, lot area, lot dimension, density, lot coverage, building height and other applicable standards of the underlying land use district and any sub-district(s) are met.*

**Response:** The Applicant identified and demonstrates compliance with the applicable standards of the Morrow County EFU zone as described above in responses to MCZO 3.010(D), (G), (H), and (I). Therefore, the Facility complies with this provision.

- 4. *Development in flood plains shall comply with Section 3.100 Flood Hazard Overlay Zone of the Ordinance.*

**Response:** Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps show that the entire area within the Facility site boundary is located in Zone X (see Figure K-9). The Morrow County Flood Hazard Overlay Zone does not regulate FEMA flood Zone X. MCZO Section 3.100(1) indicates that the provisions of the overlay apply to all areas of special flood hazards

within the County as identified by FEMA Flood Insurance Rate Maps. MCZO Section 3.100(2) defines area of special flood hazard as, “the land in the flood plain...subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letter A.” Figure K-9 shows the FEMA zone to be Zone X, which does not include an A and labels areas with less than a 1 percent chance of flooding on an annual basis. Figure K-9 also shows that there are two areas in FEMA Zone A located well outside the Facility site boundary, but within the analysis area. These areas occur to the north and west and are associated with the Columbia River and Willow Creek, respectively. No activities associated with the Facility will occur in the areas within Zone A. No portion of the Facility site boundary is located within Morrow County’s Flood Hazard Overlay Zone and this criterion does not apply to the Facility (see Figure K-9).

5. *Development in hazard areas identified in the Morrow County Comprehensive Plan shall safely accommodate and not exacerbate the hazard and shall not create new hazards.*

**Response:** The only hazard areas identified in the applicable substantive policies of the MCCP are those areas within Morrow County’s Flood Hazard Overlay Zone. As described above in response to MCZO 4.165(D)(4), the Facility site boundary is entirely within a moderate to low risk flood area as defined by FEMA Flood Insurance Rate Maps and no portion of the Facility site boundary is located within Morrow County’s Flood Hazard Overlay Zone. As such, the Facility will not exacerbate or create new flood hazards. This criterion is met.

6. *Off-street parking and loading-unloading facilities shall be provided as required in Section 4.040 and 4.050 of the Morrow County Zoning Ordinance. Safe and convenient pedestrian access to off-street parking areas also shall be provided as applicable.*

**Response:** Minimum vehicle parking requirements for various types of land uses are listed under MCZO 4.040 and criteria for off-street parking and loading areas for uses that receive and distribute materials and merchandise by trucks are provided in MCZO 4.050. A photovoltaic solar power generation facility is not a use listed or described in these County ordinances. However, the Facility will comply with applicable MCZO 4.040 and 4.050 standards (see explanation above in this Section K.5.1.1).

7. *County transportation facilities shall be located, designed and constructed in accordance with the design and access standards in the Morrow County Transportation System Plan.*

**Response:** The Applicant does not propose to construct or modify any public roads in Morrow County. Accordingly, the County road design and access standards do not apply. This criterion is met.

8. *Site planning, including the siting of structures, roadways and utility easements, shall provide, wherever practicable, for the protection of trees eight inch caliper or greater measured four feet from ground level, with the exception of noxious or invasive species, such as Russian olive trees.*

**Response:** The area within the Facility site boundary consists of mixed grassland with scattered shrubs and is almost entirely devoid of trees with the exception of mostly nonnative Russian olive trees and some willow trees located within and directly adjacent to wetlands in the



southeastern corner of the Facility. The Facility layout has been specifically oriented to avoid these wetlands (see Figures C-1 and C-2B, C-2D, and C-2E in Exhibit C). The Applicant, where practicable, will avoid removing trees that are 8-inch caliper or greater measured 4 feet from ground level, with the exception of noxious or invasive species such as Russian olive trees.

9. *Development shall comply with Section 3.200 Significant Resources Overlay Zone or 3.300 Historic Buildings and Sites protecting inventoried significant natural and historic resources.*

**Response:** As described above in response to the applicable criteria of MCZO 3.200, the Facility site boundary is not located within the SRO zone. Significant resource sites, as designated on the MCCP Goal 5 resource map, are not located within the analysis area. Therefore, the provisions of MCZO 3.200 do not apply to the construction and operation of the Facility. MCZO 3.300 applies to the alteration or demolition of any structure listed in the MCCP inventory of significant historic resources. As described in the response to MCZO 3.300 above, no structures listed in the MCCP inventory of significant historic resources are located within the analysis area and Facility will not require the demolition or alteration of any historic structures. Therefore, this provision is met.

10. *The applicant shall determine if compliance is required with Oregon Water Resources Department water quantity and/or Oregon Department of Environmental Quality water quality designations.*

**Response:** Water for the Facility's O&M building will be from a well. The well will be an exempt use pursuant to OAR 537.545(1)(f) by the Oregon Water Resources Department (OWRD) because it will provide approximately 165 gpd but in no case more than 5,000 gpd, and the well location will be logged pursuant to ORS 537.765.

The Facility will require water quality-related permits from the Oregon Department of Environmental Quality (DEQ) as described in Exhibit E. These include an Onsite Sewage Disposal Construction Installation Permit for the proposed onsite sewage disposal system; General Water Pollution Control Facilities Permit (WPCF) 1700-B Permit for releasing water used to wash the solar panels to the ground; and General WPCF 1000 to manage wastewater and stormwater from a temporary batch plant if one is required for construction. DEQ will also be a reviewing agency within the Council process and receive copies of the complete ASC for review and comment. Therefore, this criterion is satisfied.

11. *The applicant shall determine if previous Code Enforcement violations have been cleared as applicable.*

**Response:** No Code Enforcement violations have been associated with the Facility property to be leased from Threemile Canyon Farms. Therefore, this provision does not apply.

12. *The applicant shall determine the method of disposal for solid waste, with staff providing information to the applicant about recycling opportunities.*

**Response:** The Applicant's plans for recycling and disposal of solid waste are addressed in Exhibits U and V. The Applicant will, where practicable, recycle and reuse solid waste. The Applicant will consult Morrow County staff to identify appropriate recycling opportunities for solid waste. As described in Exhibit U, solid waste disposal will be provided by private contract

with a local commercial hauler or haulers. The Facility is located between two public landfills: Arlington Landfill (also known as Columbia Ridge Recycling and Landfill) owned by Waste Management Services, Inc., of Oregon, located approximately 27 miles from the Facility, and Finley Buttes Landfill owned by Waste Connections, Inc., located approximately 30 miles from the Facility south of Boardman. Therefore, this criterion is satisfied.

13. *The applicant shall obtain the necessary access permit through the Public Works Department as required by Morrow County Resolution R-29-2000.*

**Response:** The Applicant will obtain necessary local permits, including access permits through the Morrow County Public Works Department, prior to construction.

**Article 6. Conditional Uses**

**Section 6.015. Requirements Under a State Energy Facility Site Certificate.**

*If a holder of a Site Certificate issued by the Oregon Energy Facility Siting Council requests a conditional use permit for an energy facility as outlined under ORS 469.401(3) and pays the requisite fee, the Planning Director shall issue such conditional use permit. The conditional use permit shall incorporate only the standards and conditions in Morrow County's land use and other ordinances as contained in the site certificate. Issuance of the Conditional Use Permit shall be done promptly, not taking more than four weeks once it has been determined that a valid Site Certificate has been issued, the applicant has submitted a complete application and the fee has been received.*

**Response:** The Applicant demonstrates in responses to the applicable substantive criteria of the MCCP and MCZO, that the Facility is consistent with the MCCP and MCZO, and is permitted as a conditional use under MCZO 3.010(D)(14) with an approved exception pursuant to OAR 660 Division 4, as discussed in Section K.5.5. The Applicant acknowledges that the conditional use permit will incorporate only the standards and conditions in Morrow County's land use and other ordinances as contained in the site certificate. Therefore, this provision is met.

**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.*

**Response:** The Applicant demonstrates in responses to the applicable substantive criteria of the MCCP and MCZO, that the Facility is consistent with the MCCP, MCZO, and other applicable policies and regulations of the County. Therefore, this provision is met.

- 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.*

**Response:** The Facility is not located within the urban growth boundary of a city and this criterion is not applicable to the Facility.

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

**Response:** Exhibits I, J, L, O, P, Q, R, S, and U of this ASC demonstrate that the carrying capacities of natural resources or public facilities will not be exceeded. In OAR 660-033-0120, the Oregon Department of Land Conservation and Development authorizes development and use of photovoltaic solar power generation facilities as commercial utility facilities for the purpose of generating power for public use by sale on agricultural lands, subject to the standards of OAR 660-033-0130(5) and OAR 660-033-0130(38).

The Applicant is not proposing any facilities that will emit carbon dioxide or air pollution emissions resulting in an adverse impact to air quality during operations. The Applicant proposes best management practices (BMPs) to provide sediment and erosion control, as well as controlling dust generated during construction activities. The availability of sufficient water for construction and operation of the Facility is discussed in Exhibit O.

The Council's standards address other potential impacts on natural resource from the proposed Facility. In each Exhibit to this ASC, the Applicant identifies any potential adverse impacts of the Facility on the resource and explains how those impacts will be mitigated. Potential impacts on soils are described in Exhibit I; to wetlands and waters of the state in Exhibit J; to fish and wildlife in Exhibit P; to threatened and endangered species in Exhibit Q; and, to ambient noise levels in Exhibit X. Retirement of the Facility and restoration of the site to a useful, nonhazardous condition is discussed in Exhibit W.

Exhibit U addresses public services that could potentially be affected by the Facility, including sewage disposal, water supply, stormwater drainage, solid waste disposal, housing, transportation, police protection, fire protection and emergency response, health care, and schools. For reasons discussed in Exhibit U, construction and operation of the Facility will not significantly impact or exceed the carrying capacities of public facilities in Morrow County.

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.*

**Response:** Section K.5.3 provides a detailed response demonstrating the Facility's compliance with OAR 660-033-0130(5)(a) and (b), which are identical to the provisions of MZCO 6.025(A) listed directly above. Therefore, the response to OAR 660-033-0130(5)(a) and (b) is included here by reference to demonstrate the Facility's compliance with MZCO 6.025(A).

In summary, there are no lands in the analysis area in forest use; therefore, construction and maintenance of the Facility will not force a change or increase the cost of forest practices on surrounding lands.

Only the lands in the analysis area to the west, south, and east of the Facility site boundary are used for farming, and these are owned by Threemile Canyon Farms, the underlying landowner of the Facility site (see Figure K-8). The lands in the analysis area to the north of the Facility site boundary are not used for farming. Construction and maintenance of solar panels and associated equipment at the Facility will not alter or reduce the area under cultivation by Threemile Canyon Farms, will not necessitate relocating any access routes or farm infrastructure, and will not result in changes to the practices for planting, irrigating, fertilizing, or harvesting the crops. The Facility will have no impact on Threemile Canyon Farm's irrigation platform in Willow Creek or the irrigation infrastructure that currently supports the cultivated areas to the south of the Facility site boundary. Attachment K-1 is a letter from Marty Myers, General Manager of Threemile Canyon Farms. In the letter, Mr. Myers describes that the Facility site has limited productivity because it is not irrigated and has historically been used only for winter and spring cattle grazing. Mr. Myers states that construction and operation of the Facility at the proposed site will facilitate a higher and better use of the land, will concentrate solar development away from more productive farmland, and will not adversely impact or increase the cost of farm practices within the vicinity of the Facility. Thus, the Facility complies with the provisions of MCZO 6.025(A).

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.*
- B. *Establishing a special yard or other open space or lot area or dimension.*
- C. *Limiting the height, size or location of a building or other structure.*
- D. *Designating the size, number, location and nature of vehicle access points.*
  - 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)*
- E. *Increasing the amount of street dedication, roadway width or improvements within the street right-of-way.*

1. *It is the responsibility of the landowner to provide appropriate access for emergency vehicles at the time of development. (MC-C-8-98)*
- F. *Designating the size, location, screening, drainage, surfacing or other improvement of a parking area or loading area.*
- G. *Limiting or otherwise designating the number, size, location, height, and lighting of signs.*
- H. *Limiting the location and intensity of outdoor lighting and requiring its shielding.*
- I. *Requiring diking, screening, landscaping or another facility to protect adjacent or nearby property and designating standards for its installation and maintenance.*
- J. *Designating the size, height, location and materials for a fence.*
- K. *Protecting and preserving existing trees, vegetation, water resources, wildlife habitat or other significant natural resources.*
- 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.*

**Response:** The provisions under MCZO 6.030 describe conditions that may be imposed “to avoid a detrimental impact and to otherwise protect the best interests of the surrounding area or the County as a whole.” The section is a list of discretionary conditions and does not contain substantive standards.

*Section 6.040. Permit and Improvements Assurance.*

*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.*

**Response:** This provision provides that Morrow County may require a performance bond or other assurances as a condition of approval for a conditional use permit. Here, however, the Applicant will guarantee development in accordance with the County’s standards by meeting the Council’s financial standard at OAR 345-022-0050. Exhibit M (page M-1) outlines the type and amount of the Applicant’s proposed bond or letter of credit and provides evidence that the Applicant has a reasonable likelihood of obtaining the proposed bond or letter of credit in the amount proposed before beginning construction of the Facility.

*Section 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.*

**Response:** This provision, MCZO 6.050(O)(1), does not apply because the Facility is not located in a residential zone.

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

**Response:** This provision, provides for a discretionary condition. The ordinance does not contain a substantive standard for imposing the fencing or landscaping requirement. However, as described in Exhibit B and shown on Figure C-1 in Exhibit C, the Facility’s perimeter service road will be bordered by a 7-foot-high chain-link security fence. There will be two security entrance gates in the fence, one where the access road meets the Facility, and one where the transmission line meets the Facility substation.

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.*

**Response:** Construction and operation of the Facility will occur on land leased from the underlying landowner, Threemile Canyon Farms, and will not require the creation of a new lot. Therefore, this provision 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.*

**Response:** Regulated scenic resources are discussed in Exhibit R. For reasons described in Exhibit R, the Facility will not have a significant adverse impact on identified scenic resources located within 10 miles of the Facility site boundary.

#### **K.5.1.2 Applicable Substantive Criteria from the Morrow County Comprehensive Plan**

##### **Agricultural Lands Element**

##### *Agricultural Policies*

1. *It shall be the policy of Morrow County, Oregon, to preserve agricultural lands, to protect agriculture as its main economic enterprise, to balance economic and environmental conditions, to limit noncompatible nonagricultural development, and to maintain a high level of livability in the County.*

**Response:** The Facility will advance County and State policies of furthering efficient development and economic growth while balancing the County’s need to protect agriculture as its main economic enterprise. The MCCP Agricultural Policy 1 is based on the general state policy embodied in Goal 3 is “[t]o preserve and maintain agricultural lands,” as set forth in OAR 660-015-0000(3).

Based on the impacts shown in Table K-1, a Goal 3 exception is required for the Facility. The Applicant demonstrates that a reasons exception is warranted in Section K.5.5. ORS 469.504(2) provides the controlling criteria for exceptions proposed for energy facilities under the jurisdiction of the Council.

In addition, the Applicant demonstrates compliance with OAR 660-033-0130(5)(a) and (b) in Section K.5.3, which are identical to the provisions of MZCO 6.025(A) addressed above and demonstrate the Facility will not have significant adverse impacts on accepted farm or forest practices.

These criteria address the balance between “agricultural” and “nonagricultural” development that is implied in Agricultural Policy 1, and the criteria implement the County’s policy to “protect agriculture.” For the reasons discussed below in Section K.5.3 and K.5.5 regarding the impact of the Facility on accepted farm practices, the Facility is compatible with agriculture and will protect agriculture as the main economic enterprise in Morrow County. An exception is warranted to allow a locationally dependent facility that will fulfill important state and county goals by providing renewable energy while minimizing impacts on local farming practices.

For the reasons discussed above in response to MCZO 6.020(C), the Facility will not exceed carrying capacities of natural resources or public facilities within Morrow County and, therefore, will not have a significant adverse impact on “livability” in Morrow County.

4. *It shall be the policy of the County to develop and implement comprehensive and definitive criteria for the evaluation of all non-farm developments to ensure that all objectives and policies set forth herein are compiled with to the maximum level possible.*

**Response:** The County has developed and implemented comprehensive and definitive criteria for the evaluation of nonfarm developments in the MCZO. The applicable criteria for evaluation of the Facility are discussed herein. For the reasons provided, the Facility will comply with these criteria “to the maximum level possible.”

### **Economic Element**

#### *Economic Element Policies*

- 2A. *To maximize the utilization of the local work force as job opportunities increase.*

The Facility will provide employment opportunities, and provide contributions to the local tax base. Facility construction is anticipated to take approximately 15 months from the time of permit approval to commercial operation. During construction, an estimated average workforce of 100 people will be employed, with a maximum of 250 people during the peak months of construction. Operation of the Facility will require two full-time employees. These permanent jobs will contribute to the local economy. In addition, development of the Facility will result in an increase in annual property tax revenue to Morrow and Gilliam counties. The additional tax revenue generated by the existence of the Facility will increase each County’s ability to provide roadways, police protection, fire protection and emergency response, and other services to its citizens.

- 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 Facility will support Morrow County’s goal to diversify its existing industries, while at the same time ensuring that the existing agricultural operations in the area will not be significantly impacted. In other words, the Facility will be additive to the Morrow and Gilliam county economies rather than replacing one economic driver with another. The Facility will also

supplement the landowner’s income with lease payments without reducing the farmers’ productive land base for farming operations.

- 4B. *To utilize appropriate mechanisms in implementing regulations to ensure that any development adjacent to or in the vicinity of the Boardman Airport is a compatible use and will not impede future growth of the airport.*

The Facility is in the vicinity of the Boardman Airport but, as explained in Exhibit E Section E.2.1 Federal Permits and Exhibit U Section 3.7.1 Construction Traffic Volumes, construction and operations will not impede airport operations. The Facility is also more than five miles from the Boardman Airport and therefore will not impede future growth of the airport.

- 5A. *To utilize appropriate mechanisms in implementing regulations to reduce undesirable impacts from industrial and commercial developments, including the establishment of buffer zones or other mitigation measures if determined to be necessary.*

As explained throughout this Exhibit K, particularly in Sections 5.3.3 and 5.5.2, the Applicant has located the Facility in a part of Morrow County that avoids most impacts on adjacent land use and has proposed mitigation measures to address unavoidable impacts.

- 6C. *To require that development plans be based on the best economic information available, comply with applicable environmental standards, and take into account the effects of the development on the existing economy and available resources, including transportation and work force.*

As discussed throughout this Exhibit K, particularly in this section (Economic Element Goals 2A and 3A) and also in Sections 5.3.3 and 5.5.2, the Facility will monetize the solar resource of Morrow and Gilliam counties without injury to environmental, economic, or other area resources.

**Energy Conservation Element**

*Energy Conservation Policies*

- 3. *Encourage development of solar and wind resources.*

**Response:** The Facility is an energy facility that will use solar resources in Morrow County to generate electric power for public use. Therefore, the Facility is consistent with this policy.

- 9. *The County will encourage the development of alternative energy sources in County industries and businesses.*

**Response:** The Facility will develop solar energy for the generation of electric power for public use. Solar energy is considered an “alternative energy source” because it is renewable and not fossil based. Therefore, the Facility is consistent with this policy.

**K.5.2 Gilliam County**

This section includes a demonstration of compliance with the applicable substantive criteria from the GCZO and GCCP.



**K.5.2.1 Applicable Substantive Criteria from the Gilliam County Zoning Ordinance****Article 4. Use Zones****Section 4.020 EFU Exclusive Farm Use**

*In an EFU Zone, the following regulations shall apply:*

**A. HIGH VALUE FARMLAND.** *Due to the limited amount of High Value Farmland in Gilliam County, the uses for High Value Farmland are not listed in this section. If a use permitted in Subsections B - G of this section is located on High Value Farmland, the requirements of this section and the requirements of OAR 660, Division 33, shall be used for the review.*

**Response:** The transmission line corridor comprises arable and nonarable soils in nonirrigated soil capability classes IV, VI, and VII, which are not considered high-value farmland (see Figure K-6). However, the site is within the Columbia Valley AVA and is therefore classified as high-value farmland by default. The Applicant has addressed the applicable requirements for EFU-zoned land for the GCZO and OAR 660, Division 33.

**C. PLANNING DIRECTOR REVIEW.** *In the EFU zone, the following uses and their accessory uses may be permitted if determined by the Planning Director to satisfy the applicable criteria and provisions of law. Authorization of these uses does constitute a land use decision pursuant to ORS 197.015(10). Notice and an opportunity for a hearing must be provided in the manner described in Section 11.140. These uses may be referred to the Planning Commission for review if deemed appropriate by the Planning Director.*

23. *Transportation improvements on rural lands allowed by OAR 660-012-0065.*

**Response:** The transmission line service road meets the definition of accessory transportation improvements according to OAR 660-012-0065(2)(d) as follows:

*"Accessory Transportation Improvements" means transportation improvements that are incidental to a land use to provide safe and efficient access to the use;*

ORS 660-012-0065(4) states that: (4) *Accessory transportation improvements required as a condition of development listed in subsection (3)(a) of this rule shall be subject to the same procedures, standards and requirements applicable to the use to which they are accessory.* Therefore, the service road is reviewed in the same and subsequent sections as the Facility transmission line. A demonstration of compliance with ORS 660-012-0065 is included below in Section K.5.3.

**D. CONDITIONAL USES PERMITTED.** *In the EFU Zone, the following uses and their accessory uses may be permitted, either by a Type I or a Type II Conditional Use Permit to satisfy the applicable criteria and procedures set forth in Section 7.010. The appropriate review criteria are identified for each use.*

16. *Utility facilities necessary for public service subject to the provisions of ORS 215.275 and OAR 660-033-0130(16). No local legislative criteria shall be applied for consideration of establishing a utility facility necessary for public service.*

**Response:** The transmission line is a permitted use in the EFU zone per ORS 215.283(1)(C), but the Applicant has opted to permit the transmission line as an associated transmission line in ORS 469.300(3) because it will connect the, "...energy facility to the first point of junction of such

*transmission line or lines...*” with the Northwest Power Grid. Therefore, the applicable statute is ORS 215.274 and not ORS 215.275. Section K.5.3 addresses ORS 215.274.

- a. *ORS 215.273 Applicability to thermal energy power plant siting determinations. Nothing in ORS 215.130, 215.203, 215.213, 215.243, 215.253, 215.263, 215.273, 215.283, 215.284, 308A.050 to 308A.128 and 316.844 is intended to affect the authority of the Energy Facility Siting Council in determining suitable sites for the issuance of site certificates for thermal power plants, as authorized under ORS 469.300 to 469.563, 469.590 to 469,619 and 469.930.*

**Response:** The Facility is not a thermal power plant. Therefore, this statute is not applicable.

- b. *ORS 215.275 Utility facilities necessary for public service; criteria; mitigating impact of facility:*
- (1) *A utility facility established under ORS 215.213(1)(d) or 215.283(1)(d) is necessary for public service if the facility must be sited in an exclusive farm use zone in order to provide the service.*

**Response:** ORS 215.283 (1)(d) refers to dwellings. The Applicant assumes this is due to the ORS being updated and that the intent of this criteria is to direct the applicant to regulations for utility facilities necessary for public service in ORS 215.283(1)(c). Consistent with new legislation (House Bill 2704, 2013 Session), the Applicant has opted to permit the transmission line as an *associated transmission line*, because it connects the energy facility to its interconnection point with the Northwest Power Grid consistent with ORS 469.300(3). Therefore, the applicable statute is ORS 215.274 and not 215.275. Section K.5.3 addresses ORS 215.274. The associated transmission line segment is necessary for public service because it connects the energy generated from the Facility to the BPA transmission infrastructure in order to distribute power to the public electrical grid. The responses below demonstrate that the transmission line (and associated service road) is necessary for public service and there are no reasonable alternatives for the transmission line route.

- (2) *To demonstrate that a utility facility is necessary, an applicant for approval under ORS 215.213(l)(d) or 215.283(l)(d) must show that reasonable alternatives have been considered and that the facility must be sited in an exclusive farm use zone due to one or more of the following factors:*
- (a) *Technical and engineering feasibility;*
- (b) *The proposed facility is locationally dependent. A utility facility is locationally dependent if it must cross land in one or more areas zoned for exclusive farm use in order to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;*
- (c) *Lack of available urban and nonresource lands;*
- (d) *Availability of existing rights-of-way;*

- (e) *Public health and safety; and*
  - (f) *Other requirements of State or Federal agencies.*
- (3) *Costs associated with any of the factors listed in Subsection (2) of this section may be considered, but cost alone may not be the only consideration in determining that a utility facility is necessary for public service. Land costs shall not be included when considering alternative locations for substantially similar utility facilities. The Land Conservation and Development Commission shall determine by rule how land costs may be considered when evaluating the siting of utility facilities that are not substantially similar.*
  - (4) *The owner of a utility facility approved under ORS 215.213(l)(d) or 215.283(1)(d) shall be responsible for restoring, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this section shall prevent the owner of the utility facility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration.*
  - (5) *The governing body of the County or its designee shall impose clear and objective conditions on an application for utility facility siting under ORS 215.213(l)(d) or 215.283(l)(d) to mitigate and minimize the impacts of the proposed facility, if any, on surrounding lands devoted to farm use in order to prevent a significant change in accepted farm practices or a significant increase in the cost of farm practices on the surrounding farmlands.*
  - (6) *The provisions of Subsections (2) to (5) of this section do not apply to interstate natural gas pipelines and associated facilities authorized by and subject to regulation by the Federal Energy Regulatory Commission.*

**Response:** The provisions under GCZO 4.020(D)(16)(b)(2) are directly from ORS 215.275 and apply to transmission lines that by themselves are defined as utility facilities necessary for public service. However, the proposed transmission line is an associated transmission line as defined in ORS 469.300(3) because it will connect the, “...energy facility to the first point of junction of such transmission line or lines...” with the Northwest Power Grid. Therefore, the applicable statute is ORS 215.274 and not 215.275. Section K.5.3 addresses the applicable provisions under ORS 215.274.

**H. SPECIFIC REVIEW CRITERIA.** In the EFU Zone, certain uses are subject to specific criteria, in addition to any other applicable criteria. The specific provisions of this subsection apply only when referenced within the list of uses included in Subsections 4.020.B, C and D.

1. *The use may be approved only where the County finds that the use will not:*

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

**Response:** The provisions in GCZO 4.020(H)(1)(a-b) listed above and GCZO 7.010(Q)(1)(a-b) provided below are verbatim what is required for photovoltaic solar power generation facilities, including their related or supporting facilities, under OAR 660-033-0130(5). The Applicant addresses OAR 660-033-0130(5) for the Facility in Section K.5.3 below.

***J. PROPERTY DEVELOPMENT STANDARDS.*** *In the EFU Zone, the following standards apply to residential and nonresidential development.*

1. *Building Height. No limitations.*
2. *Setbacks*
  - a. *The front and rear yard setbacks from the property line shall be 25 feet.*
  - b. *The side yard setbacks from the property line shall be 25 feet.*

**Response:** The transmission line and associated service road are proposed at least 25 feet from property lines. The nearest the transmission line gets to an adjacent property line (tax lot 03N22E000000100) is approximately 130 feet. Therefore, the transmission line complies with the GCZO 4.020.J setback standards.

#### **Article 7. Conditional Uses**

##### **Section 7.010 Authorization to Grant or Deny Conditional Uses**

#### **A. GENERAL APPROVAL CRITERIA AND CONDITIONS**

1. *In addition to criteria, standards and conditions that may be set forth in a specific Zone, this Article, or other regulations applicable to a specific Conditional Use shall not be approved or permitted unless the following criteria are met. A Conditional Use may be approved on the Condition or Conditions that the applicant obtain and maintain compliance with other permits and approvals required.*
  - a. *The proposed use shall be in compliance with the applicable Comprehensive Plan designation and policies.*

**Response:** The transmission line and associated service road are in compliance with the applicable GCCP designations and policies as provided in Section 5.2.2 below.

- b. *As applicable, sewage and/or solid waste disposal methods shall be provided in compliance with applicable local, State and Federal regulations.*

**Response:** Exhibit V describes sewage and solid waste and the proposed disposal methods to be provided for the Facility. During operations, the transmission line component of the Facility will not generate sewage or solid waste. Construction of the transmission line will not generate sewage and will generate minimal, if any, construction-related solid waste. Disposal of

construction-related solid waste will be conducted by the construction contractor at a licensed landfill in compliance with local, state, and federal regulations.

- c. Proposal shall be found to be in compliance or conditioned upon compliance with applicable air and noise pollution standards.*

**Response:** Operation of the Facility and transmission line will not generate air emissions. Construction of the Facility will produce minor air emissions. These temporary and short-term emissions will be a result of the operation of construction equipment, worker vehicles, and trucks transporting equipment, parts, and materials. To control erosion and dust during construction, BMPs will be used, such as periodically watering disturbed areas. The Facility will meet DEQ noise standards as outlined in Exhibit X.

- d. Required access shall be legally established, available, and adequate to serve the proposed use or provisions to provide such evident.*

**Response:** The transmission line will be built on private land within a 100-foot-wide easement and accessed via a new 10-foot-wide private service road. Access to this private road will be from the main portion of the Facility, also on private property. The proposed transmission line does not include construction of any new public roads or improvements to public roads in Gilliam County.

- e. Public services deemed necessary shall be available or provisions for such provided and no use shall be approved which is found to exceed the carrying capacities of affected public services unless there are provisions to bring such capacities up to the need.*

**Response:** Public services or other public utilities are not necessary for the transmission line as it includes no buildings or other related infrastructure aside from the transmission line poles, related electrical conductor, and private service road. The transmission line will require minimal O&M visits to be conducted periodically by the operator of the Facility.

- f. Proposal shall be in compliance with the applicable standards and limitations of the primary and combining zone as may be applicable.*

**Response:** The proposed transmission line is entirely within land zoned EFU and no other Gilliam County zones apply. The Applicant demonstrates compliance with the applicable substantive criteria in GCZO 4.020(A), (C), (D), (H), and (J) discussed above, there are no EFU-specific Gilliam County standards applicable to the transmission line in Gilliam County.

- g. No use shall be approved which is found to have a significant adverse impact on resource-carrying capacities unless there are provisions for mitigating such impact.*

**Response:** As described throughout this ASC, the Facility will not have a significant adverse impact on resource carrying capacities and BMPs will be used to minimize impacts. Therefore, the Facility complies with this requirement, because its impacts on air quality, soils, water supplies and water bodies will not exceed resource-carrying capacities of those resources.

- h. No use shall be approved which is found to exceed the carrying capacities of affected public services and facilities.*

**Response:** As documented in Exhibit U, the Facility as a whole will not exceed the carrying capacities of affected public services and facilities in Morrow or Gilliam counties. The transmission line by itself will not exceed the carrying capacities of affected public services and facilities in Gilliam County. Public services or other public utilities are not necessary for the transmission line as it includes no buildings or other related infrastructure aside from the transmission line poles, related electrical conductor, and private service road. The transmission line will require minimal O&M visits to be conducted periodically by the operator of the Facility.

- i. All required State and Federal permits or approvals have been obtained or will be as a condition of approval.*

**Response:** Exhibit E identifies the various state and federal permits potentially applicable to the Facility. The Applicant understands that as required, these permits may become conditions of the site certificate.

- 2. In addition to specific standards and/or conditions set forth by the applicable zone, this article or some other applicable regulations, other conditions may be imposed that are determined necessary to avoid a detrimental impact, and to otherwise protect the best interests of the surrounding area and the County as a whole. Such conditions may include, but are not limited to, 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.*
  - b. Establishing a special setback or other open space or lot area or dimension.*
  - c. Limiting the height, size or location of a building or other structure.*
  - d. Designating the size, number, improvements, location and nature of vehicle access points and parking or loading areas.*
  - e. Limiting or otherwise designating the number, size, location, height, and lighting of signs and outdoor lighting.*
  - f. Requiring diking, screening, fencing, landscaping or another facility to protect adjacent or nearby property and designating standards for its installation and maintenance.*
  - g. Protecting and preserving existing trees, vegetation, water resources, wildlife habitat or other significant natural resources.*
  - h. Limiting the term of the Conditional Use Permit to a specific time.*
  - i. Requiring necessary on-site or off-site improvements and maintenance.*
  - j. Requiring the holder of a Conditional Use Permit to obtain review, renewal, or reapplication approval of the permit in the event that there is an increase in impact from the use on public facilities beyond that which was projected at the time of initial approval.*

**Response:** This section describes conditions that “*may be imposed...[if] determined necessary to avoid a detrimental impact, and to otherwise protect the best interests of the surrounding area and the County as a whole.*” Therefore, the criterion lists discretionary conditions and does not contain substantive standards. The improvements in Gilliam County consist of an associated transmission line that will be adjacent and parallel to an existing transmission line for its entire 2.1-mile length. In addition, several other large-scale transmission lines cross through the same area. Therefore, the transmission line is not introducing a new or incompatible use to the area. For example, the nearest existing residence is located more than 1 mile from the proposed transmission line. As described in this ASC, the Facility as a whole has been sited and designed to minimize impacts on the surrounding area and resources while functioning in its intended purpose of generating renewable energy for future public use.

*Section 7.020 Standards Governing Conditional Uses*

*In addition to the standards of the zone in which the conditional use is located and the general standards of this ordinance, conditional uses shall meet the following standards:*

**A. CONDITIONAL USES, GENERALLY**

1. *Setback. Requirements are addressed in each individual zone.*

**Response:** The transmission line, associated private service road, and POI are proposed at least 25 feet from property lines. Therefore, the transmission line complies with the GCZO 4.020(J) setback standards.

**Q. CONDITIONAL USES IN EXCLUSIVE FARM USE ZONES**

1. *A Type I or Type II Conditional Use in an Exclusive Farm Use Zone may be approved only when the Planning Director or Hearings body finds that the use will not:*
  - a. *Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or*
  - b. *Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.*

**Response:** The provisions in GCZO 7.010(Q)(1)(a-b) and GCZO 4.020(H)(1)(a-b) listed further above are verbatim what is required for photovoltaic solar power generation facilities, including their related or supporting facilities, under OAR 660-033-0130(5). The Applicant addresses OAR 660-033-0130(5) for the Facility in Section K.5.3 below.

2. *An applicant for a conditional use in the Exclusive Farm Use Zone may demonstrate that the standards for approval set forth in Subsection A of this section will be satisfied through the imposition of conditions. Any condition so imposed shall be clear and objective.*

**Response:** The Applicant demonstrates compliance with the provisions in GCZO 7.010(Q)(1)(a-b), which are applicable to the Facility and identical to OAR 660-033-0130(5) addressed below under Section K.5.3. The Applicant does not need any conditions to meet the requirements of “Subsection A” or GCZO 7.020(1)(a) listed above.

**Article 8. Supplementary Provisions**

**Section 8.140 - Site Plan Review**

**A. PURPOSE**

*The purpose of site plan review is to provide for administrative review of the design of certain developments and improvements in order to promote functional, safe, innovative and attractive site development that is compatible with the natural and man-made environment and is consistent with applicable requirements of this Ordinance.*

**Response:** The Applicant demonstrates in responses below that the transmission line, associated service road, and POI are consistent with the applicable requirements of the GCZO.

**B. PROCEDURE:**

1. *The requirements of this Section apply when site plan review is required for a use that is administratively or conditionally permitted in a zone. The requirements apply to new development; a change in use of an existing building; the addition of outdoor uses not previously reviewed, such as storage or parking; or an addition to an existing building of more than 500 square feet.*

**Response:** As described above in response to GCZO 4.020(C)(23) and (D)(16), the transmission line, associated service road, and POI are new developments associated with the proposed Facility and are subject to administrative or conditional approval in Gilliam County's EFU zone. Accordingly, the Applicant demonstrates in responses below that these related or supporting facilities are consistent with the applicable site plan review criteria provided in the GCZO.

**C. APPLICATION REQUIREMENTS**

**Response:** Compliance with the various criteria under GCZO 8.140(C) are demonstrated throughout the ASC, specifically on Figure C-1 in Exhibit C. Therefore, the criteria under GCZO 8.140(C) are met.

**D. THE LOCATION, DIMENSIONS AND METHODS OF IMPROVEMENT** *for all property to be dedicated to general public purposes or to public utilities.*

**Response:** The Facility, including the transmission line, associated service road, and POI are described in Exhibit B. The location and dimensions of the Facility are described in Exhibit C and shown on Figures C-1 and C-2 [C-2A through C-2E] in Exhibit C.

**E. DETAILED PLAN** *for any required or proposed landscaping that shall clearly illustrate:*

1. *Plants and tree species, their initial sizes and other proposed landscaping materials.*
2. *The location and dimensions of all areas to be devoted to landscaping, and location of any automatic sprinkler systems.*

**Response:** The Applicant has not identified substantive applicable criteria in Gilliam County that requires landscaping for the transmission line, associated service road, and POI. No landscaping is proposed for these Facility components and this criteria does not apply.



**F. OUTDOOR STORAGE AND ACTIVITIES, IF PERMITTED IN THE ZONE:** *Type, location and height of screening devices.*

**Response:** The transmission line, associated service road, and POI will not include outdoor storage or associated activities. Therefore, this provision does not apply.

**G. TOPOGRAPHIC INFORMATION** *for any area with slopes exceeding 10 percent. Contour intervals shall be ten feet or smaller.*

**Response:** Topographic information for the Facility site boundary is shown on Figures C-2B, C-2D, and C-2E in Exhibit C.

**H. DRAINAGE PLAN,** *or evidence that stormwater runoff will be accommodated by an existing storm drainage system.*

**Response:** A drainage plan is included as part of the Facility's NPDES 1200-C Construction Stormwater Permit Application provided in Attachment I-1 to Exhibit I. No grading is associated with installation of the steel monopoles used to support the overhead transmission line. The new private service road associated with the transmission line will be unimproved unless soil conditions require gravel to provide sufficient load bearing strength. During construction, numerous BMPs, outlined in the Facility erosion and sediment control plan discussed in Exhibit U, will be implemented to minimize erosion and sedimentation that could alter the surrounding stormwater drainages. Therefore, this criteria is met.

**I. IDENTIFICATION OF PROPOSED TRASH STORAGE LOCATIONS,** *including proposed enclosure design construction and access for pickup purposes.*

**Response:** As described in Exhibit U, solid waste disposal for the Facility during construction will be provided by private contract with a local commercial hauler or haulers. The transmission line, associated service road, and POI will not be a source of trash during Facility operation. The Facility is located between two public landfills: Arlington Landfill owned by Waste Management Services, Inc., of Oregon, located approximately 27 miles from the Facility, and Finley Buttes Landfill owned by Waste Connections, Inc., located approximately 30 miles from the Facility south of Boardman. Haulers will be able to access the transmission line construction area for pickup along the associated service road. Therefore, this criterion is met.

**J. LOCATION OF ALL EXISTING AND PROPOSED UTILITIES** *and septic systems on or abutting the property.*

**Response:** Exhibit U describes existing utilities on or adjacent to the proposed Facility. Public services or other public utilities are not necessary for the transmission line as it includes no buildings or other related infrastructure aside from the transmission line poles, related electrical conductor, and service road.

**K. ELEVATION DRAWINGS** *showing the exterior appearance of all proposed buildings.*

**Response:** No buildings are proposed as part of the Facility within Gilliam County. Therefore, this provision does not apply.

**L. APPROVAL STANDARDS:**

1. *All provisions of this zoning ordinance and other applicable regulations are compiled with.*
2. *Elements of the site plan are arranged so that:*
  - a. *Traffic congestion is avoided.*
  - b. *Pedestrian and vehicular safety and welfare are protected.*
  - c. *Significant features and public amenities are preserved and maintained.*
  - d. *Surface drainage systems are designed so as not to adversely affect neighboring properties, roads, or surface and subsurface water quality.*
  - e. *Structures and facilities for storage, machinery and equipment, services (mail, refuse, utility wires, etc.), loading and parking and similar accessory areas shall be buffered or screened to minimize adverse impact on neighboring properties.*

**Response:** The Applicant demonstrates in responses to the applicable substantive criteria of the GCZO, that the Facility is consistent with the GCCP, GCZO, and other applicable policies and regulations of the County. The transmission line will require minimal O&M visits to be conducted periodically by the operator of the Facility. Operation of the transmission line will not contribute to traffic congestion on nearby local roads such as Threemile Canyon Road and will not adversely affect vehicular safety. The transmission line will not be a source of pedestrian traffic. The transmission line and private service road will not include outdoor storage or associated activities and will not include loading and parking areas. A drainage plan is included as part of the Facility’s NPDES 1200-C Construction Stormwater Permit Application provided in Attachment I-1 to Exhibit I. During construction, BMPs outlined in the Facility erosion and sediment control plan discussed in Exhibit U, will be implemented to minimize erosion and sedimentation that could alter the surrounding stormwater drainages. Therefore, the applicable substantive provisions of 8.140(L) are met.

***M. THE DEVELOPMENT WILL NOT RESULT IN TRAFFIC VOLUMES THAT WILL REDUCE THE PERFORMANCE STANDARD of a transportation facility below the minimum acceptable level identified in the Transportation System Plan (LOS C). This standard may be met through a condition of approval requiring improvements to the transportation facility.***

**Response:** The transmission line will require minimal O&M visits to be conducted periodically by the operator of the Facility. As described in Exhibit U, these visits will not result in traffic volumes that will reduce the performance standards of identified nearby transportation facilities below the minimum acceptable levels. Therefore, this criterion is met.

***N. THE DEVELOPMENT WILL NOT ADVERSELY AFFECT AGRICULTURAL OR FORESTRY USES.***

**Response:** This provision is consistent with the criteria provided in GCZO 4.020(H)(1)(a-b) and GCZO 7.010(Q)(1)(a-b) listed above, which are verbatim what is required for photovoltaic solar power generation facilities, including their related or supporting facilities, under OAR 660-033-0130(5). The Applicant addresses OAR 660-033-0130(5) for the Facility in Section K.5.3 below demonstrating that neither the Facility as a whole nor the transmission line will adversely affect agricultural uses.

**K.5.2.2 Applicable Substantive Criteria from the Gilliam County Comprehensive Plan****Goal 3. Agricultural Lands**

Goal: To preserve and maintain agricultural lands.

*The policies adopted in Goal Three of the Comprehensive Plan outline County policy with regard to agriculture and the preservation of agricultural lands. These policies are founded on the authority given a county to establish Exclusive Farm Use zones (ORS 215.203), to exercise its authority in these zones to protect the health, safety and welfare of the citizens (ORS 215.253 {2}) and to review and regulate proposals for subdividing farm lands (ORS 215.263). The policies are intended to support the state’s agricultural land use policy (ORS 215.243) and should be so interpreted and construed.*

Policies:

*In consideration of the above Findings, the Gilliam County Court adopts the following policies:*

3. *In order to preserve the maximum level of agriculture in the County, all “Agricultural Lands” shall be so designated and shall be zoned in accordance with the provisions of ORS 215.283. Further, those non-farm uses permitted by ORS 215.283(1) shall be permitted uses, and those non-farm uses permitted by ORS 215.283(2) may be allowed as conditional uses subject to ORS 215.296.*

**Response:** The transmission line is a component of the Facility as defined in OAR 660-033-0130(38)(e). The transmission line is also a permitted use in the EFU zone per ORS 215.283(1)(C), but is defined as an associated transmission line in ORS 469.300(3) because it will connect the, “...energy facility to the first point of junction of such transmission line or lines...” with the Northwest Power Grid. Therefore, the applicable statute is ORS 215.274 and not ORS 215.275. Section K.5.3 addresses the Applicant’s compliance with the applicable statutes of ORS 215.274. Therefore, the Facility and associated transmission line are consistent with this policy.

**Goal 5. Natural Resources, Scenic, and Historic Areas, and Open Spaces.**

Goal: To conserve open space and protect natural and scenic resources.

Policies:

2. *The Department of Fish and Wildlife (ODFW) will be consulted when proposed land use actions may affect fish or wildlife habitats.*

**Response:** Goal 5 of the Gilliam County GCCP notes that ODFW has established the Willow Creek Wildlife Area and the policy is to consult with ODFW when proposed land use actions may affect this area. ODFW has been consulted and, as described in Exhibit L, the design, construction, and operation of the Facility will not cause direct or indirect noise, traffic, water, wastewater, or visual impacts likely to result in significant adverse impacts on Willow Creek Wildlife Area. Therefore, the Facility is consistent with this policy.

12. *Gilliam County will continue to encourage the development of alternative sources of energy.*

The Facility is an alternative source of energy and therefore directly supports this policy.

**Goal 8. Recreation Needs**

Goal: To satisfy the recreation needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.

Policies:

3. *Private development should not be permitted if it would block access to or otherwise have a significant adverse impact on public open space lands.*

**Response:** The Facility is consistent with the goal to satisfy the recreation needs of the citizens of the state and visitors. As described in Exhibit T, the Facility will not block access to or otherwise have significant adverse impacts on the Willow Creek Wildlife Area.

**Goal 13. Energy Conservation**

Goal: To conserve energy.

Policies:

3. *Applications for new energy generation facilities, whether public or private, should consider impacts on neighboring properties.*

**Response:** The transmission line is a component of the solar power generation facility as defined in OAR 660-033-0130(38)(e). The Facility will generate renewable power for public use. The Facility, including the transmission line, is compatible with adjacent land uses. As identified throughout this ASC, the Facility as a whole was sited in consideration of impacts on neighboring properties.

The transmission line was sited so that it could have a direct route between the Facility and the POI, while paralleling an existing transmission line for its entirety, thereby minimizing impacts on neighboring properties. As shown on Figure K-7, the vast majority of the adjacent land to the north, east, south, and west of the Facility site boundary is owned by Threemile Canyon Farms, the underlying owner of the entire Facility site. As described in Attachment K-1 by Marty Myers, General Manager of Threemile Canyon Farms, development of the Facility at this site will not remove any land from productive economic use. Threemile Canyon Farms also states that developing the Facility at the proposed site will facilitate a higher and better use of the land and concentrate solar development off more productive farmland. The proposed transmission line location avoids the areas immediately south of the Facility, which are currently in cultivation. Therefore, the Facility and associated transmission line are consistent with this policy.

**K.5.3 Directly Applicable Goals, Statutes, and Administrative Rules**

**Response:** The goals, statutes, and administrative rules directly applicable to the Facility are discussed below.

### K.5.3.1 Statewide Planning Goals

For the reasons discussed above, the Facility complies with the applicable substantive criteria identified by the Applicant, except MCZO Section 3.010(D)(14), which limits the area that a “commercial utility facility” may occupy in an EFU zone.

Because the Facility does not comply with all applicable local land use criteria, this section provides analysis, under ORS 469.504(1)(b)(B), on whether the proposed facility “otherwise [complies] with the applicable statewide planning goals.” For a use located within an EFU zone, the “applicable statewide planning goal” is Goal 3, which is the State’s Agricultural Lands goal. As expressed in Oregon’s Statewide Planning Goals and Guidelines, Goal 3 is:

***To preserve and maintain agricultural lands.***

*Agricultural lands shall be preserved and maintained for farm use, consistent with existing and future needs for agricultural products, forest and open space and with the state's agricultural land use policy expressed in ORS 215.243 and 215.700.*

Consistent with Goal 3, Morrow and Gilliam counties designated EFU zones to preserve agricultural lands. Under Goal 3, nonfarm uses are permitted within a farm use zone as provided under ORS 215.283. As described in response to the applicable substantive rules and statutes references below, the Applicant demonstrates compliance with ORS 215.283, showing that the proposed energy facility and its related or supporting facilities are uses that fit within the scope of the uses permitted on EFU land described in ORS 215.283(1), (2) or (3).

### K.5.3.2 Oregon Revised Statutes

**ORS 215.283** *Uses permitted in exclusive farm use zones in nonmarginal lands counties; rules.*

Pursuant to ORS 215.283(2)(g), “commercial utility facilities for the purpose of generating power for public use by sale” may be established in the EFU zone of nonmarginal lands counties (including Morrow County) “subject to the approval of the governing body or its designee in any area zoned for exclusive farm use subject to ORS 215.296.” MCZO 3.010.D(14) lists the same use as a conditional use in the Morrow County EFU zone. The standards for a conditional use in the EFU zone are set forth in MCZO 6.025(A), and are identical to ORS 215.296(1) and to OAR 660-033-0130(5), which is addressed below.

Pursuant to ORS 215.283(1)(C), “utility facilities necessary for public service” may be established in the EFU zone of nonmarginal lands counties (including Gilliam County) pursuant to ORS 215.274 if the utility is an associated transmission line. A demonstration of compliance with ORS 215.274 is provided further below in this section.

The Facility’s private service roads and access road are allowable on EFU land under ORS 215.283(3). ORS 215.283(3) allows “roads, highways and other transportation facilities and improvements” that are not otherwise allowed under paragraphs (1) and (2) of ORS 215.283 to be established in an EFU zone, subject to:

- (a) *Adoption of an exception to the goal related to agricultural lands and to any other applicable goal with which the facility or improvement does not comply; or*
- (b) *ORS 215.296 for those uses identified by rule of the Land Conservation and Development Commission as provided in section 3, chapter 529, Oregon Laws 1993.*

The subparagraphs are conjoined by “or” and so either (a) or (b) applies. In this case, subparagraph (b) applies because the Facility private service roads and access road are a use identified by the LCDC. OAR 660-033-0120 (Table 1) lists “transportation improvements on rural lands allowed by OAR 660-012-0065” as a type “R” use (“use may be approved, after required review”) authorized on agricultural lands. OAR 660-012-0065(2)(d) defines “accessory transportation improvements” as “transportation improvements that are incidental to a land use to provide safe and efficient access to the use.” The proposed Facility service roads and access road are “incidental” to the principal use (the Facility) and will provide safe and efficient access to the Facility.

Under OAR 660-012-0065(3)(a), transportation improvements for a use that is conditionally allowed by ORS 215.283 are consistent with Goal 3, subject to the requirements of OAR 660-012-0065. The principal use (a commercial utility facility for the purpose of generating power for public use by sale) is conditionally allowed by ORS 215.283(2)(g).

Accordingly, the service roads and access road serving that use are consistent with Goal 3 subject to the requirements of OAR 660-012-0065. The requirements of OAR 660-012-0065(4) are applicable and the Applicant’s demonstration of compliance is provided further below.

**ORS 215.274** *Associated transmission lines necessary for public service*

The Facility’s transmission line is proposed entirely within Gilliam County’s EFU zone. The transmission line meets the definition of an associated transmission line in ORS 469.300(3) because it will connect the Facility, “...to the first point of junction of such transmission line or lines...” to the Northwest Power Grid via the proposed POI.

- (1) *As used in this section, associated transmission line has the meaning given that term in ORS 469.300 (Definitions).*

**Response:** The Facility’s transmission line meets the definition of an associated transmission line in ORS 469.300 (3) because it will connect the Facility to the Northwest Power Grid via the proposed POI.

- (2) *An associated transmission line is necessary for public service if an applicant for approval under ORS 215.213 (Uses permitted in exclusive farm use zones in counties that adopted marginal lands system prior to 1993) (1)(c)(B) or 215.283 (Uses permitted in exclusive farm use zones in nonmarginal lands counties) (1)(c)(B) demonstrates to the governing body of a county or its designee that the associated transmission line meets:*

- (a) *At least one of the requirements listed in subsection (3) of this section;*  
*or*  
 (b) *The requirements described in subsection (4) of this section.*

**Response:** The Facility transmission line meets one of the requirements of subsection (3) as outlined below.

- (3) *The governing body of a county or its designee shall approve an application under this section if an applicant demonstrates that the entire route of the associated transmission line meets at least one of the following requirements:*

- (a) *The associated transmission line is not located on high-value farmland, as defined in ORS 195.300 (Definitions for ORS 195.300 to 195.336), or on arable land;*

**Response:** The Facility site is located within the approximately 11-million acre Columbia Valley AVA that generally stretches within Oregon from The Dalles to Milton-Freewater (see AVA map in Attachment K-4). Therefore, by law, the land within the Facility site boundary is considered high-value farmland under ORS 195.300(10)(f)(C). Therefore, it does not meet this requirement.

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

**Response:** Although the Facility’s transmission line parallels an existing transmission line for its entirety, it is not co-located with an existing transmission line. Therefore, it does not meet this requirement.

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

**Response:** The Facility’s transmission line parallels the existing Portland General Electric 230-kV transmission line and its right-of-way for the Facility line’s entire length between the Facility substation and POI, with approximately 100 feet of minimum separation between centerlines (see Figure C-2E in Exhibit C). The Applicant specifically selected this parallel route to minimize impacts associated with a new transmission line located by itself. Therefore, the proposed transmission line meets this requirement.

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

**Response:** The Facility’s transmission line is not located in an existing right-of-way for a linear facility. Therefore, it does not meet this requirement.

### **K.5.3.3 Oregon Administrative Rules**

In OAR 660-033-0120, development and use of photovoltaic solar power generation facilities as commercial utility facilities for the purpose of generating power for public use by sale on agricultural lands is authorized, subject to the standards of OAR 660-033-0130(5) and OAR 660-033-0130(38). The Applicant’s compliance with the applicable standards is demonstrated below.

The Facility’s private service roads and access road are “incidental” to the principal use (the Facility) and will provide safe and efficient access to the Facility. Accordingly, the service roads and access road serving that use are consistent with Goal 3 subject to the requirements of OAR 660-012-0065. The requirements of OAR 660-012-0065(4) are applicable and the Applicant’s compliance with these requirements is demonstrated below.

**OAR 660-033-130(5)** *Approval requires review by the governing body or its designate under ORS 215.296. Uses may be approved only where such uses:*

- (a) *Will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and*

- (b) *Will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.*

**Response:** There are no surrounding forest lands within the analysis area. The nearest forest lands in Oregon occur approximately 50 miles to the south in southern Morrow County.

Within the analysis area, only the surrounding lands to the south and east of the Facility site boundary are used for farming, and these are all owned by Threemile Canyon Farms, the underlying landowner of the entire Facility site (see Figure K-8). As shown on Figure K-8, the crop circles to the south of the Facility site boundary are cultivated by Threemile Canyon Farms, with rotating irrigated crops. The areas within the Facility site boundary and to the east and southeast of the Facility site boundary are used by Threemile Canyon Farms seasonally for grazing. The lands in the analysis area to the north and west of the Facility site boundary not used for farming.

The surrounding lands used for winter and spring cattle grazing will not be impacted by the Facility because they can continue to be accessed from Threemile Canyon Road and other private farm roads.

The most productive farm use is on lands Threemile Canyon Farms owns to the south of the Facility site boundary for center pivot irrigation cultivated crops, including potatoes, onions, corn, and wheat. Construction and maintenance of solar panels and associated equipment at the Facility will not alter or reduce the area under cultivation by Threemile Canyon Farms, will not necessitate relocating any access routes or farm infrastructure such as for irrigation, and will not result in changes to the practices for planting, irrigating, fertilizing, or harvesting the cultivated crops.

Attachment K-1 is a letter from Marty Myers, General Manager of Threemile Canyon Farms. In the letter, Mr. Myers describes how the Facility will not adversely impact surrounding farm use. Mr. Myers states:

*...we believe developing the facility at the proposed site will facilitate a higher and better use of the land and concentrate solar development off more productive farmland. Moreover, the facility will not adversely impact or increase the cost of farm practices within the vicinity of the facility. Indeed, we do not anticipate any changes to our ongoing operations at Threemile Canyon Farms resulting from the construction or operation of the proposed facility.*

Thus, the proposed Facility complies with OAR 660-033-0130(5) and the identical provisions of MCZO 6.025(A), GCZO 4.020(H)(1), GCZO 7.010(Q)(1), and ORS 215.296(1).

**OAR 660-033-0130(38)** *A proposal to site a photovoltaic solar power generation facility shall be subject to the following definitions and provisions:*

OAR 660-033-0130(38) establishes standards specific to siting of a “photovoltaic solar power generation facility” as defined in OAR 660-033-0130(38)(e). The applicable standards under OAR 660-033-0130(38) depend on whether the tract containing the photovoltaic solar power generation facility is “high-value farmland” as described in ORS 195.300(10), “arable land” as defined in OAR 660-033-0130(38)(a), or “nonarable land” as defined in OAR 660-033-0130(38)(c). The relevant definitions for “arable” and “nonarable” lands in OAR 660-033-0130(38) provide:



- (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(10) unless otherwise stated.*
- (c) *“Nonarable land” means land in a tract that is predominantly not cultivated and predominantly comprised of nonarable soils.*
- (d) *“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.*

As discussed in Section K.2, the Facility site is not cultivated and has no water rights for irrigation. As shown in Table K-1, the Facility is not located on any soils that are high-value farmland soils if unirrigated. However, the Facility site is located within the approximately 11-million acre Columbia Valley AVA that in Oregon generally stretches from The Dalles to Milton-Freewater (see AVA map in Attachment K-4). Therefore, by law, the land within the Facility site boundary is considered high-value farmland under ORS 195.300(10)(f)(C), even though the conditions (no irrigation or history of cultivation and nonirrigated soil capability class IV) meet the technical definition for arable soils. Thus, pursuant to ORS 195.300(10), the Facility site is “high-value farmland” subject to the standards of OAR 660-033-0130(38)(f) and the Applicant demonstrates compliance below. In addition, the Applicant shows compliance with OAR 660-033-0130(38)(g) since the soils are technically considered “arable” in accordance with NRCS soil information provided in Table K-1, as well as the lack of past or present irrigation or water rights for the Facility site.

- (f) *For high-value farmland described at ORS 195.300(10), a photovoltaic solar power generation facility shall not preclude more than 12 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4. The governing body or its designate must find that:*

**Response:** Per OAR 660-033-0130(38)(f), no high-value farmland as identified by soil capability class is located within the Facility site boundary. However, the entire Facility site boundary is located within the approximately 11 million-acre Columbia Valley AVA, which is considered high-value farmland under ORS 195.300(10)(f)(C). The Facility will permanently occupy approximately 486 acres of high-value farmland, consistent with the 486 acres shown in Table C-1 of Exhibit C. Therefore, the Facility requires an exception to Statewide Planning Goal 3. For projects under Council jurisdiction, the standards for approving an exception are set forth in ORS 469.504(2)(c) and the Council’s rule (which mirrors the statute), OAR 345-022-0030(4). The justification for an exception to Statewide Planning Goal 3 is set forth in Section K.5.5. The Applicant’s demonstration of compliance with the remainder of OAR 660-033-0130(38)(f) is included directly below.

- (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;*

**Response:** Construction and maintenance of solar panels and associated equipment at the Facility will not impact agricultural operations on the subject property owned by Threemile Canyon Farms, will not necessitate relocating any access routes or farm infrastructure, and will not result in changes to the practices for planting, irrigating, fertilizing, or harvesting on adjacent property. Attachment K-1 is a letter from Marty Myers, General Manager of Threemile Canyon Farms. In the letter, Mr. Myers describes how the Facility will not impact farm operations. Mr. Myers states:

*...we believe developing the facility at the proposed site will facilitate a higher and better use of the land and concentrate solar development off more productive farmland. Moreover, the facility will not adversely impact or increase the cost of farm practices within the vicinity of the facility. Indeed, we do not anticipate any changes to our ongoing operations at Threemile Canyon Farms resulting from the construction or operation of the proposed facility.*

Thus, the Facility will not create unnecessary negative impacts on agricultural operations conducted on any portion of the subject property not occupied by Facility components.

- (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 and how topsoil will be stripped, stockpiled and clearly marked. The approved plan shall be attached to the decision as a condition of approval;*

**Response:** The potential for soil erosion is addressed in Exhibit I. Construction of the Facility will be performed under an NPDES 1200-C permit, including a DEQ-approved Erosion and Sediment Control Plan. After completing construction in an area, the Applicant or its contractor will monitor the area until soils are stabilized, to evaluate whether construction-related impacts on soils are being adequately addressed by the mitigation procedures described in the erosion and sediment control plan and the Facility's Revegetation and Noxious Weed Control Plan. As necessary, the Applicant or its contractor will implement follow-up restoration measures such as scarification and reseedling to address those remaining impacts.

- (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;*

**Response:** Construction and maintenance activities will be limited to areas inside the Facility site boundary. The underlying landowner of the entire Facility site and surrounding lands supports the Facility and in Attachment K-1, states that the Facility will facilitate a higher and better use of the land and concentrate solar development off more productive farmland. After construction, scarification of compacted soils will occur as necessary for revegetation of those areas outside the permanent footprint and temporarily impacted by construction.

- (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;*

**Response:** The Applicant understands that the Council will impose a condition to the site certificate requiring that the certificate holder implement a Revegetation and Noxious Weed Control Plan and comply with the applicable provisions of the weed control ordinances in Morrow and Gilliam counties, as determined by the appropriate weed control authorities in Morrow and Gilliam counties. The certificate holder must consult with the appropriate weed control authorities in Morrow and Gilliam counties and obtain approval of a Revegetation and Noxious Weed Control Plan. The final Revegetation and Noxious Weed Control Plan must be submitted to the Oregon Department of Energy for approval prior to the start of construction. This condition will adequately ensure that construction and maintenance activities at the Facility will not result in the unabated introduction or spread of noxious weeds and other undesirable weed species.

- (E) *The project is not located on high-value farmland 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;*

**Response:** Technically, the Facility is located on predominantly arable soils, not high-value farmland soils (see Table K-1). However, because the Facility site is located within the Columbia Valley AVA (see AVA map in Attachment K-4), by law, the land within the Facility site boundary is automatically considered high-value farmland under ORS 195.300(10)(f)(C). Since the Facility site and surrounding tract are both within the greater approximately 11-million-acre Columbia Valley AVA, which extends generally from The Dalles to Milton-Freewater, siting the Facility on non-high-value farmland is not possible.

- (F) *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 or acquire water rights, or will reduce the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area.*

**Response:** No other solar photovoltaic power generation facilities have been constructed or are approved for construction within the required 1-mile study area from the center of the proposed Facility. Therefore, no further action is necessary.

- (g) *For arable lands, a photovoltaic solar power generation facility shall not preclude more than 20 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4. The governing body or its designate must find that:*

**Response:** The Facility will permanently occupy more than 12 acres of high-value farmland or 20 acres of arable land. Thus, the Facility requires an exception to Statewide Planning Goal 3. For projects under Council jurisdiction, the standards for approving an exception are set forth in ORS 469.504(2)(c) and in the Council's rule (which mirrors the statute), OAR 345-022-0030(4). The justification for an exception to Statewide Planning Goal 3 is set forth in Section K.5.5. The Applicant's demonstration of compliance with the remainder of OAR 660-033-0130(38)(g) is presented in the response directly below.

- (A) *The project is not located on high-value farmland soils 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;*

**Response:** There are limited nonarable soils on the subject tract. Siting the Facility on an alternative site that has nonarable soils within the subject tract would significantly reduce the

Facility's ability to operate successfully. The proposed site is better suited to allow continuation of an existing commercial farm than other locations. Therefore, all three standards are met.

First, although there are some nonarable soils on the Threemile Canyon Farms tract, they are extremely limited. Most of the Class V-VIII lands without irrigation (Figure K-6) are Class I-IV with irrigation (Figure K-5) and therefore are no longer considered nonarable. This accounts for most of the land within the tract; these lands do have water rights and are already under cultivation by Threemile Canyon Farms with significant irrigation infrastructure including center pivots and pipelines.

Most of the Class V-VIII lands that do not have a history of irrigation and are therefore considered nonarable, are within the Boardman Farm Conservation Area (see Figures K-5 and K-6). Threemile Canyon Farm has a Multi-Species Candidate Conservation Agreement with Assurances (CCAA) for Washington ground squirrel, ferruginous hawk, loggerhead shrike, and sage sparrow that covers the subject tract. As part of the CCAA, two distinct areas, totaling approximately 22,600 acres, are permanently dedicated to conservation purposes by Threemile Canyon Farms. As outlined in the CCAA, the Boardman Farm Conservation Area contains some of the highest quality plant communities within the subject tract and is subject to a permanent conservation easement, which requires the area to be managed for the conservation of the native shrub-steppe habitat and wildlife species. There is an area of nonarable land to the north of the Boardman Farm Conservation Area, however this land is immediately west of and within restricted airspace for the US Naval Weapons System Training Facility commonly referred to as the Boardman Bombing Range, and it is unlikely that the Department of Defense and Federal Aviation Administration would approve a solar project development in this location. Therefore, these nonarable soils in and north of the Boardman Conservation Area are not available for the Facility.

Second, Class V-VIII lands that do not have a history of irrigation are not in proximity to the POI and some are along creeks or hills where construction and operation of a solar project is difficult. In other words, siting the Facility on nonarable soils present on the subject tract, to the extent such a site might even be available from the landowner, would significantly reduce the Facility's ability to operate successfully.

Third, the proposed Facility site is significantly better suited to allow continuation of the existing commercial agricultural operation on the subject tract than any other location. The construction and maintenance of solar panels and associated equipment at the Facility will not alter or reduce the area under cultivation by Threemile Canyon Farms elsewhere on the tract or surrounding areas also under their ownership, would not necessitate relocating any access routes or farm infrastructure (including irrigation equipment), and would not result in changes to the practices for planting, irrigating, fertilizing, or harvesting the circles.

This explanation, in addition to the letter from Marty Myers, General Manager of Threemile Canyon Farms (Attachment K-1), demonstrates that proposed Facility site is significantly 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.

Therefore, although there are small areas of nonarable soils within the subject tract, nonarable soils are not available on the subject tract in a quantity or configuration that would allow for construction and operation of the Facility. Moreover, as discussed in detail in response to OAR 660-033-0130(38)(f)(E), numerous additional factors make other areas within the subject tract unsuitable for solar development.

In summary, because there are limited nonarable soils on the subject tract, siting the Facility on any alternate location within the tract would significantly reduce the Facility’s ability to operate successfully, and the proposed Facility site is better suited to allow continuation of an existing commercial farm than other locations, this standard is met.

- (B) *No more than 12 acres of the project will be sited on high-value farmland soils described at ORS 195.300(10) unless an exception is taken pursuant to 197.732 and OAR chapter 660, division 4;*

**Response:** The Facility is not located on a site that has been cultivated, irrigated, or has water rights. The soils within the Facility site are almost exclusively nonirrigated soil capability class IV (see Table K-1), which falls under the definition of arable soils. However, the Facility site is located within the approximately 11-million acre Columbia Valley AVA that in Oregon generally stretches from The Dalles to Milton-Freewater (see AVA map in Attachment K-4). Therefore, by law, the land within the Facility site boundary is considered high-value farmland under ORS 195.300(10)(f)(C), even though the conditions (no irrigation or history of cultivation and nonirrigated soil capability class IV) meet the technical definition for arable soils. Thus, pursuant to ORS 195.300(10), the Facility site is “high-value farmland” subject to the standards of OAR 660-033-0130(38)(f).

The Facility will permanently occupy approximately 486 acres (consistent with Table C-1 in Exhibit C) within the Columbia Valley AVA and classified as high-value farmland under ORS 195.300(10)(f)(C). Therefore, the Facility requires an exception to Statewide Planning Goal 3. The Applicant’s request for a Goal 3 exception is located in Section K.5.5.

- (C) *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 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; and*

**Response:** No other solar photovoltaic power generation facilities have been constructed or are approved for construction within the required 1-mile study area from the center of the proposed Facility. Therefore, no further action is necessary.

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

**Response:** The requirements of OAR 660-033-0130(38)(f)(A), (B), (C) and (D) are discussed above.

- (i) *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).*

**Response:** The Applicant understands that the Council will impose a condition to the site certificate requiring that before beginning construction of the Facility, the certificate holder must record such a document in the deed records of Morrow and Gilliam counties.

- (j) *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.*

**Response:** Exhibit W has information on retiring the Facility and restoring the site.

**OAR 660-012-0065(4)** *Accessory transportation improvements required as a condition of development listed in subsection (3)(a) of this rule shall be subject to the same procedures, standards and requirements applicable to the use to which they are accessory.*

The criteria specific to OAR 660-012-0065(3)(a), as referenced in the rule, requires that accessory transportation improvements are allowed under ORS 215.283. As described in Section K.5.3.2, the Facility's private service roads and access road are allowable on EFU land under ORS 215.283(3). The rule language applies specifically to accessory transportation improvements "required as a condition of development." Because the service roads and access road are necessary for the operation and maintenance of the Facility, they are a necessary condition of the development of the commercial utility facility. Accordingly, the service roads and access road are subject to the standards and requirements applicable to the principal use (the Facility). The standards and requirements applicable to the principal use are contained in OAR 660-033-0130(5) and (38). The Applicant demonstrates above, compliance of the service roads and access road with the applicable criteria in OAR 660-033-0130(5) and (38).

#### **K.5.4 Noncompliance with Applicable Substantive Criteria**

The Facility does not meet MCZO 3.010(D)(14) as it will preclude more than 12 acres of high-value farmland or 20 acres of other land from commercial farm use. The Applicant demonstrates below in Section K.5.5 that an exception to Statewide Planning Goal 3 is justified.

#### **K.5.5 Goal 3 Exception**

OAR 660-033-0130(38) places 12-acre (high-value farmland) and 20-acre (arable lands) limits on the use of farmland for a nonfarm-related use without an exception to Goal 3. Table K-1 shows that the vast majority of the area within the Facility site boundary (758.2 acres) comprises arable lands. Although no high-value farmland as identified by soil capability class is located within the Facility site boundary, the entire Facility site boundary is located within the approximately 11-million acre Columbia Valley AVA. Therefore, by law, the land within the Facility site boundary is considered high-value farmland under ORS 195.300(10)(f)(C) and a Goal 3 exception is required.

The Applicant demonstrates that a reasons exception is warranted. ORS 469.504(2) provides the controlling criteria for exceptions proposed for energy facilities under the jurisdiction of the Council.

An “exception” is a “decision to exclude certain land from the requirements of [an] applicable statewide goal.” See OAR 660-004-0000(2). The need for an exception arises when a goal does not permit a particular use. For local jurisdictions, the exceptions process is authorized by Goal 2 (Land Use Planning) and ORS 197.732, and governed by the criteria in OAR 660-004-0000, et seq. The Council may find goal compliance for a facility that does not otherwise comply with a statewide planning goal by taking an exception. Notwithstanding the requirements in ORS 197.732, the Council may take an exception if it makes specific findings under ORS 469.504(2)(a), (b), or (c). In the following sections, the Applicant demonstrates that a Goal 3 exception is warranted under ORS 469.504(2)(c) and OAR 345-022-0030(4)(c). An exception is warranted to allow a locationally dependent facility that will fulfill important state and county goals by providing renewable energy while minimizing impacts on local farming practices.

#### **K.5.5.1 Demonstration that a “Reasons” Exception is Appropriate**

**ORS 469.504(2)(c)(A); OAR 345-022-0030(4)(c)(A)** *Reasons justify why the state policy embodied in the applicable goal should not apply;*

**Response:** The general state policy embodied in Goal 3 is “[t]o preserve and maintain agricultural lands,” as set forth in OAR 660-015-0000(3). As discussed above, the Facility will not have significant adverse impacts on accepted farm or forest practices. However, the Applicant must nonetheless demonstrate why the policy in Goal 3 should not apply to the Facility. The Applicant’s justification for not applying the Goal 3 acreage limitation to the Facility is presented directly below.

First, the proposed Facility is locationally dependent, requiring sufficient solar access and proximity to the regional grid for interconnection. This confluence of factors could be interpreted in this case as presenting a unique resource located on farmland consistent with OAR 660-004-0022(3)(a). Solar data collected by the U.S. Department of Energy and provided as Attachment K-5 (K-5A and K-5B), show that the site provides an excellent solar resource only 2 miles from the existing regional transmission line system. At this distance, connecting the Facility to the POI is both technically and economically feasible, and the site is uniquely positioned relative to other locations in Morrow County to maximize generation of solar-powered energy (Attachment K-5B).

Other aspects of the site make it ideal for solar development. The site is directly adjacent to I-84, providing easy access for construction and ongoing maintenance and operation. The site is flat, making it easy to erect solar modules and related or supporting facilities. The area within the Facility site boundary to be developed is relatively void of trees, shrubs, or other agricultural crop. Impacts to existing vegetation will be almost exclusively nonnative grasses, and the area is large enough to accommodate the solar development. Consequently, it would be incompatible to put the development in nearby urban growth boundaries that are more densely populated, consistent with OAR 660-004-0022(3)(b).

Second, the Facility is proposed for undeveloped and unproductive farmland. Constructing a solar facility on this site facilitates a higher and better use of the land and concentrates solar development off more productive farmland. As described by the landowner in Attachment K-1, development of the Facility at this site will not remove any land from productive economic use



because the site is not cultivated, is not known to have been cultivated in the past, and has historically been used only for winter and spring cattle grazing. In addition, the Facility site does not have irrigation water rights.

The site could be utilized for commercial agriculture only if new irrigation rights were obtained or existing irrigation rights were transferred from other agricultural land, and if the necessary irrigation infrastructure were constructed. As shown on Attachment K-3, Threemile Canyon Farms holds a number of water rights all of which are being used for its operations to the south of the Facility site boundary, and these water rights are associated with crop circles developed with center-pivot irrigation. Center-pivot irrigation is a form of overhead sprinkler consisting of several segments of pipe joined together and supported by trusses, mounted on wheeled towers with sprinklers positioned along its length. The machine moves in a circular pattern and is fed with water from the pivot point at the center of the circle. Each pivot is connected to an extensive network of pipelines that deliver water from the authorized point of diversion. Thus, even if it was theoretically possible for Threemile Canyon Farms to transfer water rights to the Facility site, such a scenario is not feasible. Given the significant investment in the placement of the existing irrigation infrastructure and creating the existing crop circles, it is not practical to assume that Threemile Canyon Farms would transfer any of its existing water rights to an area that is not currently cultivated and that does not have the existing irrigation infrastructure.

Moreover, new irrigation rights depend on the success of efforts to divert additional water from the Columbia River, which is not planned for the foreseeable future. As part of the Columbia River Supply Project, the Northeast Oregon Water Association is applying for water rights permits in a three-phase development effort to provide water from the Columbia River to three critical groundwater areas in northeast Oregon (Northeast Oregon Water Association, 2014). However, as shown on Attachment K-6, the phases of development associated with the Columbia River Supply Project do not overlap with the Facility site and will not introduce new irrigation water rights within the Facility site boundary.

Additionally, as analyzed in Section 5.3.3, there are no alternative locations on the subject tract.

Third, the proposed Facility will further important County and State policies. As discussed above, the MCZO allows solar power generation under the umbrella of a commercial utility facility for the purposes of generating power for public use by sale, as a conditional use under MCZO 3.010(D)(14). In 2005, the State of Oregon published a *Renewable Energy Action Plan* (Oregon Department of Energy, 2005). The Plan calls for significant, additional development of renewable resources, including solar energy. In 2007, the Oregon legislature passed Senate Bill 838 establishing Oregon's Renewable Portfolio Standard (RPS) for electricity, requiring that 25 percent of Oregon's electric load come from new renewable energy by 2025. On March 11, 2016, Governor Kate Brown signed Senate Bill 1547, which doubles the RPS from 25 percent to a requirement that 50 percent of Oregon's electric load must come from new renewable energy by 2040. Further, Statewide Land Use Planning Goal 13 calls for the development of renewable energy resources. The Oregon Legislative Assembly has enacted numerous tax credits and economic development incentives favoring renewable energy development. Oregon's numerous statutory programs together reflect a thoroughgoing state policy of supporting renewable energy development. See, for example, ORS 757.612 (creating system benefit charge, a portion of the funds from which go to renewable energy), and ORS 757.603(2) (requiring Oregon electric utilities to provide retail customers with at least one option including significant percentage of renewable energy).

Fourth, the Facility will advance County and State policies of furthering efficient development and economic growth. The Facility will encourage the efficient siting of land uses, and facilitate multiple uses of land. The Facility will allow continued access to adjacent farmland and continued agricultural operations where they are more productive, while simultaneously using land that is not currently being utilized for agriculture for renewable energy generation.

The Facility will also benefit the local economy through employment opportunities, and provide contributions to the local tax base. Additional information on economic development is provided in Section K.5.1.2.

In summary, this section explains the reasons why a Goal 3 exception is justified under OAR 660-004-0022(3), which states the following:

*(3) Rural Industrial Development: For the siting of industrial development on resource land outside an urban growth boundary, appropriate reasons and facts may include, but are not limited to, the following:*

*(a) The use is significantly dependent upon a unique resource located on agricultural or forest land. Examples of such resources and resource sites include geothermal wells, mineral or aggregate deposits, water reservoirs, natural features, or river or ocean ports;*

*(b) The use cannot be located inside an urban growth boundary due to impacts that are hazardous or incompatible in densely populated areas; or*

*(c) The use would have a significant comparative advantage due to its location (e.g., near existing industrial activity, an energy facility, or products available from other rural activities), which would benefit the county economy and cause only minimal loss of productive resource lands. The reasons for such a decision should include a discussion of the lost resource productivity and values in relation to the county's gain from the industrial use, and the specific transportation and resource advantages that support the decision.*

#### **K.5.5.2 Evidence That Environmental, Socioeconomic, and Energy Consequences Favor the Exception**

**ORS 469.504(2)(c)(B); OAR 345-022-0030(4)(c)(B)** *The significant environmental, economic, social and energy consequences anticipated as a result of the proposed facility have been identified and adverse impacts will be mitigated in accordance with rules of the Council applicable to the siting of the proposed facility;*

##### **Response:**

**Environmental.** Operation of the Facility will not result in any air emissions of pollutants. Other potential environmental consequences of Facility construction and operation are discussed in Exhibits J (Wetlands), P (Fish and Wildlife Habitats and Species), and Q (Threatened and Endangered Plant and Animal Species). As described in Exhibit J, the site layout of solar modules has been adjusted to avoid the existing wetlands located to the southeast of the Facility and in a drainage along the proposed transmission line route in the western portion of the site boundary, and no streams will be impacted by the Facility. Furthermore, as described in Exhibit P, the Applicant designed the Facility to avoid impacts on special status species, riparian areas, and high quality habitat. As demonstrated in Exhibit Q, the Facility is not likely to cause a significant reduction in the likelihood of survival or recovery of any listed plant or animal

species. Collectively, Exhibits J, P, and Q demonstrate that the Facility, including proposed mitigation measures, will not cause any significant adverse environmental consequences.

**Socioeconomic.** The Facility will provide a reliable source of electricity without any associated emissions. The Facility’s socioeconomic consequences will not be adverse. As demonstrated in Exhibits R (Scenic Resources), S (Historic, Cultural, and Archaeological Resources), and T (Recreational Opportunities), the Facility will have no significant adverse impacts on scenic, cultural, historical, archaeological, or recreational resources.

Exhibit R identifies “significant or important” scenic resources within a 10-mile analysis area from the Facility site boundary. The Facility structures and associated transmission line may be potentially visible from intermittent locations along the Blue Mountain Scenic Byway and the Lewis and Clark Trail Scenic Byway, which are identified as scenic resources in Exhibit R. However, both byways are located more than 1 mile away from the Facility site boundary. Given this distance, the nature of the topography of the existing landscape, and the Facility’s limited visibility from the byways, the proposed Facility will not result in significant adverse impacts on scenic resources. The Facility will not be visible from other scenic resources listed in Exhibit R.

No cultural or archaeological resources identified as eligible or potentially eligible for NRHP listing will be affected by construction, operation, or retirement of the proposed Facility. All work will be performed in accordance with the protective measures listed in Exhibit S should discovery of previously unrecorded cultural resources or of human remains occur during construction, operation, or retirement.

Exhibit T identifies “important” recreational opportunities within a 5-mile analysis area from the Facility site boundary. Exhibit T demonstrates that construction and operation of the Facility is not anticipated to result in significant adverse impacts related to noise, traffic, or visibility of structures at important recreational opportunities identified within the recreational resources analysis area.

Exhibit U (Public Services/Socioeconomic Impacts) also demonstrates that the Facility will not have significant adverse impacts on community services such as housing, sewer, water supply, waste disposal, health care, education, and transportation. As discussed above, the Facility will create jobs, contribute significant income to the County, diversify economic income to the landowner, and be consistent with Policies 2A, 3A and 6C. These benefits should be measured against the unproductive EFU-zoned land to be displaced by the Facility.

**Energy.** Consistent with Policy 3 in the Energy Conservation Element of the MCCP, the energy consequences of the Facility will be positive, as the Facility will produce approximately 75 MW of renewable, emissions-free energy.

### **K.5.5.3 Compatibility with Adjacent Land Uses**

**ORS 469.504(2)(c)(C); OAR 345-022-0030(4)(c)(C)** *The proposed facility is compatible with other adjacent uses or will be made compatible through measures designed to reduce adverse impacts.*

**Response:**

**Farm Uses.** Adjacent lands to the west, south and east of the Facility site boundary are used for farming, and these are all owned by Threemile Canyon Farms, the underlying landowner of the Facility site (see Figure K-8).

As described in Section K.5.3.3.3, the Facility's construction and operation will not cause significant changes to accepted farming practices in the surrounding area nor will it significantly increase the costs of such practices. As described in Attachment K-1 by Marty Myers, General Manager of Threemile Canyon Farms, development of the Facility at this site will not remove any land from productive economic use. Mr. Myers also states that developing the Facility at the proposed site will facilitate a higher and better use of the land and concentrate solar development off more productive farmland.

**Transportation Use.** The Facility site boundary is bordered to the north by I-84 and, as described in Exhibit U, the Facility is expected to have minimal impacts on this use. This road is designed and constructed to accommodate trucks and cars, and while impacts will be higher during constructions than operations, the impacts are still not expected to be significant. Because traffic on Threemile Canyon Road is significantly lower than I-84, it will likely see a higher relative increase in daily traffic volumes. However, this is a private road and, with the exception of vehicles accessing the Willow Creek Wildlife Area, will only add to vehicles accessing Threemile Canyon Farms. As described in Exhibit U, the increase in traffic from Facility construction on Threemile Canyon Road could be significant but temporary in duration, and will be mitigated fully.

**Transmission Line Use.** An existing Portland General Electric transmission line is located to the south of the Facility site boundary. The Facility's transmission line parallels the existing Portland General Electric 230-kV transmission line and its right-of-way for the Facility line's entire length between the Facility substation and POI, with approximately 100 feet of minimum separation between centerlines (see Figure C-2E in Exhibit C). The Applicant specifically selected this parallel route to minimize impacts associated with a new transmission line located by itself, and the minimum separation will ensure that Facility transmission line will be compatible with the existing line.

**Recreation Uses.** As described in Exhibit T, Quesnel Park and Willow Creek Wildlife Area are located to the north and west of the Facility site boundary. From Exit 151 on I-84, access to Quesnel Park and Willow Creek Wildlife Area occurs via Exit 151 and Threemile Canyon Road. Access to Quesnel Park will be via Threemile Canyon Road to the north of Exit 151, a segment of the road that will not be used for the Facility. Thus, any increase in traffic affecting access to Quesnel Park will be limited to the I-84 on- and off-ramps and will be negligible.

Willow Creek Wildlife Area is located to the west of Threemile Canyon Farms land. Operations traffic will use the existing public access from Threemile Canyon Road, but as explained in Exhibit L, an alternate public access will be made available during construction to reduce impacts on visitors to the wildlife area.

Thus, as explained in further detail in Exhibit T, any increased traffic resulting from Facility construction or operation will not have an adverse impact on the recreational uses adjacent to the Facility. Likewise, as explained in Exhibit T, there will be no direct impacts on the recreational uses in the area resulting from the construction or operation of the Facility, and any visual or noise impacts are not expected to be significant.

For these reasons, the Facility is compatible with other adjacent uses.

## K.6 FEDERAL LAND MANAGEMENT PLANS

**OAR 345-021-0010(1)(k)(D)** *If the proposed facility will be located on federal land:*

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

**Response:** The proposed Facility and supporting facilities are not located on federal lands and this criterion does not apply.

## K.7 SUMMARY

Based on the foregoing analysis, the Facility complies with the applicable substantive criteria from Morrow and Gilliam counties except for MCZO 3.010(D)(14). However, the Applicant demonstrates that a Goal 3 exception is warranted under ORS 469.504(2)(c) and OAR 345-022-0030(4)(c). The Goal 3 exception is warranted to allow a locationally dependent facility that will fulfill important state and county goals by providing renewable energy while minimizing impacts on local farming practices. Accordingly, the information contained in this Exhibit provides the Council with sufficient information to make a determination that the Facility complies with the land use standard set forth in OAR 345-022-0030.

## K.8 REFERENCES

Gilliam County. 2011a. *Gilliam County Comprehensive Plan*. October 19, 2011. Accessed on November 11, 2016. <http://www.co.gilliam.or.us/zoning.html>.

Gilliam County. 2011b. *Gilliam County Zoning Ordinance*. Amended on October 19, 2011. Accessed on November 11, 2016. <http://www.co.gilliam.or.us/zoning.html>.

Morrow County. 2016a. *Morrow County Comprehensive Plan*. Most recently amended and made effective on July 31, 2016. Accessed on April 11, 2017. <http://www.co.morrow.or.us/planning/page/comprehensive-plan>.

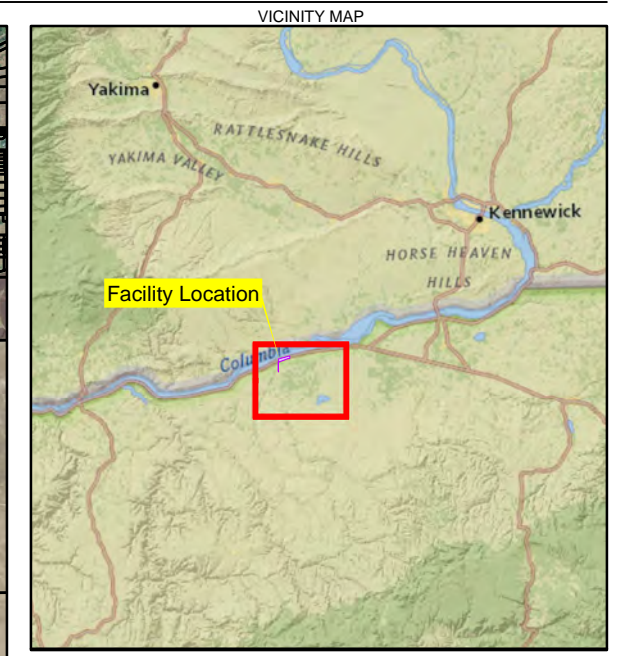
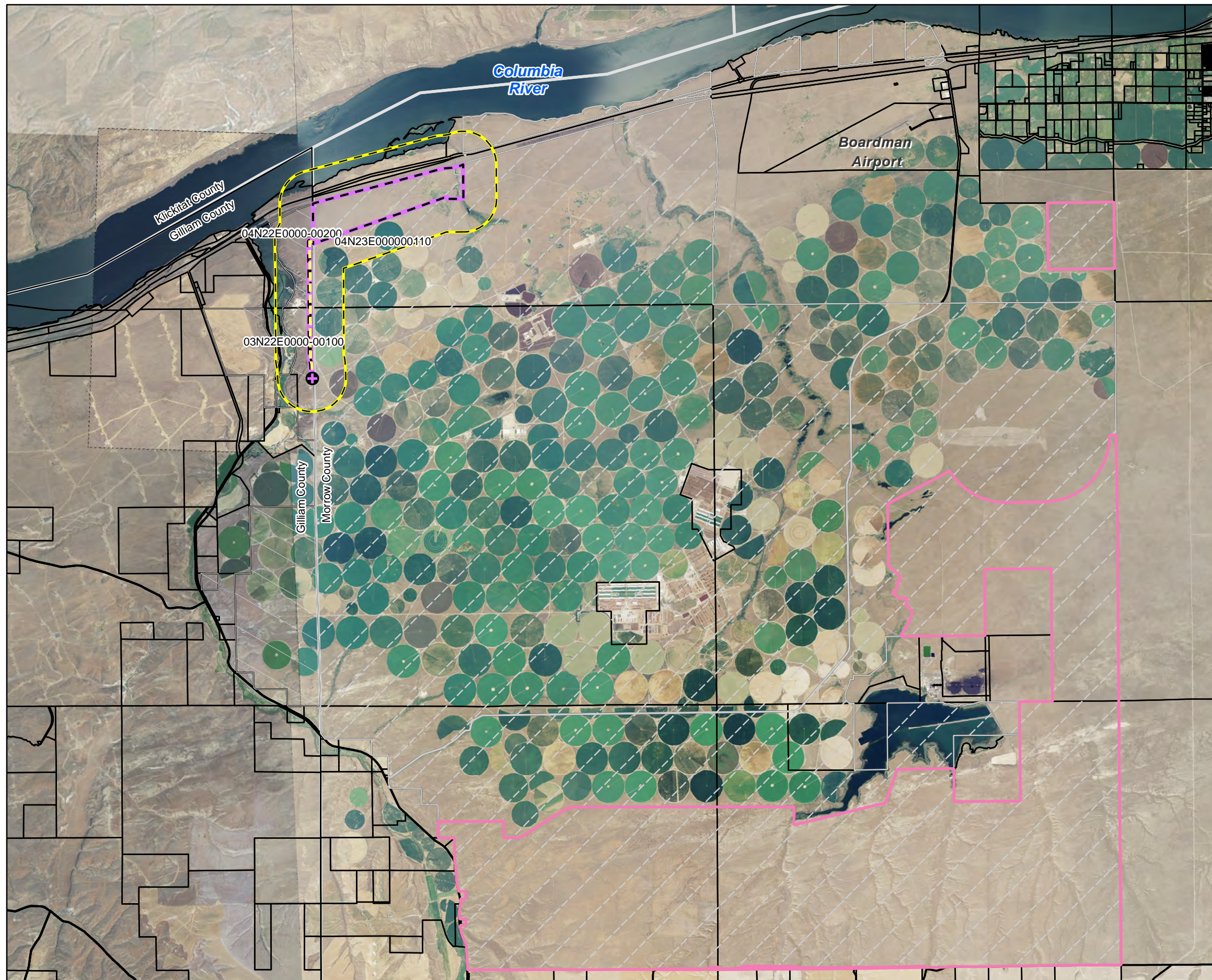
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Oregon Department of Energy. 2005. *Renewable Energy Action Plan*.

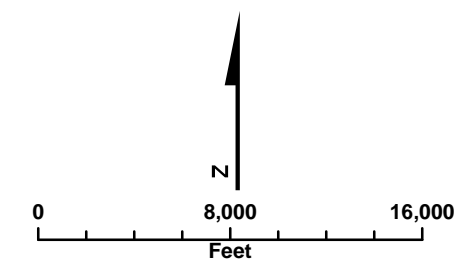
Figures





- LEGEND**
- Facility Site Boundary
  - Land Use Analysis Area (1/2 mile)
  - Transmission Line
  - Point of Interconnection
  - Tax Lot
  - Boardman Farm Conservation Area
- Ownership**
- BAIC, Inc.
  - Threemile Canyon Farms, LLC

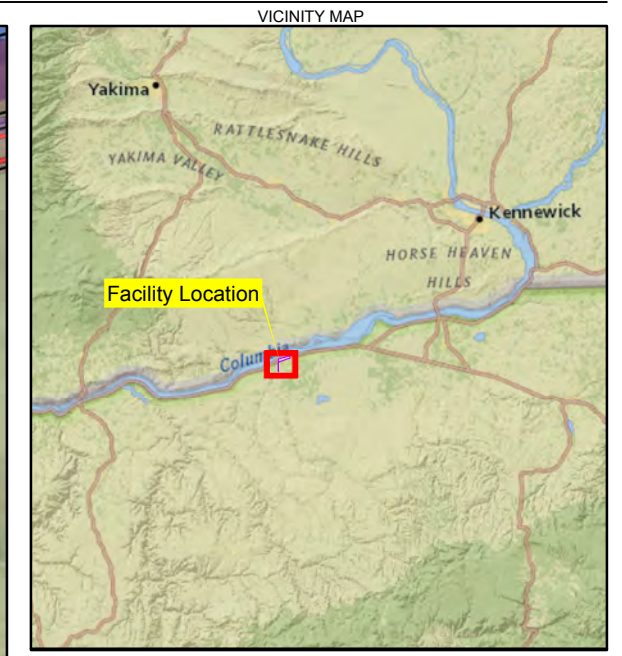
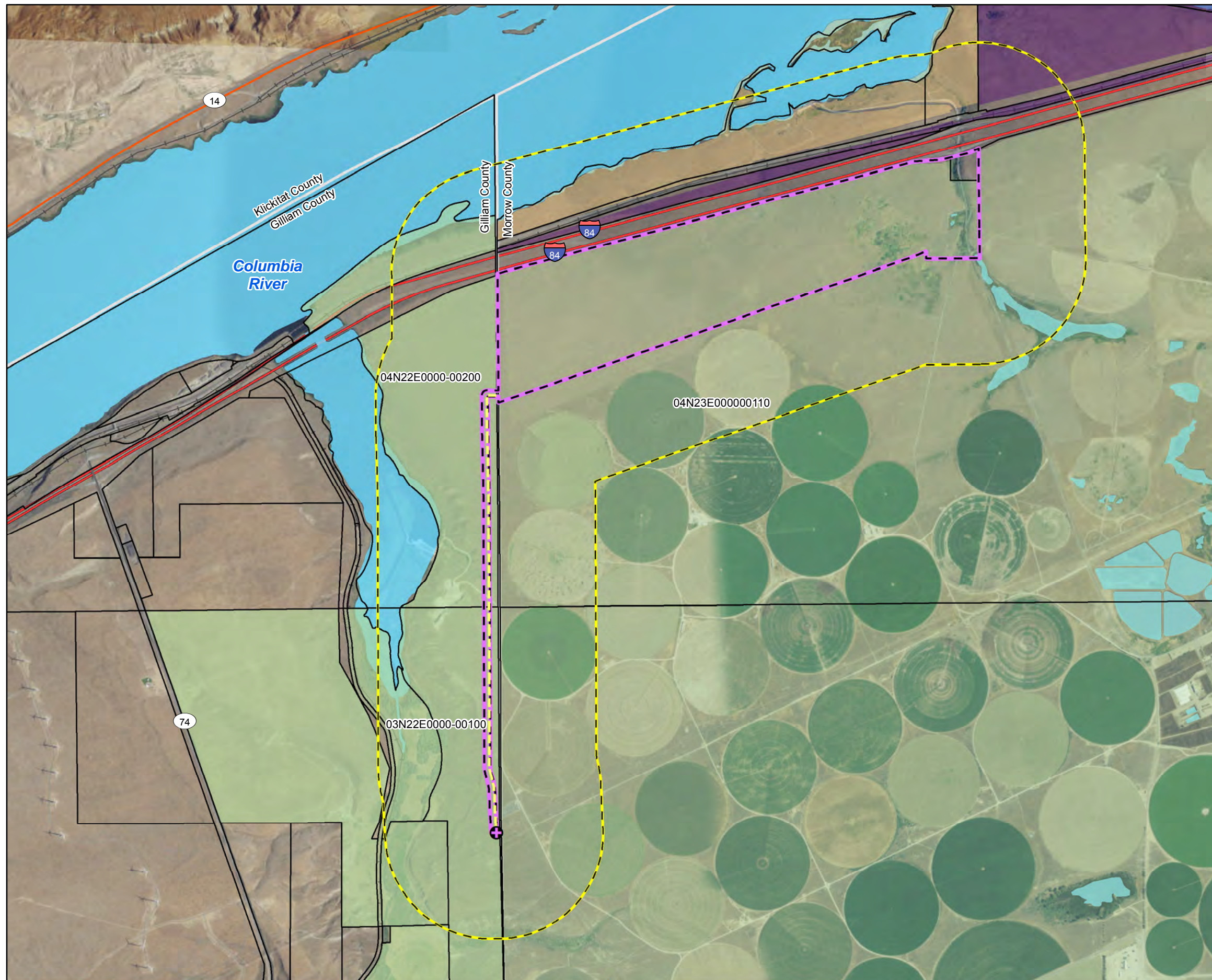
Service Layer Credits: Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community  
Content may not reflect National Geographic's current map policy.



**FIGURE K-1**  
**Aerial Photograph**  
 Boardman Solar Energy Facility Application  
 for Site Certificate  
 Morrow and Gilliam Counties, Oregon

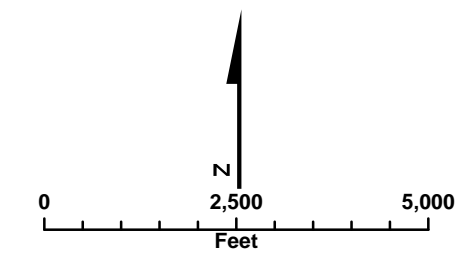






- LEGEND**
- Facility Site Boundary
  - Land Use Analysis Area (1/2 mile)
  - Transmission Line
  - Point of Interconnection
  - Tax Lot
  - Water
  - Major Highway
  - Highway
  - Major Road
- Morrow County Zoning**
- EFU - Exclusive Farm Use, Comprehensive Plan Designation - Agriculture
  - MG - General Industrial, Comprehensive Plan Designation - Industrial
  - PUB - Public/Federal, Comprehensive Plan Designation - Public/Federal

Service Layer Credits: Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community  
 Content may not reflect National Geographic's current map policy.



**FIGURE K-2**  
**Zoning Map**  
 Boardman Solar Energy Facility Application  
 for Site Certificate  
 Morrow and Gilliam Counties, Oregon













## Natural Resources Conservation Service Soils Map Unit

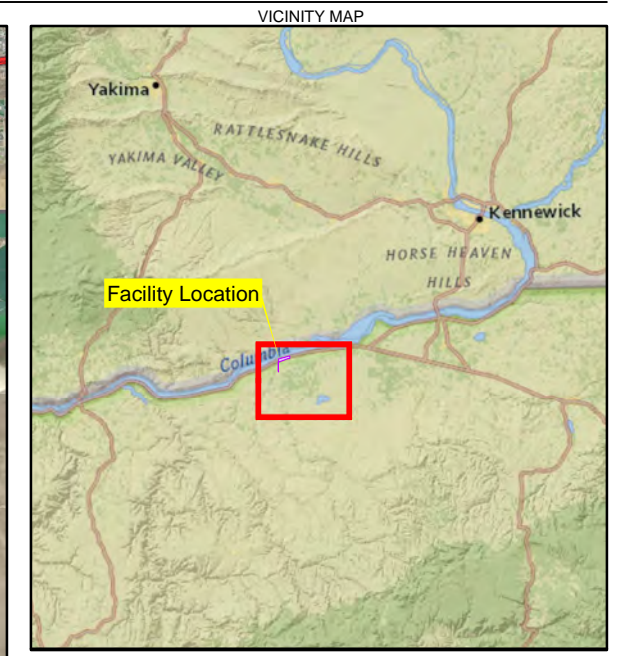
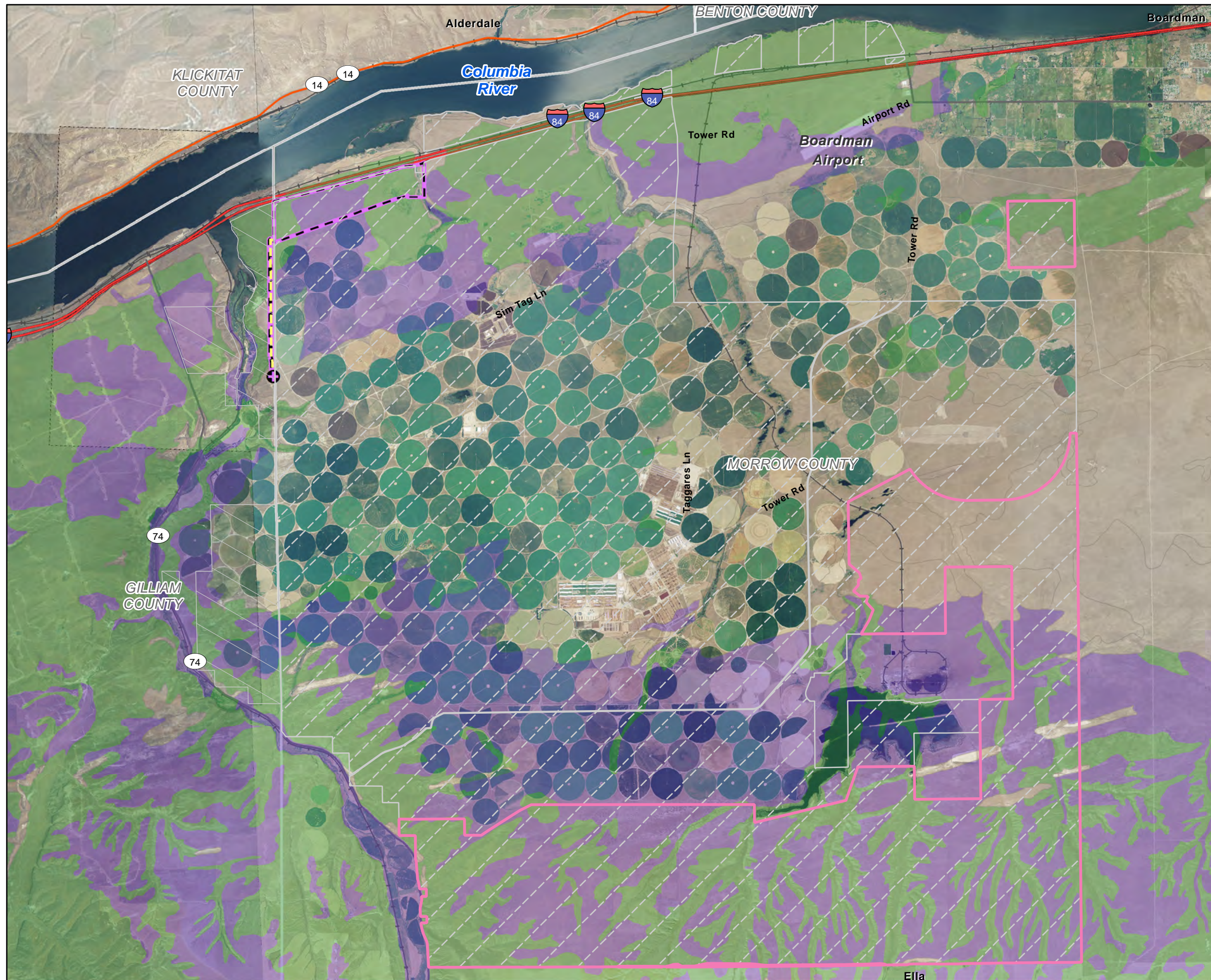
 54D - Sagehill fine sandy loam, 12 to 20 percent slopes	 40B - Sagehill fine sandy loam, 2 to 5 percent slopes
 13D - Gravden very gravelly loam, 5 to 20 percent slopes	 23B - Olex silt loam, 0 to 5 percent slopes
 41B - Quinton loamy fine sand, 2 to 5 percent slopes	 71C - Warden silt loam, 5 to 12 percent slopes
 45B - Taunton loamy fine sand, 2 to 5 percent slopes	 45C - Ritzville silt loam, 7 to 12 percent slopes
 8 - Dune land	 53A - Royal silt loam, 0 to 3 percent slopes
 22F - Nansene silt loam, 35 to 70 percent slopes	 55D - Warden silt loam, 12 to 20 percent slopes
 55C - Sagehill fine sandy loam, hummocky, 5 to 12 percent slopes	 28B - Quincy loamy fine sand, 0 to 5 percent slopes
 9 - Dune land	 70C - Warden very fine sandy loam, 5 to 12 percent slopes
 32B - Ritzville silt loam, 2 to 7 percent slopes	 26C - Koehler loamy fine sand, 5 to 12 percent slopes
 23D - Olex silt loam, 12 to 20 percent slopes	 71D - Warden silt loam, 12 to 20 percent slopes
 46E - Ritzville silt loam, 20 to 40 percent north slopes	 45B - Ritzville silt loam, 2 to 7 percent slopes
 72C - Warden silt loam, 3 to 12 percent slopes, eroded	 24D - Olex gravelly silt loam, 5 to 20 percent slopes
 42D - Quinton-Rock outcrop complex, 2 to 20 percent slopes	 44 - Stanfield fine sandy loam
 44D - Ritzville very fine sandy loam, 12 to 25 percent slopes	 40C - Sagehill fine sandy loam, 5 to 12 percent slopes
 55E - Warden silt loam, 20 to 40 percent slopes	 13E - Gravden very gravelly loam, 20 to 40 percent slopes
 55B - Sagehill fine sandy loam, hummocky, 2 to 5 percent slopes	 13 - Kimberly fine sandy loam
 20B - Hezel loamy fine sand, 2 to 5 percent slopes	 26B - Koehler loamy fine sand, 2 to 5 percent slopes
 51B - Royal loamy fine sand, 2 to 5 percent slopes	 15E - Licksillet very stony loam, 7 to 40 percent slopes
 59B - Taunton fine sandy loam, hummocky, 0 to 5 percent slopes	 24E - Olex gravelly silt loam, 20 to 40 percent slopes
 40D - Sagehill fine sandy loam, 12 to 20 percent slopes	 26 - Powder silt loam
 71B - Warden silt loam, 2 to 5 percent slopes	 27B - Prosser-Rock outcrop complex, 1 to 5 percent slopes
 71A - Warden silt loam, 0 to 2 percent slopes	 38D - Prosser-Rock outcrop complex, 1 to 20 percent slopes
 55B - Warden silt loam, 2 to 5 percent slopes	 37A - Prosser silt loam, 0 to 2 percent slopes
 45D - Ritzville silt loam, 12 to 20 percent slopes	 37B - Prosser silt loam, 2 to 7 percent slopes
 78 - Xeric Torriorthents, nearly level	 40C - Quincy loamy fine sand, 2 to 12 percent slopes
 10C - Ellum fine sandy loam, 5 to 12 percent slopes	 29D - Quincy-Rock outcrop complex, 1 to 20 percent slopes
 12 - Esquatzel silt loam	 42D, 59D - Quinton-Rock outcrop complex, 2 to 20 percent slopes
 58 - Xeric Torrifluvents, nearly level	 35 - Riverwash
 41C - Sagehill fine sandy loam, hummocky, 5 to 12 percent slopes	 36F, 49F - Rock outcrop-Rubble land complex, very steep
 39C - Quincy fine sand, 2 to 12 percent slopes	 38A - Roloff silt loam, 0 to 2 percent slopes
 55C - Warden silt loam, 5 to 12 percent slopes	 38B - Roloff silt loam, 2 to 7 percent slopes
 54C - Sagehill fine sandy loam, 5 to 12 percent slopes	 39D - Roloff-Rock outcrop complex, 1 to 20 percent slopes
 72D - Warden silt loam, 12 to 20 percent slopes, eroded	 41B - Sagehill fine sandy loam, hummocky, 2 to 5 percent slopes
 22 - Kimberly fine sandy loam	 40E - Sagehill fine sandy loam, 20 to 40 percent slopes
 4C - Blalock loam, 2 to 12 percent slopes	 54B - Sagehill fine sandy loam, 2 to 5 percent slopes
 70B - Warden very fine sandy loam, 2 to 5 percent slopes	 45B, 93B - Taunton loamy fine sand, 2 to 5 percent slopes
 71E - Warden silt loam, 20 to 40 percent slopes	 58A - Taunton fine sandy loam, 0 to 2 percent slopes
 93B - Taunton loamy fine sand, 2 to 5 percent slopes	 58B - Taunton fine sandy loam, 2 to 5 percent slopes
 14D - Krebs silt loam, 5 to 20 percent slopes	 58C - Taunton fine sandy loam, 5 to 12 percent slopes
 49F - Rock outcrop-Rubble land complex, very steep	 70D - Warden very fine sandy loam, 12 to 20 percent slopes
 20C - Hezel loamy fine sand, 5 to 12 percent slopes	 W - Water

## FIGURE K-3C Natural Resources Conservation Service Soils Map Units Legend

Boardman Solar Energy Facility Application  
for Site Certificate  
Morrow and Gilliam Counties, Oregon

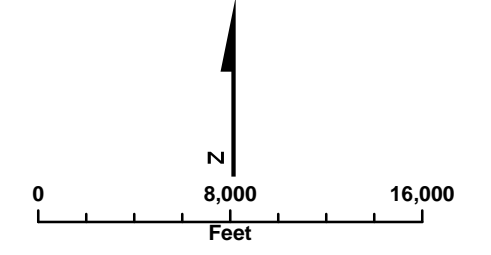






- LEGEND**
- Facility Site Boundary
  - County
  - Transmission Line
  - Point of Interconnection
  - Major Highway
  - Highway
  - Major Road
  - Boardman Farm Conservation Area
- Prime Farmlands**
- Farmland of statewide importance
  - Prime farmland if irrigated
  - Not rated or not available
- Ownership**
- BAIC, Inc.
  - Threemile Canyon Farms, LLC

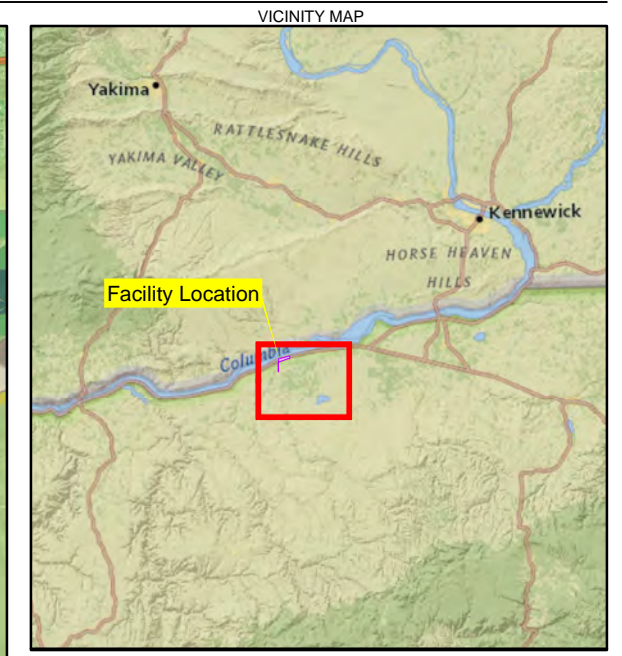
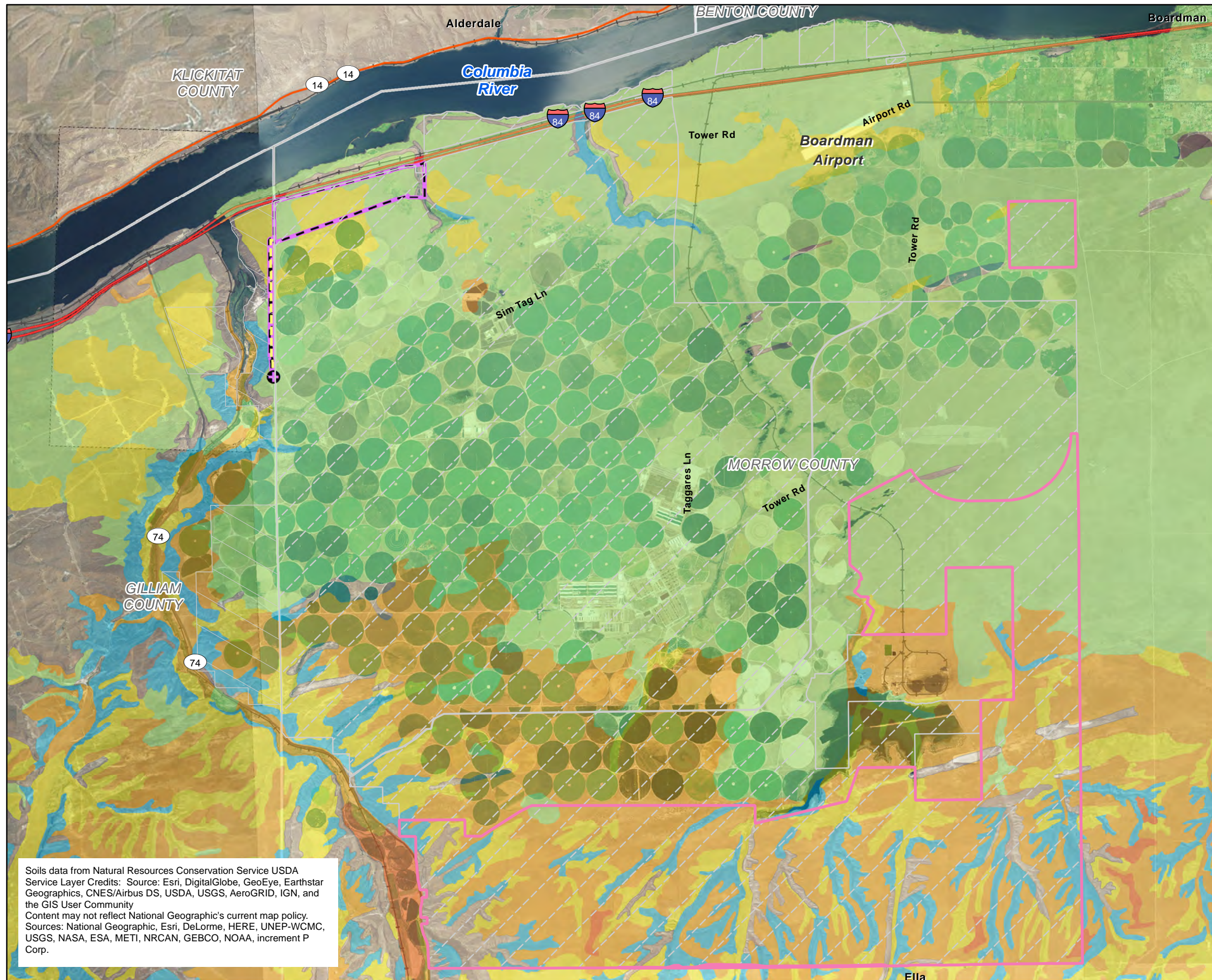
Soils data from Natural Resources Conservation Service USDA Service Layer Credits: Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community



**FIGURE K-4**  
**Natural Resources Conservation Service Prime Farmlands**  
 Boardman Solar Energy Facility Application  
 for Site Certificate  
 Morrow and Gilliam Counties, Oregon







**LEGEND**

- Facility Site Boundary
- County
- Transmission Line
- Point of Interconnection
- Major Highway
- Highway
- Major Road
- Boardman Farm Conservation Area

**Irrigated Soil Capability Class**

- Capability Class - I
- Capability Class - II
- Capability Class - III
- Capability Class - IV
- Capability Class - V
- Capability Class - VI
- Capability Class - VII
- Capability Class - VIII
- Not rated or not available

**Ownership**

- BAIC, Inc.
- Threemile Canyon Farms, LLC

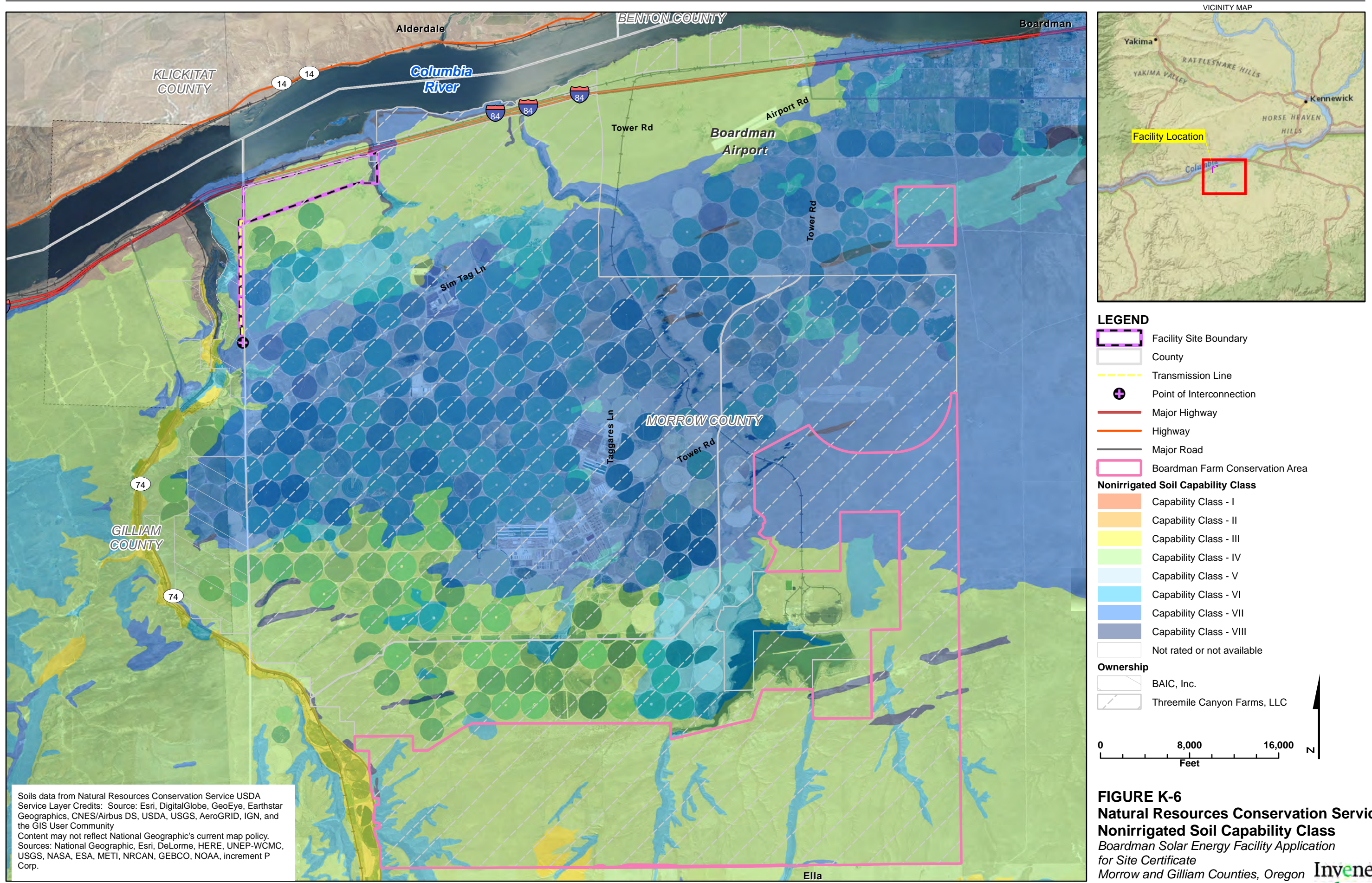
0 8,000 16,000 Feet

**FIGURE K-5**  
**Natural Resources Conservation Service Irrigated Soil Capability Class**  
 Boardman Solar Energy Facility Application  
 for Site Certificate  
 Morrow and Gilliam Counties, Oregon



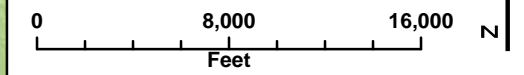
Soils data from Natural Resources Conservation Service USDA Service Layer Credits: Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community  
 Content may not reflect National Geographic's current map policy.  
 Sources: National Geographic, Esri, DeLorme, HERE, UNEP-WCMC, USGS, NASA, ESA, METI, NRCAN, GEBCO, NOAA, increment P Corp.





Soils data from Natural Resources Conservation Service USDA Service Layer Credits: Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community  
 Content may not reflect National Geographic's current map policy. Sources: National Geographic, Esri, DeLorme, HERE, UNEP-WCMC, USGS, NASA, ESA, METI, NRCAN, GEBCO, NOAA, increment P Corp.

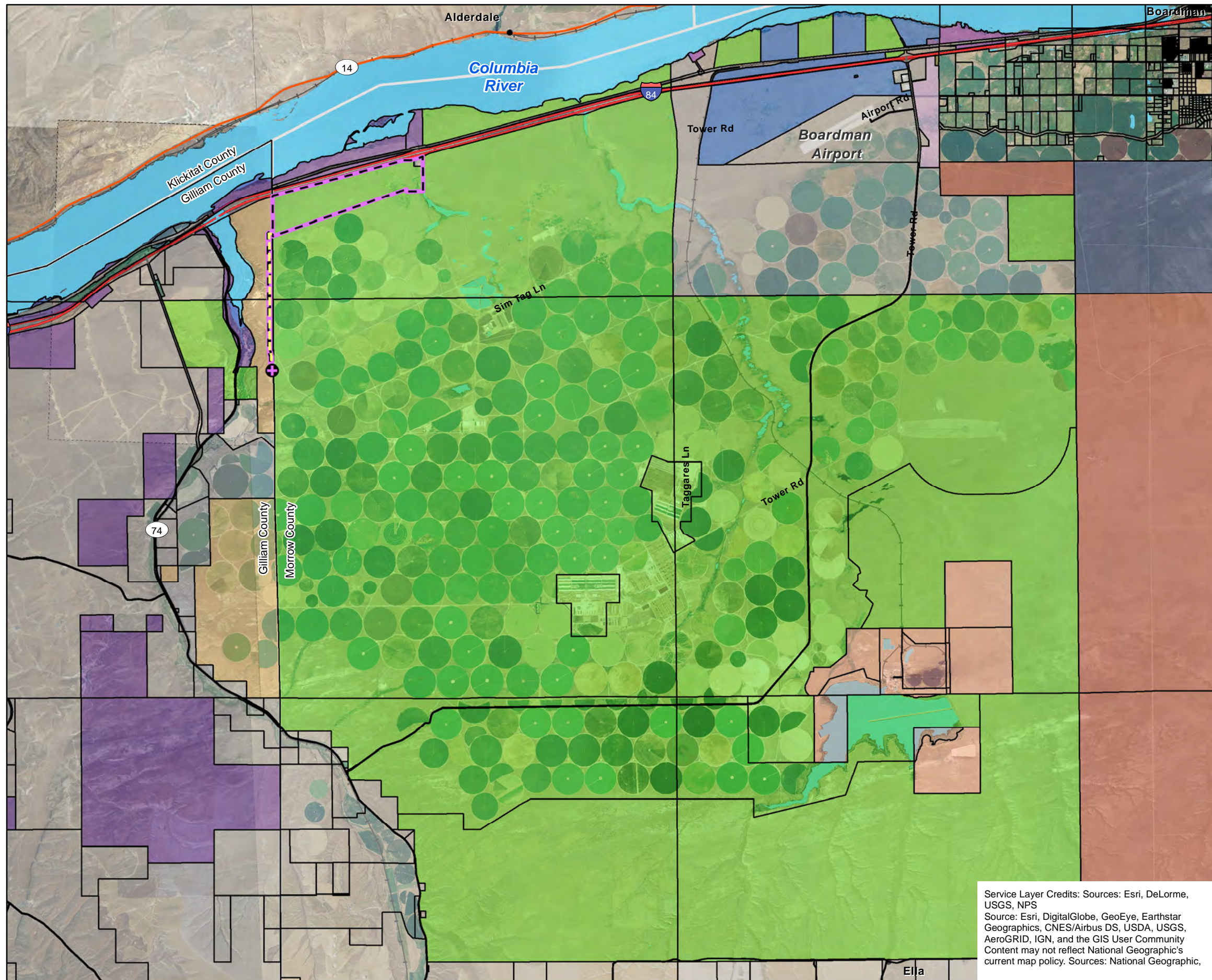
- LEGEND**
- Facility Site Boundary
  - County
  - Transmission Line
  - Point of Interconnection
  - Major Highway
  - Highway
  - Major Road
  - Boardman Farm Conservation Area
- Nonirrigated Soil Capability Class**
- Capability Class - I
  - Capability Class - II
  - Capability Class - III
  - Capability Class - IV
  - Capability Class - V
  - Capability Class - VI
  - Capability Class - VII
  - Capability Class - VIII
  - Not rated or not available
- Ownership**
- BAIC, Inc.
  - Threemile Canyon Farms, LLC



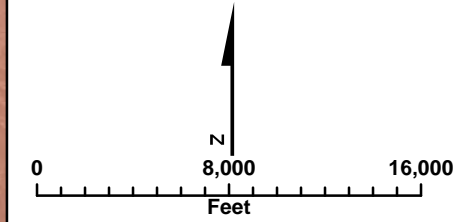
**FIGURE K-6**  
**Natural Resources Conservation Service**  
**Nonirrigated Soil Capability Class**  
*Boardman Solar Energy Facility Application*  
*for Site Certificate*  
*Morrow and Gilliam Counties, Oregon*







- LEGEND**
- Facility Site Boundary
  - Transmission Line
  - + Point of Interconnection
  - Tax Lot
  - Water
  - BAIC, Inc.
  - City of Boardman
  - Portland General Electric
  - Morrow County
  - Port of Morrow
  - Private
  - State of Oregon
  - Threemile Canyon Farms, LLC
  - USA
  - USA (Bombing Rnge)
  - USA (CORPS)
  - USA (Dept of Navy)
  - Umatilla Electric CO-OP
  - Unknown

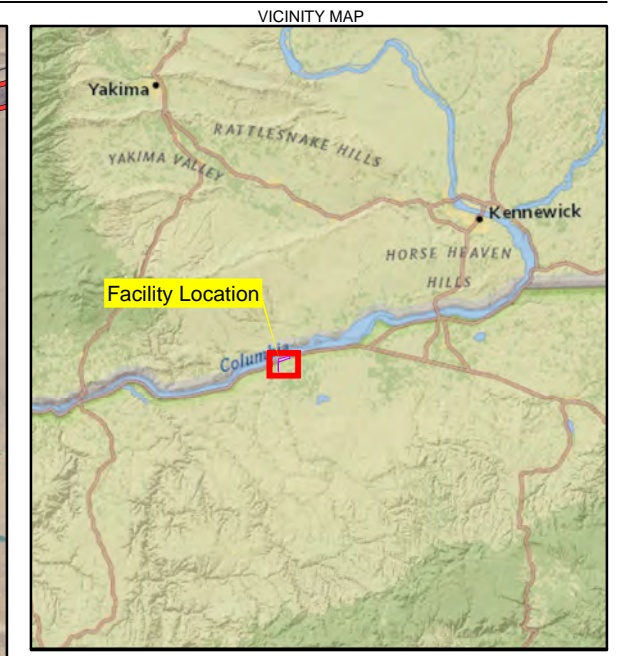
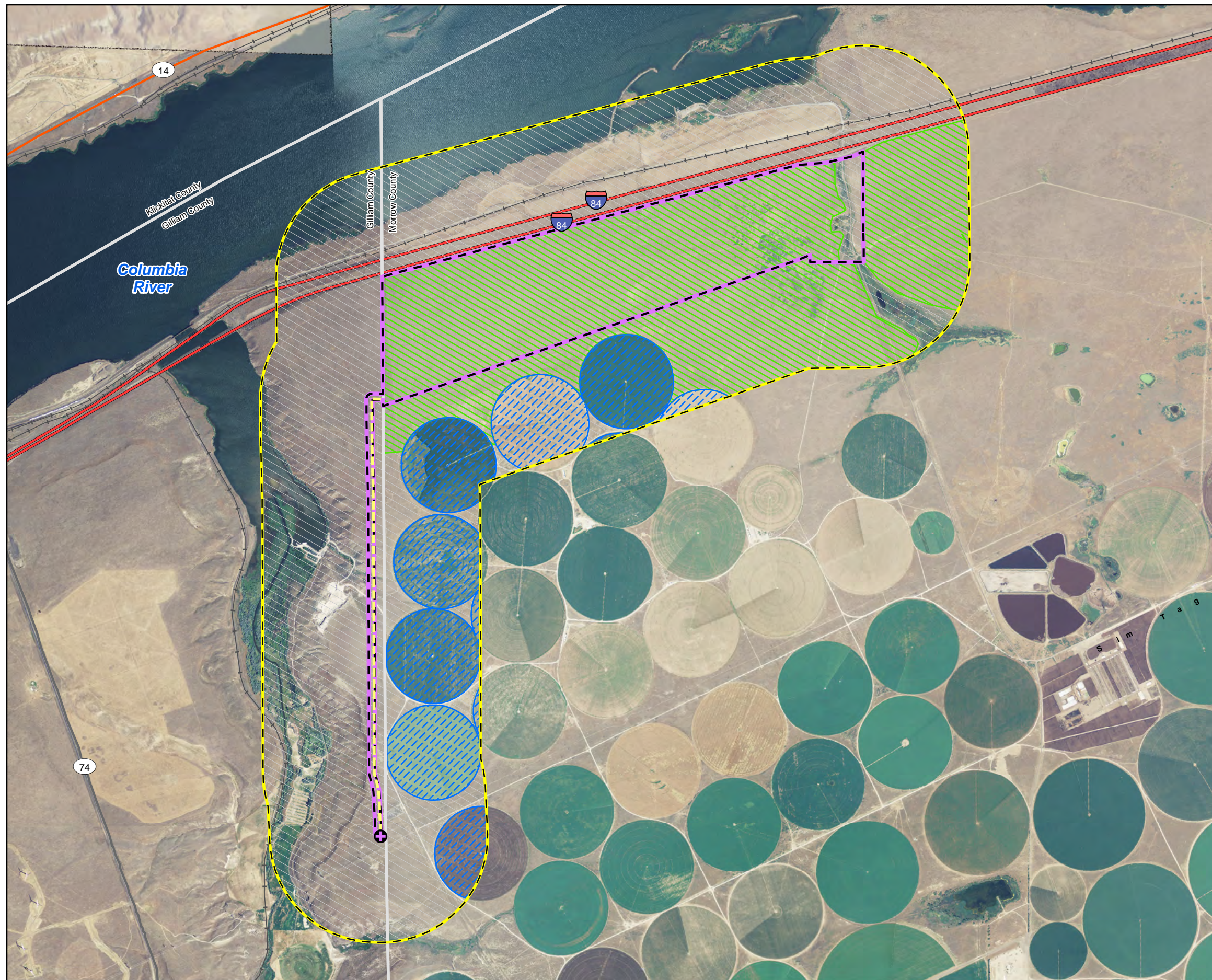


Service Layer Credits: Sources: Esri, DeLorme, USGS, NPS  
 Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community Content may not reflect National Geographic's current map policy. Sources: National Geographic,

**FIGURE K-7**  
**Property Ownership**  
 Boardman Solar Energy Facility Application  
 for Site Certificate  
 Morrow and Gilliam Counties, Oregon

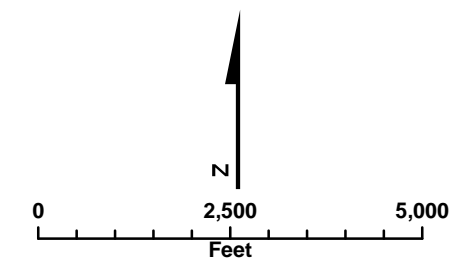






- LEGEND**
- Facility Site Boundary
  - Transmission Line
  - Point of Interconnection
  - Land Use Analysis Area (1/2 mile)
  - Major Highway
  - Highway
  - Major Road
- Farm Practices**
- Irrigated Crop
  - Seasonal Grazing (Approximate)
  - No Farm Practices

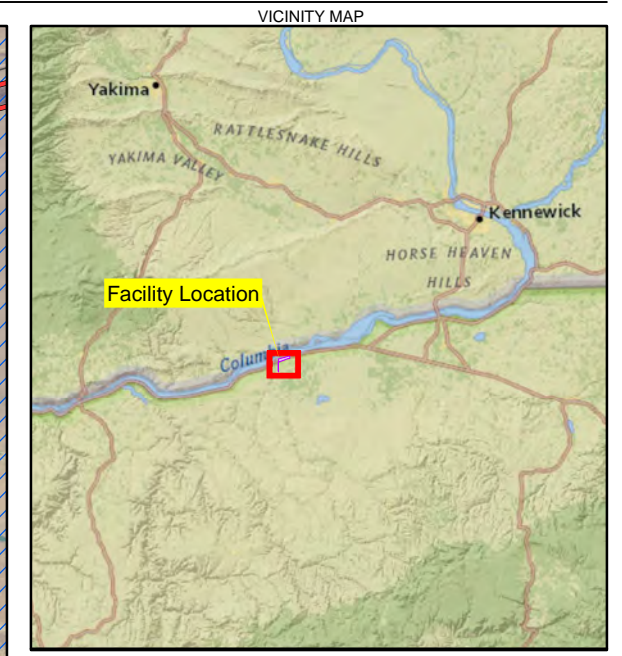
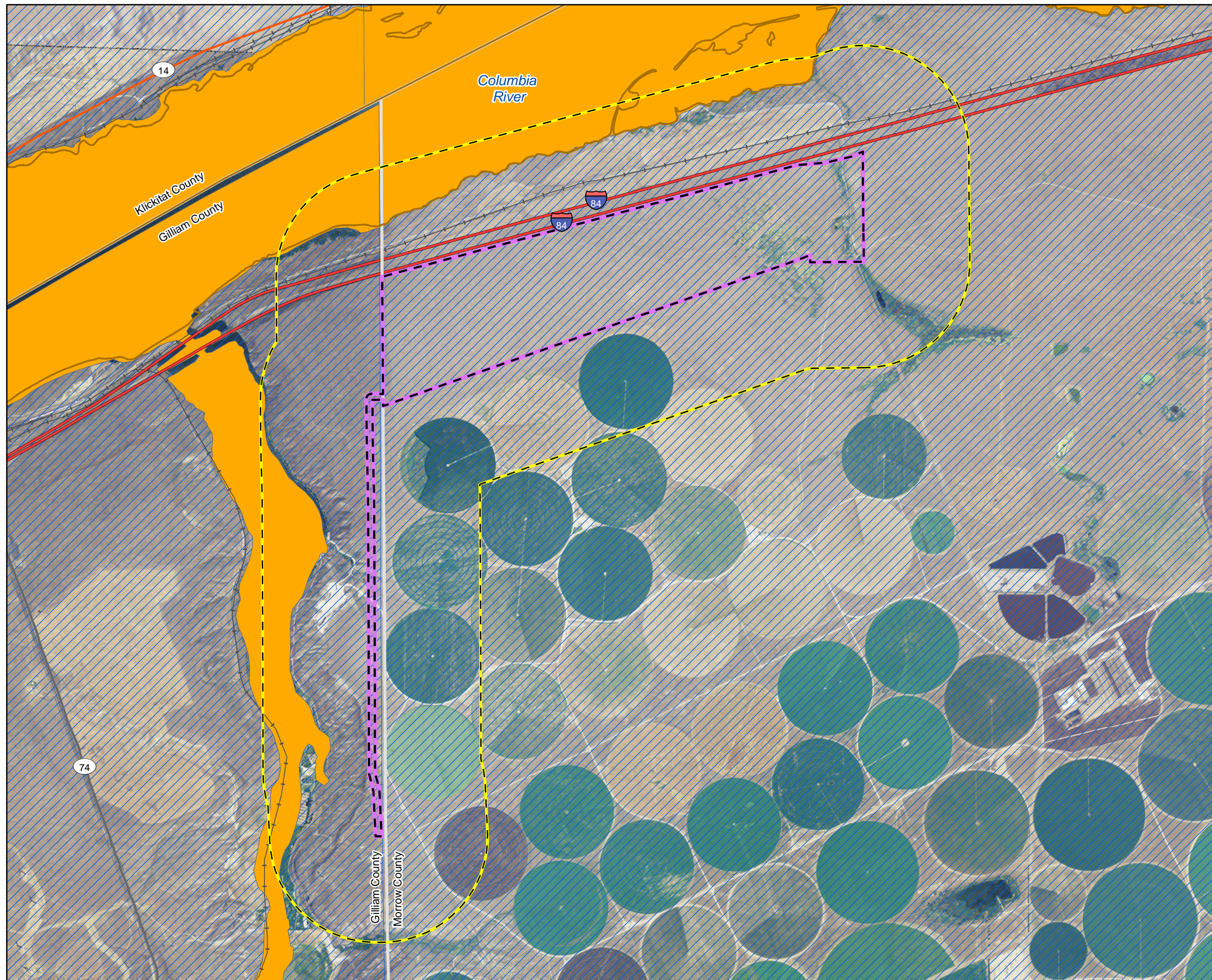
Service Layer Credits: Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community  
 Content may not reflect National Geographic's current map policy.



**FIGURE K-8**  
**Farm Practices in the Analysis Area**  
 Boardman Solar Energy Facility Application  
 for Site Certificate  
 Morrow and Gilliam Counties, Oregon







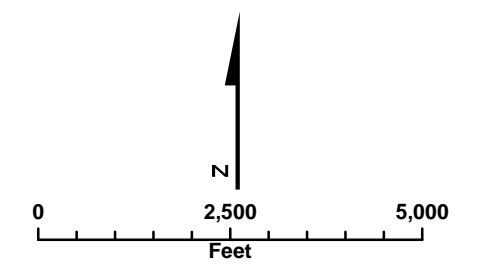
**LEGEND**

- Facility Site Boundary
- Land Use Analysis Area (1/2 mile)
- Major Highway
- Highway
- Major Road

**Federal Emergency Management Agency (FEMA) Flood Hazard**

- A
- X

Source: Oregon Statewide Flood Hazard Database - FEMA Flood Insurance Studies - 2015  
 Service Layer Credits: Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community  
 Content may not reflect National Geographic's current map policy.  
 Sources: National Geographic, Esri, DeLorme, HERE, UNEP-WCMC, USGS, NASA, ESA, METI, NRCAN, GEBCO, NOAA, increment P Corp.



**FIGURE K-9**  
**FEMA Flood Hazard Zones**  
 Boardman Solar Energy Facility Application  
 for Site Certificate  
 Morrow and Gilliam Counties, Oregon





Attachment K-1  
Letter from Threemile Canyon  
Farms, LLC



THREEMILE CANYON FARMS, LLC  
COLUMBIA RIVER DAIRY, LLC • CASTLE ROCK FARMING, LLC

December 2, 2016

Todd R. Cornett  
Assistant Director, Siting Division  
Oregon Department of Energy  
625 Marion Street NE  
Salem, OR 97301

RE: Boardman Solar Energy Facility

Dear Mr. Cornett,

Invenergy Solar Development LLC is proposing to develop a photovoltaic solar power generation facility in Morrow and Gilliam Counties on land owned by Threemile Canyon Farms, LLC ("Threemile Canyon Farms"). The facility will be located on Tax Lot 04N23E00110 (Morrow County) and Tax Lots 0422E00200 and 03N22E00100 (Gilliam County).

The proposed site has never been irrigated. An affiliate of Threemile Canyon Farms holds water right certificates (Certificate Nos. 76709 and 76711) that authorize the irrigation of lands to the south of the proposed site, but those certificates do not currently allow Threemile Canyon Farms to irrigate the proposed site. Each of the certificates specifies an authorized place of use where irrigation water must be applied, and the proposed site is not included within this authorized place of use. Although it would be possible to transfer the authorized place of use to the proposed site, that would require Threemile Canyon Farms to dry up an equivalent number of acres of the existing place of use. An irrigation system already exists to irrigate the existing place of use, and it does not extend to the proposed site.

Because the proposed site is not irrigated, it has limited productivity and has historically been used only for winter and spring cattle grazing. As such, we believe developing the facility at the proposed site will facilitate a higher and better use of the land and concentrate solar development off more productive farmland. Moreover, the facility will not adversely impact or increase the cost of farm practices within the vicinity of the facility. Indeed, we do not anticipate any changes to our ongoing operations at Threemile Canyon Farms resulting from the construction or operation of the proposed facility.

Sincerely,

Marty Myers  
General Manager

Attachment K-2  
Water Rights Certificates

STATE OF OREGON  
 COUNTY OF MORROW  
 CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

BAIC, INC.  
 75906 THREEMILE ROAD  
 BOARDMAN, OREGON 97818

confirms the right to use the waters of the COLUMBIA RIVER a tributary of the PACIFIC OCEAN, for IRRIGATION OF 2487.6 acres.

This right was perfected under Permit 35425. The date of priority is JULY 23, 1971, for 56.1 CUBIC FEET PER SECOND; and SEPTEMBER 14, 1971, for 6.1 CFS; or its equivalent in case of rotation, measured at the point of diversion from the source.

The point of diversion is located as follows:

RDO River Pump Station - NW ¼ SE ¼, SECTION 36, T 4 N, R 22 E, W.M.; 1657 FEET NORTH AND 2166 FEET WEST FROM THE SE CORNER OF SECTION 36.

Boeing River Pump Station - NW ¼ SE ¼, SECTION 36, T 4 N, R 22 E, W.M.; 1668 FEET NORTH AND 1997 FEET WEST FROM THE SE CORNER OF SECTION 36.

The amount of water used for irrigation together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-FORTIETH of one cubic foot per second (or its equivalent), PROVIDED that the combined use of water under permits 35425, 35426, 37346, 40920, 41314, and 41645 and the certificates issued in respect thereto shall not exceed 582 cubic feet per second at any one point in time, and PROVIDED FURTHER that before completion of consultation between the National Marine Fisheries Service (NMFS) and the Corps of Engineers (Corps) under section 7(a)(2) of the Endangered Species Act, final agency action by the Corps and conclusion of challenges, if any, arising out of this process, water users shall not use the Willow Creek Pump Station to pump or divert water from the Columbia River at a rate greater than 480 cfs.

The amount of water used for irrigation together with the amount secured under any other right existing for the same lands is further limited to 4.0 acre-feet for each acre irrigated during the irrigation season of each year, PROVIDED that the maximum volume of water diverted during a season under permits 35425, 35426, 37346, 40920, 41314, and 41645 and the certificates issued in respect thereto shall not exceed an average of 3 acre feet per acre times the total number of acres irrigated that season. The maximum number of acres to be irrigated under these permits and certificates is 41,000 acres.

A description of the place of use to which this right is appurtenant is as follows:

	Acres
NWNE	18.0
NENW	34.8
NWNW	10.4
SWNW	39.8
SENE	23.0
NESW	16.0
NWSW	14.7

SECTION 4  
 TOWNSHIP 3 NORTH, RANGE 23 EAST, W.M.

76709

	Acres
NENE	23.0
NWNE	27.3
SWNE	23.3
SENE	30.6
NENW	39.6
NWNW	30.3
SWNW	34.0
SENW	10.9
NESW	31.1
NWSW	24.0
SWSW	33.4
SESW	32.8
NESE	32.0
NWSE	40.1
SWSE	34.6
SESE	34.9

SECTION 5

NENE	26.5
NWNE	37.6
SWNE	35.3
SENE	33.3
NENW	34.4
NWNW	36.8
SWNW	30.2
SENW	27.1
NESW	33.4
NWSW	40.3
SWSW	17.8
SESW	18.1
NESE	6.4
NWSE	30.0
SWSE	18.6
SESE	38.5

SECTION 6

NENE	26.6
NWNE	23.1
NENW	36.1
NWNW	4.8
SWNW	0.2
SENW	11.1

SECTION 7

NENE	5.4
NWNE	4.6
NENW	0.9
NWNW	24.1

SECTION 8

TOWNSHIP 3 NORTH, RANGE 23 EAST, W.M.

NWSW	5.1
SWSW	40.1
SESW	14.4
SWSE	1.2

SECTION 29

SWSE	12.0
SESE	18.9

SECTION 30

TOWNSHIP 4 NORTH, RANGE 23 EAST, W.M.

	Acres	
NENE	34.9	
NWNE	39.5	
SWNE	33.4	
SENE	30.6	
NENW	21.3	
NWNW	13.5	
SWNW	26.4	
SENW	39.9	
NESW	31.5	
NWSW	24.4	
SWSW	27.5	
SESW	33.9	
NESE	31.0	
NWSE	39.1	
SWSE	33.6	
SESE	34.1	
SECTION 31		
NWNE	30.4	
SWNE	27.8	
SENE	18.1	
NENW	37.1	
NWNW	32.3	
SWNW	40.0	
SENW	33.9	
NESW	39.8	
NWSW	32.2	
SWSW	36.4	
SESW	29.7	
NESE	22.2	
NWSE	34.1	
SWSE	33.7	
SESE	40.1	
SECTION 32		
SWNE	0.5	
NENW	12.7	
NWNW	2.7	
SWNW	11.5	
SENW	36.8	
NESW	28.2	
NWSW	30.8	
SWSW	28.4	
SESW	21.6	
SWSE	0.5	2487.6 Acres
SECTION 33		

## TOWNSHIP 4 NORTH, RANGE 23 EAST, W.M.

Water user shall install, operate and maintain a continuous telemetric measurement and recording device for rate and volume of water use, and shall report monthly volumes of water use to the Water Resources Department on an annual basis. The information shall be available to the State as a public record at any time. Further, the Director may require water user to report general water use information, including the place and nature of use of water under the permit.

Certificate holders shall contribute \$1,250,000 to the Oregon Water Trust to be used for acquisition of instream water rights in tributaries of the Columbia River on the terms and conditions described in the Water Resources Department Final Order dated February 28, 2001 authorizing issuance of this Certificate.

Certificate holders shall request that the consultation between NMFS (and the USFWS if applicable) and the Corps under section 7(a)(2) of the ESA address issues related to attraction flows from existing and future pumping, screening, ongoing and future dredge operations and effects of Certificate Holders' water withdrawals on Columbia River System target flows.

76709



During the NMFS consultation, Certificate holders shall seek the views of ODFW, provide ODFW with copies of the Biological Assessment that the Corps submits to NMFS, and provide ODFW with copies of any draft Biological Opinion Certificate Holders receive from the Corps or NMFS.


Water use under this certificate shall be exercised consistent with and subject to the final conditions on water use, including screening, in the Corps permits for construction and maintenance of pump stations resulting from any NMFS consultation, following exhaustion of appeals, if any. Certificate holder shall, within 30 days following exhaustion of appeals, if any, submit to the Salem office of the Water Resources Department and to the office of the applicable Watermaster District, a copy of such Corps permits.

A condition of the final order extending the permit and approving issuance of this certificate is that the water user shall not farm, develop, or perform any activity in the Conservation Area described in Exhibits B and H of said order, except for activities that are in furtherance of the purpose of the Conservation Area and for activities that are consistent with implementation of any Multi-Species Candidate Conservation Agreement developed by BAIC, Inc. and approved by the U.S. Fish and Wildlife Service covering various federally unlisted upland species, including the Washington ground squirrel. In addition, the water user will not undertake any activity that is inconsistent with survival guidelines adopted pursuant to the state ESA listing process.

The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described. The use confirmed herein may be made only at times when sufficient water is available to satisfy all prior rights.

WITNESS the signature of the Water Resources Director,

affixed this 28<sup>th</sup> day of February 2001.

  
Paul R. Cleary

Recorded in State Record of Water Right Certificates numbered 76709.



# Claim of Beneficial Use

Application # 48484  
Permit # 35425



North

Scale: 1" = 1320'



Public Land Survey System (PLSS) corners and irrigated crop circles were located using real-time, Differential GPS (DGPS) methods. NAD27 coordinates were developed using a Trimble ProXL Receiver hardwired to a Trimble ProBeacon. Verified sub-meter positions were collected, by incorporating correction broadcasts from the U.S. Coast Guard Continuously Operating Reference Station (CORS) in Appleton, Washington, with raw satellite data. Data from the Bureau of Land Management's geographic coordinate data base (GCDB) was combined with field surveyed positions of existing PLSS corners, to develop 1/16 corner positions consistent with the "Manual of Instructions for the Survey of the Public Lands of the United States", 1973 edition.

Point of diversion located 1657 feet north and 2166 feet west of SE corner, section 36, township 3 north, range 22 east. Source of water is John Day Reservoir on the Columbia River.

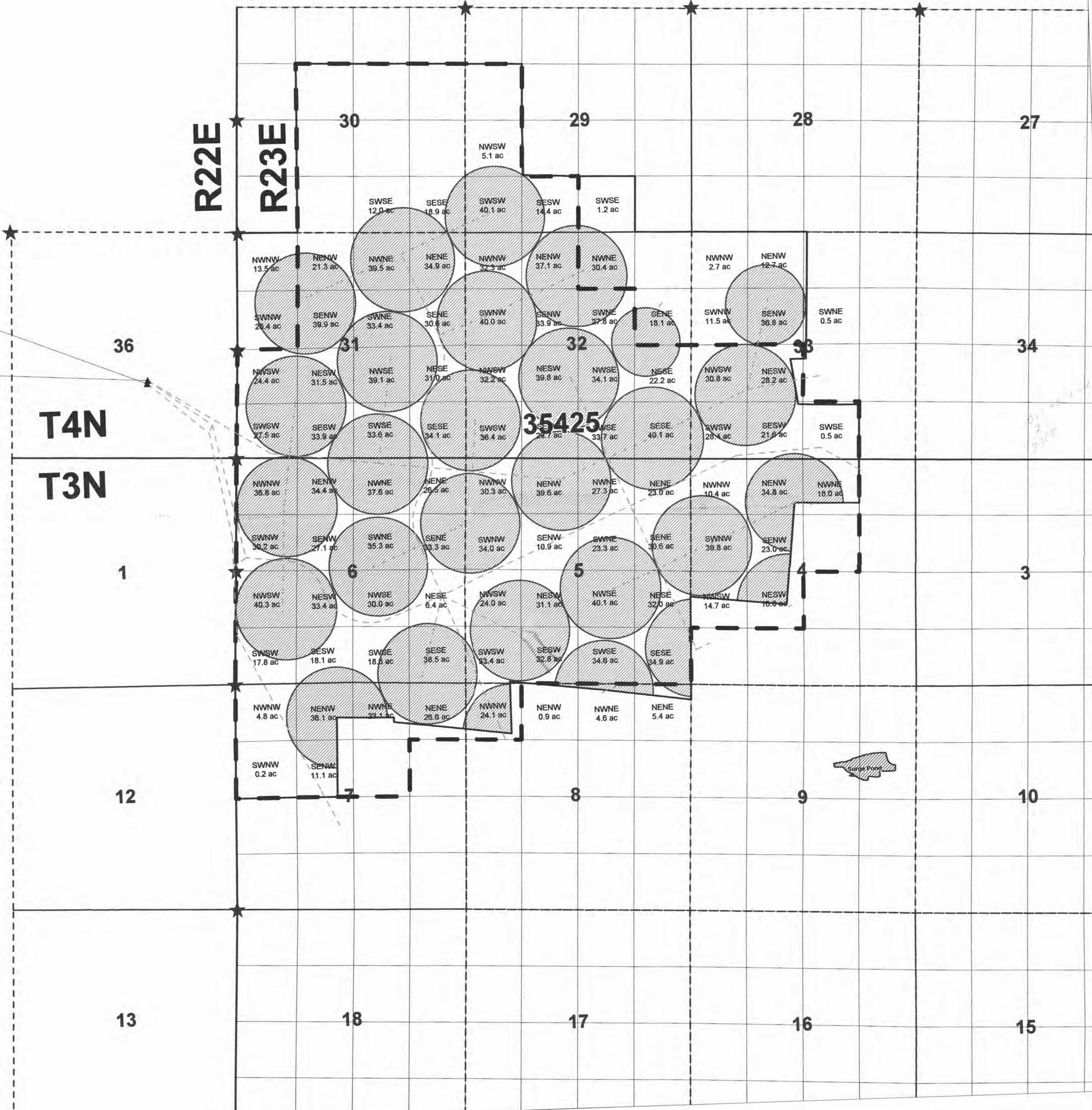
Pipe locations and diameters are approximate based on owners map. Mainline to pivot pipes are typically 10 inches in diameter with 8 inch diameter minimum.

This map was prepared for the purpose of identifying the location of a water right only and is not intended to provide legal dimensions or location of property ownership lines.

## Legend

- Place of use
- Monuments located
- Original permit area
- Permit area
- Section
- Quarter quarter section
- Township/Range
- Irrigation pipe
- Point of diversion
- Booster station

P.O.D.  
River P.S.





# System Layout Map

Boeing Agri-Industrial Co.



North

Scale: 1" = 2,000'

Public Land Survey System (PLSS) corners and irrigated crop circles were located using real-time, Differential GPS (DGPS) methods. NAD83 coordinates were developed using a Trimble ProXL Receiver hand-tied to a Trimble ProBeacon. Verified sub-meter positions were collected, by incorporating correction broadcasts from the U.S. Coast Guard Continuously Operating Reference Station (CORS) in Appleton, Washington, with raw satellite data. Data from the Bureau of Land Management's geographic coordinate data base (GCCB) was combined with field surveyed positions of existing PLSS corners, to develop 1/16 corner positions consistent with the "Manual of Instructions for the Survey of the Public Lands of the United States", 1973 edition. Point of diversion located 1657 feet north and 2166 feet west of SE corner, section 36, township 3N, range 22E. Source of water is John Day Reservoir on the Columbia River.

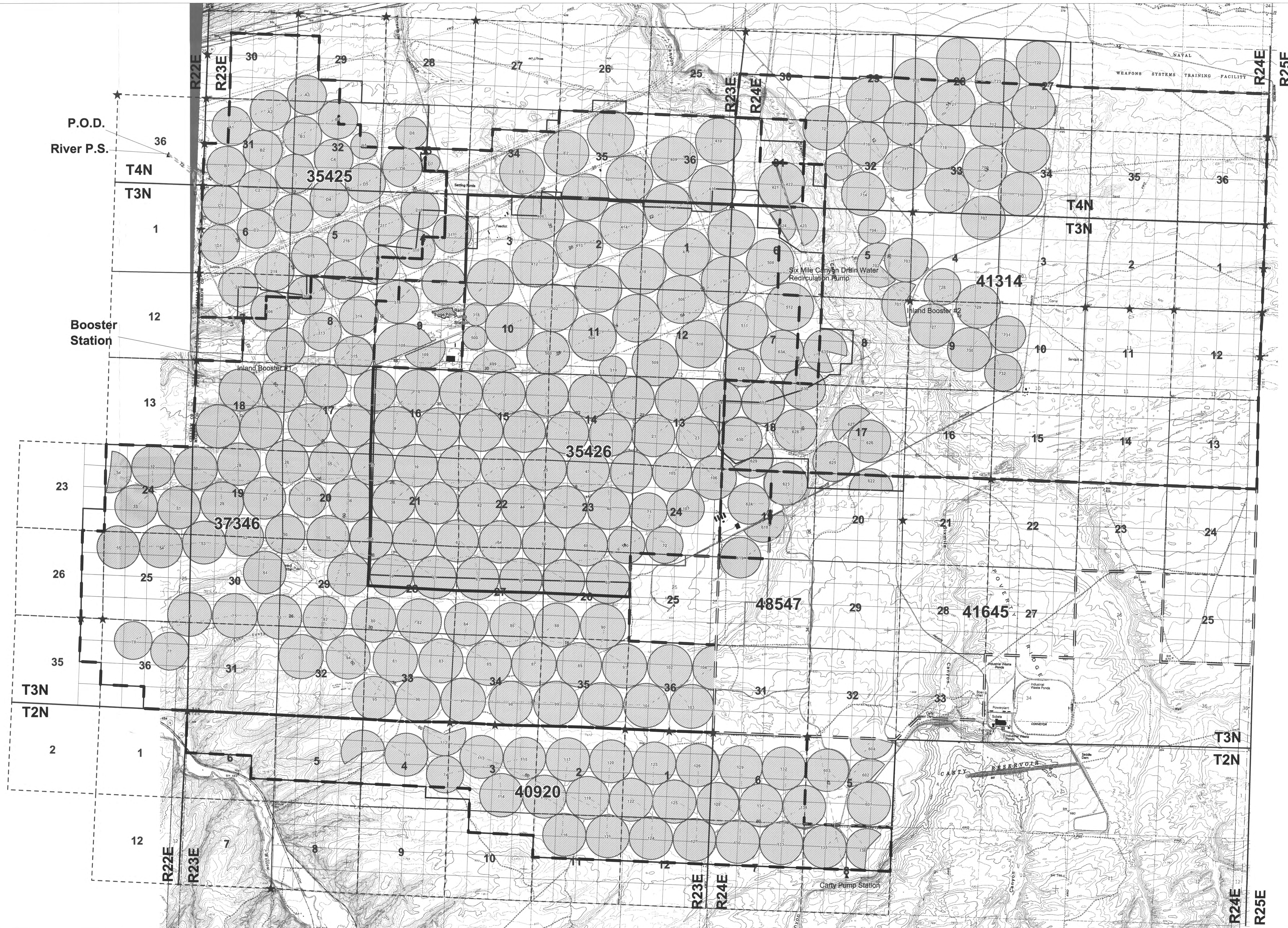
Pipe locations and diameters are approximate based on owners map. Mainline to pivot pipes are typically 16 inches in diameter with 8 inch diameter minimum.

Only circles which were surveyed are identified on the map.

This map was prepared for the purpose of identifying the location of a water right only and is not intended to provide legal dimensions or location of property ownership lines.

## Legend

- Place of use
- Monuments located
- Permit area
- Original permit
- Section
- Quarter quarter section
- Township/Range
- Irrigation pipe
- Point of diversion
- Booster station





STATE OF OREGON  
 COUNTY OF MORROW  
 CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

BAIC, INC.  
 75906 THREEMILE ROAD  
 BOARDMAN, OREGON 97818

confirms the right to use the waters of the COLUMBIA RIVER a tributary of the PACIFIC OCEAN, for IRRIGATION OF 9956.1 acres.

This right was perfected under Permit 37346. The date of priority is May 23, 1974. This right is limited to 248.9 CUBIC FEET PER SECOND or its equivalent in case of rotation, measured at the point of diversion from the source.

The point of diversion is located as follows:

RDO River Pump Station - NW ¼ SE ¼, SECTION 36, T 4 N, R 22 E, W.M.; 1657 FEET NORTH AND 2166 FEET WEST FROM THE SE CORNER OF SECTION 36.

Boeing River Pump Station - NW ¼ SE ¼, SECTION 36, T 4 N, R 22 E, W.M.; 1668 FEET NORTH AND 1997 FEET WEST FROM THE SE CORNER OF SECTION 36.

The amount of water used for irrigation together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-FORTIETH of one cubic foot per second (or its equivalent), PROVIDED that the combined use of water under permits 35425, 35426, 37346, 40920, 41314, and 41645 and the certificates issued in respect thereto shall not exceed 582 cubic feet per second at any one point in time, and PROVIDED FURTHER that before completion of consultation between the National Marine Fisheries Service (NMFS) and the Corps of Engineers (Corps) under section 7(a)(2) of the Endangered Species Act, final agency action by the Corps and conclusion of challenges, if any, arising out of this process, water users shall not use the Willow Creek Pump Station to pump or divert water from the Columbia River at a rate greater than 480 cfs.

The amount of water used for irrigation together with the amount secured under any other right existing for the same lands is further limited to 4.0 acre-feet for each acre irrigated during the irrigation season of each year, PROVIDED that the maximum volume of water diverted during a season under permits 35425, 35426, 37346, 40920, 41314, and 41645 and the certificates issued in respect thereto shall not exceed an average of 3 acre feet per acre times the total number of acres irrigated that season. The maximum number of acres to be irrigated under these permits and certificates is 41,000 acres.

A description of the place of use to which this right is appurtenant is as follows:

	ACRES		ACRES
NENE	27.3	NESW	39.7
NWNE	35.5	NWSW	22.5
SWNE	33.1	SWSW	17.2
SENE	30.6	SESW	30.8
NENW	23.9	NESE	39.7
NWNW	17.0	NWSE	31.0
SWNW	32.4	SWSE	27.9
SENW	31.4	SESE	34.4

Section 24  
 Township 3 North, Range 22 East, W.M.

	Acres
NENE	35.3
NWNE	39.5
SWNE	20.3
SENE	6.7
NENW	34.3
NWNW	39.5
SWNW	25.0
SENW	11.7
NESE	7.0
SESE	36.9

Section 25

NENE	9.6
SENE	2.9

Section 26

NENE	31.6
NWNE	15.2
SWNE	31.0
SENE	36.8
NENW	35.3
NWNW	10.2
SWNW	8.0
SENW	29.4
NESE	4.0
NWSE	2.1

Section 36

Township 3 North, Range 22 East, W.M.

NENE	1.2
NWNE	8.6
NENW	10.0
NWNW	9.7

Section 1

NENE	1.0
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Section 2

NENE	12.1
NWNE	20.1
SWNW	5.1
NWSW	1.8

Section 3

NENE	1.0
NWNE	6.2
SWNE	30.6
SENE	38.8
NENW	1.5
SENW	8.0
NESW	24.4
NWSW	15.6
SWSW	34.1
SESW	15.1
NESE	24.7
NWSE	29.9
SWSE	31.2
SESE	28.6

Section 4

NENE	6.3
NWNE	11.1
SWNE	30.9
SENE	39.6
NENW	4.5
SENW	5.5
NESE	32.4
NWSE	8.2
SESE	34.0

Section 7

Township 3 North, Range 23 East, W.M.

	Acres
NENE	8.7
NWNE	33.5
SWNE	24.5
SENE	38.7
NENW	30.7
NWNW	12.4
SWNW	27.9
SENW	27.3
NESW	40.1
NWSW	23.1
SWSW	31.0
SESW	13.4
NESE	28.2
NWSE	31.9
SWSE	32.0
SESE	36.8

Section 8

NENE	34.2
NWNE	32.2
SWNE	0.6
SENE	0.7
NENW	28.1
NWNW	34.8
SWNW	33.9
SENW	28.5
NESW	39.1
NWSW	25.9
SWSW	28.9
SESW	22.2
NESE	2.6
NWSE	16.2
SWSE	34.9
SESE	3.9

Section 9

NWNW	0.1
------	-----

Section 10

NWNW	4.4
SWNW	4.8
NWSW	2.3
SWSW	2.9

Section 16

NENE	31.9
NWNE	33.5
SWNE	24.9
SENE	31.9
NENW	35.6
NWNW	20.0
SWNW	35.7
SENW	36.0
NESW	39.0
NWSW	31.9
SWSW	32.2
SESW	33.9
NESE	38.9
NWSE	33.3
SWSE	32.4
SESE	33.5

Section 17

Township 3 North, Range 23 East, W.M.

	Acres
NENE	23.0
NWNE	16.4
SWNE	34.8
SENE	38.1
NENW	18.5
SENW	36.7
NESW	36.5
NWSW	28.9
SWSW	29.3
SESW	36.7
NESE	34.3
NWSE	34.5
SWSE	34.4
SESE	35.2

Section 18

NENE	28.7
NWNE	37.6
SWNE	33.7
SENE	34.8
NENW	35.5
NWNW	37.4
SWNW	39.5
SENW	34.2
NESW	40.7
NWSW	37.7
SWSW	37.6
SESW	34.3
NESE	39.5
NWSE	35.2
SWSE	33.3
SESE	32.1

Section 19

NENE	35.7
NWNE	40.2
SWNE	33.0
SENE	36.0
NENW	35.8
NWNW	40.2
SWNW	27.8
SENW	28.9
NESW	34.8
NWSW	27.3
SWSW	36.5
SESW	30.4
NESE	38.1
NWSE	33.0
SWSE	38.7
SESE	34.6

Section 20

NWNW	4.7
SWNW	2.2
NWSW	1.4
SWSW	2.1

Section 21

SWNE	23.4
SENE	22.6
SWNW	22.4
SENW	19.7
NESW	15.3
NWSW	29.5
SWSW	39.7
SESW	33.9
NESE	19.0
NWSE	28.9
SWSE	39.6
SESE	30.8

Section 26

Township 3 North, Range 23 East, W.M.

76711

	Acres
SWNE	21.9
SENE	20.4
SWNW	22.0
SENW	20.2
NESW	13.4
NWSW	27.0
SWSW	40.1
SESW	33.8
NESE	15.1
NWSE	28.8
SWSE	40.3
SESE	35.2

## Section 27

SWNE	19.9
SENE	20.9
NWNW	1.5
SWNW	19.3
SENW	19.8
NESW	16.9
NWSW	25.6
SWSW	40.2
SESW	34.7
NESE	13.9
NWSE	28.5
SWSE	40.2
SESE	31.0

## Section 28

NENE	33.2
NWNE	34.4
SWNE	32.7
SENE	39.5
NENW	20.5
NWNW	20.8
SWNW	7.1
NESW	7.6
NWSW	10.0
SWSW	39.0
SESW	34.6
NESE	19.2
NWSE	21.4
SWSE	39.8
SESE	27.7

## Section 29

NENE	28.7
NWNE	36.7
SWNE	25.6
SENE	39.5
NENW	30.5
NWNW	44.2
SWNW	11.6
SENW	0.8
NESW	9.0
NWSW	7.7
SWSW	38.8
SESW	39.2
NESE	28.7
NWSE	16.8
SWSE	37.6
SESE	37.9

## Section 30

NENE	15.8
NWNE	16.1
NENW	17.8
NWNW	16.9
SWNW	0.1

## Section 31

Township 3 North, Range 23 East, W.M.

76711



	Acres
NENE	33.0
NWNE	31.3
SWNE	30.1
SENE	40.1
NENW	32.7
NWNW	33.1
SWNW	36.3
SENW	39.0
NESW	7.4
NWSW	6.3
NESE	18.4
NWSE	2.5
SESE	13.6

Section 32

NENE	33.3
NWNE	31.2
SWNE	31.3
SENE	39.8
NENW	33.4
NWNW	31.4
SWNW	29.2
SENW	40.6
NESW	32.7
NWSW	37.9
SWSW	38.6
SESW	24.2
NESE	30.3
NWSE	38.2
SWSE	37.8
SESE	22.2

Section 33

NENE	35.6
NWNE	33.0
SWNE	32.3
SENE	40.9
NENW	34.2
NWNW	30.1
SWNW	28.3
SENW	41.1
NESW	29.6
NWSW	40.3
SWSW	38.3
SESW	19.7
NESE	29.5
NWSE	38.3
SWSE	36.6
SESE	22.8

Section 34

NENE	35.9
NWNE	32.1
SWNE	31.5
SENE	38.0
NENW	35.1
NWNW	32.3
SWNW	32.3
SENW	39.7
NESW	31.3
NWSW	38.3
SWSW	34.3
SESW	24.0
NESE	31.4
NWSE	37.4
SWSE	31.7
SESE	23.4

Section 35

Township 3 North, Range 23 East, W.M.

76711

	Acres
NENE	30.6
NWNE	25.5
SWNE	33.9
SENE	36.2
NENW	30.8
NWNW	22.2
SWNW	33.3
SENW	37.9
NESW	33.4
NWSW	38.2
SWSW	30.2
SESW	24.2
NESE	34.8
NWSE	37.1
SWSE	26.2
SESE	24.2

Section 36  
Township 3 North, Range 23 East, W.M.

NENE	26.8
NWNE	36.9
SWNE	9.8
SENE	14.3
NENW	9.8

Section 6  
Township 3 North, Range 24 East, W.M.

SWSE	2.0
------	-----

Section 26

NESW	2.6
NWSE	18.2
SWSE	0.5

Section 33

SWNE	4.7
SENE	19.2
SENW	0.2
NESW	19.9
SESW	13.2
NESE	28.7
NWSE	40.4
SWSE	34.9
SESE	11.0

Section 34

NENE	10.4
NWNE	39.4
SWNE	39.1
SENE	11.4
NENW	21.0
NWNW	2.4
SWNW	39.6
SENW	30.5
NESW	12.0
NWSW	36.5
SWSW	20.7
SESW	36.6
NESE	38.8
NWSE	23.6
SWSE	31.1
SESE	38.7

Section 35  
Township 4 North, Range 23 East, W.M.

	Acres
NENE	34.4
NWNE	19.8
SWNE	32.9
SENE	39.4
NENW	0.1
SWNW	21.2
SEW	37.6
NESW	39.1
NWSW	31.7
SWSW	30.8
SESW	30.4
NESE	28.7
NWSE	28.8
SWSE	37.2
SESE	14.8

Section 36  
Township 4 North, Range 23 East, W.M.

SWNE	0.6
NWNW	5.2
SWNW	8.1
SEW	0.3
NESW	29.4
NWSW	0.5
SWSW	1.8
SESW	35.3
NESE	1.0
NWSE	34.6
SWSE	33.9
SESE	1.8

Section 31  
Township 4 North, Range 24 East, W.M.

**9956.1 Acres**

Water user shall install, operate and maintain a continuous telemetric measurement and recording device for rate and volume of water use, and shall report monthly volumes of water use to the Water Resources Department on an annual basis. The information shall be available to the State as a public record at any time. Further, the Director may require water user to report general water use information, including the place and nature of use of water under the permit.

Certificate holders shall contribute \$1,250,000 to the Oregon Water Trust to be used for acquisition of instream water rights in tributaries of the Columbia River on the terms and conditions described in the Water Resources Department Final Order dated February 28, 2001 authorizing issuance of this Certificate.

Certificate holders shall request that the consultation between NMFS (and the USFWS if applicable) and the Corps under section 7(a)(2) of the ESA address issues related to attraction flows from existing and future pumping, screening, ongoing and future dredge operations and effects of Certificate Holders' water withdrawals on Columbia River System target flows.

During the NMFS consultation, Certificate holders shall seek the views of ODFW, provide ODFW with copies of the Biological Assessment that the Corps submits to NMFS, and provide ODFW with copies of any draft Biological Opinion Certificate Holders receive from the Corps or NMFS.

Water use under this certificate shall be exercised consistent with and subject to the final conditions on water use, including screening, in the Corps permits for construction and maintenance of pump stations resulting from any NMFS consultation, following exhaustion of appeals, if any. Certificate holder shall, within 30 days following exhaustion of appeals, if any, submit to the Salem office of the Water Resources Department and to the office of the applicable Watermaster District, a copy of such Corps permits.

A condition of the final order extending the permit and approving issuance of this certificate is that the water user shall not farm, develop, or perform any activity in the Conservation Area described in Exhibits B and H of said order, except for activities that are in furtherance of the purpose of the Conservation Area and for activities that are consistent with implementation of any Multi-Species Candidate Conservation Agreement developed by BAIC, Inc. and approved by the U.S. Fish and Wildlife Service covering various federally unlisted upland species, including the Washington ground squirrel. In addition, the water user will not undertake any activity that is inconsistent with survival guidelines adopted pursuant to the state ESA listing process.

The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described. The use confirmed herein may be made only at times when sufficient water is available to satisfy all prior rights.

WITNESS the signature of the Water Resources Director,

affixed this 28<sup>th</sup> day of February 2001.

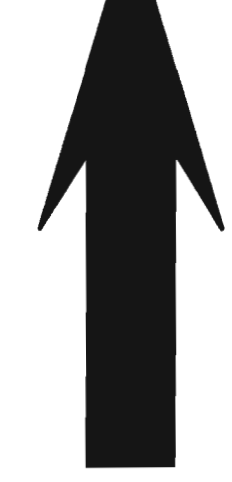
  
Paul R. Cleary

Recorded in State Record of Water Right Certificates numbered 76711.



# Claim of Beneficial Use

Application # 51976  
Permit # 37346



North

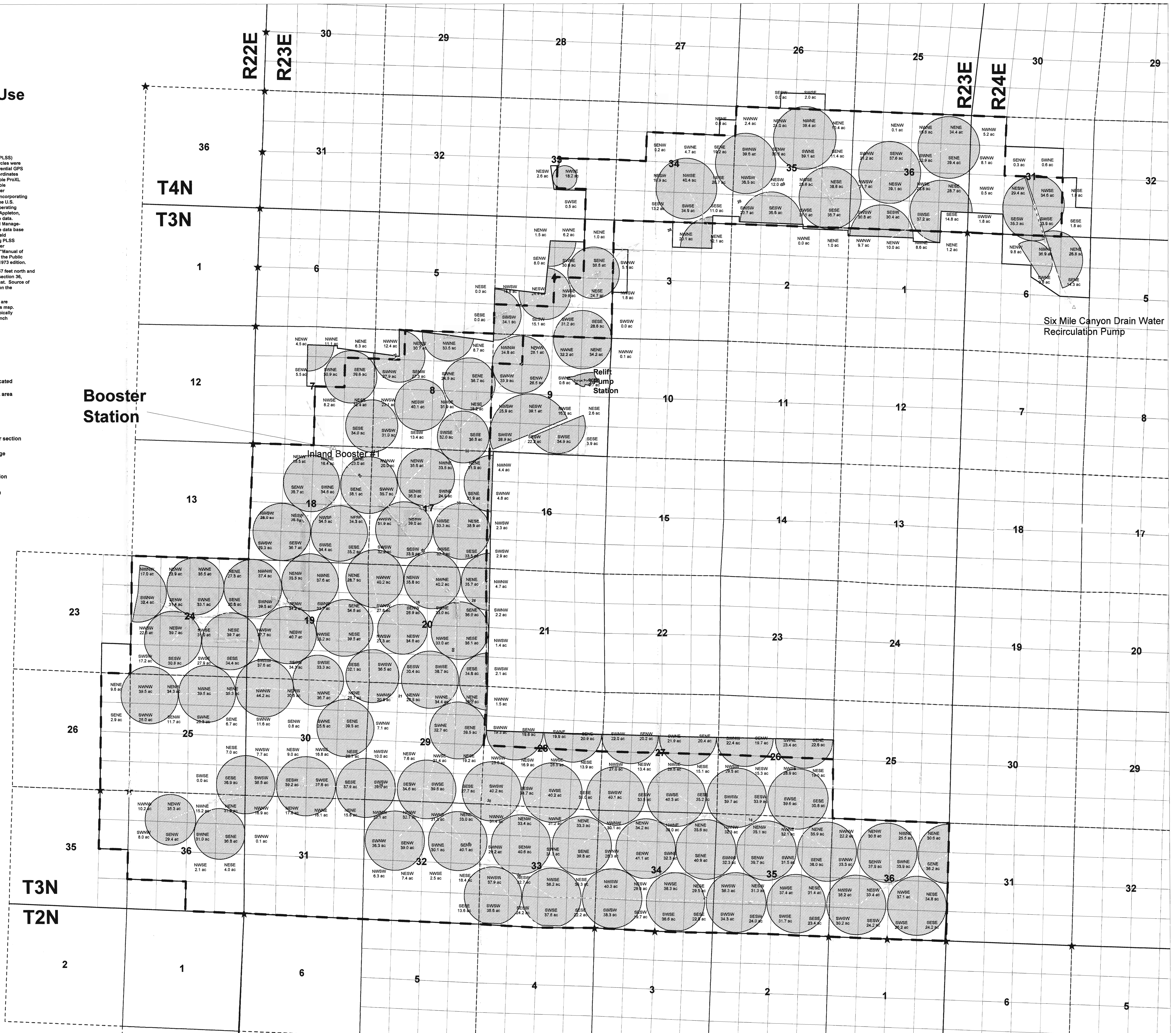
Scale: 1" = 1320'

Public Land Survey System (PLSS) corners and irrigated crop circles were located using real-time, Differential GPS (DGPS) methods. NAD27 coordinates were developed using a Trimble ProXL Receiver hardwired to a Trimble ProBeacon. Verified sub-meter positions were collected, by incorporating correction broadcasts from the U.S. Coast Guard Continuously Operating Reference Station (CORS) in Appleton, Washington, with raw satellite data. Data from the Bureau of Land Management's geographic coordinate data base (GCDB) was combined with field surveyed positions of existing PLSS corners, to develop 1/8 corner positions consistent with the "Manual of Instructions for the Survey of the Public Lands of the United States", 1973 edition. Point of diversion located 1657 feet north and 2166 feet west of SE corner, section 36, township 3 north, range 22 east. Source of water is John Day Reservoir on the Columbia River.

Pipe locations and diameters are approximate based on owners map. Mainlines to pivot pipes are typically 10 inches in diameter with 8 inch diameter minimum.

### Legend

- Place of use
- Monuments located
- Original permit area
- Permit area
- Section
- Quarter quarter section
- Township/Range
- Irrigation pipe
- Point of diversion
- Booster station



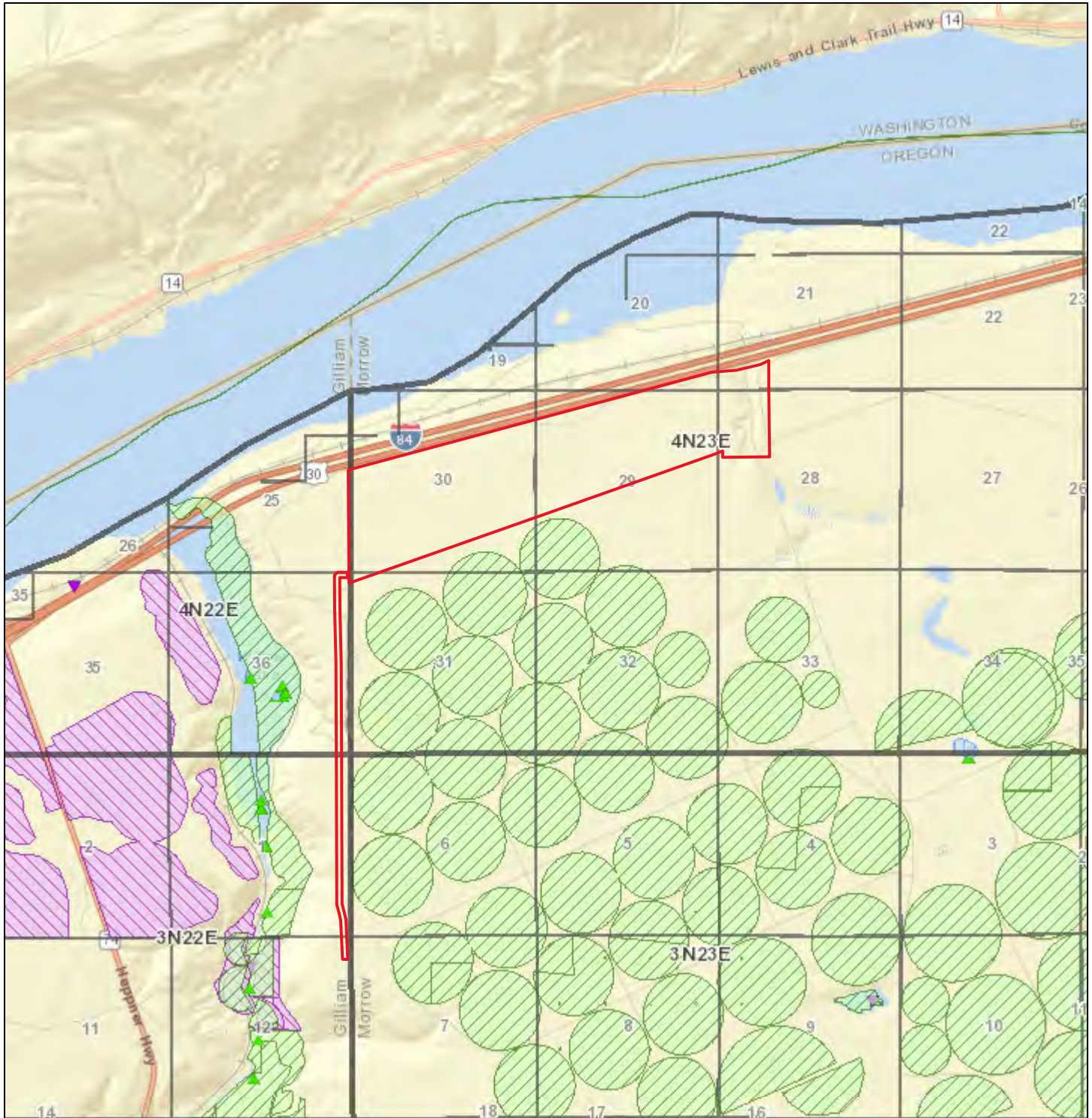


Attachment K-3  
Water Rights Map from Oregon Water  
Resources Department

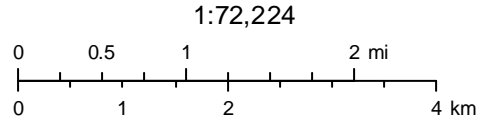
# Oregon Water Rights Map

Printed: October 21, 2016

Oregon Water Resources Department  
 725 Summer St NE, Suite A, Salem, OR 97301  
 (503)986-0900

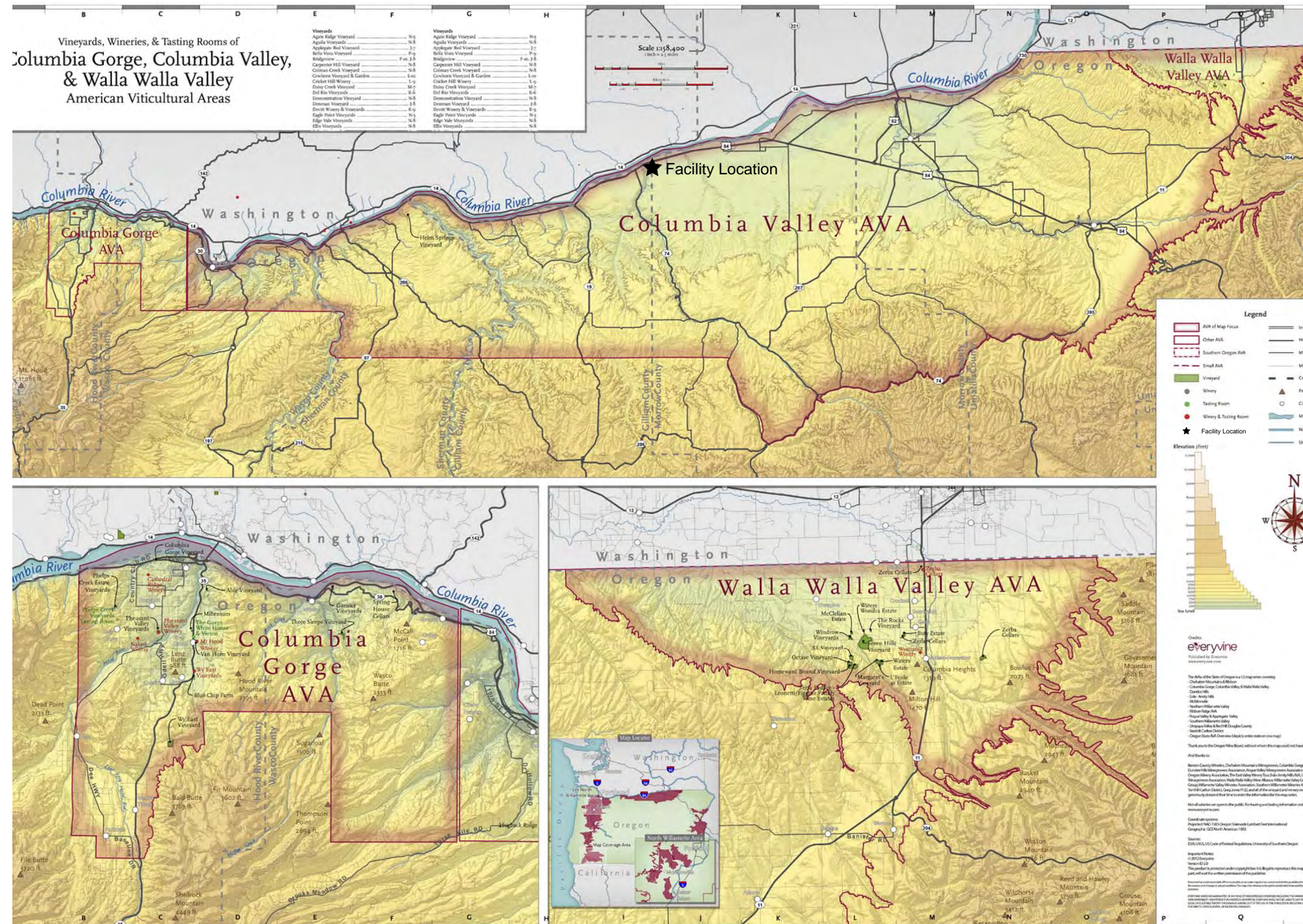


Water Rights by Type		Water Rights by Use	
Points of Diversion	Places of Use	Recreation	Livestock
• Storage Water	• Surface Water	Fish	Irrigation
▲ Groundwater	▼	Wildlife	Mining
		Instream	Power
<b>By Primary/Supplemental</b>		Misc.	Commercial
• Primary		Agriculture	Domestic
• Supplemental			
		— Approximate Facility Site Boundary	



Attachment K-4  
American Viticulture Area Map





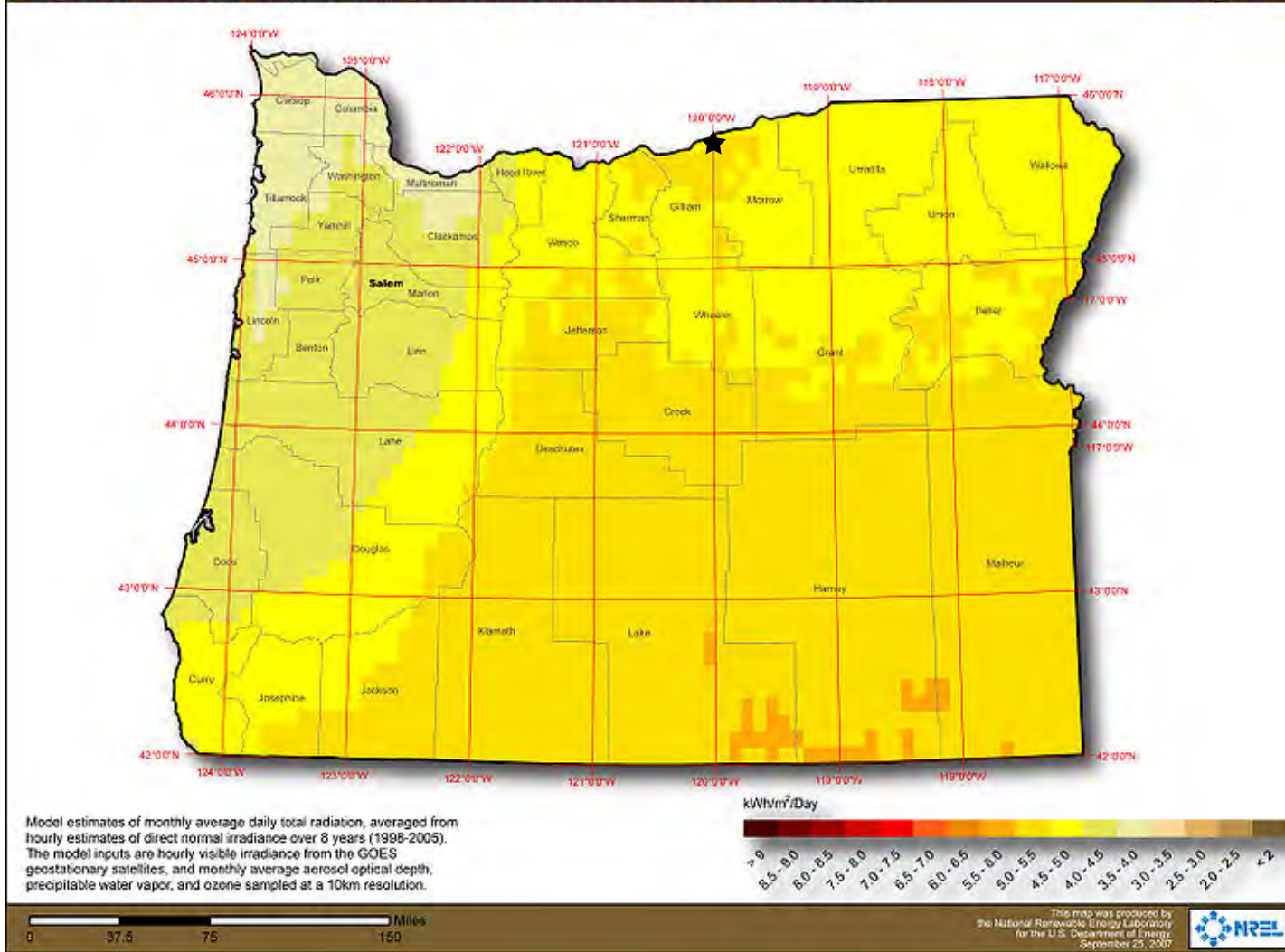
**ATTACHMENT K-4**  
**American Viticulture Area Map**  
 Boardman Solar Energy Facility  
 Application for Site Certificate  
 Morrow and Gilliam Counties, Oregon





Attachment K-5  
Solar Resources Map

# Global Solar Radiation at Latitude Tilt - Annual Oregon

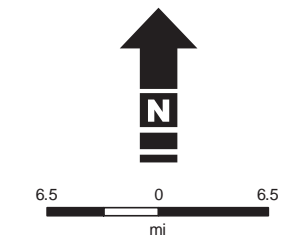
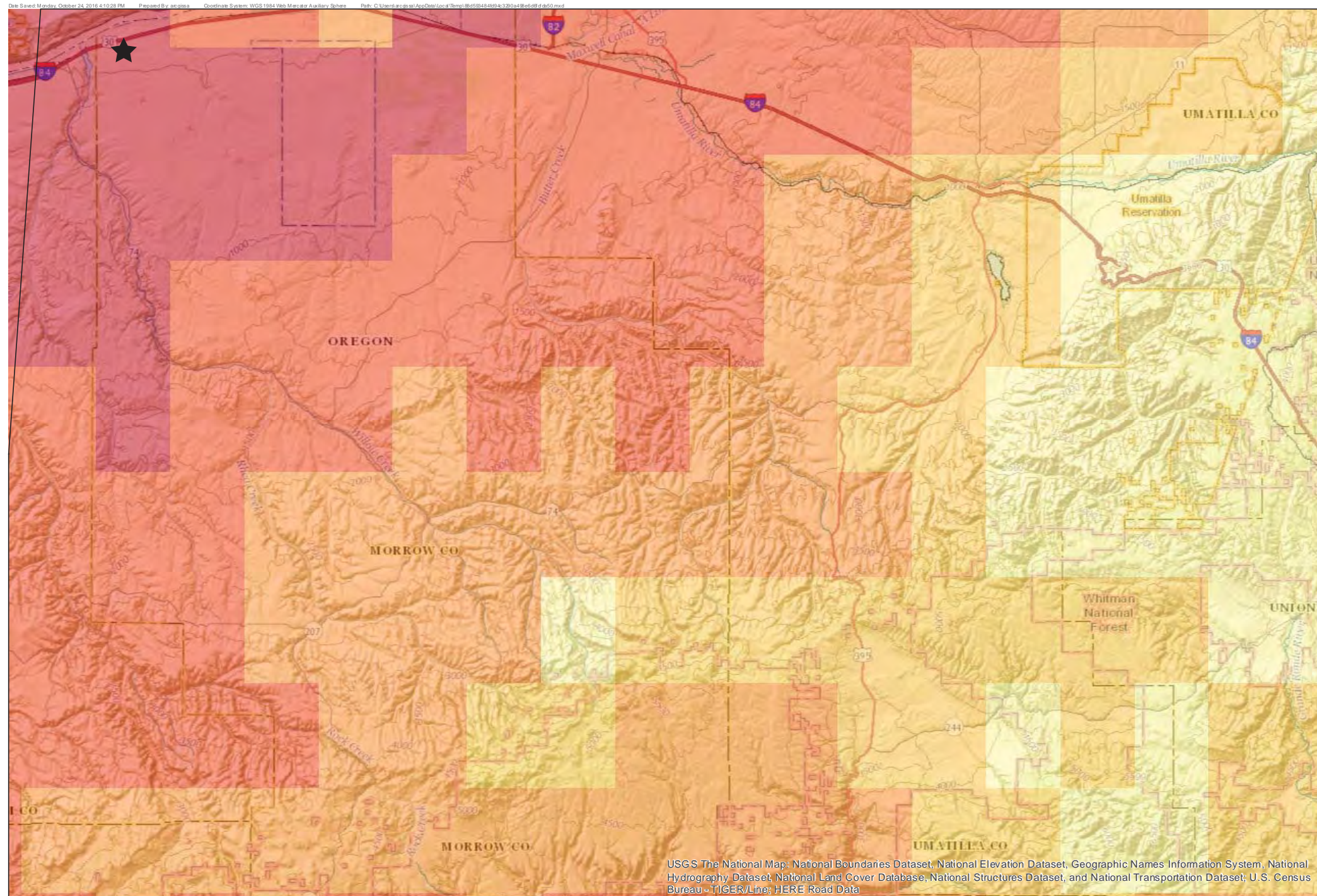


★ Facility Location

**ATTACHMENT K-5A**  
**Facility Location Solar Resource Summary**  
*Boardman Solar Energy Facility*  
*Application for Site Certificate*  
*Morrow and Gilliam Counties, Oregon*







- Legend**
- Annual Solar Latitude Tilt**
- 3.1 to 4.84
  - > 4.84 to 4.94
  - > 4.94 to 5.04
  - > 5.04 to 5.14
  - > 5.14 to 7.1
  - ★ Facility Location

USGS The National Map: National Boundaries Dataset, National Elevation Dataset, Geographic Names Information System, National Hydrography Dataset, National Land Cover Database, National Structures Dataset, and National Transportation Dataset; U.S. Census Bureau - TIGER/Line; HERE Road Data

# Morrow County Oregon Solar Resource Summary

Rev. 00  
October 24, 2016



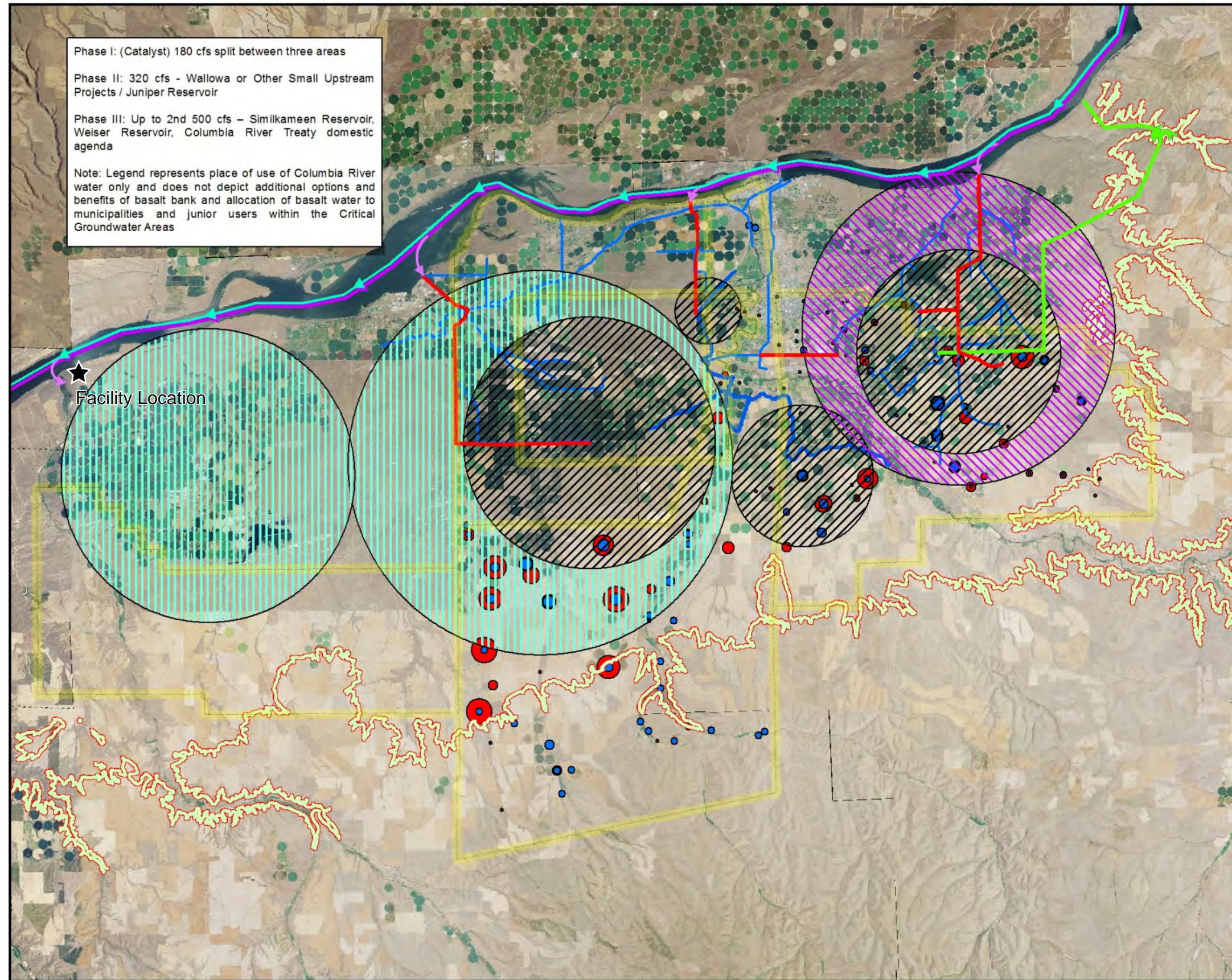
This map was produced by the National Renewable Energy Laboratory for the U.S. Department of Energy September 25, 2007

**ATTACHMENT K-5B**  
**Facility Location Solar Resource Summary**  
 Boardman Solar Energy Facility  
 Application for Site Certificate  
 Morrow and Gilliam Counties, Oregon



Attachment K-6  
Columbia River Supply Project Map





Phase I: (Catalyst) 180 cfs split between three areas

Phase II: 320 cfs - Wallowa or Other Small Upstream Projects / Juniper Reservoir

Phase III: Up to 2nd 500 cfs - Similkameen Reservoir, Weiser Reservoir, Columbia River Treaty domestic agenda

Note: Legend represents place of use of Columbia River water only and does not depict additional options and benefits of basalt bank and allocation of basalt water to municipalities and junior users within the Critical Groundwater Areas

★ Facility Location

**Northeast Oregon Water Association**  
**Water Development Proposal**

**Overview Map**

**Legend**

- CGA Boundary
- Phase I - Proposed Pipelines
- Phase II - Proposed Pipelines
- Phase I
- Phase II
- Phase III
- Phase II - Juniper Reservoir
- Phase II - additional instream water
- Phase III - additional instream water
- Phase II & III - additional water
- Existing Infrastructure
- 1,260' Elevation Contour
- Pumping Allocation
- Permitted Water Right
- Facility Location

0 1 2 3 4 Miles

N  
E  
S  
W

**NORTHEAST OREGON WATER ASSOCIATION**

*Consulting, LLC*  
 800 N 1ST, HEMISTON, OREGON

**ATTACHMENT K-6**  
**Potential Water Resource Projects in Area of Facility**  
 Boardman Solar Energy Facility  
 Application for Site Certificate  
 Morrow and Gilliam Counties, Oregon





