ATTACHMENT D: LAND USE CONSISTENCY REVIEW

Land Use Consistency Review

Hop Hill Solar and Storage Project

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Acronyms and Abbreviations

AC	alternating current
ADT	average daily traffic
Applicant	HOHI bn, LLC, a subsidiary of BNC DEVCO, LLC, a joint venture between BrightNight and Cordelio Power
ASC	Application for Site Certification
BCC	Benton County Code
BESS	battery energy storage system
BMP	best management practice
BPA	Bonneville Power Administration
CETA	Clean Energy Transformation Act
Comprehensive Plan	Benton County Comprehensive Plan
County	Benton County
CUP	conditional use permit
DC	direct current
DNR	Washington Department of Natural Resources
DOE	U.S. Department of Energy
EFSEC	Energy Facility Site Evaluation Council
ESCP	Erosion and Sediment Control Plan
FWHCA	fish and wildlife habitat conservation area
gen-tie line	generation-tie transmission line
GMA	Growth Management Act
GMA/AG	Growth Management Act / Agriculture
GMAAD	Growth Management Act Agricultural District
HPA	Hydraulic Project Approval
I	Interstate
kV	kilovolt
JARPA	Joint Aquatic Resources Permit Application
MW	megawatt
NEPA	National Environmental Policy Act
NFPA	National Fire Protection Association
NRCS	Natural Resources Conservation Service

Ns	Non-Fish Seasonal
O&M	operations and maintenance
OA	Ordinance Amendment
POI	point of interconnection
Project	Hop Hill Solar and Storage Project
PV	photovoltaic
RCW	Revised Code of Washington
SCA	Site Certification Agreement
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
WSDA	Washington State Department of Agriculture

1.0 INTRODUCTION

HOHI bn, LLC (Applicant), a subsidiary of BNC DEVCO, LLC, which is a joint venture between BrightNight, LLC and Cordelio Power, proposes to construct and operate the Hop Hill Solar and Storage Project (Project) located in unincorporated Benton County (County), Washington (Figure 1). The Project is an up to 500-megawatt (MW) solar photovoltaic (PV) generation facility coupled with an up to 500-MW battery energy storage system (BESS), as well as related interconnection and ancillary support infrastructure.

The Applicant elects to seek Project approval from the Governor upon a favorable recommendation of a Site Certification Agreement (SCA) by Washington State's Energy Facility Site Evaluation Council (EFSEC). Under Revised Code of Washington (RCW) 80.50.040, RCW 80.50.110, and Washington Administrative Code (WAC) 463-28, EFSEC may recommend to the Governor to permit and authorize an energy generation facility with appropriate consideration of the Project's consistency with the County's land use regulations. In this scenario, the EFSEC review process takes the place of the County review process. As such, this Land Use Consistency Review supports the Applicant's streamlined solar Application for Site Certification (ASC) and demonstrates Project compliance with applicable provisions of the Benton County Code (BCC; Benton County 2022a), the inclusion of mitigation measures derived from the BCC, and consistency with applicable goals and policies of the Benton County Comprehensive Plan (Comprehensive Plan) pursuant to WAC 463-26-050. This Land Use Consistency Review cross-references other sections of the Applicant's streamlined solar ASC, reports, and supporting studies for further analysis and documentation in demonstrating compliance and consistency with the BCC and Comprehensive Plan, respectively.

1.1 Project Purpose

The Applicant used the following four goals to site, develop, and design the Project:

- **Low Cost Reliable Energy**: Deliver low cost and dispatchable renewable energy near the Columbia River's Northwest hub to complement existing hydroelectric and nuclear resources and help meet the region's growing electrical needs.
- **Avoid Expensive and Lengthy Infrastructure Projects**: Utilize existing electrical infrastructure more wisely to reduce customer energy costs, minimize the need to build large new transmission lines throughout the region, and deliver energy to end customers in the near term instead of waiting for 10 to –15 -years for transmission projects to be built.
- **Minimizing Natural Resource Impacts while Maximizing Community Benefits**: Build on non-irrigated low productivity disturbed grazing land outside of high value habitat areas while generating long-term economic benefits.
- **Maintain Productive Nature of Land**: Construct a project that helps create a new standard for Washington solar energy in which PV generation and agricultural production can work in concert with each other instead of conflict.

In addition, Washington passed Senate Bill 5116, the Clean Energy Transformation Act (CETA) codified at RCW 19.405 in 2019, which requires state utilities to meet 100 percent of their load with carbon-free

resources by 2045. The Project aligns with and will contribute to Washington state's clean energy goals.

1.2 Project Area

The Project is generally located approximately 11 miles north of the city of Prosser and 7 miles east of the State Route (SR) 241 and SR 82 interchange and the city of Sunnyside in Benton County, Washington. The Applicant proposes to construct and operate the Project located in unincorporated Benton County, Washington (Figure A-2 in Attachment A of the streamlined solar ASC).

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

- **Siting Area**: The approximately 22,020-acre area that encompasses the boundaries of 58 assessor parcels for which the Applicant has executed or is pursuing Lease or Easement Option Agreements with the underlying property owner (Attachment A, Figure A-1 and Attachment B). Construction and operation of the Project are limited to the smaller Project Area described below and shown on Figure A-2 in Attachment A.
- **Solar Array Siting Area:** This is a subset of the "Siting Area" described above. The Solar Array Siting Area is the approximately 11,179-acre buildable area encompassed by the boundaries of 21 privately owned assessor parcels within the Siting Area. The Solar Array Siting Area is the focus of analysis provided in this ASC. The Applicant is requesting flexibility to microsite the Project and its associated supporting components anywhere within the Solar Array Siting Area so long as the final layout does not exceed the Solar Array Siting Area evaluated in this ASC and allowed for in the SCA. The Solar Array Siting Area is also the field survey area for many of the resource-specific surveys conducted in preparation of this ASC.
- **Transmission Line Corridor Siting Area:** This area is a subset of the "Siting Area" described above. The Project's overhead 230-kV / 500-kV generation-tie transmission line (gen-tie line), approximately 150-foot-wide gen-tie line corridor, three point of interconnection (POI) options, and two switchyard options are within the Transmission Line Corridor Siting Area. The Project will use up to two POI and switchyard options depending on the outcome of the Applicant's interconnection studies with the Bonneville Power Administration (BPA). These interconnection facilities will be located along the proposed gen-tie routes and the final design will be located within the approximately 340-acre 150-foot-wide gen-tie line corridor that occurs within the approximately 10,841-acre Transmission Line Corridor Siting Area. The Transmission Line Corridor Siting Area includes additional area along the gen-tie line corridor to accommodate siting flexibility for development of the final POI and selected switchyard option(s). The Transmission Line Corridor Siting Area is larger than the Project's anticipated final developed footprint to allow for minor rerouting and optimization of the overhead 230-kV / 500-kV gen-tie line at final design.
- **Project Area:** This area is a subset of the "Solar Array Siting Area" and "Transmission Line Corridor Siting Area" described above, and includes up to approximately 6,000 acres where the solar array and associated supporting components, which incorporate the overhead 230-kV / 500-kV gen-tie line, will be sited during final engineering design. The Applicant is

considering various solar array design layouts within the Project Area and the final design of the solar array and associated supporting components will not exceed approximately 6,000 acres. The Project Area may shift within the Solar Array Siting Area to allow for site optimization of the final design.

Existing land uses in the Siting 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 Siting Area are similar and also interspersed with rural residences, rangelands, state highways, and the U.S. Department of Energy (DOE) property (Hanford Reach National Monument) to the east. Private lands within the Siting Area and adjacent lands (with the exception of federal property to the east) are in the County's Comprehensive Plan GMA AG land use designation and zoned within the Growth Management Act Agricultural District (GMAAD) (Figure 1).

1.3 Project Overview

The Project's solar PV system will consist of solar panels, tracker racking system, posts, collector lines, and power conversion systems, which consist of the direct current- (DC-) coupled BESS, inverters, and transformers. The DC-coupled BESS can either store 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. Part 2, Section A.2.a of the ASC describes the solar PV system in more detail.

The Project also includes the following supporting components: Project substation, three overhead 230-kilovolt (kV) or 500-kV generation-tie transmission line (gen-tie line) options, operations and maintenance (O&M) building, associated Project access roads, and perimeter security fencing. Fencing will be installed around the perimeter of the solar array, Project substation, and BESS.

There are three possible options for the POI:

- **Option 1 POI**: An approximately 17.8-mile-long overhead 230-kV or 500-kV transmission line will extend from the Project collector substation to the POI with the existing BPA transmission system at the BPA Midway Substation, which is located on BPA federal DOE lands. Interconnection to a BPA transmission system is subject to review under the National Environmental Policy Act (NEPA). BPA will lead this process as a separate action from the site certification process. This federal process is not within the jurisdiction of EFSEC and is not addressed in this ASC.
- **Option 2 POI**: An approximately 15-mile-long overhead 230-kV or 500-kV transmission line will extend from the Project collector substation to the POI with the existing BPA transmission system through a transmission line interconnection southwest of the Midway substation. Interconnection to a BPA transmission system is subject to review under NEPA. BPA will lead this process as a separate action from the site certification process. This federal process is not within the jurisdiction of EFSEC and is not addressed in this ASC.
- **Option 3 POI**: An approximately 11.2-mile-long overhead 230-kV or 500-kV transmission line will extend from the Project collector substation to the POI with the existing BPA transmission

system through a transmission line interconnection northeast of the Wautoma substation. Interconnection to a BPA transmission system is subject to review under NEPA. Either the BPA or the DOE will lead this process as a separate action from the site certification process. This federal process is not within the jurisdiction of EFSEC and is not addressed in this ASC.

A preliminary transmission line alignment is shown on Figure A-2 in Attachment A of the ASC. Project-supporting components are further described in Part 2, Section A.2.a of the ASC. As described above and in the ASC, the Transmission Line Corridor Siting Area includes the entirety of parcels along the gen-tie line corridor to accommodate siting flexibility for development of the final POI and selected switchyard option(s). The Transmission Line Corridor Siting Area is larger than the Project's anticipated final developed footprint to allow for minor rerouting and optimization of the overhead 230-kV / 500-kV gen-tie line at final design.

The Applicant is also considering various design layouts within the Solar Array Siting 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 temporary and permanent disturbance area within the Solar Array Siting Area. While the final Project design is not anticipated to disturb the entire Solar Array Siting Area, the entire Solar Array Siting Area is evaluated through a combination of desktop and field surveys to allow for design flexibility. For these reasons, the Applicant is requesting flexibility to microsite[1] the Project and its associated supporting components anywhere within the Solar Array Siting Area, provided the final layout does not exceed the Solar Array Siting Area evaluated in this ASC and allowed for in the SCA.

The Project's construction is anticipated to begin as early as the first quarter of 2024, with a Commercial Operations Date planned for the last quarter of 2025 (24-month construction schedule).

1.4 Regulatory Context

The Project is located entirely on land zoned GMAAD by the BCC (Benton County 2022a) (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 defined in BCC 11.03.010(167), "Solar Power Generator Facility, Major" means the use of solar panels to convert sunlight directly or indirectly into electricity. Solar power generators consist of solar panels, charge controllers, inverters, working fluid system, and storage batteries. Major facilities are developed as the primary land use for a parcel on which it is located and does not meet the siting criteria for a minor facility in BCC 11.03.010(168). The following provides a summary of regulatory shifts and current status of Benton County zoning as of this streamlined solar ASC submittal.

[1] Micrositing is the process of placing facilities (such as solar panels) in locations that achieve optimal power production while considering land constraints such as but not limited to terrain, geologic considerations, cultural resources, and sensitive environmental areas.

1.4.1 Previous Benton County Code and Applicant's Engagement with Benton County

As detailed below, the Applicant initially submitted a conditional use permit (CUP) application for the Project to the Benton County Community Development Department on December 20, 2021. At the time the Project CUP application was submitted, "solar power generation facility, major" was listed as a conditionally allowed use requiring a CUP in the GMAAD BCC 11.17.07(cc). On December 21, 2021, Benton County passed Ordinance Amendment (OA) 2021-004, which, among other changes, removed "solar power generation facility, major" from the list of uses requiring a CUP in the GMAAD zone and therefore prohibits this type of use in the GMAAD.

In the fall of 2021, the Applicant began early development of the Hop Hill Project with the goal of siting a project that best utilized existing electrical infrastructure in the region while avoiding and minimizing the potential for negative impacts of development on the Project's community. Through local outreach, transmission studies, and a critical issue analysis, the Applicant narrowed down the location to a site in Benton County that not only achieved its primary goals but was consistent with local land use laws.

During the development process, the Applicant utilized the Benton County zoning code and corresponded with the County over the phone to confirm the CUP requirements and criteria for building the Hop Hill Project on GMAAD-zoned land. In early November 2021, the Applicant learned that a Benton County hearing was scheduled to recommend the County's adoption of Ordinance No. 640, effectively prohibiting utility scale solar generation facilities in Benton County. The County stated the reason for this action was that the current CUP process allowing renewable development on GMAAD-zoned land conflicted with state law and exposed the County to "potential lawsuits."

The Applicant participated and testified in the November hearing along with other solar businesses, trade groups, and citizens of Benton County. In general, the public testimony was focused on issues with wind development in the County, while there was significant support for solar as a continued approved land use. Despite the positive testimony for solar as an approved use, the Planning Board by split vote recommended adoption of Ordinance No. 640 to the County Commissioners.

The Applicant strives to work within local county and city land development processes as this often allows the Applicant to address local concerns and project benefits more directly, enhancing the partnership with the project's main stakeholders. To further this aim, on December 20, 2021, the Applicant filed a CUP application with the Benton County Community Development Department. The Applicant had performed due diligence, field surveys, and engineering work on the Project since early that year, providing all the information that was required to start the CUP process with Benton County and thus allowing the Applicant the opportunity to work directly with Benton County.

On December 30, 2021, Benton County issued a determination finding that the CUP application was incomplete. This determination was issued around a week after the County's adoption of Ordinance No. 640 prohibiting utility-scale solar generation facilities. This determination was based on a number

of factors which, in the view of the Applicant, were technical matters typically resolved through an open and reasonable application process.[2]

The County issued a Written Determination of Incomplete Application to the Applicant on December 30, 2021. In their December 30, 2021 letter, the County stated that although the Applicant submitted the CUP application on December 20, 2021, because the application was deemed incomplete, the County indicated that it "most likely will be determined to be subject to the terms of Ordinance No. 640."

On March 29, 2022, the Applicant submitted a revised application with Benton County. The revised application most significantly included a reordering of information from the initial application into different separate reports as requested by the County. The County responded to this information as follows:

> "The County has determined that the application you submitted on March 29, 2022, meets the requirements in BCC 17.10.090(b) for a complete application. It can now be processed and set for a hearing by the Hearings Examiner.
>
> Because your complete application was not submitted until March 29, 2022, your conditional use permit application **is subject to County Ordinance No. 640, which went into effect on December 21, 2021. Under that ordinance all Solar Power Generator Facility, Major facilities are not allowed by conditional use permit or otherwise within the Growth Management Agricultural District (GMMAAD)**." (Emphases in original).

Having acknowledged that the Applicant had submitted a complete application, on July 12, 2022 the Benton County Community Development Department notified the Applicant that it would issue a Notice of Application and a State Environmental Policy Act (SEPA) threshold determination, notwithstanding the fact that the Applicant indicated its intent to submit an ASC with EFSEC with consideration to the suggestion to do so by Benton County. On July 25, 2022, the County issued a SEPA Determination of Significance.

On August 17, 2022, the Applicant reiterated to the County that it would follow the County's previous recommendation that the Project be permitted through EFSEC per Benton County staff suggestion and despite the Applicant's preference to work directly with Benton County, to which the Applicant remained open. On September 9, 2022, the Applicant's legal counsel advised the County that the Applicant would be seeking permits through EFSEC, that the Applicant would not bear the costs of a

[2] RCW 36.70B.070 imposes requirements on local government to constructively engage with land use applicants toward the goal of enabling the determination of completeness. Specifically, RCW 36.70B.070(2) provides the following:

> *(2) A project permit application is complete for purposes of this section when it meets the procedural submission requirements of the local government and is sufficient for continued processing even though additional information may be required or project modifications may be undertaken subsequently. The determination of completeness shall not preclude the local government from requesting additional information or studies either at the time of the notice of completeness or subsequently if new information is required or substantial changes in the proposed action occur.*

Contrary to Benton County's determination, the "incomplete" information was the kind typically submitted in Washington for the purpose of a reasonable and informed engagement with permitting agencies in a land use application.

County SEPA EIS process, and encouraged the County to work directly with EFSEC in reviewing the ASC. On October 11, 2022, Benton County terminated the local CUP application.

The Applicant submitted its CUP application for a solar power generation facility (major) prior to the County's amendment to the GMAAD, and therefore argues the prior standards allowing a "solar power generator facility, major" in the GMAAD remain applicable. 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.

The siting of energy facilities in Washington may be considered under RCW 80.50.110, which governs and supersedes other laws or regulations. Nevertheless, this Land Use Consistency Review demonstrates Project consistency with the BCC and Comprehensive Plan. While the Applicant is seeking preemption for the reasons discussed herein, it respectfully requests that the EFSEC preempt applicable Benton County land use plans and zoning ordinances pursuant to WAC 463-26-050 that were adopted to thwart renewable energy facilities and recommend to the Governor the approval of an SCA conditioned to preserve the goals and values of Benton County.

1.4.2 Benton County Ordinance Amending GMA Agricultural District

As described above, the Benton County Board of County Commissioners adopted OA 2021-004 on December 21, 2021, which 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 was an allowed use upon receipt of a CUP in the GMAAD per BCC 11.17.07(cc).

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 private landowners, solar energy developers including the Applicant, and advocacy groups in support of allowing solar development to occur on agricultural lands (Benton County 2021a and 2021b). As is noted in the testimony audio and minutes from the two hearings, there was extensive discussion between those providing testimony and the Commissioners about the various ways in which solar energy projects may in fact be a compatible use with agriculture when reviewed on a case-by-case basis. Testimony and discussion included the topics of landowner rights and the highest and best use of private land, local economic benefits, 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. 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 would not be in compliance with BCC 11.17 after the passage of OA 2021-004 if applicable, the Applicant submitted its CUP prior to the effective date of OA 2021-004 and further demonstrates below in Sections 2.0 and 3.0 how the Project is substantially consistent with the applicable standards of the BCC and Comprehensive Plan. Furthermore, 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 (BMPs), and mitigation measures are compatible with these stated goals for protection of the GMAAD. For the reasons described herein, and based on RCW 80.50.110, the Applicant requests preemption of the local land use regulations under WAC 463-28-020.

1.5 Energy Facility Site Evaluation Council Review

As discussed above in Section 1.0, the Applicant has now elected to seek Project approval under the jurisdiction of Washington EFSEC. As such, the EFSEC SCA process takes the place of the County review process. Pursuant to RCW 80.50.040, RCW 80.50.110, and WAC 463-28, EFSEC may recommend that the Governor permit and authorize an energy generation facility with appropriate consideration of the Project's consistency with the Benton County land use regulations. This attachment supports the land use analysis in Part 4, Section 4.14 of the ASC and has been prepared to address applicable BCC provisions (Benton County 2022a, as specified below) and Comprehensive Plan goals and policies (Benton County 2022b). The Project is substantially consistent with local land use policies and regulations adopted prior to December 21, 2021 and as of the ASC submittal. As such, the Applicant respectfully requests the Council's recommendation that the Governor approve a conditioned SCA for the Project that is consistent with RCW Ch. 80.50.

2.0 CONSISTENCY WITH BENTON COUNTY COMPREHENSIVE PLAN GOALS AND POLICIES

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

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:

As shown on Figure 1, 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 an allowed conditional use at the time of CUP application filing 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 approximately 0.9 percent of the 649,153 acres of land designated as GMAAD in the County (Benton County 2022b). The Project Area is a subset of the Solar Array Siting Area and Transmission Line Corridor Siting Area and includes the approximately 6,000-acre area where the solar array and associated supporting components will be sited during final engineering design. The Project's permanent disturbance within the Project Area is based on the Preliminary Site Plan provided in Attachment A, Figure A-2 of the ASC

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

and will occupy approximately 188 acres[4], or just under 0.03 percent of GMA Agricultural lands over the life of the Project. The Project's permanent disturbance is a small percentage of the total GMA Agricultural Lands and the Project is consistent with LU Goal 1, Policy 1 because it contributes to a mix of land uses that supports the rural character of the community.

The Applicant selected the Solar Array Siting Area following the four goals to site, develop, and design the Project identified in Section 1.1 and for its favorable site suitability characteristics, including high solar energy resource, topography, proximity to electrical infrastructure, minimal visual impact, compatibility with allowed uses on surrounding lands, and low resource conflicts. These siting characteristics maximize the Project's compatibility with existing development by taking advantage of existing electric infrastructure (i.e. existing BPA substations and transmission lines) and is therefore consistent with LU Goal 1, Policy 3.

Existing land uses in the Siting 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 Siting Area are similar and also include scattered rural residences, orchards, vineyards, rangelands, state highways, and the 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 to minimize contrast with land surrounding the Project Area. This will include measures such as using panels with anti-reflective coatings and revegetating temporarily impacted areas as analyzed in detail in Part 4, Section 16 of the ASC, and the accompanying Visual Resources Technical Report (ASC Attachment H) and Glint and Glare Analysis Memo (ASC Attachment G). As discussed in Part 3, Section 21 and Section 22 of the ASC, the Project will not have a significant adverse impact on existing public facilities or services. As discussed in Part 4, Section 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. The Applicant will implement and maintain the Project's Fire Protection Emergency Response Plan that includes BMPs for fire prevention and emergency response (see ASC Attachment R). The Applicant will also coordinate with Benton County Emergency Management and Washington Department of Natural Resources (DNR) Wildland Fire Management Division regarding potential fire issues such as locations and dimensions of access gates and internal access roads.

Following construction, the Project is anticipated to be operated and maintained by approximately five 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

[4] The 188-acre total includes solar array posts, power conversion system pads, Project service roads (24 feet wide), O&M structure, collector substation area, BESS area, gravel parking area, and overhead 230-kV line poles (4-foot diameter, 800 feet span length).

incorporates environmental best practices and will comply with state stormwater permitting requirements.

LU Goal 1, Policy 7 encourages "green infrastructure" in new development to address stormwater runoff. "Green infrastructure" is not defined in the Comprehensive Plan but is assumed to refer to stormwater management approaches that absorb stormwater where it falls and reduce stormwater flows to surface waters (EPA 2022). As stated above and throughout the ASC, the Project design incorporates environmental best practices and will comply 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 to the extent practicable. See ASC Part 3, Section 5, and Part 4, Section 5 for more details on the Project's stormwater design, which is consistent with environmental best practices, state stormwater permitting requirements for stormwater runoff, and encouraging green infrastructure under 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, including the residents and industrial businesses of Benton County, with 100 percent 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 Siting 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. Project landowners have the discretion to choose what resources will be the most profitable to harvest on their lands and create the most stable, predictable income—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. The increased income generated would allow Project landowners to inject these economic rewards back into their communities through further local spending and business investments. Approval of the Project will support the long-term economic sustainability of participating landowners and protect their private property rights to use their land in a compatible

manner, 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. Solar facilities are good neighbors that are safe, quiet, and odorless. They must manage vegetation well for their intended use, and require minimal activities for continuing operations. Therefore, they are not in conflict with agricultural activities but instead provide synergistic opportunities to enable continued livestock use. Regarding the Project's potential indirect impacts to surrounding agricultural activities such as dust, traffic, or spread of noxious weeds, BMPs, detailed further in Part 2 Section A.5 of the streamlined solar 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 approximately five operations employees. 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 Siting Area: The Project occurs entirely within the County's GMA Agricultural land use designation in the Comprehensive Plan (Figure 1). The Project Area represents approximately 0.9 percent of the 649,153 acres of lands in the GMA Agricultural designation (Benton County 2022b). The Project Area is a subset of the Solar Array Siting Area and Transmission Line Corridor Siting Area and includes the approximately 6,000-acre area where the solar array and associated supporting components will be sited during final engineering design. In addition, agricultural lands and renewable power generation often work together in harmony, with renewable

energy production allowing farmers across America to receive stable, predictable income while increasingly offering the ability of dual land use to either keep the land in agricultural use during Project operations through activities such as grazing or conserving the land for agricultural activities of the future, allowing it to lay fallow and rest during the temporary use of renewable power generation that can easily be decommissioned after the Project's useful life. The Applicant is pursuing the use of sheep grazing through a local grazing partnership to manage vegetation around the panel racking system whenever possible to maintain the productive agricultural nature of the Project Area. Within the Project Area, the Project's permanent disturbance based on the preliminary site plan provided in ASC Attachment A, Figure A-2 will occupy approximately 188 acres, or just under 0.03 percent of GMA Agricultural lands over the life of the Project. The permanent disturbance area includes roads, buildings, or other impervious surfaces identified in Part 2, Table B.2. The Project's anticipated permanent disturbance to mapped cropland is approximately 10 acres, or 0.002 percent of GMA Agricultural lands, which would be a small reduction of farmland used for crop and livestock production throughout Benton County (WSDA 2021, Figure 2). 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 BMPs, detailed further in Part 2 Section A.5 of the ASC. In addition, the Project will not preclude the ability of neighboring parcels to expand, purchase, or lease vacant land for agricultural purposes.

Approximately 2,992 acres (13 percent) of the Siting Area was mapped as cultivated agricultural lands per the Project's 2022 Wildlife and Habitat Study Report (ASC Attachment E, Table 2). Outside of these agricultural areas, approximately 18,988 acres (87 percent) of the Siting Area was mapped as herbaceous grassland and shrub-steppe. The remaining approximately 110 acres (<1 percent) of the Siting Area was mapped as developed, hay/pasture, barren land, and open water. Minimal agricultural-related structures (e.g., storage sheds, well house, etc.) occur in the Siting Area.

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

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

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

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

> *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 Siting Area contains several of the significance factors described in the Comprehensive Plan and quoted above, including parcel size, land use and settlement patterns, and prime farmlands. The Siting 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 Siting Area parcels are mostly large parcels (see ASC Attachment A, Figure A-1). Lands in the Siting Area have also historically been used for agricultural activities (crop cultivation and grazing), although the areas used for these activities have varied over time.

As described above, the Project's 2022 Wildlife and Habitat Study Report mapped approximately 2,922 acres of the Siting Area as cultivated crops (ASC Attachment E). Outside of these agricultural areas, approximately 18,988 acres (87 percent) of the Siting Area was mapped as herbaceous grassland and shrub-steppe. The remaining approximately 110 acres (<1 percent) of the Siting Area was mapped as developed, hay/pasture, barren land, and open water. Figure 2 shows crop group areas mapped by Washington State Department of Agriculture (WSDA) and Figure 3 shows Natural Resources Conservation Service (NRCS) mapped soil units with areas mapped as irrigated. Irrigated lands are found in the northern portion of the Project within the Transmission Line Corridor Siting Area, but there are no irrigated lands mapped within the Solar Array Siting Area (Figure 3). Approximately 1,354 acres of the Siting Area are mapped as irrigated by WSDA (2021). According to the NRCS, approximately 6,601 acres or 30 percent of the mapped soil units in the Siting Area are classified as prime farmland if irrigated[5] and an additional 13 percent (2,839 acres) are classified as farmland of unique[6] or of statewide importance[7] (refer to Table 1, Figure 3, and ASC Attachment E). However, of the 6,601 acres classified by the NRCS as prime farmland if irrigated, only 1,354 of these acres are irrigated. Therefore, only 1,354 acres, all entirely within the Transmission Line Corridor Siting Area that would have minimal permanent impacts in pole placement locations, 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 in the Solar Array Siting Area are limited by existing site drainage patterns, consisting of multiple ephemeral streams and areas with steeper slopes as identified in the Updated Geologically Hazardous Areas Assessment (ASC Attachment F).

Table 1 provides a breakdown of NRCS soil classifications across the Project. As noted in Figure 3 and Table 1, the acres within the Solar Array Siting Area exclude nearly two-thirds (61 percent) of the farmland of unique importance located in the Siting Area. The Transmission Line Corridor Siting Area

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

excludes a sizable share (39 percent) of the farmland of unique importance located in the Siting Area. The Solar Array Siting Area excludes most (93 percent) of the farmland of statewide importance located in the Siting Area. The Transmission Line Corridor Siting Area includes most (93 percent) of the farmland of statewide importance located in the Siting Area; however, the Applicant has developed measures to avoid, mitigate, or minimize (to the greatest extent reasonable) potential conflicts with surrounding agricultural uses (see Section 3.4.4). Of the 1,354 acres of prime farmland that is irrigated, less than 0.01 acre are covered by the Project's permanent disturbance footprint. The remaining Project Area where the solar arrays and transmission lines are sited will undergo minimal grading or 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 Siting Area, Transmission Line Corridor Siting Area, Solar Array Siting Area, Solar Array Perimeter Fence, and Permanent Impact Footprint

NRCS Soil Classification	Acres within Siting Area	Acres within Transmission Line Corridor Siting Area	Acres within Solar Array Siting	Acres within Solar Array Perimeter Fence	Acres within Permanent Disturbance Footprint[1/]
Prime farmland if irrigated (located within areas of irrigation per WSDA [2/] data)	1,354	1,354	0	0	<0.01
Prime farmland if irrigated (located outside areas of irrigation per WSDA [2/] data)	5,047	2,118	2,929	941	29
Farmland of unique importance	1,788	1,097	691	113	2
Farmland of Statewide Importance	1,041	968	73	0	<0.01
Not Prime Farmland	11,702	4,215	7,487	3,545	157
Not mapped	1,088	1,088	0	0	<0.01
Total	**22,020**	**10,841**	**11,179**	**4,599**	**188**

Notes:

1/ Permanent disturbance footprint includes solar array posts, power conversion system pads, Project service roads (24 feet wide), O&M structure, collector substation area, BESS area, gravel parking area, and overhead 230-kV line poles (4-foot diameter, 800 feet span length).

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, the Siting Area is less suitable for agricultural uses than other areas of the County within the GMAAD and GMA Agriculture land use designation. The Siting 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

south of the Solar Array Siting Area near the larger concentrated areas of agricultural lands along Interstate 82 and along the Yakima River. The Siting Area is located outside of an irrigation district and no irrigation is present in the Solar Array Siting Area.

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 permanent disturbance will occupy approximately 188 acres, or just under 0.03 percent of the 649,153 acres of land designated as GMAAD in the County (Benton County 2022b). In addition, the Applicant is pursuing the use of sheep grazing through a local grazing partnership to manage vegetation around the panel racking system whenever possible to maintain the productive agricultural nature of the Project Area. The small area of land that will be occupied by the Project, in addition to the small percentage of agricultural lands it includes within Benton County, 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 Siting Area are located in the GMAAD and GMA Agricultural land use designation and have a history of agricultural use, when reviewing under the factors and guidelines described above, the Applicant urges EFSEC to carefully consider the factors that inform the designated use of this land, and the small amount of land the Siting 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 conditions of approval, the County previously found a "solar generation facility, major" as a compatible use in the GMAAD district. The Solar Array Siting Area was selected by the Applicant based on the four goals to site, develop, and design the Project identified in Section 1.1 and for its favorable site suitability characteristics, including high solar energy resource, topography, proximity to electrical infrastructure, minimal visual impact, 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 Midway 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.

EFSEC should conclude that the Project is compatible 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 Siting 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 24-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 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 I-82, SR 241, and SR 24. 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 1, 2, and 5). Dust will be mitigated using standard dust control practices including, but not limited to, spraying water or a binding agent if necessary, and/or applying gravel as necessary.
- **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 8). Best management practices, which for example may include activities 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 approximately five employees. Operation of the Project will consist of routine maintenance activities. Impacts to agricultural uses on adjacent lands during operations will be limited to minimal vehicle and truck trips on area roadways associated with five operations employees (refer to ASC Part 4, Section 20). Based on environmental conditions and rainfall, it is anticipated panel washing may occur once per year. During operations panel washing, approximately 7 to 10 water truck deliveries are anticipated per day over a period of 2 to 3 weeks. Operations trips 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 Q). 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 Siting Area, and within it, could continue unimpeded. The Applicant is working with the Project landowners to determine potentially suitable areas for sheep grazing post-construction within the undeveloped portions of the Project Siting Area.

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.

Response:

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 is expected to occur primarily for dust control. Based on environmental conditions and rainfall, it is anticipated panel washing may occur once per year, but at a minimum is expected to occur at least once prior to commissioning. During operations, the Project is expected to use less than the groundwater permit-exempt well threshold of 5,000 gallons per day. The Applicant is evaluating options to purchase Project operations water from a permitted off-site source (i.e., municipal water source or vendor with a valid water right). If water is purchased from an off-site source, it will be hauled to the site over the life of the Project. The Applicant will verify the availability of water from a permitted source prior to Project construction and operations. The amount of water needed for panel washing will be dependent on the extent of the soiling but is estimated to be approximately 266,000 gallons per wash if necessary to occur. During operations panel washing, approximately 7 to 10 water truck deliveries are anticipated per day over a period of 2 to 3 weeks. As such, 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 Siting 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 minimization of proposed impacts to the ephemeral waterbodies identified during the 2022 field delineation[8] Further, the Project will comply with state stormwater permitting requirements. No changes to the flow or volume of any water body or aquifer are anticipated as a result of the Project because erosion and sediment controls will be implemented during construction as part of the ESCP, disturbed soils will be revegetated, impervious surfaces will be a small percentage of the overall area (see Part 3, Section 5 above), and the grading required will maintain existing drainage patterns. As a result, no potential loss of groundwater recharge or change in seasonal stream flow is anticipated as a result of the Project's construction or operations. The amount of water used for annual panel washing would 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, Sections 1, 3, 5, 8, and 9 of the ASC. Further,

[8] Based on September 2022 Hop Hill Wetland and Non-Wetland Waters Delineation report prepared by SWCA Environmental Consultants (ASC Attachment P).

Section 3.5 below describes the Project's compliance with Benton County's Critical Area Ordinance and demonstrates how the Project will protect critical area 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 participating private landowners and Project stakeholders, including federal agencies for the transmission interconnection options and Project easements, to meet 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 Siting 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 (ASC Attachment I) 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 would generate up to an estimated $55 million over the life of the Project for an up to 280-MW layout or up to an estimated $98 million over the life of the Project for an up to 500-MW layout. Total tax revenues over the life of the Project (including sales and use tax during construction and property tax payments) are estimated at about $65 million for the up to 280-MW layout and about $116 million for the up to 500-MW layout. 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 Solar Array Siting Area was selected by the Applicant based on the four goals to site, develop, and design the Project identified in Section 1.1 and for its favorable site suitability characteristics, including high solar energy resource, topography, proximity to electrical infrastructure, minimal visual impact, 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. The Socioeconomic Review (ASC Attachment I) estimates that the construction of the Project will support approximately 300 jobs during peak construction and approximately 5 permanent jobs during operations. The Socioeconomic Review also demonstrates that, at peak construction, the locally available workforce should be sufficient to meet demand for local direct workers, which the Applicant has set a goal to account for about 75 percent of the total construction workforce. Local workers are those who normally reside within daily commuting distance of the Project site and would commute daily to the Project site from their homes (ASC Attachment I). 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 direct impacts to historically significant structures and sites, and the Applicant is committed to coordination with local tribes to protect cultural resources. Regarding prominent ridges in unincorporated Benton County, the Project is located almost entirely on private lands and does not limit access to these areas. The closest designated open space is located approximately 10 miles to the east of the Solar Array Siting Area north of West Richland. The Rattlesnake Hills, as identified on the Comprehensive Plan maps, are located approximately 7 miles to the east of the Solar Array Siting Area (also north of West Richland). Lands to the east along the Transmission Line Siting Corridor 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 16 of the ASC and the accompanying Visual Resources Technical Report (ASC Attachment H) and Glare and Glint Analysis Memo (ASC Attachment G). 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 H), visibility of the Siting Area varies between viewpoints. From viewpoints to the west, north, and south, depending on the intervening terrain, views of the Siting Area tend to only be available within a couple miles from the Siting Area. From viewpoints to the east, views of the Siting Area may be available from a greater distance, but in general, also tend to be limited to a short distance from the Siting 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 (ASC Attachment G). While the Project will include lighting at limited infrastructure areas such as but not necessarily limited to the Project collector substation, inverters, entrances, and O&M structure for security and limited after-hours work, lighting will mitigated through measures such as being downward shielded and motion-detector-activated to minimize the amount of time lights are active

(ASC Part 2). As such, the Project will not introduce a significant source of light that would impact views in the area.

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

Policy 1: Coordinate with local tribes to protect historic and cultural resources.

Policy 2: Preserve archaeologically significant sites by siting and designing development to avoid or mitigate impacts.

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

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

Response:

A Cultural Resources Survey Report will be provided under separate confidential cover as a supplement to the ASC Attachment Q (**Confidential**) and provided to the Department of Archaeology and Historic Preservation for review as part of the ASC process. See Part 4, Sections 18 and 19 for detailed discussion of historic and cultural resources. The Project is designed to avoid historically significant structures and sites. The Applicant is committed to coordinating with local tribes, including the Confederated Tribes and Bands of the Yakama Nation, Confederated Tribes of the Umatilla Indian Reservation, Confederated Tribes of Warm Springs, and the Nez Perce Tribe, to protect historic and cultural resources. 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 Solar Array Siting Area was selected by the Applicant based on the four goals to site, develop, and design the Project identified in Section 1.1 and for its favorable site suitability characteristics, including high solar energy resource, topography, proximity to electrical infrastructure, minimal visual impact, compatibility with adjacent land uses, and low resource conflicts. The Project collector substation will be connected to the grid via one of three overhead 230 or 500-kV gen-tie line options, with three possible POIs to the grid, as shown in the Preliminary Site Plan (ASC Attachment A Figure A-2).

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 and operation, water will be obtained from a source with verified water rights and hauled to the Project. Best management practices will be employed to manage stormwater within the Project Area (see ASC Part 3, Section 5, and Part 4, Section 5). Portable toilets will be used for sanitary waste during construction and operation. A licensed hauler will be used to transport and dispose of construction waste in accordance with applicable laws. Recycling will be implemented to the extent practicable. See also ASC Part 3, Sections 4, 6, and 22.

Construction and operation of the Project will not have a significant adverse impact on existing public facilities or services. 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."[9] 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 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 work with the County to obtain related County ministerial permits prior to construction, including building permits. The Applicant will work with the County for non-discretionary ministerial approvals such as Road Approach Permit, Oversized Load Permit, Right of Way Encroachment Permit, and Franchise Agreement (with the Department of Public Works). Grading and excavation plans will be prepared by a qualified engineer to show property limits, existing and proposed contours, proposed limits of excavation and grading, and existing structures or sensitive resources that will be flagged off and avoided. The Applicant will work with EFSEC staff and the County to provide information needed for review and approval prior to construction. These plans will be provided to EFSEC as part of coordinating compliance with BCC Title 3 Building and Construction as a condition of approval. Therefore, the Project will comply with these requirements.

3.1.2 Chapter 3.26 Flood Damage Prevention

Response:

Construction and operation of the Project will comply with 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

[9] 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.".

hazard, with no fill placed within an area of special flood hazard, and that location will be restored to pre-Project contours with no impacts to flood capacity or flood levels. If needed, the Applicant will seek to 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 Washington SEPA compliance. Information needed for a SEPA determination is incorporated in Part 3 and Part 4 of the ASC. EFSEC may prepare a SEPA checklist form per WAC 197-11-960 with reference to corresponding sections of Part 3 and Part 4 as appropriate. Therefore, the 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 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 Part 4, Section 16 of the ASC and ASC Attachment Q (Acoustic Assessment Report). 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 Siting 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." EFSEC considers whether the proposed site "is consistent and in compliance" with the County's "land use plans or zoning ordinances in effect as of the date of the application." RCW 80.50.090(2). In the event that EFSEC approves a request for preemption, it shall "include conditions in the draft certification agreement which consider state or local governmental or community interests affected by the construction or operation of the energy facility or alternative energy resource and the purposes of the laws or ordinances, or rules or regulations promulgated thereunder that are preempted pursuant to RCW 80.50.110(2)" (WAC 463-28-070).

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 located within the Solar Array Siting Area 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 solar PV system will be the primary land use for the Project and therefore meets the definition of a "solar power generator facility, major."

The Project collector substation will function to further increase the voltage to match the voltage of the BPA transmission system of 230 or 500 kV. The Project collector substation will be connected to the grid via overhead 230 or 500-kV gen-tie lines, with three possible POIs to the grid. As stated in the introduction, the Project's overhead 230-kV gen-tie line, approximately 150-foot-wide gen-tie line corridor, three POI options, and two switchyard options are within the Transmission Line Corridor Siting Area. The Transmission Line Corridor Siting Area is larger than the Project's anticipated final developed footprint to allow for minor rerouting and optimization of the final design. These utility components are necessary to facilitate distribution, transmission of electric energy generated from the solar power generator facility, and therefore meet 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.~~[10]

Response:

At the time of original CUP submittal, prior to Benton County's amendment (OA 2021-004) to the GMAAD in December 2021, a "solar power generator facility, major" was considered a conditional use in the GMAAD. The Applicant demonstrates the efforts it made to seek to conform with the repealed

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

zoning code provisions. These criteria may inform EFSEC in formulating conditions and mitigation measures pursuant to WAC 463-28-070. The Applicant believes that this analysis further shows how the proposed 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)).

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 24, Cold Creek Road, Priest Rapids Road, N Missimer Road, and Anderson 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:

As stated in the original CUP application, no residential structures are proposed. The Project's O&M building will have a maximum height of 20 feet. There are no residential buildings proposed. Section 3.5 details compliance with Chapter 15.02 BCC, Chapter 15.04 BCC, Chapter 15.06 BCC, Chapter 15.08 BCC, Chapter 15.12 BCC, and Chapter 15.14 BCC. Therefore, the 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-2), 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 Siting Area.

The County defines the side and rear setbacks as the "minimum horizontal distance measured perpendicularly from the nearest property line to the nearest wall of the structure" (BCC 11.03.010(162)). The Preliminary Site Plan (ASC Attachment A, Figure A-2) was designed with Project components at least 20 feet from parcel lines outside of the Project Siting Area. 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 Solar Array Siting Area. 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. "Solar Power Generator Facility, Major" is defined in BCC 11.03.010(167), which states "solar power generators consist of solar panels, charge controllers, inverters, working fluid system, and storage batteries." Project components, including solar panels, charge controllers, inverters, working fluid system, and storage batteries will not exceed the maximum height limit of 20 feet for major facilities. The racking system will be on a single axis, oriented on a north-south axis that will allow the panels to follow the sun in order to maximize power output. Once mounted on the racking system, the highest point of the panels is expected to extend on average approximately 8 to 12 feet above the ground surface with a maximum of 20 feet depending on topography conditions, with an average of approximately 2 to 5 feet of ground clearance below the panels. Each AC-coupled BESS unit is approximately 10 feet high.

As defined in BCC Chapter 11.03.010(104), "lot coverage" means the percentage of area of a lot that is occupied by a primary building or structure and its accessory buildings or structures, not including uncovered patios, driveways, open steps and buttresses, terraces, and ornamental features projecting from buildings or structures which are not otherwise supported by the ground. Per the general use regulations in BCC 11.42.100(a)(3), lot coverage for "solar power generator facilities, major" "shall be calculated as part of the overall lot coverage for the zoning district in which located." There are no maximum lot coverage requirements in the GMAAD. The 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 to 3.6 percent. Lot coverage compliance will be verified prior to construction based on the final Project design within the Siting 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
103040000000000	0.002868802	670.6121223	0.000

Parcel ID/	Permanent Impact (acres)	Parcel Total (acres)	Percent of Parcel Impacted
103140000000000	0.001721287	653.8094195	0.000
103241000000001	0.002581925	606.6012963	0.000
107040000000000	3.622945213	617.4418067	0.587
108041000000000	12.992521	497.0668735	2.614
108042000000000	3.3763212	164.182369	2.056
109040000000000	23.67030314	656.6871867	3.605
110040000000000	14.28705718	648.130422	2.204
110140000000000	0.002008171	677.4661129	0.000
110241000000001	0.000860642	319.9212178	0.000
110243000000001	0.000860642	270.5898788	0.000
111040000000000	13.12117899	634.761869	2.067
114040000000000	11.42421239	663.4179383	1.722
115040000000000	12.5347968	645.9004284	1.941
115141000000000	0.000860645	311.4993201	0.000
115143000000000	0.000860646	310.208381	0.000
115240000000000	2.802949496	663.4397494	0.422
117040000000000	14.41733632	672.8163857	2.143
118041000000000	11.62410625	627.5447535	1.852
119040000000000	2.167142842	635.8116686	0.341
121040000000000	15.60843651	627.3512033	2.488
122040000000000	16.85542308	645.5131831	2.611
122141000000000	0.002008174	472.9874798	0.000
122241000001000	0.001147523	169.0696898	0.001
122244000000000	0.000860643	170.9647274	0.001
122341000000000	0.000860642	457.4380386	0.000
123040000000000	11.27498882	660.9193555	1.706
126040000000000	2.542362444	665.215829	0.382
127040000000000	2.350379711	635.3021037	0.370
127140000000000	0.002008176	615.5961189	0.000
127240000000000	0.002008167	711.2066901	0.000
127341000001000	0.000860642	265.2766199	0.000
127341000002000	0.00028688	19.75170547	0.001
127341000003000	0.000286881	40.80664721	0.001
127344000000000	0.000860642	158.7647992	0.001
134141000001000	0.002008179	636.3486778	0.000
134241000000000	0.000860643	171.5192872	0.001
134243000000000	0.000860643	333.0972095	0.000
134341000001000	0.001721279	118.8096022	0.001
134342000002000	3.987063949	110.3929571	3.612
134344000001000	0.000289673	11.38666013	0.003
134344000002000	0.000573761	141.0075256	0.000

(4) Visibility:

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

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

Response:

As shown on the Preliminary Site Plan (ASC Attachment A, Figure A-2), the majority of the Project is not adjacent to roadways. Portions of Anderson Road and N Missimer Road that currently provide access to a participating landowner residence and that will be used to access the Siting Area are located within 150 feet of some proposed panel locations. The Applicant does not anticipate the need for screening due to the primary usage of the road from the participating landowners but will work to microsite the Project to meet this setback standard prior to final design if required.

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). One rural residence with multiple supporting residential and agriculture structures (Project participating landowner), which is located at the intersection of Anderson Road and North Missimer Road, is completely enclosed by the Project Solar Array Siting Area. The Applicant has indicated that there are no installations planned for this residential area and has included a construction buffer around the residence to minimize potential disturbance (see ASC Attachment H, Visual Resources Technical Report). 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 16b and the Glare and Glint Analysis (ASC Attachment G) 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:

When the original CUP application was submitted prior to OA 2021-004, the Project was a conditional use in the GMAAD. The Applicant has subsequently elected to seek Project approval under the jurisdiction of EFSEC, and therefore, the EFSEC SCA process supersedes the County review process. This Land Use Consistency Review demonstrates how the Project is consistent with a "solar power generator facility, major" as a conditional use in the GMAAD. Specifically, the Project's compatibly 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 SCA process supersedes the County review process since the Applicant has elected to seek Project approval under the jurisdiction of EFSEC following the advisement of Benton County officials to do so.

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

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

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

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

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

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

(iii) All setback lines;

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

(v) All existing and proposed easements;

(vi) Location of all utility structures and lines;

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

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

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

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

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

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

Response:

The Preliminary Site Plan is provided in ASC Attachment A Figure A-2 and is based on the current stage of the engineering design process, with additional details described in Section 2.0 and Section 3.0 of this Land Use Consistency Review. The final layout may differ from the Preliminary Site Plan following micrositing. A detailed Project Description that identifies the proposed uses of land, buildings, and associated facilities for the 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), construction phase Stormwater Pollution Prevention Plan (SWPPP), and operations phase SWPPP required for National Pollutant Discharge Elimination System permitting, which will be provided to EFSEC for review and approval prior to construction. The ESCP and SWPPPs will be prepared by a qualified engineer to show proposed construction BMPs and

stormwater management methods that the Applicant proposes to implement throughout construction, and proposed drainage patterns that will be maintained throughout Project operation. Additional details on stormwater runoff are provided in the ASC Part 4, Section 5.

The permanent footprint of the Project will be approximately 188 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 allowed residential uses. Generally, the question of compatibility is measured by whether the Project would undermine existing uses or cause increase in the costs of agricultural uses and practices of the land.

In total, the 22,020-acre Siting Area represents 3.4 percent of the 649,153 acres of lands in the GMA Agricultural designation (Benton County 2022b). The Project Area is a subset of the Solar Array Siting Area and Transmission Line Corridor Siting Area and includes the approximately 6,000-acre area where the solar array and associated supporting components will be sited during final engineering design which would represent less than 0.1 percent of lands in the County's GMA Agricultural designation (Benton County 2022b). The Applicant is pursuing the use of sheep grazing through a local grazing partnership to manage vegetation around the panel racking system whenever possible to maintain the productive agricultural nature of the Project Area. Within the Project Area, the Project's permanent disturbance based on the preliminary site plan provided in Attachment A, Figure A-2 will occupy approximately 188 acres, or just under 0.03 percent of GMA Agricultural lands over the life of the Project.

The Project is designed to be compatible with ongoing agricultural activities and adds a new diverse source of stable, predictable revenue to landowners. The Solar Array Siting Area was selected by the Applicant based on the four goals to site, develop, and design the Project identified in Section 1.1 and for its favorable site suitability characteristics, including high solar energy resource, topography, proximity to electrical infrastructure, minimal visual impact, compatibility with allowed uses on surrounding lands, and low resource conflicts. The surrounding land north, south, east, and west of the Project includes land zoned for agricultural purposes in Benton and Yakima counties, with similar land uses as the Siting Area.

Lands surrounding the Siting Area are described in more detail below:

Solar Array Siting Area: Parcels approximately 0.5-mile north and east of the Solar Array Siting Area are primarily undeveloped, non-irrigated private land within Benton County's Growth Management Act – Agriculture (GMA/AG) zone. One DNR owned parcel occurs in the Solar Array Siting Area but is excluded from the Solar Array Siting Area boundary and is not part of the Project. Another DNR-owned parcel is adjacent and southeast of the Solar Array Siting Area boundary (ASC Attachment A, Figure A-2). Parcels south of and within approximately 0.5 mile of the Solar Array Siting Area include a mix of privately owned irrigated and actively cultivated land as well as some undeveloped rangelands and non-irrigated pasture (likely dryland wheat) within Benton County's GMA/AG zone. There are several residences between 0.2 mile and 0.5 mile from the southern boundary of the Solar Array Siting Area. Parcels within approximately 0.5 mile west of the Solar Array Siting Area consist of private land within Yakima County's Agriculture zone that is mostly undeveloped and non-irrigated. Some irrigated and cultivated parcels occur within 0.5 mile southwest of the Solar Array Siting Area. The nearest residence is approximately 215 feet southwest of and outside the Solar Array Siting Area.

Transmission Line Corridor Siting Area (Segment 1): An approximately 11.2-mile segment of the Transmission Line Corridor Siting Area runs north from the boundary of the Solar Array Siting Area to the Option 3 POI (Attachment A, Figure A-2). For the purpose of land use analysis, this portion of the Transmission Line Corridor Siting Area is referred to as Segment 1. Land within approximately 0.5 mile east of Segment 1, from the Solar Array Siting Area north to federal land, is an approximately 5-mile stretch of privately owned parcels that consist of a mix of undeveloped rangelands and non-irrigated pasture (likely dryland wheat) within Benton County's GMA/AG zone. Remaining land within approximately 0.5 mile east of Segment 1 to the Option 3 POI is undeveloped federal land within the Hanford Reach National Monument (Rattlesnake Unit of the Fitzner/Eberhardt Arid Lands Ecology Reserve) and is not open to public use or used for agriculture. Land within approximately 0.5 mile west of Segment 1 generally consists of privately owned undeveloped land within Benton County's GMA/AG zone, with one parcel (approximately 4 miles north of the Solar Array Siting Area) owned by the DNR. No DNR land is included within the Project Siting Area.

Transmission Line Corridor Siting Area (Segment 2): An approximately 4-mile segment of the Transmission Line Corridor Siting Area runs north from the Option 3 POI to the Option 2 POI (Attachment A, Figure A-2). For the purpose of land use analysis, this portion of the Transmission Line Corridor Siting Area is referred to as Segment 2. Similar to Segment 1, land within approximately 0.5 mile east of Segment 2 is undeveloped federal land within the Hanford Reach National Monument (Rattlesnake Unit of the Fitzner/Eberhardt Arid Lands Ecology Reserve) and is not open to public use or used for agriculture. Land within approximately 0.5 mile west of Segment 2 includes privately owned, undeveloped rangeland and non-irrigated pasture (likely dryland wheat) within Benton County's GMA/AG zone as well as existing electrical transmission infrastructure (i.e., BPA 500-kV transmission lines).

Transmission Line Corridor Siting Area (Segment 3): An approximately 3.5-mile segment of the Transmission Line Corridor Siting Area runs north from the Option 2 POI to the Option 1 POI at the existing Midway Substation (Attachment A, Figure A-2). For the purpose of land use analysis, this portion of the Transmission Line Corridor Siting Area is referred to as Segment 3. Similar to Segments

1 and 2, land within approximately 0.5 mile east of Segment 3 is undeveloped federal land within the Hanford Nuclear Reservation. The Columbia River is approximately 0.9 mile north of Segment 3. Land within approximately 0.5-mile west of Segment 3 is within Benton County's GMA/AG zone. Areas to the west include vineyards, undeveloped rangeland, and non-irrigated pasture. Irrigated parcels with active cultivation occur directly south of the Columbia River and about one mile west of the Option 3 POI.

The response to NR Goal 1 above demonstrates that Project operations will be compatible with surrounding agricultural uses and will not force changes of uses on surrounding lands. The proposed solar and battery storage uses and the transmission line routes will have minimal construction and operations impacts to agricultural uses as described below, while creating 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 2.0 and 3.0, which detail the approach to compatibility issues such as noise, traffic, erosion control, stormwater management, dust mitigation, and noxious weed control. Best management practices will be implemented and maintained as needed to avoid and minimize potential impacts to the surrounding environment.

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

- Potential impacts to agricultural activities will be limited and short-term. The 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 the Washington State Department of Transportation and the Benton County Public Works Department for traffic management during construction and for construction of access approaches from county rights-of-way. The Applicant will also implement BMPs to minimize erosion, stormwater runoff, and dust during construction. Following construction, temporarily disturbed areas will be revegetated and a Vegetation and Weed Management Plan will be implemented to control the spread of noxious weeds. During operations, routine maintenance activities and potential truck deliveries 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 are designed to minimize contrast with the surrounding area. Project visibility is analyzed in detail in Part 4, Section 16 of the ASC and the accompanying Visual Resources Technical Report (ASC Attachment H) and Glare and Glint Analysis (ASC Attachment G). 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 significant source of light that will impact views in the area.

- Project construction activities are short-term and compatible with uses in the surrounding area. Short-term construction impacts associated with the Project are similar to impacts associated with the development of other non-agricultural uses that continue to be allowed in the GMAAD as permitted outright or through administrative review or CUP.[11] The construction of these other non-agricultural uses currently allowed in the GMAAD would result in similar construction impacts to agricultural uses on surrounding lands as the 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 188 acres, primarily consisting of access roads, O&M building, BESS area, overhead 230-kV gen-tie poles, 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 limited permanent disturbance footprint would allow for agricultural land uses to return to the Project Area after Project decommissioning; however, the Applicant is also actively pursuing dual use options for the land that would allow it to remain in agriculture while simultaneously providing renewable energy generation, which is both a compatible and efficient use of the land.
- Project operations are compatible with uses in the surrounding area. Project operations will result in minimal impacts to surrounding uses in comparison to other uses such as hazardous waste treatment and on-site storage facilities, sand and gravel pits and other mineral extraction, and solid waste treatment facilities and disposal sites which continue to be allowed as accessory uses or allowed through a planning administrative review and approval 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 trips will be minimal and will not block or obstruct access to surrounding lands. The Project will not

[11] 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.

have long-term impacts on surface waters or groundwater quality as described in the ASC Part 3, and Part 4, Section 3 and Section 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 comprises primarily undeveloped lands, agricultural uses, and interspersed rural residences. Operation of the Project would not generate noticeable fumes, vibration, smoke, or odors. Operational sources of noise would primarily be generated by the inverters and transformers. Given the low noise levels for these Project components and distances to closest residential areas, operation of the Project is not expected to cause long-term noise disturbances for residents beyond the agricultural uses already occurring within the zoning district. In Washington state, RCW Chapter 70A.45 aims to reduce overall greenhouse gas emissions to 45 percent below 1990 levels by 2030. By 2050, the state intends to reduce overall emissions to 95 percent below 1990 level. The Project will support the state's goal of increasing use of renewable energy resources, which has been declared in part to protect Washington's clean air and water by providing clean renewable energy to the State. Insofar as the 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 approximately five 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 13, the Project will comply with fire safety measures, spill control measures, and regulations for solar energy generation and storage facilities. The Applicant will implement and maintain the Project's Fire Protection Emergency Response Plan that includes BMPs for fire prevention and emergency response (see Attachment S). The Applicant will also coordinate with Benton County Emergency Management and Washington Department of Natural Resources (DNR) Wildland Fire Management Division regarding potential fire issues such as locations and dimensions of access gates and internal access roads. 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 stated in the original CUP application, access would be provided via existing private roads or new access roads. The Applicant will coordinate with Benton County Public Works for access improvements off of county roads. Given the project's location in rural rangeland and agricultural lands with limited residential or commercial development, construction traffic is not expected to cause conflicts with any residential neighborhoods. No changes will occur to the routing of public transit or the use of pedestrian and bike routes as a result of Project construction or operations. Also, none of these public transportation facilities are located close to the Project site. Prior to construction, a transportation plan would identify the exact routes for transporting Project materials, equipment, and personnel to the site, with a description of anticipated traffic volumes, vehicle weights, trip frequencies, and shipping schedules that would be used during construction of the Project. Consideration of rural residential areas would be given when choosing primary haul routes.

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. Project transportation will reach the Project Area via SR 241 and Sheller Road through Yakima County or along I-82 from the east. It is assumed construction crews will drive pick-up trucks to and from the Project. Approximately 35 percent of the workers commuting are assumed to arrive from the west via Interstate (I) 82 and SR 241 (Yakima area). The other 65 percent are assumed to come from the southeast via I-82 to N Gap Road (Tri-Cities or Sunnyside areas).

Traffic on SR 24 is anticipated to increase temporarily during construction. Average daily traffic (ADT) counts on SR 24 west of the intersection with SR 241 will increase from 3,574 to an average of 3,618 near the Project. The western portion of SR 24 near I-82 at Yakima is the most congested portion of the road with a current ADT of 23,060, which is estimated to increase to an average ADT of 23,104 during Project construction. However, this equates to less than a 1 percent increase and will not occur at peak times. Additional delays during construction could occur on SR 24 near I-82, but given the percentage of traffic increase, these delays will be minimal. Significant impacts to traffic flow along the remaining portions of SR 24 are not expected given the uncongested nature of the current state.

Some workers commuting from the Tri-Cities area will travel along I-82 near N Gap Road to McCreadie Road. Considering the current 16,000 to 17,000 trips per day on I-82 in the vicinity of N Gap Road, the possibility of an additional 390 trips at peak construction will not significantly impact the current uncongested state of this roadway. The timing of peak construction activity on site 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. Given the current uncongested state of roads, the temporary increase in traffic counts, and the Applicant's proposed traffic control measures described in ASC Part 4, Section 20, significant impacts to traffic flow are not expected. Furthermore, Project construction routes were chosen to minimize the use of urban roads to the extent possible. 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 noted in the original CUP application, construction and operation of the Project is not anticipated to result in the permanent relocation or in-migration of construction or operational workforces; therefore, there would be no significant impacts to public transit, health care, schools, or other public services in the County or the surrounding area. Security at the Project site would be maintained and is not expected to result in excessive use of state or county law enforcement.

As discussed in ASC Part 3, Section 21 and Section 22 of the ASC, the Project will not have a significant adverse impact on existing public facilities or services. ASC Part 3, Section 12 demonstrates that 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 13, the Project will comply with fire safety measures, spill control measures, and regulations for solar energy generation and storage facilities. 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. The Applicant will implement and maintain the Project's Fire Protection Emergency Response Plan that includes BMPs for fire prevention and emergency response (see ASC Attachment R). 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 collector substation, as well as graveled access roads and fire breaks, where applicable.

The demand for police services during Project operation could increase as a result of theft, vandalism, or trespassing at the Project. Such an increase in service demand, however, is expected to be minimal because security measures would be implemented during Project operations. To mitigate the need for additional law enforcement services, site access will be restricted, and Project components will be secured by a perimeter fence, nighttime security lighting, and padlocking gates. The Project will not require special services from the Benton County Sheriff's Office. As a result, no adverse impacts to state or County law enforcement services are anticipated as a result of the Project. Since the Project will result in minimal in-migration of residents (see ASC Attachment I, 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 ASC Part 3, Section 5, and Part 4, Section 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 O&M building will require less than 5,000 gallons per day of domestic water use and water will

be trucked to the Project site (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 Project 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 20 feet above ground at full tilt and the BESS units and transformers are approximately 10 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 Solar Array Siting Area, and results are summarized in Part 4, Sections 1, 3, and 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, Sections 1, 3, 8, and 9 of the ASC and the supporting studies, including the Wildlife and Habitat Study Report (Attachment E), Updated Geologically Hazardous Areas Assessment (Attachment F), Draft Habitat Mitigation Plan (Attachment L), and Wetland and Non-Wetland Waters Delineation Report (Attachment P), 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 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 BMPs 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 1, 3, 5, 8,

and 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 Mitigation Plan (ASC Attachment L) 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 1, 3, 5, 8, and 9 of the ASC, as well as in the Draft Habitat Mitigation Plan (ASC Attachment L), 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/ or mitigated as necessary. 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

> *(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 Solar Array Siting Area. A wetland and non-wetland waters delineation was conducted for the vast majority of the proposed Project impacts within the Solar Array Siting Area, including field investigations conducted on June 28 to July 1, 2022. The surveys were conducted by a qualified biologist/wetlands specialist in accordance with the U.S. Army Corps of Engineers (USACE) Wetland Delineation Manual and regional supplement for the arid west (USACE 1987, 2008). Three wetlands and 19 miles of ephemeral stream were found within the delineated area. The Project has been designed to avoid impacts to wetlands and associated buffers. Any changes that would propose impacts to jurisdictional wetlands and/or buffers will require review by USACE, Ecology, and/or Benton County. See ASC Attachment P (Wetland and Non-Wetland Waters Delineation Report) for a detailed description of wetland and water determination methods and results, including maps. The Applicant has provided required components identified in BCC 15.04.030 in the streamlined ASC Part 3, Section 3, and Part 4, Section 3, and in Attachment P (Wetland and Non-Wetland Waters 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:

There are three delineated palustrine emergent wetlands and two desktop delineated riverine wetland complexes within the Solar Array Siting Area. The wetland delineation report in ASC Attachment P details the location of the three wetlands found in the Solar Array Siting Area on Figures 14, 15, and 16. A desktop review of the Transmission Line Corridor Siting Area found two drainages with likely wetland complexes. The desktop delineated areas will be delineated in the field, and a supplemental report is expected by spring of 2023 so that outstanding biological resource surveys that must be done seasonally can be conducted simultaneously. The Project has applied 100-foot wetland and stream buffer widths consistent with BCC 15.04.040. The Project has been designed to avoid wetlands, and no wetland or wetland buffers impacts (temporary or permanent) will occur.

All streams delineated within the Solar Array Siting Area are considered ephemeral. BCC Chapter 15.14.040(g)(b)(iii) 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. Streams within the Project Area are considered Ns pending confirmation of the wetland delineation. The Applicant has currently proposed 100-foot buffers across the Project Area without an analysis of slope to determine the minimum amount needed in order to provide the most conservative buffer and consistency for compliance; however, if further constraints are identified that require refinement in design, they may be narrowed if needed to the minimum buffer based on slope. 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 O) to submit with the ASC. The Applicant understands that the Washington Department of Fish and Wildlife (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 exits or may hereafter amended.

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

(1) Areas with high susceptibility:

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

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

(2) Areas with moderate susceptibility:

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

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

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

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

Response:

Per BCC 15.06.010, Benton County has identified lands classified as having moderate to high susceptibility, which are designated as critical aquifer recharge areas. Locations and extents of areas meeting the BCC 15.06.010 criteria for critical aquifer recharge areas were identified from Benton County information and confirmed with desktop review and field surveys. See Part 4, Section 5 of the streamlined ASC and Attachment F (Updated Geologically Hazardous Areas Assessment), Attachment H (Wetland and Non-Wetland Waters Delineation Report), and Part 4, Section 5 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. Although a critical areas report is not required per BCC 15.06.030, the streamlined solar ASC and attachments address applicable 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 applicable elements required in BCC 15.06.040. The detailed narrative, site plan, and hydrogeological elements are included in Part 4, Section 5 of the ASC and Attachment F (Updated Geologically Hazardous Areas Assessment), 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 5 of the ASC, Project activities are not expected to impact aquifers. No static groundwater was encountered across the Project site during geotechnical investigations, with anticipated static groundwater level present at a depth greater than 100 feet below ground surface give the lack of flows, seepages, or springs within the drainages (see ASC Attachment F, Updated Geologically Hazardous Areas Assessment). Water used for Project operations will be 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). 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 Transmission Line Corridor Siting Area. Permanent Project features are proposed to be located outside of the floodplain. If needed, a Special Flood Hazard Development Permit will be obtained from Benton County prior to construction. Therefore, the Project will not be affected by existing and potential flood risks. See Part 4, Section 3 in the ASC for the full extent of waterbodies and floodplains within the Solar Array Siting Area, details of the methods used to confirm the extent of waterbodies within the Solar Array Siting 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. If impacts to the 100-year floodplain cannot be avoided at final design, 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 Solar Array Siting Area, and results are summarized in Part 4, Section 1 of the ASC. As mapped, geologically hazardous areas are present with the Solar Array Siting 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 Solar Array Siting 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 soil. The Applicant has prepared an Updated Geologically Hazardous Areas Assessment that describes the geology, soils, topography, and existing erosion patterns of the Solar Array Siting Area (ASC Attachment F). The Updated Geologically Hazardous Areas Assessment 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 1 of the ASC and associated figures in ASC Attachment A describe the geological and soil conditions within the Solar Array Siting 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 incorporate techniques, specifications, and mitigation measures necessary to alleviate geological hazard risks. The updated report will be provided to EFSEC for review as a condition of approval. Therefore, the 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 Siting Area includes fish and wildlife habitat conservation areas (FWHCAs) as identified through desktop and field survey information (see ASC Attachment F Wildlife and Habitat Study Report) 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, Sections 3, 8, and 9, along with the supporting Wetland and Non-Wetland Waters Delineation Report (ASC Attachment P) and Wildlife and Habitat Study Report (ASC Attachment E). Further, the Draft Habitat Mitigation Plan (ASC Attachment L) 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 Mitigation Plan (ASC Attachment L) 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 9; and Attachment L).

The Draft Habitat Mitigation Plan (ASC Attachment L) addresses Project 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 7.4 of ASC Attachment L). Any monitoring results will be reported to EFSEC. The Applicant will work with EFSEC and WDFW to determine appropriate mitigation. The Applicant will continue to coordinate with EFSEC and WDFW on the 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 Mitigation Plan prior to construction, as a

condition of approval. The Final Habitat Mitigation 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 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 and Non-Wetland Waters Delineation Report (ASC Attachment P) and Wildlife and Habitat Study Report (ASC Attachment E). The Project has applied wetland and stream buffer widths as defined in or exceeding BCC 15.04.040 and 15.15.40-2. 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 JARPA (ASC Attachment O) to submit with the ASC. The Applicant understands that WDFW will make a determination on whether an 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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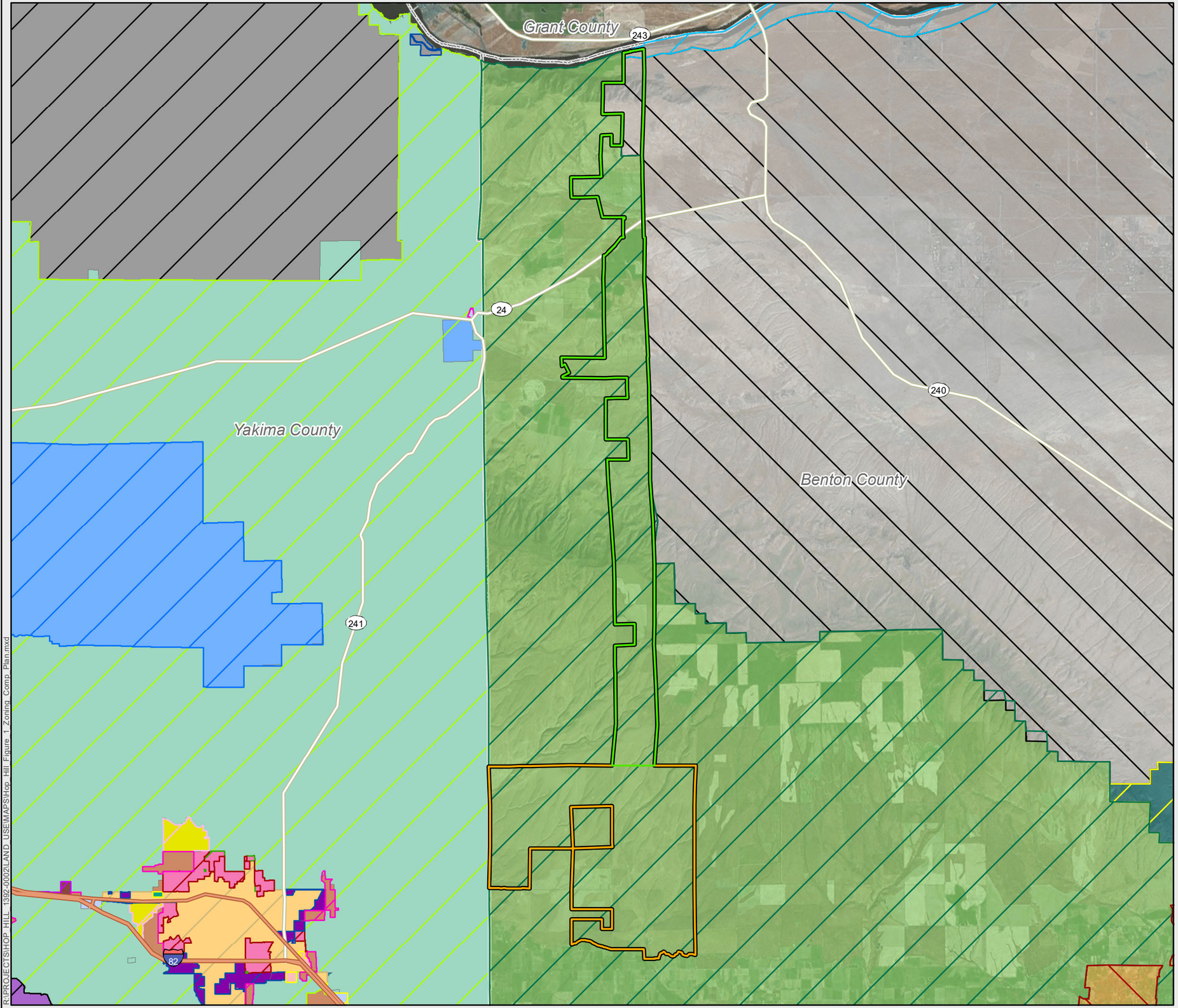
FIGURES

Hop Hill Solar and Storage Project

Figure 1
Zoning and Comprehensive Plan Designations

Benton County, Washington



Siting Area
Solar Array Siting Area
Transmission Line Corridor Siting Area
County Boundary

Benton County Zoning
- GMA/AG
- Park District
- RL-5
- Unclassified

Benton County Comprehensive Plan
- GMA/AG
- Hanford
- Hanford Reach
- Public
- Rural Remote

Yakima County Zoning
- AG
- B-2
- FED
- GC
- HC
- LIM
- M-1
- PD
- R-1
- R-10/5
- RLDP
- RS
- RT
- TRIB

Yakima County Comprehensive Plan
- Agricultural Resource
- Fed/Trust Lands/Closed Area
- Rural Remote/ELDP
- Rural Self-Sufficient
- Rural Settlement LAMIRD
- Rural Transitional
- Urban (City Limits)
- Urban Commercial
- Urban Industrial
- Urban Public
- Urban Residential

N

0 1 2 4
Miles

NOT FOR CONSTRUCTION

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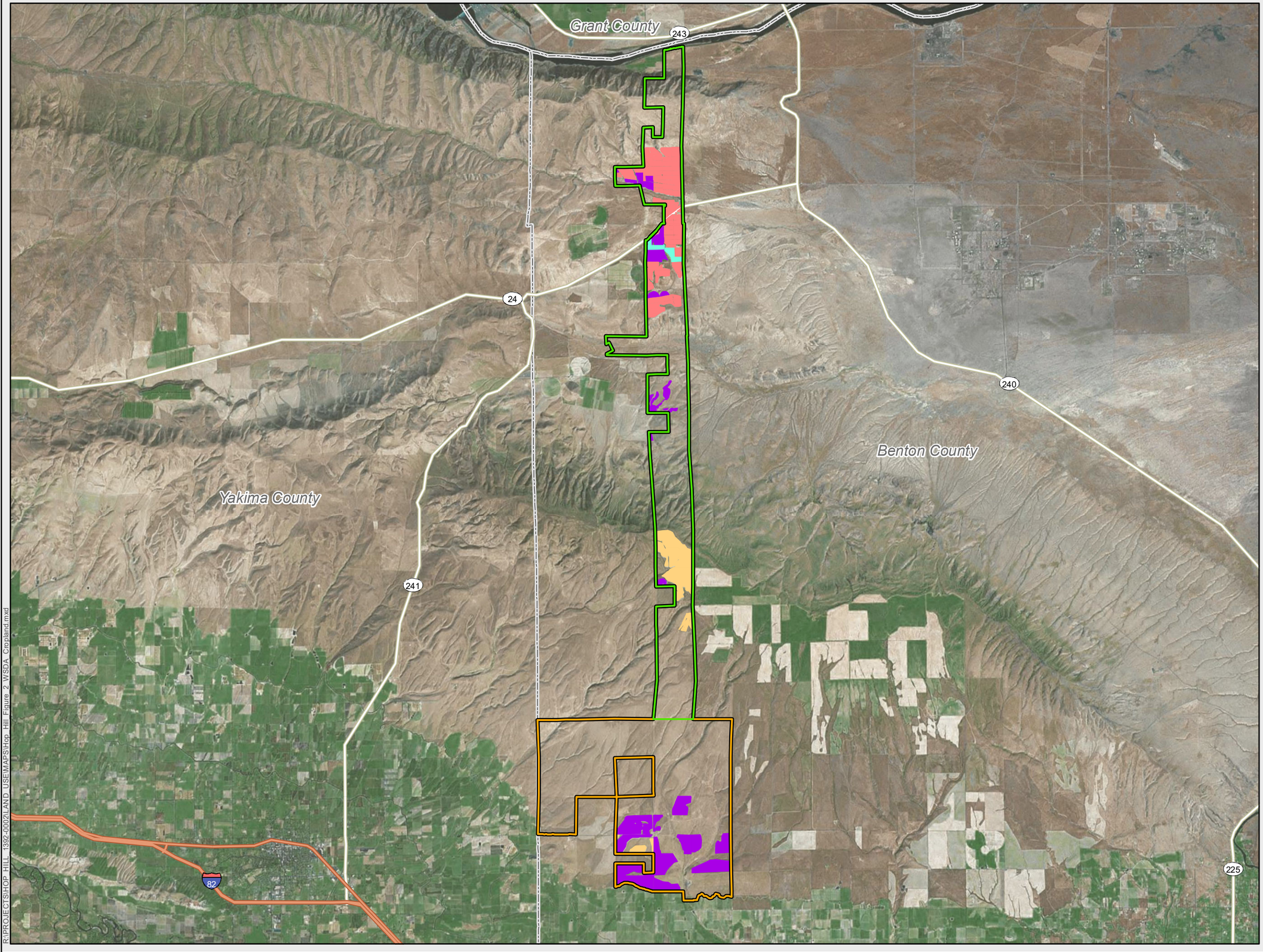

Hop Hill Solar and Storage Project

Figure 2
Washington Department of Agriculture (WSDA) Cropland Data

Benton County, Washington

- Siting Area
- Solar Array Siting Area
- Transmission Line Corridor Siting Area
- County Boundary

WSDA Crop Group

- Cereal Grain
- Orchard
- Vineyard
- Other

N

0 1 2 4

Miles

NOT FOR CONSTRUCTION

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Hop Hill Solar and Storage Project

Figure 3
Prime Farmland

Benton County, Washington

Grant County
Yakima County
Benton County
243
24
240
241
225
82

- Siting Area
- Solar Array Siting Area
- Transmission Line Corridor Siting Area
- County Boundary
- Irrigated Land

Farmland

- Prime Farmland if Irrigated
- Farmland of Statewide Importance
- Farmland of Unique Importance
- Not Prime Farmland

N

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NOT FOR CONSTRUCTION

WA
OR

R:\PROJECTS\HOP HILL 1392-0002\LAND USE\MAPS\Hop Hill Figure 3 Prime Farmland.mxd