



# Oregon

Kate Brown, Governor



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**To:** Oregon Energy Facility Siting Council  
**From:** Chase McVeigh-Walker, Siting Analyst  
**Date:** May 2, 2019

**Subject:** Staff Report:  
**Agenda Item E** (Information Item) – Montague Wind Power Facility –  
Draft Proposed Order on Request for Amendment 4  
**Agenda Item K** (Information Item) – Montague Wind Power Facility –  
Council Review of Draft Proposed Order on Request for Amendment 4  
For May 16-17, 2019 Council Meeting

**Attachments:** Attachment 1: Proposed Amended Site Boundary, Proposed Design  
Scenario A, Proposed Design Scenario B, and Proposed Design Scenario C  
Attachment 2: Draft Proposed Order on Request for Amendment 4  
(Electronic Access)  
Attachment 3: Comments Received on the DPO as of May 2, 2019

## Background

The Oregon Energy Facility Siting Council (Council) issued a site certificate for the Montague Wind Power Facility (facility) on September 10, 2010, which originally authorized the construction and operation of a wind-energy generation facility that would include up to 269 wind turbines. Council has previously authorized three site certificate amendments. The certificate holder is Montague Wind Power Facility LLC, a wholly owned subsidiary of Avangrid Renewables.

The facility is located entirely within Gilliam County, and within a site boundary of approximately 33,717 acres. The facility, based on final design (referred to as Phase 1) is currently under construction, and includes a wind generation facility with up to 56 wind turbines, and is expected to generate approximately 202 megawatts.

Montague submitted a complete Request for Amendment 4 (amendment request or RFA4) to the Montague Wind Power Facility site certificate on January 15, 2019. On March 25, 2019, the certificate holder submitted an amended RFA4, which was found to be complete on April 4, 2019. The amendment request (also referred to as “Phase 2”) seeks Council’s authorization to expand the site boundary by approximately 13,339 acres, allowing flexibility to install any combination of wind, solar, and battery storage energy components described in the RFA4. The certificate holder proposes three design scenarios (referred to as Scenario A, B, and C). Scenarios A and B represent a maximum and minimum disturbance layout, respectively, that includes wind turbines and battery storage; Scenario C represents a disturbance layout for a

solar photovoltaic array that would occupy a maximum footprint of up to 1,189 acres and battery storage.

On April 5, 2019, the Oregon Department of Energy issued its Draft Proposed Order and public notice of a public comment period beginning on that same day and lasting through the conclusion of the public hearing scheduled for May 16, 2019 for a total of 41 days. The public hearing is scheduled for 5:30 P.M. on the first day of the day of the May Council meeting, Thursday May 16.

During the Department's review of the amendment request (prior to the issuance of the Draft Proposed Order), the Department received comments from: Gilliam County Court (Special Advisory Group); Oregon Department of Land Conservation and Development; Oregon Department of Fish and Wildlife; Oregon Department of State Lands; Oregon State Historic Preservation Office; Oregon Department of Geology and Mineral Industries; Oregon Department of Transportation; Oregon Department of Aviation; Confederated Tribes of the Umatilla Indian Reservation; and the Confederated Tribes of the Warm Springs Reservation of Oregon. These comments are included in Attachment B of the Draft Proposed Order.

All comments received on the DPO by the date of issuance of this staff report are included as an attachment (Attachment 2). Any additional written comments received during the comment period will be transmitted to Council either electronically, or hand-delivered at the May Council meeting.

### **Process Steps**

On May 16, 2019, the Thursday of the Council meeting, the Department will present to Council a summary of the RFA4 and the DPO. On that same day, Council will conduct a public hearing on the DPO during which members of the public may address Council directly regarding any issues or concerns with the DPO and the proposed project. The close of the public hearing will close the record of the DPO. The certificate holder (Avangrid Renewables) will have the opportunity to request additional time to respond to public comments.

On May 17, the Friday of the Council meeting, Department staff will present any comments received to Council, and Council will review the DPO, consider all comments received on the record, and provide comments to the Department regarding the DPO.

After Council's review of the DPO and consideration of comments, the Department will issue its proposed order, addressing all and Council comments and public comments received on the record and within Council jurisdiction.

### **Summary of Draft Proposed Order**

Pursuant to OAR 345-027-0065, the Draft Proposed Order addresses each of the Council standards, and comments received on the record during the completeness review phase, and recommends that Council find that the facility, with proposed modifications, would comply with, or based on compliance with existing and recommended amended site certificate conditions, each of the Council standards.

As presented in the Draft Proposed Order, the Department does not recommend any changes in conditions between the existing Site Certificate and the Draft Proposed Order on RFA4 for the following standards and applicable rules. As such, these standards are not further addressed in this staff report. However, the Department has conducted a full review of these standards, which can be found in the respective sections of the DPO. The Department can provide additional information to Council and answer any questions on these standards, or any other standards or assessment, during the presentation on the DPO.

- Protected Areas
- Threatened and Endangered Species
- Recreation
- Cumulative Effects Standards for Wind Energy Facilities [Division 24]
- Removal Fill
- Water Rights

Based on the scope of the requested amendment, the draft proposed order includes both additional reasoning and analysis, or new analysis and new findings, not previously relied upon by Council, which in some instances recommended amending conditions for the following standards:

#### Division 21 Standards

- **General Standard of Review (*from page 13 to page 18*):**
  - Based on the Department's review of RFA 4, the Department recommends Council allow the certificate holder three years from the date of Council approval to begin construction of Phase 2 of the facility, and to allow the certificate holder 3 years from the date of construction commencement to complete construction of Phase 2 of the facility (modify Condition 24, and 25).
  - The Department recommends Condition 27 be amended to reference specifications and dimensions of proposed facility components relied upon in the RFA4 impact assessment.
  - The Department recommends Council amend Condition 18 to clarify the size and length of the transmission line micro-siting corridor for the facility (both Phase 1 and Phase 2).
- **Organizational Expertise (*from page 18 to page 23*):**
  - The Department provides updated findings relating to the certificate holder's experience designing, constructing, and operating the facility, with proposed changes, by evaluating the certificate holders relevant experience constructing and operating similar systems.
  - The Department made updated findings relating to the certificate holder's ability to design, construct, and operate the proposed facility in a manner that protects public health and safety.

- The Department recommends Council impose a new condition (Condition 116) to minimize potential health and safety impacts during onsite handling and transport of battery and battery waste during facility construction and operation.
- The Department recommends Council amend Condition 29 to require the certificate holder to submit a list of third-party permits to be obtained or have been obtained for Phase 2, to both the Department and to Gilliam County prior to construction.
- **Structural Standards (*from page 23 to page 29*):**
  - The Department recommends administrative updates to site certificate conditions (Conditions 12, 13, and 14) based on rule updates to mandatory conditions contained within OAR Chapter 345 Division 25.
  - The Department recommends administrative changes to require the certificate holder to submit its geotechnical report to the Department at least 90 days prior to beginning construction, and for the geotechnical report to include subsurface explorations at locations of proposed facility components (Condition 52).
  - The Department recommends administrative updates to Condition 53 to reference current building codes that are in place at the time the Phase 2 facility goes into construction.
  - The Department made findings relating to “Disaster Resilience and Climate Change Adaptation,” based on rule updates to Chapter 345 Division 21.
- **Soil Protection (*from page 29 to page 39*):**
  - The Department recommends administrative updates to Conditions 55, 85, 87 and 92 to either add reference to phased construction of the facility, or reference facility components not previously evaluated (solar array and battery storage).
  - The Department recommends substantive updates to Condition 80 requiring the certificate holder to provide the Department with a copy of implement a topsoil management plan.
  - The Department recommends that Council impose a new condition (Condition 118) requiring that, during operation, the certificate holder conduct monthly inspections of the proposed battery storage systems, and provide inspection documentation to the Department in its annual compliance report.
- **Land Use (*from page 39 to page 99*):**
  - The Department recommends substantive updates to Condition 38 (*page 49*); requiring the certificate holder to consult with landowners and lessees during construction and operation of Phase 2 to reduce and avoid impacts to ongoing farm practices on surrounding lands.
  - The Department recommends substantive updates to Condition 39 (*pages 49 and 50*); requiring the certificate holder to design and construct Phase 2 of the facility to minimize the permanent impacts to agricultural land, and in a way that allows ongoing access to agricultural fields.

- The Department recommends administrative updates to Condition 42 (*pages 51 and 52*) to establish setback requirements for the solar array and the battery storage system to the nearest property lines, respectively.
- The Department provides an evaluation of the proposed Phase 2 solar facility components against OAR 660-033-0130(38)(f) and (g) (*pages 87 through 91*) and ultimately determined that the solar facility components would require a Goal 3 Exception. The Department evaluated the certificate holder's reasons as to why a Goal 3 Exception is appropriate (*pages 92 through 98*), and recommends that Council conclude that an Exception is justified for the proposed Phase 2 solar facility. Local Economic Benefits, Minimal Loss to Productive Agriculture, and Lack of Water Rights on Proposed Solar Array are the three reasons the Department recommends to Council to justify an Exception.
- The Department provides updated findings relating to the facility's ability to comply with ORS 215.274 (associated transmission lines located within an exclusive farm use zone area), which was not evaluated in prior Final Orders because the statute is relatively new (*pages 76 through 80*).
- **Retirement and Financial Assurance (*from page 110 to page 119*):**
  - Recommended administrative updates based upon increase in retirement cost estimate and pre-construction bond or letter of credit amount necessary for site restoration, and to add reference to phased construction of the facility. (Conditions 8 and 32).
- **Fish and Wildlife Habitat (*from page 119 to page 134*):**
  - The Department made findings relating to the evaluation of Potential impacts to State-sensitive species from the increase in micrositeing corridor, components not previously evaluated (solar array and battery storage), and the increase in rotor swept diameter. The Department proposed changes to the Habitat Mitigation Plan, Wildlife Monitoring and Mitigation Plan, and Revegetation plan to ensure that Phase 2 components would be adequately mitigated in accordance with the standard.
  - The Department recommends an administrative clarification that requires the certificate holder submit updated habitat impact and mitigation calculations to the Department and ODFW, within 30 days of Construction completion (Condition 93).
  - The Department recommends that Council impose a new Condition (Condition 119), based on representation from the certificate holder, that Phase 2 wind turbines will not be constructed within 200 meters of the nearest edge of the breaks of Rock Creek Canyon.
- **Scenic Resources (*from page 138 to page 145*):**
  - The Department recommends an administrative update to Condition 103 to add a reference to facility components not previously evaluated (substation and buildings associated with battery storage).

- **Historic, Cultural, and Archeological Resources (*from page 146 to page 154*):**
  - The Department recommends substantive updates to Conditions 47 and 50 requiring the certificate holder to finalize the Phase 2 Historic Resource Mitigation Plan, including the selection of mitigation option and confirmation of implementation schedule; and to also employ a qualified resource monitor to conduct monitoring of ground disturbance at depths of 12 inches or greater.
- **Public Services (*from page 160 to page 168*):**
  - The Department recommends administrative updates to Condition 75 to clarify the process for maintaining and repairing county roads, should it be determined that Phase 2 construction has caused unusual damage or wear.
  - The Department recommends administrative updates be made to Conditions 77 and 78, to remove the requirement of on-site security during facility operation (for Phase 2) as well as requiring the certificate holder to include the contact information for the Gilliam County Sheriff's Office and the office locations of the backup law enforcement services.
- **Waste Minimization (*from page 168 to page 171*):**
  - The Department recommends updates to Condition 87 to require the certificate holder to provide the Department with a copy of a Water Pollution Control Facilities 1700-B permit which would be secured by a third-party contractor, should solar array washing become necessary.

#### Division 24 Standards

- **Public Health and Safety Standards for Wind Energy Facilities (*from page 171 to page 175*):**
  - Condition 69; to add reference to facility components not previously evaluated (solar array and battery storage).
  - The Department recommends a substantive change to Condition 64, which would require the certificate holder to provide the Department with the evaluations and determinations of both the Federal Aviation Administration (FAA) and the Oregon Department of Aviation (ODA) for the proposed final locations of turbine towers and meteorological towers.
- **Siting Standards for Transmission Lines (*from page 178 to page 180*):**
  - The Department recommends the removal of a mandatory condition (Condition 17) that requires the certificate holder to design the facility, specifically in accordance with a National Electric Safety Code (NESC) as approved on June 3, 2011. The approved code is outdated, and the certificate holder is already required to comply with Oregon Public Utility Safety standards, which references the NESC; as such, the current mandatory condition language, as proscribed by rule, does not dictate the appropriate standard that is relevant to the facility.

### Other Applicable Regulatory Requirements Under Council Jurisdiction

- **Noise Control Regulation (*from page 180 to page 190*):**
  - The Department recommends substantive updates to Condition 107, to require the certificate holder to conduct noise monitoring during the first year of operation at noise sensitive properties, if the preconstruction noise analysis identifies the noise sensitive properties to be within one dBA of the anti-degradation threshold at properties that have not signed a noise-waiver, or within one dBA of the maximum noise levels (50 dBA).

### **Comments Received**

The Department has received one comment as of May 2, 2019, on the Request for Amendment 4 of the Site Certificate, Draft Proposed Order. The comment, from Steve Cherry of ODFW, is included in attachment 2 of this Staff Report.

### **Next Steps**

The Department will analyze all comments received on the record of the DPO, as well as comments received from EFSC itself on the DPO and complete RFA and make any necessary changes to findings and conditions in the Proposed Order. The Department will also incorporate administrative changes into the Proposed Order, such as change “draft proposed order” to “proposed order,” correct page formatting errors including inaccuracies in page breaks and line spacing, correct a scrivener error in the identification of Condition 53, and update the procedural history section.

### **Attachments**

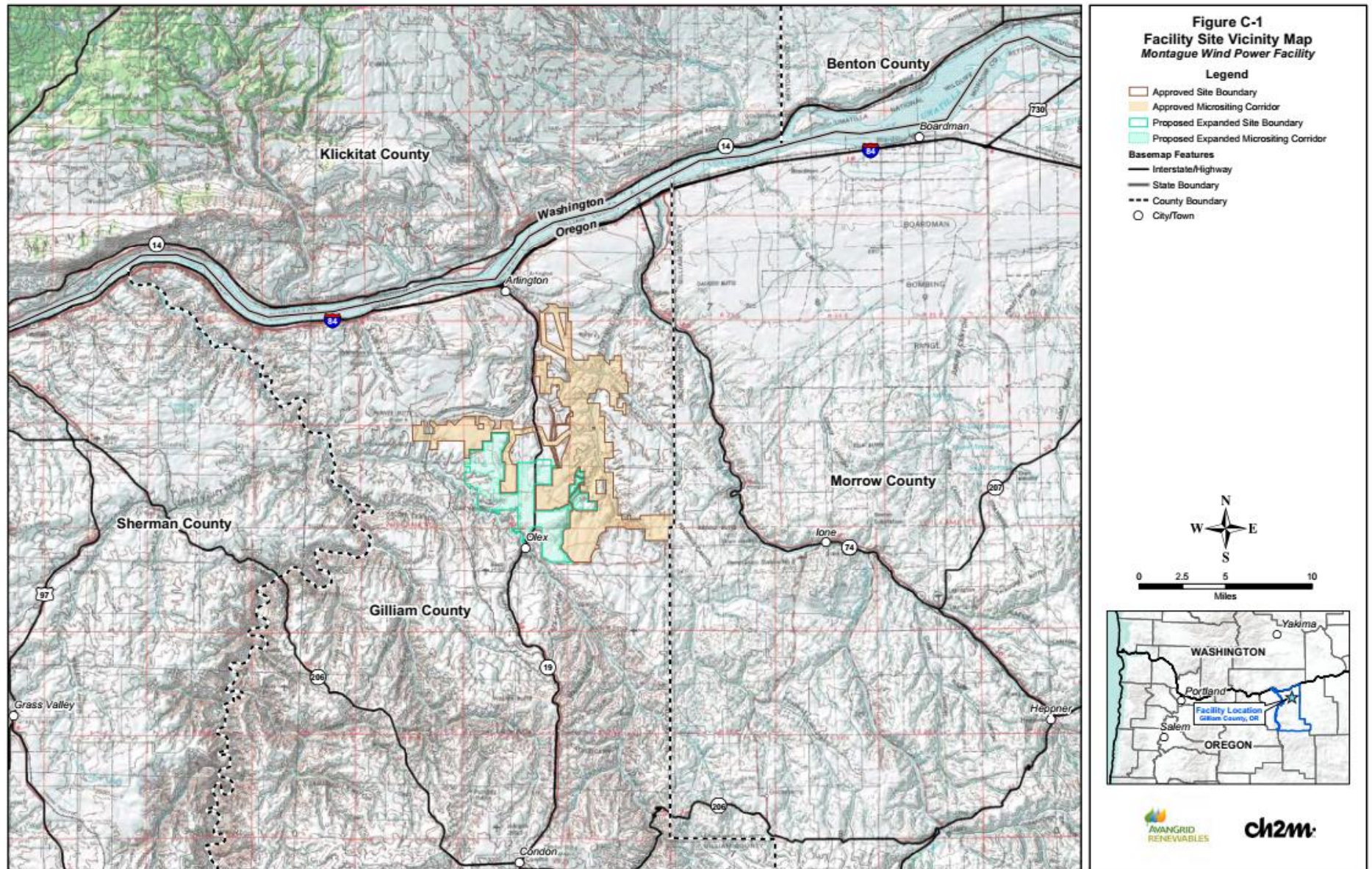
Attachment 1: Proposed Amended Site Boundary, Proposed Design Scenario A, Proposed Design Scenario B, and Proposed Design Scenario C

Attachment 2: Draft Proposed Order on Request for Amendment 4

Attachment 3: Comments Received on the Draft Proposed Order as of May 2, 2019

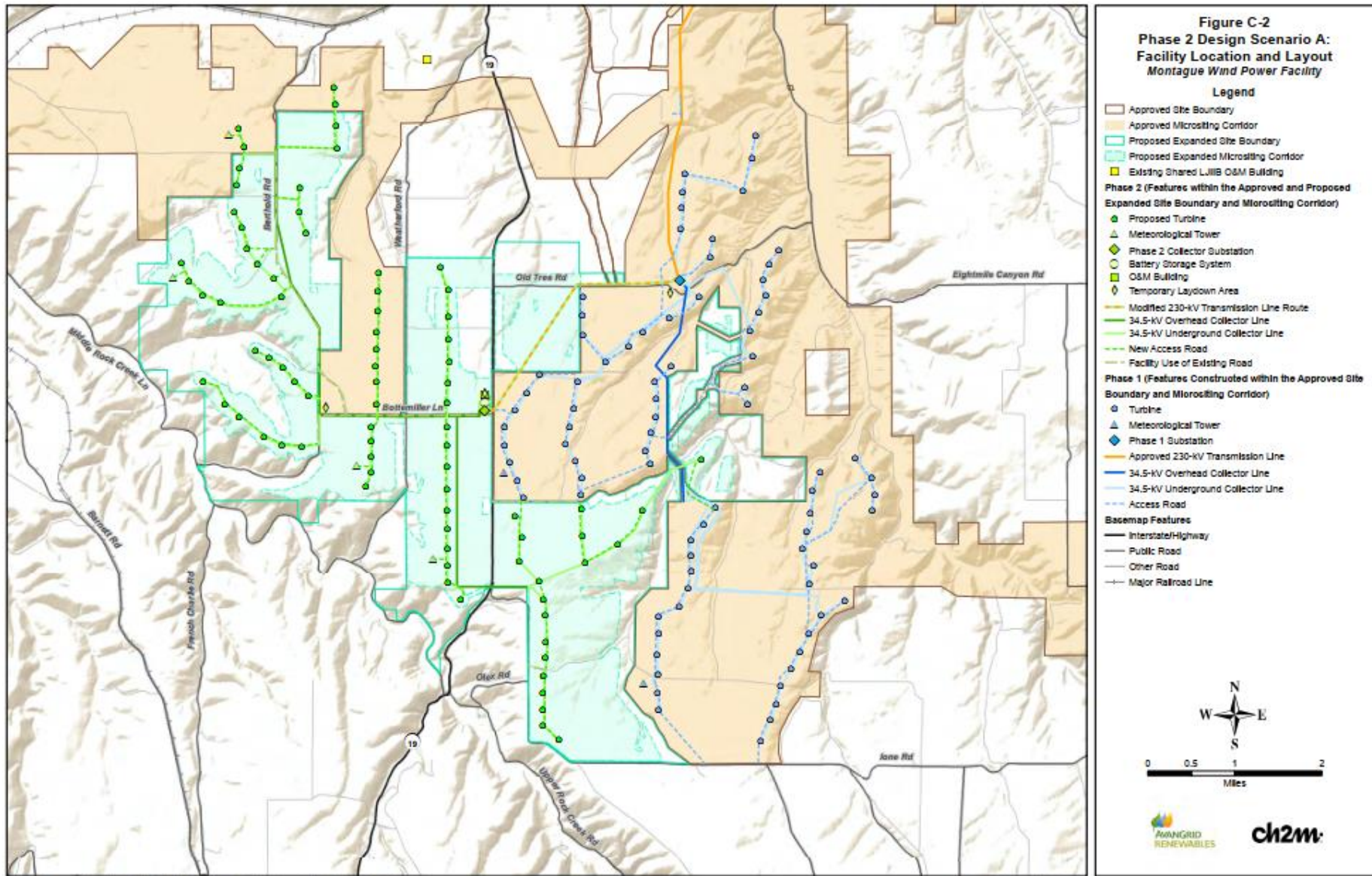


Attachment 1: Proposed Amended Site Boundary



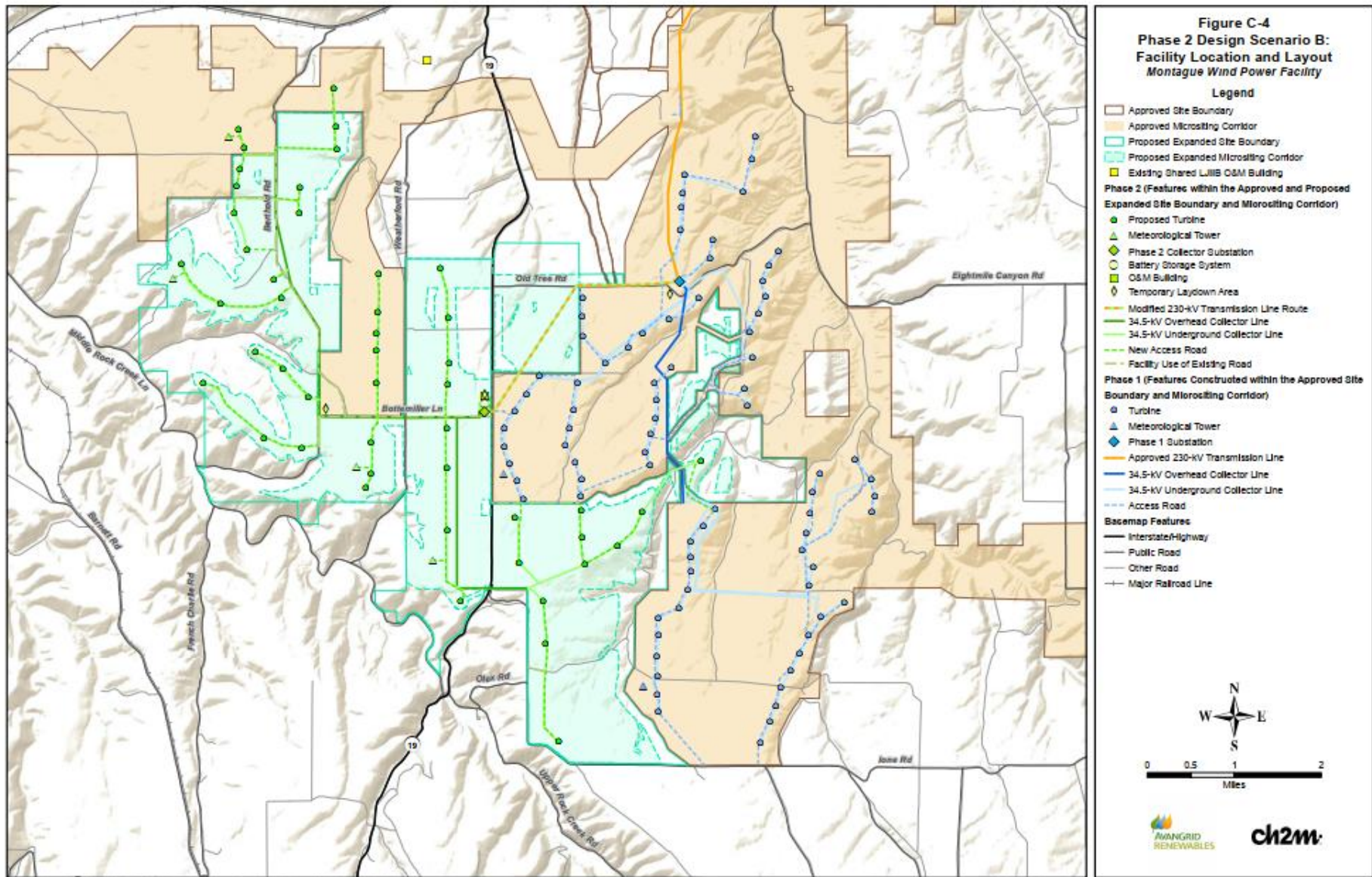


Attachment 1: Proposed Design Scenario A



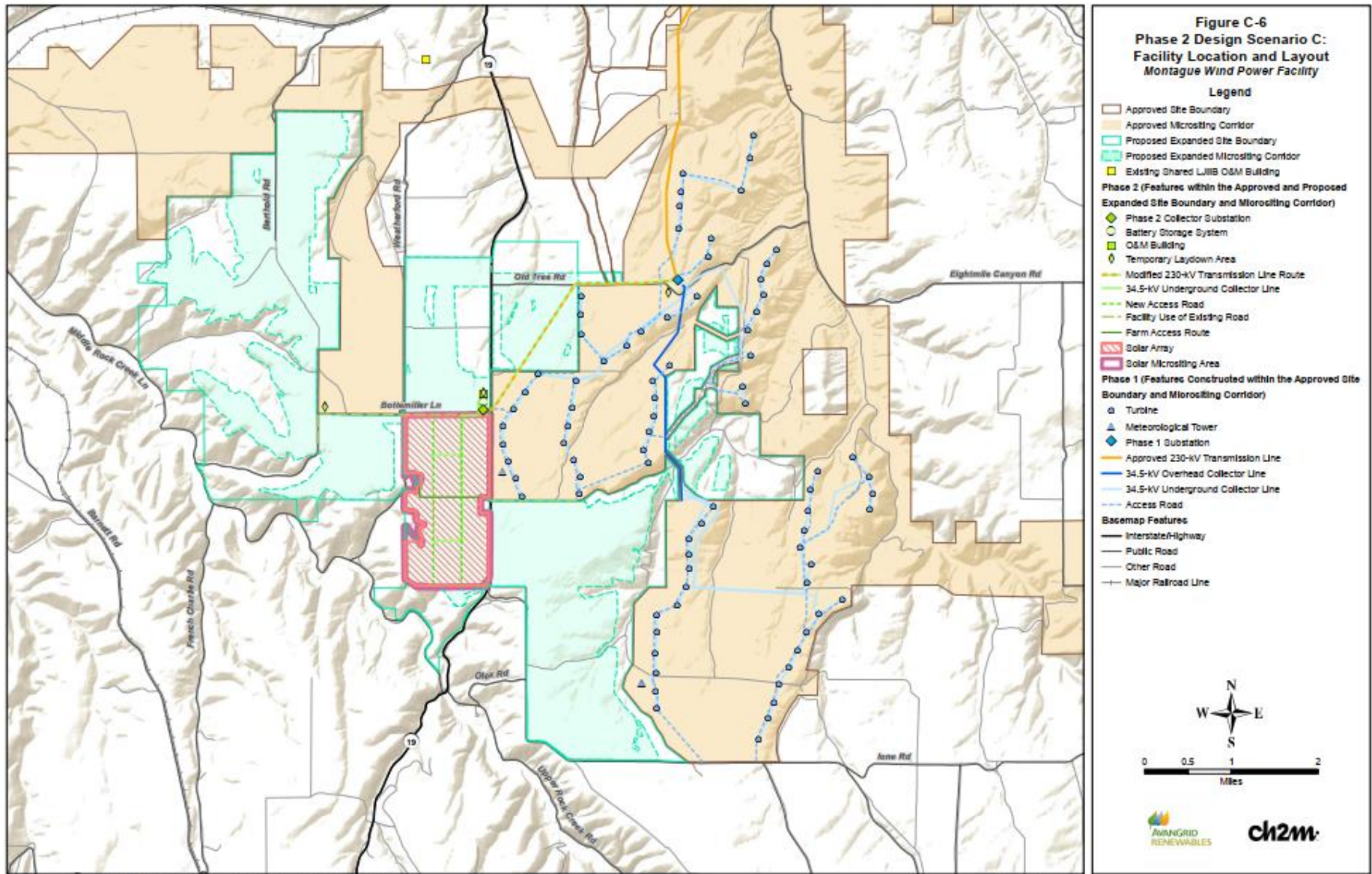


Attachment 1: Proposed Design Scenario B





Attachment 1: Proposed Design Scenario C



**Attachment 2: Draft Proposed Order on Request for Amendment 4, Montague Wind Power Facility**

Available per hyperlink: <https://www.oregon.gov/energy/facilities-safety/facilities/Pages/MWP.aspx>

**Attachment 3: Comments Received on the Draft Proposed Order as of May 2, 2019**

## MCVEIGH-WALKER Chase \* ODOE

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**From:** Steve Cherry <Steve.P.Cherry@state.or.us>  
**Sent:** Friday, April 12, 2019 11:46 AM  
**To:** MCVEIGH-WALKER Chase \* ODOE  
**Cc:** REIF Sarah J  
**Subject:** RE: Montague Wind Power Facility: Notice of Complete Request for Amendment 4 of the Site Certificate, Draft Proposed Order – May 16, 2019 Comment Deadline  
**Attachments:** ODFW Memo Montague\_RFA4\_ DPO.pdf

Chase,

Please find attached ODFW's comments on the RFA4 and DPO. Please let me know if you have any questions or need anything else from ODFW. Thanks

Steve

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**From:** MCVEIGH-WALKER Chase \* ODOE <Chase.McVeigh-Walker@oregon.gov>  
**Sent:** Tuesday, April 9, 2019 4:17 PM  
**Subject:** Montague Wind Power Facility: Notice of Complete Request for Amendment 4 of the Site Certificate, Draft Proposed Order – May 16, 2019 Comment Deadline

Good afternoon,

On January 15, 2019, the Oregon Energy Facility Siting Council (Council) and the Oregon Department of Energy (Department) received a complete Request for Amendment 4 of the Montague Wind Power Facility (RFA4). The Montague Wind Power Facility is an approved wind energy facility located in Gilliam County (referred to as "Phase 1") – See locational map in the attached noticed. On April 5, 2019, the Department issued its Draft Proposed Order presenting recommended findings of fact related to Council standards at OAR Chapter 345 Divisions 22-24.

### Summary of the Amendment Request

RFA4 seeks Council approval for authorization to add an additional 13,339 acres to the site boundary, seeks approval for the construction and operation of new facility components (referred to as "Phase 2") including a solar photovoltaic array and battery storage, as well as turbine modifications (increasing maximum blade tip height from 486 feet to 597.1 feet), and flexibility to install any combination of wind and solar energy facility components as long as the total maximum output of Phase 2 would not exceed 202 megawatts (MW).

### Attachments

Public Notice on Request for Comments on the Complete RFA4 and Draft Proposed Order is attached for your reference.

RFA4, draft proposed order and public notice are available on the Department's project website at:

<https://www.oregon.gov/energy/facilities-safety/facilities/Pages/MWP.aspx>

### Comment Deadline

Written comments on RFA4 and the draft proposed order must be received by the Department **by the close of the May 16, 2019 public hearing**, and must be submitted in writing by mail, email, hand-delivery or fax per below:

Chase McVeigh-Walker, Siting Analyst  
Oregon Department of Energy  
550 Capitol Street NE, 1st Floor  
Salem, OR 97301



Email: [Montague.AMD4@Oregon.gov](mailto:Montague.AMD4@Oregon.gov)

Fax: 503-373-7806

**Written or oral comments may be provided at the public hearing. The Council will not accept comments on RFA4 or the Draft Proposed Order after the close of the record of the Draft Proposed Order public hearing.**

Thank you, and please do not hesitate to contact me with any questions.

Sincerely,

Chase McVeigh-Walker



**Chase McVeigh-Walker** Siting Analyst

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## MEMORANDUM

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TO: Chase McVeigh- Walker  
Oregon Department of Energy

FROM: Steve Cherry, District Wildlife Biologist  
Oregon Department of Fish and Wildlife  
PO Box 363 Heppner, OR 97836  
(541) 676-5230  
[Steve.p.cherry@state.or.us](mailto:Steve.p.cherry@state.or.us)

DATE: April 12, 2019

RE: Oregon Department of Fish and Wildlife (ODFW) Comments on the Request for  
Amendment 4 and the Draft Proposed Order for the Montague Wind Power  
Facility

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GENERAL COMMENTS: ODFW appreciates the Applicant working to address all of the previous comments on this proposed Amendment. ODFW is currently working with the Applicant and ODOE on the finalization of the Revegetation, Wildlife Habitat Mitigation, and Wildlife Monitoring and Mitigation Plans. ODFW does not have any further comments on the RFA4 or the Draft Proposed Order.