

Exhibit K

Land Use

Wagon Trail Solar Project
January 2022

Prepared for
NEXTERA[®]
ENERGY 
RESOURCES

Prepared by



Tetra Tech, Inc.

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Acronyms and Abbreviations

| | |
|----------------------------|---|
| Applicant | Wheatridge East Wind, LLC c/o NextEra Energy Resources, LLC |
| ASC | Application for Site Certificate |
| BPA | Bonneville Power Administration |
| Council | Oregon Energy Facility Siting Council |
| EFU | Exclusive Farm Use |
| Facility | Wagon Trail Solar Project |
| FEMA | Federal Emergency Management Agency |
| goals | statewide land use planning goals |
| kV | kilovolt |
| LCDC | Land Conservation and Development Commission |
| MCCP or Comprehensive Plan | Morrow County Comprehensive Plan |
| MCZO | Morrow County Zoning Ordinance |
| NextEra | NextEra Energy Resources, LLC |
| NRCS | Natural Resources Conservation Service |
| O&M | operations and maintenance |
| OAR | Oregon Administrative Rule |
| ODFW | Oregon Department of Fish and Wildlife |
| ODOE | Oregon Department of Energy |
| ODOT | Oregon Department of Transportation |
| ORS | Oregon Revised Statute |
| OWRD | Oregon Water Resources Department |
| ROW | right-of-way |
| RPS | Renewable Portfolio Standard |
| TIA | Traffic Impact Analysis |
| UEC | Umatilla Electric Cooperative |
| Wheatridge Facilities | Wheatridge Renewable Energy Facilities I, II, III, and East |
| WREF | Wheatridge Renewable Energy Facility |

1.0 Introduction

Wheatridge East Wind, LLC c/o NextEra Energy Resources, LLC (Applicant), proposes to construct and operate the Wagon Trail Solar Project (Facility), a solar energy generation facility and related or supporting facilities in Morrow County, Oregon. This Exhibit K was prepared to meet the submittal requirements in Oregon Administrative Rule (OAR) 345-021-0010(1)(k).

To issue a site certificate, the Oregon Energy Facility Siting Council (Council) must find that the Facility complies with the Statewide Land Use Planning Goals (Goals) adopted by the Land Conservation and Development Commission (LCDC). See OAR 345-022-0030(1). The Applicant has elected to seek a Council determination of compliance under Oregon Revised Statute (ORS) 469.504(1)(b). Under this election, a finding of compliance is required when the Council determines the following:

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

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

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

Exhibit K demonstrates the Facility's compliance with the applicable substantive criteria from the Morrow County Zoning Ordinance (MCZO) (Morrow County 2018) and the Morrow County Comprehensive Plan (MCCP or Comprehensive Plan) (Morrow County 2013). In addition, Exhibit K demonstrates the Facility's compliance with the LCDC administrative rules and goals and any land use statutes directly applicable to the Facility. Exhibit K also demonstrates that a "reasons" exception to Statewide Planning Goal 3, Agricultural Lands, is justified under ORS 469.504(2). Finally, Exhibit K provides evidence upon which the Council may find that the Facility meets OAR 345-022-0030.

2.0 Land Use Analysis Area and Map

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

In accordance with OAR 345-001-0010(59)(c), the analysis area for land use is defined in the Project Order as “the area within and extending one-half mile from the site boundary” (Figure K-1; ODOE 2021). Approximately 19,844 acres are located within the land use analysis area, of which approximately 7,450 acres are within the site boundary. Figure K-2 shows the Morrow County land use zones within the analysis area. All land within the site boundary (except for state and county road rights-of-way [ROW]) is on private land in Morrow County zoned Exclusive Farm Use (EFU). All land within the analysis area is on private land in Morrow County zoned EFU except for the northern-most portion of the analysis area (approximately 693 acres) located in the southern portion of the U.S. Department of Defense-owned tax lot 2N25000000200 (the Boardman Bombing Range), which is a 15,500-acre parcel zoned Public (PUB).

As shown on Figure K-3, the Wheatridge Renewable Energy Facility (WREF) III, approved by Oregon Department of Energy (ODOE) and currently under construction, is adjacent to the Facility and is owned by a subsidiary of the same parent company, NextEra Energy Resources, LLC (NextEra). The Facility will overlap with portions of the Wheatridge Renewable Energy Facilities¹ (Wheatridge Facilities; see Exhibit C, Figure C-2). As noted in Exhibit B, the Facility will either utilize the existing Wheatridge Facilities operations and maintenance (O&M) building or construct a new O&M building. As explained further in this Exhibit, the Applicant believes there are benefits to siting the Facility close to other energy facilities. Figure C-3, Exhibit C, shows various energy facilities within 10 miles of the Facility. Consolidating renewable energy project locations allows for efficient use of transmission and other infrastructure while consolidating land use impacts to a specific area as opposed to spreading these impacts out across a broader patchwork of facilities, which would require the installation of additional related and supporting facilities. The Facility will utilize the existing Blue Ridge Substation and the existing 230-kilovolt (kV) Umatilla Electric Cooperative (UEC) transmission line, a key part of a planned “green energy corridor” that will connect Morrow County wind and solar projects to the Northwest energy grid (Plaven 2017).

3.0 Overview of Facility, Land Uses, and Farmland Characteristics

3.1 Facility Overview

The Facility, including individual components and related or supporting facilities, is described in detail in Exhibit B of this Application for Site Certificate (ASC). As discussed in Exhibit B, the Applicant is requesting to permit a range of photovoltaic and associated or supporting facility

¹ Wheatridge Renewable Energy Facility I, II, III, and East

technology within a site boundary that provides for micrositing flexibility in anticipation of perpetual technological advances and offering maximum efficiency in use of space, providing development flexibility for potential customer's varying market requirements. As discussed in Exhibit C, the Applicant requests micrositing flexibility within a 7,450-acre site boundary, which represents the limits of the area that may be temporarily or permanently disturbed during construction of the Facility.

For purposes of analysis, the Applicant considered a solar array that will occupy approximately 3,641 acres within 16 fenced areas within the site boundary, using the example solar technology described in Exhibit B. The total impact footprint within the site boundary is assumed to be 3,684 acres, which includes the fenced solar array areas plus the footprint of other infrastructure outside the fence such as access roads and battery energy storage units. This entire fenced area is considered permanently disturbed; all temporary disturbance areas are outside the fenced solar array. This layout represents the worst-case or maximum impact scenario for purposes of analyzing land use impacts. More details can be found throughout Exhibit C.

This exhibit analyzes potential land use impacts within the analysis area. For purposes of land use compliance analysis, the Facility's solar arrays, collector lines, collector substations (north and south substations), access roads, and associated or supporting facilities are considered a "photovoltaic solar power generation facility" under OAR 660-033-0130(38)(f). As the Facility's 0.6-mile-long 230-kV transmission line will connect the Facility's southern collector substation to the Northwest grid via the existing Blue Ridge Substation, it is considered an associated transmission line necessary for public service subject to the provisions under ORS 215.274 and its implementing regulations under OAR 660-033-0130(16)(B). See Sections 5.2.2.3, 5.4.1, and 5.4.2 for more information on the Facility's compliance with these provisions.

3.2 Overview of Existing Land Uses

The zoning designations, underlying land uses, and soil classifications within the Facility site boundary and analysis area are relevant for purposes of analyzing the Facility's compliance with applicable substantive criteria and directly applicable state land use regulations. Zoning is discussed in Section 2.0. Existing land uses are discussed in this section while soil classifications are discussed in Section 3.3.

As shown on Figure K-4, the majority of the site boundary (89 percent; 6,609 acres) and analysis area (66 percent; 7,977 acres) is composed of cultivated land, primarily dryland wheat. These cultivated lands are a mix of fallow fields and fields in small grain production. The remainder of the site boundary is primarily composed of various grassland habitats and some developed area (e.g. roads, home sites, structures, inactive gravel quarry). There are currently no irrigated agricultural lands within the site boundary and approximately 240 acres of irrigated agricultural land located within the analysis area, outside of and south of the site boundary (see Figure K-4). More information regarding water rights located within the site boundary is discussed in Section 3.3.1. Exhibit P and Figure P-5 provide more detail on the surveyed habitats and ground cover within the site boundary.

3.3 Farmland Characteristics

To support the responses to the applicable substantive criteria under OAR 660-033-0130(38) (see Section 5.4.3), this section describes the factors that influence whether the land within the site boundary and analysis area meets the definition of arable land under OAR 660-033-0130(38)(a) and/or meets the definition of high-value farmland under ORS 195.300(10). These factors include:

- Whether the land is within a place of use for a permit, certificate, or decree for the use of water for irrigation issued by the Oregon Water Resources Department (OWRD) or is within the boundaries of an irrigation district (as defined under ORS 540.505);
- The land's soil types and associated soil classifications; and
- Whether the land is located within the Columbia Valley American Viticulture Area, as described in 27 Code of Federal Regulations 9.74 and meets the elevation, aspect, and slope criteria listed under ORS 195.300(10)(f).

The following subsections investigate each of these factors as they apply to the site boundary and analysis area.

3.3.1 Existing Water Rights

As discussed in Section 3.2 and as shown on Figure K-4, there are currently no irrigated agricultural lands within the site boundary. In addition, none of the land within the site boundary and analysis area are included within the boundaries of an irrigation district. However, there are approximately 240 acres of irrigated agricultural land located within the analysis area, south of the site boundary.

Although there are no irrigated agricultural lands within the site boundary, there are two water rights with authorized places of use within the site boundary shown on Figure K-4:

- Certificate 62326 (Permit G-5092): This water right certificate is associated with a well on tax parcel 1N26E000001301 (Tract ID:7²), located along the eastern edge of the site boundary, north of OR-207. Based on its priority date of June 24, 1970 relative to the priority dates of other water rights in the same area, this is a very junior water right. This well is sourced from the Columbia River Basalt Aquifer and is located in the Butter Creek Critical Groundwater Area ("CGWA"). Established in 1986, the Butter Creek CGWA promotes optimum use of the limited groundwater supply in the basalt groundwater reservoir in an effort to stabilize groundwater levels. No new applications for appropriation of water from the basalt groundwater reservoir within the Butter Creek CGWA are allowed. According to Joshua Hackett, hydrologist with the OWRD, "Certificate 62326 was last allocated water in 1992 (270 acre feet). It is the most junior water right in the Pine City subarea, so it is highly unlikely it would be allocated water if a request [for an annual allocation] were made. Allocation requests by senior water right holders typically exceed

² OAR 660-033-0010 defines tract to mean "one or more contiguous lots or parcels under the same ownership." See Figure K-3 for delineation of tracts in the Facility site boundary.

the sustainable annual yield by 1,000 acre feet or more" (personal communication, Joshua Hackett, OWRD, December 6, 2018). Therefore, it is unlikely this water right would be used for irrigated agricultural uses in the future.

- Certificate 42329 (Permit G-4353): This water right certificate includes a well and authorized places of use on tax parcels 02N25E000000400 and 0500 (Tract ID:2), located along the northern edge of the site boundary, just south of the Boardman Bombing Range. Based on its priority date of October 7, 1968 relative to other water rights in the same area, this is a junior water right. The well that serves as the authorized point of appropriation for the water right is characterized by the OWRD as an "unused well" (OWRD 2021). The authorized place of use under the certificate is located in the Ella Butte Groundwater Limited Area, where new groundwater use is limited to statutorily exempt uses only, which include domestic use (up to 15,000 gallons per day), stock-watering, limited commercial or industrial use (up to 5,000 gallons per day), etc. (OWRD 2021). An OWRD groundwater open file report determined that "water level data and aquifer test analysis indicate that an effective hydraulic barrier exists in the Ella Butte area... Development of this ground water resource has resulted in water level declines" (Zwart 1988). It is unlikely, given these conditions, that new appropriations of groundwater beyond the limited exempt uses noted above would be allowed in the Ella Butte area. If existing groundwater rights were to be curtailed in the Ella Butte area, other more senior water rights (some with priority dates in the late 1800s and early 1900s) would take precedence over Certificate 42329 (with a 1968 priority date).

In addition to the two water rights with authorized places of use located within the site boundary, there are three water rights with authorized places of use located within the analysis area but outside the site boundary (see Figure K-4):

- Certificate 38711 (Permit G-2831): This water right certificate includes a well and authorized places of use on tax parcel 02N25E000000400, 01N25E000000200, and 01N25E000000100 (Tract ID:2), located west of the site boundary. Based on its priority date of January 7, 1965 relative to other water rights in the same area, this is a junior water right. The well that serves as the authorized point of appropriation for the water right is characterized by the OWRD as a "livestock well" (OWRD 2021). The certificate is located in the Ella Butte Groundwater Limited Area, where new groundwater use is limited to statutorily exempt uses only, which include domestic use (up to 15,000 gallons per day), stock-watering, limited commercial or industrial use (up to 5,000 gallons per day), etc. (OWRD 2021). It is unlikely that new appropriations of groundwater beyond the limited exempt uses noted above would be allowed in the Ella Butte area. If existing groundwater rights were to be curtailed in the Ella Butte area, other more senior water rights would take precedence over Certificate 38711 (with a 1965 priority date).
- Certificate 43515 (Permit G-3792): This water right certificate is associated with two wells on tax parcel 01N26E000000600, located northeast of the site boundary. Based on its priority dates of July 19, 1967 and March 7, 1968 relative to other water rights in the same

area, this is a junior water right. The well that serves as the authorized point of appropriation for the water right is located in the Butter Creek CGWA. In 2021, this water right was allocated 500 acre-feet of water despite the certificate holders' request of 1,000 acre-feet of allocation. As noted above, no new applications for appropriation of water from the basalt groundwater reservoir within the Butter Creek CGWA are allowed.

- Permit G-16929: This water right permit is associated with four wells located on tax parcel 01S25E100000100, located south of the site boundary. Based on its priority date of September 17, 1998 relative to other water rights in the same area, this is a junior water right. The authorized place of use under the permit is located outside any area designated as a critical groundwater area or a limited groundwater area.

Alternate means of irrigation from the Columbia, Umatilla, and Butter Creek surface water resources are unlikely for the site boundary due to the distance from the site boundary to these water resources and the associated costs of pumping water. As shown on aerial imagery, irrigated farmland in Morrow County generally congregates around Columbia, Umatilla, and Butter Creek surface water resources. For these reasons, obtaining water for irrigation for areas within the site boundary, including areas that previously were irrigated solely with groundwater from basalt groundwater reservoirs (25 years ago) that have experienced significant declines in groundwater levels, is improbable.

3.3.2 Soil Classifications

According to the Natural Resources Conservation Service (NRCS) web-based soil survey (NRCS 2018), there are 17 major soil types in the analysis area (see Exhibit I, Figure I-1). The NRCS database includes the physical and chemical properties of the soils in the analysis area and the soil map unit distribution. The NRCS assigns land capability classifications to each soil unit to show, in a general way, the suitability of soils for most kinds of field crops. Soils are grouped according to their limitations for field crops, the risk of damage if they are used for crops, and the way they respond to management (NRCS 2019). Soil classifications can depend on whether the soils are irrigated. As discussed in Section 3.3.1, there are no irrigated farmlands within the site boundary; however, there are approximately 240 acres of irrigated agricultural land located within the analysis area, south of the site boundary. Figure K-5 shows NRCS soil capability classes within the analysis area and site boundary. It assumes non-irrigated NRCS soil capability classes for soils not currently being irrigated and shows irrigated NRCS soil capability classes for soils currently being irrigated (i.e., the 240 acres of irrigated agricultural land located south of the site boundary).

The NRCS provides the following descriptions for each soil class associated with the soils in the analysis area (NRCS 2019):

- Class 1 soils have few limitations that restrict their use.
- Class 2 soils have moderate limitations that reduce the choice of plants or that require moderate conservation practices.

- Class 3 soils have severe limitations that reduce the choice of plants or that require special conservation practices, or both.
- Class 4 soils have very severe limitations that reduce the choice of plants or that require very careful management, or both.
- Class 6 soils have severe limitations that make them generally unsuitable for cultivation and that restrict their use mainly to pasture, rangeland, forestland, or wildlife habitat.
- Class 7 soils have very severe limitations that make them unsuitable for cultivation and that restrict their use mainly to grazing, forestland, or wildlife habitat.

In addition to the irrigated and non-irrigated soil capability classifications, the NRCS assigns farmland classifications to map units as prime farmland, prime farmland if irrigated, farmland of statewide importance, farmland of local importance, or unique farmland. Farmland classifications identify the location and extent of the soils that are best suited to food, feed, fiber, forage, and oilseed crops (NRCS 2019). Soils in the site boundary are classified by the NRCS as either prime farmland if irrigated, farmland of statewide importance, or not prime farmland. See Table K-1.

Table K-1. Soil Classifications in Site Boundary

| Soil Type ID/Soil Unit | NRCS Farmland Classification | NRCS Non-Irrigated Soil Capability Class | Acreage within Site Boundary |
|--------------------------------------|----------------------------------|--|------------------------------|
| 22 Kimberly fine sandy loam | Prime farmland if irrigated | Class 3 | 103.98 |
| 78 Xeric Torriorthents | Farmland of statewide importance | Class 6 | 221.01 |
| 13D Gravden very gravelly loam | Not prime farmland | Class 7 | 0.32 |
| 13E Gravden very gravelly loam | Not prime farmland | Class 7 | 117.08 |
| 28E Lickskillet very stony loam | Not prime farmland | Class 7 | 87.96 |
| 29F Lickskillet-Rock outcrop complex | Not prime farmland | Class 7 | 0.31 |
| 45B Ritzville silt loam | Prime farmland if irrigated | Class 3 | 3,138.09 |
| 45C Ritzville silt loam | Farmland of statewide importance | Class 3 | 195.57 |
| 47E Ritzville silt loam | Farmland of statewide importance | Class 6 | 35.52 |
| 70B Warden very fine sandy loam | Prime farmland if irrigated | Class 4 | 90.44 |
| 71A Warden silt loam | Prime farmland if irrigated | Class 4 | 516.12 |
| 71B Warden silt loam | Prime farmland if irrigated | Class 4 | 998.32 |
| 71C Warden silt loam | Farmland of statewide importance | Class 4 | 23.89 |
| 71D Warden silt loam | Farmland of statewide importance | Class 4 | 19.89 |

| Soil Type ID/Soil Unit | NRCS Farmland Classification | NRCS Non-Irrigated Soil Capability Class | Acreage within Site Boundary |
|------------------------|----------------------------------|--|------------------------------|
| 75B Willis silt loam | Prime farmland if irrigated | Class 3 | 1,207.12 |
| 75C Willis silt loam | Farmland of statewide importance | Class 3 | 689.02 |
| 75D Willis silt loam | Farmland of statewide importance | Class 4 | 4.84 |

Arable lands are defined under OAR 660-033-0130(38) as “land in a tract³ that is predominantly cultivated, or if not cultivated, predominantly comprised of arable soils.” NRCS soil capability classes 1 through 4 are generally considered arable soils (Helms 1992) whereas NRCS soil classes 5 through 8 are generally considered nonarable soils. Figure K-6 shows a composite of arable soils and cultivated lands within the site boundary and analysis area. Table K-2 (see Section 3.3.3) provides a breakdown of total acreage of arable and non-arable lands within the site boundary and analysis area.

3.3.3 High-Value Farmland Analysis

Certain lands within the EFU zone are considered high-value farmland. High-value farmland is defined under ORS 195.300(10), and the provisions of this statute potentially applicable to the analysis area are summarized below:

- ORS 195.300(10)(a) relies on land in the EFU zone meeting the description of high-value farmland under ORS 215.710 which describes land in a tract composed predominantly of soils, that at the time the siting approval, are irrigated and classified as prime, unique, Class 1, or Class 2 or not irrigated and classified as prime, unique, Class 1, or Class 2.
- 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 American Viticulture 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.

Portions of the site boundary qualify as high-value farmland under two of the three above cited definitions. No land in the site boundary meets the definition under ORS 195.300(10)(a) as there are no irrigated lands within the site boundary and there are no non-irrigated soils classified prime, unique, Class 1 or 2 by the NRCS. See discussion in Section 3.3.2. Based on the definition under ORS

³ OAR 660-033-0010 defines tract to mean “one or more contiguous lots or parcels under the same ownership.”

195.300(10)(c), approximately 699 acres (9 percent) of land within the site boundary would qualify as high-value farmland based on it being located within a place of use water right. Further, approximately 2,908 acres (39 percent) of the site boundary qualifies as high-value farmland based on being located in the Columbia Valley American Viticultural Area and meeting the criteria under ORS 195.300(10)(f). However, as the lands that qualify as high-value farmland under ORS 195.300(10)(c) and (f) overlap in some areas within the site boundary and analysis area (see Figure K-7), a composite of the two categories was calculated for a net total of 3,350 acres of high-value farmland within the site boundary.

Most of the site boundary, 7,211 acres or 97 percent, comprises arable lands that include areas of high-value farmland. Non-arable lands in the site boundary comprise 239 acres. Non-arable lands are typically associated with drainages, ravines and areas with slopes. Table K-2 provides a breakdown by acreage of the applicable ORS 195.300(10) classifications, associated definitions, and additional farmland definitions in OAR 660-033-0130(38).

Table K-2. Farmland Classification in Site Boundary and Estimated Disturbance

| Farmland Classification | Analysis Area | | Site Boundary | |
|---|---------------|-----|---------------|-----|
| | Acres | % | Acres | % |
| High-value land Per ORS 195.300(10)(a) (i.e., Class 1 or 2 soils) | 178.94 | 1% | 0 | 0% |
| High-value land Per ORS 195.300(10)(c) (i.e., within place of use water right or irrigation district) | 2,437.65 | 12% | 698.92 | 9% |
| High-value land Per ORS 195.300(10)(f) (i.e., within AVA and meets slope, elevation, aspect criteria) | 7,372.01 | 37% | 2,908.40 | 39% |
| High-value lands/high-value soils (merged all 3 HVFs) ¹ | 9,005.56 | 45% | 3,350.04 | 45% |
| Arable ² | 18,665.80 | 94% | 7,210.88 | 97% |
| Nonarable | 1,177.61 | 6% | 238.62 | 3% |

1. High-value farmland (HVF) designations per ORS 195.300(10)(a), (c), and (f).
 2. Arable includes Class I-IV soils, cultivated land regardless of soil class, and high-value lands and soils.
 3. Includes components outside fenced solar area such as access roads, transmission line, battery energy storage system, meteorological stations and tower, collector substation, and O&M building.

4.0 Local Land Use Approval

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

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

(iv) Provide an estimate of time for issuance of local land use approvals.

The Applicant has elected to address the Council's Land Use standard by obtaining a land use determination from the Council pursuant to ORS 469.504(1)(b) (see Section 5.0 for more information). Therefore, these standards do not apply.

5.0 Council Determination on Land Use

The Applicant has elected to address the Council's Land Use standard by obtaining a land use determination from the Council pursuant to ORS 469.504(1)(b). The Council's rules state that an applicant seeking the Council's land use approval must identify the "applicable substantive [land use] criteria" of the relevant local governments and must describe how the facility complies with those criteria, as well as any LCDC rules, goals, or land use statutes that apply directly to the facility under ORS 197.646(3). If an applicant cannot demonstrate compliance with one or more of the applicable substantive criteria, they must describe how the facility complies with the Statewide Planning Goals adopted by the LCDC, or alternatively, warrants a goal exception (OAR 345-021-0010(1)(k)). This exhibit demonstrates how the Facility, as proposed, complies with the applicable substantive criteria, and where it does not comply, demonstrates the Facility, as proposed, justifies a goal exception.

5.1 Identification of Applicable Substantive Criteria

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

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

The Facility will be located entirely within the EFU zone of Morrow County. Therefore, as noted in previous sections, only Morrow County criteria are addressed. Sections 5.2 and 5.3 provide an assessment of compliance with the applicable local substantive criteria for commercial solar energy generation in Morrow County.

(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 applicable substantive criteria of the MCZO and MCCP are addressed in Sections 5.2 and 5.3, respectively. The Morrow County Board of Commissioners issued a letter on January 20, 2021—in response to the NOI—to outline the local applicable standards. The Board of Commissioners released a second letter on June 23, 2021—in response to the Amended NOI—to confirm the same local standards remain applicable. The substantive criteria are:

- **Morrow County Zoning Ordinance (Morrow County 2018):**
 - MCZO 1.050 Zoning Permit

- MCZO 3.010 Exclusive Farm Use, EFU
- MCZO 4.010 Access
- MCZO 4.020 Sight Distance
- MCZO 4.035 Permit Requirements
- MCZO 4.040 Off-Street Vehicle Parking
- MCZO 4.070 Sight Limitations
- MCZO 4.165 Site Plan Review
- MCZO 6.015 Requirements Under a State Energy Facility Site Certificate
- MCZO 6.020 General Criteria
- MCZO 6.025 Resource Zone Standards for Approval
- MCZO 6.030. General Conditions
- MCZO 6.040 Permit Improvements
- MCZO 6.050 Standards Governing Conditional Uses

- **Morrow County Comprehensive Plan (Morrow County 2013):**
 - Goal 3 Agricultural Lands Element – Policies 1 and 4
 - Goal 9 Economic Element – Policies 2A, 3A, 5A and 7B
 - Goal 11 Public Facilities and Service Element – General, Fire Protection
 - Goal 13 Energy Conservation Element – Policies 2, 3 and 9

5.2 Compliance with the Applicable Substantive Criteria from the Morrow County Zoning Ordinance

5.2.1 Article 1, Section 1.050 Zoning Permit

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

Response: The Facility, as proposed, exceeds 100 square feet, and therefore is subject to MCZO Section 1.050. A zoning permit will be sought from Morrow County prior to construction.

5.2.2 Article 3. Use Zones

5.2.2.1 Section 3.010. EFU Zone; B. Uses Permitted Outright

In the EFU zone, the following uses and activities and their accessory buildings and uses are permitted subject to the general provisions set forth by this ordinance:

24. Utility facility service lines subject to Subsection D.9.

Response: Utility facility service lines are permitted outright in the EFU zone. However, the Facility will not contain utility facility service lines subject to MCZO 3.010, Subsection D.9. Underground solar collector lines that connect the Facility to the existing Blue Ridge Substation are considered part of the Facility, which is a conditional use in the EFU zone. Per the definition provided under MCZO Section 3.010, Subsection K.3.e., photovoltaic solar power generation facilities include the photovoltaic modules, racking, collection system, inverters, and the substation expansion. Therefore, Facility collector lines are not separately permitted outright in the EFU zone.

25. Utility facilities necessary for public service, including associated transmission lines as defined in Article 1 and wetland waste treatment systems, but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over 200 feet in height as provided in Subsection D.10.

Response: The 230-kV transmission line is less than 200 feet in height and meets the MCZO Article 1 definition for “associated transmission line,” which includes “transmission lines constructed to connect an energy facility to the first point of junction with either a power distribution system or an interconnected primary transmission system or both or to the Northwest Power Grid” (Morrow County 2018). Therefore, the Facility’s proposed transmission line is permitted outright in the EFU zone, subject to the standards under MCZO 3.010, Subsection D.10. See Section 5.2.2.3 for a discussion of the 230-kV transmission line’s compliance with MCZO Section 3.010, Subsection D.10.b.

5.2.2.2 Section 3.010. EFU Zone; C. Conditional Uses

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

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

Response: The Facility is considered a “photovoltaic solar power generation facility” per the definition provided under MCZO Section 3.010, Subsection K.3.e, discussed in Section 5.2.2.4 of this exhibit. Photovoltaic solar power generation facilities include the photovoltaic modules, racking, collection system, inverters, and the substation expansion. Therefore, the Facility is considered a conditionally allowed use within the EFU zone, provided it meets the applicable standards under MCZO Section 3.010 K.3, MCZO Article 6, the applicable general standards for the zone (MCZO

Section 3.010 L through N), and any other applicable standards. Note that per MCZO Section 3.010 C.22, “commercial utility facilities for the purpose of generating power for public use by sale” does not include “photovoltaic solar power generation facilities,” and therefore photovoltaic solar power generation facilities are not subject to the standards listed under MCZO Section 3.010 D.10.

As discussed further in Section 5.4.1.2, the proposed 230-kV transmission line meets the definition of “associated transmission line” under Article 1 of the MCZO and ORS 469.300 because it is necessary to connect the energy facility to the Northwest power grid. Therefore, the Applicant analyzes the 230-kV transmission line under MCZO Section 3.010.D.10.b and ORS 215.274 rather than treating the 230-kV transmission line as an accessory use to the larger commercial power generation facility under MCZO Section 3.010.C.24. See Section 5.2.2.3 for a discussion of the 230-kV transmission line’s compliance with MCZO Section 3.010.D.10.b and Section 5.4.1.2 for a discussion of the transmission line’s compliance with ORS 215.274.

5.2.2.3 Section 3.010. EFU Zone; D. Use Standards

10. A utility facility that is necessary for public service.

a. A utility facility is necessary for public service if the facility must be sited in the exclusive farm use zone in order to provide the service.

Response: MCZO 3.010.D.10(a) mirrors the provisions under ORS 215.275. However, the proposed 230-kV transmission line meets the definition for an “associated transmission line” per MCZO Article 1, ORS 469.300 and 215.274 and is therefore subject to ORS 215.274. Per MCZO Article 1, ORS 469.300 and 215.274, “associated transmission lines” means transmission lines constructed “to connect an energy facility to the first point of junction with either a power distribution system or an interconnected primary transmission system or both or to the Northwest Power Grid.” The proposed approximately 0.6-mile-long 230-kV transmission line will connect the Facility’s southern collector substation to the transmission system at the existing Blue Ridge Substation, thereby connecting the proposed energy facility to the Northwest power grid. As such, the 230-kV transmission line is an “associated transmission line” under ORS 469.300 and is subject to ORS 215.274 and MCZO 3.010.D.10(b).

b. An associated transmission line is necessary for public service upon demonstration that the associated transmission line meets either the following requirements of Subsection (1) or Subsection (2) of this Subsection.

Response: As discussed above, the proposed 230-kV transmission line is necessary to connect the energy facility to the Northwest power grid. Therefore, the transmission line meets the definition of “associated transmission line” under Article 1 of the MCZO. The criteria under Subsection b mirrors the provisions of ORS 215.274.

As discussed below, the entire proposed 230-kV transmission line route does not meet the requirements of Subsection (1) but does meet the requirements under Subsection (2).

(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;

Response: The proposed associated transmission line will be located on portions of high-value farmland as defined by ORS 195.300, or on arable land. As a result, the route does not meet this requirement.

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

Response: The associated transmission line will not be co-located with an existing transmission line. Therefore, the route does not meet this requirement.

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

Response: The associated transmission line will not parallel an existing transmission line corridor, therefore the route does not meet this requirement.

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

Response: The associated transmission line will be an approximately 0.6-mile-long 230-kV overhead line running east along Strawberry East Road, connecting the southern proposed collector substation to the existing Blue Ridge Substation (Exhibit C, Figure C-2). However, because portions of the transmission line may be sited adjacent to existing ROW rather than within existing ROW, it does not meet this requirement for the entire route. *(2) After an evaluation of reasonable alternatives, an applicant demonstrates that the entire route of the associated transmission line meets, subject to Subsections D.10.b(3) and (4), two or more of the following criteria:*

(a) 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. The existing Blue Ridge Substation is a fixed corridor end point for all alternative transmission line routes. Although the location of the proposed Facility collector substation could be moved within the site boundary, no feasible alternative route exists that can connect the Facility to the Blue Ridge Substation without crossing high-value or arable land due to the extent of these lands located in the area between the Facility and the Blue Ridge Substation (Figures K-6 and K-7).

The proposed 230-kV overhead transmission line corridor represents the straightest route and the shortest length between the Facility collector substation and the Blue Ridge Substation and has the least impacts as it avoids sensitive habitat and minimizes impacts to high-value farmland and arable land by being located parallel to Strawberry East Road. There is no feasible alternative that

avoids high-value farm land or arable land. 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 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 Morrow County with the exception of the U.S. Department of Defense-owned tax lot 200 (the Boardman Bombing Range), which is zoned Public (PUB). Figures K-6 and K-7 show the high-value farmland and arable land located within and surrounding the site boundary. 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 Facility to the Blue Ridge Substation. The transmission line route was sited so that it could have a reasonably direct route to the grid system interconnection point, thereby minimizing impacts. Only small portions of the transmission line route cross through high-value farmland classified as such solely on the land meeting the criteria under ORS 195.300(10)(f) (Figure K-7). The transmission line route does not cross high-value farmland based on soil classification or place of use water rights (ORS 195.300(10)(a) and (c)).

(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 approximately 0.6-mile-long 230-kV transmission line will run east along Strawberry East Road, connecting the southern proposed collector substation to the existing Blue Ridge Substation. The transmission line may be located adjacent to the existing Strawberry East Road ROW or within the ROW, depending on the space available within the ROW of the rural roadway and potential plans for future road widening. The Facility transmission line 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 Facility 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 Facility complies with other requirements of state and federal agencies.

(3) As pertains to Subsection (2), the applicant shall demonstrate 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 Applicant has designed the 230-kV transmission line to minimize, to the greatest degree practicable, impacts to EFU land. The transmission line pole structures will permanently impact less than 0.01 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 wherever possible. The amount of new transmission line corridor has been minimized to the greatest extent practicable by following the shortest practicable route between substations. 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 230-kV 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 county may consider costs associated with any of the factors listed in Subsection (2), 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 transmission line is dependent on providing a connection for the energy generated by the energy facility to the electrical energy grid interconnection point (Blue Ridge Substation).

No alternative location exists, regardless of cost, to locate the 230-kV transmission line exclusively on non-EFU land. However, the majority of the transmission line route is currently located adjacent to existing ROWs, thereby limiting impacts to EFU land used for agricultural purposes.

5.2.2.4 Section 3.010. EFU Zone; K. Commercial Facilities for Generating Power⁴

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

- 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*

⁴ MCZO 3.010.K.3 parallels the requirements under OAR 660-033-0130(38) for siting a photovoltaic solar power generation facility on EFU land.

use application, but “arable soils” does not include high-value farmland soils described at ORS 195.300(10) unless otherwise stated.

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

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

Response: Figure K-3 shows the tracts located in and adjacent to the site boundary. As described in Section 3.3, the site boundary comprises both high-value farmlands (3,350 acres) and arable lands (7,211 acres) and a small amount of non-arable lands (239 acres).

e. “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: As described earlier in the response to MCZO 3.010.C, the Facility meets the definition of “photovoltaic solar power generation facility.” As shown on Figure K-3, the WREF III, approved by ODOE and currently under construction, is adjacent to the Facility and is owned by a subsidiary of the same parent company, NextEra. The Facility is within 1,320 feet of WREF III. However, as further discussed below, the Facility by itself meets the acreage threshold for a Goal 3 exception. Therefore, this analysis does not include an acreage analysis from WREF III.

As discussed in Section 2.0, the Applicant believes there are benefits to siting the Facility in close-proximity to other energy facilities. The Facility will be sited to utilize an existing substation, point of interconnection, ROWs, and the 230-kV UEC transmission line, a key part of a planned “green

energy corridor" that connects Morrow County wind and solar projects to the Northwest energy grid (Plaven 2017). As noted in Exhibit B, the Facility may also utilize the existing Wheatridge Facilities O&M building.

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

Response: As outlined in Table K-2, approximately 3,350 acres within the site boundary meet the definition of high-value farmland under ORS 195.300(10)(a)(c) and (f), primarily based on location within the Columbia Valley AVA. As the total area of high-value farmland within the site boundary that would be precluded from use as a commercial agricultural enterprise is more than 12 acres, a goal exception will be needed. However, because the Facility falls under the Council's jurisdiction, it is the Council's statutes and rules that govern the goal exception process (i.e., ORS 469.504(2) and OAR 345-022-0030(4), rather than ORS 197.732). See Section 5.5 for the statewide planning goal exception justification.

(1) 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 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 Facility for the reasons described in this section. The solar arrays are generally oriented adjacent and parallel to existing roads (see Exhibit C, Figure C-2), and have been sited to maximize efficiency while also consolidating the solar arrays to areas that do not constrain the current and future dryland wheat farming activities on the remainder of the tract or on neighboring tracts. The Applicant shall design and construct the Facility using the minimum land area necessary for safe construction and operation. The Facility will utilize existing access roads to the extent practicable. The Facility will not create unnecessary negative impacts on agricultural operations conducted on any portion of the subject property not occupied by Facility components because:

- The Applicant will sign and record in the deed records of Morrow County a document prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming practices as defined in ORS 30.930(2) and (4).
- The Facility 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 Noxious 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-5 to Exhibit P for weed prevention and control measures).
- Construction of the Facility 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.
- Post-construction, the Facility will not result in increased traffic impacts, air emissions, or dust from ongoing agricultural use, in consideration of drought conditions that could become longer and more severe due to climate change (Parks 2021). Common and accepted farming practices may need to change in response to changing conditions, and accessory uses, such as temporary long-term leases, may become more reliable sources of income.
- Interviews with the landowners of Tracts 1, 2, 7, and 8 (tracts associated with the WREF III, see Figure K-3), who also own adjacent and other tracts in the vicinity of the site boundary, did not identify or anticipate any adverse impact, or any increase in the cost of farming practices, in the vicinity of the solar arrays. The Applicant has a long history of working with the landowner through coordination on the adjacent Wheatridge projects and maintains ongoing open lines communication with landowners.

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.

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

Response: Exhibit I addresses soil erosion. Construction will be performed under a National Pollutant Discharge Elimination System 1200-C permit, including an Oregon Department of Environmental Quality Erosion and Sediment Control Plan, which will also include erosion and sediment control best management practices. After completing construction in an area, the Applicant will monitor the area and coordinate with the landowner, who understands the specifics about the land, to evaluate whether construction-related impacts to soils are being adequately addressed by the mitigation procedures described in the Erosion and Sediment Control Plan and the Reclamation and Revegetation Plan. Once the Facility's commercial operations end, compacted

soils within the site boundary will be restored during decommissioning. Soil compaction reduction plan measures will be developed and incorporated into the Decommissioning Plan. In addition, compliance with the final Reclamation and Revegetation Plan ensure that agricultural soils temporarily disturbed during Facility construction will be protected and restored.

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

Response: Construction of the Facility will limit the extent of grading to specific areas within the site boundary, and therefore will not result in unnecessary soil compaction that reduces the productivity of soil for crop production.

The portions of the site boundary that will be graded are expected to result in a balanced cut-and-fill quantity of earthwork to maintain the existing conditions to the extent practicable for the protection of the equipment and facilities. Within the solar array areas, grading will be limited to the roads, inverter, and energy storage footprints. No soil compaction will occur outside of the site boundary. By limiting the extent of grading to specific areas within the site boundary, construction activities will not result in unnecessary soil compaction that reduces the productivity of soils for crop production. Once the Facility's commercial operations end, compacted soils will be restored during decommissioning. Soil compaction reduction plan measures will be developed and incorporated into the Decommissioning Plan. In addition, compliance with the final Reclamation and Revegetation Plan ensure that agricultural soils temporarily disturbed during Facility construction will be protected and restored. The Applicant will obtain Council and County approval of these plans prior to start of construction.

(4) 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: Before beginning construction, the Applicant shall prepare a Noxious Weed Control Plan that is consistent with Morrow County weed control requirements and that is prepared in coordination with the Morrow County and the Oregon Department of Fish and Wildlife (ODFW), and which will be approved by ODOE.

(5) The project is not located on high-value farmland soils unless it can be demonstrated that:

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

(b) 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

(c) 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: As described in Section 3, the area within the site boundary primarily comprises arable land, and approximately 45 percent of the site boundary includes high-value farmland. It is not possible to site the solar arrays completely avoiding the high-value farmland due to the patchy and irregular nature of the Columbia Valley American Viticulture Area on the tracts (see Figure K-7). As the Facility will preclude more than 12 acres of high-value farmland from use as a commercial agricultural enterprise, an exception is being requested pursuant to ORS 469.504(1)(b) and OAR 345-022-0030(4) (see Section 5.5).

(6) 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:

(a) 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.

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

Response: As mentioned earlier in this Exhibit, the approved WREF III is adjacent to the Facility and overlaps with a small portion of the site boundary (Figure K-8). The 1-mile study area established under this provision is shown in Figure K-8, and approximately 121 acres of the WREF III is located within this study area. Therefore, over 48 acres of photovoltaic solar power generation has been constructed or received approval within the 1-mile study area. As noted in the response to MCZO 3.010 K.3.f.(1) provided above, 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 and will not diminished opportunities for farmers on adjacent properties to expand, purchase, or lease farmland or acquire water rights. Furthermore, the Applicant finds benefits to

siting the Facility close to other existing or approved renewable energy facilities. Consolidating renewable energy project locations allows for efficient use of transmission infrastructure while consolidating land use impacts to a specific area as opposed to spreading land use impacts out across a broader patchwork of facilities. The Facility will be sited to utilize an existing substation, point of interconnection, ROWs, and the 230-kV UEC transmission line, a key part of a planned “green energy corridor” that will connect Morrow County wind and solar projects to the Northwest energy grid (Plaven 2017). The green corridor project was envisioned by Morrow County to consolidate renewable energy development to one area, thus protecting other agricultural lands from being impacted by development and additional lengthy transmission lines. Therefore, the Facility is supporting this green corridor strategy by locating near the WREF III and utilizing the existing UEC transmission line. As noted in Exhibit B, the Facility may also utilize the existing Wheatridge Facilities O&M building.

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

(1) The project is not located on high-value farmland soils or arable soils unless it can be demonstrated that:

- (a) Nonarable soils are not available on the subject tract;*
- (b) Siting the project on nonarable soils present on the subject tract would significantly reduce the project's ability to operate successfully; or*
- (c) 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: As outlined in Table K-2, approximately 7,211 acres within the site boundary qualify as arable land and approximately 3,684 acres are anticipated to be impacted by the Facility. As described in Section 3, the area within the site boundary primarily comprises arable land and 45 percent of the site boundary includes high-value farmland (consisting mostly of high-value farmland solely classified as such due to its location in the Columbia Valley Viticulture Area and meeting the criteria of slope, aspect, and elevation). It is not possible to site the solar arrays completely avoiding arable lands or high-value farmland due to the extent of arable lands and high-value farmland that make up the area within the site boundary (see Figures K-6 and K-7). As the total area of arable lands within the site boundary that would be precluded from use as a commercial agricultural enterprise is more than 20 acres, a goal exception will be needed. However, because the Facility falls under the Council's jurisdiction, it is the Council's statutes and rules that govern the goal exception process (i.e., ORS 469.504(2) and OAR 345-022-0030(4), rather than ORS 197.732). See Section 5.5 for the statewide planning goal exception justification.

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

Response: As the total area of high-value farmland within the site boundary that would be precluded from use as a commercial agricultural enterprise is more than 12 acres, a goal exception will be needed. However, because the Facility falls under the Council's jurisdiction, it is the Council's statutes and rules that govern the goal exception process (i.e., ORS 469.504(2) and OAR 345-022-0030(4), rather than ORS 197.732). See Section 5.5 for the statewide planning goal exception justification.

(3) 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:

(a) 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.

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

Response: As mentioned earlier in this exhibit, the approved WREF III is adjacent to the Facility and overlaps with a small portion of the site boundary (Figure K-3). Therefore, over 80 acres of photovoltaic solar power generation has been constructed or received approval within the 1-mile study area. As noted in the response to MCZO 3.010 K.3.f.(1) provided above, 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 and will not diminish opportunities for farmers on adjacent properties to expand, purchase, or lease farmland or acquire water rights. Furthermore, the Applicant finds benefits to siting the Facility close to other existing or approved renewable energy facilities. Consolidating renewable energy project locations allows for efficient use of transmission infrastructure while consolidating land use impacts to a specific area as opposed to spreading land use impacts out across a broader patchwork of facilities. The Facility will be sited to utilize an existing substation, point of interconnection, ROWs, and the 230-kV UEC transmission line, a key part of a planned "green energy corridor" that will connect Morrow County wind and solar projects to the Northwest energy grid (Plaven 2017). The green corridor project

was envisioned by Morrow County to consolidate renewable energy development to one area thus protecting other agricultural lands from being impacted by development and additional lengthy transmission lines. Therefore, the Facility is supporting this green corridor strategy by locating near the WREF III and utilizing the existing UEC transmission line. As noted in Exhibit B, the Facility may also utilize the existing Wheatridge Facilities O&M building.

(4) The requirements of Subsections K.3.f(1), (2), (3), and (4) are satisfied.

Response: The requirements of Subsections K.3.f(1), (2), (3), and (4) are discussed above. Therefore, this criterion is satisfied.

h. For nonarable lands, a photovoltaic solar power generation facility shall not preclude more than 320 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4. The governing body or its designate must find that:

Response: The Facility does not preclude more than 320 acres of non-arable land from use as a commercial agricultural enterprise, and is therefore compliant with MCZO Section 3.010 K.3.h.

(1) The project is not located on high-value farmland soils or arable soils unless it can be demonstrated that:

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

(b) 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: See response to MCZO 3.010.K.g(1).

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

Response: See response to MCZO 3.010.K.g(2).

(3) No more than 20 acres of the project will be sited on arable soils unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4;

Response: As outlined in Table K-2, approximately 7,083.56 acres within the site boundary qualifies as arable land. It is not possible to site the solar arrays completely avoiding arable lands due to the extent of arable lands that make up the area within the site boundary (see Figure K-6). As the total area of arable lands within the site boundary that would be precluded from use as a commercial agricultural enterprise is more than 20 acres, a goal exception will be needed. However, because the Facility falls under the Council's jurisdiction, it is the Council's statutes and rules that govern the goal exception process (i.e., ORS 469.504(2) and OAR 345-022-0030(4), rather than ORS 197.732). See Section 5.5 for the statewide planning goal exception justification.

(4) The requirements of Subsection K.3.f(4) are satisfied;

Response: See response to MCZO 3.010.K.f(4).

(5) 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: There are no Goal 5 resources in the Facility site boundary.

(6) If a proposed photovoltaic solar power generation facility is located on lands where the potential exists for adverse effects to state or federal special status species (threatened, endangered, candidate, or sensitive), or to wildlife species of concern identified and mapped by the Oregon Department of Fish and Wildlife (including big game winter range and migration corridors, golden eagle and prairie falcon nest sites, and 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 species of concern 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 species of concern 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.

(7) The provisions of Subsection K.3.h(6) are repealed on January 1, 2022.

Response: Professional biologists conducted site-specific assessment using methodologies reviewed and accepted by ODFW. Based on these surveys, it was determined there will be no adverse effects to special status species or Category 1 wildlife habitats. Exhibit Q provides information about state-listed threatened endangered plant and wildlife species that may be affected by the Facility as required by 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 Facility. These exhibits also outline the agency consultation that has occurred at various stages of Facility development and measures to avoid, reduce, and mitigate impacts, as necessary.

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

Response: The Applicant will sign and record with the subject tract's deed a document prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming practices as defined in ORS 30.930(2) and (4).

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

Response: Retirement of the Facility will be the responsibility of the Applicant pursuant to Council rules and the conditions of the Site Certificate, per the Council's Retirement and Financial Assurance standard, OAR 345-022-0050 (see Exhibit W).

5.2.2.5 Section 3.010. EFU Zone; M. Yards

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

- 1. The front yard setback from the property line shall be 20 feet for property fronting on a local minor collector or marginal access street ROW, 30 feet from a property line fronting on a major collector ROW, and 80 feet from an arterial ROW unless other provisions for combining accesses are provided and approved by the County.*
- 2. Each side yard shall be a minimum of 20 feet except that on corner lots or parcels the side yard on the street side shall be a minimum of 30 feet.*
- 3. Rear yards shall be a minimum of 25 feet.*

Response: Bombing Range Road is a major collector, Strawberry East Road is not classified, and Highway 207 is a minor arterial road (Morrow County 2012, Figure 3-1). Therefore, the required front yard setback is between 20 and 80 feet from roads. The solar arrays will meet the minimum setbacks for front yard, side yard, and rear yard distances. The Applicant will document consistency with the applicable setback based on final design, as confirmed and submitted to Morrow County as part of the zoning permit.

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

or mark along all streams or lakes a minimum of 100 feet measured at right angles to the high-water line or mark.

Response: The Applicant will document consistency with the applicable setback based on final design, as confirmed and submitted to Morrow County as part of the zoning permit.

5.2.2.6 Section 3.010. EFU Zone; N. Transportation Impacts

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

Response: The Facility, as proposed, will require increased automobile trips during construction, but it is not expected the proposed use will exceed 134 trips per day (67 roundtrips) because the timing of construction of the solar facilities will be staggered. Traffic is not expected to be impacted during the long-term operation of the Facility because there will be three operations employees. Therefore, a TIA is not required.

5.2.3 Article 4. Supplementary Provisions

5.2.3.1 Section 4.010. Access

Intent and Purpose: The intent of this ordinance is to manage access to land development while preserving the flow of traffic in terms of safety, capacity, functional classification, and level of service. Major roadways, including highways, arterials, and collectors serve as the primary network for moving people and goods. These transportation corridors also provide access to businesses and homes and have served as the focus for commercial and residential development. If access points are not properly designed, these roadways will be unable to accommodate the needs of development and retain their primary transportation function. This ordinance balances the right of reasonable access to private property with the right of the citizens of Morrow County and the State of Oregon to safe and efficient travel. This ordinance shall apply to all public roadways under the jurisdiction of Morrow County and to application for development for any property that abuts these roadways. This ordinance is adopted to implement the land access and access management policies of Morrow County as set forth in the Transportation System Plan. Access shall be provided based upon the requirements below:

A. Minimum Lot Frontage Requirement. Every lot shall abut a street, other than an alley, for at least 50 feet, except on cul-de-sacs where the frontage may be reduced to 30 feet.

Response: There will be no changes to any lots as part of the Facility. The lots that the Facility will be located on or abut a street for at least 50 feet.

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

Response: Access (Approach) permits, per the requirements stated under MCZO Section 4.010 B, will be obtained for the Facility.

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

Response: Emergency vehicle access will be provided from accesses off of County and Oregon Department of Transportation (ODOT) roads and designed to applicable standards to internal site Facility roads. Facility roads will be sufficiently sized for emergency vehicle access and reviewed by the Fire Marshal or if the Fire Marshal fails to review, the Building Official prior to construction of each phase. . .

D. Easements and Legal Access: All lots must have access onto a public right of way. This may be provided via direct frontage onto an existing public road, a private roadway, or an easement. Minimum easement requirements to provide legal access shall be as follows: 1. 1000' or less, a minimum easement width of 20' 2. More than 1000', a minimum easement width of 40' 3. Parcels where 3 or more lots share an access (current or potential), a minimum easement of 60'.

Response: As shown on Figure C-2 in Exhibit C, the lots that the Facility will be located on will have access to public ROW.

E. Access Spacing Requirements for Development Accessing State Highways. Applications for development with access onto state highways shall be provided to ODOT for review, to ensure consistency with adopted ODOT Access Management Standards shown in Table 4.010-1. These standards apply only to unsignalized access points. Where a right of access exists, a property shall be allowed to have access onto a state highway at less than adopted access spacing requirements only if all the following conditions are met:

- 1. The property does not have reasonable access via an alternative to the state highway;*
- 2. There are no other possible access options along the parcel's highway frontage; and*

3. The access spacing standards cannot be accomplished.

When a proposed access onto a state highway does not meet the access spacing standards in Table 4.010-1, a deviation from standard will be considered by the ODOT Region Manager, subject to requirements in OAR 734-051-0135.

TABLE 4.010-1
ACCESS MANAGEMENT STANDARDS FOR MORROW COUNTY
NON-INTERSTATE HIGHWAYS

| Highway | Classification | Access Spacing Standards for Public or Private Unsignalized Access (ft) for Posted Speed Indicated (mph) | | | | |
|----------------|----------------|---|-----|---------|---------|-----|
| | | >55 | 50 | 40 & 45 | 30 & 35 | <25 |
| US 730, OR 74 | Regional | 990 | 830 | 750 | 600 | 450 |
| OR 206, OR 207 | District | 700 | 550 | 500 | 400 | 400 |

REFERENCE: OREGON ADMINISTRATIVE RULES SECTION 734-051 (2004)

Response: As shown on Figure C-2 in Exhibit C, access to ODOT ROW will meet the access spacing standards in *Table 4.010-1*.

F. Access within the Influence Area of an Interchange Access within the influence area of existing or proposed state highway interchanges is regulated by standards in OAR 734-051, which are included as Appendix F of the 2005 Morrow County Transportation System Plan Update. These standards do not retroactively apply to interchanges existing prior to adoption of the 1999 Oregon Highway Plan, except or until any redevelopment, change of use, or highway construction, reconstruction or modernization project affecting these existing interchanges occurs. It is the goal at that time to meet the appropriate spacing standards, if possible, but, at the very least, to improve the current conditions by moving in the direction of the spacing standard.

Response: There are no interchanges or an Influence Area of an Interchange Access in the analysis area. Therefore, this standard does not apply.

G. Signalized Intersection Spacing on State Facilities. New traffic signals proposed for state facilities, whether the intersecting facility is a public or private road, shall meet the requirements for installation of a traffic signal on a state highway in OAR 734-020-0400. New traffic signals on state facilities must be approved by the State Traffic Engineer. For approval of a new traffic signal on a County facility as part of a condition of development approval, the applicant shall be required to show, through analysis prepared by a qualified professional engineer registered in the State of Oregon, that the signal is warranted to improve traffic operations, address safety deficiencies, or a combination, based upon traffic signal warrants in the current version of the Manual on Uniform Traffic Control Devices.

Response: No new traffic signals are proposed for state facilities. Therefore, this standard does not apply.

H. Access Spacing Requirements for Development Accessing County Facilities. All developments shall have legal access to a County or public road. Except for interim access as provided in Section 4.010 H [Interim Access], access onto any County road in the unincorporated or incorporated urban area shall be permitted only upon issuance of an access permit upon demonstration of compliance with the provisions of the County road standards and the standards of Section 4.010. For County roadways designated as major collector or arterial in the Transportation System Plan, the standards in Table 4.010-2 apply for intersections created by a new public roadway, new private roadway or new private driveway. For County roadways designated as minor collectors or local access roads, intersections created by a new public roadway, new private roadway or new private driveway shall meet minimum County traffic safety and operational requirements, including sight distance, as determined by the County Engineer.

TABLE 4.010-2
ACCESS MANAGEMENT STANDARDS FOR MORROW COUNTY ROADWAYS

| Classification | Access Spacing Standards for Public or Private Access (ft) | | |
|----------------|--|-----------------|-------------------------------|
| | Public Roadway | Private Roadway | Private Driveway ^a |
| Arterial | 600 | 600 | 300 |
| Collector | 300 | 300 | 100 |
| Local | 200 | 200 | Access to each lot |

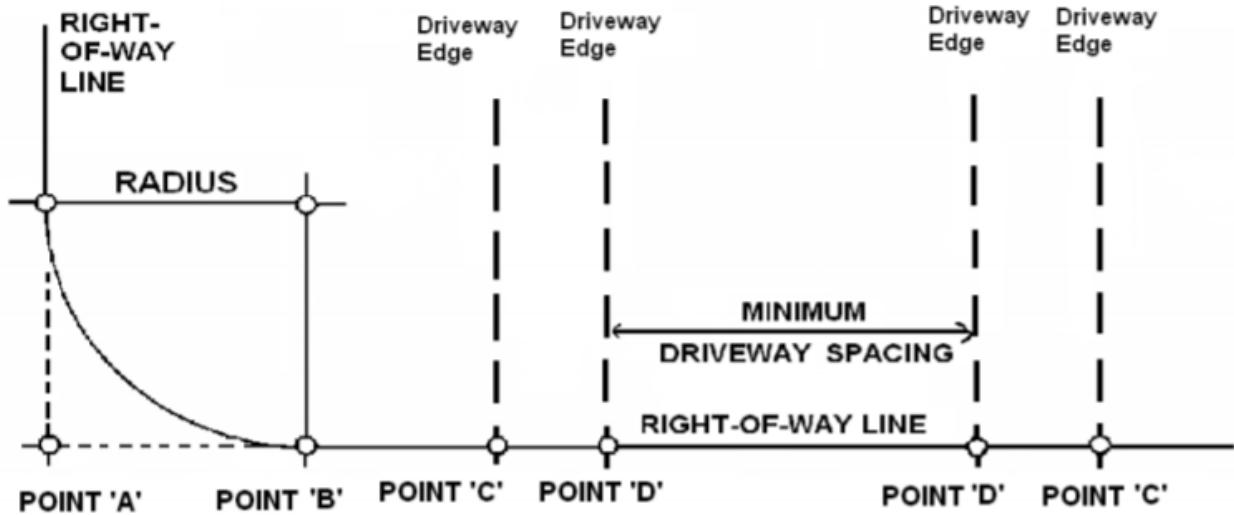
a. For most roadways, at-grade crossings are appropriate. Also, allowed moves and spacing requirements may be more restrictive than those shown to optimize capacity and safety. Any access to a state highway requires a permit from the district office of ODOT and is subject to the access spacing standards in Table 4.010-1 in this section.

No use will be permitted to have direct access to a street or road except as specified below, or as provided in Section 4.010.H (Interim Access). Access spacing shall be measured from existing or approved accesses on either side of a street or road. Measurements shall be made from easement or right-of-way line to easement or right-of-way line. (See following access diagram where R/W = Right-of-Way; P.I. = Point-of-Intersection where P.I. shall be located based upon a 90 degree angle of intersection between ultimate right-of-way lines, and 'C' and 'D' = each side of adjacent accesses to private property.

- 1. All minimum distances stated in the following sections shall be governed by sight distance requirements according to this Ordinance and applicable County Road Standards.*
- 2. All minimum distances stated in the following sections shall be measured to the nearest easement line of the access or edge of travel lane of the access on both sides of the road.*
- 3. The minimum curb radius shown in the diagram below (i.e., distance from Point "A" to Point "B") shall be 15 feet. In areas zoned for industrial uses, the minimum curb radius shall be 30 feet. At intersections between facilities classified as major collector,*

arterial or highway, any new or modified intersection shall be designed to accommodate a WB-50 Semitrailer Design Vehicle. If either route is designated by the County as a truck route, the intersection shall be designed to accommodate a WB-65 Interstate Semitrailer Design Vehicle. The curb alignment shall be designed so that the design vehicle can complete a right turn without entering a lane used by opposing traffic.

- 4. All minimum distances between accesses shall be measured from existing or approved accesses on both sides of the road.*
- 5. Minimum spacing between driveways shall be measured from Point "D" to Point "D" as shown below (i.e., the edges of adjacent driveways closest to each other).*
- 6. In all instances, access points near an intersection with a Collector or Arterial shall be located beyond the influence of standing queues of the intersection in accordance with AASHTO standards. Additionally, access shall be located beyond the back of any left turn refuge either existing on the affected road or required to accommodate the proposed development. This requirement may result in an access spacing greater than one hundred (100) feet in the case of a collector, or 300 feet in the case of an arterial.*
- 7. Access onto local roads will not be permitted within ten (10) feet of Point "B" as shown below. If no radius exists, access will not be permitted within twenty-five (25) feet of Point "A".*
- 8. Access onto collector roads will not be permitted within fifty (50) feet of Point "B" as shown below. If no radius exists, access will not be permitted within sixty-five (65) feet of Point "A". Where a common or shared access is available it shall be used, provided that such use will not result in operational or safety problems. Minimum spacing between driveways shall be one-hundred (100) feet.*
- 9. Direct access to an arterial will be permitted provided that Point 'C' of such access is more than three hundred (300) feet from any intersection Point 'A' or other access to that minor arterial.*



Response: As shown on Figure C-2 in Exhibit C, the lots that the Facility will be located on will have access to a public ROW that meet access management standards.

I. Interim Access onto County Facilities. No development with sole access onto a County arterial or major collector shall be denied only on an inability to provide an access that meets applicable access spacing standards. In such an event, the use may be issued an interim access permit which shall expire when access as required under this Ordinance becomes available. An interim access permit may be granted based upon the following:

1. *The site is situated such that adequate access cannot otherwise be provided in accord with the access spacing requirements of this Code.*
2. *The interim access shall meet minimum County traffic safety and operational requirements, including sight distance.*
3. *Alternate access shall not be deemed adequate and connections to alternate access shall not be required if the resulting route of access would require a trip in excess of one (1) block or five-hundred (500) feet out of direction (whichever is less).*
4. *The property owner signs a consent to participate agreement for the formation of a Local Improvement District or similar financing mechanism for the primary purpose of constructing a public road or right-of-way providing access to the arterial or collector road; such access shall meet the minimum applicable County standard.*
5. *The property owner records an agreement to participate in any project that would consolidate access points where such project would not result in new or more severe traffic operation or safety problems.*
6. *The property owner records an agreement to abandon use of the existing private access way when an adequate alternative access becomes available.*

Response: It is not anticipated that the Facility will require interim access onto County facilities. However, the Facility will meet Morrow County access standards.

5.2.3.2 Section 4.020. Sight Distance

Response: Adequate sight distance, per the requirements stated under MCZO Section 4.020.A, will be maintained at facility approaches as part of the zoning permit.

5.2.3.3 Section 4.035. Permit Requirements For Land Use Development

Except where otherwise noted, all proposed projects should meet the following Plot Plan Requirements as described in Table 4.035-1 below. A common threshold for a TIA (traffic impact analysis) applying to all types of development is 400 daily trips (e.g., 40 houses). Trip generation should be estimated using the current edition of Trip Generation by the Institute of Transportation Engineers, other similar published resources, or actual driveway counts of similar land uses. The County Planning Commission, County Planning Director or County Public Works Director or designee may require a TIA for any level of development. TIA requirements are described in the Appendix.

Response: The Facility will require increased automobile trips during construction, but the expected proposed use will not exceed 134 trips per day (67 roundtrips). Traffic will not be impacted during the long-term operation of the Facility.

5.2.3.4 Section 4.040. Off-Street Vehicle Parking Requirements

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

Response: There will be very little ongoing maintenance required for the solar generation facilities. The majority of the solar generation facilities are operated and maintained remotely. However, periodic visits from O&M personnel are required for vegetation control, equipment inspections, and potential panel washing. O&M staff will utilize pickups for these visits. As there will be only periodic visits from O&M personnel within the fenced solar arrays, parking will be accommodated within the solar array site access areas.

5.2.3.5 Section 4.070. Sign Limitations and Regulations

In addition to sign limitations and regulations set forth in a specific zone, the following limitations and regulations shall apply to any sign hereafter erected, moved or structurally altered within the jurisdiction of the County.

Response: Signage may be included at the site access roads and will comply with Morrow County requirements under MCZO Section 4.070, as documented through the zoning and building permit process.

5.2.3.6 Section 4.165 Site Plan Review

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

A. Purpose. The purpose of Site Plan Review (ministerial review) is based on clear and objective standards and ensures compliance with the basic development standards of the land use district, such as building setbacks, lot coverage, maximum building height, and similar provisions. Site Plan review also addresses conformity to floodplain regulations, consistency with the Transportation System Plan, and other standards identified below.

B. Pre-application review. Prior to filing its application for site plan review, the applicant shall confer with the County Planning Director or designee, who shall identify and explain the relevant review procedures and standards.

C. Applicability. Site Plan Review shall be required for all land use actions requiring a Zoning Permit as defined in Section 1.050 of this Ordinance. The approval shall lapse, and a new application shall be required, if a building permit has not been issued within one year of Site Review approval, or if development of the site is in violation of the approved plan or other applicable codes.

D. Review Criteria.

1. The lot area shall be adequate to meet the needs of the establishment.

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

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

Response: The area within the site boundary is entirely within Morrow County's designated EFU zone. As described in response to MCZO 3.010.C(24) above, the Facility meets the definition of a photovoltaic solar power generation facility, and is therefore permitted as a conditional use in Morrow County's EFU zone.

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

Response: The Applicant identified and demonstrated compliance with the applicable standards of the Morrow County EFU zone, as described above in responses to MCZO 3.010(C), (D), (K), (M), and (N). Therefore, the Facility, as proposed, complies with this provision.

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

Response: Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps show that almost all of the site boundary is located in Zone X. The Morrow County Flood Hazard Overlay Zone does not regulate FEMA flood Zone X. FEMA maps show there is an area within FEMA Zone A in the center of the site boundary, but no activities associated with the solar generation facilities will occur in this area. The solar generation facilities are being sited to avoid floodplains. No portion of the area that will be developed is located within Morrow County's Flood Hazard Overlay Zone; therefore, this criterion does not apply to the Facility.

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

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

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

Response: Minimum vehicle parking requirements for various types of land uses are listed under MCZO 4.040, and criteria for off-street parking and loading areas for uses that receive and distribute materials and merchandise by trucks are provided in MCZO 4.050. A photovoltaic solar power generation facility is not a use listed or described in these Morrow County ordinances, nor will it receive and distribute materials and merchandise by trucks during operation.

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

Response: The Applicant will follow the Morrow County transportation standards such as entering into Road Use Agreements with Morrow County which include a pre-construction assessment of road surfaces.

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

Response: The area within the site boundary consists mostly of cultivated winter wheat, with patches of mixed grassland with scattered shrubs (see Exhibit P).

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

Response: The area within the site boundary is not located within the Significant Resources Overlay Zone, and no significant resource sites, as designated on the MCCP Goal 5 resource map, are located within the site boundary. Therefore, the provisions of MCZO 3.200 do not apply to the construction and operation of the solar generation facilities. In addition, 3.300 applies to the alteration or demolition of any structure listed in the MCCP inventory of significant historic resources. No structures listed in the MCCP inventory of significant historic resources are located within the site boundary (see Exhibit S). Therefore, this provision is met.

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

Response: See Exhibit O for Facility compliance with OWRD water quantity and/or Oregon Department of Environmental Quality water quality designations. As identified in Exhibit E, the Applicant may obtain an On-site Sewage Disposal Construction-Installation Permit for the sewage disposal system to be installed at the O&M building (or existing Wheatridge Facility O&M building). The Applicant does not anticipate requiring any other quality-related permits from the Oregon Department of Environmental Quality.

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

Response: The Applicant does not know of any Code Enforcement violations associated with the tracts. Therefore, this provision does not apply.

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

Response: Solid waste, disposal, and recycling are addressed in Exhibits G, U, and V of this ASC.

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

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

5.2.4 Article 6. Conditional Uses

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

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

Response: The Applicant has elected to obtain a land use determination from the Council pursuant to ORS 469.504(1)(b). This exhibit demonstrates how the Facility, as proposed, complies with the applicable substantive criteria of the MCCP and MCZO, and where it does not comply, demonstrates the Facility, as proposed, justifies a goal exception.

5.2.4.2 Section 6.020. General Criteria

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

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

Response: The Applicant demonstrates in the responses to the applicable substantive criteria of the MCCP (see Section 5.3) and MCZO (see Section 5.2) that the Facility is consistent with the MCCP, MCZO, and other applicable policies and regulations of Morrow County. Therefore, this provision is met.

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

Response: The Facility is not located within the urban growth boundary of a city; therefore, this criterion is not applicable.

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

Response: Exhibits I, J, P, Q, S, and U of this ASC demonstrate that the carrying capacities of natural resources or public facilities would not be exceeded.

5.2.4.3 Section 6.025. Resource Zone Standards for Approval

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

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

Response: The Facility will not make it more difficult for the existing farms in the area (including the tract landowners) to continue operation, as further described under the response to MCZO Section 3.010 K.3.f. The impact of the Facility will not force a significant change in accepted farm practices or significantly increase the cost of farm practices, for the following reasons:

- Facility components and temporary construction areas will be within the solar array permanent disturbance area to minimize disturbance to farming operations.
- Most of the land within the site boundary currently available for agricultural use will be returned to its current status after Facility decommissioning.
- Even if the land within the site boundary were assumed to be permanently lost to farm use due to siting of permanent Facility improvements, the amount of loss would be a de minimis percentage of the total farm use land in Morrow County—less than 1 percent of the 1,126,101 acres of land in farms (USDA 2017). Therefore, the inability to use the land for farm purposes is not significant.
- The Applicant will implement a Noxious Weed Control Plan consistent with the Morrow County Weed Control Ordinance, which will reduce the risk of weed infestation in cultivated land and the associated cost to the landowner for weed control.
- The Applicant will sign and record in the deed records for the county a document binding the Facility owner and the Facility 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).
- Construction and operation of the Facility could cause changes in routes of access to fields, and changes in the pattern of cultivation, seeding, fertilizing and harvesting near the solar array areas. To minimize this, the Applicant, in consultation with the landowners, will design Facility components to minimize obstacles to farming in cultivated fields (components around which the farmer would have to plow, plant and harvest).
- Construction of the Facility 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

impacts to soils by using areas already impacted by existing roads and previous development activities, thereby limiting the area of new disturbance.

- 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. There will be no traffic impacts during Facility operation.
- The Facility will not affect the application of pesticides or fertilizers using aerial or ground-based methods.

The measures above are intended to avoid or minimize the impacts of the Facility 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 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.

The Kilkenny Land Company, LLC and RJK Family, LLC own Tracts 2 and 8 (respectively) in the site boundary. The owners of these LLCs submitted letters to ODOE regarding the Facility's use of their lands (see Attachment K-1). In their letters, the landowners testify that the Applicant has successfully worked with them (and their tenant farmer) to minimize impacts on farm operations from WREF I, II, and III. The letters state that they are able to farm the adjacent lands around the existing renewable infrastructure and plan to farm their 4,000 acres not used by the Facility. Furthermore, the landowners anticipate that the Facility would have no impact to any of their neighbor's ability to expand, purchase, or lease any vacant land available for farming. These letters provide evidence that the Facility will not make it more difficult for the existing farms in the area (including the tract landowners) to continue operation.

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

5.2.4.4 Section 6.030. General Conditions

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

- A. Limiting the manner in which the use is conducted including restricting the time an activity may take place and restraints to minimize such environmental effects as noise, vibration, air pollution, glare and odor.*
- B. Establishing a special yard or other open space or lot area or dimension.*
- C. Limiting the height, size or location of a building or other structure.*

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

1. Where access to a county road is needed, a permit from Morrow County Public Works department is required. Where access to a state highway is needed, a permit from ODOT is required. 2. In addition to the other standards and conditions set forth in this section, a Traffic Impact Analysis (TIA) will be required for all projects generating more than 400 passenger car equivalent trips per day. A TIA will include: trips generated by the project, trip distribution for the project, identification of intersections for which the project adds 30 or more peak hour passenger car equivalent trips, and level of service assessment, impacts of the project, and mitigation of the impacts. If the corridor is a State Highway, use ODOT standards. (MC-C-8-98)

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

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

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

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

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

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

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

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

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

Response: The provisions under MCZO 6.030 describe conditions that may be imposed "to avoid a detrimental impact and to otherwise protect the best interests of the surrounding area or the County as a whole." The section is a list of discretionary conditions, and does not contain substantive standards. The Facility, as proposed, has been designed to avoid detrimental impacts. In addition, this ASC, to which the Applicant must comply, will provide adequate conditions for the best interests and protection of the surrounding area and Morrow County as a whole.

5.2.4.5 Section 6.040. Permit and Improvements Assurance

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

Response: This provision does not establish approval standards. Financial assurance for facilities constructed and operated through this ASC will be in accordance with the Council's Retirement and Financial Assurance standard, OAR 345-022-0050 (see Exhibit W).

5.2.4.6 Section 6.050. Standards Governing Conditional Uses

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

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

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

Response: This provision, MCZO 6.050.0.1, does not apply because the Facility is not located in a residential zone.

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

Response: This provision provides for a discretionary condition. Although the ordinance does not contain a substantive standard for imposing the fencing or landscaping requirement, this ASC proposes to include a fence around the perimeter of the solar array facilities.

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

Response: The lot size is not applicable to this ASC as a new lot will not be required.

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

Response: The maximum height of the collector line poles will be approximately 70 to 180 feet above grade depending on design and terrain, and the maximum height of the panels (at full tilt) will be about 16 feet. Exhibit R reviews scenic and aesthetic values in consideration of this ASC.

5.3 Compliance with the Applicable Substantive Criteria from the Morrow County Comprehensive Plan

In 1986, Morrow County adopted a comprehensive plan to address the sustainable management of resources within the county that might be threatened by population growth and development. The M CCP (Morrow County 2013) has several "Goals" or "Elements" relating to different resources within the county. This section demonstrates compliance with the M CCP Elements applicable to the Facility.

5.3.1 Goal 3: Agricultural Lands Element

Policy 1: It shall be the policy of Morrow County, Oregon, to preserve agricultural lands, to protect agriculture as its main economic enterprise, to balance economic and environmental conditions, to

limit noncompatible nonagricultural development, and to maintain a high level of livability in the County.

Response: The Facility is located on agricultural lands as defined in the MCCP. The proposed use—solar energy generation—is consistent with MCCP Goal 3, Policy 1, as it is a compatible nonagricultural use in the EFU zone. As discussed in Section 5.2.2, the Facility meets the applicable substantive criteria of the Morrow County EFU zone. Furthermore, by locating the Facility adjacent to WREF III, it consolidates land use impacts to agricultural lands to a specific area rather than spreading these impacts out across a broader area in the County EFU lands and it allows for efficient use of existing transmission infrastructure. The Facility will be sited to utilize an existing substation, O&M building, point of interconnection, and the 230-kV UEC transmission line, a key part of a planned “green energy corridor” that will connect Morrow County wind and solar projects to the Northwest energy grid (Plaven 2017).

MCZC Section 3.010.C.(24) conditionally permits photovoltaic solar power generation facilities on agricultural land subject to Section 3.010.K.3. As the Facility exceed the threshold allowed for photovoltaic solar energy facilities on high-value and arable farmland, an exception is being requested (see Section 5.5). 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.

The Facility will occupy the land under a long-term lease, but will not permanently damage the soils within the site boundary, allowing the land to convert back to agricultural use after the Facility is decommissioned. According to the Morrow County 2017 Census of Agriculture (USDA 2017), approximately 1,126,101 acres of land is considered to be “farms.” The site boundary includes an area of only 7,450 acres, or approximately 1 percent of land on farms in Morrow County, and therefore a de minimis removal of land from agricultural use. Furthermore, the Facility will not remove any of the county’s highly productive, irrigated agricultural lands from agricultural use as no irrigated agricultural lands are located within the site boundary. Rather, the site boundary comprises arable soils used for dryland wheat or cattle grazing. As discussed in Section 3.3.1, most of the high-value farmland within the site boundary (7,372 acres of 9,005 high-value farmland acres) meets the definition of the high-value farmland under ORS 195.300(10)(f) which does not consider soil quality or irrigation water availability. The Facility will also be compatible with adjacent agricultural uses, as it will not limit or impact current or future farm activities on the surrounding land.

The carrying capacities of natural resources or public facilities will not be exceeded by the Facility; therefore, this ASC will not have a significant adverse impact on “livability” in Morrow County (see Exhibits I, J, P, Q, S, and U).

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

Response: Morrow County has established comprehensive and definitive criteria in the MCZO for the evaluation of all non-farm developments within agricultural lands. As provided in previous sections of this ASC, the Facility will comply with these criteria to the maximum level possible.

5.3.2 Goal 9: Economic Element

Policy 2A: To maximize the utilization of the local work force as job opportunities increase.

Response: The Facility will provide temporary employment opportunities during construction, as described in Exhibit U. Operation of the Facility will require three full-time employees. These permanent jobs will contribute to the local economy. In addition, development of the Facility will result in an increase in annual property tax revenue to Morrow County. Estimated tax revenues for an up to 500-megawatt solar project in Morrow County (over a 25-year operating life) would range from approximately \$45.0 million to \$95.3 million, which is significantly higher than the estimated \$0.57 million that would be generated by the underlying agricultural lands over the same period without a solar project (Tetra Tech 2021). Construction of the Facility would also 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. The additional tax revenue generated by the existence of the Facility will increase each County's ability to provide roadways, police protection, fire protection and emergency response, and other services to its citizens.

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

Response: The Facility will support Morrow County's Goal to diversify its existing industries and to promote economic growth and stability of the County by adding a new source of tax revenue while ensuring the existing agricultural industries in the surrounding area are not impacted. In addition, the Facility will supplement the landowners' farm income through the lease payments, stabilizing their farm uses by diversifying their income sources while not restricting their ability to farm the remaining portions of the parcel. For example, the owners of Tract 2 (Kilkenny Land Company, LLC) and Tract 8 (RJK Family, LLC) note the following in their letters in Attachment K-1: "Any loss of revenue from the removal of a maximum of 2,000 acres from our dryland wheat crops would be substantially exceeded by the Facility's lease payments as to our two LLCs. This increase in revenues could exceed 10 times the average revenue from our dry land crops within the Facility footprint ... We will keep farming the adjacent lands around the renewable infrastructure and the other 4,000 acres not used by this facility."

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

Response: MCZC Section 3.010.C.(24) conditionally permits photovoltaic solar power generation facilities on agricultural land subject to Subsection K.3. As provided in previous section of this

exhibit, the Facility will comply with these criteria to the maximum level possible. Additionally, the Applicant will sign and record in the deed records for the county a document binding the Facility owner and the Facility 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 required per MCZC Section 3.010 K.3.i.

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

Response: The Facility will monetize the available solar energy resources in Morrow County while minimizing its impacts to the environment (see Exhibits P and Q) and public services (see Exhibit U). The Facility is sited adjacent to WREF III, thus allowing for efficient use of transmission infrastructure, specifically, the 230-kV UEC transmission line, a key part of a planned “green energy corridor” that will connect Morrow County wind and solar projects to the Northwest energy grid (Plaven 2017).

Policy: 7B: To ensure implementing regulations require the use of best management practices to protect surface and groundwater supplies.

Response: Water required during construction will be for dust control, concrete, and soil compaction. Water required during operations may be required for panel washing, but will be as minimal as possible. The use of water during construction and operations will be as efficient as practicable (see Exhibit O).

5.3.3 Goal 11: Public Facilities and Services Element

General

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

Response: The Facility is co-located with Wheatridge Renewable Energy Facility I through III. The Facility will be sited to utilize an existing substation, point of interconnection, and ROWs. As noted in Exhibit B, the Facility may also utilize the existing Wheatridge Facilities O&M building. Siting the Facility close to existing or approved renewable energy development allows for efficient use of infrastructure, while minimizing impacts to surrounding agricultural lands.

Fire Protection

Policy A: Fire protection shall be considered a common problem by the cities, County and fire protection districts.

Response: Fire protection measures for the Facility include coordination with the Ione Rural Fire Protection District and the Heppner Volunteer Fire Department. Both agencies would be able to provide fire protection services for the Facility. Several fire prevention systems and procedures

would be employed at the Facility, including requirements to conduct welding or metal cutting only in areas that are graveled or cleared of vegetation, and to keep emergency firefighting equipment on-site when potentially hazardous operations are taking place. On-site employees will also receive training on fire prevention and response. Additional fire protection measures are described in Exhibit U. Therefore, the Facility is consistent with this policy.

Policy B: All new subdivision design shall take into consideration the need for both an ingress and egress route for emergency vehicles and evacuation traffic.

Response: Facility roads will be sufficiently sized for emergency vehicle access as reviewed by the Fire Marshall. Vegetation will be cleared and maintained along perimeter roads to provide a vegetation clearance for fire safety. The Facility is consistent with this policy.

5.3.4 Goal 13: Energy Conservation Element

Policy 2: To conserve energy and develop and use renewable energy resources.

Response: Renewable energy sources include sunshine per Policy 15, under MCCP Goal 13. Therefore, solar energy is considered a renewable energy resource under the MCCP, and the Facility will utilize solar resources in Morrow County to generate electric power for public use. The Facility is consistent with this policy.

Policy 3: Encourage development of solar and wind resources.

Response: The Facility will utilize solar resources in Morrow County to generate electric power for public use. Therefore, the Facility as proposed is consistent with this policy.

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

Response: Solar energy is considered an alternative energy source because it is not fossil-based. The Facility will generate electric power from a solar energy source for public use, and therefore is developing an alternative energy source in Morrow County.

5.4 Directly Applicable Rules, Statutes, and Goals

OAR 345-021-0010 (1)(k)(C)(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 administrative rules, statutes, and statewide planning goals directly applicable to the Facility are discussed below.

5.4.1 Oregon Revised Statutes

5.4.1.1 ORS 215.283 *Uses permitted in exclusive farm use zones in nonmarginal lands counties*

(2) The following nonfarm uses may be established, subject to the approval of the governing body or its designee in any area zoned for exclusive farm use subject to ORS 215.296 (Standards for approval of certain uses in exclusive farm use zones):

(g) Commercial utility facilities for the purpose of generating power for public use by sale. If the area zoned for exclusive farm use is high-value farmland, a photovoltaic solar power generation facility may be established as a commercial utility facility as provided in ORS 215.447 (Photovoltaic solar power generation facilities on high-value farmland). A renewable energy facility as defined in ORS 215.446 (Renewable energy facility) may be established as a commercial utility facility.

Response: Pursuant to ORS 215.283(2)(g), “commercial utility facilities for the purpose of generating power for public use by sale” may be established in the EFU zone of nonmarginal lands counties (including Morrow County) “subject to the approval of the governing body or its designee in any area zoned for exclusive farm use subject to ORS 215.296.” MCZO 3.010.C(24) states “photovoltaic solar power generation facilities as commercial utility facilities for the purpose of generating power for public use by sale” as a conditional use in the EFU zone. The standards for a conditional use in the EFU zone are set forth in MCZO 6.025(A), and are identical to ORS 215.296(1) and to OAR 660-033-0130(5), which is addressed in Section 5.4.2.

ORS 215.283(1)(C) provides that “utility facilities necessary for public service” may be established in the EFU zone of nonmarginal lands counties (including Morrow County) pursuant to ORS 215.274 if the utility is an associated transmission line. A demonstration of compliance with ORS 215.274 is provided further below in Section 5.4.1.2.

5.4.1.2 ORS 215.274 *Associated transmission lines for public service*

ORS 215.274 Associated transmission lines necessary for public service; criteria; mitigating impact of facility.

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

Response: The Facility’s 230-kV transmission line meets the definition for an “associated transmission line” and is therefore subject to ORS 215.274. Per MCZO Article 1, ORS 469.300 and 215.274, “associated transmission lines” means transmission lines constructed “to connect an energy facility to the first point of junction with either a power distribution system or an interconnected primary transmission system or both or to the Northwest Power Grid.” The 230-kV transmission line will connect the Facility’s collector substation to the transmission system at the existing Blue Ridge Substation, thereby connecting the proposed energy facility to the Northwest

power grid. As such, the 230-kV transmission line is an "associated transmission line" under ORS 469.300 and ORS 215.274.

(2) *An associated transmission line is necessary for public service if an applicant for approval under ORS 215.213 (1)(c)(B) or 215.283 (1)(c)(B) demonstrates to the governing body of a county or its designee that the associated transmission line meets:*

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

Response: The criteria under ORS 215.274 mirrors EFU zone use standards in MCZO Section 3.010.D(10) as well as the implementing provisions under OAR 660-033-0130(b). The Facility transmission line meets two or more of the requirements of subsection (4) as detailed in Section 5.2.2.3 of this exhibit where the same standards under ORS 215.274 are evaluated under MCZO Section 3.010.D(10).

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

- (a) *The associated transmission line is not located on high-value farmland, as defined in ORS 195.300, 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 detailed in Section 5.2.2.3 of this exhibit, the associated transmission line will be an approximately 0.6-mile-long 230-kV overhead line running east along Strawberry East Road, connecting the southern proposed collector substation to the existing Blue Ridge Substation (Exhibit C, Figure C-2). However, because portions of the transmission line may be adjacent to existing ROW rather than within 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 (4)(a), below, which mirrors the standards of MCZO 3.010.D.10.b.(2).

(4)(a) *Except as provided in subsection (3) of this section, the governing body of a county or its designee shall approve an application under this section if, after an evaluation of reasonable alternatives, the applicant demonstrates that the entire route of the associated transmission line meets, subject to paragraphs (b) and (c) of this subsection, two or more of the following factors:*

- (A) *Technical and engineering feasibility;*

- (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;*
- (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;*
- (D) *Public health and safety; or*
- (E) *Other requirements of state or federal agencies.*

Response: As discussed in Section 5.2.2.3 in response to the standards of MCZO 3.010.D.10.b.(2), which mirror ORS 215.274(4)(a), the applicant demonstrates that the entire route of the associated transmission line meets the criteria under ORS 215.274(4)(a)(A), (B), (C), (D) and (E). See Section 5.2.2.3 for the justification of the Facility meeting this standard.

- (b) *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 Applicant has designed the 230-kV transmission line to minimize, to the greatest degree practicable, impacts to EFU land. The transmission line pole structures will permanently impact less than 0.01 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 wherever possible. The amount of new transmission line corridor has been minimized to the greatest extent practicable by following the shortest practicable route between substations. 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 230-kV 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.

- (c) *The governing body of a county or its designee may consider costs associated with any of the factors listed in paragraph (a) 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 transmission line is dependent on providing a

connection for the energy generated by the energy facility to the electrical energy grid interconnection point (Blue Ridge Substation).

No alternative location exists, regardless of cost, to locate the 230-kV transmission line exclusively on non-EFU land. However, the majority of the transmission line route is currently located adjacent to existing ROWs, thereby limiting impacts to EFU land used for agricultural purposes.

5.4.1.3 ORS 215.296 Standards for approval of certain uses in exclusive farm use zones

ORS 215.296 Standards for approval of certain uses in exclusive farm use zones; violation of standards; complaint; penalties; exceptions to standards.

(1) A use allowed under ORS 215.213 (2) or (11) or 215.283 (2) or (4) may be approved only where the local governing body or its designee finds that the use will not:

(a) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or

(b) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

Response: The Facility is being permitted through the Council for a site certificate. See the response to MCZO 6.025(A) in Section 5.2.4.3 of this exhibit as the standards in this provision of the MCZO are identical to ORS 215.296(1) and to OAR 660-033-0130(5). The Applicant acknowledges the procedural standards set forth in ORS 215.296(2)-(10).

5.4.2 Oregon Administrative Rules

5.4.2.1 OAR 660-033-0120

OAR 660-033-0120 Uses Authorized on Agricultural Lands

Response: Per the table in OAR 660-033-0120, “Photovoltaic solar power generation facilities [are] commercial utility facilities for the purpose of generating power for public use by sale” and are permitted in high-value farmland and other agricultural land after the required review and approval by the relevant governing body. This use is subject to requirements of OAR 660-033-0130(5) and OAR 660-033-0130(38), which are addressed in Sections 5.4.2.2 and 5.4.2.3 below.

5.4.2.2 OAR 660-033-0130(5)

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

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

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

Response: See the response to MCZO 6.025(A) in Section 5.2.4.3 of this exhibit as the standards in this provisions of the MCZO are identical to ORS 215.296(1) and to OAR 660-033-0130(5).

5.4.2.3 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: The provisions under OAR 660-033-0130(38)(a), (b), (d) and (e) are discussed in Section 5.2.2.4 in response to MCZO Section 3.010.K.3. As described in Section 3.3, the site boundary primarily comprises both high-value and arable lands that are predominantly cultivated with dryland wheat. Although there will be no dual-use development that meets the definition above, development of the Facility will preserve the land it is sited on for future farm use by: reducing grading and disturbance of the land during construction to the extent practicable; maintaining vegetation on most of the land within the fenceline; and using pile driven posts rather than concrete bases to hold up the racking system that the panels are mounted on to the extent practicable. Therefore, along with minimizing the wind and soil erosion from continual farming, these efforts to preserve soil health are anticipated to preserve the farmland for future use and are a thereby a form of dual use as farmland is often left fallow as a farming technique.

(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 provisions under OAR 660-033-0130(38)(f) are discussed in Section 5.2.2.4 in response to MCZO 3.010.K.3.e. The Facility meets the definition of "photovoltaic solar power generation facility." As shown on Figure K-3 and discussed in Section 5.2.2.4, the Facility is within 1,320 feet of WREF III. However, as discussed previously, the Facility by itself meets the acreage threshold for a Goal 3 exception. Therefore, the acreage threshold analysis does not include WREF III.

(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 discussed in Section 5.2.2.4 in response to MCZO 3.010.K.3.f, portions of the site boundary area meet the definition of high-value farmland under ORS §195.300(10)(f). The Applicant is not proposing dual use development (as defined under OAR 660-033-0130(38)(c)) within the site boundary and does not meet the requirements of paragraph (h)(H) (see analysis below). However, as further discussed in Section 5.2.2.4 in response to MCZO 3.010.K.3.f, the

Applicant anticipates the Facility will safeguard soil health during construction and operation and therefore lead to farmland preservation.

As the total area of high-value farmland within the site boundary would use, occupy, or cover more than 12 acres, the Applicant seeks a goal exception. However, because the Facility falls under the Council's jurisdiction, it is the Council's statutes and rules that govern the goal exception process (i.e., ORS 469.504(2) and OAR 345-022-0030(4), rather than ORS 197.732). See Section 5.5 for the statewide planning goal exception justification.

(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 OAR 660-033-0130(38)(h)(A) provisions are discussed in Section 5.2.2.4 in response to MCZO 3.010.K.3.f.(1), which concludes that 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: The OAR 660-033-0130(38)(h)(B) provisions are discussed in Section 5.2.2.4 in response to MCZO 3.010.K.3.f.(2), which concludes that 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.

(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: The OAR 660-033-0130(38)(h)(C) provisions are discussed in Section 5.2.2.4 in response to MCZO 3.010.K.3.f.(3), which concludes that construction or maintenance activities will not result in unnecessary soil compaction that reduces the productivity of soil for crop production.

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

Response: The OAR 660-033-0130(38)(h)(D) provisions are discussed in Section 5.2.2.4 in response to MCZO 3.010.K.3.f.(4). As discussed in response to MCZO 3.010, the Applicant will implement a Noxious Weed Control Plan in coordination with Morrow 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: OAR 660-033-0020(8)(a) defines high-value farmland as land in a tract composed predominately of soils that are: (A) Irrigated and classified prime, unique, Class 1 or 2; or (B) Not irrigated and classified prime, unique, Class 1 or 2. As described in Section 3, there are no irrigated lands within the site boundary and there are no non-irrigated soils classified prime, unique, Class 1 or 2 by the NRCS. Therefore, the Facility complies with this provision.

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

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

Response: The OAR 660-033-0130(38)(h)(F) provisions are discussed in Section 5.2.2.4 in response to MCZO 3.010.K.3.f.(5).

(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: The OAR 660-033-0130(38)(h)(G) provisions are discussed in Section 5.2.2.4 in response to MCZO 3.010.K.3.f.(6).

(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;

Response: As discussed in Section 3.3.1, the Facility site boundary 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;

Response: As discussed in Section 3.3.1, the site boundary is not irrigated and does not contain water rights likely to be allocated due to its location in the Ella Butte and Butter Creek Classified Ground Water Areas (OWRD 2003).

(iii) Is located within the service area of an electric utility described in ORS 469A.052(2);

Response: The Facility is located within the UEC service area. The UEC is considered a small electric utility and therefore not described in ORS 469A.052(2). Therefore, the Facility does not meet this criterion.

(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

Response: As the Facility does not meet criteria (iii) above, this provision is not applicable.

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

Response: As discussed in Section 3.3, the area within the site boundary contains high-value farmland and is primarily composed of arable soil and therefore qualifies as arable land. As the Facility 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 5.5).

(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: The OAR 660-033-0130(38)(i) provisions are discussed in Section 5.2.2.4 in response to MCZO 3.010.K.3.g. As discussed in Section 3.3, the area within the site boundary primarily comprises arable soil and therefore qualifies as arable land. As the Facility 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 5.5).

(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: OAR 660-033-0020(8)(a) defines high-value farmland as land in a tract composed predominately of soils that are: (A) Irrigated and classified prime, unique, Class 1 or 2; or (B) Not irrigated and classified prime, unique, Class 1 or 2. As described in Section 3, there are no irrigated lands within the site boundary and there are no non-irrigated soils classified prime, unique, Class 1 or 2 by the NRCS. Therefore, the Facility complies with this provision.

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

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

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

(c) 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: Compliance standards are discussed in Section 5.2.2.4 in response to MCZO 3.010.K.3.g.(1), which mirrors OAR 660-033-0130(38)(i)(A).

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

Response: As the total area of high-value farmland within the site boundary that would be precluded from use as a commercial agricultural enterprise is more than 12 acres, a goal exception will be needed. However, because the Facility falls under the Council's jurisdiction, it is the Council's statutes and rules that govern the goal exception process (i.e., ORS 469.504(2) and OAR 345-022-0030(4), rather than ORS 197.732). See Section 5.5 for the statewide planning goal exception justification.

(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: Compliance standards are discussed in Section 5.2.2.4 in response to MCZO 3.010.K.3.g.(3), which mirrors OAR 660-033-0130(38)(i)(D).

(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 and in Section 5.2.2.4 in response to MCZO 3.010.K.3.g.(4), which mirrors OAR 660-033-0130(38)(i)(E).

(f) 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: The Facility does not preclude more than 320 acres of non-arable land from use as a commercial agricultural enterprise, and is therefore compliant with this standard.

(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: OAR 660-033-0020(8)(a) defines high-value farmland as land in a tract composed predominately of soils that are: (A) Irrigated and classified prime, unique, Class 1 or 2; or (B) Not irrigated and classified prime, unique, Class 1 or 2. As described in Section 3, there are no irrigated lands within the site boundary and there are no non-irrigated soils classified prime, unique, Class 1 or 2 by the NRCS. Therefore, the Facility complies with this provision.

(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: Compliance standards are discussed in Section 5.2.2.4 in response to MCZO 3.010.K.h(1), which mirrors OAR 660-033-0130(38)(j)(B).

(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 Facility will occupy more than 12 acres of high-value farmland and 20 acres of arable land. Thus, the Facility requires an exception to Statewide Planning Goal 3 (see Section 5.5).

(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: There are no Goal 5 resources in the Facility site boundary.

(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 the ODFW. Based on these surveys, it was determined there will be no adverse effects to special status species or Category 1 wildlife habitats. Exhibit Q provides information about state-listed threatened endangered plant and wildlife species that may be affected by the Facility as required by 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 Facility. These exhibits also outline the agency consultation that has occurred at various stages of Facility development and measures to avoid, reduce, and mitigate impacts, as necessary.

(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 Facility will occupy more than 12 acres of high-value farmland and 20 acres of arable land. Thus, the Facility requires an exception to Statewide Planning Goal 3. For projects under Council jurisdiction, the standards for approving an exception are set forth in

ORS 469.504(2)(c) and 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 5.5. The Applicant's demonstration of compliance with the remainder of OAR 660-033-0130(38)(g), (h), (i), and (j) is 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 Facility, the certificate holder must record such a document in the deed records of Morrow 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 Facility and restoring the site. The Applicant understands the implications of the bonding requirements outlined in this criterion.

5.4.3 Applicable Statewide Goals Compliance

The Applicant demonstrates below that the Facility complies with the Statewide Planning Goals applicable to the Facility, 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 Facility. The Applicant has complied and will comply with the Council's public-notice standards.

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." Oregon has adopted land use policies under ORS 215.243 to preserve and maintain agricultural lands, regulate allowed uses in the EFU zone

under ORS 215.283, and implement the regulations of OAR Chapter 660, Division 33. An analysis of the Facility's compliance with Statewide Planning Goal 3 and its implementing regulations is provided in Sections 5.4.1 and 5.4.2.

As discussed in Sections 5.4.1 and Section 5.2.2, the Facility will occupy more than 12 acres of high-value farmland or 20 acres of arable land for the commercial solar energy facility. Thus, the Facility requires an exception to Statewide Planning Goal 3. For projects under Council jurisdiction, the standards for approving an exception are set forth in ORS 469.504(2)(c) and 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 5.5.

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

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

Goal Compliance: The Facility will be built primarily on existing, cultivated farmlands and will be adjacent to WREF III. It will consist of a solar array and supporting connecting infrastructure, much of which will be buried underground. The Facility is located entirely on private land, none of which is designated as open space. The impacts of the Facility on natural resources such as habitat, scenic resources, and protected and historical areas are discussed in further detail in Exhibits Q, R, L, and S, respectively. There are no Goal 5 resources in the Facility site boundary. Therefore, the Facility complies with Goal 5.

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 Facility is sited adjacent to WREF III, thus allowing for efficient use of transmission infrastructure, specifically, the 230-kV UEC transmission line, a key part of a planned "green energy corridor" that will connect Morrow County wind and solar projects to the Northwest energy grid (Plaven 2017). The Facility will utilize Marrow County's solar resource without detriment to other wind or solar projects or land and natural resource uses to provide economic growth and jobs within Morrow County. The existing economic use of Facility land—agriculture—will not be significantly impacted by the Facility. The Facility 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. See testimony to this point in the landowner letters in Attachment K-1. In addition, the Facility 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 Facility will increase economic diversity within Morrow County and offer nonagricultural employment opportunities for local residents. Finally, development of the Facility will result in an increase in annual property tax revenue to Morrow County, which will increase the County's ability to provide roadways, police protection, fire protection and emergency response, and other services to its citizens. Therefore, the Facility complies with Goal 9.

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 Facility on public facilities and services. The Facility will not require any new public facilities or services from the county. The Facility 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 Facility will not interfere with the County's ability to provide public services to its citizens. Therefore, the Facility 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 Facility will neither 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 Facility 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 Facility complies with Goal 12.

Goal 13, Energy Conservation:

"To conserve energy."

Goal Compliance: 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."⁵

⁵ The Applicant is aware of caselaw suggesting that Goal 13 does not *require* counties to develop or facilitate the development of energy facilities. Because that issue is still under review and the Applicant (among other interested parties) believes that Goal 13 is one of many reasons that may justify a statewide planning goal exception, the Applicant has opted to address the Facility's consistency with Goal 13 along with other statewide and county programs and policies that relate to the development of renewable energy. As

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). This plan called 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 renewable energy by 2040. Also, the Oregon Legislature has enacted numerous tax credits and economic development incentives favoring renewable energy development. Then in 2021, Governor Kate Brown signed House Bills 2021, 2165, 2475, and 3141 to address the climate crisis by accelerating the clean energy transition in Oregon by moving to 100 percent clean electricity sources by 2040 (State of Oregon 2021). The Facility will assist the state with its mandate to meet the RPS and new clean energy goal.

According to the UEC website, the Oregon Governor's Office, the U.S. Navy, the Bonneville Power Administration (BPA), the U.S. Bureau of Land Management, Morrow County, Idaho Power Company, and a number of other state and local agencies have engaged in efforts that ultimately would support a green energy corridor (Northeast Oregon Now 2018). Such a corridor has the potential to deliver enough clean energy to power a city the size of Eugene and Salem combined. UEC has permitted a new overhead electric transmission line, a green energy corridor, through Morrow County, generally following Bombing Range Road. This transmission line is part of the community's collaborative development of a sustainable utility corridor that minimizes impacts to current and future agriculture usage in the area and consolidate the footprint of facilities that provide the public with utility services. The Facility, as proposed, will directly connect to this transmission line, which terminates adjacent to the Facility substation, thereby providing renewable energy while minimizing farmland impacts.

The MCCP's Goal 13 policies 11 through 16 mirror the planning and implementation guidelines stated under Statewide Planning Goal 13. However, MCCP's Goal 13 policies 1 through 11 go a step further by specifically calling for development of renewable energy in Morrow County. MCCP Goal 13 directs Morrow County to "develop and use renewable energy resources" under Policy 2, to "encourage development of solar and wind resources" under Policy 3, and states that the "County will encourage the development of alternative energy sources in County industries and businesses" under Policy 9. The Facility, as proposed, will utilize solar resources to generate renewable energy. Therefore, the Facility, as proposed, supports all three of these policies and is thus compliant with the MCCP's Goal 13 and well as Statewide Planning Goal 13.

discussed below, even if Goal 13 cannot be used to justify a Goal 3 exception, the record demonstrates that there are numerous reasons why the statewide policies embodied in Goal 3 should not apply.

5.5 Statewide Planning Goal Exceptions

OAR 345-021-0010 (1)(k)(C)(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.

As discussed in Sections 5.2 and 5.4 of this exhibit, the Facility's solar generation facilities will preclude more than 12 acres of high-value farmland and more than 20 acres of arable land, and therefore the Facility does not meet the acreage standards under MCZO 3.010(K)(3)(f) and (g) and OAR 660-033-0130(38)(g) and (i) and requires an exception to Statewide Planning Goal 3. This exception is justified under ORS 469.504(2)(c) and OAR 345-022-0030(4)(c), which provide 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 Facility in this section.

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).

As discussed above, the Facility's solar generation facilities will preclude more than 12 acres of high-value farmland and more than 20 acres of arable land and therefore do not meet the acreage standards under MCZO 3.010(K)(3)(f) and (g) and OAR 660-033-0130(38)(g). Pursuant to OAR 660-033-0130(38)(f), siting of the Facility's solar generation facilities requires an exception to Statewide Planning Goal 3. This exception is justified under ORS 469.504(1)(b), which provides the controlling criteria for exceptions that are proposed for energy facilities under the jurisdiction of the Council.

Per ORS 469.504, 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 site boundary is not “physically developed” or “irrevocably committed” within the meaning of the rule. Therefore, the Facility'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.

5.5.1 Demonstration that a “Reasons” Exception is Appropriate

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

The state policy embodied in Goal 3 is the preservation and maintenance of agricultural land for farm use. In support of Goal 3, Oregon has adopted land use policies under ORS 215.243 to preserve and maintain agricultural lands, regulate allowed uses in the EFU zone under ORS 215.283, and implement the regulations of OAR Chapter 660, Division 33. An analysis of the Facility's compliance with Statewide Planning Goal 3 and its implementing regulations is provided in Sections 5.4.1 and 5.4.2 of this exhibit. As discussed in Section 5.4.2, OAR 660-033-0120 allows certain non-agricultural uses on agricultural lands including photovoltaic solar power generation, subject to certain conditions. These conditions limit a photovoltaic solar power generation facility from using more than 12 acres of high-value farmland, more than 20 acres of arable land, and more than 320 acres of non-arable land. Therefore, it is the size of the solar generation facility and not the proposed use that requires an exception be taken. As discussed in Sections 5.2.2 and 5.4.2.3 of this exhibit, the Facility will not result in significant adverse impacts on accepted farm practices in the land use area. Moreover, as discussed in Section 5.3 of this exhibit, the Facility is consistent with the Agricultural policies in the MCCP, which implements the statewide planning goals.

The Facility responds to important state and county goals and priorities.

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 MCCP is consistent with the Statewide Planning Goals, and MCCP Goal 13: Energy Conservation Element has several policies that mirror the planning and implementation guidelines stated under Statewide Planning Goal 13. However, MCCP's Goal 13 policies 2, 3, and 9 go a step further than the State Planning Goal by specifically requiring and encouraging the development of renewable energy in the County. These policies are stated in the MCCP, Chapter 13 as follows:

- Policy 2: To conserve energy and develop and use renewable energy resources.
- Policy 3: Encourage development of solar and wind resources.
- Policy 9: The County will encourage the development of alternative energy sources in County industries and businesses.

Policy 2 is not framed as a suggestion, but rather states plainly that it is Morrow County's policy to develop and use renewable energy resources. This Facility, as proposed, responds to all three of these policies by developing Morrow County's renewable solar energy resource and thus meeting the County's need for renewable energy development.

In addition to responding to the County's need for development of renewable energy, the Facility's solar energy generation facilities respond to the RPS, which requires 50 percent of Oregon's electric load to be sourced from new renewable energy by 2040. In 2021, Governor Kate Brown signed House Bills 2021, 2165, 2475, and 3141 to address the climate crisis by accelerating the clean energy transition in Oregon by moving to 100 percent clean electricity sources by 2040 (State of Oregon 2021). The Facility will provide 500 megawatts of renewable solar generated energy, and thus assist the State of Oregon with its mandate to meet the RPS and new clean energy goal.

Besides the Facility being consistent with and implementing local and state energy policies above, the following reasons justify removing land 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.

The Facility is locationally dependent.

Locational dependency refers to the unique proximity and interrelatedness of operations of the proposed solar facility and existing energy infrastructure. As described in more detail below, the Facility is locationally dependent because of its proximity to existing energy infrastructure, the regional grid for interconnection, and major transportation corridors.

- *Proximity to the existing energy infrastructure.* As shown on Figure K-3, WREF III, approved by ODOE and currently under construction, is adjacent to the Facility and is owned by a subsidiary of the same parent company, NextEra. The Facility will overlap with portions of the Wheatridge Renewable Energy Facilities⁶ (see Exhibit C, Figure C-2). The Facility will utilize the existing Blue Ridge Substation. The Applicant believes there are benefits to siting the Facility close to other energy facilities. Consolidating renewable energy project locations allows for efficient use of transmission infrastructure while consolidating land use impacts to a specific area as opposed to spreading these impacts out across a broader patchwork of facilities which would require more infrastructure such as transmission and result in more land use impacts.
- *Proximity to the regional grid for interconnection.* The Facility will utilize the existing 230-kV UEC transmission line, a key part of a planned "green energy corridor" that will connect Morrow County wind and solar projects to the Northwest energy grid (Plaven 2017). UEC, the Oregon Governor's Office, the Navy, BPA, the U.S. Bureau of Land Management, Morrow County, Idaho Power Company, and a number of other state and local agencies have engaged in efforts that ultimately support a green energy corridor (Northeast Oregon Now 2018). Such a corridor has the potential to deliver enough clean energy to power a city the size of Eugene and Salem combined. UEC has permitted a new overhead electric transmission line through Morrow County, generally following Bombing Range Road. The UEC transmission line, running approximately 20 miles south from the UEC Highway 730 Substation to the Blue Ridge Substation, is part of the community's collaborative

⁶ Wheatridge Renewable Energy Facility I, II, III, and East

development of a sustainable utility corridor (green energy corridor) that minimizes impacts to current and future agriculture usage in the area and consolidates the footprint of facilities that provide the public with utility services. The Facility, as proposed, will connect to the UEC transmission line via the Blue Ridge Substation, which is located in the Facility site boundary, thereby providing renewable energy while minimizing farmland impacts.

- *Proximity to major transportation corridors.* Additionally, the site boundary is sited adjacent to Highway 207 and Bombing Range Road providing easy access for construction and ongoing maintenance and operations, and thus no new roads need to be created that would impact agricultural operations.

Minimal Impacts to Agriculture

A proposed solar facility site may be unique and exceptional because it results in minimal impacts to agriculture. According to guidance from ODOE (ODOE 2021), potential direct and indirect impacts to agriculture can occur: a) at the site of the non-farm use (i.e., land to be used or occupied by the proposed solar facility) as well as the remaining farm operation located on the underlying tract on which the proposed facility site is located; b) on the surrounding agricultural area; and c) on farmland with water availability. The Facility addresses these potential direct and indirect impacts below.

- *Solar facility site impacts on agriculture and the remaining farm operations:* There are a total of seven property owners with agricultural uses on land tracts located in the Facility site boundary (Tracts 2, 3, 4, 5, 6, 7, and 8). Of those seven tracts, three are currently leasing portions of their tracts to one or more of the existing Wheatridge Renewable Energy Facilities⁷ (Tracts 2, 7, and 8) and the leasing of these lands for non-agricultural use has not prevented the landowners from using the remainder of the lands in these tracts or any of their surrounding or nearby lands for agricultural use (see Figure K-3). This is evidenced by the letters provided by the owners of Tracts 2 and 8 (see Attachment K-1). Tract 2 is composed of nine tax lots owned by Kilkenny Land Company, LLC and Tract 8 is composed of three tax lots owned by RJK Family, LLC. The Kilkenny Land Company, LLC and RJK Family, LLC are owned and managed by Kelly Hale, who serves as President for both LLCs and Russell R. Kilkenny, who serves as Vice President and attorney for both LLCs. See the letters submitted by Ms. Hale and Mr. Kilkenny in Attachment K-1. As both tracts have the same landowners and are part of the same agricultural operations, the potential direct or indirect impacts to agriculture on Tracts 2 and 8 are analyzed together here:
 - Together, these two LLCs own a total of 6,000 acres of agriculturally zoned land in Morrow County, primarily used for dryland wheat farming. Only about 25 percent (1,440 acres) will be located within the Facility site boundary and less than 600 acres, or 10 percent of their total land holdings, is anticipated to be permanently impacted by the Facility.

⁷ Wheatridge Renewable Energy Facility I, II, and III

- As noted in the letters submitted by Ms. Hale and Mr. Kilkenny (see landowner letter in Attachment K-1), none of the lands in Tract 2 or Tract 8 are irrigated or have irrigation water rights associated with the tract parcels. Although parcels 02N25E000000400 and 0500 of Tract 2 have a water right (Certificate 42329/Permit G-4353), it is a junior water right and associated with an unused well. As explained in Section 3.3.1, the permit is located in the Ella Butte Groundwater Limited Area and is not viable for irrigation use as it is limited to statutory exempt uses only (i.e., domestic use, stock watering, or limited commercial or industrial use). Furthermore, it is unlikely, given these conditions, that new appropriations of groundwater beyond the limited exempt uses noted above would be allowed in the Ella Butte area and, if existing groundwater rights were to be curtailed in the Ella Butte area, other more senior water rights (some with priority dates in the late 1800s and early 1900s) would take precedence over Certificate 42329 (with a 1968 priority date). The landowners also confirm in their letters that, based on past investigations, they do not anticipate any future opportunity to acquire irrigation water rights for their lands within the site boundary. Without irrigation, the underlying soils are not considered high-value farmland soils (Class 1 or 2 soils). The areas of Tract 2 and Tract 8 within the site boundary have either been utilized for the cultivation of dryland wheat or have been left fallow as they do not have the history or potential to support irrigated crops. According to the landowners (see Attachment K-1), their lands within the site boundary are composed of low-quality soils and are left fallow every other year or every 3 years.
- As noted in the letters submitted by Ms. Hale and Mr. Kilkenny (see Attachment K-1), their lands within the site boundary are leased to a neighbor on a crop share lease. The tenant employs two full-time people and farms several thousand acres outside of the Tract 2 and Tract 8 lands. The landowners maintain that even if all their lands within the site boundary were removed from dryland wheat production, no loss of agricultural jobs would occur; rather, there would be a net increase in jobs due to the Facility creating jobs during construction. Furthermore, Ms. Hale and Mr. Kilkenny note that the Applicant has minimized impacts to farming operations on their lands associated with the Wheatridge Renewable Energy Facilities I (wind), II (wind), and III (solar) and they plan to continue farming their lands adjacent to the Facility and do not anticipate any impacts to their neighbor's ability to expand, purchase, or lease any adjacent or nearby vacant land available for farming.
- The landowners also maintain in their letter that any loss of revenue from the removal of their lands from dryland wheat production would be substantially exceeded by the Facility's lease payments to the LLCs. They estimate this increase in revenue could exceed 10 times the average revenue from the dryland crops on their lands in the Facility site boundary.

- In conclusion, the landowners of Tracts 2 and 8 maintain that the Facility will have minimal impact on their agricultural operations and to the agricultural resources of their land and the surrounding lands.
- *Impacts on surrounding agricultural lands:* The impact of the proposed changes would neither force a significant change in accepted farm practices nor significantly increase the cost of farm practices in the vicinity of the Facility, as outlined in Section 5.2.2.4 and Section 5.2.4.3. Since the Facility is not an urbanized use, it does not have urban use characteristics such as traffic, noise, and emissions and will not require urban infrastructure such as water and sewer. In the letters from the Kilkenny Land Company, LLC and RJK Family, LLC (owners of Tracts 2 and 8, respectively; see Attachment K-1), they testify that the Applicant has successfully worked with them (and their tenant farmer) to minimize impacts on farm operations from the Wheatridge Renewable Energy Facilities I, II, and III. The letters state that they are able to farm the adjacent lands around the existing renewable infrastructure and plan to farm their 4,000 acres not used by the Facility. Furthermore, the landowners anticipate that the Facility would have no impact to any of their neighbor's ability to expand, purchase, or lease any vacant land available for farming. These letters provide evidence that the Facility will not make it more difficult for the existing farms in the area (including the tract landowners) to continue operation.
- *Water availability:* As discussed in Section 3.2 and as shown on Figure K-4, there are currently no irrigated agricultural lands within the site boundary, the site boundary is not located within the boundaries of an irrigation district, and, as discussed in Section 3.3.1, obtaining water for irrigation for areas within the site boundary including areas that previously were irrigated (25 years ago) is improbable. The two tracts (Tracts 2 and 7) in the site boundary that have appurtenant water rights have junior water rights that have not been used for crop irrigation in approximately 25 years. Furthermore, as noted in Section 3.3.1, it is highly unlikely that water rights appurtenant to land in Tract 7 would be allocated water if a request for annual allocation were made, due to its location within the Butter Creek Critical Ground Water Area (OWRD 2003). Similarly, the water right appurtenant to land in Tract 2 is located within the Ella Butte Groundwater Limited area, and if existing groundwater rights were to be curtailed in this area, other more senior water rights would take precedence. Meanwhile, new groundwater use is limited to statutorily exempt uses only (OWRD 2003). In dry regions such as Morrow County, irrigation water is critical to agricultural production. As noted in the MCCC's Agricultural Element, irrigation development has enabled Morrow County to become one of the largest potato-producing counties in the nation and has provided the impetus for processing plant construction, increased cattle feeding (potato culs), and increased prosperity in local agribusiness (Morrow County 2013). None of the irrigated, highly productive agricultural lands are located within the site boundary. Rather, the site boundary comprises arable soils used for dryland wheat farming or cattle grazing. As discussed in Section 3.3.1, most of the high-value farmland within the site boundary (7,372 acres of 9,005 high-value farmland acres) meets the definition of the high-value farmland under ORS 195.300(10)(f) which does not

consider soil quality or irrigation water availability. Therefore, loss of the cultivated lands used for dryland wheat from the Facility is insignificant when considering the other available agricultural land in Morrow County, especially the irrigated land in the north end of the county that is irrigated by the Columbia and Umatilla rivers and provides much higher agricultural productivity to the County and State than the lands in the site boundary.

- *Farmland preservation.* In 2021, Oregon experienced one of the worst drought years in state history and researchers suggest drought conditions could become longer and more severe due to climate change, which can lead to economic losses and financial hardships for farmers dealing with damaged soil (Parks 2021). According to the U.S. Drought Monitor, 100 percent of Morrow County is under “extreme drought,” while 88 percent of Morrow County is under “exceptional drought” (NDMC NOAA USDA 2021). Morrow County officials declared a drought in an April 2021 letter that details negative impacts in agriculture that are projected to continue (*East Oregonian* 2021). A recent report from the Oregon Department of Agriculture indicated that increased grasshopper populations in the dryland growing area of Umatilla and Morrow counties could pose a threat to next year’s crops. The same drought conditions that are hard on dryland crops are favorable for grasshoppers, which could come to a head in 2022. Irrigated crops may be affected as well (ODA 2021b).

Many of the soils found within the site boundary are susceptible to wind erosion (see Exhibit I). Too much water, either as rain or snowmelt, can cause soil to erode, washing away valuable topsoil. In light of these conditions, the constructed Facility will safeguard soil health and lead to farmland preservation by protecting soils from wind and soil erosion through the minimization of construction impacts and by providing vegetation under solar panels, which shield soils from wind.

- *Temporary land use conversion:* The renewable energy leases are temporary, and thus are only a temporary change to the land use that is not irrevocably committed to new urbanized use. Per the terms of the lease and consistent with a Retirement Plan approved by the landowners and applicable agencies (see Exhibit W), the land would be restored for future agricultural use. For these reasons, the solar facility will only be a temporary removal of farmland. See Exhibit M for evidence that the Applicant has a reasonable likelihood of obtaining a bond or letter of credit in the amount estimated to be required to restore the site. Additionally, as described earlier, the Facility is a farmland supportive use that will safeguard soil health by protecting soils from wind and soil erosion and minimizing construction impacts and vegetation under solar panels.

Overall, the farmland used for the Facility will not remove highly productive irrigated agricultural land from agricultural use, will have minimal impact on existing agricultural uses within and adjacent to the site boundary, and will be a de minimis percentage of the total farm use land in Morrow County.

Local Economic Benefits

Solar energy generation promotes rural economic development by creating jobs and adding to the tax base. The Facility will provide additional benefits in the form of full-time jobs, construction jobs, compensation to landowners via commercial contracts including leases, taxes, and community service fees. Because most of Morrow County is EFU-zoned, these benefits will largely support EFU zoning uses, agricultural uses, such as community service fees potentially being used to improve public infrastructure such as roads used by large farming equipment. In addition, the stability of the lease payments will allow farmers to continue their agricultural operations on other areas of their land as discussed in the tract discussion above and as evidenced by the landowner letters in Attachment K-1. For example, the owners of Tract 2 (Kilkenny Land Company, LLC) and Tract 8 (RJK Family, LLC) note the following in their letters in Attachment K-1:

- “....even if all 2,000 acres came out of production, no loss of agricultural jobs due to the project would occur.”
- “Any loss of revenue from the removal of a maximum of 2,000 acres from our dryland wheat crops would be substantially exceeded by the Facility’s lease payments as to our two LLCs. This increase in revenues could exceed 10 times the average revenue from our dry land crops within the Facility footprint.”
- “We will keep farming the adjacent lands around the renewable infrastructure and the other 4,000 acres not used by this facility.”

The Facility will generate significant economic benefits for Morrow County. Based on an assessment of tax benefits of an up to 500-megawatt solar project in Morrow County, the estimated tax revenues over the 25-year operating life of the Facility will range from approximately \$45.0 million to \$95.3 million. The estimates are significantly higher than the estimated tax revenues (\$0.57 million) that would be generated by the Facility’s underlying agricultural lands over the same period if there was not a solar project. In addition, construction and operation of the Facility will also generate local economic benefits through direct expenditures for materials and services in the local area, and new payroll income (Tetra Tech 2021).

Rural areas can have a surplus of renewable energy resources and an abundance of space, while urban areas may lack the sufficient space. New energy sources create more and varied power supply which can mean lower power prices and increased energy reliability. Therefore, the introduction of an additional energy source to a rural area can initiate a chain reaction that leads to economic activity that potentially makes neighboring urban areas attractive for industrial investments that can boost employment and progress in the surrounding area. Moreover, Morrow County has indicated through the ASC process for Boardman Solar that “Morrow County would not want to see some 600 acres of industrial land consumed with a use that is allowed conditionally on farmland” (see Attachment K-2). Morrow County is predominantly composed of agricultural land with only 2.2 percent of the total County land area zoned for industrial uses.

Minimal Impacts to Other Environmental Resources

The Facility is sited to avoid any sensitive environmental features, including Washington ground squirrel habitat, FEMA 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. The Facility'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 Facility will avoid impacts to such resources altogether. The Applicant will mitigate for any unforeseen impacts to wildlife habitat based on habitat categorization, as is required under ODFW policy (see Exhibit P). The Facility, as proposed, is not anticipated to have 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.

5.5.2 Evidence that Environmental, Socioeconomic, and Energy Consequences Favor the Exception

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

This ASC addresses the environmental, economic, social, and energy-related consequences anticipated as a result of the construction and operation of the Facility's solar energy generation facilities.

- **Environmental.** The Facility'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 (Historic, Cultural, and Archaeological Resources). These exhibits demonstrate that the Facility will not cause significant adverse environmental consequences. Indeed, by and large, the proposed changes will avoid impacts to such resources altogether. The Applicant will mitigate for any unforeseen impacts to wildlife habitat based on habitat categorization, as is required under ODFW policy (see Exhibit P). The Facility, as proposed, is not anticipated to have 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.
- **Socioeconomic.** The Facility's socioeconomic consequences will not be adverse. The Facility will not have significant adverse impacts on scenic, cultural, historical, archeological, or recreational resources. Exhibit U (Public Services) demonstrates that the Facility will not have significant adverse impacts on community services such as housing, sewer, water supply, waste disposal, health care, education, and transportation. As

discussed above, the Facility will create jobs and contribute income to Morrow County. These benefits should be measured against the relatively small amount of agricultural activity that will be displaced by the Facility. The Facility will supplement farmers' income with lease payments and without significantly reducing the land base available for farming practices. Similarly, although some farming will be displaced where certain portions of the Facility will be located, the Facility will be compatible with area farming by consulting landowners on placement of solar facilities to minimize obstacles for farm activities.

- **Energy Consequences.** The Facility, as proposed, will provide a reliable source of electricity with no fuel cost and no associated emissions for at least 50 years. As discussed under MCZO 6.025 and throughout this exhibit, the Facility will not adversely affect any farming operations in the general area. There are no significant adverse economic consequences of constructing and operating the Facility, as proposed.

5.5.3 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.

The proposed use will be compatible with adjacent agricultural uses, 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 farming.

6.0 Federal Land Management Plans

6.1 Identification of Applicable Land Management Plans – OAR 3450-021-0010 (1)(k)(D)(i)

There are no applicable federal management plans. Therefore, these standards do not apply.

7.0 Conclusion

The information provided in this exhibit demonstrates the Facility's compliance with all applicable, substantive criteria. Therefore, the Council may find that the Facility, as proposed, meets the Land Use standard set forth in OAR 345-022-0030.

8.0 Submittal Requirements and Approval Standards

8.1 Submittal Requirements

Table K-3. Submittal Requirements Matrix

| Requirement | Location |
|---|--------------|
| OAR 345-021-0010(1)(k) Information about the proposed facility's compliance with the statewide planning goals adopted by the Land Conservation and Development Commission, providing evidence to support a finding by the Council as required by OAR 345-022-0030. The applicant shall state whether the applicant elects to address the Council's land use standard by obtaining local land use approvals under ORS 469.504(1)(a) or by obtaining a Council determination under ORS 469.504(1)(b). An applicant may elect different processes for an energy facility and a related or supporting facility but may not otherwise combine the two processes. Once the applicant has made an election, the applicant may not amend the application to make a different election. In this subsection, "affected local government" means a local government that has land use jurisdiction over any part of the proposed site of the facility. In the application, the applicant shall: | Section 1.0 |
| (A) Include a map showing the comprehensive plan designations and land use zones in the analysis area. | Section 2.0 |
| (B) If the applicant elects to obtain local land use approvals: | Section 4.0 |
| (i) Identify the affected local government(s) from which land use approvals will be sought. | N/A |
| (ii) Describe the land use approvals required in order to satisfy the Council's land use standard. | N/A |
| (iii) Describe the status of the applicant's application for each land use approval. | N/A |
| (iv) Provide an estimate of time for issuance of local land use approvals. | N/A |
| (C) If the applicant elects to obtain a Council determination on land use: | Section 5.0 |
| (i) Identify the affected local government(s). | Section 5.1 |
| (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; | Sections 5.1 |
| (iii) Identify all Land Conservation and Development Commission administrative rules, statewide planning goals and land use statutes directly applicable to the facility under ORS 197.646(3) and describe how the proposed facility complies with those rules, goals and statutes. | Section 5.4 |
| (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. | Section 5.5 |

| Requirement | Location |
|---|-------------|
| (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). | Section 5.5 |
| (D) If the proposed facility will be located on federal land: | N/A |
| (i) Identify the applicable land management plan adopted by the federal agency with jurisdiction over the federal land; | N/A |
| (ii) Explain any differences between state or local land use requirements and federal land management requirements. | N/A |
| (iii) Describe how the proposed facility complies with the applicable federal land management plan. | N/A |
| (iv) Describe any federal land use approvals required for the proposed facility and the status of application for each required federal land use approval. | N/A |
| (v) Provide an estimate of time for issuance of federal land use approvals. | N/A |
| (vi) If federal law or the land management plan conflicts with any applicable state or local land use requirements, explain the differences in the conflicting requirements, state whether the applicant requests Council waiver of the land use standard described under paragraph (B) or (C) of this subsection and explain the basis for a waiver. | N/A |

8.2 Approval Standards

Table K-4. Approval Standard

| Approval Standard | Location |
|--|--------------------------|
| 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. | Section 5.0 |
| (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 | N/A |
| (b) The applicant elects to obtain a Council determination under ORS 469.504(1)(b) and the Council determines that: | Section 5.0 |
| (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); | Sections 5.2 through 5.5 |

| Approval Standard | Location |
|---|--------------------------|
| (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 | Section 5.4.3 and 5.5 |
| (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). | Section 5.5 |
| (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. | Sections 5.1 through 5.5 |
| (4) The Council may find goal compliance for a proposed facility that does not otherwise comply with one or more statewide planning goals by taking an exception to the applicable goal. Notwithstanding the requirements of ORS 197.732, the statewide planning goal pertaining to the exception process or any rules of the Land Conservation and Development Commission pertaining to the exception process, the Council may take an exception to a goal if the Council finds: | Section 5.5 |
| (a) The land subject to the exception is physically developed to the extent that the land is no longer available for uses allowed by the applicable goal; | N/A |
| (b) The land subject to the exception is irrevocably committed as described by the rules of the Land Conservation and Development Commission to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable; or | N/A |
| (c) The following standards are met: | |
| (A) Reasons justify why the state policy embodied in the applicable goal should not apply; | Section 5.5 |
| (B) The significant environmental, economic, social and energy consequences anticipated as a result of the proposed facility have been identified and adverse impacts will be mitigated in accordance with rules of the Council applicable to the siting of the proposed facility; and | Section 5.5 |
| (C) The proposed facility is compatible with other adjacent uses or will be made compatible through measures designed to reduce adverse impacts. | Section 5.5 |
| (5) If the Council finds that applicable substantive local criteria and applicable statutes and state administrative rules would impose conflicting requirements, the Council shall resolve the conflict consistent with the public interest. In resolving the conflict, the Council cannot waive any applicable state statute. | N/A |

| Approval Standard | Location |
|--|----------|
| <p>(6) If the special advisory group recommends applicable substantive criteria for an energy facility described in ORS 469.300(11)(a)(C) to (E) or for a related or supporting facility that does not pass through more than one local government jurisdiction or more than three zones in any one jurisdiction, the Council shall apply the criteria recommended by the special advisory group. If the special advisory group recommends applicable substantive criteria for an energy facility described in ORS 469.300(11)(a)(C) to (E) or a related or supporting facility that passes through more than one jurisdiction or more than three zones in any one jurisdiction, the Council shall review the recommended criteria and decide whether to evaluate the proposed facility against the applicable substantive criteria recommended by the special advisory group, against the statewide planning goals or against a combination of the applicable substantive criteria and statewide planning goals. In making the decision, the Council shall consult with the special advisory group, and shall consider:</p> | N/A |
| (a) The number of jurisdictions and zones in question; | N/A |
| (b) The degree to which the applicable substantive criteria reflect local government consideration of energy facilities in the planning process; and | N/A |
| (c) The level of consistency of the applicable substantive criteria from the various zones and jurisdictions. | N/A |

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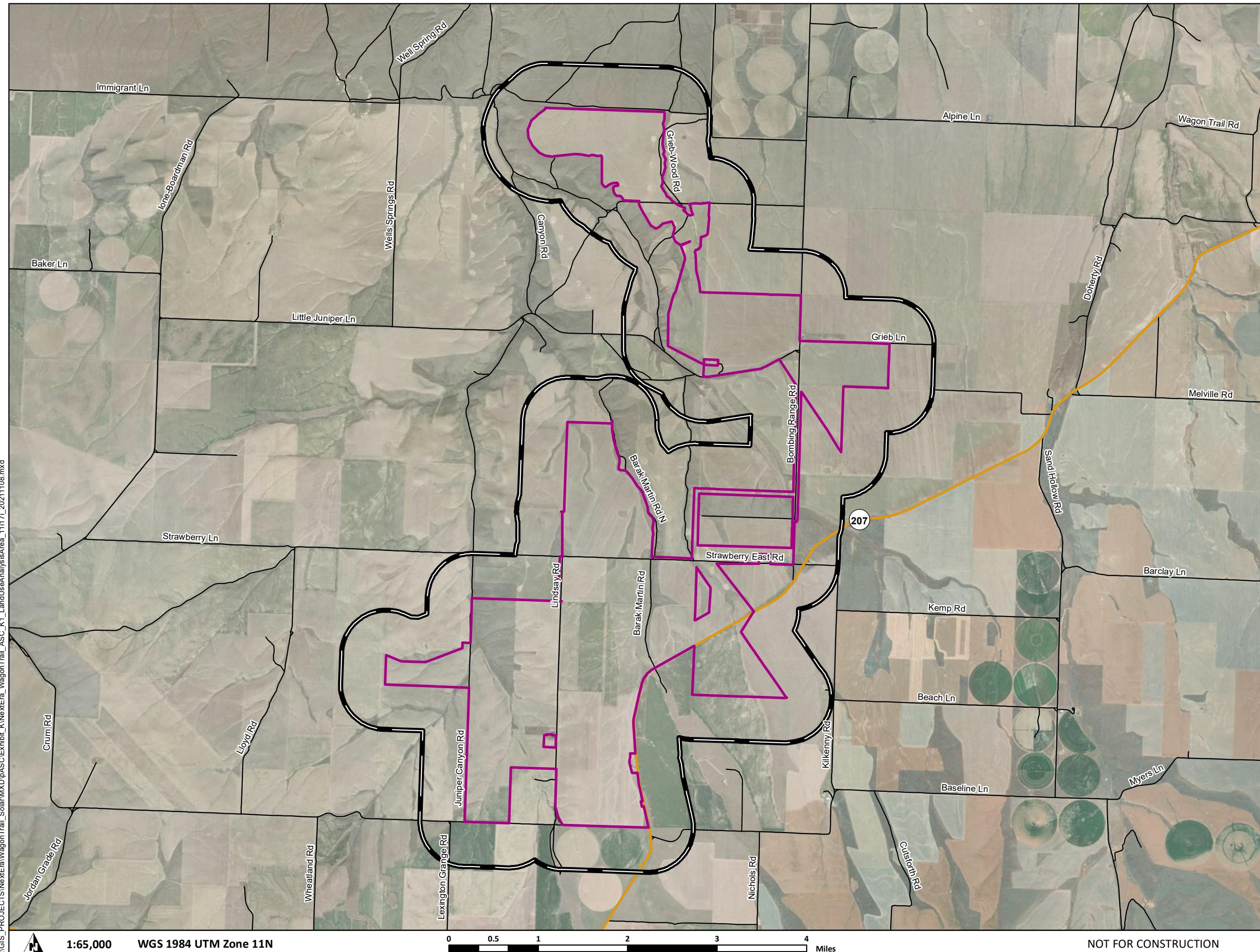
Figures

Wagon Trail Solar Project

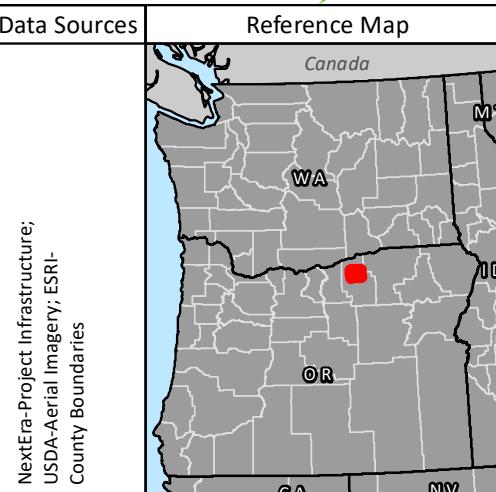
Figure K-1
Land Use Analysis Area

MORROW COUNTY, OREGON

- Site Boundary
- Analysis Area (0.5-mile buffer)
- State Highway
- Local Road



Data Sources



Reference Map

Wagon Trail Solar Project

Figure K-2
Morrow County
Zoning Designation

MORROW COUNTY, OREGON

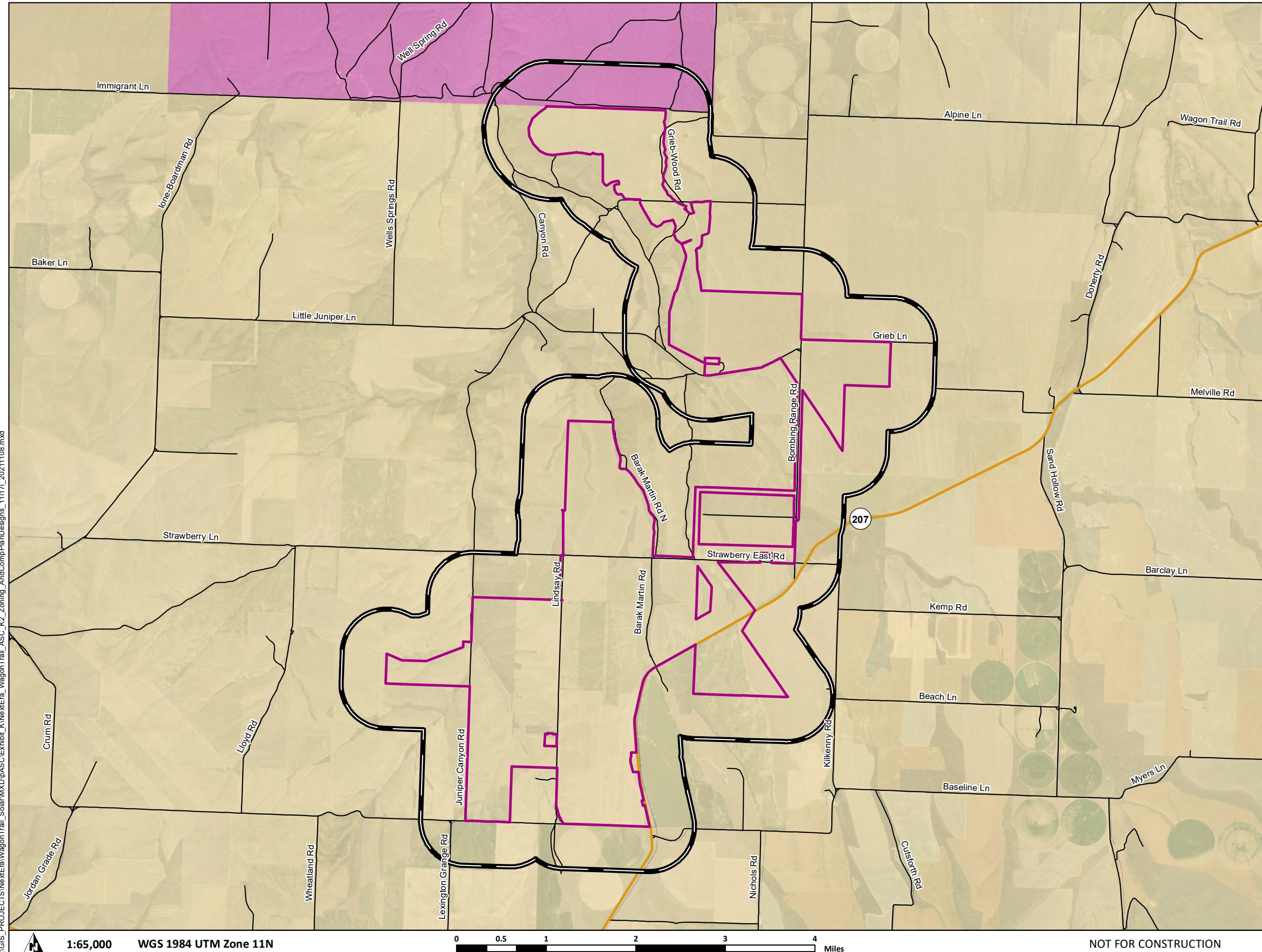
- Site Boundary
- Analysis Area (0.5-mile Buffer)
- State Highway
- Local Road

Morrow County Zoning

- Exclusive Farm Use
- Public



| Data Sources | Reference Map |
|---|---------------|
| NextEra-Project Infrastructure; USDA-Aerial Imagery; ESRI-County Boundaries | |



**Wagon Trail
Solar Project**

**Figure K-3
Tracts and
Adjacent Facilities**

MORROW COUNTY, OREGON

- Site Boundary
- Analysis Area (0.5-mile Buffer)
- Wheatridge Renewable Energy Facility III
- Transmission Line
- State Highway

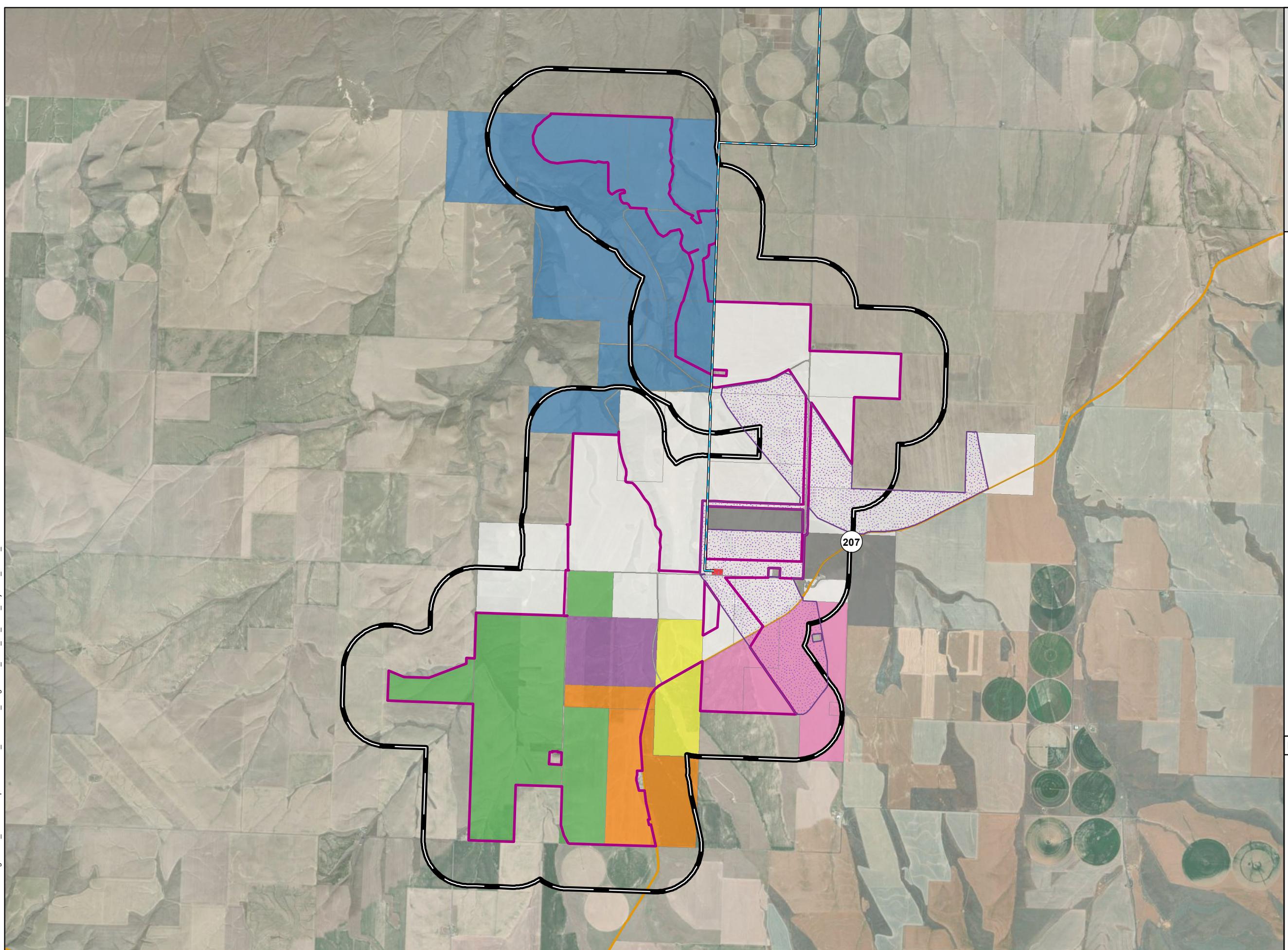
Tract ID

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9



Data Sources

| Reference Map | |
|---|--|
| NextEra-Project Infrastructure; USDA-Aerial Imagery; ESRI-County Boundaries | |



Wagon Trail Solar Project

Figure K-4
Existing Land Use
and Water Rights

MORROW COUNTY, OREGON

- Site Boundary
- Analysis Area (0.5-mile Buffer)
- State Highway
- HVF per Water Right
- Authorized Place of Use

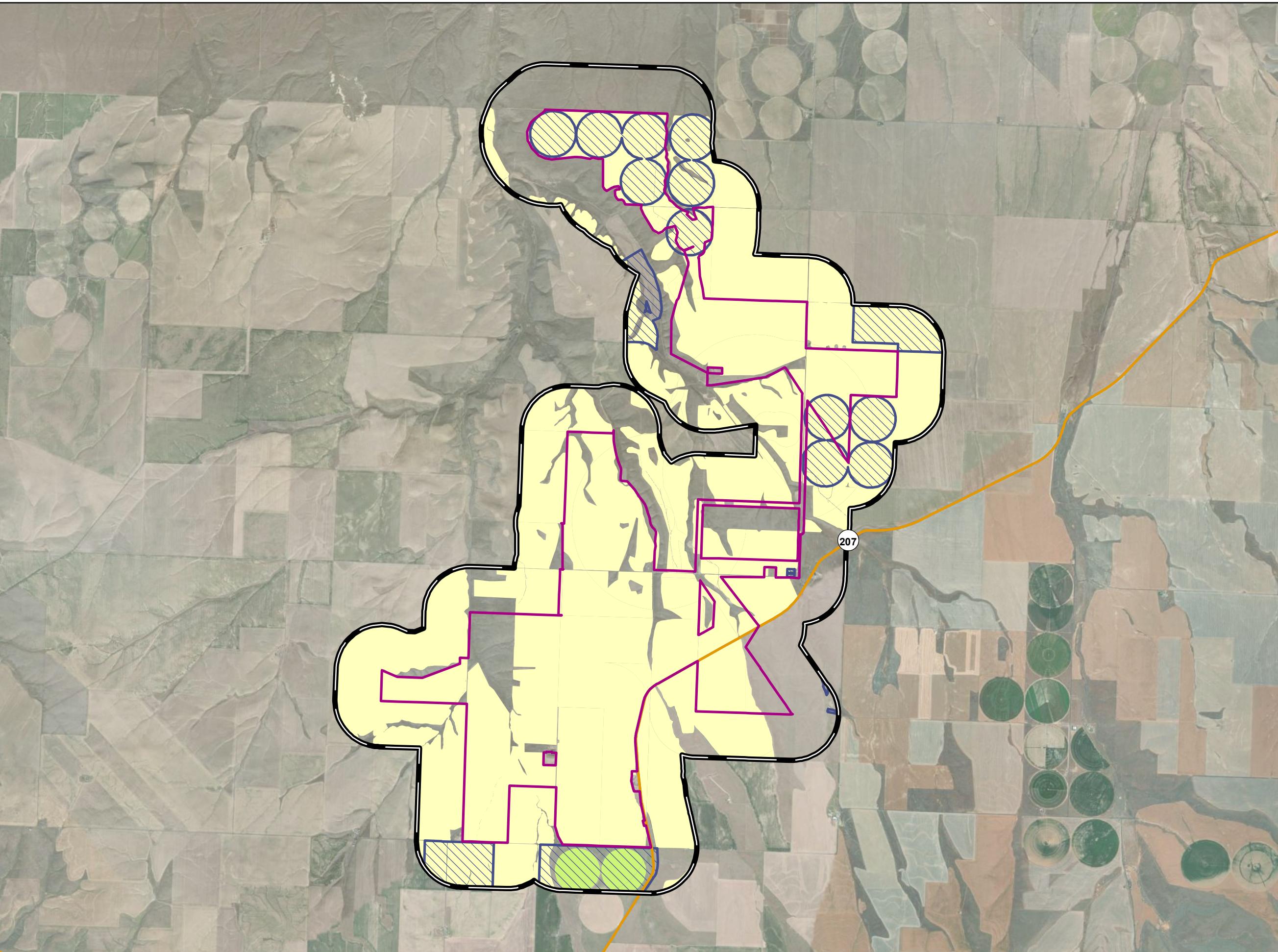
Existing Land Use

- Cultivated Land (Dryland Wheat)
- Cultivated Land (Irrigated Agriculture)



Data Sources | Reference Map

NextEra-Project Infrastructure;
USDA-Aerial Imagery; ESRI-
County Boundaries



1:65,000 WGS 1984 UTM Zone 11N

0 0.5 1 2 3 4 Miles

NOT FOR CONSTRUCTION

Wagon Trail Solar Project

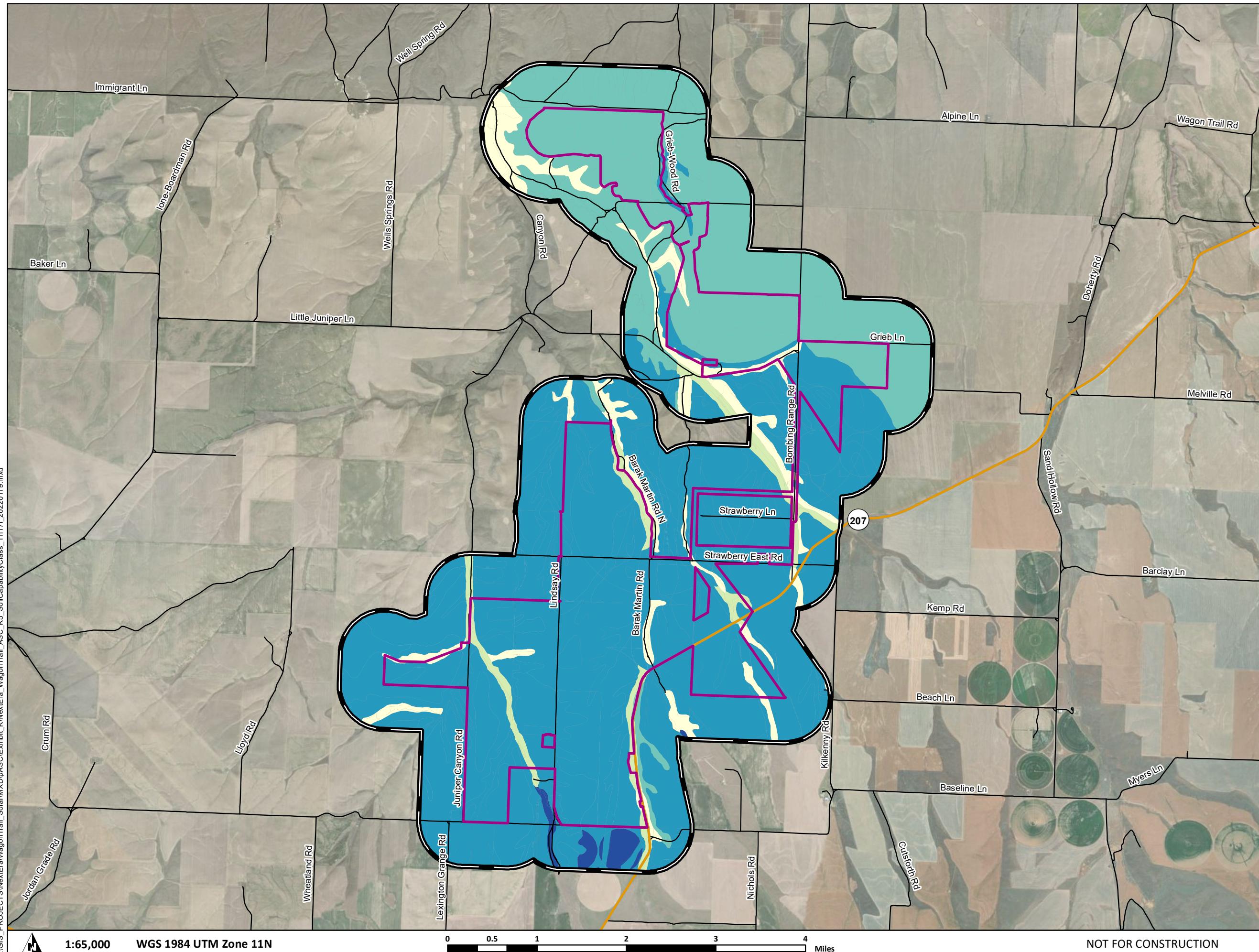
Figure K-5
Soil Capability Class

MORROW COUNTY, OREGON

- Site Boundary
- Analysis Area (0.5-mile Buffer)
- State Highway
- Local Road

NRCS Soil Capability Class

- Class I
- Class II
- Class III
- Class IV
- Class VI
- Class VII



NextEra-Project Infrastructure;
USDA-Aerial Imagery; ESRI-
County Boundaries

 TETRA TECH

Data Sources

Reference Map



Wagon Trail Solar Project

Figure K-6
Arable Soil

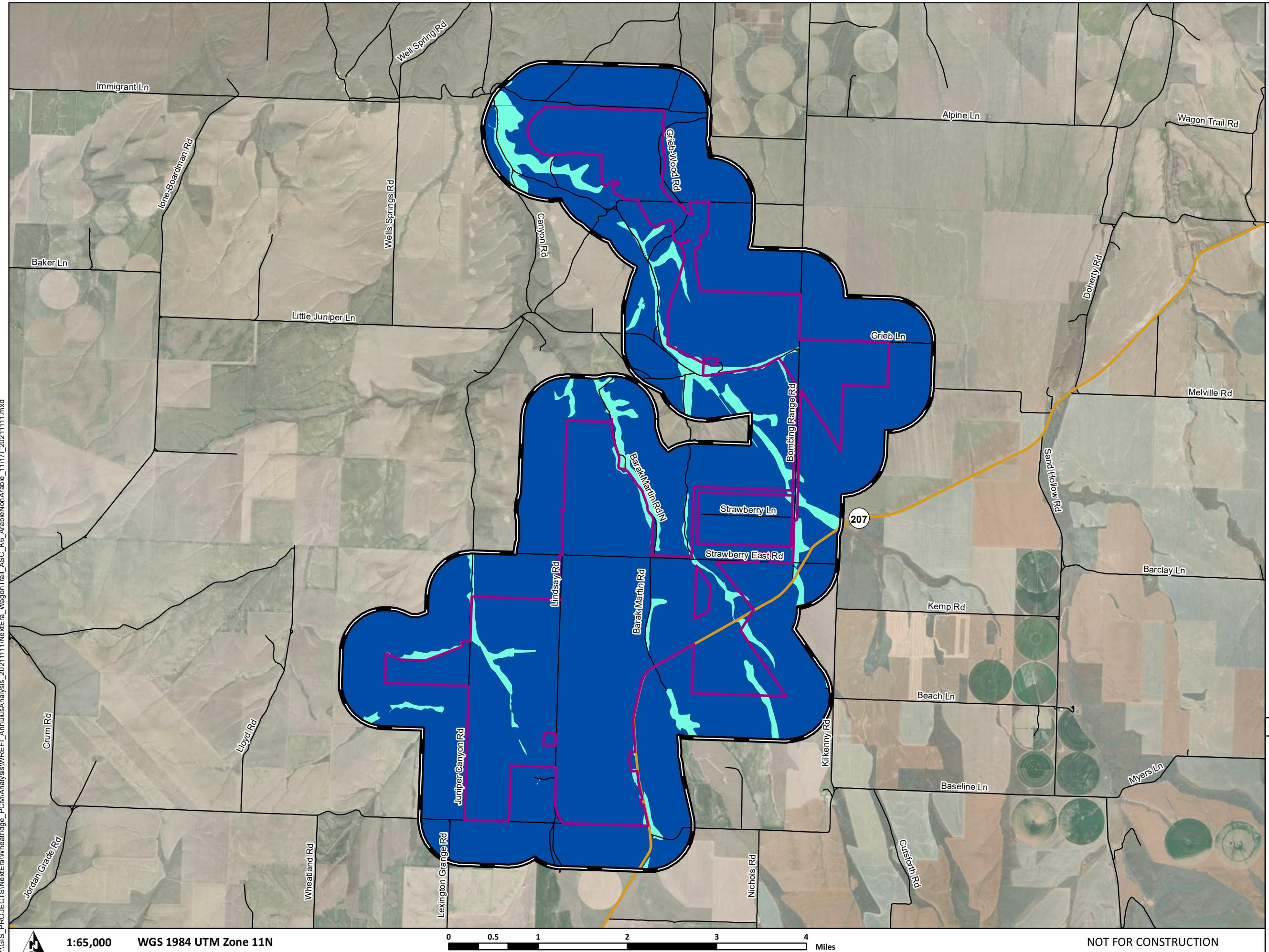
MORROW COUNTY, OREGON

- Site Boundary
- Analysis Area (0.5-mile Buffer)
- State Highway
- Local Road
- Arable Land
- Non-Arable Land



Data Sources | Reference Map

NextEra-Project Infrastructure;
USDA-Aerial Imagery; ESRI-
County Boundaries



**Wagon Trail
Solar Project**

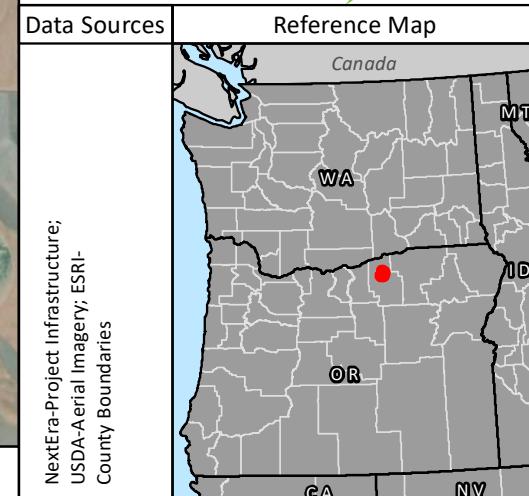
Figure K-7
High Value Farmland

MORROW COUNTY, OREGON

- Site Boundary
- Analysis Area (0.5-mile Buffer)
- State Highway
- HVF per Classes I and II Soils
- HVF per Columbia Valley
- Viticulture Area
- HVF per Water Right
- Authorized Place of Use

TETRA TECH

NEXTERA
ENERGY
RESOURCES



Wagon Trail Solar Project

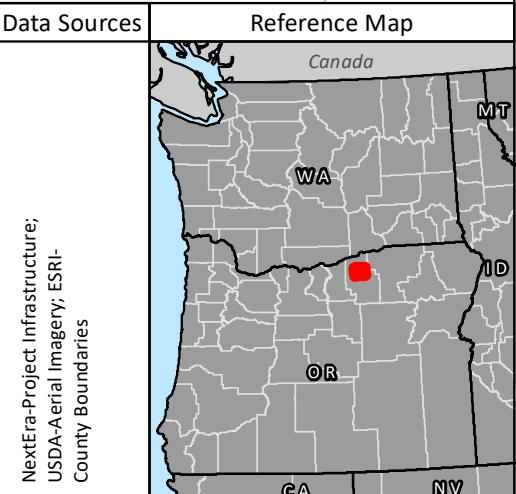
Figure K-8
Solar Power Generation on
EFU Land within 1 mile from
Proposed Project Center

MORROW COUNTY, OREGON

- Site Boundary
- Analysis Area (0.5-mile Buffer)
- Site Boundary Centroid
- 1-mile Study Area Measured from Center of Proposed Facility
- Harp Solar Project Taxlot
- Wheatridge Renewable
- Energy Facility III

Morrow County Zoning

- Exclusive Farm Use
- Public



Attachment K-1. Landowner Letters

Date: 01/10/2022

Sarah Esterson
Energy Facility Siting Analyst
Oregon Department of Energy
550 Capitol St. NE
Salem, OR 97301

Subject: Wagon Trail Solar Project

Dear Ms. Esterson,

NextEra Energy Resources, LLC (NextEra), through a subsidiary, proposes to construct and operate the Wagon Trail Solar Project (Facility), partially on our privately owned land in Morrow County, Oregon. We know the Facility is proposing to generate up to 500 megawatts (MW) of renewable energy when fully built out and will need a total of around 4,000-4,500 acres of land to be used. We (Kilkenny Land Company, LLC and RJK Family, LLC) have signed lease options with a subsidiary of NextEra to allow for solar development of up to 2,000 acres of our total of 6,000 acres we own for the Facility. This represents only 1/3 of our total land base in the area. If you want to know specifically which lands, please see the Recorded Land Title (Attachment 1).

All of this land is agricultural land, which is used primarily for dry land wheat farming. None of our property that is within the Facility's site boundary is irrigated or has irrigation water rights associated with them and based on the results of past investigations, these lands do not have opportunities to acquire irrigation water rights. The land is not high value farmland with predominantly Warden Silt Loam, Very Fine Sandy Loam and Lickskillet Very Stony Loam soils. Because of the low-quality soils and its location in an arid region (high desert) the land is cropped either every second year or cropped 1 in 3 years. The other two years land is left in fallow (i.e. not cropped).

We do not directly farm the land; we lease our land out to another family farming operation. That farming company employs 2 full time people and farms several other thousands of acres in the area. Meaning, that even if all 2,000 acres came out of production there would be no loss of agricultural jobs due to the project. With the people that will be hired by NextEra to operate the facility there will be a net increase in jobs and that is before you consider other economic benefit to the community including with the vastly larger increase in taxes flowing to the local community.

Any loss of revenue from the removal of the maximum of 2,000 acres from our dryland wheat crops would be compensated by the Facility's lease payments as they would be basically the value of the land if we sold, paid to us every year. This represents an increase in revenues associated with this

land by around 10 times the average revenue we generate from our dry land crops within the Facility footprint.

We own lands in all three adjacent renewable energy facilities; Wheatridge Renewable Energy Facilities I, II, and III (solar), and have been impressed with how NextEra has worked with us and our farmer to minimize the impact on farming operations. We will keep farming the adjacent lands around the renewable infrastructure and the other 4,000 acres not used by this facility. The Facility would also have no impact to any of our neighbor's ability to expand, purchase, or lease any vacant land available for farming.

In conclusion, we consider renewable power generation at the Facility site a better use of the land that will have minimal impact to agricultural resource lands and will provide a net economic benefit to our farm operations and to the County.

Sincerely,

Kelly Hale
President

RJK Family, LLC & Kilkenny Land Company, LLC

Attachments



Scarborough  McNeese
Oelke  Kilkenny PC

Attorneys at Law

Russell R. Kilkenny
rrk@smoklaw.com

Admitted in Oregon & Washington

January 10, 2022

Sarah Esterson
Energy Facility Siting Analyst
Oregon Department of Energy
550 Capitol St. NE
Salem, OR 97301

**Re: Wagon Trail Solar Project |
Kilkenny Land Company, LLC, and RJK Family, LLC**

Dear Ms. Esterson:

I am the attorney and Vice President for the above two named Oregon LLCs. My sister, Kelly Hale, is President of both LLCs. I am writing this letter on behalf of both LLCs regarding the Wagon Trail Solar Project.

NextEra Energy Resources, LLC (NextEra), through a subsidiary, proposes to construct and operate the Wagon Trail Solar Project (Facility), partially on our privately owned land in Morrow County, Oregon. We know the Facility is proposing to generate up to 500 megawatts (MW) of renewable energy when fully built out and will need a total of around 4,000-4,500 acres of land to be used. We (Kilkenny Land Company, LLC, and RJK Family, LLC) have signed lease options with a subsidiary of NextEra to allow for solar development of up to 2,000 acres of our total of the 6,000 acres we own for the Facility. This represents only 1/3 of our total land base in the area.

All this land is agricultural land, primarily used for dry land wheat farming. None of our property within the Facility's site boundary is irrigated or has irrigation water rights associated with it. Based on the results of past investigations, these lands will not have the opportunity to acquire irrigation water rights. The land is not high value farmland with predominantly Warden Silt Loam, very fine Sandy Loam, and Lickskillet very stony Loam soils. Because of the low-quality soils and its location in an arid region (high desert), the land is cropped either every second year or cropped 1 in 3 years. The other two years land is left in fallow (i.e. not cropped).

503.601.3698 ph 503.601.3699 fx www.smoklaw.com web FIVE CENTERPOINTE DRIVE, SUITE 240 LAKE OSWEGO, OREGON 97035-8682

William E. Scarborough, Jr.*  John McNeese*  Christian M. Oelke*, LLM Taxation  Russell R. Kilkenny*  Terry J. Tassin, Jr.*
Patrick D. Bryson*[†]  Peter C. McCord  Megan E. Kronsteiner  David L. Shawcross*  Astrid S. Brouillard  Jeffrey J. Ellsworth

* Also admitted in Washington, [†] also admitted in Alaska



Sarah Esterson

January 10, 2022

Page 2 of 2

We do not directly farm the land; we lease our land to a neighbor on a crop share lease. The tenant employs two full time people and farms several thousand other acres in the area. Consequently, even if all 2,000 acres came out of production, no loss of agricultural jobs due to the project would occur. With the people hired by NextEra to operate the facility, a net increase in jobs will occur. As a result, significant economic benefit to the community results, including a significant increase in taxes to the local community.

Any loss of revenue from the removal of a maximum of 2,000 acres from our dryland wheat crops would be substantially exceeded by the Facility's lease payments as to our two LLCs. This increase in revenues could exceed 10 times the average revenue from our dry land crops within the Facility footprint.

We own land in all three adjacent renewable energy facilities: Wheatridge Renewable Energy Facilities I, II, and III (solar). We have been impressed with how NextEra has worked with us and our crop share tenant to minimize the impact on farming operations. We will keep farming the adjacent lands around the renewable infrastructure and the other 4,000 acres not used by this facility. The Facility would also not impact any of our neighbor's ability to expand, purchase, or lease any vacant land available for farming.

In conclusion, we consider renewable power generation at the Facility site a better use of the land. It will have minimal impact on agricultural resource lands and will provide a net economic benefit to our farm operations and to the County.

Please call if you have any questions

Sincerely,

Russell R. Kilkenny

Vice President Kilkenny Land Company, LLC,
and RJK Family, LLC

RRK/kc

cc: Kelly Hale

Attachment K-2. Morrow County Planning Department Boardman Solar Letter



PLANNING DEPARTMENT

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

December 14, 2017

Katie Clifford, Siting Officer
Oregon Department of Energy
550 Capitol Street NE 1st Floor
Salem, Oregon 97301

RE: Boardman Solar Energy Draft Proposed Order Comment Letter

Dear Ms. Clifford:

Morrow County would like to be clear that the Board of Commissioners support the development of solar energy in Morrow County. The construction of the Boardman Solar Farm will continue to grow and enhance energy production in Morrow County, bringing jobs to Eastern Oregon and reasonably priced electricity to the region. The specific purpose of this Board supported letter is to provide comments on the Draft Proposed Order.

After review of the Draft Proposed Order Morrow County finds that the various Conditions are adequate and meet the needs of the County with a couple of minor exceptions. As required by Oregon Revised Statute and the Morrow County Zoning Ordinance, once the Site Certificate is issued, Morrow County will work with the developer to approve and issue their necessary Morrow County permits. We understand, and our Zoning Ordinance states, that any local land use permit can only include the Conditions found in the Site Certificate. Because of this limitation we would ask for minor changes, as shown in *italics*, to the following Conditions:

- Mandatory Condition 1: The certificate holder shall submit a legal description of the site to the Oregon Department of Energy *and the Morrow County Planning Department* within 90 days...
- Mandatory Condition 5: ...and dispose of all timber, brush, refuse and flammable or combustible material resulting from clearing of land and construction of the facility *in accordance with both the applicable Department of Energy provisions and the Morrow County Solid Waste Management Plan*.
- General Standard Condition 2: ...the certificate holder shall submit to the Department *and the Morrow County Planning Department* a compliance plan documenting...
- Fish and Wildlife Habitat Condition 10: ...the certificate holder shall submit to the Department *and the Morrow County Planning Department and Weed Supervisor* a final Revegetation and Noxious Weed Plan... The plan must be approved by the Department *with input from the Morrow County Planning Department and Weed Supervisor* prior to construction.
- Fish and Wildlife Habitat Condition 10(f): [Incorporate the following sentence] *Suggested changes to the plan shall be coordinated with the Morrow County Planning Department and Weed Supervisor*.

Morrow County Planning staff have also reviewed the letter dated November 24, 2017, submitted by 1000 Friend of Oregon concerning the necessary Goal 3 Exception. At one point in the letter 1000 Friends suggests that "solar development should be sited at or near the point of use or within the built environment, such as on existing industrial sites and otherwise unusable space." Morrow County would not want to see some 600 acres of industrial land consumed with a use that is allowed conditionally on farm land. Other industrial uses currently sited within industrial use zones in Morrow County have a stronger beneficial economic impact than a solar energy development would. The 1000 Friends letter does discuss installation on roof tops in both residential and industrial areas, which Morrow County would support, but those types of installations do not generally reach a size to be commercially beneficial. Morrow County supports the granting of a Goal 3 Exception in support of the Boardman Solar Energy Facility.

It should also be noted that in the Draft Proposed Order at page 172 under the discussion concerning Health Care that there are health clinics in both Boardman and Irrigon that should be included. My apologies for not catching that in early project documents. Should Department staff need additional information I can work with them to accurately reflect the available services.

Thank you for the opportunity to comment on the Boardman Solar Generating Facility Draft Proposed Order. Should you have any questions about these comments please contact me at 541-922-4624 or by email at cmclane@co.morrow.or.us.

Cordially,



Carla McLane
Planning Director

cc: Morrow County Board of Commissioners
Matt Scrivner, Sandra Pointer and Dave Pranger, Morrow County Public Works
Michelle Colby, Gilliam County Planning Director
Laura Minor, Invenergy