Attachment E: Land Use Consistency Review

Draft Land Use Consistency Review

Wallula Gap Solar Project

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Prepared for

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Acronyms and Abbreviations

AC	alternating current
Applicant	Wallula Gap Solar, LLC
ASC	Application for Site Certification
BCC	Benton County Code
BESS	battery energy storage system
BPUD	Benton Public Utility District
BPA	Bonneville Power Administration
Comprehensive Plan	Benton County Comprehensive Plan
County	Benton County
CUP	conditional use permit
DC	direct current
DNR	Washington Department of Natural Resources
Ecology	Washington Department of Ecology
EFSEC	Energy Facility Site Evaluation Council
ESCP	Erosion and Sediment Control Plan
Facility	Wallula Gap Solar Project
FWHCA	fish and wildlife habitat conservation area
gen-tie	generation tie
GMA	Growth Management Act
GMAAD	Growth Management Act Agricultural District
kV	kilovolt
NFPA	National Fire Protection Association
NRCS	Natural Resources Conservation Service
O&M	operations and maintenance
OA	Ordinance Amendment
POI	Point of Interconnection
PV	photovoltaic
RCW	Revised Code of Washington
SEPA	State Environmental Policy Act
SR	State Route
SWPPP	Stormwater Pollution Prevention Plan

UGA	Urban Growth Area
USACE	U.S. Army Corps of Engineers
WAC	Washington Administrative Code
WDFW	Washington Department of Fish and Wildlife
WSDA	Washington State Department of Agriculture

1.0 INTRODUCTION

Wallula Gap Solar, LLC (the Applicant), a subsidiary owned by OneEnergy Renewables, proposes to construct and operate Wallula Gap Solar (the Facility), a 60 megawatt solar photovoltaic project with an optional battery energy storage system (BESS) located in Benton County, Washington. The Facility will utilize solar photovoltaic (PV) panels to convert energy from the sun into electric power which will then be delivered to the electric power grid.

The Applicant has elected to seek Facility approval by the Governor upon a favorable recommendation of a Site Certification Agreement (SCA) by Washington State's Energy Facility Site Evaluation Council (EFSEC or "Council") and is submitting a streamlined solar Application for Site Certification (ASC). Pursuant to Revised Code of Washington (RCW) 80.50.040, RCW 80.50.110, and Washington Administrative Code (WAC) 463-28, EFSEC may recommend to the Governor that he permit and authorize an energy generation facility with appropriate consideration of the Facility's consistency with the Benton County land use plans and regulations. As such, the EFSEC Site Certification Agreement process takes the place of the County review process. To support the land use analysis in Part 4, Section 4.N of the ASC, this Land Use Consistency Review has been prepared to address applicable Benton County Code (BCC) provisions (Benton County 2023, as specified below) and Benton County Comprehensive Plan goals and policies (Benton County 2022). Because demonstrating compliance often requires detailed information covered elsewhere in the ASC, the following review includes cross-references to other sections of the ASC, reports, and supporting studies for further analysis and documentation.

The siting of energy facilities in Washington is an area of law occupied by the state under RCW 80.50.110. Nevertheless, this Land Use Consistency Review is prepared to analyze the Facility's consistency with applicable provisions from the BCC and Comprehensive Plan. The Applicant acknowledges the Facility is inconsistent with the Benton County zoning, but this document demonstrates how the Facility is consistent with various other BCC and Comprehensive Plan provisions. Moreover, the now repealed provisions of the BCC provide EFSEC with guidance in the consideration of potential conditions, consistent with conditions imposed on other solar PV facilities in Benton County and throughout the Northwest. Pursuant to WAC 463-26-050, the Applicant respectfully requests EFSEC preemption of the Benton County land use regulation that was adopted to restrict renewable energy facilities. Furthermore, the Applicant requests that EFSEC recommend to the Governor, the approval of an SCA with appropriate conditions.

1.1 Facility Purpose

The purpose of the Facility is to utilize solar PV panels to convert energy from the sun into electric power which will then be delivered to the electric power grid. The Facility would provide Benton County with additional property tax revenue and provide the landowner with stable revenue to supplement its agricultural operations, which are subject to market volatility. Finally, construction of this renewable energy resource would help Washington meet its goal of 100 percent clean electricity supply as set forth in the Clean Energy Transformation Act, passed by the Washington legislature in 2019.

1.2 Facility Overview

In this application, the following terms are used to describe the areas associated with the Facility:

- **Facility Parcels**: The parcels that are included partially or wholly by the lease agreement with Farmland Reserve, Inc. (the Landowner) on which the Facility will be sited. Approximately 1,220 acres.
- **Project Area Extent**: The collective portions of the Facility Parcels that are under active Site Control for the construction and operation of the Facility. The Facility will be microsited within the 437 acres defined as the Project Area Extent.
- **Facility Area**: The Facility Area represents the maximum footprint of the Facility, which includes 392 acres of fenced area, approximately 9 acres of access roads within the fenced area, and approximately 635 feet of generation tie (gen-tie) facilities outside of the fenced area.

The Facility will consist of PV modules mounted on single-axis trackers supported on stationary piles. Each row of solar panels will be strung together in a north-south orientation and the panels will tilt on a single-axis (facing east in the morning and tilting toward the west, following the sun, through the course of each day to maximize energy output). The PV solar modules, commonly known as solar panels, are the basic building blocks of the Facility. Each module is an assembly of photovoltaic cells, an electrical device that converts the energy of light directly into electricity by the photovoltaic effect. The Facility is currently designed to use a bifacial PV module, in which both sides of the module collect energy. This increases the output of each module by capturing additional energy from sunlight reflected off the ground to the back of the module. The panels are mounted together into solar arrays on a steel racking system. The Facility will utilize a single-axis tracking system which allows the panels to change their tilt, rotating slowly from east to west to track the sun throughout the day, which increases electricity production relative to stationary, fixed-tilt panels. At maximum tilt, the panels may be up to 14 feet above the ground. The tracking system will be secured to steel posts, also known as piles, which serve as the foundation. The piles are driven or screwed into the ground to a depth of approximately five to twelve feet, depending on soil conditions. Generally, piles are expected to be placed between 10 and 30 feet apart, depending on the final system design. The final layout including the number of posts required would be informed by both the geotechnical conditions on site and the racking manufacturer.

The electricity produced by solar panels is in direct current (DC) form and is converted by inverters into alternating current (AC). Each inverter is coupled with a medium voltage step-up transformer to increase the voltage of the power to a medium voltage of 34.5 kilovolts (kV), which minimizes losses for collection of the power to the Facility Substation. The inverters and step-up transformers will be mounted on concrete pads throughout the Facility.

The Facility includes an optional battery energy storage system (BESS). The BESS would not exceed the nominal capacity of the Facility, which is 60 megawatts AC. BESS systems installed with generation facilities can be designed as an AC-coupled system or a DC-coupled system for front-of-the-meter applications such as this Facility. As currently designed, the BESS is DC-coupled, meaning it is located downstream of the solar inverters and the power output of the storage system would be

limited by the individual inverters that the batteries are connected to, charging solely off power produced by the solar Facility. This is more cost effective and efficient from both a land use and energy use standpoint, as a BESS allows for the facility to utilize energy capture and discharge more effectively throughout the day.

The Facility will interconnect through a line tap to Benton Public Utility District's (BPUD) 115 kV line near the Prior #2 substation. The generation will then be radially connected to the Bonneville Power Administration's (BPA) facilities at the Plymouth tap (aka Paterson Tap), where BPUD and BPA facilities connect at BPA's McNary substation. BPUD will upgrade, build, own and operate the structures which constitute the transmission facilities from the project to BPA's system; BPA-Transmission Service will install, own, and operate required incremental additions to the McNary substation as well as the metering and the control and communications equipment at the Facility.

The Facility will be accessed by an existing approach from Washington Highway 14 (SR-14). The Facility will be secured with a fence up to 8 feet in height with access gates for authorized personnel. Internal gravel roads built to the applicable fire code will be used to maintain the Facility. During construction, several temporary lay-down areas will be utilized for delivery of major equipment. Some or all of these areas will convert to parking during operations.

The Applicant intends for the Facility to have a Commercial Operations Date as early as December 31, 2026. To meet this schedule, it is expected that construction would begin in the first quarter of 2026.

1.3 Regulatory Context

As shown on Figure 1, the Facility is located entirely on land zoned Growth Management Act Agricultural District (GMAAD) by the BCC (Benton County 2023). On December 21, 2021, Benton County passed Ordinance Amendment (OA) 2021-004, which removed "solar power generation facility, major" from the list of uses requiring a conditional use permit (CUP) in the GMAAD zone and therefore prohibits this type of use in the GMAAD. The "solar power generation facility, major" land use category is what the Facility would have been permitted under in the GMAAD, prior to OA 2021-004.[1] Based on review of the public record of the ordinance amendment, the County's regulatory change appears to have been motivated by an increase in renewable energy interest in Benton County and concerns regarding agricultural and rural land use impacts, particularly as it relates to wind energy development on lands in the GMAAD. The following section provides a summary of the Benton County Ordinance amendment to the GMAAD and the current status of this regulatory shift as of this ASC submittal.

[1] Under BCC 11.03.010(167) "solar power generator facility, major" means the use of solar panels to convert sunlight directly or indirectly into electricity. Solar power generators consist of solar panels, charge controllers, inverters, working fluid system, and storage batteries. Major facilities are developed as the primary land use for a parcel on which it is located and does not meet the siting criteria for a minor facility in BCC 11.03.010(168).

1.3.1 Benton County Ordinance Amending GMA Agricultural District

On December 21, 2021, Benton County Board of County Commissioners adopted OA 2021-004, which, among other changes, removed "solar power generation facility, major" from the list of uses allowed with a CUP in the GMAAD zone and therefore prohibits this type of use in the GMAAD. Prior to December 21, 2021, the Facility would have been an allowed use upon receipt of a CUP in the GMAAD per BCC 11.17.07(cc). Prior to OA 2021-004, Benton County landowners had the ability to diversify use of their land with solar generation facilities that allowed for additional economic opportunities for County residents through increased tax base revenues.

Benton County Community Development Director, Greg Wendt, presented at the December 21, 2021 Board of County Commissioner hearing and stated this amendment was necessary to be consistent with the Growth Management Act (GMA) and Benton County Comprehensive Plan (Comprehensive Plan; Benton County 2022) and that the amendment is necessary to ensure the GMAAD would protect long-term commercially significant agricultural lands, limit incompatible and non-agricultural uses, conserve critical areas and habitat, protect visual resources, and protect rural character (Benton County 2021a and 2021b). This Land Use Consistency Review and the detailed analysis provided in the ASC and associated attachments demonstrate how the Facility's design, best management practices, and mitigation measures are compatible with these stated goals for protection of the GMAAD.

Further, public testimony provided at the Planning Commission Hearing (November 30, 2021) and Board of Benton County Commissioners Hearing (December 21, 2021) on OA 2021-004 included testimony from multiple private landowners, solar energy developers, and advocacy groups in support of allowing solar development to occur on agricultural lands (Benton County 2021a and 2021b). As is noted in the testimony audio and minutes from the two hearings, there was extensive discussion between those providing testimony and the commissioners about the various ways in which solar energy projects may in fact be a compatible use with agriculture when reviewed on a case-by-case basis. Testimony and discussion included the topics of landowner rights and the highest and best use of private land, local economic benefits, and low visual impact of solar facilities as compared to wind facilities.

Despite testimony and discussion among commissioners about solar energy project compatibility in the GMAAD, the County Board of County Commissioners ultimately adopted OA 2021-004 and removed the County's authority to approve solar facilities on agricultural lands through a CUP. As noted in the meeting minutes from the Board of County Commissioners meetings, "Commissioner Delvin saw this as an opportunity to review our ordinances and identify areas within our region for boundaries to see what the future approach could be. He stated there was time to plan" (Benton County 2021b). No further discussion of solar development and land use compatibility is reflected in publicly available agendas and meeting minutes for the Planning Commission and Board of Benton County Commissioners since the respective hearings on November 30, 2021 and December 21, 2021. The Applicant is unaware of further updates or planning processes for development of "solar power generation facility, major" uses in Benton County.

Though the Facility is currently not in compliance with BCC 11.17 after the passage of OA 2021-004, the Applicant demonstrates below in Sections 2 and 3 how the Facility is substantially consistent with

other applicable standards of the Comprehensive Plan and BCC. Based on the primacy of the state when siting energy facilities as provided by RCW 80.50.110(1), and the state's express preemption and occupation of the field pursuant to RCW 80.50.110(2), the Applicant is therefore requesting preemption of the local land use regulations under WAC 463-28-020.

1.4 Energy Facility Site Evaluation Council Review

As discussed above in Section 1.0, the Applicant has now elected to seek Facility approval under the jurisdiction of Washington EFSEC. As such, the EFSEC SCA process takes the place of the County review process. Pursuant to RCW 80.50.040, RCW 80.50.110, and WAC 463-28, EFSEC may recommend that the Governor permit and authorize an energy generation facility with appropriate consideration of the Facility's consistency with the Benton County land use regulations. This attachment supports the land use analysis in Part 4, Section 4.N of the ASC and has been prepared to address applicable BCC provisions (Benton County 2023, as specified below) and Comprehensive Plan goals and policies (Benton County 2022). The Facility is substantially consistent with local land use policies and regulations adopted prior to December 21, 2021 and as of the ASC submittal. As such, the Applicant respectfully requests the Council's recommendation that the Governor approve a conditioned SCA for the Facility that is consistent with RCW Ch. 80.50.

2.0 CONSISTENCY WITH BENTON COUNTY COMPREHENSIVE PLAN GOALS AND POLICIES

This section demonstrates the Facility's consistency with applicable goals and policies of the Comprehensive Plan (Benton County 2022). The Comprehensive Plan was developed to reflect the County's values and plan for future growth consistent with the GMA, and guide County decisions on land use, transportation, infrastructure, housing, economic development, and the environment. A comprehensive plan is not a development regulation and cannot itself control land development. Rather, the comprehensive plan guides the enactment and implementation of zoning. In contrast, development regulations are the requirements "placed on development or land use activities" (RCW 36.70A.040(4) and (7)). These requirements include BCC Title 3, 6, 6A, 11, and 15 as addressed in Section 3.0 below.[2]

2.1 Chapter 2 Goals and Policies

2.1.1 Land Use

LU Goal 1: Ensure that land uses are compatible with surrounding uses that maintain public health, safety, and general welfare.

Policy 1: Maintain a mix of land uses that supports the character of each rural community.

[2] While comprehensive plans are a mandatory requirement to guide the enactment of local zoning codes, in repealing all zoning code provisions enabling conditionally allowed renewable energy facilities, Benton County did not consider how this action was consistent with its comprehensive plan, or how their repeal could impact the County's rural land use policies. While conflicts between a general comprehensive plan and a specific zoning code will be resolved in favor of the zoning code, a zoning repeal without evaluating comprehensive plan consistency is flawed. *Weyerhaeuser v. Pierce County*, 124 Wash. 2d 26, 43, 873 P.2d 498 (1994).

Policy 3: Maximize the opportunities for compatible development within land use designations to serve a multitude of compatible uses and activities.

Policy 7. Encourage "green infrastructure" in new developments and redevelopments to address storm water runoff.

Response:

The Facility Area is located entirely within Benton County's GMAAD zoning district and GMA Agricultural Comprehensive Plan designation. As established in Section 1.3, the Facility is consistent with Benton County's definition of a "solar power generator facility, major" (under BCC 11.03.010(167)), which was previously an allowed conditional use in the GMAAD district prior to the adoption of OA 2021-004. Therefore, the Facility was previously deemed compatible with surrounding land uses in the GMAAD district if certain conditions were met as required by the CUP process. In total, the Facility Parcels within the GMAAD represents 0.2 percent of the 649,153 acres of land designated as GMAAD in the County (Benton County 2022). The Facility Area will occupy approximately 392 acres, or 0.06 percent of GMA Agricultural Lands. The impervious disturbance footprint (including paved and/or compacted surfaces including driveways, access roads, inverters, operations and maintenance [O&M] building, substation) will occupy approximately 12 acres, which is 0.002 percent of GMA Agricultural Lands. Since the impervious disturbance reflects a small percentage of the total GMA Agricultural Lands, the Facility supports the aims of LU Goal 1, Policy 1 by providing mix of land uses that does not detract from the larger rural community.

The Applicant selected the Facility Area for its favorable site suitability characteristics, including high solar energy resource, flat topography, proximity to electrical infrastructure, compatibility with allowed uses on surrounding lands, unsuitability for crop cultivation, and low resource conflicts. The National Renewable Energy Research Lab Solar Resource Map indicates Benton County has some of the highest solar energy resource areas in the State of Washington (NREL 2023). This heightened solar resource means that each solar panel can produce more electricity on an annual basis than one sited in a lower resource area. While the solar resource is superior east of the Cascade Mountains, there is limited existing electrical infrastructure with the available interconnection capacity to connect a project of this size. This electrical constraint creates a limiting factor for locations where solar energy projects are economically feasible in eastern Washington. The Facility has nearby access to electrical infrastructure, which is owned and operated by BPUD, who owns the existing substation and 115-kV transmission line adjacent to the Project Area Extent, to which the Facility would be tied. Interconnection studies have shown that there is sufficient capacity to support the Facility without cost-prohibitive upgrades. As discussed above, the Facility would interconnect to BPUD 115-kV line near Prior #2 substation, then radially connect to the BPA transmission network at the McNary Substation. The proposed use of the site supports LU Goal 1, Policy 3 as these site suitability characteristics maximize the compatible development by taking advantage of existing electric infrastructure (i.e., existing BPUD and BPA facilities). Additionally, the topography of the site is gently south sloping, which is ideal for maximum solar energy capture and electricity generation.

The Facility Area is primarily surrounded by irrigated agricultural land uses, along with pockets of rangeland, undeveloped areas, local roads, electrical infrastructure (e.g., transmission and distribution lines, substations), and scattered unoccupied structures (e.g., agricultural storage). The

underlying landowner of the Facility Area, Utah nonprofit corporation Farmland Reserve, Inc., owns the agricultural land on all sides of the Facility Area boundary and plans to continue farming adjacent parcels during operation of the Facility. Refer to responses below to NR Goal 1 in Section 2.1.3 and response to 11.50.040(d)(1) in Section 3.4.4 for detailed discussion of existing land uses and compatibility with allowed uses.

Facility components will be designed in a manner as to minimize contrast with surrounding land uses. This will include measures such as using non-reflective materials and finishes on Facility components and revegetating temporarily impacted areas as analyzed in detail in Part 4, Section 4.P of the ASC, and the accompanying Visual Impact Assessment (ASC Attachment I). Part 3, Section 3.S and Section 3.T of the ASC further demonstrates the Facility will not have a significant adverse impact on existing public facilities or services. As discussed in Part 4, Section 4.M of the ASC, most materials used in construction of the Facility will not be hazardous or dangerous, and the risk of fire will be low. Facility design incorporates multiple layers of protective measures to avoid failures and risks of fire or spills and will comply with the applicable requirements of the National Electric Code, National Fire Protection Association (NFPA) standards, and Institute of Electrical and Electronics Engineers Standards. Part 4, Section 4.M of the ASC provides additional information on BESS fire risk mitigation. Prior to construction, the Facility will develop and maintain an Emergency Management Plan based on final design and input from local services providers that will include best management practice for fire prevention. The Applicant will also coordinate with Benton County Emergency Management and Washington Department of Natural Resources (DNR) Wildland Fire Management Division regarding potential fire issues, locations and dimensions of access gates and internal access roads, and other issues.

During operation, the Facility will be operated and maintained by up to five employees annually. Operation of the Facility will not interfere with surrounding land uses and represents compatible development with surrounding uses, including the agricultural activities. Facility design incorporates environmental best practices and complies with state stormwater permitting requirements.

LU Goal 1, Policy 7 encourages “green infrastructure” in stormwater design. “Green infrastructure” is not defined in the Comprehensive Plan but is assumed to refer to stormwater management approaches that protect, restore, and mimic natural water cycles. As stated above, the Facility design incorporates environmental best practices and complies with state stormwater permitting requirements. In general, there will be minimal grading across the site, and existing drainage patterns and natural infiltration will be retained. See ASC Part 3, Section 3.E, and Part 4, Section 4.E for more details on the Facility’s stormwater design. Due to the Facility’s “green infrastructure” stormwater designs, the Facility is consistent with LU Goal 1, Policy 7. Similar to the County’s encouragement of “green infrastructure,” the State of Washington’s Clean Energy Transformation Act encourages development of green energy sources (i.e., non-carbon emitting energy sources). The Facility’s production of clean renewable solar energy supports the State’s goal to source the State’s electricity customers with 100% renewable, non-carbon emitting electricity by 2045.

For the reasons stated above, the Facility is consistent with this goal and corresponding policies of the Comprehensive Plan.

LU Goal 2: Follow controlling law and constitutional requirements, both state and federal, to ensure the appropriate protection of private property rights.

Policy 1: Prevent regulations that create undue adverse economic impacts, or unnecessarily restrict the use of private property.

Response:

Facility implementation will support the long-term economic sustainability of the participating landowner via direct lease payments, while agricultural activities on lands surrounding the Facility Area will be able to continue unimpeded. The landowner owns the agricultural land on all sides of the Facility Area boundary and plans to utilize the income from the Facility to support its other agricultural lands and continue farming adjacent parcels during operation of the Facility. Prior to OA 2021-004, Benton County landowners had the right to diversify use of their land with solar generation facilities that allowed for additional economic opportunities for County residents through increased tax base revenues.

At the Benton County Commissioner hearing that resulted in the prohibition of "solar power generation facility, major" as a use in the GMAAD district, landowners testified that the lease payments from the solar facility would supplement farming income with a fixed income stream, thus supporting their families and communities and allowing them to continue to manage their lands for current and future agricultural uses. Agricultural landowners operate within an ever-changing market and should have discretion to determine what resources will be the most profitable to harvest on their lands – whether it is choosing a crop type to grow, what livestock to graze, or choosing to lease a portion of their lands for solar energy harvesting and using the income stream to support their other agricultural lands. Approval of the Facility will support the long-term economic sustainability of the participating landowner, and therefore, the Facility is consistent with this goal and corresponding policy of the Comprehensive Plan.

2.1.2 Communities Outside UGAs

LU Goal 5: Identify the location, site planning, and density of new non-farm development outside of UGAs to protect existing agriculture from incompatible adjacent land uses.

Policy 1: Establish compatible land uses adjacent to areas designated as GMA Agriculture to minimize conflicts associated with farm activities such as spray, dust, noise, odors, and liability.

Response:

The Facility Area is located outside of an Urban Growth Area (UGA) and is entirely within and adjacent to GMAAD land. The solar facility land use will not be in conflict with continued agricultural activities, which include impacts such as spray, dust, noise, odors, and liability. These agricultural effects are also not incompatible with solar operations because solar energy facilities are generally self-sufficient and require minimal on-site maintenance and operations activities or staff. The landowner, who also owns the agricultural land on all sides of the Facility Area boundary, indicated that agricultural operations on surrounding lands would not be impacted by the proposed Facility layout beyond additional communication between agricultural operations and the construction team needed to

manage heavy construction road traffic and heavy harvest road traffic during the harvest season. Best management practices, detailed further in Part 1, Section 1.F of the ASC, will be implemented and maintained as needed to avoid and minimize potential impacts to agricultural activities during construction, such as dust, traffic, or spread of noxious weeds. During operation, the Facility will be largely self-sufficient except for routine operations and maintenance activities by up to five operations employees and potential panel washing. Thus, operation of the Facility would result in additional traffic that is negligible. For these reasons, the Facility is consistent with this goal and corresponding policy of the Comprehensive Plan.

2.1.3 Natural Resource Lands

NR Goal 1: Conserve and maintain agricultural land of long-term commercial significance as the local natural resource most essential for sustaining the County's agricultural economy.

> ***Policy 1: Conserve areas designated "GMA Agriculture" in the Comprehensive Plan for a broad range of agricultural uses to the maximum extent possible and protect these areas from the encroachment of incompatible uses.***
>
> ***Policy 3: Recognize that only uses related or ancillary to, supportive of, complimentary to, and/or not in conflict with agricultural activities are appropriate in areas designated GMA Agriculture.***

Response:

Existing Land Uses in the Facility Area: The Facility will be entirely located within the County's GMAAD zoning district, which is part of the County's GMA Agricultural land use designation in the Comprehensive Plan (Figure 1). In total, the 392-acre Facility Area represents 0.06 percent of the 649,153 acres of lands in the GMA Agricultural designation (Benton County 2022). The Facility Area will occupy approximately 392 acres, or 0.06 percent of GMA Agricultural lands which would be a de minimis reduction of farmland utilized for crop and livestock production throughout Benton County. The Facility will not conflict with adjacent agricultural activities, as it will not limit or impact current or future farm activities on the surrounding land due to the implementation of best management practices, detailed further in Part 1, Section 1.F of the ASC, and will not diminish the opportunity for neighboring parcels to expand, purchase, or lease any vacant land available for farming.

The Facility's 2023 Wildlife, Habitat, and Plant Survey Report determined land cover types within the Facility Area are a mixture of pasture, mixed environs and minor shrub/scrub. The Facility Area is located in a heavily modified landscape and part of AgriNorthwest's Plymouth Farm that grows an assortment of fruits and vegetables. Land use within the Facility Area is mostly livestock grazing, rock and soil quarries, and roads used to access the surrounding agricultural fields. A compacted gravel airplane landing strip bisects the northern portion of the Facility Area. Portions of the Facility Area last used for irrigated cropland in 2013 (e.g., half pivot north of the landing strip and full pivot in the southern area; Appendix C) have been converted to pasture lands where cattle grazing occurs (refer to ASC Part 2 and ASC Attachment F; Figure 2.3). There are several place of use water rights for irrigation within the Facility Area that will be unimpeded by the Facility through measures detailed below:

- **Place of Use Water Right S4-01249(C):**
  Last used in 2013 within the Facility Area when corn was planted/harvested. Since that time, it has been unwatered pasture until present. There is currently no seasonal transfer of this water right. Excess water has been temporarily donated into trust (in-stream, a program administered by the Washington Department of Ecology (Ecology) that enables existing water rights to be held in trust without the risk of relinquishment. The water that was donated into trust is returned to in-stream flow.
- **Place of Use Water Right S4-01335(D)C:**
  Last used in 2009 within the Facility Area. This water right is not currently donated to trust, but these acres are seasonally transferred to other parts of the farm year-after-year and will continue to be seasonally transferred for the foreseeable future.
- **Place of Use Water Right S4-01335(B)C:**
  This water right is fully utilized and committed on the lands outside of the lease (meaning the allowed irrigable acres are fully used on existing operations). These operations are unlikely to change and should not impact the lease. For context, this water right serves the apple orchards in addition to some crop circles. This water right is currently not donated to trust.

Agricultural lands in the Facility Area were also assessed using the Washington State Department of Agriculture (WSDA) 2021 agricultural land use data (WSDA 2021; Figure 2). Table 1 shows that, within the Facility Parcels, WSDA agricultural land uses are mapped as 325.9 acres of cereal grain, 148.7 acres of orchard, 195 acres of pasture, and 67.3 acres of vegetable cropland. Within these 736.8 acres of agricultural lands mapped by WSDA, 541.9 acres are identified as irrigated lands (center pivot, drip, sprinkler, or wheel line irrigation types). The Facility Area contains only non-irrigated pasture (see Figure 3).

Table 1. Cropland Impacts

WSDA Cropland Type	Irrigation Type	Acres in Facility Parcels	Acres in Facility Area	Acres Temporary plus Altered Impacts	Acres Permanent Impacts
Cereal Grain	Center Pivot	325.9	0.0	0.0	0.0
Orchard	Sprinkler	148.7	0.0	0.0	0.0
Pasture	None	195.0	172.1	169.6	4.0
Vegetable	Center Pivot	67.3	0.0	0.0	0.0
Total		**736.8**	**172.1**	**169.6**	**4.0**

Non-agricultural land uses to the east and south of the Facility Area include scattered unoccupied structures (e.g., agricultural storage), existing electrical transmission infrastructure (i.e. existing substation and transmission lines), and local roads and state highways.

Agricultural Land of Long-term Commercial Significance: The GMA statutory definition of long-term commercial significance in WAC 365-196-200(12) is:

> *"Long-term commercial significance" includes the growing capacity, productivity, and soil composition of the land for long-term commercial production, in consideration with the land's proximity to population areas, and the possibility of more intense uses of the land.*

When developing the Comprehensive Plan, Benton County evaluated long-term commercial significance using the following criteria (Benton County 2022):

> *Long-term commercial significance for agriculture was evaluated by applying several different considerations determined to be most applicable to Benton County resource lands, and generally consistent with guidance provided in WAC 365-190-050(3)(c), but also supplemented by information important to local conditions such as precipitation patterns. These considerations included:*
>
> - *Water availability/precipitation*
> - *Parcel size*
> - *Nearby UGAs, settlement patterns, land use, land values, and development permits*
> - *Land in the Conservation Reserve Program or conservation land*
> - *Prime farmlands*
> - *Pesticide restrictions*
> - *Public facilities and proximity to markets*
> - *Tax status*

The Comprehensive Plan's reference to WAC 365-190 refers to the minimum guidelines to classify agriculture, forest, mineral lands and critical areas under WAC 365-190-050(3)(c) and includes the following nonexclusive criteria for determining long-term commercial significance:

> *(i) The classification of prime and unique farmland soils as mapped by the Natural Resources Conservation Service;*
>
> *(ii) The availability of public facilities, including roads used in transporting agricultural products;*
>
> *(iii) Tax status, including whether lands are enrolled under the current use tax assessment under chapter 84.34 RCW and whether the optional public benefit rating system is used locally, and whether there is the ability to purchase or transfer land development rights;*
>
> *(iv) The availability of public services;*
>
> *(v) Relationship or proximity to urban growth areas;*
>
> *(vi) Predominant parcel size;*
>
> *(vii) Land use settlement patterns and their compatibility with agricultural practices;*
>
> *(viii) Intensity of nearby land uses;*
>
> *(ix) History of land development permits issued nearby;*

(x) Land values under alternative uses; and

(xi) Proximity to markets.

Further, WAC 365-190-050(5) guides the designation of long-term commercial significance by the following:

> *When applying the criteria in subsection (3)(c) of this section, the process should result in designating an amount of agricultural resource lands sufficient to maintain and enhance the economic viability of the agricultural industry in the county over the long term; and to retain supporting agricultural businesses, such as processors, farm suppliers, and equipment maintenance and repair facilities.*

The Facility Area contains several of the significance factors described in the Comprehensive Plan and quoted above, including parcel size, land use and settlement patterns, lands enrolled in the Conservation Reserve Program, and prime farmlands (if irrigated). The Facility Area is in an isolated area of Benton County outside of a UGA. Land use on surrounding lands primarily consists of agricultural uses as described above. Lands in the Facility Area have been utilized for agricultural purposes since at least the 1970s, including both crop production and livestock grazing. As described above, the Facility's 2023 Wildlife, Habitat, and Plant Survey Report identifies a mixture of shrub/scrub and cultivated cropland within the Facility Parcels (ASC Attachment F). None of the Facility Area is mapped as irrigated by WSDA (WSDA 2021). According to the Natural Resources Conservation Service, approximately 58 acres or less than 5 percent of the mapped soil units in the Facility Parcels are classified as prime farmland if irrigated[3] and an additional 13 percent (159.2 acres) are classified as farmland of statewide importance[4] (refer to Table 2, Figure 3, and ASC Attachment F). However, none of the 58 acres within the Facility Area classified by the Natural Resources Conservation Service (NRCS) as prime farmland if irrigated are currently irrigated. Portions of the Facility Area once used for irrigated cropland (e.g., half pivot north of the landing strip and full pivot in the southern area) have been converted to pasture lands where cattle grazing occurs. Therefore, none of the acres within the Facility Area are prime farmland. Figures 3 and 4 overlay NRCS-mapped soil units with areas mapped by WSDA as irrigated within the Facility Area. Table 2 provides a breakdown of NRCS soil classifications within the Facility Parcels, Facility Area, and impervious disturbance footprint. As noted in Figures 3 and 4 and Table 2, the Facility Area contains only 2.4 acres (0.07 percent of the total Facility Area) of farmland of statewide importance. None of the 2.4 acres of farmland of statewide importance are within the impervious disturbance footprint.

[3] *Prime farmland is land that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops and is available for these uses.* (NRCS 2022)

[4] *Land that does not meet the criteria for prime or unique farmland is considered to be farmland of statewide importance for the production of food, feed, fiber, forage, and oilseed crops. The criteria for defining and delineating farmland of statewide importance are determined by the appropriate State agencies. Generally, this land includes areas of soils that nearly meet the requirements for prime farmland and that economically produce high yields of crops when treated and managed according to acceptable farming methods. Some areas may produce as high a yield as prime farmland if conditions are favorable. Farmland of statewide importance may include tracts of land that have been designated for agriculture by State law.* (NRCS 2022)

Table 2. NRCS Soil Classifications within the Facility Parcels, Facility Area, and Impervious Impact Footprint

NRCS Soil Classification	Acres within Facility Parcels	Acres within Facility Area	Acres within Impervious Disturbance Footprint[1/]
Prime farmland if irrigated (located within areas of irrigation per WSDA[2/] data)	11.6	0.0	0.0
Prime farmland if irrigated (located outside areas of irrigation per WSDA[2/] data)	45.9	27.4	0.5
Farmland of Statewide Importance	159.2	2.4	0.0
Not Prime Farmland	1,003.7	362.1	11.5
Total	**1,220.4**	**391.9**	**12.0**

Notes:
1/ Impervious disturbance footprint includes paved and/or compacted surfaces including driveways, access roads, inverters, O&M building, and substation.
2/ Source: WSDA 2022

The Facility Area is less suitable for agricultural uses than other areas of the County within the GMAAD and GMA Agriculture land use designation because of the following criteria under WAC 365-190-050(3)(c): availability of public services, proximity to markets, and the Comprehensive Plan's considerations of water availability and precipitation. The Facility Area is ideally located near transportation routes, including SR-14, SR-221, and Interstate 82. The Facility Area is not located within an irrigation district and while there are several place of use water rights for irrigation within the Facility Area, none have been in use since 2013 and will not be impacted as a result of this Facility.[5]

As described in the ASC Attachment M (Wetland Delineation Report), normal climatic conditions prevailed during the previous three months prior to May 4, 2022 fieldwork. The annual precipitation of the area can be a limiting factor to crop cultivation on non-irrigated lands. The non-irrigated lands may be suitable to dryland wheat and grazing, as evidenced by historic grazing uses in the Facility Parcels. Stock tanks and suitable forage are still necessary for the productivity of rangelands.

Following the guidance in WAC 365-190-050(5), the County's process of designating agricultural areas of long-term commercial significance using the criteria in WAC 365-190-050(3)(c) should result in "designating an amount of agricultural resource lands sufficient to maintain and enhance the economic viability of the agricultural industry in the county over the long term…" (WAC 365-190-050(5)). As described above, the Facility Area will occupy approximately 392 acres, or 0.06 percent of the 649,153 acres of land designated as GMAAD in the County (Benton County 2022). The small area of land that will be occupied by the Facility, combined with the lack of annual precipitation, are not representative of resource lands necessary to maintain and enhance the economic viability of the agricultural industry in the County over the long term. The Facility Area is dryland with no crop growth and occasional grazing that brings in negligible value, according to the landowner. In response to a survey questionnaire, the landowner states the Facility Area contains sandy and rocky soil that is not suitable for row crops. Table 3 details soil types across the analysis areas.

[5] There is one groundwater right within the Facility Area, record number G4-*07383CWRIS; however, the certificate is restricted to "stock water" only (Ecology 2023).

Table 3. Soil Types within Facility Parcels, Facility Area, and Permanent Impact

Soil Unit	Soil Name	Farmland Class	Acres In Facility Parcels	Acres in Facility Area	Acres Permanent Impacts
BbC	Burbank loamy fine sand, 0 to 15 percent slopes	Not prime farmland	192.1	62.4	1.7
BdE	Burbank loamy fine sand, basalt substratum, 0 to 30 percent slopes	Not prime farmland	74.1	45.8	1.2
BoD2	Burke very fine sandy loam, 0 to 15 percent slopes, eroded	Farmland of statewide importance	4.8	0.0	0.0
Du	Dune land	Not prime farmland	63.2	16.2	1.6
FeC	Finley fine sandy loam, 0 to 15 percent slopes	Farmland of statewide importance	15.2	0.0	0.0
KoC	Koehler loamy fine sand, 0 to 8 percent slopes	Not prime farmland	94.8	68.4	1.6
QuE	Quincy loamy sand, 0 to 30 percent	Not prime farmland	579.4	169.4	5.3
ScAB	Scooteney silt loam, 0 to 5 percent slopes	Prime farmland if irrigated	57.6	27.4	0.5
WfC2	Warden very fine sandy loam, 0 to 15 percent slopes	Farmland of statewide importance	139.2	2.4	0.0
			1,220.4	**391.9**	**12.0**

In the landowner's estimation, utilizing irrigation water on unsuitable soil would not make it more productive for agricultural use. The landowner's current water rights extend beyond the current irrigated lands on the Facility Parcels. If the landowner decided to irrigate the area defined as the Project Area Extent, then the landowner would have to reapportion existing irrigation water or remove water rights from trust.

While lands in the Facility Area are located in the GMAAD and GMA Agricultural land use designation and have a history of agricultural use, when reviewing under the factors and guidelines described above, the Applicant urges EFSEC to carefully consider the factors that inform the designated use of this land, and the *de minimis* amount of land the Facility Area represents among the hundreds of thousands of acres of GMAAD-zoned land in this county and the relatively small contribution it makes to the economic viability of the agricultural industry in the County over the long term.

Compatibility with Allowed Uses on Surrounding Lands: As a "solar generation facility, major," the Facility was previously an allowed conditional use in the GMAAD district prior to the adoption of OA 2021-004. Therefore, subject to the conditions of approval, the County previously found a "solar generation facility, major" as a compatible use in the GMAAD district. The Applicant identified the Facility Area based on its favorable site suitability characteristics, including high solar energy resource, flat topography, proximity to electrical infrastructure, compatibility with allowed uses on surrounding lands, and low resource conflicts. The Facility is not located near population centers and is ideally sited to allow for co-location with existing electrical transmission infrastructure (i.e. BPUD existing Prior #2 substation and BPA's transmission network) that will avoid conflicts with other land uses, while minimizing impacts to natural and cultural resources.

The Applicant demonstrates to EFSEC that the Facility is not incompatible with surrounding agricultural land uses and would not conflict with surrounding agricultural activities during the construction and operational periods for the following reasons:

- During construction, impacts on agricultural land uses, including the cultivation of crops surrounding the Facility Area will be minimized through the implementation of environmental best practices as described in the ASC in Part 1, Section 1.F, Part 3, and Part 4.
  - **Noise:** Construction may result in short-term noise impacts from construction equipment during the approximately 12- to 18-month construction period. Results of the Acoustic Assessment Report (ASC Attachment J) indicate sound generated from existing sound sources in the Project Area Extent, such as the operation of agricultural equipment, would be expected to be relatively higher than Facility operations. Overall, sound emissions associated with the Facility are expected to remain at a low level, consistent with other solar energy facilities of similar size and design. Reasonable efforts will be made to minimize the impact of noise resulting from construction activities, including implementation of standard noise reduction measures as described in the ASC Part 4, Section 4.P.a.
  - **Traffic:** As described in Part 4, Section 4.R of the ASC and described in Section 3.4.4 below, Facility construction will involve a temporary increase in traffic to the site for delivery of materials and worker transportation. While traffic will increase temporarily during construction, peak vehicular and truck traffic is not expected to have a significant impact on SR-14, SR-221, and Interstate 82. Construction traffic will not block or obstruct access to surrounding lands. The timing of peak construction activity may overlap with the harvest season; however, the Applicant and landowner plan to coordinate transportation schedules therefore limiting any operational or traffic impacts during harvest.
  - **Erosion Control, Stormwater Management, and Dust Mitigation:** The Applicant will implement erosion control, stormwater management measures, and dust control measures to minimize the runoff and soil erosion (refer to ASC Part 4, Sections 4.A, 4.B and 4.E). Dust will be mitigated using standard dust control practices including, but not limited to, spraying water or a binding agent, and/or applying gravel as necessary. Depending on soil moisture levels, up to approximately 30,000-50,000 gallons (per day) of water could be used throughout construction for dust suppression.
  - **Noxious Weed Control:** Following construction, temporarily disturbed areas will be revegetated in accordance with a Vegetation and Weed Management Plan that will be developed in consultation with the Benton County Weed Board and submitted to EFSEC prior to construction (refer to ASC Part 4, Section 4.H). Best management practices, such as flagging the limits of construction to minimize vegetation removal and ground disturbance, and implementing measures described in the Vegetation and Weed Management Plan, will be used to control and manage noxious weeds on site and prevent spread onto nearby properties.
- The Facility, which has no air or water emissions, will be operated and maintained by up to five employees to facilitate routine maintenance activities and potential panel washing once

per year. Impacts to agricultural uses on adjacent lands during operations will be limited to minimal vehicle and truck traffic on area roadways associated with operations employees (refer to ASC Part 4, Section 4.R). Operations traffic will not block or obstruct access to surrounding lands and therefore will not impact agricultural activities. Overall, sound emissions associated with the operations of the Facility are expected to remain at a low level and will comply with the applicable WAC 173-60, which establishes noise limits (refer to ASC Part 4, Section 4.P.a and ASC Attachment J). The Facility will also implement a Vegetation and Weed Management Plan to control noxious weeds. The plan will be developed in coordination with EFSEC and Benton County Noxious Weed Control Board.

Facility operation will not conflict with agricultural uses on surrounding lands and represents compatible use in the GMA Agricultural lands designation. The Facility will not interfere with any existing, surrounding agricultural uses and practices and will not cause any increases in accepted or known farming practices. Refer to the response to BCC 11.50.040(d) in Section 3.4.4 below for additional discussion on compatibility with allowed uses in the GMAAD.

Implementation of the Facility will also support the long-term economic sustainability of the landowner via direct lease payments, while agricultural activities allowed on lands surrounding the Facility could continue without disruption. The Applicant is committed to working with the landowner to continue its farm operations on adjacent parcels.

As demonstrated throughout the ASC and this Land Use Consistency Review, the Facility is designed to incorporate environmental best practices and the Applicant has developed measures to avoid, mitigate, or minimize (to the greatest extent reasonable) potential conflicts with agricultural activities on surrounding lands. For these reasons, the Facility is consistent with this goal and corresponding policies of the Comprehensive Plan.

Policy 4: Apply development standards that conserve water resources when reviewing proposed new non-agricultural developments to sustain the ability of the regional agricultural economy to expand and respond to new market conditions and opportunities.

Response:

The Facility will obtain water for construction and operation from existing sources with a verified water right. Anticipated water needs are noted in Part 3 and Part 4 of the ASC. Water use during construction will primarily be associated with dust control and is estimated at approximately 30,000 to 50,000 gallons per day over the approximately 12- to 18-month construction period. During operations, the Facility is expected to use less than the groundwater permit-exempt well threshold of 5,000 gallons per day, and actual water use is estimated to be approximately 30,000 to 50,000 gallons per year (including the water use related to the potential panel washing).

The Applicant does not anticipate the need to wash PV modules at the Facility. The Facility has assumed a conservative loss factor of 2.64 percent of its annual energy generation due to soiling. The average annual rainfall predicted for the site by the National Oceanic and Atmospheric Administration of 8.61 inches per year is sufficient to effectively remove dust from the PV modules to support the Facility's soiling loss factor (NOAA 2020). While additional panel washing may lower the energy loss due to soiling, the cost of washing modules will typically be far greater than the additional revenue generated by such

work. In a highly unusual event, where a severe dust storm closely follows low temperature and high relative humidity conditions, it may be possible for higher levels of dust to adhere to the PV modules. Note that these weather conditions are typically mutually exclusive, and thus they are not predicted to occur during the Facility lifetime. If such an unusual event were to occur, module washing might be considered if such an event were to occur early in the summer where one would not reasonably anticipate rain for several months. Because the Facility will obtain water from sources with a verified water right, none of the Facility's water requirements will impair the ability of nearby agricultural uses to meet their operational needs and the Facility will not conflict with any water rights in the vicinity of the Facility Area.

The Facility's construction and operations water use represents a de minimis amount of the 42 million gallons of groundwater withdrawn per day for crops in Benton County (USGS 2018). During operations, the Facility is expected to use less than the groundwater permit-exempt well threshold of 5,000 gallons per day, and actual water use is estimated to be approximately 30,000-50,000 gallons per panel wash, typically done only once per year if required. The Applicant anticipates no potentially significant effects on either ground or surface waters from the Facility, nor is the Facility anticipated to affect any local or regional water purveyor's resources or capacity to supply water. No effects on the landowner's existing water rights, public services, or utilities are expected. Given the minimal water required for the Facility operations, this non-agricultural land use will help sustain the agricultural economy by reducing the water use in this area by creating additional streams of income for the landowner and allowing for the continuation of transferring the water to other more productive lands, making more water available to be used on agricultural lands with more long-term commercial significance than the lands within the Facility Area.

For the reasons stated above, the Facility is consistent with this goal and corresponding policies of the Comprehensive Plan.

2.1.4 Water Resources

WR Goal 2: Protect and enhance surface and groundwater water quality for human health, drinking water supply, and to meet water quality standards.

> ***Policy 1: Prohibit developments which have the potential for significant individual or cumulative impacts on ground and surface water quality; or alternatively, site and design developments to avoid or mitigate such impacts.***

Response:

The Facility will not have a significant individual or cumulative impact on ground and surface water quality. Facility design includes avoidance of wetlands and waters of the U.S. and will comply with state stormwater permit requirements. The Applicant anticipates no potentially significant effects on either ground or surface waters from the Facility, nor is the Facility anticipated to affect any local or regional water purveyor's resources or capacity to supply water. No effects on the landowner's existing water rights, public services, or utilities are expected. The amount of water that could be used for annual panel washing will easily infiltrate into the vegetated ground around the panels and is not expected to run off into surface water bodies nor impact aquifers. Furthermore, washing of solar panels, if required, will be done with water only, and no surfactants or other chemicals will be added.

Because the panel wash water will not contain added chemicals and the water is expected to evaporate with only minimal amounts potentially reaching the ground, no mitigation will be required and there will be no impact on the receiving environment from panel washing. The analysis in Part 4, Section 4.C of the ASC provides: the full extent of waterbodies and floodplains within the Facility Area; details the methods used to confirm the extent of waterbodies within the Facility Area (based on the wetland delineation); describes impacts the Facility will have on ephemeral waterbodies and floodplains; and provides the proposed mitigation strategies that will be implemented. For these reasons, the Facility is consistent with this goal and corresponding policy of the Comprehensive Plan.

2.1.5 Critical Areas

CA Goal 1: Protect the functions and values of critical areas within the county with land use decision-making and development review.

> ***Policy 1: Apply standards, regulations, and mitigation strategies to development during the permitting and development approval process that protects critical areas functions and values.***
>
> ***Policy 2: Encourage new development and redevelopment in UGAs and large developments outside of UGAs to comply with low impact development standards as applicable.***

Response:

The Facility has been designed to avoid and minimize impacts to Critical Areas, as described in the relevant portions of the ASC. Site-specific investigations for critical areas have been completed for the Facility Area and the results are summarized in Part 4, Section 4.A, Section 4.C, Section 4.E, Section 4.H, and Section 4.M of the ASC. Further, Section 3.5 below describes the Facility's compliance with Benton County's Critical Area Ordinance and demonstrates how the Facility will protect critical areas functions and values. The Facility is located outside the UGA and is designed following low-impact development practices to the greatest extent practicable, including but not limited to minimizing impervious surfaces and using energy efficient technology. For these reasons, the Facility is consistent with this goal and corresponding policies of the Comprehensive Plan.

CA Goal 4: Sustain a diverse, productive, and high-quality natural environment for the use, health, and enjoyment of County residents.

> ***Policy 1: Work with private and public property owners during development to ensure protection and appropriate use of the County's natural resources.***

Response:

The Applicant is working with the landowner and Facility stakeholders, including BPUD and BPA for the transmission interconnection and Facility easements, to ensure natural resource protection and agreed-upon appropriate measures to reduce or avoid natural resource impacts. For these reasons, the Facility is consistent with this goal and corresponding policy of the Comprehensive Plan.

CA Goal 5: Achieve balance among economic uses of land and critical areas protection

> ***Policy 1: Work with state, federal, and local agencies and other County stakeholders regarding the application of environmental protection laws and regulations.***

Response:

As demonstrated above, the Facility promotes a beneficial economic use of the lands in the Facility Area while protecting critical areas. Through the ASC and required Facility permits and approvals, applicable environmental protection laws and regulations will be applied to the Facility. The Applicant has been working with the Washington Department of Fish and Wildlife (WDFW) and Ecology regarding wetlands and wildlife impacts. For these reasons, the Facility is consistent with this goal and corresponding policies of the Comprehensive Plan.

2.1.6 Economic Development

ED Goal 1: Create a balanced and diverse economy that provides an opportunity to make economic and lifestyle choices for Benton County residents.

Policy 1: Promote industries that are diverse and support an agriculture-based economy.

Policy 4: Facilitate economic growth and prosperity while preserving the existing rural quality of life and character, as it is defined by rural residents.

Response:

The Facility represents a diverse, valuable addition to the economy that is compatible with the surrounding agricultural uses as described above in response to NR Goal 1 and in Section 3.4.4 below. Solar energy generation as proposed through this Facility creates new economic activity in the County and supports the long-term economic sustainability of the participating landowner via direct lease payments. The Applicant prepared a Socioeconomic Review (ASC Attachment H) for consideration under WAC 463-60-535. The document contains information about population and labor force impacts as well as housing. The Facility would provide Benton County with additional property tax revenue and provide the landowner with stable revenue to supplement their agricultural operations. The property tax payments to the County from the proposed Facility will generate an estimated $80 million dollars over the life of the Facility. Actual payments will be determined by Benton County in accordance with their rate schedule. These payments represent an increase over current tax revenues from the affected properties and represent a substantial contribution to Benton County. As a result, the community can benefit from an increased, stable funding source for services such as public safety and education. For these reasons, the Facility is consistent with this goal and corresponding policy of the Comprehensive Plan.

ED Goal 2: Expand employment opportunities in unincorporated Benton County.

Policy 1: Maintain and protect the agricultural economic base of Benton County.

Response:

As stated above, the Facility is designed to be compatible with ongoing agricultural activities and adds a new, diverse source of revenue to the landowner that helps to maintain and protect the agricultural economic base. The landowner reports that currently there are no crops being grown and no jobs are supported by the site within the Facility Area. The landowner indicates that occasional grazing within the Facility Area brings in negligible value. In contrast, the Facility would have a number of benefits to

the local community and Washington state. Based on similar projects, it is anticipated that the construction of the Facility will support up to approximately 105 jobs during peak construction and up to five jobs annually during operations. Most construction workers will be employees of construction and equipment manufacturing companies under contract to the Applicant. The Applicant estimates that between 50 and 75 percent of the construction jobs can be hired locally and would advertise open positions at local job fairs and through other local advertising to enable as much local hiring as possible. Job creation has a multiplier effect within the local community, increasing business for local restaurants, hotels, and retail establishments. Workers employed in service of the construction of the proposed Facility would spend portions of their salaries in local communities, creating "induced" economic benefits at various local area businesses, especially retail, lodging, and food and entertainment establishments. For these reasons, the Facility is consistent with these goals and corresponding policies of the Comprehensive Plan.

2.1.7 Parks, Recreation, Open Space, and Historic Preservation

PL Goal 3: Conserve visually prominent naturally vegetated steep slopes and elevated ridges that define the Columbia Basin landscape and are uniquely a product of the ice age floods.

> ***Policy 1: Identify and preserve historically significant structures and sites whenever feasible.***
>
> ***Policy 2: Encourage the public and/or private acquisition of the prominent ridges within unincorporated Benton County as Open Space Conservation, in order to preserve views, protect native habitat, and provide for public access and recreation associated with these landscapes.***
>
> ***Policy 3: Pursue a variety of means and mechanisms such as the preparation of specific and area plans, conservation easements, clustered developments, land acquisitions and trades, statutory requirements to protect the natural landform and vegetative cover of the Rattlesnake uplift formation, notably Rattlesnake, Red, Candy, and Badger mountains and the Horse Heaven Hills.***

Response:

The response below to PL Goal 4 describes how the Facility will be designed to avoid direct impacts to historically significant structures and sites, and the Applicant is committed to coordination with local tribes to protect cultural resources. Regarding prominent ridges in unincorporated Benton County, the Facility is located entirely on private lands that are not located on ridges and that does not limit access to these areas. The closest designated park space is Plymouth Park, located approximately 4 miles to the southeast of the Facility. The Umatilla National Wildlife Refuge is located approximately 2 miles to the southwest of the Facility. Lands immediately surrounding the Facility are predominantly composed of irrigated agricultural use. The Facility does not preclude the ability of the County to acquire ridgelines for the stated purposes of Policy 2 and Policy 3.

Regarding views in the surrounding vicinity of the Facility, the Facility components will be designed in a manner as to minimize contrast as analyzed in detail in Part 4, Section 4.P.b of the ASC and the accompanying Visual Impact Assessment (ASC Attachment I). Based on the Facility's viewshed analysis (see ASC Attachment I), visibility of the Facility Area varies from surrounding viewpoints. The

Visual Impact Assessment found that the Facility would introduce moderate contrast to the existing visual character immediately adjacent to SR-14, but this would be a temporary viewing experience for travelers along these roads. The Facility would introduce weak contrast to the existing visual character from viewpoints farther east, west, or south. In addition, the Facility components, while appearing as new features, would be consistent with other horizontal and vertical lines and geometric shapes associated with existing electric transmission lines, roads, and the built environment visible throughout the landscape. Furthermore, the Facility would not block views of the surrounding hills and agricultural land. Therefore, no significant visual impacts are expected.

While the Facility will include lighting at limited infrastructure areas such as but not necessarily limited to the Facility collector substation, inverters, entrances, and O&M structure for security and limited after-hours work, lighting will be mitigated through measures such as downward shielding and motion-detector-activation to minimize the amount of time lights are active (ASC Part 2). As such, the Facility will not introduce a significant source of light that would impact views in the area.

PL Goal 4: Preserve significant historic structures, districts, and cultural resources that are unique to Benton County.

> ***Policy 1: Coordinate with local tribes to protect historic and cultural resources.***
>
> ***Policy 2: Preserve archaeologically significant sites by siting and designing development to avoid or mitigate impacts.***

PL Goal 5: Identify, preserve, and protect historic, cultural, and archaeological resources found to be significant by recognized local, state, tribal or federal processes.

> ***Policy 3: Preserve areas that contain valuable historical or archaeological sites of federal, state, tribal, or local significance including those maintained in the Department of Archaeology and Historic Preservation's database, areas known only to tribes and areas of higher risk potential. Maintain and enforce development code provisions that require conditioning of project approval on findings made by a professional archaeologist for development activities on sites of known cultural, historical, or archaeological significance.***

Response:

A Cultural Resources Survey Report will be provided under separate confidential cover as a supplement to the ASC Attachment L (**Confidential**) and provided to the Department of Archaeology and Historic Preservation for review as part of the ASC process. See Part 4, Sections 4.U and 4.V for detailed discussion of historic and cultural resources. The Facility is designed to avoid historically significant structures and sites. The Applicant is committed to coordinating with local tribes, including the Confederated Tribes and Bands of the Yakama Nation, Confederated Tribes of the Umatilla Indian Reservation, Confederated Tribes of Warm Springs, and the Wanapum Tribe, to protect historic and cultural resources. For these reasons, the Facility is consistent with these goals and corresponding policies of the Comprehensive Plan.

2.1.8 Utilities

UE Goal 1: Ensure utilities support the land use and economic development goals of the County.

Policy 1: Siting of proposed public facilities should be consistent with adopted land use policies.

UE Goal 3: Facilitate efficiency in utility land use and development.

Policy 3: Facilitate maintenance and rehabilitation of existing utility systems and facilities and encourage the use of existing transmission/distribution corridors.

Response:

While the Facility cannot comply with current County zoning code, the Facility nonetheless can be consistent with comprehensive plan policies and conditional use standards and criteria for approval. Solar energy is a clean, renewable form of energy generation with recognized local, regional, and global environmental benefits. The State of Washington has set a target to transition the state's electricity supply to 100 percent carbon-neutral by 2030 and 100 percent carbon-free by 2045 (RCW 19.405.010). The Facility will contribute to meeting this state goal. The Applicant selected the Facility Area based on the four goals to site, develop, and design the Facility identified in Section 1.1 and for its favorable site suitability characteristics, including high solar energy resource, flat topography, proximity to electrical infrastructure, minimal visual impact, compatibility with adjacent land uses, and low resource conflicts. The Facility would interconnect to Benton Public Utility District's (BPUD) 115 kV line near Prior #2 substation, then radially connected to the Bonneville Power Administration's (BPA) transmission network at the McNary Substation.

Electricity connections for the Facility will be provided by BPUD before the start of operations, and communications will be provided by a local utility. For water required during construction, the Applicant will obtain a construction temporary water use permit from Ecology. The Facility will not use public water services. Best management practices will be employed to manage stormwater within the Facility Area (see ASC Part 3, Section 3.E, and Part 4, Section 4.E). Portable toilets will be used for sanitary waste during construction and operation. A licensed hauler will be used to transport and dispose of construction waste in accordance with applicable laws. Recycling will be implemented to the extent practicable. See also ASC Part 3, Sections 3.K, 3.M, and 3.T.

Construction and operation of the Facility will not have a significant adverse impact on existing public facilities or services. For these reasons, the Facility is consistent with these goals and corresponding policies of the Comprehensive Plan.

3.0 COUNTY CODE PROVISIONS

This section provides the Applicant's responses demonstrating that the Facility complies with applicable provisions of the BCC. RCW 80.50.040 and 80.50.110 as well as WAC 463-28 allow EFSEC to authorize an energy generation facility, with appropriate consideration of the Facility's consistency with the Comprehensive Plan and land use regulations as necessary to understand the "local

governmental or community interests affected."[6] The provisions addressed below are based on the Applicant's review of the BCC. The provisions as they appear in the BCC are copied below in italics, with some titles abbreviated. Except where otherwise noted, BCC provisions are current for 2023 (Benton County 2023). The provisions below are followed by the Applicant's response and statement of compliance.

3.1 Title 3 Building and Construction

3.1.1 Chapter 3.04 Building Code, 3.08 Plumbing Code, 3.12 Mechanical Code. 3.14 Energy Code, 3.16 Fire Code, and 3.18 Minimum Standards for Roads

Response:

Construction and operation of the Facility will comply with applicable sections of the County's Building Code (BCC 3.04), Plumbing Code (BCC 3.08), Mechanical Code (BCC 3.12), Energy Code (BCC 3.14), Fire Code (BCC 3.16), and Minimum Standards for Roads (BCC 3.18), which apply primarily to the Facility's O&M building and access roads. As a condition of approval, the Applicant or its licensed construction contractor will work with the County to obtain related County ministerial permits prior to construction, including building permits. The Applicant will work with the County for non-discretionary ministerial approvals such as Road Approach Permit, Oversized Load Permit, Right of Way Encroachment Permit, and Franchise Agreement (with the Department of Public Works). Grading and excavation plans will be prepared by a qualified engineer to show property limits, existing and proposed contours, proposed limits of excavation and grading, and existing structures or sensitive resources that will be flagged off and avoided. The Applicant will work with EFSEC staff and the County to provide information needed for review and approval prior to construction. These plans will be provided to EFSEC as part of coordinating compliance with BCC Title 3 Building and Construction as a condition of approval. Therefore, the Facility will comply with these requirements.

3.1.2 Chapter 3.26 Flood Damage Prevention

Response:

Construction and operation of the Facility will comply with applicable sections of BCC Chapter 3.26. No structures or permanent impacts are proposed within a special flood hazard area. If needed, the Applicant will seek to coordinate with Benton County and obtain a Special Flood Hazard Development Permit prior to any development occurring.

[6] See, RCW 80.50.110 Chapter governs and supersedes other law or regulations—Preemption of regulation and certification by state. (1) If any provision of this chapter is in conflict with any other provision, limitation, or restriction which is now in effect under any other law of this state, or any rule or regulation promulgated thereunder, this chapter shall govern and control and such other law or rule or regulation promulgated thereunder shall be deemed superseded for the purposes of this chapter. (2) The state hereby preempts the regulation and certification of the location, construction, and operational conditions of certification of the energy facilities included under RCW 80.50.060 as now or hereafter amended.".

3.2 Title 6 Health, Welfare, and Sanitation

3.2.1 Chapter 6.35 BCC Environmental Policy

Section 6.35.065 Environmental Checklist

(a) A completed environmental checklist (or a copy), in the form provided in WAC 197-11-960, shall be filed at the same time as an application for a permit, license, certificate, or other approval not specifically exempted in this chapter; except, a checklist is not needed if the county and applicant agree an EIS is required, SEPA compliance has been completed, or SEPA compliance has been initiated by another agency. The county shall use the environmental checklist to determine the lead agency and, if the county is the lead agency, to determine the responsible official and to make the threshold determination.

(b) For private proposals, the county will require the applicant to complete the environmental checklist, providing assistance as necessary. For county proposals, the department initiating the proposal shall complete the environmental checklist for that proposal.

Response:

The Applicant has elected to pursue siting the Facility under EFSEC's jurisdiction, and therefore, EFSEC serves as the lead agency for Washington State Environmental Policy Act (SEPA) compliance. Information needed for a SEPA determination is incorporated in Part 3 and Part 4 of the ASC. EFSEC may prepare a SEPA checklist form per WAC 197-11-960 with reference to corresponding sections of Part 3 and Part 4 as appropriate. Therefore, the Facility will comply with the County's SEPA checklist requirement.

3.3 Title 6A Public Nuisance Noise

3.3.1 Chapter 6A.15 BCC Public Nuisance - Noise

Section 6A.15.040 Public Nuisance Noise – Unlawful

It is unlawful for any person to make, continue, or cause to be made or continued or to allow to originate from his or her personal or real property any public nuisance noise which:

(a) is plainly audible within any dwelling unit which is not the source of the sound or is generated within two hundred (200) feet of any dwelling; and,

(b) either annoys, disturbs, injures or endangers the health, comfort, repose, peace or safety of others.

Section 6A.15.050 Exemptions

The following sounds are exempt from the provisions of this ordinance and are not public nuisance noises:

(g) sounds originating from harvesting, farming, ranching, agricultural, industrial or commercial activities;

(k) sounds created by construction or refuse removal equipment;

Response:

Sounds generated by the Facility will be classified as exempt from Benton County's public nuisance noise provisions because they would be limited to sounds originating from industrial or commercial activities (BCC 6A.015.050(g)) and sounds created by construction or refuse removal equipment (BCC 6A.015.050(k)). The Facility is required to comply with Washington State noise regulations under WAC 173-60 and is evaluated pursuant to the applicable state requirements in Part 4, Section 4.P.a of the ASC and ASC Attachment J (Acoustic Assessment Report). Therefore, the Facility will satisfy the County's applicable noise provisions under BCC 6A.015.040.

3.4 Title 11 Zoning

3.4.1 Chapter 11.03 BCC Definitions

11.03.010 Definitions

(53) "Compatibility" means the congruent arrangement of land uses and/or project elements to avoid, mitigate, or minimize (to the greatest extent reasonable) conflicts.

(57) "Conditional Use Permit" means a permit which is granted for a conditional use. The term "conditional use" means a use subject to specified conditions which may be permitted in one (1) or more classifications as defined by this title but which use, because of characteristics peculiar to it, or because of size, technological processes or type of equipment, or because of the exact location with reference to surroundings, streets and existing improvements or demands upon public facilities, or impacts to ground or surface water requires a special degree of control to make such uses consistent with and compatible to other existing or permissible uses in the same zone or zones, and to assure that such use shall not be adverse to the public interest.

(167) "Solar Power Generator Facility, Major" means the use of solar panels to convert sunlight directly or indirectly into electricity. Solar power generators consist of solar panels, charge controllers, inverters, working fluid system, and storage batteries. Major facilities are developed as the primary land use for a parcel on which it is located and does not meet the siting criteria for a minor facility in BCC 11.03.010(168).

(182) "Utility Substation Facility" means above or below ground structures that are necessary to provide or facilitate distribution, transmission, or metering of water, gas, sewage, and/or electric energy. Such facilities may consist of, but are not limited to, the following:

(a) Water, gas, and electrical distribution or metering lines and sites;

Response:

The Facility's solar PV system will convert energy from the sun into electric power. The solar PV system will consist of a series of solar PV panels mounted on a solar tracker racking system and related electrical equipment. The system includes the solar panels, tracker racking system, posts, collector lines, inverters, transformers, and BESS. The Benton PUD substation already exists, and the Facility includes a 3,329-foot gen-tie line from the Facility's substation to the transmission line-tap. The solar PV system will be the primary land use for the Facility and therefore would meet the prior

definition of a "solar power generator facility, major" and includes utility components meeting the definitions of "utility substation facility."

3.4.2 Chapter 11.17 BCC Growth Management Act Agricultural District

11.17.070 Uses Requiring a Conditional Use Permit.

The following uses may be permitted within the GMA Agricultural District if a conditional use permit is issued by the Hearings Examiner after notice and public hearing as provided by BCC 11.50.040:

~~(z) Solar power generator facility, major.~~[7]

Response:

Prior to Benton County's amendment (OA 2021-004) to the GMAAD in December 2021, a "solar power generator facility, major" was considered a conditional use in the GMAAD. OA 2021-004 repealed zoning allowance for major solar power generator facilities. The Applicant demonstrates the efforts it made to seek to conform with the repealed zoning code provisions. These criteria may inform EFSEC in formulating conditions and mitigation measures pursuant to WAC 463-28-070. The Applicant believes that this analysis further shows how the proposed Facility remains consistent with other provisions of BCC, including the zoning provisions of BCC Ch. 11.17, despite the adoption of OA 2021-004.

As stated above, the proposed Facility will consist of a series of solar PV panels mounted on a solar tracker racking system and related electrical equipment and meets the County definition of a "solar power energy facility, major" (see BCC 11.03.010(167)).

11.17.090 Lot Requirements.

All lands, structures and uses in the GMA Agricultural District shall conform to the following lot requirements unless otherwise excepted as provided in BCC 11.17.100:

(a) The size of a lot in the GMA Agricultural District shall be a minimum of twenty (20) acres (1/32 of a section).

(b) Each lot in the GMA Agricultural District shall have:

(1) An average lot width of not less than one hundred sixty-five (165) feet;

(2) a minimum depth of one hundred sixty-five (165) feet;

(3) a minimum frontage of ninety (90) feet on a road or access easement to a public road right-of-way. [Ord. 611 (2018) § 65]

[7] Use was removed from BCC 11.17.070 per OA 2021-004 in December 21, 2021.

Response:

The Facility meets or exceeds the minimum lot size and dimensional standards of 165 feet width and 165 feet depth, with a minimum frontage of 90 feet along SR-14. Therefore, the Facility will comply with this requirement.

11.17.110 Building Requirements

All lands, structures and uses in the GMA Agricultural District shall conform to the following building requirements:

(a) No residential building shall have a height greater than thirty-five (35) feet.

(b) Development on land shall be in compliance with Chapter 15.02 BCC, Chapter 15.04 BCC, Chapter 15.06 BCC, Chapter 15.08 BCC, Chapter 15.12 BCC, and Chapter 15.14 BCC. [Ord. 611 (2018) § 67]

Response:

The Facility's O&M building will have a maximum height of 20 feet. There are no residential buildings proposed. Section 3.5 details compliance with Chapter 15.02 BCC, Chapter 15.04 BCC, Chapter 15.06 BCC, Chapter 15.08 BCC, Chapter 15.12 BCC, and Chapter 15.14 BCC. Therefore, the Facility will comply with this requirement.

11.17.120 Setback Requirements

All lands, structures, and uses in the GMA Agricultural District shall conform to the following minimum setback requirements; unless otherwise excepted as provided in BCC 11.17.130:

(a) Each structure on a lot shall have a front yard setback of fifty-five (55) feet from the centerline of any city, county, or state road right of way of sixty (60) feet or less in width, twenty-five (25) feet from the property line bordering any road wider than sixty (60) feet, and twenty-five (25) feet from the legally-established boundary line of any access and/or combined access and utility easement adjacent to or within the property.

(b) Each structure on a lot shall have a setback of twenty (20) feet from its rear and side lot line(s).

(c) Those enclosures used in commercial dairy, hog, poultry, and rabbit operations, the propagation of fur bearing species for commercial purposes, or livestock auction yard shall have setbacks of one hundred (100) feet from all property lines; and a five hundred (500) foot setback from any existing residential structure on adjacent property not under common ownership with the operator of the facility. [Ord. 611 (2018) § 68]

Response:

The Facility is designed to meet or exceed the applicable front, rear, and side setback standards listed above. The County defines both "Front Yard" and "Setback, Front" under BCC 11.03.010(77) and (161), respectively. The front yard is "the required open space between the front property line and the nearest part of any building on the lot" (BCC 11.03.010(77)). The front setback is the "minimum horizontal distance measured perpendicularly from the centerline of the adjacent right-of-way to the

nearest wall of the structure" (BCC 11.03.010(161)). Based on the preliminary layout shown on the Preliminary Site Plan (ASC Attachment A, Figure A-1), no Facility solar arrays or walled structures will be located within: (1) 55 feet from the centerline of any city, county, or state road right-of-way of 60 feet or less in width; (2) 25 feet from the property line bordering any road wider than 60 feet; and (3)25 feet from the legally established boundary line of any known access or combined access and utility easement adjacent to or within the Facility Area.

The County defines the side and rear setbacks as the "minimum horizontal distance measured perpendicularly from the nearest property line to the nearest wall of the structure" (BCC 11.03.010(162)). The Preliminary Site Plan (ASC Attachment A, Figure A-1) was designed with Facility components at least 20 feet from parcel lines outside of the Facility Area. While security fencing and solar components such as solar arrays, will cross side and rear lot lines, these components are not walled structures; therefore, the side and rear setbacks under BCC 11.17.120(b) do not apply to the proposed solar arrays within the Facility Area. Therefore, the Facility will comply with this requirement.

3.4.3 Chapter 11.42 BCC General Use Regulations

11.42.100 Solar Power Generator Facility – Major and Minor

(b) Major Facilities. Systems that solely serve offsite uses are utility-scale solar facilities sited on a parcel as the principal use.

(1) Setbacks: Shall meet the minimum zoning setbacks for the zoning district in which located.

(2) Height: Twenty (20) feet maximum.

(3) Lot Coverage: The surface area of a ground-mounted system, regardless of the mounted angle, shall be calculated as part of the overall lot coverage for the zoning district in which located.

Response:

As stated in Section 3.4.2, the Facility is designed to meet or exceed the applicable front, rear, and side setback standards of the GMAAD. "Solar Power Generator Facility, Major" is defined in BCC 11.03.010(167), which states "solar power generators consist of solar panels, charge controllers, inverters, working fluid system, and storage batteries." Facility components, including solar panels, charge controllers, inverters, working fluid system, and storage batteries will not exceed the maximum height limit of 20 feet. The racking system will be on a single axis, oriented on a north-south axis that will allow the panels to follow the sun in order to maximize power output. Once mounted on the racking system, the highest point of the panels is expected to extend on average approximately 8 to 12feet above the ground surface with a maximum of 14 feet depending on topography conditions, with an average of approximately 2 to 5 feet of ground clearance below the panels. Each AC-coupled BESS unit is approximately 10 feet high.

As defined in BCC Chapter 11.03.010(104), "lot coverage" means the percentage of area of a lot that is occupied by a primary building or structure and its accessory buildings or structures, not including uncovered patios, driveways, open steps and buttresses, terraces, and ornamental features projecting from buildings or structures which are not otherwise supported by the ground. Per the general use regulations in BCC 11.42.100(a)(3), lot coverage for "solar power generator facilities, major" "shall be calculated as part of the overall lot coverage for the zoning district in which located." There are no maximum lot coverage requirements in the GMAAD. The Facility's lot coverage for each of the Facility parcels is provided below for demonstrative purposes. Based on the Facility's footprint within each of the three parcels included in the Facility (only two of which have impervious impacts), the lot coverage will range from approximately 1 to 1.1 percent. Lot coverage compliance will be verified prior to construction based on the final Facility design within the Facility Area. Table 4 presents specific calculations of impervious footprint by parcel. Therefore, the Facility will comply with the requirements for setback, building height, and lot coverage as required under BCC 11.42.100.

Table 4. Impervious Footprint by Parcel ID

Parcel ID/	Impervious Impact (acres)	Parcel Total (acres)	Percent of Parcel Impacted
104571000001000	5.1	510	1.0%
133671000001000	6.9	640	1.1%

(4) Visibility:

(i) Solar facilities with panels located at least one hundred fifty (150) feet from an adjacent public street right-of-way, residentially zoned property, or residential use shall not require screening.

(ii) Solar facilities with panels located less than one hundred fifty (150) feet from an adjacent public street right-of-way, residentially zoned property, or residential use shall require screening. Screening is to include a perimeter landscape buffer as determined by the Planning Administrator through the required conditional use permit process.

Response:

As shown on the Preliminary Site Plan (ASC Attachment A, Figure A-1), the majority of the Facility is not adjacent to roadways, with S14 running east-west along the southern boundary of the Facility. No roads within the Benton County Road Program are located within the Facility Parcels. All solar panels are sited over 150 feet from residential uses. There are no residentially zoned parcels near the Facility (all zoning is GMAAD, see Figure 1) and the nearest residence is approximately 1.7 mile to the southeast of the Facility Area. However, the solar arrays are located within 150 feet of right-of-way along SR-14, and therefore the Applicant has included screening due to proximity to SR-14. The screening is identified on the Preliminary Site Plan and will be finalized with input from EFSEC and Benton County prior to construction. Therefore, the Facility will comply with this requirement.

(5) Solar facilities are to be equipped with a non-reflective finish/coating.

Response:

The Facility will utilize solar panels with an anti-reflective coating to minimize glare. Refer to Part 4, Section 4.P.b and the Glare and Glint Analysis (ASC Attachment P) for discussion of predicted glare impacts. The glare analysis conducted for the Facility analyzed potential glare hazards to residents and motorists in the area. Therefore, the Facility will comply with this requirement.

3.4.4 Chapter 11.50 BCC Variance and Conditional Use

11.50.040 Conditional Use

(a) Conditional Use Permit-General Standards. The conditional use permit application process allows the Hearings Examiner to review the location and design of certain proposed uses, the configuration of improvements, and the potential impacts on the surrounding area. The application process also allows the Hearings Examiner to ensure that development in each zoning district protects the integrity of that district. The notice, hearing, decision and enforcement procedures are as set forth herein and in BCC 11.50.050. Certain uses are classified as conditional uses because of their unusual nature, infrequent occurrence, special requirements, or potentially significant impacts to the environment, public infrastructure or adjacent properties, and/or possible safety hazards and other similar reasons. Once granted, a conditional use permit may be transferred by a holder thereof after written notice to the Hearings Examiner; provided the use and location must remain the same and the transferee must continue to comply with the conditions of the permit and, if applicable, the requirements set forth in Chapter 11.51 BCC.

Response:

Prior to OA 2021-004, the Facility was a conditional use in the GMAAD. The Applicant has subsequently elected to seek Facility approval under the jurisdiction of EFSEC, and therefore, the EFSEC SCA process supersedes the County review process. This Land Use Consistency Review demonstrates how the Facility is consistent with the BCC definition of "solar power generator facility, major" as a conditional use, which is how solar generation facilities were permitted in the GMAAD prior to the adoption of OA 2021-004. Specifically, the Facility's compatibility with surrounding land uses is addressed in response to item 11.50.040(d)(1). The Facility's potential impacts on the surrounding area, including impacts to the environment, public infrastructure or adjacent properties, and/or possible safety hazards are described throughout Sections 2.0 and 3.0 of this Land Use Consistency Review and in the ASC Parts 2, 3, and 4.

(b) Conditional Use Application Required—Non-Refundable Application Fee. The Planning Department shall provide application forms for conditional use permits and prescribe the type of information to be provided in the application. No application shall be processed unless it complies with the requirements of this section. A completed application for a conditional use permit shall be filed with the Planning Department accompanied by a non-refundable fee as set by resolution of the Board of County Commissioners.

Response:

The EFSEC SCA process supersedes the County review process since the Applicant has elected to seek Facility approval under the jurisdiction of EFSEC following the advisement of Benton County officials to do so.

(c) Conditional Use Application-Site Plan Required. The Planning Department shall require the applicant to submit an application and a site plan as part of the application whenever such a permit is required for that use under the applicable zoning district. The application and site plan shall contain the following information:

(1) Identify the proposed use and associated facilities, together with the names, addresses and telephone numbers of the owner or owners of record of the land and of the applicant, and, if applicable, the names, addresses and telephone numbers of the architect, planner, designer, and/or engineer;

(2) The proposed use or uses of the land and buildings; and,

(3) A site plan drawing or drawings at a scale of not less than one inch equals fifty feet (1"=50'), unless an alternate scale is approved by the Planning Administrator. The site plan drawing(s) shall include the following:

(i) Location of all existing and proposed structures, including, but not limited to, buildings, fences, culverts, bridges, roads and streets;

(ii) Boundaries, dimensions and square footage of the parcel or parcels involved;

(iii) All setback lines;

(iv) All areas, if any, to be preserved as buffers or to be dedicated to a public, private or community use, or for open space under the provisions of this title;

(v) All existing and proposed easements;

(vi) Location of all utility structures and lines;

(vii) All means of vehicular and pedestrian ingress and egress to and from the site and the size and location of driveways;

(viii) Location and design of off-street parking areas showing their size and locations of internal circulation and parking spaces;

(ix) Location of all loading/unloading areas, including, but not limited to, loading platforms and loading docks where trucks will load or unload;

(x) Topographic maps, when the Planning Administrator deems the maps necessary for adequate review, which delineate existing and proposed contours, at intervals of two (2) feet and show the location of existing lakes, streams, and storm water drainage systems from existing and proposed structures, together with an estimate of existing maximum storm runoff, and any other information deemed pertinent for adequate review.

(xi) Identification of all special districts, such as fire, school, sewer, drainage improvements, and irrigation districts, in which the proposed use would be located; and,

(xii) The proposed number of square feet of paved or covered surfaces, whether covered by buildings, driveways, parking lots or any other structure covering land.

Response:

The Preliminary Site Plan is provided as ASC Attachment A Figure A-1 and is based on the current stage of the engineering design process, with additional details described in Section 2.0 and Section 3.0 of this Land Use Consistency Review. The final layout may differ from the Preliminary Site Plan following micrositing. A detailed Project Description that identifies the proposed uses of land, buildings, and associated facilities for the Facility is provided in Part 2 of the ASC. Names and addresses of the owner of record of the land and of the applicant are provided with the Part 1 of the ASC.

The Applicant will design and implement stormwater drainage systems in consultation with a professional engineer. A drainage and erosion control plan will be covered by the Erosion and Sediment Control Plan (ESCP), construction phase Stormwater Pollution Prevention Plan (SWPPP), and operations phase SWPPP required for National Pollutant Discharge Elimination System permitting, which will be provided to EFSEC for review and approval prior to construction. The ESCP and SWPPPs will be prepared by a qualified engineer to show proposed construction BMPs and stormwater management methods that the Applicant proposes to implement throughout construction, and proposed drainage patterns that will be maintained throughout Facility operation. Additional details on stormwater runoff are provided in the ASC Part 4, Section 4.E.

The impervious footprint of the Facility will be approximately 12 acres. This is the proposed number of square feet of paved or covered surfaces, whether covered by buildings, driveways, parking lots, or any other structure covering land, as well as graveled access roads. Therefore, the Facility will comply with these site plan requirements.

(d) Conditional Use-Permit Granted or Denied. A conditional use permit shall be granted only if the Hearings Examiner can make findings of fact based on the evidence presented sufficient to allow the Hearings Examiner to conclude that, as conditioned, the proposed use:

(1) Is compatible with other uses in the surrounding area or is no more incompatible than are any other outright permitted uses in the applicable zoning district;

Response:

Under BCC 11.03.010(53) “compatibility” “means the congruent arrangement of land uses and/or project elements to avoid, mitigate, or minimize (to the greatest extent reasonable) conflicts.” Typically, compatibility with “other uses in the surrounding area” is judged by whether the Facility will have a substantiated negative impact on the ability of surrounding landowners to maintain their existing use of the land, including the ongoing use for agricultural activities and allowed residential uses. Generally, the question of compatibility is measured by whether the Facility would negatively impact existing uses or cause increase in the costs of agricultural uses and practices of the land.

In total, the 1,220.4-acre Facility Parcels represents 0.2 percent of the 649,153 acres of lands in the GMA Agricultural designation (Benton County 2022). Within the Facility Area, the Facility’s impervious disturbance based on the Preliminary Site Plan provided in Attachment A, Figure A-1 will occupy

approximately 12 acres, or just under 0.002 percent of GMA Agricultural lands over the life of the Facility.

The Applicant has been in discussions with the landowner since 2021 incorporating sustainable design practices and future landowner activities to surrounding agricultural lands. The Facility is designed to be compatible with ongoing and future agricultural activities and adds a new diverse source of stable, predictable revenue to the landowner. The Facility Area was selected by the Applicant based on the four goals to site, develop, and design the Facility identified in Section 1.1 and for its favorable site suitability characteristics, including high solar energy resource, flat topography, proximity to electrical infrastructure, minimal visual impact, compatibility with allowed uses on surrounding lands, and low resource conflicts. The surrounding land north, south, east, and west of the Facility includes land zoned for agricultural purposes in Benton County and is owned by the same landowner as the Facility Parcels. Figure 3 demonstrates the Facility Area is surrounded by irrigated cropland.

The response to NR Goal 1 above demonstrates that Facility operations will be compatible with surrounding agricultural uses and will not force changes of uses on surrounding lands. The proposed solar and battery storage uses and the gen-tie line will have minimal construction and operations impacts to agricultural uses as described below, while creating a highly beneficial use for clean energy.

The Facility's compatibility with agricultural uses in the GMAAD is addressed throughout this Land Use Consistency Review in Sections 2.0 and 3.0, which detail the approach to compatibility issues such as noise, traffic, erosion control, stormwater management, dust mitigation, and noxious weed control. Best management practices will be implemented and maintained as needed to avoid and minimize potential impacts to the surrounding environment.

A summary of the Facility's construction and operations impacts as they relate to agriculture uses is as follows:

- Potential impacts to agricultural activities will be limited and short-term. The Facility will have few short-term impacts to surrounding agricultural lands during construction from equipment noise and vehicle traffic; however, these impacts will not significantly impact agricultural activities and will not block or obstruct access to surrounding lands. The timing of peak construction activity may overlap with the harvest season; however, harvest vehicles typically travel throughout the day and are not limited to prime commuting hours, which is when the highest impact of workers commuting to the Facility will occur. To minimize impacts of Facility construction traffic on local farmers and residents, a Traffic Control Plan will be prepared in coordination with the Washington State Department of Transportation and the Benton County Public Works Department for traffic management during construction and for construction of access approaches from county rights-of-way. The Applicant will also implement BMPs to minimize erosion, stormwater runoff, and dust during construction. Following construction, temporarily disturbed areas will be revegetated and a Vegetation and Weed Management Plan will be implemented to control the spread of noxious weeds. During operations, routine maintenance activities and potential truck traffic associated with panel

washing will have a minimal impact on roadways and will not block or obstruct access to surrounding lands or conflict with agricultural uses.

- Facility components are designed to minimize contrast with the surrounding area. Facility visibility is analyzed in detail in Part 4, Section 4.P.b of the ASC and the accompanying Visual Impact Assessment (ASC Attachment I) and Glare and Glint Analysis (ASC Attachment P). Where the Facility is visible, the Facility components will be consistent with other horizontal and vertical lines and geometric shapes visible throughout the landscape lines (fencing, roadway, substation, transmission towers and lines, utility poles and lines, agricultural structures) and will not block views of the surrounding hills and ridges. The Facility will not introduce a source of glare that will significantly impact motorists, residents (nearest 1.7 mile southeast of the Facility), or views in the area. Additionally, the Facility will not introduce a significant source of light that will impact views in the area.
- Construction activities are short-term and compatible with uses in the surrounding area. Short-term construction impacts associated with the Facility are similar to impacts associated with the development of other non-agricultural uses that continue to be allowed in the GMAAD as permitted outright or through administrative review or CUP.[8] The construction of these other non-agricultural uses currently allowed in the GMAAD would result in similar construction impacts to agricultural uses on surrounding lands as the Facility, including short-term impacts related to noise, dust, and traffic. However, unlike some of the more intensive land uses allowed in the GMAAD (either through administrative review or CUP), such as sand and gravel pits and other mineral extraction, only minor earthwork is required across the Facility Area to install the PV panel arrays. Following construction, the Facility's impervious footprint will be limited to 12 acres, primarily consisting of driveways, access roads, inverters, BESS area, O&M building, substation, and interconnection area. The small area of impervious disturbance and types of facilities occupying the impervious disturbance is similar to that of other allowed uses in the GMAAD, including public or quasi-public buildings and yards and utility buildings. Unlike some of the conditional uses allowed in the GMAAD, the Facility's limited impervious disturbance footprint would allow for agricultural land uses to return to the Facility Area after decommissioning.
- Facility operations are compatible with uses in the surrounding area. Facility operations will result in minimal impacts to surrounding uses in comparison to other uses such as hazardous waste treatment and on-site storage facilities, sand and gravel pits and other mineral extraction, and solid waste treatment facilities and disposal sites which continue to be allowed as accessory uses or allowed through a planning administrative review and approval

[8] Other non-agricultural uses that are allowed or an accessory use in the GMAAD include uses such as personal airstrips, public or quasi-public buildings and yards and utility buildings (including substations and distributions facilities), schools and churches, commercial and private kennels, hazardous waste treatment and on-site storage facilities, and "solar power generator facilities, minor" (Refer to BCC 11.17 for a complete list of uses in GMAAD.). Non-agricultural uses that are subject to planning administrative review and approval or a CUP include multiple detached dwelling units; child day care facilities; non-commercial sand and gravel pits and other mineral extraction; home occupations; communication facilities; solid waste treatment facilities and disposal sites; off-site hazardous waste treatment and storage facilities; and commercial sand and gravel pits, stone quarries, other mineral extraction, and asphalt and/or concrete batching plants.

or a CUP. Operations noise from the Facility will comply with the environmental noise limits established by WAC 173-60 as described in the ASC Part 4, Section 4.P.a. The Facility will not produce odors or have long-term dust and other air emissions, and operations-related vehicle trips will be minimal and will not block or obstruct access to surrounding lands. The Facility will not have long-term impacts on surface waters or groundwater quality as described in the ASC Part 3, Section 3.C, and Part 4, Sections 4.C and 4.E .

As demonstrated throughout the ASC and this Land Use Consistency Review, the Applicant has developed measures to avoid, mitigate, or minimize to the greatest extent reasonable potential conflicts with surrounding agricultural uses. For the reasons described above, the Facility is compatible with other land uses in the GMAAD and complies with BCC 11.50.040(d)(1).

(2) Will not materially endanger the health, safety, and welfare of the surrounding community to an extent greater than that associated with any other permitted uses in the applicable zoning district;

Response:

The Facility will not endanger the health, safety, and welfare of the surrounding community, which comprises primarily undeveloped lands, agricultural uses, and interspersed rural residences. Operation of the Facility would not generate air or water emissions, fumes, vibration, smoke, or odors. Operational sources of noise would primarily be generated by the inverters and transformers. Given the low noise levels for these Facility components and distances to closest residential areas, operation of the Facility is not expected to cause long-term noise disturbances for residents beyond the agricultural uses already occurring within the zoning district. In Washington state, RCW Chapter 70A.45 aims to reduce overall greenhouse gas emissions to 45 percent below 1990 levels by 2030. By 2050, the state intends to reduce overall emissions to 95 percent below 1990 level. The Facility will support the state's goal of increasing use of renewable energy resources, which has been declared in part to protect Washington's clean air and water by providing clean renewable energy to the State. Insofar as the Facility's effect on public services and facilities that support the public health, safety and welfare, as described in the ASC Part 3, Section 3.S, the Facility is a largely self-sufficient solar power generating facility (with up to five operational employees) and is therefore unlikely to directly or indirectly increase use of public services and facilities during construction or operation. As evaluated in the ASC Part 3, Section 3.L, hazardous materials are unlikely to occur within the Facility Area, and risks to human health and the environment associated with soil disturbance during Facility construction are assumed to be low and similar to those associated with agricultural activities. Further, as described below in response to BCC 11.50.404(d)(4) and in ASC Part 4, Section 4.M, the Facility will comply with fire safety measures, spill control measures, and regulations for solar energy generation and storage facilities. The Applicant will implement and maintain the Facility's Fire Protection Emergency Response Plan that includes BMPs for fire prevention and emergency response. The Applicant will also coordinate with Benton County Emergency Management, Benton County Fire District #6,and DNR Wildland Fire Management Division regarding potential fire issues such as locations and dimensions of access gates and internal access roads. Therefore, the Facility complies with BCC 11.50.040(d)(2).

(3) Would not cause the pedestrian and vehicular traffic associated with the use to conflict with existing and anticipated traffic in the neighborhood to an extent greater than that associated with any other permitted uses in the applicable zoning district;

Response:

The Applicant will coordinate with Washington State Department of Transportation for access improvements off of SR-14. Given the Facility's location in agricultural lands with limited residential or commercial development, construction traffic is not expected to cause conflicts with any residential neighborhoods. No changes will occur to the routing of public transit or the use of pedestrian and bike routes as a result of Facility construction or operations. Also, no public transportation facilities are located close to the Facility site. Prior to construction, a transportation plan would identify the exact routes for transporting Facility materials, equipment, and personnel to the site, with a description of anticipated traffic volumes, vehicle weights, trip frequencies, and shipping schedules that would be used during construction of the Facility. Consideration of rural residential areas would be given when choosing primary haul routes.

As described in Part 4, Section 4.R of the ASC, the approximately 12- to 18-month construction period will involve temporary increased traffic to the site for delivery of materials and worker transportation. Facility transportation will reach the Facility Area via SR-14. It is assumed construction crews will drive pick-up trucks to and from the Facility. Approximately 35 percent of the workers commuting are assumed to arrive from the west via Interstate 82 and SR-241 (Yakima area). The other 65 percent are assumed to come from the southeast via Interstate 82 to N Gap Road (Tri-Cities or Sunnyside areas).

Traffic on SR-14 is anticipated to increase temporarily during the 12 to 18 months of construction. The Traffic Impact Analysis (ASC Attachment Q) concluded that peak construction activities are projected to generate an additional 326 daily trips. However, the additional traffic generated during construction will remain within historical normal ranges.

Given the current uncongested state of roads, the temporary increase in traffic counts, and the Applicant's proposed traffic control measures described in ASC Part 4, Section 4.R, significant impacts to traffic flow are not expected (see ASC Attachment Q). Furthermore, Facility construction routes were chosen to minimize the use of urban roads to the extent possible. Therefore, the Facility complies with BCC 11.50.040(d)(3).

(4) Will be supported by adequate service facilities and would not adversely affect public services to the surrounding area; and

Response:

Construction and operation of the Facility are not anticipated to result in the permanent relocation or in-migration of construction or operational workforces; therefore, there would be no significant impacts to public transit, health care, schools, or other public services in the County or the surrounding area. Security at the Facility site would be maintained and is not expected to result in excessive use of state or county law enforcement.

As discussed in ASC Part 3, Sections 3.S and 3.T, the Facility will not have a significant adverse impact on existing public facilities or services. ASC Part 3, Section 3.M demonstrates that hazardous materials

are unlikely to occur within the Facility Area, and risks to human health and the environment associated with soil disturbance during Facility construction are assumed to be low and similar to those associated with agricultural activities. Further, as described below in response to BCC 11.50.404(d)(4) and in ASC Part 4, Section 4.M, the Facility will comply with fire safety measures, spill control measures, and regulations for solar energy generation and storage facilities. Design of the Facility incorporates measures to avoid failures and risks of fire or spills and will comply with the applicable requirements of the National Electric Code, NFPA standards, and Institute of Electrical and Electronics Engineers Standards. The Applicant will implement and maintain the Facility's Fire Protection Emergency Response Plan that includes BMPs for fire prevention and emergency response. The Applicant will also coordinate with Benton County Emergency Management and DNR Wildland Fire Management Division regarding potential fire issues, locations and dimensions of access gates and internal access roads, and other issues. The Applicant will also coordinate with these entities regarding necessary equipment or training, if any are identified, that may be required to provide fire protection services to the Facility. Furthermore, the Facility's design will incorporate graveled areas around the O&M building and collector substation, as well as graveled access roads and fire breaks, where applicable.

The demand for police services during Facility operation would only increase as a result of theft, vandalism, or trespassing at the Facility. Such an increase in service demand, however, is expected to be minimal because security measures would be implemented during Facility operations. To mitigate the need for additional law enforcement services, site access will be restricted, and Facility components will be secured by a perimeter fence, nighttime security lighting, and padlocking gates. The Facility will not require special services from the Benton County Sheriff's Office. As a result, no adverse impacts to state or County law enforcement services are anticipated as a result of the Facility. Since the Facility will result in minimal in-migration of residents (see ASC Attachment H, Socioeconomic Review), other public services such as transit, health care, schools, or other general services in the County will not be affected by the Facility.

Electricity connections for the Facility will be provided by BPUD and BPA before the start of operations, and communications will be provided by a local utility. During construction, water will be obtained from a local source with verified water rights suitable for the uses proposed herein, and the Applicant will obtain a construction temporary water use permit from Ecology. Best management practices will be employed to manage stormwater within the Facility Area (see ASC Part 3, Section 3.E, and Part 4, Section 4.E, for more information). Portable toilets will be used for sanitary waste. A licensed hauler will be used to transport and dispose of construction waste in accordance with applicable laws. Recycling will be implemented to the extent practicable. During operations, the Facility O&M building will require less than 5,000 gallons per day of domestic water use and water will be trucked to the Facility site (as discussed in Part 3, Sections 3.D, 3.F, and 3.T). Therefore, the Facility complies with BCC 11.50.040(d)(4).

> *(5) Would not hinder or discourage the development of permitted uses on neighboring properties in the applicable zoning district as a result of the location, size or height of the buildings, structures, walls, or required fences or screening vegetation to a greater extent than other permitted uses in the applicable zoning district.*

Response:

The location, size, and height of Facility structures comply with the applicable standards of the GMAAD and "solar power generation facilities, major" as described above. The Facility is designed to meet or exceed the applicable front, rear, and side setback standards of the GMAAD. Facility buildings will not exceed the maximum height limit of 20 feet for major facilities. The O&M building is a single-story facility with a maximum height of 20 feet. The solar array will be a maximum of 14 feet above ground at full tilt and the BESS units and transformers are approximately 10 feet in height. The Facility substation equipment will generally range in height from 15 feet to 25 feet above ground level. Approximately 3,109 feet of the length of the gen-tie will be buried, with approximately 220 feet above ground on approximately five to seven 30-foot tall poles. These proposed electrical infrastructure heights are consistent with the existing electrical transmission infrastructure within and adjacent to the Facility Area. Therefore, the Facility complies with BCC 11.50.040(d)(5).

3.5 Title 15 Environment

15.04.010 Designation, Rating, and Mapping Wetlands

> *(b) Wetlands Rating Categories: Wetlands shall be rated according to Ecology's Washington State Wetland Rating System for Eastern Washington - Revised (Ecology Publication #14-06-030), or as revised by the Washington State Department of Ecology. Wetland rating categories shall be applied as the wetland exists at the time of the adoption of this chapter or as it exists at the time of an associated permit application. Wetland rating categories shall not change due to illegal modifications. Wetlands shall be rated according to the following categories:*
>
> > *(1) Category I Wetlands. Those wetlands scoring a "Category I" rating under the Ecology Wetlands Rating System.*
> >
> > *(2) Category II Wetlands: Those wetlands scoring a "Category II" rating under the Ecology Wetlands Rating System;*
> >
> > *(3) Category III Wetlands: Those wetlands scoring a "Category III" rating under the Ecology Wetlands Rating System; and*
> >
> > *(4) Category IV Wetlands: Those wetlands scoring a "Category IV" rating under the Ecology Wetlands Rating System.*

15.04.030 Critical Area Report—Additional Requirements for Wetlands.

> *In addition to the general critical area report requirements of BCC 15.02.190, critical area reports for wetlands must meet the requirements of this section.*

Response:

The Applicant has performed site-specific desktop and field inspections for wetlands to determine the extent of wetlands within the Facility Area. GG Environmental, LLC prepared a wetland delineation report for an area of interest that covers the Facility Area and included field investigations conducted on March 11, March 18, and May 4, 2022. The surveys were conducted by a qualified biologist/wetlands specialist in accordance with the U.S. Army Corps of Engineers (USACE) Wetland Delineation Manual

and regional supplement for the arid west (USACE 1987, 2008). Two wetlands (both rated Category IV with 40 cubic foot regulatory buffers) were delineated within the Facility Area. No streams or water bodies were observed within the Facility Area. Given the lack of streams within the Facility Area and artificial construction and continued agricultural use of one small excavated depression in the bedrock utilized as a cattle wallow/watering pool, it is not anticipated that any "Waters of the United States" as defined under the Clean Water Act would fall under regulatory jurisdiction within the Facility Area (ASC Attachment M). The Facility has been designed to avoid impacts to the two Category IV wetlands and their associated buffers. Any changes that would propose impacts to jurisdictional wetlands and/or buffers will require review by USACE, Ecology, and/or Benton County. See ASC Attachment M (Wetland Delineation Report) for a detailed description of wetland and water determination methods and results, including maps. The Applicant has provided required components identified in BCC 15.04.030 in the streamlined ASC Part 3, Section 3.C, and Part 4, Section 4.C, and in Attachment M (Wetland Delineation Report). Because there are no impacts proposed within wetlands or wetland buffers, no wetlands mitigation is required. Therefore, the Facility complies with BCC 15.04.010 and 15.04.030.

15.04.040 Performance Standards—General Requirements

> *(a) Activities may only be permitted in a wetland or wetland buffer if the applicant can show that the proposed activity will not degrade the functions and functional performance of the wetland and other critical areas.*
>
> *(b) Wetland Buffers. The following buffer widths have been established in accordance with the best available science. They are based on the category of wetland and the habitat score as determined by a qualified wetland professional using the Washington State Wetland Rating System for Eastern Washington (Ecology Publication #14-06-030, or as revised and approved by Ecology). The standard buffer widths are provided in Table 15.04.040-1 below.*
>
> > *(1) The use of the standard buffer widths requires the implementation of the measures in Table 15.04.040-2, where applicable, to minimize the impacts of the adjacent land uses.*
> >
> > *(2) If an applicant chooses not to apply the minimization measures in Table 15.04.040-2, then a 33% increase in the width of all buffers is required. For example, a 75-foot standard buffer would become a 100-foot buffer if the minimization measures are not implemented.*
> >
> > *(3) The standard buffer widths assume that the buffer is vegetated with a native plant community appropriate for the ecoregion. If the buffer is unvegetated, sparsely vegetated, or vegetated with invasive species that do not perform needed functions, the buffer should either be planted to create the appropriate plant community in accordance with subsection (i) below, or the buffer should be widened to ensure that adequate functions of the buffer are provided.*
> >
> > > *(i) In lieu of increasing the buffer width where existing buffer vegetation is inadequate to protect the wetland functions and values, implementation of a buffer planting plan may substitute. Existing buffer vegetation is considered*

"inadequate" and will need to be enhanced through additional native plantings and (if appropriate) removal of non-native plants when: (1) non-native or invasive plant species provide the dominant cover, (2) vegetation is lacking due to disturbance and wetland resources could be adversely affected, or (3) enhancement plantings in the buffer could significantly improve buffer functions

(4) Measurement of Wetland Buffers. All buffers shall be measured from the wetland boundary as surveyed in the field.

(5) Increased Wetland Buffer Widths. The Planning Administrator may require increased buffer widths in accordance with the recommendations of an experienced, qualified professional wetland scientist, and the best available science on a case-by-case basis when a larger buffer is necessary to protect wetland functions and values based on site-specific characteristics. …

(c) Wetland Buffer Width Averaging. The Planning Administrator may allow modification of the standard wetland buffer width in accordance with an approved critical area report and the best available science on a case-by-case basis by averaging buffer widths. Averaging of buffer widths may only be allowed where a qualified professional wetland scientist demonstrates that:

(1) It will not reduce wetland functions or functional performance;

(2) The wetland contains variations in sensitivity due to existing physical characteristics or the character of the buffer varies in slope, soils, or vegetation, and the wetland would benefit from a wider buffer in places and would not be adversely impacted by a narrower buffer in other places;

(3) The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer; and

(4) The buffer width is not reduced to less than seventy-five (75) percent of the standard width or thirty-five (35) feet whichever is less.

(d) Buffer Uses. The following uses may be permitted within a wetland buffer in accordance with the review procedures of this chapter, provided they are not prohibited by any other applicable law and they are conducted in a manner so as to minimize impacts to the buffer and adjacent wetland:

(1) Conservation and Restoration Activities. Conservation or restoration activities aimed at protecting the soil, water, vegetation, or wildlife.

(2) Passive Recreation. In the outer twenty-five (25) percent of wetland buffers, passive recreation facilities designed and in accordance with an approved critical area report, including pedestrian-only walkways, trails and wildlife viewing structures constructed with a surface that does not interfere with the permeability.

(3) Stormwater Management Facilities. Stormwater management facilities, limited to stormwater dispersion outfalls and bioswales, may be allowed within the outer twenty-five (25) percent of the buffer of Category III or IV wetlands, provided that:

(i) No other location is feasible; and

(ii) The location of such facilities will not degrade the functions or values of the wetland. [Ord. 609 (2018) § 34]

Response:

There are two delineated palustrine emergent wetlands within the Facility Area. The Wetland Delineation Report in ASC Attachment M details the location of the two wetlands found in the Facility Area on Figure 6. The Facility has applied 40-foot wetland buffer widths consistent with BCC 15.04.040. The Facility has been designed to avoid wetlands, and no wetland or wetland buffers impacts (temporary or permanent) will occur.

As previously stated, no streams or water bodies were observed within the Facility Area. and it is not anticipated that any "Waters of the United States" as defined under the Clean Water Act would fall under regulatory jurisdiction within the AOI (Attachment M). The Applicant understands that the WDFW will make a determination on whether a Hydraulic Project Approval is required on the basis of a review of this application and determine if mitigation is required. Therefore, the Facility complies with BCC 15.04.040.

3.5.1 Chapter 15.06 BCC Aquifer Recharge Areas

15.06.010 Critical Aquifer Recharge Areas – Classification and Designation

Critical aquifer recharge areas (CARAs) are those areas with a critical recharging effect on aquifers used for potable water as defined by WAC 365-190-030(2), as it now exists or may be hereinafter amended.

(a) Classification: Lands shall be classified as having either a high, moderate, or low susceptibility as determined by local conditions and the criteria provided in WAC 365-190-100, as it now exits or may hereafter amended.

(b) Designation: All lands classified as having moderate to high susceptibility are hereby designated as critical aquifer recharge areas. Critical aquifer recharge areas in Benton County include:

(1) Areas with high susceptibility:

(i) All floodplains and floodways for all rivers, creeks and wetlands mapped by local, state, and federal agencies; or

(ii) Areas of high groundwater identified by the Benton Franklin Health District where there exists inadequate depth to groundwater for the placement of a waste drainfield.

(2) Areas with moderate susceptibility:

(i) Any areas with both of the following characteristics: Hydrologic A soils as identified in the Natural Resource Conservation Service Benton County Soil Survey and irrigated lands;

(ii) Designated wellhead protection areas. Includes Group A public water supply wells and those Group B wells with a wellhead protection plan filed with the Benton Franklin Health District;

(iii) Areas within one hundred (100) feet of all irrigation district main canals (one hundred (100) feet from edge of canal); or

(iv) Areas with alluvial soils. [Ord. 609 (2018) § 37]

Response:

Per BCC 15.06.010, Benton County has identified lands classified as having moderate susceptibility, which are designated as critical aquifer recharge areas. Locations and extents of areas meeting the BCC 15.06.010 criteria for critical aquifer recharge areas were identified from Benton County information and confirmed with desktop review and field surveys. See Part 4, Section 4.E of the streamlined ASC, Attachment M (Wetland Delineation Report), and Part 4, Section 4.E for additional details. BCC Section 15.06.030 requires a Critical Areas Report to be prepared for certain activities when proposed in a Critical Aquifer Recharge Area; however, the Facility does not meet the criteria provided in BCC 15.06.030. As such, a Critical Areas Report is not required.

15.06.030 Activities Requiring a Critical Area Report.

(a) Critical area reports are required for the following activities and similar activities as determined by the Planning Administrator when these activities are proposed to be located in a critical aquifer recharge area:

(1) Biosolids land application;

(2) Critical material handling, generating, or use;

(3) Dairy operation;

(4) Feedlot or livestock/animal operation;

(5) Landfill;

(6) Mining and/or gravel pits;

(7) Sanitary waste discharge;

(8) Wood treatment facilities;

(9) Storage, processing, or disposal of radioactive substances;

(10) Above ground storage tanks, subject to WAC 173-303-640 as it now exists or may be hereinafter amended;

(11) Below ground storage tanks, subject to WAC 173-360 as it now exists or may be hereinafter amended;

(12) Hazardous waste generator (such as Boat or Motor Vehicle Repair Shops);

(13) Junk yards and salvage yards;

(14) Waste water application to land surface;

(15) Commercial fertilizer storage;

(16) Injection wells;

(17) Sawmill;

(18) Solid waste handling and recycling facility;

(19) Cement and/or concrete plants;

(20) Machine shops;

(21) Chemical treatment and disposal facility; or

(22) Any activities, particularly municipal, industrial, and commercial that involve the collection and storage of substances that, in sufficient quantity during an accidental or intentional release, would result in the impairment of the aquifer water to be used as potable drinking water liquids shall be regulated by this chapter. [Ord. 609 (2018) § 39]

Response:

The Facility does not propose to conduct any of the activities identified in BCC 15.06.030 within a critical aquifer recharge area. Although a critical areas report is not required per BCC 15.06.030, the solar ASC and attachments address applicable requirements in BCC 15.06.040 for a critical area report for this resource. Therefore, the Facility complies with BCC 15.06.050.

15.06.040 Critical Area Report-Additional Requirements for Critical Aquifer Recharge Areas.

In addition to the general critical area report requirements of BCC 15.02.190, critical area reports for critical aquifer recharge areas must meet the requirements of this section.

(a) Preparation by a Qualified Professional. A critical area report for critical aquifer recharge areas shall be prepared by a qualified professional who has training and experience in preparing hydrogeological reports. A qualified professional shall meet the standard specified in BCC 15.02.070(57).

(b) Area Addressed in Critical Area Report. The following areas shall be addressed in a critical area report for critical aquifer recharge areas:

(1) A detailed narrative describing the project, including, but not limited to, associated grading and filling, structures, utilities, and those activities, practices, materials, or chemicals that have a potential to adversely affect the quantity or quality of underlying aquifers;

(2) Site plan indicating the location of all proposed improvements and aquifer recharge areas;

(3) A hydrogeological evaluation that includes at a minimum, a description and/or evaluation of the following:

(i) Site location, topography, drainage and surface water bodies;

(ii) Soils and geologic units underlying the site;

(iii) Groundwater characteristics of the area, including flow direction, gradient, and existing groundwater quality;

(iv) Location and characteristics of wells and springs within 300 feet of the perimeter of the property;

(v) Evaluation of existing on-site groundwater recharge;

(vi) Evaluation of the potential impact of the proposed development on groundwater quality, both short and long term, based on an assessment of the cumulative impacts of the proposal in combination with existing and potential future land use activities; and

(vii) A proposed mitigation plan. [Ord. 609 (2018) § 40]

Response:

Although a critical areas report is not required per BCC 15.06.030, the ASC and attachments address applicable elements required in BCC 15.06.040. The detailed narrative, site plan, and hydrogeological elements are included in Part 4, Section 4.E of the ASC and, which were prepared by qualified professionals. Therefore, the Facility complies with BCC 15.06.040.

15.06.050 Performance Standards-General Requirements.

(a) Activities may only be permitted in a critical aquifer recharge area if the applicant can show that the proposed activity will not cause contaminants to enter the aquifer and that the proposed activity will not adversely affect the recharging of the aquifer.

(b) Proposed groundwater uses must provide evidence that the proposed water source is physically and legally available and meets drinking water standards.

(c) Groundwater uses, withdrawals, and recharge must be consistent with RCW 90.44.050 and with applicable rules adopted pursuant to RCW 90.22 and 90.54 when making decisions under RCW 19.27.097 and RCW 58.17.110. [Ord. 609 (2018) § 41]

Response:

As discussed in greater detail in Part 3, Section 3.D, and Part 4, Section 4.E of the ASC, Facility activities are not expected to impact aquifers. Water used for Facility operations will be sourced from on-site sources or hauled from off-site sources with existing water rights (i.e., a municipal water source or vendor with a valid water right). If a new well is proposed, it will comply with RCW 90.44.050 and related requirements. Therefore, the Facility complies with BCC 15.06.050.

3.5.2 Chapter 15.08 BCC Frequently Flooded Areas

15.08.010 Frequently Flooded Areas – Designation

Frequently flooded areas shall be those floodways and associated floodplains designated by the Federal Emergency Management Agency (FEMA) flood hazard classifications as delineated on the most current available Flood Insurance Rate Maps (FIRM) for Benton County, or as subsequently revised by FEMA, as being within the 100-year flood plain. [Ord. 609 (2018) § 42]

15.08.030 Frequently Flooded Areas – Regulation

> *Frequently flooded areas are those same areas regulated by the Flood Damage Prevention Ordinance, Chapter 3.26 of the Benton County Code, as it now exists or may be hereinafter amended, and are protected through regulations provided in that Chapter. [Ord. 609 (2018) § 44]*

Response:

The Facility's compliance with Benton County's Flood Damage Prevention Ordinance is described in Section 3.1.2. According to the Wetland Delineation Report (Attachment M), no floodplain is mapped within the Facility Area. Therefore, the Facility will not be affected by existing and potential flood risks. See Part 4, Section 3.C in the ASC for the full extent of waterbodies and floodplains within the Project Area Extent, details of the methods used to confirm the extent of waterbodies within the Project Area Extent (based on the wetland delineation).

3.5.3 Chapter 15.12 BCC Geologically Hazardous Areas

15.12.010 Geologically Hazardous Areas

> *Geologically hazardous areas include areas susceptible to erosion, land sliding, bluff failures, or other geological events. Such areas pose a threat to the health and safety of citizens when incompatible development is sited in areas of significant hazard. Such incompatible development may not only place itself at risk, but also may increase the hazard to surrounding development and use. [Ord. 609 (2018) § 45]*

15.12.020 Designation of Specific Hazard Maps

> *Geologically hazardous areas are designated as those areas that are susceptible to one or more of the following types of hazards:*
>
> *(a) Erosion Hazard Areas.*
>
> *(1) Slopes between 15 percent and 39 percent;*
>
> *(2) Slopes 40 percent or greater; or*
>
> *(3) Slopes 15 percent or greater that contain soils or soils complexes identified by the U.S. Department of Agriculture's Natural Resource Conservation Service or the Soil Survey for Benton County as having, "severe" or "very severe" erosion hazard potential.*
>
> *(b) Landslide Hazard Areas.*
>
> *(1) Slopes 15 percent or greater that have a relatively permeable geologic unit overlying a relatively impermeable unit and have springs or ground water seeps;*
>
> *(2) Slopes 40 percent or greater with a vertical relief of 10 or more feet except areas composed of competent rock and properly engineered slopes designed and approved by a geotechnical engineer licensed in the state of Washington and experienced with the site;*
>
> *(3) Potentially unstable slopes resulting from rapid river or stream incision, river or stream bank erosion, or undercutting by wave action. These include slopes exceeding 10 feet in*

height adjacent to rivers, streams, lakes and shorelines with more than a 35 percent gradient;

(4) Areas that have shown evidence of historic failure or instability, including, but not limited to, back-rotated benches on slopes; areas with structures that exhibit structural damage such as settling and racking of building foundations; and areas that have toppling, leaning, or bowed trees caused by ground surface movement;

(5) Slopes having gradients steeper than 80 percent subject to rock fall during seismic shaking;

(6) Areas that are at risk of mass wasting due to seismic forces;

(7) Areas of historical landslide movement; or

(8) Areas mapped by the State of Washington Department of Natural Resources as landslides or landslide deposits.

(9) Areas identified as landslide runout areas or areas at the top and sides of landslide hazards likely to slide.

(c) Seismic hazard areas shall include areas subject to a severe risk of earthquake damage as a result of seismically induced ground shaking, differential settlement, slope failure, settlement, lateral spreading, mass wasting, surface faulting or soil liquefaction. They include areas identified by the State of Washington Department of Natural Resources as having liquefaction susceptibility of moderate, moderate to high, and/or high.

(d) Other Hazard Areas. Geologically hazard areas shall include those areas subject to severe risk of damage as a result of other geological events including mass wasting, debris flows, rock falls and differential settlement. [Ord. 609 (2018) § 46]

Response:

The Applicant reviewed available County data to identify mapped geologically hazardous areas (as defined under BCC 15.12.010 and designated under BCC 15.12.020) within the Facility Area, and results are summarized in Part 4, Section 4.A of the ASC. As mapped, geologically hazardous areas are present with the Facility Area, and the Applicant has completed additional investigations as due diligence to inform Facility design, described in the response below. Therefore, Chapter 15.12 applies to review of the proposed Facility.

15.12.040 Critical Area Report – Additional Requirements for Geologically Hazardous Areas – Geotechnical Engineering Report

In addition to the general critical area report requirements of BCC 15.02.190, critical area reports for geologically hazardous areas shall meet the requirements of this section. This section shall apply to those hazards identified in BCC 15.12.020(a)(2), (b), (c), and (d).

(a) Preparation by a Qualified Professional. A critical area report for geologically hazardous areas shall be prepared by a qualified professional who has training and experience in preparing

reports for the relevant type of hazard. A qualified professional shall meet the standard specified in BCC 15.02.070(57).

(b) Geotechnical Engineering Report. The technical information for a project which has the potential to be damaged by a geologically hazardous area shall include a geotechnical engineering report, prepared by a qualified professional as described in subsection (a). The qualified professional shall present and include the following information:

(1) Site Plan. The report shall include a copy of the site plan for the proposal showing:

(i) The height of slope, slope gradient, and cross section of the project area;

(ii) The location and description of surface water runoff;

(iii) The location of springs, seeps, or other surface expressions of ground water on or within two hundred feet of the project area or that have potential to be affected by the proposal;

(iv) Proposed development, including the location of existing and proposed structures, fill, storage of materials, and drainage facilities, with dimensions indicating distances to the floodplain, if available;

(v) Clearing limits; and

(vi) The topography, in five-foot contours, or as deemed appropriate by the Planning Administrator, of the project area and all hazard areas addressed in the report.

(2) Geotechnical Analysis. The geotechnical analysis shall specifically include:

(i) A description of the extent and type of vegetative cover;

(ii) A description of subsurface conditions based on data from site-specific explorations;

(iii) An estimate of load capacity including surface and ground water conditions, public and private sewage disposal systems, fills and excavations and all structural development;

(iv) An estimate of slope stability and the effect construction and placement of structures will have on the slope over the estimated life of the structure;

(v) An estimate of the bluff retreat rate that recognizes and reflects potential catastrophic events such as seismic activity or a one hundred year storm event;

(vi) Consideration of the run-out hazard of landslide debris and/or the impacts of landslide run-out on down slope properties;

(vii) A study of slope stability including an analysis of proposed angles of cut and fill and site grading;

(viii) Recommendations for building limitations, structural foundations, and an estimate of foundation settlement; and

(ix) An analysis of proposed surface and subsurface drainage, and the vulnerability of the site to erosion.

(3) Geotechnical Engineering Report. The qualified professional shall provide engineering recommendations for the following:

(i) Parameters for design of site improvements including appropriate foundations and retaining structures. These should include allowable load and resistance capacities for bearing and lateral loads, installation considerations, and estimates of settlement performance;

(ii) Recommendations for drainage and subdrainage improvements;

(iii) Earthwork recommendations including clearing and site preparation criteria, fill placement and compaction criteria, temporary and permanent slope inclinations and protection, and temporary excavation support, if necessary;

(iv) Mitigation of adverse site conditions including slope stabilization measures and seismically unstable soils, if appropriate; and

(v) The report shall make a recommendation for the minimum building setback from any geologic hazard based upon the geotechnical analysis.

(4) Seismic Hazard Areas. A critical area report for a seismic hazard area shall also meet the following requirements:

(i) The site map shall show all known and mapped faults within two hundred feet of the project area or that have potential to be affected by the proposal;

(ii) The analysis shall include a complete discussion of the potential impacts of seismic activity on the site (for example, forces generated, fault displacement and liquefaction potential); and

(iii) Where liquefaction risks of high, moderate to high or moderate exist, the report shall address soil and structural mitigation measures. [Ord. 609 (2018) § 48]

15.12.050 Critical Area Report – Additional Requirements for Geologically Hazardous Areas – Geotechnical Engineering Risk Assessment

In addition to the general critical area report requirements of BCC 15.02.190, critical area reports for those hazards in BCC 15.12.020(a)(1), must meet the requirements of this section.

(a) Preparation by a Qualified Professional. A critical area report for geologically hazardous areas shall be prepared by a qualified professional who has training and experience in preparing reports for the relevant type of hazard. A qualified professional shall meet the standard specified in BCC 15.02.070(57).

(b) Geotechnical Engineering Risk Assessment: The technical information for a project shall include a geotechnical engineering risk assessment, prepared by a qualified professional as described in Subsection (a). The qualified professional shall present and include the following information:

(1) Site Plan. The assessment shall include a copy of the site plan for the proposal showing:

(i) The height of slope and slope gradient of the project area;

(ii) The location of springs, seeps, or other surface expressions of ground water on or within two hundred feet of the project area or that have potential to be affected by the proposal;

(iii) The location and description of surface water runoff;

(iv) The top and toe of all unstable slopes and locations of erosion hazard areas;

(vi) Proposed development, including the location of existing and proposed structures, fill, storage of materials, and drainage facilities, with dimensions indicating distances to the floodplain, if available; and

(vii) Clearing limits.

(2) A description of the geology of the site and the proposed development;

(3) An assessment of the potential impact the project may have on the hazard area;

(4) An assessment of what potential impact the hazard area may have on the project;

(5) Appropriate mitigation measures, if any;

(6) A determination by the qualified professional as to whether further analysis is necessary. If further analysis is necessary, a geotechnical engineering report, pursuant to BCC 15.12.040 is required; and

(7) The assessment must be signed by and bear the seal of the engineer or geologist that prepared it.

(c) If additional hazards are identified at the activity site, a geotechnical engineering report, pursuant to BCC 15.12.040 is required. [Ord. 609 (2018) § 49]

15.12.060 Performance Standards – General Requirements

(a) If it is determined by the geotechnical engineering report that either the proposed development or adjacent properties will be at risk of damage from the geologic hazard, or that the project will increase the risk of occurrence of the hazard, and there are no adequate mitigation measures to alleviate the risks, the proposed development cannot be approved by the Planning Administrator.

(b) Development and grading plans shall comply with Benton County Building Department and Benton-Franklin Health District requirements. Additional permits may apply.

(c) Development activities within seismic hazard areas shall comply with the following:

(1) All new development shall conform to the applicable provisions of the International Building Code (Benton County Building Code, BCC 3.04), as existing and hereafter amended by Benton County, which contains structural standards and safeguards to reduce risks from seismic activity.

(2) Construction of commercial, industrial, public assembly, or any publicly owned building shall comply with the requirements of BCC 15.12.040 which includes the submittal of a geotechnical report. The results or conclusions of the evaluation shall be considered a condition of development approval. [Ord. 609 (2018) § 50]

Response:

Part 4, Section 4.A of the ASC and associated figures in ASC Attachment A describe the geological and soil conditions within the Facility Area, including any geologically hazardous area designated by Benton County as critical areas, impacts to the Facility associated with potential geological hazards, and mitigation strategies that will be implemented to minimize the risks associated with these areas. The potential for impacts within the Facility Area from seismic activity is determined to be minimal due to the distance from major seismogenic features as well as the lack of any major seismic activity originating from the minor seismogenic features in the proximity of the Facility. Seismic design parameters laid out in the 2018 International Building Code shall be implemented in the design and construction of the Facility Area as it applies to it. Prior to construction, an updated geotechnical engineering report will be developed based on near-final design to incorporate techniques, specifications, and mitigation measures necessary to alleviate geological hazard risks. The updated report will be provided to EFSEC for review as a condition of approval. Therefore, the Facility will comply with BCC Chapter 15.12.

3.5.4 Chapter 15.14 BCC Fish and Wildlife Conservation Areas

15.14.010 Designation of Fish and Wildlife Habitat Conservation Areas

(a) Fish and wildlife habitat conservation areas include:

(1) Areas where federal or state designated endangered, threatened, and sensitive species have a primary association.

(i) Federal designated endangered and threatened species are those fish, wildlife, and plant species identified by the U.S. Fish and Wildlife Service and the National Marine Fisheries Service that are in danger of extinction or threatened to become endangered. The U.S. Fish and Wildlife Service and the National Marine Fisheries Service should be consulted as necessary for current federal listing status.

(ii) State designated endangered, threatened, and sensitive species are those fish, wildlife and plant species identified by the Washington State Department of Fish and Wildlife and/or State of Washington Natural Heritage Program. The State of Washington's Department of Fish and Wildlife and/or Natural Heritage Program maintains the most current listing and should be consulted as necessary for current state listing status.

(2) State priority habitats and areas associated with state priority species. (i) State of Washington Priority Habitats and Species are considered priorities for conservation and management.

The State of Washington's Department of Fish and Wildlife should be consulted for current listing of priority habitats and species.

(3) Habitats and species of local importance. Benton County designates the following as a habitat and species of local importance: (i) Shrub-steppe habitat. Critical to supporting priority species in Benton County, shrub-steppe habitat as identified by the Washington State Department of Fish and Wildlife and included in the State Priority Habitats and Species List.

(4) Waters of the state, as defined in RCW 90.48.020, as it now exists or may be hereinafter amended, and include lakes, rivers, ponds, streams, inland waters, underground waters, salt waters, and all other surface waters and water courses in Washington State.

(i) For the purposes of this chapter, Benton County hereby adopts the water typing system specified in WAC 222-16-030 as existing and hereafter amended.

(5) Naturally occurring ponds under twenty acres and their submerged aquatic beds that provide fish or wildlife habitat. These do not include ponds deliberately designed and created from dry sites such as canals, detention facilities, wastewater treatment facilities, farm ponds, temporary construction ponds (of less than three years duration) and landscape amenities. However, naturally occurring ponds may include those artificial ponds intentionally created from dry areas in order to mitigate conversion of ponds, if permitted by a regulatory authority;

(6) Lakes, ponds, streams and rivers planted with native fish populations, including fish planted under the auspices of federal, state, local or tribal programs or which supports priority fish species as identified by the Washington State Department of Fish and Wildlife;

(7) Washington State Wildlife Areas are defined, established, and managed by the Washington State Department of Fish and Wildlife;

(8) Washington State Natural Area Preserves and Natural Resource Conservation Areas are defined, established, and managed by the Washington State Department of Natural Resources; and

(b) All areas meeting one or more of these criteria, regardless of any formal identification, are hereby designated fish and wildlife habitat conservation areas and are subject to the provisions of this chapter and shall be managed consistent with the best available science.

(c) Fish and wildlife habitat conservation areas does not include such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of, and are maintained by, a port district or an irrigation district or company. [Ord. 609 (2018) § 51]

Response:

The Facility Area includes fish and wildlife habitat conservation areas (FWHCAs) as identified through desktop and field survey information (see ASC Attachment F) consistent with BCC 15.14.010 and 15.14.020. Impacts to FWHCAs are described in ASC Part 4, Section 4.H and 4.I, Wetland Delineation

Report (ASC Attachment M) and the Wildlife, Habitat, and Plant Survey Report (ASC Attachment F). The Habitat Management Plan (ASC Attachment B) addresses avoidance, minimization, and potential compensatory mitigation for impacts to upland habitats, including upland areas considered FWHCAs such as shrub-steppe. Therefore, Chapter 15.14 applies to the Facility.

15.14.030 Critical Area Report – Additional Requirements for Habitat Conservation Areas

In addition to the general critical area report requirements of BCC 15.02.190, critical area reports for fish and wildlife habitat conservation areas must meet the requirements of this section. Critical area reports for two or more types of critical areas must meet the report requirements for each relevant type of critical area.

(a) Preparation by a Qualified Professional. A critical areas report for a fish and wildlife habitat conservation area shall be prepared by a qualified professional with experience preparing reports for the relevant type of habitat. A qualified professional shall meet the standard specified in BCC 15.02.070(57).

(b) Areas Addressed in Critical Area Report. The following areas shall be addressed in a critical area report for habitat conservation areas:

(1) The project area of the proposed activity;

(2) All habitat conservation areas and recommended buffers within three-hundred (300) feet; and

(3) All shoreline areas, floodplains, other critical areas, and related buffers within three-hundred (300) feet.

(c) Habitat Assessment. A habitat assessment is an investigation of the project area to evaluate the potential presence or absence of designated critical fish or wildlife species or habitat. A critical area report for a habitat conservation area shall contain an assessment of habitats including the following site and proposal related information at a minimum:

(1) Detailed description of vegetation on and adjacent to the project area and its associated buffer;

(2) Identification of any species of local importance, priority species, or endangered, threatened, sensitive, or candidate species that have a primary association with habitat on or adjacent to the project area, and assessment of potential project impacts to the use of the site by the species;

(3) A discussion of any federal, state, or local special management recommendations, including Washington Department of Fish and Wildlife habitat management recommendations, that have been developed for species or habitats located on or adjacent to the project area;

(4) A detailed discussion of the direct and indirect potential impacts on habitat by the project, including potential impacts to water quality;

(5) A discussion of measures, including avoidance, minimization, and mitigation, proposed to preserve existing habitats and restore any habitat that was degraded prior to the current proposed land use activity and to be conducted in accordance with mitigation sequencing BCC 15.02.220;

(6) A discussion of ongoing management practices that will protect habitat after the project site has been developed, including proposed monitoring and maintenance programs; and

(7) Agency Consultation May Be Required. When appropriate due to the type of habitat or species present or the project area conditions, the Planning Administrator may also require the critical area report/habitat assessment to include a request for consultation with the Washington State Department of Fish and Wildlife or the local Confederated Indian Tribe or other appropriate agency. [Ord. 609 (2018) § 53]

Response:

A Habitat Management Plan (ASC Attachment B) has been prepared for the Facility by a qualified biologist per BCC 15.02.070(57). This plan provides a framework for determining the compensatory mitigation required to achieve "no net loss." The standard of "no net loss of habitat functions and values" is required by WAC 463-62-040. The Applicant will employ a suite of measures, including actions to avoid, minimize, and mitigate impacts. See further description of techniques and measures in Part 1, Section 1.F; Part 4, Section 4.I; and Attachment B).

The Habitat Management Plan (ASC Attachment B) addresses measures to verify the extent of onsite impacts and documentation of post-construction recovery of areas disturbed temporarily or altered as a result of the Facility (see Sections 7.2 and 7.4 of ASC Attachment B). Any monitoring results will be reported to EFSEC. The Applicant will work with EFSEC and WDFW to determine appropriate mitigation. The Applicant will continue to coordinate with EFSEC and WDFW on the Habitat Mitigation Plan and with a goal of completing these discussions prior to EFSEC's completion of SEPA review. Once determined, a description of the agreed-upon mitigation will be provided to EFSEC as supplemental information in the form of a Final Habitat Mitigation Plan prior to construction, as a condition of approval. The Final Habitat Mitigation Plan will be based on final Facility design impacts and will be consistent with Chapter 15.14 BCC, WAC 463-62-040, WAC 463-60-332(3), and the WDFW mitigation policy. Reports attached to the ASC or to be provided prior to construction are submitted in electronic format to EFSEC. The Applicant will provide related geographic information system data to EFSEC upon request. Therefore, the Facility complies with BCC 15.14.030.

15.14.040 Performance Standards – General Requirements

(a) Alterations shall not degrade the functions and values of habitat. A habitat conservation area may be altered only if the proposed alteration of the habitat or the mitigation proposed does not degrade the quantitative and qualitative functions and values of the habitat. All new structures and land alterations shall be prohibited from habitat conservation areas, except in accordance with this chapter.

(b) Nonindigenous Species. No plant, wildlife, or fish species not indigenous to the region shall be introduced into a habitat conservation area unless authorized by a state or federal permit or approval.

(c) Mitigation and Contiguous Corridors. Mitigation sites shall be located to preserve or achieve contiguous wildlife habitat corridors in accordance with a mitigation plan that is part of an approved critical area report to minimize the isolating effects of development on habitat areas, so long as mitigation of aquatic habitat is located within the same aquatic ecosystem as the area disturbed.

(d) Approvals of Activities. The Planning Administrator shall condition approvals of activities allowed within or adjacent to a habitat conservation area or its buffers, as necessary to minimize or mitigate any potential adverse impacts. Conditions shall be based on the best available science and may include, but are not limited to, the following:

(1) Establishment of buffer zones;

(2) Preservation of critically important vegetation and/or habitat features such as snags and downed wood;

(3) Limitation of access to the habitat area, including fencing to deter unauthorized access;

(4) Seasonal restriction of construction activities;

(5) Establishment of a duration and timetable for periodic review of mitigation activities; and

(6) Requirement of a performance bond, when necessary, to ensure completion and success of proposed mitigation.

(e) Mitigation and Equivalent or Greater Biological Functions. Mitigation of alterations to habitat conservation areas shall achieve equivalent or greater biologic and hydrologic functions and shall include mitigation for adverse impacts upstream or downstream of the development proposal site. Mitigation shall address each function affected by the alteration to achieve functional equivalency or improvement on a per-function basis.

(f) Approvals and the Best Available Science. Any approval of alterations or impacts to a habitat conservation area shall be supported by the best available science.

(g) Buffers.

(1) Establishment of Buffers. Required buffer areas for activities adjacent to habitat conservation areas to protect habitat conservation areas are as set forth in this section (g). Buffers shall consist of an undisturbed area of native vegetation or areas identified for restoration established to protect the integrity, functions, and values of the affected habitat. Required buffer widths reflect the sensitivity of the habitat and the type and intensity of human activity proposed to be conducted nearby and shall be consistent with the management recommendations issued by the Washington State Department of Fish and Wildlife.

(2) Rivers, Lakes, Ponds, and Streams. Waterbodies classified by the water typing system specified in WAC 222-16-030 have the following minimum riparian buffer requirements consistent with State Department of Fish and Wildlife recommendations:

(i) Type S (Shorelines of the State) Standard Buffer Width: Type S waters are protected by the Benton County Shoreline Master Program, as existing and hereafter amended, rather than this chapter.

(ii) Type F (Fish) Standard Buffer Width: Seventy-five (75) feet on parcels without streams with adjacent slopes of ten percent (10%) or greater. For parcels that have streams with adjacent slopes of ten percent (10%) or greater the buffer shall be one hundred (100) feet.

(iii) Type Np (Non-Fish Perennial) and type Ns (Non-Fish Seasonal) Standard Buffer Width: Fifty (50) feet on parcels without streams with adjacent slopes of ten percent (10%) or greater. For parcels that have streams with adjacent slopes of ten percent (10%) or greater the buffer shall be one hundred (100) feet.

(3) Buffer Width Averaging. With written approval of the Planning Administrator, riparian buffer widths may be modified at various points in accordance with an approved critical area report and the best available science on a case-by-case basis by requesting buffer widths be applied on an averaging basis. Averaging of buffer widths may only be allowed where a qualified professional demonstrates that:

(i) It will not reduce riparian functions or functional performance;

(ii) The riparian area contains variations in sensitivity due to existing physical characteristics or the character of the buffer varies in slope, soils, or vegetation, and the riparian area would benefit from a wider buffer in places and would not be adversely impacted by a narrower buffer in other places;

(iii) The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer under subsection (g)(2) above; and

(iv) The buffer width is not reduced more than twenty five percent of the standard width or fifteen (15) feet, whichever is less.

(4) Measurement.

(i) Buffers for rivers, lakes, ponds, and streams shall be measured in all directions from the ordinary highwater mark (OHWM) as identified in the field; and

(ii) Buffers for other habitat types shall be measured in all directions from the habitat boundary, as mapped by the Washington State Department of Fish and Wildlife or a qualified professional pursuant to BCC 15.14.030(a).

(5) Seasonal Restrictions. When a species is more susceptible to adverse impacts during specific periods of the year, seasonal restrictions may apply. Larger buffers may be

required and activities may be further restricted during the specified season. [Ord. 609 (2018) § 54; Ord. 637 (2021) § 2]

15.14.050 Performance Standards – Specific Habitats

(a) Endangered, threatened, and sensitive species.

(1) No development shall be allowed within a habitat conservation area or buffer with which state or federal endangered, threatened, or sensitive species have a primary association, unless provided for through a federal or state permit, or other approval.

(2) Whenever activities are proposed adjacent to a habitat conservation area with which state or federally endangered, threatened, or sensitive species have a primary association, such area shall be protected through the application of protection measures in accordance with a critical area report prepared by a qualified professional and submitted to the county. Approval for alteration of land adjacent to the habitat conservation area or its buffer shall not occur prior to consultation with the Washington State Department of Fish and Wildlife and the appropriate federal agency. [Ord. 609 (2018) § 55]

Response:

Figures showing proposed Facility components and their relationship to habitat conservation areas are included in the Wetland Delineation Report (ASC Attachment M) and Wildlife and Habitat Study Report (ASC Attachment F). The Facility has applied wetland buffer widths as defined in or exceeding BCC 15.04.040 and 15.15.40-2. The Facility has been designed to avoid wetlands, and no wetland or wetland buffers impacts (temporary or permanent) are proposed in the current Facility layout. No streams or water bodies were observed within the Facility Area. The Applicant understands that WDFW will make a determination on whether a Hydraulic Project Approval is required on the basis of a review of this application and determine if mitigation is required. For the above reasons, the Facility will comply with both 15.14 BCC and WAC 463-60-332 that require a fish and wildlife habitat management and mitigation plan, and the "no net loss" standard under WAC 463-62-040.

4.0 REFERENCES

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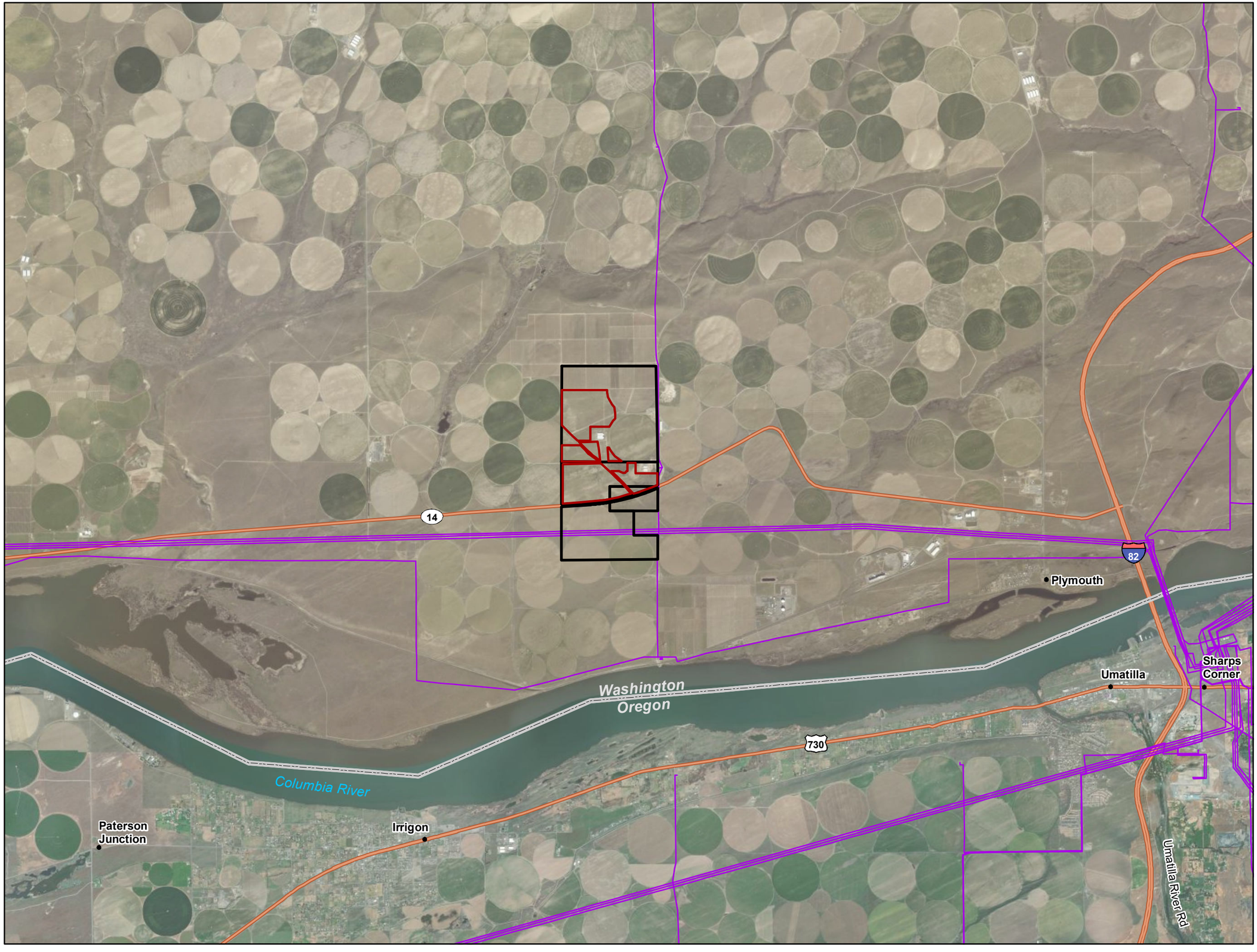
FIGURES

Wallula Gap Solar

Figure 1
Facility Vicinity

Benton County, WA



- Facility Parcels
- Facility Area
- State Boundary
- Highway
- Existing Transmission Line

N

0 0.5 1 2

Miles

NOT FOR CONSTRUCTION

Wallula Gap Solar

Figure 2
Zoning and Comprehensive Plan Designations

Benton County, WA

Facility Parcels

Facility Area

County Zoning

GMA AG

Comprehensive Plan Designation

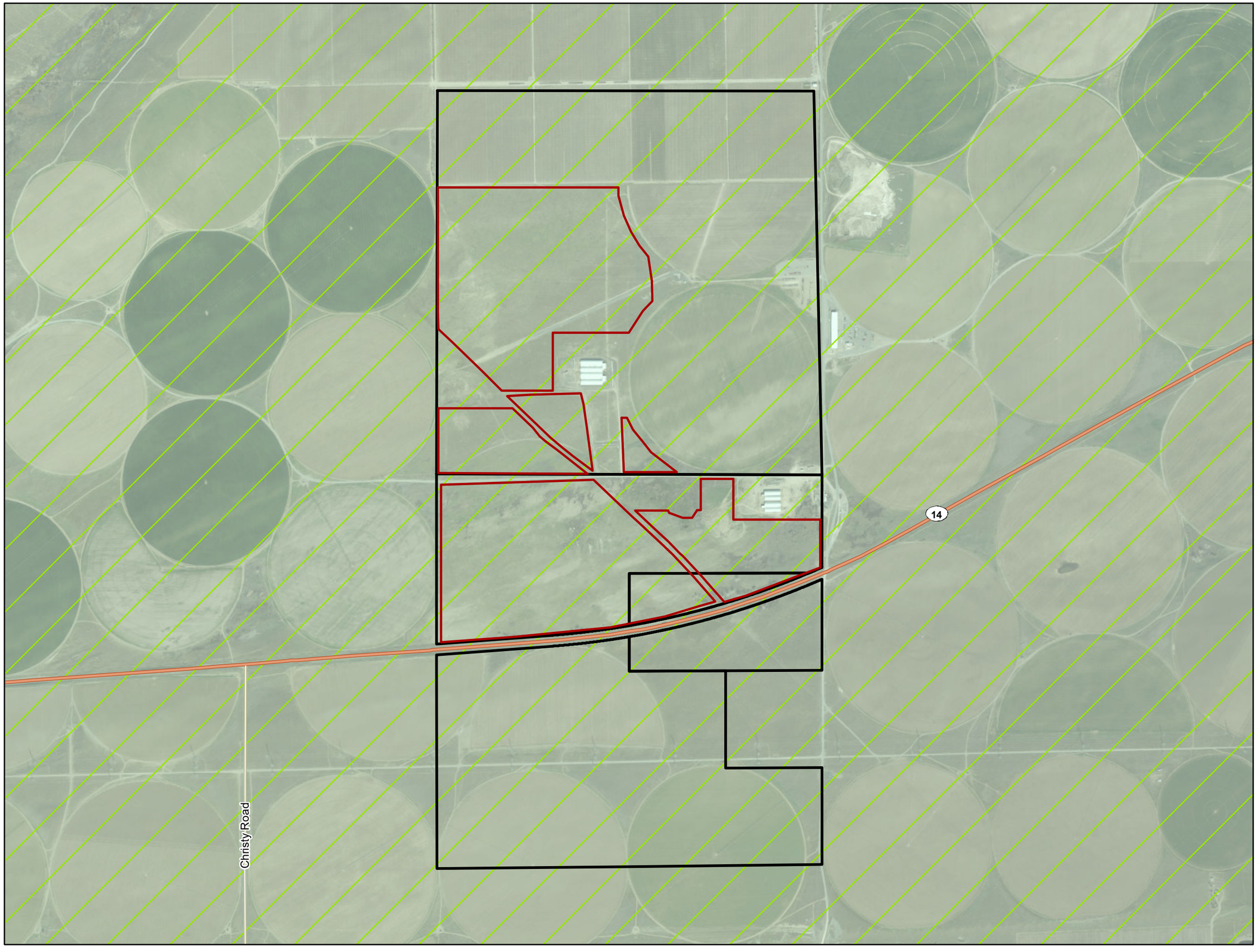
GMA AG

N

0 500 1,000 2,000

Feet

NOT FOR CONSTRUCTION



Wallula Gap Solar

Figure 3
Washington State Department of Agriculture (WSDA) Cropland Data

Benton County, WA

Facility Parcels
Facility Area
WSDA Crop Group
Cereal Grain
Developed
Orchard
Pasture
Vegetable
Other
Crop Irrigation
Center Pivot
Sprinkler
None

N

0 500 1,000 2,000
Feet

NOT FOR CONSTRUCTION

Wallula Gap Solar

Figure 4
Prime Farmland

Benton County, WA

Facility Parcels

Facility Area

Farmland Classification

Prime farmland if irrigated

Farmland of statewide importance

Not prime farmland

N

0 500 1,000 2,000

Feet

NOT FOR CONSTRUCTION