

**ATTACHMENT D: LAND USE CONSISTENCY REVIEW**

# **Wautoma Solar Energy Project Draft Land Use Consistency Review**

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**INNERGEX**

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## Table of Contents

1.0	Introduction.....	1
1.1	Project Purpose .....	2
1.2	Project Overview.....	2
1.3	Regulatory Context .....	3
1.4	Energy Facility Site Evaluation Council Review.....	5
2.0	Consistency with Benton County Comprehensive Plan Goals and Policies.....	6
2.1	Chapter 2 Goals and Policies .....	6
3.0	County Code Provisions .....	22
3.1	Title 3 Building and Construction.....	23
3.2	Title 6 Health, Welfare and Sanitation .....	24
3.3	Title 6A Public Nuisance Noise .....	24
3.4	Title 11 Zoning.....	25
3.5	Title 15 Environment.....	39
4.0	References.....	62

## List of Tables

Table 1.	NRCS Soil Classifications within the Project Area, Fence Line, and Permanent Impact Footprint.....	13
Table 2.	Permanent (Impervious) Footprint by Parcel ID .....	30

## List of Figures

- Figure 1. Zoning and Comprehensive Plan Designation
- Figure 2. Washington Department of Agriculture (WSDA) Cropland Data
- Figure 3. Prime Farmland

## Acronyms and Abbreviations

Applicant	Innergex Renewable Development USA, LLCASC	Application for Site Certification
BCC	Benton County Code	
BESS	battery energy storage system	
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	
EFSEC	Energy Facility Site Evaluation Council	
ESCP	Erosion and Sediment Control Plan	
FWHCA	fish and wildlife habitat conservation area	
GMA	Growth Management Act	
GMAAD	Growth Management Act Agricultural District	
HPA	Hydraulic Project Approval	
kV	kilovolt	
NFPA	National Fire Protection Association	
Ns	Non-Fish Seasonal	
O&M	operations and maintenance	
OA	Ordinance Amendment	
POI	Point of Interconnection	
Project	Wautoma Solar Energy Project	
PV	photovoltaic	
RCW	Revised Code of Washington	
ROW	right-of-way	
SEPA	State Environmental Policy Act	
SR	State Route	
SWPPP	Stormwater Pollution Prevention Plan	

UGA	Urban Growth Area
WAC	Washington Administrative Code
WDFW	Washington Department of Fish and Wildlife

## 1.0 Introduction

Innergex Renewable Development USA, LLC (Applicant) proposes to construct and operate the Wautoma Solar Energy Project (Project). The Project is a 470-megawatt<sup>1</sup> solar photovoltaic (PV) generation facility coupled with a 4-hour battery energy storage system (BESS) sized to the maximum capacity of the Project, as well as related interconnection and ancillary support infrastructure, located in unincorporated Benton County, Washington. The Applicant has elected to seek Project approval by the Governor upon a favorable recommendation of a Site Certification Agreement (SCA) by Washington State's Energy Facility Site Evaluation Council (EFSEC) 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 WAC 463-28, EFSEC may recommend to the Governor that he permit and authorize an energy generation facility with appropriate consideration of the Project's consistency with the Benton County land use regulations. As such, the EFSEC Site Certification Agreement process takes the place of the County review process. To support the land use analysis in Section 4.14 of the ASC, this Land Use Consistency Review has been prepared to address applicable Benton County Code (BCC) provisions (Benton County 2021a, as specified below) and Benton County Comprehensive Plan goals and policies (Benton County 2021b). 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, as is demonstrated in the materials below, this Project can be rendered consistent with Benton County planning and zoning provisions through the careful conditioning of the SCA. While the Applicant is seeking preemption for the reasons discussed herein, it respectfully requests that the EFSEC council preempt applicable Benton County land use plans and zoning ordinances pursuant to Washington Administrative Code (WAC) 463-26-050 and recommend to the Governor the approval of an SCA conditioned to preserve the goals and values of Benton County.

The Project'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, and power conversion systems, which consists of the DC-coupled BESS, inverters, and transformers. The DC-coupled BESS can either store direct current (DC) electricity for future use or convert DC electricity to alternating current (AC) electricity and send the AC electricity to the step-up transformer as required based on grid demand. The solar PV system is further described in Part 2, Section A.2.a of the ASC.

The Project also includes the following supporting components: Project substation, overhead 500-kilovolt (kV) transmission line, operations and maintenance (O&M) building, associated Project

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<sup>1</sup> Megawatt rating provided in alternating current (MWac)

access roads, and perimeter security fencing. Chain-link fencing will be installed around the perimeter of the solar array, Project substation, and O&M building area. The Point of Interconnection (POI) is the Bonneville Power Administration (BPA) transmission system at the BPA Wautoma Substation. An approximately 0.25-mile-long overhead 500-kV transmission line will extend from the Project substation to the POI. Project-supporting components are further described in Part 2, Section A.2.a of the ASC.

The Project's construction is anticipated to begin in the second quarter of 2024, with a Commercial Operations Date planned for the first quarter of 2026 (22-month construction schedule).

## 1.1 Project Purpose

In 2019, Washington passed Senate Bill 5116, the Clean Energy Transformation Act (CETA) codified at RCW 19.405, which requires state utilities to meet 100% of their load with carbon-free resources by 2045. Clean electricity will allow Washington residents and businesses to power their buildings and homes, vehicles, and appliances with carbon free resources, such as wind and solar. Reductions in fossil fuel will improve health of communities, grow the economy, create family-sustaining jobs, and enable the state to achieve its long-term climate goals. The introduction of CETA is a major reason why Innergex is now actively searching for new business opportunities in Washington. Advancement in solar photovoltaic technology over the last ten years has led to significant decreases in solar equipment pricing. As a result, new facilities such as Wautoma Solar represent an effective option to meeting Washington state's clean energy goals. These goals outlined in the CETA are also closely aligned with Innergex's own goals.

Innergex believes in a better world where abundant renewable energy promotes healthier communities and creates shared prosperity. Innergex contributes to this vision by leveraging its long-term commercial commitment, proven expertise, entrepreneurial spirit, and innovative approach. We remain committed to responsible growth that balances people, our planet, and prosperity. The Project will make major direct and indirect contributions to the local community. Landowners participating in the Project will receive direct compensation in the form of long-term land lease payments. Furthermore, the Project will also pay property tax to Benton County which will increase the County's tax base revenues and will benefit County residents significantly for the life of the project. When operational, the Project will be a relatively quiet renewable energy facility with limited visual impacts and will be a major source of clean power in the region.

## 1.2 Project Overview

The Project is generally located 12.5 miles northeast of the city of Sunnyside and 1 mile south of the State Route (SR) 241 and SR 24 interchange in Benton County, Washington, adjacent to and east of the Yakima/Benton County boundary (ASC Attachment A, Figure A-1). Part 1 Section A.4 of the Applicant's streamlined solar ASC identifies the 35 private land assessor parcels encompassed by the approximately 5,852-acre Project Lease Boundary. Within the Project Lease Boundary, the proposed Project is sited within the smaller approximately 4,573-acre Project Area. The Project

Area is the focus of analysis provided in this Land Use Consistency Review and is defined and described in Part 2 Section A.2.a of the Applicant's streamlined solar ASC.

The ASC uses the following terms to describe areas associated with Project development:

- **Project Lease Boundary:** The approximately 5,852-acre area that encompasses 35 privately owned assessor parcels that the Applicant has executed or is pursuing a lease agreement with the underlying property owner (ASC Attachment A, Figure A-2). Construction and operation of the Project are limited to the Project Area described below and shown on Figure A-1 in ASC Attachment A.
- **Project Area:** The approximately 4,573-acre area that includes all of the Project facilities, including solar PV system and DC-coupled BESS, Project substation, transmission line, O&M building, and associated access roads.

Current land uses in the Project Area include irrigated agriculture, rangeland, undeveloped land, local roads, and existing electrical utility infrastructure. Lands to the north, west, and south are zoned for agricultural purposes in Benton and Yakima counties with similar land uses as the Project Lease Boundary, as well as some non-agricultural uses including several rural residences. The Hanford Reach National Monument Rattlesnake Unit (which is not open to the public) is located east of the Project Lease Boundary.

The Applicant is considering various design layouts within the Project Area. The preliminary layout of the PV solar system and supporting components accounts for the Project's generating capacity, topography, and other constraints; however, the precise equipment and layout have not yet been finalized and the Applicant seeks to permit a range of technology to preserve design flexibility. Therefore, this ASC analyzes the largest anticipated Project footprint within the Project Area. While final Project design is not anticipated to disturb the entire Project Area, the entire Project Area is evaluated to allow for design flexibility. For these reasons, the Applicant is requesting flexibility to microsite<sup>2</sup> the Project and its associated supporting components anywhere within the Project Area, provided the final layout does not exceed the Project Area evaluated in this ASC and allowed for in the Site Certification Agreement.

### 1.3 Regulatory Context

The Project is located entirely on land zoned Growth Management Act Agricultural District (GMAAD) by Benton County Code (BCC; Benton County 2021a) (Figure 1). The Project is consistent with Benton County's definition of a "solar power generator facility, major" under BCC 11.03.010(167)), as described in Section 3.0 below.

The Applicant began obtaining lease agreements for the Project Area in 2020. As part of early agency outreach, the Applicant contacted Benton County Commissioners and Planning Department

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<sup>2</sup> Micrositing is the process of placing facilities (such as solar panels) in locations that achieve optimal power production while considering land constraints such as terrain and sensitive environmental areas.



on July 26, 2021, via email, intending to introduce the Project and discuss the local permitting process. At this stage of early Project development, “solar power generation facility, major” was listed as an allowed use requiring a conditional use permit (CUP) in the GMAAD BCC 11.17.07(cc). However, a response to the Applicant’s communications was not received from the Benton County Planning Department at that time. The Applicant made the decision in the fall of 2021 to seek a Site Certification Agreement through EFSEC. At the time the Applicant first introduced the Project to EFSEC in August of 2021, the Project was an allowed use with a CUP in the GMAAD. As part of the outreach efforts described in the ASC, the Applicant conducted a virtual public meeting on April 11, 2022. Benton County Planning Department staff attended this meeting. Subsequently, the Benton County Administrator agreed to facilitate a presentation to the Benton County Board of Commissioners. This presentation is anticipated to take place at a regularly scheduled commissioners meeting in May 2022.

In December of 2021, prior to submittal of this ASC, the BCC was amended to remove “solar power generation facility, major” from the list of permitted uses with the issuance of a CUP in the GMAAD. Based on review of the public record of the ordinance amendment, the County’s abrupt 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 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.

### ***1.3.1 Benton County Ordinance Amending GMA Agricultural District***

On December 21, 2021, Benton County Board of County Commissioners adopted Ordinance Amendment (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 Project 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 2021b) 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 2021c and 2021d). This Land Use Consistency Review and the detailed analysis provided in the ASC and associated attachments demonstrate how the Project’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 2021c and 2021d). 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, low visual impact of solar facilities as compared to wind facilities, and advancements in agrivoltaics concepts and compatible agricultural or grazing activities.

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 2021d). 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 Project 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 Project is substantially consistent with the 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 elected to seek Project approval under the jurisdiction of Washington EFSEC. As such, the EFSEC Site Certification Agreement process takes the place of the County review process. Pursuant to Revised Code of Washington (RCW) 80.50.040, RCW 80.50.110, and WAC 463-28, EFSEC is allowed to recommend that the Governor permit and authorize an energy generation facility with appropriate consideration of the Project's consistency with the Benton County land use regulations. To support the land use analysis in Section 4.14 of the ASC, this attachment has been prepared to address applicable BCC provisions (Benton County 2021a, as specified below) and Comprehensive Plan goals and policies (Benton County 2021b).

As discussed below in Section 2.0, the proposed Project is consistent with the Benton County Comprehensive Plan as it will promote green infrastructure that is compatible with agricultural

uses and diversifies the economic base. Section 3.0 demonstrates that construction and operation of the Project comports with applicable provisions of the BCC, including meeting the evaluation criteria for conditional uses. The Project is consistent with the purposes of the GMAAD, and prior to the adoption of OA 2021-004, complied with all applicable substantive BCC provisions and development standards as described in Section 3.0 below. Accordingly, the Project is substantially consistent with local land use policies and regulations adopted as of the ASC submittal. As such, the Applicant respectfully requests the Council's recommendation to the Governor that he approve an appropriately conditioned SCA consistent with Ch. 80.50 RCW.

## 2.0 Consistency with Benton County Comprehensive Plan Goals and Policies

The following section demonstrates that the proposed Project is consistent with applicable Comprehensive Plan (Benton County 2021b) goals and policies. The Applicant has carefully reviewed the goals and policies of the Comprehensive Plan and evaluated how they inform this ASC. The Comprehensive Plan was developed to 1) reflect the County's values and plan for future growth consistent with the GMA, and 2) 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. In contrast, development regulations are the requirements "placed on development or land use activities" (RCW 36.70A.040(4) and (7)). These requirements include the BCC Title 3, 6, 6A, 11, and 15 as addressed in Section 3.0 below.

### 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.*

*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 Project will be entirely located within the County's GMAAD zoning district and within the County's Comprehensive Plan GMA Agricultural designation. As a "solar generation facility, major," the Project was previously an allowed conditional use in the GMAAD district prior to the adoption of OA 2021-004, and therefore was previously deemed compatible with surrounding land uses in the GMAAD district as long as certain conditions were met as required by the CUP process. In total,

the Project Area within the GMAAD represents 0.7 percent of the 649,153 acres of land designated as GMAAD in the County (Benton County 2021b). Within the Project Area, the Project's security fenced area and permanent disturbance will occupy approximately 2,978 acres<sup>3</sup>, or 0.5 percent of GMA Agricultural lands. Since the permanent disturbance reflects a small percentage of the total GMA Agricultural Lands, the Project 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 Project Area was selected by the Applicant for its favorable site suitability characteristics, including high solar energy resource, topography, proximity to electrical infrastructure, compatibility with allowed uses on surrounding lands, and low resource conflicts. These site suitability characteristics maximize the compatible development by taking advantage of existing electric infrastructure (i.e. existing BPA substation and transmission lines) and is therefore supportive of LU Goal 1, Policy 3.

Existing land uses in the Project Area include dryland and irrigated agriculture, rangeland, undeveloped areas, local roads, electrical infrastructure (e.g., transmission and distribution lines, substations), and scattered unoccupied structures (e.g., agricultural storage). Adjacent land uses surrounding the Project Area are similar and also include scattered rural residences, vineyard, rangelands, state highways, and Hanford Reach National Monument (Rattlesnake Unit of the Fitzner/Eberhardt Arid Lands Ecology Reserve). 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.

Project components will be designed in a manner as to minimize contrast with the surrounding vicinity. This will include measures such as using non-reflective materials and finishes on Project components and revegetating temporarily impacted areas as analyzed in detail in Part 4, Section 4.16 of the ASC, and the accompanying Visual Impact Assessment (ASC Attachment P) and Solar Glare Analysis (ASC Attachment H). As discussed in Part 3, Section 3.21 and Section 3.22 of the ASC, the Project will not have a significant adverse impact on existing public facilities or services. The Applicant will bear the costs of providing the necessary utilities and related services for the Project. Unlike other land uses such as residential development typically proposed outside urban areas, the Project will not impose these costs on the County. As discussed in Part 4, Section 4.13 of the ASC, most materials used in construction of the Project will not be hazardous or dangerous, and the risk of fire will be low. Project design incorporates 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. Prior to construction, the Project 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

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<sup>3</sup> The 2,978 acre total includes 2,974 acres within the Project's security fence and 4 acres of permanent disturbance outside the security fence associated with access roads.

Management Division regarding potential fire issues, locations and dimensions of access gates and internal access roads, and other issues.

Following construction, the Project will be operated and maintained by up to four employees. Operation of the Project will not interfere with surrounding land uses and represents compatible development with surrounding uses, including the agricultural activities. Project 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 Project 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 5, and Part 4, Section 4.5 for more details on the Project’s stormwater design. Due to the Project’s “green infrastructure” stormwater designs, the Project is consistent with LU Goal 1, Policy 7. Similar to the County’s encouragement of “green infrastructure”, the State of Washington’s CETA encourages development of green energy sources (i.e. non-carbon emitting energy sources). The Project’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 Project 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:**

Implementation of the Project will also support the long-term economic sustainability of participating landowners via direct lease payments, while agricultural activities allowed on lands surrounding the Project Area could continue unimpeded. 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. Landowners who testified at the Benton County Commissioner hearing that resulted in zoning that newly prohibited “solar power generation facility, major” as a use in the GMAAD district noted that the lease payments from the solar facility will 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. In an ever-changing market, agricultural landowners have the discretion to choose 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 Project will support the long-term economic sustainability of participating landowners, and therefore, the Project 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 Project is located outside of an Urban Growth Area (UGA) and is entirely within and adjacent to GMAAD land. The solar use will not be in conflict with agricultural activities such as spray, dust, noise, odors, and liability. These activities are not incompatible with solar operations because operation of a solar energy facility requires minimal on-site activities and staff. Regarding the Project's potential indirect impacts to surrounding agricultural activities such as dust, traffic, or spread of noxious weeds, best management practices, detailed further in Part 2 Section A.5 of the streamlined ASC, will be implemented and maintained as needed to avoid and minimize these potential impacts to agricultural activities. Once commissioned, the Project will be largely self-sufficient except for routine operations and maintenance activities by up to four operations employees and annual panel washing over a 2 to 3-week period. For these reasons, the Project 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 Project Area:** The Project 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 4,573-acre Project Area represents 0.7 percent of the 649,153 acres of lands in the GMA Agricultural designation (Benton County 2021b). Within the Project Area, the Project's security fenced area and permanent disturbance will occupy approximately 2,978 acres, or 0.5 percent of GMA Agricultural lands which would be a de minimis

reduction of farmland utilized for crop and livestock production throughout Benton County. The Project 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 2 Section A.5 of the streamlined ASC, and will not diminish the opportunity for neighboring parcels to expand, purchase, or lease any vacant land available for farming.

Approximately 793 acres (17 percent) of the Project Area was mapped as current cultivated agricultural or pasture lands during the Project's 2021 Habitat and General Wildlife Survey (refer to ASC Part 2 Section B.2 Surface Types and Acreages and [ASC Attachment G](#); Figure 2). These agricultural lands consist of fallow and active wheat, irrigated alfalfa fields, livestock and horse pastures. Water for irrigated lands in the Project Area is from an existing on-site well with a valid water right. Outside of these cultivated and pastured agricultural areas, approximately 3,740 acres (82 percent) of the Project Area was mapped as vegetated uplands, inclusive of 9 acres of irrigated hedgerows (i.e. windbreaks to crop lands). The remaining approximately 40 acres (1 percent) of the Project Area was mapped as developed, unvegetated, or wetlands and streams. The vegetated uplands include approximately 524 acres of lands currently enrolled in the Conservation Reserve Program (CRP). The remainder of the vegetated uplands consist of undeveloped rangelands, portions of which are used for sheep grazing. The landowners maintain several livestock tanks across the Project Area to support livestock.

Agricultural lands in the Project Area were also assessed using the Washington Department of Agriculture (WSDA) 2021 agricultural land use data (WSDA 2021; Figure 2). Within the Project Area, WSDA agricultural land uses are mapped as 320 acres of cereal grain, 368 acres of hay/silage, 138 acres of pasture, and 1,086 acres of other. Within these 1,912 acres of agricultural lands mapped by WSDA, 756 acres are identified as irrigated lands (center pivot, drip, sprinkler, or wheel line irrigation types). Lands to the south of the Project Area are mapped by WSDA as other (non-irrigated) and include undeveloped rangelands. Lands to the west of the Project Area include a small irrigated vineyard adjacent to the Project Area on Wautoma Road, "other" (likely dryland wheat) crop lands as identified by the WSDA database, non-irrigated pasture west of the Project Area. Undeveloped rangelands are also present west of the Project Area. Lands to the north similarly include other crop lands (likely dryland wheat), non-irrigated pasture, and undeveloped rangelands. Approximately 1 mile north of the Project Area along SR 24 are additional irrigated vineyards and orchards.

Non-agricultural land uses to the south, west, and north of the Project Area include several rural residences, scattered unoccupied structures (e.g., agricultural storage), existing electrical transmission infrastructure (i.e. BPA Wautoma Substation and multiple transmission lines), local roads and state highways, and a small commercial area at the intersection of SR 241 and SR 24 north of the Project Area. Lands to the east of the Project Area are in the Hanford Reach National Monument (Rattlesnake Unit of the Fitzner/Eberhardt Arid Lands Ecology Reserve) and are not open to public use or used for agriculture.

**Agricultural Land of Long-term Commercial Significance:** The Growth Management Act 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 2021b):

*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 Project 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 CRP, and prime farmlands. The Project Area is in an isolated area of Benton County outside of a UGA. Development on surrounding lands is minimal and primarily consists of agricultural uses as described above. The Project Lease Boundary parcels are mostly large parcels (see ASC Attachment A, Figure A-2). Lands in the Project Area have also historically been utilized for agricultural activities (crop cultivation and grazing), although the areas used for these activities have varied over time. As described above, the Project's 2021 General Habitat and Wildlife survey mapped approximately 794 acres of the Project Area as cultivated agricultural (ASC Attachment G). Approximately 3,731 acres were mapped in the survey as vegetated uplands, portions of which are used for sheep grazing. Approximately 756 acres of the Project Area are mapped as irrigated by WSDA (WSDA 2021). Additionally, 524 acres of the Project Area are currently enrolled in CRP (see Figure 2). According to the Natural Resources Conservation Service, approximately 3,328 acres or 73 percent of the mapped soil units in the Project Area are classified as prime farmland if irrigated<sup>4</sup> and an additional 15 percent (689 acres) are classified as farmland of unique<sup>5</sup> or of statewide importance<sup>6</sup> (refer to Table 1, Figure 3 and ASC Attachment E). However, of the 3,328 acres classified by the NRCS as prime farmland if irrigated, only 724 of these acres are irrigated. Therefore, only 724 acres should be considered prime farmland and the remaining acres should not be considered prime farmland as they are not irrigated and have no history of being irrigated. Areas with soils suitable to crop production are limited by existing site drainage patterns, consisting of

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<sup>4</sup>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. (NRSC 2022)

<sup>5</sup>Unique farmland is land other than prime farmland that is used for the production of specific high-value food and fiber crops, such as citrus, tree nuts, olives, cranberries, and other fruits and vegetables. (NRSC 2022)

<sup>6</sup>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. (NRSC 2022)

multiple ephemeral streams, Dry Creek and associated 100-year floodplain, as well as areas with steeper slopes in the southern and eastern portions of the Project Area. Figure 3 overlays NRCS mapped soil units with areas mapped by WSDA as irrigated and shows the Project fence line and permanent disturbance footprint (e.g. paved or compacted surfaces such as access roads, inverter pads, O&M building, substation). Table 1 provides a breakdown of NRCS soil classifications within the Project Area, Project fence line, and Project permanent disturbance footprint. As noted in Figure 3 and Table 1, the Project fence line excludes most (85.8 percent) of the farmland of unique importance located in the Project Area and excludes about half (53.7 percent) of the farmland of statewide importance located in the Project Area. Of the 724 acres of prime farmland that is irrigated, 689.9 acres are located within the fence line and only 25.4 acres are covered by the Project's permanent disturbance footprint (i.e. inverters and access roads) while the remainder will be located in areas where the solar arrays are sited which will undergo minimal grading and compression and will be available for farm use after the Project is decommissioned at the end of its useful life. The Project's permanent disturbance areas will occupy a minimal amount of prime farmland and/or farmland of unique or statewide importance.

**Table 1. NRCS Soil Classifications within the Project Area, Fence Line, and Permanent Impact Footprint**

NRCS Soil Classification	Acres within Project Area	Acres within Project Fence Line	Acres within Permanent Disturbance Footprint <sup>1</sup>
Prime farmland if irrigated (located within areas of irrigation per WSDA <sup>2</sup> data)	724	699	25
Prime farmland if irrigated (located outside areas of irrigation per WSDA <sup>2</sup> data)	2,604	1,864	92
Farmland of unique importance	425	60	5
Farmland of Statewide Importance	264	122	10
Not Prime Farmland	556	229	9
Total	4,573	2,974	141
Notes: 1: Permanent disturbance footprint includes paved and/or compacted surfaces including driveways, access roads, inverters, O&M building, substation. 2: Source: WSDA 2021			

Regarding the WAC 365-190-050(3)(c) criteria of availability of public services, proximity to markets, and the Comprehensive Plan's considerations of water availability and precipitation, the Project Area is less suitable for agricultural uses than other areas of the County within the GMAAD and GMA Agriculture land use designation. The Project Area is located near several transportation routes, including SR 24, SR 241, and SR 240; however, processing centers and other agricultural-related commercial services are located approximately 12 miles south of the Project Area near the

larger concentrated areas of agricultural lands along Interstate 84 and along the Yakima River. The Project Area is located outside of an irrigation district and irrigation is supplied by two irrigation wells within the Project Area. The Applicant is working with the landowner to provide continued access to the irrigation wells during Project construction and operations (refer to the discussion below in response to Policy 4). As described in the ASC Attachment I Wetland Delineation Report, the total precipitation for water year 2020 to 2021 was 5.34 to 8.76 inches. The annual precipitation of the area is 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 Project Area. Stock tanks and suitable forage are still necessary for the productivity of rangelands. The Applicant is working with the landowners to identify areas within the Project Lease Boundary that are suitable for grazing during Project operations, including relocating stock tanks to outside of the Project security fence.

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 Project's security fenced area and permanent disturbance will occupy approximately 2,978 acres, or 0.5 percent of the 649,153 acres of land designated as GMAAD in the County (Benton County 2021b). The small area of land that will be occupied by the Project, combined with the isolated nature of the lands, site topography and drainage limitations, distance to markets, and 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.

While lands in the Project 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 the EFSEC council to carefully consider the factors that inform the designated use of this land, and the *de minimis* amount of land the Project 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 Project 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 Project Area was selected by the Applicant for its favorable site suitability characteristics, including high solar energy resource, topography, proximity to electrical infrastructure, compatibility with allowed uses on surrounding lands, and low resource conflicts. The Project's location away from population centers and co-location with existing electrical transmission infrastructure (i.e. BPA Wautoma Substation and multiple transmission lines) is ideal to avoid conflicts with other land uses, as well as to minimize impacts to natural and cultural resources.

The Applicant posits, and believes the EFSEC council can conclude, that the Project 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, vineyard and orchard operations, and rangelands on lands located to the west, north, and south of the Project Area will be minimized through the implementation of environmental best practices as described in the ASC in Part 2, Section A.5, Part 3, and Part 4.
  - Noise: Project construction may result in short-term noise impacts from construction equipment during the approximately 22-month construction period. 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 4.16a.
  - Traffic: As described in Part 4, Section 4.20 of the ASC and described in Section 3.4.4 below, Project 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 241, SR 24, and SR 240. Construction traffic 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 Project will occur.
  - 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 4.1, 4.2 and 4.5). 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 of 53 million gallons 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 and submitted to EFSEC prior to construction (refer to ASC Part 4, Section 4.8). Best management practices, such as flagging the limits of construction to minimize vegetation removal and ground disturbance, and implementing measures described in the Project Vegetation and Weed Management Plan, will be used to control and manage noxious weeds on site to prevent spread onto nearby properties.
- Following construction, the Project will be operated and maintained by up to four employees. Operation of the Project will consist of routine maintenance activities and 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 four

operations employees and water delivery truck traffic during a 2- to 3-week period once per year for panel washing (refer to ASC Part 4, Section 4.20). 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 Project 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 16a and [ASC Attachment O](#)). The Project will also implement a Vegetation and Weed Management Plan to control noxious weeds. The plan will be developed in coordination with EFSEC and Benton Country Noxious Weed Control Board.

Operation of the Project will not conflict with agricultural uses on surrounding lands and represents compatible use in the GMA Agricultural lands designation. 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 Project will also support the long-term economic sustainability of participating landowners via direct lease payments, while agricultural activities allowed on lands surrounding the Project Area could continue unimpeded. The Applicant is working with the Project landowners to determine suitable areas for sheep grazing post-construction within the undeveloped portions of the Project Lease Boundary. The Applicant is committed to working with the landowners to continue their long-standing tradition of grazing and will also support relocating livestock tanks to areas outside of the Project fence line.

As demonstrated throughout the ASC and this Land Use Consistency Review, Project design incorporates 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 Project 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.***

The Project 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 53 million gallons over the approximately 22-month construction period, or approximately 80,000 gallons per day. During operations, the Project 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 120,000 gallons per year. This total includes the water use related to the panel washing (i.e., if 20 percent of the PV panels are washed once per year). Because the Project will obtain water from sources with a verified water right, none of the Project's water requirements will impair the ability of nearby agricultural uses to meet their operational needs and the Project will not conflict with any water rights in the vicinity of the Project Area.

The Project'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). Given the minimal water required for the Project operations, this non-agricultural land use will help sustain the ability of the agricultural economy to expand by reducing the water use in this area, thus freeing up more water to be used on agricultural lands with more long-term commercial significance than the lands within the Project Area.

For the reasons stated above, the Project 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 Project will not have a significant individual or cumulative impact on ground and surface water quality. Design of the Project includes avoidance of wetlands and waters of the U.S. and compliance with state stormwater permit requirements. As stated above, the anticipated groundwater use represents a fraction of the groundwater withdrawals per day for crops in Benton County. The amount of water used for annual panel washing will easily infiltrate into the vegetated ground around the panels and is not expected to run off to 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 4.3 of the ASC provides the full extent of waterbodies and floodplains within the Project Area, details of the methods used to confirm the extent of waterbodies within the Project Area (based on the wetland delineation), description of the impacts the Project will have on ephemeral waterbodies and floodplains, and the proposed mitigation strategies that will be implemented. For these reasons, the Project 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 Project 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 Project Area and the results are summarized in Part 4, Section 4.1, Section 4.3, Section 4.5, Section 4.8, and Section 4.9 of the ASC. Further, Section 3.5 below describes the Project's compliance with Benton County's Critical Area Ordinance and demonstrates how the Project will protect critical areas functions and values. The Project 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 Project 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 all participating private landowners and Project stakeholders, including BPA for the transmission interconnection and Project easements, to ensure natural resource protection and agreed-upon appropriate measures to reduce or avoid natural resource impacts. For these reasons, the Project 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 Project promotes economic use of the lands in the Project Area while protecting critical areas. Through the ASC and required Project permits and approvals, applicable environmental protection laws and regulations will be applied to the Project. For these reasons, the Project 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 Project 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 Project creates new economic activity in the County and supports the long-term economic sustainability of participating landowners via direct lease payments. The Applicant prepared a Socioeconomic Review (**Attachment N**) for consideration under WAC 463-60-535. The document contains information about population and labor force impacts as well as housing. The Project will also provide Benton County with additional tax revenue. The property tax payments to the County from the proposed Project will generate an estimated \$80 million dollars over the life of the Project. 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 Project 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 Project is designed to be compatible with ongoing agricultural activities and adds a new, diverse source of revenue to landowners that helps to maintain and protect the agricultural economic base. The Project Area was selected by the Applicant for its favorable site suitability characteristics, including high solar energy resource, topography, proximity to electrical infrastructure, compatibility with allowed uses on surrounding lands, and low resource conflicts. The Project will have a number of benefits to the local community and Washington state. Based on similar projects, it is anticipated that the construction of the Project will support approximately 515 jobs during peak construction and up to 4 permanent jobs during operations. Most construction workers will be employees of construction and equipment manufacturing companies under contract to the Applicant. The construction workers will consist of approximately 45 to 65 percent of locally hired workers and a limited number of specialized workers for specific construction tasks (for example, construction management). The Applicant will solicit experienced Washington-based contractors with the goal of hiring construction workers from local communities. 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 Project 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 Project 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:**

As described in the response below to PL Goal 4, the Project will be designed to avoid any historically significant structures and sites, and the Applicant has coordinated with local tribes to ensure protection of historic and cultural resources. Regarding prominent ridges in unincorporated Benton County, the Project is located entirely on private lands and does not limit access to these areas. The closest designated open space is located approximately 25 miles to the southeast of the Project Area north of West Richland. The Rattlesnake Hills, as identified on the Comprehensive Plan maps, are located approximately 12 miles to the southeast of the Project Area (also north of West Richland). Lands to the east of the Project Area are in the Hanford Reach National Monument (Rattlesnake Unit of the Fitzner/Eberhardt Arid Lands Ecology Reserve) and are not open to public use. The Project does not preclude the ability of the County to acquire ridgelines for the stated purposes of Policy 2 and Policy 3.

In regard to views in the surrounding vicinity of the Project, the Project components will be designed in a manner as to minimize contrast as analyzed in detail in Part 4, Section 4.16 of the ASC and the accompanying Visual Impact Assessment (ASC Attachment P) and Solar Glare Analysis (ASC Attachment H). Depending on the proximity, the Project will introduce weak to strong contrast with the surrounding landscape. Based on the Project's viewshed analysis (see ASC Attachment P), visibility of the Project Area varies between viewpoints. From viewpoints to the west, north, and south, depending on the intervening terrain, views of the Project Area tend to only be available within a couple miles from the Project Area. From viewpoints to the east, views of the Project Area may be available from a greater distance, but in general, also tend to be limited to a short distance from the Project Area due to intervening terrain. Where the Project is visible, the Project 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. The

Project will not introduce a source of glare that would significantly impact motorists, residents, or views in the area. Additionally, the Project will not introduce a source of light that would significantly 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 is provided as ASC Attachment Q (Confidential) and provided to the Department of Archaeology and Historic Preservation for review as part of the ASC process. See Part 4, Sections 4.18 and 4.19 for detailed discussion of historic and cultural resources. The Project will be designed to avoid any historically significant structures and sites. The Applicant has coordinated with local tribes to ensure protection of historic and cultural resources, including ongoing communication with the Confederated Tribes of Warm Springs, Wanapum Tribe, Samish Indian Nation, Confederated Tribes and Bands of the Yakama Nation, Confederated Tribes of the Colville Reservation, and the Confederated Tribes of the Umatilla Indian Reservation. For these reasons, the Project 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:**

The Project will comply with applicable development standards and criteria for a “solar energy generation facility, major” as described below in Section 3, including but not limited to BCC Title 11 Zoning 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 Project will contribute to meeting this state goal. The Project Area was selected in large part due its proximity to existing electrical and transmission infrastructure, including the BPA Wautoma Substation and several transmission line corridors. The Project will include an approximately 0.25-mile long overhead 500-kV transmission line extending from the Project substation to the point of interconnection with the existing BPA transmission system at the BPA Wautoma Substation, which is located in on BPA federal lands surrounded by the Project Area as shown in the Preliminary Site Plan (ASC Attachment A Figure A-1).

Electricity connections for the Project will be provided by Benton Rural Electric Association before the start of operations, and communications will be provided by a local utility. During construction, water will be obtained from a source with verified water rights. Best management practices will be employed to manage stormwater within the Project Area (see ASC Part 3, Section 5, and Part 4, Section 4.5). 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 Project will utilize an on-site well and will require less than 5,000 gallons per day of domestic water use at the O&M building (as discussed in ASC Part 3, Sections 4, 6, and 22).

Construction and operation of the Project will not have a significant adverse impact on existing public facilities or services, and the Applicant will bear the costs of providing the necessary utilities and related services for the Project. For these reasons, the Project 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 Project 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 Project’s consistency with the Comprehensive Plan and land use regulations as necessary to understand the

“local governmental or community interests affected.”<sup>7</sup> 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 2021 (Benton County 2021a). 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 Project will comply with all 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). These are understood to apply primarily to the Project’s O&M building and access roads. As a condition of approval, the Applicant or its licensed construction contractor will obtain all related County permits prior to construction, including but not limited to a Building Permit, 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 ensure information needed is provided 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 Project will comply with these requirements.

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<sup>7</sup> 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. See also, RCW 80.50.090, authorizing the Energy Facility Site Evaluation Council to “determine whether or not the proposed site is consistent and in compliance with city, county, or regional land use plans *or* zoning ordinances.” [Emphasis added].

### **3.1.2 Chapter 3.26 Flood Damage Prevention**

#### **Response:**

Construction and operation of the Project will comply with all applicable sections of BCC Chapter 3.26. No structures or permanent impacts are proposed within a special flood hazard area. Only limited temporary impacts (i.e., one temporary stream crossing) will occur within an area of special flood hazard, with no fill placed within an area of special flood hazard, and that location will be restored to pre-Project condition with no impacts to flood capacity or flood levels. Further, matting would be placed to minimize disturbance to the flood hazard area. The Applicant will coordinate with Benton County and obtain a Special Flood Hazard Development Permit prior to any development occurring within an area of special flood hazard. Therefore, the Project will comply with BCC 3.26.

## **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 Project under EFSEC's jurisdiction, and therefore, EFSEC serves as the lead agency for the 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 will 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 Project 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 Project will be classified as exempt from the 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 Project is required to comply with Washington State noise regulations under WAC 173-60 and is evaluated pursuant to the applicable state requirements in Section 4.16 of the ASC and ASC Attachment O Acoustic Assessment. Therefore, the Project will satisfy the County's applicable noise provisions under BCC 6A.015.040.

### **3.4 Title 11 Zoning**

The Project is located within the County's GMAAD zoning district. No overlay districts apply to the Project Area. This section addresses the County's zoning code requirements that are applicable to the Project in the GMAAD zoning district. As noted earlier, pursuant to RCW 80.50.040, RCW 80.50.110, and WAC 463-28, EFSEC may authorize an energy generation facility with appropriate consideration of the Project's consistency with the Comprehensive Plan and land use regulations as necessary to understand the "local governmental or community interests affected."

#### **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 Project'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 BPA Wautoma Substation already exists, and the Project includes a short 500-kV transmission line from the Project substation to the existing Wautoma Substation. The solar PV system will be the primary land use for the Project and therefore meets the 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.~~<sup>8</sup>*

**Response:**

The Applicant posits that these materials demonstrate how the proposed Project remains consistent with the BCC, including the zoning provisions of BCC Ch. 11.17, despite the adoption of OA 2021-004.

As stated above, the proposed Project 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)).

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<sup>8</sup> Use was removed from BCC 11.17.070 per OA 2021-004 in December 21, 2021.

**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]*

**Response:**

The Project is designed to meet or exceed the minimum lot size and dimensional standards of 165 feet width and 165 feet depth, with a minimum frontage of 90 feet along SR 241 and Wautoma Road. Therefore, the Project 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:**

There are no residential structures proposed by the Project. The Project's O&M building will have a maximum height of 20 feet. There are no residential buildings proposed. Section 3.4 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 Project 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 Project 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 Project solar arrays or walled structures will be located within 55 feet from the centerline of any city, county, or state road right-of-way of 60 feet or less in width, 25 feet from the property line bordering any road wider than 60 feet, and 25 feet from the legally established boundary line of any known access or combined access and utility easement adjacent to or within the Project Lease Boundary.

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 (Attachment A Figure A-1) was designed with all Project components at least 20 feet from parcel lines outside of the Project Lease Boundary. While solar array components and security fencing 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 Project Lease Boundary. The proposal does not involve commercial dairy, hog, poultry, rabbit operations, fur-bearing species, or livestock auction. Therefore, the Project 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 Project is designed to meet or exceed the applicable front, rear, and side setback standards of the GMAAD. Project 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 15 feet above ground at full tilt and the BESS units and transformers are approximately 11 to 12 feet in height. The Project substation equipment will generally range in height from 15 feet to 25 feet above ground level and the Project's transmission line structures will be approximately 60 to 150 feet tall. These proposed electrical infrastructure heights are consistent with the existing electrical transmission infrastructure within and adjacent to the Project Area, including the existing BPA Wautoma Substation and several transmission lines.

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 Project's lot coverage for each of the Project parcels is provided below for demonstrative purposes. Based on the Project's footprint within each of the parcels included in the Project, the lot coverage will range from approximately 0.06 to 5.6 percent. Lot coverage compliance will be verified prior to construction based on the final Project design within the Project Area. Table 2 presents specific calculations of impervious footprint by parcel. Therefore, the Project will comply with the requirements for setback, building height, and lot coverage as required under BCC 11.42.100.

**Table 2. Permanent (Impervious) Footprint by Parcel ID**

Parcel ID	Permanent Impact (acres)	Parcel Total (acres)	Percent of Parcel Impacted
119241005555555	0.142	26.245	0.54
119241012749001	5.296	271.002	1.95
119243000001001	2.310	205.619	1.12
119244000001001	0.234	10.713	2.18
119244000002000	2.863	68.357	4.19
120241000001000	0.679	125.672	0.54
120241000002000	0.032	57.724	0.06
120243000002000	0.847	15.056	5.63
120243000003000	0.224	24.403	0.92
120243000004000	2.866	98.277	2.92
120244000000000	3.738	168.397	2.22
121241000001000	7.381	316.487	2.33
121243000000000	15.521	330.685	4.69
122241000000000	4.416	340.376	1.30
122243000001000	1.182	85.478	1.38
122243000002000	2.546	85.465	2.98
127240000000000	13.684	711.207	1.92
128241000000000	16.542	466.842	3.54
128243000000000	4.507	153.752	2.93
129241000000000	7.403	166.099	4.46
129242000001000	6.619	157.389	4.21
129243000001000	8.126	157.726	5.15
129244000000000	4.961	157.154	3.16
130241000000000	5.553	162.405	3.42
130242000001000	2.253	62.197	3.62
130242000003000	5.271	221.930	2.38
130244000000000	4.207	158.540	2.65
132241000001000	2.167	62.169	3.49
132241000002000	3.233	347.653	0.93
133240000000000	5.674	660.856	0.86

*(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 (Attachment A, Figure A-1), the majority of the Project is not adjacent to roadways. A portion of Wautoma Road that currently provides access to a participating landowner residence and that will be used to access the Project Area is located within 150 feet of some proposed panel locations. However, the Applicant does not believe screening along this portion of Wautoma Road is necessary since the participating landowners will be the only road

users impacted along this segment of Wautoma Road. All solar panels are sited over 150 feet from houses and there are no residentially zoned parcels near the Project (all zoning is GMAAD, see Figure 1). The nearest residence is located approximately 500 feet from the security fence line and is a participating landowner (see ASC Attachment P Visual Impact Assessment). The nearest nonparticipant residence is located approximately 700 feet from the security fence line (see ASC Attachment P Visual Impact Assessment). Therefore, the Project will comply with this requirement.

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

**Response:**

The Project will utilize solar planes with an anti-reflective coating to minimize glare. Refer to Part 4, Section 4.16 and ASC Attachment H Solar Glare Analysis for discussion of predicted glare impacts. The glare analysis conducted for the Project analyzed potential glare hazards to residents and motorists in the area. Therefore, the Project 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 Project was a conditional use in the GMAAD. The Applicant has elected to seek Project approval under the jurisdiction of EFSEC, and therefore, the EFSEC Site Certification Agreement process takes the place of the County review process. This Land Use Consistency Review demonstrates how the Project is consistent with a “solar power generator facility, major” as a conditional use in the GMAAD. Specifically, the Project’s compatibility with surrounding land uses is addressed in response to item 11.50.040(d)(1). The Project’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 Site Certification Agreement process takes the place of the County review process since the Applicant has elected to seek Project approval under the jurisdiction of EFSEC.

*(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 in [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; however, the proposed Project Area encompasses the full extent of land area that could include Project improvements and facilities. A detailed Project Description that identifies the proposed uses of land, buildings, and associated facilities for the Project is provided in Part 2 of the ASC. Names and addresses of the owners 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) and Stormwater Pollution Prevention Plan (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 SWPPP will be prepared by a qualified engineer to show proposed construction best management practices and stormwater management methods that the Applicant proposes to implement throughout construction, and proposed drainage patterns that will be maintained throughout Project operation. Additional details on stormwater runoff are provided in the ASC Part 4, Section 4.5.

The permanent footprint of the Project will be approximately 6.2 million square feet (142 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 Project 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 Project 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 residential uses. Generally, the question of compatibility is measured by whether the Project would undermine existing uses or cause any increase in the costs of agricultural uses and practices of the land.

The Project 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 (see Figure 1). In total, the 4,573-acre Project Area represents 0.7 percent of the 649,153 acres of lands in the GMA Agricultural designation (Benton County 2021b). Within the Project Area, the Project’s security fenced area and permanent disturbance will occupy approximately 2,978 acres, or 0.5 percent of GMA Agricultural lands.

The Project is designed to be compatible with ongoing agricultural activities and adds a new diverse source of revenue to landowners. The Project Area was selected by the Applicant for its favorable site suitability characteristics, including high solar energy resource, topography, proximity to electrical infrastructure, compatibility with allowed uses on surrounding lands, and low resource conflicts. Lands to the north, west, and south are zoned for agricultural purposes in Benton and Yakima counties with similar land uses as the Project Area. Lands to the west of the Project Area include a small irrigated vineyard adjacent to the Project Area on Wautoma Road, as well as other (likely dryland wheat), non-irrigated pasture, and undeveloped rangelands. Lands to the north similarly include other (likely dryland wheat), non-irrigated pasture, and undeveloped rangelands. Approximately 1 mile north of the Project Area along SR 24 are additional irrigated vineyards and orchards. Non-agricultural land uses to the south, west, and north of the Project Area include several rural residences, scattered unoccupied structures (e.g., agricultural storage), existing electrical transmission infrastructure (i.e. BPA Wautoma Substation and multiple transmission lines), local roads and state highways, and a small commercial area at the intersection of SR 241 and SR 24 north of the Project Area. Lands to the east of the Project Area are in the Hanford Reach National Monument (Rattlesnake Unit of the Fitzner/Eberhardt Arid Lands Ecology Reserve) and are not open to public use or used for agriculture.

The operation of the Project will be compatible with surrounding agricultural uses as described above in Section 2.0 in response to NR Goal 1 and will in no way force changes of uses on surrounding lands. The proposed solar and battery storage uses will have minimal construction and operations impacts to agricultural uses as described below, while enabling a highly beneficial use for clean energy.

The Project’s compatibility with agricultural uses in the GMAAD is addressed throughout this Land Use Consistency Review in Sections 2 and 3, which details 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 Project's construction and operations impacts as it relates to agriculture uses is summarized here. The Project will have some short-term impacts to surrounding agricultural lands during construction from equipment noise and vehicle and truck 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 Project will occur. To minimize impacts of Project construction traffic on local farmers and residents, a Traffic Control Plan will be prepared in coordination with WSDOT and Benton County and Yakima County Public Works Departments for traffic management during construction and for construction of access approaches from county right-of-way. The Applicant will also implement best management practices 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 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.

Project components will also be designed in a manner as to minimize contrast with the surrounding vicinity as analyzed in detail in Part 4, Section 4.16 of the ASC and the accompanying Visual Impact Assessment (ASC Attachment P) and Solar Glare Analysis (ASC Attachment H). Where the Project is visible, the Project 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. The Project will not introduce a source of glare that will significantly impact motorists, residents, or views in the area. Additionally, the Project will not introduce a source of light that will significantly impact views in the area.

The short-term construction impacts associated with the Project are similar to those 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.<sup>9</sup> The construction of these other non-agricultural uses currently allowed in the GMAAD would result in similar construction

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<sup>9</sup> 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.



impacts to agricultural uses on surrounding lands as the Project, 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 Project Area to install the PV panel arrays. Following construction, the Project's permanent footprint will be limited to 142 acres, primarily consisting of access roads, O&M building, and the Project substation footprint. The small area of permanent disturbance and types of facilities occupying the permanent 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 Project's the limited permanent disturbance footprint will allow for agricultural land uses to return to the Project Area after Project decommissioning.

During operations, the Project's impacts will be minimal in comparison to those of 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 or a CUP. Operations noise from the Project will comply with the environmental noise limits established by WAC 173-60 as described in the ASC Part 4, Section 16a. The Project will not produce odors or have long-term dust and other air emissions, and operations-related traffic will be minimal and will not block or obstruct access to surrounding lands. The Project will not have long-term impacts on surface waters or groundwater quality as described in the ASC Part 3, and Part 4, Section 4.3, and Section 4.5.

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 Project 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 Project will not endanger the health, safety, and welfare of the surrounding community, which is comprised of primarily undeveloped lands, agricultural uses, and scattered residences. Insofar as the Project's effect on public services and facilities that support the public health, safety and welfare, as described in the ASC Part 3, Section 21, the Project is a largely self-sufficient solar power generating facility (with up to four permanent 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 12, hazardous materials are unlikely to occur within the Project Area, and risks to human health and the environment associated with soil disturbance during Project 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 4.13, the Project will comply with fire safety measures, spill control measures, and

regulations for solar energy generation facilities. The Project will develop and maintain an Emergency Management Plan (which will be developed and finalized prior to construction) and implement best management practices for fire prevention. Therefore, the Project 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:**

As described in Part 4, Section 20 of the ASC, Project construction will involve temporary increased traffic to the site for delivery of materials and worker transportation, and an improvement to the approach off SR 241 to the Project, as well as new approach construction along Wautoma Road. While traffic will increase temporarily during construction, peak vehicular and truck traffic is not expected to have a significant impact on SR 241, SR 24, and SR 240. The Project's vehicle and truck traffic is not likely to change the current uncongested status of the SR 241, SR 24, and SR 240 road segments, with the exception of some minor delays near congested intersections at Interstate 84 and Interstate 182. Construction traffic 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 Project will occur. A Traffic Control Plan will be prepared for traffic management during construction. During Project operations, traffic will be limited to periodic maintenance visits and commutes of two to four operations and maintenance employees and potentially one to two water truck deliveries per day over a 2- to 3-week period each year. During construction and operations, the Project will not restrict vehicular use of roadways exterior to the Project Area or create local safety hazards and will not conflict with local, state, or federal requirements related to traffic and transportation. Therefore, the Project 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:**

As discussed in Part 3, Section 3.21 and Section 3.22 of the ASC, the Project will not have a significant adverse impact on existing public facilities or services. The Applicant will bear the costs of providing the necessary utilities and related services for the Project. Unlike other land uses such as residential development typically proposed outside urban areas, the Project will not impose these costs on the County. As discussed in Part 4, Section 4.13 of the ASC, most materials used in construction of the Project will not be hazardous or dangerous, and the risk of fire will be low. Design of the Project 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. Prior to construction, the Project 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 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 Project. Furthermore, the Project's design will incorporate graveled areas around the O&M building and substation, as well as graveled access roads and fire breaks, where applicable.

A small increase in the number of police calls for service may occur during Project construction as a result of Project-related traffic and temporary on-site workforce. Long-term demand for police services is expected to be minimal. The Project will be secured with fencing that may be topped with barbed wire if needed for security purposes, and gates will be padlocked. Since the Project will result in minimal in-migration of residents (see ASC Attachment N Socioeconomic Review), other public services such as transit, health care, schools, or other general services in the County will not be affected by the Project.

Electricity connections for the Project will be provided by Benton Rural Electric Association before the start of operations, and communications will be provided by a local utility. During construction, water will be obtained from a source with verified water rights suitable for the uses proposed herein. Best management practices will be employed to manage stormwater within the Project Area (see Part 3, Section 5, and Part 4, Section 4.5, 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 Project will utilize an on-site well and will require less than 5,000 gallons per day of domestic water use at the O&M building (as discussed in Part 3, Sections 4, 6, and 22). Therefore, the Project 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 all proposed structures comply with the applicable standards of the GMAAD and "solar power generation facilities, major" as described above. The Project is designed to meet or exceed the applicable front, rear, and side setback standards of the GMAAD. Project 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 15 feet above ground at full tilt and the BESS units and transformers are approximately 11 to 12 feet in height. The Project substation equipment will generally range in height from 15 feet to 25 feet above ground level and the Project's transmission line structures will be approximately 60 to 150 feet tall. These proposed electrical infrastructure heights are consistent with the existing electrical transmission infrastructure within and adjacent to the Project Area, including the existing BPA

Wautoma Substation and several transmission lines. Therefore, the Project complies with BCC 11.50.040(d)(5).

### **3.5 Title 15 Environment**

#### **3.5.1 Chapter 15.02 General Provisions**

##### *15.02.080 Jurisdiction – Critical Areas.*

*(a) The County shall regulate all uses, activities, and developments within, adjacent to, or likely to affect, one or more critical areas, consistent with the best available science and the provisions herein. Benton County's critical areas maps depict the approximate location and extent of known critical areas and are displayed on various inventory maps at the County Planning Department.*

*(b) Critical areas regulated by this chapter include:*

- (1) Wetlands;*
- (2) Critical aquifer recharge areas;*
- (3) Frequently flooded areas;*
- (4) Geologically hazardous areas; and*
- (5) Fish and wildlife habitat conservation areas.*

*(c) All areas within unincorporated Benton County meeting the definition of one or more critical areas, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this chapter. [Ord. 609 (2018) § 9]*

#### **Response:**

In fulfillment of BCC 15.02, 15.04, 15.06, 15.08, and 15.14, site-specific investigations for critical areas have been completed for the Project area, and results are summarized in Part 4, Section 4.1, Section 4.3, and Section 4.9 of the ASC. Both the site investigations and associated report sections were completed by qualified professionals with relevant expertise in geological hazards, wetlands and waters, and wildlife habitat. These materials are provided with the ASC for EFSEC's review and are thus also available for the County's and general public's review. Therefore, the Project will comply with BCC 15.02.080.

##### *15.02.190 Critical Area Report – Requirements.*

*(a) Preparation by Qualified Professional. If required by the Planning Administrator in accordance with General Requirements—Critical Area Project Review Process (BCC 15.02.170), the applicant shall submit a critical area report prepared by a qualified professional as defined herein.*

*(b) Incorporating Best Available Science. The critical area report shall use scientifically valid methods and studies in the analysis of critical area data and field reconnaissance and*

*reference the source of science used. The critical area report shall evaluate the proposal and all probable impacts to critical areas in accordance with the provisions of this chapter.*

*(c) Minimum Report Contents. At a minimum, the report shall contain the following:*

- (1) The name and contact information of the applicant, a description of the proposal, and identification of the permit requested;*
- (2) A copy of the site plan for the development proposal including: A map to scale depicting critical areas, buffers, the development proposal, and any areas to be cleared;*
- (3) The dates, names, and qualifications of the persons preparing the report and documentation of any fieldwork performed on the site;*
- (4) Identification and characterization of all critical areas, wetlands, water bodies, and buffers adjacent to the proposed project area;*
- (5) A statement specifying the accuracy of the report, and all assumptions made and relied upon;*
- (6) An assessment of the probable cumulative impacts to critical areas resulting from development of the site and the proposed development;*
- (7) An analysis of site development alternatives;*
- (8) A description of reasonable efforts made to apply mitigation sequencing pursuant to mitigation sequencing (BCC 15.02.220) to avoid, minimize, and mitigate impacts to critical areas;*
- (9) Plans for adequate mitigation, as needed, to offset any impacts, in accordance with mitigation plan requirements (BCC 15.02.230), including but not limited to:
  - (i) The impacts of any proposed development within or adjacent to a critical area or buffer on the critical area; and*
  - (ii) The impacts of any proposed alteration of a critical area or buffer on the development proposal, other properties and the environment.**
- (10) A discussion of the performance standards applicable to the critical area and proposed activity;*
- (11) Financial guarantees to ensure compliance;*
- (12) Critical area reports for two or more types of critical areas must meet the report requirements for each relevant type of critical area;*
- (13) Unless otherwise provided, a critical area report may be supplemented by or composed, in whole or in part, of any reports or studies required by other laws and regulations or previously prepared for and applicable to the development proposal site, as approved by the Planning Administrator; and*

*(14) Any additional information required for the critical area as specified in this chapter. [Ord. 609 (2018) § 20]*

**Response:**

The information in Part 4, Section 4.1, Section 4.3, Section 4.8, and Section 4.9 of the ASC and the supporting studies, including the Wetland Delineation Report (Attachment I), Wildlife and General Wildlife Survey Report (Attachment G), Botanical Survey Report (Attachment F), Draft Habitat Management Plan (Attachment M), and Preliminary Geotechnical Engineering Report (Attachment S), meet the criteria for critical areas reports established in BCC 15.02.190, including preparation by qualified professionals, incorporation of best available science, and inclusion of all required minimum contents. Therefore, the Project will comply with BCC 15.02.190.

*15.02.210 Mitigation Requirements.*

*(a) The applicant shall avoid all impacts that degrade the functions and values of a critical area or areas. Unless otherwise provided in this chapter, if alteration to the critical area is unavoidable, all adverse impacts to or from critical areas and buffers resulting from a development proposal or alteration shall be mitigated using the best available science in accordance with an approved critical area report and SEPA documents, so as to result in no net loss of critical area functions and values.*

*(b) Mitigation shall be in-kind and on-site, when possible, and sufficient to maintain the functions and values of the critical area, and to prevent risk from a hazard posed by a critical area.*

*(c) Mitigation shall not be implemented until after County approval of a critical area report that includes a mitigation plan, and mitigation shall be in accordance with the provisions of the approved critical area report. [Ord. 609 (2018) § 22]*

**Response:**

The Applicant will employ a suite of measures, including actions to avoid, minimize, and mitigate impacts and thus maintain the functions and values of critical areas. During construction, mitigation actions and best management practices will be implemented, such as revegetating disturbed soils to minimize erosion/runoff, and implementing an ESCP, SWPPP, and Vegetation and Weed Management Plan. Summaries of mitigation measures are provided in Part 2, Section A.5, and Part 4, Sections 4.1, 4.3, 4.5, 4.8, and 4.9 of the ASC, which include the avoidance of impacts to critical areas to the extent possible and follows the mitigation sequencing specified in BCC 15.02.220. Additionally, as described in more detail in the response to BCC 15.14.030 below, the Draft Habitat Management Plan (Attachment M) provides a framework for determining the compensatory mitigation required to achieve “no net loss.” Therefore, the Project will comply with BCC 15.02.210.

*15.02.220 Mitigation Sequencing.*

*Applicants shall demonstrate that all reasonable efforts have been examined with the intent to avoid and minimize impacts to critical areas. When an alteration to a critical area is*

*proposed, such alteration shall be avoided, minimized, or compensated for in the following sequential order of preference:*

*(a) Avoiding the impact altogether by not taking a certain action or parts of an action;*

*(b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps, such as project redesign, relocation, or timing, to avoid or reduce impacts;*

*(c) Rectifying the impact to wetlands, critical aquifer recharge areas, frequently flooded areas, and habitat conservation areas by repairing, rehabilitating, or restoring the affected environment to the historical conditions or the conditions existing at the time of the initiation of the project;*

*(d) Minimizing or eliminating the hazard by restoring or stabilizing the hazard area through engineered or other methods;*

*(e) Reducing or eliminating the impact or hazard over time by preservation and maintenance operations during the life of the action;*

*(f) Compensating for the impact to wetlands, critical aquifer recharge areas, frequently flooded areas, and habitat conservation areas by replacing, enhancing, or providing substitute resources or environments; and*

*(g) Monitoring the hazard or other required mitigation and taking remedial action when necessary.*

*Mitigation for individual actions may include a combination of the above measures. [Ord. 609 (2018) § 23]*

**Response:**

The mitigation measures summarized in Part 2, Section A.5 and Part 4, Sections 4.1, 4.3, 4.5, 4.8, and 4.9 of the ASC, as well as in the Draft Habitat Management Plan (Attachment M), follow the sequencing described in BCC 15.02.220. Impacts will be avoided where possible. When avoidance is not possible, impacts will be minimized and rectified through repair, rehabilitation, or restoration, preserved and maintained through Project operations, and mitigated. Therefore, the Project will comply with BCC 15.02.220.

**3.5.2 Chapter 15.04 BCC Wetlands**

*15.04.010 Designation, Rating, and Mapping Wetlands*

*(a) Designating Wetlands. Wetlands are those areas, designated in accordance with WAC 173-22-035 and the Federal Wetlands Delineation Manual (1987, as now existing and hereafter amended) that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation adapted for life in saturated soil conditions. All areas meeting the wetland designation criteria in the Federal Wetlands Delineation Manual and*

*applicable regional supplements, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this chapter.*

*(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 Project Area. A wetland and waters delineation was conducted for the full Project area, including field investigations conducted from March 15 to 18, and October 4 to 5, 2021. The surveys were conducted by a qualified biologist/wetlands specialist in accordance with the U.S. Army Corps of Engineers Wetland Delineation Manual and regional supplement for the arid west (USACE 1987, 2008). Three wetlands were found within the Project Area, all the result of leaks in an irrigation pipeline adjacent to a farm road. The only surface water features within the Project Area are ephemeral streams (i.e., no intermittent or perennial streams); a total of 34 ephemeral stream segments were identified during field surveys. None of the ephemeral stream segments are fish-bearing and all of these ephemeral streams lack connectivity to other intermittent, perennial, or fish-bearing streams (Part 4, Section 4.3 of the streamlined solar ASC). See ASC Attachment I (Wetland Delineation Report) for a detailed description of wetland and water determination methods and results, including maps. The Applicant has provided all required components identified in BCC 15.04.030 in the streamlined ASC Part 3, Section 3, and Part 4, Section 4.3, and in Attachment I (Wetland Delineation Report). Because there are no impacts proposed within wetlands or wetland buffers, no wetlands mitigation is required. Therefore, the Project 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:**

The Project has applied wetland and stream buffer widths as defined in BCC 15.14.040. BCC 15.14.040 requires 50-foot buffers on Non-Fish Seasonal (Ns) streams without adjacent slopes of 10 percent or greater and 100-foot buffers on all Ns streams with adjacent slopes of 10 percent or greater. All of the streams within the Project area are considered Ns pending confirmation of the wetland delineation by the Washington State Department of Ecology (ASC Attachment I). The Project has been designed to avoid wetlands, and no wetland or wetland buffers impacts (temporary or permanent) will occur. For ephemeral streams anticipated to be impacted by the Project's final design, the Applicant has prepared a Joint Aquatic Resources Permit Application (JARPA) (ASC Attachment T) to submit with the ASC. The Applicant understands that WDFW will

make a determination on whether a Hydraulic Project Approval (HPA) is required on the basis of a review of this application and determine if mitigation is required. Therefore, the Project complies with BCC 15.04.040.

### **3.5.3 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 exists or may hereinafter 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 to high susceptibility, which are hereby 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 and field surveys. See Part 4, Section 4.5 of the streamlined ASC and Attachment E (Preliminary Geotechnical Report), Attachment I (Wetland Delineation Report), and Attachment K (Preliminary Hydrology Report) for additional details. Based on available County data, the Project area contains areas of high and moderate susceptibility

in the form of 100-year flood zone, combined hydrologic soil group A and irrigated agriculture, as well as alluvial soil. See Part 4, Section 4.5 of the streamlined ASC and Attachment E (Preliminary Geotechnical Report), Attachment I (Wetland Delineation Report), and Attachment K (Preliminary Hydrology Report) for additional details. Therefore, Chapter 15.06 applies to the Project.

*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 Project does not propose to conduct any of the activities identified in BCC 15.06.030 within a critical aquifer recharge area. The proposed on-site septic system that will be located at the O&M building does not overlap with any critical aquifer recharge area per BCC 15.06.010, and is mapped per BCC 15.06.020. Although a critical areas report is not required per BCC 15.06.030, the streamlined solar ASC and attachments provide all of the requirements in BCC 15.06.040 for a critical area report for this resource. Therefore, the Project 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 all of the elements required in BCC 15.06.040. The detailed narrative, site plan, and hydrogeological elements are included in Part 4.5 of the ASC and Attachment E (Preliminary Geotechnical Report), which were prepared by qualified professionals. Therefore, the Project 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 4, and Part 4, Section 4.5 of the ASC, Project activities are not expected to impact aquifers. No groundwater was encountered across the Project site during geotechnical investigations, and static groundwater levels in nearby water well logs are reported to vary from 65 to 429 feet (see Attachment E, Preliminary Geotechnical Report). Options for sourcing construction water include obtaining water from an existing on-site well with a valid water right (to be verified in coordination with the Washington State Department of Ecology) or purchasing water from a permitted off-site source (i.e., municipal water source or vendor with a valid water right). Water use for Project operations will either be obtained from an existing on-site well with a valid water right, hauled to the site from off-site sources with existing water rights (i.e., a municipal water source or vendor with a valid water right), or obtained through a new permit-exempt groundwater well. If a new well is proposed, it will comply with RCW 90.44.050 and related requirements. Therefore, the Project complies with BCC 15.06.050.

***3.5.4 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 Project's compliance with Benton County's Flood Damage Prevention Ordinance is described in Section 3.1.2. There is one mapped Zone A (100-year floodplain) associated with the named ephemeral stream, Dry Creek, which crosses through the northern portion of the Project Area. The transmission line will span Dry Creek and associated 100-year floodplain, which is located between the Project substation and the POI. A temporary 50-foot-wide access corridor across the floodplain will be used during construction of the overhead line. To minimize impacts to this area, only vehicles equipped to carry the transmission wires (conductor, shield wire, etc.) and matting will be allowed. See Part 4, Section 4.3 for the full extent of waterbodies and floodplains within the Project Area, details of the methods used to confirm the extent of waterbodies within the Project Area (based on the wetland delineation), description of the impacts the Project will have on ephemeral waterbodies and floodplains, and the proposed mitigation strategies that will be implemented. The Project will obtain a Special Flood Hazard Development Permit from Benton County for the proposed transmission line construction corridor.

**3.5.5 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 Project Area, and results are summarized in Part 4, Section 4.1 of the ASC. As mapped, geologically hazardous areas are present with the Project Area, and the Applicant has completed additional investigations as due diligence to inform Project design, described in the response below. Therefore, Chapter 15.12 applies to review of the proposed Project.



*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:**

Portions of the Project Area are mapped by Benton County as geologically hazardous areas, including areas of combined erosion hazard and steep slopes greater than 15 percent, moderate to high liquefaction, and alluvial fan intermediate risk. The Applicant has prepared a Preliminary Geotechnical Report that describes the geology, soils, topography, and existing erosion patterns of the Project Area (Attachment S). The Preliminary Geotechnical Report provides information regarding geologic hazards that may affect the Project, including seismic hazards (e.g., ground shaking, surface fault rupture, soil liquefaction, and other secondary earthquake-related hazards), slope instability, flooding, ground subsidence, collapsible soils, corrosive soils, and erosion. Part 4, Section 4.1 of the ASC and associated figures in ASC Attachment A describes the geological and soil conditions within the Project Area, including any geologically hazardous area designated by Benton County as critical areas, impacts to the Project associated with potential geological hazards, and mitigation strategies that will be implemented to minimize the risks associated with these areas. Prior to construction, an updated geotechnical engineering report will be developed based on near-final design to ensure that the final Project design incorporates all 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 Project will comply with BCC Chapter 15.12.

**3.5.6 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 Project Area includes fish and wildlife habitat conservation areas (FWHCAs) as identified through desktop and field survey information (see below) consistent with BCC 15.14.010 and 15.14.020. The Project will include disturbance in areas considered FWHCAs as defined by the Critical Areas Ordinance. Impacts to FWHCAs are described in ASC Part 4, Section 4.3, Section 4.8, and Section 4.9, along with the supporting Wetland Delineation Report (ASC Attachment I), Habitat and General Wildlife Survey Report (ASC Attachment G), and Botanical Survey Report (ASC Attachment F). Further, the Draft Habitat Management Plan (ASC Attachment M) addresses mitigation for impacts to FWHCAs. Therefore, Chapter 15.14 applies to the Project.

*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 Draft Habitat Management Plan (Attachment M) has been prepared for the Project 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 2, Section A.5; Part 4, Section 4.9; and Attachment M).

The Draft Habitat Management Plan (ASC Attachment M) addresses Project monitoring and reporting 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 Project (see Sections 7.2 and 7.5 of ASC Attachment M). These 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 Draft 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 Management Plan prior to construction, as a condition of approval. The Final Habitat Management Plan will be based on final Project 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 being submitted in electronic format to EFSEC. The Applicant will provide related geographic information system data to EFSEC upon request. Therefore, the Project 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 Project facilities and their relationship to habitat conservation areas are included in the Wetland Delineation Report (ASC Attachment I), Habitat and General Wildlife Survey Report (ASC Attachment G), and Botanical Survey Report (ASC Attachment F). The Project has applied wetland and stream buffer widths as defined in BCC 15.14.040. The Project has been designed to avoid wetlands, and no wetland or wetland buffers impacts (temporary or permanent) are proposed in the current Project layout. For ephemeral streams anticipated to be impacted by the Project's final design, the Applicant has prepared a Joint Aquatic Resources Permit Application (JARPA) (ASC Attachment T) to submit with the ASC. The Applicant understands that WDFW will

make a determination on whether a HPA is required on the basis of a review of this application and determine if mitigation is required. For the above reasons, the Project 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**

# Wautoma Solar

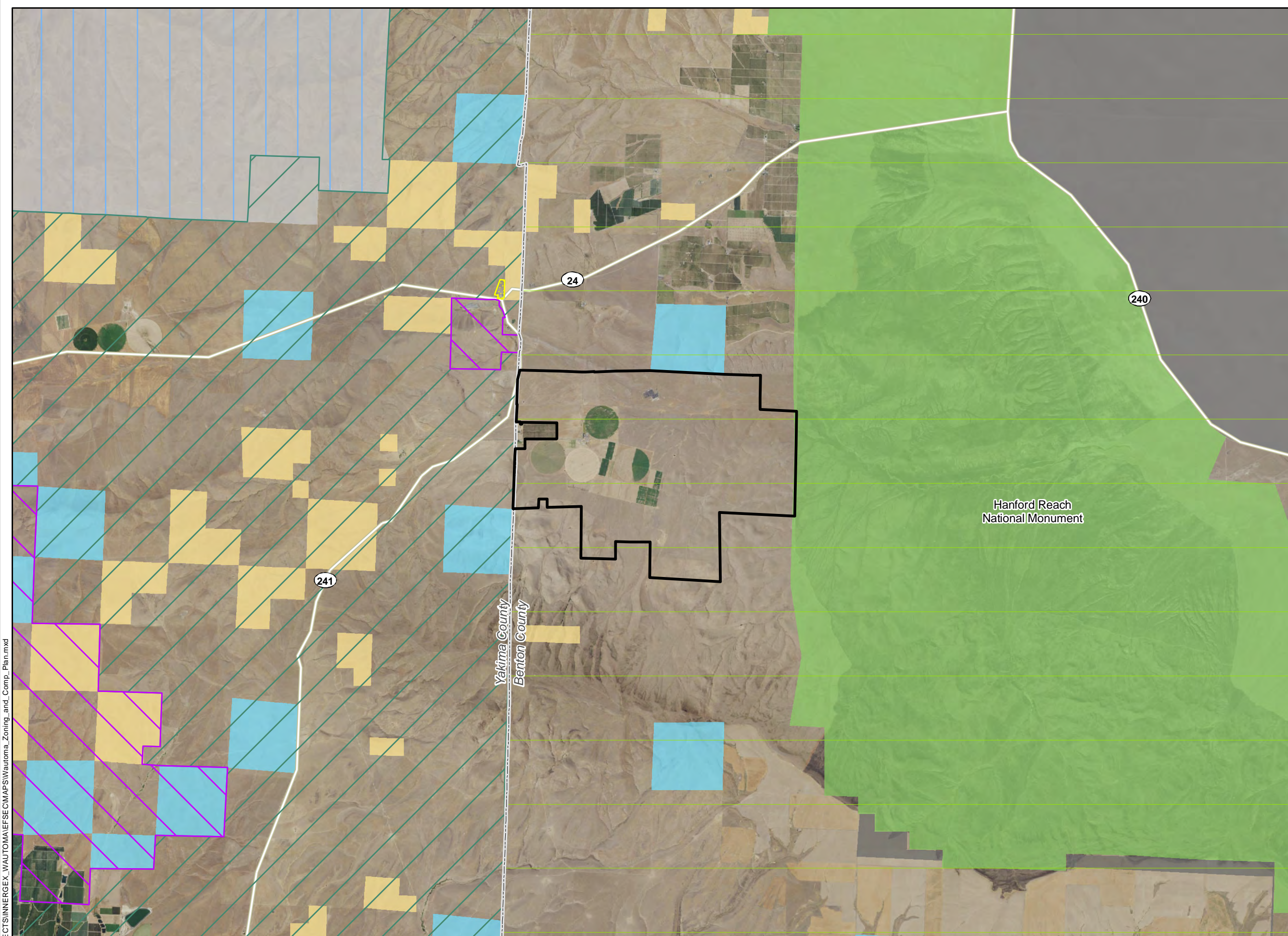
Figure 1.  
Zoning and Comprehensive  
Plan Designation

BENTON AND YAKIMA COUNTIES, WA

- Project Lease Boundary
- County Boundary
- Benton County Zoning
  - GMAAD/GMA Agriculture
- Yakima County Zoning
  - Agriculture
  - Federal/Yakima Training Center
  - Highway Commercial
  - Remote/Limited Development
- Land Ownership
  - BLM
  - DOD
  - DOE
  - USFWS
  - WADNR

INNERGEX TETRA TECH

Reference Map















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# Wautoma Solar

## Figure 2. WSDA Cropland Data

BENTON AND YAKIMA COUNTIES, WA

-  Project Lease Boundary
-  Project Area
-  Project Area 5-mile Buffer
-  County Boundary
-  2021 Habitat Survey Mapped Agriculture
-  CRP Land
- WSDA 2021 Cropland Data**
-  Cereal Grain
-  Hay/Silage
-  Orchard
-  Pasture
-  Vineyard
-  Other

**INNERGEX**

**TETRA TECH**

Reference Map



R:\PROJECTS\INNERGEX\_WAUTOMA\FIG2\CIMAPS\Wautoma\_WSDA\_Cropland.mxd



1:85,000

NAD 1983 UTM Zone 11N










0 1 2 4 Miles

NOT FOR CONSTRUCTION

# Wautoma Solar

## Figure 3. Prime Farmland

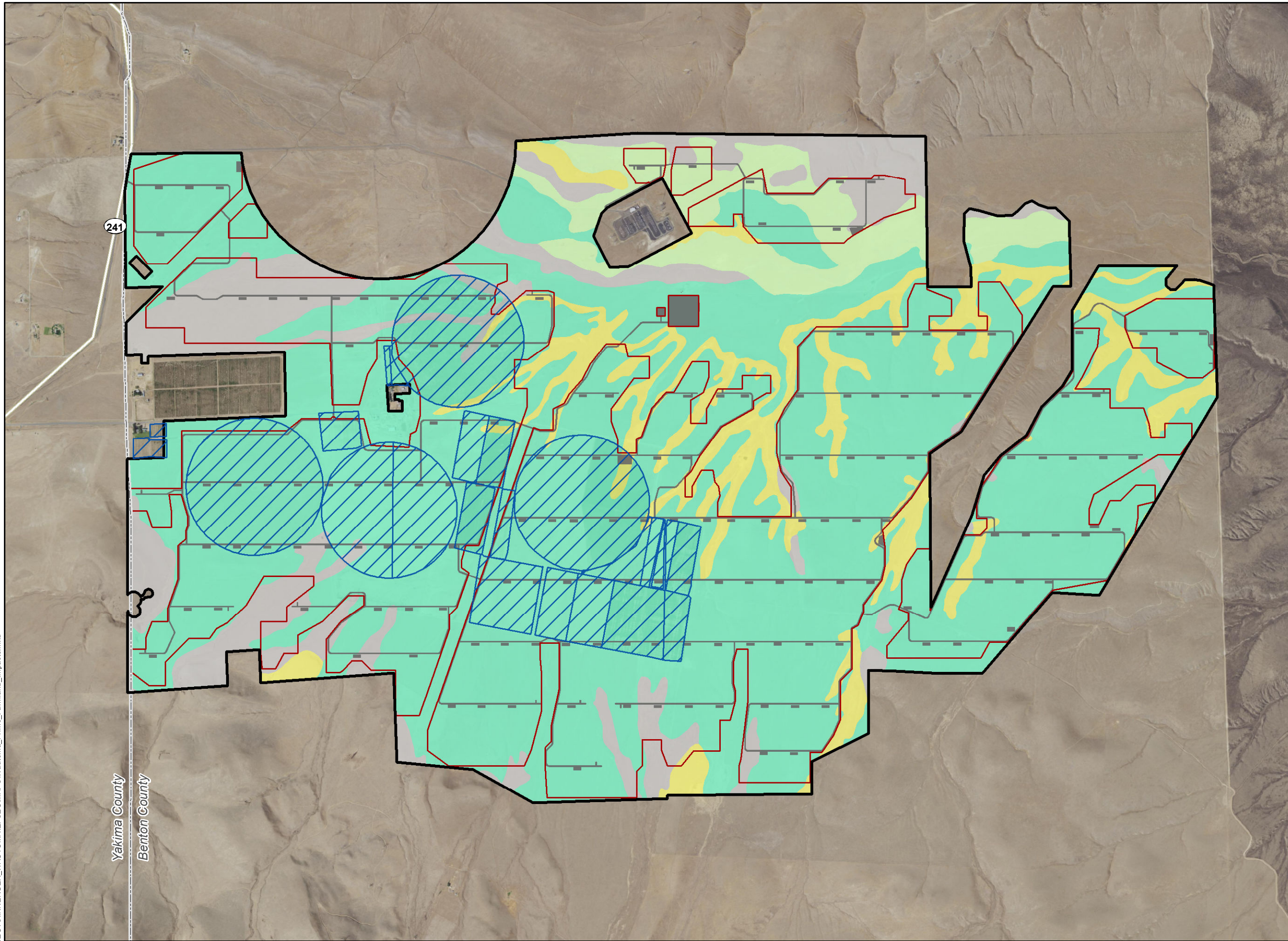
BENTON AND YAKIMA COUNTIES, WA

-  Project Area
-  Fenceline
-  Permanent Impacts
-  County Boundary
- NRCS Farmland Classification**
-  Prime farmland if irrigated
-  Farmland of statewide importance
-  Farmland of unique importance
-  Not prime farmland
- WSDA 2021 Cropland Data**
-  Irrigated

INNERGEX

TETRA TECH

Reference Map



R:\PROJECTS\INNERGEX\_WAUTOMA\IEF\SEC\MAPS\Wautoma\_Prime\_Farmland\_Impacts.mxd



1:22,000

NAD 1983 StatePlane Washington South FIPS 4602 Feet

0 0.25 0.5 1 Miles

NOT FOR CONSTRUCTION

Yakima County  
Benton County