

Attachment A. Land Use Consistency Review

March 14, 2022

Ostrea Solar, LLC Project

Prepared for:

Cypress Creek Renewables, LLC
3402 Pico Blvd.
Santa Monica, CA 90405

Prepared by:

TRC
Fort Collins, CO



This page intentionally left blank

Table of Contents

1.0	INTRODUCTION.....	1
1.1	Background	1
2.0	LAND USE.....	3
2.1.1	Permitting and Regulatory Requirements	3
2.2	Results	5
2.2.1	Horizon 2040 (Yakima County, WA Comprehensive Plan)	5
2.2.2	Land Use Element	5
2.2.3	Utilities Element	12
2.2.4	Economic Development Element.....	13
2.2.5	Other Horizon 2040 Comprehensive Plan Elements	14
2.3	YCC.....	17
2.3.1	Zoning and Land Use Development Regulations	17
2.3.2	Other Development Regulations Applicable to the Project.....	21
2.4	Characterization of Affected Environment	21
2.5	Potential Project Impacts	22
2.6	Mitigation Measures	22
2.7	Summary of Effects and Significant Unavoidable Impacts After Mitigation	22
2.8	References.....	22

Tables

Table 2-1. Soils in the Study Area.	9
--	---

Figures

Figure 1-1. Ostrea Project Overview Map.....	2
Figure 2-1. Ostrea Parcel Map.....	10
Figure 2-2. Ostrea Study Area Zoning Map.....	18

Appendices

Appendix A. Letter from Yakima County	
---------------------------------------	--

Acronyms and Abbreviations

Notation	Definition
AC	Alternating Current
AG	Agriculture
ASC	Application for Site Certification
BESS	Battery energy storage system
BPA	Bonneville Power Administration
CCR	Cypress Creek Renewables, LLC
CUP	Conditional Use Permit
ED	Economic Development
EFSEC	State of Washington Energy Facility Site Evaluation Council
GMA	Growth Management Act of the State of Washington
kV	Kilovolt
LU-G	General Land Use
MPE	The Maximum Project Extent (MPE) is defined as the area that contains the Project Footprint and additional construction areas. The larger extent of the MPE will allow for the shifting of project components, known as micro-siting, based on a final approved project design.
NH	Natural Hazard
NRCS	Natural Resource Conservation Service
NS	Natural Setting
Project	Ostrea Solar, LLC Project
Project Site Control Boundary	Total of the leased areas and easements for the Project
PV	Photovoltaic
RCW	Revised Code of Washington
ROW	Right-of-way
SR	State Route
Study Area	Analysis Area for land use review
TRC	TRC Environmental Corporation
USDA	U.S. Department of Agriculture
UT	Utilities
WAC	Washington Administrative Code
YCC	Yakima County Code

1.0 Introduction

Cypress Creek Renewables, LLC (CCR) proposes to construct and operate the Ostrea Solar, LLC Project (Project). TRC Environmental Corporation (TRC) was contracted by CCR to conduct a review of land policies and regulations that are applicable to the Project. The land use analysis provides an overview of the regulatory context for energy facility siting and land use entitlement in general in Yakima County.

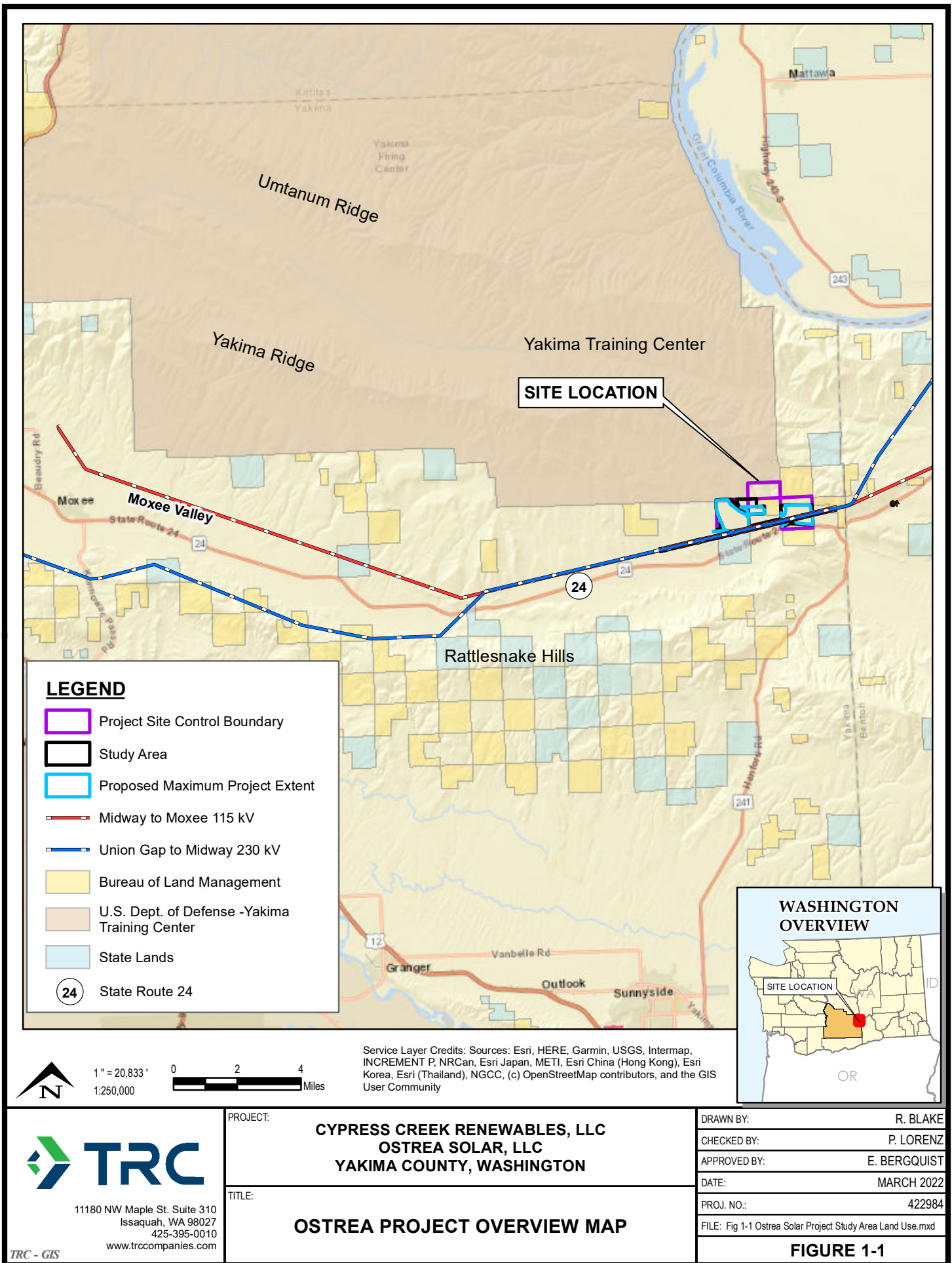
1.1 Background

The Project is situated north of Washington State Route (SR) 24, south of the Yakima Training Center, and approximately 22 miles east of the town of Moxee, in Yakima County, Washington (Figure 1-1). The Project Site Control Boundary (~1,699 acres) is defined as the total of the leased areas and easements for the Project (Figure 1-1). Within the Project Site Control Boundary, a smaller Study Area (1,123 acres) was defined for land use review (Figure 1-1). The Maximum Project Extent (MPE) is defined as the area that contains the Project Footprint and additional construction areas. The larger extent of the MPE will allow for the shifting of project components, known as micro-siting, based on a final approved project design.

The Project will use solar photovoltaic (PV) panels organized in arrays and aggregated to an injection capacity limited to 80 megawatts of alternating current (AC) solar capacity at the point of interconnection to the electric power grid. The Project will interconnect through a line tap to Bonneville Power Administration's (BPA's) Moxee to Midway 115 kilovolt (kV) transmission line that runs through the southern part of the Project. BPA's Moxee to Midway 115 kV transmission line connects to BPA's Moxee substation, which is approximately 23 miles west and north of the Project and BPA's shared Midway substation, which is approximately nine miles east and north of the Project. A security fence will be installed within 20 feet of the final approved locations of the panel arrays. The exact fence line located will be micro-sited based on the final approved design for the Project.

A Battery Energy Storage System (BESS) is required for the Project. The BESS system will store energy from the Project or grid, which will be supplied to the electrical grid when needed. If required, the BESS will be located to the west of the substation (for AC coupled) or as smaller battery cabinets collocated throughout the MPE at the inverter pad locations (for Direct Current coupled).

An operations and maintenance trailer and employee parking will be located just west of the Project substation. The trailer will be permanently located during the life of the Project and will include a bathroom. During construction, the employee parking area and the O&M trailer footprint will be used as a construction laydown yard. Access to the Project will be from SR-24 on the west side of the eastern most parcel in the MPE.



2.0 Land Use

The Project Site Control Boundary is in unincorporated lands of Yakima County. Land use and potential development of unincorporated lands are ordinarily subject to entitlement review by Yakima County, which is guided by the general goals and policies of the Yakima County Comprehensive Plan and the zoning regulations and standards of the Yakima County Code (YCC). Although CCR is requesting State preemption of local regulations through the certification process of the Energy Facility Site Evaluation Council (EFSEC), State procedures require EFSEC to consider local agency or community interests as part of its process.

The land use review summarizes state and local statutes, ordinances, and policies. Specific regulations or policies applicable to the proposed Project are identified, followed by an evaluation of whether or how the Project would be consistent with the specified regulations or policies.

2.1.1 Permitting and Regulatory Requirements

2.1.1.1 Energy Facilities – Site Locations (RCW Chapter 80.50)

In adopting Revised Code of Washington (RCW) Chapter 80.50, the Washington State Legislature found that “the present and predicted growth in energy demands in the state of Washington requires the development of a procedure for the selection and utilization of sites for energy facilities and the identification of a state position with respect to each proposed site” (RCW 80.50.010). In addition to recognizing the State’s energy needs, the intent of the statute was to ensure efficient decision-making with respect to energy facilities and to meet customer demand for energy at a reasonable cost while also protecting the quality, cleanliness, and public enjoyment of the natural environment. The statute created EFSEC and authorized EFSEC to receive, hear, and make recommendations to the State Governor’s Office with respect to disposition on energy facility siting applications (RCW 80.50.040). Pursuant to RCW 80.50.060(2) and 80.50.110(2), applicants for alternative energy facilities may request certification through EFSEC in lieu of pursuing zoning or land use permit approval through the local planning agency. However, if EFSEC approves the certification request, the Council must give consideration to the purposes of local agency’s laws, ordinances, rules, or regulations (Washington Administrative Code [WAC] 463-28-070).

2.1.1.2 Growth Management Act of the State of Washington (RCW Chapter 36.70A)

Initially adopted by the Washington State Legislature in 1990 and subsequently amended, the Growth Management Act (GMA) requires cities and counties to prepare comprehensive land use plans in coordination with the public and other jurisdictions, and that are consistent with statewide land use goals. The intent of the GMA is “to recognize the importance of rural lands and rural character to Washington’s economy, its people, and its environment, while respecting regional differences” (RCW 36.70A.011). Thus, in their respective comprehensive plans, local agencies should include provisions that balance commercial and residential development with the State’s intent to preserve rural-based economies, rural lifestyles, open space conservation, habitat preservation, and private land stewardship. The statute applies to each local agency in a county with a population of 50,000 or more people and that has met certain milestones for population growth over time (RCW 36.70A.040[3]).

The GMA requires that local agencies, by way of their comprehensive plans, “designate critical areas, agricultural lands, forestlands and mineral resource lands, and adopt development regulations conserving these designated agricultural lands, forestlands, and mineral resources lands and protecting these designated critical areas” (RCW 36.70A.040[3]). The statute authorizes the Department of Commerce to define guidelines for how to categorize lands into one of these categories. The GMA also requires counties to define urban growth boundaries and to adopt countywide planning policies that define the framework upon which city and county comprehensive plans are developed and adopted.

The comprehensive plan must include, at minimum, a land use element that: 1) designates the general distribution, location, intensity and extent of agricultural, residential, commercial, industrial, and public uses of land under the respective agency’s jurisdiction; 2) provides for protection of groundwater and surface water quality and quantity; and 3) estimates future population growth and land planning approaches that promote physical activity. Other mandatory comprehensive plan elements listed in RCW 36.70A.070 include housing, capital facilities, utilities (including electrical, telecommunications and natural gas lines), rural lands, transportation, economic development, and parks and recreation. Local agencies may include in their comprehensive plans, subarea plans or other optional elements (such as conservation or solar energy) that address other topics that the agency determines are relevant to its physical development. Subsequent decisions of the local decision-making body with respect to proposed public and private development projects should be consistent with the overall goals, policies, and objectives of the comprehensive plan.

2.1.1.3 Horizon 2040, Yakima County Comprehensive Plan (2017)

With an estimated population of 243,231 in 2015, long-range planning in Yakima County is subject to the GMA. In 2017, Yakima County adopted an update to its Comprehensive Plan, entitled *Horizon 2040*. In accordance with the requirements of the GMA, Chapter 5, Land Use Element, of the *Horizon 2040* describes existing land uses in the unincorporated areas of the county. The Land Use Element categorizes each land use as primarily either Urban lands, Rural lands, or Economic Resource lands according to the existing use and character of the site (RCW 36.70A.040[3]). As described on page 5-3 of the Comprehensive Plan:

- **Urban lands** are those included within the Urban Growth Area of one of Yakima County’s fourteen incorporated cities. They are typified by growth patterns that have made or will make an intensive use of land for buildings, structures, and impermeable surfaces. As a result, other uses, such as the production of food, become incompatible.
- **Rural lands** are those areas outside of both the Urban Growth Areas and the resource lands. Rural areas allow low to moderate densities that can be supported and sustained without urban services -- primarily water and sewer service. By state law, development in rural areas cannot occur if it is urban in nature.
- **Economic Resource lands** are those lands important and necessary for their ability to sustain the long-term commercial production of agricultural goods, forest products and mineral commodities.

The Land Use Element of *Horizon 2040* guides future land use decisions by establishing goals and policies for development of unincorporated lands for the 20-year vision horizon of the comprehensive plan. Goals provide broad statements of community aspirations, while policies are the commitment to an action (such as adoption of a standard or amendment of a development regulation) in support of the achievement of the goal. Other elements of *Horizon*

2040 include Natural Settings (NS), Natural Hazards (NH), Economic Development, Capital Facilities, Housing, Parks and Open Space, Utilities, and Transportation.

2.1.1.4 YCC Title 19, Unified Land Development Code

Land use goals and policies of *Horizon 2040* are implemented in part through codified text in the YCC Title 19, Unified Development Code. YCC Title 19 establishes land use zoning districts that apply to properties in the unincorporated areas of Yakima County. Permitted, conditionally permitted, and prohibited uses of land are prescribed for each zoning district, and development regulations such as minimum yards, maximum building height, maximum lot coverage, and off-street parking and signage criteria are also specified for each zoning district or land use.

2.2 Results

2.2.1 *Horizon 2040 (Yakima County, WA Comprehensive Plan)*

As explained in the following paragraphs, the Project is consistent with applicable land use goals and policies of *Horizon 2040*. Central to the Project is the provision of a renewable energy source in Yakima County as an alternative to energy derived from fossil fuels, a finite resource that contributes carbon and other emissions affecting air quality and global warming. The Project implements Environment Visioning Goal 5.F, which directs the County to “[c]onsider energy supply alternatives and energy conservation opportunities.” Additional goals and policies that are related to the Project are discussed below.

2.2.2 *Land Use Element*

The Study Area consists of Economic Resource lands outside any incorporated City boundary. It is approximately 19 miles outside the nearest Moxee community Urban Growth Area (Map 5.8.4.1-5 from *Horizon 2040*). In *Horizon 2040*, Economic Resource lands are further characterized by type of resource, with the plan identifying these lands as either Agricultural Resource Areas, Forest Resource Areas, or Mineral Resource Areas.

The Study Area is designated as Agricultural Resource on Map 5.9.6-1 (Future Land Use) of *Horizon 2040*. Yakima County applies the Agricultural Resource lands designation based on the criteria listed below (excerpted from section 5.10.3 of *Horizon 2040*):

1. *Generally meets criteria for agricultural resource lands of long-term commercial significance as defined by state laws and regulations.*
 - a. *May contain prime soils according to the Natural Resource Conservation Service.*
 - b. *May include "pockets" of non-agricultural land uses.*
 - c. *May contain high-value crops; specifically, areas where tree fruits vineyards, hopyards, specialty field crops, and dairies are located.*
 - d. *May include a variety of residential uses related to agricultural activities including farm worker housing and family farm dwellings.*
 - e. *May include compatible uses such as the marketing of regional agricultural products from one or more producers; the production, marketing, and distribution of value-added agricultural products; or packing and cold storage plants.*

-
- f. May include non-agricultural accessory uses or activities as long as they are consistent with the size, scale, and intensity of the existing agricultural use on a property.*
 - 2. Lands historically zoned Exclusive Agricultural or General Agricultural.*
 - 3. Lands located within an irrigation district and receiving water, or*
 - 4. Lands where dryland farming, pasture or grazing outside of irrigation districts is predominant.*
 - 5. Lands enrolled in one of the current use assessment programs.*
 - 6. Lands located outside established Urban Growth Areas.*
 - 7. Criteria for de-designating agricultural resource lands shall follow the “Agricultural Resource De-Designation Analytical Process” found below. The agricultural resource de-designation criteria will be used for plan amendments and updates to change a land use from Agricultural Resource to another land use designation. The agricultural de-designation process shall not apply when re-designating agricultural resource lands to some other Horizon 2040 Economic Resource Land designation. [Note: ‘De-designating agricultural resource lands’ is a process conducted when the county initiates a plan amendment or an update to a land use designation. As the proposed Project is allowed within the current zoning under a Type 3 Conditional Use Permit (CUP) de-designation is not relevant to the Project.]*

The Agricultural Resource category is intended to implement the GMA planning goal to maintain and enhance natural resource-based industries, including agricultural industries that support the County's economic base. In general, Agricultural Resource lands are so designated because they have been found to be important to the long-term commercial production of agricultural products including animal, fruit, vegetable, grain, floral, and ornamental horticultural products.

2.2.2.1 Horizon 2040 Visioning Goals: Land Use – Agriculture and Resource

Horizon 2040 includes the following Agricultural Resource Area Visioning Goals and Policies that are related to the Project.

- Agriculture and Economic Base Visioning Goal 1.A: Promote the growth and development of business related to agriculture, together with other industries which are recognized as playing an important role in the regional economy which may assist and help maintain an economically viable agricultural base.
- Public Policy Goal 2.A: Preserve the rich, diverse base of natural resources in the valley.
- Public Policy Goal 2.D: Protect agricultural lands through realistic, county-wide zoning and other standards which promote agricultural uses, and minimize impacts by non-agricultural uses, and preserve individual property rights.

Analysis: The proposed Project is not agricultural. The solar power generation facility is representative of an alternative, renewable energy industry that would help to diversify the regional agricultural economy while supporting implementation of state goals for provision of affordable power. As a provider of renewable energy, the Project would help the State of Washington to meet its needs for power for agricultural as well as commercial and industrial business operations, and in this way, the Project would play a role in supporting the regional economy. Though the Study Area has an agricultural land use designation, only a portion of one of the parcels appears from aerial photography to have been used for agricultural activities beginning in 1962, and those activities ceased after 1982, leaving the parcel uncultivated for

over 35 years. Additionally, there is no on-site water supply to facilitate active cultivation. The Project would facilitate the property owner's intent to develop the site with a revenue-generating Project on lands that have not in recent years generated revenue with agricultural development. Additionally, the Project would not remove the opportunity to re-establish agricultural uses in the future.

2.2.2.2 Goals and Policies for Resource Lands: Agricultural Resource Areas

Horizon 2040 includes the following Agricultural Resource Area goals and policies that are related to the Project.

GOAL LU-ER-AG 1: Maintain and enhance productive agricultural lands and discourage uses that are incompatible with farming activities.

Specific Policies Related to the Project:

LU-ER-AG 1.1: Encourage conservation of the County's high-quality agricultural lands for productive agricultural use and protect the opportunity for these lands to support the widest variety of agricultural crops.

LU-ER-AG 1.4: Non-agricultural uses shall not be allowed in agricultural resource areas without site-specific review subject to standards related to 1) protections needed for agricultural uses and 2) the nature of the proposed non-agricultural use.

LU-ER-AG 1.6: Establish a special exception process to review proposed non-agricultural uses which, by their nature, are especially sensitive to farm operations. Such uses may include schools, day care facilities, churches, medical clinics, outdoor recreational facilities, and similar uses. Include siting criteria, setbacks, and review procedures for new or expanded non-farmland uses to ensure that the non-farm use is located on the least productive portion of the property and does not adversely impact or significantly interfere with adjacent or nearby farming operations.

LU-ER-AG 1.7: Non-farm residences and uses within or adjacent to agricultural lands of long-term commercial significance shall be located, designed and subject to special setbacks and other appropriate buffers to minimize conflicts with agricultural practices and other activities associated with agricultural lands. A 150-foot setback from the adjoining agricultural activity shall be required for all non-farm related uses, except where it can be demonstrated that a smaller setback will not interfere with accepted farm practices. Considerations in reducing the setback may include the size or shape of the parcel, historic use, natural features, physical barriers, crop type and structures on the adjoining resource parcel, location of structures on adjoining properties, proposed site design, and use of screening, berms, barriers, and landscaping.

Analysis: The proposed Project would install a solar power generation facility, a non-agricultural use of land, on property designated in *Horizon 2040* as Agricultural Resource. Adopted comprehensive plan Policy LU-ER-AG 1.1 specifically calls upon the County to "[e]ncourage conservation of the County's high-quality agricultural lands for productive agricultural use." As such, the Project is potentially inconsistent with the comprehensive plan

Goal LU-ER-AG 1 and Policy LU-ER-AG1.1. Consistent with Policy LU-ER-AG1.4, the following paragraphs provide a site-specific evaluation of the proposed Project and its potential to indefinitely affect agricultural activities within or outside the Study Area.

Provisions in WAC 365-196-815 provide for cities and counties planning under the GMA to adopt regulations that assure the conservation of designated agricultural land, but these provisions also allow for innovative zoning techniques on agricultural lands with poor soils or that are otherwise not suitable for agricultural purposes. Yakima County's regulations pursuant to WAC 365-196-815 are codified in YCC 19.11.020 and include consideration of factors such as agricultural productivity of on-site soils, presence of steep slopes, lack of irrigation water, and minimization of land use conflicts with agricultural uses on surrounding properties.

The Study Area has 11 soil types, of which the most prominent are Moxee silt loam, 2 to 15 percent slopes (46 percent) and Willis silt loam, 8 to 15 percent slopes (30 percent). Of these two soil types, only the Willis silt loam is classified by the United States Department of Agriculture (USDA) Natural Resource Conservation Service (NRCS) as farmland of unique importance. USDA NRCS classifies the Moxee silt loam as "not prime farmland." The remaining 24 percent of the Study Area is composed of nine other soil map units. Approximately 52 percent of the Study Area is classified as "not prime farmland," 30 percent is classified as "farmland of unique importance," and 17 percent of the Study Area is classified as "farmland of statewide importance." The remaining 1 percent is classified as "prime farmland if irrigated." No irrigation systems are in place at the Study Area; therefore, the 1 percent of the area classified as "prime farmland if irrigated" would not qualify as prime farmland (USDA NRCS 2021).

TRC prepared a Phase I Environmental Site Assessment for the three parcels that were the original Project Site Control Boundary in September 2020. In 2021, additional parcels were added to the Project Site Control Boundary (Yakima County assessor parcel numbers 23121022002, 23121023001, 23121023001, 23121031001, and 23121041002). The associated parcels are shown in Figure 2-1. A Phase I Environmental Site Assessment was prepared for the current Project Site Control Boundary with these additional parcels and was completed January 2022. The Phase I Environmental Site Assessment included a description of historical uses of the property based on historic topographic maps and aerial photography from 1949 through 2017, property owner interviews, and on-site observations. The Phase I Environmental Site Assessment notes that the Project Site Control Boundary has been largely undeveloped, vacant land since at least 1917. Several dirt, unimproved, or four-wheel drive roads are shown on various topographic maps or aerial photographs between 1917 and 2017, and east-west extending transmission lines existing on the property are visible in their current location by 1951. A roadway at the northern boundary of the site, corresponding with the boundary of the Yakima Training Center, is visible in the 1964 aerial photograph (TRC 2020).

Aerial photographs show changes in land use at the southwestern parcel of the Study Area between 1955 and 1964. Prior to 1964, the southwestern portion of the Study Area appeared to be undeveloped land. Between 1964 and at least 1982, this portion of the Study Area appeared to be used for agricultural purposes. By 1990 and up through 2017, this portion of the Study Area does not appear to be significantly different than the other portions of the Study Area and surrounding areas that did not appear to be utilized for agriculture (TRC 2020).

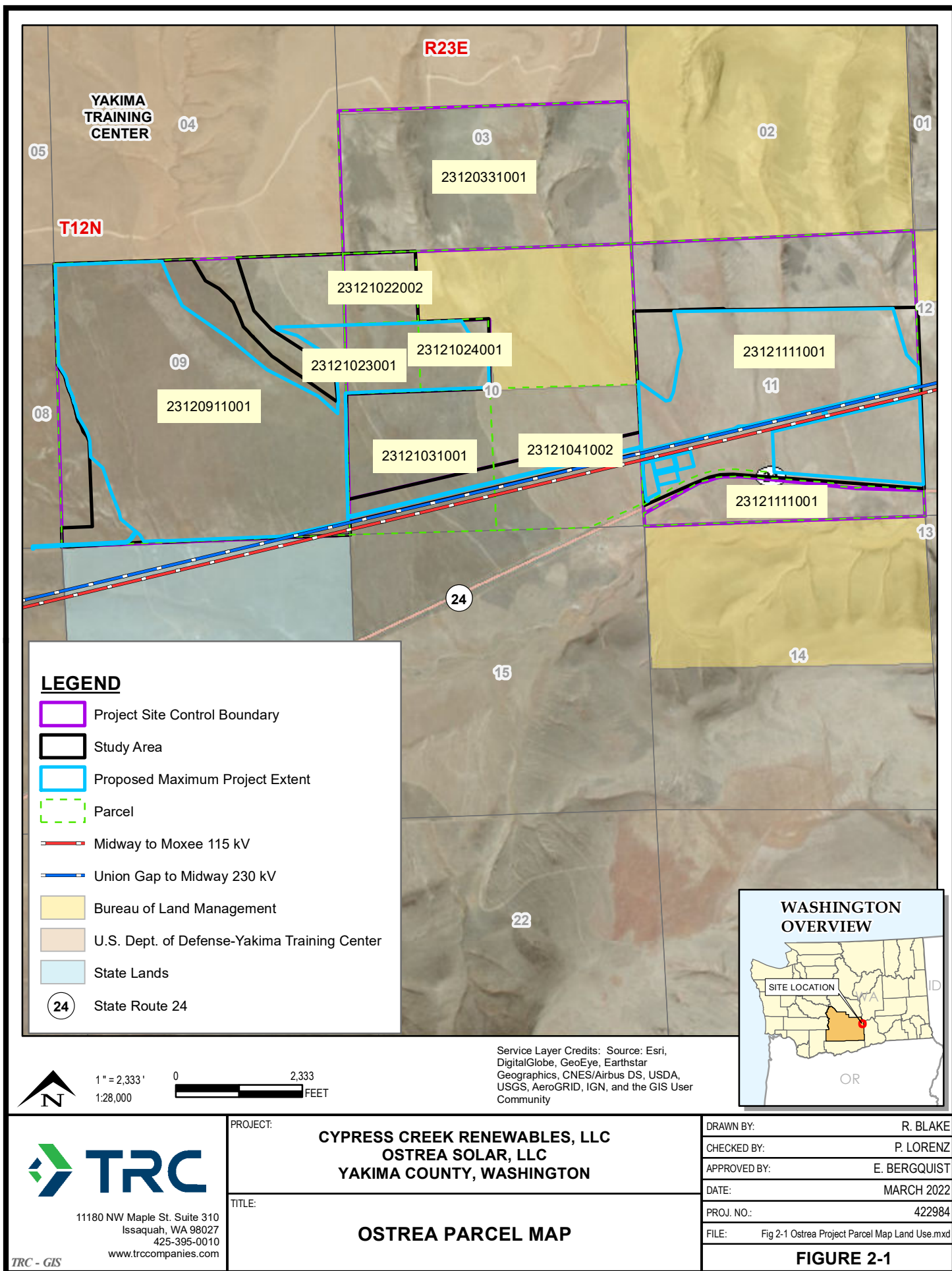
Table 2-1. Soils in the Study Area.

Soil Map Unit Symbol	Soil Map unit Name	Farmland Classification	Acres in Study Area	Percent of Study Area
35	Finley fine sandy loam, 0 to 5 percent slopes	Prime farmland if irrigated	11.4	1
65	Kiona stony silt loam, 15 to 45 percent slopes	Not prime farmland	17.7	2
83	Moxee silt loam, 2 to 15 percent slopes	Not prime farmland	512.8	46
127	Scooteney cobbly silt loam, 0 to 5 percent slopes	Not prime farmland	16.6	1
130	Selah silt loam, 8 to 15 percent slopes	Farmland of statewide importance	73.5	7
132	Shano silt loam, 2 to 5 percent slopes	Farmland of statewide importance	56.1	5
142	Starbuck silt loam, 2 to 15 percent slopes	Not prime farmland	17.1	2
143	Starbuck-Rock outcrop complex, 0 to 45 percent slopes	Not prime farmland	20.7	2
179	Warden silt loam, 8 to 15 percent slopes	Farmland of unique importance	0.3	<1
187	Willis silt loam, 2 to 5 percent slopes	Farmland of statewide importance	56.7	5
189	Willis silt loam, 8 to 15 percent slopes	Farmland of unique importance	340.1	30

Source USDA NRCS 2021

The Study Area is designated as an Agricultural Resource in *Horizon 2040*. Crop production has been notably absent from the properties for 40 years of available aerial photography, and weedy species are dominant in the previously plowed areas on the site. Although approximately 46 percent of the property is considered to be farmland of state or unique importance, there is no on-site water source so none of the site is irrigated, which diminishes the agricultural potential of the site. Therefore, use of the property for a non-agricultural solar energy facility would not affect current agricultural activities on-site to the detriment of the region's commercial agricultural economy. With a planned Project lifespan of 40 years, after which the solar array would be decommissioned and removed, the Project would not remove the opportunity to re-establish agricultural uses in the future, and in fact preserves the land for future agricultural use, consistent with the current intent of Policy LU-ER-AG 1.1.

The MPE would be constructed entirely within the 1,699-acre boundary of the Project Site Control Boundary. The Project would not introduce a population of residents to the area who otherwise might object to agricultural activities such as dust from plowing, crop applications, or harvesting; odors from livestock; or equipment noise. After construction, the Project facility would be generally static with little noise being generated except from routine operations and maintenance activities and associated vehicle trips by employees of the facility. Thus, the Project would not introduce a land use that would be incompatible with farming activities, disturbing to humans or livestock, or that would impair current or potential future use of adjacent properties for agricultural operations, consistent with comprehensive plan policies LU-ER-AG 1.6 and LU-ER-AG 1.7.



2.2.2.3 General Land Use Policies

Horizon 2040 includes the following General Land Use (LU-G) goals and policies that are related to the Project.

GOAL LU-G 1: Ensure that proposed changes to land uses or zoning regulations do not have a negative impact on the Yakima Training Center's primary mission.

Specific Policies Related to the Project:

LU-G 1.1: Notify the installation commander of the Yakima Training Center in the event of any proposed changes in land use or zoning within a 500-foot radius of the perimeter of the Training Center. A sixty-day response window will be provided to the installation commander to provide relevant comments or concerns.

LU-G 1.2: New roads planned for the areas adjacent to the Yakima Training Center should not be adjacent or parallel to the Training Center perimeter nor closer than 300 feet at their closest point.

LU-G 1.4: Require all habitable structures to be set back a minimum of 300 feet from the Yakima Training Center perimeter. Where a 300-foot setback is not possible on existing lots, the maximum setback possible should be applied. New development adjacent to the Yakima Training Center should be so configured to allow for the required 300-foot setback.

LU-G 1.5: All new land uses proposed to be located in proximity to the Yakima Training Center should be evaluated as to their potential impact to the Training Center.

Analysis: The northern boundary property lines of two Project parcels adjoin the southeastern property line of the Yakima Training Center. Preliminary communications with Yakima Training Center representatives did not result in notable land use conflicts with the facility, though comments were made regarding potential impacts due to reflectivity of the PV panels; these comments are addressed in the Glint and Glare Analysis Solar Glare Report (Application for Site Certification [ASC], Attachment H).

Detailed plans with specific dimensions of structure setbacks are yet to be developed for the Project. Preliminary site plans indicate that solar panels would not be installed within 300 feet of the Yakima Training Center property line as specified in Policy LU-G 1.4. Project access roads would also not be within 300 feet of the training center property.

2.2.3 Utilities Element

Horizon 2040 includes the following Utilities (UT) Element goals and policies that are related to the Project.

GOAL UT 2: Reasonably protect the physical and natural environment while providing utilities.

Specific Policies Related to the Project:

UT 2.2: Encourage private utility structures (e.g., electric substations) to have design and screening that is compatible in bulk and scale with surrounding land uses.

UT 2.3: Assist and facilitate the siting of linear transmission facilities and utility-related infrastructure in a manner consistent with Horizon 2040 through land use planning and development review policies and procedures.

UT 2.4: Encourage energy resource development in locations within Yakima County that take advantage of the County's energy resources, existing infrastructure, and also are sited to minimize environmental impacts.

GOAL UT 17: Promote the delivery of electrical services, on demand, within the County consistent with utility's public service obligations.

UT 17.5: Work with electrical utility providers and neighboring jurisdictions to meet regional service needs and to accommodate future facility improvements.

UT 17.6: Ensure there are sufficient electric utility facilities that are sufficient to support economic development. Foster cooperation among private enterprise, the County, and the utility provider.

Analysis: Installation of the Project's PV arrays would generally follow existing contours of the MPE, requiring minimal grading and maintaining the natural slopes on site. Arrays would also be placed in a configuration that would avoid natural drainage channels on the parcels, precluding the need for fill in or removal of potential habitat in these areas. Water use would be minimal as discussed in the ASC. Where Project construction would potentially affect sensitive species, mitigation measures are recommended to reduce or eliminate impacts, as discussed in the Rare Plants and Habitat Report (ASC, Attachment B) and General Wildlife Surveys reports (ASC, Attachment C). Potential visual impacts from light and glare of the Project would not be significant (see ASC, Attachment H Glint and Glare Analysis Solar Glare Report). Thus, the Project would make reasonable efforts to protect the natural environment while introducing a renewable energy source to the MPE, consistent with Goal UT 2.

There is minimal development on properties adjacent to the Study Area. Some single-family residences and planted fields exist in the general vicinity of the site; however, lands proximate to the Study Area are predominantly undeveloped, large parcels of 40 or more acres. There are no existing developments on surrounding lands with which the Project would need to be made compatible in bulk or scale (Policy UT 2.2). As such, it is not anticipated that screening will be required; however, continued consultation with the county through the EFSEC process will confirm the applicability of screening.

The Study Area lacks trees or other significant sources of shade and is highly exposed to sunlight throughout the day, making solar energy a uniquely available natural resource opportunity of the site. The Project would capture the solar access of the property for generation of renewable energy while minimizing its environmental impacts as summarized above, consistent with Policy UT 2.4. The Project is also consistent with the State goals in RCW 80.50.010, as well as local Goal UT 17 and policies UT 17.5 and 17.6, which seek to increase the supply of renewable, affordable energy to residents of the region and state.

Ongoing coordination between CCR, Yakima County, and EFSEC with regard to Project review, and the analysis of this land use study, follow the intent of policies UT 2.3 and UT 17.6.

2.2.4 Economic Development Element

Horizon 2040 includes the following Economic Development (ED) goals and policies that are related to the Project.

GOAL ED 1: Promote economic growth while maintaining environmental quality.

Specific Policies Related to the Project:

***ED 1.2:** Encourage economic opportunities that strengthen and diversify the County's economy while maintaining the integrity of the natural environment.*

GOAL ED 4: Preserve and enhance the County's resource-based economy.

Specific Policies Related to the Project:

***ED 4.1:** Encourage resource-based industries which are consistent with resource lands goals and policies.*

***ED 4.4:** Discourage incompatible development in resource areas.*

Analysis: The Project is consistent with the Economic Development goals and policies listed above and reflected in the goals and policies of other elements of *Horizon 2040*, to foster environmental quality, diversify the regional economy, and protect opportunities for agricultural development of lands. As described in the paragraphs above, the Project is an opportunity to capture the solar energy availability of the property to generate renewable power for the region's residents and businesses, and to diversify the region's predominantly agricultural economic base. The Project has been designed to avoid mass grading of the MPE and extensive fill of natural contours and drainages in consideration of the natural environment. Because the Project would not introduce a resident population to the site, and all Project development would be contained within the boundaries of the MPE, the Project would have minimal risk of conflicts with agricultural activities on regional properties and no conflicts with the Yakima Training Center. The finite term of the Project would ensure that the PV arrays are eventually removed from the property, restoring the potential for agricultural use of the property in the future. By providing productive use of the property while preserving the land for future use, the Project supports the local and regional company.

2.2.5 Other Horizon 2040 Comprehensive Plan Elements

The following goals and policies from the Natural Settings (NSs) and Natural Hazards (NHs) elements of *Horizon 2040* are also related to the Project. Discussions of the Project's potential to affect implementation or application of these goals and policies, as well as to show Project conformance and consistency with goals and policies, are included in the ASC application and associated appendices including Rare Plants and Habitat Report (ASC, Attachment B), General Wildlife Surveys reports (ASC, Attachment C), Wetland Delineation Report (ASC, Attachment D), and Cultural Resources report (ASC, Attachment F).

GOAL NS 3: Make steady improvement in the air quality of the Yakima Valley by reducing dust, odor, auto emissions, smoke, and other contaminants.

Specific Policy Related to the Project:

NS 3.2: Require control of emissions to the air during land development and construction projects.

GOAL NS 4: Promote the identification and protection of archaeological and significant historical sites and structures.

Specific Policies Related to the Project:

NS 4.4: Prior to demolition, moving or alteration of any designated historic, cultural, or archeological landmark, ensure that due consideration is given to its preservation or, at a minimum, documentation of its historic value.

NS 4.5: When available, utilize existing archaeological and cultural resource information from the Washington State Department of Archaeology and Historic Preservation and the Yakama Nation.

GOAL NS 8: Establish critical areas protection measures to protect environmentally sensitive areas, and protect people and property from hazards.

Specific Policies Related to the Project:

NS 8.1: Use the best available science to develop regulations to protect the functions and values of critical areas.

NS 8.2: Ensure proposed subdivisions, other development, and associated infrastructure are designed at a density, level of site coverage, and occupancy to preserve the structure, values, and functions of the natural environment or to safeguard the public from hazards to health and safety.

NS 8.3: Use a preference-based system of mitigation sequencing for the County's stream, lake, pond, wetland, floodplain and fish and wildlife priority species and habitat critical areas that reduces impacts using approaches ranging from avoidance to replacement.

GOAL NS 9: Maintain and manage the quality of the groundwater resources in Yakima County as near as possible to their natural conditions and in compliance with state water quality standards.

Specific Policies Related to the Project:

NS 9.3: Evaluate the potential impact of development proposals on groundwater quality, and require alternative site designs to reduce contaminant loading where site conditions indicate that the proposed action will measurably degrade groundwater quality.

NS 9.5: Encourage the retention of natural open spaces in development proposals overlying areas highly susceptible for contaminating groundwater resources.

GOAL NS 10a: Enhance the quantity and quality of surface water.

Specific Policy Related to the Project:

NS 10.3: Protect water quality from the adverse impacts associated with erosion and sedimentation.

GOAL NS 13: Prevent increased flooding from stormwater runoff.

Specific Policies Related to the Project:

NS 13.1: Require on-site retention of stormwater.

NS 13.2: Preserve natural drainage courses.

NS 13.3: Minimize adverse storm water impacts generated by the removal of vegetation and alteration of landforms.

GOAL NS 14: Improve water quality through improved stormwater management.

Specific Policy Related to the Project:

NS 14.2: Control stormwater in a manner that has positive or neutral impacts on the quality of both surface and groundwater.

GOAL NS 15: Provide for the maintenance and protection of habitat areas for fish and wildlife.

Specific Policies Related to the Project:

NS 15.2: Direct development away from areas containing significant fish and wildlife habitat areas, especially areas which are currently undeveloped or are primarily dominated by low intensity types of land uses such as forestry.

NS 15.5: Protect fish and wildlife habitat for all native species in Yakima County, so as to maintain current population over time. Protect the habitat of Washington

State Listed Species of Concern and Priority Habitats and Species in order to maintain their populations within Yakima County.

GOAL NS 19: (also Natural Hazards Goal NH 2): Protect the public from personal injury, loss of life or property damage from geologic hazards.

Specific Policies Related to the Project:

NS 19.1 (also Natural Hazards Policy **NH 2.1**): Ensure that land use practices in geologically hazardous areas do not cause or exacerbate natural processes which endanger lives, property, or resources.

NS 19.2: (also Natural Hazards Policy **NH 2.2**): Locate development within the most environmentally suitable and naturally stable portions of the site.

NS 19.4: Prevent the subdividing and development of known or suspected landslide hazard areas, side slopes of stream ravines, or slopes 40 percent or greater for development purposes.

GOAL NS 20 (also Natural Hazards Goal NH 3): Protect life and property in rural Yakima County from fire hazards.

Specific Policies Related to the Project:

NS 20.1 (also Natural Hazards Policy **NH 3.1**): Encourage the development of adequate water supply/storage for new development which is not connected to a community water/hydrant system. A storage facility/fire well should be accessible by standard firefighting equipment and adequate for the needs of the structure(s) and people being protected.

NS 20.3 (also Natural Hazards Policy **NH 3.4**): Encourage, where feasible, the undergrounding of electrical utilities to reduce their exposure to fire.

NS 20.5 (also Natural Hazards Policy **NH 3.6**): Require proposed developments to provide sufficient access for heavy-duty firefighting equipment.

GOAL NH 1-2: Prevent increased flooding from stormwater runoff.

Specific Policies Related to the Project:

NH 1-2.1: Require on-site retention of stormwater.

NH 1-2.2: Preserve natural drainage courses.

NH 1-2.3: Minimize adverse storm water impacts generated by the removal of vegetation and alteration of landforms.

GOAL NH 4: Limit the impact of drought on property and safety.

Specific Policies Related to the Project:

NH 4.2: *Ensure sufficient water quantity for new developments.*

NH 4.3: *Encourage xeriscaping and other landscaping options that limit the need for irrigation.*

NH 4.4: *Promote design that captures and infiltrates stormwater, meltwater, and irrigation runoff.*

GOAL NH 5: Protect property, life, and health from impacts of multiple and cumulative natural hazards.

Specific Policies Related to the Project:

NH 5.1: *Ensure proposed subdivisions, other development, and associated infrastructure are designed at a density, level of site coverage, and occupancy to preserve the structure, values, and functions of the natural environment or to safeguard the public from hazards to health and safety.*

NH 5.4: *Locate critical facilities and infrastructure outside of high-risk hazard areas.*

NH 5.5: *Ensure new developments in high-risk hazard areas include secondary egress.*

2.3 YCC

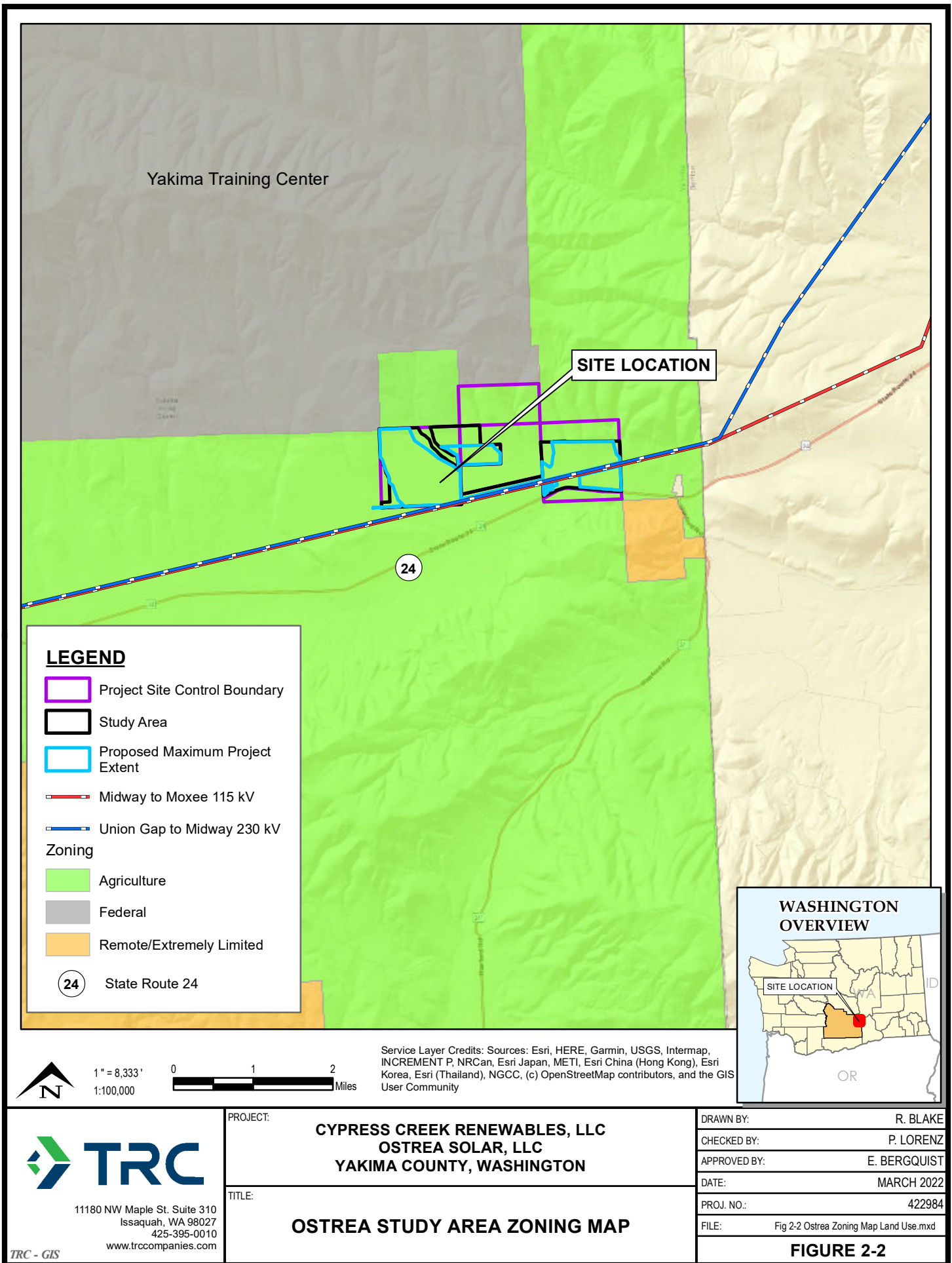
CCR is pursuing site certification through EFSEC; however, EFSEC's review process gives consideration to local community procedures and goals. The following analysis describes whether and how the Project would be consistent with Yakima County's adopted land use regulations that are anticipated to be considered during EFSEC's review.

2.3.1 Zoning and Land Use Development Regulations

2.3.1.1 Zoning

Zoning and land use regulations that are applicable to the Project are prescribed in Title 19, Unified Land Development Code, of YCC. The proposed Project has a *Horizon 2040* land use designation of Agricultural Resource, and it is zoned Agriculture (AG) District (Figure 2-2). As written in YCC 19.11.010:

The purpose of the Agriculture (AG) district is to preserve and maintain areas for the continued practice of agriculture by limiting the creation of small lots, permitting only those new uses that are compatible with agricultural activities, protection of agricultural lands of long-term commercial significance, and providing measures to notify and separate especially sensitive land uses from customary and innovative agricultural land management practices. The AG district implements the Comprehensive Plan that calls for the preservation of agricultural lands.



Permitted and conditionally permitted uses of land in all zoning districts of unincorporated Yakima County are listed in YCC 19.14.010, Table 19.14.1, Allowable Land Uses. The proposed Project is categorized as a “Power Generating Facility,” a conditionally permitted use of land in the AG District that requires discretionary, quasi-judicial approval from the County’s Hearing Examiner under a Type 3 CUP. As described in YCC 19.14.020, Type 3 Conditional Uses include:

Uses which may be authorized subject to the approval of a conditional use permit as set forth in [YCC] Section 19.30.030. Type 3 conditional uses are not generally appropriate throughout the zoning district. Type 3 uses require Hearing Examiner review of applications subject to a Type 3 review under the procedures of Section 19.30.100 and YCC Subsection 16B.03.030(1)(c).

For the application for a Type 3 CUP, a site plan showing all parcels containing the site must be submitted. Prior to approving a Type 3 CUP, the Hearing Examiner must conduct an open and noticed public hearing to receive written and spoken testimony on the proposed Project. After considering testimony and other information in the record of the Project, the Hearing Examiner may only approve a Type 3 CUP if he or she can make findings that:

- a) The present and future needs of the community will be adequately served by the proposed development and that the community as a whole will be benefited rather than injured;*
- b) The proposed use is compatible with neighborhood land uses, the goals, objectives and policies of the Comprehensive Plan, and the legislative intent of the zoning district;*
- c) The site of the proposed use is adequate in size and shape to accommodate the proposed use;*
- d) All setbacks, spaces, walls and fences, parking, loading, site screening, landscaping, and other features required by YCC Title 19;*
- e) The proposed use complies with other development and performance standards of the zoning district and YCC Title 19;*
- f) The site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use;*
- g) The proposed use will have no substantial adverse effect on abutting property or the permitted use thereof;*
- h) In the case of residential uses, the housing density of the development is consistent with the existing zoning densities, or the Comprehensive Plan, and that all other aspects of the development are consistent with the public health, safety, and general welfare for the development and for adjacent properties; and*
- i) The development complies with all criteria in Chapter 19.18 applicable to the proposed use, unless otherwise administratively adjusted.*

Analysis: The proposed Project is consistent with the zoning regulations of YCC Title 19 (Section 2.3). Although not an agricultural use of land on the property zoned AG District, the proposed Project is listed in YCC Title 19 as a conditionally permitted use in the AG District. The proposed use is consistent with the necessary findings that would be required for approval of a Type 3 CUP. As described in paragraphs above, the proposed Project would meet the state-identified needs for affordable, renewable energy sources, and the remote location of the MPE outside the County's urban growth areas would minimize the potential for Yakima County communities to be impacted by the Project (Sections 2.2.2 and 2.2.4). The large amount of parcel acreage accommodates the size of the Project, which allows for compliance with required structural setbacks (Sections 2.3 and 2.3.1.1). Operations of facilities are not expected to require a permanent presence on site, but facilities would be sized to accommodate up to three to five persons from time to time whose presence would not overwhelm the capacity of the adjoining SR-24 right-of-way (ROW) from which the Project has and would continue to have its access (Section 2.4). The Project would not impair continued or future use of adjacent properties for agricultural operations (Sections 2.2.2 and 2.2.3).

Generally, a Hearing Examiner is authorized under YCC 19.30.100(1) to "impose additional or greater requirements [of the YCC] as conditions of approval on any use, development or modification being reviewed to ensure that the proposal meets the standards and criteria for approval." Conditions of approval may also be imposed to mitigate potential environmental impacts of a Project; to ensure compatibility among the Project and existing uses and development on adjacent lands; and to achieve and further the intent, goals, objectives, and policies of the Yakima County Comprehensive Plan. For the proposed Project, the Land Use Hearing will be conducted jointly with EFSEC and any conditions would be issued through EFSEC.

2.3.1.2 Land Use Development Regulations

Regulations governing development on existing lots in the AG District are prescribed in YCC 19.11.010, Table 19.11.010-2, Setbacks, Lot Coverage and Building Height. Development regulations that are applicable to the Project are summarized below:

Maximum Lot Coverage:	Not specified.
Maximum Building Height:	Not specified.
Minimum Vision Clearance Triangle at Driveway:	15 feet along pavement edge of public street, 15 feet along the driveway, third side of triangle is a straight line connecting the 15-foot sides. No sign or landscaping shall be placed within the triangle so as to materially impede vision between the heights of 2.5 and 10 feet above the centerline grade of the streets.
Front Setback:	25 feet from planned edge of ROW or easement.
Interior Side Setback:	10 feet from property line.
Rear Setback:	10 feet from property line.
Additional Setback to Accommodate Required Site Screening:	Not applicable. Not required in AG District or for proposed energy generation facilities.

Yakima County has adopted 2018 International Building Codes, which have been added to the YCC Title 13 regulations. The International Codes require a building permit be obtained prior to construction. Building codes provide minimum standards to safeguard life and limb, health, property, and public welfare by regulating and controlling design, construction, and quality of materials of structures within this jurisdiction. As part of the Building Permit, the County of Yakima requires a site plan review. The site plan review is by multiple Yakima County departments and reviews project compliance with Yakima County Zoning ordinances, Building Codes, Fire Codes, and Health District Requirements applicable to a proposed project. The site plan should include all existing and proposed structures, road and access easements, easements and width, fire apparatus turn-around and turnouts as required, septic systems, well or water source, large physical features, critical areas, and setbacks.

Analysis: Preliminary plans for the Project do not show any solar panel placed immediately adjacent to any property lines of any of the Project parcels. Based on a review of the current site plans, there is sufficient acreage in the Project Site Control Boundary to accommodate both the Project and the minimum setbacks required by YCC. Typically, CCR implements setbacks 20 feet from project fencing to the solar array and minimum 15 feet from property lines to project fencing. Prior to issuance of building permits for the Project, construction drawings will be required to reflect compliance with the minimum setbacks specified in YCC Table 19.11.020-2.

2.3.2 Other Development Regulations Applicable to the Project

The following list of regulations in YCC are also related to the Project. Discussions of the Project's compliance with the regulations in the sections referenced below are discussed in Rare Plants and Habitat Report (ASC, Attachment B) and General Wildlife Surveys reports (ASC, Attachment C), and associated sections of the ASC application.

- Chapter 9.24, Over-Legal Loads;
- Chapter 12.05, Sewer System;
- Chapter 12.08, Water System;
- Chapter 19.23, Transportation and Circulation;
- Chapter 19.25, Sewer and Water; and
- Title 16C, Critical Areas.

Construction drawings for the Project must also demonstrate compliance with applicable building codes and other regulations in Title 13, Building and Construction, of the YCC, prior to issuance of a building permit for the Project.

2.4 Characterization of Affected Environment

The proposed Project would change the appearance of the MPE, adding arrays of PV panels that would cover the majority of the property. Though visibility of existing vegetation would be reduced with the addition of the solar panels, installation of the arrays would follow existing contours and avoid the majority of existing drainage channels, such that the natural grade of the site would remain mostly unchanged during the life of the Project and following its decommissioning. The east-west access road that parallels the existing transmission line right-of-way will cross four ephemeral channels that run north-south. A Clean Water Action Section 404 permit will be obtained for the Project for the four crossings. More details are included in the ASC, Attachment D Ostrea Wetland Delineation Report. Construction and grading would be

limited to the lands within the boundaries of the Project parcels and would not result in changes to the appearance of adjacent properties. Rather, adjacent properties would remain in a vegetated condition and available for use for agricultural operations, if so desired by the owners of those properties.

Facilities would be sized to accommodate up to three to five persons from time to time during Project operations, leading to traffic volumes during the life of the Project that would be minimal and could be accommodated within the existing capacity of SR-24, from which the Project has its access. Noise from Project operations would be limited to occasional employee and maintenance worker vehicle trips to, from, and around the MPE. Noise would be generated by trucks and equipment during construction of the Project; however, due to the large size of the subject and adjoining undeveloped parcels, Project construction noise is not anticipated to exceed any acceptable thresholds in YCC for noise-sensitive uses or residents.

2.5 Potential Project Impacts

There are no anticipated land use conflicts or potential impacts that would result from the implementation of the Project.

2.6 Mitigation Measures

Because no potential land use impacts of the Project have been identified, no mitigation measures are necessary for land use.

2.7 Summary of Effects and Significant Unavoidable Impacts After Mitigation

No significant land use impacts are anticipated to occur as a result of the Project. Yakima County concurrence with this determination is provided in Appendix A.

2.8 References

TRC. 2022. *Phase I Environmental Site Assessment: Ostrea Solar, LLC, Highway 24, Yakima County, WA 97601*. January 7, 2022.

U.S. Department of Agriculture (USDA) Natural Resource Conservation Service (NRCS). 2021. *Soil Survey Division, Web Soil Survey*. Accessed February 2021 at <http://websoilsurvey.nrcs.usda.gov/app/>

Washington State Legislature. 2021a. *Washington Administrative Code*. Accessed May 2021 at: <https://apps.leg.wa.gov/wac/>

_____. 2021b. *Revised Code of Washington*. Accessed May 2021 at: <https://apps.leg.wa.gov/rcw/>

Yakima County. 2017. *Horizon 2040 Comprehensive Plan*. Effective August 29, 2017. Accessed May 2021 at: <https://www.yakimacounty.us/846/Horizon-2040-Comprehensive-Plan>

-
- _____. 2003. *Yakima County-wide Planning Policy: A Policy Framework to Guide the Development of Comprehensive Plans Under the Washington State Growth Management Act*. Revised October 2003. Accessed May 2021 at: <https://www.yakimacounty.us/DocumentCenter/View/10859/County-Wide-Planning-Policy-2003?bidId=>
- _____. 2021. *Yakima County Code*. Accessed May 2021 at: <https://www.codepublishing.com/WA/YakimaCounty/>

This page intentionally left blank

Appendix A. Letter from Yakima County



Public Services

128 North Second Street • Fourth Floor Courthouse • Yakima, Washington 98901
(509) 574-2300 • 1-800-572-7354 • FAX (509) 574-2301 • www.co.yakima.wa.us

LISA H. FREUND – Director

March 7, 2022

TRC
Attn: Steve Graber
Senior Environmental Planner
123 N. College Ave
Suite 206/208
Fort Collins, CO 80524

RE: Certificate of Zoning Compliance – High Top and Ostrea Solar (Cypress Creek Renewables)

Mr. Graber,

Cypress Creek Renewables is proposing to construct a solar facility in Yakima County. The solar facility is defined as a Power Generating Facility under Yakima County Code (YCC) Title 19, the Unified Land Development Code. The facility is proposed to be within the Agriculture Zoning District (AG). In the AG Zoning District, power generating facilities are a Type 3 Use, pursuant to Table 19.14-1 Allowable Land Uses.

Table 19.14-1 Allowable Land Uses

	AG	FW	MIN	R/ELDP	PR-10/5	RT	RS	HTC	SR	R-1	R-2	R-3	B-1	B-2	SCC	LCC	GCM-1	M-2	
Power generating facilities	3	3	3	3	3			3									3	3	1

Type 3 Uses are “uses which may be authorized subject to the approval of a conditional use permit as set forth in Section 19.30.030. Type 3 conditional uses are not generally appropriate throughout the zoning district. Type 3 uses require Hearing Examiner review of applications subject to a Type 3 review under the procedures of Section 19.30.100 and YCC Subsection 16B.03.030(1)(c).” (YCC Title 19.14.010(2))

Therefore, the Ostrea Solar project is consistent with Title 19 and would be eligible for review and permitting under Yakima County permit processes.

Please contact me or my staff at (509)574-2300 with any questions.

Sincerely,

Jason Earles,
Zoning and Subdivision Manager

Yakima County ensures full compliance with Title VI of the Civil Rights Act of 1964 by prohibiting discrimination against any person on the basis of race, color, national origin, or sex in the provision of benefits and services resulting from its federally assisted programs and activities. For questions regarding Yakima County's Title VI Program, you may contact the Title VI Coordinator at 509-574-2300.

If this letter pertains to a meeting and you need special accommodations, please call us at 509-574-2300 by 10:00 a.m. three days prior to the meeting. For TDD users, please use the State's toll free relay service 1-800-833-6388 and ask the operator to dial 509-574-2300.