



**Oregon**  
Theodore R. Kulongoski, Governor

**Department of Land Conservation and Development**  
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Salem, OR 97301-2540  
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www.lcd.state.or.us



**NOTICE OF ADOPTED AMENDMENT**

04/14/2011

**TO:** Subscribers to Notice of Adopted Plan  
or Land Use Regulation Amendments

**FROM:** Plan Amendment Program Specialist

**SUBJECT:** Lake County Plan Amendment  
DLCD File Number 001-10

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office. This amendment was submitted without a signed ordinance.

Appeal Procedures\*

**DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL:** Friday, April 29, 2011

This amendment was submitted to DLCD for review prior to adoption pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

**\*NOTE:** The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

**Cc:** Ken Gerschler, Lake County  
Jon Jinings, DLCD Community Services Specialist  
Jon Jinings, DLCD Regional Representative  
Katherine Daniels, DLCD Farm/Forest Specialist

<paa> YA



FORM **2**

**DLCD**

# Notice of Adoption

This Form 2 must be mailed to DLCD within **5-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

In person  electronic  mailed

**DATE STAMP**

DEPT OF

APR 11 2011

LAND CONSERVATION AND DEVELOPMENT

For Office Use Only

Jurisdiction: **Lake County**

Local file number: **1250-CP**

Date of Adoption: **6 April 2011**

Date Mailed: **7 April 2011**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD?  Yes  No Date: <8/6/2010

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other: **Goal 3 Exception**

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

Goal 3 Exception for a Solar Energy Facility from the 20 acre minimum on agriculture land to 100 acres. **The facility is required to obtain a Goal 3 exception under ORS 197.732 and OAR chapter 660, division 4 as the facility will remove more than 20 acres of non-high-value farmland soils from commercial agricultural enterprise (OAR 660-033-0130(22)).**

Does the Adoption differ from proposal? No, no explanation is necessary

No

Plan Map Changed from:

to:

Zone Map Changed from:

to:

Location: **Approximately 1/4 mile East of Ft. Rock Road "S-curve" near Bonneville Administration Power Lines. Township 26S., R15E, Part of Section 35.**

Acres Involved: **100**

Specify Density: Previous:

New:

Applicable statewide planning goals:

- |                          |                          |                                     |                          |                          |                          |                          |                          |                          |                          |                          |                          |                          |                          |                          |                          |                          |                          |                          |
|--------------------------|--------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| <b>1</b>                 | <b>2</b>                 | <b>3</b>                            | <b>4</b>                 | <b>5</b>                 | <b>6</b>                 | <b>7</b>                 | <b>8</b>                 | <b>9</b>                 | <b>10</b>                | <b>11</b>                | <b>12</b>                | <b>13</b>                | <b>14</b>                | <b>15</b>                | <b>16</b>                | <b>17</b>                | <b>18</b>                | <b>19</b>                |
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Was an Exception Adopted?  YES  NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

Yes  No

If no, do the statewide planning goals apply?

Yes  No

If no, did Emergency Circumstances require immediate adoption?

Yes  No

**DLCD file No.** \_\_\_\_\_

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

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Local Contact: **Darwin Johnson, Jr.,**  
**Lake County Planning Director**

Address: **513 Center Street**

City: **Lakeview, Oregon**

Zip: **97630**

Phone: **(541) 947-6032** Extension:

Fax Number: **541-947-2144**

E-mail Address: **djohnson@co.lake.or.us**

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## **ADOPTION SUBMITTAL REQUIREMENTS**

**This Form 2 must be received by DLCD no later than 5 working days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s)**

per ORS 197.615 and OAR Chapter 660, Division 18

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting the adopted amendment, please print a completed copy of Form 2 on light **green paper if available**.
3. Send this Form 2 and one complete paper copy (documents and maps) of the adopted amendment to the address below.
4. Submittal of this Notice of Adoption must include the final signed ordinance(s), all supporting finding(s), exhibit(s) and any other supplementary information (ORS 197.615 ).
5. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) by DLCD of the adoption (ORS 197.830 to 197.845 ).
6. In addition to sending the Form 2 - Notice of Adoption to DLCD, please also remember to notify persons who participated in the local hearing and requested notice of the final decision. (ORS 197.615 ).
7. Submit **one complete paper copy** via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.
8. Please mail the adopted amendment packet to:

**ATTENTION: PLAN AMENDMENT SPECIALIST  
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT  
635 CAPITOL STREET NE, SUITE 150  
SALEM, OREGON 97301-2540**

9. **Need More Copies?** Please print forms on **8½ -1/2x11 green paper only if available**. If you have any questions or would like assistance, please contact your DLCD regional representative or contact the DLCD Salem Office at (503) 373-0050 x238 or e-mail **plan.amendments@state.or.us**.

NOTICE OF DECISION



**LAKE COUNTY**  
*Planning Department*

Darwin Johnson Jr., *Planning Director*  
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7 April 2011

NOTICE OF DECISION  
OF THE  
LAKE COUNTY BOARD OF COMMISSIONERS

File #: 1250-CP  
Applicant: Element Power US LLC  
Property Owner: Poplars Ranch Inc

Description: Comprehensive Plan Amendment for a Goal 3 Exception to establish a 100-acre "commercial utility facility for the purpose of generating power for the purpose of generating power for public use by sale" on property described as being within Township 26 South, Range 15 EWM., Section 35, Tax Lot 3100, which is in the A-2 zone.

Notice is hereby given that the Lake County Board of Commissioners granted a Comprehensive Amendment for an "Exception" from Goal 3 of Oregon's Statewide Planning Goals. Approval of the aforementioned land use application on April 6, 2011.

Copies of the Lake County Board of Commissioners adopted Findings of Fact are available for inspection by interested parties at the Lake County Courthouse, 513 Center Street, Lakeview, Oregon 97630 and a copy has been included with this Notice of Decision.

Any party aggrieved by the decision of the Lake County Board of Commissioners may exercise the right to appeal if the party provided input or evidence into the record concerning to this land use application. Please refer to Section 30.01 of the Lake County Zoning Ordinance for details.

This decision becomes final 21 days from the day this Notice of Decision is sent, unless appealed to the Oregon Land Use Board of Appeals (LUBA) by a party that either: appeared or participated in the proceedings leading to the decision either orally or in written, or determines they are an adversely affected or aggrieved part due to this land use action pursuant to Oregon Revised Statute 215.416(11).

The Findings document constitutes the land use permit sought by the applicant(s), thus, once the decision is final the applicant(s) may carry out the land use action as specified above.


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Authorize the approval to adopt the proposed findings of the applicant to support the Boards decision in the matter of the Planning Commission recommendation regarding the Goal 3 Exception concerning an application by Element Power US LLC commencing April 6, 2011

DONE AND DATED this 6<sup>th</sup> day of April, 2011

  
\_\_\_\_\_  
Commissioner

- Approved
- Denied
- Abstained

  
\_\_\_\_\_  
Commissioner

- Approved
- Denied
- Abstained

  
\_\_\_\_\_  
Commissioner

- Approved
- Denied
- Abstained

NOTICE OF DECISION

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR LAKE COUNTY, OREGON

**IN MATTER OF THE APPLICATION BY  
ELEMENT POWER US, LLC FOR A  
COMPREHENSIVE PLAN AMENDMENT  
TO EXCEPT 100 ACRES FROM  
STATEWIDE PLANNING GOAL 3  
(AGRICULTURAL LANDS)**

**FINDINGS OF FACT,  
CONCLUSIONS,  
AND DECISION**

**SECTION 1. SUMMARY AND INITIAL FINDINGS OF FACT**

- 1.1 On July 17, 2010, Element Power US, LLC (“Element” or the “Applicant”) filed with Lake County (“County”) a Conditional Use Permit Application and a Goal 3 Exception Comprehensive Plan Amendment Application to permit the establishment of a commercial utility facility for the purpose of generating power for public sale, and more specifically a solar energy generation facility, on up to 100 acres on a Tax Lot 3100 in Section 35, Township 26 South, Range 15, East, Lake County, Oregon (“Property”). The Property is composed of approximately 2,290 acres and zoned Agricultural Use (A-2) under the Lake County Zoning Ordinance (“LCZO”).
- 1.2 The Property is owned by Poplars Ranch, Inc. (“Poplars Ranch”), and Element leases 320 acres from Poplars Ranch (“Project Site”), as shown on Applicant’s Analysis Area Map. Only up to 100 acres of the Project Site would be used for solar energy generation, meaning that only approximately 4.4 percent of the overall Property would be removed from agricultural use. Element evaluated the entire Project Site to assess all potential impacts associated with the proposed use and demonstrate that a Goal 3 exception was warranted. This allows for micro-siting flexibility within the Project Site. Micro-siting flexibility allows Element to account for changes on the account of pre-construction surveys, engineering, and coordinating requirements under the CUP Approval. The specific 100-acre facility footprint within the Project Site will be confirmed at the time Applicant files for building permits, as required under the CUP Approval (defined below) and as a condition of this decision.
- 1.3 The proposed solar energy generation use would produce up to approximately 12 megawatts (“MW”) of energy and would interconnect to the regional transmission grid at the existing Bonneville Power Administration (“BPA”) 115-kV Fort Rock to La Pine transmission line and associated substation, both of which are located on land owned by Poplars Ranch. Applicant seeks to site up to a 12 MW project in order to meet utility provider needs and to be able to sell the generated energy into the regional market. Applicant seeks to remove up to 100 acres from Goal 3 in order to allow for the siting of the solar PV panels and related and supporting facilities, as described in the CUP Approval (defined below).
- 1.4 The Project Site is composed of Class VI and Class III non-high-value farmland soils and is located outside of any urban growth boundary (“UGB”) in the County. The larger

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Property is also composed of non-high-value farmland soils. The properties surrounding the Project Site are generally zoned agricultural and used for agricultural purposes, as shown on the 1-Mile Analysis Area aerial photograph included as Attachment 5 to Applicant's January 14, 2011 submission to the County Planning Commission ("Analysis Area Map").

- 1.5 The Project Site is located approximately 11 miles from Christmas Valley, an area designated as farm residential under the LCZO. It is bounded to the north, west, and east by property owned by Poplars Ranch, the south by a parcel owned by Rebecca Miles, and cater-corner to the south by a parcel owned by Dale and Catherine Libolt, although a private road separates the Project Site from the Miles and Libolt parcels, as shown the Analysis Area Map.
- 1.6 The LCZO permits a solar energy generation use in the A-2 zone as a commercial utility facility subject to a conditional use permit. On October 19, 2010, the Planning Commission approved CUP No. 1249 authorizing the proposed solar energy generation use subject to conditions, one being that the use obtain any necessary Goal 3 exceptions ("PC Decision"). The PC Decision was appealed to the Board, which affirmed the PC Decision in the Supplemental Findings, Conclusions, and Decision, dated December 15, 2010 ("Board Decision"). Together, the PC Decision and Board Decision comprise the County's "CUP Approval." The CUP Approval is the final use decision.
- 1.7 The Board considers a consolidated record for purposes of this proceeding, which includes the record from the CUP Approval as well as Element's application and supplemental information; the minutes and transcripts of the Goal 3 public hearings before the Planning Commission; written submissions and comment letters, exhibits, and the staff reports introduced before the Planning Commission; the minutes and transcripts of public hearings before the Board; and the written submissions and comment letters, exhibits, and any additional information introduced before the Board ("Record"). This findings document provides findings and conclusions approving the Goal 3 exception based on substantial evidence contained in the Record.
- 1.8 A notice of the comprehensive plan amendment procedure was submitted to the Oregon Department of Land Conservation and Development at least 45 days prior to the first evidentiary hearing before the Planning Commission, consistent with ORS 197.610. Notices to adjoining property owners were timely submitted to the local newspaper and to property owners within 500 feet of the Property.
- 1.9 The first public hearing was conducted on September 14, 2010 before the Planning Commission, there being a quorum present to receive evidence and testimony about the application. The hearing was continued to a date certain of October 19, 2010. On October 19, 2010, the Planning Commission again continued the hearing until November 16, 2010. On November 8, 2010, Applicant requested that the County set over the November 16 Planning Commission hearing until late January or early February 2011. The County granted Applicant's setover request on November 9, 2010.
- 1.10 On January 18, 2011, after proper notice, the Planning Commission held the third public hearing on Applicant's Goal 3 exception. The Planning Commission received oral and written testimony both in favor and opposition, including testimony from citizens in

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opposition to the proposed use, the Concerned Citizens of North Lake County (“CCNLC”). Members of the CCNLC were primarily residents of Christmas Valley, with the closest member of the CCNLC living approximately one mile from the Project Site. The content of CCNLC testimony ranged from general opposition of solar facility siting in the County and concerns about potential impacts to farming to ramifications on property values and safety issues. Applicant provided oral rebuttal testimony in response. The Planning Commission closed the Record and continued the hearing for deliberations to a date certain of February 15, 2011.

- 1.11 On February 15, 2011, the Planning Commission deliberated on the Goal 3 exception, taking into account testimony both in favor and opposed to the application in the Record, and made a recommendation to the Board to approve Applicant’s Goal 3 exception (“PC Recommendation”). Individual comments (both oral and written) from the Planning Commissioners are included in the Record.
- 1.12 After proper notice, the Board held a public hearing on April 6, 2011 to consider the PC Recommendation. The Board heard testimony both in favor and in opposition to the exception request, including testimony from members of the CCNLC, and rebuttal from Applicant. The Board then closed the public hearing, deliberated, and moved to adopt Applicant’s proposed findings, conclusions, and decisions as its own to support approval of Element’s application. The motion passed and the Board approved Applicant’s exception request to allow up to 100 acres to be removed from Goal 3 for the purpose of solar energy generation.

**SECTION 2. FINDINGS AND CONCLUSIONS OF LAW**

- 2.1 ***Consideration of Whether Other Exceptions to Statewide Planning Goals Are Required.*** In the CUP-1249 proceeding, opponents argued that the proposed use required not only the requested Goal 3 exception but also an exception to Statewide Planning Goal 14. As described in the CUP Approval, the County found that no Goal 14 exception was required based on the reasoning set forth in section 2.1 of the Board Decision and section 2.1 of the PC Decision, which are incorporated herein by reference. The Board previously found that the proposed use is not an urban use and incorporates by reference the findings and analysis to support that finding into this decision.
- 2.2 ***Goal 3 Exception Introduction.*** The Board finds that a Goal 3 exception is warranted for the reasons set forth in this decision document. The Board grants the exception request to remove up to 100 acres of the Project Site from Goal 3 for solar energy generation.

Statewide Planning Goal 3 states:

*Agricultural lands shall be preserved and maintained for farm use, consistent with existing and future needs for agricultural products, forest and open space and with the state’s agricultural land use policy expressed in ORS 215.243 and 215.700.*

Goal 3 defines agricultural land in Oregon as land of predominantly Class I, II, III, and IV soils as identified in the Soil Capability Classification System of the United States Natural Resource Conservation Service (“NRCS”), and other lands that are suitable for farm use



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taking into consideration soil fertility, suitability for grazing, climatic conditions, existing and future availability of water for farm irrigation purposes, existing land-use patterns, technological and energy input requirements, and accepted farming practices. See Statewide Planning Goal 3 and OAR 660-030-0010, *et seq.*

The Project Site is flat and has minimal vegetation, has no associated irrigation water rights, and is crossed by the BPA 115-kV Fort Rock to La Pine transmission line. It is included in the Soil Survey for North Lake County, Oregon. The survey inventories 2,716,379 acres of farmland in North Lake County. Removing 100 acres of farmland from production would mean a 0.00368 percent decrease in inventoried agricultural farmland in North Lake County.

The Project Site is composed of the following soil mapping units:

- 200-Abert ashy loamy sand, 0 to 2 percent slopes;
- 520-Playas;
- 578-Salhouse ashy loamy fine sand, strongly alkaline, 2 to 20 percent slopes; and
- 628-Thornlake ashy silt loams, 0 to 2 percent slopes.

Accordingly to the NRCS and as shown on Figure 3 of Applicant's Environmental Review in the Record, the Abert, Salhouse, and Thornlake soils are nonirrigated capability Class VI. Playas soils are nonirrigated capability Class VIII. The Board finds that the soil types and classifications are accurately identified above. Accordingly, the Project Site consists of no high-value farmland soils. The NRCS survey also confirms that the larger Property consists of no high-value farmland soils.

The proposed solar energy generation use would occupy up to 100 acres of non-high-value farmland soils on the Project Site, meaning that up to 100 acres of non-high-value farmland would no longer be available for Poplars Ranch to use for agricultural purposes, specifically grazing and pasture use, which the Board finds are activities falling within the definition of "commercial agricultural enterprise" under OAR 660-033-0020(2).

- 2.3 **OAR 660-004-0020, Exception Requirements.** To establish that an exception is warranted, Goal 2 and OAR 660-004-0020 require that an applicant must demonstrate (i) that there are reasons that justify why the state policy embodied in the applicable goal should not be applied; (ii) that areas which do not require an exception cannot reasonably accommodate the use; (iii) that long-term environmental, economic, social, and energy ("ESEE") consequences resulting from the use at the proposed site are not significantly more adverse than would typically result in other areas requiring a goal exception; and (iv) the proposed uses are or can be made compatible with other adjacent uses. The exception criteria are addressed individually in the following sections.
- 2.4 **OAR 660-004-0022, Reasons for a Goal 3 Exception.** OAR 660-004-0022 elaborates on the permissible reasons for an exception under OAR 660-004-0020. The rule takes the approach of specifically identifying permissible reasons for exceptions for certain uses and goals in OAR 660-004-0022(2)-(10), and identifying permissible reasons for all other uses

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in OAR 660-004-0022(1). The Board concludes that the types of reasons that justify a commercial utility facility use on agricultural resource lands are set forth in OAR 660-004-0022(3). Despite arguments raised to the contrary, the Board finds that a commercial utility use (like Applicant's proposed solar energy generation) is considered a rural industrial development under OAR 660-004-0022(3); the proposed use is not an urban use, as described in the Board's findings under section 2.1 above and the Project Site is outside of a UGB.

The Board concludes that while the Goal 3 policy and protections are broad, reasons under OAR 660-004-0022(3)(a), or alternatively, OAR 660-004-0022(3)(c), nonetheless warrant why the Goal 3 policy should not apply to 100 acres within the Project Site. As described below, the Board concludes that specific circumstances justify departure from state policy embodied in Goal 3.

Before analyzing the justification for the proposed use under OAR 660-004-0022(3)(a) or (3)(c), the Board first finds that Applicant's proposed solar energy generation use must be located on a site with several physical and geographical attributes. All aspects are equally important, and a suitable site must possess all aspects in order to be viable:

- Proximity and access to BPA infrastructure to provide for reliable transmission and optimal voltage, and to minimize overhead transmission lines;
- Grade of 2 percent or less to reduce ground disturbance;
- Zoning that allows for commercial utility development;
- Solar resource without obstructions that could block the sun;
- Landownership and adequate parcel size, one factor being a willing landowner who preferably owns surrounding parcels; and
- Environmental considerations (wildlife, cultural resources, water resources, distance to designated areas of recreation, and visual resources).

Additionally, to support the basis for why these factors are necessary to site the proposed use, the Board adopts as its own findings and incorporates herein Attachment 1 of Applicant's January 14, 2011 submission to the Planning Commission ("Site Selection Criteria Memo").

The Board finds that a solar energy generation use is significantly dependent upon a unique resource located on agricultural land. OAR 660-004-0022(3)(a) lists examples of such unique resources and resource sites, including "geothermal wells, mineral or aggregate deposits, water reservoirs, natural features, or rivers or ocean ports." While solar resource is not listed in OAR 660-004-0022(3)(a) as an example of a unique resource, the Board concludes that a solar resource is a unique resource within the scope of OAR 660-004-0022(3)(a). The rule language is not limiting, and in fact, the introductory provision in OAR 660-004-0022(3) provides: "appropriate reasons and facts include, but

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are not limited to, the following.” Additionally, there is consistent precedent in other rural counties where a wind resource has been found to be a unique resource under OAR 660-004-0022(3)(a) even though not listed in the rule. Wind is dependent upon specific site characteristics found on agricultural resource lands, as is solar.

Therefore, despite the CCNLC’s counsel’s argument that OAR 660-004-0022(3)(a) does not apply in this case, the Board finds for the reasons set forth above, that OAR 660-004-0022(3)(a) is applicable and provides permissible reasons for a Goal 3 exception. Agricultural land provides a uniquely source of solar energy for commercial-scale energy production. It offers a flat grade that provides a good grade for maximum efficiency of capturing solar rays and minimizes ground-disturbing grading activities. Agricultural land has minimal vegetation (no trees or larger vegetation), which provides for optimal solar collection (nothing blocking the sun from reaching the solar PV panels). Additionally, evidence of solar data shows optimal solar resources on agricultural land in the County, including the Project Site. Accordingly, for these reasons and those outlined in Applicant’s application, supplemental materials, and testimony contained in the Record, the Board finds that appropriate reasons and facts warrant an exception to Goal 3 under OAR 660-004-0022(3)(a). The proposed solar energy generation use is significantly dependent (*i.e.*, the primary purpose of the facility is to generate power from the sun) on the unique solar resource located on agricultural land, specifically the Project Site.

The Board also finds that the proposed use will have a significant comparative advantage due to its location because the Project Site meets all the physical and geographical attributes required for siting a viable solar energy generation facility, as summarized above and described fully in the Site Selection Criteria Memo. Specifically:

- The Board finds that the Project Site provides the necessary proximity and access to the BPA infrastructure. The Project Site has direct access to the BPA 115-kV For Rock to La Pine transmission system. The optimal voltage range for interconnection of a commercial-scale solar project of the size being proposed is 69 kV to 115 kV. The CCNLC argued that the proposed use does not need to interconnect with the BPA transmission system and therefore could be sited elsewhere in the County. However, for the number of reasons described in the Site Selection Criteria Memo (reasons that are incorporated herein as the Board’s findings), the Board agrees with Applicant and finds that other transmission systems in the County either do not provide the optimal voltage for interconnection (other lines are within the 500 kV or 800 kV range) and do not meet Applicant’s reliability requirements to minimize risk (Element’s prospective utility customers specifically said that they would strongly prefer a contract for a project that is connected directly to the BPA system). Further, the Board finds that another site would require longer overhead transmission line lengths for interconnection to an optimal transmission line. Applicant evaluated other sites in the County, including the Stadel and Bear Creek parcels, but both these sites were three miles from the closest BPA substation and land uses between the sites and the substation were conflicting with the construction of a new overhead line; therefore, the sites were not considered any further. Applicant seeks to minimize overhead transmission line lengths given that overhead transmission lines cost approximately \$500,000 a mile for facilities costs and construction, requires additional easements to bring the

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transmission line across landowners' properties, and increases potential impacts from increased disturbance. The Project Site is directly adjacent to the BPA transmission line (on the larger Property), and little to no overhead transmission line is needed for interconnection. Applicant does not need an easement or land control agreement from any landowner other than Poplars Ranch.

- The Board finds that the Project Site also has the necessary physical grade. It is less than 2 percent grade, and consequently the proposed use will require minimal ground disturbance.
- The Project Site is zoned to allow for the siting of the proposed use. The Project Site is zoned A-2 under the LCZO, which allows a commercial utility facility as a conditional use subject to a Goal 3 exception if the footprint would preclude more than 20 acres of non-high-value farmland from commercial agricultural enterprise.
- The Board finds that there is evidence in the Record to demonstrate that the Project Site has a viable solar resource and there are no obstructions, including trees; other tall vegetation; or buildings in proximity that would interfere with the site's solar generation capacity. Applicant has measured the solar irradiance of the Project Site for over six months to confirm the viability of the solar resource.
- Poplars Ranch has entered into a contractual agreement with Applicant for the design, construction, operation, and retirement of the proposed use. Additionally, Poplars Ranch owns the property on three sites of the Project Site, which minimizes the potential conflicts with adjacent landowners. The Property is of adequate parcel size to accommodate up to 12 MW of solar energy generation while allowing for micrositing to avoid and minimize impacts, as described in more detail below in section 2.6 under Environmental. The Property is also accessible from an existing access road, and no transportation upgrades are required for the Facility's construction or operation.
- The Board finds that the Project Site, as described in the findings in response to OAR 660-004-0020(2)(c) below, offers a site with minimal potential environmental impacts, all of which can either be avoided or mitigated through project design or other measures.

In addition, the Board finds that the propose use benefits the County's economy and causes only a minimal loss of productive resource lands. Specifically:

- The Board agrees with Applicant's analysis and finds that removing up to 100 acres from commercial agricultural enterprise will increase the County's tax base and provide the County with approximately \$200,000 in Year 3 of the propose use's operation. Poplars Ranch currently pays \$627.45 in property taxes. Applicant is leasing only 100 acres, so the bill for the 100 acres likely amounts to only \$27 per year. As described in Attachment 2 to Applicant's January 14, 2011 submission to the Planning Commission ("Economic Impacts Memo"), which the Board incorporates by reference and adopts as its own additional findings to demonstrate

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an economic benefit to the County, using the NREL JEDI Model, the proposed use will result in almost 10,000 times the current property tax revenue to the County in Year 3.

- Construction of the proposed use will require approximately 30 temporary construction jobs over a six- to nine-month period. Indirect and induced jobs may equal 100 new jobs in the region. These may include service jobs to support construction workers, county personnel hired through additional tax revenues, or jobs created as a result of increased money resulting from the project spent in the region. The Board finds that during construction, direct and indirect economic benefits will be recognized given the influx of workers living and working in the community and utilizing community services such as stores and restaurants. At least one permanent operations and maintenance job will be added to the community once the proposed use is operational. The Board incorporates by reference and incorporates as its own findings those reasons outlined in the Economic Impacts Memo to demonstrate an economic benefit to the County.
- The Board finds that the County's economy is largely based on agricultural activities; however, the loss of farm income associated with the proposed use is more than offset by revenue to Poplars Ranch, the local landowner, from the lease. This income can be used to further improve and further the landowner's other agricultural operations on more productive farmland. Improving productivity on other farmlands in the County has an economic benefit to the County.
- The Board finds from testimony provided by the Poplars Ranch landowner that the Project Site is less productive than other lands owned by Poplars Ranch and has no associated water rights. Poplars Ranch has no intent of transferring water rights to the Project Site, and no new water rights are available because the Project Site is located in the Fort Rock Ground Water Limited Area. Without irrigation, the soils capability falls within the Class VI and Class VIII categories, as discussed under section 2.2 above. Removing up to 100 acres of Class VI and VIII from commercial agricultural enterprise results in a minimal loss of productive resource lands in the County given that North Lake County has over 2,716,379 acres of farmland. Plus, as found above, the lease revenues from the proposed use provide income that can be used to benefit Poplar Ranch's agricultural operations on more productive lands in the County, offsetting any potential loss of resource productivity.
- In addition to soil capability, an alkali feature (approximately 40 acres) located in the middle of the Project Site reduces the site's agricultural productivity. Even if Poplars Ranch used the Project Site for crop cultivation, at least 40 acres of the site (or 12.5 percent) would be left out of production because of this feature. Furthermore, the existence of the BPA transmission infrastructure would also interfere with any potential crop cultivation on the site. Currently, these features reduce the available grazing area. Poplars Ranch views the Project Site as lower value than its other properties, and removing up to 100 acres from agricultural use results in little to no loss in agricultural productivity for Poplars Ranch's ongoing

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agricultural operations. Approving the Goal 3 exception only amounts to approximately a 4.4 percent loss in the Property's available land for agricultural production.

Accordingly, for these reasons and those outlined in Applicant's application, supplemental materials, and testimony contained in the Record including the Site Selection Criteria Memo and the Economic Impacts Memo, which are incorporated herein as additional Board findings, the Board concludes that appropriate reasons and facts warrant an exception to Goal 3 under OAR 660-004-0022(3)(c). The proposed use will have a significant comparative advantage due to its location, which will benefit the County's economy and cause only a minimal loss of productive resource lands.

In sum, the Board finds that reasons justify why the agricultural protection policy of Goal 3 should not apply under OAR 660-004-0022(3)(a) and, alternatively, OAR 660-004-0022(3)(c). The above findings set forth the facts and assumptions used as the basis for determining why Goal 3 should not apply to 100 acres within the Project Site and why the proposed solar energy generation use requires a location on resource land. Therefore, OAR 660-004-0020(2)(a) is met.

- 2.5 **OAR 660-004-0020(2)(b), Alternatives Analysis.** Applicant must demonstrate that areas which do not require a new Goal 3 exception "cannot reasonably accommodate the use." Under this analysis, three factors must be considered and satisfied:

"(A) The exception shall indicate on a map or otherwise describe the location of possible alternative areas considered for the use, which do not require a new exception. The area for which the exception is taken shall be identified;

"(B) To show why the particular site is justified, it is necessary to discuss why other areas which do not require a new exception cannot reasonably accommodate the proposed use. Economic factors can be considered along with other relevant factors in determining that the use cannot reasonably be accommodated in other areas. Under the alternative factor the following questions shall be addressed:

"(i) Can the proposed use be reasonably accommodated on non-resource land that would not require an exception, including increasing the density of uses on nonresource land? If not, why not?

"(ii) Can the proposed use be reasonably accommodated on resource land that is already irrevocably committed to nonresource uses, not allowed by the applicable Goal, including resource land in existing rural centers, or by increasing the density of uses on committed lands? If not, why not?

"(iii) Can the proposed use be reasonably accommodated inside an urban growth boundary? If not, why not?

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“(C) This alternative areas standard can be met by a broad review of similar types of areas rather than a review of specific alternative sites. Initially, a local government adopting an exception need assess only whether those similar types of areas in the vicinity could not reasonably accommodate the proposed use. Site specific comparisons are not required of a local government taking an exception, unless another party to the local proceeding can describe why there are specific sites that can more reasonably accommodate the proposed use. A detailed evaluation of specific alternative sites is thus not required unless such sites are specifically described with facts to support the assertion that the sites are more reasonable by another party during the local exceptions proceeding.”

OAR 660-004-0020(2)(b).

In Applicant’s January 14, 2011 submission to the Planning Commission, Applicant identified the proposed Project Site (Attachment 1) and included County zoning maps (Attachment 4) to describe the location of possible alternative areas for the solar energy generation use that would not require a goal exception. These areas are non-resource lands, meaning lands zoned commercial, light industrial, or heavy industrial under the LCZO. The Board finds that, with this information, OAR 660-004-0020(2)(b)(A) is met.

Under the alternatives analysis, the Board finds that in order for an area not requiring a goal exception to be considered “reasonable,” first and foremost, the proposed use must be able to interconnect with the BPA system. In order to do this, a site must be (1) adjacent to an acceptable voltage BPA transmission line or substation (69 kV to 115 kV) or (2) be within a minimal distance and have area landowners willing to grant a transmission line easement in order to interconnect to the BPA system. Additionally, a site must have the following characteristics: (1) a grade of 2 percent or less; (2) an underlying zone that allows for the proposed solar energy generation use; (3) unobstructed access to the solar resource, meaning no shading trees, other vegetation, or buildings/structures; (4) willing landowners to lease the land or provide an option to purchase; and (5) avoided, minimized, or mitigated environmental conflicts. See also section 2.4 above, which is incorporated here by reference in support of the finding that Applicant adequately evaluated alternatives under OAR 660-004-0020(2)(b). The Board finds that none of the non-resource lands within the County meet all of these site selection requirements, which is mandatory for a site to move forward in Applicant’s site development process. Consequently, in Applicant’s site selection analysis, only resource lands were considered for the proposed use. Given that these sites would require a goal exception, they are not incorporated into the OAR 660-004-0020(2)(b) alternatives analysis.

In a written submittal, the CCNLC, through its legal counsel, identified more than 20 possible alternative sites for the proposed use. Exhibit 3 of Mr. Reeder’s October 19, 2010 submission to the Planning Commission contains the CCNLC’s list of alternative sites, which are consolidated in an area of the County around the U.S. Air Force Radar Site, as shown on the map included in Exhibit 3. The CCNLC provided no explanation for why the properties would serve as alternatives under this analysis. The sites are not within a UGB and are zoned EFU (or possible on public lands; in some instances is it difficult

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based on the lack of specificity to identify which properties were referenced). Since the sites are resource zoned, the alternatives analysis does not require that they be considered. Even if they were considered under this analysis, the sites do not meet Applicant's site selection requirements (as described below in the EESE analysis) and therefore are not reasonable. The CCNLC also suggested that Applicant should consider siting the proposed use on public lands owned by the state and federal government. The County finds that public lands are not within the scope of this analysis, as the County does not regulate activities on such lands. Regardless, Applicant did consider federal and state lands in its original site selection process; however, no appropriate public land sites were identified during the analysis, as none could meet Applicant's site selection criteria.

The Board further finds that the proposed use cannot be reasonably accommodated on non-resource lands by increasing the density of uses on such lands. As described above, there are no reasonable non-resource lands. However, even if there were, increasing the density of uses, if anything, makes it less reasonable in that it decreases the amount of acreage available for solar energy generation and could increase potential conflicts among uses permitted in commercial and industrial zones. The proposed use requires up to 100 acres in order to generate approximately 12 MW of solar energy, which is the size and energy Applicant proposes based on input from potential utility customers. Further, the viability of the resource can be interrupted or decreased with increased density of various uses on non-resource lands (increase in buildings and landscaping). Moreover, County non-resource lands are in closer proximity to rural residential and rural community areas, which County residents have advocated that developers avoid. Plus, there is no industrial land capable of meeting Applicant's site selection criteria.

There are no lands irrevocably committed to non-resource uses in the County that could reasonably accommodate the proposed solar energy generation. The CCNLC argued that the proposed use should be sited at the U.S. Air Force Radar Site, and although the CCNLC did not argue that this site was irrevocably committed to non-resource uses, even if it had, the site cannot reasonably accommodate the proposed use because it is not (1) adjacent to an acceptable voltage BPA transmission line or substation (69 kV to 115 kV) or (2) within a minimal distance and have area landowners willing to grant a transmission line easement in order to interconnect to the BPA system.

The Board also finds that it is not reasonable to accommodate the proposed use within the UGB. One, not only is the majority of land within the UGB rural residential, to the extent it is commercial, light industrial, or heavy industrial, the Board finds that the same reasons discussed above with respect to increased density support why it is not reasonable to site the use within the UGB. The CCNLC raised an argument that Applicant should pursue roof-mounted solar generation in non-resource zones or within the UGB, but the Board agrees with Applicant and finds that roof-mounted solar panels in non-resource zones or in the UGB are not capable of producing the desired commercial-scale energy generation and are more expensive than ground-mounted panels. More importantly, it is not Applicant's business model to develop roof-top solar generation nor is it the subject of the pending land use application. Economic factors, such as this increased cost of technology, are other factors the Board weighed in considering reasonableness under the alternatives standard.



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Finally, the Board finds that the proposed solar energy generation use can be reasonably accommodated without the provision of public facility or services. No sewer or water services will need to be extended to the Project Site in order to accommodate the proposed use.

Thus, for these reasons, the Board finds that areas which do not require a new exception cannot reasonably accommodate the proposed use and therefore OAR 660-004-0020(2)(b)(A)-(C) is met. The Board finds that Applicant identified and studied alternative areas of non-resource land, inside UGBs, and outside UGBs on exception land, including areas specifically identified in public testimony as potential locations for the proposed use (*i.e.*, the radar site and roof-tops inside the UGB). To the extent that other non-resource sites were raised during the proceeding, such sites were not raised with sufficient specificity or explanation to warrant further evaluation. Sites identified by parties to the proceeding that are zoned as resource lands are addressed under the ESEE analysis below. In sum, the Board considered evidence submitted by Applicant and by the public and finds that none of the alternative sites can reasonably accommodate the proposed use.

- 2.6 **OAR 660-004-0020(c), EESE Analysis.** Applicant must demonstrate that the EESE consequences resulting from the proposed use at the Project Site are not significantly more adverse than would typically result from the same proposal being located in another area requiring a goal exception. Specifically,

“[t]he long-term environmental, economic, social and energy [ESEE] consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts *are not significantly more adverse than would typically result from the same proposal being located in other areas requiring a Goal exception.* The exception shall describe the characteristics of each alternative area considered by the jurisdiction for which an exception might be taken, the typical advantages and disadvantages of using the area for a use not allowed by the Goal, and the typical positive and negative consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts. A detailed evaluation of specific alternative sites is not required unless such sites are specifically described with facts to support the assertion that the sites have significantly fewer adverse impacts during the local exceptions proceeding. The exception shall include the reasons why the consequences of the use at the chosen site are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site. Such reasons shall include but are not limited to, the facts used to determine which resource land is least productive; the ability to sustain resource uses near the proposed use; and the long-term economic impact on the general area caused by irreversible removal of the land from the resource base. Other possible impacts include the effects of the proposed use on the water table, on the

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costs of improving roads and on the costs to special service districts[.]”

OAR 660-004-0020(c) (emphasis added).

The Board finds that the EESE consequences from the solar energy generation use at the Project Site (taking into account mitigation) are not significantly more adverse than what would typically result on another agricultural resource parcel and that a Goal 3 exception is justified.

In a written submittal, the CCNLC, through its legal counsel, identified more than 20 possible alternative sites for the proposed use. Exhibit 3 of Mr. Reeder’s October 19, 2010 submission to the Planning Commission contains the CCNLC’s list of alternative sites, which are consolidated in an area of the County around the U.S. Air Force Radar Site, as shown on the map included in Exhibit 3. The Board finds, however, that the CCNLC did not “specifically describe with facts to support the assertion that the sites have significantly fewer adverse impacts during the local exceptions proceeding” as required under OAR 660-004-0020(2)(c) to trigger a detailed site-specific alternatives analysis under the EESE analysis. Nonetheless, the Board finds that Applicant adequately considered alternative sites under OAR 660-004-0020(2)(c), including those proposed by the CCNCL. Although the Board finds that a detailed evaluation is not required, even if a detailed evaluation of those sites the CCNCL identified was required, the Board finds that OAR 660-004-0020(2)(c) is met.

Specifically, the Board concludes that those sites identified by the CCNCL are not reasonable in that the sites do not meet Applicant’s site selection criteria. The Board interprets OAR 660-004-0020(2)(c) as requiring the Board to consider whether the “same proposal” located on other agricultural resource lands would have significantly fewer adverse results. In order to be considered the “same proposal,” the Board finds that the alternative site must offer the same site selection features as the Project Site, meaning that the alternative site is reasonable (as defined under OAR 660-004-0020(2)(b) above). The intent of the rule is not to have Applicant evaluate agricultural resource lands that are not suitable to host the same proposal.

As shown on Applicant’s Christmas Valley Solar and Alternative Sites map in the Record, the CCNLC sites are east of Christmas Valley (whereas the proposed Project Site is located west of Christmas Valley). First and foremost, the CCNCL sites do not have access to the BPA transmission infrastructure with optimal voltage and minimal distance of a new overhead transmission line. While CCNLC members argued that Applicant should interconnect with the Midstate Electric or the BPA line in the vicinity, the Board finds that this is not feasible for Applicant based on those reasons set forth in the Site Selection Criteria Memo. Second, there is an issue of land ownership (*i.e.*, public and private land for which Applicant does not have control and there are questions of landowner willingness to entering into necessary agreements) and parcel size (*i.e.*, private land is composed of smaller parcels). These two reasons alone are sufficient for the alternative sites to not satisfy Applicant’s site selection requirements, and consequently it is not possible to site the same proposal on these alternative sites. The Board finds the CCNLC’s testimony unpersuasive on the proposition that the proposed sites are better

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alternative sites. Moreover, even if one of the identified sites was reasonable, the EESE consequences resulting from the proposed use would not amount to “significantly fewer adverse impacts” because of the minimal EESE consequences resulting from the use of the Project Site, as the Board finds below.

Environmental

The Board finds that the proposed solar energy generation use will have minimal environmental impacts on the Project Site. Applicant performed an extensive environmental review and survey for the Project Site that is included in the Record (“Environmental Review”). The Board incorporates the findings and conclusions from the Environmental Review by reference to support the Board’s findings that the proposed use will have minimal long-term environmental consequences. Additionally, the Board makes the following findings:

- *Wastewater.* The Facility does not require the extension of water or sewer services and will have no off-site wastewater discharge or sewer disposal.
- *Stormwater.* During construction, Applicant will obtain an NPDES 1200-C permit that requires the implementation of a stormwater pollution prevention (“SWPP”) plan incorporating best management practices for erosion control. During site preparation, the SWPP plan will be implemented and preliminary erosion control and sediment control measures will be installed. During operation, all stormwater will be managed onsite.
- *Water and Groundwater.* Any water necessary for the proposed use (*i.e.*, water for dust control during construction or water for panel washing during operation) will be purchased from a licensed source and trucked to the Project Site as needed. Accordingly, the propose use will have no impact on the water table.
- *Air Emissions.* There will be no air emissions (including dust and odor) during operation, with minimal emissions from construction vehicles and ground-disturbing activities during construction, which will be comparable with surrounding farming practices.
- *Noise.* The proposed use generates minimal noise and will comply with Oregon Department of Environmental Quality (“DEQ”) noise regulations.
- *Wetland and Water Resources.* Applicant will avoid the alkali flat located within the Project Site as well as all NWI-mapped features. In the event impacts cannot be avoided, Applicant will minimize and mitigate impacts as required by state and federal wetland regulations and would obtain any necessary permits from the Oregon Department of State Lands and/or the U.S. Army Corps of Engineers per Condition 4.3 of the CUP Approval.
- *Ground Disturbance and Habitat.* Minimal grading is required and solar PV panels will be installed for the most part on the Project Site’s existing grade. Likewise, minimal vegetation removal is required given the Project Site’s existing

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agricultural grazing operation. The Environmental Review surveys the Project Site's habitat and species and evaluates potential impacts on habitat and plant and wildlife species, including sensitive and threatened and endangered species. Applicant's consultant confirmed with the Oregon Department of Fish and Wildlife the appropriate survey protocols and after completing the surveys, concluded the potential impacts from the proposed use are minimal and no impacts to critical habitat will occur.

- *Cultural Resources.* The proposed use will be designed and operated so as to minimize disturbance to identified historic and cultural resources, and to the extent the proposed use cannot avoid disturbance, appropriate permits will be obtained from the Oregon State Historic Preservation Office ("SHPO") in accordance with applicable state law, as required under Condition 4.3 of the CUP Approval. Applicant performed a cultural resources survey and is in coordination with the SHPO.
- *Transportation.* No transportation upgrades or improvements to public roadways are required to facilitate the proposed use on the Project Site.

### Economy

The Board found under section 2.4 above that the proposed use will have a benefit to the County's economy. The Board concludes that the same findings and reasons support the Board's analysis under the EESE criterion. The economic advantages of the proposed solar energy generation use far outweigh the loss of 100 acres of non-high-value, lower productivity farmland from grazing activities. Therefore, the question for the Board under this criterion is whether the proposed use on the Project Site will have economic consequences that are *significantly* more adverse than if the proposed use was located on another agricultural parcel in the County. For the following reasons, and those set forth in the Economic Impacts Memo (which the Board incorporates by reference and adopts as its own findings), the Board finds that the proposed solar energy generation use will not result in more significantly adverse economic impacts than if the same proposal was located on other agricultural resources land in the County.

The Project Site is located in an agricultural area with a low density of farm dwellings. The farm uses within a one-mile radius of the Project Site consist primarily of grazing and alfalfa production to the south and west. The closest rural-residential-zoned land is approximately 11 miles from the Project Site. The parcel sizes surrounding the Project Site are larger than those found in areas east of Christmas Valley, which allows for an increased buffer between the proposed use and adjacent properties. Utility infrastructure exists on the Project Site and the surrounding area in the form of high-voltage transmission lines that cross the Project Site.

The Project Site has low agricultural resource value, and Poplars Ranch can utilize the money received from yearly lease payments toward improving agricultural operations on more productive lands. Grazing activities on the Project Site contribute little to Poplar Ranch's overall agricultural operations. The Board finds that excepting 100 acres will have little to no economic consequences resulting from the corresponding decrease in

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agricultural production that Poplars Ranch may experience on the Project Site.

The proposed use will increase revenue for the County in the form of property taxes, resulting in a positive economic impact. As described in the Economic Impacts Memo, the current property tax assessment on the Project Site is approximately \$27 per year. The County finds that other agricultural parcels have similar tax assessments (with farm deferral status), and siting the proposed use on another agricultural parcel would result in a similar tax benefit.

The proposed use will not burden any public service. Therefore, the cost of extending public services is not a factor the Board needs to consider when evaluating economic consequences.

The Board acknowledges that the CCNLC raised concerns over the proposed use's economic impacts, specifically the allegation that the proposed use will decrease residential property values in the Christmas Valley area. However, the Board finds that the CCNLC's arguments and presented evidence are unconvincing to demonstrate that the proposed solar generation use on the Project Site will result in economic impacts that are "significantly more adverse" than if the use was located on another agricultural parcel. The analysis under OAR 660-004-0020(2)(c) is much more narrow than the CCNLC contends. The analysis requires the CCNLC to identify specific characteristics of specific agricultural properties that, if the proposed use was sited there, would support a finding of "significantly fewer" impacts to property values than if the proposed use was located on the Project Site. The CCNLC simply makes blanket assertions that solar energy generation will have a negative impact on property values based on evidence concerning energy generation and property values.

The Board concludes that the evidence the CCNLC provided does not support a finding that the proposed *solar* energy generation use will result in significantly more adverse impact on property values than if sited on another agricultural site in the Property. Applicant responded to the CCNLC's contention by providing information in the Economic Impacts Memo describing the published Bureau of Land Management Environmental Impact Study that found that the Lucerne Valley PV solar project in California would have no potential impact on nearby property values. In fact, given the suitability of agricultural land for solar development, there may actually be an increase in agricultural property values if nearby properties are considered for solar energy installations and viable projects are under operation. Even if there were potential impacts to property values from the proposed use, siting the same proposal on agricultural land elsewhere in the County would likely have the same or greater impacts on property value, not "significantly fewer." Accordingly, the Board finds that any potential impact on property values from the proposed energy generation use will not have economic consequences that will be significantly more adverse than if the proposed use was located on another agricultural parcel.

Analysis of economic consequences must balance the various economic factors, and when the Board considers each factor discussed above, the Board finds that the economic consequences of the proposed solar energy generation use at the Project Site "are not significantly more adverse" than if the use was located on another agricultural parcel.

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### Social

The Board finds that the proposed solar energy generation use at the Project Site will have minimal impacts on social consequences and not result in significantly more adverse impacts than what would typically occur on another agricultural parcel. Under the social prong of the EESE analysis, the Board limits its review to impacts on utility providers, transportation systems, or existing social service networks such as schools, housing, police service, and fire service. As found above, no extension of water or sewer service is required. With respect to transportation, no public road upgrades or road improvements are required. Construction traffic will be limited and equipment deliveries will be scheduled over a period of time to minimize the amount of traffic on adjacent roads. It is expected that 40 flat-bed truck trips will be needed to deliver solar panel modules, and an additional 40 truck trips will deliver other materials, including electrical equipment. Approximately 10 general work trucks and five large equipment vehicles will be on-site during construction at any time. Construction of the facility will have minimal impact on area schools or housing given the current capacity of those resources in the County and the limited demand for these resources by construction workers (*i.e.*, temporary workers frequently rely on area hotels or mobile home parks for living quarters). In fact, the proposed use will offer educational opportunities for local schools to learn about renewable energy.

The Board finds that the need for police service is low given the nature of the use, and the proposed use will be surrounded by a security fence and gate that will prevent public access and vandalism. Finally, the impact on fire services will also be low. Applicant will train construction and operation employees to respond to on-site fire-related situations. Risk of fire at ground-mounted facilities is very minimal because of precautions taken during site preparation and the lack of burnable material contained in the solar panels. Applicant is required to implement a fire safety plan, and increased tax revenues will more than offset any demand on the County's fire service providers. For these reasons, and those included in Applicant's submissions that are incorporated as findings by reference, the Board finds that the proposed solar energy generation use will have little to no impacts on utility providers or service providers within the County, and consequently the Board finds that the social consequences resulting from the proposed use are not significantly more adverse than if it was located on another agricultural resource parcel.

### Energy

The Board finds that the proposed solar energy generation use will have little to no adverse energy consequences. No extension of public water or sewer facilities or services is required, solar panels will produce renewable energy (up to 12 MW), and energy generated is emission-free and clean.

### Conclusion

The Board finds that the EESE consequences of excepting up to 100 acres from Goal 3 for the Project Site and using it for solar energy generation will not result in significantly more adverse impacts than if the use was sited on another agricultural parcel in the County. An element of Applicant's site selection process was to ensure that potential impacts could be avoided and minimized, and the Board finds that this has been achieved. Facts

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demonstrate that the Project Site is less productive than other resource lands in the County (see findings under section 2.4, which are also incorporated here by reference to supporting findings under the EESE analysis) and the use is compatible with adjacent uses so as to sustain agricultural uses near the Project Site (see discussion below). The Project Site will be restored and returned to agricultural use upon permanent cessation, consistent with Condition 4.16 of the CUP Approval. Consequently, the Board finds that the proposed use, while requiring a Goal 3 exception under the current regulatory framework, does not amount to an “irrevocable removal” of resource land from the County’s land base. These findings further support the Board’s conclusion that the proposed use will not result in significantly more adverse EESE consequences than if located elsewhere on agricultural land in the County and therefore OAR 660-004-0020(2)(c) is met.

- 2.7 **OAR 660-004-0020(2)(d), Compatibility with Adjacent Uses.** The Board finds that adjacent uses include grazing on the Poplars Ranch parcel to north, west, and east of the Project Site; irrigated agricultural on the Rebecca Miles parcel directly south of the Project Site; and irrigated agricultural on the Libolt parcel cater-corner to the south of the Project. See Analysis Area Map. Compatibility “is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses.” OAR 660-004-0020(2)(d). Rather, the Board must assess whether the proposed use, taking into account mitigation, is situated in such a manner as to be “compatible with surrounding natural resources and resource management or production practices.” Id.

Through the conditional use process, Applicant demonstrated how the proposed solar energy generation use will be compatible with agricultural production practices, including grazing and irrigated agriculture. The County imposed 16 conditions of approval to ensure such compatibility and to minimize any potential adverse impacts. The proposed use will have a confined footprint with no emissions or runoff, the use requires no groundwater resources, and the use will have minimal traffic during operation and construction. The proposed use will not infringe on existing water rights of others and will have no impact on adjacent farming practices, such as aerial spraying, given the proposed use’s low profile (approximately eight feet in height).

The CCNLC raised during the proceeding a concern that the propose use would not be compatible with adjacent agricultural practices because of the Environmental Protection Agency’s (“EPA”) pending rulemaking on dust. While this concern was not raised by any adjacent property owner and is arguably outside the scope of this analysis, the Board addresses it nonetheless. Applicant provided the Board information on EPA’s statutorily required scheduled review of its national ambient air quality standards (“NAAQS”) for particulate pollution, including materials directly from EPA’s website. Per the Board’s understanding, CCNCL asserts that if dust from agricultural practices settled on Applicant’s solar panels, Applicant could initiate an administrative proceeding against the farmers under the new NAAQS. First, it is unclear at this point whether EPA will even adopt revised (*i.e.*, more stringent) NAAQS for particulate matter. Second, the CCNCL mischaracterize, or misunderstand, EPA’s ongoing process and the regulatory compliance and enforcement framework. Even if EPA adopted new, stricter standards, it is unknown whether the DEQ would regulate agricultural activities, particularly dust effects on non-farming entities. Therefore, for these and the reasons set forth in Applicant’s March submission, the Board finds that the pending EPA review of the current NAAQS does not

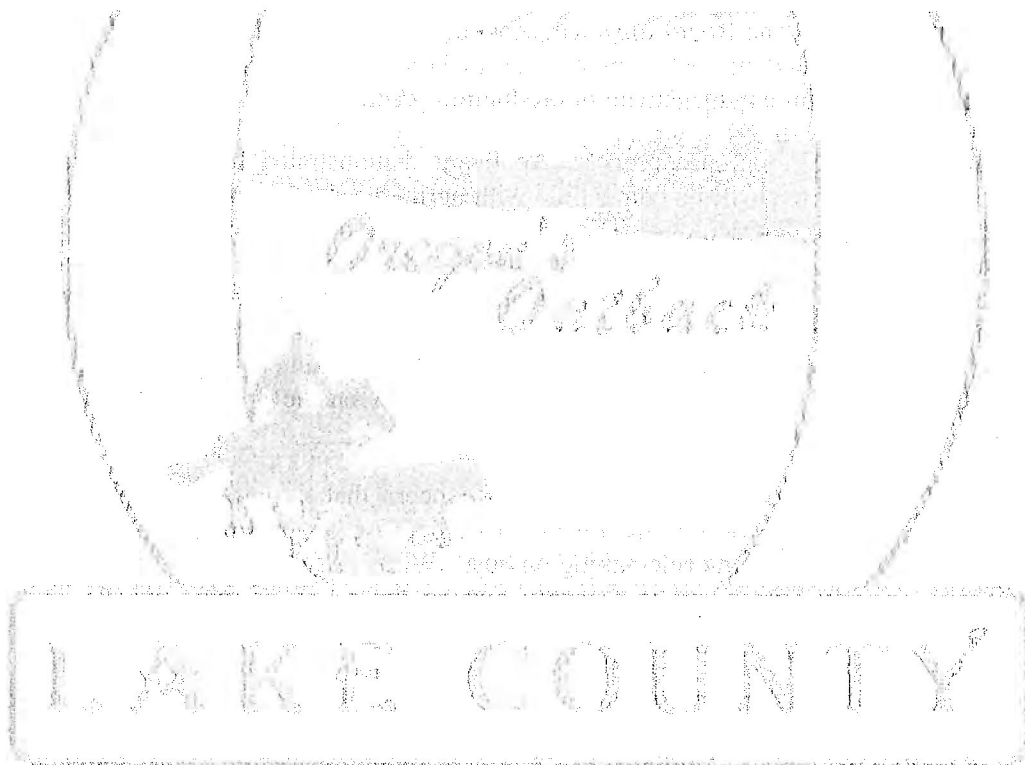
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amount to adequate grounds upon which to conclude that the proposed solar energy generation use is incompatible with adjacent farming practices. Moreover, the CUP Approval imposes a condition requiring Applicant to execute a covenant not to sue or file administrative complaints against accepted farming practices.

For these reasons and those set forth in the CUP Approval that are incorporated herein by reference, the Board finds that the proposed solar energy generation use will be compatible with adjacent agricultural practices and that OAR 660-004-0020(2)(d) is met.

**SECTION 3. DECISION AND CONDITION OF APPROVAL**

The Board finds that excepting up to 100 acres from Goal 3 on the Project Site is justified and hereby amends the County Comprehensive Plan to incorporate this decision document as the Goal 3 exception statement. The specific 100 acres upon which the proposed use is constructed will be identified in County Land Use File No. CUP-1249 and incorporated by reference for purposes of this exception.



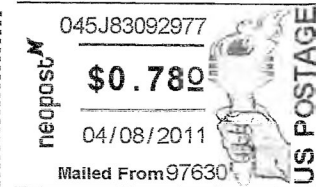
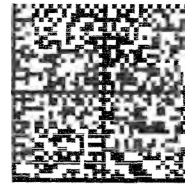


Planning  
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LAND CONSERVATION  
AND DEVELOPMENT



Attention: Plan Amendment Specialist  
Department of Land Conservation & Development  
635 Capitol Street NE, Suite 150  
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