

PLANNING DEPARTMENT

P.O. Box 40 • Irrigon, Oregon 97844
(541) 922-4624 or (541) 676-9061 x 5503
FAX: (541) 922-3472

AGENDA

Morrow County Planning Commission
Tuesday, September 29, 2020 7:00 pm
Bartholomew Building
Heppner, Oregon

See Electronic Meeting Information on Pages 2 & 3

Members of Commission

Jeff Wenholz, Chair
Stacie Ekstrom
Greg Sweek

Mifflin Devin, Vice Chair
Wayne Seitz
Rod Taylor

Stanley Anderson
Karl Smith
Brian Thompson

Members of Staff

Tamra Mabbott, Planning Director
Stephen Wrecsics, GIS Planning Tech
Dianna Strong, Office Assistant

Stephanie Case, Planner II
Justin Nelson, County Counsel
Gregg Zody, Community Development Director

1. Call to Order
2. Roll Call
3. Pledge of Allegiance: "I pledge allegiance to the flag of the United States of America and to the republic for which it stands: one nation under God, indivisible with liberty and justice for all."
4. Minutes: August 25, 2020 & September 4, 2020
5. Public Hearings to begin at 7:00 pm (COMMISSION ACTION REQUIRED):

Land Partition LP-N-484-20: Ronald V. McKinnis, applicant and Kathleen Close and Mari Gordanier, owners. The property is described as tax lot 1500 of Assessor's Map 5N 27E 20. The property is zoned Rural Residential (RR) and located outside the Irrigon Urban Growth Boundary between 16th and 18th Streets on Oregon Lane. Request is to partition a 21.45-acre parcel to create 2 parcels. Criteria for approval includes the Morrow County Zoning Ordinance (MCZO) Article 3 Section 3.040 Rural Residential Zone and Morrow County Subdivision Ordinance (MCSO) Article 5 Land Partitioning.

Land Partition LP-S-485-20: Sylvia Sandford and Richard Sandford III, applicants and owners. The property is described as tax lot 901 of Assessor's Map 1S 24E. The property is zoned Suburban Residential (SR) and General Commercial (CG) and located West of Lone within the Lone Urban Growth Boundary. Request is to partition an approximately 19-acre parcel to create 3 parcels. Criteria for approval includes MCZO Article 3 Section 3.050 Suburban Residential Zone, Section 3.060 General Commercial Zone, and MCSO Article 5 Land Partitioning.

Replat R-S-058-20: Port of Morrow, applicant, Port of Morrow and Kevin and Candy Chick owners. The property is described as tax lots 600, 700, and 800 of Assessor's Map 2S 26E 21. The property is zoned General Industrial (MG) and located west of Heppner along State Highway 74. Request is to reconfigure parcels 1, 2, and 3 of Partition Plat 2012-08. Criteria for approval includes MCSO Article 5 Land Partitioning.

Continued from August 25, 2020: **Conditional Use Permit CUP-N-343-20: Energy of Utah LLC, applicant, and William J. Doherty Trust, owner.** The property is described as tax lots 400, 403, and 2400 of Assessor's Map 1N 26E. The properties are zoned Exclusive Farm Use (EFU) and located 12 miles NE of Lexington along Highway 207. Request is to allow by conditional use the construction and operation of an approximately 20-megawatt Photovoltaic Solar Array. Criteria for approval includes the MCZO Article 3 Section 3.010 Exclusive Farm Use (EFU) and Article 6 Conditional Uses.

6. Public Comment
7. Adjourn

Next Meeting

October 27, 2020 at 7:00 p.m.
Location: TBA

ELECTRONIC MEETING INFORMATION:

Morrow County Planning Commission is inviting you to a scheduled Zoom meeting. Join Zoom Meeting.

<https://zoom.us/j/92095608268?pwd=ZXA3MzFXZ1JEZVJjV29tdFR5SXP4QT09>

Password: 890029

Meeting ID: 920 9560 8268

One tap mobile

+16699009128,,92095608268#,,,,,0#,,890029# US (San Jose)

+12532158782,,92095608268#,,,,,0#,,890029# US (Tacoma)

Zoom Call-In Numbers for Audio Only:

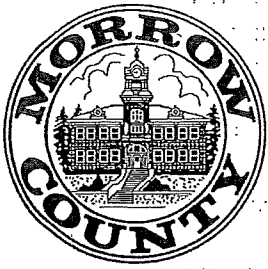
- +1 669 900 9128 US (San Jose)
- +1 253 215 8782 US (Tacoma)
- +1 346 248 7799 US (Houston)
- +1 646 558 8656 US (New York)
- +1 301 715 8592 US (Germantown)
- +1 312 626 6799 US (Chicago)

Meeting ID: 920 9560 8268

Find your local number: <https://zoom.us/j/92095608268>

Should you have any issues connecting to the call please call 541-922-4624 or email Stephanie Case at scase@co.morrow.or.us.

This is a public meeting of the Morrow County Planning Commission, and may be attended by a quorum of the Morrow County Board of Commissioners. Interested members of the public are invited to attend. The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired, or for other accommodations for persons with disabilities, should be made at least 48 hours before the meeting to Stephanie Case at (541) 922-4624, or by email at scase@co.morrow.or.us.



PLANNING DEPARTMENT

PO Box 40 • 205 Third Street NE
Irrigon, Oregon 97844
(541) 922-4624

**Minutes of the Public Meeting of the
Morrow County Planning Commission
Tuesday, August 25, 2020, 7:00 p.m.
Bartholomew Building, Heppner Oregon
(Also video conferenced via Zoom)**

Morrow County Planning Commissioners Present: Chair Jeff Wenholz, Vice Chair Mifflin Devin, Stacie Ekstrom, Wayne Seitz, Karl Smith, Greg Sweek, Rod Taylor, and Brian Thompson.

Morrow County Planning Commissioners Absent: Stanley Anderson.

Morrow County Staff Present: Stephanie Case, Planner II/Interim Planning Director; Stephen Wrecsics, GIS Planning Technician; Justin Nelson, County Counsel; Gregg Zody, Community Development Director, and Dianna Strong, Office Assistant.

The Pledge of Allegiance was recited.

Approval of Minutes:

Commissioner Taylor moved to approve the Minutes of July 28, 2020. Commissioner Devin seconded; and the motion carried.

Planning Commission Chair Wenholz read the Planning Commission Hearing Procedures.

Variance V-S-040-20: Donald and Judith Barber, owners and applicants. The property is described as tax lot 700 of Assessor's Map 3S 28. The property is zoned Exclusive Farm Use (EFU) and located east of Heppner on Hanna-Arbuckle Road. Request is for a variance on age requirement to install a 1999 double wide manufactured home. Criteria for approval include the MCZO Article 7 Section 7.200 Variances and MCZO Article 4 Section 4.110 Minimum Standards for a Manufactured Home

Interim Planning Director Stephanie Case presented the request. Commissioners were provided with a vicinity map and photographs.

No comments were received from agencies or nearby landowners.

Opened the testimony portion of the Public Hearing. No one spoke in favor or in opposition, nor were there any neutral comments. Closed the public testimony portion of the hearing.

Commissioner Sweek asked a question regarding p. 2, "The subject parcel is in a *residential area* ..." This is not accurate. After discussion of how to change the wording, Commissioner Taylor made a motion to approve **V-S-040-20**, with a change in the wording to read, "The subject parcel is in *an area* with several neighboring manufactured homes." Commissioner Thompson seconded the motion. The vote was taken by roll call, with all Commissioners in attendance voting in favor. The motion carried.

Conditional Use Permit CUP-N-343-20: Energy of Utah LLC, applicant, and William J. Doherty Trust, owner. The property is described as tax lots 400, 403, and 2400 of Assessor's Map 1N 26E. The properties are zoned Exclusive Farm Use (EFU) and located 12 miles NE of Lexington along Highway 207. Request is to allow by conditional use the construction and operation of an approximately 20-megawatt Photovoltaic Solar Array. Criteria for approval for CUP-N-343-20 includes the MCZO Article 3 Section 3.010 EFU and Article 6 Conditional Uses.

The Planning Department received a letter electronically from Bill Adams, Adams Planning and Development Services, representing the applicant, requesting a hearing continuance to the Planning Commission's next hearing date, due to the "lateness of the comments from the state agencies." Commissioner Seitz made a motion that we continue this action to the next Planning Commission, on September 29, 2020, at 7 pm; Commissioner Devin seconded the motion. All Commissioners voted in favor, and the motion carried.

Public Comment: None

Other Business:

RR-10 Zone Work Session Follow-Up

Community Development Director Gregg Zody presented a revised version of the Draft Rural Residential 10 (RR-10) Zone for discussion, explaining that he drew information regarding pasture management and animal densities from the City of Irrigon and Umatilla County, after reviewing information from many Oregon counties.

Chair Wenzholz directed the Commissioners to start with the redline version, asking if there are any concerns. Commissioner Thompson discussed the Limitations on Use regarding livestock density, especially regarding the numbers allowed. An idea is to keep the numbers low, with the possibility of applying for a variance for more – so that neighbors would have a say in the matter. Commissioner Seitz agreed with Commissioner Thompson, envisioning residential areas that may face having a neighbor with a substantial number of animals next door.

Commissioner Sweek expressed concern over who would make the determination about pasture management, as it opens up interpretation of what is regarded as quality pasture, etc. instead of having a set number of animals allowed. Commissioner Devin asked if Mr. Zody reached out to Kevin Payne, Morrow County Soil and Water Conservation District (SWCD), to learn some of his thoughts regarding number of animals per acre, etc.

Mrs. Case suggested looking into adding some language to specify that a well-maintained pasture could have a certain number of animals; whereas dry land would be allowed fewer animals.

Commissioner Devin added information based on previous discussion with Mr. Zody, regarding an action plan for the Lower Umatilla Basin Groundwater Management Area (LUBGWMA), stating that the language was left ambiguous because there was no easy specific answer. Because of this, it would be wise to speak with Kevin Payne, SWCD, about the specifics involved in allowing more or fewer animals – irrigation, soils, confined space, etc. The determination would come from Morrow SWCD dependent on each actual piece of property.

Commissioner Thompson suggested we be more restrictive with the clause, requiring that another agency (ie: SWCD) be involved. The number of animals would be allowed to expand based on

support that proves the land can support more animals. Start on the low side, and make the applicant prove the higher number of animals would be accommodated. Commissioner Sweek agreed. Mr. Zody said he would reach out to SWCD for more input.

Commissioner Seitz asked about the location of the 10-acre areas – do they have to be next to the Urban Growth Boundary (UGB) residential areas, or are other areas allowed? Mrs. Case reminded the Commission that this change is proposed to amend the ordinance, rather than seeking to apply it to specific properties. It will be up to individual applicants who might apply for Goal 3 Exception out of farm land.

Mr. Zody pointed to the change made in Section 3.037 Purpose -- language added to the end of the first sentence (in the third line of the opening paragraph) as follows: "...rural residences *in areas contiguous to residentially-zoned properties in the County, i.e. municipalities.*" Commissioner Sweek asked about the ability to expand use, even if properties are not contiguous, specifically related to properties that are already developed. Would they be hindered from developing further? Does this updated language adequately express the intent?

Tamra Mabbott, Eastern Oregon Regional Representative, Department of Land Conservation and Development (DLCD), asked for a definition of feedlots, and if they would be allowed in this zone. Mrs. Case answered that the ordinance does not specifically define a feedlot. If the goal is to not allow feedlots, Mrs. Case suggested we should add specific language to the current ordinance, such as the Irrigon Development Code does (10-2A-5-2a) "Processing of animal or plant products, including milk, and feedlots are not allowed."

Mrs. Mabbott asked for permission to speak. Chair Wenzholz granted permission. She asked if the Commission is considering adopting other standards, with the comment, "As part of the rezone, landowner would need to address OAR 660-004. It might be worthwhile to review those in addition to local zone change standards." She suggested that staff look at the compatibility of necessary changes altogether, especially when considering to justify exceptions in the future. Hilary Foote, DLCD Farm/Forest Specialist, recommended considering compatibility with the Right to Farm Ordinance.

Mrs. Case asked the Commission if they want to add any standards that apply to all rezone or plan amendments. Article 8 within Morrow County's code addresses zone changes specifically. There is the need to update many things, and this is just a piece of the puzzle. Moving forward, housing must be addressed.

Mr. Zody will research pasture management for further discussion at the October 27 hearing.

Friday, September 4, 2020 at 9 am is a special Planning Commission hearing for the appeal of LUD-N-26-20.

The next meeting of the Morrow County Planning Commission is scheduled for Tuesday, September 29, 2020 at 7:00 pm.

Meeting was adjourned at 7:50 p.m.

Respectfully Submitted,
Dianna Strong

**PRELIMINARY FINDINGS OF FACT
LAND PARTITION REQUEST
LP-N-484-20**

REQUEST: To partition an approximate 21.5-acre property into two parcels.

APPLICANT Ronald V. McKinnis
79980 Prindle Loop Road
Hermiston, Oregon 97838

OWNERS Kathleen Close and Mari Gordanier
76151 Oregon Lane
Irrigon, Oregon 97844

PROPERTY DESCRIPTION: Tax Lot 1500 of Assessor's Map 5N 27E 20

PROPERTY LOCATION: East of Irrigon City Limits and between 16th and 18th Streets.

FINDINGS OF FACT:

I. BACKGROUND INFORMATION:

The subject parcel is zoned Rural Residential and is located outside of the Irrigon Urban Growth Boundary (UGB). The subject property has no existing structures or dwellings and is currently being used as pasture ground. The applicant is proposing to create two parcels, with proposed parcel 1 at approximately 18.5-acres, and proposed parcel two approximately 3-acres in size.

II APPROVAL CRITERIA:

Morrow County Subdivision Ordinance Article 5 Land Partitions will apply. Criteria are listed below in **bold type**, followed by a response in standard type.

MORROW COUNTY SUBDIVISION ORDINANCE ARTICLE 5 LAND PARTITIONS SECTION 5.030. REQUIREMENTS FOR APPROVAL. No application for partitioning shall be approved unless the following requirements are met:

1. Proposal is in compliance with the County and affected City Comprehensive Plan and applicable Zoning.

The proposed land partition meets the requirements of the Zoning Ordinance and Comprehensive Plan relative to minimum parcel size. The applicant will need to submit both a preliminary and final partition plat to be in compliance with this Article and ORS Chapter 92. This is recommended and listed as a Condition of Approval.

2. Each parcel is suited for the use intended or offered; including, but not limited to, sewage disposal approval and guaranteed access.

The applicant has proposed two parcels in the Rural Residential Zone; each proposed parcel is of an adequate size as to satisfy the 2-acre minimum size for

this zone. The applicant has indicated that the future intended use is residential and pasture ground. Both proposed parcels have adequate frontage along Oregon Lane which suitable for any additional access needs. The Applicant will need to work with the Morrow County Public Works Department to obtain the proper access permits. This is recommended and listed as a condition of approval.

To ensure buildability of each parcel, Proposed Parcels 1 and 2 will need to obtain site suitability from Umatilla County Health (Uco. Health). This is recommended and listed as a Condition of Approval.

3. **All required public service and facilities are available and adequate or are proposed to be provided by the partitioner.**
Electricity and telephone services are available in the area, Applicant will need to work with local providers for future service. No other public services or facilities are available.
4. **Proposal will not have any identifiable adverse impacts on adjoining or area land uses, public services and facilities, and natural resource carrying capacities.**
The current parcel is zoned residential and surrounding uses are residential in nature, this action will not prevent the proposed or surrounding parcels to continue to be used as such. The proposal will not have any identifiable adverse impacts on public services or natural resources of the area. Planning staff would find this criterion met.
5. **An approved water rights diversion plan as applicable.**
Preliminary Findings of Fact were referred to the County Watermaster and it is recommended that the applicant comply with any recommendations of the County Watermaster based on this review.
6. **Flag lots will not be permitted when the results would be to increase the number of properties requiring direct and individual access from a State Highway or other arterial. Flag lots may be permitted to achieve planning objectives under the following conditions:**
 - a. **When flag lot driveways are separated by at least twice the minimum frontage distance.**
 - b. **The driveway must meet driveway standards described in Article 8, Section 8.020.V.**
 - c. **The lot meets the minimum lot area of the zoning district, without including the driveway.**
 - d. **Only one flag lot shall be permitted per private right-of-way or access easement.**

This provision does not apply as no flag lots are proposed.
7. **The depth of any lot will not be restricted as long as a buildable parcel is proposed.**
The application meets this criterion as buildable parcels are being proposed. Parcel 1 is proposed at approximately 18.5-acres, and parcel 2 at approximately 3-acres in size. All proposed parcels would meet the minimum acreage for the RR zone.
8. **No plat of a subdivision or partition located within the boundaries of an irrigation district, drainage district, water control district, water**

improvement district or district improvement company will be approved unless the County has received and accepted a certification from the district or company that the subdivision or partition is either entirely excluded from the district or company or is included within the district or company for purposes of receiving services and subjecting the subdivision or partition to the fees and other charges of the district or company.

The applicant should be aware that this property is located in an area designated for water quality concerns by the Oregon Department of Environmental Quality. The subject property is in the Lower Umatilla Basin Groundwater Management Area (LUBGWMA). The Department of Environmental Quality designated the LUBGWMA in 1990 due to elevated nitrate concentrations in groundwater. It is recommended that wells used for drinking water be tested at least annually to determine nitrate concentrations. More information about the LUBGWMA can be found at <http://www.oregon.gov/deq/wq/programs/Pages/GWP-Management-Areas.aspx>

This property is within the West Extension Irrigation District (WEID) and were provided a copy of these findings. Applicant will need to get the approval of WEID. This is recommended and listed as a condition of approval.

9. **The Commission will deny an application for partitioning when it can be shown by the Commission that the partitioning is part of a plan or scheme to create more than three (3) parcels without going through subdivision, or is part of a development pattern creating more than three (3) parcels without subdividing.**

This provision does not apply to this application as no more than 3 parcels are currently being proposed.

10. **In addition to the requirements set forth above, the following factors may be considered for approval or disapproval of an application for land partitioning is a geographical or other factor identified by other, appropriate professionals or Plans such as the requirements of the Comprehensive Plan, FEMA requirements, Byways rules, etc., requires it:**
- a. **Placement and availability of utilities.**
 - b. **Safety from fire, flood and other natural hazards.**
 - c. **The same improvements may be required for a partitioning as required of a subdivision, if required it will be installed by the applicant.**
 - d. **Possible effects on natural, scenic and historical resources.**
 - e. **Need for onsite or offsite improvements.**
 - f. **Need for additional setback, screening, landscaping and other requirements relative to the protection of adjoining and area land uses. If the proposed partition is located within an Urban Growth Boundary, the affected city must be given notice according to the respective Joint Management agreement.**
 - g. **In the approval of a land partition, the need for street and other improvements will be considered and may be required as a Condition of Approval at a different standard than for a subdivision.**

Planning staff would not recommend any additional requirements based on the factors above.

- III LEGAL NOTICE PUBLISHED:** September 09, 2020
Heppner Gazette-Times
- IV AGENCIES NOTIFIED:** Steve Cherry, Oregon Department of Fish and Wildlife; Greg Silbernagel, Watermaster; Beverly Bridgewater, WEID; Larry Burns, Irrigon Rural Fire Protection District; Justin Nelson, Morrow County Counsel; Mike Gorman, Morrow County Assessor; Matt Scrivner, Morrow County Public Works Director; Stephen Haddock, Morrow County Surveyor.
- V PROPERTY OWNERS NOTIFIED:** September 09, 2020
- VI HEARING DATE:** September 29, 2020
Morrow County Bartholomew Building
Heppner, Oregon 97836
- VII PLANNING COMMISSION ACTION:** Staff recommend approval subject to the following **Precedent Conditions of Approval**. These conditions must be completed before the Planning Director may sign the final partition plat or before the land may be deeded to a third party.
1. Submit both a preliminary and final partition plat to be in compliance with Article 5 of the Morrow County Subdivision Ordinance and ORS Chapter 92.
 2. Obtain site-suitability from Umatilla County Health for Proposed Parcels 1 and 2.
 3. Obtain approval and any necessary access permits from Morrow County Public Works.
 4. Obtain approval from the West Extension Irrigation District (WEID).

Jeff Wenholz, Chair

Date

ATTACHMENTS:
Vicinity Map
Preliminary Plan

PARTITION PLAT No. 2020 -
A Replat of Lots 2, 3, 5, & 9 Block 24 East, Irrigon
Township 5 North, Range 27 East, W.M.,
Section 20
Morrow County, Oregon

for:

Kathleen M. Close & Mari J. Gordanier
 76151 E. Oregon Lane
 Irrigon, Oregon 97844

LEGAL DESCRIPTION: Deed 2020-46449

A parcel of land located in Section 20, Township 5 North, Range 27, East of the Willamette Meridian, in the County of Morrow and State of Oregon, described as follows:

That portion of Lots 2, 3, 5, & 9 of Block 24 East in said Section 20, lying Southerly and Easterly of the Reservation taking Line.

Excepting therefrom the property described in warranty Deed to Gregory L. Close and Kathleen M. Close, recorded October 12, 1987, as Microfilm No. M28605, Morrow County Microfilm records.

REFERENCED SURVEYS:

- R1 - Griffiths for U.S.A.C.O.E., C.S. #C-646-K, Folder 491, 1983
- R2 - Oregon State Highway Division, C.S. #B-898-E, Folder 669, 1991
- R3 - Edwards for Fredrickson, C.S. #A-120-K, Folder 26, 1977

I do hereby certify that this is a true and exact copy of the Original Partition Plat as filed for Close & Gordanier in Morrow County.

Ronald V. McKinnis, PLS #2431

SURVEYORS CERTIFICATE & NARRATIVE:

I, Ronald V. McKinnis, being a Registered Professional Surveyor of the State of Oregon, certify that I have correctly Surveyed and Monumented the lands depicted on this Plat, and more particularly described in the Legal Description hereon. I also certify that this Plat meets all the requirements as established by Chapter 92, Oregon Revised Statutes.

This survey is based on the Plat of West Boardman, I used my found monuments from that Plat locate the Original Corners of Lot 7. This survey was completed with a Trimble GPS RTK Total Station.

OWNER'S DECLARATION / DEDICATION:

We, the undersigned owners of the Property as shown and described on this Plat, do hereby acknowledge that we have caused this plat to be created in accordance to ORS Chapter 92 and the Morrow County Subdivision Ordinances. We recognize this Plat as the Official Plat and Map of the Partition as filed in the County of Morrow, State of Oregon. We also Dedicate All Easements for their designated uses as shown on the face of this Plat.

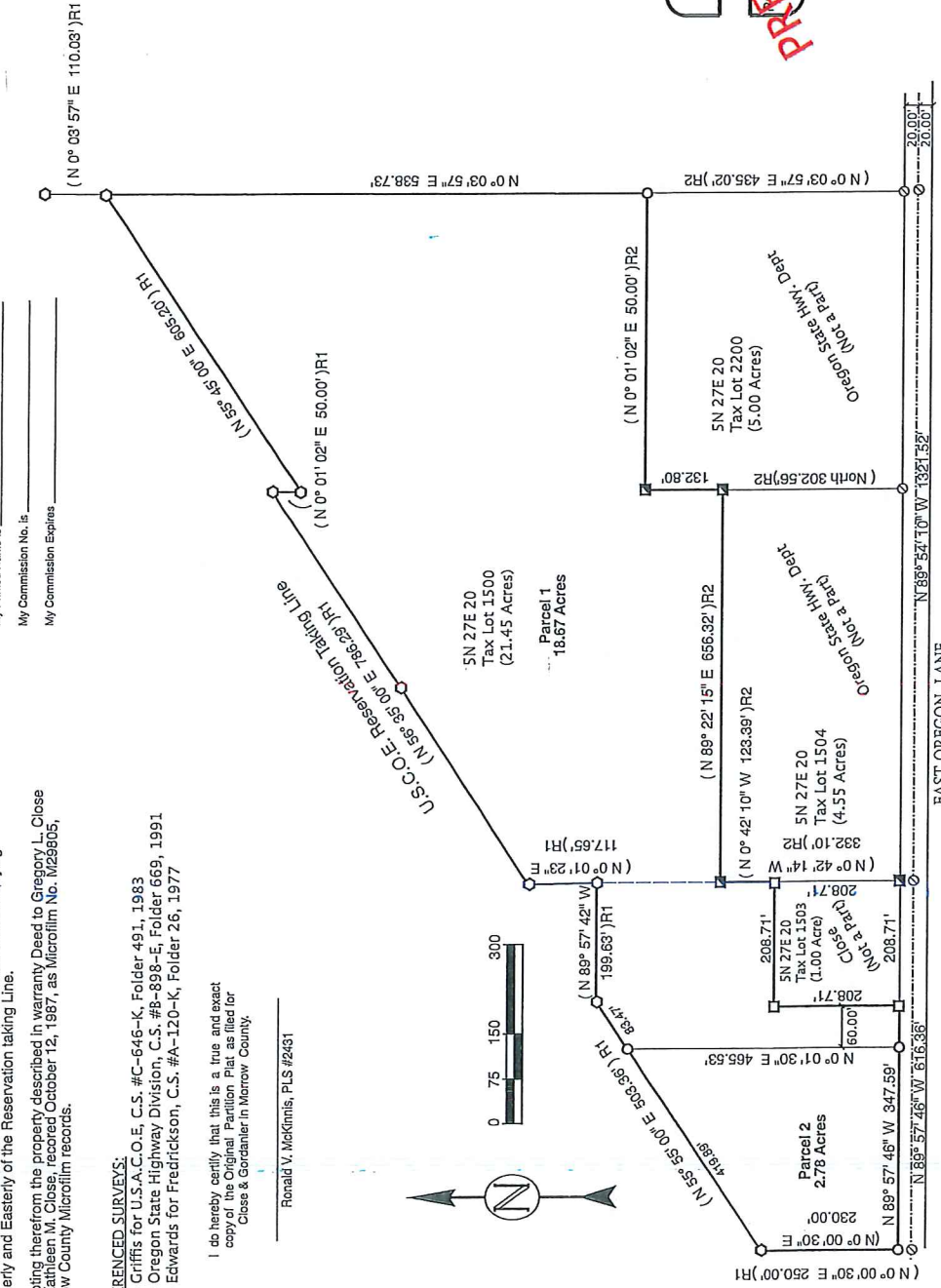
Kathleen M. Close _____ Mari J. Gordanier _____
 Notary Public for Oregon

On this _____ day of _____, 2020, the above individuals appeared personally before me and are known to me to be the identical individuals who executed this plat dedication & acknowledged that they did so freely and voluntarily of their own will.

Below me: _____
 My Printed Name is _____
 My Commission No. is _____
 My Commission Expires _____

APPROVALS:

I certify that I have examined and approved this Partition Plat in accordance with ORS Chapter 92 and the Morrow County Subdivision Ordinance on this _____ day of _____, 2020
 Morrow County Surveyor
 I certify that I have examined and approved this Partition Plat on this _____ day of _____, 2020
 Morrow County Planning Director
 I certify that I have examined and approved this Partition Plat on this _____ day of _____, 2020
 Morrow County Tax Assessor
 Morrow County Tax Collector
 Morrow County Clerk
 Recording Information



- LEGEND**
- Found Monument, as Noted
 - AM (Aluminum Cap Per R1)
 - CC (5/8" Rebar W/ Copper Cap)
 - HWY (Aluminum Cap OSHWY DIV.)
 - Set 5/8" x 30" Rebar
 - W/ Plastic Cap, PLS #2431
 - CALCULATED POINT - Not Set
 - PARTITION LINES
 - PARTITION BOUNDARIES
 - (000)R0 Record Bearing / Distance
 - Per Survey Reference Noted

REGISTERED PROFESSIONAL LAND SURVEYOR
RONALD V. MCKINNIS
 JAN. 23, 1980
 2431
 Expires 12-31-20

SCALE 1" = 150 Ft.
 August, 2020

ENGINEERING - LAND SURVEYING - WATER RIGHTS
R. V. MCKINNIS ENGINEERING
 79980 Prindle Loop Road
 Hermiston, Oregon 97838
 (541)-567-2017

planned at the Northwest corner adjacent to Johnson Grade Road. Proposed parcel 2 will require an easement for access, this easement will need to be recorded and shown on the Final Plat prior to the Planning Director signing. It is recommended and listed as a condition of approval. that the applicant obtains an easement for access and utilities to Proposed parcel 2, and show the easement on the final partition plat prior to the Planning Director's signing. Access to Proposed parcel 3 will be via the existing access along State Highway 74. The

The Applicant will need to work with the Morrow County Public Works Department to obtain the proper access permits. This is recommended and listed as a condition of approval.

To ensure buildability of each parcel, Proposed Parcels 1 and 2 will need to obtain site suitability from Umatilla County Health (Uco. Health). As proposed parcel 3 is zoned General Commercial, site suitability is not required to be considered buildable. This is recommended and listed as a Condition of Approval.

3. **All required public service and facilities are available and adequate or are proposed to be provided by the partitioner.**
Electricity and telephone services are available in the area, Applicant will need to work with local providers for future service. No other public services or facilities are available.
4. **Proposal will not have any identifiable adverse impacts on adjoining or area land uses, public services and facilities, and natural resource carrying capacities.**
The current parcel is dual zoned residential and commercial. Surrounding uses are residential and Rural Light Industrial (RLI) in nature, this action will not prevent the proposed or surrounding parcels to continue to be used as such. The proposal will not have any identifiable adverse impacts on public services or natural resources of the area. Planning staff would find this criterion met.
5. **An approved water rights diversion plan as applicable.**
The preliminary Findings of Fact were referred to the Watermaster to determine water rights and for any necessary approvals.
6. **Flag lots will not be permitted when the results would be to increase the number of properties requiring direct and individual access from a State Highway or other arterial. Flag lots may be permitted to achieve planning objectives under the following conditions:**
 - a. **When flag lot driveways are separated by at least twice the minimum frontage distance.**
 - b. **The driveway must meet driveway standards described in Article 8, Section 8.020.V.**
 - c. **The lot meets the minimum lot area of the zoning district, without including the driveway.**
 - d. **Only one flag lot shall be permitted per private right-of-way or access easement.**

This provision does not apply as no flag lots are proposed.

7. **The depth of any lot will not be restricted as long as a buildable parcel is proposed.**
The application meets this criterion as the criteria as a buildable parcel is being proposed. Parcel 1 is proposed at approximately 13 acres, parcel 2 at approximately 5 acres, and proposed parcel 3 at approximately 1 acre in size. All proposed parcels would meet the minimum acreage of their respective zones.
8. **No plat of a subdivision or partition located within the boundaries of an irrigation district, drainage district, water control district, water improvement district or district improvement company will be approved unless the County has received and accepted a certification from the district or company that the subdivision or partition is either entirely excluded from the district or company or is included within the district or company for purposes of receiving services and subjecting the subdivision or partition to the fees and other charges of the district or company.**
This property is not within the boundaries of an irrigation or water control district.
9. **The Commission will deny an application for partitioning when it can be shown by the Commission that the partitioning is part of a plan or scheme to create more than three (3) parcels without going through subdivision, or is part of a development pattern creating more than three (3) parcels without subdividing.**
This provision does not apply to this application as no more than 3 parcels are currently being proposed.
10. **In addition to the requirements set forth above, the following factors may be considered for approval or disapproval of an application for land partitioning is a geographical or other factor identified by other, appropriate professionals or Plans such as the requirements of the Comprehensive Plan, FEMA requirements, Byways rules, etc., requires it:**
- a. **Placement and availability of utilities.**
 - b. **Safety from fire, flood and other natural hazards.**
 - c. **The same improvements may be required for a partitioning as required of a subdivision, if required it will be installed by the applicant.**
 - d. **Possible effects on natural, scenic and historical resources.**
 - e. **Need for onsite or offsite improvements.**
 - f. **Need for additional setback, screening, landscaping and other requirements relative to the protection of adjoining and area land uses. If the proposed partition is located within an Urban Growth Boundary, the affected city must be given notice according to the respective Joint Management agreement.**
 - g. **In the approval of a land partition, the need for street and other improvements will be considered and may be required as a Condition of Approval at a different standard than for a subdivision.**
Planning staff would not recommend any additional requirements based on the factors above.

III LEGAL NOTICE PUBLISHED: September 09, 2020
Heppner Gazette-Times

IV AGENCIES NOTIFIED: Teresa Penninger, Oregon Department of Transportation; Greg Silbernagel, Watermaster; Virgil Morgan, Ione Rural Fire Protection District; Janette Eldridge, City of Ione; Justin Nelson, Morrow County Counsel; Mike Gorman, Morrow County Assessor; Matt Scrivner, Morrow County Public Works Director; Stephen Haddock, Morrow County Surveyor.

V PROPERTY OWNERS NOTIFIED: September 09, 2020

VI HEARING DATE: September 29, 2020
Bartholomew Building
Heppner, Oregon

VII PLANNING COMMISSION ACTION: Staff recommend approval subject to the following **Precedent Conditions of Approval**. These conditions must be completed before the Planning Director may sign the final partition plat or before the land may be deeded to a third party.

1. Submit both a preliminary and final partition plat to be in compliance with Article 5 of the Morrow County Subdivision Ordinance and ORS Chapter 92.
2. The applicant shall obtain an easement for access and utilities to proposed parcel 2 and show the easements on the final partition plat.
3. Obtain site-suitability from Umatilla County Health for Proposed Parcels 1 and 2.
4. Obtain approval and any necessary access permits from Morrow County Public Works.

Jeff Wenholz, Chair

Date

ATTACHMENTS:
Vicinity Map
Preliminary Plan

Vicinity Map

Extent



Subject Property

Scale



LP-S-485-20
Richard and Sylvia Sandford
1S 24E TL901

Legend

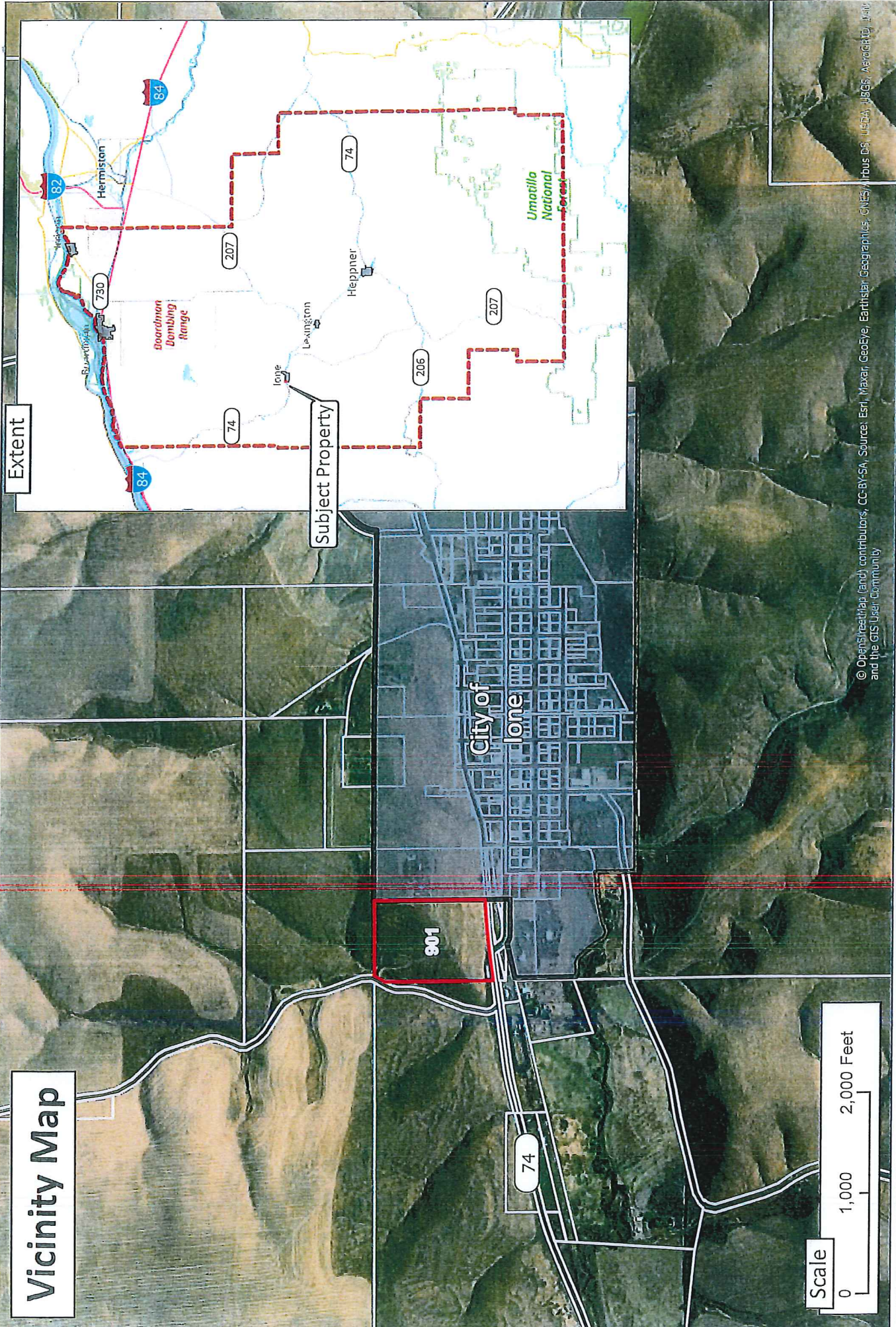
-  Tax Lots
-  Subject Property



Date Saved: 6/4/2020 5:05 PM

Cartography By: Stephen Wreccics
Morrow County Planning Department
Coordinate System: NAD83 Oregon GIC Lambert ft
Datum: North American 1983
Projection: Lambert Conformal Conic
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ORMAP

Find address, Map Number, To

ORMAP

ROAD

Johnson grade

SANDHOLE CREEK

Morrow County
01S24ED01

P.1

P.2

P.3

1.04ac

1000

-119.833 45.503 Degrees

40m

100ft

TL 901 = 19.43ac
P1 = 13.39ac
B = 1.04ac
on - north

**PRELIMINARY FINDINGS OF FACT
REPLAT REQUEST
R-S-058-20**

REQUEST: Request is to reconfigure parcels 1, 2, and 3 of Partition Plat 2012-08.

OWNERS: Kevin and Candy Chick
P.O. Box 452
Heppner, Oregon 97836

APPLICANT: Jacob Cain
Port of Morrow
P.O. Box 200
Boardman, Oregon 97818

PROPERTY DESCRIPTION: Tax Lots 600, 700, 800 of Assessor's Map 2S 26E 21.

PROPERTY LOCATION: 1.5 miles Northwest of Heppner along State Highway 74.

I. FINDINGS OF FACT:

This replat will reconfigure tax lot 600 by adding additional acreage from tax lots 800 and 700. The additional acreage is required for additional parking and storages to support operations on tax lot 600. The zoning is General Industrial (MG) and the property is located outside the Heppner Urban Growth Boundary (UGB).

II. APPROVAL CRITERIA:

Morrow County Subdivision Ordinance Article 5 Replatting will apply. Criteria are listed below in **bold type**, followed by a response in standard type.

MORROW COUNTY SUBDIVISION ORDINANCE ARTICLE 5 LAND PARTITIONS SECTION 5.075. REPLATTING. A reconfiguration of a recorded subdivision or partition plat or a change in the number of lots in the subdivision or partition may be approved by the Planning Commission or as defined in ORS 92.180. Replats will act to vacate the platted lots or parcels and easements within the replat area with the following conditions:

1. **A replat will apply only to a recorded plat.**
A replat is required as the applicant is proposing to reconfigure a partition affecting Partition Plat 2012-08.
2. **Notice shall be provided when the replat is replatting all of an undeveloped subdivision as defined in ORS 92.225.**
This provision does not apply as this is not a replat of an undeveloped subdivision. However, notice was provided under the requirements of the Morrow County Subdivision Ordinance.
3. **Notice shall be provided to the owners of property adjacent to the exterior boundaries of the tentative subdivision replat.**

4. Notice has been provided to adjoining property owners and affected agencies. **When a utility easement is proposed to be realigned, reduced in width or omitted by a replat, all affected utility companies or public agencies shall be notified, consistent with a governing body's notice to owners of property contiguous to the proposed plat. Any utility company that desires to maintain an easement subject to vacation under this section must notify the Planning Department in writing within 14 days of the mailing or other service of the notice.** No changes to utility easements are proposed. This replat is at the request of the land owners.
5. **A replat will not serve to vacate any public street or road.** No streets or roads are proposed to be vacated.
6. **A replat will comply with all subdivision provisions of this Article and all applicable Ordinances.** This requirement is met as the parcels were subject to provisions of this Article with both the previous partition and this proposal.

III **LEGAL NOTICE PUBLISHED:** September 9, 2020
Heppner Gazette-Times

IV **AGENCIES NOTIFIED:** Greg Silbernagel, Watermaster; Steve Rhea, Heppner Rural Fire Protection District; Mike Gorman, Morrow County Assessor; Matt Scrivner, Morrow County Public Works Director; Stephen Haddock, Morrow County Surveyor; Justin Nelson, Morrow County Counsel; Teresa Penninger, Oregon Department of Transportation.

V **PROPERTY OWNERS NOTIFIED:** September 9, 2020

VI **HEARING DATE:** September 29, 2020
Bartholomew Building
Heppner, Oregon

VII **PLANNING COMMISSION ACTION:** Staff recommend approval subject to the following **Precedent Condition(s) of Approval.** This condition must be completed before the Planning Director may sign the final partition plat or before the land may be deeded to a third party.

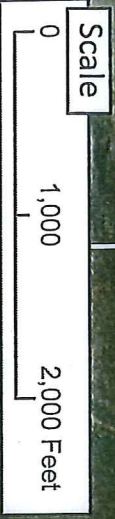
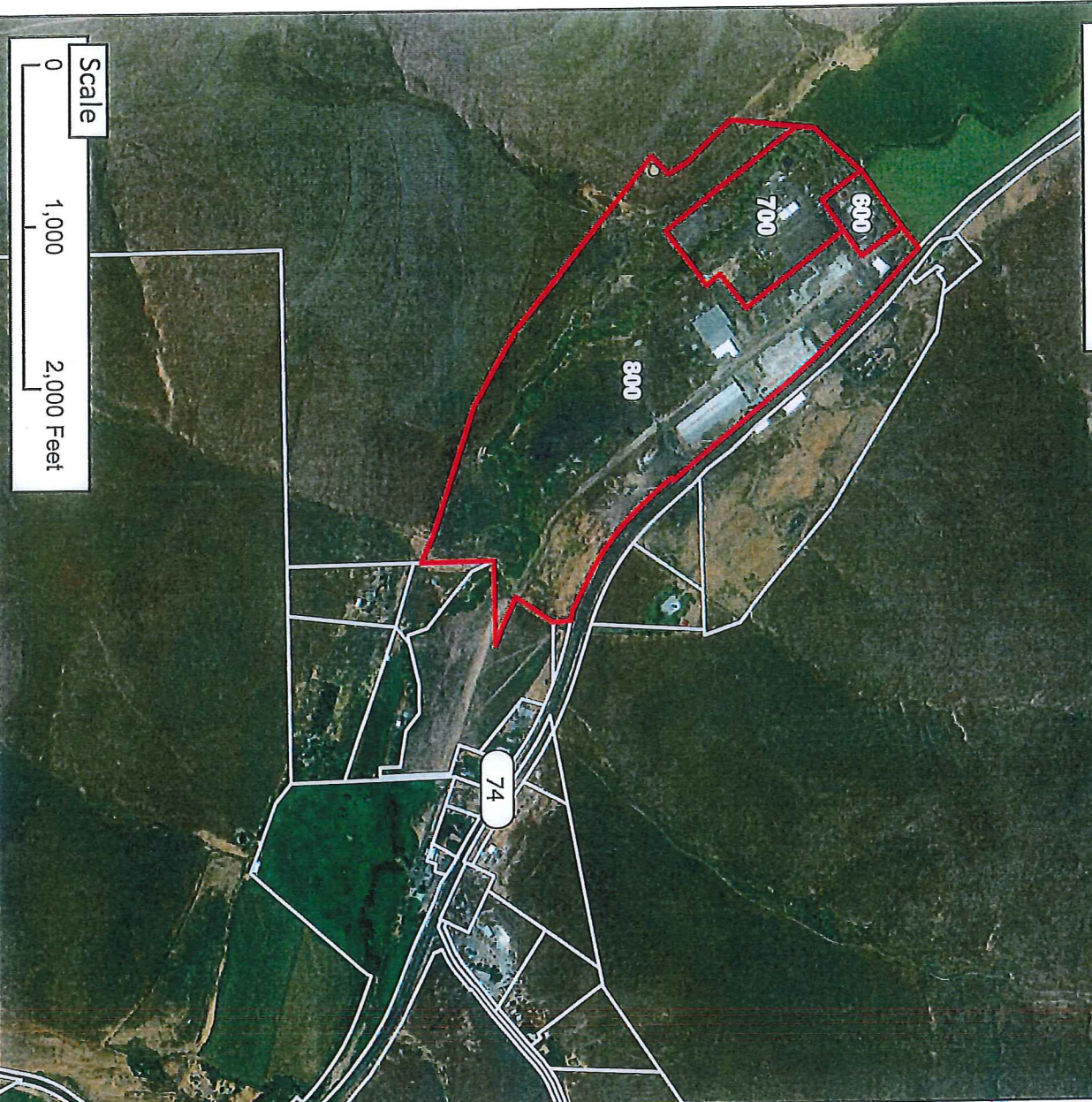
1. Submit both a preliminary and final partition plat to be in compliance with Article 5 of the Morrow County Subdivision Ordinance and ORS Chapter 92.

Jeff Wenholz, Chair

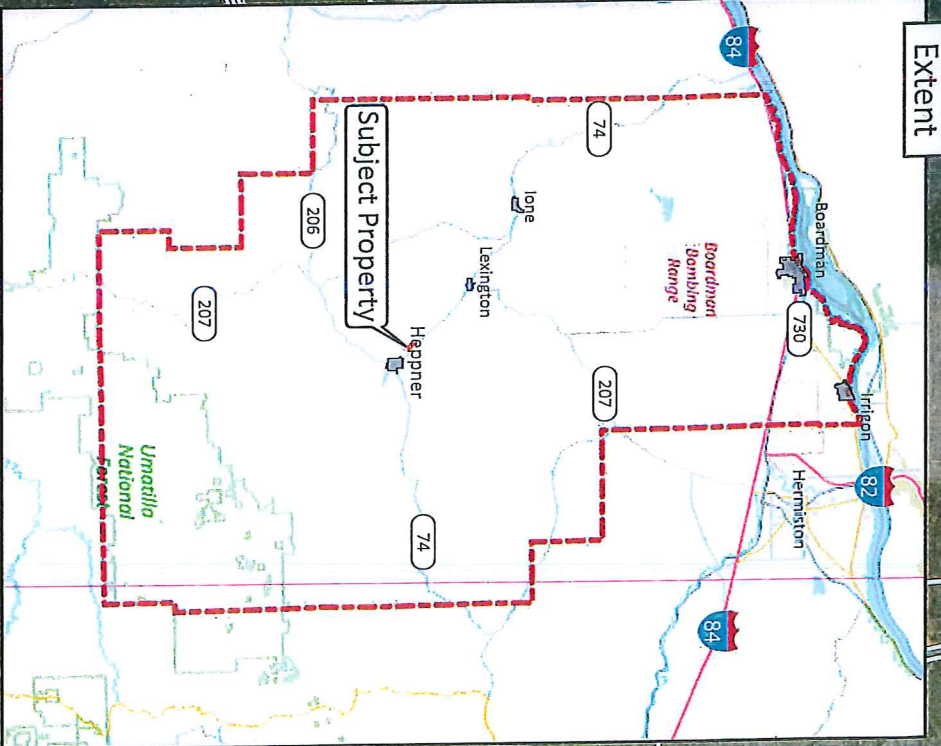
Date

ATTACHMENTS:
Vicinity Map
Plot Plan

Vicinity Map



Extent



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GeoEye, Earthstar Geographics,
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 AeroGRID, IGN, and the GIS User
Community

R-S-058-20

Port of Morrow

Kevin and Candy Chick

2S 26E 21 TL600, 700, 800

Legend

Tax Lots

Subject Properties



Date Saved: 9/2/2020 5:38 PM

Cartography By: Stephen Wreccies
Morrow County Planning Department
Coordinate System: NAD83 Oregon GIC Lambert ft
Datum: North American 1983
Projection: Lambert Conformal Conic
Folder: S:\Planning\GIS\2020\2020-09-02-2020-09-02\2020-09-02-2020-09-02



BOUNDARY LINE ADJUSTMENT OF PARCELS 1, 2 & 3 OF PARTITION PLAT NO. 2012-8, LOCATED IN THE S1/2 OF SECTION 21 AND THE NE1/4 OF SECTION 28, T.35, R.36E, MORROW COUNTY, OREGON BA XX-XX-XXX W.O. 20-5364

SURVEY FOR MORROW COUNTY, OREGON
SURVEY BY ARMPSTRONG SURVEYS, INC.
 100 PINEVILLE OR 97154
 (541) 447-7791

LEGEND

- SET 3/8" x 30" LONG IRON ROD WITH YELLOW PLASTIC CAP MARKED WITH STATIONING SEE: SET STEEL PEGS FOR ADJUSTMENT.
- FOUND 5/8" IRON ROD AS PER O.S.H.D. STRIP MAP DUG, NO. 88-35-16, BUNKER HILL ROAD - HEPPER SECTION, HEPPER TOWNSHIP, DATED MARCH, 1964.
- FOUND 3/8" IRON ROD WITH YELLOW PLASTIC CAP AS PER PARTITION PLAT NO. 2012-08 BY RONALD V. MCKINNS, LS 2431, RECORDED SEPTEMBER 13, 2012.
- FOUND 3/4" IRON PIPE AS PER PARTITION PLAT NO. 2012-08 BY RONALD V. MCKINNS, LS 2431, RECORDED SEPTEMBER 13, 2012.
- COMPUTED POINT - NOTHING FOUND OR SET.
- () RECORD AS PER O.S.H.D. STRIP MAP DUG, NO. 88-35-16, BUNKER HILL ROAD - HEPPER SECTION, HEPPER HIGHWAY, DATED MARCH, 1964, APRIL 3, 1964.
- (1) RECORD AS PER C.S. 539 BY DAVID H. KOLBEN, LS 933, RECORDED MARCH, 2020.
- (2) RECORD AS PER C.S. 0-1256-E BY G. DENNIS EDWARDS, LS 951, RECORDED MARCH, 2020.
- (3) RECORD AS PER C.S. 2012-110 BY RALPH P. THOMPSON, LS 906, RECORDED JANUARY 25, 2013.
- (4) RECORD AS PER PARTITION PLAT NO. 2012-08 BY RONALD V. MCKINNS, LS 2431, RECORDED SEPTEMBER 13, 2012.
- ⊙ LINE DATA - SEE TABLE
- ⊙ CURVE DATA - SEE TABLE
- ⊙ SPIRAL CURVE DATA - SEE TABLE

SURVEYOR'S CERTIFICATE
 I, TODD R. GORTONSON, A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF OREGON, ON THE BASIS OF MY KNOWLEDGE, INFORMATION, AND BELIEF, CERTIFY TO XXXXX XXXXX THAT, AS A SURVEY MADE ON THE GROUND OR BY THE NORMAL SURVEYING OR CARE OF PROFESSIONAL LAND SURVEYORS PRACTICING IN OREGON, I HAVE FOUND OR CORRECTLY REPRESENT SAID BOUNDARY LINE ADJUSTMENT.

SURVEY NARRATIVE
 WE WERE EMPLOYED BY XXXXXX XXXXXX TO COMPLETE THE SURVEY AND MAPPING REQUIREMENTS OF THIS LEGAL DESCRIPTION - B.L.A. PARCEL

LEGAL DESCRIPTION - REMAINDER PARCEL
 A PARCEL OF LAND BEING

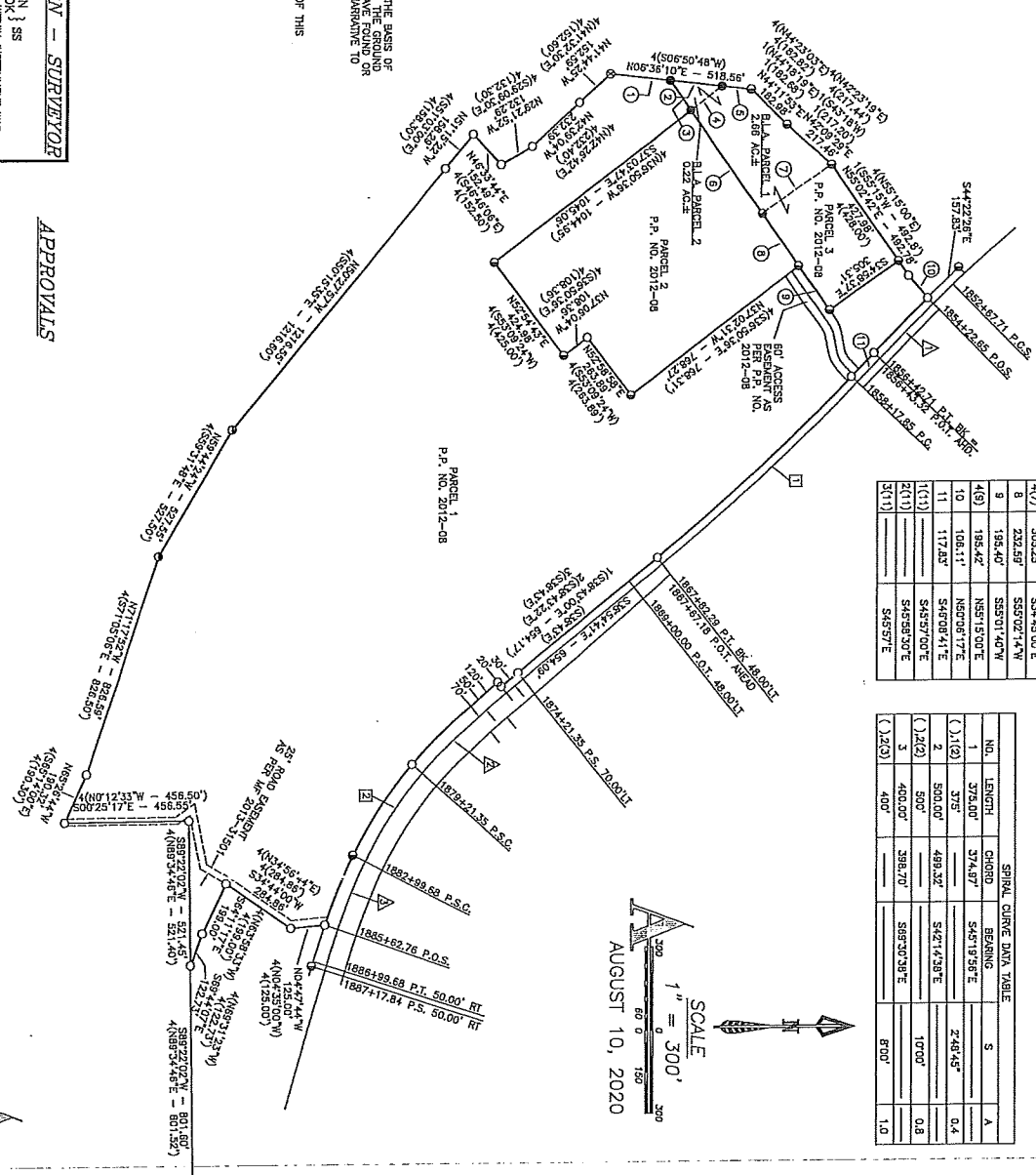
RECORDATION - CLERK
 STATE OF OREGON, S.S.
 COUNTY OF CROOK, S.S.
 I CERTIFY THAT THE WITHIN INSTRUMENT WAS RECEIVED FOR RECORD ON THE _____ DAY OF _____, A.D. 20____, AND RECORDED IN _____, AND RECORDS OF SAID COUNTY OF CROOK COUNTY, OREGON BY _____

RECORDATION - SURVEYOR
 STATE OF OREGON, S.S.
 COUNTY OF CROOK, S.S.
 I HAVE RECEIVED FOR RECORD ON THE _____ DAY OF _____, A.D. 20____, AND RECORDS OF SAID COUNTY OF CROOK COUNTY, OREGON BY _____

APPROVALS

 CROOK COUNTY PLANNING DIRECTOR

DATE



LINE DATA TABLE

NO.	LENGTH	BEARING
1	221.14'	N06°38'10"E
2	191.45'	N06°38'10"E
3	132.13'	S07°02'14"W
4	143.18'	S07°02'47"E
5	104.16'	N05°38'10"E
6	458.89'	S55°02'14"W
7	305.40'	N24°48'27"W
4(7)	305.25'	S34°48'50"E
8	232.59'	S55°02'14"W
9	195.42'	N53°15'00"E
4(9)	195.42'	N53°15'00"E
10	108.11'	S45°08'47"E
11	117.83'	S45°57'00"E
2(11)		S45°58'30"E
3(11)		S45°57'E

SPIRAL CURVE DATA TABLE

NO.	LENGTH	CHORD	BEARING	S	A
1	375.00'	549'19.58"E		2'48'44"	0.4
(1)(2)	375'	549'19.58"E			
2	500.00'	489.32'	S42°14'28"E	1'00"	0.8
(2)(2)	500'	489.32'	S42°14'28"E		
3	400.00'	388.70'	S58°30'38"E	8'00"	1.0
(3)(3)	400'	388.70'	S58°30'38"E		

CURVE DATA TABLE

NO.	DELTA	RADIUS	LENGTH	CHORD	BEARING
1	07°14'00"	789.32'	964.44'	963.80'	S42°31'41"E
(1)					S42°31'41"E
(1)(1)					983.78'
2(1)	07°14'		964.44'	963.80'	S42°30'E
3(1)	7°14'		1432.38'	378.30'	S58°28'39"E
2(2)	15°07'55"	1432.38'	378.30'	377.20'	
(2)(2)	33°08'				

**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.

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.

Jeff Wenholz, Chair

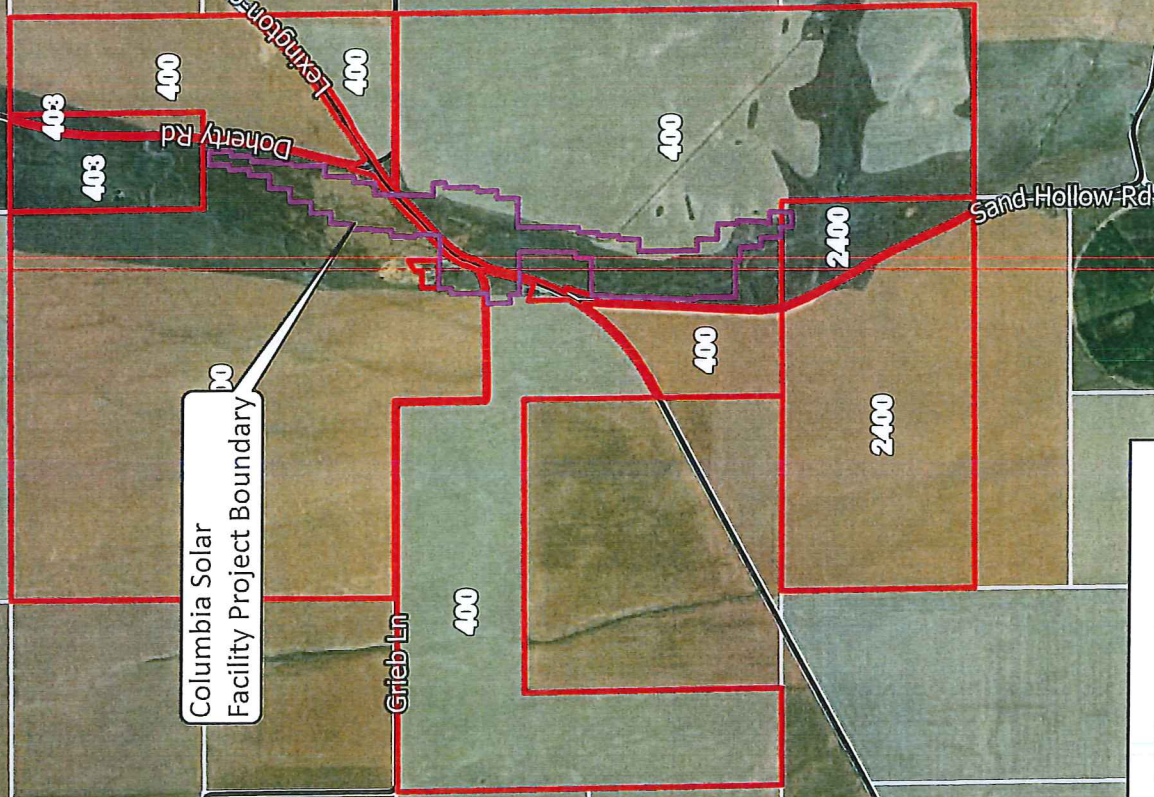
Date

ATTACHMENTS:

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

Vicinity Map

Columbia Solar
Facility Project Boundary



Scale

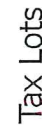


CUP-N-343-20

Energy of Utah LLC.

1N26E TL 400, 403, 2400

Legend

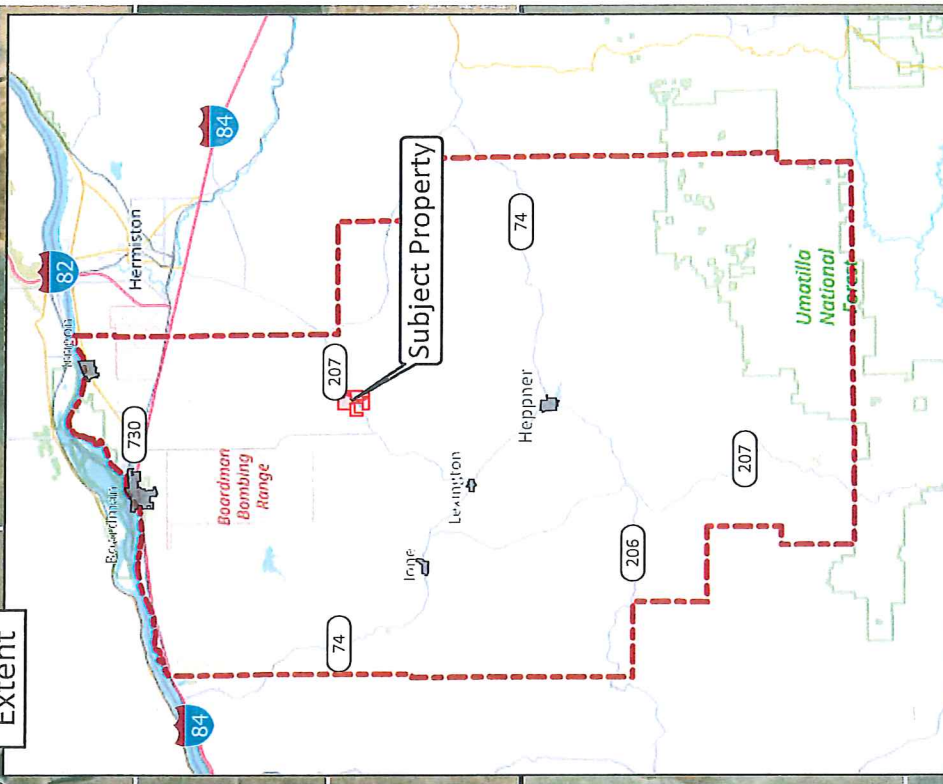


Tax Lots



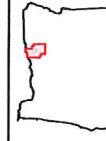
Subject Property

Extent



Barclay Ln

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Cartography By: Stephen Wreccics
Morrow County Planning Department
Coordinate System: NAD83 Oregon GIC Lambert ft
Datum: North American 1983
Projection: Lambert Conformal Conic

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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.

(I) 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

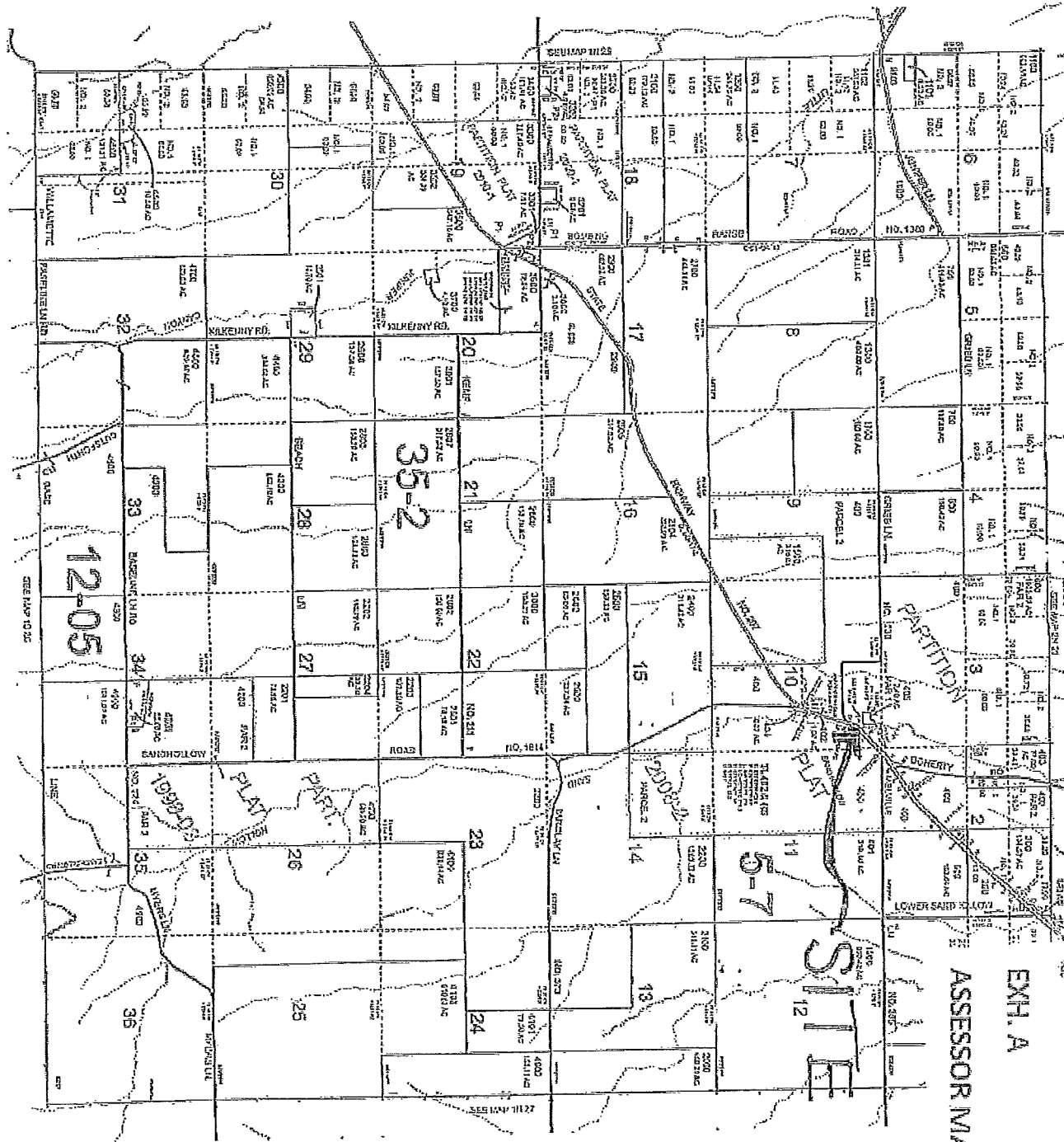
Consultant: Bill Adams
Adams Planning & Development
4063 SW Tommy Armour Ln.
Redmond, OR 97756

EXH. A ASSESSOR MAP

THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSES ONLY

T.1N. R.29E. W.11W.
MORROW COUNTY
1850

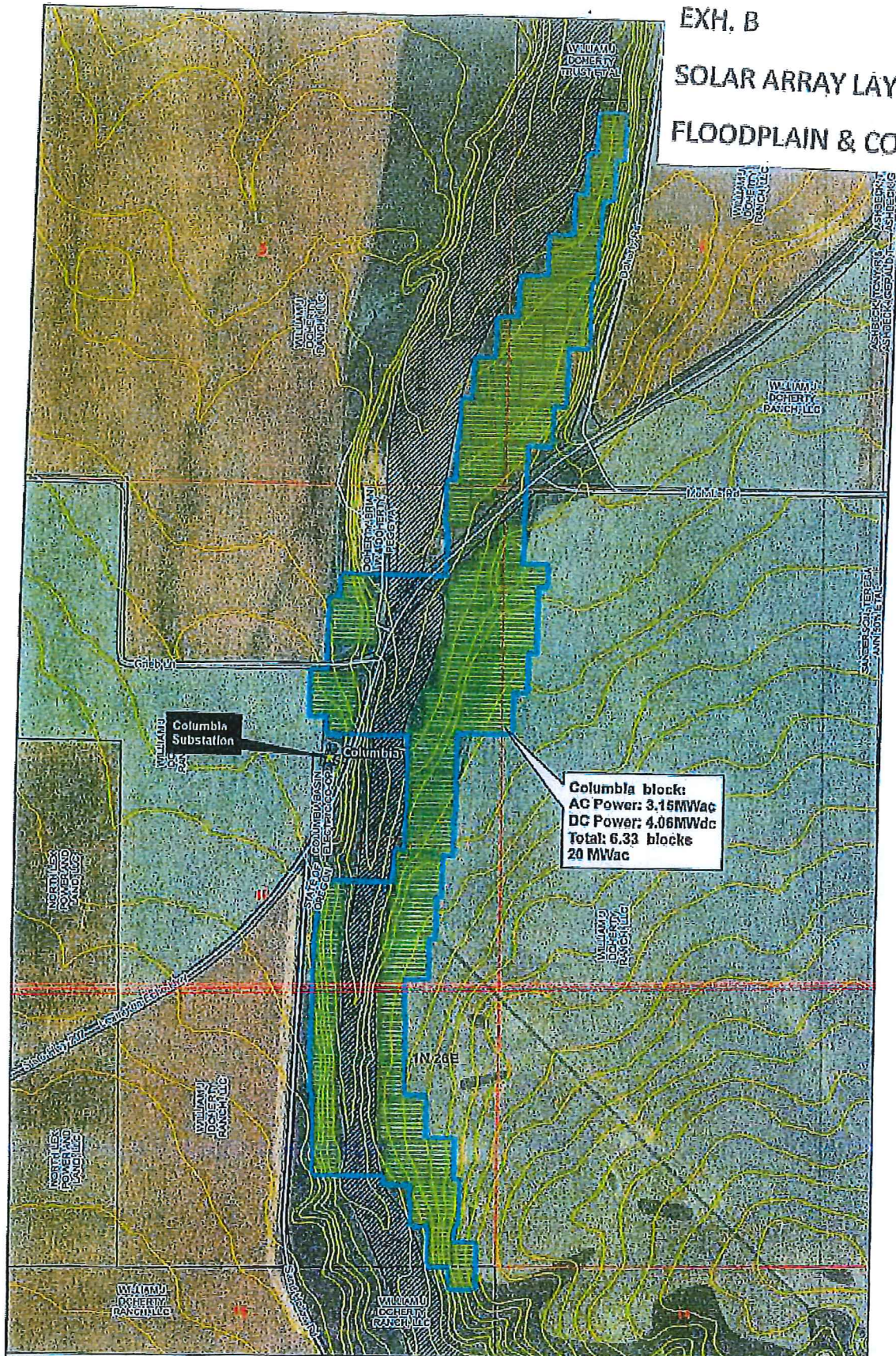
CHANGE
& INDEX



ASSESSOR MAP

EXH. A

EXH. B
 SOLAR ARRAY LAYOUT –
 FLOODPLAIN & CONTOURS

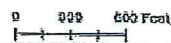


Columbia block:
 AC Power: 3.15MWac
 DC Power: 4.06MWdc
 Total: 6.33 blocks
 20 MWac

LEGEND

- Columbia Solar
- FEMA Floodplain - Zone A
- 10' Contour

	Area Utilized
Columbia	20.0



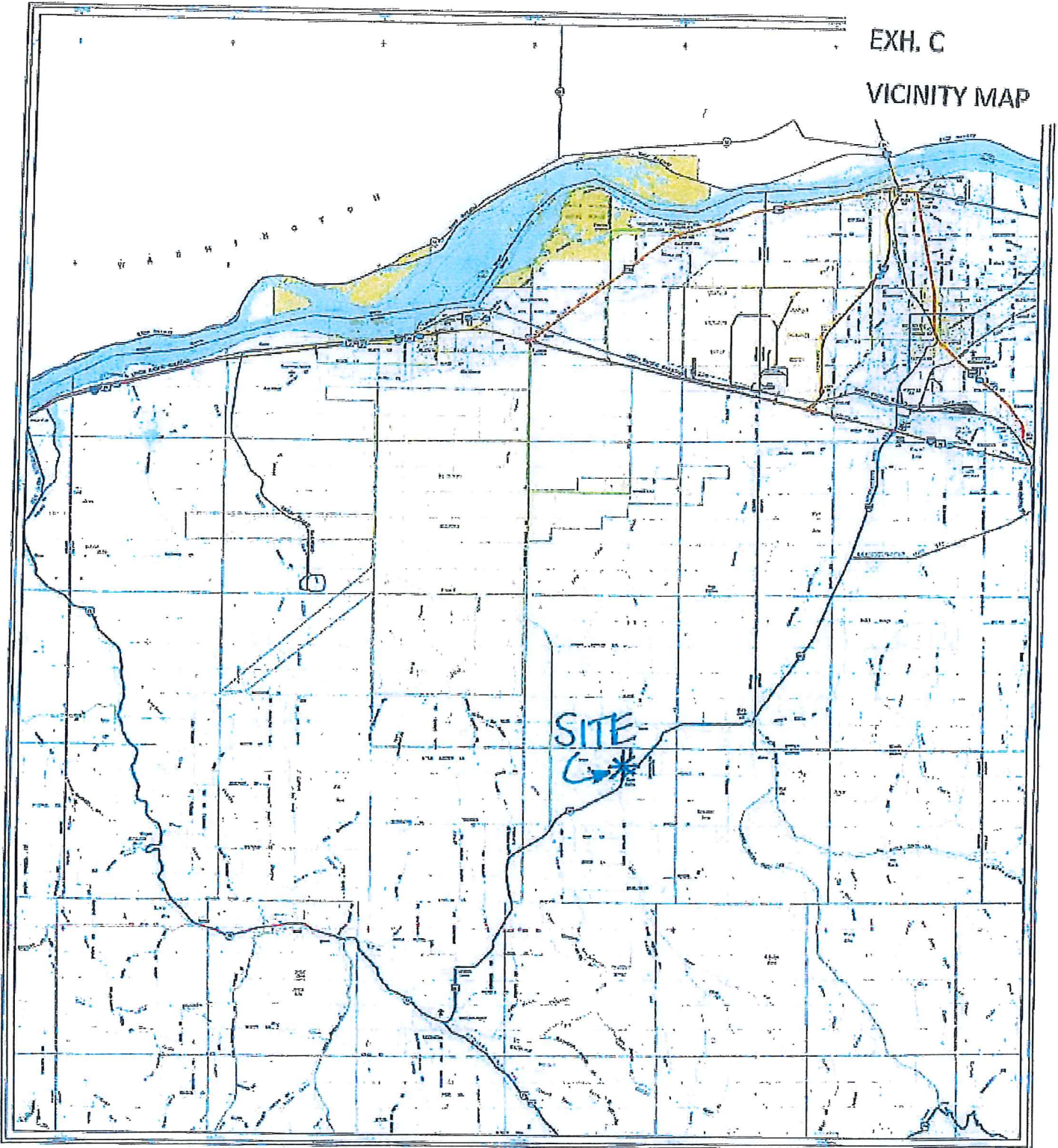
MORROW COUNTY, OREGON

COLUMBIA SOLAR

SOLAR ARRAY LAYOUT
 -FEMA Floodplain

EXH. C

VICINITY MAP



LEGEND

Symbol	Description
Red line	Interstate
Orange line	State Route
Yellow line	County Route
Blue line	Water
Green area	Forest
Blue area	Water
Black line	Property boundaries
Black line	Section boundaries
Black line	City limits
Black line	County limits
Black line	State boundaries
Black line	Other boundaries



Scale

0 0.5 1 2 3 4 Miles

0 1.25 2.5 5 7.5 Kilometers

Notes:

This project is for informational purposes only and does not constitute a final engineering or surveying project. Users of this project should refer to the original project files for more information. Changes to the project files may occur without notice.



OREGON TRANSPORTATION MAP
Showing Federal Functional Classification of Roads

MORROW COUNTY

Sheet 1 of 3

POPULATION 11,895

2010 Edition

© 2010 Oregon Department of Transportation

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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

Cnt=2 Sta=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, certifies that the instrument identified herein was recorded in the Clerk's 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:
(If applicable)

FULL
 PARTIAL

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

\$

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: WILLIAM J DOHERTY
Title: Manager


STATE OF Oregon)
) SS:
COUNTY OF Morongo)

On this 25th 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. Rietsmann
Notary Public

My Commission Expires:



OFFICIAL STAMP
SHARON L RIETMANN
NOTARY PUBLIC-OREGON
COMMISSION NO. 982985
MY COMMISSION EXPIRES JANUARY 13, 2023

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&II, LLC
a Utah limited liability company

By: [Signature]

Name: Ros Rocco Vrba

Title: Manager


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

On this 15th 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 Utah 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*

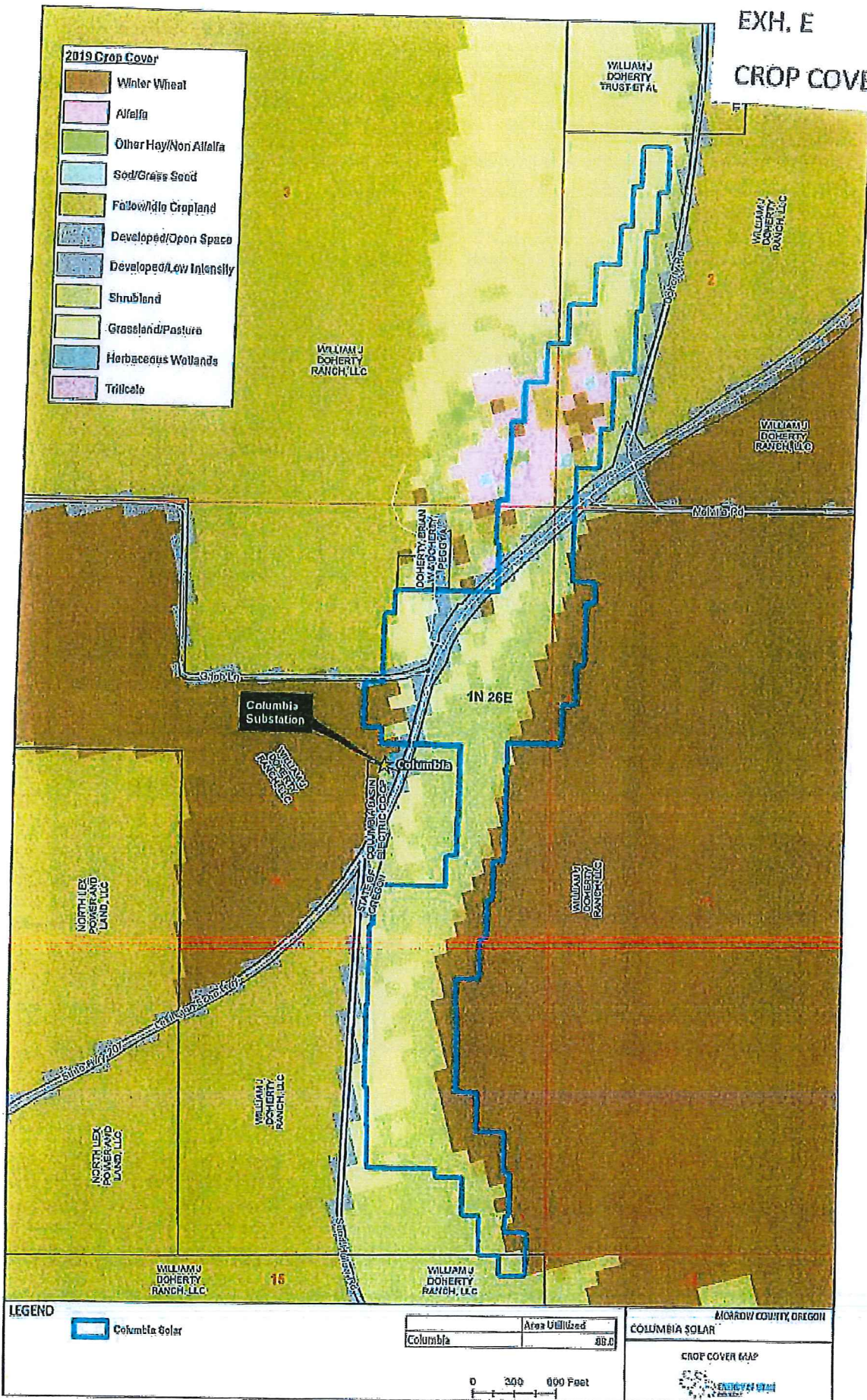
80.8 acres m/l, located in Morrow County, OR

PARCEL 2: Columbia Solar II LLC

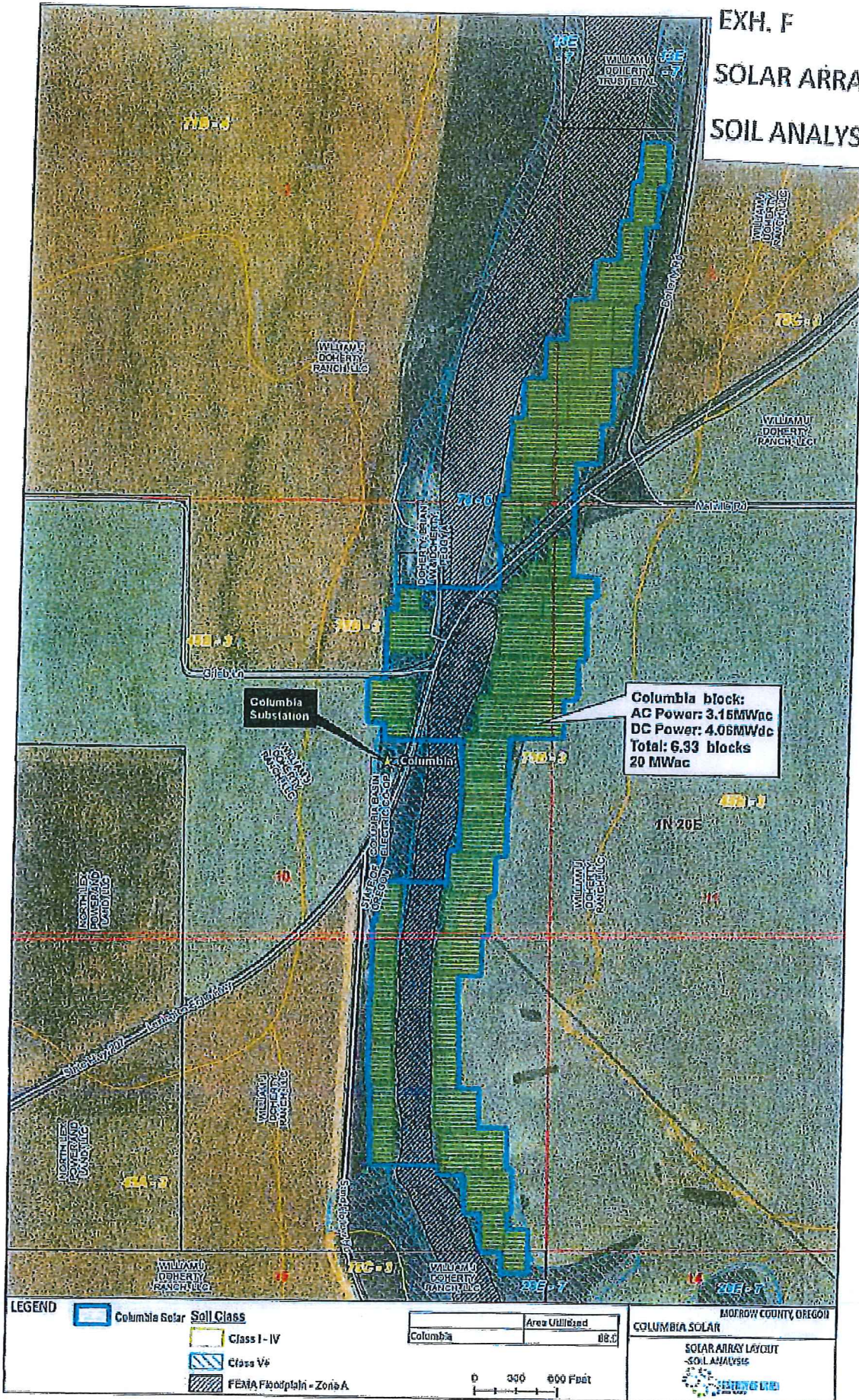
Easterly 1071', lying east of State Highway 207, located in the E ½ of the NE ¼, Section 10, T1, 26E

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

EXH. E
CROP COVER MAP



EXH. F
 SOLAR ARRAY LAYOUT
 SOIL ANALYSIS MAP



LEGEND

Columbia Solar

Soil Class

- Class I - IV
- Class Vc
- FEMA Floodplain - Zone A

Area Utilized	
Columbia	88.3

D 0 300 600 Feet

MORROW COUNTY, OREGON

COLUMBIA SOLAR

SOLAR ARRAY LAYOUT
 SOIL ANALYSIS

SUSTAINABILITY

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	19,698,381	22.4%
78	Xeric Torriorthents, nearly level	6	22,628,898	25.7%
26E	Licksillet very stony loam, 7 to 40 percent slopes	7	21,013,947	23.9%
13E	Gravden very gravelly loam, 20 to 40 percent slopes	7	24,628,958	28.0%
	Total Acres		86,0	100%

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

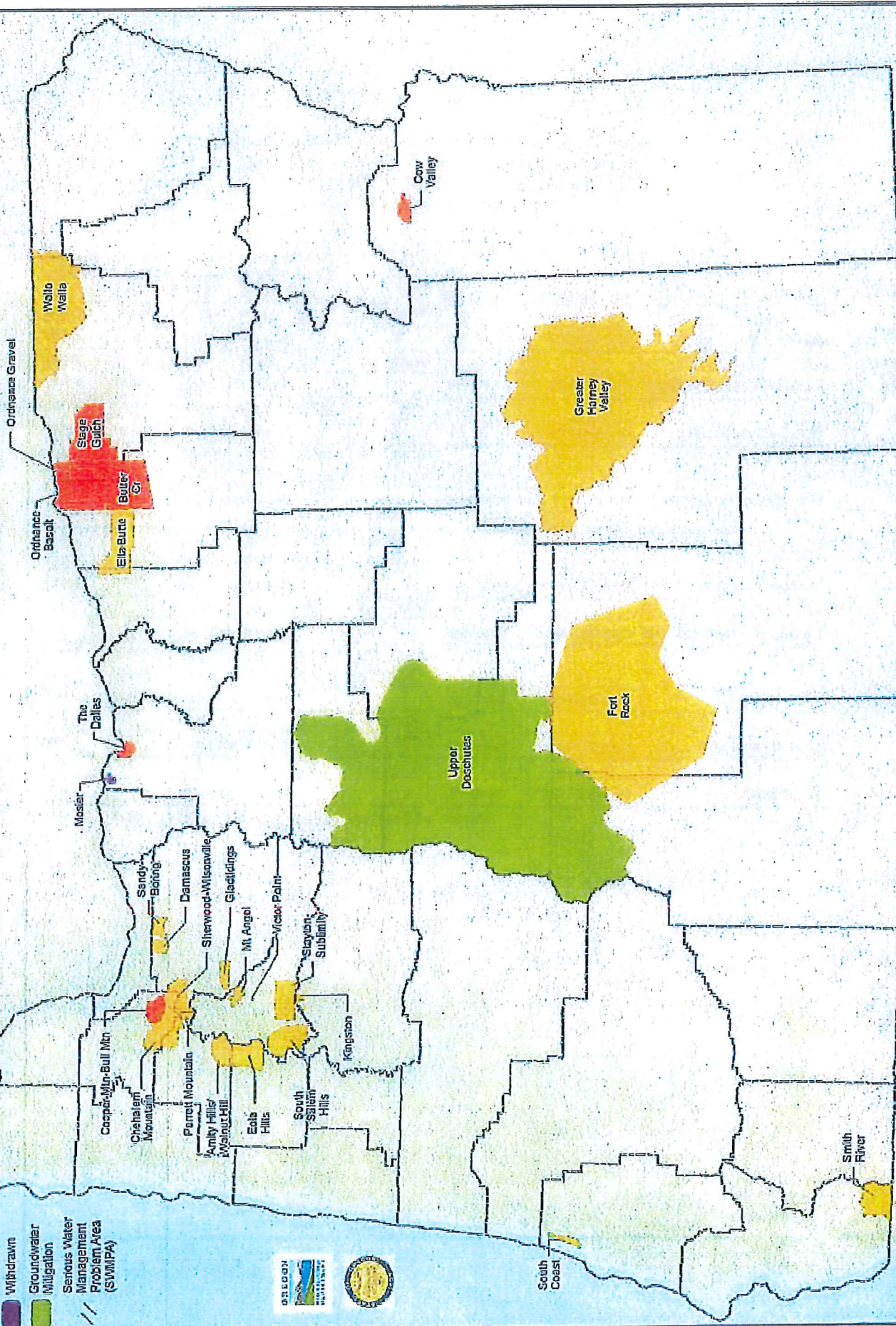
Owner Name	Water Right	Priority Date	Legid	Water Use (af) 2016	Water Use (af) 2017	Water Use (af) 2018	Requested Allocation (af)	Proposed Allocation (af)
BUTTER CREEK RANCHES LLC	Claim:GR 4142 *	12/31/1925	UMAT 467	0.00	0.00	0.00		0.00
				Water Right Total:				0.00
BUTTER CREEK RANCHES LLC	Cert:26072 OR *	11/14/1952	MORR 466	0.00	0.00	0.00		0.00
				Water Right Total:				0.00
ROBERT J KILKENNY TRUST	Cert:56513 (T 5904 RR) *	12/17/1952	MORR 50409	0.00	0.00	0.00	1.00	1.00
				Water Right Total:			1.00	1.00
FOURMILE LAND COMPANY	Cert:82664 CF *	12/17/1952	MORR 426	1.50	0.02	0.00	1.00	1.00
				Water Right Total:			1.00	1.00
STARVATION FARMS	Cert:57734 CF *	06/24/1954	MORR 566	0.00	0.00	0.00	1.00	1.00
				Water Right Total:			1.00	1.00
VEY RANCH	Cert:80766 (RR) *	10/14/1957	MORR 476	361.59	373.75	307.20	368.40	368.40
				Water Right Total:			368.40	368.40
ARCUS, LLC	Cert:91185 CF *	10/14/1957	MORR 50481	236.80	170.52	238.30		0.00
				Water Right Total:				0.00
BUTTER CREEK RANCHES LLC	Cert:34283 OR *	02/05/1962	MORR 465	0.00	0.00	0.00		0.00
				Water Right Total:				0.00
TURNER RANCH INC	Cert:51157 (T 5016 RR) *	04/24/1963	MORR 432	261.24	252.23	274.60		0.00
				Water Right Total:				0.00
TURNER RANCH INC	Cert:75643 CF *	04/24/1963	MORR 432	261.24	252.23	274.60		230.00
				Water Right Total:				230.00
BUTTER CREEK RANCHES LLC	Cert:34284 OR *	11/09/1963	MORR 454	187.87	152.13	164.09	132.00	132.00
				Water Right Total:			132.00	132.00
ARCUS, LLC	Cert:80767 (RR) *	12/17/1964	MORR 50481	236.80	170.52	238.30	400.00	400.00
				Water Right Total:			400.00	400.00
JEFF COELHO	Cert:88457 CF *	12/17/1964	MORR 51070	42.82	34.82	47.00		63.00
				Water Right Total:				63.00
ARCUS, LLC	Cert:91182 CF *	12/17/1964	MORR 50481	236.80	170.52	238.30		0.00
				Water Right Total:				0.00
BUTTER CREEK RANCHES LLC	Cert:38714 OR *	04/01/1966	MORR 454	187.87	152.13	164.09	73.00	73.00
				Water Right Total:			73.00	73.00
MITCH ASHBECK	Cert:42527 OR *	05/27/1966	MORR 463	43.02	130.27	145.41		100.00
				Water Right Total:				100.00
WJ DOHERTY	Cert:38473 OR *	03/13/1967	MORR 419	0.00	0.00	0.00		0.00
				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
Pine City Subarea Total:				3,853.91	3,449.86	3,584.85	3,486.40	4,150.00

OREGON WATER RESOURCES DEPARTMENT GROUNDWATER RESTRICTED AREAS

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



STATE OF OREGON
COUNTY OF WASHINGTON
CERTIFICATE OF WATER RIGHT

This Is to Certify, That WILLIAM J. DOHERTY

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 NE¹/₄ NE¹/₄, Section 10, T. 1 N., R. 26 E., W. 2. 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 SW¹/₄ SW¹/₄
Section 2

18.2 acres SW¹/₄ SW¹/₄
Section 3

8.0 acres NE¹/₄ NE¹/₄
Section 10

0.2 acre NW¹/₄ NW¹/₄
Section 11

T. 1 N., R. 26 E., W. 2.

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

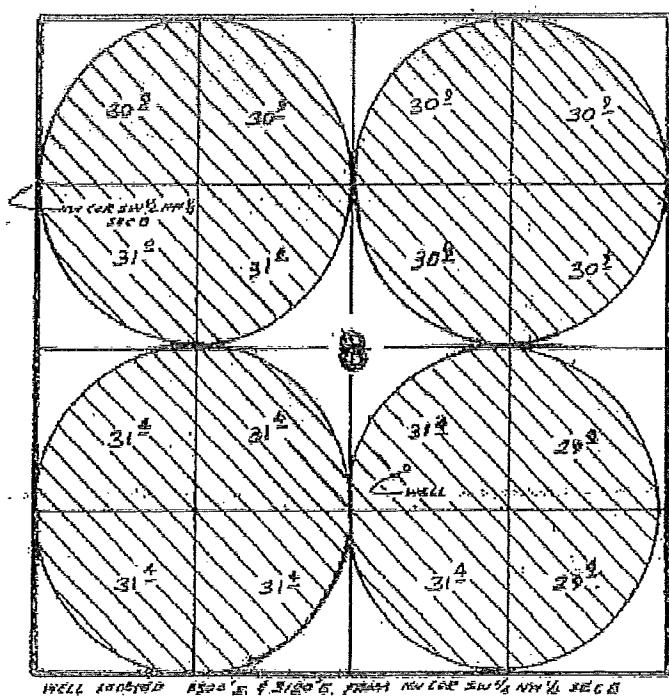
this date, August 18, 1972

CHRIS L. WHEELER

State Engineer

G 5092
62326

T. 1N. R. 26E. WM.



FINAL PROOF SURVEY UNDER

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

MRS. WM. J. DOHERTY

Surveyed 2-23 1978 by R. E. FARNUM

277-285
PVS-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 1/4 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

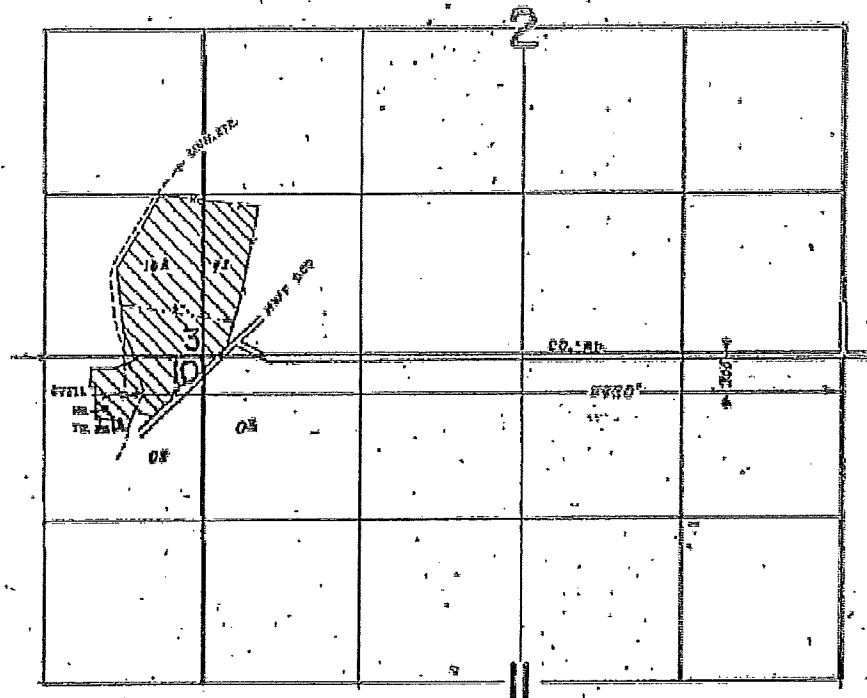
Recorded in State Record of Water Right Certificates numbered 62326

G-5235.VRG

G-3474

38473 7

T.1NR26E.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



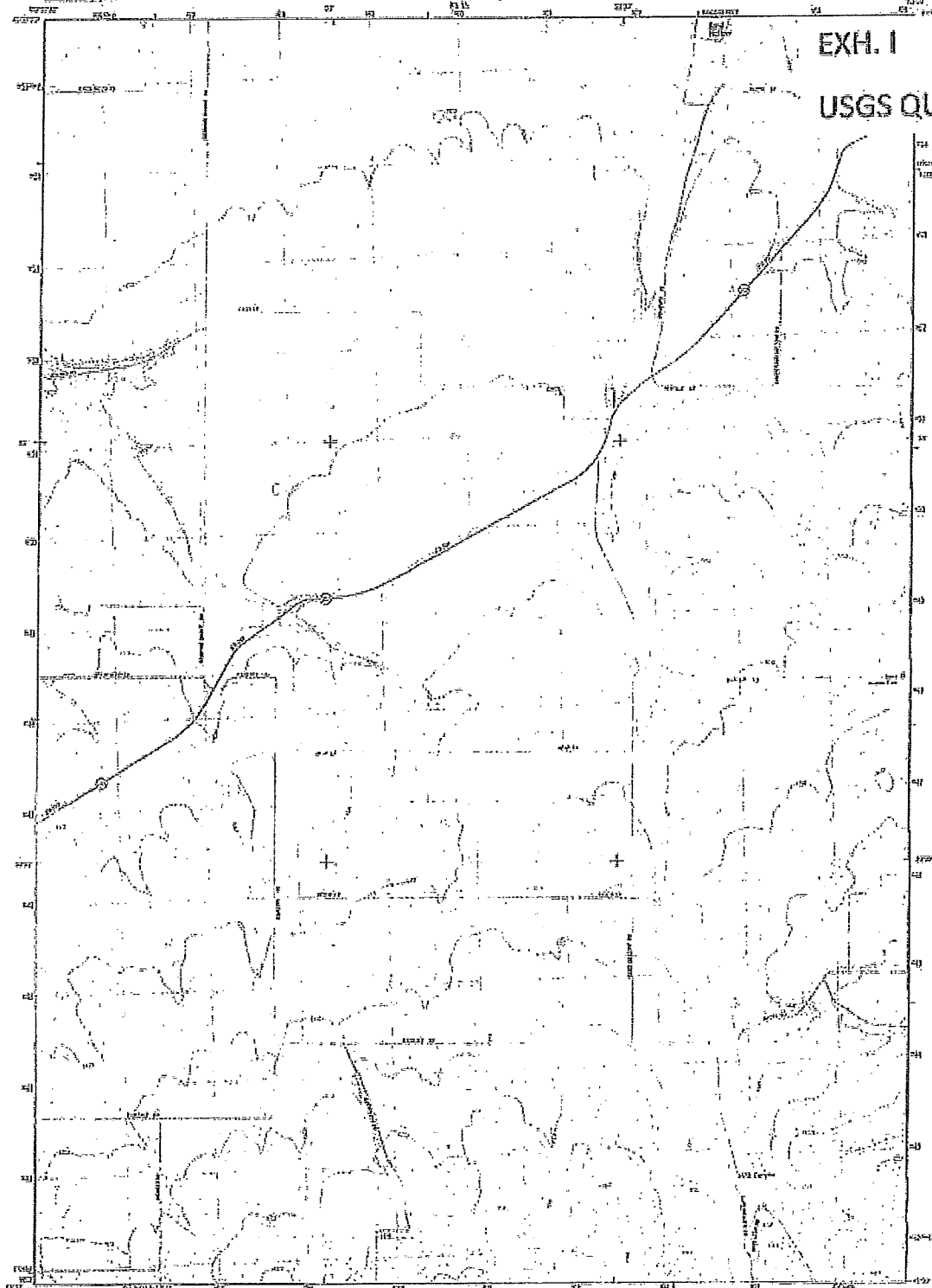
U.S. DEPARTMENT OF THE INTERIOR
U.S. GEOLOGICAL SURVEY



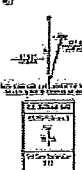
STRAWBERRY CANYON SE QUAD
7.5-MINUTE SERIES
7.5-MINUTE SERIES

EXH. I

USGS QUAD MAP



Place names in this map are spelled out in full. The names of cities and towns are spelled out in full. The names of smaller communities are spelled out in full. The names of smaller communities are spelled out in full.



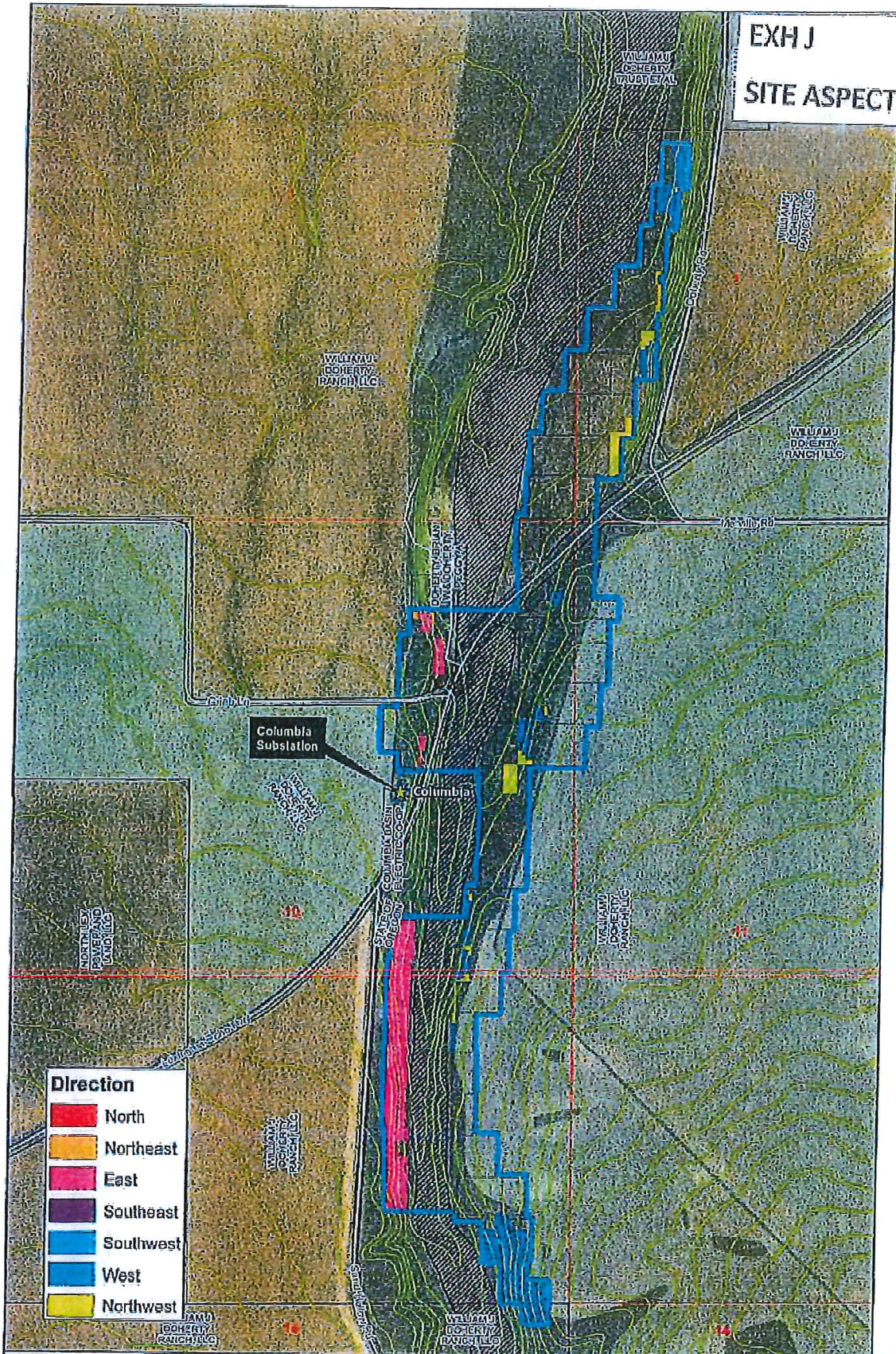
UNITED STATES GEOLOGICAL SURVEY
NATIONAL CENTER FOR INFORMATION SYSTEMS
RESTON, VIRGINIA 20192-1219

1	1	1
1	1	1
1	1	1

STRAWBERRY CANYON SE, OR
2018



EXH J SITE ASPECT MAP



- Direction**
- North
 - Northeast
 - East
 - Southeast
 - Southwest
 - West
 - Northwest

LEGEND

- Columbia Solar
- 10' Contour
- FEMA Floodplain - Zone A

Area Utilized	
Columbia	28.8

0 300 600 Feet

ALCOHAW COUNTY, OREGON

COLUMBIA SOLAR

SOLAR ARRAY LAYOUT
ASPECT MAP



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/

June 16, 2020

Bill Adams and Ros Rocco
Energy of Utah
bsba2@hendbroadband.com; 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 1st through June 1st 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.

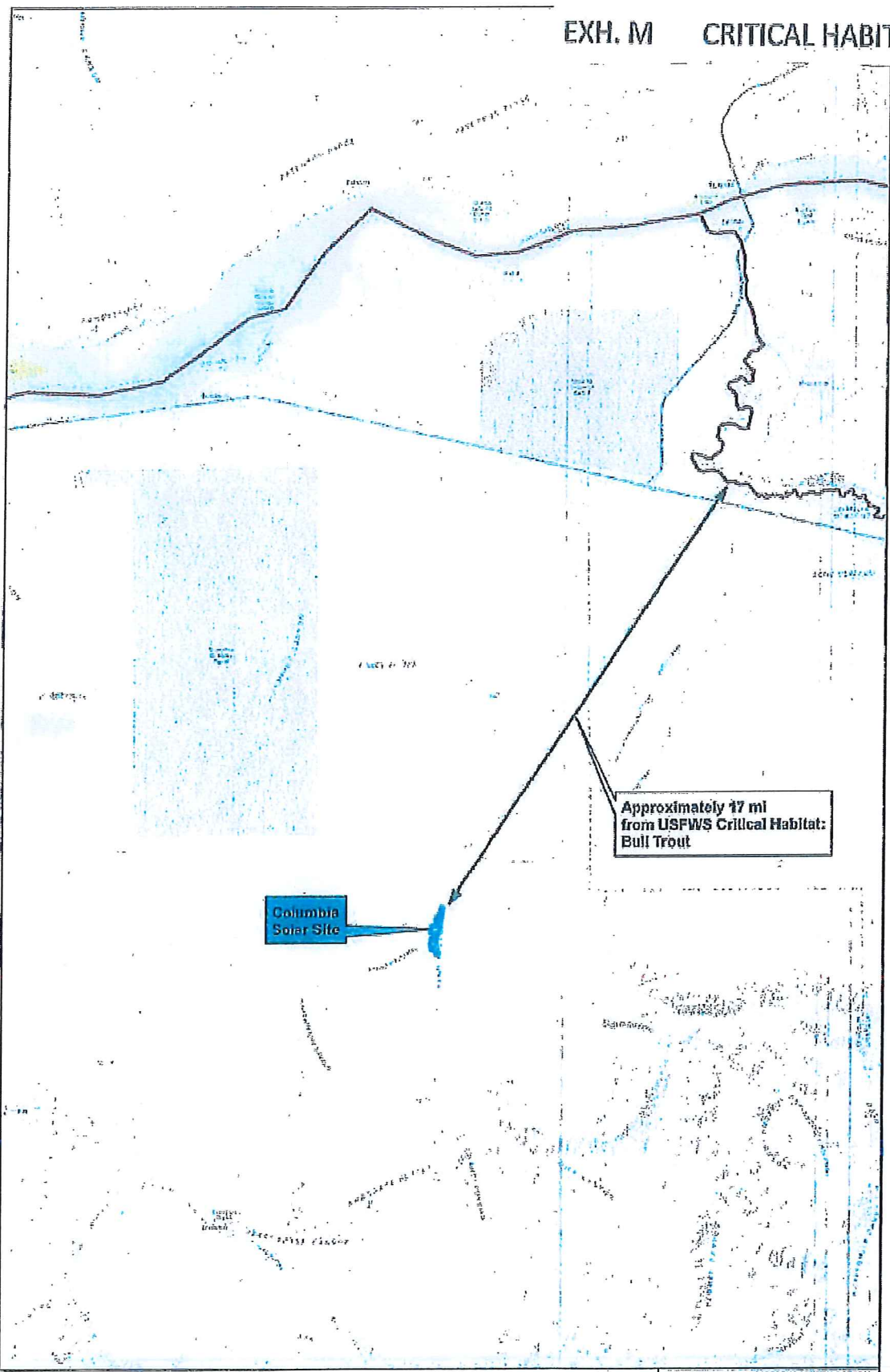
ODFW recommends the Applicant survey for any State Sensitive species in appropriate habitats within the project area, and provide a map showing the locations of the different species with respect to the proposed activities.

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

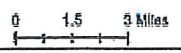
EXH. M CRITICAL HABITAT MAP



LEGEND

 Columbia Solar

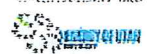
	Area Utilized
Columbia	69.0



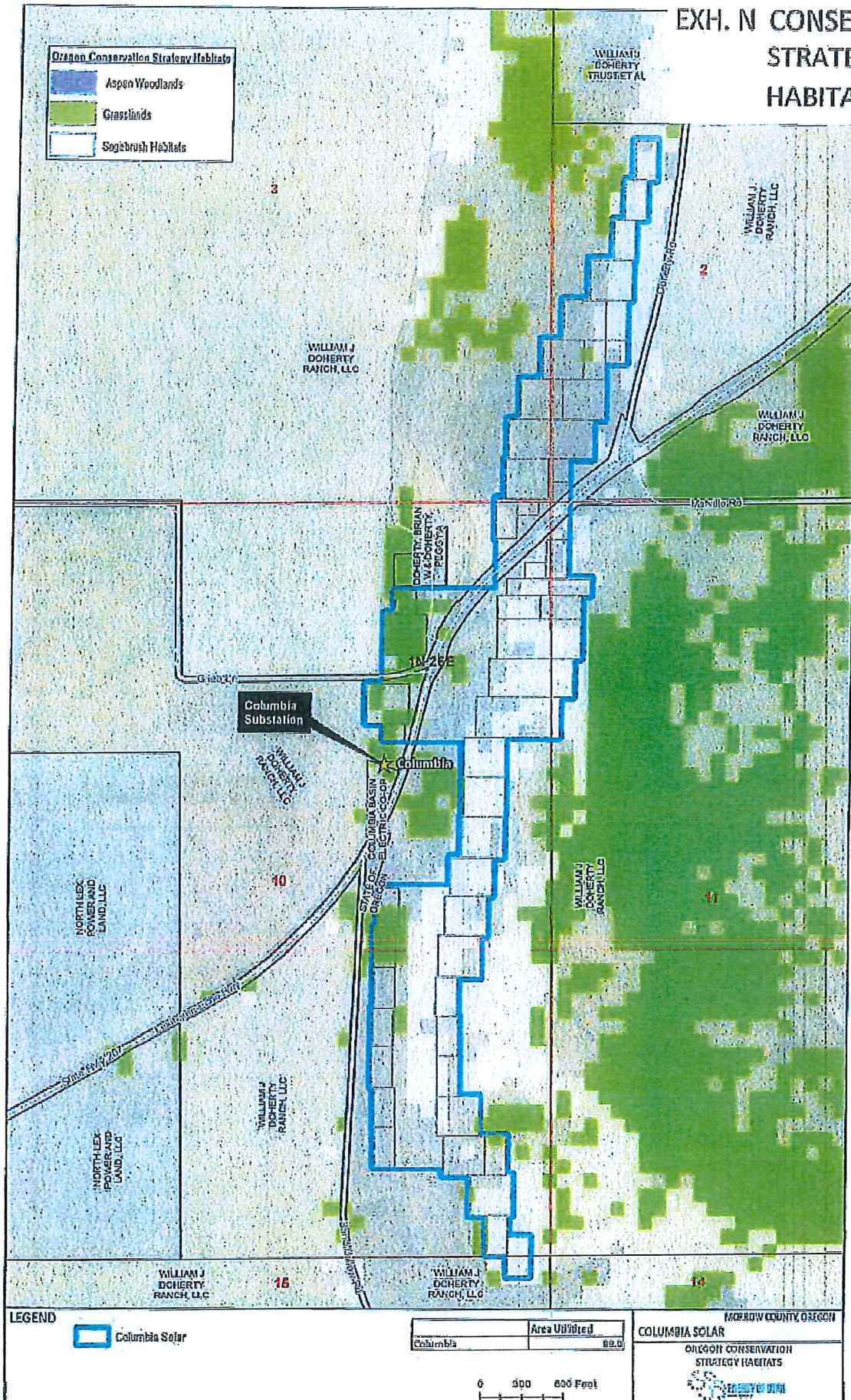
MORROW COUNTY OREGON

COLUMBIA SOLAR

CRITICAL HABITAT MAP



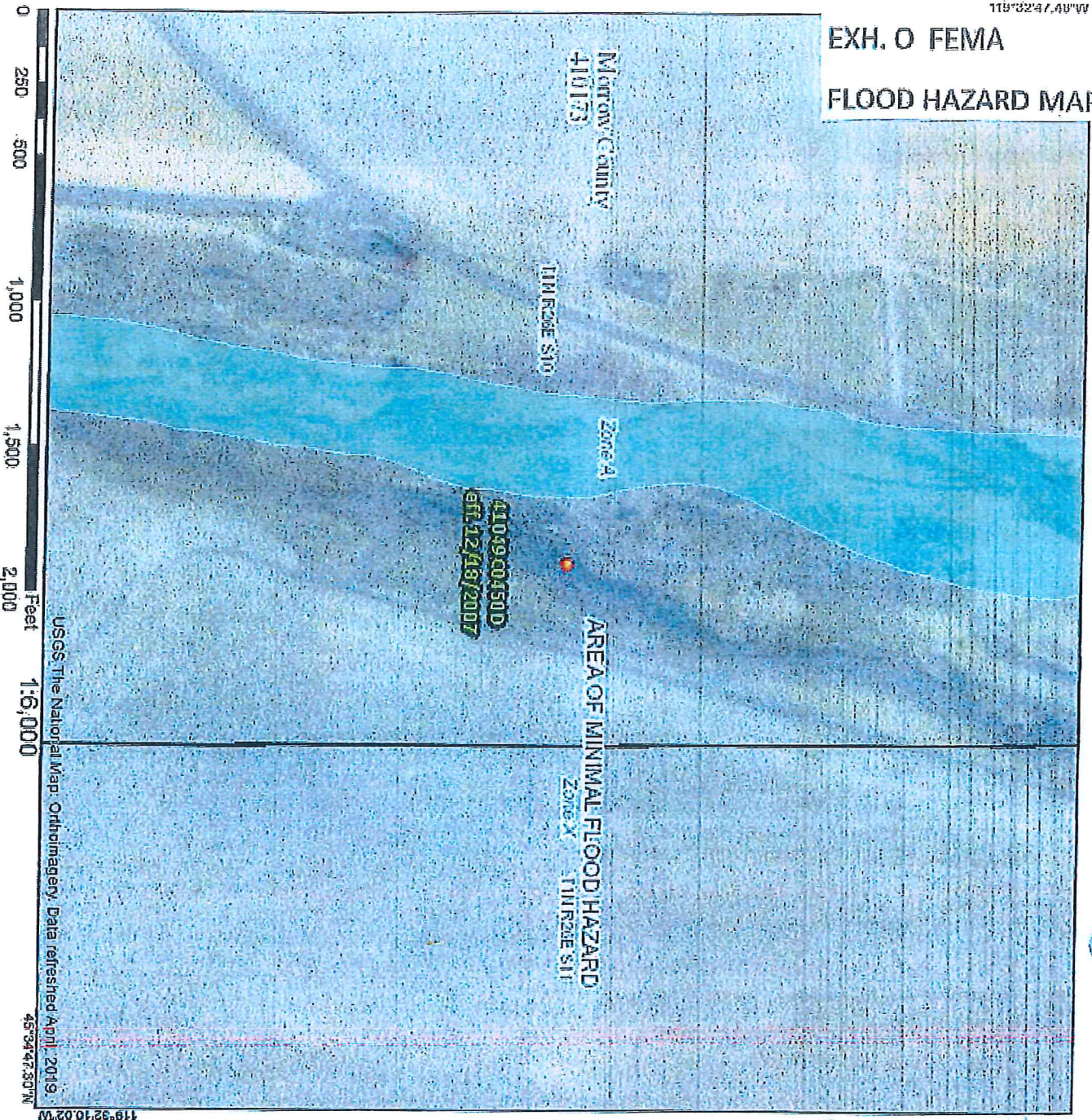
EXH. N CONSERVATION STRATEGY HABITAT MAP



National Flood Hazard Layer FIRMette



EXH. O FEMA
FLOOD HAZARD MAP



Legend

SEE THIS REPORT FOR DETAILED LEGEND AND INDEX MAP FOR FIRM PANEL LAYOUT

SPECIAL FLOOD HAZARD AREAS	Without Base Flood Elevation (BFE) Zone A, V, X, Y With BFE or Depth Zone AE, AO, AH, VE, VR Regulatory Floodway
-----------------------------------	---

OTHER AREAS OF FLOOD HAZARD	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; Zone X Future Conditions: 1% Annual Chance Flood Hazard, Zone X Area with Reduced Flood Risk due to Levee, See Notes, Zone X Area with Flood Risk due to Levee, Zone X
------------------------------------	--

OTHER AREAS	Area of Minimal Flood Hazard, Zone X Effective LOWRs
GENERAL STRUCTURES	Channel, Culvert, or Storm Sewer Levee, Dike, or Floodwall

OTHER FEATURES	Cross Sections with 4.96 Annual Chance 47.5 Water Surface Elevation 49.0 Coastal Transect Base Flood Elevation Line (BFE) Limit of Study Jurisdiction Boundary Coastal Transect Baseline Profile Baseline Hydrographic Feature
-----------------------	--

MAP PANELS	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 valid 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 2:56:45 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 valid 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 identifier, FIRM panel number, and FIRM effective date. Map images for unmapped and unmapped areas cannot be used for regulatory purposes.

119°32'47.40"W

0 250 500 1,000 1,500 2,000 Feet

USGS The National Map. Orthoimagery. Data refreshed April, 2019.
1:6,000
45°24'47.30"N

119°32'10.22"W

EXH. P DOD PRELIMINARY SCREENING TOOL RESULTS



DoD Preliminary Screening Tool

DoD Preliminary Screening Tool - Desk Reference Guide V. 2010.2.0

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:

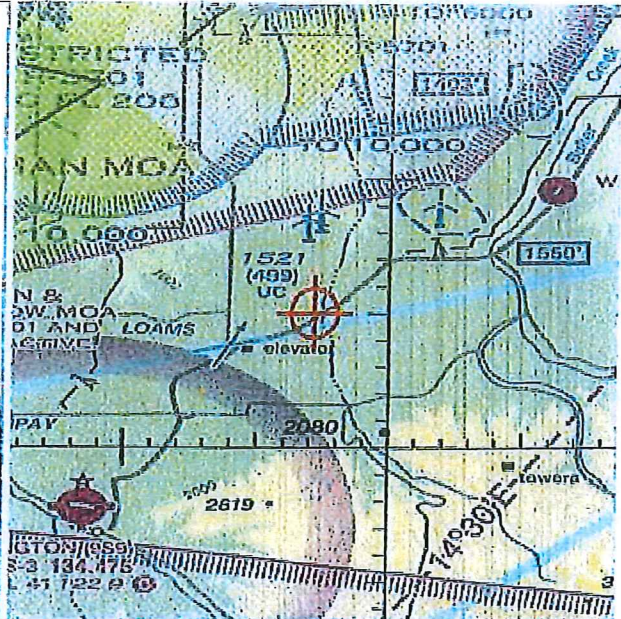
The preliminary review of your proposal does not return any likely impacts to military airspace. Please contact Gary Munsterman at the USAF Regional Environmental Coordinator at (415)977-8884 for confirmation and documentation.

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 e-mail Steven Sample with your question/s and phone number at steven.sample@faa.gov



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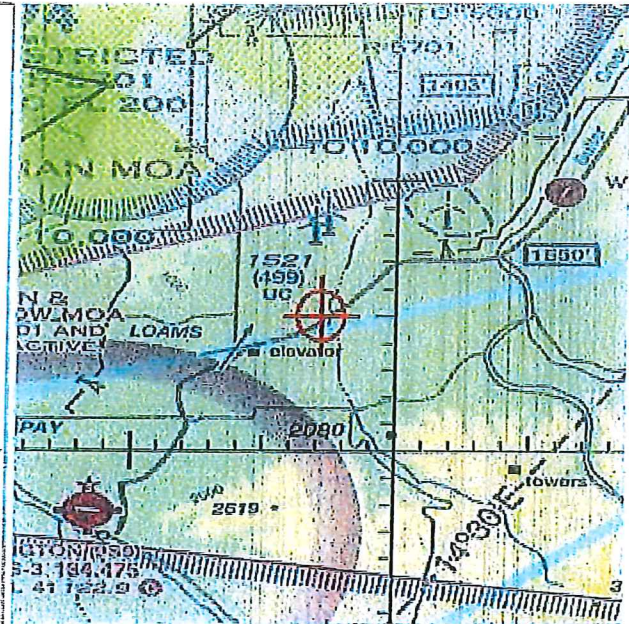
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Horizontal Datum:



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.