

**EXHIBIT K****LAND USE**

OAR 345-021-0010(1)(k)

**TABLE OF CONTENTS**

	<b>Page</b>
K.1 INTRODUCTION AND LAND USE REVIEW PATH .....	K-1
K.2 ENERGY FACILITY AND RELATED OR SUPPORTING FACILITIES (INCLUDING NEW AND SIGNIFICANTLY MODIFIED ACCESS ROADS).....	K-2
K.2.1 Turbines.....	K-2
K.2.2 Operations and Maintenance Facility(s).....	K-2
K.2.3 Power Collection System .....	K-3
K.2.4 Facility Collector Substations .....	K-3
K.2.5 230-kV Transmission Line .....	K-3
K.2.6 Meteorological Towers.....	K-3
K.2.7 Access Roads .....	K-4
K.2.8 Additional Construction Areas.....	K-4
K.3 LAND USE ANALYSIS AREA AND MAP.....	K-4
K.4 LOCAL LAND USE APPROVAL.....	K-5
K.5 COUNCIL DETERMINATION ON LAND USE.....	K-5
K.5.1 Applicable Substantive Criteria from the GCDO.....	K-5
K.5.2 Applicable Substantive Criteria from the GCCP.....	K-27
K.5.3 Noncompliance with Applicable Substantive Criteria.....	K-39
K.5.4 Goal 3 Exception .....	K-40
K.6 FEDERAL LAND MANAGEMENT PLANS.....	K-44
K.7 CONCLUSION .....	K-44
K.8 REFERENCES.....	K-44

**Table**

K-1 Areas Occupied by the Power Generation Facility .....	K-40
---	------

**Figures**

K-1 Aerial Photograph – 1.5-MW Layout (Maximum Turbine Layout)
K-2 Zoning Map – 1.5-MW Layout (Maximum Turbine Layout)
K-3 Zoning Map – Detailed View – 1.5-MW Layout (Maximum Turbine Layout)
K-4 Land Use Map – 1.5-MW Layout (Maximum Turbine Layout)
K-5 Land Use Map – Detailed View – 1.5-MW Layout (Maximum Turbine Layout)
K-6 Land Capability Classification – 1.5-MW Layout (Maximum Turbine Layout)
K-7 Land Capability Classification – Detailed View – 1.5-MW Layout (Maximum Turbine Layout)

- K-8 Residential Setback—1.5-MW Layout (Maximum Turbine Layout)
- K-9 Gilliam County Land Capability Classification—Broad View
- K-10 Gilliam County Land Capability Classification—Detailed View and Approximate Boundary of Nearby Wind Energy Facilities

## K.1 INTRODUCTION AND LAND USE REVIEW PATH

**OAR 345-021-0010(1)(k)** *Information about the proposed facility's compliance with the statewide planning goals adopted by the Land Conservation and Development Commission, providing evidence to support a finding by the Council as required by OAR 345-022-0030. The applicant shall state whether the applicant elects to address the Council's land use standard by obtaining local land use approvals under ORS 469.504(1)(a) or by obtaining a Council determination under ORS [469.]504(1)(b). An applicant may elect different processes for an energy facility and a related or supporting facility but may not otherwise combine the two processes. Notwithstanding OAR 345-021-0090(2), once the applicant has made an election, the applicant may not amend the application to make a different election. In this subsection, "affected local government" means a local government that has land use jurisdiction over any part of the proposed site of the facility.*

Response: To issue a site certificate, the Energy Facility Siting Council (Council) must find that the Montague Wind Power Facility (Facility) complies with the statewide land use planning goals (goals) adopted by the Land Conservation and Development Commission (LCDC). See OAR 345-022-0030(1). Iberdrola Renewables, Inc. (Applicant) has elected to seek a Council determination of compliance under ORS 469.504(1)(b). Under this election, a finding of compliance is required when the Council determines the following:

**ORS 469.504(1)(b)(A)** *The facility complies with applicable substantive criteria from the affected local government's acknowledged comprehensive plan and land use regulations that are required by the statewide planning goals and in effect on the date the application is submitted, and with any Land Conservation and Development Commission administrative rules and goals and any land use statutes that apply directly to the facility under ORS 197.646;*

**ORS 469.504(1)(b)(B)** *For an energy facility or a related or supporting facility that must be evaluated against the applicable substantive criteria pursuant to subsection (5) of this section, that the proposed facility does not comply with one or more of the applicable substantive criteria but does otherwise comply with the applicable statewide planning goals, or that an exception to any applicable statewide planning goal is justified under subsection (2) of this section ; or*

**ORS 469.504(1)(b)(C)** *For a facility that the council elects to evaluate against the statewide planning goals pursuant to subsection (5) of this section, that the proposed facility complies with all applicable statewide planning goals or that an exception to any applicable statewide planning goal is justified under subsection (2) of this section.*

Exhibit K demonstrates the Facility's compliance with the applicable substantive criteria from the Gilliam County Zoning and Land Development Ordinance (GCDO) (Gilliam County, 2005) and the Gilliam County Comprehensive Land Use Plan (GCCP or Comprehensive Plan) (Gilliam County, 2000). In addition, Exhibit K demonstrates the Facility's compliance with the LCDC administrative rules and goals and any land use statutes directly applicable to the Facility. Exhibit K also demonstrates that a reasons exception to statewide planning Goal 3, agriculture, is justified under ORS 469.504(2). Finally, Exhibit K provides evidence upon which the Council may find that the proposed Facility meets OAR 345-022-0030.

## **K.2 ENERGY FACILITY AND RELATED OR SUPPORTING FACILITIES (INCLUDING NEW AND SIGNIFICANTLY MODIFIED ACCESS ROADS)**

The proposed Facility, including individual components and related or supporting facilities, is described in Exhibit B of this Application for Site Certificate (ASC). The Facility generating capacity will not exceed 404 megawatts (MW) and 135 average megawatts (aMW) of energy. The actual capacity will depend on the turbines selected. The Facility components are proposed on private land for which the Applicant has negotiated or is in the final stages of negotiating long-term wind energy leases with the landowners, or on private land for which the Applicant is in the process of obtaining easements from landowners and other wind developers. Please refer to Exhibit C, Figures C-1, C-2, and C-4 through C-7, for maps of the site vicinity, Facility location, and Facility components, respectively. Figure K-1 provides an aerial view of the Facility, including the land use analysis area (discussed in Section K.3).

The Facility site consists of plateaus and ridgelines dissected by small gullies and broad valleys. The plateaus, ridge tops, and valley bottoms are relatively level and primarily used for either agricultural crop land or range land/grazing. The terms of the wind energy leases allow landowners to continue their farming operations (primarily cultivation of wheat and cattle grazing) in and around the wind turbine generators and other facilities where the farming activities do not impact the operation and maintenance of the wind generation equipment.

The proposed Facility, including all related or supporting facilities, will be located entirely on land zoned Exclusive Farm Use (EFU) and designated Agricultural by the GCCP. Figures K-2 and K-3a through K-3d show the land use zones within and surrounding the Facility site boundary. Figures K-4 and K-5a through K-5d show the land use classifications within and surrounding the Facility site boundary.

The Facility consists of the following components: turbines; up to two operations and maintenance (O&M) facilities; a power collection system; two collector substations; a 230-kV transmission line; up to eight meteorological (met) towers; access roads; and additional construction areas, including staging areas. See Figures K-3a through K-3d for detailed views of the Facility layout. Each Facility component is further described below.

### **K.2.1 Turbines**

The Facility will not exceed 269 turbines nor will it exceed 404 MW of generating capacity. The total number of turbines and actual capacity will depend on the turbines selected. See Exhibit B, Section B.1.3 for flexibility on final turbine layout and Section B.1.4 for a description of the two turbine types.

### **K.2.2 Operations and Maintenance Facility(s)**

The Facility will have up to two O&M facilities located on approximately 10 acres each. Approximately 3 acres will be fenced and graveled for the O&M facility, including the building and adjacent parking and storage. The remaining 7 acres will be used for temporary staging during construction. Each O&M facility will include a one-story

building of up to 8,000 square feet. The building(s) will house offices (including office space for several contractors), bathroom and kitchen facilities, a break room, a storage area, a garage for vehicle, turbine, and equipment maintenance, and the supervisory, control, and data acquisition (SCADA) equipment.

### **K.2.3 Power Collection System**

The Facility includes a collector system that collects energy generated at 575 volts from each wind turbine, transforms it to 34.5 kV through a pad-mounted transformer, and delivers the power through a network of electrical conductors to the two new collector substations (described in Section K.2.4). The cable collector system will be installed along and between the turbine strings and the majority of the system will be buried approximately 3 feet below the ground surface. In some locations, site-specific conditions may require that the collector cables be placed aboveground to span canyons and intermittent streams to reduce environmental impacts. The overhead transmission line support structures will generally be about 80 to 100 feet tall, depending on terrain.

### **K.2.4 Facility Collector Substations**

The power collection system will ultimately connect to two new collector substations, which will be located as shown on Figures C-4 through C-7. One collector substation will be located in the western portion of the site boundary. A 230-kV aboveground transmission line will connect this western substation to the central collector substation and the central collector substation to BPA's existing 500-kV line at the Slatt substation. Each substation site will be surrounded by a graveled, fenced area with transformer and switching equipment and an area to park utility vehicles. The collector substations transform energy delivered by the collector system from 34.5 kV to 230 kV.

### **K.2.5 230-kV Transmission Line**

A new overhead 230-kV transmission line will connect the Facility to the existing 500-kV Bonneville Power Administration (BPA) Slatt-Buckley transmission line at the Slatt Interconnection Substation (Slatt substation) located approximately 1.5 miles southeast of Arlington, Oregon. The new overhead 230-kV transmission line will run from the Facility's western collector substation to the central collector substation and then from the central collector substation to BPA's Slatt substation. The overhead 230-kV transmission line from the western collector substation to the central collector substation is approximately 8.15 miles or up to 9 miles in length. The preferred route for the transmission line from the central collector substation to the Slatt substation is approximately 8.8 miles or up to 10 miles in length.

### **K.2.6 Meteorological Towers**

The Facility will include up to eight permanent met towers for collection of Facility meteorological data. The towers will be free-standing (unguyed) structures up to approximately 262 feet (80 m) high with an equilateral triangle base measuring approximately 25 feet each side.

### **K.2.7 Access Roads**

The Facility will include new access roads and improvements to existing roads within the site boundary to provide access for construction vehicles. The newly constructed roads may also be used during Facility operation. Approximately 70 miles of new roads will be constructed, and existing roads will be improved by widening, grading, and graveling. In areas where existing roads do not provide access to wind turbine locations, and along the length of turbine strings, new gravel access roads will be constructed. Generally, these new access roads will be up to 20 feet wide (with up to an additional 60 feet temporarily disturbed for crane paths<sup>1</sup> during construction). Typical existing roads are 8 to 12 feet wide, and will need to be widened to up to 80 feet during construction and up to 20 feet during operations.

The Applicant also proposes basic improvements and upgrades to existing state and county public roads for use during construction of the Facility. These upgrades will be made within existing road right-of-way. The Applicant will coordinate such improvements with the Gilliam County Road Department or the Oregon Department of Transportation, depending on the location of the improvement. Upon completion of construction, the Applicant will restore public roads to pre-construction condition or better.

### **K.2.8 Additional Construction Areas**

During construction, temporary staging areas will be used to stage construction and store supplies and equipment. As mentioned in Section K.2.2, a 7-acre temporary staging area will be located within the 10-acre construction area for each O&M facility(s). Approximately one 2.5-acre staging area will be located adjacent to each proposed turbine string. Several 5-acre staging areas will be centrally located within the site boundary. See Figures K-2 and K-3a through K-3d.

In total, permanent impacts to agricultural land will be approximately 222 acres under the “worst-case” scenario. Temporary impacts to agricultural land will be approximately 1,716 acres under the “worst-case” scenario described in Exhibit C. Tables C-2 and C-3 in Exhibit C provide detailed acreage impacts and identify specific permanent and temporary impacts associated with the Facility and the related or supporting facilities. The following sections address the requirements in OAR 345-021-0010(1)(k) and provide evidence upon which the Council may based findings pursuant to OAR 345-022-0030.

## **K.3 LAND USE ANALYSIS AREA AND MAP**

**OAR 345-021-0010(1)(k)(A)** *Include a map showing the comprehensive plan designations and land use zones in the analysis area.*

---

<sup>1</sup> As discussed in Exhibit B, the cranes required to erect turbines will temporarily disturb a corridor up to 80 feet wide during transport between turbine locations. This 80-foot corridor will parallel the access road corridor where possible, and will allow for the irregular path made by the 30-foot-wide crane, and up to 25 feet on either side of the crane for support vehicles. Where vegetation needs to be cleared (i.e., vegetation too large for the crane to walk over), the vegetative spoils will be pushed beyond the 60-foot path for up to 10 feet on either side, for a maximum disturbance width of 80 feet. In locations where the crane paths do not parallel access roads, temporary crane paths will be 60 feet in width.

Response: Figure K-1 depicts the Facility on aerial photography to help show the proposed location and existing land uses within the analysis area. The analysis area includes the site boundary plus the area within one-half mile from the site boundary. See Project Order, Section VI. Figures K-2 and K-3a through K-3d show the Gilliam County land use zones and GCCP designations within the analysis area.

#### **K.4 LOCAL LAND USE APPROVAL**

**OAR 345-021-0010(1)(k)(B)** *If the applicant elects to obtain local land use approvals:*

- (i) Identify the affected local government(s) from which land use approvals will be sought;*
- (ii) Describe the land use approvals required in order to satisfy the Council's land use standard;*
- (iii) Describe the status of applicant's application for each land use approval; and*
- (iv) Provide an estimate of time for issuance of local land use approvals.*

Response: OAR 345-021-0010(1)(k)(B) is not applicable. The Applicant has elected to obtain a Council determination on land use.

#### **K.5 COUNCIL DETERMINATION ON LAND USE**

**OAR 345-021-0010(1)(k)(C)** *If the applicant elects to obtain a Council determination on land use:*

- (i) Identify the affected local government(s);*

Response: The Facility will be sited solely in Gilliam County, which is the affected local government.

- (ii) Identify the applicable substantive criteria from the affected local government's acknowledged comprehensive plan and land use regulations that are required by the statewide planning goals and that are in effect on the date the application is submitted and describe how the proposed facility complies with those criteria;*

Response:

The proposed Facility and all related or supporting facilities will be located within the Exclusive Farm Use (EFU) base zone and GCCP Agricultural designation; see Figures K-2 and K-3a through K-3d. As discussed in Sections K.5.1 and K.5.2, the Facility complies with the applicable substantive criteria in the GCDO and GCCP. Therefore, the Council may find that the Facility complies with statewide planning goals under OAR 345-022-0030(2)(b)(A).

##### **K.5.1 Applicable Substantive Criteria from the GCDO**

Consistent with state land use statutes (i.e., ORS 215.283) and the GCDO, the Facility is considered a wind power generation facility under GCDO 4.020(D)34, but for purposes of this Exhibit and consistent with findings and conclusions in the *Leaning Juniper II Wind Power Project Final Order on Amendment #1*, dated November 2009 (i.e., a previously-approved EFSC project in Gilliam County), the Facility is analyzed as three separate uses of land: (1) commercial utility facilities generating power for public use or sale (consisting of the wind turbines, the O&M facilities, the 34.5 kV power collection system, the permanent met towers, and the additional construction areas);(2) accessory transportation improvements (consisting of the new and improved access roads); and (3) utility facilities necessary for public service<sup>2</sup> (consisting of the collector substations and 230-kV transmission line ). These three separate types of land use are addressed, in turn, by GCDO 4.020(D)14, 4.020(D)25 and 4.020(D)29. Consequently, the Facility is subject to the following review criteria from the GCDO:

- GCDO 4.020(H), Specific Review Criteria for Commercial Utility Facilities in the EFU Zone
- GCDO 4.020(J), Property Development Standards for Uses in the EFU Zone
- GCDO 7.010, Authorization to Grant or Deny Conditional Uses
- GCDO 7.020, Standards Governing Conditional Uses

#### **K.5.1.1 Conditional Uses Permitted in the EFU Zone, GCDO 4.020(D)**

*GCDO 4.020(D). Conditional Uses Permitted. In the EFU Zone, the following uses and their accessory uses may be permitted if determined by the Planning Commission during a public hearing to satisfy the applicable criteria and procedures set forth in Section 7.040.*

14. *Commercial utility facilities for the purpose of generating power for public use by sale. A power generation Facility not located on high-value farmland shall not preclude more than 20 acres from use as a commercial agricultural enterprise. A power generation Facility located on high-value farmland shall not preclude more than 12 acres from use as a commercial agricultural enterprise. Approval of a use pursuant to this subsection is subject to the review criteria of Section 4.020.H, and any other applicable criteria or provisions of law.*
25. *Transportation improvements on rural lands allowed by OAR 660-012-0065.<sup>3</sup> Approval of a use pursuant to this subsection is subject to the review criteria of Section 4.020.H, and any other applicable criteria or provisions of law.*

<sup>2</sup> Although the Applicant is not a utility service provider and further does not amount to a public utility, EFSC previously evaluated a 230-kV transmission line associated with a proposed wind energy generation facility under the land use standard for “utility facilities necessary for public service” even though the transmission line was also deemed a related or supporting facility to the commercial utility facility. Thus, while the Applicant does not object to the review of what is otherwise a related or supporting facility under the “utility facilities necessary for public service” standard, the Applicant wishes to make clear that such a characterization should in no way obligate the Applicant to provide a public service.

<sup>3</sup> OAR 660-012-0065 allows construction of new roads and improvement of existing roads to serve local travel needs on rural lands subject to several review criteria. These criteria, and the local implementing standards, are addressed in appropriate sections of this Exhibit.

29. *Utility facilities necessary for public service subject to the provisions of ORS 215.275 and OAR 660-033-0130(16). No local legislative criteria shall be applied for consideration of establishing a utility facility necessary for public service.*

34. *Wind Generation Facilities*

Response: This Exhibit demonstrates the Facility, whether evaluated holistically under GCDO 4.020(D)34 or as three land uses under GCDO 4.020(D)14, 25 and 29, complies with the relevant legal standards. GCDO 7.020(T) contains specific standards applicable to wind power generation facilities. Based on previous Conditional Use Permit (CUP) findings, the County appears to treat GCDO 4.020(D)34 as additive to GCDO 4.020(D)14 rather than as a more specific replacement for that provision. Therefore, this Exhibit follows the same course, showing compliance with both sections and using the more general section, GCDO 4.020(D)14, as the organizing one.

#### **K.5.1.2 Commercial Utility Facility’s Compliance With Fundamental Approval Criteria, GCDO 4.020(H)**

GCDO 4.020(D)14 and 34 implement ORS 215.283(2)(g), which provides that “commercial utility facilities for the purpose of generating power for public use by sale” are permitted on EFU land subject to ORS 215.296. ORS 215.296 is implemented, in relevant part, verbatim by GCDO 4.020(H), included below.

*GCDO 4.020(H). Specific Review Criteria. In the EFU Zone, certain uses are subject to specific criteria, in addition to any other applicable criteria. The specific provisions of this subsection apply only when referenced within the list of uses included in Subsections 4.020.B, C and D.*

1. *The use may be approved only where the County finds that the use will not:*
  - a. *Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or*
  - b. *Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.*

This section also applies to the proposed road improvements (see GCDO 4.020(D)25). Therefore, the Applicant’s response below considers the entire Facility rather than dividing it into components.<sup>4</sup>

Response: For the reasons provided below, the Facility will neither force significant changes in, nor significantly increase the cost of, accepted farming practices on surrounding lands.

<sup>4</sup> Neither GCDO 4.020(H) nor ORS 215.296 applies to utility facilities necessary for public service, but no effort was made to carve out these Facility components from the following analysis because their sizes and impact profiles are insignificant in comparison to the rest of the Facility.

### Land Use in Analysis Area

For purposes of this analysis, “surrounding lands” were defined as the analysis area, which includes the area within the site boundary and the area within one-half mile from the site boundary. See Figures K-1 and K-2. In total, approximately 65,844 acres are within the half-mile analysis area and all land is zoned EFU. This zoning designation, in combination with the aerial land use patterns (Figure K-1), support the conclusion that land within the analysis area is mainly used for some form of agricultural use. The predominant land uses in the analysis area are agricultural crop land and range land/ grazing. No forest use occurs in this area thus impacts to such uses are not analyzed under GCDO 4.020(H) in this Exhibit. Very little land in this area is irrigated, rainfall is low, and soils and terrain are consistent in type. Accepted farm practices include soil preparation in the spring and fall, sowing, fertilizing, pest and weed management, and harvesting (NRCS, 2009). The NRCS soil capability classifications are shown across the Facility site on Figures K-6 and K-7a through 7d.

### Ground Disturbance

*Agricultural Land.* The Facility, including all related or supporting facilities, will disturb some agricultural land temporarily (approximately 1,716 acres) and occupy some agricultural land permanently (222 acres). The Facility may result in some small-scale changes in agricultural practices on immediately surrounding lands within the site boundary. These changes may include modification of harvest patterns, changing access points or routes to farm fields, or varying application of fertilizers and other products to crops. Ground disturbance during construction can also encourage weeds that temporarily and minimally interfere with crop yields until eradicated. The Applicant will implement a Revegetation Plan, as required by the site certificate and similar to the Leaning Juniper II Wind Power Facility (LJF) and Shepherds Flat revegetation plans previously approved by the Council. The Revegetation Plan addresses weed control measures that will be implemented after construction as approved by applicable weed control authorities.

*Roads.* The Applicant will use existing access roads wherever possible to minimize the Facility’s ground disturbance. However, approximately 70 miles of new access roads will be constructed (see discussion above and in Exhibits B, C, and U). Construction-related traffic might cause brief traffic delays when trucks deliver the turbines and other Facility equipment, but these delays are unlikely to impair farmers’ access to local agricultural fields. New or improved access roads are not anticipated to increase traffic that would affect farmers’ ability to move agricultural equipment as only approximately 10 to 30 staff are anticipated during the Facility’s operation. Overall, the new and improved roads will provide farmers with improved access to local agricultural fields and facilitate movement of farm equipment.

### No Significant Changes in Farm Practices

Although the Facility, including all related or supporting facilities, may result in some small-scale changes to accepted farming practices in the surrounding area, none of these changes are “significant.” Small-scale changes in agricultural practices may include:

changes in harvest patterns, access to farm fields, processes for delivering and applying fertilizers and other projects to crops, and the harvesting of crops. Again, none of these are “significant” given the primarily temporary nature of much of the disturbance and the small permanent Facility footprint in comparison to the overall acreage in agricultural production in the surrounding lands.

The Applicant, where necessary and feasible, will provide access across construction areas to fields within the Facility to assist farmers in continued agricultural practices. The Applicant will also implement measures to avoid or mitigate impacts to soil, such as dust and erosion control, during construction and operation of the Facility to minimize or avoid any adverse impacts to surrounding agricultural practices. Furthermore, upon completion of the Facility’s construction, the temporarily disturbed areas such as the staging areas will be reclaimed and restored to preconstruction conditions for agricultural use, using seed mixes and techniques developed in consultation with the Oregon Department of Fish and Wildlife (ODFW) and Gilliam County Weed District, and as set forth in the Revegetation Plan. Accordingly, the development and operation of the Facility will not force a significant change to accepted farming practices on lands surrounding the Facility.

#### No Significant Increase in Cost

The Facility also will not significantly increase the cost of accepted farm practices on surrounding lands. Although construction and operation of the Facility may cause some minor change to harvesting patterns or various farming practices associated with the application of fertilizers and other products, these changes will not be significant so as to increase the cost of farming. The construction of new roads or improvements to existing roads also will not result in an increase in the cost of farming practices as farmers will continue to have access (in fact, improved access) to agricultural fields. Therefore, just as the Facility will not force a significant change to accepted farming practices, it also will not cause a significant increase in the cost of accepted farming practices within the analysis area.

#### Landowner Leases

Finally, the Applicant has negotiated or is in the final stages of negotiating long-term wind energy leases or easements with the landowners where the Facility components are proposed, which further offset any potential significant adverse impacts to accepted farming practices or increased farming costs. The wind energy leases allow the Applicant to permit, construct, and operate wind energy facilities for a defined period. In exchange, the landowners receive compensation from the Applicant. In addition, the terms of the wind energy leases allow landowners to continue their farming operations (a combination of range land/grazing and agricultural crop production) in and around the wind turbine generators and other facilities where the farming activities do not affect the operation and maintenance of the wind generation equipment. Thus, the lease payments will help offset any minor changes to accepted farming practices or increases in the cost of such practices.

### Summary

For the reasons set forth above, the Facility will not result in a significant change to accepted farming practices on surrounding lands, or significantly increase the cost of such practices, and therefore, the Facility complies with GCDO 4.020(H) and subsequently ORS 215.296.

#### **K.5.1.3 Related and Supporting Facilities' Compliance with ORS 215.283(1)(d) and GCDO 4.020(D)29**

GCDO 4.020(D)29 simply quotes ORS 215.283(1)(d). Please see Section K.5.6 for a demonstration of compliance with that statute and ORS 215.275.

#### **K.5.1.4 EFU Development Standards, GCDO 4.020(J)**

*GCDO 4.020(J). Property Development Standards. In the EFU Zone, the following standards apply to residential and nonresidential development.*

1. **Building Height.** *No limitations.*
2. **Setbacks.**
  - a. *The front and rear yard setbacks from the property line shall be 25 feet.*
  - b. *The sideyard setbacks from the property line shall be 25 feet.*

Response: The Facility's aboveground components and related or supporting facilities are proposed at least 25 feet from property lines. The Applicant intends to construct the Facility consistent with the setbacks set forth in Condition 39 of the *Leaning Juniper II Amended Site Certificate*, dated November 2009. Therefore, the Facility complies with these setback standards.

#### **K.5.1.5 Land Development Regulations and Standards, GCDO Article 5**

Article 5 of the GCDO contains provisions that are applicable to a wide variety of land divisions and development proposals. The Applicant has reviewed this chapter and does not find any criteria or standards applicable to the Facility.

#### **K.5.1.6 Authorization to Grant or Deny Conditional Uses, GCDO 7.010**

*GCDO 7.010. A conditional use listed in this ordinance shall be permitted, altered or denied in accordance with the standards and procedures of this ordinance and this article by action of the Planning Commission or Planning Director. In the case of a use existing prior to the effective date of this ordinance, and classified in this ordinance as a Conditional Use, a change in use or in lot area or an alteration of a Conditional Use, a change in use or in lot area or an alteration of structure shall conform with the requirements for a Conditional Use.*

- A. *General Approval Criteria and Conditions*

1. *In addition to criteria, standards and conditions that may be set forth in a specific Zone, this Article, or other regulations applicable to a specific Conditional Use, shall **not** be approved or permitted unless the following criteria are met. A Conditional Use may be approved on the Condition or Conditions that the applicant obtain and maintain compliance with other permits and approvals required.*
  - a. *The proposed use shall be in compliance with the applicable Comprehensive Plan designation and policies.*
  - b. *As applicable, sewage and/or solid waste disposal methods shall be provided in compliance with applicable local, State and Federal regulations.*
  - c. *Proposal shall be found to be in compliance or conditioned upon compliance with applicable air and noise pollution standards.*
  - d. *Required access shall be legally established, available, and adequate to serve the proposed use.*
  - e. *Public services deemed necessary shall be available or provisions for such provided, and no use shall be approved which is found to exceed the carrying capacities of affected public services unless there are provisions to bring such capacities up to the need.*
  - f. *Proposal shall be in compliance with the applicable standards and limitations of the primary and combining zone as may be applicable.*
  - g. *No use shall be approved which is found to have a significant adverse impact on resource-carrying capacities unless there are provisions for mitigating such impact.*
  - h. *No use shall be approved which is found to exceed the carrying capacities of affected public services and facilities.*
  - i. *All required State and Federal permits or approvals have been obtained or will be as a condition of approval.*

Response: Each criterion is addressed separately below.

- a. *The proposed use shall be in compliance with the applicable Comprehensive Plan designation and policies.*

Response: The Facility complies with the applicable goals and policies of the GCCP as demonstrated below in Section K.5.2.

- b. *As applicable, sewage and/or solid waste disposal methods shall be provided in compliance with applicable local, State and Federal regulations.*

Response: Solid waste generated in the construction and operation of the proposed Facility is described in Exhibit V. The Facility will generate minimal construction waste and minimal solid waste requiring offsite disposal. Concrete truck chutes may be washed down at each foundation site to prevent the concrete from hardening within the chutes. In these cases, the concrete wastewater will be disposed of on backfill piles and buried underground with the backfill over the tower foundation. Any nonrecyclable wastes will be collected and disposed of at the Arlington Landfill. The O&M building(s) will contain a septic system constructed in compliance with applicable regulations.

- c. *Proposal shall be found to be in compliance or conditioned upon compliance with applicable air and noise pollution standards.*

Response: Wind power is a clean and renewable source of energy. Wind facilities do not emit greenhouse gases or particulates. No substantial adverse impacts to air quality will occur as a result of Facility construction or operation. The construction activities for site preparation will likely create dust; however, this would not be significant in a rural area where farming also creates dust. Standard best management practices to control dust and wind erosion will be used, such as sprinkling the site periodically.

As explained in Exhibit X, the Facility will meet DEQ noise standards.

- d. *Required access shall be legally established, available, and adequate to service the proposed use.*

Response: No new public roads are proposed with this ASC. However, the Applicant does propose basic improvements and upgrades to existing state and county public roads for use during construction of the Facility. These upgrades will all be made within existing road right-of-way. As discussed above, the Applicant will coordinate such improvements with the Gilliam County Road Department and the Oregon Department of Transportation, depending on the location of the improvement. Further, upon completion of construction, the Applicant will ensure that all roads are restored to pre-construction condition or better upon completion of construction.

- e. *Public services deemed necessary shall be available or provisions for such provided, and no use shall be approved which is found to exceed the carrying capacities of affected public services unless there are provisions to bring such capacities up to the need.*

Response: The Facility is not expected to have an adverse impact on the availability of public services, such as hospital or emergency service facilities, educational facilities, or sanitary landfills. Exhibit U evaluates the capacity of service providers in the Facility area.

- f. *Proposal shall be in compliance with applicable standards and limitations of the primary and combining zone as may be applicable.*

Response: Other than the criteria in GCDO 4.020(H) and 4.020(J), which are discussed above, there are no EFU-specific local standards applicable to projects like the Facility.

- g. *No use shall be approved which is found to have a significant adverse impact on resource-carrying capacities unless there are provisions for mitigating such impact.*

Response: As described in this ASC, the Facility will not exceed resource carrying capacities.

- h. *No use shall be approved which is found to exceed the carrying capacities of affected public services and facilities.*

Response: As described in this ASC, the Facility will not exceed carrying capacities of existing services and facilities. Exhibit U evaluates the capacity of public services in the Facility area.

- i. *All required State and Federal permits or approvals have been obtained or will be as a condition of approval.*

Response: All required federal, state, and local permits or approves will be obtained as a site certificate condition of approval. Exhibit E in this ASC provides information on the federal, state, and local permits necessary for the Facility, except for building or other construction-related permits for which the Applicant will coordinate with the County Public Works Department.

- 2. *In addition to specific standards and/or conditions set forth by the applicable zone, this article or other applicable regulations, other conditions may be imposed that are determined necessary to avoid a detrimental impact, and to otherwise protect the best interests of the surrounding area and the County as a whole. Such conditions may include, but are not limited to, the following:*
  - a. *Limiting the manner in which the use is conducted including restricting the time an activity may take place and restraints to minimize such environmental effects as noise, vibration, air pollution, glare and odor.*
  - b. *Establishing a special setback or other open space or lot area or dimension.*
  - c. *Limiting the height, size or location of a building or other structure.*
  - d. *Designating the size, number, improvements, location and nature of vehicle access points and parking or loading areas.*
  - e. *Limiting or otherwise designating the number, size, location, height, and lighting of signs and outdoor lighting.*
  - f. *Requiring diking, screening, fencing, landscaping or another facility to protect adjacent or nearby property and designating standards for its installation and maintenance.*

- g. Protecting and preserving existing trees, vegetation, water resources, wildlife habitat or other significant natural resources.*
- h. Limiting the term of the Conditional Use Permit to a specific time.*
- i. Requiring necessary on-site or off-site improvements and maintenance.*
- j. Requiring the holder of a Conditional Use Permit to obtain review, renewal, or reapplication approval of the permit in the event that there is an increase in impact from the use on public facilities beyond that which was projected at the time of initial approval.*

Response: The GCDO authorizes the local decision-maker to impose conditions of approval on a conditional use. The factors listed in GCDO 7.010(A)(2) can be viewed as applicable substantive criteria that the Council could consider when imposing conditions on the issuance of the Facility’s site certificate. Each provision is addressed separately below, and the Applicant’s responses to each demonstrate that, although the provisions may be applicable, the circumstances do not warrant such additional restrictions on the Facility.

- a. Limiting the manner in which the use is conducted including restricting the time an activity may take place and restraints to minimize such environmental effects as noise, vibration, air pollution, glare and odor.*

Response: The Applicant assumes that the site certificate will contain conditions of approval, based on other Council standards, sufficient to minimize the potential “nuisance” type impacts referenced in the GCDO. Efforts to minimize environmental impacts from noise are demonstrated in Exhibit X and the Facility will comply with applicable noise standards. The Applicant will undertake efforts to reduce dust associated with the Facility construction (see Exhibit I). The Applicant’s efforts to minimize impacts to wildlife, traffic, and air pollution during Facility construction are discussed in Exhibit P for wildlife and Exhibit U for traffic and air pollution; lighting issues are discussed in Exhibits R and DD. Accordingly, adequate measures are proposed to address, minimize, and avoid environmental impacts.

- b. Establishing a special setback or other open space or lot area or dimension.*

Response: As discussed under GCDO 7.020(T)4.d.(1), the Facility must maintain at least a 3,520-foot setback from the city of Arlington and other residential-zoned areas designated in the GCCP as residential. Further, a wind energy facility may only be sited on property zoned EFU [also per GCDO 7.020(T)4.d.(1)]. To meet all applicable setback requirements, the Applicant will construct the Facility consistent with the setbacks set forth in Condition 39 of the *Leaning Juniper II Amended Site Certificate*, dated November 2009. Accordingly, this criterion is met.

- c. Limiting the height, size or location of a building or other structure.*

Response: To the extent applicable, the Facility is consistent with the underlying EFU development standards, and no special height limit is necessary or appropriate for the wind turbines, met towers, or overhead collector lines. The substation and O&M buildings will be one story in height. With respect to the location restrictions, the proposed Facility layout is intended to avoid environmental impacts while maximizing access to wind resources. Adequate setbacks will be maintained to protect public safety. Consequently, there are no circumstances warranting a limiting of the location of the Facility under this provision.

- d. *Designating the size, number, improvements, location and nature of vehicle access points and parking or loading areas.*

Response: The Applicant will coordinate all upgrades on public roads with Gilliam County Road Department or the Oregon Department of Transportation, depending on the location of the improvement.

- e. *Limiting or otherwise designating the number, size, location, height, and lighting of signs and outdoor lighting.*

Response: The Applicant only proposes signs with the O&M facility(s) for the purpose of identifying each facility. Again, up to two O&M facilities may be constructed. Other signs will consist only of those required for Facility safety or required by law. Signs at the O&M facility(s) will not include lighting. With respect to outdoor lighting, the Applicant will only use exterior lighting consistent with Condition 92 of the *Leaning Juniper II Amended Site Certificate* (November 2009).

- f. *Requiring diking, screening, fencing, landscaping or another facility to protect adjacent or nearby property and designating standards for its installation and maintenance.*

Response: The Applicant will provide gates on private access roads where appropriate to protect adjacent or nearby property, in coordination with landowners. Turbine towers will have internal ladders with lockable hatches. Landscaping is neither necessary nor appropriate given the continued agricultural practices around the Facility.

- g. *Protecting and preserving existing trees, vegetation, water resources, wildlife habitat or other significant natural resources.*

Response: The Applicant expects that the site certificate will contain conditions of approval, based on other Council standards, sufficient to protect the resources referenced in the GCDO. Exhibit J in this ASC describes measures to minimize and mitigate impacts to waters of the United States (U.S.). Exhibit P identifies the measures the Applicant proposes to minimize and mitigate impacts to wildlife habitat.

- h. *Limiting the term of the Conditional Use Permit to a specific time.*

Response: The site certificate will contain dates for commencement of construction and completion of construction. The Facility will be subject to review for compliance with all

conditions of approval during the term of the site certificate. The site certificate should last for the life of the Facility; an arbitrary limit is not necessary or appropriate.

- i. *Requiring necessary on-site or off-site improvements and maintenance.*

Response: The Applicant will restore roads to preconstruction conditions and will maintain various Facility components (fire suppression, water well, septic system, fences, weed control systems) throughout the life of the Facility.

- j. *Requiring the holder of a Conditional Use Permit to obtain review, renewal, or reapplication approval of the permit in the event that there is an increase in impact from the use on public facilities beyond that which was projected at the time of initial approval.*

Response: Construction-related traffic may cause brief traffic delays on existing county roads when trucks deliver the turbines and other Facility equipment, but these delays are unlikely to impair the function of the public roadways. Once the Facility is constructed, trips generated by the operation staff will not have any perceptible effect on the functioning of the roads or highways in the vicinity of the Facility because general usage of these highways and roads is low and will remain low, as discussed in Exhibit U. Thus, no adverse impacts to the road system as a result of new permanent staff are anticipated. No other significant use of public facilities is proposed. Therefore, no special condition requiring the Applicant renewal, or reapplication is necessary or appropriate.

#### **K.5.1.7 Standards Governing Conditional Uses, GCDO 7.020**

Response: Three sections of the GCDO contain additional standards, which apply to the Facility. GCDO 7.020(A) applies to “Conditional Uses, Generally,” GCDO 7.020(S) includes specific standards for “Transportation Improvements” (which apply to the proposed access roads), and GCDO 7.020(T) contains specific standards for “Wind Power Generation Facilities.”

*GCDO 7.020(A). Conditional Uses, Generally.*

1. *Setback. Requirements are addressed in each individual zone.*

Response: As discussed above in response to GCDO 4.020(J), the Facility meets the all required EFU setbacks.

*GCDO 7.020(S). Transportation Improvements.*

1. *Construction, reconstruction, or widening of highways, roads, bridges or other transportation projects that are:*
  - b. *Not designed and constructed as part of a subdivision or planned development subject to site plan and/or conditional use review shall comply with the Transportation System Plan and the following standards:*

- (1) *The project is designed to be compatible with existing land use and social patterns, including noise generation, safety, and zoning.*

Response: The access roads proposed with the Facility are a conditional use in the EFU zone and will be compatible with the existing land uses in the rural agricultural area of the Facility site. The Facility will include new access roads and improvements to existing roads within the site boundary to provide access for construction and for limited access during operation.

In areas where existing roads do not provide access to wind turbine locations, and along the length of turbine strings, new gravel access roads will be constructed. Generally, these new access roads will be up to 20 feet wide (with up to an additional 60 feet temporarily disturbed for crane paths<sup>5</sup> during construction). Typical existing roads are 8 to 12 feet wide, and will need to be widened to up to 80 feet during construction and up to 20 feet during operations. The new private access roads will not increase traffic in the area but will provide improved access by land managers and farmers to their fields.

The Applicant also proposes basic improvements and upgrades to existing state and county public roads for use during construction of the Facility. These upgrades will all be made within existing road right-of-way. As discussed throughout this Exhibit, the Applicant will coordinate such improvements with the Gilliam County Road Department or the Oregon Department of Transportation, depending on the location of the improvement.

Construction-related traffic may cause brief traffic delays when trucks deliver the turbines and other Facility equipment, but these delays are unlikely to impair the function of the public roadways. Once the Facility is constructed, trips generated by the operation staff will not have any perceptible effect on the functioning of the roads or highways in the vicinity of the Facility because general usage of these highways and roads is low and will remain low. Thus, no adverse impacts to the road system as a result of new permanent staff are anticipated.

As explained in Exhibit X, the Facility will meet DEQ noise standards.

- (2) *The project is designed to minimize avoidable environmental impacts to identified wetlands, wildlife, air and water quality, cultural resources, and scenic qualities.*

Response: A thorough discussion of these issues is found in Exhibits J, O, P, Q, R, S, and T. Based on the wetland and other waters delineation, wetlands and ephemeral streams exist within the Facility site boundary. If jurisdictional waters cannot be avoided, then

---

<sup>5</sup> As discussed in Exhibit B, the cranes required to erect turbines will temporarily disturb a corridor up to 80 feet wide during transport between turbine locations. This 80-foot corridor will parallel the access road corridor where possible, and will allow for the irregular path made by the 30-foot-wide crane, and up to 25 feet on either side of the crane for support vehicles. Where vegetation needs to be cleared (i.e., vegetation too large for the crane to walk over), the vegetative spoils will be pushed beyond the 60-foot path for up to 10 feet on either side, for a maximum disturbance width of 80 feet. In locations where the crane paths do not parallel access roads, temporary crane paths will be 60 feet in width.

appropriate permits will be obtained (see Exhibit J for further discussion). Measures designed to minimize impacts to wildlife are described in Exhibits P and Q.

A cultural resource survey was conducted and results are described in Exhibit S. The Facility will avoid adverse impact to historic, cultural, and archaeological resources.

No substantial adverse impacts to air quality will result from the Facility construction or operation. The construction activities for site preparation will likely create dust but this will not be significant in a rural area where farming practices create dust. Standard best management practices to control dust and wind erosion will be used.

The visual impact analysis provided in Exhibits L and R shows that the Facility will not result in visual impacts to designated protected areas or to scenic resources identified in federal and local land management and use plans.

- (3) *The project preserves or improves the safety and function of the Facility through access management, traffic calming, or other design features.*

Response: Some existing private roads will be improved by widening, grading, and graveling to accommodate construction-related traffic. Many of these roads are in poor condition; therefore, the proposed improvements will have a long-term beneficial effect for the users of these roads. Little traffic occurs on the roads in the area; thus, access management, traffic calming, or other such features designed to reduce traffic conflicts are not necessary.

- (4) *The project includes provision for bicycle and pedestrian circulation as consistent with the comprehensive plan and other requirements of this ordinance.*

Response: No bicycle or pedestrian facilities are appropriate for the Facility area. The access roads will be located in a rural agricultural area where pedestrian and bicycle facilities are not appropriate, safe, or required by the County's ordinances or plans.

*GCDO 7.020(T). Wind Power Generation Facilities.*

1. *Purpose. The Gilliam County Facility Siting Requirements are intended to establish a local conditional use permit process that is clear, timely, and predictable as well as encompasses important local issues such as the health, safety and welfare of citizens in Gilliam County.*

Response: The County substantive siting requirements in GCDO 7.020(T) apply to the Facility even though the Applicant has elected to obtain land use approval under ORS 469.504(1)(b). Plus, the EFSC process addresses important local issues such as health, safety, and welfare. Accordingly, the Facility is consistent with GCDO 7.020(T)1.

2. *Definitions. \* \* \**

Response: The Facility is a “Wind Power Generation Facility” within the meaning of GCDO 7.020(T)2.c. and involves the act of “Commercial Wind Power Generation” as defined in GCDO 7.020(T)2.a.

3. *Procedure. The procedure for taking action on the siting of a facility is a request for a conditional use. A public hearing pursuant to Article 7 shall be held to determine if the applicant meets the siting requirements for a Wind Power Generation Facility. The requirement for a hearing will not apply to proposed facilities for which EFSC is making the land use decision.*

Response: Under ORS 469.504(1)(b), the Applicant seeks a determination of land use compliance from EFSC but in doing so, demonstrates that the Facility meets the applicable substantive conditional use criteria in GCDO.

4. *Wind Power Generation Facility Siting Requirements. The requirements set out in this section shall apply for the application and review of the siting of a Wind Power Generation Facility and the issuance of a Gilliam County Facility Conditional Use Permit.*
  - a. *The following information shall be provided as part of the application:*

Response: The Council previously found as indicated in the *Leaning Juniper II Wind Power Facility Final Order on Amendment #1*, dated November 2009, that subsections 1, 2, 3, and 4(a) of GCZO 7.020(T) are definitional and procedural ordinances that do not contain substantive land use standards applicable to the proposed use. However, the Applicant provides the following responses for completeness. Additional information required in GCZO 7.020(T)(4)(a) is found throughout this ASC.

- (1) *A general description of the proposed Wind Power Generation Facility, a tentative construction schedule, the legal description of the property on which the facility will be located, and identification of the general area for all components of the proposed Wind Power Generation Facility, including a map showing the location of components.*

Response: Exhibit B in this ASC provides a general Facility description and tentative construction schedule. Exhibit C provides required information regarding the Facility location (see Figures C-4 through C-7) to show the location of Facility components. Therefore, the substantive requirement of this criterion is met.

- (2) *Identification of potential conflicts, if any, with:*
  - (a) *Accepted farming practices as defined in ORS 215.203(2)(c) on adjacent lands devoted to farm uses;*
  - (b) *Other resource operations and practices on adjacent lands except for wind power generation facilities on such adjacent lands; and*

- (c) *The nature and extent of the proposed facility on the cost of accepted farm or forest practices on surrounding EFU land.*

Response: As discussed above in response to GCDO 4.020(H), the Facility is consistent with accepted farming practices on surrounding lands, which is the predominant resource operation on adjacent EFU lands. The Facility will not significantly impact accepted farming practices or significantly impact the cost of such practices. This criterion is met.

- (3) *A Transportation Plan, with proposed recommendations, if any, reflecting the guidelines provided in the Gilliam County's Transportation System Plan (TSP) and the transportation impacts of the proposed Wind Power Generation Facility upon the local and regional road system during and after construction, after consultation with the Gilliam County Public Works Director. The plan will designate the size, number, location and nature of vehicle access points.*

Response: The Applicant seeks a site certificate from the Council, and will comply with the Council's requirements regarding transportation. Transportation to and from the site will follow a route that includes access via interstate, state, and county roads. The Applicant will consult with the Gilliam County Public Works Director and prepare a transportation plan for the selected transportation route that, in addition to meeting any requirement imposed by the Council, meets the County's Transportation System Plan (TSP) guidelines and designates the size, number, location, and nature of vehicle access points. See also Exhibit U. For this reason, the Facility complies with the substantive requirement of this criterion.

- (4) *An avian impact monitoring plan. The avian monitoring plan shall be designed and administered by the applicant's wildlife professionals. For projects being sited by EFSC, compliance with EFSC's avian monitoring requirements will be deemed to meet this requirement. The plan shall include the formation of a technical oversight committee to review the plan, and consist of the following persons:*
- (a) *The landowners/farm tenants.*
  - (b) *Facility owner/operator representative. (Chair)*
  - (c) *Oregon Department of Fish and Wildlife representative, if the agency chooses to participate.*
  - (d) *Two Gilliam County residents with no direct economic interest in the project and recommended by the applicants for appointment by the Gilliam County Board of Commissioners.*

- (e) *U.S. Fish and Wildlife representative, if the agency chooses to participate.*
- (f) *Gilliam County Planning Commission member.*

*At the request of applicant, this committee requirement may be waived or discontinued by the County.*

Response: The Applicant will implement a Wildlife Monitoring and Mitigation Plan similar to the LJF and Shepherds Flat Wildlife Monitoring and Mitigation Plans previously approved by the Council. Therefore, the Facility complies with the substantive requirements of this criterion.

- (5) *A Covenant Not to Sue with regard to generally accepted farming practice shall be recorded with the County. Generally accepted farming practices shall be consistent with the definition of Farming Practices under ORS 30.930. The applicant shall covenant not to sue owners, operators, contractors, employees, or invitees of property zoned for farm use for generally accepted farming practices.*

Response: The Applicant understands the substantive requirement for a covenant not to sue owners, operators, contractors, employees, or invitees for generally accepted farming practices within the Facility site boundary, which is zoned EFU. The Applicant will provide a form of covenant consistent with this requirement, which will be recorded prior to the start of Facility construction. Thus, the Facility complies with this criterion.

- (6) *A fire prevention and emergency response plan for all phases of the life of the facility. The plan shall address the major concern associated with the terrain, dry conditions, and limited access.*

Response: As stated in Exhibit U, potential adverse impacts on fire protection services could occur if Facility construction or operation or the increased population associated with either resulted in an increase in fires or other needs for fire protection services beyond the ability of local fire departments to provide those services. During Facility construction, the Applicant will take steps to prevent fires during construction, including using diesel vehicles whenever possible (to prevent potential ignition by catalytic converters), avoiding idling vehicles in grassy areas, and keeping cutting torches and similar equipment away from grass. As described in Exhibit B and Section U.5.9 of Exhibit U, the Facility will not have an adverse impact on the ability of local communities to provide fire protection and emergency response services.

- (7) *An erosion control plan, developed in consultation with the Gilliam County Public Works Department. The plan should include the seeding of all road cuts or related bare road areas as a result of all construction, demolition and rehabilitation with an appropriate mix of native vegetation or vegetation suited to the area. This requirement will be satisfied if the applicant has an*

*NPDES (National [Pollutant] Discharge Elimination System) permit.*

Response: The Applicant has prepared an application for a National Pollutant Discharge Elimination System (NPDES), General Construction Stormwater (1200-C) Permit and construction of the Facility will occur pursuant to this permit, included as Attachment I-1 to ASC Exhibit I. The Applicant will implement an erosion control plan as well as best management practices to address erosion control in compliance with the NPDES 1200-C permit. Accordingly, the Facility complies with this criterion.

- (8) *A weed control plan addressing prevention and control of all Gilliam County identified noxious weeds directly resulting from the Wind Power Generation Facility during preparation, construction, operation and demolition/rehabilitation.*

Response: As discussed above, areas disturbed during preparation, construction, operation and demolition/rehabilitation will be restored to their preexisting conditions, using seed mixes and techniques developed in consultation with ODFW and the Gilliam County Weed District. As discussed elsewhere in this Exhibit, the Applicant will implement a Revegetation Plan, including a weed control plan, similar to those approved as a part of the LJF and Shepherds Flat projects. The Facility complies with this criterion.

- (9) *A socioeconomic impact assessment of the Wind Power Generation Facility, evaluating such factors as, but not limited to, the project's effects upon the social, economic, public service, cultural, visual, and recreational aspects of affected communities. These effects can be viewed as either positive or negative. In order to maximize potential benefits and to mitigate outcomes that are viewed problematic, decision makers need information about the socioeconomic impacts that are likely to occur.*

Response: Information related to the Facility's impacts as requested by this provision is found in the following Exhibits of this ASC: social, economic, and public service in Exhibit U; cultural in Exhibit S; visual in Exhibit R; and recreational in Exhibit T. The Applicant has performed the required analyses and the relevant information for determining potential impacts (both positive and negative) is available for decision-makers. Therefore, this criterion is satisfied.

- (10) *If the Wind Power Generation Facility exceeds 20 acres in size, a Goal 3 exception is required as found in OAR 660-033-0130(22).*

Response: The proposed Facility exceeds 20 acres and the Applicant requests a Goal 3 exception as described in Section K.5.5 of this Exhibit.

- (11) *Information pertaining to the impacts of the Wind Power Generation Facility on:*
- (a) *Wetlands;*
  - (b) *Wildlife (all potential species of reasonable concern);*
  - (c) *Wildlife habitat;*
  - (d) *Criminal activity (vandalism, theft, trespass, etc.) and proposed actions, if any, to avoid, minimize or mitigate negative impacts.*

Response: Information related to the Facility's impacts as requested by this criterion is found in the following exhibits: (1) wetlands in Exhibit J; (2) wildlife in Exhibits P and Q; (3) wildlife habitat in Exhibits P and Q; and (4) criminal activity (i.e., police protection) in Exhibit U. Therefore, this criterion is satisfied.

- (12) *A dismantling and decommissioning plan of all components of the Wind Power Generation Facility, as provided in this section.*

Response: As discussed in Exhibit W, the Facility, including all related or supporting facilities, can be retired (decommissioned) and the site restored to a useful, nonhazardous condition that allows continued use for agriculture. Exhibit W provides information to demonstrate that the standard contained in OAR 345-022-0050(1) (Retirement and Financial Assurance) can be met. By demonstrating compliance with the EFSC financial assurance and decommissioning standards, the Applicant is also deemed to be in compliance with the County's decommissioning and dismantling process, per GCDO 7.020(T).5.g. Therefore, the substantive requirement of this criterion is met.

- b. *Gilliam County may impose clear and objective conditions in accordance with the County Comprehensive Plan, County Development Code and State law, which Gilliam County considers necessary to protect the best interests of the surrounding area, or Gilliam County as a whole.*

Response: The site certificate will contain conditions necessary to ensure compliance with applicable Council standards, Oregon statutes, and Gilliam County substantive requirements.

- c. *Prior to commencement of any construction, all other necessary permits shall be obtained, e.g., Gilliam County Zoning Permit, road access and other permits from the Gilliam County Public Works Department, and from the Oregon Department of Transportation.*

Response: To demonstrate substantive compliance with this criterion, EFSC in past decisions has adopted a condition requiring an applicant to obtain all necessary federal, state, and local permits and approvals required for construction, operation, and retirement of the facility or ensure that its contractors obtain the necessary federal, state

and local permits or approvals. See Condition 28 in the *Leaning Juniper II Amended Site Certificate* (November 2009). Accordingly, with a condition of approval, the Facility meets the substantive requirements of this criterion.

*d. The following requirements and restrictions apply to the siting of a facility:*

- (1) *The Wind Power Generation Facility shall be on property zoned EFU, and no portion of the facility shall be within 3,520 feet of properties zoned residential use or designated on the Comprehensive Plan as residential. (For clarification purposes of this section, EFU Zones are not considered zoned for residential use.)*

Response: The Facility is entirely proposed on property zoned EFU. Figure K-8 in this Exhibit shows that the Facility is not within 3,520 feet of the city of Arlington or other areas zoned or designated in the GCCP for residential use.

- (2) *Reasonable efforts shall be made to blend the wind facility's towers with the natural surroundings in order to minimize impacts upon open space and the natural landscape.*

Response: Exhibit R explains that the Facility will not result in any significant adverse impacts to scenic and aesthetic resources. Exhibit R also includes a list of best management practices that will be incorporated into the design of the Facility to assure an attractive appearance and good integration into the surrounding natural landscape. Therefore, the Applicant has demonstrated reasonable efforts to blend the Facility's turbines with the natural surrounding and the Facility complies with this provision.

- (3) *Reasonable efforts shall be taken to protect and to preserve existing trees, vegetation, water resources, wildlife habitat or other significant natural resources.*

Response: The Applicant has taken steps in the design and layout of the Facility to protect and preserve existing trees, vegetation, water resources, and wildlife habitat. Information on the Facility's impacts to these resources is found in the following Exhibits: trees and vegetation in Exhibits P and Q; water resources in Exhibits J and O; and wildlife habitat in Exhibits P and Q. Therefore, the Applicant has demonstrated reasonable efforts to protect and preserve existing trees and other natural resources, and the Facility complies with this substantive criterion.

- (4) *The turbine towers shall be designed and constructed to discourage bird nesting and wildlife attraction.*

Response: The Facility's turbines are tubular steel towers rather than lattice structures and do not provide nesting opportunities for birds.

- (5) *The turbine towers shall be of a size and design to help reduce noise or other detrimental effects.*

Response: The Facility will use the most current turbine technology to reduce noise and other detrimental effects, which meets the intent of this criterion. In addition, Exhibit X in this ASC provides the results of the preliminary noise analyses conducted for both the maximum and minimum turbine layouts. Exhibit X also includes a description of the additional steps the Applicant will take to ensure that Facility noise will not exceed allowed levels under the applicable OAR standards. Therefore, the substantive requirement of this criterion is met.

- (6) *Private access roads shall be gated to protect the facility and property owners from illegal or unwarranted trespass, and illegal dumping and hunting.*

Response: The towers and collector substations will be locked to prevent public entry. The O&M building(s) and associated parking and storage area may also be locked. Lockable gates will be located at the entrance of Facility access roads. If landowners do not want gates, the Applicant will obtain a variance from the County in accordance with the GCDO 7.020(T)4.d.(6). Therefore, the substantive requirement of this criterion is met.

- (7) *Where practicable the electrical cable collector system shall be installed underground, at a minimum depth of 3 feet; elsewhere the cable collector system shall be installed to prevent adverse impacts on agriculture operations.*

Response: The majority of the electrical cable collector system between turbines will be buried directly in the soil approximately 3 feet below the ground surface. In certain areas where site-specific considerations require, the collector system may be proposed aboveground. Using aboveground structures allows the collector cables to span canyons and intermittent streams and thus to reduce environmental impacts. Therefore, the Facility's proposed collector system meets this requirement.

- (8) *Required permanent maintenance/operations buildings shall be located off-site in one of Gilliam County's appropriately zoned areas, except that such a building may be constructed on-site if:*
- (a) *The building is designed and constructed generally consistent with the character of similar buildings used by commercial farmers or ranchers; and*

Response: The Facility will include up to two O&M facilities. Each one-story O&M building will be up to 8,000 square feet in size and will house offices (including office space for several contractors), bathroom and kitchen facilities, a break room, a storage area, a garage for vehicle, turbine, and equipment maintenance, and the supervisory, control and data acquisition (SCADA) equipment. Each O&M building will be consistent with the character of similar buildings in the area. This criterion is met.

- (b) *The building will be removed or converted to farm use upon decommissioning of the Wind Power Generation Facility consistent with the provisions of this section.*

Response: The O&M facility(s) will be removed or converted to farm use upon retirement of the Facility consistent with the provisions of this section. This criterion is met.

- (9) *A Wind Power Generation Facility shall comply with the Specific Safety Standards for Wind Facilities delineated in OAR 345-024-0010 (as adopted at time of application).*

Response: The proposed Facility will comply with all required safety standards delineated in OAR 345-024-0010 as described in Exhibit DD. This criterion is met.

- (10) *To the extent feasible, the county will accept information presented by an application for an EFSC proceeding in the form and on the schedule required by EFSC.*

Response: The ASC is the form of application the Council requires for siting a wind energy facility. The ASC provides information demonstrating the Facility's compliance with the County's applicable substantive review criteria and should be in an acceptable form to the County.

5. *Decommissioning/Dismantling Process. The applicant's dismantling of incomplete construction and/or decommissioning plan for the Wind Power Generation Facility shall include the following information*

*\*\*\* g. For projects sited by EFSC, compliance with the EFSC's financial assurance and decommissioning standards shall be deemed to be in compliance with the dismantling and decommissioning requirements of this Section 152.524 [presumably this reference is in err and should be to GCDO 7.020(T)5.a-f].*

Response: As discussed above and in Exhibit W, the Applicant provides sufficient information to demonstrate that the Facility will meet the requirements of OAR 345-022-0050, EFSC's financial assurance and decommissioning standard. Accordingly, the Applicant provides sufficient information to demonstrate that the Facility will also comply with the substantive requirements of GCDO 7.020(T)5.a-f containing the County's decommissioning/dismantling process and requirements. GCDO 7.020(T)5 is satisfied.

6. *Wind Power Generation Facility Siting Subsequent Requirements.*

*a. A bond or letter of credit shall be established for the dismantling of uncompleted construction and/or decommissioning of the Facility. (See 152.524 [again, this must be a miscitation]). For projects being sited by [EFSC], the bond or letter of credit required by EFSC will be deemed to meet this requirement.*

Response: As described in Exhibit W, the Applicant will meet the financial assurances requirements in OAR 345-022-0050, as required by EFSC. Accordingly, the substantive requirement of this criterion is met.

- b. *The actual latitude and longitude or Stateplane NAD 83(91) coordinates of each turbine tower, connecting lines, and transmission lines shall be provided to Gilliam County once commercial electrical production begins.*

Response: This criterion will be met through a condition of approval, similar to Condition 44 in the *Leaning Juniper II Amended Site Certificate*.

- c. *A summary of as-built changes in the facility from the original plan, if any, shall be provided by the owner/operator.*

Response: This criterion will be met through a condition of approval, similar to Condition 44 in the *Leaning Juniper II Amended Site Certificate*.

- d. (1) *The Wind Power Generation Facility requirements shall be facility-specific, but can be amended as long as the facility does not exceed the boundaries of the Gilliam County Conditional Use Permit where the original facility was constructed.*
- (2) *An amendment to a conditional use permit shall be required if the proposed facility changes would: \* \* \* An amendment to the Site Certificate issued by EFSC will be governed by the rules for amendments established by EFSC.*

Response: As recognized in GCDO 7.020(T)6.d(2), any amendment to the Facility site certificate will be governed by EFSC rules, rather than the requirements in GCDO 7.020(T)6.d. Nonetheless, should the Applicant seek to amend the site certificate, any applicable substantive land use requirements will be addressed at that time.

- e. *Within 120 days after the end of each calendar year, the facility owner/operator shall provide Gilliam County an annual report including the following information: \* \* \* (OPTION: For facilities under EFSC jurisdiction and for which an annual report is required, the annual report to EFSC satisfies this requirement.)*

Response: The Facility will be subject to annual EFSC reporting requirements, which will be imposed through a condition of approval. Therefore, as expressly provided GCDO 7.020(T)6.e above, the Facility complies with this criterion.

### **K.5.2 Applicable Substantive Criteria from the GCCP**

The GCCP goals and policies generally provide a long-range vision for how land use should occur within the County rather than regulating individual development proposals. In the following discussion, the Applicant has identified those goals and policies that could be relevant to the ASC and has shown how the Facility complies with such goals and policies.

### **K.5.2.1 GCCP Part 2. General Planning Policies**

*Policy 1. The County recognizes and supports State and Federal legislative and regulatory efforts directed towards the preservation and improvement of the environment; Relative thereto, the following policies are set forth:*

- A) *The county shall continue to require compliance with State and Federal regulations, as applicable, for land use activities involving sewage disposal treatment and disposal, solid waste disposal, and air, water and noise pollution.*

Response: The Facility will comply with all state and federal regulations addressing air, water, and noise pollution as demonstrated in Exhibit E, thereby meeting the intent of this policy. The Facility will maintain the existing quality of the physical environment within the County by not significantly adversely impacting that environment.

*Policy 3. Economic development and diversification is deemed vital to the economic future and stability of the County, and is therefore to be encouraged, however, such economic development and diversification is not to be achieved at the expense of enterprises currently operating in the County by preferential treatment with respect to tax obligations due to the County.*

Response: Development of the Facility will increase economic diversity within the County and offer nonagricultural employment opportunities for local residents. The Facility will substantially contribute to the diversification of the County's economic base. Allowing the development of the Facility is consistent with the purposes of the EFU zone, which allows for the development of commercial utility facilities as a conditional use.

Operation of the Facility is projected to produce additional tax revenue for the County. Development of the Facility would not adversely affect enterprises currently operating in the County by offering preferential treatment with respect to tax obligations due to the County.

*Policy 4. In order to avoid unnecessary damage to property and natural resources of the county, development in draws, canyons and similar occasional watercourses will avoid placement of buildings and structures such as fences in such a manner as to impede, obstruct or divert drainage or flood waters that flow through these watercourses, unless such structures are specifically designed for the purpose of interfering with the free flow of water, and are adequately designed and engineered for that purpose.*

Response: The Facility design does not include any buildings, structures, or fences within draws, canyons, or similar occasional watercourses in such a way that would impede, obstruct or divert drainage or flood waters. Therefore, the Facility will comply with this policy.

*Policy 5. Development on hillside areas known to be potentially hazardous because of landslide should be undertaken only after careful consideration has been given to the stability of the area and the probable effects of proposed cut and fill activities. When processing*

*applications for development on lands in these areas, the county may require the application to be accompanied by investigative reports prepared by competent authority.*

Response: The Facility was specifically designed to avoid the placement of turbines and other Facility components on steep topography. None of the Facility components are proposed on hillside areas known to be potentially hazardous.

*Policy 6. In issuing permits for development, the county will require evidence that adequate erosion control techniques have been designed and will be employed in the construction and operation of the project.*

Response: Erosion control will be standard practice both during and after construction and during the revegetation period for the Facility. Erosion control will comply with all State and County standards and will include, where necessary, stabilized construction entrances and exits, maintenance of existing vegetation, silt fencing, straw wattles, mulching, stabilization matting, soil binders and tackifiers, a concrete washout area, stockpile management, revegetation, checking dams and sediment traps, and pollutant management.

The Applicant will obtain an NPDES 1200-C stormwater permit from DEQ. Stormwater during construction will be managed in compliance with the 1200-C permit, which will include a site-specific erosion and sediment control plan (ESCP). In general, the construction of roads, turbine foundations, and other facilities will be regulated by the ESCP, which will outline the minimum best management practices (BMPs) that will be implemented to prevent erosion and minimize possible sediment transport offsite. The ESCP will focus on implementing BMPs to prevent erosion (from both wind and water) rather than on controlling sedimentation after erosion has already occurred. Exhibit I contains the 1200-C permit application that will be submitted to DEQ after this ASC is filed with ODOE.

*Policy 8. It is not the intent of the county that its development policy or regulations inhibit or unnecessarily restrict the design of facilities intended to conserve energy or to develop alternative sources of energy. For this reason, accommodation of design or development features intended to result in energy conservation or utilization of alternative energy sources constitutes sufficient grounds for relaxation or adjustment of standards imposed by county regulatory devices. Variances granted for this purpose shall be the minimum variance required to achieve the intent of this policy.*

Response: The Facility will provide an alternative energy source within the State of Oregon.

### **K.5.2.2 GCCP Part 3. Agricultural Land Use**

*Policy 1. It shall be the policy of Gilliam County to maximize the preservation and protection of commercial agriculture in the County, and to provide maximum incentives for such through the application of zoning in compliance with ORS 215 to all lands identified as "Agricultural Lands." However, this policy shall not be construed to, nor is it*

*intended to, exclude non-farm uses that are authorized by state statutes on Lands zoned as Exclusive Farm Use (EFU) and are otherwise consistent with the Plan.*

Response: As discussed in this Exhibit, the Facility will permanently remove approximately 222 acres from agricultural production (there are approximately 32,402 acres of agricultural lands within the site boundary and approximately 65,844 acres within the ½-mile land use analysis area) and consequently, the Facility must obtain a Goal 3 exception under the criteria set forth in ORS 469.504(2)(c). A Goal 3 reasons exception is requested and justified in Section K.5.8 of this Exhibit.

The Facility will not result in a significant change to accepted farming practices on surrounding lands, or significantly increase the cost of such practices, and therefore, the Facility complies with GCDO 4.020(H) and subsequently ORS 215.296. Thus, the Facility would not interfere with the County policy of maximization of protection and preservation of commercial agriculture. Access roads will be located to minimize disturbance and maximize transportation efficiency. Existing County roads and private farm roads will be used to the extent feasible.

The Facility will have minimal impact on farm uses, and the Applicant will take steps to minimize any disruption to farming practices.

As a result of the minimal amount of land being permanently disturbed and the mitigation measures taken by the Applicant, the Facility is compatible with farm uses of the property.

*Policy 7. Non-farm uses that legitimately require a location in close proximity to areas of commodity production, shall not interfere with the use of surrounding lands for agricultural pursuits. Such uses shall be considered to be commercial activities in conjunction with or of direct service and support to agriculture.*

Response: The Facility will not result in a significant change to accepted farming practices on surrounding lands, or significantly increase the cost of such practices, and therefore, the Facility complies with GCDO 4.020(H) and subsequently ORS 215.296.

### **K.5.2.3 GCCP Part 4. Urban and Urban Type Land Uses**

*Policy 1. It is the policy of Gilliam County that, with exceptions elsewhere specified, non-farm residential, commercial and industrial uses shall be located within unincorporated cities and related urban growth boundaries.*

Response: The County's EFU zone expressly allows wind generation facilities as a conditional use (GCDO 4.020(D)34). The Facility is locationally dependent and, accordingly, cannot be located within any of the area's unincorporated cities or related urban growth boundaries. Furthermore, the Facility will not have a large impact on services in the County. Its co-location and compatibility with existing and ongoing agricultural activities provides an example of orderly and efficient land use.

#### K.5.2.4 GCCP Part 6. Transportation Facilities

*Policy 4. Although the county, within limitations of available time and manpower, has provided some limited maintenance assistance on private roads on a cost-reimbursable basis, the county is not in a position to guarantee maintenance of private roads, or of any road not designed and constructed to predetermined county standards.*

Response: Some existing private roads will be improved by widening, grading, and graveling. Typical existing roads are 8 to 12 feet wide, and will need to be widened to up to 80 feet during construction and up to 20 feet during operations. The Applicant is taking responsibility for upgrades to existing private roads and any maintenance that will be required.

*Policy 5. It has been and will continue to be the policy of Gilliam County not to build or totally fund major improvements of existing roads to serve isolated non-agricultural areas or developments. The requirements for new roads or major improvements for such areas and/or developments shall, therefore, be the responsibility of those areas or developments needed and requesting such facilities and/or improvements. The County will continue to concentrate its maintenance and construction efforts on County Roads of major significance to the overall economy of the County and to those roads which have been constructed to and "accepted" as County Roads for full maintenance responsibility.*

Response: Transportation to and from the site will follow a route that includes access via interstate, state, and county roads. A final transportation plan will be developed in consultation with the Gilliam County Public Works Department before construction begins.

No new public roads or highways will be constructed as part of the Facility. The Applicant does propose new private access roads and improvements to existing private access roads. The location and layout of these access roads have been developed by the Applicant. The Applicant assumes the responsibility for maintenance of new and improved private access roads.

The Applicant also proposes basic improvements and upgrades to existing state and county public roads for use during construction of the Facility. These upgrades will all be made within existing road right-of-way and be coordinated with the appropriate authorities, as discussed elsewhere in this Exhibit.

*Policy 10. Operation, maintenance, repair and preservation of existing transportation facilities shall be allowed without land use review, except where specifically regulated.*

*Policy 11. Dedication of right-of-way, authorization of construction and the construction of facilities and improvements that follow roadway classification and approved road standards shall be allowed without land use review for improvements designated in the Transportation System Plan.*

*Policy 16. Gilliam County shall protect the function of existing and planned roadways as identified in the Transportation System Plan.*

*Policy 17. Gilliam County shall include a consideration of a proposal's impact on existing or planned transportation facilities in all land use decisions.*

*Policy 18. Gilliam County shall protect the function of existing or planned roadways or roadway corridors through the application of appropriate land use regulations.*

Response: The Applicant seeks a site certificate from the Council, and will comply with the Council's requirements regarding transportation. Transportation to and from the site will follow a route that includes access via interstate, state, and county roads, as well as a system of private roads. No new public roads or highways will be constructed as part of the Facility. The Applicant will consult with the Gilliam County Public Works Director and prepare a transportation plan for the selected transportation route that, in addition to meeting any requirement imposed by the Council, meets the County's Transportation System Plan (TSP) guidelines and designates the size, number, location, and nature of vehicle access points.

Construction-related traffic may cause brief traffic delays on existing state and county roads, when trucks deliver the turbines and other Facility equipment, but these delays are unlikely to impair the function of the public roadways. Once the Facility is constructed, trips generated by the operation staff will not have any perceptible effect on the functioning of the roads or highways in the vicinity of the Facility because general usage of these highways and roads is low and will remain low. Thus, no adverse impacts to the road system as a result of new permanent staff are anticipated.

The Applicant proposes basic improvements and upgrades to existing state and county public roads for use during construction of the Facility. These upgrades will all be made within existing road right-of-way and be coordinated with the appropriate authorities, as discussed elsewhere in this Exhibit.

#### **K.5.2.5 Directly Applicable Statutes, Goals, and LCDC Rules**

##### **OAR 345-021-0010(1)(k)(C)(iii)**

*Identify all Land Conservation and Development Commission administrative rules, statewide planning goals and land use statutes directly applicable to the facility under ORS 197.646(3) and describe how the proposed facility complies with those rules, goals, and statutes;*

Response: The Oregon land use system requires that a local government implement statewide planning goals, administrative rules, and statutes through a local comprehensive plan. A local comprehensive plan must be consistent with the statewide planning goals. The State reviews the plan for consistency with statewide planning goals, and if the State determines that the plan is consistent, the plan is then deemed to be "acknowledged." State law requires that the local government adopt zoning and land-division ordinances which put the acknowledged comprehensive plans into effect. Periodically, a local government must update its acknowledged comprehensive plan to account for new administrative rules or statutes adopted in furtherance of statewide planning goals. Given the system of acknowledgement and periodic review, a local government's comprehensive plan and zoning ordinance account for all statewide

planning goals and most statutes and administrative rules governing land use (unless adopted since the last periodic review).

Since the last periodic review of the GCCP and GCDO, the LCDC amended certain administrative rules governing conditional uses on EFU land, and consequently, these amended rules directly apply to the Facility under ORS 197.646 pursuant to ORS 469.504(1)(b)(A). ORS 215.283(2)(g) authorizes “commercial utility facilities for the purpose of generating power for public use by sale” on land in an EFU zone, and OAR Chapter 660, Division 33, contains the LCDC rules for implementing the requirements for agricultural land as defined by Goal 3. Specifically, OAR 660-033-0120 (Table 1) lists the “commercial utility facility” use as a type “R” use (“use may be approved, after required review”). Before January 2, 2009, the standards found in OAR 660-033-0130(5) and (22) applied to a wind power facility as a “commercial utility facility” proposed to be located on non-high-value farmland and OAR 660-033-0130(5) and (17) applied to such a facility proposed to be located on high-value farmland. However, LCDC adopted amendments to OAR 660-033-0120 and -0130 that changed the applicable standards for siting a wind facility on EFU land. The amended to OAR 660-033-0120 (Table 1) added reference to a “wind power generation facility” as a distinct type “R” use (rather than having a wind power generation facility included within the definition of “commercial utility facility”). Further, the amendments provided that instead of OAR 660-033-0130(17) and (22) governing wind facilities, OAR 660-033-0130(5) and (37) provided the standards for siting a wind power generation facility on EFU land. The effect of these amendments was to eliminate the 12-acre and 20-acre exception thresholds for wind power generation facilities that are contained in OAR 660-033-0130(17) and (22) and to impose, instead, specific development standards on wind power generation facilities. The proposed Facility and all related or supporting facilities fit entirely within the definition of “wind power generation facility” in OAR 660-033-0130(37).

Although the amended OAR 660-033-0120 and -0130 no longer require an applicant to seek a Goal 3 exception for wind energy facilities (as previously required by OAR 660-033-0130(17) or (22) prior to the rule amendment), the County has yet to adopt the amended LCDC rules into the GCCP and GCDO, meaning that the acreage restrictions in GCDO 4.020(D)14 and 7.020(T)4.a.(10) still apply to the Facility. Therefore, with the adoption of the LCDC rule amendment, the Applicant is required to satisfy both the test in OAR 660-033-0130(37) (as a directly applicable LCDC rule) and the Goal 3 exception requirements (as applicable substantive criteria under the GCDO).

Thus, the Applicant provides the following information to demonstrate that the Facility also meets the applicable approval criteria in OAR 660-033-0130(37).

**OAR 660-033-0130(37)**

*For purposes of this rule a wind power generation facility includes, but is not limited to, the following system components: all wind turbine towers and concrete pads, permanent meteorological towers and wind measurement devices, electrical cable collection systems connecting wind turbine towers with the relevant power substation, new or expanded private roads (whether temporary or permanent) constructed to serve the wind power generation facility, office and operation and maintenance buildings, temporary lay-down areas and all other*

*necessary appurtenances. A proposal for a wind power generation facility shall be subject to the following provisions:*

- (a) *For high-value farmland soils described at ORS 195.300(10), the governing body or its designate must find that all of the following are satisfied:*

Response: OAR 660-33-0130(37)(a) provides criteria for locating a wind power generation facility on high-value farmland soils. The rule references ORS 195.300(10) for the definition of “high-value farmland soils” which in turn references ORS 215.710. ORS 215.710 defines “high-value farmland” as land “in a tract composed predominantly of soils that are

\* \* \* [either irrigated or not irrigated] classified prime, unique, Class I or Class II” by the NRCS. The Facility site boundary consists of multiple tracts and contains approximately 33,402 acres of EFU land, with approximately 1,314 acres of Class I high-value farmland soils, 9,801 acres of Class II high-value farmland soils, and approximately 117 acres of non-high-value farmland soils (as well as 6.9 acres of Class VII or VIII soils, which are neither high-value nor non-high-value farmland soil).

Figures K-6 shows the Facility site boundary and soil classes whereas Figure K-9 shows the soil classes on a broader, county-wide scale. As seen from these figures, there is very little Class I soil located in the site boundary, and likewise, there is very little Class I soil in Gilliam County. The Class I and II soils acreage on both figures is based on conservative methodology. Soil type 32A is a Class I soil (i.e., high-value farmland soil) when irrigated, and soil types 13, 31B, and 32B are Class II soils (i.e., high-value farmland soil) when irrigated, but all four types are Class III soils (i.e., non-high-value farmland soils) when not irrigated. In addition, Soil Types 26, 40B, 41B, and 55B are Class II soils (i.e., defined as high-value farm land) if irrigated and Class IV soils (i.e., defined as non-high-value farmland) if not irrigated. Thus, calculations of impact to high-value and non-high-value farmland are based on a conservative methodology assuming that these soil types are all irrigated or high-value farmland. In actuality, the majority of farmland (dry land wheat farming and grazing is predominant) within the site boundary has little to no irrigation and as a result, the Class I and Class II acreages are overestimated. The Facility, at most, will impact approximately 1,314 acres of Class I soils and 9,801 acres of Class II soils. Regardless, Class I and Class II soils constitute high-value farmland soils under ORS 215.710 and thus the Facility is subject to OAR 660-033-0130(37)(a).

- (A) *Reasonable alternatives have been considered to show that siting the wind power generation facility or component thereof on high-value farmland soils is necessary for the facility or component to function properly or if a road system or turbine string must be placed on such soils to achieve a reasonably direct route considering the following factors:*
  - (i) *Technical and engineering feasibility;*
  - (ii) *Availability of existing rights of way; and*

- (iii) *The long term environmental, economic, social and energy consequences of siting the facility or component on alternative sites, as determined under OAR 660-033-0130(37)(a)(B).*

Response: Under OAR 660-033-0130(37)(a)(A), an applicant must first determine whether “reasonable alternatives” exist on non-high-value farmland soils, and then analyze whether the facility could “function properly” in an alternative location.

To carry out the state land use policy embodied in Goal 13 (Energy Conservation), the Council has previously found that a “reasonable alternative” under OAR 660-033-0130(37)(a)(A) must enable the wind facility to make efficient use of a comparable wind resource, compared to the proposed location that affects high-value farmland soils. The Planning Guidelines for Goal provide that “priority consideration in land use planning should be given to methods of analysis and implementation measures that will assure achievement of maximum efficiency in energy utilization” and “the allocation of land and uses permitted on the land should seek to minimize the depletion of non-renewable sources of energy.” The Goal 13 Guidelines direct that land conservation and development actions should “utilize renewable energy sources,” including wind, “whenever possible.”

Thus, given these considerations, the Council has found that an alternative location or configuration of a proposed wind power generation facility on land that does not contain high-value farmland soils is a “reasonable” alternative under OAR 660-033-0130(37)(a)(A) only if the alternative location has a substantially similar wind resource compared to the configuration that would affect high value farmland soils. Further, the Council has found that an alternative location or configuration of a proposed wind power generation facility on land that does not contain high-value farmland soils is not a “reasonable” alternative under OAR 660-033-0130(37)(a)(A) if the location or configuration would significantly increase the area within the site boundary, significantly increase the area permanently occupied by the facility’s components or significantly increase the length of aboveground transmission lines that are necessary to connect the wind facility to the regional power grid. Finally, the Council has found that an alternative location is “reasonable” only if it is available, considering that a large area is needed for micrositing and an alternative location is “available” only where the developer can lease enough contiguous parcels of property to ensure a sufficient project area.

Based on prior Council findings, the Applicant analyzed whether a reasonable alternative location exists for the Facility. The first consideration is determining whether an alternative location on non-high-value farmland is “reasonable” is whether there is a substantially similar wind resource comparable to the wind resource at the proposed site. If there is not, the alternative cannot be determined to be reasonable. The existence of other wind generational facilities, including projects directly adjacent to the Facility site, demonstrates the availability of an “energetic” wind resource, meteorological data, and electronic transmission infrastructure, particularly in the northern portion of the County. See Figure K-10 for the approximate boundary of nearby wind energy facilities. However, Figures K-6 and K-10 also show that there is a mosaic of high-value and non-

high-value farmland soils in the site boundary. There is a distribution of high-value and non-high-value farmland soils within the County, but the northern portion of the County (generally north of the Facility) has considerable Class VI soils (much of which is already occupied by other developers and projects). The remainder of the County (including the area within the site boundary and generally south and southwest of the Facility) has a mix of Class II, III, IV, V, and VI soils, with very few swaths of Class I soil.

The figures provide evidence that there are few areas in which high-value farmland soils (particularly Class II) would not be affected to some extent and still meet the Facility's needs. The Facility is intended to have a generating capacity of up to 404 MW and to accomplish this generation capacity; the Applicant requires sufficient area for micrositing. This consolidated land must be of sufficient size to accommodate the proposed turbine strings and related or supporting facilities as well as required setbacks for safety and to minimize "wake" effects associated with the distance between turbines and turbine strings (as well as with other adjacent projects).

Figure K-10 shows that there are no large contiguous areas of non-high-value farmland of sufficient size to accommodate the Facility, under lease by the Applicant, and in reasonable proximity to the BPA interconnect. Although there are non-high-value farmland soils in the west and southwestern portions of the County, the Applicant does not have data to indicate whether this is a substantially similar wind resource. In addition, the southwestern region of the County where the lowest value soils are located is approximately 20 to 30 miles further from the BPA Slatt Substation, which is the proposed interconnect for the Facility. Other non-high-value farmland in the northern portion of the County (which could be suitable for wind energy development) is either included in other existing or proposed wind projects and/or is not under the Applicant's control. Finally, because the areas of non-high-value farmland are interspersed with high-value farmland soils, proposed turbine strings (including access roads and collector lines) cannot be located to "achieve a reasonably direct route" without affecting high-value-farmland soils.

Given these factors and the diverse mosaic of soil types throughout the County, there are no reasonable alternatives to locating the Facility or related or supporting facilities, including access roads, on the proposed 98 acres of high-value farmland soils.

In addition, environmental consequences also support siting the Facility as proposed. Non-high-value farmland soils can often be characterized as water, drainages, or higher-value wildlife habitat, the development of which would likely have greater impacts on wildlife habitat. The Applicant has avoided and minimized impacts to higher category habitat by locating the Facility and related or supporting facilities to the extent possible on Category 6 habitat such as farmed fields (which also are typically located on high, level ground having the best available wind resource). The micrositing corridors and other facility components were sited to avoid slopes, valleys, and ravines. These areas may have thinner and rockier non-high-value soils, but they are considered areas of higher category habitat and may have less wind resource. Thus, siting the Facility to avoid the 98 acres of high-value farmland soils within the site boundary would have

resulted in greater impacts to wildlife habitat and would have failed to maximize the available wind resource.

(B) *The long-term environmental, economic, social and energy consequences resulting from the wind power generation facility or any components thereof at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located on other agricultural lands that do not include high-value farmland soils.*

Response: OAR 660-033-0130(37)(a)(B) requires an applicant to demonstrate that the “long term environmental, economic, social and energy consequences” (“EASE consequences”) of the facility, including all related or supporting facilities (*i.e.*, components), will not result in significantly more adverse impacts than if the facility were located on non-high-value farmland soils. This analysis is substantially similar to the test required under ORS 469.504(2)(c)(B) for a “reasons” exception to a statewide planning goal. The Applicant requests a Goal 3 exception to meet GCDO 4.020(D)14 and 7.020(T)4.a.(10) (as discussed below), and demonstrates that the significant EASE consequences anticipated as a result of the Facility have been identified and any adverse impacts will be mitigated accordingly. Thus, to address and support findings under OAR 660-033-0130(37)(a)(B), the Applicant incorporates by reference the Goal 3 analysis set forth in Section 5.5 of Exhibit K below. For these reasons, there is sufficient evidence to demonstrate that the Facility, when considering the EASE consequences of the Facility, will not result in significantly more adverse impacts than if the Facility were located on non-high-value farmland soils. OAR 660-033-0130(37)(a)(B) is met.

Further, siting the Facility on high-value farmland is likely to be beneficial to landowners. The site certificate conditions will have mitigation measures designed to minimize any adverse impacts related to siting the facility on high-value farmland. Though the Facility or its components may affect some agricultural routines of the landowner, the wind turbines will, along with other benefits, provide a significant source of additional, stable income to the landowner. The Facility will take advantage of a clean and available energy source uniquely suited to the large, open area often associated with high-value farmland. Therefore, the EASE effects of locating the facility component on high-value farmland, when mitigation measures are taken into account, would not be significantly more adverse than if the Facility were located on non-high-value farmland.

(C) *Costs associated with any of the factors listed in OAR 660-033-0130(37)(a)(A) may be considered, but costs alone may not be the only consideration in determining that siting any component of a wind power generation facility on high-value farmland soils is necessary.*

Response: The Applicant’s analysis under subsection (A) does not substantially rely on costs. Therefore, OAR 660-033-0130(37)(a)(C) is met.

(D) *The owner of a wind power generation facility approved under OAR 660-033-0130(37)(a) shall be responsible for restoring, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or*

*otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this subsection shall prevent the owner of the facility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration.*

Response: As discussed in Exhibit W of the ASC, the Facility will be decommissioned and the site will be restored. Actions for site restoration are described in Exhibit W. Accordingly, OAR 660-033-0130(37)(a)(D) is met.

(E) *The criteria of OAR 660-033-0130(37)(b) are satisfied.*

Response: As set forth below, the Facility satisfies OAR 660-033-0130(37)(b).

(b) *For arable lands, meaning lands that are cultivated or suitable for cultivation, including high-value farmland soils described at ORS 195.300(10), the governing body or its designate must find that:*

(A) *The proposed wind power facility will not create unnecessary negative impacts on agricultural operations conducted on the subject property. Negative impacts could include, but are not limited to, the unnecessary construction of roads, dividing a field or multiple fields in such a way that creates small or isolated pieces of property that are more difficult to farm, and placing wind farm components such as meteorological towers on lands in a manner that could disrupt common and accepted farming practices; and*

Response: This requirement is substantially similar to the approval standards in GCDO 4.020(H) and the policies in GCCP Part 3 for agricultural uses. The Applicant addressed these standards and policies above to demonstrate that the Facility will not result in significant adverse impacts to agricultural practices either on the subject property or adjacent farmlands. The Applicant will utilize existing access roads to minimize disturbance of agricultural lands and where new access roads are needed, will, to the extent possible, place access roads along turbine strings or the edges of fields to minimize disturbance. Further, the Applicant will implement measures to avoid and mitigate impacts to soil, such as dust and erosion control and consult with landowners during construction and operation of the Facility to minimize or avoid any adverse impacts to agricultural practices. Accordingly, the Facility will not have unnecessary negative impacts on agricultural operations conducted on the subject property. OAR 660-033-0130(37)(b)(A) is satisfied.

(B) *The presence of a proposed wind power facility will not result in unnecessary soil erosion or loss that could limit agricultural productivity on the subject property. This provision may be satisfied by the submittal and county approval of a soil and erosion control plan prepared by an adequately qualified individual, showing how unnecessary soil erosion will be avoided or remedied and how topsoil will be stripped, stockpiled and clearly marked. The approved plan shall be attached to the decision as a condition of approval; and*

(C) *Construction or maintenance activities will not result in unnecessary soil compaction that reduces the productivity of soil for crop production. This provision may be satisfied by the submittal and county approval of a plan prepared by an adequately qualified individual, showing how unnecessary soil compaction will be avoided or remedied in a*

*timely manner through deep soil decompaction or other appropriate practices. The approved plan shall be attached to the decision as a condition of approval; and*

Response: OAR 660-033-0130(37)(b)(B) provides that the proposed wind power facility must not result in unnecessary soil erosion or loss that could limit agricultural productivity, and similarly, OAR 660-033-0130(37)(b)(C) provides that facility construction or maintenance activities must not result in unnecessary soil compaction that reduces the productivity of soil for crop production. Potential adverse impacts to soils and measures to avoid or control soil erosion and compaction are addressed by the Council's Soil Protection Standard, which the Applicant discusses in Exhibit I.

For the reasons discussed there, there is sufficient evidence to demonstrate that the Facility will not result in unnecessary soil erosion, soil loss or soil compaction that reduces the productivity of soil for crop production. Further, the Applicant will implement conditions of approval that address soil erosion and compaction. Therefore, the Council may find that the Facility complies with -0130(37)(b)(B) and (C).

(D) *Construction or maintenance activities will not result in the unabated introduction or spread of noxious weeds and other undesirable weed species. This provision may be satisfied by the submittal and county approval of a weed control plan prepared by an adequately qualified individual that includes a long-term maintenance agreement. The approved plan shall be attached to the decision as a condition of approval.*

Response: As discussed above and in Exhibit P, the Applicant will develop a weed management plan to prevent the establishment of weeds during construction and operation, including a Revegetation Plan which includes weed control measures that will be implemented after construction as approved by applicable weed control authorities. Accordingly, the Facility satisfies OAR 660-033-0130(37)(b)(D).

(c) *For nonarable lands, meaning lands that are not suitable for cultivation, the governing body or its designate must find that the requirements of OAR 660-033-0130(37)(b)(D) are satisfied.*

Response: Applicant demonstrated above that the Facility meets the requirements in OAR 660-033-0130(37)(b)(D) and therefore OAR 660-033-0130(37)(c) is also met.

(d) *In the event that a wind power generation facility is proposed on a combination of arable and nonarable lands as described in OAR 660-033-0130(37)(b) and (c) the approval criteria of OAR 660-033-0130(37)(b) shall apply to the entire project.*

Response: Applicant demonstrated above that the Facility meets the approval criteria in OAR 660-033-0130(37)(b) and therefore OAR 660-033-0130(37)(d) is also met.

### **K.5.3 Noncompliance with Applicable Substantive Criteria**

**OAR 345-021-0010(1)(k)(C)(iv)** *If the proposed facility might not comply with all applicable substantive criteria, identify the applicable statewide planning goals and describe how the proposed facility complies with those goals;*

Response: The Facility does not meet GCDO 7.020(T)4.a(10) as it will occupy more than 20 acres of farmland soils. The Applicant demonstrates below that a Goal 3 exception is allowed.

**K.5.4 Goal 3 Exception**

**OAR 345-021-0010(1)(k)(C)(v)** *If the proposed facility might not comply with all applicable substantive criteria or applicable statewide planning goals, describe why an exception to any applicable statewide planning goal is justified, providing evidence to support all findings by the Council required under ORS 469.504(2).*

Response: The Facility will occupy a mixture of high-value<sup>6</sup> and non-high-value<sup>7</sup> farm soils. OAR 660-033-0130(17) and (22) place 12-acre (high-value) and 20-acre (non-high-value) limits on the use of farmland without an exception to Goal 3. See Table K-1.

**Table K-1. Areas Occupied by the Power Generation Facility**

Structure	Total Permanent Impacts (acres)	High-Value Farmland Impacts (acres) <sup>1</sup>	Non-High-Value Farmland Impacts (acres) <sup>2</sup>
<b>Principal Use</b>			
Turbine Towers, including Pad Areas	10.194	5.354	4.571
Meteorological Towers	0.164	0.082	0.082
Overhead 34.5-kV Collector Line Structures	0.195	0.063	0.124
Overhead 230-kV Transmission Line Structures	0.167	0.038	0.128
Facility Collector Substations	10.000	2.917	7.082
Operations and Maintenance Facility(s)	6.000	0.000	6.000
<i>Subtotal</i>	<i>26.719</i>	<i>8.454</i>	<i>17.987</i>
Access Roads	195.195	89.724	98.862
<b>Total</b>	<b>221.915</b>	<b>98.179</b>	<b>116.849</b>

Notes: This table is based on the worst-case locations for Facility components as shown on Figures C-9 and P-9 in Exhibits C and P, respectively, and as described in Exhibit C, Section C.3.4.

<sup>1</sup> OAR 660-033-0020(8)(a) defines high-value farmland as a tract composed predominately of soils that are irrigated or not irrigated and classified prime, unique, Class I or II by the NRCS and also include other specific soils listed in the OARs. Thus, impacts to Class I and II soils are high-value farmland impacts.

<sup>2</sup> OAR 660-033-00020(1)(a)(A) defines agricultural land as NRCS Soil Classes I-VI in Eastern Oregon and OAR 660-033-00020(8)(a) defines high-value as NRCS Soil Classes I and II. Thus, non-high-value farmland consists of those areas in NRCS Soil Classes III-VI.

<sup>3</sup> In addition to the listed impacts the worst-case scenario would also result in 6.8869 acres of Class VII soil, which is neither high-value or non-high-value farmland.

<sup>6</sup> OAR 660-033-0020(8)(a) defines high-value farmland as a tract composed predominantly of soils that are irrigated or not irrigated and classified prime, unique, Class I or II by the NRCS and also include other specific soils listed in the OARs. Thus, impacts to Class I and II soils are high-value farmland impacts.

<sup>7</sup> OAR 660-033-00020(1)(a)(A) defines agricultural land as NRCS Soil Classes I-VI in Eastern Oregon and OAR 660-033-0020(8)(a) defines high-value as NRCS Soil Classes I and II. Thus, non-high-value farmland consists of those areas in NRCS Soil Classes III-VI.

Under the “worst-case” scenario, the Facility will permanently impact approximately 222<sup>8</sup> acres of EFU land (approximately 98 acres of high-value farmland; approximately 117 acres of non-high-value farmland; and approximately 7 acres of Class VII soil), and temporarily impact approximately 1,716 acres of EFU land. As described in Exhibits C and P, the worst-case scenario uses the maximum turbine layout and disturbance areas moved into the highest-quality habitat, which results in a greater number of permanent impacts. Under the current layout, the Facility will permanently impact approximately 220 acres, as shown in Table P-10.

Based on the impacts shown in Table K-1, a Goal 3 exception is required for the Facility. The Applicant demonstrates that a reasons exception is warranted. ORS 469.504(2) provides the controlling criteria for exceptions proposed for energy facilities under the jurisdiction of the Council.

An “exception” is a “decision to exclude certain land from the requirements of [an] applicable statewide goal.” See OAR 660-004-0000(2). The need for an exception arises when a goal does not permit a particular use. For local jurisdictions, the exceptions process is authorized by Goal 2 (Land Use Planning) and ORS 197.732, and governed by the criteria in OAR 660-004-0000, et seq. The Council may find goal compliance for a facility that does not otherwise comply with a statewide planning goal by taking an exception. Notwithstanding the requirements in ORS 197.732, the Council may take an exception if it makes specific findings under ORS 469.504(2)(a), (b), or (c). In the following sections, the Applicant demonstrates that a Goal 3 exception is warranted under ORS 469.504(2)(c) and OAR 345-022-0030(4)(c). An exception is warranted to allow a locationally dependent facility that will fulfill important state and County goals by providing renewable energy while minimizing impacts on local farming practices.

#### **K.5.4.1 Demonstration that a “Reasons” Exception is Appropriate**

**ORS 469.504(2)(c)(A); OAR 345-022-0030(4)(c)(A)** *Reasons justify why the state policy embodied in the applicable goal should not apply;*

Response: The general state policy embodied in Goal 3 is “[t]o preserve and maintain agricultural lands,” as set forth in OAR 660-015-0000(3). As discussed above, the Facility will not have significant adverse effects on accepted farm or forest practices. However, the Applicant must nonetheless demonstrate why the policy in Goal 3 should not apply to the Facility. The following sections identify three main reasons for not applying the Goal 3 acreage limitation to the Facility.

First, the proposed Facility is locationally dependent and cannot be developed on non-resource lands in Gilliam County. The Applicant is unaware of any meteorological information concerning significant, developable wind resources on nonresource land in Gilliam County. The only nonresource land in the area is primarily in the cities of Arlington and Condon. Neither of these locations has the necessary wind resource, adequate parcels of land, or proximate transmission system necessary to build the Facility. Moreover, these areas are urbanized and not conducive for siting the Facility.

Second, the proposed Facility will further important County and State policies. As discussed above, Gilliam County's Zoning and Land Development Ordinance expressly allows wind power generation facilities as a conditional use (GCDO 4.020(D)34). In 2005, the state of Oregon published a Renewable Energy Action Plan (Oregon Department of Energy, 2005). The Plan calls for significant, additional development of renewable resources, including wind energy. In 2007, the Oregon legislature passed Senate Bill 838 establishing Oregon's Renewable Portfolio Standard for electricity, requiring that 25 percent of Oregon's electric load come from new renewable energy by 2025. Further, Statewide Land Use Planning Goal 13 calls for the development of renewable energy resources. The Oregon Legislative Assembly has enacted numerous tax credits and economic development incentives favoring renewable energy development. Oregon's numerous statutory programs together reflect a thoroughgoing state policy of supporting renewable energy development. See, for example, ORS 757.612 (creating system benefit charge, a portion of the funds from which go to renewable energy); ORS 757.603(2) (requiring Oregon electric utilities to provide retail customers with at least one option including significant percentage of renewable energy).

On balance, the Facility will produce a significant advancement of important County and State policies while causing only a minor inconsistency with the policies behind Goal 3.

Third, the Facility will advance County and State policies of furthering efficient development and economic growth. The Facility will encourage the efficient siting of land uses, and facilitate multiple uses of land. The Facility will allow access to farmland and continued agricultural operations while simultaneously using the land for renewable energy generation.

The Facility will also benefit the local economy through employment opportunities, and provide contributions to the local tax base. Facility construction is anticipated to take approximately 9 to 12 months from the time of permit approval to commercial operation. During construction, an estimated average workforce of 200 people will be employed, with a maximum of 475 people during the peak months of construction. Operation of the Facility will require 10 to 30 full-time employees. These permanent jobs will contribute to the local economy. In addition, development of the Facility will result in an increase in annual property tax revenue to Gilliam County. Facility development will raise the value of other properties because of the increase in wages and overall economic activity in the analysis area. The additional tax revenue generated by the existence of the Facility will increase the County's ability to provide roadways, police and fire protection, and other services to its citizens.

While property tax revenue may decrease over the life of the Facility as the Facility components depreciate, based on the Applicant's experience with operating facilities in other counties, wind energy projects do contribute significant annual property tax revenue (Renewable Northwest Project, 2004).

The affected landowners will also benefit. In return for granting leases and easements over small amounts of their farmland, the landowners will receive significant financial compensation.

#### K.5.4.2 ESEE Consequences Favor the Exception

**ORS 469.504(2)(c)(B); OAR 345-022-0030(4)(c)(B)** *The significant environmental, economic, social and energy consequences anticipated as a result of the proposed facility have been identified and adverse impacts will be mitigated in accordance with rules of the Council applicable to the siting of the proposed facility;*

Response:

**Environmental.** The Facility's environmental consequences are discussed in Exhibits J (Wetlands), L (Protected Areas), P (Fish and Wildlife Habitats and Species), and Q (Threatened and Endangered Plant and Animal Species). These exhibits identify potential environmental consequences of Facility construction and operation, and demonstrate that the Facility, including proposed mitigation measures, will not cause any significant adverse environmental consequences.

**Socioeconomic.** The Facility's socioeconomic consequences will not be adverse. As demonstrated in Exhibits R (Scenic Resources), S (Historic, Cultural, and Archaeological Resources), and T (Recreational Opportunities), the Facility will have no significant adverse impacts on scenic, cultural, historical, archaeological, or recreational resources. Exhibit U (Public Services/Socioeconomic Impacts) also demonstrates that the Facility will not have significant adverse impacts on community services such as housing, sewer, water supply, waste disposal, health care, education, and transportation. As discussed above, the Facility will create jobs and contribute significant income to the County. These benefits should be measured against the relatively small amount of agricultural activity that will be temporarily displaced by the Facility. The Facility will also supplement the farmer landowners' income with lease payments without significantly reducing the farmers' available land base for farming operations.

**Energy.** The energy consequences of the Facility will be positive, as is the fact that the Facility will produce renewable, emissions-free energy.

#### K.5.4.3 Compatibility with Adjacent Land Uses

**ORS 469.504(2)(c)(C); OAR 345-022-0030(4)(c)(C)** *The proposed facility is compatible with other adjacent uses or will be made compatible through measures designed to reduce adverse impacts.*

Response: As discussed above, the proposed Facility is compatible with other adjacent uses. The Facility's construction and operation will not cause significant changes to accepted farming practices in the surrounding area nor will it significantly increase the costs of such practices. Adjacent land uses are wind farms, dry-land farming and some range land/grazing, and areas within the NRCS CRP (see Figures K-4 and K-5a through K-5d). The construction and operation of the Facility will be compatible with these uses.

#### **K.5.4.4 Conclusion**

In summary, there are compelling reasons why siting the Facility on agricultural land justifies a Goal 3 exception.

#### **K.6 FEDERAL LAND MANAGEMENT PLANS**

**OAR 345-021-0010(1)(k)(D)** *If the proposed Facility will be located on federal land:*

- i. Identify the applicable land management plans adopted by the federal agency with jurisdiction over the federal land;*
- ii. Explain any differences between state or local land use requirements and federal land management requirements;*
- iii. Describe how the proposed Facility complies with the applicable federal land management plan;*
- iv. Describe any federal land use approvals required for the proposed facility and the status of application for each required federal land use approval;*
- v. Provide an estimate of time for issuance of federal land use approvals; and*
- vi. If federal law or the land management plan conflicts with any applicable state or local land use requirements, explain the differences in the conflicting requirements, state whether the applicant requests Council waiver of the land use standard described under paragraph (B) or (C) of this subsection and explain the basis for a waiver.*

Response: These provisions do not apply. The Facility is not located on federal lands.

#### **K.7 CONCLUSION**

The information contained in this Exhibit provides the Council with sufficient information to make a determination that the Facility complies with the land use standard set forth in OAR 345-022-0030. The Facility complies with statewide planning goals under OAR 345-022-0030(2)(b)(A) and OAR 345-022-0030(4)(c). There are no conflicting requirements between the applicable substantive criteria and applicable statutes and administrative rules, and therefore the Council does not need to resolve the conflicts under OAR 345-022-0030(5).

#### **K.8 REFERENCES**

Gilliam County. 2000. Gilliam County Comprehensive Land Use Plan and Zoning Ordinances, As Amended October 25, 2000, by Order of the Gilliam County Court.

Gilliam County. 2005. Gilliam County Zoning and Land Development Ordinance, As Codified 2005.

Natural Resources Conservation Service (NRCS). 2009. U.S. Department of Agriculture, Natural Resources Conservation Service. Soil Survey Geographic (SSURGO) for Gilliam County, Oregon.

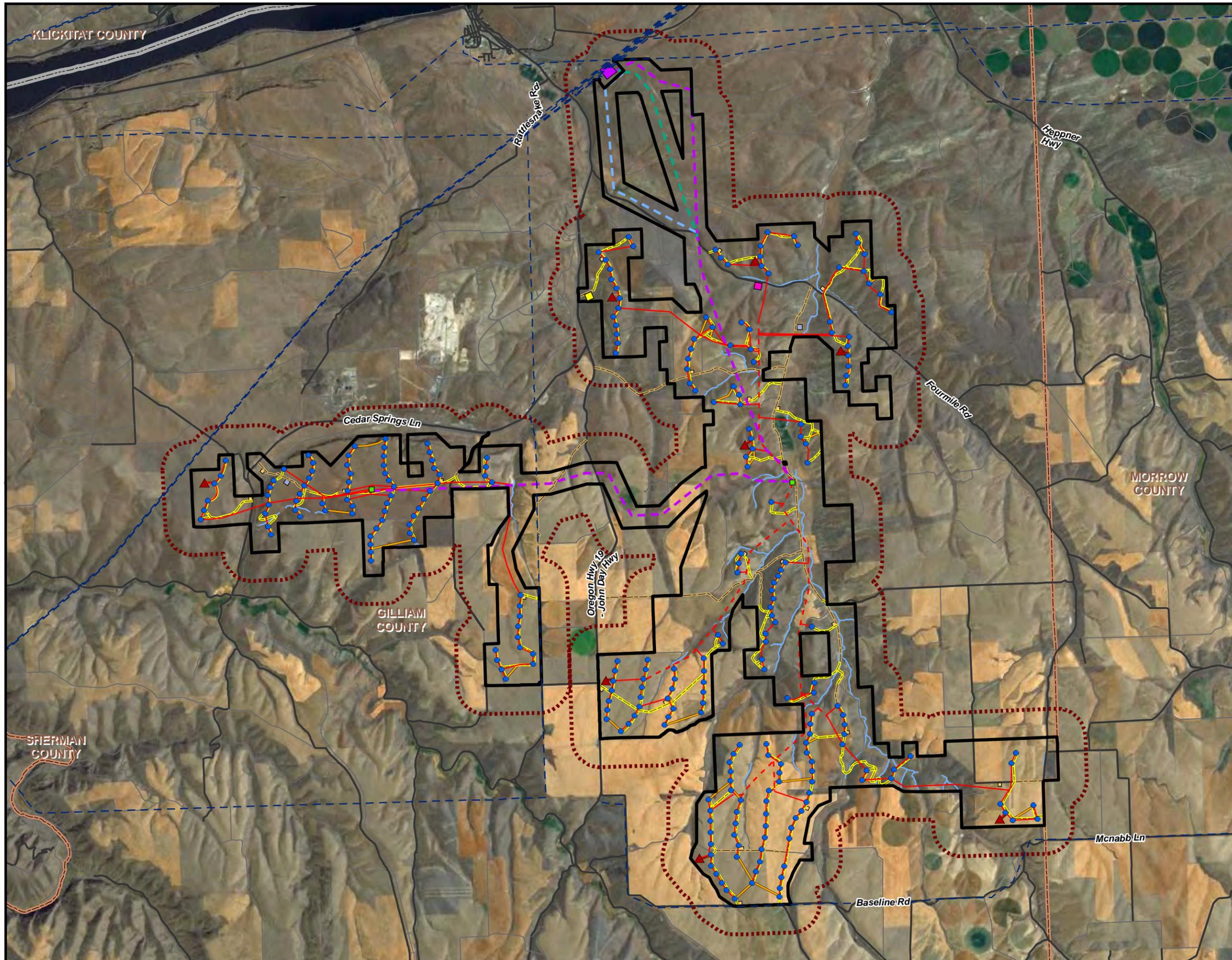
Oregon Department of Energy. 2005. *Renewable Energy Action Plan*. April 12, 2005.

Renewable Northwest Project. 2004.

[http://www.rnp.org/News/pr\\_RNPKlondikeDec04.html](http://www.rnp.org/News/pr_RNPKlondikeDec04.html). Web Site accessed December 2, 2009.



# Figures

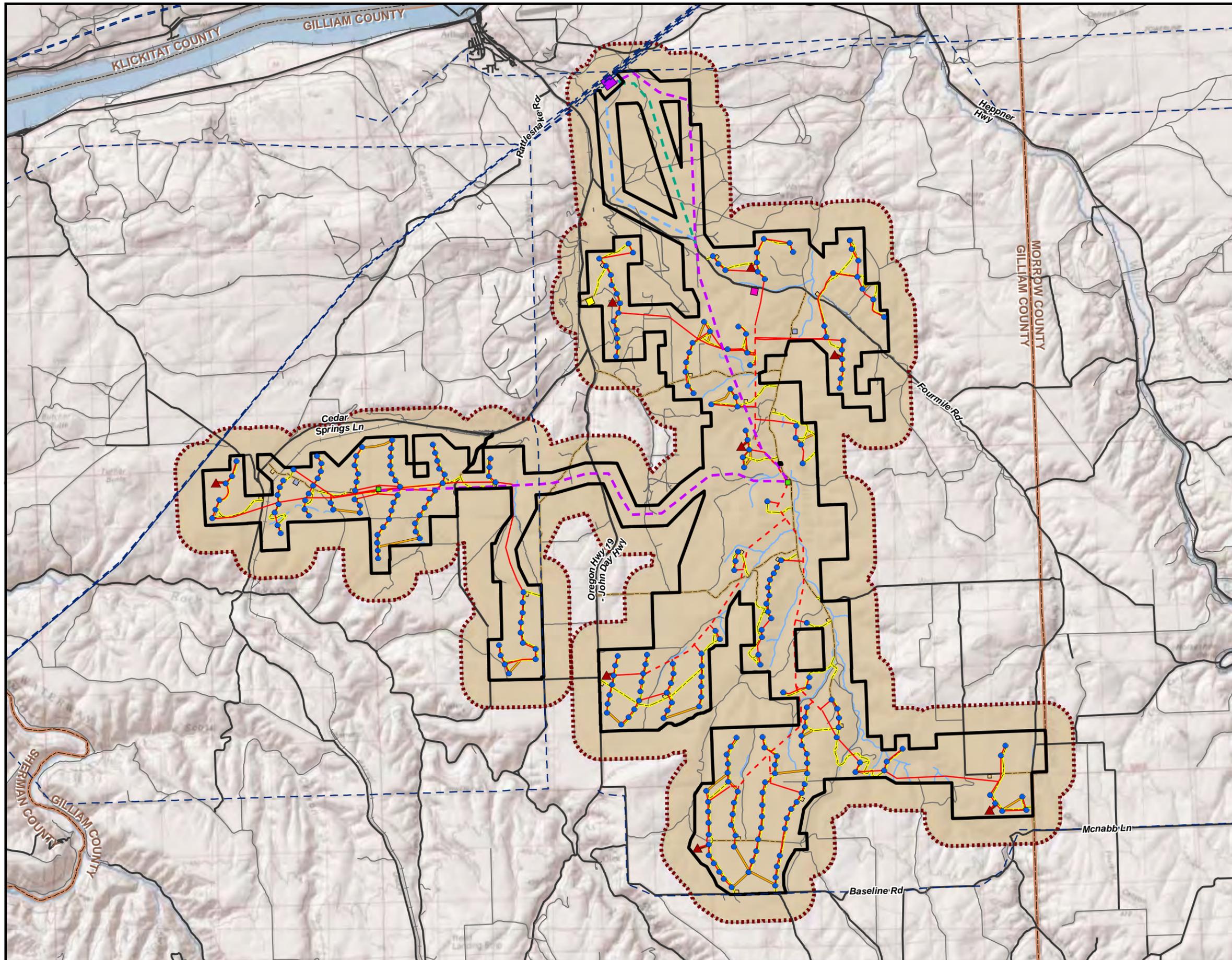


**Figure K-1**

**Aerial Photograph**  
 1.5-MW Turbine Layout  
 (Maximum Turbine Layout)  
 Montague Wind Power Facility

- Site Boundary/Micrositing Corridor
- Half-Mile Analysis Area
- Proposed Permanent Facilities**
- Proposed Turbine
- Proposed Met Tower
- Proposed New Turbine Road
- Proposed New Met Tower Road
- Proposed Improved Road
- Proposed Underground 34.5-kV Line
- Proposed Overhead 34.5-kV Line
- Proposed 230-kV Transmission Line
- Alternate 1 230-kV Transmission Line
- Alternate 2 230-kV Transmission Line
- Proposed 5-Acre Facility Collector Substation
- Proposed 10-Acre O&M Facility and Staging Area
- Alternate 10-Acre O&M Facility and Staging Area
- Proposed Temporary Facilities**
- Proposed Crane Path
- Proposed 2.5-Acre Staging Area
- Proposed 5-Acre Staging Area
- Existing Facilities**
- Existing Transmission Line
- Public Road
- Private Road
- Major Railroad Line
- Streams
- State Boundary
- BPA Slatt Interconnection Substation
- County Boundary

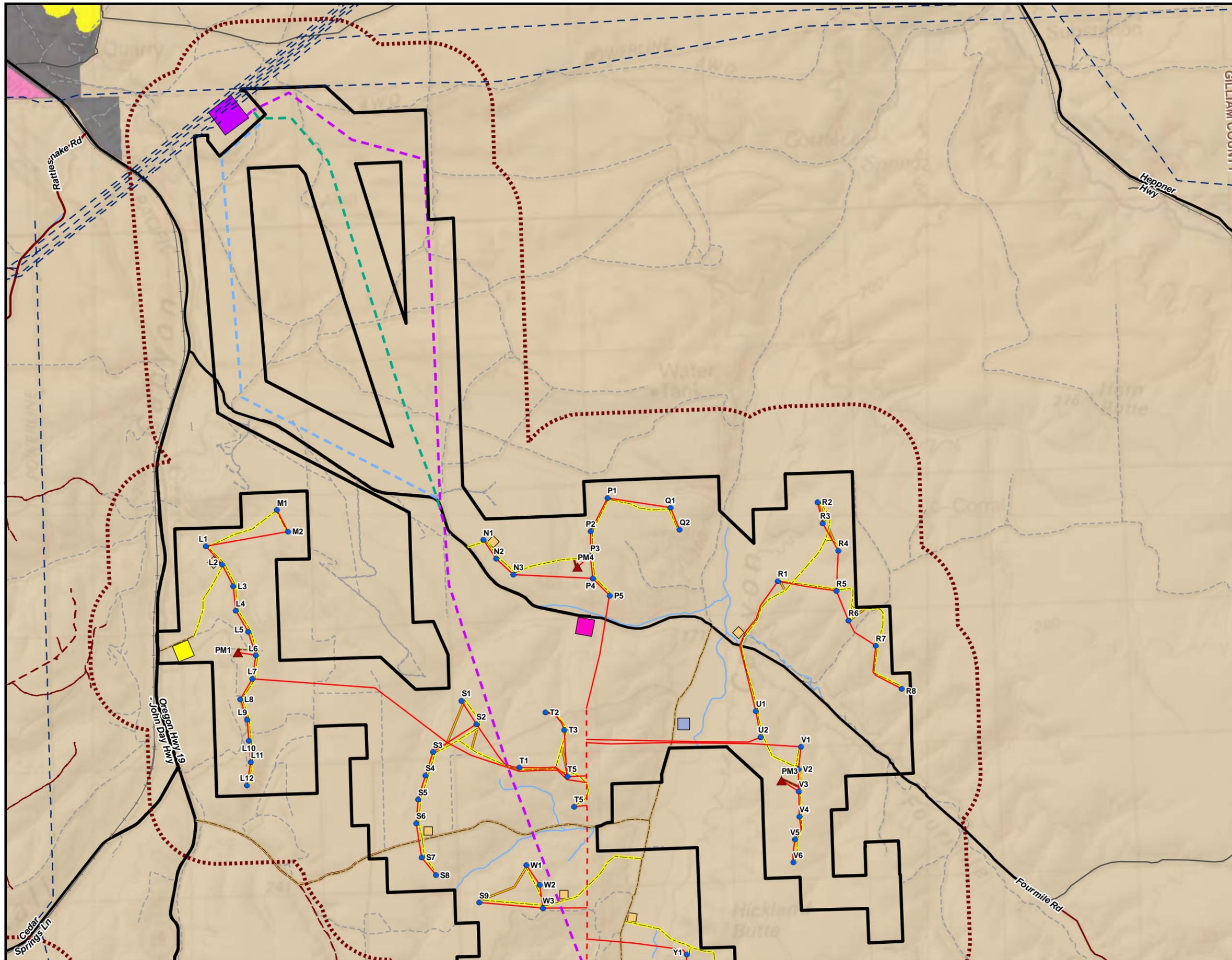




**Figure K-2**  
**Zoning Map**  
 1.5-MW Turbine Layout  
 (Maximum Turbine Layout)  
 Montague Wind Power Facility

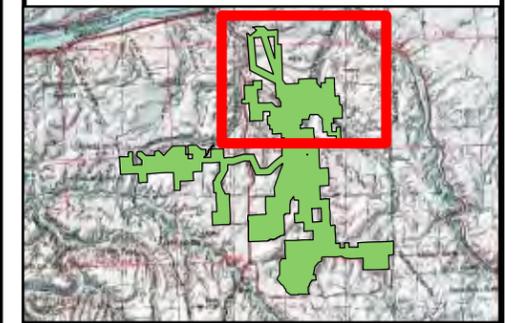
- Site Boundary/Micrositing Corridor
- Half-Mile Analysis Area
- Zoning**
- Exclusive Farm Use (EFU) Zone, Agricultural Comprehensive Plan Designation
- Proposed Permanent Facilities**
- Proposed Turbine
- Proposed Met Tower
- Proposed New Turbine Road
- Proposed New Met Tower Road
- Proposed Improved Road
- Proposed Underground 34.5-kV Line
- Proposed Overhead 34.5-kV Line
- Proposed 230-kV Transmission Line
- Alternate 1 230-kV Transmission Line
- Alternate 2 230-kV Transmission Line
- Proposed 5-Acre Facility Collector Substation
- Proposed 10-Acre O&M Facility and Staging Area
- Alternate 10-Acre O&M Facility and Staging Area
- Proposed Temporary Facilities**
- Proposed Crane Path
- Proposed 2.5-Acre Staging Area
- Proposed 5-Acre Staging Area
- Existing Facilities**
- Existing Transmission Line
- Public Road
- Private Road
- Major Railroad Line
- Streams
- State Boundary
- BPA Slatt Interconnection Substation
- County Boundary





**Figure K-3a**  
**Zoning Map -**  
**Detailed View 1 of 4**  
 1.5-MW Turbine Layout  
 (Maximum Turbine Layout)  
 Montague Wind Power Facility

- Site Boundary/Micrositing Corridor
- Half-Mile Analysis Area
- Zoning**
- Airport
- Exclusive Farm Use (EFU) Zone, Agricultural Comprehensive Plan Designation
- Industrial
- Open Space
- Proposed Permanent Facilities**
- Proposed Turbine
- Proposed Met Tower
- Proposed New Turbine Road
- Proposed New Met Tower Road
- Proposed Improved Road
- Proposed Underground 34.5-kV Line
- Proposed Overhead 34.5-kV Line
- Proposed 230-kV Transmission Line
- Alternate 1 230-kV Transmission Line
- Alternate 2 230-kV Transmission Line
- Proposed 10-Acre O&M Facility and Staging Area
- Alternate 10-Acre O&M Facility and Staging Area
- Proposed Temporary Facilities**
- Proposed Crane Path
- Proposed 2.5-Acre Staging Area
- Proposed 5-Acre Staging Area
- Existing Facilities**
- Existing Transmission Line
- Public, Paved
- Public, Gravel
- Other Public Road
- Private, Gravel
- Other Private Road
- Major Railroad Line
- Streams
- BPA Slatt Interconnection Substation
- County Boundary

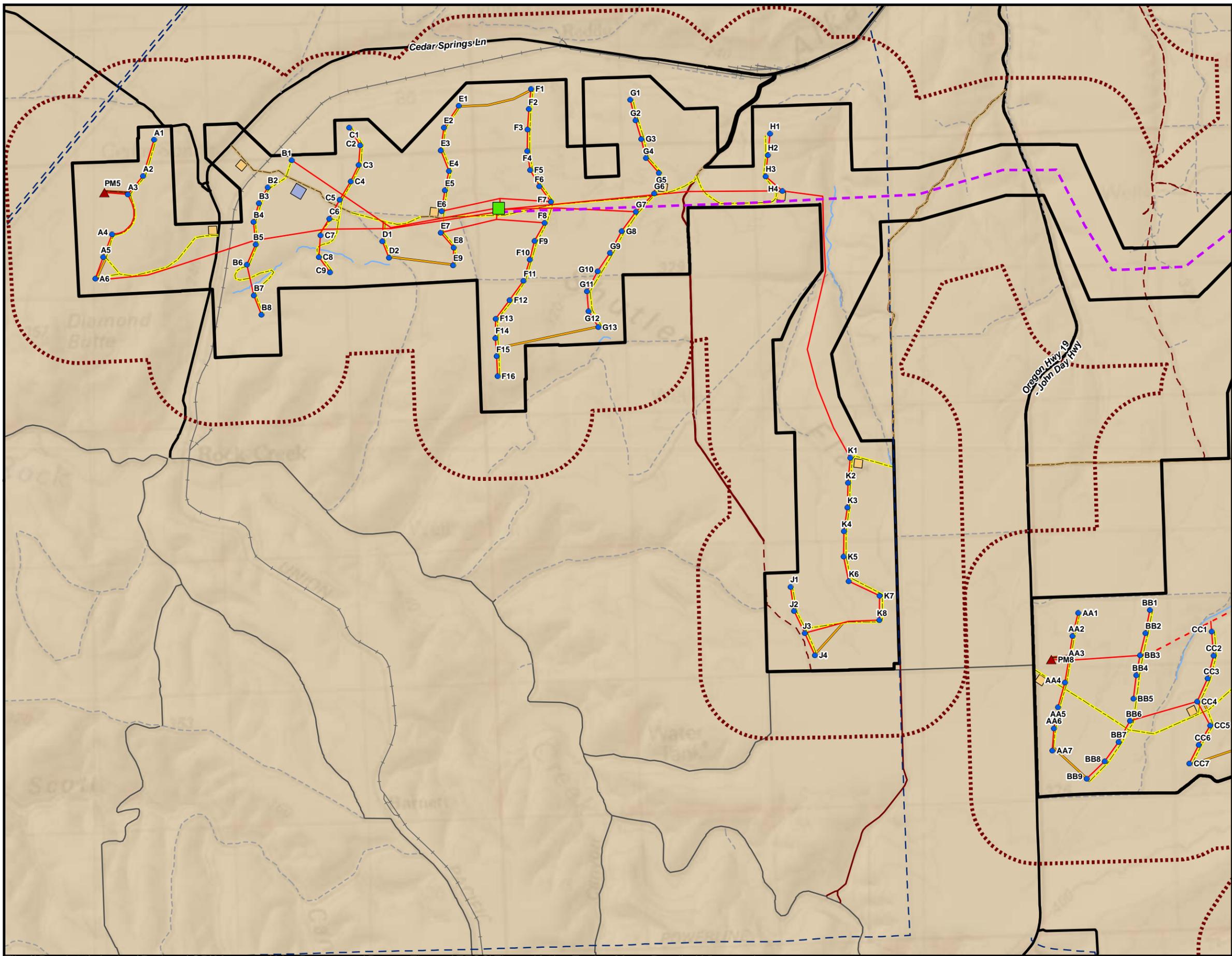
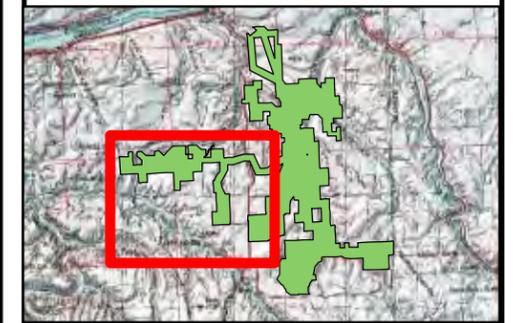


**Figure K-3b**

**Zoning Map -  
Detailed View 2 of 4**  
1.5-MW Turbine Layout  
(Maximum Turbine Layout)

Montague Wind Power Facility

-  Site Boundary/Micrositing Corridor
-  Half-Mile Analysis Area
- Zoning**
-  Exclusive Farm Use (EFU) Zone, Agricultural Comprehensive Plan Designation
- Proposed Permanent Facilities**
-  Proposed Turbine
-  Proposed Met Tower
-  Proposed New Turbine Road
-  Proposed New Met Tower Road
-  Proposed Improved Road
-  Proposed Underground 34.5-kV Line
-  Proposed Overhead 34.5-kV Line
-  Proposed 230-kV Transmission Line
-  Proposed 5-Acre Facility Collector Substation
- Proposed Temporary Facilities**
-  Proposed Crane Path
-  Proposed 2.5-Acre Staging Area
-  Proposed 5-Acre Staging Area
- Existing Facilities**
-  Existing Transmission Line
-  Public, Paved
-  Public, Gravel
-  Other Public Road
-  Private, Gravel
-  Other Private Road
-  Major Railroad Line
-  Streams
-  County Boundary

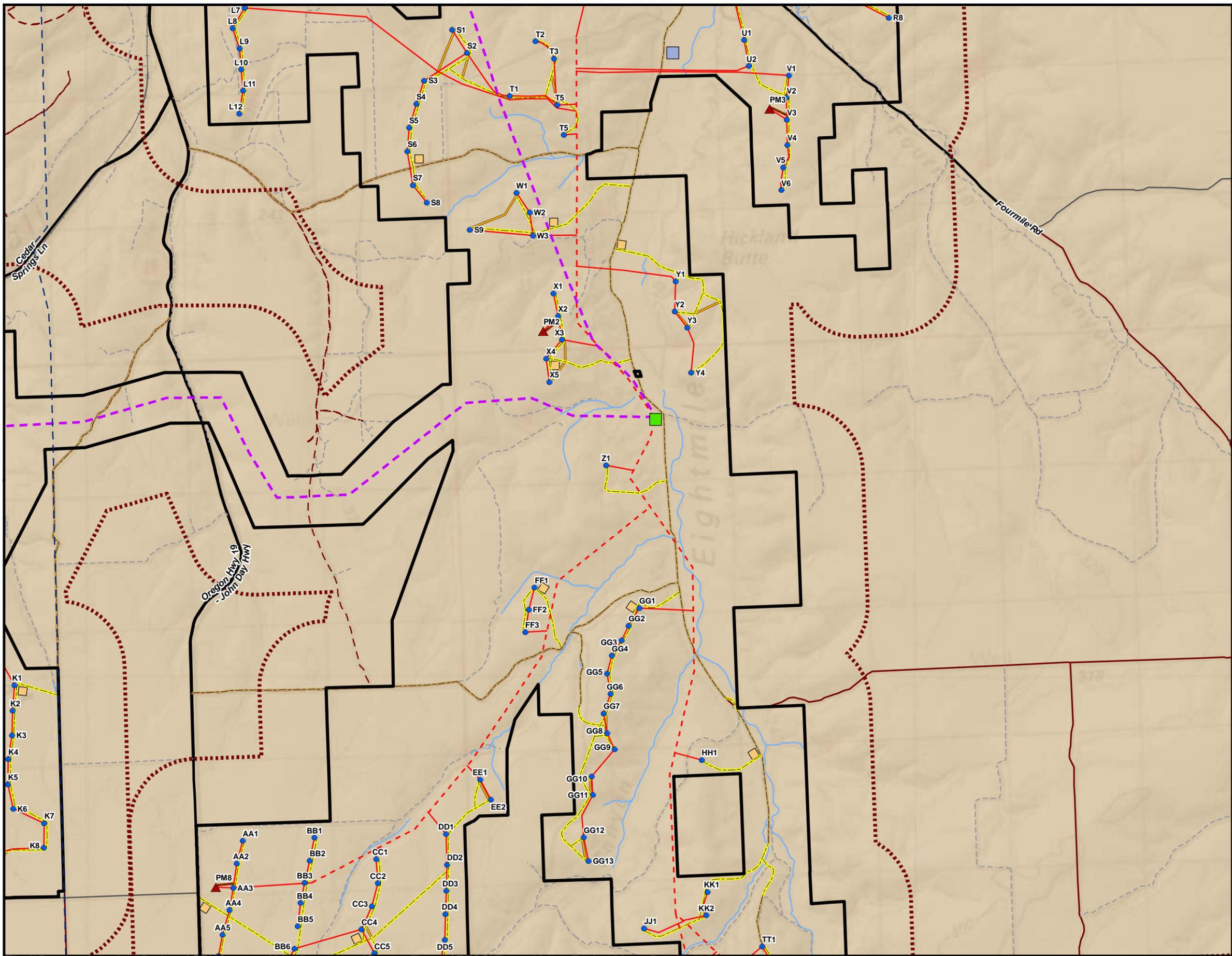
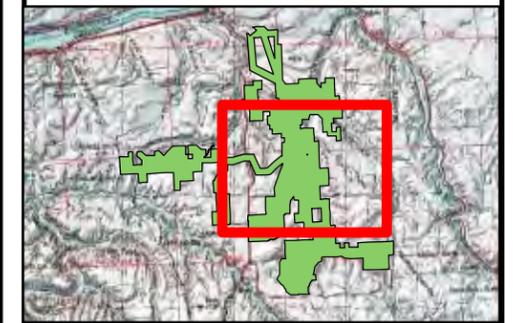


**Figure K-3c**

**Zoning Map -  
Detailed View 3 of 4**  
1.5-MW Turbine Layout  
(Maximum Turbine Layout)

Montague Wind Power Facility

-  Site Boundary/Micrositing Corridor
-  Half-Mile Analysis Area
- Zoning**
-  Exclusive Farm Use (EFU) Zone, Agricultural Comprehensive Plan Designation
- Proposed Permanent Facilities**
-  Proposed Turbine
-  Proposed Met Tower
-  Proposed New Turbine Road
-  Proposed New Met Tower Road
-  Proposed Improved Road
-  Proposed Underground 34.5-kV Line
-  Proposed Overhead 34.5-kV Line
-  Proposed 230-kV Transmission Line
-  Proposed 5-Acre Facility Collector Substation
- Proposed Temporary Facilities**
-  Proposed Crane Path
-  Proposed 2.5-Acre Staging Area
-  Proposed 5-Acre Staging Area
- Existing Facilities**
-  Existing Transmission Line
-  Public, Paved
-  Public, Gravel
-  Other Public Road
-  Private, Gravel
-  Other Private Road
-  Major Railroad Line
-  Streams
-  County Boundary

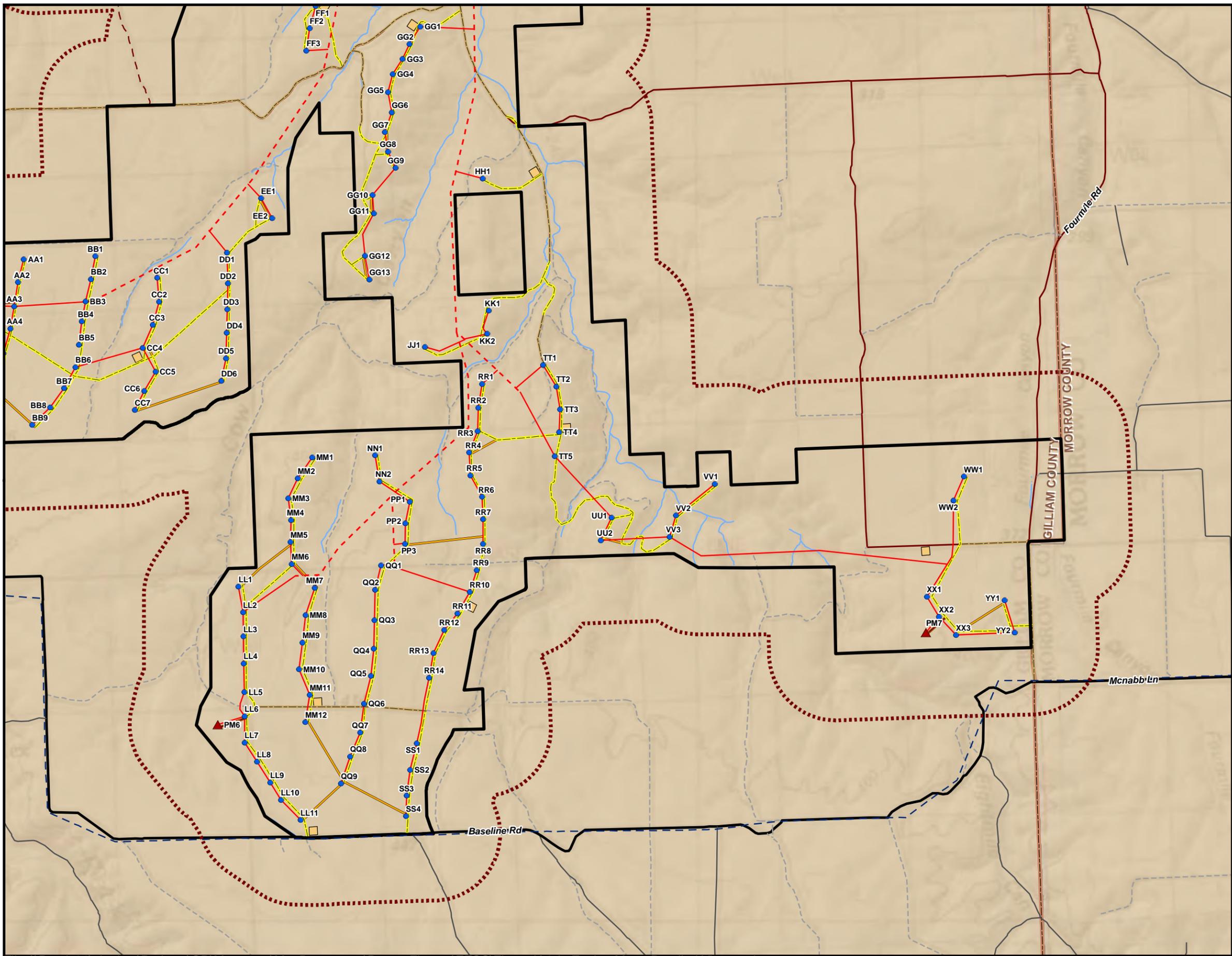
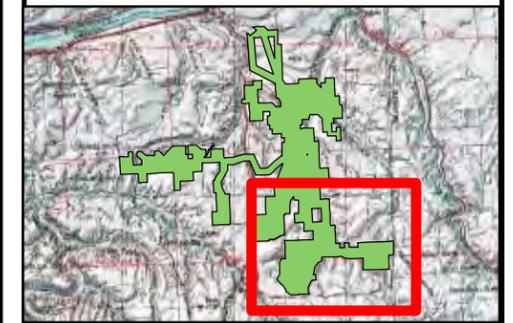
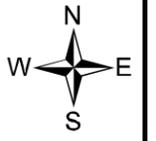


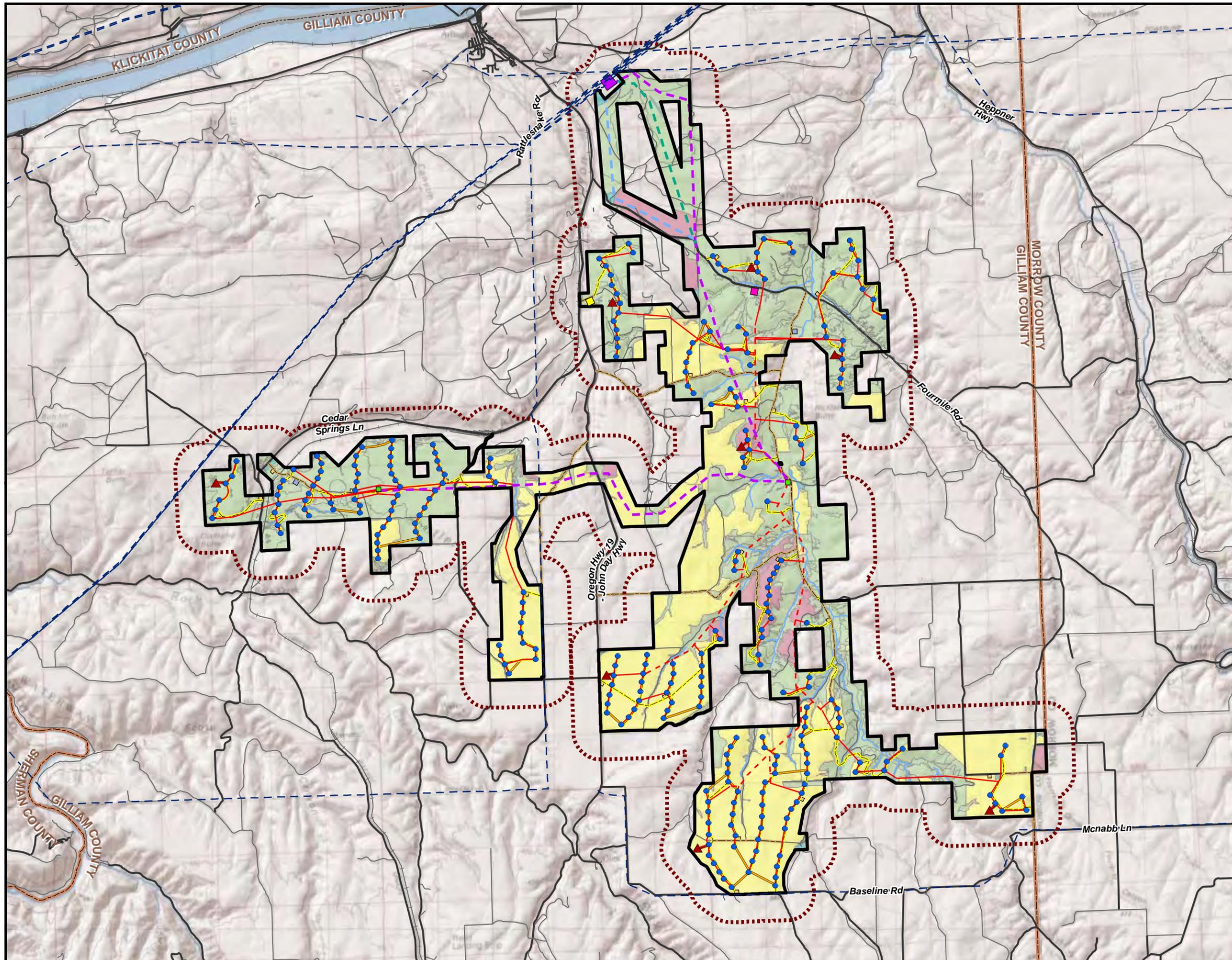
**Figure K-3d**

**Zoning Map -  
Detailed View 4 of 4**  
1.5-MW Turbine Layout  
(Maximum Turbine Layout)

Montague Wind Power Facility

-  Site Boundary/Micrositing Corridor
-  Half-Mile Analysis Area
- Zoning**
-  Exclusive Farm Use (EFU) Zone, Agricultural Comprehensive Plan Designation
- Proposed Permanent Facilities**
-  Proposed Turbine
-  Proposed Met Tower
-  Proposed New Turbine Road
-  Proposed New Met Tower Road
-  Proposed Improved Road
-  Proposed Underground 34.5-kV Line
-  Proposed Overhead 34.5-kV Line
- Proposed Temporary Facilities**
-  Proposed Crane Path
-  Proposed 2.5-Acre Staging Area
- Existing Facilities**
-  Existing Transmission Line
-  Public, Paved
-  Public, Gravel
-  Other Public Road
-  Private, Gravel
-  Other Private Road
-  Major Railroad Line
-  Streams
-  County Boundary



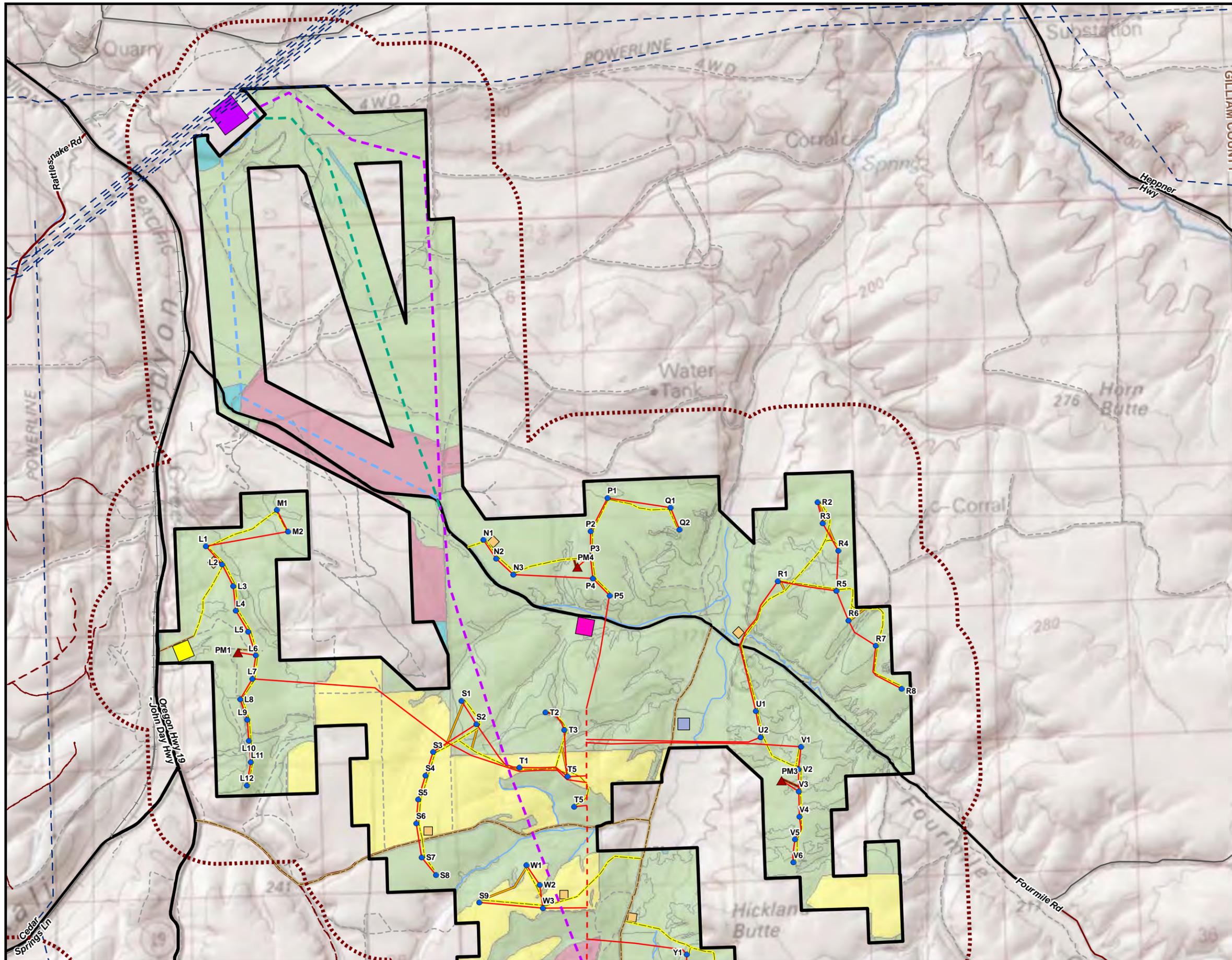


**Figure K-4**  
**Land Use Map**  
 1.5-MW Turbine Layout  
 (Maximum Turbine Layout)  
 Montague Wind Power Facility

- Site Boundary/Micrositing Corridor
- Half-Mile Analysis Area
- Land Use**
- CRP/Revegetated
- Crop Land
- Developed
- Range/Grazing
- Proposed Permanent Facilities**
- Proposed Turbine
- Proposed Met Tower
- Proposed New Turbine Road
- Proposed New Met Tower Road
- Proposed Improved Road
- Proposed Underground 34.5-kV Line
- Proposed Overhead 34.5-kV Line
- Proposed 230-kV Transmission Line
- Alternate 1 230-kV Transmission Line
- Alternate 2 230-kV Transmission Line
- Proposed 5-Acre Facility Collector Substation
- Proposed 10-Acre O&M Facility and Staging Area
- Alternate 10-Acre O&M Facility and Staging Area
- Proposed Temporary Facilities**
- Proposed Crane Path
- Proposed 2.5-Acre Staging Area
- Proposed 5-Acre Staging Area
- Existing Facilities**
- Existing Transmission Line
- Public Road
- Private Road
- Major Railroad Line
- Streams
- State Boundary
- BPA Slatt Interconnection Substation
- County Boundary

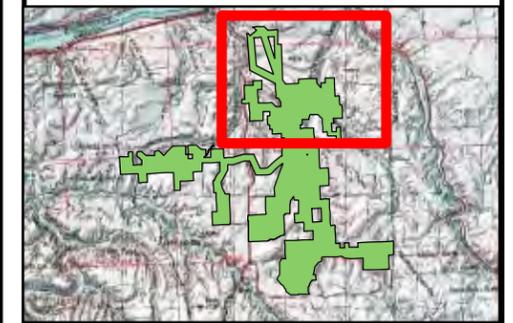


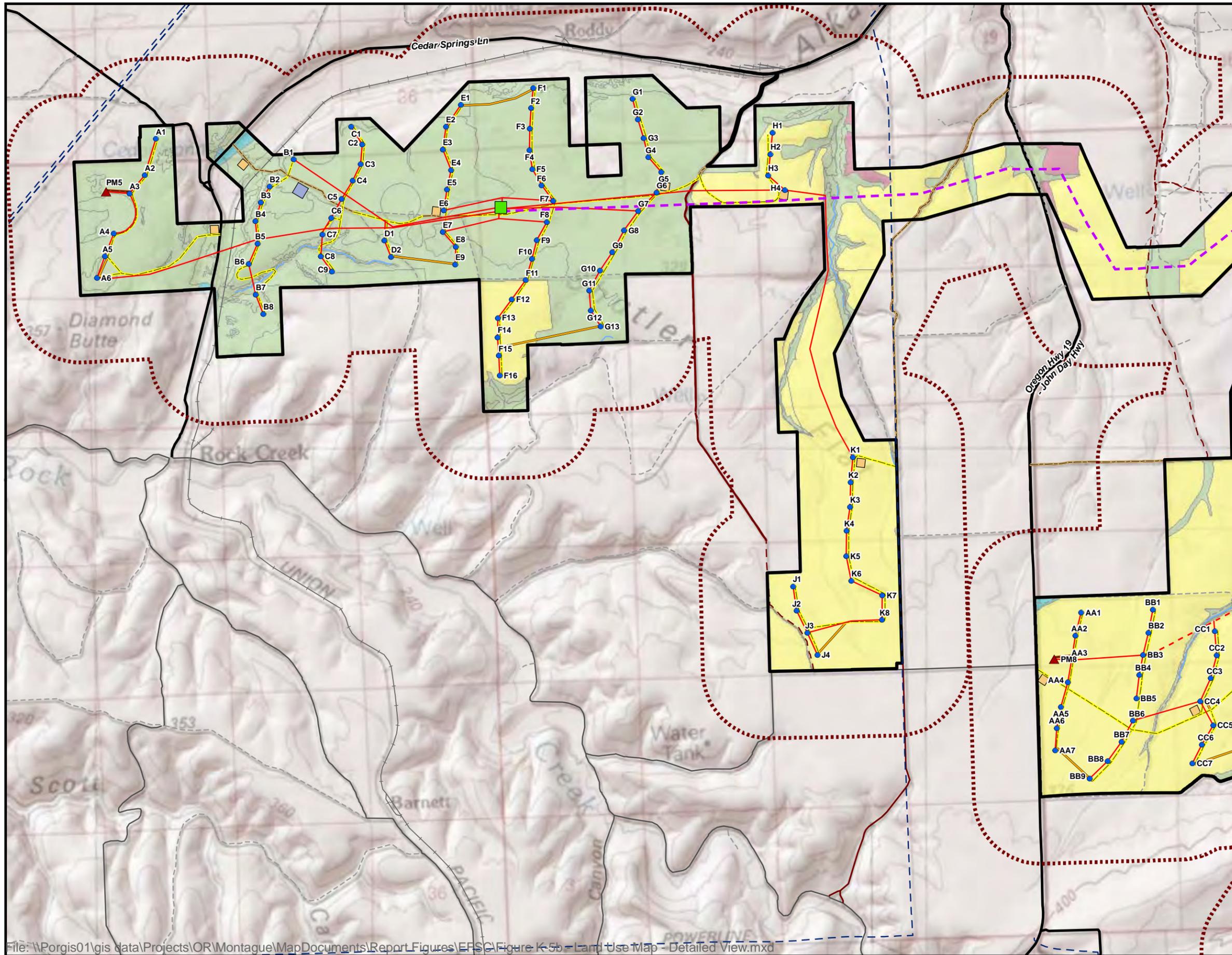
IBERDROLA RENEWABLES  
 10/10/2010



**Figure K-5a**  
**Land Use Map -**  
**Detailed View 1 of 4**  
 1.5-MW Turbine Layout  
 (Maximum Turbine Layout)  
 Montague Wind Power Facility

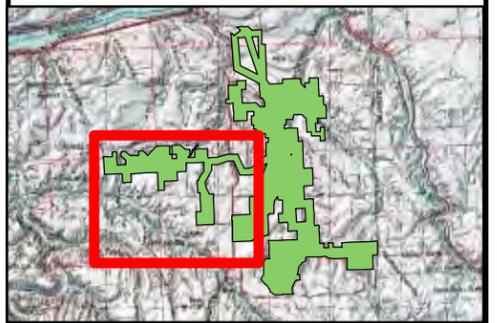
- Site Boundary/Micrositing Corridor
- Half-Mile Analysis Area
- Land Use**
- CRP/Revegetated
- Crop Land
- Developed
- Range/Grazing
- Proposed Permanent Facilities**
- Proposed Turbine
- Proposed Met Tower
- Proposed New Turbine Road
- Proposed New Met Tower Road
- Proposed Improved Road
- Proposed Underground 34.5-kV Line
- Proposed Overhead 34.5-kV Line
- Proposed 230-kV Transmission Line
- Alternate 1 230-kV Transmission Line
- Alternate 2 230-kV Transmission Line
- Proposed 10-Acre O&M Facility and Staging Area
- Alternate 10-Acre O&M Facility and Staging Area
- Proposed Temporary Facilities**
- Proposed Crane Path
- Proposed 2.5-Acre Staging Area
- Proposed 5-Acre Staging Area
- Existing Facilities**
- Existing Transmission Line
- Public, Paved
- Public, Gravel
- Other Public Road
- Private, Gravel
- Other Private Road
- Major Railroad Line
- Streams
- BPA Slat Interconnection Substation
- County Boundary





**Figure K-5b**  
**Land Use Map -**  
**Detailed View 2 of 4**  
 1.5-MW Turbine Layout  
 (Maximum Turbine Layout)  
 Montague Wind Power Facility

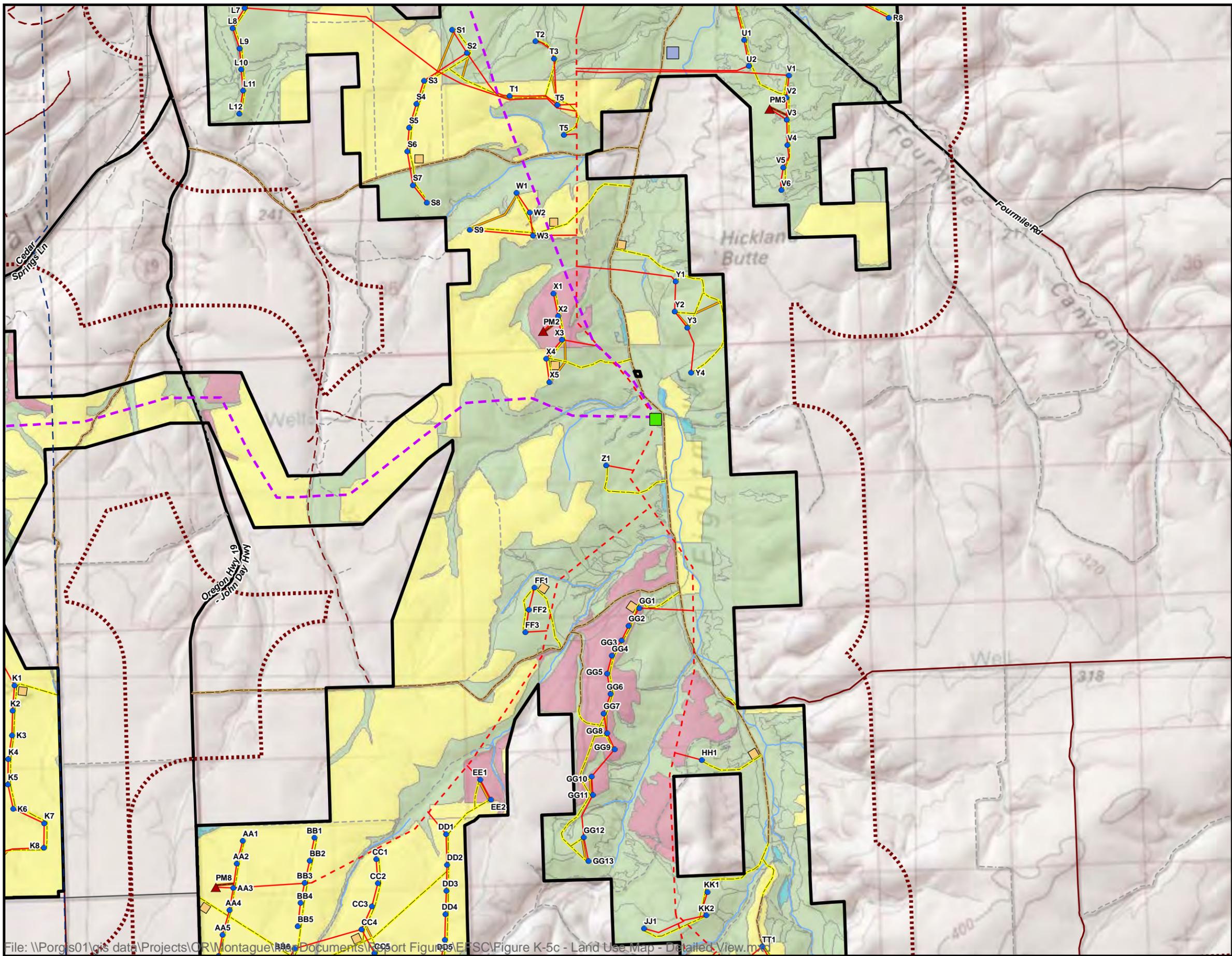
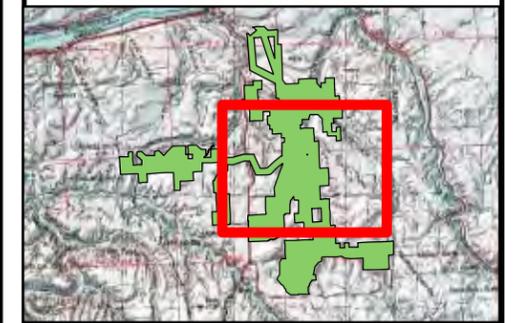
- Site Boundary/Micrositing Corridor
- Half-Mile Analysis Area
- Land Use**
- CRP/Revegetated
- Crop Land
- Developed
- Range/Grazing
- Proposed Permanent Facilities**
- Proposed Turbine
- Proposed Met Tower
- Proposed New Turbine Road
- Proposed New Met Tower Road
- Proposed Improved Road
- Proposed Underground 34.5-kV Line
- Proposed Overhead 34.5-kV Line
- Proposed 230-kV Transmission Line
- Proposed 5-Acre Facility Collector Substation
- Proposed Temporary Facilities**
- Proposed Crane Path
- Proposed 2.5-Acre Staging Area
- Proposed 5-Acre Staging Area
- Existing Facilities**
- Existing Transmission Line
- Public, Paved
- Public, Gravel
- Other Public Road
- Private, Gravel
- Other Private Road
- Major Railroad Line
- Streams
- County Boundary



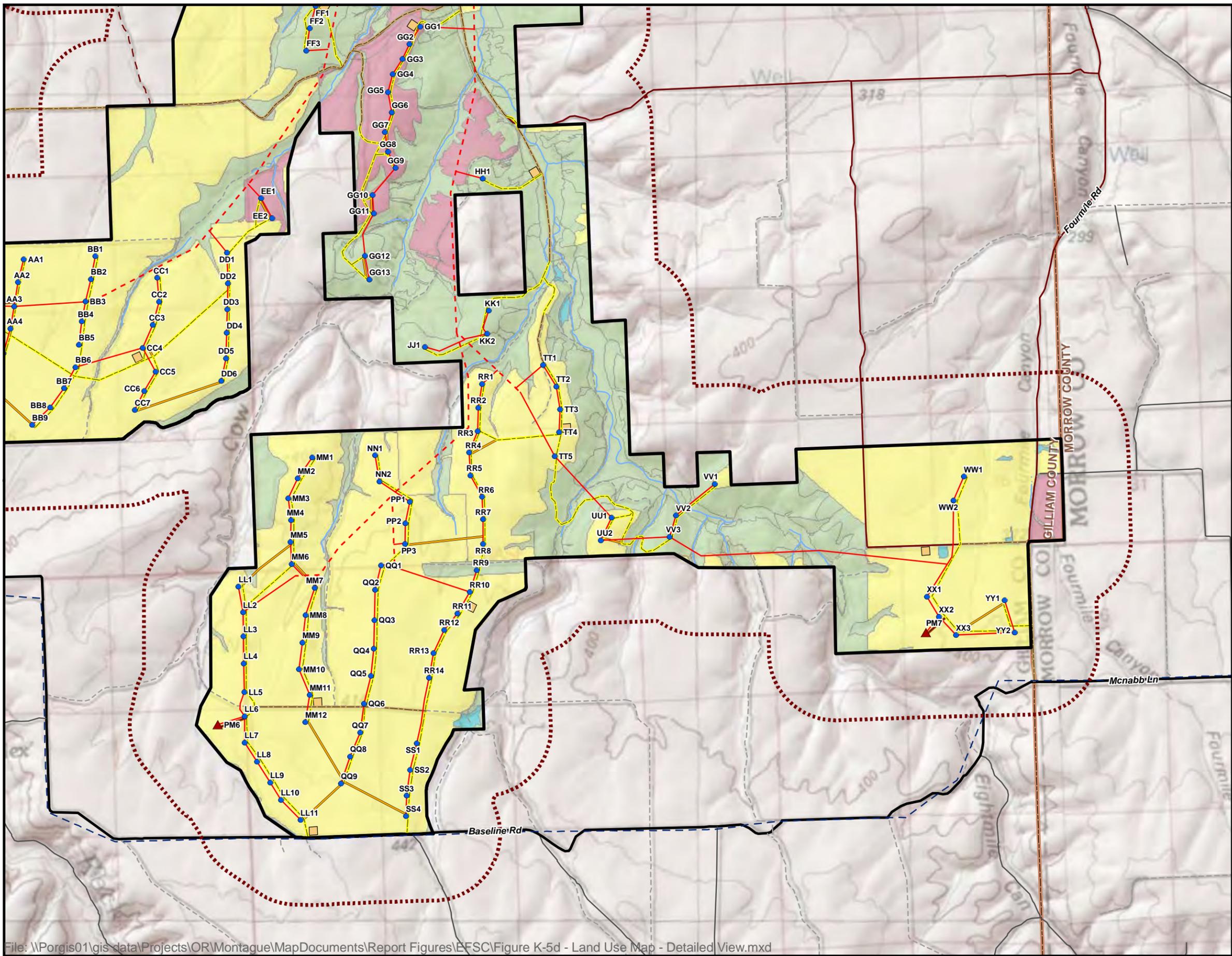
**Figure K-5c**

**Land Use Map -  
Detailed View 3 of 4**  
1.5-MW Turbine Layout  
(Maximum Turbine Layout)  
Montague Wind Power Facility

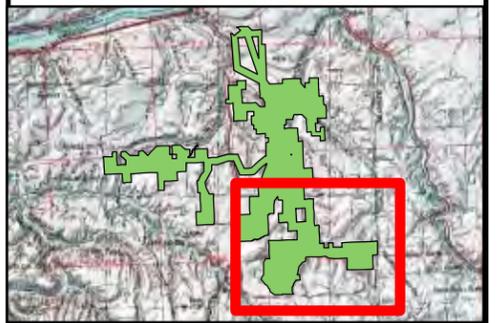
- Site Boundary/Micrositing Corridor
  - Half-Mile Analysis Area
  - Land Use**
  - CRP/Revegetated
  - Crop Land
  - Developed
  - Range/Grazing
  - Proposed Permanent Facilities**
  - Proposed Turbine
  - Proposed Met Tower
  - Proposed New Turbine Road
  - Proposed New Met Tower Road
  - Proposed Improved Road
  - Proposed Underground 34.5-kV Line
  - Proposed Overhead 34.5-kV Line
  - Proposed 230-kV Transmission Line
  - Proposed 5-Acre Facility Collector Substation
  - Proposed Temporary Facilities**
  - Proposed Crane Path
  - Proposed 2.5-Acre Staging Area
  - Proposed 5-Acre Staging Area
  - Existing Facilities**
  - Existing Transmission Line
  - Public, Paved
  - Public, Gravel
  - Other Public Road
  - Private, Gravel
  - Other Private Road
  - Major Railroad Line
  - Streams
  - County Boundary
- 0 0.5 1 1.5  
Miles

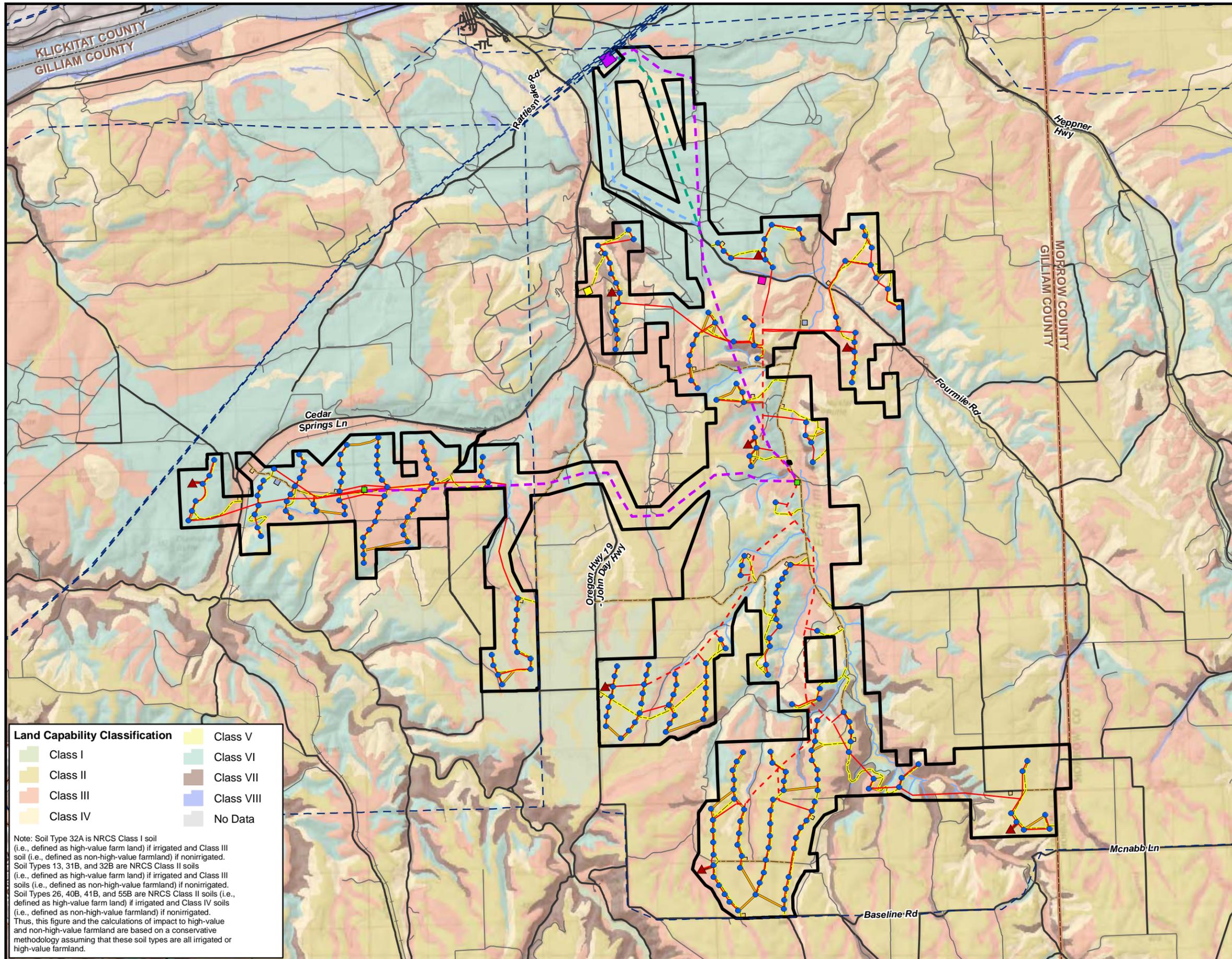


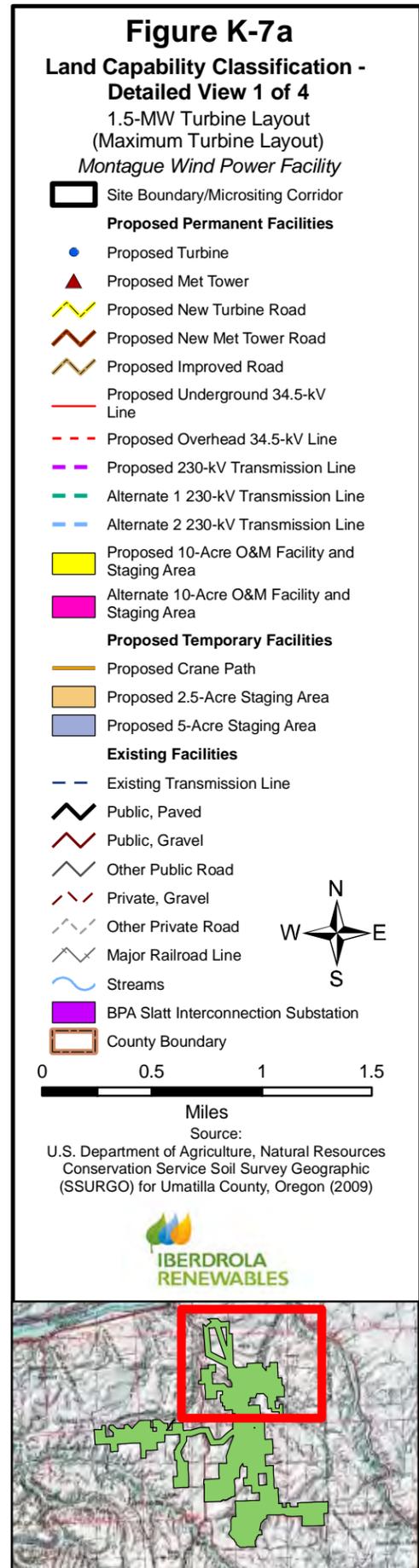
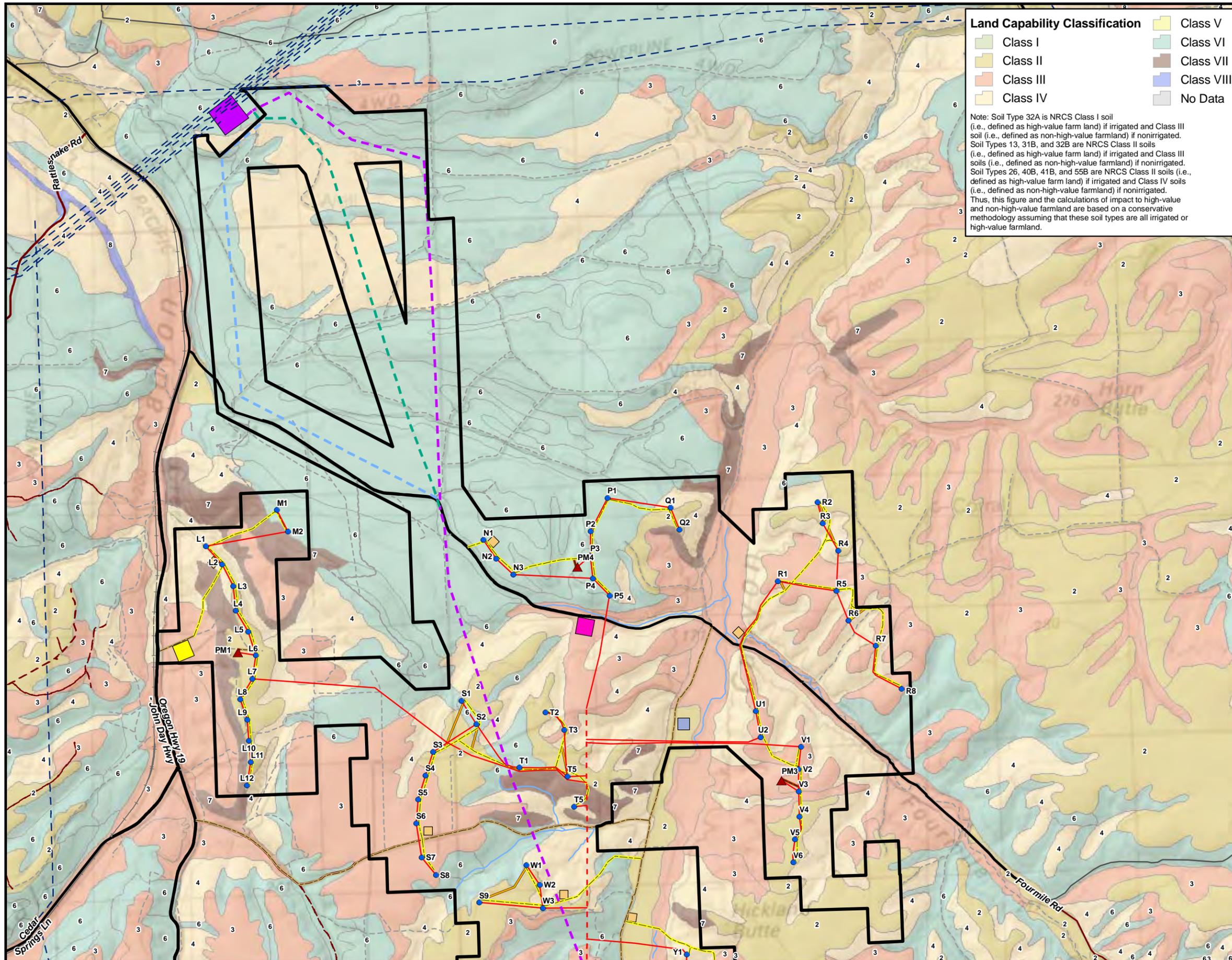
**Figure K-5d**  
**Land Use Map -**  
**Detailed View 4 of 4**  
 1.5-MW Turbine Layout  
 (Maximum Turbine Layout)  
 Montague Wind Power Facility



- Site Boundary/Micrositing Corridor
- Half-Mile Analysis Area
- Land Use**
- CRP/Revegetated
- Crop Land
- Developed
- Range/Grazing
- Proposed Permanent Facilities**
- Proposed Turbine
- Proposed Met Tower
- Proposed New Turbine Road
- Proposed New Met Tower Road
- Proposed Improved Road
- Proposed Underground 34.5-kV Line
- Proposed Overhead 34.5-kV Line
- Proposed Temporary Facilities**
- Proposed Crane Path
- Proposed 2.5-Acre Staging Area
- Existing Facilities**
- Existing Transmission Line
- Public, Paved
- Public, Gravel
- Other Public Road
- Private, Gravel
- Other Private Road
- Major Railroad Line
- Streams
- County Boundary





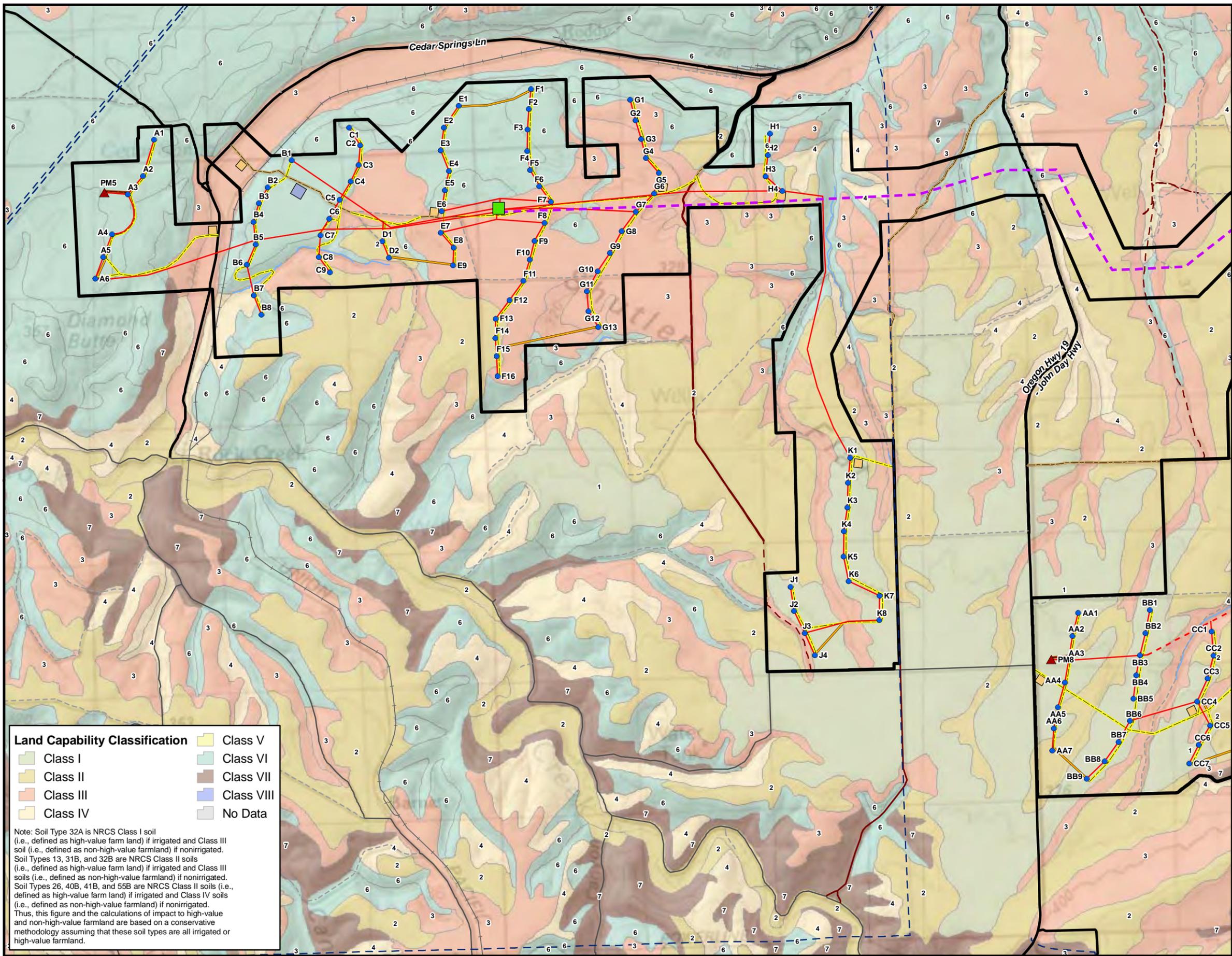
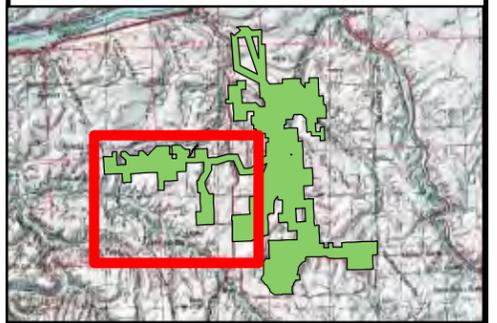


**Figure K-7b**  
**Land Capability Classification -**  
**Detailed View 2 of 4**  
 1.5-MW Turbine Layout  
 (Maximum Turbine Layout)  
 Montague Wind Power Facility

- Site Boundary/Micrositing Corridor
- Proposed Permanent Facilities**
- Proposed Turbine
- Proposed Met Tower
- Proposed New Turbine Road
- Proposed New Met Tower Road
- Proposed Improved Road
- Proposed Underground 34.5-kV Line
- Proposed Overhead 34.5-kV Line
- Proposed 230-kV Transmission Line
- Proposed 5-Acre Facility Collector Substation
- Proposed Temporary Facilities**
- Proposed Crane Path
- Proposed 2.5-Acre Staging Area
- Proposed 5-Acre Staging Area
- Existing Facilities**
- Existing Transmission Line
- Public, Paved
- Public, Gravel
- Other Public Road
- Private, Gravel
- Other Private Road
- Major Railroad Line
- Streams
- County Boundary



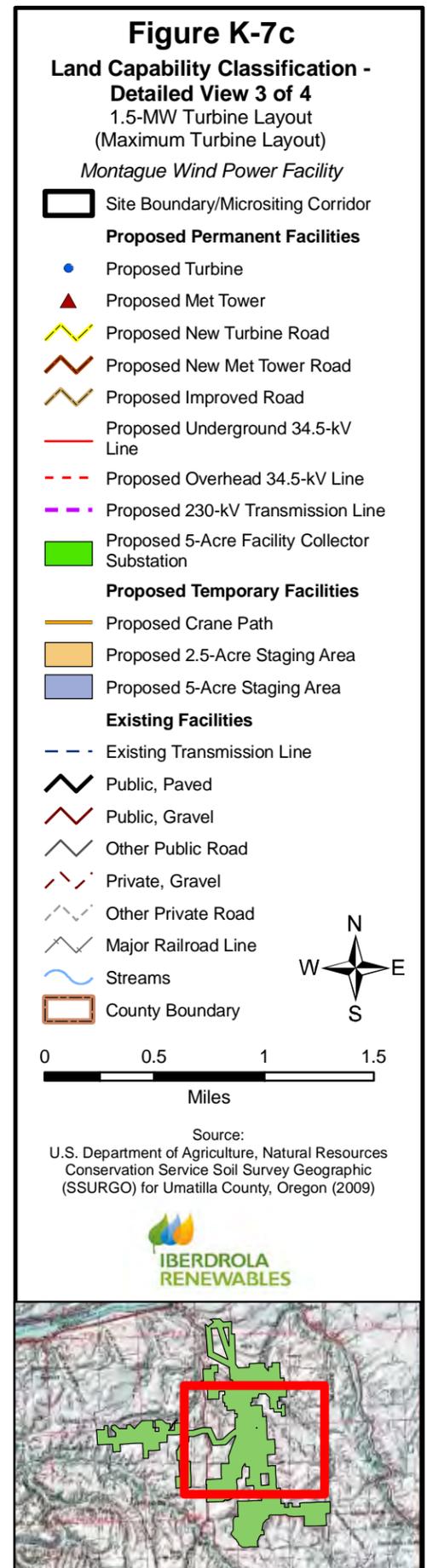
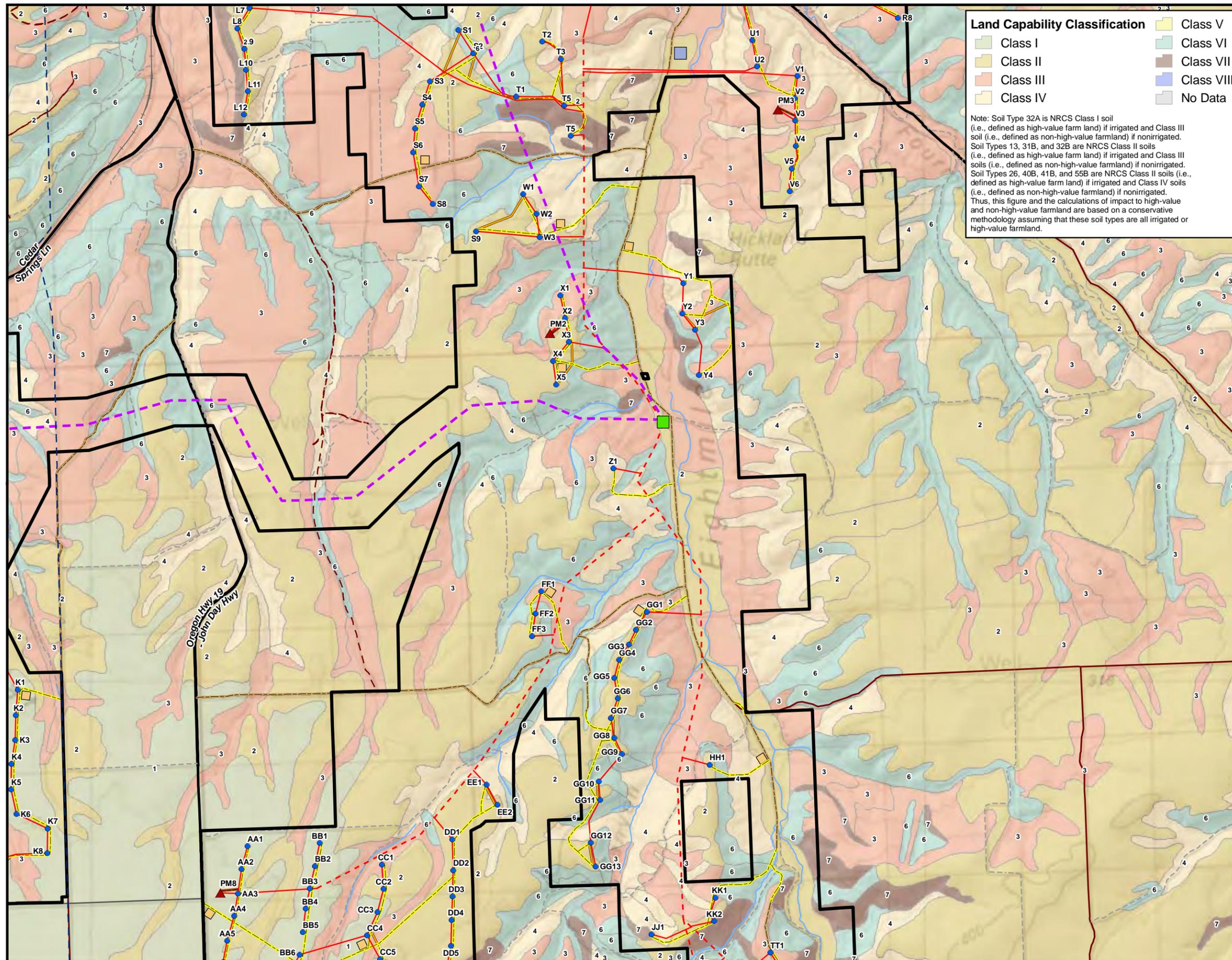
Source:  
 U.S. Department of Agriculture, Natural Resources  
 Conservation Service Soil Survey Geographic  
 (SSURGO) for Umatilla County, Oregon (2009)



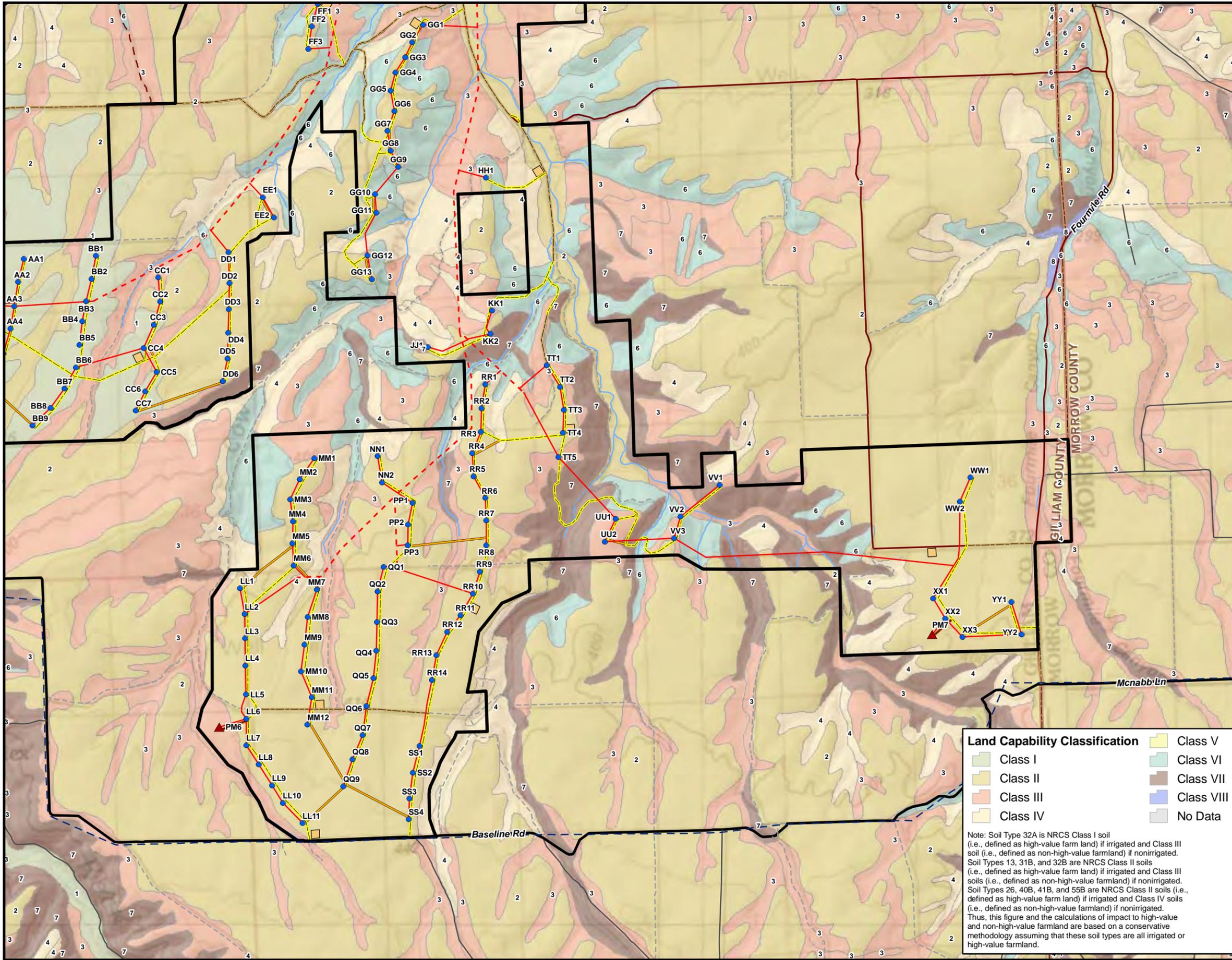
**Land Capability Classification**

	Class I		Class V
	Class II		Class VI
	Class III		Class VII
	Class IV		Class VIII
			No Data

Note: Soil Type 32A is NRCS Class I soil (i.e., defined as high-value farmland) if irrigated and Class III soil (i.e., defined as non-high-value farmland) if nonirrigated. Soil Types 13, 31B, and 32B are NRCS Class II soils (i.e., defined as high-value farmland) if irrigated and Class III soils (i.e., defined as non-high-value farmland) if nonirrigated. Soil Types 26, 40B, 41B, and 55B are NRCS Class II soils (i.e., defined as high-value farmland) if irrigated and Class IV soils (i.e., defined as non-high-value farmland) if nonirrigated. Thus, this figure and the calculations of impact to high-value and non-high-value farmland are based on a conservative methodology assuming that these soil types are all irrigated or high-value farmland.



**Figure K-7d**  
**Land Capability Classification -**  
**Detailed View 4 of 4**  
 1.5-MW Turbine Layout  
 (Maximum Turbine Layout)  
 Montague Wind Power Facility



- Site Boundary/Micrositing Corridor
- Proposed Permanent Facilities**
- Proposed Turbine
- ▲ Proposed Met Tower
- Proposed New Turbine Road
- Proposed New Met Tower Road
- Proposed Improved Road
- Proposed Underground 34.5-kV Line
- - - Proposed Overhead 34.5-kV Line
- Proposed Temporary Facilities**
- Proposed Crane Path
- Proposed 2.5-Acre Staging Area
- Existing Facilities**
- - - Existing Transmission Line
- Public, Paved
- Public, Gravel
- Other Public Road
- - - Private, Gravel
- - - Other Private Road
- Major Railroad Line
- Streams
- County Boundary

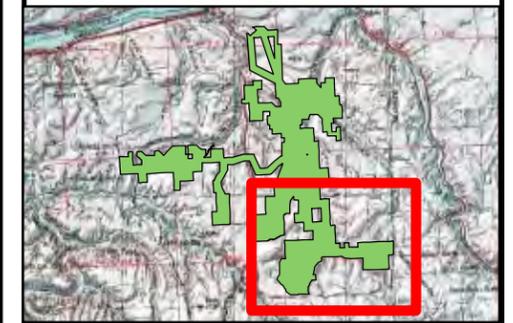


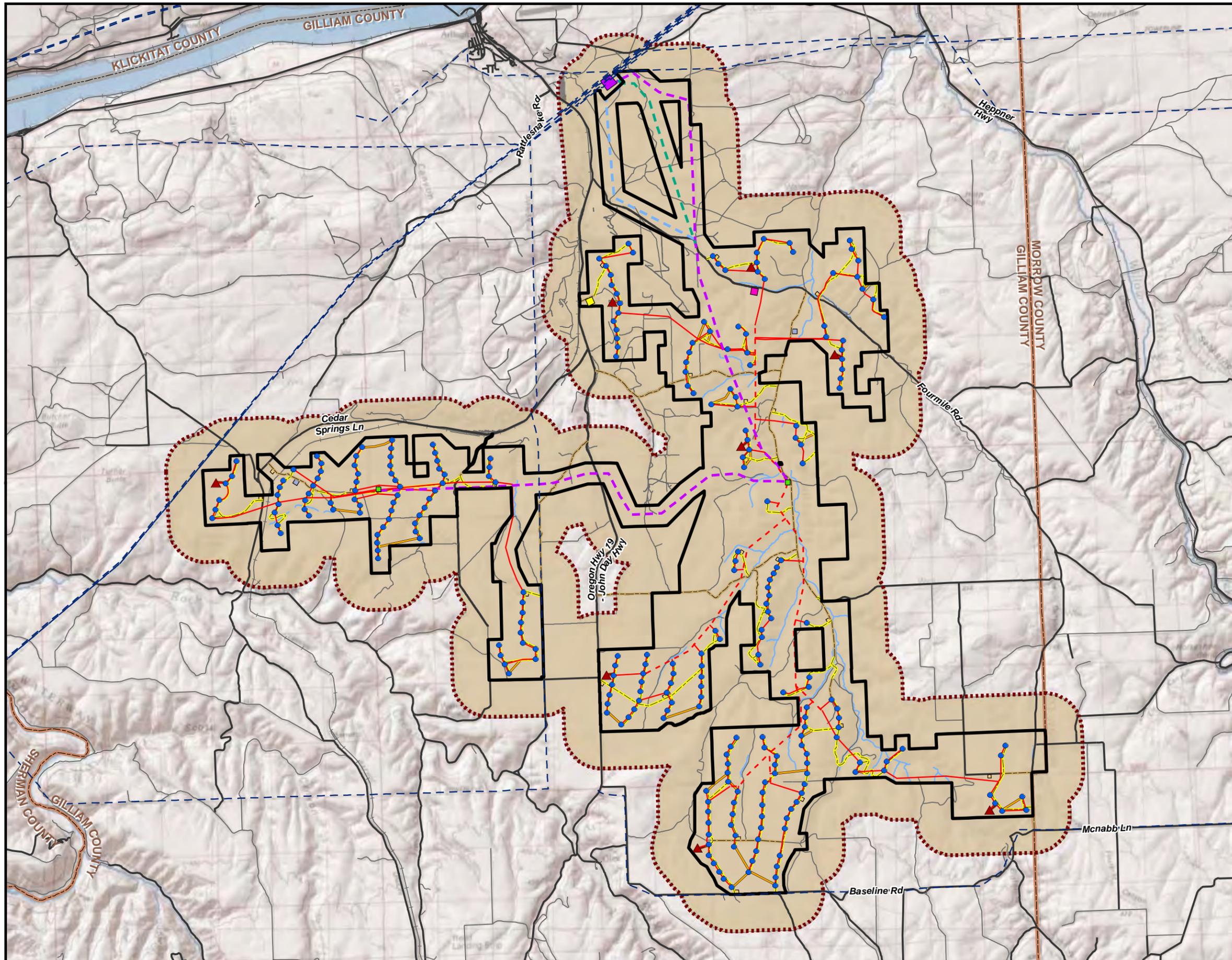
Source:  
 U.S. Department of Agriculture, Natural Resources  
 Conservation Service Soil Survey Geographic  
 (SSURGO) for Umatilla County, Oregon (2009)



Land Capability Classification	
<span style="background-color: #d9ead3; border: 1px solid black; display: inline-block; width: 15px; height: 10px; margin-right: 5px;"></span> Class I	<span style="background-color: #fff2cc; border: 1px solid black; display: inline-block; width: 15px; height: 10px; margin-right: 5px;"></span> Class V
<span style="background-color: #fce4d6; border: 1px solid black; display: inline-block; width: 15px; height: 10px; margin-right: 5px;"></span> Class II	<span style="background-color: #d9ead3; border: 1px solid black; display: inline-block; width: 15px; height: 10px; margin-right: 5px;"></span> Class VI
<span style="background-color: #f4cccc; border: 1px solid black; display: inline-block; width: 15px; height: 10px; margin-right: 5px;"></span> Class III	<span style="background-color: #cfe2f3; border: 1px solid black; display: inline-block; width: 15px; height: 10px; margin-right: 5px;"></span> Class VII
<span style="background-color: #fff2cc; border: 1px solid black; display: inline-block; width: 15px; height: 10px; margin-right: 5px;"></span> Class IV	<span style="background-color: #d9ead3; border: 1px solid black; display: inline-block; width: 15px; height: 10px; margin-right: 5px;"></span> Class VIII
	<span style="background-color: #f4cccc; border: 1px solid black; display: inline-block; width: 15px; height: 10px; margin-right: 5px;"></span> No Data

Note: Soil Type 32A is NRCS Class I soil (i.e., defined as high-value farmland) if irrigated and Class III soil (i.e., defined as non-high-value farmland) if nonirrigated. Soil Types 13, 31B, and 32B are NRCS Class II soils (i.e., defined as high-value farmland) if irrigated and Class III soils (i.e., defined as non-high-value farmland) if nonirrigated. Soil Types 26, 40B, 41B, and 55B are NRCS Class II soils (i.e., defined as high-value farmland) if irrigated and Class IV soils (i.e., defined as non-high-value farmland) if nonirrigated. Thus, this figure and the calculations of impact to high-value and non-high-value farmland are based on a conservative methodology assuming that these soil types are all irrigated or high-value farmland.

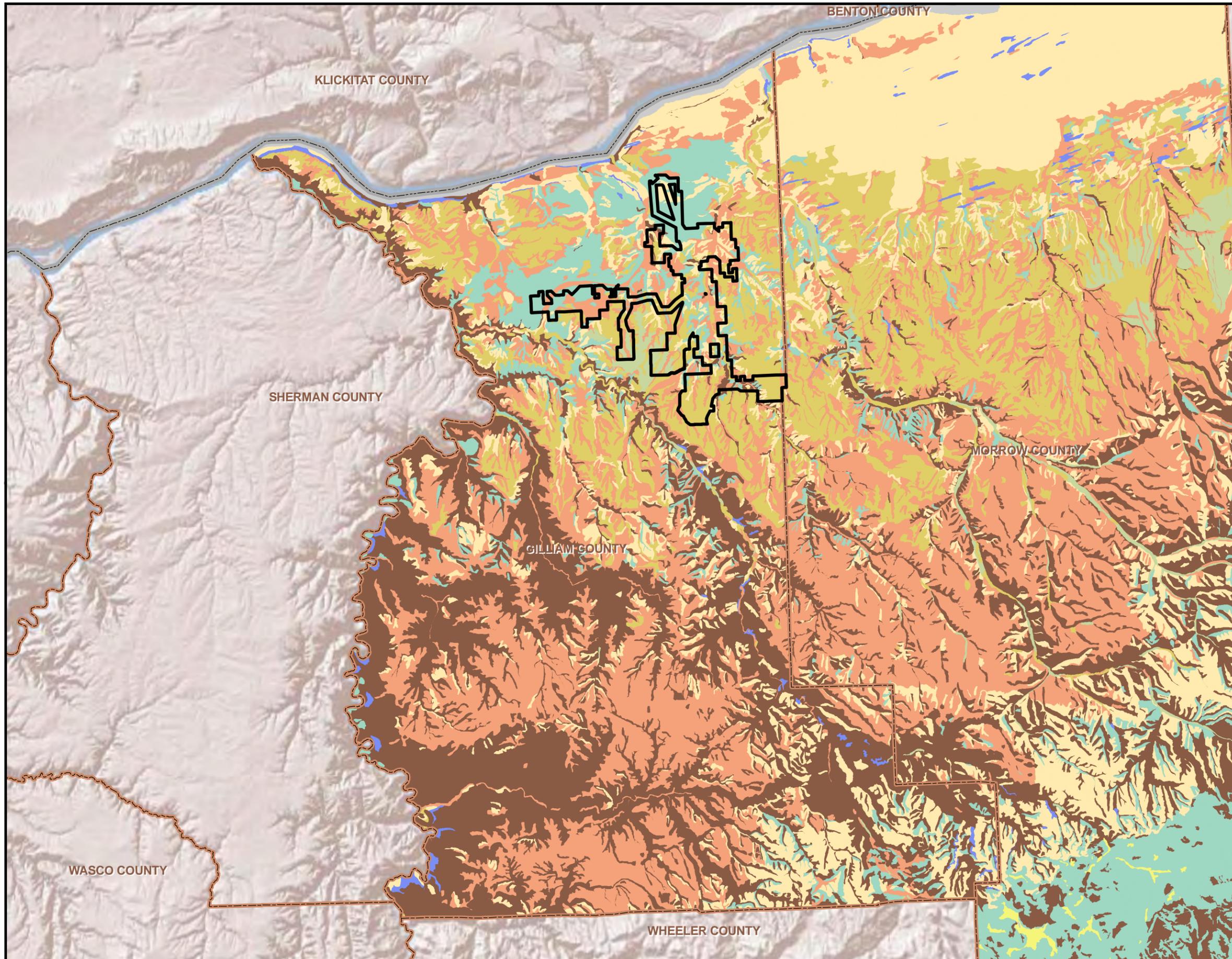




**Figure K-8**  
**Residential Setback**  
 1.5-MW Turbine Layout  
 (Maximum Turbine Layout)  
 Montague Wind Power Facility

- Site Boundary/Micrositing Corridor
- Residential Zone Setback - 3,520 ft
- Zoning**
- Airport
- Exclusive Farm Use (EFU) Zone, Agricultural Comprehensive Plan Designation
- Proposed Permanent Facilities**
- Proposed Turbine
- Proposed Met Tower
- Proposed New Turbine Road
- Proposed New Met Tower Road
- Proposed Improved Road
- Proposed Underground 34.5-kV Line
- Proposed Overhead 34.5-kV Line
- Proposed 230-kV Transmission Line
- Alternate 1 230-kV Transmission Line
- Alternate 2 230-kV Transmission Line
- Proposed 5-Acre Facility Collector Substation
- Proposed 10-Acre O&M Facility and Staging Area
- Alternate 10-Acre O&M Facility and Staging Area
- Proposed Temporary Facilities**
- Proposed Crane Path
- Proposed 2.5-Acre Staging Area
- Proposed 5-Acre Staging Area
- Existing Facilities**
- Existing Transmission Line
- Public Road
- Private Road
- Major Railroad Line
- Streams
- State Boundary
- BPA Slatt Interconnection Substation
- County Boundary





**Figure K-9**  
**Gilliam County Land Capability Classification - Broad View**  
*Montague Wind Power Facility*

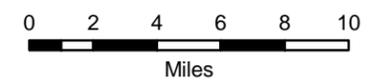
**Legend**

Site Boundary/Micrositing Corridor

**Land Capability Classification**

- Class I
- Class II
- Class III
- Class IV
- Class V
- Class VI
- Class VII
- Class VIII
- No Data

Note: Soil Type 32A is NRCS Class I soil (i.e., defined as high-value farmland) if irrigated and Class III soil (i.e., defined as non-high-value farmland) if nonirrigated. Soil Types 13, 31B, and 32B are NRCS Class II soils (i.e., defined as high-value farmland) if irrigated and Class III soils (i.e., defined as non-high-value farmland) if nonirrigated. Soil Types 26, 40B, 41B, and 55B are NRCS Class II soils (i.e., defined as high-value farmland) if irrigated and Class IV soils (i.e., defined as non-high-value farmland) if nonirrigated. Thus, this figure and the calculations of impact to high-value and non-high-value farmland are based on a conservative methodology assuming that these soil types are all irrigated or high-value farmland.



Source:  
 U.S. Department of Agriculture, Natural Resources Conservation Service Soil Survey Geographic (SSURGO) for Umatilla County, Oregon (2009)



**Figure K-10**  
**Gilliam County Land Capability Classification—Detailed View**  
**and Approximate Boundary of**  
**Nearby Wind Energy Facilities**

*Montague Wind Power Facility*

**Legend**

-  Site Boundary/Micrositing Corridor
-  Approximate Boundary of Nearby Wind Energy Facilities
-  Existing BPA Transmission Line

**Land Capability Classification**

-  Class I
-  Class II
-  Class III
-  Class IV
-  Class V
-  Class VI
-  Class VII
-  Class VIII
-  No Data

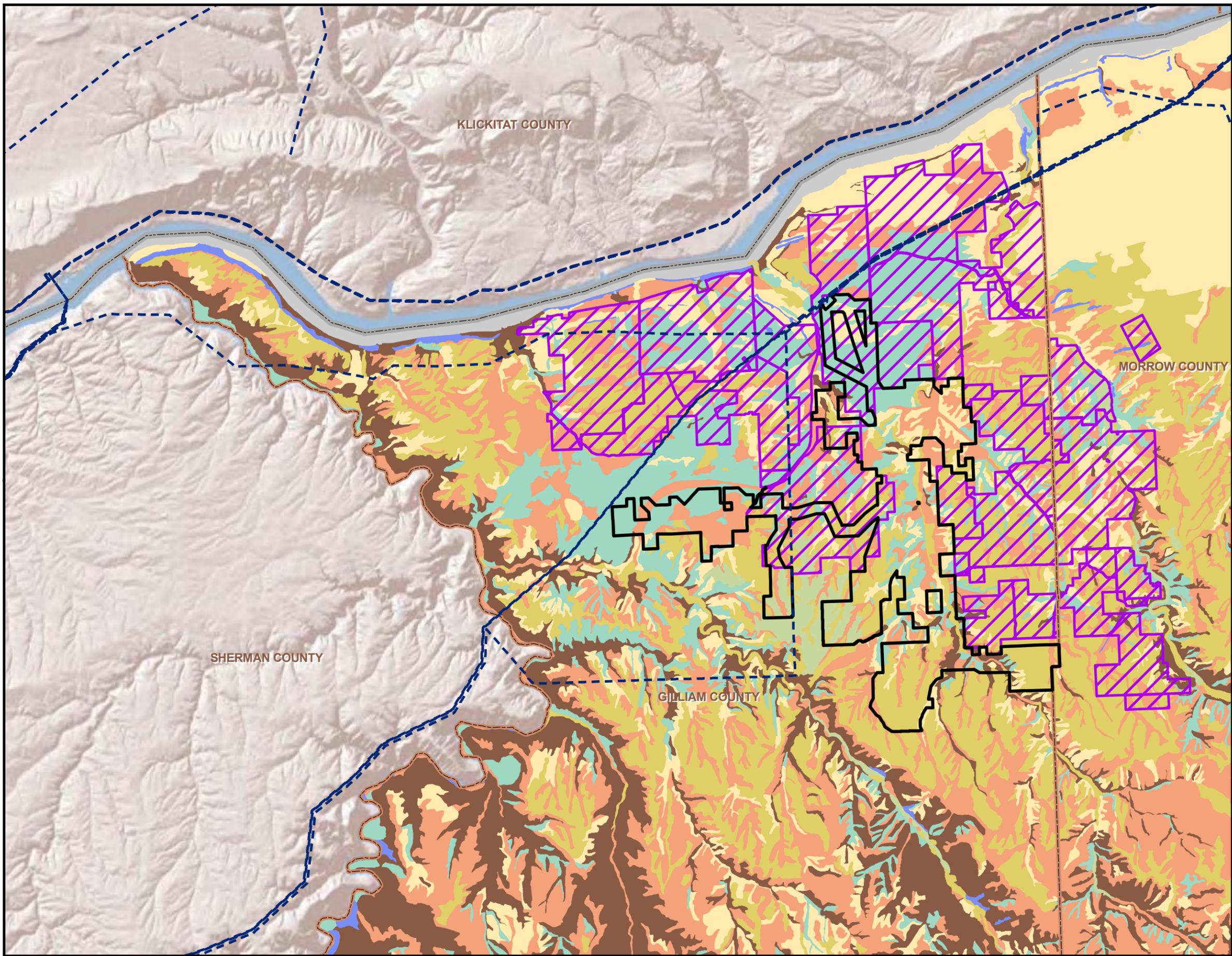
Note: Soil Type 32A is NRCS Class I soil (i.e., defined as high-value farm land) if irrigated and Class III soil (i.e., defined as non-high-value farmland) if nonirrigated. Soil Types 13, 31B, and 32B are NRCS Class II soils (i.e., defined as high-value farm land) if irrigated and Class III soils (i.e., defined as non-high-value farmland) if nonirrigated. Soil Types 26, 40B, 41B, and 55B are NRCS Class II soils (i.e., defined as high-value farm land) if irrigated and Class IV soils (i.e., defined as non-high-value farmland) if nonirrigated. Thus, this figure and the calculations of impact to high-value and non-high-value farmland are based on a conservative methodology assuming that these soil types are all irrigated or high-value farmland.



Source:  
 U.S. Department of Agriculture, Natural Resources  
 Conservation Service Soil Survey Geographic  
 (SSURGO) for Umatilla County, Oregon (2009)



Modify Date: 1/14/2010



**EXHIBIT L****IMPACTS ON PROTECTED AREAS**

OAR 345-021-0010(1)(L)

**TABLE OF CONTENTS**

	<b>Page</b>
L.1 INTRODUCTION .....	L-1
L.2 LIST OF PROTECTED AREAS AND MAP OF LOCATION.....	L-2
L.3 POTENTIAL IMPACTS .....	L-3
L.3.1 Horn Butte Area of Critical Environmental Concern (ACEC) .....	L-7
L.3.2 John Day Wildlife Refuge .....	L-7
L.3.3 John Day Wild and Scenic River.....	L-7
L.3.4 John Day State Scenic Waterway .....	L-8
L.4 CONCLUSION.....	L-9
L.5 REFERENCES.....	L-9

**Tables**

L-1 Protected Areas Within the 20-Mile Analysis Area .....	L-3
L-2 Potential Facility Visibility from and Distance to Protected Areas Within 20 Miles.....	L-6

**Figures**

L-1 Protected Areas—1.5-MW Turbine Layout (Maximum Turbine Layout)
L-2 Protected Areas—3.0-MW Turbine Layout (Minimum Turbine Layout)



## L.1 INTRODUCTION

Iberdrola Renewables, Inc. (Applicant) proposes to construct the Montague Wind Power Facility (Facility) in Gilliam County, Oregon, with generating capacity of up to 404 megawatts (MW). Up to 269 turbines will be located within the Facility site boundary, depending on the final turbine size and vendor (as further described in Exhibit B, Section B.1.3). Please refer to Exhibit C, Figures C-1, C-2, and C-3, and C-4 through C-7, for maps of the site vicinity, Facility location, and Facility components, respectively.

The Facility will use turbines up to 3.0 MW in size or up to 492 feet (150 meters) in height. Because the final turbine size, vendor, number, and actual generating capacity have not yet been determined, this Exhibit analyzes impacts for two turbine types that represent a range of turbine sizes and heights. The two turbine types represent a range of alternative turbine technologies (i.e., encompassing the scale and impacts of the turbines) that could potentially be used at the Facility. The minimum turbine layout is 134 3.0-MW turbines. The maximum turbine layout is 269 1.5-MW turbines. The final layout will have 134 to 269 turbines, with any combination of 3.0-MW and 1.5-MW turbines. The total number of turbines will not exceed 269 and the total MW will not exceed 404.

Figure L-1 shows a proposed layout for 269 1.5-MW turbines. Figure L-2 shows a proposed layout for 134 3.0-MW turbines. To demonstrate that the Applicant has a reasonable likelihood of designing a Facility in compliance with the protected areas standards, analyses were conducted for both the maximum turbine layout and the minimum turbine layout. The results from these two scenarios are presented.

Exhibit L addresses impacts that both the maximum and minimum layouts of the proposed Facility will have on protected areas in the analysis area. The analysis area for Exhibit L is the area within the Facility site boundary plus the area within 20 miles of the site boundary, including areas outside the state. See Facility Project Order, Section VI, issued on January 5, 2010. See also OAR 345-001-0010(2), 345-001-0010(57)(e). The Exhibit responds to the requirements of OAR 345-021-0010(1)(L), as follows:

**OAR 345-021-0010(1)(L)** *Information about the proposed facility's impact on protected areas, providing evidence to support a finding by the Council as required by OAR 345-022-0040, including:*

**Response:** OAR 345-021-0010(1)(L) requires that the Application for Site Certificate (ASC) for the proposed Facility address impacts to protected areas as defined in OAR 345-022-0040(1)(a)-(p). OAR 345-022-0040(1) requires that when a Facility is located outside any defined protected area, "the Council must find that, taking into account mitigation, the design, construction and operation of the facility are not likely to result in significant adverse impact to the areas listed [in OAR 345-022-0040(1)(a)-(p)]" before issuing a site certificate. See OAR 345-022-0040(1). The proposed Facility is located outside any protected area. Therefore, to address OAR 345-022-0040 and demonstrate

that the proposed Facility will not result in significant adverse impacts to protected areas, the Applicant has undertaken a systematic analysis.

The first step was to review the list of categories of protected areas defined in OAR 345-022-0040(1)(a)-(p), and then to consult area maps and other data sources to determine whether any areas or sites meeting the definitions of these protected areas are located either within the site boundary or within the 20-mile analysis area. The search included areas within the state of Washington, although no protected areas were identified in Washington within the 20-mile analysis area. Once identified, these protected areas were listed in Table L-1, and their locations indicated on the analysis area maps presented as Figures L-1 and L-2. For each protected area, the data presented in the other Exhibits prepared for this ASC were reviewed, and in some cases, supplemental analysis was carried out, to determine whether the Facility will be likely to have adverse effects on the protected area, and if so, whether those effects will be significant.

The results of this analysis process are presented in accordance with OAR 345-021-0010(1)(L), and the results provide evidence to support a finding by the Council as required by OAR 345-022-0040.

## L.2 LIST OF PROTECTED AREAS AND MAP OF LOCATION

**OAR 345-021-0010(1)(L)(A)** *A list of the protected areas within the analysis area showing the distance and direction from the proposed facility and the basis for protection by reference to a specific subsection under OAR 345-022-0040(1).*

and

**OAR 345-021-0010(1)(L)(B)** *A map showing the location of the proposed facility in relation to the protected areas listed in OAR 345-022-0040(1) located within the analysis area.*

Response: As described above, the analysis area for impacts to protected areas includes the area within the Facility site boundary and the area within 20 miles beyond the site boundary. See OAR 345-001-0010(2) and 345-001-0010(57)(e). Figure L-1 is a map that depicts the Facility site boundary, the 20-mile radius around the boundary and protected areas, and potential future protected areas within the analysis area. Figure L-1 also includes a Zone of Visual Influence (ZVI) assessment for the maximum turbine layout that is discussed in Section L.3 below. Figure L-2 provides the same information as Figure L-1, but for the minimum turbine layout. Table L-1 summarizes the protected areas within the 20-mile analysis area in accordance with OAR 345-021-0010(1)(L)(A).

No protected areas, as defined by OAR 345-022-0040(1), lie within the Facility site boundary. There are four protected areas, however, within 20 miles of the site boundary. One is the Horn Butte Area of Critical Environmental Concern (ACEC), the second and third are a segment of the John Day River that is listed as both a National Wild and Scenic River and an Oregon State Scenic Waterway, and the fourth is the John Day Wildlife Refuge, which includes all land within ¼ mile of the John Day River mean high water line, from the Columbia River upstream to Thirtymile Creek. Table L-1 lists these

protected areas and their approximate distance to the portion of the Facility site boundary that will contain the turbines.

TABLE L-1. Protected Areas Within the 20-Mile Analysis Area

Protected Area	OAR 345-022-0040(1) Rule Reference	Approximate Distance to Portion of Facility Site Boundary Containing Turbines (Miles)	Direction from Facility Site Boundary Containing Turbines	State
John Day Wildlife Refuge	(d)	5	W	Oregon
John Day Wild and Scenic River	(k)	5	W	Oregon
John Day State Scenic Waterway	(k)	5	W	Oregon
Horn Butte Area of Critical Environmental Concern (ACEC)	(o)	0	NE	Oregon

### L.3 POTENTIAL IMPACTS

Protected areas within the 20-mile analysis area lie from 0 to 5 miles from the portion of the Facility site boundary that will contain turbines. Based on an evaluation of potential impacts discussed below, there is sufficient evidence to demonstrate that the design, construction, and operation of the Facility will not cause any direct or indirect noise, traffic, water, wastewater, or visual impacts that will result in significant adverse impacts to protected areas.

**OAR 345-021-0010(1)(L)(C)** *A description of significant potential impacts of the proposed facility, if any, on the protected areas including, but not limited to, potential impacts such as:*

- (i) *Noise resulting from facility construction or operation;*

Response: There will be no impacts from noise on protected areas.

As detailed in Exhibit X, projected noise levels resulting from Facility construction and operation will meet requirements contained in Oregon Department of Environmental Quality rules. Given projected noise levels and the distance between turbine locations and protected areas, noise resulting from Facility construction and operation will not significantly affect any protected areas in the 20-mile analysis zone. At the closest protected area, the Horn Butte ACEC, the Council (Shepherds Flat Final Order, July 25, 2008) has found that operational noise from the Shepherds Flat facility is “not expected to be a significant source of disturbance to nesting long-billed curlews or to other nesting avian species.” Because the approved Shepherds Flat facility is located closer to the Horn Butte ACEC than the proposed Facility, operational noise from the proposed Facility also is not expected to be a significant source of disturbance to nesting avian species. Exhibit P of the Montague ASC discusses potential Facility-related impacts on the long-billed curlew. Given that there are no significant impacts at the closest protected area, the Facility also will have no significant impacts to the other three protected areas within the analysis area.

(ii) *Increased traffic resulting from facility construction or operation;*

Response: A detailed traffic analysis is presented in Exhibit U. Increased traffic resulting from Facility construction or operation will not adversely impact protected areas. The primary transporter route will begin in the Portland, Oregon, area on eastbound Interstate 84 (I-84) and continue toward Gilliam County, Oregon. From I-84, the primary transporter route will continue southbound on Oregon Highway 19 (OR 19; also known as John Day Highway) near Arlington, Oregon. From OR 19, various county roads provide further access to turbine access roads. Turbine string roads to the west of OR 19 can be accessed via Cedar Springs Lane, Berthold Road, and Weatherford Road. For turbine string roads to the east of OR 19, multiple roads can be used. Eightmile Road, Fourmile Road, Montague Lane, Tree Lane, and Baseline Road will likely be used to access turbines between OR 19 and Oregon Highway 74 (OR 74). Mason Road, Davidson Road, and Upper Fourmile Road could also be used to access these individual turbine string roads, as described in Exhibit U.

Two additional alternate transporter routes from I-84 also are proposed. The first alternate route would begin on eastbound I-84 and continue southbound on Blalock Canyon Road, approximately 8.5 miles west of Arlington, Oregon. From Blalock Canyon Road, the alternate transporter route would connect with Cedar Springs Lane to provide access to individual turbine string roads. The second alternate route would begin on eastbound I-84 and continue southbound on OR 74. From OR 74, the alternate route would then follow Fairview Road, and access the facility from the east.

The proposed primary route for Facility-related construction and operational traffic does not pass through or near any protected areas within the analysis area and as listed in Table L-1. The closest portion of the proposed primary route to a protected area is a portion of Fourmile Road that passes within 2 miles of part of the Horn Butte ACEC. Traffic volume along this portion of the proposed route is estimated at between 78 and 134 trips per day during the approximately 12-month construction period. Trip volume during operations will be significantly lower. As detailed in Exhibit U, Facility-related traffic does not represent a significant increase over the current use, and therefore will have no adverse impact on the Horn Butte ACEC or on any other protected area.

(iii) *Water use during facility construction or operation;*

Response:

As discussed in Exhibit O, Facility water use will be temporary, relatively small in volume, and predominantly limited to the construction period. A small amount of water will be used at the operations and maintenance (O&M) facility(s) during Facility operation. During Facility construction, the construction contractor will be responsible for identifying water sources and assuring that any needed permits or approvals are obtained for construction water use. There are two potential sources. The first potential source is the city of Arlington. The City would serve as a sufficient water source to meet the Facility

requirements. A second potential source is an existing well or new well that would be used pursuant to a limited water use license issued by the Oregon Water Resources Department (OWRD). The limited license would be obtained by the landowner or construction contractor. During Facility operation, a well will be located near each O&M facility. If the Facility has just one O&M facility, that facility will have one well only. Each well will provide a total of no more than 5,000 gallons per day. Given these considerations, the Facility will have no adverse impacts to protected areas from construction or operational water use.

- (iv) *Wastewater disposal resulting from facility construction or operation;*

Response: There will be no potential wastewater impacts. The closest protected area (the Horn Butte ACEC) is adjacent to a portion of the Facility site boundary that will contain turbines.

As discussed in Exhibit V, the use of water for construction practices is not anticipated to generate runoff, and wastewater will not be discharged into wetlands or other adjacent water resources. Sanitary effluent from the bathroom in the O&M building(s) will be treated onsite via the proposed septic tank, and stormwater will infiltrate onsite. These factors ensure that no wastewater will reach protected areas and, consequently, there will be no potential impacts from wastewater to protected areas.

- (v) *Visual impacts of facility structures or plumes.*

Response: The visual impacts of the Facility are evaluated in detail in Exhibit R. Because some of the protected areas are not included among the classes of sites for which evaluations were required in Exhibit R, supplemental analysis was conducted in this Exhibit to determine the extent to which the Facility will be visible from the protected areas not evaluated in Exhibit R. Additionally, analysis was conducted to assess the nature and degree of impacts on the aesthetic values associated with the protected area status of these sites.

To provide a basis for determining whether the Facility will be visible from the protected areas within the analysis area and identified in Table L-1, the results of the ZVI analysis described in Exhibit R were overlaid on the map presented as Figure L-1 for the 1.5-MW layout and Figure L-2 for the 3.0-MW layout. Review of the maps makes it possible to identify those protected areas from which the Facility will be potentially visible, and for which evaluation of Facility visual impacts is required. As pointed out in Exhibit R, the visibility pattern that the ZVI analysis presents is highly conservative in that it calculates a line-of-sight from the tips of the rotors at their highest positions. In some areas where Facility visibility is being indicated, the only parts of the Facility that might be visible will be the tips of the blades. In addition, the ZVI analysis does not take into account the screening role of structures and trees. As a result, there may be localized areas where Facility visibility is indicated in the ZVI analysis, but where views of the turbines will be screened by trees or structures in the

foreground of the view. Finally, the ZVI analysis does not consider attenuating factors such as haze, distance, weather, or landscape background.

The potential visibility of the Facility from protected areas is summarized in Table L-2. The table identifies the protected areas from which the Facility potentially will be seen, based on the ZVI assessment. The table also provides approximate distances from the portions of the protected areas from which turbines would potentially be visible to the closest portion of the Facility site boundary that will contain turbines. In addition, Table L-2 identifies the ranges of the numbers of turbines (from Figures L-1 and L-2) that could potentially be seen from the portions of the protected areas in the seen area.

Table L-2. Potential Facility Visibility from and Distance to Protected Areas Within 20 Miles

Protected Area	1.5-MW Layout			3.0-MW Layout		
	Is the Facility Seen?	Approximate Distance from Seen Area to Closest Part of Facility (miles)	Number of Turbines Potentially Seen	Is the Facility Seen?	Approximate Distance to Closest Part of Facility (miles)	Number of Turbines Potentially Seen
Horn Butte ACEC	P	0	Varies by location; 0 to over 50	P	0	Varies by location; 0 to over 50
John Day Wildlife Refuge	P	5	Varies by location; 0 to over 50	P	5	Varies by location; 0 to over 50
John Day Wild and Scenic River	P	5	Varies by location; 0 to over 50	P	5	Varies by location; 0 to over 50
John Day State Scenic Waterway	P	5	Varies by location; 0 to over 50	P	5	Varies by location; 0 to over 50

Notes:

ACEC = Area of Critical Environmental Concern.

P = possible.

Review of the ZVI analysis presented in Figures L-1 and L-2 and summarized in Table L-2 indicates that the Facility’s turbines under the minimum or maximum layout will be clearly visible from one of the four protected areas, the Horn Butte ACEC. From the other three areas, visibility is possible in small portions of the areas, but the distance (5 miles or greater) will diminish the visual impact of the turbines.

The approximately 19-mile-long transmission line will depart from the western substation, travel east to the central substation, and then travel in a generally northern direction to BPA’s Slatt substation. Some of the transmission line support structures (from 0 to more than 50) will be potentially visible from one of the four protected areas examined in this exhibit, the Horn Butte ACEC. The

potential impacts of the transmission line are also discussed in Sections L.3.1 through L.3.4.

### **L.3.1 Horn Butte Area of Critical Environmental Concern (ACEC)**

The Horn Butte ACEC is managed by the federal Bureau of Land Management (BLM). As described in the Draft John Day Basin Resource Management Plan (RMP) Analysis of the Management Situation, this ACEC was designated for its long-billed curlew (*Numenius americanus*) nesting habitat. A management plan was prepared in 1989 proposing land acquisition, livestock management, noxious weed control, and closure of the area to off-highway vehicles (OHVs). Since 1989, wildfires have burned approximately 80 percent of the ACEC (BLM, 2006).

Review of the ZVI analysis presented in Figures L-1 and L-2 indicates that Facility turbines will be visible from the Horn Butte ACEC. Transmission line support structures also will be visible from the Horn Butte ACEC. This protected area is managed for wildlife and wildlife habitat (the protection and preservation of nesting habitat for the long-billed curlew) and not for scenic quality. The management plan does not identify any important scenic resources or values for this area. In addition, existing views from the majority of the Horn Butte ACEC already include wind turbines, various transmission lines, highways and roads, and other human-made features. Accordingly, the views of Facility turbines will not constitute a significant adverse impact to this protected area.

### **L.3.2 John Day Wildlife Refuge**

The John Day Wildlife Refuge was established by the State of Oregon in 1993 and is managed by the Oregon Department of Fish and Wildlife (ODFW). The refuge is located along the lower mainstem of the John Day River and was established for the primary purpose of protecting wintering and nesting waterfowl. This refuge includes all land within ¼ mile of the John Day River mean high water line, from the Columbia River upstream to Thirtymile Creek. The area is open to hunting of deer and upland game birds during authorized seasons only between September 1 and October 31, but it is closed to all waterfowl hunting. Motorized boating in this area is also restricted (Thompson, 2009).

The John Day Wildlife Refuge is approximately 5 miles from the nearest portion of the site boundary that will contain turbines. The refuge was established to protect wildlife habitat. The refuge has visual resource management objectives, as do all BLM lands. However, these objectives apply only to actions within the refuge boundary and do not apply to adjacent non-BLM lands. The ZVI shows that a few turbines might be visible from some isolated areas of the refuge approximately ¼ mile from the riverbank. No significant adverse impacts to this protected area will occur.

### **L.3.3 John Day Wild and Scenic River**

In 1988, as part of the Oregon Omnibus Wild and Scenic Rivers Act, the U.S. Congress designated portions of the John Day River as a recreational Wild and Scenic River

(WSR). The 147.5-mile segment of the river designated as wild and scenic runs from Tumwater Falls upstream to Service Creek. Only Segment 1 of the river, as described in the Record of Decision (ROD) for the John Day River Management Plan (BLM, 2001), falls within the 20-mile analysis area for the Facility.

Review of the ZVI analysis presented on Figures L-1 and L-2 indicates that the nearest portion of the site boundary containing turbines will be approximately 5 miles away. Facility turbines may be visible to a limited degree from small areas of BLM lands in the canyon but generally will not be visible from the WSR-designated segment of the John Day River. No transmission line structures would be visible from the WSR-designated segment of the John Day River. Consequently, the Facility's impacts on this reach of the river will not be significant.

### L.3.4 John Day State Scenic Waterway

The same segment of the John Day River that is designated as WSR, located upstream and south of Tumwater Falls, is also designated as a State Scenic Waterway pursuant to the Oregon State Scenic Waterways Act, Oregon Revised Statute (ORS) 390.805-390.925. The State Scenic Waterway designation encompasses the river itself and the lands that lie within ¼ mile of its high water line. Under the State Scenic Waterways Act, the river segments in the Facility analysis area have been classified as a Scenic River Area, i.e., river segments that are "...accessible by roads in places but contain related adjacent lands and shorelines still largely primitive and undeveloped except for agriculture and grazing. Scenic River Areas are administered to preserve their undeveloped character, maintain or enhance their high scenic quality, recreation, fish, and wildlife values while allowing continued agricultural use."

Review of the ZVI analysis presented on Figures L-1 and L-2 indicates that the nearest portion of the site boundary containing turbines will be approximately 5 miles away. Turbines will be visible, to a limited degree, from the fringes of the portion of the John Day River designated as a State Scenic Waterway. No transmission line structures will be visible from the portion of the John Day River designated as a State Scenic Waterway. Therefore, no significant adverse impacts to this protected area will occur.

- (vi) *Visual impacts from air emissions resulting from facility construction or operation, including, but not limited to, impacts on Class 1 Areas as described in OAR 340-204-0050.*

***Response:*** The Facility does not lie within a Class 1 area for air quality. A Class 1 area is one where Congress has defined visibility as an important value. The closest Class 1 area is the Badger Creek Wilderness, more than 60 miles away.

During construction, dust might be generated during road construction and clearing activities for the turbine pads, but it will not be seen from the Badger Creek Wilderness and will have no potential for adverse impacts to Class 1 areas. Dust will be controlled by watering throughout the construction period. Potential impacts to protected areas, including Class 1 areas during construction, are therefore anticipated to be temporary and negligible. The minor dust-related

issues that might occur during the construction period have no potential for adverse impacts on Class I Prevention of Significant Deterioration Areas.

Because Facility operation will create no air emissions, the Facility will have no impacts on air quality during the operational period. Consequently, during both the construction and operational periods, there will be no air emission impacts that adversely affect views from the protected areas.

#### L.4 CONCLUSION

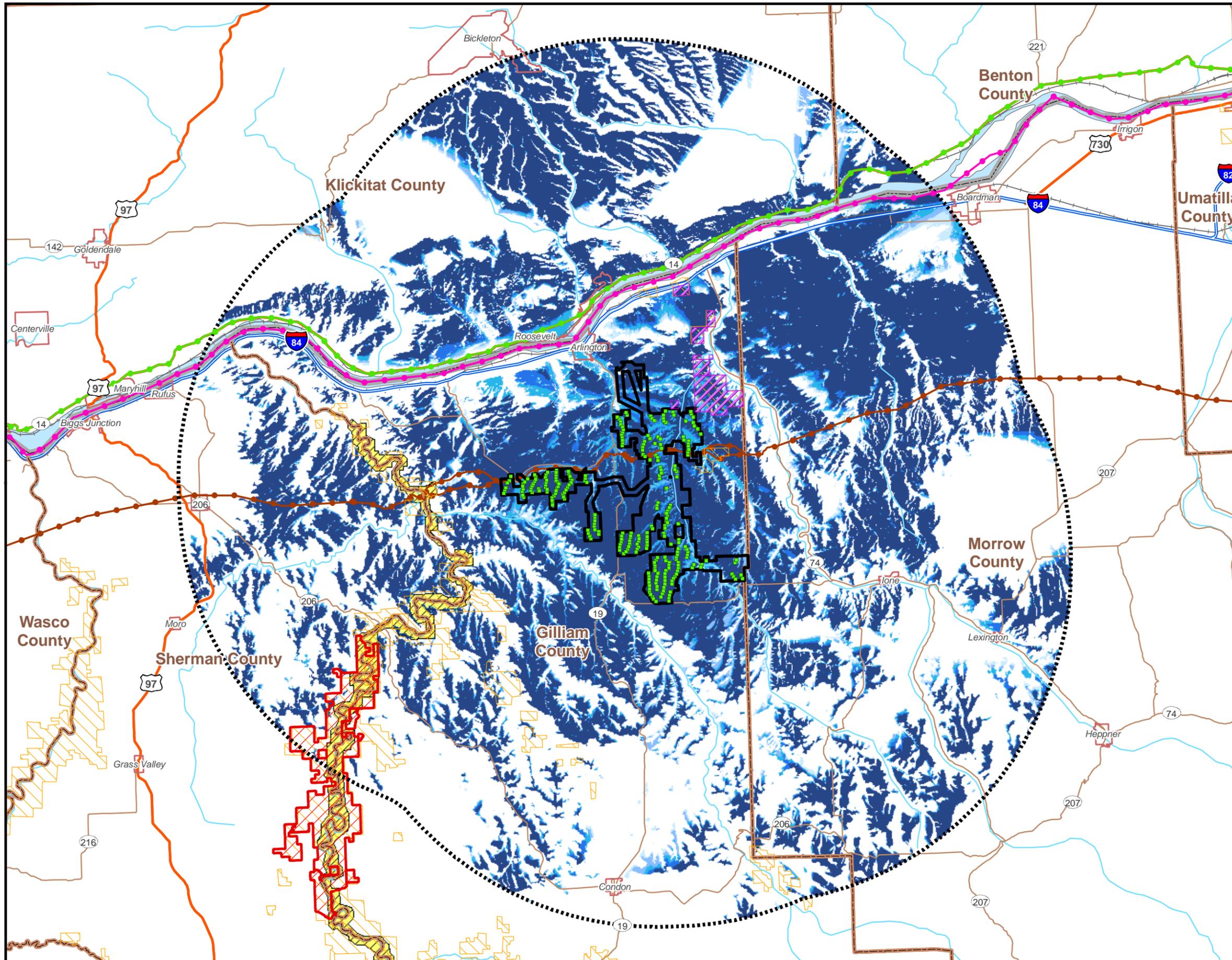
The proposed Facility will comply with all applicable regulatory guidelines concerning protected areas as discussed under OAR 345-021-0010(1)(L)(A), (B), and (C). The Applicant performed a systematic evaluation to demonstrate that the design, construction, and operation of the proposed Facility are not likely to result in significant adverse impacts to protected areas. Because there are no significant adverse impacts, no mitigation is proposed. Therefore, based on the provided evidence, the Council may find that the standard in OAR 345-022-0040 has been satisfied.

#### L.5 REFERENCES

- Bureau of Land Management (BLM). 1986. *Two Rivers Resource Management Plan Record of Decision*. U.S. Department of the Interior. June.
- Bureau of Land Management (BLM). 2000. *John Day River Proposed Management Plan, Two Rivers and John Day Resource Management Plan Amendments and Final Environmental Impact Statement*. U.S. Department of the Interior. June.
- Bureau of Land Management (BLM). 2001. *Record of Decision John Day River Management Plan, Two Rivers, John Day, and Baker Resource Management Plan Amendments*. U.S. Department of the Interior. February.
- Bureau of Land Management (BLM). 2006. *John Day Basin RMP: Analysis of the Management Situation and Preliminary Public Involvement*. U.S. Department of the Interior. Fall 2006.
- Thompson, Jeremy. 2009. Oregon Department of Fish and Wildlife Field Office, The Dalles. Personal communication with Dana Larson, CH2M HILL. November 23.



# Figures



**Figure L-1**

**Protected Areas**  
 1.5-MW Turbine Layout  
 (Maximum Turbine Layout)  
 Montague Wind Power Facility

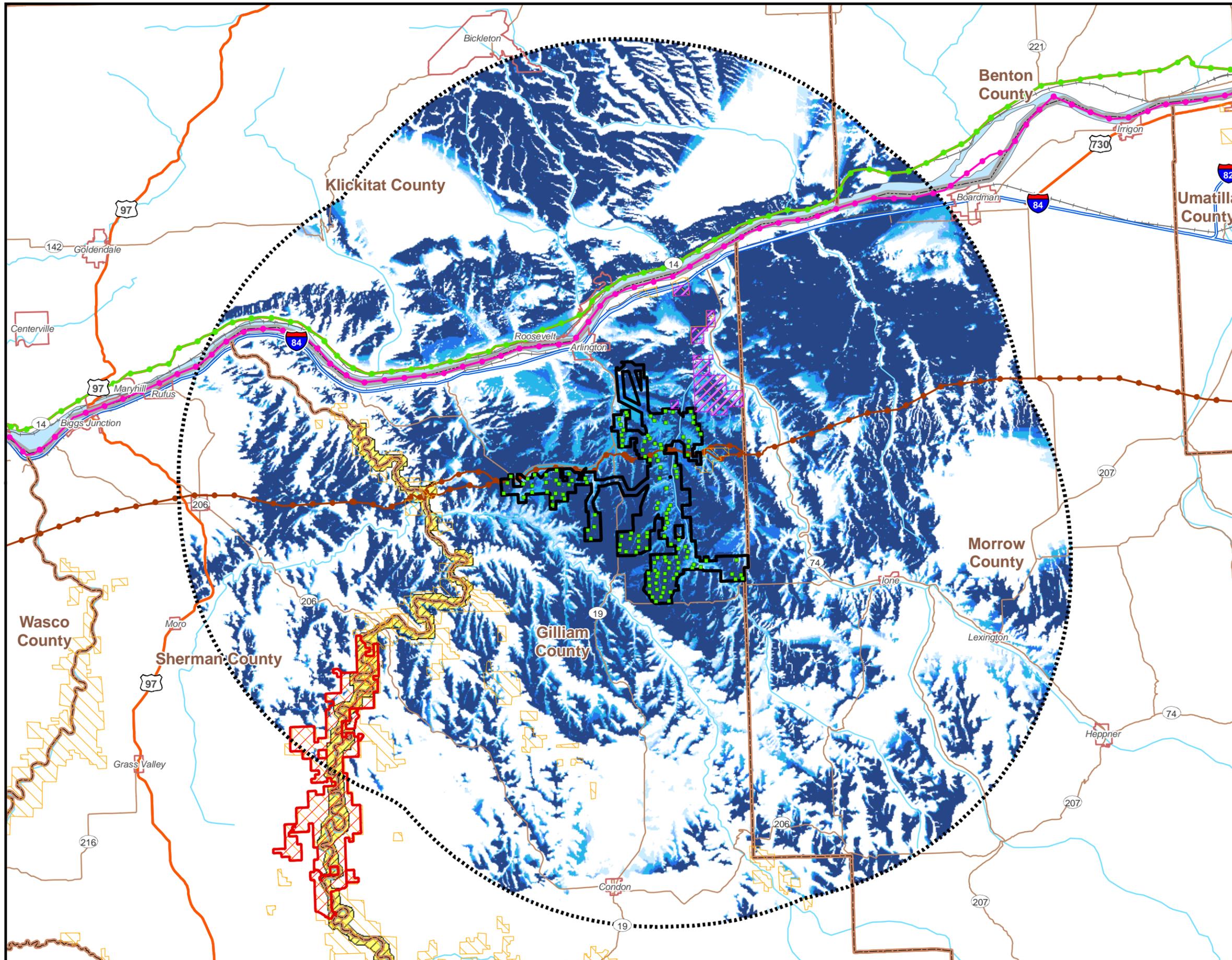
**Legend**

- Site Boundary/Micrositing Corridor
  - 20-mile Analysis Area
  - Proposed Turbine
  - Oregon Trail (Approximate Route)
  - Lewis & Clark Trail
  - Water Trail (Approximate 1804 Route)
  - Motor Route (Approximate 1806 Route)
  - Horn Butte ACEC
  - John Day Wild and Scenic River/John Day State Scenic Waterway
  - John Day Wildlife Refuge
  - BLM Land
  - State Boundary
  - Limited Access Highway
  - Highway
  - Major Road
  - Major Railroad Line
  - River
  - Water
  - City Limit
  - County Boundary
- # of Visible Turbines**
- 1 - 5
  - 6 - 10
  - 11 - 30
  - 31 - 50
  - > 50

Note:  
 ZVI analysis assumes 269 1.5-MW turbines.

Source: Lewis and Clark Trail information from National Park Service (Ms. Denise Nelson) and the National Park Service, 1982, Lewis and Clark National Historic Trail, Comprehensive Management and Use Plan





**Figure L-2**

**Protected Areas**  
 3.0-MW Turbine Layout  
 (Minimum Turbine Layout)  
 Montague Wind Power Facility

**Legend**

- Site Boundary/Micrositing Corridor
  - 20-mile Analysis Area
  - Proposed Turbine
  - Oregon Trail (Approximate Route)
  - Lewis & Clark Trail
  - Water Trail (Approximate 1804 Route)
  - Motor Route (Approximate 1806 Route)
  - Horn Butte ACEC
  - John Day Wild and Scenic River/John Day State Scenic Waterway
  - John Day Wildlife Refuge
  - BLM Land
  - State Boundary
  - Limited Access Highway
  - Highway
  - Major Road
  - Major Railroad Line
  - River
  - Water
  - City Limit
  - County Boundary
- # of Visible Turbines**
- 1 - 5
  - 6 - 10
  - 11 - 30
  - 31 - 50
  - > 50

Note:  
 ZVI analysis assumes 134 3.0-MW turbines.

Source: Lewis and Clark Trail information from National Park Service (Ms. Denise Nelson) and the National Park Service, 1982, Lewis and Clark National Historic Trail, Comprehensive Management and Use Plan



**EXHIBIT M**

**FINANCIAL ANALYSIS**

OAD 345-021-0010(1)(m)

**TABLE OF CONTENTS**

	<b>Page</b>
M.1 INTRODUCTION .....	M-1
M.2 OPINION OF LEGAL COUNSEL .....	M-1
M.3 BOND, SECURITY, OR OTHER FINANCIAL INSTRUMENT .....	M-1
M.4 EVIDENCE OF REASONABLE LIKELIHOOD OF OBTAINING SECURITY .....	M-1

**ATTACHMENTS**

M-1 Legal Opinion on Authority to Construct



**M.1 INTRODUCTION**

**OAR 345-021-0010(1)(m)** *Information about the applicant's financial capability, providing evidence to support a finding by the Council as required by OAR 345-022-0050(2). Nothing in this subsection shall require the disclosure of information or records protected from public disclosure by any provision of state or federal law. The applicant shall include:*

Response: See sections M.2 through M.4.

**M.2 OPINION OF LEGAL COUNSEL**

**OAR 345-021-0010(1)(m)(A)** *An opinion or opinions from legal counsel stating that, to counsel's best knowledge, the applicant has the legal authority to construct and operate the facility without violating its bond indenture provisions, articles of incorporation, common stock covenants, or similar agreements;*

Response: Attachment M-1 is an opinion from Toan-Hao Nguyen, in-house legal counsel for Iberdrola Renewables, Inc. (Applicant), conforming to the requirements of the rule.

**M.3 BOND, SECURITY, OR OTHER FINANCIAL INSTRUMENT**

**OAR 345-021-0010(1)(m)(B)** *The type and amount of the applicant's proposed bond or letter of credit to meet the requirements of OAR 345-022-0050; and*

Response: The Applicant will submit, to the state of Oregon through the Council, before the Montague Wind Power Facility (Facility) construction begins, a bond or bonds or letter(s) of credit in a form satisfactory to the Council, in the amount equal to the net retirement cost provided in Exhibit W. This security will assure that adequate funds will be available to retire the Facility and restore the site to a useful, nonhazardous condition (please see Exhibit W for a calculation of the site restoration costs). The bond(s) or letter(s) of credit will remain in effect until the Facility is retired, and will be inflation-adjusted on an annual basis according to the Gross Domestic Product Implicit Price Deflator Index.

**M.4 EVIDENCE OF REASONABLE LIKELIHOOD OF OBTAINING SECURITY**

**OAR 345-021-0010(1)(m)(C)** *Evidence that the applicant has a reasonable likelihood of obtaining the proposed bond or letter of credit in the amount proposed in paragraph (B), before beginning construction of the facility.*

Response: The Applicant will obtain a letter from one of the Company's relationship banks demonstrating the reasonable likelihood it will be able to provide one or more bonds in an amount equal to or greater than that proposed in Exhibit W. The Applicant understands that the Council will require this evidence before issuing the site certificate.



**ATTACHMENT M-1**

# **Legal Opinion on Authority to Construct**





Please Reply to:

Toan-Hao B. Nguyen, Senior Counsel

*Direct Dial (503) 241-3204*

*Fax (503) 478-6395*

November 12, 2009

Oregon Department of Energy 625

Marion Street, N.E.

Salem, Oregon 97310

RE: Application of IBERDROLA RENEWABLES, Inc. for Site Certificate

Dear Ladies and Gentleman:

I am an in house attorney for IBERDROLA RENEWABLES, Inc., an Oregon corporation (the "Applicant"), and have also acted as counsel to the applicant.

In that connection, I have examined originals or copies certified or otherwise identified to my satisfaction of the books and records of Applicant and such other documents, limited liability company records, certificates of public officials and other instruments regarding the Applicant as I have deemed necessary and appropriate for the purposes of this opinion.

In rendering this opinion expressed below, I have assumed (i) the authenticity of all the documents submitted to me as originals and (ii) the conformity to original documents of all documents submitted to me as copies. As to factual matters, I have relied to the extent deemed proper upon statements and certification of officers and managers of the Applicant.

Based up on the foregoing, to the best of my knowledge, I am of the opinion that, subject to the Applicant's meeting of all applicable federal, state and local laws (including all rules and regulations promulgated there under) the Applicant has the legal authority to construct and operate the up to 404 MW name-plate capacity wind generation facility and associated facilities located in the Gilliam County, Oregon (the "Project") that the Applicant proposes in its Application for Site Certificate to be filed with the Oregon Energy Facility Siting Council and in connection with which this opinion is rendered, without violating articles of organization covenants or similar agreements.

IBERDROLA RENEWABLES, Inc.  
1125 NW Couch St., Suite 700  
Portland, OR 97209  
Telephone (503) 796-7000  
[www.iberdrolarenewables.us](http://www.iberdrolarenewables.us)

I am a member of the bar of the states of California, Oregon, and Washington and do not hold myself out as an expert in, and do not hold myself out as an expert in, and do not express any opinion with respect to, the law of any jurisdiction other than the law of the states of California, Oregon, and Washington.

The foregoing opinion is limited solely to whether the Applicant has the authority under its operating agreements to construct, own and operate the Project. I express no opinion as to the applicability of any federal, state or local laws (including all rules and regulations promulgated there under) to such construction and operation or as to the effects of the foregoing laws on such construction and operation.

Please contact me if you have any additional questions regarding this matter.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Toan-Hao B. Nguyen". The signature is fluid and cursive, with a long horizontal stroke at the end.

IBERDROLA RENEWABLES, Inc.

Toan-Hao B. Nguyen  
Senior Counsel

**EXHIBIT N****NONGENERATING FACILITY INFORMATION**

OAR 345-021-0010(1)(n)

Exhibit N requires information about a nongenerating facility. Exhibit N is not required for this application because Iberdrola Renewables, Inc. (Applicant) is not proposing to construct a nongenerating energy facility.

**EXHIBIT O****WATER RESOURCES**

OAR 345-021-0010(1)(o)

**TABLE OF CONTENTS**

	<b>Page</b>
O.1 INTRODUCTION .....	O-1
O.2 WATER USE AND SOURCES OF WATER .....	O-1
O.2.1 Construction .....	O-1
O.2.1.1 Water Use.....	O-1
O.2.1.2 Water Sources.....	O-2
O.2.2 Operations.....	O-3
O.3 WATER LOSSES .....	O-5
O.4 WATER BALANCE DIAGRAM.....	O-5
O.5 PERMITS OR TRANSFERS REQUIRED.....	O-5
O.6 MITIGATION MEASURES .....	O-6
O.7 CONCLUSION.....	O-6

**Attachments**

- O-1 City of Arlington Confirmation of Available Water
- O-2 City of Arlington Water Right Certificates
- O-3 Application for Limited Water Use License



## O.1 INTRODUCTION

Iberdrola Renewables, Inc. (Applicant) proposes to construct the Montague Wind Power Facility (Facility) in Gilliam County, Oregon, with generating capacity of up to 404 megawatts (MW).

**OAR 345-021-0010(1)(o)** *Information about anticipated water use during construction and operation of the proposed facility. The applicant shall include:*

Response: The following description identifies the sources of water to be used, the nature of the water use by the Facility, and steps taken to minimize consumptive use.

## O.2 WATER USE AND SOURCES OF WATER

**OAR 345-021-0010(1)(o)(A)** *A description of the use of water during construction and operation of the proposed facility.*

**OAR 345-021-0010(1)(o)(B)** *A description of each source of water and the applicant's estimate of the amount of water the facility will need during construction and during operation from each source under annual average and worst-case conditions.*

Response: During Facility construction, water will either be obtained from the City of Arlington (City) and trucked to the site or obtained from an existing well or a new well permitted under a limited water use license.

The Facility will have up to two operations and maintenance (O&M) facilities. Each O&M facility will include a one-story building of up to 8,000 square feet. During Facility operation, one new well will be located near each O&M building. If the Facility has just one O&M building, that building will have one well only. Each well will provide no more than 5,000 gallons per day for use at each O&M building.

### O.2.1 Construction

#### O.2.1.1 Water Use

During Facility construction, approximately 36.9 million gallons will be required, as shown in Table O-1. The majority of the water (34.1 million gallons) will be used to control dust and maintain compaction on constructed access roads. An average of approximately 86,500 gallons of water will be applied daily to roads and construction areas. The precise amount of water applied daily is highly dependent on weather and varies between construction periods. The estimate included in Table O-1 is based on previous wind facility construction projects located in nearby Sherman County, Oregon. Typically, the construction contractor used 120,000 gallons of water per day during road construction, 80,000 gallons per day during foundation construction, and 50,000 gallons per day during erection of turbines.

In addition to the water used for construction and maintenance of the site access roads, approximately 2,232,700 to 2,842,000 gallons of water will be used in the concrete mixing

for the turbine foundations. The amount of water required depends on the size of the turbine selected. If turbines of up to 3.0 MW are used, approximately 2,842,000 gallons of water will be combined with approximately 94,700 cubic yards of concrete to construct up to 134 of the larger turbines and associated 80-foot-wide foundations. For each up-to-3.0-MW turbine, approximately 21,200 gallons of water will be mixed with approximately 707 cubic yards of concrete to form the turbine foundation. If turbines of up to 1.5 MW are used, approximately 2,232,700 gallons of water will be mixed with approximately 74,000 cubic yards to construct up to 269 of the smaller turbines and associated 48-foot-wide foundations. For each up-to-1.5-MW turbine, approximately 8,300 gallons of water will be mixed with approximately 275 cubic yards of concrete to form the turbine foundation.

Table O-1. Water Use During Construction Based on 269 GE 1.5-MW Turbines or 134 Vestas 3.0-MW Turbines

<b>Material</b>	<b>Foundations</b>	<b>Material Per Foundation (Approximate)</b>	<b>Total (Approximate)</b>	<b>Ultimate Disposition</b>
<b>Water Use for Concrete Mixing</b>				
Concrete for foundations	134 to 269	275 to 707 cubic yards of concrete per foundation	74,000 to 94,700 cubic yards of concrete	Incorporated into turbine foundation
Water for concrete mixing (30 gallons water per cubic yard of concrete)	134 to 269	8,300 to 21,000 gallons of water per foundation	2,232,700 to 2,842,000 gallons of water	Incorporated into concrete
Ranges are provided based on construction of up to 269 GE 1.5-MW turbines or up to 134 Vestas 3.0-MW turbines.				
<b>Water Use for Dust Control and Road Compaction</b>				
<b>Material</b>	<b>Days</b>	<b>Water Use Gallons/ Day</b>	<b>Total Water Use</b>	<b>Ultimate Disposition</b>
Road watering during road construction	100	120,000 gallons/day	12,000,000 gallons	Absorbed or evaporated
Road watering during foundation construction	170	80,000 gallons/day	13,600,000	
Road watering during erection	170	50,000 gallons/day	8,500,000	
<b>Total Gallons</b>	<b>Approximately 230 days</b>		<b>34,100,000</b>	

**O.2.1.2 Water Sources**

No new water rights will be required for the Facility. The construction contractor will be responsible for identifying water sources and assuring that any needed permits or approvals are obtained for construction water use. There are two potential sources. The

first potential source is the City of Arlington. The City has existing municipal water rights which would allow it to provide the Applicant's contractors with up to 120,000 gallons per day, for a maximum total of 36.9 million gallons for the entire Facility. The City's confirmation that such water could be available, and one of the City's water right certificates pursuant to which water could be made available, are attached as O-1 and O-2, respectively, to demonstrate that there is a reasonable likelihood that the Applicant's contractor can enter into agreement with the City for water. The City water alone would be adequate for all construction needs.

The Applicant requests that an alternate source of water be allowed. A second potential source is an existing well or new well that would be used pursuant to a limited water use license issued by the Oregon Water Resources Department (OWRD). The limited license would be obtained by the landowner or construction contractor. At the completion of construction activities, this well would continue to be used by the landowner for pre-existing functions; be abandoned; or could be used for exempt groundwater purposes, pursuant to ORS 537.545. The OWRD application for a limited water use license is provided in Attachment O-3 as an example of the license application that the landowner or the Applicant's contractor would file with OWRD once the contractor is selected. The limited water use license would be obtained by the landowner or by D.H. Blattner & Sons, Inc., the contractor for the Klondike III and Klondike IIIa projects, or another qualified contractor to be selected by the Applicant. A contractor qualified and experienced in obtaining necessary permits for construction projects will be retained. Therefore, regardless of the contractor selected, the Applicant's contractor has a reasonable likelihood of obtaining the limited license from OWRD should the Applicant pursue this water source.

The Facility's total water demand during construction is anticipated to represent only a minute portion of the annual agricultural water use in the surrounding area. It is not expected to injure any existing water rights or exceed the amount of water available for beneficial use within the watershed.

## **O.2.2 Operations**

Once the Facility is operational, only minimal water will be used. The water use will occur at up to two O&M building(s) and will be limited to use at a standard commercial office use (including restrooms, sinks, showers, and, dishwashers,) within the O&M building(s). In addition to the water used during normal day-to-day operations, water may be used for equipment washdown, and hand washing, within the maintenance garage associated with the O&M building(s). An estimated 10 to 30 staff will be employed at the Facility for operations and maintenance. Based on a highly conservative assumption that there will be 30 employees, each using the O&M building(s) daily, and based on the standard assumption for commercial office use for each aspect of water usage, the operational water use will be approximately 2,100 gallons per day combined from both wells, as shown in Table O-2. A new water right is not required for this use because it will qualify as an exempt use under ORS 537.545(1)(f). Water used during operations will be provided from a newly constructed well near each of the O&M

building(s). Well completion details will be provided to OWRD within 30 days of the wells being completed.

Table O-2. Water Use During Operations

Use	Frequency (Occurrences per Day) <sup>1</sup>	Consumption (Gallons per Occurrence) <sup>1</sup>	Total Consumption (Gallons per Day)
Bathroom sinks	150	2	300
Water closets (toilets)	150	4	600
Shower	30	30	900
Dishwasher	3	12	36
Equipment washdown	45	5	225
Maintenance area sinks	15	4	60
<b>Total (approximate)</b>			<b>2,100</b>

<sup>1</sup> Water usage frequency and consumption rates are based on standard commercial facility estimates, and observed operational water usage patterns for previous wind generation facilities.

Blade washing is not anticipated to occur because the manufacturer does not recommend it. However, if the manufacturer were to recommend blade washing in the future, the washwater created by blade washing will not be considered industrial wastewater. The amount of water required will be below the Oregon Department of Environmental Quality (DEQ) threshold. According to DEQ rules, the following activities are considered to have a de minimis impact on the environment and are allowed without obtaining a permit:

“Businesses that wash less than 8 vehicles or pieces of equipment per week are permitted provided there is no runoff off-site or discharge to surface waters, storm sewer or dry wells. Cleaning is restricted to the exterior of the vehicle or equipment (no engines, transmissions, or undercarriages).” (See Attachment G-1.)

If implemented at the Facility, blade washing will have a de minimis impact on the environment because it will involve a small amount of water per turbine (estimated to be approximately 50 gallons per blade) and will require washing of less than eight turbines per week. Water used to wash turbine will evaporate during washing or infiltrate into surrounding soils. The water will not discharge offsite or discharge to surface waters. If washing is required near seasonal streams, it will be done in a manner to direct the washing activity away from the stream.

Water used for blade washing would be obtained from the City of Arlington or would come from the exempt well to be located at the O&M building(s). Any use from the exempt well at the O&M building(s) for blade washing would be such that the total use from the well would not exceed 5,000 gallons per day.

### O.3 WATER LOSSES

**OAR 345-021-0010(1)(o)(C)** *A description of each avenue of water loss or output from the facility site for the used described in (A), the applicant's estimate of the amount of water in each avenue under annual average and worst-case conditions, and the final disposition of all wastewater.*

Response: During construction, water loss will occur primarily through evaporation from wetted road surfaces and from curing concrete. Because of the dry conditions at the Facility and the relatively low rates of water use and application, it is expected that all water used during construction will be lost within or very near the Facility site boundary. Moreover, no water used at the Facility will be directly discharged into wetlands, lakes, rivers, or streams. Because of the cost and time involved in transporting water by tank truck to the work site, water used for road compaction and dust suppression will be applied at the minimum rate needed to perform its function. Similarly, water used for concrete mixing will be applied at the mixing rate required to make concrete.

During Facility operations, water use will be for sanitary purposes, with final disposition at the onsite septic field. Stormwater will infiltrate into the ground.

### O.4 WATER BALANCE DIAGRAM

**OAR 345-021-0010(1)(o)(D)** *For thermal power plants, a water balance diagram, including the source of cooling water and the estimated consumptive use of cooling water during operation, based on annual average conditions;*

Response: The Facility is not a thermal power plant. Thus, this criterion is not applicable.

### O.5 PERMITS OR TRANSFERS REQUIRED

**OAR 345-021-0010(1)(o)(E)** *If the proposed facility would not need a groundwater permit, a surface water permit or a water right transfer, an explanation why no such permit or transfer is required for the construction and operation of the proposed facility.*

Response: As discussed above, water for construction will either be obtained from the City of Arlington under an existing municipal water right, or provided from an existing or newly constructed well pursuant to a limited water use license, which OWRD would issue to the landowner or the Applicant's contractor. At the completion of construction activities, this well would continue to be used by the landowner for pre-existing uses; be abandoned; or could be used for exempt groundwater purposes pursuant to ORS 537.545.

If water is obtained from the City, no permit or transfer is required because the City's existing municipal water rights allow use for industrial purposes such as the Facility (OAR 690-300-0010(29), and onsite water appropriation and use will occur either pursuant to a limited water use license or pursuant to ORS 537.545.

Operations water use will be minimal and will qualify as an exempt use under ORS 537.545(1)(f), which allows exempt industrial or commercial uses up to 5,000 gallons per day. Exempt industrial water uses include drinking, flushing toilets, using sinks, and other general industrial uses.

**OAR 345-021-0010(1)(o)(F)** *If the proposed facility would need a groundwater permit, a surface water permit or a water right transfer, information to support a determination by the Council that the Water Resources Department should issue the permit or transfer of a water use, including information in the form required by the Water Resources Department under OAR Chapter 690, Divisions 310 and 380.*

Response: No new groundwater permit, surface water permit, or water right transfer is required. Thus, this criterion is not applicable.

## **O.6 MITIGATION MEASURES**

**OAR 345-021-0010(1)(o)(G)** *A description of proposed actions to mitigate the adverse impacts of water use on affected resources.*

Response: One of the environmental benefits of wind generation is that the wind farms require very little water, particularly during their operations phase. Because construction and operation of the Facility will not create any significant impact on water resources, no mitigation is proposed.

## **O.7 CONCLUSION**

Wind generation, by its nature, has minimal requirements for water. During the construction phase, water will be obtained from the City of Arlington or alternatively, water will be provided from an existing or newly constructed well pursuant to a limited water use license issued by OWRD. Water use during operations will be minimal and will qualify as an exempt industrial use under ORS 537.545.

**ATTACHMENT O-1**

**City of Arlington Confirmation of Available Water**



January 11, 2010

Sara Parsons

1125 NW Couch St. Ste. 700

Portland, OR 97209

Dear Sara,

This letter is to confirm our discussion that the City of Arlington can supply Iberdrola Renewables with approximately forty million gallons of water for construction of the Montague Wind Facility. We look forward to working with Iberdrola to complete the construction of this project. Should you have any questions please call me at 541-454-2740. Thank you.

Sincerely,

Tim Wetherell,

Public Works Superintendent

City of Arlington



**ATTACHMENT O-2**

# **City of Arlington Water Right Certificate**



STATE OF OREGON

COUNTY OF GILLIAM

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

EMPRISE INC.  
C/O NANCY PROCTOR  
P.O. BOX 158  
ARLINGTON, OREGON 97812

PHONE: (541) 545-2833

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

APPLICATION FILE NUMBER: G-14507

SOURCE OF WATER: A WELL, IN THE JOHN DAY RIVER BASIN

PURPOSE OR USE: QUASI-MUNICIPAL USE

MAXIMUM RATE: 0.668 CUBIC FOOT PER SECOND

PERIOD OF USE: YEAR ROUND

DATE OF PRIORITY: APRIL 17, 1997

POINT OF DIVERSION LOCATION: SE 1/4 SE 1/4, SECTION 28, T3N, R21E, W.M.;  
NORTH 25 DEGREES 11 MINUTES 22 SECONDS WEST 1140.2 FEET

THE PLACE OF USE IS LOCATED AS FOLLOWS:

SW 1/4 SW 1/4  
SE 1/4 SW 1/4  
NE 1/4 SE 1/4  
SW 1/4 SE 1/4  
SE 1/4 SE 1/4  
SECTION 28

TOWNSHIP 3 NORTH, RANGE 21 EAST, W.M.

Measurement, recording and reporting conditions:

- A. Before water use may begin under this permit, the permittee shall install a meter or other suitable measuring device as approved by the Director. The permittee shall maintain the meter or measuring device in good working order.
- B. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.
- C. The Director may require the permittee to keep and maintain a record of the amount (volume) of water used and may require

Application G-14507 Water Resources Department

PERMIT G-13305

the permittee to report water use on a periodic schedule as established by the Director. In addition, the Director may require the permittee to report general water use information, the periods of water use and the place and nature of use of water under the permit. The Director may provide an opportunity for the permittee to submit alternative reporting procedures for review and approval.

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

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

#### STANDARD CONDITIONS

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

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

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

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

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

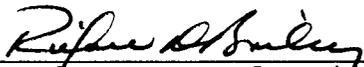
By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

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

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

Actual construction of the well shall begin within one year from permit issuance. Complete application of water to the use shall be made on or before October 1, 2002.

Issued January 28, 1998



Martha O. Pagel, Director  
Water Resources Department

Application G-14507	Water Resources Department	PERMIT G-13305
Basin 06	Volume 1 JOHN DAY R BL KIMBERLY	District 4
LKS	MGMT.CODES 7AG 7AR 7BG 7BR	



**ATTACHMENT O-3**

**Application for Limited Water Use License**





State of Oregon  
Water Resources Department  
725 Summer Street NE, Suite A  
Salem, Oregon 97301-1271  
(503) 986-0900

# Application for Limited Water Use License

A summary of review criteria and procedures that are generally applicable to these applications is available at [www.wrd.state.or.us/OWRD/PUBS/forms.shtml](http://www.wrd.state.or.us/OWRD/PUBS/forms.shtml).

License No. \_\_\_\_\_

Applicant(s): \_\_\_\_\_

Contact Person: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Telephone No: \_\_\_\_\_

I (We) make application for a Limited License to use or store the following described surface waters or groundwater-not otherwise exempt, or to use stored water of the State of Oregon for a use of a short-term or fixed duration:

1. SOURCE(S) OF WATER for the proposed use: \_\_\_\_\_ a tributary of \_\_\_\_\_ .

2. TOTAL AMOUNT OF WATER to be diverted: \_\_\_\_\_ cubic feet per second, or \_\_\_\_\_ gallons per minute. If water is to be used from more than one source, give the quantity from each: \_\_\_\_\_ .

3. INTENDED USE(S) OF WATER: (check all that apply)  
 Road construction or maintenance;  
 General construction;  
 Forestland and rangeland management; or  
 Other: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. DESCRIPTION OF PROPOSED PROJECT: Include a description of the intended place of use as shown on the accompanying site map, the method of water diversion, the type of equipment to be used (including pump horsepower, if applicable), length and dimensions of supply ditches and pipelines:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5. PROJECT SCHEDULE: (List day, month, and year)  
 Date water use will begin \_\_\_\_\_  
 Date project will be completed \_\_\_\_\_  
 Date water use will be completed \_\_\_\_\_

**PLEASE READ CAREFULLY**

**NOTE:** A completed water availability statement from the local watermaster, Land Use Information Form completed by the local Planning Department, fees and site map meeting the requirements of OAR 690-340-030 must accompany this request. The fee for this request is \$150 for the first point of diversion plus \$15 for each additional point of diversion. *Failure to provide any of the required information will result in return of your application.* The license, if granted, will not be issued or replaced by a new license for a period of more than five consecutive years. The license, if granted, will be subordinate to all other authorized uses that rely upon the same source, or water affected by the source, and may be revoked at any time it is determined the use causes injury to any other water right or minimum perennial streamflow.

*If water source is a well, well logs or adequate information for the Department to determine aquifer, well depth, well seal and open interval, etc. are required. The licensee shall indicate the intended aquifer. If for multiple wells, each map location shall be clearly tied to a well log.*

If a limited license is approved, the licensee shall give notice to the Department (Watermaster) at least 15 days in advance of using the water under the Limited License and shall maintain a record of use. The record of use shall include, but need not be limited to, an estimate of the amount of water used, the period of use and the categories of beneficial use to which the water is applied. During the period of the Limited License, the record of use shall be available for review by the Department upon request.

REMARKS: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

SIGNATURE of Applicant: \_\_\_\_\_ DATE: \_\_\_\_\_  
 Title: \_\_\_\_\_

**Mapping Requirements (OAR 690-340-0030):**

- (1) A request for a limited license shall be submitted on a form provided by the Water Resources Department, and shall be accompanied by the following:
- (c) A site map of reproducible quality, drawn to a standard, even scale of not less than 2 inches = 1 mile, showing:
  - (A) The locations of all proposed points of diversion referenced by coordinates or by bearing and distance to the nearest established or projected public land survey corner;
  - (B) The general course of the source for the proposed use, if applicable;
  - (C) Other topographical features such as roads, streams, railroads, etc., which may be helpful in locating the diversion points in the field.

***This page to be completed by the local Watermaster.***

**WATER AVAILABILITY STATEMENT**

Name of Applicant: \_\_\_\_\_ Limited License Number: \_\_\_\_\_

1. To your knowledge, has the stream or basin that is the source for this application ever been regulated for prior rights?

Yes       No

If yes, please explain:

2. Based on your observations, would there be water available in the quantity and at the times needed to supply the use proposed by this application?

Yes       No

3. Do you observe this stream system during regular fieldwork?

Yes       No

If yes, what are your observations for the stream?

4. If the source is a well and if WRD were to determine that there is the potential for substantial interference with nearby surface water sources, would there still be ground water and surface water available during the time requested and in the amount requested without injury to existing water rights?

Yes       No       N/A

What would you recommend for conditions on a limited license that may be issued approving this application?

5. Any other recommendations you would like to make?

Signature \_\_\_\_\_ WM District #: \_\_\_\_\_ Date: \_\_\_\_\_



# Oregon

Theodore R. Kulongoski, Governor

**Water Resources Department**

North Mall Office Building  
725 Summer Street NE, Suite A  
Salem, OR 97301-1266  
503-986-0900  
FAX 503-986-0904

## NOTE TO APPLICANTS

In order for your application to be processed by the Water Resources Department (WRD), this Land Use Information Form must be completed by a local government planning official in the jurisdictions where your water right will be used and developed. The planning official may choose to complete the form while you wait, or return the receipt stub to you. Applications received by WRD without the Land Use Form or the receipt stub will be returned to you.

## NOTE TO LOCAL GOVERNMENTS

The person presenting the attached Land Use Information Form is applying for a water right. The Water Resources Department (WRD) requires its applicants to obtain land-use information to be sure the water rights do not result in land uses that are incompatible with your comprehensive plan.

Please complete the form or detach the receipt stub and return it to the applicant for inclusion in their water right application. You will receive notice once the applicant formally submits his or her request to the WRD. The notice will give more information about WRD's water rights process and provide additional comment opportunities. You will have 30 days from the date of the notice to complete the land-use form and return it to the WRD. If no land-use information is received from you within that 30-day period, the WRD may presume the land use associated with the proposed water right is compatible with your comprehensive plan.

Your attention to this request for information is greatly appreciated by the Water Resources Department. If you have any questions concerning this form, please contact the WRD's Customer Service Group at 503-986-0801.



# Oregon Water Resources Department Land Use Information Form

*THIS FORM IS NOT REQUIRED IF: 1) water is to be diverted, conveyed, and/or used only on federal lands; or 2) the application is for a water-right transfer, allocation of conserved water, exchange, permit amendment, or ground water registration modification, and all of the following apply: a) only the place of use is proposed for change, b) there are no structural changes, c) the use of water is for irrigation, and d) the use is located in an irrigation district or exclusive farm-use zone.*

Applicant Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_ Day Phone: \_\_\_\_\_

This application is related to a Measure 37 claim.  Yes  No

## A. Land and Location

Please include the following information for all tax lots where water will be diverted (taken from its source), conveyed (transported), or used. Applicants for municipal use, or irrigation uses within irrigation districts may substitute existing and proposed service-area boundaries for the tax-lot information requested below.

Township	Range	Section	¼ ¼	Tax Lot #	Plan Designation (e.g. Rural Residential/RR-5)	Water to be:	Proposed Land Use:
						<input type="checkbox"/> Diverted <input type="checkbox"/> Conveyed <input type="checkbox"/> Used	
						<input type="checkbox"/> Diverted <input type="checkbox"/> Conveyed <input type="checkbox"/> Used	
						<input type="checkbox"/> Diverted <input type="checkbox"/> Conveyed <input type="checkbox"/> Used	
						<input type="checkbox"/> Diverted <input type="checkbox"/> Conveyed <input type="checkbox"/> Used	

List all counties and cities where water is proposed to be diverted, conveyed, or used. \_\_\_\_\_

## B. Description of Proposed Use

Type of application to be filed with the Water Resources Department:

- Permit to Use or Store Water       Water-Right Transfer       Exchange of Water
- Allocation of Conserved Water       Limited Water Use License
- Permit Amendment or Ground Water Registration Modification

Source of water:  Reservoir/Pond     Ground Water       Surface Water (name) \_\_\_\_\_

Estimated quantity of water needed: \_\_\_\_\_  cubic feet per second     gallons per minute     acre-feet

Intended use of water:  Irrigation     Commercial       Industrial       Domestic for \_\_\_\_\_ household(s)  
 Municipal     Quasi-municipal     Instream       Other \_\_\_\_\_

Briefly describe: \_\_\_\_\_

**Note to applicant:** *If the Land Use Information Form cannot be completed while you wait, please have a local government representative sign the receipt below and include it with the application filed with the Water Resources Department.*

### Receipt for Request for Land Use Information

State of Oregon  
Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1266

## For Local Government Use Only

The following section must be completed by a planning official from each county and city listed unless the project will be located entirely within the city limits. In that case, only the city planning agency must complete this form.

This deals only with the local land-use plan. Do not include approval for activities such as building or grading permits.

**Please check the appropriate box below and provide the requested information**

- Land uses to be served by proposed water uses (including proposed construction) are allowed outright or are not regulated by your comprehensive plan. Cite applicable ordinance section(s): \_\_\_\_\_.
  
- Land uses to be served by proposed water uses (including proposed construction) involve discretionary land-use approvals as listed in the table below. (Please attach documentation of applicable land-use approvals which have already been obtained. Record of Action/land-use decision and accompanying findings are sufficient.)  
**If approvals have been obtained but all appeal periods have not ended, check "Being pursued".**

Type of Land-Use Approval Needed (e.g. plan amendments, rezones, conditional-use permits, etc.)	Cite Most Significant, Applicable Plan Policies & Ordinance Section References	Land-Use Approval:	
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being pursued <input type="checkbox"/> Not being pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being pursued <input type="checkbox"/> Not being pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being pursued <input type="checkbox"/> Not being pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being pursued <input type="checkbox"/> Not being pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being pursued <input type="checkbox"/> Not being pursued

Local governments are invited to express special land-use concerns or make recommendations to the Water Resources Department regarding this proposed use of water below, or on a separate sheet.

---



---



---



---



---



---



---

Name: \_\_\_\_\_ Title: \_\_\_\_\_  
 Signature: \_\_\_\_\_ Phone: \_\_\_\_\_ Date: \_\_\_\_\_  
 Government Entity: \_\_\_\_\_

**Note to local government representative:** Please complete this form or sign the receipt below and return it to the applicant. If you sign the receipt, you will have 30 days from the Water Resources Department's notice date to return the completed Land Use Information Form or WRD may presume the land use associated with the proposed use of water is compatible with local comprehensive plans.

**Receipt for Request for Land Use Information**

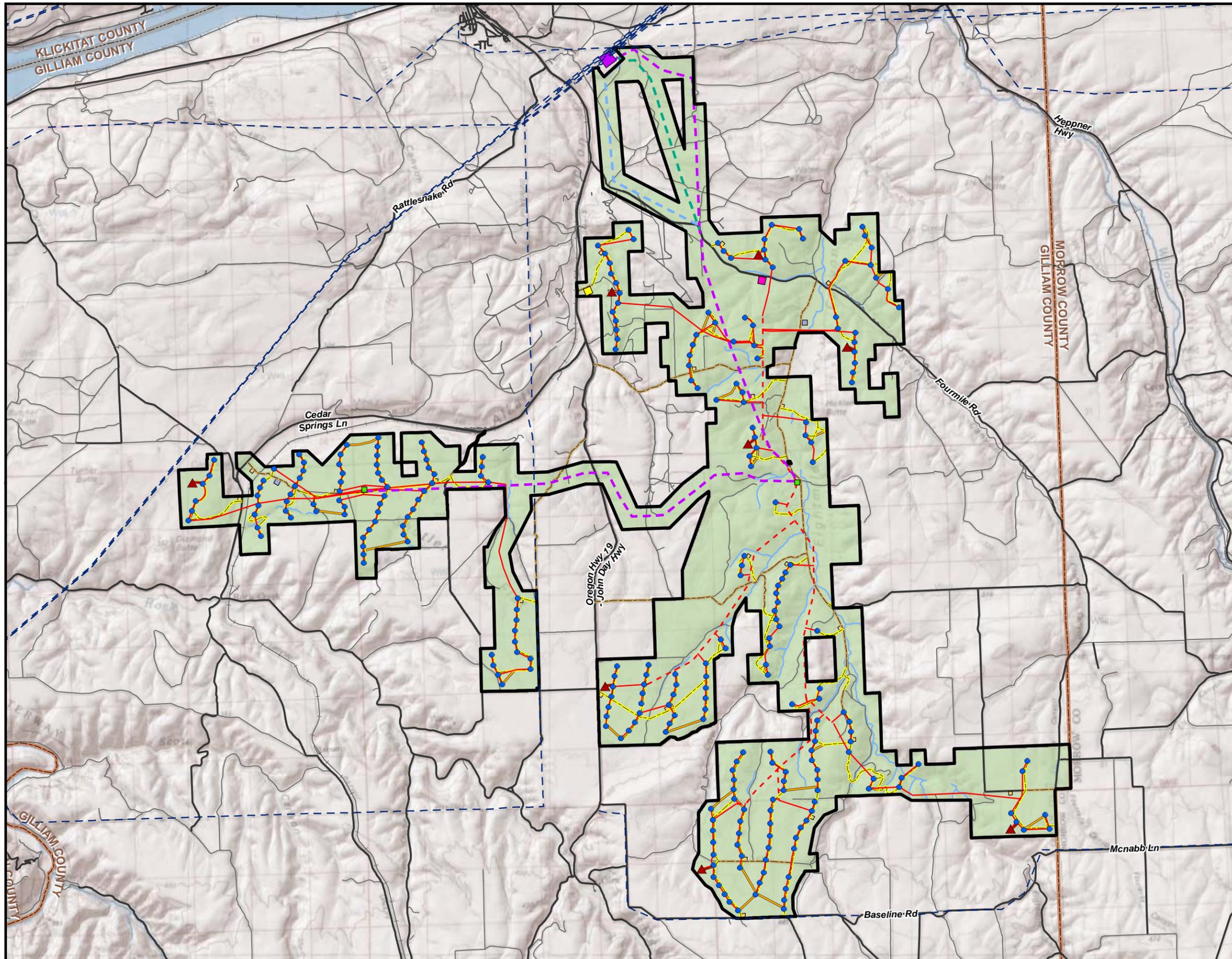
Applicant name: \_\_\_\_\_  
 City or County: \_\_\_\_\_ Staff contact: \_\_\_\_\_  
 Signature: \_\_\_\_\_ Phone: \_\_\_\_\_ Date: \_\_\_\_\_

# Project Description

---

Iberdrola Renewables, Inc., proposes to construct the Montague Wind Power Facility (Facility) in Gilliam County, Oregon, with generating capacity of up to 404 megawatts (see Figure 1). Up to 269 turbines will be located at the Facility site. During construction of the Facility, water will be used for road construction, concrete foundations, and dust suppression. There are two potential water sources. The first potential source is the City of Arlington. The City has existing municipal water rights which would allow it to provide the Applicant's contractors with up to 120,000 gallons per day, for a maximum total of 36.9 million gallons for the entire Facility. No new water rights will be required for the Facility.

A second potential source is an existing well or new well that would be used pursuant to this limited water use license issued by the Oregon Water Resources Department (OWRD). If an existing well or new well are used, water needed during construction will be diverted from the local groundwater aquifer with a newly installed groundwater well (location unknown at this time). The well would be drilled to a depth that will allow for the well to be screened within the primary water bearing zone. It is anticipated that a 100-horsepower (HP) pump would be used. Water pumped from the well would be diverted to a water detention pond (located approximately 200 feet from the well), where it will be stored until used during construction. At the completion of construction activities, this well would continue to be used by the landowner for pre-existing functions; be abandoned; or could be used for exempt groundwater purposes, pursuant to ORS 537.545.



**Figure 1**

**Facility Components**  
 1.5-MW Turbine Layout  
 (Maximum Turbine Layout)  
 Montague Wind Power Facility

- Site Boundary
- Micrositing Corridor
- Proposed Permanent Facilities**
- Proposed Turbine
- Proposed Met Tower
- Proposed New Turbine Road
- Proposed New Met Tower Road
- Proposed Improved Road
- Proposed Underground 34.5-kV Line
- Proposed Overhead 34.5-kV Line
- Proposed 230-kV Transmission Line
- Alternate 1 230-kV Transmission Line
- Alternate 2 230-kV Transmission Line
- Proposed 5-Acre Facility Collector Substation
- Proposed 10-Acre O&M Facility and Staging Area
- Alternate 10-Acre O&M Facility and Staging Area
- Proposed Temporary Facilities**
- Proposed Crane Path
- Proposed 2.5-Acre Staging Area
- Proposed 5-Acre Staging Area
- Existing Facilities**
- Existing Transmission Line
- Public Road
- Private Road
- Major Railroad Line
- Streams
- State Boundary
- BPA Slatt Interconnection Substation
- County Boundary

