



April 25, 2024

Re: **Renewable Northwest's comments on the Washington Department of Fish and Wildlife's Revised Draft Guidelines for Solar and Wind Power Development**

Renewable Northwest ("RNW") thanks the Washington Department of Fish and Wildlife ("WDFW") for the continued coordination on the agency's Draft Guidelines for Solar and Wind Power Development, and the opportunity to provide comments on the revised guidelines released on March 14, 2025. RNW is a regional, non-profit renewable energy advocacy organization, dedicated to decarbonizing the region by accelerating the transition to renewable electricity. Our members are a combination of renewable energy businesses and environmental and consumer groups.

Our overarching goal is for this guidance document to provide predictability and certainty for renewable energy developers. While these guidelines are not regulations, they may be applied in a regulatory manner by counties or incorporated into regulatory documents. For that reason, we want to ensure they are as clear and realistic as possible.

Through our review of the revised guidelines, we can tell that WDFW carefully considered our comment letters dated October 15, 2024, and November 26, 2024. We applaud WDFW's willingness to incorporate many of our suggestions and feel that the guidelines are on the right track. There are a few remaining key issues that we wish to raise in this letter. These are all concerns that we highlighted in our first letter and that have been stated throughout the stakeholder sessions and during focused meetings with the WDFW team. We encourage WDFW to refer back to our October 15, 2024, letter, in many cases, but have also attached relevant information related to these key issues to this letter for your consideration.

There are six key issues that remain of concern for RNW:

1. **Living Document and Data Sources** - The guidelines should be kept as a living document and provide a list of standard resources that should be considered.
2. **Favorable vs. Unfavorable** - We suggest finding an alternative to characterizing proposed project locations as either favorable or unfavorable.
3. **Habitat Categories** - We are concerned with the inclusion of State Wildlife Action Plan species and habitats, as well as the ability to differentiate between habitat categories.
4. **Mitigation Ratios** - We are concerned with the ability to determine when and how ratios would be applied.
5. **Spatiotemporal Buffers** - We are concerned with the ability to build or operate any energy projects in the state amidst the constraints posed by these buffers and exclusion windows.
6. **Cumulative Impact Assessment** - This section remains vague and should be removed.

Living Document and Data Sources

RNW would like to restate, as we did in our October 15th letter, that if this is intended to be a living document, we recommend including a version and date on the cover once the document is made final. Further, if it is meant to be a living document, we recommend the guidelines be a web-based document, which is modular, and can be kept current as information changes, rather than a static document that would need to be completely revised each time it is updated. RNW also recommends that the document includes a list of preparers and reviewers, including any outside experts that were consulted during guideline development and any updates.

While the spirit of a living document is welcomed, and we appreciate WDFW's updates to the guidelines stating that updates would likely occur annually, with a more involved review occurring every five years, the renewable energy industry would like WDFW to outline a predetermined process for updating the guidelines. Predictability is critical for the long-term planning and financing of renewable energy projects. WDFW's process should be at a minimum:

1. Only occur if WDFW can demonstrate that some aspect of the guidelines is not working as written, and thus needs to be updated and be isolated to those topics.
2. Include ample stakeholder engagement, including specific engagement opportunities for the renewable energy industry.
3. Include at least one 30-day comment period to allow interested parties to provide comments on any changes proposed.

RNW appreciates that WDFW has now included many more information sources that could be considered when siting a project. However, the list as presented is unwieldy. We recommend creating subcategories within this data list, or some other form of organization that makes it easier to separate sources into topics that may be useful on a given project. Further, we recommend moving the data sources to an appendix of the guidelines, so they do not bog down the rest of the document. Data sources should also be clearly dated, and updated as new data sources become available in updated versions of the guidelines. Finally, all of these data sources should be not only linked in the guidelines, as they are, but also provided and linked on a designated WDFW webpage for this purpose.

As we reviewed the data sources provided, we recognize that most of them may only be useful on some projects and for certain resources. Therefore, we recommend that WDFW identifies "primary" resources or data layers that should be considered on every project and other "secondary" or "supplementary" resources that may be helpful in some cases, but likely not in all. Other states have done a good job at identifying which data layers should be used in every assessment. These primary data layers are examined for every project. That creates predictability in how information is shared for both WDFW and energy companies. In Washington those primary data sources are likely:

1. Web-based PHS Data
2. National Land Cover Data
3. Washington Shrubsteppe Restoration and Resiliency Initiative (WSSRI) Dry (Xeric) Spatial Priorities (at least for projects in the Columbia Basin)

4. Biodiversity Areas and Corridors
5. Washington Habitat Connectivity Action Plan (once completed)

Favorable vs Unfavorable Sites

RNW would like to restate our concerns from our October 15th letter about framing of potential project locations as favorable or unfavorable. In the early stage of project planning it is problematic to judge the suitability of sites based upon landscape-level tools and models. The Oregon DFW Solar Siting Guidelines (March 2024)¹ provide an example of a more neutral approach to the screening process and should be considered. In that example a similar step-wise approach to the use of screening data tools and early coordination are outlined, but there is no predetermined judgement about the site. That is left to more detailed coordination following field-based data collection.

The tools referenced in Step 1 of the WDFW guidelines are meant to be screening tools, many of which are models or statewide datasets that are overly conservative. Most were developed for other purposes beyond siting renewable energy projects. These screening tools are useful to identify what may be found when field studies are completed and help energy companies to determine, through coordination with WDFW, what studies are needed, in order to more fully understand impacts on biological resources. The guidelines could retain the step-wise projects and could still place project locations into Categories 1-5 without the unnecessary pre-determination of whether a site is favorable or unfavorable. We recommend simply removing those terms from the guidelines. It would not change the overall process or intent conveyed.

Habitat Categories

WDFW has stated that the draft guidelines are necessary because the current guidelines have resulted in a loss of areas of importance. Despite repeated requests for evidence that this measurable loss is due to renewable energy development, none has been provided. While WDFW says that the highest value habitats are now rare and must be protected, the recommendation to avoid all Habitats of Greatest Conservation Need (HGCN) and PHS Habitats effectively removes over 8 million acres and over 50% of the Columbia Plateau Ecoregion in Washington from development potential. Table 1 shows a summary of how many acres are in each habitat class, based on desktop data. Attachment 1 provides maps showing how these proposed categories overlay with the Columbia Basin, where most renewable energy development occurs in Washington, along with recommendations for how to further clarify and differentiate the classes.

RNW understands that not all of this land will be needed to meet Washington's renewable energy goals, but there are many more factors that influence where projects can be sited, not the least of which is willing landowners and reasonable access to a point of grid interconnection. While species and habitats are certainly a consideration in the multi-factor analysis each energy

¹ Oregon Department of Fish and Wildlife Solar Siting Guidance, March 2024
https://www.dfw.state.or.us/habitat/solar/docs/ODFW_Solar_Guidance.pdf

company does when considering where to site a project, they are not the only factors, and sometimes, not even the primary factors.

WDFW has not justified the inclusion of the State Wildlife Action Plan (SWAP) species and habitat to regulate project development. RNW is very concerned about this inclusion carrying an undue authority: the SWAP was not developed for a regulatory purpose and is not suited to that use. RNW recommends that a complete list of species and habitats that fall into each category be included in the guidelines. The inclusion of SWAP species and habitats, in some cases elevating them above Priority Habitats and Species in the mitigation hierarchy, is particularly problematic. This is a significant policy change that will have ripple effects through local critical areas ordinances and will reduce areas available for any type of infrastructure, including renewable energy development. RNW questions whether a policy change of this significance should be made through a guidance document. It will cause WDFW's guidelines to be in conflict with local comprehensive plans and critical areas ordinances, which rely solely on PHS species and habitats to determine the scope of analysis and mitigation for projects pertaining to wildlife and habitats.

RNW appreciates the inclusion of an all-encompassing graphic that shows the entire step-wise process. One simple thing that would make the process more clear would be to revise the graphic so that for each class, as shown in Step 5, only one arrow flows into each class. This is true for classes 1, 4, and 5, currently, but classes 2 and 3 each have two arrows attached to them. Revising this graphic so only one arrow is attached to each class would provide much more clarity about what differentiates one class from the other. Removing this subjectivity would make the process more predictable for energy companies and their investors.

Ultimately a different version of the flowchart would be helpful that is more of a dichotomous key or yes/no decision tree that would require energy companies and WDFW to simply answer yes or no questions about a particular parcel or site in order to determine which class it falls into, and which mitigation ratios would be required. Attachment 1 includes a recommendation for how to make the habitat categories more clear and easier for everyone to understand and apply.

Completing the assessment of a potential project location under Step 2 of the new graphic causes a user to consider species, habitat, and connectivity all at once. Making determinations about which Class the project is located in is summed up in Step 2, seemingly making all subsequent steps unnecessary. Instead, we recommend breaking this step into three separate steps or sub-steps, where the users first determine which Class of habitat the project is in. Determining habitat class is the most critical piece of information in the seven-step process. Once the habitat class is determined then the user could consider whether species are known to use the location, based on PHS data, or not. Whether or not species are known to use the area is an easy way to assess habitat quality. Finally, in a third step, the user could consider whether or not the location is within a wildlife movement corridor area. That will further inform whether that habitat is used in a way that supports wildlife movement, and therefore qualifies as a wildlife corridor, or if land uses preclude wildlife movement, making the location less important as a corridor. This (1) habitat, then

(2) species, then (3) wildlife corridor approach would make determining which class a Project is in much easier to follow.

Furthermore, as written, the description of what each class is comprised of remains confusing. For example, on Page 43, class 1 is described as PHS and HGCN, but the examples given include Biodiversity Areas and Corridors, which are neither PHS nor HGCNs. Then, class 2 habitat says that it includes big game migration corridors and wintering/calving areas, but does not include mention of a specific data set that should be referenced when determining if those resources are present. As written, there will be overlap between classes 1 and 2 and ambiguity in how to differentiate between them. Class 3 seems very straightforward, because it only includes HGCNs that are not also PHS habitat, yet in the Figure 1 graphic there are two arrows attached to class 3, raising questions about whether there is a decision to be made here or if it really is straightforward. Table 1 shows how the resulting categories break down across the Columbia Plateau Ecoregion and the number of acres that would be attributed to each, based on desktop data. This does not include an assessment of areas where the habitat category may be in class 4 but if there is a record of a PHS species in the area it could suddenly be class 1 or 2.

Table 1. Acres of each habitat class as defined in the revised WDFW Guidelines.

Class	Definition	Total Acres/Percentage
Class 1	Areas that are PHS habitat and HGCN, and overlap Biodiversity Areas and Corridors	4,900,000/32%
Class 2	PHS habitats that are not HGCN	2,500,000/17%
Class 3	HGCN habitats that are not PHS	1,300,000/9%
Class 4	- Irrigated agriculture - Non-irrigated ag lands	1,800,000/11% 4,300,000/28%
Class 5	Urban Areas	360,000/2%
Total		15,200,000/100%

Mitigation Ratios

RNW appreciates WDFW's responsiveness to our request to include mitigation ratios in the guidelines. This provides important information when planning and siting projects. The cost of mitigation is an important factor when determining whether a project is economically feasible. RNW does worry that the mitigation ratios, as drafted, will make Washington less competitive in

the regional renewable energy market which may hinder Washington's ability to meet the state's clean energy targets. An easy comparison is with our nearest neighbor to the south, Oregon, which at present has 2:1 as the highest habitat mitigation ratio.

The mitigation ratios, and the application of the ratios, is ambiguous. RNW recommends ratios that are more closely tied to WDFW mitigation policies and goal of no net loss of habitat functions and values and that WDFW include a more descriptive summary of how each ratio will be applied and when a range of ratios is provided, what might cause a project to require the lower end of the range versus the higher end.

For example, if 10 acres of grassland habitat is removed by a project, and 10 acres of agricultural land was restored to grassland with the same functions and values as the 10 acres that was lost, then a 1:1 ratio would be sufficient to meet the standard of no net loss. The ratios included in the draft guidelines for that scenario would be 2:1 – 4:1. We recommend that WDFW provide justification for the proposed ratios that are based on state mitigation policy and provide more details on the factors that can be used to determine whether a 2:1 or 3:1 or 4:1 ratio would be required. The same is true for the mitigation scenario that contemplates an acquisition/conservation easement without restoration. In that case, if 10 acres of degraded shrubsteppe were being impacted but the proposed mitigation area was high quality shrubsteppe, it may be that only 20 acres, or a 2:1 ratio is needed, to ensure no net loss of functions and values. The ratios presented in the draft guidelines seem to be geared toward situations where high quality habitat is impacted and therefore would require higher mitigation ratios. History shows that renewable energy projects in Washington are generally not sited on higher quality habitat, but instead are often sited on habitat with more marginal habitat quality, and the ratios in the guidelines should reflect that. Ratios can also be used to create incentives for energy developers to seek out mitigation in locations with higher quality habitat. But that will only occur if more mitigation credit is provided for those higher quality locations in the form of lower ratios.

RNW recommends that WDFW use this opportunity to create an incentive for local, regional, or a statewide in-lieu fee program. If such a program existed better mitigation projects could be implemented and renewable energy companies, as well as others, could pay into them for habitat impacts that are unavoidable. Those in-lieu fee mitigation dollars would be a more predictable mitigation solution for individual projects and result in higher quality mitigation in locations that provide the most benefit to Washington's natural resources. As written, the mitigation ratios create a disincentive for in-lieu fee mitigation, by including a 5:1 mitigation ratio. This was likely done because in-lieu fee mitigation has not been something that WDFW or any other private or public entity in the state has done well over time. It likely also includes an assumption that a mitigation project has not been determined at the time of payment and therefore biological outcomes are uncertain. In that case a higher ratio is warranted. RNW recommends splitting that requirement into two, as following:

- 2:1 – in-lieu fee payment into a WDFW-approved program or specifically to support a WDFW-approved mitigation project.
- 5:1 – in-lieu fee payment for a mitigation project that has not yet been defined or approved by WDFW.

Spatiotemporal Buffers

If these “no construction and operational maintenance” buffers and resulting work windows are applied to all infrastructure projects, it would make it impractical to build anything in Washington. The same is true for renewable energy projects. Therefore, we recommend removal of the table with spatiotemporal buffers and a more focused table in attachments regarding spatial buffers. Any species that appears in the table should have buffer distances included. *Consult WDFW* should be removed from the spatiotemporal buffer table, unless it is stating that WDFW will be consulted if the stated buffers cannot be adhered to. If the buffers are stated and adhered to then there would be no reason to consult with WDFW.

Depending on the size, utility-scale renewable energy projects take between 12–24 months to build, with continuous construction. Further, it is expensive to mobilize, demobilize, and then remobilize construction crews if there are considerable no-activity periods in a calendar year. Most renewable energy projects have at least one, if not many, of these species’ resources and would be subject to multiple restrictions. This narrows the time when construction and operational maintenance can occur to the winter months when construction is often precluded by weather, daylight, and site access. The inclusion of this exhaustive list of buffer requirements seems disconnected from how project construction actually works. This should be simplified to just focus on resources that are most susceptible to disturbance from construction and operational maintenance activities. In eastern Washington this would include:

- Active raptor, owl, and eagle nests
- Western gray squirrel nests
- Pygmy rabbits
- Sage grouse and sharp-tailed grouse leks

This aligns with how projects are implemented now. The other species included in the table are either not regulated or implementation of the buffers assumes a level of information about species presences that simply does not exist. The buffers are not practically implementable, nor are they enforceable. We believe the intent of the table is to be used as a tool, but the appearance indicates restrictions on construction; we recommend removing the table entirely or moving it to the appendix, and changing the coloration and symbols to indicate guidance rather than restriction.

Cumulative Impact Assessment

RNW continues to recommend the removal of this section of the guidelines. It is unnecessary and will not materially change how projects are sited, assessed, or permitted. In every instance when cumulative impacts on wildlife are assessed, the determination will be that species decline is due to habitat loss due in large part from the conversion of habitat to agricultural lands or urban uses over time. That conversion began over one hundred years ago and continues today. It is now being exacerbated by rapid habitat loss from an increased fire return interval that results from changes in the amount and timing of precipitation throughout the west from climate change. While

renewable energy development contributes to habitat loss at some level, it is a minor factor when compared to agricultural and urban land uses. Additionally, our state's growing energy demand and clean energy targets necessitate the development of additional clean energy resources, which have far fewer cumulative impacts to wildlife and habitat than traditional fossil energy sources.

Should this section be retained it would be incumbent on local or state permitting authorities to determine whether it was applicable to a given project, how it aligns with other local and state permitting policies, and more specifically how it should be executed. This may also place an undue burden on those local and state permitting authorities.

Conclusion

Without clear guidance on how projects can avoid, minimize, and mitigate effects to these habitat types, WDFW guidance is likely to undermine the state's Clean Energy Transformation Act, mandating a transition to renewable energy by 2045. While we acknowledge that these updated guidelines are a step towards more clear guidance, there are still serious outstanding issues and questions. We do not dispute that Washington may be experiencing a loss of important areas due to development, but habitat losses due to climate change will only accelerate if Washington hampers the renewable energy development needed to transition the State's energy sources.

In many areas, the draft guidelines take an approach that maximizes conservation, with an implication that through discussion with WDFW the requirements may be moderated or even nullified, depending on site-specific conditions. Effective guidelines should take the opposite approach, identifying minimum criteria and considerations that could result in more stringent requirements.

As currently written, these updated guidelines will hamper renewable energy development in the state of Washington because they are overly conservative and ambiguous. They will create more uncertainty with regard to WDFW recommendations for renewable energy projects and will likely create confusion for permitting authorities that do not exist today. During workshop discussions, WDFW has indicated they intend the guidelines to be a starting point for project-specific discussions. For these guidelines to be an effective planning tool, project developers and permitting authorities should be able to implement guidelines consistent with WDFW's intentions, even without WDFW's active participation. Further, guidelines should outlast their authors, and their intentions carried out by other WDFW staff and future WDFW staff, but in their current form they are highly subjective and open to interpretation. However, if strictly applied, the current draft of the updated guidelines would likely make it much more difficult to develop renewable energy projects in Washington because they reduce certainty in the permit approval process and expand the resources (species and habitats) that WDFW is recommended be regulated, beyond state listed and PHS species and habitats that are the focus of current permitting.

Renewable Northwest stands ready to be a resource for WDFW as you consider our comments and update the revised draft.

Sincerely,

/s/

Casey MacLean
Washington Policy Manager
Renewable Northwest

Attachment 1

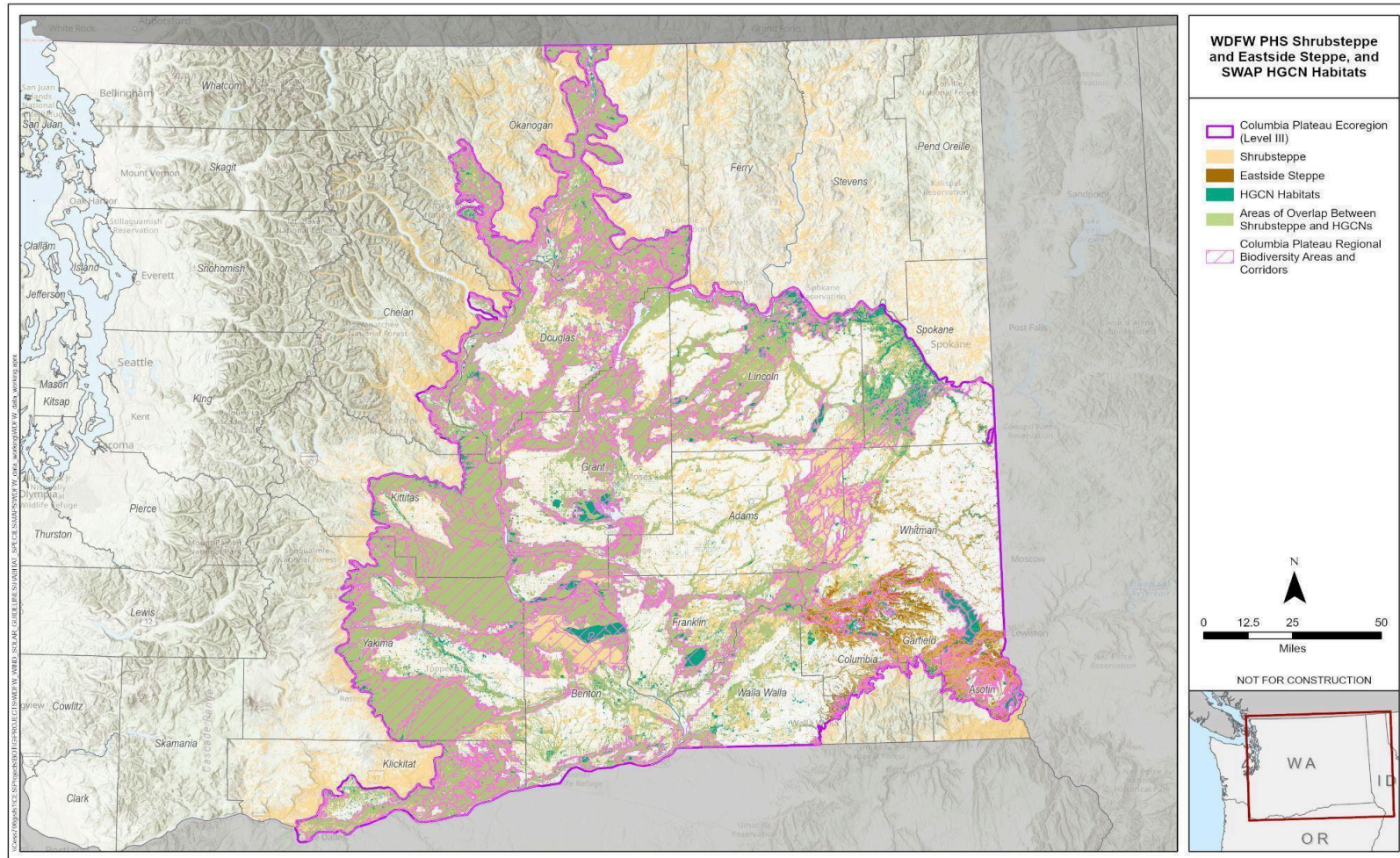
HABITAT CATEGORIES

Combined Class 1 and 2 habitats cover roughly 50% of the Columbia Plateau Ecoregion (see inserted figure below). In Table 6, the guidelines state that for these two habitat classes the mitigation goal is to avoid all impacts. A goal to avoid impacts from renewable energy development on half of the Columbia Plateau Ecoregion in Washington is not feasible, nor does it align with Washington's renewable energy laws. WDFW routinely states that as an agency they are in favor of a transition to clean energy, but creating objectives in these guidelines to avoid impacts on 50% of the Columbia Plateau Ecoregion undermines their support of these clean energy mandates. Table 6 also states that if avoidance is not possible a mitigation ratio of between 2:1 and 5:1 can be expected. Based on how the ratios are stated this would typically result in at least a 4:1 mitigation ratio, meaning that four times as much land will be needed to implement any renewable energy project, and the cost of projects will increase substantially.

The Columbia Plateau Ecoregion, which is where the majority of renewable energy development occurs in Washington, includes 15.2 million acres. Since PHS Habitats are not widely available for the state of Washington, the table and map below use the WDFW shrubsteppe and eastside steppe data layers as a surrogate for PHS habitat. Thus, this table is an underrepresentation of the actual acreage that WDFW is recommending renewable energy companies avoid when siting and developing projects.

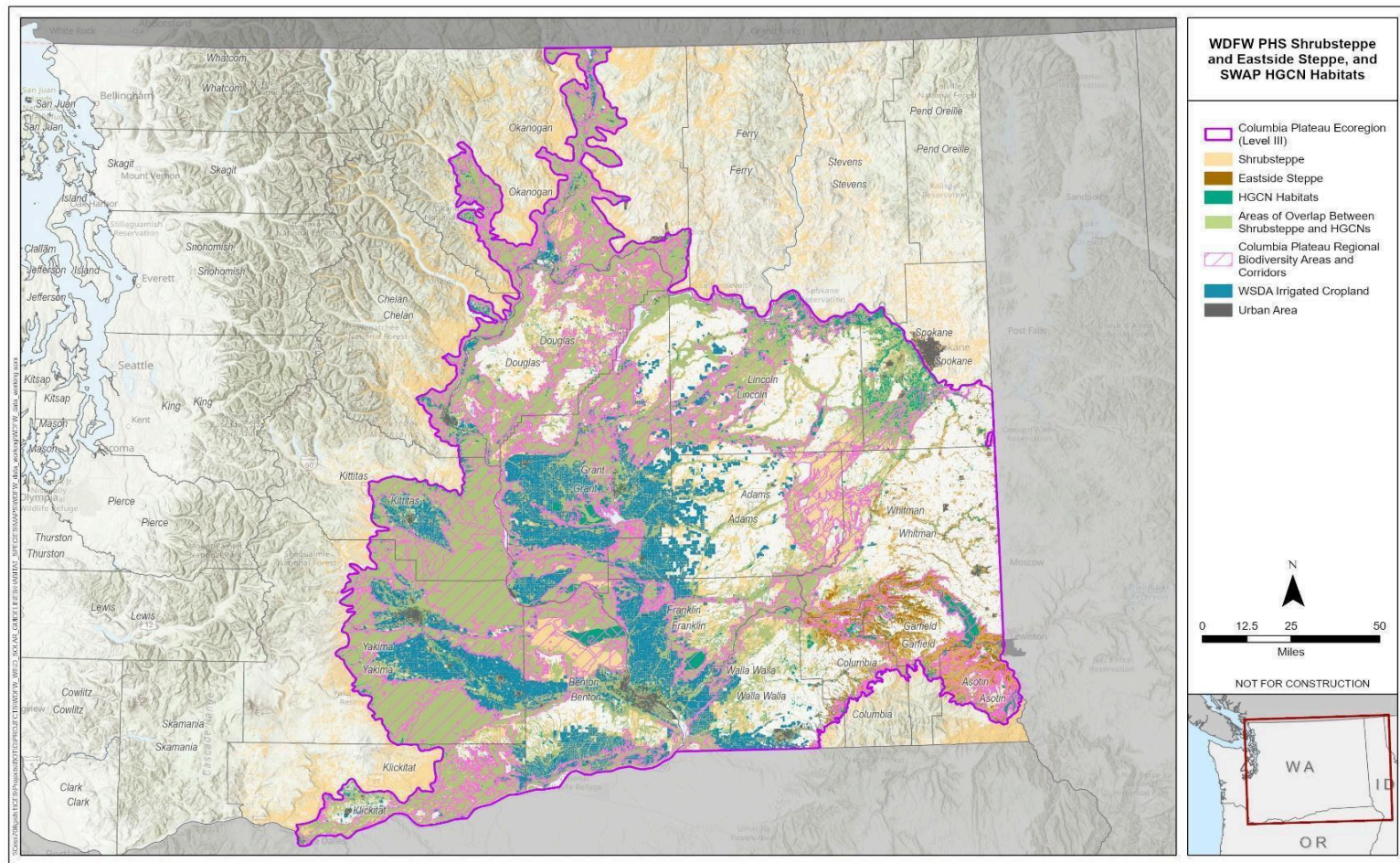
This figure depicts Habitats of Greatest Conservation Need, as defined in the Washington State Wildlife Action Plan, as well as WDFW statewide shrubsteppe and eastside steppe data layers, the two most prevalent PHS habitat types in the state. The figure also shows Biodiversity Area Corridors. Collectively these data layers comprise habitat Classes 1 and 2, as defined in the guidelines.

Figure 1. Class 1, 2, and 3 Habitats, as defined by the WDFW Draft Solar and Wind Guidelines, March 2025.



In addition to Class 1 and 2 habitat types, Figure 2 shows the portions of the Columbia Plateau Ecoregion that are either urban, or irrigated agriculture. These areas are typically avoided by utility-scale renewable energy or are prohibited from siting by local land use laws, and are therefore considered unavailable. Irrigated agriculture accounts for an additional 1.8 million acres of the Columbia Plateau Ecoregion in Washington. The remaining areas are non-irrigated cropland, typically dryland wheat or other no-till crops.

Figure 2. Class 1, 2, and 3 habitats, overlaid with urban areas and irrigated cropland.



In order to better align with existing plans and policies, particularly at the county-level, we recommend a revision to the habitat classes, as follows:

Habitat classes are modified as follows:

- Class 1 = PHS Habitats
- Class 2 = HGCN that are not in Class 1
- Class 3 = Locations that are not Class 1 or 2 but are mapped as Biodiversity Areas and Corridors
- Class 4 = Locations that are not Class 1, 2, or 3 but are classified as working lands (e.g., lands that are grazed or irrigated, but remain in generally a natural state), or lands that are currently enrolled in a federal conservation reserve program and that are not mapped as Biodiversity Areas and Corridors
- Class 5 = Working lands such as row crops, tree crops, dryland agricultural land, or other fallow agricultural lands that are intensively managed or manipulated

This will offer a more even distribution of habitat classes and better align actual habitat values in each class with proposed mitigation ratios. We also recommend this as an initial screen on habitat potential in a project location to inform siting, but note that **field surveys should ultimately be used to determine whether or not a PHS habitat or HGCN is present on site before applying mitigation ratios.** Furthermore, habitat quality should be considered in both the impact analysis and mitigation assessment for a project and credit given projects that are sited in lower quality habitat and mitigation that is implemented in higher quality habitat.