



# Oregon

Kate Brown, Governor



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May 7, 2019

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**RE: Montague Wind Power Facility, Amendment Determination Request 2 (Crane Path Modification)**

Dear Mr. Hutchinson,

On March 14, 2019, the Oregon Department of Energy (ODOE or the Department) received a second Amendment Determination Request (ADR2) pursuant to OAR 345-027-0057 from Montague Wind Power Facility, LLC (Montague or certificate holder) for the Montague Wind Power Facility (facility) requesting the ability to utilize a temporary crane path outside of the (Phase 1) site boundary. The Montague facility is currently under construction. Montague then submitted a revised ADR request on April 25, 2019. As proposed, 4.4 miles out of the 5.1 mile long proposed route are located outside of the approved site boundary, but will predominantly be confined to Category 6 dryland wheat farmland. Utilization of the proposed route would allow for the relocation of cranes from the southern portions of the Phase 1 site boundary, to the northern portions of the Phase 1 site boundary. The ADR explains that the alternative to using the proposed temporary crane path, the two cranes would need to be disassembled and transported via public roads from the southern portion to the northern portion of Phase 1. Once disassembled, each crane would require approximately 40 semi-tractor trailer loads to move each crane from the southern portion of Phase 1, to the northern portion of Phase 1. The crane path would be temporary, used twice.

In accordance with OAR 345-027-0057, the Department has reviewed the ADR and determined that the request included all information required by OAR 345-027-0057(4), and that the requested modifications described in the ADR would not require a site certificate amendment. The Department's findings and reasoning is provided below. The ADR is included as Attachment 1.

Pursuant to OAR 345-027-0057(5), on April 1, 2019, the Department posted an announcement on the agency's website to notify the public that an amendment determination request had been received. A copy of the ADR was included in the announcement.

Based on the Department's evaluation provided below, the Department agrees with the certificate holder's evaluation under OAR 345-027-0050 and finds that the proposed facility modifications included in this amendment determination request do not require a site certificate amendment.

OAR 345-027-0057(6) requires that after issuing its determination, the Department must provide the determination and ADR to the Energy Facility Siting Council (Council), post the determination to the ODOE website and at the next Council meeting, and inform Council of the ADR and determination during the consent calendar agenda item.

Additionally, OAR 345-027-0057(6) also allows that at the request of a Councilmember, or the certificate holder, the Department must refer its determination to the Council for concurrence, modification, or rejection. Should such a request be made by a Councilmember or the certificate holder, the determination would be presented before EFSC at an upcoming Council meeting.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Chase McVeigh-Walker". The signature is fluid and cursive, written over a light blue horizontal line.

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**cc (via e-mail distribution)**

Todd Cornett, Oregon Department of Energy  
Max Woods, Oregon Department of Energy  
Duane Kilsdonk, Oregon Department of Energy  
Patrick Rowe, Oregon Department of Justice

## **Staff Evaluation of the Montague Wind Power Facility Amendment Determination Request 2 and Determination**

### **I. Proposed Facility Modifications**

The Montague Wind Power Facility is a wind energy facility approved by the Energy Facility Siting Council (EFSC) encompassing approximately 33,717 acres of private land, within Gilliam County, which includes the perimeter of the energy facility site and its related or supporting facilities, all temporary laydown and staging areas, and all approved corridors. Based on final design (Phase 1), the facility will include up to 56 wind turbines, with a maximum capacity of 202 megawatts. Phase 1 is currently under construction.

In the ADR2, the certificate holder proposes to utilize a temporary crane path between the north and south Phase 1 project areas, to reduce truck trips and heavy equipment traffic on public roads, and to allow for more efficient construction sequencing. The proposed temporary crane path is located entirely on private land owned by Weedman Farms LLC, and is proposed to be located predominantly on dryland wheat farmland (which is Category 6 habitat). As proposed, the modified crane path would be temporary and limited to a single pass by each of the two cranes. Montague indicates that the modified crane path would not require new roads, nor would the proposed crane path modification require any grading or excavation. A portion of the modified crane path crosses one jurisdictional stream, and would require a temporary stream crossing. After both cranes have been relocated, the path will be decompacted and reseeded in accordance with the landowner agreement, so that the area will remain viable for agricultural purposes. The ADR2 is included below, as Attachment 1. See Figure 1 of the Attachment for details on the proposed crane path modification. See Figure's 2 and 3 for details on the location of the stream crossing and examples of crane mats and steel plates used for the crossing, and a diagram of a stream crossing (temporary bridge over a stream).

### **II. Site Certificate Amendment Applicability**

OAR 345-027-0050(4) requires a certificate holder to submit a request to amend its site certificate to design, construct, or operate a facility in a manner different from the description in the site certificate, if the proposed change:

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

An amendment determination request assessment affirming any of the above criteria would necessitate that a site certificate amendment is required to make the requested changes. If the amendment determination request assessment affirms that none of the above criteria would be met, the certificate holder may proceed with the documentation of the changes in accordance with OAR 345-027-0055.

### III. Evaluation under OAR 345-027-0050(4)(a)

A site certificate amendment is required pursuant to OAR 345-027-0050(4)(a) if the proposed change could result in a significant adverse impact that the Council has not addressed in an earlier order and the impact affects a resource protected by Council standards. In order to demonstrate compliance with Council's Standards (Division 22 and Division 24), the certificate holder prepared and provided a compliance evaluation for the proposed facility modification being requested in the ADR2.

Based upon an initial review of the ADR2, specific standards are further evaluated because of the potential of the ADR components to trigger the OAR 35-027-0050(4)(a) criterion; the Department's evaluation is presented below. Other standards were determined by the Department to not likely be impacted by the requested facility modification, and where reliance on the Council's previous findings were determined acceptable, are not evaluated further.

#### **Soil Protection Standard (OAR 345-022-0022)**

The Council's Soil Protection Standard requires that the facility be designed, constructed, and operated, taking into account mitigation, in a manner that is not likely to result in a significant adverse impact to soils. The certificate holder determined in their ADR2 evaluation that the proposed facility modification will not result in a significant adverse impact, nor would it require a change to existing conditions or require any new conditions. The certificate holder explains that the proposed crane path modification would not require any new roads to be built, and that proposed modified crane path would allow for more efficient construction sequencing and would require less overall truck trips and heavy equipment moving on public roads. Moreover, the certificate holder asserts that there are no feasible routes within the approved (Phase 1) site boundary to move the cranes between the north and south project areas, as the portions of the site boundary that do connect the north and south project areas are too steep to walk cranes. Additionally, the certificate holder states that the any potential impacts from erosion will be minimal, and would be addressed by the facility's Erosion and Sediment Control Plan (ESCP) [required by Condition 80]. Condition 80 explains that the ESCP be satisfactory to the Oregon Department of Environmental Quality (ODEQ) and in compliance with the requirements of the National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge General Permit #1200-C. Any procedures necessary to meet local erosion and sediment control measures also must be included in the ESCP.

The Council also previously imposed Conditions 83 and 84 in the site certificate, to minimize potential impacts to soils. Condition 83 requires the certificate holder to submit a pre-construction investigation report to DSL after determining the final design locations of facility components and construction disturbance. Compliance with Condition 83 ensures that the facility would not have an impact on state-jurisdictional waters. Condition 84 directs the certificate holder to avoid impacts to waters of the state by prohibiting removal and fill material at delineated wetlands and stream channels.<sup>1</sup> As explained in the ADR2, the proposed stream crossing of the modified crane path will span the ordinary high water line of the identified delineated stream, and thus would not impact the stream. By not impacting the stream, the proposed modification to the crane path would not require a removal fill permit, and will remain compliant with the requirements of Condition 84.

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<sup>1</sup> In an email sent to the Department on 4/29/2019, Heidi Hartman, an Aquatic Resource Coordinator at the Oregon Department of State Lands (DSL), confirmed that the identified and mapped stream is mapped as an intermittent stream. Furthermore, Ms. Hartman explains that DSL does take jurisdiction over intermittent streams.

Based on the preponderance of evidence on the record, and subject to compliance with existing site certificate conditions, the Department concludes that the proposed facility modification of ADR2 would not likely result in a significant adverse impact that the Council has not addressed in an earlier order nor result in a new impact affecting a resource protected by the Soil Protection Standard.

**Land Use, Fish and Wildlife Habitat, and Threatened and Endangered Species Standards (OAR 345-022-0030, 0060 and -0070)**

As provided in the ADR2, the certificate holder conducted an evaluation to determine whether the proposed facility modifications could be designed, constructed and operated consistently with the Council's Land Use at OAR 345-022-0030, Fish and Wildlife Habitat standard at OAR 345-022-0060, and Threatened and Endangered Species standard at OAR 345-022-0070. According to the ADR2, the majority of the proposed crane path was surveyed for rare plants and Washington Ground squirrel (which are the only threatened and endangered species suspected in the vicinity of the facility), and no rare plants or Washington ground squirrel burrows were observed within the surveyed area. The certificate holder states that the modified crane path would predominantly occur in cultivated agricultural fields, classified as Category 6 habitat and that the areas that were not surveyed are cultivated wheat fields and are not suitable habitat for threatened and endangered species. The Department notes that impacts to Category 6 habitat do not require mitigation, in accordance with the Council's Fish and Wildlife Habitat standard and ODFW's Fish and Wildlife Habitat Mitigation Policy.

The Department concurs with the certificate holder that the majority of the requested modified crane path would predominantly occur in Category 6 habitat. However, relying upon the habitat mapping provided in Exhibit P of RFA4, the Department has identified small areas that would be used for the crane paths as Category 4 Exotic Annual Grassland (GA).<sup>2</sup> Although Category 4 habitat (GA), habitat mitigation for temporary impacts to exotic annual grasslands (GA) is not required because it is anticipated that this habitat would be restored in a relatively short period of time, and thus, would not impact the certificate holders ability to comply with the finalized habitat mitigation plan, and mitigation requirements of Condition 93.

Condition 92 requires the certificate holder to restore areas temporarily disturbed by facility construction, according to the methods and monitoring procedures described in the final Revegetation Plan. The certificate holder states that the portions of the modified crane path that temporarily impact Category 6 dryland wheat farmland will be decompacted and reseeded in accordance with landowner agreements, so that the area will remain viable for agricultural purposes. These mitigation measures align with the requirements of Land Use Condition 38, which requires the certificate holder to consult with landowners and lessees during construction to reduce and avoid impacts to farm practices.

Based on the assessment presented here, the Department concludes that the temporary crane paths proposed in ADR2 would not likely result in a significant adverse impact that the Council has not addressed in an earlier order nor result in a new impact protected by the Land Use, Fish and Wildlife Habitat, or Threatened and Endangered Species Standards. The Department further concludes that the proposed facility modifications would not be likely to impact the certificate holder's ability to comply with a site certificate condition or require a new or change in existing condition.

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<sup>2</sup> MWPAMD4 Exhibit P, Figure P-7.4 2019-04-05

**Historic, Cultural, and Archaeological Resources (OAR 345-022-0090)**

In the ADR2, the certificate holder states that the proposed crane path modification will not result in a significant adverse impact, nor impair the ability to comply with conditions of the Site Certificate, and will not require any new conditions or changes to existing conditions of the Site Certificate.

In 2017, to satisfy the pre-construction requirements of Condition 49, the certificate holder conducted desktop and field investigations for historic, cultural and archeological resources within the approved site boundary, at all areas where construction disturbance had not previously been surveyed. There are no known historic, cultural, or archaeological resources along the crane path. It is stated in the ADR that there would be no excavation or grading associated with the crane path.

As such, the Department concludes that the proposed facility modifications would not be likely to result in a significant adverse impact that the Council has not addressed in an earlier order nor would the proposed modifications result in a new impact affecting a resource protected by the Historic, Cultural and Archaeological Resources standard.

**IV. Evaluation under OAR 345-027-0050(4)(b)**

The second factor under OAR 345-027-0050(4) would require a site certificate amendment if the proposed change “could impair the certificate holder’s ability to comply with a site certificate condition.” Based on the evaluation provided under OAR 345-027-0050(4)(a), the proposed change would not significantly impact any applicable Council standards, as described above. The Department evaluated all the existing site certificate conditions for the Montague Wind Power Facility, as amended, and finds that the proposed facility modifications would not impair the certificate holder’s ability to comply with any site certificate condition.

**V. Evaluation under OAR 345-027-0050(4)(c)**

The final factor under OAR 345-027-0050(4) would require a site certificate amendment if the proposed change “could require a new condition or a change to a condition in the site certificate.” Based on the reasoning and evaluation presented above, the Department concludes that the proposed modifications do not trigger an amendment under OAR 345-027-0050(4)(a) and OAR 345-027-0050(4)(b), as the proposed facility modification would not result in a significant adverse impact that the Council has not addressed in an earlier order, nor would the modification result in a new impact affecting a resource protected by Council standards. Therefore, the Department finds that the proposed changes would not require any new or modified conditions.

**VI. Determination**

The Department agrees with the certificate holder’s evaluation under OAR 345-027-0050 and finds that the proposed facility modification included in this second Amendment Determination Request do not require a site certificate amendment. The Department concludes that the proposed facility modification would not cause a significant adverse impact to a resource protected by EFSC standards, and would not substantially impair the certificate holder’s ability to comply with site certificate conditions. Compliance with applicable EFSC Standards, State and local laws, rules, and ordinances would not be expected to be

affected by the proposed facility modifications. Based on the findings of fact, the Department determines that the proposed facility modification would not require a site certificate amendment.

In accordance with the requirements of OAR 345-027-0055(4), the certificate holder shall include a description of the proposed facility modifications and the Department's determination in the next annual report. ODOE will also document the change in an order associated with the next site certificate amendment.

OAR 345-027-0057(6) allows that at the request of a Council member, the Department's determination must be referred to the Council for concurrence, modification, or rejection. In compliance with this rule, the Department will provide its determination and inform the Council of its rights under the rule. Should a Council member request to review the determination, the determination would go before EFSC at an upcoming Council meeting. Verbal notice of the request and the written determination of this ADR2 will be provided to Council at the May 16, 2019 Council meeting during the consent calendar agenda item.

**Attachment 1: Montague Wind Power Facility, Second Amendment Determination Request (Crane Path Modification)**

## **Montague Wind Power Facility**

### **Crane Path Modification**

**March 14, 2019, Revised April 25, 2019**

Montague Wind Power Facility (Montague) plans to use a temporary crane path outside the site boundary to move cranes from the southern to northern portions of the project area (from I-String to F-String). Montague would use the alternative crane path for a single pass by two cranes. This route is 5.1 miles long, and 4.4 miles are outside the site boundary (Figure 1). As approved, there are no feasible routes within the site boundary to move cranes between the north and south project areas without using public roads. The portions of the site boundary connecting the north and south project areas are too steep to walk cranes.

The alternative crane path would parallel Baseline Road heading west outside the site boundary and the head north along Ion Road, following the survey corridor within the proposed expanded site boundary areas for Phase 2, as described in Request for Amendment 4. The land crossed by the alternative crane path is owned by Weedman Farms LLC, and Montague has an agreement with the landowner for this one-time crossing. Each crane would take one day to move and the cranes would be moved about 10 days apart. No grading along the alternative route is planned.

The alternative crane path would allow for more efficient construction sequencing and require less overall truck trips and heavy equipment moving on public roads. Use of the alternative crane path would allow Montague to move cranes across the project site without using public roads. A disassembled crane requires about 20 semi-tractor trailers loads to transport on public roads, so use of the alternative crane path would save about 80 semi-truck loads (2 cranes x 20 loads per crane x 2 round trip = 80 trips) from traveling on Old Tree Lane, Hwy 19, Ion Road and Baseline Road. The boom portion of the crane will be transported by truck.

The alternative crane path crosses one jurisdictional stream outside the site boundary. This stream was mapped by Montague and concurred by DSL in JD 2010-0084. The alternative crane path also crosses areas surveyed for wetlands by Baseline Wind and reported in JD 2011-00364. The crane crossing would span the ordinary high water boundary of the stream (about 4 feet wide) using steel plates and timber crane mats to avoid impacts on the stream bed or banks (Figure 2). At this location, stream channel has been modified for agricultural use and has the uniform shape of an excavated channel. No fill would be added the stream. The location of the stream crossing is N 45°29.4331', W120°7.4192'.

Montague concludes that the alternative route does not trigger the three "coulds" under OAR 345-027-0050(4) for a site certificate amendment because:

- Land and habitat types crossed by the proposed crane path are the same as within the site boundary (dry land wheat)
- Use is temporary and limited to single passes by two cranes.
- No excavation or grading is planned.
- The alternative crane path will reduce truck traffic on public roads.
- There are no sensitive resources or unique features that could be impacted in crane path area.
- The proposed modifications will not impair Montague's ability to comply with previously approved Site Certificate conditions.

- The proposed modifications will not require new conditions, or changes to the text of the previously approved Site Certificate conditions.

The alternative crane path is shown on figure 1. Table 1 demonstrates that the proposed temporary crane path does not trigger an amendment under OAR 345-027-0050(4)(a) because it does not result in new impacts to protected resources that have not previously been evaluated and addressed by the Council. In addition, Table 1 provides confirmation that the proposed crane path does not impair Montague's ability to comply with previously approved Site Certificate conditions and no new conditions or changes to existing conditions are required as a result of the proposed crane path. Therefore, the proposed crane path does not trigger an amendment under OAR 345-027-0050(4)(b) or (c).

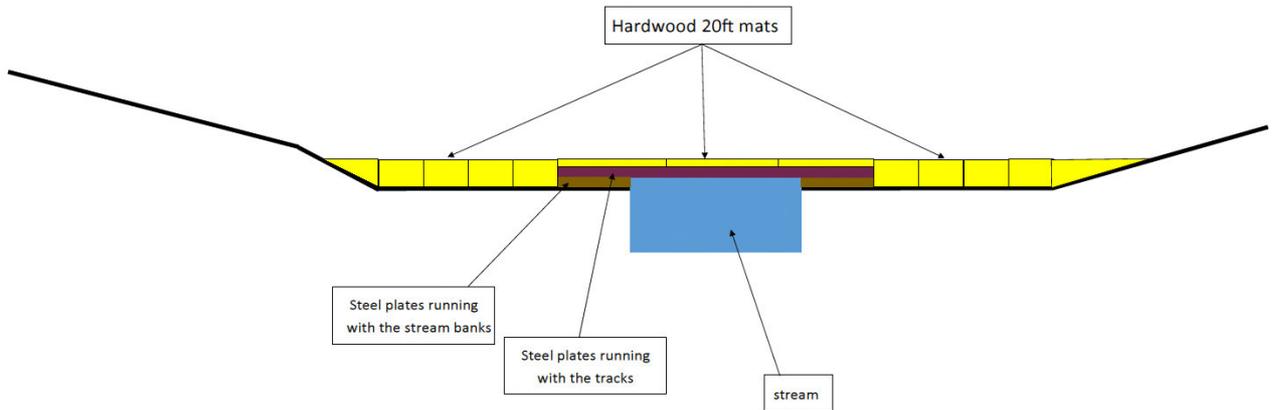
**Figure 1.** Alternative crane path from turbine I-6 to F-3 outside the site boundary (orange dashed line)



Figure 2. Stream crossing location (left) and typical crane mats (right)



Figure 3. Temporary bridge



**Table 1.** Assessment of Crane Path Compliance with Applicable Standards

Oregon Administrative Rule	Standard	Assessment of Compliance with Standard	Assessment of the Three "Could's" under OAR 345-027-0050(4)
OAR 345-022-0010	Organizational Expertise	This standard is not applicable to the crane path modification.	Not applicable
OAR 345-022-0020	Structural Standard	This standard is not applicable to the crane path modification. There is no change to any of the facilities structures.	Not applicable
OAR 345-022-0022	Soil Protection	<p>The Council previously found that the Facility complies with the Soil Protection Standard. The proposed modifications do not alter the basis for the Council's earlier findings.</p> <p>Soil types crossed by the crane path include Ritzville silt loam, 2-7 percent slopes (32B), Ritzville silt loam, 7-12 percent slopes (32C), Willis silt loam, 5 to 12 percent slopes (56C), and Mikkalo silt loam, 7 to 12 percent slopes (17C).</p> <p>Potential impacts from erosion will be minimal and are addressed by the Facility's Erosion and Sediment Control Plan.</p> <p>No new road will be built. The path will be decompacted and reseeded in accordance with the landowner agreement so that the area will remain viable for agricultural purposes.</p>	The crane path modification will not result in significant adverse impact, will not impair ability to comply with conditions of the Site Certificate, will not require new condition or change to existing condition of the Site Certificate.
OAR 345-022-0030	Land Use	This standard is not applicable to the crane path modification. There is no change in land use as a result of the modification.	Not applicable
OAR 345-022-0040	Protected Areas	This standard is not applicable to the crane path modification as action is temporary (two days) and does not affect a protect area.	Not applicable
OAR 345-022-0050	Retirement and Financial Assurance	This standard is not applicable to the crane path modification. There are no proposed changes to the bond amount resulting from the crane path modification.	Not applicable

Oregon Administrative Rule	Standard	Assessment of Compliance with Standard	Assessment of the Three "Could's" under OAR 345-027-0050(4)
OAR 345-022-0060	Fish and Wildlife Habitat	The majority of the crane path would cross dryland wheat farmland (Category 6 habitat) A portion of the crane path would cross two ephemeral drainages that will be crossed using crane mats.	The crane path modification will not result in significant adverse impact, will not impair ability to comply with conditions of the Site Certificate, will not require new condition or change to existing condition of the Site Certificate.
OAR 345-022-0070	Threatened and Endangered Species	The site boundary, including the majority of the crane path, was surveyed for rare plants and Washington ground squirrel, which are the only threatened or endangered species suspected within the vicinity of the facility. No rare plants or Washington ground squirrel burrows were observed within the area of the crane path that was surveyed. The area that was not surveyed is cultivated wheat and is not suitable for threatened or endangered species	The crane path modification will not result in significant adverse impact, will not impair ability to comply with conditions of the Site Certificate, will not require new condition or change to existing condition of the Site Certificate.
OAR 345-022-0080	Scenic Resources	This standard is not applicable to the crane path modification. The crane movement would not result in a change to scenic resources, all impacts would be temporary.	Not applicable
OAR 345-022-0090	Historic, Cultural and Archaeological Resources	A pedestrian cultural resources field investigation was conducted for Phase 2, including the majority of the crane path and no known resources were found. Potential impacts to portions of the path that have not been surveyed are highly unlikely as no excavations will be made, and ground disturbance will be similar to plowing used for wheat farming.	The crane path modification will not result in significant adverse impact, will not impair ability to comply with conditions of the Site Certificate, will not require new condition or change to existing condition of the Site Certificate.
OAR 345-022-0100	Recreation	This standard is not applicable to the crane path modification. The crane path is on private farmland without any public recreational resources.	Not applicable
OAR 345-022-0110	Public Services	This standard is not applicable to the crane path modification. The crane path would not impact any public facilities.	Not applicable
OAR 345-022-0120	Waste Minimization	This standard is not applicable to the crane path modification. The crane path would not change the facility's waste management.	Not applicable
OAR 345-024-0010	Public Health and Safety Standards for Wind Energy Facilities	This standard is not applicable to the crane path modification. The crane path would not result in new above or belowground facilities and all impacts would be temporary.	Not applicable

Oregon Administrative Rule	Standard	Assessment of Compliance with Standard	Assessment of the Three "Could's" under OAR 345-027-0050(4)
OAR 345-024-0015	Cumulative Effects Standard for Wind Energy Facilities	The crane path will lessen Montague's use of public roads. Installation of underground transmission lines, or additional substations are not needed. The crane path would not impact raptors and other wildlife, and there will be no change to the visual impact analysis previously conducted. No additional lighting would be needed for the crane path.	Not applicable
OAR 345-024-0090	Siting Standards for Transmission Lines	This standard is not applicable to the crane path modification. The crane path does not include new transmission lines.	Not applicable