

Montague Wind Power Facility: Draft Proposed Order on Request for Amendment 5 of Site Certificate

To: Oregon Energy Facility Siting Council
From: Sarah Esterson, Senior Siting Analyst
Date: June 26, 2020
Re: Draft Proposed Order on Request for Amendment 5

Certificate Holder: Montague Wind Power Facility, LLC, a wholly owned subsidiary of Avangrid Renewables, LLC

Facility Description: Montague Wind Power Facility is an approved 404 megawatt (MW) wind and solar energy generation facility, to be developed in two phases; Phase 1 (actual) includes 201 MW of wind energy generation equipment consisting of 56 wind turbines and related or supporting facilities and commenced commercial operation in October 2019. Phase 2 (approved) includes 203 MW of wind and solar energy generation equipment consisting of up to 81 wind turbines, up to 1,189 acres of solar photovoltaic energy generation components, and related or supporting facilities. Construction of Phase 2 must commence by August 30, 2022.

Proposed Facility Modifications: Amend the Montague Wind Power Facility site certificate to include only Phase 1 facility components (as described above – 201 MW, 56 wind turbines); split Phase 2 facility components (as described above) into two new site certificates, based entirely on Montague Wind Power Facility site certificate, for facilities named Montague Solar Facility (162 MW of solar photovoltaic energy generation components on up to 1,496 acres, and 100 MW of battery storage) and Oregon Trail Solar Facility (41 MW of wind and solar components, including up to 16 wind turbines, up to 1,228 acres of solar photovoltaic energy generation equipment, and 100 MW of battery storage). Share operation and ownership of related or supporting facilities (Montague Wind collector substation and Operations and Maintenance building, 230 kilovolt (kV) transmission line, 100 MW battery storage, laydown areas and access roads). Propose new certificate holders for Montague Solar Facility and Oregon Trail Solar Facility - Montague Solar, LLC and Oregon Trail Solar, LLC, respectively, owned by the existing certificate holder owner, Avangrid Renewables, LLC. Increase the amount of agricultural land occupied by solar photovoltaic energy generation equipment (solar micro-siting area) – including addition of 307 acres for Montague Solar Facility (from 1,189 to 1,496 acres) and 1,228 acres for Oregon Trail Solar Facility; take a “reasons” exception to the statewide policy embodied in Goal 3, Agricultural Lands. Reduce site boundary area from 47,056 to 42,946 acres; construct and operate a new switching station; construct and operate alternate 230 kV transmission line segment route; and, amend and remove site certificate conditions.

Location of Facility Modifications: Gilliam County

Staff Recommendation: Approval of Request for Amendment 5

Summary

To issue an amended site certificate, the Energy Facility Siting Council (EFSC or the Council) must find that a request for amendment to the site certificate demonstrates that the facility, with proposed changes, satisfies, or with conditions can satisfy, each of the applicable EFSC Siting Standards set forth in Oregon Administrative Rule (OAR) OAR 345 Divisions 22 through 24 as well as all other Oregon statutes and administrative rules applicable to the changes proposed in Request for Amendment 5 of the Montague Wind Power Facility Site Certificate (RFA5, amendment request, or proposed RFA5 modifications).

As staff to EFSC, the Oregon Department of Energy (ODOE or the Department) reviewed RFA5, in coordination with specifically identified local and state agencies. Based upon its review of the amendment request, the Department recommends the Council issue an amended site certificate for the Montague Wind Power Facility and two new site certificates for the Montague Solar and Oregon Trail Solar Facilities – based entirely on the Montague Wind Power Facility site certificate (September 2019), unless otherwise evaluated in this order. The draft proposed order contains the Department's analysis of the amendment request and includes recommended new and amended site certificate conditions. The analysis and recommendations contained in this draft proposed order are not a final determination.

A public comment period is now open on the draft proposed order and complete amendment request. The comment deadline for written comments to be received by the Department is Thursday, July 23, 2020 by the close of the record of the public hearing. In addition, the Council will hold a public hearing on RFA5 and the Department's Draft Proposed Order on RFA5, with opportunities for remote and in-person participation, on July 23, 2020 at 5:30 p.m. at the Veteran's Memorial Hall at 120 S. Main Street in Condon, Oregon. Please note, interested persons must raise issues on the record of the public hearing, either orally at the public hearing or in writing during the comment period, to preserve their right to participate further in the process. Written or oral comments must be received by the Department prior to the conclusion of the public hearing on July 23, 2020. Section II.B, *Amendment Review Process*, of the draft proposed order contains additional information regarding the site certificate amendment review process. The public notice announcing the release of this draft proposed order contains additional information regarding the comment period and public hearing including the weblink and phone number to use for the July 23, 2020 public hearing.

**BEFORE THE
ENERGY FACILITY SITING COUNCIL
OF THE STATE OF OREGON**

In the Matter of Request for Amendment 5 for the
Montague Wind Power Facility

)
) DRAFT PROPOSED ORDER ON
) REQUEST FOR AMENDMENT 5 TO
) THE SITE CERTIFICATE

June 26, 2020

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Draft Amended Montague Wind Facility Site Certificate

Draft Montague Solar Facility Site Certificate

Draft Oregon Trail Solar Facility Site Certificate

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Draft Amended Montague Wind Facility Habitat Mitigation Plan

Draft Montague Solar Facility Habitat Mitigation Plan

Draft Oregon Trail Solar Facility Habitat Mitigation Plan

Attachment E Draft Amended Revegetation Plans

Draft Amended Montague Wind Facility Revegetation Plan

Draft Montague Solar Facility Revegetation Plan

Draft Oregon Trail Solar Facility Revegetation Plan

Attachment F Draft Weed Control Plans

Draft Amended Montague Wind Facility Weed Control Plan

Draft Montague Solar Facility Weed Control Plan

Draft Oregon Trail Solar Facility Weed Control Plan

Attachment G Draft Amended Wildlife Monitoring and Mitigation Plans

Draft Amended Montague Wind Facility Wildlife Monitoring and Mitigation Plan

Draft Montague Solar Facility Wildlife Monitoring and Mitigation Plan

Draft Oregon Trail Solar Facility Wildlife Monitoring and Mitigation Plan

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Draft Amended Montague Solar Facility Historic Properties Management Plan

I. INTRODUCTION

The Oregon Department of Energy (Department or ODOE) issues this draft proposed order, in accordance with Oregon Revised Statute (ORS) 469.405(1) and Oregon Administrative Rule (OAR) 345-027-0367, based on its review of Request for Amendment 5 (amendment request or RFA5) to the Montague Wind Power Facility site certificate, as well as comments and recommendations received by specific state agencies and local governments during review of the preliminary amendment request. The certificate holder is Montague Wind Power Facility, LLC (hereinafter referred to as certificate holder), a wholly owned subsidiary of Avangrid Renewables, LLC.

The certificate holder requests that Energy Facility Siting Council (EFSC or Council) approve changes to the site certificate to:

- Amend the Montague Wind Power Facility site certificate to cover Phase 1 facility components (201 MW, 56 wind turbines with maximum blade tip height of 492 feet) within reduced site boundary (47,056 to 29,607 acres)
- Allocate previously approved Phase 2 facility components into two new site certificates, based entirely on the approved Montague Wind Power Facility site certificate, to be owned and operated by new limited liability companies (LLC) owned by current certificate holder owner, Avangrid Renewables LLC. The amendment request seeks approval to use or occupy more area for the layout of previously approved solar photovoltaic energy generation equipment (increase maximum footprint from 1,189 to 2,725 acres).
 - Montague Solar Facility: to include 1,496 acre solar microsites area (1,189 acres previously approved, plus proposed addition of 307 acres) and 162 MW of previously approved solar photovoltaic energy generation equipment and related or supporting facilities, within 1,763 acre site boundary.
 - Oregon Trail Solar Facility: to include a proposed 1,228 acre solar microsites area and 41 MW of previously approved wind and solar facility components, including up to 16 wind turbines with maximum blade tip height of 597 feet or up to 1,228 acres of solar photovoltaic energy generation equipment, or any combination of wind and solar energy generation equipment not to exceed 41 MW, and related or supporting facilities, within a 13,866 acre site boundary. Proposed new related or supporting facilities include a 2-acre switching station comprised of circuit breakers, switches, and other auxiliary equipment to link the Oregon Trail Solar Facility to the Montague Solar collector substation
- Amend Council's previous goal exception taken for a 1,189 acre solar microsites area under the statewide policy embodied in Goal 3, Agricultural Lands, to cover the proposed expansion from 1,189 to 2,725 acres. The amended goal exception would then apply to solar microsites areas under the Montague Solar Facility (1,496 acres) and Oregon Trail Solar Facility (1,228 acres) site certificates.

- To be included in the amended and new site certificates:
 - Alternative 3.6 mile route segment for previously approved 230 kV transmission line
 - Removal of Condition 89(a) 200 foot setback for transmission lines to residential structures
 - Administratively amend/delete site certificate conditions based on allocation of Phase 1 and Phase 2 facility components into amended and new site certificates

In the amendment request, the certificate holder requests that Council apply the transfer process under OAR 345-027-0400 based on the change in certificate holder for the site certificates that would be issued for Montague Solar Facility and Oregon Trail Solar Facility. However, because the owner of the new certificate holders, or the owner of the entity to be in control or possession of the facility would remain Avangrid Renewables, LLC – the existing certificate holder owner - in accordance with the intent of the language under OAR 345-025-0006(15), the Department recommends Council find that changes in certificate holder, when the certificate holder is a sole purpose limited liability company reliant upon its parent company, and the parent company is the owner of the certificate holder, not to trigger the OAR 345-027-0400 transfer process.

Based upon review of this amendment request, in conjunction with comments and recommendations received by state agencies and local government entities, the Department recommends that the Council approve and grant a fifth amendment to the Montague Wind Power Facility site certificate subject to the existing and recommended new and amended conditions set forth in this draft proposed order. If approved, the amended site certificate would result in an amended site certificate for the Montague Wind Facility and original site certificates for the Montague Solar Facility and Oregon Trail Solar Facility, inclusive of all conditions previously imposed in the Montague Wind Power Facility site certificate, unless otherwise evaluated in this order.

I.A. Certificate Holder and Owner Information

Montague Wind Power Facility

The current certificate holder for the Montague Wind Power Facility site certificate is as follows:

Montague Wind Power Facility, LLC
1125 NW Couch Street, Suite 700
Portland, OR 97209

1 The current certificate holder owner (parent company) for the Montague Wind Power Facility
2 site certificate is as follows:

3
4 Avangrid Renewables, LLC
5 1125 NW Couch Street, Suite 700
6 Portland, OR 97209

7
8 *Montague Solar Facility*
9

10 The proposed certificate holder for the Montague Solar Facility site certificate is as follows:

11
12 Montague Solar, LLC
13 1125 NW Couch Street, Suite 700
14 Portland, OR 97209
15

16 The certificate holder owner (parent company) for the Montague Solar Facility site certificate is
17 as follows:

18
19 Avangrid Renewables, LLC,
20 1125 NW Couch Street, Suite 700
21 Portland, OR 97209
22

23 *Oregon Trail Solar Facility*
24

25 The proposed certificate holder for the Oregon Trail Solar Facility site certificate is as follows:

26
27 Oregon Trail Solar, LLC
28 1125 NW Couch Street, Suite 700
29 Portland, OR 97209
30

31 The certificate holder owner (parent company) for the Oregon Trail Solar Facility site certificate
32 is as follows:

33
34 Avangrid Renewables, LLC,
35 1125 NW Couch Street, Suite 700
36 Portland, OR 97209
37

38 **I.B. Operational and Approved Facility Components, Site Boundary and Micrositing Corridors**
39

40 The Montague Wind Power Facility is a wind and solar energy generation facility that includes
41 facility components currently in operation; and, facility components that were previously
42 approved but not yet been constructed. The facility was approved to be developed in two
43 phases, Phase 1 and Phase 2. Phase 1 commenced operation in October 2019 and includes 201

1 MW of wind energy generation components. Wind energy generation components and related
2 or supporting facilities include: 56 wind turbines with a maximum blade tip height of 499 feet;
3 an above- and belowground 34.5 kV electrical collection system; fiber optic communications
4 network; Supervisory, Control and Data Acquisition (SCADA) system; one collector substation
5 (Phase 1 collector substation); aboveground, approximately 10 mile single-circuit 230-kV
6 transmission line; four permanent meteorological towers; access roads; public roadway
7 modifications; and temporary laydown areas and crane paths.

8
9 Phase 2 is approved for up to 202 MW of wind and solar energy generation equipment,
10 including any combination of up to 81 wind turbines with a maximum blade tip height ranging
11 from 486 to 597 feet and solar photovoltaic equipment occupying up to 1,189 acres (solar
12 micrositing area). Related or supporting facilities include an above- and belowground electrical
13 collection system; SCADA System; one collector substation; an approximately 14-mile 230 kV
14 transmission line (includes the 10-mile 230 kV transmission line constructed as part of Phase 1);
15 up to 8 permanent meteorological towers; new, temporary and substantially modified access
16 roads; 100 MW of lithium-ion or flow battery storage system; and temporary laydown areas.

17
18 Within the solar micrositing area, solar photovoltaic energy generation equipment could
19 include up to 867,000 modules consisting of solar panels, trackers, racks, posts,
20 inverter/transformer units and above- and belowground cabling. Solar panels would be
21 supported by approximately 260,000 galvanized steel posts, which would be hydraulically
22 driven into the ground at a depth of 5 to 8 feet, with an approximately 4 to 5.5-foot
23 aboveground height. Solar panels would be designed with anti-reflective coating. Modules
24 would be placed on non-specular metal galvanized steel racks, with heights ranging from 4 to
25 15 feet at full tilt. To convert energy generated within the modules from alternating current (ac)
26 to direct current (dc), up to 102 inverter/transformer units would be installed. Solar
27 photovoltaic energy generation equipment would be contained by an approximately 8-foot
28 chain-link fence extending around the perimeter (approximately 6.9 miles). Access to solar
29 facility components would be provided via two new access points on the north side of
30 Bottemiller Lane.

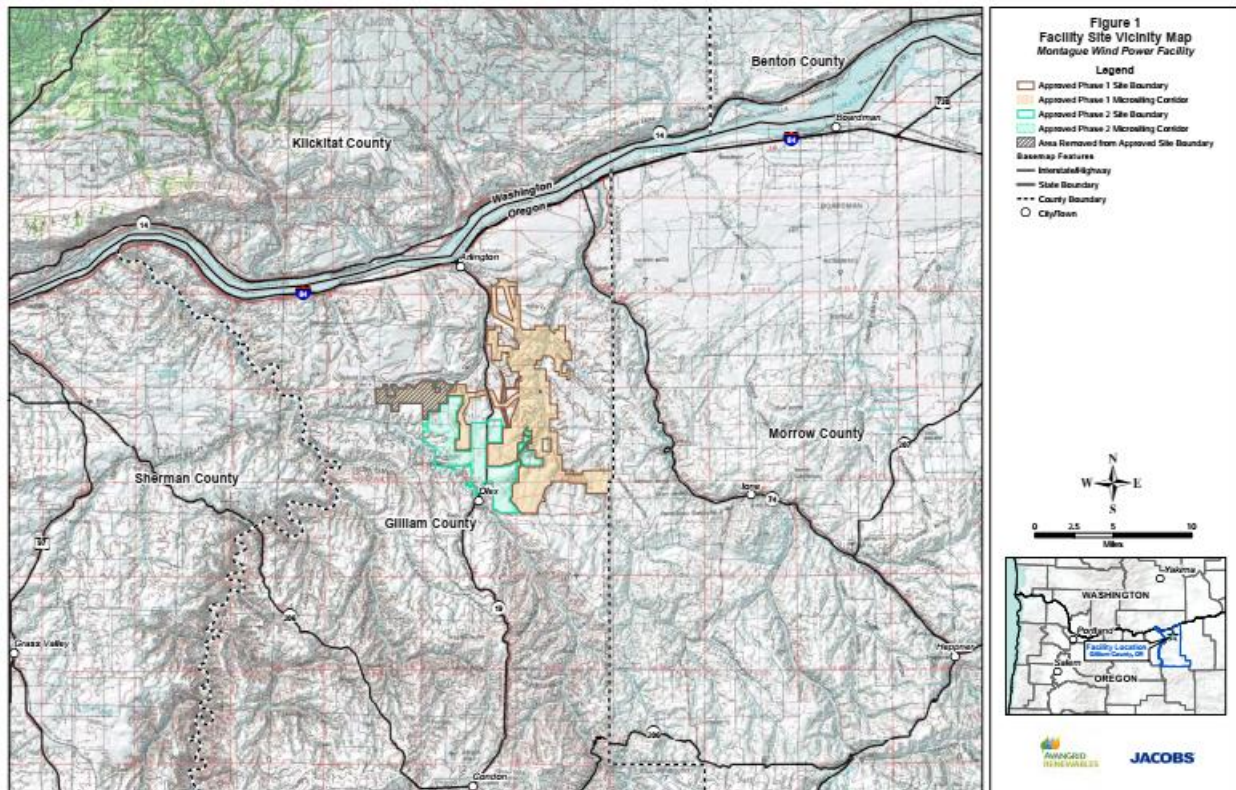
31
32 The battery storage approved for Phase 2 would occupy up to 6 acres and would include
33 batteries and racks or containers, inverters, isolation transformers, and switchboards, an
34 approximately 20-foot warehouse-type building, medium-voltage and low-voltage electrical
35 systems, fire suppression, heating, ventilation, and air-conditioning systems, building auxiliary
36 electrical systems, and network/SCADA systems. Battery storage would include a cooling
37 system (more advanced systems required for Li-ion), which may include a separate chiller plant
38 located outside the battery racks with chillers, pumps, and heat exchangers. High-voltage (HV)
39 equipment would include a step-up transformer, HV circuit breaker, HV current transformers
40 and voltage transformers, a packaged control building for the HV breaker and transformer
41 equipment, HV towers, structures, and HV cabling. The battery storage area would be enclosed
42 by approximately 2,140 feet of continuous chain-link perimeter fencing 8 feet in height, with
43 two 16-foot-wide gates and one pedestrian, 4-foot-wide gate.

I.C. Description of Approved Facility Site Location

Site Boundary

The site boundary, as approved, encompasses approximately 47,056 acres and includes the perimeter of the energy facility site and its related or supporting facilities, all temporary laydown and staging areas and all approved corridors.¹ The site boundary is located on private land south of the City of Arlington, within Gilliam County, Oregon. As presented in Figure 1: *Facility Regional Location and Approved Site Boundary*, the previously approved site boundary includes both Phase 1 and Phase 2, inclusive of all area shaded yellow/orange and blue (see figure legend).

Figure 1: Facility Regional Location and Approved Site Boundary



¹ Pursuant to OAR 345-001-0010(55), the term "site boundary" means the perimeter of the site of an energy facility and its related or supporting facilities, all temporary laydown and staging areas and all corridors proposed by the applicant. The term "energy facility site" means all land upon which an energy facility is located or proposed to be located. The term "energy facility" means only the electric power generating plant while the term "facility," as defined in ORS 469.300 (14) means the energy facility together with any related or supporting facilities.

1 *Micrositing Corridor*

2
3 Micrositing corridor means a continuous area of land within which construction of facility
4 components may occur subject to site specific conditions.² Council authorizes micrositing
5 corridors for energy facilities when a certificate holder has adequately studied the entire
6 corridor and demonstrated compliance with Council standards based on impacts of facility
7 components anywhere within the corridor.

8
9 For this facility, based on the extent of the certificate holder's analysis, as provided on the
10 record of siting proceedings on the Final Order on the ASC through the Final Order on RFA4, the
11 Council approved two distinct micrositing corridors – one for solar facility components and one
12 for wind facility components. The approved micrositing corridor/area for wind facility
13 components is depicted by areas shaded in beige and blue; the approved micrositing corridor
14 for solar facility components is depicted by the area outlined in pink, as presented in Figure 2:
15 *Approved Micrositing and Transmission Line Corridors.*

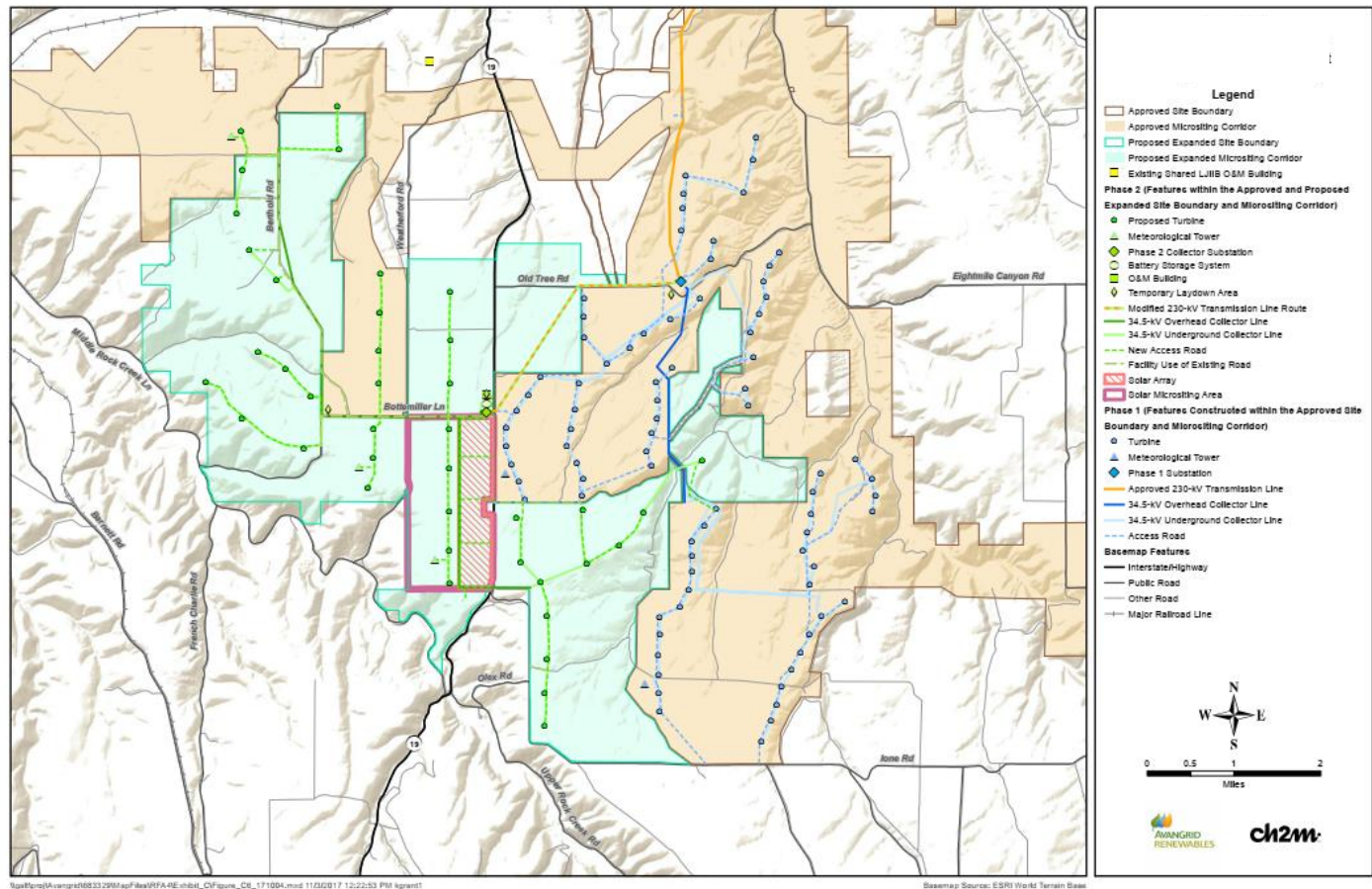
16
17 *Transmission Line Corridor*

18
19 The facility includes a 14 mile 230 kV transmission line corridor, extending from the Phase 2
20 collector substation to the Phase 1 collector substations, and then from the Phase 1 collector
21 substation to Bonneville Power Administration's Slatt Substation, for interconnection to the
22 electric grid. The approved transmission line corridor, as specified in Condition 18 pursuant to
23 OAR 345-025-0010(5), is ½-mile in width and extends approximately 14 miles in length, as
24 presented by the yellow/orange line in Figure 2: *Approved Micrositing and Transmission Line*
25 *Corridors.*

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40

2 OAR 345-001-0010(32)

1 **Figure 2: Approved Micrositing and Transmission Line Corridors**



2 I.D. Site Certificate Procedural History

3 The Council issued the *Final Order on the Application for Site Certificate for the Montague Wind*
 4 *Power Facility (Final Order on the Application)* on September 10, 2010, authorizing construction
 5 and operation of a 404 MW wind energy generation facility, with up to 269 wind turbines and
 6 related or supporting facilities. On December 28, 2012, the certificate holder submitted to the
 7 Department its Request for Amendment 1 (RFA1), seeking approval to extend the construction
 8 commencement and completion deadlines by two years, lower the minimum aboveground
 9 blade-tip clearance for wind turbines, and transfer of the site certificate.³ The Council issued a
 10 *Final Order on Amendment 1 of the Site Certificate* on June 21, 2013, approving the requested
 11 changes.
 12
 13
 14

³ Transfer of the site certificate to Portland General Electric was not completed and Montague Wind Power Facility LLC remains the site certificate holder.

On March 11, 2015, the certificate holder submitted to the Department its Request for Amendment 2 (RFA2), seeking approval to extend the construction commencement and completion deadlines by two years. The Council issued a *Final Order on Amendment 2 of the Site Certificate* on December 4, 2015, approving the requested changes. On May 4, 2017, the certificate holder submitted to the Department its Request for Amendment 3 (RFA3), seeking approval to lower the minimum aboveground blade-tip clearance. The Council issued a *Final Order on Amendment 3 of the Site Certificate* on July 12, 2017, approving the requested change.

On April 5, 2019, the certificate holder filed a complete Request for Amendment 4 (RFA4), seeking approval to amend the site boundary and micrositing corridor; construct and operate battery storage and use or occupy up to 1,189 acres of agricultural-zoned lands for solar photovoltaic equipment; and, change wind turbine layout and maximum dimension specifications. The Council issued a *Final Order on Amendment 4 of the Site Certificate* on September 6, 2019, approving the requested change.

II. AMENDMENT PROCESS

II.A. Requested Amendment

Montague Wind Power Facility Site Certificate – Facility and Site Boundary Description

The amendment request seeks Council approval to amend the Montague Wind Power Facility site certificate, based entirely on the fourth amended site certificate (September 2019), to apply only to Phase 1 facility components currently in operation, within a redefined site boundary encompassing approximately 29,607 acres. For the Montague Wind Power Facility site certificate, the site boundary and micrositing corridor are the same.

The Montague Wind Power Facility site certificate would apply to the existing, operational 201 MW wind-energy generation facility including 56 wind turbines; an above- and belowground 34.5 kV electrical collection system; fiber optic communications network; SCADA system; one collector substation (renamed from Phase 1 collector substation to Montague Wind collector substation); aboveground, approximately 10 mile single-circuit 230-kV transmission line; four permanent meteorological towers; access roads; public roadway modifications; and temporary laydown areas and crane paths.

Related or supporting facilities to be shared under Montague Wind Power, Montague Solar, and Oregon Trail Solar Facility site certificates include the existing, operational Montague Wind collector substation and the approximately 10-mile segment of 230 kV transmission line extending from the Montague Wind collector substation to BPA's Slatt Substation.

The current Montague Wind Power Facility site certificate holder would be maintained as Montague Wind Power Facility, LLC, a wholly owned subsidiary of Avangrid Renewables, LLC.

New Site Certificates - Facility and Site Boundary Descriptions

The amendment request seeks Council approval to further amend the Montague Wind Power Facility site certificate, based on the fourth amended site certificate (September 2019), by allocating facility components approved in the Council's September 2019 Final Order on RFA4 (Phase 2) into two new site certificates, for facilities named Montague Solar Facility and Oregon Trail Solar Facility.

Montague Solar Facility

The Montague Solar Facility site certificate would include 162 MW of previously approved solar photovoltaic energy generation equipment within previously approved site boundary (1,763 acres) and solar microsite area (1,189 acres). The amendment requests seeks approval to expand the previously approved solar microsite area by 307 acres, from 1,189 to 1,496 acres, to allow additional flexibility in layout of previously approved solar facility components. Related or supporting facilities would include previously approved: above- and belowground 34.5 kV electrical collection system; fiber optic communications network; SCADA system; two collector substations (renamed from Phase 1 collector substation to Montague Wind collector substation and Phase 2 collector substation to Montague Solar collector substation); approximately 14 miles of aboveground single-circuit 230-kV transmission line; an O&M building (renamed from Phase 1 O&M to Montague Solar O&M building); 100 MW of battery storage, access roads; public roadway modifications; and temporary laydown areas and crane paths.

Previously approved related or supporting facilities to be shared under Montague Wind Power, Montague Solar, and Oregon Trail Solar Facility site certificates include the Montague Wind collector substation and the approximately 10-mile segment of 230 kV transmission line extending from the Montague Solar collector substation, to the Montague Wind collector substation, and then to BPA's Slatt Substation. Previously approved related or supporting facilities to be shared under the Montague Solar and Oregon Trail Solar Facility site certificates include the Montague Solar collector substation, additional 3.6 miles of 230 kV transmission line, 100 MW of battery storage, access roads and temporary laydown areas and crane paths.

In RFA5, the certificate holder identifies that the Montague Solar Facility would be owned and operated by a new LLC - Montague Solar, LLC – which is a wholly owned subsidiary of Avangrid Renewables, LLC, the current certificate holder owner.

Oregon Trail Solar Facility

The Oregon Trail Solar Facility site certificate would include any combination of previously approved wind and solar facility components not to exceed 41 MW, within previously approved site boundary area (13,866 acres) and 12,638 acre wind microsite corridor. In the amendment request, the certificate holder seeks approval for use of a new 1,228 acre solar microsite area within previously approved site boundary area. The facility would include up to 16 wind

turbines with a maximum blade tip height of 597 feet or solar photovoltaic energy generation equipment occupying up to 1,228 acres, or any combination of wind and solar generation equipment not to exceed 41 MW; an above- and belowground 34.5 kV electrical collection system; fiber optic communications network; SCADA system; two collector substations (renamed from Phase 1 collector substation to Montague Wind collector substation and Phase 2 collector substation to Montague Solar collector substation); approximately 14 miles of aboveground single-circuit 230-kV transmission line; an O&M building (renamed from Phase 1 O&M to Montague Solar O&M building); 100 MW of battery storage; access roads; public roadway modifications; and temporary laydown areas and crane paths.

Previously approved related or supporting facilities to be shared under Montague Wind Power, Montague Solar, and Oregon Trail Solar Facility site certificates include the Montague Wind collector substation and the approximately 10-mile segment of 230 kV transmission line extending from the Montague Wind collector substation to BPA's Slatt Substation. Related or supporting facilities to be shared under the Montague Solar and Oregon Trail Solar Facility site certificates include the Montague Solar collector substation, additional 3.6 miles of 230 kV transmission line, 100 MW of battery storage, access roads and temporary laydown areas and crane paths.

New related or supporting facilities proposed in RFA5 include a switching station that would connect the Oregon Trail Solar Facility to the Montague Solar collector substation via a previously approved overhead 34.5 kV collector line along Bottemiller Lane. The proposed switching station would include circuit-breakers, switches and other auxiliary equipment, and be located within a 2-acre graveled, fenced area.

In RFA5, the certificate holder identifies that the Oregon Trail Solar Facility would be owned and operated by a new LLC - Oregon Trail Solar, LLC, a wholly owned subsidiary of Avangrid Renewables, LLC, the current certificate holder owner.

Proposed 230 kV Transmission Line Alternative Route Segment

The certificate holder seeks Council approval for use of an alternate 230 kV transmission line route segment – for the segment that connects the two collector substations. The previously approved route exits east out of the Montague Solar 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 Montague Wind collector substation, and then extends north to BPA's Slatt Substation. The proposed alternate route segment would exit east out of the Montague Solar collector substation to a 90-degree turning structure just east of OR 19. From there, it would extend straight north along OR 19 (outside of the road right-of-way) until it reaches the corner of Old Tree Road where it would turn east towards the Montague Wind collector substation. The approved and proposed alternative segment route are presented in Figure 3: *Proposed Site Boundary, Solar Micrositing Area and Alternate 230 kV Transmission Line Segment Route* below.

1 *Proposed Changes to Site Boundary and Solar Micrositing Corridor*

2
3 The certificate holder seeks Council approval to reduce previously approved site boundary area
4 for the Montague Wind Power Facility site certificate from 47,056 to 42,946 acres and redefine
5 site boundaries within previously approved site boundary area for the amended and new site
6 certificates. For the amended Montague Wind Power Facility site certificate, the site boundary
7 would encompass 29,607 acres; for the new site certificates, Montague Solar Facility site
8 boundary would encompass 1,763 acres, and Oregon Trail Solar Facility site boundary would
9 encompass 13,866 acres.

10
11 The certificate holder seeks Council approval to expand the previously approved solar
12 micrositing area for the Montague Wind Power Facility site certificate from 1,189 to 2,725 acres
13 and redefine solar micrositing areas for the amended and new site certificates. For the
14 amended Montague Wind Power Facility site certificate, the solar micrositing area would be
15 removed as the facility would only include wind components. For the new site certificates, the
16 Montague Solar Facility solar micrositing area would include 1,496 acres (1,189 acres previously
17 approved and proposed addition of 307 acres). The additional 307 acres is located directly
18 north of Bottemiller Land and the existing solar micrositing area. The certificate holder
19 represents that the solar micrositing area expansion would allow solar energy capture
20 optimization and provide additional flexibility in the layout of previously approved solar facility
21 components. In other words, the certificate holder requests approval to use or occupy more
22 area (acres) without increasing or changing the type or number of solar facility components
23 approved in the Final Order on RFA4 (see Section I.B. *Operational and Approved Facility*
24 *Components* of this order).

25
26 In RFA5, the certificate holder seeks approval of an additional 1,228 acre solar micrositing area
27 for the Oregon Trail Solar facility, within the previously approved site boundary, located directly
28 west of Weatherford Road and the existing solar micrositing area.

29
30 *Exception Request for Goal 3, Agricultural Lands*

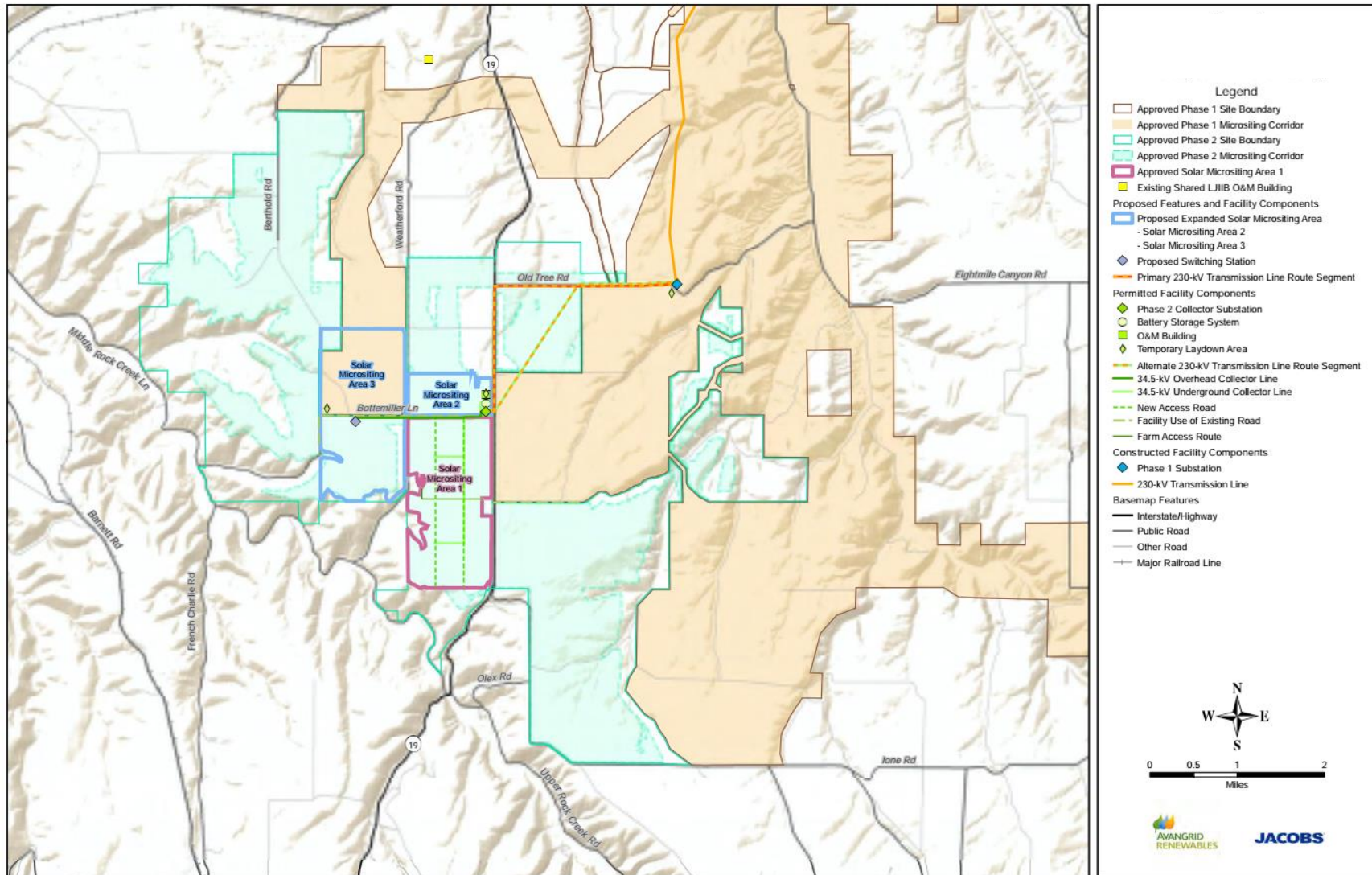
31
32 The certificate holder requests Council approval to amend the Council's previous exception
33 taken for the statewide policy embodied in Goal 3, *Agricultural Lands*, based on the use,
34 occupation or cover of more than 12 acres of high-value farmland and more than 20 acres of
35 arable land from agricultural use through the expansion of the solar micrositing areas and
36 potential siting of solar photovoltaic energy generation equipment under the Montague Solar
37 Facility and Oregon Trail Solar Facility site certificates (non-compliance with GCZO Section
38 4.020(D)(11), and OAR 660-033-0130(38)(g) and (i).

39
40 *Site Certificate Condition Deletions and Amendments*

41
42 OAR 345-027-0060(1)(d) requires that the certificate holder identify the specific language of the
43 site certificate, including affected conditions, that the certificate holder proposes to change,

1 add, or delete through the amendment process. The certificate holder seeks approval to
2 administratively amend several conditions imposed in the Montague Wind Power Facility to
3 align with the allocation of facility components across the amended and new site certificates.
4 The certificate holder requests to substantively amend Condition 89(a) to remove a 200 foot
5 setback for transmission lines to residential structures (site certificate Condition 89(a)). The
6 draft amended and new site certificates, as presented in Attachment 1 of this order, are based
7 entirely on the Council's August 2019 Fourth Amended Site Certificate, unless otherwise
8 evaluated in this order.

1 **Figure 3: Proposed Site Boundaries, Solar Micrositing Areas and Alternate 230 kV Transmission Line Segment Route**



2

II.B. Amendment Review Process

Council rules describe the processes for transfers, Type A, Type B, and Type C review of a request for amendment at OAR 345-027-0351. The Type A review is the standard or “default” site certificate amendment process for changes that require an amendment. Type C review process is associated with construction-related changes. The key procedural difference between the Type A and Type B review is that Type A review includes a public hearing on the draft proposed order and an opportunity to request a contested case proceeding. The primary timing differences between Type A and Type B review are in the maximum allowed timelines for the Department’s determination of completeness of the preliminary request for amendment, as well as the issuance of the draft proposed order, and proposed order. It is important to note that Council rules authorize the Department to adjust the timelines for these specific procedural requirements, if necessary.

On April 27, 2020, the certificate holder submitted a Type B review amendment determination request (Type B Review ADR) for Request for Amendment 5 (RFA5) with the preliminary RFA5, requesting the Department’s review and determination of whether, based on evaluation of the OAR 345-027-0357(8) factors and pRFA5, the amendment request could be reviewed under the Type A review process. Pursuant to OAR 345-027-0357(6), on May 19, 2020, the Department issued a written determination to the certificate holder stating that Type A review be maintained for the modifications proposed in pRFA5.

OAR 345-027-0357(7) allows that, at the request of the certificate holder, the Department’s determination must be referred to the Council for concurrence, modification, or rejection, which, in this instance, was not exercised.

Reviewing Agency Comments on preliminary Request for Amendment 5

The Department consulted with or received comments on RFA5 from the following reviewing agencies and Special Advisory Group:

- Oregon Department of Fish and Wildlife
- Oregon Department of Land Conservation and Development
- Oregon Department of Aviation
- Gilliam County (Special Advisory Group)

Comments from these agencies and local governments are incorporated into the Department’s analysis of Council standards below, as applicable, and provided in Attachment B of this order.

For reference, a special advisory group is defined as “the governing body of any local government within whose jurisdiction the facility is proposed to be located.”⁴ On November 20,

⁴ ORS 469.480

1 2010, EFSC designated the Gilliam County Board of Commissioners as the Special Advisory
2 Groups (SAG) for the facility.

3
4 The certificate holder submitted a complete RFA5 on May 29, 2020. On June 26, 2020 the
5 Department posted the complete RFA5 and an announcement on its website informing the
6 public that the complete RFA5 had been received and was available.

7 8 **II.C. Council Review Process**

9
10 On June 26, 2020, the Department issued the draft proposed order, and a notice of comment
11 period on RFA5 and the draft proposed order (notice). The notice was distributed to all persons
12 on the Council's general mailing list, to the special mailing list established for the facility, to an
13 updated list of property owners supplied by the certificate holder, and to a list of reviewing
14 agencies as defined in OAR 345-001-0010(52).

15
16 The comment period extends 27-days, and will conclude at the close of the public hearing
17 scheduled to occur on July 23, 2020 at the Veteran's Memorial Hall in Condon, Oregon. In
18 addition to accepting written comments during the comment period, the Council will also
19 accept oral testimony at the public hearing.⁵

20
21 To raise an issue on the record of the draft proposed order, a person must raise the issue in a
22 written comment submitted after the date of the notice of the draft proposed order received
23 by the Department before the written comment deadline. The Council will not accept or
24 consider public comments on the RFA5 or on the draft proposed order after the written
25 comment deadline, listed above, that closes the record on the draft proposed order. Only those
26 persons, including the site certificate holder, who provided written comment by the written
27 comment deadline may seek judicial review as provided in ORS 469.403 and issues eligible for
28 judicial review are limited to the issues raised in that person's written comments.

29
30 After the Council considers all comments received before the comment deadline for the draft
31 proposed order, but not more than 21 days after the comment deadline, the Department will
32 issue a proposed order, taking into consideration Council comments, any comments received
33 "on the record of the public hearing" (i.e., oral testimony provided at the public hearing and
34 written comments received by the Department after the date of the notice of the public
35 hearing and before the close of the public hearing comment period), including any comments
36 from reviewing agencies, special advisory groups, Tribal Governments and the certificate
37 holder. Concurrent with the issuance of the proposed order, the Department will issue a Notice
38 of Opportunity to Request a Contested Case and a public notice of the proposed order.⁶
39

⁵ OAR 345-027-0067(6).

⁶ See OAR 345-027-0371

1 Only those persons who comment in person or in writing on the record of the public hearing
2 may request a contested case proceeding on their issues raised, unless the Department did not
3 follow the requirements of OAR 345-027-0367, or unless the action recommended in the
4 proposed order differs materially from the draft proposed order, including any recommended
5 conditions of approval, in which case the person may raise only new issues within the
6 jurisdiction of the Council that are related to such differences. If the Council finds that a request
7 for contested case identifies one or more properly raised issues that justify a contested case
8 proceeding, the Council shall conduct a contested case proceeding on the proposed order.
9

10 All rules and supporting evidence that a person may wish to cite or include in a request for a
11 contested case proceeding must be included in comments provided on the record of the draft
12 proposed order public hearing. See OAR 345-027-0367(3)(G) "The Council will not accept or
13 consider any further public comment on the request for amendment or on the draft proposed
14 order after the close of the public hearing." Additionally, to raise an issue in a contested case
15 proceeding, the issue must be within Council jurisdiction, and the person must have raised the
16 issue on the record of the public hearing with "sufficient specificity to afford the Council, the
17 Department, and the certificate holder an adequate opportunity to respond to the issue."⁷
18

19 To raise an issue with sufficient specificity, a person must have presented facts, on the record
20 of the public hearing, that support the person's position on the issue. The purpose of OAR 345-
21 027-0367 is to ensure that the public provides the Department and Council all comments,
22 including any documents or statutory or regulatory citations, that the public believes are
23 relevant to the site certificate analysis conducted by the Department and Council at a point in
24 the process where the Department, Council and certificate holder have "an adequate
25 opportunity to respond to the issue"(as stated in OAR 345-027-0367(5)(b)) – *i.e.*, at a point
26 when the Department can address any relevant issues raised by those comments in the
27 proposed order. Allowing a person requesting a contested case to submit new or additional
28 documents, information or regulatory citations that might have influenced the Council's
29 comments regarding a draft proposed order and the Department's preparation of a proposed
30 order undermines that goal.
31

32 It is not the Department or Council's position that all information that would be submitted *in* a
33 contested case proceeding be submitted in comments provided on the record of the draft
34 proposed order. It is not the Department's intent, nor does the Department have the authority,
35 to limit the level, type and amount of information that may be submitted in a contested case
36 proceeding, if requested and granted by Council on a site certificate amendment. A contested
37 case proceeding is an evidentiary process overseen by an independent hearing officer, whom
38 has the discretion to allow the introduction of new evidence into the record for the purpose of
39 evaluating contested case issues.
40

⁷ OAR 345-027-0371(5)

Following a contested case proceeding, if requested and granted; or if no contested case is requested or if requested but not granted, the Council shall adopt, modify, or reject the proposed order and will issue a final order approving or denying the site certificate amendment based upon the applicable laws and Council standards required under OAR 345-027-0375(2) and in effect on the dates described in OAR 345-027-0375(3). The Council's final order approving or rejecting an amended site certificate is subject to judicial review by the Oregon Supreme Court. A petition for judicial review must be filed with the Supreme Court within 60 days after the date of service of the Council's final order or within 30 days after the date of a petition for rehearing is denied or deemed denied.⁸

II.D. Applicable Division 27 Rule Requirements

A site certificate amendment is necessary under OAR 345-027-0350(4) because the certificate holder requests to design, construct, and operate the facility in a manner different from the description in the site certificate, and the proposed changes: (1) could result in a significant adverse impact to a resource or interest protected by a Council standard that the Council has not addressed in an earlier order; (2) could impair the certificate holder's ability to comply with a site certificate condition; or (3) could require new conditions or modification to existing conditions in the site certificate, or could meet more than one of these criteria.

The Type A amendment review process (consisting of OARs 345-027-0359, -0360, -0363, -0365, -0367, -0371 and -0375) is the default amendment review process and shall apply to the Council's review of a request for amendment proposing a change described in OAR 345-027-0350(2), (3), and (4).⁹

III. REVIEW OF THE REQUESTED AMENDMENT

Under ORS 469.310, the Council is charged with ensuring that the "siting, construction and operation of energy facilities shall be accomplished in a manner consistent with protection of the public health and safety." ORS 469.401(2) further provides that the Council must include in the amended site certificate "conditions for the protection of the public health and safety, for the time for completion of construction, and to ensure compliance with the standards, statutes and rules described in ORS 469.501 and ORS 469.503."¹⁰ The Council implements this statutory framework by adopting findings of fact, conclusions of law, and conditions of approval concerning the amended facility's compliance with the Council's Standards for Siting Facilities at OAR 345, Divisions 22, 24, 26 and 27.

This draft proposed order includes the Department's initial analysis of whether the proposed changes meet each applicable Council Standard (with mitigation and subject to compliance with

⁸ ORS 469.403 and OAR 345-027-0371(12).

⁹ OAR 345-027-0351(2).

¹⁰ ORS 469.401(2).

existing, recommended new, and recommended amended conditions, as applicable), based on the information in the record. After the Council has reviewed the draft proposed order and considered all comments received on the record of the public hearing, the Department will issue its proposed order, which will include the Department's consideration of any oral comments made at the public hearing, written comments received before the close of the record of the public hearing, agency consultation, applicant responses to comments, and any Council comments.

III.A. Standards Potentially Impacted by Request for Amendment 5

III.A.1 General Standard of Review: OAR 345-022-0000

(1) To issue a site certificate for a proposed facility or to amend a site certificate, the Council shall determine that the preponderance of evidence on the record supports the following conclusions:

(a) The facility complies with the requirements of the Oregon Energy Facility Siting statutes, ORS 469.300 to ORS 469.570 and 469.590 to 469.619, and the standards adopted by the Council pursuant to ORS 469.501 or the overall public benefits of the facility outweigh the damage to the resources protected by the standards the facility does not meet as described in section (2);

(b) Except as provided in OAR 345-022-0030 for land use compliance and except for those statutes and rules for which the decision on compliance has been delegated by the federal government to a state agency other than the Council, the facility complies with all other Oregon statutes and administrative rules identified in the project order, as amended, as applicable to the issuance of a site certificate for the proposed facility. If the Council finds that applicable Oregon statutes and rules, other than those involving federally delegated programs, would impose conflicting requirements, the Council shall resolve the conflict consistent with the public interest. In resolving the conflict, the Council cannot waive any applicable state statute.

(4) In making determinations regarding compliance with statutes, rules and ordinances normally administered by other agencies or compliance with requirements of the Council statutes if other agencies have special expertise, the Department of Energy shall consult such other agencies during the notice of intent, site certificate application and site certificate amendment processes. Nothing in these rules is intended to interfere with the state's implementation of programs delegated to it by the federal government.

Findings of Fact

OAR 345-022-0000 provides the Council's General Standard of Review and requires the Council to find that a preponderance of evidence on the record supports the conclusion that the proposed changes would comply with the requirements of EFSC statutes and the siting standards adopted by the Council and that the proposed changes would comply with all other Oregon statutes and administrative rules applicable to the issuance of proposed two new site certificates.

OAR 345-022-0000(2) and (3) apply to RFAs where a certificate holder has shown that the proposed facility modifications cannot meet Council standards or has shown that there is no reasonable way to meet the Council standards through mitigation or avoidance of the damage to protected resources; and, for those instances, establish criteria for the Council to evaluate in making a balancing determination. In RFA5, the certificate holder has not represented that the proposed amendments cannot meet an applicable Council standard. Therefore, OAR 345-022-0000(2) and (3) would not apply to this review.

Certificate Expiration (OAR 345-027-0313)

ORS 469.370(12) requires the Council to "specify in the site certificate the date by which construction of the facility must begin." ORS 469.401(2) requires that the site certificate contain a condition "for the time for completion of construction." Under OAR 345-025-0006(4), the certificate holder must begin construction on the facility no later than the construction beginning date specified by Council in the site certificate. "Construction" is defined in ORS 469.300(6) and OAR 345-010-0010(12) to mean "work performed on a site, excluding surveying, exploration or other activities to define or characterize the site, the cost of which exceeds \$250,000."

For the Montague Wind Power Facility site certificate, Conditions 24 and 25 establish the construction commencement and completion deadlines for previously approved wind and solar facility components. In RFA5, the certificate holder requests Council amend Conditions 24 and 25 for the proposed new Montague Wind Facility, Montague Solar Facility, and Oregon Trail Solar Facility site certificates, as further described and evaluated below.

Conditions 24 and 25 of the existing site certificate establishes construction commencement and completion deadlines for Phase 1 (wind facility components) and Phase 2 (wind and solar facility components). Phase 1 construction is complete and commenced commercial operation in October 2019; therefore, Conditions 24 and 25 have been satisfied for Phase 1. Condition 24 and 25 Phase 2 requirements apply to facility components to be governed by the proposed new Montague Solar Facility and Oregon Trail Solar Facility site certificates. The certificate holder requests Council amend Conditions 24 and 25 for the Montague Wind Facility site certificate to remove reference to Phase 1 and 2, referring only to the facility, and remove reference to deadlines established for Phase 2.

The Department considers the requested condition amendments to be administrative in nature – removing reference to deadlines that would no longer apply based on the allocation of facility components approved in the Final Order on RFA4 (Phase 2) to proposed new site certificates. Therefore, the Department recommends Council amend the conditions, consistent with the certificate holders’ request, as follows:

Montague Wind Power Facility

Recommended Amended Condition 24: The certificate holder shall ~~begin~~ begin construction of ~~Phase 1 of~~ the facility by September 14, 2017. Under OAR 345-015-0085(9), a site certificate is effective upon execution by the Council Chair and the applicant. The Council may grant an extension of the deadline to begin construction in accordance with OAR 345-027-0385 or any successor rule in effect at the time the request for extension is submitted. [ASC; AMD2; AMD4; AMD5]

~~i. Begin construction of Phase 2 of the facility by August 30, 2022. The Council may grant an extension of the deadline to begin construction in accordance with OAR 345-027-0385 or any successor rule in effect at the time the request for extension is submitted. [AMD4]~~

Recommended Amended Condition 25: The certificate holder shall ~~complete~~ construction of ~~Phase 1 of~~ the facility by September 14, 2020. Construction is complete when: (1) the facility is substantially complete as defined by the certificate holder’s construction contract documents, (2) acceptance testing has been satisfactorily completed and (3) the energy facility is ready to begin continuous operation consistent with the site certificate. The certificate holder shall promptly notify the Department of the date of completion of construction. The Council may grant an extension of the deadline for completing construction in accordance with OAR 345-027-0385 or any successor rule in effect at the time the request for extension is submitted. [ASC; AMD2; AMD4; AMD5]

~~Complete construction of Phase 2 of the facility by [3 years of from the date of construction commencement]. Construction is complete when: (1) the facility is substantially complete as defined by the certificate holder’s construction contract documents, (2) acceptance testing has been satisfactorily completed and (3) the energy facility is ready to begin continuous operation consistent with the site certificate. The certificate holder shall promptly notify the Department of the date of completion of construction. The Council may grant an extension of the deadline for completing construction in accordance with OAR 345-027-0385 or any successor rule in effect at the time the request for extension is submitted. [AMD4]~~

As described above, Conditions 24 and 25 of the existing site certificate establishes construction commencement and completion deadlines for Phase 1 (wind facility components) and Phase 2 (wind and solar facility components). The certificate holder requests Council amend Conditions 24 and 25 for the Montague Solar Facility and Oregon Trail Solar Facility site certificates to remove reference to Phase 1 and 2, referring only to the facility, and remove reference to

1 deadlines established for Phase 1 facility components, would be covered under the Montague
2 Wind Facility site certificate. The Department considers the requested condition amendments
3 to be administrative in nature – removing reference to deadlines that would no longer apply
4 based on the allocation of facility components approved in the Final Order on RFA4 (Phase 2) to
5 proposed new site certificates. Therefore, the Department recommends Council amend the
6 conditions, consistent with the certificate holders' request, as follows:

7
8 *Montague Solar Facility and Oregon Trail Solar Facility Site Certificates*
9

10 Recommended Amended Condition 24: The certificate holder shall: ~~Begin construction of~~
11 ~~Phase 1 of the facility by September 14, 2017. Under OAR 345-015-0085(9), a site certificate~~
12 ~~is effective upon execution by the Council Chair and the applicant. The Council may grant an~~
13 ~~extension of the deadline to begin construction in accordance with OAR 345-027-0385 or~~
14 ~~any successor rule in effect at the time the request for extension is submitted. [ASC; AMD2;~~
15 ~~AMD4]~~

16 ~~b~~Begin construction of ~~Phase 2 of~~ the facility by August 30, 2022. The Council may grant an
17 extension of the deadline to begin construction in accordance with OAR 345-027-0385 or
18 any successor rule in effect at the time the request for extension is submitted. [AMD4;
19 AMD5]

20
21 Recommended Amended Condition 25: The certificate holder shall ~~Complete-complete~~
22 ~~construction of Phase 1 of the facility by September 14, 2020. Construction is complete~~
23 ~~when: (1) the facility is substantially complete as defined by the certificate holder's~~
24 ~~construction contract documents, (2) acceptance testing has been satisfactorily completed~~
25 ~~and (3) the energy facility is ready to begin continuous operation consistent with the site~~
26 ~~certificate. The certificate holder shall promptly notify the Department of the date of~~
27 ~~completion of construction. The Council may grant an extension of the deadline for~~
28 ~~completing construction in accordance with OAR 345-027-0385 or any successor rule in~~
29 ~~effect at the time the request for extension is submitted. [ASC; AMD2; AMD4]~~

30 ~~Complete construction of Phase 2 of the facility by [3 years of from the date of construction~~
31 ~~commencement]. Construction is complete when: (1) the facility is substantially complete~~
32 ~~as defined by the certificate holder's construction contract documents, (2) acceptance~~
33 ~~testing has been satisfactorily completed and (3) the energy facility is ready to begin~~
34 ~~continuous operation consistent with the site certificate. The certificate holder shall~~
35 ~~promptly notify the Department of the date of completion of construction. The Council may~~
36 ~~grant an extension of the deadline for completing construction in accordance with OAR 345-~~
37 ~~027-0385 or any successor rule in effect at the time the request for extension is submitted.~~
38 [AMD4; AMD5]

39
40 Council previously imposed Condition 26 requiring that, prior to construction, the certificate
41 holder notify the Department confirming whether wind turbines previously approved for
42 construction and operation under the Leaning Juniper II facility site certificate would instead be
43 constructed and operated under the Montague Wind Power Facility site certificate. On

September 17, 2010, the certificate holder satisfied this condition, confirming that the identified wind turbines would be constructed and operated under the Montague Wind Power Facility site certificate. Because the condition was previously satisfied and no longer provides an applicable requirement, the certificate holder requests, and the Department agrees, that Council remove the condition from each of the proposed amended and new site certificates, as follows:

Montague Wind Facility, Montague Solar Facility and Oregon Trail Solar Facility

Recommended Deleted Condition 26: ~~Before beginning construction of the facility, the certificate holder shall notify the Department whether the turbines identified as H1, H2, H3, H4, L8, L9, L10, L11 and L12 on Figure C-3a of the site certificate application will be built as part of the Montague Wind Power Facility or whether the turbines will be built as part of the Leaning Juniper II Wind Power Facility.~~

Mandatory and Site-Specific Conditions in Site Certificates [OAR 345-025-0006 and OAR 345-025-0010]

OAR 345-025-0010 establishes “site specific” conditions that the Council may include in site certificate to address issues specific to certain facility types or proposed features of facilities.¹¹ Pursuant to site specific conditions under OAR 345-025-0010(5), the Council must specify an approved corridor for construction and operation of transmission lines. Council previously imposed Condition 18 in the site certificate, consistent with this requirement. The certificate holder requests that the corridor description be redefined in the amended Montague Wind Power Facility site certificate and new Montague Solar Facility and Oregon Trail Solar site certificates to be consistent with the segment initiation and termination point for each facility. The certificate holder also requests removal of reference to the length of the transmission line segment applicable to each facility, which based on the intent of OAR 345-025-0010(5) to “specify” an approved corridor, the Department disagrees. Therefore, the Department recommends Council amend Condition 18 as follows:

Montague Wind Facility

Recommended Amended Condition 18: OAR 345-025-0010(5): The certificate holder is authorized to construct a 230-kV transmission line anywhere within the approved corridor, subject to the conditions of the site certificate. The approved corridor is ½-mile in width and extends approximately ~~14-10~~ miles from the ~~Phase 2 collector substation to the Phase~~

¹¹ Site-Specific Conditions at OAR 345-025-0010(1)-(3), and (6)-(7) do not apply to the proposed facility based on facility energy source/type (wind/solar photovoltaic power generation facility).

1 ~~1~~Montague Wind collector substation to BPA's Slatt Substation as presented in Figure 1 of
2 the site certificate.

3 [OAR 345-025-0010(5); ASC; AMD4; AMD5]

4
5 *Montague Solar Facility and Oregon Trail Facility*

6
7 Recommended Amended Condition 18: OAR 345-025-0010(5): The certificate holder is
8 authorized to construct a 230-kV transmission line anywhere within the approved corridor,
9 subject to the conditions of the site certificate. The approved corridor is ½-mile in width and
10 extends approximately 14 miles from the Phase 2-Montague Solar collector substation to
11 the ~~Phase 1~~Montague Wind collector substation to BPA's Slatt Substation as presented in
12 Figure 1 of the site certificate.

13 [OAR 345-025-0010(5); ASC; AMD4; AMD5]

14
15 OAR 345-025-0006 lists certain mandatory conditions that the Council must adopt in every site
16 certificate. Mandatory conditions, pursuant to OAR 345-025-0006, were imposed as conditions
17 within the approved site certificate. Of relevance to this amendment request, Council
18 previously imposed Condition 27, mirroring OAR 345-025-0006(3)(a), requiring that the
19 certificate holder design, construct, operate and retire the facility substantially as described in
20 the site certificate. In RFA5, the certificate holder requests Council amend Condition 27 to be
21 consistent with facility components to be covered under each proposed new site certificate, as
22 presented below.

23
24 *Montague Wind Facility*

25
26 Recommended Amended Condition 27: The certificate holder shall construct a facility
27 substantially as described in the site certificate and may select turbines of any type, subject
28 to the following restrictions and compliance with all other site certificate conditions. Before
29 beginning construction, the certificate holder shall provide to the Department a description
30 of the turbine types selected for the facility demonstrating compliance with this condition.

31 For ~~Phase 1~~ facility components:

32 (a) The total number of turbines must not exceed ~~81~~56 turbines.

33 (b) The turbine hub height must not exceed 100 meters and the maximum blade tip height
34 must not exceed 150 meters.

35 (c) The minimum blade tip clearance must be 14 meters above ground. [Amendment #3]

36 i. ~~For Phase 2 facility components:~~

37 ~~(a) Components may include any combination of wind and solar energy generation~~
38 ~~equipment, up to 81 wind turbines or the maximum layout (including number~~
39 ~~and size) of solar array components substantially as described in RFA4.~~

40 ~~(b) The maximum blade tip height must not exceed 597 feet (182 meters). The~~
41 ~~minimum aboveground blade tip clearance must be 46 feet (14 meters).~~

42 [Final Order on ASC; AMD3; AMD4; AMD5]

Montague Solar Facility

Recommended Amended Condition 27: The certificate holder shall construct a facility substantially as described in the site certificate and may select ~~turbines of any type, subject to the following restrictions and compliance with all other site certificate conditions. Before beginning construction, the certificate holder shall provide to the Department a description of the turbine types selected for the facility demonstrating compliance with this condition.~~

~~i. For Phase 1 facility components:~~

~~(a) The total number of turbines must not exceed 81 turbines.~~

~~(b) The turbine hub height must not exceed 100 meters and the maximum blade tip height must not exceed 150 meters.~~

~~(c) The minimum blade tip clearance must be 14 meters above ground. [Amendment #3]~~

~~ii. For Phase 2 facility components:~~

~~(a) Components may include any combination of wind and solar energy generation equipment, up to 81 wind turbines or the maximum layout (including number and size) of solar array components substantially as described in RFA4.~~

The maximum blade tip height must not exceed 597 feet (182 meters). The minimum aboveground blade tip clearance must be 46 feet (14 meters). solar array components using or occupying up to 1,496 acres substantially as approved in Final Order on RFA4 (August 2019) and Final Order on RFA5 (September 2020).

[Final Order on ASC; AMD3; AMD4; AMD5]

Oregon Trail Solar Facility

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

~~iii.i. For Phase 1 facility components:~~

~~(a) The total number of turbines must not exceed 81 turbines.~~

~~(b) The turbine hub height must not exceed 100 meters and the maximum blade tip height must not exceed 150 meters.~~

~~(c) The minimum blade tip clearance must be 14 meters above ground.
[Amendment #3]~~

~~iv. For Phase 2 facility components:~~

(a) Components may include any combination of wind and solar energy generation equipment, up to 1681 wind turbines or the maximum layout (including number and size) of solar array components using or occupying up to 1,228 acres substantially as described in RFA4 and approved in the Final Order on RFA4 (August 2019).

(b) The maximum wind turbine blade tip height must not exceed 597 feet (182 meters). The minimum aboveground blade tip clearance must be 46 feet (14 meters).

[Final Order on ASC; AMD3; AMD4; AMD5]

Construction and Operation Rules for Facilities [OAR Chapter 345, Division 26]

The Council has also adopted rules at OAR Chapter 345, Division 26 to ensure that construction, operation, and retirement of facilities are accomplished in a manner consistent with the protection of public health, safety, and welfare and protection of the environment. These rules include requirements for compliance plans, inspections, reporting and notification of incidents. The certificate holder must construct the facility substantially as described in the site certificate and the certificate holder must construct, operate, and retire the facility in accordance with all applicable rules adopted by the Council in OAR Chapter 345, Division 26.

Conclusions of Law

Based on the recommended findings of fact and conclusions of law, and subject to compliance with existing and recommended amended site certificate conditions, the Department recommends that the Council find that the facility, with proposed RFA5 modifications, would satisfy the requirements of OAR 345-022-0000.

III.A.2 Organizational Expertise: OAR 345-022-0010

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

1 *or approval issued to a third party, the Council, to issue a site certificate, must find that*
2 *the third party has, or has a reasonable likelihood of obtaining, the necessary permit or*
3 *approval, and that the applicant has, or has a reasonable likelihood of entering into, a*
4 *contractual or other arrangement with the third party for access to the resource or*
5 *service secured by that permit or approval.*

6
7 *(4) If the applicant relies on a permit or approval issued to a third party and the third party*
8 *does not have the necessary permit or approval at the time the Council issues the site*
9 *certificate, the Council may issue the site certificate subject to the condition that the*
10 *applicant shall not commence construction or operation as appropriate until the third*
11 *party has obtained the necessary permit or approval and the applicant has a contract or*
12 *other arrangement for access to the resource or service secured by that permit or*
13 *approval.*

14 15 **Findings of Fact**

16
17 Subsections (1) and (2) of the Council's Organizational Expertise standard require that the
18 certificate holder demonstrate its ability to design, construct and operate the facility, with
19 proposed RFA5 modifications, in compliance with Council standards and all site certificate
20 conditions, and in a manner that protects public health and safety, as well as its ability to
21 restore the site to a useful, non-hazardous condition. The Council may consider the certificate
22 holder's experience and past performance in constructing, operating and retiring other facilities
23 in determining compliance with the Council's Organizational Expertise standard. Subsections (3)
24 and (4) address third party permits.

25
26 The changes proposed in RFA5 that could impact Council's previous findings of compliance
27 under the Organizational Expertise standard include the request for new certificate holders for
28 the new site certificates proposed for the Montague Solar and Oregon Trail Solar Facilities;
29 shared use of previously approved related or supporting facilities; impacts to previous
30 decommissioning estimate and evaluation related to the proposed new switching station; and,
31 removal of conditions imposed to reduce public health and safety risk from battery component
32 storage, transport and disposal (due to removal of battery storage as a related or supporting
33 facility under the amended Montague Wind Power Facility site certificate).

34 35 *Request for New Certificate Holders*

36
37 In RFA5, the certificate holder requests approval to transfer ownership of the Montague Wind
38 Power Facility site certificate based on the site certificate split, resulting in new certificate
39 holders for the Montague Solar Facility and Oregon Trail Solar Facility. The current certificate
40 holder is Montague Wind Power Facility, LLC, a wholly-owned subsidiary of Avangrid
41 Renewables, LLC. Avangrid Renewables, LLC is the certificate holder owner, and would be
42 maintained as the certificate holder owner for the new site certificates. Therefore, as described
43 above, because the owner of the new certificate holders, or the owner of the entity to be in

1 control or possession of the facility would remain Avangrid Renewables, LLC – the existing
2 certificate holder owner - in accordance with the intent of the language under OAR 345-025-
3 0006(15), the Department recommends Council find that changes in certificate holder, when
4 the certificate holder is a sole purpose limited liability company reliant upon its parent
5 company, and the parent company is the owner of the certificate holder, not to trigger the OAR
6 345-027-0400 transfer process.

7
8 In the *Final Order on the ASC*, the Council found Avangrid, or its wholly owned subsidiaries, to
9 have the organizational expertise to construct, operate and retire energy facilities.¹² The Council
10 found that the certificate holder had specific qualified and experienced internal personnel for
11 management and design, construction and operation of the facility as well as would hire only
12 qualified contractors with direct experience in wind energy facility construction to design and
13 build the proposed facility.¹³ Therefore, the Council found that the certificate holder satisfied
14 the Council's Organizational Expertise Standard. The Council's previous findings and conclusions
15 are incorporated by this reference.

16
17 The new LLCs proposed as certificate holders of the Montague Solar and Oregon Trail Solar
18 Facilities would not affect the current certificate holder's organizational expertise, or impact
19 the Council's previous findings. To support Council's review of the new LLCs, articles of
20 organization and proof of registration to do business were provided in RFA5 Attachment 5. In
21 addition, Avangrid Renewables, LLC's in-house legal Counsel, Jeffrey Durocher, provided
22 confirmation that the new LLCs have legal authority to construct and operate energy facility
23 components to be included in the new site certificates without violating articles of
24 incorporation or other similar agreement (RFA5 Attachment 6). Based on review of the articles
25 of organization and legal opinion provided in RFA Attachment 5 and 6, the Department
26 recommends Council approve the new LLCs as certificate holders for the Montague Solar and
27 Oregon Trail Solar Facility site certificates.

28 29 *Third-Party Permits*

30
31 In RFA5, the certificate holder represents that previously approved related or supporting
32 facilities, including collector substations, O&M building, access road, temporary staging areas,
33 battery storage system and 230 kV transmission line would be shared between each or by two
34 site certificates. The Department recommends Council evaluate facility components shared
35 between site certificate/certificate holders to be substantially similar to a third-party resource.

36
37 In RFA5, the certificate holder does not address the mechanism or agreement that would be
38 executed or implemented between LLCs for the sharing of the above-referenced facility
39 components. Because the new LLCs (new certificate holders) are wholly owned indirect
40 subsidiaries of Avangrid Renewables, which acts as the certificate holder owner and entity with

¹² *Final Order on the Application* at 14-15.

¹³ *Id.*

control of each certificate holder, the Department recommends that, in accordance with OAR 345-022-0010(3), the Council find that the certificate holders' have a reasonable likelihood of entering into a contractual or other arrangement for access to the shared facilities.

Nonetheless, the Department recommends Council adopt the following condition, which ensures that access to the facility resources is secured prior to sharing or of operation of shared facilities, within the amended and new site certificates. The Department also recommends Council impose requirements in the same condition, based on shared facilities, to ensure full coverage of the site restoration compliance obligation, as required per Sub(1) of the standard, which obligates each certificate holder to notify the Department, and evaluate, any substantial changes to shared related or supporting facilities or of termination or ceasing of facility operations:

Montague Wind Power Facility

Recommended Condition 118: The site certificate authorizes shared use of related or supporting facilities including the Montague Wind collector substation, 230 kV transmission line, access roads, and temporary staging areas under the site certificates issued for the Montague Wind Facility, Montague Solar Facility and Oregon Trail Solar Facility.

a. Within 30 days of shared use, the certificate holder must provide evidence to the Department that the certificate holders have an executed agreement for shared use of facilities.

b. If certificate holders of Montague Wind, Montague Solar or Oregon Trail Solar Facility propose to substantially modify any of the shared facilities listed in sub(a) of this condition, each certificate holder shall submit an amendment determination request or request for site certificate amendment to obtain a determination from the Department on whether a site certificate amendment is required or to process an amendment for both site certificates.

c. Prior to facility decommissioning or if facility operations cease, each certificate holder shall submit an amendment determination request or request for site certificate amendment to document continued ownership and full responsibility, including coverage of full decommissioning amount of the shared facilities in the bond or letter of credit pursuant to Condition 32, for the operational facility, if facilities are decommissioned at different times.

Montague Solar and Oregon Trail Solar Facilities

Recommended Condition 118: The site certificate authorizes shared use of related or supporting facilities including the Montague Solar collector substation, Montague Solar O&M building, battery storage system, 230 kV transmission line, access roads, and temporary staging areas under the site certificates issued for the Montague Solar Facility and Oregon Trail Solar Facility. The site certificate authorizes shared use of related or supporting facilities including the Montague Wind collector substation under the site

certificates issued for the Montague Wind Facility, Montague Solar Facility and Oregon Trail Solar Facility.

a. Within 30 days of shared use, the certificate holder must provide evidence to the Department that the certificate holders have an executed agreement for shared use of facilities.

b. If certificate holders of Montague Solar or Oregon Trail Solar Facility propose to substantially modify any of the shared facilities listed in sub(a) of this condition, each certificate holder shall submit an amendment determination request or request for site certificate amendment to obtain a determination from the Department on whether a site certificate amendment is required or to process an amendment for both site certificates.

c. Prior to facility decommissioning or if facility operations cease, each certificate holder shall submit an amendment determination request or request for site certificate amendment to document continued ownership and full responsibility, including coverage of full decommissioning amount of the shared facilities in the bond or letter of credit pursuant to Condition 32, for the operational facility, if facilities are decommissioned at different times.

Based on compliance with the above-recommended condition, the Department recommends Council find that the existing and proposed certificate holders have a reasonably likelihood of obtaining access to the shared facilities, of entering into a contract to obtain access to the shared facilities, and of ensuring site certificate responsibility of the shared facilities for the duration of facility operation.

Public Health and Safety

Council previously imposed Conditions 116 and 117 establishing requirements for storage, transport and disposal of battery storage equipment and related waste. In RFA5, the certificate holder proposes to remove the battery storage as a related or supporting facility under the Montague Wind Power Facility site certificate. The previously approved battery storage system would be included, as a shared related or supporting facility, under the Montague Solar Facility and Oregon Trail Solar Facility site certificates, where Conditions 116 and 117 would be maintained. Based on the certificate holder's proposed reallocation of related or supporting facilities under the new site certificates, the Department recommends Council delete Conditions 116 and 117 from the amended Montague Wind Power Facility site certificate, as follows:

Montague Wind Power Facility

Recommended Deleted Condition 116: ~~The certificate holder shall ensure its third-party contractor transports and disposes of battery and battery waste in compliance with all applicable regulations and manufacturer recommendations related to the transport of hazardous battery materials.~~

~~Prior to construction, the certificate holder shall provide a description to the Department of applicable regulations and manufacturer recommendations applicable to the transport and disposal of batteries and battery related waste. During construction and operation, the certificate holder shall report to the Department any potential compliance issue or cited violations of its third party contractor for the requirements identified in sub(a) of this condition. [AMD4]~~

~~Recommended Deleted Condition 117: During facility operation, the certificate holder shall conduct monthly inspections of the battery storage systems, in accordance with manufacturer specifications. The certificate holder shall maintain documentation of inspections, including any corrective actions, and shall make available for review upon request by the Department. [AMD4]~~

Ability to Restore the Site to a Useful, Non-Hazardous Condition

The facility, with proposed RFA5 modifications, includes a new switching station. The certificate holder identifies tasks and actions for decommissioning of the switching station, including removal of the switching station components; removal, regrading, and reseeding of the surrounding graveled area; removal and recycling of the site perimeter fence; removal of demolition debris to a licensed landfill; and recycling of steel, concrete, and other components to the extent possible. These tasks and actions are consistent with those identified for previously approved facility components, including collector substations and O&M building. Based on similarities in components of a switching station compared to previously approved collector substations and O&M buildings, the Department recommends Council find that the new switching station would not impact the certificate holder's ability to restore the site to a useful, non-hazardous condition, as further evaluated in Section III.A,5 *Retirement and Financial Assurance* of this order, in which the Department recommends that Council find that the certificate holder would continue to be able to comply with the Retirement and Financial Assurance standard.

Conclusions of Law

Based on the evidence in the record, and subject to compliance with the existing and recommended new and deleted conditions, the Department recommends that the Council find that the certificate holder would continue to satisfy the requirements of the Council's Organizational Expertise standard.

1 III.A.3 Soil Protection: OAR 345-022-0022

2
3 *To issue a site certificate, the Council must find that the design, construction and*
4 *operation of the facility, taking into account mitigation, are not likely to result in a*
5 *significant adverse impact to soils including, but not limited to, erosion and chemical*
6 *factors such as salt deposition from cooling towers, land application of liquid effluent,*
7 *and chemical spills.*

8
9 **Findings of Fact**

10
11 The Soil Protection standard requires the Council to find that, taking into account mitigation,
12 the design, construction and operation of a facility or proposed amendment would not be likely
13 to result in a significant adverse impact to soils.

14
15 The analysis area for potential impacts to soils, as defined in the Project Order, is the area
16 within the site boundary. Land uses within the analysis area include private agriculture
17 generally used for dryland wheat production or rangeland.

18
19 *Potential Significant Adverse Impacts to Soil*

20
21 In RFA5, the certificate holder proposes to expand the solar microsite area from 1,189 to
22 2,275 acres. The additional 1,536 acres would include soil units consisting primarily of Ritzville
23 silt loam with slopes ranging from zero to 12 percent, and a small area of Willis silt loam with 5
24 to 12 percent slopes. Potential impacts from construction and operation of previously approved
25 solar facility components within the proposed expanded area would include erosion. Council
26 previously imposed Condition 80, which requires that the certificate holder comply with erosion
27 control measures required by the Facility's NPDES 1200-C construction permit. Based on
28 compliance with the existing condition, the Department recommends Council continue to find
29 that the facility, with proposed RFA5 modifications, would minimize soil erosion impacts.

30
31 In Condition 80, Council previously imposed a subpart, consistent with the version of the Land
32 Conservation and Development Commissions' (LCDC) OAR 660-033-0130(38)(f)(B) in place in
33 September 2019, which required solar facilities on arable land to develop and implement a
34 topsoil management plan. LCDC adopted and implemented a rule change, whereby the topsoil
35 management requirement was removed. Therefore, the certificate holder requests that Council
36 amend Condition 80 in the proposed amended and new site certificates to align with the rule
37 change, as presented below:

38
39 *Montague Wind Power, Montague Solar and Oregon Trail Solar Facilities*

40
41 Recommended Amended Condition 80:

- 42 i. The certificate holder shall conduct all construction work in compliance with an
43 Erosion and Sediment Control Plan (ESCP) satisfactory to the Oregon Department of

Environmental Quality and as required under the National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge General Permit #1200-C. The certificate holder shall include in the ESCP any procedures necessary to meet local erosion and sediment control requirements or storm water management requirements.

~~ii. Before beginning construction of Phase 2 wind energy generation components, the certificate holder shall submit to the Department and Gilliam County Planning Director for review and approval a topsoil management plan including how topsoil will be stripped, stockpiled, and clearly marked in order to maximize topsoil preservation and minimize erosion impacts. [OAR 660-033-0130(38)(f)(B)]. The topsoil management plan may be incorporated into the final Erosion and Sediment Control Plan, required under sub(c) or may be provided to the Department as a separate plan.~~

ii. Prior to beginning facility operation, the certificate holder shall provide the Department a copy of an operational SPCC plan, if required pursuant to OAR 340-141-0001 to -0240.
[AMD4; AMD5]

Conclusions of Law

Based on the foregoing recommended findings of fact and conclusions of law, and subject to compliance with existing and amended site certificate conditions, the Department recommends that the Council find that facility, with proposed RFA5 modifications, would continue to comply with the Council's Soil Protection standard.

III.A.4 Land Use: OAR 345-022-0030

(1) *To issue a site certificate, the Council must find that the proposed facility complies with the statewide planning goals adopted by the Land Conservation and Development Commission.*

(2) *The Council shall find that a proposed facility complies with section (1) if:*

(a) *The applicant elects to obtain local land use approvals under ORS 469.504(1)(a) and the Council finds that the facility has received local land use approval under the acknowledged comprehensive plan and land use regulations of the affected local government; or*

(b) *The applicant elects to obtain a Council determination under ORS 469.504(1)(b) and the Council determines that:*

(A) *The proposed facility complies with applicable substantive criteria as described in section (3) and the facility complies with any Land Conservation*

1 *and Development Commission administrative rules and goals and any land*
2 *use statutes directly applicable to the facility under ORS 197.646(3);*

3
4 *(B) For a proposed facility that does not comply with one or more of the*
5 *applicable substantive criteria as described in section (3), the facility*
6 *otherwise complies with the statewide planning goals or an exception to any*
7 *applicable statewide planning goal is justified under section (4); or*

8
9 *(C) For a proposed facility that the Council decides, under sections (3) or (6), to*
10 *evaluate against the statewide planning goals, the proposed facility complies*
11 *with the applicable statewide planning goals or that an exception to any*
12 *applicable statewide planning goal is justified under section (4).*

13 ***

14 *(4) The Council may find goal compliance for a proposed facility that does not otherwise*
15 *comply with one or more statewide planning goals by taking an exception to the*
16 *applicable goal. Notwithstanding the requirements of ORS 197.732, the statewide*
17 *planning goal pertaining to the exception process or any rules of the Land*
18 *Conservation and Development Commission pertaining to the exception process, the*
19 *Council may take an exception to a goal if the Council finds:*

20 *(a) The land subject to the exception is physically developed to the extent that the*
21 *land is no longer available for uses allowed by the applicable goal;*

22 *(b) The land subject to the exception is irrevocably committed as described by the*
23 *rules of the Land Conservation and Development Commission to uses not allowed*
24 *by the applicable goal because existing adjacent uses and other relevant factors*
25 *make uses allowed by the applicable goal impracticable; or*

26 *(c) The following standards are met:*

27 *(A) Reasons justify why the state policy embodied in the applicable goal should*
28 *not apply;*

29 *(B) The significant environmental, economic, social and energy consequences*
30 *anticipated as a result of the proposed facility have been identified and*
31 *adverse impacts will be mitigated in accordance with rules of the Council*
32 *applicable to the siting of the proposed facility; and*

33 *(C) The proposed facility is compatible with other adjacent uses or will be made*
34 *compatible through measures designed to reduce adverse impacts.*

35 ***

36 **Findings of Fact**

37
38 The Land Use standard requires the Council to find that a facility, with proposed changes,
39 complies with the statewide planning goals adopted by the Land Conservation and
40 Development Commission (LCDC). Under ORS 469.504(1)(b)(A), the Council may find
41 compliance with statewide planning goals if the Council finds that a facility, with proposed
42 changes, “complies with applicable substantive criteria from the affected local government’s
43 acknowledged comprehensive plan and land use regulations that are required by the statewide

1 planning goals and in effect on the date the application is submitted.” RFA5 was received on
2 April 27, 2020.¹⁴

3
4 The analysis area for potential land use impacts, as defined in the Project Order, is the area
5 within and extending ½-mile from the site boundary.¹⁵

6
7 In RFA5, the certificate holder seeks approval to expand the previously approved solar
8 micrositing area, from 1,189 to 2,725 acres, to allow additional flexibility in the layout of
9 previously approved solar facility components.¹⁶ The solar micrositing area would be split
10 between the new site certificates for the Montague Solar Facility and Oregon Trail Solar Facility.
11 The Montague Solar Facility solar micrositing area would include 1,496 acres (1,189 acres of
12 previously approved micrositing area, plus the proposed addition of 307 acres). The Oregon
13 Trail Solar Facility solar micrositing area would include up to 1,228 acres; this solar micrositing
14 area would be located within the approved site boundary, but has not been previously
15 evaluated as a solar micrositing area. RFA5 also seeks approval for construction and operation
16 of an approximately 2-acre switching station within the Oregon Trail Solar Facility solar
17 micrositing area, near Bottemillier Lane; and use of an alternative route for approximately 3.6
18 miles of the previously approved 14-mile 230 kV transmission line route (alternative 230 kV
19 route), to be shared by the Montague Solar Facility and Oregon Trail Solar Facility site
20 certificates.

21
22 Based on the proposed expansion of solar micrositing area, the certificate holder seeks Council
23 approval of an exception to the statewide policy embodied in Goal 3, *Agricultural Lands*, for the
24 use of more than 12 acres of high-value farmland and more than 20 acres of arable land by
25 previously approved solar facility components. Council previously granted a reasons exception
26 in the September 2019 Final Order on RFA4, based on solar photovoltaic energy generation
27 equipment on up to 1,189 acres high value and arable lands. In this order, the Department
28 presents the exception request as an amendment to Council’s previously Goal 3 exception,
29 which if taken by Council for RFA5, would then apply to the Montague Wind Solar Facility and
30 Oregon Trail Solar Facility site certificates.

¹⁴ Preliminary Request for Amendment 5 was received on April 20, 2020, but did not include property owner information pursuant to OAR 345-027-0360(1)(f) necessary for the Department’s procedural noticing requirement. Therefore, the date of receipt of the amendment request is based upon receipt of information required under OAR 345-027-0360, which occurred on April 27, 2020.

¹⁵ Also noted in the Project Order, the certificate holder must assess potential impacts beyond the analysis area if there are identified resources, such as a protected Goal 5 resource, that could result in significant adverse impacts, direct or indirect, from the facility or a proposed change to a facility. The certificate holder has not identified potential resources outside of the analysis area for which this would apply; however, this information is provided to inform the reviewer of the certificate holder’s obligation to evaluate potential impacts if resources are identified during the RFA5 review process.

¹⁶ MWPAMD4 Final Order on RFA4. 2019-09.

III.A.4.1 Local Applicable Substantive Criteria

Under OAR 345-022-0030(2), the Council must apply the applicable substantive criteria recommended by the Special Advisory Group (SAG). On November 20, 2010, the Council appointed the Gilliam County Board of Commissioners as a SAG for EFSC proceedings related to the Montague Wind Power Facility, pursuant to ORS 469.480(1). The applicable substantive criteria for which the certificate holder must comply are established in the Gilliam County Zoning and Land Development Ordinance (GCZO) and Gilliam County Comprehensive Plan (GCCP), as updated and amended in 2017. The applicable substantive criteria from GCZO and goals and policies from GCCP are presented below in Table 1, *Gilliam County Applicable Substantive Criteria*.

Table 1: Gilliam County Applicable Substantive Criteria

Gilliam County Zoning and Land Development Ordinance (GCZO)	
<i>Article 4 – Use Zones</i>	
Section 4.020	Exclusive Farm Use
Section A	High Value Farmland
Section C	Planning Director Review
Section D	Conditional Uses Permitted
Section H	Specific Review Criteria
Section J	Property Development Standards
<i>Article 7 – Conditional Uses</i>	
Section 7.010	Authorization to Grant or Deny Conditional Uses
Section A	General Approval Criteria
Section 7.020	Standards Governing Conditional Uses
Section A	Conditional Uses, Generally
Section Q	Conditional Uses in Exclusive Farm Use Zones
<i>Article 8 – Supplementary Provisions</i>	
Section 8.030	Clear Vision Areas
Section 8.040	Outdoor Lighting Standards
Section 8.050	Sign Regulations
Section 8.100	Off-Street Parking Requirements
Section A	Number of Parking Spaces Required
Section 8.140	Site Plan Review
Section A	Purpose
Section E	Detailed Plan
Section F	Outdoor Storage and Activities, if Permitted in the Zone
Section G	Topographic Information
Section H	Drainage Plan
Section I	Identification of Proposed Trash Storage Locations
Section J	Location of All Existing and Proposed Utilities
Section K	Elevation Drawings

Table 1: Gilliam County Applicable Substantive Criteria

Section L	Approval Standards
Section M	The Development Will Not Result In Traffic Volumes that Will Reduce the Performance Standard
Section N	The Development Will Not Adversely Affect Agricultural or Forestry Uses
Gilliam County Comprehensive Plan (GCCP)	
(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	

The Department reviewed the applicable substantive criteria presented in the table above and the changes proposed in RFA5 to provide recommendation of compliance to Council. As described throughout this order, the certificate holder proposes to expand the solar micro siting area by 1,535 acres to allow additional flexibility in layout of previously approved solar facility components, as well as a new switching station and alternate 230 kV route. These specific facility modifications could change Council's previous findings of compliance and therefore are evaluated in the section below.

Gilliam County Zoning Ordinance

The changes proposed in RFA5 are evaluated under the following land use categories established in the Gilliam County Zoning Ordinance (GCZO):

- Commercial Utility Facilities for the Purpose of Generating Power for Public Use by Sale (applies to expanded solar micro siting area, to be split and included in the Montague Solar Facility and Oregon Trail Solar Facility site certificates – the solar micro siting area would include any layout of previously approved solar photovoltaic power generation equipment including solar modules and other accessory equipment like a battery storage system, trackers, posts, cabling, inverters, transformers, collection system, collection substations, access roads, perimeter fencing, and gates, temporary construction areas; and, proposed new switching station associated with Oregon Trail Solar Facility)
- Utility Facilities Necessary for Public Service (alternate 230 kV route)

The following analysis addresses the applicable substantive criteria identified in the GCZO for the land uses listed above.

GCZO Article 4 Use Zones

GCZO Section 4.020: EFU Exclusive Farm Use

In an EFU Zone, the following regulations shall apply:

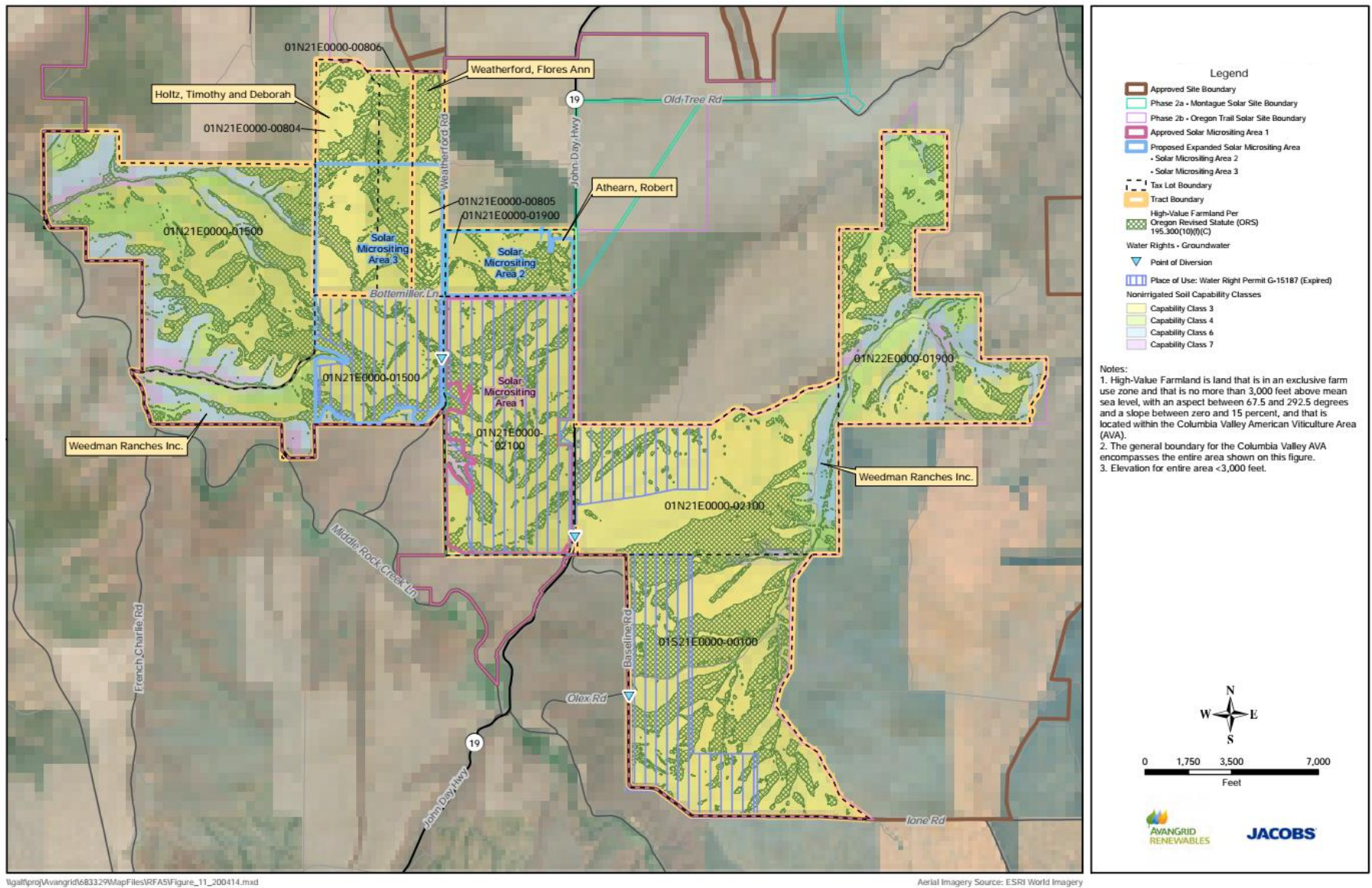
- A. *High Value Farmland. Due to the limited amount of High Value Farmland in Gilliam County, the uses for High Value Farmland are not listed in this section. If a use permitted in Subsections B – G of this section is located on High Value Farmland, the requirements of this section and the requirements of OAR 660, Division 33, shall be used for the review.*

GCZO Section 4.020(A) applies to permitted uses, as defined in GCZO Section 4.020(B) – (G), on high value farmland, and requires compliance with applicable GCZO Section 4.020(B) – (G) and OAR 660-030-0130 provisions.

High-value farmland is defined in ORS 195.300(10) and implemented in the Land Conservation and Development Commissions' administrative rule OAR 660-033-0020(8)(a), where there are over 15 combinations of environmental conditions (e.g. soil, water, agricultural use) that would define farmland as "high-value." In RFA5, the certificate holder proposes to expand the previously approved solar micrositing area, from 1,189 to 2,725 acres. Within the additional 1,535 acres, approximately 436 acres are identified as "high-value" farmland under ORS 195.300(10)(f)(C) based on its location within Exclusive Farm Use (EFU) zoned land and, Columbia Valley Viticulture area meeting certain requirements for elevation, slope, and aspect (i.e. no more than 3,000 feet above mean sea level, with an aspect between 67.5 and 292.5 degrees and a slope between 0 and 15 percent).¹⁷ In RFA5 Figure 11, the certificate holder presents the location of the proposed solar micrositing areas overlain with Columbia Valley Viticulture areas meeting the elevation, slope and aspect under ORS 195.300(10)(f)(C), which is also represented in Figure 4: *Proposed Solar Micrositing Expansion Areas, High-Value Farmland, and Arable Land* below.

¹⁷ As presented in RFA5, of the 436 acres within ORS 195.300(10)(f)(c)-designated high-value farmland, 89.3 acres would be located within the Montague Solar Facility solar micrositing area and 347 acre would be within the Oregon Trail Solar Facility solar micrositing area.

1 **Figure 4: Proposed Solar Micrositing Expansion Areas, High Value Farmland and Arable Land**



Based on the certificate holder's mapping and identification of OAR 195.300(10)(f)(C) high value farmland areas within the proposed solar micrositings expansion areas and the identified land use categories permissible within EFU-zoned land (commercial utility facilities..), the Department agrees and recommends Council find that the proposed RFA5 facility modifications would impact high-value farmland within EFU-zoned land and necessitates review under GCZO Section 4.020(C) and (D) and OAR 660-030-0130 provisions. The evaluation of compliance with GCZO Section 4.020(C) and (D) and OAR 660-030-0130 provisions is presented in this section of the order.

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. (emphasis added)

24. Utility facilities necessary for public service

GCZO Section 4.020(C)(24) identifies utility facilities "necessary" for public service as a permissible use on high value farmland within EFU zoned land, subject to Planning Director Review. Pursuant to 215.283(1)(c)(B), a transmission line is a utility necessary for public service if it is an associated transmission as defined in ORS 215.274.

As described in RFA5, the certificate holder seeks approval to construct and operate a segment of the previously approved, approximately 14 mile 230 kV transmission line using either the previously approved route or the previously approved route with an alternative route segment. The previously approved segment exits east out of the Montague Solar 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 Montague Wind collector substation. The proposed alternate route segment would exit east out of the Montague Solar collector substation to a 90-degree turning structure just east of OR 19. From there, it would extend straight north along OR 19 (outside of the road right-of-way) until it reaches the corner of Old Tree Road where it would turn east towards the Montague Wind collector substation (see Figure 7: *Approved and Proposed Alternate 230 kV Transmission Line Route*).

As provided in Section III.A.4.2 *Directly Applicable State Statutes*, the proposed alternate 230 kV route would be (part of) an associated transmission line. Notwithstanding the language in the county's code, the conditional use requirements beyond those that are consistent with ORS 215.274 are not applicable to the proposed alternative 230 kV route because, as a utility facility necessary for public service under ORS 215.283(1)(c), the use is permitted subject only to the requirements of ORS 215.274 and the county cannot impose additional approval criteria. Therefore, the Department recommends Council find that the proposed alternate 230 kV route

1 is a utility facility necessary for public service and that it is a permitted use in EFU-zoned land,
2 subject to the evaluation criteria of ORS 215.274 presented below.

3
4 *GCZO Section 4.020(D): Conditional Uses Permitted. In the EFU Zone, the following uses and*
5 *their accessory uses may be permitted, either by a Type I or a Type II Conditional Use Permit*
6 *to satisfy the applicable criteria and procedures set forth in Section 7.010. The appropriate*
7 *review criteria are identified for each use.*

8 ***

9 *11. Commercial utility facilities for the purpose of generating power for public use by*
10 *sale, not including wind power generating facilities. A power generation facility not*
11 *located on high-value farmland shall not preclude more than 20 acres from use as a*
12 *commercial agricultural enterprise. Approval of a use pursuant to this subsection is*
13 *subject to the review criteria of Section 4.020.H, and any other applicable criteria or*
14 *provisions of law.*

15
16 GCZO Section 4.020(D)(11) identifies “commercial utility facilities for the purposes of
17 generating power for public use by sale” (commercial utility facilities) as a permitted
18 conditional use in an EFU zone. The section limits commercial utility facilities from precluding
19 more than 12 acres of high-value farmland or more than 20 acres of arable land from use as a
20 commercial agricultural enterprise, unless an exception to the statewide policy embodied in
21 Goal 3 is taken. GCZO Section 4.020(D)(11) also requires compliance with GCZO Section
22 4.020(H) and Section 7.010 review criteria.

23
24 A commercial utility facility includes a photovoltaic solar power generation facility, with
25 components defined under OAR 660-033-0130(38)(f). In RFA5, the certificate holder proposes
26 to expand the solar micrositing area by approximately 1,535 acres to allow additional flexibility
27 in layout of previously approved solar energy generation equipment, and proposes a new
28 switching station. The proposed switching station would collect and transmit energy via a
29 previously approved aboveground 34.5 kV collector line from the Oregon Trail Solar Facility to
30 the Montague Solar collector substation, which would then be transmitted via 34.5 collector
31 line to the Montague Wind collector substation and then to BPA’s Slatt Substation for grid
32 integration. In RFA5, the certificate holder represents the proposed switching station as
33 necessary grid interconnection equipment considered part of the photovoltaic solar power
34 generation facility under -0130(38)(f). Based on the operational function and purpose of the
35 proposed switching station, the Department agrees with the certificate holder and
36 recommends Council evaluate the switching station as part of the solar photovoltaic power
37 generation facility under GCZO Section 4.020(D)(11).

38
39 The proposed solar micrositing areas for the Montague Solar Facility and Oregon Trail Solar
40 Facility could preclude up to 89 and 347 acres, respectively, of high value farmland from use as

a commercial agricultural enterprise.¹⁸ The proposed solar microsites for the Montague Solar Facility and Oregon Trail Solar Facility could preclude up to 307 and 1,223 acres, respectively, of arable land from use as a commercial agricultural enterprise.¹⁹ Therefore, because the proposed solar microsites may preclude more than 12 acres of high value farmland and 20 acres of arable land from use as a commercial agricultural enterprise, the certificate holder would not comply with the GCZO Section 4.020(D)(11) acreage limitation and a Goal 3 exception would be needed. In RFA5, the certificate holder requests Council review and approval of a Goal 3 exception, as evaluated in Section III.A.4.2 below.

The evaluation of GCZO Section 4.020(H) and Section 7.010, which apply per GCZO Section 4.020(D)(11), is presented under review of these criteria below.

GCZO 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.*

GCZO Section 4.020(H) establishes review criteria for specific conditional uses within EFU zoned land, including commercial utility facilities. The review criteria include a demonstration that the proposed RFA5 facility modifications would not force a significant change or significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use. Because there are no forest uses or forest lands within the land use analysis area, there would be no potential impacts to forest lands.²⁰

As presented above, the proposed expansion of solar microsites for the Montague Solar and Oregon Trail Solar Facilities are evaluated based on requirements applicable to a commercial utility facility and therefore GCZO Section 4.020(H) applies. In RFA5, the certificate holder requests that because the site boundary, which establishes the analysis area, would not change as a result of the proposed changes in solar microsites area, that the Council find that there are no substantive changes to the evaluation of GCZO Section 4.020(H) from Council's review of RFA4 and approval of the Final Order on RFA4 in September 2019. The Department agrees that, because the analysis area has not changed as a result of proposed RFA5 facility modifications and based on recent timing of Council's review (2019), the Council should rely on its previous reasoning and analysis to make findings of compliance for this criteria, as summarized below.

¹⁸ MWPAMD5. RFA5 Table 8. 2020-05-29.

¹⁹ *Id.*

²⁰ MWPAMD4. Exhibit K Figure K-3A and K-3B. 2017-11-22.

1 *Accepted Farm Practices*

2
3 The certificate holder previously described that agricultural use on surrounding lands includes
4 dryland wheat farming with limited irrigated farming and some grazing on rangeland (there is
5 no irrigated farmland within the proposed solar micrositing expansion areas). Dryland wheat
6 crop land is periodically left fallow (plowed but not planted) between plantings. Accepted farm
7 practices on surrounding lands devoted to farm use, verified by the certificate holder during
8 2017 surveys, include soil preparation in the spring and fall, sowing, fertilizing, pest and weed
9 management, and harvesting.

10
11 *Potential Impacts to Accepted Farm Practices*

12
13 The certificate holder previously identified that potential impacts to accepted farm practices
14 from use of solar micrositing areas during construction could include:

- 15
16
 - Temporary, but minimal, crop yield interference from weed dispersal during ground
 - 17 disturbing activities
 - 18 • Changes to access points for routes to farm fields to accommodate construction
 - 19 activities
 - 20 • Delays in delivery of farm products or increased time to access farm fields due to
 - 21 increased truck traffic on Oregon Highway 19 (OR 19)
 - 22 • Soil erosion and compaction from ground disturbance
 - 23 • Decreased crop yield productivity if construction disturbance occurs prior to harvest

24
25 The certificate holder previously identified that potential impacts to accepted farm practices
26 from use of solar micrositing areas during operation could include:

- 27
28
 - Permanent changes to access points or routes to farm fields
 - 29 • Modified planting and harvest practices to avoid solar facility components
 - 30 • Varying application of fertilizers and other products to crops
 - 31 • Use, cover or occupation of up to 1,189 acres on farmland – which, as a result of
 - 32 RFA5, would increase to 2,725 acres of farmland

33
34 Council previously imposed several conditions that would minimize potential impacts to
35 accepted farm practices within the surrounding area. Previously imposed conditions are
36 summarized below:

- 37
38
 - Condition 38 requires that, during construction and operation, the certificate holder
 - 39 consult with area landowners and lessees and implement measures to reduce or
 - 40 avoid adverse impacts to farm practices
 - 41 • Condition 39 requires that the certificate holder design and construct the facility to
 - 42 minimize impacts to farm practices

- Condition 43 requires that, during construction and operation, a Weed Control Plan be implemented
- Condition 73 requires that, during construction, traffic control measures be implemented and notification of activities and schedule be provided to adjacent landowners
- Condition 74 requires that, during construction, County roads not be used for equipment and machinery parking
- Condition 80 requires that, during construction, erosion and sediment control measures be implemented to minimize erosion and sediment impacts to adjacent land use
- Condition 81 requires that, during construction, truck traffic be limited to improved road surfaces, to the extent practicable, to minimize unnecessary soil compaction
- Condition 82 requires that, during construction, best management practices (such as watering) be implemented for dust control
- Condition 92 requires that, following completion of construction, temporarily impacted agricultural areas be revegetated

The certificate holder proposes to administratively amend Condition 38 and 39, to remove reference to Phase 1 and Phase 2, in the amended Montague Wind Power Facility site certificate and proposed new site certificates for the Montague Solar Facility and Oregon Trail Solar Facility, as presented below.

Montague Wind Power Facility

Recommended Amended Condition 38: The certificate holder shall:

- i. ~~c~~Consult with area landowners and lessees during construction and operation of ~~Phase 1 of~~ the facility and implement measures to reduce and avoid any adverse impacts to farm practices on surrounding lands and to avoid any increase in farming costs.
- ii. ~~Consult with area landowners and lessees during construction and operation of Phase 2 of the facility and implement measures to reduce and avoid any adverse impacts to ongoing farm practices on surrounding lands, including coordination 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.~~

[Final Order on ASC; AMD4; AMD5]

Recommended Amended Condition 39: The certificate holder shall design and construct:

- i. ~~Phase 1 of~~ the facility 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

1 along the margins of cultivated areas to reduce the potential for conflict with farm
2 operations. [Final Order on ASC; AMD4; AMD5]

3 ~~ii. Phase 2 of the facility to minimize the permanent impacts to agricultural land,~~
4 ~~including to the extent practicable, using existing access roads, co-locating facilities,~~
5 ~~reducing road and transmission line/collector line lengths, and designing facility~~
6 ~~components to allow ongoing access to agricultural fields.~~
7 ~~[Final Order on ASC; AMD4]~~

8
9 *Montague Solar Facility and Oregon Trail Solar Facility*

10
11 Recommended Amended Condition 38: The certificate holder shall:

- 12 i. ~~c~~Consult with area landowners and lessees during construction and operation of
13 ~~Phase 1 of the facility and implement measures to reduce and avoid any adverse~~
14 ~~impacts to farm practices on surrounding lands and to avoid any increase in farming~~
15 ~~costs.~~
16 ii. ~~Consult with area landowners and lessees during construction and operation of~~
17 ~~Phase 2 of the~~ facility and implement measures to reduce and avoid any adverse
18 impacts to ongoing farm practices on surrounding lands, including coordination with
19 the landowner of the solar micrositing area to ensure that the final solar array layout
20 does not prevent the landowner from maximizing agricultural production on the
21 land not occupied by the solar array.
22 [Final Order on ASC; AMD4; AMD5]

23
24 Recommended Amended Condition 39: The certificate holder shall design and construct:

- 25 ~~iii. Phase 1 of the facility using the minimum land area necessary for safe construction~~
26 ~~and operation. The certificate holder shall locate access roads and temporary~~
27 ~~construction laydown and staging areas to minimize disturbance of farming practices~~
28 ~~and, wherever feasible, shall place turbines and transmission interconnection lines~~
29 ~~along the margins of cultivated areas to reduce the potential for conflict with farm~~
30 ~~operations. [Final Order on ASC; AMD4]~~
31 ~~iv.ii. Phase 2 of the~~ facility to minimize the permanent impacts to agricultural land,
32 including to the extent practicable, using existing access roads, co-locating facilities,
33 reducing road and transmission line/collector line lengths, and designing facility
34 components to allow ongoing access to agricultural fields.
35 [Final Order on ASC; AMD4; AMD5]

36
37 The Department recommends Council administratively amend Conditions 38 and 39, based on
38 the certificate holder's representations, to align with proposed RFA5 facility modifications.

39
40 The Council previously found that solar micrositing areas approved for the Montague Wind
41 Facility would not force a significant change in accepted farming practices because it would not
42 change or preclude access to farm operations on surrounding lands or landowners, would not
43 necessitate relocating any existing access routes or farm infrastructure, and would not result in

changes to the practices for planting, irrigating, fertilizing, or harvesting. In RFA5, the certificate holder commits to designing the solar microsites areas in order to provide farm access through the site to adjoining fields, and designing perimeter gates to accommodate pass-through of farm equipment. Because the proposed expansion of solar microsites area would include design measures to minimize impacts to field access and farm equipment operation, and based on compliance with the above-referenced and recommended amended conditions, the Department recommends Council find that the certificate holder would satisfy the GCZO Section 4.020(H)(1)(a) review criterion.

Potential Impacts to Cost of Accepted Farm Practices

The certificate holder previously described that use of the approved solar microsites areas would not require relocation of any access routes or farm infrastructure, and would not result in changes to the practices for planting, irrigating, fertilizing, or harvesting on surrounding land devoted to farm use. Based on the certificate holder's representations, Council previously found that use of up 1,189 acres on high-value farmland and arable land would not increase the cost of accepted farm practices. For the same reasons previously relied upon, the Department recommends Council find that the proposed increase in solar microsites area from 1,189 to 2,725 acres on high value farmland and arable land would not increase the cost of accepted farm practices and would continue to satisfy the GCZO Section 4.020(H)(1)(b) review criterion.

GCZO SECTION 4.020(J): Property Development Standards

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.

GCZO Section 4.020(J) establishes setback standards for front, rear and side yards for residential and nonresidential development within EFU zoned land. As described in GCZO Article 4, nonresidential development includes new construction and substantial improvement of any commercial, industrial or other nonresidential structure.

The proposed expansion of the solar microsites area from 1,189 to 2,725 acres would include nonresidential structures – previously approved collector substations, O&M building and battery storage system, and proposed switching station. Council previously imposed Condition 42 to align with GCZO Section 4.020(J), which would continue to apply under the amended and new site certificates proposed in RFA5. In RFA5, the certificate holder requests Council administratively amend these conditions based on allocation of wind and solar facility components under three separate site certificates.

Montague Wind Power Facility

Recommended Amended Condition 42: The certificate holder shall construct all facility components in compliance with the following setback requirements:

- (a) All facility components must be at least 3,520 feet from the property line of properties zoned residential use or designated in the Gilliam County Comprehensive Plan as residential.
- (b) Where (a) does not apply, the certificate holder shall maintain a minimum distance of 110-percent of maximum blade tip height, measured from the centerline of the turbine tower to the nearest edge of any public road right-of-way. The certificate holder shall assume a minimum right-of-way width of 60 feet.
- (c) Where (a) does not apply, the certificate holder shall maintain a minimum distance of 1,320 feet, measured from the centerline of the turbine tower to the center of the nearest residence existing at the time of tower construction.
- (d) Where (a) does not apply, the certificate holder shall maintain a minimum distance of 110-percent of maximum blade tip height, measured from the centerline of the turbine tower to the nearest boundary of the certificate holder's lease area.
- (e) The certificate holder shall maintain a minimum distance of 250 feet measured from the center line of each turbine tower to the nearest edge of any railroad right-of-way or electrical substation.
- (f) The certificate holder shall maintain a minimum distance of 250 feet measured from the center line of each meteorological tower to the nearest edge of any public road right-of-way or railroad right-of-way, the nearest boundary of the certificate holder's lease area or the nearest electrical substation.
- (g) The certificate holder shall maintain a minimum distance of 50 feet measured from any facility O&M building to the nearest edge of any public road right-of-way or railroad right-of-way or the nearest boundary of the certificate holder's lease area.
- (h) The certificate holder shall maintain a minimum distance of 50 feet measured from any substation to the nearest edge of any public road right-of-way or railroad right-of-way or the nearest boundary of the certificate holder's electrical substation easement or, if there is no easement, the nearest boundary of the certificate holder's lease area.
- (i) Where (a) does not apply, the certificate holder shall maintain a minimum of 110 percent of maximum blade tip height, measured from the centerline of the turbine tower from any overhead utility line. [Amendment #1]
- (j) Where (a) does not apply, the certificate holder shall maintain a minimum of 150 percent of maximum turbine height from blade tip height, measured from the centerline of the turbine tower from federal transmission lines, unless the affected parties agree otherwise. [Amendment #1]
- (k) The certificate holder shall maintain a minimum distance of 25 feet measured from the fence line of the solar array to the nearest property line.

~~(l) The certificate holder shall maintain a minimum distance of 25 feet measured from the front, rear and side yard of the battery storage system site to the nearest property line.~~

~~(l) For Phase 2 facility components, all wind turbines must be setback a minimum distance of 656 feet (200 meters), measured from the centerline of the turbine tower to the nearest edge of the breaks of Rock Creek Canyon. [AMD4]~~

Montague Solar Facility

Recommended Amended Condition 42: The certificate holder shall construct all facility components in compliance with the following setback requirements:

(m) All facility components must be at least 3,520 feet from the property line of properties zoned residential use or designated in the Gilliam County Comprehensive Plan as residential.

~~(n) Where (a) does not apply, the certificate holder shall maintain a minimum distance of 110 percent of maximum blade tip height, measured from the centerline of the turbine tower to the nearest edge of any public road right-of-way. The certificate holder shall assume a minimum right-of-way width of 60 feet.~~

~~(o) Where (a) does not apply, the certificate holder shall maintain a minimum distance of 1,320 feet, measured from the centerline of the turbine tower to the center of the nearest residence existing at the time of tower construction.~~

~~(p) Where (a) does not apply, the certificate holder shall maintain a minimum distance of 110 percent of maximum blade tip height, measured from the centerline of the turbine tower to the nearest boundary of the certificate holder's lease area.~~

~~(q) The certificate holder shall maintain a minimum distance of 250 feet measured from the center line of each turbine tower to the nearest edge of any railroad right-of-way or electrical substation.~~

~~(r) The certificate holder shall maintain a minimum distance of 250 feet measured from the center line of each meteorological tower to the nearest edge of any public road right-of-way or railroad right-of-way, the nearest boundary of the certificate holder's lease area or the nearest electrical substation.~~

~~(s)~~(n) The certificate holder shall maintain a minimum distance of 50 feet measured from any facility O&M building to the nearest edge of any public road right-of-way or railroad right-of-way or the nearest boundary of the certificate holder's lease area.

~~(t)~~(o) The certificate holder shall maintain a minimum distance of 50 feet measured from any substation to the nearest edge of any public road right-of-way or railroad right-of-way or the nearest boundary of the certificate holder's electrical substation easement or, if there is no easement, the nearest boundary of the certificate holder's lease area.

~~(u) Where (a) does not apply, the certificate holder shall maintain a minimum of 110 percent of maximum blade tip height, measured from the centerline of the turbine tower from any overhead utility line. [Amendment #1]~~

~~(v) Where (a) does not apply, the certificate holder shall maintain a minimum of 150 percent of maximum turbine height from blade tip height, measured from the centerline of the turbine tower from federal transmission lines, unless the affected parties agree otherwise. [Amendment #1]~~

~~(w)~~(p) The certificate holder shall maintain a minimum distance of 25 feet measured from the fence line of the solar array to the nearest property line.

~~(x)~~(q) The certificate holder shall maintain a minimum distance of 25 feet measured from the front, rear and side yard of the battery storage system site to the nearest property line.

~~(y)~~(r) For Phase 2 facility components, all wind turbines must be setback a minimum distance of 656 feet (200 meters), measured from the centerline of the turbine tower to the nearest edge of the breaks of Rock Creek Canyon. [AMD4]

Oregon Trail Solar Facility

Recommended Condition 42: The certificate holder shall construct all facility components in compliance with the following setback requirements:

- (a) All facility components must be at least 3,520 feet from the property line of properties zoned residential use or designated in the Gilliam County Comprehensive Plan as residential.
- (b) Where (a) does not apply, the certificate holder shall maintain a minimum distance of 110-percent of maximum blade tip height, measured from the centerline of the turbine tower to the nearest edge of any public road right-of-way. The certificate holder shall assume a minimum right-of-way width of 60 feet.
- (c) Where (a) does not apply, the certificate holder shall maintain a minimum distance of 1,320 feet, measured from the centerline of the turbine tower to the center of the nearest residence existing at the time of tower construction.
- (d) Where (a) does not apply, the certificate holder shall maintain a minimum distance of 110-percent of maximum blade tip height, measured from the centerline of the turbine tower to the nearest boundary of the certificate holder's lease area.
- (e) The certificate holder shall maintain a minimum distance of 250 feet measured from the center line of each turbine tower to the nearest edge of any railroad right-of-way or electrical substation.
- (f) The certificate holder shall maintain a minimum distance of 250 feet measured from the center line of each meteorological tower to the nearest edge of any public road right-of-way or railroad right-of-way, the nearest boundary of the certificate holder's lease area or the nearest electrical substation.
- (g) The certificate holder shall maintain a minimum distance of 50 feet measured from ~~any facility~~the Montague Solar O&M building to the nearest edge of any public road

- 1 right-of-way or railroad right-of-way or the nearest boundary of the certificate
2 holder's lease area.
- 3 (h) The certificate holder shall maintain a minimum distance of 50 feet measured from
4 any substation to the nearest edge of any public road right-of-way or railroad right-
5 of-way or the nearest boundary of the certificate holder's electrical substation
6 easement or, if there is no easement, the nearest boundary of the certificate
7 holder's lease area.
- 8 (i) Where (a) does not apply, the certificate holder shall maintain a minimum of 110
9 percent of maximum blade tip height, measured from the centerline of the turbine
10 tower from any overhead utility line. [Amendment #1]
- 11 (j) Where (a) does not apply, the certificate holder shall maintain a minimum of 150
12 percent of maximum turbine height from blade tip height, measured from the
13 centerline of the turbine tower from federal transmission lines, unless the affected
14 parties agree otherwise. [Amendment #1]
- 15 (k) The certificate holder shall maintain a minimum distance of 25 feet measured from
16 the fence line of the solar array to the nearest property line.
- 17 (l) The certificate holder shall maintain a minimum distance of 25 feet measured from
18 the front, rear and side yard of the battery storage system site to the nearest
19 property line.
- 20 (m) ~~For Phase 2 facility components, all wind~~Wind turbines must be setback a minimum
21 distance of 656 feet (200 meters), measured from the centerline of the turbine
22 tower to the nearest edge of the breaks of Rock Creek Canyon. [AMD4; AMD5]

23
24 Based on compliance with recommended amended Condition 42, the Department recommends
25 Council find that any solar facility components to be located within the proposed expanded
26 RFA5 solar micrositing area, evaluated as nonresidential development, would satisfy the GCZO
27 Section 4.020(J) property development standards.

28
29 Article 7: Conditional Uses

30
31 *GCZO Section 7.010: Authorization to Grant or Deny Conditional Uses*

32
33 GCZO Section 7.010 establishes general approval criteria and conditions that may be applied to
34 conditional uses, regardless of the zone.

35
36 *GCZO SECTION 7.010(A): GENERAL APPROVAL CRITERIA AND CONDITIONS*

- 37
38 *A. In addition to criteria, standards and conditions that may be set forth in a specific*
39 *Zone, this Article, or other regulations applicable to a specific Conditional Use shall*
40 *not be approved or permitted unless the following criteria are met. A Conditional Use*
41 *may be approved on the Condition or Conditions that the applicant obtain and*
42 *maintain compliance with other permits and approvals required.*
43

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

3
4 GCZO Section 7.010(A)(1)(a) requires a demonstration that a proposed use would be in
5 compliance with the applicable designations and policies of the GCCP. The evaluation of
6 applicable GCCP goals and policies is presented below, where the Department recommends
7 that the Council find that the proposed RFA5 facility modifications would be consistent with the
8 GCCP. Therefore, the Department recommends Council find that the proposed RFA5 facility
9 modifications would satisfy the GCZO 7.010(A)(1)(a) general approval criterion.

10
11 b. *As applicable, sewage and/or solid waste disposal methods shall be provided*
12 *in compliance with applicable local, State and Federal regulations.*

13
14 GCZO Section 7.010(A)(1)(b) requires a demonstration that sewage and/or solid waste disposal
15 methods of a proposed use would comply with applicable local, State and Federal regulations.

16
17 Construction and operation of solar facility components within the proposed expanded solar
18 micrositing area would generate sanitary and solid waste. As previously described in RFA4
19 Exhibit U, onsite sanitary and solid waste generated during construction and operation would
20 be disposed of offsite by a licensed contractor. Wastewater from O&M building sanitation
21 facilities would be managed by an Oregon Department of Environmental Quality (ODEQ)-
22 permitted septic system. Council previously imposed Condition 110 requiring that the
23 certificate holder discharge sanitary wastewater generated at the O&M building to a licensed,
24 on-site septic system in compliance with state permit requirements. Condition 110, as
25 previously imposed, also requires the certificate holder to design the septic system for a
26 discharge capacity of less than 2,500 gallons per day. The certificate holder previously
27 confirmed that wastewater generated at the O&M facility during facility operation would not
28 exceed 2,500 gallons of discharge per day.²¹ Council also previously imposed Condition 28
29 requiring that the certificate holder and its contractors obtain all necessary federal, state and
30 local permits. Therefore, the Department recommends, based on compliance with Condition 28
31 and 110, Council find that the certificate holder would satisfy the GCZO Section 7.010(A)(1)(b)
32 general approval criterion.

33
34 c. *Proposal shall be found to be in compliance or conditioned upon compliance*
35 *with applicable air and noise pollution standards.*

36
37 GCZO Section 7.010(A)(1)(c) requires a demonstration that a proposed use would comply, or
38 with conditions would comply, with applicable air and noise pollution standards.

39
40 Applicable air and noise pollution standards are established in ODEQ's OAR 340-208-0210,
41 *Visible Emissions and Nuisance Requirements* and 340-035-0035, *Noise Control Requirements*,

²¹ MWPAMD4 Exhibits Q-DD Final 2019-04-05, p. V-6.

1 respectively. ODEQ's visible emissions standard requires implementation of reasonable
2 precautions to prevent particulate matter from becoming airborne; ODEQ's noise control
3 regulation requires compliance with an ambient degradation and maximum allowable noise
4 standard, as evaluated in Section III.A.10.1 *Noise Control Regulations* of this order.

5
6 Construction of solar facility components within the proposed expanded solar micro-siting area
7 would generate particulate matter (dust) emissions during ground disturbing activities. Council
8 previously imposed Condition 82 requiring that, during construction, the certificate holder
9 implement best management practices, such as watering roads and disturbed soil areas, to
10 minimize visible emissions, consistent with OAR 340-208-0210. Condition 82 would continue to
11 apply to construction activities within the proposed expanded solar micro-siting area and would
12 support OAR 340-208-0210 compliance. Because operational activities within the proposed
13 expanded solar micro-siting area would not include ground disturbing activities, particulate
14 matter emissions would not be expected and therefore OAR 340-208-0210 would not apply.

15
16 Construction and operation of solar facility components within the proposed expanded solar
17 micro-siting area would generate noise. Construction related noise is exempt from OAR 340-
18 035-0035. Operational noise and compliance with OAR 340-035-0035 is evaluated in Section
19 III.A.10.1. *Noise Control Regulation*, where the Department recommends Council find that the
20 certificate holder would, based on compliance with existing conditions, continue to comply with
21 OAR 340-035-0035.

22
23 Based on the analysis described above, the Department recommends Council find that the
24 facility, with proposed RFA5 modifications, would continue to satisfy the GCZO Section
25 7.010(A)(1)(c) general approval criterion.

26
27 *d. Required access shall be legally established, available, and adequate to serve*
28 *the proposed use or provisions to provide such evident.*
29

30 GCZO Section 7.010(A)(1)(d) requires a demonstration that access necessary to serve the
31 proposed use be legally established, available and adequate. The Department interprets this
32 condition of approval as applicable to access roads to the proposed expanded and new solar
33 micro-siting areas, as access would be necessary to serve the use.

34
35 Council previously imposed Conditions 70 and 71 requiring that, prior to construction, the
36 certificate holder obtain all necessary permits and approvals for road approach, crossing and
37 modifications from Gilliam County Road Department and Oregon Department of
38 Transportation. These conditions would continue to apply to new roads and road
39 improvements within the proposed expanded and new solar micro-siting areas.

40
41 Council previously imposed Condition 5, which mirrors OAR 345-025-0006(5), and requires the
42 certificate holder to demonstrate that it has obtained construction rights on all or parts of the

1 site prior to construction.²² Condition 5 is supported by Condition 28, which requires that the
2 certificate holder, prior to construction, obtain all necessary state, local and federal permits not
3 governed by the site certificate; local permits, such as zoning permits, would be required prior
4 to construction within the proposed expanded solar micrositng corridor and require landowner
5 signature concurring rights of the certificate holder to develop on their land (i.e. access rights).
6 These conditions would continue to apply to solar facility components constructed and
7 operated within the proposed expanded and new solar micrositng areas.

8
9 Based on compliance with existing conditions, the Department recommends Council find that
10 the certificate holder would continue to satisfy the GCZO Section 7.010(A)(1)(d) general
11 approval criterion.

12
13 *e. Public services deemed necessary shall be available or provisions for such*
14 *provided and no use shall be approved which is found to exceed the carrying*
15 *capacities of affected public services unless there are provisions to bring such*
16 *capacities up to the need.*

17
18 GCZO Section 7.010(A)(1)(e) requires a demonstration that a proposed use would not exceed
19 the carrying capacities of public service necessary for the use. This general approval criteria
20 aligns with the Council's Public Services standard at OAR 345-022-0110 and is evaluated in
21 Section III.A.8 *Public Services* of this order.

22
23 As evaluated in Section III.A.8 *Public Services* of this order, the Department recommends
24 Council find that, based on compliance with existing and recommended amended conditions,
25 construction and operation of solar facility components within the expanded solar micrositng
26 area would not exceed the carrying capacities of public service providers, including sewers and
27 sewage treatment, water, storm water drainage, solid waste management, housing, traffic
28 safety, police and fire protection, health care and schools. Therefore, the Department
29 recommends Council find that the facility, with proposed RFA5 modifications, would satisfy the
30 GCZO Section 7.010(A)(1)(e) general approval criterion.

31
32 *f. Proposal shall be in compliance with the applicable standards and limitations*
33 *of the primary and combining zone as may be applicable.*

34
35 GCZO Section 7.010(A)(1)(f) requires a demonstration that a proposed use be in compliance
36 with applicable standards and limitations of the applicable primary and combining zones. The
37 site boundary and proposed expanded solar micrositng area would be entirely within EFU-
38 zoned land and would not be located within a designated combining zone. As identified above,
39 the proposed RFA5 facility modifications would not satisfy GCZO Section 4.020(D)(11) or
40 4.020(H)(1)(a) (i.e. would not be in compliance with the applicable standards of the primary

²² OAR 345-025-0006(5) allows flexibility for wind facilities and authorizes construction, if prior to obtaining rights on all of the site, construction rights have only been obtained on parts of the sites.

zone); however, the certificate holder requests Council review of a Goal 3 exception. As presented in Section III.A.4.2, the Department recommends Council grant a Goal 3 exception, which effectively provides an exception from Section 4.020(D)(11) and 4.020(H)(1)(a).

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.

GCZO Section 7.010(A)(1)(g) requires a demonstration that a proposed use would not have a significant adverse impact on carrying capacities of resources, such as air, soil, water supply and waterbodies. As presented in Sections III.A.3 *Soil Protection*, III.A.6 *Fish and Wildlife Habitat*, and III.10.2. *Removal-Fill*, the Department recommends Council find that the proposed RFA5 facility modifications would not result in significant adverse impacts to the carrying capacities of natural resources. Therefore, based on the analysis and reasoning presented in the referenced sections, the Department recommends Council find that the facility, with proposed RFA5 modifications, would satisfy the GCZO Section 7.010(A)(1)(g) general approval criterion.

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

GCZO Section 7.010(A)(1)(h) requires a demonstration that a proposed use would not exceed the carrying capacities of public services, such as police protection, fire protection, housing, schools, hospitals, traffic safety, stormwater infrastructure, wastewater treatment, water supply, necessary for the use. As presented in Sections III.A.8 *Public Services* of this order, the Department recommends Council find, based on the evidence provided by the certificate holder in RFA4 and RFA5, that proposed RFA5 facility modifications would not result in significant adverse impacts the carrying capacities of affected public services. Therefore, based on the analysis and reasoning presented in the referenced section, the Department recommends Council find that the facility, with proposed RFA5 modifications, would satisfy the GCZO Section 7.010(A)(1)(h) general approval criterion.

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

GCZO Section 7.010(A)(1)(i) requires a demonstration that all required State and Federal permits or approvals have been or will be obtained for the proposed use. In RFA5, the certificate holder represents that State permits necessary for the construction and operation of solar facility components within the proposed expanded and new solar micrositing area include a 1200-C National Pollutant Discharge Permit, to manage stormwater and stormwater run-off, and an onsite septic permit, both to be issued by ODEQ. Council previously imposed Conditions 28 and 29 requiring that the certificate holder provide copies of all necessary permits, including third-party permits, prior to construction; these conditions would continue to apply. Based on compliance with these conditions, the Department recommends Council find that the facility,

1 with proposed RFA5 modifications, would satisfy the GCZO Section 7.010(A)(1)(i) general
2 approval criterion.

3
4 *B. In addition to specific standards and/or conditions set forth by the applicable zone,*
5 *this article or some other applicable regulations, other conditions may be imposed*
6 *that are determined necessary to avoid a detrimental impact, and to otherwise*
7 *protect the best interests of the surrounding area and the County as a whole. Such*
8 *conditions may include, but are not limited to, the following:*

- 9
10 *a. Limiting the manner in which the use is conducted including restricting the*
11 *time an activity may take place and restraints to minimize such*
12 *environmental effects as noise, vibration, air pollution, glare and odor.*
13 *b. Establishing a special setback or other open space or lot area or dimension.*
14 *c. Limiting the height, size or location of a building or other structure.*
15 *d. Designating the size, number, improvements, location and nature of vehicle*
16 *access points and parking or loading areas.*
17 *e. Limiting or otherwise designating the number, size, location, height, and*
18 *lighting of signs and outdoor lighting.*
19 *f. Requiring diking, screening, fencing, landscaping or another facility to protect*
20 *adjacent or nearby property and designating standards for its installation and*
21 *maintenance.*
22 *g. Protecting and preserving existing trees, vegetation, water resources, wildlife*
23 *habitat or other significant natural resources.*
24 *h. Limiting the term of the Conditional Use Permit to a specific time.*
25 *i. Requiring necessary on-site or off-site improvements and maintenance.*
26 *j. Requiring the holder of a Conditional Use Permit to obtain review, renewal, or*
27 *reapplication approval of the permit in the event that there is an increase in*
28 *impact from the use on public facilities beyond that which was projected at*
29 *the time of initial approval.*
30

31 GCZO Section 7.010(A)(2) describes conditions that “may be imposed... [if] determined
32 necessary to avoid a detrimental impact, and to otherwise protect the best interests of the
33 surrounding area and the County as a whole.” The ordinance lists discretionary conditions and
34 does not contain substantive standards. During review of pRFA5, the Department consulted
35 with the Gilliam County Planning Director and did not identify conditions that the County would
36 consider “necessary to avoid a detrimental impact and to otherwise protect the best interests
37 of the surrounding area and the County as a whole.” Therefore, the Department recommends
38 Council not impose additional conditions under GCZO Section 7.010(A)(2).
39
40
41
42
43

GCZO SECTION 7.020: STANDARDS GOVERNING CONDITIONAL USES

GCZO SECTION 7.020(A) Conditional Uses, Generally

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

GCZO Section 7.020(A) specifies that setback requirements are established for uses within specific zones. Therefore, compliance with applicable setback requirements is evaluated under GCZO Section 4.020(J) and 7.020(T)(5)(d).

GCZO SECTION 7.020(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.*

GCZO Section 7.020(Q) establishes standards for Type 1 or Type 2 conditional uses within EFU zoned land.²³ The standards require a demonstration that the proposed use would not force a significant change or significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use, which mirror the review criteria under GCZO Section 4.020(H) and OAR 660-033-0130(37). Because the evaluation under GCZO Section 7.020(Q) is identical to the evaluation under GCZO Section 4.020(H) and OAR 660-033-0130(38), it is not repeated. As presented under the evaluation of GCZO Section 4.020(H) and OAR 660-033-0130(38) in this section of the order, the Department recommends Council find that the proposed expanded and new solar micro-siting area would not be likely to force a significant change in accepted farm practices or significantly increase the cost of accepted farm practices on surrounding lands, and therefore would satisfy the applicable standards.

Article 8. Supplementary Provisions

GCZO 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*

²³ GCZO Section 4.020(D)(20) *Wind Power Generation Facilities* does not identify GCZO Section 4.020(H) as applicable; therefore, GCZO Section 4.020(H) does not apply to the proposed Phase 2 wind facility components. However, as noted in RFA4 Exhibit K, GCZO Section 4.020(H) is mirrored in OAR 660-033-0130(37); therefore, the evaluation of potential impacts of proposed Phase 2 wind facility components is appropriately evaluated in Section III.E.2 of this order.

1 *area shall contain no planting, fence, wall, structure, or temporary or permanent*
2 *obstruction exceeding three and one-half feet (3½) in height, measured from the*
3 *established road center line grade, except for authorized road signs and cyclone or other*
4 *open construction fences which permit clear vision through the triangular area. Trees*
5 *may be located in this area as long as all branches and foliage are removed to a height of*
6 *eight (8) feet above the grade.*

7
8 *B. A clear-vision area shall consist of a triangular area, two sides of which are lot lines*
9 *intersecting at the corner of the lot, and the third side of which is a line across the corner*
10 *of the lot joining the non-intersection ends of the other two sides. For purposes of this*
11 *section, lot lines shall be considered to be the edge of the right-of-way.*

12
13 *C. Any side of the triangular clear-vision area adjacent to a road, railroad, or access drive to*
14 *a parking area shall be at least 30 feet. Any side of the clear-vision area adjacent to a*
15 *residential driveway shall be at least 15 feet.*

16
17 GCZO Section 8.030 establishes requirements to maintain specified clear vision areas at corners
18 of property and road or railroad intersections and, lot lines. As described throughout RFA5, the
19 certificate holder proposes to expand and add new area within the previously approved 1,189
20 acre solar micrositing area, resulting in a 1,496 acre solar micrositing area for the Montague
21 Solar Facility and 1,228 acre solar micrositing area for the Oregon Trail Solar Facility. Primary
22 access to the solar micrositing areas would be from Bottemiller Lane and Weatherford Road.
23 The certificate holder represents that clear vision would be maintained at each point of
24 junction with primary or secondary access locations, and a triangular “clear-vision area” would
25 be maintained on either side of intersections of Bottemiller Lane and Weatherford Road. In
26 accordance with previously imposed Conditions 70 and 71, the certificate holder would be
27 required to consult with ODOT and the Gilliam County Public Works Department prior to
28 construction relating to this provision. As such, the Department recommends that the Council
29 find that the facility, with proposed RFA5 modifications, would satisfy this GCZO provision.

30
31 **GCZO SECTION 8.040 – OUTDOOR LIGHTING STANDARDS**

32
33 *All outdoor lighting, including for accessory facilities and the lighting of commercial*
34 *signs, shall comply with the following:*

- 35
36 *A. Any outdoor light shall be shielded to illuminate downward.*
37 *B. The outdoor light source (bulb or element) shall not be visible at or beyond the*
38 *property line.*
39 *C. Outdoor lights shall not exceed the height limit of the zone where the light will be*
40 *located.*
41 *D. Structures over 50 feet in height shall not be lighted unless required to be lighted by*
42 *the Federal Aviation Administration (F.A.A.). Structures over 50 feet in height that*
43 *are required to be lighted by F.A.A. shall be shielded to illuminate upward.*

GCZO Section 8.040 establishes outdoor lighting standards to minimize night-light impacts within the surrounding area. Site certificate Condition 104 restricts the use of exterior lighting at nighttime, with the exception to accommodate: (a) minimum turbine tower lighting for FAA requirements; (b) security lighting at O&M buildings and substations, provided that the lighting is shielded or downward facing; (c) lighting necessary for repairs or emergencies and; (d) minimum light necessary for construction activities.

As presented in RFA5, the proposed split and allocation of previously approved facility components under an amended Montague Wind Power Facility site certificate and two new site certificates for Montague Solar Facility and Oregon Trail Solar Facility would result in removal of wind turbines from the Montague Solar Facility. Therefore, the certificate holder requests that Condition 104 be administratively amended in the Montague Solar Facility site certificate to remove reference wind turbine related requirements because they are no longer applicable.

Montague Solar Facility

Recommended Amended Condition 104: The certificate holder shall not use exterior nighttime lighting except:

~~The minimum turbine tower lighting required or recommended by the Federal Aviation Administration.~~

- (a) Security lighting at the Montague Solar O&M buildings and ~~at the~~ substations, provided that such lighting is shielded or downward-directed to reduce glare.
- (b) Minimum lighting necessary for repairs or emergencies.
- (c) Minimum lighting necessary for construction directed to illuminate the work area and shielded or downward-directed to reduce glare.

[Final Order on ASC; AMD5]

The Department recommends that the Council find that proposed RFA5 facility modifications would satisfy this GCZO provision.

GCZO 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.

- A. *All outdoor advertising signs shall be in compliance with the provision of ORS Chapter 377 when applicable.*
- B. *No outdoor advertising sign permitted by ORS 377 shall be erected within 100 feet of a residential dwelling without written consent of the owner and/or occupant of said dwelling.*

- 1 C. No sign shall be placed in a manner that will interfere with visibility or effectiveness
2 of any official traffic sign or signal, or with driver vision at any access point or
3 intersection.
- 4 D. No sign shall cause glare, distraction or other driving hazards, or by position, shape,
5 color or other characteristic be similar to any traffic signal.
- 6 E. Light from a sign shall be directed away from roads and adjacent parcels. The light
7 source shall be shielded to illuminate downward and the light source shall not be
8 visible beyond the property line or parcel on which the sign is located. No sign may
9 incorporate a bare incandescent bulb with wattage exceeding 20 watts, except as a
10 shielded indirect light source. Illuminated signs require an electrical permit.
- 11 F. Sign structures may be placed within the required setbacks from property lines
12 provided they comply with the vision clearance standards of Section 8.030, but may
13 not be placed within or overhang a dedicated right-of-way unless a permit approving
14 the location has been issued by the Oregon Department of Transportation or County
15 Road Master.
- 16 G. No sign may be situated in a manner that results in the blanketing of an existing sign.
- 17 H. Prohibited Signs-The following types of signs are allowed in commercial, industrial
18 and service community zones, but are prohibited in all other zones:
- 19 1. Moving or flashing signs or signs which incorporate video or fiber optic displays
20 or other mediums that display changing or moving text or images.
- 21 2. Anchored balloon or other inflatable signs.
- 22 3. Roof-mounted signs.
- 23 I. Sign Size Standards
- 24 Sign area shall be calculated based on the overall dimensions of all panels that display
25 messages. When the sign message is not mounted on a panel, the sign area shall be
26 calculated by drawing a regular geometric shape around the message area. For signs
27 that are incorporated into murals, awnings and similar architectural features, only the
28 portion of the sign considered to contain a message will be calculated as sign area.
- 29 Signs shall meet the following size standards:
- 30 1. Free-standing signs shall not exceed 35 feet or the height limit of the zone, whichever
31 is less.
- 32 2. Signs mounted above an entrance to a building shall have a minimum ground
33 clearance of eight feet.
- 34 3. Building-mounted signs shall not extend more than one foot above the exterior wall
35 of the building.
- 36 4. Temporary signs that are 32 square feet or smaller are permitted in any zone.
- 37 5. In the Exclusive Farm Use zone, one or more signs with a combined total area not
38 exceeding 32 square feet are permitted on any tract. No more than one free-
39 standing sign is permitted per parcel.
- 40 6. In the Airport Development, Limited Industrial and General Industrial zones, one or
41 more signs with a combined total area not exceeding 300 square feet are permitted
42 on any parcel. No individual sign shall exceed 150 square feet in area. No more than
43 one free-standing sign is permitted per parcel.

7. *In all other zones not specified in subsection 6, one or more signs with a combined total area not exceeding eight square feet are permitted on any parcel.*

GCZO Section 8.050 establishes specific requirements for outdoor signs. The certificate holder represents that the access points for each facility, based on proposed split of Montague Wind Power Facility into three separate facilities, would include signage that would be designed to adhere to GCZO 8.050 requirements. Because access to each facility would include up to three outdoor signs, the Department recommends Council impose a condition to support compliance with GCZO Section 8.050, as presented below:

Montague Wind Power Facility, Montague Solar Facility and Oregon Trail Solar Facility

Recommended Condition 118: Prior to construction and operation of the facility, the certificate holder shall identify the number of outdoor signs and applicable Gilliam County Zoning Ordinance (GCZO) Section 8.050 Sign Regulation provisions and provide to the Department and Gilliam County Planning Department written confirmation that outdoor signage complies with the applicable provisions.

Based on compliance with the above-recommended condition, the Department recommends Council find that the proposed RFA5 facility modifications would comply with GCZO Section 8.050.

GCZO 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.*

GCZO Section 8.100(A) establishes parking requirements for proposed uses. Parking requirements would apply to previously approved collector substations, O&M buildings, and proposed switching station. The certificate holder previously confirmed that facility components would be designed to comply with parking requirements imposed by GCZO 8.100(A)(1). Based on the certificate holder's representation, to be verified upon receipt of the building/zoning permit obtained prior to construction (Condition 28), the Department recommends Council continue to find that the facility, with proposed RFA5 facility modifications, would comply with GCZO Section 8.100(A).

GCZO SECTION 8.140 – SITE PLAN REVIEW

GCZO Section 8.140 Site Plan Review applies to the proposed RFA5 facility modifications based on the proposed increase in solar micrositng area and changes in layout of solar facility components, as evaluated below.

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.

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.*

GCZO Section 8.140(E) requires, as applicable, a landscaping plan as part of Site Plan Review. The certificate holder represents that the facility, with proposed RFA5 modifications, would not include landscaping.

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

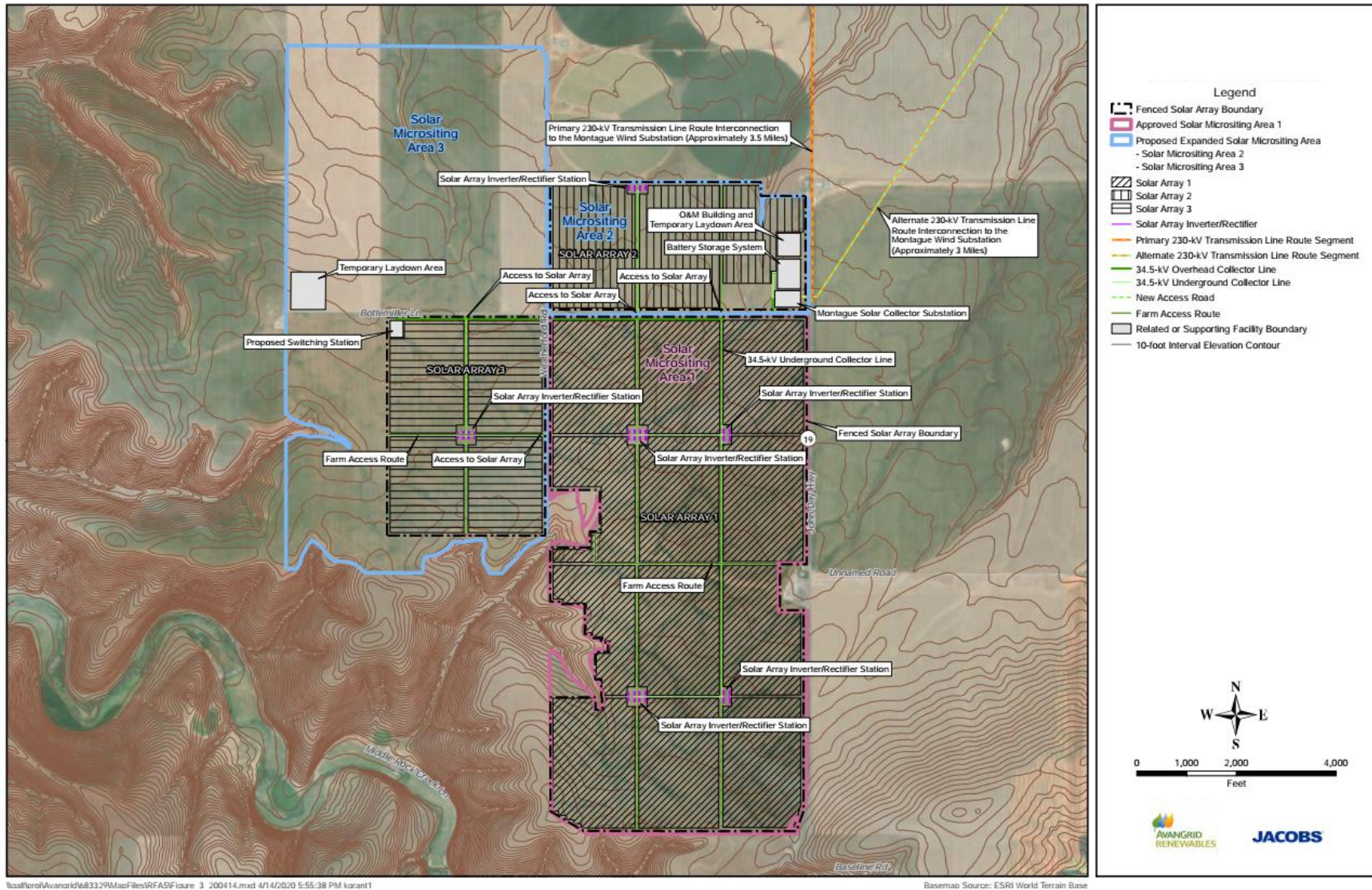
GCZO Section 8.140(F) requires identification of the type, location and height of any screening devices for outdoor areas used for storage or related activities, as part of Site Plan Review.

1 Previously approved related or supporting facilities include temporary laydown areas which
2 would be used for equipment and material staging and storage. The certificate holder has not
3 represented any screening devices for the perimeter of temporary laydown areas.

4
5 *G. TOPOGRAPHIC INFORMATION for any area with slopes exceeding 10 percent. Contour*
6 *intervals shall be ten feet or smaller.*
7

8 GCZO Section 8.140(G) requires topographic information for areas within slopes exceeding 10
9 percent as part of Site Plan Review. Previously approved facility components would be located
10 in site boundary area with slopes exceeding 10 percent. Therefore, in compliance with the
11 provision, the certificate holder provides slope 10-foot elevation contours, as presented in
12 Figure 5: *Proposed Solar Component Layout and Elevation Contours*, below. Based on the
13 mapping provided, the Department recommends that the Council find that the facility, with
14 proposed RFA5 modifications, would satisfy this GCZO provision.
15

1 **Figure 5: Proposed Solar Equipment Layout and Elevation Contours**



2

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

3
4 GCZO Section 8.140(H) requires a drainage plan as part of Site Plan Review. Council previously
5 imposed Condition 80, requiring that the certificate holder obtain, prior to construction, a
6 ODEQ-issued National Pollutant Discharge Elimination System (NPDES) 1200-C General
7 Stormwater Discharge Permit. The NPDES 1200-C permit establishes requirements for the
8 management of stormwater runoff from the site, and requires engineering drawings of site
9 drainage. The NPDES 1200-C permit has not yet been obtained for construction activities within
10 the proposed expanded solar micrositing area.

11
12 Because the NPDES 1200-C permit manages stormwater runoff, consistent with GCZO Section
13 8.140(H), the Department recommends Council find that compliance with Condition 80 would
14 satisfy this provision. In addition, the Department would provide a copy of the NPDES 1200-C
15 permit to the county, prior to construction, as part of OAR 345-025-0016 agency consultation,
16 as further evidence of consistency with GCZO Section 8.140(H).

17
18 *I. IDENTIFICATION OF PROPOSED TRASH STORAGE LOCATIONS, including proposed*
19 *enclosure design construction and access for pickup purposes.*

20
21 GCZO Section 8.040(I) requires identification of proposed trash storage locations, enclosure
22 design, and trash pickup access for Site Plan Review. During operation the Montague Wind
23 Facility, Montague Solar Facility and Oregon Trail Solar Facility, minimal quantities of trash
24 would be generated at the Montague Solar O&M building, which would be shared by the
25 Montague Solar and Oregon Trail Solar Facilities (Montague Wind Power Facility would
26 continue to share an O&M building with the Leaning Juniper IIA facility). Access to the O&M
27 building would be provided from a gated entry point off of OR-19, as presented in Figure 5:
28 *Proposed Solar Equipment Layout and Elevation Contours* above. Based on access presented on
29 Figure 5 above, the Department recommends Council find that the facility, with proposed RFA5
30 modifications, would comply with GCZO Section 8.040(I).

31
32 *J. LOCATION OF ALL EXISTING AND PROPOSED UTILITIES and septic systems on or*
33 *abutting the property.*

34
35 GCZO Section 8.040(J) requires identification of existing and proposed utilities and septic
36 systems on or abutting the property. The certificate holder previously identified that electricity
37 needed at the O&M building would be provided from PacifiCorp or the Columbia Basin Electric
38 Co-op, and a septic system would be located onsite to service O&M domestic purposes. Water
39 would be provided onsite through the use of an exempt well. Based on the identification of
40 existing and proposed utilities, the Department recommends that Council find that the facility,
41 with proposed RFA5 modifications, would satisfy this GCZO provision.

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

2
3 GCZO Section 8.040(K) requires elevation drawings for all proposed buildings as part of Site Plan
4 Review. In RFA5, the certificate holder proposes to construct and operate a switching station –
5 a related or supporting facility to be included in the Oregon Trail Solar Facility site certificate.
6 Elevation drawings would be required for this building to satisfy the provision. Council
7 previously imposed Condition 28 requiring that the certificate holder obtain all necessary
8 permits and approvals prior to construction. Elevation drawings would be provided to the
9 county at the time the certificate holder requests county approval of a building permit for the
10 proposed switching station. Therefore, the Department recommends Council find that based
11 upon compliance with Condition 28, the certificate holder would satisfy GCZO Section 8.040(K).
12

13 *L. APPROVAL STANDARDS:*

14 *1. All provisions of this zoning ordinance and other applicable regulations are complied*
15 *with.*

16 *2. Elements of the site plan are arranged so that:*

- 17 *a. Traffic congestion is avoided.*
18 *b. Pedestrian and vehicular safety and welfare are protected.*
19 *c. Significant features and public amenities are preserved and maintained.*
20 *d. Surface drainage systems are designed so as not to adversely affect neighboring*
21 *properties, roads, or surface and subsurface water quality.*
22 *e. Structures and facilities for storage, machinery and equipment, services (mail,*
23 *refuse, utility wires, etc.), loading and parking and similar accessory areas shall be*
24 *buffered or screened to minimize adverse impact on neighboring properties.*
25

26 GCZO Section 8.040(L) establishes approval standards for Site Plan Review.
27

28 *M. THE DEVELOPMENT WILL NOT RESULT IN TRAFFIC VOLUMES THAT WILL REDUCE THE*
29 *PERFORMANCE STANDARD of a transportation facility below the minimum acceptable*
30 *level identified in the Transportation System Plan (LOS C). This standard may be met*
31 *through a condition of approval requiring improvements to the transportation facility.*
32

33 GCZO Section 8.040(L) requires a demonstration that the development would not result in
34 traffic volumes that would reduce performance standards to a level of service (LOS) C. The
35 changes proposed in RFA5 would not result in increases in daily traffic volumes previously
36 evaluated for the facility, where level of service would not be decreased to LOS C.
37

38 *N. THE DEVELOPMENT WILL NOT ADVERSELY AFFECT AGRICULTURAL OR FORESTRY*
39 *USES.*
40

41 GCZO Section 8.040(N) prohibits adverse affects from a proposed use to agricultural or forested
42 uses. As evaluated above under Section GCZO 4.020(H), the Department recommends that the
43 Council find that the facility, with proposed RFA5 modifications, would not result in a significant

change in agricultural practices, or would not result in adverse affects. As such, the Department recommends that the Council find that this provision of the GCZO is satisfied.

Gilliam County Comprehensive Plan

The Gilliam County Comprehensive Plan (GCCP) is modeled after, and is consistent with, Oregon's Statewide Planning Goals. Under GCZO 7.010(A)(1)(a), a conditional use must be in compliance with the Comprehensive Plan. The relevant Comprehensive Plan provisions are discussed below:

Goal 3. Agricultural Lands

Goal: To preserve and maintain agricultural lands.

The policies adopted in Goal Three of the Comprehensive Plan outline County policy with regard to agriculture and the preservation of agricultural lands. These policies are founded on the authority given a county to establish Exclusive Farm Use zones (ORS 215.203), to exercise its authority in these zones to protect the health, safety and welfare of the citizens (ORS 215.253{2}) and to review and regulate proposals for subdividing farm lands (ORS 215.263). The policies are intended to support the state's agricultural land use policy (ORS 215.243) and should be so interpreted and construed.

Policies:

In consideration of the above Findings, the Gilliam County Court adopts the following policies:

- 1. 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.*

This policy is implemented under GCZO Section 4.020. As noted by the certificate holder, the proposed expansion of the solar micrositing area would not comply with the County's "Goal 3," because the proposed expansion would exceed acreage thresholds contained within GCZO 4.020(D)(11) and would be required to obtain a goal exception under ORS 469.504(4). The Department recommends approval of the Goal Exception in Section III.A.4.1 of this order. Therefore, the Department recommends that the Council conclude that the facility, with proposed RFA5 modifications, would be consistent with this policy.

Goal 5. Natural Resources, Scenic, and Historic Areas, and Open Spaces

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.*

This policy requires consultation with ODFW when proposed land use actions may affect fish or wildlife habitats within natural resources, scenic and historic areas, and open spaces. The proposed RFA5 facility modifications would not result in impacts to fish and wildlife habitat; nonetheless, the Department is obligated to consult with ODFW for the life of the facility during review of pre-construction compliance requirements and ongoing annual reporting related to weed management, revegetation and wildlife surveys and mitigation. Furthermore, Conditions 91 through 101 also require further ODFW consultation (in pertinent part) relating to the Wildlife Monitoring and Mitigation Plan (WMMP) Revegetation Plan, Habitat Mitigation Plan, Washington Ground Squirrel surveys, and sensitive wildlife surveys. Therefore, the Department recommends that the Council conclude that the facility, with proposed RFA5 modifications, would be consistent with this policy.

- 12. Gilliam County will continue to encourage the development of alternative sources of energy.*

This comprehensive plan policy is a directive to the County to encourage alternative energy development in its implementation of its plan. However, to the extent this policy is considered an “applicable substantive criteria,” the proposed RFA5 facility modifications could be considered an “alternative” source of energy because it would expand the development of solar facility components. Therefore, the Department recommends that the Council conclude that the facility, with proposed RFA5 modifications, would be consistent with this policy.

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.

This policy requires that development comply with relevant air, water, and land standards. Based on consultation with ODEQ, there are no new air, noise or water quality standards that would apply to the proposed expansion of the solar microsite area or switching station. Council previously imposed Condition 80 requiring that, prior to construction, the certificate holder obtain a NPDES 1200-C permit from DEQ, which would manage stormwater runoff at the site and dust during construction; Council previously imposed Condition 106 through 108, which emanate from DEQ noise standards. Therefore, the Department recommends that, based on compliance with previously imposed conditions, Council find that the proposed RFA5 facility modifications would be consistent with this policy.

Goal 8. Recreation Needs

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.*

This policy prohibits private development if such development would block access to public open space lands, or otherwise have a significant adverse impact on public open space lands. The proposed RFA5 facility modifications, including the proposed solar microsite area expansion and switching station, would be located on private land and would not block access to or otherwise impact public open space lands. Therefore, the Department recommends that Council find that the proposed RFA5 facility modifications would be 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.*

1 This policy prohibits development from interfering with the operation, maintenance, repair and
2 preservation of existing transportation facilities. Based upon the proposed expansion of solar
3 micrositing area, because it would be within previously approved site boundary, previously
4 evaluated facility access and use of interstate, state, and county roads during construction and
5 operation would not change. No new public roads would be constructed as a result of the
6 modifications proposed in RFA5. The facility, with proposed RFA5 modifications, would result in
7 potential road modifications to Oregon Highway 19, Berthold Road, Bottemiller Lane,
8 Weatherford Road, and Baseline (Ione) Rd, as previously evaluated in Council's Final Order on
9 RFA4.

10
11 Existing Condition 71 provides, in pertinent part, that the certificate holder shall modify, as
12 necessary: (1) County roads, within County road rights-of-way, and in conformity with County
13 road design standards subject to Gilliam County Road Department approval and; (2) State
14 roads, within State road rights-of-way, and in conformity with Oregon Department of
15 Transportation (ODOT) and subject to ODOT approval. Existing Condition 75 provides, in
16 pertinent part, that the certificate holder shall cooperate with the Gilliam County Road
17 Department to ensure that any "unusual damage or wear" to County roads would be repaired
18 by the certificate holder.

19
20 Based on compliance with the above referenced conditions, the Department recommends that
21 the Council conclude that the proposed RFA5 facility components would be consistent with this
22 policy.

23 24 *Goal 13. Energy Conservation*

25
26 *Goal: To conserve energy.*

27 28 *Policies:*

29
30 *13. Applications for new energy generation facilities, whether public or private, should*
31 *consider impacts on neighboring properties.*

32
33 This policy establishes that impacts to neighboring properties should be considered during the
34 review of applications for new energy generation facilities. The proposed RFA5 facility
35 modifications would result in splitting of previously approved wind and solar facility
36 components into three site certificates, all within previously approved site boundary area.
37 Therefore, the proposed changes would not impact the Council's previous findings, where the
38 facility design and compliance with site certificate conditions was relied upon to determine
39 consistency with the policy.

III.A.4.2 Directly Applicable State Statutes and Administrative Rules

Oregon Revised Statutes

ORS 215.283(1)(c) and ORS 215.274 – Associated Transmission Lines Necessary for Public Service

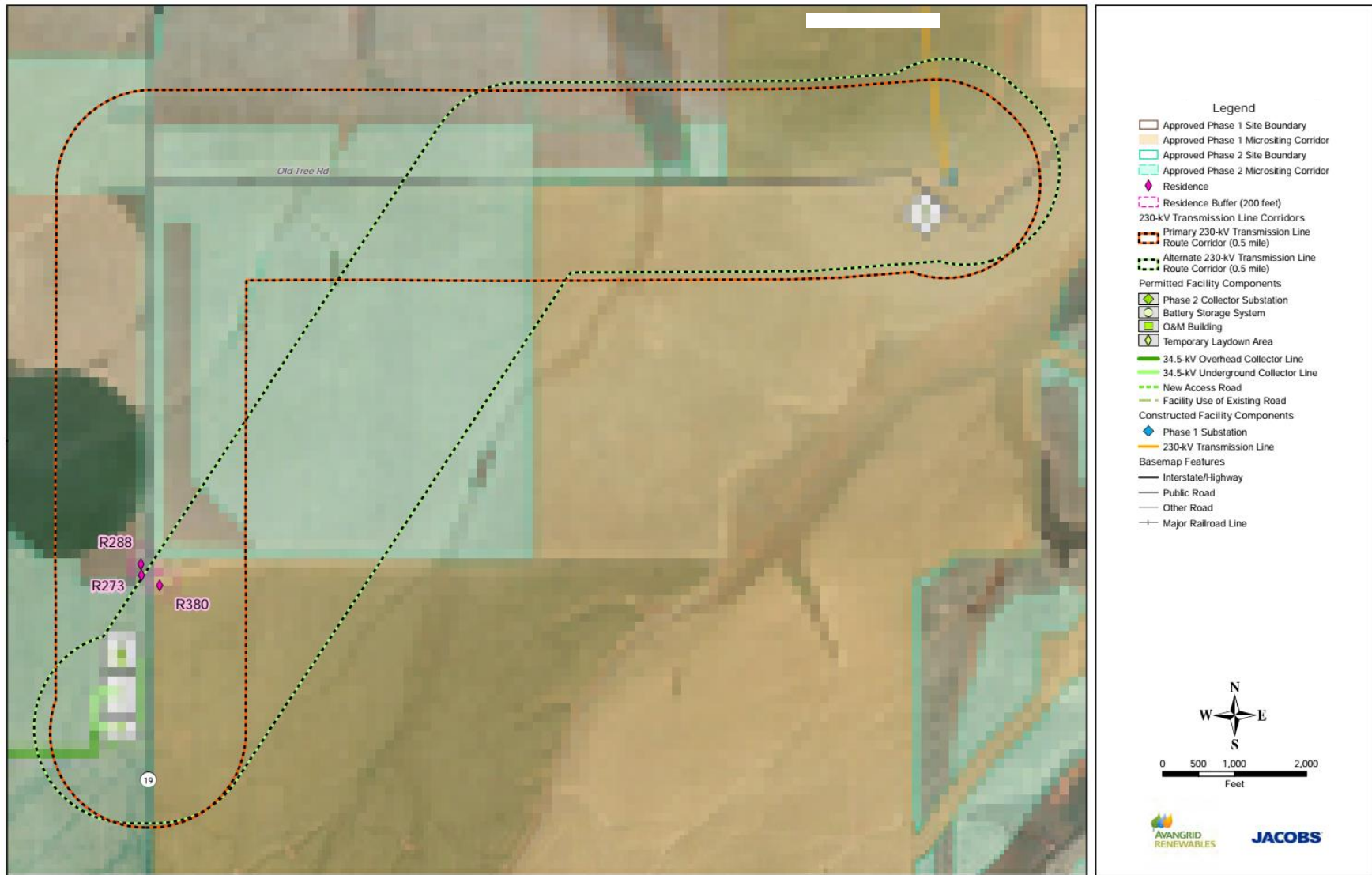
Transmission lines that meet the definition of an “associated transmission line” must consider the requirements of ORS 215.274. If a utility facility necessary for public service is an “associated transmission line” as defined in ORS 215.274 and ORS 469.300, the use may be established in EFU-zoned land pursuant to ORS 215.283(1)(c).

ORS 469.300(3) defines “associated transmission lines” as “new transmission lines constructed to connect an energy facility to the first point of junction of such transmission line or lines with either a power distribution system or an interconnected primary transmission system or both or to the Northwest Power Grid,” and that definition is incorporated by reference in ORS 215.274. 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).

The proposed alternate 230 kV route would exit east out of the Montague Solar collector substation to a 90-degree turning structure just east of OR 19. From there, it would extend straight north along OR 19 (outside of the road right-of-way) until it reaches the corner of Old Tree Road where it would turn east towards the Montague Wind collector substation. The approved and proposed alternate segment route are presented in Figure 3: *Proposed Site Boundary, Solar Micrositing Area and Alternate 230 kV Transmission Line Segment Route* below. The Council previously evaluated the 230 kV transmission line as an “associated transmission line” because it would transmit electricity from the facility to BPA’s Slatt Substation. The initiation and termination point of the 230 kV transmission line would not change as a result of the proposed alternate 230 kV route, and therefore continues to be evaluated as an “associated transmission line.”

Gilliam County has not adopted local code provisions to implement ORS 215.274. Therefore, the requirements of the statute apply directly to the proposed alternate 230 kV route and the applicable requirements are evaluated below. The proposed alternate 230 kV route and previously approved route segments are represented in Figure 6: *Approved and Proposed Alternate 230 kV Route Segments* below, where the certificate holder identifies the proposed alternate route as “primary” and the previously approved route as the “alternate.”

1 **Figure 6: Approved and Proposed Alternate 230 kV Route Segments**



2 \\gaff\proj\Avangrid\683329\MapFiles\RFAS\Figure_4_200414.mxd 4/14/2020 5:25:45 PM kgrant1

Basemap Source: ESRI World Imagery

1 ORS 215.274(2): An associated transmission line is necessary for public service if an
2 applicant for approval under ORS 215.213 (Uses permitted in exclusive farm use zones in
3 counties that adopted marginal lands system prior to 1993) (1)(c)(B) or 215.283 (Uses
4 permitted in exclusive farm use zones in nonmarginal lands counties) (1)(c)(B) demonstrates
5 to the governing body of a county or its designee that the associated transmission line
6 meets:

- 7
8 (a) At least one of the requirements listed in subsection (3) of this section; or
9 (b) The requirements described in subsection (4) of this section.

10
11 ORS 215.274 requires that the certificate holder demonstrate that the associated transmission
12 line meets the requirements of either ORS 215.274 (3) or (4). As discussed below, Council
13 previously found that the associated transmission line satisfied the requirements of ORS
14 215.274(4).

15
16 ORS 215.274(3): The governing body of a county or its designee shall approve an application
17 under this section if an applicant demonstrates that the entire route of the associated
18 transmission line meets at least one of the following requirements:

- 19
20 (a) The associated transmission line is not located on high-value farmland, as
21 defined in ORS 195.300 (Definitions for ORS 195.300 to 195.336), or on arable
22 land;
23 (b) The associated transmission line is co-located with an existing transmission line;
24 (c) The associated transmission line parallels an existing transmission line corridor
25 with the minimum separation necessary for safety; or
26 (d) The associated transmission line is located within an existing right of way for a
27 linear facility, such as a transmission line, road or railroad, that is located above
28 the surface of the ground.

29
30 ORS 215.274(3) requires a demonstration that the proposed alternate 230 kV route would not
31 be located on high-value farmland or arable land, co-located or parallel an existing transmission
32 line, or within an existing linear facility right of way. The proposed alternate 230 kV
33 transmission line route would not satisfy any of these requirements.

34
35 ORS 215.274(4)(a): Except as provided in subsection (3) of this section, the governing body of
36 a county or its designee shall approve an application under this section if, after an
37 evaluation of reasonable alternatives, the applicant demonstrates that the entire route of
38 the associated transmission line meets, subject to paragraphs (b) and (c) of this subsection,
39 two or more of the following factors:

40
41 ORS 215.274(4)(a) requires an evaluation of reasonable alternatives to determine whether the
42 associated transmission line may be sited on land other than EFU-zoned land. The evaluation of
43 “reasonable alternatives” does not require an evaluation of all alternative non-EFU zoned

1 routes on which the transmission line could be located. Rather, the certificate holder must
2 consider reasonable alternatives and show that the transmission line must be sited on EFU-
3 zoned land in order to provide the service. Council found, in its Final Order on RFA4, that the
4 certificate holder's previous evaluation of five routes, including the alternative route currently
5 proposed, satisfied ORS 215.274(4)(a). All the previously evaluated routes would be located on
6 EFU zoned land.

7
8 As previously presented in RFA4 Exhibit K, Figure K-3, the site boundary is located entirely
9 within EFU zoned land. Therefore, because the proposed alternate 230 kV transmission route
10 would initiate and terminate at previously approved facility component locations within the site
11 boundary, there is no non-EFU zoned land available between facility components and the
12 interconnection point. The Department therefore recommends that the Council find that the
13 certificate holder's previous evaluation of alternatives remains valid for RFA5 and
14 demonstrates that no reasonable alternatives that would avoid EFU land exist. However, note
15 that ORS 215.274(4) requires both a demonstration that no reasonable alternatives that would
16 avoid EFU land exist, and that two or more of the listed factors [ORS 215.274(a)(A) through (E)]
17 be met, which is evaluated below.

18
19 ORS 215.274(4)(a)(A): Technical and engineering feasibility;
20

21 ORS 215.274(4)(a)(A) requires that the certificate holder demonstrate that the proposed
22 alternate 230 kV transmission route must be sited in an EFU zone due to technical and
23 engineering feasibility constraints. The Department interprets this factor as requiring a
24 demonstration that technical or engineering constraints, such as extreme topographic features,
25 cannot be overcome but for facility engineering through EFU-zoned land. Extreme topographic
26 features have not been identified within the site boundary. Therefore, the Department
27 recommends Council find that there are not technical or engineering constraints, such as
28 extreme topographic features, that cannot be overcome but for siting the alternate 230 kV
29 route through EFU zoned land and therefore, ORS 215.274(4)(a)(A) would not be satisfied.

30
31 ORS 215.274(4)(a)(B): The associated transmission line is locationally dependent because
32 the associated transmission line must cross high-value farmland, as defined in ORS
33 195.300 (Definitions for ORS 195.300 to 195.336), or arable land to achieve a reasonably
34 direct route or to meet unique geographical needs that cannot be satisfied on other
35 lands;
36

37 ORS 215.274(4)(a)(B) requires a demonstration that the alternate 230 kV transmission route
38 must cross high value farmland or arable land to achieve a reasonably direct route and
39 therefore is locationally dependent. As presented in Figure 6: *Approved and Proposed Alternate*
40 *230 kV Route Segments* above, the proposed alternate 230 kV transmission route would be
41 located on private property, adjacent to but outside of public road rights-of-way for OR 19 and
42 Old Tree Lane. As presented in Figures 3 and 4 of this order, the proposed alternate 230 kV
43 transmission route is surrounded by interspersed areas of high-value farmland, pursuant to ORS

195.300(10)(f)(c), and arable land comprised of Class 3 and 4 soils. Because there is no reasonable route to interconnect the approved Montague Solar collector substation (previously referred to as Phase 2 collector substation) to the existing Montague Wind collector substation (previously referred to as Phase 1 collector substation) without traversing high value farmland and arable land, the Department recommends Council find that the proposed alternate 230 kV transmission route must cross high value farmland and arable land to achieve a reasonably direct route, and that the alternate route is therefore “locationally dependent” and would satisfy ORS 215.274(4)(a)(B).

ORS 215.274(4)(a)(C): Lack of an available existing right of way for a linear facility, such as a transmission line, road or railroad, that is located above the surface of the ground;

ORS 215.274(4)(a)(C) requires a demonstration of a lack of available existing linear facility rights-of-way for which the transmission line could be located. Based upon the certificate holder’s assessment of ORS 215.274(4)(a)(C) in RFA4, the availability of existing public road rights-of-way was evaluated. The certificate holder previously described that the existing OR 19 road right-of-way was not available for co-location of the transmission line because it contains an existing pipeline on the east side, and topographic constraints include ditches with steep rises to adjacent fields on both sides of OR 19, which eliminate usable space within the right of way and make it difficult to locate the poles within the right-of-way while also setback for traffic safety. While this analysis was previously relied upon to support the evaluation of the approved 230 kV transmission line route, the Department recommends Council find that the analysis remains valid for the proposed alternate 230 kV transmission route.

Based on the limitation of feasibility of use of the existing or expanded road right-of-way, as described above, the Department recommends the Council find that the proposed alternate 230 kV transmission route would satisfy ORS 215.274(4)(a)(C).

ORS 215.274(4)(a)(D): Public health and safety; or

ORS 215.274(4)(a)(D) requires a demonstration that the proposed alternate transmission line route must be sited on EFU-zoned land to minimize potential impacts to public health and safety. As described under the evaluation of ORS 215.274(4)(a) above, non-EFU zoned land does not exist within the analysis area. Therefore, the Department recommends Council find that the proposed alternate 230 kV transmission route would not satisfy ORS 215.274(4)(a)(D).

ORS 215.274(4)(a)(E): Other requirements of state or federal agencies.

ORS 215.274(4)(a)(E) requires a demonstration that the proposed alternate 230 kV transmission route must be sited in an EFU zone due to other state or federal requirements. Other requirements of state or federal agencies has not been identified. Therefore, the Department

1 recommends Council find that the proposed alternate 230 kV transmission route would not
2 satisfy ORS 215.274(4)(a)(E).

3
4 ORS 215.274(4)(b): *The applicant shall present findings to the governing body of the county*
5 *or its designee on how the applicant will mitigate and minimize the impacts, if any, of the*
6 *associated transmission line on surrounding lands devoted to farm use in order to prevent a*
7 *significant change in accepted farm practices or a significant increase in the cost of farm*
8 *practices on the surrounding farmland.*

9
10 ORS 215.274(4)(b) requires a demonstration that the proposed alternate 230 kV transmission
11 route would not result in a significant change in accepted farm practices or a significant
12 increase in cost of farm practices on surrounding land. Impacts from the proposed alternate
13 route would be minimized by paralleling existing roads, siting transmission structures on the
14 perimeter of fields and would not result in permanent roads.

15
16 To ensure that potential impacts to farm practices and the cost of farm practices on
17 surrounding lands is minimized during construction, Council previously imposed Conditions 38
18 and 39 requiring that the certificate holder design and construct the facility using the minimum
19 land use necessary, and that the certificate holder consult with area landowners and lessees to
20 identify and implement measures to reduce or avoid adverse impacts to farm practices and
21 farming cost. Based on compliance with previously imposed conditions and the minimal
22 amount of permanent impacts to EFU-zoned land, the Department recommends that the
23 Council find that the proposed alternate 230 kV transmission route would not result in a
24 significant change to accepted farm practices or significantly increase costs of farm practices on
25 surrounding land. Therefore, the Department recommends Council find that the proposed
26 alternate 230 kV transmission route would satisfy 215.274(4)(b).

27
28 ORS 215.274(4)(c): *The governing body of a county or its designee may consider costs*
29 *associated with any of the factors listed in paragraph (a) of this subsection, but*
30 *consideration of cost may not be the only consideration in determining whether the*
31 *associated transmission line is necessary for public service.*

32
33 ORS 215.274(4)(c) allows for consideration of costs in determining whether the associated
34 transmission line is necessary for public service. The certificate holder indicates that, based on
35 its previous review of four alternative routes and the increased length of those routes,
36 construction costs would increase. The Department recommends that the Council find that the
37 certificate holder's previous analysis of reasonable alternative in RFA4 remains valid for RFA5
38 and would continue to satisfy ORS 215.274(4)(a); and, that the alternative route is locationally
39 dependent under ORS 215.274(4)(a)(B) and that there is a lack of available existing rights-of-
40 way for a linear facility under ORS 215.274(4)(a)(C). As such, the Department recommends that
41 the Council find that the proposed 230 kV transmission route is "necessary for public service."

Oregon Administrative Rules

OAR 660-033-0130-(38) – Standards for Approval for Photovoltaic Solar Power Generation Facility in Exclusive Farm Use Zones

(g) For high-value farmland described at ORS 195.300(10), a photovoltaic solar power generation facility shall not use, occupy, or cover more than 12 acres unless:

(A) The provisions of paragraph (h)(H) are satisfied; or

(B) A county adopts, and an applicant satisfies, land use provisions authorizing projects subject to a dual-use development plan. Land use provisions adopted by a county pursuant to this paragraph may not allow a project in excess of 20 acres. Land use provisions adopted by the county must require sufficient assurances that the farm use element of the dual-use development plan is established and maintained so long as the photovoltaic solar power generation facility is operational or components of the facility remain on site. The provisions of this subsection are repealed on January 1, 2022.

The Gilliam County Zoning Ordinance has not been updated to incorporate Oregon Administrative Rule 660-033-0130(38) and therefore OAR 660-033-0130(38) is an administrative rule that applies directly. OAR 660-033-0130(38)(g) restricts a photovoltaic solar power generation facility from using, occupying, or covering more than 12 acres of high value farmland unless the provisions of OAR 660-033-0130(38)(h)(H) are satisfied or the County adopts a dual-use development plan, which would then allow use, occupation or coverage on no more than 20 acres of high-value farmland. In RFA5, the certificate holder represents that the proposed expansion of the solar microsite area would use, occupy or cover more than 12 acres of high-value farmland, and therefore these provisions are applicable. The evaluation of OAR 660-033-0130(h)(H), as required under OAR 660-033-0130(38)(g)(A), is presented below.

(h)(H) A photovoltaic solar power generation facility may be sited on more than 12 acres of high-value farmland described in ORS 195.300(10)(f)(C) without taking an exception pursuant to ORS 197.732 and OAR chapter 660, division 4, provided the land:

(i) Is not located within the boundaries of an irrigation district;

(ii) Is not at the time of the facility's establishment, and was not at any time during the 20 years immediately preceding the facility's establishment, the place of use of a water right permit, certificate, decree, transfer order or ground water registration authorizing the use of water for the purpose of irrigation;

(iii) Is located within the service area of an electric utility described in ORS 469A.052(2);

(iv) Does not exceed the acreage the electric utility reasonably anticipates to be necessary to achieve the applicable renewable portfolio standard described in ORS 469A.052(3); and

(v) Does not qualify as high-value farmland under any other provision of law; or

OAR 660-033-0130(38)(g)(A) requires an evaluation of OAR 660-033-0130(38)(h)(H), where – (h)(H) allows consideration of other factors in lieu of a goal exception, including whether the site of solar facility components would meet any of the following: not within the boundaries of an irrigation district; within last 20 years, not within a place of use of a water right permit, certificate, decree, or transfer; within the service area of an electric utility; would not exceed the acreage necessary to achieve the renewable portfolio standard; and, does not qualify as high-value farmland under any provision of law. Based on review of RFA5 Attachment 4 Landowner Letters, which includes email correspondence from Oregon Water Resources Department staff Jerry Sauter, the proposed expanded solar micrositing area would be located within a location where, within the last 20 years, there was a place of use water right (expired in 2006), Therefore, the proposed RFA5 facility modifications would not satisfy the -(h)(H) requirements and a goal exception is required.

OAR 660-033-0130(38)(g)(A) also allows for consideration of a dual-use development plan adopted by the county. The certificate holder confirms that a dual-use development plan is not proposed and asserts that the provision is not applicable.

(h) The following criteria must be satisfied in order to approve a photovoltaic solar power generation facility on high-value farmland described at ORS 195.300(10).

(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;

(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.

The approved plan shall be attached to the decision as a condition of approval;

(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;

(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;

(E) Except for electrical cable collection systems connecting the photovoltaic solar generation facility to a transmission line, the project is not located on those high-value farmland soils listed in OAR 660-033-0020(8)(a);

(F) The project is not located on those high-value farmland soils listed in OAR 660-033-0020(8)(b)-(e) or arable 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

(G) 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 facilities 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 power 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 power 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.

OAR 660-033-0130(38)(h)(A) – (D) requires a demonstration that the facility, with proposed RFA5 modifications, would not create unnecessary negative impacts to agricultural operations, soil erosion or loss, soil compaction, or the unabated introduction or spread of noxious weeds.

OAR 660-033-0130(38)(h)(A): Unnecessary Negative Impacts to Agricultural Operations

OAR 660-033-0130(38)(h)(A) requires a demonstration that the proposed expansion of solar micrositing area would not create unnecessary negative impacts to agricultural operations, such as dividing of fields. The facility, with proposed RFA5 facility modifications, would result in removal of up to 2,725 acres of land currently used for agriculture (dryland wheat cultivation)

1 by four landowners. Of the property of the four landowners, three landowners would maintain
2 other land usable for dryland wheat cultivation, which would not be impacted by the proposed
3 changes. In addition, the proposed changes in facility component layout would not result in
4 field division and would include design measures allowing for farm use access through the site
5 and gate-entry points that are wide enough for pass-through of farm equipment.

6
7 The proposed expansion of solar micro-siting area would preclude the use of land for
8 agricultural purposes in areas where solar equipment and perimeter fencing is located, and
9 remove all agricultural land from one underlying landowner, but would not otherwise alter the
10 ability for existing landowners to conduct agricultural operations. In RFA5 Attachment 4 the
11 certificate holder provides landowner letters from Weedman, Weatherford and Holtz, which
12 confirm that their existing agricultural operations would not be significantly impacted by the
13 proposed expansion of solar micro-siting area.

14
15 As described in the evaluation of GCZO Section 4.020(H), Council previously imposed several
16 conditions that would minimize potential impacts to accepted farm practices within the
17 surrounding area. Previously imposed conditions are summarized below:

- 18
19 • Condition 38 requires that, during construction and operation, the certificate holder
20 consult with area landowners and lessees and implement measures to reduce or
21 avoid adverse impacts to farm practices
- 22 • Condition 39 requires that the certificate holder design and construct the facility to
23 minimize impacts to farm practices
- 24 • Condition 43 requires that, during construction and operation, a Weed Control Plan
25 be implemented
- 26 • Condition 73 requires that, during construction, traffic control measures be
27 implemented and notification of activities and schedule be provided to adjacent
28 landowners
- 29 • Condition 74 requires that, during construction, County roads not be used for
30 equipment and machinery parking
- 31 • Condition 80 requires that, during construction, erosion and sediment control
32 measures be implemented to minimize erosion and sediment impacts to adjacent
33 land use
- 34 • Condition 81 requires that, during construction, truck traffic be limited to improved
35 road surfaces, to the extent practicable, to minimize unnecessary soil compaction
- 36 • Condition 82 requires that, during construction, best management practices (such as
37 watering) be implemented for dust control
- 38 • Condition 92 requires that, following completion of construction, temporarily
39 impacted agricultural areas be revegetated

40
41 Based on compliance with previously imposed conditions, and the evidence provided in the
42 landowner letters, the Department recommends Council find that the facility, with proposed

RFA5 facility modifications, would not create unnecessary negative impacts on agricultural operations conducted on any portion of the subject property not occupied by facility components, and therefore satisfies the requirements under OAR 660-033-0130(38)(h)(A).

OAR 660-033-0130(38)(h)(B) Unnecessary Soil Erosion or Loss

OAR 660-033-0130(38)(h)(B) requires the certificate holder to demonstrate that the facility, with proposed RFA5 modifications, would not “result in unnecessary soil erosion or loss that could limit agricultural productivity on the subject property” and states that the “provision may be satisfied by 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.”

As necessary, to satisfy this provision, the certificate holder must demonstrate compliance with the Council’s Soil Protection standard; current Condition 80 of the Site Certificate requires the certificate holder to construct the facility in accordance with an Erosion and Sediment Control Plan, which must be approved by the Oregon Department of Environmental Quality (DEQ), and a National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge General Permit 1200-C. Furthermore, Condition 92 requires the Certificate Holder to comply with a Revegetation Plan. These plans include best management practices to be implemented during facility construction and operation, and are designed to reduce and minimize unnecessary soil erosion or loss that could limit agricultural productivity within the proposed facility site and on adjacent EFU zoned land.

Based on compliance with previously imposed conditions, the Department recommends Council find that the facility, with proposed RFA5 modifications, would not result in unnecessary soil erosion or loss that could limit agricultural productivity, and therefore satisfies the requirements under OAR 660-033-0130(38)(h)(B).

OAR 660-033-0130(38)(h)(C) Unnecessary Soil Compaction

OAR 660-033-0130(38)(h)(C) requires the Certificate Holder to demonstrate that the facility, with proposed RFA5 modifications, would not “result in unnecessary soil compaction that reduces the productivity of soil for crop production.” Soil compaction would be limited by the certificate holder’s use of existing or constructed access roads, which would limit potential impacts from driving across or through productive soils used for crop production; specifically, Condition 81 mandates that truck traffic be limited to the extent practicable to improved road surfaces to avoid compaction. The Council stated in the *Final Order on the ASC*, that the facility “will not result in unnecessary soil erosion.” Although the certificate holder proposes to expand the solar microsite area and construct and operate an additional related or supporting facility (switching station) this would not alter the certificate holder’s ability to comply with conditions that require minimization of soil compaction. As such, the Department recommends that, based upon compliance with existing site certificate conditions, the Council conclude that the facility,

with proposed RFA5 facility modifications, would not result in unnecessary soil compaction, and would satisfy the requirements under OAR 660-033-0130(38)(h)(C).

OAR 660-033-0130(38)(h)(D) Unnecessary Spread of Noxious Weeds

OAR 660-033-0130(38)(g)(D) requires the certificate holder to demonstrate that the facility, with proposed RFA5 modifications, would not result in the “unabated introduction or spread of noxious weeds and other undesirable weed species.” The certificate holder must comply with Condition 43, which requires that it implement a weed control plan, which must be approved by the Gilliam County Weed Control Officer. To support this evaluation, the certificate holder provides a draft Weed Control Plan (see Attachment F of this order), to be finalized prior to construction of the Montague Solar and Oregon Trail Solar Facilities. The draft plan includes pre-disturbance treatment, weed control measures, monitoring plan, and an agency consultation process. Based upon the components of the draft plan and compliance with Condition 43, the Department recommends that the Council find that the facility, with proposed RFA5 modifications, would not result in unabated introduction or spread of noxious weeds or other undesirable weed species, and would satisfy the requirements under OAR 660-033-0130(38)(h)(D).

OAR 660-033-0130(38)(h)(E)

OAR 660-033-0130(38)(h)(E) requires that the certificate holder demonstrate that, with the exception of grid interconnection electrical collection systems, the proposed expansion of solar microsite area would not be located on high-value farmland soils. Pursuant to OAR 660-033-0020(8)(a), high-value farmland soils are defined as irrigated and classified prime, unique, Class I or II soils; or, not irrigated and classified prime, unique, Class I or Class II soils. As presented in RFA5, based on review of Natural Resource Conservation Service’s 2020 soil mapping – represented in RFA5 Table 8, soil classification within the proposed expanded solar microsite area includes Class III, IV and VI – which are not considered high-value farmland soils. Therefore, the Department recommends Council find that the facility, with proposed RFA5 modifications, would satisfy the requirements under OAR 660-033-0130(38)(h)(E).

- (F) The project is not located on those high-value farmland soils listed in OAR 660-033-0020(8)(b)-(e) or arable 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*

OAR 660-033-0130(38)(h)(F) requires the certificate holder to demonstrate that the proposed expansion of solar micrositings area would not be located on high-value farmland soils or arable soils unless: 1) non high-value farmland soils are not available on the subject tract; 2) siting the project on non high-value farmland soils, if present, would significantly impact the project's ability to operate; or 3) the site is better suited than other possible sites because it would allow continued operation of existing farmland.²⁴

Based on review of OAR 660-033-0020(8)(b)-(e) definitions of high-value farmland soils, as applicable to the location of the proposed expanded solar micrositings area, high-value farmland soils include irrigated and classified prime, unique, Class I or II soils; or, not irrigated and classified prime, unique, Class I or Class II soils. Arable soils are defined as soils suitable for cultivation, excluding high-value farmland soils.²⁵ As presented in RFA5, based on review of Natural Resource Conservation Service's 2020 soil mapping – represented in RFA5 Table 8, soil classification within the proposed expanded solar micrositings area include Class III, IV and VI – which are considered arable soils, but not high-value farmland soils.²⁶ While OAR 660-033-0130(38)(h)(F) applies to projects that could impact both high-value farmland soils and arable soils, the criteria identified in –(h)(F)(i)-(iii) are specific to projects that would impact high-value farmland soils, which are not present within the proposed expanded solar micrositings area. The Department refers to the analysis under OAR 660-033-010(38)(i) to support review of applicable criteria for impacts to arable soil.

(G) 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 facilities 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 power 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 power generation facilities will make it more difficult for the existing farms and ranches in the area to continue operation due to*

²⁴ As defined in OAR 660-033-0020, "tract" means one or more contiguous lots or parcels under the same ownership. The Department notes that because OAR 660-033-0130(38)(g)(A) requires an evaluation of soil conditions on the "subject tract," that such an evaluation may require the review of areas outside of the proposed site boundary area.

²⁵ OAR 660-033-0330(38)(b)

²⁶ In RFA5, the certificate holder evaluates OAR 660-033-0330(38)(h)(F), interpreting high-value farmland under ORS 195.300(10)(f)(C) as equivalent to high-value farmland soils under OAR 345-033-0020(8), which the Department disagrees.

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.

OAR 660-033-0130(38)(h)(G) requires an evaluation of photovoltaic solar power generation facility development within 1-mile of the site. Based on review of aerial imagery and multiple site visits in 2019/2020, the Department confirms that there are fewer than 48 acres of other photovoltaic solar power generation facilities within 1-mile of the proposed expanded solar micrositing area. Therefore, no further action is necessary.

(i) For arable lands, a photovoltaic solar power generation facility shall not use, occupy, or cover more than 20 acres. The governing body or its designate must find that the following criteria are satisfied in order to approve a photovoltaic solar power generation facility on arable land.

(A) The project is not located on those high-value farmland soils listed in OAR 660-033-0020(8)(a);

(B) The project is not located on those high-value farmland soils listed in OAR 660-033-0020(8)(b)-(e) 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;*

(C) No more than 12 acres of the project will be sited on high-value farmland soils described at ORS 195.300(10);

OAR 660-033-0130(38)(i)(A)-(C) restricts a photovoltaic solar power generation facility from occupying more than 20 acres of arable land and requires the following criteria to be met: 1) the project is not located on high-value farmland soils listed in OAR 660-033-0020(8)(a); 2) facility is not located on high-value farmland soils or arable soils unless i) nonarable soils are not available on the subject tract; ii) siting facility on nonarable soils on subject tract would significantly increase cost of project operability; or iii) proposed site is better suited to provide continuation of farming on subject tract; and 3) no more than 12 acres of high value farmland soils would be precluded by the project.

The proposed expanded solar micrositing area would use, occupy or cover more than 20 acres of arable land and therefore would not satisfy OAR 660-033-0130(38)(i) and would require a Goal 3 exception. Nonetheless, the certificate holder assesses compliance with OAR 660-033-0130(38)(i)(A)-(C) as presented below.

As described in RFA5 and in this order, based on NRCS soil classification, there are no high-value farmland soils present within the proposed expanded solar micrositings corridor and therefore the proposed solar micrositings area would satisfy OAR 660-033-0130(38)(i)(A) and (C). The proposed solar micrositings area would be located on arable soils and therefore is required to demonstrate compliance with OAR 660-033-0130(38)(i)(B).

Availability of Nonarable Soils on Subject Tract (OAR 660-033-0130(38)(i)(B)(i))

In RF55, the certificate holder provides a summary of NRCS soil classification by taxlot within the subject tract (see Figure 4: Proposed Solar Micrositings Expansion Areas, High-Value Farmland and Arable Land), as summarized below:

- Tax lot 01N21E0000-01900 is the Athearn property and is comprised entirely of Class 3 soils.
- Tax lot 01N21E0000-00804 makes up the western portion of the Holtz tract and is comprised entirely of Class 3 soils
- Tax lot 01N21E0000-00806 makes up the eastern portion of the Holtz tract and is comprised entirely of Class 3 soils
- Tax lot 01N21E0000-00805 is the Weatherford property and is comprised entirely of Class 3 soils
- Tax lot 01N22E0000-01900 is located in the northeast portion of the Weedman tract and comprises Class 3, Class 4, Class 6, and Class 7 soils, with the majority of the lot Class 3 and 4.
- Tax lot 01N21E0000-02100 is located in the center of the Weedman tract on the eastside of OR 19 and is predominately Class 3 soils, with a small amount of Class 4 and 6 soils (and minimal amount of Class 7 soils)
- Tax lot 01S21E0000-00100 is located on the south end of the Weedman tract and east of Baseline Road and contains entirely Class 3 soil (and minimal amount of Class 7).
- Tax lot 01N21E0000-02100 is located in the center of the Weedman tract on the west side of OR 19 and south of Bottemiller Lane and contains Class 3 soils with a small amount of Class 7 (and de minimis amounts of Class 6).
- Tax lot 01N21E0000-01500 is located in the western portion of the Weedman tract; this tax lot is predominately Class 3 but interspersed with Class 4, 6, and 7 soils.

As summarized above, within the subject tracts, soils are predominately Class 3 and 4, with approximately 1,289 acres of nonarable soil (NRSC Class 6 and 7), as presented in Figure 4: *Proposed Solar Micrositings Expansion Areas, High-Value Farmland, and Arable Land* of this order, distributed throughout the periphery of the tracts (see RFA5 Table 7).²⁷ The certificate holder describes that nonarable soils comprise approximately 13 percent of the acreage within

²⁷ As defined in OAR 660-033-0020, “tract” means one or more contiguous lots or parcels under the same ownership. The Department notes that because OAR 660-033-0130(38)(g)(A) requires an evaluation of soil conditions on the “subject tract,” that such an evaluation may require the review of areas outside of the proposed site boundary area.

1 the tracts but are located below plateaus and ridgelines dissected by small gullies, which could
2 not accommodate solar equipment. Because nonarable soils are available within the subject
3 tract, the proposed expansion of solar microsites area would not satisfy OAR 660-033-
4 0130(38)(i)(B)(i).

5
6 *Siting of Facility Components on Nonarable Soils would Significant Increase Cost (OAR 660-033-
7 0130(38)(i)(B)(ii))*

8
9 OAR 660-033-0130(38)(i)(B)(ii) requires an evaluation of the cost of siting solar facility
10 components on nonarable soils. As presented in Figure 4: *Proposed Solar Microsites Expansion*
11 *Areas, High-Value Farmland, and Arable Land* above, the available nonarable soils are limited
12 and dispersed in patches in opposite areas within the subject tracts. In RFA5, the certificate
13 holder represents that expansion of the solar microsites area by approximately 1,500 acres, as
14 proposed, attempting to use nonarable soils could spread previously approved facility
15 components across thousands of acres and require significantly more miles of cable to connect
16 the panels and convey the power back to the approved collector substation. Under this
17 scenario, the solar array would be spread out into suboptimal layouts and could not operate
18 efficiently. This scenario would conflict with the intent of OAR 660-033-0130(38)(h)(A) and
19 would create small or isolated pieces of property between solar arrays that are more difficult
20 to farm. For these reasons, siting the proposed expansion of solar microsites area on
21 nonarable soils would significantly impact the ability of the facility, with proposed RFA5
22 modifications, to produce the needed solar generation. The Department recommends Council
23 find that the facility, with proposed RFA5 modifications, would satisfy OAR 660-033-
24 0130(38)(i)(B)(ii).

25
26 *Proposed Site is Better Suited to Provide a Continuation of Farming (OAR 660-033-
27 0130(38)(i)(B)(iii))*

28
29 OAR 660-033-0130(38)(i)(B)(iii) requires an evaluation of the solar facility site's suitability for
30 providing continuation of farming activities, compared to other sites on nonarable soils within
31 the subject tract. In RFA5, the certificate holder describes that the proposed expanded solar
32 microsites area is better suited than other areas of nonarable soils on the subject tract
33 because it provides direct access from Bottemiller Lane, OR 19 and Weatherford Road, limiting
34 the need for new access roads. In addition, because of Council's previous approval of solar
35 photovoltaic energy generation equipment within a solar microsites area, expanding the
36 microsites area adjacent to these areas is optimal for co-location, minimizing impacts and
37 infrastructure. The proposed expanded solar microsites area would provide farm and
38 equipment access through the site and would not be expected to negatively impact existing
39 agricultural practices within the surrounding area. Therefore, the Department recommends
40 Council find that the facility, with proposed RFA5 modifications, would satisfy OAR 660-033-
41 0130(38)(i)(B)(iii).

- 1
2 (D) A study area consisting of lands zoned for exclusive farm use located within one
3 mile measured from the center of the proposed project shall be established and:
4 i. If fewer than 80 acres of photovoltaic solar power generation facilities have
5 been constructed or received land use approvals and obtained building
6 permits within the study area no further action is necessary.
7 ii. When at least 80 acres of photovoltaic solar power generation facilities have
8 been constructed or received land use approvals and obtained building
9 permits either as a single project or as multiple facilities, within the study
10 area the local government or its designate must find that the photovoltaic
11 solar power generation facility will not materially alter the stability of the
12 overall land use pattern of the area. The stability of the land use pattern will
13 be materially altered if the overall effect of existing and potential
14 photovoltaic solar power generation facilities will make it more difficult for
15 the existing farms and ranches in the area to continue operation due to
16 diminished opportunities to expand, purchase or lease farmland, acquire
17 water rights or diminish the number of tracts or acreage in farm use in a
18 manner that will destabilize the overall character of the study
19 area; and
20

21 OAR 660-033-0130(38)(i)(D) requires an evaluation of photovoltaic solar power generation
22 facility development within 1-mile of the proposed project site. Based on review of aerial
23 imagery and multiple site visits in 2019/2020, the Department confirms that there are fewer
24 than 80 acres of other photovoltaic solar power generation facilities within 1-mile of the
25 proposed facility site. Therefore, no further action is necessary.
26

27 (E) The requirements of OAR 660-033-0130(38)(h)(A), (B), (C) and (D) are satisfied.
28

29 OAR 660-033-0130(38)(i)(E) requires Council to find that OAR 660-033-0130(38)(h)(A)-(D) are
30 satisfied. As presented in this section, the Department recommends Council find that the
31 facility, with proposed RFA5 modifications, would satisfy the requirements of OAR 660-033-
32 0130(38)(h)(A)-(D).
33

34 (k) An exception to the acreage and soil thresholds in subsections (g), (h), (i), and (j) of this
35 section may be taken pursuant to ORS 197.732 and OAR chapter 660, division 4.
36

37 OAR 660-033-0130(38)(k) establishes that, for projects that would be sited on 12 acres or more
38 of high-value farmland or 20 acres of arable land, an exception is required pursuant to ORS
39 197.732 and OAR Chapter 660, division 4. The proposed expanded solar micrositing area would
40 use, occupy or cover more than 12 acres of high-value farmland and more than 20 acres of
41 arable land from agricultural use. The Department's assessment of the applicant's Goal 3
42 exception request is evaluated in Section III.A.4,2 *Goal 3 Exception* of this order below and
43 recommends that the Council find that an exception to Goal 3 is justified.

1
2 (l) *The county governing body or its designate shall require as a condition of approval for a*
3 *photovoltaic solar power generation facility, that the project owner sign and record in*
4 *the deed records for the county a document binding the project owner and the project*
5 *owner's successors in interest, prohibiting them from pursuing a claim for relief or cause*
6 *of action alleging injury from farming or forest practices as defined in ORS 30.930(2) and*
7 *(4).*

8
9 OAR 660-033-0130(38)(l) requires the governing body to impose a condition that the
10 certificate holder sign and record in the deed records for the County a document binding the
11 applicant and the applicant owner's successors in interest, prohibiting them from pursuing a
12 claim for relief or cause of action alleging injury from farming. Condition 41 requires the
13 certificate holder to record a Covenant Not to Sue landowners, which would be consistent with
14 and would satisfy the requirements of this provision. Based on compliance with the existing
15 condition, the Department recommends that Council conclude the requirements under OAR
16 660-033-0130(38)(k) would be satisfied.

17
18 (m) *Nothing in this section shall prevent a county from requiring a bond or other security*
19 *from a developer or otherwise imposing on a developer the responsibility for retiring the*
20 *photovoltaic solar power generation facility.*

21
22 OAR 660-033-0130(38)(m) allows for the governing body to require a bond or letter of credit
23 for the amount necessary to retire the facility during decommissioning. Existing site certificate
24 Condition 32 requires the certificate holder to obtain a bond or letter of credit, before
25 beginning construction. Therefore, based upon existing Condition 32, in conjunction with the
26 Department's recommended amendment to Condition 32 contained within Section III.A.5.,
27 *Retirement and Financial Assurance* of this order, the Department recommends that Council
28 conclude that the requirements under OAR 660-033-0130(38)(j) would be satisfied.

29
30 III.A.4.4 Goal 3 Exception

31
32 The proposed solar micrositing area would be sited on more than 12 acres of high-value
33 farmland as defined in ORS 195.300(10), and could use, occupy or cover more than 12 acres of
34 high value farmland and more than 20 acres of arable land from use as a commercial
35 agricultural enterprise. Therefore, the proposed expanded solar micrositing area would not
36 comply with OAR 660-033-0130(38)(f) and -(38)(g) unless a goal exception is taken. Pursuant to
37 ORS 469.504(1)(b)(B), non-compliance with a statewide planning goal requires a determination
38 by the Council that an exception to Goal 3 is warranted under ORS 469.504(2) and the
39 implementing rule at OAR 345-022-0030(4).

40
41 Goal 2, under OAR 660-015-0020(2)(Part II), permits an "exception" to the requirement of a
42 goal for "specific properties or situations." The text of Goal 2, part II, pertaining to exceptions is
43 codified in ORS 197.732; however, for EFSC-jurisdictional facilities, ORS 469.504(2) establishes

the requirements that must be met for the Council to take an exception to a land use planning goal, not the LCDC rule or statute. The requirements of ORS 469.504(2) are implemented through the Council's Land Use standard at OAR 345-022-0030(4), which states:

(4) The Council may find goal compliance for a proposed facility that does not otherwise comply with one or more statewide planning goals by taking an exception to the applicable goal. Notwithstanding the requirements of ORS 197.732 (emphasis added), the statewide planning goal pertaining to the exception process or any rules of the Land Conservation and Development Commission pertaining to the exception process goal, the Council may take an exception to a goal if the Council finds:

- (a) The land subject to the exception is physically developed to the extent that the land is no longer available for uses allowed by the applicable goal;*
- (b) The land subject to the exception is irrevocably committed as described by the rules of the Land Conservation and Development Commission to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable; or*
- (c) The following standards are met:*

(A) Reasons justify why the state policy embodied in the applicable goal should not apply;

(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; and

(C) The proposed facility is compatible with other adjacent uses or will be made compatible through measures designed to reduce adverse impacts.

The provisions of OAR 345-022-0030(4)(a) and (b) are not applicable to RFA5. The certificate holder submitted an assessment as to why a goal exception under OAR 345-022-0030(4)(c) is appropriate for the facility, with proposed RFA5 modifications. The Department agrees that a goal exception under OAR 345-022-0030(4)(c) is appropriate, and the Department's evaluation of the OAR 345-022-0030(4)(c) is provided below.

Reasons Supporting an Exception

Under OAR 345-022-0030(4)(c)(A) (and ORS 469.504(2)(c)(A)), in order for the Council to determine whether to grant an exception to a statewide planning goal, the certificate holder must provide reasons justifying why the state policy embodied in the applicable goal should not apply. The state policy embodied in Goal 3 is the preservation and maintenance of agricultural

1 land for farm use. The certificate holder's arguments relating to "reasons supporting an
2 exception" are discussed below.

3
4 *Local Economic Benefits*
5

6 The certificate holder asserts that the proposed expanded solar micrositng area would
7 promote rural economic development through job creation and by stimulating the Gilliam
8 County tax base. As evidence, the certificate holder provides data from the economic benefit of
9 Phase 1 – Montague Wind Facility, which became operational in October 2019. The certificate
10 holder indicates that Phase 1 construction resulted in an estimated \$9.2 million in local
11 spending (within 100 miles), where similar revenue generation is expected during construction
12 of the remaining facility components. In addition, the certificate holder spent \$15.5 million in
13 Phase 1 construction labor and per diem for workers. *Business Oregon* (Meyers and Cuyler,
14 2017) reports the total payroll in Gilliam County in 2015 as \$21.6 million. Comparatively, the
15 construction labor for Montague Wind represented 87 percent of Gilliam County annual
16 payroll. Based on the data provided to represent the potential local economic benefits from the
17 proposed expanded solar micrositng area, the Department agrees that there would be a local
18 economic benefit realized through stimulation of the local tax base and some new employment
19 opportunities would be created. The Department recommends the Council to conclude that this
20 argument is a relevant "reason" justifying a Goal 3 exception.

21
22 *Minimal Impacts to Agriculture*
23

24 The proposed expanded solar micrositng area would remove an additional 1,536 acre of lands
25 of four property owners (Athearn, Holtz, Weatherford, and Weedman) currently used for
26 cultivation of dryland winter wheat. Within the subject tracts of these property owners, there is
27 approximately 9,684 acres available for agricultural use; within Gilliam County, there is over
28 700,000 acres available for agricultural use. The certificate holder requests that Council
29 consider the approximately 28 percent loss of agricultural lands within the subject tracts, and
30 less than 1 percent loss in Gilliam County overall, to be minimal. The landowners, with the
31 exception of Athearn, would maintain lands available for agricultural use and, based on lease
32 payments from the certificate holder, would receive a net benefit in revenue compared to the
33 value of dryland wheat cultivation. In support of this reason, the certificate holder provides
34 landowner letters from Holtz, Weatherford and Weedman which confirm support of the
35 proposed expanded solar micrositng area and confirm ability to maintain a sufficient level of
36 agricultural operations and access based on the removal of 1,536 acres. Based on the amount
37 of available lands within the subject tracts and within Gilliam County, and landowner
38 statements provided in RFA5 Attachment 4, the Department recommends Council consider that
39 the proposed expanded solar micrositng area would result in minimal impacts to agriculture
40 within Gilliam County and conclude that this argument is a relevant "reason" justifying a Goal 3
41 exception.

1 *Lack of Water Rights on Proposed Solar Array*

2
3 The certificate holder asserts that there are no agricultural irrigation water rights located in the
4 proposed expanded solar micrositng area, nor is Weedman Ranch able to obtain new water
5 rights after the expiration of water right No. G15187. The proposed expanded solar micrositng
6 area would be located within an area that was previously granted a water right (Permit G-
7 15187). However, as explained within RFA5 and from a letter provided in RFA5 Attachment 4 by
8 Weedman Ranches Inc., the water right is no longer valid and was never used by Weedman
9 Ranches. Thus, water is not available for agricultural use within the proposed expanded solar
10 micrositng area. The land is currently used for dryland winter wheat agriculture, which can be
11 grown without irrigation. However, the Department takes the position that a lack of water right
12 is a relevant “reason” justifying a Goal 3 exception. In the Columbia Plateau region, the
13 availability of water for irrigation is limited; but when available, irrigation typically leads to a
14 substantial increase in the farming productivity of the land. As such, the Department considers
15 this relevant information for the Council to consider when evaluating “reasons” that justify why
16 a state policy embodied in the applicable goal should not apply, and the Department
17 recommends the Council to conclude that this argument a relevant “reason” justifying a Goal 3
18 exception.

19
20 *Proximity to Existing Infrastructure*

21
22 It is relevant to the Goal 3 exception reasons to consider that the facility components to be
23 located within the proposed expanded solar micrositng area were previously approved within a
24 designated site boundary. The proposed expanded solar micrositng area would be within
25 previously approved site boundary, adjacent to previously approved solar micrositng area, and
26 adjacent to existing operating wind facility components that would be shared by solar
27 equipment, including collector substation and 230 kV transmission line. The Department
28 recommends the Council conclude that this argument is a relevant “reason” justifying a Goal 3
29 exception.

30
31 *Arguments That Do Not Qualify As “Reasons” to Justify a Goal 3 Exception*

32
33 The certificate holder asserts that the availability of reliable renewable energy relates to the
34 ability to recruit and retain energy-dependent businesses, which may maintain renewable
35 energy procurement policies. The certificate holder has not provided evidence of any specific
36 companies that are considering to expand, or move business, because of renewable energy
37 procurement policies. Therefore, the Department finds this argument to be attenuated and
38 lacking specifics; therefore, the Department recommends that the Council conclude that this
39 argument is not a sufficient reason justifying a Goal 3 exception.

40
41 The certificate holder asserts that the facility would further public and private policies,
42 including but not limited to Oregon’s Renewable Portfolio Standard (RPS), which requires
43 utilities to provide 50 percent of its electricity from renewable sources by 2040. The

1 Department agrees that energy generated by the proposed facility could apply towards the
2 State's RPS requirements if RECs are generated and purchased by in-state utilities. However,
3 there is no requirement in the state RPS requirements that renewable energy be procured from
4 Oregon-based resources, nor direct facility development on agricultural lands, the Department
5 does not consider abstract consistency with the State's RPS standard to be a sufficient "reason"
6 justifying a Goal 3 exception for the proposed solar photovoltaic generation facility
7 components, specifically. Therefore, the Department recommends that Council conclude that
8 although the development of the proposed expanded micrositing area as a renewable energy
9 source would further and advance the State's renewable energy resources policy, this is not
10 considered a sufficient reason supporting or justifying a Goal 3 exception for the proposed
11 facility.

12 13 Significant Environmental, Economic, Social and Energy Consequences

14
15 Under OAR 345-022-0030(4)(c)(B) and ORS 469.504(2)(c)(B), in order for the Council to
16 determine whether to grant an exception to a statewide planning goal, the certificate holder
17 must show that "the significant environmental, economic, social and energy consequences" of
18 the proposed expanded solar micrositing area have been identified and mitigated in accordance
19 with Council standards.

20 21 *Environmental Consequences*

22
23 The facility, with proposed RFA5 modifications, must satisfy the requirements of all applicable
24 EFSC standards, rules and statutes. Applicable environmental EFSC standards include: General
25 Standard of Review; Soil Protection standard; Protected Areas standard; Recreation Standard;
26 Scenic Resources standard; Fish and Wildlife Habitat standard; and the Threatened and
27 Endangered Species standard. The Department recommends that the Council find that the
28 facility, with proposed RFA5 modifications, has been designed to avoid impacts to soils,
29 wetlands, fish and wildlife habitats, and threatened and endangered species. The land is
30 already impacted by farming, and as described in Section III.A.6. *Fish and Wildlife Habitat*, is
31 classified as Category 6 habitat, the lowest quality for wildlife. Siting the proposed expanded
32 solar micrositing area on Category 6 habitat avoids impacts higher quality wildlife habitat that
33 could result if the solar facility were sited elsewhere.

34
35 Based on the Department's recommended findings of fact, conclusions of law, and conditions
36 of approval presented within this order, the Department recommends that Council find that the
37 facility, with proposed RFA5 modifications, would not cause significant adverse environmental
38 consequences or impacts.

39 40 *Economic Consequences*

41
42 The certificate holder represents that construction and operation of the facility, with
43 proposed RFA5 modifications, would result in beneficial economic consequences from job

creation and subsequent tax revenue for the County, and the diversification of underlying landowner income sources. Although existing areas within the site boundary are used for agricultural purposes, the land proposed for inclusion in the proposed expanded solar micrositing area is not irrigated and does not possess a water-right.

As provided in RFA5, 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 (2012 Census). The certificate holder proposes that removal of up to 2,725 acres (proposed expanded solar micrositing area) from agricultural production be considered insignificant when compared against how much land is available for agricultural use within Gilliam County. Further, any loss in income from crop yields would be offset by lease payments for the acreage. The additional 1,536 acres within the proposed expanded solar micrositing area could be removed from farm deferral and become taxable, which increases the tax base for Gilliam County.

In Oregon, solar projects are eligible for a Payment-in-Lieu-of-Taxes (PILOT) property tax exemption at a base term of 15 years and an ability to extend for an additional 5 years. Under Oregon House Bill 3492, PILOT agreements have a fixed rate of \$7,000 per nameplate of generating capacity, which would equal \$1.1 million per year for the Montague Solar Facility \$287,000 per year for the Oregon Trail Solar facility. For comparison, the combined taxes in 2020 for the two tax lots to be occupied by Montague Solar were \$7,077. The certificate holder is not committing to use a tax deferral program at this time because these agreements are negotiated with the County and acknowledged by Business Oregon and are outside of the EFSC review process.

In addition, the facility, with proposed RFA5 modifications, would create up to three new jobs and construction-related jobs will result in indirect benefits from construction workers living, eating, and working in the vicinity. The certificate holder provides supporting data from its experience constructing the first phase of the facility – referred as Phase 1 or Montague Wind Facility - where it spent an estimated \$9.2 million. In addition, the certificate holder paid \$15.5 million toward construction labor and per diem for workers involved in the project. Business Oregon (Meyers and Cuyler, 2017) reports the total payroll in Gilliam County in 2015 as \$21.6 million. Comparatively, the certificate holder asserts that its spending during construction of the Montague Wind Facility represented 87 percent of Gilliam County annual payroll.

Based on review of the facts presented above, the Department recommends that the Council conclude that the facility, with proposed RFA5 modifications, represents a net benefit compared to the site's existing uses and economic consequences.

Social Consequences

The certificate holder represents that the facility, with proposed RFA5 modifications, would not result in significant adverse social consequences. The Department considers social consequences as impacts on a community, such as impacts from facility visibility, noise, traffic

or demand on providers of public services. As demonstrated in the applicable sections of this draft proposed order, the Department agrees that that proposed changes would not result in new or increased impacts to scenic resources, protected areas, and recreational opportunities. The Department addresses potential adverse impacts to public services in Section III.A.8, *Public Services*, and impacts to cultural resources in Section III.A.7., *Historic, Cultural and Archaeological Resources*. The Department recommends that the Council find that the proposed expanded solar micrositing area would not result in significant adverse impacts to these areas.

The certificate holder also represents that, when fully inverted, the solar panels would not exceed 15 feet, and would not present a visual issue for automobile drivers. The certificate holder further represents that “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.” While the Department is aware that “glare” may be considered a subjective concern, the Department recommends Council consider that modern solar photovoltaic technologies should not pose a significant glare impact. Based on the Department’s recommended findings of fact and conclusions of law, and recommended conditions of compliance, as presented in the order, the facility, with proposed RFA5 modifications, would not cause significant adverse social consequences.

Energy Consequences

The certificate holder represents that, because the facility, with proposed RFA5 modifications, would produce renewable energy, the energy consequences would be beneficial and would be consistent with the State’s Renewable Portfolio Standard and “Oregon’s commitment to rural economic development.” Although the Department notes that Oregon maintains an aggressive Renewable Portfolio Standard, the certificate holder has not provided evidence that the sale of energy derived from the solar array would contribute towards any specific Oregon utility’s RPS requirements. However, whether the sale of energy from the proposed expanded solar micrositing area would be directly attributable to the Renewable Portfolio Standard is not a material consideration. The mere fact that the facility would generate renewable energy indicates that the proposed expanded solar micrositing area would not result in significant adverse energy consequences. Based upon the above analysis, the Department recommends the Council find that the facility, with proposed RFA5 modifications, would meet the standard under OAR 345-022-0030(4)(c)(B).

Compatibility of Adjacent Uses

The Department agrees that the proposed expanded solar micrositing area would not force a significant change in accepted farm practices in its discussion of GCZO 4.020(H); the reasoning found in that discussion applies to whether the solar array is compatible with other adjacent uses, or whether the expansion areas would be made compatible through measures designed to reduce adverse impacts. Specifically, while the certificate holder states that the expansion

area could cause adverse impacts, these impacts are mitigated through the imposition of an Erosion and Sediment Control Plan and a Revegetation and Weed Control Plan; as well as implement best management practices to control construction-related dust; ensure that truck traffic would be limited to improved road surfaces and; provide notice to adjacent landowners relating to traffic impacts; employ flaggers, signage, and institute traffic control measures. Additionally, site certificate Condition 41 requires the certificate holder to record a “Covenant Not to Sue,” relating to generally accepted farming practices on adjacent farmland, and the landowner attests that the expansion area would not prevent continued farming operations.

Goal 3 Conclusion of Law

Based on the foregoing findings and evidence in the record, the Department recommends that Council grant a Goal 3 exception for the proposed expanded solar micrositing area that would be occupied with solar facility components, subject to compliance with the recommended amended and existing site certificate conditions.

Conclusions of Law

Based on the foregoing findings and the evidence in the record, and subject to compliance with the conditions, the Department recommends Council find that an exception to Goal 3 is justified under OAR 345-022-0030(4)(c) and ORS 469.504(2)(c); and that the facility, with proposed RFA5 facility modifications, would comply with OAR 660-033-0130(38)(i) and complies with the applicable statewide planning goal (Goal 3). As such, subject to the conditions, the Department recommends Council finds that proposed RFA4 facility components would comply with the Council’s Land Use standard.

III.A.5 Retirement and Financial Assurance: OAR 345-022-0050

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

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

Findings of Fact

The Retirement and Financial Assurance standard requires a finding that the facility site can be restored to a useful, non-hazardous condition at the end of the facility’s useful life, should

1 either the certificate holder stop construction or should the facility cease to operate.²⁸ In
2 addition, it requires a demonstration that the certificate holder can obtain a bond or letter of
3 credit in a form and amount satisfactory to the Council to restore the site to a useful, non-
4 hazardous condition.

5
6 The facility, with proposed RFA5 modifications, includes a new switching station and allocation
7 of previously approved facility components under an amended and two original site certificates.
8 The proposed switching station would include circuit breakers, switches and other auxiliary
9 equipment (none of which would be oil-containing), and would be a related or supporting
10 facility under the Oregon Trail Solar Facility site certificate. Tasks and actions necessary to
11 restore the site of the switching station are described as similar to a collector substation, and
12 would include removal of equipment components, regrading, reseeding, removal and recycling
13 of site perimeter fence, removal of demolition debris to a licensed landfill, and recycling of
14 steel, concrete and other components. Using the same methodology approved in Council's Final
15 Order on RFA4, the certificate holder estimates that switching station decommissioning would
16 cost approximately \$86,085. Based on use of previously approved cost estimating
17 methodologies, the Department recommends Council find that the estimate would be
18 satisfactory for restoring the switching station site to a useful, nonhazardous condition.

19
20 RFA5 proposes to allocate facility components approved in Council's Final Order on RFA4 into
21 two original site certificates, including up to 162 MW of solar photovoltaic energy generation
22 equipment covered under the Montague Solar Facility site certificate and up to 41 MW of
23 combined wind and solar facility components. Related or supporting facilities that would be
24 shared between the site certificates include collector substations, O&M building, 230 kV
25 transmission line, access roads and temporary laydown areas. Based on the allocation of
26 previously approved facility components and proposed new switching station, the certificate
27 holder provides an updated decommissioning cost estimate for each facility. The updated
28 decommissioning estimate totals \$11.1 million, increasing the previous estimate by
29 approximately \$1.2 million: \$8.1 million for the Montague Solar Facility; and \$3.1 million for the
30 Oregon Trail Solar Facility. The certificate holder has not proposed to apply an adjustment
31 factor to the decommissioning cost of shared related or supporting facilities and accounts for
32 the full decommissioning cost for shared facilities to be referenced in Condition 32, as
33 presented in RFA5 Attachment 3.

34
35 Council previously determined that the decommissioning estimate totaling \$10.5 million (1st
36 Quarter 2019 dollars), for facility components approved in the Final Order on RFA4 (Phase 2),
37 was satisfactory based on the methodologies and assumptions used to develop the estimate.
38 The Department recommends Council continue to find that the decommissioning estimate is
39 satisfactory for restoration of the sites to a useful, non-hazardous condition. In addition, the
40 Department currently maintains a bond for the Montague Wind Power Facility for \$7.7 million
41 dollars, which the Department recommends be considered sufficient evidence to support the

²⁸ OAR 345-022-0050(1).

Council's finding that the certificate holder has demonstrated a reasonable likelihood of obtaining a bond or letter of credit prior to construction.

Council previously imposed Condition 32 requiring that, prior to construction, the certificate holder submit to the Department a bond or letter of credit in the amount applicable to number of facility components, based on the approved decommissioning estimate methodology. Based on the changes described above, Condition 32 would be amended in each site certificate to accurately reflect the decommissioning amount applicable to the allocation of previously approved and proposed related or supporting facilities (\$8.1 million for Montague Solar Facility and \$3.5 million for Oregon Trail Solar Facility), as presented in Attachment A of this order.

Subject to compliance with existing and recommended amended conditions, the Department recommends the Council find that the site of the facility, with proposed RFA5 modifications, can be restored adequately to a useful, non-hazardous condition following permanent cessation of construction or operation. Additionally, the Department recommends that the Council find that the certificate holder has a reasonable likelihood of obtaining a bond or letter of credit in a form and amount satisfactory to the Council to restore the site to a useful, non-hazardous condition.

Conclusions of Law

Based on the foregoing findings of fact, and subject to compliance with existing and recommended amended conditions, the Department recommends that the Council find that the facility, with proposed RFA5 modifications, would continue to comply with the Council's Retirement and Financial Assurance standard.

III.A.6 Fish and Wildlife Habitat: OAR 345-022-0060

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

*(1) The general fish and wildlife habitat mitigation goals and standards of OAR 635-415-0025(1) through (6) in effect as of February 24, 2017****

Findings of Fact

The EFSC Fish and Wildlife Habitat standard requires the Council to find that the design, construction and operation of a facility is consistent with the Oregon Department of Fish and Wildlife's (ODFW) habitat mitigation goals and standards, as set forth in OAR 635-415-0025. This rule creates requirements to mitigate impacts to fish and wildlife habitat, based on the quantity and quality of the habitat as well as the nature, extent, and duration of the potential impacts to the habitat. The rule also establishes a habitat classification system based on value

the habitat would provide to a species or group of species. There are six habitat categories; Category 1 being the most valuable and Category 6 the least valuable.

The analysis area for potential fish and wildlife habitat impacts, as defined in the project order, is the area within the site boundary and extending ½-mile from all ground-disturbing activities.

The proposed expanded solar micrositing area and alternate 230 kV transmission line route would be located entirely within Category 6 habitat. Because the expansion areas are within the previously approved site boundary, the habitat assessment and categorization provided in RFA4 covered the expansion areas and therefore was previously reviewed and concurred by Oregon Department of Fish and Wildlife. Therefore, the Department recommends Council concur with the habitat categorization.

In RFA5, the certificate holder requests to allocate previously approved wind and solar facility components into an amended and two original site certificates. Based on the facility component allocation, and updated facility description, the Habitat Mitigation Plan, Revegetation Plan, Weed Control Plan, and Wildlife Monitoring and Mitigation Plan have been administratively amended to accurately describe the facilities and remove requirements applicable to solar or wind, as applicable. The red-line version of the draft amended plans are provided in Attachments D, E, F and G of this order.

Conclusions of Law

Based on the foregoing findings of fact and conclusions, and subject to compliance with existing conditions and amended plans, the Department recommends the Council find that facility, with proposed RFA5 modifications, would continue to comply with the Council's Fish and Wildlife Habitat standard.

III.A.7 Historic, Cultural, and Archaeological Resources: OAR 345-022-0090

(1) Except for facilities described in sections (2) and (3), to issue a site certificate, the Council must find that the construction and operation of the facility, taking into account mitigation, are not likely to result in significant adverse impacts to:

(a) Historic, cultural or archaeological resources that have been listed on, or would likely be listed on the National Register of Historic Places;

(b) For a facility on private land, archaeological objects, as defined in ORS 358.905(1)(a), or archaeological sites, as defined in ORS 358.905(1)(c); and

(c) For a facility on public land, archaeological sites, as defined in ORS 358.905(1)(c).

(2) *The Council may issue a site certificate for a facility that would produce power from wind, solar or geothermal energy without making the findings described in section (1). However, the Council may apply the requirements of section (1) to impose conditions on a site certificate issued for such a facility.*

Findings of Fact

Subsection (1) of the Historic, Cultural and Archaeological Resources standard, OAR 345-022-0090, generally requires the Council to find that the facility is not likely to result in significant adverse impacts to identified historic, cultural, or archaeological resources. Subsection (2) of OAR 345-022-0090 provides that the findings described in subsection (1) may be waived for wind and solar facilities. However, the Council may impose site certificate conditions based on the requirements of this standard.

The analysis area for the evaluation of potential impacts to identified historic, cultural or archeological resources, as defined in the Project Order, is the area within the site boundary.

Description of Discovery Measures

The certificate holder conducted literature and field surveys to evaluate the potential presence of cultural, historic or archeological resources within the additional 1,535 acres proposed for inclusion in the expanded solar micrositing area. Within the solar micrositing expansion areas, 1,474 acres were previously surveyed during a combination of survey efforts extending from the original Montague Wind Power Facility ASC, the Baseline Wind Energy Project ASC (application withdrawn), and Montague Wind Power Facility Phase 1 pre-construction surveys. The literature review, using Oregon State Historic Preservation Office's (SHPO) Archaeological Records Remote Access database, was conducted on May 28, 2020, and was specific to the 61 acres not previously surveyed and proposed alternate 230 kV transmission route.

Results of Discovery Measures – Historic and Cultural Resources; Archeological Sites

The certificate holder previously identified thirty-four cultural resources recorded within 1-mile of the analysis area, including 14 isolates, 10 archaeological sites, 7 built environment properties, 1 National Registry of Historic Places (NRHP)-eligible Historic Property of Religious and Cultural Significance to Indian Tribes (HPRCSIT), and two potentially NRHP-eligible HPRCSITs. Within the analysis area, 11 resources were identified including 1 archaeological site (35GM306), 7 built environment properties and 3 HPRCSITs.

For RFA5, the updated literature review identified no newly recorded archaeological, cultural, or historic resources. Of the previously identified resources, five would be within or adjacent to the solar micrositing area and transmission line route. As provided in RFA5, submitted as a confidential record, the four previously recorded archeological sites and isolates include archaeological site 35GM306, located adjacent to the Oregon Trail Solar micrositing area on the

1 east side. Site 35GM306 was documented as a part of the Baseline report (Ragsdale et al.,
2 2011) and determined ineligible for listing in the NRHP. Two of the resources (1692-212i-a/b)
3 are isolated finds and considered ineligible for listing in the NRHP. The fourth resource,
4 35GM310, is an unevaluated, but potentially eligible resource located northeast of the
5 intersection of Old Tree Road and OR 19. In addition, the Weatherford Barn was previously
6 identified as a likely NRHP-eligible built environment resource.

7
8 *Potential Impacts to Historic and Cultural Resources; Archeological Sites*
9

10 The facility modifications proposed in RFA5 include expansion of the solar micrositng corridor
11 on the property where the Weatherford Barn is located. In a worst-case scenario, solar
12 components would be located within 300 feet of the Weatherford Barn to the west, north, and
13 east. Council previously found that siting solar facility components in proximity to the
14 Weatherford Barn could have a potentially significant impacts through the impact to setting of
15 the resource from occupation of energy infrastructure on agricultural lands within a rural
16 setting. Council previously imposed Condition 47 requiring that the certificate holder consult
17 with SHPO and the Department on facility design and equipment setback distances that could
18 reduce the impact; or, if an adequate setback distance is not established, implement a
19 Historical Resource Mitigation Plan requiring that the certificate holder conduct a
20 reconnaissance level survey of barns in Gilliam County or neighboring counties; partner with a
21 third-party to fund a barn rehabilitation grant for the community; or, partner with a local
22 historic society to develop a historic barn exhibit, to mitigate the impacts to the Weatherford
23 Barn. While the overall impact to the resource could increase as a result of the expanded solar
24 microstiing area and changes in facility layout requiring additional area used by solar facility
25 components, the Department recommends Council find that the previously imposed condition
26 would continue to reduce and mitigate the impact.

27 The Historical Resource Mitigation Plan, referenced in Condition 47(b), would only apply under
28 the Montague Solar Facility site certificate, based on location of redefined site boundaries and
29 proposed expanded solar micrositng area. Therefore, the plan and Condition 47(b) have been
30 amended to account for these changes, as presented in Attachment A and H of this order.

31 To address the 61 unsurveyed acres within the proposed expanded solar micrositng area,
32 Council previously imposed Condition 49, which requires completion of field surveys prior to
33 construction within any areas unsurveyed for cultural resources. This type of condition,
34 approving construction and operational activities in a site certificate without surveys, is
35 appropriate in certain circumstances, based on historic use of the land. The 61 unsurveyed
36 acres is within an area of historic and current agricultural use, and would have low likelihood of
37 identification of potential resources given the level of disturbance from long-term agricultural
38 practices. Nonetheless, if solar facility components are to be located within these areas, the
39 certificate holder is obligated to complete pre-construction surveys in accordance with the
40 existing condition.

Based on the discovery measures and results, and compliance with existing and amended conditions, the Department recommends that Council find that the facility, with proposed RFA5 modifications, would not be likely to result in significant adverse impacts to resources protected by the Council's Historic, Cultural and Archaeological Resources standard.

Conclusions of Law

Based on the foregoing analysis, and subject to compliance with existing and recommended amended conditions, the Department recommends the Council find that the facility, with proposed RFA5 modifications, would continue to comply with the Council's Historic, Cultural, and Archaeological Resources Standard.

III.A.8 Public Services: OAR 345-022-0110

(1) Except for facilities described in sections (2) and (3), to issue a site certificate, the Council must find that the construction and operation of the facility, taking into account mitigation, are not likely to result in significant adverse impact to the ability of public and private providers within the analysis area described in the project order to provide: sewers and sewage treatment, water, storm water drainage, solid waste management, housing, traffic safety, police and fire protection, health care and schools.

(2) The Council may issue a site certificate for a facility that would produce power from wind, solar or geothermal energy without making the findings described in section (1). However, the Council may apply the requirements of section (1) to impose conditions on a site certificate issued for such a facility.

Findings of Fact

The Council's Public Services standard requires the Council to find that a proposed facility or a proposed facility change is not likely to result in significant adverse impacts on the ability of public and private service providers to supply sewer and sewage treatment, water, stormwater drainage, solid waste management, housing, traffic safety, police and fire protection, health care, and schools. Pursuant to OAR 345-022-0110(2), the Council may issue a site certificate for a facility that would produce power from wind energy without making findings regarding the Public Services standard; however, the Council may impose site certificate conditions based upon the requirements of the standard.

In accordance with OAR 345-001-0010(59)(b) and consistent with the study area boundary, the analysis area for potential impacts to public services from construction and operation of the facility, with proposed RFA5 modifications, is defined as the area within and extending 10-miles from the site boundary.

1 In RFA5, the certificate holder proposes to expand the solar micrositng area by 1,535 acres
2 (1,189 to 2,725 acres), to allow additional flexibility in layout of previously approved solar
3 energy generation components. The proposed expanded solar micrositng area would not result
4 in increased water use or wastewater disposal, or waste generation. In addition, the proposed
5 expanded micrositng area would not result in changes to the previous assumptions related to
6 maximum number of workers at the site, or daily vehicle miles travelled to and from the site.
7 Therefore, the Department recommends Council find that the facility, with proposed RFA5
8 modifications, would not be likely to change the previous findings that facility construction and
9 operation would not be likely to result in significant adverse impacts on the ability of providers
10 of sewer and sewage treatment, water, stormwater drainage, solid waste management,
11 housing, traffic safety, police, health care, or schools, to provide service. The Department,
12 however, considers that the proposed expansion of solar micrositng area, because it includes
13 more area, could result in increased impacts due to placement of solar facility components
14 within high-fire risk area on the ability of fire protection services to provide service, and
15 therefore is evaluated in this section.

16
17 The proposed expanded solar micrositng area is within the service territory of the North
18 Gilliam County Rural Fire Protection District, a district comprised of 15 volunteer fire fighters
19 with one Type 4 brush vehicle, two Type 5 brush vehicles, one light brush vehicle, two Type 2
20 water tenders, and three Type 2 structure engines. In 2009, during the Council's review of the
21 ASC, the certificate holder obtained written confirmation from the fire district, which stated
22 that the facility was not expected to impact their ability to provide fire protection services.
23 However, based on Gilliam County's 2007 Community Wildfire Protection Plan, Gilliam County
24 has been designated as a high-fire risk area. Because the North Gilliam County Rural Fire
25 Protection District is a volunteer district, and the proposed expanded solar micrositng area
26 would include occupation of high-fire risk land, and based on the certificate holder's
27 representation in the ASC Exhibit U – committing to provide mutual assistance for fire
28 response, the Department recommends Council find that the proposed expanded solar
29 micrositng area could impact fire protection providers ability to provide service. Therefore, the
30 Department recommends Council amend Condition 60, requiring that, the fire safety plan
31 specifically address worker training requirements, inspections (type and frequency), vegetation
32 management, fire prevention and response equipment, and agreements for mutual assistance
33 in fire response to the expanded solar microstiing area. The recommended amended Condition
34 60 would be presented the Montague Solar and Oregon Trail Solar Facility site certificates, as
35 follows:

36
37 *Montague Solar and Oregon Trail Solar Facilities*

38
39 Recommended Amended Condition 60: During construction and operation of the
40 facility, the certificate holder shall develop and implement fire safety plans in
41 consultation with the North Gilliam County Rural Fire Protection District to minimize the
42 risk of fire and to respond appropriately to any fires that occur on the facility site. In
43 developing the fire safety plans, the certificate holder shall take into account the dry

1 nature of the region and shall address risks on a seasonal basis. For solar facility
2 components, the certificate holder shall address worker training requirements,
3 inspections, vegetation management, fire prevention and response equipment and
4 agreements with fire districts for mutual assistance in fire response. The certificate
5 holder shall meet annually with local fire protection agency personnel to discuss
6 emergency planning and shall invite local fire protection agency personnel to observe
7 any emergency drill or tower rescue training conducted at the facility.
8

9 **Conclusions of Law**

10
11 Based on the foregoing analysis, and subject to the existing and recommended amended
12 conditions, the Department recommends that the Council find that the facility, with proposed
13 RFA5 facility modifications, would continue to comply with the Council's Public Services
14 standard.
15

16 **III.A.9 Siting Standards for Transmission Lines: OAR 345-024-0090**

17
18 *To issue a site certificate for a facility that includes any transmission line under Council*
19 *jurisdiction, the Council must find that the applicant:*
20

21 *(1) Can design, construct and operate the proposed transmission line so that alternating*
22 *current electric fields do not exceed 9 kV per meter at one meter above the ground*
23 *surface in areas accessible to the public;*

24 *(2) Can design, construct and operate the proposed transmission line so that induced*
25 *currents resulting from the transmission line and related or supporting facilities will be*
26 *as low as reasonably achievable.*
27

28 **Findings of Fact**

29
30 This standard addresses safety hazards associated with electric fields around transmission lines.
31 Section (1) of OAR 345-024-0090 sets a limit for electric fields from transmission lines of not
32 more than 9 kV per meter at one meter above the ground surface in areas that are accessible to
33 the public. Section (2) requires implementation of measures to reduce the risk of induced
34 current.
35

36 In RFA5, the certificate holder proposes an alternate 230 kV transmission line route for an
37 approximately 3.6 mile segment of the previously approved 14 mile line. The certificate holder
38 asserts that the modeled electric fields included in RFA4, which present 0.03 kV per meter
39 within 100 feet of the transmission line centerline, would not be impacted as a result of the
40 proposed route change. Based on review of RFA4 Exhibit AA Attachments AA-3 and AA-4, the
41 Department agrees that the modeling assumptions and results remain valid and would not be
42 impacted by the proposed route change. Similarly, because the certificate holder previously
43 evaluated and received approved for construction and operation of a 14-mile 230 kV

transmission line, the route change would not be expected to affect or change the risk of induced current previously evaluated.

Council previously imposed Condition 89 to reduce human exposure to electromagnetic fields, including a setback from transmission line structures to residences or other occupied structures of 200 feet. The 200 foot setback is consistent with the informational requirement under OAR 345-021-0010(1)(aa)(ii), where during the ASC or site certificate amendment process, an applicant or certificate holder is obligated to identify occupied structures within 200 feet of the centerline of a proposed transmission line. During the ASC process, the certificate holder represented that it would not site transmission structures within 200 feet of an occupied structures, which was then imposed as a condition requirement.

In RFA5, the certificate holder requests that this provision be removed because the proposed alternate 230 kV transmission line route would be within 110 to 100 feet of an occupied structure, as presented in RFA5 Figure 4. Because the 200 foot setback is not required under the standard, is far greater than National Electric Safety Code conductor clearance requirements, and was imposed based on an applicant representation rather than an actual regulatory requirement, the Department recommends Council amend the condition as requested, as follows:

Montague Wind Power, Montague Solar, and Oregon Trail Solar Facilities

Recommended Amended Condition 80: The certificate holder shall take reasonable steps to reduce or manage human exposure to electromagnetic fields, including but not limited to:

~~Constructing all aboveground transmission lines at least 200 feet from any residence or other occupied structure, measured from the centerline of the transmission line~~

- a. Providing to landowners a map of underground and overhead transmission lines on their property and advising landowners of possible health risks from electric and magnetic fields
- b. Designing and maintaining all transmission lines so that alternating current electric fields do not exceed 9 kV per meter at one meter above the ground surface in areas accessible to the public.
- c. Designing and maintaining all transmission lines so that induced voltages during operation are as low as reasonably achievable.

[AMD5]

Conclusion of Law

For the reasons discussed above, and subject to compliance with the existing and amended site certificate conditions, the Department recommends that the Council find that the facility, with proposed RFA5 modifications, would not result in a significant adverse impact under OAR 345-024-0090 would comply with the Council's Siting Standards for Transmission Lines.

III.A.10 Other Applicable Regulatory Requirements Under Council Jurisdiction

Under ORS 469.503(3) and under the Council's General Standard of Review (OAR 345-022-0000), the Council must determine whether the proposed facility complies with "all other Oregon statutes and administrative rules...as applicable to the issuance of a site certificate for the proposed facility." This section addresses the applicable Oregon statutes and administrative rules that are not otherwise addressed in Council standards, including noise control regulations, regulations for removal or fill of material affecting waters of the state, and regulations for appropriating ground water.

III.A.10.1 Noise Control Regulations: OAR 340-035-0035

(1) Standards and Regulations:

(b) New Noise Sources:

(B) New Sources Located on Previously Unused Site:

(i) No person owning or controlling a new industrial or commercial noise source located on a previously unused industrial or commercial site shall cause or permit the operation of that noise source if the noise levels generated or indirectly caused by that noise source increase the ambient statistical noise levels, L10 or L50, by more than 10 dBA in any one hour, or exceed the levels specified in Table 8, as measured at an appropriate measurement point, as specified in subsection (3)(b) of this rule, except as specified in subparagraph (1)(b)(B)(iii).

(ii) The ambient statistical noise level of a new industrial or commercial noise source on a previously unused industrial or commercial site shall include all noises generated or indirectly caused by or attributable to that source including all of its related activities. Sources exempted from the requirements of section (1) of this rule, which are identified in subsections (5)(b) - (f), (j), and (k) of this rule, shall not be excluded from this ambient measurement.

(iii) For noise levels generated or caused by a wind energy facility:

(I) The increase in ambient statistical noise levels is based on an assumed background L50 ambient noise level of 26 dBA or the actual ambient background level. The person owning the wind energy facility may conduct measurements to determine the actual ambient L10 and L50 background level.

- 1 (ii) *The "actual ambient background level" is the measured noise level at the*
2 *appropriate measurement point as specified in subsection (3)(b) of this*
3 *rule using generally accepted noise engineering measurement practices.*
4 *Background noise measurements shall be obtained at the appropriate*
5 *measurement point, synchronized with windspeed measurements of hub*
6 *height conditions at the nearest wind turbine location. "Actual ambient*
7 *background level" does not include noise generated or caused by the wind*
8 *energy facility.*
- 9 (iii) *The noise levels from a wind energy facility may increase the ambient*
10 *statistical noise levels L10 and L50 by more than 10 dBA (but not above*
11 *the limits specified in Table 8), if the person who owns the noise sensitive*
12 *property executes a legally effective easement or real covenant that*
13 *benefits the property on which the wind energy facility is located. The*
14 *easement or covenant must authorize the wind energy facility to increase*
15 *the ambient statistical noise levels, L10 or L50 on the sensitive property by*
16 *more than 10 dBA at the appropriate measurement point.*
- 17 (iv) *For purposes of determining whether a proposed wind energy facility*
18 *would satisfy the ambient noise standard where a landowner has not*
19 *waived the standard, noise levels at the appropriate measurement point*
20 *are predicted assuming that all of the proposed wind facility's turbines*
21 *are operating between cut-in speed and the wind speed corresponding to*
22 *the maximum sound power level established by IEC 61400-11 (version*
23 *2002-12). These predictions must be compared to the highest of either the*
24 *assumed ambient noise level of 26 dBA or to the actual ambient*
25 *background L10 and L50 noise level, if measured. The facility complies*
26 *with the noise ambient background standard if this comparison shows*
27 *that the increase in noise is not more than 10 dBA over this entire range*
28 *of wind speeds.*
- 29 (v) *For purposes of determining whether a proposed wind energy facility*
30 *would satisfy the Table 8 standards, noise levels at the appropriate*
31 *measurement point are predicted by using the turbine's maximum sound*
32 *power level following procedures established by IEC 61400-11 (version*
33 *2002-12), and assuming that all of the proposed wind facility's turbines*
34 *are operating at the maximum sound power level.*
- 35 (vi) *For purposes of determining whether an operating wind energy facility*
36 *satisfies the Table 8 standards, noise generated by the energy facility is*
37 *measured at the appropriate measurement point when the facility's*
38 *nearest wind turbine is operating at the windspeed corresponding to the*
39 *maximum sound power level and no turbine that could contribute to the*
40 *noise level is disabled.*
- 41 ***

1 **Findings of Fact**

2
3 The Department of Environmental Quality (DEQ) noise control regulations at OAR 340-035-0035
4 have been adopted by Council as the compliance requirements for EFSC-jurisdiction energy
5 facilities.

6
7 The noise impact analysis area includes the area within and extending 1-mile from the site
8 boundary.

9
10 *Noise Standards*

11
12 The DEQ noise rules set noise limits for new industrial or commercial noise sources based upon
13 whether those sources would be developed on a previously used or unused industrial or
14 commercial site. Pursuant to OAR 340-035-0015(47), a “previously unused industrial or
15 commercial site” is defined as property which has not been used by any industrial or
16 commercial noise source during the 20 years immediately preceding commencement of
17 construction of a new industrial or commercial source on that property. There is no evidence in
18 the record that the facility site has been in industrial or commercial use at any time during the last
19 20 years, therefore the site is considered a previously unused site and evaluated per the
20 requirements of OAR 340-035-0035(1)(b)(B).

21
22 The requirements of OAR 340-035-0035(1)(b)(B)(ii), as provided above, apply to noise levels of
23 new industrial or commercial noise sources on previously unused industrial or commercial sites;
24 the requirements of OAR 340-035-0035(1)(b)(B)(iii) apply to noise levels generated by a “wind
25 energy facility.”²⁹Council previously determined that because the facility was originally
26 approved as a wind facility, and continues to include wind energy generation equipment along
27 with solar components, that the provisions in -0035(1)(b)(B)(ii) specific to a wind facility
28 continues to apply. Consistent with Council’s previous orders for the facility, the analysis
29 presented in this section evaluates compliance of the facility, with proposed RFA5
30 modifications, under OAR 340-035-0035(1)(b)(B)(ii).

31
32 Noise generated by a wind energy facility or a new industrial or commercial source located on a
33 previously unused site must comply with two standards: the “ambient noise degradation
34 standard” and the “maximum allowable noise standard.” Under the ambient noise degradation
35 standard, facility-generated noise must not increase the ambient hourly L10 or L50 noise levels
36 at any noise sensitive property by more than 10 dBA. For a wind energy facility, this evaluation
37 is based on a predictive noise analysis assuming wind turbines are operating “between cut-in
38 speed and the wind speed corresponding to the maximum sound power level” and may assume
39 an ambient hourly L50 noise level of 26 dBA or based on measured ambient hourly noise levels
40 at the receiver in accordance with the procedures specified in the regulation. Because the
41 facility was originally approved as a wind facility, and continues to include wind facility

²⁹ OAR 340-035-0035(1)(b)(A).

components, along with solar components, the Department recommends Council continue to allow use of the assumed 26 dBA noise level for this analysis.

To demonstrate compliance with the ambient noise degradation standard, noise generated during facility operation must not cause the hourly L50 noise level at any noise-sensitive property to exceed 10 dBA above measured ambient noise levels.

Under the maximum allowable noise standard at OAR 340-035-0035(1)(b)(B)(i), industrial or commercial noise sources may not exceed the noise levels specified in the noise rules, as represented in Table 2, *Statistical Noise Limits for Industrial and Commercial Noise Sources* below.

Table 2: Statistical Noise Limits for Industrial and Commercial Noise Sources

Statistical Descriptor ¹	Maximum Permissible Hourly Statistical Noise Levels (dBA)	
	Daytime (7:00 AM - 10:00 PM)	Nighttime (10:00 PM - 7:00 AM)
L50	55	50
L10	60	55
L1	75	60
Notes: 1. The hourly L50, L10 and L1 noise levels are defined as the noise levels equaled or exceeded 50 percent, 10 percent, and 1 percent of the hour, respectively. Source: OAR 340-035-0035, Table 8		

Potential Noise Impacts

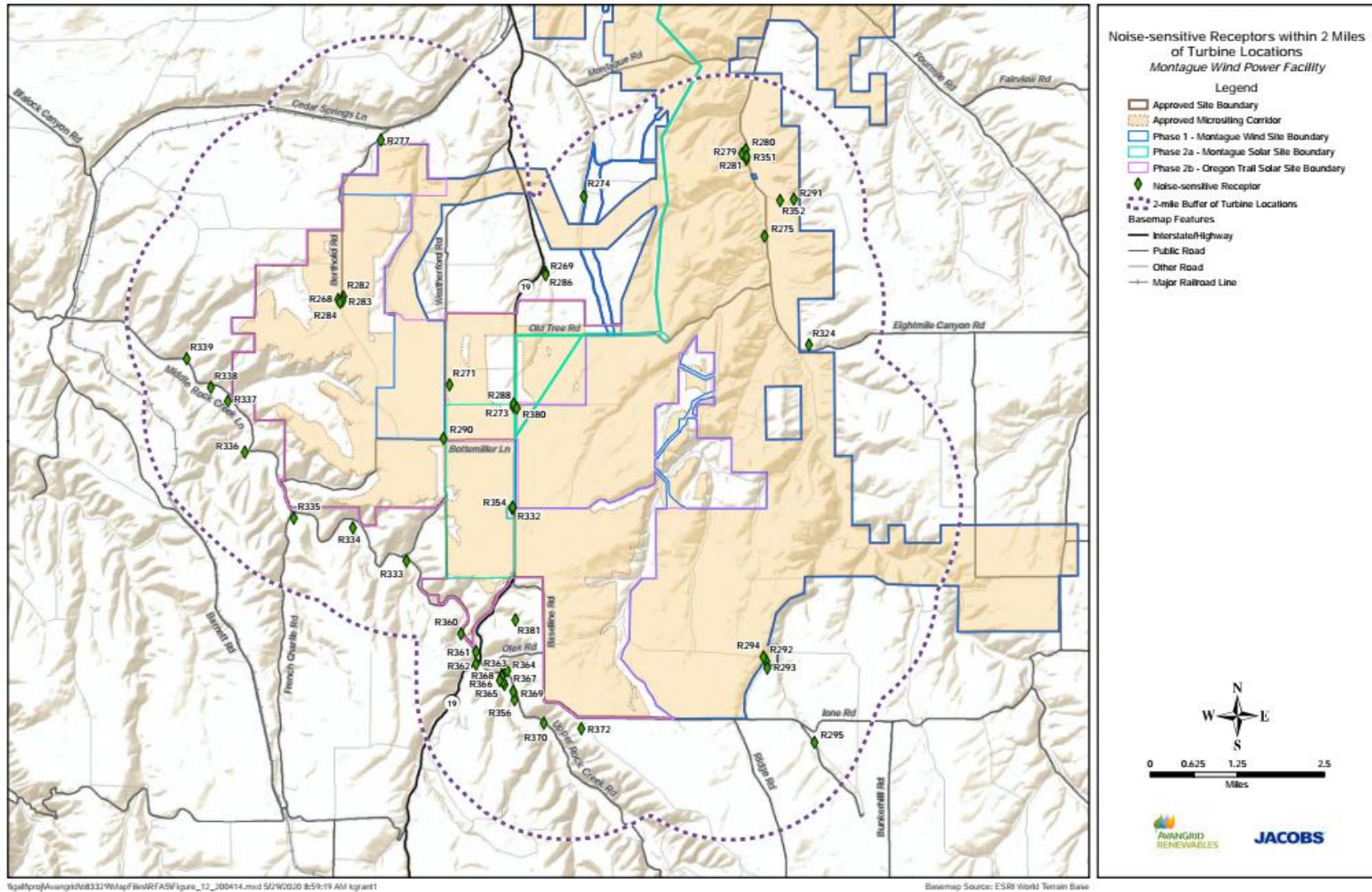
The Department evaluates the certificate holder's assessment of operational noise from the facility, with proposed RFA5 modifications, below. Construction-related noise impacts, which are exempt from DEQ's noise rules (OAR 340-035-0035(5)(g)), would be expected to be the same as evaluated in the Final Order on RFA4. In the Final Order on RFA4, noise generated from clearing, excavation, foundation, erection and finishing would result from operation of construction equipment and predicted sound pressure levels at specific distances such as: air compressor (81 dBA at 50 ft), backhoe (85 dBA at 50 ft), pile driver (101 dBA at 50 ft), grader (85 dBA at 50 ft), loader (79 dBA at 50 ft), saw (78 dBA at 50 ft), and trucks (91 dBA at 50 ft). Predicted sound pressure levels from construction phases would result range from 90 to 60 dBA at 50 and 1,500 feet, respectively.

In RFA5, the certificate holder proposes to expand the solar micro-siting area from 1,189 to 2,725 acres, to allow additional flexibility in the layout of previously approved solar photovoltaic energy generation equipment. RFA5 proposes a new related or supporting facility, a switching station. The switching station would include circuit breakers, switches and other auxiliary equipment – none of which would be noise-generating. The proposed change in layout of solar energy generation equipment, and use of more area, could result in changes to the

1 operational noise previously evaluated in Council’s Final Order on RFA4, and therefore is
2 evaluated in this order.

3
4 The certificate holder conducted a noise analysis using the International Organization for
5 Standardization 9613-2 (ISO 9613-2), Acoustics – Sound Attenuation During Propagation
6 Outdoors Part 2: General Method of Calculation (1996) implemented by Cadna/a Version 2020.
7 Equipment and noise levels modeled include: 102 inverters at 66 dBA at 33 feet; 1 step-up
8 transformer at 98 dBA; and 100 MW battery storage system at 102.2 dBA (per 10 MW
9 centroid). As presented in Figure 7: *Noise Sensitive Receptors within 2 Miles of Siting Boundary*
10 below, the certificate holder identifies three noise sensitive receptors (R290, R332, and R360)
11 which could be impacted by noise generated within the proposed expanded solar micrositing
12 area.

1 **Figure 7: Noise Sensitive Receptors within 2-Miles of Site Boundary**



2

Ambient Noise Degradation Standard

The ambient noise degradation standard requires a demonstration that noise generated during facility operation must not cause the hourly L50 noise level at any noise-sensitive property to exceed 10 dBA above ambient or, in this case, 36 dBA. Based upon the certificate holder's noise analysis, maximum noise levels within the proposed expanded solar micrositing area at each potentially impacted noise sensitive property (presented in paren) were modeled at 29 (R360), 38 (R290) and 40 (R332) dBA. Predicted noise levels at noise sensitive property R290 and R332 would exceed the ambient antidegradation standard, which would be within the Montague Solar Facility site boundary. In accordance with OAR 340-035-0035(1)(b)(iii)(III) the noise levels from a wind energy facility may increase the ambient statistical noise levels L10 and L50 by more than 10 dBA (but not above the limits specified in Table 2, above), if the person who owns the noise sensitive property executes a legally effective easement or real covenant.

The facility was originally approved as a wind facility, where even with the addition of solar facility components, the Council has continued to apply the noise requirements for a wind facility, rather than apply different requirements to different facility components. The Montague Solar Facility, as proposed in RFA5, would include shared wind facility components. If exceedances of the ambient antidegradation standard are predicted, the certificate holder may comply with the standard by obtaining a waiver from the landowner. If the Montague Solar Facility does not share wind facility components by the established 2022 construction deadline, at the time of a future site certificate amendment request – if wind facility components are not proposed or shared – the certificate holder would no longer be able to use an assumed 26 dBA ambient noise level or use a waiver for predicted exceedances, and would be required to comply with OAR 340-035-0035(1)(b)(B)(ii), for commercial and industrial noise sources.

Council previously imposed Condition 107, as described below, to confirm that the final facility design meets the DEQ noise regulations prior to construction. Condition 107 requires the certificate holder to provide the Department with copies of executed easements or real covenants to demonstrate compliance with the noise control regulation for noise increases estimated to be 10 dBA or more above 26 dBA, based on a pre-construction final design noise analysis, at identified noise sensitive receptors. Therefore, to demonstrate compliance with the DEQ noise rules during operation the facility, with proposed RFA5 modifications, the certificate holder must either negotiate and execute legally effective easements or real covenants with the affected property owners authorizing the facility to increase the ambient statistical noise levels more than 10 dBA; or, in the alternative, the certificate holder must change the layout, utilize noise reducing technology such as acoustic barrier walls; secondary enclosures, lagging, silencing, or acoustically designed buildings; or reduce the number of noise generating facility-components to reduce the noise levels to levels that would not exceed the ambient noise degradation limit.

1 *Maximum Allowable Standard*

2
3 The maximum allowable noise standard requires a demonstration that noise generated during
4 facility operation must not exceed the hourly statistical noise level of 50 dBA. Modeling results
5 of the facility, with proposed RFA5 modifications, result in a maximum noise level of 40 dBA,
6 which would be below the standard. Council previously imposed Condition 107 requiring that,
7 prior to construction, the certificate holder submit to the Department a noise assessment
8 based on final facility design and layout, using the maximum sound power level for all noise
9 generating equipment. Council previously imposed Condition 108 requiring that the certificate
10 holder implement a noise complaint program and provide landowners notification of the
11 availability of the facility noise compliant program.
12

13 **Conclusions of Law**

14
15 Based on the recommended foregoing findings, the Department recommends that the Council
16 find that based upon compliance with existing conditions the facility, with proposed RFA5
17 modifications, would continue to comply with the Noise Control Regulations in OAR 340-035-
18 0035(1)(b)(B).
19

20 **III.A.10.2 Removal-Fill**

21
22 The Oregon Removal-Fill Law (ORS 196.795 through 196.990) and Department of State Lands
23 (DSL) regulations (OAR 141-085-0500 through 141-085-0785) require a removal-fill permit if 50
24 cubic yards or more of material is removed, filled, or altered within any “waters of the state.”³⁰
25 The Council, in consultation with the Oregon Department of State Lands (DSL), must determine
26 whether a removal-fill permit is needed and if so, whether a removal-fill permit should be
27 issued.
28

29 **Findings of Fact**

30
31 In RFA5, the certificate holder proposes to expand the solar micrositing area by approximately
32 1,535 acres. The entirety of the proposed expansion area was surveyed through desktop
33 analysis or field methods. Based on desktop and field surveys, there are no jurisdictional waters
34 located within the expansion area. Previous field surveys were incorporated into wetland
35 delineation reports previously reviewed and concurred by the Oregon Department of State
36 Lands (DSL) (WD#2017-0111, WD#2011-0364R, WD#2018-0597, and WD#2018-0660). RFA5
37 Figure 10 shows areas previously surveyed for wetlands and waters. The proposed alternate
38 230-kV transmission line route and portions of the proposed expanded solar micrositing area
39 were surveyed in 2017 (WD#2017-0111). The certificate holder identifies that approximately
40 394 of 1,535 acres have not been field surveyed, as shown in RFA5 Figure 10, but were
41 included in the desktop survey evaluating the state’s jurisdictional waters database.

³⁰ ORS 196.800(15) defines “Waters of this state.” The term includes wetlands and certain other waterbodies.

Based on desktop and field surveys, the certificate holder identifies that the proposed expanded solar microsite area would not impact or be located on or within jurisdictional waters of the state and therefore would not require a removal-fill permit. Council previously imposed Condition 83, requiring that, prior to construction, the certificate holder conduct wetland surveys in any unsurveyed area, which would continue to apply. In certain circumstances, the Council may allow for site certificates to include conditions deferring a survey requirement – particularly in areas considered unlikely to contain jurisdictional waters of the state given current land use practices. Compliance with Condition 83 ensures unsurveyed areas are surveyed prior to construction and that concurrence from DSL is obtained to verify accurate identification of jurisdictional waters, and avoidance unless removal-fill permit is obtained.

Conclusions of Law

Based on the foregoing findings of fact and conclusions, the Department recommends that the Council find that a removal-fill permit is not needed for the facility, with proposed RFA5 modifications.

III.B. Standards Not Likely to Be Impacted by Request for Amendment 5

RFA5, as described throughout this order, requests authorization to split, and share some, previously approved facility components within previously approved site boundary, but redefined based on specific facility components covered in each site certificate. Based on the largely administrative nature of the amendment request, with the exception of substantive changes evaluated in Section III.A. *Standards Potential Impacted by Request for Amendment 5*, the Department recommends Council find that the Council's findings on the record of the EFSC proceedings for the Montague Wind Power Facility from 2010-2019 would not be impacted for the standards listed below.

Sections III.B.1 through III.B.9 present the language of the identified standards and other applicable laws and regulations not likely to be impacted by RFA5, for reference purposes only.

III.B.1 Structural Standard: OAR 345-022-0020

(1) Except for facilities described in sections (2) and (3), to issue a site certificate, the Council must find that:

(b) The applicant, through appropriate site-specific study, has adequately characterized the seismic hazard risk of the site;

(c) The applicant can design, engineer, and construct the facility to avoid dangers to human safety and the environment presented by seismic hazards affecting the site, as identified in subsection (1)(a);

1
2 (d) *The applicant, through appropriate site-specific study, has adequately characterized*
3 *the potential geological and soils hazards of the site and its vicinity that could, in the*
4 *absence of a seismic event, adversely affect, or be aggravated by, the construction*
5 *and operation of the proposed facility; and*
6

7 (e) *The applicant can design, engineer and construct the facility to avoid dangers to*
8 *human safety and the environment presented by the hazards identified in subsection*
9 *(c).*
10

11 (2) *The Council may not impose the Structural Standard in section (1) to approve or deny an*
12 *application for an energy facility that would produce power from wind, solar or*
13 *geothermal energy. However, the Council may, to the extent it determines appropriate,*
14 *apply the requirements of section (1) to impose conditions on a site certificate issued for*
15 *such a facility.*
16

17 (3) *The Council may not impose the Structural Standard in section (1) to deny an application*
18 *for a special criteria facility under OAR 345-015-0310. However, the Council may, to the*
19 *extent it determines appropriate, apply the requirements of section (1) to impose*
20 *conditions on a site certificate issued for such a facility.*
21

22 III.B.2 Protected Areas: OAR 345-022-0040
23

24 (1) *Except as provided in sections (2) and (3), the Council shall not issue a site certificate*
25 *for a proposed facility located in the areas listed below. To issue a site certificate for a*
26 *proposed facility located outside the areas listed below, the Council must find that,*
27 *taking into account mitigation, the design, construction and operation of the facility are*
28 *not likely to result in significant adverse impact to the areas listed below. References in*
29 *this rule to protected areas designated under federal or state statutes or regulations are*
30 *to the designations in effect as of May 11, 2007:*
31

32 (a) *National parks, including but not limited to Crater Lake National Park and Fort*
33 *Clatsop National Memorial;*
34

35 (b) *National monuments, including but not limited to John Day Fossil Bed National*
36 *Monument, Newberry National Volcanic Monument and Oregon Caves National*
37 *Monument;*
38

39 (c) *Wilderness areas established pursuant to The Wilderness Act, 16 U.S.C. 1131 et*
40 *seq. and areas recommended for designation as wilderness areas pursuant to 43*
41 *U.S.C. 1782;*
42

1 (d) National and state wildlife refuges, including but not limited to Ankeny, Bandon
2 Marsh, Baskett Slough, Bear Valley, Cape Meares, Cold Springs, Deer Flat, Hart
3 Mountain, Julia Butler Hansen, Klamath Forest, Lewis and Clark, Lower Klamath,
4 Malheur, McKay Creek, Oregon Islands, Sheldon, Three Arch Rocks, Umatilla, Upper
5 Klamath, and William L. Finley;

6
7 (e) National coordination areas, including but not limited to Government Island,
8 Ochoco and Summer Lake;

9
10 (f) National and state fish hatcheries, including but not limited to Eagle Creek and
11 Warm Springs;

12
13 (g) National recreation and scenic areas, including but not limited to Oregon Dunes
14 National Recreation Area, Hell's Canyon National Recreation Area, and the Oregon
15 Cascades Recreation Area, and Columbia River Gorge National Scenic Area;

16
17 (h) State parks and waysides as listed by the Oregon Department of Parks and
18 Recreation and the Willamette River Greenway;

19
20 (i) State natural heritage areas listed in the Oregon Register of Natural Heritage
21 Areas pursuant to ORS 273.581;

22
23 (j) State estuarine sanctuaries, including but not limited to South Slough Estuarine
24 Sanctuary, OAR Chapter 142;

25
26 (k) Scenic waterways designated pursuant to ORS 390.826, wild or scenic rivers
27 designated pursuant to 16 U.S.C. 1271 et seq., and those waterways and rivers listed
28 as potentials for designation;

29
30 (l) Experimental areas established by the Rangeland Resources Program, College of
31 Agriculture, Oregon State University: the Prineville site, the Burns (Squaw Butte) site,
32 the Starkey site and the Union site;

33
34 (m) Agricultural experimental stations established by the College of Agriculture,
35 Oregon State University, including but not limited to: Coastal Oregon Marine
36 Experiment Station, Astoria Mid-Columbia Agriculture Research and Extension
37 Center, Hood River Agriculture Research and Extension Center, Hermiston Columbia
38 Basin Agriculture Research Center, Pendleton Columbia Basin Agriculture Research
39 Center, Moro North Willamette Research and Extension Center, Aurora East Oregon
40 Agriculture Research Center, Union Malheur Experiment Station, Ontario Eastern
41 Oregon Agriculture Research Center, Burns Eastern Oregon Agriculture Research
42 Center, Squaw Butte Central Oregon Experiment Station, Madras Central Oregon
43 Experiment Station, Powell Butte Central Oregon Experiment Station, Redmond

1 *Central Station, Corvallis Coastal Oregon Marine Experiment Station, Newport*
2 *Southern Oregon Experiment Station, Medford Klamath Experiment Station, Klamath*
3 *Falls;*

4
5 *(n) Research forests established by the College of Forestry, Oregon State University,*
6 *including but not limited to McDonald Forest, Paul M. Dunn Forest, the Blodgett*
7 *Tract in Columbia County, the Spaulding Tract in the Mary's Peak area and the*
8 *Marchel Tract;*

9
10 *(o) Bureau of Land Management areas of critical environmental concern,*
11 *outstanding natural areas and research natural areas;*

12
13 *(p) State wildlife areas and management areas identified in OAR chapter 635,*
14 *Division 8.*

15 ***

16 *(3) The provisions of section (1) do not apply to transmission lines or natural gas*
17 *pipelines routed within 500 feet of an existing utility right-of-way containing at least one*
18 *transmission line with a voltage rating of 115 kilovolts or higher or containing at least*
19 *one natural gas pipeline of 8 inches or greater diameter that is operated at a pressure of*
20 *125 psig.*

21
22 III.B.3 Threatened and Endangered Species: OAR 345-022-0070

23
24 *To issue a site certificate, the Council, after consultation with appropriate state agencies,*
25 *must find that:*

26
27 *(1) For plant species that the Oregon Department of Agriculture has listed as*
28 *threatened or endangered under ORS 564.105(2), the design, construction and*
29 *operation of the proposed facility, taking into account mitigation:*

30
31 *(a) Are consistent with the protection and conservation program, if any, that the*
32 *Oregon Department of Agriculture has adopted under ORS 564.105(3); or*

33
34 *(b) If the Oregon Department of Agriculture has not adopted a protection and*
35 *conservation program, are not likely to cause a significant reduction in the*
36 *likelihood of survival or recovery of the species; and*

37
38 *(2) For wildlife species that the Oregon Fish and Wildlife Commission has listed as*
39 *threatened or endangered under ORS 496.172(2), the design, construction and*
40 *operation of the proposed facility, taking into account mitigation, are not likely to*
41 *cause a significant reduction in the likelihood of survival or recovery of the species.*
42

1 III.B.4 Scenic Resources: OAR 345-022-0080

2
3 *(1) Except for facilities described in section (2), to issue a site certificate, the Council*
4 *must find that the design, construction and operation of the facility, taking into*
5 *account mitigation, are not likely to result in significant adverse impact to scenic*
6 *resources and values identified as significant or important in local land use plans,*
7 *tribal land management plans and federal land management plans for any lands*
8 *located within the analysis area described in the project order.*
9

10 III.B.5 Recreation: OAR 345-022-0100

11
12 *(1) Except for facilities described in section (2), to issue a site certificate, the Council must*
13 *find that the design, construction and operation of a facility, taking into account*
14 *mitigation, are not likely to result in a significant adverse impact to important*
15 *recreational opportunities in the analysis area as described in the project order. The*
16 *Council shall consider the following factors in judging the importance of a recreational*
17 *opportunity:*
18

- 19 *(a) Any special designation or management of the location;*
20 *(b) The degree of demand;*
21 *(c) Outstanding or unusual qualities;*
22 *(d) Availability or rareness;*
23 *(e) Irreplaceability or irretrievability of the opportunity.*

24 ***³¹

25 In RFA5, the certificate holder requests to remove Condition 105 from the Montague Solar
26 Facility and Oregon Trail Solar Facility site certificates. Condition 105 was imposed in the
27 Council's Final Order on the ASC, establishing a setback requirement to minimize visual impacts
28 from wind facility components, including wind turbines and meteorological towers, to the
29 Fourmile Canyon Interpretative Site. Condition 105 establishes a 1,000 foot setback from a
30 specific location, based on latitude and longitude, which, based on the approved wind and
31 proposed expanded and new solar micrositing area, would no longer apply based on separating
32 distance between setback and micrositing areas. Therefore, the Department recommends
33 Council administratively remove Condition 105 from the Montague Solar Facility and Oregon
34 Trail Solar Facility site certificates, as presented below.

35
36 *Montague Solar Facility and Oregon Trail Solar Facility*
37

38 Recommended Deleted Condition 105: ~~The certificate holder shall maintain a minimum~~
39 ~~distance of 1,000 feet measured from the centerline of each turbine tower or~~
40 ~~meteorological tower to the centerline of the line-of-sight from the vantage point of the~~
41 ~~Fourmile Canyon interpretive site looking toward the visible Oregon Trail ruts (bearing S~~

³¹ RFA4 facility components do not represent a special criteria facility under OAR 345-0015-0310; therefore, OAR 345-022-0100(2) is not applicable.

~~89-42-34 W from latitude, longitude: 45.622047, -120.044112) as described in the Final Order on the Application.~~

[Final Order on ASC; AMD5]

III.B.6 Waste Minimization: OAR 345-022-0120

(1) Except for facilities described in sections (2) and (3), to issue a site certificate, the Council must find that, to the extent reasonably practicable:

(b) The applicant's solid waste and wastewater plans are likely to minimize generation of solid waste and wastewater in the construction and operation of the facility, and when solid waste or wastewater is generated, to result in recycling and reuse of such wastes;

(c) The applicant's plans to manage the accumulation, storage, disposal and transportation of waste generated by the construction and operation of the facility are likely to result in minimal adverse impact on surrounding and adjacent areas.

(2) The Council may issue a site certificate for a facility that would produce power from wind, solar or geothermal energy without making the findings described in section (1). However, the Council may apply the requirements of section (1) to impose conditions on a site certificate issued for such a facility.

III.B.7 Public Health and Safety Standards for Wind Energy Facilities: OAR 345-024-0010

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

(1) Can design, construct and operate the facility to exclude members of the public from close proximity to the turbine blades and electrical equipment.

(2) Can design, construct and operate the facility to preclude structural failure of the tower or blades that could endanger the public safety and to have adequate safety devices and testing procedures designed to warn of impending failure and to minimize the consequences of such failure.

III.B.8 Cumulative Effects Standard for Wind Energy Facilities [OAR 345-024-0015]

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

1 (1) Using existing roads to provide access to the facility site, or if new roads are needed,
2 minimizing the amount of land used for new roads and locating them to reduce adverse
3 environmental impacts.

4 (2) Using underground transmission lines and combining transmission routes.

5 (3) Connecting the facility to existing substations, or if new substations are needed,
6 minimizing the number of new substations.

7 (4) Designing the facility to reduce the risk of injury to raptors or other vulnerable wildlife
8 in areas near turbines or electrical equipment.

9 (5) Designing the components of the facility to minimize adverse visual features.

10 (6) Using the minimum lighting necessary for safety and security purposes and using
11 techniques to prevent casting glare from the site, except as otherwise required by the
12 Federal Aviation Administration or the Oregon Department of Aviation.

13 14 III.B.9 Water Rights

15
16 Under ORS Chapters 537 and 540 and OAR Chapter 690, the Oregon Water Resources
17 Department (OWRD) administers water rights for appropriation and use of the water resources
18 of the state. Under OAR 345-022-0000(1)(b), the Council must determine whether the
19 proposed RFA4 facility components would comply with these statutes and administrative rules.
20 OAR 345-021-0010(1)(o)(F) requires that if a facility, or proposed facility modification
21 necessitates a groundwater permit, surface water permit, or water right transfer, that a
22 decision on authorizing such a permit rests with the Council.

23 24 IV. PROPOSED CONCLUSIONS AND ORDER

25
26 Based on the recommended findings and conclusions included in this order, the Department
27 recommends that Council make the following findings:

- 28
29 1. The proposed facility modifications included in Request for Amendment 5 of the
30 Montague Wind Power Facility site certificate complies with the requirements of the
31 Oregon Energy Facility Siting Statutes, ORS 469.300 to 469.520.
32
33 2. The proposed facility modifications included in Request for Amendment 5 of the
34 Montague Wind Power Facility site certificate complies with the standards adopted
35 by the Council pursuant to ORS 469.501.
36
37 3. The proposed facility modifications included in Request for Amendment 5 of the
38 Montague Wind Power Facility site certificate complies with all other Oregon
39 statutes and administrative rules identified in the project order as applicable to the
40 issuance of a site certificate for the proposed facility.

41
42 Accordingly, the Department recommends that the Council find that the proposed facility
43 modifications included in Request for Amendment 5 of the Montague Wind Power Facility site

1 certificate complies with the General Standard of Review (OAR 345-022-0000). The Department
2 recommends that the Council find, based on a preponderance of the evidence on the record,
3 that the site certificate may be amended as requested.

4
5 **Draft Proposed Order**

6
7 The Department recommends that the Council approve Amendment 5 of the Montague Wind
8 Power Facility site certificate.

9
10 **Issued this 26th day of June 2020**

The OREGON DEPARTMENT OF ENERGY

By: 
Todd Cornett, Assistant Director
Oregon Department of Energy, Energy Facility Siting Division

Attachments:

Attachment A Draft Site Certificates

Draft Amended Montague Wind Facility Site Certificate

Draft Montague Solar Facility Site Certificate

Draft Oregon Trail Solar Facility Site Certificate

Comparison Table of Site Certificate Conditions (to be included in Proposed Order)

Attachment B

Reviewing Agency Comments on preliminary Request for Amendment 5

Attachment C

[Reserved for Draft Proposed Order Comments/Index]

Attachment D Draft Amended Habitat Mitigation Plans

Draft Amended Montague Wind Facility Habitat Mitigation Plan

Draft Montague Solar Facility Habitat Mitigation Plan

Draft Oregon Trail Solar Facility Habitat Mitigation Plan

Attachment E Draft Amended Revegetation Plans

Draft Amended Montague Wind Facility Revegetation Plan

Draft Montague Solar Facility Revegetation Plan

Draft Oregon Trail Solar Facility Revegetation Plan

Attachment F Draft Weed Control Plans

Draft Amended Montague Wind Facility Weed Control Plan

Draft Montague Solar Facility Weed Control Plan

Draft Oregon Trail Solar Facility Weed Control Plan

Attachment G Draft Amended Wildlife Monitoring and Mitigation Plans

Draft Amended Montague Wind Facility Wildlife Monitoring and Mitigation Plan

Draft Montague Solar Facility Wildlife Monitoring and Mitigation Plan

Draft Oregon Trail Solar Facility Wildlife Monitoring and Mitigation Plan

Attachment H Cultural, Historic and Archeological Resource Mitigation Plans

Inadvertent Discovery Plan (Montague Wind, Montague Solar and Oregon Trail Solar)

Draft Amended Montague Solar Facility Historic Properties Management Plan

Attachment A Draft Amended and Original Site Certificates

Draft Amended Montague Wind Facility Site Certificate

Draft Montague Solar Facility Site Certificate

Draft Oregon Trail Solar Facility Site Certificate

Comparison Table of Site Certificate Conditions (to be included in Proposed Order)

ENERGY FACILITY SITING COUNCIL
OF THE
STATE OF OREGON

~~Fourth~~Fifth Amended Site Certificate

for the
Montague Wind Power Facility

~~August 23, 2019~~

2020

I. INTRODUCTION

The Oregon Energy Facility Siting Council (Council) issues this amended site certificate for the Montague Wind Power Facility (the facility) in the manner authorized under ORS Chapter 469. This site certificate is a binding agreement between the State of Oregon (State), acting through the Council, and Montague Wind Power Facility LLC (certificate holder), a wholly owned subsidiary of Avangrid Renewables, LLC (parent company) authorizing the certificate holder to construct and operate the facility in Gilliam County, Oregon. ~~[Amendment #3] 4]~~

The findings of fact, reasoning and conclusions of law underlying the terms and conditions of this amended site certificate are set forth in the following documents, incorporated herein by this reference: (a) the Final Order on the Application for Site Certificate for the Montague Wind Power Facility issued on September 10, 2010 (hereafter, Final Order on the Application), (b) the Final Order on Amendment #1 issued on June 21, 2013; ~~and~~, (c) the Final Order on Amendment #2 issued on December 4, 2015; (d) the Final Order on Amendment #3 issued on July 11, 2017; ~~and~~ (e) the Final Order on Amendment #4 issued on August 23, 2019; and (f) the Final Order on Amendment #5 issued on TBD, 2020. In interpreting this site certificate, any ambiguity will be clarified by reference to the following, in order of priority: (1) this ~~Fourth~~Fifth Amended Site Certificate, (2) the Final Order on Amendment #~~4~~5, (3) the Final Order on Amendment #~~34~~3, (4) the Final Order on Amendment #~~23~~2, (5) the Final Order on Amendment #~~1~~2, (6) the Final Order on Amendment #1, (7) the Final Order on the Application, ~~and (7)(8)~~ the record of the proceedings that led to the Final Order on the Application, the Final Order on Amendment #1, ~~and~~ the Final Order on Amendment #~~2~~2; Final Order on Amendment #3; Final Order on Amendment #4; and the Final Order on Amendment #5. [Amendment #2]

The definitions in ORS 469.300 and OAR 345-001-0010 apply to terms used in this site certificate, except where otherwise stated or where the context clearly indicates otherwise.

II. SITE CERTIFICATION

- (a) To the extent authorized by state law and subject to the conditions set forth herein, the State authorizes the certificate holder to construct, operate and retire a wind ~~and photovoltaic (PV) solar~~ energy facility, together with certain related or supporting facilities, at the site in Gilliam County, Oregon, as described in Section III of this site certificate. ORS 469.401(1). [ASC; AMD4; AMD5]
- (b) This site certificate is effective until it is terminated under OAR 345-027-0110 or the rules in effect on the date that termination is sought or until the site certificate is revoked under ORS 469.440 and OAR 345-029-0100 or the statutes and rules in effect on the date that revocation is ordered. ORS 469.401(1).
- (c) This site certificate does not address, and is not binding with respect to, matters that were not addressed in the Final Order on the Application, Final Order on Amendment #1 Final Order on Amendment #2, Final Order on Amendment #3, Final Order on Amendment #4, and Final Order on Amendment #~~4~~5. Such matters include, but are not limited to: building code compliance, wage, hour and other labor regulations, local government fees and charges and other design or operational issues that do not relate to siting the facility (ORS 469.401(4)) and permits issued under statutes and rules for

which the decision on compliance has been delegated by the federal government to a state agency other than the Council. 469.503(3). [ASC; AMD1; AMD2; AMD3; AMD4; ~~AMD5~~]

(d) Both the State and the certificate holder shall abide by local ordinances, state law and the rules of the Council in effect on the date this site certificate is executed. ORS 469.401(2). In addition, upon a clear showing of a significant threat to public health, safety or the environment that requires application of later-adopted laws or rules, the Council may require compliance with such later-adopted laws or rules. ORS 469.401(2).

(e) For a permit, license or other approval addressed in and governed by this site certificate, the certificate holder shall comply with applicable state and federal laws adopted in the future to the extent that such compliance is required under the respective state agency statutes and rules. ORS 469.401(2).

(f) Subject to the conditions herein, this site certificate binds the State and all counties, cities and political subdivisions in Oregon as to the approval of the site and the construction, operation and retirement of the facility as to matters that are addressed in and governed by this site certificate. ORS 469.401(3).

(g) Each affected state agency, county, city and political subdivision in Oregon with authority to issue a permit, license or other approval addressed in or governed by this site certificate shall, upon submission of the proper application and payment of the proper fees, but without hearings or other proceedings, issue such permit, license or other approval subject only to conditions set forth in this site certificate. ORS 469.401(3).

(h) After issuance of this site certificate, each state agency or local government agency that issues a permit, license or other approval for the facility shall continue to exercise enforcement authority over such permit, license or other approval. ORS 469.401(3).

(i) After issuance of this site certificate, the Council shall have continuing authority over the site and may inspect, or direct the Oregon Department of Energy (Department) to inspect, or request another state agency or local government to inspect, the site at any time in order to ensure that the facility is being operated consistently with the terms and conditions of this site certificate. ORS 469.430.

(j) Following the completion of pre-construction surveys required by this site certificate, the Department will present the results of those surveys and required consultations at the next regularly scheduled Council meeting. [AMD2]

III. DESCRIPTION

1. The Facility

(a) The Energy Facility

The Montague Wind Power Facility is an electric power generating plant ~~developed in two phases, Phase 1 and Phase 2. Phase 1 consists~~consisting of 56 wind turbines, each consisting of a nacelle, a three-

1 bladed rotor, turbine tower and foundations. The nacelle houses the equipment such as the gearbox,
2 generator, brakes, and control systems for the turbines.

3 ~~Phase 2 is approved to consist of up to 81 wind turbines and a solar photovoltaic array~~
4 ~~on up to 1,189 acres. The solar array would be composed of solar modules, which are themselves~~
5 ~~composed of either mono-crystalline or poly-crystalline cells. In addition to the solar modules, the array~~
6 ~~would also include a tracker system to allow the solar modules to follow the path of the sun throughout~~
7 ~~the day; cables; inverters; and transformers. The solar array would be connected to the power collection~~
8 ~~system as described below.~~ The energy facility is described further in the Final Order on the Application,
9 Final Order on Amendment #1, Final Order on Amendment #2, Final Order on Amendment #3, ~~and the~~
10 Final Order on Amendment #4, and Final Order on Amendment #5.

11 **(b) Related or Supporting Facilities**

12 The facility includes the following related or supporting facilities described below and in greater detail in
13 the Final Order on the Application, Final Order on Amendment #1, Final Order on Amendment #2, Final
14 Order on Amendment #3, ~~and the~~ Final Order on Amendment #4, and Final Order on Amendment #5:

- 15 • Power collection system
- 16 • Control system
- 17 • Collector sSubstations and 230-kV transmission lines
- 18 • ~~Battery storage system~~
- 19 • Meteorological towers
- 20 • Operations and maintenance ~~facilities~~(O&M) building
- 21 • Access roads
- 22 • Public roadway modifications
- 23 • Temporary construction areas

24 **Power Collection System**

25 A power collection system operating at 34.5 kilovolts (kV) transports power from each turbine to a
26 collector substation. To the extent practicable, the collection system is installed underground at a depth
27 of at least three ~~feet~~feet. Not more than 27 miles of the collector system combined across facility phases
28 is installed aboveground.

29 **Control System**

30 A fiber optic communications network links the wind turbines to a central computer at the Montague
31 Wind O&M buildingsbuilding. A Supervisory, Control and Data Acquisition (SCADA) system collects
32 operating and performance data from each wind turbine and from the facility as a whole and allows
33 remote operation of the wind turbines. The control system is shared with the Montague Solar facility
34 and the Oregon Trail Solar facility.

Collector Substations and 230-kV Transmission Lines

The facility includes ~~two collector substations, one associated with Phase 1, a substation (“Montague Wind substation”) and the second associated with Phase 2. An~~ aboveground, single-circuit 230-kV transmission line ~~connects the Phase 2 substation to the Phase 1 substation. An aboveground, single-circuit 230-kV transmission line that~~ connects the Montague Wind substation to the 500-kV Slatt-Buckley transmission line owned by the Bonneville Power Administration (BPA) at the Slatt substation. The Montague Wind substation and aboveground, single-circuit 230-kV transmission line are shared with the Montague Solar facility, and the Oregon Trail Solar facility.

Battery Storage

~~Phase 2 is approved to include a battery storage system. The battery storage system would be capable of storing up to 100 MW of wind or solar energy generated by the Facility, and would be used to stabilize the wind or solar resource through dispatching of energy stored in the battery system. The battery system is placed in a series of containers or building located near the Phase 2 substation.~~

~~The battery system would be composed of either lithium-ion (Li-ion) batteries or a flow battery. Lithium-ion batteries are a solid-state rechargeable battery utilizing lithium ions in an electrolyte. Flow batteries are composed of a variety of different technologies; however, all flow batteries dispatch electricity by allowing the migration of electrons from a positive ion tank to a negative ion tank. The electrons migrate between solutions via a membrane.~~

Meteorological Towers

The facility includes up to ~~eight~~four permanent meteorological towers.

Operations and Maintenance Facilities

The facility includes ~~two~~one operations and maintenance (O&M) ~~facilities, one associated with building (“Montague Wind and the second with Phase 2-O&M building”).~~ An on-site well at ~~each the Montague Wind O&M facility building~~ supplies water for use during facility operation. Sewage is discharged to an Oregon Department of Environmental Quality (DEQ)-permitted on-site septic system.

Access Roads

The facility includes access roads to provide access to the turbine strings, ~~solar array, battery storage system and other~~ and related or supporting components.

Public Roadway Modifications

The certificate holder may construct improvements to existing state and county public roads that are necessary for construction of the facility. These modifications would be confined to the existing road rights-of-way and would be undertaken with the approval of the Gilliam County Road Department or the Oregon Department of Transportation, depending on the location of the improvement.

Temporary Construction Areas

During construction, the facility includes temporary laydown areas used to stage construction and store supplies and equipment. Construction crane paths are used to move construction cranes between turbine strings.

(c) Shared Related or Supporting Facilities

The site certificates for the Montague Wind Power Facility, Montague Solar Facility and Oregon Trail Solar Facility were originally approved as one site certificate for the Montague Wind Power Facility (September 2010 – September 2019). In XX 2020, facility components were split or allocated into three separate site certificates, but identified that certain related or supporting facilities would be shared or used by each facility. Sharing of facility components, or use by multiple facilities, is allowable in the EFSC process when the compliance obligation and applicable regulatory requirements for the shared facilities is adequately covered under each site certificate, including under normal operational circumstances, ceasing/termination of operation, emergencies and compliance issues or violations.

The certificate holder is authorized to share related or supporting facilities between the Montague Wind Power Facility, Montague Solar Facility and Oregon Trail Solar Facility, including the Montague Wind collector substation, 230 kV transmission line, temporary laydown areas, and access roads. These related or supporting facilities are included in each site certificate. Compliance responsibility with site certificate conditions and EFSC standards which apply to these shared related or supporting facilities are shared between site certificates and certificate holders. In accordance with Condition 118, if any certificate holder substantially modifies a shared related or supporting facility or ceases facility operation, each certificate holder would be obligated to submit an amendment determination request or request for amendment to the Department to determine the appropriate process for evaluating the change and ensuring full regulatory coverage under each site certificate, or remaining site certificate if either is terminated, in the future. Additionally, each certificate holder is obligated to demonstrate to the Department that a legally binding agreement has been fully executed between certificate holders to ensure approval and agreement of access to the shared resources has been obtained prior to operation of shared facilities.

2. Location of the Facility

The facility is located south of Arlington, in Gilliam County, Oregon. The facility is located on private land subject to easements or lease agreements with landowners.

IV. CONDITIONS REQUIRED BY COUNCIL RULES

This section lists conditions required by OAR 345-025-0006 (Mandatory Conditions in Site Certificates), OAR 345-025-0010 (Site Specific Conditions), OAR 345-025-0016 (Monitoring and Mitigation Conditions) and OAR Chapter 345, Division 26 (Construction and Operation Rules for Facilities). These conditions should be read together with the specific facility conditions listed in Section V to ensure compliance with the siting standards of OAR Chapter 345, Divisions 22 and 24, and to protect the public health and safety. In these conditions the definitions in OAR 345-001-0010 apply.

The obligation of the certificate holder to report information to the Oregon Department of Energy (Department) or the Council under the conditions listed in this section and in Section V is subject to the provisions of ORS 192.502 et seq. and ORS 469.560. To the extent permitted by law, the Department

1 and the Council will not publicly disclose information that may be exempt from public disclosure if the
2 certificate holder has clearly labeled such information and stated the basis for the exemption at the time
3 of submitting the information to the Department or the Council. If the Council or the Department
4 receives a request for the disclosure of the information, the Council or the Department, as appropriate,
5 will make a reasonable attempt to notify the certificate holder and will refer the matter to the Attorney
6 General for a determination of whether the exemption is applicable, pursuant to ORS 192.450.

7 In addition to these conditions, the site certificate holder is subject to all conditions and requirements
8 contained in the rules of the Council and in local ordinances and state law in effect on the date the
9 certificate is executed. Under ORS 469.401(2), upon a clear showing of a significant threat to the public
10 health, safety or the environment that requires application of later-adopted laws or rules, the Council
11 may require compliance with such later-adopted laws or rules.

12 The Council recognizes that many specific tasks related to the design, construction, operation and
13 retirement of the facility will be undertaken by the certificate holder's agents or contractors.
14 Nevertheless, the certificate holder is responsible for ensuring compliance with all provisions of the site
15 certificate.

16 1 OAR 345-025-0006(1): The Council shall not change the conditions of the site certificate except
17 as provided for in OAR Chapter 345, Division 27.

18 2 OAR 345-025-0006(2): The certificate holder shall submit a legal description of the site to the
19 Department of Energy within 90 days after beginning operation of the facility. The legal
20 description required by this rule means a description of metes and bounds or a description of
21 the site by reference to a map and geographic data that clearly and specifically identifies the
22 outer boundaries that contain all parts of the facility.

23 3 OAR 345-025-0006(3): The certificate holder shall design, construct, operate and retire the
24 facility:

25 (a) Substantially as described in the site certificate;

26 (b) In compliance with the requirements of ORS Chapter 469, applicable Council rules, and
27 applicable state and local laws, rules and ordinances in effect at the time the site
28 certificate is issued; and (c) In compliance with all applicable permit requirements of
29 other state agencies.

30 4 OAR 345-025-0006(4): The certificate holder shall begin and complete construction of the
31 facility by the dates specified in the site certificate. (See Conditions 24 and 25)

32 5 OAR 345-025-0006(5): Except as necessary for the initial survey or as otherwise allowed for wind
33 energy facilities, transmission lines or pipelines under this section, the certificate holder shall
34 not begin construction, as defined in OAR 345-001-0010, or create a clearing on any part of the
35 site until the certificate holder has construction rights on all parts of the site. For the purpose of
36 this rule, "construction rights" means the legal right to engage in construction activities. For
37 wind energy facilities, transmission lines or pipelines, if the certificate holder does not have
38 construction rights on all parts of the site, the certificate holder may nevertheless begin
39 construction, as defined in OAR 345-001-0010, or create a clearing on a part of the site if the
40 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 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.

6 OAR 345-025-0006(6): If the certificate holder becomes aware of a significant environmental change or impact attributable to the facility, the certificate holder shall, as soon as possible, submit a written report to the Department describing the impact on the facility and any affected site certificate conditions. [AMD4]

7 OAR 345-025-0006(7): The certificate holder shall prevent the development of any conditions on the site that would preclude restoration of the site to a useful, non-hazardous condition to the extent that prevention of such site conditions is within the control of the certificate holder.

8 OAR 345-025-0006(8): Before beginning construction of the facility or a phase of the facility, the certificate holder shall submit to the State of Oregon, through the Council, a bond or letter of credit, in a form and amount satisfactory to the Council to restore the site or a portion of the site to a useful, non-hazardous condition. The certificate holder shall maintain a bond or letter of credit in effect at all times until the facility or the phase of the facility has been retired. The Council may specify different amounts for the bond or letter of credit during construction and during operation of the facility or a phase of the facility. (See Condition 32.) [AMD4]

9 OAR 345-025-0006(9): The certificate holder shall retire the facility if the certificate holder permanently ceases construction or operation of the facility. The certificate holder shall retire the facility according to a final retirement plan approved by the Council, as described in OAR 345-027-0110. The certificate holder shall pay the actual cost to restore the site to a useful, non-hazardous condition at the time of retirement, notwithstanding the Council's approval in the site certificate of an estimated amount required to restore the site.

10 OAR 345-025-0006(10): The Council shall include as conditions in the site certificate all representations in the site certificate application and supporting record the Council deems to be binding commitments made by the applicant.

11 OAR 345-025-0006(11): Upon completion of construction, the certificate holder shall restore vegetation to the extent practicable and shall landscape all areas disturbed by construction in a manner compatible with the surroundings and proposed use. Upon completion of construction, the certificate holder shall remove all temporary structures not required for facility operation and dispose of all timber, brush, refuse and flammable or combustible material resulting from clearing of land and construction of the facility.

12 OAR 345-025-0006(12): The certificate holder shall design, engineer and construct the facility to avoid dangers to human safety and the environment presented by seismic hazards affecting the site that are expected to result from all maximum probable seismic events. As used in this rule "seismic hazard" includes ground shaking, ground failure, landslide, liquefaction triggering and consequences (including flow failure, settlement buoyancy, and lateral spreading, cyclic

softening of clays and silts, fault rupture, directivity effects and soil-structure interaction. For coastal sites, this also includes tsunami hazards and seismically-induced subsidence. [AMD4]

13 OAR 345-025-0006(13): The certificate holder shall notify the Department, the State Building Codes Division and the Department of Geology and Mineral Industries promptly if site investigations or trenching reveal that conditions in the foundation rocks differ significantly from those described in the application for a site certificate. After the Department receives the notice, the Council may require the certificate holder to consult with the Department of Geology and Mineral Industries and the Building Codes Division to propose and implement corrective or mitigation actions.

14 OAR 345-025-0006(14): The certificate holder shall notify the Department, the State Building Codes Division and the Department of Geology and Mineral Industries promptly if shear zones, artesian aquifers, deformations or clastic dikes are found at or in the vicinity of the site. After the Department receives notice, the Council may require the certificate holder to consult with the Department of Geology and Mineral Industries and the Building Codes Division to propose and implement corrective or mitigation actions. [AMD4]

15 OAR 345-025-0006(15): Before any transfer of ownership of the facility or ownership of the site certificate holder, the certificate holder shall inform the Department of the proposed new owners. The requirements of OAR 345-027-~~01000~~400 apply to any transfer of ownership that requires a transfer of the site certificate.

16 OAR 345-025-0006(16): If the Council finds that the certificate holder has permanently ceased construction or operation of the facility without retiring the facility according to a final retirement plan approved by the Council, as described in OAR 345-027-0110, the Council shall notify the certificate holder and request that the certificate holder submit a proposed final retirement plan to the Department within a reasonable time not to exceed 90 days. If the certificate holder does not submit a proposed final retirement plan by the specified date, the Council may direct the Department to prepare a proposed final retirement plan for the Council's approval. Upon the Council's approval of the final retirement plan, the Council may draw on the bond or letter of credit described in OAR 345-027-0020(8) to restore the site to a useful, non-hazardous condition according to the final retirement plan, in addition to any penalties the Council may impose under OAR Chapter 345, Division 29. If the amount of the bond or letter of credit is insufficient to pay the actual cost of retirement, the certificate holder shall pay any additional cost necessary to restore the site to a useful, non-hazardous condition. After completion of site restoration, the Council shall issue an order to terminate the site certificate if the Council finds that the facility has been retired according to the approved final retirement plan.

17 ~~OAR 35-027-0023(4)~~:

~~(a) The certificate holder shall design, construct and operate the transmission line in accordance with the requirements of the National Electrical Safety Code approved on June 3, 2011, 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. [~~Amendment 3~~AMD3, Removed by ~~Amendment~~ AMD4]

18 OAR 345-025-0010(5): The certificate holder is authorized to construct a 230-kV transmission line anywhere within the approved corridor, subject to the conditions of the site certificate. The approved corridor is ½-mile in width and extends approximately ~~14-10.8~~ miles from the ~~Phase Montague Wind 2 collector substation to the Phase 1~~ collector substation to BPA's Slatt Substation as presented in Figure 1 of the site certificate.
[OAR 345-025-0010(5); ASC; ~~AMD4~~AMD5]

19 OAR 345-025-0016: The following general monitoring conditions apply:

- (1) In the site certificate, the Council shall include conditions that address monitoring and mitigation to ensure compliance with the standards contained in OAR Chapter 345, Division 22 and Division 24. The site certificate applicant, or for an amendment, the certificate holder, shall develop proposed monitoring and mitigation plans in consultation with the Department and, as appropriate, other state agencies, local governments and tribes. Monitoring and mitigation plans are subject to Council approval. The Council shall incorporate approved monitoring and mitigation plans in applicable site certificate conditions. ~~-[AMD4~~[AMD5]

20 OAR 345-026-0048: Following receipt of the site certificate or an amended site certificate, the certificate holder shall implement a plan that verifies compliance with all site certificate terms and conditions and applicable statutes and rules. As a part of the compliance plan, to verify compliance with the requirement to begin construction by the date specified in the site certificate, the certificate holder shall report promptly to the Department of Energy when construction begins. Construction is defined in OAR 345-001-0010. In reporting the beginning of construction, the certificate holder shall describe all work on the site performed before beginning construction, including work performed before the Council issued the site certificate, and shall state the cost of that work. For the purpose of this exhibit, "work on the site" means any work within a site or corridor, other than surveying, exploration or other activities to define or characterize the site or corridor. The certificate holder shall document the compliance plan and maintain it for inspection by the Department or the Council.

21 OAR 345-026-0080: The certificate holder shall report according to the following requirements:

(a) General reporting obligation for energy facilities under construction or operating:

- (i) Within six months after beginning construction, and every six months thereafter during construction of the energy facility and related or supporting facilities, the certificate holder shall submit a semiannual construction progress report to the Department of Energy. In each construction progress report, the certificate holder shall describe any significant changes to major milestones for construction. The certificate holder shall report on the progress of construction and shall address the subjects listed in subsections (2)(a), (d), (f) and (g). When the reporting date coincides, the certificate holder may include the construction progress report within the annual report described in this rule.

- (ii) After January 1 but no later than April 30 of each year after beginning operation of the facility, the certificate holder shall submit an annual report to the Department

addressing the subjects listed in Subsection (2). For the purposes of this rule, the beginning of operation of the facility means the date when construction of a significant portion of the facility is substantially complete and the certificate holder begins commercial operation of the facility as reported by the certificate holder and accepted by the Department. The Council Secretary and the certificate holder may, by mutual agreement, change the reporting date.

(iii) To the extent that information required by this rule is contained in reports the certificate holder submits to other state, federal or local agencies, the certificate holder may submit excerpts from such other reports to satisfy this rule. The Council reserves the right to request full copies of such excerpted reports

(b) In the annual report, the certificate holder shall include the following information for the calendar year preceding the date of the report:

- (i) Facility Status: An overview of site conditions, the status of facilities under construction and a summary of the operating experience of facilities that are in operation. The certificate holder shall describe any unusual events, such as earthquakes, extraordinary windstorms, major accidents or the like that occurred during the year and that had a significant adverse impact on the facility.
- (ii) Reliability and Efficiency of Power Production: For electric power plants, the plant availability and capacity factors for the reporting year. The certificate holder shall describe any equipment failures or plant breakdowns that had a significant impact on those factors and shall describe any actions taken to prevent the recurrence of such problems.
- (iii) Status of Surety Information: Documentation demonstrating that bonds or letters of credit as described in the site certificate are in full force and effect and will remain in full force and effect for the term of the next reporting period.
- (iv) Monitoring Report: A list and description of all significant monitoring and mitigation activities performed during the previous year in accordance with site certificate terms and conditions, a summary of the results of those activities and a discussion of any significant changes to any monitoring or mitigation program, including the reason for any such changes.
- (v) Compliance Report: A description of all instances of noncompliance with a site certificate condition. For ease of review, the certificate holder shall, in this section of the report, use numbered subparagraphs corresponding to the applicable sections of the site certificate.
- (vi) Facility Modification Report: A summary of changes to the facility that the certificate holder has determined do not require a site certificate amendment in accordance with OAR 345-027-0050.

~~(vii)...~~

1 22 OAR 345-026-0105: The certificate holder and the Department of Energy shall exchange copies
2 of all correspondence or summaries of correspondence related to compliance with statutes,
3 rules and local ordinances on which the Council determined compliance, except for material
4 withheld from public disclosure under state or federal law or under Council rules. The certificate
5 holder may submit abstracts of reports in place of full reports; however, the certificate holder
6 shall provide full copies of abstracted reports and any summarized correspondence at the
7 request of the Department.

8 23 OAR 345-026-0170: The certificate holder shall notify the Department of Energy within 72 hours
9 of any occurrence involving the facility if:

10 (a) There is an attempt by anyone to interfere with its safe operation;

11 (b) A natural event such as an earthquake, flood, tsunami or tornado, or a human-caused
12 event such as a fire or explosion affects or threatens to affect the public health and
13 safety or the environment; or

14 (c) There is any fatal injury at the facility.

V. SPECIFIC FACILITY CONDITIONS

15 The conditions listed in this section include conditions based on representations in the site certificate
16 application and supporting record. The Council deems these representations to be binding
17 commitments made by the applicant. These conditions are required under OAR 345-025-0006.
18 The certificate holder must comply with these conditions in addition to the conditions listed in
19 Section IV. This section includes other specific facility conditions the Council finds necessary to ensure
20 compliance with the siting standards of OAR Chapter 345, Divisions 22 and 24, and to protect public
21 health and safety. For conditions that require subsequent review and approval of a future action, ORS
22 469.402 authorizes the Council to delegate the future review and approval to the Department if, in the
23 Council's discretion, the delegation is warranted under the circumstances of the case.

1. Certificate Administration Conditions

24 24 The certificate holder shall:

25 ~~Begin~~ begin construction ~~of Phase 1~~ of the facility by September 14, 2017. Under OAR 345-015-0085(9),
26 a site certificate is effective upon execution by the Council Chair and the applicant. The Council
27 may grant an extension of the deadline to begin construction in accordance with OAR 345-027-
28 0385 or any successor rule in effect at the time the request for extension is submitted. [ASC;
29 AMD2; ~~AMD4~~AMD5]
30

31
32 ~~i. ——— Begin construction of Phase 2 of the facility by August 30, 2022. The Council may grant an~~
33 ~~extension of the deadline to begin construction in accordance with OAR 345-027-0385 or any~~
34 ~~successor rule in effect at the time the request for extension is submitted. [AMD4]~~

35 25 The certificate holder shall:

1 i. ~~Complete complete~~ construction of ~~Phase 1 of~~ the facility by September 14, 2020.
2 Construction is complete when: (1) the facility is substantially complete as defined by the
3 certificate holder's construction contract documents, (2) acceptance testing has been
4 satisfactorily completed and (3) the energy facility is ready to begin continuous operation
5 consistent with the site certificate. The certificate holder shall promptly notify the
6 Department of the date of completion of construction. The Council may grant an extension
7 of the deadline for completing construction in accordance with OAR 345-027-0385 or any
8 successor rule in effect at the time the request for extension is submitted. ~~[ASC; AMD2;~~
9 ~~AMD4]~~

10 ~~Complete construction of Phase 2 of the facility by [3 years of from the date of construction~~
11 ~~commencement]~~. Construction is complete when: (1) the facility is substantially complete as
12 defined by the certificate holder's construction contract documents, (2) acceptance testing has
13 been satisfactorily completed and (3) the energy facility is ready to begin continuous operation
14 consistent with the site certificate. The certificate holder shall promptly notify the Department
15 of the date of completion of construction. The Council may grant an extension of the deadline
16 for completing construction in accordance with OAR 345-027-0385 or any successor rule in
17 effect at the time the request for extension is submitted. ~~[AMD4[ASC; AMD2; AMD5]~~

18 ~~26 Before beginning construction of the facility, the certificate holder shall notify the Department~~
19 ~~whether the turbines identified as H1, H2, H3, H4, L8, L9, L10, L11 and L12 on Figure C-3a of the~~
20 ~~site certificate application will be built as part of the Montague Wind Power Facility or whether~~
21 ~~the turbines will be built as part of the Leaning Juniper II Wind Power Facility.~~

22 27 The certificate holder shall construct a facility substantially as described in the site certificate
23 and may select turbines of any type, subject to the following restrictions and compliance with all
24 other site certificate conditions. Before beginning construction, the certificate holder shall
25 provide to the Department a description of the turbine types selected for the facility
26 demonstrating compliance with this condition.

- 27 i. For ~~Phase 1~~ facility components:
- 28 (a) The total number of turbines must not exceed ~~5681~~ turbines.
- 29 (b) The turbine hub height must not exceed 100 meters and the maximum blade tip height
- 30 must not exceed 150 meters.
- 31 (c) The minimum blade tip clearance must be 14 meters above ground. [Amendment #3]

- 32 ii. ~~For Phase 2 facility components:~~
- 33 ~~(a) Components may include any combination of wind and solar energy generation~~
34 ~~equipment, up to 81 wind turbines or the maximum layout (including number and size)~~
35 ~~of solar array components substantially as described in RFA4.~~
- 36 ~~(b) The maximum blade tip height must not exceed 597 feet (182 meters). The minimum~~
37 ~~aboveground blade tip clearance must be 46 feet (14 meters).~~

38 [Final Order on ASC; AMD3; ~~AMD4~~AMD5]

39

40 28 The certificate holder shall obtain all necessary federal, state and local permits or approvals
41 required for construction, operation and retirement of the facility or ensure that its contractors
42 obtain the necessary federal, state and local permits or approvals.

29 The certificate holder shall:

- (a) Before beginning construction of each phase of the facility, provide to the Department a list of all third-party permits which would normally be governed by the site certificate and that are necessary for construction (e.g. Air Contaminant Discharge Permit; Limited Water Use License). Once obtained, the certificate holder shall provide copies of third-party permits to the Department and Gilliam County and shall provide to the Department proof of agreements between the certificate holder and the third-party regarding access to the resources or services secured by the permits or approvals.
- (b) During construction and operation, promptly report to the Department if any third-party permits referenced in sub(i) of this condition have been subject to a cited violation, Notice of Violation, or allegation of a violation. [AMD4AMD5]

30 Before beginning construction, the certificate holder shall notify the Department in advance of any work on the site that does not meet the definition of "construction" in ORS 469.300, excluding surveying, exploration or other activities to define or characterize the site, and shall provide to the Department a description of the work and evidence that its value is less than \$250,000.

31 Before beginning construction but no more than two years before beginning construction and after considering all micro-siting factors, the certificate holder shall provide to the Department, to the Oregon Department of Fish and Wildlife (ODFW) and to the Planning Director of Gilliam County detailed maps of the facility site, showing the final locations where the certificate holder proposes to build facility components, and a table showing the acres of temporary and permanent habitat impact by habitat category and subtype, similar to Table 6 in the Final Order on the Application. The detailed maps of the facility site shall indicate the habitat categories of all areas that would be affected during construction (similar to Figures P-8a through P-8d in the site certificate application). In classifying the affected habitat into habitat categories, the certificate holder shall consult with the ODFW. The certificate holder shall not begin ground disturbance in an affected area until the habitat assessment has been approved by the Department. The Department may employ a qualified contractor to confirm the habitat assessment by on-site inspection.

32 ~~i.~~ Before beginning construction ~~of Phase 1~~ of the facility, the certificate holder shall submit to the State of Oregon through the Council a bond or letter of credit in the amount described herein naming the State of Oregon, acting by and through the Council, as beneficiary or payee. The ~~initial~~ bond or letter of credit, as adjusted in August 2018 in accordance with (a) and (b) below, is \$7.705 million (3rd Quarter 2018 dollars) is either \$21.511 million (3rd Quarter 2010 dollars), to be adjusted to the date of issuance as described in (b), or the amount determined as described in (a). The certificate holder shall adjust the amount of the bond or letter of credit on an annual basis thereafter as described in (b).

- (a) The certificate holder may adjust the amount of the bond or letter of credit based on the final design configuration of the facility and turbine types selected by applying the unit costs and general costs illustrated in Table 2 in the *Final Order on the Application* and calculating the financial assurance amount as described in that

order, adjusted to the date of issuance as described in (b) and subject to approval by the Department.

(i) Adjust the Subtotal component of the bond or letter of credit amount (expressed in 3rd Quarter 2017 dollars) to present value, using the U.S. Gross Domestic Product Implicit Price Deflator, Chain-Weight, as published in the Oregon Department of Administrative Services' "Oregon Economic and Revenue Forecast" or by any successor agency (the "Index") and using the 3rd Quarter-2017 index values (to represent mid-2004 dollars) and the quarterly index value for the date of issuance of the new bond or letter of credit. If at any time the Index is no longer published, the Council shall select a comparable calculation to adjust mid-2004 dollars to present value.

(ii) Add 1 percent of the adjusted Subtotal (i) for the adjusted performance bond amount to determine the adjusted Gross Cost.

(iii) Add 10 percent of the adjusted Gross Cost (ii) for the adjusted administration and project management costs and 10 percent of the adjusted Gross Cost (ii) for the adjusted future developments contingency.

(iv) Add the adjusted Gross Cost (ii) to the sum of the percentages (iii) and round the resulting total to the nearest \$1,000 to determine the adjusted financial assurance amount.

(b) The certificate holder shall adjust the amount of the bond or letter of credit, using the following calculation and subject to approval by the Department:

(c) The certificate holder shall use a form of bond or letter of credit approved by the Council.

(d) The certificate holder shall use an issuer of the bond or letter of credit approved by the Council.

(e) The certificate holder shall describe the status of the bond or letter of credit in the annual report submitted to the Council under Condition 21.

(f) The bond or letter of credit shall not be subject to revocation or reduction before retirement of the facility site.

~~ii. Before beginning construction of Phase 2 of the facility, the certificate holder shall submit to the State of Oregon through the Council a bond or letter of credit in the amount described herein naming the State of Oregon, acting by and through the Council, as beneficiary or payee. The bond or letter of credit will be issued for Phase 2 in an amount that is either \$10.429 million (1st Quarter 2019 dollars), to be adjusted to the date of issuance as described in (b), or the amount determined as described in (a). The certificate holder shall adjust the amount of the bond or letter of credit on an annual basis thereafter as described in (b).~~

~~(a) The certificate holder may adjust the amount of the bond or letter of credit based on the final design configuration of the facility, and both the battery storage or turbine types selected by applying the unit costs and general costs illustrated in Table 5 of the Final Order on Amendment 4 and calculating the financial assurance amount as described in that order, adjusted to the date of issuance as described in (b) and subject to approval by the Department. The certificate holder may adjust the~~

- amount of the bond or letter of credit under (a) if opting to construct only a portion of the facility.
- ~~(b) The certificate holder shall adjust the amount of the bond or letter of credit, using the following calculation and subject to approval by the Department:~~
- ~~(i) Adjust the Subtotal component of the bond or letter of credit amount (expressed in mid-2004 dollars) to present value, using the U.S. Gross Domestic Product Implicit Price Deflator, Chain Weight, as published in the Oregon Department of Administrative Services' "Oregon Economic and Revenue Forecast" or by any successor agency (the "Index") and using the average of the 2nd Quarter and 3rd Quarter 2004 index values (to represent mid-2004 dollars) and the quarterly index value for the date of issuance of the new bond or letter of credit. If at any time the Index is no longer published, the Council shall select a comparable calculation to adjust mid-2004 dollars to present value.~~
- ~~(c) The certificate holder shall adjust the amount of the bond or letter of credit, using the following calculation and subject to approval by the Department:~~
- ~~(i) Adjust the Subtotal component of the bond or letter of credit amount (expressed in mid-2004 dollars) to present value, using the U.S. Gross Domestic Product Implicit Price Deflator, Chain Weight, as published in the Oregon Department of Administrative Services' "Oregon Economic and Revenue Forecast" or by any successor agency (the "Index") and using the average of the 2nd Quarter and 3rd Quarter 2004 index values (to represent mid-2004 dollars) and the quarterly index value for the date of issuance of the new bond or letter of credit. If at any time the Index is no longer published, the Council shall select a comparable calculation to adjust mid-2004 dollars to present value.~~
- ~~(ii) Add 1 percent of the adjusted Subtotal (i) for the adjusted performance bond amount to determine the adjusted Gross Cost.~~
- ~~(iii) Add 10 percent of the adjusted Gross Cost (ii) for the adjusted administration and project management costs, add 20 percent of the adjusted Gross Cost of the Solar Generation and Battery Storage System (ii) and 10 percent of the adjusted Gross Cost of all other facility components (ii) for the adjusted future developments contingency.~~
- ~~(iv) Add the adjusted Gross Cost (ii) to the sum of the percentages (iii) and round the resulting total to the nearest \$1,000 to determine the adjusted financial assurance amount.~~
- ~~(d) The certificate holder shall use a form of bond or letter of credit approved by the Council.~~
- ~~(e) The certificate holder shall use an issuer of the bond or letter of credit approved by the Council.~~
- ~~(f) The certificate holder shall describe the status of the bond or letter of credit in the annual report submitted to the Council under Condition 21.~~
- ~~(g) The bond or letter of credit shall not be subject to revocation or reduction before retirement of the facility site.~~
- ~~[AMD4 [AMD5]~~

33 If the certificate holder elects to use a bond to meet the requirements of Condition 32, the certificate holder shall ensure that the surety is obligated to comply with the requirements of

applicable statutes, Council rules and this site certificate when the surety exercises any legal or contractual right it may have to assume construction, operation or retirement of the energy facility. The certificate holder shall also ensure that the surety is obligated to notify the Council that it is exercising such rights and to obtain any Council approvals required by applicable statutes, Council rules and this site certificate before the surety commences any activity to complete construction, operate or retire the energy facility.

34 Before beginning construction, the certificate holder shall notify the Department of the identity and qualifications of the major design, engineering and construction contractor(s) for the facility. The certificate holder shall select contractors that have substantial experience in the design, engineering and construction of similar facilities. The certificate holder shall report to the Department any change of major contractors.

35 The certificate holder shall contractually require all construction contractors and subcontractors involved in the construction of the facility to comply with all applicable laws and regulations and with the terms and conditions of the site certificate. Such contractual provisions shall not operate to relieve the certificate holder of responsibility under the site certificate.

36 To ensure compliance with all site certificate conditions during construction, the certificate holder shall have a full-time, on-site assistant construction manager who is qualified in environmental compliance. The certificate holder shall notify the Department of the name, telephone number and e-mail address of this person.

37 Within 72 hours after discovery of conditions or circumstances that may violate the terms or conditions of the site certificate, the certificate holder shall report the conditions or circumstances to the Department.

2. Land Use Conditions

38 The certificate holder ~~shall:~~
~~Consult~~shall consult with area landowners and lessees during construction and operation ~~of Phase 1~~ of the facility and implement measures to reduce and avoid any adverse impacts to farm practices on surrounding lands and to avoid any increase in farming costs.

~~i. Consult with area landowners and lessees during construction and operation of Phase 2 of the facility and implement measures to reduce and avoid any adverse impacts to ongoing farm practices on surrounding lands, including coordination with the landowner of the solar micrositing 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.~~

~~:[Final Order on ASC; AMD4AMD5]~~

39 The certificate holder shall design and construct:
~~Phase 1 of~~ the facility 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. [Final Order on ASC; AMD4; AMD5]

~~i. Phase 2 of 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.~~

~~[Final Order on ASC; AMD4]~~

40 The certificate holder shall install gates on private access roads in accordance with Gilliam County Zoning Ordinance Section 7.020(T)(4)(d)(6) unless the County has granted a variance to this requirement.

41 Before beginning construction of the facility, the certificate holder shall record in the real property records of Gilliam County a Covenant Not to Sue with regard to generally accepted farming practices on adjacent farmland consistent with GCZO Section 37 7.020(T)(4)(a)(5).

42 The certificate holder shall construct all facility components in compliance with the following setback requirements:

- (a) All facility components must be at least 3,520 feet from the property line of properties zoned residential use or designated in the Gilliam County Comprehensive Plan as residential.
- (b) Where (a) does not apply, the certificate holder shall maintain a minimum distance of 110-percent of maximum blade tip height, measured from the centerline of the turbine tower to the nearest edge of any public road right-of-way. The certificate holder shall assume a minimum right-of-way width of 60 feet.
- (c) Where (a) does not apply, the certificate holder shall maintain a minimum distance of 1,320 feet, measured from the centerline of the turbine tower to the center of the nearest residence existing at the time of tower construction.
- (d) Where (a) does not apply, the certificate holder shall maintain a minimum distance of 110-percent of maximum blade tip height, measured from the centerline of the turbine tower to the nearest boundary of the certificate holder's lease area.
- (e) The certificate holder shall maintain a minimum distance of 250 feet measured from the center line of each turbine tower to the nearest edge of any railroad right-of-way or electrical substation.
- (f) The certificate holder shall maintain a minimum distance of 250 feet measured from the center line of each meteorological tower to the nearest edge of any public road right-of-way or railroad right-of-way, the nearest boundary of the certificate holder's lease area or the nearest electrical substation.
- (g) The certificate holder shall maintain a minimum distance of 50 feet measured from any facility O&M building to the nearest edge of any public road right-of-way or railroad right-of-way or the nearest boundary of the certificate holder's lease area.
- (h) The certificate holder shall maintain a minimum distance of 50 feet measured from any substation to the nearest edge of any public road right-of-way or railroad right-of-way or the nearest boundary of the certificate holder's electrical substation easement or, if there is no easement, the nearest boundary of the certificate holder's lease area.
- (i) Where (a) does not apply, the certificate holder shall maintain a minimum of 110 percent of maximum blade tip height, measured from the centerline of the turbine tower from any overhead utility line. [Amendment #1]
- (j) Where (a) does not apply, the certificate holder shall maintain a minimum of 150 percent of maximum turbine height from blade tip height, measured from the centerline of the turbine

tower from federal transmission lines, unless the affected parties agree otherwise.

[Amendment #1]

~~(k) The certificate holder shall maintain a minimum distance of 25 feet measured from the fence line of the solar array to the nearest property line.~~

~~(l) The certificate holder shall maintain a minimum distance of 25 feet measured from the front, rear and side yard of the battery storage system site to the nearest property line.~~

~~(m)(k) For Phase 2 facility components, all wind turbines must be setback a minimum distance of 656 feet (200 meters), measured from the centerline of the turbine tower to the nearest edge of the breaks of Rock Creek Canyon. [AMD4]~~

43 During construction and operation of the facility, the certificate holder shall implement a weed control plan approved by the Gilliam County Weed Control Officer or other appropriate County officials to control the introduction and spread of noxious weeds.

44 During operation of the facility, the certificate holder shall restore areas that are temporarily disturbed during facility maintenance or repair activities using the same methods and monitoring procedures described in the Revegetation Plan referenced in Condition 92.

45 Within 90 days after beginning operation of the facility or a phase of the facility, the certificate holder shall provide to the Department and to the Gilliam County Planning Department the actual latitude and longitude location or Stateplane NAD 83(91) coordinates of each turbine tower, connecting lines and transmission lines and a summary of as-built changes in the facility compared to the original plan.

46 The certificate holder shall deliver a copy of the annual report required under Condition 21 to the Gilliam County Planning Commission on an annual basis unless specifically discontinued by the County.

3. Cultural Resource Conditions

47 Before beginning construction, the certificate holder ~~shall:~~
~~(a) Label~~ shall label all identified historic, cultural or archeological resource sites on construction maps and drawings as “no entry” areas. If construction activities will occur within 200 feet of an identified site, the certificate holder shall flag a 30-meter no entry buffer around the site. The certificate holder may use existing private roads within the buffer areas but may not widen or improve private roads within the buffer areas. The no-entry restriction does not apply to public road rights-of-way within the buffer areas or to operational farmsteads. [Final Order on ASC]

~~(b) Submit for review and approval by the Department in consultation with the State Historic Preservation Office, a final Phase 2 Historical Resource Mitigation Plan (HRMP), based on the draft HRMP provided in Attachment H of the Final Order on Request for Amendment 4. The final HRMP shall include the following:~~

- ~~i. Confirmation on established setback of Phase 2 facility components to the Weatherford Barn, if confirmed by the Department and SHPO to represent a distance whereby indirect impacts to setting and feeling would be minimized to less than significant. In the alternative, the certificate holder shall specify the mitigation option selected from the HRMP and the implementation schedule to reduce significant adverse indirect impacts to the Weatherford Barn.~~

1 ii. ~~Concurrence from SHPO that the Olex Townsite, Olex School, and the Olex~~
2 ~~Cemetery ("Olex resources") are not likely eligible for listing as individual properties~~
3 ~~or together as a historic district on the National Register of Historic Places (NRHP);~~
4 ~~or if SHPO concurs that the Olex resources either individually or as a historic district~~
5 ~~are likely eligible for listing, the certificate holder shall include in its final HRMP~~
6 ~~appropriate descriptions of the resources and mitigation, which could include an~~
7 ~~appropriate setback of Phase 2 facility components to the Olex resources as~~
8 ~~confirmed by the Department in consultation with SHPO to represent a distance~~
9 ~~whereby indirect impacts to setting and feeling would be minimized to less than~~
10 ~~significant. In the alternative, the certificate holder shall specify the mitigation~~
11 ~~option selected and the implementation schedule to reduce significant adverse~~
12 ~~indirect impacts to the Olex resources such as: historic photo documentation and~~
13 ~~scale drawings of Olex; additional archival and literature review; video media~~
14 ~~publications; public interpretation funding; or other form of compensatory~~
15 ~~mitigation deemed appropriate by the Department, in consultation with SHPO.~~
16 [AMD4; AMD5]

17
18 48 In reference to the alignment of the Oregon Trail described in the Final Order on the
19 Application, the certificate holder shall comply with the following requirements:

20 (d) The certificate holder shall not locate facility components on visible remnants of the
21 Oregon Trail and shall avoid any construction disturbance to those remnants.

22 (e) The certificate holder shall not locate facility components on undeveloped land where
23 the trail alignment is marked by existing Oregon-California Trail Association markers.

24 (f) Before beginning construction, the certificate holder shall provide to the State Historic
25 Preservation Office (SHPO) and the Department documentation of the presumed
26 Oregon Trail alignments within the site boundary.

27 (g) The certificate holder shall ensure that construction personnel proceed carefully in the
28 vicinity of the presumed alignments of the Oregon Trail. If any physical evidence of the
29 trail is discovered, the certificate holder shall avoid any disturbance to the intact
30 segments by redesign, re-engineering or restricting the area of construction activity and
31 shall flag a 30-meter no-entry buffer around the intact Trail segments. ~~The certificate~~
32 holder shall promptly notify the SHPO and the Department of the discovery. The
33 certificate holder shall consult with the SHPO and the Department to determine
34 appropriate mitigation measures.

35 49 Before beginning construction, the certificate holder shall provide to the Department a map
36 showing the final design locations of all components of the facility, the areas that would be
37 temporarily disturbed during construction and the areas that were surveyed in 2009 as
38 described in the Final Order on the Application. The certificate holder shall hire qualified
39 personnel to conduct field investigations of all areas to be disturbed during construction that lie
40 outside the previously-surveyed areas. The certificate holder shall provide a written report of
41 the field investigations to the Department and to the Oregon State Historic Preservation Office
42 (SHPO) for review and approval. If any potentially significant historic, cultural or archaeological
43 resources are found during the field investigation, the certificate holder shall instruct all

construction personnel to avoid the identified sites and shall implement appropriate measures to protect the sites, including the measures described in Condition 47.

50 During construction, the certificate holder shall:

- (a) Ensure that a qualified archeologist, as defined in OAR 736-051-0070, instructs construction personnel in the identification of cultural materials and avoidance of accidental damage to identified resource site.
- (b) Employ a qualified cultural resource monitor to conduct monitoring of ground disturbance at depths of 12 inches or greater. The qualifications of the selected cultural resources monitor shall be reviewed and approved by the Department, in consultation with the CTUIR Cultural Resources Protection Program. In the selection of the cultural resources monitor to be employed during construction, preference shall be given to citizens of the CTUIR. Ground disturbance at depths 12 inches or greater shall not occur without the presence of the approved cultural resources monitor. If any cultural resources are identified during monitoring activities, the steps outlined in the Inadvertent Discovery Plan, as provided in Attachment H of the Final Order on Amendment 45 should be followed. The certificate holder shall report to the Department in its semi-annual report a description of the ground disturbing activities that occurred during the reporting period, dates cultural monitoring occurred, and shall include copies of monitoring forms completed by the cultural resource monitor. ~~AMD4~~AMD5

51 The certificate holder shall ensure that construction personnel cease all ground-disturbing activities in the immediate area if any archaeological or cultural resources are found during construction of the facility until a qualified archaeologist can evaluate the significance of the find. The certificate holder shall notify the Department and the Oregon State Historic Preservation Office (SHPO) of the find. If the SHPO determines that the resource is significant, the certificate holder shall make recommendations to the Council for mitigation, including avoidance, field documentation and data recovery, in consultation with the Department, SHPO, interested Tribes and other appropriate parties. ~~The certificate holder shall not restart work in the affected area until the certificate holder has demonstrated to the Department and the SHPO that it has complied with archaeological resource protection regulations~~

4. Geotechnical Conditions

52 Before beginning construction of each phase of the facility, the certificate holder shall conduct a site-specific geotechnical investigation and shall report its findings to the Oregon Department of Geology & Mineral Industries (DOGAMI) and the Department. The certificate holder shall conduct the geotechnical investigation after consultation with DOGAMI to confirm appropriate site-specific methodologies for evaluating seismic and non-seismic hazards to inform equipment foundation and road design. [Final Order; ~~AMD4~~AMD5]

53 The certificate holder shall design and construct the facility in accordance with requirements of the current Oregon Structural Specialty Code and International Building Code. ~~AMD4~~AMD5

54 The certificate holder shall design, engineer and construct the facility to avoid dangers to human safety presented by non-seismic hazards. As used in this condition, "non-seismic hazards" include settlement, landslides, flooding and erosion.

5. Hazardous Materials, Fire Protection & Public Safety Conditions

55 The certificate holder shall handle hazardous materials used on the site in a manner that protects public health, safety and the environment and shall comply with all applicable local, state and federal environmental laws and regulations. The certificate holder shall not store diesel fuel or gasoline on the facility site during operations. [AMD4AMD5]

56 If a spill or release of hazardous material occurs during construction or operation of the facility, the certificate holder shall notify the Department within 72 hours and shall clean up the spill or release and dispose of any contaminated soil or other materials according to applicable regulations. The certificate holder shall make sure that spill kits containing items such as absorbent pads are located on equipment and at the O&M ~~buildings~~building (shared with Leaning Juniper IIA). The certificate holder shall instruct employees about proper handling, storage and cleanup of hazardous materials

57 The certificate holder shall construct turbines and pad-mounted transformers on concrete foundations and shall cover the ground within a 10-foot radius with non-flammable material. The certificate holder shall maintain the non-flammable pad area covering during operation of the facility.

58 The certificate holder shall install and maintain self-monitoring devices on each turbine, linked to sensors at the operations and maintenance building, to alert operators to potentially dangerous conditions, and the certificate holder shall immediately remedy any dangerous conditions. The certificate holder shall maintain automatic equipment protection features in each turbine that would shut down the turbine and reduce the chance of a mechanical problem causing a fire.

59 During construction and operation of the facility, the certificate holder shall ensure that the O&M ~~buildings~~building and all service vehicles are equipped with shovels and portable fire extinguishers of a 4A50BC or equivalent rating.

60 During construction and operation of the facility, the certificate holder shall develop and implement fire safety plans in consultation with the North Gilliam County Rural Fire Protection District to minimize the risk of fire and to respond appropriately to any fires that occur on the facility site. In developing the fire safety plans, the certificate holder shall take into account the dry nature of the region and shall address risks on a seasonal basis. The certificate holder shall meet annually with local fire protection agency personnel to discuss emergency planning and shall invite local fire protection agency personnel to observe any emergency drill or tower rescue training conducted at the facility.

61 Upon the beginning of operation of the facility, the certificate holder shall provide a site plan to the North Gilliam County Rural Fire Protection District. The certificate holder shall indicate on the site plan the identification number assigned to each turbine and the actual location of all facility structures. The certificate holder shall provide an updated site plan if additional turbines or other structures are later added to the facility. During operation, the certificate holder shall ensure that appropriate fire protection agency personnel have an up-to-date list of the names and telephone numbers of facility personnel available to respond on a 24-hour basis in case of an emergency on the facility site.

- 1 62 During construction, the certificate holder shall ensure that construction personnel are trained
2 in fire prevention and response, that construction vehicles and equipment are operated on
3 graveled areas to the extent possible and that open flames, such as cutting torches, are kept
4 away from dry grass areas.
- 5 63 During operation of the facility, the certificate holder shall ensure that all on-site employees
6 receive annual fire prevention and response training by qualified instructors or members of the
7 local fire districts. The certificate holder shall ensure that all employees are instructed to keep
8 vehicles on roads and off dry grassland, except when off-road operation is required for
9 emergency purposes.
- 10 64 Before beginning construction ~~of:~~
11 ~~Phase 1 of the facility,~~ the certificate holder shall submit a Notice of Proposed Construction or Alteration
12 to the Federal Aviation Administration (FAA) and the Oregon Department of Aviation identifying
13 the proposed final locations of turbine towers and meteorological towers. The certificate holder
14 shall promptly notify the Department of the responses from the FAA and the Oregon
15 Department of Aviation. [AMD5]
- 16 ~~i. Phase 2, the certificate holder shall submit a Notice of Proposed Construction or Alteration~~
17 ~~to the Federal Aviation Administration (FAA) and the Oregon Department of Aviation~~
18 ~~identifying the proposed final locations of turbine towers and meteorological towers to~~
19 ~~determine if the structure(s) are a hazard to air navigation and aviation safety. The~~
20 ~~certificate holder shall promptly notify the Department of the responses from the FAA and~~
21 ~~the Oregon Department of Aviation. The FAA and ODA evaluation and determinations are~~
22 ~~valid for 18 months (per OAR 738-070-0180), once issued. The certificate holder shall~~
23 ~~maintain current hazard determinations on file commensurate with construction timelines.~~
24 ~~[AMD4]~~
- 25 65 The certificate holder shall follow manufacturers' recommended handling instructions and
26 procedures to prevent damage to turbine or turbine tower components that could lead to
27 failure.
- 28 66 The certificate holder shall construct turbine towers with no exterior ladders or access to the
29 turbine blades and shall install locked tower access doors. The certificate holder shall keep
30 tower access doors locked at all times, except when authorized personnel are present.
- 31 67 During operation of the facility, the certificate holder shall have a safety-monitoring program
32 and shall inspect all turbine and turbine tower components on a regular basis. The certificate
33 holder shall maintain or repair turbine and turbine tower components as necessary to protect
34 public safety.
- 35 68 For turbine types having pad-mounted step-up transformers, the certificate holder shall install
36 the transformers at the base of each tower in locked cabinets designed to protect the public
37 from electrical hazards and to avoid creation of artificial habitat for raptor prey.
- 38 69 To protect the public from electrical hazards, the certificate holder shall enclose the facility
39 substations, ~~solar array, and battery storage systems~~ with appropriate fencing and locked
40 gates. [AMD4AMD5]

- 1 70 Before beginning construction of any new State Highway approaches or utility crossings, the
2 certificate holder shall obtain all required permits from the Oregon Department of
3 Transportation (ODOT) subject to the applicable conditions required by OAR Chapter 734,
4 Divisions 51 and 55. The certificate holder shall submit the necessary application in a form
5 satisfactory to ODOT and the Department for the location, construction and maintenance of a
6 new approach to State Highway 19 for access to the site south of Tree Lane. The certificate
7 holder shall submit the necessary application in a form satisfactory to ODOT and the
8 Department for the location, construction and maintenance of transmission lines crossing
9 Highway 19.
- 10 71 The certificate holder shall design and construct new access roads and private road
11 improvements to standards approved by the Gilliam County Road Department or, where
12 applicable, the Morrow County Public Works Department. Where modifications of County roads
13 are necessary, the certificate holder shall construct the modifications entirely within the County
14 road rights-of-way and in conformance with County road design standards subject to the
15 approval of the Gilliam County Road Department or, where applicable, the Morrow County
16 Public Works Department. Where modifications of State roads or highways are necessary, the
17 certificate holder shall construct the modifications entirely within the public road rights-of-way
18 and in conformance with Oregon Department of Transportation (ODOT) standards subject to the
19 approval of ODOT.
- 20 72 The certificate holder shall construct access roads with a finished width of up to 20 feet,
21 designed under the direction of a licensed engineer and compacted to meet equipment load
22 requirements.
- 23 73 During construction of the facility, the certificate holder shall implement measures to reduce
24 traffic impacts, including:
- 25 (h) Providing notice to adjacent landowners when heavy construction traffic is anticipated.
- 26 (i) Providing appropriate traffic safety signage and warnings.
- 27 (j) Requiring flaggers to be at appropriate locations at appropriate times during
28 construction to direct traffic.
- 29 (k) Using traffic diversion equipment (such as advance signage and pilot cars) when slow or
30 oversize construction loads are anticipated.
- 31 (l) Maintaining at least one travel lane at all times to the extent reasonably possible so that
32 roads will not be closed to traffic because of construction vehicles.
- 33 (m) Encouraging carpooling for the construction workforce.
- 34 (n) Including traffic control procedures in contract specifications for construction of the
35 facility.
- 36 (o) Keeping Highway 19 free of gravel that tracks out onto the highway at facility access
37 points.

- 1 74 The certificate holder shall ensure that no equipment or machinery is parked or stored on any
2 County road whether inside or outside the site boundary. The certificate holder may temporarily
3 park equipment off the road but within County rights-of-way with the approval of the Gilliam
4 County Road Department or, where applicable, the Morrow County Public Works Department.
- 5 75 The certificate holder shall cooperate with the Gilliam County Road Department to ensure that
6 any unusual damage or wear to county roads that is caused by construction of the facility is
7 repaired by the certificate holder. Submittal to the Department of an executed Road Use
8 Agreement with Gilliam County shall constitute evidence of compliance with this condition.
9 Upon completion of construction, the certificate holder shall restore public roads to pre-
10 construction condition or better to the satisfaction of the applicable county departments. If
11 required by Gilliam County, the certificate holder shall post bonds to ensure funds are available
12 to repair and maintain roads affected by the facility. If construction of a phase of the facility will
13 utilize county roads in counties other than Gilliam County, the certificate holder shall coordinate
14 with the Department and the respective county road departments regarding the
15 implementation of a similar Road Use Agreement. [~~AMD4~~~~AMD5~~]
- 16 76 During construction, the certificate holder shall require that all on-site construction contractors
17 develop and implement a site health and safety plan that informs workers and others on-site
18 about first aid techniques and what to do in case of an emergency and that includes important
19 telephone numbers and the locations of on-site fire extinguishers and nearby hospitals. The
20 certificate holder shall ensure that construction contractors have personnel on-site who are
21 trained and equipped for tower rescue and who are first aid and CPR certified.
- 22 77 During operation of the facility, the certificate holder shall develop and implement a site health
23 and safety plan that informs employees and others on-site about first aid techniques and what
24 to do in case of an emergency, including a contingency plan in a fire emergency, and that
25 includes important telephone numbers and the locations of on-site fire extinguishers, nearby
26 hospitals, Gilliam County Sheriff's Office and the office locations of the backup law enforcement
27 services. The certificate holder shall ensure that operations personnel are trained and equipped
28 for tower rescue. If the certificate holder conducts an annual emergency drill or performs tower
29 rescue training at the facility, the North Gilliam County Rural Fire Protection District and the
30 Arlington Fire Department will be invited to observe. [~~AMD4~~~~AMD5~~]
- 31 78
- 32 (a) During construction ~~of each phase~~ of the facility, the certificate holder shall provide on-site
33 security within the facility site boundary, and shall establish good communications between on-
34 site security personnel and the Gilliam County Sheriff's Office by establishing a communication
35 protocol between the security personnel and the Sherriff's office. The communication protocol
36 shall be sent to the Department prior to construction.
- 37 (b) During operation, the certificate holder shall ensure that appropriate law enforcement agency
38 personnel have an up-to-date list of the names and telephone numbers of facility personnel
39 available to respond on a 24-hour basis in case of an emergency on the facility site. The list shall
40 also be sent to the Department.
- 41 79 The certificate holder shall notify the Department of Energy and the Gilliam County Planning
42 Department within 72 hours of any accidents including mechanical failures on the site
43 associated with construction or operation of the facility that may result in public health and
44 safety concerns

6. Water, Soils, Streams & Wetlands Conditions

80

i. The certificate holder shall conduct all construction work in compliance with an Erosion and Sediment Control Plan (ESCP) satisfactory to the Oregon Department of Environmental Quality and as required under the National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge General Permit #1200-C. The certificate holder shall include in the ESCP any procedures necessary to meet local erosion and sediment control requirements or storm water management requirements.

ii.

~~a. Before beginning construction of Phase 2 wind energy generation components, the certificate holder shall submit to the Department and Gilliam County Planning Director for review and approval a topsoil management plan including how topsoil will be stripped, stockpiled, and clearly marked in order to maximize topsoil preservation and minimize erosion impacts. [OAR 660-033-0130(38)(f)(B)]. The topsoil management plan may be incorporated into the final Erosion and Sediment Control Plan, required under sub(c) or may be provided to the Department as a separate plan.~~

~~b.~~a. Prior to beginning facility operation, the certificate holder shall provide the Department a copy of an operational SPCC plan, if required pursuant to OAR 340-141-0001 to -0240. [AMD4AMD5]

81

During construction, the certificate holder shall limit truck traffic to improved road surfaces to avoid soil compaction, to the extent practicable.

82

During construction, the certificate holder shall implement best management practices to control any dust generated by construction activities, such as applying water to roads and disturbed soil areas.

83

Before beginning construction of the facility ~~or a phase of the facility~~, the certificate holder shall provide to the Department a map showing the final design locations of all components ~~of the facility or phase~~ of the facility, and the areas that would be disturbed during construction and showing the wetlands and stream channels previously surveyed by CH2M HILL or HDR as described in the Final Order on the Application and the Final Order on Amendment #4. For areas to be disturbed during construction that lie outside of the previously-surveyed areas, the certificate holder shall hire qualified personnel to conduct a pre-construction investigation to determine whether any jurisdictional waters of the State exist in those locations within the proposed expanded site boundary. The certificate holder shall provide a written report on the pre-construction investigation to the Department and the Department of State Lands for approval before beginning construction of the phase. The certificate holder shall ensure that construction and operation of the facility will have no impact on any jurisdictional water identified in the pre-construction investigation.

84

The certificate holder shall avoid impacts to waters of the state in the following manner:

(a) The certificate holder shall avoid any disturbance to delineated wetlands.

(b) The certificate holder shall construct stream crossings for roads and underground collector lines substantially as described in the Final Order on the Application or the

Final Order on Amendment #4. In particular, the certificate holder shall not remove material from waters of the State or add new fill material to waters of the State such that the total volume of removal and fill exceeds 50 cubic yards for the project as a whole.

- (c) The certificate holder shall construct support poles for aboveground lines outside of delineated stream channels and shall avoid in-channel impacts.

[AMD4AMD5]

- 85 During facility operation, the certificate holder shall routinely inspect and maintain all facility components including roads, pads ~~(including turbine and battery storage pad), solar array, and,~~ trenched areas and, as necessary, maintain or repair erosion and sediment control measures.

[AMD4AMD5]

- 86 During facility operation, the certificate holder shall obtain water for on-site uses from on-site wells located near the Phase 1 O&M buildingsbuilding. The certificate holder shall construct on-site wells subject to compliance with the provisions of ORS 537.765 relating to keeping a well log. The certificate holder shall not use more than 5,000 gallons of water per day from the on-site ~~wellswell~~. The certificate holder may use other sources of water for on-site uses subject to prior approval by the Department.

- 87 During facility operation, if wind turbine blade ~~or solar panel~~ washing becomes necessary, the certificate holder shall ensure that there is no runoff of wash water from the site or discharges to surface waters, storm sewers or dry wells. The certificate holder shall not use acids, bases or metal brighteners with the wash water. The certificate holder may use biodegradable, phosphate-free cleaners sparingly. [AMD4AMD5]

7. Transmission Line & EMF Conditions

- 88 The certificate holder shall install the 34.5-kV collector system underground to the extent practical. The certificate holder shall install underground lines at a minimum depth of three feet. Based on geotechnical conditions or other engineering considerations, the certificate holder may install segments of the collector system aboveground, but the total length of aboveground segments must not exceed 27 miles.

- 89 The certificate holder shall take reasonable steps to reduce or manage human exposure to electromagnetic fields, including but not limited to:

(a) Constructing all aboveground transmission lines at least 200 feet from any residence or other occupied structure, measured from the centerline of the transmission line.

(b) Providing to landowners a map of underground and overhead transmission lines on their property and advising landowners of possible health risks from electric and magnetic fields.

(c) Designing and maintaining all transmission lines so that alternating current electric fields do not exceed 9 kV per meter at one meter above the ground surface in areas accessible to the public.

(d) Designing and maintaining all transmission lines so that induced voltages during operation are as low as reasonably achievable.

90 In advance of, and during, preparation of detailed design drawings and specifications for 230-kV and 34.5-kV transmission lines, the certificate holder shall consult with the Utility Safety and Reliability Section of the Oregon Public Utility Commission to ensure that the designs and specifications are consistent with applicable codes and standards.

8. Plants, Wildlife & Habitat Protection Conditions

91 Prior to construction of the Facility or a phase of the Facility, the certificate holder shall finalize the Wildlife Monitoring and Mitigation Plans (WMMPs), based on the draft WMMP included as Attachment F of the Final Order on Request for Amendment #4, as approved by the Department in consultation with ODFW. The certificate holder shall conduct wildlife monitoring as described in the final WMMP, as amended from time to time. [Amendment #3; ~~AMD4~~AMD5]

92 The certificate holder shall restore areas disturbed by facility construction but not occupied by permanent facility structures according to the methods and monitoring procedures described in the final Revegetation Plans for each phase of the Facility, as approved by the Department in consultation with ODFW. The final Revegetation Plan shall be based on the draft plan as Attachment E in the Final Order on Request for Amendment #4, and as amended from time to time. [Amendment #3; ~~AMD4~~AMD5]

93 The certificate holder shall:

(a) Acquire the legal right to create, enhance, maintain and protect a habitat mitigation area as long as the site certificate is in effect by means of an outright purchase, conservation easement or similar conveyance and shall provide a copy of the documentation to the Department. Within the habitat mitigation area, the certificate holder shall improve the habitat quality as described in the final Habitat Mitigation Plans for each phase of the Facility, as approved by the Department in consultation with ODFW. The final Habitat Mitigation Plans shall be based on the draft plan included as Attachment G to the Final Order on Request for Amendment #3 and updated based on Condition 31. The final Habitat Mitigation Plans may be amended from time to time. [Amendment #3; ~~AMD4~~AMD5]

~~(b) Prior to construction of Phase 2 components, the certificate holder shall finalize and implement the Phase 2 Habitat Mitigation Plan (HMP) included as Attachment D of the Final Order, as approved by ODOE in Consultation with ODFW. Provision 93(b)(A) regarding impacted acreage calculations shall be completed and submitted to the department after construction is complete as described in the condition below.~~

(c) Within 90 days of completion of construction, the certificate holder shall submit to the department and ODFW an updated HMP Table.
[~~AMD4~~AMD5]

94 The certificate holder shall determine the boundaries of Category 1 Washington ground squirrel (WGS) habitat based on the locations where the squirrels were found to be active in the most recent WGS survey prior to the beginning of construction in habitat suitable for WGS foraging or burrow establishment ("suitable habitat"). The certificate holder shall hire a qualified

professional biologist who has experience in detection of WGS to conduct surveys using a survey protocol approved by the Oregon Department of Fish and Wildlife (ODFW). The biologist shall survey all areas of suitable habitat where permanent facility components would be located or where construction disturbance could occur. Except as provided in (a), the biologist shall conduct the protocol surveys in the active squirrel season (March 1 to May 31) in 2010 and in the active squirrel seasons in subsequent years until the beginning of construction in suitable habitat. The certificate holder shall provide written reports of the surveys to the Department and to ODFW and shall identify the boundaries of Category 1 WGS habitat. The certificate holder shall not begin construction within suitable habitat until the identified boundaries of Category 1 WGS habitat have been approved by the Department. Category 1 WGS habitat includes the areas described in (b) and (c).

(a) The certificate holder may omit the WGS survey in any year if the certificate holder avoids all permanent and temporary disturbance within suitable habitat until a WGS survey has been completed in the following year and the boundaries of Category 1 habitat have been determined and approved based on that survey.

(b) Category 1 WGS habitat includes the area within the perimeter of multiple active WGS burrows plus a 785-foot buffer, excluding areas of habitat types not suitable for WGS foraging or burrow establishment. If the multiple-burrow area was active in a prior survey year, then Category 1 habitat includes the largest extent of the active burrow area ever recorded (in the current or any prior-year survey), plus a 785-foot buffer.

(c) Category 1 WGS habitat includes the area containing single active burrow detections plus a 785-foot buffer, excluding areas of habitat types not suitable for WGS foraging or burrow establishment. Category 1 habitat does not include single-burrow areas that were found active in a prior survey year but that are not active in the current survey year.

95 The certificate holder shall implement measures to mitigate impacts to sensitive wildlife habitat during construction including, but not limited to, the following:

(a) The certificate holder shall not construct any facility components within areas of Category 1 habitat and shall avoid temporary disturbance of Category 1 habitat.

(b) Before beginning construction, but no more than two years prior to the beginning of construction of a phase of the facility, the certificate holder shall hire a qualified professional biologist to conduct a survey of all areas to be disturbed by construction for threatened and endangered species. The certificate holder shall provide a written report of the survey and a copy of the survey to the Department, the Oregon Department of Fish and Wildlife (ODFW), and the Oregon Department of Agriculture (ODA). If the surveys identify the presence of threatened or endangered species within the survey area, the certificate holder shall implement appropriate measures to avoid a significant reduction in the likelihood of survival or recovery of the species, as approved by the Department, in consultation with ODA and ODFW.

(c) Before beginning construction ~~of a phase~~ of the facility, the certificate holder's qualified professional biologist shall survey the Category 1 Washington ground squirrel habitat to

ensure that the sensitive use area is correctly marked with exclusion flagging and avoided during construction. The certificate holder shall maintain the exclusion markings until construction has been completed.

(d) Before beginning construction ~~of a phase~~ of the facility, certificate holder's qualified professional biologist shall complete the avian use studies that began in September 2009 at six plots within or near the facility site as described in the Final Order on the Application. The certificate holder shall provide a written report on the avian use studies to the Department and to ODFW.

(e) Before beginning construction of a phase of the facility, certificate holder's qualified professional biologist shall complete raptor nest surveys within the raptor nest survey area as described in the Final Order on the Application. The purposes of the survey are to identify any sensitive raptor nests near construction areas and to provide baseline information on raptor nest use for analysis as described in the Wildlife Monitoring and Mitigation Plan referenced in Condition 91. The certificate holder shall provide a written report on the raptor nest surveys and the surveys to the Department and to ODFW. If the surveys identify the presence of raptor nests within the survey area, the certificate holder shall implement appropriate measures to assure that the design, construction and operation of the facility are consistent with the fish and wildlife habitat mitigation goals and standards of OAR 635-415-0025, as approved by the Department, in consultation with ODFW.

(f) In the final design layout of the facility, the certificate holder shall locate facility components, access roads and construction areas to avoid or minimize temporary and permanent impacts to high quality native habitat and to retain habitat cover in the general landscape where practicable.

96 During construction, the certificate holder shall avoid all construction activities within a 1,300-foot buffer around potentially-active nest sites of the following species during the sensitive period, as provided in this condition:

<u>Species</u>	<u>Sensitive Period</u>	<u>Early Release Date</u>
Swainson's hawk	April 1 to August 15	May 31
Ferruginous hawk	March 15 to August 15	May 31
Burrowing owl	April 1 to August 15	July 15

During the year in which construction occurs, the certificate holder shall use a protocol approved by the Oregon Department of Fish and Wildlife (ODFW) to determine whether there are any active nests of these species within a half-mile of any areas that would be disturbed during construction. The certificate holder shall begin monitoring potential nest sites by March 15 and shall continue monitoring until at least May 31 to determine whether any potentially-active nest sites become active during the sensitive period.

If any nest site is determined to be unoccupied by the early release date (May 31), then unrestricted construction activities may occur within 1,300 feet of the nest site after that date. If

1 a nest is occupied by any of these species after the beginning of the sensitive period, the
2 certificate holder will flag the boundaries of a 1,300-foot buffer area around the nest site and
3 shall instruct construction personnel to avoid disturbance of the buffer area. During the
4 sensitive period, the certificate holder shall not engage in high-impact construction activities
5 (activities that involve blasting, grading or other major ground disturbance) within the buffer
6 area. The certificate holder shall restrict construction traffic within the buffer, except on public
7 roads, to vehicles essential to the limited construction activities allowed within the buffer.

8 If burrowing owl nests are occupied during the sensitive period, the certificate holder may
9 adjust the 1,300-foot buffer around these nests after consultation with ODFW and subject to the
10 approval of the Department.

11 The certificate holder shall hire a qualified independent professional biologist to observe the
12 active nest sites during the sensitive period for signs of disturbance and to notify the
13 Department of any non-compliance with this condition. If the biologist observes nest site
14 abandonment or other adverse impact to nesting activity, the certificate holder shall implement
15 appropriate mitigation, in consultation with ODFW and subject to the approval of the
16 Department, unless the adverse impact is clearly shown to have a cause other than construction
17 activity.

18 The certificate holder may begin or resume construction activities within the buffer area before
19 the ending day of the sensitive period with the approval of ODFW, after the young are fledged.
20 The certificate holder shall use a protocol approved by ODFW to determine when the young are
21 fledged (the young are independent of the core nest site).

22 97 The certificate holder shall protect the area within 1,300 feet of the BLM Horn Butte Wildlife
23 Area during the long-billed curlew nesting season (March 8 through June 15), as described in
24 this condition. Before beginning construction, the certificate holder shall provide to the
25 Department a map showing the areas of potential construction disturbance in the vicinity of the
26 BLM lands that are part of the Horn Butte Wildlife Area and showing a 1,300-foot buffer from
27 those areas. During the nesting season, the certificate holder shall not engage in high-impact
28 construction activities (activities that involve blasting, grading or other major ground
29 disturbance) or allow high levels of construction traffic within the buffer area. The certificate
30 holder shall flag the boundaries of the 1,300-foot buffer area and shall instruct construction
31 personnel to avoid any unnecessary activity within the buffer area. The certificate holder shall
32 restrict construction traffic within the buffer, except on public roads, to vehicles essential to the
33 limited construction activities allowed within the buffer. The certificate holder may engage in
34 construction activities within the buffer area at times other than the nesting season.

35 98 The certificate holder shall implement measures to avoid or mitigate impacts to sensitive
36 wildlife habitat during construction including, but not limited to, the following:

37 (a) Preparing maps to show occlusion areas that are off-limits to construction personnel,
38 such as nesting or denning areas for sensitive wildlife species.

39 (b) Avoiding unnecessary road construction, temporary disturbance and vehicle use.

40 (c) Limiting construction work to approved and surveyed areas shown on facility constraints
41 maps.

(d) Ensuring that all construction personnel are instructed to avoid driving cross-country or taking short-cuts within the site boundary or otherwise disturbing areas outside of the approved and surveyed construction areas.

99 The certificate holder shall reduce the risk of injuries to avian species by:

(a) Installing turbine towers that are smooth steel structures that lack features that would allow avian perching.

(b) Locating turbine towers to avoid areas of increased risk to avian species, such as cliff edges, narrow ridge saddles and gaps between hilltops.

(c) Installing meteorological towers that are non-guyed structures to eliminate the risk of avian collision with guy-wires.

(d) Designing and installing all aboveground transmission line support structures following the most current suggested practices for avian protection on power lines published by the Avian Power Line Interaction Committee.

100 The certificate holder shall hire a qualified environmental professional to provide environmental training during construction and operation. Environmental training includes information on the sensitive species present onsite, precautions to avoid injuring or destroying wildlife or sensitive wildlife habitat, exclusion areas, permit requirements and other environmental issues. The certificate holder shall instruct construction and operations personnel to report any injured or dead wildlife detected while on the site to the appropriate onsite environmental manager.

101 The certificate holder shall impose and enforce a construction and operation speed limit of 20 miles per hour throughout the facility site and, during the active squirrel season (March 1 to May 31), a speed limit of 10 miles per hour from one hour before sunset to one hour after sunrise on private roads near known Washington ground squirrel (WGS) colonies. The certificate holder shall ensure that all construction and operations personnel are instructed to watch out for and avoid WGS and other wildlife while driving through the facility site.

9. Visual Effects Conditions

102 To reduce the visual impact of the facility, the certificate holder shall:

(a) Mount nacelles on smooth, steel structures, painted uniformly in a low-reflectivity, neutral white color.

(b) Paint the substation structures in a low-reflectivity neutral color to blend with the surrounding landscape.

(c) Not allow any advertising to be used on any part of the facility.

(d) Use only those signs required for facility safety, required by law or otherwise required by this site certificate, except that the certificate holder may erect a sign near the O&M buildings to identify the facility, may paint turbine numbers on each tower and may allow unobtrusive manufacturers' logos on turbine nacelles.

(e) Maintain any signs allowed under this condition in good repair.

103 The certificate holder shall design and construct the ~~O&M buildings, Montague Wind~~ substation, ~~and buildings and containers associated with battery storage~~ to be generally consistent with the character of similar buildings used by commercial farmers or ranchers in the area and shall paint the building in a low-reflectivity, neutral color to blend with the surrounding landscape.
[AMD4AMD5]

104 The certificate holder shall not use exterior nighttime lighting except:

(a) The minimum turbine tower lighting required or recommended by the Federal Aviation Administration.

(b) Security lighting at the ~~O&M buildings~~ ~~building and at the substations~~ Montague Wind substation, provided that such lighting is shielded or downward-directed to reduce glare.

(c) Minimum lighting necessary for repairs or emergencies.

(d) Minimum lighting necessary for construction directed to illuminate the work area and shielded or downward-directed to reduce glare.

105 The certificate holder shall maintain a minimum distance of 1,000 feet measured from the centerline of each turbine tower or meteorological tower to the centerline of the line-of-sight from the vantage point of the Fourmile Canyon interpretive site looking toward the visible Oregon Trail ruts (bearing S 89-42-34 W from latitude, longitude: 45.622047, -120.044112) as described in the Final Order on the Application.

10. Noise Control Conditions

106 To reduce construction noise impacts at nearby residences, the certificate holder shall:

(a) Confine the noisiest operation of heavy construction equipment to the daylight hours.

(b) Require contractors to install and maintain exhaust mufflers on all combustion engine-powered equipment; and

(c) Establish a complaint response system at the construction manager's office to address noise complaints.

107 The certificate holder shall provide to the Department:

i. Prior to ~~Phase 1~~ construction:

a. Information that identifies the final design locations of ~~all~~ turbines, to be built at the facility...

~~ii. Prior to Phase 2 construction:~~

b. A noise analysis that includes the following Information:

Final design locations of all ~~Phase 1 and Phase 2~~ noise-generating facility components (all wind turbines; and substation transformers; ~~inverters and transformers associated~~

1 with the photovoltaic solar array; and inverters and cooling systems associated with
2 battery storage system).

3
4 The maximum sound power level for the ~~Phase 2~~ Montague Wind substation
5 transformers; ~~inverters and transformers associated with the photovoltaic solar array;~~
6 ~~inverters and cooling systems associated with battery storage system;~~ and the
7 maximum sound power level and octave band data for the ~~Phase 2~~ wind turbines
8 selected for the facility based on manufacturers' warranties or confirmed by other
9 means acceptable to the Department.

10
11 The results of noise analysis of ~~Phase 1 and Phase 2 components~~ the facility to be built
12 according to the final design performed in a manner consistent with the requirements of
13 OAR 340-035-0035(1)(b)(B)(iii) (IV) and (VI) demonstrating to the satisfaction of the
14 Department that the total noise generated by the facility (including the noise from wind
15 turbines, ~~substation transformers, inverters and transformers associated with the~~
16 ~~photovoltaic solar array; inverters and cooling systems associated with battery storage~~
17 ~~system) and substation transformers,)~~ would meet the ambient degradation test and
18 maximum allowable test at the appropriate measurement point for all potentially-
19 affected noise sensitive properties. The certificate holder shall verify that all noise
20 sensitive properties within one mile of the final design locations of noise-generating
21 components for ~~Phase 1 and Phase 2~~ the facility have been identified and included in the
22 preconstruction noise analysis based on review of the most recent property owner
23 information obtained from the Gilliam County Tax Assessor Roll.

24
25 For each noise-sensitive property where the certificate holder relies on a noise waiver to
26 demonstrate compliance in accordance with OAR 340-035-0035(1)(b)(B)(iii)(III), a copy
27 of the a legally effective easement or real covenant pursuant to which the owner of the
28 property authorizes the certificate holder's operation of the facility to increase ambient
29 statistical noise levels L10 and L50 by more than 10 dBA at the appropriate
30 measurement point. The legally-effective easement or real covenant must: include a
31 legal description of the burdened property (the noise-sensitive property); be recorded in
32 the real property records of the county; expressly benefit the certificate holder;
33 expressly run with the land and bind all future owners, lessees or holders of any interest
34 in the burdened property; and not be subject to revocation without the certificate
35 holder's written approval.

36 [Final Order on ASC; ~~AMD4~~ AMD5]

37 108 During operation of the facility, the certificate holder shall implement measures to ensure
38 compliance with the noise control regulation, including:

- 39 a. Providing notice of the noise complaint system and how to file a noise complaint to noise
40 sensitive receptors within 1-mile of ~~noise generating~~ noise generating components.
- 41 b. Maintain a complaint response system to address noise complaints. The certificate holder
42 shall promptly notify the Department of any complaints received regarding facility noise
43 and of any actions taken by the certificate holder to address those complaints. In response
44 to a complaint from the owner of a noise sensitive property regarding noise levels during
45 operation of the facility, the Council may require the certificate holder to monitor and

record the statistical noise levels to verify that the certificate holder is operating the facility in compliance with the noise control regulations.

[AMD4AMD5]

11. Waste Management Conditions

109 The certificate holder shall provide portable toilets for on-site sewage handling during construction and shall ensure that they are pumped and cleaned regularly by a licensed contractor who is qualified to pump and clean portable toilet facilities.

110 During operation of the facility, the certificate holder shall discharge sanitary wastewater generated at the O&M buildings to a licensed on-site septic ~~system~~system in compliance with State permit requirements. The certificate holder shall design the septic ~~system~~system for a discharge capacity of less than 2,500 gallons per day.

111 The certificate holder shall implement a waste management plan during construction that includes but is not limited to the following measures:

- (a) Recycling steel and other metal scrap.
- (b) Recycling wood waste.
- (c) Recycling packaging wastes such as paper and cardboard.
- (d) Collecting non-recyclable waste for transport to a local landfill by a licensed waste hauler.
- (e) Segregating all hazardous wastes such as used oil, oily rags and oil-absorbent materials, and mercury-containing lights ~~and lithium-ion, flow, lead-acid and nickel-cadmium batteries~~ for disposal by a licensed firm specializing in the proper recycling or disposal of hazardous wastes. [AMD4AMD5]
- (f) Confining concrete delivery truck rinse-out within the foundation excavation, discharging rinse water into foundation holes and burying other concrete waste as part of backfilling the turbine foundation.

112 The certificate holder shall implement a waste management plan during facility operation that includes but is not limited to the following measures:

- (a) Training employees to minimize and recycle solid waste.
- (b) Recycling paper products, metals, glass and plastics.
- (c) Recycling used oil and hydraulic fluid.
- (d) Collecting non-recyclable waste for transport to a local landfill by a licensed waste hauler.
- (e) Segregating all hazardous, non-recyclable wastes such as used oil, oily rags and oil-absorbent materials, and mercury-containing lights ~~and lithium-ion, flow, lead-acid and~~

~~nickel-cadmium batteries~~ for disposal by a licensed firm specializing in the proper recycling or disposal of hazardous wastes. [~~AMD4~~AMD5]

VI. CONDITIONS ADDED BY AMENDMENT # 1 ~~OF MONTAGUE~~

113 ~~The transfer of the First Amended Site Certificate from the certificate holder to Portland General Electric (PGE), the transferee, shall not be effective until PGE executes in closing the form of site certificate naming PGE the certificate holder, which is attached as Attachment B to the Final Order on Amendment #1. Upon closing, the First Amended Site Certificate naming PGE as the certificate holder shall be in full force and effect and the First Amended Site Certificate naming Montague Wind Power LLC as the certificate holder shall be considered rescinded and void in its entirety. -[Removed by Amendment #2.]~~

114 ~~Should the closing contemplated in Condition 113 not occur within 18 months of the effective date of the First Amended Site Certificate to Montague Wind Power LLC, the Council's transfer approval within the Final Order on Amendment #1 shall be void. [Removed by Amendment #2.]~~

115 ~~PGE must provide the Department a copy of the executed First Amended Site Certificate and documentation of the asset purchase agreement within 7 days of closing. - [Removed by Amendment #2.]~~

VII. CONDITIONS ADDED BY AMENDMENT #4 ~~OF MONTAGUE~~

~~116: The certificate holder shall ensure its third-party contractor transports and disposes of battery and battery waste in compliance with all applicable regulations and manufacturer recommendations related to the transport of hazardous battery materials.~~

~~a. Prior to construction, the certificate holder shall provide a description to the Department of applicable regulations and manufacturer recommendations applicable to the transport and disposal of batteries and battery-related waste.~~

~~b. During construction and operation, the certificate holder shall report to the Department any potential compliance issue or cited violations of its third-party contractor for the requirements identified in sub(a) of this condition.~~

~~[AMD4]~~

~~117 During facility operation, the certificate holder shall conduct monthly inspections of the battery storage systems, in accordance with manufacturer specifications. The certificate holder shall maintain documentation of inspections, including any corrective actions, and shall make available for review upon request by the Department. [AMD4]~~

~~[Removed by Amendment #5.]~~

~~VII.~~ CONDITIONS ADDED BY AMENDMENT #5

118 The site certificate authorizes shared use of related or supporting facilities including the Montague Wind collector substation, 230 kV transmission line, access roads, and

1 temporary staging areas under the site certificates issued for the Montague Wind
2 Facility, Montague Solar Facility and Oregon Trail Solar Facility.
3 a. Within 30 days of shared use, the certificate holder must provide evidence to the
4 Department that the certificate holders have an executed agreement for shared use
5 of facilities.
6 b. If certificate holders of Montague Wind, Montague Solar or Oregon Trail Solar
7 Facility propose to substantially modify any of the shared facilities listed in sub(a) of
8 this condition, each certificate holder shall submit an amendment determination
9 request or request for site certificate amendment to obtain a determination from
10 the Department on whether a site certificate amendment is required or to process
11 an amendment for both site certificates.
12 c. Prior to facility decommissioning or if facility operations cease, each certificate
13 holder shall submit an amendment determination request or request for site
14 certificate amendment to document continued ownership and full responsibility,
15 including coverage of full decommissioning amount of the shared facilities in the
16 bond or letter of credit pursuant to Condition 32, for the operational facility, if
17 facilities are decommissioned at different times.
18

19
20 **I. SUCCESSORS AND ASSIGNS**

21 To transfer this site certificate or any portion thereof or to assign or dispose of it in any other manner,
22 directly or indirectly, the certificate holder shall comply with OAR 345-027-~~0100~~0400.

23 **II. SEVERABILITY AND CONSTRUCTION**

24 If any provision of this agreement and certificate is declared by a court to be illegal or in conflict with
25 any law, the validity of the remaining terms and conditions shall not be affected, and the rights and
26 obligations of the parties shall be construed and enforced as if the agreement and certificate did not
27 contain the particular provision held to be invalid.

28 **III. GOVERNING LAW AND FORUM**

29 This site certificate shall be governed by the laws of the State of Oregon. Any litigation or arbitration
30 arising out of this agreement shall be conducted in an appropriate forum in Oregon.

31 **IV. EXECUTION**

32 This site certificate may be executed in counterparts and will become effective upon signature by the
33 Chair of the Energy Facility Siting Council and the authorized representative of the certificate holder.

34
35 IN WITNESS WHEREOF, this site certificate has been executed by the State of Oregon, acting by and
36 through its Energy Facility Siting Council, and by Montague Wind Power Facility, LLC.
37
38

ENERGY FACILITY SITTING COUNCIL

By: _____

Print: _____

Date: _____

MONTAGUE WIND POWER FACILITY, LLC

By: _____

Print: _____

Date: _____

and

By: _____

Print: _____

Date: _____

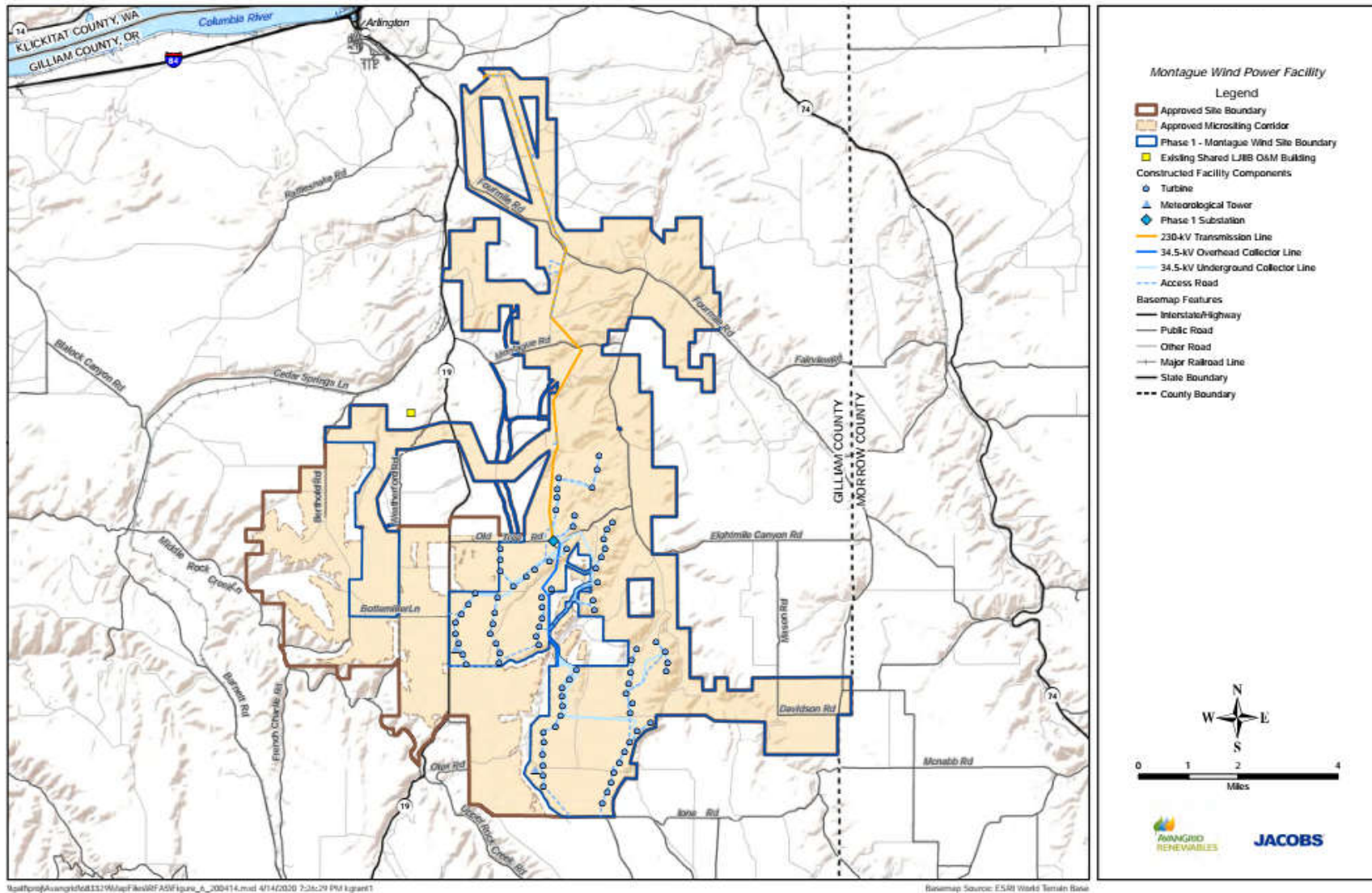
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Figure 1: Site Boundary and 230 kV transmission line corridor



ENERGY FACILITY SITING COUNCIL

OF THE

STATE OF OREGON

~~Fourth Amended~~ Site Certificate

for the

Montague ~~Wind Power~~Solar Facility

August 23, 2019

2020

I. INTRODUCTION

The Oregon Energy Facility Siting Council (Council) issues this site certificate for the Montague ~~Wind PowerSolar~~ Facility (the facility) in the manner authorized under ORS Chapter 469. This site certificate is a binding agreement between the State of Oregon (State), acting through the Council, and Montague ~~Wind Power FacilitySolar~~, LLC (certificate holder), a wholly owned subsidiary of Avangrid Renewables, LLC (parent company) authorizing the certificate holder to construct and operate the facility in Gilliam County, Oregon. ~~Amendment #3-5]~~

The findings of fact, reasoning and conclusions of law underlying the terms and conditions of this site certificate are set forth in the following documents, incorporated herein by this reference: ~~-(a) the Final Order on the Application for Site Certificate for the Montague Wind Power Facility issued on September 10, 2010 (hereafter, Final Order on the Application), (b) the Final Order on Amendment #1 issued on June 21, 2013; and, (c) the Final Order on Amendment #2 issued on December 4, 2015; (d) the Final Order on Amendment #3 issued on July 11, 2017; and (e) the Final Order on Amendment #4 issued on August 23, 2019; and (f) the Final Order on Amendment #5 issued on _____, 2020.~~ In interpreting this site certificate, any ambiguity will be clarified by reference to the following, in order of priority: ~~-(1) this FourthFifth Amended Site Certificate, (2) the Final Order on Amendment #45, (3) the Final Order on Amendment #34, (4) the Final Order on Amendment #23, (5) the Final Order on Amendment #1 #2, (6) the Final Order on Amendment #1, (7) the Final Order on the Application, and (78) the record of the proceedings that led to the Final Order on the Application, the Final Order on Amendment #1, and the Final Order on Amendment #2. [Amendment #2]~~

The definitions in ORS 469.300 and OAR 345-001-0010 apply to terms used in this site certificate, except where otherwise stated or where the context clearly indicates otherwise.

II. SITE CERTIFICATION

(a) To the extent authorized by state law and subject to the conditions set forth herein, the State authorizes the certificate holder to construct, operate and retire a ~~wind and~~ photovoltaic (PV) solar energy facility, together with certain related or supporting facilities, at the site in Gilliam County, Oregon, as described in Section III of this site certificate. ORS 469.401(1). ~~[ASC; AMD4AMD5]~~

(a) This site certificate is effective until it is terminated under OAR 345-027-0110 or the rules in effect on the date that termination is sought or until the site certificate is revoked under ORS 469.440 and OAR 345-029-0100 or the statutes and rules in effect on the date that revocation is ordered. ORS 469.401(1).

(a) This site certificate does not address, and is not binding with respect to, matters that were not addressed in the Final Order on the Application, Final Order on Amendment #1 Final Order on Amendment #2, Final Order on Amendment #3, Final Order on Amendment #4, and Final Order on Amendment #45. Such matters include, but are not limited to: building code compliance, wage, hour and other labor regulations, local government fees and charges and other design or operational issues that do not relate to siting the facility (ORS 469.401(4)) and permits issued under statutes and rules for which the decision on compliance has been delegated by the federal government to a

state agency other than the Council. 469.503(3). [ASC; AMD1; AMD2; AMD3; AMD4;
AMD5]

(a) Both the State and the certificate holder shall abide by local ordinances, state law and the rules of the Council in effect on the date this site certificate is executed. ORS 469.401(2). In addition, upon a clear showing of a significant threat to public health, safety or the environment that requires application of later-adopted laws or rules, the Council may require compliance with such later-adopted laws or rules. ORS 469.401(2).

(a) For a permit, license or other approval addressed in and governed by this site certificate, the certificate holder shall comply with applicable state and federal laws adopted in the future to the extent that such compliance is required under the respective state agency statutes and rules. ORS 469.401(2).

(a) Subject to the conditions herein, this site certificate binds the State and all counties, cities and political subdivisions in Oregon as to the approval of the site and the construction, operation and retirement of the facility as to matters that are addressed in and governed by this site certificate. ORS 469.401(3).

(a) Each affected state agency, county, city and political subdivision in Oregon with authority to issue a permit, license or other approval addressed in or governed by this site certificate shall, upon submission of the proper application and payment of the proper fees, but without hearings or other proceedings, issue such permit, license or other approval subject only to conditions set forth in this site certificate. ORS 469.401(3).

(a) After issuance of this site certificate, each state agency or local government agency that issues a permit, license or other approval for the facility shall continue to exercise enforcement authority over such permit, license or other approval. ORS 469.401(3).

(a) After issuance of this site certificate, the Council shall have continuing authority over the site and may inspect, or direct the Oregon Department of Energy (Department) to inspect, or request another state agency or local government to inspect, the site at any time in order to ensure that the facility is being operated consistently with the terms and conditions of this site certificate. ORS 469.430.

(a) Following the completion of surveys required by this site certificate, the Department will present the results of those surveys and required consultations at the next regularly scheduled Council meeting. [AMD2]

III. DESCRIPTION

1. The Facility

(a) The Energy Facility

The Montague ~~Wind Power~~Solar Facility is an electric power generating plant ~~developed in two phases, Phase 1 and Phase 2. Phase 1 consists of 56 wind turbines, each~~ consisting of a nacelle, a three-bladed

rotor, turbine tower and foundations. The nacelle houses the equipment such as the gearbox, generator, brakes, and control systems for the turbines.

~~Phase 2 is approved to consist of a combination of up to 81 wind turbines and a~~ solar photovoltaic array on up to 1,189.96 acres ~~of an approved solar micrositing area. The solar array would be composed of solar modules, which are themselves composed of either mono-crystalline or poly-crystalline cells. In addition to the solar modules, the array would also include a tracker system to allow the solar modules to follow the path of the sun throughout the day; cables; inverters; and transformers. Within the solar micrositing area, solar photovoltaic energy generation equipment could include modules consisting of solar panels, trackers, racks, posts, inverter/transformer units and above- and belowground cabling. Solar panels would be supported by galvanized steel posts, which would be hydraulically driven into the ground at a depth of 5 to 8 feet, with an approximately 4 to 5.5-foot aboveground height. Solar panels would be designed with anti-reflective coating. Modules would be placed on non-specular metal galvanized steel racks, with heights ranging from 4 to 15 feet at full tilt. To convert energy generated within the modules from alternating current (ac) to direct current (dc), inverter/transformer units would be installed. Solar photovoltaic energy generation equipment would be contained by an approximately 8-foot chain-link fence extending around the perimeter. Access to solar facility components would be provided via two new access points on the north side of Bottemiller Lane. The solar array would be connected to the power collection system as described below.~~ The energy facility is described further in the Final Order on ~~the Application, Final Order on Amendment #1, Final Order on Amendment #2, Final Order on Amendment #3, Amendment #4~~ and the Final Order on Amendment #45.

(b) Related or Supporting Facilities

The facility includes the following related or supporting facilities described below and in greater detail in the Final Order on ~~the Application, Final Order on Amendment #1, Final Order on Amendment #2, Final Order on Amendment #3, Amendment #4~~ and the Final Order on Amendment #45:

- Power collection system
- Control system
- Substations and 230-kV transmission lines
- Battery storage system
- ~~Meteorological towers~~
- Operations and maintenance ~~facilities~~(O&M) building
- Access roads
- Public roadway modifications
- Temporary construction areas

Power Collection System

A power collection system operating at 34.5 kilovolts (kV) transports power from ~~each turbine~~the solar array to ~~the~~ collector substation. To the extent practicable, the collection system is installed

underground at a depth of at least three ~~feet~~feet. Not more than 27 miles of the collector system ~~combined across facility s~~ is installed aboveground.

Control System

A fiber optic communications network links the ~~wind turbines~~solar array to a central computer at the ~~Phase 2 O&M buildings~~building shared with the Oregon Trail Solar facility. A Supervisory, Control and Data Acquisition (SCADA) system collects operating and performance data from ~~each wind turbine and from~~ the facility as a whole and allows remote operation of the ~~wind turbines~~facility.

Substations and 230-kV Transmission Lines

The facility includes two collector substations, ~~one associated~~. One substation ("Montague Wind substation") is shared with Phase 1 the Montague Wind Power facility, and the second associated with ("Phase 2 Montague Solar collector substation") is shared with the Oregon Trail Solar facility. An aboveground, single-circuit 230-kV transmission line connects the ~~Phase 2 Montague Solar collector~~ substation to the ~~Phase 1 Montague Wind~~ substation. An aboveground, single-circuit 230-kV transmission line connects the Phase 1 substation to the 500-kV Slatt-Buckley transmission line owned by the Bonneville Power Administration (BPA) at the Slatt substation.

Battery Storage

~~Phase 2~~The facility is approved to include a battery storage system, ~~shared with the Oregon Trail Solar facility~~. The battery storage system would be capable of storing up to 100 MW of ~~wind or~~ solar energy generated by the Facility, and would be used to stabilize the ~~wind or~~ solar resource through dispatching of energy stored in the battery system. The battery system is placed in a series of containers or building located near the ~~Phase 2 Montague Solar collector~~ substation.

The battery system would be composed of either lithium-ion (Li-ion) batteries or a flow battery. Lithium-ion batteries are a solid-state rechargeable battery utilizing lithium ions in an electrolyte. Flow batteries are composed of a variety of different technologies; however, all flow batteries dispatch electricity by allowing the migration of electrons from a positive ion tank to a negative ion tank. The electrons migrate between solutions via a membrane.

The battery storage would occupy up to 6 acres and would include batteries and racks or containers, inverters, isolation transformers, and switchboards, an approximately 20-foot warehouse-type building, medium-voltage and low-voltage electrical systems, fire suppression, heating, ventilation, and air-conditioning systems, building auxiliary electrical systems, and network/SCADA systems. Battery storage would include a cooling system (more advanced systems required for Li-ion), which may include a separate chiller plant located outside the battery racks with chillers, pumps, and heat exchangers. High-voltage (HV) equipment would include a step-up transformer, HV circuit breaker, HV current transformers and voltage transformers, a packaged control building for the HV breaker and transformer equipment, HV towers, structures, and HV cabling. The battery storage area would be enclosed by approximately 2,140 feet of continuous chain-link perimeter fencing 8 feet in height, with two 16-foot-wide gates and one pedestrian, 4-foot-wide gate.

Meteorological Towers

The facility includes up to eight permanent meteorological towers.

Operations and Maintenance Facilities Building

The facility includes two operations and maintenance (O&M) facilities, one associated O&M building ("Montague Solar O&M building") shared with Phase 1 and the second with Phase 2, Oregon Trail Solar facility. An on-site well at each Montague Solar O&M facility building supplies water for use during facility operation. Sewage is discharged to an on-site septic system.

Access Roads

The facility includes access roads to provide access to the turbine strings, solar array, battery storage system, and other related or supporting components.

Public Roadway Modifications

The certificate holder may construct improvements to existing state and county public roads that are necessary for construction of the facility. These modifications would be confined to the existing road rights-of-way and would be undertaken with the approval of the Gilliam County Road Department or the Oregon Department of Transportation, depending on the location of the improvement.

Temporary Construction Areas

During construction, the facility includes temporary laydown areas used to stage construction and store supplies and equipment. Construction crane paths are used to move construction cranes between turbine strings.

(c) Shared Related or Supporting Facilities

The site certificates for the Montague Solar Facility, Oregon Trail Solar Facility and Montague Wind Power Facility were originally approved as one site certificate for the Montague Wind Power Facility (September 2010 – September 2019). In XX 2020, facility components were split or allocated into three separate site certificates, but identified that certain related or supporting facilities would be shared or used by each facility. Sharing of facility components, or use by multiple facilities, is allowable in the EFSC process when the compliance obligation and applicable regulatory requirements for the shared facilities is adequately covered under each site certificate, including under normal operational circumstances, ceasing/termination of operation, emergencies and compliance issues or violations.

The certificate holder is authorized to share related or supporting facilities between the Montague Solar Facility, Oregon Trail Solar Facility and Montague Wind Power Facility including the Montague Wind collector substation, 230 kV transmission line, temporary laydown areas, and access roads. The certificate holder is authorized to share related or supporting facilities between the Montague Solar Facility and Oregon Trail Solar Facility including the Montague Solar collector substation, 230 kV transmission line, O&M building and battery storage. These related or supporting facilities are included in each site certificate. Compliance responsibility with site certificate conditions and EFSC standards which apply to these shared related or supporting facilities are shared between site certificates and certificate holders. In accordance with Condition 118, if any certificate holder substantially modifies a

shared related or supporting facility or ceases facility operation, each certificate holder would be obligated to submit an amendment determination request or request for amendment to the Department to determine the appropriate process for evaluating the change and ensuring full regulatory coverage under each site certificate, or remaining site certificate if either is terminated, in the future. Additionally, each certificate holder is obligated to demonstrate to the Department that a legally binding agreement has been fully executed between certificate holders to ensure approval and agreement of access to the shared resources has been obtained prior to operation of shared facilities.

2. Location of the Facility

The facility is located south of Arlington, in Gilliam County, Oregon. The facility is located on private land subject to easements or lease agreements with landowners.

IV. CONDITIONS REQUIRED BY COUNCIL RULES

This section lists conditions required by OAR 345-025-0006 (Mandatory Conditions in Site Certificates), OAR 345025-0010 (Site Specific Conditions), OAR 345-025-0016 (Monitoring and Mitigation Conditions) and OAR Chapter 345, Division 26 (Construction and Operation Rules for Facilities). These conditions should be read together with the specific facility conditions listed in Section V to ensure compliance with the siting standards of OAR Chapter 345, Divisions 22 and 24, and to protect the public health and safety. In these conditions the definitions in OAR 345-001-0010 apply.

The obligation of the certificate holder to report information to the Oregon Department of Energy (Department) or the Council under the conditions listed in this section and in Section V is subject to the provisions of ORS 192.502 et seq. and ORS 469.560. To the extent permitted by law, the Department and the Council will not publicly disclose information that may be exempt from public disclosure if the certificate holder has clearly labeled such information and stated the basis for the exemption at the time of submitting the information to the Department or the Council. If the Council or the Department receives a request for the disclosure of the information, the Council or the Department, as appropriate, will make a reasonable attempt to notify the certificate holder and will refer the matter to the Attorney General for a determination of whether the exemption is applicable, pursuant to ORS 192.450.

In addition to these conditions, the site certificate holder is subject to all conditions and requirements contained in the rules of the Council and in local ordinances and state law in effect on the date the certificate is executed. Under ORS 469.401(2), upon a clear showing of a significant threat to the public health, safety or the environment that requires application of later-adopted laws or rules, the Council may require compliance with such later-adopted laws or rules.

The Council recognizes that many specific tasks related to the design, construction, operation and retirement of the facility will be undertaken by the certificate holder's agents or contractors. Nevertheless, the certificate holder is responsible for ensuring compliance with all provisions of the site certificate.

1 OAR 345-025-0006(1): The Council shall not change the conditions of the site certificate except as provided for in OAR Chapter 345, Division 27.

2 OAR 345-025-0006(2): The certificate holder shall submit a legal description of the site to the Department of Energy within 90 days after beginning operation of the facility. The legal description required by this rule means a description of metes and bounds or a description of

the site by reference to a map and geographic data that clearly and specifically identifies the outer boundaries that contain all parts of the facility.

3 OAR 345-025-0006(3): The certificate holder shall design, construct, operate and retire the facility:

(a) Substantially as described in the site certificate;

(b) In compliance with the requirements of ORS Chapter 469, applicable Council rules, and applicable state and local laws, rules and ordinances in effect at the time the site certificate is issued; and (c) In compliance with all applicable permit requirements of other state agencies.

4 OAR 345-025-0006(4): The certificate holder shall begin and complete construction of the facility by the dates specified in the site certificate. (See Conditions 24 and 25.)

5 OAR 345025-0006(5): Except as necessary for the initial survey or as otherwise allowed for wind 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 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 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.

6 OAR 345-025-0006(6): -If the certificate holder becomes aware of a significant environmental change or impact attributable to the facility, the certificate holder shall, as soon as possible, submit a written report to the Department describing the impact on the facility and any affected site certificate conditions. [~~AMD4~~AMD5]

7 OAR 345-025-0006(7): The certificate holder shall prevent the development of any conditions on the site that would preclude restoration of the site to a useful, non-hazardous condition to the extent that prevention of such site conditions is within the control of the certificate holder.

8 OAR 345-025-0006(8): Before beginning construction of the facility ~~or a phase of the facility~~, the certificate holder shall submit to the State of Oregon, through the Council, a bond or letter of credit, in a form and amount satisfactory to the Council to restore the site or a portion of the site to a useful, non-hazardous condition. The certificate holder shall maintain a bond or letter of credit in effect at all times until the facility ~~or the phase of the facility~~ has been retired. The

Council may specify different amounts for the bond or letter of credit during construction and during operation of the facility ~~or a phase of the facility~~. (See Condition 32.) [AMD4AMD5]

9 OAR 345-025-0006(9): The certificate holder shall retire the facility if the certificate holder permanently ceases construction or operation of the facility. The certificate holder shall retire the facility according to a final retirement plan approved by the Council, as described in OAR 345-027-0110. The certificate holder shall pay the actual cost to restore the site to a useful, non-hazardous condition at the time of retirement, notwithstanding the Council's approval in the site certificate of an estimated amount required to restore the site.

10 OAR 345-025-0006(10): The Council shall include as conditions in the site certificate all representations in the site certificate application and supporting record the Council deems to be binding commitments made by the applicant.

11 OAR 345-025-0006(11): Upon completion of construction, the certificate holder shall restore vegetation to the extent practicable and shall landscape all areas disturbed by construction in a manner compatible with the surroundings and proposed use. Upon completion of construction, the certificate holder shall remove all temporary structures not required for facility operation and dispose of all timber, brush, refuse and flammable or combustible material resulting from clearing of land and construction of the facility.

12 OAR 345-025-0006(12): The certificate holder shall design, engineer and construct the facility to avoid dangers to human safety and the environment presented by seismic hazards affecting the site that are expected to result from all maximum probable seismic events. As used in this rule "seismic hazard" includes ground shaking, ground failure, landslide, liquefaction triggering and consequences (including flow failure, settlement buoyancy, and lateral spreading, cyclic softening of clays and silts, fault rupture, directivity effects and soil-structure interaction. For coastal sites, this also includes tsunami hazards and seismically-induced subsidence. [AMD4AMD5]

13 OAR 345-025-0006(13): The certificate holder shall notify the Department, the State Building Codes Division and the Department of Geology and Mineral Industries promptly if site investigations or trenching reveal that conditions in the foundation rocks differ significantly from those described in the application for a site certificate. After the Department receives the notice, the Council may require the certificate holder to consult with the Department of Geology and Mineral Industries and the Building Codes Division to propose and implement corrective or mitigation actions.

14 OAR 345-025-0006(14): The certificate holder shall notify the Department, the State Building Codes Division and the Department of Geology and Mineral Industries promptly if shear zones, artesian aquifers, deformations or clastic dikes are found at or in the vicinity of the site. After the Department receives notice, the Council may require the certificate holder to consult with the Department of Geology and Mineral Industries and the Building Codes Division to propose and implement corrective or mitigation actions. [AMD4AMD5]

15 OAR 345-025-0006(15): Before any transfer of ownership of the facility or ownership of the site certificate holder, the certificate holder shall inform the Department of the proposed new owners. The requirements of OAR 345-027-0100 apply to any transfer of ownership that requires a transfer of the site certificate.

16 OAR 345-025-0006(16): If the Council finds that the certificate holder has permanently ceased construction or operation of the facility without retiring the facility according to a final retirement plan approved by the Council, as described in OAR 345-027-0110, the Council shall notify the certificate holder and request that the certificate holder submit a proposed final retirement plan to the Department within a reasonable time not to exceed 90 days. If the certificate holder does not submit a proposed final retirement plan by the specified date, the Council may direct the Department to prepare a proposed final retirement plan for the Council's approval. Upon the Council's approval of the final retirement plan, the Council may draw on the bond or letter of credit described in OAR 345-027-0020(8) to restore the site to a useful, non-hazardous condition according to the final retirement plan, in addition to any penalties the Council may impose under OAR Chapter 345, Division 29. If the amount of the bond or letter of credit is insufficient to pay the actual cost of retirement, the certificate holder shall pay any additional cost necessary to restore the site to a useful, non-hazardous condition. After completion of site restoration, the Council shall issue an order to terminate the site certificate if the Council finds that the facility has been retired according to the approved final retirement plan.

17 ~~OAR 35-027-0023(4)~~:

~~(a) The certificate holder shall design, construct and operate the transmission line in accordance with the requirements of the National Electrical Safety Code approved on June 3, 2011, 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. [Amendment 3, Removed by Amendment 4]~~

18 OAR 345-025-0010(5): The certificate holder is authorized to construct a 230-kV transmission line anywhere within the approved corridor, subject to the conditions of the site certificate. The approved corridor is ½-mile in width and extends approximately 14 miles from the ~~Phase 2~~ Montague Solar collector substation to the ~~Phase 1~~ Montague Wind collector substation to BPA's Slatt Substation as presented in Figure 1 of the site certificate.
[OAR 345-025-0010(5); ASC; ~~AMD4~~ AMD5]

19 OAR 345-025-0016: The following general monitoring conditions apply:

(1) In the site certificate, the Council shall include conditions that address monitoring and mitigation to ensure compliance with the standards contained in OAR Chapter 345, Division 22 and Division 24. The site certificate applicant, or for an amendment, the certificate holder, shall develop proposed monitoring and mitigation plans in consultation with the Department and, as appropriate, other state agencies, local governments and tribes. Monitoring and mitigation plans are subject to Council approval. The Council shall incorporate approved monitoring and mitigation plans in applicable site certificate conditions. ~~-[AMD4~~ AMD5]

20 OAR 345-026-0048: Following receipt of the site certificate or an amended site certificate, the certificate holder shall implement a plan that verifies compliance with all site certificate terms and conditions and applicable statutes and rules. As a part of the compliance plan, to verify compliance with the requirement to begin construction by the date specified in the site

certificate, the certificate holder shall report promptly to the Department of Energy when construction begins. Construction is defined in OAR 345-001-0010. In reporting the beginning of construction, the certificate holder shall describe all work on the site performed before beginning construction, including work performed before the Council issued the site certificate, and shall state the cost of that work. For the purpose of this exhibit, "work on the site" means any work within a site or corridor, other than surveying, exploration or other activities to define or characterize the site or corridor. The certificate holder shall document the compliance plan and maintain it for inspection by the Department or the Council.

21 OAR 345-026-0080: The certificate holder shall report according to the following requirements:

(a) General reporting obligation for energy facilities under construction or operating:

(i) Within six months after beginning construction, and every six months thereafter during construction of the energy facility and related or supporting facilities, the certificate holder shall submit a semiannual construction progress report to the Department of Energy. In each construction progress report, the certificate holder shall describe any significant changes to major milestones for construction. The certificate holder shall report on the progress of construction and shall address the subjects listed in subsections (2)(a), (d), (f) and (g). When the reporting date coincides, the certificate holder may include the construction progress report within the annual report described in this rule.

(ii) After January 1 but no later than April 30 of each year after beginning operation of the facility, the certificate holder shall submit an annual report to the Department addressing the subjects listed in Subsection (2). For the purposes of this rule, the beginning of operation of the facility means the date when construction of a significant portion of the facility is substantially complete and the certificate holder begins commercial operation of the facility as reported by the certificate holder and accepted by the Department. The Council Secretary and the certificate holder may, by mutual agreement, change the reporting date.

(iii) To the extent that information required by this rule is contained in reports the certificate holder submits to other state, federal or local agencies, the certificate holder may submit excerpts from such other reports to satisfy this rule. The Council reserves the right to request full copies of such excerpted reports

(b) In the annual report, the certificate holder shall include the following information for the calendar year preceding the date of the report:

(i) Facility Status: An overview of site conditions, the status of facilities under construction and a summary of the operating experience of facilities that are in operation. The certificate holder shall describe any unusual events, such as earthquakes, extraordinary windstorms, major accidents or the like that occurred during the year and that had a significant adverse impact on the facility.

(ii) Reliability and Efficiency of Power Production: For electric power plants, the plant availability and capacity factors for the reporting year. The certificate holder shall describe any equipment failures or plant breakdowns that had a significant impact on

those factors and shall describe any actions taken to prevent the recurrence of such problems.

(iii) Status of Surety Information: Documentation demonstrating that bonds or letters of credit as described in the site certificate are in full force and effect and will remain in full force and effect for the term of the next reporting period.

(iv) Monitoring Report: A list and description of all significant monitoring and mitigation activities performed during the previous year in accordance with site certificate terms and conditions, a summary of the results of those activities and a discussion of any significant changes to any monitoring or mitigation program, including the reason for any such changes.

(v) Compliance Report: A description of all instances of noncompliance with a site certificate condition. For ease of review, the certificate holder shall, in this section of the report, use numbered subparagraphs corresponding to the applicable sections of the site certificate.

(vi) Facility Modification Report: A summary of changes to the facility that the certificate holder has determined do not require a site certificate amendment in accordance with OAR 345-027-0050.

~~(vii)....~~

22 OAR 345-026-0105: The certificate holder and the Department of Energy shall exchange copies of all correspondence or summaries of correspondence related to compliance with statutes, rules and local ordinances on which the Council determined compliance, except for material withheld from public disclosure under state or federal law or under Council rules. The certificate holder may submit abstracts of reports in place of full reports; however, the certificate holder shall provide full copies of abstracted reports and any summarized correspondence at the request of the Department.

23 OAR 345-026-0170: The certificate holder shall notify the Department of Energy within 72 hours of any occurrence involving the facility if:

(a) There is an attempt by anyone to interfere with its safe operation;

(b) A natural event such as an earthquake, flood, tsunami or tornado, or a human-caused event such as a fire or explosion affects or threatens to affect the public health and safety or the environment; or

(c) There is any fatal injury at the facility.

V. SPECIFIC FACILITY CONDITIONS

The conditions listed in this section include conditions based on representations in the site certificate application and supporting record. The Council deems these representations to be binding commitments made by the applicant. These conditions are required under OAR 345-025-0006. The certificate holder must comply with these conditions in addition to the conditions listed in

Section IV. This section includes other specific facility conditions the Council finds necessary to ensure compliance with the siting standards of OAR Chapter 345, Divisions 22 and 24, and to protect public health and safety. For conditions that require subsequent review and approval of a future action, ORS 469.402 authorizes the Council to delegate the future review and approval to the Department if, in the Council's discretion, the delegation is warranted under the circumstances of the case.

1. Certificate Administration Conditions

24 The certificate holder shall:

- ~~i. ——— Begin construction of Phase 1 of the facility by September 14, 2017. Under OAR 345-015-0085(9), a site certificate is effective upon execution by the Council Chair and the applicant. The Council may grant an extension of the deadline to begin construction in accordance with OAR 345-027-0385 or any successor rule in effect at the time the request for extension is submitted. [ASC; AMD2; AMD4]~~

~~Begin construction of Phase 2~~ begin construction of the facility by August 30, 2022. The Council may grant an extension of the deadline to begin construction in accordance with OAR 345-027-0385 or any successor rule in effect at the time the request for extension is submitted. [AMD4AMD5]

25 The certificate holder shall:

~~Complete complete~~ construction of ~~Phase 1 of~~ the facility by ~~September 14, 2020~~ [3 years of from the date of construction commencement]. Construction is complete when: (1) the facility is substantially complete as defined by the certificate holder's construction contract documents, (2) acceptance testing has been satisfactorily completed and (3) the energy facility is ready to begin continuous operation consistent with the site certificate. The certificate holder shall promptly notify the Department of the date of completion of construction. The Council may grant an extension of the deadline for completing construction in accordance with OAR 345-027-0385 or any successor rule in effect at the time the request for extension is submitted. ~~[ASC; AMD2; AMD4]~~ [AMD5]

- ~~i. ——— Complete construction of Phase 2 of the facility by [3 years of from the date of construction commencement]. Construction is complete when: (1) the facility is substantially complete as defined by the certificate holder's construction contract documents, (2) acceptance testing has been satisfactorily completed and (3) the energy facility is ready to begin continuous operation consistent with the site certificate. The certificate holder shall promptly notify the Department of the date of completion of construction. The Council may grant an extension of the deadline for completing construction in accordance with OAR 345-027-0385 or any successor rule in effect at the time the request for extension is submitted. [AMD4]~~

~~26 ——— Before beginning construction of the facility, the certificate holder shall notify the Department whether the turbines identified as H1, H2, H3, H4, L8, L9, L10, L11 and L12 on Figure C-3a of the site certificate application will be built as part of the Montague Wind Power Facility or whether the turbines will be built as part of the Leaning Juniper II Wind Power Facility.~~

27 The certificate holder shall construct a facility substantially as described in the site certificate and may select ~~turbines of any type, subject to the following restrictions and compliance with all other site certificate conditions.~~ Before beginning construction, the certificate holder shall

~~provide to the Department a description of the turbine types selected for the facility demonstrating compliance with this condition. solar array components substantially as described in RFA4 and RFA5.~~

~~i. For Phase 1 facility components:~~

~~(a) The total number of turbines must not exceed 81 turbines.~~

~~(b) The turbine hub height must not exceed 100 meters and the maximum blade tip height must not exceed 150 meters.~~

~~(c) The minimum blade tip clearance must be 14 meters above ground. [Amendment #3]~~

~~ii. For Phase 2 facility components:~~

~~(a) Components may include any combination of wind and solar energy generation equipment, up to 81 wind turbines or the maximum layout (including number and size) of solar array components substantially as described in RFA4.~~

~~(b) The maximum blade tip height must not exceed 597 feet (182 meters). The minimum aboveground blade tip clearance must be 46 feet (14 meters).~~

[Final Order on ASC; AMD3; ~~AMD4~~AMD4AMD5]

28 The certificate holder shall obtain all necessary federal, state and local permits or 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.

29 The certificate holder shall:

- i. Before beginning construction ~~of each phase~~ of the facility, provide to the Department a list of all third-party permits which would normally be governed by the site certificate and that are necessary for construction (e.g. Air Contaminant Discharge Permit; Limited Water Use License). Once obtained, the certificate holder shall provide copies of third-party permits to the Department and Gilliam County and shall provide to the Department proof of agreements between the certificate holder and the third-party regarding access to the resources or services secured by the permits or approvals.
- ii. During construction and operation, promptly report to the Department if any third-party permits referenced in sub(i) of this condition have been subject to a cited violation, Notice of Violation, or allegation of a violation. [~~AMD4~~AMD5]

30 Before beginning construction, the certificate holder shall notify the Department in advance of any work on the site that does not meet the definition of "construction" in ORS 469.300, excluding surveying, exploration or other activities to define or characterize the site, and shall provide to the Department a description of the work and evidence that its value is less than \$250,000.

31 Before beginning construction but no more than two years before beginning construction and after considering all micro-siting factors, the certificate holder shall provide to the Department, to the Oregon Department of Fish and Wildlife (ODFW) and to the Planning Director of Gilliam County detailed maps of the facility site, showing the final locations where the certificate holder proposes to build facility components, and a table showing the acres of temporary and

1 permanent habitat impact by habitat category and subtype, similar to Table 6 in the Final Order
2 on the Application. The detailed maps of the facility site shall indicate the habitat categories of
3 all areas that would be affected during construction (similar to ~~Figures~~Figure P-8a through P-8d9
4 in ~~the site certificate application~~RFA4). In classifying the affected habitat into habitat categories,
5 the certificate holder shall consult with the ODFW. The certificate holder shall not begin ground
6 disturbance in an affected area until the habitat assessment has been approved by the
7 Department. The Department may employ a qualified contractor to confirm the habitat
8 assessment by on-site inspection.

- 9 i. 32 ~~i.~~ Before beginning construction of ~~Phase 1 of~~ the facility, the certificate holder shall
10 submit to the State of Oregon through the Council a bond or letter of credit in the amount
11 described herein naming the State of Oregon, acting by and through the Council, as beneficiary
12 or payee. The ~~initial~~ bond or letter of credit will be issued in an amount that is either
13 \$~~21.5118.1~~ million (~~3rd~~1st Quarter ~~2010~~2019 dollars), to be adjusted to the date of issuance as
14 described in (b), or the amount determined as described in (a). The certificate holder shall
15 adjust the amount of the bond or letter of credit on an annual basis thereafter as described in
16 (b).

17 a. The certificate holder may adjust the amount of the bond or letter of credit based
18 on the final design configuration of the facility ~~and turbine types selected by~~
19 applying the unit costs and general costs illustrated in Table 52 in the *Final Order on*
20 *the Application*Amendment 4 and calculating the financial assurance amount as
21 described in that order, adjusted to the date of issuance as described in (b) and
22 subject to approval by the Department.

23 ~~i. Adjust the Subtotal component of the bond or letter of credit amount~~
24 ~~(expressed in 3rd Quarter 2017 dollars) to present value, using the U.S. Gross~~
25 ~~Domestic Product Implicit Price Deflator, Chain-Weight, as published in the~~
26 ~~Oregon Department of Administrative Services' "Oregon Economic and~~
27 ~~Revenue Forecast" or by any successor agency (the "Index") and using the~~
28 ~~3rd Quarter 2017 index values (to represent mid-2004 dollars) and the~~
29 ~~quarterly index value for the date of issuance of the new bond or letter of~~
30 ~~credit. If at any time the Index is no longer published, the Council shall~~
31 ~~select a comparable calculation to adjust mid-2004 dollars to present value.~~

32 ~~ii. Add 1 percent of the adjusted Subtotal (i) for the adjusted performance~~
33 ~~bond amount to determine the adjusted Gross Cost.~~

34 ~~iii. Add 10 percent of the adjusted Gross Cost (ii) for the adjusted~~
35 ~~administration and project management costs and 10 percent of the~~
36 ~~adjusted Gross Cost (ii) for the adjusted future developments contingency.~~

37 ~~iv. Add the adjusted Gross Cost (ii) to the sum of the percentages (iii) and~~
38 ~~round the resulting total to the nearest \$1,000 to determine the adjusted~~
39 ~~financial assurance amount.~~

40 b. The certificate holder shall adjust the amount of the bond or letter of credit, using
41 the following calculation and subject to approval by the Department:

42 c. The certificate holder shall use a form of bond or letter of credit approved by the
43 Council.

- 1 d. ~~The certificate holder shall use an issuer of the bond or letter of credit approved by~~
2 ~~the Council.~~
- 3 e. ~~The certificate holder shall describe the status of the bond or letter of credit in the~~
4 ~~annual report submitted to the Council under Condition 21.~~
- 5 f. ~~The bond or letter of credit shall not be subject to revocation or reduction before~~
6 ~~retirement of the facility site.~~
- 7 ii. ~~Before beginning construction of Phase 2 of the facility, the certificate holder shall submit to~~
8 ~~the State of Oregon through the Council a bond or letter of credit in the amount described~~
9 ~~herein naming the State of Oregon, acting by and through the Council, as beneficiary or payee.~~
10 ~~The bond or letter of credit will be issued for Phase 2 in an amount that is either \$10.429~~
11 ~~million (1st Quarter 2019 dollars), to be adjusted to the date of issuance as described in (b), or~~
12 ~~the amount determined as described in (a). The certificate holder shall adjust the amount of~~
13 ~~the bond or letter of credit on an annual basis thereafter as described in (b).~~
- 14 a. ~~The certificate holder may adjust the amount of the bond or letter of credit based~~
15 ~~on the final design configuration of the facility, and both the battery storage or~~
16 ~~turbine types selected by applying the unit costs and general costs illustrated in~~
17 ~~Table 5 of the Final Order on Amendment 4 and calculating the financial assurance~~
18 ~~amount as described in that order, adjusted to the date of issuance as described in~~
19 ~~(b) and subject to approval by the Department.~~ The certificate holder may adjust the
20 amount of the bond or letter of credit under (a) if opting to construct only a portion
21 of the facility.
- 22 b. The certificate holder shall adjust the amount of the bond or letter of credit, using
23 the following calculation and subject to approval by the Department:
- 24 i. Adjust the Subtotal component of the bond or letter of credit amount
25 (expressed in mid-~~2004-2019~~ dollars) to present value, using the U.S. Gross
26 Domestic Product Implicit Price Deflator, Chain-Weight, as published in the
27 Oregon Department of Administrative Services' "Oregon Economic and
28 Revenue Forecast" or by any successor agency (the "Index") and using the
29 average of the 1st and 2nd Quarter ~~and 3rd Quarter 2004-2019~~ index values
30 (to represent mid-~~2019-2004~~ dollars) ~~and the quarterly index value for the~~
31 date of issuance of the new bond or letter of credit. If at any time the Index
32 is no longer published, the Council shall select a comparable calculation to
33 adjust mid-~~2004-2019~~ dollars to present value.
- 34 c. The certificate holder shall adjust the amount of the bond or letter of credit, using
35 the following calculation and subject to approval by the Department:
- 36 i. Adjust the Subtotal component of the bond or letter of credit amount
37 (expressed in mid-~~2019-2004~~ dollars) to present value, using the U.S. Gross
38 Domestic Product Implicit Price Deflator, Chain-Weight, as published in the
39 Oregon Department of Administrative Services' "Oregon Economic and
40 Revenue Forecast" or by any successor agency (the "Index") and using the
41 average of the 1st and 2nd Quarter ~~and 3rd Quarter 2004~~index201904 index
42 values (to represent mid-201904 dollars) and the quarterly index value for
43 the date of issuance of the new bond or letter of credit. If at any time the
44 Index is no longer published, the Council shall select a comparable
45 calculation to adjust mid-201904 dollars to present value.

- 1 ii. Add 1 percent of the adjusted Subtotal (i) for the adjusted performance
2 bond amount to determine the adjusted Gross Cost.
3 iii. Add 10 percent of the adjusted Gross Cost (ii) for the adjusted
4 administration and project management costs, add 20 percent of the
5 adjusted Gross Cost of the Solar Generation and Battery Storage System (ii)
6 and 10 percent of the adjusted Gross Cost of all other facility components(ii)
7 for the adjusted future developments contingency.
8 iv. Add the adjusted Gross Cost (ii) to the sum of the percentages (iii) and
9 round the resulting total to the nearest \$1,000 to determine the adjusted
10 financial assurance amount.
11 d. The certificate holder shall use a form of bond or letter of credit approved by the
12 Council.
13 e. The certificate holder shall use an issuer of the bond or letter of credit approved by
14 the Council.
15 f. The certificate holder shall describe the status of the bond or letter of credit in the
16 annual report submitted to the Council under Condition 21.
17 g. The bond or letter of credit shall not be subject to revocation or reduction before
18 retirement of the facility site.

19 [AMD4AMD5]

20
21 33 If the certificate holder elects to use a bond to meet the requirements of Condition 32, the
22 certificate holder shall ensure that the surety is obligated to comply with the requirements of
23 applicable statutes, Council rules and this site certificate when the surety exercises any legal or
24 contractual right it may have to assume construction, operation or retirement of the energy
25 facility. The certificate holder shall also ensure that the surety is obligated to notify the Council
26 that it is exercising such rights and to obtain any Council approvals required by applicable
27 statutes, Council rules and this site certificate before the surety commences any activity to
28 complete construction, operate or retire the energy facility.

29 34 Before beginning construction, the certificate holder shall notify the Department of the identity
30 and qualifications of the major design, engineering and construction contractor(s) for the
31 facility. The certificate holder shall select contractors that have substantial experience in the
32 design, engineering and construction of similar facilities. The certificate holder shall report to
33 the Department any change of major contractors.

34 35 The certificate holder shall contractually require all construction contractors and subcontractors
35 involved in the construction of the facility to comply with all applicable laws and regulations and
36 with the terms and conditions of the site certificate. Such contractual provisions shall not
37 operate to relieve the certificate holder of responsibility under the site certificate.

38 36 To ensure compliance with all site certificate conditions during construction, the certificate
39 holder shall have a full-time, on-site assistant construction manager who is qualified in
40 environmental compliance. The certificate holder shall notify the Department of the name,
41 telephone number and e-mail address of this person.

42 37 Within 72 hours after discovery of conditions or circumstances that may violate the terms or
43 conditions of the site certificate, the certificate holder shall report the conditions or
44 circumstances to the Department.

2. Land Use Conditions

38 The certificate holder shall:

~~i. Consult~~ consult with area landowners and lessees during construction and operation ~~of Phase 1 of the facility and implement measures to reduce and avoid any adverse impacts to farm practices on surrounding lands and to avoid any increase in farming costs.~~

~~Consult with area landowners and lessees during construction and operation of Phase 2~~ of the facility and implement measures to reduce and avoid any adverse impacts to ongoing farm practices on surrounding lands, including coordination with the landowner of the solar micrositing 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. [Final Order on ASC; AMD5]

[Final Order on ASC; AMD4]

39 The certificate holder shall design and construct:

~~i. Phase 1 of the facility 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. [Final Order on ASC; AMD4]~~

~~Phase 2 of~~ 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. [Final Order on ASC; AMD5]

~~[Final Order on ASC; AMD4]~~

40 The certificate holder shall install gates on private access roads in accordance with Gilliam County Zoning Ordinance Section 7.020(T)(4)(d)(6) unless the County has granted a variance to this requirement.

41 Before beginning construction of the facility, the certificate holder shall record in the real property records of Gilliam County a Covenant Not to Sue with regard to generally accepted farming practices on adjacent farmland consistent with GCZO Section 37 7.020(T)(4)(a)(5).

42 The certificate holder shall construct all facility components in compliance with the following setback requirements:

(a) All facility components must be at least 3,520 feet from the property line of properties zoned residential use or designated in the Gilliam County Comprehensive Plan as residential.

~~(b) Where (a) does not apply, the certificate holder shall maintain a minimum distance of 110-percent of maximum blade tip height, measured from the centerline of the turbine tower to the nearest edge of any public road right-of-way. The certificate holder shall assume a minimum right-of-way width of 60 feet.~~

~~(c) Where (a) does not apply, the certificate holder shall maintain a minimum distance of 1,320 feet, measured from the centerline of the turbine tower to the center of the nearest residence existing at the time of tower construction.~~

~~(d) Where (a) does not apply, the certificate holder shall maintain a minimum distance of 110-percent of maximum blade tip height, measured from the centerline of the turbine tower to the nearest boundary of the certificate holder's lease area.~~

~~(e) The certificate holder shall maintain a minimum distance of 250 feet measured from the center line of each turbine tower to the nearest edge of any railroad right-of-way or electrical substation.~~

~~(f) The certificate holder shall maintain a minimum distance of 250 feet measured from the center line of each meteorological tower to the nearest edge of any public road right-of-way or railroad right-of-way, the nearest boundary of the certificate holder's lease area or the nearest electrical substation.~~

~~(g)(b)~~ The certificate holder shall maintain a minimum distance of 50 feet measured from ~~any facility~~ the Montague Solar O&M building to the nearest edge of any public road right-of-way or railroad right-of-way or the nearest boundary of the certificate holder's lease area.

~~(h)(c)~~ The certificate holder shall maintain a minimum distance of 50 feet measured from any substation to the nearest edge of any public road right-of-way or railroad right-of-way or the nearest boundary of the certificate holder's electrical substation easement or, if there is no easement, the nearest boundary of the certificate holder's lease area.

~~(i) Where (a) does not apply, the certificate holder shall maintain a minimum of 110 percent of maximum blade tip height, measured from the centerline of the turbine tower from any overhead utility line. [Amendment #1]~~

~~(j) Where (a) does not apply, the certificate holder shall maintain a minimum of 150 percent of maximum turbine height from blade tip height, measured from the centerline of the turbine tower from federal transmission lines, unless the affected parties agree otherwise. [Amendment #1]~~

~~(k)(d)~~ The certificate holder shall maintain a minimum distance of 25 feet measured from the fence line of the solar array to the nearest property line.

~~(l)(e)~~ The certificate holder shall maintain a minimum distance of 25 feet measured from the front, rear and side yard of the battery storage system site to the nearest property line.

~~(m)(f) For Phase 2 facility components, all wind turbines must be setback a minimum distance of 656 feet (200 meters), measured from the centerline of the turbine tower to the nearest edge of the breaks of Rock Creek Canyon. [AMD4][AMD4AMD5]~~

43 During construction and operation of the facility, the certificate holder shall implement a weed control plan approved by the Gilliam County Weed Control Officer or other appropriate County officials to control the introduction and spread of noxious weeds.

44 During operation of the facility, the certificate holder shall restore areas that are temporarily disturbed during facility maintenance or repair activities using the same methods and monitoring procedures described in the Revegetation Plan referenced in Condition 92.

45 Within 90 days after beginning operation of the facility ~~or a phase of the facility~~, the certificate holder shall provide to the Department and to the Gilliam County Planning Department the actual latitude and longitude location or Stateplane NAD 83(91) coordinates of ~~each turbine tower, connecting lines and transmission lines~~ the facility and a summary of as-built changes in the facility compared to the original plan.

46 The certificate holder shall deliver a copy of the annual report required under Condition 21 to the Gilliam County Planning Commission on an annual basis unless specifically discontinued by the County.

3. Cultural Resource Conditions

47 Before beginning construction, the certificate holder shall:

(a) Label all identified historic, cultural or archeological resource sites on construction maps and drawings as “no entry” areas. If construction activities will occur within 200 feet of an identified site, the certificate holder shall flag a 30-meter no entry buffer around the site. The certificate holder may use existing private roads within the buffer areas but may not widen or improve private roads within the buffer areas. The no-entry restriction does not apply to public road rights-of-way within the buffer areas or to operational farmsteads. [Final Order on ASC]

(b) Submit for review and approval by the Department in consultation with the State Historic Preservation Office, a final ~~Phase 2~~ Historical Resource Mitigation Plan (HRMP), based on the draft HRMP provided in Attachment H of the Final Order on Request for Amendment 45. The final HRMP shall include the following:

i. Confirmation on established setback of ~~Phase 2~~ facility components to the Weatherford Barn, if confirmed by the Department and SHPO to represent a distance whereby indirect impacts to setting and feeling would be minimized to less than significant. In the alternative, the certificate holder shall specify the mitigation option selected from the HRMP and the implementation schedule to reduce significant adverse indirect impacts to the Weatherford Barn.

~~ii. Concurrence from SHPO that the Olex Townsite, Olex School, and the Olex Cemetery (“Olex resources”) are not likely eligible for listing as individual properties or together as a historic district on the National Register of Historic Places (NRHP); or if SHPO concurs that the Olex resources either individually or as a historic district are likely eligible for listing, the certificate holder shall include in its final HRMP appropriate descriptions of the resources and mitigation, which could include an appropriate setback of Phase 2 facility components to the Olex resources as confirmed by the Department in consultation with SHPO to represent a distance whereby indirect impacts to setting and feeling would be minimized to less than significant. In the alternative, the certificate holder shall specify the mitigation option selected and the implementation schedule to reduce significant adverse indirect impacts to the Olex resources such as: historic photo documentation and scale drawings of Olex; additional archival and literature review; video media publications; public interpretation funding; or other form of compensatory mitigation deemed appropriate by the Department, in consultation with SHPO.~~
~~{AMD4}~~

ii. [AMD5]

48 In reference to the alignment of the Oregon Trail described in the Final Order on the Application, the certificate holder shall comply with the following requirements:

(d) The certificate holder shall not locate facility components on visible remnants of the Oregon Trail and shall avoid any construction disturbance to those remnants.

- (e) The certificate holder shall not locate facility components on undeveloped land where the trail alignment is marked by existing Oregon-California Trail Association markers.
- (f) Before beginning construction, the certificate holder shall provide to the State Historic Preservation Office (SHPO) and the Department documentation of the presumed Oregon Trail alignments within the site boundary.
- (g) The certificate holder shall ensure that construction personnel proceed carefully in the vicinity of the presumed alignments of the Oregon Trail. If any physical evidence of the trail is discovered, the certificate holder shall avoid any disturbance to the intact segments by redesign, re-engineering or restricting the area of construction activity and shall flag a 30-meter no-entry buffer around the intact Trail segments. -The certificate holder shall promptly notify the SHPO and the Department of the discovery. The certificate holder shall consult with the SHPO and the Department to determine appropriate mitigation measures.
- 49 Before beginning construction, the certificate holder shall provide to the Department a map showing the final design locations of all components of the facility, the areas that would be temporarily disturbed during construction and the areas that were surveyed in 2009 as described in the Final Order on the Application. The certificate holder shall hire qualified personnel to conduct field investigations of all areas to be disturbed during construction that lie outside the previously-surveyed areas. The certificate holder shall provide a written report of the field investigations to the Department and to the Oregon State Historic Preservation Office (SHPO) for review and approval. If any potentially significant historic, cultural or archaeological resources are found during the field investigation, the certificate holder shall instruct all construction personnel to avoid the identified sites and shall implement appropriate measures to protect the sites, including the measures described in Condition 47.
- 50 During construction, the certificate holder shall:
- (a) Ensure that a qualified archeologist, as defined in OAR 736-051-0070, instructs construction personnel in the identification of cultural materials and avoidance of accidental damage to identified resource site.
- (b) Employ a qualified cultural resource monitor to conduct monitoring of ground disturbance at depths of 12 inches or greater. The qualifications of the selected cultural resources monitor shall be reviewed and approved by the Department, in consultation with the CTUIR Cultural Resources Protection Program. In the selection of the cultural resources monitor to be employed during construction, preference shall be given to citizens of the CTUIR. Ground disturbance at depths 12 inches or greater shall not occur without the presence of the approved cultural resources monitor. If any cultural resources are identified during monitoring activities, the steps outlined in the Inadvertent Discovery Plan, as provided in Attachment H of the Final Order on Amendment 4 should be followed. The certificate holder shall report to the Department in its semi-annual report a description of the ground disturbing activities that occurred during the reporting period, dates cultural monitoring occurred, and shall include copies of monitoring forms completed by the cultural resource monitor. [~~AMD4~~AMD5]
- 51 The certificate holder shall ensure that construction personnel cease all ground-disturbing activities in the immediate area if any archaeological or cultural resources are found during

1 construction of the facility until a qualified archaeologist can evaluate the significance of the
2 find. The certificate holder shall notify the Department and the Oregon State Historic
3 Preservation Office (SHPO) of the find. If the SHPO determines that the resource is significant,
4 the certificate holder shall make recommendations to the Council for mitigation, including
5 avoidance, field documentation and data recovery, in consultation with the Department, SHPO,
6 interested Tribes and other appropriate parties. -The certificate holder shall not restart work in
7 the affected area until the certificate holder has demonstrated to the Department and the SHPO
8 that it has complied with archaeological resource protection regulations

9 4. Geotechnical Conditions

10 52 Before beginning construction ~~of each phase~~ of the facility, the certificate holder shall conduct a
11 site-specific geotechnical investigation and shall report its findings to the Oregon Department of
12 Geology & Mineral Industries (DOGAMI) and the Department. The certificate holder shall conduct
13 the geotechnical investigation after consultation with DOGAMI to confirm appropriate site-specific
14 methodologies for evaluating seismic and non-seismic hazards to inform equipment foundation
15 and road design. [Final Order; ~~AMD4~~AMD5]

16 53 The certificate holder shall design and construct the facility in accordance with requirements of
17 the current Oregon Structural Specialty Code and International Building Code. [~~AMD4~~AMD5]

18 54 The certificate holder shall design, engineer and construct the facility to avoid dangers to human
19 safety presented by non-seismic hazards. As used in this condition, "non-seismic hazards"
20 include settlement, landslides, flooding and erosion.

21 5. Hazardous Materials, Fire Protection & Public Safety Conditions

22 55 The certificate holder shall handle hazardous materials used on the site in a manner that
23 protects public health, safety and the environment and shall comply with all applicable local,
24 state and federal environmental laws and regulations. The certificate holder shall not store
25 diesel fuel or gasoline on the facility site during operations. [~~AMD4~~AMD5]

26 56 If a spill or release of hazardous material occurs during construction or operation of the facility,
27 the certificate holder shall notify the Department within 72 hours and shall clean up the spill or
28 release and dispose of any contaminated soil or other materials according to applicable
29 regulations. The certificate holder shall make sure that spill kits containing items such as
30 absorbent pads are located on equipment and at the ~~Montague Solar~~ O&M ~~buildings~~building.
31 The certificate holder shall instruct employees about proper handling, storage and cleanup of
32 hazardous materials

33 ~~57 The certificate holder shall construct turbines and pad-mounted transformers on concrete~~
34 ~~foundations and shall cover the ground within a 10-foot radius with non-flammable material.~~
35 ~~The certificate holder shall maintain the non-flammable pad area covering during operation of~~
36 ~~the facility.~~

37 ~~58 The certificate holder shall install and maintain self-monitoring devices on each turbine, linked~~
38 ~~to sensors at the operations and maintenance building, to alert operators to potentially~~
39 ~~dangerous conditions, and the certificate holder shall immediately remedy any dangerous~~
40 ~~conditions. The certificate holder shall maintain automatic equipment protection features in~~

~~each turbine that would shut down the turbine and reduce the chance of a mechanical problem causing a fire.~~

5957 During construction and operation of the facility, the certificate holder shall ensure that the Montague Solar O&M ~~buildings~~building and all service vehicles are equipped with shovels and portable fire extinguishers of a 4A50BC or equivalent rating.

60 During construction and operation of the facility, the certificate holder shall develop and implement fire safety plans in consultation with the North Gilliam County Rural Fire Protection District to minimize the risk of fire and to respond appropriately to any fires that occur on the facility site. In developing the fire safety plans, the certificate holder shall take into account the dry nature of the region and shall address risks on a seasonal basis. For solar facility components, the certificate holder shall address worker training requirements, inspections, vegetation management, fire prevention and response equipment and agreements with fire districts for mutual assistance in fire response. The certificate holder shall meet annually with local fire protection agency personnel to discuss emergency planning and shall invite local fire protection agency personnel to observe any emergency drill or tower rescue training conducted at the facility. [AMD5]

61 Upon the beginning of operation of the facility, the certificate holder shall provide a site plan to the North Gilliam County Rural Fire Protection District. The certificate holder shall indicate on the site plan ~~the identification number assigned to each turbine and~~ the actual location of all facility structures. The certificate holder shall provide an updated site plan if ~~additional turbines or~~ other structures are later added to the facility. During operation, the certificate holder shall ensure that appropriate fire protection agency personnel have an up-to-date list of the names and telephone numbers of facility personnel available to respond on a 24-hour basis in case of an emergency on the facility site.

62 During construction, the certificate holder shall ensure that construction personnel are trained in fire prevention and response, that construction vehicles and equipment are operated on graveled areas to the extent possible and that open flames, such as cutting torches, are kept away from dry grass areas.

63 During operation of the facility, the certificate holder shall ensure that all on-site employees receive annual fire prevention and response training by qualified instructors or members of the local fire districts. The certificate holder shall ensure that all employees are instructed to keep vehicles on roads and off dry grassland, except when off-road operation is required for emergency purposes.

~~64 Before beginning construction of:~~

~~i. Phase 1, the certificate holder shall submit a Notice of Proposed Construction or Alteration to the Federal Aviation Administration (FAA) and the Oregon Department of Aviation identifying the proposed final locations of turbine towers and meteorological towers. The certificate holder shall promptly notify the Department of the responses from the FAA and the Oregon Department of Aviation.~~

~~ii. Phase 2, the certificate holder shall submit a Notice of Proposed Construction or Alteration to the Federal Aviation Administration (FAA) and the Oregon Department of Aviation~~

1 identifying the proposed final locations of turbine towers and meteorological towers to
2 determine if the structure(s) are a hazard to air navigation and aviation safety. The
3 certificate holder shall promptly notify the Department of the responses from the FAA and
4 the Oregon Department of Aviation. The FAA and ODA evaluation and determinations are
5 valid for 18 months (per OAR 738-070-0180), once issued. The certificate holder shall
6 maintain current hazard determinations on file commensurate with construction timelines.
7 [AMD4]

8 ~~65~~ The certificate holder shall follow manufacturers' recommended handling instructions and
9 procedures to prevent damage to turbine or turbine tower components that could lead to
10 failure.

11 ~~66~~ The certificate holder shall construct turbine towers with no exterior ladders or access to the
12 turbine blades and shall install locked tower access doors. The certificate holder shall keep
13 tower access doors locked at all times, except when authorized personnel are present.

14 ~~67~~ During operation of the facility, the certificate holder shall have a safety monitoring program
15 and shall inspect all turbine and turbine tower components on a regular basis. The certificate
16 holder shall maintain or repair turbine and turbine tower components as necessary to protect
17 public safety.

18 ~~68~~ For turbine types having pad mounted step-up transformers, the certificate holder shall install
19 the transformers at the base of each tower in locked cabinets designed to protect the public
20 from electrical hazards and to avoid creation of artificial habitat for raptor prey.

21 ~~69~~ To protect the public from electrical hazards, the certificate holder shall enclose the facility
22 substations, solar array, and battery storage systems with appropriate fencing and locked gates.
23 [AMD4AMD5]

24 ~~70~~ Before beginning construction of any new State Highway approaches or utility crossings, the
25 certificate holder shall obtain all required permits from the Oregon Department of
26 Transportation (ODOT) subject to the applicable conditions required by OAR Chapter 734,
27 Divisions 51 and 55. The certificate holder shall submit the necessary application in a form
28 satisfactory to ODOT and the Department for the location, construction and maintenance of a
29 new approach to State Highway 19 for access to the site ~~south of Tree Lane.~~ The certificate
30 holder shall submit the necessary application in a form satisfactory to ODOT and the
31 Department for the location, construction and maintenance of transmission lines crossing
32 Highway 19.

33 ~~71~~ The certificate holder shall design and construct new access roads and private road
34 improvements to standards approved by the Gilliam County Road Department ~~or, where~~
35 ~~applicable, the Morrow County Public Works Department.~~ Where modifications of County roads
36 are necessary, the certificate holder shall construct the modifications entirely within the County
37 road rights-of-way and in conformance with County road design standards subject to the
38 approval of the Gilliam County Road Department ~~or, where applicable, the Morrow County~~
39 ~~Public Works Department.~~ Where modifications of State roads or highways are necessary, the
40 certificate holder shall construct the modifications entirely within the public road rights-of-way
41 and in conformance with Oregon Department of Transportation (ODOT) standards subject to the
42 approval of ODOT.

- 1 72 The certificate holder shall construct access roads with a finished width of up to 20 feet,
2 designed under the direction of a licensed engineer and compacted to meet equipment load
3 requirements.
- 4 73 During construction of the facility, the certificate holder shall implement measures to reduce
5 traffic impacts, including:
- 6 (h) Providing notice to adjacent landowners when heavy construction traffic is anticipated.
- 7 (i) Providing appropriate traffic safety signage and warnings.
- 8 (j) Requiring flaggers to be at appropriate locations at appropriate times during
9 construction to direct traffic.
- 10 (k) Using traffic diversion equipment (such as advance signage and pilot cars) when slow or
11 oversize construction loads are anticipated.
- 12 (l) Maintaining at least one travel lane at all times to the extent reasonably possible so that
13 roads will not be closed to traffic because of construction vehicles.
- 14 (m) Encouraging carpooling for the construction workforce.
- 15 (n) Including traffic control procedures in contract specifications for construction of the
16 facility.
- 17 (o) Keeping Highway 19 free of gravel that tracks out onto the highway at facility access
18 points.
- 19 74 The certificate holder shall ensure that no equipment or machinery is parked or stored on any
20 County road whether inside or outside the site boundary. The certificate holder may temporarily
21 park equipment off the road but within County rights-of-way with the approval of the Gilliam
22 County Road Department ~~or, where applicable, the Morrow County Public Works Department.~~
- 23 75 The certificate holder shall cooperate with the Gilliam County Road Department to ensure that
24 any unusual damage or wear to county roads that is caused by construction of the facility is
25 repaired by the certificate holder. Submittal to the Department of an executed Road Use
26 Agreement with Gilliam County shall constitute evidence of compliance with this condition.
27 Upon completion of construction, the certificate holder shall restore public roads to pre-
28 construction condition or better to the satisfaction of the applicable county departments. If
29 required by Gilliam County, the certificate holder shall post bonds to ensure funds are available
30 to repair and maintain roads affected by the facility. If construction ~~of a phase~~ of the facility will
31 utilize county roads in counties other than Gilliam County, the certificate holder shall coordinate
32 with the Department and the respective county road departments regarding the
33 implementation of a similar Road Use Agreement. [~~AMD4~~AMD5]
- 34 76 During construction, the certificate holder shall require that all on-site construction contractors
35 develop and implement a site health and safety plan that informs workers and others on-site
36 about first aid techniques and what to do in case of an emergency and that includes important
37 telephone numbers and the locations of on-site fire extinguishers and nearby hospitals. The

certificate holder shall ensure that construction contractors have personnel on-site who are trained and equipped for tower rescue and who are first aid and CPR certified.

77 During operation of the facility, the certificate holder shall develop and implement a site health and safety plan that informs employees and others on-site about first aid techniques and what to do in case of an emergency, including a contingency plan in a fire emergency, and that includes important telephone numbers and the locations of on-site fire extinguishers, nearby hospitals, Gilliam County Sheriff's Office and the office locations of the backup law enforcement services. The certificate holder shall ensure that operations personnel are trained and equipped for tower rescue. If the certificate holder conducts an annual emergency drill or performs tower rescue training at the facility, the North Gilliam County Rural Fire Protection District and the Arlington Fire Department will be invited to observe. [AMD4AMD5]

78

- (a) During construction ~~of each phase~~ of the facility, the certificate holder shall provide on-site security within the facility site boundary, and shall establish good communications between on-site security personnel and the Gilliam County Sheriff's Office by establishing a communication protocol between the security personnel and the Sherriff's office. The communication protocol shall be sent to the Department prior to construction.
- (b) During operation, the certificate holder shall ensure that appropriate law enforcement agency personnel have an up-to-date list of the names and telephone numbers of facility personnel available to respond on a 24-hour basis in case of an emergency on the facility site. The list shall also be sent to the Department.

79 The certificate holder shall notify the Department of Energy and the Gilliam County Planning Department within 72 hours of any accidents including mechanical failures on the site associated with construction or operation of the facility that may result in public health and safety concerns

6. Water, Soils, Streams & Wetlands Conditions

80

- i. The certificate holder shall conduct all construction work in compliance with an Erosion and Sediment Control Plan (ESCP) satisfactory to the Oregon Department of Environmental Quality and as required under the National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge General Permit #1200-C. The certificate holder shall include in the ESCP any procedures necessary to meet local erosion and sediment control requirements or storm water management requirements.

ii. ~~_____~~

~~a. Before beginning construction of Phase 2 wind energy generation components, the certificate holder shall submit to the Department and Gilliam County Planning Director for review and approval a topsoil management plan including how topsoil will be stripped, stockpiled, and clearly marked in order to maximize topsoil preservation and minimize erosion impacts. [OAR 660-033-0130(38)(f)(B)]. The topsoil management plan~~

1 ~~may be incorporated into the final Erosion and Sediment Control Plan, required under~~
2 ~~sub(c) or may be provided to the Department as a separate plan.~~

3 ~~iii.ii.~~ Prior to beginning facility operation, the certificate holder shall provide the Department a
4 copy of an operational SPCC plan, if required pursuant to OAR 340-141-0001 to -0240.

5 [AMD4AMD5]
6

7 81 During construction, the certificate holder shall limit truck traffic to improved road surfaces to
8 avoid soil compaction, to the extent practicable.

9 82 During construction, the certificate holder shall implement best management practices to
10 control any dust generated by construction activities, such as applying water to roads and
11 disturbed soil areas.

12 83 Before beginning construction of the facility ~~or a phase of the facility~~, the certificate holder shall
13 provide to the Department a map showing the final design locations of all components of the
14 facility ~~or phase of the facility~~, and the areas that would be disturbed during construction and
15 showing the wetlands and stream channels previously surveyed by CH2M HILL or HDR as
16 described in the Final Order on the Application and the Final Order on Amendment #4. For areas
17 to be disturbed during construction that lie outside of the previously-surveyed areas, the
18 certificate holder shall hire qualified personnel to conduct a pre-construction investigation to
19 determine whether any jurisdictional waters of the State exist in those locations within the
20 proposed expanded site boundary. The certificate holder shall provide a written report on the
21 pre-construction investigation to the Department and the Department of State Lands for
22 approval before beginning construction ~~of the phase.~~ The certificate holder shall ensure that
23 construction and operation of the facility will have no impact on any jurisdictional water
24 identified in the pre-construction investigation.

25 84 The certificate holder shall avoid impacts to waters of the state in the following manner:

26 (a) The certificate holder shall avoid any disturbance to delineated wetlands.

27 (b) The certificate holder shall construct stream crossings for roads and underground
28 collector lines substantially as described in the Final Order on the Application or the
29 Final Order on Amendment #4. In particular, the certificate holder shall not remove
30 material from waters of the State or add new fill material to waters of the State such
31 that the total volume of removal and fill exceeds 50 cubic yards for the project as a
32 whole.

33 (c) The certificate holder shall construct support poles for aboveground lines outside of
34 delineated stream channels and shall avoid in-channel impacts.

35 [AMD4AMD5]

36 85 During facility operation, the certificate holder shall routinely inspect and maintain all facility
37 components including roads, ~~pads (including turbine and battery storage pad), pads,~~ solar array,
38 and trenched areas and, as necessary, maintain or repair erosion and sediment control
39 measures. [AMD4AMD5]

40 86 During facility operation, the certificate holder shall obtain water for on-site uses from an on-
41 site well located near the Montague Solar O&M ~~buildings~~building. The certificate holder

shall construct on-site ~~well~~well subject to compliance with the provisions of ORS 537.765 relating to keeping a well log. The certificate holder shall not use more than 5,000 gallons of water per day from the on-site ~~well~~well. The certificate holder may use other sources of water for on-site uses subject to prior approval by the Department.

During facility operation, if ~~wind turbine blade or~~ solar panel-washing becomes necessary, the certificate holder shall ensure that there is no runoff of wash water from the site or discharges to surface waters, storm sewers or dry wells. The certificate holder shall not use acids, bases or metal brighteners with the wash water. The certificate holder may use biodegradable, phosphate-free cleaners sparingly. [~~AMD4~~AMD5]

7. Transmission Line & EMF Conditions

The certificate holder shall install the 34.5-kV collector system underground to the extent practical. The certificate holder shall install underground lines at a minimum depth of three feet. Based on geotechnical conditions or other engineering considerations, the certificate holder may install segments of the collector system aboveground, but the total length of aboveground segments must not exceed 27 miles.

The certificate holder shall take reasonable steps to reduce or manage human exposure to electromagnetic fields, including but not limited to:

(a) Constructing all aboveground transmission lines at least 200 feet from any residence or other occupied structure, measured from the centerline of the transmission line.

(b) Providing to landowners a map of underground and overhead transmission lines on their property and advising landowners of possible health risks from electric and magnetic fields.

(c) Designing and maintaining all transmission lines so that alternating current electric fields do not exceed 9 kV per meter at one meter above the ground surface in areas accessible to the public.

(d) Designing and maintaining all transmission lines so that induced voltages during operation are as low as reasonably achievable.

In advance of, and during, preparation of detailed design drawings and specifications for 230-kV and 34.5-kV transmission lines, the certificate holder shall consult with the Utility Safety and Reliability Section of the Oregon Public Utility Commission to ensure that the designs and specifications are consistent with applicable codes and standards.

8. Plants, Wildlife & Habitat Protection Conditions

Prior to construction of the ~~Facility or a phase of the Facility~~facility, the certificate holder shall finalize the Wildlife Monitoring and Mitigation Plans (WMMPs), based on the draft WMMP included as Attachment F of the Final Order on Request for Amendment #~~45~~45, as approved by the Department in consultation with ODFW. The certificate holder shall conduct wildlife monitoring as described in the final WMMP, as amended from time to time. [Amendment #3; ~~AMD4~~AMD5]

1 92 The certificate holder shall restore areas disturbed by facility construction but not occupied by
2 permanent facility structures according to the methods and monitoring procedures described in
3 the final Revegetation Plans for ~~each phase of the Facility~~ facility, as approved by the
4 Department in consultation with ODFW. The final Revegetation Plan shall be based on the draft
5 plan as Attachment E in the Final Order on Request for Amendment #45, and as amended from
6 time to time. [Amendment #3; ~~AMD4~~AMD5]

7 93 The certificate holder shall:

8 (a) Acquire the legal right to create, enhance, maintain and protect a habitat mitigation area as
9 long as the site certificate is in effect by means of an outright purchase, conservation
10 easement or similar conveyance and shall provide a copy of the documentation to the
11 Department. Within the habitat mitigation area, the certificate holder shall improve the
12 habitat quality as described in the final Habitat Mitigation Plans for ~~each phase of the~~
13 Facility, as approved by the Department in consultation with ODFW. The final Habitat
14 Mitigation Plans shall be based on the draft plan included as Attachment G to the Final
15 Order on Request for Amendment #3 and updated based on Condition 31. The final Habitat
16 Mitigation Plans may be amended from time to time. [Amendment #3; ~~AMD4~~AMD5]

17 (b) Prior to construction ~~of Phase 2 components~~, the certificate holder shall finalize and
18 implement the ~~Phase 2~~ Habitat Mitigation Plan (HMP) included as Attachment D of the Final
19 Order, as approved by ODOE in Consultation with ODFW. Provision 93(b)(A) regarding
20 impacted acreage calculations shall be completed and submitted to the department after
21 construction is complete as described in the condition below.

22 (c) Within 90 days of completion of construction, the certificate holder shall submit to the
23 department and ODFW an updated HMP Table.
24 ~~[AMD4~~AMD5]

25 94 The certificate holder shall determine the boundaries of Category 1 Washington ground squirrel
26 (WGS) habitat based on the locations where the squirrels were found to be active in the most
27 recent WGS survey prior to the beginning of construction in habitat suitable for WGS foraging or
28 burrow establishment ("suitable habitat"). The certificate holder shall hire a qualified
29 professional biologist who has experience in detection of WGS to conduct surveys using a survey
30 protocol approved by the Oregon Department of Fish and Wildlife (ODFW). The biologist shall
31 survey all areas of suitable habitat where permanent facility components would be located or
32 where construction disturbance could occur. Except as provided in (a), the biologist shall
33 conduct the protocol surveys in the active squirrel season (March 1 to May 31) in 2010 and in
34 the active squirrel seasons in subsequent years until the beginning of construction in suitable
35 habitat. The certificate holder shall provide written reports of the surveys to the Department
36 and to ODFW and shall identify the boundaries of Category 1 WGS habitat. The certificate holder
37 shall not begin construction within suitable habitat until the identified boundaries of Category 1
38 WGS habitat have been approved by the Department. Category 1 WGS habitat includes the
39 areas described in (b) and (c).

40 (a) The certificate holder may omit the WGS survey in any year if the certificate holder
41 avoids all permanent and temporary disturbance within suitable habitat until a WGS

survey has been completed in the following year and the boundaries of Category 1 habitat have been determined and approved based on that survey.

(b) Category 1 WGS habitat includes the area within the perimeter of multiple active WGS burrows plus a 785-foot buffer, excluding areas of habitat types not suitable for WGS foraging or burrow establishment. If the multiple-burrow area was active in a prior survey year, then Category 1 habitat includes the largest extent of the active burrow area ever recorded (in the current or any prior-year survey), plus a 785-foot buffer.

(c) Category 1 WGS habitat includes the area containing single active burrow detections plus a 785-foot buffer, excluding areas of habitat types not suitable for WGS foraging or burrow establishment. Category 1 habitat does not include single-burrow areas that were found active in a prior survey year but that are not active in the current survey year.

95 The certificate holder shall implement measures to mitigate impacts to sensitive wildlife habitat during construction including, but not limited to, the following:

(a) The certificate holder shall not construct any facility components within areas of Category 1 habitat and shall avoid temporary disturbance of Category 1 habitat.

(b) Before beginning construction, but no more than two years prior to the beginning of construction of ~~a phase of~~ the facility, the certificate holder shall hire a qualified professional biologist to conduct a survey of all areas to be disturbed by construction for threatened and endangered species. The certificate holder shall provide a written report of the survey and a copy of the survey to the Department, the Oregon Department of Fish and Wildlife (ODFW), and the Oregon Department of Agriculture (ODA). If the surveys identify the presence of threatened or endangered species within the survey area, the certificate holder shall implement appropriate measures to avoid a significant reduction in the likelihood of survival or recovery of the species, as approved by the Department, in consultation with ODA and ODFW.

(c) Before beginning construction ~~of a phase~~ of the facility, the certificate holder's qualified professional biologist shall survey the Category 1 Washington ground squirrel habitat to ensure that the sensitive use area is correctly marked with exclusion flagging and avoided during construction. The certificate holder shall maintain the exclusion markings until construction has been completed.

~~(d) — Before beginning construction of a phase of the facility, certificate holder's qualified professional biologist shall complete the avian use studies that began in September 2009 at six plots within or near the facility site as described in the Final Order on the Application. The certificate holder shall provide a written report on the avian use studies to the Department and to ODFW.~~

~~(e)(d)~~ Before beginning construction of the facility, certificate holder's qualified professional biologist shall complete raptor nest surveys within the raptor nest survey area as described in the Final Order on the Application. The purposes of the survey are to identify any sensitive raptor nests near construction areas and to provide baseline information on raptor nest use for analysis as described in

the Wildlife Monitoring and Mitigation Plan referenced in Condition 91. The certificate holder shall provide a written report on the raptor nest surveys and the surveys to the Department and to ODFW. If the surveys identify the presence of raptor nests within the survey area, the certificate holder shall implement appropriate measures to assure that the design, construction and operation of the facility are consistent with the fish and wildlife habitat mitigation goals and standards of OAR 635-415-0025, as approved by the Department, in consultation with ODFW.

~~(f)~~(e) In the final design layout of the facility, the certificate holder shall locate facility components, access roads and construction areas to avoid or minimize temporary and permanent impacts to high quality native habitat and to retain habitat cover in the general landscape where practicable.

96 During construction, the certificate holder shall avoid all construction activities within a 1,300-foot buffer around potentially-active nest sites of the following species during the sensitive period, as provided in this condition:

<u>Species</u>	<u>Sensitive Period</u>	<u>Early Release Date</u>
Swainson's hawk	April 1 to August 15	May 31
Ferruginous hawk	March 15 to August 15	May 31
Burrowing owl	April 1 to August 15	July 15

During the year in which construction occurs, the certificate holder shall use a protocol approved by the Oregon Department of Fish and Wildlife (ODFW) to determine whether there are any active nests of these species within a half-mile of any areas that would be disturbed during construction. The certificate holder shall begin monitoring potential nest sites by March 15 and shall continue monitoring until at least May 31 to determine whether any potentially-active nest sites become active during the sensitive period.

If any nest site is determined to be unoccupied by the early release date (May 31), then unrestricted construction activities may occur within 1,300 feet of the nest site after that date. If a nest is occupied by any of these species after the beginning of the sensitive period, the certificate holder will flag the boundaries of a 1,300-foot buffer area around the nest site and shall instruct construction personnel to avoid disturbance of the buffer area. During the sensitive period, the certificate holder shall not engage in high-impact construction activities (activities that involve blasting, grading or other major ground disturbance) within the buffer area. The certificate holder shall restrict construction traffic within the buffer, except on public roads, to vehicles essential to the limited construction activities allowed within the buffer.

If burrowing owl nests are occupied during the sensitive period, the certificate holder may adjust the 1,300-foot buffer around these nests after consultation with ODFW and subject to the approval of the Department.

The certificate holder shall hire a qualified independent professional biologist to observe the active nest sites during the sensitive period for signs of disturbance and to notify the Department of any non-compliance with this condition. If the biologist observes nest site

abandonment or other adverse impact to nesting activity, the certificate holder shall implement appropriate mitigation, in consultation with ODFW and subject to the approval of the Department, unless the adverse impact is clearly shown to have a cause other than construction activity.

The certificate holder may begin or resume construction activities within the buffer area before the ending day of the sensitive period with the approval of ODFW, after the young are fledged. The certificate holder shall use a protocol approved by ODFW to determine when the young are fledged (the young are independent of the core nest site).

~~97 The certificate holder shall protect the area within 1,300 feet of the BLM Horn Butte Wildlife Area during the long-billed curlew nesting season (March 8 through June 15), as described in this condition. Before beginning construction, the certificate holder shall provide to the Department a map showing the areas of potential construction disturbance in the vicinity of the BLM lands that are part of the Horn Butte Wildlife Area and showing a 1,300-foot buffer from those areas. During the nesting season, the certificate holder shall not engage in high impact construction activities (activities that involve blasting, grading or other major ground disturbance) or allow high levels of construction traffic within the buffer area. The certificate holder shall flag the boundaries of the 1,300-foot buffer area and shall instruct construction personnel to avoid any unnecessary activity within the buffer area. The certificate holder shall restrict construction traffic within the buffer, except on public roads, to vehicles essential to the limited construction activities allowed within the buffer. The certificate holder may engage in construction activities within the buffer area at times other than the nesting season.~~

98 The certificate holder shall implement measures to avoid or mitigate impacts to sensitive wildlife habitat during construction including, but not limited to, the following:

- (a) Preparing maps to show occlusion areas that are off-limits to construction personnel, such as nesting or denning areas for sensitive wildlife species.
- (b) Avoiding unnecessary road construction, temporary disturbance and vehicle use.
- (c) Limiting construction work to approved and surveyed areas shown on facility constraints maps.
- (d) Ensuring that all construction personnel are instructed to avoid driving cross-country or taking short-cuts within the site boundary or otherwise disturbing areas outside of the approved and surveyed construction areas.

99 The certificate holder shall reduce the risk of injuries to avian species by:

- ~~(a) Installing turbine towers that are smooth steel structures that lack features that would allow avian perching.~~
- ~~(b) Locating turbine towers to avoid areas of increased risk to avian species, such as cliff edges, narrow ridge saddles and gaps between hilltops.~~
- ~~(c) Installing meteorological towers that are non-guyed structures to eliminate the risk of avian collision with guy wires.~~

~~Designing~~ designing and installing all aboveground transmission line support structures following the most current suggested practices for avian protection on power lines published by the Avian Power Line Interaction Committee.

100 The certificate holder shall hire a qualified environmental professional to provide environmental training during construction and operation. Environmental training includes information on the sensitive species present onsite, precautions to avoid injuring or destroying wildlife or sensitive wildlife habitat, exclusion areas, permit requirements and other environmental issues. The certificate holder shall instruct construction and operations personnel to report any injured or dead wildlife detected while on the site to the appropriate onsite environmental manager.

101 The certificate holder shall impose and enforce a construction and operation speed limit of 20 miles per hour throughout the facility site and, during the active squirrel season (March 1 to May 31), a speed limit of 10 miles per hour from one hour before sunset to one hour after sunrise on private roads near known Washington ground squirrel (WGS) colonies. The certificate holder shall ensure that all construction and operations personnel are instructed to watch out for and avoid WGS and other wildlife while driving through the facility site.

9. Visual Effects Conditions

102 To reduce the visual impact of the facility, the certificate holder shall:

~~(a) Mount nacelles on smooth, steel structures, painted uniformly in a low-reflectivity, neutral white color.~~

~~(b)~~(a) Paint the Montague Solar collector substation ~~structures~~structure in a low-reflectivity neutral color to blend with the surrounding landscape.

~~(c)~~(b) Not allow any advertising to be used on any part of the facility.

~~(d)~~(c) Use only those signs required for facility safety, required by law or otherwise required by this site certificate, except that the certificate holder may erect a sign near the Montague Solar O&M ~~buildings~~building to identify the facility, ~~may paint turbine numbers on each tower and may allow unobtrusive manufacturers' logos on turbine nacelles.~~

~~(e)~~(d) Maintain any signs allowed under this condition in good repair.

103 The certificate holder shall design and construct the Montague Solar O&M ~~buildings~~building, substation, and buildings and containers associated with battery storage to be generally consistent with the character of similar buildings used by commercial farmers or ranchers in the area and shall paint the building in a low-reflectivity, neutral color to blend with the surrounding landscape. [AMD4AMD5]

104 The certificate holder shall not use exterior nighttime lighting except:

~~(a) The minimum turbine tower lighting required or recommended by the Federal Aviation Administration.~~

~~(b)~~(a) Security lighting at the Montague Solar O&M ~~buildings~~building and ~~at the substations~~substation, provided that such lighting is shielded or downward-directed to reduce glare.

~~(c)~~(b) Minimum lighting necessary for repairs or emergencies.

~~(d)~~(c) Minimum lighting necessary for construction directed to illuminate the work area and shielded or downward-directed to reduce glare.

~~105 — The certificate holder shall maintain a minimum distance of 1,000 feet measured from the centerline of each turbine tower or meteorological tower to the centerline of the line-of sight from the vantage point of the Fourmile Canyon interpretive site looking toward the visible Oregon Trail ruts (bearing S 89-42-34 W from latitude, longitude: 45.622047, -120.044112) as described in the Final Order on the Application.~~

10. Noise Control Conditions

106 To reduce construction noise impacts at nearby residences, the certificate holder shall:

- (a) Confine the noisiest operation of heavy construction equipment to the daylight hours.
- (b) Require contractors to install and maintain exhaust mufflers on all combustion engine-powered equipment; and
- (c) Establish a complaint response system at the construction manager's office to address noise complaints.

107 The certificate holder shall provide to the Department:

~~i. — Prior to Phase 1 construction:~~

~~a. — Information that identifies the final design locations of (all turbines, to be built at the facility...~~

~~ii.i. Prior to Phase 2 construction:~~

a. A noise analysis that includes the following Information:

Final design locations of all ~~Phase 1 and Phase 2~~ noise-generating facility components (all wind turbines; substation transformers; inverters and transformers associated with the photovoltaic solar array; and inverters and cooling systems associated with battery storage system).

The maximum sound power level for the ~~Phase 2~~Montague Solar collector substation transformers; ~~and the~~ inverters and transformers associated with the photovoltaic solar array; ~~and~~ inverters and cooling systems associated with battery storage system; ~~and the maximum sound power level and octave band data for the Phase 2 wind turbines selected for the facility based on manufacturers' warranties or confirmed by other means acceptable to the Department.~~

The results of noise analysis ~~of Phase 1 and Phase 2 components~~ according to the final design performed in a manner consistent with the requirements of OAR 340-035-

0035(1)(b)(B)(iii) (IV) and (VI) demonstrating to the satisfaction of the Department that the total noise generated by the facility (including the noise from wind turbines, substation transformers, inverters and transformers associated with the photovoltaic solar array; inverters and cooling systems associated with battery storage system) would meet the ambient degradation test and maximum allowable test at the appropriate measurement point for all potentially-affected noise-sensitive properties. The certificate holder shall verify that all noise sensitive properties within one mile of the final design locations of noise-generating components ~~for Phase 1 and Phase 2~~ have been identified and included in the preconstruction noise analysis based on review of the most recent property owner information obtained from the Gilliam County Tax Assessor Roll.

For each noise-sensitive property where the certificate holder relies on a noise waiver to demonstrate compliance in accordance with OAR 340-035-0035(1)(b)(B)(iii)(III), a copy of the a legally effective easement or real covenant pursuant to which the owner of the property authorizes the certificate holder's operation of the facility to increase ambient statistical noise levels L10 and L50 by more than 10 dBA at the appropriate measurement point. The legally-effective easement or real covenant must: include a legal description of the burdened property (the noise-sensitive property); be recorded in the real property records of the county; expressly benefit the certificate holder; expressly run with the land and bind all future owners, lessees or holders of any interest in the burdened property; and not be subject to revocation without the certificate holder's written approval.

[Final Order on ASC; ~~AMD4~~AMD5]

108 During operation of the facility, the certificate holder shall implement measures to ensure compliance with the noise control regulation, including:

- a. Providing notice of the noise complaint system and how to file a noise complaint to noise sensitive receptors within 1-mile of noise generating components.
- b. Maintain a complaint response system to address noise complaints. The certificate holder shall promptly notify the Department of any complaints received regarding facility noise and of any actions taken by the certificate holder to address those complaints. In response to a complaint from the owner of a noise sensitive property regarding noise levels during operation of the facility, the Council may require the certificate holder to monitor and record the statistical noise levels to verify that the certificate holder is operating the facility in compliance with the noise control regulations.

[~~AMD4~~AMD5]

11. Waste Management Conditions

109 The certificate holder shall provide portable toilets for on-site sewage handling during construction and shall ensure that they are pumped and cleaned regularly by a licensed contractor who is qualified to pump and clean portable toilet facilities.

110 During operation of the facility, the certificate holder shall discharge sanitary wastewater generated at the Montague Solar O&M ~~buildings~~building to a licensed on-site septic

~~system~~system in compliance with State permit requirements. The certificate holder shall design the septic ~~system~~system for a discharge capacity of less than 2,500 gallons per day.

111 The certificate holder shall implement a waste management plan during construction that includes but is not limited to the following measures:

- (a) Recycling steel and other metal scrap.
- (b) Recycling wood waste.
- (c) Recycling packaging wastes such as paper and cardboard.
- (d) Collecting non-recyclable waste for transport to a local landfill by a licensed waste hauler.
- (e) Segregating all hazardous wastes such as used oil, oily rags and oil-absorbent materials, ~~and~~ mercury-containing lights and lithium-ion, flow, lead-acid and nickel-cadmium batteries for disposal by a licensed firm specializing in the proper recycling or disposal of hazardous wastes. [~~AMD4~~AMD5]
- (f) Confining concrete delivery truck rinse-out within the foundation excavation, discharging rinse water into foundation holes and burying other concrete waste as part of backfilling the turbine foundation.

112 The certificate holder shall implement a waste management plan during facility operation that includes but is not limited to the following measures:

- (a) Training employees to minimize and recycle solid waste.
- (b) Recycling paper products, metals, glass and plastics.
- (c) Recycling used oil and hydraulic fluid
- (d) Collecting non-recyclable waste for transport to a local landfill by a licensed waste hauler.
- (e) Segregating all hazardous, non-recyclable wastes such as used oil, oily rags and oil-absorbent materials, ~~and~~ mercury-containing lights and lithium-ion, flow, lead-acid and nickel-cadmium batteries for disposal by a licensed firm specializing in the proper recycling or disposal of hazardous wastes. [~~AMD4~~AMD5]

VI. CONDITIONS ADDED BY AMENDMENT # 1 OF MONTAGUE

113 ~~The transfer of the First Amended Site Certificate from the certificate holder to Portland General Electric (PGE), the transferee, shall not be effective until PGE executes in closing the form of site certificate naming PGE the certificate holder, which is attached as Attachment B to the Final Order on Amendment #1. Upon closing, the First Amended Site Certificate naming PGE as the certificate holder shall be in full force and effect and the First Amended Site Certificate naming Montague Wind Power LLC as the certificate holder shall be considered rescinded and void in its entirety. -[Removed by Amendment #2.]~~

~~114 Should the closing contemplated in Condition 113 not occur within 18 months of the effective date of the First Amended Site Certificate to Montague Wind Power LLC, the Council's transfer approval within the Final Order on Amendment #1 shall be void. [Removed by Amendment #2.]~~

~~115 PGE must provide the Department a copy of the executed First Amended Site Certificate and documentation of the asset purchase agreement within 7 days of closing. [Removed by Amendment #2.]~~

VII. CONDITIONS ADDED BY AMENDMENT #4 OF MONTAGUE

116: The certificate holder shall ensure its third-party contractor transports and disposes of battery and battery waste in compliance with all applicable regulations and manufacturer recommendations related to the transport of hazardous battery materials.

a. Prior to construction, the certificate holder shall provide a description to the Department of applicable regulations and manufacturer recommendations applicable to the transport and disposal of batteries and battery related waste.

~~b.~~ During construction and operation, the certificate holder shall report to the Department any potential compliance issue or cited violations of its third-party contractor for the requirements identified in sub(a) of this condition.

~~c-b.~~ [AMD4]

117 During facility operation, the certificate holder shall conduct monthly inspections of the battery storage systems, in accordance with manufacturer specifications. The certificate holder shall maintain documentation of inspections, including any corrective actions, and shall make available for review upon request by the Department. [AMD4]

CONDITIONS ADDED BY AMENDMENT #5

118 The site certificate authorizes shared use of related or supporting facilities including the Montague Solar collector substation, Montague Solar O&M building, battery storage system, 230 kV transmission line, access roads, and temporary staging areas under the site certificates issued for the Montague Solar Facility and Oregon Trail Solar Facility. The site certificate authorizes shared use of related or supporting facilities including the Montague Wind collector substation under the site certificates issued for the Montague Wind Facility, Montague Solar Facility and Oregon Trail Solar Facility.

a. Within 30 days of shared use, the certificate holder must provide evidence to the Department that the certificate holders have an executed agreement for shared use of facilities.

b. If certificate holders of Montague Wind, Montague Solar or Oregon Trail Solar Facility propose to substantially modify any of the shared facilities listed in sub(a) of this condition, each certificate holder shall submit an amendment determination request or request for site certificate amendment to obtain a determination from the Department on whether a site certificate amendment is required or to process an amendment for both site certificates.

c. Prior to facility decommissioning or if facility operations cease, each certificate holder shall submit an amendment determination request or request for site certificate amendment to

document continued ownership and full responsibility, including coverage of full decommissioning amount of the shared facilities in the bond or letter of credit pursuant to Condition 32, for the operational facility, if facilities are decommissioned at different times.

VIII. SUCCESSORS AND ASSIGNS

To transfer this site certificate or any portion thereof or to assign or dispose of it in any other manner, directly or indirectly, the certificate holder shall comply with OAR 345-027-~~0100~~400.

IX. SEVERABILITY AND CONSTRUCTION

If any provision of this agreement and certificate is declared by a court to be illegal or in conflict with any law, the validity of the remaining terms and conditions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the agreement and certificate did not contain the particular provision held to be invalid.

X. GOVERNING LAW AND FORUM

This site certificate shall be governed by the laws of the State of Oregon. Any litigation or arbitration arising out of this agreement shall be conducted in an appropriate forum in Oregon.

XI. EXECUTION

This site certificate may be executed in counterparts and will become effective upon signature by the Chair of the Energy Facility Siting Council and the authorized representative of the certificate holder.

IN WITNESS WHEREOF, this site certificate has been executed by the State of Oregon, acting by and through its Energy Facility Siting Council, and by Montague ~~Wind Power Facility~~Solar, LLC.

ENERGY FACILITY SITTING COUNCIL

By: _____

Print: _____

Date: _____

MONTAGUE ~~WIND POWER FACILITY~~SOLAR, LLC

By: _____

Print: _____

Date: _____

and

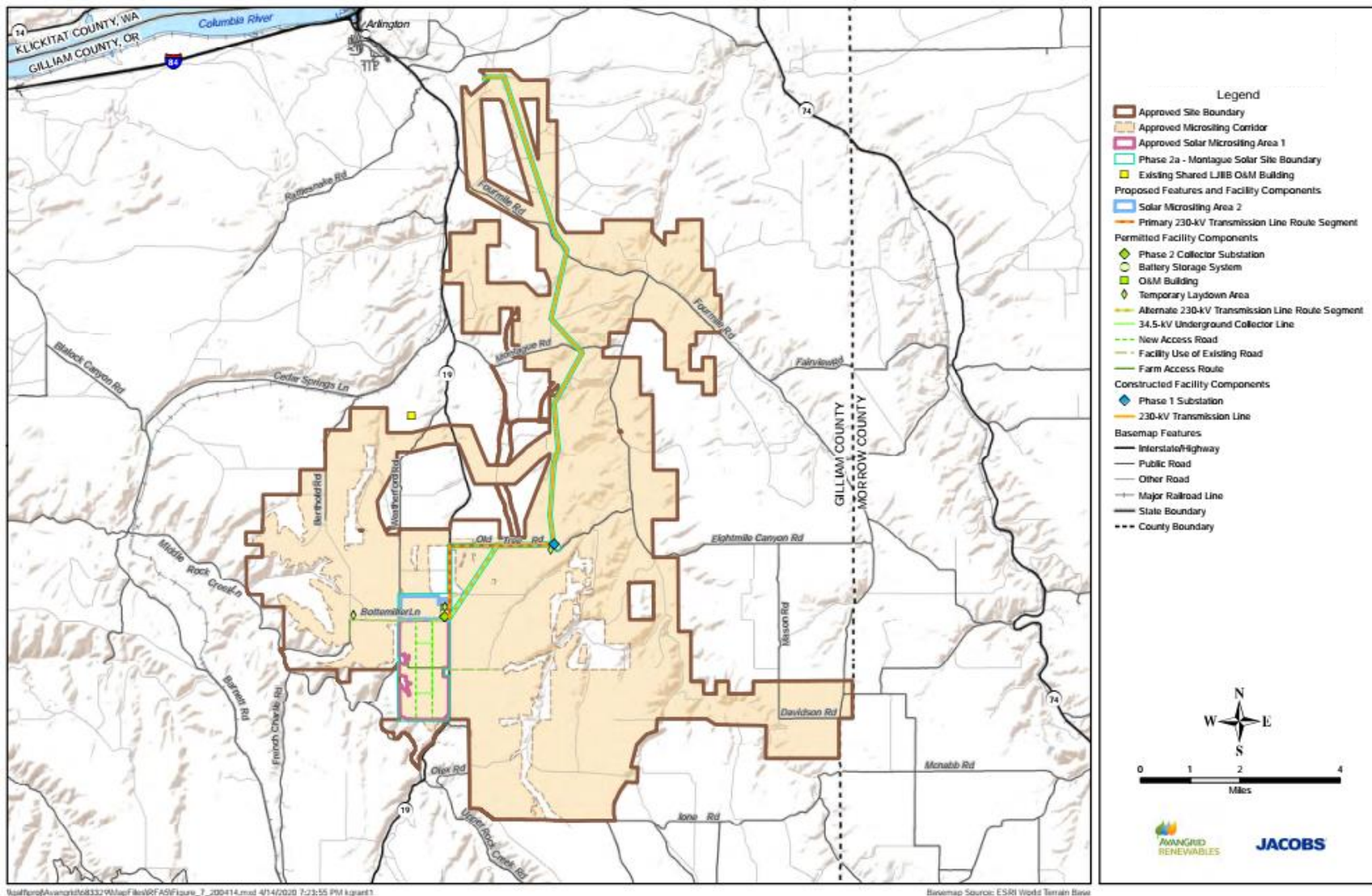
By: _____

Print: _____

Date: _____

1
2
3

Figure 1: Site Boundary and 230 kV transmission line corridor



3

ENERGY FACILITY SITING COUNCIL

OF THE

STATE OF OREGON

~~Fourth Amended~~ Site Certificate

for the

~~Montague Wind Power~~ Oregon Trail Solar Facility

~~August 23, 2019~~

2020

I. INTRODUCTION

The Oregon Energy Facility Siting Council (Council) issues this site certificate for the ~~Montague Wind Power~~Oregon Trail Solar Facility (the facility) in the manner authorized under ORS Chapter 469. This site certificate is a binding agreement between the State of Oregon (State), acting through the Council, and ~~Montague Wind Power Facility~~Oregon Trail Solar, LLC (certificate holder), a wholly owned subsidiary of Avangrid Renewables, LLC (certificate holder owner) authorizing the certificate holder to construct and operate the facility in Gilliam County, Oregon. ~~[Amendment #3]~~5]

The findings of fact, reasoning and conclusions of law underlying the terms and conditions of this site certificate are set forth in the following documents, incorporated herein by this reference: ~~-(a) the Final Order on the Application for Site Certificate for the Montague Wind Power Facility issued on September 10, 2010 (hereafter, Final Order on the Application), (b) the Final Order on Amendment #1 issued on June 21, 2013; and, (c) the Final Order on Amendment #2 issued on December 4, 2015; (d) the Final Order on Amendment #3 issued on July 11, 2017; and (e) the Final Order on Amendment #4 issued on August 23, 2019; and (f) the Final Order on Amendment #5 issued on _____, 2020.~~ In interpreting this site certificate, any ambiguity will be clarified by reference to the following, in order of priority: ~~-(1) this FourthFifth Amended Site Certificate, (2) the Final Order on Amendment #45, (3) the Final Order on Amendment #34, (4) the Final Order on Amendment #23, (5) the Final Order on Amendment #1 #2, (6) the Final Order on Amendment #1, (7) the Final Order on the Application, and (78) the record of the proceedings that led to the Final Order on the Application, the Final Order on Amendment #1, and the Final Order on Amendment #2. [Amendment #2]~~

The definitions in ORS 469.300 and OAR 345-001-0010 apply to terms used in this site certificate, except where otherwise stated or where the context clearly indicates otherwise.

II. SITE CERTIFICATION

(a) To the extent authorized by state law and subject to the conditions set forth herein, the State authorizes the certificate holder to construct, operate and retire a wind and photovoltaic (PV) solar energy facility, together with certain related or supporting facilities, at the site in Gilliam County, Oregon, as described in Section III of this site certificate. ORS 469.401(1). [ASC; AMD4; AMD5]

(a) This site certificate is effective until it is terminated under OAR 345-027-0110 or the rules in effect on the date that termination is sought or until the site certificate is revoked under ORS 469.440 and OAR 345-029-0100 or the statutes and rules in effect on the date that revocation is ordered. ORS 469.401(1).

(a) This site certificate does not address, and is not binding with respect to, matters that were not addressed in the Final Order on the Application, Final Order on Amendment #1 Final Order on Amendment #2, Final Order on Amendment #3, Final Order on Amendment #4, and Final Order on Amendment #45. Such matters include, but are not limited to: building code compliance, wage, hour and other labor regulations, local government fees and charges and other design or operational issues that do not relate to siting the facility (ORS 469.401(4)) and permits issued under statutes and rules for which the decision on compliance has been delegated by the federal government to a

~~MONTAGUE WIND POWER~~OREGON TRAIL SOLAR FACILITY

state agency other than the Council. 469.503(3). [ASC; AMD1; AMD2; AMD3; AMD4;
AMD5]

(a) Both the State and the certificate holder shall abide by local ordinances, state law and the rules of the Council in effect on the date this site certificate is executed. ORS 469.401(2). In addition, upon a clear showing of a significant threat to public health, safety or the environment that requires application of later-adopted laws or rules, the Council may require compliance with such later-adopted laws or rules. ORS 469.401(2).

(a) For a permit, license or other approval addressed in and governed by this site certificate, the certificate holder shall comply with applicable state and federal laws adopted in the future to the extent that such compliance is required under the respective state agency statutes and rules. ORS 469.401(2).

(a) Subject to the conditions herein, this site certificate binds the State and all counties, cities and political subdivisions in Oregon as to the approval of the site and the construction, operation and retirement of the facility as to matters that are addressed in and governed by this site certificate. ORS 469.401(3).

(a) Each affected state agency, county, city and political subdivision in Oregon with authority to issue a permit, license or other approval addressed in or governed by this site certificate shall, upon submission of the proper application and payment of the proper fees, but without hearings or other proceedings, issue such permit, license or other approval subject only to conditions set forth in this site certificate. ORS 469.401(3).

(a) After issuance of this site certificate, each state agency or local government agency that issues a permit, license or other approval for the facility shall continue to exercise enforcement authority over such permit, license or other approval. ORS 469.401(3).

(a) After issuance of this site certificate, the Council shall have continuing authority over the site and may inspect, or direct the Oregon Department of Energy (Department) to inspect, or request another state agency or local government to inspect, the site at any time in order to ensure that the facility is being operated consistently with the terms and conditions of this site certificate. ORS 469.430.

(a) Following the completion of surveys required by this site certificate, the Department will present the results of those surveys and required consultations at the next regularly scheduled Council meeting. [AMD2]

III. DESCRIPTION

1. The Facility

(a) The Energy Facility

The ~~Montague Wind Power~~Oregon Trail Solar Facility is an electric power generating plant ~~developed in two phases, Phase 1 and Phase 2. Phase 1 consists of 56~~approved to consist of a combination of up to 16 wind turbines, each consisting of a nacelle, a three-bladed rotor, turbine tower and foundations.~~The (he~~
MONTAGUE WIND POWEROREGON TRAIL SOLAR FACILITY

nacelle houses the equipment such as the gearbox, generator, brakes, and control systems for the turbines-

~~Phase 2 is approved to consist of a combination of up to 81 wind turbines), and a solar photovoltaic array on up to 1,189,228 acres. The solar array would be composed of solar modules, which are themselves composed of either mono-crystalline or poly-crystalline cells. In addition to the solar modules, the array would also include a tracker system to allow the solar modules to follow the path of the sun throughout the day; cables; inverters; and transformers. The solar array would be connected to the power collection system as described below. Within the solar micro-siting area, solar photovoltaic energy generation equipment could include modules consisting of solar panels, trackers, racks, posts, inverter/transformer units and above- and belowground cabling. Solar panels would be supported by galvanized steel posts, which would be hydraulically driven into the ground at a depth of 5 to 8 feet, with an approximately 4 to 5.5-foot aboveground height. Solar panels would be designed with anti-reflective coating. Modules would be placed on non-specular metal galvanized steel racks, with heights ranging from 4 to 15 feet at full tilt. To convert energy generated within the modules from alternating current (ac) to direct current (dc), inverter/transformer units would be installed. Solar photovoltaic energy generation equipment would be contained by an approximately 8-foot chain-link fence extending around the perimeter. Access to solar facility components would be provided via two new access points on the north side of Bottemiller Lane.~~ The energy facility is described further in the Final Order on the Application, Final Order on Amendment #1, Final Order on Amendment #2, Final Order on Amendment #3, and the Final Order on Amendment #4.

(b) Related or Supporting Facilities

The facility includes the following related or supporting facilities described below and in greater detail in the Final Order on the Application, Final Order on Amendment #1, Final Order on Amendment #2, Final Order on Amendment #3, and the Final Order on Amendment #4:

- Power collection system
- Control system
- ~~Substations~~Substation, switching station, and 230-kV transmission lines
- Battery storage system
- Meteorological towers
- Operations and maintenance ~~facilities~~(O&M) building
- Access roads
- Public roadway modifications
- Temporary construction areas

Power Collection System

A power collection system operating at 34.5 kilovolts (kV) transports power from each turbine ~~or the solar array~~ to ~~athe~~ collector substation. To the extent practicable, the collection system is installed underground at a depth of at least three feet. Not more than 27 miles of the collector system is installed aboveground.

Control System

A fiber optic communications network links the wind turbines and solar array to a central computer at the Montague Solar O&M buildings building shared with the Montague Solar facility. A Supervisory, Control and Data Acquisition (SCADA) system collects operating and performance data from each wind turbine and from the facility as a whole and allows remote operation of the wind turbines facility.

Substation, Switching Station, and 230-kV Transmission Lines

The facility includes two collector substations, ~~one associated~~. One substation ("Montague Wind collector substation") is shared with Phase 1 the Montague Wind Power facility, and the second associated with ("Phase 2-Montague Solar collector substation") is shared with the Montague Solar facility. The facility includes one switching station. An aboveground 34.5-kV collector line connects the switching station to the Montague Solar collector substation. An aboveground, single-circuit 230-kV transmission line connects the Phase 2 Montague Solar collector substation to the Phase 1 Montague Wind collector substation. An aboveground, single-circuit 230-kV transmission line connects the Phase 1 Montague Wind collector substation to the 500-kV Slatt-Buckley transmission line owned by the Bonneville Power Administration (BPA) at the Slatt substation.

Battery Storage

~~Phase 2~~ The facility is approved to include a battery storage system shared with the Montague Solar facility. The battery storage system would be capable of storing up to 100 MW of wind or solar energy generated by the Facility, and would be used to stabilize the wind or solar resource through dispatching of energy stored in the battery system. The battery system is placed in a series of containers or building located near the Phase 2 Montague Solar collector substation.

The battery system would be composed of either lithium-ion (Li-ion) batteries or a flow battery. Lithium-ion batteries are a solid-state rechargeable battery utilizing lithium ions in an electrolyte. Flow batteries are composed of a variety of different technologies; however, all flow batteries dispatch electricity by allowing the migration of electrons from a positive ion tank to a negative ion tank. The electrons migrate between solutions via a membrane.

The battery storage would occupy up to 6 acres and would include batteries and racks or containers, inverters, isolation transformers, and switchboards, an approximately 20-foot warehouse-type building, medium-voltage and low-voltage electrical systems, fire suppression, heating, ventilation, and air-conditioning systems, building auxiliary electrical systems, and network/SCADA systems. Battery storage would include a cooling system (more advanced systems required for Li-ion), which may include a separate chiller plant located outside the battery racks with chillers, pumps, and heat exchangers. High-voltage (HV) equipment would include a step-up transformer, HV circuit breaker, HV current transformers and voltage transformers, a packaged control building for the HV breaker and transformer equipment, HV towers, structures, and HV cabling. The battery storage area would be enclosed by approximately 2,140 feet of continuous chain-link perimeter fencing 8 feet in height, with two 16-foot-wide gates and one pedestrian, 4-foot-wide gate.

Meteorological Towers

The facility includes up to ~~eight~~ four permanent meteorological towers.

Operations and Maintenance Facilities Building

The facility includes ~~two operations and maintenance (O&M) facilities, one associated O&M building~~ (“~~Phase 2 Montague Solar O&M building~~”) shared with ~~Phase 1 and the second with Phase 2. Montague Solar facility.~~ An on-site well at ~~each the Montague Solar~~ O&M facility supplies water for use during facility operation. Sewage is discharged to an on-site septic system.

Access Roads

The facility includes access roads to provide access to the turbine strings, solar array, battery storage system and other related or supporting components.

Public Roadway Modifications

The certificate holder may construct improvements to existing state and county public roads that are necessary for construction of the facility. These modifications would be confined to the existing road rights-of-way and would be undertaken with the approval of the Gilliam County Road Department or the Oregon Department of Transportation, depending on the location of the improvement.

Temporary Construction Areas

During construction, the facility includes temporary laydown areas used to stage construction and store supplies and equipment. Construction crane paths are used to move construction cranes between turbine strings.

(c) Shared Related or Supporting Facilities

~~The site certificates for the Oregon Trail Solar Facility, Montague Solar Facility, and Montague Wind Power Facility were originally approved as one site certificate for the Montague Wind Power Facility (September 2010 – September 2019). In XX 2020, facility components were split or allocated into three separate site certificates, but identified that certain related or supporting facilities would be shared or used by each facility. Sharing of facility components, or use by multiple facilities, is allowable in the EFSC process when the compliance obligation and applicable regulatory requirements for the shared facilities is adequately covered under each site certificate, including under normal operational circumstances, ceasing/termination of operation, emergencies and compliance issues or violations.~~

~~The certificate holder is authorized to share related or supporting facilities between the Oregon Trail Solar Facility, Montague Solar Facility and Montague Wind Power Facility including the Montague Wind collector substation, 230 kV transmission line, temporary laydown areas, and access roads. The certificate holder is authorized to share related or supporting facilities between the Montague Solar Facility and Oregon Trail Solar Facility including the Montague Solar collector substation, 230 kV transmission line, O&M building and battery storage. These related or supporting facilities are included in each site certificate. Compliance responsibility with site certificate conditions and EFSC standards which apply to these shared related or supporting facilities are shared between site certificates and certificate holders. In accordance with Condition 118, if any certificate holder substantially modifies a shared related or supporting facility or ceases facility operation, each certificate holder would be obligated to submit an amendment determination request or request for amendment to the Department to determine the appropriate process for evaluating the change and ensuring full regulatory coverage under each site certificate, or remaining site certificate if either is terminated, in the future.~~

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1 Additionally, each certificate holder is obligated to demonstrate to the Department that a legally binding
2 agreement has been fully executed between certificate holders to ensure approval and agreement of
3 access to the shared resources has been obtained prior to operation of shared facilities.

4 **2. Location of the Facility**

5 The facility is located south of Arlington, in Gilliam County, Oregon. The facility is located on private land
6 subject to easements or lease agreements with landowners.

IV. CONDITIONS REQUIRED BY COUNCIL RULES

7 This section lists conditions required by OAR 345-025-0006 (Mandatory Conditions in Site Certificates),
8 OAR 345025-0010 (Site Specific Conditions), OAR 345-025-0016 (Monitoring and Mitigation Conditions)
9 and OAR Chapter 345, Division 26 (Construction and Operation Rules for Facilities). These conditions
10 should be read together with the specific facility conditions listed in Section V to ensure compliance with
11 the siting standards of OAR Chapter 345, Divisions 22 and 24, and to protect the public health and
12 safety. In these conditions the definitions in OAR 345-001-0010 apply.

13 The obligation of the certificate holder to report information to the Oregon Department of Energy
14 (Department) or the Council under the conditions listed in this section and in Section V is subject to the
15 provisions of ORS 192.502 et seq. and ORS 469.560. To the extent permitted by law, the Department
16 and the Council will not publicly disclose information that may be exempt from public disclosure if the
17 certificate holder has clearly labeled such information and stated the basis for the exemption at the time
18 of submitting the information to the Department or the Council. If the Council or the Department
19 receives a request for the disclosure of the information, the Council or the Department, as appropriate,
20 will make a reasonable attempt to notify the certificate holder and will refer the matter to the Attorney
21 General for a determination of whether the exemption is applicable, pursuant to ORS 192.450.

22 In addition to these conditions, the site certificate holder is subject to all conditions and requirements
23 contained in the rules of the Council and in local ordinances and state law in effect on the date the
24 certificate is executed. Under ORS 469.401(2), upon a clear showing of a significant threat to the public
25 health, safety or the environment that requires application of later-adopted laws or rules, the Council
26 may require compliance with such later-adopted laws or rules.

27 The Council recognizes that many specific tasks related to the design, construction, operation and
28 retirement of the facility will be undertaken by the certificate holder's agents or contractors.
29 Nevertheless, the certificate holder is responsible for ensuring compliance with all provisions of the site
30 certificate.

31 1 OAR 345-025-0006(1): The Council shall not change the conditions of the site certificate except
32 as provided for in OAR Chapter 345, Division 27.

33 2 OAR 345-025-0006(2): The certificate holder shall submit a legal description of the site to the
34 Department of Energy within 90 days after beginning operation of the facility. The legal
35 description required by this rule means a description of metes and bounds or a description of
36 the site by reference to a map and geographic data that clearly and specifically identifies the
37 outer boundaries that contain all parts of the facility.

3 OAR 345-025-0006(3): The certificate holder shall design, construct, operate and retire the facility:

(a) Substantially as described in the site certificate;

(b) In compliance with the requirements of ORS Chapter 469, applicable Council rules, and applicable state and local laws, rules and ordinances in effect at the time the site certificate is issued; and (c) In compliance with all applicable permit requirements of other state agencies.

4 OAR 345-025-0006(4): The certificate holder shall begin and complete construction of the facility by the dates specified in the site certificate. (See Conditions 24 and 25.)

5 OAR 345025-0006(5): Except as necessary for the initial survey or as otherwise allowed for wind 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 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 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.

6 OAR 345-025-0006(6): ~~If~~ the certificate holder becomes aware of a significant environmental change or impact attributable to the facility, the certificate holder shall, as soon as possible, submit a written report to the Department describing the impact on the facility and any affected site certificate conditions. [~~AMD4~~~~AMD5~~]

7 OAR 345-025-0006(7): The certificate holder shall prevent the development of any conditions on the site that would preclude restoration of the site to a useful, non-hazardous condition to the extent that prevention of such site conditions is within the control of the certificate holder.

8 OAR 345-025-0006(8): Before beginning construction of the facility ~~or a phase of the facility~~, the certificate holder shall submit to the State of Oregon, through the Council, a bond or letter of credit, in a form and amount satisfactory to the Council to restore the site or a portion of the site to a useful, non-hazardous condition. The certificate holder shall maintain a bond or letter of credit in effect at all times until the facility ~~or the phase of the facility~~ has been retired. The Council may specify different amounts for the bond or letter of credit during construction and during operation of the facility ~~or a phase of the facility~~. (See Condition 32.) [~~AMD4~~~~AMD5~~]

- 9 OAR 345-025-0006(9): The certificate holder shall retire the facility if the certificate holder permanently ceases construction or operation of the facility. The certificate holder shall retire the facility according to a final retirement plan approved by the Council, as described in OAR 345-027-0110. The certificate holder shall pay the actual cost to restore the site to a useful, non-hazardous condition at the time of retirement, notwithstanding the Council's approval in the site certificate of an estimated amount required to restore the site.
- 10 OAR 345-025-0006(10): The Council shall include as conditions in the site certificate all representations in the site certificate application and supporting record the Council deems to be binding commitments made by the applicant.
- 11 OAR 345-025-0006(11): Upon completion of construction, the certificate holder shall restore vegetation to the extent practicable and shall landscape all areas disturbed by construction in a manner compatible with the surroundings and proposed use. Upon completion of construction, the certificate holder shall remove all temporary structures not required for facility operation and dispose of all timber, brush, refuse and flammable or combustible material resulting from clearing of land and construction of the facility.
- 12 OAR 345-025-0006(12): The certificate holder shall design, engineer and construct the facility to avoid dangers to human safety and the environment presented by seismic hazards affecting the site that are expected to result from all maximum probable seismic events. As used in this rule "seismic hazard" includes ground shaking, ground failure, landslide, liquefaction triggering and consequences (including flow failure, settlement buoyancy, and lateral spreading, cyclic softening of clays and silts, fault rupture, directivity effects and soil-structure interaction. For coastal sites, this also includes tsunami hazards and seismically-induced subsidence.
[AMD4AMD5]
- 13 OAR 345-025-0006(13): The certificate holder shall notify the Department, the State Building Codes Division and the Department of Geology and Mineral Industries promptly if site investigations or trenching reveal that conditions in the foundation rocks differ significantly from those described in the application for a site certificate. After the Department receives the notice, the Council may require the certificate holder to consult with the Department of Geology and Mineral Industries and the Building Codes Division to propose and implement corrective or mitigation actions.
- 14 OAR 345-025-0006(14): The certificate holder shall notify the Department, the State Building Codes Division and the Department of Geology and Mineral Industries promptly if shear zones, artesian aquifers, deformations or clastic dikes are found at or in the vicinity of the site. After the Department receives notice, the Council may require the certificate holder to consult with the Department of Geology and Mineral Industries and the Building Codes Division to propose and implement corrective or mitigation actions. [AMD4AMD5]
- 15 OAR 345-025-0006(15): Before any transfer of ownership of the facility or ownership of the site certificate holder, the certificate holder shall inform the Department of the proposed new owners. The requirements of OAR 345-027-0100 apply to any transfer of ownership that requires a transfer of the site certificate.

16 OAR 345-025-0006(16): If the Council finds that the certificate holder has permanently ceased construction or operation of the facility without retiring the facility according to a final retirement plan approved by the Council, as described in OAR 345-027-0110, the Council shall notify the certificate holder and request that the certificate holder submit a proposed final retirement plan to the Department within a reasonable time not to exceed 90 days. If the certificate holder does not submit a proposed final retirement plan by the specified date, the Council may direct the Department to prepare a proposed final retirement plan for the Council's approval. Upon the Council's approval of the final retirement plan, the Council may draw on the bond or letter of credit described in OAR 345-027-0020(8) to restore the site to a useful, non-hazardous condition according to the final retirement plan, in addition to any penalties the Council may impose under OAR Chapter 345, Division 29. If the amount of the bond or letter of credit is insufficient to pay the actual cost of retirement, the certificate holder shall pay any additional cost necessary to restore the site to a useful, non-hazardous condition. After completion of site restoration, the Council shall issue an order to terminate the site certificate if the Council finds that the facility has been retired according to the approved final retirement plan.

17 ~~OAR 35-027-0023(4)~~:

(a) ~~The certificate holder shall design, construct and operate the transmission line in accordance with the requirements of the National Electrical Safety Code approved on June 3, 2011, 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. [Amendment 3, Removed by Amendment 4]~~

18 OAR 345-025-0010(5): The certificate holder is authorized to construct a 230 kV transmission line anywhere within the approved corridor, subject to the conditions of the site certificate. The approved corridor is ½-mile in width and extends approximately 14 miles from the ~~Phase 2~~ Montague Solar collector substation to the ~~Phase 1~~ Montague Wind collector substation to BPA's Slatt Substation as presented in Figure 1 of the site certificate. [OAR 345-025-0010(5); ASC; AMD4]

19 OAR 345-025-0016: The following general monitoring conditions apply:

(1) In the site certificate, the Council shall include conditions that address monitoring and mitigation to ensure compliance with the standards contained in OAR Chapter 345, Division 22 and Division 24. The site certificate applicant, or for an amendment, the certificate holder, shall develop proposed monitoring and mitigation plans in consultation with the Department and, as appropriate, other state agencies, local governments and tribes. Monitoring and mitigation plans are subject to Council approval. The Council shall incorporate approved monitoring and mitigation plans in applicable site certificate conditions. ~~[-AMD4]~~ [AMD5]

20 OAR 345-026-0048: Following receipt of the site certificate or an amended site certificate, the certificate holder shall implement a plan that verifies compliance with all site certificate terms and conditions and applicable statutes and rules. As a part of the compliance plan, to verify

1 compliance with the requirement to begin construction by the date specified in the site
2 certificate, the certificate holder shall report promptly to the Department of Energy when
3 construction begins. Construction is defined in OAR 345-001-0010. In reporting the beginning of
4 construction, the certificate holder shall describe all work on the site performed before
5 beginning construction, including work performed before the Council issued the site certificate,
6 and shall state the cost of that work. For the purpose of this exhibit, "work on the site" means
7 any work within a site or corridor, other than surveying, exploration or other activities to define
8 or characterize the site or corridor. The certificate holder shall document the compliance plan
9 and maintain it for inspection by the Department or the Council.

10 21 OAR 345-026-0080: The certificate holder shall report according to the following requirements:

11 (a) General reporting obligation for energy facilities under construction or operating:

12 (i) Within six months after beginning construction, and every six months thereafter
13 during construction of the energy facility and related or supporting facilities, the
14 certificate holder shall submit a semiannual construction progress report to the
15 Department of Energy. In each construction progress report, the certificate holder
16 shall describe any significant changes to major milestones for construction. The
17 certificate holder shall report on the progress of construction and shall address the
18 subjects listed in subsections (2)(a), (d), (f) and (g). When the reporting date
19 coincides, the certificate holder may include the construction progress report within
20 the annual report described in this rule.

21 (ii) After January 1 but no later than April 30 of each year after beginning operation of
22 the facility, the certificate holder shall submit an annual report to the Department
23 addressing the subjects listed in Subsection (2). For the purposes of this rule, the
24 beginning of operation of the facility means the date when construction of a
25 significant portion of the facility is substantially complete and the certificate holder
26 begins commercial operation of the facility as reported by the certificate holder and
27 accepted by the Department. The Council Secretary and the certificate holder may,
28 by mutual agreement, change the reporting date.

29 (iii) To the extent that information required by this rule is contained in reports the
30 certificate holder submits to other state, federal or local agencies, the certificate
31 holder may submit excerpts from such other reports to satisfy this rule. The Council
32 reserves the right to request full copies of such excerpted reports

33 (b) In the annual report, the certificate holder shall include the following information for the
34 calendar year preceding the date of the report:

35 (i) Facility Status: An overview of site conditions, the status of facilities under
36 construction and a summary of the operating experience of facilities that are in
37 operation. The certificate holder shall describe any unusual events, such as
38 earthquakes, extraordinary windstorms, major accidents or the like that occurred
39 during the year and that had a significant adverse impact on the facility.

40 (ii) Reliability and Efficiency of Power Production: For electric power plants, the plant
41 availability and capacity factors for the reporting year. The certificate holder shall

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1 describe any equipment failures or plant breakdowns that had a significant impact on
2 those factors and shall describe any actions taken to prevent the recurrence of such
3 problems.

4 (iii) Status of Surety Information: Documentation demonstrating that bonds or letters of
5 credit as described in the site certificate are in full force and effect and will remain in
6 full force and effect for the term of the next reporting period.

7 (iv) Monitoring Report: A list and description of all significant monitoring and mitigation
8 activities performed during the previous year in accordance with site certificate terms
9 and conditions, a summary of the results of those activities and a discussion of any
10 significant changes to any monitoring or mitigation program, including the reason for
11 any such changes.

12 (v) Compliance Report: A description of all instances of noncompliance with a site
13 certificate condition. For ease of review, the certificate holder shall, in this section of
14 the report, use numbered subparagraphs corresponding to the applicable sections of
15 the site certificate.

16 (vi) Facility Modification Report: A summary of changes to the facility that the certificate
17 holder has determined do not require a site certificate amendment in accordance
18 with OAR 345-027-0050.

19 ~~(vii)....~~

20 22 OAR 345-026-0105: The certificate holder and the Department of Energy shall exchange copies
21 of all correspondence or summaries of correspondence related to compliance with statutes,
22 rules and local ordinances on which the Council determined compliance, except for material
23 withheld from public disclosure under state or federal law or under Council rules. The certificate
24 holder may submit abstracts of reports in place of full reports; however, the certificate holder
25 shall provide full copies of abstracted reports and any summarized correspondence at the
26 request of the Department.

27 23 OAR 345-026-0170: The certificate holder shall notify the Department of Energy within 72 hours
28 of any occurrence involving the facility if:

29 (a) There is an attempt by anyone to interfere with its safe operation;

30 (b) A natural event such as an earthquake, flood, tsunami or tornado, or a human-caused
31 event such as a fire or explosion affects or threatens to affect the public health and
32 safety or the environment; or

33 (c) There is any fatal injury at the facility.

V. SPECIFIC FACILITY CONDITIONS

34 The conditions listed in this section include conditions based on representations in the site certificate
35 application and supporting record. The Council deems these representations to be binding
36 commitments made by the applicant. These conditions are required under OAR 345-025-0006.

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The certificate holder must comply with these conditions in addition to the conditions listed in Section IV. This section includes other specific facility conditions the Council finds necessary to ensure compliance with the siting standards of OAR Chapter 345, Divisions 22 and 24, and to protect public health and safety. For conditions that require subsequent review and approval of a future action, ORS 469.402 authorizes the Council to delegate the future review and approval to the Department if, in the Council's discretion, the delegation is warranted under the circumstances of the case.

1. Certificate Administration Conditions

24 The certificate holder shall:

~~i. — Begin construction of Phase 1 of the facility by September 14, 2017. Under OAR 345-015-0085(9), a site certificate is effective upon execution by the Council Chair and the applicant. The Council may grant an extension of the deadline to begin construction in accordance with OAR 345-027-0385 or any successor rule in effect at the time the request for extension is submitted. [ASC; AMD2; AMD4]~~

~~Begin construction of Phase 2~~ begin construction of the facility by August 30, 2022. The Council may grant an extension of the deadline to begin construction in accordance with OAR 345-027-0385 or any successor rule in effect at the time the request for extension is submitted. [AMD4AMD5]

25 The certificate holder shall:

~~Complete~~ complete construction of ~~Phase 1 of~~ the facility by ~~September 14, 2020~~ [3 years of from the date of construction commencement]. Construction is complete when: (1) the facility is substantially complete as defined by the certificate holder's construction contract documents, (2) acceptance testing has been satisfactorily completed and (3) the energy facility is ready to begin continuous operation consistent with the site certificate. The certificate holder shall promptly notify the Department of the date of completion of construction. The Council may grant an extension of the deadline for completing construction in accordance with OAR 345-027-0385 or any successor rule in effect at the time the request for extension is submitted. ~~[ASC; AMD2; AMD4]~~ [AMD5]

~~i. — Complete construction of Phase 2 of the facility by [3 years of from the date of construction commencement]. Construction is complete when: (1) the facility is substantially complete as defined by the certificate holder's construction contract documents, (2) acceptance testing has been satisfactorily completed and (3) the energy facility is ready to begin continuous operation consistent with the site certificate. The certificate holder shall promptly notify the Department of the date of completion of construction. The Council may grant an extension of the deadline for completing construction in accordance with OAR 345-027-0385 or any successor rule in effect at the time the request for extension is submitted. [AMD4]~~

~~26 — Before beginning construction of the facility, the certificate holder shall notify the Department whether the turbines identified as H1, H2, H3, H4, L8, L9, L10, L11 and L12 on Figure C-3a of the site certificate application will be built as part of the Montague Wind Power Facility or whether the turbines will be built as part of the Leaning Juniper II Wind Power Facility.~~

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

i. For ~~Phase 1~~ facility components:

~~(a) The total number of turbines must not exceed 81 turbines.~~

~~(b) The turbine hub height must not exceed 100 meters and the maximum blade tip height must not exceed 150 meters.~~

~~(c) The minimum blade tip clearance must be 14 meters above ground. [Amendment #3]~~

ii. ~~For Phase 2 facility components:~~

(a) Components may include any combination of wind and solar energy generation equipment, up to ~~81~~16 wind turbines or the maximum layout (including number and size) of solar array components substantially as described in RFA4.

(b) The maximum blade tip height must not exceed 597 feet (182 meters). The minimum aboveground blade tip clearance must be 46 feet (14 meters).

[Final Order on ASC; AMD3; AMD4; ~~AMD5~~]

28 The certificate holder shall obtain all necessary federal, state and local permits or 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.

29 The certificate holder shall:

i. Before beginning construction ~~of each phase~~ of the facility, provide to the Department a list of all third-party permits which would normally be governed by the site certificate and that are necessary for construction (e.g. Air Contaminant Discharge Permit; Limited Water Use License). Once obtained, the certificate holder shall provide copies of third-party permits to the Department and Gilliam County and shall provide to the Department proof of agreements between the certificate holder and the third-party regarding access to the resources or services secured by the permits or approvals.

ii. During construction and operation, promptly report to the Department if any third-party permits referenced in sub(i) of this condition have been subject to a cited violation, Notice of Violation, or allegation of a violation. [~~AMD4~~AMD5]

30 Before beginning construction, the certificate holder shall notify the Department in advance of any work on the site that does not meet the definition of "construction" in ORS 469.300, excluding surveying, exploration or other activities to define or characterize the site, and shall provide to the Department a description of the work and evidence that its value is less than \$250,000.

31 Before beginning construction but no more than two years before beginning construction and after considering all micrositing factors, the certificate holder shall provide to the Department,

1 to the Oregon Department of Fish and Wildlife (ODFW) and to the Planning Director of Gilliam
2 County detailed maps of the facility site, showing the final locations where the certificate holder
3 proposes to build facility components, and a table showing the acres of temporary and
4 permanent habitat impact by habitat category and subtype, similar to Table 6 in the Final Order
5 on the Application. The detailed maps of the facility site shall indicate the habitat categories of
6 all areas that would be affected during construction (similar to Figures P-~~8a through 8~~ and P-~~8d9~~
7 in ~~the site certificate application RFA4~~). In classifying the affected habitat into habitat categories,
8 the certificate holder shall consult with the ODFW. The certificate holder shall not begin ground
9 disturbance in an affected area until the habitat assessment has been approved by the
10 Department. The Department may employ a qualified contractor to confirm the habitat
11 assessment by on-site inspection.

12 32 ~~i. Before beginning construction of Phase 1 of the facility, the certificate holder shall submit to~~
13 ~~the State of Oregon through the Council a bond or letter of credit in the amount described~~
14 ~~herein naming the State of Oregon, acting by and through the Council, as beneficiary or payee.~~
15 ~~The initial bond or letter of credit is either \$21.511 million (3rd Quarter 2010 dollars), to be~~
16 ~~adjusted to the date of issuance as described in (b), or the amount determined as described in~~
17 ~~(a). The certificate holder shall adjust the amount of the bond or letter of credit on an annual~~
18 ~~basis thereafter as described in (b).~~

19 ~~a. The certificate holder may adjust the amount of the bond or letter of credit based~~
20 ~~on the final design configuration of the facility and turbine types selected by~~
21 ~~applying the unit costs and general costs illustrated in Table 2 in the Final Order on~~
22 ~~the Application and calculating the financial assurance amount as described in that~~
23 ~~order, adjusted to the date of issuance as described in (b) and subject to approval by~~
24 ~~the Department.~~

25 ~~i. Adjust the Subtotal component of the bond or letter of credit amount~~
26 ~~(expressed in 3rd Quarter 2017 dollars) to present value, using the U.S. Gross~~
27 ~~Domestic Product Implicit Price Deflator, Chain Weight, as published in the~~
28 ~~Oregon Department of Administrative Services' "Oregon Economic and~~
29 ~~Revenue Forecast" or by any successor agency (the "Index") and using the~~
30 ~~3rd Quarter 2017 index values (to represent mid-2004 dollars) and the~~
31 ~~quarterly index value for the date of issuance of the new bond or letter of~~
32 ~~credit. If at any time the Index is no longer published, the Council shall~~
33 ~~select a comparable calculation to adjust mid-2004 dollars to present value.~~

34 ~~ii. Add 1 percent of the adjusted Subtotal (i) for the adjusted performance~~
35 ~~bond amount to determine the adjusted Gross Cost.~~

36 ~~iii. Add 10 percent of the adjusted Gross Cost (ii) for the adjusted~~
37 ~~administration and project management costs and 10 percent of the~~
38 ~~adjusted Gross Cost (ii) for the adjusted future developments contingency.~~

39 ~~iv. Add the adjusted Gross Cost (ii) to the sum of the percentages (iii) and~~
40 ~~round the resulting total to the nearest \$1,000 to determine the adjusted~~
41 ~~financial assurance amount.~~

42 ~~b. The certificate holder shall adjust the amount of the bond or letter of credit, using~~
43 ~~the following calculation and subject to approval by the Department:~~

1 ~~c. The certificate holder shall use a form of bond or letter of credit approved by the~~
2 ~~Council.~~

3 ~~d. The certificate holder shall use an issuer of the bond or letter of credit approved by~~
4 ~~the Council.~~

5 ~~e. The certificate holder shall describe the status of the bond or letter of credit in the~~
6 ~~annual report submitted to the Council under Condition 21.~~

7 ~~f. The bond or letter of credit shall not be subject to revocation or reduction before~~
8 ~~retirement of the facility site.~~

9 ~~ii.i. Before beginning construction of Phase 2 of the facility, the certificate holder shall submit to~~
10 ~~the State of Oregon through the Council a bond or letter of credit in the amount described~~
11 ~~herein naming the State of Oregon, acting by and through the Council, as beneficiary or payee.~~
12 ~~The bond or letter of credit will be issued for Phase 2 in~~
13 ~~The bond or letter of credit will be~~
14 ~~issued for~~ an amount that is either \$~~10.4293.1~~ million (1st Quarter 2019 dollars), to be adjusted
15 to the date of issuance as described in (b), or the amount determined as described in (a). The
16 certificate holder shall adjust the amount of the bond or letter of credit on an annual basis
17 thereafter as described in (b).

18 a. The certificate holder may adjust the amount of the bond or letter of credit based
19 on the final design configuration of the facility, and both the battery storage or
20 turbine types selected by applying the unit costs and general costs illustrated in
21 Table 5 of the *Final Order on Amendment 4* and calculating the financial assurance
22 amount as described in that order, adjusted to the date of issuance as described in
23 (b) and subject to approval by the Department. The certificate holder may adjust the
24 amount of the bond or letter of credit under (a) if opting to construct only a portion
25 of the facility.

26 b. The certificate holder shall adjust the amount of the bond or letter of credit, using
27 the following calculation and subject to approval by the Department:

28 i. Adjust the Subtotal component of the bond or letter of credit amount
29 (expressed in ~~mid-2004 dollars~~1st Qtr 2019 dollars) to present value, using
30 the U.S. Gross Domestic Product Implicit Price Deflator, Chain-Weight, as
31 published in the Oregon Department of Administrative Services' "Oregon
32 Economic and Revenue Forecast" or by any successor agency (the "Index")
33 and using the average of the ~~2nd~~1st Quarter and ~~3rd~~2nd Quarter~~2004-2019~~
34 index values (to represent mid-~~2004-2019~~ dollars) and the quarterly index
35 value for the date of issuance of the new bond or letter of credit. If at any
36 time the Index is no longer published, the Council shall select a comparable
37 calculation to adjust mid-~~2004-2019~~ dollars to present value.

38 c. The certificate holder shall adjust the amount of the bond or letter of credit, using
39 the following calculation and subject to approval by the Department:

40 i. Adjust the Subtotal component of the bond or letter of credit amount
41 (expressed in mid-~~2004-2019~~ dollars) to present value, using the U.S. Gross
42 Domestic Product Implicit Price Deflator, Chain-Weight, as published in the
43 Oregon Department of Administrative Services' "Oregon Economic and
44 Revenue Forecast" or by any successor agency (the "Index") and using the
45 average of the 2nd Quarter and 3rd Quarter~~2004~~2004-2019 index values
46 (to represent mid-2004 dollars) and the quarterly index value for the date of
issuance of the new bond or letter of credit. If at any time the Index is no

longer published, the Council shall select a comparable calculation to adjust mid-~~2004-2019~~ dollars to present value.

- ii. Add 1 percent of the adjusted Subtotal (i) for the adjusted performance bond amount to determine the adjusted Gross Cost.
 - iii. Add 10 percent of the adjusted Gross Cost (ii) for the adjusted administration and project management costs, add 20 percent of the adjusted Gross Cost of the Solar Generation and Battery Storage System (ii) and 10 percent of the adjusted Gross Cost of all other facility components(ii) for the adjusted future developments contingency.
 - iv. Add the adjusted Gross Cost (ii) to the sum of the percentages (iii) and round the resulting total to the nearest \$1,000 to determine the adjusted financial assurance amount.
- d. The certificate holder shall use a form of bond or letter of credit approved by the Council.
 - e. The certificate holder shall use an issuer of the bond or letter of credit approved by the Council.
 - f. The certificate holder shall describe the status of the bond or letter of credit in the annual report submitted to the Council under Condition 21.
 - g. The bond or letter of credit shall not be subject to revocation or reduction before retirement of the facility site.

~~[AMD4AMD5]~~

33 If the certificate holder elects to use a bond to meet the requirements of Condition 32, the certificate holder shall ensure that the surety is obligated to comply with the requirements of applicable statutes, Council rules and this site certificate when the surety exercises any legal or contractual right it may have to assume construction, operation or retirement of the energy facility. The certificate holder shall also ensure that the surety is obligated to notify the Council that it is exercising such rights and to obtain any Council approvals required by applicable statutes, Council rules and this site certificate before the surety commences any activity to complete construction, operate or retire the energy facility.

34 Before beginning construction, the certificate holder shall notify the Department of the identity and qualifications of the major design, engineering and construction contractor(s) for the facility. The certificate holder shall select contractors that have substantial experience in the design, engineering and construction of similar facilities. The certificate holder shall report to the Department any change of major contractors.

35 The certificate holder shall contractually require all construction contractors and subcontractors involved in the construction of the facility to comply with all applicable laws and regulations and with the terms and conditions of the site certificate. Such contractual provisions shall not operate to relieve the certificate holder of responsibility under the site certificate.

36 To ensure compliance with all site certificate conditions during construction, the certificate holder shall have a full-time, on-site assistant construction manager who is qualified in environmental compliance. The certificate holder shall notify the Department of the name, telephone number and e-mail address of this person.

37 Within 72 hours after discovery of conditions or circumstances that may violate the terms or
conditions of the site certificate, the certificate holder shall report the conditions or
circumstances to the Department.

2. Land Use Conditions

38 The certificate holder shall:

~~i. Consult~~ consult with area landowners and lessees during construction and operation ~~of~~
~~Phase 1 of the facility and implement measures to reduce and avoid any adverse impacts to~~
~~farm practices on surrounding lands and to avoid any increase in farming costs.~~

~~Consult with area landowners and lessees during construction and operation of Phase 2~~ of the facility
and implement measures to reduce and avoid any adverse impacts to ongoing farm practices on
surrounding lands, including coordination with the landowner of the solar micrositing 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.

[Final Order on ASC; ~~AMD4~~AMD5]

39 The certificate holder shall design and construct:

~~i. Phase 1 of the facility 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. [Final Order on~~
~~ASC; AMD4]~~

~~Phase 2 of~~ 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.

[Final Order on ASC; ~~AMD4~~AMD5]

40 The certificate holder shall install gates on private access roads in accordance with Gilliam
County Zoning Ordinance Section 7.020(T)(4)(d)(6) unless the County has granted a variance to
this requirement.

41 Before beginning construction of the facility, the certificate holder shall record in the real
property records of Gilliam County a Covenant Not to Sue with regard to generally accepted
farming practices on adjacent farmland consistent with GCZO Section 37 7.020(T)(4)(a)(5).

42 The certificate holder shall construct all facility components in compliance with the following
setback requirements:

- (a) All facility components must be at least 3,520 feet from the property line of properties
zoned residential use or designated in the Gilliam County Comprehensive Plan as residential.
- (b) Where (a) does not apply, the certificate holder shall maintain a minimum distance of 110-
percent of maximum blade tip height, measured from the centerline of the turbine tower to

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- the nearest edge of any public road right-of-way. The certificate holder shall assume a minimum right-of-way width of 60 feet.
- (c) Where (a) does not apply, the certificate holder shall maintain a minimum distance of 1,320 feet, measured from the centerline of the turbine tower to the center of the nearest residence existing at the time of tower construction.
- (d) Where (a) does not apply, the certificate holder shall maintain a minimum distance of 110-percent of maximum blade tip height, measured from the centerline of the turbine tower to the nearest boundary of the certificate holder's lease area.
- (e) The certificate holder shall maintain a minimum distance of 250 feet measured from the center line of each turbine tower to the nearest edge of any railroad right-of-way or electrical substation.
- (f) The certificate holder shall maintain a minimum distance of 250 feet measured from the center line of each meteorological tower to the nearest edge of any public road right-of-way or railroad right-of-way, the nearest boundary of the certificate holder's lease area or the nearest electrical substation.
- (g) The certificate holder shall maintain a minimum distance of 50 feet measured from ~~any facility~~the Montague Solar O&M building to the nearest edge of any public road right-of-way or railroad right-of-way or the nearest boundary of the certificate holder's lease area.
- (h) The certificate holder shall maintain a minimum distance of 50 feet measured from any substation to the nearest edge of any public road right-of-way or railroad right-of-way or the nearest boundary of the certificate holder's electrical substation easement or, if there is no easement, the nearest boundary of the certificate holder's lease area.
- (i) Where (a) does not apply, the certificate holder shall maintain a minimum of 110 percent of maximum blade tip height, measured from the centerline of the turbine tower from any overhead utility line. [Amendment #1]
- (j) Where (a) does not apply, the certificate holder shall maintain a minimum of 150 percent of maximum turbine height from blade tip height, measured from the centerline of the turbine tower from federal transmission lines, unless the affected parties agree otherwise. [Amendment #1]
- (k) The certificate holder shall maintain a minimum distance of 25 feet measured from the fence line of the solar array to the nearest property line.
- (l) The certificate holder shall maintain a minimum distance of 25 feet measured from the front, rear and side yard of the battery storage system site to the nearest property line.
- (m) ~~For Phase 2 facility components, all wind~~Wind turbines must be setback a minimum distance of 656 feet (200 meters), measured from the centerline of the turbine tower to the nearest edge of the breaks of Rock Creek Canyon. [AMD4AMD5]

43 During construction and operation of the facility, the certificate holder shall implement a weed control plan approved by the Gilliam County Weed Control Officer or other appropriate County officials to control the introduction and spread of noxious weeds.

44 During operation of the facility, the certificate holder shall restore areas that are temporarily disturbed during facility maintenance or repair activities using the same methods and monitoring procedures described in the Revegetation Plan referenced in Condition 92.

45 Within 90 days after beginning operation ~~of the facility or a phase~~ of the facility, the certificate holder shall provide to the Department and to the Gilliam County Planning Department the

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actual latitude and longitude location or Stateplane NAD 83(91) coordinates of each turbine tower, connecting lines and transmission lines and a summary of as-built changes in the facility compared to the original plan.

46 The certificate holder shall deliver a copy of the annual report required under Condition 21 to the Gilliam County Planning Commission on an annual basis unless specifically discontinued by the County.

3. Cultural Resource Conditions

47 Before beginning construction, the certificate holder shall:

(a) Label all identified historic, cultural or archeological resource sites on construction maps and drawings as “no entry” areas. If construction activities will occur within 200 feet of an identified site, the certificate holder shall flag a 30-meter no entry buffer around the site. The certificate holder may use existing private roads within the buffer areas but may not widen or improve private roads within the buffer areas. The no-entry restriction does not apply to public road rights-of-way within the buffer areas or to operational farmsteads. [Final Order on ASC]

(b) Submit for review and approval by the Department in consultation with the State Historic Preservation Office, a final ~~Phase 2~~ Historical Resource Mitigation Plan (HRMP), based on the draft HRMP provided in Attachment H of the Final Order on Request for Amendment 45. The final HRMP shall include the following:

~~i. Confirmation on established setback of Phase 2 facility components to the Weatherford Barn, if confirmed by the Department and SHPO to represent a distance whereby indirect impacts to setting and feeling would be minimized to less than significant. In the alternative, the certificate holder shall specify the mitigation option selected from the HRMP and the implementation schedule to reduce significant adverse indirect impacts to the Weatherford Barn.~~

~~ii.i.~~ Concurrence from SHPO that the Olex Townsite, Olex School, and the Olex Cemetery (“Olex resources”) are not likely eligible for listing as individual properties or together as a historic district on the National Register of Historic Places (NRHP); or if SHPO concurs that the Olex resources either individually or as a historic district are likely eligible for listing, the certificate holder shall include in its final HRMP appropriate descriptions of the resources and mitigation, which could include an appropriate setback of ~~Phase 2~~ facility components to the Olex resources as confirmed by the Department in consultation with SHPO to represent a distance whereby indirect impacts to setting and feeling would be minimized to less than significant. In the alternative, the certificate holder shall specify the mitigation option selected and the implementation schedule to reduce significant adverse indirect impacts to the Olex resources such as: historic photo documentation and scale drawings of Olex; additional archival and literature review; video media publications; public interpretation funding; or other form of compensatory mitigation deemed appropriate by the Department, in consultation with SHPO.

~~[AMD4AMD5]~~

48 In reference to the alignment of the Oregon Trail described in the Final Order on the Application, the certificate holder shall comply with the following requirements:

- (d) The certificate holder shall not locate facility components on visible remnants of the Oregon Trail and shall avoid any construction disturbance to those remnants.
- (e) The certificate holder shall not locate facility components on undeveloped land where the trail alignment is marked by existing Oregon-California Trail Association markers.
- (f) Before beginning construction, the certificate holder shall provide to the State Historic Preservation Office (SHPO) and the Department documentation of the presumed Oregon Trail alignments within the site boundary.
- (g) The certificate holder shall ensure that construction personnel proceed carefully in the vicinity of the presumed alignments of the Oregon Trail. If any physical evidence of the trail is discovered, the certificate holder shall avoid any disturbance to the intact segments by redesign, re-engineering or restricting the area of construction activity and shall flag a 30-meter no-entry buffer around the intact Trail segments. The certificate holder shall promptly notify the SHPO and the Department of the discovery. The certificate holder shall consult with the SHPO and the Department to determine appropriate mitigation measures.
- 49 Before beginning construction, the certificate holder shall provide to the Department a map showing the final design locations of all components of the facility, the areas that would be temporarily disturbed during construction and the areas that were surveyed in 2009 as described in the Final Order on the Application. The certificate holder shall hire qualified personnel to conduct field investigations of all areas to be disturbed during construction that lie outside the previously-surveyed areas. The certificate holder shall provide a written report of the field investigations to the Department and to the Oregon State Historic Preservation Office (SHPO) for review and approval. If any potentially significant historic, cultural or archaeological resources are found during the field investigation, the certificate holder shall instruct all construction personnel to avoid the identified sites and shall implement appropriate measures to protect the sites, including the measures described in Condition 47.
- 50 During construction, the certificate holder shall:
- (a) Ensure that a qualified archeologist, as defined in OAR 736-051-0070, instructs construction personnel in the identification of cultural materials and avoidance of accidental damage to identified resource site.
- (b) Employ a qualified cultural resource monitor to conduct monitoring of ground disturbance at depths of 12 inches or greater. The qualifications of the selected cultural resources monitor shall be reviewed and approved by the Department, in consultation with the CTUIR Cultural Resources Protection Program. In the selection of the cultural resources monitor to be employed during construction, preference shall be given to citizens of the CTUIR. Ground disturbance at depths 12 inches or greater shall not occur without the presence of the approved cultural resources monitor. If any cultural resources are identified during monitoring activities, the steps outlined in the Inadvertent Discovery Plan, as provided in Attachment H of the Final Order on Amendment 4 should be followed. The certificate holder shall report to the Department in its semi-annual report a description of the ground disturbing activities that occurred during the reporting period, dates cultural monitoring occurred, and shall include copies of monitoring forms completed by the cultural resource monitor. ~~[AMD4AMD5]~~

51 The certificate holder shall ensure that construction personnel cease all ground-disturbing activities in the immediate area if any archaeological or cultural resources are found during construction of the facility until a qualified archaeologist can evaluate the significance of the find. The certificate holder shall notify the Department and the Oregon State Historic Preservation Office (SHPO) of the find. If the SHPO determines that the resource is significant, the certificate holder shall make recommendations to the Council for mitigation, including avoidance, field documentation and data recovery, in consultation with the Department, SHPO, interested Tribes and other appropriate parties. -The certificate holder shall not restart work in the affected area until the certificate holder has demonstrated to the Department and the SHPO that it has complied with archaeological resource protection regulations

4. Geotechnical Conditions

52 Before beginning construction ~~of each phase~~ of the facility, the certificate holder shall conduct a site-specific geotechnical investigation and shall report its findings to the Oregon Department of Geology & Mineral Industries (DOGAMI) and the Department. The certificate holder shall conduct the geotechnical investigation after consultation with DOGAMI to confirm appropriate site-specific methodologies for evaluating seismic and non-seismic hazards to inform equipment foundation and road design. [Final Order; ~~AMD4AMD5~~]

53 The certificate holder shall design and construct the facility in accordance with requirements of the current Oregon Structural Specialty Code and International Building Code. [~~AMD4AMD5~~]

54 The certificate holder shall design, engineer and construct the facility to avoid dangers to human safety presented by non-seismic hazards. As used in this condition, “non-seismic hazards” include settlement, landslides, flooding and erosion.

5. Hazardous Materials, Fire Protection & Public Safety Conditions

55 The certificate holder shall handle hazardous materials used on the site in a manner that protects public health, safety and the environment and shall comply with all applicable local, state and federal environmental laws and regulations. The certificate holder shall not store diesel fuel or gasoline on the facility site during operations. [~~AMD4AMD5~~]

56 If a spill or release of hazardous material occurs during construction or operation of the facility, the certificate holder shall notify the Department within 72 hours and shall clean up the spill or release and dispose of any contaminated soil or other materials according to applicable regulations. The certificate holder shall make sure that spill kits containing items such as absorbent pads are located on equipment and at the O&M buildings. The certificate holder shall instruct employees about proper handling, storage and cleanup of hazardous materials

57 The certificate holder shall construct turbines and pad-mounted transformers on concrete foundations and shall cover the ground within a 10-foot radius with non-flammable material. The certificate holder shall maintain the non-flammable pad area covering during operation of the facility.

58 The certificate holder shall install and maintain self-monitoring devices on each turbine, linked to sensors at the operations and maintenance building, to alert operators to potentially

dangerous conditions, and the certificate holder shall immediately remedy any dangerous conditions. The certificate holder shall maintain automatic equipment protection features in each turbine that would shut down the turbine and reduce the chance of a mechanical problem causing a fire.

59 During construction and operation of the facility, the certificate holder shall ensure that the Montague Solar O&M ~~buildings~~building and all service vehicles are equipped with shovels and portable fire extinguishers of a 4A50BC or equivalent rating.

60 During construction and operation of the facility, the certificate holder shall develop and implement fire safety plans in consultation with the North Gilliam County Rural Fire Protection District to minimize the risk of fire and to respond appropriately to any fires that occur on the facility site. In developing the fire safety plans, the certificate holder shall take into account the dry nature of the region and shall address risks on a seasonal basis. For solar facility components, the certificate holder shall address worker training requirements, inspections, vegetation management, fire prevention and response equipment and agreements with fire districts for mutual assistance in fire response. The certificate holder shall meet annually with local fire protection agency personnel to discuss emergency planning and shall invite local fire protection agency personnel to observe any emergency drill or tower rescue training conducted at the facility. [AMD5]

61 Upon the beginning of operation of the facility, the certificate holder shall provide a site plan to the North Gilliam County Rural Fire Protection District. The certificate holder shall indicate on the site plan the identification number assigned to each turbine and the actual location of all facility structures. The certificate holder shall provide an updated site plan if additional turbines or other structures are later added to the facility. During operation, the certificate holder shall ensure that appropriate fire protection agency personnel have an up-to-date list of the names and telephone numbers of facility personnel available to respond on a 24-hour basis in case of an emergency on the facility site.

62 During construction, the certificate holder shall ensure that construction personnel are trained in fire prevention and response, that construction vehicles and equipment are operated on graveled areas to the extent possible and that open flames, such as cutting torches, are kept away from dry grass areas.

63 During operation of the facility, the certificate holder shall ensure that all on-site employees receive annual fire prevention and response training by qualified instructors or members of the local fire districts. The certificate holder shall ensure that all employees are instructed to keep vehicles on roads and off dry grassland, except when off-road operation is required for emergency purposes.

64 Before beginning construction of:

~~i. Phase 1, the certificate holder shall submit a Notice of Proposed Construction or Alteration to the Federal Aviation Administration (FAA) and the Oregon Department of Aviation identifying the proposed final locations of turbine towers and meteorological towers. The certificate holder shall promptly notify the Department of the responses from the FAA and the Oregon Department of Aviation.~~

~~Phase 2,~~ the certificate holder shall submit a Notice of Proposed Construction or Alteration to the Federal Aviation Administration (FAA) and the Oregon Department of Aviation identifying the proposed final locations of turbine towers and meteorological towers to determine if the structure(s) are a hazard to air navigation and aviation safety. The certificate holder shall promptly notify the Department of the responses from the FAA and the Oregon Department of Aviation. The FAA and ODA evaluation and determinations are valid for 18 months (per OAR 738-070-0180), once issued. The certificate holder shall maintain current hazard determinations on file commensurate with construction timelines. ~~[AMD4AMD5]~~

65 The certificate holder shall follow manufacturers' recommended handling instructions and procedures to prevent damage to turbine or turbine tower components that could lead to failure.

66 The certificate holder shall construct turbine towers with no exterior ladders or access to the turbine blades and shall install locked tower access doors. The certificate holder shall keep tower access doors locked at all times, except when authorized personnel are present.

67 During operation of the facility, the certificate holder shall have a safety-monitoring program and shall inspect all turbine and turbine tower components on a regular basis. The certificate holder shall maintain or repair turbine and turbine tower components as necessary to protect public safety.

68 For turbine types having pad-mounted step-up transformers, the certificate holder shall install the transformers at the base of each tower in locked cabinets designed to protect the public from electrical hazards and to avoid creation of artificial habitat for raptor prey.

69 To protect the public from electrical hazards, the certificate holder shall enclose the facility substations, solar array, and battery storage systems with appropriate fencing and locked gates. ~~[AMD4AMD5]~~

70 Before beginning construction of any new State Highway approaches or utility crossings, the certificate holder shall obtain all required permits from the Oregon Department of Transportation (ODOT) subject to the applicable conditions required by OAR Chapter 734, Divisions 51 and 55. The certificate holder shall submit the necessary application in a form satisfactory to ODOT and the Department for the location, construction and maintenance of a new approach to State Highway 19 for access to the site ~~south of Tree Lane.~~ The certificate holder shall submit the necessary application in a form satisfactory to ODOT and the Department for the location, construction and maintenance of transmission lines crossing Highway 19.

71 The certificate holder shall design and construct new access roads and private road improvements to standards approved by the Gilliam County Road Department ~~or, where applicable, the Morrow County Public Works Department.~~ Where modifications of County roads are necessary, the certificate holder shall construct the modifications entirely within the County road rights-of-way and in conformance with County road design standards subject to the approval of the Gilliam County Road Department ~~or, where applicable, the Morrow County Public Works Department.~~ Where modifications of State roads or highways are necessary, the certificate holder shall construct the modifications entirely within the public road rights-of-way

and in conformance with Oregon Department of Transportation (ODOT) standards subject to the approval of ODOT.

72 The certificate holder shall construct access roads with a finished width of up to 20 feet, designed under the direction of a licensed engineer and compacted to meet equipment load requirements.

73 During construction of the facility, the certificate holder shall implement measures to reduce traffic impacts, including:

(h) Providing notice to adjacent landowners when heavy construction traffic is anticipated.

(i) Providing appropriate traffic safety signage and warnings.

(j) Requiring flaggers to be at appropriate locations at appropriate times during construction to direct traffic.

(k) Using traffic diversion equipment (such as advance signage and pilot cars) when slow or oversize construction loads are anticipated.

(l) Maintaining at least one travel lane at all times to the extent reasonably possible so that roads will not be closed to traffic because of construction vehicles.

(m) Encouraging carpooling for the construction workforce.

(n) Including traffic control procedures in contract specifications for construction of the facility.

(o) Keeping Highway 19 free of gravel that tracks out onto the highway at facility access points.

74 The certificate holder shall ensure that no equipment or machinery is parked or stored on any County road whether inside or outside the site boundary. The certificate holder may temporarily park equipment off the road but within County rights-of-way with the approval of the Gilliam County Road Department ~~or, where applicable, the Morrow County Public Works Department.~~

75 The certificate holder shall cooperate with the Gilliam County Road Department to ensure that any unusual damage or wear to county roads that is caused by construction of the facility is repaired by the certificate holder. Submittal to the Department of an executed Road Use Agreement with Gilliam County shall constitute evidence of compliance with this condition. Upon completion of construction, the certificate holder shall restore public roads to pre-construction condition or better to the satisfaction of the applicable county departments. If required by Gilliam County, the certificate holder shall post bonds to ensure funds are available to repair and maintain roads affected by the facility. If construction ~~of a phase~~ of the facility will utilize county roads in counties other than Gilliam County, the certificate holder shall coordinate with the Department and the respective county road departments regarding the implementation of a similar Road Use Agreement. [~~AMD4~~AMD5]

76 During construction, the certificate holder shall require that all on-site construction contractors develop and implement a site health and safety plan that informs workers and others on-site about first aid techniques and what to do in case of an emergency and that includes important telephone numbers and the locations of on-site fire extinguishers and nearby hospitals. The certificate holder shall ensure that construction contractors have personnel on-site who are trained and equipped for tower rescue and who are first aid and CPR certified.

77 During operation of the facility, the certificate holder shall develop and implement a site health and safety plan that informs employees and others on-site about first aid techniques and what to do in case of an emergency, including a contingency plan in a fire emergency, and that includes important telephone numbers and the locations of on-site fire extinguishers, nearby hospitals, Gilliam County Sheriff's Office and the office locations of the backup law enforcement services. The certificate holder shall ensure that operations personnel are trained and equipped for tower rescue. If the certificate holder conducts an annual emergency drill or performs tower rescue training at the facility, the North Gilliam County Rural Fire Protection District and the Arlington Fire Department will be invited to observe. [~~AMD4~~AMD5]

78

(a) During construction ~~of each phase~~ of the facility, the certificate holder shall provide on-site security within the facility site boundary, and shall establish good communications between on-site security personnel and the Gilliam County Sheriff's Office by establishing a communication protocol between the security personnel and the Sherriff's office. The communication protocol shall be sent to the Department prior to construction.

(b) During operation, the certificate holder shall ensure that appropriate law enforcement agency personnel have an up-to-date list of the names and telephone numbers of facility personnel available to respond on a 24-hour basis in case of an emergency on the facility site. The list shall also be sent to the Department.

79 The certificate holder shall notify the Department of Energy and the Gilliam County Planning Department within 72 hours of any accidents including mechanical failures on the site associated with construction or operation of the facility that may result in public health and safety concerns

6. Water, Soils, Streams & Wetlands Conditions

80

i. The certificate holder shall conduct all construction work in compliance with an Erosion and Sediment Control Plan (ESCP) satisfactory to the Oregon Department of Environmental Quality and as required under the National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge General Permit #1200-C. The certificate holder shall include in the ESCP any procedures necessary to meet local erosion and sediment control requirements or storm water management requirements.

ii.

a. Before beginning construction of ~~Phase 2~~ wind energy generation components, the certificate holder shall submit to the Department and Gilliam County Planning Director for review and approval a topsoil management plan including how topsoil will be stripped, stockpiled, and clearly marked in order to maximize topsoil preservation and minimize erosion impacts. [OAR 660-033-0130(38)(f)(B)]. The topsoil management plan

may be incorporated into the final Erosion and Sediment Control Plan, required under sub(c) or may be provided to the Department as a separate plan.

- b. Prior to beginning facility operation, the certificate holder shall provide the Department a copy of an operational SPCC plan, if required pursuant to OAR 340-141-0001 to -0240.

[AMD4AMD5]

81 During construction, the certificate holder shall limit truck traffic to improved road surfaces to avoid soil compaction, to the extent practicable.

82 During construction, the certificate holder shall implement best management practices to control any dust generated by construction activities, such as applying water to roads and disturbed soil areas.

83 Before beginning construction of the facility ~~or a phase of the facility~~, the certificate holder shall provide to the Department a map showing the final design locations of all components of the facility ~~or phase of the facility~~, and the areas that would be disturbed during construction and showing the wetlands and stream channels previously surveyed by CH2M HILL or HDR as described in the Final Order on the Application and the Final Order on Amendment #4. For areas to be disturbed during construction that lie outside of the previously-surveyed areas, the certificate holder shall hire qualified personnel to conduct a pre-construction investigation to determine whether any jurisdictional waters of the State exist in those locations within the proposed expanded site boundary. The certificate holder shall provide a written report on the pre-construction investigation to the Department and the Department of State Lands for approval before beginning construction ~~of the phase.~~ The certificate holder shall ensure that construction and operation of the facility will have no impact on any jurisdictional water identified in the pre-construction investigation.

84 The certificate holder shall avoid impacts to waters of the state in the following manner:

(a) The certificate holder shall avoid any disturbance to delineated wetlands.

(b) The certificate holder shall construct stream crossings for roads and underground collector lines substantially as described in the Final Order on the Application or the Final Order on Amendment #4. In particular, the certificate holder shall not remove material from waters of the State or add new fill material to waters of the State such that the total volume of removal and fill exceeds 50 cubic yards for the project as a whole.

(c) The certificate holder shall construct support poles for aboveground lines outside of delineated stream channels and shall avoid in-channel impacts.

[AMD4AMD5]

85 During facility operation, the certificate holder shall routinely inspect and maintain all facility components including roads, pads (including turbine and battery storage pad), solar array, and trenched areas and, as necessary, maintain or repair erosion and sediment control measures.

[AMD4AMD5]

86 During facility operation, the certificate holder shall obtain water for on-site uses from an on-site ~~well~~ well located near the Montague Solar O&M ~~buildings~~ building. The certificate holder

~~MONTAGUE WIND POWER~~ OREGON TRAIL SOLAR FACILITY

shall construct ~~the~~ on-site ~~well~~ well subject to compliance with the provisions of ORS 537.765 relating to keeping a well log. The certificate holder shall not use more than 5,000 gallons of water per day from the on-site ~~well~~ well. The certificate holder may use other sources of water for on-site uses subject to prior approval by the Department.

87 During facility operation, if wind turbine blade or solar panel-washing becomes necessary, the certificate holder shall ensure that there is no runoff of wash water from the site or discharges to surface waters, storm sewers or dry wells. The certificate holder shall not use acids, bases or metal brighteners with the wash water. The certificate holder may use biodegradable, phosphate-free cleaners sparingly. [~~AMD4~~AMD5]

7. Transmission Line & EMF Conditions

88 The certificate holder shall install the 34.5-kV collector system underground to the extent practical. The certificate holder shall install underground lines at a minimum depth of three feet. Based on geotechnical conditions or other engineering considerations, the certificate holder may install segments of the collector system aboveground, but the total length of aboveground segments must not exceed 27 miles.

89 The certificate holder shall take reasonable steps to reduce or manage human exposure to electromagnetic fields, including but not limited to:

~~(a) Constructing all aboveground transmission lines at least 200 feet from any residence or other occupied structure, measured from the centerline of the transmission line.~~

~~(b)~~(a) Providing to landowners a map of underground and overhead transmission lines on their property and advising landowners of possible health risks from electric and magnetic fields.

~~(c)~~(b) Designing and maintaining all transmission lines so that alternating current electric fields do not exceed 9 kV per meter at one meter above the ground surface in areas accessible to the public.

~~(d)~~(c) Designing and maintaining all transmission lines so that induced voltages during operation are as low as reasonably achievable.

90 In advance of, and during, preparation of detailed design drawings and specifications for 230-kV and 34.5-kV transmission lines, the certificate holder shall consult with the Utility Safety and Reliability Section of the Oregon Public Utility Commission to ensure that the designs and specifications are consistent with applicable codes and standards.

8. Plants, Wildlife & Habitat Protection Conditions

91 Prior to construction of the Facility ~~or a phase of the Facility~~, the certificate holder shall finalize the Wildlife Monitoring and Mitigation Plans (WMMPs), based on the draft WMMP included as Attachment F of the Final Order on Request for Amendment #45, as approved by the Department in consultation with ODFW. The certificate holder shall conduct wildlife monitoring as described in the final WMMP, as amended from time to time. [Amendment #3; ~~AMD4~~AMD5]

1 92 The certificate holder shall restore areas disturbed by facility construction but not occupied by
2 permanent facility structures according to the methods and monitoring procedures described in
3 the final Revegetation Plans for ~~each phase of the Facility~~ facility, as approved by the
4 Department in consultation with ODFW. The final Revegetation Plan shall be based on the draft
5 plan as Attachment E in the Final Order on Request for Amendment #45, and as amended from
6 time to time. [Amendment #3; ~~AMD4~~AMD5]

7 93 The certificate holder shall:

8 (a) Acquire the legal right to create, enhance, maintain and protect a habitat mitigation area as
9 long as the site certificate is in effect by means of an outright purchase, conservation
10 easement or similar conveyance and shall provide a copy of the documentation to the
11 Department. Within the habitat mitigation area, the certificate holder shall improve the
12 habitat quality as described in the final Habitat Mitigation Plans for ~~each phase of the~~
13 Facility, as approved by the Department in consultation with ODFW. The final Habitat
14 Mitigation Plans shall be based on the draft plan included as Attachment G to the Final
15 Order on Request for Amendment #3 and updated based on Condition 31. The final Habitat
16 Mitigation Plans may be amended from time to time. [Amendment #3; ~~AMD4~~AMD5]

17 (b) Prior to construction ~~of Phase 2 components~~, the certificate holder shall finalize and
18 implement the ~~Phase 2~~ Habitat Mitigation Plan (HMP) included as Attachment D of the Final
19 Order, as approved by ODOE in Consultation with ODFW. Provision 93(b)(A) regarding
20 impacted acreage calculations shall be completed and submitted to the department after
21 construction is complete as described in the condition below.

22 (c) Within 90 days of completion of construction, the certificate holder shall submit to the
23 department and ODFW an updated HMP Table.
24 ~~[AMD4~~AMD5]

25 94 The certificate holder shall determine the boundaries of Category 1 Washington ground squirrel
26 (WGS) habitat based on the locations where the squirrels were found to be active in the most
27 recent WGS survey prior to the beginning of construction in habitat suitable for WGS foraging or
28 burrow establishment ("suitable habitat"). The certificate holder shall hire a qualified
29 professional biologist who has experience in detection of WGS to conduct surveys using a survey
30 protocol approved by the Oregon Department of Fish and Wildlife (ODFW). The biologist shall
31 survey all areas of suitable habitat where permanent facility components would be located or
32 where construction disturbance could occur. Except as provided in (a), the biologist shall
33 conduct the protocol surveys in the active squirrel season (March 1 to May 31) in 2010 and in
34 the active squirrel seasons in subsequent years until the beginning of construction in suitable
35 habitat. The certificate holder shall provide written reports of the surveys to the Department
36 and to ODFW and shall identify the boundaries of Category 1 WGS habitat. The certificate holder
37 shall not begin construction within suitable habitat until the identified boundaries of Category 1
38 WGS habitat have been approved by the Department. Category 1 WGS habitat includes the
39 areas described in (b) and (c).

40 (a) The certificate holder may omit the WGS survey in any year if the certificate holder
41 avoids all permanent and temporary disturbance within suitable habitat until a WGS

survey has been completed in the following year and the boundaries of Category 1 habitat have been determined and approved based on that survey.

(b) Category 1 WGS habitat includes the area within the perimeter of multiple active WGS burrows plus a 785-foot buffer, excluding areas of habitat types not suitable for WGS foraging or burrow establishment. If the multiple-burrow area was active in a prior survey year, then Category 1 habitat includes the largest extent of the active burrow area ever recorded (in the current or any prior-year survey), plus a 785-foot buffer.

(c) Category 1 WGS habitat includes the area containing single active burrow detections plus a 785-foot buffer, excluding areas of habitat types not suitable for WGS foraging or burrow establishment. Category 1 habitat does not include single-burrow areas that were found active in a prior survey year but that are not active in the current survey year.

95 The certificate holder shall implement measures to mitigate impacts to sensitive wildlife habitat during construction including, but not limited to, the following:

(a) The certificate holder shall not construct any facility components within areas of Category 1 habitat and shall avoid temporary disturbance of Category 1 habitat.

(b) Before beginning construction, but no more than two years prior to the beginning of construction of ~~a phase of~~ the facility, the certificate holder shall hire a qualified professional biologist to conduct a survey of all areas to be disturbed by construction for threatened and endangered species. The certificate holder shall provide a written report of the survey and a copy of the survey to the Department, the Oregon Department of Fish and Wildlife (ODFW), and the Oregon Department of Agriculture (ODA). If the surveys identify the presence of threatened or endangered species within the survey area, the certificate holder shall implement appropriate measures to avoid a significant reduction in the likelihood of survival or recovery of the species, as approved by the Department, in consultation with ODA and ODFW.

(c) Before beginning construction ~~of a phase~~ of the facility, the certificate holder's qualified professional biologist shall survey the Category 1 Washington ground squirrel habitat to ensure that the sensitive use area is correctly marked with exclusion flagging and avoided during construction. The certificate holder shall maintain the exclusion markings until construction has been completed.

(d) Before beginning construction ~~of a phase~~ of the facility, certificate holder's qualified professional biologist shall complete the avian use studies that began in September 2009 at six plots within or near the facility site as described in the Final Order on the Application. The certificate holder shall provide a written report on the avian use studies to the Department and to ODFW.

(e) Before beginning construction ~~of a phase~~ of the facility, certificate holder's qualified professional biologist shall complete raptor nest surveys within the raptor nest survey area as described in the Final Order on the Application. The purposes of the survey are to identify any sensitive raptor nests near construction areas and to provide baseline

information on raptor nest use for analysis as described in the Wildlife Monitoring and Mitigation Plan referenced in Condition 91. The certificate holder shall provide a written report on the raptor nest surveys and the surveys to the Department and to ODFW. If the surveys identify the presence of raptor nests within the survey area, the certificate holder shall implement appropriate measures to assure that the design, construction and operation of the facility are consistent with the fish and wildlife habitat mitigation goals and standards of OAR 635-415-0025, as approved by the Department, in consultation with ODFW.

(f) In the final design layout of the facility, the certificate holder shall locate facility components, access roads and construction areas to avoid or minimize temporary and permanent impacts to high quality native habitat and to retain habitat cover in the general landscape where practicable.

96 During construction, the certificate holder shall avoid all construction activities within a 1,300-foot buffer around potentially-active nest sites of the following species during the sensitive period, as provided in this condition:

<u>Species</u>	<u>Sensitive Period</u>	<u>Early Release Date</u>
Swainson's hawk	April 1 to August 15	May 31
Ferruginous hawk	March 15 to August 15	May 31
Burrowing owl	April 1 to August 15	July 15

During the year in which construction occurs, the certificate holder shall use a protocol approved by the Oregon Department of Fish and Wildlife (ODFW) to determine whether there are any active nests of these species within a half-mile of any areas that would be disturbed during construction. The certificate holder shall begin monitoring potential nest sites by March 15 and shall continue monitoring until at least May 31 to determine whether any potentially-active nest sites become active during the sensitive period.

If any nest site is determined to be unoccupied by the early release date (May 31), then unrestricted construction activities may occur within 1,300 feet of the nest site after that date. If a nest is occupied by any of these species after the beginning of the sensitive period, the certificate holder will flag the boundaries of a 1,300-foot buffer area around the nest site and shall instruct construction personnel to avoid disturbance of the buffer area. During the sensitive period, the certificate holder shall not engage in high-impact construction activities (activities that involve blasting, grading or other major ground disturbance) within the buffer area. The certificate holder shall restrict construction traffic within the buffer, except on public roads, to vehicles essential to the limited construction activities allowed within the buffer.

If burrowing owl nests are occupied during the sensitive period, the certificate holder may adjust the 1,300-foot buffer around these nests after consultation with ODFW and subject to the approval of the Department.

The certificate holder shall hire a qualified independent professional biologist to observe the active nest sites during the sensitive period for signs of disturbance and to notify the

Department of any non-compliance with this condition. If the biologist observes nest site abandonment or other adverse impact to nesting activity, the certificate holder shall implement appropriate mitigation, in consultation with ODFW and subject to the approval of the Department, unless the adverse impact is clearly shown to have a cause other than construction activity.

The certificate holder may begin or resume construction activities within the buffer area before the ending day of the sensitive period with the approval of ODFW, after the young are fledged. The certificate holder shall use a protocol approved by ODFW to determine when the young are fledged (the young are independent of the core nest site).

~~97 The certificate holder shall protect the area within 1,300 feet of the BLM Horn Butte Wildlife Area during the long-billed curlew nesting season (March 8 through June 15), as described in this condition. Before beginning construction, the certificate holder shall provide to the Department a map showing the areas of potential construction disturbance in the vicinity of the BLM lands that are part of the Horn Butte Wildlife Area and showing a 1,300-foot buffer from those areas. During the nesting season, the certificate holder shall not engage in high-impact construction activities (activities that involve blasting, grading or other major ground disturbance) or allow high levels of construction traffic within the buffer area. The certificate holder shall flag the boundaries of the 1,300-foot buffer area and shall instruct construction personnel to avoid any unnecessary activity within the buffer area. The certificate holder shall restrict construction traffic within the buffer, except on public roads, to vehicles essential to the limited construction activities allowed within the buffer. The certificate holder may engage in construction activities within the buffer area at times other than the nesting season.~~

98 The certificate holder shall implement measures to avoid or mitigate impacts to sensitive wildlife habitat during construction including, but not limited to, the following:

- (a) Preparing maps to show occlusion areas that are off-limits to construction personnel, such as nesting or denning areas for sensitive wildlife species.
- (b) Avoiding unnecessary road construction, temporary disturbance and vehicle use.
- (c) Limiting construction work to approved and surveyed areas shown on facility constraints maps.
- (d) Ensuring that all construction personnel are instructed to avoid driving cross-country or taking short-cuts within the site boundary or otherwise disturbing areas outside of the approved and surveyed construction areas.

99 The certificate holder shall reduce the risk of injuries to avian species by:

- (a) Installing turbine towers that are smooth steel structures that lack features that would allow avian perching.
- (b) Locating turbine towers to avoid areas of increased risk to avian species, such as cliff edges, narrow ridge saddles and gaps between hilltops.

(c) Installing meteorological towers that are non-guyed structures to eliminate the risk of avian collision with guy-wires.

(d) Designing and installing all aboveground transmission line support structures following the most current suggested practices for avian protection on power lines published by the Avian Power Line Interaction Committee.

100 The certificate holder shall hire a qualified environmental professional to provide environmental training during construction and operation. Environmental training includes information on the sensitive species present onsite, precautions to avoid injuring or destroying wildlife or sensitive wildlife habitat, exclusion areas, permit requirements and other environmental issues. The certificate holder shall instruct construction and operations personnel to report any injured or dead wildlife detected while on the site to the appropriate onsite environmental manager.

101 The certificate holder shall impose and enforce a construction and operation speed limit of 20 miles per hour throughout the facility site and, during the active squirrel season (March 1 to May 31), a speed limit of 10 miles per hour from one hour before sunset to one hour after sunrise on private roads near known Washington ground squirrel (WGS) colonies. The certificate holder shall ensure that all construction and operations personnel are instructed to watch out for and avoid WGS and other wildlife while driving through the facility site.

9. Visual Effects Conditions

102 To reduce the visual impact of the facility, the certificate holder shall:

(a) Mount nacelles on smooth, steel structures, painted uniformly in a low-reflectivity, neutral white color.

(b) Paint the Montague Solar collector substation and switching station structures in a low-reflectivity neutral color to blend with the surrounding landscape.

(c) Not allow any advertising to be used on any part of the facility.

(d) Use only those signs required for facility safety, required by law or otherwise required by this site certificate, except that the certificate holder may erect a sign near the Montague Solar O&M buildingsbuilding to identify the facility, may paint turbine numbers on each tower and may allow unobtrusive manufacturers' logos on turbine nacelles.

(e) Maintain any signs allowed under this condition in good repair.

103 The certificate holder shall design and construct the O&M buildingsbuilding, substation, and buildings and containers associated with battery storage to be generally consistent with the character of similar buildings used by commercial farmers or ranchers in the area and shall paint the building in a low-reflectivity, neutral color to blend with the surrounding landscape.
[AMD4AMD5]

104 The certificate holder shall not use exterior nighttime lighting except:

- (a) The minimum turbine tower lighting required or recommended by the Federal Aviation Administration.
- (b) Security lighting at the O&M buildings and at the substations, provided that such lighting is shielded or downward-directed to reduce glare.
- (c) Minimum lighting necessary for repairs or emergencies.
- (d) Minimum lighting necessary for construction directed to illuminate the work area and shielded or downward-directed to reduce glare.

~~105 The certificate holder shall maintain a minimum distance of 1,000 feet measured from the centerline of each turbine tower or meteorological tower to the centerline of the line-of-sight from the vantage point of the Fourmile Canyon interpretive site looking toward the visible Oregon Trail ruts (bearing S 89° 42' 34" W from latitude, longitude: 45.622047, -120.044112) as described in the Final Order on the Application.~~

10. Noise Control Conditions

106 To reduce construction noise impacts at nearby residences, the certificate holder shall:

- (a) Confine the noisiest operation of heavy construction equipment to the daylight hours.
- (b) Require contractors to install and maintain exhaust mufflers on all combustion engine-powered equipment; and
- (c) Establish a complaint response system at the construction manager's office to address noise complaints.

107 The certificate holder shall provide to the Department:

i. Prior to ~~Phase 1~~ construction:

~~a. Information that identifies the final design locations of (all turbines, to be built at the facility...~~

~~ii. Prior to Phase 2 construction:~~

a. A noise analysis that includes the following Information:

Final design locations of all ~~Phase 1 and Phase 2~~ noise-generating facility components (all wind turbines; substation transformers; inverters; and transformers associated with the photovoltaic solar array; and inverters and cooling systems associated with the battery storage system).

The maximum sound power level for the ~~Phase 2~~ Montague Solar collector substation transformers; inverters and transformers associated with the photovoltaic solar array; inverters and cooling systems associated with battery storage system; and the maximum sound power level and octave band data for the Phase 2 wind turbines selected for the facility based on manufacturers' warranties or confirmed by other means acceptable to the Department.

1 The results of noise analysis ~~of Phase 1 and Phase 2 components~~ according to the final
2 design performed in a manner consistent with the requirements of OAR 340-035-
3 0035(1)(b)(B)(iii) (IV) and (VI) demonstrating to the satisfaction of the Department that
4 the total noise generated by the facility (including the noise from wind turbines,
5 substation transformers, inverters and transformers associated with the photovoltaic
6 solar array; inverters and cooling systems associated with battery storage system) would
7 meet the ambient degradation test and maximum allowable test at the appropriate
8 measurement point for all potentially-affected noise sensitive properties. The certificate
9 holder shall verify that all noise sensitive properties within one mile of the final design
10 locations of noise-generating components ~~for Phase 1 and Phase 2~~ have been identified
11 and included in the preconstruction noise analysis based on review of the most recent
12 property owner information obtained from the Gilliam County Tax Assessor Roll.

13
14 For each noise-sensitive property where the certificate holder relies on a noise waiver to
15 demonstrate compliance in accordance with OAR 340-035-0035(1)(b)(B)(iii)(III), a copy
16 of the a legally effective easement or real covenant pursuant to which the owner of the
17 property authorizes the certificate holder's operation of the facility to increase ambient
18 statistical noise levels L10 and L50 by more than 10 dBA at the appropriate
19 measurement point. The legally-effective easement or real covenant must: include a
20 legal description of the burdened property (the noise-sensitive property); be recorded in
21 the real property records of the county; expressly benefit the certificate holder;
22 expressly run with the land and bind all future owners, lessees or holders of any interest
23 in the burdened property; and not be subject to revocation without the certificate
24 holder's written approval.

25 [Final Order on ASC; ~~AMD4~~AMD5]

26 108 During operation of the facility, the certificate holder shall implement measures to ensure
27 compliance with the noise control regulation, including:

- 28 a. Providing notice of the noise complaint system and how to file a noise complaint to noise
29 sensitive receptors within 1-mile of noise-generating components.
- 30 b. Maintain a complaint response system to address noise complaints. The certificate holder
31 shall promptly notify the Department of any complaints received regarding facility noise
32 and of any actions taken by the certificate holder to address those complaints. In response
33 to a complaint from the owner of a noise sensitive property regarding noise levels during
34 operation of the facility, the Council may require the certificate holder to monitor and
35 record the statistical noise levels to verify that the certificate holder is operating the
36 facility in compliance with the noise control regulations. AMD5

37 ~~{AMD4}~~

38 39 **11. Waste Management Conditions**

40 109 The certificate holder shall provide portable toilets for on-site sewage handling during
41 construction and shall ensure that they are pumped and cleaned regularly by a licensed
42 contractor who is qualified to pump and clean portable toilet facilities.

1 110 During operation of the facility, the certificate holder shall discharge sanitary wastewater
2 generated at the Montague Solar O&M buildingsbuilding to a licensed on-site septic
3 systemssystem in compliance with State permit requirements. The certificate holder shall design
4 the septic systemssystem for a discharge capacity of less than 2,500 gallons per day.

5 111 The certificate holder shall implement a waste management plan during construction that
6 includes but is not limited to the following measures:

- 7 (a) Recycling steel and other metal scrap.
- 8 (b) Recycling wood waste.
- 9 (c) Recycling packaging wastes such as paper and cardboard.
- 10 (d) Collecting non-recyclable waste for transport to a local landfill by a licensed waste hauler.
- 11 (e) Segregating all hazardous wastes such as used oil, oily rags and oil-absorbent materials,
12 and mercury-containing lights and lithium-ion, flow, lead-acid and nickel-cadmium
13 batteries for disposal by a licensed firm specializing in the proper recycling or disposal of
14 hazardous wastes. [AMD4AMD5]
- 15 (f) Confining concrete delivery truck rinse-out within the foundation excavation, discharging
16 rinse water into foundation holes and burying other concrete waste as part of backfilling
17 the turbine foundation.

18 112 The certificate holder shall implement a waste management plan during facility operation that
19 includes but is not limited to the following measures:

- 20 (a) Training employees to minimize and recycle solid waste.
- 21 (b) Recycling paper products, metals, glass and plastics.
- 22 (c) Recycling used oil and hydraulic fluid
- 23 (d) Collecting non-recyclable waste for transport to a local landfill by a licensed waste hauler.
- 24 (e) Segregating all hazardous, non-recyclable wastes such as used oil, oily rags and oil-
25 absorbent materials, and mercury-containing lights and lithium-ion, flow, lead-acid and
26 nickel-cadmium batteries for disposal by a licensed firm specializing in the proper
27 recycling or disposal of hazardous wastes. [AMD4AMD5]

28 **VI. CONDITIONS ADDED BY AMENDMENT # 1 OF MONTAGUE**

29 113 ~~The transfer of the First Amended Site Certificate from the certificate holder to Portland General~~
30 ~~Electric (PGE), the transferee, shall not be effective until PGE executes in closing the form of site~~
31 ~~certificate naming PGE the certificate holder, which is attached as Attachment B to the Final~~
32 ~~Order on Amendment #1. Upon closing, the First Amended Site Certificate naming PGE as the~~
33 ~~certificate holder shall be in full force and effect and the First Amended Site Certificate naming~~

Montague Wind Power LLC as the certificate holder shall be considered rescinded and void in its entirety. [Removed by Amendment #2.]

114 Should the closing contemplated in Condition 113 not occur within 18 months of the effective date of the First Amended Site Certificate to Montague Wind Power LLC, the Council's transfer approval within the Final Order on Amendment #1 shall be void. [Removed by Amendment #2.]

115 PGE must provide the Department a copy of the executed First Amended Site Certificate and documentation of the asset purchase agreement within 7 days of closing. [Removed by Amendment #2.]

VII. CONDITIONS ADDED BY AMENDMENT #4 OF MONTAGUE

116: The certificate holder shall ensure its third-party contractor transports and disposes of battery and battery waste in compliance with all applicable regulations and manufacturer recommendations related to the transport of hazardous battery materials.

a. Prior to construction, the certificate holder shall provide a description to the Department of applicable regulations and manufacturer recommendations applicable to the transport and disposal of batteries and battery related waste.

b. During construction and operation, the certificate holder shall report to the Department any potential compliance issue or cited violations of its third-party contractor for the requirements identified in sub(a) of this condition. [AMD5]

[AMD4]

117 During facility operation, the certificate holder shall conduct monthly inspections of the battery storage systems, in accordance with manufacturer specifications. The certificate holder shall maintain documentation of inspections, including any corrective actions, and shall make available for review upon request by the Department. [AMD4AMD5]

CONDITIONS ADDED BY AMENDMENT #5

118 The site certificate authorizes shared use of related or supporting facilities including the Montague Solar collector substation, Montague Solar O&M building, battery storage system, 230 kV transmission line, access roads, and temporary staging areas under the site certificates issued for the Montague Solar Facility and Oregon Trail Solar Facility. The site certificate authorizes shared use of related or supporting facilities including the Montague Wind collector substation under the site certificates issued for the Montague Wind Facility, Montague Solar Facility and Oregon Trail Solar Facility.

a. Within 30 days of shared use, the certificate holder must provide evidence to the Department that the certificate holders have an executed agreement for shared use of facilities.

b. If certificate holders of Montague Wind, Montague Solar or Oregon Trail Solar Facility propose to substantially modify any of the shared facilities listed in sub(a) of this condition, each certificate holder shall submit an amendment determination request or request for site certificate amendment to obtain a determination from the Department on whether a

1 site certificate amendment is required or to process an amendment for both site
2 certificates.

3 c. Prior to facility decommissioning or if facility operations cease, each certificate holder shall
4 submit an amendment determination request or request for site certificate amendment to
5 document continued ownership and full responsibility, including coverage of full
6 decommissioning amount of the shared facilities in the bond or letter of credit pursuant to
7 Condition 32, for the operational facility, if facilities are decommissioned at different times.
8

9 **VIII. SUCCESSORS AND ASSIGNS**

10 To transfer this site certificate or any portion thereof or to assign or dispose of it in any other manner,
11 directly or indirectly, the certificate holder shall comply with OAR 345-027-~~0100~~0400.

12 **IX. SEVERABILITY AND CONSTRUCTION**

13 If any provision of this agreement and certificate is declared by a court to be illegal or in conflict with
14 any law, the validity of the remaining terms and conditions shall not be affected, and the rights and
15 obligations of the parties shall be construed and enforced as if the agreement and certificate did not
16 contain the particular provision held to be invalid.

17 **X. GOVERNING LAW AND FORUM**

18 This site certificate shall be governed by the laws of the State of Oregon. Any litigation or arbitration
19 arising out of this agreement shall be conducted in an appropriate forum in Oregon.

XI. EXECUTION

This site certificate may be executed in counterparts and will become effective upon signature by the Chair of the Energy Facility Siting Council and the authorized representative of the certificate holder.

IN WITNESS WHEREOF, this site certificate has been executed by the State of Oregon, acting by and through its Energy Facility Siting Council, and by ~~Montague Wind Power Facility~~Oregon Trail Solar, LLC.

ENERGY FACILITY SITTING COUNCIL

~~**MONTAGUE WIND POWER FACILITY**~~**OREGON TRAIL SOLAR, LLC**

By: _____

By: _____

Print: _____

Print: _____

Date: _____

Date: _____

and

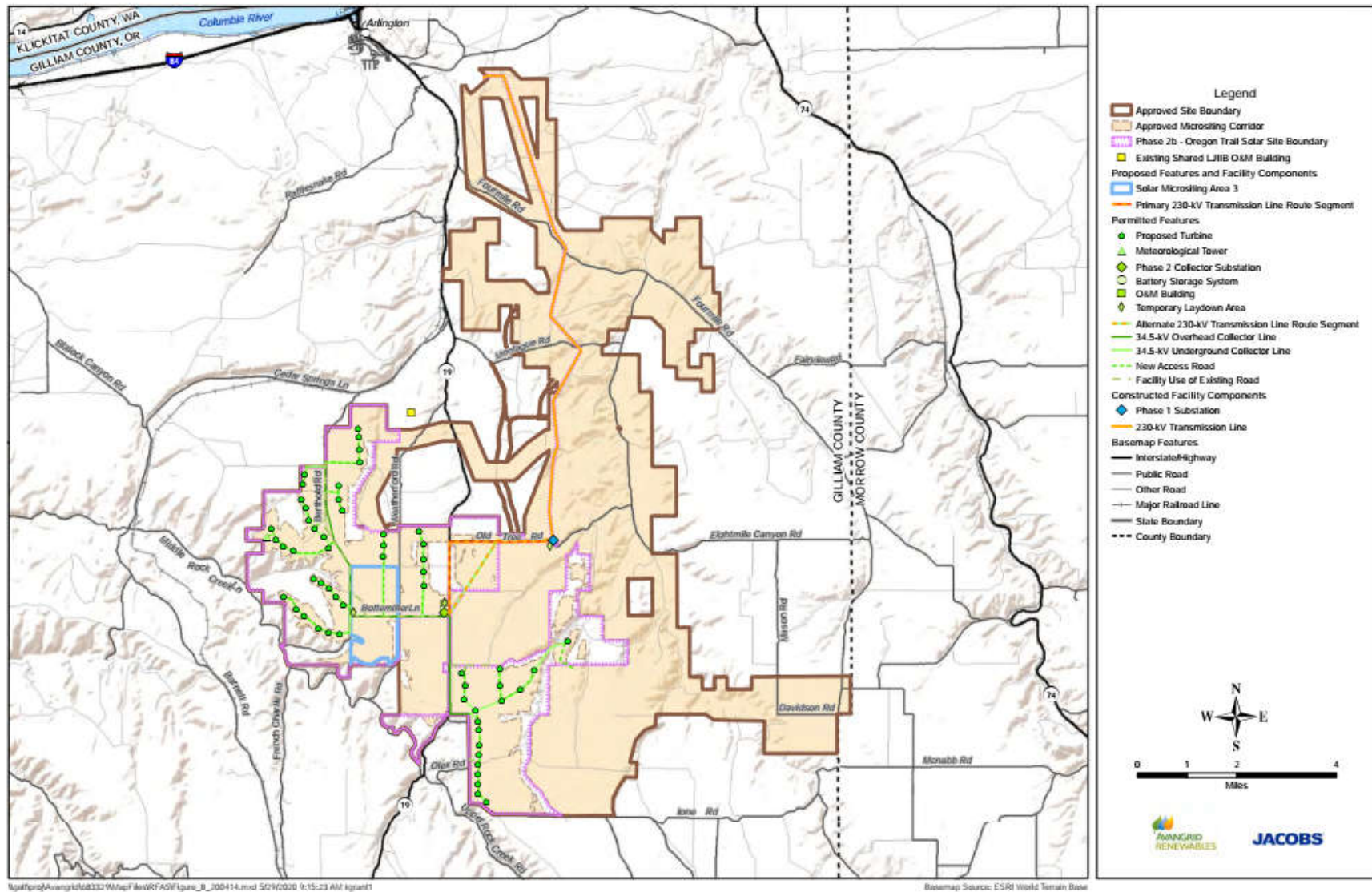
By: _____

Print: _____

Date: _____

1 **Figure 1: Site Boundary and 230 kV transmission line corridor**

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Attachment B

Reviewing Agency Comments on preliminary Request for Amendment 5

ESTERSON Sarah * ODOE

Subject: FW: Montague Wind Power Facility - Request for Amendment 5 - Request for ODA Comment
Attachments: 7460 Data Template.xlsx

From: THOMPSON Seth <Seth.THOMPSON@aviation.state.or.us>
Sent: Wednesday, May 27, 2020 1:26 PM
To: ESTERSON Sarah * ODOE <Sarah.Esterson@oregon.gov>; LAWYER Matthew A <Matthew.A.LAWYER@aviation.state.or.us>
Cc: PECK Heather <heather.peck@aviation.state.or.us>
Subject: RE: Montague Wind Power Facility - Request for Amendment 5 - Request for ODA Comment

Hi Sarah,

Thank you for reaching out. Things are well here! I hope you are doing well too.

I have been following Montague and was awaiting the comment period to open.

Matt is currently out of the office, but I will do my best to provide you with an accurate review of this site.

I have included responses to your bulleted questions below:

- Are there any public or private/military airports/heliports within 10 miles of the proposed amended site boundary?
The facility site boundary can be viewed here: [EFSC Energy Facilities GIS Map](#)

After reviewing the site boundary using your [EFSC Energy Facilities GIS Map](#) and Google Earth, the project's site boundary is less than three miles to the south of the Arlington Municipal airport.

- Structures associated with this amendment include 34.5 kV and 230 kV transmission structures (100 ft max), solar modules (15 ft max), and a switching station (less than 100 ft). Based on review of proximate airports, are there any concerns?

Based on the above the information, I recommend the transmission structures and switching station undergo airspace analysis by the ODA.

As there are multiple structures, you can send me their coordinate and height data in a single excel doc if that is easiest.

I will then provide you with a letter of determination for all structures you provide me.

- Could you confirm whether ODA believes the changes proposed in Request for Amendment 5 are consistent or would comply with FAA Part 77.9 standards?

Based on the information I have reviewed for this site and the information you provided me per structure heights, the changes proposed in Request for Amendment 5 will likely comply with FAA Part 77.9 standards.

The ODA may recommend lighting and marking for structures that exceed either notification or obstruction standards per FAA Part 77.9.

I know that we have been having trouble uploading shapefiles for sites to Google Earth.

For that reason, it would be most accurate for the ODA to receive coordinates for the sites. I have included an excel template for you to use if needed.

Thank you again and please let me know if I can provide further assistance.

Seth Thompson

OREGON DEPARTMENT OF AVIATION
AVIATION PLANNER



OFFICE 503-378-2529 **CELL** 503-507-6965

EMAIL seth.thompson@aviation.state.or.us

3040 25TH STREET SE, SALEM, OR 97302

WWW.OREGON.GOV/AVIATION

ESTERSON Sarah * ODOE

Subject: Montague Wind Power Facility - Request for Amendment 5 - Request for ODFW Review/Comments

From: Steve Cherry <Steve.P.Cherry@state.or.us>

Sent: Thursday, May 28, 2020 1:49 PM

To: ESTERSON Sarah * ODOE <Sarah.Esterson@oregon.gov>; REIF Sarah J <Sarah.J.Reif@state.or.us>; CHERRY Steve P <Steve.P.Cherry@state.or.us>

Subject: RE: Montague Wind Power Facility - Request for Amendment 5 - Request for ODFW Review/Comments

Sarah,

The proposed new additional acreage does appear to be category 6 dryland wheat. As long as they stay within the category 6 habitat ODFW does not see any additional survey requirements for this additional acreage. The raptor nest surveys that they have completed would have covered this area and since it is Category 6 dryland wheat there is no potential for WGS or any sensitive species other than raptors.

On February 8th 2019 while commenting on the draft WMMP for Phase two I recommended that we complete at least one year of post construction fatality monitoring on the proposed solar array. If this additional acreage is included and built as a solar array I would recommend that we conduct one year of post construction monitoring on the entire array. While we do not have any information that I am aware of that size of the facility affects mortality I think it would still be good to look at some local facilities to determine fatality effects on birds. This has been our consistent recommendation to county and EFSC level projects at least in the Basin. There is still very little published information regarding impacts of PV on bird fatality but a recent paper by Kosciuck et al 2020 found that 90 percent of the 10 sites they looked at had fatalities to water obligate birds and a high end estimate of 2.49 bird fatalities per megawatt per year in the southwestern U.S.

Please let me know if you have any more questions regarding this proposed amendment. Thanks

Steve

Attachment C

[Reserved for Draft Proposed Order Comments/Index]

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Notice of the Right to Appeal
[Text to be added to Final Order]