



April 23, 2024

Energy Facility Site Evaluation Council
Sonia Bumpus, EFSEC Manager
621 Woodland Square Loop,
PO Box 43172 Olympia, WA 98504-3172
efsec@utc.wa.gov

Re: Benton County's Comments for the Wallula Gap Solar Project Land Use Consistency Hearing

Dear Ms. Bumpus,

Thank you for the opportunity to comment on the land use consistency of the Wallula Gap Solar Project located in Benton County. Please accept this letter as Benton County's public comment and written testimony regarding the Wallula Gap Solar Project proposal.

As proposed, the Wallula Gap Solar Project (Project) is in an area designated as Growth Management Act Agriculture by Benton County's Comprehensive Plan and located within the Growth Management Act Agricultural Zoning District (GMAAD) on the Benton County Zoning Map.

After a detailed review of the submitted application, Benton County finds the proposed Project is not consistent with the County's land use plans, specifically, the County's Growth Management Act Agricultural Zoning District (GMAAD) which does not allow or permit industrial solar facilities as an allowable, accessory, or conditional use. The rationale for prohibiting uses of this type in the GMAAD Zoning District is supported by both the Benton County Comprehensive Plan goals and policies and the Washington State Growth Management Act (GMA).

Benton County Comprehensive Plan

The Project area is proposed to be sited in an area designated Growth Management Act Agriculture by the Benton County Comprehensive Land Use Plan¹. The Benton County Comprehensive Plan states that only uses related or ancillary to, supportive of, complementary to, and/or not in conflict with agricultural activities are appropriate in areas designated GMAAD². The Wallula Gap Solar Project is an industrial project not ancillary to, supporting of, or complementary to agricultural activities in the GMAAD.

This Project is further proposed to be in an area designated as having Agricultural Lands of Long-Term Commercial Significance (ALLTCS), as defined by the Growth Management Act and WAC 365-190-050 (3) (c).

¹ Benton County Comprehensive Plan, Appendix A, Figure 5 Future Land Use Designations Map (2021)

² Benton County Comprehensive Plan, Section 2.3 Natural Resource Lands, Page 17 (2021)

The County's agricultural lands, as designated consist of dry land, irrigated, and rangeland land uses.

With a solar siting Project area consisting of approximately 392 acres, the replacement of ALLTCS with a non-agricultural use is inconsistent with the County's goals and regulations which seek to protect agricultural and natural resource lands in Benton County.

The County Comprehensive Plan requires the County to encourage long term conservation and stewardship of natural resources lands for the benefit of current and future residents. With over 59% of the County's total land area being in the GMA Agricultural designation, these areas provide not only the agricultural land (dryland, irrigated land, and rangeland) which makes up the majority of the County's economy, but it also provides the open spaces and vistas which preserves the County's rural character.

The County Comprehensive Plan provides goals and policies that:

- Prevents the loss of the County's long term commercially significant agricultural land; and
- Protects the County's naturally vegetated steep slopes, wildlife, and habitat;
- Supports a robust agricultural economy that focuses on preserving and protecting the rural character in Benton County that so many of its residents care about.

The location of this industrial proposal is not consistent with the goals and policies of the Benton County Comprehensive Plan.

Growth Management Goals

The Growth Management Act Planning Goals are adopted to guide the development of comprehensive plans and development regulations³ which in turn allow communities the ability to implement regulations to determine if a use (location, size, and scale) is compatible with an existing area and whether it complies with the associated plans and documents adopted by the County. Notable GMA Goals, as they relate to the impacts of this Project, include the following:

Natural Resource Industries - Maintain and enhance natural resource-based industries, including productive timber, agricultural, and fisheries industries. Encourage the conservation of productive forest lands and productive agricultural lands, while discouraging incompatible uses.

Environment - Protect the environment and enhance the state's high quality of life, including air and water quality, and the availability of water.

Loss of Agricultural Lands of Long-Term Commercial Significance (ALLTCS)

Benton County has highly productive agricultural soils with over \$900 million generated by Benton County crops and livestock per year. The land use designation for the proposed project area is Growth Management Act Agricultural. Agriculture, specifically long term commercially significant agriculture, is the cornerstone to Benton County's economy, natural resources industries, and way of life. The Comprehensive Plan states the following as it relates to agriculture and long term commercially significant agriculture in Benton County:

³ RCW 36.70A.020 Planning Goals

- 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.⁴
- 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.

Agricultural land is defined as land primarily devoted to the commercial production of horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal products or of berries, grain, hay, straw, turf, seed, Christmas trees, finfish in upland hatcheries, or livestock, and that has long-term commercial significance for agricultural production.⁵

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. GMA requires each county to designate appropriate ALLTCS that are not already characterized by urban growth and that have long-term significance for the commercial production of food or other agricultural products.⁶

In 2018, Benton County completed a review and analysis, including the elements necessary for agricultural resource lands classification to designate its agricultural lands and ALLTCS⁷. This study outlines the required evaluation criteria for the designation and de-designation of agricultural resource lands. The study follows the goals of the GMA as noted in *Clark County v. Western Washington Growth Management Hearings Board* (2011), "[a] significant goal of the GMA is to identify, maintain, enhance, and conserve agricultural lands.

Benton County's Growth Management Act Agriculture areas include agricultural lands (such as dryland, irrigated land, and rangeland) identified by the County based on the criteria established by the GMA. The GMAAD Zoning District conserves agricultural lands by establishing a 20-acre minimum parcel size and (with exceptions e.g., resort destinations, wineries) limits the range of other land uses to those which are dependent upon, supportive of, ancillary to, or compatible with, agricultural production as the principal land use. Agricultural land constitutes about 59 percent of the total land in Benton County.⁸

The Benton County Comprehensive Plan provides guidance for the protection, maintenance, conservation, and enhancement of the County's agricultural lands and their natural resource-based industries while discouraging incompatible uses. It further charges the County to reduce the inappropriate conversion of agricultural lands and assure that rural development is compatible with surrounding rural and agricultural areas. This Project is not consistent with these directives and the goals and policies of preserving and protecting the County's ALLTCS.

Protection of Rural Character and Lifestyle

⁴ Benton County Comprehensive Plan, Section 2.3 Natural Resource Lands, Page 17 (2021)

⁵ RCW 36.70A.030 (3) Definitions, Agricultural Land

⁶ RCW 36.70A.030 (15) Definitions, Long Term Commercial Significance

⁷ Benton County Comprehensive Plan, Appendix L

⁸ Benton County Comprehensive Plan, Section 3.3.2.5 Agricultural Land Use Designation, Page 44 (2021)

The protection of rural character and lifestyle is paramount in Benton County. The goals and policies of the Comprehensive Plan seek to ensure that land uses are compatible with surrounding uses that maintain public health, safety, and general welfare. The policies aim to protect surrounding areas from incompatible uses that, if approved, would degrade the existing rural character which residents hold in high regard. The Comprehensive Plan states that Benton County must:

- Preserve rural lifestyles outside UGAs and incorporated areas while accommodating new population growth consistent with the protection of rural character and to encourage low impact recreational uses and protect open spaces that preserve rural character;⁹
- Promote industries that are diverse and support an agriculturally based economy; and
- Promote and protect tourism related to viticulture and other agricultural activities.

The Benton County Comprehensive Plan discusses the community's priorities¹⁰ for Benton County. These include:

- Preservation of rural character;
- Protection of natural resources, hillsides, and open spaces;
- Limiting sprawl; and
- Protecting farmland.

The location of the of the proposed Project fails to preserve and protect the County's rural character and lacks consistency with the community's vision for Benton County as the Project proposes negative impacts to the County's natural resources and preservation of farmland.

Benton County Zoning Regulations

To implement the Growth Management Act and the Benton County Comprehensive Plan, Benton County created the Growth Management Act Agricultural Zoning District (GMAAD). The Comprehensive Plan directs the County to conserve and maintain agricultural lands of long-term commercial significance as the local natural resource most essential for sustaining the County's agricultural economy,¹¹ and through this, the County created the Growth Management Act Agricultural Zoning District (GMAAD)¹².

The Benton County Code states the purpose of the GMAAD Zoning District Chapter is to meet the minimum requirements of the State Growth Management Act (Chapter 36.70A RCW) that mandates the designation and protection of agricultural lands of long-term commercial significance. The chapter protects the GMA Agricultural District (GMAAD) and the activities therein by limiting non-agricultural uses in the district to those compatible with agriculture and by establishing minimum lot sizes in areas where soils, water, and climate are suitable for agricultural purposes. This chapter is intended to work in conjunction with Chapter 14.05 BCC entitled "Right to Farm" which protects normal agricultural activities from nuisance complaints.¹³

The proposed industrial Project is not compatible with the fundamental purpose of the County's zoning code. The

⁹ Benton County Comprehensive Plan, Section 2.2.3 Rural Lands, Page 14 (2021)
¹⁰ Benton County Comprehensive Plan, Section 1.2.3 Community Vision, Page 4 (2021)
¹¹ Benton County Comprehensive Plan, Section 2.3 Natural Resource Lands, Page 17 (2021)
¹² Benton County Zoning Ordinance, Chapter 11.17 Growth Management Act Agricultural District
¹³ Benton County Zoning Ordinance, Chapter 11.17, Section 11.17.010 Purpose (2008)

overall purpose of the County's zoning code is found in BCC 11.02.010(b) and states: The purpose of this title is to further the goals and policies of the comprehensive plan for the physical development of the county. The objectives of this ordinance are to protect the public health, safety, and welfare; encourage the orderly growth of the county; promote compatible uses of land; provide desired levels of population density and intensity of land use; facilitate adequate levels of community services and utilities; and to provide workable relationships between land uses, the transportation system, and the environment.

The application as proposed does not meet the overall intent or the purposes of the zoning code. The Project does not promote orderly and compatible development compared to other uses permitted in the zoning district.

Prohibited Use in the GMAAD Zoning District

The Benton County Codes protect the GMAAD and the activities therein by limiting non-agricultural uses in the district to those compatible with agriculture and by establishing minimum lot sizes in areas where soils, water, and climate are suitable for agricultural purposes. An industrial project, as proposed, does not meet the purpose of the GMAAD found in BCC 11.17.010.

The Project will result in the permanent conversion of at least 392 acres land in the County's Growth Management Act Agricultural District ("GMAAD"). This proposal is not in compliance with or consistent with the Benton County Comprehensive Plan or the GMAAD Zoning District. The proposed Project is located within the County's GMAAD and the permissible uses within the GMAAD are set forth in Chapter 11.17 of the Benton County Code. Major Solar Power Generator Facilities are not allowed under any conditions within the GMAAD and are a prohibited use.

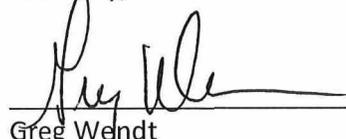
Preemption of the Benton County Codes

The applicant is requesting the EFSEC Council preempt applicable County land use plans and zoning ordinances. It's clear the County's land use codes and policies should be held in effect and should not be preempted by this proposal based upon the proposed location of the proposed Project, the proposal not meeting the requirements of RCW 36.70, the Projects lack of consistency with the goals and policies in the community's County's Comprehensive Plan and the fact that the Project is a prohibited in the County's GMAAD Zoning District.

Further, EFSEC should recommend denial of the Project as it results in the improper conversion of ALLTCS, putting those lands to non-agricultural uses in violation of the mandates of the Growth Management Act ("GMA"), Ch. 36.70A RCW, which results in a violation of the purpose of the GMAAD and is a de-designation of the County's ALLTCS.

Thank you again for the opportunity to comment on this proposed Project. We respectfully request that EFSEC deny the applicants request due to the lack of consistency with the local plans, ordinances, and associated impacts.

Sincerely,



Greg Wendt
Director of Community Development
Benton County, Washington