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**ALTERNATIVES AREAS  
ANALYSIS FOR  
COMPREHENSIVE  
PLAN MAP AND TEXT  
AMENDMENTS,  
ZONING MAP  
AMENDMENTS, AND  
EXCEPTIONS TO GOALS  
3, 11, AND 14**

**To**  
Morrow County

**For**  
Threemile Canyon Farms, LLC

**Dated**  
January 23, 2025

**Project Number**  
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RiverEast Center | 1515 SE Water Avenue, Suite 100, Portland, OR 97214  
PO Box 14310, Portland, OR 97293 | T 503.224.9560 | [www.mackenzie.inc](http://www.mackenzie.inc)

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## I. INTRODUCTION AND PURPOSE

Threemile Canyon Farms, LLC is submitting an application to Morrow County seeking to amend the Comprehensive Plan Map and Zoning designation of approximately 1,264 acres (the Site) from a combination of Exclusive Farm Use (EFU) and Space Age Industrial (SAI) to General Industrial (MG) with a Limited Use Overlay (LU) restricting urban use to data centers and their associated site improvements, infrastructure, and utilities. The LU Overlay will also retain farm uses allowed under Morrow County Zoning Ordinance (MZCO) 3.010. The subject area is west of the Boardman Airport, east of Sixmile Creek, and south of Interstate 84 (I-84). In conjunction with this action, the applicant is also filing a concurrent application requesting amendment of the Comprehensive Plan map and zoning designation for approximately 1,619 acres south of Boardman from SAI to EFU.

The proposed Comprehensive Plan Map/Zoning amendment to MG requires exceptions to Statewide Planning Goals 3 (Agricultural Lands), 11 (Public Facilities and Services), and 14 (Urbanization).<sup>1</sup>

Mackenzie was retained to perform a site alternatives assessment in support of the application for Goal 3 and 14 exceptions, Comprehensive Plan Map Amendment and Zone Change to allow future development of the Site as an Exascale Data Center Campus (EDCC).

The report is structured as follows:

- Section II describes the Site, i.e., the area proposed for Comprehensive Plan Map/Zoning amendment to MG and the nearby land uses.
- Section III details the essential siting characteristics required for an EDCC and presents a comparative analysis of potential alternative areas.
- Section IV summarizes results and provides a conclusion.

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<sup>1</sup> No exception is required to Statewide Goal 12 Transportation because access can be achieved by way of the existing paved segment of Airport Lane, which is located entirely within an acknowledged industrial exception zone and terminates adjacent to the east boundary of the Site.



## II. SUBJECT SITE

This section describes the area proposed for the plan amendment/zone change to General Industrial, referred to as the “Site” in this report.

### Existing Conditions

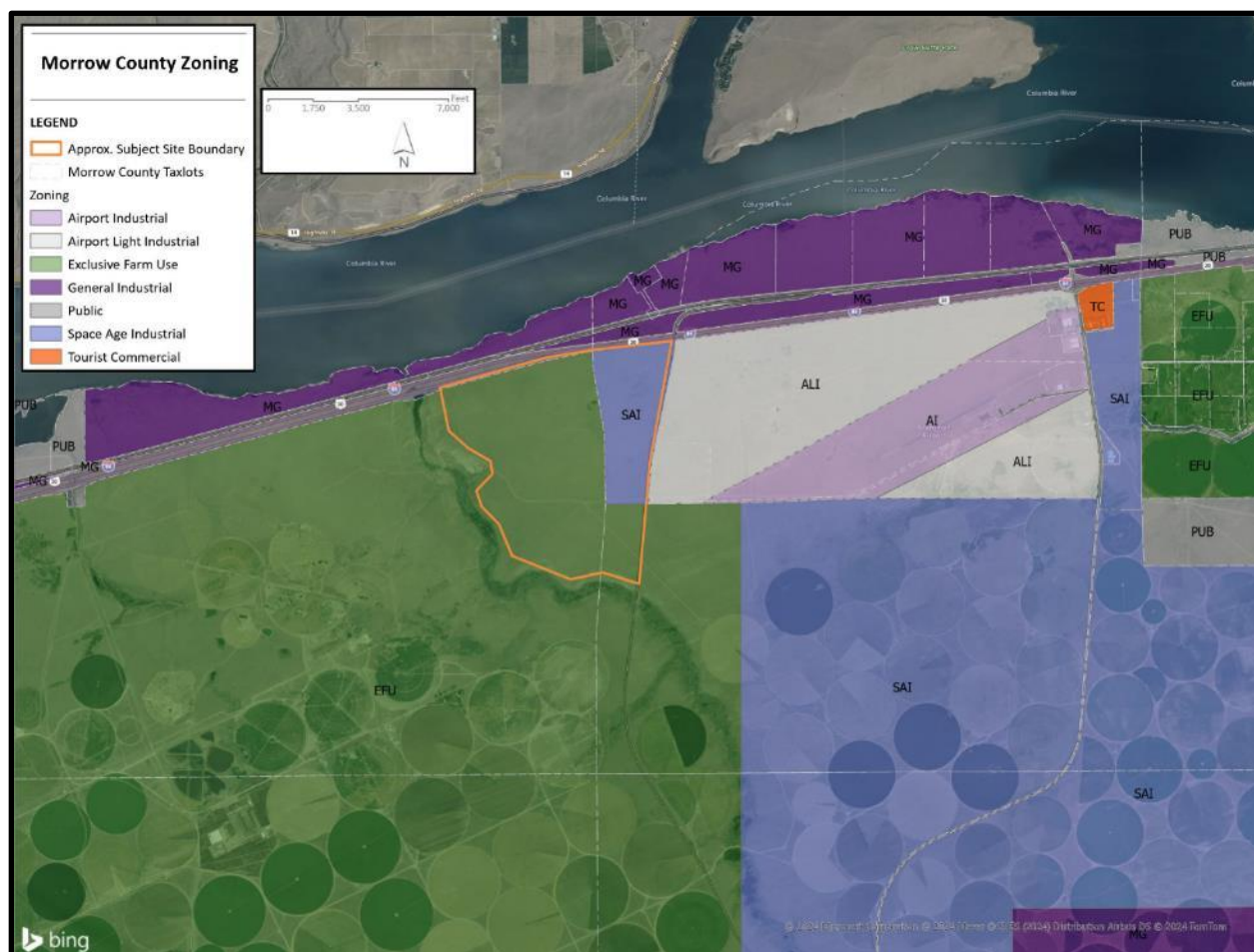
The Site is located west of the Boardman Airport, east of Sixmile Creek and south of I-84, on portions of parcels identified as Morrow County Tax Lots 04N23E-00110 and 04N24E-00121. The Site area is approximately 1,264 acres, with the northeastern approximately 309 acres zoned SAI and the balance zoned EFU. Figure 1 is an aerial photo of the Site, and Figure 2 is a map of the area’s existing zoning designations.



**Figure 1: Aerial Image -- Project Site**

The eastern boundary of the Site is a rail spur extending south to the Carty Generating Station. The site currently gains vehicle access from rail crossings at the west end of Boardman Airport Lane, which has been paved all the way to that western terminus. From this point, the roadway distance is approximately 4.25 miles to the I-84/Tower Road interchange.

The site is separated from the Columbia River by I-84 and generally defined at the west and south by the eastern top-of-bank of Sixmile Creek Canyon. As a result, according to the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps 41049C0100D and 41049C0125D, both dated December 18, 2007, the Site is located outside the Special Flood Hazard Area (the “100-year floodplain”).



**Figure 2: Existing Zoning -- Project Site and Vicinity**

The Oregon Statewide Wetlands Inventory<sup>2</sup> depicts some wetlands along Sixmile Creek, which are located below the top-of-bank and outside the Site, and an isolated, intermittent pond/wetland in the northeastern portion of the Site that was created as a result of prior gravel mining under a permit issued by the Oregon Department of Geologic and Mineral Industries (DOGAMI). That DOGAMI permit is now closed.

The southern part of the property is traversed by Bonneville Power Administration (BPA) transmission lines, which run generally from northeast to southwest. The lines are supported by multiple towers.

The Site is not developed, and due to soil conditions, the Site has not proved suitable for farming, as there are shallow bedrock conditions and rock outcroppings that prevent planting and harvesting at commercial scale. Vegetation on Site is currently grasses, with some shrubs and some trees near the pond/wetland.

Site topography is highest near the south and east boundaries, sloping downward toward the north. The total elevation drop is approximately 100 feet. Due to the scale of the property (over 8,500' from north to south), this equates to an average slope of approximately 1%.

<sup>2</sup> <https://maps.dsl.state.or.us/swi/>

The site is traversed by Bonneville Power Administration (BPA) electrical transmission lines supported on multiple towers, running generally from northeast to southwest. The Site is also near approved electrical transmission lines that will run along the eastern boundary.

### **Adjacent Land Uses**

Immediately east of the SAI-zoned portion of the Site (across the rail spur that extends south to the Carty Generating Station), land in the Airport Light Industrial (ALI) and Airport Industrial (AI) zones surrounds the Boardman Airport. Within these areas, a motor speedway has previously been approved and a photovoltaic solar energy generation project is currently under construction. In 2024, a hyperscale data center was approved in the far southwest corner of the ALI-zoned land (on the north side of Boardman Airport Lane and the east side of the Carty Generating Station rail spur).

South and east of those airport zones, but not contiguous with the SAI-zoned portion of the Site, there is a large area designated SAI that is used for farm operations, including center-pivot irrigation and other associated supportive infrastructure. Multiple center-pivot systems can be seen in Figure 1 and Figure 2 above.

Abutting the Site to the southeast, and south and west across Sixmile Creek Canyon, are additional EFU-zoned lands that are predominantly in irrigated farm use, with multiple center-pivot systems visible in aerial photographs (see Figure 1 and Figure 2 above). An approximately 320-acre vineyard is located south of Airport Lane.

To the north of Interstate 84, which forms the Site's north boundary, the land area between I-84 and the south bank of the Columbia River is in the General Industrial (MG) zone. Those properties, most of which have riverbank frontage, are not currently developed for industrial use.

### III. ALTERNATIVE AREAS ANALYSIS

This section presents an alternative areas analysis to demonstrate (1) the appropriateness of the requested Plan Map Amendment/Zone Change for the site, and (2) why other sites in the study area are not viable for the proposed data center use. The analysis method implements direction in applicable statutes (Oregon Revised Statutes or ORS), the Oregon Administrative Rules (OAR) that implement them, and applicable case precedents regarding their application and interpretation.

#### Analysis Method – Goal Exceptions

To support a “Reasons” exception to Statewide Land Use Goals, ORS 197.732(2)(c)(B) requires a jurisdiction to adopt findings that “[A]reas that do not require a new exception cannot reasonably accommodate the use.” The corresponding OAR [660-004-0020] specifies that new exception areas are allowed with adequate justification, including demonstration that “areas that do not require a new exception cannot reasonably accommodate the use.” The specific OAR “reasonable accommodation” standard is quoted in full below:

*OAR 660-004-0020(2)*

- (b) *“Areas that do not require a new exception cannot reasonably accommodate the use”. The exception must meet the following requirements:*
  - (A) *The exception shall indicate on a map or otherwise describe the location of possible alternative areas considered for the use that 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 that do not require a new exception cannot reasonably accommodate the proposed use. Economic factors may be considered along with other relevant factors in determining that the use cannot reasonably be accommodated in other areas. Under this test the following questions shall be addressed:*
    - (i) *Can the proposed use be reasonably accommodated on nonresource 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 unincorporated communities, 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?*
    - (iv) *Can the proposed use be reasonably accommodated without the provision of a proposed public facility or service? If not, why not?*
  - (C) *The “alternative areas” standard in paragraph B may 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 describes 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.*

This analysis implements this direction through the following series of inventory and analysis steps:

1. Define location factors based on essential characteristics or requirements of the intended land use activity.

For EDCC siting and operations, the following are essential location factors:

- Minimum contiguous developable land area of 1,000 acres;
- Shape and horizontal dimensions (length, width) suitable for siting of clusters of large rectangular data center industrial buildings typical in this region;
- Adjacent to (ideally) or within 10 miles of existing high-capacity electric power transmission lines.
- Not within a regulatory environmental hazard area (such as a “100-Year” floodplain or a landslide hazard area).

2. Define study area and prepare an inventory of potential alternative areas, as defined by standards in OAR 660-004-0020(2)(b)(B)(i) through (iii), in the vicinity of the proposed Site.

- The Study Area was defined broadly, including lands within 10 miles of existing high-capacity electric power transmission lines within a three-county area extending east and west of the proposed Site, incorporating portions of Gilliam, Morrow, and Umatilla Counties, including within the Urban Growth Boundaries (UGBs) of the Cities of Arlington (Gilliam County), Boardman, Lone, and Irrigon (Morrow County), and Echo, Hermiston, Stanfield, and Umatilla (Umatilla County). The study area is depicted in Map 1 in Appendix A.
- Mackenzie obtained Geographic Information System (GIS) parcel base and zoning data from those jurisdictions, analyzed jurisdictional zoning regulations, identified land where “data center” is an allowed use under current zoning and areas within UGBs that have comprehensive plan designations that would support annexation and application of city zones in which data center is an allowed use, and assigned a unique reference label to each identified land area. The result of this analysis step, depicted in the maps in Appendix A, includes industrially zoned areas which include data centers as an allowed use within UGBs and “exception” lands in County industrial zones. Each Alternative Area was assigned a unique identifier.
- Several Alternative Areas were included based on Oregon Department of Land Conservation and Development (DLCD) staff’s suggestion during the Rowan Percheron, LLC goal exception process (Morrow County Docket AC-145-23; ACM-146-23; AZM-147-23). These areas were analyzed even in cases where their zoning does not permit data centers.

3. Assess characteristics of the identified potentially suitable Alternative Areas.

- Evaluate each of the Alternative Areas identified in Step 2 against the Essential Location Factors listed in Step 1, to determine whether they could satisfy those requirements.
- Review recent aerial photography available from online sources, including Bing and Google, and available jurisdictional land use and permit information, to identify evidence of development that would indicate whether land had become “irrevocably committed” to other uses for purposes of this analysis, as defined in Oregon state regulations.



- Aerial photo analysis was also used to identify “resource land that is already irrevocably committed to nonresource uses not allowed by the applicable Goal” as directed by OAR 660-004-0020(2)(b)(B)(ii). This visual analysis yielded no tax lots in resource zoning for which aerial photographic evidence indicated the property was irrevocably committed to a non-resource use.
- Identify zones which permit data centers outright:
  - City of Arlington Industrial (M-1) and Land Intensive Industrial (M-2)
  - City of Umatilla General Commercial (GC), Downtown Commercial (DC), Downtown Transitional (DT), and Highway Commercial (HC)
  - City of Hermiston Light Industrial (M-1) and Heavy Industrial (M-2)
  - Morrow County General Industrial (MG), Airport Light Industrial (ALI), and Port Industrial (PI)
  - Umatilla County Depot Industrial (DI)
- For lands subject to an exception allowing industrial zoning and use, determine whether the existing exception/zoning status allows data center use, or would instead require a new Goal 3, 11, or 14 exception procedure. This analysis requires reviewing the findings adopted through the prior exception process to identify use limitations incorporated in the adopted exception(s) specific to the property.

#### 4. Assemble and report data and conclusions.

- Provide maps, findings, and conclusions for each of the Alternative Areas.

### Goal 3 Exception Analysis

The following discussion evaluates the Alternative Areas within Gilliam, Morrow, and Umatilla Counties which were evaluated as part of the Goal 3 (Agricultural Lands) alternatives analysis.

#### ***Gilliam County***

##### *Unincorporated Gilliam County*

##### Alternative Area GC-1

Alternative Area GC-1 consists of approximately 315 acres in Gilliam County Intermodal Industrial (II) zoning, under three separate ownerships. It is located south of the City of Arlington near Highway 19. See Map 2 in Appendix A. This area was included in the analysis because DLCD staff suggested it as an alternative area in the Rowan Percheron, LLC goal exception process. However, data center is not a permitted use under II zoning. Furthermore, this Alternative Area cannot reasonably accommodate an EDCC due to inadequate contiguous acreage.

##### *City of Arlington*

##### Alternative Area A-1

Within Arlington city limits, Alternative Area A-1 consists of approximately 504 acres in nine tax lots, in a combination of M-1 (Industrial) and M-2 (Land Intensive Industrial) zoning. The Arlington comprehensive plan has no industrially-designated land outside city limits. See Map 3 in Appendix A. Alternative Area A-1 cannot reasonably accommodate EDCC development for the following reasons:

- Amazon Data Centers, Inc. now owns the two largest parcels totaling over 375 acres (see Appendix B). The applicant understands that the property Owner intends to proceed to permitting and construction and is not willing to sell the property. Thus, it is committed to other development.
- The remaining parcels are all under 25 acres each, which is too small for an EDCC.
- The total land area of Alternative Area A-1 is approximately half the 1,000-acre essential location factor threshold for EDCC development.

## ***Morrow County***

### *Unincorporated Morrow County*

#### Alternative Area MC-1

Alternative Area MC-1 consists of approximately 2,119 acres in Morrow County General Industrial (MG) zoning, in which data center is an allowed use. It is located generally west of the Tower Road I-84 interchange area, extending north of I-84 to the south bank of the Columbia River. See Map 4 in Appendix A. Ownership is divided primarily between the Port of Morrow (somewhat less than half the area, in four tax lots) and Threemile Canyon Farms, LLC (somewhat more than half the area in six tax lots), with additional small holdings by the US Army Corps of Engineers (approximately 20.5 acres) and a private individual (about 10.7 acres).<sup>3</sup> Notably, the ownership pattern is such that the river frontage is divided into three discrete segments belonging to the Port of Morrow, four belonging to Threemile Canyon Farms, LLC, and one short segment owned by the US Army Corps of Engineers. See Figure 3 depicting ownership patterns.

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<sup>3</sup> Acreages listed on tax maps and in County Assessor records, presumably based on historic deed records, appear to include substantial areas beneath the Ordinary High Water surface of the Columbia River. Ownership share estimates are based on rough area assessment using GIS polygon data.

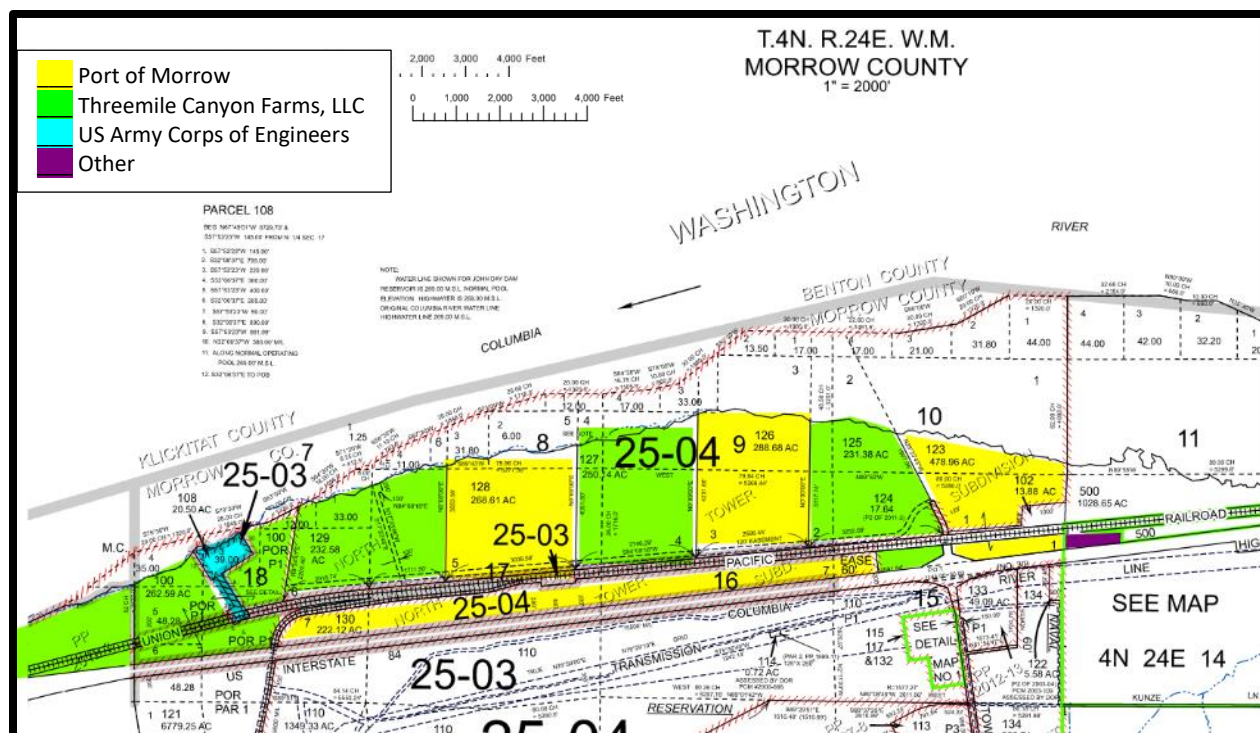


Figure 3: Land Ownerships in the Eastern Portion of Alternative Area MC-1

Vehicular access is extremely limited because the access-restricted Interstate 84 corridor forms the southern boundary of the MG-zoned area; access is available only from the north leg of the Tower Road interchange, near the east end of the Alternative Area. Vehicular access is further constrained by the Union Pacific Railroad tracks a short distance to the north of I-84.

The defining characteristic of Alternative Area MC-1 is its northerly shore frontage on the south bank of the Columbia River. In findings to support prior exception actions, Morrow County has noted that this segment of the Columbia River shore is characterized by shallow subsurface basalt formations, such that creating deepwater port facilities would be very costly, and that federal Public Law 86-645, 74 Stat 486 (33 USC #578) requires that the 1,700 acre “Riverfront Boeing Industrial Tract” “shall be used only for port or industrial purposes.”<sup>4</sup> Portions of the shore frontage may nevertheless be suitable for barge-based shipping (requiring shallower draft depths than deepwater port facilities) or other river-dependent or river-oriented development and uses. In any case, the property Owner, Threemile Canyon Farms, LLC, is not willing to sell or lease its property within Alternative Area MC-1 for any use (see Appendix C).

Absent consolidation with at least some of the predominant Threemile Canyon Farms, LLC property holdings, none of the other property Owners’ holdings can be assembled to form a contiguous campus area of 1,000 acres or more, and therefore fail to meet the 1,000-acre essential location factor threshold for EDCC development.

<sup>4</sup> See the *Goal Exceptions Statement for Rural Residential, Rural Service Centers and Industrial Lands* section of the Comprehensive Plan at p. 268 and p. 280.



### Alternative Area MC-2

Alternative Area MC-2 consists of approximately 1,416 acres in Morrow County Airport Light Industrial (ALI) zoning, in which data center is an allowed use. It is located west of the Tower Road I-84 interchange area, extending south of I-84 to the northern edge of the Airport Industrial zone (which does not allow data centers). See Map 4 in Appendix A. Ownership is divided between the Port of Morrow (approximately 1,293 acres in a single tax lot) and Amazon Data Services, Inc. (approximately 107 acres in a single tax lot), with another 16 acres in public right-of-way.

The Port of Morrow property has been approved by Morrow County for a 1,200-acre solar power generation facility for which construction has commenced, while the Amazon Data Services property has been approved for a data center (Morrow County file number LUD-N-68-24). Accordingly, this Alternative Area cannot reasonably accommodate an EDCC because it is largely committed to other approved development and the remaining vacant land does not provide adequate contiguous acreage for EDCC development after accounting for the entitled development.

### Alternative Area MC-3

Alternative Area MC-3 consists of approximately 427 acres in Morrow County Airport Light Industrial (ALI) zoning, in which data center is an allowed use. It is located west of Tower Road and south of Boardman Airport Lane, extending south to the northern edge of the SAI zone. See Map 4 in Appendix A. Ownership is divided between the Port of Morrow (approximately 217 acres in a single tax lot in three noncontiguous areas) and Amazon Data Services, Inc. (approximately 196 acres in two tax lots; see Appendix D), with another 14 acres in public right-of-way.

The applicant understands that Amazon Data Centers, Inc. intends to proceed to permitting and construction and is not willing to sell its property. Thus, it is committed to other development.

This Alternative Area cannot reasonably accommodate an EDCC because approximately half is committed to other development and the remaining vacant land does not provide adequate contiguous acreage for EDCC development after accounting for the in-process development.

### Alternative Area MC-4

Alternative Area MC-4 consists of approximately 642 acres in Morrow County General Industrial (MG) zoning, in which data center is an allowed use. It is located on Taggares Lane west of Tower Road. See Map 5 in Appendix A. The property is owned by Threemile Canyon Farms, LLC and is developed with a commercial dairy operation located on portions of two tax lots (the balance of the dairy operation is on property zoned EFU).

This Alternative Area cannot reasonably accommodate an EDCC because it is committed to other development and the remaining vacant land does not provide adequate contiguous acreage for EDCC development after accounting for the existing development.

### Alternative Area MC-5

Alternative Area MC-5 consists of approximately 274 acres in Morrow County General Industrial (MG) zoning, in which data center is an allowed use. It is located east of Tower Road. See Map 5 in Appendix A. The property is owned by Rowan Percheron, LLC and consists of a single tax lot which has been approved for a data center development.

This Alternative Area cannot reasonably accommodate an EDCC because it is largely committed to other approved development and the remaining vacant land does not provide adequate contiguous acreage for EDCC development after accounting for the entitled development.

#### Alternative Area MC-6

Alternative Area MC-6 consists of approximately 641 acres in Morrow County General Industrial (MG) zoning, in which data center is an allowed use. It is located generally east of Tower Road. See Map 5 in Appendix A. The property is owned by Portland General Electric (PGE) and was previously used as the now-decommissioned Boardman Coal Plant. The site consists of three tax lots which have been approved for PGE's Carty Generating Station natural gas/solar development. The property also contains cooling ponds associated with PGE facilities.

This Alternative Area cannot reasonably accommodate an EDCC because it is committed to other approved development and the remaining vacant land does not provide adequate contiguous acreage for EDCC development after accounting for the entitled development.

#### Alternative Area MC-7

Alternative Area MC-7 consists of approximately 3,870 acres in Morrow County General Industrial (MG) zoning, in which data center is an allowed use. It is located generally east of Tower Road. See Map 5 in Appendix A. The property is owned by Threemile Canyon Farms, LLC and consists of portions of two tax lots which are currently in irrigated agricultural production. The Area also contains facilities associated with Boeing's Radar Cross Section (RCS) test range, for which the site has been granted previous goal exceptions.

This Alternative Area cannot reasonably accommodate an EDCC since the existing goal exceptions are limited to allowing the antenna test range and do not authorize data centers.

#### Alternative Area MC-8

Alternative Area MC-8 consists of several scattered subareas zoned Morrow County General Industrial (MG), in which data center is an allowed use. The subareas are under six different ownerships and are located generally southeast of the City of Boardman UGB, with one subarea located northeast of the UGB. See Map 6 in Appendix A. Combined, the total area is approximately 359 acres in seven distinct subareas, with three subareas south of I-84 and four subareas north of I-84. One of the subareas is currently under construction with a data center.

This Alternative Area cannot reasonably accommodate an EDCC because the scattered subareas do not provide adequate contiguous acreage for EDCC development.

#### Alternative Area MC-9

Alternative Area MC-9 consists of upwards of fifty tax lots with a variety of owners, located generally east of the City of Boardman UGB, with three smaller subareas within the eastern portion of the UGB. See Map 6 in Appendix A. The property is zoned Morrow County General Industrial (MG) and Morrow County Port Industrial (PI), which both permit data center as an allowed use. The Alternative Area contains a variety of existing uses, including multiple data centers, irrigated agricultural fields, and scattered industrial developments including Calbee North America, Tredit Tire & Wheel, Oregon Hay, Port of Morrow warehousing, Cal Farms, Columbia River Processing, Dahlgren Industrial, and Windwave Communications.

This Alternative Area cannot reasonably accommodate an EDCC because it is largely committed to other existing and approved development and the remaining vacant land does not provide adequate contiguous acreage for EDCC development after accounting for the existing and in-process development.

#### Alternative Area MC-10

Alternative Area MC-10 consists of approximately 108 acres in Morrow County General Industrial (MG) zoning, in which data center is an allowed use. It is located northwest of Irrigon, close to the Columbia River (but with no river frontage). See Map 7 in Appendix A. The property is owned by Morrow County Grain Growers and Tidewater Terminal Co. and consists of four tax lots which are in agricultural use and contain grain elevators.

This Alternative Area cannot reasonably accommodate an EDCC because of the portions committed to other development and because the remaining vacant land does not provide adequate contiguous acreage for EDCC development after accounting for the existing development.

#### Alternative Area MC-11

Alternative Area MC-11 consists of approximately 1,849 acres in Morrow County Port Industrial (PI) zoning, in which data center is an allowed use. It is located north of I-84, south of Irrigon and west of Hermiston. See Map 8 in Appendix A. The property is owned by the Columbia Development Authority in two separate tax lots that are part of the former Umatilla Army Depot, which previously stored munitions in bunkers spread throughout the area.

This Alternative Area cannot reasonably accommodate an EDCC due to ongoing litigation (Umatilla County v. Columbia Development Authority, et al., Umatilla County Circuit Court Case No. 24CV31777). That litigation introduces significant legal uncertainty, the outcome of which is unclear in substance and timing. Thus, the Site cannot “reasonably accommodate” data center development, while it remains the subject of active litigation which seeks to prohibit sale of industrial property.

#### *Cities of Boardman, Lone, and Irrigon*

The Cities of Boardman, Lone, and Irrigon contain no land on which data center is a permitted use under current zoning. Similarly, no areas within these UGBs would accommodate data centers, as upon annexation the land would receive city zoning which does not permit data centers.

#### ***Umatilla County***

##### *Unincorporated Umatilla County*

#### Alternative Area UC-1

Alternative Area UC-1 consists of approximately 389 acres in Umatilla County Depot Industrial (DI) zoning, in which data center is an allowed use in Depot Industrial Subareas 2 and 3 (Depot Industrial Subarea 1 does not permit data centers and is therefore not part of this Alternative Area). It is located north of I-84, west of I-82, south of Irrigon, and west of Hermiston. See Map 8 in Appendix A. The property is owned by the Columbia Development Authority in one tax lot that is part of the former Umatilla Army Depot, which previously stored munitions in bunkers spread throughout the area. The northern portion (Subarea 3) contains facilities associated with disposal of the on-site chemical storage.

This Alternative Area cannot reasonably accommodate an EDCC due to ongoing litigation (Umatilla County v. Columbia Development Authority, et al., Umatilla County Circuit Court Case No. 24CV31777). That litigation introduces significant legal uncertainty, the outcome of which is unclear in substance and timing. Thus, the Site cannot “reasonably accommodate” data center development, while it remains the subject of active litigation which seeks to prohibit sale of industrial property.

Furthermore, according to Umatilla County zoning maps, 81 acres of Subarea 3 are a restricted area, further reducing suitable contiguous acreage.<sup>5</sup>

#### Alternative Area UC-2

Alternative Area UC-2 consists of approximately 930 acres in over 200 separate tax lots with multiple owners in Umatilla County Light Industrial (LI) and Heavy Industrial (HI) zoning. It is located south and east of the Umatilla UGB. See Map 9 in Appendix A. The area south of the UGB consists primarily of small, developed parcels, while the area east of the UGB contains a vacant 200-acre HI site. This area was included in the analysis because DLCD staff suggested it as an alternative area in the Rowan Percheron, LLC goal exception process. However, data center is not a permitted use under LI or HI zoning. Furthermore, this Alternative Area cannot reasonably accommodate an EDCC because it is largely committed to other development and the remaining vacant land does not provide adequate contiguous acreage for EDCC development after accounting for the existing development.

#### Alternative Area UC-3

Alternative Area UC-3 consists of approximately 1,650 acres in over 100 separate tax lots with multiple owners in Umatilla County Light Industrial (LI) and Heavy Industrial (HI) zoning. It is located north of I-84, east of I-82, and generally southwest and south of Hermiston. See Map 10 in Appendix A. The area contains existing industrial sites and some vacant parcels. This area was included in the analysis because DLCD staff suggested it as an alternative area in the Rowan Percheron, LLC goal exception process. However, data center is not a permitted use under LI or HI zoning. Furthermore, this Alternative Area cannot reasonably accommodate an EDCC because portions are committed to other development and the remaining vacant land does not provide adequate contiguous acreage for EDCC development after accounting for the existing development.

#### *Cities of Echo and Stanfield*

The Cities of Echo and Stanfield contain no land on which data center is a permitted use under current zoning. Similarly, no areas within these UGBs would accommodate data centers, as upon annexation the land would receive city zoning which does not permit data centers.

#### *City of Umatilla*

#### Alternative Area U-1

Within Umatilla city limits, Alternative Area U-1 consists of approximately 184 acres in multiple tax lots with a variety of owners, located generally downtown, near Interstate 82 (I-82), and near Highways US 395 and US 730. See Map 9 in Appendix A. Property within this Alternative Area is variously zoned General Commercial (GC), Downtown Commercial (DC), Downtown Transitional (DT), and Highway Commercial

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<sup>5</sup> [https://umatillacounty.net/fileadmin/user\\_upload/Planning/DepotZoning\\_Umatilla\\_Only.pdf](https://umatillacounty.net/fileadmin/user_upload/Planning/DepotZoning_Umatilla_Only.pdf)

(HC) by the City of Umatilla. Each of these zones permits data center as an allowed use. Alternative Area U-1 also includes approximately 116 acres outside city limits but within the UGB; these parcels are designated Commercial in the Umatilla Comprehensive Plan and could therefore accommodate data centers if they were annexed and zoned GC, DC, DT, or HC. The Alternative Area contains a variety of uses in existing development, particularly along US 730, and some undeveloped sites in the eastern portion of the area, with a contiguous area of less than 100 acres.

This Alternative Area cannot reasonably accommodate an EDCC because it is largely committed to other development and the remaining vacant land does not provide adequate contiguous acreage for EDCC development after accounting for the existing development.

### *City of Hermiston*

#### Alternative Area H-1

Within Hermiston city limits, Alternative Area H-1 consists of approximately 211 acres in multiple tax lots with a variety of owners, located in the northern portion of the City. See Map 10 in Appendix A. Property within this Alternative Area is zoned Light Industrial (M-1) by the City of Hermiston; this zone permits data center as an allowed use. Alternative Area H-1 also includes an additional 44 acres outside city limits but within the UGB; these parcels are designated Industrial in the Hermiston Comprehensive Plan and could therefore accommodate data centers if they were annexed and zoned M-1 or Heavy Industrial (M-2).

This Alternative Area cannot reasonably accommodate an EDCC because it is largely committed to other development and the remaining vacant land does not provide adequate contiguous acreage for EDCC development after accounting for the existing development.

#### Alternative Area H-2

Within Hermiston city limits, Alternative Area H-2 consists of approximately 1,082 acres in over 40 tax lots with a variety of owners, located in the southeastern portion of the City, and is largely built out with the Walmart distribution center, existing Amazon data center, and other businesses. See Map 10 in Appendix A. Property within this Alternative Area is zoned either Light Industrial (M-1) or Heavy Industrial (M-2) by the City of Hermiston. Each of these zones permits data center as an allowed use. Alternative Area H-2 also includes an additional 117 acres outside city limits but within the UGB; these parcels are designated Industrial or Future Industrial in the Hermiston Comprehensive Plan and could therefore accommodate data centers if they were annexed and zoned M-1 or M-2.

This Alternative Area cannot reasonably accommodate an EDCC because it is largely committed to other development and the remaining vacant land does not provide adequate contiguous acreage for EDCC development after accounting for the existing development.

## **Goal 14 Exception Analysis**

The standards for a reasons exception to Goal 14 (Urbanization) are related, but not identical to those for a Goal 3 Agriculture exception. Per OAR 660-014-0040(3)(a), for a county to grant a Goal 14 exception allowing urban development on rural land, the county must show "...that the proposed urban development cannot be reasonably accommodated in or through expansion of existing urban growth boundaries or by intensification of development in existing rural communities..."

As described above under the “Analysis Method” heading, Mackenzie analyzed urban growth boundaries by (a) identifying those zones within city limits which allow “data center” as an allowed use and (b) for areas within UGBs but outside city limits, identifying those comprehensive plan designations that would support annexation and application of city zones where data center is an allowed use.

### ***Gilliam County***

#### *City of Arlington*

##### Alternative Area A-1

Within Arlington city limits, Alternative Area A-1 consists of approximately 504 acres in nine tax lots, in a combination of M-1 (Industrial) and M-2 (Land Intensive Industrial) zoning. The Arlington comprehensive plan has no industrially-designated land outside city limits. See Map 3 in Appendix A. Alternative Area A-1 cannot reasonably accommodate EDCC development for the following reasons:

- Amazon Data Centers, Inc. now owns the two largest parcels totaling over 375 acres (see Appendix B). The applicant understands that the property owner intends to proceed to permitting and construction and is not willing to sell the property. Thus, it is committed to other development.
- The remaining parcels are all under 25 acres each, which is too small for an EDCC.
- The total land area of Alternative Area A-1 is approximately half the 1,000-acre essential location factor threshold for EDCC development.

### ***Morrow County***

#### *Cities of Boardman, Lone, and Irrigon*

The Cities of Boardman, Lone, and Irrigon contain no land on which data center is a permitted use under current zoning. Similarly, no areas within these UGBs would accommodate data centers, as upon annexation the land would receive city zoning which does not permit data centers.

### ***Umatilla County***

#### *Cities of Echo and Stanfield*

The Cities of Echo and Stanfield contain no land on which data center is a permitted use under current zoning. Similarly, no areas within these UGBs would accommodate data centers, as upon annexation the land would receive city zoning which does not permit data centers.

#### *City of Umatilla*

##### Alternative Area U-1

Within Umatilla city limits, Alternative Area U-1 consists of approximately 184 acres in multiple tax lots with a variety of owners, located generally downtown, near Interstate 82 (I-82), and near Highways US 395 and US 730. See Map 9 in Appendix A. Property within this Alternative Area is variously zoned General Commercial (GC), Downtown Commercial (DC), Downtown Transitional (DT), and Highway Commercial (HC) by the City of Umatilla. Each of these zones permits data center as an allowed use. Alternative Area U-1 also includes approximately 116 acres outside city limits but within the UGB; these parcels are designated Commercial in the Umatilla Comprehensive Plan and could therefore accommodate data

centers if they were annexed and zoned GC, DC, DT, or HC. The Alternative Area contains a variety of uses in existing development, particularly along US 730, and some undeveloped sites in the eastern portion of the area, with a contiguous area of less than 100 acres.

This Alternative Area cannot reasonably accommodate an EDCC because it is largely committed to other development and the remaining vacant land does not provide adequate contiguous acreage for EDCC development after accounting for the existing development.

### *City of Hermiston*

#### Alternative Area H-1

Within Hermiston city limits, Alternative Area H-1 consists of approximately 211 acres in multiple tax lots with a variety of owners, located in the northern portion of the City. See Map 10 in Appendix A. Property within this Alternative Area is zoned Light Industrial (M-1) by the City of Hermiston; this zone permits data center as an allowed use. Alternative Area H-1 also includes an additional 44 acres outside city limits but within the UGB; these parcels are designated Industrial in the Hermiston Comprehensive Plan and could therefore accommodate data centers if they were annexed and zoned M-1 or Heavy Industrial (M-2).

This Alternative Area cannot reasonably accommodate an EDCC because it is largely committed to other development and the remaining vacant land does not provide adequate contiguous acreage for EDCC development after accounting for the existing development.

#### Alternative Area H-2

Within Hermiston city limits, Alternative Area H-2 consists of approximately 1,082 acres in over 40 tax lots with a variety of owners, located in the southeastern portion of the City, and is largely built out with the Walmart distribution center, existing Amazon data center, and other businesses. See Map 10 in Appendix A. Property within this Alternative Area is zoned either Light Industrial (M-1) or Heavy Industrial (M-2) by the City of Hermiston. Each of these zones permits data center as an allowed use. Alternative Area H-2 also includes an additional 117 acres outside city limits but within the UGB; these parcels are designated Industrial or Future Industrial in the Hermiston Comprehensive Plan and could therefore accommodate data centers if they were annexed and zoned M-1 or M-2.

This Alternative Area cannot reasonably accommodate an EDCC because it is largely committed to other development and the remaining vacant land does not provide adequate contiguous acreage for EDCC development after accounting for the existing development.

### ***Consideration for Expansion of Existing UGBs***

As Goal 14 also requires demonstration “...that the proposed urban development cannot be reasonably accommodated in or through expansion of existing urban growth boundaries or by intensification of development in existing rural communities...,” the concept of expanding UGBs within the study area is discussed here.

Siting an Exascale Data Center Campus within an expanded UGB would consume contiguous developable land area of 1,000 acres or more for a single use, precluding use of that land for other urban uses.

By contrast, siting an Exascale Data Center Campus away from a UGB, and in particular at the Site, enables it to be proximate to necessary large-scale utility infrastructure, to minimize any potential impacts on



urban communities, and generally to present a more viable and efficient location to meet a documented demand for this large-scale industrial use. This 1,264-acre area west of the Boardman Airport is adjacent to the east bank of Sixmile Creek, which forms a logical, natural-feature boundary for urban expansion west of the City of Boardman. Service from existing high-capacity electric power transmission lines can be made available to the site. As urban-level water and transportation services are (or will be) already available to the Airport area, including an adjacent forthcoming data center campus at the western terminus of the improved Boardman Airport Lane, only short extensions are necessary to reach and serve the Site.

Significantly in the context of meeting land needs that operate at a regional scale, for any of the cities in the area to justify expanding its UGB for Exascale Data Center Campus development, the Goal 9 process would require an Economic Opportunities Analysis (EOA) justifying a UGB expansion of 1,000+ acres for a single land use to meet that city's population growth forecast and associated land needs. Such a land area being brought into a UGB expressly for EDCC use would need to be made ineligible for other industrial uses, and a consolidated site of sufficient size, along with the other required site characteristics, would have to be identified contiguous to the existing UGB. Absent an identified user, such a large-acreage site could remain in the UGB indefinitely as surplus industrial land. For these reasons, the established UGB expansion process requires a level of certainty that make it less supportable under these implementing regulations as a method for making an alternative site available for Exascale Data Center Campus development at this time.

By contrast, and particularly in the context of this proposal, the "reasons exception" process is preferable for several reasons:

- (1) The necessary designation change is a voluntary proposal submitted by the owner of the property as applicant;
- (2) The proposed zone designation (MG with Limited Use Overlay) only allows for the specific urban use—data center—that is the basis for the "reasons" exception;
- (3) The proposed designation change contributes significantly to the need to allocate land on a regional basis, responding to a documented recent dramatic increase in land demand for a novel industrial activity; and
- (4) The proposal will continue to allow EFU uses on the property unless and until data center development becomes economically feasible. Even if such use ultimately is not realized, the protections inherent in the land use approval process will require a new exception before any other urban use or development can occur.



#### **IV. CONCLUSION**

This report offers a technical evaluation of the Alternative Areas evaluated in support of the proposed comprehensive plan map amendments, zoning map amendments and exceptions to Goals 3 and 14. This evaluation demonstrates that other sites that do not require a new exception cannot reasonably accommodate the proposed uses, as required by administrative rule. Therefore, none of the Alternative Areas would preclude the Site from its proposed Goal 3 and 14 Exceptions.

APPENDIX A

**ALTERNATIVE  
AREA  
ANALYSIS  
MAPS**

## **APPENDIX A MAPS**

Map 1. Alternative Areas Overview

Map 2. Alternative Area: Gilliam County #1 (GC-1)

Map 3. Alternative Area: City of Arlington #1 (A-1)

Map 4. Alternative Area: Morrow County #1 (MC-1), #2 (MC-2), and #3 (MC-3)

Map 5. Alternative Area: Morrow County #4 (MC-4), #5 (MC-5), #6 (MC-6), and #7 (MC-7)

Map 6. Alternative Area: Morrow County #8 (MC-8) and #9 (MC-9)

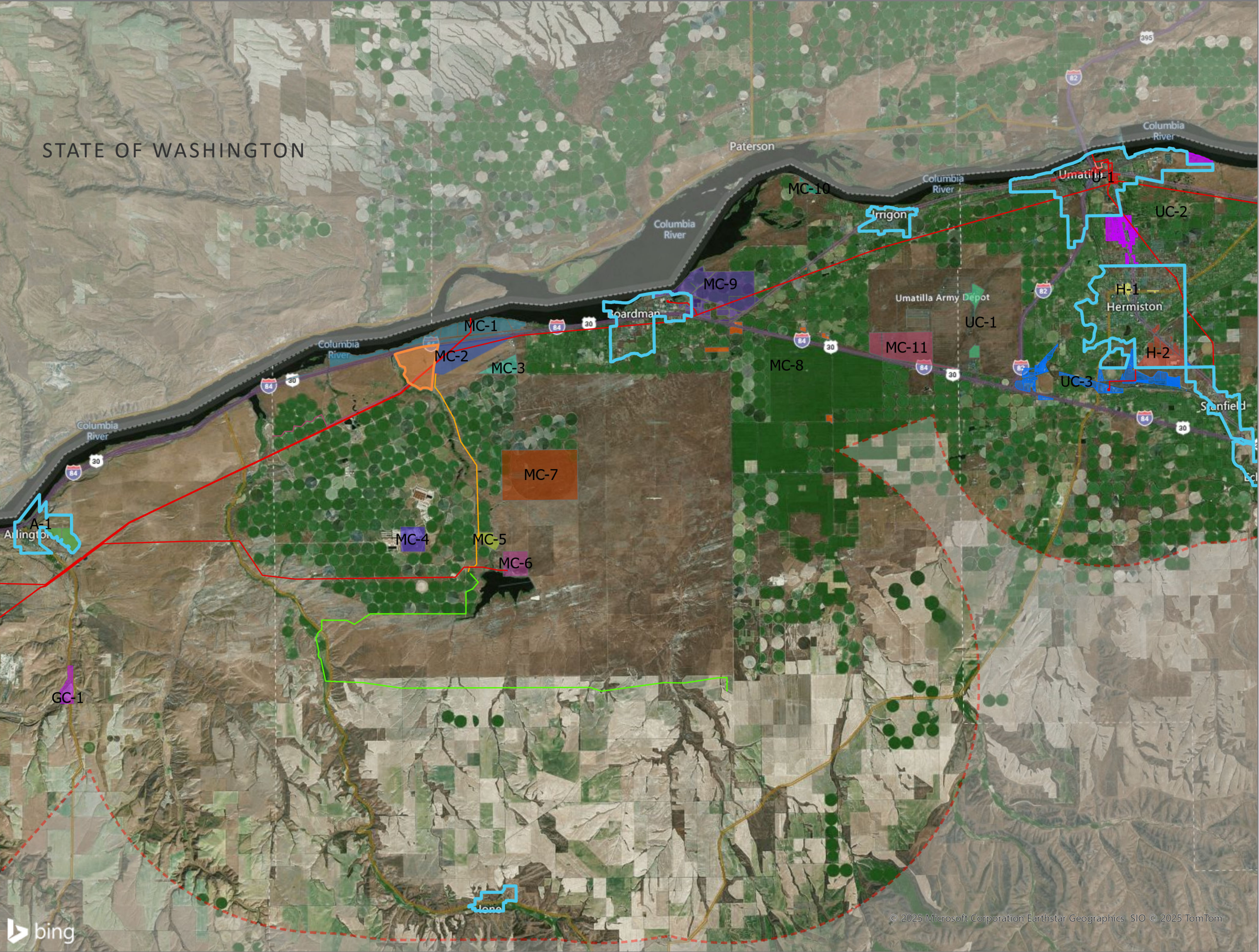
Map 7. Alternative Area: Morrow County #10 (MC-10)

Map 8. Alternative Area: Morrow County #11 (MC-11) and Umatilla County #1 (UC-1)

Map 9. Alternative Area: City of Umatilla #1 (U-1) and Umatilla County #2 (UC-2)

Map 10. Alternative Area: City of Hermiston #1 (H-1) and #2 (H-2) and Umatilla County #3 (UC-3)





# MAP 1 Alternative Areas Overview

**LEGEND**

Approx. Subject Site Boundary  
Urban Growth Boundary

**Power Transmission Lines**

- 345 Volts
- 500 Volts

**Proposed Power Transmission Lines**

- Apex-Lightspeed-230kv
- Maverick-Apex-500kv
- Bridging Power
- 10 Mile Buffer - Transmission Lines

**Alternative Areas**

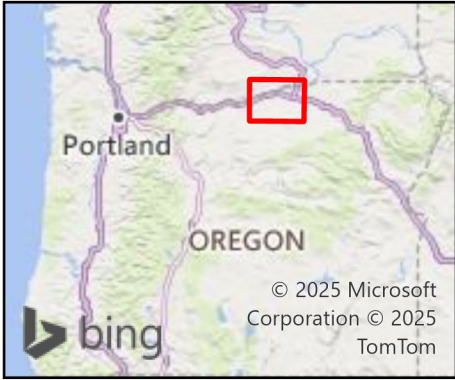
- City of Arlington Area #1 (A-1)
- City of Umatilla Area #1 (U-1)
- City of Hermiston Area #1 (H-1)
- City of Hermiston Area #2 (H-2)
- Gilliam County Area #1 (GC-1)
- Morrow County Area #1 (MC-1)
- Morrow County Area #2 (MC-2)
- Morrow County Area #3 (MC-3)
- Morrow County Area #4 (MC-4)
- Morrow County Area #5 (MC-5)
- Morrow County Area #6 (MC-6)
- Morrow County Area #7 (MC-7)
- Morrow County Area #8 (MC-8)
- Morrow County Area #9 (MC-9)
- Morrow County Area #10 (MC-10)
- Morrow County Area #11 (MC-11)
- Umatilla County Area #1 (UC-1)
- Umatilla County Area #2 (UC-2)
- Umatilla County Area #3 (UC-3)

0 2 4 Miles  
1 inch = 4 mi

**SOURCE DATA:**  
Gilliam County Data, 2024  
Morrow County Data, 2024  
Umatilla County Data, 2024  
City of Arlington Data, 2024  
City of Hermiston Data, 2024  
City of Umatilla Data, 2024  
DLCD UGB Data, 2022  
Esri U.S. Federal Data, 2022

**GEOGRAPHIC PROJECTION:**  
NAD 83 HARN, Oregon North  
Lambert Conformal Conic

Date: 1/22/2025  
File: GAF-2\_SubAreas  
Map Created By: CLR  
Project No: 2240364.00

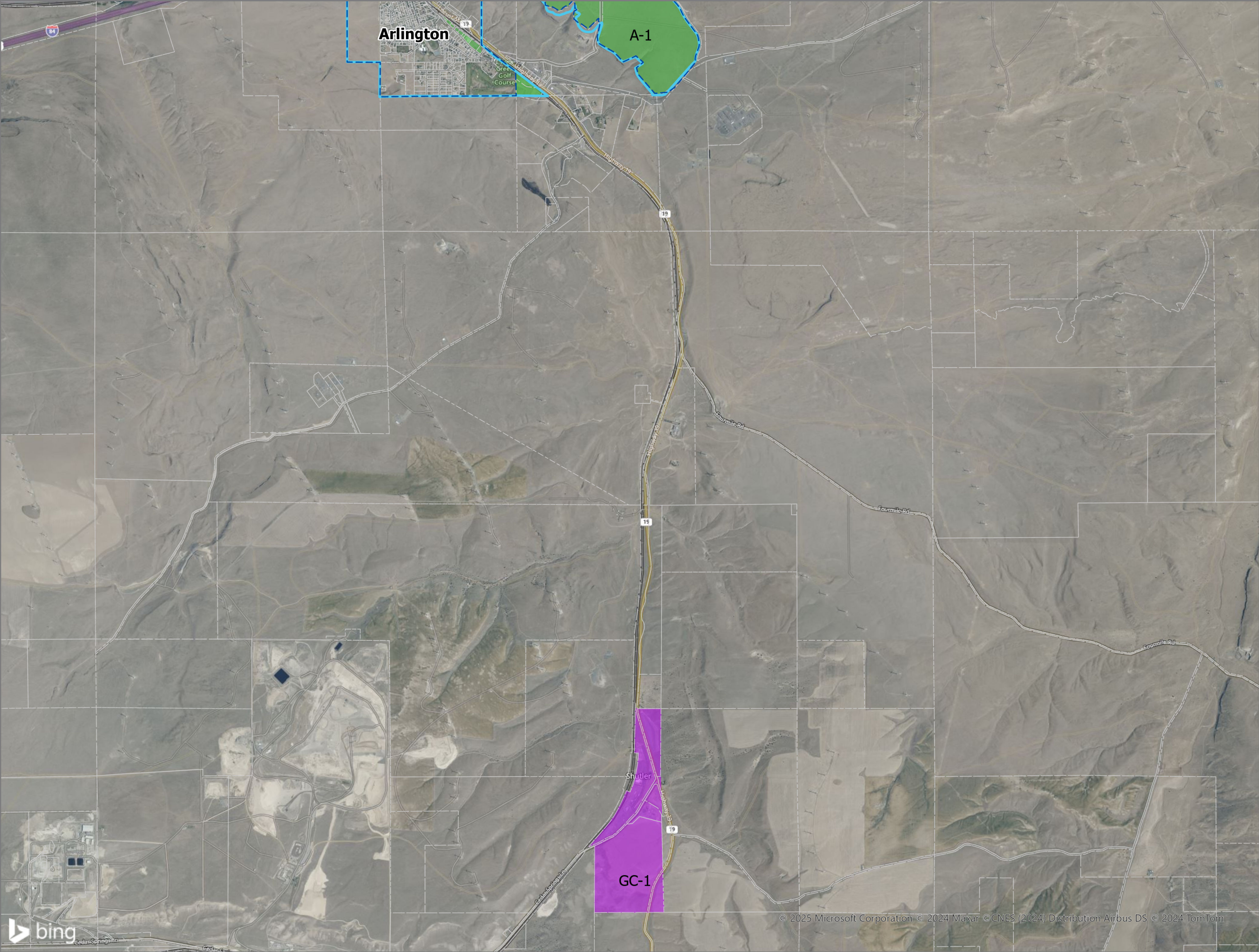


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## MAP 2

### Alternative Area: Gilliam County #1

**LEGEND**

City Limits 2022

Urban Growth Boundary

Tax Lots

**Alternative Areas**

City of Arlington Area #1 (A-1)

Gilliam County Area #1 (GC-1)

0 1,750 3,500 7,000 Feet

1 inch = 3,500 feet

SOURCE DATA:  
Gilliam County Data, 2024  
DLCD UGB Data, 2022

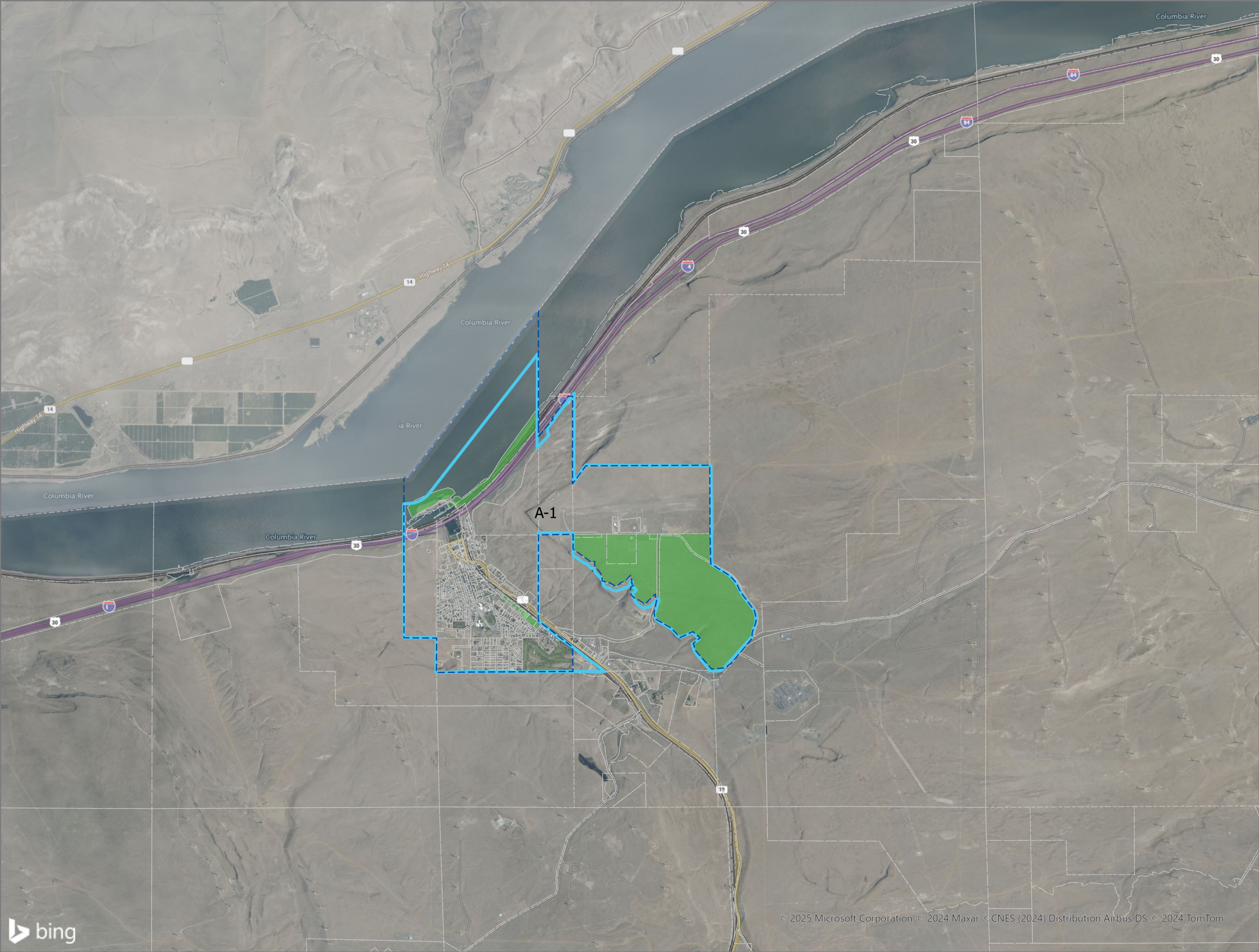
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Lambert Conformal Conic

Date: 1/13/2025  
File: GAF-2\_SubAreas

Map Created By: CLR  
Project No: 2240364.00

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# MAP 3

## Alternative Area: Arlington #1

- LEGEND**
- Washington State Boundary
  - City Limits 2022
  - Urban Growth Boundary
  - Tax Lots
  - Alternative Areas**
  - City of Arlington Area #1 (A-1)

0 1,750 3,500 7,000 Feet

1 inch = 3,500 feet

N

SOURCE DATA:  
Gilliam County Data, 2024  
DLCD UGB Data, 2022

GEOGRAPHIC PROJECTION:  
NAD 83 HARN, Oregon North  
Lambert Conformal Conic

Date: 1/16/2025  
File: GAF-2\_SubAreas

Map Created By: CLR  
Project No: 2240364.00

Hermiston

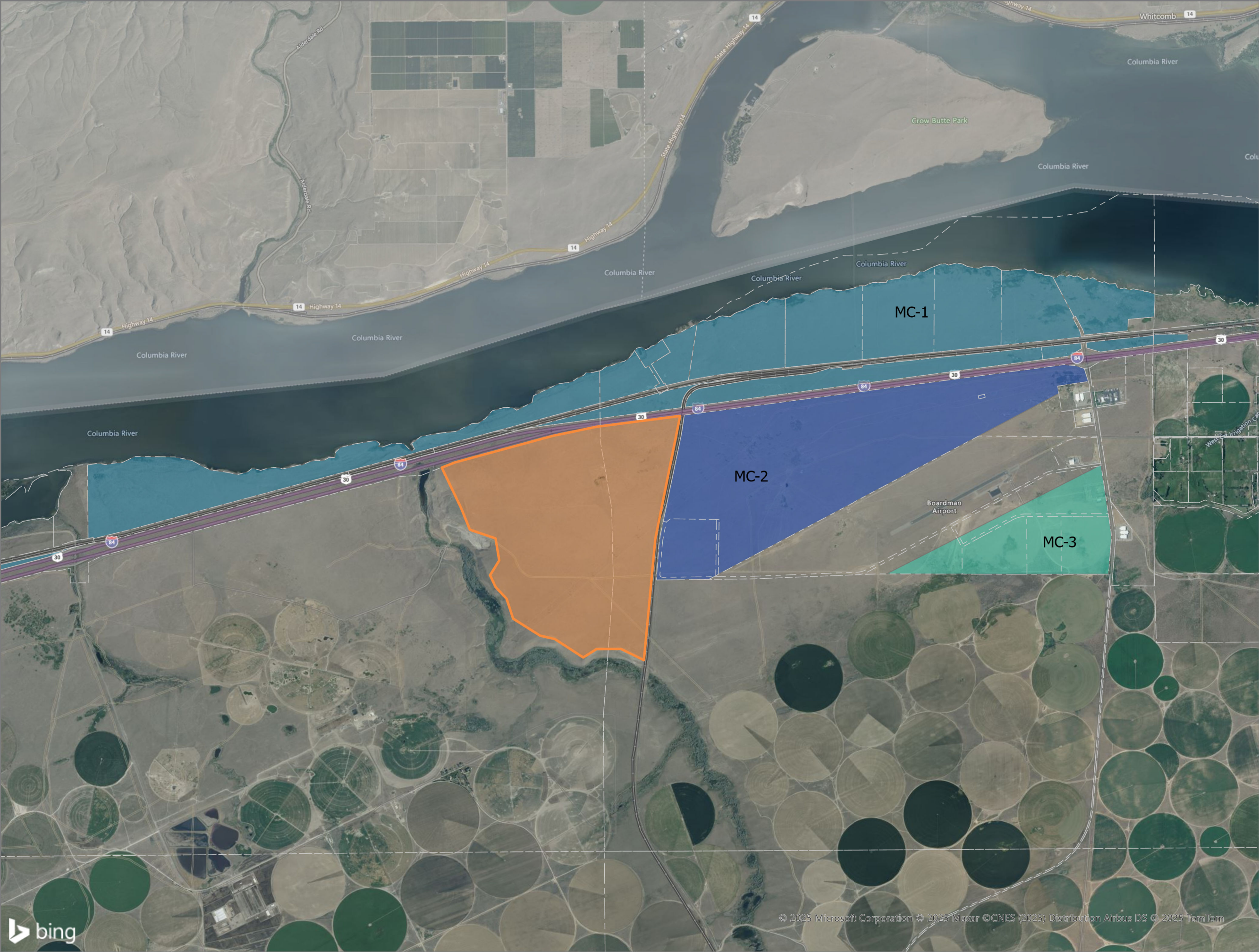
Arlington

30

84

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# MAP 4

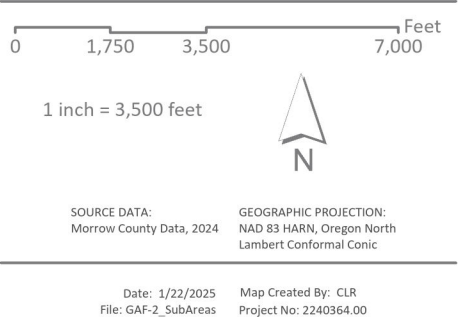
## Alternative Area: Morrow County #1, 2, & 3

### LEGEND

- Washington State Boundary
- Approx. Subject Site Boundary
- Tax Lots

### Alternative Areas

- Morrow County Area #1 (MC-1)
- Morrow County Area #2 (MC-2)
- Morrow County Area #3 (MC-3)



SOURCE DATA: Morrow County Data, 2024  
GEOGRAPHIC PROJECTION: NAD 83 HARN, Oregon North Lambert Conformal Conic

Date: 1/22/2025  
File: GAF-2\_SubAreas  
Map Created By: CLR  
Project No: 2240364.00



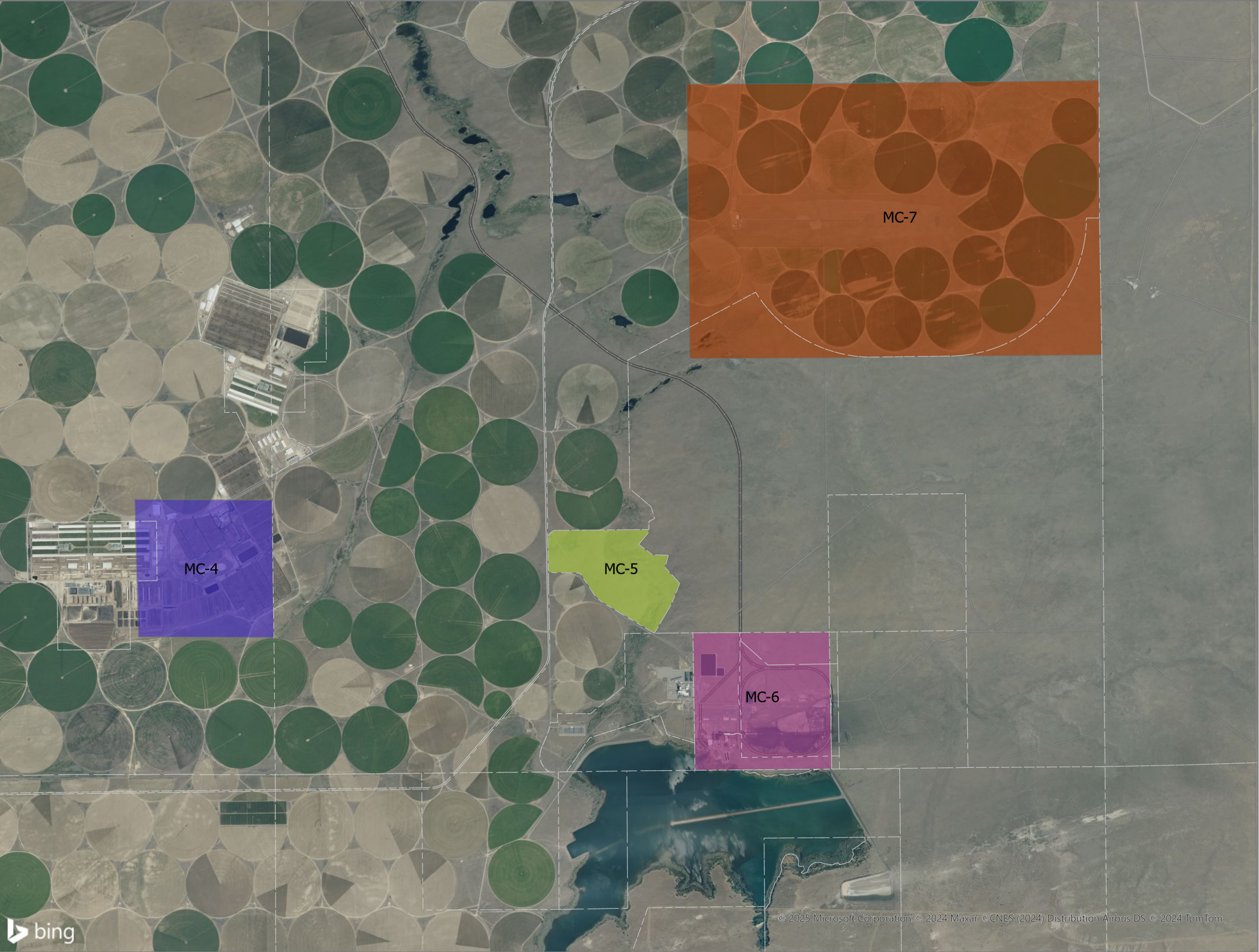
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**MAP 5**  
**Alternative Area:**  
**Morrow County #4-7**

**LEGEND**

Tax Lots

**Alternative Areas**

- Morrow County Area #4 (MC-4)
- Morrow County Area #5 (MC-5)
- Morrow County Area #6 (MC-6)
- Morrow County Area #7 (MC-7)

0 1,750 3,500 7,000 Feet

1 inch = 3,500 feet

SOURCE DATA:  
Morrow County Data, 2024

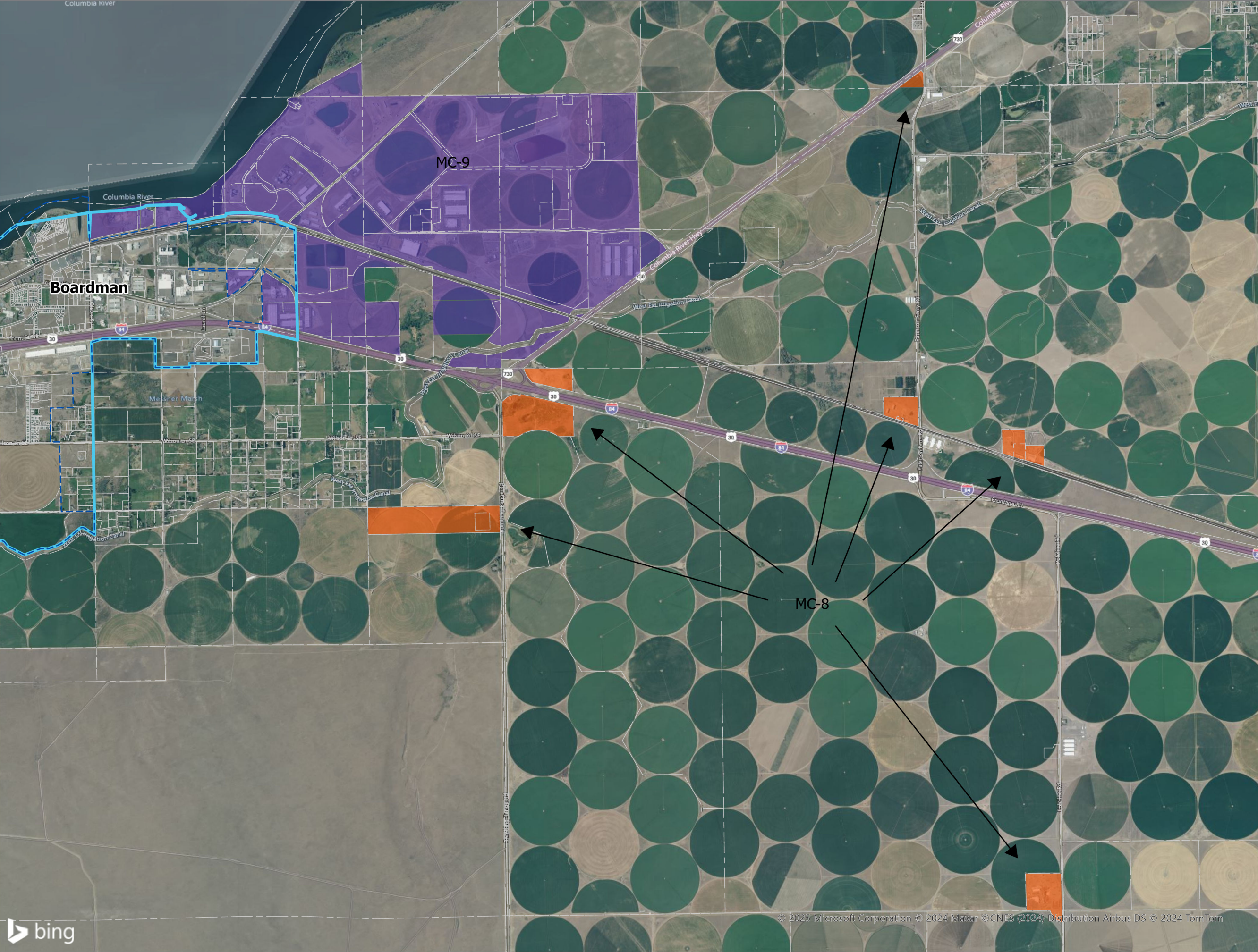
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NAD 83 HARN, Oregon North  
Lambert Conformal Conic

Date: 1/14/2025  
File: GAF-2\_SubAreas

Map Created By: CLR  
Project No: 2240364.00

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MAP 6  
Alternative Area:  
Morrow County #8 & 9

- LEGEND
- Washington State Boundary
  - City Limits 2022
  - Urban Growth Boundary
  - Tax Lots
- Alternative Areas
- Morrow County Area #8 (MC-8)
  - Morrow County Area #9 (MC-9)

0 1,750 3,500 7,000 Feet

1 inch = 3,500 feet

N

SOURCE DATA: Morrow County Data, 2024

GEOGRAPHIC PROJECTION: NAD 83 HARN, Oregon North Lambert Conformal Conic

Date: 1/14/2025 File: GAF-2\_SubAreas

Map Created By: CLR Project No: 2240364.00



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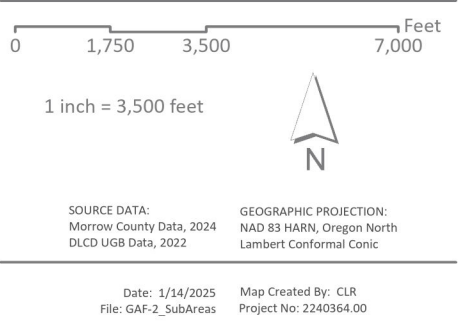




# MAP 7

## Alternative Area: Morrow County #10

- LEGEND**
- Washington State Boundary
  - City Limits 2022
  - Urban Growth Boundary
  - Tax Lots
- Alternative Areas**
- Morrow County Area #8 (MC-8)
  - Morrow County Area #9 (MC-9)
  - Morrow County Area #10 (MC-10)

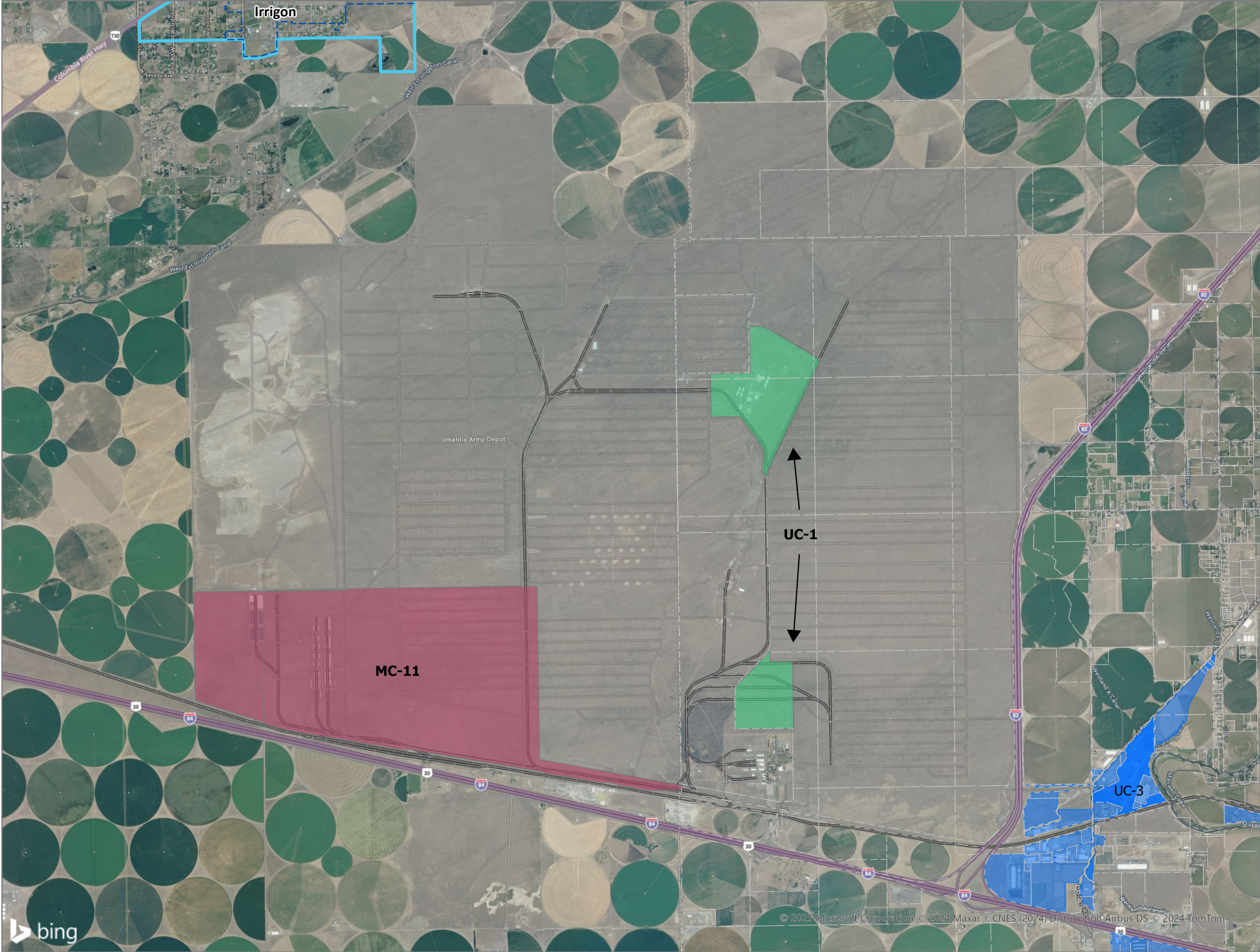


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**MAP 8**  
**Alternative Area:**  
**Morrow County #11**  
**Umatilla County #1**

- LEGEND**
- City Limits 2022
  - Urban Growth Boundary
- Alternative Areas**
- Morrow County Area #11 (MC-11)
  - Umatilla County Area #1 (UC-1)
  - Umatilla County Area #3 (UC-3)

0 1,750 3,500 7,000 Feet

1 inch = 3,500 feet

N

SOURCE DATA:  
Morrow County Data, 2024  
Umatilla County Data, 2024

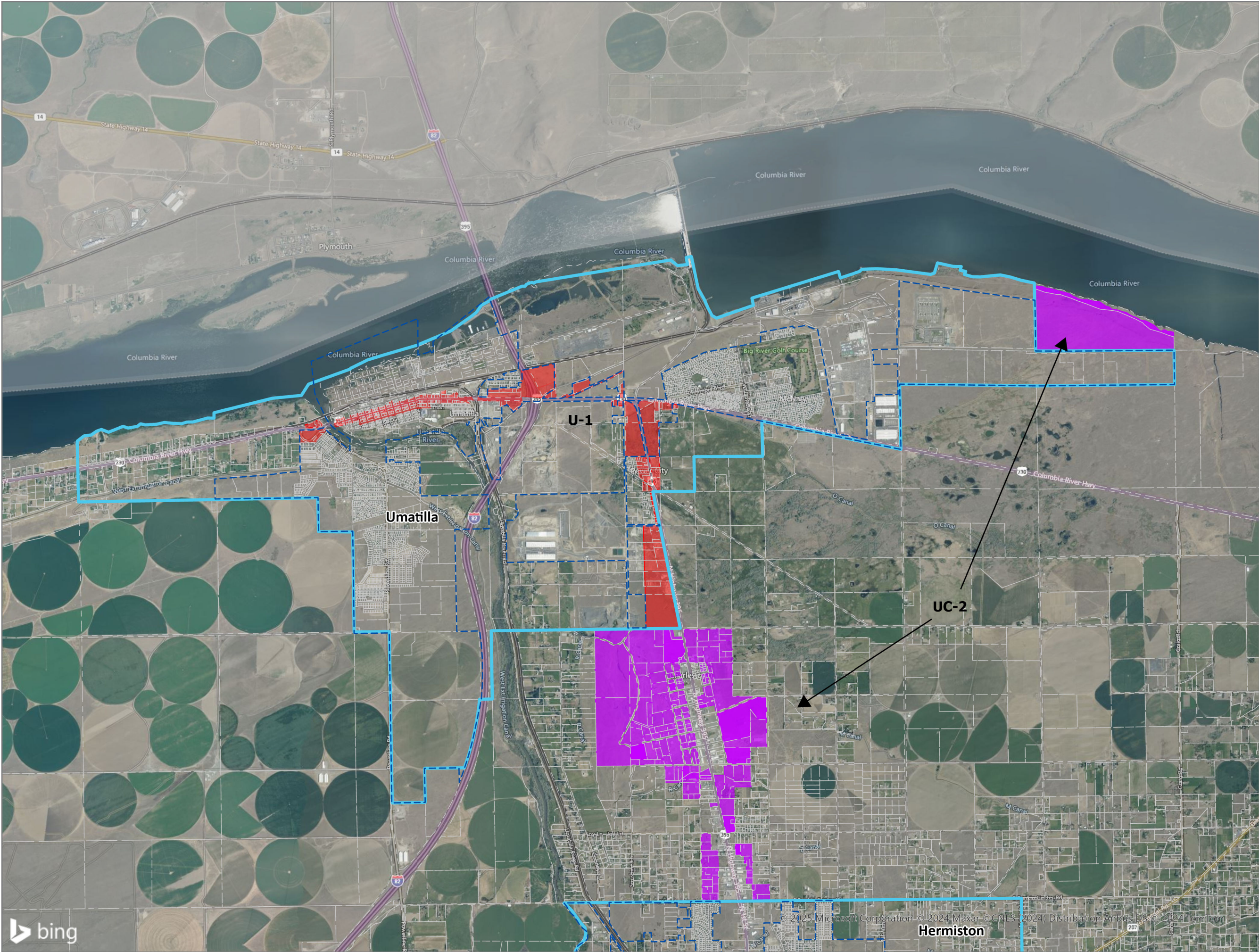
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Lambert Conformal Conic

Date: 1/14/2025  
File: GAF-2\_SubAreas\_part\_2

Map Created By: CLR  
Project No: 2240364.00

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# MAP 9

## Alternative Area: City of Umatilla #1 Umatilla County #2

- LEGEND**
- Washington State Boundary
  - City Limits 2022
  - Urban Growth Boundary
  - Tax Lots
- Alternative Areas**
- City of Umatilla Area #1 (U-1)
  - Umatilla County Area #2 (UC-2)

0 1,750 3,500 7,000 Feet

1 inch = 3,500 feet

N

SOURCE DATA:  
Umatilla County Data, 2024  
City of Umatilla Data, 2024

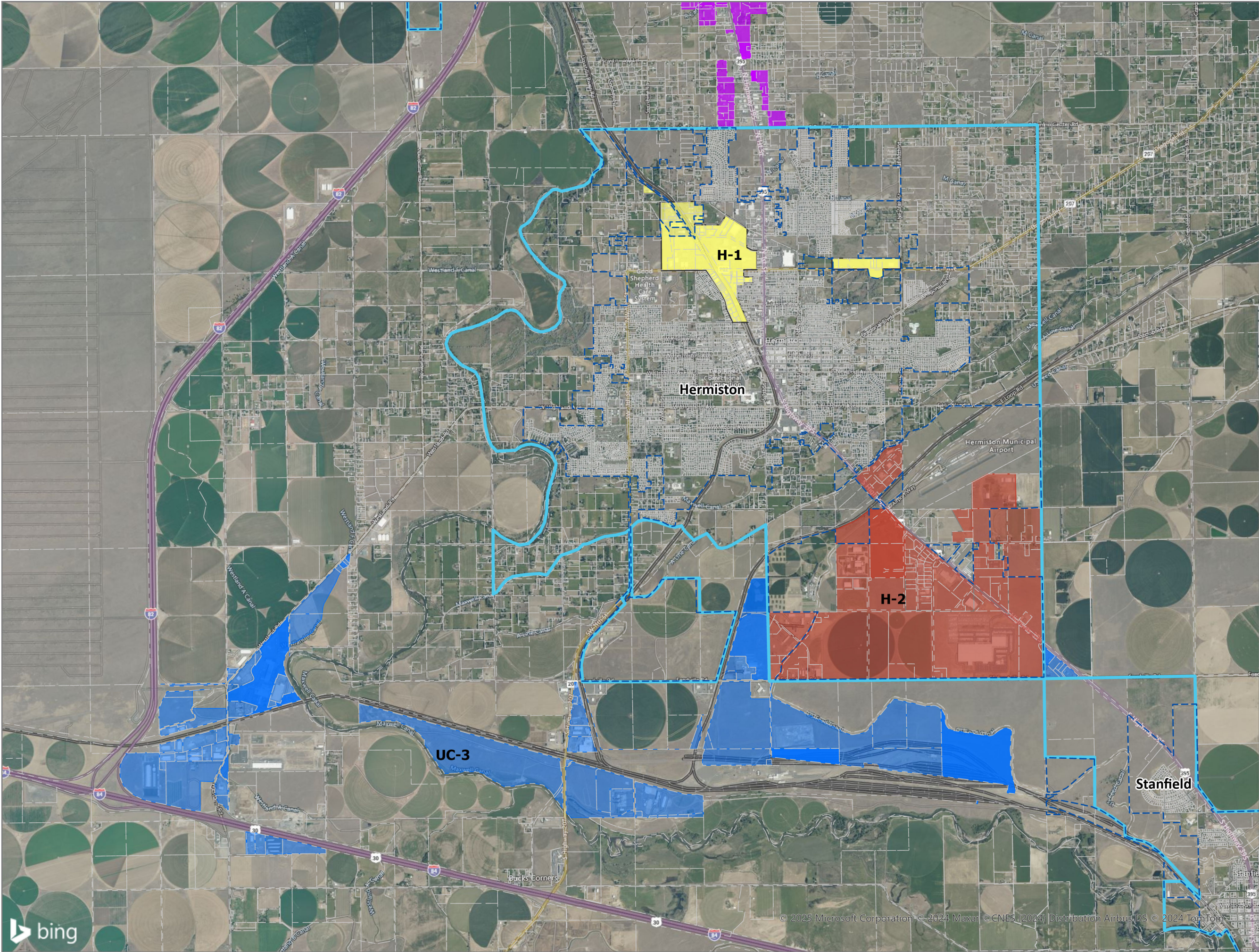
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NAD 83 HARN, Oregon North  
Lambert Conformal Conic

Date: 1/14/2025  
File: GAF-2\_SubAreas\_part\_2

Map Created By: CLR  
Project No: 2240364.00







# MAP 10

## Alternative Area: City of Hermiston #1 & 2 Umatilla County #3

### LEGEND

- City Limits 2022
- Urban Growth Boundary
- Tax Lots
- Alternative Areas**
  - City of Hermiston Area #1 (H-1)
  - City of Hermiston Area #2 (H-2)
  - Umatilla County Area #2 (UC-2)
  - Umatilla County Area #3 (UC-3)

0 1,750 3,500 7,000 Feet

1 inch = 3,500 feet



SOURCE DATA: Umatilla County Data, 2024  
City of Hermiston Data, 2024

GEOGRAPHIC PROJECTION: NAD 83 HARN, Oregon North  
Lambert Conformal Conic

Date: 1/15/2025  
File: GAF-2\_SubAreas\_part\_2

Map Created By: CLR  
Project No: 2240364.00



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APPENDIX B

**DEED FROM  
CITY OF  
ARLINGTON  
TO AMAZON  
DATA  
SERVICES,  
INC. FOR  
PORTION OF  
ALTERNATIVE  
AREA A-1**

AFTER RECORDING RETURN TO:  
PO Box 80416  
Seattle, WA 98108-0416  
Attention: General Counsel (real estate)  
[PDX401]

GILLIAM COUNTY, OREGON		<b>2024-000316</b>
D-D	<b>12/23/2024 08:54:41 AM</b>	
Cnt=1 Pgs=4 KIMOC		
\$20.00 \$11.00 \$10.00 \$60.00	\$101.00	
I, Ellen Wagenaar, County Clerk for Gilliam County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.		
Ellen Wagenaar - County Clerk		



UNTIL A CHANGE IS REQUESTED, ALL  
TAX STATEMENTS SHALL BE  
SENT TO THE FOLLOWING ADDRESS:  
PO Box 80416  
Seattle, WA 98108-0416  
Attention: Real Estate Manager [PDX401]

### STATUTORY SPECIAL WARRANTY DEED

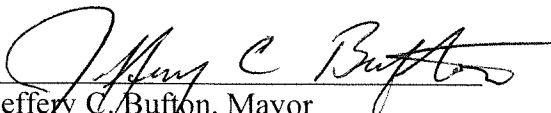
CITY OF ARLINGTON, A MUNICIPAL CORPORATION OF THE STATE OF OREGON, Grantor, conveys and specially warrants to AMAZON DATA SERVICES, INC., a Delaware corporation, Grantee, the real property described on the attached Exhibit A, free of encumbrances created or suffered by the Grantor except as disclosed on the attached Exhibit B.

The true and actual consideration for this conveyance consists of or includes other property or value given or promised which is a part of the consideration.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

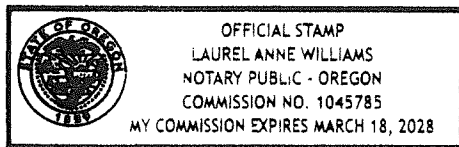
DATED effective this 13 day of December, 2024.

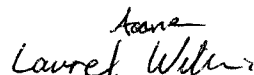
CITY OF ARLINGTON,  
a municipal corporation of the State of Oregon

By:   
Jeffery C. Bufton, Mayor

STATE OF OREGON            )  
  ) ss  
COUNTY OF GILLIAM        )

This instrument was acknowledged before me on this 13 day of December, 2024, by Jeffery C. Bufton as Mayor of the CITY OF ARLINGTON, a municipal corporation of the State of Oregon, on behalf of said municipal corporation.



  
Notary Public for Oregon  
My Commission Expires: March 18, 2028



## **EXHIBIT A**

### **LEGAL DESCRIPTION**

Lots 1 and 2 of MESA INDUSTRIAL PARK SUBDIVISION, recorded August 21, 2024, under Microfilm Number 2024-000195, County of Gilliam and State of Oregon

**EXHIBIT B**  
**DEED EXCEPTIONS**

All covenants, restrictions, conditions, easements, reservations, rights-of-way, and other matters of record, to the extent valid, subsisting and enforceable.

---

APPENDIX C

**LETTER FROM  
THREEMILE  
CANYON  
FARMS  
REGARDING  
PROPERTY  
WITHIN  
ALTERNATIVE  
AREA MC-1**



**THREEMILE  
CANYON  
FARMS**

Ian Sisson  
Mackenzie, Inc.  
RiverEast Center, 1515 SE Water Ave, Suite 100  
Portland, OR 97214  
[ISisson@mcknze.com](mailto:ISisson@mcknze.com)

Dear Mr. Sisson,

As you know, Threemile Canyon Farms, LLC ("Threemile") owns real property located north of the Boardman Airport along the Columbia River, which is also identified as Tax Lot Nos 04N23E – 100; 04N24E – 100; 04N24E – 129; 04N24E – 127; 04N24E – 125; 04N24E – 124 ("Property"). You have asked whether this Property is or has been available for acquisition or lease by a third party for any purpose. In my capacity as President – Real Estate for Threemile Canyon Farms, LLC, I can confirm that the Property is deemed essential to Threemile's real property holdings and is not and has not been made available for acquisition or lease, regardless of the proposed purchaser/lessee or the proposed use.

Sincerely,

F. Scott Neal  
President – Real Estate

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APPENDIX D

**DEED FROM  
PORT OF  
MORROW TO  
AMAZON  
DATA  
SERVICES,  
INC. FOR  
PORTION OF  
ALTERNATIVE  
AREA MC-3**

**RECORDING COVER SHEET** *(Please Print or Type)*  
This cover sheet was prepared by the person presenting the instrument for recording. The information on this sheet is a reflection of the attached instrument and was added for the purpose of meeting first page recording requirements in the State of Oregon, ORS 205.234, and does NOT affect the instrument.

**AFTER RECORDING RETURN TO:**

Seyfarth Shaw LLP

Attention: Michael J. Merar

233 South Wacker Drive, Suite 8000

Chicago, Illinois 60606

MORROW COUNTY, OREGON **2023-52454**  
D-WD  
Cnt=1 Stn=23 TC 01/05/2023 10:29:01 AM  
\$175.00 \$11.00 \$10.00 \$60.00 **\$256.00**

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

Bobbi Childers - County Clerk



**1) TITLE(S) OF THE TRANSACTION(S) ORS 205.234(a)**

Special Warranty Deed

**2) DIRECT PARTY / GRANTOR(S) ORS 205.125(1)(b) and 205.160**

Port of Morrow, an Oregon corporation

**3) INDIRECT PARTY / GRANTEE(S) ORS 205.125(1)(a) and 205.160**

Amazon Data Services, Inc., a Delaware corporation

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

\$ \_\_\_\_\_ ☐ Other

**5) SEND TAX STATEMENTS TO:**

Amazon Data Services, Inc.

Attn: Property Tax (AWS) PDX154-162

PO Box 80416, Seattle, WA 98108-0416

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

CHECK ONE: ☐ FULL  
(If applicable) ☐ PARTIAL

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

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

**8) If this instrument is being Re-Recorded, complete the following statement, in accordance with ORS 205.244: "RERECORDED AT THE REQUEST OF \_\_\_\_\_ TO CORRECT \_\_\_\_\_"**

AmeriTitle  
Add missing Exhibit "B"


PREVIOUSLY RECORDED IN BOOK \_\_\_\_\_ AND PAGE \_\_\_\_\_, OR AS FEE NUMBER 2022-52441."

AmeriTitle 505429 AM

AFTER RECORDING RETURN TO:  
Seyfarth Shaw LLP  
Attention: Michael J. Merar  
233 South Wacker Drive, Suite 8000  
Chicago, Illinois 60606

UNTIL A CHANGE IS REQUESTED, ALL TAX  
STATEMENTS SHALL BE SENT TO:  
Amazon Data Services, Inc.  
Attention: Property Tax (AWS) PDX154/162  
P.O. Box 80416  
Seattle, WA 98108-0416

MORROW COUNTY, OREGON		<b>2022-52441</b>
<b>D-WD</b>		
Cnt=1 Stn=23 TC	12/30/2022 02:14:01 PM	
\$165.00 \$11.00 \$10.00 \$60.00	<b>\$246.00</b>	
I, Bobbi Childers, County Clerk for Morrow County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.		
Bobbi Childers - County Clerk		



**SPECIAL WARRANTY DEED**

The true consideration for this conveyance \$3,724,380.00.

**PORT OF MORROW**, an Oregon municipal corporation ("**Grantor**"), conveys and specially warrants to **AMAZON DATA SERVICES, INC.**, a Delaware corporation ("**Grantee**"), the following described real property situated in Morrow County, Oregon, free of encumbrances except as specifically set forth herein:

The real property described in Exhibit "A" attached hereto (the "**Property**") and by this reference incorporated herein. Said Property is SUBJECT TO those exceptions described on Exhibit "B" attached hereto and by this reference incorporated herein.

EXCEPTING AND RESERVING UNTO GRANTOR all right, title and interest in and to all water rights appurtenant to the Property, as evidenced by State of Oregon Certificate of Water Right No. **68545, 94437, Transfer T-13107, Permit G-18505, G-17515, G-17516, S-55338**. The reserved water rights are further described as follows:

**Certificate:** That portion of Certificate 68545 appurtenant to and lying within the Property  
**Type of Use:** Industrial Use  
**Source:** A well in the Columbia River Basin, as described in Certificate 68545  
**Priority Dates:** February 4, 1977  
**Place of use:** as described in Certificate 68545

**Certificate:** That portion of Certificate 94437 appurtenant to and lying within the Property  
**Type of Use:** Industrial Use  
**Source:** Port Well #4 in the Columbia River Basin, as described in Certificate 94437  
**Priority Dates:** December 4, 1989  
**Place of use:** as described in Certificate 94437

**Transfer:** That portion of the Final Order Approving Transfer Application T-13107 appurtenant to and lying within the Property  
**Type of Use:** Municipal Use  
**Source:** Columbia River, a tributary of the Pacific Ocean  
**Priority Dates:** November 5, 1971  
**Place of use:** within the Port of Morrow Service Area Boundaries, as described in the Final Order Approving Transfer Application T-13107

AmeriTitle 505629AM



**Permit:** **That portion of Permit G-18505 appurtenant to and lying within the Property**  
**Type of Use:** Municipal Use and Irrigation use  
**Source:** Various Port Water Production Wells in Columbia River Basin  
**Priority Dates:** October 23, 1996  
**Place of use:** as described in Permit G-18505

**Permit:** **That portion of Permit G-17515 appurtenant to and lying within the Property**  
**Type of Use:** Municipal Use  
**Source:** Various Port Water Production Wells in Columbia River Basin  
**Priority Dates:** May 28, 2013  
**Place of use:** within service area boundaries of Port of Morrow, as described in Permit G-17515

**Permit:** **That portion of Permit G-17516 appurtenant to and lying within the Property**  
**Type of Use:** Industrial Use, Irrigation, and Supplemental Irrigation  
**Source:** Various Port Water Production Wells within the Umatilla Basin  
**Priority Dates:** January 22, 1993  
**Place of use:** as described in Permit G-17516

**Permit:** **That portion of Permit S-55338 appurtenant to and lying within the Property**  
**Type of Use:** Municipal Use  
**Source:** Various Port Diversions on the Columbia River, a tributary to the Pacific Ocean  
**Priority Dates:** January 29, 2018  
**Place of use:** within the boundaries of Port of Morrow Service Area, as described in Permit S-55338

True and correct copies of the State of Oregon Certificates of Water Right Nos. **68545**, and **94437**, Transfer **T-13107**, and Permits **G-18505**, **G-17515**, **G-17516**, and **S-55338**, are attached hereto in **Exhibit "A-1"**.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

MADE, GRANTED AND DATED ON December 30, 2022.

*[Signature and acknowledgement appear on following page]*

GRANTOR:

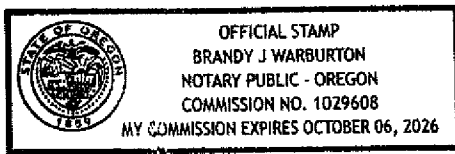
PORT OF MORROW,  
an Oregon municipal corporation

By: *Lisa Mittelborg*  
Name: Lisa Mittelborg  
Title: Executive Director  
Date Signed: 12/27/22

STATE OF Oregon )  
COUNTY OF Morrow ) SS.

On this 27<sup>th</sup> day of December, 2022 before me, a Notary Public of the State of Oregon, personally appeared Lisa Mittelborg, the Executive Director of Port of Morrow, an Oregon municipal corporation, a party to the foregoing instrument, and acknowledged that, being authorized to do so, he/she executed the foregoing instrument for the purposes therein contained by signing his/her name as such officer on behalf of such municipal corporation.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.



*Brandy Warburton*  
Notary Public

My commission expires: October 06, 2026

**Exhibit A**

**Legal Description**

**Tract 1: PDX 162 (P.P. 2022-15):**

Parcel 2 of Partition Plat No. 2022-15, recorded August 23, 2022, as Document No. 2022-51830, Official Records of Morrow County, Oregon, located in the Southeast quarter of the Section 21 and the Southwest quarter of Section 22, Township 4 North, Range 24, East of the Willamette Meridian, Morrow County, Oregon.

**Tract 2: PDX 154 (P.P. 2022-15):**

Parcel 3 of Partition Plat No. 2022-15, recorded August 23, 2022, as Document No. 2022-51830, Official Records of Morrow County, Oregon, located in the Southwest quarter and the Southeast quarter of Section 22, Township 4 North, Range 24, East of the Willamette Meridian, Morrow County, Oregon.

**Exhibit A-1**

**Water Rights Documents**

**State of Oregon Certificate of Water Right No. 68545, and 94437,  
Transfer T-13107, Permit G-18505, G-17515, G-17516, S-55338**

*(attached)*

STATE OF OREGON  
COUNTY OF MORROW  
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

PORT OF MORROW  
1 MARINE DRIVE  
P.O. BOX 200  
BOARDMAN, OREGON 97818

confirms the right to use the waters of A WELL in the COLUMBIA RIVER BASIN for INDUSTRIAL USE.

This right was perfected under Permit G-7158. The date of priority is FEBRUARY 4, 1977. This right is limited to 3.0 CUBIC FEET PER SECOND or its equivalent in case of rotation, measured at the well.

The well is located as follows:

SW 1/4 NE 1/4, SECTION 10, T 4 N, R 25 E, W.M. 130 FEET NORTH AND 2650 FEET EAST, FROM THE WEST 1/4 CORNER OF SECTION 10.

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

A description of the place of use to which this right is appurtenant is as follows:

NE 1/4 SW 1/4  
NW 1/4 SW 1/4  
SW 1/4 SW 1/4  
SE 1/4 SW 1/4  
SECTION 2

NE 1/4 SW 1/4  
SW 1/4 SW 1/4  
SE 1/4 SW 1/4  
NE 1/4 SE 1/4  
NW 1/4 SE 1/4  
SW 1/4 SE 1/4  
SE 1/4 SE 1/4  
SECTION 3

SE 1/4 SW 1/4  
SW 1/4 SE 1/4  
SE 1/4 SE 1/4  
SECTION 4

NE 1/4 NE 1/4  
NW 1/4 NE 1/4  
NE 1/4 NW 1/4  
SECTION 9

NE 1/4 NE 1/4  
NW 1/4 NE 1/4  
SW 1/4 NE 1/4  
SE 1/4 NE 1/4  
SECTION 10

TOWNSHIP 4 NORTH, RANGE 25 EAST, W.M.

SEE NEXT PAGE

NE 1/4 NW 1/4  
NW 1/4 NW 1/4  
SW 1/4 NW 1/4  
SE 1/4 NW 1/4  
NE 1/4 SW 1/4  
NW 1/4 SW 1/4  
NE 1/4 SE 1/4  
NW 1/4 SE 1/4  
SECTION 10

NE 1/4 NW 1/4  
NW 1/4 NW 1/4  
SW 1/4 NW 1/4  
SE 1/4 NW 1/4  
SECTION 11

TOWNSHIP 4 NORTH, RANGE 25 EAST, W.M.

The water user shall maintain a weir, meter or other suitable measuring device and shall keep a complete record of the amount of ground water withdrawn.

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

WITNESS the signature of the Water Resources Director, affixed AUGUST 14, 1995.

NOEL

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Martha O. Page

Recorded in State Record of Water Right Certificates numbered 68545.

G-7698.DSM

STATE OF OREGON  
COUNTY OF MORROW  
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

PORT OF MORROW  
PO BOX 200  
BOARDMAN OR 97818

confirms the right to the use of water perfected under the terms of Permit G-10975. The amount of water used to which this right is entitled is limited to the amount used beneficially, and shall not exceed the amount specified, or its equivalent in the case of rotation, measured at the point of diversion from the source. The specific limits and conditions of the use are listed below.

APPLICATION FILE NUMBER: G-11992

SOURCE OF WATER: PORT WELL #4 IN THE COLUMBIA RIVER BASIN

PURPOSE or USE: INDUSTRIAL USES

MAXIMUM RATE: 4.46 CUBIC FEET PER SECOND

DATE OF PRIORITY: DECEMBER 4, 1989

The well is located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 N	25 E	WM	10	NE NE	PORT WELL #4 - 1211 FEET SOUTH AND 1257 FEET WEST FROM NE CORNER, SECTION 10

A description of the place of use is as follows:

Twp	Rng	Mer	Sec	Q-Q
4 N	25 E	WM	2	NW SW
4 N	25 E	WM	2	S 1/2 SW 1/4
4 N	25 E	WM	3	S 1/2 SW 1/4
4 N	25 E	WM	3	S 1/2 SE 1/4
4 N	25 E	WM	4	S 1/2 SE 1/4
4 N	25 E	WM	9	N 1/2 NE 1/4
4 N	25 E	WM	10	NE 1/4
4 N	25 E	WM	10	NW 1/4
4 N	25 E	WM	10	N 1/2 SW 1/4
4 N	25 E	WM	10	NW SE
4 N	25 E	WM	11	NW 1/4

**NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW**

This is an order in other than a contested case. This order is subject to judicial review under ORS 183.484 and ORS 536.075. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.484(2). Pursuant to ORS 183.484, ORS 536.075 and OAR 137-004-0080, you may petition for judicial review and petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied. In addition, under ORS 537.260 any person with an application, permit or water right certificate subsequent in priority may jointly or severally contest the issuance of the certificate within three months after issuance of the certificate.



The appropriation shall be regulated if the well displays a static water level of 200 feet below land surface at time of permit issuance. Such regulation may include shutting down the use.

The water user shall maintain a record of levels of the water in the well and record water level measurements whenever well use ceases for more than two days. One measurement shall be made immediately before the resumption of pumping in order to reflect maximum water level recovery. The water user shall notify the Ground Water Section after each measurement period, reporting water level measurements stating the time of measurement and time of pumping cessation.

The wells shall be maintained in accordance with the General Standards for the Construction and Maintenance of Water Wells in Oregon. The works shall be equipped with a usable access port, and may also include an air line and pressure gauge adequate to determine water level elevation in the well at all times.

When required by the Department, the water user shall install and maintain a weir, meter, or other suitable measuring device, and shall keep a complete record of the amount of groundwater withdrawn.

The Director may require water level or pump test results every ten years.

Failure to comply with any of the provisions of this right may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the right.

This right is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.

By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

The use of water shall be limited when it interferes with any prior surface or ground water rights.

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

Issued JUL 12 2019



Dwight French  
Water Right Services Division Administrator, for  
Thomas M. Byler, Director  
Oregon Water Resources Department

BEFORE THE WATER RESOURCES DEPARTMENT  
OF THE  
STATE OF OREGON

In the Matter of Transfer Application	)	FINAL ORDER APPROVING ADDITIONAL
T-13107, Morrow County	)	POINTS OF DIVERSION AND CHANGES IN
	)	PLACE OF USE AND CHARACTER OF USE

**Authority**

Oregon Revised Statutes (ORS) 540.505 to 540.580 establish the process in which a water right holder may submit a request to transfer the point of diversion, place of use, or character of use authorized under an existing water right. Oregon Administrative Rules (OAR) Chapter 690, Division 380 implement the statutes and provides the Department’s procedures and criteria for evaluating transfer applications.

**Applicant**

PORT OF MORROW  
PO BOX 200 / NO. 2 MARINE DRIVE  
BOARDMAN, OR 97818

**Agent**

BRUCE BRODY-HEINE  
GSI WATER SOLUTIONS, INC.  
147 SW SHEVLIN HIXON DR, SUITE 201  
BEND, OR 97702

**Findings of Fact**

1. On January 15, 2019, the PORT OF MORROW filed an application to change the place of use, character of use and add additional points of diversion under Certificate 91597. The Department assigned the application number T-13107.
2. Notice of the application for transfer was published on January 29, 2019, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.

This final order is subject to judicial review by the Court of Appeals under ORS 183.482. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.482(1). Pursuant to ORS 536.075 and OAR 137-003-0675, you may petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

3. On March 13, 2020, the agent for the applicant submitted a revised application to clarify the points of diversion. The revision also requested the proposed WEID point of diversion be removed from the application.
4. On March 18, 2020, the Department sent a draft Preliminary Determination and cover letter to the applicant. The draft Preliminary Determination gave a deadline of April 17, 2020 in which to respond.
5. On April 15, 2020, the Department determined the draft Preliminary Determination did not contain concurrent changes to a layered supplemental right for both the place of use and character of use changes.
6. On May 14, 2020, the agent for the applicant submitted a revised application to include the layered supplemental water right Permit G-17516. The agent for the applicant also requested that the proposed date for complete application of water be extended to allow additional time to guarantee adequate time to complete the project. The Department shall include the layered supplemental water right approve and extend the date by which the applicant must make full beneficial use of water under the terms and conditions of this transfer to October 1, 2036. This REVISED draft of the preliminary determination, therefore, is issued to document the 766.9 acres place of use layered with primary water right Certificate 91597, and correctly reflects the changes proposed in Transfer Application T-13107, now described in Finding #5 below.
7. On July 15, 2020, the Department contacted the applicant by written correspondence to notify the applicant and the applicant's agent of a deficiency in the application. The date for complete application of water to the use, being October 1, 2018, has expired for Permit G-17516. The Department cannot complete the application without an active completion date. The Department requested that the deficiency be resolved by September 2, 2020.
8. On July 20, 2020, the Department received an Application for Extension of Time from the Port of Morrow, resolving the deficiency.
9. On September 29, 2020, the Department issued a Proposed Final Order, proposing to grant an extension of time to complete construction and application of water to full beneficial use to October 1, 2025.
10. On November 13, 2020, the Department received a protest and request for contested case hearing, in regard to the extension of time for Permit G-17516.
11. On November 5, 2021, the Department received a request to withdraw Permit G-17516 from transfer application T-13107.

12. On February 14, 2022, the Department issued a Preliminary Determination proposing to approve Transfer T-13107 and mailed a copy to the applicant. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on February 15, 2022, and in the Heppner Gazette newspaper on March 30 and April 6, 2022, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notices.

13. The portion of the right to be transferred is as follows:

**Certificate:** 91597 in the name of PORT OF MORROW, WESTLAND ENTERPRISES, LLC, C/O ROBERT LEVY (perfected under Permit S-35694)  
**Use:** IRRIGATION of 1147.5 ACRES FROM COLUMBIA RIVER  
**Priority Date:** NOVEMBER 5, 1971  
**Rate:** 22.16 CUBIC FEET PER SECOND (cfs), BEING 22.16 CFS FOR IRRIGATION OF 1147.5 ACRES  
**Limit/Duty:** The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-FORTIETH of one cubic foot per second, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 4.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

**Period of Use:** MARCH 1 THROUGH OCTOBER 31

**Source:** COLUMBIA RIVER, a tributary of the PACIFIC OCEAN

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q - Q	GLot	Measured Distances
5 N	25 E	WM	35	SW SE	3	COLUMBIA RIVER DIVERSION (ORIGINAL DIVERSION) - 80 FEET NORTH AND 2480 FEET WEST FROM THE SE CORNER OF SECTION 35

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q - Q	GLot	Acres
4 N	25 E	WM	1	NE NE	1	30.3
4 N	25 E	WM	1	NW NE	2	33.8
4 N	25 E	WM	1	SW NE		34.3
4 N	25 E	WM	1	SE NE		20.0
4 N	25 E	WM	1	NE NW	3	0.8
4 N	25 E	WM	1	NW NW	4	5.9
4 N	25 E	WM	1	SW NW		25.1
4 N	25 E	WM	1	SE NW		37.3
4 N	25 E	WM	1	NE SW		35.8
4 N	25 E	WM	1	NW SW		18.3
4 N	25 E	WM	1	NE SE		35.4
4 N	25 E	WM	1	NW SE		34.7
4 N	25 E	WM	1	SW SE		11.7
4 N	25 E	WM	1	SE SE		33.8

IRRIGATION						
Twp	Rng	Mer	Sec	Q - Q	GLot	Acres
4 N	25 E	WM	2	NE NE	1	35.5
4 N	25 E	WM	2	NW NE	5	3.3
4 N	25 E	WM	2	SE NE		29.3
4 N	25 E	WM	12	NE NE		38.1
4 N	25 E	WM	12	NW NE		17.5
4 N	25 E	WM	12	SW NE		9.2
4 N	25 E	WM	12	SE NE		15.2
4 N	25 E	WM	12	SE NW		0.1
4 N	26 E	WM	6	SW NE		0.5
4 N	26 E	WM	6	SE NE		6.6
4 N	26 E	WM	6	NE NW	3	31.1
4 N	26 E	WM	6	NW NW	4	34.5
4 N	26 E	WM	6	SW NW	5	12.0
4 N	26 E	WM	6	SE NW		8.5
4 N	26 E	WM	6	NE SW		32.4
4 N	26 E	WM	6	NW SW	6	30.9
4 N	26 E	WM	6	SW SW	7	39.7
4 N	26 E	WM	6	SE SW		40.1
4 N	26 E	WM	6	NE SE		34.3
4 N	26 E	WM	6	NW SE		31.0
4 N	26 E	WM	6	SW SE		33.7
4 N	26 E	WM	6	SE SE		18.0
4 N	26 E	WM	7	NE NE		36.3
4 N	26 E	WM	7	NW NE		32.9
4 N	26 E	WM	7	SW NE		29.6
4 N	26 E	WM	7	SE NE		24.6
4 N	26 E	WM	7	NE NW		30.6
4 N	26 E	WM	7	NW NW	1	29.3
4 N	26 E	WM	7	SW NW	2	30.5
4 N	26 E	WM	7	SE NW		40.9
4 N	26 E	WM	7	NE SW		11.2
4 N	26 E	WM	7	NW SW	3	0.4
4 N	26 E	WM	7	NW SE		0.9
4 N	26 E	WM	8	NW NW		19.9
4 N	26 E	WM	8	SW NW		1.7
Total						1147.5

14. Transfer Application T-13107 proposes additional points of diversion for the above described right Certificate 91597 located:

Twp	Rng	Mer	Sec	Q - Q	GLot	Dist. from Columbia Riv. POD	Measured Distances
4 N	25 E	WM	2	NE NW	7	Downstream 480 feet	CID POD - 150 FEET SOUTH AND 2990 FEET WEST FROM THE NE CORNER OF SECTION 2

Twp	Rng	Mer	Sec	Q - Q	GLot	Dist. from Columbia Riv. POD	Measured Distances
4 N	25 E	WM	2	SE NW	7	Downstream 5500 feet	TERMINAL 5 POD #2 - 1442 FEET SOUTH AND 3923 FEET WEST FROM THE NE CORNER OF SECTION 2
4 N	25 E	WM	3	SW SE	2	Downstream 5500 feet	TERMINAL 3 POD #3 - 1002 FEET NORTH AND 2168 FEET WEST FROM THE SE CORNER OF SECTION 3
4 N	25 E	WM	4	SE SE	2	Downstream 2.0 miles	TERMINAL 1 POD #4 - 410 FEET NORTH AND 435 FEET WEST FROM THE SE CORNER OF SECTION 4

15. Transfer Application T-13107 proposes to change the places of use of Certificate 91597 to:

MUNICIPAL USE
WITHIN THE PORT OF MORROW SERVICE AREA BOUNDARIES

16. Transfer Application T-13107 also proposes to change the character of use of the above described rights to municipal purposes.
17. The Oregon Department of Fish and Wildlife (ODFW) has determined that a fish screen is necessary at the new point of diversion to prevent fish from entering the diversion and that the diversion is not currently equipped with an appropriate fish screen. This diversion may be eligible for screening cost-share funds.
18. The total volume of water that may be diverted under Certificate 91597 for Municipal uses, as conditioned, is 5,163.75 Acre-Feet (AF) March 1 through October 31. ( $1147.5 \times 4.5 = 5,163.75$  AF).

***Transfer Review Criteria (OAR 690-380-4010)***

19. Water has been used within the last five years prior to the submittal of Transfer Application T-13107 according to the terms and conditions of Certificate 91597. There is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
20. Pump stations, pipeline, delivery system and sprinkler systems for irrigation and delivery system associated with municipal uses sufficient to use the full amount of water allowed under the existing rights were present within the five-year period prior to submittal of Transfer Application T-13107.
21. The proposed changes, as conditioned, would not result in enlargement of the right.
22. The proposed changes, as conditioned, would not result in injury to other water rights.
23. All other application requirements are met.

### Conclusions of Law

The changes in place of use and character of use, and additional points of diversion proposed in Transfer Application T-13107 are consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore, it is **ORDERED**:

1. The changes in place of use and character of use, and additional points of diversion proposed in Transfer Application T-13107 are approved.
2. The right to the use of the water is restricted to beneficial use at the place of use described, and is subject to all other conditions and limitations contained in Certificate 91597, and any related decree.
3. Water right Certificate 91597 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.
4. The use of water for the proposed municipal use under the right described by Certificate 91597 shall be limited to a rate of diversion of 22.16 cfs and further limited to a total volume diverted of 5,163.75 acre feet during the season of use being March 1 through October 31 of each year.
5. The quantity of water, authorized under water right Certificate 91597, diverted at the new additional points of diversion (CID POD, Terminal 5 POD #2, Terminal 3 POD #3, and Terminal 1 POD #4), together with that diverted at the original points of diversion (Columbia River Diversion (Original Diversion)), shall not exceed the quantity of water lawfully available at the original points of diversion (Columbia River Diversion (Original Diversion)).
6. Water use measurement conditions:
  - a. **Before water use may begin** under this order, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device at each point of diversion (new and existing).
  - b. The water user shall maintain the meters or measuring devices in good working order.
  - c. The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.
7. Prior to diverting water, the water user shall install an approved fish screen at the new point of diversion and shall provide to the OWRD a written statement from Oregon Department of Fish and Wildlife (ODFW) that the installed screen meets the state's criteria, or that ODFW has determined a screen is not necessary.

The water user shall operate and maintain the fish screen at the new point of diversion consistent with ODFW's operational and maintenance standards. If ODFW determines the screen is not functioning properly, and is unsuccessful in working with the water user to meet ODFW standards, ODFW may request that OWRD regulate the use of water until OWRD receives notification from ODFW that the fish screen is functioning properly.

8. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2036**. A Claim of Beneficial Use prepared by a Certified Water Right Examiner shall be submitted by the applicant to the Department within one year after the deadline for completion of the changes and full beneficial use of the water.
9. After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.

**JUN 01 2022**

Dated at Salem, Oregon this \_\_\_\_\_.



Lisa J. Jaramillo, Transfers & Conservation Services Manager, for  
Thomas M. Byler, Director  
Oregon Water Resources Department

Mailing date: **JUN 02 2022**



STATE OF OREGON  
COUNTY OF MORROW

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

PORT OF MORROW  
PO BOX 200, ONE MARINE DRIVE  
BOARDMAN, OR 97818

This superseding permit is issued to describe an amendment for additional points of appropriation proposed under Permit Amendment Application T-13504 and approved by Special Order Vol. 118, Page ~~44~~ 40, entered February 10, 2021, and to describe an extension of time for complete application of water approved December 20, 2007, and November 4, 2016, and a Water Management and Conservation Plan approved November 5, 2018. This permit supersedes Permit G-13765.

The specific limits and conditions of the use are listed below.

APPLICATION FILE NUMBER: G-14397

SOURCE OF WATER: FOUR WELLS IN COLUMBIA RIVER BASIN

PURPOSE OR USE: MUNICIPAL USE AND IRRIGATION OF 301.0 ACRES

MAXIMUM RATE: NOT TO EXCEED A MAXIMUM CUMULATIVE TOTAL OF 4.96 CUBIC FEET PER SECOND (CFS). BEING 4.96 CFS FOR MUNICIPAL USE AND 3.76 CFS FOR IRRIGATION

PERIOD OF USE: YEAR ROUND FOR MUNICIPAL USE, AND MARCH 1 THROUGH OCTOBER 31 FOR IRRIGATION

DATE OF PRIORITY: OCTOBER 23, 1996

POINT OF DIVERSION LOCATIONS:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 N	24 E	WM	21	SE NE	WELL 3 - 3200 FEET NORTH AND 110 FEET WEST FROM THE SE CORNER OF SECTION 21
4 N	24 E	WM	21	NE SW	WELL 2 - 2085 FEET NORTH AND 2650 FEET WEST FROM THE SE CORNER OF SECTION 21
4 N	24 E	WM	22	NW SW	WELL 1 - 2580 FEET NORTH AND 60 FEET EAST FROM THE SW CORNER OF SECTION 22
4 N	25 E	WM	10	SW NE	WELL 5A - 1650 FEET SOUTH AND 1330 FEET WEST FROM THE NE CORNER OF SECTION 10

The amount of water used for nursery use under this right, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 3.0 acre feet for each acre irrigated during the irrigation season of each year.

THE PLACE OF USE IS LOCATED AS FOLLOWS:

MUNICIPAL USE
WITHIN THE SERVICE BOUNDARIES

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 N	24 E	WM	21	NE SW	8.0
4 N	24 E	WM	21	SE SW	19.0
4 N	24 E	WM	21	NE SE	37.0
4 N	24 E	WM	21	NW SE	25.0
4 N	24 E	WM	21	SW SE	35.0
4 N	24 E	WM	21	SE SE	37.0
4 N	24 E	WM	22	NE SW	37.5
4 N	24 E	WM	22	NW SW	24.0
4 N	24 E	WM	22	SW SW	24.0
4 N	24 E	WM	22	SE SW	37.5
4 N	24 E	WM	22	NW SE	8.5
4 N	24 E	WM	22	SW SE	8.5
Total					301.0

**Permit Amendment T-13504 Conditions:**

The combined quantity of water diverted at the new additional points of appropriation (Well 3 and Well 5A), together with that diverted at the old points of appropriation (Wells 1 and 2), shall not exceed the quantity of water lawfully available at the original point of appropriation (Wells 1 and 2).

Water shall be acquired from the same aquifer as the original points of appropriation.

**Extension of Time Conditions:**

**Well Condition**

The use of any water under Permit G-13765 is subject to this Groundwater Condition.

The permit holder shall provide written documentation that Airport Well #1 (MORR 50471/MORR 50531/ MORR 51712) is not producing water from the basalt source which is common to the Port of Morrow Wells #1 and 2 on or before October 1, 2021. If the Department does not receive written documentation on or before October 1, 2021, the Airport Well #1 (MORR 50471/MORR 50531/ MORR 51712) will be excluded on the final certificate.

### Development Limitations

Appropriation of any water beyond 0.46 cfs up to 4.96 cfs under Permit G-13765 for municipal use shall only be authorized upon issuance of a final order approving a Water Management and Conservation Plan (WMCP) under OAR Chapter 690, Division 86 that authorizes access to a greater rate of appropriation of water under the permit consistent with OAR 690-086-0130(7). The required WMCP shall be submitted to the Department within 3 years of this Final Order. The amount of water used under Permit G-13765 must be consistent with this and subsequent WMCP's approved under OAR Chapter 690, Division 86 on file with the Department.

The Development Limitation established in the above paragraph supersedes any prior limitation of the appropriation of water under Permit G-13765 that has been established under a prior WMCP or Extension final order issued by the Department.

The deadline established in the Extension Final Order for submittal of a WMCP shall not relieve a permit holder of any existing or future requirement for submittal of a WMCP at an earlier date as established through other orders of the Department. A WMCP submitted to meet the requirements of the final order may also meet the WMCP submittal requirements of other Department orders.

### Water Management and Conservation Plan Conditions:

The Port of Morrow's Water Management and Conservation Plan is approved and shall remain in effect until April 3, 2028, unless this approval is rescinded pursuant to OAR 690-086-0920.

The limitation of the diversion of water under Permit G-13765 established in the Final Order approving an Extension of Time for Permit G-13765 (issued on November 4, 2016) remains unchanged. Subject to other limitations or conditions of the permit, therefore, the Port of Morrow remains authorized to divert up to 0.46 cfs (out of the total permitted 4.96 cfs) of water under Permit G-13765.

The Port of Morrow shall submit an updated plan meeting the requirements of OAR Chapter 690, Division 086 within 10 years and no later than October 3, 2027.

The Port of Morrow shall submit a progress report containing the information required under OAR 690-086-0120(4) by April 3, 2023. The deadline established herein for the submittal of an updated Water Management and Conservation Plan (consistent with OAR Chapter 690, Division 086) shall not relieve the Port of Morrow from any existing or future requirement(s) for submittal of a Water Management and Conservation Plan at an earlier date as established through other final orders of the Department.

### Existing Permit Conditions:

Measurement, recording and reporting conditions:

- A. Before water use may begin under this permit, the permittee shall install a meter or other

suitable measuring device as approved by the Director. The permittee shall maintain the meter or measuring device in good working order, shall keep a complete record of the amount of water used each month and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently as may be required by the Director. Further, the Director may require the water user to report general water use information, including the place and nature of use of water under the permit.

- B. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

The water user shall develop a plan to monitor and report the impact of water use under this permit on water levels within the aquifer that provides water to the permitted well(s). The plan shall be submitted to the Department within one year of the date the permit is issued and shall be subject to the approval of the Department. At a minimum, the plan shall include a program to periodically measure static water levels within the permitted well(s) or an adequate substitution such as water levels in nearby wells. The plan shall also stipulate a reference water level against which any water-level declines will be compared. If a well listed on this permit (or replacement well) displays a total static water-level decline of 25 or more feet over any period of years, as compared to the reference level, then the water user shall discontinue use of, or reduce the rate or volume of withdrawal from, the well(s). Such action shall be taken until the water level recovers to above the 25-foot decline level or until the Department determines, based on the water user's and/or the Department's data and analysis, that no action is necessary because the aquifer in question can sustain the observed declines without adversely impacting the resource or senior water rights. The water user shall in no instance allow excessive decline, as defined in Commission rules, to occur within the aquifer as a result of use under this permit.

If substantial interference with a senior water right occurs due to withdrawal of water from any well listed on this permit, then use of water from the well(s) shall be discontinued or reduced and/or the schedule of withdrawal shall be regulated until or unless the Department approves or implements an alternative administrative action to mitigate the interference. The Department encourages junior and senior appropriators to jointly develop plans to mitigate interferences.

Within one year of permit issuance, the appropriator shall prepare a plan for the Water Resources Commission which shall indicate the steps for obtaining an alternate long term water supply.

Within one year of permit issuance, the permittee shall submit a water management and conservation plan consistent with OAR Chapter 690, Division 86.

Under this permit, groundwater shall not be produced from the basalt source developed by Port of Morrow wells #1 and #4, identifies in Department records as MORR 752 and MORR 1526.

### STANDARD CONDITIONS

The wells shall be constructed in accordance with the General Standards for the Construction and Maintenance of Water Wells in Oregon. The works shall be equipped with a usable access port, and may also include an air line and pressure gauge adequate to determine water level elevation in the well at all times.

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

Prior to receiving a certificate of water right, the permit holder shall submit the results of a pump test meeting the Department's standards, to the Water Resources Department. The Director may require water level or pump test results every ten years thereafter.

Failure to comply with any of the provisions of this permit may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the permit.

This permit is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.

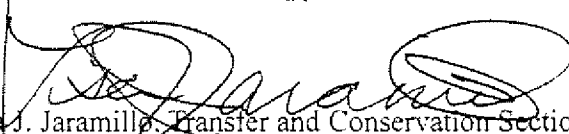
By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

The use of water shall be limited when it interferes with any prior surface or ground water rights.

The Director finds that the proposed use(s) of water described by this permit, as conditioned, will not impair or be detrimental to the public interest.

Complete application of the water to the use was to be made on or before October 1, 2002. By Extension of Time Final Order dated November 4, 2016, complete application of the water to the use is to be made on or before October 1, 2040.

Signed FEB 10 2021 :



Lisa J. Jaramillo, Transfer and Conservation Section Manager, for  
THOMAS M. BYLER, DIRECTOR  
Oregon Water Resources Department

Application G-14397/T-13504.cc  
Basin 7

Water Resources Department  
Volume 3A COLUMBIA R & MISC  
MGMT.CODE 7AG, 7AR, 7BG, 7BR

Permit G-18505  
District 5

STATE OF OREGON

COUNTY OF MORROW

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

PORT OF MORROW  
PO BOX 200  
BOARDMAN, OR 97818

The specific limits and conditions of the use are listed below.

APPLICATION FILE NUMBER: G-17678

SOURCE OF WATER: PORT WELL 5A AND PORT WELL 5B IN COLUMBIA RIVER BASIN

PURPOSE OR USE: MUNICIPAL USE

MAXIMUM RATE: 4.95 CUBIC FEET PER SECOND

PERIOD OF USE: YEAR-ROUND

DATE OF PRIORITY: MAY 28, 2013

WELL LOCATIONS:

PORT WELL 5A: NE  $\frac{1}{4}$  NE  $\frac{1}{4}$ , SECTION 10, T4N, R25E, W.M.; 1570 FEET NORTH AND 910 FEET WEST FROM E $\frac{1}{4}$  CORNER, SECTION 10

PORT WELL 5B: SW  $\frac{1}{4}$  NW  $\frac{1}{4}$ , SECTION 11, T4N, R25E, W.M.; 475 FEET NORTH AND 620 FEET EAST FROM W $\frac{1}{4}$  CORNER, SECTION 11

THE PLACE OF USE IS LOCATED AS FOLLOWS:

WITHIN SERVICE AREA BOUNDARIES OF PORT OF MORROW

Measurement devices, and recording/reporting of annual water use conditions:

- A. Before water use may begin under this permit, the permittee shall install a totalizing flow meter at each point of appropriation. The permittee shall maintain the device in good working order.
- B. The permittee shall allow the watermaster access to the device; provided however, where any device is located within a private structure, the watermaster shall request access upon reasonable notice.

Application G-17678      Water Resources Department

PERMIT G-17515

- C. The permittee shall keep a complete record of the volume of water diverted each month, and shall submit a report which includes water-use measurements to the Department annually, or more frequently as may be required by the Director. Further, the Director may require the permittee to report general water-use information, including the place and nature of use of water under the permit.
- D. The Director may provide an opportunity for the permittee to submit alternative measuring and reporting procedures for review and approval.

Static Water Level Conditions

The Department requires the water user to obtain, from a qualified individual (see below), and report annual static water levels for each well on the permit. The static water level shall be measured in the month of March. Reports shall be submitted to the Department within 30 days of measurement.

The permittee shall report an initial March static water-level measurement once well construction is complete and annual measurements thereafter. Annual measurements are required whether or not the well is used. The first annual measurement will establish a reference level against which future measurements will be compared. However, the Director may establish the reference level based on an analysis of other water-level data. The Director may require the user to obtain and report additional water levels each year if more data are needed to evaluate the aquifer system.

All measurements shall be made by a certified water rights examiner, registered professional geologist, registered professional engineer, licensed well constructor or pump installer licensed by the Construction Contractors Board. Measurements shall be submitted on forms provided by, or specified by, the Department. Measurements shall be made with equipment that is accurate to at least the standards specified in OAR 690-217-0045. The Department requires the individual performing the measurement to:

- A. Associate each measurement with an owner's well name or number and a Department well log ID; and
- B. Report water levels to at least the nearest tenth of a foot as depth-to-water below ground surface; and
- C. Specify the method of measurement; and
- D. Certify the accuracy of all measurements and calculations reported to the Department.

The Department may require the discontinuance of groundwater use, or reduce the rate or volume of withdrawal, from the well(s) if any of the following events occur:

- A. Annual water-level measurements reveal an average water-level decline of three or more feet per year for five consecutive years; or
- B. Annual water-level measurements reveal a water-level decline of 15 or more feet in fewer than five consecutive years; or
- C. Annual water-level measurements reveal a water-level decline of 25 or more feet; or
- D. Hydraulic interference leads to a decline of 25 or more feet in any neighboring well with senior priority.

The period of restricted use shall continue until the water level rises above the decline level which triggered the action or the Department determines, based on the permittee's and/or the Department's data and analysis, that no action is necessary because the aquifer in question can sustain the observed declines without adversely impacting the resource or causing substantial interference with senior water rights. The water user shall not allow excessive decline, as defined in Commission rules, to occur within the aquifer as a result of use under this permit. If more than one well is involved, the water user may submit an alternative measurement and reporting plan for review and approval by the Department.

**Dedicated Measuring Tube:** Wells with pumps shall be equipped with a minimum 3/4-inch diameter, unobstructed, dedicated measuring tube pursuant to figure 200-5 in OAR 690-200. If a pump has been installed prior to the issuance of this permit, and if static water levels and pumping levels can be measured using an electrical tape, then the installation of the measuring tube can be delayed until such time that water levels cannot be measured or the pump is repaired or replaced.

Any well drilled under this permit shall be continuously cased and continuously sealed from land surface to approximately 900 feet below land surface to isolate the well(s) from the Basalt of Sentinel Gap (Frenchman Springs Member, Wanapum Basalt) water-bearing zones that are open within Port of Morrow Well #4 (MORR 1526).

During the construction of any well under this permit, drill cuttings shall be collected at 10-foot intervals and at changes in lithology. A reference set of cleaned drill cuttings, labeled in plastic sample trays, shall be submitted to the Department for each well. The applicant shall have select drill cuttings analyzed for a comprehensive suite of major, minor, and trace elements that are appropriate for characterizing Columbia River Basalt Group stratigraphy. Available data for each well location shall be compiled, and the basalt stratigraphy interpreted by an Oregon Registered Geologist, whose written report shall be provided to the Department.



A copy of all hydrogeologic, geochemical, downhole video logs, and aquifer testing data collected from any well drilled under this permit will be provided in both hard copy and electronic format to the Department.

Prior to using water from any well listed on this permit, the permittee shall ensure that the well has been assigned an OWRD Well Identification Number (Well ID tag), which shall be permanently attached to the well. The Well ID shall be used as a reference in any correspondence regarding the well, including any reports of water use, water level, or pump test data.

#### **STANDARD CONDITIONS**

Failure to comply with any of the provisions of this permit may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the permit.

If the number, location, source, or construction of any well deviates from that proposed in the permit application or required by permit conditions, this permit may be subject to cancellation, unless the Department authorizes the change in writing.

If substantial interference with surface water or a senior water right occurs due to withdrawal of water from any well listed on this permit, then use of water from the well(s) shall be discontinued or reduced and/or the schedule of withdrawal shall be regulated until or unless the Department approves or implements an alternative administrative action to mitigate the interference. The Department encourages junior and senior appropriators to jointly develop plans to mitigate interferences.

The well(s) shall be constructed and maintained in accordance with the General Standards for the Construction and Maintenance of Water Supply Wells in Oregon. The works shall be equipped with a usable access port adequate to determine water-level elevation in the well at all times.

If the riparian area is disturbed in the process of developing a point of appropriation, the permittee shall be responsible for restoration and enhancement of such riparian area in accordance with ODFW's Fish and Wildlife Habitat Mitigation Policy OAR 635-415. For purposes of mitigation, the ODFW Fish and Wildlife Habitat Mitigation Goals and Standards, OAR 635-415, shall be followed.

The use may be restricted if the quality of downstream waters decreases to the point that those waters no longer meet state or federal water quality standards due to reduced flows.

Where two or more water users agree among themselves as to the manner of rotation in the use of water and such agreement is placed in writing and

filed by such water users with the watermaster, and such rotation system does not infringe upon such prior rights of any water user not a party to such rotation plan, the watermaster shall distribute the water according to such agreement.

Prior to receiving a certificate of water right, the permit holder shall submit to the Water Resources Department the results of a pump test meeting the Department's standards for each point of appropriation (well), unless an exemption has been obtained in writing under OAR 690-217. The Director may require water-level or pump-test data every ten years thereafter.

This permit is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.

By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

Completion of construction and application of the water shall be made within twenty years of the date of permit issuance. If beneficial use of permitted water has not been made before this date, the permittee may submit an application for extension of time, which may be approved based upon the merit of the application.

Within one year after making beneficial use of water, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner.

Issued *DECEMBER 23 2015*



E. Timothy Wallin, Water Rights Program Manager  
for Thomas M. Byler, Director

STATE OF OREGON  
COUNTY OF MORROW  
PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

PORT OF MORROW  
PO BOX 200  
#2 MARINE DRIVE  
BOARDMAN, OREGON 97818

(541) 481-7678

This superseding permit is issued to describe changes in place of use and additional points of appropriation approved under T-11992, Special Order Vol. 98, Page 173, entered February 8, 2016, and to describe an extension of time for complete application of water approved by an order dated June 19, 2015. This permit supersedes Permit G-16935.

The specific limits for the use are listed below along with conditions of use.

APPLICATION FILE NUMBER: G-13264

SOURCE OF WATER: WELL 4A, WELL 5A, PORT WELL #6, PORT WELL #7, EB WELL #1, EB WELL #2, EB WELL #3, FARM WELL #2, AND FARM WELL #3, WITHIN THE UMATILLA BASIN

PURPOSE OR USE: IRRIGATION OF 118.8 ACRES, SUPPLEMENTAL IRRIGATION OF 851.0 ACRES AND INDUSTRIAL USE

AMOUNT ALLOWED: 15.34 CUBIC FEET PER SECOND (CFS), BEING 9.77 CFS FOR IRRIGATION AND 5.57 CFS FOR INDUSTRIAL USE

PERIOD OF ALLOWED USE: MARCH 1 THROUGH APRIL 15 AND OCTOBER 1 THROUGH OCTOBER 31 FOR IRRIGATION AND OCTOBER 1 THROUGH APRIL 15 FOR INDUSTRIAL USE

DATE OF PRIORITY: JANUARY 22, 1993

POINTS OF DIVERSION LOCATIONS:

Twp	Rng	Mer	Sec	Q-Q	Measured Distance
4 N	25 E	WM	1	NE NW	WELL 4A—150 FEET SOUTH AND 2550 FEET EAST FROM THE NW CORNER OF SECTION 1
4 N	25 E	WM	1	NE NW	WELL 5A—60 FEET SOUTH AND 1380 FEET EAST FROM THE NW CORNER OF SECTION 1
4 N	25 E	WM	10	SW NE	PORT WELL #6—120 FEET NORTH AND 2400 FEET WEST FROM THE E1/4 CORNER OF SECTION 10
4 N	25 E	WM	10	SE NW	PORT WELL #7—1108 FEET NORTH AND 1417 FEET EAST FROM THE W1/4 CORNER OF SECTION 11
4 N	25 E	WM	2	SE NW	EB WELL #1-1372 FEET SOUTH AND 3646 FEET WEST FROM THE NE CORNER OF SECTION 2
4 N	25 E	WM	2	SE NW	EB WELL #2- 1444 FEET SOUTH AND 3710 FEET WEST FROM THE NE CORNER OF SECTION 2
4 N	25 E	WM	2	SE NW	EB WELL #3- 1595 FEET SOUTH AND 3850 FEET WEST FROM THE NE CORNER OF SECTION 2
4 N	25 E	WM	12	NW NW	FARM WELL #2-338 FEET SOUTH AND 691 FEET EAST FROM THE NW CORNER OF SECTION 12
4 N	25 E	WM	12	NW NW	FARM WELL #3- 1030 FEET SOUTH AND 120 FEET EAST FROM THE NW CORNER OF SECTION 12

The amount of water used for irrigation under this right, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 3.0 acre-feet for each acre irrigated during the irrigation season of each year.

THE PLACE OF USE IS LOCATED AS FOLLOWS:

INDUSTRIAL/MANUFACTURING USES					
WITHIN THE SERVICE BOUNDRY					

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 N	25 E	WM	11	NE NE	0.3
4 N	25 E	WM	11	SW NE	6.5
4 N	25 E	WM	11	SE NE	11.1
4 N	25 E	WM	11	NE SE	12.5
4 N	25 E	WM	11	NW SE	31.5
4 N	25 E	WM	12	NW NW	3.7
4 N	25 E	WM	12	SW NW	26.8
4 N	25 E	WM	12	NW SW	25.8
4 N	25 E	WM	12	SW SW	0.6
TOTAL					118.8

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 N	25 E	WM	1	NE NE	30.3
4 N	25 E	WM	1	NW NE	33.8
4 N	25 E	WM	1	SW NE	34.3
4 N	25 E	WM	1	SE NE	20.0
4 N	25 E	WM	1	NE NW	0.8
4 N	25 E	WM	1	SW NW	20.3
4 N	25 E	WM	1	SE NW	37.3
4 N	25 E	WM	1	NE SW	35.8
4 N	25 E	WM	1	NW SW	18.3
4 N	25 E	WM	1	NE SE	35.4
4 N	25 E	WM	1	NW SE	34.7
4 N	25 E	WM	1	SW SE	11.7
4 N	25 E	WM	1	SE SE	33.8
4 N	25 E	WM	12	NE NE	38.1
4 N	25 E	WM	12	NW NE	0.7
4 N	25 E	WM	12	SW NE	9.2
4 N	25 E	WM	12	SE NE	1.6
4 N	25 E	WM	12	SE NW	0.1
4 N	25 E	WM	12	NE SE	30.8
4 N	25 E	WM	12	NW SE	36.8
4 N	25 E	WM	12	SW SE	9.2
4 N	25 E	WM	12	SE SE	7.3
4 N	26 E	WM	6	SW NE	0.5
4 N	26 E	WM	6	SE NE	6.6

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 N	26 E	WM	6	NE NW	31.1
4 N	26 E	WM	6	NW NW	34.5
4 N	26 E	WM	6	SW NW	12.0
4 N	26 E	WM	6	SE NW	8.5
4 N	26 E	WM	6	NE SW	32.4
4 N	26 E	WM	6	NW SW	30.9
4 N	26 E	WM	6	SW SW	39.7
4 N	26 E	WM	6	SE SW	38.0
4 N	26 E	WM	6	NE SE	34.3
4 N	26 E	WM	6	NW SE	31.0
4 N	26 E	WM	6	SW SE	20.2
4 N	26 E	WM	6	SE SE	18.0
4 N	26 E	WM	7	NE NW	12.0
4 N	26 E	WM	7	NW NW	21.0
TOTAL					851.0

Permit Amendment T-11992 Conditions:

The combined quantity of water diverted at the new points of appropriation, together with that diverted at the old points of appropriation, shall not exceed the quantity of water lawfully available at the original points of appropriation.

Water shall be acquired from the same aquifer as the original points of appropriation.

Measurement, recording and reporting conditions:

- A. Before water use may begin under this permit, the permittee shall install a meter or other suitable measuring device as approved by the Director. The permittee shall maintain the meter or measuring device in good working order, shall keep a complete record of the amount of water used each month and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently as may be required by the Director. Further, the Director may require the permittee to report general water use information, including the place and nature of use of water under the permit.
- B. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

If substantial interference with a senior water right occurs due to withdrawal of water from any well listed on this permit, then use of water from the well(s) shall be discontinued or reduced and/or the schedule of withdrawal shall be regulated until or unless the Department approves or implements an alternative administrative action to mitigate the interference. The Department encourages junior and senior appropriators to jointly develop plans to mitigate interferences.

# STANDARD CONDITIONS

The wells shall be constructed in accordance with the General Standards for the Construction and Maintenance of Water Wells in Oregon. The works shall be equipped with a usable access port, and may also include an air line and pressure gauge adequate to determine water level elevation in the well at all times.

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

Prior to receiving a certificate of water right, the permit holder shall submit the results of a pump test meeting the department's standards, to the Water Resources Department. The Director may require water level or pump test results every ten years thereafter.

Failure to comply with any of the provisions of this permit may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the permit.

This permit is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.


By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

The use of water shall be limited when it interferes with any prior surface or ground water rights.

The Director finds that the proposed use(s) of water described by this permit, as conditioned, will not impair or be detrimental to the public interest.

Construction shall be completed on or before October 1, 2018. Complete application of the water to the use shall be made on or before October 1, 2018.

Dated at Salem, Oregon this 8 day of February, 2016.

  
 Dwight French, Water Right Services Administrator, for  
 Thomas M. Byler, Director  
 Oregon Water Resources Department

STATE OF OREGON

COUNTIES OF UMATILLA AND MORROW

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO:

PORT OF MORROW  
2 MARINE DR  
BOARDMAN OR 97818

The specific limits and conditions of the use are listed below.

APPLICATION FILE NUMBER: S-88507

SOURCE OF WATER: COLUMBIA RIVER, TRIBUTARY TO PACIFIC OCEAN

PURPOSE OR USE: MUNICIPAL USE

MAXIMUM RATE: 29.9 CUBIC FEET PER SECOND

PERIOD OF USE: OCTOBER 1 THROUGH APRIL 14

DATE OF PRIORITY: JANUARY 29, 2018

AUTHORIZED POINTS OF DIVERSION:

POD Name	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
POD 1	5 N	25 E	WM	35	SW SE	80 FEET NORTH AND 2480 FEET WEST FROM SE CORNER, SECTION 35
CID POD 2	4 N	25 E	WM	2	NE NW	SOUTH 86 DEGREES 22 MINUTES 46 SECONDS WEST, 2829 FEET FROM NE CORNER, SECTION 2
POM RIVER STATION POD 3	4 N	25 E	WM	2	SE NW	1438 FEET SOUTH AND 3903 FEET WEST FROM SE CORNER, SECTION 35, TOWNSHIP 5 NORTH, RANGE 25 EAST. W.M.

AUTHORIZED PLACE OF USE: WITHIN THE BOUNDARIES OF PORT OF MORROW SERVICE AREA

PERMIT SPECIFIC CONDITIONS

1. Failure to comply with any of the provisions of this permit may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the permit.
2. Water Use Measurement, Recording, and Reporting:
  - A. Before water use may begin under this permit, the permittee shall install a totalizing flow meter at each point of diversion. The permittee shall maintain the device in good working order.
  - B. The permittee shall allow the watermaster access to the device; provided however, where

any device is located within a private structure, the watermaster shall request access upon reasonable notice.

C. The permittee shall keep a complete record of the volume of water diverted each month, and shall submit a report which includes water-use measurements to the Department annually, or more frequently as may be required by the Director. Further, the Director may require the permittee to report general water-use information, including the place and nature of use of water under the permit.

D. The Director may provide an opportunity for the permittee to submit alternative measuring and reporting procedures for review and approval.

**3. Fish Screen/Bypass:**

The permittee shall install, maintain, and operate fish screening and by-pass devices consistent with current Oregon Department of Fish and Wildlife (ODFW) standards. Fish screening is to prevent fish from entering the proposed diversion while by-pass devices provide adequate upstream and downstream passage for fish. The required screen and by-pass devices are to be in place and functional prior to diversion of any water. Permittee shall obtain written approval from ODFW that the installation of the required screen and by-pass devices meets the state's criteria or the permittee shall submit documentation that ODFW has determined screens and/or by-pass devices are not necessary.

**4. Water Use During October and November:**

The permittee shall cease pumping for any days during October and November when the U.S. Army Corps of Engineers is managing the Columbia River to meet chum targets **AND** the 7-day rolling average of the mean daily gage height below Bonneville Dam (USGS gage station #14128870) is less than the stage target set that year by the Technical Management Team for protection of chum salmon. The permittee shall discontinue pumping for the duration of time the 7-day rolling average remains below the stage target. The permittee may re-commence pumping when the 7-day rolling average is at or above the target set for that year.

The permittee may pump water during times when the stage target is not met during October and November each year, provided that real-time mitigation that meets the goals and standards of OAR 635-415-0025 (ODFW Habitat Mitigation Recommendations) has been secured during the pumping period, and proof of mitigation has been provided to the Water Resources Department. The permittee is not required to track the 7-day rolling average or cease pumping during periods when mitigation has been secured.

Any mitigation provided for the period October 1 - November 30 shall be protected instream at a point or reach above Bonneville Dam located at approximately River Mile 146.



### STANDARD CONDITIONS

1. Where two or more water users agree among themselves as to the manner of rotation in the use of water and such agreement is placed in writing and filed by such water users with the watermaster, and such rotation system does not infringe upon such prior rights of any water user not a party to such rotation plan, the watermaster shall distribute the water according to such agreement.
2. This permit is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.
3. By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.
4. The use of water allowed herein may be made only at times when sufficient water is available to satisfy all prior rights, including prior rights for maintaining instream flows.

### DEVELOPMENT AND COMPLETION TIMELINE REQUIREMENTS

1. Construction of the water system shall begin within twenty years of the date of permit issuance. The deadline to begin construction may not be extended. This permit is subject to cancellation proceedings if the begin construction deadline is missed.
2. Complete application of the water shall be made within twenty years of the date of permit issuance. If beneficial use of permitted water has not been made before this date, the permittee may submit an application for extension of time, which may be approved based upon the merit of the application.
3. Within one year after complete application of water to the proposed use, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner.

Issued DEC 10 2021



Dwight French  
Water Right Services Division Administrator, for  
Thomas M. Byler, Director  
Oregon Water Resources Department

## **Exhibit B**

### **Permitted Exceptions**

1. Taxes assessed under Code No. 2504 Account No. 10704 Map No. 4N24 131, including the current fiscal year. Taxes for 2022 and subsequent years, none now due or payable.
2. An easement including the terms and provisions thereof, affecting the portion of said premises and for the purposes stated therein as set forth in an instrument granted to Umatilla Electric Cooperative Association, recorded on September 8, 1994, as Instrument No. 43540, in the Morrow County Records, in the State of Oregon.
3. An easement including the terms and provisions thereof, affecting the portion of said premises and for the purposes stated therein as set forth in an instrument granted to Umatilla Electric Cooperative Association, recorded on July 25, 1995, as Instrument No. 45669, in the Morrow County Records, in the State of Oregon.

*[end of Exhibit B]*