



Matthew Hutchinson
Manager, Permitting and Environmental

August 4, 2017

Todd Cornett
Siting Division Administrator
Oregon Department of Energy
550 Capitol Street NE
Salem, OR 97301

Re: Montague Wind Power Facility Change Request #3 – Proposed Site Boundary and Transmission Line Route Modifications

Dear Todd:

As we previously discussed, Montague Wind Power Facility, LLC ("Montague") is proceeding with construction of the Montague Wind Power Facility ("Facility") under the Third Amended Site Certificate, dated July 12, 2017 ("Site Certificate").¹ This Change Request #3 seeks Oregon Department of Energy ("ODOE") approval of two modifications that adjust the Facility's approved site boundary to and modify the Facility's transmission line corridor. These modifications are intended to minimize temporary and permanent impacts on sensitive resources.

The first modification adds approximately 91.8 acres of land currently leased by Montague to the site boundary to allow construction of more direct electrical lines and access roads. The site boundary additions are comprised of two corridors across agricultural land which would allow Montague to reduce the length of the overhead collector lines by nearly 2 miles and avoid the need to build a road across steep slopes in order to access turbine sites. Figure 1 in the attached *Supplement to Change Request #3* depicts the proposed additions to the site boundary associated with this request. Combined, the new areas would represent a less than 0.01 percent addition to the approved site boundary, which consists of approximately 33,485 acres.

¹ Montague submitted Request for Amendment No. 3 to ODOE on May 4, 2017. On July 12, 2017, the Energy Facility Siting Council ("EFSC") approved Request for Amendment No. 3 and issued Final Order on Amendment #3 amending the Site Certificate.

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The second modification consists of a change to the Facility's 230-kilovolt (kV), 0.5-mile-wide transmission line route. This change is necessary to avoid Category 1 Washington ground squirrel (WGS) habitat. The modification also represents an overall reduction in the total length of the 230-kV transmission line from the 19 miles originally described in the Final Order on the Application (EFSC, September 10, 2010), to a total of 10.5 miles. The entire modified 230-kV transmission line route will be constructed within the previously approved site boundary. The previously approved site boundary is the same as the Facility's micrositing corridor, which gives Montague greater micrositing flexibility at construction. Relocation of the proposed 230-kV transmission line route to avoid sensitive habitat is consistent with the Facility's Site Certificate (Condition 95b) and Oregon Department of Fish and Wildlife's Habitat Mitigation Policy (OAR 635-415-0025). Figure 1 in the attached *Supplement to Change Request #3* shows the previously approved 230-kV transmission line route and the proposed modified 230-kV transmission line route. Montague maintains that the modified transmission line route complies with all Site Certificate conditions, including Condition 18. Condition 18 states that the certificate holder shall construct the transmission line within an approved corridor specified in the Site Certificate.

Detailed construction layout plans for the Facility, along with tables showing total impacts, are being provided to ODOE separately as a part of pre-construction compliance submittals. Included in those submittals are the survey results for the areas being added to the site boundary. The reports demonstrate that implementation of the proposed modifications will not change Montague's ability to comply with the Site Certificate conditions as written. We trust that with this additional information and analysis, ODOE will approve the modifications described in this change request and agree that the need for a Site Certificate amendment is not triggered.

Thank you for your time and work on this project.

Very truly yours,

A handwritten signature in black ink, appearing to read "Matthew Hutchinson", with a long, sweeping horizontal stroke extending to the right.

Matthew Hutchinson

cc: ODOE Team
Avangrid/CH2M/DWT Team

Attachment: *Supplement to Change Request #3*

Supplement to Change Request #3

This Supplement to Change Request #3 describes the rationale for the change request and provides a compliance assessment to demonstrate why the proposed changes do not require a Site Certificate amendment per Oregon Administrative Rule (OAR) 345-027-0050(5).

1.0 Description of Proposed Modifications

Montague Wind Power Facility, LLC (Montague) proposes two modifications to the previously approved Montague Wind Power Facility (Facility). These modifications are depicted on Figure 1 (located in the Attachment with other figures cited in this change request).

First Modification: Site Boundary Additions

Montague seeks to adjust the approved site boundary in two areas to minimize temporary and permanent impacts to sensitive resources. Combined, the two areas will add approximately 91.8 acres of land currently leased by Montague to the site boundary. The two site boundary additions are both located on the same landowner's property. The new areas represent a less than 0.01 percent addition to the approved site boundary, which consists of approximately 33,485 acres.

As shown in blue ("Collector Line") on Figure 1, Montague proposes to add 36.1 acres to the approved site boundary and micrositing corridor. The purpose of this addition is to reduce the length of overhead and underground collector lines required to connect turbines from the southern part of the Facility to the centrally located substation. The addition will allow Montague to construct a 3,300-foot segment of overhead collector line and multiple underground collector line segments, totaling 4,224 feet, which represents a reduction in length of the overhead collection lines between the southern turbines and the substation by nearly 2 miles.

As shown in purple ("Access Road") on Figure 1, Montague seeks to add 55.7 acres to the approved site boundary and micrositing corridor to allow construction of two road segments. The length of the turbine string access roads outside of the approved site boundary totals approximately 1 mile. This proposed modification will allow Montague to improve accessibility to turbine locations by avoiding the need to construct an access road on steep canyon slopes. Rather, Montague will follow existing farm roads and cross level ground, thereby reducing impacts to sensitive resources.

Second Modification: Modified Transmission Line Route

The second modification relates to the definition of the transmission line route. OAR 345-027-0023(5) states that: *"If the proposed energy facility...has, as a related or supporting facility, a pipeline or transmission line, the Council shall specify an approved corridor in the site certificate and shall allow the certificate holder to construct the pipeline or transmission line anywhere within the corridor, subject to the conditions of the site certificate. If the applicant has analyzed more than one corridor in its application for a site certificate, the Council may, subject to the Council's standards, approve more than one corridor."*

Montague previously sought approval from the Energy Facility Siting Council (EFSC; Council) for three alternative 230-kilovolt (kV) transmission line routes (0.5 mile in width) located within the Facility's site boundary. The previously approved site boundary is the same as the Facility's micrositing corridor, which gives Montague greater micrositing flexibility at construction. As originally approved, the 230-kV transmission line was to run through the micrositing corridor from a western substation to a central substation and then from a central substation through the micrositing corridor north to one of the three

alternative transmission line routes to reach the Bonneville Power Administration (BPA) Slatt Substation. In total, EFSC approved up to a 19-mile transmission line within the micrositing corridor.

Based on detailed resource surveys completed for preconstruction compliance in 2017, the original approved transmission line routes had the potential to adversely impact sensitive resources. Montague proposes to reroute the 230-kV transmission line within the approved micrositing corridor in order to avoid these adverse impacts. The modified route reduces the transmission line length to a total of 10.5 miles. Change Request #3 seeks to document that the adjusted route for the 230-kV transmission line still satisfies Condition 18, as further described in Section 2.0.

2.0 Rationale for Change Request

OAR 345-027-0050(1) identifies the types of changes for which Montague is required to submit a request to amend its Site Certificate. Certificate amendments are required to design, construct, or operate a facility in a manner different from the description in the site certificate if the proposed change:

- (a) Could result in a significant adverse impact that EFSC has not addressed in an earlier order and the impact would affect a resource protected by EFSC standards;
- (b) Could impair the certificate holder's ability to comply with a site certificate condition; or
- (c) Could require a new condition or a change to a condition in the site certificate.

Where the modification does not meet these criteria (requiring a formal amendment), a certificate holder may proceed with the documentation of the changes in accordance with OAR 345-027-0050(3).

Under OAR 345-027-0050(5), a certificate holder may submit a change request in writing to the Oregon Department of Energy (ODOE) for a determination of whether a proposed change requires a site certificate amendment. The accompanying cover letter and this submittal constitute the change request. This "Rationale for Change Request" section provides additional detail to justify why a certificate amendment is not required for the proposed changes.

OAR 345-027-0050(1)(a): The minor modifications to the site boundary and transmission line route do not trigger an amendment under OAR 345-027-0050(1)(a) because there are no new impacts to protected resources that have not previously been evaluated and addressed by EFSC. A detailed compliance assessment is provided in Section 3.0.

OAR 345-027-0050(1)(b): Montague maintains that the modified transmission line route complies with all Site Certificate conditions, including Condition 18. Condition 18 states that the certificate holder shall construct the transmission line within an approved corridor specified in the Site Certificate.

EFSC approved up to 19 miles of 230-kV transmission lines located within the identified micrositing corridor, which Montague argues includes a "corridor" within the meaning of OAR 345-001-0010(13). For purposes of analyzing potential impacts, Montague defined the Facility's site boundary and "micrositing corridor" as the same geographic area.¹

By defining the micrositing corridor as the site boundary, Montague was able to demonstrate that the proposed wind power generation facility and all related and supporting facilities could be constructed anywhere within the site boundary and meet EFSC's standards. This permitting approach allowed

¹ The Facility was originally approved by EFSC on September 10, 2010. In 2006, EFSC approved micrositing areas in site certificates and site certificate amendments for wind facilities. EFSC recognized the need for wind energy facilities to "have the flexibility to 'microsite' the final location of wind turbines and related infrastructure after issuance of a site certificate, based on turbine selection, geotechnical constraints, site-specific wind resource factors, avoidance of high-value wildlife habitat and the desire to reduce conflict with existing farming practices." (Final Order on the Application for Site Certificate for the Montague Wind Power Facility, p. 12 [September 10, 2010]).

Montague to demonstrate that a proposed facility could be constructed on the identified land, in a manner that complied with EFSC's standards, while also allowing Montague increased micro-siting flexibility for the final Facility design. This approach is consistent with EFSC's rules and has been approved by EFSC. The Facility was specifically approved based on this permitting approach. The conditions of approval in the Site Certificate illustrate that EFSC recognized the potential for construction to occur in areas not previously surveyed and that Montague would need to conduct preconstruction surveys in order to demonstrate that the final design still complied with EFSC standards.

The approved micro-siting corridor included three alternative 230-kV transmission line routes. EFSC approved up to 19 miles of 230-kV transmission lines located within the identified micro-siting corridor, approximately 3.5 miles of which would run through one of the three identified 230-kV transmission line routes to reach the BPA Slatt Substation. The 230-kV transmission line would run through the micro-siting corridor from the western substation to the central substation (approximately up to 10 miles) and then from the central substation through the micro-siting corridor to one of the three alternative transmission line routes to the Slatt Substation (approximately up to 9 miles). It is clear from the record that EFSC previously considered that a large portion of the 230-kV transmission line would run through the micro-siting corridor before running through one of the three alternative transmission line routes. The original Site Certificate does not approve a specific transmission line route within the central portion of the micro-siting corridor. Instead, the micro-siting corridor was defined to include three alternative transmission line routes. As Montague completes preconstruction design, the western substation has been eliminated and the location of the central substation has moved, which has subsequently resulted in a realignment of the 230-kV transmission line within the site boundary/micro-siting corridor. In addition, avoidance of Washington ground squirrel (WGS) burrows and Category 1 WGS habitat has also required route deviations. However, as discussed, these adjustments are allowed under the Site Certificate and consistent with EFSC's original approval, as the 230-kV transmission line will still run through the micro-siting corridor and then through one of the three EFSC-approved transmission line routes to reach the Slatt Substation.

The definition language of "corridor" in OAR 345-001-0010(13) references an area running "the entire length of the proposed transmission line." This language, however, must be read in the context of the "site boundary" definition in OAR 345-001-0010(55) – the corridor must run the length of the gen-tie line to the extent the gen-tie line is not included in the micro-siting corridor as a related or supporting facility. The corridor only includes the gen-tie line and supporting equipment whereas the micro-siting corridor can include all Facility components, per the rule language. See Davis Wright Tremaine LLP email to Oregon Department of Justice, dated April 17, 2017 (DWT, 2017). Montague did not distinguish between the micro-siting corridor and the corridor when showing the site boundary on Facility maps. The three corridors were labeled within the "micro-siting corridor" and described in the Application for Site Certificate (ASC) and approved in the Site Certificate as the "transmission line routes" rather than "corridor."

Regardless of the labeling, for purposes of applying Condition 18, Montague maintains that EFSC previously approved an associated transmission line "corridor" when it approved the site boundary with three alternative transmission line routes – each route was an approved corridor. Therefore, as long as the Facility's 230-kV transmission line is constructed within the micro-siting corridor and one of the three approved corridors, then ODOE may find that Montague complies with Condition 18. However, upon ODOE's request, Montague provides documentation to confirm that notwithstanding the adjusted route, the 230-kV transmission line will not result in adverse impacts not previously considered by EFSC and in fact, will reduce permanent and temporary impacts. On this basis, ODOE may find Condition 18 is met and no amendment is required. Additional analysis of compliance with this condition and other standards is provided in this change request.

ORAR 345-027-0050(1)(c): As described in Section 3.0, the proposed modifications to the micrositing corridor, site boundary, and transmission line route are minor and will not result in adverse impacts not previously evaluated by EFSC; therefore, no new conditions are required.

3.0 Compliance Assessment for Proposed Modifications

ORAR 345-027-0050(3) requires an evaluation of applicable EFSC standards relevant to the proposed modifications; therefore, Montague has provided this compliance assessment for the requested modifications, organized in accordance with ORAR 345-027-0060(1)(e). The Council standards relevant to the proposed modifications are Division 22 (General Standards for Siting Facilities) and Division 24 (Specific Standards for Siting Facilities). The Facility is an electric generating facility using wind turbine technology; therefore, Division 23, which applies to nongenerating facilities, does not apply. Similarly, inapplicable provisions of Division 24 (e.g., standards applicable to gas plants, gas storage, and nongenerating facilities) are not discussed.

ORAR 345-022f

The following Division 22 standards are addressed:

- ORAR 345-022-0010 Organizational Expertise
- ORAR 345-022-0020 Structural Standard
- ORAR 345-022-0022 Soil Protection
- ORAR 345-022-0030 Land Use
- ORAR 345-022-0040 Protected Areas
- ORAR 345-022-0050 Retirement and Financial Assurance
- ORAR 345-022-0060 Fish and Wildlife Habitat
- ORAR 345-022-0070 Threatened and Endangered Species
- ORAR 345-022-0080 Scenic Resources
- ORAR 345-022-0090 Historic, Cultural and Archaeological Resources
- ORAR 345-022-0100 Recreation
- ORAR 345-022-0110 Public Services
- ORAR 345-022-0120 Waste Minimization

ORAR 345-022-0010 Organizational Expertise

- (1) *To issue a site certificate, the Council must find that the applicant has the organizational expertise to construct, operate and retire the proposed facility in compliance with Council standards and conditions of the site certificate. To conclude that the applicant has this expertise, the Council must find that the applicant has demonstrated the ability to design, construct and operate the proposed facility in compliance with site certificate conditions and in a manner that protects public health and safety and has demonstrated the ability to restore the site to a useful, non-hazardous condition. The Council may consider the applicant's experience, the applicant's access to technical expertise and the applicant's past performance in constructing, operating and retiring other facilities, including, but not limited to, the number and severity of regulatory citations issued to the applicant.*
- (2) *The Council may base its findings under section (1) on a rebuttable presumption that an applicant has organizational, managerial and technical expertise, if the applicant has an ISO 9000 or ISO 14000 certified program and proposes to design, construct and operate the facility according to that program.*
- (3) *If the applicant does not itself obtain a state or local government permit or approval for which the Council would ordinarily determine compliance but instead relies on a permit or approval issued to a third party, the Council, to issue a site certificate, must find that the third party has, or has a*

reasonable likelihood of obtaining, the necessary permit or approval, and that the applicant has, or has a reasonable likelihood of entering into, a contractual or other arrangement with the third party for access to the resource or service secured by that permit or approval.

- (4) *If the applicant relies on a permit or approval issued to a third party and the third party does not have the necessary permit or approval at the time the Council issues the site certificate, the Council may issue the site certificate subject to the condition that the certificate holder shall not commence construction or operation as appropriate until the third party has obtained the necessary permit or approval and the applicant has a contract or other arrangement for access to the resource or service secured by that permit or approval.*

Response: This standard is not applicable to the change request. The certificate holder (Montague) remains the same and there has been no change in Montague's organizational expertise.

OAR 345-022-0020 Structural Standard

- (1) *Except for facilities described in sections (2) and (3), to issue a site certificate, the Council must find that:*
- (a) *The applicant, through appropriate site-specific study, has adequately characterized the site as to Maximum Considered Earthquake Ground Motion shown for the site in the 2009 International Building Code and maximum probable ground motion, taking into account ground failure and amplification for the site specific soil profile under the maximum credible and maximum probable seismic events; and*
 - (b) *The applicant can design, engineer, and construct the facility to avoid dangers to human safety presented by seismic hazards affecting the site that are expected to result from maximum probable ground motion events. As used in this rule "seismic hazard" includes ground shaking, ground failure, landslide, liquefaction, lateral spreading, tsunami inundation, fault displacement, and subsidence;*
 - (c) *The applicant, through appropriate site-specific study, has adequately characterized the potential geological and soils hazards of the site and its vicinity that could, in the absence of a seismic event, adversely affect, or be aggravated by, the construction and operation of the proposed facility; and*
 - (d) *The applicant can design, engineer and construct the facility to avoid dangers to human safety presented by the hazards identified in subsection (c).*
- (2) *The Council may issue a site certificate for a facility that would produce power from wind, solar or geothermal energy without making the findings described in section (1). However, the Council may apply the requirements of section (1) to impose conditions on a site certificate issued for such a facility.*

Response: The Council adopted Site Certificate conditions to address the potential for seismic and nonseismic geologic hazards at the Facility.² The proposed modifications do not alter the basis for the Council's earlier findings.

Site Boundary Additions

The site boundary additions cross the same underlying geologic units as the rest of the Facility (Saddle Mountain Basalt and Tuffaceous sedimentary rocks and tuff as shown on Figure H-1 of the ASC Exhibit H).

² Final Order on Amendment #3 of the Site Certificate for the Montague Wind Power Facility, p. 16 (July 12, 2017).

Potential geological and soils hazards of the site were previously provided, and Montague will complete site-specific geotechnical investigations as required by Site Certificate Condition 52 prior to construction to verify that soil conditions are suitable for construction.

Seismic hazards, potential earthquake sources, and nonseismic geological hazards such as landslides are the same within the modified site boundary as those described within the original approved site boundary. As previously found by the Council³, the risk of seismic and nonseismic hazards within the proposed additions to the approved site boundary remain low. Montague's ability to design, engineer, and construct the Facility to avoid dangers to human safety are not affected by the proposed modifications.

Modified Transmission Line Route

The modified 230-kV transmission line crosses the same underlying geologic units as the rest of the Facility—Saddle Mountain Basalt and Tuffaceous sedimentary rocks and tuff. The modified transmission line route crosses over the same land types previously described for this unit, consisting of stable, relatively flat plateau areas and flood-scoured basalt rock. No evidence of landslides or geologic hazards was observed along this route. Based on 2-foot contour topographical mapping and computer modeling, transmission tower foundations were cited along the modified transmission line route to avoid adverse effects on slope stability and long-term erosion.

Potential geological and soils hazards of the site were previously provided, and Montague will complete site-specific geotechnical investigations as required by Site Certificate Condition 52 to verify that soil conditions are suitable for the proposed transmission tower foundations. Seismic hazards, potential earthquake sources, and nonseismic geological hazards such as landslides are the same along the modified transmission line route as those described along the original transmission line route. As previously found by the Council⁴, the risk of seismic and nonseismic hazards along the proposed modified 230-kV transmission line route remains low. Montague's ability to design, engineer, and construct the Facility to avoid dangers to human safety is not affected by the proposed modifications.

Conclusion

The proposed site boundary and transmission line route modifications do not change the basis for EFSC's earlier finding that the Facility can comply with OAR 345-022-0020(1) and the conditions in the Site Certificate.

(3) The Council may issue a site certificate for a special criteria facility under OAR 345-015-0310 without making the findings described in section (1). However, the Council may apply the requirements of section (1) to impose conditions on a site certificate issued for such a facility.

Response: This rule is not applicable.

OAR 345-022-0022 Soil Protection

To issue a site certificate, the Council must find that the design, construction and operation of the facility, taking into account mitigation, are not likely to result in a significant adverse impact to soils including, but not limited to, erosion and chemical factors such as salt deposition from cooling towers, land application of liquid effluent, and chemical spills.

³ Final Order on the Application for Site Certificate for the Montague Wind Power Facility, p. 115 (September 10, 2010).

⁴ Final Order on the Application for Site Certificate for the Montague Wind Power Facility, p. 115 (September 10, 2010).

Response: The Council previously found that the Facility complies with the Soil Protection Standard.⁵ The proposed modifications do not alter the basis for the Council's earlier findings.

Site Boundary Additions

ASC Exhibit I (Figure I-1) provided mapped soil types within the site boundary and in adjacent areas; including the areas that correspond to the proposed modifications. As shown on ASC Figure I-1, the area to be crossed by the new collection lines was mapped by the Natural Resources Conservation Service as Willis silt loam, Ritzville silt loam, and Licksillet very stony loam, and the area to be crossed by the new turbine string access roads is a Ritzville silt loam and Warden silt loam.

Identification and description of soil types and an assessment of impacts to soils at the Facility was previously provided and the areas proposed for inclusion in the site boundary consist of the same soil types found within the Facility site boundary.

Modified Transmission Line Route

ASC Exhibit I (Figure I-1) provided mapped soil types within the site boundary and in adjacent areas; including the areas that correspond to the proposed modifications. As shown on ASC Figure I-1, the area to be crossed by the modified 230-kV transmission line route are the same soil types as previously described, including silt loams and fine sandy loams.

Conclusion

The original studies contained in the Site Certificate record were based on worst-case scenarios for evaluating potential impacts to soils. Potential impacts from erosion will be minimal and are addressed through erosion control measures required by the Facility's National Pollutant Discharge Elimination System (NPDES) 1200-C construction permit. Nothing in this change request impacts Montague's ability to implement erosion control measures presented in Exhibit I or as required by the Facility's NPDES 1200-C permit. In addition, consistent with Condition 52, a site-specific geotechnical investigation will be conducted per Oregon Department of Geology and Mineral Industries guidelines. Therefore, the proposed modifications will not change Montague's ability to comply with all Site Certificate conditions as written, and the proposed site boundary and transmission line changes does not alter the basis for the Council's earlier finding that the Facility complies with OAR 345-022-0022.

OAR 345-022-0030 Land Use

- (1) *To issue a site certificate, the Council must find that the proposed facility complies with the statewide planning goals adopted by the Land Conservation and Development Commission.*
- (2) *The Council shall find that a proposed facility complies with section (1) if:*
 - (a) *The applicant elects to obtain local land use approvals under ORS 469.504(1)(a) and the Council finds that the facility has received local land use approval under the acknowledged comprehensive plan and land use regulations of the affected local government; or*
 - (b) *The applicant elects to obtain a Council determination under ORS 469.504(1)(b) and the Council determines that:*
 - (A) *The proposed facility complies with applicable substantive criteria as described in section (3) and the facility complies with any Land Conservation and Development Commission administrative rules and goals and any land use statutes directly applicable to the facility under ORS 197.646(3)****

⁵ Final Order on Amendment #3 of the Site Certificate for the Montague Wind Power Facility, p. 18 (July 12, 2017).

Response: The Council previously found that the Facility satisfied the land use standard. The two proposed modifications do not alter the basis for the Council's earlier findings or Montague's ability to comply with the Site Certificate conditions.

The various factors that could affect compliance with the land use standard remain the same for the two proposed modifications as they were for the original Site Certificate and various amendments. First, the two modifications remain entirely within the land use jurisdiction of Gilliam County and within the land use analysis area previously analyzed, which includes the approved site boundary and the area within one-half mile from the approved site boundary⁶ (see Figure 2). Second, the modifications will be built entirely on private land for which Montague has negotiated or will negotiate long-term wind energy leases using the same construction methods as previously approved. Third, the modifications are entirely on land zoned by Gilliam County as Exclusive Farm Use (EFU) and no new or additional zoning districts apply (see Figure 2). Fourth, there have been no changes to the applicable substantive criteria in the Gilliam County Zoning Ordinance that would impact the Council's earlier findings (P. Hicks, personal communication with Michelle Colby/Gilliam County Planning Department, July 5, 2017). Finally, all turbines will remain located within the previously approved site boundary and are not affected by these proposed modifications. The only new state law adopted since the Council's original approval is ORS 215.274 for associated transmission lines necessary for public service. Based on the analysis below, the Council may find that the Facility's related and supporting 230-kV transmission line complies with ORS 215.274 and no new Site Certificate conditions are warranted.

First Modification: Site Boundary Additions

The proposed site boundary additions described in Section 1 include one 34-kV overhead collector line segment, one 34.5-kV underground collector line segment, and two road segments designed to minimize temporary and permanent impacts to sensitive resources. These components will be constructed on EFU-zoned agricultural land outside of the approved site boundary but within the analysis area previously analyzed⁷ (see Figure 2). Although located outside of the approved site boundary, use of the proposed alternate collector lines and road corridors will allow a net reduction in the total length of overhead and underground collector lines and new roads required to support the Facility, thereby reducing impacts to sensitive resources. The site boundary additions will maintain a setback of 3,520 feet from the property line of properties zoned residential use or designated in the Gilliam County Comprehensive Plan as residential.⁸ The proposed site boundary additions also remain within an area encompassed by the 500-foot buffer from the approved site boundary used for public notification of surrounding property owners in accordance with OAR 345-020-0011(1)(f)(C).

The proposed site boundary additions do not change the Council's previous finding that the impacts of the Facility will not force a significant change in accepted farm practices or significantly increase the cost of farm practices on surrounding lands. Detailed resource surveys completed for preconstruction compliance in 2017 confirmed that land crossed by the proposed site boundary additions is the same in nature as the land previously reviewed for the approved Facility and is not unique from land within the previously approved site boundary. The proposed site boundary additions will cross a mixture of dry land wheat farming and some range land/grazing areas (see Figure 3) previously reviewed in the land use analysis area⁹ and verified by Montague's field biologist during preconstruction compliance surveys conducted between April 3, 2017, and May 31, 2017. The farm practices in the areas encompassed by the proposed site boundary additions are the same as those previously analyzed,

⁶ Final Order on the Application for Site Certificate for the Montague Wind Power Facility, p. 23 (September 10, 2010).

⁷ Final Order on the Application for Site Certificate for the Montague Wind Power Facility, p. 23 (September 10, 2010).

⁸ Final Order on the Application for Site Certificate for the Montague Wind Power Facility, p. 38 (September 10, 2010).

⁹ Final Order on the Application for Site Certificate for the Montague Wind Power Facility, p. 23 (September 10, 2010).

including soil preparation in the spring and fall, sowing of seed, fertilizing, pest and weed management, and harvesting.¹⁰ In addition, Gilliam County has previously found that the uses associated with a wind energy facility would not force a significant change in accepted farm practices on surrounding lands and would not significantly increase the cost of farm practices.¹¹

The proposed site boundary additions, when combined with the modified transmission line route that reduces the overall transmission line length, will not increase total impacts from the Facility within the one-half mile land use analysis area and will reduce total impacts to sensitive resources. For the reasons described above, the proposed site boundary additions do not alter the basis for the Council's earlier findings that OAR 345-022-0030 is met.

Second Modification: Modified Transmission Line Route

Montague needs to reroute the 230-kV transmission line route to avoid WGS Category 1 habitat identified and mapped during the 2017 preconstruction surveys. The modified transmission line route also reduces the Facility footprint on EFU-zoned agricultural land. The modified route remains inside of the approved micro-siting corridor and will still use one of the three transmission line corridors approved in the Site Certificate to reach the BPA Slatt Substation. The modified route, shown on Figure 1, represents an overall reduction in the total length of the 230-kV transmission line from the approximately 19 miles originally described in the Final Order on the Application, to a total of 10.8 miles.

The modified transmission line route does not change the Council's previous finding that the impacts of the Facility will not force a significant change in accepted farm practices or significantly increase the cost of farm practices on surround lands. Detailed resource surveys completed for preconstruction compliance in 2017 confirmed that land crossed by the modified transmission line route is the same as land previously reviewed for the approved site boundary. The proposed modified transmission line route will cross a mixture of dry land wheat farming and some range land/grazing areas previously reviewed in the land use analysis area¹² (see Figure 3) and verified by Montague's field biologist during preconstruction compliance surveys conducted between April 3, 2017, and May 31, 2017. The farm practices in the areas encompassed by the proposed modified transmission line route are also consistent with those previously analyzed, including soil preparation in the spring and fall, sowing of seed, fertilizing, pest and weed management, and harvesting.¹³ The modified transmission line route will not result in permanent impacts to EFU land that were not previously analyzed within the approved site boundary.

The Council previously approved the 230-kV transmission line as a related and supporting facility and analyzed it under ORS 215.275. As modified, the transmission line alignment is approximately 10.8 miles and will still interconnect the Facility with the BPA Slatt Substation. As described above, the entire modified transmission line route is located within the previously approved site boundary and micro-siting corridor. Montague maintains that rerouting of the transmission line within the previously approved micro-siting corridor should not trigger further analysis. However, to respond to ODOE's request that Montague demonstrate compliance with Condition 18 and analyze the modified transmission line route, Montague addresses ORS 215.274 to demonstrate that, as modified, the 230-kV transmission line, as a related and supporting facility, is necessary for public service and allowed.

¹⁰ Final Order on the Application for Site Certificate for the Montague Wind Power Facility, p. 28 (September 10, 2010).

¹¹ Gilliam County Planning Commission Order No. 2006-06, Exhibit A, p. 8. By this order, the Commission approved a Conditional Use Permit authorizing construction of the Pebble Springs Wind Energy Project.

¹² Final Order on the Application for Site Certificate for the Montague Wind Power Facility, p. 23 (September 10, 2010).

¹³ Final Order on the Application for Site Certificate for the Montague Wind Power Facility, p. 28 (September 10, 2010).

Montague demonstrates that the modified transmission line route complies with the applicable criteria of ORS 215.274 as described below.

ORS 215.274 provides:

(2) An associated transmission line is necessary for public service if an applicant for approval under ORS 215.213 (Uses permitted in exclusive farm use zones in counties that adopted marginal lands system prior to 1993) (1)(c)(B) or 215.283 (Uses permitted in exclusive farm use zones in nonmarginal lands counties) (1)(c)(B) demonstrates to the governing body of a county or its designee that the associated transmission line meets:

(a) At least one of the requirements listed in subsection (3) of this section; or

(b) The requirements described in subsection (4) of this section.

(3) The governing body of a county or its designee shall approve an application under this section if an applicant demonstrates that the entire route of the associated transmission line meets at least one of the following requirements:

(a) The associated transmission line is not located on high-value farmland, as defined in ORS 195.300 (Definitions for ORS 195.300 to 195.336), or on arable land;

ORS 215.274(3)(a) requires approval of the associated transmission line if the route is located on non-high value farmland or nonarable land. Land within the site boundary is not irrigated. As described above, land is either used for dry-land wheat farming or is rangeland. Figure 4 shows the nonirrigated soil capability classes within the site boundary, including the modified transmission line route. The modified transmission line route is comprised predominately of Class 4 and 8 with a very small portion of the route containing Class 7 soils. This land is not high-value farmland; however, a portion of the route contains arable land. Therefore, the 230-kV transmission line would not satisfy this requirement.

Montague must analyze the modified transmission route under ORS 215.274(4); ORS 215.274(3)(b)-(d) do not apply.

ORS 215.274(4)(a) Except as provided in subsection (3) of this section, the governing body of a county or its designee shall approve an application under this section if, after an evaluation of reasonable alternatives, the applicant demonstrates that the entire route of the associated transmission line meets, subject to paragraphs (b) and (c) of this subsection, two or more of the following factors:

Montague addresses the factors for determining that the modified transmission route must be sited on arable land and contends that while the 230-kV transmission line would not satisfy the requirements of ORS 215.274(3), the 230-kV transmission line would satisfy the requirements of ORS 215.274(4) consistent with ORS 215.275(2).

(A) Technical and engineering feasibility;

Montague evaluated the technical and engineering feasibility of possible alternative transmission routes on non-high-value farmland or nonarable land within the site boundary. Figure 4 shows that the soils within the site boundary are varied, with Class 3, 4, 6 and 8 being intermixed in the north and northeastern portion of the site boundary. The Facility substation must be located near the center of the site boundary and any transmission line route must run north to the BPA Slatt Substation. WGS habitat is widespread through the northern portion of the site boundary and the existence of Category 1 WGS habitat is the predominate factor in evaluating the technical and engineering feasibility of any transmission line route. In order to avoid Category 1 WGS habitat, the modified transmission line route is sited preferentially on land used for dry-land wheat farming. Further, there are geographic limitations including gullies, ravines, and steep slopes within the area that limit the technical and engineering feasibility of reasonable alternatives. The transmission line must also be setback for

neighboring wind projects. The proposed modified transmission line route meets the technical and engineering feasibility factors because it avoids WGS category 1 habitat, avoids Class 3 soils, and represents the straightest route, with the shortest length, and least impacts.

(B) The associated transmission line is locationally dependent because the associated transmission line must cross high-value farmland, as defined in ORS 195.300 30 (Definitions for ORS 195.300 to 195.336), or arable land to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;

The evaluation of reasonable alternatives pursuant to ORS 215.274(4)(a) requires Montague to consider reasonable routing alternatives and show that the Facility, as amended, must be sited on high value farmland or arable land in order to achieve a reasonably direct route or meet unique geographical needs (referred to as “locationally dependent”). The transmission line is needed to interconnect the Facility, as amended, to the regional electric grid. The interconnection points identified include the Facility’s central substation and an interconnection point at the BPA Slatt Substation. Montague maintains that the 230-kV transmission line is sited to achieve a reasonably direct route to the BPA interconnection point while also avoiding Category 1 WGS habitat. As shown on Figure 4, the modified transmission line route traverses Class 4 and Class 6 soils to reach the BPA Slatt Substation, which represents the most direct route given the existing site constraints (Category 1 WGS habitat, topography, and the desire to reduce conflict with existing farming practices). Any route within the site boundary would impact some Class 4 soils, given how the Class 4 soils are interspersed with the Class 6 and 7 soils. Consequently, given that any route would impact arable land, and the fact that the proposed line offers the most direct route taking into account site constraints, Montague asserts that there is no reasonable alternative to consider under this factor.

(C) Lack of an available existing right-of-way for a linear facility, such as a transmission line, road or railroad, that is located above the surface of the ground;

There is a lack of available rights-of-way for siting the modified transmission line route. Owing to topographical constraints of large parcel sizes, intermittent steep ravines within the site boundary, and limited existing linear infrastructure, existing aboveground linear facility rights-of-way are not available for routing of the transmission line. Any alternative route that would utilize existing road rights-of-way would significantly increase the length of the line, require acquisition of numerous new land rights, and increase construction costs. For these reasons, Montague concludes that the modified transmission line route meets this factor.

(D) Public health and safety; or

The risk to public health and safety from the 230-kV transmission line would be minimized by limiting the length of transmission line and thereby reducing overall potential exposure to magnetic fields or shock; reducing the new transmission line route length; and locating the transmission line away from populated areas.

(E) Other requirements of state or federal agencies.

The modified transmission line route is sited to avoid Category 1 WGS habitat, a requirement of the Oregon Department of Fish and Wildlife (ODFW) under the ODFW Habitat Mitigation Policy and under EFSC requirements for the Wildlife and Threatened and Endangered Species standards. Further, the route takes into account Site Certificate Condition 48, which requires that Montague avoid placing Facility components or construction disturbance on visible remnants of the Oregon Trail or on undeveloped land where the trail alignment is marked with Oregon-California Trail Association markers. The modified transmission line route meets this requirement.

In sum, the modified transmission line route satisfies the locally dependent requirement of ORS 215.275(4) and is allowed, as the original transmission line route was allowed under ORS 215.275.

Accordingly, the modified transmission line route is an acceptable "corridor" and satisfies Condition 18.

- (3) For the reasons described above, the modified transmission line route does not alter the basis for the Council's earlier findings that OAR 345-022-0030 is met.

OAR 345-022-0040 Protected Areas

*(1) Except as provided in sections (2) and (3), the Council shall not issue a site certificate for a proposed facility located in the areas listed below. To issue a site certificate for a proposed facility located outside the areas listed below, 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 below. References in this rule to protected areas designated under federal or state statutes or regulations are to the designations in effect as of May 11, 2007****

Response: The Council previously found that the Facility is not located in any protected area listed in OAR 345-022-0040 and that the design, construction, and operation of the Facility, taking mitigation into account, are not likely to result in significant adverse impact to any protected area.¹⁴

Site Boundary Additions

The analysis area for the Protected Areas defined under OAR 345-001-0010(2) and 345-001-0010(59)(e) is the area within the site boundary and within 20 miles of the site boundary. The minor modifications to the site boundary described in this change request do not change the analysis area for protected areas because there is no change to the farthest portions of the site boundary to the west, north, east, and south. Therefore, the original 20-mile analysis area included the proposed modified site boundary and all areas within 20 miles of it.

There are seven protected areas within 20 miles of the Facility: Horn Butte Wildlife Area, Arlington State Park, John Day Wildlife Refuge, John Day Wild and Scenic River, John Day State Scenic Waterway, John Day (Hildebrand) State Park, and Willow Creek Wildlife Area. None of these protected areas are located closer to the proposed modified site boundary than previously analyzed. Potential impacts from the Facility on these protected areas were previously evaluated based on noise, traffic, water use and wastewater disposal, and visual impacts.

Predicted noise levels from the Facility were analyzed in ASC Exhibit X, and were based on noise generated from Facility construction and operation. Predicted noise levels, and resulting potential noise impacts to protected areas, were based on identified wind turbines and locations. Because the modifications described in this change request do not change the wind turbine selection or analysis, there is no change to predicted noise levels at protected areas.

There will be no change to the primary and alternate transport routes or haul estimates as previously approved by the Council; therefore, the Council's previous conclusion that traffic generated by construction and operation of the Facility is not likely to result in significant traffic impacts to protected areas will not be altered by the proposed modifications.

Water use and wastewater disposal during construction and operation of the Facility will not be altered by the proposed modifications to the site boundary and therefore the change will not modify the basis for the Council's previous conclusion that water quantity and water quality in protected areas will not be affected by the Facility.

The previous analysis of potential visual impacts from the Facility relied on a Zone of Visual Influence (ZVI) analysis to model line-of-sight visibility for wind turbines and transmission line structures. The

¹⁴ Final Order on Amendment #3 of the Site Certificate for the Montague Wind Power Facility, p. 21 (July 12, 2017).

proposed additions to the site boundary do not change the ZVI analysis or potential Facility visibility from any protected areas and therefore the change will not modify the basis for the Council's previous conclusion that construction and operation of the Facility is not likely to result in significant adverse visual impacts to protected areas.

Modified Transmission Line Route

The modified transmission line route does not affect the analysis area or identification of protected areas within the analysis area. There is no change to the prior analysis of potential impacts to protected areas from noise, transportation, water use, or wastewater disposal that will result from the modification to the transmission line route.

The previous analysis of potential visual impacts from the Facility relied on a ZVI analysis to model line-of-sight visibility for wind turbines and transmission line structures (ASC Exhibit R, Figures R-1 through R-4). The protected area located closest to the Facility is the Horn Butte Wildlife Area, which is located more than three miles from the closest portion of the 230-kV transmission line. At the location of its closest point to the Horn Butte Wildlife Area, the modified 230-kV transmission line follows the same route as the route originally analyzed in the ASC and approved in the Final Order. Because of its distance from the nearest protected area, the modified transmission line route does not require any new analysis of potential visual impacts. The Final Order on the Application¹⁵ found that some of the 230-kV transmission line support structures could be visible from locations within the Horn Butte Wildlife Area. However, because that resource is not protected or managed for scenic views, construction and operation of the Facility is not likely to result in significant adverse impact to this area. Some transmission line support structures will move based on the proposed modifications described in this change request, but the closest structures will remain the same distance from the area, and as a result the changes to the 230-kV transmission line route will not alter the basis for the earlier finding.

The original line-of-sight analysis determined that because the transmission line support structures are notably smaller than the turbines (with a maximum blade tip height of up to 492 feet), the ZVIs analyzing Facility scenic impacts based on turbine visibility, rather than transmission line visibility, represented the worst-case scenario for the visual impacts of the entire Facility (ASC Exhibit R, p. R-3). Therefore, the Council's prior determination was based on the turbine ZVI, which is not affected by the proposed modification to the transmission line route.

Conclusion

The proposed site boundary and transmission line modifications do not alter the basis for the Council's earlier findings that OAR 345-022-0040 is met.

OAR 345-022-0050 Retirement and Financial Assurance

To issue a site certificate, the Council must find that:

- (1) The site, taking into account mitigation, can be restored adequately to a useful, non-hazardous condition following permanent cessation of construction or operation of the facility.*
- (2) The applicant has a reasonable likelihood of obtaining a bond or letter of credit in a form and amount satisfactory to the Council to restore the site to a useful, non-hazardous condition.*

Response: The Council previously found that the Facility, taking into account mitigation, can be restored adequately to a useful, nonhazardous condition following permanent cessation of construction or

¹⁵ Final Order on the Application for Site Certificate for the Montague Wind Power Facility, p. 64 (September 10, 2010).

operation and that Montague has demonstrated a reasonable likelihood of obtaining a bond or letter of credit.¹⁶

The Site Certificate contains a requirement that Montague provide financial assurance based on the final design configuration of the Facility and turbine types prior to construction. Thus, there is already a mechanism in place to assure that minor changes in Facility design are accounted for in the posted financial assurance prior to construction. Accordingly, the proposed modifications do not alter the basis for the Council's earlier findings that OAR 345-022-0050 is met.

OAR 345-022-0060 Fish and Wildlife Habitat

To issue a site certificate, the Council must find that the design, construction and operation of the facility, taking into account mitigation, are consistent with:

- (1) The general fish and wildlife habitat mitigation goals and standards of OAR 635-415-0025(1) through (6) in effect as of February 24, 2017, and*
- (2) For energy facilities that impact sage-grouse habitat, the sage-grouse specific habitat mitigation requirements of the Greater Sage-Grouse Conservation Strategy for Oregon at OAR 635-415-0025(7) and OAR 635-140-0000 through -0025 in effect as of February 24, 2017.*

Response: The Council previously found that the Facility complies with the Council's Fish and Wildlife Habitat Standard.¹⁷ The prior findings were based on an analysis provided within ASC Exhibit P that analyzed worst-case scenarios for evaluating potential impacts to fish and wildlife habitat and demonstrated that the fish and wildlife standard in OAR 345-022-0060 can be satisfied.

Site Boundary Additions

The habitat type within the proposed site boundary additions (see Figure 5) is mostly farmland (i.e., Category 6) with small areas of grassland and shrub-steppe. No aquatic habitats are present within the proposed site boundary additions.

The site boundary changes described in this request will consist of permanent disturbance of up to 0.20 acre of Category 3 shrub-steppe and native grassland habitat, 0.28 acre of Category 4 nonnative grassland habitat, and 3.37 acres of Category 6 dryland wheat habitat. Temporary impacts within the proposed modified site boundary will total 16 acres. Compared to the previous collector line and access road layouts the proposed changes will decrease the overall impacts to essential (i.e., Category 2), limited (i.e., Category 3), and important (i.e., Category 4) habitats, which is consistent with ODFW habitat mitigation standards and goals. In addition, the proposed turbine string access roads across Category 6 habitat will avoid the needed for constructing access roads on steep canyon slopes and thereby minimize environmental impacts to sensitive habitat mapped 2017 preconstruction surveys (i.e., WGS surveys, raptor surveys, and rare plant surveys).

Modified Transmission Line Route

Consistent with Site Certificate Condition 95(a), Montague must reroute the 230-kV transmission line route to avoid Category 1 WGS habitat. The modified route is the most direct route from the central substation to the BPA Slatt Substation while avoiding Category 1 WGS habitat mapped in 2017 and minimizing disturbance to Category 2, 3, and 4 habitats that are potentially suitable for WGS and generally important for wildlife. The previous transmission line route crossed three separate areas that were identified as Category 1 habitat during the 2017 WGS surveys. Impacts to Category 1 WGS habitat are not consistent with ODFW goals or conditions of the Site Certificate.

¹⁶ Final Order on Amendment #3 of the Site Certificate for the Montague Wind Power Facility, p. 31 (July 12, 2017).

¹⁷ Final Order on Amendment #3 of the Site Certificate for the Montague Wind Power Facility, p. 35 (July 12, 2017).

The transmission line route changes will consist of permanent disturbance of up to 3.77 acre of Category 2 habitat, 5.08 acre of Category 3 habitat, and 0.60 acre of Category 6 habitat. Temporary impacts within the proposed transmission line route will total about 45.0 acres. The total length of 230-kV transmission line will be less than the originally approved 19 miles and will avoid impacts to three Category 1 habitat areas. The previous 230-kV transmission line route would have crossed over 3,000 linear feet of Category 1 habitat that were identified during 2017 preconstruction surveys, and passed within 300 feet of three large WGS colonies. Additionally, the modified 230-kV transmission line route will cross more Category 6 habitat and thereby minimize overall impacts to Category 2, 3, and 4 habitat consistent with ODFW habitat mitigation standards and goals.

Facility components have been microsited to avoid and minimize both temporary and permanent impacts to high-quality native wildlife habitats where practicable and as required by OAR 635-415-0025 and the conditions of the Site Certificate. Temporary habitat impacts will be mitigated consistent with OAR 635-415-0025 per the Revegetation Plan. For permanent impacts that cannot be avoided or minimized, Montague will update the Habitat Mitigation Plan to include the total acreage of impacts for the entire Facility, including the modified transmission line route. Montague will construct the Facility using the same construction methods as previously approved. Accordingly, the proposed modifications do not alter the basis for the Council's earlier findings that OAR 345-022-0060 is satisfied.

No jurisdictional wetlands or waterbodies will be adversely impacted within the proposed modification areas. Impacts to Category 1 habitat will also be avoided within the proposed modification areas. Adverse effects to raptors and raptor nests associated with construction activities in the proposed modification areas will be avoided according to Condition 96.

No ODFW sage-grouse action areas or core areas are within 50 miles of the Facility. Additionally, no sage-grouse habitat is documented to occur within, or within 5 miles of, the Facility including the areas that correspond to the proposed modifications; therefore, no impact to sage-grouse habitat will occur.

Conclusion

As described in the Final Order on the Application, construction of the approved Facility will result in up to 1,777.95 acres of temporary impacts and up to 256.81 acres of permanent impacts.¹⁸ The modifications described in this change request will not increase the total impacts from the Facility. Prior to initiating construction, in accordance with Site Certificate Condition 95(b), Montague will provide an updated habitat map and updated habitat impact calculations for the Facility.

Because the modifications described in this change request are made with the purpose and effect of reducing impacts to high-quality habitat, the proposed modifications to the site boundary and transmission line route do not alter the basis of EFSC's prior conclusion that the fish and wildlife standard in OAR 345-022-0060 can be satisfied.

OAR 345-022-0070 Threatened and Endangered Species

To issue a site certificate, the Council, after consultation with appropriate state agencies, must find that:

(1) For plant species that the Oregon Department of Agriculture has listed as threatened or endangered under ORS 564.105(2), the design, construction and operation of the proposed facility, taking into account mitigation:

(a) Are consistent with the protection and conservation program, if any, that the Oregon Department of Agriculture has adopted under ORS 564.105(3); or

¹⁸ Final Order on the Application for Site Certificate for the Montague Wind Power Facility, Table 6, p. 98 (September 10, 2010).

(b) *If the Oregon Department of Agriculture has not adopted a protection and conservation program, are not likely to cause a significant reduction in the likelihood of survival or recovery of the species; and*

(2) *For wildlife species that the Oregon Fish and Wildlife Commission has listed as threatened or endangered under ORS 496.172(2), the design, construction and operation of the proposed facility, taking into account mitigation, are not likely to cause a significant reduction in the likelihood of survival or recovery of the species.*

Response: Montague provides a compliance assessment in this section to demonstrate the requested modifications do not alter the basis for the Council's earlier findings that OAR 345-022-0070 is satisfied.

The analysis area for threatened or endangered plant and wildlife species is the area within the site boundary and 5 miles from the site boundary. The Council previously found that rare plants, WGS, and bald eagles had the potential to occur and be impacted by Facility construction and operation. Surveys for these species were conducted in support of the ASC with additional surveys in Spring 2017 as described below. Because bald eagle has been delisted by the state of Oregon, it is not discussed further in this section.

Rare plant (botanical) and wildlife surveys conducted at the Facility are summarized as follows:

- Rare Plant Surveys
 - ASC Exhibits P and Q describe surveys previously conducted at the Facility for special-status species in 2006, 2009, and 2010. The only federal or state-listed or candidate plant species observed within the site boundary were Laurent's milk-vetch (*Astragalus collinus* var. *laurentii*), and sessile mouse-tail (*Myosurus sessilis*). While potentially suitable habitat for another candidate species (dwarf evening primrose) was present within the site boundary, no dwarf evening primrose was observed, and there are no recent records of the species within the analysis area.
 - A focused botanical field investigation was conducted in Spring 2017 at the Facility. Figure 6 shows the 2017 survey areas that correspond to the proposed modifications. Areas within the site boundary that are planted in wheat or other crops do not provide suitable habitat for rare plants. During field surveys, these areas were verified to be planted in crops and were not surveyed further. A written report of results of the field investigation, submitted to ODOE as part of Montague's preconstruction compliance (CH2M, 2017a), demonstrates that no rare plant species were found within the areas that will be impacted by Facility construction.
- Wildlife Surveys
 - ASC Exhibits P and Q and extensive information reviews revealed that state listed threatened and endangered wildlife species are not likely to occur at, or be affected by, the Facility, with the exception of the state-listed endangered WGS. Condition 94 of the Site Certificate for the Montague Wind Power Facility requires that Montague determine the boundaries of Category 1 WGS habitat prior to construction. Montague conducted WGS surveys within 1,000 feet of planned temporary and permanent disturbance areas in the spring of 2017 using ODFW-approved methodology. Montague buffered the active WGS sites found in 2017 by 785 feet, excluding habitat not suitable for WGS foraging or burrow establishment, to represent the Category 1 WGS habitat defined by Condition 94 of the Site Certificate. Montague has designed the Facility to avoid temporary or permanent impacts to Category 1 habitat mapped in 2017.
 - WGS protocol surveys and associated Category 1 habitat mapping were conducted in the spring of 2017 at the Facility in compliance with Condition 94(c) (CH2M, 2017b). Figure 7 shows the 2017 WGS survey areas including the areas covered by this change request.

- In accordance with ODFW-approved survey protocols and habitat guidance, Category 1 habitat was mapped on nonagricultural land within 785 feet of identified WGS burrows. The proposed Facility components were designed to avoid Category 1 habitat. Additionally, most of the components described in this change request are sited in Category 6 habitat that is not suitable for WGS (e.g., wheat fields).

Site Boundary Additions

The proposed site boundary additions were surveyed in 2017 for rare plants and WGS, which are the only threatened or endangered species suspected to be present within the vicinity of the Facility. No federal- or state-listed or candidate plant species were observed within the site boundary additions during the Spring 2017 botanical surveys (CH2M, 2017a). No WGS burrows were identified within the proposed site boundary additions. Therefore, construction of Facility components within the proposed site boundary additions will not cause any new impacts to threatened or endangered species.

Modified Transmission Line Route

No federal- or state-listed or candidate plant species were observed within the modified transmission line route during the Spring 2017 botanical surveys (CH2M, 2017a). Active WGS sites and associated Category 1 habitat were documented during the 2017 surveys in the vicinity of the original transmission line route. Consistent with the Site Certificate, the modified transmission line route was designed using these survey results to avoid impacts to Category 1 habitat. As a result of these changes, construction of the 230-kV transmission line within the modified route reduces the potential for impacts to threatened and endangered species.

Conclusion

Montague has designed the Facility to avoid threatened and endangered plant species as well as Category 1 WGS habitat. The proposed modifications to the site boundary and transmission line route will not result in new impacts to threatened or endangered species based on 2017 plant, habitat, and wildlife survey results and will, in fact, reduce the potential for impacts to such species by avoiding WGS colonies identified in 2017. Montague will construct the Facility using the same construction methods as previously approved. Accordingly, the proposed changes do not alter the basis for the Council's earlier findings that OAR 345-022-0070 is satisfied.

OAR 345-022-0080 Scenic Resources

- (1) Except for facilities described in section (2), to issue a site certificate, the Council must find that the design, construction and operation of the facility, taking into account mitigation, are not likely to result in significant adverse impact to scenic resources and values identified as significant or important in local land use plans, tribal land management plans and federal land management plans for any lands located within the analysis area described in the project order.*
- (2) The Council may issue a site certificate for a special criteria facility under OAR 345-015-0310 without making the findings described in section (1). However, the Council may apply the requirements of section (1) to impose conditions on a site certificate issued for such a facility.*

Response: The Council previously found that the Facility complies with the Scenic Resources Standard.¹⁹ The prior findings were based on an analysis of potential visual impacts from turbines and transmission line support structures. This change request does not modify the foundation for this prior analysis.

Site Boundary Additions

The prior findings were based on an analysis of potential visual impacts from turbines and 230-kV transmission line support structures (zone of visual influence analysis, or ZVI). The analysis area for the

¹⁹ Final Order on Amendment #3 of the Site Certificate for the Montague Wind Power Facility, p. 39 (July 12, 2017).

Scenic Resources Standard encompasses site boundary plus a 10-mile buffer. The site boundary additions do not extend the limits of the site boundary farther to the north, east, south, or west, and therefore they do not alter the previous analysis area.

Montague evaluated whether there were any new scenic resources within the analysis areas that were not considered in the Council's Final Order on Amendment #3 (July 2017). Montague then reviewed the applicable local and federal land use and management plans to see if any of the plans had been updated, and if updated, whether new scenic resources were identified in the plans. Land management areas were identified in Table 5 of the Final Order on the Application²⁰. In conducting the review, Montague confirmed that none of the local, state, or federal management plans have been updated since the Final Order on the Application was issued in (2010) and consequently, no new scenic resources were identified. Further, no new local, state, or federal management plans applicable to the analysis area are known to have been prepared since 2010. On this basis, Montague concluded that no new scenic resources were identified within the analysis area.

Turbines and 230-kV transmission line support structures will not be located within the additional site boundary areas. There is no change to maximum turbine height, maximum number of turbines, or maximum generating capacity of the Facility from what was originally approved in the Site Certificate. The total number of turbines in the Facility will not exceed 269 and the total MW will not exceed 404. The turbine hub height will not exceed 100 meters (328 feet), and the turbine blade tip height will not exceed 150 meters (492 feet). Turbine structural elements and lighting requirements will not change as a result of the proposed site boundary addition.

The original line-of-sight analysis determined that the worst-case scenario for the visual impacts of the entire Facility was based on turbine visibility (ASC Exhibit R, p. R-3). Therefore, the Council's prior determination was based on the turbine ZVI, which is not affected by the proposed site boundary additions. Because the collection line support structures (80 to 100 feet tall, depending on terrain) are notably smaller than the turbines (maximum blade tip height of up to 492 feet), the shift in above-ground collector line location does not alter the basis of the prior analysis. Moreover, the site boundary addition results in an overall reduction in the length of overhead collector line, which reduces visual impact from this element of the Facility. Conditions 102, 104, and 105 address visual effects of the Facility and the proposed site boundary additions do not affect Montague's ability to comply with these conditions. The Council may conclude that there are no new important scenic resources to consider and may rely on prior findings to conclude that the site boundary additions will not result in significant adverse impacts to important scenic resources in the Facility's analysis area.

Modified Transmission Line Route

The proposed modification to the transmission line route does not change the analysis area or land management areas previously analyzed to assess potential scenic impacts from the Facility. The assessment of potential scenic impacts previously relied on a ZVI analysis to model line-of-sight visibility for wind turbines and transmission line structures (ASC Exhibit R, Figures R-3 and R-4). Transmission line characteristics, including height of support structures, will not be modified as a result of the proposed route change. The original analysis assumed aboveground 230-kV transmission line structures could be up to 100 feet tall. There is no change to the height of the 230-kV transmission line structures from what was originally approved in the Site Certificate.

The original line-of-sight analysis determined that because the transmission line support structures are notably smaller than the turbines (with a maximum blade tip height of up to 492 feet), the ZVIs analyzing Facility scenic impacts based on turbine visibility, rather than transmission line visibility, represented the worst-case scenario for the visual impacts of the entire Facility (ASC Exhibit R, p. R-3).

²⁰ Final Order on the Application for Site Certificate for the Montague Wind Power Facility, p. 67 (September 10, 2010).

Therefore, the Council's prior determination was based on the turbine ZVI, which is not affected by the proposed modification to the transmission line route.

Conclusion

The proposed changes do not alter the basis for the Council's earlier findings that OAR 345-022-0080 is satisfied.

OAR 345-022-0090 Historic, Cultural and Archaeological Resources

- (1) *Except for facilities described in sections (2) and (3), to issue a site certificate, the Council must find that the construction and operation of the facility, taking into account mitigation, are not likely to result in significant adverse impacts to:*
 - (a) *Historic, cultural or archaeological resources that have been listed on, or would likely be listed on the National Register of Historic Places;*
 - (b) *For a facility on private land, archaeological objects, as defined in ORS 358.905(1)(a), or archaeological sites, as defined in ORS 358.905(1)(c); and*
 - (c) *For a facility on public land, archaeological sites, as defined in ORS 358.905(1)(c).*
- (2) *The Council may issue a site certificate for a facility that would produce power from wind, solar or geothermal energy without making the findings described in section (1). However, the Council may apply the requirements of section (1) to impose conditions on a site certificate issued for such a facility.*
- (3) *The Council may issue a site certificate for a special criteria facility under OAR 345-015-0310 without making the findings described in section (1). However, the Council may apply the requirements of section (1) to impose conditions on a site certificate issued for such a facility.*

Response: The Council previously relied on conditions imposed in the Site Certificate to address compliance with the Council's Historic, Cultural, and Archaeological Resources Standard.²¹ The proposed modifications do not limit Montague's ability to comply with cultural conditions of the Site Certificate. The proposed modifications include a revised 230-kV transmission line route within the approved site boundary as well as proposed collection lines and access roads that extend beyond the approved site boundary. The Council previously adopted Conditions 47, 48, 49, 50, and 51 to protect cultural sites. The Oregon State Historic Preservation Office reviewed and approved the conditions.

A pedestrian cultural resources field investigation was conducted in May and June 2017 at the Facility in accordance with Condition 49 (CH2M, 2017c). Portions of the Facility were previously surveyed for cultural resources as a part of the original Montague project (Wilt et al., 2010; McClintock and Sharpe, 2010) and the Baseline project (Ragsdale et al., 2011). Figure 8 shows the cultural resources survey areas that correspond to the proposed modifications.

Site Boundary Additions

No resources were identified within the area proposed for addition to the site boundary. The additional site boundary areas will not affect Montague's ability to comply with the Site Certificate conditions.

Modified Transmission Line Route

One new historic archaeological site was identified within the survey areas that corresponds to the proposed transmission line route modification (temporary site MT17-S-01) (CH2M, 2017c). The site was evaluated and recommended not eligible for listing on the NRHP. The site's NRHP status is currently considered "unevaluated" pending SHPO concurrence on the recommendation. Regardless of status,

²¹ Final Order on Amendment #3 of the Site Certificate for the Montague Wind Power Facility, p. 40 (July 12, 2017).

impacts to this site will be avoided during construction through avoidance measures as defined in Condition 47. Although this change request seeks approval for a one-half mile corridor consistent with OAR 345-001-0010(13), the 2017 cultural resources survey corridor was generally 1,000 feet wide and did not extend to the entire half-mile corridor width. Facilities will not be constructed in unsurveyed areas.

Conclusion

Facility components have been microsited to avoid historic, cultural, and archaeological resources. Montague will implement Site Certificate conditions relating to cultural surveys, avoidance of resources, and construction measures. The proposed modifications do not result in any new impacts that were not previously evaluated, and therefore they do not alter the basis for the Council's earlier findings that OAR 345-022-0090 is met.

OAR 345-022-0100 Recreation

- (1) *Except for facilities described in section (2), to issue a site certificate, the Council must find that the design, construction and operation of a facility, taking into account mitigation, are not likely to result in a significant adverse impact to important recreational opportunities in the analysis area as described in the project order. The Council shall consider the following factors in judging the importance of a recreational opportunity:*
- (a) *Any special designation or management of the location;*
 - (b) *The degree of demand;*
 - (c) *Outstanding or unusual qualities;*
 - (d) *Availability or rareness;*
 - (e) *Irreplaceability or irretrievability of the opportunity.*
- (2) *The Council may issue a site certificate for a special criteria facility under OAR 345-015-0310 without making the findings described in section (1). However, the Council may apply the requirements of section (1) to impose conditions on a site certificate issued for such a facility.*

Response: The Council previously found that the Facility will comply with the Recreation Standard²² and that the design, construction, and operation of the Facility are not likely to result in significant adverse impact to any important recreational opportunities in the analysis area.

Site Boundary Additions

The analysis area for potential impacts to recreational opportunities includes the area within the site boundary and the area within 5 miles of the site boundary. The minor modifications to the site boundary described in this change request do not alter the analysis area for recreational opportunities because there is no change to the farthest portions of the site boundary to the west, north, east, and south. Therefore, the original 5-mile analysis area included the proposed modified site boundary and all areas within 5 miles of it.

Montague evaluated whether any new recreational opportunities in the analysis area were not considered in the Council's Final Order on Amendment #3 (July 2017). Montague reviewed websites established by the entities that manage the recreational resources within the analysis area and compared them to the existing recreational resource list. Based on this evaluation, no new recreational opportunities were identified within the analysis area since the Council's Final Order on Amendment #3 was issued in July 2017. There are no county, state, or federally designated recreation lands or any

²² Final Order on Amendment #3 of the Site Certificate for the Montague Wind Power Facility, p. 42 (July 12, 2017).

designated recreational facilities within the site boundary or the areas that correspond to the proposed modifications. The limited recreational opportunities within the 5-mile analysis area include three City of Arlington parks, one Port of Arlington recreation site, China Creek Golf Course, Roosevelt Park in Washington, the Oregon National Historic Trail (ONHT), and the Lewis and Clark National Historic Trail. None of these recreational opportunities are located closer to the proposed modified site boundary than previously analyzed.

As described in the original ASC, the factors listed above under OAR 345-022-0100 were evaluated in order to determine the importance of each identified recreational opportunity. Recreational opportunities that met the criteria set forth in OAR 345-022-0100 as “important” were then analyzed to determine whether design, construction, and operation of the Facility were likely to result in a significant adverse impact to those opportunities.

The Council found in the Final Order on the Application that “recreational activities in the analysis area include camping, hiking, sightseeing, nature and wildlife observation, boating and fishing, wind surfing, bicycling and upland bird and big game hunting.”²³ The Council found that these recreational opportunities along with opportunities offered by identified city and state parks and recreational areas and by the Lewis and Clark National Historic Trail within the analysis area do not meet the criteria to be considered “important” under the standard. Although the McDonald Crossing of the ONHT offers an important recreational opportunity, the proposed site boundary additions are not in proximity to this resource, will not contain dominant visual elements, and therefore will not change the earlier finding that the Facility will not be visible from that location. The Council may conclude that there are no new important recreational resources to consider and may rely on earlier findings to conclude that this change request will not result in significant adverse impacts to important recreational resources in the Facility’s analysis area.

Modified Transmission Line Route

The modified transmission line route will not result in any changes to the analysis area, identified recreational resources, or Council findings that with the exception of the McDonald Crossing, identified recreational opportunities do not meet the criteria to be considered “important” under the standard.

The ZVI presented in the ASC identified the McDonald Crossing of the ONHT as an important recreational opportunity. However, the Facility will not be visible from that location. Because Facility visibility was based on an evaluation of turbine height (up to 492 feet), which is much greater than the height of transmission line structures (up to 100 feet), the modified transmission line route will not change Facility visibility at the McDonald Crossing location. Therefore, modification of the transmission line route does not alter the conclusion that Facility construction and operation are not likely to result in significant adverse impact to recreational opportunities at the McDonald Crossing site. The proposed modification to the transmission line route does not change any element of the previous analysis and therefore the Council can rely on its prior findings.

The Council previously found that the Fourmile Canyon interpretive site of the ONHT offers an important recreational opportunity. Condition 105 in the Site Certificate ensures the Facility will maintain a minimum distance of 1,000 feet measured from the centerline of each turbine tower or meteorological tower to the centerline of the line-of-sight from the vantage point of the Fourmile Canyon interpretive site looking toward the visible Oregon Trail ruts. The proposed modification to the transmission line route will not affect Montague’s ability to comply with Condition 105.

²³ Final Order on the Application for Site Certificate for the Montague Wind Power Facility, p. 75 (September 10, 2010).

Conclusion

The proposed modifications make no changes that alter the basis for the Council's earlier findings. Accordingly, the proposed changes do not alter the basis for the Council's earlier findings that OAR 345-022-0100 is satisfied.

OAR 345-022-0110 Public Services

- (1) Except for facilities described in sections (2) and (3), to issue a site certificate, the Council must find that the construction and operation of the facility, taking into account mitigation, are not likely to result in significant adverse impact to the ability of public and private providers within the analysis area described in the project order to provide: sewers and sewage treatment, water, storm water drainage, solid waste management, housing, traffic safety, police and fire protection, health care and schools.*
- (2) The Council may issue a site certificate for a facility that would produce power from wind, solar or geothermal energy without making the findings described in section (1). However, the Council may apply the requirements of section (1) to impose conditions on a site certificate issued for such a facility.*
- (3) The Council may issue a site certificate for a special criteria facility under OAR 345-015-0310 without making the findings described in section (1). However, the Council may apply the requirements of section (1) to impose conditions on a site certificate issued for such a facility.*

Response: The proposed changes do not alter the Facility's construction, use, or reliance on sewers and sewage treatment, water, stormwater drainage, solid waste management, housing, traffic safety, police and fire protection, health care, or schools, and there are no other circumstances that would alter the basis for the Council's earlier determination. This standard is not applicable to the change request.

OAR 345-022-0120 Waste Minimization

- (1) Except for facilities described in sections (2) and (3), to issue a site certificate, the Council must find that, to the extent reasonably practicable:
 - (a) The applicant's solid waste and wastewater plans are likely to minimize generation of solid waste and wastewater in the construction and operation of the facility, and when solid waste or wastewater is generated, to result in recycling and reuse of such wastes;*
 - (b) The applicant's plans to manage the accumulation, storage, disposal and transportation of waste generated by the construction and operation of the facility are likely to result in minimal adverse impact on surrounding and adjacent areas.**
- (2) The Council may issue a site certificate for a facility that would produce power from wind, solar or geothermal energy without making the findings described in section (1). However, the Council may apply the requirements of section (1) to impose conditions on a site certificate issued for such a facility.*
- (3) The Council may issue a site certificate for a special criteria facility under OAR 345-015-0310 without making the findings described in section (1). However, the Council may apply the requirements of section (1) to impose conditions on a site certificate issued for such a facility.*

Response: The proposed changes do not alter the Facility's plans for solid waste management or wastewater handling, or management of waste generated by construction and operation of the Facility. This standard is not applicable to the change request.

OAR 345-024

The following Division 24 standards are addressed:

- OAR 345-024-0010 Public Health and Safety Standards for Wind Energy Facilities
- OAR 345-024-0015 Cumulative Effects Standard for Wind Energy Facilities
- OAR 345-024-0090 Transmission Lines

OAR 345-024-0010 Public Health and Safety Standards for Wind Energy Facilities

To issue a site certificate for a proposed wind energy facility, the Council must find that the applicant:

- (1) *Can design, construct and operate the facility to exclude members of the public from close proximity to the turbine blades and electrical equipment.*
- (2) *Can design, construct and operate the facility to preclude structural failure of the tower or blades that could endanger the public safety and to have adequate safety devices and testing procedures designed to warn of impending failure and to minimize the consequences of such failure.*

Response: The Council previously found that Montague could design, construct, and operate the Facility to exclude members of the public from proximity to turbine blades and equipment. The proposed modifications do not change the location, physical size, or dimension of the previously approved turbines.

Site Certificate conditions specify design and construction requirements to require fire safety training and procedures as well as coordination with local facilities. Traffic safety is addressed through road design and construction requirements as well as flagging and traffic control procedures. In addition to these measures, the Site Certificate provides for minimum safety setbacks from residences, roads, and site boundaries (Condition 42). The proposed changes do not impact Montague's ability to comply with these conditions.

Site Boundary Additions

This change request includes a 3,300-foot segment of overhead collector line that will be placed outside of the previously approved site boundary. The Final Order on the Application identified that a maximum of 27 miles of the collector system will be above-ground. Use of the additional site boundary for construction of overhead collector line will allow a net reduction in the total length of above-ground collector lines required to support the Facility; therefore, the Facility will not exceed 27 miles of above-ground collection. Construction of underground collector lines and roads within the proposed additional site boundary area do not affect compliance with this standard.

Modified Transmission Line Route

This change request includes a modified route for the Facility's 230-kV transmission line to be constructed within the previously approved site boundary and represents an overall reduction in the total length from the approximately 19 miles originally described in the Final Order on the Application, to a total of approximately 10.8 miles.

Conclusion

The Facility will be constructed and operated using the same protocols that were previously evaluated by EFSC. To the extent this standard applies to the proposed modifications, ODOE may find that the proposed modifications do not impact the basis of EFSC's earlier findings or Montague's ability to comply with the current Site Certificate conditions.

OCAR 345-024-0015 Cumulative Effects Standard for Wind Energy Facilities

To issue a site certificate for a proposed wind energy facility, the Council must find that the applicant can design and construct the facility to reduce cumulative adverse environmental effects in the vicinity by practicable measures including, but not limited to, the following:

- (1) Using existing roads to provide access to the facility site, or if new roads are needed, minimizing the amount of land used for new roads and locating them to reduce adverse environmental impacts.*
- (2) Using underground transmission lines and combining transmission routes.*
- (3) Connecting the facility to existing substations, or if new substations are needed, minimizing the number of new substations.*
- (4) Designing the facility to reduce the risk of injury to raptors or other vulnerable wildlife in areas near turbines or electrical equipment.*
- (5) Designing the components of the facility to minimize adverse visual features.*
- (6) Using the minimum lighting necessary for safety and security purposes and using techniques to prevent casting glare from the site, except as otherwise required by the Federal Aviation Administration or the Oregon Department of Aviation.*

Response: The Council previously found that the Facility complies with the Wind Energy Facility Cumulative Effects standard.²⁴ The proposed modifications will not affect Montague's use of existing roads where possible, installation of underground transmission lines, or need for substations. The Facility will still be designed to reduce risk of injury to raptors and other wildlife, and there will be no change to the visual impact analysis previously conducted. Lighting will be consistent with the previous analysis. The proposed modifications do not change the physical size or dimension of the previously approved turbines. The Facility will be constructed and operated using the same protocols that were previously evaluated by EFSC.

Site Boundary Additions

Facility components will be constructed within the previously approved site boundary, with the exception of a 3,300-foot segment of overhead collector line, 4,224 feet of underground collection, and two road segments totaling approximately 1 mile in length. The use of the proposed collection lines outside the approved site boundary will allow a net reduction in the total length of collection lines required to support the Facility. In addition, use of the proposed turbine string access roads will improve access to select turbines and will avoid the need to construct an access road on steep slopes. Therefore, the proposed additional site boundary will reduce the amount of land used and minimize environmental impacts. Further, cumulative effects are lessened as use of the site boundary addition will allow for use of less infrastructure for the Facility.

Modified Transmission Line Route

The total length of the 230-kV transmission line will be less than the originally approved 19 miles. Therefore, the proposed modifications will reduce the amount of land used and minimize environmental impacts.

Conclusion

To the extent this standard applies to the proposed modifications, ODOE may find that the proposed modifications do not impact EFSC's earlier findings or Montague's ability to comply with the current Site Certificate conditions.

²⁴ Final Order on Amendment #3 of the Site Certificate for the Montague Wind Power Facility, p. 50 (July 12, 2017).

OAR 345-024-0090 Siting Standards for Transmission Lines

To issue a site certificate for a facility that includes any transmission line under Council jurisdiction, the Council must find that the applicant:

- (1) Can design, construct and operate the proposed transmission line so that alternating current electric fields do not exceed 9 kV per meter at one meter above the ground surface in areas accessible to the public;*
- (2) Can design, construct and operate the proposed transmission line so that induced currents resulting from the transmission line and related or supporting facilities will be as low as reasonably achievable.*

Response: The Council previously found that the Facility complies with this standard.²⁵ ASC Exhibit AA provided an analysis of electrical fields resulting from underground and above-ground 34.5-kV collector lines and above-ground 230-kV transmission lines. Electric fields were analyzed based on installation of above-ground 34.5-kV lines on monopole supports, and 230-kV transmission lines constructed on H-frame structures.

Site Boundary Additions

Peak line loading for above-ground 34.5-kV collector lines was assumed to be 1,000 amperes per phase conductor, and minimum conductor ground clearance was assumed to be 20 feet. For above-ground 34.5-kV collector lines, the calculated maximum electric field strength at one meter above-ground surface was 0.302 kV per meter for the single-circuit line and 0.232 kV per meter for the double circuit line, which complies with the standard. The proposed modification described in this change request does not change the foundation for this analysis; therefore, installation of the proposed collector lines within the expanded site boundary still complies with the standard.

Modified Transmission Line Route

For the 230-kV transmission line, the maximum assumed peak line loading of 1,014 amperes per phase, and assumed minimum ground clearance of 30 feet, are not affected by the modified transmission line route described in this change request. Therefore, the calculated maximum electric field strength at one meter above-ground surface, 2.626 kV per meter on an H-type support, is not changed by the proposed modification to transmission line route.

Site Certificate Condition 17 incorporates the language of OAR 345-027-0023(4) to address public safety for transmission lines, including the requirement to design transmission lines to reduce the risks from induced current. Site Certificate Condition 89 requires that above-ground transmission lines be constructed at least 200 feet from any residence or other occupied structures, and establishes communication and design requirements to enforce compliance with OAR 345-024-0090. The proposed changes do not affect Montague's ability to comply with these conditions.

Conclusion

The proposed modifications do not affect the basis for the Council's earlier finding that OAR 345-024-0090 is met.

²⁵ Final Order on Amendment #3 of the Site Certificate for the Montague Wind Power Facility, p. 52 (July 12, 2017).

Other State and Local Requirements

1. DEQ Noise Control Regulations—OAR 340-035-0035

DEQ noise regulations for industrial and commercial noise sources are established under OAR 340-035-0035. More specifically, OAR 340-035-0035(1)(b)(B)(iii) establishes the noise standards for noise levels generated by a wind energy facility.

Response: The Council previously found that the Facility complies with the applicable noise control regulations in OAR 340-035-0035.²⁶ Predicted noise levels and resulting potential noise impacts from the Facility were analyzed in ASC Exhibit X, and were based on noise generated from Facility construction and operation using identified wind turbines and locations. Because the proposed modifications described in this change request do not change the wind turbine selection or analysis, there is no change to predicted noise levels. Noise levels from the proposed modifications will fall within the noise levels previously analyzed and approved by the Council. Based on this information, ODOE may find that the proposed changes do not affect EFSC's prior findings or Montague's ability to comply with the current Site Certificate conditions.

2. Department of State Lands Removal/Fill Regulations—ORS 196.795 to .990, OAR 141-085-0500 to -0785, and Section 404 of the Clean Water Act

The Oregon Removal-Fill Law (Oregon Revised Statute [ORS] 196.795 to .990) and regulations (OAR 141-085-0500 to -0785) adopted by the Oregon Department of State Lands (DSL) require a Removal/Fill Permit if 50 cubic yards or more of material is removed, filled, or altered within any "waters of the state" at the proposed site. The Council must determine whether a permit is needed. In addition to the DSL regulations, the U.S. Army Corps of Engineers (USACE) administers Section 404 of the Clean Water Act, which regulates the discharge of fill into waters of the United States (including wetlands). Under Section 404, a federal Nationwide or Individual fill permit may be required if waters of the United States are affected by project construction or operation.

Response: The Council previously found that the Facility would not require a Removal-Fill Permit²⁷ because the Facility would not require removal or fill of material from jurisdictional waters of the State in excess of the 50-cubic-yard limit.

As discussed in ASC Exhibit J, the Facility was surveyed for jurisdictional wetlands and a delineation report was submitted to ODOE and DSL in 2010. Site Certificate conditions require that the certificate holder investigate areas that will be disturbed by construction to determine "whether any jurisdictional waters of the State exist in those locations" (Condition 83). The previous jurisdictional determination expired in 2015; therefore, a supplemental survey was conducted in April 2017 to confirm delineation of wetlands and other waters of the United States in compliance with Condition 83. Figure 9 shows the 2017 wetlands and other waters survey areas that correspond to the proposed modifications. Wetlands identified within the study area are isolated and would be considered jurisdictional by DSL but not by the USACE. Waterways within the study area are ephemeral drainages and while they would not be jurisdictional to DSL, with the exception of SD3015 and SD2106, they would be considered jurisdictional to the USACE (HDR, 2017). Montague will use the survey results to avoid impacts to jurisdictional wetlands and waters.

²⁶ Final Order on Amendment #3 of the Site Certificate for the Montague Wind Power Facility, p. 54 (July 12, 2017).

²⁷ Final Order on Amendment #3 of the Site Certificate for the Montague Wind Power Facility, p. 55 (July 12, 2017).

Site Boundary Additions

No wetlands were found within the proposed additions to the site boundary. Seasonal drainages identified within the study area will be avoided through micrositing of Facility components outside of stream channels. Therefore, no new impacts to wetlands or waters will occur as a result of adding this area to the site boundary.

Transmission Line Route Modification

Isolated wetlands and ephemeral waterways were identified along the transmission line route. These will be avoided through micrositing of support structures outside of stream channels. Montague will comply with Condition 84, which prohibits removal and fill of material from jurisdictional waters of the State in excess of the 50-cubic-yard limit for the Facility as a whole. In this way, no Removal/Fill permit will be required.

Although this change request seeks approval for a one-half mile corridor consistent with the definition of transmission line corridor in OAR 345-001-0010(13), the 2017 survey corridor was centered around the proposed transmission line route and did not include the entire half-mile corridor for its full length. Facilities will not be constructed and disturbance will not occur in areas that were not delineated. Facilities have been microsited to avoid and minimize impacts to wetlands and other waters as previously stated and approved and as required by OARs 141-085-0500 -0785 and the conditions of the Site Certificate.

Conclusion

Council imposed Condition 83 to minimize and prevent impacts to wetlands and waters. Based on the results of 2017 surveys, the proposed modifications do not affect Montague's ability to comply with this condition. Therefore, the proposed modifications do not affect the basis for the Council's prior finding that the Oregon Removal-Fill Law (ORS 196.795 to .990) and regulations (OAR 141-085-0500 to -0785) are met.

3. Groundwater Act of 1955—ORS 537.505 to .796, and OAR Chapter 690

Through the provisions of the Groundwater Act of 1955, ORS 537.505 to .796, and OAR Chapter 690, the Oregon Water Resources Commission administers the rights of appropriation and use of the groundwater resources of the state. Under OAR 345-022-0000(1), the Council must determine whether the Facility complies with these statutes and administrative rules.

Response: The Council previously found that the Facility would comply with the Groundwater Act of 1955 and the rules of the Oregon Water Resources Department.²⁸ The proposed modifications will not impact the Facility's water use or otherwise change the analysis previously conducted and therefore will not affect the Council's previous findings.

4.0 Conclusion

The proposed changes do not affect Montague's ability to comply with the applicable EFSC standards, Site Certificate conditions, or with other state or local laws, rules, or ordinances. EFSC may find that the proposed changes do not require a Site Certificate amendment and may be approved.

5.0 References

CH2M HILL Engineers, Inc. (CH2M). 2017a. *Rare Plant Surveys for Montague Wind Power Facility—Phase 1*. Prepared for Avangrid Renewables, LLC. June.

²⁸ Final Order on Amendment #3 of the Site Certificate for the Montague Wind Power Facility, p. 56 (July 12, 2017).

CH2M HILL Engineers, Inc. (CH2M). 2017b. *Washington Ground Squirrel Surveys and Habitat Mapping for Montague Wind Power Facility—Phase 1*. Prepared for Avangrid Renewables, LLC. June.

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Attachment Figures

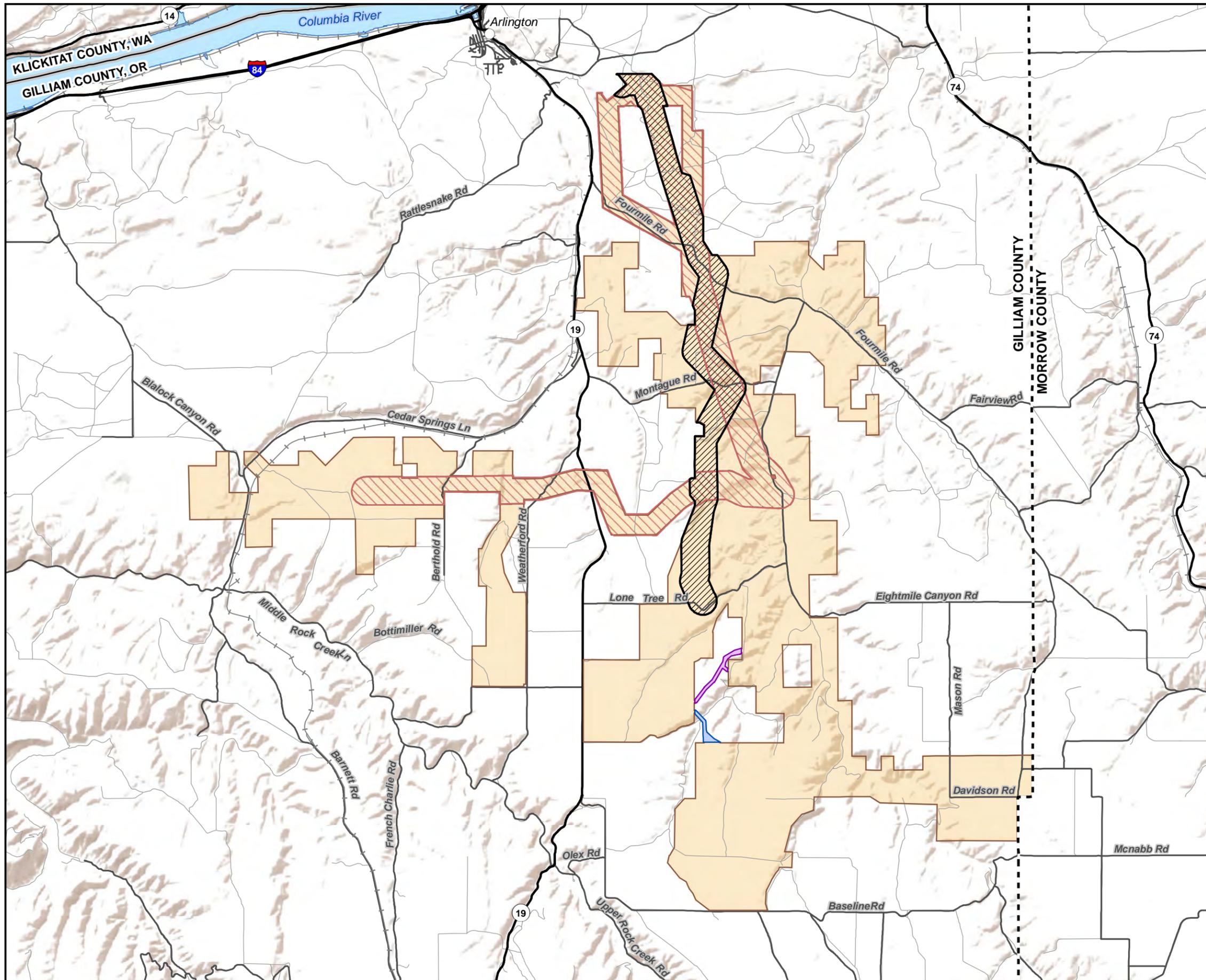


Figure 1
Montague Proposed Modifications to
Approved Site Boundary and
230-kV Transmission Line Corridor
Montague Wind Power Facility -
Change Request #3

Legend

- Approved Site Boundary
 - Proposed 230-kV Transmission Line Corridor
 - Previously Approved 230-kV Transmission Line Corridor
 - Interstate/Highway
 - Public Road
 - Other Road
 - Major Railroad Line
 - State Boundary
 - County Boundary
- Change Request #3 Additions to Site Boundary**
- Access Road
 - Collector Line



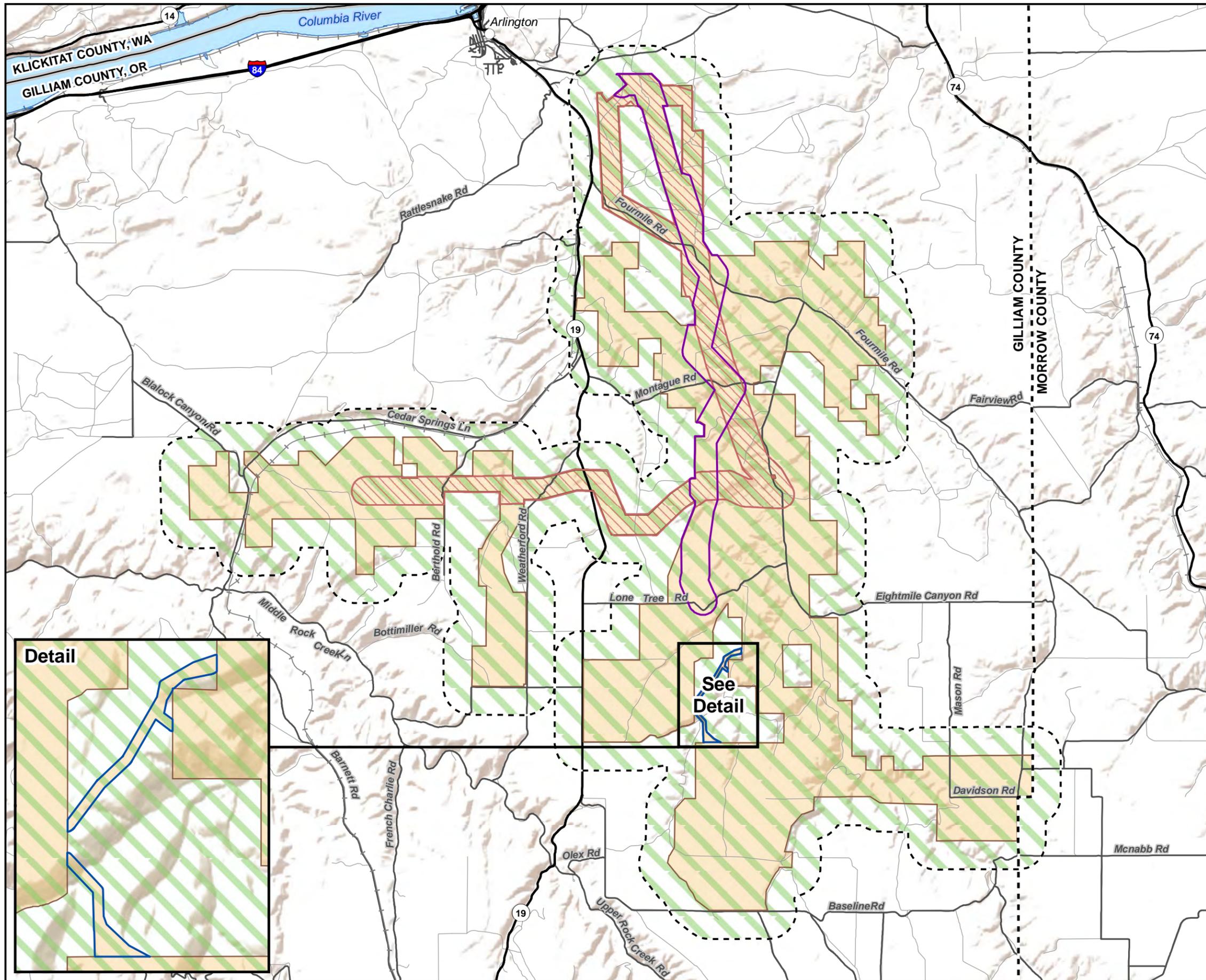


Figure 2
Zoning
Montague Wind Power Facility -
Change Request #3

Legend

-  Approved Site Boundary
-  Proposed 230-kV Transmission Line Corridor
-  Previously Approved 230-kV Transmission Line Corridor
-  Change Request #3 Additions to Site Boundary
-  Interstate/Highway
-  Public Road
-  Other Road
-  Major Railroad Line
-  State Boundary
-  County Boundary
-  One-half Mile Analysis Area (extending from Approved Site Boundary)
-  Zoning: Exclusive Farm Use (EFU) Zone, Agricultural Comprehensive Plan Designation



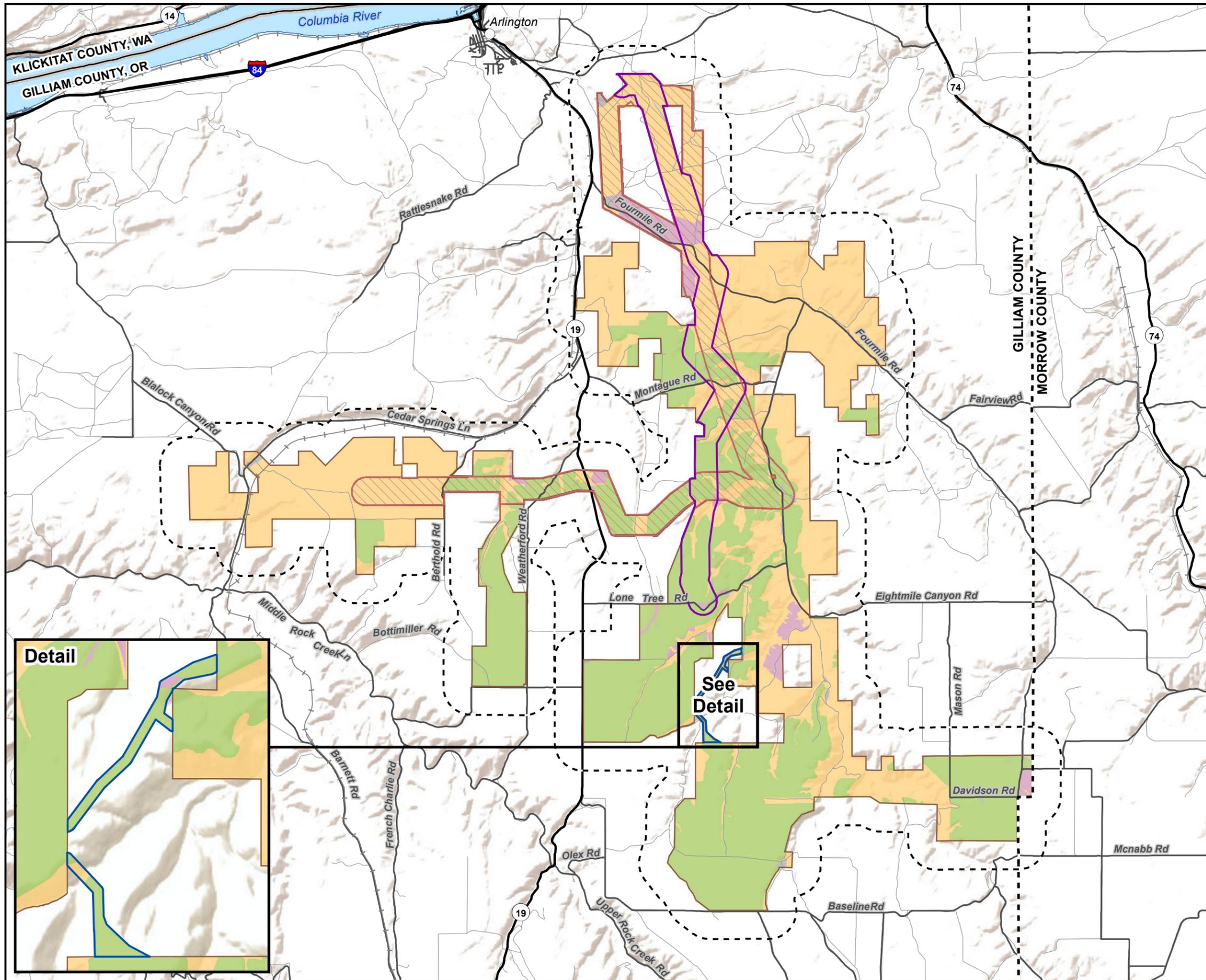
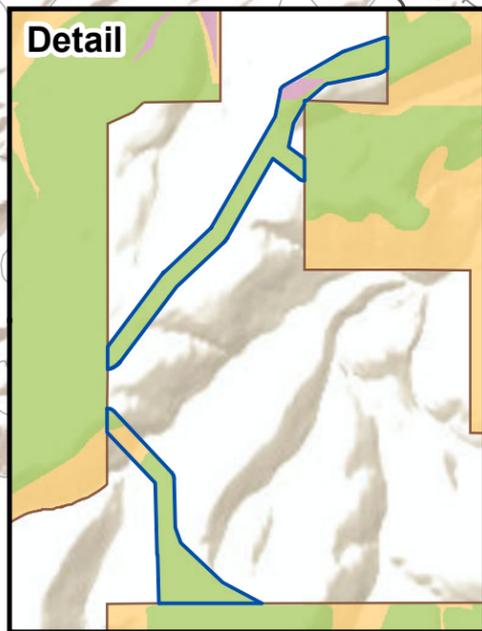


Figure 3
Land Use Map
 Montague Wind Power Facility -
 Change Request #3

Legend

- Approved Site Boundary
 - Proposed 230-kV Transmission Line Corridor
 - Previously Approved 230-kV Transmission Line Corridor
 - Change Request #3 Additions to Site Boundary
 - Interstate/Highway
 - Public Road
 - Other Road
 - Major Railroad Line
 - State Boundary
 - County Boundary
 - One-half Mile Analysis Area (extending from Approved Site Boundary)
- Land Use**
- CRP/Revegetated
 - Crop Land
 - Developed
 - Range/Grazing



See
Detail

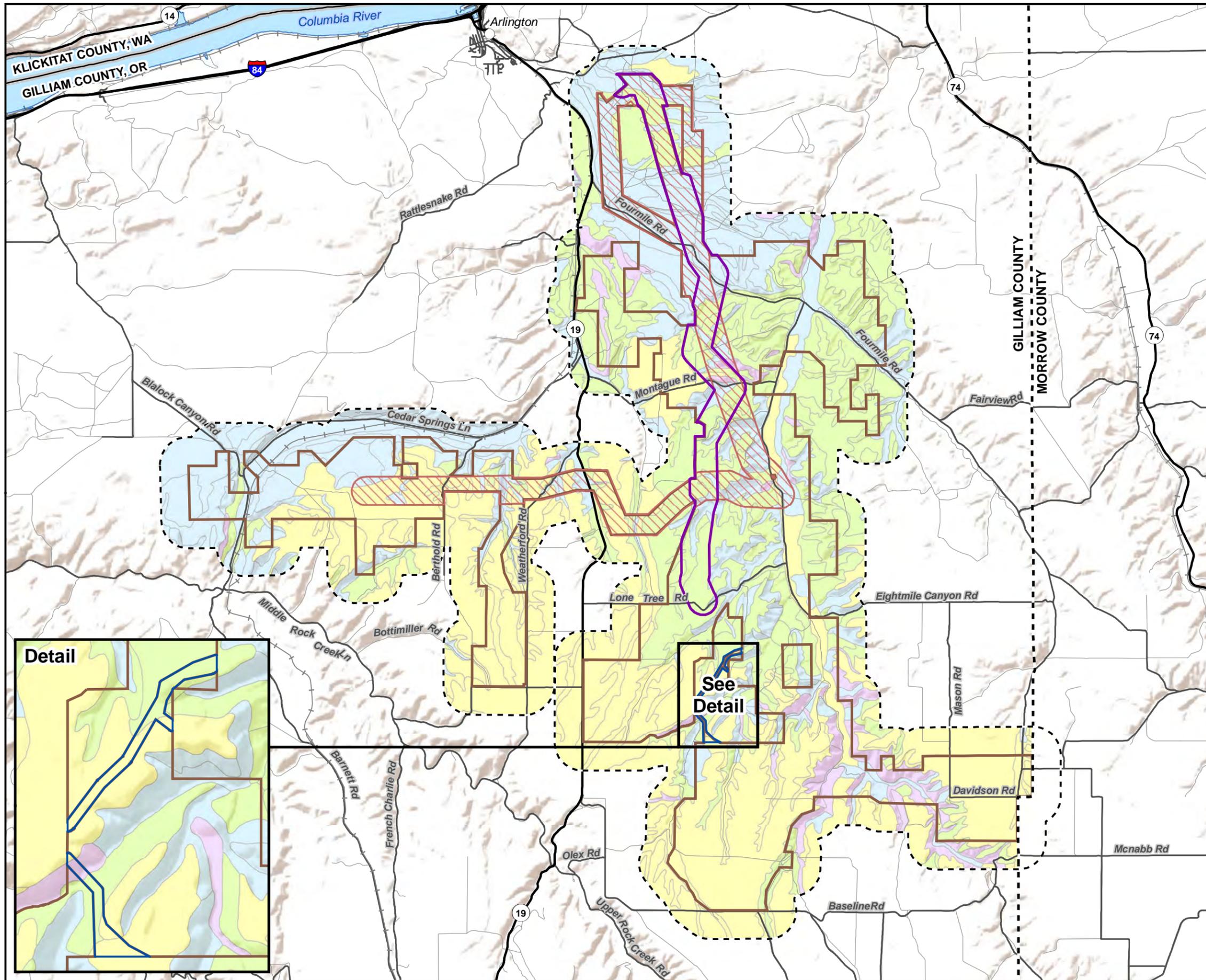
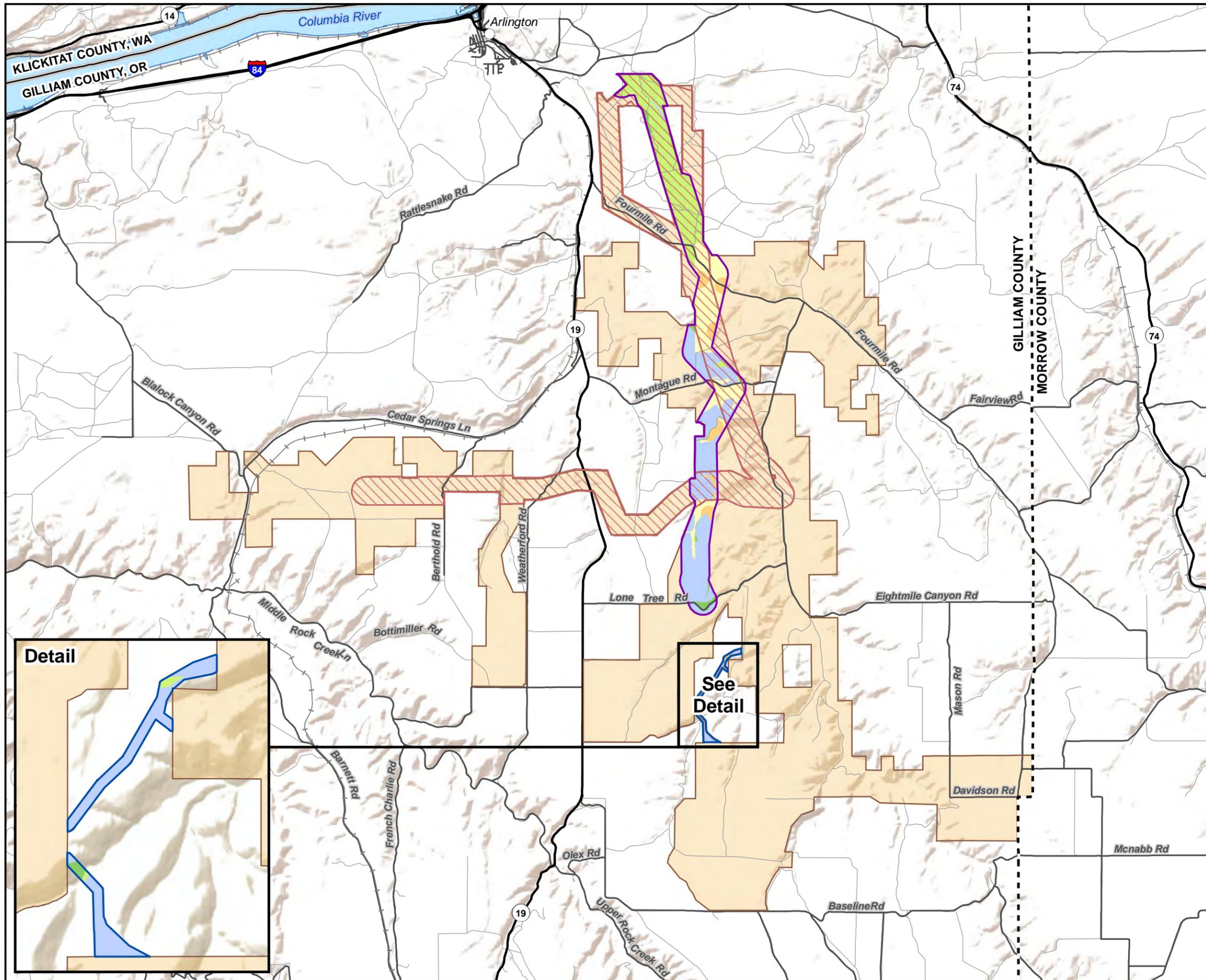


Figure 4
Nonirrigated Soil Capability Classes
Montague Wind Power Facility -
Change Request #3

Legend

- Approved Site Boundary
 - Proposed 230-kV Transmission Line Corridor
 - Previously Approved 230-kV Transmission Line Corridor
 - Change Request #3 Additions to Site Boundary
 - Interstate/Highway
 - Public Road
 - Other Road
 - Major Railroad Line
 - State Boundary
 - County Boundary
 - One-half Mile Analysis Area (extending from Approved Site Boundary)
- Nonirrigated Soil Capability Classes**
- Capability Class 2
 - Capability Class 3
 - Capability Class 4
 - Capability Class 6
 - Capability Class 7
 - Capability Class 8





**Figure 5
Habitat
Montague Wind Power Facility -
Change Request #3**

Legend

- Approved Site Boundary
 - Proposed 230-kV Transmission Line Corridor
 - Previously Approved 230-kV Transmission Line Corridor
 - Change Request #3 Additions to Site Boundary
 - Interstate/Highway
 - Public Road
 - Other Road
 - Major Railroad Line
 - State Boundary
 - County Boundary
- Habitat Category**
- 1
 - 2
 - 3
 - 4
 - 6



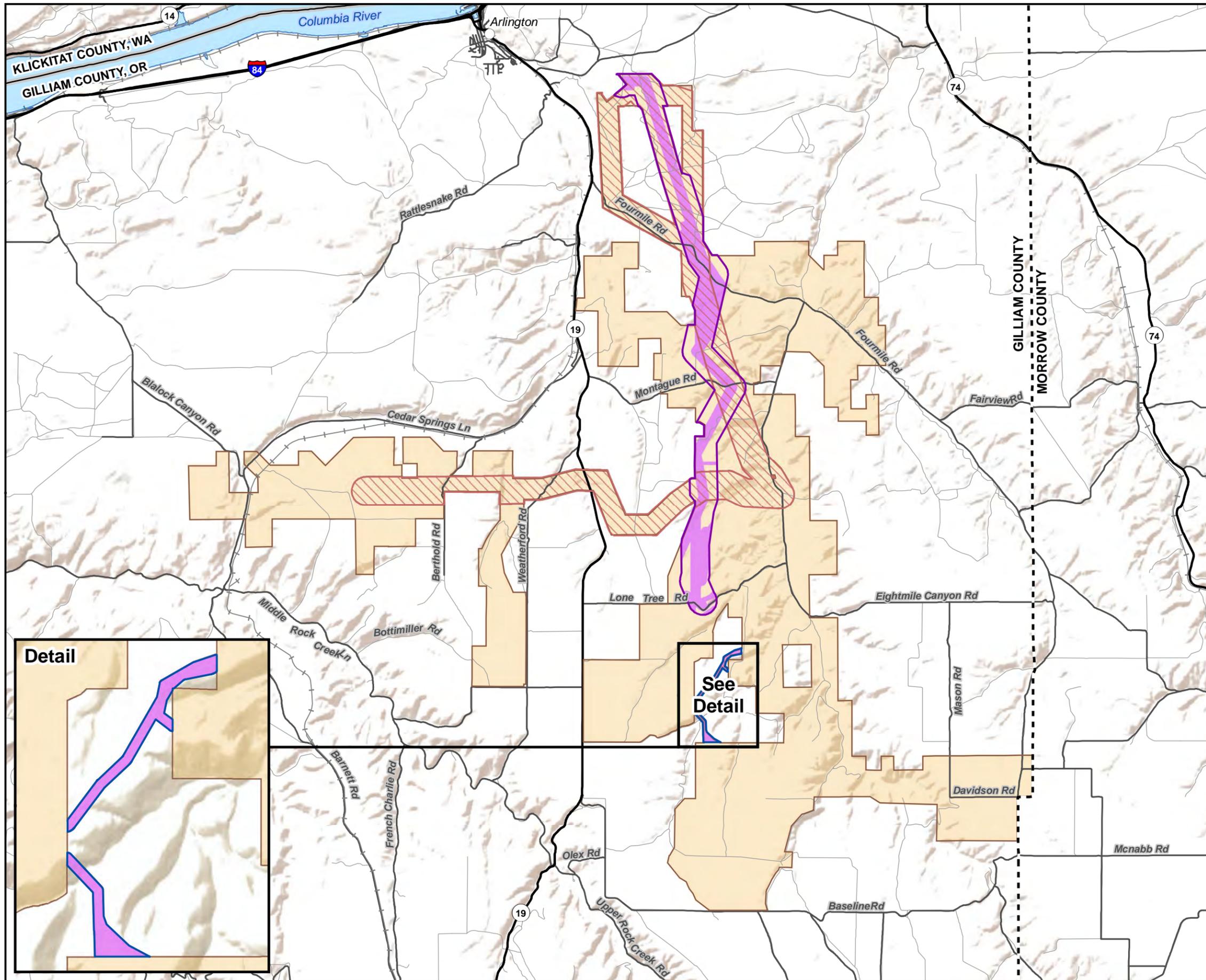


Figure 6
Rare Plants
Montague Wind Power Facility -
Change Request #3

Legend

- Approved Site Boundary
- Proposed 230-kV Transmission Line Corridor
- Previously Approved 230-kV Transmission Line Corridor
- Change Request #3 Additions to Site Boundary
- Interstate/Highway
- Public Road
- Other Road
- Major Railroad Line
- State Boundary
- County Boundary
- 2017 Botanical Field Investigation



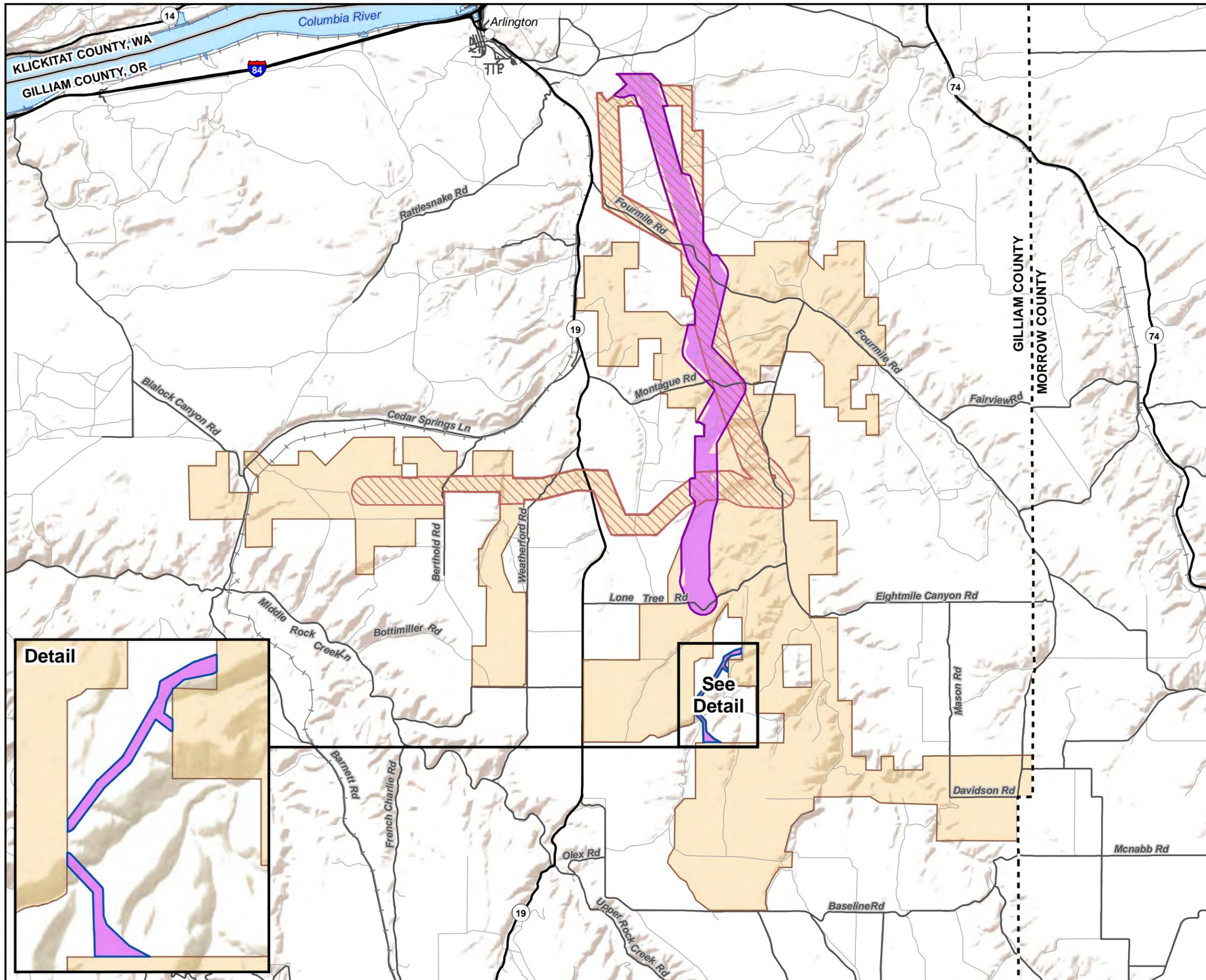


Figure 7
Washington Ground Squirrel
Montague Wind Power Facility -
Change Request #3

Legend

- Approved Site Boundary
- Proposed 230-kV Transmission Line Corridor
- Previously Approved 230-kV Transmission Line Corridor
- Change Request #3 Additions to Site Boundary
- Interstate/Highway
- Public Road
- Other Road
- Major Railroad Line
- State Boundary
- County Boundary
- 2017 Washington Ground Squirrel Survey



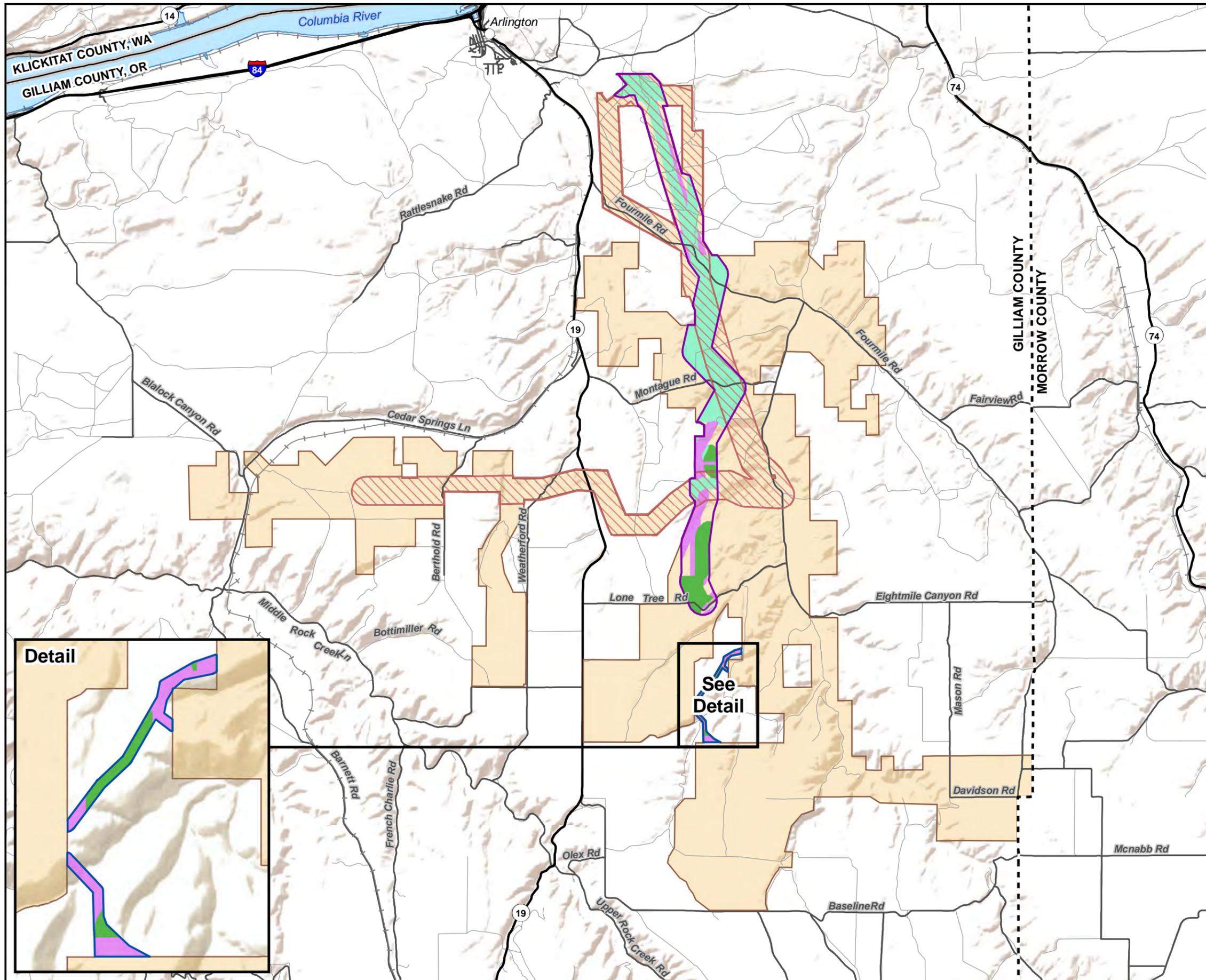
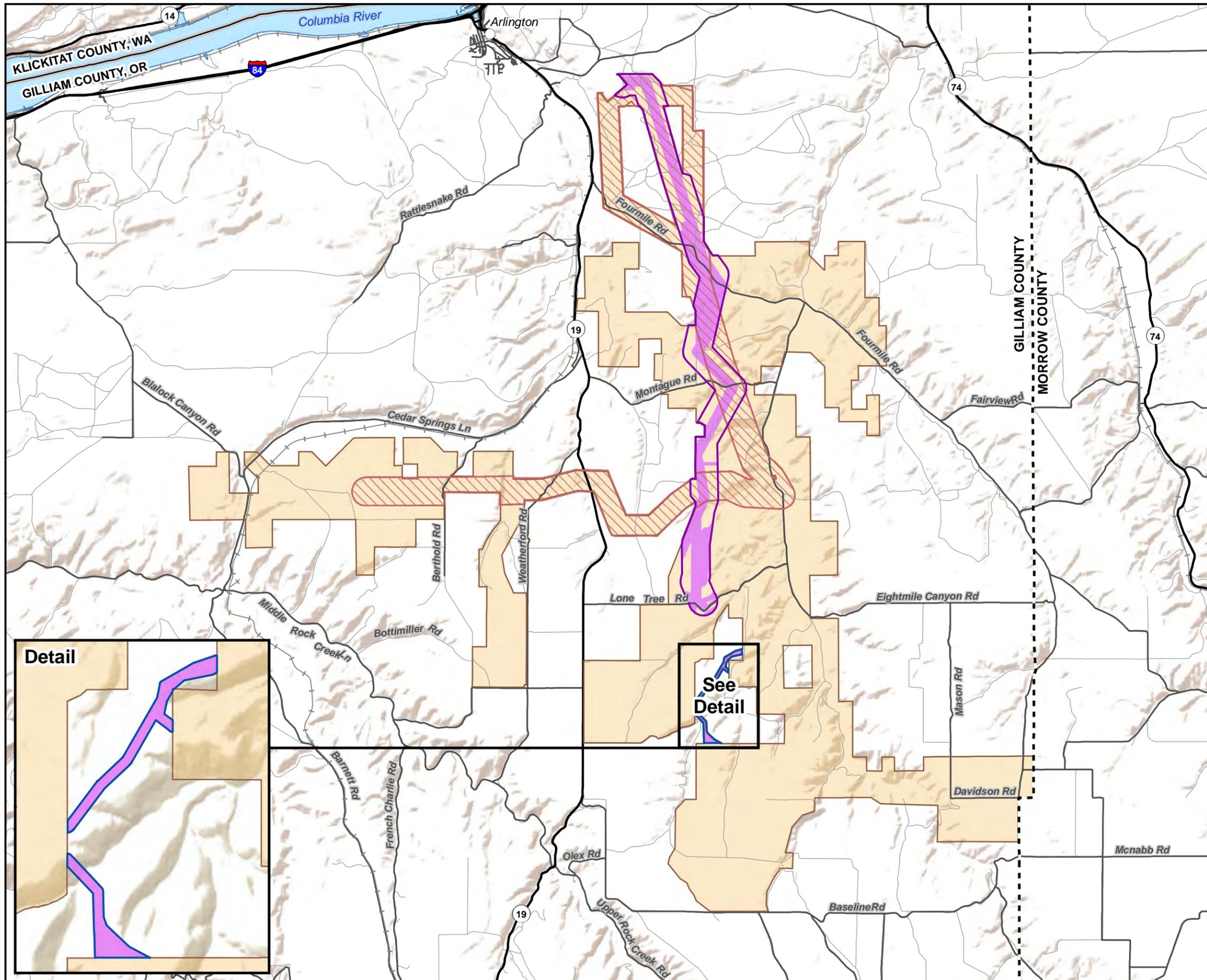


Figure 8
Cultural Resources
 Montague Wind Power Facility -
 Change Request #3

Legend

- Approved Site Boundary
 - Proposed 230-kV Transmission Line Corridor
 - Previously Approved 230-kV Transmission Line Corridor
 - Change Request #3 Additions to Site Boundary
 - Interstate/Highway
 - Public Road
 - Other Road
 - Major Railroad Line
 - State Boundary
 - County Boundary
- Cultural Resource Surveys**
- 2009
 - 2010
 - 2017





**Figure 9
Wetlands**
Montague Wind Power Facility -
Change Request #3

Legend

- Approved Site Boundary
- Proposed 230-kV Transmission Line Corridor
- Previously Approved 230-kV Transmission Line Corridor
- Change Request #3 Additions to Site Boundary
- Interstate/Highway
- Public Road
- Other Road
- Major Railroad Line
- State Boundary
- County Boundary
- 2017 Wetland Survey





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RE: Montague Wind Power Facility, Change Request 3 (Proposed Site Boundary Additions and Transmission Line Route/Corridor Modifications)

Dear Mr. Walsh,

On August 4, 2017, the Oregon Department of Energy (ODOE or the Department) received a change request submitted pursuant to OAR 345-027-0050(5) from Montague Wind Power Facility, LLC (Montague or certificate holder) for the Montague Wind Power Facility (facility) requesting approval for a change to the site boundary, and a modification to the previously approved transmission line route and corridor (collectively referred to as “proposed facility modifications”).¹

Under OAR 345-027-0050(5), a certificate holder may submit a change request in writing to the Department for a determination regarding whether a proposed change requires a site certificate amendment. The rule requires that the change request include a description of the proposed change, an explanation as to why the certificate holder has concluded that an amendment is not required, and the certificate holder’s evaluation demonstrating that the proposed change would comply with the applicable Council standards and would not require an amendment as per OAR 345-027-0050(1).

As presented in Attachment 1, ODOE Evaluation and Determination – Change Request 3, the Department concludes the following: 1) the change request includes all information required by OAR

¹ The OAR 345-027-0050(5) rule that the Department used to evaluate this change request was in effect prior to the Amendment rule change that occurred on October 24, 2017. OAR 345-027-0050(5) maintains its applicability to this matter pursuant to OAR 345-027-0011.

345-027-0050(3), and 2) the proposed facility modifications would not require a site certificate amendment.²

As you are aware, pursuant to OAR 345-027-0050(5), based on the extent of new area requested to be included in the site boundary, the Department is referring its determination to Council at the February 23rd, 2018 scheduled Council meeting, for concurrence, modification, or rejection.³

If you have any questions, please do not hesitate to contact me.

Sincerely,



Chase McVeigh-Walker, Siting Analyst
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Attachment: ODOE Evaluation and Determination – Change Request 3

cc (via e-mail distribution)

Todd Cornett, Oregon Department of Energy
Max Woods, Oregon Department of Energy
Duane Kilsdonk, Oregon Department of Energy
Sarah Esterson, Oregon Department of Energy
Jesse Ratcliffe, Oregon Department of Justice

² The Department's reference to the sufficiency of information provided in the change request includes the certificate holder's responses to requests for additional information received on October 6, 2017. (MWPOPSDoc4 Change Request 3 Cert Holder RAI Response 2017-10-06)

³ OAR 345-027-0050(5) as of October 2017.

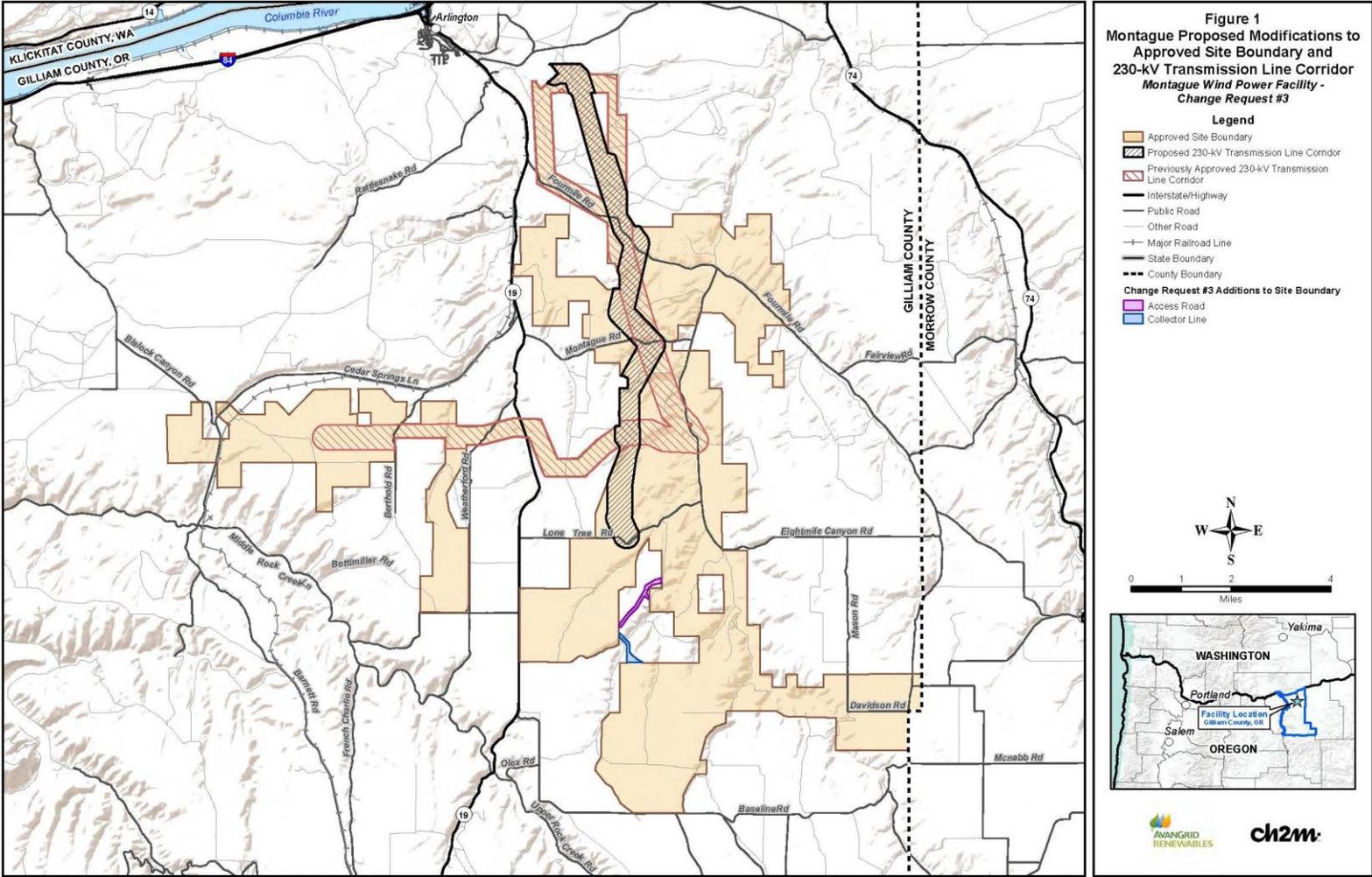
Attachment 1: ODOE Evaluation and Determination – Change Request 3

Description of Proposed Facility Modifications

The certificate holder proposes to add approximately 91.8 acres to the facility's site boundary to authorize construction and operation of two segments of permanent access road and above- and below-ground collector lines (referred to as "proposed site boundary additions"). The access road segments would extend approximately 1-mile in total, and collector lines would include 4,224-linear feet of above- and below ground segments. The access road would be 80-feet wide during construction to provide adequate transport paths for crane operation. The permanent road would be approximately 20-feet in width; the area impacted during construction from the crane path would be restored following completion of construction. As shown on Figure 1 (see below), the proposed access road and collector line segments would cross an area previously excluded from the site boundary because, as described in the change request, the land was previously under lease control by a different developer. The certificate holder acquired the rights to this land, and as shown on Figure 1, the proposed access road and collector line routes would provide more direct access to facility components and would avoid the need for construction on geographically constrained areas containing steep slope and hillside.

The transmission line route/corridor must be changed to avoid Category 1 WGS habitat identified during 2017 pre-construction surveys. The proposed modified transmission line route/corridor would be located entirely within the previously-approved facility site boundary and the total linear length would be reduced from 19- to 10.5 miles, reduce the linear facility routing options from 3 to 1, and would change the corridor location as represented on Figure 1 (see below). The certificate holder requests that the transmission line corridor extend the length of the 10.5-mile transmission line route, and extend ½-mile in width consistent with the OAR 345-001-0010(13) definition of "corridor."

Figure 1: Proposed Modifications to Approved Site Boundary and 230 kV Transmission Line Corridor



Evaluation of Change Request and Applicable Council Standards

OAR 345-027-0050(1) contains the criteria used by ODOE and EFSC to determine when a proposed modification requires a site certificate amendment. The certificate holder's August 4th change request included an assessment of each criteria contained in the rule. The rule states:

OAR 345-027-0050(1): ...[T]he certificate holder must submit a request to amend the site certificate to design, construct or operate a facility in a manner different from the description in the site certificate if the proposed change:

- (a) Could result in a significant adverse impact that the Council has not addressed in an earlier order and the impact affects a resource protected by Council standards;*
- (b) Could impair the certificate holder's ability to comply with a site certificate condition; or*
- (c) Could require a new condition or a change to a condition in the site certificate*

A change request assessment affirming any of the above criteria would result in a determination that a site certificate amendment is required. If the change request assessment affirms that none of the above criteria would be met, the proposed change can be completed without an amendment of the site certificate.

Evaluation Under OAR 345-027-0050(1)(a)

In order to evaluate whether a site certificate amendment was required, the certificate holder prepared and provided a compliance evaluation of all standards relevant to the proposed facility modifications. The certificate holder's change request presents an evaluation of all applicable Division 22 and 24 standards. Based upon an initial review of the change request, specific standards are further evaluated because of the potential of the change request components to trigger the OAR 345-027-0050(1) criteria. Other standards and applicable substantive criteria determined by the Department not likely to be impacted by the change request components, and where reliance on the Council's previous findings were determined acceptable, are not further evaluated.

Structural Standard and Soil Protection Standard [OAR 345-022-0020 and -0022]

Potential seismic, geologic and soil hazards were evaluated by the certificate holder to demonstrate that the proposed facility modifications would not impact their ability to design, engineer and construct the facility to avoid dangers to human safety from these hazards, or result in a significant adverse impact to soils. The Department's assessment of the certificate holder's impact evaluation is presented below.

The proposed facility modifications could result in significant, adverse soil impacts and seismic, geologic and soil hazards. The certificate holder asserts that the proposed, new above-ground and below ground segments of collector line, new segments of access road, and differing segments of transmission line route/corridor would cross the same underlying geologic units, and the same soil types, as previously

evaluated on the record.⁴ Moreover, the proposed facility modifications would be located within an area representing the same seismic and non-seismic, geologic hazards, and would result in similarly minimal impacts from erosion as previously evaluated in the 2010 Application for Site Certificate (ASC). The certificate holder also refers to requirements of existing conditions to support its compliance demonstration with the Structural Standard and Soil Protection standard. Specifically, Condition 52 requires a pre-construction site specific geotechnical investigation to be conducted; and, Condition 80 requires that construction activities be conducted in compliance with an Erosion and Sediment Control Plan as approved under the federally-delegated National Pollutant Discharge Elimination System Stormwater Discharge General Permit #1200-C.

For the new area associated with the site boundary additions, the Department confirms that the 2017 pre-construction site specific geotechnical investigation has been submitted (Condition 52) and includes an evaluation of the new site boundary area. The Oregon Department of Geology and Mineral Industries reviewed the pre-construction geotechnical investigation and confirmed that the analysis supports the certificate holder's ability to design, construct and operate the facility to avoid dangers to human safety from seismic, geologic and soil hazards. For the proposed modified transmission line route/corridor, because the corridor would be located entirely within the previously-approved facility site boundary, the Department considers the certificate holder's previous evaluation of the Council's Structural Standard in the ASC to be sufficient for site characterization of potential seismic hazards related to the transmission line corridor.

Based on the Department's review of the 2017 site-specific geotechnical investigation, and DOGAMI consultation and concurrence, the Department considers the 2017 evaluation to represent an adequate characterization of the site and a sufficient representation that the proposed site boundary addition can be designed to avoid dangers to human safety from geologic and seismic hazards. In addition, because the requirements of Condition 80 (construction-related soil erosion control measures) apply to the proposed facility modification areas, the Department considers compliance with existing site certificate conditions sufficient to minimize potential soil impacts and risks from seismic, geologic and soil hazards during construction and operation.

The Department concludes that the proposed facility modifications would not be likely to result in a significant adverse impact that the Council has not addressed in an earlier order nor result in a new impact affecting a resource protected by the Structural Standard or Soil Protection standard. The Department further concludes that the proposed facility modifications would not be likely to impact the certificate holder's ability to comply with a site certificate condition or require a new or change in existing condition.

⁴ Record documents for the Montague Wind Power Facility include: 2010 Application for Site Certificate; 2010 Final Order on Site Certificate; 2012 Request for Amendment; 2013 Final Order on Amendment 1; 2015 Request for Amendment; 2015 Final Order on Amendment 2; 2017 Request for Amendment; 2017 Final Order on Amendment 3; Pre-construction compliance submittals submitted in 2017.

Land Use [OAR 345-022-0030]

The certificate holder evaluated the requirements of the applicable substantive criteria and the proposed facility modifications to demonstrate ongoing compliance with the Land Use standard. The Department's assessment of the certificate holder's land use evaluation is presented below.

The certificate holder states that the proposed facility modifications would be located on private land zoned as Exclusive Farm Use (EFU), similar to the previously approved components of the energy facility and its related and supporting facilities. The certificate holder provided an evaluation of the Gilliam County Zoning Ordinance (GCZO) Section 4.020(H) and ORS 215.274 to demonstrate that the proposed facility modifications would not be likely to result in a significant adverse impact that the Council has not addressed in an earlier order. In addition, the Department evaluated directly applicable State regulations and determined that OAR 660-033-0130(37) is applicable to the proposed site boundary additions. The Department's compliance assessment of the applicable substantive criteria and directly applicable State regulations and statutes is presented below.

Proposed Site Boundary Additions

GCZO Section 4.020(H), Specific Review Criteria for Commercial Utility Facilities in the EFU Zone

The land use category for components of the energy facility, with the exception of the 230 kV transmission line, is a "wind power generation facility." A wind power generation facility is a permitted conditional use within EFU zoned land pursuant to GCZO Section 4.020(D)(20), and is subject to the following requirements of GCZO Section 4.020(H):

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.*

The certificate holder represents that accepted farm practices on surrounding lands includes soil preparation, sowing of seed, fertilizing, pest and weed management, and harvesting, similar to the surrounding land farm practices previously identified in the ASC. The proposed site boundary addition could result in impacts to accepted farm practices such as impeding farm equipment operations, temporary soil compaction, weed dispersion from ground disturbance, and permanently removing agricultural land from production and therefore are further evaluated below.⁵

⁵ The Department notes that the certificate holder's change request asserts that the facility components included in the proposed site boundary addition area would allow a net reduction in total length of access road and collector line compared to the facility as evaluated in the 2010 Final Order on the ASC. However, the Department does not consider a comparison of the potential impacts from the components proposed in the change request to the facility as described in the 2010 ASC or as evaluated in the 2010 Final Order on the ASC adequate. The potential impacts from the components included in the change request are independently evaluated against applicable substantive criteria as comparing individual project components to an overall facility against specific regulatory criteria may not be appropriate.

While the proposed new overhead collector lines and structures could possibly create an overhead hazard for farm equipment operation, because collector line structures would be 80 to 100 feet in height, the Department does not consider potential overhead hazards of farm equipment operation or limitations to farm equipment operation near or around the collector line structures or line to be significant. While the proposed access road segments would traverse, in some locations, an existing agricultural operation, the certificate holder explains that farm equipment would be able to cross over the road without impeding farm equipment operation.⁶ In addition, the total land to be permanently removed from agricultural production due to the proposed site boundary addition would be less than 4 acres.

Existing Conditions 38 and 39 require landowner consultation and a demonstration that facility components have been designed to minimize impacts to farm practices, respectively; Condition 43 requires implementation of a Weed Control Plan following completion of construction. Moreover, the certificate holder explains that the landowner would be compensated for any temporary or permanent loss of agricultural production. Based on the minimal permanent removal of agricultural land for future agricultural use, limited impacts to farm practices, compliance with existing conditions, and certificate holder's landowner compensation agreement, the impacts from the proposed site boundary addition would not be expected to result in a significant change to accepted farm practices or significantly increase the cost of accepted farm practices.

OAR 660-033-0130(37)(A) – Wind Power Generation Facility Minimum Standards

OAR 660-033-0130(37)(a)(A) requires the certificate holder to evaluate "reasonable alternatives" to locating the facility, or components of the facility, on high-value farmland. The certificate holder must "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." For the components associated with the proposed site boundary addition, the certificate holder must show that these components must be placed on high-value farmland soils "to achieve a reasonably direct route." To demonstrate the necessity of using high-value farmland for the facility to "function properly" or for a road or collector line to "achieve a reasonably direct route," the certificate holder must consider technical and engineering feasibility and the availability of existing rights-of-way. The certificate holder must also consider 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)(A).

Based on the Department's evaluation, the proposed new access roads and above- and below ground collector line segments would be located on high-value farmland under ORS 195.300(10)(f)(C). The OAR 660-033-0130(37) evaluation included in the ASC and Council's *2010 Final Order on the ASC* relied upon the ORS 195.300(10)(a) definition of high-value farmland. Because the facility site and proposed site boundary addition would be located within the Columbia Valley viticulture area and in most areas of the site also meet the statutory criteria for slope, aspect, and elevation, the Department presents its evaluation of OAR 660-033-0130(37) under the ORS 195.300(10)(f)(C) high-value farmland definition below.

⁶ MWPOPSDoc4 Change Request 3 Cert Holder RAI Responses. 2017-10-06.

i. Technical and Engineering Feasibility

The Department assesses the technical and engineering feasibility of alternative collector line and access road routes on land that does not contain high-value farmland soils as defined in ORS 195.300(10)(f)(C). The Council has historically found that an alternative location or configuration of a proposed wind power generation facility, or component thereof, 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 or significantly increase the area permanently or occupied by the facility’s components.⁷

While the components associated with the proposed site boundary addition would not be located entirely on high-value farmland under ORS 195.300(10)(f)(C), the extent is extremely vast and clearly represents limitations for achieving a reasonably direct route while still achieving the certificate holder’s intent to reduce the overall length of collection lines for the facility, improve turbine access and avoid the need to construct on steep slopes.⁸ In the change request, the certificate holder describes geographic constraints of the area, which informed the final design of the facility, including drainage crossings and hillsides which would in the alternative result in larger disturbance impacts from hillside cut/fill and potential ponding and erosion issues that could negatively impact crops. Therefore, based on the predominance and significant interspersing of high-value farmland under ORS 195.300(10)(f)(C) within the proposed site boundary addition area, and within the existing site boundary, and geographic constraints of the area, the Department does not consider there to be collector line or access road route alternatives on non high-value farmland that are feasible from a technical and engineering perspective.

ii. Availability of Existing Rights of Way

This factor requires consideration of the availability of existing rights-of-way in the routing of, primarily, access roads and transmission lines associated with a wind power generation facility, which can sometimes take advantage of existing utility and road rights-of-way to reduce overall facility impacts to farmland.

In the change request, the certificate holder addresses the availability of existing rights of way under ORS 215.274 for the proposed modified transmission line route/corridor. In its pre-construction compliance submittal for Condition 42(b), the certificate holder identified existing public road rights-of-way to demonstrate compliance with setback requirements applicable to final turbine locations. Based on review of the Condition 42(b) compliance submittal, as validated by the Department on August 31, 2017, there are no existing public road rights-of-way available within the area of the site boundary addition. For the ORS 215.274 analysis of the proposed modified transmission line route/corridor, the certificate holder explains that existing utility rights-of-way are not available based on topographical constraints of large parcel sizes, intermittent steep ravines within the site boundary, and limited existing linear infrastructure. The Department assumes this evaluation may be applied to the evaluation of the availability of existing linear facility rights-of-way for the proposed collector lines. Based on the

⁷ LJWAMD1Doc76. *Final Order on Amendment #1 for the Leaning Juniper II Wind Power Facility*, pp. 40-42. 2009-11-20.

⁸ High-value farmland, as defined under ORS 195.300(10)(f)(C), includes land within the Columbia Valley AVA and include certain elevation, slope, and aspect requirements. As a consequence, the facility site boundary includes interspersed areas of high-value farmland and non-high-value farmland in a somewhat “checkboard” pattern.

certificate holder's description of geographic constraints and limited availability of existing linear facility right-of-way and review of the Condition 42(b) compliance submittal, the Department considers there not to be existing rights-of-way available within the proposed site boundary addition area for routing of the collection lines and access roads.

iii. The long term environmental, economic, social and energy consequences of siting the facility or component on alternative sites

(A) Environmental, Economic, Social and Energy Consequences

Under OAR 660-033-0130(37)(a)(B), the certificate holder must show that "the long term environmental, economic, social and energy consequences" of the facility or its components, taking mitigation into account, "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."⁹

As described above, other agricultural lands that do not include high-value farmland as defined in ORS 195.300(10)(f)(C) are not available within reasonable proximity to the proposed site boundary addition area. Therefore, the potential worst-case energy consequence of *not* locating the proposed site boundary addition on high-value farmland is that 4,224-feet of collection line and approximately 1-mile of access road necessary for a string of wind turbines would not be developed, potentially precluding 22.5 MW of potential renewable energy generation from 9 turbines.

The certificate holder asserts that landowners would be compensated for use of land under lease agreement terms and for the loss of agricultural production resulting from permanent facility impacts. Therefore, the Department considers that the social and economic consequences of locating the facility components associated with the proposed site boundary addition on high-value farmland include landowner financial benefits. Otherwise, from a long-term perspective, the Department considers the components associated with the proposed site boundary addition to result in a positive environmental impact by reducing air quality and climate change impacts from vehicle-related emissions during both construction and operation from reducing vehicle miles travelled along shorter segments of collection line and using a more direct route for turbine access and equipment delivery. The Department also notes that based on the extent of high-value farmland under ORS 195.300(10)(f)(C) within the area, any other location within or near the existing site boundary would be likely to result in similar impacts to both high-value farmland and other agricultural lands.

(B) Costs

OAR 660-033-0130(37)(a)(C) provides that costs may be considered in the analysis but "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." As noted above, based on the extent of high-value farmland under ORS 195.300(10)(f)(C) within the area, regardless of cost, the Department considers there not to

⁹ The test is similar to that required under ORS 459.504(2)(c)(B) when the Council determines whether to grant a "reasons" exception to a statewide planning goal: "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."

be reasonable alternative locations affecting less high-value farmland within or near the existing site boundary for siting of the components associated with the proposed site boundary addition.

(C) Restoration

OAR 660-033-0130(37)(a)(D) requires the owner of a wind power generation facility to restore agricultural land damaged by the facility. Under the Council's Retirement and Financial Assurance Standard, and Fish and Wildlife Habitat standard, the certificate holder is responsible for demonstrating that the facility site can be restored to a useful, non-hazardous condition following permanent cessation of operation or construction, and that temporarily impacted areas are revegetated following completion of construction. Several conditions are imposed in the existing site certificate to satisfy the requirements of these standards, which the Department considers sufficient to address this factor. Because the requirements of these conditions would also apply to the proposed components associated with the site boundary addition, it is unlikely it would impact the certificate holder's ability to satisfy this criteria.

(D) Additional Criteria

Subsections (b), (c) and (d) of OAR 660-033-0130(37) provide additional criteria for wind power generation facilities located on "arable" or "nonarable" land. OAR 660-033-0130(37)(b) defines "arable land" as "lands that are cultivated or suitable for cultivation, including high-value farmland soils" and provides criteria for locating a facility on arable land. OAR 660-033-0130(37)(c) defines "nonarable land" as land "not suitable for cultivation" and provides that the criteria in subsection (b)(D) apply on nonarable land. Subsection (d) provides that when a proposed wind power generation facility is located on a combination of arable and nonarable lands, then all of the criteria in subsection (b) apply to the entire facility. The proposed components associated with the site boundary addition would be located on a combination of arable and nonarable lands. Accordingly, the criteria in subsection (b) apply.

As explained in the change request, the proposed components associated with the site boundary addition would allow for a net reduction in overall length of collector lines needed for the facility and the access road segments would provide a more direct access route to a string of wind turbines, reducing overall facility impacts to farmland. Therefore, the Department considers the evaluation included in the *2010 Final Order on the ASC* sufficient and does not consider the impacts associated with the proposed site boundary addition to represent a significant adverse impact not evaluated by Council in a previous order.

Proposed Modified Transmission Line Route/Corridor

ORS 215.274 Associated Transmission Lines Necessary for Public Service

The land use category for the 230 kV transmission line is a "utility facility necessary for public service." Pursuant to ORS 215.283(1)(c), utility facilities necessary for public service are subject to the requirements of ORS 215.275 or ORS 215.274. While the Council previously evaluated the transmission

line for compliance under ORS 215.275, the certificate holder provides an assessment under ORS 215.274 because the transmission line meets the definition of an “associated transmission line.”^{10,11}

As presented in the change request, the proposed modified transmission line route/corridor would not satisfy any of the subsection ORS 215.274(3) requirements; therefore, an evaluation of the subsection (4) factors is necessary.

ORS 215.274(4)(a) Except as provided in subsection (3) of this section, the governing body of a county or its designee shall approve an application under this section if, after an evaluation of reasonable alternatives, the applicant demonstrates that the entire route of the associated transmission line meets, subject to paragraphs (b) and (c) of this subsection, two or more of the following factors:

The certificate holder addresses the factors for determining that the proposed modified transmission line route/corridor must be sited in high value farmland and contends that while the 230 kV transmission line would not satisfy the requirements of ORS 215.274(3), the 230 kV transmission line would satisfy the requirements of ORS 215.274(4) consistent with ORS 215.275(2). The Department’s evaluation of the certificate holder’s analysis is presented below.

(A) Technical and engineering feasibility;

The certificate holder described that the technical and engineering feasibility of alternative transmission routes on non high-value farmland or nonarable land was considered prior to selecting the proposed modified route/corridor. Consistent with the analysis included in the 2010 ASC and *2010 Final Order on the ASC*, for lands in Eastern Oregon, the certificate holder relies upon the ORS 195.300(10)(a) definition of high-value farmland, which includes land composed predominately of soils that are irrigated or not irrigated, and classified as prime, unique, Class I or Class II by the United States Department of Agriculture National Resource Conservation Service (NRCS). Based on this definition and NRCS soil classification, the certificate holder asserts that the proposed modified transmission line route/corridor would not be located on high-value farmland, but that a portion of the route contains arable land.

The Department notes that the area within the existing site boundary, and area within the proposed modified transmission line route/corridor, would be located on lands within the Columbia Valley Viticultural Area, below 3,000 feet elevation, with slopes no greater than 15 percent and an aspect between 67.5 and 292.5 degrees, meeting the high-value farmland definition under ORS 195.300(10)(f)(C). While the ORS 215.274 criteria for evaluating alternatives on non-arable land or non-high value farmland are the same, for the Montague Wind Power Facility, the extent of area considered high-value farmland significantly differs under ORS 195.300(10)(a) and ORS 195.300(10)(f)(C). Therefore, the Department presents its evaluation of the technical and engineering feasibility of reasonable alternatives under both definitions.

¹⁰ ORS 215.274 was adopted in 2013 and therefore was not applicable in the Council’s review of the ASC or 2010 Final Order on the ASC.

¹¹ ORS 469.300(3) defines “associated transmission line,” as new transmission lines constructed to connect an energy facility to the first point of junction of such transmission line or lines with either a power distribution system or an interconnected primary transmission system or both or to the Northwest Power Grid.

In the change request, the certificate holder evaluated the NRCS soil classification for soil types within the proposed modified transmission line route/corridor and, as depicted on Figure 4, predominately includes Class IV and VIII nonirrigated soils, which would not be considered high-value farmland under ORS 195.300(10)(a). However, the certificate holder explains that “a portion of the route contains arable land” and that the line route has been “sited preferentially on land used for dry-land wheat farming.” “Arable land” refers to lands that are cultivated or suitable for cultivation.¹² Non-irrigated Class IV soils would be considered suitable for cultivation; non-irrigated Class V through VIII would generally be considered not suited for cultivation.

Based on review of Figure 3 of the change request, approximately 5 miles of the 10.5-mile transmission line route/corridor would be located within non-irrigated Class IV soils, or arable land. As presented on Figure 3 of the change request, there are areas outside of the proposed modified transmission line route/corridor, within the existing site boundary, comprised of non-irrigated Class VI soils or non-arable lands. The Department notes, however, that the areas of non-irrigated Class VI soils (non-arable lands) are heavily interspersed with non-irrigated Class IV soils (arable lands), limiting the technical and engineering feasibility of siting a reasonably direct route interconnecting the energy facility to the grid via BPA’s existing Slatt Substation. Moreover, the certificate holder explains that the proposed modified transmission line route/corridor was selected to provide a reasonably direct route from the centrally located collector substation to BPA’s existing Slatt substation, and has been sited based on geographic constraints of the area including gullies, ravines and steep slopes, which further limit the technical and engineering feasibility of alternate options on non-arable lands.

Alternative routing/corridor options on non-high value farmland, under the ORS 195.300(10)(f)(C) definition, would also be extremely limited. The Department relied upon its GIS database for use of a geographically referenced data layer representing the Columbia Valley AVA, consistent with the ORS 195.300(10)(f)(C) definition and including the elevation, slope and aspect specifications, to evaluate the availability of non-high value farmland within the existing site boundary for siting of the proposed modified transmission line route/corridor. As described above under the OAR 660-033-0130(37)(A) *evaluation*, while the proposed modified transmission line route/corridor would not be located entirely within high-value farmland, the extent is extremely vast and clearly represents limitations for achieving a reasonably direct route while still achieving the certificate holder’s intent to minimize environmental impacts and necessarily avoid Category 1 WGS habitat. Based on the extent of high-value farmland within the site boundary and surrounding area, and certificate holder’s need to interconnect the facility’s centrally located collector substation to an existing BPA substation while achieving a reasonably direct route within the site boundary, the Department does not consider there to be reasonable alternative routing option on non-high value farmland from a technical and engineering perspective.

(B) The associated transmission line is locationally dependent because the associated transmission line must cross high-value farmland, as defined in ORS 195.300 (Definitions for ORS 195.300 to 195.336), or arable land to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;

The evaluation of reasonable alternatives pursuant to ORS 215.274(4)(a)(B) requires that the certificate holder consider reasonable routing alternatives and show that the proposed modified transmission line

¹² OAR 660-033-0130(37)(b)

route/corridor must be sited on high value farmland or arable land in order to achieve a reasonably direct route or meet unique geographical needs (referred to as “locationally dependent”).

In the change request, the certificate holder asserts that the proposed modified transmission line route/corridor is locationally dependent because it must be sited on arable land to achieve the most reasonably direct route from the facility’s centrally located collector substation to BPA’s existing Slatt Substation, while avoiding both Category 1 WGS habitat and existing geographic constraints within the site boundary. The certificate holder further asserts that any alternative route/corridor within the site boundary would impact non-irrigated Class IV soils, but resulting in a longer, less direct route. While the evaluation of whether the route/corridor is locationally dependent is cursory with circular reasoning, the Department agrees that, based on Figure 4 of the change request, there does not appear to be a route that would interconnect the energy facility to the existing BPA Slatt Substation while entirely avoiding impacts to non-irrigated Class IV soils (arable land). Further, because a site certificate has been issued for the facility, and because the request to modify the transmission line/route corridor is due to the certificate holder’s obligation to avoid impacts to Category 1 habitat identified during 2017 pre-construction surveys, the Department does not consider that reasonable alternatives would be located outside of the site boundary. Further, because the final design of the facility includes wind turbines located in the southern portion of the site boundary, and the generated power is planned to be distributed to the grid via BPA’s existing Slatt Substation, which is considered locationally fixed, and due to the substantial extent of interspersed non-irrigated Class IV and Class VI soils (arable and non-arable lands) and high-value farmland under the ORS 195.300(10)(f)(C) definition within the site boundary, the Department concludes that the proposed modified transmission line route/corridor must be sited on arable land or high-value farmland to achieve a reasonably direct route and is therefore locationally dependent.

(C) Lack of an available existing right-of-way for a linear facility, such as a transmission line, road or railroad, that is located above the surface of the ground;

The certificate holder asserts that existing aboveground linear facility rights-of-way are not available for routing the transmission line and explains that use of existing linear facility right-of-ways would significantly increase the length of the line, require acquisition of numerous new land rights, and increase construction costs. The certificate holder appears to explain that existing aboveground linear facility rights-of-way are not available due to topographical constraints of large parcel sizes, intermittent steep ravines, and limited existing linear infrastructure. However, based on the Condition 42 pre-construction compliance submittal related to final facility design, location and setback requirements, there appears to be an existing linear facility right-of-way, within the site boundary, parallel to the southern portion of the proposed modified transmission line route/corridor. It is not clear if the certificate holder evaluated the actual availability of the existing utility rights-of-way, or has made conclusions based primarily upon geographic constraints. The certificate did not describe the existing linear facility rights-of-way within the site boundary, nor explain a process by which these right-of-way were determined not to be available nor clearly explain why use of these rights-of-way, if available, were limited based on specific geographic constraints. Therefore, based on insufficient information, the Department is unable to conclude that this criteria would be satisfied.

(D) Public health and safety; or

Potential effects related to public health and safety from high-voltage transmission lines are evaluated under the Council’s Siting Standards for Transmission Lines (OAR 345-024-0090) and include risk from

alternating current electric fields and induced currents. As explained in the change request, the certificate holder asserts that compliance with Condition 17 (transmission line design requirements to reduce risk from induced current) and 89 (200-foot setback requirement from residences, and communication and design requirements) would ensure potential public health and safety risks from the proposed 115 kV transmission line would be minimized, and that these risks would not result in differing or greater impacts from those previously evaluated in the 2010 ASC and approved by Council in the *2010 Final Order on the ASC*. The certificate holder further explains that because the proposed modified transmission line route/corridor would decrease in overall length from the previously approved 19-miles to the currently proposed 10.5-miles, the potential risks to public health and safety from potential exposure to magnetic fields or shock would decrease. Based upon compliance with existing site certificate conditions, the Department agrees with the certificate holder's conclusion that proposed modified transmission line route/corridor would satisfy this criteria.

(E) Other requirements of state or federal agencies

The change request includes the certificate holder's evaluation of its ability to comply with applicable state and federal requirements, including ODFW's Habitat Mitigation Policy, applicable Council standards and existing site certificate conditions. The Department concurs with the certificate holder's conclusion that based upon compliance with existing site certificate conditions, the proposed modified transmission line route/corridor would not impact the certificate holder's ability to comply with all applicable state and federal requirements. For the reasons provided, the Department concludes that, after an evaluation of reasonable alternatives, the certificate holder has demonstrated that the entire route of the proposed modified transmission line route/corridor meets two or more of the relevant factors in subsection (4).

Under the Council's Land Use standard, the Department concludes that the proposed facility modifications would not be likely to result in a significant adverse impact that the Council has not addressed in an earlier order nor result in a new impact affecting a resource protected by the Land Use standard. The Department further concludes that the proposed facility modifications would not be likely to impact the certificate holder's ability to comply with a land use-related site certificate condition or require a new or change in existing condition.

Protected Areas [OAR 345-022-0040], Scenic Resources [OAR 345-022-0080] and Recreation [OAR 345-022-0100]

Potential impacts to protected areas, scenic resources, and recreational opportunities within the applicable analysis areas were evaluated by the certificate holder to determine whether the proposed facility modifications would be likely to result in significant adverse impacts to any protected area as defined by OAR 345-022-0040, significant scenic resource, or important recreational opportunity previously identified by Council.^{13,14} The Protected Areas standard, Scenic Resources standard, and

¹³ The analysis area for protected area includes the area within and extending 20-miles from the site boundary; the analysis area for scenic resources includes the area within and extending 10-miles from the site boundary; the analysis area for recreational opportunities includes the area within and extending 5-miles from the site boundary.

¹⁴ In the change request, the certificate holder described that an evaluation of new or changes to previously identified recreational opportunities and scenic resources was conducted to verify that there were no new recreational opportunities or important scenic resources within the applicable analysis areas.

Recreation standard require a similar visual impact assessment; the Protected Areas standard and Recreation standard require a similar traffic and noise impact assessment. To the extent the impact assessments are relatable for the differing standards, the Department presents a combined analysis of the certificate holder's compliance assessment below. In cases where the analysis differs per standard, the Department's evaluation of the certificate holder's compliance assessment is presented separately.¹⁵

Site Boundary Addition

The proposed site boundary addition include the construction and operation of 3,000-feet of overhead collector line, and 1,224-feet of underground collector line; and two turbine string access road segments extending a total of 1-mile. Based on the Department's review of the record for the facility, the proposed facility components would be located at distances greater than 5-miles to the nearest protected area; and greater than 4-miles to the nearest important recreational opportunity and significant scenic resource (identified as Fourmile Canyon interpretive site for both standards).

At that distance, and considering the road segments and collector lines would be surrounded by previously approved facility components, including wind turbines, the Department concludes that the potential impacts from construction and operation of the access road and above-ground collector line segments to protected areas, scenic resources, or important recreational opportunities would not result in greater or differing impacts from those evaluated in the Council's *2010 Final Order on the ASC*, or *2017 Final Order on Amendment 3*. The Department concludes that the proposed site boundary addition would not be likely to result in a significant adverse impact that the Council has not addressed in an earlier order nor result in a new impact affecting a resource protected by the Protected Areas, Recreation, or Scenic Resources standards. The Department further concludes that the proposed site boundary additions would not be likely to impact the certificate holder's ability to comply with a site certificate condition previously imposed to satisfy the Protected Areas, Recreation, or Scenic Resources standards or require a new or change in existing condition.

Proposed Modified Transmission Line Route/Corridor

The proposed modified transmission line route/corridor is within the previously-approved site boundary. The northern and central portions of the route/corridor are generally the same as previously approved by Council in the *2010 Final Order on the ASC*, but the southern portion is 8.5-miles shorter than was previously-approved by Council, and no longer extends to the west, but rather terminates at a centrally-located substation within the site boundary. The proposed modified transmission line route/corridor differs from the previously approved corridor by more than 0.5-mile in specific locations to avoid wildlife habitat designated by Oregon Department of Fish and Wildlife as Category 1. Because construction and operation of the proposed modified transmission line route/corridor would include similar activities as previously evaluated in the ASC, impacts to protected areas and important recreational opportunities within the analysis area from traffic, water use, wastewater disposal, and direct/indirect loss would not be expected to result in a significant adverse impact or an impact not previously considered by Council.

¹⁵ The Protected Areas standard also requires an evaluation of facility-related impacts from water use, wastewater disposal. The Recreation standard also requires an evaluation of direct or indirect loss.

Because the proposed modified transmission line route/corridor includes locations not previously evaluated, noise and visual impacts to protected areas, recreational opportunities, and significant scenic resources could differ from the previous analysis. The Horn Butte Area of Critical Environmental Concern is the closest protected area to the proposed modified transmission line route/corridor and is more than three miles away at its closest point. The certificate holder asserts that the closest point of the proposed modified transmission line route/corridor is the same as the route/corridor previously approved by Council. Because the proposed modified transmission line route/corridor does not include differing transmission line structures or differing construction activity, the Department relies upon the Council's previous findings that construction and operation of the transmission line would not be expected to result in significant adverse noise or visual impacts at the nearest protected area, recreational opportunity, or significant scenic resource, and therefore would also not be expected to result in significant adverse noise or visual impacts at any protected area, recreational opportunity, or significant scenic resource located at greater distances.

The Department concludes that the proposed modified transmission line route/corridor would not result in a significant adverse impact that the Council has not addressed in an earlier order nor result in a new impact affecting a resource protected by the Protected Areas, Recreation, or Scenic Resources standards. The Department further concludes that the proposed modified transmission line route/corridor would not be likely to impact the certificate holder's ability to comply with a site certificate condition previously imposed to satisfy the Protected Areas, Recreation, or Scenic Resources standards or require a new or change in existing condition.

Fish and Wildlife Habitat [OAR 345-022-0060] and Threatened and Endangered Species [OAR 345-022-0070]

The certificate holder conducted an evaluation to determine whether the proposed facility modifications could be designed, constructed and operated consistently with the Council's Fish and Wildlife Habitat standard at OAR 345-022-0060, and Threatened and Endangered Species standard at OAR 345-022-0070.^{16,17} The Department's assessment of the certificate holder's impact evaluation for the Council's Fish and Wildlife Habitat and Threatened and Endangered Species standards are presented below.

Proposed Facility Modifications

In response to an information request by the Department, the certificate holder provided habitat impact tables identifying permanent and temporary impacts from the site boundary addition and modified transmission line route/corridor by habitat category and subtype.¹⁸ The identified habitat categories were based upon the certificate holder's 2017 final pre-construction habitat assessment required per Condition 31, which was submitted and approved by ODFW on September 5, 2017. Therefore, the Department considers that the certificate holder adequately assessed the quality and quantity of potential temporary and permanent habitat impacts from the proposed facility modifications.

¹⁶ The analysis area for the Fish and Wildlife Habitat standard includes the area within and extending 0.5 miles from the amended site boundary.

¹⁷ The analysis area for the Threatened and Endangered Species standard includes the area within and extending 5-miles from the amended site boundary.

¹⁸ MWPOPSDoc6-2 Change Request 3 Habitat Impacts by Category 2017-10-26 and MWPOPSDoc6-1 Change Request 3 Habitat Impacts by Subtype 2017-11-02.

Based on pre-construction compliance, the certificate holder submitted evidence to the Department confirming that a conservation easement for a 440-acre parcel has been secured, to be used for the compensatory mitigation of permanent and temporary Category 2, 3 and 4 habitat impacts. The certificate holder also submitted a final Revegetation Plan that the Department, in consultation with ODFW, reviewed and confirmed would satisfy the Council's Fish and Wildlife Habitat standard related to temporary habitat impacts. Based upon final facility design impacts, and impacts associated within the components included in Change Request 3, the compensatory mitigation area and final Revegetation Plan would adequately mitigate permanent, temporal and temporary impacts to Category 2, 3 and 4 habitat types.

To evaluate whether the proposed facility modifications could impact the certificate holder's ability to satisfy the requirements of the Threatened and Endangered Species standard, the certificate holder described the desktop and field surveys conducted in 2010 and 2017, and confirmed that in 2017, pre-construction surveys were conducted in the areas of suitable habitat within the area of the proposed facility modifications for WGS, burrowing owl, and rare plants (specifically, Laurent's milk-vetch and sessile mousetail). The Department reviewed the 2017 pre-construction surveys and concurred that they were conducted appropriately and accepted the result, which confirmed that there were no WGS burrows or colonies, burrowing owl burrows or rare plants within the areas of the proposed facility modification.

Based upon compliance with existing conditions 94, 95, 96 and 98, and based on the Department's evaluation of the certificate holder's analysis, the Department concludes that the proposed facility modifications would not be likely to result in significant adverse impacts to fish and wildlife habitat and threatened and endangered species that the Council has not addressed in an earlier order. The Department further concludes that the proposed facility modifications would not be likely to impact the certificate holder's ability to comply with a site certificate condition previously imposed to satisfy the Council's Fish and Wildlife Habitat, or Threatened and Endangered Species standards or require a new or change in existing condition.

Historic, Cultural and Archaeological Resources [OAR 345-022-0090]

The certificate holder conducted desktop and field surveys for historic, cultural and archeological resources in 2017 to satisfy the pre-construction requirements of Condition 49. The results of the 2017 pre-construction activities were used to support the certificate holder's evaluation of whether the proposed facility modifications would be likely to result in significant adverse impacts to resources protected under the Council's Historic, Cultural and Archeological Resources standard. The Department's assessment of the certificate holder's compliance evaluation is presented below.

Proposed Facility Modifications

The certificate holder's consultant, CH2M, conducted a pedestrian cultural resources field investigation in May and June 2017, which included the entire area within the proposed site boundary addition area and a 1,000-foot area within the proposed transmission line route/corridor. The results of the certificate holder's 2017 pre-construction survey identified one new potential archeological resource within the proposed modified transmission line corridor; the archeological resource has been recommended not eligible for listing on the National Register of Historic Places (NRHP) by the certificate holder, which is

currently under review by the Oregon State Historic Preservation Office (SHPO). Even if the archeological site were to be recommended by SHPO as potentially eligible or eligible for NRHP listing, the certificate holder would be required to avoid impacts within 200-feet of the site pursuant to Condition 47. Based upon the ½-mile width of the requested corridor, the Department acknowledges that the transmission line could be constructed without impacting the certificate holder's ability to comply with Condition 47.

Condition 49 requires a pre-construction evaluation of all areas to be disturbed during construction that lie outside the previously-surveyed areas. The certificate holder has submitted its compliance documentation intended to satisfy the requirements of Condition 49, which consistent with the representations in the change request, include field surveys conducted along the alignment of the proposed modified transmission line route/corridor based on a 1,000-foot survey corridor. Condition 49 will continue to apply to the facility, including the provision that "the certificate holder shall hire qualified personnel to conduct field investigations of all areas to be disturbed during construction that lie outside the previously-surveyed areas." Condition 49 further requires that if the pre-construction survey discovers significant resources, that those resources shall be avoided and protected, including the measures in Condition 47.

Based on the results of the 2017 pre-construction surveys, and compliance with existing site certificate conditions, the Department concludes that the Council may continue to rely upon the existing conditions in the site certificate to address the protection of historic, cultural and archeological resources within the site boundary.

**Applicable OAR 345 Division 24 Standards:
Cumulative Effects Standard for Wind Energy Facilities [OAR 345-024-0015]**

The certificate holder evaluates the impacts of the proposed facility modifications to determine whether it increases "cumulative adverse environmental impacts" which are capable of being reduced. The Department's assessment of the certificate holder's compliance evaluation for the Cumulative Effects Standard for Wind Energy Facilities is presented below.

The proposed facility modifications would result in a reduction in total linear miles of access road, above- and below-ground 34.5 kV collector line segments, and 230 kV transmission line compared to the related and supporting facilities previously approved in the *2010 Final Order on the ASC*. The certificate holder asserts that because overall permanent and temporary disturbance impacts would be reduced due to the shorter lengths of access road, collector line, and transmission line, that the proposed facility modifications would minimize the amount of land used and reduce potential adverse environmental impacts, consistent with the requirements of OAR 345-024-0015. Therefore, the Department concludes that the proposed facility modifications would not be likely to result in a significant adverse impact under the Cumulative Effects Standards for Wind Energy Facilities not addressed in an earlier order, or affecting a resource protected by the standard. The Department further concludes that the proposed facility modifications would not be likely to impact the certificate holder's ability to comply with a site certificate condition or require a new or change in existing condition related to the Cumulative Effects Standard for Wind Energy Facilities.

Evaluation Under OAR 345-027-0050(1)(b)

The second factor under OAR 345-027-0050(1) would require a site certificate amendment if the proposed change “could impair the certificate holder’s ability to comply with a site certificate condition.” The certificate holder evaluated whether the proposed modified transmission line route/corridor would impact its ability to comply with Condition 18. The Department presents its evaluation of Condition 18 below.

Condition 18 Council Approval of Transmission Line Corridor

Condition 18 contains the OAR 345-027-0028 mandatory condition language and states,

“If the proposed energy facility is a pipeline or a transmission line or has, as a related or supporting facility, a pipeline or transmission line, the Council shall specify an approved corridor in the site certificate and shall allow the certificate holder to construct the pipeline or transmission line anywhere within the corridor, subject to the conditions of the site certificate.”

Condition 18 requires the Council to identify and include an approved transmission line corridor in the site certificate, authorizing construction and operation of the transmission line at any location within the corridor. In the change request, the certificate holder requests authorization for construction and operation of a transmission line within a differing corridor. Relying upon the OAR 345-001-0010(13) “corridor” definition, and because the Council approved three transmission line routes in the *2010 Final Order on the ASC and Site Certificate*, the Department considers the requirements of Condition 18 satisfied. The Council has specified approved transmission line corridors as required by Condition 18. However, the Department provides an evaluation below of whether a new condition is necessary to authorize a differing transmission line corridor.

Evaluation Under OAR 345-027-0050(1)(c)

The final factor under OAR 345-027-0050(1) would require a site certificate amendment if the proposed change “could require a new condition or a change to a condition in the site certificate.”

The certificate holder requests approval of a new transmission line route and corridor, extending the 10.5-mile length of the alignment and ½-mile in width, and fully within the previously approved site boundary. As described above, Council approval of a “corridor” authorizes construction of a transmission line (or pipeline) at any location within the corridor. In order to authorize such flexibility, the Council has historically relied upon an applicant’s evaluation of potential facility impacts anywhere within the corridor. For the proposed modified transmission line route/corridor, the certificate holder described a permitting approach reliant upon desktop and field surveys for site characterization. The certificate holder describes that the desktop surveys results were used to inform targeted environmental surveys for special-status and listed species; wetlands and water bodies; and, cultural/historic/archeological resources. The Department agrees that the permitting approach is acceptable in conjunction with the limitations of existing site certificate conditions which prohibit construction activities in areas not previously surveyed, specifically Conditions 49 (cultural resources), 83 (wetlands), 95(c) and 98(c) (special status species).

The Department notes that the intent of pre-construction conditions, such as the above-referenced, is that they be satisfied prior to construction, which commenced on or before the September 14, 2017 deadline specified in the site certificate. Moreover, the Department would then expect for the

information submitted to demonstrate compliance with Condition 49, 83, 95(c), and 98(c) to be complete and not to represent information that could change based upon facility design changes not currently known. In the change request, however, the certificate holder explains that construction of the transmission line would not occur outside of a 1,000-foot corridor area (i.e. 500-feet on either side of the line). The certificate holder explains that the additional corridor area (extending ½-mile in width) is requested because: 1) it aligns with the OAR 345-001-0010 corridor definition allowing a ½-mile corridor width, 2) is consistent with the currently approved corridor, and 3) provides future flexibility in the event sensitive wildlife habitat or other environmental constraints are discovered within the 1,000-foot corridor prior to transmission line construction.

Based on the potential for sensitive species (i.e. WGS) to occur within the site boundary, and the likelihood of species relocation and movement, the Department recognizes the need for future flexibility and agrees that the limitations of Conditions 49, 83, 95(c), and 98(c) establish requirements for field surveys and evaluation of impacts to ensure minimization of potential impacts to resources protected by a Council standard. Therefore, the Department concludes that the proposed modified transmission line/corridor would not require a new condition.

Determination

The Department agrees with the certificate holder's evaluation under OAR 345-027-0050 and finds that the proposed facility modifications included in Change Request 3 do not require a site certificate amendment. The Department agrees that the proposed facility modifications would not cause a significant adverse impact to a resource protected by EFSC standards, and would not substantially impair the certificate holder's ability to comply with site certificate conditions. Compliance with applicable EFSC Standards, State and local laws, rules, and ordinances would not be expected to be affected by the proposed facility modifications. In accordance with the requirements of OAR 345-027-0050(4), the certificate holder shall include a description of the proposed facility modifications and the Department's determination in the next annual report. ODOE will also document the change in an order associated with the next site certificate amendment. OAR 345-027-0050(5) allows that at the request of a Council member, the Department's determination must be referred to the Council for concurrence, modification, or rejection. In compliance with this rule, the Department will provide its determination and inform the Council of its rights under the rule. Should a Council member request to review the determination, the determination would likely go before EFSC at an upcoming Council meeting.

The Department requests that the certificate holder provide an updated site boundary and facility component/layout map for the Montague Wind Power Facility to show the proposed facility modifications. Please also provide the Department with updated GIS data corresponding to the requested updated maps.