

Exhibit K

Compliance with Statewide Planning Goals

**Nolin Hills Wind Power Project
January 2022**

Prepared for
Capital Power
RESPONSIBLE ENERGY
FOR TOMORROW
d/b/a Nolin Hills Wind, LLC

Prepared by



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Acronyms and Abbreviations

Applicant	Nolin Hills Wind, LLC
ASC	Applicant for Site Certificate
AVA	American Viticultural Area
BLS	U.S. Bureau of Labor Statistics
BMCC	Blue Mountain Community College
BMP	best management practice
CRP	Conservation Reserve Program
CSF	community service fee
CTUIR	Confederated Tribes of the Umatilla Indian Reservation
DLCD	Oregon Department of Land and Conservation
EFSC or Council	Energy Facility Siting Council
EFU	Exclusive Farm Use
EPC	Engineering, Procurement, and Construction
I-84	Interstate 84
kV	kilovolt
MW	megawatt
NOI	Notice of Intent
NPDES	National Pollutant Discharge Elimination System
NRCS	Natural Resources Conservation Service
NRHP	National Register of Historic Places
O&M	operations and maintenance
OAR	Oregon Administrative Rule
ODEQ	Oregon Department of Environmental Quality
ODFW	Oregon Department of Fish and Wildlife
ONHT	Oregon National Historic Trail
ORS	Oregon Revised Statutes
Project	Nolin Hills Wind Power Project
RRED	Rural Renewable Energy Development
ROW	right-of-way
RPS	Renewable Portfolio Standard
SCADA	supervisory control and data acquisition
SHPO	State Historic Preservation Office

SIP	Strategic Investment Program
SIZ	Strategic Investment Zone
UCCP	Umatilla County Comprehensive Plan
UCDC	Umatilla County Development Ordinance or Code
UEC	Umatilla Electric Cooperative
UGB	urban growth boundary
USDA	U.S. Department of Agriculture

1.0 Introduction

Exhibit K demonstrates that the Nolin Hills Wind Power Project (Project) complies with the Energy Facility Siting Council's (EFSC or Council) land use standard in Oregon Administrative Rule (OAR) 345-022-0030, which provides, in part:

OAR 345-022-0030, Land Use

- (1) To issue a site certificate, the Council must find that the proposed facility complies with the statewide planning goals adopted by the Land Conservation and Development Commission.*
- (2) The Council shall find that a proposed facility complies with section (1) if:*
 - (a) The applicant elects to obtain local land use approvals under ORS 469.504(1)(a) and the Council finds that the facility has received local land use approval under the acknowledged comprehensive plan and land use regulations of the affected local government; or*
 - (b) The applicant elects to obtain a Council determination under ORS 469.504(1)(b) and the Council determines that:*
 - (A) The proposed facility complies with applicable substantive criteria as described in section (3) and the facility complies with any Land Conservation and Development Commission administrative rules and goals and any land use statutes directly applicable to the facility under ORS 197.646(3);*
 - (B) For a proposed facility that does not comply with one or more of the applicable substantive criteria as described in section (3), the facility otherwise complies with the statewide planning goals or an exception to any applicable statewide planning goal is justified under section (4); or*
 - (C) For a proposed facility that the Council decides, under sections (3) or (6), to evaluate against the statewide planning goals, the proposed facility complies with the applicable statewide planning goals or that an exception to any applicable statewide planning goal is justified under section (4).*
- (3) As used in this rule, the "applicable substantive criteria" are criteria from the affected local government's acknowledged comprehensive plan and land use ordinances that are required by the statewide planning goals and that are in effect on the date the applicant submits the application. If the special advisory group recommends applicable substantive criteria, as described under OAR 345-021-0050, the Council shall apply them. If the special advisory group does not recommend applicable substantive criteria, the Council shall decide either to make its own determination of the applicable substantive criteria and apply them or to evaluate the proposed facility against the statewide planning goals.*

As provided for under OAR 345-022-0030(2)(b), Nolin Hills Wind, LLC (the Applicant) has elected to seek a Council determination of compliance under Oregon Revised Statute (ORS) 469.504(1)(b) for the Project and all related and supporting facilities. Exhibit K demonstrates the Project's compliance with the applicable substantive criteria from the Umatilla County Development Ordinance or Code (UCDC) (Umatilla County 2020) and the Umatilla County Comprehensive Plan (UCCP) (Umatilla County 2018). In addition, Exhibit K demonstrates the Project's compliance with the Oregon Department of Land and Conservation (DLCD) administrative rules and goals and any land use statutes directly applicable to the Project. 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 Project meets OAR 345-022-0030.

2.0 EFSC Election – OAR 345-021-0010(1)(k)

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 must 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 must....

Nolin Hills Wind, LLC (the Applicant) has elected to address EFSC's land use standard by obtaining a land use determination from EFSC pursuant to ORS 469.504(1)(b) for the Project and all related and supporting facilities..

Upon issuance of an EFSC Site Certificate for the Project, the Applicant will submit conditional use and zoning permit applications to Umatilla County. After review of the permits, Umatilla County shall issue the permits without further conditions pursuant to ORS 469.401(3).

3.0 Analysis Area & Zoning – OAR 345-021-0010(1)(k)(A)

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

Pursuant to the Project Order, the Analysis Area for purposes of this exhibit is "the area within the Site Boundary and 0.5 miles from the Site Boundary." Figure K-1¹ shows both the Site Boundary

¹ Map figures (Figures K-1 through K-10) are presented at the back of this exhibit.

(48,196 acres) and the Analysis Area for this Exhibit (79,174 acres). Figure K-2 provides Umatilla County's Comprehensive Plan Exclusive Farm Use (EFU) agricultural region designation and corresponding land use zones in the Analysis Area². All the land within the Analysis Area except the very northern section of the Umatilla Electric Cooperative (UEC) Cottonwood transmission line corridor is zoned EFU (see Figure K-2). The portion of the UEC Cottonwood transmission line corridor near Interstate 84 (I-84) includes areas of Rural Tourist Commercial, Agri-Business, and Light Industrial zoning (see Figure K-2 inset).

4.0 Affected Jurisdiction and Identification of Applicable Substantive Criteria – OAR 345-021-0010(1)(k)(C)(i) & (ii)

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

- (i) Identify 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;*

The Project is entirely within Umatilla County. A commercial wind power generation facility is a Conditional Use in Umatilla County. In its November 6, 2017 response to the Project Notice of Intent, Umatilla County identified the following applicable substantive criteria, which are addressed in Sections 4.3 and 4.4 of this exhibit:

- For the wind energy generation facility including related and supporting facilities such as access roads and collector lines - UCDC Sections 152.060(F), 152.061, 152.615, and 152.616(HHH)
- For the transmission lines and substations - UCDC Sections 152.059 and 152.617(II)(7).
- The following UCCP policies:
 - Agriculture, Policies 1, 8 and 17;
 - Citizen Involvement, Policies 1 and 5;
 - Open Space, Scenic & Historic Areas, and Natural Areas, Policies 1(a), 5(a & b), 6(a), 8(a), 9(a), 10(c, d & e), 20 (a), 20(b)(1-8), 22, 23(a), 24(a), 26, 37 & 38(a-c), 39(a) and 42(a);
 - Air, Land, Water Quality, Policies 1, 7 and 8;

² The Comprehensive Plan defers to the Plan and Zoning Map for locations of agricultural designations and EFU zone types.

- Natural Hazards, Policies 1 and 4;
- Recreational Needs, Policy 1;
- Economy of the County, Policies 1, 4 and 8(a-f);
- Public Facilities and Services, Policies 1(a-d), 2, 9 and 19;
- Transportation, Policies 18 and 20; and
- Energy Conservation, Policy 1.

In addition to the substantive criteria listed above, the following UCDC Sections apply to the Project's commercial solar power generation facility (which includes the battery storage system; see also below) as it is a Conditional Use in Umatilla County: UCDC Sections 152.060(FF), 152.061, and 152.615. While the solar PV facility is a commercial power generation facility pursuant to ORS 215.283(2)(g), the Applicant reviews the commercial solar power generation facility under the UCDC provision applicable to solar power generation rather than UCDC Sections 152.616(T) and 152.617(I)(C). However, the UCDC only allows photovoltaic solar power generation facility in the EFU Zone (per UCDC Section 52.060(FF)) as provided in OAR 660-033-0130(38). Therefore, the Project's commercial solar power generation facility is evaluated under OAR 660-033-0130(38) in Section 5.0 of this exhibit.

OAR 660-033-0130(38)(f) states that "Photovoltaic solar power generation facility" includes, but is not limited to, an assembly of equipment that converts sunlight into electricity and then **stores**³, transfers, or both, that electricity. This includes photovoltaic modules, mounting and solar tracking equipment, foundations, inverters, wiring, **storage devices**⁴ and other components." The battery storage system will be integrated into the solar array electrical collection system to store energy consistent with the definition of photovoltaic solar power generation facility in OAR 660-033-0130(38)(f) and as described in Exhibit B, Section 2.6. Therefore, the battery storage system (which is within the solar siting area) is reviewed as part of the photovoltaic solar power generation facility.

4.1 Siting and Analysis Approach

The Applicant is requesting micrositing flexibility for the Project's facilities with regard to wind turbine selection and solar module selection, as well as the final layout for turbines and the solar arrays, and related and supporting facilities. To allow flexibility in the choice of wind turbines available at the time of construction, this Application for Site Certificate (ASC) analyzes a turbine model with the maximum potential dimensions under consideration for the Project, while limiting the total maximum wind turbine generating capacity to approximately 340 megawatts and the total number of wind turbines to 112. The turbine vendor, size, number, and actual turbine nameplate generating capacity that will ultimately be installed have not yet been determined. Similarly, during final design, the Applicant will consider all micrositing factors and solar technology available at that time to design the most efficient and effective solar array layout, while limiting the acreage of

³ Text bolded for emphasis.

⁴ Text bolded for emphasis.

temporary and permanent impacts, and impacts to other resources, to those described in this application.

This approach will allow the Applicant to select the most appropriate wind turbine model and solar module/racking system available at the time of equipment acquisition, so long as the final selected wind/solar components are of no greater impact than allowed for in the Site Certificate, and which satisfy all the conditions of Site Certificate. This flexibility is required because turbine manufacturers offer new turbine models with improved technology approximately every 1 to 2 years and retire older models. Likewise, solar equipment is rapidly changing with new technology. Before construction, the Applicant will determine the number of turbines in each corridor, the spacing between turbines, and their precise locations within the corridor, based on the wind turbine models selected and other various siting criteria. Final solar array equipment and layout selected will not exceed the impacts analyzed in the ASC and authorized by the Site Certificate.

The Project's micrositing process is informed by substantial environmental due diligence. Surveys and studies have been completed as part of the siting process (as referenced in applicable Exhibits) to minimize environmental and land use impacts from the Project. The environmental due diligence completed during the siting process is consolidated into detailed constraints mapping that is used and continually updated as necessary to guide Project micrositing and compliance with applicable standards and regulations and the Site Certificate. At the same time, siting of wind turbines and solar arrays is driven by many factors including land availability, habitat, landowner agreement, existing land uses, access, wind regime, solar resource, turbine spacing requirements and wind and solar energy generation optimization. Therefore, while some micrositing of the Project is anticipated prior to construction, substantial relocations are not anticipated due to these many interacting siting factors.

4.2 Existing Land Use Overview

To support the responses to the applicable substantive criteria, this section provides an existing land use conditions overview. As stated earlier, most of the Analysis Area is located in land primarily zoned EFU. However, as shown on Figure K-3, the majority of the Analysis Area (approximately 53,671 acres or 68 percent of the Analysis Area) includes uncultivated land primarily composed of grasslands including some areas of Conservation Reserve Program (CRP) lands. Exhibit P and Figure P-3 provide more detail on the surveyed habitats and ground cover within the Site Boundary, including the location of surveyed CRP lands.

The Analysis Area also includes areas with high-value farmland designations per ORS 195.300(10)(a), (c), and (f). These provisions are summarized below:

- ORS 195.300(10)(a) relies on criteria related to soil types as classified by Natural Resources Conservation Service (NRCS). It includes land in a tract⁵ composed predominantly of soils

⁵ "Tract" means one or more contiguous lots or parcels under the same ownership. Figures K-4 and K-5 show high value farmland and tracts within Analysis Area for the commercial wind and solar power generation site.

that are irrigated or not irrigated, and classified as prime, unique, Class I, or Class II.

- ORS 195.300(10)(c) relies on the land in the EFU zone being located within a place of use water right, an irrigation district, or a diking district.
- ORS 195.300(10)(f) relies on the land in the EFU zone being located within the boundaries of the Columbia Valley viticultural area (see 27 Code of Federal Regulations Part 9, Subpart C - Approved American Viticultural Areas, Section § 9.74 Columbia Valley)—and meeting certain elevation (below 3,000 feet), slope (between zero and 15 percent), and aspect (between 67.5 and 292.5 degrees) criteria.

Approximately 7,951 acres or 10 percent of the Analysis Area is classified as high-value farmland by soil classification alone, per ORS 195.300(10)(a). However, Class I and II soils are not predominant on any given tract within the Site Boundary where the commercial wind and/or solar facility will be sited, and the micrositing corridors (both for wind and solar) largely avoid these Class I and Class II soil areas (see Figures K-4 through K-6). There are areas of high-value farmland per ORS 195.300(10)(a) along the UEC Cottonwood transmission line (see Figures K-4 through K-5).⁶

Approximately 12,200 acres within the Analysis Area (15 percent) meet the definition of high-value farmland under ORS 195.300(10)(c) place of use water rights (Figures K-5 and K-6); however, these areas are primarily within the UEC Cottonwood transmission line corridor where it intersects with the Westland Irrigation District. The Analysis Area includes one cancelled water right within the commercial wind energy facility siting area⁷. While the entirety of the Analysis Area is within the Columbia Valley American Viticultural Area (AVA), high-value farmland per ORS 195.300(10)(f) occurs on a patchy basis throughout the Site Boundary and Analysis Area (see Figures K-5 and K-6). In total, of the 79,174 acres within the Analysis Area, approximately 28,420 acres (36 percent) is classified as high-value farmland under ORS 195.300(10) (Table K-1, Figures K-5 and K-6).

Table K-1. High-Value, Arable, and Nonarable Lands In and Around the Site Boundary and Micrositing Corridors

Land Type	Acres/Percent in Analysis Area	Acres/Percent in Site Boundary	Acres/Percent in Micrositing Corridors	Acres/Percent in Solar Siting Area
High-value farmland ¹	28,420/36%	11,634/24%	4,553/29%	242/13%
Arable ²	64,155/81%	37,761/78%	13,939/88%	1,840/97%
Nonarable	14,893/19%	10,412/22%	1,786/11%	56/3%
1. High-value farmland designations per ORS 195.300(10)(a), (c), and (f). The Project would impact a total of 283.7 acres of high-value farmland, based on the footprint presented in Exhibit C. 2. Arable includes Class I-IV soils, cultivated land regardless of soil class, and high-value lands and soils.				

⁶ In the EFU zone, transmission lines are reviewed as a utility necessary for public service (ORS 215.275) which does not include criteria specific to high-value farmland or associated transmission lines (ORS 215.274).

⁷ The water right, permit number G-15287, was canceled on November 7, 2018. The permit allowed for two wells for irrigation of 1,199 acres between March 1 through October 31 with a maximum water draw cumulative total between the two wells of 15.0 cubic feet per second.

As shown on Figures K-7 and K-8 and in Table K-1, most of the land in the Site Boundary and Analysis Area for the Project is arable. A large amount of the cultivated arable land within the Analysis Area is devoted to dryland winter wheat farming, predominantly producing soft white winter wheat. Dryland farming has evolved as a set of techniques and management practices used by farmers to continually adapt to the presence or lack of moisture in a given crop cycle. Winter wheat is generally planted in the fall, October or November, and harvested in summer months, July and August. Winter wheat is commonly grown on a 2-year wheat-fallow cycle, in which the field is allowed to lie fallow for one crop season between plantings. Wheat planted the following year can then take advantage of 2 years of accumulated soil moisture, greatly enhancing the likelihood of a successful harvest. These practices for dryland wheat farming include the use of a fallow period in a crop rotation, noted above, terracing or contour plowing, eliminating weeds and leaving crop residue to shade the soil, cover cropping, and strip cropping. Some farmers use a no-till method in which the field is sprayed with an herbicide following harvest and crop stubble is left on the field during periods when the field is fallow. Establishment of field crops includes weed control, field preparation, seed bed preparation, fertilization, and seeding or planting of the crop. Herbicides may be applied prior to field cultivation where perennial weeds or a heavy sod are present. In addition to dryland wheat farming, livestock grazing (mostly sheep) is a prevalent agriculture use in and around the Analysis Area.

As noted above, livestock grazing also occurs in limited areas in and around the Analysis Area, but not in the solar siting area. Based upon experience in the Pacific Northwest farming community, sheep and other livestock are commonly observed in close proximity to wind turbines, utilizing the shade of the towers on hot days. Sheep and other livestock grazing is compatible with wind farms. In general, wind and solar energy can help to make livestock grazing and other agricultural practices more sustainable by providing a reliable income stream for the rancher or farmer.

4.3 Compliance with Applicable Substantive Criteria from the Umatilla County Zoning Code/UCDC Criteria

The Applicant is addressing the applicable substantive criteria in the UCDC for a commercial wind power generation facility and a photovoltaic solar power generation facility and related and supporting facilities (to be constructed and owned and operated by the Applicant) separately from the UEC Cottonwood transmission line. Section 4.3.1 addresses the criteria for the commercial wind energy facility and commercial solar power generation facility including Project substations, the 230-kilovolt (kV) Project substation connector line, and the BPA Stanfield transmission line option. Section 4.3.2 addresses the standards for the potential UEC Cottonwood transmission line that would be located within the Site Boundary but owned and operated by the UEC (see also Exhibit B for a detailed description of the facilities).

4.3.1 Commercial Wind and Solar Energy Facility

4.3.1.1 UCDC §152.059 LAND USE DECISIONS

In an EFU zone the following uses may be permitted through a land use decision via administrative review (§ 152.769) and subject to the applicable criteria found in §152.617. Once approval is obtained a zoning permit (§152.025) is necessary to finalize the decision.

(C) Utility facilities necessary for public service, including wetland waste treatment systems but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission or communication towers over 200 feet in height. A utility facility necessary for public service may be established as provided in ORS 215.275 and in § 152.617 (II) (7).

Response: Umatilla County's response to the Notice of Intent (NOI) provided that the transmission lines and Project collector substations will be processed by the County as a Land Use Decision for Utility Facility Necessary for Public Service. Hence, from the County's perspective, these facilities are authorized pursuant to ORS 215.283(1)(c), with criteria for approval addressed in ORS 215.275 and 215.274. The Applicant asserts that the Project's collector substations should be reviewed as related to and supporting the "commercial utility facility for the purpose of generating power for public use by sale" (ORS 215.283(2)(g)) because they will solely provide internal facility functions. Collector substations have consistently been reviewed by the Council as an inherent part of a commercial energy facility. Therefore, the Project's collector substations are evaluated with the wind and solar energy facility under UCDC § 152.060 Conditional Uses Permitted.

The Project has three different transmission line components (see Exhibit C, Figure C-4): 1) the Project substation connector line which joins the two substations within the Site Boundary; 2) the BPA Stanfield transmission line; and 3) the UEC Cottonwood transmission line. How each of these three transmission line components should be reviewed under the UCDC and under the ORS Chapter 215 is outlined below:

- Project substation connector line:
 - According to past site certificate orders, the Council reviews the Project substation connector line, similar to Umatilla County's interpretation in the NOI, as "utility facilities necessary for public service" because the internal transmission structures and lines are indistinguishable from interconnection or other types of transmission towers or lines.
 - Utility facilities necessary for public service are permitted in the EFU zone, subject to the criteria established in OAR 660-033-0130(16), which mirror the requirements of ORS 215.275.
 - Note that a utility facility necessary for public service may alternatively be established in an EFU zone if it meets the requirements for an associated transmission line as defined in ORS 215.274 and 469.300. Those statutes

define an "associated transmission line" as a "new transmission line constructed to connect an energy facility to the first point of junction of such transmission line ... with either a power distribution system or an interconnected primary transmission system or both or to the Northwest Power Grid." The Project substation connector line cannot be characterized as an associated transmission line necessary for public service as defined by ORS 215.274 because it does not connect to the first point of junction of the power distribution system or an interconnected primary transmission system or the Northwest Power Grid as required by ORS 469.300(3); it solely connects the two Project substations which themselves are not connected to the power distribution system or an interconnected primary transmission system or the Northwest Power Grid.

- As the Project substation connector line meets the definition of "utility facility necessary for public service" and as the towers for the Project substation connector line will all be less than 200 feet in height, the Project substation connector line, would be permitted administratively per UCDC §152.059, subject to provisions under ORS 215.275 and UCDC § 152.617 (II) (7). See Section 4.3.1.6 for a discussion of the substation connector line's compliance with UCDC § 152.617 (II) (7) and with ORS 215.275.
- BPA Stanfield transmission line:
 - The BPA Stanfield transmission line option is addressed as an associated transmission line under ORS 215.274 (see Section 4.3.1.6) because it connects to the Northwest Power Grid.
- UEC transmission line:
 - The UEC transmission line is addressed in the alternative as a transmission line under both ORS 215.274 and ORS 215.275 and is addressed independent of the commercial wind facility in Section 4.3.2.

4.3.1.2 UCDC §152.060 CONDITIONAL USES PERMITTED

In an EFU zone the following uses may be permitted conditionally via administrative review (§ 152.769), subject to the requirements of this section, the applicable criteria in § 152.061, §§ 152.610 through 152.615, 152.617 and §§ 152.545 through 152.562. A zoning permit is required following the approval of a conditional use pursuant to § 152.025. Existing uses classified as conditional uses and listed in this section may be expanded subject to administrative review and subject to the requirements listed in OAR 660, Division 033.

(F) Commercial utility facilities for the purpose of generating power for public use by sale as provided in § 152.617 (I)(C). (For specific criteria for Wind Power Generation see § 152.617 (I)(W))

(FF) Photovoltaic solar power generation facility as provided in OAR 660-033-0130 (38).

Response: The Project, except the Project substation connector line and external transmission lines (UEC Cottonwood transmission line and BPA Stanfield transmission line options), meets the definition of utility facility as defined in UCDC §152.003 and therefore is a conditional use per UCDC §152.060(F). The solar energy generation system is also listed as a conditional use under UCDC §152.060(FF).

The UCDC provides specific criteria for wind power generation facilities under UCDC §152.617(I)(W)⁸. See the sections below for a discussion of the Project's compliance or noncompliance with the applicable criteria listed in UCDC §152.061, §152.615, §152.616, and §152.617. The OAR 660-033-0130 (38) criteria for the solar energy generation system are provided in Section 5.0.

Under ORS 469.401(3), following issuance of the Site Certificate, the County, upon the Applicant's submission of the proper application and fee, shall issue the conditional use and zoning permits addressed in the Site Certificate, subject only to the conditions set forth in the Site Certificate and without hearings or other proceedings.

4.3.1.3 UCDC §152.061 STANDARDS FOR ALL CONDITIONAL USES [IN EFU ZONE]

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

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

Response: There is no forest use within the Analysis Area or Site Boundary as shown on Figure K-2. The lands devoted to farm use in Umatilla County are used primarily for cultivation of wheat and grazing of livestock, and related accessory uses. Also included in the Analysis Area are grasslands and other areas that are not economical to cultivate, but which are interspersed with cultivated lands devoted to farm use. These grasslands fall under the term "wasteland" consistent with the definition under ORS 215.203(2)(b)(E). Based on the definition of farm use under ORS 215.203, essentially the entire 48,196-acre area within the Site Boundary except developed roadways is considered currently employed to farm use; of this, approximately 13,263 acres are currently used for dryland wheat farming or irrigated agriculture, and the remainder is nonnative and native grasslands. The Project's wind turbines (and associated infrastructure) will only remove a maximum of approximately 75 acres from farm use and 63 acres from cultivation while the Project's solar array area will remove approximately 1,896 acres from cultivation. The Project's wind siting area also may remove some areas (approximately 12 acres) that are typically used for

⁸ UCDC §152.617(I)(W) has been deleted in its entirety and the reader is cross-referenced to UCDC §152.616(HHH), which is discussed in Section 3.4.1.5.

sheep grazing; however, the land is expected to support the same number of sheep because of the intermittent nature of the Project footprint.

The impact of the Project will not force a significant change in accepted farm practices or significantly increase the cost of farm practices in the Analysis Area, for the following reasons:

- Project components and temporary construction laydown and staging areas are being sited to minimize disturbance to farming operations including unnecessarily dividing fields.
- Land permanently lost to farm use due to siting of permanent Project improvements is a de minimis percentage of the total farm use land in Umatilla County—approximately 0.1 percent of the 1,352,241 acres of land in farms (USDA 2019). Therefore, the inability to use the land for farm purposes is not significant.
- Project access roads and other facilities will be constructed and maintained by the Applicant such that the cost burden for maintenance does not fall upon the farm or ranch owners.
- Project access roads improved or developed for the Project could benefit agricultural users of land in the Analysis Area through improved access to farm fields and resulting lower fuel costs.
- While some increase in traffic is anticipated during construction, Exhibit U demonstrates that the temporary increase in the level of traffic will not significantly impact level of service on local roads. Therefore, construction traffic will not interfere with harvest time activities such as tractor movement between fields or trucks delivering agricultural products to market.
- The Applicant will record in the real property records of Umatilla County a Covenant Not to Sue against its Project leasehold interests with regard to generally accepted farming practices on adjacent farmland.
- The Project will not limit or impact current or future farm activities on the surrounding land and will not diminish the opportunity for neighboring parcels to expand, purchase, or lease any vacant land available for agricultural uses.
- The Applicant will implement a weed control plan during construction and operation that will reduce the risk of weed infestation in cultivated land and the associated cost to the farmer for weed control (see Attachment P-4 to Exhibit P for weed prevention and control measures).
- The Project will not affect the application of pesticides or fertilizers using ground-based methods. Aerial spraying may be utilized for application of pesticides or fertilizers to crops within the Analysis Area. Although the presence of wind turbines can increase both the difficulty and the risk of aerial spraying in the vicinity of a wind farm, the presence of wind turbines does not remove the possibility of aerial spraying in an area, as spray pilots commonly fly at very low altitudes, navigating around terrain, trees, utility poles,

transmission lines, farm structures, and other obstacles. In addition, compared to other applications approved by EFSC (e.g., Wheatridge, Shepherds Flat South, Golden Hills, Montague), there are substantially fewer areas of the Site Boundary and adjacent to the Site Boundary that are actively farmed and would potentially use aerial spraying.

- Construction and operation of the Project could cause changes in routes of access to fields and changes in the pattern of cultivation, seeding, fertilizing and harvesting near the turbines and access roads. To minimize this, the Applicant, in consultation with the landowners, will minimize obstacles to farming in cultivated fields (Project components around which the farmer would have to plow, plant, and harvest).
- Construction of the Project could adversely affect soil quality by erosion or compaction. Some farmland would be temporarily disturbed and unavailable for farming during construction. To avoid or reduce adverse impacts to soil quality, the Applicant will implement dust control and erosion-control measures during construction and operation of the Project (see Exhibit I). To the extent practicable, the Applicant proposes to reduce impact to soils by using areas that are already disturbed and limiting the area of new disturbance.
- Construction vehicles will use previously disturbed areas including existing roadways and tracks. When practical, temporary construction yards and laydown areas will be located within existing disturbed areas or the future footprint of permanent structures. The width of new permanent roadways will be the minimum consistent with safe use. Underground communication and electrical lines will be buried within the area disturbed by temporary road widening to the extent practicable, and turbine foundations will abut roadways as closely as possible. Upon completion of construction, the Applicant will restore temporarily disturbed areas to their pre-construction condition (see Attachment P-4 to Exhibit P for revegetation measures).

The measures above are intended to avoid or minimize the impacts of the Project on farming operations in the Analysis Area, and to mitigate for necessary impacts. The Applicant will consult with area landowners during construction and operation of the Project to determine further measures to reduce or avoid any adverse impacts to farm practices on surrounding lands and to avoid any increase in farming costs.

As it relates to farm practices on the participating landowners' properties, the Project is designed and legally structured through lease agreements such that the cost burden of constructing and maintaining access roads and other facilities would not fall on the landowner and would not increase the costs of farming for affected landowners. Additionally, each participating landowner will be compensated for the loss of agricultural lands, and the new income stream from lease payments will help to stabilize fluctuating agricultural income, making farming more sustainable. Therefore, the Project would not force a significant change in accepted farm practices or significantly increase the cost of farm practices.

4.3.1.4 UCDC §152.615 ADDITIONAL CONDITIONAL USE PERMIT RESTRICTIONS

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

Response: To the extent any restrictions or conditions of the type listed in Section 152.615 are deemed necessary to mitigate the impacts of the Project, they will be implemented through the EFSC Site Certificate process consistent with ORS 469.401(2).

4.3.1.5 UCDC §152.616 (HHH) CONDITIONAL USE CRITERIA FOR COMMERCIAL WIND POWER GENERATION FACILITIES

Response: UCDC §152.616(HHH)(1) provides that the procedural requirements of 152.616(HHH)(1) through (5) do not apply to a wind energy facility for which EFSC is making the land use decision. In general, UCDC §§152.616(HHH)(1) through (4) contain only procedural requirements, while UCDC §152.616(HHH)(5) provides both procedural and substantive requirements in the form of a list of conditional use application submittal requirements. As a result, this application only discusses the substantive criteria of 152.616§§ (HHH)(5) through (11).

UCDC §152.616(HHH)(5) Application Requirements

The following information shall be provided as part of the application, or subject to the County's discretionary authority, be required prior to the construction or operation of the Wind Power Generation Facility through a condition of approval: [subsections (a) through (l) omitted for brevity]

Response: Except for subsection (d), UCDC §156.616(HHH)(5) lists materials that are required to be submitted to the County as part of an application for a County Conditional Use Permit. Consequently, those requirements are procedural in nature and do not apply to this Project, for which the Applicant is electing an EFSC decision on land use. Therefore, the information submitted as part of this ASC, or that will be provided as conditions of the Site Certificate, will satisfy all of the information requirements identified by Umatilla County. Subsection (d) requires a demonstration of compliance with UCDC §152.061, which is discussed above. Thus, to the extent it applies, this criterion is satisfied.

UCDC §152.616(HHH)(6) Standards/Criteria of Approval; Statewide Goal Findings to Address Residential Setback Criteria

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

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

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

Response: The Project is consistent with this standard. The micrositing corridors are located no closer than approximately 2 miles from the nearest UGB in Umatilla County, for the city of Echo.

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

Response: The Project is consistent with this standard. There are no lands zoned UC within one mile of the micrositing corridors.

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

Response: The Applicant is siting the Project to maintain the distance between turbine towers and rural residences to the maximum extent practicable. Although the turbine locations have not been finalized, some of the final locations may not ultimately meet the above setback standard for rural residences outside of the Project lease area (see Figure K-9). This may be the case for up to approximately eight rural residences. Siting of wind turbines is driven by many factors including land availability, habitat, landowner agreement, existing land uses, access, wind regime, turbine spacing requirements, and wind farm energy generation optimization. Therefore, while some micrositing of the Project is anticipated prior to construction, substantial relocations are not anticipated due to these many interacting siting factors.

Of those eight rural residences, all will be more than a mile away from a turbine tower including three residences that are over 1.9 miles and two over 1.7 miles from a turbine (Table K-2). One of the owners of these residences has executed a "Good Neighbor Agreement Waiver" with the Applicant.

Because the setback criterion is not a land use regulation required by the statewide planning goals, it does not qualify as one of the "applicable substantive criteria" defined in OAR 345-022-0030(3).⁹

⁹ ORS 469.504(b)(A) provides that a proposed energy facility "shall be found in compliance with the statewide planning goals under ORS 469.503(4)" if the Project "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 (Implementation of new requirement in goal, rule or statute)." Further, in its evaluation of the energy facility against the

Therefore, the Project is not subject to the setback criterion. In addition, as noted in the Proposed Order, if the proposed Project does not comply with one or more of the applicable substantive criteria, the Applicant can demonstrate that the Project nevertheless complies with the applicable statewide planning goals. Sections 5.0 and 6.0 demonstrate the Project complies with all statewide planning goals, specifically applicable statewide planning goals, Goal 3 and Goal 14, which are also discussed below.

Table K-2. Distance of Rural Residences to Nearest Turbine Tower

Rural Residence	Distance to Nearest Turbine Tower (miles)
1	1.14
2	1.20
3	1.51
4	1.70
5	1.72
6	1.91
7	1.91
8	1.94

The purpose of Goal 3 is to preserve agricultural land. The 2-mile residential setback does not in any way relate to or impact the preservation or protection of agricultural lands or agricultural practices. The setback does not in any other way address any requirements of any statewide planning goal. As stated in previous sections, the Project will not force a significant change in accepted farm practices or significantly increase the cost of farm practices, either within the Site Boundary or within the Analysis Area. Project components and temporary construction laydown and staging areas are being sited to minimize disturbance to farming operations including unnecessarily dividing fields. In addition, land permanently lost to farm use due to siting of permanent Project improvements is a de minimis percentage of the total farm use land in Umatilla County, less than 1 percent. The purpose of the EFU Zone is to protect and maintain agricultural lands for farm use, consistent with existing and future needs for agricultural products. The EFU zone is also intended to allow other uses that are compatible with agricultural activities. Commercial wind energy facilities are an allowed use on EFU land subject to county/state review per OAR 660-033-0120. This exhibit provides the county/state review for the allowed use consistent with OAR 660-033-0120.

The Project is designed to minimize a variety of constraints while meeting the Project's purpose to provide significant renewable energy generation concentrated on a single site. These

local applicable substantive criteria, EFSC may approve an energy facility if "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." ORS 469.504(b)(B). *See, Save Our Rural Or. v. EFSC*, 121 P.3d 1141 (Or. 2005). See Section 5 below for Statewide Goal Findings and Analysis.

environmental and land use constraints have been integrated with siting requirements for wind turbines such as land availability, landowner agreement, access, wind regime, turbine spacing requirements, and wind farm optimization. The Project has been sited considering on-site factors and constraints as well as relevant off-site impacts, including to mitigate noise and visual impacts, which was identified by Umatilla County as the original intent of the 2-mile residential setback.¹⁰ The Project has been sited to minimize and avoid the following on-site and off-site constraints and impacts, which are further addressed in other exhibits within this ASC:

- The Project will avoid impacts to Washington ground squirrel habitat (Exhibits P and Q).
- The Project will avoid impacts to cultural resources (Exhibit S).
- The carrying capacity of public resources and facilities will not be impacted. The Applicant will enter into a Road Use Agreement with Umatilla County for potential public road impacts. Adverse impacts to public services and facilities are not anticipated (see Exhibit U).
- The Project will not emit any odor or impact air quality.
- As noted in Exhibit X, the Project will meet all applicable Oregon Department of Environmental Quality (ODEQ) regulations (OAR 340-035-0035) for noise impacts.
- The presence of the Project facilities, primarily the wind turbines, will be non-natural vertical elements in locations where they are visible. As demonstrated in Exhibits L, R, and T, the Project will not result in significant adverse impacts to protected areas, scenic resources, or recreational resources (see Exhibit R). Development of the Project facilities will result in minimal changes to the existing topography, landforms and land cover. The Applicant will implement best management practices (BMPs; outlined in Exhibit R) to blend the appearance of the Project facilities and limit their visual contrast in the landscape to the extent practicable. Most importantly, most residences are at lower elevations where turbines are not visible because of impeding terrain or fewer turbines are visible (see Exhibit R, Figures R-2 and R-3).
- As discussed in Exhibit DD, the Project has been designed to avoid dangers to human safety. Public access to Project facilities will be minimal because the Project will be located on private lands; therefore, public access is already limited. Access roads developed or improved for the purposes of Project construction and operation will be gated and locked when not actively in use. During operation, a rigorous inspection program of the turbine foundations is maintained. In addition, the supervisory control and data acquisition (SCADA) system (described in Exhibit B) acts as the “nerve center” of the Project by connecting individual turbines, substation(s), and meteorological towers to a central computer housed in the Operations and Maintenance (O&M) Building. The SCADA system allows each component of the Project to be monitored for activity in present time. If an issue arises with a turbine, it alerts the O&M staff so that turbine(s) can be shut down to

¹⁰ Umatilla County Board of County Commissioners. *Umatilla County Comments on revised Preliminary Application for Site Certificate for the Nolin Hills Project*. January 20, 2021.

minimize consequences of failure and potential safety risks. In addition, the Project is designed to maintain substantial setbacks such that, in the highly unlikely event of a catastrophic failure, the collapsed turbine or thrown blades could not impact public roads or nonparticipating property owners.

Where Goal 3 protects agricultural land, Goal 14 provides for an orderly and efficient transition from rural to urban land use. Commercial wind energy facilities are generally not permitted within UGBs or unincorporated community areas that may include more concentrated rural residences but also other community supporting land uses such as commercial development and public uses (including but not limited to schools, churches, grange halls, post offices). As stated above, there will be no turbine towers within 2 miles of a UGB and 1 mile of an unincorporated community, consistent with those setback standards. Interestingly, the setback for rural residences in this standard, which defers to the definition of a rural residence in the EFU zone (UCDC §152.058 (F)(1)-(4)), requires a larger setback (2 miles) than for an unincorporated community (1 mile) which also contains residences, and often a greater density of residences.

In consideration of the diligent Project siting considerations for on- and off-site impacts reviewed above, state land use regulations that allow for commercial wind facilities on EFU land, sufficient buffers from residences in UGBs and unincorporated communities, and balancing the rights and interests of property owners inside and outside the lease area, the Applicant requests that the 2-mile rural residence setback from a turbine tower be replaced with a 0.5-mile setback for turbines from rural residences outside the Site Boundary. A 0.5-mile setback is sufficient to address any potential safety concerns related to the wind turbine operation, such as ice “throw” which could occur in unusual weather conditions. The 0.5-mile setback provides a logical setback distance on EFU zoned land where commercial wind energy is an allowed use and follows the setback methodology used for the UGB and unincorporated community, which reduces the setback by half for zoning that provides for less dense residential development. Moreover, for the Helix Wind Power Facility that was sited in Umatilla County, the Council declined to apply the 2-mile setback land use regulation during the contested case, which included an assertion of threat to public health and safety because it would be a departure from the public health setback of 0.25 mile that has been applied most commonly by EFSC.¹¹

The setback of 0.5 mile (2,640 feet) would be measured from the centerline of the turbine tower to the center of the house outside the Site Boundary and would apply to residences existing at the time of Project construction.

In addition to the 0.5-mile setback for turbines from rural residences outside the Site Boundary, the Applicant is proposing a setback from non-leased parcels of 110 percent of maximum blade tip height, measured from the centerline of the turbine tower to the nearest boundary of the Applicant's lease area or Site Boundary. This setback is a common safety setback in most existing EFSC site certificates (e.g., Shepherds Flat, Stateline, Wheatridge, Montague, Leaning Juniper). By providing these two setbacks, the Applicant is adequately protecting the rights and safety of

¹¹ *Final Order on Final Order Denying a Contested Case Proceeding and Approving Amendment #2 for the Helix* (August 24, 2012).

property owners outside the Site Boundary while providing a mechanism for property within the Site Boundary to avoid being unnecessarily restricted by local land use regulations for development of a use that is allowed by state law.

Because the Project complies with all “applicable substantive criteria,” and to the extent that those criteria are not met, the Project complies with applicable statewide planning goals (see Section 5), a goal exception is not required. Therefore, the Council may find compliance with statewide planning goals under ORS 459.504(1)(b)(B) especially considering the proposed setbacks of 0.5 mile from a turbine tower to rural residences outside the Site Boundary and 110 percent of maximum blade tip height, measured from the centerline of the turbine tower to the nearest boundary of the Applicant’s lease area or Site Boundary.

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

Response: Because the tallest turbine type under consideration is 496 feet in overall height, the minimum setback could be as much as 546 feet. Depending on the turbine model selected, the Project will be microsited to meet the 110 percent overall tower to blade height from public right-of-way (ROW). The Project will, therefore, be in compliance with this requirement.

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

Response: Exhibit S provides information on the historic, cultural, and archaeological resources that may potentially be impacted by the Project. The information in Exhibit S demonstrates that the Project will comply with the EFSC’s Historic, Cultural, and Archaeological Resources Standard, OAR 345-022-0090.

The Confederated Tribes of the Umatilla Indian Reservation (CTUIR) has taken an active role in the Project, conducting site visits, preparing a project-specific Traditional Use Study, and participating in the cultural resource pedestrian surveys. The Project is designed in consideration of a minimum 50-meter (164-foot) setback to most identified significant (National Register of Historic Places [NRHP] listed or likely eligible for listing on the NRHP) archaeological, historic, and cultural resources, including archaeological resources of the CTUIR in Umatilla County. All identified resources meeting siting standard A (NRHP-listed or likely eligible for listing on the NRHP) are avoided by a minimum of 50 meters (164 feet; see Table S-3 in Exhibit S) with three exceptions: the Oregon National Historic Trail (ONHT) and two archaeological sites (35UM 00560 and 35UM 00571). In addition, most identified resources meeting siting standard B (archaeological sites and objects on private land) are avoided by a minimum of 50 meters (164 feet; see Table S-3 in Exhibit S), with the following exceptions: the ONHT, four archaeological sites (35UM 00538, 35UM 00560,

35UM 00570, and 35UM 00571), and eight isolated finds/archaeological objects (NH-BB-ISO-01, NH-DM-ISO-03, NH-DM-ISO-04, NH-MC-ISO-02, NH-MC-ISO-03, NH-MC-ISO-04, NHS-BB-ISO-01, and NHS-BB-ISO-02).

The Applicant will design the selected transmission line route to avoid direct impacts to all identified trail ruts associated with the ONHT as well as the National Park Service–designated ONHT route. The Applicant is currently consulting with the Oregon-California Trails Association to address potential impacts on the trail. This additional work will occur on a continuing basis. Any indirect impacts on the ONHT and associated archaeological sites are anticipated to be mitigated to less than significant.

Exhibit S, Table S-3 lists the resources and the nearest distance to the Project's disturbance footprint. As noted in Exhibit S, indirect (visual and auditory) impacts on 29 archaeological sites are anticipated. However, these impacts will be mitigated to less than significant through continuing consultations with CTUIR and the Oregon-California Trails Association, both of whom the Applicant has reached agreements with outside of the EFSC process. Exhibit S, Table S-7 (Cultural Resources Management Recommendations) provides the measures to prevent the destruction of historic, cultural, and archaeological resources to demonstrate that the Project, taking into account mitigation, is not likely to result in significant adverse impacts to historic, cultural, or archaeological resources that are eligible or potentially eligible for listing on the NRHP.

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

Response: No dwellings are located within 500 feet of the Project substation connector line or BPA Stanfield transmission line option. For the UEC Cottonwood transmission line, which is within the Site or Project Boundary but which will be constructed and operated by UEC, the entire transmission line will be within a public ROW corridor owned and operated by UEC. Hence, the setback requirement does not apply due to the transmission line being placed in public right of way. Note, according to the UCDC §150.03, the definition for ROW is: "Land reserved, used, or to be used for a highway, street, alley, walkway, drainage facility, or other public purpose." The UEC Cottonwood transmission line will be used for public purpose, to transmit energy to the public for use; therefore, the UEC ROW is land that is used for public purpose.

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

Response: The analysis presented in Exhibit X demonstrates that the Project can be operated within the limits of the State of Oregon's noise standards.

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

Response: No part of the Analysis Area is designated open space. Nonetheless, the Project is designed to minimize impacts upon undeveloped lands and the natural landscape by siting turbines and roads at the edges of farm fields and along existing natural and developed site contours and utilizing existing farm access roads as much as possible. This approach minimizes the need for grading and cut-and-fill slopes, allowing the Project to maintain natural contours and blend into the existing environment to the greatest extent practicable. The turbines will be painted standard white per Federal Aviation Administration guidelines.

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

Response: As described in Exhibits P, Q, and S, the Project is being designed to protect and preserve existing vegetation, wildlife and wildlife habitat (including avian resources), and historic, cultural and archeological resources. As noted in Exhibits J, O, and P, the Project has been designed to protect and preserve fish and water resources.

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

Response: The turbines are designed to discourage bird nesting and wildlife attraction. The turbine towers are hollow cylinders that do not provide suitable areas for perching or nesting. Likewise, the turbine nacelles are constructed with a smooth outer shell that does not facilitate perching or nesting.

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

Response: The Project is consistent with this standard. The Applicant will install gates and no-trespassing signs at all Project access roads established or improved for the purpose of Project construction and operation.

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

Response: As stated in Exhibit B, the electrical collector system lines will be installed at a minimum depth of 3 feet underground to the extent practicable. In agricultural fields, the minimum depth will be 3 feet such that they would not interfere with or be susceptible to damage from agricultural operations. Where land use and soil conditions make a buried depth of 3 feet infeasible, collector

lines may be buried at a depth of less than 3 feet, while still adhering to National Electrical Safety Code standards.

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

- (1) The building is designed and constructed generally consistent with the character of similar buildings used by commercial farmers or ranchers, and*
- (2) The building will be removed or converted to farm use upon decommissioning of the Wind Power Generation Facility consistent with the provisions of §152.616 (HHH) (7).*

Response: Any O&M building constructed in Umatilla County will be a one-story building of about 6,000 square feet with adjacent parking, similar in appearance and construction to agricultural buildings commonly found in Umatilla County, and will be constructed adjacent to the northern substation within the Site Boundary. Upon decommissioning of the Project, the Applicant will remove it in accordance with its approved decommissioning plan. The County will be protected against decommissioning costs pursuant to the decommissioning bond discussed in Exhibit M.

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

Response: The Project is consistent with the Specific Safety Standards for Wind Energy Facilities, as discussed in Exhibit DD.

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

Response: As noted previously in this Exhibit, the Applicant will record a Covenant Not to Sue against its leasehold interests prior to construction of the Project.

(j) Roads.

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

Response: The Applicant acknowledges and will accept a condition of approval requiring that it enter into a Road Use Agreement with Umatilla County prior to beginning construction on the Project. Under the terms of the agreement, the Applicant will leave all public roads utilized during construction of the Project in as good or better condition as exists at the time construction commences. In addition, the Applicant will coordinate with the County Public Works Director, regarding specific road improvements necessary to accommodate construction and oversize loads

on county roads and meet county road building requirements. Access permits to state and county roads will be obtained by the contractor as noted in Exhibit E.

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

Response: The Applicant will implement BMPs for stormwater management as described in Exhibit I, and as will be required under the terms of the NPDES 1200-C permit and associated Erosion and Sediment Control Plan. All Project roads are being designed and reviewed by a certified civil engineer.

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

Response: OAR 660-033-0130(37) provides, in the pertinent part, as follows:

(37) ... A proposal for a wind power generation facility shall be subject to the following provisions:

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

Response: OAR 660-33-0130(37)(a) provides criteria for locating a wind power generation facility on high-value farmland soils. The rule references ORS 195.300(10) for the definition of "high-value farmland soils". As noted in Section 4.2, the Project Site Boundary includes areas with high-value farmland designations per ORS 195.300(10)(a), (c), and (f). As shown in Table K-1, the Site Boundary includes 11,634 acres of high-value farmland, and the Project micrositing corridor includes 4,553 acres of high-value farmland, which constitutes about 37 percent of the total high-value farmland within the Site Boundary.

As shown on Figures K-5 and K-6, high-value farmland occurs on a patchy basis throughout the Analysis Area, Site Boundary, and micrositing corridors. Because the definition in ORS 195.300(10)(f)(a) is not tied to soils, water availability, or actual use of the land, high-value farmland defined by these criteria can occur indiscriminately on land, even on developed areas. Ultimately, given that water for irrigation is generally not available for almost all of the Site Boundary and grapes require substantially more water than is naturally available as precipitation in the Analysis Area, it is unlikely these areas of high-value farmland could be used for viticulture use. Additionally, the area of high-value farmland impacted by this Project represents an insignificant portion of the 11.52-million-acre Columbia Valley AVA.

(A) Reasonable alternatives have been considered to show that siting the wind power generation facility or component thereof on high-value farmland soils is necessary for the facility or component to function properly or if a road system

or turbine string must be placed on such soils to achieve a reasonably direct route considering the following factors:

Response: As noted in previous Final Orders for wind energy facilities, an applicant must first determine whether “reasonable alternatives” to locating the facility, or components of the facility, on non-high-value farmland exist. Then, the applicant must “show that siting the wind power generation facility or component thereof on high-value farmland soils is necessary for the facility or component to function properly.” In prior Council Orders¹², the Council has found that an alternative location or logical configuration of a proposed wind power generation facility on land that does not contain high-value farmland is a “reasonable” alternative under OAR 660-033-0130(37)(a)(A) only if the alternative location has a substantially similar wind resource compared to the configuration that would affect high-value farmland. However, to utilize a high wind resource, there must be topographic features suitable for wind turbines and areas that are technically feasible for construction, including the installation of linear facilities. These are represented by the Project micrositing corridors.

The Nolin Hills Project area enables the concentration of significant renewable energy generation on a single site, at a scale that can respond to the region’s clean energy needs, goals, and policies. Due to the patchy nature of the areas of high-value farmland associated with the AVA as defined by ORS 195.300(10)(f)(a) criteria, it is difficult to avoid high-value farmland within the Analysis Area in any comprehensive way that addresses site attributes—attributes that also limit the range of potential agricultural operations and enable the integration of renewable energy with agricultural practices. These areas of AVA high-value farmland are highly irregular in shape and size, are not reflective of actual land uses, and are overall well-distributed with no substantial open areas or areas of particular concentration. There is no substantive difference in the proportion or distribution of high-value farmland in the Site Boundary versus in the Analysis Area. Thus, any alternative siting configuration would not materially reduce the impact on high-value farmland while still meeting the Project purpose and objectives. Alternate locations could slightly increase the impact to high-value farmland given the somewhat higher percentage of high-value farmland in other parts of the County, specifically to the North.

(i) Technical and engineering feasibility;

Response: In consideration of technical and engineering feasibility, wind energy projects have specific siting needs that require turbines to be located near the tops of hills and ridges, away from objects or landforms that could shield the wind or cause turbulence. The relationship between turbine sites is also strictly controlled to avoid turbulence impacts or wakes from one turbine on another. For these reasons, changing the micrositing corridors would likely have significant detrimental economic and energy-generation impacts on the Project. Based on the proportion and location of high-value farmland in and around the Analysis Area, it is not possible to completely

¹² Final Order on the Application for the Wheatridge Wind Energy Facility (April 2017), p. 147; Final Order on the Request for Amendment 4 Montague Wind Power Facility Site Certificate (August 2019), p. 84.

avoid or substantially further reduce impacts to high-value farmland without compromising the technical feasibility of the Project without introducing additional impacts.

Some adjustments to Project facility locations are expected to occur during final engineering design, and these are expected to result in further reductions of Project impacts. However, neither minor adjustments nor significant relocations of Project facilities will be likely to materially reduce the impact on high-value farmland, due to the high proportion and relatively even distribution of high-value farmland within the Site Boundary. Moreover, even if the Project were to be developed on similar agricultural lands in the general area, it is unlikely that a similar project will have significantly lower impacts to high-value farmland or lands dedicated to agricultural use due to the similar land uses and proportion and distribution of high-value farmland in the surrounding area. In general, development of the Project in another location will require a similar amount of land disturbance and will likely have similar social and environmental consequences as the Project.

The location of turbines and associated facilities must be approved by each participating landowner pursuant to the Applicant's lease agreements. The proposed locations are vetted with the landowners to minimize disruption to current agricultural lands and practices. The Project also utilizes existing agricultural access routes and places turbines at the edges of farm fields (see Exhibit B). Because landowners have an interest in minimizing impacts to the most valuable portions of their farms, wind turbine corridor locations that deviate from the layout vetted by the landowners would only increase, rather than decrease, impacts to profitable farmland.

(ii) Availability of existing rights of way, and

Response: The Project already maximizes the use of existing ROWs to the extent feasible to minimize impacts. Specifically, the Project also maximizes the use of existing agricultural access roads to minimize the need to construct new roads through productive agricultural land. Because of the large size of lots, topography, and rural nature of the surrounding, there are fewer straight stretches of ROW that could be used for Project purposes. In general, there are few if any available ROWs in the Site Boundary that could serve the proposed Project in a reasonably direct manner and, at the same time, significantly reduce impacts to high-value farmland.

In summary, the evidence shows that feasible alternative layouts or micrositing corridors within or near the Analysis Area would not materially lessen the impacts on high-value farmland while still meeting Project objectives. A major relocation of the Project to other parts of the county or state is not practical or feasible – this is a locationally dependent wind energy project that seeks to take advantage of favorable wind conditions on areas of high elevation within the Site Boundary, the remoteness of the site away from urban areas, the cooperation of the site's landowners, and the location relative to transmission distribution networks. Other areas of the county will have either similar impacts or more impacts due to greater predominance of high-value farmland soils and access to irrigation. Further, many sites simply are not topographically suitable for wind energy generation. Therefore, reasonable alternatives have been considered and the finding is that siting the wind power generation facility on high-value farmland soils is necessary for the Project to function properly.

(iii) The long term environmental, economic, social and energy consequences of siting the facility or component on alternative sites, as determined under paragraph (B);

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

Response: The Division 22 Standards and applicable Council rules provide a comprehensive approach to best ensure actionable consideration of impacts on resources. The Project will have limited long-term environmental consequences in that a small footprint of agricultural land will be made unavailable for the life of the Project. However, this impact is insignificant because most of the permanent impacts are to already-disturbed agricultural ground, where existing agricultural practices can continue around the wind turbines. Overall, the Project provides a positive long-term environmental impact by reducing reliance on carbon-based sources of energy and thereby reducing greenhouse gas emissions and helping Oregon meet its renewable energy goals.

Similarly, the long-term net economic, social, and energy consequences of the Project are all positive. The Project will generate both temporary and permanent jobs bringing economic benefits and development to Umatilla County. Additionally, the Project will have positive economic and social benefits by bringing additional revenue to local farmers and to the community in the form of property taxes, employment and improved roads. The small permanent impact on high-value farmland within the Site Boundary (approximately 2.4 percent of the total high-value farmland in the Site Boundary) will have negligible economic impact in the long term.

The long-term environmental, economic, social and energy consequences of the Project are minimal, and they cannot be materially further reduced by relocating the Project elsewhere in the general vicinity. The remote location of the Project renders insignificant any other adverse social consequences (i.e., noise and visual impacts). As discussed above, high-value farmland and lands dedicated to agricultural use are found throughout the Analysis Area and are distributed such that any chosen location in the general area would be likely to encompass similar proportions of both high-value farmland and agricultural lands.

The impact avoidance and minimization measures described throughout this application (e.g., Revegetation Plan) will be implemented during Project design, construction, and operation, keeping adverse consequences at a minimum, regardless of specific location. Therefore, even if the entire Project were to be moved elsewhere in the Analysis Area, it would have a similar (low) level of overall impacts, and similar levels of impacts to high-value farmland and lands dedicated to agricultural use. Consequently, there is no evidence that a different site exists that meets Project objectives and has significantly less adverse environmental, economic, social, and energy consequences as the proposed layouts and micrositing corridors.

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

Response: See response to subsection (A) above. Regardless of cost, feasible alternatives affecting materially less high-value farmland are not available in the general area. Costs are not a determinative factor in siting the Project in the proposed location as opposed to any other location. Fundamentally, it is the wind resource value, access to transmission, and relatively low natural resource constraints that are the determinative factors.

(D) The owner of a wind power generation facility approved under subsection (a) shall be responsible for restoring, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this subsection shall prevent the owner of the facility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration; and

Response: Umatilla County's decommissioning and bond requirements are set forth in UCDC §152.616(HHH)(6)(l) and (m). As described in Exhibit M, the Applicant will provide a bond or letter of credit to cover the cost of site rehabilitation in the event of decommissioning or dismantling of uncompleted construction, which will also satisfy Umatilla County's standard.

(E) The criteria of subsection (b) are satisfied.

Response: The requirements of OAR 660-033-0130(37) subsection (b) are addressed below.

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

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

Response: Measures to be taken by the Applicant to minimize the negative impacts on agricultural operations on the underlying property are outlined in response to UCDC §152.061. As discussed in the response to UCDC §152.616(HHH)(6)(a)(3), the impact of the Project will not force a significant change in accepted farm practices on the subject property, for the reasons discussed below:

- Project components and temporary construction laydown and staging areas will be sited to minimize disturbance to farming operations, as determined through consultation with the affected landowners.
- Land lost to farm use due to siting of Project improvements is a de minimis percentage of the total farm use land in Umatilla County. On the subject property, the loss of farmed acreage is offset through compensation to the participating landowners; therefore, the inability to use the land for farm purposes is not significant.
- Project site access roads and other facilities will be constructed and maintained by the Applicant, such that the cost burden for maintenance does not fall upon the farm or ranch owners. Roads are sited along existing agricultural roads or at the edges of fields where practicable, as approved by the affected landowners. The Project will not impair the delivery and circulation of farm equipment and vehicles. In fact, field access is anticipated to be enhanced through on-site road improvements.
- Private access roads improved or developed for the Project will benefit agricultural users of the land through improved access to farm fields and resulting lower fuel costs.
- As part of the lease agreements, each landowner must approve the site plan for facilities located on his lands; this mechanism ensures that Project facilities will not be considered disruptive to the practices of each landowner.
- The Project will not affect the application of pesticides or fertilizers using ground-based methods. Aerial spraying may be utilized for application of pesticides or fertilizers to crops within the Analysis Area; however, as described above, the Project will not significantly impact the ability to conduct aerial spraying.
- The Applicant will implement a Weed Control Plan (contained within the Revegetation Plan; see Exhibit P, Attachment P-4) that will reduce the risk of weed infestation in cultivated land and the associated cost to the farmer for weed control.
- The Applicant will record a covenant not to sue against its Project leasehold interests regarding generally accepted farming practices on adjacent farmland.
- Where existing roads are not used, construction and operation of the Project could cause changes in routes of access to fields and changes in the pattern of cultivation, seeding, fertilizing and harvesting near the turbines and access roads. To minimize this, the Applicant, in consultation with the landowners, will minimize obstacles to farming in cultivated fields (facility components around which the farmer would have to plow, plant and harvest).
- The Applicant will consult with area landowners during construction and operation of the facility to determine further measures to reduce or avoid any adverse impacts to farm practices on surrounding lands and to avoid any increase in farming costs.

- Construction of the Project could adversely affect soil quality by erosion or compaction. Some farmland would be temporarily disturbed and unavailable for farming during construction. To avoid or reduce adverse impacts to soil quality, the Applicant will implement dust control and erosion-control measures during construction and operation of the facility (see Exhibit I). To the extent practicable, the Applicant proposes to reduce impact to soils by using areas that are already disturbed and limiting the area of new disturbance.
- Construction vehicles will use previously disturbed areas including existing roadways and tracks. When practical, temporary construction yards and laydown areas will be located in developed areas or within the future footprint of permanent structures. The width of new permanent roadways will be the minimum consistent with safe use. Underground communication and electrical lines will be buried within the area disturbed by temporary road widening to the extent practicable, and turbine foundations will abut roadways as closely as possible while still meeting setback standards. Upon completion of construction, Nolin Hills will restore temporarily disturbed areas to their pre-construction condition.

The measures above are intended to avoid or minimize the impacts of the Project on farming operations on the subject property, and to mitigate for necessary impacts. The Project is designed and legally structured such that the cost burden of constructing and maintaining access roads and other facilities would not fall on the landowner and would not increase the costs of farming for affected landowners. Additionally, each participating landowner will be compensated for the loss of agricultural lands, and the new income stream from lease payments will help to stabilize often-fluctuating agricultural income, making farming more sustainable.

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

Response: Mitigation of geologic impacts including soil erosion are discussed in Exhibits H and I, and in response to UCDC §152.061. Further, the Applicant will comply with the terms of its NPDES permit and the associated Erosion and Sediment Control Plan.

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

Response: Minimization of impacts to soil are discussed in Exhibit I and in response to UCDC §152.061.

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

Response: As discussed in response to UCDC §152.061, the Applicant will implement a Weed Control Plan in coordination with Umatilla County that will reduce the risk of weed infestation in cultivated land and the associated cost to the farmer for weed control.

(c) For nonarable lands, meaning lands that are not suitable for cultivation, the governing body or its designate must find that the requirements of OAR 660-033-0130(37)(b)(D) are satisfied.

Response: The Project is located primarily on arable lands but would impact some non-arable lands as well. OAR 660-033-0130(37)(b)(D) addresses the spread of noxious weeds; as noted above, the Applicant will implement a Weed Control Plan that will reduce the risk of weed infestation in cultivated land and the associated cost to the farmer for weed control.

(d) In the event that a wind power generation facility is proposed on a combination of arable and nonarable lands as described in OAR 660-033-0130(37)(b) and (c) the approval criteria of 660-033-0130(37)(b) shall apply to the entire project.

Response: The Project would impact some nonarable land around the edges of existing farm fields, thus would include both arable and nonarable lands. Compliance with the approval criteria of OAR 660-033-0130(37)(b) is discussed above.

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

Response: The Project is designed to have a useful life of approximately 30 years, at which time it may be repowered or decommissioned. Exhibit W provides an initial dismantling and site restoration plan. When the Project is to be decommissioned, the Applicant will provide a final decommissioning plan to Umatilla County prior to beginning decommissioning activities. Providing a decommissioning/repowering plan prior to initial construction of the Project is not an optimal approach because technologies and practices for wind project decommissioning and repowering are certain to change significantly between Project approval and the time at which decommissioning or repowering becomes necessary. Nonetheless, the County will be protected against decommissioning costs pursuant to the decommissioning bond discussed in Exhibit M.

(m) A surety bond shall be established to cover the cost of dismantling uncompleted construction and/or decommissioning of the Wind Power Generation Facility, and site rehabilitation pursuant to §152.616 (HHH) (7) and (8). The intent of this requirement is to guarantee performance (not just provide financial insurance) to protect the public interest and the county budget from unanticipated, unwarranted burden to decommission wind projects. For projects being sited by the State of Oregon's Energy Facility Siting Council (EFSC), the bond or letter of credit required by EFSC will be deemed to meet this requirement.

Response: As described in Exhibit W, the Applicant will provide a bond or letter of credit to cover the cost of site rehabilitation in the event of decommissioning or dismantling of uncompleted construction, which will also satisfy the County's standard.

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

Response: Prior to beginning commercial operations, the Applicant will provide actual locational data to Umatilla County and area emergency service providers, in a form to be agreed upon at that time.

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

Response: Prior to beginning commercial operations, the Applicant will provide an Operating and Facility Maintenance Plan for Umatilla County's review and approval.

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

Response: Consistent with this standard, within 90 days after beginning commercial operations, the Applicant will provide a summary of any as built changes to the original plan to Umatilla County.

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

Response: A socioeconomic assessment of the impacts of the Project is provided as part of Exhibit U and will be reviewed and approved by EFSC.

UCDC §152.616(HHH)(7) Dismantling/Decommissioning.

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

Response: The Project is designed to have a useful life of up to approximately 30 years, at which time it may be repowered or decommissioned. Exhibit W provides an initial dismantling and site

restoration plan. When the Project is to be decommissioned, the Applicant will provide a final decommissioning plan to Umatilla County prior to beginning decommissioning activities. Providing a decommissioning/repowering plan prior to initial construction of the Project is not an optimal approach because technologies and practices for wind project decommissioning and repowering are certain to change significantly between Project approval and the time at which decommissioning, or repowering becomes necessary.

UCDC §152.616(HHH)(8) Decommissioning Fund

The Wind Power Generation Facility owner/operator shall submit to Umatilla County a bond acceptable to the County, in the amount of the decommissioning fund naming Umatilla County beneficiary or payee. [Detailed list of bond conditions omitted for brevity.]

Response: As described in Exhibit M, the Applicant will provide a bond or letter of credit to cover the cost of site rehabilitation in the event of decommissioning or dismantling of uncompleted construction, which will also satisfy the County's standard.

UCDC §152.616(HHH)(9) Annual Reporting

Within 120 days after the end of each calendar year the Wind Power Generation Facility owner/operator shall provide Umatilla County a written and oral annual report including the following information: [Detailed list of report contents omitted for brevity.]

Response: The Applicant will provide Umatilla County with annual reports of Project operations, within 120 days of the end of each calendar year, consistent with Council standards.

UCDC §152.616(HHH)(10) Permit Amendments

The Wind Power Generation Facility requirements shall be facility specific, but can be amended as long as the Wind Power Generation Facility does not exceed the boundaries of the Umatilla County conditional use permit where the original Wind Power Generation Facility was constructed. ... An amendment to a Site Certificate issued by EFSC will be governed by the rules for amendments established by [EFSC].

Response: As noted in the criterion, any amendment to the EFSC Site Certificate shall be processed with EFSC according to the applicable statutes and administrative rules governing amendment of Site Certificates.

UCDC §152.616(HHH)(11) Walla Walla Watershed

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

Response: This criterion applies only to land within the Walla Walla sub-basin east of Highway 11 and, as such, does not apply to this Project.

4.3.1.6 UCDC §152.617 STANDARDS FOR REVIEW: CONDITIONAL USES AND LAND USE DECISIONS ON EFU AND GF ZONED LANDS

(II) EFU AND GF ZONE LAND USE DECISIONS

(7) Utility Facility Necessary for Public Service.

Response: The Project substation connector transmission line, if reviewed as a commercial utility facility necessary for public service, would be permitted administratively subject to ORS 215.275 which is addressed in Subsection (A) below. The BPA Stanfield transmission line connects to the Northwest Power Grid and therefore would be permitted as an associated transmission line under ORS 215.274 which is addressed under Subsection (B) below. The UEC Cottonwood transmission line is addressed as a transmission line under ORS 215.274 and ORS 215.275 and is addressed independent of the commercial wind facility in Section 4.3.2.

(A) A utility facility established under ORS 215.283(1)(c) is necessary for public service if the facility must be sited in an exclusive farm use zone in order to provide the service. To demonstrate that a utility facility is necessary, an applicant must:

Response: ORS 215.283(1)(c) refers to ORS 215.275 (Utility facilities necessary for public service) or to ORS 215.274 (Associated transmission lines necessary for public service) for criteria for establishing transmission lines in the EFU zone. These standards require the Applicant to show that reasonable alternatives have been considered and that the utility facility must be sited in an EFU zone due to one or more of six factors. As provided below, at least the first three factors support the conclusion that the internal transmission line is a necessary utility facility.

(1) Demonstrate 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) Information provided in the technical and engineering feasibility;

Response: Technical and engineering feasibility requires a Project substation connector transmission line to join the two Project substations. This allows for distribution of the power generated in the north and south areas of the Project to connect to the regional grid via only one transmission line (i.e., the BPA Stanfield line or UEC Cottonwood line) connecting with a third-party substation (i.e., the UEC Cottonwood Substation or the proposed BPA Stanfield Substation). The only alternative to the Project's substation connector line design would be to eliminate the internal Project substation transmission line and one of the two substations entirely; however, this is not feasible because it would require numerous parallel long stretches of 34.5-kV collector lines to transfer the energy from the turbines and solar arrays to one substation. Therefore, this factor is met.

(b) The proposed facility is locationally dependent. (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.)

Response: The Project substation connector transmission line connects the substations in the north and south parts of the Project, limiting the need for multiple collector lines and reducing the risk of potentially greater land disturbance. Therefore, the Project substation connector transmission line is locationally dependent. As noted above, all the land between the Project substations is zoned EFU. There is no route between the north and south parts of the Project that would not impact EFU land (see Figure K-2). Therefore, this factor is met.

(c) Show a lack of available urban and non-resource lands;

Response: There are no available urban and non-resource lands for the Project substation connector transmission line for the reasons stated previously and as shown on Figure K-2. Therefore, this factor is met.

(d) Due to availability of existing rights of way.

Response: There is no public ROW that will connect the Project substations in a reasonably direct manner due to the limited public ROW in the Site Boundary, large tax lots, and topography (see Figure C-4 and C-5 in Exhibit C). Even short segments of public road ROW are not suitable between the two collector substations for the transmission, as such ROWs are limited in width and generally not linear due to the topography. Any route that used existing ROWs would be so circuitous and substantially longer as to be impractical and cost-prohibitive, and would violate the requirement in ORS 215.275(2)(b) to "achieve a reasonably direct route." Therefore, this factor is met.

(e) Due to public health and safety concerns; and

Response: The Project substation connector transmission line will not be near any residence or occupied structure. It will also be on private land without public access. Therefore, this factor is met.

(f) Show it must meet other requirements of state and federal agencies.

Response: The Oregon Department of Fish and Wildlife (ODFW) and its Habitat Mitigation Policy, along with EFSC's standards, require the Applicant to avoid and minimize adverse impacts to higher value habitat consistent with the requirements of ODFW's Habitat Mitigation Policy (see Exhibit P). Additionally, the Project substation connector transmission line consolidates transmission so that multiple collector lines are not needed and is the most direct and shortest route, having the least impacts on ongoing agricultural operations. For these reasons, the Project substation connector line meets this factor.

(2) Costs associated with any of the factors listed in subsection (A) above may be considered, but cost alone, including the cost of land, 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 and the siting of utility facilities that are not substantially similar.

Response: Cost alone is not a factor used in siting the Project substation connector transmission line. As stated in subsection UCDC §152.617(II)(7)(A)(1)(b) above, the line is locationally dependent and cannot avoid EFU land. The proposed line satisfies the criteria under UCDC §152.617(II)(7)(A) and ORS 215.275(2) and therefore is allowed under both statutes.

(3) The owner of a utility facility approved under this section 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 paragraph 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.

Response: Exhibit W provides site restoration and retirement estimates including for the Project substation connector transmission line. Exhibit M provides financial documentation of the Applicant's ability to obtain bonding for site restoration.

(4) The governing body of the county or its designee shall impose clear and objective conditions on an application for utility facility siting 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 surrounding farmlands.

Response: Project minimization and avoidance measures for impacts to farm practices are addressed in Section 4.3.1.3.

(5) Utility facilities necessary for public service may include on-site and off-site facilities for temporary workforce housing for workers constructing a utility facility....

Response: The Project will not include on-site or off-site facilities for temporary workforce housing.

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

Response: A utility facility necessary for public service may be established in an EFU zone if it meets the requirements for an associated transmission line as defined in ORS 215.274 and 469.300. Those statutes define an "associated transmission line" as a "new transmission line constructed to connect an energy facility to the first point of junction of such transmission line ... with either a power distribution system or an interconnected primary transmission system or both or to the Northwest

Power Grid." The BPA Stanfield transmission line meets the definition of an associated transmission line in ORS 469.300 (3) because it will connect the energy generated from the Project to the Northwest Power Grid at BPA's planned Stanfield Substation. The BPA Stanfield route leads north following County Road 1350 from the northern Project substation, then turns northwest parallel to an existing transmission line (owned by BPA).. This route is 4.1 miles total in length, of which 2.8 miles parallel the existing BPA transmission line.

(1) An applicant demonstrates that the entire route of the associated transmission line meets at least one of the following requirements:

- (a) The associated transmission line is not located on high-value farmland, as defined in ORS 195.300, or on arable land;*
- (b) The associated transmission line is co-located with an existing transmission line;*
- (c) The associated transmission line parallels an existing transmission line corridor with the minimum separation necessary for safety; or*
- (d) The associated transmission line is located within an existing right of way for a linear facility, such as a transmission line, road or railroad that is located above the surface of the ground.*

Response: As noted above, the BPA Stanfield transmission line will follow County Road 1350 and then parallel an existing transmission line. However, because the BPA Stanfield transmission line will be adjacent to an existing ROW rather than within an existing ROW, it does not meet any of the identified factors for the entire route. However, the entire route meets more than one of the factors under subpart (2), as explained below.

(2) After an evaluation of reasonable alternatives, an applicant demonstrates that the entire route of the associated transmission line meets, subject to paragraphs (3) and (4) of this subsection, two or more of the following criteria:

- (a) Technical and engineering feasibility;*

Response: The Certificate Holder evaluated the technical and engineering feasibility of alternative transmission routes to minimize potential impacts to arable land and high-value farmland. The existing BPA Stanfield substation is a fixed corridor end point for all alternative transmission line routes. Although the location of the proposed Project collector substation could be moved within the Site Boundary, no feasible alternative route exists that can connect the Project's facilities to the BPA Stanfield substation without crossing high value and arable land due to the extent of these lands located in the area between the Project and the BPA Stanfield substation (Figures K-5 and K-6). Similarly, no feasible alternative route exists parallel to an existing ROW that can connect the Project's facilities to the BPA Stanfield substation (Exhibit C, Figures C-4 and C-5; and Figure K-7).

The BPA Stanfield transmission line represents the straightest route and the shortest length, and the least impacts as it avoids sensitive habitat and minimizes impacts to high-value farmland and arable land. There is no feasible alternative that avoids high-value farm land or arable land or that

parallels existing ROW for the entire length of the line. Therefore, it meets the technical and engineering feasibility criterion.

(b) The associated transmission line is locationally-dependent because the associated transmission line must cross high-value farmland, as defined in ORS 195.300, or arable land to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;

Response: There are no urban or non-resource lands available to locate the transmission line where it could serve its purpose of conveying energy from the wind farm and/or solar arrays (on EFU land) to the electrical grid system. As shown on Figure K-2, all land within and adjacent to the Site Boundary is zoned EFU by Umatilla County. Figures K-5 and K-6 show the high-value farmland and arable land located within and surrounding the Site Boundary, including the BPA Stanfield transmission line route. As shown on the figures, high-value farmland occurs on a patchy basis throughout the Site Boundary and Analysis Area and arable land is prevalent throughout the Site Boundary and Analysis Area. Therefore, the associated transmission line must cross high-value farmland and/or arable land as there is no feasible alternative to completely avoid these lands and still connect the Project to the proposed BPA Stanfield Substation. The transmission line route was sited so that it could have a reasonably direct route to the BPA grid system interconnection point, thereby minimizing impacts. Only small portions of the transmission line route cross through high-value farmland (Figure K-5) and, where practicable, support structures will also be placed to avoid high-value farmland to further minimize impacts.

(c) Lack of an available existing right of way for a linear facility, such as a transmission line, road or railroad, that is located above the surface of the ground;

Response: As noted above, the BPA Stanfield transmission line will follow County Road 1350 from the northeast edge of tract 9 north (see Figure K-5.12) for approximately one mile until it parallels an existing BPA transmission line corridor (on either the north or south side, see Exhibit C) for 4 miles to its terminus at the BPA Stanfield substation. However, it may be adjacent to the existing ROW (rather than within the existing ROW) for County Road 1350 due to the limited ROW of the rural roadway and potential for future widening. It will also be adjacent to the existing BPA transmission line ROW. Therefore, the Project is utilizing linear ROWs but is being sited adjacent to a County Road ROW and transmission line ROW to also minimize the impact to the linear ROWs. Therefore, it has been sited adjacent to and is utilizing existing linear ROWs to the greatest extent practicable.

(d) Public health and safety; or

Response: The Applicant is minimizing health and safety risks from exposure to magnetic fields or shock by limiting the length of the transmission line for the Project and locating the transmission line away from populated areas, specifically rural residences in the area. However, the rationale for route selection was not based on health and safety risks.

(e) Other requirements of state or federal agencies.

Response: As documented through the site certificate process, the Project complies with other requirements of state and federal agencies.

(3) As pertains to paragraph (2), the applicant shall present findings to the governing body of the county or its designee on how the applicant will mitigate and minimize the impacts, if any, of the associated transmission line on surrounding lands devoted to farm use in order to prevent a significant change in accepted farm practices or a significant increase in the cost Umatilla County Development Code of farm practices on the surrounding farmland.

Response: The Applicant has designed the BPA Stanfield transmission line to minimize, to the greatest degree practicable, impacts to EFU land. The BPA Stanfield transmission line pole structures will permanently impact less than 0.1 acre, thereby removing very little land from agricultural production. In addition, the transmission line is sited to minimize disturbing agricultural practices by being sited adjacent to existing linear ROWs. The amount of new transmission line corridor has been minimized to the greatest extent practicable by following the shortest practicable route between the Project substation and the planned BPA Stanfield Substation. Landowners and farm operators will be compensated for the loss of land for agricultural production, as necessary. In addition, when construction is completed, lands temporarily affected by construction will be restored to their original condition. Therefore, because permanent impacts of the BPA Stanfield transmission line are minimal, and the transmission line has been sited in consideration of farming practices, it will not force a significant change in accepted farm practices or a significant increase in the cost of farm practices on the surrounding farmland.

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

Response: Land costs were not a significant consideration in determining the location of the transmission line segment. The location of the substation is determined by BPA based on their analysis of need, engineering options, and environmental factors. The location of the transmission line is dependent on providing a connection for the energy generated by the energy facility to the electrical energy grid interconnection point (BPA substation).

No alternative location exists, regardless of cost, to locate the BPA Stanfield transmission line exclusively on non-EFU land. However, the vast majority of the transmission line route is currently located adjacent to existing ROWs, thereby limiting impacts to EFU land used for agricultural purposes.

4.3.2 UEC Cottonwood Transmission Line

This section addresses the UEC Cottonwood transmission line from the Project substation to the existing UEC Cottonwood Substation. Most of the UEC transmission line (25 miles) is in the EFU

zone, in which the UEC Cottonwood line is an allowed use, subject to administrative review and subject to the applicable criteria found in UCDC §152.617; and subject to criteria pursuant to ORS 215.275 (utility necessary for public service) and/or ORS 215.274 (associated transmission line). The Applicant is addressing the UEC transmission line as an associated transmission line and a section as a utility facility necessary for public service as outlined:

- From the UEC Cottonwood Substation to the corner of White House Road and County Road 1348 (UEC Transmission Network Junction), approximately 8 miles, the Applicant would partner with UEC to upgrade the existing distribution line to a 230-kV transmission line. The existing 12.47-kV distribution line may be maintained as-is next to the new 230-kV line; may be buried; or may be restrung on the new 230-kV transmission line poles. Because this section of the transmission line will address UEC's general utility needs by providing an upgrade to UEC's existing utility system and may also be available to other generation facilities and for ongoing capacity needs, this segment will be analyzed under ORS 215.275 (utility facility is necessary for public service in EFU zone). However, as this section of the UEC Cottonwood transmission line could also fall under the definition of "associated transmission line" per ORS 469.300, this section of the line will also be analyzed under ORS 215.274 (associated transmission line).
- From the UEC Transmission Network Junction, heading east toward the community of Nolin (approximately 17 miles), the Applicant would construct a new 230-kV transmission line, which would connect to the Project collector substation station. Because this transmission line segment will likely only serve the Nolin Hills facility for the foreseeable future, this section of the transmission line will be analyzed in the EFU zone under ORS 215.274 (associated transmission line).

A small portion of the UEC transmission line is located in two other zones: Light Industrial (0.4 mile) and Rural Tourist Commercial (0.3 mile). In addition, a portion of the Site Boundary associated with the UEC Cottonwood transmission line (0.35 acre) is located within the Agri-Business Zone. In these zones, the UEC transmission line is defined by the UCDC as a conditional use.

4.3.2.1 EFU, EXCLUSIVE FARM USE ZONE

UCDC §152.059 LAND USE DECISIONS

In an EFU zone the following uses may be permitted through a land use decision via administrative review (§ 152.769) and subject to the applicable criteria found in §152.617. Once approval is obtained a zoning permit (§152.025) is necessary to finalize the decision.

(C) Utility facilities necessary for public service, including wetland waste treatment systems but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission or communication towers over 200 feet in height. A utility facility necessary for public service may be established as provided in ORS 215.275 and in § 152.617 (II) (7).

Response: Umatilla County's response to the NOI provided that the transmission lines and Project substations would be processed by the County as a Land Use Decision for Utility Facility Necessary for Public Service. However, as noted in the previous section, the portion of the UEC transmission line in the EFU zone located within the UEC's existing transmission and distribution corridor can be considered a *utility facility] necessary for public service* or an *associated transmission line necessary for public service*. For this section of the UEC transmission line, the facility can be authorized pursuant to ORS 215.283(1)(c), with criteria for approval addressed in ORS 215.275 and in ORS 215.275. For the section of the UEC transmission line in the EFU zone heading east from the UEC Transmission Network Junction, the facility is an *associated transmission line necessary for public service* authorized pursuant to ORS 215.283(1)(c), with criteria for approval addressed in ORS 215.274. The standards of UCDC §152.617 (II) (7) are addressed in Section 4.3.2.5 of this exhibit.

4.3.2.2 RTC, RURAL TOURIST COMMERCIAL ZONE

UCDC §152.283 CONDITIONAL USES PERMITTED.

In an RTC Zone, the following uses and their accessory uses are permitted subject to the requirements of §§152.610 through 152.616, 152.284 and 152.286 of this chapter, and upon the issuance of a zoning permit:

(D) Utility facility as provided in § 152.616 (CCC);

Response: The standards of §152.610-152.616 (CCC) are addressed in Section 4.3.2.5 of this exhibit. The UCDC Sections 152.284 LIMITATIONS ON USES and §152.286 DIMENSIONAL STANDARDS generally apply to buildings and other uses except for UCDC §152.286(2), which requires no permanent features within 100 feet of the high-water line of streams, lakes, or wetlands. The UEC Cottonwood transmission line pole placement will be sited in consideration of this setback requirement, which will be documented through the Umatilla County zoning permit.

4.3.2.3 AB, AGRI-BUSINESS ZONE

UCDC §152.292 CONDITIONAL USES PERMITTED.

(N) Utility facility as provided in § 152.616 (CCC);

Response: The standards of UCDC §152.616 (CCC) are addressed in Section 4.3.2.5 of this exhibit.

4.3.2.4 LI, LIGHT INDUSTRIAL ZONE

UCDC §152.303 CONDITIONAL USES PERMITTED; GENERAL CRITERIA.

(A) In a LI Zone, the following uses and their accessory uses are permitted, conditionally, subject to the requirements of §§ 152.610 through 152.616, 152.303 and upon the issuance of a zoning permit:

(18) Utility facility as provided in § 152.616 (CCC);

Response: The standards of UCDC §152.610 through 152.616 (CCC) are addressed in Section 4.3.2.5 of this exhibit.

4.3.2.5 CONDITIONAL USES AND LAND USE DECISIONS

This section addresses the provisions under UCDC §152.610 through §152.617 – Conditional Uses and Land Use Decisions. UCDC § 152.610 through § 152.615 contains procedural requirements. As a result, only the substantive criteria under § 152.615, .616, and .617 are addressed.

UCDC §152.615 ADDITIONAL CONDITIONAL USE PERMIT RESTRICTIONS

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

Response: To the extent any restrictions or conditions of the type listed in UCDC §152.615 are deemed necessary to mitigate the impacts of the UEC Cottonwood transmission line, they will be implemented through the EFSC Site Certificate process consistent with ORS 469.401(2).

UCDC §152.616 (CCC) Conditional Use Criteria for utility facility

(1) The facility is designed to minimize conflicts with scenic values and adjacent recreational residential, forest, grazing and farm uses as outlined in policies of the Comprehensive Plan;

Response: Exhibit R demonstrates how the UEC Cottonwood transmission line has been designed to minimize conflicts with scenic values and adjacent land uses. Existing views include roadways, bridge and transmission line crossings, residential/industrial/commercial buildings, and agricultural fields. Scenic quality is focused locally and will not be significantly impacted by the Project. Overall, Project facilities will be similar to current modifications to the natural landscape.

(2) The facility be of a size and design to help reduce noise or other detrimental effects when located adjacent to recreational residential dwellings;

Response: Exhibit X documents how the Project, including the UEC Cottonwood transmission line, will meet the ODEQ Noise standards.

(3) The facility may be required to be fenced, landscaped or screened;

Response: Transmission lines, because they are aerial in nature, are not typically fenced, landscaped, or screened.

(4) The facility does not materially alter the stability of the overall land use pattern of the area;

Response: The upgraded section of the UEC Cottonwood transmission line parallels road ROW to generally integrate into the land use pattern as existing linear facilities (both utility and transportation). The overall stability of the land use pattern of the area will not be altered because

the permanent ground impact of the poles will be minor, and the poles will generally span the underlying land uses (primarily edge of road ROW).

(5) The facility does not constitute an unnecessary fire hazard, and consideration be made for minimum fire safety measures which can include, but are not limited to:

- (a) The site be maintained free of litter and debris;*
- (b) Using non combustible or fire retardant treated materials for structures and fencing;*
- (c) Clearing site of all combustible materials within 30 feet of structures;*

Response: The UEC Cottonwood transmission line will follow applicable federal, state, and county laws, ordinances, rules, and regulations pertaining to fire prevention, pre-suppression, and suppression. Construction personnel will be advised of their responsibilities under the applicable fire laws and regulations. The construction contractor will notify the local fire district if a construction-related fire occurs. The construction contractor will be responsible for any fire started by its employees or operations, whether in or out of the Project area, and will be responsible for fire suppression and rehabilitation. Specific safety measures will be implemented during line construction to prevent fires and to ensure quick response and suppression in the event a fire occurs.

The site will be maintained free of litter and debris during construction. After construction, litter and debris do not constitute a fire hazard with regard to electric transmission structures, but will be cleared periodically to allow for access and maintenance to the electric facilities. The Project will use steel structures instead of wood to reduce combustibility, and UEC performs vegetation management annually. With proper maintenance and safety checks, the electrical collection system and 230-kV transmission line are unlikely to cause a fire.

(6) Major transmission tower, poles and similar gear shall consider locations within or adjacent to existing rights of way in order to take the least amount of timberland out of production and maintain the overall stability and land use patterns of the area, and construction methods consider minimum soil disturbance to maintain water quality;

Response: The upgraded section that also parallels road ROW generally integrates into the land use pattern as existing linear facilities. It will not alter the stability of the overall land use pattern of the area because the permanent ground impact of the poles will be minor, and the poles will generally span the underlying land uses (road prism edge). There will be no timberland removed for the transmission line. Exhibit I provides BMPs to minimize soil disturbance to maintain water quality.

(7) The facility shall adequately protect fish and wildlife resources by meeting minimum Oregon State Department of Forestry regulations;

Response: Protection of fish and wildlife is addressed in Exhibits P and Q. However, the Project is not sited in forestland.

(8) Access roads or easements be improved to a standard and follow grades recommended by the Public Works Director;

Response: Easement and any access roads will be coordinated with the Public Works Director and will be incorporated into the Road Use Agreement as applicable.

(9) Road construction be consistent with the intent and purposes set forth in the Oregon Forest Practices Act or the 208 Water Quality Program to minimize soil disturbance and help maintain water quality;

Response: Exhibit I provides BMPs to minimize soil disturbance to maintain water quality.

(10) Land or construction clearing shall be kept to a minimum to minimize soil disturbances and help maintain water quality;

Response: In general, vegetation in the area is grasslands. Tree removal will be minimal if any at all. Exhibit I provides BMPs to minimize soil disturbance to maintain water quality.

(11) Complies with other conditions as deemed necessary provided in § 152.615.

Response: The Applicant understands additional conditions may be applied to the Project.

UCDC §152.617 STANDARDS FOR REVIEW: CONDITIONAL USES AND LAND USE DECISIONS ON EFU AND GF ZONED LANDS

(II) EFU AND GF ZONE LAND USE DECISIONS

(7) Utility Facility Necessary for Public Service.

(A) A utility facility established under ORS 215.283(1)(c) is necessary for public service if the facility must be sited in an exclusive farm use zone in order to provide the service. To demonstrate that a utility facility is necessary, an applicant must:

Note: Umatilla County has adopted the requirements in ORS 215.275 in UCDC §152.617(II)(7)(A). Therefore, the following analysis considers the requirements under ORS 215.275(2). From the UEC Cottonwood Substation to the corner of White House Road and County Road 1348 (UEC Transmission Network Junction), approximately 8 miles, the Applicant will partner with UEC to upgrade the existing distribution line to a 230-kV transmission line.

(1) Demonstrate 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) Information provided in the technical and engineering feasibility;

Response: The Applicant evaluated the technical and engineering feasibility of alternative transmission routes to minimize potential impacts to arable land and high-value farmland and the EFU zone. The location of the UEC Cottonwood Substation and UEC Transmission Network Junction could not be moved within the Site Boundary because they are existing features. Therefore, no feasible alternative route exists that can connect the UEC Cottonwood transmission line to the existing UEC transmission network and Cottonwood Substation without crossing EFU land, due to the extent of EFU lands located in the area between the two termini (Figures K-5 through K-8).

The proposed UEC Cottonwood transmission line route is feasible to develop within the UEC transmission line corridor (as defined in OAR 345-001-0010(13)) because it represents the straightest route, and the shortest length with the least impacts as it avoids sensitive habitat and minimizes impacts to high-value farmland and arable land. Therefore, it meets the technical and engineering feasibility criterion.

(b) The proposed facility is locationally dependent. (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.)

Response: As shown on Figures K-2, K-5, and K-7, the UEC Cottonwood transmission line route is locationally dependent because it must cross through the EFU zone on high-value farmland and/or arable land to achieve a reasonably direct route between the UEC Transmission Network Junction and the UEC Cottonwood Substation while maximizing the use of the existing UEC transmission line and roads. Protecting the value of EFU land is an important motivating factor for co-locating the UEC Cottonwood transmission line in an existing utility corridor in the area. While the implementation of such a corridor will necessarily affect land zoned EFU, UEC will collaboratively work with area landowners to minimize impact to current and anticipated future farm use.

(c) Show a lack of available urban and non-resource lands;

Response: There are no urban or non-resource lands in the area; all available land in this portion of Umatilla County is zoned EFU except for the small area of RTC, AB, and LI zones near the UEC Cottonwood Substation.

(d) Due to availability of existing rights of way.

Response: The upgraded section of the UEC Cottonwood transmission line parallels existing road ROW and therefore integrates into the land use pattern as existing linear facilities.

(e) Due to public health and safety concerns; and

Response: Public health and safety is not a direct factor in this Project's determination of necessity.

(f) Show it must meet other requirements of state and federal agencies.

Response: The UEC Cottonwood transmission line will be constructed according to National Electrical Safety Code standards and meet the requirements of state and federal agencies as pertinent.

(2) Costs associated with any of the factors listed in subsection (A) above may be considered, but cost alone, including the cost of land, 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 and the siting of utility facilities that are not substantially similar.

Response: Cost was not a factor used in siting the UEC Cottonwood transmission line. The most important factor in siting the UEC Cottonwood transmission line was the option to use existing transmission ROW and use or parallel a road ROW.

(3) The owner of a utility facility approved under this section 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 paragraph 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.

Response: Exhibit W provides a site restoration and retirement estimate including for the transmission line. Exhibit M provides documentation of the Applicant's ability to obtain bonding for site restoration.

(4) The governing body of the county or its designee shall impose clear and objective conditions on an application for utility facility siting 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 surrounding farmlands.

Response: Project minimization and avoidance measures for impacts to farm practices are addressed in Section 4.3.1.3.

(5) Utility facilities necessary for public service may include on-site and off-site facilities for temporary workforce housing for workers constructing a utility facility....

Response: The Project will not include on-site or off-site facilities for temporary workforce housing.

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

Note: Umatilla County has adopted the requirements in ORS 215.274 in UCDC §152.617(II)(7)(B). Therefore, the following analysis considers the requirements under ORS 215.274(4). Furthermore, as both the upgraded section of transmission line and new transmission line corridor section of the UEC transmission line could be considered an "associated transmission line necessary for public service" per ORS 215.274 below, the following analysis applies to the entire UEC Cottonwood transmission line.

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

ORS 469.300 (3). Associated transmission lines means new transmission lines constructed to connect an energy facility to the first point of junction of such transmission line or lines with either a power distribution system or an interconnected primary transmission system or both or to the Northwest Power Grid.

Response: The Project will directly connect to the regional grid via the UEC Cottonwood transmission line that will be constructed, owned, and operated by UEC.

(1) An applicant demonstrates that the entire route of the associated transmission line meets at least one of the following requirements: one of the following requirements:

- (a) The associated transmission line is not located on high-value farmland, as defined in ORS 195.300, or on arable land;*
- (b) The associated transmission line is co-located with an existing transmission line;*
- (c) The associated transmission line parallels an existing transmission line corridor with the minimum separation necessary for safety; or*
- (d) The associated transmission line is located within an existing right of way for a linear facility, such as a transmission line, road or railroad that is located above the surface of the ground.*

Response: The UEC transmission line does not meet any of the requirements listed above under subpart (1) although it does parallel existing roads for approximately 8 miles. Therefore, the Applicant looks to subpart (2) of this subsection to demonstrate compliance with UCDC §152.617 (II)(7)(B).

(2) After an evaluation of reasonable alternatives, an applicant demonstrates that the entire route of the associated transmission line meets, subject to paragraphs (3) and (4) of this subsection, two or more of the following criteria:

Response: UCDC §152.617(II)(7)(B)(2) mirrors the requirements under ORS 215.274(4)(a). The Applicant demonstrates in the following analysis that the associated transmission line satisfies the requirements of UCDC §152.617(II)(7)(B)(2) and ORS 215.274(4) by meeting the factors listed in subpart (a), (b), and (c).

(a) Technical and engineering feasibility;

Response: As noted above, the Applicant evaluated the technical and engineering feasibility of alternative transmission routes to minimize potential impacts to arable land and high-value farmland. Because of the location of Project substation and the UEC Transmission Network Junction, both which are surrounded by EFU-zoned arable land and some high-value farmland and the abundance of these lands in Umatilla County, it is not feasible from a technical or engineering perspective to avoid EFU land and transmit energy from the Project substation to the UEC

Cottonwood Substation (see Figure K-2). Therefore, it meets the technical and engineering feasibility criterion.

(b) The associated transmission line is locationally dependent because the associated transmission line must cross high-value farmland, as defined in ORS 195.300, or arable land to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;

Response: The proposed UEC Cottonwood transmission line represents the straightest route and the shortest length with the least impacts as it avoids sensitive habitat and minimizes impacts to high-value farmland and arable land. The location of the UEC Cottonwood Substation is existing and cannot be moved. The location of the Project substation could be moved within the Site Boundary but even if it were moved there are no feasible alternative routes that can connect the UEC Cottonwood transmission line from the Project substation to the existing UEC Cottonwood Substation without crossing arable or high-value land, due to the extent of high-value and arable lands located in the area (see Figures K-5 and K-7). Therefore, the UEC transmission route must cross high value farmland and arable land to achieve a reasonably direct route, and that the alternate route is therefore “locationally dependent” and would satisfy this criterion.

(c) Lack of an available existing right of way for a linear facility, such as a transmission line, road or railroad, that is located above the surface of the ground;

Response: There are limited existing aboveground linear ROWs located within the Site Boundary and surrounding area because it is zoned EFU, which requires larger lots of land with little development requiring developed right of way such as for a transmission line, road, or railroad. The UEC transmission line does follow an existing road for approximately 8 miles; however, much of the existing road ROW in the Site Boundary follows the gullies and canyons associated with streams, and therefore does not provide direct or feasible routes to site a transmission line (see Figures K-5, K-7, and K-8). Therefore, there is a lack of available existing ROW, and the UEC transmission line route would satisfy this criterion.

(d) Public health and safety; or

(e) Other requirements of state or federal agencies.

Response: The UEC Cottonwood transmission line does not meet either of these criteria.

3) As pertains to paragraph (2), the applicant shall present findings to the governing body of the county or its designee on how the applicant will mitigate and minimize the impacts, if any, of the associated transmission line on surrounding lands devoted to farm use in order to prevent a significant change in accepted farm practices or a significant increase in the cost of farm practices on the surrounding farmland.

Response: The section of new transmission line corridor will not alter the stability of the overall land use pattern of the area because the permanent ground impact of the poles will be minor and the poles will generally span the underlying land uses. The transmission line has also been sited to

run along the edge of fields to the maximum extent practicable. The landowner will continue to have access to the underlying agricultural land during line operation. For the above stated reasons, and the reasons noted throughout this exhibit regarding impacts to farm practices, the proposed UEC Cottonwood transmission line route will not result in a significant change to, or a significant increase in the cost of, farm and forest practices on surrounding farmlands and this criterion is met.

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

Response: The UEC Cottonwood alignment is one of the shortest and most direct routes to connect between the two established termini, which is less expensive to build than a longer route. Longer routes would increase the cost although as outlined above, cost alone was not a factor in development of the UEC Cottonwood alignment.

4.4 Applicable Substantive Criteria from Umatilla County Comprehensive Plan (Policies)

4.4.1 Chapter 6. Agriculture

1. Umatilla County will protect, with Exclusive Farm Use zoning pursuant to ORS 215, lands meeting the definition of farmland in this plan and designated as Agricultural on the Comprehensive Plan Map.

Response: Umatilla County has adopted zoning and allocated lands identified as Agricultural on the Comprehensive Plan Map to the EFU zoning district pursuant to ORS 215. As discussed above, the proposed Project meets the applicable substantive criteria of the Umatilla County EFU zone.

8. The county shall require appropriate procedures/standards/policies be met in the Comprehensive Plan and Development Ordinance when reviewing non-farm uses for compatibility with agriculture.

Response: The Project is located in the EFU zone, except for portions of the UEC Cottonwood transmission line, and this exhibit demonstrates consistency with applicable substantive criteria for the EFU zoning district in Umatilla County.

17. Continue to encourage timber management to occur on lower elevation seasonal grazing as permitted in the Exclusive Farm Use Zone.

Response: As noted in Umatilla County's letter dated November 6, 2017, most but not all comprehensive plan policies are implemented by the UCDC. In the case of these agricultural policies, they are implemented by the regulations of the EFU zone including the substantive criteria of the UCDC discussed above in Section 4.3. Specifically, with respect to Policy 17, there is no active timber management within the Site Boundary.

4.4.2 Chapter 5. Citizen Involvement

- 1. Provide information to the public on planning issues and programs, and encourage continuing citizen input to planning efforts.*

Response: The ASC approval process incorporates opportunities for citizen input on the planning and permitting process, through the NOI, scoping meetings, official notices to surrounding property owners and solicitation of comments, and the public hearings process. Therefore, this UCCP policy regarding citizen involvement is satisfied.

- 5. Through appropriate media, encourage those County residents' participation during both city and County deliberation proceedings.*

Response: As noted above, the Site Certificate process with EFSC provides ample opportunity for public review of application materials and input and participation in the planning process, including at least one hearing in the local area. The EFSC process is consistent with Statewide Land Use Planning Goal 1 regarding citizen involvement. Accordingly, the UCCP policies regarding citizen involvement are met.

4.4.3 Chapter 8. Open Space, Scenic & Historic Areas, and Natural Areas

- 1. (a) The County shall maintain this resource [Open Space] by limiting development mainly to existing built up areas.*

Response: The Project will be built on existing, cultivated farmlands and CRP land. It will consist of wind turbines spaced at large intervals and supporting connecting infrastructure, much of which will be buried underground and a solar array. The Project is located entirely on private land, none of which is designated as open space. The footprint of the Project is relatively small compared to the Site Boundary (see Exhibit C). The Project will not significantly alter the rural, sparsely developed character of the land within the Site Boundary. The impacts of the Project on scenic, protected and recreational areas are discussed in further detail in Exhibits R, L, and T.

- 5. (a) The County shall maintain rural agricultural lands, Development shall be of low density to assure retention of upland game habitat,*

Response: Although the Site Boundary encompasses a fairly large geographic area (48,196 acres), the density of developed areas from the Project and existing agricultural land uses will remain very low, and the vast majority of land within the Site Boundary will remain undeveloped. The Project impacts will occur primarily on agricultural lands such that upland game habitat, and particularly the streams, wetlands and riparian areas on which game relies, will be minimally affected.

- (b) Land uses should maintain the vegetation along stream banks, fence rows, woodlots, etc. Research ways to reduce harassment and loss of upland game by free roaming dogs and cats.*

Response: The Project is a widely spaced series of turbines with a relatively small footprint and with minimal supporting infrastructure, much of which is located underground (collector lines); as such, it will not interfere with game movement or habitat. Sensitive habitat and vegetated areas

along stream banks, fence rows, and woodlots will not be permanently disturbed by the Project. There are no characteristics of the Project that would attract or exacerbate the problem of free roaming dogs and cats.

6. (a) Developments or land uses that require drainage, channelization, filling or excessive removal of riparian vegetation in sensitive waterfowl areas should be identified.

Response: The Project does not require drainage, channelization, filling, or excessive removal of riparian vegetation in sensitive waterfowl areas.

8. (a) Setbacks shall be established to protect significant and other wetlands.

Response: The Project has been designed to avoid impacts to wetlands and maintain sufficient setbacks from wetland edges to prevent indirect impacts to nearby wetlands.

9. (a) The County shall encourage land use practices which protect and enhance significant wetlands.

Response: The Project will not disturb wetlands in Umatilla County, as further discussed in Exhibit J.

10. (c) Compatible land use shall maintain the riparian vegetation along streams in the floodplain. Stream bank vegetation shall be maintained along streams outside of the floodplain by utilizing appropriate setbacks.

Response: The Project has been designed to avoid impacts to riparian or other stream bank vegetation (see Exhibit J).

10. (d) Development or land use that requires channelization, excessive removal of streamside vegetation, alteration of stream banks and filling into stream channels shall be restricted in order to maintain streams integrity.

Response: The Project has been designed to avoid nearly all impacts to streams, and would potentially impact only ephemeral streams where access roads must cross (see Exhibit J). If there are impacts to ephemeral streams, all appropriate measures will be implemented to maintain stream integrity. Streamside vegetation removal will be avoided to the extent practicable, and areas disturbed temporarily will be restored to approximately original contours and reseeded with native species.

10. (e) New roads, bridges and access rights-of-way shall be designed to avoid channel capacity, and minimize removal of shoreline vegetation.

Response: Any new or improved roads shall be sited in consultation with the affected landowner and the County to minimize removal of shoreline vegetation, if any exists on the Project site. No new roads, bridges or access rights-of-way will adversely affect channel capacity (see Exhibit J).

20. (a) Developments of potentially high visual impacts shall address and mitigate adverse visual effects in their permit application, as outlined in the Development Ordinance standards.

Response: Exhibits L, R, and T provide evidence that the Project will not result in significant adverse visual impacts to protected areas, scenic resources, and recreational resources. Visual

impacts are minimized as discussed in Exhibit R and Section 4.3, which addresses the Development Ordinance standards applicable to the Project. The presence of the Project facilities, primarily the wind turbines, will be non-natural vertical elements in locations where they are visible.

Development of the Project facilities will result in minimal changes to the existing topography, landforms, and land cover. The Applicant will implement BMPs (outlined in Exhibit R) to blend the appearance of the Project facilities and limit their visual contrast in the landscape to the extent practicable.

20. (b) It is the position of the County that the Comprehensive Plan designations and zoning already limit scenic and aesthetic conflicts by limiting land uses or by mitigating conflicts through ordinance criteria. However, to address any specific, potential conflicts, the County shall insure special consideration of the following when reviewing a proposed change of land use:

- (1) Maintaining natural vegetation whenever possible.*
- (2) Landscaping areas where vegetation is removed and erosion might result.*
- (3) Screening unsightly land uses, preferably with natural vegetation or landscaping.*
- (4) Limiting rights-of-way widths and numbers of roads intersecting scenic roadways to the minimum needed to safely and adequately serve the uses to which they connect.*
- (5) Limiting signs in size and design so as not to distract from the attractiveness of the area.*
- (6) Siting Developments to be compatible with surrounding area developments and recognizing the natural characteristics or the location.*
- (7) Limiting excavation and filling only to those areas where alteration of the natural terrain is necessary and re-vegetating such areas as soon as possible.*
- (8) Protection vistas and other views which are important to be recognized because of their limited number and importance to the visual attractiveness of the area.*

Response: Exhibit R reviews Project impacts to important scenic resources in Umatilla County. Wind energy projects are a conditional use in the Umatilla County EFU zone and aesthetic and scenic conflicts are addressed for a project as part of the substantive criteria applicable to the project. Nonetheless, the Project incorporates many of the design guidance elements enumerated in this policy to minimize aesthetic impacts. For example, vegetation removal will be largely limited to agricultural crops and within the minimum area needed to construct the Project. Disturbed areas will be revegetated as soon as practicable following construction to restore the visual quality of the land and to prevent erosion. Project access roads have been reduced to the minimum length needed to develop the Project, and they will be narrowed following construction to a minimum width needed for typical maintenance vehicles. Turbines will be painted with a grey, white, or off-white, low-reflectivity coating to minimize reflection and contrast with the sky; this reduces the visual impact of skylining while still making the turbines visible to pilots during daytime. Support towers for the transmission lines will be either wood, which will largely blend with the surroundings, or

steel, which will have a low-reflectivity coating. Electrical collector lines will be located underground to the extent practicable. The access road routes and turbine locations have been chosen to limit the need for cut and fill, and to follow existing terrain as much as possible. While the turbines represent a nontraditional structure on the landscape that cannot reasonably be screened, the O&M Building will appear similar to existing agricultural structures in the area. Outdoor lighting at the Project substations and the O&M Building will be kept to the minimum required for safety, motion sensors will connect with switches to reduce lighting when an area is not in use, and lighting will be directed downward and inward to prevent off-site glare.

22. The County shall cooperate with state agencies and other historical organizations to preserve historic buildings and sites, cultural areas, and archeological sites and artifacts.

Response: The Project will not impact historic buildings (see Exhibit S). All other known historic, cultural, and archaeological resources have been avoided through modifications to the Project layout or will have insignificant impacts. In the event that previously undiscovered sites or artifacts are found during construction, the Applicant will coordinate with the SHPO regarding an appropriate course of action to conserve the resource. Avoidance of impacts to cultural or archaeological resources is discussed in Exhibit S.

23. (a) Umatilla County shall encourage and cooperate in developing a detailed county-wide historic site inventory.

Response: Any historic site information developed in the course of Project development shall be provided for inclusion in the Umatilla County historic site inventory.

24. (a) Umatilla County shall protect significant historical and cultural sites from land use activities which diminish their value as historical resources.

Response: Avoidance of impacts to cultural or historical resources is discussed in Exhibit S. The Project, taking into account mitigation, has been designed to avoid significant impacts on historic, cultural, and archaeological resources. Direct impacts on known resources have been avoided through Project design (see Exhibit S, Tables S-3 and S-4). Avoidance has been achieved either through spanning overhead lines over the resource or through moving Project components. Avoidance of these resources will be ensured through monitoring during construction (see Exhibit S, Section 5). Despite this effort, some indirect impacts (visual and auditory) may occur as a result of the Project. All will be mitigated to less than significant (see Exhibit S).

26. The County shall cooperate with the Tribe, Oregon State Historic Preservation Office, and others involved in concern identifying and protecting Indian cultural areas and archeological sites.

Response: The Applicant has cooperated and consulted with the CTUIR and will consult with Oregon SHPO through the ASC process regarding cultural and archaeological resources (see Exhibit S). All identified native American cultural and archaeological sites eligible or potentially eligible for regulatory protection are avoided, as required by applicable standards.

37. The County shall ensure compatible interim uses provided through Development Ordinance standards, and where applicable consider agriculturally designated land as open space for appropriate and eventual resource or energy facilities use.

Response: The Project is an energy facility on agricultural designated land, as encouraged by this policy.

38. (a) The County shall encourage mapping of future agencies [sic] sites, ensure their protection from conflicting adjacent land uses, and required reclamation plans.

Response: The Project does not involve aggregate or mineral exploration, extraction, or reclamation, and will not impact any existing aggregate or mineral extraction site except to the extent that the Project may purchase aggregate from a permitted mine (see Exhibit B). The Project will not prevent the future development of aggregate or mineral extraction site and will not represent a conflicting land use that would adversely affect or be adversely affected by mining activities in the vicinity.

(b) Aggregate and mineral exploration, extraction, and reclamation shall be conducted in conformance with the regulations of the Department of Geology and Mineral Industries.

Response: The Project does not involve aggregate or mineral exploration, extraction, or reclamation, and will not impact any existing aggregate or mineral extraction site except to the extent that the Project may purchase aggregate from a permitted mine.

(c) The County Development Ordinance shall include conditional use standards and other provisions to limit or mitigate conflicting uses between aggregate sites and surrounding land uses.

Response: The Project will not impact any known aggregate sites. The Project does not include the development of any aggregate or other mining sites. Rock/gravel will be obtained from one of the four existing quarries near the Project, if possible. Some of these existing quarries may not have current permits. If a new or renewed permit is required, it will be obtained by a selected contractor. These third-party permits are described in more detail in Exhibit E. The Project complies with all applicable substantive criteria related to protection of aggregate resources.

39. (a) The County shall strictly enforce state and county development standards pertaining to gravel extraction/processing uses through appropriate agencies; whether new operations or expansions of existing sites.

Response: Rock/gravel will be obtained from one of the four existing quarries near the Project if possible. Some of these existing quarries may not have current permits. If a new or renewed permit is required, it will be obtained by a selected contractor. These third-party permits are described in more detail in Exhibit E.

42. (a) Encourage development of alternative sources of energy.

Response: This is an alternative energy project that is consistent with and implements this policy.

4.4.4 Chapter 9. Air, Land, Water Quality

- 1. Discharges from existing and future developments shall not exceed applicable environmental standards.*

Response: The Project will not discharge any pollutants or other regulated materials in exceedance of environmental standards. The Applicant will obtain and comply with an NPDES permit for stormwater discharge and shall follow BMPs to minimize discharges and emissions during construction. Once operational, the Project will not discharge pollutants or other materials regulated by environmental law. Waste materials will be managed in compliance with applicable laws and regulations (see Exhibits B and CC).

- 7. Consider cumulative noise impacts and compatibility of future developments, including the adoption of appropriate mitigating requirements of plan updates.*

Response: Noise impacts and mitigation are discussed in Exhibit X, which demonstrates that the Project can be operated to comply with state noise regulations. The Applicant has considered the potential for and is not aware of potential future developments that could give rise to cumulative noise impact issues.

- 8. Recognize that protection of existing wells has priority over development proposals requiring additional subsurface sewage disposal.*

Response: The only subsurface sewage disposal will be at the O&M Building, which will be located sufficiently far from any existing wells to avoid any potential conflict. The septic systems will be designed and operated according to State and County standards that are designed to protect groundwater quality as confirmed through building permits (see Exhibit E).

4.4.5 Chapter 10. Natural Hazards

- 1. The County will endeavor, through appropriate regulations and cooperation with applicable governmental agencies, to protect life and property from natural hazards and disasters found to exist in Umatilla County.*

Response: The Project is in an area largely free of natural hazards and will incorporate many features protective of life and property (see Exhibit H). The Project incorporates substantial setbacks to public roads, such that it would not represent a hazard to public health or safety even in the event of a catastrophic failure. Project facilities, in particular the turbines, will be located away from known hazard areas. The turbine foundations and other structures will be designed and built to rigorous engineering standards as required by current building codes so that they can withstand earthquakes. Exhibit H demonstrates that the Project can be designed, engineered, and constructed to avoid dangers to human safety and the environment in case of a design seismic event. Exhibit E provides the additional permits that will be obtained to demonstrate compliance.

4. *Potentially hazardous major developments (e.g. power plants) must address earthquake hazard possibilities.*

Response: There are no known or active faults mapped within the Project Site Boundary (see Exhibit H). The risk of seismic hazards to human safety at the proposed Project is considered low (See Exhibit H). There are no known liquefaction, subsidence, or landslide risk areas within the Site Boundary. All foundations will be built to applicable engineering standards for earthquake safety, and all County setbacks from roads will be observed, reducing the risk that Project improvements could collapse onto roads. In Exhibit H, the Applicant has demonstrated that the Project can be designed, engineered, and constructed to avoid dangers to human safety and the environment in case of a design seismic event.

4.4.6 Chapter 11. Recreation Needs

1. *Encourage and work with local, state, federal agencies and private enterprise to provide recreational areas and opportunities to citizens and visitors to the County.*

Response: The Project will not interfere with or have any influence on the ability of the County to implement this policy. The Project is located in a rural area dedicated to agricultural use and, as noted above, Project structures will take up a limited area of land. Additionally, there are no areas zoned Open Space or for parks in the Site Boundary. In general, the setting of the Project, primarily agricultural with no major waterways, does not provide any ideal spaces for recreational areas or opportunities especially in consideration of other areas of the County.

4.4.7 Chapter 12. Economy

1. *Encourage diversification within existing and potential resource-based industries.*

Response: The Project is consistent with this policy because it represents a diversification of existing resource-based industries, primarily agriculture. The existing economic use of Project land will not be significantly impacted by the Project, so the Project will be an addition to and diversification of the County economy rather than a replacement of one economic use with another.

4. *Participate in selected economic development programs and projects applicable to the County desired growth.*

Response: The Project is outside of all UGBs. The Project will make economic use of the wind and solar resource of Umatilla County without detriment to other wind or solar projects or natural resource uses. The Project will generate economic growth and jobs within Umatilla County and will integrate two compatible land uses – agricultural and renewable energy generation.

7. *Cooperate with development oriented entities in promoting advantageous aspects of the area.*

Response: The existing economic use of Project land – agriculture – will not be significantly impacted by the Project. The Project will be an addition to the County economy rather than a

replacement of one economic use with another while taking advantage of the renewable energy – wind and solar resources of the area. Additionally, the landowners' loss of available agricultural land will be compensated by lease payments to each landowner, which can provide a stable source of income over a period of many years for farmers and ranchers.

8. Evaluate economic development proposals upon the following:

Will the proposal:

- a. increase or decrease available [water] supplies?*
- b. improve or degrade [water] qualities?*
- c. balance [water] withdrawal with recharge rates?*
- d. be a beneficial use?*
- e. have sufficient [water] quantities available to meet needs of the proposed project and other existing and reassembly anticipated needs?*
- f. reduce other [water] use opportunities and if so, will the loss be compensated by other equal opportunities?*

Response: The Project will provide economic growth and jobs within Umatilla County; will have no effect on water supplies or quality; and will be a net beneficial use by reducing the need for carbon-intensive energy sources. Exhibit O demonstrates that construction and operation of the Project will not result in significant adverse impacts to water resources. During construction, the Project will require an anticipated maximum of 71 million gallons of water. The primary drivers of water use during construction are mixing concrete for foundations, road construction, and dust control. The Applicant's third-party construction contractor can obtain construction water from the City of Hermiston, City of Pendleton, and/or the City of Echo under an existing municipal water right. During operation, the Project will require water use in the O&M Building and solar panel washing. For the O&M Building, water will be provided by an on-site well. Water use is estimated at 50-100 gallons per day per worker, for a total of less than 5,000 gallons per day. This is considered an exempt use, which would not require a new water right to be obtained under ORS 537.545. Water for solar panel washing will be obtained from either the City of Hermiston, City of Pendleton, or the City of Echo. The cities have water capacity to supply up to 1.1 million gallons annually, for periodic solar array washing (see Exhibit O, Attachment O-1).

4.4.8 Chapter 14. Public Facilities and Services

1. The county will control land development in a timely, orderly, and efficient manner by requiring that public facilities and services be consistent with established levels of rural needs consistent with the level of service requirements listed on pages J-27 and J-28 of the Technical Report. Those needs are identified as follows:

- a. Fire protection shall be provided consistent with Policies 8,9,10.*

Response: Policies 8, 9, and 10 respectively call for the formation or expansion of rural fire districts in areas designated for non-resource use; the provision of adequate fire-fighting water supplies for significant new rural developments in coordination with the appropriate fire district; and assistance by the County in locating satellite fire stations. As described in Exhibit U, fire protection service in the Analysis Area is provided by a number of agencies, including the Echo Rural Fire Protection District and Pilot Rock Rural Fire Protection District. The Applicant will provide construction plans, phasing information, and locational information for all Project facilities, including Project access, to all involved fire departments. During construction, and particularly during activities that present a potential fire hazard, the Applicant will maintain water trucks on site for rapid response in the event of a fire. None of the fire departments have suggested that water supplies should be maintained for the Project; any specific requirements will be determined prior to beginning construction. The development of the Project would not preclude the use of other portions of the participating properties for use as the location of a future fire station.

b. Police protection shall be provided consistent with Policy 7.

Response: Policy 7 calls for the allocation of county funding to maintain at least the state average of 0.34 officers per 1,000 people. During operations, the Project will create full-time employment for up to 10 to 15 workers, some of whom may be new residents in Umatilla County. However, the addition of a small number of employees and their families would not significantly affect the provision of police services. Additionally, the Project will contribute toward funding of police services through increased property tax revenues, allowing the County to maintain this minimum level of service.

c. Surface. Water Drainage-Roadside drainage shall be maintained and plans for drainage shall be required in multiple use areas.

Response: Roadside drainage will be maintained on all roads developed or improved for the County, including at locations where Project access roads intersect County roads or state highways. The specific requirements for roadside drainage will be determined through the NPDES permit and the associated Erosion and Sedimentation Control Plan that must meet applicable local government erosion and sediment control or stormwater management requirements. The Applicant will coordinate with Umatilla County Public Works to ensure the roadside drainage plans for the Project will meet County specifications.

d. Roads shall be maintained or improved to standards adopted by the County Road Department which are consistent with nationally accepted standards that correlate traffic to desired road conditions.

Response: The Applicant will enter into a road use agreement with Umatilla County to ensure that roads will be maintained or improved to County standards.

2. Require that domestic water and sewage disposal systems for rural areas be provided and maintained at levels appropriate for rural use only. Rural services are not to be developed to support urban uses.

Response: Water supply and sewage disposal plans for the Project are consistent with the rural nature of the site. Once in operation, the Project will not have significant water needs; water for the O&M Building will be provided by an exempt well in coordination with the local building permits. Construction water will be obtained from municipal water suppliers or from some other permitted source (see Exhibit O) in quantities within the service capacity of those providers and hauled to the Project site.

Sewage disposal will be handled by portable toilets during construction, and thereafter by an on-site septic system (see Exhibit U).

9. Require adequate water supplies for firefighting as part of significant new developments in rural areas in coordination with the appropriate rural fire district.

Response: The Applicant believes this policy is directed more at occupied development such as residential and commercial buildings. Nonetheless, the Applicant has confirmed the adequacy of fire protection services in Umatilla County as discussed in Exhibit U. Attachment U-3 is a record of correspondence with the Echo Rural Fire Protection District and Umatilla County Fire District 1 confirming that the construction and operation of the Project will not impede their abilities to provide emergency services. In general, wind and solar projects do not pose a significant fire risk.

19. Where feasible, all utility lines and facilities shall be located on or adjacent to existing public or private rights-of-way so as to avoid dividing existing farm or forest units; and transmission lines should be located within existing corridors as much as possible.

Response: Electrical collector lines will generally follow Project access roads, which are routed to avoid dividing existing farm fields to the maximum extent practicable. Due to the location of the turbines and public ROW setback requirements, it is generally not practical to place collector lines in public ROWs. Because the Project is in an EFU-zoned area with large lots and topographical constraints, the areas near the Project substations lack well-defined linear infrastructure such as roads that would provide a reasonably direct route for the Project 230-kV substation connector line to connect the substations without substantially lengthening the route. Ultimately, there are no existing transmission or ROW corridors in the vicinity of the Project that could be used to electrically connect the Project from the north to the south; therefore, the route has been chosen to be the most direct and avoid undue habitat impacts.

4.4.9 Chapter 15. Transportation

18. The County will review right-of-way acquisitions and proposals for transmission lines and pipelines so as to minimize adverse impacts on the community.

Response: Electric transmission lines that are part of the Project will be reviewed by EFSC as part of this Site Certificate application. The Applicant understands that the County will comment on the ASC content regarding ROW for Project transmission lines.

20. Request larger industrial and commercial development proposals, consider sponsoring carpooling programs.

Response: During operations, the Project will create full-time employment for 10-15 people in a rural location. Given that all employees will not be working at the same time, the temporary nature and short-term duration of various jobs during construction, significant carpooling is not a viable option.

4.4.10 Chapter 16. Energy Conservation

1. Encourage rehabilitation /weatherization of older structures and the utilization of locally feasibly renewable energy resources through use of tax and permit incentives.

Response: The Project is a wind and solar energy facility that utilizes locally feasible renewable energy resources, in furtherance of this policy. The Project does not involve the reuse of existing structures that could be considered for rehabilitation or weatherization.

5.0 Directly Applicable Rules, Statutes, and Goals - OAR 345-021-0010 (1)(k)(C)(iii)

(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 Project Order requires the Applicant to identify any Land Conservation and Development Commission administrative rules and goals and any land use statutes that apply directly to the Project. Pursuant to OAR 660-033-0120, wind power generation facilities must comply with the standards set forth in OAR 660-033-0130(5) and (37) and photovoltaic solar power generation facilities OAR 660-033-0130(5) and (38). The standards of OAR 660-033-0130(5) are discussed above in response to UCDC §152.061. The standards of OAR 660-033-0130(37) are discussed above in response to UCDC §152.616(HHH)(6)(k). The standards of OAR 660-033-0130(38) are discussed in Section 5.1 because they do not have a correlating UCDC section.

The land use statutes applicable to the transmission lines are either ORS 215.275 for the Project substation connector transmission line and a portion of the UEC Cottonwood transmission line and ORS 215.274 for the BPA Stanfield transmission line and the UEC Cottonwood transmission line. All of these standards are met as detailed in Section 4.3. The applicable statewide planning goals are Goal, 3, Goal, 13, and Goal 14. The Project complies with these goals and all Statewide Planning Goals as demonstrated in the following section, Section 6.0.

5.1 OAR 660-033-0130(38)

OAR 660-033-0130 Minimum Standards Applicable to the Schedule of Permitted and Conditional Uses

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

- (a) "Arable land" means land in a tract that is predominantly cultivated or, if not currently cultivated, predominantly comprised of arable soils.*
- (b) "Arable soils" means soils that are suitable for cultivation as determined by the governing body or its designate based on substantial evidence in the record of a local land use application, but "arable soils" does not include high-value farmland soils described at ORS 195.300(10) unless otherwise stated.*
- (c) "Dual-use development" means developing the same area of land for both a photovoltaic solar power generation facility and for farm use.*
- (d) "Nonarable land" means land in a tract that is predominantly not cultivated and predominantly comprised of nonarable soils.*
- (e) "Nonarable soils" means soils that are not suitable for cultivation. Soils with an NRCS agricultural capability class V-VIII and no history of irrigation shall be considered nonarable in all cases. The governing body or its designate may determine other soils, including soils with a past history of irrigation, to be nonarable based on substantial evidence in the record of a local land use application.*

Response: Figures K-6 and K-8 show the tracts located in and adjacent to the solar siting area. As described in Section 4.2, the solar siting area comprises both high-value farm lands (242 acres) and arable lands (1,840 acres) and a small amount of non-arable soils (56 acres) that are predominantly cultivated with dryland wheat. There will be no dual-use development.

(f) "Photovoltaic solar power generation facility" includes, but is not limited to, an assembly of equipment that converts sunlight into electricity and then stores, transfers, or both, that electricity. This includes photovoltaic modules, mounting and solar tracking equipment, foundations, inverters, wiring, storage devices and other components. Photovoltaic solar power generation facilities also include electrical cable collection systems connecting the photovoltaic solar generation facility to a transmission line, all necessary grid integration equipment, new or expanded private roads constructed to serve the photovoltaic solar power generation facility, office, operation and maintenance buildings, staging areas and all other necessary appurtenances. For purposes of applying the acreage standards of this section, a photovoltaic solar power generation facility includes all existing and proposed facilities on a single tract, as well as any existing and proposed facilities determined to be under common ownership on lands with fewer than 1320 feet of separation from the tract on which the new facility is proposed to be sited. Projects connected to the same parent company or individuals shall be considered to be in

common ownership, regardless of the operating business structure. A photovoltaic solar power generation facility does not include a net metering project established consistent with ORS 757.300 and OAR chapter 860, division 39 or a Feed-in-Tariff project established consistent with ORS 757.365 and OAR chapter 860, division 84.

Response: The solar array and associated facilities meet the definition of “photovoltaic solar power generation facility.” This includes the battery storage system. The battery energy storage system will be within the fenceline of the solar facility. It may be integrated into the solar array electrical collection system to store energy consistent with the definition of photovoltaic solar power generation, above, or in a consolidated area near the O&M Building, but still within the solar facility fence line. In addition, the 34.5-kV collector lines are also part of the solar facility as they will collect the energy from the solar modules and transfer it to the northern Project substation.

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

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

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

Response: As outlined in Table K-1, approximately 242 acres within the solar siting area meet the definition of high-value farmland under ORS 195.300(10)(f)(c). The Applicant is not proposing dual use of the solar siting area and does not meet the requirements of paragraph (h)(H). As the total area of high-value farmland within the solar siting area would use, occupy, or cover more than 12 acres, the Applicant seeks a Goal Exception. However, because the Project falls under the Council’s jurisdiction, it is the Council’s statutes and rules that govern the goal exception process, ORS 469.504(2) and OAR 345-022-0030(4), rather than ORS 197.732 (see Section 7.0).

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

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

Response: The solar array has been sited to maximize efficiency by being sited adjacent to the Project northern substation and O&M Building while also consolidating the solar array to an area that does not constrain the current and future dryland wheat farming activities on the remainder of the tract or on neighboring tracts. The solar energy generating facility will not create unnecessary negative impacts on the landowner's current and future agricultural operations conducted on the portions of the subject tracts not occupied by the Project. The solar array is generally oriented adjacent and parallel to an existing road and will be accessed from the existing road. Therefore, access roads will not be constructed outside of the solar array fenceline. (see Exhibit C, Figure C-5) and all neighboring field accesses will be maintained. In addition, the Project will not create unnecessary negative impacts on agricultural operations conducted on any portion of the subject property not occupied by Project components because:

- The Applicant will record in the real property records of Umatilla County a Covenant Not to Sue against its Project leasehold interests with regard to generally accepted farming practices on adjacent farmland.
- The Project will not limit or impact current or future farm activities on the surrounding land and will not diminish the opportunity for neighboring parcels to expand, purchase, or lease any vacant land available for agricultural uses.
- The Applicant will implement a weed control plan during construction and operation that will reduce the risk of weed infestation in cultivated land and the associated cost to the farmer for weed control (see Attachment P-4 to Exhibit P for weed prevention and control measures).
- Construction of the Project could adversely affect soil quality by erosion or compaction. Some farmland would be temporarily disturbed and unavailable for farming during construction. To avoid or reduce adverse impacts to soil quality, the Applicant will implement dust control and erosion-control measures during construction and operation of the Project (see Exhibit I). To the extent practicable, the Applicant proposes to reduce impact to soils by using areas that are already disturbed and limiting the area of new disturbance.

Ultimately, construction, operation, and maintenance of the solar array and associated equipment will not change existing land use practices on lands surrounding the solar siting area.

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

Response: Exhibit I addresses soil erosion. Construction would be performed under a National Pollutant Discharge Elimination System (NPDES) 1200-C permit, including an ODEQ Erosion and Sediment Control Plan, which will also include erosion and sediment control best management

practices. The NPDES 1200-C will be prepared and stamped by a licensed engineer in the State of Oregon. After completing construction in an area, the Applicant will monitor the area to evaluate whether construction-related impacts to soils are being adequately addressed by the mitigation procedures described in the Erosion and Sediment Control Plan.

(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: Soil compaction reduction plan measures are incorporated into the Revegetation Plan (see Exhibit P, Attachment P-4), which includes a program to protect and restore agricultural soils temporarily disturbed during Project construction as excerpted below:

Restoration of Cropland

Croplands will be reseeded with the appropriate crop or maintained as fallow in consultation with the landowner or farm operator. The Applicant will also consult with the landowner or farm operator to determine seed mix and application methods and rates for seed and fertilizer.

Soil compaction is a concern for restoring agricultural soils to their pre-construction productivity. During construction of temporary facilities, the Applicant will excavate and store soils by soil horizon, so that soils could be replaced and restored appropriately, including replacing topsoil, where possible. During post-construction restoration of temporary impacts to agricultural areas, the Applicant will loosen agricultural soil to an appropriate depth to reduce the potential effects of compaction.

(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: As discussed in response to UCDC §152.061 (see Section 4.3.1.3), the Applicant will implement a Weed Control Plan in coordination with Umatilla County that will reduce the risk of weed infestation in cultivated land and the associated cost to the farmer for weed control.

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

Response: The solar siting area is not located on high-value farmland soils listed in OAR 660-033-0020(8)(a), i.e., classified prime, unique, Class 1 or 2 soils either irrigated or non-irrigated. The solar siting area is on Class 3 or 4 soils (see Figure K-4). The NRCS does not classify any unique farmland within the solar siting area, and portions are only prime farmland if irrigated (NRCS 2021). As irrigation is not available to this tract of land nor is this tract of land in an irrigation district, it is not considered irrigated farmland. Therefore, lacking irrigation, no portion of the solar siting area is classified as prime farmland.

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

Response: The solar siting area does not include any of the soils listed in OAR 660-033-0020(8)(b)-(e) but it is sited entirely on arable soils.

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

Response: OAR 660-033-0010 defines tract to mean “one or more contiguous lots or parcels under the same ownership”; therefore, the “subject tract” includes those identified on Figures K-6 and K-8. As noted above, these include areas of high-value soils within the solar siting area because of the AVA designation, specifically the slope and aspect criteria of the high-value farmland definition under ORS 195.300(10)(f), which is not related to soil attributes. It is not possible to site the solar arrays completely avoiding the AVA high-value farmland due to the patchy and irregular nature of the AVA high-value farmland on the tracts (see Figure K-6). Since nearly the entirety of the solar siting area consists of cultivated areas of dryland wheat, it is therefore arable (see Figure K-8) and also unavoidable. As shown on Figure K-8, the available non-arable land generally consists of narrow extents of land that follow drainages or steep slopes. Not only is there not enough land area on non-arable soils on the subject tracts to accommodate a 260-megawatt (MW) project, siting the solar arrays on the non-arable soils would significantly reduce the Project's ability to operate successfully because the location and dimension of the areas underlaid by those soils (and similar to the high-value farmland) is patchy and in areas of steeper slopes, making siting solely on non-arable soils not feasible. Solar arrays for a 260-MW project on non-arable land would have to be broken up into many smaller solar arrays with substantially more supporting infrastructure such as structural for slopes, access roads and transmission lines which would have additional resource impacts. The solar siting area is sited by the Project's north substation, thereby eliminating the need for additional transmission lines and resulting in less impacts to farmland and potential division of farm fields.

As noted above, the solar siting area is not located on high-value farmland soils. The solar siting area overlaps with the wind micrositing corridors. Therefore, there are portions of the land that have already been evaluated for renewable energy use. The solar energy generation facility is sited to be integrated with and as part of the wind energy facility, a conditional use in the EFU zone. By consolidating the renewable energy infrastructure for the Project, the solar siting area is better suited to allow continuation of an existing commercial farm or ranching operation on the remaining areas of the subject tract, which will be supported by the Project leases. Furthermore, the solar siting area is the only contiguous area (i.e., consolidated without large non-buildable gaps) of sufficient size for a 260-MW solar facility (i.e., at least 1,896 acres as proposed) with a grade of less than 10 percent that is present on the subject tracts. Therefore, there are no other feasible sites located on the subject tracts. The subject tracts include Tracts 3, 8, 11, and 14 as outlined in Figure K-6.1. Nonetheless, as the Project will use more than 12 acres of high-value farmland for a commercial solar energy facility, an exception is being requested pursuant to ORS 469.504(2) and OAR 345-022-0030(4) (see Section 7.0).

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

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

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

Response: No photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits within the 1-mile study area.

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

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

- (ii) Is not at the time of the facility's establishment, and was not at any time during the 20 years immediately preceding the facility's establishment, the place of use of a water right permit, certificate, decree, transfer order or ground water registration authorizing the use of water for the purpose of irrigation;*
- (iii) Is located within the service area of an electric utility described in ORS 469A.052(2);*
- (iv) Does not exceed the acreage the electric utility reasonably anticipates to be necessary to achieve the applicable renewable portfolio standard described in ORS 469A.052(3); and*
- (v) Does not qualify as high-value farmland under any other provision of law; or*

Response: The solar power generation facility qualifies under all of these except for subpart (iv). Therefore, it does not qualify for the "over 12-acre allowance."

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

Response: As outlined in Table K-2, there are approximately 1,840 acres of arable land within the solar siting area. As the Project will use more than 20 acres of arable land for a commercial solar energy facility, an exception is being requested pursuant to ORS 469.504(2) and OAR 345-022-0030(4) (see Section 7.0).

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

Response: The solar siting area is not located on high-value farmland soils listed in OAR 660-033-0020(8)(a), i.e., Class 1 or 2 soils either irrigated or non-irrigated. The solar siting area is on Class 3 or 4 soils. Irrigation is not available to this tract of land nor is this tract of land in an irrigation district.

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

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

possible sites also located on the subject tract, including those comprised of nonarable soils;

Response: OAR 660-033-0010 defines tract to mean “one or more contiguous lots or parcels under the same ownership”; therefore, the “subject tract” includes those identified on Figures K-6 and K-8. As noted above, these include areas of high-value soils within the solar siting area because of the AVA designation, specifically the slope and aspect criteria, is not related to soil attributes. It is not possible to site the solar arrays completely avoiding the AVA high-value farmland due to the patchy and irregular nature of the AVA high-value farmland on the tracts (see Figure K-6). Since the entirety of the solar siting area consists of cultivated areas of dryland wheat, it is therefore arable (see Figure K-8) and also unavoidable. As shown on Figure K-8, the available non-arable land generally consists of narrow extents of land that follow drainages or steep slopes. Not only is there not enough land area on non-arable soils on the subject tracts to accommodate a 260-MW project, siting the solar arrays on the non-arable soils would significantly reduce the Project’s ability to operate successfully because the location and dimension of those soils (similar to the high-value farmland) is patchy, making siting solely on non-arable soils not feasible. Solar arrays for a 260-MW project on non-arable land would have to be broken up into many smaller solar arrays with substantially more supporting infrastructure such as access roads and transmission lines, which would have additional resource impacts. The solar siting area is sited adjacent to the Project’s northern substation, thereby eliminating the need for additional transmission lines.

As noted above, the solar siting area is not located on high-value farmland soils. The solar siting area overlaps with the wind micrositing corridors. Therefore, there are portions of the land that have already been evaluated for renewable energy use. The solar energy generation facility is sited to be integrated with and as part of the wind facility, a conditional use in the EFU zone. By consolidating the renewable energy infrastructure for the Project, the solar siting area is better suited to allow continuation of an existing commercial farm or ranching operation on the remaining areas of the subject tract, which will be supported by the Project leases. Nonetheless, as the Project will use more than 20 acres of arable land for a commercial solar energy facility, an exception is being requested pursuant to ORS 469.504(2) and OAR 345-022-0030(4) (see Section 7.0).

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

Response: The Project will use more than 12 acres of high-value farmland defined under ORS 195.300(10)(f) for a commercial solar energy facility; therefore, an exception is being requested pursuant to ORS 469.504(2) and OAR 345-022-0030(4) (see Section 7.0).

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

(i) If fewer than 80 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits within the study area, no further action is necessary.

(ii) When at least 80 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits, either as a single project or as multiple facilities within the study area, the local government or its designate must find that the photovoltaic solar power generation facility will not materially alter the stability of the overall land use pattern of the area. The stability of the land use pattern will be materially altered if the overall effect of existing and potential photovoltaic solar power generation facilities will make it more difficult for the existing farms and ranches in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights, or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area; and

Response: No photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits within the 1-mile study area.

(E) The requirements of OAR 660-033-0130(38)(h)(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.

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

Response: As discussed above, Figures K-4 and K-8 show that the majority of the solar siting area comprises soils in capability class III, which are arable soils. The Project will not use, occupy, or cover more than 320 acres of nonarable lands. Thus, the Project does not require an exception to Statewide Planning Goal 3 based on impacts to nonarable lands. The Applicant's demonstration of compliance with the remainder of OAR 660-033-0130(38)(j) is included directly below.

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

Response: As stated previously, the Project is not located on those high-value farmland soils listed in OAR 660-033-0020(8)(a).

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

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

(ii) The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract as compared to

other possible sites also located on the subject tract, including sites that are comprised of nonarable soils;

Response: The Applicant's responses to OAR 660-033-0130(38)(h)(F) and OAR 660-033-0130(38)(i)(B) demonstrate that the Project is not located on those high-value farmland soils listed in OAR 660-033-0020(8)(b)-(e).

Figures K-4 and K-6 show that the majority of the subject underlying the Project site comprises soils in capability class II, which are arable soils. Nonarable soils are interspersed throughout the remaining areas of the tract. Therefore, nonarable soils are not available on the subject tract in a quantity or configuration that would allow for construction and operation of the solar energy generation facility in a manner that would avoid arable soils. Siting the solar facility in areas that are not cultivated or are nonarable is not an option as these areas occur on rocky cliffs, steep slopes, and smaller canyons along streams.

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

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

Response: As discussed above, the Project will permanently occupy more than 12 acres of high-value farmland or 20 acres of arable land. Thus, the Project 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 7.0.

(E) The requirements of OAR 660-033-0130(38)(h)(D) are satisfied;

Response: The requirements of OAR 660-033-0130(38)(h)(D) are discussed above.

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

Response: Per OAR 660-033-0130(38)(j)(F), Goal 5 resources are those protected under the county's comprehensive plan or implementing ordinances. The Umatilla County Comprehensive Plan (Umatilla County 2018) addresses the 14 statewide planning goals adopted by the State of Oregon. Umatilla County conducted a detailed Goal 5 resource analysis in an accompanying

Comprehensive Plan Technical Report, last amended in 1984 (Umatilla County 1984). In Section D of the Technical Report, the Umatilla County Comprehensive Plan provides analysis and reference maps for a wide range of Goal 5 resources. None of the identified Goal 5 resources overlap the solar siting area or occur on adjacent lands. As shown on Figure K-2, no overlay zoning districts related to Goal 5 resources are present in the solar siting area. Therefore, no Goal 5 resources protected by Umatilla County's Comprehensive Plan are within the solar siting area.

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

Response: Professional biologists conducted site-specific assessment using methodologies reviewed and accepted by ODFW. Based on these surveys, it was determined there would be no adverse effects to special status species or Category 1 wildlife habitats. Exhibit Q provides information about state-listed threatened and endangered plant and wildlife species that may be affected by the proposed Project as required by Oregon Administrative Rule (OAR) 345-022-0070. Exhibit P provides information about the fish and wildlife habitats and species, other than the species addressed in Exhibit Q, that could be affected by the Project. These exhibits also outline the agency consultation that has occurred at various stages of Project development and measures to avoid, reduce and mitigate, as necessary, for impacts.

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

Response: As discussed above, the Project will permanently occupy more than 12 acres of high-value farmland or 20 acres of arable land. Thus, the Project 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 7.0. The Applicant's demonstration of compliance with the remainder of OAR 660-033-0130(38)(g), (h), (i), and (j) are included above.

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

Response: The Applicant understands that the Council will impose a condition to the site certificate requiring that, before beginning construction of the Project, the certificate holder must record such a document in the deed records of Umatilla County.

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

Response: Exhibit W provides information on retiring the Project and restoring the site. The Applicant understands the implications of the bonding requirements outlined in this criterion.

6.0 Applicable Statewide Planning Goals Compliance – OAR 345-021-0010 (1)(k)(C)(iv); Statewide Goal Findings and Umatilla County Residential Setback Requirement

OAR 345-021-0010(k)(C)(v)(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;

ORS 469.504(1)(b)(B) provides that a utility facility "shall be found in compliance with the statewide planning goals under ORS 469.503 (4)" if the facility does not comply with "one or more of the applicable substantive criteria but does otherwise comply with the applicable statewide planning goals." As discussed in Section 4.1, the turbine locations within the micrositing corridors have not been finalized. Some of the current proposed turbine locations may not meet the 2-mile setbacks to rural residences outside the Project lease area, imposed by UCDC §152.616(HHH)(6)(a)(3). The rural residence setback is not required by the statewide planning goals, and most specifically does not implement any requirements of Statewide Goal 3 (Agriculture). However, it is a criterion in one of the sections of the UCDC (UCDC §152.616(HHH)(6)) that Umatilla County has identified as an applicable substantive criteria. Therefore, in order to demonstrate that the residential setback criteria should not be applied to the Project, pursuant to ORS 469.504(1)(b)(B), the Applicant demonstrates below that the Project

complies with each Statewide Planning Goal, and accordingly requests that the Council exercise its authority to determine compliance with the Council's Division 22 Land Use Standard.

Goal 1, Citizen Involvement:

"To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process."

Goal Compliance: This Goal governs public participation in the land-use process. The Applicant does not propose any changes to the public-participation requirements of local or state law. The Council's application for site certificate rules provide sufficient notice and comment periods to satisfy Goal 1 as it applies to the Project. The Applicant has and will comply with the Council's public-notice standards.

Goal 2, Land Use Planning:

"To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions."

Goal Compliance: This Goal governs the land-use planning process. Goal 2 is not applicable to the Project because the Applicant is proceeding under a specific, statutorily created land-use option, ORS 469.504(1)(b)(B).

Goal 3, Agricultural Lands:

"To preserve and maintain agricultural lands."

Goal Compliance: This Goal is designed for the protection of agricultural lands. Goal 3 provides that "[a]gricultural 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." ORS 215.243 provides the land use policy which includes a finding essentially that EFU zoning provides for a mechanism of agricultural lands conservation. Effective since January 2009, OAR 660-033-0130(37) allows wind power generation facilities on agricultural lands subject to minimum standards without a goal exception. Those minimum standards are addressed in response to UCDC §152.616(HHH). As demonstrated in the response to UCDC §152.616(HHH) above, the Project satisfies these criteria and, therefore, is consistent with Goal 3 for the wind energy portion of the Project.

The rural residence setback requirement does not implement Goal 3—the rural residence setback criterion is not a land use regulation required by the statewide planning goals; it does not qualify as one of the "applicable substantive criteria" defined in OAR 345-022-0030(4). Consequently, pursuant to EFSC's statutory authority, the Project is not subject to the setback criterion in consideration of Goal 3. In addition, the rural residential setback does not affect the impact of the Project on agricultural lands. That is, locating a few of the turbines closer to the rural residences will not increase any impacts to agricultural lands. The wind turbines displace minor amounts of

land on parcels that vary in size but are generally large enough to accommodate both farm and wind energy uses. The resulting farm use displacement impacts are minor and are offset by the lease payments, which create stability in the economy of each farmer and compensate for the volatility of crop production and prices. The Project will be compatible with adjacent agricultural uses in the surrounding area, as it will not limit or impact current or future farm activities on the surrounding land and will not diminish the opportunity for neighboring parcels to expand, purchase, or lease any vacant land available for agricultural uses. The Applicant will consult with landowners to minimize disruptions to ranching and farming operations due to construction activities such as turbine delivery. The Project will also be compatible with adjacent rural residential uses, as it will either meet the ODEQ noise setback standard regulations or obtain a noise easement from land owners prior to construction. Therefore, the Project is consistent with Goal 3 even if the rural residence setback criterion is not met for all of the turbines.

As discussed above, the Project will permanently occupy more than 12 acres of high-value farmland or 20 acres of arable land for the commercial solar energy facility. Thus, the Project 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 7.0.

The Goal 3 exception does not seek to permanently remove land from agricultural use. Per the terms of the lease and the requirements of the mandatory conditions OAR 345-025-0006(7) and (8), the land would be returned to agricultural use following retirement and restoration of the Project (see Exhibit W). Farmers often look for supplemental revenue or to subsidize their income, such as by enrolling portions of their land in CRP removing it from active agricultural use. Lease payments for the Project supplement the landowners' farm income with predictable payments. This stabilizes their farm use by diversifying their income sources while not restricting their ability to farm the remaining portions of the tract. As discussed further in Section 7.1, wheat prices fluctuate, but the lease payments will remain the same, providing a committed income source so that farmers may continue to farm the rest of their land while preserving an area for future agricultural use.

Goal 4, Forest Lands:

"To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water,

Goal Compliance: This Goal is designed for the protection of forest lands. The Project will not disturb any forest lands as there are none in this vicinity of the Project. Therefore, the Project is consistent with this Goal.

Goal 5, Open Spaces, Scenic, Historic and Natural Resources:

"To conserve open space and protect natural and scenic resources."

Goal Compliance: The Project will be built on existing, cultivated farmlands and grasslands some of which are CRP land. It will consist of wind turbines spaced at large intervals, a solar array, and supporting connecting infrastructure, much of which will be buried underground. The Project is located entirely on private land, none of which is designated as open space. The footprint of the Project is relatively small compared to the Site Boundary (see Exhibit C). The Project will not significantly alter the rural, agrarian sparsely developed character of the Site Boundary. The impacts of the Project on natural resources such as habitat, scenic resources, protected and historical areas are discussed in further detail in Exhibits Q, R, L and S. As noted in these Exhibits and Section 4.4.3, the Project will not adversely affect a significant Goal 5 resource. Therefore, the Project complies with Goal 5.

Goal 6, Air, Water and Land Resources:

"To maintain and improve the quality of the air, water and land resources of the state."

Goal Compliance: This Goal is primarily concerned with waste and process discharges to the land, water, and air of the state. At a federal level, the elements within Goal 6 correspond broadly to the Clean Air Act and Clean Water Act. At a state level, Goal 6 covers many areas regulated by the ODEQ through its permitting actions. ODEQ ensures its permitting decisions comply with the plan and zoning regulations of the affected local government and coordinates with DLCD and other agencies to be sure that city and county plans comply with state and federal laws. Exhibits E and CC identify the additional permits that will be obtained in compliance with federal and state regulations. Overall, using wind and solar, renewable energy sources, to produce energy has fewer effects on the environment than many other energy sources. Wind turbines and solar arrays may also reduce the amount of electricity generation from fossil fuels, which results in lower total air pollution and carbon dioxide emissions. Oregon's Renewable Portfolio Standard (RPS) establishes a requirement for how much of Oregon's electricity must come from renewable resources like wind. The current RPS is set at 50 percent by 2040. In addition to Oregon's RPS, private companies have their own renewable energy procurement policies, which increase the demand for renewable energy in Oregon. These public and private policies are intended to reduce greenhouse gas emissions, mitigate climate impact, and reduce reliance on carbon-based fuels. Therefore, the Project complies with Goal 6.

Goal 7, Areas Subject to Natural Disasters and Hazards:

"To protect life and property from natural disasters and hazards."

Goal Compliance: This Goal is intended to ensure that developments which could be damaged by natural disasters with the potential for resultant injury to persons or property are approved only where appropriate safeguards are in place. Exhibits H and DD address natural disasters and hazards and provide safeguards, as necessary, for the Project. Therefore, the Project complies with Goal 7.

Goal 8, Recreational Needs:

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

Goal Compliance: The Project does not involve the siting of a recreational facility. The discussion in Exhibit T of this Application demonstrates that the Project will not have an adverse impact on any recreational opportunities or facilities in the county. Therefore, Goal 8 does not apply.

Goal 9, Economic Development:

"To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens."

Goal Compliance: This Goal provides certain guidelines for local governments to follow to stimulate orderly economic growth. In particular, the planning guidelines in the Goal emphasize the use of "geographically appropriate" sites for major facilities and also the expansion and increased productivity of existing facilities. The Project will utilize the wind resource of Umatilla County, without detriment to other wind projects or land and natural resource uses to provide economic growth and jobs within Umatilla County. The existing economic use of Project land – agriculture – will not be significantly impacted by the Project. The Project will be an addition to the County economy rather than a replacement of one economic use with another. Additionally, the landowners' loss of available agricultural land will be compensated by lease payments to each landowner, which can provide a stable source of income over a period of many years for farmers and ranchers.

The Project will benefit the local economy in the short term by providing temporary construction-related employment. During construction, construction workers and their employers will purchase goods and supplies, stay in area hotels, and eat at local restaurants, all of these providing an economic benefit to the local and regional economy by supporting area businesses. Development of the Project will increase economic diversity within Umatilla County and offer nonagricultural employment opportunities for local residents. Finally, operation of the Project will also produce additional revenue for Umatilla County through a community service fee or taxes. This additional revenue will contribute to improved local services such as roads, schools, police, and fire that benefit Umatilla County and the region. Therefore, the Project complies with Goal 9.

Goal 10, Housing:

"To provide for the housing needs of citizens of the state."

Goal Compliance: This Goal is intended to assist local governments in developing plans to provide adequate housing. In particular, Goal 10 requires local governments to inventory their buildable lands and to decide which lands must be used for residential development to meet projected housing needs. Except for the UEC Cottonwood transmission line, which is in commercial and industrial zones, the Project is within EFU zoning which limits the development of non-farm housing by statute. The Project will be at least 2 miles from a UGB and 1 mile from UC-designated

areas of the Country that include zoning that permits residential development. The Project will not prevent residential development on these lands and will not result in any land being removed from the county's inventory of buildable land. The Project will not interfere with the county's ability to provide needed housing for its citizens. Therefore, the Project complies with Goal 10.

Goal 11, Public Facilities and Services:

"To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development."

Goal Compliance: This Goal requires local governments to coordinate their land-use planning with an analysis of the availability of public facilities and services such as water, sewer, and roads. Exhibit U provides an analysis of impacts of the Project on public facilities and services. The Project will not require any new public facilities or services from the county. The Project will not require public water or sewer facilities from the county. Impacts on public roads will be addressed in a Road Use Agreement, in compliance with all permit requirements. Finally, the Project will not interfere with the County's ability to provide public services to its citizens. Therefore, the Project complies with Goal 11.

Goal 12, Transportation:

"To provide and encourage a safe, convenient and economic transportation system."

Goal Compliance: This Goal governs local government decisions regarding transportation facilities. The Project will not require the construction of any new public roads nor will it create any long-term conflicts with such facilities in the county. Construction of the Project will involve certain short-term impacts on several roads in the county (see Exhibit U). Impacts on public roads will be addressed in a Road Use Agreement with the County, in compliance with all permit requirements. However, such short-term impacts are not addressed by Goal 12 or its implementation rules. Therefore, the Project complies with Goal 12.

Goal 13, Energy Conservation:

"To conserve energy."

Goal Compliance: This Goal requires local governments to maximize energy conservation. In particular, the Goal emphasizes the efficient siting of land uses and the multiple use of land when possible. This Project will help meet Oregon's renewable energy needs in a cost-effective manner. Statewide Land Use Planning Goal 13 calls for land and uses developed on land to be managed and controlled so as to maximize the conservation of all forms of energy, based on sound economic principles. Furthermore, Goal 13's Planning Guideline No. 5 encourages local land use plans to consider "as a major determinant the existing and potential capacity of the renewable energy sources to yield useful energy output" and calls for land conservation and development actions to "whenever possible.... utilize renewable energy sources." (See Goal 13, planning guideline No.5).

In accordance with Goal 13, there are a number of State policies and statutory programs that together reflect a consistent state policy of supporting renewable energy development. In 2005, the

State of Oregon published a Renewable Energy Action Plan (ODOE 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. Also, the Oregon Legislature has enacted numerous tax credits and economic development incentives favoring renewable energy development. The Project will assist the state with its mandate to meet the renewable portfolio standard. Therefore, the Project complies with Goal 13.

Goal 14, Urbanization:

"To provide for an orderly and efficient transition from rural to urban land use."

Goal Compliance: This Goal governs the transition from rural to urban land use in areas outside of established Urban Growth Boundaries. Goal 14 provides for establishment of UGBs to ensure the efficient and compatible use of land to provide for livable communities. The Project is sited outside of UGBs and entirely on EFU zoned land as an allowed use without exception. The Project will meet setback criteria related to compatible distances to urban areas (See 152.616(HHH)(6)(a)(1) and (2)). Goal 14 limits urban development outside UGBs, and the rule implementing Goal 14 for rural residential areas specifies the level of development a county may allow without the area becoming urbanized. A renewable energy facility, because of its design – focused on a string of turbines and solar array – and because it does not require urban services, is not an urban or urbanizing use and is allowed in the EFU zones subject to certain criteria, with which the Applicant has documented consistency in addressing UCDC §152.616(k). The proposed use will also be compatible with adjacent rural residential uses, as it will either meet the ODEQ noise setback standard regulations or obtain a noise easement from land owners prior to construction. Similar to Goal 3, the rural residence setback requirement does not implement Goal 14; therefore, it does not qualify as one of the "applicable substantive criteria" defined in OAR 345-022-0030(4). Consequently, the Project is not subject to the setback criterion in consideration of Goal 14.

For the reasons noted above, even though some of the turbines may not meet the residential setback requirement, the Project complies with the applicable statewide planning goals and therefore meets the standard in ORS 469.504(1)(b)(B). Therefore, the Project complies with Goal 14.

Goal 15 Willamette River Greenway:

Goal Compliance: This Goal is not applicable to the Project because it is not located in any of the geographical areas covered by this Goal.

Goal 16 Estuarine Resources:

Goal Compliance: This Goal is not applicable to the Project because it is not located in the geographical areas covered by this Goal.

Goal 17 Coastal Shorelands:

Goal Compliance: This Goal is not applicable to the Project because it is not located in the geographical areas covered by this Goal.

Goal 18 Beaches and Dunes:

Goal Compliance: This Goal is not applicable to the Project because it is not located in the geographical areas covered by this Goal.

Goal 19 Ocean Resources:

Goal Compliance: This Goal is not applicable to the Project because it is not located in the geographical areas covered by this Goal.

7.0 Statewide Planning Goal Exception – OAR 345-021-0010 (1)(k)(C)(v)

OAR 345-021-0010 (1)(k)(C)(v) If the proposed facility might not comply with all applicable substantive criteria or applicable statewide planning goals, describe why an exception to any applicable statewide planning goal is justified, providing evidence to support all findings by the Council required under ORS 469.504(2); and

As discussed above, the Project's solar generation facilities would permanently occupy more than 12 acres of high-value farmland (high-value farmland due to the AVA designation per ORS 195.300(10)(f) only) and 20 acres of arable land (Figures K-6 and K-8). Pursuant to OAR 660-033-0130(38), siting of the Project's solar generation facilities requires an exception to Statewide Planning Goal 3. This exception is justified under ORS 469.504(2), which provides the controlling criteria for exceptions that are proposed for energy facilities under the jurisdiction of the Council. The Applicant demonstrates that an exception to Statewide Planning Goal 3 is justified for the Project in this section. If the Project is approved by Council, pursuant to ORS 469.504(7), the county shall amend its comprehensive plan to reflect the decision of Council on the Project Goal 3 exception on or before its next periodic review. The county must do so consistent with the findings and conditions of the site certificate, and the county may not impose additional substantive review criteria or process requirements when incorporating the Council's Goal 3 exception decision into the comprehensive plan. However, coordination with the Department of State Lands for the Bakeoven Solar Project Goal 3 exception resulted in the following finding as approved by the Council¹³:

"While the county is statutorily obligated to comply with ORS 469.504(7), during drafting of this order, the Department consulted with DLCD staff and Wasco County Planning Department and received preliminary input that the agencies question the purpose and value of amending the comprehensive plan to reflect the goal exception taken by the State,

¹³ Final Order on Application for Site Certificate Bakeoven Solar Project, April 24, 2020, Page 116.

when there is no substantive review that would occur nor any subsequent review of goals and policies as a result of reflecting the goal exception in the county comprehensive plan. Based on this analysis and reasoning, the Council imposes the following condition, which includes an opportunity for the Department, in consultation with staff from the Oregon Department of Land Conservation and Development and Wasco County Planning Department, to waive the condition requirements if determined to represent a non-substantive, process with limited value to local land use planning.”

Per ORS 469.504(2), an exception may be taken on any of three grounds:

- That the land is “physically developed to the extent that the land is no longer available for uses allowed by the applicable goal”;
- That the land “is irrevocably committed … to uses not allowed by the applicable goal”; or
- That certain standards are met because the facility is compatible with existing adjacent uses and other relevant factors are met; or what is referred to as a “reasons” exception.

The solar siting area is not “physically developed” or “irrevocably committed” within the meaning of the rule. Therefore, the Project’s justification for an exception to Statewide Planning Goal 3 is demonstrated 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.

For purposes of the Goal 3 exception analysis, the Applicant analyzes the acreage footprint within the solar siting area (1,896 acres).

7.1 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;

The state policy embodied in Goal 3 is the preservation and maintenance of agricultural land for farm use. As discussed in Section 5.0, OAR 660-033-0120 allows photovoltaic solar power generation facilities on agricultural land, subject to certain conditions. These conditions limit a photovoltaic solar power generation facility from using more than 12 acres of high value farmland or more than 20 acres of arable soil. Therefore, it is the size of the solar generation facility and not the proposed use that requires an exception be taken.

As discussed further below, the Project’s solar facility will not result in significant adverse impacts on accepted farm practices for surrounding agricultural lands. Moreover, as discussed in Section 4.4.1 of this exhibit, the Project is consistent with the Agricultural policies in the UCCP, which implements the statewide planning goals. Oregon’s Statewide Planning Goals express the state’s policies on land use, which are implemented through the adopted comprehensive plan and the zoning ordinances of the local cities and counties. Statewide Planning Goal 13 encourages local land use plans to consider “as a major determinant the existing and potential capacity of the renewable energy sources to yield useful energy output” and calls for land conservation and development

actions to “whenever possible [...] utilize renewable energy sources” (see Goal 13, planning guideline No. 5). The UCCP is consistent with the Statewide Planning Goals, and UCCP Chapter 16: Energy Conservation, has several policies that mirror the planning and implementation guidelines stated under Statewide Planning Goal 13, including acknowledging that “[e]scalating cost of depleting nonrenewable energy sources make renewable energy source alternatives (e.g. solar, wind) increasingly more economical, and help conserve existing energy supplies.”

In addition to responding to the County’s need for development of renewable energy to conserve existing energy supplies, the Project’s solar energy generation facilities respond to the State’s RPS, which requires 50 percent of Oregon’s electric load to be sourced from new renewable energy by 2040. The Project will provide approximately 260 MW of renewable solar generated energy and 340MW of renewable wind generated energy, and thus assist the State of Oregon with its mandate to meet the RPS. The Applicant plans to respond to requests for proposals from Oregon utilities if and when available.

Besides the Project being consistent with and implementing local and state energy policies above, the following reasons justify removing approximately 1,896 acres from commercial agricultural use within the solar siting area temporarily (long-term lease), consistent with energy policies of importance within the county and across the state and region.

Minimal Impact to Agriculture

Minimal Direct Loss of Agricultural Land. The removal of the solar siting area would result in only minimal direct loss of agricultural land. Because irrigation is not available for the solar siting area, the land is cultivated as winter wheat. The solar siting area would temporarily remove up to approximately 1,896 acres of dryland winter wheat. According to the U.S. Department of Agriculture (USDA) 2017 Census of Agriculture, this is approximately 0.1 percent of the total acres of land in farms in Umatilla County (1,352,241 acres), and equivalent to 0.2 percent of total cropland (815,962 acres) and 0.5 percent of acres harvested (406,088 acres) in 2017 (USDA 2019). Based on data from the Oregon Department of Agriculture and the USDA, dryland wheat harvest totals in Umatilla County were approximately 223,500 acres and 227,300 acres in 2018 and 2019, respectively (USDA 2019; ODA 2021). Therefore, the removal of the solar siting area would result in an approximately 0.8 percent reduction of dryland wheat harvest within Umatilla County.

Even considering a study area smaller than Umatilla County, the impacts are minimal. The solar subject tracts, which include Tracts 3, 8, 11, and 14 (Figure K-6), total approximately 28,138 acres. Of this, the proposed 1,896-acre Goal 3 exception represents approximately 6.7 percent of the total area, and 9.1 percent of the total arable land within the subject tracts. Thus nearly 19,000 acres of arable land in the subject tracts would remain available for agricultural uses. While the Project would represent a larger percentage of the current dryland wheat area within the subject tracts (approximately 37.8 percent), it remains a much smaller percentage—approximately 2.5 percent—of the underlying landowner’s overall agricultural operations, which are not limited to the subject tracts and provides a more relevant scale for considering the impact (discussed further below).

Minimal Impact on Remaining Farm Operation. The solar siting area is owned by a single landowner, the Cunningham Sheep Company/Pendleton Ranches.¹⁴ In Umatilla County, the landowner owns approximately 75,000 acres of agricultural land, which is used primarily for ranching (about 60 percent) and dryland wheat (about 37 percent), with a small amount of alfalfa fields. The 1,896-acre Goal 3 exception represents a small portion, approximately 2.5 percent as noted above, of their total agricultural land. This reduction would not result in an adverse impact on the remaining agricultural operation of the landowner; to the contrary, the Project's lease payments would support investment in ongoing agricultural operations on more active land elsewhere in their portfolio, increasing the long-term viability of their overall farm operation. According to the landowner, the Project will not result in any loss of employees for their operations, and may actually add agricultural jobs to their current payroll. These lease payments are discussed in more detail below as part of the economic benefit discussion.

Minimal Impacts on Surrounding Agricultural Lands. The solar siting area is surrounded on nearly all sides, for approximately 95.5 percent of its perimeter, by landowners participating in the Project (Figure K-10). The participating landowners have no concern regarding their ability to continue agricultural activities outside of the solar siting area. The closest non-participating farmland property is adjacent to the solar siting area along approximately 0.5-mile of its western edge, approximately 123 feet apart on the opposite side of the paved Speare Canyon Road (County Road 1350) to the west. This is one of two property "cut-outs" in the Site Boundary that are otherwise surrounded by land within the site boundary (see Figure K-10). The land is cultivated, dryland, with no associated water rights according to data available from the Oregon Water Resources Department (2021). While this landowner¹⁵ is not participating in the Project, the Applicant has been in communication with the landowner as part of early Project development. Attachment K-1 includes a letter for the record from this landowner indicating that they have no concerns regarding the construction and operation of the solar facility across from their land and do not anticipate any impact to their farm practices, including any indirect increases in costs of their farm operations or a change in existing or anticipated farm practices.

As noted above, other than this single, approximately 150-acre parcel, the remainder of the solar siting area is surrounded by land owned by participating landowners, primarily the same landowner as the solar siting area—Cunningham Sheep Company/Pendleton Ranches—and one additional participating landowner adjacent to the east end of the solar siting area, Buttke Ranch, LLC. The land of these participating landowners around the solar siting area is non-cultivated and open for grazing to the north and east, with a small extent of dryland wheat along the south side (Figure K-10). The next-closest non-participating

¹⁴ The solar siting area includes portions of tax lots with owners recorded by Umatilla County as Cunningham Sheep Company, Pendleton Ranches, Inc., and Mud Springs Ranches. Each of these entities are controlled by a single landowner family.

¹⁵ The landowner is James Kirkham, recorded by Umatilla County as KIRKHAM STELLA 1/2 ETAL 1/2; CADBY MARY E & PAT L (TRS) 1/2 ETAL 1/2.

landowner¹⁶ is located approximately 0.5 mile to the east of the solar siting area, the second Site Boundary “cut-out.” This property is not currently cultivated, though could be used for grazing. The remaining non-participating farmland properties are all located outside of the external edge of the Site Boundary and range from 0.7 mile to over 7 miles from the solar siting area. All existing farming practices would continue without any significant changes or additional costs of farming as a result of the construction and operation of the solar facility. Attachment K-1 provides a letter from the primary participating landowner confirming that the Project would not hinder, and in fact would enable enhancements to, existing farming and ranching operations.

Practices for dryland wheat farming include the use of a fallow period in a crop rotation, terracing or contour plowing, eliminating weeds and leaving crop residue to shade the soil, cover cropping, and strip cropping. Some farmers use a no-till method in which the field is sprayed with an herbicide following harvest and crop stubble is left on the field during periods when the field is fallow. Establishment of field crops includes weed control, field preparation, seed bed preparation, fertilization, and seeding or planting of the crop. Herbicides may be applied prior to field cultivation where perennial weeds or a heavy sod are present. None of these typical practices would be affected by the construction and operation of a solar facility on a neighboring property, as discussed below.

Impacts from construction ground disturbance are limited to the direct footprint of the Project; any potential off-site soil impacts, including dust, are strictly controlled to comply with the NPDES 1200-C construction permit pursuant to the Project’s Erosion and Sediment Control Plan (ESCP) (see Attachment I-1 in Exhibit I). It is possible that limited dust generated by construction activities within the solar siting area could travel to neighboring properties. However, this is not expected to impact accepted farm practices or increase the cost of those practices for three main reasons:

- 1) Dust will be effectively controlled during construction to comply with the NPDES 1200-C permit, resulting in no or negligible dust on off-site land. Measures include but are not limited to:
 - a. Water trucks patrolling the site, as often as one pass per hour, wetting down disturbed and exposed soils, resulting in no or negligible dust on off-site land¹⁷;
 - b. Maintaining a tightly sequenced construction schedule, limiting the extent of exposed soils at any given time;
 - c. Applying hydromulch or other agriculture-safe tackifier on road shoulders, soil stockpiles, and other locations as appropriate;

¹⁶ The landowner is recorded by Umatilla County as Peterson, Homer W.

¹⁷ Water trucks will be used to control dust generation in all disturbed areas during road construction; foundation installation; turbine and transmission structure erection, and final cleanup, reclamation, and restoration. Depending on weather conditions, water trucks patrolling the site to control dust will make as many as one pass per hour, wetting down disturbed and exposed soils. Once site preparation work is complete, meaning all soil disturbance is completed and the site is ready for revegetation, dust control becomes minimal.

- d. Applying soil stabilization measures immediately on all disturbed areas as grading progresses and for all roadways, including graveling roadways;
- e. Avoiding grading work during high-wind conditions, e.g., 20-25 miles per hour wind speeds; and
- f. Requiring reduced speeds on construction access roads.

- 2) With the exception of one parcel, the solar siting area is surrounded by non-cultivated land with no farm practices to impact, owned by landowners participating in the Project; and
- 3) For the one non-participating parcel on the opposite side of County Road 1350, west of the solar siting area, the potential negligible level of dust from Project construction would be limited to a short-term, temporary period, the timing of which would be coordinated between the Applicant and landowner to further minimize any potential impact.

In addition, the following measures and reasons support a finding that granting the Goal 3 exception would have minimal impact on surrounding agricultural lands:

- Project access roads and other facilities will be constructed and maintained by the Applicant such that the cost burden for maintenance does not fall upon the farm or ranch owners.
- While some increase in traffic is anticipated during construction, Exhibit U demonstrates that the temporary increase in the level of traffic will not significantly impact the existing level of service on local roads. Therefore, construction traffic will not interfere with harvest time activities such as tractor movement between fields or trucks delivering agricultural products to market.
- The Project will not limit or impact current or future farm activities on the surrounding land and will not diminish the opportunity for neighboring parcels to expand, purchase, or lease any vacant land available for agricultural uses (see Attachment K-1).
- The Applicant will implement a weed control plan during construction and operation that will reduce the risk of weed infestation in cultivated land and the associated cost to the farmer for weed control (see Attachment P-4 to Exhibit P for weed prevention and control measures).
- Construction and operation of the solar facility will not affect the application of pesticides or fertilizers using ground-based methods or aerial spraying, to the extent this occurs or could occur in the future on surrounding lands.
- The Applicant will consult with area landowners during construction and operation of the Project to determine further measures to reduce or avoid any adverse impacts to farm practices on surrounding lands and to avoid any increase in farming costs.

Therefore, for all of the reasons outlined above, the impact of the solar facility would have a minimal impact on surrounding agricultural lands, and would not force a significant change in accepted farm practices or significantly increase the cost of farm practices on those lands.

Lack of Water Availability. The land within the solar siting area has no associated water rights, has no active or historic rights that have been canceled, and is not in an irrigation district (Figure K-6; OWRD 2021). There are also no irrigation water rights adjacent to the solar siting area (OWRD 2021). The closest water right is on one of the subject tracts, Tract 3; however, this is a right for livestock and fish and wildlife (Certificate 70939, Signed 1996). Current livestock operations occur outside of the solar siting area, and would not be inhibited by implementation of the Project. No wells or ponds are present within the solar siting area. While there is no known limitation to apply for a water right within the solar siting area, the landowner does not have any plans to do so at this time or for the foreseeable future. Moreover, the long-term loss of the land used for agricultural uses (approximately 1,896 acres) is insignificant when considering the other available agricultural land in Umatilla County, especially the irrigated land in the north end of the county that is irrigated by the Columbia, Umatilla, and Walla Walla rivers. In the Columbia Plateau region, the availability of water for irrigation is limited, but when available, irrigation typically leads to a substantial increase in the farming productivity of the land.

Local Economic Benefits

The solar energy facility will provide local economic benefits by varying means. The Project will have positive economic and social benefits by bringing additional revenue to local farmers and to the community by providing full-time jobs, construction jobs, compensation to landowners via commercial contracts including leases, improvements to the local road network, taxes, and community service fees. Because much of Umatilla County is EFU-zoned, these local economic benefits will largely support EFU zoning uses and agricultural uses.

Benefits to Landowners. Lease payments will supplement the landowner's agricultural income with predictable payments (see Attachment K-1). These payments stabilize their agricultural use by diversifying their income sources while not restricting their ability to operate the remaining portions of the parcels for the solar siting area as well as other surrounding lands and elsewhere in their ownership. The average price for winter wheat in Oregon in 2019 was \$5.73 per bushel (ODA 2021), which, based on agricultural budget information developed by Oregon State University, is less than the total production costs per bushel of \$6.09 to \$9.14 in 2019 dollars (OSU 2012). This leads to periods where the land may be operated at a loss. Ultimately, wheat prices fluctuate, as exemplified by the 2011-2019 period when average prices ranged from \$4.44 per bushel in 2016 to \$8.04 per bushel in 2012 (ODA 2021), affecting landowners' ability to predict net revenues and maintain their income level. Conversely, the lease payments will remain the same, providing a committed income source so that farmers may continue to farm the rest of their land. As confirmed by the landowner (Attachment K-1), the lease payments exceed the potential revenues from dryland wheat production.

Farmers often look for supplemental revenue or to subsidize their income, such as by enrolling portions of their land in the CRP. However, the CRP only typically applies to a parcel for 10 to 15 years. In addition, the CRP is currently authorized by legislation, is

legislatively reviewed and changes every 5 years, and is therefore susceptible to budget cuts or curtailment, making it less of a reliable source of revenue for farmers. Although the renewable energy leases are temporary, and thus are only a temporary change to the land use, they provide for a longer lease time of approximately 30 to 50 years, potentially three times longer than CRP enrollments. The landowner would maintain lands available for agricultural use and, based on lease payments from the Applicant, would receive a net benefit in revenue compared to the value of dryland wheat cultivation for at least 30 years, the current estimated life of the Project.¹⁸

The landowner has confirmed that their intent is to use the lease payments to continue to invest in agriculture and local ventures. Furthermore, the landowner anticipates that no agricultural jobs would be lost, and may be able to add agricultural sector jobs to their operation due to implementation of the Project. This is a benefit not only to the landowner but to the local agricultural economy. Moreover, the shift to Project use would not reduce the landowner's current agricultural operational spending with local suppliers and service providers given the remaining 97.5 percent of their operations (over 73,000 acres) that will continue with increased investment, avoiding any related indirect adverse economic impact. In fact, as described in Attachment K-1, the landowner expects to maintain or more likely increase operational spending with local agricultural suppliers and service providers as a result of lease payments from the Project.

Benefits Local Economy – Employment. The Project is anticipated to result in significant job creation during construction, with a peak of up to 500 workers directly employed on-site; conservatively assuming only 30 percent of those are hired locally, that would provide jobs for 150 local workers.¹⁹ Project-related spending would also support economic activity elsewhere in the local economy due to increases in supply chain purchases (indirect effects), as well as project-related spending by local households (induced effects). Spending by non-local workers temporarily relocating to the area would also support local economic activity. Recent estimates suggest that every direct job in energy construction in Oregon supports 0.69 secondary (indirect and induced) jobs elsewhere in the local economy (ECONorthwest 2021). Applying this ratio suggests that, during peak construction, approximately 345 secondary jobs would be supported elsewhere in the local economy. Once construction is complete, the Project will maintain 10 to 15 permanent full-time

¹⁸ A participating landowner, Cunningham Sheep Company, confirmed that the value of the lease payments from the Applicant for land that will be used for the Project will "substantially exceed revenues from the present dry land wheat farming" and will "be a net benefit in revenue compared to the value of dry land wheat cultivation." (Letter to ODOE dated March 15, 2021 [see Attachment K-1]).

¹⁹ This assumption is particularly conservative with respect to the solar workforce where local hires typically make up a larger share of the overall construction workforce. The 2018 National Solar Jobs Census, for example, profiles a construction firm that provides Engineering, Procurement, and Construction (EPC) contracting services for utility-scale PV solar projects, noting that the firm typically performs about 1 million labor hours for solar projects, with direct hires from local communities accounting for over 60 percent of the total work performed. Another utility-scale EPC firm cited in the 2018 National Solar Jobs Census indicated that 90 percent of the construction workforce for an 80 MW project is typically hired from the local community (The Solar Foundation 2018).

positions, generating employment income and associated indirect and induced economic benefits over the life of the Project.

Umatilla County was identified as an economically distressed area by the Oregon Business Development Department in its most recent annual list, published December 31, 2020 (Business Oregon 2021a). Distressed areas are identified using an index calculated using four composite factors: unemployment rates, per capita income, changes in the average covered payroll per worker, and changes in total employment (Business Oregon 2021a). In 2019, the estimated poverty rate was 14.5 percent in Umatilla County compared to a statewide average of 11.4 percent (U.S. Census Bureau 2021). Like other counties and communities in Oregon, unemployment increased sharply in April and May 2020 as a result of the pandemic. Monthly unemployment rates have since dropped but continue to be higher than pre-pandemic rates (Oregon Employment Department 2021). Increased economic activity, as discussed above, would provide direct employment for local workers as well as support jobs elsewhere in the local and regional economy.

Moreover, the wages for jobs related to the solar facility would provide a valuable opportunity in Umatilla County. Estimated mean hourly and annual wages for solar construction occupations in Oregon are summarized by labor discipline in Table K-3. Estimated mean hourly wages in May 2020 ranged from \$21.59 for construction laborers to \$52.85 for construction managers. The mean annual wages shown in Table K-3 are all higher than the average annual wage for Umatilla County, which was \$42,784 as of 2019 (BEA 2020). These data include wages and salaries only and do not include paid benefits.

Table K-3. Estimated Mean Hourly and Annual Wages by Solar Construction Occupation in Oregon

SOC Code ^{1/}	Labor Discipline	Mean Hourly Wage ^{2/}	Mean Annual Wage ^{2/}
11-9021	Construction Managers	\$52.85	\$109,930
47-1011	First-Line Supervisors of Construction Trades and Extraction Workers	\$37.42	\$77,820
47-2061	Construction Laborers	\$21.59	\$44,920
47-2073	Operating Engineers and Other Construction Equipment Operators	\$29.14	\$60,610
47-2111	Electricians	\$36.56	\$76,040
47-2231	Solar Photovoltaic Installers	\$27.78	\$57,790
47-4011	Construction and Building Inspectors	\$35.13	\$73,060
53-3032	Heavy and Tractor-Trailer Truck Drivers	\$23.98	\$49,880

Notes:

SOC = standard occupational classification

1. Data are for May 2020, the most current data available.
2. These wage estimates represent wages and salaries only, and do not include employee bonuses or nonwage costs to the employer, such as health insurance or employer contributions to retirement plans.

Source: BLS 2021b

Data compiled by the U.S. Bureau of Labor Statistics (BLS) (2021a) indicate that paid benefits to workers in the construction sector averaged \$12.38 per hour in June 2021 and accounted for 30 percent of total compensation, with wages and salaries accounting for the remaining 70 percent. This estimated average includes paid leave, supplemental pay, insurance, retirement and savings, and Social Security, Medicare, and unemployment insurance.

Following construction, one to two full-time operational staff directly employed by the Applicant may be dedicated to the solar facility. The Applicant anticipates additional work to be completed by a variety of third-party service providers. Estimated mean hourly wages for solar technicians would be \$29.14 per hour (Table K-3). The mean hourly wage for office and administrative support occupations was \$20.76 per hour in Oregon in May 2020. Mean hourly wages for management occupations and power plant operators range from \$49.22 to \$53.74 (BLS 2021b).

Total employee compensation paid to operation workers will include wages and salaries as well as benefits such as health insurance and retirement plans. Paid benefits composed 31 percent of total compensation for civilian workers in June 2021 (BLS 2021a).

Benefits to Local Economy – Government and Agricultural Sector. The proposed solar energy facility would generate significant economic benefits for Umatilla County, and ultimately the overall agricultural sector. As noted in ODOE's memorandum dated October 6, 2021, local economic benefits associated with a proposed solar facility typically include lease payments to underlying landowners (discussed above), direct economic benefits to local governments, and various other direct and indirect benefits to the local economy. The following assessment estimates the direct benefits to local governments that would be generated in the form of property tax revenues. The Project has not entered into any property tax agreements to date and the assessment therefore considers a range of possible property tax scenarios.

Background on Renewable Energy Incentives

The following discussion provides an overview of two types of renewable energy incentives that are available for renewable energy projects in Umatilla County: the Strategic Investment Program (SIP) and the Fee in Lieu of Property Taxes for solar projects program.²⁰

Strategic Investment Program

The SIP is a state-administered program that offers a 15-year property tax exemption on a portion of large capital investments. To qualify, a project must serve a "traded sector" industry, which is defined by Oregon law as an industry in which "member firms sell their goods or services into markets for which national or international competition exists"

²⁰ A third type of renewable energy incentive is offered in Oregon through the Rural Renewable Energy Development (RRED) Zone program. RRED Zones are a type of enterprise zone that offer a tax exemption incentive to encourage new investments in renewable energy (Business Oregon 2021a). The Project is not located in an RRED Zone and this program is not discussed further here.

(Business Oregon 2021b). Renewable projects are an accepted industry for the SIP. To qualify for the exemption, a project must either receive local approval through a negotiated agreement between the project owner and the affected local government, or be located in a pre-established Strategic Investment Zone (SIZ).²¹

The property tax exemption applies to the portion of the project's real market value that exceeds an initial taxable portion. In non-rural areas, the initial taxable portion is \$100 million. In rural areas, the initial taxable portion depends on the size of the investment, as shown in Table K-4. Following approval, the taxable portion increases 3 percent per year until the abatement ends after 15 years. In order to qualify, the overall project cost must be at least \$25 million in a rural area and \$100 million in non-rural areas.

Table K-4. Initial Amount of Investment Subject to Property Taxes in Rural Areas

Total Investment Costs	Initial Taxable Portion
Up to \$500 million	\$25 million
From \$500 million to \$1.0 billion	\$50 million
Greater than \$1.0 billion	\$100 million

Under the SIP, the project pays property tax on the initial taxable portion of the assessed value. In addition, the project pays a community service fee equal to 25 percent of foregone tax (up to \$2.5 million) and may also make additional payments as negotiated with the county. The amount of tax savings provided by the SIP depends on the terms of the agreement negotiated between the project and the affected local government, specifically the amount of additional payments, if any. Past examples of SIP agreements negotiated for renewable energy projects have included a minimum payment per MW that includes the required property tax and community service fee payments, as well as an additional payment to the local government. In these cases, the negotiated additional payment amount is the difference between the total per MW payment and the required property tax and community service fund payments.

Property taxes paid on the taxable portion are distributed to the local taxing districts with property tax authority in the code area or areas where the project is located.²² The community service fee payment and any negotiated amounts are distributed based on agreements between the county and local taxing districts.

The Project is anticipated to enter into a SIP agreement with Umatilla County, but this has not yet been negotiated. Umatilla County does not have a designated SIZ (Business Oregon 2021b).

²¹ SIZs are designed to provide a more streamlined local process. There are currently three SIZ in Oregon: Gresham SIZ #1, Clackamas Rural SIZ #1, and Clackamas Urban SIZ #2 (Business Oregon 2021b).

²² Individual government units with property tax authority in Oregon, include counties, cities, school districts, hospitals, libraries, and fire districts. These government units, known as taxing districts, combine to form tax code areas, which represent unique combinations of overlapping taxing districts.

Fee in Lieu of Property Taxes for Solar Projects

In 2015, the Oregon legislature passed an act temporarily authorizing counties to enter into a Fee in Lieu of Property Taxes agreement with solar project owners. Under this type of agreement, a solar project may be exempt from property taxes for up to 20 years, contingent on the annual payment to the county of a flat fee of \$7,000 per MW of nameplate capacity (Business Oregon 2021c). This program cannot be used if the project is approved for another type of exemption (e.g., a SIP or RRED zone). Initially set to expire in January 2022, the passage of Oregon Senate Bill 154 (effective September 25, 2021) extended the expiration date to January 2028 and also modified the fee amount from \$7,000 per MW per year to a range of \$5,500 to \$7,000 per MW (ODOE 2021).

The Project does not anticipate entering into a Fee in Lieu of Property Taxes agreement with Umatilla County.

Nolin Hills Property Tax Comparison

The following assessment compares the tax benefits of a 260-MW solar facility in Umatilla County under three different property tax scenarios: a base case with-Project scenario, which assumes no tax abatement, and two potential SIP scenarios (low and high). Estimates are also provided for a without-Project scenario, which assumes that the solar facility is not developed. These are estimates for the purposes of comparison only. The assessment is based on the following assumptions:

- The Project has an initial assessed value of \$260 million based on an estimated installed cost of \$1 million per MW.
- Estimates are for a 25-year operating life. Assessed values for the with-Project scenarios are assumed to depreciate over this period, with the Project depreciating to 20 percent of its original value by Year 25. Assessed values for the without-Project scenario are assumed to increase at a rate of 3 percent per year.²³
- The Project is located in Umatilla County Tax Code Areas 1627 and 504. Tax estimates are based on the 2021-2022 millage rates for the applicable tax code areas.²⁴
- Tax revenues for the with-Project scenarios are estimated using a weighted mill rate based on the share of total acres in each tax code area.²⁵ For the without-Project scenario, tax revenue estimates are based on the current assessed values and mill rates by tax code area.

²³ Statewide Measure 50, passed in 1997, limits the annual growth in assessed value to 3 percent of the existing value.

²⁴ Tax Code Area 1627 includes 12 taxing districts with a combined levy or millage rate of 0.0126525 for the 2021-2022 tax year. Tax Code Area 504 includes 14 taxing districts. The combined levy or millage rate for these districts was 0.0139008 for 2021-2022 (Umatilla County 2021a). Millage rates are expressed as a dollar amount per \$1,000 assessed value. A rate of 1 mill, for example, imposes tax at a rate of \$1 per \$1,000 of assessed property value.

²⁵ The majority of the 1,896-acre solar siting area (1,683 acres; 89 percent) is located in Tax Code Area 1627, with the remaining (213 acres; 11 percent) located in Tax Code Area 504. These relative shares were used to develop a weighted mill rate for the purposes of analysis for the with-Project scenarios.

- The SIP assessment assumes the taxable portion of the project is \$25 million and increases 3 percent per year until the abatement ends after 15 years.
- Two SIP scenarios are assessed to capture the range of potential impacts:
 - The low SIP scenario assumes project payments are equal to property taxes payable on the taxable portion of the assessed value and required community service fee payments.
 - The high SIP scenario assumes a negotiated minimum payment of \$7,000 per MW that includes property tax, community service fee payments, and additional payments.

The results of this assessment are summarized in Table K-5 and Figure K-11. Total estimated payments to Umatilla County under the two SIP tax abatement scenarios would be approximately \$25.7 million (low SIP) to \$39.0 million (high SIP) over the 25-year operating life of the Project. These estimates assume that the Project negotiates a SIP agreement with Umatilla County. If a SIP is not negotiated with the county, total estimated payments to Umatilla County under the base case with-Project scenario would be substantially higher, approximately \$49.9 million over the 25-year life of the project. Under the without-Project scenario, the four tax parcels that encompass the solar siting area would generate an estimated \$0.35 million in property tax revenues over the next 25 years (Table K-5, Figure K-11).

Table K-5. Estimated Tax Benefits by Scenario (in millions of dollars)

Years	Without Project	With Project		
		Base Case	Low SIP	High SIP
1 to 5	0.05	15.5	5.2	9.1
6 to 10	0.06	12.8	4.7	9.1
11 to 15	0.07	9.9	4.2	9.1
16 to 20	0.08	7.2	7.2	7.2
20 to 25	0.09	4.4	4.4	4.4
Total	0.35	49.9	25.7	38.9

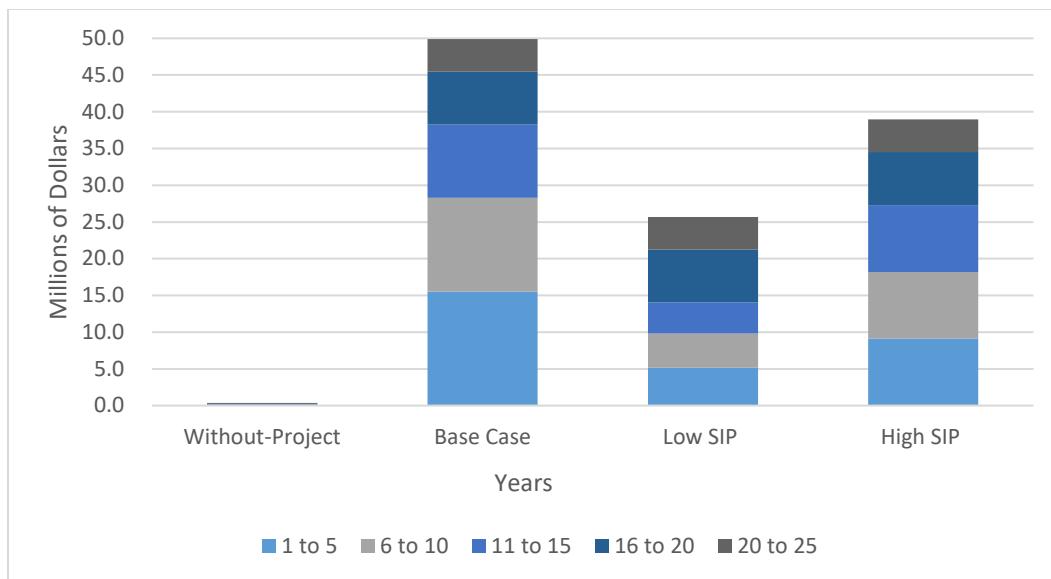


Figure K-11. Estimated Tax Benefits by Scenario (in millions of dollars)

Estimates are presented for two SIP scenarios to provide a range of potential tax payments that could occur under a SIP agreement. This range represents the uncertainty surrounding the amount of additional payments, if any, that would be negotiated with Umatilla County. The low SIP scenario assumes that payments would be equal to property taxes on the taxable portion of the assessed value and the required community service fee payments, with no additional payments. The high SIP scenario assumes a minimum negotiated payment of \$7,000 per MW. This upper threshold is based on the Fee in Lieu of Property Taxes for solar projects program, which, as discussed above, allows solar projects to be exempt from property taxes for up to 20 years contingent on an annual payment of \$5,500 to \$7,000 per MW (Business Oregon 2021c; ODOE 2021).

Property tax paid under all three with-Project scenarios (base case and low and high SIP) would represent a significant economic benefit to Umatilla County when compared to the without-Project scenario, as shown in Table K-5 and Figure K-11. The combined 2021-2022 tax due for the four parcels that encompass the solar project site is \$9,472, with almost half (49 percent) of this total due to improvements on one of the parcels (Umatilla County 2021b). These improvements, which include a home and farm buildings, are located outside the solar siting area and would not be affected by the Project. The estimated total property tax for the without-Project scenario (\$0.35 million) includes the value of these improvements.

Distribution of Estimated Tax Revenues

The Project would generate significant revenues under all three evaluated scenarios, but total revenues could be distributed differently under a SIP agreement relative to the base case and without-Project scenarios. In the base case and without-Project scenarios, payments would be made to the taxing districts that comprise Tax Code Areas 1627 and 504

in accordance with their established levies (which combined make up the millage rate for each area). This would also be the case for the payments on the taxable portion of the assessed value under a SIP agreement. In contrast, community service fee payments and any negotiated amounts would be distributed based on agreements between the county and local taxing districts.

The following discussion assumes that estimated tax revenues that would be generated under all three with-Project scenarios would be generally distributed in accordance with the established levies for Tax Code Areas 1627 and 504. The taxing districts that make up each tax code area may be grouped into three broad categories: education, government, and non-limited (Umatilla County 2021a).

Payments to the taxing districts that make up each tax code area would provide revenue for education and local government, as well as local bonds. The primary education recipients of Project-related property tax revenues would be local school districts, primarily the Pendleton School District and also the Echo School District, as well as the Intermountain Education Service District and Blue Mountain Community College (BMCC).²⁶ A recent news report suggests that BMCC has experienced reductions in enrollment over the past decade and presently faces a budget crunch (Sierra 2021). Property tax revenues from the Project would provide a small but stable source of additional income to BMCC in the future. BMCC offers a variety of associate degree and certificate options for agricultural business, agricultural production (general, crops, or livestock), precision irrigated agriculture, farm management, and veterinary assistance (BMCC 2021).

The Umatilla County General Fund would receive the largest share of the increased government revenues generated by the Project. Activities that are financed by the general fund include law enforcement, public health, land use planning, assessment and taxation, juvenile services, and general administration. Property tax revenues, including payments in lieu of taxes, made up \$18.7 million or approximately 15 percent of total budgeted general fund resources for Fiscal Year 2021-2022 (Umatilla County 2021c). The estimated revenues paid to the general fund under all three with-Project scenarios would make a substantial contribution to the general fund and related activities.

Other government units that would receive Project-related property tax revenues include the Echo Fire Department, which provides wildland and structural firefighting services, emergency medical care, and first response to motor vehicle crashes within its jurisdiction. The Echo Fire Department covers an area of about 490 square miles that includes agricultural land uses, CRP land, as well as grass and sagebrush (Echo Fire Department 2021). Increased funding for the Echo Fire Department could indirectly benefit agricultural activities through the provision of additional funds for wildland firefighting. Indeed, as Oregon continues to see an increase in the frequency and severity of wildfires, the value of

²⁶ Oregon uses a formula to ensure financial equity among school districts, with each school district receiving an allocation per student in combined state and local funds. This distribution formula requires that any increase in property tax revenues be offset by a decrease in state funding (McNamara n.d.).

increased funding to the Echo Fire Department for the protection of agricultural land can be seen as an important benefit to the agricultural sector.

In addition, the Umatilla County Special Library District; the County Radio District, which provides voice and data communication services for first responders; and the Port of Umatilla, which supports grain cargo transport and trade for the agricultural sector (Umatilla Morrow Radio & Data District 2021; Umatilla County 2021a) would receive Project-related revenue. As noted above, Project-related revenues would represent an important new source of funds that would otherwise not be available to these government units.

Conclusion

The analysis above demonstrates that the Project's solar facility will contribute tax dollars to Umatilla County and provide a local economic benefit, which includes support for the sustainable continuation of the local agricultural economy. The local economic benefit under all three of the with-Project scenarios (base case, low SIP, and high SIP) would be significant, as presented above. Estimated tax revenues over the 25-year operating life of the Project would range from approximately \$25.7 million (low SIP) to \$49.9 million (base case), with an estimated \$39.0 million for the high SIP scenario (Table K-5, Figure K-11). In all cases, these estimates are significantly higher than the estimated property tax revenues (\$0.35 million) that would be generated over the same period if there was not a solar facility.

Locational Dependency

Lack of Alternatives that Have Less Impact to Agriculture. The solar siting area is the only contiguous area (i.e., consolidated without large non-buildable gaps) of sufficient size for a 260-MW solar facility (i.e., at least 1,896 acres as proposed) with a grade of less than 10 percent that is present on the subject tracts. Therefore, there are no other feasible sites located on the subject tracts. The subject tracts include Tracts 3, 8, 11, and 14 as outlined on Figure K-6.1.

Considering the full Project Site Boundary, the solar siting area is one of three contiguous areas at least 1,896 acres in size with less than 10 percent slope. However, the other two contiguous areas of sufficient size and slope in the Site Boundary are also located on arable soils and include existing dryland agricultural operations, and therefore do not provide alternative sites that avoid arable land or provide less impact to agriculture.

Therefore, the Applicant selected the area best suited to allow continuation of existing commercial farm use through the most efficient use of land and least number of acres impacted within the Site Boundary. This is achieved by co-locating the solar siting area with the northern Project substation, thus eliminating the need for additional collection and transmission lines for a site farther away, resulting in fewer impacts to farmland and potential division of farm fields. In contrast, the alternative solar siting area at the southern end of the Site Boundary would require more transmission infrastructure while not providing any beneficial avoidance of Goal 3 lands. The southern site would also result in

potentially greater high-quality habitat (Category 1) impacts within the Site Boundary in order to connect to the northern Project substation. The other alternative location, located in the western portion of the Site Boundary, includes lands that are classified as high-value farmland based on ORS 195.300(10)(C) due to place of use water rights. While the relevant water right was canceled in November 2018²⁷, the ORS definition is based on water rights in place as of June 28, 2007 (“*Land that is in an exclusive farm use zone or a mixed farm and forest zone and that on June 28, 2007, is: (A)Within the place of use for a permit, certificate or decree for the use of water for irrigation issued by the Water Resources Department;*”). Therefore, the Applicant identified this location as having a greater extent of high-value farmland than the proposed solar siting area, where no existing or canceled water rights are present. As a result, this location does not provide a comparative Goal 3 benefit to the proposed solar siting area.

Proximity to Transportation Network. The solar siting area is located directly off of an existing road providing access to the local and regional transportation network for transportation of equipment, components, and construction and operations workers. Specifically, the solar siting area is located directly off of Speare Canyon Road/Coombs Canyon Road (County Road 1350) and additional existing unnamed local roadways cross the solar siting area. County Road 1350 directly connects to US-395, which has been identified by the Applicant as a primary transportation route for the Project. The location of the solar siting area therefore eliminates the need to construct major new access routes to connect with the regional transportation network, as well as minimizes the need for new access roads within the solar siting area. As a result of this proximity to existing roadways and the larger transportation network, the ability for materials and workers to reach the solar siting area is more efficient, less costly, and less impactful to the environment than another site that lacks similar existing access and would require substantially greater roadway construction.

Avoidance of Irrigated Agriculture. The solar siting area avoids any impacts to irrigated agricultural land or irrigation infrastructure. The closest irrigated farmland to the solar siting area is approximately 0.9 mile to the north, near the Umatilla River. This is a conservative estimate based on the presence of irrigation water rights and cultivated land, but no central irrigation pivot. The closest irrigation pivots are just over a mile from the solar siting area, with the bulk of similar irrigated central-pivot farmland over 3.5 miles from the solar siting area to the north/northwest. Additional clusters of irrigated farmland are over 8 miles to the east toward Pendleton and over 10 miles to the southeast near Pilot Rock.

As noted earlier, there are no other sites within either the underlying subject tracts for the solar siting area or the full Site Boundary that would both be feasible for the solar facility and impact less arable land. Outside of the Site Boundary, other potentially solar-suitable

²⁷ The water right, permit number G-15287, was canceled on November 7, 2018. The permit allowed for two wells for irrigation of 1,199 acres between March 1 through October 31 with a maximum water draw cumulative total between the two wells of 15.0 cubic feet per second.

sites near wind-suitable sites would also have similar agricultural impacts to the proposed solar siting area. Where large, flat areas are interspersed with hill ridges in central-west Umatilla County, those flat areas are also arable and often in active agricultural use and subject to Goal 3 requirements. The southern portion of Umatilla County has more steep slopes and/or denser tree coverage, which could be potentially viable for wind energy but not solar generation facilities, and the northern section of Umatilla County is devoted to a larger degree to irrigated agriculture and urbanized uses, which would lead to greater impacts from a wind and solar energy facility. Thus, the proposed solar siting area is best suited to avoid impacts to irrigated agriculture, keep impacts to arable land the same or less than any reasonably comparable site in central-west Umatilla County, and simultaneously support integration with the proposed wind facility for an efficient use of land that provides a valuable source of clean renewable energy.

Minimal Impacts to Other Environmental Resources

The solar siting area was selected, in part, to avoid sensitive environmental features, including Washington ground squirrel habitat, Federal Emergency Management Agency 100-year floodplains, U.S. Fish and Wildlife Service–designated critical habitat, ODFW–designated big game winter ranges, and any National Hydrography Dataset or National Wetland Inventory-mapped wetlands or waters. This area, encompassing the full 1,896-acre Goal 3 exception request, is the relevant location for minimizing impacts to other environmental resources as a supporting reason for the Goal 3 exception.

In the October 6, 2021 memorandum to the Applicant, ODOE noted that the Applicant's Goal 3 exception request would also apply to proposed access roads and transmission line routes that intersect with CRP fields, and therefore ODOE suggested the Applicant provide evidence of the absence of sensitive environmental resources at not only the solar siting area but also at the transmission line routes and other transportation routes.

The Applicant respectfully disagrees that the Goal 3 exception request would apply to the proposed access roads located outside the solar siting area or to the proposed transmission line route. Access roads outside the solar siting area are either associated with the wind facility or with one of the transmission line routes. The wind facility and both the UEC Cottonwood and Bonneville Power Administration Stanfield transmission line options do not fall under the definition of "photovoltaic solar power generation facility" per OAR 660-033-0130(38)(f) but rather fall under their own land use definitions of "wind power generation facility" (subject to OAR 660-033-0130(37)) and "Utility facilities necessary for public service, including associated transmission lines as defined in ORS 469.300" (subject to OAR 660-033-0130(16)). The Project's need for a Goal 3 exception is due to the acreage standards under OAR 660-033-0130(38), which is specific to a "photovoltaic solar power generation facility." In contrast, the land use criteria under OAR 660-033-0130(37) address the requirements for siting a wind power generating facility on Agricultural Lands and OAR 660-033-0130(16) addresses the requirements for siting "utility facilities necessary for public service, including associated transmission lines" on Agricultural Lands. The Project's wind power generation

facility meets the standards under OAR 660-033-0130(37), and the Project's two proposed transmission line routes meet the standards under ORS 215.274 and .275, and OAR 660-033-0130(16) as evidenced in Section 4.3 of this exhibit. Therefore, a Goal 3 exception is not required for the wind power generating facility or for the transmission lines or for the access roads associated with each use. Rather, the Goal 3 exception area is appropriately identified as the 1,896-acre solar siting area, and its avoidance of sensitive environmental features and thus minimal impacts to other environmental resources should be considered a supporting reason to grant a Goal 3 exception.

In addition to the types of resources noted above that would be avoided, the solar siting area avoids all designated Goal 5 resources. Goal 5 resources are those protected under the county's comprehensive plan or implementing ordinances. The Umatilla County Comprehensive Plan (Umatilla County 2017) addresses the 14 statewide planning goals adopted by the State of Oregon. Umatilla County conducted a detailed Goal 5 resource analysis in an accompanying Comprehensive Plan Technical Report, last amended in 1984 (Umatilla County 1984). In Section D of the Technical Report, Umatilla County provides analysis and reference maps for a wide range of Goal 5 resources. None of the identified Goal 5 resources overlap the solar siting area or occur on adjacent lands. As shown on Figure K-2, no overlay zoning districts related to Goal 5 resources are present in the solar siting area. Therefore, no Goal 5 resources protected by Umatilla County's Comprehensive Plan are within the solar siting area. This further supports a "reasons" exception is appropriate for the proposed Project.

7.2 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;

When considering the environmental, economic, social, and energy consequences, the Council may take into consideration factors that are also considered under several of the Council's review standards already.

Environmental. The Project's environmental consequences are discussed primarily in Exhibit I (Soils), Exhibit J (Wetlands), Exhibit L (Protected Areas), Exhibit P (Fish and Wildlife), Exhibit Q (Threatened and Endangered Species), Exhibit R (Scenic Resources), and Exhibit S (Cultural Resources). These exhibits demonstrate that the Project will not cause significant adverse environmental consequences. Indeed, by and large, the Project has been designed to and will avoid impacts to such resources altogether. The Applicant will mitigate for any unforeseen impacts to wildlife habitat based on habitat categorization, in accordance with ODFW policy (see Exhibit P). The Applicant does not anticipate any significant adverse impacts to soils, wetlands, protected areas, water resources, threatened and endangered species, scenic and aesthetic resources, and

historic, cultural, and archaeological resources from the Project. The Project will comply with all anticipated Site Certificate conditions for these resources.

The region has warmed nearly 2 degrees Fahrenheit since 1900 because of increased greenhouse gas emissions (Dalton et al. 2017). This warming includes warmer waters that affect both river and coastal ecosystems, threatening salmon runs and other important marine and freshwater species.

Additionally, in eastern Oregon, large mountain areas have been hit by mountain pine beetle infestations, wildfires, or both, causing widespread shifts in forest ecosystems (Dalton et al. 2017). A mission of Oregon's Climate Action Plan (Executive Order 20-04) is to achieve a reduction in greenhouse gas emissions levels to at least 45 percent below 1990 emissions levels by 2035 at least 80 percent below 1990 emissions levels by 2050. One of the measures identified to accomplish this is through supporting clean energy resources. Therefore, the solar energy generation facility may contribute to the reduction of greenhouse gas emissions, which thereby may result in a beneficial environmental impact.

Social. The Project's social consequences will not be adverse. When considering the social consequences, the Council takes into consideration factors such as access and impact to resources of importance to the public such as protected areas, recreation, cultural resources, and scenic areas. The Council also takes into consideration impacts to public and community services. Exhibit L demonstrates that the Project will not adversely impact protected areas within the analysis area and, similarly, Exhibits R, S, and T demonstrate the same for scenic resources, cultural resources, and recreation, respectively. Exhibit U demonstrates that the solar array will not result in adverse impacts on public or community services such as health care, education, housing, water supply, waste disposal, transportation, or fire and safety.

Economic. When considering the economic consequences, the Council takes into consideration factors such as (1) any increased burden on public services, (2) benefits to the rural tax base, (3) job creation, and (4) revenue for area landowners. Exhibit U contains a discussion of the potential impacts on public services, including fire, safety, and transportation. It also provides information on job creation during construction and operation. As discussed above, the Project will create jobs and contribute income to Umatilla County. These benefits should be measured against the relatively small amount of agricultural activity that will be displaced by the solar energy facility. The Project will supplement farmers' income with lease payments and without significantly reducing the land base available for farming practices. As noted in Section 7.1, lease payments would provide a net benefit in revenue compared to the value of dryland wheat cultivation (see Attachment K-1). Exhibit W discusses retirement and restoration of the Project and demonstrates that no burden will be placed on the area landowners or the County because the Applicant is obligated to retire and restore the site and will have a financial assurance in place to guarantee such work.

Energy Consequences. The Project would provide a reliable renewable source of electricity consistent with state and local goals with no fuel cost and no associated emissions for at least 30 years. As discussed throughout this exhibit, the solar energy facility would not adversely affect any farming operations in the general area. There are no significant adverse economic consequences of constructing and operating the Project, as proposed.

7.3 Compatibility with Adjacent Land Uses

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.

Land uses adjacent to the solar facility are primarily devoted to agricultural uses, predominantly for the grazing of livestock and some additional dryland wheat cultivation as discussed above, and related accessory uses. The Project will be compatible with adjacent land uses for the following reasons:

- While some increase in traffic is anticipated during construction, Exhibit U demonstrates that the temporary increase in the level of traffic will not significantly impact level of service on local roads. During operation, traffic generated from the Project will generally be similar to traffic generated by adjacent land uses. A road use agreement will be negotiated with the County prior to construction. A component of the road use agreement will be a traffic management plan. The traffic management plan will address such issues as flagging, signage, and traffic flow around work sites on public roads; timing of oversize/overweight truck loads to avoid impacts. Therefore, both operational and construction traffic will not interfere with harvest time activities such as tractor movement between fields or trucks delivering agricultural products to market.
- The Applicant will record in the real property records of Umatilla County a “Covenant Not to Sue” against its Project leasehold interests with regard to generally accepted farming practices on adjacent farmland.
- The Project will not limit or impact current or future farm activities on the surrounding land and will not diminish the opportunity for neighboring parcels to expand, purchase, or lease any vacant land available for agricultural uses.
 - As noted earlier, the solar siting area is surrounded on 95.5 percent of its perimeter by landowners participating in the Project (Figure K-10). The participating landowners have no concern regarding their ability to continue agricultural activities outside of the solar siting area.
 - As detailed in Section 7.1, for both participating and non-participating landowners, existing farming practices would continue without any significant changes or additional costs of farming as a result of the construction and operation of the solar facility.
 - The landowner where the solar siting area is located, the Cunningham Sheep Company/Pendleton Ranches, plans to continue agricultural operations on their remaining lands (over 73,000 acres, or approximately 97.5 percent of their holdings), with no loss of agricultural employment or reduction in spending on local agricultural suppliers and service providers; therefore, no indirect adverse impact on the local agricultural economy and broader surrounding lands’ farm practices or costs of those practices.

- The Applicant will implement a weed control plan during construction and operation that will reduce the risk of weed infestation in cultivated land and the associated cost to the farmer for weed control (see Attachment P-4 to Exhibit P for weed prevention and control measures).
- The Project will not affect the application of pesticides or fertilizers using ground-based methods. Aerial spraying may be utilized for application of pesticides or fertilizers to crops within the Analysis Area.
- To avoid or reduce adverse impacts to soil quality, the Applicant will implement dust control and erosion-control measures during construction and operation of the Project (see Exhibit I).
- The Project will not use any water that would otherwise be used for irrigation (see Exhibit O).

The measures above are intended to avoid or minimize the impacts of the Project on farming operations in the Analysis Area, and to mitigate for necessary impacts. The Applicant will consult with area landowners during construction and operation of the Project to determine further measures to reduce or avoid any adverse impacts to farm practices on surrounding lands and to avoid any increase in farming costs. Therefore, with the implementation of control measures, the Project will be compatible with adjacent land uses.

8.0 Federal Land Management Plans – OAR 345-021-0010

(1)(k)(D)

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

These provisions do not apply. No portion of the area within the Project Site Boundary is located on federal lands.

9.0 Conclusion

For the reasons set forth above, there is substantial evidence upon which EFSC can find that the Project meets the applicable land use standard for approval of a Site Certificate.

10.0 References

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Figures (Maps)

EXHIBIT K: COMPLIANCE WITH STATEWIDE PLANNING GOALS

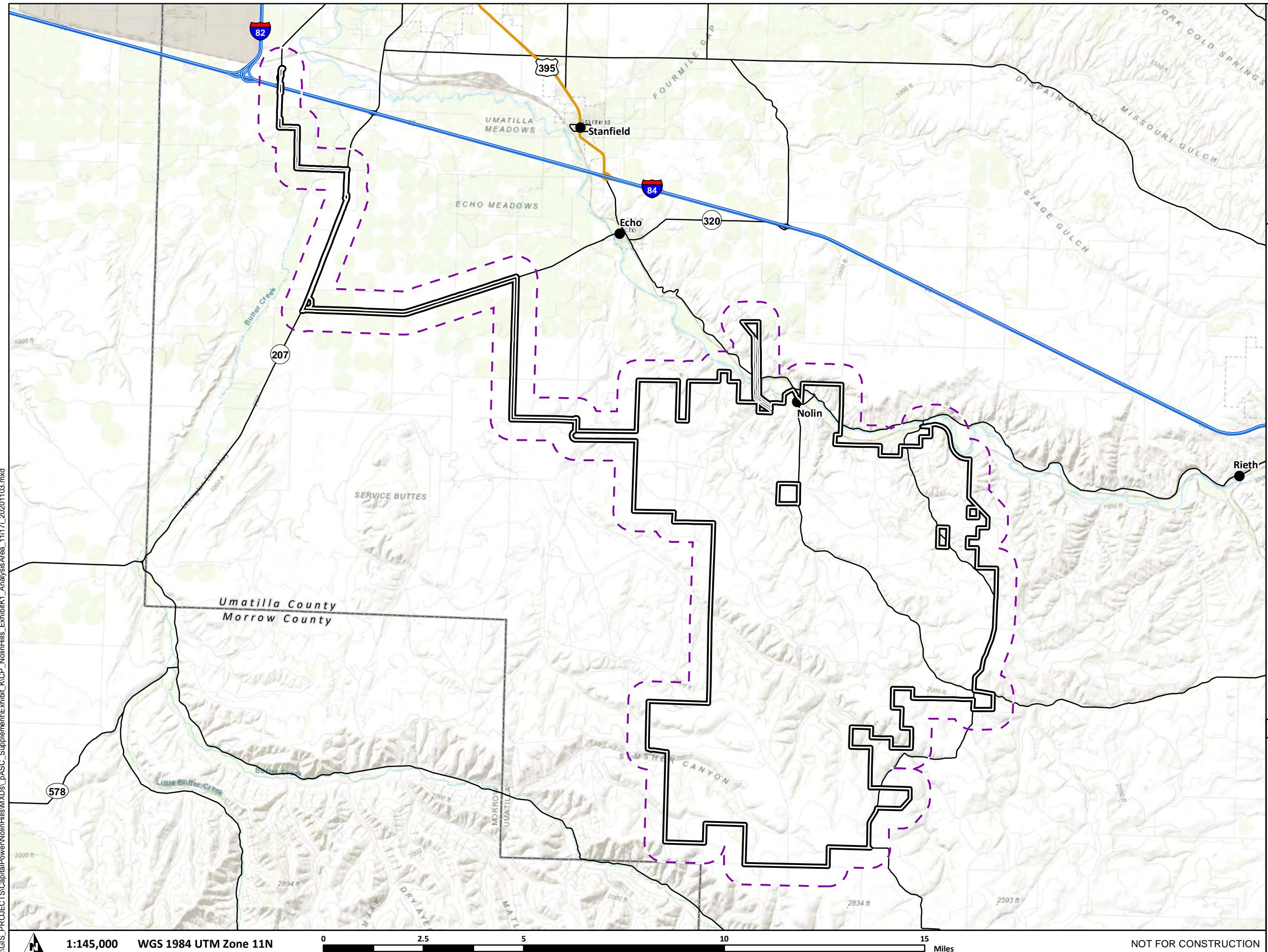
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**Nolin Hills
Wind Power Project**

**Figure K-1
Analysis Area**

UMATILLA COUNTY, OREGON

- Proposed Site Boundary
- Analysis Area (0.5-mile Buffer)
- City/Town
- Interstate Highway
- Secondary Highway
- Secondary Road
- County Boundary



TETRA TECH

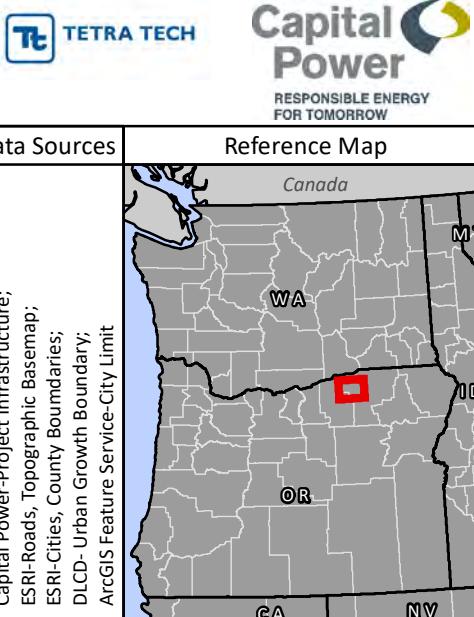
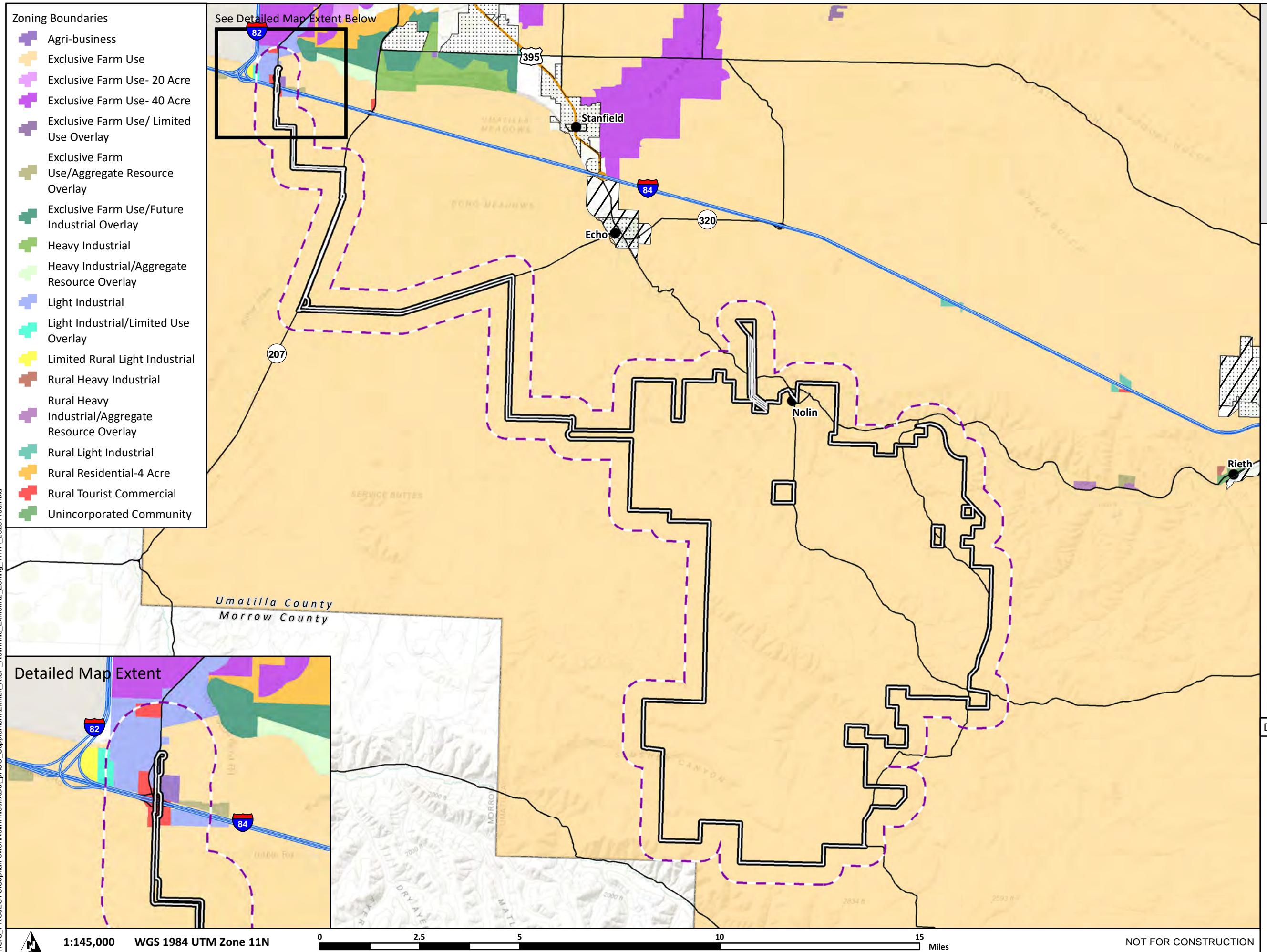
Capital Power
RESPONSIBLE ENERGY
FOR TOMORROW

Data Sources	Reference Map
Capital Power-Project Infrastructure; ESRI Roads, Topographic Basemap; Enterprise-Cities, County Boundaries	

Nolin Hills Wind Power Project

Figure K-2
Zoning

UMATILLA COUNTY, OREGON



**Nolin Hills
Wind Power Project**

**Figure K-3
Land Use**

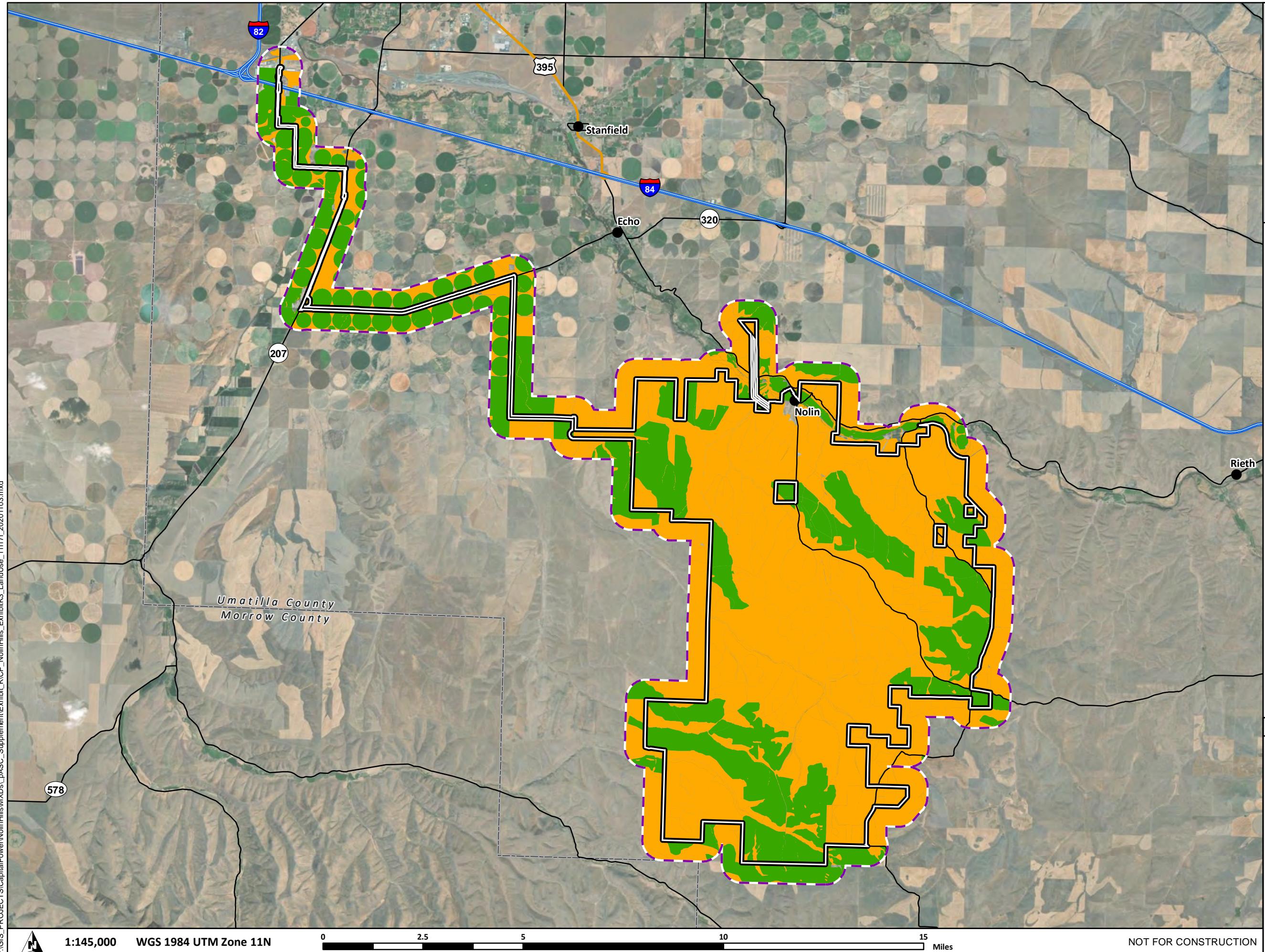
UMATILLA COUNTY, OREGON

- Proposed Site Boundary
- Analysis Area (0.5-mile Buffer)
- City/Town
- Interstate Highway
- Secondary Highway
- Secondary Road
- County Boundary
- Existing Land Use
- Cultivated Land
- Non-Cultivated Land

TETRA TECH

Capital Power
RESPONSIBLE ENERGY
FOR TOMORROW

Data Sources	Reference Map
Capital Power-Project Infrastructure, Existing Land Use (Habitat Survey); ESRI Roads; NAIP-Aerial Basemap; Enterprise-Cities, County Boundaries;	



**Nolin Hills
Wind Power Project**

**Figure K-4
NRCS Soil Classifications**

UMATILLA COUNTY, OREGON

- Proposed Site Boundary
- Analysis Area (0.5-mile Buffer)
- Tract Boundary*
- City/Town
- Interstate Highway
- Secondary Highway
- Secondary Road
- County Boundary
- NRCS Soil Classifications

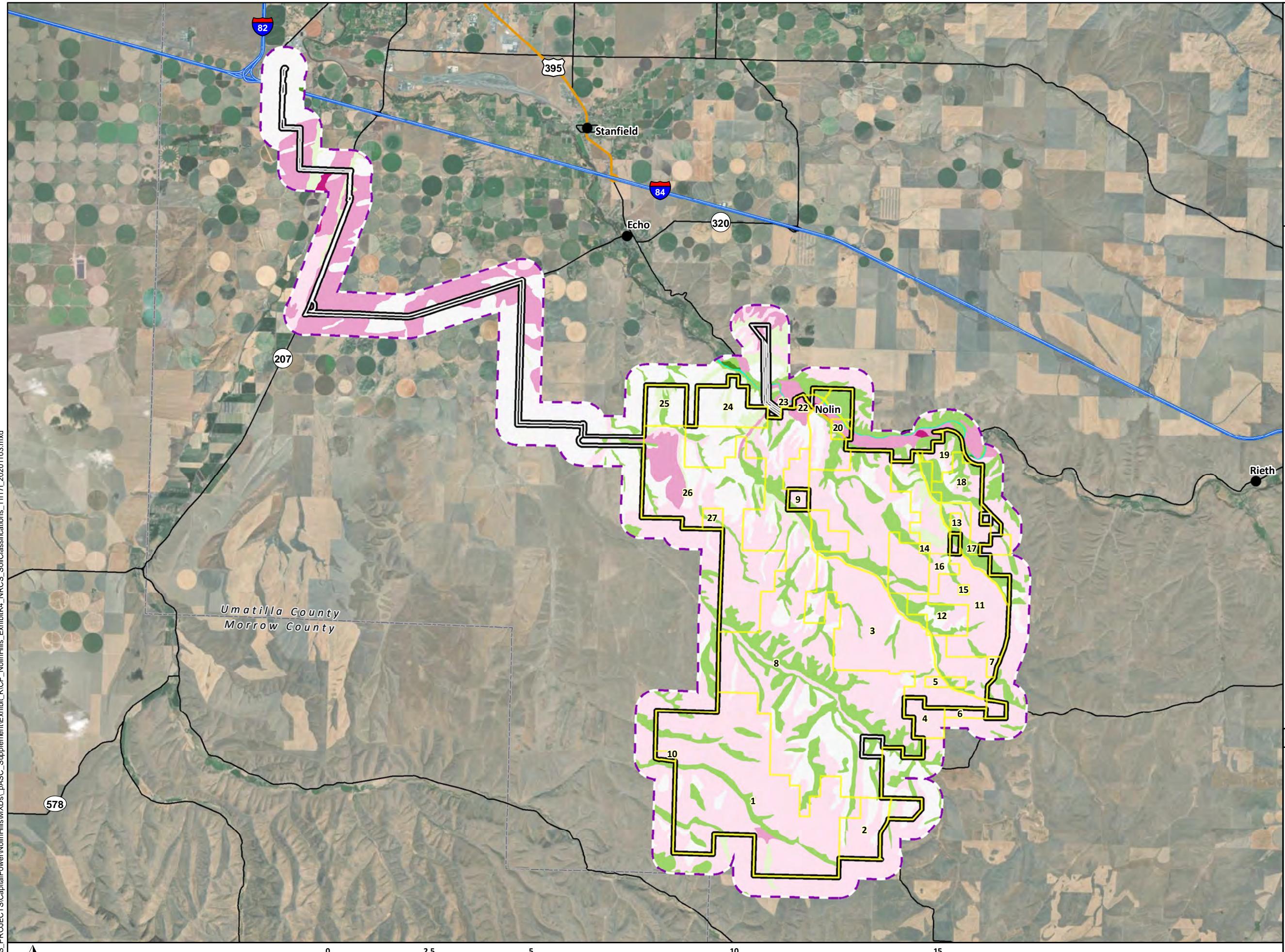
No Value
1
2
3
4
6
7
8

*Each Tract Numbered is
Labeled 1 through 25

TETRA TECH

**Capital
Power**
RESPONSIBLE ENERGY
FOR TOMORROW

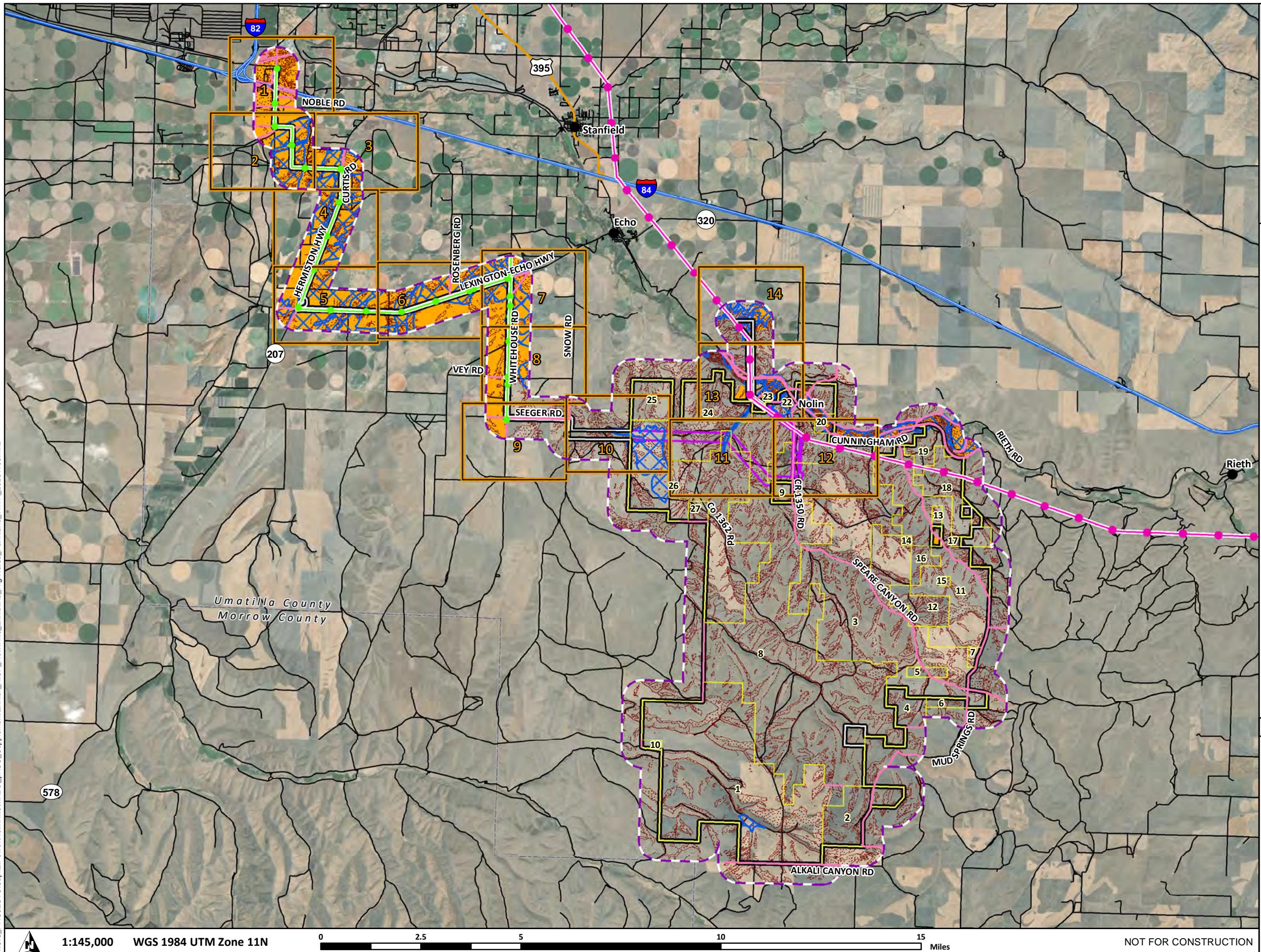
Data Sources	Reference Map
Capital Power-Project Infrastructure; ESRI Roads, Topographic Basemap; Enterprise-Cities, County Boundaries;	



**Nolin Hills
Wind Power Project**

**Figure K-5
High-Value Farmland
Transmission Line Details**

UMATILLA COUNTY, OREGON



**Nolin Hills
Wind Power Project**

**Figure K-5.1
High-Value Farmland
Transmission Line Details**

UMATILLA COUNTY, OREGON

- Proposed Site Boundary
- Analysis Area (0.5-mile Buffer)
- Micrositing Corridor
- Transmission Line Only
- City/Town
- Interstate Highway
- Secondary Road
- Local Road
- County Boundary
- Tract Boundary¹
- Umatilla County Road ROW²
- Transmission Line Status, kV Class**
- In Service, 230-345
- In Service, 115 or less²
- High Value Farmland (HVF)**
- HVF per Classes I and II Soils
- HVF per Place of Use Water Rights and Irrigation Districts
- HVF per Columbia Valley
- Viticulture Area

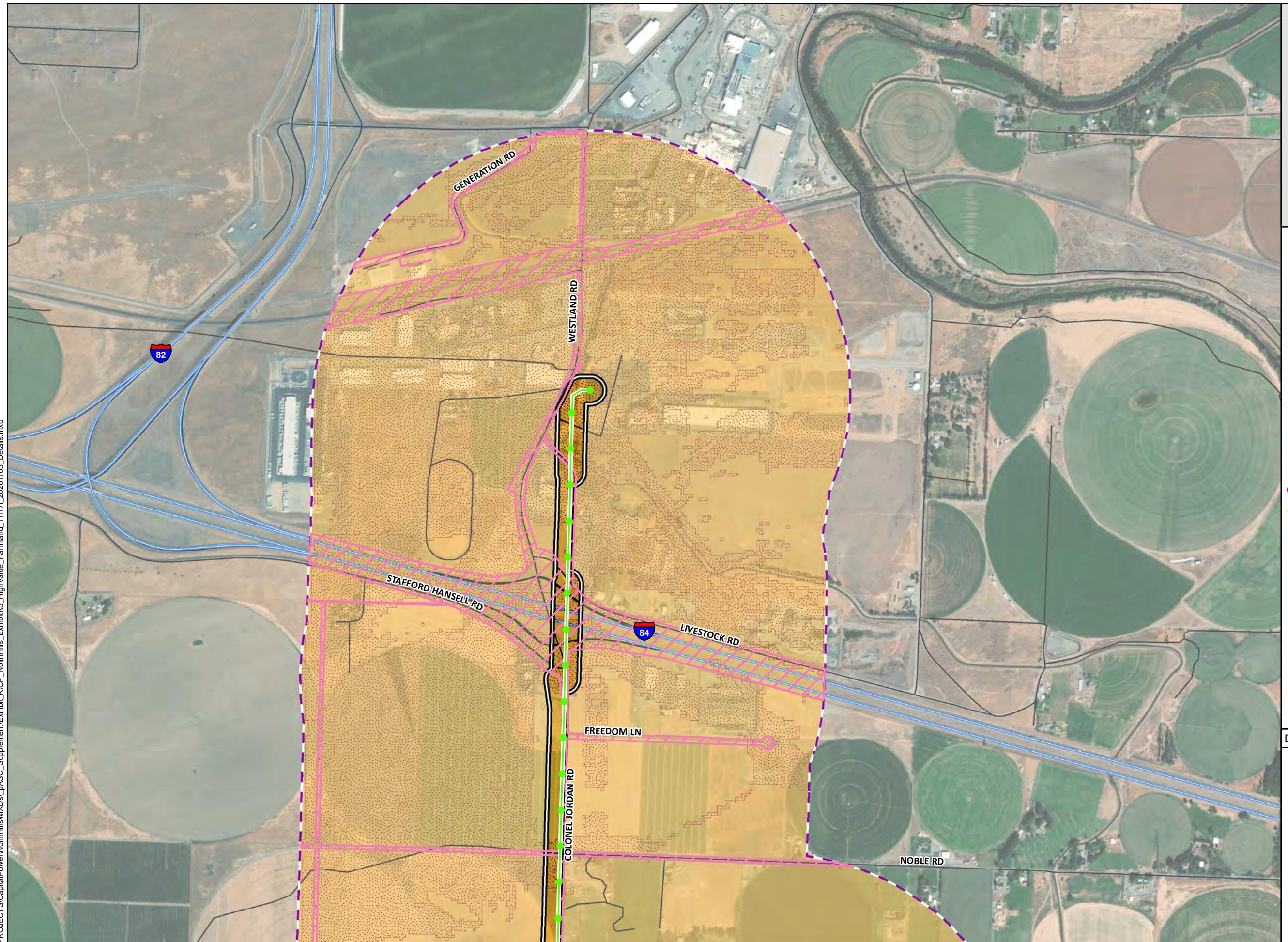
¹Each Tract Number is Labeled 1 through 25

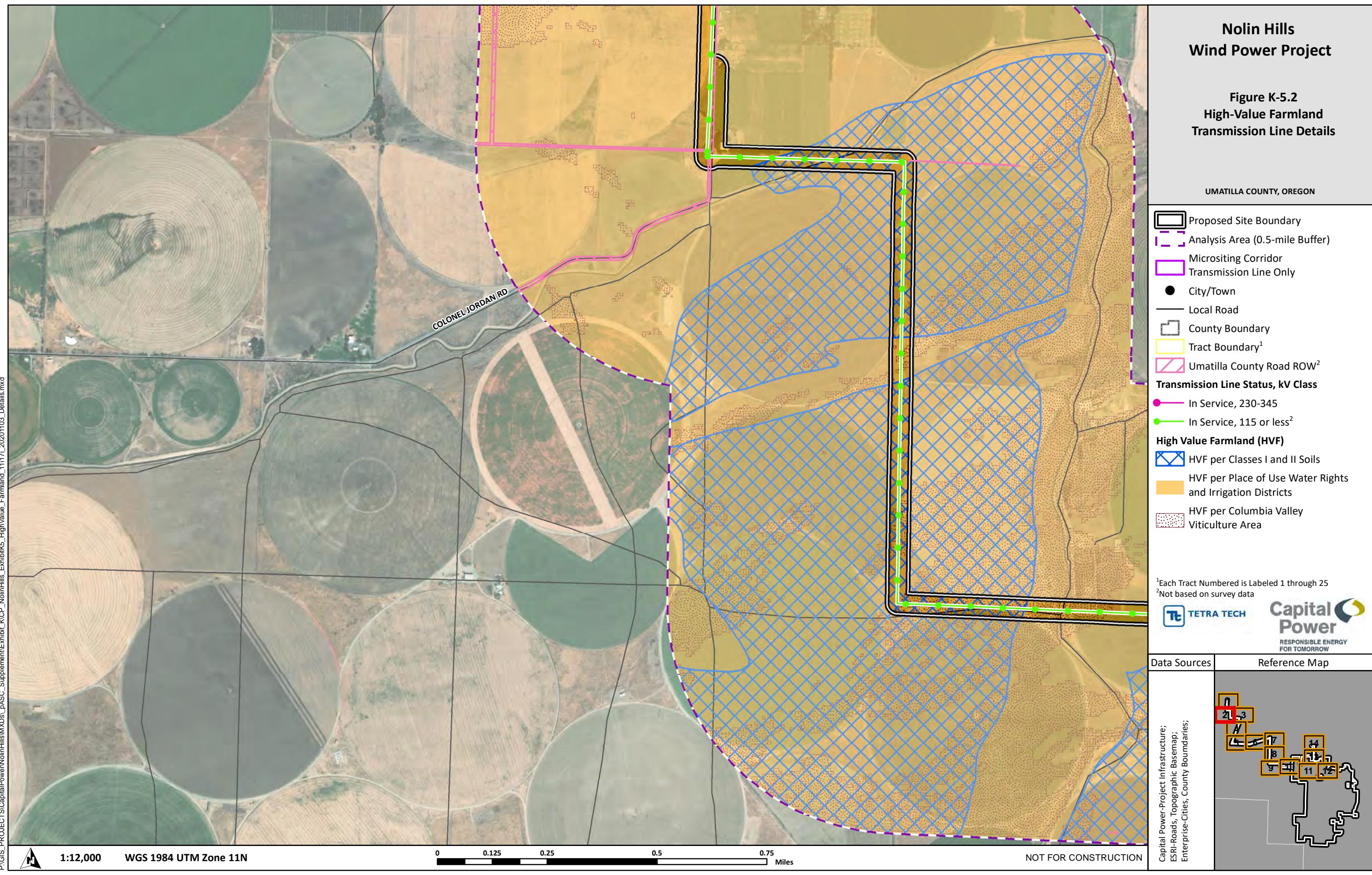
²Not based on survey data



**Capital
Power**
RESPONSIBLE ENERGY
FOR TOMORROW

Data Sources	Reference Map
Capital Power-Project Infrastructure; ESRI Roads, Topographic Basemap; Enterprise-Cities, County Boundaries;	





**Nolin Hills
Wind Power Project**

**Figure K-5.3
High-Value Farmland
Transmission Line Details**

UMATILLA COUNTY, OREGON

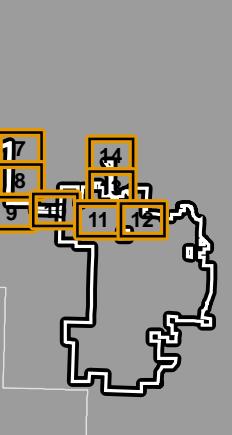
- Proposed Site Boundary
- Analysis Area (0.5-mile Buffer)
- Micrositing Corridor
- Transmission Line Only
- City/Town
- Interstate Highway
- Secondary Road
- Local Road
- County Boundary
- Tract Boundary¹
- Umatilla County Road ROW²
- Transmission Line Status, kV Class**
- In Service, 230-345
- In Service, 115 or less²
- High Value Farmland (HVF)**
- HVF per Classes I and II Soils
- HVF per Place of Use Water Rights and Irrigation Districts
- HVF per Columbia Valley
- Viticulture Area

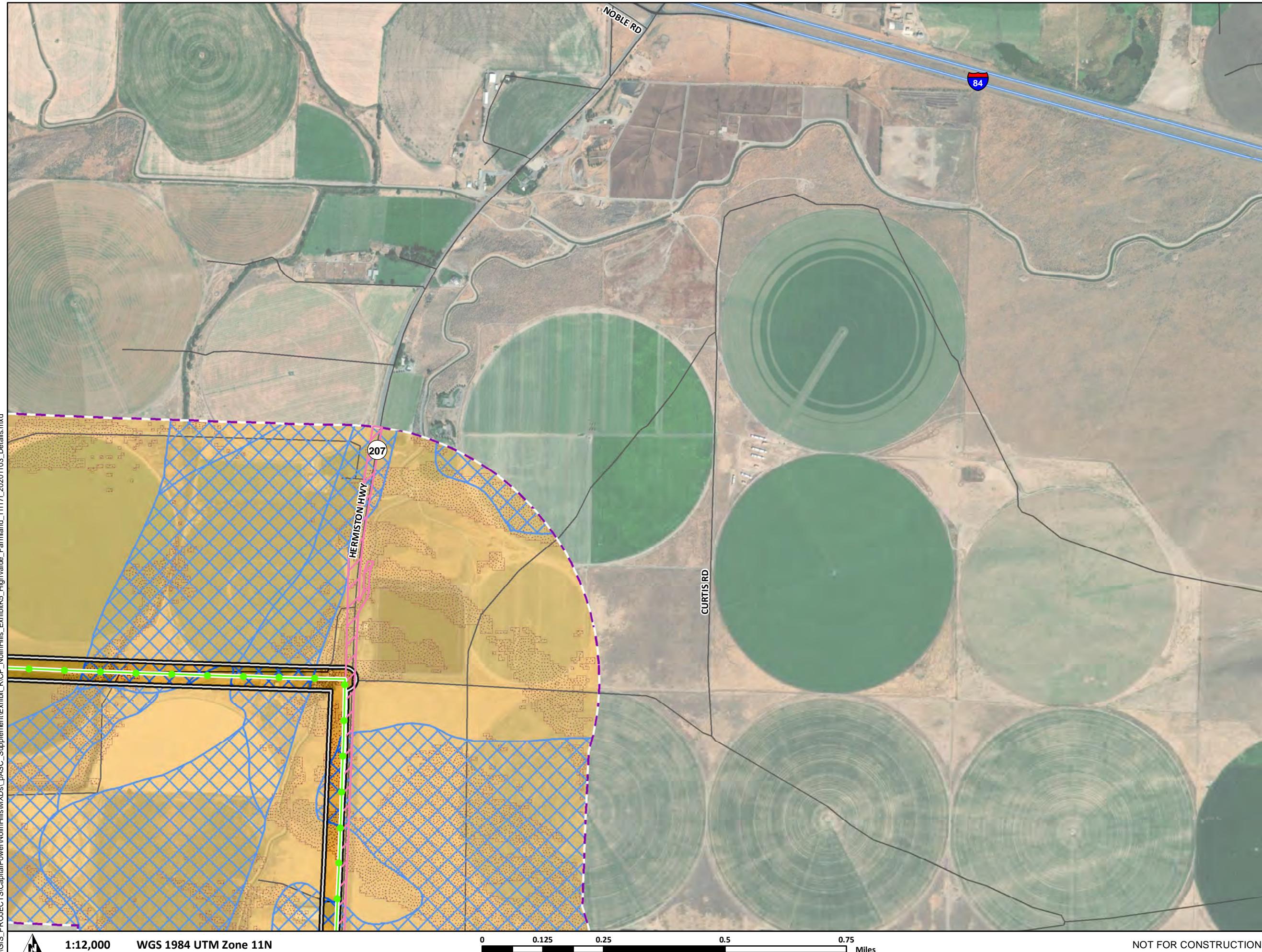
¹Each Tract Number is Labeled 1 through 25

²Not based on survey data



RESPONSIBLE ENERGY
FOR TOMORROW

Data Sources	Reference Map
Capital Power-Project Infrastructure; ESRI Roads, Topographic Basemap; Enterprise-Cities, County Boundaries;	



**Nolin Hills
Wind Power Project**

**Figure K-5.4
High-Value Farmland
Transmission Line Details**

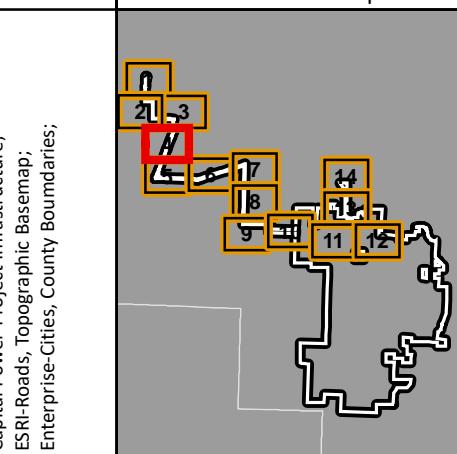
UMATILLA COUNTY, OREGON

- Proposed Site Boundary
- Analysis Area (0.5-mile Buffer)
- Micrositing Corridor
- Transmission Line Only
- City/Town
- Secondary Road
- Local Road
- County Boundary
- Tract Boundary¹
- Umatilla County Road ROW²
- Transmission Line Status, kV Class**
 - In Service, 230-345
 - In Service, 115 or less²
- High Value Farmland (HVF)**
 - HVF per Classes I and II Soils
 - HVF per Place of Use Water Rights and Irrigation Districts
 - HVF per Columbia Valley
 - Viticulture Area

¹Each Tract Numbered is Labeled 1 through 25

²Not based on survey data



Data Sources	Reference Map
Capital Power-Project Infrastructure; ESR Roads, Topographic Basemap; Enterprise-Cities, County Boundaries;	



**Nolin Hills
Wind Power Project**

**Figure K-5.5
High-Value Farmland
Transmission Line Details**

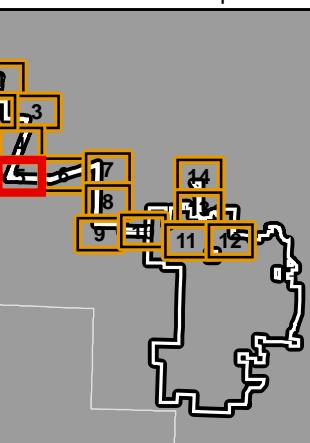
UMATILLA COUNTY, OREGON

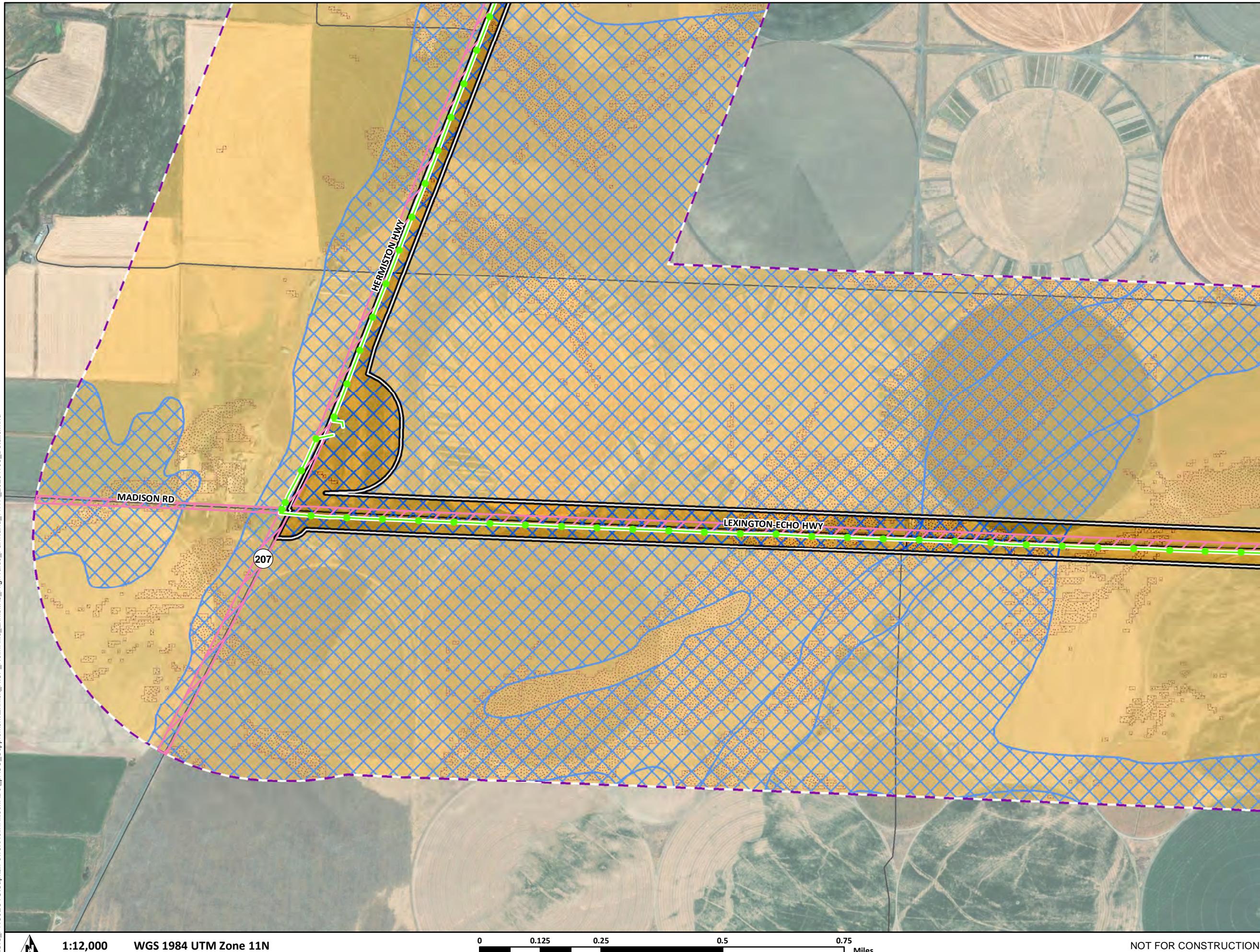
- Proposed Site Boundary
- Analysis Area (0.5-mile Buffer)
- Micrositing Corridor
- Transmission Line Only
- City/Town
- Secondary Road
- Local Road
- County Boundary
- Tract Boundary¹
- Umatilla County Road ROW²
- Transmission Line Status, kV Class**
- In Service, 230-345
- In Service, 115 or less²
- High Value Farmland (HVF)**
- HVF per Classes I and II Soils
- HVF per Place of Use Water Rights and Irrigation Districts
- HVF per Columbia Valley
- Viticulture Area

¹Each Tract Numbered is Labeled 1 through 25

²Not based on survey data



Data Sources	Reference Map
Capital Power-Project Infrastructure; ESR Roads, Topographic Basemap; Enterprise-Cities, County Boundaries;	



**Nolin Hills
Wind Power Project**

**Figure K-5.6
High-Value Farmland
Transmission Line Details**

UMATILLA COUNTY, OREGON

- Proposed Site Boundary
- Analysis Area (0.5-mile Buffer)
- Micrositing Corridor
- Transmission Line Only
- City/Town
- Secondary Road
- Local Road
- County Boundary
- Tract Boundary¹
- Umatilla County Road ROW²
- Transmission Line Status, kV Class**
- In Service, 230-345
- In Service, 115 or less²
- High Value Farmland (HVF)**
- HVF per Classes I and II Soils
- HVF per Place of Use Water Rights and Irrigation Districts
- HVF per Columbia Valley
- HVF per Viticulture Area

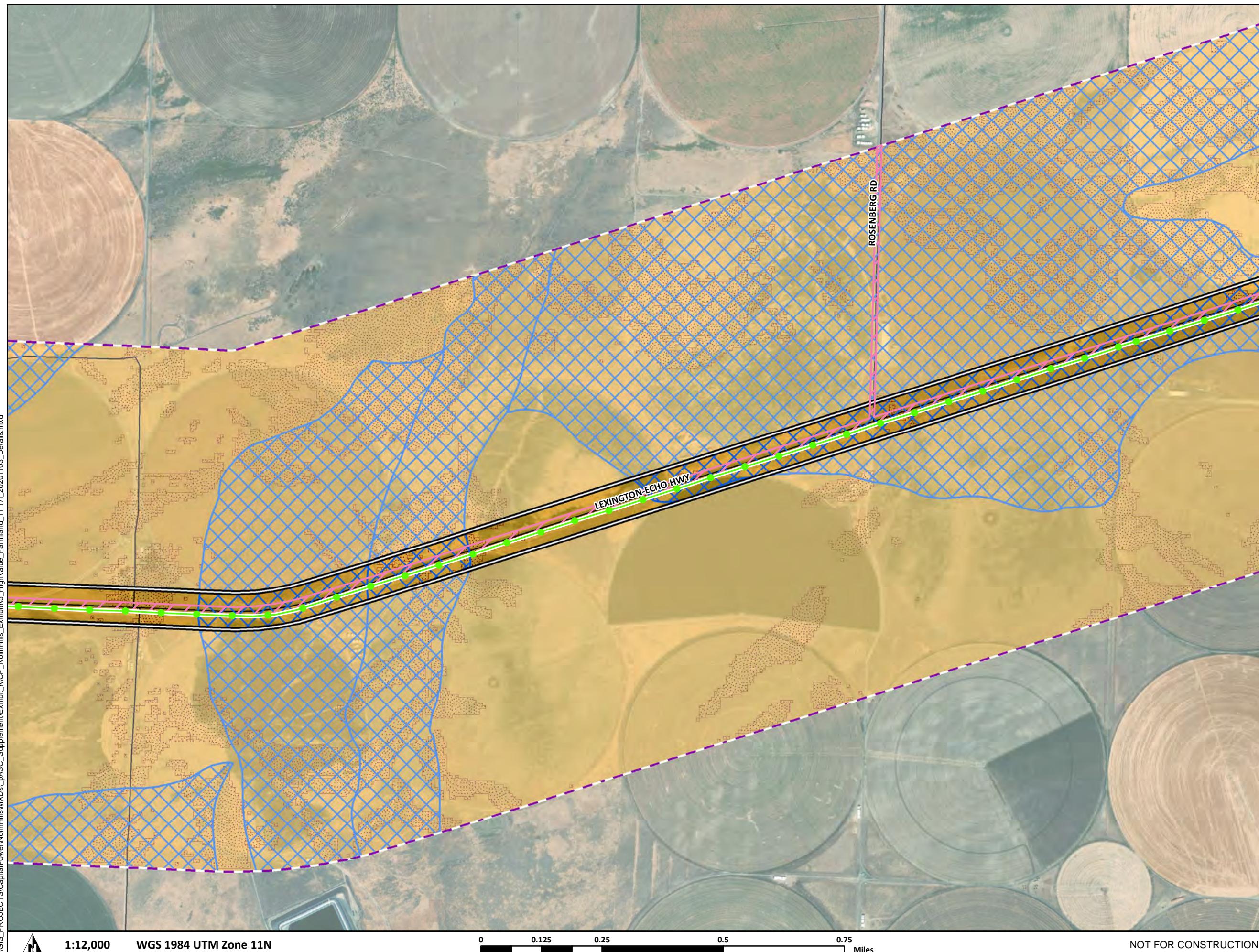
¹Each Tract Numbered is Labeled 1 through 25

²Not based on survey data



Capital Power
RESPONSIBLE ENERGY
FOR TOMORROW

Data Sources	Reference Map
Capital Power-Project Infrastructure; ESRI Roads, Topographic Basemap; Enterprise-Cities, County Boundaries;	



**Nolin Hills
Wind Power Project**

**Figure K-5.7
High-Value Farmland
Transmission Line Details**

UMATILLA COUNTY, OREGON

- Proposed Site Boundary
- Analysis Area (0.5-mile Buffer)
- Micrositing Corridor
- Transmission Line Only
- City/Town
- Secondary Road
- Local Road
- County Boundary
- Tract Boundary¹
- Umatilla County Road ROW²
- Transmission Line Status, kV Class**
 - In Service, 230-345
 - In Service, 115 or less²
- High Value Farmland (HVF)**
 - HVF per Classes I and II Soils
 - HVF per Place of Use Water Rights and Irrigation Districts
 - HVF per Columbia Valley
 - Viticulture Area

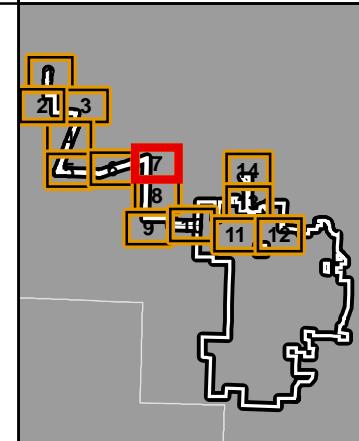
¹Each Tract Numbered is Labeled 1 through 25

²Not based on survey data



Data Sources | Reference Map

Capital Power-Project Infrastructure;
ESRI Roads, Topographic Basemap;
Enterprise-Cities, County Boundaries;



**Nolin Hills
Wind Power Project**

**Figure K-5.8
High-Value Farmland
Transmission Line Details**

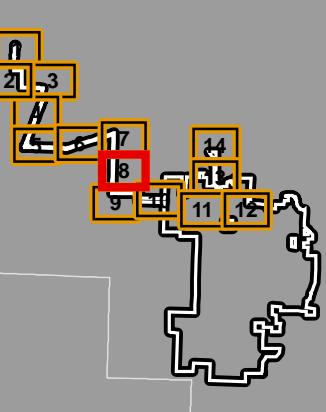
UMATILLA COUNTY, OREGON

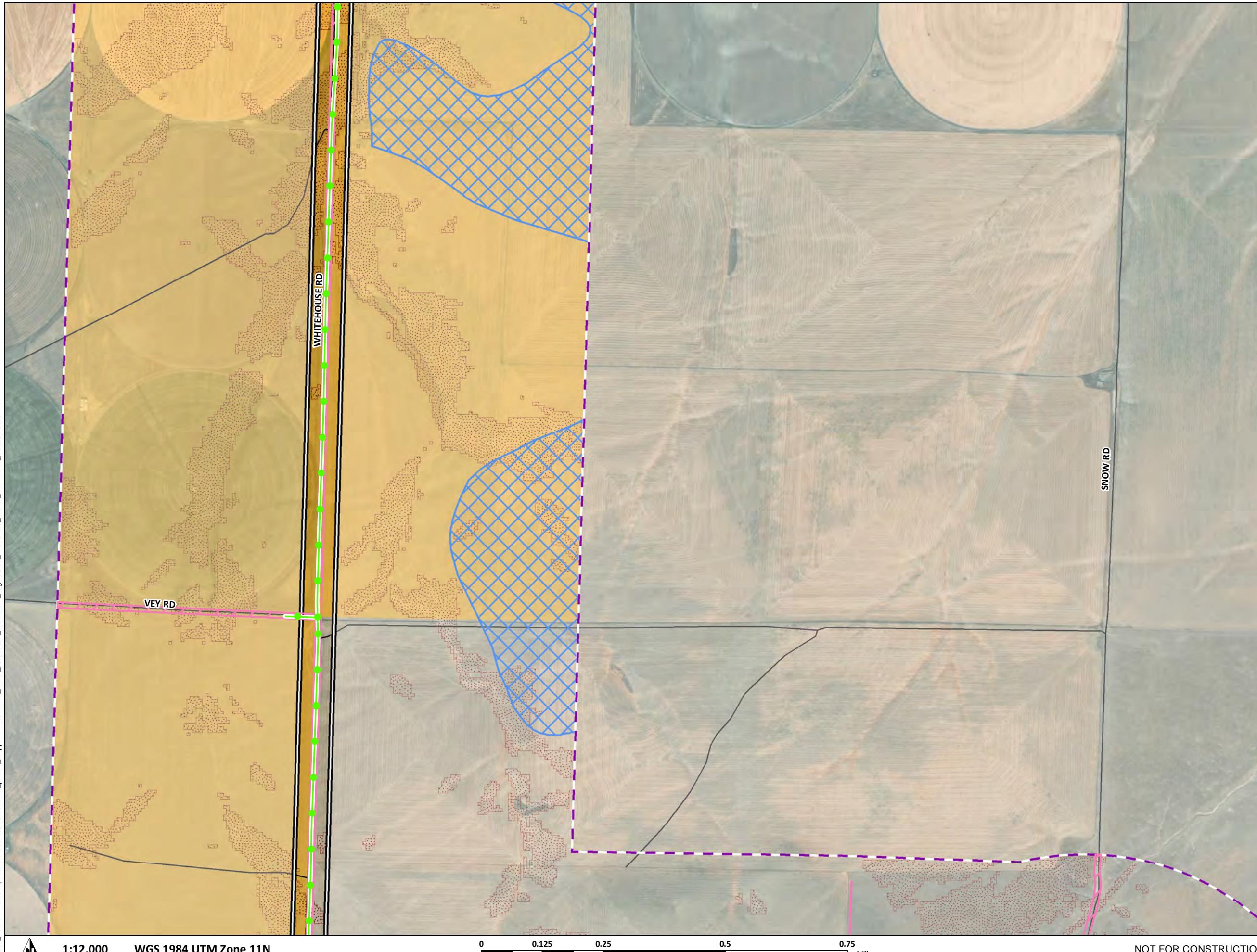
- Proposed Site Boundary
- Analysis Area (0.5-mile Buffer)
- Micrositing Corridor
- Transmission Line Only
- City/Town
- Local Road
- County Boundary
- Tract Boundary¹
- Umatilla County Road ROW²
- Transmission Line Status, kV Class**
 - In Service, 230-345
 - In Service, 115 or less²
- High Value Farmland (HVF)**
 - HVF per Classes I and II Soils
 - HVF per Place of Use Water Rights and Irrigation Districts
 - HVF per Columbia Valley Viticulture Area

¹Each Tract Numbered is Labeled 1 through 25

²Not based on survey data



Data Sources	Reference Map
Capital Power-Project Infrastructure; ESR Roads, Topographic Basemap; Enterprise-Cities, County Boundaries;	



**Nolin Hills
Wind Power Project**

**Figure K-5.9
High-Value Farmland
Transmission Line Details**

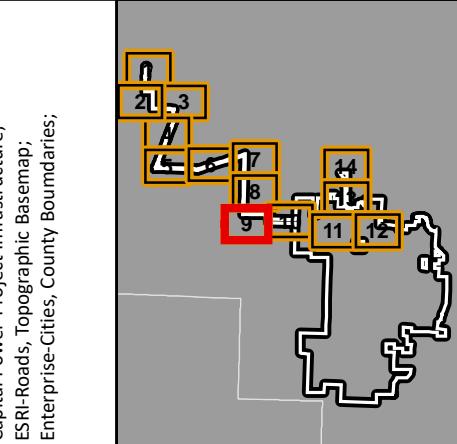
UMATILLA COUNTY, OREGON

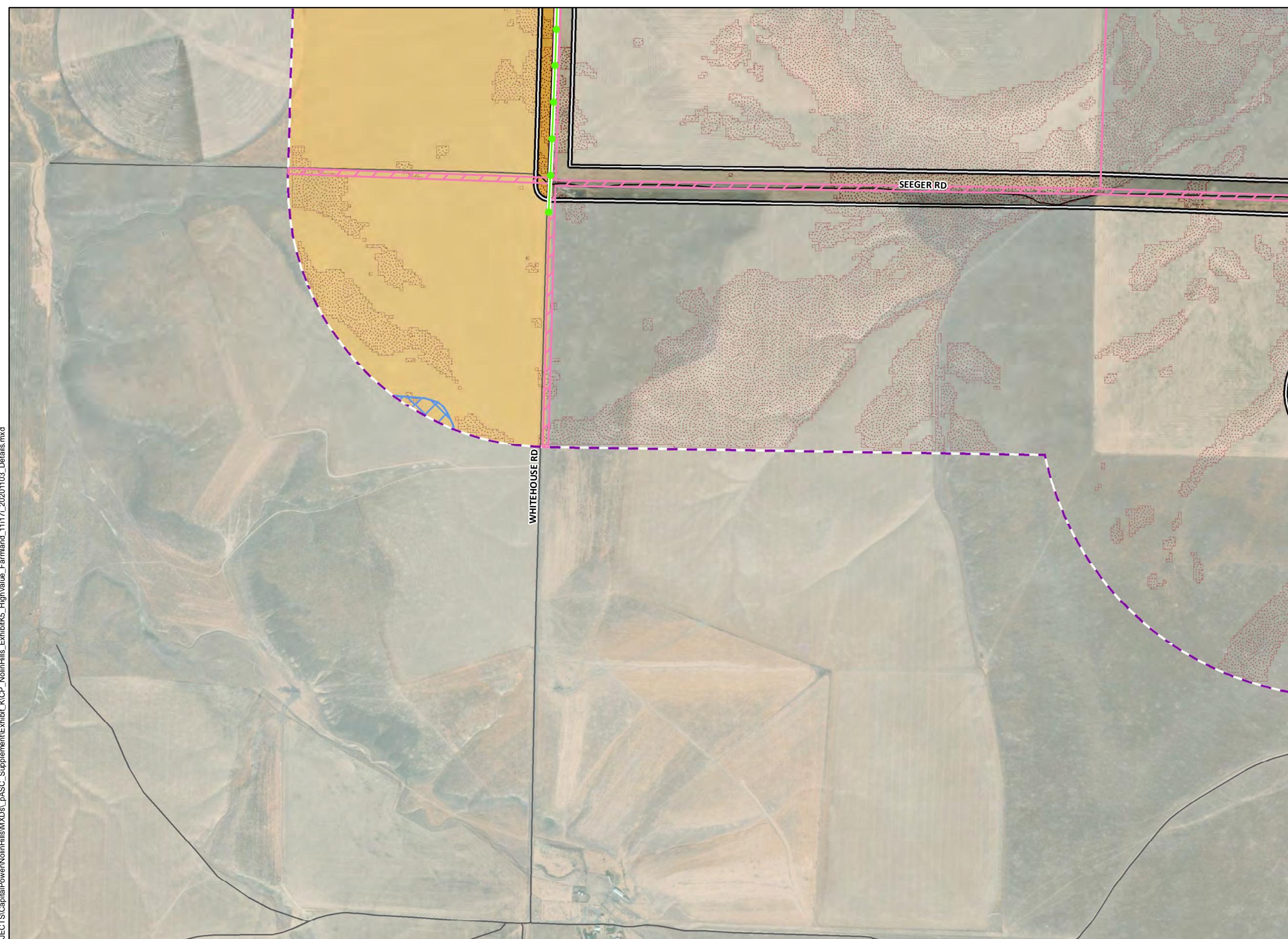
- Proposed Site Boundary
- Analysis Area (0.5-mile Buffer)
- Micrositing Corridor
- Transmission Line Only
- City/Town
- Local Road
- County Boundary
- Tract Boundary¹
- Umatilla County Road ROW²
- Transmission Line Status, kV Class**
 - In Service, 230-345
 - In Service, 115 or less²
- High Value Farmland (HVF)**
 - HVF per Classes I and II Soils
 - HVF per Place of Use Water Rights and Irrigation Districts
 - HVF per Columbia Valley Viticulture Area

¹Each Tract Numbered is Labeled 1 through 25

²Not based on survey data



Data Sources	Reference Map
Capital Power-Project Infrastructure; ESR Roads, Topographic Basemap; Enterprise-Cities, County Boundaries;	



1:12,000 WGS 1984 UTM Zone 11N

0 0.125 0.25 0.5 0.75 Miles

NOT FOR CONSTRUCTION

**Nolin Hills
Wind Power Project**

**Figure K-5.10
High-Value Farmland
Transmission Line Details**

UMATILLA COUNTY, OREGON

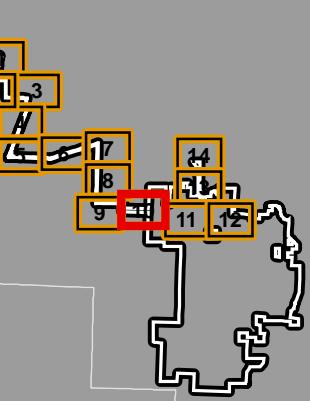
- Proposed Site Boundary
- Analysis Area (0.5-mile Buffer)
- Micrositing Corridor
- Transmission Line Only
- City/Town
- Local Road
- County Boundary
- Tract Boundary¹
- Umatilla County Road ROW²
- Transmission Line Status, kV Class**
 - In Service, 230-345
 - In Service, 115 or less²
- High Value Farmland (HVF)**
 - HVF per Classes I and II Soils
 - HVF per Place of Use Water Rights and Irrigation Districts
 - HVF per Columbia Valley Viticulture Area

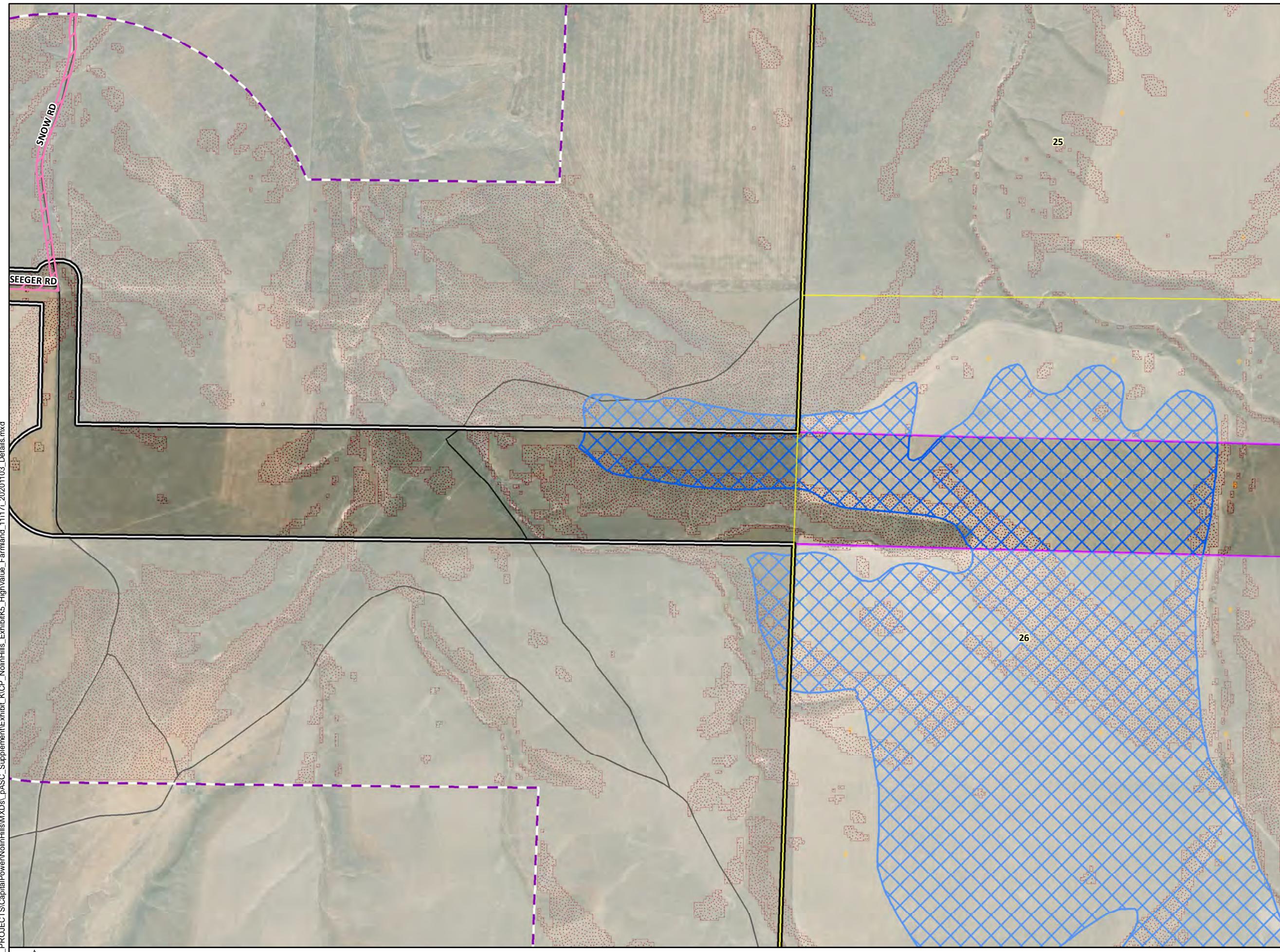
¹Each Tract Numbered is Labeled 1 through 25

²Not based on survey data



**Capital
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RESPONSIBLE ENERGY
FOR TOMORROW

Data Sources	Reference Map
Capital Power-Project Infrastructure; ESRI Roads, Topographic Basemap; Enterprise-Cities, County Boundaries;	



**Nolin Hills
Wind Power Project**

**Figure K-5.11
High-Value Farmland
Transmission Line Details**

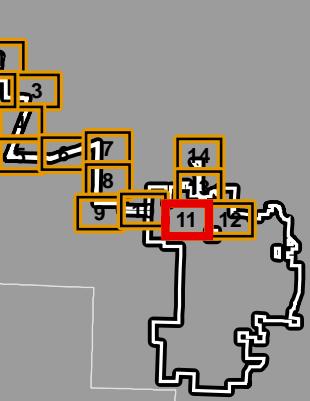
UMATILLA COUNTY, OREGON

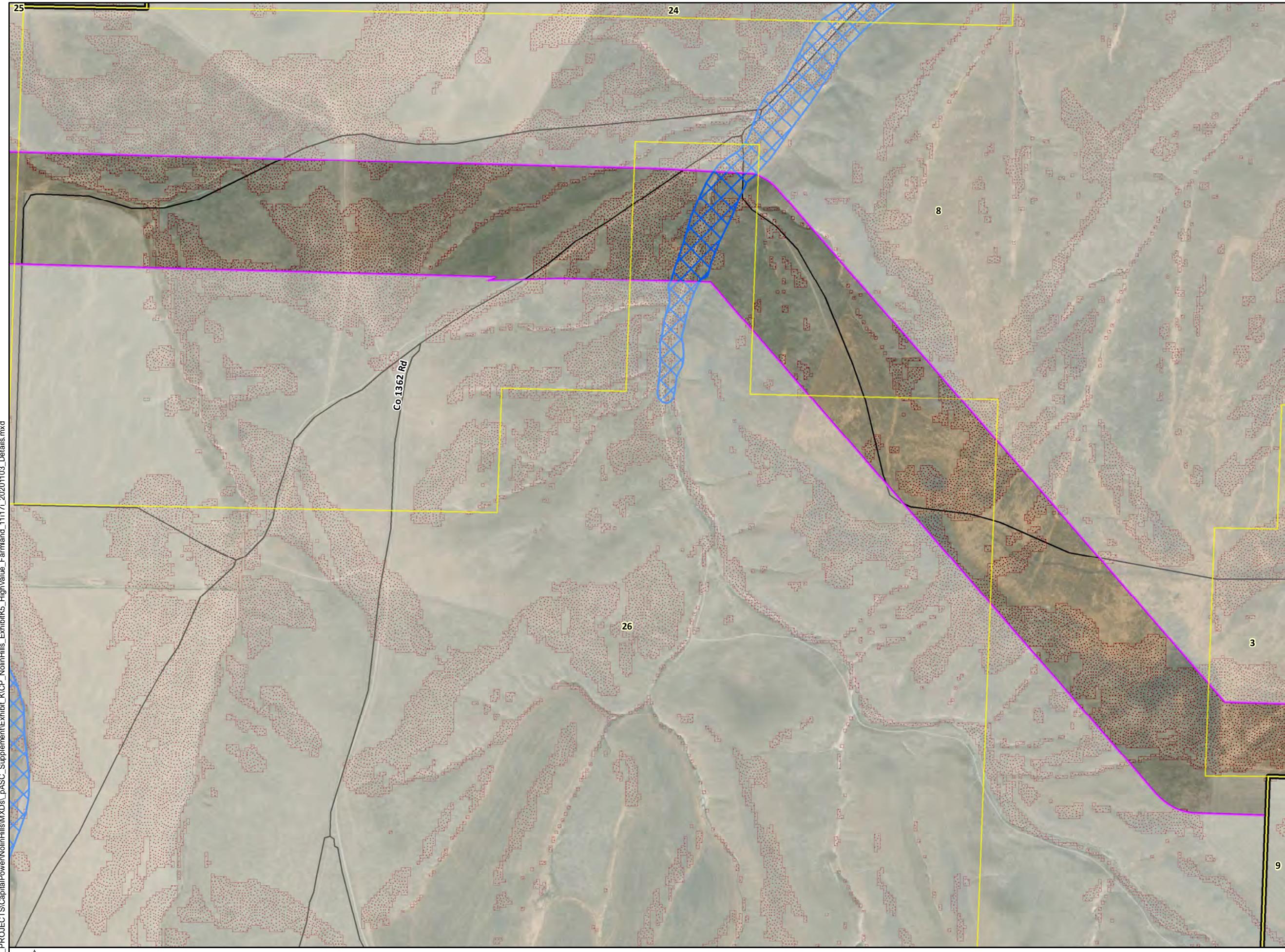
- Proposed Site Boundary
- Analysis Area (0.5-mile Buffer)
- Micrositing Corridor
- Transmission Line Only
- City/Town
- Local Road
- County Boundary
- Tract Boundary¹
- Umatilla County Road ROW²
- Transmission Line Status, kV Class**
 - In Service, 230-345
 - In Service, 115 or less²
- High Value Farmland (HVF)**
 - HVF per Classes I and II Soils
 - HVF per Place of Use Water Rights and Irrigation Districts
 - HVF per Columbia Valley Viticulture Area

¹Each Tract Numbered is Labeled 1 through 25

²Not based on survey data



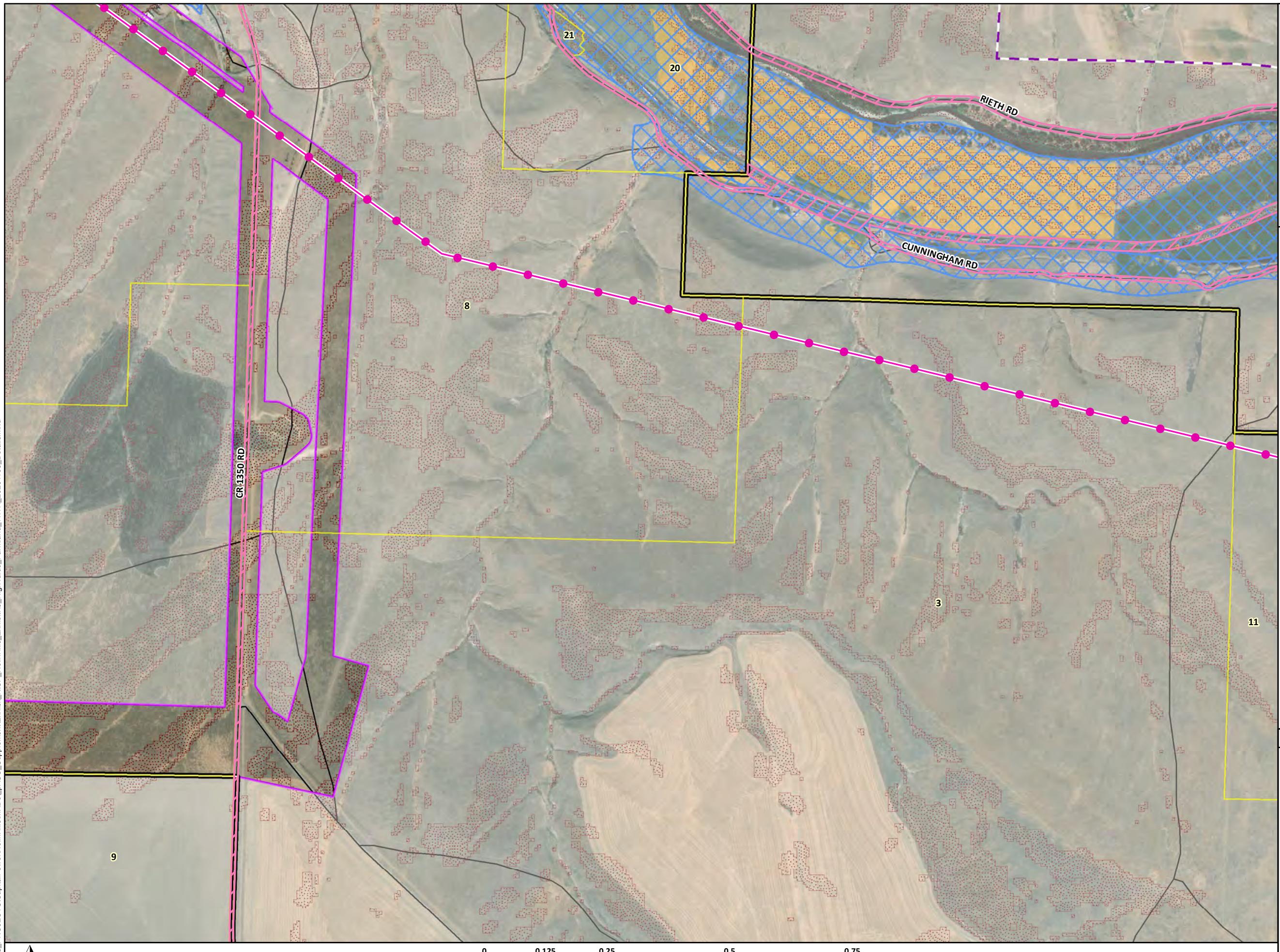
Data Sources	Reference Map
Capital Power-Project Infrastructure; ESR Roads, Topographic Basemap; Enterprise-Cities, County Boundaries;	



**Nolin Hills
Wind Power Project**

**Figure K-5.12
High-Value Farmland
Transmission Line Details**

UMATILLA COUNTY, OREGON



- Proposed Site Boundary
- Analysis Area (0.5-mile Buffer)
- Micrositing Corridor
- Transmission Line Only
- City/Town
- Secondary Road
- Local Road
- County Boundary
- Tract Boundary¹
- Umatilla County Road ROW²
- Transmission Line Status, kV Class**
- In Service, 230-345
- In Service, 115 or less²
- High Value Farmland (HVF)**
- HVF per Classes I and II Soils
- HVF per Place of Use Water Rights and Irrigation Districts
- HVF per Columbia Valley
- Viticulture Area

¹Each Tract Numbered is Labeled 1 through 25

²Not based on survey data



Data Sources	Reference Map
Capital Power-Project Infrastructure; ESR Roads, Topographic Basemap; Enterprise-Cities, County Boundaries;	

**Nolin Hills
Wind Power Project**

**Figure K-5.13
High-Value Farmland
Transmission Line Details**

UMATILLA COUNTY, OREGON

- Proposed Site Boundary
- Analysis Area (0.5-mile Buffer)
- Micrositing Corridor
- Transmission Line Only
- City/Town
- Secondary Road
- Local Road
- County Boundary
- Tract Boundary¹
- Umatilla County Road ROW²

Transmission Line Status, kV Class

- In Service, 230-345
- In Service, 115 or less²

High Value Farmland (HVF)

- HVF per Classes I and II Soils
- HVF per Place of Use Water Rights and Irrigation Districts
- HVF per Columbia Valley
- Viticulture Area

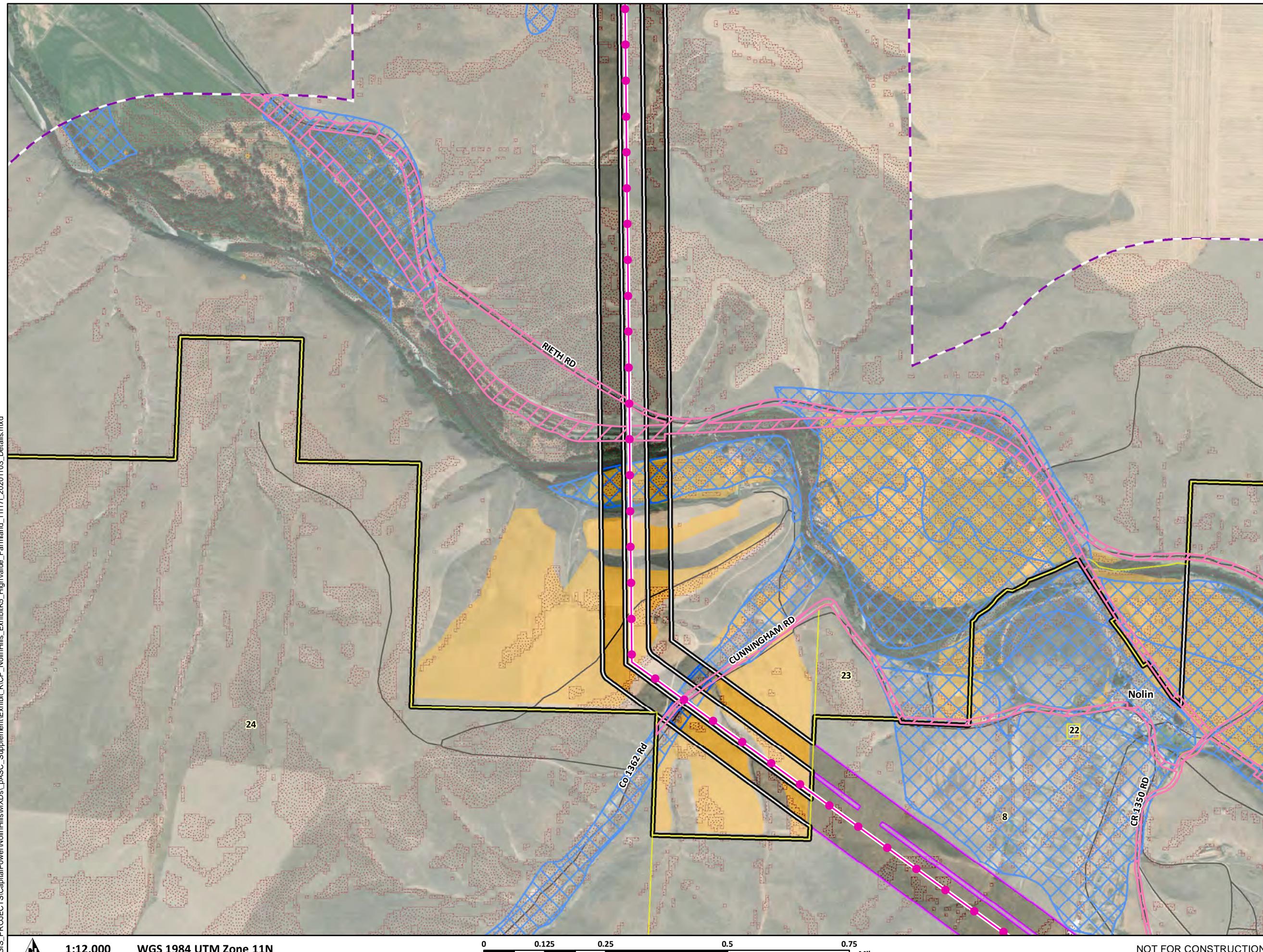
¹Each Tract Numbered is Labeled 1 through 25

²Not based on survey data



Capital Power
RESPONSIBLE ENERGY
FOR TOMORROW

Data Sources	Reference Map
Capital Power-Project Infrastructure; ESRI Roads, Topographic Basemap; Enterprise-Cities, County Boundaries;	



**Nolin Hills
Wind Power Project**

**Figure K-5.14
High-Value Farmland
Transmission Line Details**

UMATILLA COUNTY, OREGON

- Proposed Site Boundary
- Analysis Area (0.5-mile Buffer)
- Micrositing Corridor
- Transmission Line Only
- City/Town
- Secondary Road
- Local Road
- County Boundary
- Tract Boundary¹
- Umatilla County Road ROW²
- Transmission Line Status, kV Class**
- In Service, 230-345
- In Service, 115 or less²
- High Value Farmland (HVF)**
- HVF per Classes I and II Soils
- HVF per Place of Use Water Rights and Irrigation Districts
- HVF per Columbia Valley
- Viticulture Area

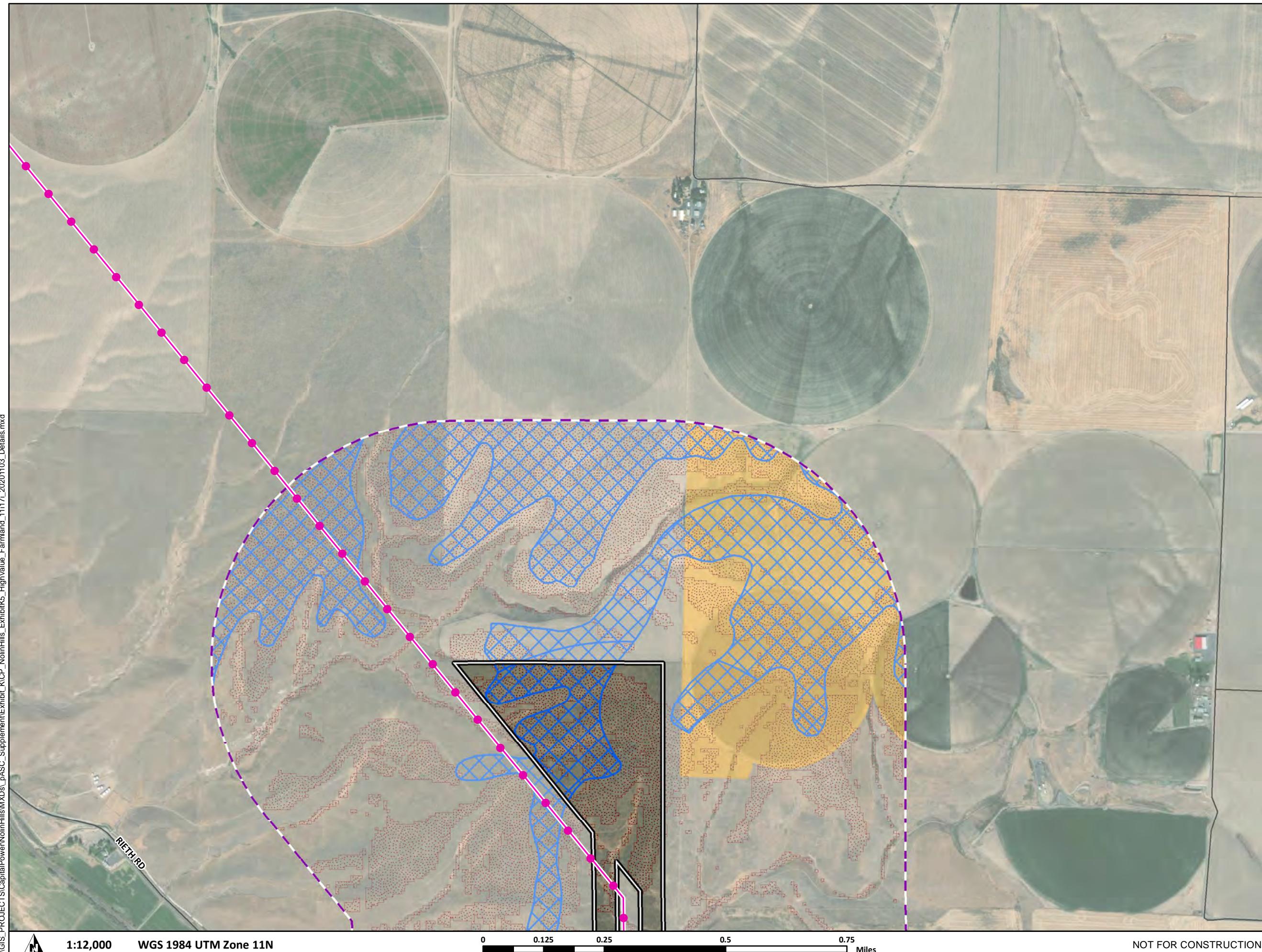
¹Each Tract Numbered is Labeled 1 through 25

²Not based on survey data



**Capital
Power**
RESPONSIBLE ENERGY
FOR TOMORROW

Data Sources	Reference Map
Capital Power-Project Infrastructure; ESRI Roads, Topographic Basemap; Enterprise-Cities, County Boundaries;	



**Nolin Hills
Wind Power Project**

**Figure K-6
High-Value Farmland
Energy Generation
Facility Site Boundary**

UMATILLA COUNTY, OREGON

- Proposed Site Boundary
- Analysis Area (0.5-mile Buffer)
- Micrositing Corridor
- Tract Boundary¹
- Solar Siting Area
- Umatilla County Road ROW and UEC ROW²
- City/Town
- Interstate Highway
- Secondary Road
- Local Road
- County Boundary
- Transmission Line Status, kV Class
- In Service, 230-345
- In Service, 115 or less²
- High Value Farmland (HVF)
- HVF per Classes I and II Soils
- HVF per Place of Use Water Rights and Irrigation Districts
- HVF per Columbia Valley
- Viticulture Area

¹Each Tract Numbered is Labeled 1 through 25

²Not based on survey data

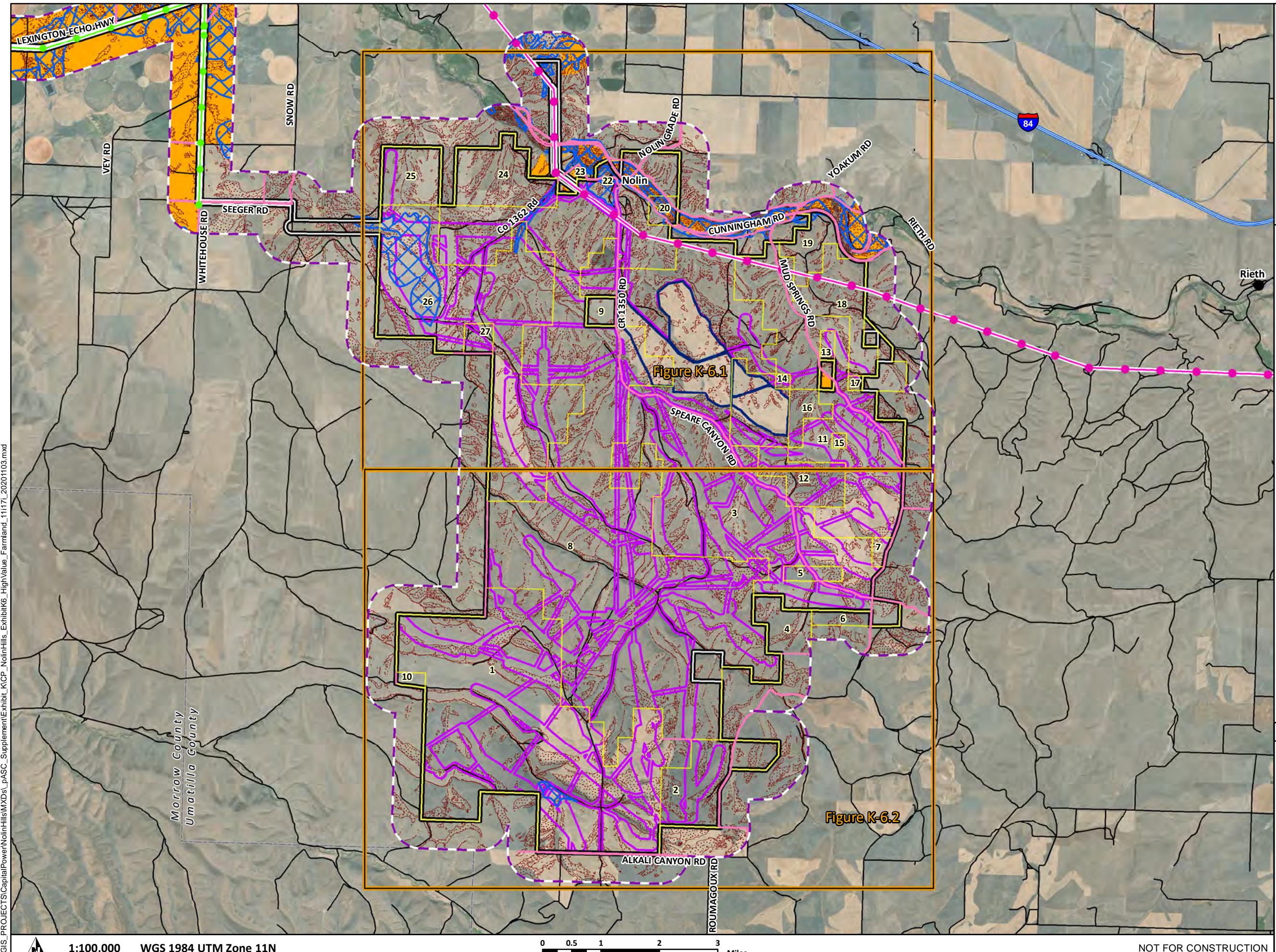


**Capital
Power**
RESPONSIBLE ENERGY
FOR TOMORROW

Data Sources | Reference Map



Capital Power-Project Infrastructure;
ESRI Roads, Topographic Basemap;
Enterprise-Cities, County Boundaries;



**Nolin Hills
Wind Power Project**

**Figure K-6.1
High-Value Farmland
Energy Generation
Facility Site Boundary**

UMATILLA COUNTY, OREGON

- Proposed Site Boundary
- Analysis Area (0.5-mile Buffer)
- Micrositing Corridor
- Tract Boundary¹
- Solar Siting Area
- Umatilla County Road ROW and UEC ROW²
- City/Town
- Interstate Highway
- Secondary Road
- Local Road
- County Boundary
- Transmission Line Status, kV Class
- In Service, 230-345
- High Value Farmland (HVF)
- HVF per Classes I and II Soils
- HVF per Place of Use Water Rights and Irrigation Districts
- HVF per Columbia Valley
- Viticulture Area

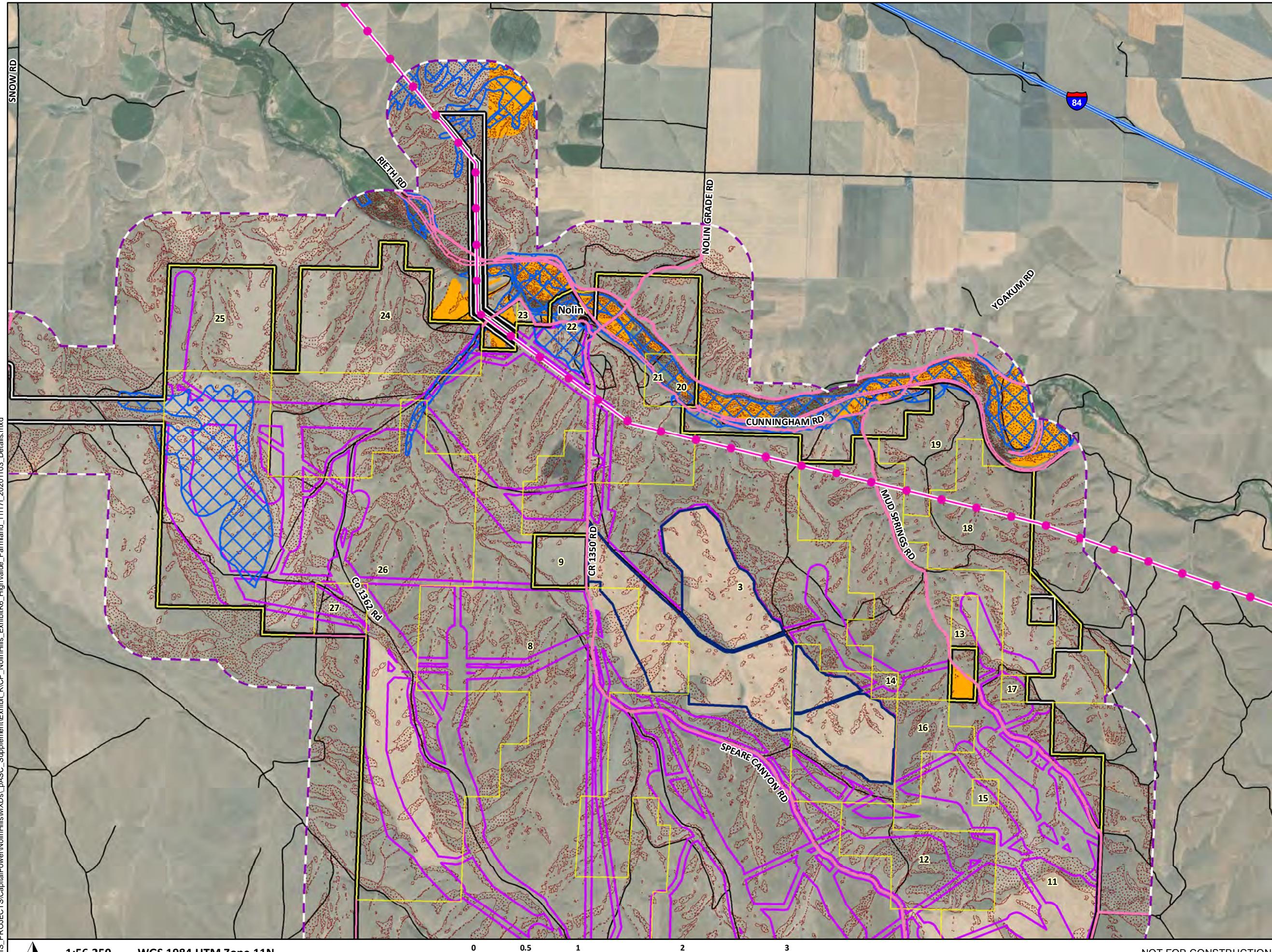
¹Each Tract Numbered is Labeled 1 through 25

²Not based on survey data



**Capital
Power**
RESPONSIBLE ENERGY
FOR TOMORROW

Data Sources	Reference Map
Capital Power-Project Infrastructure; ESRI Roads, Topographic Basemap; Enterprise-Cities, County Boundaries;	



**Nolin Hills
Wind Power Project**

**Figure K-6.2
High-Value Farmland
Energy Generation
Facility Site Boundary**

UMATILLA COUNTY, OREGON

- Proposed Site Boundary
- Analysis Area (0.5-mile Buffer)
- Micrositing Corridor
- Tract Boundary¹
- Solar Siting Area
- Umatilla County Road ROW and UEC ROW²
- Secondary Road
- Local Road
- County Boundary
- High Value Farmland (HVF)**
- HVF per Classes I and II Soils
- HVF per Columbia Valley
- Viticulture Area

¹Each Tract Numbered is Labeled 1 through 25

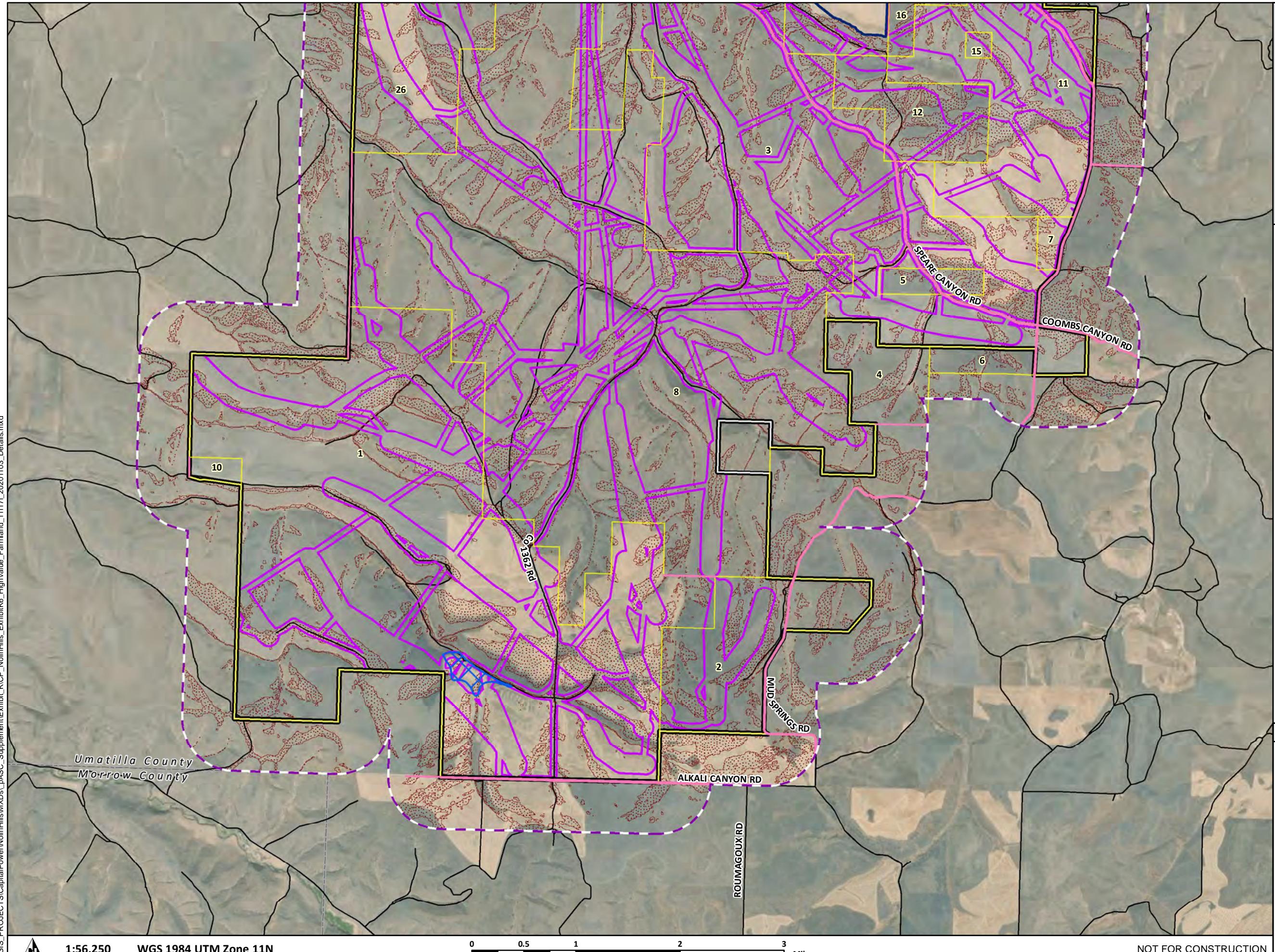
²Not based on survey data



**Capital
Power**
RESPONSIBLE ENERGY
FOR TOMORROW

Data Sources | Reference Map

Capital Power-Project Infrastructure;
ESRI Roads, Topographic Basemap;
Enterprise-Cities, County Boundaries;



**Nolin Hills
Wind Power Project**

**Figure K-7
Arable and Non-arable Land
Transmission Line Details**

UMATILLA COUNTY, OREGON

- Map Grid
- Proposed Site Boundary
- Analysis Area (0.5-mile Buffer)
- Micrositing Corridor
- Transmission Line Only
- Tract Boundary¹
- Umatilla County Road ROW
and UEC ROW²
- Non-Arable Land
- Arable Land
- City/Town
- Interstate Highway
- Secondary Highway
- Secondary Road
- Local Road
- County Boundary

Transmission Line Status, kV Class

- In Service, 230-345
- In Service, 115 or less²

¹Each Tract Numbered is Labeled 1 through 25

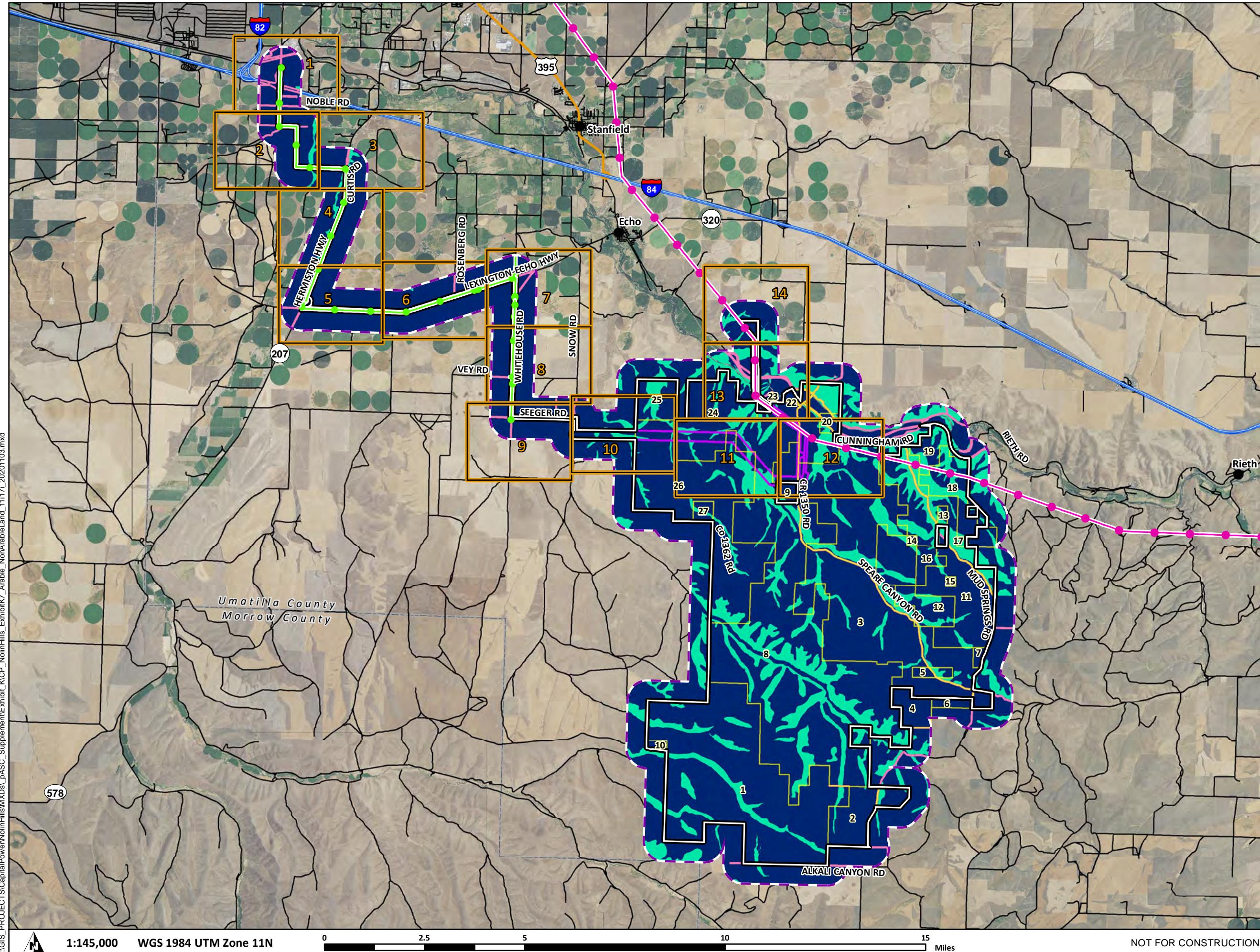
²Not based on survey data

TETRA TECH

**Capital
Power**
RESPONSIBLE ENERGY
FOR TOMORROW

Data Sources | Reference Map

Capital Power-Project Infrastructure;
ESRI Roads; NAIP-Aerial Basemap;
Enterprise-Cities, County Boundaries;



**Nolin Hills
Wind Power Project**

**Figure K-7.1
Arable and Non-arable Land
Transmission Line Details**

UMATILLA COUNTY, OREGON

- Proposed Site Boundary
- Analysis Area (0.5-mile Buffer)
- Micrositing Corridor
- Transmission Line Only
- Tract Boundary¹
- Non-Arable Land
- Arable Land
- City/Town
- Interstate Highway
- Secondary Road
- Local Road
- County Boundary
- Transmission Line Status, kV Class
- In Service, 230-345
- In Service, 115 or less²

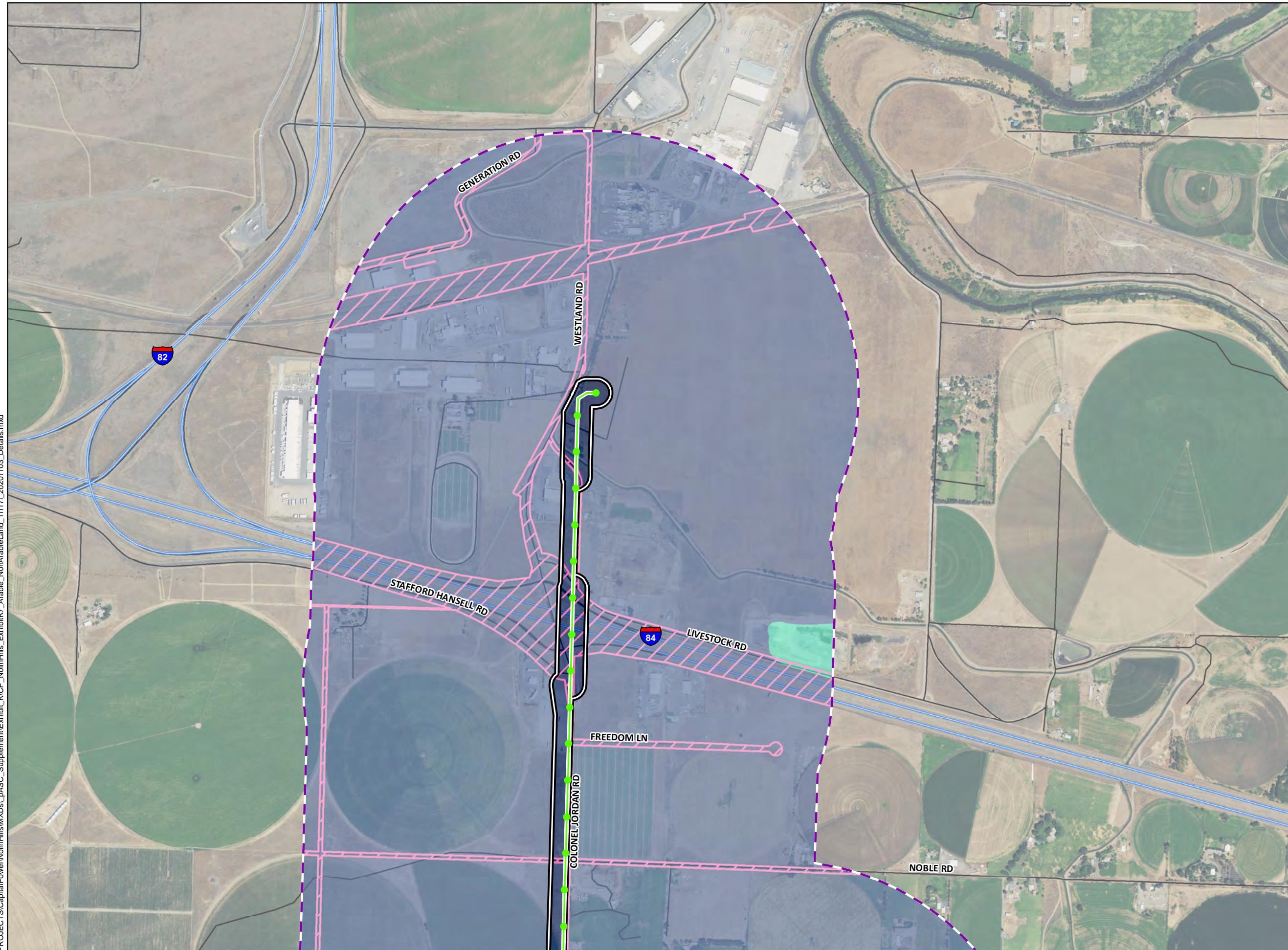
¹Each Tract Number is
Labeled 1 through 25

²Not based on survey data



RESPONSIBLE ENERGY
FOR TOMORROW

Data Sources	Reference Map
Capital Power-Project Infrastructure; ESRI Roads; NAIP-Aerial Basemap; Enterprise-Cities, County Boundaries;	



**Nolin Hills
Wind Power Project**

**Figure K-7.2
Arable and Non-arable Land
Transmission Line Details**

UMATILLA COUNTY, OREGON

- Proposed Site Boundary
- Analysis Area (0.5-mile Buffer)
- Micrositing Corridor
- Transmission Line Only
- Tract Boundary¹
- Non-Arable Land
- Arable Land
- City/Town
- Local Road
- County Boundary

Transmission Line Status, kV Class

- In Service, 230-345
- In Service, 115 or less²

¹Each Tract Number is
Labeled 1 through 25

²Not based on survey data



Data Sources	Reference Map
Capital Power-Project Infrastructure; ESRI Roads; NAIP-Aerial Basemap; Enterprise-Cities, County Boundaries;	



**Nolin Hills
Wind Power Project**

**Figure K-7.3
Arable and Non-arable Land
Transmission Line Details**

UMATILLA COUNTY, OREGON

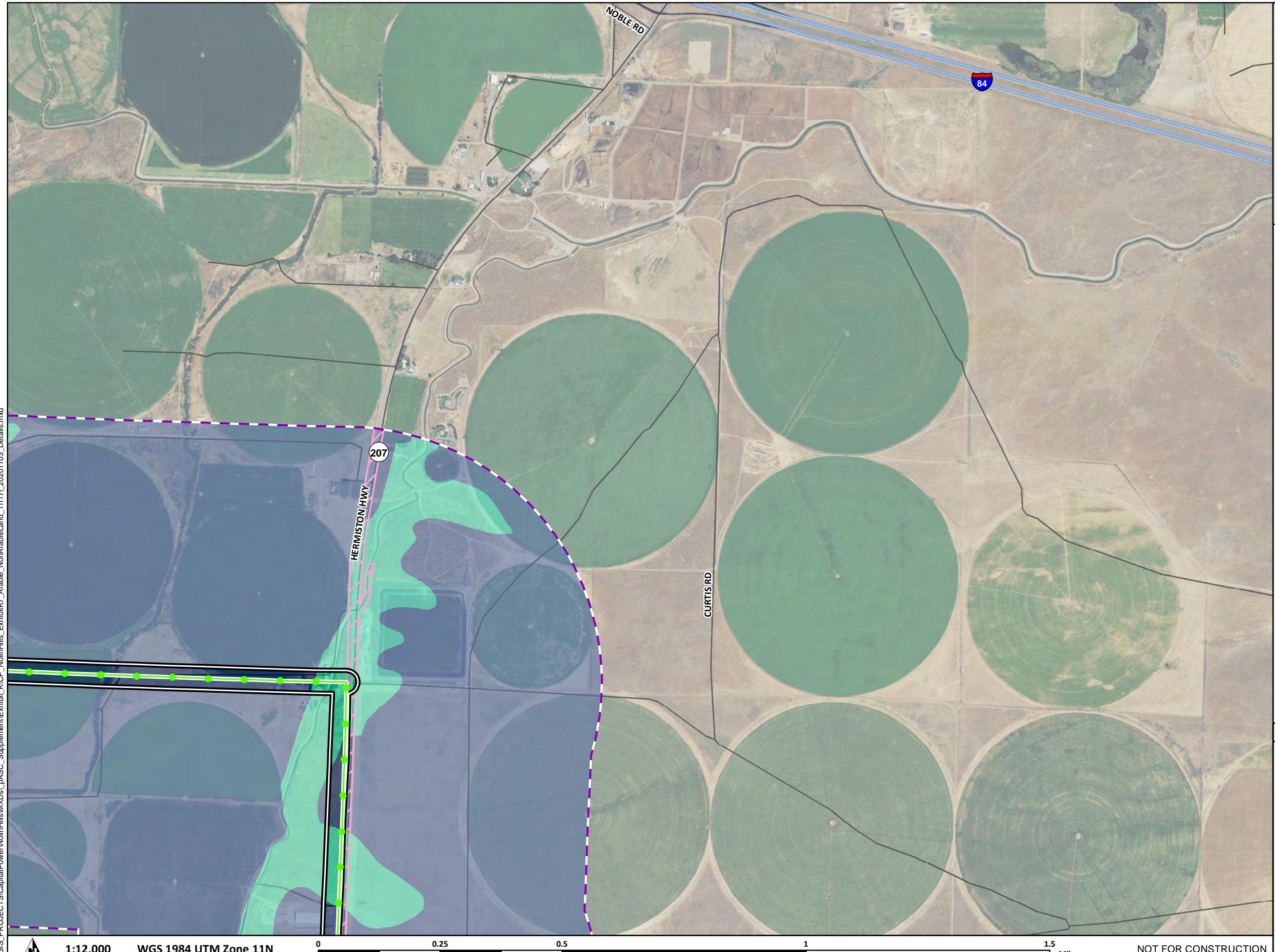
- Proposed Site Boundary
- Analysis Area (0.5-mile Buffer)
- Micrositing Corridor
- Transmission Line Only
- Tract Boundary¹
- Non-Arable Land
- Arable Land
- City/Town
- Interstate Highway
- Secondary Road
- Local Road
- County Boundary
- Transmission Line Status, kV Class
- In Service, 230-345
- In Service, 115 or less²

¹Each Tract Number is
Labeled 1 through 25

²Not based on survey data



Data Sources	Reference Map
Capital Power-Project Infrastructure; ESRI Roads; NAIP-Aerial Basemap; Enterprise-Cities, County Boundaries;	



**Nolin Hills
Wind Power Project**

**Figure K-7.4
Arable and Non-arable Land
Transmission Line Details**

UMATILLA COUNTY, OREGON

- Proposed Site Boundary
- Analysis Area (0.5-mile Buffer)
- Micrositing Corridor
- Transmission Line Only
- Tract Boundary¹
- Non-Arable Land
- Arable Land
- City/Town
- Secondary Road
- Local Road
- County Boundary
- Transmission Line Status, kV Class
- In Service, 230-345
- In Service, 115 or less²

¹Each Tract Number is
Labeled 1 through 25

²Not based on survey data



RESPONSIBLE ENERGY
FOR TOMORROW

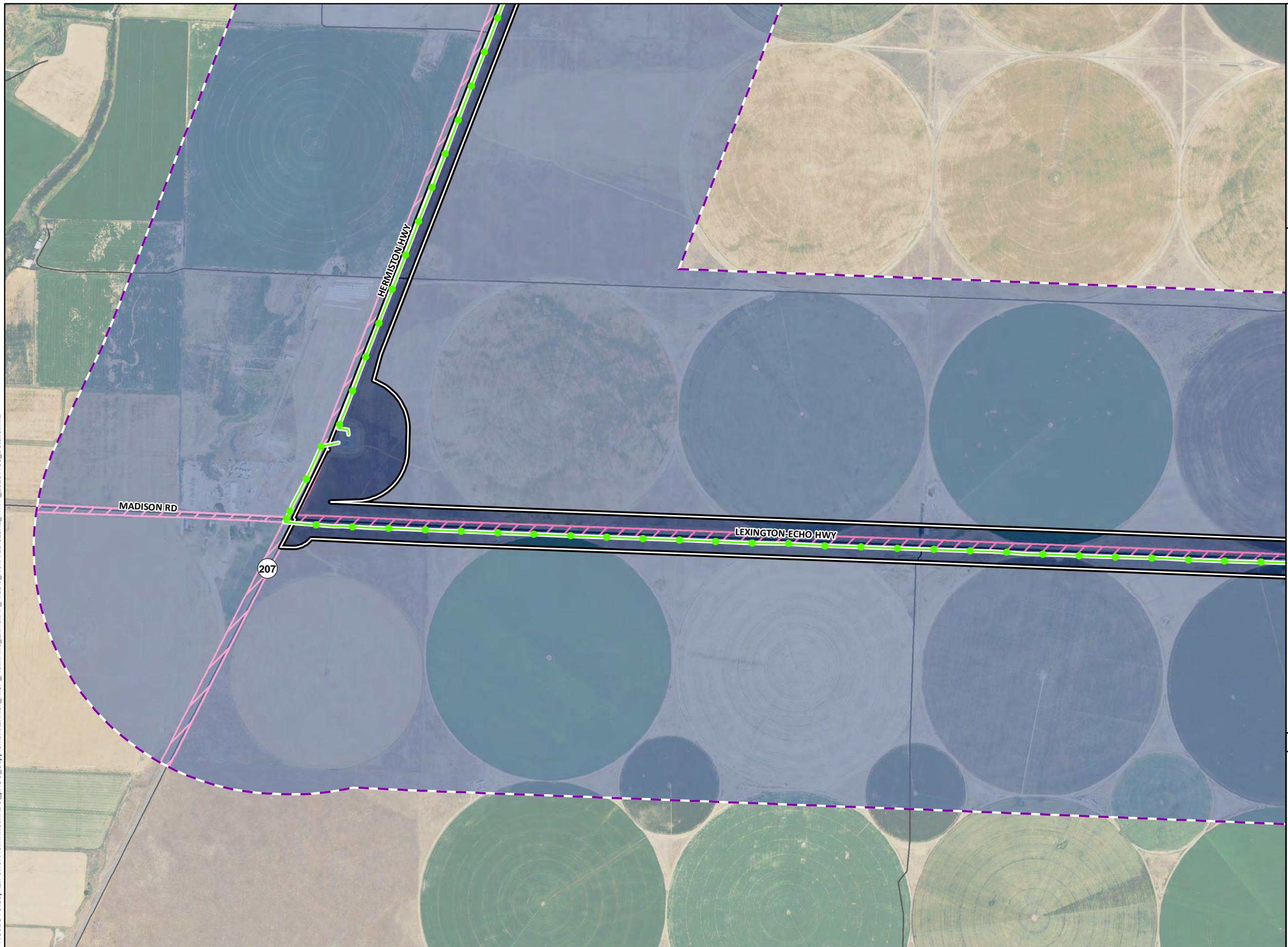
Data Sources	Reference Map
Capital Power-Project Infrastructure; ESRI Roads; NAIP-Aerial Basemap; Enterprise-Cities, County Boundaries;	



**Nolin Hills
Wind Power Project**

**Figure K-7.5
Arable and Non-arable Land
Transmission Line Details**

UMATILLA COUNTY, OREGON



- Proposed Site Boundary
- Analysis Area (0.5-mile Buffer)
- Micrositing Corridor
- Transmission Line Only
- Tract Boundary¹
- Non-Arable Land
- Arable Land
- City/Town
- Secondary Road
- Local Road
- County Boundary
- Transmission Line Status, kV Class
- In Service, 230-345
- In Service, 115 or less²

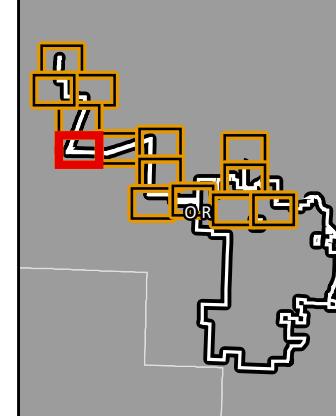
¹Each Tract Number is Labeled 1 through 25

²Not based on survey data



Data Sources | Reference Map

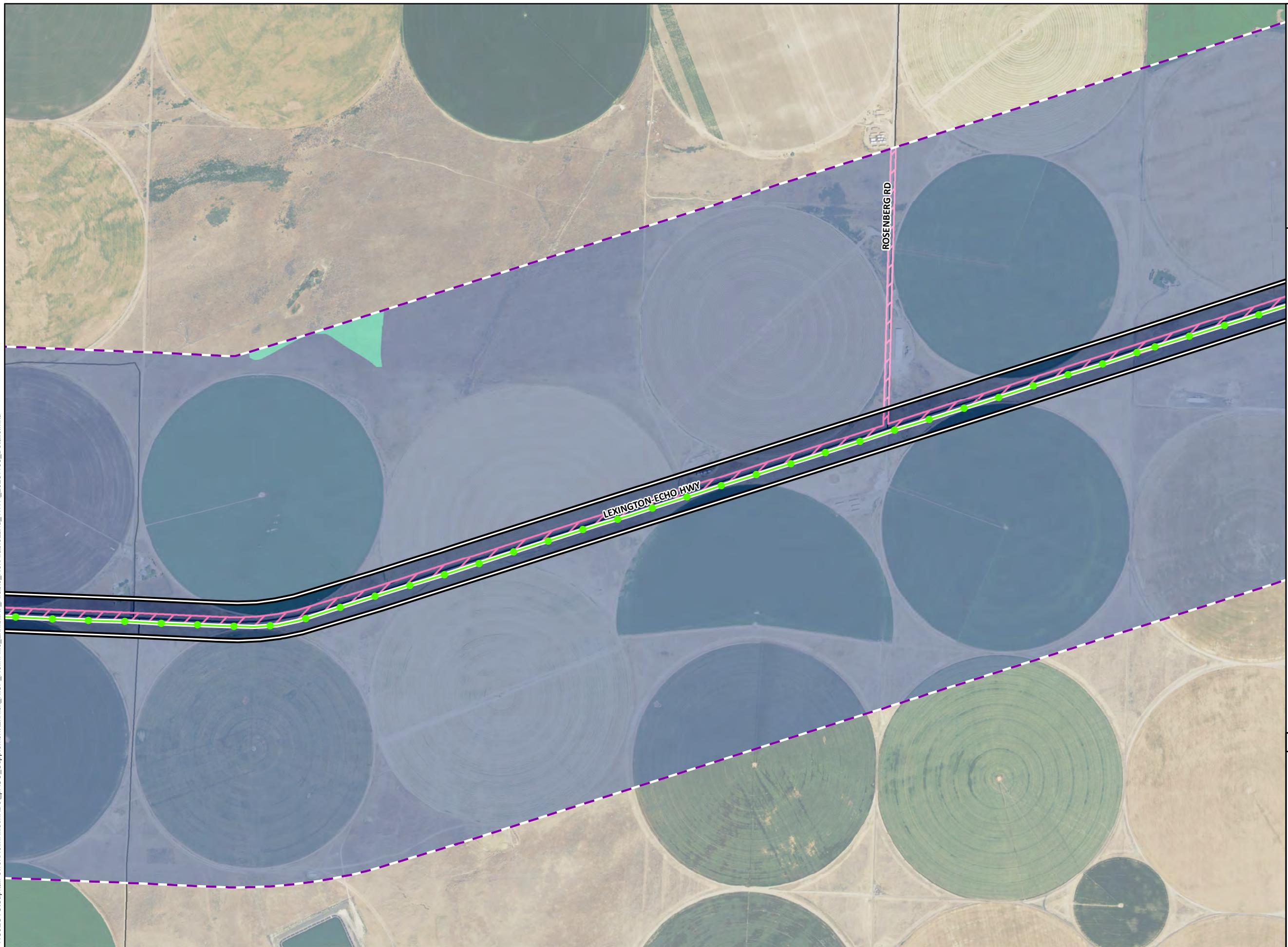
Capital Power-Project Infrastructure;
ESRI Roads; NAIP-Aerial Basemap;
Enterprise-Cities, County Boundaries;



**Nolin Hills
Wind Power Project**

**Figure K-7.6
Arable and Non-arable Land
Transmission Line Details**

UMATILLA COUNTY, OREGON



**Nolin Hills
Wind Power Project**

**Figure K-7.7
Arable and Non-arable Land
Transmission Line Details**

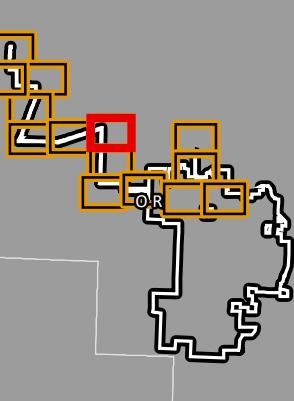
UMATILLA COUNTY, OREGON

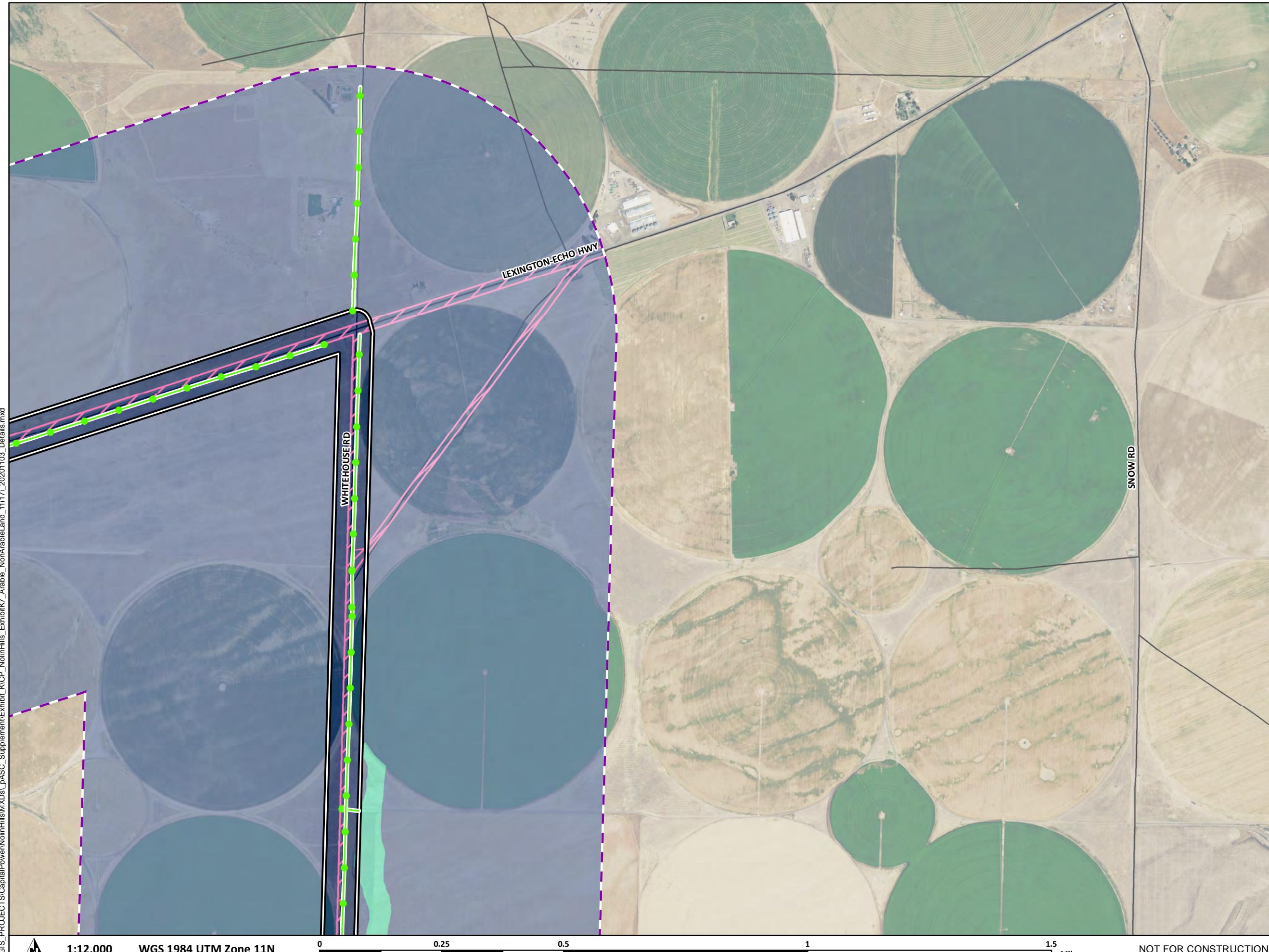
- Proposed Site Boundary
- Analysis Area (0.5-mile Buffer)
- Micrositing Corridor
- Transmission Line Only
- Tract Boundary¹
- Non-Arable Land
- Arable Land
- City/Town
- Secondary Road
- Local Road
- County Boundary
- Transmission Line Status, KV Class**
- In Service, 230-345
- In Service, 115 or less²

¹Each Tract Numbered is
Labeled 1 through 25

²Not based on survey data



Data Sources	Reference Map
Capital Power-Project Infrastructure; ESRI Roads; NAIP-Aerial Basemap; Enterprise-Cities, County Boundaries;	



**Nolin Hills
Wind Power Project**

**Figure K-7.8
Arable and Non-arable Land
Transmission Line Details**

UMATILLA COUNTY, OREGON

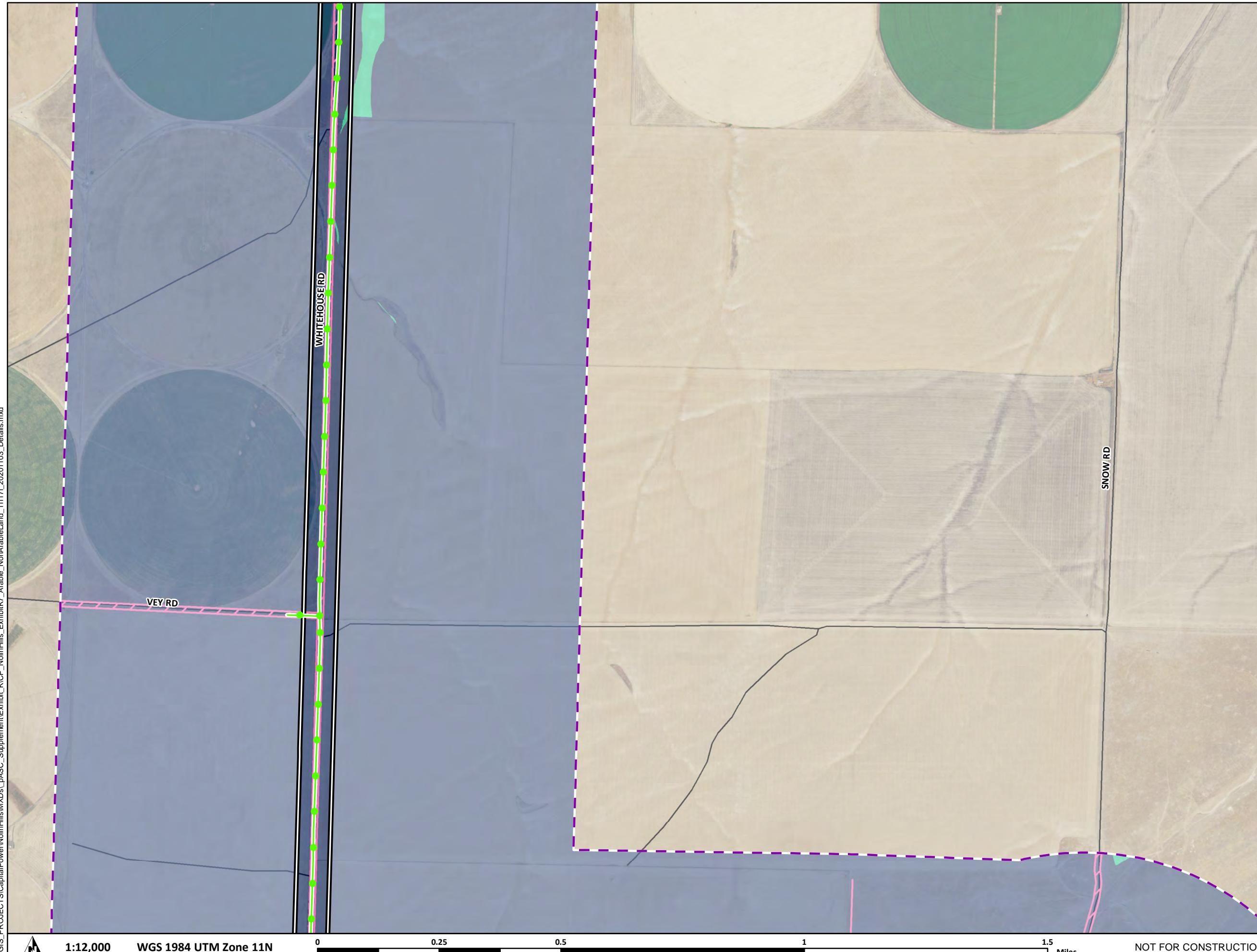
- Proposed Site Boundary
- Analysis Area (0.5-mile Buffer)
- Micrositing Corridor
- Transmission Line Only
- Tract Boundary¹
- Non-Arable Land
- Arable Land
- City/Town
- Local Road
- County Boundary
- Transmission Line Status, kV Class
- In Service, 230-345
- In Service, 115 or less²

¹Each Tract Number is
Labeled 1 through 25

²Not based on survey data



Data Sources	Reference Map
Capital Power-Project Infrastructure; ESRI Roads; NAIP-Aerial Basemap; Enterprise-Cities, County Boundaries;	



**Nolin Hills
Wind Power Project**

**Figure K-7.9
Arable and Non-arable Land
Transmission Line Details**

UMATILLA COUNTY, OREGON

- Proposed Site Boundary
- Analysis Area (0.5-mile Buffer)
- Micrositing Corridor
- Transmission Line Only
- Tract Boundary¹
- Non-Arable Land
- Arable Land
- City/Town
- Local Road
- County Boundary
- Transmission Line Status, kV Class
- In Service, 230-345
- In Service, 115 or less²

¹Each Tract Number is Labeled 1 through 25

²Not based on survey data



Data Sources	Reference Map
Capital Power-Project Infrastructure; ESR Roads; NAIP-Aerial Basemap; Enterprise-Cities, County Boundaries;	



**Nolin Hills
Wind Power Project**

**Figure K-7.10
Arable and Non-arable Land
Transmission Line Details**

UMATILLA COUNTY, OREGON

- Proposed Site Boundary
- Analysis Area (0.5-mile Buffer)
- Micrositing Corridor
- Transmission Line Only
- Tract Boundary¹
- Non-Arable Land
- Arable Land
- City/Town
- Local Road
- County Boundary

Transmission Line Status, kV Class

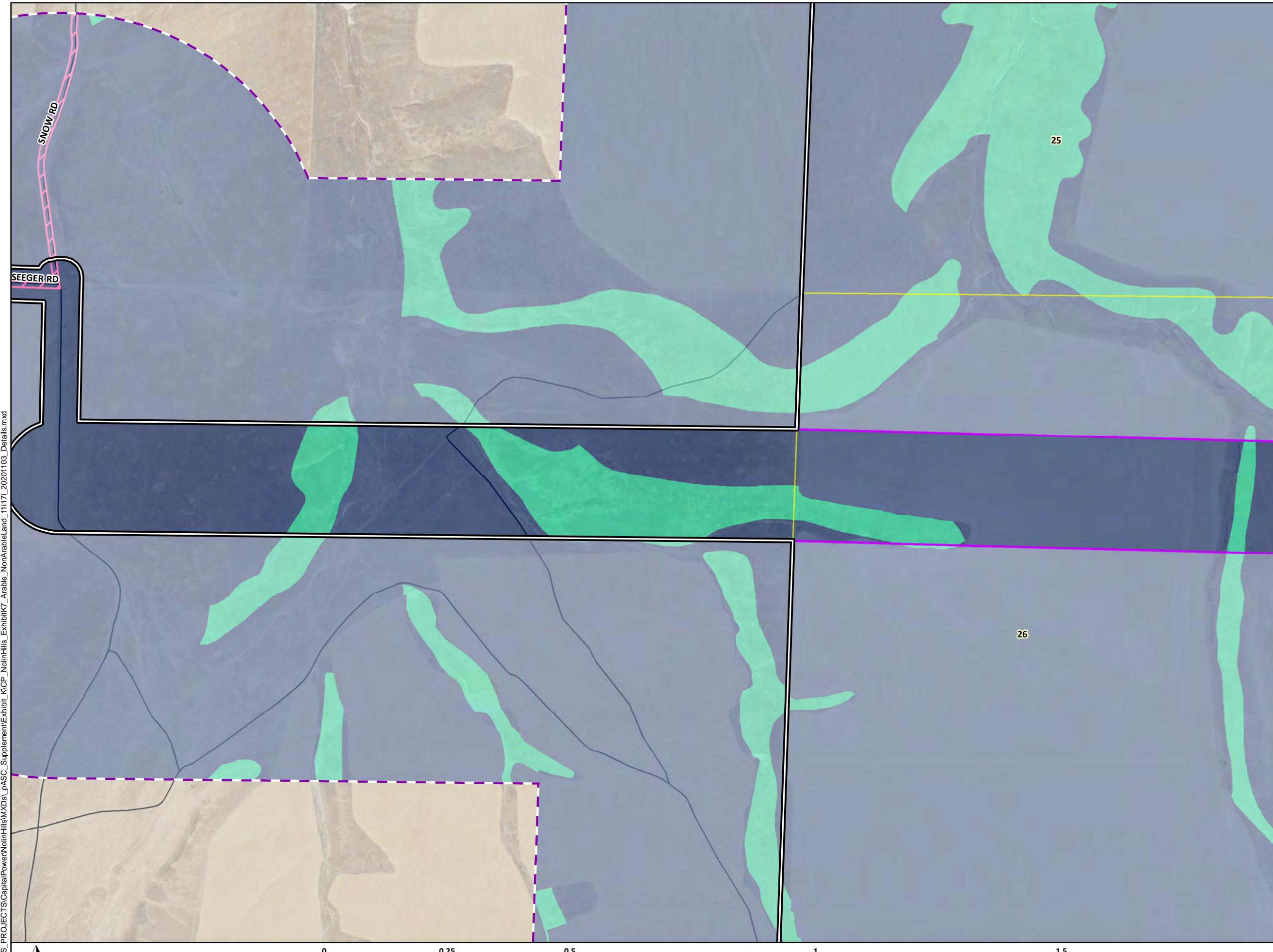
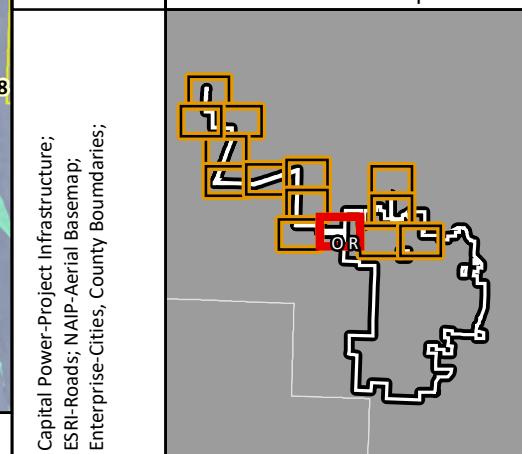
- In Service, 230-345
- In Service, 115 or less²

¹Each Tract Number is
Labeled 1 through 25

²Not based on survey data



Data Sources | Reference Map



**Nolin Hills
Wind Power Project**

**Figure K-7.11
Arable and Non-arable Land
Transmission Line Details**

UMATILLA COUNTY, OREGON

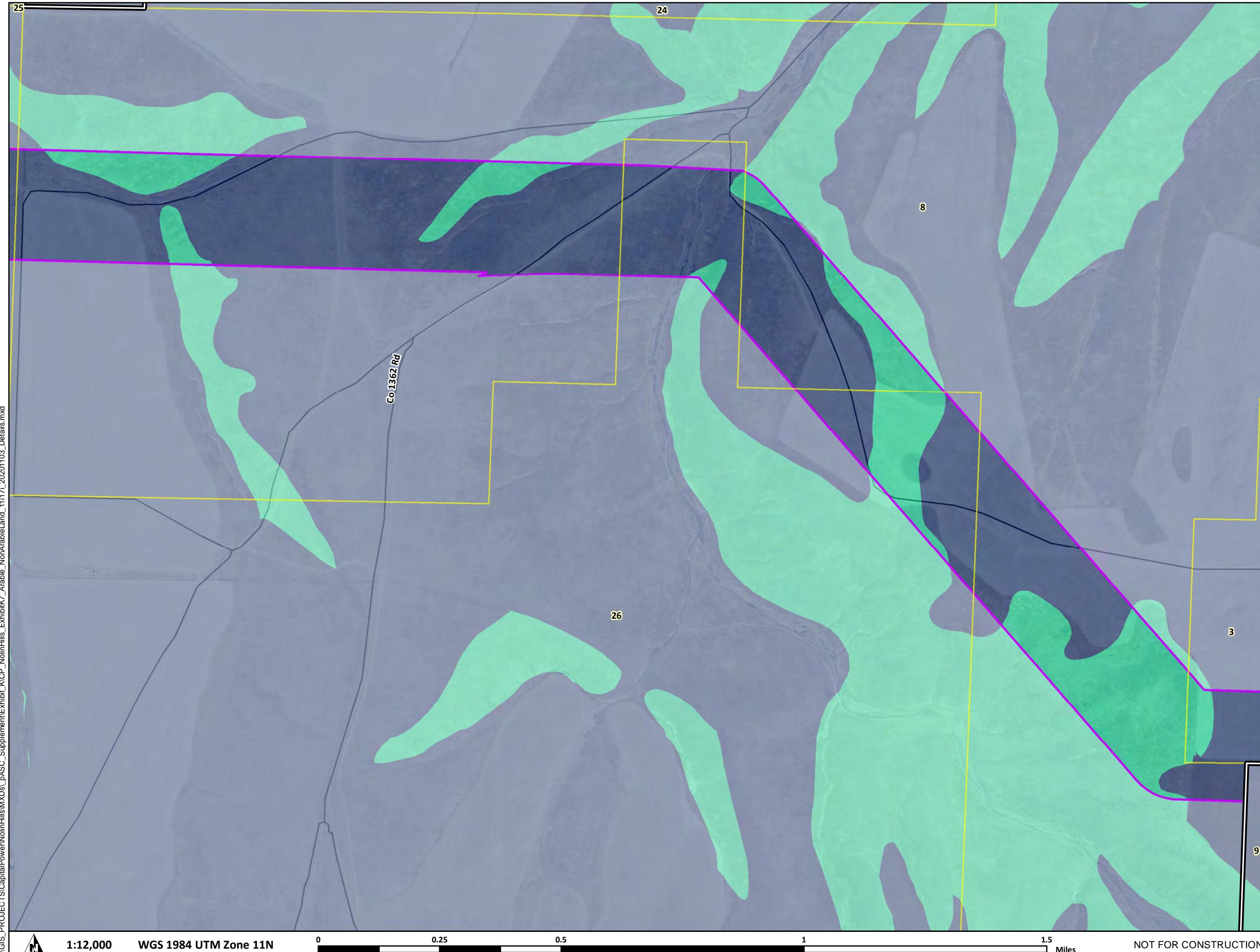
- Proposed Site Boundary
- Analysis Area (0.5-mile Buffer)
- Micrositing Corridor
- Transmission Line Only
- Tract Boundary¹
- Non-Arable Land
- Arable Land
- City/Town
- Local Road
- County Boundary
- Transmission Line Status, kV Class**
- In Service, 230-345
- In Service, 115 or less²

¹Each Tract Number is
Labeled 1 through 25

²Not based on survey data



Data Sources	Reference Map
Capital Power-Project Infrastructure; ESRI Roads; NAIP-Aerial Basemap; Enterprise-Cities, County Boundaries;	



**Nolin Hills
Wind Power Project**

**Figure K-7.12
Arable and Non-arable Land
Transmission Line Details**

UMATILLA COUNTY, OREGON

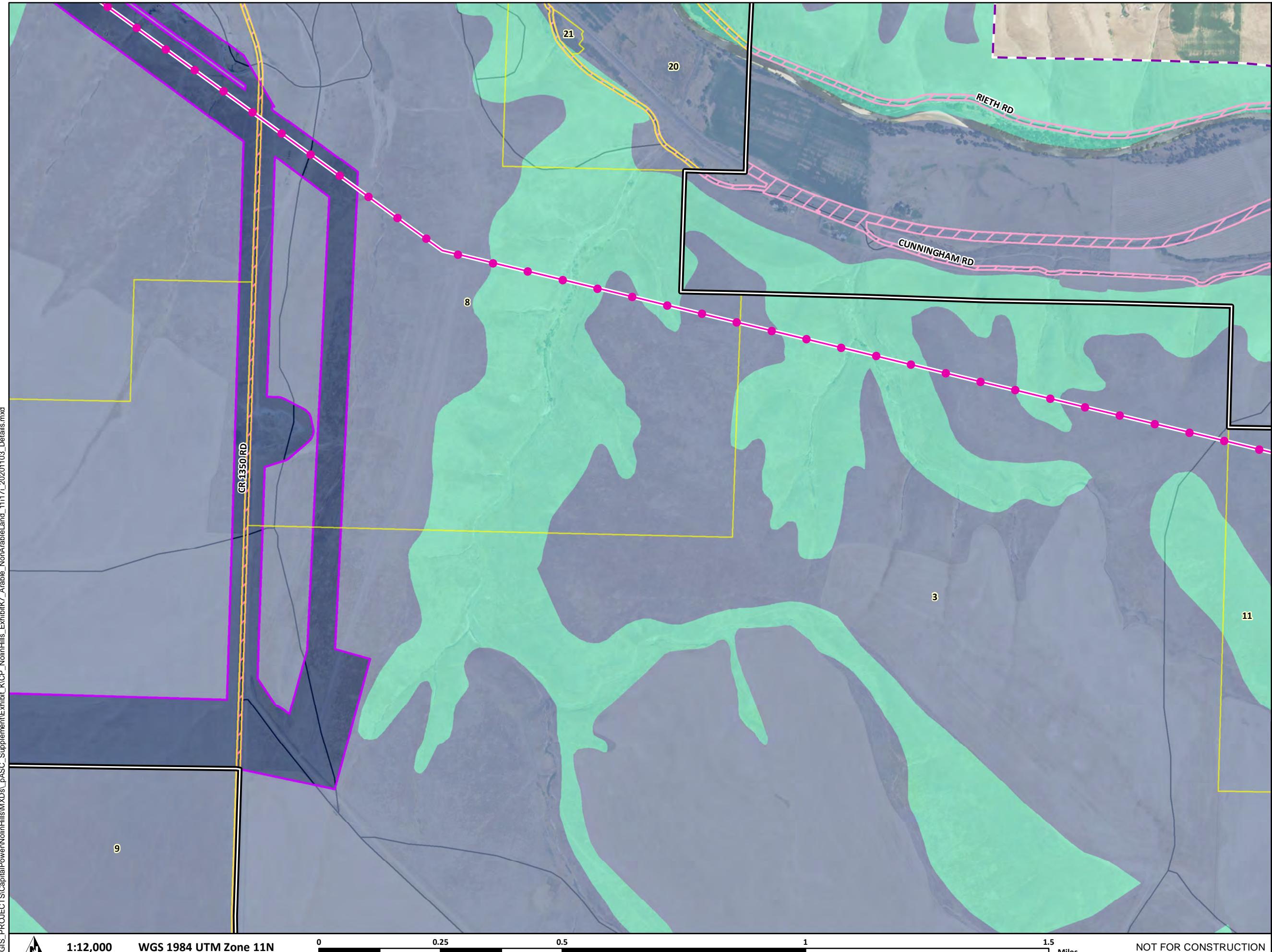
- Proposed Site Boundary
- Analysis Area (0.5-mile Buffer)
- Micrositing Corridor
- Transmission Line Only
- Tract Boundary¹
- Non-Arable Land
- Arable Land
- City/Town
- Secondary Road
- Local Road
- County Boundary
- Transmission Line Status, kV Class
- In Service, 230-345
- In Service, 115 or less²

¹Each Tract Number is
Labeled 1 through 25

²Not based on survey data



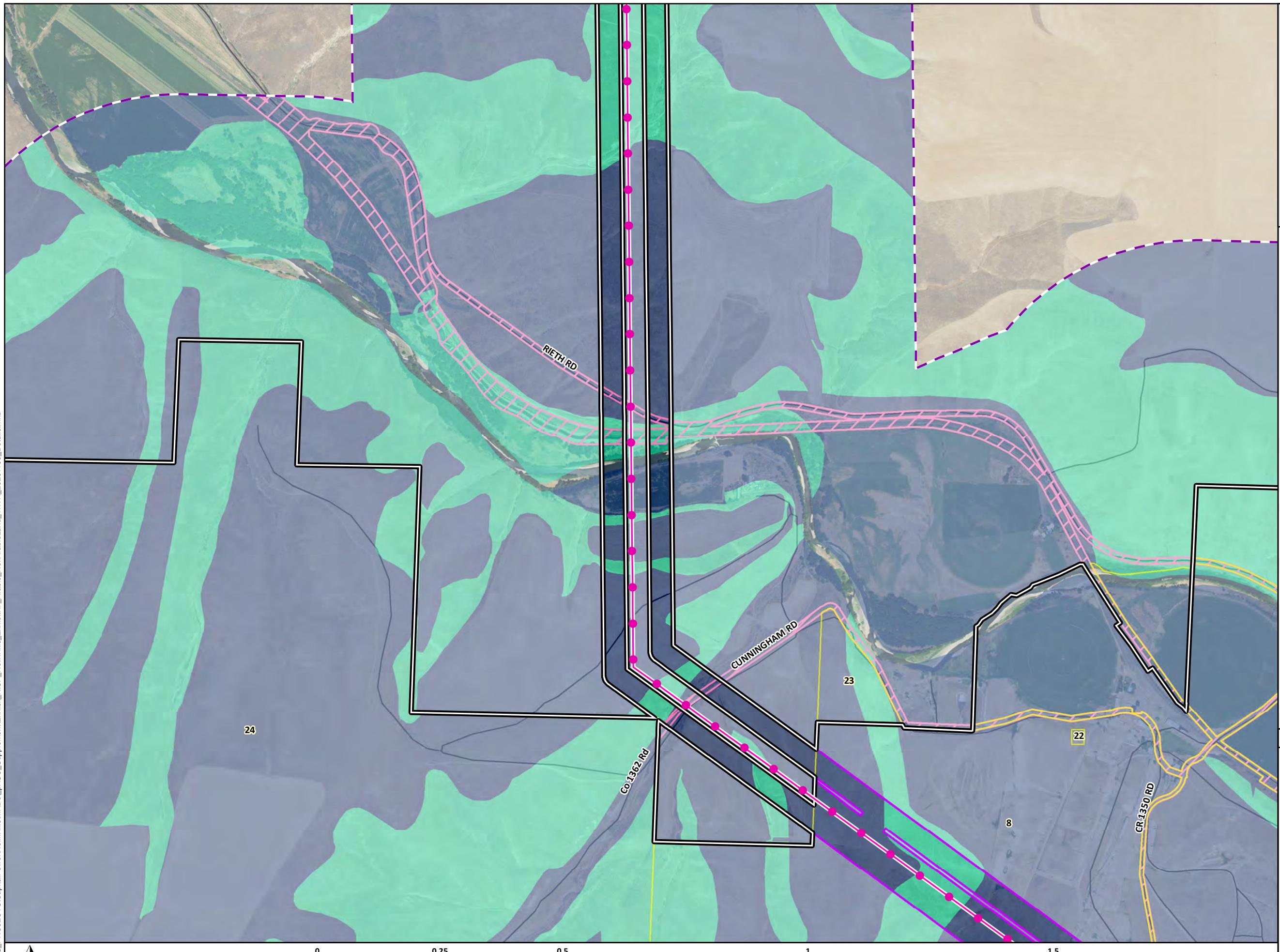
Data Sources	Reference Map
Capital Power-Project Infrastructure; ESRI Roads; NAIP-Aerial Basemap; Enterprise-Cities, County Boundaries;	



**Nolin Hills
Wind Power Project**

**Figure K-7.13
Arable and Non-arable Land
Transmission Line Details**

UMATILLA COUNTY, OREGON



- Proposed Site Boundary
- Analysis Area (0.5-mile Buffer)
- Micrositing Corridor
- Transmission Line Only
- Tract Boundary¹
- Non-Arable Land
- Arable Land
- City/Town
- Secondary Road
- Local Road
- County Boundary
- Transmission Line Status, kV Class
- In Service, 230-345
- In Service, 115 or less²

¹Each Tract Number is Labeled 1 through 25

²Not based on survey data

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FOR TOMORROW

Data Sources	Reference Map
Capital Power-Project Infrastructure; ESRI Roads; NAIP-Aerial Basemap; Enterprise-Cities, County Boundaries;	

**Nolin Hills
Wind Power Project**

**Figure K-7.14
Arable and Non-arable Land
Transmission Line Details**

UMATILLA COUNTY, OREGON

- Proposed Site Boundary
- Analysis Area (0.5-mile Buffer)
- Micrositing Corridor
- Transmission Line Only
- Tract Boundary¹
- Non-Arable Land
- Arable Land
- City/Town
- Secondary Road
- Local Road
- County Boundary
- Transmission Line Status, kV Class
- In Service, 230-345
- In Service, 115 or less²

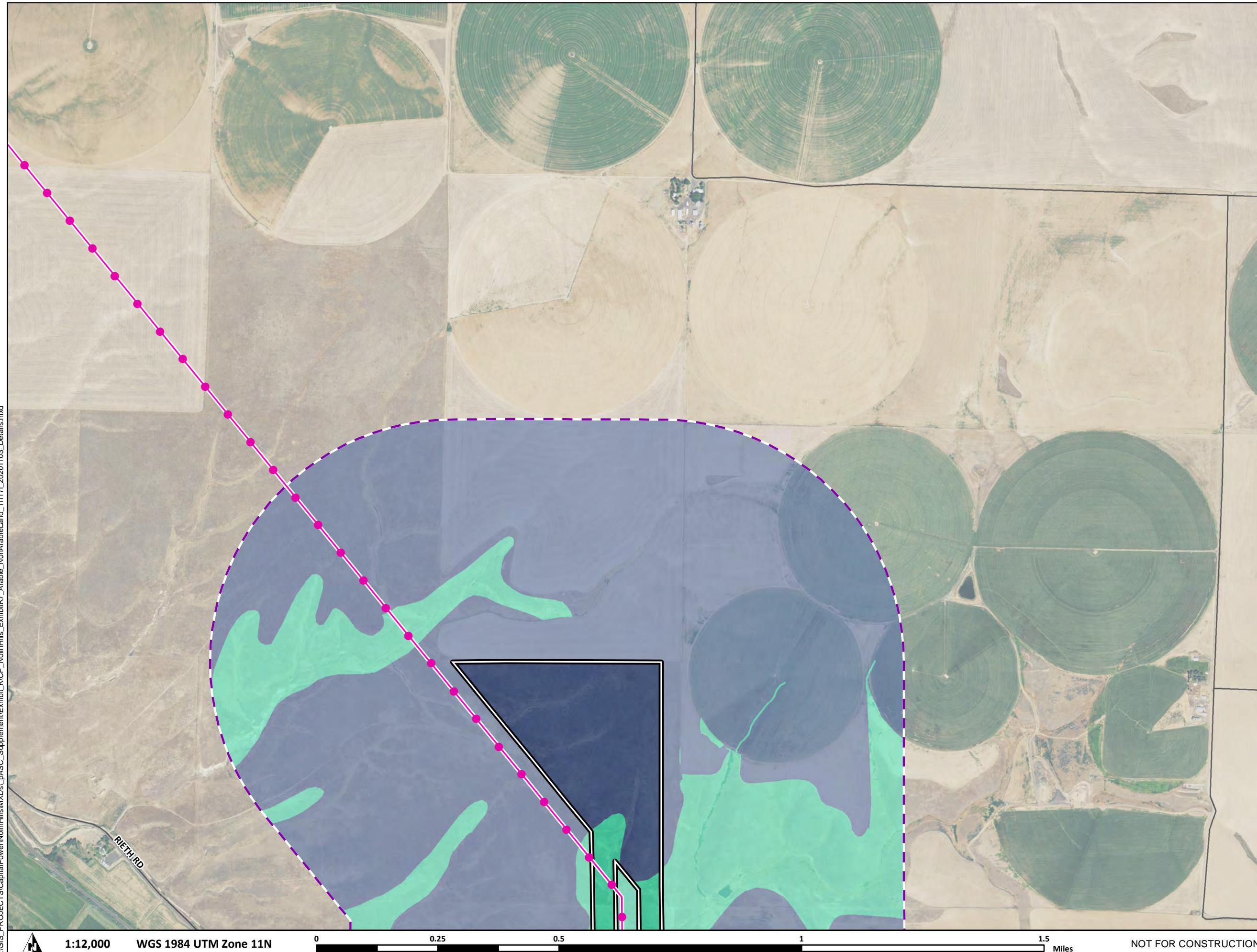
¹Each Tract Number is
Labeled 1 through 25

²Not based on survey data



RESPONSIBLE ENERGY
FOR TOMORROW

Data Sources	Reference Map
Capital Power-Project Infrastructure; ESRI Roads; NAIP-Aerial Basemap; Enterprise-Cities, County Boundaries;	



**Nolin Hills
Wind Power Project**

**Figure K-8
Arable and Non-arable Land
Energy Generation
Facility Site Boundary**

UMATILLA COUNTY, OREGON

- Map Grid
- Proposed Site Boundary
- Analysis Area (0.5-mile Buffer)
- Micrositing Corridor
- Solar Siting Area
- Tract Boundary¹
- Umatilla County Road ROW and UEC ROW²
- Non-Arable Land
- Arable Land
- City/Town
- Interstate Highway
- Secondary Road
- Local Road
- County Boundary

Transmission Line Status, kV Class

- In Service, 230-345
- In Service, 115 or less²

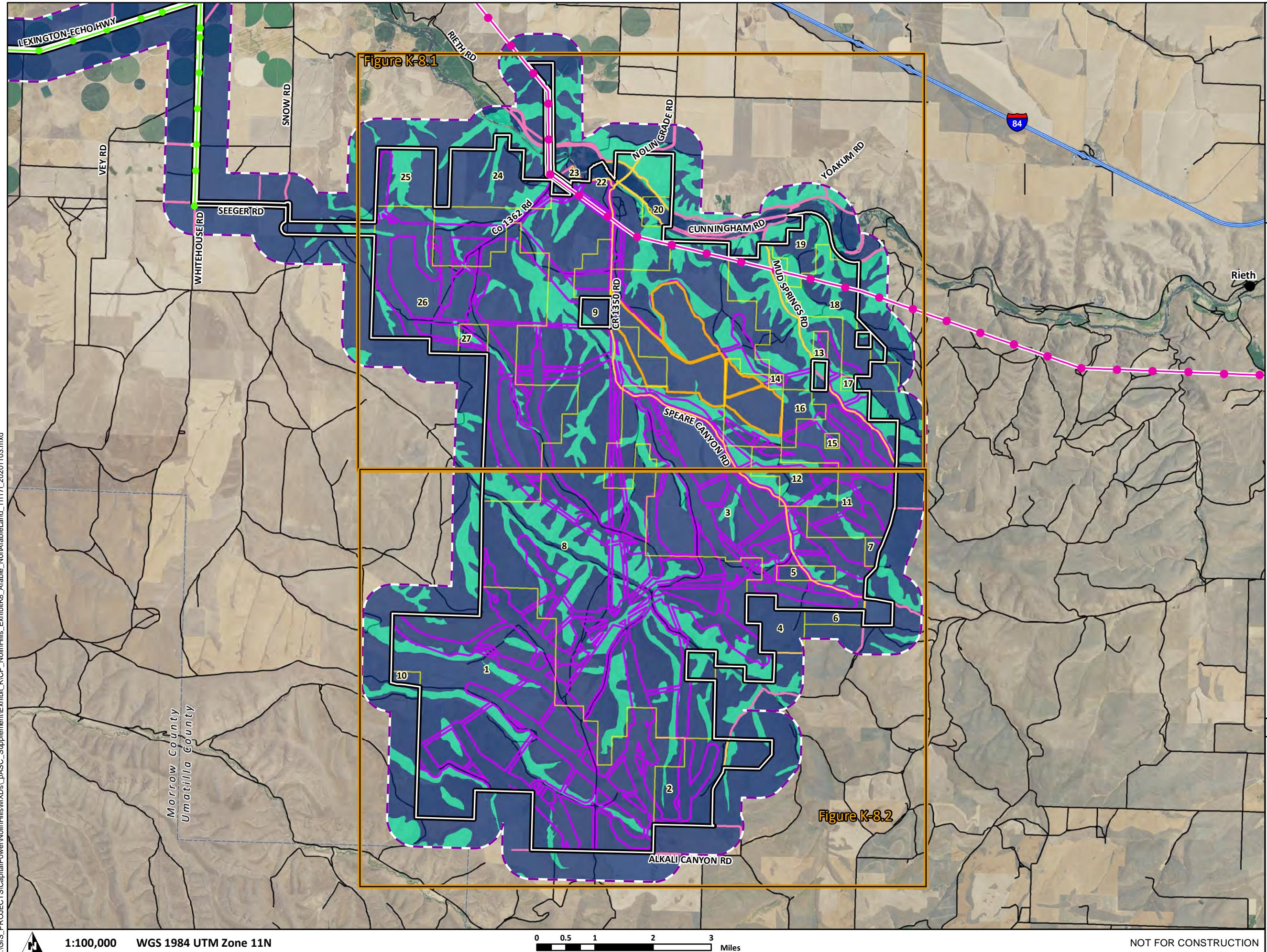
¹Each Tract Number is Labeled 1 through 25

²Not based on survey data

TETRA TECH

Capital Power
RESPONSIBLE ENERGY
FOR TOMORROW

Data Sources **Reference Map**



**Nolin Hills
Wind Power Project**

**Figure K-8.1
Arable and Non-arable Land
Energy Generation
Facility Site Boundary**

UMATILLA COUNTY, OREGON

- Proposed Site Boundary
- Analysis Area (0.5-mile Buffer)
- Micrositing Corridor
- Solar Siting Area
- Tract Boundary¹
- Umatilla County Road ROW and UEC ROW²
- Non-Arable Land
- Arable Land
- Interstate Highway
- Secondary Road
- Local Road
- County Boundary

Transmission Line Status, kV Class

- In Service, 230-345

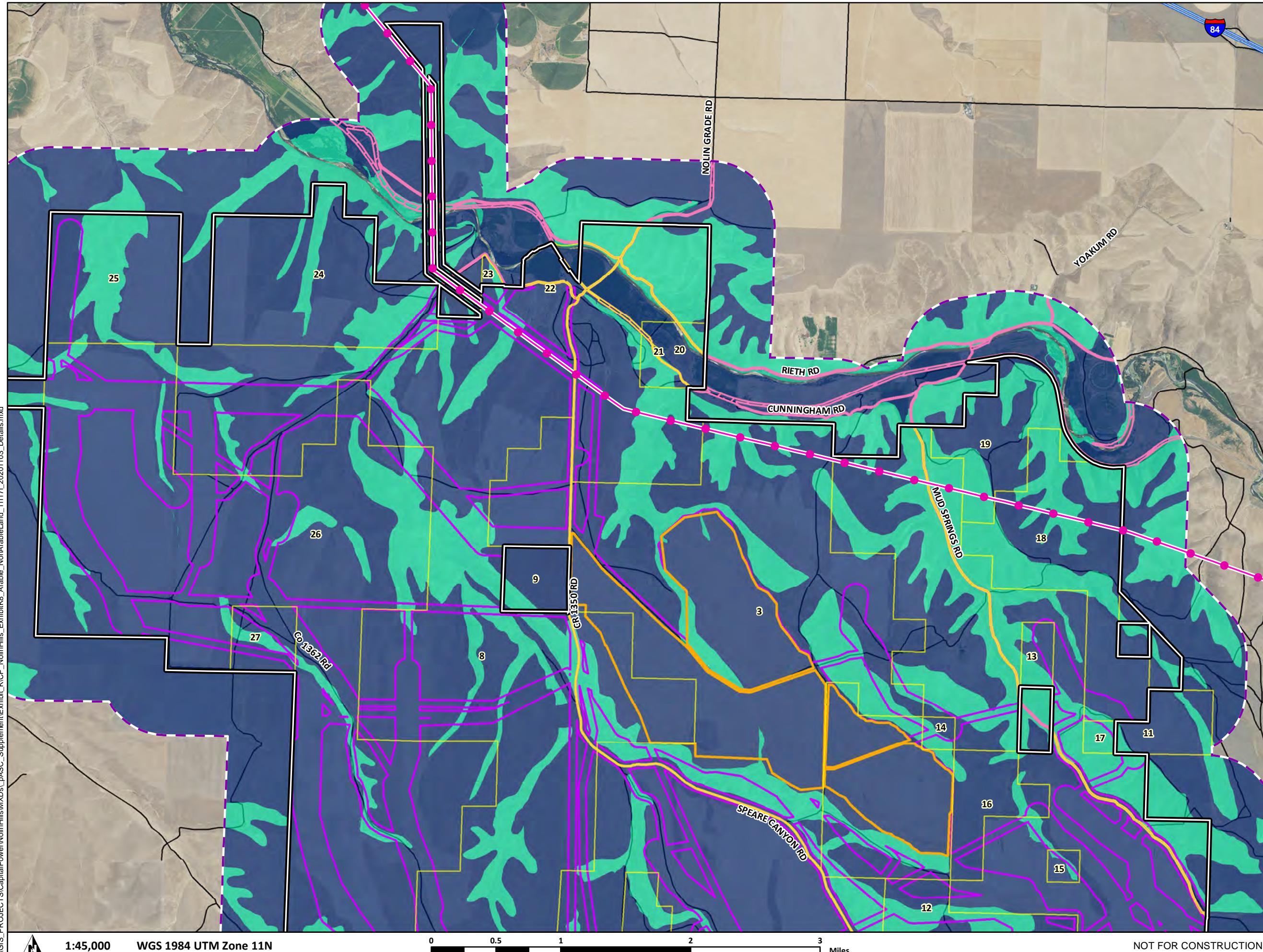
¹Each Tract Number is Labeled 1 through 25

²Not based on survey data

TETRA TECH

Capital Power
RESPONSIBLE ENERGY
FOR TOMORROW

Data Sources	Reference Map
Capital Power-Project Infrastructure; ESRI Roads; NAIP-Aerial Basemap; Enterprise-Cities, County Boundaries;	



**Nolin Hills
Wind Power Project**

**Figure K-8.2
Arable and Non-arable Land
Energy Generation
Facility Site Boundary**

UMATILLA COUNTY, OREGON

- Proposed Site Boundary
- Analysis Area (0.5-mile Buffer)
- Micrositing Corridor
- Tract Boundary¹
- Umatilla County Road ROW and UEC ROW²
- Non-Arable Land
- Arable Land
- Secondary Road
- Local Road
- County Boundary

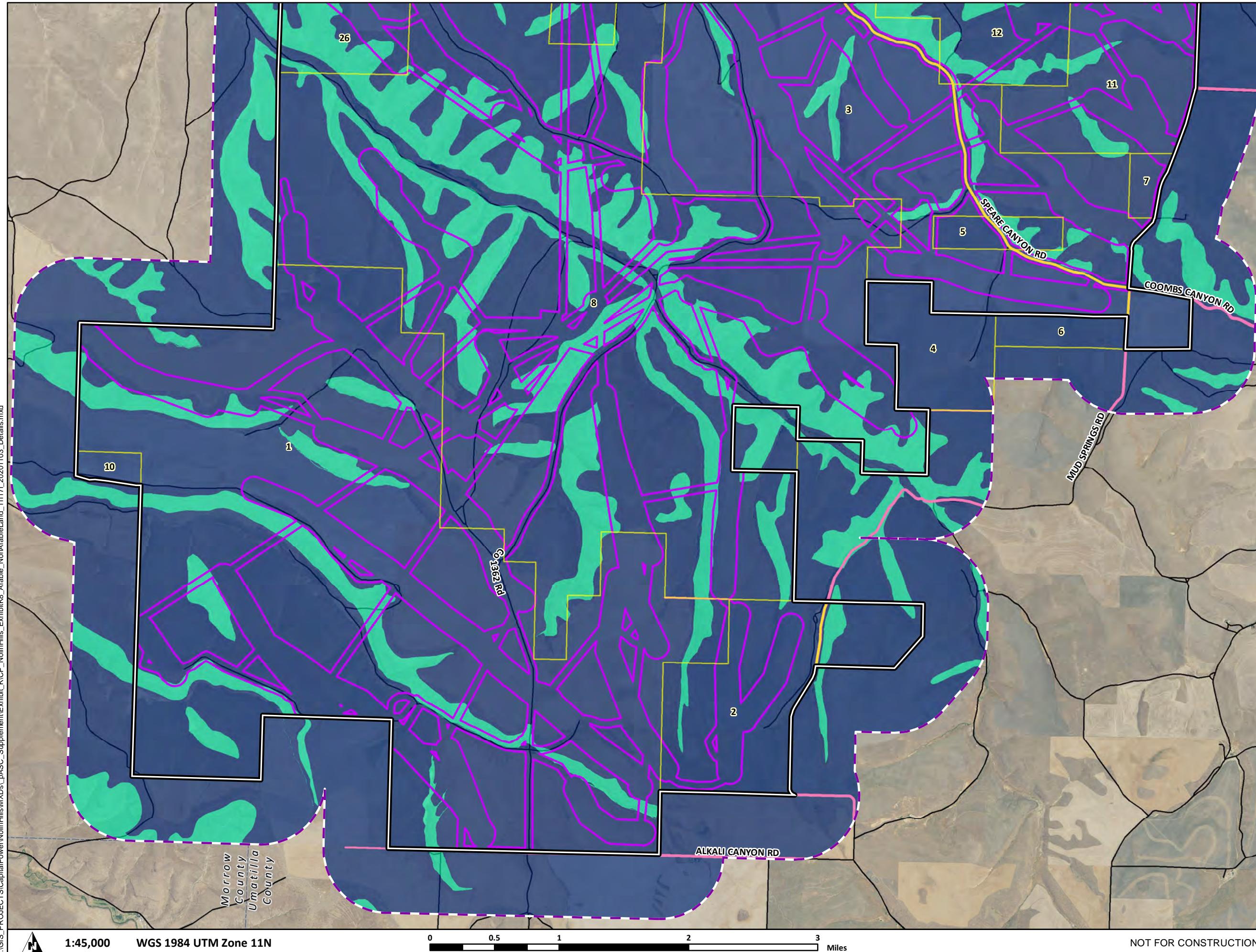
¹Each Tract Number is Labeled 1 through 25

²Not based on survey data



**Capital
Power**
RESPONSIBLE ENERGY
FOR TOMORROW

Data Sources	Reference Map
Capital Power-Project Infrastructure; ESR Roads; NAIP-Aerial Basemap; Enterprise-Cities, County Boundaries;	



**Nolin Hills
Wind Power Project**

**Figure K-9
Umatilla County Setbacks**

UMATILLA COUNTY, OREGON

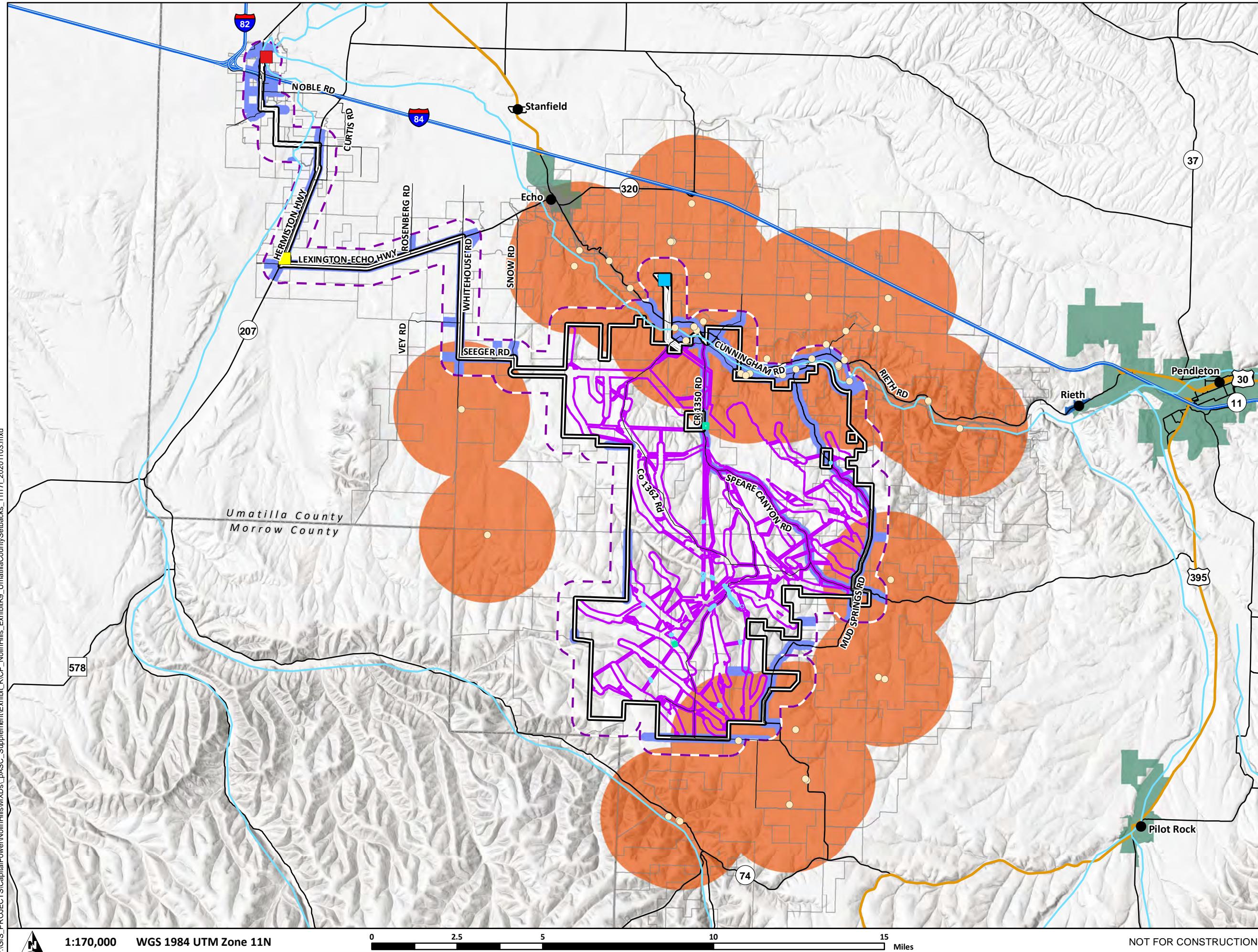
- Proposed Site Boundary
- Analysis Area (0.5-mile Buffer)
- Micrositing Corridor
- UEC Buttercreek Substation
- Planned BPA Stanfield Substation
- UEC Cottonwood Substation
- Proposed Substation
- Urban Growth Boundary
- Unincorporated Communities Zone
- Tax Lot Boundary
- Rural Residence
- 2-mile Rural Residence Setback
- Right Of Way Setback of 725 feet*
- River/Stream
- Wetland
- City/Town
- Interstate Highway
- Secondary Highway
- Secondary Road
- County Boundary

*725 foot setback based on 110% of 656 foot turbine height (rounded up)

TETRA TECH

Capital Power
RESPONSIBLE ENERGY
FOR TOMORROW

Data Sources	Reference Map
Capital Power-Project Infrastructure; ESRI Roads; Hillshade; Enterprise-Cities, County Boundaries;	



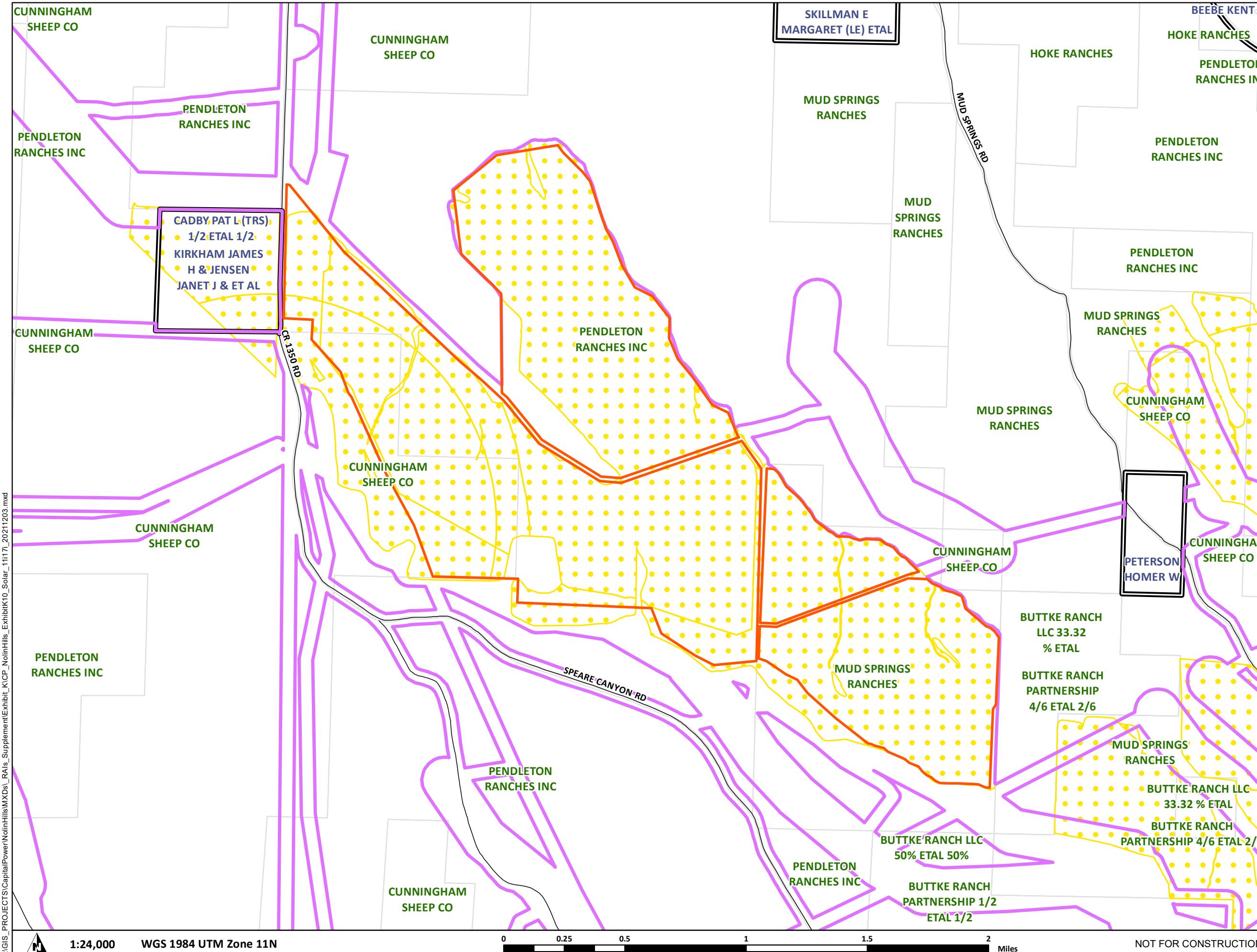
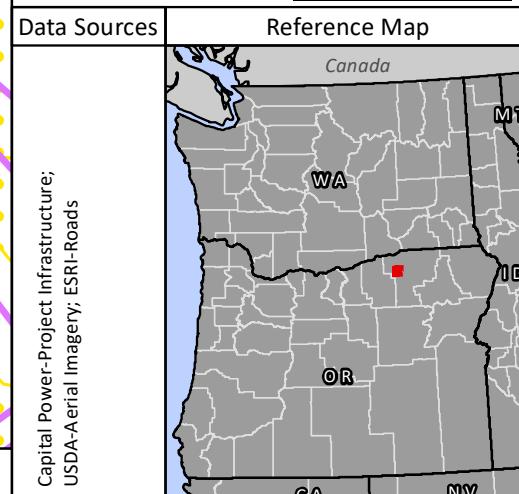
Nolin Hills Wind Power Project

Figure K-10
Solar Siting Area
Surrounding Lands

UMATILLA COUNTY, OREGON

- Proposed Site Boundary
- Micrositing Corridor
- Solar Siting Area Fenceline
- Tax Lot Boundary
- Non-participating Land Owner
- Participating Land Owner*
- Cultivated Land
- Public Road

* Cunningham Sheep Company, Pendleton Ranches, Inc., and Mud Springs Ranches are all controlled by a single landowner family



Attachment K-1. Landowner Letters to the Oregon Department of Energy

EXHIBIT K: COMPLIANCE WITH STATEWIDE PLANNING GOALS

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CUNNINGHAM SHEEP & LAND COMPANY
PENDLETON RANCHES, INC.
MUD SPRINGS RANCHES
HOKE RANCHES
NOLIN FARMING CO.

CUNNINGHAM SHEEP COMPANY

303 S.E. 3RD STREET • P.O. BOX 1186
PENDLETON, OREGON 97801
541-276-6391 • CSHEEPCO@GMAIL.COM



January 27, 2022

Sarah Esterson
Senior Siting Analyst, Oregon Department of Energy
550 Capitol St. NE, 1st Floor
Salem, OR 97301
(503) 378-4040
sarah.esterson@energy.oregon.gov

Dear Ms. Esterson:

My family operates Cunningham Sheep Company, Pendleton Ranches, Inc., and Mud Springs Ranches, and owns, farms and ranches over 75,000 acres of agricultural lands in Umatilla County. We use this land for the raising of livestock, timber production, and dryland wheat agriculture. Much of our farm land is enrolled in the conservation reserve program (CRP) and about 2,500 acres are dedicated to dryland wheat production.

We are the primary landowner participating in the Nolin Hills wind and solar project being developed by Nolin Hills Wind, LLC. The solar generation facility of the Nolin Hills project is proposed to be located on approximately 1800 acres of our property.

We are confident the project's location in this area will not negatively impact our existing use of our land surrounding the solar project boundary or the overall success of our ranching and farming operations. We intend to continue and likely intensify our agricultural practices on the land surrounding the project boundary, which would total over 73,000 acres. Construction and operation of the project will not hinder our ranching and farming practices on the surrounding land.

Nor would the project negatively impact our access to irrigation or water rights. This land is not located within an irrigation district, and we are unaware of any certificated water rights associated with land inside the project boundary or land designated for solar facilities. There are no wells or ponds on the land designated for solar facilities, and we have no intention or need to apply for any water rights in this area at this time or in the foreseeable future.

In fact, the project will enable us to support and improve our farming and ranching operations in the surrounding areas by providing valuable lease payments we can invest in ongoing activities on more active land elsewhere on our property. Specifically, we intend to devote lease revenues in part to improve housing for our sheep herders as well as farm employees in the cattle and farming departments. With board approval we may also acquire, clean up and refurbish a contiguous agriculture-related business to strengthen the diversity base of our legacy farm. Like most farmers, we generally need to repair many farm buildings and add new ones. The lease payments projected exceed the potential revenues from the current dryland wheat production on the project boundary today.

The project will not result in any loss of employees for our operations. To the contrary, we expect to add agricultural jobs to our payroll based on the lease payments. Specifically, we may add to our team up to 6 new employees with anticipated wages of \$225,000 per year. . We also expect to maintain or, more likely, increase our operational spending with local agricultural suppliers and service providers, given our projected increased investment in operations on the land remaining in agricultural and ranching use and in the new agriculture-related business

We appreciate the opportunity to participate in this project, which we believe will ultimately help us improve the overall health and productivity of our agricultural land. Please feel free to contact me should Oregon Department of Energy require additional information.

Sincerely,


Steven H. Corey

Steven H. Corey



CUNNINGHAM SHEEP & LAND COMPANY
PENDLETON RANCHES, INC.
MUD SPRINGS RANCHES
HOKE RANCHES

CUNNINGHAM SHEEP COMPANY

303 S.E. 3RD STREET

P.O. BOX 1186

541-276-6391

PENDLETON, OREGON 97801



March 15, 2021

Re: Nolin Hills EFSC Application
ODOE

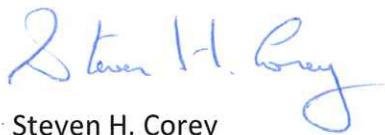
To Whom it May Concern:

This letter confirms that Cunningham Sheep Company and related companies anticipate annual net revenues per acre from land that will be used for wind or solar development by the project will substantially exceed revenues from the present dry land wheat farming. As land owners, we believe the lease payments from the applicant both for the wind component and the solar component will be a net benefit in revenue compared to the value of dry land wheat cultivation.

If we can provide further information, please let me know.

Thank you.

Sincerely yours,



Steven H. Corey

To Whom it May Concern:

I am the manager and co-owner of Tax Lot ID 2N3000007100U1 (formally Tax Lot ID 2N30B00002500U1) within the footprint of the Nolin Hills wind site. Our property is currently cultivated for dryland wheat and at times is enrolled in CRP. This letter is to confirm that I have discussed the proposed Nolin Hills energy facility with representatives of Nolin Hills Wind, LLC. In our conversations, I don't expect this project to hinder my ability to farm, nor increase the cost of farming our property. I have discussed this with all co-owners of the property and they agree. All co-owners of this property are members of Buttke Ranch, LLC which has an agreement with Capital Power. All of the co-owners are in favor of the Nolin Hills energy facility.

Property description.

Township 2 North, Range 30, EWM
Section 18: Southeast Quarter.

Excepting therefrom any portion lying within the County Road right-of-way.

Thank you.

James Kirkham 01/14/2022

James Kirkham