PLANNING COMMISSION 6:00 P.M. | FEBRUARY 12, 2024 | FORTRESS SOLAR I, II, & III

TABLE OF CONTENTS - SUPPLEMENTAL

- File Summary
- Consultants
- Additional Application Information
 - o Morgan County Road & Bridge
 - o FAA Notice Overview
 - o Tire Washout Additional Information
 - o Mineral Notification & Certified Receipts
- Landowner Letters, Referrals & Responses
 - o Landowner Letter sent & Responses received
 - o Referral sent & Responses received
 - o Notification
 - o Sign Posting Pictures & Affidavit



MORGAN COUNTY PLANNING AND BUILDING DEPARTMENT

December 29, 2023

Fortress Solar II, LLC 11801 Domain Blvd, Suite 450 Austin, TX 78758 Sent via email:

Dear Applicant:

Your Application for a Special Use Permit has been received by our office and will go to review and decision by the Planning Commission and the Board of County Commissioners. The hearing for the Planning Commission will be held on **February 12th**, **2023 at 7:00 P.M.**

Mineral Right notifications need to be made by January 13th, 2023 and proof of mailing provided to our office no later than January 28th, 2023 (at least 15 days prior to the above mentioned hearing date).

As per Section 2-390(B), notification sign postings need to occur no later than 10 days prior to each hearing and photographs accompanied by an affidavit to our office no later than 5 days prior to each hearing. One sign facing each public right-of-way adjacent to the property is required. The county will provide three signs, it is up to you to post them. When you come to pick up the signs we will go over placement.

Planning Commission sign notice dates: Posted by February 2nd, 2023 Pictures and Affidavit by February 7th, 2023

We will have the sign ready to be picked up in our office on January 26, 2023.

It is necessary that you be present at the hearing to answer any questions the Planning Commission may have. Do not hesitate to contact us at any time if you have questions.

Sincerely,

Nicole Hay

Nicole Hay Planning Administrator

FILE SUMMARY





MORGAN COUNTY PLANNING AND ZONING DEPARTMENT

MORGAN COUNTY PLANNING COMMISSION FILE SUMMARY February 7, 2024 Hearing date – February 12, 2024

APPLICANTS: Fortress Solar I, LLC, Fortress Solar II, LLC and Fortress Solar III, LLC OWNERS: Ruth Ann Odle and Shari A. Benotti

These applications are for Special Use Permits for the activities described below. The applicants are requesting six special use permits, representing the three phases of the entire build out of project. Each phase will consist of one solar collector facility and one battery energy storage system (BESS). Due to the relationship between the six applications and overlapping evaluation of site conditions which are common between applications, the Planning Commission will conduct one public hearing for six applications, but each application must be evaluated separately under the applicable criteria and will require separate action by motion by Planning Commission.

Fortress Solar I Energy Collector Facility

The applicant, Fortress Solar I, LLC, proposes a solar collector facility within a 1,305-acre project area. The facility will consist of photovoltaic (PV) panels, inverters and associated transformers, underground electric collection lines and/or above ground cabling, access roads, a project substation, security fencing, exterior lighting, an operations and maintenance building, and an approximate 1-1/4 mile generation tie (gen-tie) line connecting the solar collector facility to the point of interconnection. The applicant has also requested waivers of the setback requirements for several interior property lines and several rights-of-way along section lines.

This facility will have a maximum power output of 200 MWac. The project area is located in a part of Sections 5, 6, 7, and 8, Township 3 North, Range 55 West, and a part of Sections 1 and 12, Township 3 North, Range 56 West of the 6th PM, Morgan County, Colorado. The project area is zoned Agriculture Production and is located in the Brush Fire District.

Fortress Solar I Battery Energy Storage System (BESS)

The applicant, Fortress Solar I, LLC, proposes a BESS within an approximate 7 acre project area. The BESS will be sited on a concrete pad. Vegetation within the BESS site will be removed and weed management plans will be prepared prior to the start of construction and following construction. The perimeter will be surrounded by security fence.

This facility will have a capacity of up to 800 MWhrs (a maximum power output of 200 MWac). The project area is located in a part of Section 5, Township 3 North, Range 55 West of the 6th PM, Morgan

County, Colorado. The project area is zoned Agriculture Production and is located in the Brush Fire District.

Fortress Solar II Energy Collector Facility

The applicant, Fortress Solar II, LLC, proposes a solar collector facility within a 1,439-acre project area. The facility will consist of photovoltaic (PV) panels, inverters and associated transformers, underground electric collection lines and/or above ground cabling, access roads, a project substation, security fencing, exterior lighting, an operations and maintenance building, and a generation tie (gen-tie) line connecting the solar collector facility to the point of interconnection. The applicant has also requested waivers of the setback requirements for several interior property lines and several rights-of-way along section lines.

This facility will have a maximum power output of 200 MWac. The project area is located in a part of Sections 3, 4, 5, and 8, Township 3 North, Range 55 West and a part of Section 32, Township 4 North, Range 55 West of the 6th PM, Morgan County, Colorado. The project area is zoned Agriculture Production and is located in the Brush Fire District.

Fortress Solar II Battery Energy Storage System (BESS)

The applicant, Fortress Solar II, LLC, proposes a BESS within an approximate 7 acre project area. The BESS will be sited on a concrete pad. Vegetation within the BESS site will be removed and weed management plans will be prepared prior to the start of construction and following construction. The perimeter will be surrounded by security fence.

The facility will have a capacity of up to 800 MWhrs (a maximum power output of 200 MWac). The project area is located in a part of Section 5, Township 3 North, Range 55 West of the 6th PM, Morgan County, Colorado. The project area is zoned Agriculture Production and is located in the Brush Fire District.

Fortress Solar III Energy Collector Facility

The applicant, Fortress Solar III, LLC, proposes a solar collector facility within a 1,325-acre project area. The facility will consist of photovoltaic (PV) panels, inverters and associated transformers, underground electric collection lines and/or above ground cabling, access roads, a project substation, security fencing, exterior lighting, an operations and maintenance building, and a generation tie (gen-tie) line connecting the solar collector facility to the point of interconnection. The applicant has also requested waivers of the setback requirements for several interior property lines and several rights-of-way along section lines.

The facility will have a maximum power output of 200 MWac. The project area is located in a part of Sections 3, 9, and 10, Township 3 North, Range 55 West of the 6th PM, Morgan County, Colorado. The project area is zoned Agriculture Production and is located in the Brush Fire District.

Fortress Solar III Battery Energy Storage System (BESS)

The applicant, Fortress Solar II, LLC, proposes a BESS within an approximate 7 acre project area. The BESS will be sited on a concrete pad. Vegetation within the BESS site will be removed and weed management plans will be prepared prior to the start of construction and following construction. The perimeter will be surrounded by security fence.

The facility will have a capacity of up to 800 MWhrs (a maximum power output of 200 MWac). The project area is located in a part of Section 5, Township 3 North, Range 55 West of the 6th PM, Morgan County, Colorado. The project area is zoned Agriculture Production and is located in the Brush Fire District.

Referral Responses

In addition to the permit applications, packets include responses from CDOT, BNSF Railway, City of Brush, Xcel Energy, WAPA, Division of Water Resources, and Morgan County Road & Bridge Department.

Property Interests and Easements

The applicants have no direct rights to use the properties for the purposes requested through the applications. The applicants' parent subsidiary entity has options to obtain the necessary property rights to the properties. To address this issue, staff is recommending a condition that the applicants must demonstrate requisite ownership or possession of the property prior to commencement of construction.

A utility easement is intended to be established for the proposed gen-tie line to interconnect to the Tri-State Story Substation west of the project and will be located over Tri-State property.

Brush Airport

The Brush Municipal Airport is less than a mile from the project area. The FAA Obstruction Evaluation Notice Criteria Tool (FAA 2022b) was used for 4 locations in the project area. Due to the proximity to the Brush Municipal airport, it was determined the project exceeds the notice criteria and a notice will be filed with the FAA at least 45 days prior to the start of construction. Once the FAA has completed an aeronautical study, a determination is issued regarding the impact to air navigation.

Drainage Plans

Matt Harris with Harris Engineering Consultants, Inc., the County's consulting engineer, reviewed the preliminary Hydrologic and Hydraulic Report, preliminary Water and Wind Erosion Control Plan, and associated preliminary site plan. He recommends the applicants submit additional information regarding the location and magnitude of offsite discharges as part of the final drainage plans submitted prior to construction. While the applicants represent that natural depressions on the property will be used to collect stormwater runoff, this method may result in significant ponding. To further refine site inundation depths and define potential "no-build" areas on the site plan, field infiltration tests are recommended as per Section 3.4.2 of the drainage study.

Haul Routes

The applicants propose that the primary haul route and route for construction deliveries will be provided via County Road Q and will build a new 20 foot wide gravel road beyond the eastern terminus of County Road Q. The primary access for operations and construction commuter vehicles will be provided from County Road R.5 and the applicants will build a 20 foot wide gravel road beyond the eastern terminus of County Road R.5. This access will also be designated as the primary emergency vehicle access. A third access point for operations and construction commuter vehicles will be provided via County Road R and the applicants will build a 20 foot wide gravel road beyond the eastern terminus of S. See Figure 3. A tire washout station will be installed at the entrance from County Road Q to reduce track out. See Appendix A-8.

The applicants have provided a detailed summary of haul routes and anticipate traffic numbers. See Memo from Tetra Tech to Morgan County Road & Bridge Department, dated December 11, 2023.

Criteria for Evaluation

In reviewing these applications, the Planning Commission and Board of County Commissioners are required to make a finding that the criteria for granting a Use by Special Review in Section 2-395 of the Morgan County Zoning Regulations have been satisfied. In addition, the County shall consider whether each application for a solar collector facility complies with the requirements of the Solar Collector Regulations and each BESS complies with the requirements of the BESS Regulations in Zoning Regulations.

Section 2-395 Special Use Permit Criteria:

A. The use and its location as proposed are in conformance with the Morgan County Comprehensive Plan. The property is located in the southeast planning area.

Chapter 2 – Plan Summary

2.II.A - Economic Development

Goal – Diversify the economy in Morgan County to broaden business employment opportunities for residents and to further economic growth. All six projects would provide economic benefit to Morgan County through increased revenues to the county and school district tax bases through the taxation of the projects. To the extent possible the operator will seek to hire local contractors throughout construction and the life of the project.

Chapter 4 – Economic Development

- Goal Encourage the location of new industry and the expansion of existing businesses that will provide employment opportunities and increase the tax base to strengthen the economy of Morgan County.
- Policy 10. Contribute to the Colorado New Energy Economy; work to attract and maintain renewable energy projects to capture this.

Chapter 5 - Environment

IX-Environmental Resources and Hazards Plan

Goal - To preserve the manmade and natural environment in order to enhance the quality of life in Morgan County.

All six projects will not impact wetlands or floodplains and will avoid adverse impacts on plant and wildlife species. These projects will encourage the use of renewable resources and production of electric power.

- B. The application documents are complete and present a clear picture of how uses are to be arranged on the site or within Morgan County.
- C. The Site Plan conforms to the district design standards of Section 2-420 and Section 4-820 of the Morgan County Zoning Regulations.
- D. All on and off-site impacts have been satisfactorily mitigated either through agreement, public improvements, site plan requirements or other mitigation measures.

The applications will both have short-term impacts to off-site areas during construction and longterm impacts to off-site areas during the life of the project related to the use of County Roads. The level of impacts during construction and after construction is completed are likely differ in degree.

The off-site impacts during construction and the life of the property will need to be addressed by the Applicants. The execution of Road Use Agreement, as required by the Morgan County Zoning Regulations, is a proposed condition for approval. In addition, Morgan County Road & Bridge is recommending that all three access roads (County Roads R, R.5 and Q) be initially evaluated by the County's consultant to determine each road's current condition and the need for necessary improvements to adequately handle the type and level of proposed traffic during the construction phases for all six applications and after completion of construction for the life of the project. Any necessary improvements to the access roads shall be constructed by the applicant and shall be governed by a public improvement agreement executed by the appropriate applicant(s). This issue is addressed in the recommended conditions in this staff report.

Once construction is completed, the glare report indicates no glare will impact neighboring properties.

Best management practices (BMP) will be implemented to protect newly established vegetation for Storm Water Management and Erosion Control.

E. The special use proposed has been made compatible with the surrounding uses and adequately buffered as determined by the County.

The closest residence to the project area will meet the required setback of 500 feet. The residence is near the southwest corner of Fortress Solar I. The parcels adjacent to the facility are zoned Agricultural Production District and are pastureland.

F. The special use poses only the minimum amount of risk to the public health, safety and welfare as set by either federal, state or county regulation, whichever is strictest.

Granting the Special Use Permits will not increase risk to public health, safety, or welfare.

G. The special use proposed is not planned to be developed on a non-conforming parcel.

All six projects are located on conforming parcels.

H. The applicant has adequately documented a public need for the project, all pertinent technical information, adequate financial resources to implement it, and has paid all fees and review costs levied by the County for application processing and review.

The general purpose of all phases is to maximize energy production from available solar resources to deliver renewable electricity to the bulk power transmission system to serve the needs of electric utilities and their customers.

I. For any special use requiring a supply of water for human consumption that the applicant has demonstrated a source of water which is adequate for the proposed use in terms of quantity, quality, and reliability. For any special use which does not require a supply of water for human consumption, an adequate source of water for the proposed use in terms of quantity and reliability must be obtained prior to commencement of the use.

All six phases are expected to require a supply of water both during construction and operation phases. Water for the project will be sourced from wells located on the property. If offsite water is required, water will be transported by truck to be stored in an onsite water tank and/or cisterns. DWR has provided a referral response and the wells on the property may not permitted for the uses contemplated by the applicants. The applicants will be required pursuant to the criteria above in the Morgan County Zoning Regulations to obtain an appropriate supply of water prior to construction.

The following conditions are recommended for the special use permits:

1. Fortress Solar I Collector Facility Conditions

- a. Fortress Solar I, LLC must demonstrate ownership or possession of the property prior to commencement of construction. Fortress Solar I, LLC can demonstrate satisfaction with this condition through vested title in its name, or a lease or other agreement directly with the property owner allowing the permitted use to be conducted on the property.
- b. All necessary land use, environmental, and construction permits, approvals and authorizations will be obtained prior to the start of and during construction as required and may include, but are not limited to, land use permits, right-of-way (ROW) permits, road use agreements, access permits, oversize/overweight permits, grading permits, stormwater permits, and a FAA air navigation impact determination.
- c. All necessary plans, reports, permits, and certificates will be submitted prior to issuance of any building permit associated with the solar collector facility and may include, but are not limited to, interconnection/crossing agreements, final drainage & erosion control plan, signed and sealed geotechnical report, decommissioning plan, operations and maintenance plan, Liability Insurance Certificate, final locations for any laydown yard, a copy of the APEN issued by the Colorado Department of Public Health and Environment, Unanticipated Discovery plan, and an adequate supply of water.
- d. Fortress Solar I, LLC will comply with the proposed decommissioning plan, any modifications/deviations from the proposed plan must be approved by the County. The County must be notified in writing when Fortress Solar I, LLC commences decommissioning.
- e. Any building greater than 120 sq. ft. will require a building permit.
- f. No poles shall exceed a height of 100 feet. Any poles that exceed this height will require prior approval from the County, upon a showing by Fortress Solar I, LLC that such height is necessary. Such additional height may be approved by the County Planning Administrator upon application and request from Fortress Solar I, LLC. The County Planning Administrator may request any additional information necessary to determine whether approval should be granted.
- g. The substation and solar collector facility shall be enclosed by a security fence and be secured at all times. Emergency services must have access at all times.
- h. Prior the commencement of construction, Fortress Solar I, LLC will enter into a road use agreement for the use of any public road during construction. The agreement shall include the following:

- i. A designated haul route or routes, subject to approval by the Morgan County Road & Bridge Department. A map showing the designated haul route to be used during construction.
- ii. A pre-construction baseline inventory of County roads on the designated haul route or routes to be used during construction to document their pre-construction condition, obtained by and paid for by the applicant.
- iii. A mitigation plan to address traffic congestion, control, and potential impacts to County roads on the designated haul route. The mitigation plan shall also include any dust mitigation activities.
- iv. A requirement that the applicant is to return any County roads to their pre-construction baseline condition.
- v. A requirement to post financial security in an amount not less than one hundred fifteen percent (115%) of the estimated cost to complete all road restoration, in the form of an irrevocable letter of credit or cash escrow. Cost estimates shall be provided by a licensed Colorado engineer. Upon preliminary acceptance of the restored public road, the County shall release all but fifteen percent (15%) of total actual costs of restoration of the public roads, so long as Fortress Solar I, LLC are not in default of any provision of the road use agreement. The County shall inspect the restored roads and Fortress Solar I, LLC shall pay to the County the cost incurred by the County in conducting such inspections. These costs shall be due and payable upon demand of the County. Fortress Solar I, LLC shall be responsible for correcting or properly completing the restoration.
- vi. The residual fifteen percent (15%) retained by the County shall act as security for Fortress Solar I, LLC's guarantee that the restoration remains free of defect during a two-year warranty period Fortress Solar I, LLC may at any time during the preliminary acceptance or warranty period offer to provide a substitute or supplemental form of financial security to that security as originally posted with and/or retained by the County. The County may accept substitute or supplemental forms of security in its sole discretion.
- i. If required by Morgan County Road & Bridge, Fortress Solar I, LLC shall make all necessary improvements to the access roads prior to commencement of construction. Depending on evaluation received from the County's third-party consultant, improvements may be required for all three access roads, or portions of such access roads. If such improvements are required, Fortress Solar I, LLC shall be required to submit road specifications as required by the County Road & Bridge Department detailing the improvements. Such specifications will be reviewed and approved by the County and its consultants as necessary. Once such specifications are approved by the County, Fortress Solar I, LLC shall be required to enter into a public improvement agreement, which at a minimum will require the posting of adequate security to ensure the improvements are completed in conformity with the approved specifications and a warranty period from preliminary acceptance for all improvements. Such public improvement agreement may be combined with the required road use agreement.
- j. Prior to the commencement of construction, Fortress Solar I, LLC must obtain all proper permissions from landowners to use private roads or develop access roads on any private property. No private access roads, new or currently in use, shall become public rights of way unless approved and accepted by the Board of County Commissioners.

- k. The County will require written notice for all staging or laydown areas, or other temporary areas for construction or repair activities ("Temporary Areas") utilized after final construction is completed. Fortress Solar I, LLC must provide a map showing the Temporary Area by size (acreage and perimeter), a list of materials and equipment to be stored on the Temporary Areas, activities within the area (e.g., grading, storage, etc.), the length of time the temporary construction or staging or laydown areas will be in use and must notify the County at least thirty (30) days prior to the use of the temporary Areas and the area returned to a condition similar to its condition prior to construction. No permanent structures may remain in the Temporary Areas unless approved by the County pursuant to the applicable Morgan County Zoning Regulations.
- 1. The project area shall be reclaimed and/or reseeded as soon as practicable but no later than six months after Fortress Solar I, LLC has completed construction, unless the County Planning Administrator grants an extension for demonstrated good cause.
- m. Construction occurring with ¼ quarter mile of any residence shall not commence earlier than 7 a.m.
- n. Fortress Solar I, LLC shall prevent the existence of any nuisances by way of its construction activities. All trash, litter, construction waste and any potentially hazardous materials shall be disposed of properly off-site. If the County determines that a nuisance exists and the nuisance is not abated or an abatement plan is not submitted to the satisfaction of the County, the County may, upon thirty (30) days' notice, undertake such abatement and lien the property for the costs of the abatement. Such abatement shall not be deemed to limit any other enforcement rights of the County.
- o. Fortress Solar I, LLC shall comply with all applicable law and regulations related to safety and emergency management during construction and on-going operations.
- p. Fortress Solar I, LLC shall be responsible for the payment of all costs and fees incurred by the County associated with this Permit. The County shall invoice Fortress Solar I, LLC for costs and fees and payment will be due by Fortress Solar I, LLC within thirty (30) days of the date of the invoice. Failure to pay may result in enforcement actions by the County.

2. Fortress Solar I BESS Facility Conditions

- a. Fortress Solar I, LLC must demonstrate ownership or possession of the property prior to commencement of construction. Fortress Solar I, LLC can demonstrate satisfaction with this condition through vested title in its name, or a lease or other agreement directly with the property owner allowing the permitted use to be conducted on the property.
- b. All necessary land use, environmental, and construction permits, approvals and authorizations will be obtained prior to the start of and during construction as required and may include, but are not limited to, land use permits, right-of-way (ROW) permits, road use agreements, access permits, oversize/overweight permits, grading permits, stormwater permits, and a FAA air navigation impact determination.
- c. All necessary plans, reports, permits, and certificates will be submitted prior to issuance of any building permit associated with the BESS facility and may include, but are not limited to, Electrical Diagram, final equipment specification sheet, contact information, maintenance plan,

final drainage plan, decommissioning plan, emergency operation plan, and Liability Insurance Certificate, and an adequate supply of water.

- d. Fortress Solar I, LLC will comply with the proposed decommissioning plan, any modifications/deviations from the proposed plan must be approved by the County. The County must be notified in writing when the Applicant commences decommissioning.
- e. Any building greater than 120 sq. ft. will require a building permit.
- f. The BESS shall be enclosed by a security fence and be secured at all times. Emergency services must have access at all times.
- g. Prior to the commencement of construction, Fortress Solar I, LLC must obtain all proper permissions from landowners to use private roads or develop access roads on any private property. No private access roads, new or currently in use, shall become public rights of way unless approved and accepted by the Board of County Commissioners.
- h. The County may require that the road use agreement for the associated solar collector facility in Phase 1 govern any road impacts related to the construction of the BESS or require a separate road use agreement. In addition, for any public improvements to roads required for Phase 1 of the project for the associated solar collector facility, the County may require that the public improvement agreement govern public improvements for the construction of the BESS or require a separate public improvement agreement.
- i. The County will require written notice for all staging or laydown areas, or other temporary areas for construction or repair activities ("Temporary Areas") utilized after final construction is completed. Fortress Solar I, LLC must provide a map showing the Temporary Area by size (acreage and perimeter), a list of materials and equipment to be stored on the Temporary Areas, activities within the area (e.g., grading, storage, etc.), the length of time the temporary construction or staging or laydown areas will be in use and must notify the County at least thirty (30) days prior to the use of the temporary Areas and the area returned to a condition similar to its condition prior to construction. No permanent structures may remain in the Temporary Areas unless approved by the County pursuant to the applicable Morgan County Zoning Regulations.
- j. The project area shall be reclaimed and/or reseeded as soon as practicable but no later than six months after Fortress Solar I, LLC has completed construction, unless the County Planning Administrator grants an extension for demonstrated good cause.
- k. Construction occurring with ¼ quarter mile of any residence shall not commence earlier than 7 a.m.
- 1. Fortress Solar I, LLC shall prevent the existence of any nuisances by way of its construction activities. All trash, litter, construction waste and any potentially hazardous materials shall be disposed of properly off-site. If the County determines that a nuisance exists and the nuisance is not abated or an abatement plan is not submitted to the satisfaction of the County, the County may, upon thirty (30) days' notice, undertake such abatement and lien the property for the costs of the abatement. Such abatement shall not be deemed to limit any other enforcement rights of the County.

- m. Fortress Solar I, LLC shall comply with all applicable law and regulations related to safety and emergency management during construction and on-going operations.
- n. Fortress Solar I, LLC shall be responsible for the payment of all costs and fees incurred by the County associated with this Permit. The County shall invoice Fortress Solar I, LLC for costs and fees and payment will be due by Fortress Solar I, LLC within thirty (30) days of the date of the invoice. Failure to pay may result in enforcement actions by the County.

3. Fortress Solar II Collector Facility Conditions

- a. Fortress Solar II, LLC must demonstrate ownership or possession of the property prior to commencement of construction. Fortress Solar II, LLC can demonstrate satisfaction with this condition through vested title in its name, or a lease or other agreement directly with the property owner allowing the permitted use to be conducted on the property.
- b. All necessary land use, environmental, and construction permits, approvals and authorizations will be obtained prior to the start of and during construction as required and may include, but are not limited to, land use permits, right-of-way (ROW) permits, road use agreements, access permits, oversize/overweight permits, grading permits, stormwater permits, and a FAA air navigation impact determination.
- c. All necessary plans, reports, permits, and certificates will be submitted prior to issuance of any building permit associated with the solar collector facility and may include, but are not limited to, interconnection/crossing agreements, final drainage & erosion control plan, signed and sealed geotechnical report, decommissioning plan, operations and maintenance plan, Liability Insurance Certificate, final locations for any laydown yard, a copy of the APEN issued by the Colorado Department of Public Health and Environment, Unanticipated Discovery plan, and an adequate supply of water.
- d. Fortress Solar II, LLC will comply with the proposed decommissioning plan, any modifications/deviations from the proposed plan must be approved by the County. The County must be notified in writing when Fortress Solar II, LLC commences decommissioning.
- e. Any building greater than 120 sq. ft. will require a building permit.
- f. No poles shall exceed a height of 100 feet. Any poles that exceed this height will require prior approval from the County, upon a showing by Fortress Solar II, LLC that such height is necessary. Such additional height may be approved by the County Planning Administrator upon application and request from Fortress Solar II, LLC. The County Planning Administrator may request any additional information necessary to determine whether approval should be granted.
- g. The substation and solar collector facility shall be enclosed by a security fence and be secured at all times. Emergency services must have access at all times.
- h. Prior the commencement of construction, Fortress Solar II, LLC will enter into a road use agreement for the use of any public road during construction. The agreement shall include the following:

- i. A designated haul route or routes, subject to approval by the Morgan County Road & Bridge Department. A map showing the designated haul route to be used during construction.
- ii. A pre-construction baseline inventory of County roads on the designated haul route or routes to be used during construction to document their pre-construction condition, obtained by and paid for by the applicant.
- iii. A mitigation plan to address traffic congestion, control, and potential impacts to County roads on the designated haul route. The mitigation plan shall also include any dust mitigation activities.
- iv. A requirement that the applicant is to return any County roads to their pre-construction baseline condition.
- v. A requirement to post financial security in an amount not less than one hundred fifteen percent (115%) of the estimated cost to complete all road restoration, in the form of an irrevocable letter of credit or cash escrow. Cost estimates shall be provided by a licensed Colorado engineer. Upon preliminary acceptance of the restored public road, the County shall release all but fifteen percent (15%) of total actual costs of restoration of the public roads, so long as Fortress Solar II, LLC are not in default of any provision of the road use agreement. The County shall inspect the restored roads and Fortress Solar II, LLC shall pay to the County the cost incurred by the County in conducting such inspections. These costs shall be due and payable upon demand of the County. Fortress Solar II, LLC shall be responsible for correcting or properly completing the restoration.
- vi. The residual fifteen percent (15%) retained by the County shall act as security for Fortress Solar II, LLC's guarantee that the restoration remains free of defect during a two-year warranty period Fortress Solar II, LLC may at any time during the preliminary acceptance or warranty period offer to provide a substitute or supplemental form of financial security to that security as originally posted with and/or retained by the County. The County may accept substitute or supplemental forms of security in its sole discretion.
- i. If required by Morgan County Road & Bridge, Fortress Solar II, LLC shall make all necessary improvements to the access roads prior to commencement of construction. Depending on evaluation received from the County's third-party consultant, improvements may be required for all three access roads, or portions of such access roads. If such improvements are required, Fortress Solar II, LLC shall be required to submit road specifications as required by the County Road & Bridge Department detailing the improvements. Such specifications will be reviewed and approved by the County and its consultants as necessary. Once such specifications are approved by the County, Fortress Solar II, LLC shall be required to enter into a public improvement agreement, which at a minimum will require the posting of adequate security to ensure the improvements are completed in conformity with the approved specifications and a warranty period from preliminary acceptance for all improvements. Such public improvement agreement may be combined with the required road use agreement.
- j. Prior to the commencement of construction, Fortress Solar II, LLC must obtain all proper permissions from landowners to use private roads or develop access roads on any private property. No private access roads, new or currently in use, shall become public rights of way unless approved and accepted by the Board of County Commissioners.

- k. The County will require written notice for all staging or laydown areas, or other temporary areas for construction or repair activities ("Temporary Areas") utilized after final construction is completed. Fortress Solar II, LLC must provide a map showing the Temporary Area by size (acreage and perimeter), a list of materials and equipment to be stored on the Temporary Areas, activities within the area (e.g., grading, storage, etc.), the length of time the temporary construction or staging or laydown areas will be in use and must notify the County at least thirty (30) days prior to the use of the temporary Areas and the area returned to a condition similar to its condition prior to construction. No permanent structures may remain in the Temporary Areas unless approved by the County pursuant to the applicable Morgan County Zoning Regulations.
- 1. The project area shall be reclaimed and/or reseeded as soon as practicable but no later than six months after Fortress Solar II, LLC has completed construction, unless the County Planning Administrator grants an extension for demonstrated good cause.
- m. Construction occurring with ¼ quarter mile of any residence shall not commence earlier than 7 a.m.
- n. Fortress Solar II, LLC shall prevent the existence of any nuisances by way of its construction activities. All trash, litter, construction waste and any potentially hazardous materials shall be disposed of properly off-site. If the County determines that a nuisance exists and the nuisance is not abated or an abatement plan is not submitted to the satisfaction of the County, the County may, upon thirty (30) days' notice, undertake such abatement and lien the property for the costs of the abatement. Such abatement shall not be deemed to limit any other enforcement rights of the County.
- o. Fortress Solar II, LLC shall comply with all applicable law and regulations related to safety and emergency management during construction and on-going operations.
- p. Fortress Solar II, LLC shall be responsible for the payment of all costs and fees incurred by the County associated with this Permit. The County shall invoice Fortress Solar II, LLC for costs and fees and payment will be due by Fortress Solar II, LLC within thirty (30) days of the date of the invoice. Failure to pay may result in enforcement actions by the County.

4. Fortress Solar II BESS Facility Conditions

- a. Fortress Solar II, LLC must demonstrate ownership or possession of the property prior to commencement of construction. The applicant can demonstrate satisfaction with this condition through vested title in its name, or a lease or other agreement directly with the property owner allowing the permitted use to be conducted on the property.
- b. All necessary land use, environmental, and construction permits, approvals and authorizations will be obtained prior to the start of and during construction as required and may include, but are not limited to, land use permits, right-of-way (ROW) permits, road use agreements, access permits, oversize/overweight permits, grading permits, stormwater permits, and a FAA air navigation impact determination.
- c. All necessary plans, reports, permits, and certificates will be submitted prior to issuance of any building permit associated with the BESS facility and may include, but are not limited to, Electrical Diagram, final equipment specification sheet, contact information, maintenance plan,

final drainage plan, decommissioning plan, emergency operation plan, and Liability Insurance Certificate, and an adequate supply of water.

- d. Fortress Solar II, LLC will comply with the proposed decommissioning plan, any modifications/deviations from the proposed plan must be approved by the County. The County must be notified in writing when Fortress Solar II, LLC commences decommissioning.
- e. Any building greater than 120 sq. ft. will require a building permit.
- f. The BESS shall be enclosed by a security fence and be secured at all times. Emergency services must have access at all times.
- g. Prior to the commencement of construction, Fortress Solar II, LLC must obtain all proper permissions from landowners to use private roads or develop access roads on any private property. No private access roads, new or currently in use, shall become public rights of way unless approved and accepted by the Board of County Commissioners.
- h. The County may require that the road use agreement for the associated solar collector facility in Phase 2 govern any road impacts related to the construction of the BESS or require a separate road use agreement. In addition, for any public improvements to roads required for Phase 1 of the project for the associated solar collector facility, the County may require that the public improvement agreement govern public improvements for the construction of the BESS or require a separate public improvement agreement.
- i. The County will require written notice for all staging or laydown areas, or other temporary areas for construction or repair activities ("Temporary Areas") utilized after final construction is completed. Fortress Solar II, LLC must provide a map showing the Temporary Area by size (acreage and perimeter), a list of materials and equipment to be stored on the Temporary Areas, activities within the area (e.g., grading, storage, etc.), the length of time the temporary construction or staging or laydown areas will be in use and must notify the County at least thirty (30) days prior to the use of the temporary Areas and the area returned to a condition similar to its condition prior to construction. No permanent structures may remain in the Temporary Areas unless approved by the County pursuant to the applicable Morgan County Zoning Regulations.
- j. The project area shall be reclaimed and/or reseeded as soon as practicable but no later than six months after Fortress Solar II, LLC has completed construction, unless the County Planning Administrator grants an extension for demonstrated good cause.
- k. Construction occurring with ¼ quarter mile of any residence shall not commence earlier than 7 a.m.
- Fortress Solar II, LLC shall prevent the existence of any nuisances by way of its construction activities. All trash, litter, construction waste and any potentially hazardous materials shall be disposed of properly off-site. If the County determines that a nuisance exists and the nuisance is not abated or an abatement plan is not submitted to the satisfaction of the County, the County may, upon thirty (30) days' notice, undertake such abatement and lien the property for the costs of the abatement. Such abatement shall not be deemed to limit any other enforcement rights of the County.

- m. Fortress Solar II, LLC shall comply with all applicable law and regulations related to safety and emergency management during construction and on-going operations.
- n. Fortress Solar II, LLC shall be responsible for the payment of all costs and fees incurred by the County associated with this Permit. The County shall invoice Fortress Solar II, LLC for costs and fees and payment will be due by Fortress Solar II, LLC within thirty (30) days of the date of the invoice. Failure to pay may result in enforcement actions by the County.

5. Fortress Solar III Collector Facility Conditions

- a. Fortress Solar III, LLC must demonstrate ownership or possession of the property prior to commencement of construction. Fortress Solar III, LLC can demonstrate satisfaction with this condition through vested title in its name, or a lease or other agreement directly with the property owner allowing the permitted use to be conducted on the property.
- b. All necessary land use, environmental, and construction permits, approvals and authorizations will be obtained prior to the start of and during construction as required and may include, but are not limited to, land use permits, right-of-way (ROW) permits, road use agreements, access permits, oversize/overweight permits, grading permits, stormwater permits, and a FAA air navigation impact determination.
- c. All necessary plans, reports, permits, and certificates will be submitted prior to issuance of any building permit associated with the solar collector facility and may include, but are not limited to, interconnection/crossing agreements, final drainage & erosion control plan, signed and sealed geotechnical report, decommissioning plan, operations and maintenance plan, Liability Insurance Certificate, final locations for any laydown yard, a copy of the APEN issued by the Colorado Department of Public Health and Environment, Unanticipated Discovery plan, and an adequate supply of water.
- d. Fortress Solar III, LLC will comply with the proposed decommissioning plan, any modifications/deviations from the proposed plan must be approved by the County. The County must be notified in writing when the Applicant commences decommissioning.
- e. Any building greater than 120 sq. ft. will require a building permit.
- f. No poles shall exceed a height of 100 feet. Any poles that exceed this height will require prior approval from the County, upon a showing by Fortress Solar III, LLC that such height is necessary. Such additional height may be approved by the County Planning Administrator upon application and request from Fortress Solar III, LLC. The County Planning Administrator may request any additional information necessary to determine whether approval should be granted.
- g. The substation and solar collector facility shall be enclosed by a security fence and be secured at all times. Emergency services must have access at all times.
- h. Prior the commencement of construction, Fortress Solar III, LLC will enter into a road use agreement for the use of any public road during construction. The agreement shall include the following:

- i. A designated haul route or routes, subject to approval by the Morgan County Road & Bridge Department. A map showing the designated haul route to be used during construction.
- ii. A pre-construction baseline inventory of County roads on the designated haul route or routes to be used during construction to document their pre-construction condition, obtained by and paid for by the applicant.
- iii. A mitigation plan to address traffic congestion, control, and potential impacts to County roads on the designated haul route. The mitigation plan shall also include any dust mitigation activities.
- iv. A requirement that the applicant is to return any County roads to their pre-construction baseline condition.
- v. A requirement to post financial security in an amount not less than one hundred fifteen percent (115%) of the estimated cost to complete all road restoration, in the form of an irrevocable letter of credit or cash escrow. Cost estimates shall be provided by a licensed Colorado engineer. Upon preliminary acceptance of the restored public road, the County shall release all but fifteen percent (15%) of total actual costs of restoration of the public roads, so long as Fortress Solar III, LLC are not in default of any provision of the road use agreement. The County shall inspect the restored roads and Fortress Solar III, LLC shall pay to the County the cost incurred by the County in conducting such inspections. These costs shall be due and payable upon demand of the County. Fortress Solar III, LLC shall be responsible for correcting or properly completing the restoration.
- vi. The residual fifteen percent (15%) retained by the County shall act as security for Fortress Solar III, LLC's guarantee that the restoration remains free of defect during a two-year warranty period Fortress Solar III, LLC may at any time during the preliminary acceptance or warranty period offer to provide a substitute or supplemental form of financial security to that security as originally posted with and/or retained by the County. The County may accept substitute or supplemental forms of security in its sole discretion.
- i. If required by Morgan County Road & Bridge, Fortress Solar III, LLC shall make all necessary improvements to the access roads prior to commencement of construction. Depending on evaluation received from the County's third-party consultant, improvements may be required for all three access roads, or portions of such access roads. If such improvements are required, Fortress Solar III, LLC shall be required to submit road specifications as required by the County Road & Bridge Department detailing the improvements. Such specifications will be reviewed and approved by the County and its consultants as necessary. Once such specifications are approved by the County, Fortress Solar III, LLC shall be required to enter into a public improvement agreement, which at a minimum will require the posting of adequate security to ensure the improvements are completed in conformity with the approved specifications and a warranty period from preliminary acceptance for all improvements. Such public improvement agreement may be combined with the required road use agreement.
- j. Prior to the commencement of construction, Fortress Solar III, LLC must obtain all proper permissions from landowners to use private roads or develop access roads on any private property. No private access roads, new or currently in use, shall become public rights of way unless approved and accepted by the Board of County Commissioners.

- k. The County will require written notice for all staging or laydown areas, or other temporary areas for construction or repair activities ("Temporary Areas") utilized after final construction is completed. Fortress Solar III, LLC must provide a map showing the Temporary Area by size (acreage and perimeter), a list of materials and equipment to be stored on the Temporary Areas, activities within the area (e.g., grading, storage, etc.), the length of time the temporary construction or staging or laydown areas will be in use and must notify the County at least thirty (30) days prior to the use of the temporary Areas and the area returned to a condition similar to its condition prior to construction. No permanent structures may remain in the Temporary Areas unless approved by the County pursuant to the applicable Morgan County Zoning Regulations.
- 1. The project area shall be reclaimed and/or reseeded as soon as practicable but no later than six months after Fortress Solar III, LLC has completed construction, unless the County Planning Administrator grants an extension for demonstrated good cause.
- m. Construction occurring with ¼ quarter mile of any residence shall not commence earlier than 7 a.m.
- n. Fortress Solar III, LLC shall prevent the existence of any nuisances by way of its construction activities. All trash, litter, construction waste and any potentially hazardous materials shall be disposed of properly off-site. If the County determines that a nuisance exists and the nuisance is not abated or an abatement plan is not submitted to the satisfaction of the County, the County may, upon thirty (30) days' notice, undertake such abatement and lien the property for the costs of the abatement. Such abatement shall not be deemed to limit any other enforcement rights of the County.
- o. Fortress Solar III, LLC shall comply with all applicable law and regulations related to safety and emergency management during construction and on-going operations.
- p. Fortress Solar III, LLC shall be responsible for the payment of all costs and fees incurred by the County associated with this Permit. The County shall invoice Fortress Solar III, LLC for costs and fees and payment will be due by Fortress Solar III, LLC within thirty (30) days of the date of the invoice. Failure to pay may result in enforcement actions by the County.

6. Fortress Solar III BESS Facility Conditions

- a. Fortress Solar III, LLC must demonstrate ownership or possession of the property prior to commencement of construction. Fortress Solar III, LLC can demonstrate satisfaction with this condition through vested title in its name, or a lease or other agreement directly with the property owner allowing the permitted use to be conducted on the property.
- b. All necessary land use, environmental, and construction permits, approvals and authorizations will be obtained prior to the start of and during construction as required and may include, but are not limited to, land use permits, right-of-way (ROW) permits, road use agreements, access permits, oversize/overweight permits, grading permits, stormwater permits, and a FAA air navigation impact determination.
- c. All necessary plans, reports, permits, and certificates will be submitted prior to issuance of any building permit associated with the BESS facility and may include, but are not limited to, Electrical Diagram, final equipment specification sheet, contact information, maintenance plan,

final drainage plan, decommissioning plan, emergency operation plan, and Liability Insurance Certificate, and an adequate supply of water.

- d. Fortress Solar III, LLC will comply with the proposed decommissioning plan, any modifications/deviations from the proposed plan must be approved by the County. The County must be notified in writing when the Applicant commences decommissioning.
- e. Any building greater than 120 sq. ft. will require a building permit.
- f. The BESS shall be enclosed by a security fence and be secured at all times. Emergency services must have access at all times.
- g. Prior to the commencement of construction, Fortress Solar III, LLC must obtain all proper permissions from landowners to use private roads or develop access roads on any private property. No private access roads, new or currently in use, shall become public rights of way unless approved and accepted by the Board of County Commissioners.
- h. The County may require that the road use agreement for the associated solar collector facility in Phase 3 govern any road impacts related to the construction of the BESS or require a separate road use agreement. In addition, for any public improvements to roads required for Phase 1 of the project for the associated solar collector facility, the County may require that the public improvement agreement govern public improvements for the construction of the BESS or require a separate public improvement agreement.
- i. The County will require written notice for all staging or laydown areas, or other temporary areas for construction or repair activities ("Temporary Areas") utilized after final construction is completed. Fortress Solar III, LLC must provide a map showing the Temporary Area by size (acreage and perimeter), a list of materials and equipment to be stored on the Temporary Areas, activities within the area (e.g., grading, storage, etc.), the length of time the temporary construction or staging or laydown areas will be in use and must notify the County at least thirty (30) days prior to the use of the temporary Areas and the area returned to a condition similar to its condition prior to construction. No permanent structures may remain in the Temporary Areas unless approved by the County pursuant to the applicable Morgan County Zoning Regulations.
- j. The project area shall be reclaimed and/or reseeded as soon as practicable but no later than six months after Fortress Solar III, LLC has completed construction, unless the County Planning Administrator grants an extension for demonstrated good cause.
- k. Construction occurring with ¼ quarter mile of any residence shall not commence earlier than 7 a.m.
- 1. Fortress Solar III, LLC shall prevent the existence of any nuisances by way of its construction activities. All trash, litter, construction waste and any potentially hazardous materials shall be disposed of properly off-site. If the County determines that a nuisance exists and the nuisance is not abated or an abatement plan is not submitted to the satisfaction of the County, the County may, upon thirty (30) days' notice, undertake such abatement and lien the property for the costs of the abatement. Such abatement shall not be deemed to limit any other enforcement rights of the County.

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- n. Fortress Solar III, LLC shall be responsible for the payment of all costs and fees incurred by the County associated with this Permit. The County shall invoice Fortress Solar III, LLC for costs and fees and payment will be due by Fortress Solar III, LLC within thirty (30) days of the date of the invoice. Failure to pay may result in enforcement actions by the County.

Nicole Hay, Morgan County Planning Administrator

CONSULTANTS

Harris Engineering Consultants, Inc.



21482 County Road T.5 Fort Morgan, CO 80701 (970) 867-4971 | Office (970) 542-0425 | Fax

February 05, 2024

Ms. Nicole Hay Morgan County Planning & Zoning Department 231 Ensign Street Fort Morgan, CO 80701

Re: Hydrologic and Hydraulic Analyses Fortress Solar

I have reviewed the documentation that you provided for the proposed Fortress Solar site located southeast of Brush, including the *Hydrologic and Hydraulic Report* [drainage study], *Water and Wind Erosion Control Plan*, *Special Use Permit Application* [SUPA] and associated preliminary site plans.

First off, I would echo the comment provided in the BNSF's review, namely, a concern arising from the vague statement provided in Section 4.6 of the drainage study declaring that stormwater management basins will be used to control stormwater discharging offsite onto adjacent property. I would be curious to know where and at what magnitude these offsite discharges are. However, it is understood that the preliminary drainage study was meant to inform future detailed design of the site and that the stormwater control structures referenced will no doubt be defined as the engineering and site design progresses. I would recommend that the County require the applicant to submit these details as they become available so that they may be reviewed.

It is understood that natural depressions will be preserved to collect stormwater runoff and allow it to infiltrate onsite. Per Figure 4-7 in the drainage study, some of these depressions are sizable and may result in significant ponding (the figure seems to indicate up to 11 feet in depth for the 100-year event). I would be curious whether the applicant intends to pursue any field infiltration tests, recommended in Section 3.4.2 of the drainage study, to further refine site inundation depths and define potential 'no-build' areas on the site plan.

Please feel free to contact me with any questions or concerns, or if I may provide further assistance.

Sincerely,

Matthew C. Harris, PE CO PE #49409



ADDITIONAL APPLICATION INFORMATION

Morgan County Road & Bridge FAA Notice Overview Tire Washout Additional Information Mineral Notification & Certified Receipts TETRA TECH

61

Memo

| То: | Kenneth Nelson, Morgan County Road & Bridge Department | |
|----------|--------------------------------------------------------|--|
| CC: | John Goodman, Bruce Bass, James Rehn, Jenny Straight | |
| From: | Justin Miner & Maya Lewis, Tetra Tech, Inc. | |
| Date: | December 11, 2023 | |
| Subject: | Re: Driveway Permit Applications | |

Fortress Solar I LLC (Applicant) has requested two driveway access permits from Morgan County for the proposed access roads to be constructed from County Roads R and Q for the Fortress Solar & Battery Energy Storage System (BESS) Project (Project). For the third driveway access permit, the Applicant has entered into a Temporary License Agreement with Tri State and is in coordination with Tri State regarding the proposed access road from County Road R.5. Tri State will apply for and obtain the driveway access permit on behalf of the Applicant for the access road proposed to be constructed from County Road R.5.

As requested, please find the estimated traffic information below for the three proposed driveway access locations. The traffic estimates for the construction phase at the proposed driveway access locations are anticipated to reflect the flow of vehicles associated with the development activities, including personnel transportation, delivery trucks, and construction vehicles. During the operational phase, traffic is expected to be significantly less, comprising primarily of maintenance and administrative vehicles. Traffic estimates are provided for both the construction and operational phases, counts show both the flow of traffic coming and going.

1.0 Access, Transportation, & Traffic

In developing the traffic management plan for the Fortress Solar project, we have incorporated several key considerations to ensure minimal disruption to Morgan County's existing road infrastructure. A primary focus has been on reducing congestion; by designating specific routes for different types of traffic, we aim to distribute the traffic load evenly and maintain a smooth flow on both primary and secondary roads. Safety is also a paramount concern in our planning process. We have carefully selected routes that provide clear and direct access for emergency services, ensuring that they can reach the site swiftly and safely in case of any emergencies. Additionally, we have taken into account the potential impact on local traffic. Our route selection is guided by a commitment to minimize any inconvenience to the residents of Morgan County, demonstrating our respect for the community and our dedication to being a responsible corporate neighbor.

1.1 Access Roads

Primary haul route and construction deliveries to the Fortress Solar & BESS Project will be provided via one new 20-foot-wide gravel access road constructed off County Road Q. The primary commuter access for lightweight vehicles and trucks during construction and operations will be provided via a new 20-foot-wide gravel access road constructed off County Road R.5. Secondary commuter access will be provided via a new 20-foot-wide

Page 2

gravel access road constructed off County Road R. The proposed site access roads and entry points are depicted on Figure 1 (*Figure 1 provided at end of memo*).

1.2 Owner & Employee Commuter Routes

The access routes to be utilized by construction crew members, operational employees, and the landowner are detailed per Figure 2 and are as follows:

Primary Route (Emergency): I-76 to County Road R.5. From I-76, vehicles will take exit 92 and will head southwest on US-6 for 1.4 miles toward the Town of Brush to reach CO-71 South. Vehicles will head south on CO-71 for approximately .2 mile and will then head east on County Road R.5 until reaching the site entrance. The total Commuter Route length from I-76 is approximately 2.4 miles. This access route has been chosen for its directness and ease of navigation, ensuring rapid access for emergency services.

The Applicant has entered into a Temporary License Agreement with Tri State and is in coordination with Tri State regarding the proposed access road from County Road R.5. Tri State will apply for and obtain the driveway access permit on behalf of the Applicant for the access road proposed to be constructed from County Road R.5.

Secondary Route (Commuter): I-76 to County Road R. From I-76, vehicles will take exit 92 and will head southwest on US-6 for 1.4 miles toward the Town of Brush to reach CO-71 South. Vehicles will head south on CO-71 for approximately .8 mile and will then head east on County Road R until reaching the site entrance. The total Commuter Route length from I-76 is approximately 3.1 miles. This route helps distribute traffic flow, reducing congestion on the primary route and providing an alternative access point for the workforce and other regular site visitors.

1.3 Construction Haul Route

The haul route to be utilized by heavy vehicle truck traffic throughout construction is detailed per Figure 2 (*Figure 2 provided at end of memo*) and is as follows:

Tertiary Route (Minimal Use Haul): Interstate 76 (I-76) to County Road Q. From I-76, vehicles will take exit 92 and will head southwest on US-6 for 1.4 miles toward the Town of Brush to reach CO-71 South. Vehicles will head south on CO-71 for approximately 1.9 miles and will then head east on County Road Q until reaching the site entrance. The total Haul Route length from I-76 is approximately 4.5 miles. This longer route has been chosen to accommodate the unique needs and constraints of heavy haulage, ensuring safe and efficient transport of large construction materials.

The Applicant will install a tire washout station at the entrance to the Project site off County Road Q to reduce track out.

1.4 Construction Transportation and Traffic

The Fortress Solar & BESS Projects will be developed in three phases, with each phase containing 200-Megawatts of Solar development and 200 Megawatts of BESS development.

The construction process for each phase is estimated to take up to 15 months to complete, during which time there would be some variability in the number of workers each day. Project initiation and site preparation would occur over the first 5 months and will require fewer workers and fewer materials delivery truck trips. After the site is prepared for installation, the Project site would experience an increase to a higher maximum number

TETRA TECH

Page 3

of workers and material delivery truck trips. The peak of construction period for each phase is anticipated to occur over a 3-month period. Upon the completion of construction, testing of the installed equipment for operational reliability and safety will occur over the last 4 months of the construction period. This phase will not require the use of any heavy machinery and will involve a minimal number of workers.

During the peak commuting hours each morning and evening at the peak of construction for each phase of the Project, there would be an average of approximately 130 lightweight commuter vehicles or trucks arriving at or departing from the Project via County Roads R and R.5, with most of the commuter traffic utilizing County Road R.5. The average daily construction traffic count for each month in each phase of the Project is detailed per Figure 1-1 below.

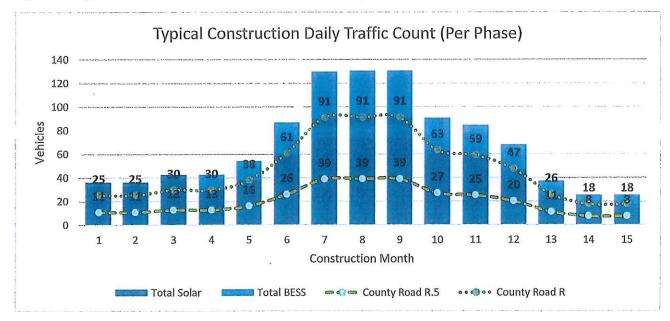
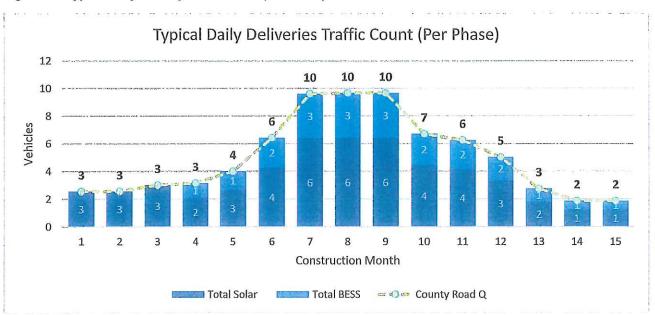


Figure 1-1. Typical Daily Construction Traffic Count (Per Phase)

During peak construction, there would be an average range of 10 material delivery truck trips per day. Heavy trucks would access the site via County Road Q for these deliveries. Material delivery trucks are not expected to coincide with the peak hour, rather they would arrive at the Project site throughout the day (Figure 1-2).







It was estimated that 1,048 deliveries would be made over the course of each phase of construction. This amount includes 600 trucks delivering solar panel modules, 48 trucks delivering photovoltaic inverters, 200 trucks delivering panel pile/racking systems, 100 trucks delivering BESS components, and 100 trucks delivering battery inverter/transformer components.

The Colorado Department of Transportation (CDOT) Traffic Data Explorer was accessed to obtain Annual Average Daily Traffic (AADT) counts along the Project haul routes. The AADT counts represent the average number of vehicles traveling on a road segment for a typical day of the year. The AADT data available for the count stations along the Project access routes, the anticipated number of daily trips, and maximum percentage increase in AADT per phase is detailed per Table 1 below.

| Table 1. Existing and Anticipated In | crease in AADT |
|--------------------------------------|----------------|
|--------------------------------------|----------------|

| Access Route | Existing AADT Counts ¹ | Average Estimated Daily Trips | Maximum Percent Increase in AADT (%) |
|------------------------------------------------------------------|-----------------------------------------|----------------------------------|--------------------------------------|
| Primary Commuter, Secondary Commuter & Haul Route | Interstate 76, Station 103412: 12,000 | | 1.2% |
| | U.S. Highway 34, Station 101481: 3,800 | 140 (130 commuter & 10 delivery) | 3.7% |
| | State Highway 71, Station 103254: 2,700 | | 5.2% |
| | State Highway 71, Station 000213: 1,800 | | 7.8% |

Source: CDOT 2023

1.5 Oversized / Overweight Loads

There are expected to be up to approximately 105 oversized/overweight load deliveries per phase associated with the Project for the transport of high voltage substation equipment, solar inverters, and transformers. These deliveries would occur along County Road Q. The remaining heavy vehicle traffic would be standard size

five-axle tractor trailers—some of these would be enclosed, and some would be in the form of flatbed trucks or smaller vehicles. Smaller heavy vehicles are likely to include water trucks, concrete trucks, and aggregate trucks. The Applicant or its contractor would obtain the necessary oversize/overweight permit from CDOT prior to delivery of these oversize/overweight loads.

1.6 Operations Transportation and Traffic

During operations once all three phases are complete, the Applicant anticipates 36 full-time operations and maintenance employees would commute daily to the facility. A total of up to 72 trips per day would occur along County Roads R.5 and R (Figure 1-3). Therefore, the transportation and traffic impacts associated with the Project operation are anticipated to be minimal. The operational phase of the Project is expected to be 30 years but may be extended if facility components are upgraded or replaced. The typical daily traffic count for each operational year of the Project is detailed per Figure 1-3 below.

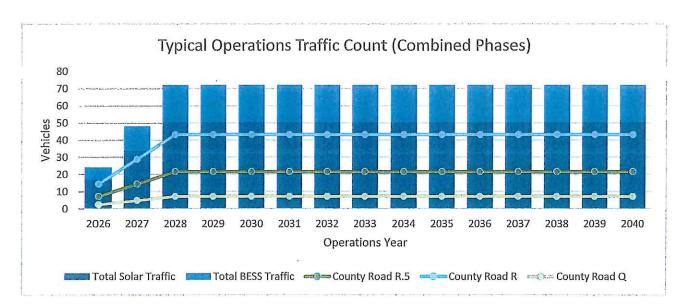


Figure 1-3. Typical Operations Traffic Count

1.7 Impact Minimization Strategies:

- Traffic Management: To avoid peak hours and reduce impact on local commuters, heavy vehicles will adhere to a scheduled timetable, avoiding rush hours.
- Maintenance and Upgrades: We commit to regular maintenance of the roads used, particularly County Roads R.5, R, and Q.
- Tire Washout Station: A tire washout station will be installed at the entrance off County Road Q. This is to ensure that construction vehicles do not track debris onto public roads, maintaining cleanliness and safety.

Our team is committed to monitoring the traffic situation throughout the project duration and making necessary adjustments in coordination with the Morgan County Road & Bridge Department. We believe that this well-thought-out plan aligns with the community's interests and the successful execution of the Fortress Solar project.

Page 5

TETRA TECH

Page 6

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FIGURES

2

Tetra Tech 1560 Broadway, Suite 1400 Denver, CO tetratech.com







Road & Bridge Department

Date 1-9-2024

Fortress Solar I LLC Charles Ndhlovu 11801 Domain Blvd, Suite 450 Austin, TX. 78758

To whom it may concern:

Morgan County Road and Bridge Department has reviewed the Application for Driveway Access submitted by Fortress Solar I LLC for a Special Use Permit and has determined that access from Morgan County Road Q onto property describe as South ½ of the North and South ½ South of Section 7, Township :3, Range 55. Parcel # 1233-070-00-002 is possible, however Morgan County Road and Bridge will not issue the actual Driveway Access Permit until such time as that Fortress Solar I LLC receives an approved Special Use Permit for the project from the Planning and Zoning Department and the Board of Morgan County Commissioners.

Best Regards

me Bem

Bruce Bass Public Works Director Morgan County Government



Road & Bridge Department

Date 1-10-2024

Fortress Solar I LLC Charles Ndhlovu 11801 Domain Blvd, Suite 450 Austin, TX. 78758

To whom it may concern:

Morgan County Road and Bridge Department has reviewed the Application for Driveway Access submitted by Fortress Solar I LLC for a Special Use Permit and has determined that access from Morgan County Road R onto property describe as North ½ of the North East ¼ of Section 12, Township :3, Range 56.

Parcel # 1231-120-00-001 is possible, however Morgan County Road and Bridge will not issue the actual Driveway Access Permit until such time as that Fortress Solar I LLC receives an approved Special Use Permit for the project from the Planning and Zoning Department and the Board of Morgan County Commissioners.

Best Regards

me Ban

Bruce Bass Public Works Director Morgan County Government

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Tue, Feb 6, 2024 at 3:58 PM



Nicole Hay

FAA Notice Overview

Lewis, Maya To: Nicole Hay Cc: "Miner, Justin"

, Charles Ndhlovu <

Hi Nicole,

To follow up on our phone call from yesterday, Aypa is required to file a notice of construction form with the FAA for the Fortress Solar & BESS Projects due to the proximity to the Brush Municipal airport. The FAA recommends filing notices of construction at least 45 days prior to the start of construction. Upon filing, we should receive an acceptance of notice as official documentation of the FAA's receipt which we can provide to the County.

Once the FAA has completed an aeronautical study, a determination is issued regarding the impact to air navigation. One of three responses is typically issued:

- Determination of No Hazard The subject construction did not exceed obstruction standards and marking/ lighting is not required.
- Determination of No Hazard with Conditions The proposed construction/alteration would be acceptable contingent upon implementing mitigating measures such as the marking and lighting of the structure.
- Determination of Hazard The proposed construction/alteration is determined to be a hazard to air navigation.

Aypa anticipates receipt of a determination of no hazard and will provide a copy of the determination once received.

Please see an overview of the process as detailed per the FAA FAQ page below.

16. What happens after I submit the notice and associated attachments?

For those studies located off airport property or for those located on a military airfield, an aeronautical study will be conducted by the FAA Air Traffic Organization, Obstruction Evaluation Group (OEG). The OEG technician will verify that the information submitted is accurate and complete. If the information is inaccurate or incomplete the technician will request additional information. If no additional information is required the technician will verify the study which will change the status in your account to "Work in Progress." When the status is changed to "Work in Progress" your information is made available to other FAA offices and military representatives that need to review the proposal. Those offices will provide comments to the OEG and after all comments have been received, the OEG technician or specialist will issue the appropriate letter; when it's been issued the status in your account will change to "Determined." After the letter has been issued it will be available on the website. Select "Search Archives" and enter the ASN for a link to the study.

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Let us know if you have any other questions!

Maya Lewis | Environmental Planner

Pronouns: she, her, hers Direct | Mobile

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f 🗹 in 🙆 Please consider the environment before printing. Read more





Jenafer Santos <jsantos@co.morgan.co.us>

1 washout

2 messages

Nicole Hay To: "Lewis, Maya" Tue, Jan 16, 2024 at 11:03 AM Charles Ndhlovu , "Miner, Justin" , Cheryl Brindisi <cbrindisi@co.morgan.co.us>, Jenafer Santos <jsantos@co.morgan.co.us>

Can you give us some more specifics with the tire washout?

- · Is it only during construction and it will be removed?
- · Is it on a platform of some sort with a drain?
- Where is it draining?
- Will you for sure be building it?

We are trying to get a better understanding.

Thanks

Nicole F. Hay Planning Administrator Planning/Zoning Department 231 Ensign St. Fort Morgan, CO 80701 970-542-3526

Lu , Maya To: Nicole Hay Charles Ndhlovu "Miner, Justin" Cheryl Brindisi <cbrindisi@co.morgan.co.us>, Jenafer Santos <jsantos@co.morgan.co.us> Cc: Andrew Breyer

Hi Nicole,

Please see the Applicant's response below,

- The Applicant will enter into a Road Use Agreement with Morgan County prior to the start of construction
- Details of the tire wash including type, location, will be based on the recommendation of the Road Use Agreement with Road and Bridge
- The mostly likely outcomes from the Road Use Agreement will be:
 - The tire washout station will be used during the construction phases to minimize track out of dirt and debris onto county roads
 - They are typically constructed on a platform with a drainage system. The drainage is designed to prevent runoff into local waterways, runoff water will be directed to a sedimentation area, since its only sediment
 - This station is temporary and will be removed after the construction phase
 - Yes, the construction plan includes building this washout station as part of the commitment to minimize environmental impact during construction

Please let us know if you have any additional questions.

Maya Lewis | Environmental Planner

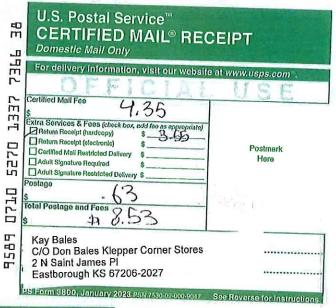
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| - | PS Form 3800, January 2023 PSN 7530-074009-3047 | See Reverse for Instructions | |































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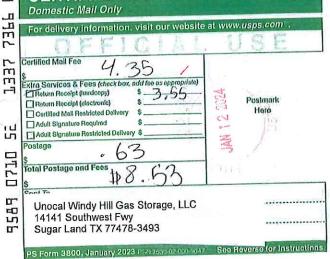






















Tri-State Generation and Transmission Association, Inc PO Box 33695 Denver, CO 80233

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| 1-3N-56W | 1231-010-00-700 | S: 01 T: 3 R: 56 PARC E1/2 B801 P134 **STATE ASSESSED** |
| 6-3N-55W | 1233-060-00-001 | S: 06 T:3 R: 55 N1/2 & N1/2S1/2 (CORRECTION SECTION) |
| 1-3N-56W | 1231-010-00-002 | S: 01 T: 3 R:56 E1/2E1/2 B908 P721 (CORRECTION SECTION) |

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Crossroads Morgan LLC 745 N. Gilpin Street Denver, CO 80218

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Quentin Oil Associates 1099 18th Street, Suite 2600 Denver, CO 80202

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Ruth Ann Odle 16218 Hwy 71 Brush, CO 80723

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| 4-3N-55W | 1233-040-00-002 | TRACT 1: NW/4 South of RR & SW/4 SW/4 & SE/4 SE/4 |
| 4-3N-55W | 1233-040-00-002 | TRACT 2: S/2 NE/4 South of RR & N/2 SE4 & E/2 SW/4 |
| 9-3N-55W | 1233-090-00-001 | TRACT 1: W/2 & SE/4 & S/2 NE/4 & NE/4 NE/4 |
| 10-3N-55W | 1233-100-00-001 | TRACT 1: S/2 |
| 5-3N-55W | 1233-050-00-001 | TRACT 1: Lot 3, S/2 NW/4, E/2 SW/4, SW/4 SW/4, SE/4 NE/4, E/2 SE/4 |
| 7-3N-55W | 1233-070-00-002 | TRACT 1: S/2 N/2 and S/2 |
| 8-3N-55W | 1233-080-00-001 | TRACT 1: W/2, SW/4 of NE/4, N/2 of SE/4, SE/4 of SE/4 |
| 12- 3N-56W | 1231-120-00-002 | TRACT 1: SE/4 NE/4 and the E/2 SE/4 |
| 32-4N-55W | 1233-050-00-001 | TRACT 1: Part of the SW/4 lying South of the Railroad |

| Table 1. | Subsurface Mineral Rights Parcel Information for Project Area |
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Respectfully,

Camar

Charles Ndhlovu, Project Manager Fortress Solar I LLC, Fortress Solar II LLC, & Fortress Solar III LLC c/o Aypa Power 11801 Domain Blvd. Suite 450 Austin, TX 78758



United States of America c/o Bureau of Land Management 2850 Youngfield St. Lakewood, CO 80215

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| 4-3N-55W | 1233-040-00-002 | TRACT 3: NW/4 SW/4 & SW/4 SE/4 |
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| 5-3N-55W | 1233-050-00-001 | TRACT 2: Lots 1, 2, 4 and NW/4 SW/4, SW/4 NE/4, and W/3 SE/4 |
| 8-3N-55W | 1233-080-00-001 | TRACT 2: N/2 of NE/4, SE/4 of NE/4 , SW/4 of SE/4 |
| 6-3N-55W | 1233-060-00-002 | S/2 of S/2 |
| 7-3N-55W | 1233-070-00-001 | N/2 of N/2 |
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Unocal Windy Hill Gas Storage, LLC 14141 Southwest Freeway Sugar Land, TX 77478

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William A. Grant, Jr., as Trustee 7236 So. Gary Ave. Tulsa, OK 74136

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Bernice M Crosthwait Heirs of Myrtle Hans Peterson 32446 County Road V Brush, CO 80723

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Gerald R Geisick Heir of T.H. Rediess 1422 Canal Dr. Windsor, CO 80550

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Final approval or disapproval of the applications will be considered by the Morgan County Commissioners at a date and time to be determined following the outcome and recommendations of the Planning and Zoning Commission.

Charles Ndhlovu, Project Manager

Fortress Solar I LLC, Fortress Solar II LLC, & Fortress Solar III LLC c/o Aypa Power 11801 Domain Blvd. Suite 450 Austin, TX 78758

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Diane J. Klepper C/o Don Bales Klepper Corner Stores 2617 N. Broadway Wichita, KS 67219

RE: Notice of Public Hearing before the Morgan County Planning & Zoning Commission for six Special Use Permit Applications submitted for the Fortress Solar & Fortress BESS Projects filed by Fortress Solar I LLC, Fortress Solar II LLC, and Fortress Solar III LLC

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Diane J. Klepper C/o Don Bales Klepper Corner Stores 6517 Meadow Hills St. NE Albuquerque, NM 87111

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Kay Bales C/o Don Bales Klepper Corner Stores 2617 N. Broadway Wichita, KS 67219

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Kay Bales C/o Don Bales Klepper Corner Stores 2 N Saint James Pl. Wichita, KS 67206

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John Eric Engstrom 901 N. Wiley St. Wichita, KS 67203

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Theodore R. McGregor Heir of T.H. Rediess 3380 Cambridge Rd. Shingle Springs, CA 95682

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Charles Ndhlovu, Project Manager

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Catherine A Leonardi Heir of T.H. Rediess 738 Flower St. Grand Junction, CO 81506

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Charles Ndhlovu, Project Manager

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Bruce A McGregor Heir of T.H. Rediess 13445 Bristlecone Cir. Orlando, FL 32828

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Charles Ndhlovu, Project Manager

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Trust I: William Carson Knorr Heir of Don Ross 2406 Briarwood Dr. Boulder, CO 80305

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Trust I: Tom Johnson Knorr Jr. Heir of Don Ross 11678 N 59th St. Longmont, CO 80503

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Trust I: Katherine Treacy Knorr Cole Heir of Don Ross 1517 Ridgeview Dr. Louisville, CO 80027

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Mary Nancy Holmes Heir of Wendell S. Holmes 188 Glengarnock Rd. Tryon, NC 28782

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Sally McPherson Heir of Wendell S. Holmes 621 Laurel Lake Dr. Apt B302 Columbus, NC 28722

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Ann Therest Zerezadegan Heirs of Myrtle Hans Peterson 1718 33rd Ave Greeley, CO 80634

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| 4-3N-55W | 1233-040-00-002 | TRACT 2: S/2 NE/4 South of RR & N/2 SE4 & E/2 SW/4 |

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Final approval or disapproval of the applications will be considered by the Morgan County Commissioners at a date and time to be determined following the outcome and recommendations of the Planning and Zoning Commission.

Charles Ndhlovu, Project Manager

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Susan Swanson Heirs of Myrtle Hans Peterson 35293 County Road 83 Briggsdale, CO 80611

RE: Notice of Public Hearing before the Morgan County Planning & Zoning Commission for six Special Use Permit Applications submitted for the Fortress Solar & Fortress BESS Projects filed by Fortress Solar I LLC, Fortress Solar II LLC, and Fortress Solar III LLC

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Laura Mendoza Heirs of Myrtle Hans Peterson 3135 W 17th St. Greeley, CO 80634

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John Wessley Mansur Heir of T.H. Rediess 4365 Hield Rd. NW Palm Bay, FL 32907

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Charles Ndhlovu, Project Manager

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Paul Mansur Heir of T.H. Rediess 203 Gunnison Ave Grand Junction, CO 81501

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Joyce Edson Heir of T.H. Rediess 14460 County Road 16 Fort Morgan, CO 80701

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Janette Frohock Heir of T.H. Rediess 1115 Live Oak St. New Smyrna Beach, FL 32168

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Trust II Mary Marsha Meyers Heir of Don Ross 4J Fulham Rd. Clifton Park, NY 12065

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Trust II: Martin Meyers Heir of Don Ross 1866 Troutman St. Apt 2 Ridgewood, NY 11385

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Trust II: Mark Marshall Meyers Heir of Don Ross 18C Pointe West Dr. Clifton Park, NY 12065

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Bradley Storey Heir of S.H. Ranson 1859 SW Urish Rd. Topeka, KS 66615

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Jennifer Reumund Heir of S.H. Ranson 5281 Hideaway Dr. Perry, KS 66073

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Sean Eagan Heir of S.H. Ranson 417 W 10th St. Newton, KS 67114

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Robert William Eagan Heir of S.H. Ranson 707 Battleground Rd. Lincolnton, NC 28092

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Kaitlen Paul Heirs of Myrtle Hans Peterson 6031 W 26th St. Greeley, CO 80634

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|----------|-----------------|----------------------------------------------------|
| 4-3N-55W | 1233-040-00-002 | TRACT 2: S/2 NE/4 South of RR & N/2 SE4 & E/2 SW/4 |

The Project will be developed in three phases, each phase containing one phase of the Fortress Solar Project and one phase of the Fortress BESS Project. Three separate solar collector facility SUP applications and three separate BESS facility SUP applications, one for each phase, have been submitted to Morgan County and have been scheduled for review by the Planning & Zoning Commission.

The initial public hearing for these applications will be held before the Morgan County Planning & Zoning Commission on **February 12, 2024, at 6:00 P.M**. in the **Morgan County Administrative Building Assembly Room** at **231 Ensign Street Fort Morgan, CO 80701.**

Final approval or disapproval of the applications will be considered by the Morgan County Commissioners at a date and time to be determined following the outcome and recommendations of the Planning and Zoning Commission.

Charles Ndhlovu, Project Manager

Fortress Solar I LLC, Fortress Solar II LLC, & Fortress Solar III LLC c/o Aypa Power 11801 Domain Blvd. Suite 450 Austin, TX 78758

Common State



Alicia Parkos Heirs of Myrtle Hans Peterson 3135 W 17th St. Greeley, CO 80634

RE: Notice of Public Hearing before the Morgan County Planning & Zoning Commission for six Special Use Permit Applications submitted for the Fortress Solar & Fortress BESS Projects filed by Fortress Solar I LLC, Fortress Solar II LLC, and Fortress Solar III LLC

Dear Mineral Interest Owner or Lessee,

You are receiving this notice because you have been identified as a mineral estate owner as reflected in the records of the Morgan County Assessor or a request for notification of surface development with the Morgan County Clerk and Recorder, with respect to property that is the subject of the referenced applications.

As required by Colorado State Statute 24-65.5-103, you are hereby notified that six Special Use Permit (SUP) applications have been submitted to the Morgan County Community Development Department for the Fortress Solar Project, Phases I, II, and III, and the Fortress BESS Project, Phases I, II, and III, a 600-megawatt (MW) solar photovoltaic array facility and 600 MW / 2,400 MW-hour Battery Energy Storage System on property described per the subject legal descriptions detailed in Table 1 below.

| Table 1. Subs | surface Mineral Rights | Parcel Information | for Project Area |
|---------------|------------------------|--------------------|------------------|
|---------------|------------------------|--------------------|------------------|

| ID# | Tax Map # | Legal Description |
|----------|-----------------|----------------------------------------------------|
| 4-3N-55W | 1233-040-00-002 | TRACT 2: S/2 NE/4 South of RR & N/2 SE4 & E/2 SW/4 |

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Charles Ndhlovu, Project Manager

Fortress Solar I LLC, Fortress Solar II LLC, & Fortress Solar III LLC c/o Aypa Power 11801 Domain Blvd. Suite 450 Austin, TX 78758

N. Name

.



Trust II: Virginia Arline Irish Heir of Don Ross 17002 33rd Ave S Seattle, WA 98188

RE: Notice of Public Hearing before the Morgan County Planning & Zoning Commission for six Special Use Permit Applications submitted for the Fortress Solar & Fortress BESS Projects filed by Fortress Solar I LLC, Fortress Solar II LLC, and Fortress Solar III LLC

Dear Mineral Interest Owner or Lessee,

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| ID# | Tax Map # | Legal Description |
|-----------|-----------------|-------------------------------------------------------|
| 7-3N-55W | 1233-070-00-002 | TRACT 1: S/2 N/2 and S/2 |
| 32-4N-55W | 1233-050-00-001 | TRACT 1: Part of the SW/4 lying South of the Railroad |

| Table 1. | Subsurface Mineral Rights Parcel Information for Project Area |
|----------|---------------------------------------------------------------|
|----------|---------------------------------------------------------------|

The Project will be developed in three phases, each phase containing one phase of the Fortress Solar Project and one phase of the Fortress BESS Project. Three separate solar collector facility SUP applications and three separate BESS facility SUP applications, one for each phase, have been submitted to Morgan County and have been scheduled for review by the Planning & Zoning Commission.

The initial public hearing for these applications will be held before the Morgan County Planning & Zoning Commission on **February 12, 2024, at 6:00 P.M**. in the **Morgan County Administrative Building Assembly Room** at **231 Ensign Street Fort Morgan, CO 80701.**

Final approval or disapproval of the applications will be considered by the Morgan County Commissioners at a date and time to be determined following the outcome and recommendations of the Planning and Zoning Commission.

Fahlovi

- Aller

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Trust II: Melissa C Irish Heir of Don Ross 8229 Bagley Ave N Seattle, WA 98103

RE: Notice of Public Hearing before the Morgan County Planning & Zoning Commission for six Special Use Permit Applications submitted for the Fortress Solar & Fortress BESS Projects filed by Fortress Solar I LLC, Fortress Solar II LLC, and Fortress Solar III LLC

Dear Mineral Interest Owner or Lessee,

You are receiving this notice because you have been identified as a mineral estate owner as reflected in the records of the Morgan County Assessor or a request for notification of surface development with the Morgan County Clerk and Recorder, with respect to property that is the subject of the referenced applications.

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| Table 1. | Subsurface Mineral Rights Parcel Information for Project Area |
|----------|---------------------------------------------------------------|
| | |

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Final approval or disapproval of the applications will be considered by the Morgan County Commissioners at a date and time to be determined following the outcome and recommendations of the Planning and Zoning Commission.

THIOVIL

AND LADOR



Jenafer Santos <jsantos@co.morgan.co.us>

veral rights owner-Concern

9 messages

| 9 messages | | | |
|------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------|
| Cheryl Brindisi <cbrindisi@co.mo< td=""><td>organ.co.us></td><td></td><td>Thu, Jan 18, 2024 at 10:01 AM</td></cbrindisi@co.mo<> | organ.co.us> | | Thu, Jan 18, 2024 at 10:01 AM |
| To: | , Charles Ndhlovu | , "Miner, Justin" | , Andrev |
| Breyer | | | |
| Cc: Nicole Hay <nhay@co.morga< td=""><td>n.co.us>, Jenafer Santos <jsar< td=""><td>ntos@co.morgan.co.us></td><td></td></jsar<></td></nhay@co.morga<> | n.co.us>, Jenafer Santos <jsar< td=""><td>ntos@co.morgan.co.us></td><td></td></jsar<> | ntos@co.morgan.co.us> | |
| Interest search as an heir of a mi would like to have addressed by a I have attached to this email the | neral rights owner S.H. Ranson someone through Fortress Sola | v the name of "Bob" Robert Eagan. He n, who is deceased. He had several q ar or Aypa. Can you please contact hir Aypa for your reference. | uestions and concerns that he |
| Thank you | | - A | |
| Cheryl Brindisi, Planning a Morgan County Planning a 231 Ensign St. PO Box 596 Fort Morgan, CO 80701 970-542-3526 | | ∍ Assistant | |
| <u>CBrindisi@co.morgan.co.us</u> | | | |
| Mineral Interest Letter-Co 280K | ncerned Owner.pdf | | |
| C ^r ~rvl Brindisi <cbrindisi@co.mc< td=""><td>organ.co.us></td><td></td><td>Thu, Jan 18, 2024 at 10:06 AM</td></cbrindisi@co.mc<> | organ.co.us> | | Thu, Jan 18, 2024 at 10:06 AM |
| 7 | Charles Ndhlovu | "Miner, Justin" | |
| Andrew Breyer <abreyer@aypa.co< td=""><td></td><td></td><td></td></abreyer@aypa.co<> | | | |
| Cc: Nicole Hay | , Jenafer Santos <jsar< td=""><td>ntos@co.morgan.co.us></td><td></td></jsar<> | ntos@co.morgan.co.us> | |
| His number was written on the a Thank you | ttached document but here it is | as well. | |
| Cheryl Brindisi, Planning a | nd Zoning Administrative | e Assistant | |
| Morgan County Planning a | | | |
| 231 Ensign St. | = | | |
| PO Box 596 | | | |
| Fort Morgan, CO 80701 | | | |
| 970-542-3526 | | | |
| <u>CBrindisi@co.morgan.co.us</u> | | | |
| Charles Ndhlovu | | | Thu, Jan 18, 2024 at 11:05 AM |
| To: Cheryl Brindisi <cbrindisi@co.n< td=""><td></td><td></td><td>, "Miner, Justin"</td></cbrindisi@co.n<> | | | , "Miner, Justin" |
| | Andrew Breyer | | |
| Cc: Nicole Hay | Jenafer Santos <jsan< td=""><td>ntos@co.morgan.co.us></td><td></td></jsan<> | ntos@co.morgan.co.us> | |
| Thanks Cheryl, | | | |
| I called Mr. Robert William Ea | | D:30 a.m. MDT (1/18/2024). I interests, which are on Odle Opt | tion 1 |

Our mineral search indicated that his "Total Combined Net acres" is approximately 3.3945.

vve will respond to his request via email at Regards,

Charles

LANDOWNER LETTERS, REFERRALS, & RESPONSES

Landowner Letter sent & Responses received Referrals sent & Responses received Notification Sign Posting Pictures & Affidavit



January 22nd, 2024

Re: Fortress Solar I, LLC, Fortress Solar II, LLC, and Fortress Solar III, LLC (collectively "Fortress Solar")

Dear Neighboring Landowners:

Fortress Solar, LLC as applicant and Tri-State Generation and Transmission Association Inc., Shari A. Benotti and Ruth Ann Odle as landowners have submitted an application to our office for a Use by Special Review Permit.

Fortress Solar, LLC, Solar Energy Facility; Phases I, II and III.

Legal Description: A part of Sections 3, 4, 5, 6, 7, 8, 9 and 10, Township 3 North, Range 55 West, a part of Sections 1 and 12, Township 3 North, Range 56 West, and a part of Section 32, Township 4 North, Range 55 of the 6th PM, Morgan County, Colorado.

Fortress Solar, LLC, BESS; Phases I, II and III.

Legal Description: A part of Section 5, Township 3 North, Range 55 West of the 6th PM, Morgan County, Colorado.

Request: Fortress Solar, LLC has submitted a Special Use Permit Application to construct and operate an up to 600 MW Solar Photovoltaic Panel (PV) project in conjunction with a 2,400 MWh Battery Energy Storage System (BESS). Construction will take place in three phases. See attached site map.

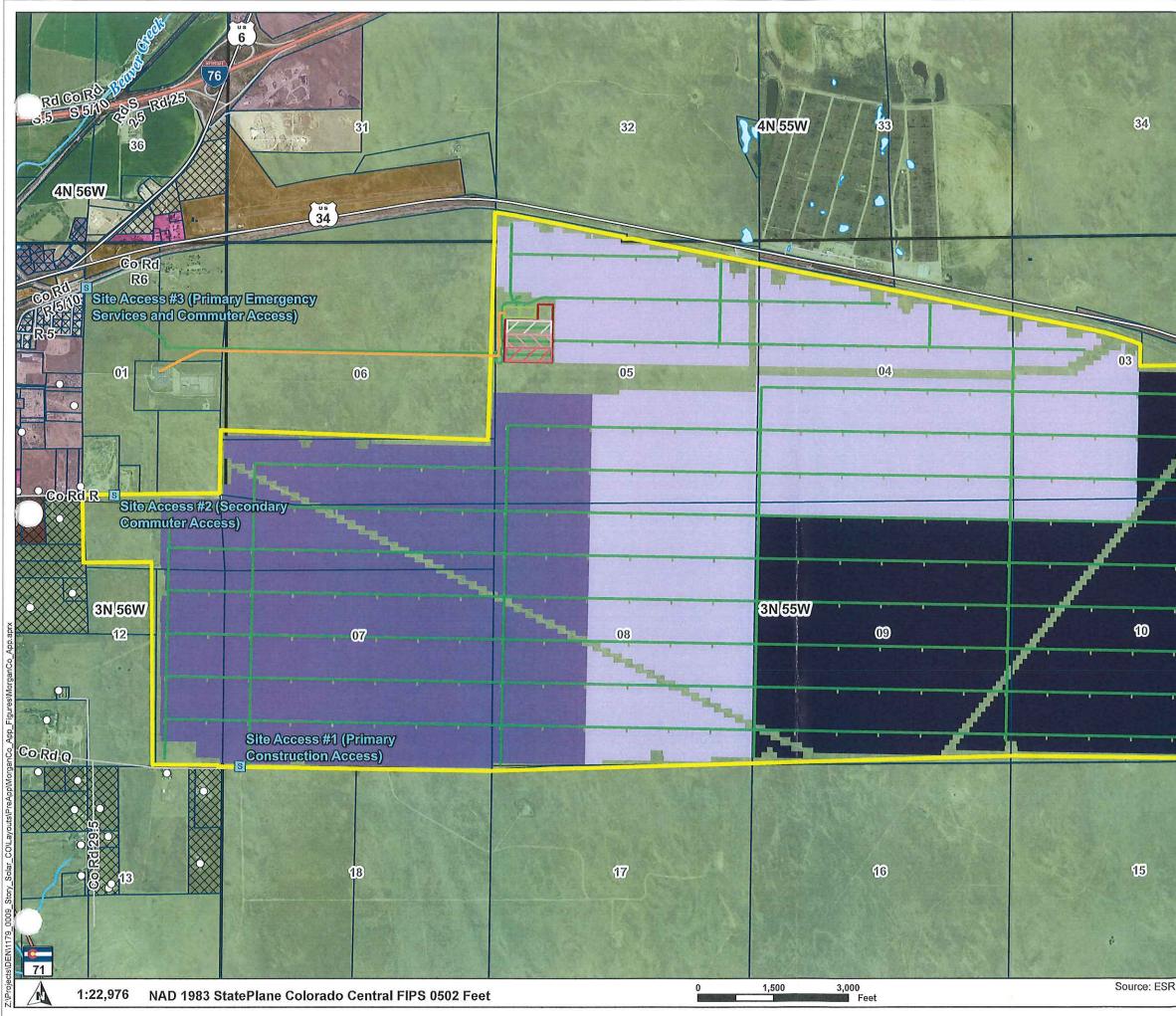
This application is scheduled to be heard by the <u>Planning Commission</u> at a **public hearing on Monday**, **February 12th**, **2024 at 6:00 P.M.** in the Assembly Room of the Morgan County Administration Building, 231 Ensign St., (Basement Level, elevator entrance) Fort Morgan, Colorado. Landowners within ¼ mile of the subject property are notified of the application and hearing date.

Documents pertaining to the above identified matters are on file in the Planning Administrator's Office located at 231 Ensign St., Fort Morgan, Colorado. If you have any questions pertaining to this application or if you would like to review the file, please contact us at (970) 542-3526 or stop by our office. You may attend the public hearing and provide comments on the application, or alternatively, if you are not able to attend you may submit written comments to our office no later than **February 5th**, 2024.

Sincerely, Nicole Hay

Nicole Hay, Planning & Zoning Director

For special assistance for the mentioned hearing, please notify us at least 48 hours before the scheduled agenda item. Please call (970) 542-3526 to request any ADA accommodations.



| 35 Fortress I Solar LLC Fortress Solar and BESS Project Appendix A-1 Vicinity Map - Overview Morgan County, CO Project Features Site Access Location Access Road Gen-Tie Line BESS - Phase I BESS - Phase II BESS - Ph |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Project Features Image: Site Access Location Access Road Gen-Tie Line BESS - Phase I BESS - Phase II BESS - Phase III BESS - Phase III Switchyard & Substation |
| PV Array - Phase 1 PV Array - Phase 2 PV Array - Phase 3 Project Boundary Transportation Interstate Highway US Highway Local Road Boundaries |
| Morgan County Parcel Morgan County Subdivision PLSS Section PLSS Township Morgan Counting Zoning Districts C Existing Residence Agriculture Production District Agriculture/Agri-Business District Commercial District Estate Residential District Light Industrial District Planned Development - Rural Residential District District |
| 14 Rural Residential District TETRA TECH NOT FOR CONSTRUCTION Reference Map WY NE VY NE CO KS |
| RI, USDA NAIP, US CENSUS, BTS, MORGAN COUNTY, CDOT |

Fortress Solar & BESS Landowners within 1320' MC Mapper GIS

1) MASSEY, KYLER B & JANESSA M

17384 HWY 71

BRUSH, CO 80723

- 2) BEAMAN, CINTHIA LYNN BRACK
 23279 AL HWY 71
 FLAT ROCK, AL 35966
- 3) SCHWINDT, SAM JR & DEANNA
 17342 HWY 71
 BRUSH, CO 80723
- 4) TRI-STATE GENERATION AND TRANSMISSION ASSN INC
 1100 W 116TH AVE
 WESTMINSTER, CO 80234
- 5) STANDING ROCK SANITATION SERVICE INC
 P O BOX 170
 MCLAUGHLIN, SD 57642
- 6) BECK, HELEN R &
 BECK-MASSEY, DEBORA L
 17660 CO RD 29.6
 BRUSH, CO 80723
- 7) BECK, WESLEY A
 17688 CO RD 29.6
 BRUSH, CO 80723

8) PUBLIC SERVICE COMPANY OF COLORADO

P O BOX 1979

DENVER, CO 802011979

9) CITY OF BRUSH

P O BOX 363

BRUSH, CO 80723

10) SIMON, TODD

P O BOX 523

BRUSH, CO 80723

11) MEYER, LARRY & KATHRYN

1619 EATON ST

BRUSH, CO 80723

12) WASHBURN, MELVIN R & BETTY L 29749 HWY 34

BRUSH, CO 80723

13) WASHBURN, JOSHUA

29747 HWY 34

BRUSH, CO 80723

14) SCHREINER, MICHAEL EDWARD & BONNIE D

29741 HWY 34

BRUSH, CO 80723

15) THOMAS, TRAVIS & DAWN

29523 HWY 6

BRUSH, CO 80723

Page | 2

16) TETER & SON OILFIELD SERVICE INC

P O BOX 37

BRUSH, CO 80723

17) WESTERN EQUIPMENT & TRUCK INC

2055 1ST AVE

GREELEY, CO 80631

18) PEACOCK FARNAM INVESTMENT BUILDERS BRUSH LLC

P O BOX 1818

LAFAYETTE, CA 94549

19) TRI-STATE GENERATION & TRANSMISSION ASSOCIATION

P O BOX 33695

DENVER, CO 80233

20) MCINTOSH, SCOT C

412 DESSA ST

BRUSH, CO 80723

21) FEDERAL ASSOCIATION ADMINISTRATION

Mailing Address Not Available

22) 3D RANCH INC

12001 HWY 34

AKRON, CO 80720

23) FEDERAL ASSOCIATION ADMINISTRATION

Mailing Address Not Available

24) T3 LAND & INVESTMENT LLC

P O BOX 408

BRUSH, CO 80723

25) ARTEAGA FAMILY 2022 REVOCABLE LIVING TRUST

1007 VICKIE ST

FORT MORGAN, CO 80701

26) ODLE, RUTH ANN

16218 HWY 71

BRUSH, CO 807239436

27) BENOTTI, SHARI A

2420 THORNDON PARK CT

LEAGUE CITY, TX 77573

28) WINKLER, JEFFERY L

611 CURTIS ST

BRUSH, CO 80723

29) QUIJADA-VIDES, NOE &

GARCIA, CRISTINA GARCIA

29727 HWY 34

BRUSH, CO 80723

30) GROSSHANS, STEVEN L & JANICE R 703 DESSA ST BRUSH, CO 80723

- 31) BLAKE, DANNY J & RANDI M 29582 HWY 6 BRUSH, CO 80723
- 32) BLAKE, STANLEY 29850 HWY 6 BRUSH, CO 80723
- 33) KB1229 LLC

4855 W COUGAR ROCK TRAIL PRESCOTT, AZ 86305

34) BASS, BRUCE B FAMILY LLLPP O BOX 685BRUSH, CO 807230685

35) STONE, JAMES L & JUDY L P O BOX 351

BRUSH, CO 80723

36) GAYLE, ROBERT D & WENDY E
 29994 CO RD Q
 BRUSH, CO 80723

37) DICK, RON

29874 CO RD Q BRUSH, CO 80723 38) STUTZMAN, TIMOTHY J & LANA J 19798 CO RD 23 FORT MORGAN, CO 80701 .

- 39) STATE OF COLORADO
 BOARD OF LAND COMMISSIONERS
 1313 SHERMAN ST RM 620
 DENVER, CO 80203
- 40) BOOTH LAND & LIVESTOCK LLC P O BOX 72 LUCERNE, CO 80646
- 41) BOLINGER, AUSTIN MICHAEL

12001 US HWY 34

AKRON, CO 80720

42) ATWOOD, LOUIS G

29491 CO RD R

BRUSH, CO 80723

- 43) MARTIN, JOHN & MARIA 29251 CO RD R BRUSH, CO 80723
- 44) MCDONALD BROTHERS LLC P O BOX 352

BRUSH, CO 80723

45) MASSEY, BROOKS L

17426 HWY 71

BRUSH, CO 80723

46) SERRANO, JOSE E &

TREVIZO-CASTRO, MARYBELL 17328 HWY 71 BRUSH, CO 80723

47) SCIANCALEPORE, MARGO LYNN

P O BOX 643

BRUSH, CO 80723

48) QUEEN, DOUG

P O BOX 731

BRUSH, CO 80723

49) DILLEY, VERNON & GWEN

P O BOX 125

BRUSH, CO 80723-2308

50) WILSON, DARBY J

29501 CO RD R

BRUSH, CO 80723

51) KRAL, JOSEPH F III & JENNIFER L67 PRESERVE DRFORT MORGAN, CO 80701

- 52) DESLAURIERS, ROY 29248 CO RD R BRUSH, CO 80723
- 53) MELENDEZ, JAIME & IVY KRISTEN 29250 CO RD R BRUSH, CO 80723

7

54) DEMMING, JUDD &

MONTZ, LYNNE A

29246 CO RD R

BRUSH, CO 80723

- 55) FLYING BEE ENTERPRISES LLC 29382 CO RD R BRUSH, CO 80723
- 56) KEMBEL, JAMES S & JOYCE E
 16750 HWY 71
 BRUSH, CO 80723
- 57) LAMBERT, CHAD & JILL

P O BOX 212

BRUSH, CO 80723



MORGAN COUNTY PLANNING AND ZONING DEPARTMENT

TO REFERRAL AGENCIES:

| Bureau of Reclamation |
|-----------------------------------------|
| BNSF Railway |
| Brush Fire Department |
| Brush Municipal Airport (7V5) |
| CDOT |
| Century Link |
| Central CO Water Conservancy District |
| Cheyenne Plains Gas Pipeline Company |
| City of Brush |
| City of Fort Morgan |
| Colo. Dept. of Natural Resources |
| Colo. Oil & Gas Conservation Commission |
| CDPHE |
| Colo. State Land Board |
| Division of Wildlife |
| Fort Morgan Fire Department |
| Hillrose/Snyder Fire Department |

Kinder Morgan, Inc. Morgan County Assessor Morgan County Communications Center Morgan County Emergency Management Morgan County Quality Water Morgan County Road & Bridge Morgan County Rural Electric Assoc. Morgan County Sheriff Morgan Soil Conservation District Morgan Weed & Pest Advisory Committee Northeast Colorado Health Department Town of Wiggins Tri-State Generation & Transmission Assoc. USDA Farm Service Agency Washington County Western Area Power Administration Wiggins Fire Department **Xcel Energy**

| FROM: | Cheryl Brindisi, Morgan County Planning & Zoning Administrative Assistant |
|-------|---------------------------------------------------------------------------|
| | 231 Ensign St, PO Box 596, Fort Morgan, CO 80701 |
| | 970-542-3526 / 970-542-3509 fax / cbrindisi@co.morgan.co.us |
| DATE: | January 17 th , 2024 |
| RE: | Land Use Application- Special Use Permit |

The Special Use Permit application is submitted to you for review and comments. The application will be heard by the Planning Commission and the Board of County Commissioners. You are encouraged to provide comments to this application by February 5th, 2024. Failure to comment will be viewed as a favorable review. Please contact the Planning and Zoning Department if you would like to attend the public meeting.

Applicants: Fortress Solar I, LLC, Fortress Solar II, LLC, and Fortress Solar III, LLC (collectively "Fortress Solar") Landowners: Tri-State Generation and Transmission Association Inc., Shari A. Benotti and Ruth Ann Odle.

Fortress Solar, LLC, Solar Energy Facility; Phases I, II and III.

Legal Description: A part of Sections 3, 4, 5, 6, 7, 8, 9 and 10, Township 3 North, Range 55 West, a part of Sections 1 and 12, Township 3 North, Range 56 West, and a part of Section 32, Township 4 North, Range 55 West of the 6th PM, Morgan County, Colorado.

Fortress Solar, LLC, BESS; Phases I, II and III.

Legal Description: A part of Section 5, Township 3 North, Range 55 West of the 6th PM, Morgan County, Colorado.

Request: Fortress Solar, LLC has submitted a Special Use Permit Application to construct and operate a an up to 600 MW Solar Photovoltaic Panel (PV) project in conjunction with a 2,400 MWh Battery Energy Storage System (BESS). Construction will take place in three phases.

Sincerely,

Cheryl Brindisi,

Cheryl Brindisi, Morgan County Planning and Zoning Administrative Assistant

| REFERRAL AGENCIES | RESPONSES RECEIVED |
|--------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Bureau of Reclamation | |
| BNSF Railway | Response from BNSF received via email on January 19, 2024 Cheryl, Please have the applicant address these BNSF comments. We may need the applicant to enter into a preliminary engineering agreement to reimburse us for our third party engineering costs if the hydraulics don't show clear capacity across BNSF property. |
| | Apply for private crossing application for DOT# 057273E on the north boundary of the property, otherwise if it is no longer needed it will be closed. Remove gate from plans if crossing is closed. Civil plans don't show the retention detention ponds described in the H&H report. Please transmit drainage sheets including existing and proposed flow (Q), show capacity of BNSF assets for proposed Q with hydraulic grade lines. Hydrology Report doesn't name the tributaries that the runoff is estimated to also flow into. (2.1.3 of report) Section 4.6 of the hydrology report they mention, "Stormwater discharging off the site onto adjacent property will be controlled by stormwater management basins in the post-developed condition." These ARE shown on their plans as ellipses but nothing specific about depth or where the intended runoff is going to go for these basins so it does not effect BNSF track and drainage. Erosion control for where these Basins are being implemented not shown or mentioned as it is near BNSF ROW? |
| | Thanks, Rafer Nichols, PE Manager Public Projects II (AZ, CO & NM) <i>BNSF</i> Railway |
| | Response from Applicant received via email on January 19, 2024 Hello Cheryl/Nicole/Jenafer, We would like to clarify our approach and response to the BNSF Railway |
| | comments received. I have left you a voicemail but thought it best to follow- up with an email. The second, fourth and fifth bulleted comments from BNSF pertain to the stormwater design of the site. The civil plans for the project have conservatively accounted for anticipated locations and size of detention basins. The design details and calculations for these stormwater control features, to determine size and capacity, would be completed as part of the project's Construction Stormwater Discharge Permit in accordance with CDPHE requirements. The BNSF comments would be incorporated, reviewed, and addressed through site design and stormwater calculations at that time. This permit would be secured prior to any ground |
| | disturbance. We would like to confirm that our approach and response to the comments regarding stormwater concerns would be adequate is we state our commitment to address these concerns through detailed stormwater design and calculations in support of the Construction Stormwater Discharge Permit. Thank you, Justin L. Miner, PWS Southwest Operations Manager |

| BNSF Railway | Response from BNSF to Applicant received on February 7, 2024Thanks Cheryl, this addresses our concerns with the special useapplication. Please have applicant reach out to me to enter into a contractto reimburse bnsf for review of the forthcoming hydraulic and hydrologicdesign.Rafer Nichols Manager Public Projects II BNSF Railway |
|------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Brush Municipal Airport (7V5) | |
| CDOT | Response received via email on January 18, 2024 Good afternoon Cheryl, Thank you for the referral for the Special Use Application- Fortress Solar. After reviewing this CDOT does not have any comments on this project. If you have any questions please let me know. Again thank you for sending this to us. Mike Shepherd Assistant Access Manager / Utility Permits |
| Century Link | |
| Central CO Water Conservancy District | |
| Cheyenne Plains Gas Pipeline Company | |
| City of Brush | Response received via email on January 30, 2024Hey NicoleThanks for reaching out. I don't think we have had any conservations withthe applicant (at this point, they are all starting to run together). We onlyhave two comments:1. Given their proximity to the airport, they will need to submit the projectto the FAA if they meet certain criteria that can be found at the link below.https://oeaaa.faa.gov/oeaaa/external/gisTools/gisAction.jsp?action=showNoNoticeRequiredToolForm2. One of the proposed access points is off of County Road R, and that roadis in pretty rough shape as it is, so any increased traffic to the site wouldonly make conditions worse; so the impact on that road should beconsidered.Tyler PurvisCity of Brush!Community Development Director /Assistant City Administrator |
| City of Fort Morgan | |
| Colo. Dept. of Natural | |
| Resources | |
| | |

| Colo. State Land Board | |
|-----------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Division of Wildlife | |
| Fort Morgan Fire Department | |
| Hillrose/Snyder Fire Department | |
| Kinder Morgan, Inc. | |
| Morgan County Assessor | |
| Morgan County Communications Center | |
| Morgan County Emergency Management | |
| Morgan County Quality Water | |
| Morgan County Road & Bridge | |
| Morgan County Rural Electric Assoc. | |
| Morgan County Sheriff | |
| Morgan Soil Conservation District | |
| Morgan Weed & Pest Advisory Committee | |
| Northeast Colorado Health Department | |
| Town of Wiggins | |
| Tri-State Generation & Transmission Assoc. | |
| USDA Farm Service Agency | |
| Washington County | |
| Western Area Power | Response received via email on February 6, 2024 |
| Administration | Hello, |
| | Western Area Power Administration has conflict with this project. I will need the applicant to contact me as soon as possible. |
| | Thanks for reaching out to us! |
| | Respectfully, |
| | Tracy Rogers Realty Technician Wyandotte Services on contract to Western Area Power Administration Rocky Mountain Region Loveland, CO |
| Wiggins Fire Department | the second se |
| Xcel Energy | See Included Letter January 22, 2024 |
| | Response via email on February 2, 2024 from Xcel Energy to Applicant referencing the included letter from the Applicant included in the packet dated February 1, 2024 Cheryl, |

| Xcel Energy | Thank you for sending this. Just to clarify, the previously sent letter should not prevent the project from moving forward at this point since this is a preliminary stage.Let me know if you need an amended letter. |
|-------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | Violeta Ciocanu [Chokanu] Xcel Energy You. Us. Together Public Service Company of Colorado, PSCo Right of Way and Permits Department |

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February 1, 2024

Attn: Rafer Nichols, PE BNSF Railway Manager Public Project II

> CC: Nicole Hay, Planning Director Cheryl Brindisi, Planning Technician Morgan County Planning and Zoning

Re: Special Use Application- Fortress Solar and BESS – Response to BNSF Railway Comments Received

We acknowledge receipt of an email dated January 19, 2024, from BNSF Railway, notifying Morgan County that they perceive potential conflict between BNSF's existing right-of-way and infrastructure and our proposed Fortress Solar and BESS project.

We understand and respect the importance of BNSF's right-of-way, track, and drainage infrastructure. We wish to clarify that the plans submitted with our application for a Special Use Permit are preliminary. Detailed construction and building plans will be developed for subsequent permit phases, and we will ensure these plans and the supporting hydrologic study consider all BNSF infrastructure and show clear capacity across BSNF property to avoid any conflicts.

Through communication with BNSF, it is Aypa's understanding that the requests received from BNSF will be processed as part of the conditions of approval for the Project. Aypa is committed to addressing the comments from BNSF through detailed stormwater design and calculations in support of the Construction Stormwater Discharge Permit.

The second, fourth and fifth bulleted comments from BNSF pertain to the stormwater design of the site. The civil plans for the project have conservatively accounted for anticipated locations and size of detention basins. The design details and calculations for these stormwater control features, to determine size and capacity, would be completed as part of the project's Construction Stormwater Discharge Permit in accordance with CDPHE requirements. The BNSF comments would be incorporated, reviewed, and addressed through site design and stormwater calculations at that time. This permit would be secured prior to any ground disturbance. Copies of the project's Construction Stormwater Discharge Permit applications will be provided to Morgan County, along with a copy of the permit once secured.

Should you have any future concerns or require additional information at this juncture, please feel free to contact me.

Regards,

Charles Ndhlovu Manager Development | cndhlovu@aypa.com | (304) 685-8669



February 5, 2024

Cheryl Brindisi Morgan County Planning and Zoning Transmission via email: <u>CBrindisi@co.morgan.co.us</u>

Re: Fortress Solar Project Pt. of Sections 3, 4, 5, 6,7,8,9,10, T3N, R55W, 6th P.M. and Sections 1 and 2, T4N, R55W, 6th P.M. Water Division 1, Water District 1

Dear Ms. Brindisi:

We have reviewed the above referenced application for a Special Use Permit for a Solar Energy Facility. The submitted material does not qualify as a "subdivision" as defined in section 30-28-101(10)(a) of the Colorado Revised Statutes ("C.R.S."). Therefore, pursuant to the State Engineer's March 4, 2005 and March 11, 2011 memorandums to county planning directors, this office will only perform a cursory review of the referral information and provide informal comments regarding the proposed water supply. The comments do not state an opinion on the adequacy of the water supply plan for this project or the ability of the water supply plan to satisfy any County regulations or requirements, and cannot be used to guarantee the physical availability of water.

The application seeks to construct and operate an up to 600 MW Solar Photovoltaic Panel project in conjunction with a 2,400 MWh Battery Energy Storage System located east of Brush, Colorado. The project will cover approximately 4,259 acres. The site has historically been used for rangeland.

The application documents indicate that during approximately 15 months of construction activities, the anticipated water demand will be 470 acre-feet. Water needs during construction include industrial uses such as dust control, hydration and compaction, backfill, cement stabilization, and equipment cooling. Once the site is operational, the applicant estimates 30.6 acre-feet/year will be needed for industrial uses such as washing of the solar panels and cooling equipment, and supporting establishment of vegetation around the site.

During construction and operation, sanitary needs will be met with portable restrooms and handwashing units. The applicant indicates that they intend to use existing wells on the property for the anticipated industrial needs. A review of our records found that several wells may exist on the property. The following wells are permitted for stock watering use: well permit nos. 475-WCB, 546-WCB, 547-WCB, 31855, 40280, 40533, 111641-A (replacement for permit 111641), and 132567-A. Well permit no. 154645 was permitted for ordinary household purposes inside one single family dwelling, fire protection, the watering of poultry, domestic animals, and livestock on farms and ranches, and the irrigation of not over one acre of home gardens and lawns. The following wells were later repermitted or replaced on adjacent properties: well permit nos. 17246-MH (repermitted as



10539-RR), 10330-F (replaced by 10330-FR), 10538-R (replaced by 10538-RR), and 41351-F (replaced by 33746-FR). Well permit no. 31672 was canceled.

As currently permitted, these wells cannot be used to supply water for industrial uses, irrigation uses, or for drinking and sanitary uses associated with the commercial operations on the property.

In order to obtain a non-exempt well permit for industrial use or irrigation use, the well would first need to be included in a plan for augmentation decreed by the water court or a substitute water supply plan approved by the state engineer.

The application states that water may be brought in from an external source. Any water must be obtained from a source permitted or decreed for such uses, such as a water hauling company or bulk municipal tap.

The application materials indicate that several perimeter storm water detention structures will be constructed as a part of this project. The applicant should be aware that unless the structure can meet the requirements of a "storm water detention and infiltration facility" as defined in section 37-92-602(8), C.R.S., the structure may be subject to administration by this office. The applicant should review *DWR's Administrative Statement Regarding the Management of Storm Water Detention Facilities and Post-Wildland Fire Facilities in Colorado, attached, to ensure that the notification,* construction and operation of the proposed structure meets statutory and administrative requirements. The applicant is encouraged to use Colorado Stormwater Detention and Infiltration Facility Notification Portal to meet the notification requirements, located at https://maperture.digitaldataservices.com/gvh/?viewer=cswdif.

Should you or the applicant have any questions regarding any of the above information, please contact Kate Fuller of this office at or

Sincerely,

1. Fully

Kate Fuller, P.E. Water Resources Engineer

Cc: Referral file no.

Right of Way & Permits

1123 West 3rd Avenue Denver, Colorado 80223 Telephone: 303.285.6612

January 22, 2024

∕∕ Xcel Energy™

PUBLIC SERVICE COMPANY

Morgan County Planning and Building Department 231 Ensign / PO Box 596 Fort Morgan, CO 80701

Attn: Nicole Hay and Cheryl Brindisi

Re: Fortress Solar and BESS

Public Service Company of Colorado's (PSCo) Right of Way & Permits Referral Desk has determined **there is a potential conflict** with the above captioned project. Public Service Company has existing electric transmission lines and associated land rights as shown within this property. <u>Any activity including grading, proposed landscaping, erosion control or similar activities</u> involving our existing right-of-way will require Public Service Company approval. Encroachments across Public Service Company's easements must be reviewed for safety standards, operational and maintenance clearances, liability issues, and acknowledged with a Public Service Company License Agreement to be executed with the property owner. PSCo is requesting that, prior to any final approval of the development plan/plat, it is the responsibility of the property owner/developer/contractor to have this project assigned to a Land Rights Agent for development plan review and execution of a License Agreement (via either website www.xcelenergy.com/rightofway or email coloradorightofway@xcelenergy.com).

Please be aware that PSCo also has existing overhead electric distribution facilities in the proximity of County Road Q.

The property owner/developer/contractor must complete the application process for any new electric service, or modification to existing facilities via <u>xcelenergy.com/InstallAndConnect</u>. It is then the responsibility of the developer to contact the Designer assigned to the project for approval of design details.

Additional easements may need to be acquired by separate document for new facilities – be sure to contact the Designer and request that they connect with a Right-of-Way and Permits Agent in this event.

As a safety precaution, PSCo would like to remind the developer to contact Colorado 811 for utility locates prior to construction.

Violeta Ciocanu (Chokanu) Right of Way and Permits Public Service Company of Colorado dba Xcel Energy Office: 303-285-6612 – Email:

1

www.aypa.com



February 1, 2024

Attn: Violeta Ciocanu (Chokanu) PSCO dba Xcel Energy Right of Way and Permits

> CC: Nicole Hay, Planning Director Cheryl Brindisi, Planning Technician Morgan County Planning and Zoning

Re: Special Use Application- Fortress Solar and BESS – Response to Xcel Energy Comments Received

We acknowledge receipt of a letter dated January 22, 2024, from Xcel Energy (Xcel), notifying Morgan County that they perceive a potential conflict between PSCo's existing easements and infrastructure and our proposed Fortress Solar and BESS projects. We are aware of the existence and locations of Xcel's easements and infrastructure in the area around the proposed project sites and understand and respect the importance of PSCo's right-of-way and easements.

We wish to clarify that the plans submitted with our application for a Special Use Permit (SUP) are preliminary. Detailed construction and building plans will be developed for subsequent permit phases, and we will ensure these plans consider all PSCo easements and infrastructure to avoid any conflicts.

At this stage, we have requested that PSCo does not advocate for a delay in processing our SUP based on these preliminary plans. We agree that a License Agreement with PSCo will be necessary to cross PSCo's existing easements and infrastructure and intend to engage in this process during final site design, permitting, and before the construction phase. However, we believe that negotiations for such an agreement are not a prerequisite for the processing of our current SUP application.

We are committed to full compliance with all necessary safety standards and operational requirements. We will contact Colorado 811 for utility locates and ensure that any future development respects and protects PSCo's infrastructure.

We look forward to working closely with PSCo's right-of-way department to finalize a License Agreement when we reach the detailed design stage of our project.

Should you have any future concerns or require additional information at this juncture, please feel free to contact me.

Regards,

Charles Ndhlovu Manager Development | cndhlovu@aypa.com | (304) 685-8669

NOTICE OF MORGAN COUNTY PLANNING COMMISSION'S REVIEW OF ONE LAND USE APPLICATION

Notice is hereby given that on Monday, February 12th, 2024 at 6:00 p.m., or as soon as possible thereafter, a public hearing will be held to consider the following applications:

1.) Applicant: Fortress Solar, LLC, Fortress Solar II, LLC, and Fortress Solar III, LLC (collectively "Fortress Solar")

Landowners: Tri-State Generation and Transmission Association Inc., Shari A. Benotti and Ruth Ann Odle.

Fortress Solar, LLC, Solar Energy Facility; Phases I, II and III.

Legal Description: A part of Sections 3, 4, 5, 6, 7, 8, 9 and 10, Township 3 North, Range 55 West, a part of Sections 1 and 12, Township 3 North, Range 56 West, and a part of Section 32, Township 4 North, Range 55 of the 6th PM, Morgan County, Colorado.

Fortress Solar, LLC, BESS; Phases I, II and III.

Legal Description: A part of Section 5, Township 3 North, Range 55 West of the 6th PM, Morgan County, Colorado.

Request: Fortress Solar, LLC has submitted a Special Use Permit Application to construct and operate an up to 600 MW Solar Photovoltaic Panel (PV) project in conjunction with a 2,400 MWh Battery Energy Storage System (BESS). Construction will take place in three phases.

Date of Application: December 8, 2023.

THE COUNTY WILL CONTINUE TO OFFER THE OPTION TO ATTEND MEETINGS REMOTELY. IF YOU HAVE ANY QUESTIONS REGARDING ATTENDING THE MEETING, PLEASE CONTACT THE PLANNING OFFICES AT 970-542-3526.

To participate remotely you may connect via Zoom at: https://us02web.zoom.us/j/87930376294

Or Telephone: Dial: +1 719 359 4580 US Webinar ID: 879 3037 6294

Documents pertaining to the above identified matters are on file in the Planning Administrator's Office, 231 Ensign St., Fort Morgan, Colorado. Documents will also be available on the Morgan County Website https://morgancounty.colorado.gov

At time of the meeting an opportunity will be given for presentation of evidence in support of or in opposition to the application.

Nicole Hay

Nicole Hay Morgan County Planning Administrator

Published: January 27, 2024

NOTICE OF MORGAN COUNTY PLANNING COMMISSION'S REVIEW OF ONE LAND USE APPLICATION

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 Landowners: Tri-State Generation and Transmission Association Inc., Shari A. Benotti and Ruth Ann Odle.
 Fortress Solar, LLC, Solar Energy Facility; Phases I, II and III.
 Legal Description: A part of Sections 3, 4, 5, 6, 7, 8, 9 and 10, Township 3 North, Range 55 West, and a part of Section 32, Township 3 North, Range 55 West, and a part of Section 32, Township 3 North, Range 55 West, and a part of Section 32, Township 3 North, Range 55 West, and a part of Section 32, Township 3 North, Range 55 West, and a part of Section 32, Township 3 North, Range 55 West, and BM. Borgan County, Colo-rado.
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<u>/s/Nicole Hay</u> Nicole Hay Morgan County Planning Administrator Published: January 27, 2024

Published: Fort Morgan Times January 27, 2024-2030897

Prairie Mountain Media, LLC

PUBLISHER'S AFFIDAVIT

County of Morgan State of Colorado

The undersigned, <u>Agent</u>, being first duly sworn under oath, states and affirms as follows:

- 1. He/she is the legal Advertising Reviewer of Prairie Mountain Media LLC, publisher of the Fort Morgan Times.
- 2. The Fort Morgan Times is a newspaper of general circulation that has been published continuously and without interruption for at least fifty-two weeks in Morgan County and meets the legal requisites for a legal newspaper under Colo, Rev. Stat. 24-70-103.
- 3. The notice that is attached hereto is a true copy, published in the Fort Morgan Times in Morgan County on the following date(s):

Jan 27, 2024

(SEAL)

Signature

Subscribed and sworn to me before me this dav Notary Public

SHAYLA NAJERA **NOTARY PUBLIC** STATE OF COLORADO NOTARY ID 20174031965 MY COMMISSION EXPIRES July 31, 2025

| Account: | 1052763 |
|------------|---------|
| Ad Number: | 2030897 |
| Fee: | \$50.60 |

The above sign was posted on (date) $1 \cdot 24 \cdot 24$, pursuant to the Morgan County Zoning Resolution by (name of applicant) Fortress Solar.

| Project name and number SM | 2023-0020 & SU2023-0021 | |
|----------------------------------------------------|-------------------------------------------------------------------------------------------------------------------|--|
| Signature of Applicant/Representative: Maye Lewis | | |
| STATE OF COLORADO)) ss. COUNTY OF MORGAN) | JENAFER SANTOS NOTARY PUBLIC STATE OF COLORADO NOTARY ID 20194036716 MY COMMISSION EXPIRES 10/03/2027 | |
| Signed before me this date: $1 \cdot 24$ | | |
| My Commission expires: <u>10.3.2027</u> | | |
| NOTARIZED BY: (Jen Jan 10 | <u>.</u> | |

| The above sign was posted on (date)_ | 1.26.24 | , pursuant to the |
|------------------------------------------|-----------------|-------------------|
| Morgan County Zoning Resolution by (name | of applicant) _ | Fortivess Solar. |
| | | |

| Project name and number: <u>SM2023-0022 <u>4</u>SU1023-0023</u> |
|---------------------------------------------------------------------------------------------------------------------------------------------------------|
| Signature of Applicant/Representative: May Jein |
| STATE OF COLORADO) JENAFÉR SANTOS NOTARY PUBLIC STATE OF COLORADO) STATE OF COLORADO) ss. NOTARY ID 20194036716 |
| COUNTY OF MORGAN) MY COMMISSION EXPIRES 10/03/2027 |
| Signed before me this date: 1.24.24 |
| My Commission expires: 10.3.2027 |
| NOTARIZED BY: Jen Jan to |
| |

The above sign was posted on (date) <u>1.26.24</u>, pursuant to the Morgan County Zoning Resolution by (name of applicant) <u>Fortress Solar</u>.

| Project name and number: <u>SV</u> Signature of Applicant/Repres | 12023-0024 & SU2023-0025 entative: Maye Luis |
|---------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------|
| STATE OF COLORADO)) ss. COUNTY OF MORGAN) | JENAFER SANTOS NOTARY PUBLIC STATE OF COLORADO NOTARY ID 20194036716 MY COMMISSION EXPIRES 10/03/2027 |
| Signed before me this date: | 1.216.24 |
| My Commission expires:(| 0.3.2027 |
| NOTARIZED BY: | art |





