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## BEFORE THE KLAMATH COUNTY BOARD OF COMMISSIONERS

**IN THE MATTER OF FILE NUMBER CLUP/ZC 8-15****FINAL ORDER**

WHEREAS, OR Solar 5, LLC (dba Merrill Solar), applicant, requested approval of an exception to Statewide Planning Goal 3 and to apply a Limited Use Overlay designation (Comprehensive Plan Amendment) to an approximately 50 acre portion of a 67 acre property to allow an 8 megawatt solar power generating facility to be located on more than 20 acres of arable land; and granting a Conditional Use Permit; and

WHEREAS, the subject property is described as Tax Lot 1100 in Section 2 of Township 41 South, Range 10 East Willamette Meridian; and

WHEREAS, the Klamath County Planning Department provided proper notice of a public hearing to be held on January 27, 2016 and which was carried over to February 23, 2016 before the Klamath County Planning Commission and Board of County Commissioners; and

WHEREAS, the applicant submitted said request for the Comprehensive Plan amendment and associated Conditional Use Permit in due form for consideration; and

WHEREAS, based on testimony entered and consideration of the whole record, and making the proposed findings of fact in the application submittal and Staff Report their own and with the Conditions of Approval, the Klamath County Planning Commission concluded the application was in conformance with State Law, Klamath County Land Development Code and Comprehensive Plan, and forwarded a recommendation of Approval for Planning File CLUP/ZC 8-15 to the Board of County Commissioners; and

WHEREAS, based on testimony entered and after consideration of the whole record; and, with a recommendation of approval from the Klamath County Planning Commission, the Klamath County Board of Commissioners acting within their authority accepted the Planning Commission's recommendation, and APPROVED Planning File CLUP/ZC 8-15 with the following Conditions of Approval.

### Conditions of Approval

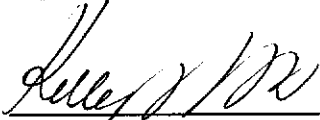
1. *Prior to operation of the use, clearances must be granted from Planning (LUCS) and the Building Dept. (permits for structural, electrical etc.) if needed.*
2. *Prior to issuance of Planning approval (LUCS) for the use, the owner shall record a restrictive covenant with the deed recognizing the rights of adjacent and nearby landowners to conduct farm and forest operations consistent with accepted farm practices and the Oregon Forest Practices Act. The restrictive covenant need only be effective as long as the CUP remains active and valid. A copy of the recorded covenant shall be provided to the Planning Department.*
3. *Prior to issuance of the Planning approval (LUCS), the 50 acre portion of the property shall be disqualified from farm tax deferral through the Assessor's Office.*
4. *Comply with any requirements of the Merrill Rural Fire Protection District.*
5. *Prior to issuance of the Planning approval (LUCS), the project owner shall provide security sufficient for decommissioning costs in the form of a performance bond to ensure the availability of funds to cover such costs. The security bond is to cover removal of equipment and restore the land to its original condition at the end of the project, or project abandonment and for hazard abatement. A decommissioning plan shall be provided to the Planning Dept. prior to issuance of the LUCS. An estimate of the decommissioning costs shall be provided with the bond and may include a salvage and recycling estimate that would reduce the bond amount.*
6. *If the project utilizes access from Hwy. 39, the applicant shall provide a copy of an ODOT access permit prior to issuance of the Planning approval (LUCS). If other access is utilized, the applicant shall provide proof of legal access.*
7. *The applicant shall provide ODOT the estimated number of trips the site will generate per Exhibit 6.*
8. *If the perimeter fencing for the solar field is within 50 feet of a public highway or is directly visible from the ground level of a residence that is less than 500 feet from the perimeter fence, the applicant shall plant a 10 foot wide strip of natural vegetation buffer before final permits and activation. The natural buffer should cover at least 50% of the surface area of the fence within 5 years of solar field activation.*

NOW, THEREFORE, THE KLAMATH COUNTY BOARD OF COMMISSIONERS  
ORDER AS FOLLOWS:

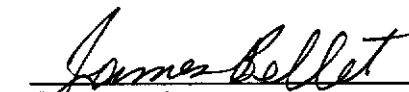
The Klamath County Planning Director shall draft for adoption by the Board of County Commissioners an ordinance amending the Klamath County Comprehensive Plan - General Land Use Plan Map and Zoning Map to add the Limited Use Overlay to the property shown on attached Exhibit A.


Dated this 11<sup>th</sup> day of October, 2016

FOR THE BOARD OF COMMISSIONERS

  
Chairman

  
Commissioner

  
Commissioner

  
County Counsel  
Approved as to form 10/12/2016

#### NOTICE OF APPEAL RIGHTS

This decision may be appealed to the Oregon Land Use Board of Appeals (LUBA) within 21 days following the date of the mailing of this order. Contact LUBA for information as how to file this appeal (LUBA by phone 1-503-373-1265 or mail at 550 Capitol Street NE, Suite 235, Salem, Oregon 97301-2552). Failure to do so in a timely manner may affect your rights.

This map is for planning purposes only. This map has been prepared for internal use by Klamath County only. Accuracy and completeness is not guaranteed to any other agency, public or private.