

**PRELIMINARY FINDINGS OF FACT  
MAJOR VARIANCE APPLICATION  
Application Number V-S-040-20**

**REQUEST:** Request is for a variance to the manufactured home siting standards limiting installations to models that are no older than 10 years old.

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**APPLICANT/OWNER:** Donald W. & Judith J. Barber  
60071 Hanna-Arbuckle Rd.  
Heppner, OR 97836

**PROPERTY DESCRIPTION:** Tax Lot 700 of Assessor's Map 3S 28E

**PROPERTY LOCATION:** Approximately nine miles southeast of Heppner on Hanna-Arbuckle Road

**FINDINGS OF FACT:**

- I. **BACKGROUND INFORMATION:** The subject property is zoned Exclusive Farm Use. The existing dwelling on the subject parcel, a 1974 single-wide, is required to be removed, demolished, or converted to an allowable nonresidential use within one year after the date the replacement dwelling is certified for occupancy. The applicant proposes to place a 1999 manufactured home on the property and has been provided with a copy of the Manufactured Home Standards found in Article 4 of the Morrow County Zoning Ordinance. The Applicant has submitted as part of their application photos of the proposed manufactured home (see attached).

The Morrow County Zoning Ordinance requires a manufactured home placed in the farm zone meet the manufactured home siting standards outlined in Section 4.110(A) of the Morrow County Zoning Ordinance. This request would be a variance from the age requirement of Morrow County Zoning Ordinance Article 4 Supplementary Provisions Section 4.110(A) Manufactured Homes in a Farm or Forest Use Zone.

- II. **The applicant has filed under the Morrow County Zoning Ordinance ARTICLE 7 Variances.** Applicable Ordinance Criteria are listed below in **bold type** followed by a response in regular type.

**ARTICLE 7 Section 7.200 A Variance can serve multiple purposes and is designed to provide relief from the literal requirements of a regulation found within this Zoning Ordinance. The result of approving a Variance should result in improved planning that would benefit the applicant and the broader community, and it may be the first step in reevaluating requirements or allowed uses within a use zone.**

- B. **Major Variance.** The following are examples of Variances that could be considered: **siting a manufactured home that is not in compliance with current manufactured home requirements, allowing for less frontage than required, allowing for a smaller lot size than required, approve a variance when a dimensional adjustment does not accomplish the needs of the property owner, and other similar or related instances. Use Variances**

amend or change the use of a property or structure. Area Variances tend to amend or change the area needed to validate a lot or parcel, or reduce necessary setbacks. Financial hardship does not qualify for a use or area Variance.

**APPROVAL CRITERIA.** The Planning Commission may grant a Major Variance upon finding that all of the following criteria are met. The burden is on the applicant to demonstrate compliance with the criteria.

1. **The variance relates to a specific lot or parcel of land.**  
The variance is requested for a specific individual parcel of land. This criterion is met.
2. **The Variance can be granted without substantial detriment to the public good. It would allow for a building or site plan that is more compatible with adjacent land and land uses, or it does not create a conflict with adjacent uses.**  
The subject parcel is in a residential area with several neighboring manufactured homes. The siting of a double-wide manufactured home which meets the design standards of Article 4 would be an improvement over the previous home and would be comparable to homes within the surrounding area. This criterion is met.
3. **The Variance does not hinder compliance with applicable building code requirements or engineering design standards.**  
This variance request is for relief from the requirements of Article 4 Section 4.110(A)(1) which states that in a farm or forest zoned area manufactured homes be "a 14-foot single-wide, at a minimum; be a minimum of 745 square feet; and be manufactured no more than ten years before the receipt date of the siting request application by the Planning Department." The design standards are consistent with applicable building code requirements and engineering standards.
4. **Approval of the Variance does not create a violation of this or any other adopted ordinance or code standard.**  
Approval of the Variance would not create a violation of any ordinance or code standard. If approved the use would conform to the intent of the Zoning Ordinance. The applicant needs to obtain the required Zoning Approvals and Building Permits as well as septic system approval from Umatilla County Public Health. These are listed as a condition of approval.
5. **Application for a Variance should include all necessary Variances anticipated for the proposed development.**  
No other variances are requested or anticipated for the proposed development. This criterion is met.
6. **Application for a Variance is limited to one per year.**  
There are no previous variances approved for this property and none are anticipated within the next year. This application may be considered by the Planning Commission for a one-time variance to the age requirement based on this application.

This permit is valid for the length of time the manufactured home is in place and the time limit to initiate the permit is 2 years according to Morrow County Zoning Ordinance Section 7.700.

**III LEGAL NOTICE PUBLISHED:** August 4, 2020  
East Oregonian

August 5, 2020  
Heppner Gazette-Times

**IV AGENCIES NOTIFIED:** Joseph Fiumara, Umatilla County Public Health; Mike Gorman, Morrow County Assessor; Steve Rhea, Heppner Rural Fire Protection District; Glenn McIntire, Building Official

**V PROPERTY OWNERS NOTIFIED:** August 5, 2020

**VI HEARING DATE:** August 25, 2020  
Bartholomew Building  
Heppner, Oregon

**RECOMMENDED ACTION OF THE PLANNING COMMISSION:** Staff recommend approval subject to the following Condition of Approval:

1. Obtain the required Zoning Approvals and Building Permits as well as septic system approval from the Umatilla County Public Health

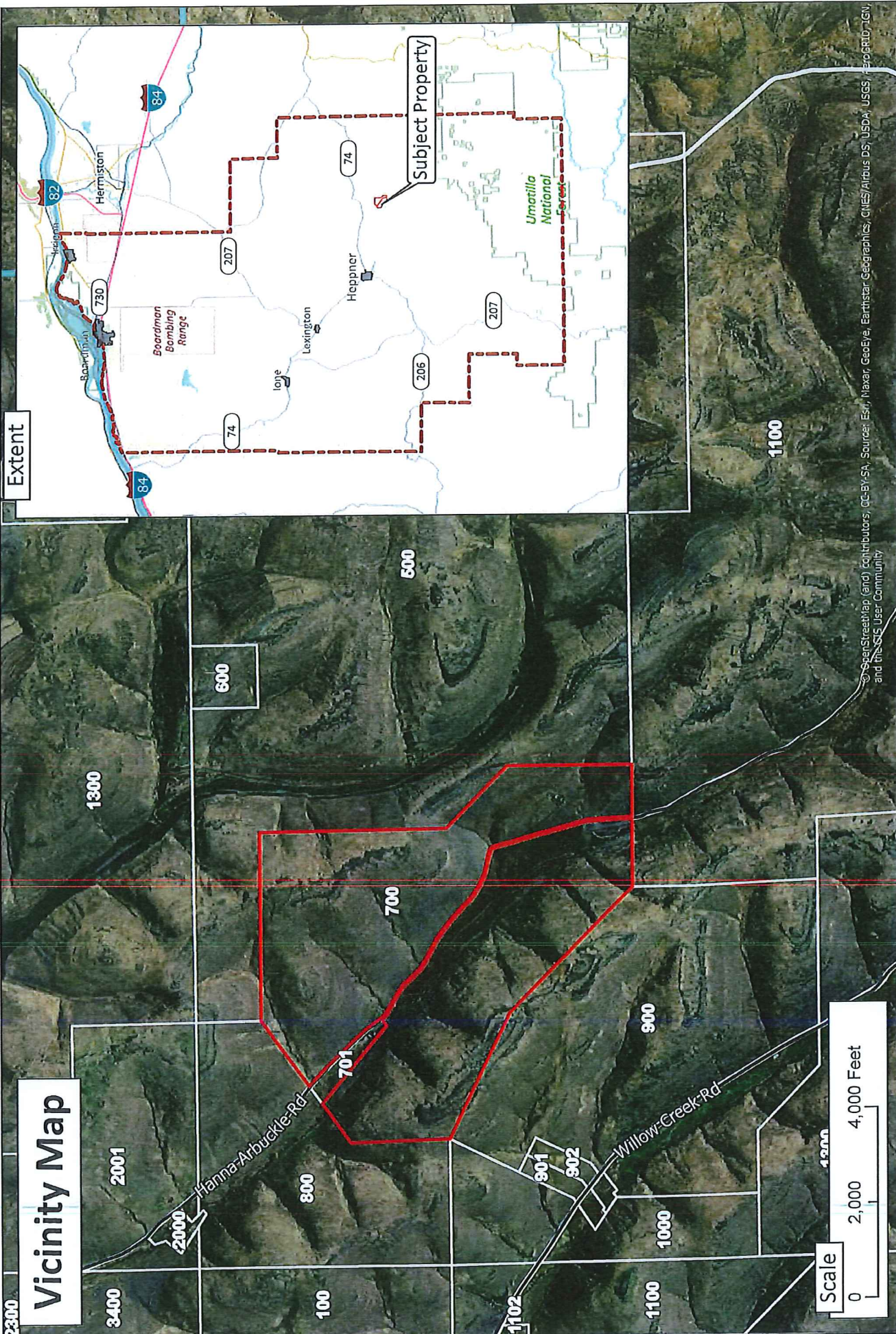
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Jeff Wenholz, Chair

Date

**ATTACHMENTS:**

Vicinity Map  
Photos of proposed manufactured home



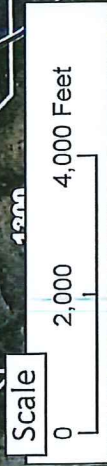
# Vicinity Map

## Extent

Subject Property

### Legend

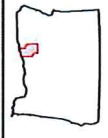
-  Subject Property
-  Tax Lots



**V-N-040-20**  
 Donald and Judith Barber  
 3S 28E TL700



Cartography By: Stephen Wreccics  
 Morrow County Planning Department  
 Coordinate System: NAD83 Oregon GIC Lambert ft  
 Datum: North American 1983  
 Projection: Lambert Conformal Conic  
File Path: \\Planning\morrow\county\mcp\04020\1040201.dwg



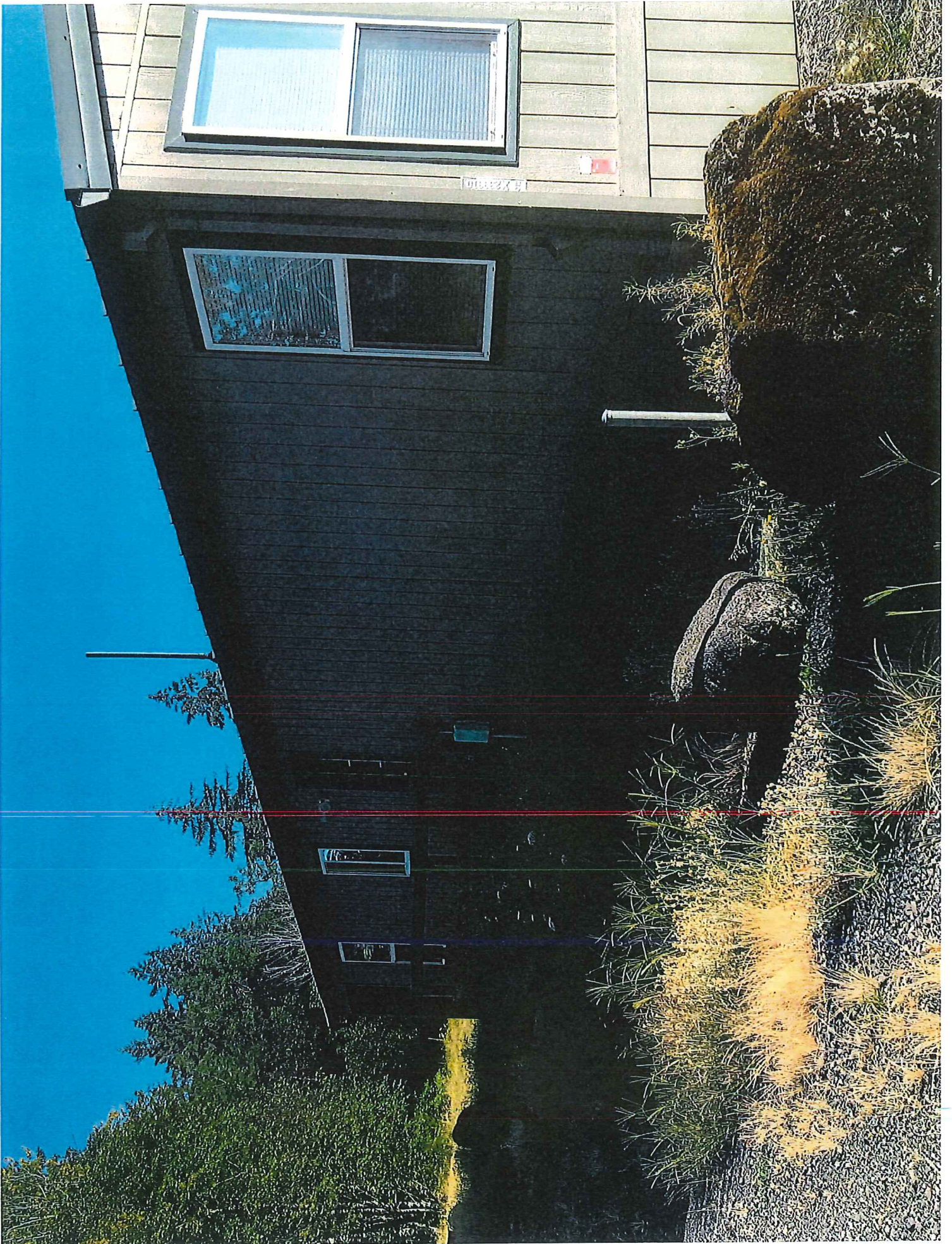
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**PRELIMINARY FINDINGS OF FACT  
CONDITIONAL USE REQUEST  
CUP-N-343-20**

**REQUEST:** This request is to allow by conditional use the construction and operation of a 20-megawatt Photovoltaic Solar Array on lands zoned for Exclusive Farm Use.

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**APPLICANT:** Energy of Utah LLC.  
P.O. Box 900083  
Sandy, UT 84090

**PROPERTY OWNER:** William J. Doherty Trust  
70644 Doherty Road  
Lexington OR 97839

**PROPERTY DESCRIPTION:** Tax lots 400, 403, and 2400 of Assessor's Map 1N 26E

**PROPERTY LOCATION:** Located 12-miles NE of Lexington along Highway 207.

**I. BACKGROUND INFORMATION:**

The Columbia Solar Project is a 20-megawatt photovoltaic (PV) energy generation facility proposed by Energy of Utah LLC. The Project boundary is approximately 88 acres in size and is wholly located in Morrow County Oregon on lands zoned for Exclusive Farm Use (EFU). In their project narrative, the applicant states that the facility will consist of several thousand photovoltaic modules on an aluminum or steel racking structure, and pile driven into the ground. The racking system is approximately 9' off the surface at its tallest point. The entire site boundary will be surrounded by a 6' chain link fence for security and safety purposes. Applicant has stated in their narrative that "All of the power produced by the facility will be purchased by Columbia Basin Electric Co-op pursuant to a long-term 20-year agreement called a power purchase agreement", however, conversations with the Applicant indicate that there is no Power Purchase Agreement in place as of the date of these findings. Applicant has stated that the project will interconnect via underground lines to Columbia Basin Electric Cooperative's Columbia Substation.

**II. COMPLIANCE WITH MORROW COUNTY ZONING ORDINANCE SECTIONS 3.010(C)(24), 3.010(K)(1)(a), 3.010(K)(3), 6.020, 6.025, 6.030 AND 6.040.** The requirements for approval are listed below in **bold type**, followed by a response in standard type.

Applicant's Burden of Proof Statement with Exhibits submitted as a part of their application and dated July 13, 2020, is hereby incorporated as reference. Applicant's Burden of Proof Statement provides additional findings to support compliance with the applicable Morrow County zoning ordinance sections and approval of Applicant's conditional use permit.

**Section 3.010(C)(24) Photovoltaic solar power generation facilities as commercial utility facilities for the purpose of generating power for public use by sale subject to Subsection K.3.**

This application Burden of Proof Statement effectively summarizes the necessary review and the attached site plans provide an understanding of the current and future layout of the area that will support Photovoltaic solar power generation operations. This use is allowed with a Conditional Use Permit within the Exclusive Farm Use Zone. The proposed permanent impact from the final Project design will be equal to or less than 99 acres at final build. Staff would find that the Project, as proposed, qualifies as a PV solar power generation facility.

**Section 3.010(K)(1)(a). Commercial Facilities for Generating Power**

**1. Commercial Power Generating Facility.**

**a. Permanent features of a power generation facility shall not preclude more than:**

**(1) 12 acres from use as a commercial agricultural enterprise on high value farmland unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4; or**

**(2) 20 acres from use as a commercial agricultural enterprise on land other than high-value farmland unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4.**

An exception under this section is not applicable as the applicant has indicated that the project will not impact more than 12-acres of high value farmland or 20-acres of arable land. Please see Exhibit F, NRCS Soil Classification Map in Application.

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

**a. "Arable land" means land in a tract that is predominantly cultivated or, if not currently cultivated, predominantly comprised of arable soils.**

**b. "Arable soils" means soils that are suitable for cultivation as determined by the governing body or its designate based on substantial evidence in the record of a local land use application, but "arable soils" does not include high-value farmland soils described at ORS 195.300(10) unless otherwise stated.**

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

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

The proposed project is located on a tract of land that has historically been cultivated for dryland wheat farming, is predominantly comprised of arable soils and historically, the parcel has never been irrigated. The applicant states in their Burden of Proof Statement that the subject site is comprised of several types of soils, none of which are classified as prime, unique, Class I or Class II. In their Burden of Proof Statement, the Applicant states that only 19-acres of the project site is currently being cultivated, and therefore the site is not considered arable

land. Staff would disagree with this statement and would find that given the history of dryland wheat production and cultivation of this parcel, a portion of the Project Boundary does appear to impact Arable Lands and Soils. Planning Staff recommend and list as a Condition of Approval that, at final design this facility shall not preclude more than 20-acres of Arable Lands or Soils.

**e. "Photovoltaic solar power generation facility" includes, but is not limited to, an assembly of equipment that converts sunlight into electricity and then stores, transfers, or both, that electricity. This includes photovoltaic modules, mounting and solar tracking equipment, foundations, inverters, wiring, storage devices and other components. Photovoltaic solar power generation facilities also include electrical cable collection systems connecting the photovoltaic solar generation facility to a transmission line, all necessary grid integration equipment, new or expanded private roads constructed to serve the photovoltaic solar power generation facility, office, operation and maintenance buildings, staging areas and all other necessary appurtenances. For purposes of applying the acreage standards of this Section, a photovoltaic solar power generation facility includes all existing and proposed facilities on a single tract, as well as any existing and proposed facilities determined to be under common ownership on lands with fewer than 1320 feet of separation from the tract on which the new facility is proposed to be sited. Projects connected to the same parent company or individuals shall be considered to be in common ownership, regardless of the operating business structure. A photovoltaic solar power generation facility does not include a net metering project established consistent with ORS 757.300 and OAR chapter 860, division 39 or a Feed-in-Tariff project established consistent with ORS 757.365 and OAR chapter 860, division 84.**

Applicant proposes to construct and operate a PV solar generation facility up to 20-megawatts in size. The application indicates that the proposed facility may consist of PV panels, mounting infrastructure, inverters, aboveground and underground electrical collection system, pad-mounted transformers, operation and maintenance building, and access roads. The proposed facility and support buildings will be located within a security fence up to 6-feet in height. Applicant does not have any existing or proposed solar facilities within 1320' of the Project Area Extent. Planning Staff would find that this project meets the above definition.

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

**(1) The proposed photovoltaic solar power generation facility will not create unnecessary negative impacts on agricultural operations conducted on any portion of the subject property not occupied by project components. Negative impacts could include, but are not limited to, the unnecessary construction of roads dividing a field or multiple fields in such a way that creates small or isolated pieces of property that are more difficult to farm, and placing photovoltaic solar power generation facility project components on lands in a manner that could disrupt common and accepted farming practices;**

This project as proposed does not have the potential to impact greater than 12 acres of high-value farmland. Therefore, the applicant is not required to seek a Goal 3 exception under both of these sections for this proposed project.

The project as currently proposed will be situated on a portion of three individual tax lots, with the total project boundary proposed at approximately 88-acres of land. The Applicant has stated in their narrative that this project is situated on a portion of the parcels that have limited productivity with no historic, current or future possibilities for irrigation. The Applicant does not anticipate any changes to the landowner's ongoing wheat farming operations or those of their neighbors resulting from the construction or operation of the proposed project. Planning Staff would agree with the applicant's Burden of Proof Statement that the siting of this facility would not create unnecessary negative impacts on current or future agricultural operations.

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

To meet this criterion the applicant will need to submit, and gain the approval of the Morrow County Weed Supervisor a Soil Erosion, Soil Compaction and Weed Management Plan conducted in compliance with this criterion. Planning staff recommend and list this as a Condition of Approval.

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

See above discussion related to the submitted Soil Erosion, Soil Compaction and Weed Management Plan. Planning Staff would agree with that statement and find this criterion met.

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

See above discussion regarding the Weed Control Plan submitted as part of the attached Soil Erosion, Soil Compaction and Weed Management Plan.

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

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

Applicant has provided planning staff with visual layouts of the proposed project, utilizing these plans, staff have determined that this project is not located on lands that are considered high-value.

**(6) A study area consisting of lands zoned for exclusive farm use located within one mile measured from the center of the proposed project shall be established and:**

- (a) If fewer than 48 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits within the study area, no further action is necessary.**
- (b) When at least 48 acres of photovoltaic solar power generation have been constructed or received land use approvals and obtained building permits, either as a single project or as multiple facilities within the study area, the local government or its designate must find that the photovoltaic solar energy generation facility will not materially alter the stability of the overall land use pattern of the area. The stability of the land use pattern will be materially altered if the overall effect of existing and potential photovoltaic solar energy generation facilities will make it more difficult for the existing farms and ranches in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland or acquire water rights, or will reduce the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area.**

This criterion is not applicable as there are currently no constructed or approved photovoltaic solar power generation facilities within the study area. Planning Staff would agree with the applicant's analysis and find this criterion met.

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

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

- (a) Nonarable soils are not available on the subject tract;
- (b) Siting the project on nonarable soils present on the subject tract would significantly reduce the project's ability to operate successfully; or
- (c) The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract than other possible sites also located on the subject tract, including those comprised of nonarable soils;

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

Please see discussion above.

**(3) A study area consisting of lands zoned for exclusive farm use located within one mile measured from the center of the proposed project shall be established and:**

**(a) If fewer than 80 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits within the study area no further action is necessary.**

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

This criterion is not applicable as there are currently no constructed or approved photovoltaic solar power generation facilities within the study area.

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

See discussion above regarding requirements and associated conditions of Subsections K.3.f(1), (2), (3), and (4).

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

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

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

**(b) The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract as compared to other possible sites also located on the subject tract, including sites that are comprised of nonarable soils;**

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

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

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

Please see discussion above.

**(5) If a photovoltaic solar power generation facility is proposed to be developed on lands that contain a Goal 5 resource protected under the county's comprehensive plan, and the plan does not address conflicts between energy facility development and the resource, the applicant and the county, together with any state or federal agency responsible for protecting the resource or habitat supporting the resource, will cooperatively develop a specific resource management plan to mitigate potential development conflicts. If there is no program present to protect the listed Goal 5 resource(s) present in the local comprehensive plan or implementing ordinances and the applicant and the appropriate resource management agency(ies) cannot successfully agree on a cooperative resource management plan, the county is responsible for determining appropriate mitigation measures; and**

**(6) If a proposed photovoltaic solar power generation facility is located on lands where the potential exists for adverse effects to state or federal special status species (threatened, endangered, candidate, or sensitive), or to wildlife species of concern identified and mapped by the Oregon Department of Fish and Wildlife (including big game winter range and migration corridors, golden eagle and prairie falcon nest sites, and pigeon springs), the applicant shall conduct a site-specific assessment of the subject property in consultation with all appropriate state, federal, and tribal wildlife management agencies. A professional biologist shall conduct the site-specific assessment by using methodologies accepted by the appropriate wildlife management agency and shall determine whether adverse effects to special status species or wildlife species of concern are anticipated. Based on the results of the biologist's report, the site shall be designed to avoid adverse effects to state or federal special status species or to wildlife species of concern as described above. If the applicant's site-specific assessment shows that adverse effects cannot be avoided, the applicant and the appropriate wildlife management agency will cooperatively develop an agreement for project-specific mitigation to offset the potential adverse effects of the facility. Where the applicant and the resource management agency cannot agree on what mitigation will be carried out, the county is responsible for determining appropriate mitigation, if any, required for the facility.**

The applicant and Oregon Department of Fish and Wildlife (ODFW) participated in a pre-application meeting on June 16, 2020 to address potential impacts to wildlife within the project boundary. The Applicant has included as part of their Burden of Proof Statement a letter from ODFW as Exhibit L. In it ODFW has requested that the Applicant produce a project area map that includes classified habitat categories based on ODFW's Mitigation Policy. Additionally, ODFW also requested that the Applicant conduct Washington Ground Squirrel and Raptor nest surveys as well as any State Sensitive species in appropriate habitats within the project area. Planning staff would recommend and list as a Condition of Approval that the Applicant must comply with any and all ODFW requirements found within the ODFW letter dated June 16, 2020 as well as any future requirements.

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

The provisions of Section 3.010(K)(3)(h)(7) are not applicable as the project if approved, would be done so prior to January 1, 2022. The Applicant must meet the provisions of Section 3.01.(K)(3)(h)(6).

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

The project owner shall have 30 days after the initiation of construction to sign and record with the Morrow County Clerk's office a Right to Farm Disclaimer. This is required and listed as a condition of approval. Should the project owner fail to meet this condition a stop-work order will be issued.

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

At the end of the solar photovoltaic energy generation facility's operating life, the owner of the facility shall be responsible for complete removal of the project components which would include the solar panels and related equipment to a depth that would allow farming practices to be resumed. The project owner, working cooperatively with the landowner, can retain project roads that would be beneficial to the farm operation. Other roads and accesses shall be removed and the soil amended to allow for agricultural uses. Working with the transmission provider interconnection and other equipment shall be removed or disabled so as to not impact farming practices or create a health or safety concern. These are recommended and listed as Conditions of Approval.

Based on the known impacts of a solar photovoltaic energy generation facility the Planning Department is not recommending any financial assurance or other developer fiscal responsibility related to retiring the facility. Ultimately it is the property owner's responsibility, beyond the above identified Condition of Approval, for ensuring the agricultural land occupied by the solar project can be returned to an agricultural use or other allowed use at the end of the facility's useful life.

## **SECTION 6.020. GENERAL CRITERIA.**



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

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

The Morrow County Comprehensive Plan addresses agricultural land at some length, identifying that agriculture is an important component of the County's economy. Section 3.010(A) of the Morrow County Zoning Ordinance states that, "The purpose of the Exclusive Farm Use Zone is to preserve, protect and maintain agricultural lands for farm use, consistent with historical, existing and future needs, including economic needs, which pertain to the production of agricultural products. The EFU Zone is also intended to allow other uses that are compatible with agricultural activities, such as forest use, fish and wildlife habitat, and to maintain, improve, and utilize the quality of air, water and land resources of the county." This proposal while not in direct support of agricultural activities, provides additional economic development and diversity to the landowner and promotes the economic growth and stability of the County. Additionally, Planning Staff feel that this project is in direct support of the Comprehensive Plan's Economic Element (Goal 9) and the Energy Conservation Element (Goal 13). This project supports the development of additional sources of electricity to help assure adequate service to the County, and encourages the development of alternative energy sources in Morrow County. Planning Staff would find that this application meets this criterion.

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

The proposed project is not to be located within the UGB of a city, therefore this criterion does not apply.

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

The project boundary is located within the Butter Creek Critical Groundwater Area. This Critical Groundwater Area is designated due to groundwater quantity issues by the Oregon Department of Water Resources. The applicant has not stated the need for an industrial water well on the proposed site. Oregon Water Resources Department has been notified of the proposal and it is recommended and listed as a condition of approval that the applicant shall comply with any recommendations of the Oregon Water Resources Department.

According to the application, minimal water will be used, most in support of human occupation of the work areas for dust control during construction or during facility operation for panel cleaning (approximately twice a year). All water used on the site will be provided by tanker trucks. All water sourced for construction and operation of this facility shall be purchased from a licensed, commercial source. The Applicant shall inform OWRD of any changes to the water source. This is recommended and listed as a Condition of Approval.

Planning staff would deem this criterion met.

**SECTION 6.025. RESOURCE ZONE STANDARDS FOR APPROVAL.**

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

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

The analysis above for Section 3.010(K)(3) supports the view of the Planning Staff that the Proposed Project will cause minimal or no changes to the established farming practices or increase costs to surrounding lands devoted to farm use. This Project, as indicated by the Applicant's CUP Narrative and Burden of Proof Statement, will be a passive operation that will generate little to no noise, glint/glare, dust, or other byproducts that could be considered harmful to neighboring farming operations.

The Applicant shall conform to or obtain a variance to Subsection 605.12 of the 2014 Oregon Fire Code. This subsection requires that a non-combustible base be installed and maintained under and around the installation and equipment. This is recommended and listed as a Condition of Approval.

In the past, solar applicants have consulted with the respective Fire Protection District to submit a variance request under Subsection 605.12 of the 2014 Oregon Fire Code in an effort to be consistent with ODFW's Habitat Mitigation Policy. These facilities have re-seeded under facility components with native grass in an effort to foster minimally invasive development and be consistent with ODFW's Habitat Mitigation Policy and has been the preference of the Morrow County Weed Control Supervisor, ODFW, and Landowners.

Planning Staff would find that adherence to Subsection 605.12 of the 2014 Oregon Fire Code would, in itself, significantly increase the cost of farming practices for the Landowner. This increase would come at the time the facility is retired and removal of gravel would be required to return the subject parcel back to agricultural production.

**Section 6.030 General Conditions In addition to the standards and conditions set forth in a specific zone, this article, and other applicable regulations; in permitting a new conditional use or the alteration of an existing conditional use, the Commission may impose conditions which it finds necessary to avoid a detrimental impact and to otherwise protect the best interests of the surrounding area or the County as a whole. These conditions may include the following:**

- A. Limiting the manner in which the use is conducted including restricting the time an activity may take place and restraints to minimize such environmental effects as noise, vibration, air pollution, glare and odor.**

The Applicant has designed the proposed project to minimize the facility footprint and impacts on sensitive areas. During construction, the Applicant has indicated that they will implement dust control measures and construction noise would be limited in duration and typically occur during daylight hours. During facility operation the project would create little to no noise. And the remote nature of the project area would have little to no impact to residential areas. The applicant shall contact the U.S. Navy prior to construction to ensure that the proposed project will have no impact to military operations in the area. Prior to construction, a Determination of No Hazard to Air Navigation shall be obtained from the

Federal Aviation Administration and the Oregon Department of Aviation concerning glint or glare. This is recommended and listed as a Condition of Approval. Applicant shall comply with ODOT recommendations for glint or glare. ODOT was provided a copy of these findings for their review, and the Applicant shall comply with ODOT recommendations for mitigation of potential glint or glare concerning vehicular traffic along Highway 207. This is recommended and listed as a Condition of Approval.

**B. Establishing a special yard or other open space or lot area or dimension.**

The development parcel already has extensive open space. During construction, should the applicant need any temporary staging areas, these areas are to be situated within the project boundary, these staging areas shall be planted with native grass upon completion of facility construction. This is recommended and listed as a Condition of Approval. Planning Staff would find that no further action is required for this criterion.

**C. Limiting the height, size or location of a building or other structure.**

Planning staff would not propose to limit any of the proposed buildings or structures. It should be noted that the applicant will need to obtain the necessary Zoning and Building Permits for all buildings associated with the solar photovoltaic electricity generating facility as well as any fencing greater than 6-feet in height prior to construction. This is recommended and listed as a Condition of Approval.

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

All required access points permanent or temporary would need to meet the requirements of, and gain approval from the Morrow County Public Works Department or Oregon Department of Transportation (ODOT). This is a requirement and is listed as a Condition of Approval.

1. **Where access to a county road is needed, a permit from Morrow County Public Works department is required. Where access to a state highway is needed, a permit from ODOT is required.**

See above discussion.

2. **In addition to the other standards and conditions set forth in this section, a TIA will be required for all projects generating more than 400 passenger car equivalent trips per day. A TIA will include: trips generated by the project, trip distribution for the project, identification of intersections for which the project adds 30 or more peak hour passenger car equivalent trips, and level of service assessment, impacts of the project, and mitigation of the impacts. If the corridor is a State Highway, use ODOT standards.**

Based on the Burden of Proof Statement, the number of trips per day are estimated at approximately 96 trips per day during the construction phase of the project. This is well below the 400 trips per day to trigger the need for a TIA. During the operation phase of the project the applicant has indicated in their narrative that there will be minimal impact to the surrounding area and limited traffic limited to maintenance crews for vegetation maintenance and any operational issues.

Applicant shall work with the Morrow County Public Works Department to determine if a Road Use Agreement is necessary as well as comply with any requirements deemed necessary by the Morrow County Public Works Director. This is recommended and listed as a Condition of Approval.

- E. Increasing the amount of street dedication, roadway width or improvements within the street right-of-way**  
This criterion is not applicable because no new dedication or increases to roadway widths are proposed.
- 1. It is the responsibility of the land owner to provide appropriate access for emergency vehicles at the time of development.**  
The Lone Rural Fire Protection District was provided a copy of the Preliminary Findings of Fact. The application indicates that appropriate access for emergency vehicles will be maintained. Planning Staff would find that this criterion is met.
- F. Designating the size, location, screening, drainage, surfacing or other improvement of a parking area or loading area.**  
The Applicant has stated that the facility will not have or need for a parking or loading area. This criterion is met.
- G. Limiting or otherwise designating the number, size, location, height, and lighting of signs.**  
Signs, other than safety signage, will need to meet the requirements of the Morrow County Zoning Ordinance Sign Regulations. This criterion is not applicable.
- H. Limiting the location and intensity of outdoor lighting and requiring its shielding.**  
The application indicates that necessary exterior lighting will be shielded and directed downward. This criterion can be met.
- I. Requiring diking, screening, landscaping or another facility to protect adjacent or nearby property and designating standards for its installation and maintenance.**  
Most of the proposed facility will be enclosed or a part of the larger complex. No additional requirements are necessary. This criterion is met.
- J. Designating the size, height, location and materials for a fence.**  
The application indicates that the project would include a security fence up to six-feet in height. The applicant will need to comply with local building codes regarding fence construction and materials as well as receive zoning approval for all fences above six-feet in height. See discussion under (C) above.
- K. Protecting and preserving existing trees, vegetation, water resources, wildlife habitat or other significant natural resources.**  
Please see discussion above regarding natural resources. The Applicant shall consult with the Oregon Department of Environmental Quality (DEQ) regarding any required permitting for the proposed facility. This is recommended and listed as a Condition of Approval. DEQ was provided a copy of the Preliminary Findings of Fact.
- L. Other conditions necessary to permit the development of the County in conformity with the intent and purpose of this Ordinance and the policies of the Comprehensive Plan.**  
To determine the total impact to agricultural lands at final build, the applicant shall provide the County with a Final Site Development Plan and Construction Schedule prior to the start of construction. This is recommended and listed as a Condition of Approval. The Applicant shall consult with the Oregon State Historic Preservation Office to determine if any significant cultural or historical resources exist, and if so, how to limit the impacts to such resources during construction

and operation of the facility. This is recommended and listed as a Condition of Approval.

**SECTION 6.040. PERMIT AND IMPROVEMENTS ASSURANCE.**

The Commission may require an applicant to furnish the County with a performance bond or such other form of assurance that the Commission deems necessary to guarantee development in accordance with the standards established and the conditions attached in granting a conditional use permit. Please see discussion in Section 3.010(K)(3)(j) regarding permit and improvements assurance.

- III. **LEGAL NOTICE:** East-Oregonian  
August 4, 2020  
  
Heppner Gazette-Time  
August 5, 2020
  
- IV. **AGENCIES NOTIFIED:** Jim Johnson, Oregon Department of Agriculture; Tamra Mabbott and Hilary Foote, Department of Land Conservation and Development; Steve Cherry and Melody Henderson, Oregon Department of Fish and Wildlife; Greg Silbernagel, Watermaster; Linda Hayes-Gorman and Don Butcher, Oregon Department of Environmental Quality; Matt Scrivner, Public Works Director; Dave Pranger, County Weed Coordinator/Inspector; Justin Nelson and Richard Tovey, County Counsel; Mike Gorman, Morrow County Assessor; Kevin Payne, Soil and Water Conservation; Heather Peck, Oregon Department of Aviation; Joelle Briggs, Federal Aviation Administration; Virgil Morgan, Lone Fire Protection District; Todd Farmer, Oregon Military Department; Kim Peacher, United States Navy; Teresa Penninger and Thomas Lapp, Oregon Department of Transportation; Lisa Sumption and Chrissy Curran, Oregon State Historic Preservation Office
  
- V. **PROPERTY OWNERS NOTIFIED:** August 5, 2020
  
- VI. **HEARING DATE:** August 25, 2020  
Bartholomew Building  
Heppner, Oregon
  
- VII. **DECISION OF PLANNING COMMISSION:** Recommendation of staff is to approve the application subject to the following **CONDITIONS OF APPROVAL:**
  - 1. At final design, this facility shall not preclude more than 20-acres of Arable Lands or Soils.
  - 2. The Applicant will need to submit, and gain the approval of the Morrow County Weed Supervisor a Soil Erosion, Soil Compaction, and Weed Management Plan.
  - 3. The project owner shall have 30-days after the initiation of construction to sign and record with the Morrow County Clerk's Office a Right-to-Farm Disclaimer.
  - 4. At the end of the solar photovoltaic energy generation facility's operating life, the owner of the facility shall be responsible for complete removal of the project components which

would include the solar panels and related equipment to a depth that would allow farming practices to be resumed. The project owner, working cooperatively with the landowner, can retain project roads that would be beneficial to the farm operation. Other roads and accesses shall be removed and the soil amended to allow for agricultural uses. Working with the transmission provider interconnection and other equipment shall be removed or disabled so as to not impact farming practices or create a health or safety concern.

5. During construction, any temporary staging areas shall be situated within the project boundary, these staging areas shall be planted with native grass upon completion of facility construction.
6. Obtain Zoning and Building Permits for all buildings associated with the facility, as well as any fencing greater than 6-feet in height.
7. Obtain approval from, and meet the requirements of the ODOT or Morrow County Public Works Department for all required access points permanent or temporary.
8. Applicant shall work with the Morrow County Public Works Department to determine if a Road Use Agreement is necessary as well as comply with any requirements deemed necessary by the Morrow County Public Works Director.
9. Consult with the Oregon DEQ regarding any required permitting for the proposed facility.
10. The applicant shall contact the U.S. Navy prior to construction to ensure that the proposed project will have no impact to military operations in the area.
11. A Determination of No Hazard to Air Navigation shall be obtained from the Federal Aviation Administration concerning glint or glare.
12. A Determination of No Hazard to Air Navigation shall be obtained from the Oregon Department of Aviation.
13. Applicant shall comply with ODOT recommendations for the mitigation of potential glint or glare concerning vehicular traffic along Highway 207.
14. The applicant shall comply with any recommendations of the Oregon Water Resources Department.
15. All water sourced for construction and operation of this facility shall be purchased from a licensed, commercial source. The Applicant shall inform OWRD of any changes to the water source.
16. The Applicant must comply with any and all ODFW requirements found within the ODFW letter dated June 16, 2020 as well as any future requirements.
17. The Applicant shall consult with the Oregon State Historic Preservation Office to determine if any significant cultural or historical resources exist, and if so, limit the impacts to such resources during construction and operation of the facility.

18. The Applicant shall conform to or obtain a variance to Subsection 605.12 of the 2014 Oregon Fire Code. This subsection requires that a non-combustible base be installed and maintained under and around the installation and equipment.
19. The Applicant shall provide the County with a Final Site Development Plan and Construction Schedule prior to the start of construction.

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Jeff Wenholz, Chair

Date

ATTACHMENTS:

- Vicinity Map
- CUP Applicant's Burden of Proof Statement with Attachments

## **BURDEN OF PROOF STATEMENT**

Conditional Use Permit (CUP) Application  
July 13, 2020  
Morrow County, Oregon

- Applicant:** Energy of Utah, LLC  
1729 E Fort Union Blvd.,  
Cottonwood Heights, UT 84121
- Agent:** Ros Rocco Vrba  
Same address as above
- Consultant:** Bill Adams  
Adams Planning & Development  
4063 SW Tommy Armour Ln.  
Redmond, OR 97756
- Owner:** William J. Doherty  
c/o William J. Doherty Trust  
70644 Doherty Road  
Lexington, OR 97839
- Request:** The applicant requests approval of application for a conditional use permit to establish a photovoltaic solar power generation facility on land zoned Exclusive Farm Use (EFU).
- Subject Property:** An approximate 88 acre site that is within T1N, R26E, and parts of sections 2,3,10, 11, tax lots 400 and 403; section 15, tax lot 2400, and shown on the Assessor Map (Exhibit A) and the Solar Array Layout (Exhibit B). The site is at the intersections of Oregon Highway 207, Sand Hollow Road, Doherty Road, and Grieb Lane.

### **I. APPLICABLE CRITERIA:**

Morrow County Zoning Ordinance

Section 3.010 Exclusive Farm Use Zone EFU

Subsection C. Conditional Uses

Subsection 24 Photovoltaic Solar . . .

Subsection K. 3 Photovoltaic Solar . . .



Subsection M. Yards

Subsection N. Transportation Impacts

Section 3.100 Flood Hazard Overlay Zone FP

Section 6.020 Conditional Uses General Criteria

Section 6.025 Conditional Uses Resource Zones Standards for Approval

Section 6.030 Conditional Uses General Conditions

Oregon Administrative Rules (OAR)

OAR 660-033-0130 (38), photovoltaic solar power generation facility

(a) – (f), (g) (h) (i) (j) (l)

## II. BACKGROUND FACTS:

**LOCATION:** The subject property consists of a lease of part of the following property: tax lots 400 and 403 of Assessor's Map T1N-R26E; and tax lot 2400 of section 15 of Assessor's Map T1N-R26E. The property lies at the intersections of Oregon Highway 207, Sand Hollow Road, Doherty Road, and Grieb Lane. The property is about 7 miles southeast of the bombing range and at the location of the Columbia substation of Columbia Basin Electric Co-Op. The property is located about in the center of Morrow County as shown on the Vicinity Map (Exhibit C).

**LAND LEASE:** The applicant, Mr. Vrba, has signed a lease with the property owner, Mr. Doherty, and recorded the subject document in Morrow County Clerk's office. The lease allows the applicant to place the solar panels on the owners land for an agreed upon temporary period of time. The lease is attached to this Burden of Proof (BOP) as Exhibit D.

**ZONING:** The property is zoned Exclusive Farm Use (EFU) on the County's zoning map and comprehensive plan map.

**PROPOSAL:** The applicant requests approval of application for a conditional use permit (CUP) to establish a photovoltaic solar power generation facility (solar farm) in the Exclusive Farm Use (EFU) Zone. According to the applicant the Columbia Solar facility is a solar energy generating farm that will produce clean, pollution-free electricity that will be sold under a long term power purchase agreement. Solar facilities are truly low impact in terms of their impact on existing county resources.

Submitted with the application is a narrative of the proposal as follows:

*Columbia Solar ("CS") will be a 20 megawatt solar photovoltaic system located off state Hwy 207, near Grieb Lane, Sand Hollow Road, and Doherty Road*

*northeast of Lexington, in Morrow County, Oregon. The system will be ground-mounted and comprised of major system components considered "Tier 1" quality in the solar marketplace. The modules will be single-axle tracking at 430w or higher.*

*The facility will consist of several thousand photovoltaic modules (exact number determined by technology and cost at time of installation) on an aluminum or steel racking structure, and pile driven into the ground. The entire project site area will be approximately 88 acres, which will be surrounded by a 6' chain link fence for security and safety purposes. The racking system is approximately 9' off the surface of the ground at it tallest point, and the modules tilt at approximately 25 degrees. Depending on final system design, the racking system may rotate east to west to efficiently track the solar energy.*

*All of the power produced by the facility will be purchased by Columbia Basin Electric Co-op pursuant to a long-term 20-year agreement called a power purchase agreement. The service life of the facility will be at least 35 years.*

*During construction the project will employ between 40 and 75 workers for a period of 3 months. After construction is complete ongoing operations and maintenance (O&M) will be performed on the facility. Other than for periodic washing, the solar facility does not require water, nor does it impose a burden on the sewer system; outside of the construction phase, there is also negligible traffic other than occasional visits for the aforementioned O&M.*

*An underground collection system will be used to connect photovoltaic electricity of the solar facility to the POI substation at Columbia. The final design of the collector system will be determined by the Engineer of Record and will be submitted to Morrow County Public Works (Road Dept.) as part of the permitting submission. Representatives of Columbia Solar have already conducted preliminary meetings (including a "Pre-App meeting") with the County Planning Department and a few other stakeholders as part of the permitting process to ensure early comment solicitation from various agencies.*

*Other elements of the solar project are shown on the preliminary Site Plan provided by the applicant and the burden of proof (BOP) statement provided by the applicant's consultant.*

With the application, the applicant has provided a burden of proof statement and supplemental materials including maps and data, which are incorporated herein by reference.

**SITE DESCRIPTION:** The subject property is approximately 88 acres which is only a small part of the Doherty farm of over 1,000 acres. (refer to Solar Array Layout – Exhibit B). The applicant has taken great effort to avoid the flood hazard area of the bottom of the Sand Hollow Creek drainage (the creek is intermittent and only serves as a drainageway during major storms. The applicant has also taken great pains to avoid

placing the panels on the more farmable parts of the site – on the higher elevation, where currently dry land wheat is grown (refer to a map of the Crop Cover – Exhibit E). As shown by these two exhibits, the area of the proposed solar panels is generally where the poor soils exists and the scrublands and grasslands exists.

**SURROUNDING LAND USES:** The subject property is surrounded by open space and farmlands. It too is zoned EFU, and is generally dry land farmed without irrigation. Wheat, alfalfa, and grazing are the primary farm products. Lately, a large wind farm has been approved and is in the process of being built west and south of the subject property.

### III. FINDINGS

#### Section 3.010 - Exclusive Farm Use, EFU Zone

##### C. Conditional Uses

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

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

...

**FINDING:** The proposed use is a photovoltaic solar power generation facility, consistent with the listed conditional uses in the Morrow County EFU zone. The state LCDC adopted amendments to subsection (38) of OAR 660-033-0130 on May 23, 2019. However, because the County Zoning Ordinance has not yet been updated to include current language from Oregon Administrative Rules (OAR) for photovoltaic solar power generation facilities provided under OAR 660-033-0130 (38), the applicant's consultant will address pertinent excerpts of subsection 38 below:

#### **660-033-0130**

##### ***Minimum Standards Applicable to the Schedule of Permitted and Conditional Uses***

***The following requirements apply to uses specified, and as listed in the table adopted by OAR 660-033-0120. For each section of this rule, the corresponding section number is shown in the table. Where no numerical reference is indicated on the table, this rule does not specify any minimum review or approval criteria. Counties may include procedures and conditions in addition to those listed in the table, as authorized by law.***

...

**(38) A proposal to site a photovoltaic solar power generation facility shall be subject to the following definitions and provisions:**

**(a) "Arable land" means land in a tract that is predominantly cultivated or, if not currently cultivated, predominantly comprised of arable soils.**

**(b) "Arable soils" means soils that are suitable for cultivation as determined by the governing body or its designate based on substantial evidence in the record of a local land use application, but "arable soils" does not include high-value farmland soils described at ORS 195.300(10) unless otherwise stated.**

**(c) "Dual-Use development" means developing the same area of land for both a photovoltaic solar power generation facility and for farm use.**

**(d) "Nonarable land" means land in a tract that is predominantly not cultivated and predominantly comprised of nonarable soils.**

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

**(f) "Photovoltaic solar power generation facility" includes, but is not limited to, an assembly of equipment that converts sunlight into electricity and then stores, transfers, or both, that electricity. This includes photovoltaic modules, mounting and solar tracking equipment, foundations, inverters, wiring, storage devices and other components. Photovoltaic solar power generation facilities also include electrical cable collection systems connecting the photovoltaic solar generation facility to a transmission line, all necessary grid integration equipment, new or expanded private roads constructed to serve the photovoltaic solar power generation facility, office, operation and maintenance buildings, staging areas and all other necessary appurtenances. For purposes of applying the acreage standards of this section, a photovoltaic solar power generation facility includes all existing and proposed facilities on a single tract, as well as any existing and proposed facilities determined to be under common ownership on lands with fewer than 1320 feet of separation from the tract on which the new facility is proposed to be sited. Projects connected to the same parent company or individuals shall be considered to be in common ownership, regardless of the operating business structure. A photovoltaic solar power generation facility does not include a net metering project established**

**consistent with ORS 757.300 and OAR chapter 860, division 39 or a Feed-in-Tariff project established consistent with ORS 757.365 and OAR chapter 860, division 84.**

**(g) For high-value farmland described at ORS 195.300(10), a photovoltaic solar power generation facility shall not use, occupy, or cover more than 12 acres unless**

...

**ORS 195.300 (10) "High Value farmland" means:**

**(a) . . . as described in ORS 215.710 that is land in an exclusive farm use zone . . . except that the dates specified in ORS 215.710(2), (4) and (6) are December 6, 2007. (2) In addition to that land described in subsection (1) of this section . . .**

**FINDING:** The subject site is comprised of several types of soils (refer to Exhibit F – map and Exhibit G - table), none of which are classified as prime, unique, class I or class II. The subject site and farmland does not grow specified perennials as listed in subsection (2) above, including nursery stock, berries, fruits, nuts, Christmas trees or vineyards. Based on the above findings, the applicable criteria are met.

**(4) . . . if west of the summit of the Coast Range and used in conjunction with a dairy operation . . .**

**FINDING:** The subject site is not located west of the summit of the Coast Range, therefore, the criterion does not apply.

**(6) Soil classes, soil ratings or other soil designations used in this section are those of the Soil Conservation Service in its most recent publication for that class, rating or designation before November 4, 1993.**

**FINDING:** The soil data used in this section is from the most recent NRCS publication, as specified by ORS 195.300 (10) (a), is before December 6, 2007.

**(b) Land west of US Highway 101 . . .**

**FINDING:** The subject site is not west of Highway 101, and therefore, the criterion does not apply.

**(c) Land that is in an exclusive farm use zone . . . and that on June 28, 2007 is:**

**(A) Within the place of use for a permit, certificate or decree for the use of water for irrigation issued by the Water Resources Department;**

***(B) Within the boundaries of a district. . . or***

***(C) Within the boundaries of a diking district . . .***

**FINDING:** The applicant has two water rights certificates 38473 with a priority date of 1967 and 62326 with a priority date of 1970. The last use of MORR well 416 (associated with cert 62326) was 1992; and the last use of MORR well 419 (associated with cert 38473) was 1981. As of January 27, 1986, the subject property was placed within the Butter Creek Critical Groundwater Area. Because of the loss of groundwater recharge of this area, an annual sustainable allocation is placed on water rights. Mr. Doherty is one of the property owners who has not been allocated any water since 1992. Documentation of this information is attached as Exhibit H

The subject property is not within an irrigation district, water district, or diking district, and therefore no irrigation water is provided by a district. Because the subject site is not irrigated, it has limited farming productivity and has historically been used only for dry land farming and grazing.

Although the subject land has water rights, because of the Critical Area Designation, in effect, no irrigation water is available to the owners. With no irrigation water, it limits the extent of farm productivity from the property.

***(d) Land that contains not less than five acres planted in wine grapes.***

**FINDING:** Based on a physical review of subject property and Exhibit E, there are no wine grapes planted, and this criterion is met.

***(e) Land that is in an exclusive farm use zone and that is at an elevation between 200 and 1,000 feet above mean sea level, with an aspect . . . and that is located within:***

**FINDING:** Based on review of the USGS topography map for the subject site, the mean sea level elevation is higher than 1,000, therefore this criterion is not applicable.

***(f) Land that is in an exclusive farm use zone and that is no more than 3,000 feet above mean sea level, with an aspect between 67.5 and 292.5 degrees and a slope between 0 and 15 percent, and that is located within:***

. . .

***(C) The portion of the Columbia Valley Viticultural area . . . that is within the state of Oregon;***

**FINDING:** The subject site has a general elevation of 1100 to 1200 feet above mean sea level, and a slope of 0 to 15 percent, thus meeting the above criteria. The subject site has an aspect that is generally a north facing slope based on the USGS quad map (Exhibit I) Although there are significant portions of the site that have east, west, southeast and southwest facing slopes, the general aspect of the slopes is in a north to northwest and northeast direction, towards the Columbia River. In addition, a site specific Aspect Map (Exhibit J) shows some north, northwest, and northeast facing slopes that are over 12%. Lastly, the site is within the Columbia Valley Viticultural area (AVA) shown on Exhibit K. Based on the above findings on slope aspect, the subject site does not meet all relevant criteria to be considered high value farmland.

**FINDING:** Based on the findings for (38) (g) above, the subject site is not high value farmland and thus meets the criterion (g).

***(h) The following criteria must be satisfied in order to approve a photovoltaic solar power generation facility on high-value farmland described at ORS 195.300 (10).***

...

**FINDING:** As stated in the response of the criteria under (g), the subject property is not high-value farmland, therefore the above criteria under (h) are not applicable.

***(i) For arable lands, a photovoltaic solar power generation facility shall not use, occupy, or cover more than 20 acres. The governing body or its designate must find that the following criteria are satisfied in order to approve a photovoltaic solar power generation facility on arable land:***

**FINDING:** The subject lands where the solar panels will be located are predominately pasture and scrublands (refer to Exhibit E), and very little of such lands have been cultivated (it is not predominately cultivated per the definition of arable lands). The subject lands are not irrigated, and the lack of water with poor soil quality makes cultivation impractical. As documented by the NRCS soil survey table and maps and data submitted by the applicant (Exhibits F and G), the soils are predominately (78%) non-arable soils (class 6 & 7 without irrigation). There are small fingers of class 3 soils that are located primarily on the east and west sides of the solar panel locations. Some of it is cultivated but most is pasture and scrubland – it represents only 19 acres and 22 % of the total 88 acre project site. Therefore, the site is not considered arable land and meets the above criterion.

***(j) For nonarable lands, a photovoltaic solar power generation facility shall not use, occupy, or cover more than 320 acres. The governing body or its designate must find that the following criteria are satisfied in order to approve a photovoltaic solar power generation facility on nonarable land:***

**FINDING:** As documented in prior responses and in the application materials submitted by the applicant, the total project site is 88 acres. Most of the 88 acres is nonarable soils because the predominant soils are class 6 & 7 (Exhibit F) with no irrigation. Therefore, the photovoltaic solar power generation facility will be located on less than 320 acres of nonarable lands, and thus meets the above criterion.

***(A) Except for electrical cable collection systems connecting the photovoltaic solar power generation facility to a transmission line, the project is not located on those high-value farmland soils listed in OAR 660-033-0020(8)(a);***

**FINDING:** As previously documented in the soil survey and documents submitted by the applicant, the solar project is not located on high-value farmland soils that are irrigated, non-irrigated, and prime, unique, class I or II. The collection and transmission lines will be located underground in easements or road rights-of-ways.

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

**FINDING:** Per 0020(8)(b), the project is not located on high value farmland soils because the site does not grow perennials as listed; Per (8)(c) (d) (e), the project is not located on high value farmland soils because the site is not located in the Willamette Valley, not located west of the summit range, and not located west of highway 101. As documented within and above, the project is not located on those high-value farmland soils listed or on arable soils, and therefore meets the above criterion.

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

**FINDING:** There is no acreage of the project that will be sited on high-value farmland soils described in ORS 195.300 (10); as the site is not located west of highway 101; the site does not have a permit or certificate for irrigation water because of the Critical Groundwater Area designation; the site is not within the boundaries of an irrigation or a diking district; the site does not contain a minimum of five acres planted in wine grapes; and the site does not meet the slope aspect standard although it is within the Columbia Valley AVA within the state of Oregon.

***(D) No more than 20 acres of the project will be sited on arable soils;***

**FINDING:** As previously addressed in this burden of proof statement, the predominant soils are class 6 & 7 non-irrigated soils, most of which are not cultivated and are not suitable for cultivation and therefore are not considered as arable lands. The only soils that could be considered arable are Willis silt loam and those soils comprise 19.6 acres of the total 88 acre project site. Based on the above findings, the proposal meets the criterion above.



***(E) The requirements of OAR 660-033-0130(38)(h)(D) are satisfied;***

**FINDING:** As this provision requires the applicant submit a weed control plan for a photovoltaic solar power generation facility on high-value farmland, and we have established that the subject site does not contain any high-value farmland soils, this standard is not applicable. However, as a condition of approval the applicant is willing to submit a weed control plan that meets the county's requirements

***(F) If a photovoltaic solar power generation facility is proposed to be developed on lands that contain a Goal 5 resource protected under the county's comprehensive plan, and the plan does not address conflicts between energy facility development and the resource, the applicant and the county, together with any state or federal agency responsible for protecting the resource or habitat supporting the resource, will cooperatively develop a specific resource management plan to mitigate potential development conflicts. If there is no program present to protect the listed Goal 5 resource(s) present in the local comprehensive plan or implementing ordinances and the applicant and the appropriate resource management agencies cannot successfully agree on a cooperative resource management plan, the county is responsible for determining appropriate mitigation measures; and***

**FINDING:** Based on a review of the Comprehensive Plan and the Zoning Ordinance, it appears that there are no significant Goal 5 resources on the project site area. Of the Goal 5 resources, solar energy was identified as a potential resource but not listed as specific sites.

"Sand Hollow Natural Grassland" was identified as a Goal 5 resource but designated "1B" which requires additional information before a policy can be developed. "WA Ground Squirrel" is listed as a specific area on federal land at the Boardman Bombing Range and designated "2A", which identified no conflicting uses and to manage resource to preserve original character. Wetlands and riparian habitats were identified which includes those associated with Sand Hollow Creek. As shown on the Solar Array layout (Exhibit B), the solar panels were placed in locations set back from the flood hazard area. This would also have the effect of avoiding riparian areas and wetlands as these resources are usually associated with flood plain areas. Based on the above findings and conditions of approval, the proposal meets this criterion.

***(G) If a proposed photovoltaic solar power generation facility is located on lands where, after site specific consultation with an Oregon Department of Fish and Wildlife biologist, it is determined that the potential exists for adverse effects to state or federal special status species (threatened, endangered, candidate, or sensitive) or habitat or to big game winter range or migration corridors, golden eagle or prairie falcon nest sites or pigeon springs, the applicant shall conduct a site-specific assessment of the subject property in consultation with all appropriate state, federal, and***

***tribal wildlife management agencies. A professional biologist shall conduct the site-specific assessment by using methodologies accepted by the appropriate wildlife management agency and shall determine whether adverse effects to special status species or wildlife habitats are anticipated. Based on the results of the biologist's report, the site shall be designed to avoid adverse effects to state or federal special status species or to wildlife habitats as described above. If the applicant's site-specific assessment shows that adverse effects cannot be avoided, the applicant and the appropriate wildlife management agency will cooperatively develop an agreement for project-specific mitigation to offset the potential adverse effects of the facility. Where the applicant and the resource management agency cannot agree on what mitigation will be carried out, the county is responsible for determining appropriate mitigation, if any, required for the facility.***

**FINDING:** Based on a review of the Comprehensive Plan and Zoning Overlay, it does not appear that there is any significant habitat, bird sites or other wildlife resource on the property. ODFW sent a letter (Exhibit L) to the applicant recommending actions be taken to identify and protect significant habitat and wildlife, including the Washington Ground Squirrel and Raptors. The applicant is willing to conduct such pedestrian surveys as a condition of approval. The applicant has attached a map (Exhibit M) that shows the subject site is approximately 17 miles from the nearest USFWS Critical Habitat for Bull Trout. As recommended by the ODFW, the applicant has also produced a Conservation Strategy Habitat map (Exhibit N). Sand Hollow Creek is an intermittent stream and does not support anadromous fish migration or even resident fish because of lack of water. The applicant will engage with state and federal resource agencies if any significant wildlife or wildlife habitat is found at the project site. Based on the above findings and conditions of approval, the proposal meets this criterion.

***(l) The county governing body or its designate shall require as a condition of approval for a photovoltaic solar power generation facility, that the project owner sign and record in the deed records for the county a document binding the project owner and the project owner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices as defined in ORS 30.930(2) and (4).***

**FINDING:** The applicant is agreeable to sign such a statement and condition of approval.

**M. Yards** In an EFU Zone, the minimum yard setback requirements . . . :

1. The front yard setback from the property line shall be 20 feet for property fronting on a local minor collector or marginal access ROW, 30 feet from a property line fronting on a major collector ROW, and 80 feet from an arterial ROW . . .
2. Each side yard shall be a minimum of 20 feet . . .

3. Rear yards shall be a minimum of 25 feet.
4. Stream Setback. . . All structures . . . shall be set back from the high-water line or mark along all streams or lakes a minimum of 100 feet . . .

**FINDING:** As these are non-discretionary standards, the applicant must meet them, and the applicant will demonstrate that as a condition of approval when he submits a building permit and plot plan for the solar project structures.

#### **N. Transportation Impacts**

**Transportation Impact Analysis (TIA).** In addition to the other standards and conditions set forth in this section, a TIA will be required for all projects generating more than 400 passenger car equivalent trips per day.

**FINDING:** The applicant states in his description of the project that approximately 40 – 75 construction workers will be employed at the subject site to construct the solar project. The project will take no more than 3 months to complete. It is estimated that approximately 4 delivery trucks per day, on average, will make a trip to/from the site. Assuming 1.25 worker occupants per private vehicle, it is estimated that 92 trips, on average will travel to/from the site. Therefore, a total of 96 trips per day will be averaged over the 3 month construction project. Since this is much lower than the 400 trips per day threshold, no TIA will be provided.

#### **Section 3.100 Flood Hazard Overlay Zone, FP**

##### **(1) APPLICATION OF PROVISIONS**

. . . “Flood Insurance Rate Maps” is hereby adopted by reference and declared to be a part of this Ordinance, and thereof, the provisions of this section shall apply to all flood hazard areas identified by said Maps.

##### **(2) DEFINITIONS**

. . .

**AREA OF SPECIAL FLOOD HAZARD or SPECIAL FLOOD HAZARD AREA (SFHA)** means the land in the flood plain within a community subject to a one-percent or greater chance of flooding in any given year. Designations on maps always includes the letter A.

**FINDING:** Based on the special Flood Hazard “Firmette” (FEMA) map (Exhibit O) and the applicant’s Solar Array Layout with FEMA floodplain (Exhibit B), the proposed solar facilities are located outside the SFHA zone A. Because the project is outside the flood hazard zone, the provisions of the FP zone do not apply.

#### **Section 4.010 Access**

....

**B. Access Permit Requirement**

**C. Emergency Vehicle Access**

**D. Easements and Legal Access**

....

**H. Access Spacing Requirements . . .**

**FINDING:** As these are non-discretionary standards, the applicant must meet them, and he will demonstrate that as a condition of approval when he submits his Access Permit to the County.

## **ARTICLE 6 CONDITIONAL USES**

....

### **Section 6.020 GENERAL CRITERIA**

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

- A. The proposal will be consistent with the Comprehensive Plan and the objectives of the Zoning Ordinance and other applicable policies and regulations of the County.**
- B. If located within the Urban Growth Boundary of a city, that said city has had an opportunity to review and comment on the subject proposal.**
- C. The proposal will not exceed carrying capacities of natural resources or public facilities.**

**FINDING:** The County Comprehensive Plan has policies that encourage the use of solar and wind resource energy; examples include Goal 11 Public Facilities and Services Element, General Policies "Programs should be continued to develop additional sources of electric and other power sources to assure adequate service to the county area and its projected growth."

Goal 13 Energy Conservation Element, policy 1 "To encourage renewable and/or efficient energy systems design, siting and construction materials in all new development and improvements in the county." Policy 3 "Encourage development of solar and wind resources."

The County has incorporated much of these policies into the Zoning Ordinance to allow and encourage solar energy. Findings within this burden of proof (BOP) statement demonstrate that the proposed solar project complies with the Morrow County Zoning Ordinance.

The project is not located in an Urban Growth Boundary, thus, that criterion is not applicable.

The project is very compatible with and will not exceed carrying capacities of natural resources and public facilities. The project will not emit any air pollution, noise pollution and will produce no wastewater. Water to clean off the panels will be brought in by trucks (2-3 per quarter). The project has little impact on public facilities such as county and ODOT roads, the fire district, and the county Sheriff. The applicant ran a DOD preliminary screening tool for the Boardman Bombing Range and found "no impact" for Military Ops, Long Range Radar, and Nexrad (see Exhibit P).

#### **Section 6.025 RESOURCE ZONE STANDARDS FOR APPROVAL**

**A. In an Exclusive Farm Use Zone a conditional use may be approved only when the county finds that the use will not:**

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

**The applicant may demonstrate that these criteria will be satisfied through the imposition of conditions. Any conditions so imposed must be clear and objective.**

**FINDING:** There are no nearby or surrounding forest lands or forest practices. There is no significant or unique farming practices on lands surrounding the subject property. Most of the surrounding farming is the same as what occurs on the Doherty's – dry land wheat, alfalfa, and grazing. The standard farm practices include plowing, seeding, weeding, fertilizing, and harvesting. The solar facility is a passive use and does not emit any impact to farms that are several hundred feet away. The solar operations include periodic washing and maintenance, with negligible traffic, and no noise, glare, dust, or other impact. PV panels are designed to absorb, not reflect, sunlight.

Current solar panel technology utilizes a layer of anti-reflective material that allows sunlight to pass through while minimizing reflection and also includes an anti-reflective

material on the outer surface to further limit reflection. This information is from Federal Aviation Administration sponsored reports such as Solar and PV Glare Fact Sheet, by Meister Consultants Group Inc, 2014.

Therefore, based on the findings above, the proposed solar facility will not force a significant change in accepted farm practices on surrounding farm lands. Since the solar facility will not force a significant change in farm practices, we can deduce that the solar facility will not significantly increase the cost of accepted farm practices on surrounding farm lands.

The proposed use therefore complies with both criteria above.

### **Section 6.030 GENERAL CONDITIONS**

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

**A. Limiting the manner in which the use is conducted . . .**

**FINDING:** The applicant has designed the project to have the least impact and to minimize noise, vibration, air pollution, glare and odor. There is no need to further limit the use of a solar farm that has virtually no negative impact on surrounding lands.

**B. Establishing a special yard or other open space or lot area or dimension.**

**FINDING:** There is no basis for requiring an additional yard or open space area

**C. Limiting the height, size or location of a building or other structure.**

**FINDING:** The height of the proposed solar panels will 9 feet or less – there is no basis or need to further reduce the height or size of solar panels.

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

**FINDING:** The applicant will obtain an access permit from county Public Works that will limit the location and number of access points.

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

**FINDING:** No additional right-of-way width or improvements are needed on the county or ODOT road facilities. The applicant will comply with emergency vehicle access standards.

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

**FINDING:** The facility will not have or need a parking or loading area.

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

**FINDING:** The applicant does not propose to install any signs.

**H. Limiting the location and intensity of outdoor lighting . . .**

**FINDING:** The applicant does not propose to install any outdoor lighting.

**I. Requiring diking, screening, landscaping or another facility to protect adjacent or nearby property . . .**

**FINDING:** As this is a rural use and there are no adjacent residences (other than the owners), there will no need for landscaping or screening.

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

**FINDING:** The applicant proposes to build a 6 foot high chain-link fence.

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

**FINDING:** There is no existing trees to protect, and most of the existing vegetation is sagebrush, bitter brush, and native grasses in the project area. During construction, the applicant will minimize impacts on plants and water (if any is encountered). Areas of temporary impacts will be reseeded and restored to the most practical degree possible. The applicant is willing to develop and follow a Soil Erosion and Compaction Plan and a Weed Control Plan. In addition, the applicant must be in compliance with a National Pollutant Discharge Elimination System (NPDES) permit if required by the Oregon DEQ. The applicant, through a condition of approval, will consult with the Oregon SHPO to determine if any significant cultural or historical resource exists and to limit the impacts to such resources during construction.

**CONCLUSION:** Based on the findings above, the applicant has met all applicable approval criteria, or can meet them through conditions of approval.

---

Respectfully Submitted,

Adams Planning & Development (Bill Adams)

## EXHIBITS

### **For Burden of Proof Statement Conditional Use Permit Application PV Solar Farm William J. Doherty owner**

- A. ASSESSOR MAP
- B. SOLAR ARRAY LAYOUT – FLOODPLAIN & CONTOURS
- C. VICINITY MAP
- D. LAND LEASE
- E. CROP COVER MAP
- F. SOLAR ARRAY LAYOUT- SOIL ANALYSIS
- G. NRCS SOILS TABLE
- H. WATER RIGHTS & CRITICAL GROUNDWATER AREA DOCUMENTS
- I. USGS QUAD MAP
- J. SITE ASPECT MAP
- K. COLUMBIA VALLEY AVA MAP
- L. ODFW LETTER
- M. CRITICAL HABITAT MAP
- N. CONSERVATION STRATEGY HABITATS
- O. FEMA FLOOD HAZARD MAP
- P. DOD PRELIMINARY SCREENING TOOL FOR BOARDMAN BOMBING RANGE

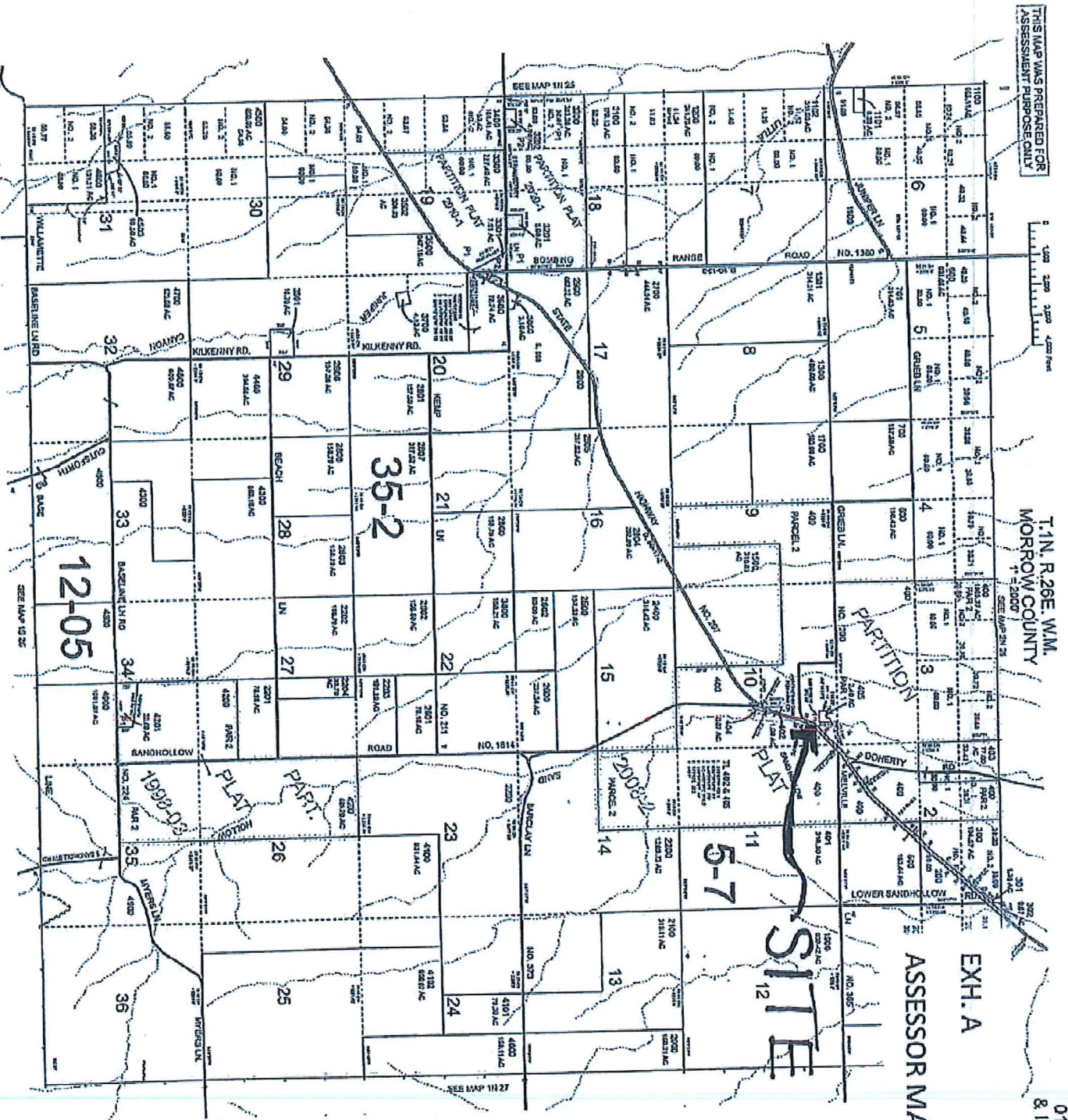
**Applicant:** Energy of Utah, LLC  
1729 E Fort Union Blvd.,  
Cottonwood Heights, UT 84121

**Agent:** Ros Rocco Vrba  
Same address as above

**Consultant:** Bill Adams  
Adams Planning & Development  
4063 SW Tommy Armour Ln.  
Redmond, OR 97756



EXH. A  
ASSESSOR MAP



THIS MAP WAS PREPARED FOR  
ASSESSMENT PURPOSE ONLY

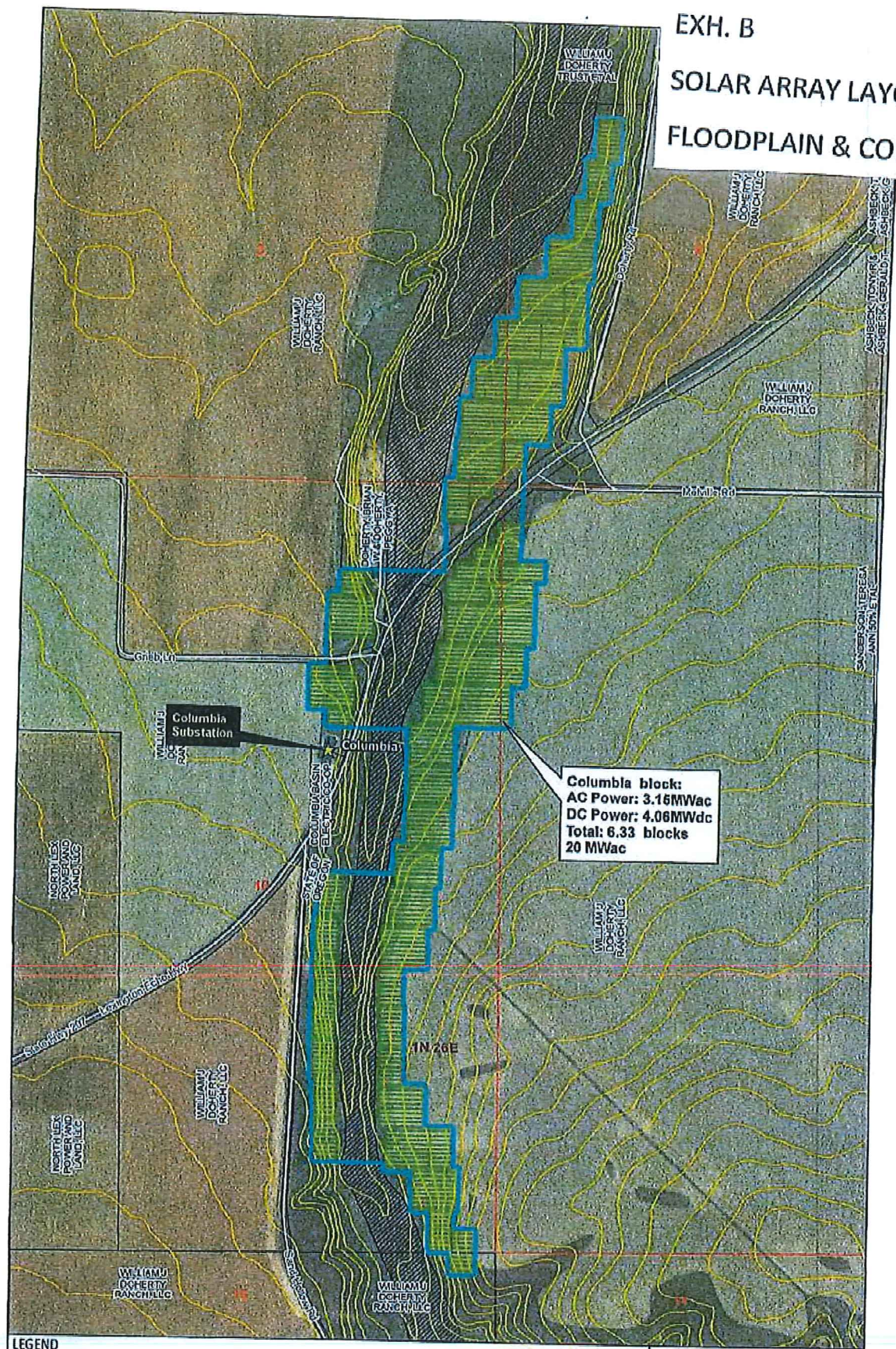
T.1N. R.26E. W.M.  
MORROW COUNTY

EXH. A  
ASSESSOR MAP

01N26E  
& INDEX

Revised: E3  
01/21/2020  
& INDEX  
01N26E

EXH. B  
 SOLAR ARRAY LAYOUT -  
 FLOODPLAIN & CONTOURS



**Columbia block:**  
 AC Power: 3.16MWac  
 DC Power: 4.06MWdc  
 Total: 6.33 blocks  
 20 MWac

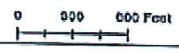
**LEGEND**

Columbia Solar

FEMA Floodplain - Zone A

10' Contour

	Area Utilized
Columbia	88.0

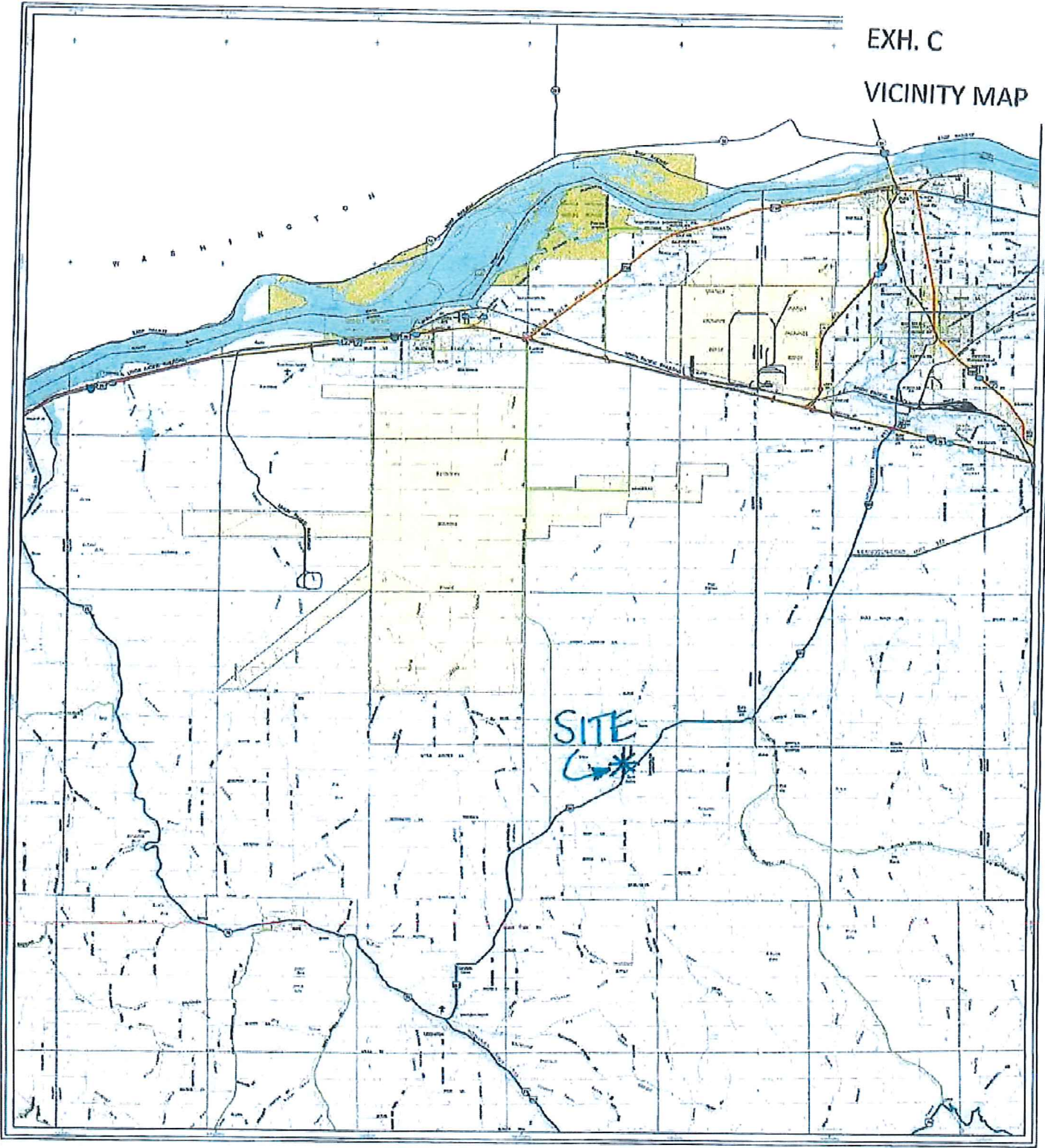


MORROW COUNTY, OREGON

**COLUMBIA SOLAR**

SOLAR ARRAY LAYOUT  
 -FEMA Floodplain

EXH. C  
VICINITY MAP



<p><b>LEGEND</b></p> <p><b>FUNCTIONAL CLASSIFICATION</b></p> <p>Interstate Federal Highway State Highway County Road Local Road</p> <p><b>OTHER FEATURES</b></p> <p>Water Canal Ditch Fence Power Line Telephone Line Railroad Boundary City Township Section</p>	<p><b>ARRANGEMENT OF SHEETS</b></p> <p>1 2 3 4</p>	<p>This product is for informational purposes only and may not be suitable for legal, engineering, or surveying purposes. Users of this product should review and consult the primary data source to determine the suitability of the information. Conclusions drawn from this information are the responsibility of the user.</p> <p>Scale: 0 0.5 1 2 3 4 Miles 0 1.25 2.5 5 7.5 Kilometers</p>	<p><b>COUNTY SHEET INDEX</b></p> <p>Morrow</p>	<p><b>OREGON TRANSPORTATION MAP</b> Showing Federal Functional Classification of Roads</p> <p><b>MORROW COUNTY</b></p> <p>Sheet 1 of 3 POPULATION 11,855 2010 Edition</p> <p>Published by GIS</p>
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Digitized by the Oregon Department of Transportation. Geographic Information System Unit. Map File: Oregon 2010 Edition. Data provided by the Oregon Department of Transportation and the Oregon Department of Transportation. All rights reserved. No part of this publication may be reproduced without the prior written permission of the Oregon Department of Transportation. 2010 Edition.

EXH. D

LAND LEASE

RECORDING COVER SHEET  
(Please Print or Type)

The information on this sheet is a reflection of the attached instrument for the purpose of meeting first page requirements, ORS 205.234.

If this cover page is included with your document, please add \$5.00 to the total recording fees.

AFTER RECORDING RETURN TO:

Columbia Solar I&II LLC  
PO Box 90083  
Sandy, UT 84093-0083

MORROW COUNTY, OREGON 2020-46508  
LE-MCL

Cr1=2 Str=23 TC 06/02/2020 03:34:04 PM  
\$35.00 \$5.00 \$11.00 \$60.00 \$10.00 \$121.00



J. Bobbi Childers, County Clerk for Morrow County, Oregon, certify that the instrument identified herein was recorded in the Clerk records

Bobbi Childers - County Clerk



1) TITLE(S) OF THE TRANSACTION(S) ORS 205.234(a)  
Memorandum of Lease and Easement for Solar Energy Project

2) DIRECT PARTY / GRANTOR(S) ORS 205.125(1)(b) and 205.160  
William J Doherty Ranch LLC

3) INDIRECT PARTY / GRANTEE(S) ORS 205.125(1)(a) and 205.160  
Columbia Solar I&II LLC

4) TRUE AND ACTUAL CONSIDERATION  
ORS 93.030(5) - Amount in dollars or other

\$ 10.00  Other

5) SEND TAX STATEMENTS TO:

6) SATISFACTION of ORDER or WARRANT  
ORS 205.125(1)(e)

CHECK ONE:  FULL  
(If applicable)  PARTIAL

7) The amount of the monetary obligation imposed by the order or warrant. ORS 205.125(1)(c)

\$ \_\_\_\_\_

8) If this instrument is being re-recorded, complete the following statement, in accordance with ORS 205.244:

"Re-recorded at the request of \_\_\_\_\_ to correct

\_\_\_\_\_ previously recorded in Book \_\_\_\_\_ and page \_\_\_\_\_, or as Fee Number \_\_\_\_\_"

When recorded return to:  
Columbia Solar I&II LLC  
P.O. Box 900083  
Sandy, UT 84093-0083

Prepared by:  
Ros Rocco Vrba - MBA  
President  
rosvrba@energyofutah.com  
Tel: 121.11.708.2086

**MEMORANDUM OF LEASE AND EASEMENT  
FOR A SOLAR ENERGY PROJECT**

THIS MEMORANDUM OF LEASE AND EASEMENT FOR A SOLAR ENERGY PROJECT (the "Memorandum") is made and entered into as of the 5 day of MAY, 2020, by and between William J Doherty Ranch LLC (hereinafter called "OWNER"), and Columbia Solar I&II LLC, a Utah limited liability company, and its assigns (hereinafter called "COMPANY").

**RECITALS**

WHEREAS, reference is made to that certain Lease and Easement for a Solar Energy Project dated as of the 5 day of MAY, 2020, by and between OWNER and COMPANY, (the "Agreement"), whereby OWNER has granted to COMPANY a certain lease and easement rights pertaining to that certain real property owned by OWNER in Morrow County, Oregon, and as more particularly described on Exhibit A attached hereto and incorporated herein by reference (the "Property"); and

WHEREAS, the parties wish to give notice of the existence of the Agreement and the other rights and interest of COMPANY.

NOW THEREFORE, in consideration of \$10.00 and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in consideration of the mutual covenants, agreements and conditions contained herein and contained in the Agreement, the parties hereto agree as follows:

1. **Definitions.** Capitalized terms used but not otherwise defined in this Memorandum shall have the same meaning ascribed to such terms in the Agreement.

2. **Lease Rights.** OWNER has leased the Property to COMPANY on the terms and provisions set forth in the Agreement. The Agreement is for the use of the Property solely for Solar energy purposes, and provides COMPANY with the right to use the Property for Solar energy purposes, including but not limited to converting Solar energy into electrical energy, and collecting and transmitting the electrical energy so converted through underground and overhead lines as provided in the Agreement, together with the following activities related thereto: (a) determining the feasibility of Solar energy conversion on the Property, including studies of Solar rays and other such activities as extracting soil samples, and all other testing, studies or sampling desired by COMPANY; (b) developing, constructing, installing, using, replacing, relocating, controlling, using and removing from time to time, and

Solar power Facilities; and (c) undertaking any other activities, whether accomplished by COMPANY or a third party authorized by COMPANY, that COMPANY reasonably determines are necessary, useful or appropriate to accomplish any of the foregoing, including the right to erect, construct, reconstruct, replace, relocate, remove, control, maintain and use the Solar power Facilities.

3. **Grant of Easements.** OWNER has granted to COMPANY the following easements ("Easements"): (a) an exclusive easement on the Property to capture, use, convert, and maintain the free and unobstructed Solar rays currents and Solar resources over and across the Property; (b) the right of ingress and egress to and from the Solar power Facilities; and (iv) certain other easements and rights to use and enjoy the Property, all as more particularly set forth in the Agreement.

4. **Non-Interference and Setbacks.** To the extent permitted by law OWNER has waived any and all setbacks and setback requirements, whether imposed by applicable law or by any person or entity, or in any governmental entitlement or permit heretofore or hereafter issued to COMPANY, such sub-lessee or such affiliate. OWNER has agreed not to engage in any activity that might cause a decrease in the output or efficiency of any Solar power Facilities or construct any structures over 50 feet in height, or allow the construction of any structures within three hundred (300) feet of solar arrays.

5. **Assignments by OWNER.** OWNER is obligated to notify COMPANY in writing of any sale, assignment or transfer of any of OWNER's interest in the Property, or any part thereof. Until such notice is received, COMPANY shall have no duty to any successor OWNER, and COMPANY shall not be in default under the Agreement if it continues to make all payments to the original OWNER before notice of sale, assignment or transfer is received. Except under certain conditions, more particularly described in the Agreement, OWNER shall neither sever nor attempt to sever the Property's Solar energy rights or interests from the Property's fee title or otherwise convey, assign or transfer or attempt to convey, assign or transfer the Agreement, or the rights to payments due to OWNER under the Agreement, except to a successor owner of the Property.

6. **Covenants Running with the Land.** OWNER and COMPANY agree that all of the covenants and agreements contained in the Agreement touch and concern the Property and are expressly intended to, and shall, be covenants running with the land and shall be binding upon the Property and each party's present and future estate or interest therein and upon each of the parties, their respective heirs, administrators, executors, legal representatives, successors and assigns.

7. **Subordination.** The Agreement provides that from and after its effective date, any right, title or interest created by Landowner in favor of or granted to any third party shall be subject to (a) the Agreement and all of Lessee's rights, title and interests created thereby, (b) any lien of any lender of Lessee's then in existence on the leasehold estate created by the Agreement, and (c) Lessee's right to create a lien in favor of any lender of Lessee's.

8. **Notice and Binding Effect.** It is understood that the purpose of this Memorandum is to give notice of the Agreement. The Agreement contains other terms and conditions set forth more fully therein. All such terms and conditions of the Agreement are incorporated herein by this reference. The parties hereby ratify and confirm the Agreement as if the Agreement were being re-executed by them and recorded. This Memorandum shall bind and inure to the benefit of OWNER and COMPANY and their respective successors and assigns, and shall encumber the Property and shall be binding on OWNER's successors-in-interest thereto and all persons claiming by, through or under OWNER, subject to the express provisions of the Agreement. In the event of any inconsistency between the provisions of this Memorandum and the Agreement, the provisions of the Agreement shall control.

9. Counterpart Execution. This Memorandum may be executed in one or more counterparts, all of which, taken together, shall constitute one and the same instrument.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have executed this Memorandum of Lease and Easement for a Solar Energy Project as of the day and year first above written.

OWNER: William J Doherty Ranch LLC

By: *William J Doherty*  
Print: W. J. DOHERTY  
Title: Manager


STATE OF Oregon )  
   ) SS:  
COUNTY OF Morristown )

On this 5<sup>th</sup> day of May, 2020, before me appeared William J Doherty to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he/she executed same as his/her free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid on the day and year first above written.

Name (signature): *Sharon L. Hietmann*  
Notary Public

My Commission Expires:

 <p>OFFICIAL STAMP SHARON L HIETMANN NOTARY PUBLIC-OREGON COMMISSION NO. 992885 MY COMMISSION EXPIRES JANUARY 13, 2023</p>
--

PLEASE AFFIX SEAL FIRMLY AND CLEARLY  
IN THIS BOX.





IN WITNESS WHEREOF, the parties hereto have executed this Memorandum of Lease and Easement for a Solar Energy Project as of the day and year first above written.

COMPANY:

Columbia Solar I&H, LLC  
a Utah limited liability company

By: [Signature]

Name: Ros Rocco Vrba

Title: Manager


STATE OF Utah )  
 ) SS:  
COUNTY OF SALT LAKE )

On this 15<sup>th</sup> day of May, 2020, before me appeared Ros Rocco Vrba, to me personally known, who, being by me duly sworn, did say that he/she is the manager of Columbia Solar, LLC, a \_\_\_\_\_ limited liability company, and that said instrument was signed in behalf of said limited liability company, by authority of its members; and acknowledged said instrument to be the free act and deed of said limited liability company.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid on the day and year first above written.

Name (signature): [Signature]  
Notary Public

My Commission Expires: 6/18/22



PLEASE AFFIX SEAL FIRMLY AND CLEARLY IN THIS BOX.

EXHIBIT A

TO MEMORANDUM OF LEASE AND EASEMENT  
FOR A SOLAR ENERGY PROJECT

LEGAL DESCRIPTION OF PROPERTY

**PARCEL 1:** *Columbia Solar I LLC*

*Easterly 1180' located in E ½ of the SE ¼, Section 3, T1N, 26E; and the*

*Westerly 418', lying west of State Highway 207, located in the W ½ of the SW ¼, Section 2, T1N, 26E;*

*and the Northerly 437' and easterly 742', lying to the west of State Highway 207, located in the NE ¼ of the NE ¼, Section 10, T1N, 26E*

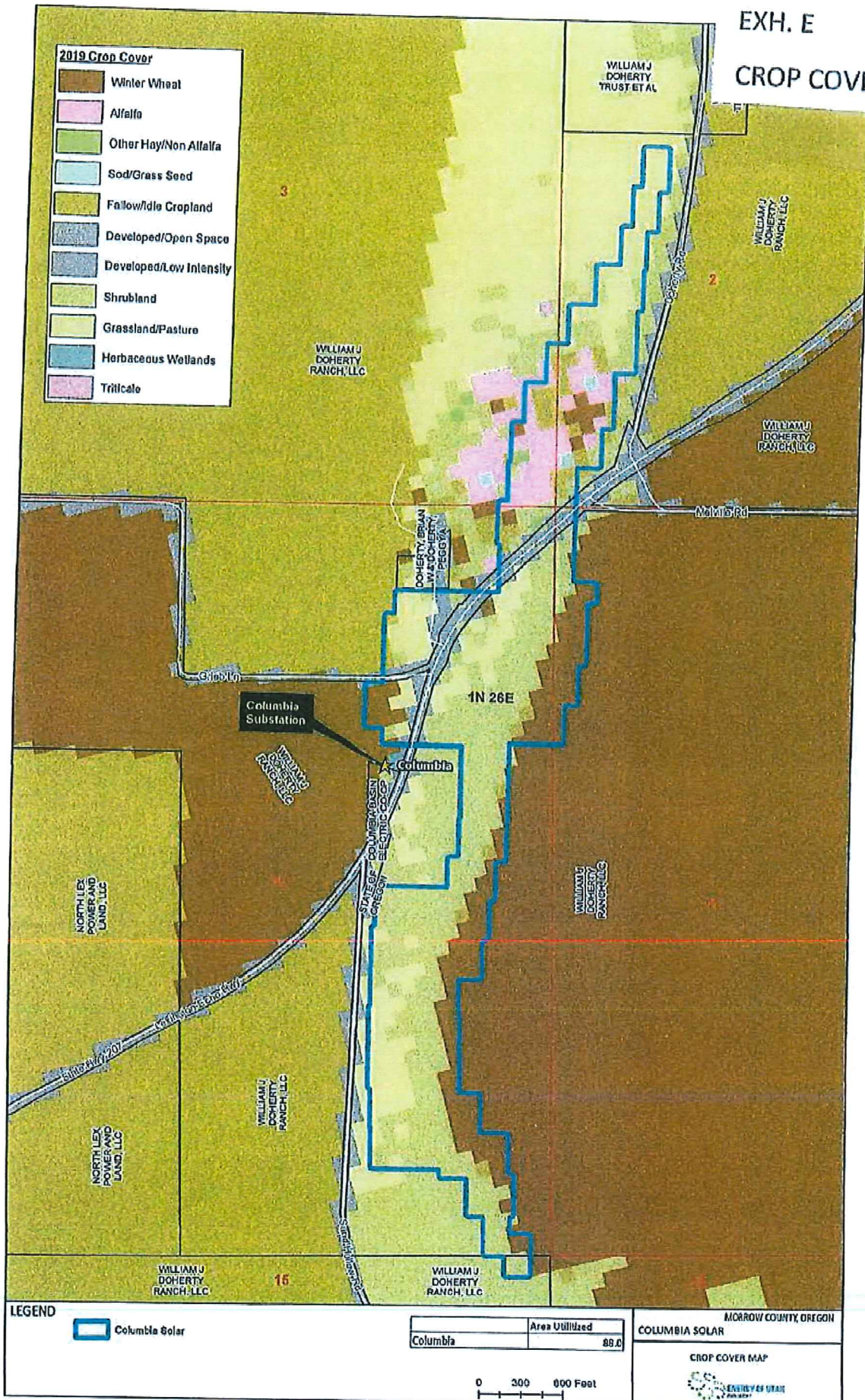
*80.8 acres m/l, located in Morrow County, OR*

**PARCEL 2:** *Columbia Solar II LLC*

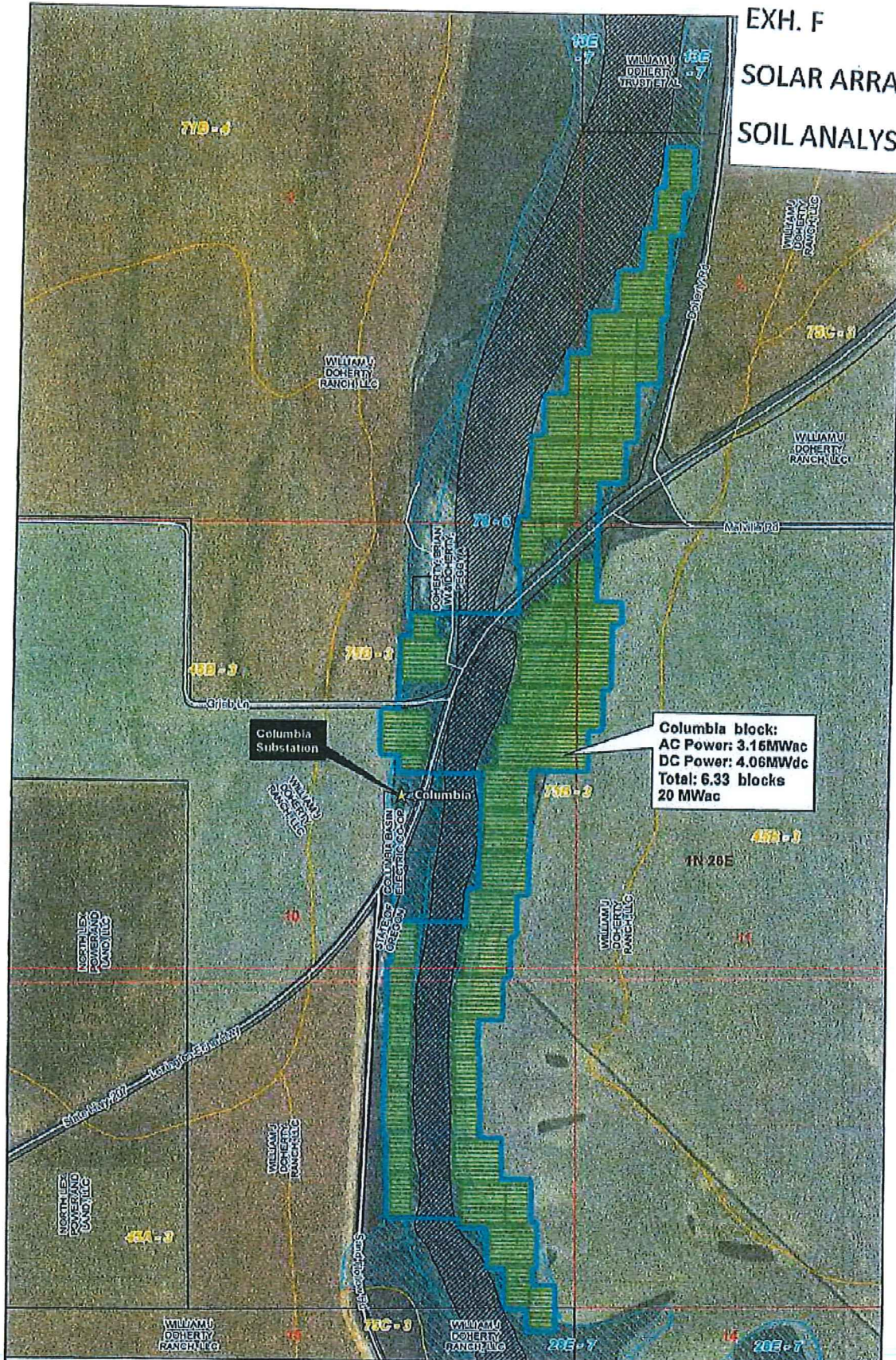
*Easterly 1071', lying east of State Highway 207, located in the E ½ of the NE ¼, Section 10, T1, 26E*

*40.3 acres m/l, located in Morrow County, OR*

EXH. E  
CROP COVER MAP



EXH. F  
 SOLAR ARRAY LAYOUT  
 SOIL ANALYSIS MAP



LEGEND		Area Utilized	
	Columbia Solar	Columbia	88.0
	Soil Class		
	Class I - IV		
	Class V+		
	FEMA Floodplain - Zone A		

0 300 600 Feet

MORROW COUNTY, OREGON

**COLUMBIA SOLAR**

SOLAR ARRAY LAYOUT  
 SOIL ANALYSIS

Soil Map Unit	Soil Map Unit Name	Non-Irrigated Capability Class - Dominant Condition	Acres	Percent of Site Area
75B	Willis silt loam, 2 to 5 percent slopes	3	19.698381	22.4%
78	Xeric Torriorthents, nearly level	6	22.628898	25.7%
28E	Lickskillet very stony loam, 7 to 40 percent slopes	7	21.013947	23.9%
13E	Gravden very gravelly loam, 20 to 40 percent slopes	7	24.628958	28.0%
<b>Total Acres</b>			<b>88.0</b>	<b>100%</b>

Soil information:  
 Gridded Soil Survey Geographic (gSSURGO) Database  
 Source:  
 Soil Survey Staff, Natural Resources Conservation Service, United States Department of Agriculture.  
 Non-Irrigated Capability Class - Dominant Condition: The broadest category in the land capability classification system for soils. This column displays the dominant capability class, under nonirrigated conditions, for the map unit based on composition percentage of all components in the map unit. Derived from the Mapunit Aggregated Attribute Table.

EXH. G  
 NRCS SOILS TABLE

EXH H. - WATER RIGHTS &  
CRITICAL GROUNDWATER AREA  
DOCUMENTS FROM WRD

Butter Creek Critical Groundwater Area, Pine City Subarea  
Proposed Allocations by Well and Water Right for 2020  
Sustainable Annual Yield: 4150.00 acre-feet  
Total Allocation: 4150.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2016	Water Use (af) 2017	Water Use (af) 2018	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 467	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Claim:GR 4142 *	12/31/1925		Water Right Total:				0.00
			MORR 466	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Cert:26072 OR *	11/14/1952		Water Right Total:				0.00
			MORR 50409	0.00	0.00	0.00	1.00	1.00
ROBERT J KILKENNY TRUST	Cert:56513 (T 5904 RR) *	12/17/1952		Water Right Total:			1.00	1.00
			MORR 426	1.50	0.02	0.00	1.00	1.00
FOURMILE LAND COMPANY	Cert:82664 CF *	12/17/1952		Water Right Total:			1.00	1.00
			MORR 566	0.00	0.00	0.00	1.00	1.00
STARVATION FARMS	Cert:57734 CF *	06/24/1954		Water Right Total:			1.00	1.00
			MORR 476	361.59	373.75	307.20	368.40	368.40
VEY RANCH	Cert:80766 (RR) *	10/14/1957		Water Right Total:			368.40	368.40
			MORR 50481	236.80	170.52	238.30		0.00
ARCUS, LLC	Cert:91185 CF *	10/14/1957		Water Right Total:				0.00
			MORR 465	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Cert:34283 OR *	02/05/1962		Water Right Total:				0.00
			MORR 432	261.24	252.23	274.60		0.00
TURNER RANCH INC	Cert:51157 (T 5016 RR) *	04/24/1963		Water Right Total:				0.00
			MORR 432	261.24	252.23	274.60		230.00
TURNER RANCH INC	Cert:75648 CF *	04/24/1963		Water Right Total:				230.00
			MORR 454	187.87	152.13	164.09	132.00	132.00
BUTTER CREEK RANCHES LLC	Cert:34284 OR *	11/08/1963		Water Right Total:			132.00	132.00
			MORR 50481	236.80	170.52	238.30	400.00	400.00
ARCUS, LLC	Cert:80767 (RR) *	12/17/1964		Water Right Total:			400.00	400.00
			MORR 51070	42.82	34.82	47.00		63.00
JEFF COELHO	Cert:88457 CF *	12/17/1964		Water Right Total:				63.00
			MORR 50481	236.80	170.52	238.30		0.00
ARCUS, LLC	Cert:91182 CF *	12/17/1964		Water Right Total:				0.00
			MORR 454	187.87	152.13	164.09	73.00	73.00
BUTTER CREEK RANCHES LLC	Cert:38714 OR *	04/01/1966		Water Right Total:			73.00	73.00
			MORR 463	43.02	130.27	145.41		100.00
MITCH ASHBECK	Cert:42527 OR *	05/27/1966		Water Right Total:				100.00
			MORR 419	0.00	0.00	0.00		0.00
WJ DOHERTY	Cert:38473 OR *	03/13/1967		Water Right Total:				0.00

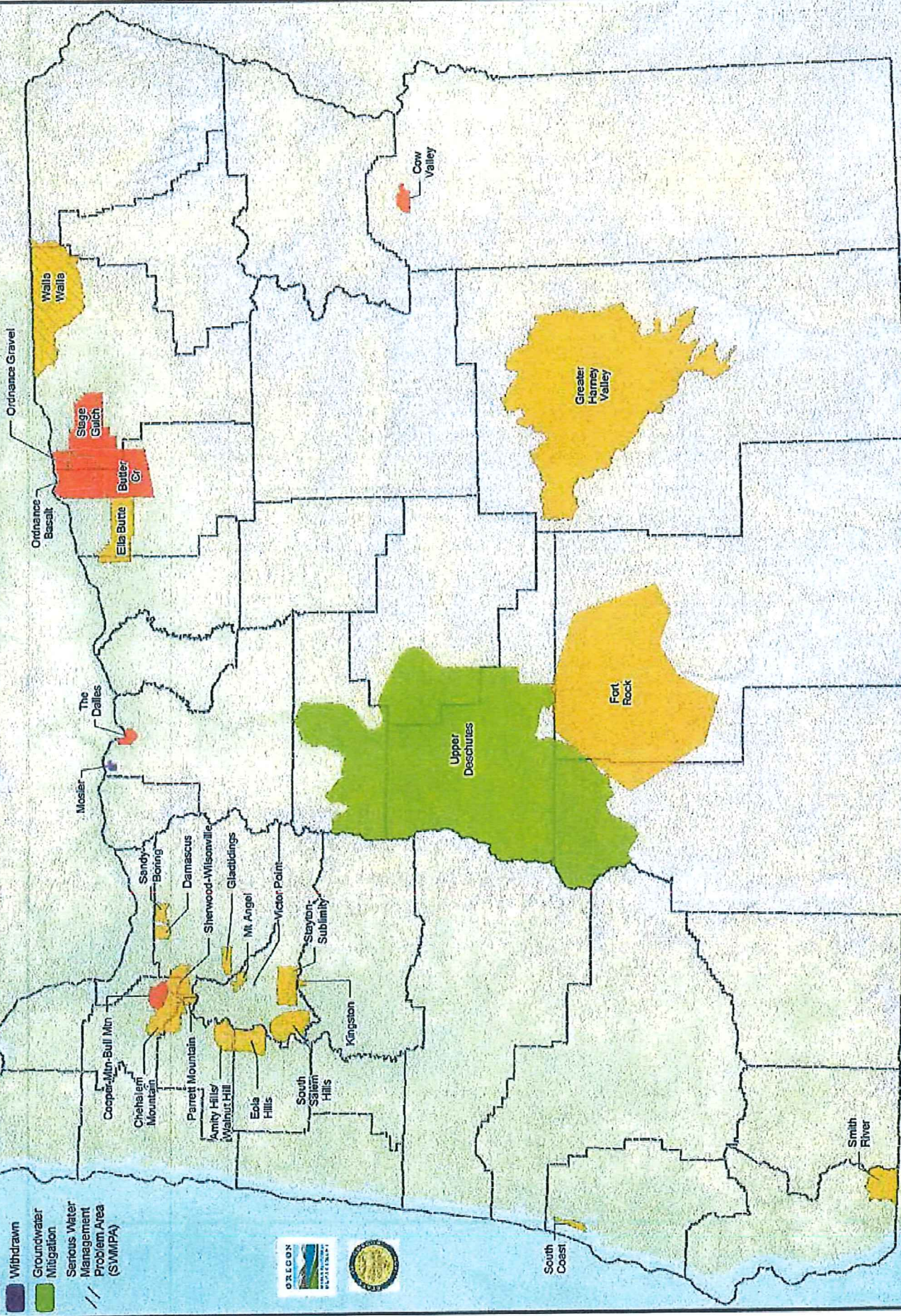
**Butter Creek Critical Groundwater Area, Pine City Subarea**  
**Proposed Allocations by Well and Water Right for 2020**  
**Sustainable Annual Yield: 4150.00 acre-feet**  
**Total Allocation: 4150.00 acre-feet**

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2016	Water Use (af) 2017	Water Use (af) 2018	Requested Allocation (af)	Proposed Allocation (af)
			MORR 471	125.45	114.44	117.60	110.00	110.00
HEALY RANCH LLC	Cert:42428 OR *	04/23/1968		Water Right Total:			110.00	110.00
			MORR 482	11.90	116.77	60.51	200.00	200.00
KATHRYN HEALY THORNE	Cert:42670 OR *	07/10/1968		Water Right Total:			200.00	200.00
			MORR 473	166.46	88.02	195.14	200.00	200.00
GENERATION FARM	Cert:42431 OR *	07/24/1968		Water Right Total:			200.00	200.00
			MORR 432	261.24	252.23	274.60		0.00
			MORR 434	540.46	594.89	375.49		0.00
TURNER RANCH INC	Cert:51158 (T 5017 RR) *	07/25/1968		Water Right Total:				0.00
			MORR 432	261.24	252.23	274.60		0.00
			MORR 434	540.46	594.89	375.49		600.00
TURNER RANCH INC	Cert:75649 CF *	07/25/1968		Water Right Total:				600.00
			MORR 485	0.00	0.00	0.00		0.00
KATHRYN HEALY THORNE	Cert:42671 OR *	07/29/1968		Water Right Total:				0.00
			MORR 565	877.50	622.50	670.00	1,000.00	770.60
			MORR 51534	997.30	799.50	989.50	1,000.00	900.00
CURT PERKINS	Cert:42330 OR *	10/07/1968		Water Right Total:			2,000.00	1,670.60
			MORR 481	0.00	0.00	0.00		0.00
LAZY K LAND LLC	Cert:42672 OR *	09/16/1969		Water Right Total:				0.00
			MORR 416	0.00	0.00	0.00		0.00
WJ DOHERTY	Cert:62326 OR *	06/24/1970		Water Right Total:				0.00
<b>Pine City Subarea Total:</b>				<b>3,853.91</b>	<b>3,449.86</b>	<b>3,584.85</b>	<b>3,486.40</b>	<b>4,150.00</b>



# OREGON WATER RESOURCES DEPARTMENT GROUNDWATER RESTRICTED AREAS

- Classified
- Critical
- Withdrawn
- Groundwater Mitigation
- Serious Water Management Problem Area (SWMMPA)



STATE OF OREGON  
 COUNTY OF ~~WAGON~~  
**CERTIFICATE OF WATER RIGHT**

**This Is to Certify, That** **WILLIAM J. DOWNEY**

of **Lexington**, State of **Oregon**, has made proof to the satisfaction of the **STATE ENGINEER** of Oregon, of a right to the use of the waters of a well

a tributary of **Sandhollow Creek** for the purpose of irrigation of **36.3** acres

under Permit No. **G-3474** of the State Engineer, and that said right to the use of said waters has been perfected in accordance with the laws of Oregon; that the priority of the right hereby confirmed dates from **March 15, 1967**

that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed **0.45** cubic feet per second

or its equivalent in case of rotation, measured at the point of diversion from the stream. The point of diversion is located in the **N3/4 NE1/4, Section 10, T. 1 N., R. 26 E., W. N.** well located: **5920** feet West and **300** feet South from NE Corner, Section 11.

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to **one-eightieth** of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed **3** acre feet per acre for each acre irrigated during the irrigation season of each year;

and shall conform to such reasonable rotation system as may be ordered by the proper state officer.

A description of the place of use under the right hereby confirmed, and to which such right is appurtenant, is as follows:

- 9.9** acres **S3/4 S3/4**  
Section 2
  - 18.2** acres **S3/4 S3/4**  
Section 3
  - 8.0** acres **NE1/4 NE1/4**  
Section 10
  - 0.2** acre **N3/4 NE1/4**  
Section 11
- T. 1 N., R. 26 E., W. N.**

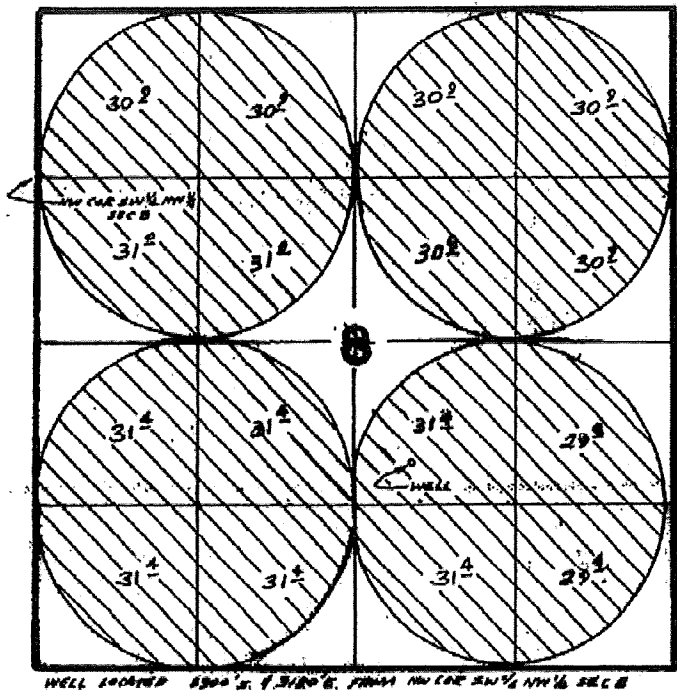
The right to the use of the water for the purposes aforesaid is restricted to the lands or place of use herein described.

WITNESS the signature of the State Engineer, affixed this date. **August 18, 1972**

**CHRIS L. WHEELER**  
 State Engineer

G 5092  
62326

# T. IN. R. 26E. WM.



## FINAL PROOF SURVEY UNDER

Application No. G-5235. Permit No. G-5092  
IN NAME OF

.....MRS. WM. J. DOHERTY.....

Surveyed  $\frac{2-28}{2-28}$  1978 by  $\frac{F. C. Kelly}{V. Chas.$

277-285  
PXS-1980-F-1

STATE OF OREGON  
COUNTY OF MORROW  
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

MRS. WILLIAM J. DOHERTY  
SAND HOLLOW ROUTE  
LEXINGTON, OREGON 97839

confirms the right to use the waters of A WELL in the JUNIPER CANYON BASIN for the purpose of IRRIGATING 494.6 ACRES.

The right has been perfected under Permit G-5092. The date of priority is JUNE 24, 1970. The right is limited to not more than 4.0 CUBIC FEET PER SECOND or its equivalent in case of rotation, measured at the well.

The well is located as follows:

NW 1/4 SE 1/4, SECTION 8, T 1 N, R 26 E, W.M.; 2300 FEET SOUTH AND 3120 FEET EAST FROM THE NW CORNER, SW/14 NW 1/4, SECTION 8.

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.

The right shall conform to such reasonable rotation system as may be ordered by the proper state officer.

A description of the place of use under the right, and to which such right is appurtenant, is as follows:

NE 1/4 NE 1/4	30.9 ACRES	NE 1/4 SW 1/4	31.4 ACRES
NW 1/4 NE 1/4	30.9 ACRES	NW 1/4 SW 1/4	31.4 ACRES
SW 1/4 NE 1/4	30.9 ACRES	SW 1/4 SW 1/4	31.4 ACRES
SE 1/4 NE 1/4	30.9 ACRES	SE 1/4 SW 1/4	31.4 ACRES
NE 1/4 NW 1/4	30.9 ACRES	NE 1/4 SE 1/4	29.4 ACRES
NW 1/4 NW 1/4	30.9 ACRES	NW 1/4 SE 1/4	31.4 ACRES
SW 1/4 NW 1/4	31.0 ACRES	SW 1/4 SE 1/4	31.4 ACRES
SE 1/4 NW 1/4	31.0 ACRES	SE 1/4 SE 1/4	29.4 ACRES

SECTION 8  
TOWNSHIP 1 NORTH, RANGE 26 EAST, W.M.

The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described.

WITNESS the signature of the Water Resources Director,  
affixed this date SEPTEMBER 29, 1989.

/s/ WILLIAM L. YOUNG  
Water Resources Director

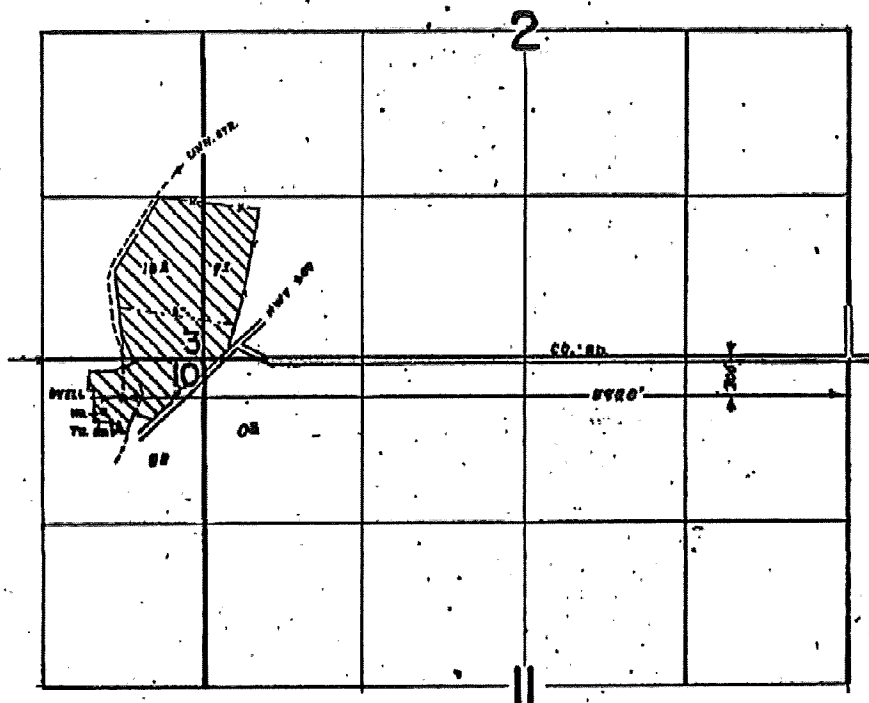
Recorded in State Record of Water Right Certificates numbered 62326

G-5235.VRG

G-3474

38473 7

# T.1N.R26E.W.M.



## FINAL PROOF SURVEY UNDER

Application No. G-3841 Permit No. G-3474  
IN NAME OF

WILLIAM J. DOHERTY

Surveyed JUNE 23, 1971, by R. MUCKEN

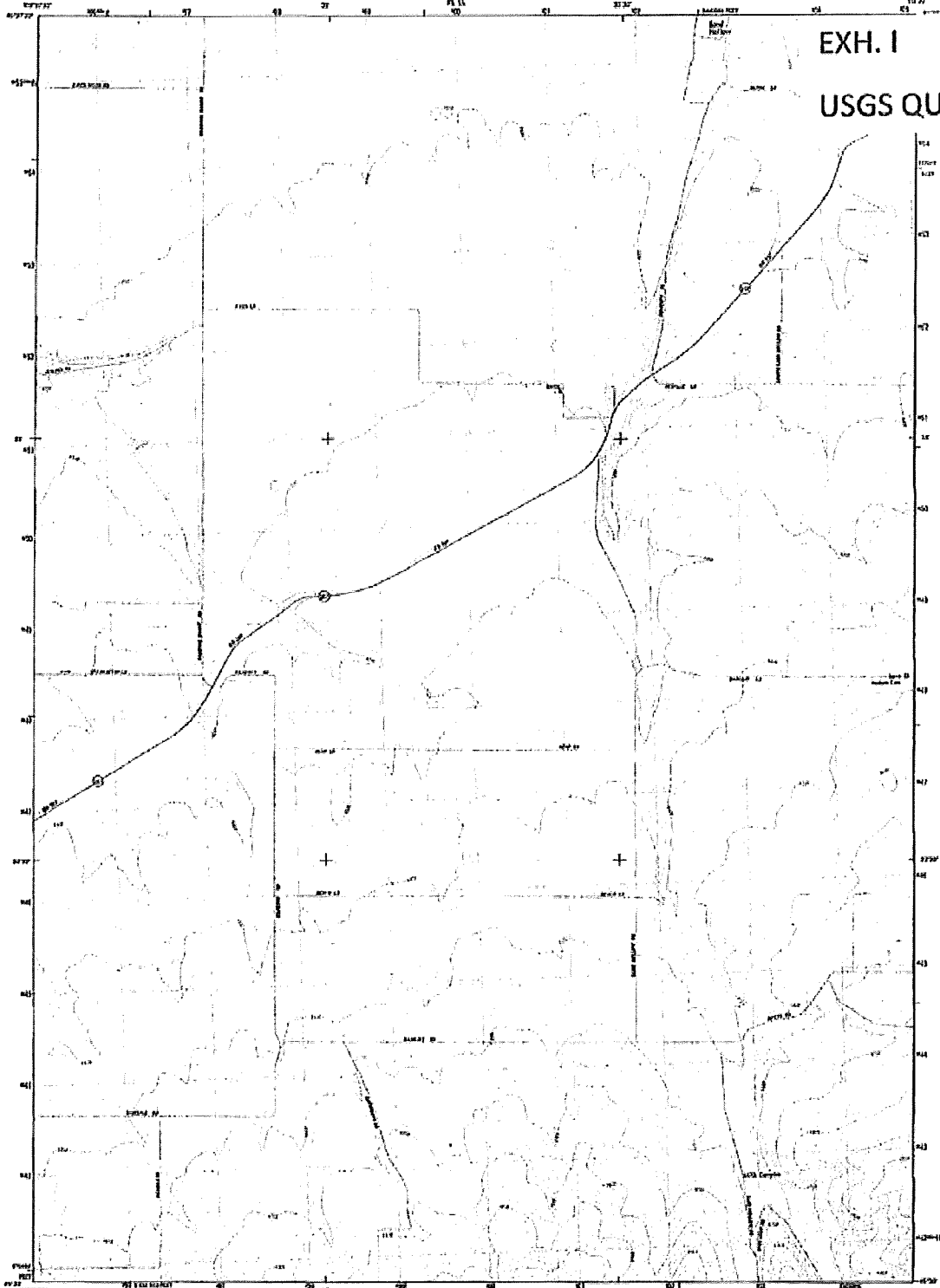


U.S. DEPARTMENT OF THE INTERIOR  
U.S. GEOLOGICAL SURVEY

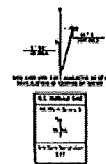


STRAWBERRY CANYON SE QUADRANGLE  
OREGON AND IDAHO CO.  
7.5-MINUTE SERIES

EXH. I  
USGS QUAD MAP



Produced by the U.S. Geological Survey  
under authority of the U.S. Department of the Interior  
U.S. Geological Survey, Reston, VA 20192  
This map is a digital derivative of a paper map  
and is not a substitute for the original map.  
For more information, contact the U.S. Geological Survey  
at the address above or at the following URL:  
<http://www.usgs.gov>



ROAD CLASSIFICATION

Interstate	State	Local	Unimproved
Trunk	Arterial	Collector	Local
Expressway	Expressway	Expressway	Expressway
Expressway	Expressway	Expressway	Expressway

PROPERTY

Section	Range	Zone
36	23S	12W
37	23S	12W
38	23S	12W
39	23S	12W
40	23S	12W
41	23S	12W
42	23S	12W
43	23S	12W
44	23S	12W
45	23S	12W
46	23S	12W
47	23S	12W
48	23S	12W
49	23S	12W
50	23S	12W

PROPERTY

Section	Range	Zone
36	23S	12W
37	23S	12W
38	23S	12W
39	23S	12W
40	23S	12W
41	23S	12W
42	23S	12W
43	23S	12W
44	23S	12W
45	23S	12W
46	23S	12W
47	23S	12W
48	23S	12W
49	23S	12W
50	23S	12W

UNITED STATES GEOLOGICAL SURVEY  
BENTON BRIDGEMAN NATIONAL CENTER  
12201 Sunrise Valley Drive  
Reston, VA 20192-1212  
A product of the U.S. Geological Survey, Reston, VA  
A product of the U.S. Geological Survey, Reston, VA

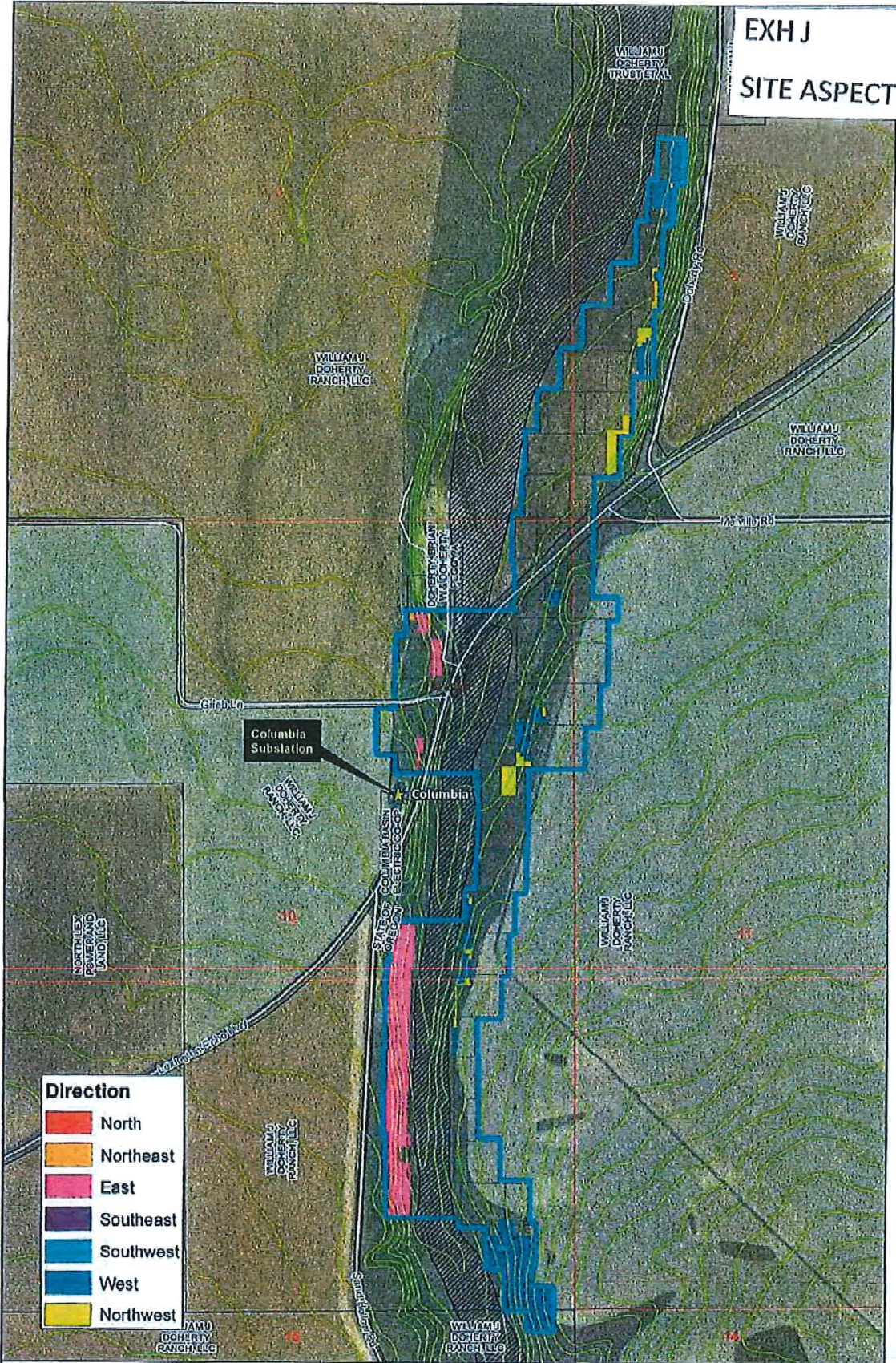
PROPERTY

Section	Range	Zone
36	23S	12W
37	23S	12W
38	23S	12W
39	23S	12W
40	23S	12W
41	23S	12W
42	23S	12W
43	23S	12W
44	23S	12W
45	23S	12W
46	23S	12W
47	23S	12W
48	23S	12W
49	23S	12W
50	23S	12W

STRAWBERRY CANYON SE, OR  
2014



**EXH J**  
**SITE ASPECT MAP**



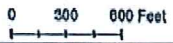
**Direction**

Red	North
Orange	Northeast
Pink	East
Purple	Southeast
Blue	Southwest
Dark Blue	West
Yellow	Northwest

**LEGEND**

	Columbia Solar
	10' Contour
	FEMA Floodplain - Zone A

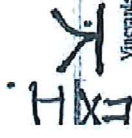
Columbia	Area Utilized
	88.6



MORROW COUNTY, OREGON

**COLUMBIA SOLAR**

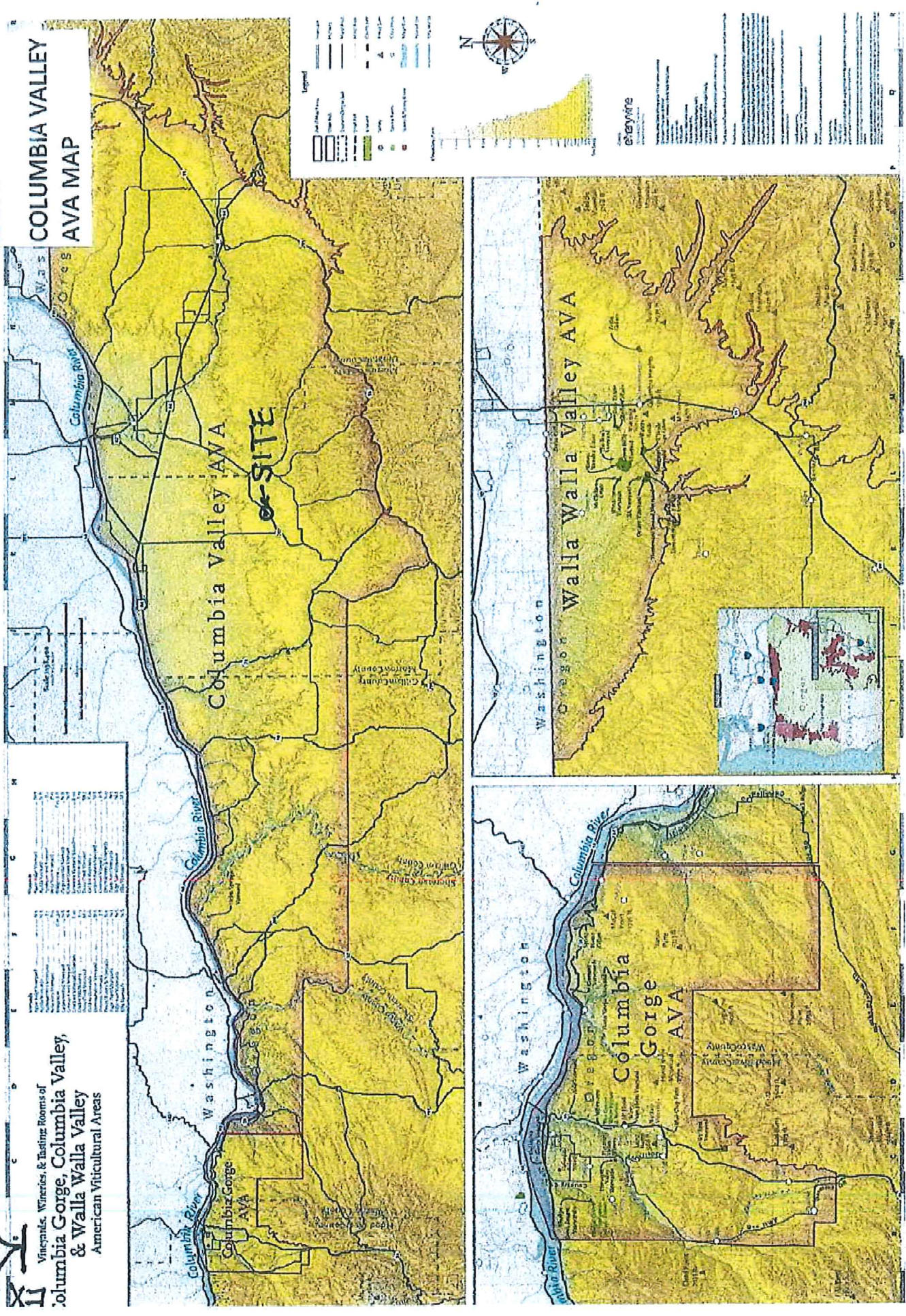
SOLAR ARRAY LAYOUT  
ASPECT MAP



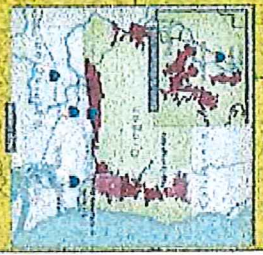
**Vineyards, Wineries, & Tasting Rooms of  
Columbia Gorge, Columbia Valley,  
& Walla Walla Valley  
American Viticultural Areas**

EXH K

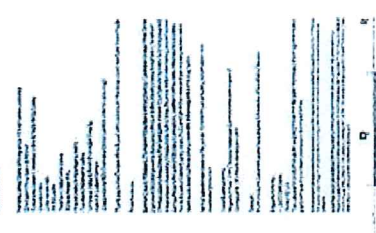
**COLUMBIA VALLEY  
AVA MAP**



Vineyard Name	Vineyard Address	Winery Name	Winery Address	Phone Number	Website
Columbia Valley Vineyard	10000 N. Columbia River	Columbia Valley Winery	10000 N. Columbia River	509-325-1234	www.columbiavalleywinery.com
Columbia Valley Vineyard	10000 N. Columbia River	Columbia Valley Winery	10000 N. Columbia River	509-325-1234	www.columbiavalleywinery.com
Columbia Valley Vineyard	10000 N. Columbia River	Columbia Valley Winery	10000 N. Columbia River	509-325-1234	www.columbiavalleywinery.com
Columbia Valley Vineyard	10000 N. Columbia River	Columbia Valley Winery	10000 N. Columbia River	509-325-1234	www.columbiavalleywinery.com
Columbia Valley Vineyard	10000 N. Columbia River	Columbia Valley Winery	10000 N. Columbia River	509-325-1234	www.columbiavalleywinery.com
Columbia Valley Vineyard	10000 N. Columbia River	Columbia Valley Winery	10000 N. Columbia River	509-325-1234	www.columbiavalleywinery.com
Columbia Valley Vineyard	10000 N. Columbia River	Columbia Valley Winery	10000 N. Columbia River	509-325-1234	www.columbiavalleywinery.com
Columbia Valley Vineyard	10000 N. Columbia River	Columbia Valley Winery	10000 N. Columbia River	509-325-1234	www.columbiavalleywinery.com
Columbia Valley Vineyard	10000 N. Columbia River	Columbia Valley Winery	10000 N. Columbia River	509-325-1234	www.columbiavalleywinery.com
Columbia Valley Vineyard	10000 N. Columbia River	Columbia Valley Winery	10000 N. Columbia River	509-325-1234	www.columbiavalleywinery.com



**Elevation**







# Oregon

Kate Brown, Governor

## Department of Fish and Wildlife

Heppner District Office  
54173 Highway 74  
PO Box 363  
Heppner, OR 97836  
Voice (541) 676-5230  
FAX (541) 676-9075  
[www.dfw.state.or.us/](http://www.dfw.state.or.us/)

June 16, 2020

Bill Adams and Ros Rocco  
Energy of Utah  
[bsba2@bendbroadband.com](mailto:bsba2@bendbroadband.com); [rosvrba@energyofutah.com](mailto:rosvrba@energyofutah.com)



Re: Columbia I & II

This letter is in regards to the proposed solar project located off Highway 207 near Doherty Road, in Morrow County, Oregon. Oregon Department of Fish and Wildlife (ODFW) recommends the Applicant produce a map for the project area that includes the habitat classified into habitat categories based on ODFW's Mitigation policy. The map should also include the different vegetation classifications for the project area. Mapped vegetation classes will assist ODFW and the Applicant identify areas of potential wildlife occurrence across the project area. The habitat classification and categorization will also help ODFW determine if any mitigation is appropriate for the proposed project impacts.

ODFW recommends that Washington ground squirrel (WGS) surveys (2 rounds) are completed in suitable WGS habitat, within 1,000 feet of all ground disturbing activities. These surveys should be completed between March 1<sup>st</sup> through June 1<sup>st</sup> when the squirrels are most active and easiest to locate. These surveys will assist ODFW and the Applicant identify occupied Washington ground squirrel habitats and work together to avoid any impacts to Washington ground squirrels in the project area. ODFW also recommends that no ground disturbing activity occur within 785 feet of any active WGS colony.

ODFW recommends prior to construction that raptor nest surveys are conducted within one-quarter mile of the project boundary. Nest surveys should be conducted during the active nesting season. ODFW also recommends that no heavy construction occur within one-quarter mile of active sensitive species nests, during the nesting season.

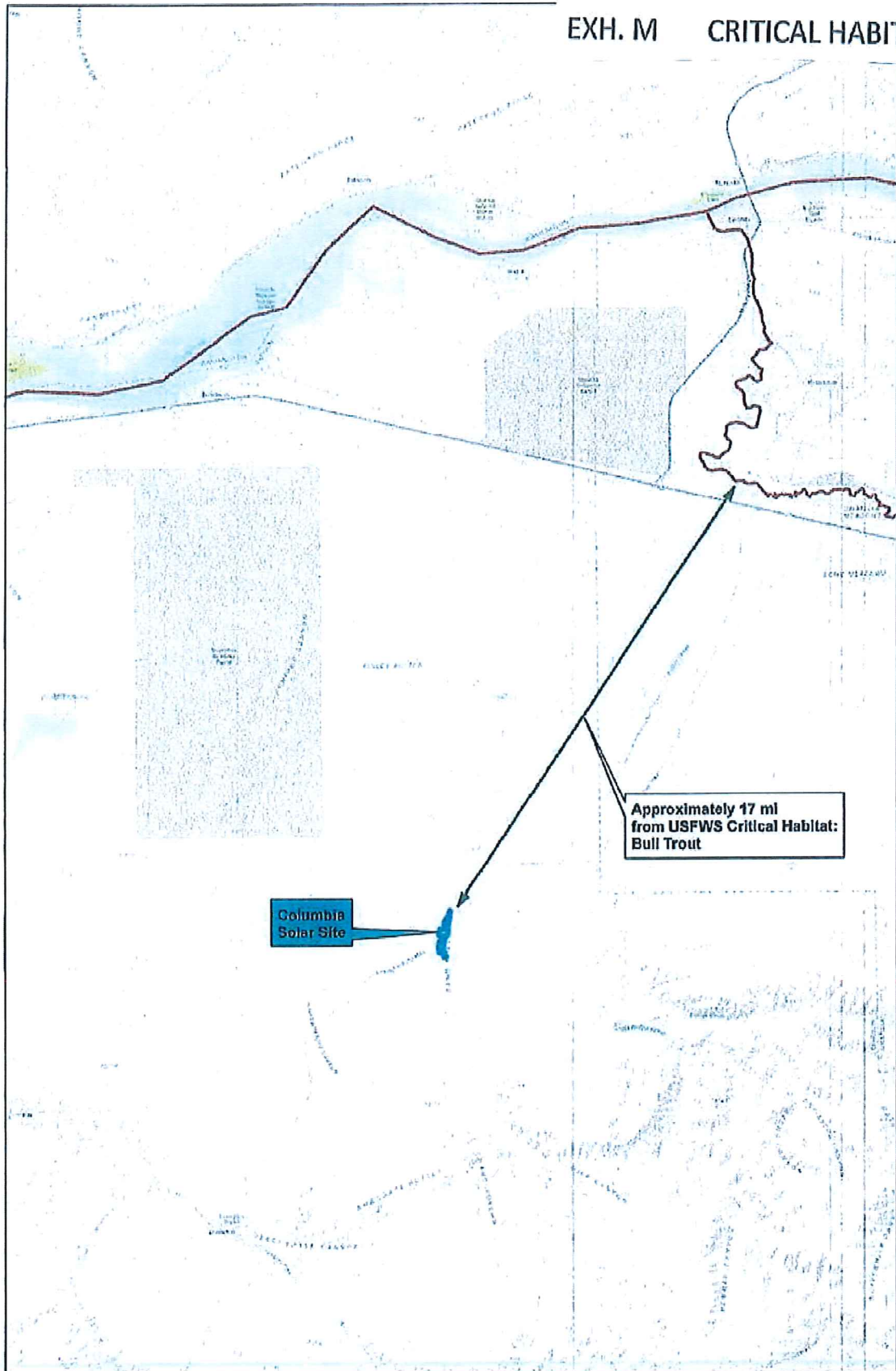
ODFW recommends the Applicant survey for any State Sensitive species in appropriate habitats within the project area, and provide a map showing the locations of the different species with respect to the proposed activities.



I appreciate the opportunity to comment on this proposed project and look forward to working with you in the future. Please feel free to contact me if you have any questions regarding my comments.

Respectfully,

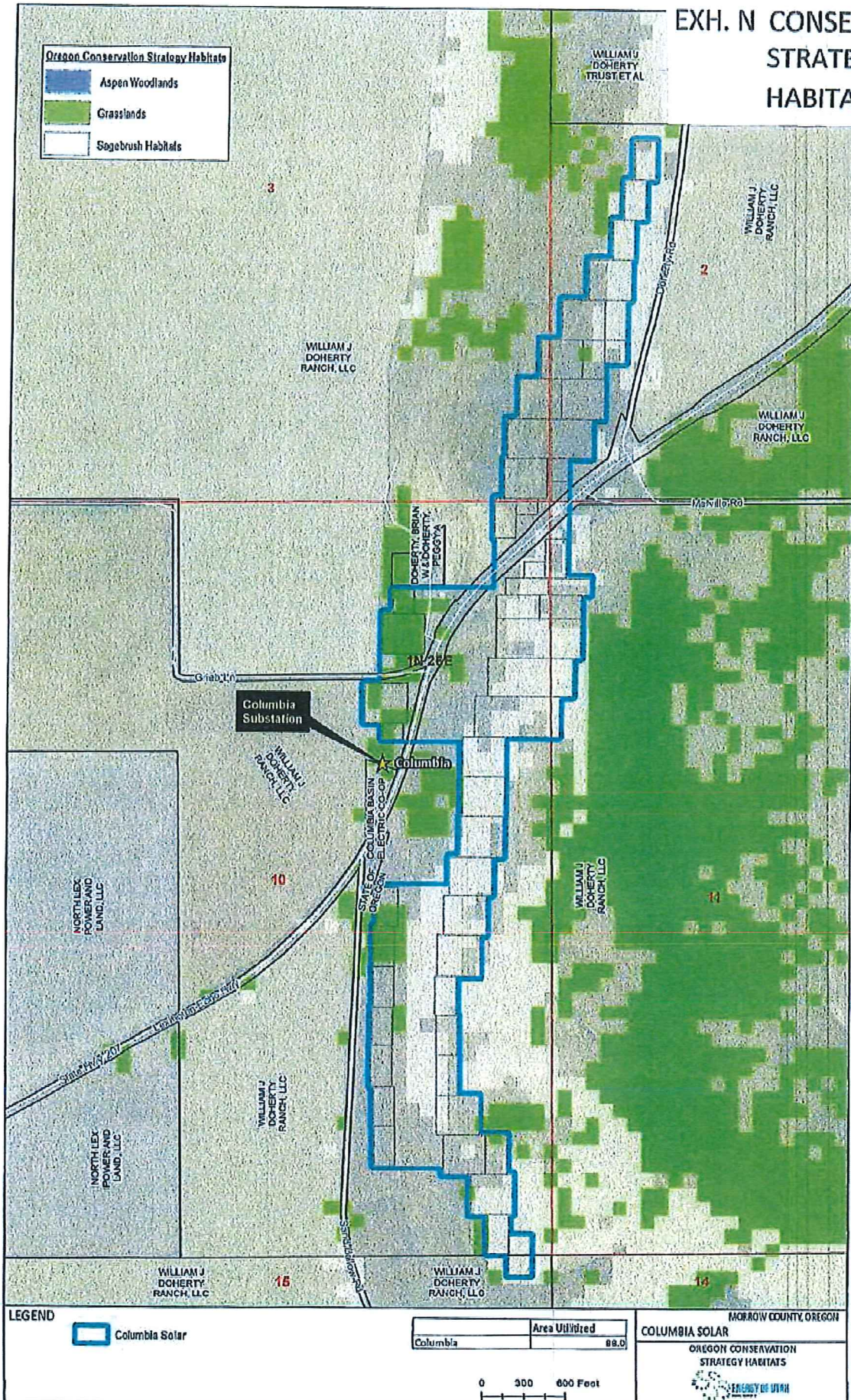
Melody Henderson  
Wildlife Biologist  
541-676-5230  
[Melody.b.henderson@state.or.us](mailto:Melody.b.henderson@state.or.us)

# EXH. M CRITICAL HABITAT MAP



<b>LEGEND</b>  Columbia Solar	<table border="1"> <thead> <tr> <th>Area Utilized</th> </tr> </thead> <tbody> <tr> <td>Columbia</td> </tr> <tr> <td>60.0</td> </tr> </tbody> </table>	Area Utilized	Columbia	60.0	MORROW COUNTY, OREGON <b>COLUMBIA SOLAR</b> CRITICAL HABITAT MAP 
	Area Utilized				
Columbia					
60.0					
<table border="1"> <tr> <td>0</td> <td>1.5</td> <td>3 Miles</td> </tr> </table>	0	1.5	3 Miles		
0	1.5	3 Miles			

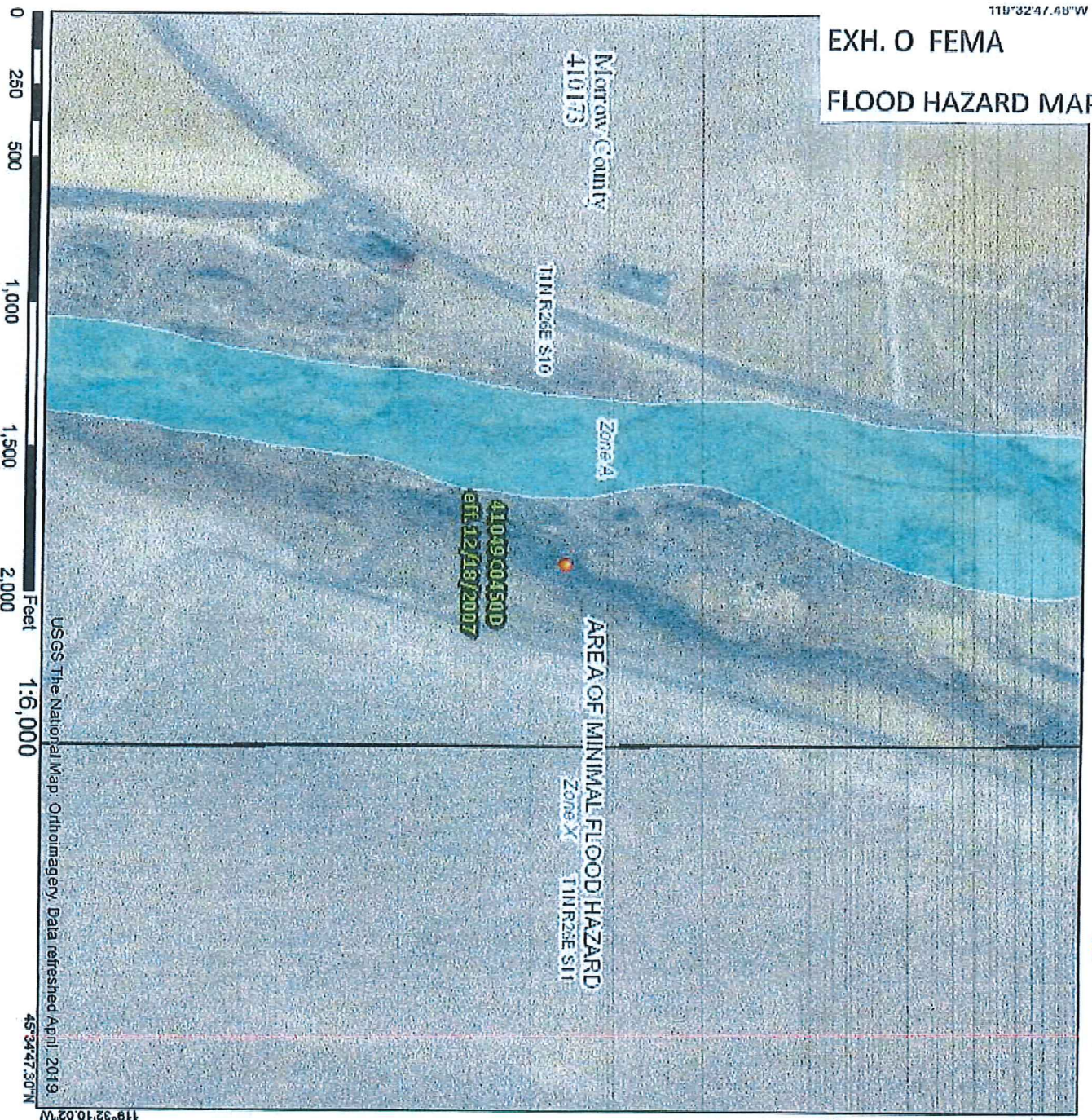
# EXH. N CONSERVATION STRATEGY HABITAT MAP



# National Flood Hazard Layer FIRMeTte



EXH. O FEMA  
FLOOD HAZARD MAP



## Legend

SEE FIS REPORT FOR DETAILED LEGEND AND INDEX MAP FOR FIRM PANEL LOCATION

<b>SPECIAL FLOOD HAZARD AREAS</b>	Without Base Flood Elevation (BFE) Zone A, V, VE, VE1 With BFE or Depth Zone AE, AO, AH, ILE, AR Regulatory Floodway
-----------------------------------	---

0.2% Annual Chance Flood Hazard, Area of 1% annual chance flood with average depth less than one foot or with drainage areas of less than one square mile  
Future Conditions 1% Annual Chance Flood Hazard Zone X  
Area with Reduced Flood Risk due to Levee, See Notes, Zone I

**OTHER AREAS OF FLOOD HAZARD**  
Area of Minimal Flood Hazard Zone X  
Effective LOWRS  
Area of Undetermined Flood Hazard Zone X  
Channel, Culvert, or Storm Sewer  
Levee, Dike, or Floodwall

**OTHER AREAS**  
GENERAL STRUCTURES  
Cross Sections with 1% Annual Chance Water Surface Elevation  
Coastal Transect  
Base Flood Elevation Line (BFE)  
Limit of Study  
Jurisdiction Boundary  
Coastal Transect Baseline  
Profile Baseline  
Hydrographic Feature

**OTHER FEATURES**  
Digital Data Available  
No Digital Data Available  
Unmapped

The pin displayed on the map is an approximate point selected by the user and does not represent an authoritative property location.

This map complies with FEMA's standards for the use of digital flood maps. If it is not void as described below, the basemap shown complies with FEMA's basemap accuracy standards.

The flood hazard information is derived directly from the authoritative NFHL web services provided by FEMA. This map was exported on 5/15/2020 at 2:58:15 PM and does not reflect changes or amendments subsequent to this date and time. The NFHL and effective information may change or become superseded by new data over time.

This map image is void if the one or more of the following map elements do not appear: basemap imagery, flood zone labels, legend, scale bar, map creation date, community identifiers, FIRMeTte panel number, and FIRMeTte effective date. Map Imagery for unmapped and undetermined areas cannot be used for regulatory purposes.



Federal Aviation Administration

# EXH. P DOD PRELIMINARY SCREENING TOOL RESULTS

## DoD Preliminary Screening Tool

DoD Preliminary Screening Tool - Desk Reference Guide V. 2018.2.0

**Disclaimer:**

- The DoD Preliminary Screening Tool enables developers to obtain a preliminary review of potential impacts to Long-Range and Weather Radar(s), Military Training Route(s) and Special Airspace(s) prior to official OE/AAA filing. This tool will produce a map relating the structure to any of the DoD/DHS and NOAA resources listed above. The use of this tool is 100 % optional and will provide a first level of feedback and single points of contact within the DoD/DHS and NOAA to discuss Impacts/mitigation efforts on the military training mission and NEXRAD Weather Radars. The use of this tool does not in any way replace the official FAA processes/procedures.

**Instructions:**

- Select a screening type for your initial evaluation. Currently the system supports pre-screening on:
  - Air Defense and Homeland Security radars(Long Range Radar)
  - Weather Surveillance Radar-1988 Doppler radars(NEXRAD)
  - Military Operations
- Enter either a single point or a polygon and click submit to generate a long range radar analysis map.
- Military Operations is only available for a single point.
- At least three points are required for a polygon, with an optional fourth point.
- The largest polygon allowed has a maximum perimeter of 100 miles.

Screening Type:  Geometry Type:

Point	Latitude				Longitude			
	Deg	Min	Sec	Dir	Deg	Min	Sec	Dir
1	45	35	1.65	N	119	32	51	W

Horizontal Datum:

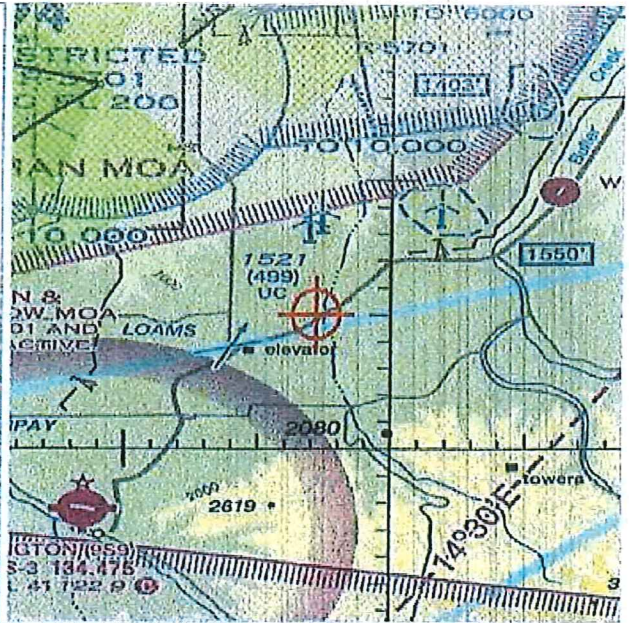
The preliminary review of your proposal does not return any likely impacts to military airspace. Please contact Gary Munsterman at the USAF Regional Environmental Coordinator at (415)977-8884 for confirmation and documentation.

The preliminary review of your proposal does not return any likely impacts to military airspace. Please contact the US Navy Representative, FAA Western Service Area at the USN Regional Environmental Coordinator at (425) 227-2740 for confirmation and documentation.

The preliminary review of your proposal does not return any likely impacts to military airspace. Please contact LTC Thomas C. Petty at the USA Regional Environmental Coordinator at (425) 227-2955 for confirmation and documentation.

The preliminary review of your proposal does not return any likely impacts to military airspace. Please contact the US Marine Corps Representative, FAA Western Service Area at the USMC Regional Environmental Coordinator at (425) 227-2665 for confirmation and documentation.

**This is a preliminary review of your proposal and does not preclude official FAA processes.**  
Your search data is not retained and the privacy of all your searches is assured.



Any questions interpreting the map, please email Steve Sample with your question/s and phone number at [steven.sample@pentagon.af.mil](mailto:steven.sample@pentagon.af.mil)



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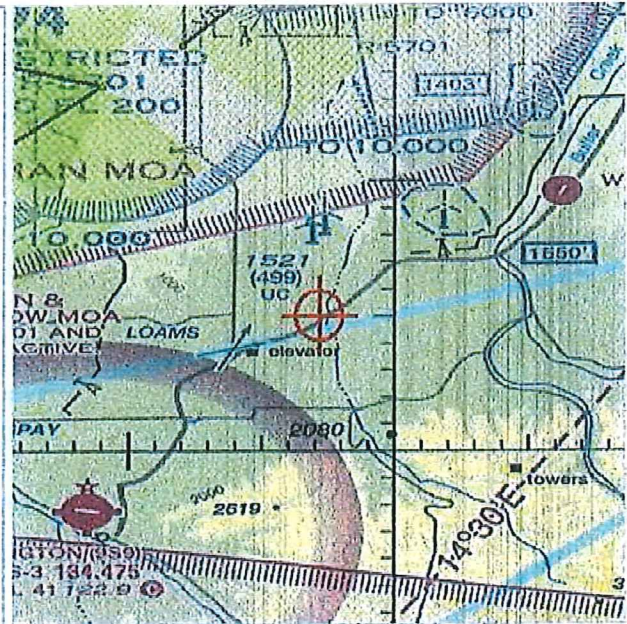
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- The largest polygon allowed has a maximum perimeter of 100 miles.

Screening Type:  Geometry Type:

Point	Latitude				Longitude			
	Deg	Min	Sec	Dir	Deg	Min	Sec	Dir
1	<input type="text" value="45"/>	<input type="text" value="35"/>	<input type="text" value="1.05"/>	<input type="text" value="N"/>	<input type="text" value="119"/>	<input type="text" value="32"/>	<input type="text" value="51"/>	<input type="text" value="W"/>

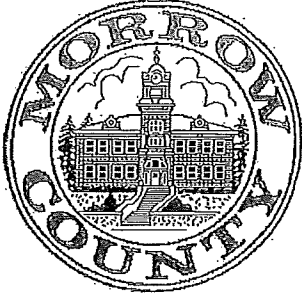
Horizontal Datum:



**Map Legend:**

- Green:** No anticipated impact to Air Defense and Homeland Security radars. Aeronautical study required.
- Yellow:** Impact likely to Air Defense and Homeland Security radars. Aeronautical study required.
- Red:** Impact highly likely to Air Defense and Homeland Security radars. Aeronautical study required.

**Note:** Map colors will show as depicted in the map legend when using the 'Polygon' Geometry Type; map colors will be subdued when using the 'Single Point' Geometry Type.



## Community Development

P.O. Box 788 • Heppner OR 97836  
(541) 676-5618

Gregg Zody, AICP  
Director  
gzody@co.morrow.or.us

### MEMORANDUM

TO: Planning Commission

FROM: Gregg Zody *GZ*  
Director, Community Development

SUBJECT: Draft Rural Residential 10 (RR-10) Zone Language Update

DATE: August 13, 2020

Based on the membership comments from our productive July 28<sup>th</sup> work session, I have attached four documents (including the revised draft) that addresses some of the questions raised by the membership.

The first document is the revised draft to date (Attachment 1). I red-lined the sections the membership identified for editing, and left the "Limitations on Use" and "Yard and Setback Requirements" and "Dimension Standards" sections intact given that the membership wanted to see how other localities addressed those requirements.

The second document (Attachment 2) contains current pasturage management residential animal unit densities from Irrigon; and the third document (Attachment 3) contains Umatilla's ordinance for RR-10 for animal unit comparison because I was unable to locate current pasture management densities for residential-related zones in the Lower Umatilla Basin Groundwater Management Area Committee Action Plan.

The fourth document is a spreadsheet (Attachment 4) containing design criteria data for each County in the State which has a RR-10 zoning district, including setbacks, lot coverage, building height, and road frontage. Compared to our draft, it is my opinion that the proposed standards in our draft are not out of step with other Counties' standards.

I look forward to discussing this information with the membership on August 25<sup>th</sup>.

### Attachments

1. Revised Draft Ordinance;
2. Irrigon Animal Unit Ordinance;
3. Umatilla County RR-10 Ordinance;
4. Comparative Spreadsheet for Design Criteria

**Section 3.037 RR-10 RURAL RESIDENTIAL TEN (RR-10) ZONE**

**§ 3.037 PURPOSE.**

The RR-10 Rural Residential Zone is designed to provide lands to enhance the value of rural living and maintain a rural residential atmosphere while accommodating the demand for rural residences in areas contiguous to residentially-zoned properties in the County, i.e. municipalities. Lots need to be sufficiently large to accommodate private wells and sewage disposal systems as well as gardens and farm animals. Standards for rural land use and development consistent with desired rural character and the capability of the land and natural resources are provided. The zone is applied to areas committed to non-resource use or needed for rural residential land use as provided for in the Comprehensive Plan.

**§ 3.037 USES PERMITTED.**

A. Uses permitted outright. In a RR-10 Zone, the following uses and their accessory uses are permitted without a zoning permit, pursuant to § 3.037.

1. Single-family dwelling on an individual lot, including a mobile home subject to requirements set forth in Section 4.110 of this ordinance.
2. Farming, subject to the restrictions on animals set forth in subsection (3) of this section, and excluding hog or mink farms, livestock feed or sales yard and slaughterhouses.
3. Utility facility necessary to serve the area or County.
4. ~~Public park, recreation area, community or neighborhood center~~ Agri-tourism events as defined in § 1.030, Definitions.
5. Other public uses or buildings necessary to serve the rural residential needs for the area.

B. Conditional Uses Permitted. In a RR-10 Zone, the following uses and their accessory uses are permitted when authorized in accordance with the requirements set forth by this section and Article 6 of this ordinance.

- ~~1. Golf Course, Public park, recreation area, community or neighborhood center~~
- ~~2. Water supply and treatment facility.~~
- ~~3. Sewage disposal and treatment facility.~~
- ~~4. Solid waste disposal site and facility.~~



~~5. Two family dwelling (duplex).~~

1. Home occupations subject to the limitations set forth in Article 6 of this ordinance.

~~6-2. Public park, recreation area, community or neighborhood center~~

C. LIMITATIONS ON USE. In Rural Residential ten-acre (RR-10) zone, the number of livestock and/or animals including cattle, horses, goats, sheep, swine, poultry, or fur bearing animals is subject to the density limitations listed in this section.

1. The primary intended use for properties zoned RR-10 is residential. The raising of livestock and/or animals in these zones shall be incidental to the primary use.

2. Livestock and/or Animal densities are as follows:

a. Cattle – two per acre, or

b. Horses, mules, donkeys, llamas – two animals per acre, or

c. Sheep or goats – six animals per acre, or

d. Emu – eight ratite per acre, or

e. Ostrich – four ratite per acre, or

f. Miniature cows, horses, mules and donkeys – four per acre, or

g. Swine – four swine per acre.

3. Cattle, horses, mules, donkeys, llamas, sheep, goats, emu and ostriches can not be kept on a site having an area of less than one-half acre.

4. All swine shall be confined to an area not less than 500 feet from any adjacent residential dwelling (not the property of the owner of the swine).

5. Animal density listed above for livestock, including cattle, horses, mules, donkeys, llamas, sheep, goats, emu and ostrich, also allows two offspring up to six months of age, per animal.

6. The number of colonies of bees allowed on a property shall be limited to one (1) colony for each 1,000 square feet of lot area.

7. Density for Poultry – twenty fowl per acre, and for fur-bearing animals

(rabbits, mink, chinchillas, etc.) – twenty animals per acre. (MC-C-5-98)[GZ1]

D. YARD AND SETBACK REQUIREMENTS. In an RR-10 Zone, the following yards and setbacks shall be maintained:

1. The front setback shall be a minimum of 20 feet from a property line fronting on a local minor collector or marginal access street ROW, 30 feet from a property line fronting on a major collector ROW, and 80 feet from an arterial ROW unless other provisions from combining accesses are provided and approved by the County.
2. There shall be a minimum side yard of 10 feet for all uses, except in the case of a non-residential use adjacent to a residential use the minimum side yard shall be 20 feet.
3. The minimum rear yard shall be 20 feet.

E. DIMENSIONAL STANDARDS. In a RR-10 Zone, the following dimensional standards shall apply:

1. Percent of Lot Coverage. The main building and accessory buildings located on any building site or lot shall not cover in excess of thirty (30) percent of the total lot area.
2. Building Height. No building or structure, nor the enlargement of any building or structure, shall be hereafter erected to exceed two stories or more than thirty (30) feet in height
3. The minimum lot frontage on a public street or private roadway shall be 50 feet, except that a flag lot frontage may be reduced to the width of a required driveway but no less than 20 feet and except for a cul de sac, where the frontage may be reduced to 30 feet.[GZ2]

~~F. OFF STREET PARKING AND LOADING. In an RR-10 Zone, the off street parking and loading shall be provided in accordance with the provisions of Article 4.~~

~~G.F. LOT SIZE. The minimum average width of lots shall be 150 feet and have an area not less than 2-ten (10) acres.~~

~~H.G. TRANSPORTATION IMPACTS[GZ3][GZ4] – Do we need to amend our TSP?~~

1. Traffic Impact Analysis (TIA). In addition to the other standards and conditions set forth in this section, a TIA will be required for all projects generating more than 400 passenger car equivalent trips per day. Heavy vehicles – trucks, recreational vehicles and buses – will be defined as 2.2 passenger car equivalents.

A TIA will include: trips generated by the project, trip distribution for the project, identification of intersections for which the project adds 30 or more peak hour passenger car equivalent trips, and level of service assessment, impacts of the project, and, mitigation of the impacts. If the corridor is a State Highway, use ODOT standards. (MC-C-8-98)

DRAFT

ATTACHMENT 2  
10-2A-5

10-2A-4

4. No Commercial business or industrial use.
5. No establishment or development that is directed by this Ordinance or excluded or restricted by Ordinance adopted by the City Council shall be located within a Safe Routes to School Zone.

**10-2A-5: SPECIAL STANDARDS:** Certain uses within the Residential District may be acceptable with additional consideration through the Type II procedure.

A. Residential Home, Day-Care In Home

B. Home Based Business: Standards in this section are intended to limit uses in home-based businesses so that impacts on adjacent residentially zoned or used properties are minimized.

1. An application for Zoning Permit shall include a written statement explaining the nature of the business, a site plan showing the lot and arrangement of buildings, and a vicinity map showing the relationship to adjacent structures and uses with bi-annual review/renewal.

2. Limitations on use:

- a. All business-related activities shall be secondary and subsidiary to the residential use.

- b. No more than one non-resident employee is permitted.

- c. No exterior display of products, storage of materials, or signage other than permitted for a residence is permitted.

- d. No exterior alterations to the residence that indicate a business is occurring within the residence and business activities shall be totally contained within the residence.

3. **Prohibited Activities:** The following uses are prohibited for Home-Based Businesses: headquarters site for assembly of employees for work (dispatching); ambulance service; animal hospital; veterinary services, kennels or animal boarding; automobile and other vehicle repair including painting of vehicles; repair, reconditioning or storage of motorized vehicles, boats, recreational vehicles, airplanes or large equipment on the site.

C. Agricultural Uses: Agricultural uses are those activities that raise, produce or keep plants or animals. For the purpose of this title, typical household gardens are not included in this definition and are allowed in all zones. All other agricultural uses shall comply with the following standards:

ATTACHMENT 2

1. Definitions:

- a. Enclosure: A small, fenced-in location such as a pen, corral, run, or other non-permanent holding area for an agricultural animal.
- b. Pasture: A fenced-in location that is planted in pasture grass or other accepted forage and is irrigated and its purpose is to graze agricultural animals.
- c. Sacrifice Area: Small fenced-in areas near a pasture usually used to temporarily keep animals off a pasture while it regrows.
- d. Agronomic Rate: The application of fertilizer that provides the amount of plant nutrients such as nitrogen needed by the crop grown on the land while minimizing the amount that passes below the root zone.

2. Regulations for Agricultural Animal Uses:

- a. Processing of animal or plant products, including milk, and feed lots are not allowed.
- b. Sale of animal or plant products may be allowed only under a Home Based Business or Conditional Use Permit, as applicable.
- c. 4-H or FFA animal raising and/or keeping is allowed when permitted as a Temporary Use.
- d. Plant nurseries that are oriented to retail sales are not allowed in residential zones.
- e. The following rules apply to large and medium sized agricultural animals in the Residential Zone.
  - a) Enclosure space and pastures will not include driveways or other right of way easements, residential yards, or open space that is not fenced and dedicated as animal enclosure or pasture space.
  - b) Enclosures, animal runs, barns, and pens shall be located at least seventy feet (70') from the front property line and at least fifty feet (50') from any adjacent residence.
  - c) Number of Animals Allowed: The total number of all large and medium-sized animals allowed in a pasture or enclosure (not including young less than 6 months old) will be allowed as follows:

- I. Horses or cows on pasture deemed to be "excellent" - Total animals = 2 per acre;
- II. Horses or cows on pasture deemed to be "good" or "poor" - Total animals = 1 per acre;
- III. Sheep, lama, and goats on pasture deemed to be "excellent" - Total animals per acre = 4;
- IV. Sheep, lama, and goats on pasture deemed to be "good" or "poor" - Total animals = 2 per acre;
- V. Other domestic farm animals: One miniature horse = one horse; one low-line cow = one cow; one llama = one goat; one swine = one goat. Other domestic animals not specifically mentioned will be determined by the planning official and/or city official.

d) Sacrifice Areas. The following rules apply to bare-ground sacrifice areas:

- I. Confining animals for more than 45 days in the sacrifice area can define the area as an animal feeding operation, which is not allowed within the City limits;
- II. No rain or irrigation water is allowed to run off from a sacrifice area;
- III. Manure must be managed so that animals are not standing in or on their own waste. Failure to manage manure in sacrifice areas constitutes a nuisance and a health hazard for the animal and for humans.

f. Forage Condition and Pasture Management.

a) Pastures with excellent forage condition have the following characteristics:

- I. Excellent forage is at least 6 to 8 inches in height with healthy root systems at least as deep as the forage height;
- II. Irrigation has been managed to keep plants thriving without allowing for wasteful runoff of irrigation water from the enclosure space area;

III. Fertilizers, if utilized, have been applied at appropriate agronomic rates.

b) Pastures with good or poor forage condition have the following characteristics:

I. Good forage is between 3 and 6 inches in height with shorter, less healthy root systems not deeper than the plants' height, there may be evidence of overgrazing

II. Poor forage is less than 3 inches or lacking and root system is also less than 3 inches in depth or lacking.

III. Irrigation may be well managed or patchy;

IV. No evidence of fertilizer use.

g. Number of Small Animals Allowed: The total number of chickens, fowl and/or rabbits over the age of six (6) months will not exceed one per five hundred (500) square feet of enclosure space.

h. All animals shall be properly penned, caged or housed and kept within the boundary of the owner's property. Proper sanitation shall be maintained at all times. All animal or poultry food shall be stored in rodent proof containers.

i. The total number of bee colonies allowed on a lot shall not exceed one colony per one thousand (1,000) square feet of lot area. Bee colonies will be located at least seventy feet (70') from the front property line and at least fifty feet (50') from any adjacent residence. (Ord. 239-15, 11-17-2015)

**RR-10, RURAL RESIDENTIAL ZONE**

*Sub-Sections*

<u>152.160</u>	<u>Purpose</u>
<u>152.161</u>	<u>Uses permitted</u>
<u>152.162</u>	<u>Conditional uses permitted</u>
<u>152.163</u>	<u>Limitations on use</u>
<u>152.164</u>	<u>Dimensional standards</u>

**§ 152.160 PURPOSE.**

The RR-10 Rural Residential Zone is designed to provide lands to enhance the value of rural living and maintain a rural residential atmosphere while accommodating the demand for rural residences. Lots need to be sufficiently large to accommodate private wells and sewage disposal systems as well as gardens and farm animals. Standards for rural land use and development consistent with desired rural character and the capability of the land and natural resources are provided. The zone is applied to areas committed to non-resource use or needed for rural residential land use as provided for in the Comprehensive Plan.

(Ord. 2004-13, passed 8-17-04)

**§ 152.161 USES PERMITTED.**

(A) *Uses permitted outright.* In a RR-10 Zone, the following uses and their accessory uses are permitted without a zoning permit, pursuant to §152.027:

(1) Farm use, as defined in ORS 215.203 and set out in §152.003, except livestock feed yards and sale yards, hog or poultry farms and the raising of fur bearing animals or hogs, the growing, harvesting and processing of marijuana in accordance with

Oregon Revised Statutes; and except the dwellings and other buildings customarily provided in conjunction with farm use referred to in ORS 215.203(2)(a).

(2) Normal operation, maintenance, repair, and preservation activities of existing transportation facilities.

(3) Installation of culverts, pathways, medians, fencing, guardrails, lighting, and similar types of improvements within the existing right-of-way.

(4) Projects specifically identified in the Transportation System Plan as not requiring further land use regulation.

(5) Landscaping as part of a transportation facility.

(6) Emergency measures necessary for the safety and protection of property.

(7) Acquisition of right-of-way for public roads, highways, and other transportation improvements designated in the Transportation System Plan.

(8) Construction of a street or road as part of an approved subdivision or land partition approved consistent with the applicable land division ordinance.

(B) *Uses permitted with a zoning permit.* In a RR-10 Zone, the following uses and their accessory uses are permitted upon the issuance of a zoning permit, pursuant to §152.025:

(1) Dwelling, single family;

(2) Home occupation as provided in §152.573;



(3) Mobile home as provided in § [152.013](#);

(4) Non-commercial greenhouse or nursery;

(5) Public or semi-public use;

(6) Signs; Type 2, 4, 5, 6 as defined in § [152.546](#);

(7) Residential Home (Adult Foster Care);

(8) Day Care or Nursery.

(Ord. [2004-13](#), passed 8-17-04; Ord. [2008-09](#), passed 6-16-08; Ord. [2009-09](#), passed 12-8-09; Ord. [2012-02](#) passed 1-26-12; Ord. [2015-07](#), passed 9-22-15)

#### **§152.162 CONDITIONAL USES PERMITTED.**

In a RR-10 Zone, the following uses and their accessory uses are permitted conditionally subject to the requirements of §§[152.610](#) through [152.616](#):

(A) Church as provided in § [152.616 \(K\)](#);

(B) Commercial greenhouse or nursery as provided in § [152.616 \(R\)](#);

(C) Roadside stand for the sale of agricultural products grown by the owner as provided in § [152.616 \(WW\)](#);

(D) Grange hall or community center, park, playground or recreational facility owned and operated by a government agency or non-profit community agency as provided in § [152.616 \(EE\)](#);

(E) Boarding, lodging or rooming house as provided in § [152.616 \(H\)](#);

(F) Rest home, home for the aged, nursing home, or convalescent home as provided in § [152.616 \(UU\)](#);

(G) Utility facility as provided in § [152.616 \(CCC\)](#);

(H) Veterinary clinic or animal hospital as provided in § [152.616 \(DDD\)](#);

(I) Model home including sales office, subdivision or development sales office as provided in § [152.616 \(OO\)](#);

(J) Special exemptions, as provided in §§ [152.575](#) and [152.576](#) of this chapter;

(K) Cemetery as provided in § [152.616 \(J\)](#);

(L) Home occupation/cottage industry as provided in § [152.616 \(II\)](#);

(M) Personal-use landing strip for airplanes and helicopter pads, including associated hangar, maintenance and service facilities as defined in §[152.003](#) and provided in § [152.616 \(RR\)](#).

(N) Construction, reconstruction, or widening of highways, roads, bridges or other transportation projects that are: (1) not improvements designated in the Transportation System Plan or (2) not designed and constructed as part of a subdivision or planned development subject to site plan and/or conditional use review, shall comply with the Transportation System Plan and applicable standards, and shall address the following criteria. For State projects that require an Environmental Impact Statement (EIS) or EA (Environmental Assessment), the draft EIS or EA shall be reviewed and used as the basis for findings to comply with the

following criteria:

(1) The project is designed to be compatible with existing land use and social patterns, including noise generation, safety, and zoning.

(2) The project is designed to minimize avoidable environmental impacts to identified wetlands, wildlife habitat, air and water quality, cultural resources, and scenic qualities.

(3) The project preserves or improves the safety and function of the facility through access management, traffic calming, or other design features.

(4) Project includes provision for bicycle and pedestrian circulation as consistent with the comprehensive plan and other requirements of this ordinance.

(O) Construction of rest areas, weigh stations, temporary storage, and processing sites.

(P) If review under this Section indicates that the use or activity is inconsistent with the Transportation System Plan, the procedure for a comprehensive plan amendment shall be undertaken prior to or in conjunction with the conditional permit review.

(Ord. [83-4](#), passed 5-9-83; Ord. [2002-08](#), passed 8-14-02; Ord. [2009-09](#), passed 12-8-09)

### § 152.163 LIMITATIONS ON USE.

Notwithstanding any other section of this chapter, the following limitations and conditions shall apply in a RR-10 Zone:

(A) Cows, horses, goats or sheep, or

similar sized animals shall not be kept on lots having an area less than 20,000 square feet. The total number of all such animals over the age of six months allowed on a lot shall be limited to the square footage of the lot divided by the minimum area required for each animal. The minimum area required for horses, cows, goats and sheep is two per acre. For the purposes of this section, the two per acre requirement shall be cumulative. In other words, on two acres only four animals listed above could be kept.

(B) The number of chickens, fowl, rabbits or similar sized fowl shall be confined on not more than 25% of the total lot area;

(C) Adequate fences and corrals shall be required of the animal owner to keep animals off adjacent lands;

(D) Barns, sheds, and other structures sheltering animals shall be located a minimum of 35 feet from a side or rear property line and 75 feet from the front property line;

(E) All structures and enclosures designed for animals shall be kept reasonably free and clean of flies, and accumulated animal waste materials and shall be subject to health regulations (county, state or federal) as may be hereafter established.

(F) Market Hog Exemption: A student resident who is a member of FFA (Future Farmers of America) or 4-H may raise hogs under the conditions listed below and may be subject to yearly reviews;

(1) The owner of the market/feeder hog must be an active member currently enrolled in a local FFA or 4-H program. A letter from the FFA or 4-H leader may be

required to verify enrollment.

(2) The boarding and raising of hogs shall be for educational purposes only.

(3) Only market/feeder hogs raised as an FFA or 4-H market animal project shall be allowed. Breeding stock such as sows and boars are excluded from this exemption status.

(4) The market/feeder hogs shall be raised for FFA or 4-H sale only.

(5) The boarding and raising of market/feeder hogs shall not be allowed for the purposes of profit only, except when sold as a project.

(6) Market/feeder hogs must be kept in a well maintained environment, with no rodents or pests allowed. Odor and other nuisance factors must be reasonably controlled.

(7) Market/feeder hogs shall not be allowed on a year round basis. Market/feeder hogs shall only be allowed on the premises for the duration of time required to complete the project and prepare the hogs for the designated youth livestock show.

(8) The total number of hogs allowed per FFA or 4-H member shall be one (1) for each show attended by the FFA or 4-H member, per student resident. (Ord. [2004-13](#), passed 8-17-04; Ord. [2013-02](#), passed 1-29-13; Ord. [2019-03](#), passed 4-3-19;)

#### § 152.164 DIMENSIONAL STANDARDS.

In a RR-10 Zone, the following

standards shall apply:

##### (A) *Minimum lot area.*

(1) For principal dwellings, ten acres;

(2) For non-residential structures that are not an accessory use to a dwelling, as determined to meet the requirement of the DEQ for the protection of public health and other regulations of this chapter including, but not limited to, setbacks and vision clearance;

(3) Conditional uses. Minimum lot sizes for all conditional uses shall be determined by the Hearings Officer and/or DEQ considering the protection of public health, the size needed to accommodate the use and its accessory uses and the objective to minimize potential conflicts with adjacent land uses;

(4) Pre-existing, non-conforming lots of record. Lots which were lawfully in existence prior to the effective date of this chapter and do not meet the requirements of this section may be used for uses listed in this zone, provided that all other applicable regulations can be met.

(B) *Setback requirements.* No building or accessory structure shall be located closer than 20 feet from the property line, except on the street/road side of a corner lot used for a side yard the setback shall be 55 feet from the centerline of the road, highway, or easement, or 25 feet from the property line, whichever is greater.

##### (C) *Lot coverage and building heights.*

(1) Lot coverage. The main building and accessory building located on

any building site or lot shall not cover more than 30% of the total lot area.

(2) *Building and structure height.*

No building or structure shall be erected or enlarged more than 25 feet in height, except for utility pole structures, and dwellings that may be constructed with two stories (not including basements).

(D) *Stream setback.* To permit better light, air, vision, stream or pollution control, protect fish and wildlife areas, and to preserve the natural scenic amenities and vistas along the streams, lakes, and wetlands the following setbacks shall apply:

(1) All sewage disposal installations, such as septic tanks and septic drainfields, shall be set back from the mean high water line or mark along all streams, lakes or wetlands a minimum of 100 feet, measured at right angles to the high water line or mark. In those cases, where practical difficulties preclude the location of the facilities at a distance of 100 feet and the Department of Environmental Quality finds that a closer location will not endanger health, the Planning Director may permit the location of these facilities closer to the stream, lake or wetland, but in no case closer than 50 feet;

(2) All structures, buildings or smaller permanent fixtures shall be set back from the high water line or mark along all streams, lakes or wetlands a minimum of 100 feet measured at right angles to the high water line or mark.

(Ord. [2004-13](#), passed 8-17-04; Ord. [2016-02](#), passed 3-16-16; Ord. [2019-03](#), passed 4-3-19;)

**Attachment 4**

**RR 10 Zoning Setbacks and Design Standards**

Counties	RR10 Zone?	Setbacks			Design Standards		
		Front	Rear	Side	Lot Coverage	Bldg Height	Frontage/Width
Baker	X						
Benton	Y	25/40**	25	8/30***	0	40	0
Clackamas	X						
Clatsop	RA-10	20-50	20/125	10/20/125	0	35	385
Columbia	X						
Coos	X						
Crook	Y	20/30/80/100	25/100	20/30/100	30	30	0
Curry	Y	10 and 35	5 for 15+		0	0	0
Deschutes	Y	20/30/50	20	10 and 20	30	30	
Douglas	X						
Gilliam	X						
Grant	Y	20	10 and 20	20	0		
Harney	X						
Hood River	X						
Jackson	Y	30	20	20	0	35	300
Jefferson	Y	30	15	15	0	35	
Josephine	X						
Klamath	X	25	10	25		35	50
Lake	R-2 (10ac)	20	20	10		35	100
Lane	X						
Lincoln	Y	20	10	5	30	30	w1:d6
Linn	Y	30/60	10	10	20	35	400
Maiheur	X						
Marion	X						
Morrow	Draft	20/30/80	20	10/20	30	30	50/20/30
Multnomah	X						
Polk	X						
Sherman	X						
Tillamook	X						

Counties	RR10 Zone?	Setbacks			Design Standards		
		Front	Rear	Side	Lot Coverage	Bldg Height	Frontage/Width
Umatilla	Y		20/55/25		30	25	
Wasco	Y	25	40	25	10	35	330
Washington	X						
Wheeler	Y	30	30	30		35	
Yamhill	X						

\* 25 feet from the ROW; min. 40 feet from the edge of an-existing hwy

\* 8 feet from side property line; 30 feet between adjoining lot structure and proposed structure

\* Residential Ag

\* 20 feet from rear; 125 feet when adjacent to resource zone

\* 20-50 feet from front; depends on the road classification

\* 10 feet rear yard; 20 feet from side if adjacent to road

\* 20 feet from prop line if fronting a local minor collector or marginal street access ROW; 30 feet from property line fronting on a major collector ROW; 80 feet from arterial ROW; 100 feet min. if adjacent to intensive ag use

\* 20 feet from side; 30 feet if a corner lot has a side adjacent to street; 100 feet min. if adjacent to intensive ag use

\* 25 feet from rear; 100 feet min. if adjacent to intensive ag use

\* 10 feet from lot lines bordering existing roads other than an alley; provided that at least a 35 foot setback from the CL is maintained

\* Required setbacks shall be a minimum of 5 feet from all other lot lines for a structure not to exceed 15 feet in height. The setback shall increase 1/2 foot for every foot the structure exceeds 15 feet in height

\* 10 feet side for all uses except for nonresidential use adjacent to a residential use, then the setback is 20 feet

\* All structures shall be at least 60 feet from the CL of any State or Federal Highway ROW and 45 feet from the CL of any County or other public road or street ROW

\* Min. lot depth and width is 100 feet

Counties	RRIO Zone?	Setbacks			Design Standards		
		Front	Rear	Side	Lot Coverage	Bldg. Height	Frontage/Width

Lincoln

\*Each side yard shall be a minimum of either five feet or one foot for each three feet of building height, whichever requirement is greater

\* The street side yard shall be minimum of 20 feet and may be decreased at the rate of one foot per additional two feet of setback from the front lot line, except that such setback shall not be less than 10 feet.

\* The rear yard shall be a minimum of 10 feet, except that on a corner lot it shall be a minimum of either five feet or one for each three feet of building height, whichever requirement is the greater.

\* No structure shall be located closer than 30 feet from the ROW of any State Hwy. No structure shall be located closer than 30 feet from the ROW of any collector or arterial street which a ROW width of less than 60 feet.

Linn

\* RR10 falls under the Rural Development Zone

\* 30 feet from the front line, or 60 feet from the center of 1 the road, whichever is greater.

Morrow

\* There shall be a minimum side yard of 10 feet for all uses, except in the case of a non-residential use adjacent to a residential use the minimum side yard shall be 20 feet.

\* The minimum lot frontage on a public street or private roadway shall be 50 feet, except that a flag lot frontage may be reduced to the width of a required driveway but no less than 20 feet and except for a cul de sac, the the frontage may be reduced to 300 feet.

Umatilla

\* No building or accessory structure shall be located closer than 20 feet from the property line, except on the street/road side of a corner lot used for a side yard the setback shall be 55 feet from the CL of the road, highway, or easement, or 25 feet from the property line, which ever is greater.

Wasco

\* No structure other than a fence or sign shall be located closer than twenty five (25) feet from the right of way of a public road (front yard), twenty five (25) feet from side yard property lines and forty (40) feet from the rear yard property line.

\* Vision Clearance: Vision clearance on corner properties shall be a minimum of thirty (30) feet.