

K.9	CONCLUSION.....	K-69
K.10	REFERENCES.....	K-69

ATTACHMENTS

K-1	American Viticultural Area Map
K-2	Water Rights Map from Oregon Water Resources Department
K-3	Water Rights Permits, Certificates, and Transfers
K-4	Weedman Ranches Inc. Letter
K-5	Oregon Water Resources Department Correspondence

TABLES

K-1	Summary of Soil Classifications Permanently Disturbed by Design Scenario A (Maximum Wind Turbine Layout).....	K-7
K-2	Summary of Soil Classifications Permanently Disturbed by Design Scenario C (Solar Array Layout)	K-8
K-3	230-kV Transmission Line Alternatives Comparison.....	K-51
K-4	Summary of Soil Classifications within the Weedman Ranches, Inc. Tract	K-62

FIGURES

K-1A	Land Use Analysis Area Phase 2 Design Scenario A
K-1B	Land Use Analysis Area Phase 2 Design Scenario C
K-2A	Detailed Aerial View Phase 2 Design Scenario A
K-2B	Detailed Aerial View Phase 2 Design Scenario C
K-3A	Zoning and Land Use Designation Map Phase 2 Design Scenario A
K-3B	Zoning and Land Use Designation Map Phase 2 Design Scenario C
K-4	Location of Irrigated Soil Capability Classes within the Proposed Expanded Site Boundary [<i>No Change</i>]
K-5	Location of Water Rights within the Proposed Expanded Site Boundary [<i>No Change</i>]
K-6A	Natural Resources Conservation Service Soils Types Phase 2 Design Scenario A
K-6B	Natural Resources Conservation Service Soils Types Phase 2 Design Scenario C
K-6C	Natural Resources Conservation Service Soils Types Phase 2 Modified 230-kV Transmission Line Route and Solar Micrositing Area Detail
K-7A	Natural Resources Conservation Service Nonirrigated Soil Capability Class Phase 2 Design Scenario A
K-7B	Natural Resources Conservation Service Nonirrigated Soil Capability Class Phase 2 Design Scenario C
K-7C	Natural Resources Conservation Service Nonirrigated Soil Capability Class Phase 2 / Modified 230-kV Transmission Line Route and Solar Micrositing Area Detail
K-8	Property Ownership Phase 2: Proposed Expanded Site Boundary [<i>No Change</i>]
K-9	High-Value Farmland Per Oregon Revised Statute (ORS) 195.300(10)(f)(C)
K-10	Natural Resources Conservation Service Nonirrigated Soil Capability Class Weedman Ranches Inc. Tract
K-11	Natural Resources Conservation Service Nonirrigated Soil Capability Class and High-Value Farmland Per Oregon Revised Statute (ORS) 195.300(10)(f)(C) for the Weedman Ranches Inc. Tract
K-12	230-kV Transmission Line Route Alternatives

K.1 INTRODUCTION

The Energy Facility Siting Council (EFSC; Council) previously approved construction of the 404-megawatt (MW) Montague Wind Power Facility (Facility)¹ and found that the Facility complies with the Land Use standard required in OAR 345-022-0030. Montague Wind Power Facility, LLC (Montague) is constructing the Facility in phases. Phase 1 consists of up to 81 wind turbines generating 202 MW of power within the approved site boundary. Montague has already begun construction of Phase 1 under the conditions of the existing Site Certificate. Phase 2 consists of an expanded site boundary, modification of turbine types and construction schedule, and addition of a solar array and battery storage. The analysis in this exhibit focuses on Phase 2 and the three design scenarios described in *Request for Amendment No. 4 Project Description and OAR Division 27 Compliance* (referred to herein as RFA 4).

K.2 SUMMARY OF LAND USE REVIEW AND ANALYSIS RESULTS

To issue a site certificate, EFSC must find that the Facility complies with Oregon's Statewide Planning Goals (goals) adopted by the Land Conservation and Development Commission (LCDDC). See ORS 469.503(1)(b) and OAR 345-022-0030(1). Montague demonstrates that the Facility, as modified by RFA 4, continues to comply with the EFSC land use standard, as follows:

- The Facility, modified by the proposed expanded site boundary and Phase 2 design scenarios, continues to comply with the applicable substantive criteria from the *Gilliam County Comprehensive Plan* (GCCP) (Gilliam County, 2017a) and the *Gilliam County Zoning Ordinance* (GCZO) (Gilliam County, 2017b), with the exception of GCZO 4.020(D)(11) because the proposed solar array will exceed 12 acres of high-value farmland soils.
- The Facility complies with the directly applicable statutes and administrative rules, specifically ORS 215.274 governing associated transmission lines on exclusive farm use (EFU) land and OAR 660-033-0130(38) governing solar siting on EFU land.
- If Montague opts to construct the solar array, sufficient reasons justify removing up to 1,189 acres from commercial agricultural enterprise and the protection of Goal 3 under ORS 469.504(2) until the solar array is retired under OAR 345-022-0050.

Specifically, Exhibit K demonstrates the following:

- **Expansion of Site Boundary:** Montague provides sufficient evidence to demonstrate that the proposed expanded site boundary to accommodate up to 81 relocated wind turbines will not alter the basis for EFSC's earlier findings that the Facility complies with OAR 345-022-0030. Design Scenario A under Phase 2 will continue to comply with applicable Site Certificate conditions.
- **Modification of Turbine Type:** Montague demonstrates that the modified turbine types applied to Design Scenario B under Phase 2 will also continue to comply with applicable Site Certificate conditions.
- **Modification of Construction Schedule:** Change in the construction schedule does not affect Montague's ability to comply with the applicable substantive criteria from the GCCP (Gilliam County, 2017a), GCZO (Gilliam County, 2017b), or the applicable statutes and administrative rules under ORS 215.274 and OAR 660-033-0130(38), and does not affect Montague's request for a Goal 3 exception.

¹ EFSC. 2017a. *Third Amended Site Certificate for Montague Wind Power Facility*. July 11.

- **Addition of Solar Array.** The proposed solar array in Design Scenario C complies with the applicable substantive criteria except GCZO 4.020(D)(11), which limits the amount of agricultural lands that can be removed from commercial agricultural enterprise for solar development. Montague demonstrates that the proposed solar array satisfies OAR 660-033-0130(38), which directly applies to the Facility because the County has yet to amend the GCZO to incorporate this rule. Finally, Montague demonstrates that a Goal 3 exception is warranted under ORS 469.504(2)(c) and OAR 345-022-0030(4)(c) and correspondingly proposes a new condition to address the potential use of solar technology with the Facility.
- **Addition of Battery Storage.** The battery storage system is allowed within the EFU zone as an accessory component of either the conditional wind power generation facility use under OAR 660-033-0130(37) or the conditional solar photovoltaic generation facility use under OAR 660-033-0130(38). Montague demonstrates that the battery storage system meets the land use standard as a related or supporting facility to the wind generation under GCZO 4.020(D)(20). OAR 660-033-0130(37) does not directly apply to the Facility because the County subsequently amended the GCZO to incorporate this rule.
- **Modification of Transmission Line Route:** The previously approved 230-kilovolt (kV) transmission line is an “associated transmission line” and Montague demonstrates that route modifications for a 3.0-mile segment of 230-kV transmission line is permissible under ORS 215.274, which directly applies to the Facility because the County has yet to amend the GCZO to incorporate this statute. Montague further demonstrates that the proposed modified transmission line route is an acceptable “corridor” and satisfies Site Certificate Condition 18.
- **Transportation Improvements:** Phase 2, like the original Facility, involves not only private access roads but transportation improvements to existing public roads. Consistent with EFSC’s prior findings in the original Final Order, these transportation improvements may be analyzed as accessory to the principal use and therefore Montague includes these improvements when analyzing the wind energy facility as a conditional use. These Phase 2 improvements will continue to comply with the applicable Site Certificate conditions and will not alter the basis for the Council’s earlier findings.

K.3 CONDITION COMPLIANCE

The Third Amended Site Certificate imposes six conditions (5, 17, 18, 27, 38, and 39) designed to reduce or avoid potential impacts to land use. Montague evaluated whether Phase 2 can meet the existing Site Certificate conditions and whether revised or additional conditions are appropriate. The modifications proposed under RFA 4 do not affect Montague’s ability to comply with the existing Site Certificate conditions. Montague proposes the following modified and new conditions represented with underline and strikeout. All other conditions remain the same. The conditions listed below apply to land use for Phase 2.

5. *OAR 345-027-0020(5): Except as necessary for the initial survey or as otherwise allowed for wind and solar energy facilities, transmission lines or pipelines under this section, the certificate holder shall not begin construction, as defined in OAR 345-001-0010, or create a clearing on any part of the site until the certificate holder has construction rights on all parts of the site. For the purpose of this rule, “construction rights” means the legal right to engage in construction activities. For wind and solar energy facilities, transmission lines or pipelines, if the certificate holder does not have construction rights on all parts of the site, the certificate holder may nevertheless begin construction, as defined in OAR 345-001-0010, or create a clearing on a part of the site if the certificate holder has construction rights on that part of the site and:*

- (a) *The certificate holder would construct and operate part of the facility on that part of the site even if a change in the planned route of the transmission line or pipeline occurs during the certificate holder's negotiations to acquire construction rights on another part of the site; or*
- (b) *The certificate holder would construct and operate part of a wind and solar energy facility on that part of the site even if other parts of the facility were modified by amendment of the site certificate or were not built.*

17. OAR 345-027-0023(4):

- (a) *The certificate holder shall design, construct and operate the transmission line in accordance with the requirements of the 2017 National Electrical Safety Code approved published on June 3, 2011 September 29, 2016, and approved by the American National Standards Institute, and*
- (b) *The certificate holder shall develop and implement a program that provides reasonable assurance that all fences, gates, cattle guards, trailers, or other objects or structures of a permanent nature that could become inadvertently charged with electricity are grounded or bonded throughout the life of the line.*

18. OAR 345-027-0023(5): *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 allow the Department to approve the pipeline or transmission corridor located within the approved micrositing corridor prior to construction.~~ Certificate holder may construct the pipeline or transmission line anywhere within the identified 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.*

Reason: This condition is derived from the site-specific conditions listed in OAR 345-027-0023, which are discretionary unlike the mandatory conditions in OAR 345-027-0020. This revision allows certificate holder to make minor modifications to the transmission line route via an amendment determination request without requiring approval from the Council. The Council delegates the authority to the Department which is permissible given that the site-specific condition is not a mandatory condition.

27 *The certificate holder shall construct a facility substantially as described in the site certificate and may select turbines of any type, solar technology, and battery storage technology, subject to the following restrictions and compliance with all other site certificate conditions. Before beginning construction of the facility or a phase of the facility, the certificate holder shall provide to the Department a description of the turbine types, solar technology, and battery storage technology, selected for the facility demonstrating compliance with this condition.*

- (a) *The total number of turbines at the facility must not exceed ~~162269~~ turbines*
- (b) *The combined peak generating capacity of the facility, including all phases, must not exceed 404 megawatts ~~and the peak generating capacity of any individual turbine must not exceed 3.6 megawatts.~~*
- (c) *The turbine ~~hub height must not exceed 100 meters and the maximum blade tip height must not exceed 182150 meters~~*
- (d) *The minimum blade tip clearance must be 14 meters above ground. [Amendment #3]*

- (e) The certificate holder shall request an amendment of the site certificate if any change to the facility or a phase of the facility triggers an amendment under OAR 345-027-0050 to increase the combined peak generating capacity of the facility beyond 404 megawatts, to increase the number of wind turbines to more than 162 wind turbines or to install wind turbines a blade tip height greater than 182 meters or a blade tip clearance less than 14 meters above ground.*
38. *The certificate holder shall consult with area landowners and lessees during construction and operation of the facility and shall implement measures to reduce and avoid ~~any~~ adverse impacts to ongoing farm practices on surrounding lands, including coordinate with the landowner of the solar micro-siting area to ensure that the final solar array layout does not prevent the landowner from maximizing agricultural production on the land not occupied by the solar array, and to avoid any increase in farming costs.*
39. *The certificate holder shall design and construct the facility to minimize the permanent impacts to agricultural land, including to the extent practicable, using existing access roads, co-locating facilities, reducing road and transmission line/collector line lengths, and designing facility components to allow ongoing access to agricultural fields, using the minimum land area necessary for safe construction and operation. The certificate holder shall locate access roads and temporary construction laydown and staging areas to minimize disturbance of farming practices and, wherever feasible, shall place turbines and transmission interconnection lines along the margins of cultivated areas to reduce the potential for conflict with farm operations.*
- XX. *Montague will retire the solar array and restore the site consistent with Condition 92, and during or following site restoration, Montague will file a request with Gilliam County Planning Department to amend the GCCP to remove the Goal 3 exception from the solar micro-siting area upon confirmation that the restoration work required under Condition 92 is complete. Gilliam County will process the amendment request pursuant to ORS 469.401(3).*

K.4 OVERVIEW OF AMENDMENT REQUEST

Exhibit K analyzes the Phase 2 Facility components and three design scenarios described in RFA 4. This exhibit does not revisit the land use analysis EFSC approved for Phase 1 construction within the previously approved site boundary. However, portions of Phase 2 development will occur within the previously approved site boundary as well as the proposed expanded site boundary. Where Phase 2 development will occur in the previously approved site boundary, this exhibit demonstrates that Phase 2 is nonetheless consistent with EFSC's prior approval. The analysis concludes that the Facility, as modified by Phase 2 within the approximately 47,056-acre approved and proposed expanded site boundary, continues to comply with OAR 345-022-0030.

K.4.1 Overview of Key Modifications

Section 1.1 of RFA 4 proposes key changes to the approved Facility:

1. Expand the site boundary to encompass an additional approximately 13,339 acres of land adjacent to the approved site boundary. The newly acquired land (previously under lease by another wind developer and part of the Baseline Wind Project) is needed to relocate turbines, maximize use of the wind resource, and avoid or minimize impacts to sensitive resources within the approved site boundary. Turbines were previously approved for construction but now will be constructed within both the approved and the proposed expanded site boundary. Within the proposed expanded site boundary, Montague has

defined an 8,981-acre proposed expanded micrositing corridor where facilities could be located.

2. Add a solar array occupying up to 1,189 acres within the proposed expanded site boundary to stabilize the wind resource and provide flexibility in responding to market and customer demands.
3. Add a battery storage system capable of storing up to 100 MW of energy and designed to stabilize the wind resource and provide flexibility in responding to market and customer demands.
4. Change Site Certificate condition 25 to update the construction completion date for future development phases from September 14, 2020 to September 14, 2023 .
5. Change Site Certificate condition 27 to reduce the total number of turbines at the Facility to not exceed 162 turbines, eliminate restriction on turbine hub height and limit on per turbine generation capacity, and modify maximum blade tip height from 492 feet (150 meters) to 597 feet (182 meters). Table 1 in RFA 4 compares the approved and proposed turbine specifications.

The modifications summarized above will be located within the previously approved site boundary and proposed expanded site boundary, all private land for which Montague has secured long-term leases or easements from the underlying landowners. The land within the previously approved and proposed expanded site boundary is entirely within the land use jurisdiction of Gilliam County (see Figures K-1A and K1-B), and is zoned as EFU with the GCCP land use designation of Agricultural. The Phase 2 components included in this land use analysis are summarized in Sections K.4.2.1 and K.4.2.2, and described by reference in RFA 4 and Exhibit B.

K.4.2 Overview of Supporting Materials in This Exhibit

Exhibit C, Figures C-1 and C-2 through C-7, are maps of the site vicinity, and Facility location and Phase 2 components within the approved and proposed expanded site boundaries, respectively.

Figures K-2A and K-2B provide detailed aerial views of Design Scenario A (showing the maximum wind turbine layout) and Design Scenario C (showing the solar array layout) within the land use analysis area for the previously approved and proposed expanded site boundary (defined in Section K.5).

Figures K-3A and K-3B show the zoning and comprehensive plan designation within the proposed expanded site boundary and associated land use analysis area for Design Scenarios A and C, respectively. The land within the proposed expanded site boundary is primarily nonirrigated agricultural cropland, with the exception of two areas with irrigation (Figure K-4). The topography is similar to areas included in the approved site boundary with plateaus and ridgelines dissected by small gullies and broad valleys. The plateaus, ridge tops, and valley bottoms are relatively level and primarily used for agricultural crop land or range land/grazing. With the exception of up to 1,189 acres of solar generation within the solar micrositing area, the underlying landowners are able to continue farming operations in and around the Facility components where farming activities do not impact the operation and maintenance of the Facility equipment.

K.4.3 Overview of Soil Classifications

The Facility, including the proposed expanded site boundary, is located within the approximately 11-million-acre Columbia Valley American Viticultural Area (AVA) (see Attachment K-1), and

therefore by operation of law,² is considered to consist entirely of high-value farmland soils. Montague applies the high-value farmland approval criteria when responding to the applicable substantive criteria for Phase 2, but for purposes of evaluating and analyzing potential impacts to agricultural land and operations, Montague considered the actual underlying soil types and classifications using on-the-ground, site-specific conditions, and in accordance with the following steps:

1. Montague first identified existing water rights with places of use within the proposed expanded site boundary. Montague identified the following three water rights:
 - Place of use underlying proposed Turbines J2-6 (water right G8800)
 - Place of use underlying Turbine H9-H13, J8-J16 (and the solar micrositing area), and Turbine K1-2 and K5-13 (water right G15187)
 - Place of use underlying a portion of the 230-kV transmission line running on the north side of Old Tree Road (water right G4741)

See Figure K-5 for a map showing water right places of use, Attachment K-2 for water right locations as shown on the Oregon Water Resource Department's (OWRD's) water rights mapping tool, and Attachment K-3 for copies of the water right permits, certificates, and transfers.

2. Montague then verified whether the existing water rights were valid and confirmed that water right #G15187 had expired. See the Weedman Ranches Inc. ("Weedman") letter provided as Attachment K-4 describing the history associated with the water right permit and the conversations with OWRD provided as Attachment K-5 confirming that there is nothing to be done to revive the right.
3. Next, using this information, Montague determined the appropriate Natural Resources Conservation Service (NRCS) soil classifications to apply to the proposed expanded site boundary (NRCS, 2017). Montague used the nonirrigated NRCS data for the entire proposed expanded site boundary with the exception of the two irrigated areas where it used the irrigated NRCS data.

In support of this soil classification discussion:

- Figures K-6A through K-6C show the NRCS soil types for the approved site boundary and proposed expanded site boundary as well as the land use analysis area for RFA 4.
- Figures K-7A through K-7C show the nonirrigated NRCS soil capability classes for the same area and Figure K-4 shows the irrigated NRCS soil capabilities for the two irrigated areas.
- Tables K-1 and K-2 summarize the acreage of permanently disturbed areas by the different underlying NRCS soil classifications for design.

² See OAR 660-033-0130(37) and OAR 660-033-0130(38) with cross-reference to ORS 195.300(10)(f)(C) definition for "high-value farmland soils."

Table K-1. Summary of Soil Classifications Permanently Disturbed by Design Scenario A (Maximum Wind Turbine Layout)

NRCS Soil Unit	Map Code	Acreage	Percentage	NRCS Irrigated Soil Capability Class	NRCS Nonirrigated Soil Capability Class
Wind Turbine Generators (consist of 81 previously approved 2.5-MW wind turbine towers and pads and related or supporting uses, including the new battery storage system and the previously approved power collection system, Phase 2 collector substation, SCADA system, meteorological towers, O&M building, and transportation and access roads)					
Nonirrigated^a					
Olex silt loam, 0 to 5 percent slopes	23B	0.6	0.9	-	6
Ritzville silt loam, 0 to 2 percent slopes	32A	31.4	46.2	-	3
Ritzville silt loam, 2 to 7 percent slopes	32B	23.6	34.8	-	3
Ritzville silt loam, 7 to 12 percent slopes	32C	5.3	7.8	-	3
Willis silt loam, 2 to 5 percent slopes	56B	3.9	5.8	-	3
Willis silt loam, 5 to 12 percent slopes	56C	0.3	0.5	-	3
<i>Subtotal</i>		<i>65.2</i>	<i>96.0</i>		
Irrigated^b					
Ritzville silt loam, 0 to 2 percent slopes	32A	2.7	3.9	1	-
<i>Subtotal</i>		<i>2.7</i>	<i>3.9</i>		
<i>Wind Turbine Subtotal</i>		<i>67.9</i>	<i>100</i>		
Modification to the 230-kV Transmission Line Route (assumes approximately 34 pole structures constructed as previously approved with pole spacing as close as 500 feet and approximately 40 square feet of permanent disturbance per pole structure)					
Nonirrigated^a					
Ritzville silt loam, 0 to 2 percent slopes	32A	0.017	0.03	-	3
Ritzville silt loam, 2 to 7 percent slopes	32B	0.002	0.003	-	3
Warden silt loam, 2 to 5 percent slopes	55B	0.006	0.009	-	4
Warden silt loam, 5 to 12 percent slopes	55C	0.001	0.001	-	4
<i>Subtotal</i>		<i>0.027</i>	<i>0.04</i>		
Irrigated^b					
Ritzville silt loam, 2 to 7 percent slopes	32B	0.002	0.003	2	-
Warden silt loam, 2 to 5 percent slopes	55B	0.001	0.001	2	-
Willis silt loam, 2 to 5 percent slopes	56B	0.002	0.003	3	-
<i>Subtotal</i>		<i>0.005</i>	<i>0.007</i>		
<i>Transmission Line Subtotal</i>		<i>0.031</i>	<i><0.1</i>		
Totals (Acres):					
High-Value Farmland					2.7
Arable Lands					65.2

Table K-1. Summary of Soil Classifications Permanently Disturbed by Design Scenario A (Maximum Wind Turbine Layout)

NRCS Soil Unit	Map Code	Acreage	Percentage	NRCS Irrigated Soil Capability Class	NRCS Nonirrigated Soil Capability Class
Total Permanent Disturbance					67.9^c

Source: NRCS, 2017

Notes:

^a Nonirrigated soils within the proposed expanded site boundary are shown on Figures K-7A, K-7B, and K-7C.

^b Irrigated soils within the boundary of an active water right in the proposed expanded site boundary are shown on Figure K-4.

^c For the purpose of this analysis, total permanent disturbance does not include improvements to existing roads.

Table K-2. Summary of Soil Classifications Permanently Disturbed by Design Scenario C (Solar Array Layout)

NRCS Soil Unit	Map Code	Acreage	Percentage	NRCS Irrigated Soil Capability Class	NRCS Nonirrigated Soil Capability Class
Solar Micrositing Area (Construction of the solar array will occur within the area designated as the solar micrositing area, which is a portion of the proposed expanded site boundary comprising 1,189 acres of nonirrigated, cultivated agricultural land. Construction of the solar array includes the proposed solar modules, trackers, posts, cabling, inverters, transformers, site access and private service roads, and construction areas within the fenced boundary of the solar array)					
Nonirrigated^a					
Licksillet very stony loam, 7 to 40 percent slopes	15E	7.8	0.6	-	7
Ritzville silt loam, 0 to 2 percent slopes	32A	863.8	71.8	-	3
Ritzville silt loam, 2 to 7 percent slopes	32B	275.1	22.9	-	3
Ritzville silt loam, 7 to 12 percent slopes	32C	12.7	1.1	-	3
Ritzville silt loam, 20 to 40 percent north slopes	33E	8.1	0.7	-	6
Willis silt loam, 5 to 12 percent slopes	56C	21.5	1.8	-	3
<i>Solar Micrositing Area Subtotal</i>		<i>1,189</i>	<i>98.9</i>		

Table K-2. Summary of Soil Classifications Permanently Disturbed by Design Scenario C (Solar Array Layout)

NRCS Soil Unit	Map Code	Acreage	Percentage	NRCS Irrigated Soil Capability Class	NRCS Nonirrigated Soil Capability Class
Modification to the 230-kV Transmission Line Route (assumes approximately 34 pole structures constructed as previously approved with pole spacing as close as 500 feet and approximately 40 square feet of permanent disturbance per pole structure)					
Nonirrigated^a					
Ritzville silt loam, 0 to 2 percent slopes	32A	0.017	0.002	-	3
Ritzville silt loam, 2 to 7 percent slopes	32B	0.002	0.0003	-	3
Warden silt loam, 2 to 5 percent slopes	55B	0.006	0.001	-	4
Warden silt loam, 5 to 12 percent slopes	55C	0.001	0.0001	-	4
<i>Subtotal</i>		<i>0.03</i>	<i>0.002</i>		
Irrigated^b					
Ritzville silt loam, 2 to 7 percent slopes	32B	0.002	0.0002	2	-
Warden silt loam, 2 to 5 percent slopes	55B	0.001	0.0001	2	-
Willis silt loam, 2 to 5 percent slopes	56B	0.002	0.0002	3	-
<i>Subtotal</i>		<i>0.005</i>	<i>0.0005</i>		
<i>Transmission Line Subtotal</i>		<i>0.031</i>	<i><0.01</i>		
Related or Supporting Uses (consists of the new battery storage system, Phase 2 collector substation, and O&M building)					
Nonirrigated^a					
Ritzville silt loam, 0 to 2 percent slopes	32A	13.4	1.1	-	3
<i>Related or Supporting Uses Subtotal</i>		<i>13.4</i>	<i>1.1</i>		
Design Scenario C Totals (Acres):					
Arable Lands					1,186.5

Permanent Impact from Phase 2 Modified 230-kV Transmission Line Route

The permanent impacts associated with the relocated 230-kV transmission line segment are the same under Design Scenarios A and C. Tables K-1 and K-2 identify the permanent impacts associated with both scenarios. The relocated route will permanently disturb approximately 0.03 acre of Ritzville, Warden, and Willis silt loams (see Soil Map Codes 32A, 32B, 55B, 55C, and 56B). When nonirrigated, these soils are Class 3 and Class 4 under the nonirrigated NRCS classifications. However, one area of Ritzville silt loam, 2-7 percent is irrigated, and under the irrigated NRCS classifications, is Class 1 soil. In total, approximately 0.003 acres are Class 2, 0.021 acres are Class 3, and 0.007 are Class 4 for a total of approximately 0.031 acres of permanent impact.

Permanent Impact from Phase 2 Solar Array

Table K-2 identifies the permanent impacts associated with solar array in Design Scenario C. Soils within the 1,189-acre solar microsite area consist primarily of Ritzville silt loam (1,159.7 acres; soil map codes 32A, 32B, 32C, and 33E). In addition, the area includes 7.8 acres of Licksillet very stony loam (Soil Map Code 15E) and 21.5 acres of Willis silt loam (Soil Map Code 56C). When nonirrigated, these soils are considered NRCS Class 3. In total, the solar array in Design Scenario C could result in up to 1,189 acres of permanent impact to Class 3 soils, which represents the worst-case scenario for evaluating land use impacts for the reasons discussed in Section K.7.2. The soils impacted by Design Scenario C are representative of the underlying soils throughout the solar microsite area. The solar microsite area comprises Licksillet stony loam, Ritzville silt loams, and Willis silt loam, of varying slopes (Soil Map Codes 15E, 32A, 32B, 32C, 33E, and 56C). There are no irrigated soils within the solar microsite area. Therefore, under the nonirrigated NRCS classification, the solar microsite area comprises approximately 1,173.1 acres of Class 3 soil, 8.1 acres of Class 6 soil, and 7.8 acres of Class 7 soils for a total of approximately 1,189 acres.

The majority of the solar microsite area is comprised predominately of Class 3 soils, like the area impacted under Design Scenario C. The underlying agricultural uses are also the same. Montague seeks approval for up to 1,189 acres of permanent impact within the solar microsite area, which will be permanent impacts to the Class 3 soils identified in Table K-2.

As identified in Table K-4 and shown on Figure K-9, the Weedman tract is approximately 8,271.2 acres, of which approximately 2,369.3 acres or 28.6 percent is high-value farmland under ORS 195.300(10)(f)(C). The solar microsite area within the Weedman tract has approximately 308.8 acres of high-value farmland per ORS 195.300(10)(f)(C), which amounts to approximately 3.7 percent of the total acreage within the Weedman tract.

K.4.4 Overview of Major Components, Structures, and Systems

K.4.4.1 Wind Turbine Generators

Phase 2 will consist of relocating up to 81 turbines into portions of the previously approved site boundary and the proposed expanded site boundary. The turbine vendor, size, number, and actual generating capacity have not yet been determined. The turbine types represent a range that encompasses the scale and impacts of the turbines that could potentially be used at the Facility. No change is proposed to construction methods or operational requirements of wind turbines as part of Phase 2. For purposes of this analysis, the maximum turbine layout is 81 2.5-MW turbines which represents Design Scenario A. The minimum Phase 2 turbine layout is 48 4.2-MW turbines (Design Scenario B) and is not analyzed in this exhibit because disturbances associated with the minimum layout are accounted for in the analysis of Design Scenario A.

This amendment request reduces the total number of turbines that could be constructed at the Facility from 269 turbines to 162 turbines, but the total generating output will remain unchanged at 404 MW. Some of the wind turbines originally planned for construction within the approved site boundary will be shifted to areas within the proposed expanded site boundary in order to reduce impacts to sensitive resources.

Advances in turbine technology could result in the availability of more efficient turbines at the time of construction with the same characteristics (maximum blade tip height, minimum blade tip clearance, and noise levels). Should this occur, Montague seeks flexibility to select turbines of a higher nameplate capacity that are within the range of sizes and noise levels used for this analysis. Specific turbine components are described in Section 3.2.2.1 of RFA 4, and by reference in Exhibit B.

K.4.4.2 Solar Array

Montague seeks the flexibility to construct up to 1,189 acres of solar generation within the proposed expanded site boundary in an area referred to as the solar micro-siting area (see Figures C-6 and C-7 in Exhibit C). Specifically, Montague seeks the flexibility to add a solar array occupying up to 1,189 acres any place within the solar micro-siting area. The solar array layout presented in Design Scenario C occupies the solar micro-siting area and represents the “worst-case scenario” for this land use analysis because it presents the maximum disturbance to ongoing agricultural operations and surrounding properties. Montague proposes the concept of the solar micro-siting area to allow Montague the opportunity to work with the underlying landowner (Weedman) to design a final solar layout that minimizes impacts to ongoing crop cultivation within the proposed expanded site boundary. Additional details showing the general arrangement of the proposed solar array are provided on Figure B-4 in Exhibit B and described in Section 3.2.2.2 of RFA 4, and by reference in Exhibit B.

K.4.5 Overview of Related or Supporting Facilities

Previously approved related or supporting facilities consist of the power collection system, SCADA system, two collector substations, 230-kV transmission line, eight meteorological towers, two O&M buildings, transportation and access roads, public roadway modifications, and construction staging areas.³ This amendment seeks to modify and relocate previously approved related or supporting facilities into the proposed expanded site boundary. In addition, Montague seeks the ability to add up to 100 MW of battery storage as a related or supporting facility within the Facility’s micro-siting corridor. These related or supporting facilities are summarized below and described in detail in Section 3.2.3 of RFA 4 and by reference in Exhibit B.

K.4.5.1 Battery Storage System

Phase 2 will include a battery storage system as a related or supporting facility. The battery storage system may support the wind generation in Phase 1, the wind generation in Phase 2, and/or the solar generation in Phase 2. For purposes of analyzing potential impacts, the location of the battery storage system is shown in the same location for each design scenario (see Figures C-2 through C-7 in Exhibit C); however, the battery storage system could be located anywhere within the Facility’s micro-siting corridor. Examples of the two battery storage options that Montague is considering [lithium(Li)-ion batteries or a flow battery package] are shown on Figure B-8 in Exhibit B. A preliminary site plan and general arrangement of the battery storage

³ EFSC. 2017a. *Third Amended Site Certificate for Montague Wind Power Facility*. July 11.

system is shown on Figures B-9 and B-10 in Exhibit B. The battery storage system is further described in Section 3.2.3.1 of RFA 4, and by reference in Exhibit B to RFA 4.

K.4.5.2 Power Collection System

The Facility's power collection system consists of the collector lines that will be installed along and between the turbine strings as described in Section 3.2.3.2 of RFA 4. Approximately 22.5 miles of Phase 2 collector lines will be buried at least 3 feet below the ground surface (referred to as 34.5-kV underground collector lines). However, for long runs or where site-specific considerations require, the collection system may be routed aboveground for up to 9.4 miles using overhead structures (referred to as 34.5-kV overhead collector lines). The 34.5-kV underground collector lines and 34.5-kV overhead collector lines will be constructed in Phase 2 as previously approved in the Site Certificate and summarized below. The locations of the 34.5-kV underground and overhead collector lines are shown on Figures C-2, C-4, and C-6 in Exhibit C.

As stated in Site Certificate Condition 88, "Based on geotechnical conditions or other engineering considerations, the certificate holder (Montague) may install segments of the collector system aboveground, but the total length of the above ground segments must not exceed 27 miles."⁴ Phase 1 construction includes a total of 5.1 miles of 34.5-kV overhead collector lines. Design Scenario A under Phase 2 is the maximum wind layout and will require up to 9.4 miles of 34.5-kV overhead collector lines. Therefore, in compliance with Site Certificate Condition 88, Montague proposed that the combined Phase 1 and Phase 2 power collection system for the Facility will be approximately 14.5 miles and will not exceed 27 miles of 34.5-kV overhead collector lines. Geotechnical studies may be conducted prior to Phase 2 construction to verify if more collector lines are needed aboveground than originally planned in the preferred Phase 2 design scenario layout.

K.4.5.3 Phase 2 Collector Substation

As described in Section 3.2.3.3 in RFA 4, the relocated Phase 2 collector substation will be constructed as previously approved in the Site Certificate and will be located in the southwestern portion of the site boundary, near the relocated O&M building and just north of the solar array. A new segment of the 230-kV overhead transmission line will connect the Phase 2 collector substation to the Phase 1 substation. The Phase 2 collector substation will be situated within a fenced area of approximately 4 acres and will consist of circuit-breakers, power transformer(s), bus and insulators, disconnect switches, relaying, battery and charger, surge arrestors, AC and DC supplies, control house, metering equipment, SCADA provision, grounding, and associated control wiring.

K.4.5.4 SCADA System

The SCADA system will be constructed as previously approved in the Site Certificate and is described in Section 3.2.3.4 of RFA 4.

K.4.5.5 230-kV Transmission Line

The Council previously approved an approximately 19-mile-long 230-kV transmission for the Facility.⁵ Change Request 3 rerouted the 230-kV transmission line to avoid WGS Category 1 habitat identified and mapped during the 2017 preconstruction surveys. The modifications reduced the total length of the approved approximately 19-mile-long 230-kV transmission line

⁴ EFSC. 2017a. *Third Amended Site Certificate for Montague Wind Power Facility*. July 11.

⁵ EFSC. 2010. *Final Order on the Application for Site Certificate for the Montague Wind Power Facility*. p. 9. September 10.

to a total of 10.8 miles and resulted in a reduction of the Facility footprint. The modified route remained inside of the approved micro-siting corridor and connects the Phase 1 substation to the Bonneville Power Administration (BPA) Slatt Substation using one of the three transmission line corridors approved in the original Site Certificate.

RFA 4 (see Section 3.2.3.5) proposes an approximately 3.0-mile-long modification to the 230-kV transmission line route to connect the Phase 2 collector substation to the Phase 1 substation. By incorporating this modification, the Facility's 230-kV transmission line becomes approximately 13.8 miles in total length, but remains an overall reduction to the previously approved approximately 19-mile-long route. The proposed route modification is necessary for public service to ensure that power generated by Phase 2 facility components is connected to the public electrical grid at the BPA Slatt Substation through the Phase 1 substation. The approximately 3.0-mile-long segment of 230-kV overhead transmission line will run from the Phase 2 collector substation to the Phase 1 substation as shown on Figures C-2, C-4, and C-6 in Exhibit C. The new 230-kV transmission line segment will be constructed as previously approved in the Site Certificate.

K.4.5.6 Meteorological Towers

As described in Section 3.2.3.6 of RFA 4, Phase 2 will relocate four of the met towers previously approved in the Site Certificate to locations within the proposed expanded site boundary shown on Figures C-2, C-4, and C-6 in Exhibit C.

K.4.5.7 Operations and Maintenance Building

The relocated O&M building will be designed and constructed as previously approved in the Site Certificate as described in Section 3.2.3.7. The relocated O&M building is also shown on Figures C-2, C-4, and C-6 in Exhibit C and is common to each Phase 2 design scenario.

K.4.5.8 Transportation and Access Roads

Transportation to and from the Phase 2 components of the Facility will continue to follow routes that include access via Interstate, State, and County roads, as further described in Exhibit U. Consistent with the previously approved Site Certificate, construction of Phase 2 will also require improving some existing public roads, and constructing new private gravel roads to provide access for construction vehicles. The new private access roads may continue to be used during Facility operations.

The Council previously approved construction of approximately 71 miles of new private access roads as described in the Final Order to the Site Certificate.⁶ Phase 1 resulted in the construction of 32.2 miles of new private access roads, a reduction from the amount approved in the Site Certificate. In Phase 2, Design Scenario A will require the construction of up to 21.5 miles of new private access roads to serve the maximum turbine layout. Therefore, the Facility's approved and proposed expanded site boundary will include approximately 53.8 miles of new access roads, which remains an overall reduction in road length from the approved Site Certificate.

Transportation improvements to public and private roads and the construction of new private access roads are described in Section 3.2.3.8 of RFA 4. Improvements to existing public and private roads are consistent with those previously approved in the Site Certificate and will comply with Site Certificate Conditions 71 and 75, which require that Montague restore public roads to preconstruction condition or better and ensure the repair of any damage to County roads, respectively.

⁶ EFSC. 2010. *Final Order on the Application for Site Certificate for the Montague Wind Power Facility*. p. 10. September 10.

In areas where existing roads do not provide access to wind turbine locations, and along the length of turbine strings, new gravel access roads will be constructed. Generally, these new access roads will also be up to 20 feet wide (consistent with Site Certificate Condition 72), with up to an additional 60 feet temporarily disturbed for crane paths during construction. Improvements to existing roads and new access roads associated with the Phase 2 design scenarios are shown on Figures C-2, C-4, and C-6 in Exhibit C). Roads will be designed under the direction of a licensed engineer and compacted to meet equipment load requirements. A final transportation plan will be developed in consultation with the Gilliam County Public Works Departments before construction begins.

K.4.6 Summary of Applicable Local Criteria

The applicable local substantive criteria from the GCZO and GCCP are as follows:

Gilliam County Zoning Ordinance

Article 4 (Use Zones)

- Section 4.020 (Exclusive Farm Use) – Subsections C, D, H, and J

Article 7 (Conditional Uses)

- Section 7.010 (Authorization to Grant or Deny Conditional Uses) – Subsection A
- Section 7.020 (Standards Governing Conditional Uses) – Subsections A, Q, and T

Article 8 (Supplementary Provisions)

- Section 8.030 (Clear Vision Areas) – Subsections A through C
- Section 8.040 (Outdoor Lighting Standards) – Subsections A through D
- Section 8.050 (Sign Regulations)
- Section 8.070 (Projections from Buildings)
- Section 8.100 (Off-Street Parking Requirements) – Subsection A
- Section 8.140 (Site Plan Review) – Subsections A, and E through N

Gilliam County Comprehensive Plan and Land Development Ordinance

- Goal 2 (Land Use Planning) – Policy 7
- Goal 3 (Agricultural Lands) – Policy 3
- Goal 5 (Natural Resources) – Policies 2 and 12
- Goal 6 (Air, Water, and Land Resources Quality) – Policies 6 and 7
- Goal 8 (Recreation) – Policy 3
- Goal 12 (Transportation) – Policies 10 and 14
- Goal 13 (Energy Conservation) – Policy 3

K.4.7 Summary of Applicable State Law

The applicable substantive criteria for the State of Oregon are as follows:

Oregon Revised Statutes

- 215.274 – Associated Transmission Lines Necessary for Public Service

Oregon Administrative Rules

- 660-033-0130(38) – Photovoltaic Solar Power Generation Facility

K.5 LAND USE ANALYSIS AREA AND MAPS

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

Response: In accordance with OAR 345-001-0010(59)(c), the land use analysis area includes all the area within the approved and expanded site boundary and the area within one-half mile from the site boundary. The land use analysis in this exhibit supports an amendment request to expand the previously approved site boundary by approximately 13,339 acres and accommodate the development of the remaining 202 MW of power generation approved in the Third Amended Site Certificate.

In total, approximately 76,529 acres are located within the combined land use analysis area (land within the 47,056-acre approved and expanded site boundary, plus land within 0.5 mile of the approved and expanded site boundary). Approximately 65,844 of these acres (86.0 percent of the total land use analysis area) were previously analyzed by the Council for the approved site boundary. The remaining 10,685 acres (14.0 percent of the total combined land use analysis area) are evaluated in this Exhibit K. Consistent with land in the previously approved site boundary, all land within the proposed expanded site boundary and associated land use analysis area is zoned EFU in the County (Colby, 2017, pers. comm.). Accordingly, the land use analysis area used in this Exhibit K focuses on the area within one-half mile of proposed expanded site boundary, as shown on the following figures:

- Figures K-1A and K-1B, Land Use Analysis Area, show the relationship between the previously reviewed land use analysis area and the proposed land use analysis area defined herein (Design Scenarios A and C, respectively).
- Figures K-2A and K-2B, Detailed Aerial View, shows the land use analysis area on aerial photography to show Phase 2 components in relation to existing land uses (Design Scenarios A and C, respectively).
- Figures K-3A and K-3B, Zoning and Land Use Designation Maps, show the Gilliam County EFU zoning district and Agricultural comprehensive plan land use designation within the land use analysis area and shows a 3,520-foot residential zone setback from the proposed expanded site boundary (Design Scenarios A and C, respectively).
- Figure K-4, Location of Irrigated Soil Capability Classes within the Proposed Expanded Site Boundary, shows OWRD water right places of use for purposes of identifying the irrigated soil capability classes associated with Design Scenario A. Because the solar microsite area is not irrigated, a separate map for Design Scenario C is not provided.
- Figure K-5, Location of Water Rights Within the Proposed Expanded Site Boundary, shows the place of use of water rights as provided on OWRD's water rights mapping tool (OWRD, 2017).
- Figures K-6A and K-6B, NRCS Soil Types, show the NRCS soil types within the land use analysis area (Design Scenarios A, and C, respectively). Figure K-6C shows the area specific to the modified 230-kV transmission line route and solar microsite area.
- Figures K-7A and K-7B, NRCS Nonirrigated Soil Capability Class, show NRCS nonirrigated soil capability classes within the land use analysis area (Design Scenario A and C, respectively). Figure K-7C shows the area specific to the modified 230-kV transmission line route and solar microsite area.
- Figure K-8, Property Ownership, shows property ownership within the land use analysis area of the proposed expanded site boundary.
- Figure K-9, High-Value Farmland Per ORS 195.300(10)(f)(C), shows high-value farmland within the Weedman tract per ORS 195.300(10)(f)(C).

- Figure K-10, Natural Resources Conservation Service Nonirrigated Soil Capability Class Weedman Ranches Inc. Tract, shows the nonirrigated NRCS soil capability classes within the Weedman tract.
- Figure K-11, Natural Resources Conservation Service Nonirrigated Soil Capability Class and High-Value Farmland Per Oregon Revised Statute (ORS) 195.300(10)(f)(C) for the Weedman Ranches Inc. Tract, shows the location of high-value farmland described in ORS 195.300(10)(f)(C) in relationship to nonirrigated NRCS soil capability classes within the tract.
- Figure K-12, 230-kV Transmission Line Route Alternatives, shows the primary modified 230-kV transmission line route in relation to four alternative routes analyzed under ORS 215.274.

K.6 LOCAL LAND USE APPROVAL

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

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

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

K.7 COUNCIL DETERMINATION ON LAND USE

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

- Identify the affected local government(s).*

Response: The Facility's approved and proposed expanded site boundary is entirely in Gilliam County, which is the affected local government.

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

Response: The applicable substantive criteria from Gilliam County are identified and addressed in Sections K.7.1.1 and K.7.1.2.

K.7.1 Applicable Substantive Criteria for Gilliam County

K.7.1.1 Gilliam County Zoning Ordinance

The Facility, including the modification proposed in this RFA 4, is a single wind energy facility, with facility components including a solar array, a battery storage system, and the other related or supporting facilities described above. Montague analyzes the Phase 2 components under three use categories: a wind energy facility, an associated transmission line (a subcategory of a utility facility necessary for public service), and a solar generation facility (a subcategory of a commercial utility facility for purposes of generating power for public use by sale). However, for purposes of land use, Montague analyzes the Facility components as follows under the applicable substantive criteria from the GCZO:

- GCZO 4.020(C)(23) governing transportation Improvements on rural lands. This use category captures road construction and improvements allowed by OAR 660-012-0065;
- GCZO 4.020(C)(24) governing utility facilities necessary for public service. This use category captures the associated 230-kV transmission line segment subject to ORS 215.274;
- GCZO 4.020(D)(11) governing commercial utility facilities for the purpose of generating power for public use by sale. Power generation includes power generated from a solar photovoltaic modules and accessory equipment like trackers, posts, cabling, inverters, transformers, collection system, site access, private service roads, perimeter fencing, and gates, and temporary construction areas;
- GCZO 4.020(D)(20) governing a wind power generation facility. A wind power generation facility includes the wind turbine generators and the related or supporting facilities (e.g., power collection system, Phase 2 collector substation, SCADA system, 230-kV transmission line, meteorological towers, O&M building, transportation and access roads, and temporary construction areas) along with the new battery storage system.

Article 4. Use Zones

SECTION 4.020 EFU Exclusive Farm Use

In an EFU Zone, the following regulations shall apply:

- A. HIGH VALUE FARMLAND.** *Do to the limited amount of High Value Farmland in Gilliam County, the uses for High Value Farmland are not listed in this section. If a use permitted in Subsections B-G of this section is located on High Value Farmland, the requirements of this section and the requirements of OAR 660-033 shall be used for review.*

Response: As described above, the Facility, including Phase 2, is located within the Columbia Valley AVA, and therefore, by operation of law under ORS 195.300(10)(f)(C), all underlying soils are considered high-value farmland regardless of actual NRCS soil classification. Montague analyzes the applicable substantive criteria of the GCZO and the directly applicable state law to demonstrate that Phase 2 is allowed on EFU land.

- C. PLANNING DIRECTOR REVIEW.** *In the EFU zone, the following uses and their accessory uses may be permitted if determined by the Planning Director to satisfy the applicable criteria and provisions of law. Authorization of these uses does constitute a land use decision pursuant to ORS 197.015(10). Notice and an opportunity for a hearing must be provided in the manner described in Section 11.140. These uses may be referred to the Planning Commission for review if deemed appropriate by the Planning Director.*

23. Transportation improvements on rural lands allowed by OAR 660-012-0065

Response: Montague proposes to construct private access roads as related or supporting facilities to provide access to Phase 2 components. Montague also proposes to improve public roads to allow for delivery of Phase 2 equipment and access during construction. The construction and maintenance of private access roads for the wind energy facility is considered an accessory use to the wind energy facility based on the definition of wind energy facility in OAR 660-033-0130(37). As such, the private access roads are included in the wind energy facility use category under GCZO 4.020(D)(20). The improvements to public roads, while also related or supporting to Phase 2, could be viewed as “transportation improvements” under GCZO 4.020(C)(23). If so, these improvements are considered “accessory transportation improvements,” which are defined under OAR 660-012-0065(2) as “transportation

improvements that are incidental to a land use to provide safe and efficient access to the use.” The Council previously found that these accessory transportation improvements were necessary for the operation and maintenance of a facility and therefore were a necessary condition of the development of a permissible conditional use on EFU land.⁷ As such, the Council concluded that such improvements were subject to the standards and requirements applicable to the principal use. On this basis, Montague also includes the improvement to public roads within the wind energy facility use category.

24. Utility facilities necessary for public service

Response: The relocated segment of the previously approved 230-kV transmission line is an “associated transmission line” allowed on EFU land as a “utility facility necessary for public service” under GCZO 4.020(C)(2) and subject to ORS 215.274 and OAR 660-033-0130(16)(b). ORS 215.274 and OAR 660-033-0130(16)(b) are directly applicable state laws governing the siting of the relocated 230-kV transmission line segment under 197.646 (see discussion below).

The 230-kV transmission line was previously approved as a “utility facility necessary for public service subject to the provisions of ORS 215.275 and OAR 660-033-0130(16)” under GCZO 4.0020(D)(29). GCZO 4.020(D) governs conditional uses. Under state law, “utility facilities necessary for public service” are allowed under ORS 215.283(1)(c) without review under ORS 215.296 (containing the conditional use significant impacts test). The GCZO impermissibly characterizes transmission lines as conditional uses and applies conditional use review criteria, including local criteria implementing ORS 215.296. In such situations, state law must apply directly to review of the transmission line. Therefore, the proper legal characterization of the 230-kV transmission line segment is under the use category in GCZO 4.020(C)(24) as a permitted use subject to standards, and the Council then must look to state law to provide the standards of review.

Which state law should apply, however, has changed since the Council originally reviewed and approved the Facility. In 2010, the transmission line would have been reviewed under ORS 215.283(1)(c) subject to ORS 215.275. Since then, state law changed to create a new subcategory of “utility facilities necessary for public service” called “associated transmission lines.” This use is allowed in the EFU zone under ORS 215.283(1)(c)(B) subject to ORS 215.274. The County has not updated its code to include ORS 215.274 governing review of “associated transmission lines.” Therefore, the Council must directly apply state law in its review of the 230-kV transmission line segment under ORS 197.646. The Council only needs to apply ORS 215.274, which is implemented in OAR 660-033-0130(16)(b). The law does not create a two-part test, e.g., it is not necessary review the transmission line segment as a “utility facility necessary for public service under ORS 215.275 and then as an “associated transmission line” under ORS 215.274. See Section K.7.2.1.

D. CONDITIONAL USES PERMITTED. *In the EFU Zone, the following uses and their accessory uses may be permitted, either by a Type I or a Type II Conditional Use Permit to satisfy the applicable criteria and procedures set forth in Section 7.010. The appropriate review criteria are identified for each use.*

11. Commercial utility facilities *for the purpose of generating power for public use by sale, not including wind power generating facilities. A power generation facility not located on high-value farmland shall not preclude more than 20 acres from use as a commercial agricultural enterprise.*

⁷ EFSC. 2010. *Final Order on the Application for Site Certificate for the Montague Wind Power Facility*. p. 44-45. September 10.

Approval of a use pursuant to this subsection is subject to the review criteria of Section 4.020.H, and any other applicable criteria or provisions of law.

Response: Montague proposes to locate up to 1,189 acres of solar generation within the solar micro-siting area located in the proposed expanded site boundary. The County has not amended the GCZO to incorporate OAR 660-033-0130(38). Therefore, under the County’s conditional use categories, the solar generation falls within GCZO 4.020(D)(11) as a “commercial utility facility” whereas the wind generation falls under the more specific conditional use category in GCZO 4.020(D)(20) for wind power generation facilities. Under ORS 197.646, OAR 660-033-0130(38) directly applies to RFA 4 and provides the current development standards and approval criteria for siting solar development within the County’s EFU zone. The solar generation will exceed the Goal 3 acreage threshold therefore Montague is also pursuing a goal exception under ORS 469.504(2). Montague addresses the applicable substantive criteria under OAR 660-033-0130(38) in Section K.7.2.2 and demonstrates below in Section K.7.4 that an exception to Statewide Planning Goal 3 is justified.

20. Wind Power Generation Facilities as commercial utility facilities for the purpose of generating power for public use by sale.

Response: RFA 4 involves relocating wind turbines and related or supporting facilities into the proposed expanded site boundary. The only new related or supporting facility not previously considered by EFSC is the proposed battery storage system. The battery storage system is a related or supporting facility under OAR 345-001-0010(51) because it would not be built but for the construction and operation of the Facility and under OAR 660-033-0130(37), is an “other necessary appurtenances” to the wind power generation facility. The proposed battery storage system constructed as a part of Phase 2 could support the wind generation from Phase 1, the wind generation from Phase 2, the wind generation from Phase 1 and Phase 2, and/or the solar generation from Phase 2 and wind generation from Phase 1.

SECTION 4.020(H) EFU SPECIFIC REVIEW CRITERIA

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

Response: GCZO 4.020(H) contains the significant impacts test for conditional uses on EFU lands. Montague demonstrates below that the Phase 2 development will not significantly change the accepted farm practices on surrounding lands devoted to farm use, or significantly increase the cost of such practices.⁸ This analysis evaluates potential impacts from all Phase 2 facility components, including the solar array and the battery storage.⁹

Surrounding Lands

For purposes of this analysis, “surrounding lands” include the land located within the RFA 4 land use analysis area. As stated in Section K.5, in accordance with OAR 345-001-0010(59)(c), the

⁸ There are no forest uses or forest lands within the land use analysis area. This analysis focusses only on farm uses and farm land.

⁹ The significant impacts test in GCZO 4.020(H) involves the same impacts analysis required by OAR 660-033-0130(5) for all conditional uses on EFU land, OAR 669-033-0130(37) for wind facilities, and OAR 660-033-0130(38) for solar facilities.

land use analysis area includes all the area within the approved and expanded site boundary (approximately 47,056 acres) and the area within one-half mile from the site boundary.

Existing Farm Uses and Farming Practices

Aerial land use patterns (see Figures K-2A and K-2B) show that the area within the land use analysis area is mainly in some form of agricultural use. The predominate use is dryland wheat farming with limited irrigated farming and some grazing on rangeland. Dryland wheat crop land is periodically left fallow (plowed but not planted) between seasons. Consistent with previous findings in the Final Order¹⁰, very little land in the approved and proposed expanded site boundary is irrigated, rainfall is low, soils and terrain are consistent in type, and accepted farm practices include soil preparation in the spring and fall, sowing, fertilizing, pest and weed management, and harvesting. These types of practices were verified by Montague's field biologist during Phase 2 surveys conducted between April 3, 2017, and May 31, 2017.

Types of Potential Impacts

The maximum layout for relocated wind turbine generators and related or supporting facilities in Phase 2 Design Scenario A will potentially permanently disturb approximately 67.9 acres of predominately Class 3 soils. See Table K-1. The solar array layout and related or supporting facilities for Design Scenario C could permanently impact up to approximately 1,189 acres of predominately Class 3 soils. See Table K-2.

Similar to the original Facility, Phase 2 could result in small changes to current farm practices on surrounding lands. The nature of potential impacts varies depending on whether the farm practice is occurring within the site boundary or outside of the site boundary but still on surrounding lands. For farm uses within the site boundary, the potential impacts to farming operations have already been accounted for and negotiated between Montague and the underlying landowner in the lease agreements. For example, lease terms may include identification of specific areas of the property where no permanent impacts are allowed, or compensation for crop damage that could occur during construction or maintenance activities. Montague typically will segregate topsoil within cropland areas to return the area to productivity following construction, and will notify the landowner when construction activities may impact their farming operations. However, for purposes of the analysis, Montague makes no distinction between participating and nonparticipating properties when analyzing potential impacts.

Construction-Related

- Ground disturbance could encourage weeds that temporarily and minimally interfere with crop yields until eradicated.
- Changes to access points for routes to farm fields to accommodate construction activities.
- Increased truck traffic on Oregon Highway 19 (OR 19) could potentially delay delivery of farm products or increase time to access farm fields.
- Soil erosion and compaction from ground disturbance.
- Participating landowners would have decreased productivity in crop yield if construction disturbance occurred prior to harvest (not an impact to nonparticipating landowners and an impact that was accounted already in the underlying lease agreement).

¹⁰ EFSC. 2010. *Final Order on the Application for Site Certificate for the Montague Wind Power Facility*. p. 28. September 10.

Operation-Related

- Permanent changes to access points or routes to farm fields (could also be improved);
- Modified planting and harvest practices avoid Phase 2 components;
- Varying application of fertilizers and other products to crops.

Measures to Avoid, Minimize, or Mitigate Potential Impacts

With the exception of the solar array and battery storage, Phase 2 has the same potential adverse impacts to farm practices as previously evaluated by the Council when it approved the original Facility. The Site Certificate already contains numerous conditions to ensure that Montague avoids, minimizes, or mitigates for potential adverse impacts and such conditions are a mechanisms for the Council to ensure that any potential impacts do not rise to the level of significant. Montague will continue to implement these measures to avoid, minimize or mitigate for potential adverse impacts to farming practices on surrounding lands. Specifically:

- Implement Erosion and Sediment Control Plan during construction to avoid and minimize erosion from construction-related activities (Condition 80).
- Implement BMPs to control dust from construction-related activities in order to avoid and minimize loss of topsoil (Condition 82).
- Limit truck traffic to the extent practicable to improved road surfaces during construction to avoid soil compaction (Condition 81).
- Implement Weed Control Plan control the introduction and spread of noxious weeds during construction and operation (Condition 43)
- Implement Revegetation Plan to ensure that at the completion of construction, the temporarily disturbed areas such as the staging areas will be reclaimed and restored to preconstruction conditions for agricultural use, using seed mixes and techniques developed in consultation with the Oregon Department of Fish and Wildlife (ODFW) and Gilliam County Weed District (Condition 92).
- Avoid parking equipment or machinery in any County road and only temporary parking in County right-of-way with approval from Gilliam County to minimize adverse impacts to area farmers or haulers transporting agricultural products (Condition 74).
- Implement measures to reduce traffic impacts by providing notice to adjacent landowners, require flaggers, signage, traffic control procedures in contracts, etc. to minimize adverse impacts to area farmers or haulers transporting agricultural products (Condition 73).

With respect to the solar array, the construction and maintenance will reduce the area under cultivation by Weedman. However, the solar array will incorporate a farm access route to adjoining fields, will not necessitate relocating any existing access routes or farm infrastructure, and will not result in changes to the practices for planting, irrigating, fertilizing, or harvesting, only the acreage under production. Attachment K-4 provides a letter from Weedman documenting this understanding. Montague is committed to working with Weedman per the terms of the underlying lease to microsite the solar array within the solar microsite area to minimize adverse impacts to the landowner's ongoing agricultural operations, specifically dryland crop production. Therefore, Montague proposes modifications to Condition 38 and Condition 39:

38. *The certificate holder shall consult with area landowners and lessees during construction and operation of the facility and shall implement measures to reduce and avoid ~~any~~ adverse impacts to ongoing farm practices on surrounding lands, including coordinate*

with the landowner of the solar micro-siting area to ensure that the final solar array layout does not prevent the landowner from maximizing agricultural production on the land not occupied by the solar array, and to avoid any increase in farming costs.

39. The certificate holder shall design and construct the facility to minimize the permanent impacts to agricultural land, including to the extent practicable, using existing access roads, co-locating facilities, reducing road and transmission line/collector line lengths, and designing facility components to allow ongoing access to agricultural fields, using the minimum land area necessary for safe construction and operation. The certificate holder shall locate access roads and temporary construction laydown and staging areas to minimize disturbance of farming practices and, wherever feasible, shall place turbines and transmission interconnection lines along the margins of cultivated areas to reduce the potential for conflict with farm operations.

With respect to the battery storage, in addition to the measures proposed above, Montague proposes to treat the battery storage similar to the O&M building given the storage system footprint. Montague proposes to modify Condition 103 to construct buildings and structures associated with battery storage in a manner generally consistent with the character of similar buildings in the area (see Exhibit R).

Conclusion

Although Phase 2, including related or supporting facilities, may result in some small-scale changes to accepted farming practices in the surrounding area, none of these changes would rise to the level of “significant.” The changes are not “significant” given the primarily temporary nature of much of the disturbance in comparison to the overall acreage in agricultural production in the surrounding lands within the combined land use analysis area. While the solar array may preclude up to 1,189 acres from farming practices within the solar array micro-siting area on land owned by Weedman, this solar array layout will not change or preclude access to farm operations on surrounding lands or landowners. In total, the maximum build-out of Phase 2 could potentially impact up to 1,202.4 acres of land zoned EFU, which amounts to approximately 1.6 percent of the land located in the land use analysis area (note that all land within the analysis area is zoned EFU). Phase 2 may result in some changes to harvesting patterns or various farming practices associated with the application of fertilizers and other products, these changes will not be significant so as to increase the cost of farming. As described above, the construction of new roads or improvements to existing roads will not result in an increase in the cost of farming practices as farmers will continue to have access (or anticipated improved access) to agricultural fields.

Montague has negotiated long-term energy leases or easements with the landowners where the Phase 2 components are proposed, which further offset any potential significant adverse impacts to accepted farming practices or increased farming costs. The terms of the leases allow landowners to continue their farming operations (a combination of range land/grazing and agricultural crop production) in and around the relocated wind turbine generators, solar array, and other related or supporting facilities where the farming activities do not affect the operation and maintenance of the proposed Phase 2 equipment. The leases allow Montague to permit, construct, and operate the facilities for a defined period. In exchange, the landowners receive compensation from Montague. Thus, the lease payments will help offset potential minor changes to accepted farming practices or increases in the cost of such practices.

In summary, Phase 2 as proposed in RFA 4 and within the previously approved and proposed expanded site boundary, complies with GCZO 4.020(H)(1) and the substantively identical standards of OAR 660-033-0130(5).

J. PROPERTY DEVELOPMENT STANDARDS. *In the EFU Zone, the following standards apply to residential and nonresidential development.*

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

Response: The Council previously found that this setback standard applied to the O&M structure. Montague will continue to comply with the setbacks set forth in Condition 42 of the Third Amended Site Certificate. Using the Phase 2 design scenarios, Montague demonstrates that the Facility, as modified by RFA 4, will continue to comply with these EFU setback standards.¹¹

Article 7. Conditional Uses

SECTION 7.010 – AUTHORIZATION TO GRANT OR DENY CONDITIONAL USES

GCZO 7.010 identifies the general approval criteria and conditions that may be applied to conditional uses, regardless of the zone.

A. GENERAL APPROVAL CRITERIA AND CONDITIONS

- 1.** *In addition to criteria, standards and conditions that may be set forth in a specific Zone, this Article, or other regulations applicable to a specific Conditional Use shall not be approved or permitted unless the following criteria are met. A Conditional Use may be approved on the Condition or Conditions that the applicant obtain and maintain compliance with other permits and approvals required.*
 - a.** *The proposed use shall be in compliance with the applicable Comprehensive Plan designation and policies.*

Response: Using the Phase 2 design scenarios, Montague demonstrates that the Facility, as modified by RFA 4, will continue to comply with the applicable goals and policies of the GCCP as demonstrated below in Section K.7.1.2.

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

Response: Exhibit V describes sewage and solid waste and the proposed disposal methods based off the Facility's Phase 2 design scenarios to demonstrate that the Facility will continue to comply with applicable local, State and Federal regulations. As described in Exhibit V, the Council previously found in the Final Order on the Application, Final Order on Amendment 1, Final Order on Amendment 2, and Final Order on Amendment 3, that based on compliance with existing Site Certificate conditions, Montague will minimize and manage solids waste and wastewater, resulting in minimal adverse impacts on surrounding and adjacent areas¹².

The evidence provided in Exhibit V demonstrates that Montague will continue to minimize solid waste and wastewater generated by the Facility and to recycle and reuse waste as described in

¹¹ For purposes of applying this development standard, the term "property line" does not include internal property lines within the site boundary between commonly-owned parcels. Aboveground components in Phase 2 are proposed at least 25 feet from external property lines.

¹² EFSC. 2017b. *Final Order on Request for Contested Case and Amendment #3 of the Site Certificate for the Montague Wind Power Facility.* p. 45. July 12.

the solid waste and wastewater plans described in Exhibit V. Additionally, Montague's plans to manage generated waste will result in minimal adverse impact on surrounding and adjacent areas. Therefore, this criterion is met.

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

Response: Exhibit X demonstrates that the Facility, as modified by RFA 4, will continue to meet the DEQ noise standards. The Facility is a renewable energy facility with no air emissions. The Phase 2 design scenarios proposed with RFA 4 include wind and solar power generation and battery storage technology. These technologies are clean and renewable sources of energy. No substantial adverse impacts to air quality will occur as a result of the Facility modifications proposed in RFA 4, as the proposed Phase 2 facilities do not emit greenhouse gases or particulates. Construction will produce minor air emissions. These temporary and short-term emissions will be a result of the operation of construction equipment, worker vehicles, and trucks transporting equipment, parts, and materials. The construction activities for site preparation will likely create dust; however, this would not be significant in a rural area where farming also creates dust. Standard BMPs to control dust and wind erosion will be used, such as periodic watering of disturbed areas. Therefore, this criterion is met.

- d. *Required access shall be legally established, available, and adequate to serve the proposed use or provisions to provide such evident.*

Response: Access to the proposed expanded site boundary will follow previously approved routes, using Interstate 84 as well as state, county, and private access roads, as further described in Exhibit U and illustrated on Figure U-2 (Public and Private Access Roads). Montague proposes four new access locations from existing public roads for site entry to the relocated and previously approved Phase 2 collector substation, O&M building, and to the newly proposed solar array and battery storage system.

As shown on Figures B-4 in Exhibit B and Figures K-2A and K-2B, the primary access point to the O&M building, proposed battery storage system, and Phase 2 collector substation, will be from a new gated driveway located on the west side of OR 19 an approximately 0.2 mile north of Bottemiller Lane. A secondary access point to these related or supporting facilities will be from a new gated driveway into the Phase 2 collector substation located on the north side of Bottemiller Lane and approximately 0.1 mile west of OR 19. The primary access to the solar array is from a new gated driveway located directly south of and across from the secondary access to the Phase 2 collector substation on Bottemiller Lane and approximately 0.1 mile west of OR 19. A secondary access point to the solar array will be located west of the primary access point on Bottemiller Lane. Montague will coordinate placement and construction of required access areas with the Gilliam County Road Department and the Oregon Department of Transportation, depending on the location of the improvement. Further, upon completion of construction, Montague will ensure that all roads are restored to preconstruction condition or better upon completion of construction. Therefore, this criterion is met.

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

Response: Exhibit U evaluates the capacity of service providers in vicinity of the proposed expanded site boundary. Exhibit U provides evidence that the construction and operation of design scenarios associated with Phase 2 are not expected to have an adverse impact on the

availability of public services, such as hospital or emergency service facilities, educational facilities, or sanitary landfills. Therefore, this criterion is met.

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

Response: The Facility is only located within the EFU zone; no other County zones apply.

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

Response: As described throughout RFA 4, the Facility, as modified, will not have a significant adverse impact on resource carrying capacities and BMPs will be used to minimize impacts. In fact, the modifications proposed as a part of RFA 4 are intended to further avoid and minimize potential adverse impacts to sensitive resources. Montague will continue to comply with the conditions in the Site Certificate and where appropriate, proposes new or modified conditions to specifically address potential impacts arising from the proposed modifications in RFA 4. This criterion is met.

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

Response: Exhibit U evaluates the capacity of service providers and provides evidence demonstrating that the construction and operation of design scenarios associated with Phase 2 are not expected to have an adverse impact on the availability of public services and will not exceed carrying capacities of existing services and facilities. Therefore, this criterion is met.

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

Response: Montague acquired the necessary federal and state permits prior to initiating construction of Phase 1, which is currently under development. Exhibit E provides information on the federal, state, and local permits necessary for Phase 2, except for building or other construction-related permits for which Montague will coordinate with the County Public Works Department. Montague will continue to comply with the applicable conditions in the Site Certificate to ensure that all necessary permits are obtained. Therefore, this criterion is met.

2. *In addition to specific standards and/or conditions set forth by the applicable zone, this article or some other applicable regulations, other conditions may be imposed that are determined necessary to avoid a detrimental impact, and to otherwise protect the best interests of the surrounding area and the County as a whole. Such conditions may include, but are not limited to, the following:*

- a. Limiting the manner in which the use is conducted including restricting the time an activity may take place and restraints to minimize such environmental effects as noise, vibration, air pollution, glare and odor.*
- b. Establishing a special setback or other open space or lot area or dimension.*
- c. Limiting the height, size or location of a building or other structure.*
- d. Designating the size, number, improvements, location and nature of vehicle access points and parking or loading areas.*
- e. Limiting or otherwise designating the number, size, location, height, and lighting of signs and outdoor lighting.*

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

Response: This section describes conditions that “may be imposed...[if] determined necessary to avoid a detrimental impact, and to otherwise protect the best interests of the surrounding area and the County as a whole.” Therefore, the criteria include discretionary conditions and does not contain substantive standards. As described throughout RFA 4, the Facility, as modified by RFA 4, has been designed to minimize impacts to the surrounding area and resources while functioning in its intended purpose of generating renewable energy for future public use.

SECTION 7.020 – STANDARDS GOVERNING CONDITIONAL USES

GCZO 7.020 identifies the standards that apply to conditional uses, regardless of the zone as well as specific standards for conditional uses in the EFU zone and requirements for wind power generation facilities.

A. CONDITIONAL USES, GENERALLY

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

Response: See response to GCZO 4.020(J) above demonstrating that the Facility, as modified by RFA 4, will continue to meet the required EFU setback requirements. This criterion is met.

Q. CONDITIONAL USES IN EXCLUSIVE FARM USE ZONES

- 1. *A Type I or Type II Conditional Use in an Exclusive Farm Use Zone may be approved only when the Planning Director or Hearings body 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.*

Response: GCZO 7.020(Q)(1) contains the significant impacts test for conditional uses on EFU land. GCZO 4.020(H)(1) above contains the same standard. Montague’s responses to GCZO 4.020(H)(1)(a) and (b) provided above, demonstrate that the relocated wind turbines and new related or supporting battery storage system (common to Design Scenarios A through C), and the new solar array in Design Scenario C, will comply with GCZO 7.020(Q)(1)(a) and (b). Therefore, these criteria are met.

T. WIND POWER GENERATION FACILITY SITING REQUIREMENTS

- 1. **Purpose.** *The Gilliam County Facility Siting Requirements are intended to establish a local conditional use permitting process that is clear, timely, and*

predictable as well as encompasses important local issues such as the health, safety and welfare of citizens in Gilliam County.

Response: The County’s substantive siting requirements in GCZO 7.020(T) still apply to the Facility even though Montague has elected to obtain land use approval under ORS 469.504(1)(b). EFSC previously found in the Final Order that the Facility could comply with the requirements of GCZO 7.020(T). As described above, Montague proposes relocating up to 81 of the wind turbines and related or supporting facilities within the previously approved and proposed expanded site boundaries and micrositing corridor. Where appropriate, responses below reference applicable conditions in the Site Certificate to demonstrate that relocated wind turbines will continue to comply with the Site Certificate.

The analysis below focuses on Montague’s efforts to minimize potential disturbances to farm lands in proximity of the relocated wind turbine locations shown on Figures K-2A and K-2B.

The Site Certificate also contains conditions addressing local issues such as health, safety, and welfare (see Site Certificate conditions 55 through 79). The Facility will continue to comply with these Site Certificate conditions. Accordingly, the Facility remains consistent with GCZO 7.020(T)(1).

4. Requirements under the Energy Facility Siting Council.

If a holder of a Site Certificate issued by the Oregon Energy Facility Siting Council requests a conditional use permit for an energy facility as outlined under ORS 469.401(3) and pays the requisite fee, the Planning Director shall issue such conditional use permit. The conditional use permit shall incorporate only the standards and conditions in Gilliam County’s land use and other ordinances as contained in the site certificate. Issuance of the Conditional Use Permit shall be done promptly, not taking more than four weeks once it has been determined that a valid Site Certificate has been issued, the applicant has submitted a complete application and the fee has been received.

Response: The County has issued a conditional use permit and amended conditional use permit under ORS 469.401(3). Upon EFSC’s approval of RFA 4 and issuance of the Fourth Amended Site Certificate, Montague will file with the County a second request for an amended conditional use permit to incorporate the Fourth Amended Site Certificate into the Facility’s current conditional use permit. Therefore, this provision is met.

5. Wind Power Generation Facility Siting Requirements. The requirements set out in this section shall apply for the application and review of the siting of a Wind Power Generation Facility and the issuance of a Gilliam County Facility Conditional Use Permit.

a. The following information shall be provided as part of the application:

Response: GCZO 7.020(T)(5)(a)(1)-(12) identify relevant information that must be included in a local land use application for an application to be deemed complete. Some of these provisions, while mostly procedural in nature, do substantive approval requirements. For completeness, Montague identifies these sections below and provides responses under the sections requiring substantive analysis.

1. A general description of the proposed Wind Power Generation Facility.

Response: See Exhibits B and C. This provision is procedural in nature.

2. Identification of potential conflicts if any, with * * *

Response: This provision requires an applicant to include the information needed to conduct the significant impacts test under GCZO 4.020(H)(1). This provision is procedural in nature, see above for Montague’s response under GCZO 4.020(H)(1).

3. A Transportation Plan, with proposed recommendations.

Response: See Exhibit U. This provision is procedural in nature.

4. An avian impact monitoring plan.

Response: See Exhibits P and Q. For projects being sited through EFSC, compliance with EFSC’s avian monitoring requirements will be deemed to meet this requirement.

5. A covenant not to sue.

Response: Condition 41 of the Site Certificate requires Montague to file a covenant prior to construction of Phase 1 and Phase 2 respectively.

6. A fire prevention and emergency response plan.

Response: Conditions 5 and 60 of the Site Certificate require Montague to prepare fire control and fire safety plans, including appropriate fire prevention measures. Conditions 76 and 77 require development and implementation of a site health and safety plan, including emergency response measures, during construction and operation of the Facility.

7. An erosion control plan.

Response: See Exhibit I.

8. A weed control plan.

Response: See Exhibit I.

9. A socioeconomic impact assessment of the Wind Power Generation Facility.

Response: Montague analyzes the long-term environmental, economic, social, and energy consequences of siting Phase 2 under the requirements of GCZO 7.020(5)(a)(10).

10. The requirements of OAR 660-033-0130(37) will be satisfied.

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

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

Response: As described above, land within the proposed expanded site boundary is located within the Columbia Valley AVA and therefore, under ORS 195.300(10)(f)(C) is deemed “high-value farmland” for purposes of applying OAR 660-033-0130(37).

In the original Final Order, the Council applied the criteria at OAR 660-033-0130(37)(a) to the entire Facility, based on its finding that the underlying soil classes, when irrigated, rendered the area “high-value farmland” with some areas of Class 1 and Class 2 soils. In the Final Order on the

Application,¹³ Montague used a conservative assumption that some of the land may be irrigated and therefore the irrigated NRCS classifications should apply. For this RFA 4, Montague based its soil classification analysis on the site-specific conditions rather than conservative assumptions. This provides for greater specificity in evaluating on-the-ground impacts to agricultural soils.

As discussed in Section K.4.1 and shown in Table K-1, Phase 2 will impact approximately 2.7 acres of irrigated Class 1 and Class 2 soil under Design Scenario A and less than 0.01 acre under Design Scenario C. These are the only impacts to Class 1 and 2 soils within the proposed expanded site boundary. Specifically, under Design Scenario A, Turbines J2-J5 and 34 transmission line poles will permanently impact high-value farmland soils. Under Design Scenario C, 34 transmission line poles will permanently impact high-value farmland soils. The specific J-string turbines cross an area with irrigated crop circles, but, per the underlying lease agreement with the landowner, the turbines cannot be sited *in* irrigated crop circles. These turbines are located outside of the irrigated crop circles and allow the landowner to continue the current farming operations without interference.

These portions of Phase 2 development are subject to OAR 660-033-0130(37)(a) because the components are on Class 1 and Class 2 soils. However, by operation of law, the entire proposed expanded boundary must be considered under subpart (37)(a) given the location within the Columbia Valley AVA, even though impacts will be limited to arable soils. On this basis, the Council can rely on its original analysis to demonstrate that Phase 2 within the proposed expanded site boundary meets the applicable approval criteria in OAR 660-033-0130(37)(a). Montague incorporates that information as follows:

- (A) *Reasonable alternatives have been considered to show that siting the wind power generation facility or component thereof on high-value farmland soils is necessary for the facility or component to function properly or if a road system or turbine string must be placed on such soils to achieve a reasonably direct route considering the following factors:*
- (i) *Technical and engineering feasibility;*
 - (ii) *Availability of existing rights of way; and*
 - (iii) *The long term environmental, economic, social and energy consequences of siting the facility or component on alternative sites, as determined under OAR 660-331-0130(37)(a)(B).*

Response: Under OAR 660-033-0130(37)(a)(A), Montague must first determine whether “reasonable alternatives” exist on non-high-value farmland soils, and then analyze whether Phase 2 could “function properly” in an alternative location.

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

¹³EFSC. 2010. *Final Order on the Application for Site Certificate for the Montague Wind Power Facility*. p. 26. September 10.

conservation and development actions should “utilize renewable energy sources,” including wind, “whenever possible.”

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

In the original Final Order, the Council found that:

“The first consideration in determining whether an alternative location on non-high-value farmland is “reasonable” is whether there is a substantially similar wind resource comparable to the wind resource at the proposed site. If there is not, the alternative cannot be determined to be reasonable. The existence of other wind generation facilities, including projects directly adjacent to the Facility site, demonstrates the availability of an ‘energetic’ wind resource, meteorological data, and electronic transmission infrastructure, particularly in the northern portion of the County. * * * However, [original] Figures K-6 and K-10 also show that there is a mosaic of high-value and non-high-value farmland soils in the site boundary. There is a distribution of high-value and non-high-value farmland soils within the County, but the northern portion of the County (generally north of the Facility) has considerable Class VI soils (much of which is already occupied by other developers and projects). The remainder of the County (including the area within the site boundary and generally south and southwest of the Facility) has a mix of Class II, III, IV, V, and VI soils, with very few swaths of Class I soil.

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

“[Original] Figure K-10 shows that there are no large contiguous areas of non-high-value farmland of sufficient size to accommodate the Facility, under lease by the Applicant, and in reasonable proximity to the BPA interconnect. Although there are non-high-value farmland soils in the west and southwestern portions of the County, [Montague] does not have data to indicate whether this is a substantially similar wind resource. In addition, the southwestern region of the

County where the lowest value soils are located is approximately 20 to 30 miles further from the BPA Slatt Substation, which is the proposed interconnect for the Facility. Other non-high-value farmland in the northern portion of the County (which could be suitable for wind energy development) is either included in other existing or proposed wind projects and/or is not under [Montague's] control. Finally, because the areas of non-high-value farmland are interspersed with high-value farmland soils, proposed turbine strings (including access roads and collector lines) cannot be located to 'achieve a reasonably direct route' without affecting high-value farmland soils.

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

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

The Council's analysis in the original Final Order also supports a finding that there are no reasonable alternatives to relocating the wind turbines and related or supporting facilities, including the new battery storage system, into the proposed expanded site boundary. The Phase 2 project area is adjacent to the previously approved site boundary and shares similar geographical characteristics; will share the BPA Slatt Substation interconnect; and will avoid, to the extent possible, higher category habitat with less wind resource. Accordingly, Phase 2 complies with OAR 660-033-0130(37)(a)(A), based on the Council's previous analysis.

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

Response: OAR 660-033-0130(37)(a)(B) requires an applicant to demonstrate that the "long term environmental, economic, social, and energy consequences" ("ESEE consequences") of the facility, including all related or supporting facilities (i.e., components), will not result in significantly more adverse impacts than if the facility were located on non-high-value farmland soils. This analysis is substantially similar to the test required under ORS 469.504(2)(c)(B) for a "reasons" exception to a statewide planning goal.

In its original Final Order, the Council found that Montague had requested a Goal 3 exception to meet GCDO 4.020(D)14 and 7.020(T)4.a.(10), and demonstrated that the significant EESE consequences anticipated as a result of the Facility had been identified and any adverse impacts will be mitigated accordingly. The Council found that Montague's Goal 3 analysis provided sufficient evidence to demonstrate that "the Facility, when considering the EESE consequences of the Facility, will not result in significantly more adverse impacts than if the Facility were located on non-high-value farmland soils. OAR 660-033-0130(37)(a)(B) is met."

The Council also found:

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

The Council's analysis in the original Final Order also supports a finding that the EESE consequences of Phase 2 will not result in significantly more adverse impacts than if the Facility, including the proposed expanded site boundary, were located on non-high-value farmland soils. As discussed, Montague proposes to relocate the wind turbines and related or supporting facilities, including the new battery storage system, into the proposed expanded site boundary, which is high-value farmland, as a matter of law. As with the originally approved Facility, Phase 2 site certificate conditions will have mitigation measures designed to minimize any adverse impacts related to siting the facility on high-value farmland. Accordingly, Phase 2 complies with OAR 660-033-0130(37)(a)(B), based on the Council's previous analysis.

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

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

(D) *The owner of a wind power generation facility approved under OAR 660-033-0130(37)(a) shall be responsible for restoring, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this subsection shall prevent the owner of the facility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration.*

Response: As discussed in Exhibit W, the Facility will be decommissioned and the site will be restored. Actions for site restoration are described in Exhibit W. Montague will decommission the relocated turbines and restore the proposed expanded site boundary consistently with the approved decommissioning plan for the Facility. Accordingly, OAR 660-033-0130(37)(a)(D) is met.

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

Response: As set forth below, the Facility, including the relocation of turbines into the proposed expanded site boundary, satisfies OAR 660-033-0130(37)(b).

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

Response: As shown on Figures K-7A through K-7C, Phase 2 is located predominately on land comprising Class 3 soils with some scattered permanent impact to Class 4-Class 7 soils. The Council previously found that the Facility impacted arable land suitable for cultivation under OAR 660-033-0020(1)(a)(A). Phase 2 proposes to relocate the wind turbine and related or supporting facilities, including the new battery storage system, onto arable land, the majority of the land actively cultivated with dryland crop production. In total, under Design Scenario A, approximately 65.2 acres of arable land will be permanently impacted. Under Design Scenario C, approximately 1,189 acres of arable land will be permanently impacted, which is addressed under OAR 660-033-0130(38) below. Accordingly, the Council can rely on its original analysis in the Final Order to demonstrate that the proposed expanded site boundary and Phase 2 development meets the applicable approval criteria in OAR 660-033-0130(37)(b).

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

Response: In its original Final Order, the Council found:

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

In Phase 2, Montague proposes to relocate the wind turbines and related or supporting facilities, including the new battery storage system, consistently with the standards and conditions that the Council approved in the original Final Order. Accordingly, Phase 2 complies with OAR 660-033-0130(37)(b)(D), based on the Council’s previous analysis.

(B) *The presence of a proposed wind power facility will not result in unnecessary soil erosion or loss that could limit agricultural productivity on the subject property. This provision may be satisfied by the submittal and county approval of a soil*

and erosion control plan prepared by an adequately qualified individual, showing how unnecessary soil erosion will be avoided or remedied and how topsoil will be stripped, stockpiled and clearly marked. The approved plan shall be attached to the decision as a condition of approval; and

- (C) *Construction or maintenance activities will not result in unnecessary soil compaction that reduces the productivity of soil for crop production. This provision may be satisfied by the submittal and county approval of a plan prepared by an adequately qualified individual, showing how unnecessary soil compaction will be avoided or remedied in a timely manner through deep soil decompaction or other appropriate practices. The approved plan shall be attached to the decision as a condition of approval; and*

Response: In its original Final Order, the Council found:

“OAR 660-033-0130(37)(b)(B) provides that the proposed wind power facility must not result in unnecessary soil erosion or loss that could limit agricultural productivity, and similarly, OAR 660-033-0130(37)(b)(C) provides that facility construction or maintenance activities must not result in unnecessary soil compaction that reduces the productivity of soil for crop production. Potential adverse impacts to soils and measures to avoid or control soil erosion and compaction are addressed by the Council’s Soil Protection Standard, which [Montague] discusse[d] in Exhibit I. For the reasons discussed there, there is sufficient evidence to demonstrate that the Facility will not result in unnecessary soil erosion, soil loss or soil compaction that reduces the productivity of soil for crop production. Further, the Applicant will implement conditions of approval that address soil erosion and compaction. Therefore, the Council may find that the Facility complies with -0130(37)(b)(B) and (C).”

In Phase 2, Montague proposes to relocate the wind turbines and related or supporting facilities, including the new battery storage system, consistently with the standards and conditions that the Council approved in the original Final Order. Accordingly, Phase 2 complies with OAR 660-033-0130(37)(b)(B) and (C), based on the Council’s previous analysis.

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

Response: In its original Final Order, the Council found:

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

In Phase 2, Montague proposes to relocate the wind turbines and related or supporting facilities, including the new battery storage system, consistently with the standards and conditions that the Council approved in the original Final Order. Accordingly, Phase 2 complies with OAR 660-033-0130(37)(b)(D), based on the Council’s previous analysis.

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

Response: Table K-1 shows that Design Scenario A will permanently impact a small percentage of nonirrigated class 6 soils which are considered nonarable land. As described above, Phase 2 complies with OAR 660-033-0130(37)(b)(D), based on the Council’s previous analysis.

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

Response: Phase 2 will permanently impact a small percentage of nonarable land. Montague analyzes Phase 2 under OAR 660-033-0130(37)(b) above.

11. Information pertaining to the impacts * * *[wetlands, wildlife habitat, criminal activity]

Response: See Exhibits J, P, Q, and U.

12. A dismantling and decommissioning plan.

Response: See Exhibit W.

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

Response: The County, through its special advisory role, may recommend additional conditions to include in the Fourth Amended Site Certificate.

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

Response: Site Certificate Condition 28 requires Montague to obtain all necessary federal, state, and local permits and approvals required for construction, operation, and retirement of the Facility or ensure that its contractors obtain the necessary federal, state, and local permits or approvals.

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

The Wind Power Generation Facility shall be on property zoned EFU, and no portion of the facility shall be within 3,520 feet of properties zoned residential use or designated on the Comprehensive Plan as residential. (For clarification purposes of this section, EFU Zones are not considered zoned for residential use.) Towers shall be set back at a minimum, 110% of maximum total turbine height from blade tip height, measured from the centerline of the turbine tower from:

- (1) Any State, County or Federal right-of-way or the nearest edge of a State, County, or Federal roadway, whichever is closer;**
(2) Any right of ingress or egress on the owner’s property;

- (3) ***Any overhead utility lines;***
- (4) ***All property lines; if adjacent landowner agrees in writing to a lesser distance, this requirement may be waived.***
- (5) ***Any existing guy wire, anchor, or small wind energy tower on the property.***
- (6) ***Any residence including those outside the project boundary. If a landowner agrees in writing to a lesser distance, this requirement may be waived.***
- (7) ***A minimum of 150% of the maximum total turbine height from blade tip height, measured from the centerline of the turbine tower, from federal transmission line. If affected parties agree in writing to a lesser distance, this requirement may be waived.***

Response: The Facility is located entirely within the County’s EFU zone, including the proposed expanded site boundary. Figures K-2A and K-2B show that the Facility is not within 3,520 feet of the City of Arlington or other areas zoned or designated in the GCCP for residential use. Site Certificate Condition 42 imposes setback requirements that ensure that the Facility, as modified by RFA 4, will continue to comply with the substantive requirements of these setback criteria.¹⁴

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

Response: The wind turbines relocated into the expanded site boundary will be designed and constructed as previously approved in the Site Certificate. Specifically, Montague has demonstrated reasonable efforts to blend the Facility’s turbines with the natural surrounding and Phase 2 will continue to comply with this provision and Conditions 102 through 105 of the Site Certificate.

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

Response: Montague is proposing to relocate wind turbines and other related or supporting facilities to avoid and minimize potential adverse impacts resources, including higher value habitat. In addition, Montague will continue to comply with Conditions 43, 44, 80 through 87, and 91 through 101 in the Site Certificate. Analysis and conclusions provided in Exhibits J, L, O, P, and Q provide sufficient evidence to demonstrate that Montague has made reasonable showing this criterion is addressed.

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

Response: The relocated turbines will be designed and constructed using the same methods previously approved by EFSC. Montague will continue to comply with Conditions 95 through 100

¹⁴ While Design Scenario B is the worst-case scenario for purposes of evaluating the County’s setback criteria because of the turbine height, Montague nonetheless uses Design Scenarios A and C to evaluate worst-case impacts given that these design scenarios represent the worst-case impacts overall for evaluating compliance with the EFSC land use standard. If Design Scenario B is selected as the construction design, Montague can meet the required setbacks because it has the ability to microsite the turbines within the identified corridors and ensure that the County’s setback standards, and the setback standards identified in Site Certificate Condition 42, will be met, regardless of the turbine type used for construction.

in the Site Certificate. Therefore, the Facility, as modified by RFA 4, complies with this substantive criterion.

h. The turbine towers shall be of a size and design to help reduce noise or other detrimental effects.

Response: The relocated turbines will be of similar size and design previously approved by EFSC. Exhibit X provides the results of the preliminary noise analysis and demonstrates that the noise will be within the same levels previously approved by EFSC. Montague will continue to comply with Site Certificate Condition 107 to minimize noise impacts. Montague will also continue to comply with Conditions 66 and 99 in the Site Certificate, requiring that towers be constructed to address worker safety and the minimization of impacts to avian species, respectively. Therefore, the Facility, as modified by RFA 4, complies with the substantive requirement of this criterion.

i. Private access roads shall be gated to protect the facility and property owners from illegal or unwarranted trespass, and illegal dumping and hunting.

Response: Site Certificate Condition 66 and 69 require that the Facility's turbine towers and collector substations be locked to prevent public entry. The O&M building and associated parking and storage area will also be locked. Montague will continue to comply with these conditions and lockable gates will be located at the entrance of Facility access roads, including those serving Phase 2 development. If landowners do not want gates, Montague will obtain a variance from the County in accordance with the GCZO 7.020(T)(5)(i). Therefore, the substantive requirement of this criterion is met.

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

Response: Site Certificate Condition 88 requires burial of the underground electrical cable collector system directly in the soil approximately 3 feet below the ground surface. In certain areas where site-specific considerations require, the collector system may be proposed aboveground. Using aboveground structures allows the collector cables to span canyons and intermittent streams and thus to reduce environmental impacts. Continued compliance with Condition 88 ensures that the Facility, as modified by RFA 4, will continue to satisfy this substantive requirement.

k. Required permanent maintenance/operations buildings shall be located off-site in one of Gilliam County's appropriately zoned areas, except that such a building may be constructed on-site if:

- (1) The building is designed and constructed generally consistent with the character of similar buildings used by commercial farmers or ranchers; and***

Response: EFSC previously found that the Facility's two O&M buildings satisfied this criterion. Montague seeks the flexibility to relocate one of the previously approved O&M buildings into the expanded site boundary. The relocated O&M building would remain a one-story building with up to 8,400 square feet and will house offices (including office space for several contractors), bathroom and kitchen facilities, a break room, a storage area, a workshop/garage for vehicle, turbine, and equipment maintenance, and the supervisory, control and data acquisition (SCADA) equipment. The relocated O&M building will be consistent with the character of similar buildings in the area, as these buildings are similar to the buildings in the

area EFSC previously considered. The Facility, as modified by RFA 4, continues to comply with this criterion.

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

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

6. ***Decommissioning/Dismantling Process.*** *The applicant’s dismantling of incomplete construction and/or decommissioning plan for the Wind Power Generation Facility shall be completed and filed with the Planning Department prior to construction and shall include the following information:*
 - a. ***A plan for dismantling and/or decommissioning that provides for completion of dismantling or decommissioning of the facility without significant delay and protects public health, safety and the environment in compliance with the restoration requirements of this section.***
 - b. ***A description of actions the facility owner proposes take to restore the site to a useful, no hazardous condition, including options for post-dismantle or decommission land use, information on how impacts on fish, wildlife and the environment would be minimized during the dismantling or decommissioning process, and measures to protect the public against risk or danger resulting from post-decommissioning site conditions in compliance with the requirements of this section.***
 - c. ***A current detailed cost estimate, a comparison of that estimate with present funds set aside for dismantling or decommissioning, and a plan for assuring the availability of adequate funds for completion of dismantling or decommissioning. The cost estimate will be reviewed and be updated by the facility owner/operator on a 5-year basis.***
 - d. ***Restoration of the site shall consist of the following:***
 - (1) *Dismantle turbines, towers, pad-mounted transformers, meteorological towers and related aboveground equipment. All concrete turbine pads shall be removed to a depth of at least three feet below the surface grade.*
 - (2) *The underground collection and communication cables need not be removed if at a depth of three feet or greater. These cables at a depth of three feet or greater can be abandoned in place if they are deemed not a hazard or interfering with agricultural use or other consistent resource uses of the land.*
 - (3) *Gravel shall be removed from areas surrounding turbine pads.*
 - (4) *Access roads shall be removed by removing gravel and restoring the surface grade and soil.*
 - (5) *After removal of the structures and roads, the area shall be graded as close as reasonably possible to its original contours and the soils shall be restored to a condition compatible with farm uses or consistent with other resource uses. Re-vegetation*

shall include planting by applicant of native plant seed mixes, planting by applicant of plant species suited to the area, or planting by landowner of agricultural crops, as appropriate, and shall be consistent with the weed control plan approved by Gilliam County.

- (6)** *Roads, cleared pads, fences, gates, and improvements may be left in place if a letter from the landowner is submitted to Gilliam County indicating said landowner will be responsible for, and will maintain said roads and/or facilities for farm or other purposes as permitted under applicable zoning.*

e. ***The applicant (facility owner/operator) shall submit to Gilliam County a bond or letter of credit acceptable to the County, in the amount of the decommissioning fund naming Gilliam County and the landowner as beneficiary or payee.***

- (1)** *The calculation of present-year dollars shall be made using the U.S. Gross Domestic Product Implicit Price Deflator as published by the U.S. Department of Commerce, Bureau of Economic Analysis, or any successor agency (the "Index"). The amount of the bond or letter of credit account shall be increased at such time when the cumulative percentage increase in the Index exceeds 10 percent from the last change, and then the amount shall be increased by the cumulative percentage increase. If at any time the Index is no longer published, Gilliam County and the applicant shall select a comparable calculation of present-year dollars. The amount of the bond or letter of credit account shall be prorated within the year to the date of decommissioning.*

- (2)** *The decommissioning fund shall not be subject to revocation or reduction before decommissioning of the Wind Power Generation Facility.*

- (3)** *The facility owner/operator shall describe the status of the decommissioning fund in the annual report submitted to Gilliam County.*

f. ***If any disputes arise between Gilliam County and the landowner on the expenditure of any proceeds from the bond or the letter of credit, either party may request nonbonding arbitration. Each party shall appoint an arbitrator, with the two arbitrators choosing a third. The arbitration shall proceed according to the Oregon statutes governing arbitration. The cost of the arbitration (excluding attorney fees) shall be shared equally by the parties.***

g. ***For projects sited by EFSC, compliance with EFSC's financial assurance and decommissioning standards shall be deemed to be in compliance with the dismantling and decommissioning requirements of this Section.***

Response: As discussed in Exhibit W and consistent with Site Certificate Condition 32, Montague provides sufficient information to demonstrate that the Facility, as modified by RFA 4, will

continue to meet the requirements of OAR 345-022-0050, EFSC's financial assurance and decommissioning standard. Accordingly, the Montague provides sufficient information to demonstrate that the Facility, as modified by RFA 4, will also comply with the substantive requirements of GCZO 7.020(T)(6)(a) through (f) containing the County's decommissioning/dismantling process and requirements. Therefore, GCZO 7.020(T)6 is satisfied.

7. Wind Power Generation Facility Siting Subsequent Requirements

- a. ***A bond or letter of credit shall be established for the dismantling of uncompleted construction and/or decommissioning of the facility. For projects being sited by the State of Oregon's Energy Facility Siting Council (EFSC), the bond or letter of credit required by EFSC will be deemed to meet this requirement.***

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

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

Response: Montague will continue to comply with Site Certificate Condition 45. Therefore, this requirement will continue to be met.

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

Response: Montague will continue to comply with Site Certificate Condition 45 Therefore, this requirement will continue to be met.

- d. ***Within 120 days after the end of each calendar year, the facility owner/operator shall provide Gilliam County an annual report including the following information:***
- (1) Energy production by month and year.***
 - (2) Nonproprietary information about wind conditions (e.g., monthly averages, high wind events, bursts).***
 - (3) A summary of changes to the facility that do not require facility requirement amendments.***
 - (4) A summary of the avian monitoring program – bird injuries, casualties, positive impacts on area wildlife and any recommendations for changes in the monitoring program.***
 - (5) Employment impacts to the community and Gilliam County during and after construction.***
 - (6) Success or failures of weed control practices.***
 - (7) Status of the decommissioning fund.***
 - (8) Summary comments – any problems with the projects, any adjustments needed, or any suggestions.***

- (9)** *For facilities under EFSC jurisdiction and for which an annual report is required, the annual report to EFSC satisfies this requirement.*

The annual report requirement may be discontinued or required at a less frequent schedule by the County. The reporting requirement and/or reporting schedule shall be reviewed, and possibly altered, at the request of the facility owner/operator.

Response: The Facility will continue to be subject to annual EFSC reporting requirements imposed through Site Certificate Condition 46. Therefore, as expressly provided GCZO 7.020(T)(7)(d) above, the Facility, as modified by RFA 4, continues to comply with this requirement.

Article 8. Supplementary Provisions

SECTION 8.030 CLEAR VISION AREAS

- A.** *In all zones, a clear-vision area shall be maintained on the corners of all property at the intersection of two roads, a road and a driveway, or a road and a railroad. A clear-vision area shall contain no planting, fence, wall, structure, or temporary or permanent obstruction exceeding three and one-half feet (3½) in height, measured from the established road center line grade, except for authorized road signs and cyclone or other open construction fences which permit clear vision through the triangular area. Trees may be located in this area as long as all branches and foliage are removed to a height of eight (8) feet above the grade.*
- B.** *A clear-vision area shall consist of a triangular area, two sides of which are lot lines intersecting at the corner of the lot, and the third side of which is a line across the corner of the lot joining the non-intersection ends of the other two sides. For purposes of this section, lot lines shall be considered to be the edge of the right-of-way.*
- C.** *Any side of the triangular clear-vision area adjacent to a road, railroad, or access drive to a parking area shall be at least 30 feet. Any side of the clear-vision area adjacent to a residential driveway shall be at least 15 feet.*

Response: As described above, Montague proposes four new access locations from existing public roads for site entry to the relocated and previously approved Phase 2 collector substation, O&M building, and to the newly proposed solar array and battery storage system.

As shown on Figures B-4 in Exhibit B and Figures K-2A and K-2B, primary access to the O&M building and related or supporting battery storage system and Phase 2 collector substation is located off OR 19. Secondary access to the Phase 2 collector substation and primary and secondary access to the solar array are located off Bottemiller Lane.

A clear-vision area will be maintained at each primary and secondary access location and a triangular clear-vision area will be maintained on either side of the intersection of OR 19 and Bottemiller Lane consistent with the criteria under GCZO 8.030. Montague will consult with ODOT and the Gilliam County Public Works Department to ensure these criteria are met prior to construction. Therefore, these criteria are satisfied.

SECTION 8.040 – OUTDOOR LIGHTING STANDARDS

All outdoor lighting, including for accessory facilities and the lighting of commercial signs, shall comply with the following:

- A.** *Any outdoor light shall be shielded to illuminate downward.*

- B. The outdoor light source (bulb or element) shall not be visible at or beyond the property line.*
- C. Outdoor lights shall not exceed the height limit of the zone where the light will be located.*
- D. Structures over 50 feet in height shall not be lighted unless required to be lighted by the Federal Aviation Administration (F.A.A.). Structures over 50 feet in height that are required to be lighted by F.A.A. shall be shielded to illuminate upward.*

Response: Outdoor lighting standards are address in Site Certificate Condition 104 which addresses exterior night time lighting. The Facility, as modified by RFA 4, will continue to comply with the exterior nighttime lighting standards addressed in Site Certificate Condition 104 and will continue to comply with the applicable substantive criteria under GCZO 8.040.

SECTION 8.050 – SIGN REGULATIONS

The following regulations shall apply to any sign erected, moved, or altered after adoption of this Ordinance. Official traffic control signs and instruments of the state, county, or municipality are exempt from all provisions of this Section.

Response: Areas within the proposed expanded site boundary may include signage to identify access points to the Facility. As needed, Montague will design signage in a manner consistent with the specifications of GCZO 8.050. Therefore, this criterion is met.

SECTION 8.070 – PROJECTIONS FROM BUILDINGS

Architectural features such as cornices, eaves, canopies, sun shades, gutters, chimneys, and flues shall not project more than three feet into a required yard.

Response: EFSC previously found that the proposed O&M buildings met this code requirement. The design for the relocated O&M facility is not anticipated to change and will not have architectural features such as cornices, eaves, canopies, sun shades, gutters, chimneys, and flues that would project into a surrounding yard area. Therefore, this criterion does not apply.

SECTION 8.100 – OFF-STREET PARKING REQUIREMENTS

At the time of construction, reconstruction, or enlargement of a structure, or at the time a use is changed in any zone, off-street parking spaces shall be provided as required.in accordance with standards required below:

A. NUMBER OF PARKING SPACES REQUIRED

- 1. The minimum number of parking spaces required for various uses is shown in this section. Square feet specifications refer to the floor area of the building containing the use. In addition to these requirements, one space is required per employee working on the premises during the largest anticipated shift at peak season, including proprietors.*
- 2. Parking requirements for uses not specified in (A) shall be based on the listed use that is most similar to the proposed use. If no use listed in (A) is similar to the proposed use, the applicant shall submit a parking study that includes an estimate of the parking demand based on recommendations of the Institute of Traffic Engineers or similar data.*
- 3. Accessible (ADA) parking spaces shall be provided in accordance with current state Structural Specialty Code and ODOT adopted standards.*

4. *In the event several uses occupy a single structure or parcel of land, the number of required spaces shall be the total of the requirements for all of the uses.*
5. *Uses that require more than ten parking spaces shall include an area designated for bicycle parking, with bike racks that will accommodate at least one bicycle for each ten vehicle parking spaces. The bicycle parking area may be in the same location as the vehicle parking spaces or may be located closer to the building entrance or use.*

Response: EFSC previously found that the Facility's two O&M buildings satisfied this criterion. Montague seeks the flexibility to relocate one of the previously approved O&M buildings into the expanded site boundary. The relocated O&M building would maintain adequate parking during operation and will meet or exceed the minimum parking requirements for an industrial use provided in the table under GCZO 8.100(A)(1). The Facility, as modified by RFA 4, continues to comply with this criterion.

SECTION 8.140 – SITE PLAN REVIEW

A. PURPOSE

The purpose of site plan review is to provide for administrative review of the design of certain developments and improvements in order to promote functional, safe, innovative, and attractive site development that is compatible with the natural and man-made environment and is consistent with applicable requirements of this Ordinance.

Response: Montague demonstrates in responses below that the major components and related or supporting facilities associated with the Phase 2 design scenarios are consistent with the applicable requirements of the GCZO.

E. DETAILED PLAN for any required or proposed landscaping that shall clearly illustrate:

1. *Plants and tree species, their initial sizes and other proposed landscaping materials.*
2. *The location and dimensions of all areas to be devoted to landscaping, and location of any automatic sprinkler systems.*

Response: No landscaping is required and therefore no plan is provided under this provision.

F. OUTDOOR STORAGE AND ACTIVITIES, IF PERMITTED IN THE ZONE: Type, location and height of screening devices.

Response: EFSC previously approved temporary staging and laydown areas for use during Facility construction. RFA 4 proposes to relocate some of these areas into the expanded site boundary to accommodate the Phase 2 construction. During operation, outdoor storage may occur near the O&M building, similar to what was previously approved by EFSC when it first approved the two O&M buildings.

G. TOPOGRAPHIC INFORMATION for any area with slopes exceeding 10 percent. Contour intervals shall be ten feet or smaller.

Response: Topographic information with 10-foot contour intervals for the proposed solar array in Design Scenario C is shown on Figure B-4 in Exhibit B. The same topographic information is shown on B-5, and B-6 in Exhibit B for the relocated Phase 2 collector substation and O&M building, and for the proposed battery storage site.

H. DRAINAGE PLAN, or evidence that stormwater runoff will be accommodated by an existing storm drainage system.

Response: A drainage plan is included as part of the National Pollutant Discharge Elimination System (NPDES) 1200-C general stormwater discharge permit for construction provided in Attachment I-1 to Exhibit I. Exhibit U further discusses the Facility erosion and sediment control plan, which when implemented, will minimize erosion and sedimentation that could alter the surrounding stormwater drainages.

I. IDENTIFICATION OF PROPOSED TRASH STORAGE LOCATIONS, including proposed enclosure design construction and access for pickup purposes.

Response: As described in Exhibit U, solid waste disposal for Facility construction will be provided by private contract with a local commercial hauler or haulers. Waste quantities will be similar to those previously considered by the Council (see Exhibit V). No new types of solid waste will be generated that were not previously approved by EFSC. During operation, trash storage will be located near the O&M building. Construction and operation of Phase 2 will continue to comply with the waste management plan required by Site Certificate Conditions 111 and 112. Therefore, this criterion is met.

J. LOCATION OF ALL EXISTING AND PROPOSED UTILITIES and septic systems on or abutting the property.

Response: The O&M building will receive power from Pacific Corp or the Columbia Basin Electric Co-Op, Inc., and septic system will be located onsite to serve the O&M kitchen and bathroom facilities. Water will be provided from an onsite, exempt groundwater well which will also be located near the O&M building.

K. ELEVATION DRAWINGS showing the exterior appearance of all proposed buildings.

Response: Montague will provide elevation drawings for the O&M building at the time it files for building permits.

L. APPROVAL STANDARDS:

1. *All provisions of this zoning ordinance and other applicable regulations are compiled with.*
2. *Elements of the site plan are arranged so that:*
 - a. *Traffic congestion is avoided.*
 - b. *Pedestrian and vehicular safety and welfare are protected.*
 - c. *Significant features and public amenities are preserved and maintained.*
 - d. *Surface drainage systems are designed so as not to adversely affect neighboring properties, roads, or surface and subsurface water quality.*
 - e. *Structures and facilities for storage, machinery and equipment, services (mail, refuse, utility wires, etc.), loading and parking and similar accessory areas shall be buffered or screened to minimize adverse impact on neighboring properties.*

Response: Montague demonstrates in responses to the applicable substantive criteria of the GCZO, that the Facility is consistent with the GCCP, GCZO, and other applicable policies and regulations of the County. Phase 2 operation will not contribute to traffic congestion on nearby local roads such as HWY 19, Bottemiller Lane, and Base Line Road and will not adversely affect vehicular safety. There is no anticipated pedestrian traffic. A drainage plan is included as part of the Facility's NPDES 1200-C general stormwater discharge permit for construction provided in Attachment I-1 to Exhibit I. During construction, BMPs outlined in the Facility erosion and

sediment control plan discussed in Exhibit U, will be implemented to minimize erosion and sedimentation that could alter the surrounding stormwater drainages. Therefore, the applicable substantive provisions of 8.140(L) are met.

M. THE DEVELOPMENT WILL NOT RESULT IN TRAFFIC VOLUMES THAT WILL REDUCE THE PERFORMANCE STANDARD of a transportation facility below the minimum acceptable level identified in the Transportation System Plan (LOS C). This standard may be met through a condition of approval requiring improvements to the transportation facility.

Response: Exhibit U discusses the anticipated traffic volumes associated with the Facility's construction and operation. The modifications proposed under RFA 4 will not cause an increase in daily construction or operation traffic above the level previously evaluated by Council. Although traffic volume during construction will be substantial, adverse construction and operational impacts on traffic safety or travel times are not anticipated (see Exhibit U). The modifications proposed under RFA 4 will not modify traffic volumes from prior estimates. As previously concluded, the number of trips will not result in traffic volumes that will reduce the performance standards of identified nearby transportation facilities below the minimum acceptable levels. Therefore, this criterion is met.

N. THE DEVELOPMENT WILL NOT ADVERSELY AFFECT AGRICULTURAL OR FORESTRY USES.

Response: Montague addresses GCZO 4.020(H)(1)(a-b) above demonstrating that the Facility as a whole will not adversely affect agricultural or forestry uses.

K.7.1.2 Gilliam County Comprehensive Plan and Land Development Ordinance

The GCCP is intended to provide a guide for future development of the County consistent with Oregon's Statewide Planning Goals. Each article of the GCCP contains goals and policies established to guide development. While GCCP goals and policies are not by themselves applicable standards of development, under the GCZO 7.010(A)(1)(a), conditional uses must be deemed consistent with the standards and procedures of applicable policies from the GCZO.

In the following discussion, Montague identifies and addresses GCCP goals and policies relevant to Phase 2, as proposed in RFA 4, to demonstrate compliance with GCZO 7.010(A)(1)(a). Goals and policies not applicable to Phase 2 and not applicable to the County's EFU zone are not included below.

GOAL 2: LAND USE PLANNING

Goal: To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land to assure an adequate factual base for such decisions and actions.

POLICIES

7. *Comprehensive Plan policies are to be viewed as guiding statements, but are not mandatory approval criteria that will be applied to individual land use applications. The Plan policies are implemented through zoning, land division and transportation regulations.*

Response: As described above, Montague identifies and addresses GCCP goals and policies relevant to Phase 2, as proposed in RFA 4, to demonstrate compliance with GCZO 7.010(A)(1)(a). Montague demonstrates that the proposed expanded site boundary and proposed Phase 2 design scenarios included in RFA 4 comply with the applicable zoning regulations of the GCZO. A list of applicable GCZO provisions are provided in Section K.4.2 and the applicable criteria in these provisions are addressed in responses provided in Section K.8.1.1 above. Therefore, RFA 4 is consistent with this policy.

GOAL 3: AGRICULTURAL LANDS

Goal: To preserve and maintain agricultural lands.

POLICIES:

3. *In order to preserve the maximum level of agriculture in the County, all “Agricultural Lands” shall be so designated and shall be zoned in accordance with the provisions of ORS 215.283. Further, those non-farm uses permitted by ORS 215.283(1) shall be permitted uses, and those non-farm uses permitted by ORS 215.283(2) may be allowed as conditional uses subject to ORS 215.296.*

Response: The Facility, including its related or supporting facilities, is allowed on EFU land as a permitted use or a conditional use. See the discussion above in Section K.4.1 describing the Facility’s land use categories. The Facility is inconsistent with the County’s Goal 3 in that the size of the solar array will exceed the Goal 3 acreage threshold provided under GCZO 4.020(D)(11). Therefore, Montague is pursuing a goal exception under ORS 469.504(2). Montague demonstrates below in Section K.7.4 that reasons justify an exception to Statewide Planning Goal 3 to allow the proposed solar generation.

GOAL 5: NATURAL RESOURCES

Goal: To conserve open space and protect natural and scenic resources.

POLICIES:

2. *The Department of Fish and Wildlife (ODFW) will be consulted when proposed land use actions may affect fish or wildlife habitats.*
12. *Gilliam County will continue to encourage the development of alternative sources of energy.*

Response: The Facility will not affect fish habitat, but has potential to affect wildlife habitat. ODFW has previously been consulted regarding construction and operation of the Facility, and will continue to be consulted regarding the proposed modifications associated with RFA 4. Montague will continue to implement measures to mitigate impacts to sensitive wildlife habitat for Phase 2 that are consistent with Site Certificate Conditions 95, 96, and 98 (CUP Conditions 47, 49, and 46, respectively). Therefore, the proposed modifications in RFA 4 are consistent with Policy 2 under Goal 5.

The Facility is an alternative source of energy, and is located entirely within Gilliam County. The proposed modifications associated with RFA 4 do not change the Facility’s status as a renewable or “alternative” energy project. As such, the proposed modifications in RFA 4 are consistent with Policy 12 under Goal 5.

GOAL 6: AIR, WATER AND LAND RESOURCES QUALITY

Goal: To maintain and improve the quality of the air, water, and land resources of the state.

POLICIES:

6. *All new industrial development should comply with DEQ air, noise and water quality standards.*
7. *The Department of Environmental Quality and other affected agencies should be notified of all proposals for industrial development or other uses which may affect environmental quality. Their comments should be considered in decisions concerning the proposal.*

Response: Montague will continue to work with DEQ to ensure the modifications associated with RFA 4 maintain compliance with air, noise, and water quality standards. The DEQ has previously been notified, and comments have been considered, regarding construction and operation of the Facility. They will be notified, and comments taken into consideration, regarding the modifications associated with RFA 4. Therefore, the modifications proposed in RFA 4 are consistent with this policy.

GOAL 8: RECREATION

Goal: To satisfy the recreation needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.

POLICIES:

3. *Private development should not be permitted if it would block access to or otherwise have a significant adverse impact on public open space lands.*

Response: Exhibits L and T demonstrate that the proposed expanded site boundary and proposed Phase 2 design scenarios will not block access to or otherwise have a significant adverse impact on public open space lands, recreational opportunities, or identified protect areas within 10 miles of the Facility site boundary. As such, the modifications proposed in RFA 4 are consistent with this policy.

GOAL 12: TRANSPORTATION

Goal: To provide and encourage a safe, convenient, and economic transportation system.

POLICIES:

10. *Operation, maintenance, repair and preservation of existing transportation facilities shall be allowed without land use review, except where specifically regulated.*
14. *Gilliam County shall provide notice to ODOT of land use applications and development permits for properties that have frontage or access onto a state highway.*

Response: Transportation to and from Facility will continue to follow routes that include access via interstate, state, and county roads. No new public roads or highways will be constructed as part of the proposed modifications in RFA 4. Montague may need to improve existing state and county public roads (including OR 19, Berthold Road, Bottemiller Lane, Weatherford Road, and Baseline (lone) Road, and other unnamed existing county roads) for use during Phase 2 construction and Facility operation. Improvements will be made within existing road right-of-way which is consistent with Site Certificate Condition 71 and CUP Condition 36. Montague will coordinate such improvements with the Gilliam County Road Department and the Oregon Department of Transportation, depending on the location of the improvement. Upon completion of construction, Montague will ensure that roads are restored to preconstruction condition or better which is consistent with Site Certificate Condition 75 and CUP Condition 16.

As shown on Figures B-4 in Exhibit B and Figures K-2A and K-2B, the primary access point to the O&M building, proposed battery storage system, and Phase 2 collector substation, will be from a new gated driveway located on the west side of OR 19 and approximately 0.2 mile north of Bottemiller Lane. Montague will coordinate placement and construction of the access area with the Gilliam County Road Department and will receive the necessary access permit from ODOT prior to construction. Therefore, the previously approved access roads and access to the relocated O&M building off OR 19 are consistent with policies 10 and 14.

GOAL 13: ENERGY CONSERVATION

Goal: *To conserve energy.*

POLICIES:

3. *Applications for new energy generation facilities, whether public or private, should consider impacts on neighboring properties.*

Response: The Facility will generate renewable power for public use, and is compatible with adjacent land uses. The modifications associated with RFA 4 have been analyzed against potential impacts to neighboring properties, and are not expected to have adverse impacts. The components of Phase 2 and the proposed expanded site boundary have been sited to minimize impacts on neighboring properties, specifically residences and actively cultivated farm lands. Therefore, the Facility and modifications associated with this RFA 4 are consistent with this policy.

K.7.2 Directly Applicable Statutes, Goals, and Administrative Rules

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

Response: ORS 197.646(1) requires that a local government amend its comprehensive plan and land use regulations to comply with new requirements in land use statutes, statewide planning goals, or rules implementing the statutes or the goals. When a local government has not adopted amendments as required by ORS 197.646(1), the new requirements apply directly to the local government's land use decisions.

Here, the County has adopted and acknowledged local land use regulations that implement Goal 3 (Agricultural Lands), ORS 215.283(1) and (2) governing permitted and conditional uses on EFU land, ORS 215.296 imposing conditional use criteria on EFU conditional uses, and OAR 660-033-0130(37) governing wind power generation facilities on EFU land. However, the County has yet to amend its land use regulations to implement ORS 215.274 and OAR 660-033-0130(16)(b) governing associated transmission lines on EFU land or OAR 660-033-0130(38) governing solar PV power generation on EFU land. Accordingly, (1) ORS 215.274 and OAR 660-033-0130(16)(b) directly applies to the EFSC's review of the segment of 230-kV transmission line running from Phase 2 collector substation to the Phase 1 substation, and (2) OAR 660-033-0130(38) directly applies to EFSC's review of the solar generation proposed in the solar micro-siting area. No other goals, statutes, or rules directly apply to the Facility under ORS 197.646(3).

K.7.2.1 Oregon Revised Statutes

ORS 215.274 and OAR 660-033-0130(16)(b), Associated transmission lines

Associated transmission lines reviewed under ORS 215.274 are a subset of the transmission lines that could be evaluated as utility facilities necessary for public service under ORS 215.283(1)(c)(B), see discussion above in response to GCZO 4.020(C)(24). The County has not adopted a local land use regulation to incorporate ORS 215.274 or implementing administrative rule OAR 660-033-0130(16)(b), therefore, as discussed above, the requirements of the statute and the rule apply directly.¹⁵

¹⁵ The rule mirrors the statutory standards therefore only the statutory provisions are quoted.

- (1) *As used in this section, "associated transmission line" has the meaning given that term in ORS 469.300 (Definitions).*

Response: The Council previously found that the approximately 19-mile-long 230-kV transmission line, originally described in the Final Order on the Application, satisfied the land use standard. The 230-kV transmission line was originally analyzed and approved under ORS 215.275 (Utility facilities necessary for public service) which preceded the existence of ORS 215.274. In Change Request 3, Montague proposed modifications to reroute the 230-kV transmission line to avoid WGS Category 1 habitat identified and mapped during the 2017 preconstruction surveys. In reviewing Change Request 3, the Department agreed with Montague that under the current law, the 230-kV transmission line was an "associated transmission line" and subject to ORS 215.274, not ORS 215.275. Montague demonstrates below that the approximately 3.0-mile-long modification to the 230-kV transmission line is necessary for public service under ORS 215.274 and allowed in the EFU zone.

The modification to the 230-kV transmission line route connects the Phase 2 collector substation to the Phase 1 substation (see Figures K-2A and K-2B). By incorporating this modification, the Facility's 230-kV transmission line becomes approximately 13.8 miles in total length, but remains an overall reduction to the previously approved approximately 19-mile-long route. The proposed route modification is necessary for public service to ensure that power generated by Phase 2 facility components is connected to the public electrical grid at the BPA Slatt Substation. As such, the 230-kV transmission line segment is an "associated transmission line" under ORS 469.300 and ORS 215.274.

For purposes of the ORS 215.274 analysis, Montague considered a Primary Route along with four alternative routes described as follows and shown in Table K-3 and on Figure K-12:

- **Primary Route:** Exits east out of the Phase 2 collector substation, crosses OR 19, and diagonals across fields to Old Tree Road where it may run on the north or the south side of the road to reach the Phase 1 substation. Montague seeks the flexibility to locate the Primary Route on either side of Old Tree Road. The Primary Route is the modified 230-kV transmission line route proposed in RFA 4 and is the most direct route, with the fewest support structures and the least estimated permanent impact (see Table K-3 and Figure K-12).
- **Alternative 1:** Exits east out of the Phase 2 collector substation, crosses OR 19, diagonals across fields to the north at an angle, to a point east of the barn and silo, and then runs straight north until it reaches Old Tree Road, at which point it turns east and runs on the south side of Old Tree Road to reach the Phase 1 substation. Alternative 1 is approximately 0.6 mile longer and includes more support structures and estimated permanent impacts than the Primary Route (see Table K-3 and Figure K-12).
- **Alternative 2:** Exits east out of the Phase 2 collector substation to a 90-degree turning structure just east of OR 19. From there, it goes straight north along OR 19 (outside of the road right-of-way) until it reaches the corner of Old Tree Road where it turns east towards Phase 1 substation. Locating the route within the existing road right-of-way is not feasible given the siting constraints: (1) an existing pipeline is located on the eastern side of OR 19, which removes usable space within the road right-of-way and standard practice is to locate overhead infrastructure on the field side of existing underground infrastructure in a road right-of-way; and (2) ditches and fields are located on both sides of OR 19 with a steep rise from the ditch to the fields, making it difficult to locate the poles within the right-of-way yet set back for traffic safety. Specifically, the edge of the road right-of-way varies with respect to the road lanes, meaning in cases where side slopes are present, pole structures would be

placed within 2 to 4 feet of the road edge to remain in the road right-of-way. The potential proximity of structures to the road edge is a traffic safety concern that makes Alternative 2 infeasible. This route is also longer and includes more support structures than the Primary Route, would cross over the top of an existing metal barn distribution line, and is very near several other structures (see Table K-3 and Figure K-12).

- Alternative 3: Exits east out of the Phase 2 collector substation to a 90 degree turning structure just west of OR 19. From there, it goes straight north until it reaches the end of the field just south of an existing home. It then jogs around the home to the west, north, and back east where it runs north along OR 19 (outside of the road right-of-way) until it reaches Old Tree Road where it turns east towards the Phase 1 substation. Like Alternative 2, the route is not proposed within the existing right-of-way because of siting constraints (see above). Additionally,, crossing in front of the house was not considered because several very large trees would have to be removed. Alternative 3 is also longer and includes more support structures than the Primary Route (see Table K-3 and Figure K-12).
- Alternative 4: Exits east out of the Phase 2 collector substation to a 90 degree turning structure just east of OR 19. From there, it goes straight north parallel to OR 19 until it reaches just south of the existing barn, then jogs around the buildings to the east on four angle structures. It then follows the same alignment as Alternative 2 for the rest of the distance to the Phase 1 substation. Like Alternative 2, this route is not proposed within the existing right-of-way because of siting constraints (see above). Alternative 4 is also longer and includes more support structures than the Primary Route (see Table K-3 and Figure K-12).

Table K-3. 230-kV Transmission Line Alternatives Comparison

Route	Total Length (miles)	Additional Length to Primary Route (miles)	Total No. of Support Structures (Approximate)	Additional Support Structures to Primary Route (Approximate)	Approximate Permanent Disturbance on Farm Area (square feet)
Primary Route	2.93	N/A	23	N/A	3,711
Alternative 1	3.48	0.55	29	6	4,042
Alternative 2	3.61	0.68	29	6	3,313
Alternative 3	3.75	0.82	32	9	3,068
Alternative 4	3.80	0.87	32	9	3,313

Note:

N/A = Not applicable

- (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.*

Response: Montague demonstrates compliance with ORS 215.274(4).

(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;*

Response: The majority of the land within the approved and proposed expanded site boundary is cultivated and considered arable land. As provided in Tables K-1 and K-2, and shown on Figures K-7A through K-7C, any reasonably direct route between the Phase 2 and Phase 1 substations would involve crossing arable land.

(b) *The associated transmission line is co-located with an existing transmission line;*

Response: There is no opportunity to co-locate with an existing transmission line.

(c) *The associated transmission line parallels an existing transmission line corridor with the minimum separation necessary for safety; or*

Response: There is no opportunity to parallel an existing transmission line corridor.

(d) *The associated transmission line is located within an 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.*

Response: Alternatives 2 through 4 parallel, to the extent possible, an existing road right-of-way but these routes are not “within” the right of way; therefore, Alternatives 2 through 4 do not qualify for analysis under ORS 215.274(3)(d). See discussion above for why siting within the existing right-of-way is not feasible and was therefore a disregarded alternative.

(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:*

Response: Montague evaluated the Primary Route and the four alternative routes as potential routes for the portion of the associated transmission line connecting the Phase 2 collector substation to the Phase 1 substation and demonstrates below that the Primary Route meets the factors listed in subpart (4)(a)(A), (B), and (E).

(A) *Technical and engineering feasibility;*

Response: Montague evaluated the technical and engineering feasibility of possible alternative transmission routes to minimize potential impacts to high-value farmland and arable land.

The proposed Phase 2 collector substation and the Phase 1 substation (currently under construction) are fixed as corridor end points for analysis. The modified 230-kV transmission line route proposed in RFA 4 must be sited on arable land to provide public service. No alternative route exists that can connect the substations without crossing arable land within the land use analysis area (see Figures K-6C and K-7C).

Montague considered three transmission line corridors between the Phase 1 substation and the Phase 2 collector substation that paralleled OR 19 and Old Tree Road (Alternatives 2 through 4). Montague also considered a variation of the Primary Route and Alternative 2 that ran north

along OR 19 before turning east to the Phase 1 substation (Alternative 1). After evaluating Alternatives 2 through 4, Montague determined that these three were the least preferred because of the technical and engineering feasibility based on the following: (1) the proximity to existing residences and ranching operations along OR 19 (approximately 115 feet to 400 feet, respectively); (2) locating within the OR 19 road right-of-way was not feasible for the reasons discussed above; and (3) Montague would be unable to meet the setback requirements under Site Certificate Condition 89 using this corridor. Alternative 1, while feasible, would have 6 more support structures than the Primary Route and add approximately 0.6 mile to the length of the route. The Primary Route, on the other hand, involved the fewest support structures, turns, and tangents than any of the other alternatives. Further, a portion of the Primary Route could be located within or adjacent to a portion of Old Tree Road until it reaches the Phase 1 substation given favorable siting conditions, however, Montague requests flexibility to site on the north or the south side of the road depending on the County's input and coordination with the cooperative who owns the existing service line. For the reasons outlined above, Montague considers the Primary Route the most feasible from a technical and engineering perspective. The Primary Route therefore meets ORS 215.274(4)(A).

The proposed 230-kV transmission line route for Phase 2 is feasible to develop within the 0.5-mile-wide transmission line corridor as defined in OAR 345-345-001-0010(13), and areas within 1,000 feet of the identified route will be surveyed prior to construction consistent with the previously approved Site Certificate. Thus, the proposed 230-kV transmission line route segment meets the technical and engineering feasibility factors because it avoids rare plant species and WGS category 1 habitat while minimizing impacts to high-value farmland and arable land, and represents the straightest route, with the shortest length, and least impacts. Therefore, this criterion is met.

(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;*

Response: 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 by RFA 4, 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”). Any of the evaluated alternative routes, including the Primary Route, would be located on arable land given the underlying soil characteristics. Tables K-1 and K-2 and Figures K-7A through K-7C show that the underlying soils within the approved and expanded site boundary are predominately arable (see Soil Map Units 32A, 32B, 55B, 55C, and 56B), which even if not cultivated, would constitute arable soils. The Primary Route traverses Class 3 and 4 soils in a route that is the most direct between the Phase 2 substation and the Phase 1 substation given the existing site constraints, including turbine setbacks. Figures K-7A through K-7C also show that any route between the Phase 2 collector substation and Phase 1 substation will impact Class 3 and 4 soils, given the prevalence of the soils and potential for disturbance between the fixed points estimated in Table K-3. Consequently, given that any route would impact arable land, and the fact that the Primary Route offers the most direct route taking into account site constraints, Montague asserts that there is no reasonable alternative to consider under this factor. The Primary Route is locationally dependent because it must cross high-value farmland or arable land to achieve a reasonably direct route. Therefore, the Primary Route meets ORS 215.274(4)(B).

(D) Public health and safety;

Response: Montague has demonstrated above that the Primary Route meets subparts (4)(A) and (4)(B) and therefore, any further analysis is not needed. However, Montague provides a response under subpart (4)(D) to demonstrate that the Primary Route also meets the public health and safety factor. The Primary Route is the farthest away from the existing dwellings and farming operations and readily complies with setback requirements. As required by Site Certificate Condition 89 and described in Exhibit AA, the Primary Route will not be constructed within 200 feet of a residence or occupied structure when measured from the centerline of the route. Therefore, the Primary Route meets ORS 215.274(4)(D).

(E) Other requirements of state or federal agencies.

Response: The Oregon Department of Fish and Wildlife (ODFW) and its Habitat Mitigation Policy, along with EFSC's standards, require Montague to avoid and minimize adverse impacts to higher value habitat. As proposed, the Primary Route is routed entirely through Category 6 habitat and therefore is consistent with the requirements of ODFW's Habitat Mitigation Policy. Further, the Primary Route is the most direct and shortest route, having the least impacts on ongoing agricultural operations. Finally, the Primary Route allows Montague to continue to meet conditions in the Site Certificate that are required to satisfy other state and federal agency requirements (e.g., NPDES 1200-C). Montague will obtain necessary utility permits from ODOT to allow the installation, maintenance, and operation of the line where it will cross state right-of-way over OR 19. For these reasons, the Primary Route meets this factor.

- (b) The applicant shall present findings to the governing body of the county or its designee on how the applicant will mitigate and minimize the impacts, if any, of the associated transmission line on surrounding lands devoted to farm use in order to prevent a significant change in accepted farm practices or a significant increase in the cost of farm practices on the surrounding farmland.*

Response: Montague has minimized the length of the associated transmission line segment across agricultural land to decrease the number of poles that are needed within cultivated crop areas by taking the most direct route between the two fixed points, Phase 2 and Phase 1 substations. The Primary Route would use between six and nine fewer support structures than other alternatives and would result in less permanent disturbance to farm area than the next feasible alternative (Alternative 1) (see Table K-3). Further, Montague has located the line, to the extent possible, parallel with roads or on the perimeter of fields, and no permanent roads are proposed with the segment. Construction access across cultivated areas will be temporary and on an as-needed basis, as negotiated with the landowner.

Montague has long-term energy leases that allow the landowner to continue farming operations (dryland wheat cultivation) around the transmission line pole structures where farming activities do not affect the safe operation and maintenance of the transmission line. In addition, the lease payments will help offset minor changes to accepted farming practices or increases in the cost of such practices. Disturbance to crops will be minimized. After construction, and as negotiated with the landowner, the ROW can be recontoured, seeded, and returned to crop production. The landowner will continue to have access to the underlying agricultural field during line operation.

Although construction and operation of the line may cause some minor change to harvesting patterns or various farming practices such as the application of fertilizer or other products, these changes will not rise to the level of significant. Thus, the proposed modifications to the 230-kV transmission line route will not result in a significant change to, or a significant increase in the cost of, farm and forest practices on surrounding farmlands and this criterion is met.

- (c) *The governing body of a county or its designee may consider costs associated with any of the factors listed in paragraph (a) of this subsection, but consideration of cost may not be the only consideration in determining whether the associated transmission line is necessary for public service.*

Response: The Primary Route is the shortest and most direct route to connect the Phase 2 collector substation to the Phase 1 collector substation, which is less expensive to build than a longer route. However, this route also minimizes potential impacts to agricultural practices by shortening spans across fields and minimizing the number of transmission line poles.

In summary, the Primary Route, represents the proposed modification to the 230-kV transmission line route that satisfies the locationally dependent requirement of ORS 215.275(4) and is allowed, as the original transmission line route was allowed under ORS 215.275. Accordingly, the proposed modified transmission line route is an acceptable “corridor” and satisfies Site Certificate Condition 18. For the reasons described above, the proposed modified 230-kV transmission line route does not alter the basis for the Council’s earlier findings that OAR 345-022-0030 is met.

K.7.2.2 Oregon Administrative Rules – Department of Land Conservation and Development

In OAR 660-033-0120, development of a solar power generation facility and related or supporting facilities (such as the optional battery storage technology incorporated in each design scenario) are allowed as commercial facilities for the purpose of generating power for public use by sale on agricultural land and high-value farmland (see *OAR Chapter 660, Division 033, Rule 0120, Table*). These uses are subject to the applicable substantive standards of OAR 660-033-0130(37) addressed below.

OAR 660-033-0130 Minimum Standards Applicable to the Schedule of Permitted and Conditional Uses

- (38) *A proposal to site a photovoltaic solar power generation facility shall be subject to the following definitions and provisions:*
- (a) *“Arable land” means land in a tract that is predominantly cultivated or, if not currently cultivated, predominantly comprised of arable soils.*
 - (b) *“Arable soils” means soils that are suitable for cultivation as determined by the governing body or its designate based on substantial evidence in the record of a local land use application, but “arable soils” does not include high-value farmland soils described at ORS 195.300(10) unless otherwise stated.*
 - (c) *“Nonarable land” means land in a tract that is predominantly not cultivated and predominantly comprised of nonarable soils.*
 - (d) *“Nonarable soils” means soils that are not suitable for cultivation. Soils with an NRCS agricultural capability class V–VIII and no history of irrigation shall be considered nonarable in all cases. The governing body or its designate may determine other soils, including soils with a past history of irrigation, to be nonarable based on substantial evidence in the record of a local land use application.*
 - (e) *“Photovoltaic solar power generation facility” includes, but is not limited to, an assembly of equipment that converts sunlight into electricity and then stores, transfers, or both, that electricity. This includes photovoltaic modules, mounting and solar tracking equipment, foundations, inverters, wiring, storage devices and other components. Photovoltaic solar power generation facilities also*

include electrical cable collection systems connecting the photovoltaic solar generation facility to a transmission line, all necessary grid integration equipment, new or expanded private roads constructed to serve the photovoltaic solar power generation facility, office, operation and maintenance buildings, staging areas and all other necessary appurtenances. For purposes of applying the acreage standards of this section, a photovoltaic solar power generation facility includes all existing and proposed facilities on a single tract, as well as any existing and proposed facilities determined to be under common ownership on lands with fewer than 1320 feet of separation from the tract on which the new facility is proposed to be sited. Projects connected to the same parent company or individuals shall be considered to be in common ownership, regardless of the operating business structure. A photovoltaic solar power generation facility does not include a net metering project established consistent with ORS 757.300 and OAR chapter 860, division 39 or a Feed-in-Tariff project established consistent with ORS 757.365 and OAR chapter 860, division 84.

Response: Figure K-6C shows the NRCS soil types within the solar micro-siting area. No irrigated soils are located within the solar micro-siting area. Under the nonirrigated NRCS soil classifications, the solar micro-siting area comprises approximately 1,173.1 acres of Class 3 soil, 8.1 acres of Class 6 soil, and 7.8 acres of Class 7 soils for a total of approximately 1,189 acres. However, given the Facility's location within the Columbia Valley AVA, all the soils within the solar micro-siting area are, by operation of law, high-value farmland soils and therefore Montague analyzes the solar array under OAR 660-033-0130(38)(f) below.

Montague seeks the flexibility to construct up to 1,189 acres of solar generation any place within the solar micro-siting area (see Figures C-6 and C-7 in Exhibit C). The solar array layout presented in Design Scenario C occupies the solar micro-siting area and represents the "worst-case scenario" for this land use analysis because it presents the maximum disturbance to ongoing agricultural operations and surrounding properties. Montague proposes the concept of the solar micro-siting area to allow Montague the opportunity to work with the underlying landowner (Weedman) to design a final solar layout that minimizes impacts to ongoing crop cultivation within the proposed expanded site boundary. As described in the Weedman letter, dated January 2018 and provided in Attachment K-4, the solar array layout does not prevent ongoing farming operations, but it would pose challenges like increased time and length of route to access the fields. The Weedmans prefer that Montague use Design Scenario C as the worst-case scenario to fully evaluate potential impacts, recognizing that Montague is committed to working with Weedman on the final design layout to further minimize impacts to ongoing farming operations (see Attachment K-4). Montague proposes the solar micro-siting corridor to allow for this flexibility per the Weedman desire to provide input on the final location of the solar array. The Weedman letter specifies that the solar micro-siting area gives them flexibility in rotating fields and accommodating the final design on fallow ground rather than planted wheat.

Even if sized at 1,189 acres, a solar layout oriented differently in the solar micro-siting area could allow for better access to the remaining fields from the barnyard and would result in less impact, on balance, to ongoing agricultural operations, than Design Scenario C. Further, a 1,189-acre solar layout with modules set back from the residence also creates less impact.

Depending on the resource, the worst-case scenario may be based on acreage impact or it may be based on other considerations. For these reasons, Montague maintains that Design Scenario C represents the worst-case scenario for analyzing the Land Use Standard. Additional details showing the general arrangement of the proposed solar array are provided on Figure B-4 in Exhibit B and described in Section 3.2.2.2 of RFA 4, and by reference in Exhibit B.

For purposes of this analysis, the subject “tract” is considered the land underlying the solar micro-siting area and the contiguous property under the same land ownership. The underlying land and contiguous properties are owned by Weedman, and located west of OR 19. The tract consists of predominately Class 3 nonirrigated soils. Soil classifications within the tract are provided in Table K-4.

(f) *For high-value farmland described at ORS 195.300(10), a photovoltaic solar power generation facility shall not preclude more than 12 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4. The governing body or its designate must find that:*

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

Response: The Weedman farms are within the solar micro-siting area and the larger, proposed expanded micro-siting boundary (to the east, south, and west of the solar micro-siting area), totaling approximately 8,271 acres. Construction and maintenance of the solar array and associated equipment will remove up to 1,189 acres of land under dryland wheat cultivation by Weedman. Design Scenario C would remove land from cultivation on a portion of the Weedman property, but the arrangement of the solar array would not prevent farming on the remainder of the tract. In other words, the layout of Design Scenario C, or any layout would be oriented to not fragment the farming operations or the land available for farming. See Montague’s proposed revisions to Condition 39. Montague will work with Weedman to micro-site the solar array to not block or hinder farm equipment access to the remaining portions of the solar micro-siting area. For example, the proposed solar array incorporates a farm access route to provide agricultural and farm operation equipment access through the site to adjoining fields and perimeter gates throughout the solar array will be wide enough to accommodate farm equipment (see Figure B-4 in Exhibit B). The existence of the solar array will not result in adverse impacts to the ongoing dryland crop cultivation because Weedman will still have access to the remaining fields, will be able to continue customary farming practices such as planting patterns, fertilizing, or spraying, and revised Condition 39 ensures that the remaining farmland within the tract will not be fragmented. Attachment K-4 is a letter from Weedman that supports these findings. For these reasons, the Council may conclude that the solar array will not create unnecessary negative impacts on agricultural operations conducted on any portion of the subject property not occupied by solar array components.

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

Response: The potential for soil erosion is addressed in Exhibit I. Construction of the solar array will be performed under an NPDES 1200-C general stormwater discharge permit for construction (see Attachment I-1 to Exhibit I), including a DEQ-approved erosion and sediment control plan. After completing construction in an area, Montague or their contractor will monitor the area until soils are stabilized, to evaluate whether construction related impacts to soils are being adequately addressed by the mitigation procedures described in the erosion and sediment control plan and the revised Revegetation and Noxious Weed Control Plan. As necessary, Montague or their contractor will implement follow-up restoration measures such as scarification and reseeded to address those remaining impacts.

- (C) *Construction or maintenance activities will not result in unnecessary soil compaction that reduces the productivity of soil for crop production. This provision may be satisfied by the submittal and county approval of a plan prepared by an adequately qualified individual, showing how unnecessary soil compaction will be avoided or remedied in a timely manner through deep soil decompaction or other appropriate practices. The approved plan shall be attached to the decision as a condition of approval;*

Response: Construction and maintenance activities will be limited to areas inside the solar array site boundary. The underlying landowner of the entire solar array site and surrounding lands supports the development of solar power. Attachment K-4 is a letter from Weedman to ODOE that states Montague will work with Weedman to reduce and avoid adverse impacts to ongoing farm practices on surrounding lands, ensure that the final solar array layout does not prevent the landowner from maximizing agricultural production on the land not occupied by the solar array, and avoid increases in farming costs. Montague will design and construct Phase 2 to minimize the permanent impacts to agricultural land consistent with revised Site Certificate Conditions 38 and 39. After construction, scarification of compacted soils will occur as necessary for revegetation of those areas outside the permanent footprint and temporarily impacted by construction.

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

Response: Montague understands that the Council will impose a condition to the site certificate requiring that the certificate holder implement a Revegetation and Noxious Weed Control Plan and comply with the applicable provisions of the weed control ordinances in Gilliam County, as determined by the appropriate weed control authority in Gilliam County. Montague will consult with the appropriate weed control authorities in the County and obtain approval of a Revegetation and Noxious Weed Control Plan. The final Revegetation and Noxious Weed Control Plan must be submitted to the Oregon Department of Energy for approval prior to the start of construction which is consistent with Site Certificate Condition 43. This condition adequately ensures that construction and maintenance activities at the solar array site will not result in the unabated introduction or spread of noxious weeds and other undesirable weed species.

- (E) *The project is not located on high-value farmland soils unless it can be demonstrated that:*

- (i) *Non-high-value farmland soils are not available on the subject tract;*
- (ii) *Siting the project on non-high-value farmland soils present on the subject tract would significantly reduce the project's ability to operate successfully; or*
- (iii) *The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract than other possible sites also located on the subject tract, including those comprised of non-high-value farmland soils; and*

Response: The Facility, including the solar micrositing area, is located in the over 11,000 million-acre Columbia Valley AVA, which extends generally from The Dalles to Milton-Freewater. Under ORS 195.300(10)(f)(C), the underlying soils within the Weedman tract, including the solar micrositing area, consist of a mixture of high-value farmland and non-high-value farmland soils. Montague demonstrates that the solar array can be located on high-value farmland soils within the solar micrositing area under subpart (38)(f)(E)(ii) and (iii). Placing solar arrays on non-high-value farmland to avoid the high-value farmland would cause the solar array to spread out into suboptimal layouts. These suboptimal solar array layouts would require additional land disturbance for longer collection circuits, additional roads, a wider construction footprint, and an overall less-efficient solar array. The non-high-value farmland is typically deemed as such because of the presence of grades and rock formations that make farming challenging. These same difficulties apply to the design and layout of a solar array. Montague considers that a higher power density layout using some high-value farmland will yield a solar array with the minimal overall land impact.

As shown on Figure K-9 and described in Table K-4, high-value farmland [as defined under ORS 195.300(10)(f)(C)] is interspersed through the Weedman tract. The locations are predominately situated in areas with slopes ranging between 6 and 15 percent, which are not optimal for capturing the solar resource. The remainder of the soils within the Weedman tract are predominately Class 3 under the NRCS soil classification system with small areas of Class 4, 6, and 7 soils located in steeply sloped canyon areas around the perimeter of the Weedman tract which are not suitable for development of a solar array (see Figure K-10). The solar micrositing area is predominately Class 3 soil.

For purposes of this analysis, Montague references the tax lot numbers to describe portions of the Weedman tract shown on Figures K-9 through K-11.

Tax lot 1900 is located in the northeast portion of the tract and comprises Class 3, Class 4, Class 6, and Class 7 soils, with the majority of the lot Class 3 and 4 (see Figure K-10). Smaller swaths of high-value farmland soils, per ORS 195.300(10)(f)(C), are also present throughout the lot (see Figures K-9 and K-11).

Tax lot 2100 is located in the center of the Weedman tract on the eastside of OR 19. Tax lot 2100 is predominately Class 3 soils with a small amount of Class 4 and Class 6 soils (and a de minimis amount of Class 7) (see Figure K-10). High-value farmland soils, per ORS 195.300(10)(f)(C), are located on the southeastern portion of the lot and a small swath on the northeastern corner (see Figures K-9 and K-11).

Tax lot 100 is located on the south end of the Weedman tract and east of Baseline Road. Tax lot 100 is entirely Class 3 soil (and a de minimis amount of Class 7) (see Figure K-10). High-value farmland soils, per ORS 195.300(10)(f)(C), are also present, with tax lot 100 having more high-value farmland than the other lots across the tract (see Figures K-9 and K-11).

Tax lot 2100 (solar micrositing corridor) is located in the center of the Weedman tract on the west side of OR 19 and south of Bottemiller Road. Tax lot 2100 comprises Class 3 soils with a small amount of Class 7 (and de minimis amounts of Class 6) (see Figure K-10). High-value farmland soils, per ORS 195.300(10)(f)(C), are present in swaths across the lot, primarily in the western portion (see Figures K-9 and K-11).

Tax lot 1500 is located in the western portion of the Weedman tract. Tax lot 1500 is predominately Class 3 but interspersed with Class 4, 6, and 7 soils (see Figure K-10). Swaths of high-value farmland soils, per ORS 195.300(10)(f)(C), are spread across the lot (see Figures K-9 and K-11). High-value farmland on this lot is situated in areas with slopes ranging between 6 and 15 percent, which are not optimal for capturing the solar resource.

OAR 660-033-0130(38)(f)(E) requires Montague to demonstrate that the solar array meets one of three factors for locating on high-value farmland soil. Montague demonstrates compliance under OAR 660-033-0130(38)(f)(E)(ii) and (iii).

In response to OAR 660-033-0130(38)(f)(E)(ii):

Siting the project on non-high-value farmland soils present on the subject tract would significantly reduce the project's ability to operate successfully;

Montague shows on Figure K-9 that the available non-high-value farmland soils [soils that are not high-value under ORS 195.300(10)(f)(C)] are limited, particularly because of the soil distribution through the Weedman tract (e.g., swaths and patches with few uninterrupted areas of non-high-value soils). Up to 1,189 acres are needed for the solar array, which limits the ability to site on non-high-value soils within the Weedman tract. Placing the solar panels in areas of non-high-value soils on tax lots 1500, 1900, and 2100 could spread the Facility across thousands of acres and require significantly more miles of cable to connect the panel and convey the power back to the Phase 2 collector substation. Under this scenario, the solar array could not operate efficiently given the design and would be impacted (shaded) by wind turbines located or planned for areas of non-high-value soils. Non-high-value soils on these parcels can also be classified as important wildlife habitat under ODFW's Habitat Mitigation Policy. As depicted on Figures P-7.1 through P-7.3, the areas with non-high-value soils on the Weedman tract are predominantly Category 2 and 3 habitat that ODFW considers essential for wildlife. Montague seeks to site the solar array on Category 6 habitat to minimize wildlife impacts. Portions of the non-high-value farmland areas on the Weedman track also contain streams, like Cow Canyon and unnamed drainages into Rock Creek, which are not suitable for solar development.

Tax lot 2100 contains the least high-value farmland and a larger area of non-high-value farmland soils but this area does not meet the landowner's siting preference and would require a larger footprint across existing farmland to meet the desired generation capacity. In addition, a large ridge traverses this tax lot. The ridge has slopes that are unsuitable for solar development and is north facing, which is not optimal for capturing the solar resource. Further, this location is across OR 19 and away from the proposed Phase 2 collector substation, thus requiring an overhead line crossing to connect the solar array to the collector substation. For these reasons, siting the solar array on the available non-high-value farmland soil would significantly impact the Facility's ability to produce the needed solar generation.

In response to OAR 660-033-0130(38)(f)(E)(iii):

The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract than other possible sites also located on the subject tract, including those comprised of non-high-value farmland soils;

The solar micrositing area is located adjacent to Bottemiller Road and OR 19 and is on the border of the Weedman farmland west of OR 19. This placement provides direct access to the solar site, thereby limiting the need for access roads across cultivated fields. Further, it leaves large areas of land (thousands of acres) available for farming, both on the west and the eastside of OR 19. Furthermore, the solar micrositing area is co-located with other Facility components (e.g., Phase 2 collector substation and battery storage), which minimizes impacts and infrastructure. As described above, areas of non-high-value farmland soils within the Weedman tract do not provide these same benefits. For these reasons, the solar micrositing area is better suited to allow for the continuation of commercial farming on the Weedman tract.

- (F) *A study area consisting of lands zoned for exclusive farm use located within one mile measured from the center of the proposed project shall be established and:*
- (i) *If fewer than 48 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits within the study area, no further action is necessary.*
 - (ii) *When at least 48 acres of photovoltaic solar power generation have been constructed or received land use approvals and obtained building permits, either as a single project or as multiple facilities within the study area, the local government or its designate must find that the photovoltaic solar energy generation facility will not materially alter the stability of the overall land use pattern of the area. The stability of the land use pattern will be materially altered if the overall effect of existing and potential photovoltaic solar energy generation facilities will make it more difficult for the existing farms and ranches in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland or acquire water rights, or will reduce the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area.*

Response: No other solar photovoltaic power generation facilities have been constructed or are approved for construction within the required 1-mile study area from the center of the proposed solar array. Therefore, no further action is necessary.

- (g) *For arable lands, a photovoltaic solar power generation facility shall not preclude more than 20 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4. The governing body or its designate must find that:*
- (A) *The project is not located on high-value farmland soils or arable soils unless it can be demonstrated that:*
 - (i) *Nonarable soils are not available on the subject tract;*
 - (ii) *Siting the project on nonarable soils present on the subject tract would significantly reduce the project's ability to operate successfully; or*
 - (iii) *The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject*

tract than other possible sites also located on the subject tract, including those comprised of nonarable soils;

Response: As discussed above under the high-value farmland soil criteria, the Facility, including the solar micro-siting area, is located in the Columbia Valley AVA and under ORS 195.300(10)(f)(C), the underlying soils shown on Figure K-9 are, by law, deemed high-value farmland. Consequently, there are few nonarable soils available on the subject tract. However, even when considering the actual underlying soil types on the subject tract, there are few nonarable soils because the subject tract is comprised predominately of Class 3 soils. There are approximately 1,286 acres of Class 6 and 7 soils distributed throughout the periphery of the tract (see Table K-4). These soils comprise approximately 16 percent of the acreage within the tract but are located below plateaus and ridgelines dissected by small gullies, which could not accommodate the proposed solar array. Montague demonstrates that the solar array may be located on arable soils within the solar micro-siting area under subpart (38)(g)(A)(i) and (ii).

Table K-4. Summary of Soil Classifications within the Weedman Ranches, Inc. Tract

NCRS Soil Unit	Acreage	NRCS Nonirrigated Soil Capability Class ^a
Weedman Ranches, Inc. Tract (the subject “tract” is considered the land underlying the solar micro-siting area and the contiguous property under the same land ownership. The underlying land and contiguous properties are owned by Weedman).		
Capability Class 3		
Kimberly fine sandy loam	1.7	3
Mikkalo silt loam, 7 to 12 percent slopes	155.9	3
Ritzville silt loam, 0 to 2 percent slopes	1500.7	3
Ritzville silt loam, 2 to 7 percent slopes	2573.1	3
Ritzville silt loam, 7 to 12 percent slopes	1368.6	3
Willis silt loam, 2 to 5 percent slopes	38.6	3
Willis silt loam, 5 to 12 percent slopes	315.4	3
<i>Subtotal</i>	5,954.0	
Capability Class 4		
Powder silt loam	1.0	4
Ritzville silt loam, 12 to 20 percent slopes	632.1	4
Sagehill fine sandy loam, 5 to 12 percent slopes	0.7	4
Warden silt loam, 12 to 20 percent slopes	96.4	4
Warden silt loam, 2 to 5 percent slopes	172.3	4
Warden silt loam, 5 to 12 percent slopes	31.2	4
Willis silt loam, 12 to 20 percent slopes	97.8	4
<i>Subtotal</i>	1,031.4	
Capability Class 6		
Olex gravelly silt loam, 20 to 40 percent slopes	554.5	6

Table K-4. Summary of Soil Classifications within the Weedman Ranches, Inc. Tract

NCRS Soil Unit	Acreage	NRCS Nonirrigated Soil Capability Class ^a
Olex gravelly silt loam, 5 to 20 percent slopes	11.0	6
Ritzville silt loam, 20 to 40 percent north slopes	129.0	6
Ritzville silt loam, 20 to 40 percent south slopes	95.9	6
Warden silt loam, 20 to 40 percent slopes	70.5	6
Willis silt loam, 20 to 30 percent slopes	152.0	6
<i>Subtotal</i>	1,012.9	
Capability Class 7		
Lickskillet very stony loam, 7 to 40 percent slopes	266.0	7
Lickskillet-Rock outcrop complex, 40 to 70 percent slopes	6.9	7
<i>Subtotal</i>	272.9	
Total	8,271.2	

Source: NCRS, 2017

^a Nonirrigated soils within the proposed expanded site boundary are shown on Figures K-7A, K-7B, and K-7C.

- (B) *No more than 12 acres of the project will be sited on high-value farmland soils described at ORS 195.300(10) unless an exception is taken pursuant to 197.732 and OAR chapter 660, division 4;*

Response: Montague demonstrates that a Goal 3 exception is warranted under Section K.7.4 (Statewide Planning Goal 3 Exception).

- (C) *A study area consisting of lands zoned for exclusive farm use located within one mile measured from the center of the proposed project shall be established and:*
- (i) *If fewer than 80 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits within the study area no further action is necessary.*
 - (ii) *When at least 80 acres of photovoltaic solar power generation have been constructed or received land use approvals and obtained building permits, either as a single project or as multiple facilities, within the study area the local government or its designate must find that the photovoltaic solar energy generation facility will not materially alter the stability of the overall land use pattern of the area. The stability of the land use pattern will be materially altered if the overall effect of existing and potential photovoltaic solar energy generation facilities will make it more difficult for the existing farms and ranches in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a*

manner that will destabilize the overall character of the study area; and

Response: No other solar photovoltaic power generation facilities have been constructed or are approved for construction within the required 1-mile study area from the center of the solar array. Therefore, no further action is necessary.

(D) The requirements of OAR 660-033-0130(38)(f)(A), (B), (C) and (D) are satisfied.

Response: The requirements of OAR 660-033-0130(38)(f)(A), (B), (C) and (D) are discussed above. Therefore, this criterion is satisfied.

(h) [not applicable]

(i) The county governing body or its designate shall require as a condition of approval for a photovoltaic solar power generation facility, that the project owner sign and record in the deed records for the county a document binding the project owner and the project owner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices as defined in ORS 30.930(2) and (4).

Response: Montague will include land within the proposed expanded site boundary, including the solar micro-siting area, in an amended covenant not to sue under Condition 41.

(j) Nothing in this section shall prevent a county from requiring a bond or other security from a developer or otherwise imposing on a developer the responsibility for retiring the photovoltaic solar power generation facility.

Response: Montague provides information on retiring the solar array technology and applicable site restoration in Exhibit W to RFA 4. Therefore, this criterion is met.

K.7.3 Noncompliance with Applicable Substantive Criteria

(iv) If the proposed facility might not comply with all applicable substantive criteria, identify the applicable statewide planning goals and describe how the proposed facility complies with those goals.

Response: The solar array does not meet GCZO 4.020(D)(11) because it will preclude more than 12 acres of high-value farmland or 20 acres of other arable land from commercial farm use. Montague demonstrates in Section K.7.4 that an exception to Statewide Planning Goal 3 is justified.

K.7.4 Statewide Planning Goal 3 Exception

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

Response: The solar array cannot meet an applicable substantive criterion under the GCZO because it exceeds the 12/20-acre thresholds and therefore triggers a Goal 3 exception. Only the solar array is subject to the Goal 3 review; all other Facility components satisfy all applicable substantive criteria and therefore are excluded from Goal 3 review. For purposes of the Goal 3 analysis, Montague analyzes the acreage footprint within an area designated as the "solar micro-siting area." The solar micro-siting area is a portion of the proposed expanded site boundary covering 1,189 acres of nonirrigated, cultivated agricultural land. For the purpose of this request, the entire solar micro-siting area is evaluated as a permanently disturbed area and

represents the most solar area that could be constructed for Phase 2. The location of the solar micro-siting area used in this analysis is shown on Figure K-2B. Montague seeks to remove up to 1,189 acres from Goal 3 protection within the solar micro-siting area. The Goal 3 analysis, is structured to evaluate the entire solar micro-siting area under Goal 3, not only the permanent footprint acreage of the solar array. As demonstrated below, reasons and the EASE analysis support locating the solar array anywhere within the solar micro-siting area. Further, Montague demonstrates that locating the solar array, anywhere within the solar micro-siting area, subject to the proposed conditions, will be compatible with adjacent farm uses.

38. *The certificate holder shall consult with area landowners and lessees during construction and operation of the facility and shall implement measures to reduce and avoid ~~any~~ adverse impacts to ongoing farm practices on surrounding lands, including coordinate with the landowner of the solar micro-siting area to ensure that the final solar array layout does not prevent the landowner from maximizing agricultural production on the land not occupied by the solar array. ~~and to avoid any increase in farming costs.~~*
39. *The certificate holder shall design and construct the facility to minimize the permanent impacts to agricultural land, including to the extent practicable, using existing access roads, co-locating facilities, reducing road and transmission line/collector line lengths, and designing facility components to allow ongoing access to agricultural fields. ~~using the minimum land area necessary for safe construction and operation. The certificate holder shall locate access roads and temporary construction laydown and staging areas to minimize disturbance to farming practices and, wherever feasible, shall place turbines and transmission interconnection lines along the margins of cultivated areas to reduce the potential for conflict with farm operations.~~*
- XX. *Montague will retire the solar array and restore the site consistent with Condition 92, and during or following site restoration, Montague will file a request with Gilliam County Planning Department to amend the GCCP to remove the Goal 3 exception from the solar micro-siting area upon confirmation that the restoration work required under Condition 92 is complete. Gilliam County will process the amendment request pursuant to ORS 469.401(3).*

K.7.4.1 Demonstrate that a “Reasons” Exception is Appropriate

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

Response: The state policy embodied in Goal 3 is the preservation and maintenance of agricultural land for farm use. Montague demonstrated able that the solar array would not result in significant adverse impacts on accepted farm practices in the land use area. However, Montague must also demonstrate why the Goal 3 policy should not apply.

The reasons justify removing up to 1,189 acres within the solar micro-siting area for a defined period of time to promote other policies of importance within the County and across the state and region. Montague provides the reasons and evidence below to support Council findings:

- The Goal 3 exception does not seek to permanently remove land from agricultural production. Per the terms of the lease and the proposed Site Certificate conditions, the land would be returned to agricultural use following retirement and restoration of the solar array.
- Up to 1,189 acres of solar generation promotes rural economic development by creating jobs and adding to the tax base of Gilliam County. For additional information, see Section K.7.4.2 under Economic.

- The availability of reliable renewable energy that will be produced by the solar array is attractive to recruiting and retaining energy-dependent businesses to Oregon that have renewable energy procurement policies.
- The solar array is proposed on a large tract of land held by a single landowner (Weedman) where removing up to 1,189 acres from production, with the offset of the lease payments, will not adversely impact an existing agricultural enterprise. Weedman actively farms approximately 8,271¹⁶ acres within the vicinity including the solar micro-siting area. The solar micro-siting area amounts to approximately 14.4 percent of the entire Weedman farming operation. Removing up to 1,189 acres temporarily from Goal 3 protection within the solar micro-siting area will amount to a 14.4 percent loss of Weedman's approximately 8,271 acres of total active farming operations. This loss of land is insignificant when factoring in Weedman Ranch's ongoing farm operations on more productive land. See the Weedman letter to ODOE, dated January 2018 and included as Attachment K-4.
- There are no agricultural irrigation water rights located in the solar micro-siting area nor is Weedman able to obtain any new rights with the expiration of water right Permit #G15187. See the Weedman letter provided as Attachment K-4 describing the history associated with the water right permit and the conversations with OWRD provided as Attachment K-5 confirming that there is nothing to be done to revive the right.
- The Facility has an interconnection agreement with BPA to send power generated from the Facility to the Slatt Substation. Montague began construction on Phase 1 of the Facility and will construct the 10.8-mile, 230-kV transmission line as part of Phase 1, which will run from the Phase 1 substation to the BPA Slatt Substation. The solar micro-siting area is located in proximity to the Phase 2 collector substation, along Bottemiller Road and OR 19. Power from the solar array will be routed to the Facility's Phase 2 collector substation. Power from the Phase 2 collector substation is routed via the approximately 3 miles of modified 230-kV transmission line to the Phase 1 substation, at which point the power then runs via the 230-kV transmission line to the BPA Slatt Substation. The solar micro-siting area is located in proximity to the Phase 2 collector substation and provides comparatively convenient access to the regional grid by using shared and existing infrastructure.
- Oregon's Renewable Portfolio Standard (RPS) establishes a requirement for how much of Oregon's electricity must come from renewable resources like solar. The current RPS is set at 50 percent by 2040. In addition to Oregon's RPS, private companies have their own renewable energy procurement policies, which increase the demand for renewable energy in Oregon. These public and private policies are intended to reduce greenhouse gas emissions, mitigate climate impact, and reduce reliance on carbon-based fuels. Solar generation, like the proposed solar array, helps further these public and private policies and outweigh temporarily removing up to 1,189 acres from Goal 3 protection.

K.7.4.2 EESE Consequences Favor the Exception

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

Response:

¹⁶ The Weedman Ranches letter provided as Attachment K-4 describes the approximate acreage of the Weedman tract as 8,300 acres. For the purposes of analysis, this Exhibit uses the actual acreage of the tract reported in Table K-4 and shown on Figures K-9 through K-11.

Environmental. When considering the environmental consequences, the Council takes into consideration factors such as (1) water quality, (2) environmental safety and spill prevention, (3) soil erosion, (4) stormwater and wastewater management, (5) air emissions, and (6) impacts to habitat. Such factors are considerations under several of the Council's review standards already. RFA 4 contains several exhibits that demonstrate and provide evidence to substantiate that Phase 2, including the solar array, will continue to comply with the Council's standards for protection of the environment. The Council may rely on findings presented in the following exhibits to determine that the potential environmental adverse impacts associated with the solar array have been identified and will be mitigated, including Exhibit I (Soils), Exhibit J (Wetlands), Exhibit P (Fish and Wildlife Habitats and Species), Exhibit Q (Threatened and Endangered Plant and Animal Species), and Exhibit U (Public Services/Socioeconomic Impacts addressing wastewater and stormwater).

Economic. When considering the economic consequences, the Council takes into consideration factors such as (1) any increased burden on public services, (2) benefits to the rural tax base, (3) job creation, and (4) revenue for area landowners. Exhibit U contains a discussion on the Phase 2 potential impacts on public services, including fire, safety, and transportation. It also provides information on job creation during Phase 2 construction and operation. Exhibit W discusses retirement and restoration of Phase 2 and demonstrates that no burden will be placed on the area landowners or the County because Montague is obligated to retire and restore Phase 2 and will have a financial assurance in place to guarantee such work.

A reason supporting the Goal 3 exception is that the Facility will contribute to rural economic development and add to the tax base of Gilliam County, and as such, the economic consequences associated with removing up to 1,189 acres from agricultural production will not rise to the level of significant. Based on 2012 Census data, Gilliam County has 170 farms and 723,405 acres of land in farms, with the average size of a farm at approximately 4,255 acres. The Weedmans farm approximately 8,271 acres, which exceeds the average farm size in Gilliam County. Removing up to 1,189 acres from agricultural production is insignificant when compared against the amount of land the Weedmans farm and how much land is farmed in Gilliam County. Further, any loss in income from crop yields is offset by lease payments for the acreage. The 1,189 acres are also removed from farm deferral and becomes taxable, which increases the tax base for Gilliam County. Montague maintains a Strategic Investment Plan that will provide the tax revenue directly to the County. In addition, Facility operations will create up to 24 new jobs and construction-related jobs will result in indirect benefits from construction workers living, eating, and working in the vicinity. Montague has verified that development of the solar array within the solar micro-siting area will not displace farm workers or take away farm jobs associated with commercial farming on the Weedman tract.

Social. When considering the social consequences, the Council takes into consideration factors such as access and impact to resources of importance to the public such as protected areas, recreation, cultural resources, and scenic areas. The Council also takes into consideration impacts to public and community services and impacts from noise. Exhibit L demonstrates that Phase 2, including the solar array, will not adversely impact protected areas within the analysis area, and similarly, Exhibits R, S, and T demonstrate the same with respect to scenic resources, cultural resources, and recreation, respectively. Exhibit U, as discussed above, demonstrates that with existing Site Certificate conditions, the solar array will not result in adverse impacts on public or community services such as health care, education, housing, water supply, waste disposal, transportation, or fire and safety. Exhibit X demonstrates that the solar array can comply with the applicable DEQ noise regulations and Condition 107 ensures that the final design of Phase 2 of the Facility, including the solar array, will comply with the applicable DEQ noise regulations. Design Scenario C represents the worst-case scenario for purposes of

analyzing impacts and evaluating the Goal 3 exception request. Design Scenario C would be visible to drivers from OR 19 as drivers pass the Facility. However, Section 7.2 of Exhibit R verifies that the Facility's impacts on scenic resources along this segment of the highway will not be substantial because the area's existing landscape is a utilitarian agricultural landscape that does not contain outstanding visual features. In particular, there will be no effects on visual resources protected by the GCCP (Gilliam County, 2017a).

Figures 2a and 2b in the Supplemental Visual Analysis to Exhibit R illustrate that when fully inverted, the solar panels will not exceed 15 feet at the highest point and will not create a visual clearance issue for drivers. As described in Section R.8 of Exhibit R, glare is not an issue as a potential social or safety consideration because modern photovoltaic solar modules use a sophisticated antireflective coating to nearly eliminate the reflection of sunlight off the module face and are not expected to generate significant reflective glare. Beyond the solar array, drivers will still see agricultural land. The presence of the solar array along OR 19 may pose a negative social consequence for some drivers. However, Design Scenario C does not rise to the level of significant so as to outweigh other factors under the EESE analysis. Moreover, Montague will construct Design Scenario C, given its commitment to Weedman, to site the solar array that allows for greater access from the barnyard to farm fields. See the Weedman letter dated January 2018 and included as Attachment K-4.

Energy. When considering the energy consequences, the Council takes into consideration factors such as how much energy the proposed facility will require, the source of the energy, and whether the proposed facility promotes important energy policies. As discussed above, the solar array will generate reliable renewable energy for sale to the public and while doing so, promote the Oregon's RPS and Oregon's commitment to rural economic development.

Conclusion. On balance, the Council may find that the EESE consequences associated with the solar array have been identified and where necessary, adverse impacts have been minimized or mitigated. No additional conditions of approval other than those proposed above are required to make this finding. Additional agricultural statistics to support this finding will be provided under separate cover.

K.7.4.3 Compatibility with Adjacent Land Uses

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

Response: Adjacent uses include ongoing farming operations and the Facility itself. Section K.7.1.1, in response to GCZO 4.020(H)(1)(a) and (b) above discuss Montague's efforts to avoid, minimize, and mitigate adverse impacts to farm uses within the land use analysis area. The solar array will remove up to 1,189 acres from farm use for the life of the project but will not adversely impact ongoing agricultural operations, specifically dryland crop cultivation.

K.8 FEDERAL LAND MANAGEMENT PLANS

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

- (i) Identify the applicable land management plan adopted by the federal agency with jurisdiction over the federal land.*
- (ii) Explain any differences between state or local land use requirements and federal land management requirements.*
- (iii) Describe how the proposed facility complies with the applicable federal land management plan.*

- (iv) Describe any federal land use approvals required for the proposed facility and the status of application for each required federal land use approval.
- (v) Provide an estimate of time for issuance of federal land use approvals.
- (vi) If federal law or the land management plan conflicts with any applicable state or local land use requirements, explain the differences in the conflicting requirements, state whether the applicant requests Council waiver of the land use standard described under paragraph (B) or (C) of this subsection and explain the basis for a waiver.

Response: These provisions do not apply. No portion of the Facility within the previously approved site boundary or proposed expanded site boundary is located on federal lands.

K.9 CONCLUSION

Based on the foregoing analysis, Montague demonstrates that Phase 2 will continue to comply with the Council's land use standard. It satisfies all substantive applicable criteria with a Goal 3 exception. Accordingly, the information contained in this exhibit provides the Council with sufficient information to make a determination that each design scenario proposed with Phase 2 complies with the land use standard set forth in OAR 345-022-0030.

K.10 REFERENCES

- Colby, Michelle, Gilliam County Planning Director. 2017. Personal communication (email) with Paul Hicks, CH2M. October 2.
- Energy Facility Siting Council (EFSC). 2010. *Final Order on the Application for Site Certificate for the Montague Wind Power Facility*. September 10.
- Energy Facility Siting Council (EFSC). 2013. *Final Order on Request for Contested Case and Amendment #1 of the Site Certificate for the Montague Wind Power Facility*. June 21.
- Energy Facility Siting Council (EFSC). 2015. *Final Order on Request for Contested Case and Amendment #2 of the Site Certificate for the Montague Wind Power Facility*. December 4.
- Energy Facility Siting Council (EFSC). 2017a. *Third Amended Site Certificate for Montague Wind Power Facility*. July 11.
- Energy Facility Siting Council (EFSC). 2017b. *Final Order on Request for Contested Case and Amendment #3 of the Site Certificate for the Montague Wind Power Facility*. July 12.
- Gilliam County. 2017a. *Gilliam County Comprehensive Plan*. Updated and amended May 3, 2017. Accessed September 8, 2017. <http://www.co.gilliam.or.us/zoning.html>.
- Gilliam County. 2017b. *County Zoning and Land Development Ordinance*. Updated and amended May 3, 2017. Accessed September 8, 2017. <http://www.co.gilliam.or.us/zoning.html>.
- National Resources Conservation Service (NRCS). 2017. *Soil Survey*. Accessed October 15, 2017. <https://www.nrcs.usda.gov/wps/portal/nrcs/main/soils/survey/>.
- Oregon Water Resources Department (OWRD). 2017. Water Rights Mapping Tool. Accessed October 15, 2017. <http://apps.wrd.state.or.us/apps/gis/wr/Default.aspx>.
- U.S. Department of Agriculture (USDA). 2012. Table 1. *County Summary Highlights: 2012*. 2012 Census Volume 1, Chapter 2: County Level Data: Oregon. Accessed October 15, 2017. https://www.agcensus.usda.gov/Publications/2012/Full_Report/Volume_1,_Chapter_2_County_Level/Oregon/st41_2_001_001.pdf.

Figures

Attachment K-1
American Viticultural Area Map

Attachment K-2
Water Rights Map from Oregon Water
Resources Department

Attachment K-3
Water Rights Permits, Certificates, and
Transfers

Attachment K-4
Weedman Ranches Inc. Letter

Attachment K-5
Oregon Water Resources Department
Correspondence