

Exhibit K

Land Use

**Wheatridge Renewable Energy Facility East
January 2024**

**Prepared for
Wheatridge East Wind, LLC**

Prepared by



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Table of Contents

1.0 Introduction..... 1

2.0 Analysis Area – OAR 345-021-0010(1)(k)(A) 2

3.0 Land Use Analysis..... 4

4.0 Local Land Use Approval – OAR 345-021-0010(1)(k)(B) 9

5.0 EFSC Determination on Land Use – OAR 345-021-0010(1)(k)(C)..... 10

 5.1 Identification of Applicable Substantive Criteria – OAR 345-021-0010(1)(k)(C)(i) 10

 5.2 Applicable Substantive Criteria from OAR 345-021-0010(1)(k)(C)(ii)..... 10

 5.3 Compliance with Applicable Substantive Criteria from the Morrow County Zoning Ordinance/MCZO Criteria 12

 5.3.1 Section 1.050 Zoning Permit..... 12

5.3.2 Section 3.010. Exclusive Farm Use (EFU) Zone, B. Uses Permitted Outright 12

5.3.3 Section 3.010. EFU Zone; C. Conditional Uses 13

5.3.4 Section 3.010. EFU Zone; D. Use Standards..... 14

5.3.5 Section 3.010. EFU Zone; K. Commercial Facilities for Generating Power 18

5.3.6 Section 3.010. EFU Zone; L. Land Divisions..... 23

 5.3.7 Section 3.010. EFU Zone; M. Yards..... 23

 5.3.8 Section 3.010. EFU Zone; N. Transportation Impacts 24

 5.4 Article 4. Supplementary Provisions 25

 5.4.1 Section 4.010. Access..... 25

 5.4.1 Section 4.020. Sight Distance 30

 5.4.2 Section 4.035. Permit Requirements For Land Use Development 30

 5.4.3 Section 4.040. Off-Street Vehicle Parking Requirements and Section 4.060. Design and Improvement Standards – Parking Lots..... 31

 5.4.4 Section 4.070. Sign Limitations and Regulations..... 31

 5.4.5 Section 4.165 Site Plan Review 31

 5.5 Article 6. Conditional Uses 36

 5.5.1 Section 6.020. General Criteria..... 36

 5.5.2 Section 6.025. Resource Zone Standards for Approval 37

 5.5.3 Section 6.030. General Conditions 42

 5.5.4 Section 6.040. Permit and Improvements Assurance..... 43

 5.5.5 Section 6.050. Standards Governing Conditional Uses..... 43

5.6	Applicable Substantive Criteria from the Morrow County Comprehensive Plan (Policies)	44
5.6.1	Goal 3: Agricultural Lands Element	44
5.6.2	Goal 9: Economic Element	45
5.6.3	Goal 13: Energy Conservation Element	47
5.7	Compliance with Applicable Substantive Criteria from the Umatilla County Development Ordinance / Umatilla County Development Code (UCDC) Criteria	48
5.7.1	UCDC §152.060 CONDITIONAL USES PERMITTED	48
5.7.2	UCDC §152.061 STANDARDS FOR ALL CONDITIONAL USES [IN EFU ZONE]	48
5.7.3	UCDC §152.615 ADDITIONAL CONDITIONAL USE PERMIT RESTRICTIONS	53
5.7.4	UCDC §152.616 (HHH) CONDITIONAL USE CRITERIA FOR COMMERCIAL WIND POWER GENERATION FACILITIES	54
5.8	Applicable Substantive Criteria from the Umatilla County Comprehensive Plan (Policies)	61
5.8.1	Chapter 5. Citizen Involvement	61
5.8.2	Chapter 6. Agriculture	62
5.8.3	Chapter 8. Open Space, Scenic & Historic Areas, and Natural Areas	62
5.8.4	Chapter 9. Air, Land, Water Quality	69
5.8.5	Chapter 10. Natural Hazards	70
5.8.6	Chapter 11. Recreation Needs	70
5.8.7	Chapter 12. Economy	71
5.8.8	Chapter 14. Public Facilities and Services	72
5.8.9	Chapter 15. Transportation	75
5.8.10	Chapter 15. Energy Conservation	75
5.9	Directly Applicable Rules, Statutes, and Goals – OAR 345-021-0010(1)(k)(C)(iii)	76
5.9.1	ORS 215.274 Associated Transmission Lines Necessary for Public Service	76
5.9.2	ORS 215.296 Standards for Approval of Certain Uses in Exclusive Farm Use Zones	77
5.9.3	OAR 660-033-0130(5)	77
5.9.4	OAR 660-033-0130(37)	78
6.0	Statewide Planning Goal Exceptions – OAR 345-021-0010(1)(k)(C)(v)	88
7.0	Federal Land Management Plans – OAR 345-021-0010(1)(k)(D)	88
8.0	Summary	89

9.0 References89

List of Tables

Table K-1. Existing Approved and Proposed Amended Facility Components 3
Table K-2. Proposed Amended Facility Components in Morrow and Umatilla Counties..... 5
Table K-3. Land Use in Amended Site Boundary and Estimated Permanent Disturbance within
Micrositing Corridor 6
Table K-4. High-Value Farmlands, Arable and Nonarable Land in the Analysis Area, Site Boundary,
and Micrositing Corridors 8
Table K-5. Impacts to Farmland in Morrow County.....38
Table K-6. Impacts to Farmland in Umatilla County.....49

List of Figures

Figure K-1. Analysis Area
Figure K-2. Zoning
Figure K-3. Land Use
Figure K-4. High Value Farmland
Figure K-5. Arable and Non-Arable Land
Figure K-6. Umatilla County Setbacks
Figure K-7. Morrow County Setbacks

List of Attachments

Attachment K-1. Land Use Site Certificate Conditions

Acronyms and Abbreviations

ASC	Application for Site Certificate
AVA	American Viticultural Area
BESS	battery energy storage system
BMP	best management practices
BPA	Bonneville Power Administration
Certificate Holder	Wheatridge East Wind, LLC
Council	Energy Facility Siting Council
CTUIR	Confederated Tribes of the Umatilla Indian Reservation
DOGAMI	Oregon Department of Geology & Mineral Industries
EFU	Exclusive Farm Use
ESCP	Erosion and Sediment Control Plan
Facility or WREFE	Wheatridge Renewable Energy Facility East
FEMA	Federal Emergency Management Agency
kV	kilovolts
LCDC	Land Conservation and Development Commission
MCCP	Morrow County Comprehensive Plan
MCZO	Morrow County Zoning Ordinance
MW	megawatts
NPDES	National Pollutant Discharge Elimination System
NRCS	Natural Resources Conservation Service
O&M	operations and maintenance
OAR	Oregon Administrative Rules
ODEQ	Oregon Department of Environmental Quality
ODFW	Oregon Department of Fish and Wildlife
ODOE	Oregon Department of Energy
ODOT	Oregon Department of Transportation
ORS	Oregon Revised Statutes
RFA 1	Request for Amendment 1
ROW	right-of-way
RPS	Renewable Portfolio Standard
SHPO	State Historic Preservation Office
TIA	Traffic Impact Analysis

UC	Unincorporated Community
UCCP	Umatilla County Comprehensive Plan
UCDC	Umatilla County Development Code
UEC	Umatilla Electric Cooperative
UGB	urban growth boundary
WREF	Wheatridge Renewable Energy Facility
WREFII	Wheatridge Renewable Energy Facility II
WWEF	Wheatridge Wind Energy Facility

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1.0 Introduction

The Wheatridge Renewable Energy Facility East (Facility) is an approved, but not yet constructed, wind energy generation facility consisting of up to 66 turbines and related or supporting facilities with a peak generating capacity of up to 200 megawatts (MW), to be located in an Approved Site Boundary of approximately 4,582 acres on over 42,000 acres of leased land in Morrow and Umatilla counties, Oregon. As part of this Request for Amendment (RFA) 1 to the Facility Site Certificate, Wheatridge East Wind, LLC (Certificate Holder) is proposing to expand wind power generation at the Approved Facility to provide the opportunity for increased power capacity and availability. This includes expanding the Approved Site Boundary and micrositing corridors, increasing the peak generating capacity by adding more and newer turbines, changing the Intraconnection Line routes, and extending the construction date. See the RFA 1's Division 27 document (*Request for Amendment #1 for the Wheatridge Renewable Energy Facility East*) for a more detailed summary of the proposed changes.¹

This Exhibit K was prepared to meet the submittal requirements in Oregon Administrative Rule (OAR) 345-021-0010(1)(k). The Energy Facility Siting Council (Council) previously found the Certificate Holder has demonstrated an ability to construct, operate, and retire the Approved in compliance with the land use standard OAR 345-022-0030 and related Site Certificate conditions as reviewed during the Wheatridge Wind Energy Facility (WWEF) RFA 1², RFA 2³, RFA 3⁴, RFA 4⁵, and RFA 5⁶, and the Wheatridge Renewable Energy Facility II (WREFII) RFA 1⁷. This Exhibit K demonstrates that the Council may find that the Amended Facility, as proposed to be modified by RFA 1, continues to comply with the land use standard and related Site Certificate conditions (Attachment K-1):

OAR 345-022-0030, Land Use

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

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

¹ A detailed description of the Facility background and procedural history is found in Section 1.2 of the upfront Division 27 document for the RFA.

² Final Order on Request for Transfer for the Wheatridge Wind Energy Facility, 2017.

³ Final Order Request for Amendment 2 to the Site Certificate for the Wheatridge Wind Energy Facility, 2018.

⁴ Final Order on Request for Amendment 3 to the Site Certificate for the Wheatridge Wind Energy Facility, 2018.

⁵ Final Order on Request for Amendment 4 to the Site Certificate for the Wheatridge Wind Energy Facility, 2019.

⁶ Final Order on Request for Amendment 5 to the Site Certificate for the Wheatridge Wind Energy Facility, 2020.

⁷ Final Order on Request for Amendment 1 to the Site Certificate for the Wheatridge Renewable Energy Facility II, 2020.

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

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

(A) The proposed facility complies with applicable substantive criteria as described in section (3) and the facility complies with any Land Conservation and Development Commission administrative rules and goals and any land use statutes directly applicable to the facility under ORS 197.646(3);

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

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

(3) As used in this rule, the "applicable substantive criteria" are criteria from the affected local government's acknowledged comprehensive plan and land use ordinances that are required by the statewide planning goals and that are in effect on the date the applicant submits the application. If the special advisory group recommends applicable substantive criteria, as described under OAR 345-021-0050, the Council shall apply them. If the special advisory group does not recommend applicable substantive criteria, the Council shall decide either to make its own determination of the applicable substantive criteria and apply them or to evaluate the proposed facility against the statewide planning goals.

As provided for under OAR 345-022-0030(2)(b), the Certificate Holder has elected to seek a Council determination of compliance under Oregon Revised Statutes (ORS) 469.504(1)(b) for the Facility. This exhibit demonstrates how the Amended Facility, as proposed, complies with the applicable local substantive criteria from the comprehensive plans and zoning codes for Morrow County and Umatilla County, and demonstrates the Amended Facility, as proposed, does not require a goal exception.

2.0 Analysis Area – OAR 345-021-0010(1)(k)(A)

OAR 345-021-0010(1)(k) Information about the proposed facility's compliance with the statewide planning goals adopted by the Land Conservation and Development Commission, providing evidence to support a finding by the Council as required by OAR 345-022-0030. The applicant must state whether the applicant elects to address the Council's land use standard by obtaining local

land use approvals under ORS 469.504(1)(a) or by obtaining a Council determination under ORS 469.504(1)(b). An applicant may elect different processes for an energy facility and a related or supporting facility but may not otherwise combine the two processes. Once the applicant has made an election, the applicant may not amend the application to make a different election. In this subsection, “affected local government” means a local government that has land use jurisdiction over any part of the proposed site of the facility. In the application, the applicant must:

The Certificate Holder has elected to address the Council’s land use standard by obtaining a land use determination from the Council pursuant to ORS 469.504(1)(b).

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

In accordance with OAR 345-001-0010(35)(c), the Analysis Area for land use is the area within and extending one-half mile from the proposed RFA 1 Amended Site Boundary (Figure K-1), which is defined in detail in the upfront Division 27 document. Figure K-2 provides Umatilla County’s Comprehensive Plan and Morrow County’s Comprehensive Plan Exclusive Farm Use (EFU) agricultural region designations and corresponding land use zones in the Analysis Area.⁸ As shown on Figure K-2, land within the Analysis Area is zoned EFU within Morrow County and Umatilla County (Morrow County 2018a; Umatilla County 2022a). This exhibit addresses changes in land use proposed in RFA 1 that have not been previously approved by the Council for the Facility. The following table identifies the land use impacts have already been analyzed for the Approved Facility versus the Amended Facility with amendments:

Table K-1. Existing Approved and Proposed Amended Facility Components

Facility Component	Approved	Amended
Total Generating Capacity	200 MW	300 MW
Site Boundary	4,582 acres	78,985 acres. This includes the existing ~42,000 acres of the existing lease lands and an additional 36,985 of new leased lands.
Micrositing Corridors	4,582 acres	14,640 acres
Wind Turbines	66 turbines	107 turbines (107 primary and 21 alternate locations)
Turbine Model	Two turbine options, GE 1.7-103 or 2.5-120	One turbine option, GE 2.82-127 (retaining previously approved maximum turbine height of 152.1 meters)
Electrical Collection System	<ul style="list-style-type: none"> 30 miles of underground line 10.8 miles overhead line 	<ul style="list-style-type: none"> 95 miles underground line No overhead line
BESS	20-MW BESS (5 acres)	30-MW BESS (5 acres)

⁸ The Comprehensive Plan defers to the Plan and Zoning Map for locations of agricultural designations and EFU zone types.

Facility Component	Approved	Amended
Transmission Lines	Four transmission line options, 24.5 to 31.5 miles	One transmission line option, 26.28 miles (rounded to 27 miles; retaining portions of the previously approved micro-siting corridor, located primarily in the eastern corridor, i.e., 15 miles of overlap)
Access Roads	<ul style="list-style-type: none"> • 20 miles of new or improved roads • 24.5 to 31.2 miles of temporary road for the transmission line options 	<ul style="list-style-type: none"> • 76 miles new access roads; no existing road improvements • 15 miles of temporary roads for a portion of transmission line construction
Substation	One substation (1 to 2 acres)	Two substation options <ul style="list-style-type: none"> • Preferred (7 acres) • Alternative (1.5 acres, inclusive of a collocated 5-acre BESS; both the alternative substation and BESS are previously approved)
Operations and Maintenance (O&M) Building	One O&M Building (1.1 acres)	Share existing O&M Building at WREFII
Temporary Construction Yards	<ul style="list-style-type: none"> • 4 yards (15 to 20 acres each) • One or more temporary concrete batch plants within the yards 	<ul style="list-style-type: none"> • 1 yard (up to 60 acres; flexibility to use 4 previously approved yards if deemed necessary during preconstruction) • One or more temporary concrete batch plants within the yard(s)
Meteorological Towers	5 towers	5 towers

3.0 Land Use Analysis

The Approved Facility was initially the Wheatridge East portion of the permitted WREF and the Wheatridge Renewable Energy Facility East (WREFE) portion of WREFII, resulting from a division approved in the Final Order on the Request for Amendment 1 to the Site Certificate for WREFII.⁹ WREFE is located approximately 16 miles northeast of Heppner and is in both Morrow and Umatilla counties. The proposed changes in RFA 1 include expanding the Approved Site Boundary and micro-siting corridors, increasing the peak generating capacity by adding more and newer turbines, changing a section of the Intraconnection Line route, and extending the construction date. A breakdown describing the extent of the changes, including maximum components that would be sited within each county is detailed below in Table K-2.

⁹ Final Order on Request for Amendment 1 to the Site Certificate for the Wheatridge Renewable Energy Facility II, 2020.

Table K-2. Proposed Amended Facility Components in Morrow and Umatilla Counties

Facility Component	Morrow County	Umatilla County	Total/Combined
Amended Site Boundary	71,878 acres	7,107 acres	78,985 acres
Amended Micrositing Corridor	12,876 acres	1,764 acres	14,640 acres
Wind Turbines	109	19	107 turbines (107 primary and 21 alternate locations)
Turbine Model	GE 2.82-127	GE 2.82-127	GE 2.82-127
Electrical Collection System	85 miles	10 miles	95 miles
BESS	N/A	30-MW BESS	30-MW BESS
Transmission Lines	27 miles	N/A	27 miles
Access Roads	69 miles new access roads; 15 miles temporary road	7 miles new access roads	76 miles new access roads 15 miles temporary road
Substation	7 acres	1.5 acres	Preferred (7 acres) Alternative (1.5-acre BESS)
Operations and Maintenance (O&M) Building	Share existing O&M Building at WREFII	Share existing O&M Building at WREFII	Share existing O&M Building at WREFII
Temporary Construction Yards	1 yard (60 acres) with one or more temporary concrete batch plant	N/A	1 yard (60 acres) with one or more temporary concrete batch plant
Meteorological Towers	4	1	5 towers

Figure K-3 shows the land uses in the Amended Site Boundary in Morrow County and Umatilla County. The land use categories were determined based on field surveys and corresponding habitat types, as identified in Exhibit P. Table K-3 summarizes each land use category that makes up the Amended Site Boundary, as well as the estimated permanent disturbance from the proposed changes in RFA 1.

Table K-3. Land Use in Amended Site Boundary and Estimated Permanent Disturbance within Micrositing Corridor

Land Use ¹	Amended Site Boundary (Acres/%)		Amended Micrositing Corridor (Acres/%)		Estimated Permanent Disturbance within Micrositing Corridor (Acres/%)	
	Acres	%	Acres	%	Acres	%
Agriculture, non-irrigated ²	14,184	18.0	4,028	27.5	50	30.6
Agriculture, irrigated ³	457	0.6	21	0.1	0.01	0.01
Habitat Lands ⁴	63,951	81.0	10,413	71.1	113	68.5
Developed ⁵	393	0.5	179	1.2	1	0.3
Total ⁶	78,985	100	14,640	100	165	100

1. See Figure K-3 for delineation of each habitat type.
 2. Includes habitat type categories "Developed-Dryland Wheat" and "Developed - Revegetated or other planted grassland."
 3. Includes habitat type category "Developed-Irrigated Agriculture."
 4. Includes habitat type categories "Grassland-Exotic Annual", "Grassland-Native Perennial", "Riparian-Trees", "Shrub-steppe-Basin Big Sagebrush", "Shrub-steppe-Rabbitbrush/Snakeweed", "Cliffs, Caves and Talus", "Eastside (interior) Riparian", "Emergent Wetlands", "Intermittent or Ephemeral Streams", "Perennial Streams", "Permanent Ponds/Lakes", "Scrub-shrub Wetlands", "Seasonal Ponds."
 5. Includes habitat type category "Developed-Other."
 6. Does not add up to 100 due to rounding.

The Amended Facility will be connected by the Intraconnection Line route within an Intraconnection Corridor that predominantly follows the permitted route until Spur Loop Road, where the route branches to run west, approximately 1 mile north of the permitted Intraconnection Corridor, to the existing Blue Ridge Substation. Portions of the previously approved route would be retained (located primarily in the eastern corridor), totaling 15 miles of overlap. The route would contain an overhead 230-kilovolt (kV) transmission line no longer than approximately 27 miles in length. Other Amended Facility components include access roads, an electrical collection and control system, the Amended Facility’s preferred and alternative (previously permitted) substation, shared/existing operations and management (O&M) Building (constructed and operational; usage would be shared with WREFII), battery energy storage system (BESS), and temporary construction yard(s).¹⁰ These facilities are all described in greater detail in the upfront Division 27 document.

Most of the land in the Amended Site Boundary (approximately 81 percent) and micrositing corridor (approximately 71 percent) is primarily devoted to grassland-native perennial (land use category “Habitat Lands” in Table K-3), of which 68 percent will be permanently disturbed. Under ORS 215.203(2)(b)(E), current employment of land for farm use includes “wasteland” such as the

¹⁰ Final Order on Request for Amendment 1 to the Site Certificate for the Wheatridge Renewable Energy Facility II, 2020.

grasslands and other areas that are not economical to cultivate, because they are interspersed with cultivated lands and are also within the EFU zone. Accordingly for the purposes of this discussion, a distinction is drawn in Table K-3 between cultivated agricultural lands that are more closely defined as those currently used for dryland wheat, and grasslands, which are separated out as “habitat lands,” to better describe the impacts to lands actually used for economic agricultural activity.

Approximately 28 percent of the land in the micrositing corridor is primarily devoted to dryland winter wheat farming (land use category “Agriculture, non-irrigated” in Table K-3), of which approximately 30 percent will be permanently disturbed by the proposed changes in RFA 1. Winter wheat is generally planted in the fall, in October or November, and harvested in summer months, July and August. Winter wheat is commonly grown on a two-year wheat-fallow cycle, in which the field is allowed to lie fallow for one crop season between plantings. Wheat planted the following year can then take advantage of two years of accumulated soil moisture, greatly enhancing the likelihood of a successful harvest. Dryland farming has evolved as a set of techniques and management practices used by farmers to continually adapt to the presence or lack of moisture in a given crop cycle. These practices include the use of a fallow period in a crop rotation as noted above, terracing or contour plowing, eliminating weeds and leaving crop residue to shade the soil, cover cropping, and strip cropping. Some farmers use a no-till method in which the field is sprayed with an herbicide following harvest, and crop stubble is left on the field during periods when the field is fallow. Establishment of field crops includes weed control, field preparation, seed bed preparation, fertilization, and seeding or planting of the crop. Herbicides may be applied prior to field cultivation where perennial weeds or a heavy sod are present. Additional information regarding farming practices in the Analysis Area, including for dryland winter wheat, was provided in the land use discussions in WWEF’s original Application for Site Certificate (ASC; Wheatridge 2015).

As shown in Table K-3 and on Figure K-3, approximately 1 percent of the Amended Site Boundary contains lands irrigated for agricultural uses. The estimated permanent disturbance for irrigated agricultural lands within the micrositing corridor is 0.01 percent. Portions of the Amended Site Boundary are within the Butter Creek Critical Ground Water Area, which promotes optimum use of the limited groundwater supply in reservoir to stabilize water levels. No new applications for appropriation of water from the basalt groundwater reservoir within the Butter Creek Critical Area are permitted. Alternate means of irrigation from the Columbia, Umatilla, and Butter Creek surface water resources are also unlikely for the Amended Site Boundary due to the distance from the Amended Site Boundary to these water resources and the associated cost of pumping water. As visible on aerial imagery, irrigated farmland in Morrow County generally congregates around Columbia, Umatilla, and Butter Creek surface water resources. For these reasons, obtaining water for irrigation for areas within the Amended Site Boundary is improbable.

Table K-4. High-Value Farmlands, Arable and Nonarable Land in the Analysis Area, Site Boundary, and Micrositing Corridors

Land Type	Analysis Area		Amended Site Boundary		Micrositing Corridor		Estimated Permanent Disturbance within Micrositing Corridor	
	Acres	%	Acres	%	Acres	%	Acres	%
High-value farmland per ORS 195.300(10)(a) (Class I or II soils)	2,808	2.5	916	1.2	154	1.1	0.004	0.0
High-value farmland per ORS 195.300(10)(c) (within place of use of water right or irrigation district boundary)	4,256	3.8	1,064	1.3	147	1.0	0.004	0.0
High-value farmland per ORS 195.300(10)(f) (within AVA and meets slope, elevation, aspect criteria)	15,326	13.6	8,507	10.8	2,893	19.8	33	19.9
High-value farmlands/high-value soils (merged all three high-value categories) ¹	18,015	16.0	9,462	12.0	3,015	20.6	33	19.9
Arable ²	60,278	53.5	37,868	47.9	8,820	60.2	98.4	59.7
Non-arable	52,302	46.5	41,117	52.1	5,820	39.8	67	40.3
1. High-value farmland designations per ORS 195.300(10)(a), (c), and (f) 2. Arable includes Class I-IV soils, cultivated land regardless of soil class, and high-value lands and soils.								

ORS 195.300(10) provides qualifying characteristic definitions of high-value farmlands, three of which apply to land in the Amended Site Boundary. The first applicable characteristic per ORS 195.300(10)(a) is based on soil quality criteria, as classified by the Natural Resources Conservation Service (NRCS): soils that are irrigated or not irrigated, and classified as prime, unique, Class I or Class II. The second applicable characteristic per ORS 195.300(10)(c) is land that is “within the

place of use for a permit, certificate or decree for the use of water for irrigation issued by the Water Resources Department.” The third applicable characteristic per ORS 195.300(10)(f) is based on elevation, slope, and aspect criteria for areas within certain viticultural areas. The entirety of the Amended Site Boundary (and Analysis Area) is located within the Columbia Valley American Viticultural Area (AVA) (27 CFR § 9.74 - Approved American Viticultural Areas, Columbia Valley). AVA lands qualify as high-value farmland if they are below 3,001 feet elevation, with slopes no greater than 15 percent, and with an aspect between 67.5 and 292.5 degrees.

Table K-4 provides a breakdown by acreage of the applicable ORS 195.300(10) classifications, associated definitions, and additional farmland definitions in OAR 660-033-0130(37). Based on the ORS 195.300(10) definitions, a total of approximately 1.2 percent of land within the Amended Site Boundary is considered high-value farmland due to Class I or II soils. A total of approximately 1.3 percent of land within the Amended Site Boundary is considered high-value farmland due to water rights and irrigation. Approximately 10.8 percent of the Amended Site Boundary is considered high-value farmland based on its location in the Columbia Valley AVA, which occurs as a patchwork throughout the Analysis Area and Amended Site Boundary (Figure K-4). The added Columbia Valley AVA slope and aspect criteria capture all flat to moderately sloped areas that face southeast to southwest, whether used or usable for agriculture or not. Because this portion of the definition is not tied to soils, water availability, or actual land use, high-value farmland defined by these criteria occurs indiscriminately on lands currently used for agriculture, on native and non-native grasslands and shrublands, and even on developed areas. The pattern of distribution is indicative of the topography that characterizes the area: small undulations are evident even on “flat” terrain and along the broad ridges.

Most of the Amended Site Boundary—47.9 percent—is comprised of arable lands that include areas of high-value farmland. Non-arable lands in the Amended Site Boundary, which make up 52.1 percent of the Amended Site Boundary, are challenging to cultivate, as they generally follow the ravines and areas with slopes. Figure K-4 shows the high-value, arable, and non-arable lands for the Amended Site Boundary.

4.0 Local Land Use Approval – OAR 345-021-0010(1)(k)(B)

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

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

The Certificate Holder has elected to address the Council’s land use standard by obtaining a land use determination from the Council pursuant to ORS 469.504(1)(b). Therefore, these standards do not apply.

5.0 EFSC Determination on Land Use – OAR 345-021-0010(1)(k)(C)

The Certificate Holder has elected to address the Council’s land use standard by obtaining a land use determination from the Council pursuant to ORS 469.504(1)(b). The Council’s rules state that a Certificate Holder seeking the Council’s land use approval must identify the “applicable substantive [land use] criteria” of the relevant local governments and must describe how the proposed Amended Facility complies with those criteria, as well as any Land Conservation and Development Commission (LCDC) rules, goals, or land use statutes that apply directly to the Amended Facility under ORS 197.646(3). If a Certificate Holder cannot demonstrate compliance with one or more of the applicable substantive criteria, the Certificate Holder must describe how the proposed Amended Facility complies with the statewide planning goals adopted by the LCDC, or alternatively, warrants a goal exception (OAR 345-021-0010(1)(k)). This exhibit demonstrates how the Amended Facility, as proposed, complies with the applicable local substantive criteria from the comprehensive plans and zoning codes for Morrow County and Umatilla County, and demonstrates the Amended Facility, as proposed, does not require a goal exception.

5.1 Identification of Applicable Substantive Criteria – OAR 345-021-0010(1)(k)(C)(i)

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

(i) Identify the affected local government(s).

The proposed changes in RFA 1 will be located entirely within the EFU zone of Morrow County and within the EFU zone of Umatilla County. Therefore, Morrow County and Umatilla County criteria are addressed. The following section provides an assessment of compliance with the applicable local substantive criteria for commercial wind energy generation in Morrow County and Umatilla County.

5.2 Applicable Substantive Criteria from OAR 345-021-0010(1)(k)(C)(ii)

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

The applicable substantive criteria of the Morrow County Zoning Ordinance (MCZO) and Morrow County Comprehensive Plan (MCCP) are addressed in the following sections. The substantive criteria reflect the current adopted code and comprehensive plans as follows:

- **Morrow County Zoning Ordinance (Morrow County 2018a):**
 - MCZO 1.050. Zoning Permit
 - MCZO 3.010. Exclusive Farm Use, EFU
 - MCZO 4.010. Access
 - MCZO 4.020. Sight Distance
 - MCZO 4.035. Permit Requirements
 - MCZO 4.040. Off-Street Vehicle Parking
 - MCZO 4.070. Sight Limitations
 - MCZO 4.165. Site Plan Review
 - MCZO 6.015. Requirements Under a State Energy Facility Site Certificate
 - MCZO 6.020. General Criteria
 - MCZO 6.025. Resource Zone Standards for Approval
 - MCZO 6.030. General Conditions
 - MCZO 6.040. Permit Improvements
 - MCZO 6.050. Standards Governing Conditional Uses
- **Morrow County Comprehensive Plan (Morrow County 2018b):**
 - Goal 3 Agricultural Lands Element – Policies 1 and 4
 - Goal 9 Economic Element – Policies 2A, 3A, 4B, 5A and 6C
 - Goal 13 Energy Conservation Element – Policies 3 and 9

The applicable substantive criteria of the Umatilla County Development Code (UCDC) and Umatilla County Comprehensive Plan (UCCP) are addressed in the following sections. The substantive criteria are:

- **Umatilla County Development Code (Umatilla County 2022a):**
 - UCDC 152.060(E)
 - UCDC 152.061
 - UCDC 152.615 and 152.616(HHH)
- **Umatilla County Comprehensive Plan (Umatilla County 2022b):**
 - Agriculture, Policies 1, 8 and 17;

- Citizen Involvement, Policies 1 and 5;
- Open Space, Scenic & Historic Areas, and Natural Areas, Policies 1(a), 5(a & b), 6(a), 8(a), 9(a), 10(c, d & e), 20 (a), 20(b)(1-8), 22, 23(a), 24(a), 26, 37 & 38(a-c), 39(a) and 42(a);
- Air, Land, Water Quality, Policies 1, 7 and 8;
- Natural Hazards, Policies 1 and 4;
- Recreational Needs, Policy 1;
- Economy of the County, Policies 1, 4 and 8(a-f);
- Public Facilities and Services, Policies 1(a-d), 2, 9 and 19;
- Transportation, Policies 18 and 20; and
- Energy Conservation, Policy 1.

5.3 Compliance with Applicable Substantive Criteria from the Morrow County Zoning Ordinance/MCZO Criteria

5.3.1 Section 1.050 Zoning Permit

Prior to the construction, reconstruction, alteration, or change of use of any structure larger than 100 square feet or use for which a zoning permit is required, a zoning permit for such construction, reconstruction, alteration, or change of use or uses shall be obtained from the Planning Director or authorized agent thereof. A zoning permit shall become void after 1 year unless the development action has commenced. A 12-month extension may be granted when submitted to the Planning department prior to the expiration of the approval period.

Response: The Amended Facility, as proposed, exceeds 100 square feet, and therefore is subject to MCZO Section 1.050. A zoning permit will be sought from Morrow County prior to construction consistent with Condition PRE-LU-01: Obtain all necessary local permits (see Attachment K-1).

5.3.2 Section 3.010. Exclusive Farm Use (EFU) Zone, B. Uses Permitted Outright

In the EFU zone, the following uses and activities and their accessory buildings and uses are permitted subject to the general provisions set forth by this ordinance:

24. Utility facility service lines subject to Subsection D.9.

Response: Utility facility service lines are permitted outright in the EFU zone. However, the proposed changes to the Amended Facility with RFA 1 will not contain utility facility service lines subject to MCZO 3.010, Subsection D.9. The proposed utility facility service lines, according to MCZO Section 3.010, Subsection K.2 and addressed in Section 5.3.5 of this exhibit, are part of an electrical cable collection system connecting wind turbine towers with the relevant power substation and are therefore considered part of the Amended Facility, which is a conditional use in

the EFU zone. Therefore, Amended Facility collector lines are not separately permitted outright in the EFU zone.

25. Utility facilities necessary for public service, including associated transmission lines as defined in Article 1 and wetland waste treatment systems, but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over 200 feet in height as provided in Subsection D.10.

Response: The 230-kV transmission Intraconnection Line route is less than 200 feet in height. Therefore, the Amended Facility’s proposed transmission line is permitted outright in the EFU zone, subject to the standards under MCZO 3.010, Subsection D.10. Section 5.3.4 of this exhibit addresses the 230-kV transmission line’s compliance with MCZO Section 3.010, Subsection D.10.b.

5.3.3 Section 3.010. EFU Zone; C. Conditional Uses

The following uses are permitted subject to county review, any specific standards for the use set forth in Section D, Article 6, the general standards for the zone, and any other applicable standards and review process in the ordinance:

23. Wind power generation facilities as commercial utility facilities for the purpose of generating power for public use by sale subject to Subsection K.2.

Response: The Council previously found that the Approved Facility is a commercial utility wind power generation facility for the purpose of generating power for public use by sale, allowed as a conditional use in the EFU zone.¹¹ As stated in the Introduction, RFA 1 is a proposal to expand wind power generation at the Facility to provide the opportunity for increased power capacity and availability. Table K-1 in Section 2 of this exhibit provides a side-by-side comparison of the existing approved Facility components and the proposed amended Facility components. Section 4.1.1 of the upfront Division 27 document provides a detailed description of Facility infrastructure. This includes expanding the Approved Site Boundary and micrositing corridors, increasing the peak generating capacity by adding more and newer turbines, changing the approved Intraconnection Line route, and extending the construction date. As amended, the Facility will continue to be considered a “wind power generation facility” per the definition provided under MCZO Section 3.010.K.2(a). Wind power generation facilities include wind turbine towers and concrete pads, permanent meteorological towers and wind measurement devices, electrical cable collection systems connecting wind turbine towers with the relevant power substation, new or expanded private roads (whether temporary or permanent) constructed to serve the wind power generation facility, office and operation and maintenance buildings, temporary lay-down areas and other necessary appurtenances, including but not limited to on-site and off-site facilities for temporary workforce housing for workers constructing a wind power generation facility. Therefore, the proposed changes in RFA 1 are considered a conditionally allowed use within the EFU zone,

¹¹ Final Order on Application for the Wheatridge Wind Energy Facility (April 2017), p. 62

provided it meets applicable standards under MCZO Section 3.010, MCZO Article 6, and any other applicable standards. As discussed below, all applicable use standards are satisfied.

5.3.4 Section 3.010. EFU Zone; D. Use Standards

10. A utility facility that is necessary for public service.

Response: The changes proposed in RFA 1 include a revised option for the Intraconnection Line route. The Council has historically reviewed transmission lines associated with wind power generation facilities as “utility facilities necessary for public service.” The Intraconnection Line route, if reviewed as utility facilities necessary for public service, would be permitted administratively in the EFU zone, subject to the criteria established in OAR 660-033-0130(16) and ORS 215.275, which are mirrored by the standards of MCZO 3.010.D.10(a) and are addressed in Subsection (a) below.

A utility facility necessary for public service may alternatively be established in an EFU zone if it meets the requirements for an associated transmission line as defined in ORS 215.274 and 469.300. Those statutes define an “associated transmission line” as a “new transmission line constructed to connect an energy facility to the first point of junction of such transmission line ... with either a power distribution system or an interconnected primary transmission system or both or to the Northwest Power Grid.” ORS 469.300(3).

The Certificate Holder previously asserted in its original ASC for WWEF that the “intraconnection transmission line” does not meet the definition of an “associated transmission line” and that ORS 215.274 is not applicable. The Council concurred with the Certificate Holder’s assessment.¹² The Council found that the “intraconnection transmission line” is a utility facility necessary for public service, a use permitted in the EFU zone subject to compliance with OAR 660-033-0130(16) and ORS 215.275.¹³

However, the approximately 27-mile-long Intraconnection Line route proposed with RFA 1 will connect the Facility to the existing Blue Ridge Substation, thereby connecting the proposed energy facility to the Northwest power grid. As such, the modified Intraconnection Line route, as proposed in RFA 1, meets the definition of “associated transmission line” under ORS 469.300 and is subject to ORS 215.274 and MCZO 3.010.D.10(b). Therefore, the Certificate Holder addresses the standards of MCZO 3.010.D.10(b) for “an associated transmission line” below.

a. A utility facility is necessary for public service if the facility must be sited in the exclusive farm use zone in order to provide the service.

Response: As noted, under ORS 215.283(1)(c), a utility facility necessary for public service may be established in an EFU zone as provided in ORS 215.275, or if the utility facility meets the requirements for an associated transmission line as defined in ORS 215.274 and 469.300. (See additional discussion under Section 5.10.1 of this exhibit.) ORS 215.275 requires the Certificate

¹² Final Order on Application for the Wheatridge Wind Energy Facility (April 2017), p. 141

¹³ Final Order on Application for the Wheatridge Wind Energy Facility (April 2017), p. 63

Holder to show that reasonable alternatives have been considered and that the utility facility must be sited in an EFU zone due to one or more of six factors. MCZO 3.010.D.10(a) mirrors the provisions under ORS 215.275.

Alternatively, an associated transmission line is necessary for public service if it meets at least one of the requirements of ORS 215.274(3), or the requirements of ORS 215.274(4). ORS 215.274(2). As noted, the modified Intraconnection Line route, as proposed in RFA 1, meets the definition of “associated transmission line.” The requirements of ORS 215.274(4) are met if the associated transmission line meets at least two of the listed factors. Among that list of factors are technical and engineering feasibility and locational dependence. The standards for “an associated transmission line” under ORS 215.274 are mirrored by MCZO 3.010.D.10(b), which the Certificate Holder addresses below.

b. An associated transmission line is necessary for public service upon demonstration that the associated transmission line meets either the following requirements of Subsection (1) or Subsection (2) of this Subsection.

Response: As discussed above, the proposed Intraconnection Line route is necessary to connect the energy facility to the Northwest Power Grid. Therefore, the Intraconnection Line route meets the definition of “associated transmission line” under Article 1 of the MCZO. The criteria under MCZO 3.010.D.10(b) mirror the provisions of ORS 215.274.

As discussed below, the Intraconnection Line route does not meet the requirements of MCZO 3.010.D.10(b) Subsection (1) but does meet the requirements under Subsection (2). Therefore, as discussed below, the proposed Intraconnection Line is an associated transmission line necessary for public service, pursuant to this Subsection.

(1) An applicant demonstrates that the entire route of the associated transmission line meets at least one of the following requirements:

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

Response: The proposed Intraconnection Line route will be located on portions of high-value farmland as defined by ORS 195.300, or on arable land. As a result, the route does not meet this requirement.

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

Response: The Intraconnection Line will not be co-located with an existing transmission line. Therefore, the Intraconnection Line does not meet this requirement.

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

Response: The Intraconnection Line will not parallel an existing transmission line corridor; therefore, the Intraconnection Line does not meet this requirement.

(d) The associated transmission line is located within an existing right of way for a linear facility, such as a transmission line, road or railroad, that is located above the surface of the ground.

Response: The Intraconnection Line route, as shown in Figure 2 of the RFA 1's Division 27 document (*Request for Amendment #1 for the Wheatridge Renewable Energy Facility East*) will depend on final layout design. The route will be an approximately 27-mile-long (26.28 miles) 230-kV overhead line that would run from the Facility substation west to interconnect with the existing Blue Ridge Substation. The route would predominately follow the ASC-approved route until it meets Spur Loop Road. Portions of the previously approved route would be retained (located primarily in the eastern corridor), totaling 15 miles of overlap. Then the route would run west, approximately 1 mile north of the originally approved Intraconnection Corridor, to the existing Blue Ridge Substation. However, because the Intraconnection Corridor is not within an existing right-of-way (ROW) for the entire route, it does not meet this requirement.

Accordingly, the entire Intraconnection Line does not satisfy the requirements of Subsection 1 of MCZO 3.010.D.10(b) under the route. However, the entire Intraconnection Line route does satisfy more than one of the factors under Subsection (2), as explained below.

(2) After an evaluation of reasonable alternatives, an applicant demonstrates that the entire route of the associated transmission line meets, subject to Subsections D.10.b(3) and (4), two or more of the following criteria:

Response: As discussed below, the Intraconnection Line route meets at least two of the criteria in MCZO 3.010.D.10(b) Subsection (2) and satisfies all requirements of Subsections (3) and (4). Therefore, the changes to the Intraconnection Line route proposed in RFA 1 satisfy all applicable requirements of MCZO 3.010.D.10

(a) Technical and engineering feasibility;

Response: The Certificate Holder evaluated the technical and engineering feasibility of an alternative transmission route to minimize potential impacts to arable land and high-value farmland. The existing Blue Ridge Substation is a fixed corridor end point for alternative transmission line routes. Although the location of the proposed Facility collector substation could be moved within the Site Boundary, no feasible alternative route exists that can connect the Facility to the Blue Ridge Substation without crossing high-value or arable land due to the extent of these lands located in the area between the Facility and the Blue Ridge Substation (Figures K-4 and K-5).

The proposed Intraconnection Line represents the straightest route and the shortest length between the Facility collector substations and the Blue Ridge Substation and has the least impacts, as it avoids sensitive habitat and minimizes impacts to high-value farmland and arable land. There is no feasible alternative that avoids high-value farm land or arable land or that parallels existing ROW for the entire length of the line. Therefore, the proposed Intraconnection Line meets the technical and engineering feasibility criterion.

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

Response: There are no urban or non-resource lands available to locate the transmission line where it could serve its purpose of conveying energy from the wind turbines (on EFU land) to the electrical grid system. As shown on Figure K-2, all land within and adjacent to the Amended Site Boundary is zoned EFU by Morrow County. Figures K-4 and K-5 show the high-value farmland and arable land located within and surrounding the Amended Site Boundary. As shown on the figures, high-value farmland occurs on a patchy basis throughout the Amended Site Boundary and Analysis Area, and arable land is prevalent throughout the Amended Site Boundary and Analysis Area. Therefore, the associated transmission line must cross high-value farmland and/or arable land as there is no feasible alternative to completely avoid these lands and still connect the Facility to the Blue Ridge Substation. The transmission line route was sited so that it could have a reasonably direct route to the grid system interconnection point, thereby minimizing impacts. Only small portions of the transmission line route cross through high-value farmland (Figure K-4) and, where practicable, support structures will also be placed to avoid high-value farmland to further minimize impacts. For these reasons, the proposed Intraconnection Line meets the locational dependency criterion.

(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;

Response: As noted above, the approximately 27-mile-long 230-kV Intraconnection Line would predominately follow the ASC-approved route until it meets Spur Loop Road, then the route would run west/northwest, approximately 1 mile north of the originally approved Intraconnection Corridor, to the existing Blue Ridge Substation. Portions of the previously approved route would be retained (located primarily in the eastern corridor), totaling 15 miles of overlap. The Facility transmission line has been sited adjacent to and is utilizing existing linear ROWs to the greatest extent practicable; however, the Intraconnection Line would require the acquisition of an approximately 150-foot-wide ROW from private landowners. Therefore, this criterion is satisfied. Note that all of the landowners along the proposed Intraconnection Line route are Facility participants or have expressed a willingness to grant such ROWs to the Certificate Holder.

(d) Public health and safety; or

Response: The Certificate Holder is minimizing health and safety risks from exposure to magnetic fields or shock by limiting the length of the transmission line for the Facility and locating the transmission line away from populated areas, specifically rural residences in the area. Therefore, this criterion is satisfied. Note, however, that the rationale for route selection was not based on health and safety risks.

(e) Other requirements of state or federal agencies.

Response: As documented through the site certificate process, the Facility complies with other requirements of state and federal agencies. However, the siting of the Intraconnection Line route was not determined by state or federal agencies, and as such the proposed Intraconnection Line route does not satisfy this criterion.

(3) As pertains to Subsection (2), the applicant shall demonstrate how the applicant will mitigate and minimize the impacts, if any, of the associated transmission line on surrounding lands devoted to farm use in order to prevent a significant change in accepted farm practices or a significant increase in the cost of farm practices on the surrounding farmland.

Response: The Certificate Holder has designed the 230-kV Intraconnection Line route to minimize, to the greatest degree practicable, impacts to EFU land. The transmission line pole structures will permanently impact less than 150 acres (0.2 percent of the Amended Site Boundary), thereby removing very little land from agricultural production. In addition, the Intraconnection Line route is located to minimize disturbances to agricultural practices by being sited adjacent to existing linear ROWs wherever possible. The area of new Intraconnection Corridor has been minimized to the greatest extent practicable by following the shortest practicable route between substations. Landowners and farm operators will be compensated for the loss of land for agricultural production, as necessary. In addition, when construction is completed, lands temporarily affected by construction will be restored to their original condition. Therefore, because permanent impacts of the Intraconnection Line route are minimal, and the transmission line has been sited in consideration of farming practices, it will not force a significant change in accepted farm practices or a significant increase in the cost of farm practices on the surrounding farmland. This standard is satisfied.

(4) The county may consider costs associated with any of the factors listed in Subsection (2), but consideration of cost may not be the only consideration in determining whether the associated transmission line is necessary for public service.

Response: Land costs were not a significant consideration in determining the location of the transmission line segment. The location of the transmission line is dependent on providing a connection for the energy generated by the energy facility to the electrical energy grid interconnection point (Blue Ridge Substation).

No alternative location exists, regardless of cost, to locate the 230-kV Intraconnection Line exclusively on non-EFU land. However, the majority of the transmission line route follows the approved route from the ASC, thereby limiting additional impacts to EFU land used for agricultural purposes.

5.3.5 Section 3.010. EFU Zone; K. Commercial Facilities for Generating Power

1. Commercial Power Generating Facility

a. Permanent features of a power generation facility shall not preclude more than:

- (1) 12 acres from use as a commercial agricultural enterprise on high value farmland unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4; or
- (2) 20 acres from use as a commercial agricultural enterprise on land other than high-value farmland unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4.

Response: This Subsection of the MCZO implements OAR 660-033-0130(17) and (22). As defined in MCZO Section 1.030 Definitions, a “commercial power generating facility” is a facility for the production of energy and its related or supporting facilities that “generates energy using means such as solar power, wind power...” Accordingly, because of the reference to “wind power” in that definition, on its face, this Subsection would appear to apply to the changes to the Facility proposed in RFA 1.

However, in 2008 the LCDC amended relevant provisions of OAR 660-033-0130 governing conditional uses in the EFU zone. The amendments expressly excluded wind power generation facilities from the general “commercial utility facility” land use category and added “wind power generation facilities as commercial utility facilities for the purpose of generating power for public use by sale” as a separate use category. As a result of the 2008 LCDC amendments, the conditional use standards at OAR 660-033-0130(17) and (22), as implemented by this Subsection of the MCZO, no longer apply to wind facilities. Instead, the conditional use standards at OAR 660-033-0130(37) are the relevant standards for a proposed “wind power generation facility” on EFU-zoned land, as implemented by MCZO 3.010.K.2, discussed below.

Because the applicable OAR 660-033-0130 provisions conflict with the local code’s application of strict acreage limitations to a wind facility, the local code use categories and requirements are inconsistent with the amended OAR 660-033-0130 rules for a wind power generation facility. Accordingly, the Council previously determined it “is not required to apply both the current OAR 660 033-0130 rules and the local code, and instead must only apply the OAR 660-033-0130(37) rules to this wind power generation facility. As a result, a Goal 3 exception would not be needed for this proposed facility.”¹⁴

The Certificate Holder re-affirms the Council’s determination that a Goal 3 exception is not needed for the Facility and, therefore, the standards of MCZO Section 3.010.K.1 are not applicable. Below, the Certificate Holder demonstrates compliance with OAR 660-033-0130(37), as implemented by the standards in MCZO Section 3.010.K.2.

2. Wind Power Generation Facility.

a. For purposes of this ordinance a wind power generation facility includes, but is not limited to, the following system components: all wind turbine towers and concrete pads, permanent meteorological towers and wind measurement devices, electrical cable collection systems connecting wind turbine towers with the relevant power

¹⁴ Final Order on Application for the Wheatridge Wind Energy Facility (April 2017), pages 61-62

substation, new or expanded private roads (whether temporary or permanent) constructed to serve the wind power generation facility, office and operation and maintenance buildings, temporary lay-down areas and all other necessary appurtenances, including but not limited to on-site and off-site facilities for temporary workforce housing for workers constructing a wind power generation facility.

(1) Temporary workforce housing described in Subsection K.1.b must be removed or converted to an allowed use under OAR 660-033-0130(19) or other statute or rule when project construction is complete.

(2) Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request filed after a decision to approve a power generation facility. A minor amendment request shall be subject to 660-033-0130(5) and shall have no effect on the original approval.

Response: As the Council previously determined, the Facility is a wind power generation facility with a maximum peak generating capacity of up to 200 MW in Morrow and Umatilla counties.¹⁵ Table K-1 in Section 2 of this exhibit provides a side-by-side comparison of the existing Approved Facility components and the proposed Amended Facility components. The proposed changes in RFA 1 include expanding the Approved Site Boundary and micrositing corridors, increasing the peak generating capacity by adding more and newer turbines, changing a section of the Intraconnection Line routes, and extending the construction date. Section 4.1.1 of the upfront Division 27 document provides a detailed description of Facility infrastructure. The proposed Amended Facility is a wind power generation facility with a maximum peak generating capacity of up to 300 MW in Morrow and Umatilla counties (see Figure K-1), and as modified by RFA 1, would include up to 107 turbines. A portion of the Amended Facility within Morrow County would be connected by a proposed Intraconnection Line—an “Intraconnection Corridor” containing an overhead 230-kV transmission line no longer than 27 miles in length. The Certificate Holder does not propose temporary workforce housing with this request for amendment.

The standards of MCZO Section 3.010.K.2 mirror the provisions of OAR 660-033-0130(37), which apply both in Morrow and Umatilla counties. Therefore, the Certificate Holder has consolidated analysis for the entire Amended Facility in Section 5.10.4 of this exhibit.

As discussed above, the Intraconnection Line meets the definition of “associated transmission line” under ORS 469.300 and is subject to ORS 215.274 and MCZO 3.010.D.10(b). Other Amended Facility components include access roads, an electrical collection and control system, the Amended Facility’s substation, shared/existing O&M Building, BESS, and temporary construction yards. As detailed above in MCZO Section 3.010.K.2(a), these Amended Facility system components are included in the definition of a wind power generation facility.

¹⁵ Final Order on Request for Amendment 1 to the Site Certificate for the Wheatridge Renewable Energy Facility II, 2020.

For these reasons, the changes Approved Facility proposed in RFA 1 do not alter the Council's previous determination that the Amended Facility is a wind power generation facility.

b. For wind power generation facility proposals on high-value farmland soils, as described at ORS 195.300(10), the governing body or its designate must find that all of the following are satisfied:

(1) Reasonable alternatives have been considered to show that siting the wind power generation facility or component thereof on high-value farmland soils is necessary for the facility or component to function properly or if a road system or turbine string must be placed on such soils to achieve a reasonably direct route considering the following factors:

(a) Technical and engineering feasibility;

(b) Availability of existing rights of way; and

(c) The long-term environmental, economic, social and energy consequences of siting the facility or component on alternative sites, as determined under Subsection (2);

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

(3) Costs associated with any of the factors listed in Subsection (1) may be considered, but costs alone may not be the only consideration in determining that siting any component of a wind power generation facility on high-value farmland soils is necessary;

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

(5) The criteria of Subsection c are satisfied.

c. For wind power generation facility proposals on arable lands, meaning lands that are cultivated or suitable for cultivation, including high-value farmland soils described at ORS 195.300(10), the governing body or its designate must find that:

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

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

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

(4) Construction or maintenance activities will not result in the unabated introduction or spread of noxious weeds and other undesirable weeds 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.

d. For wind power generation facility proposals on nonarable lands, meaning lands that are not suitable for cultivation, the requirements of Subsection K.2.c(4) are satisfied.

e. In the event that a wind power generation facility is proposed on a combination of arable and nonarable lands as described in Subsections c and d, the approval criteria of Subsection c shall apply to the entire project.

Response: The standards of OAR 660-033-0130(37) mirror the provisions of MCZO Chapter 3.010.K.2. Because OAR 660-033-0130(37) also applies to the portions of the Amended Facility in Umatilla County pursuant to Umatilla County Development Code (UCDC) 152.616(HHH)(6)(k), the Certificate Holder provides a consolidated analysis of the rule as applied to both counties in Section 5.10.4 of this exhibit.

5.3.6 Section 3.010. EFU Zone; L. Land Divisions

Response: The proposed changes will be located on leased land, will not require new lots or parcels, and will not include new dwellings. Therefore, none of the subsections of MCZO 3.010(L) apply to RFA 1.

5.3.7 Section 3.010. EFU Zone; M. Yards

In an EFU Zone, the minimum yard setback requirements shall be as follows:

- 1. The front yard setback from the property line shall be 20 feet for property fronting on a local minor collector or marginal access street ROW, 30 feet from a property line fronting on a major collector ROW, and 80 feet from an arterial ROW unless other provisions for combining accesses are provided and approved by the County.*
- 2. Each side yard shall be a minimum of 20 feet except that on corner lots or parcels the side yard on the street side shall be a minimum of 30 feet.*
- 3. Rear yards shall be a minimum of 25 feet.*

Response: Article 1 of the MCZO defines yard setbacks in Morrow County as open space on a lot measured from lot lines to the nearest point of a building.

Any proposed substation or battery storage in Morrow County will be sited to comply with the applicable yard setbacks. Sand Hollow Road is classified as a minor collector, Big Butter Creek Road and Little Butter Creek Road are classified as major collectors, and Oregon Route 207 (OR-207) is classified as a minor arterial. The proposed preferred and alternate collector substations are 30 feet from the property line along major collectors Little Butter Creek Road and Big Butter Creek Road. The shared/existing O&M Building and Blue Ridge Substation are 80 feet from OR-207. The Certificate Holder will document consistency with the applicable setback based on final design, as confirmed and submitted to Morrow County as part of the zoning permit consistent with Condition PRE-LU-01 (Note: Figure K-7 demonstrates compliance with setbacks in Condition GEN-LU-01).

- 4. Stream Setback. All sewage disposal installations such as outhouses, septic tank and drainfield systems shall be set back from the high-water line or mark along all streams and lakes a minimum of 100 feet, measured at right angles to the high-water line or mark. All structures, buildings, or similar permanent fixtures shall be set back from the high-water line or mark along all streams or lakes a minimum of 100 feet measured at right angles to the high-water line or mark.*

Response: For O&M of the Amended Facility, there will be no change to the previously approved plan of how sanitary waste would be handled, as discussed in the ASC and RFAs. Sanitary waste would be handled through an on-site septic system serving the shared/existing O&M Building. Portable toilets will be provided by a licensed subcontractor, who will be responsible for servicing the toilets at regular intervals and disposing of wastewater in accordance with local jurisdictional regulations.

5.3.8 Section 3.010. EFU Zone; N. Transportation Impacts

1. Traffic Impact Analysis (TIA). In addition to the other standards and conditions set forth in this section, a TIA will be required for all projects generating more than 400 passenger car equivalent trips per day. Heavy vehicles – trucks, recreational vehicles and buses – will be defined as 2.2 passenger car equivalents. A TIA will include: trips generated by the project, trip distribution for the project, identification of intersections for which the project adds 30 or more peak hour passenger car equivalent trips, and level of service assessment, impacts of the project, and, mitigation of the impacts. If the corridor is a State Highway, use ODOT standards. (MC-C-8-98)

Response: Morrow County did not request a TIA for the original ASC.¹⁶ Per Condition PRE-PS-01, a traffic management plan will be developed prior to construction, in cooperation with Morrow and Umatilla counties and with nearby cities, if necessary, to minimize impacts to traffic safety. In addition, per Condition PRE-PS-02, the Certificate Holder expects to enter into road use agreements with both counties, to ensure that public roads impacted by construction will be left in as good or better condition than that which existed prior to the start of construction (see Attachment K-1).

The Amended Facility will require increased automobile trips during construction, but it is not expected the proposed use will exceed 400 trips per day because the Certificate Holder anticipates that the Amended Facility will be constructed in one, or potentially multiple phases; however, the phases are currently undefined. Potential phasing would be dependent upon the location and timing of construction of the Amended Facility infrastructure and market demand. For the purposes of demonstrating impacts to public and private services, the Certificate Holder presents the impact analysis as if the Amended Facility would be constructed in a single phase lasting 12 months. This approach maximizes the average daily traffic count, the daily water use requirement, and the number of workers onsite at any given time. Phasing of Amended Facility construction would spread the same impacts out over multiple construction periods, each with lesser impacts than if the Amended Facility were to be built in a single phase.

As noted in Exhibit U, the volume of truck traffic for both wind farm construction and Intraconnection Line construction is estimated to be a maximum of 104 round trips per day. During construction an estimated average workforce of approximately 240 workers will be employed. During the peak months of construction activity, the estimated number of workers will increase to approximately 360. Conservatively, it is assumed that most workers will drive alone and that the average vehicle will have 1.25 occupants. This makes the daily vehicle counts 288 for the peak period and 192 for the average workforce. These daily vehicle counts are doubled to account for each one-way trip, resulting in an estimated 576 peak or 384 average trips per day. Private vehicles would primarily travel mornings and evenings corresponding to the workday, whereas the construction truck traffic would be more uniformly distributed throughout the workday. As a result, the private traffic and the truck traffic would not overlap for the most part. Traffic is not expected to be impacted during the long-term operation of the Amended Facility because there will

¹⁶ Final Order on Application for the Wheatridge Wind Energy Facility (April 2017), page 85

be only up to 10 operations employees. For these reasons, the Facility as amended with RFA 1 does not alter the Council's prior conclusion for this criteria, and Condition PRE-PS-01 ensures a traffic management plan will be developed prior to construction in cooperation with Morrow and Umatilla counties.

5.4 Article 4. Supplementary Provisions

5.4.1 Section 4.010. Access

SECTION 4.010. ACCESS. Intent and Purpose: The intent of this ordinance is to manage access to land development while preserving the flow of traffic in terms of safety, capacity, functional classification, and level of service. Major roadways, including highways, arterials, and collectors serve as the primary network for moving people and goods. These transportation corridors also provide access to businesses and homes and have served as the focus for commercial and residential development. If access points are not properly designed, these roadways will be unable to accommodate the needs of development and retain their primary transportation function. This ordinance balances the right of reasonable access to private property with the right of the citizens of Morrow County and the State of Oregon to safe and efficient travel. This ordinance shall apply to all public roadways under the jurisdiction of Morrow County and to application for development for any property that abuts these roadways. This ordinance is adopted to implement the land access and access management policies of Morrow County as set forth in the Transportation System Plan. Access shall be provided based upon the requirements below:

A. Minimum Lot Frontage Requirement. Every lot shall abut a street, other than an alley, for at least 50 feet, except on cul-de-sacs where the frontage may be reduced to 30 feet.

Response: There will be no changes to any lots as part of the proposed changes in RFA 1. This standard does not apply to RFA 1.

B. Access Permit Requirement. Where access to or construction on a county road is needed, an access permit or right-of-way permit from Morrow County Public Works department is required subject to the requirements in this Ordinance. Where access to a state highway is needed, an access permit from ODOT is required as part of the land use application. Where access is needed to a road managed by the Forest Service or other entity, an access permit or other authorization from the appropriate entity shall be required as part of the land use application.

Response: Access (Approach) permits, per the requirements stated under MCZO Section 4.010 B, will be obtained for the Amended Facility consistent with Condition GEN-LU-02 (see Attachment K-1).

C. Emergency Vehicle Access. It is the responsibility of the landowner to provide appropriate access for emergency vehicles at the time of development. A dead-end private street exceeding one hundred-fifty (150) feet in length shall have an adequate turn around facility approved by

the appropriate Fire Marshal or, if the Fire Marshal fails to review the private street, approval by the Building Official or his designee.

Response: Emergency vehicle access will be provided from accesses off County and Oregon Department of Transportation (ODOT) roads (see response above) and designed to applicable standards to internal site facility roads. Amended Facility roads will be sufficiently sized for emergency vehicle access in accordance with the most updated Oregon Fire Code (Section 503 and Appendix D Fire Apparatus Access Roads), last updated in 2022 (or the most updated Fire Code at time of construction). Specifically, roads will be 16 feet wide with an internal turning radius of 28 feet and less than 10 percent grade to provide access to emergency vehicles.

D. Easements and Legal Access: All lots must have access onto a public right of way. This may be provided via direct frontage onto an existing public road, a private roadway, or an easement. Minimum easement requirements to provide legal access shall be as follows:

- 1. 1000' or less, a minimum easement width of 20'*
- 2. More than 1000', a minimum easement width of 40'*
- 3. Parcels where 3 or more lots share an access (current or potential), a minimum easement of 60'.*

Response: As shown on Figure K-2, the lots on which the proposed changes will be located will have access to a public ROW which, will be documented through existing Condition GEN-LU-02 (see Attachment K-1).

E. Access Spacing Requirements for Development Accessing State Highways. Applications for development with access onto state highways shall be provided to ODOT for review, to ensure consistency with adopted ODOT Access Management Standards shown in Table 4.010-1. These standards apply only to unsignalized access points. Where a right of access exists, a property shall be allowed to have access onto a state highway at less than adopted access spacing requirements only if all the following conditions are met:

- 1. The property does not have reasonable access via an alternative to the state highway;*
- 2. There are no other possible access options along the parcel's highway frontage; and*
- 3. The access spacing standards cannot be accomplished.*

When a proposed access onto a state highway does not meet the access spacing standards in Table 4.010-1, a deviation from standard will be considered by the ODOT Region Manager, subject to requirements in OAR 734-051-0135.

TABLE 4.010-1
ACCESS MANAGEMENT STANDARDS FOR MORROW COUNTY
NON-INTERSTATE HIGHWAYS

Highway	Classification	Access Spacing Standards for Public or Private Unsignalized Access (ft) for Posted Speed Indicated (mph)				
		>55	50	40 & 45	30 & 35	<25
US 730, OR 74	Regional	990	830	750	600	450
OR 206, OR 207	District	700	550	500	400	400

REFERENCE: OREGON ADMINISTRATIVE RULES SECTION 734-051 (2004)

Response: As shown on Figure K-2, access to ODOT ROW will meet the access spacing standards in MCZO Table 4.010-1 which will be verified through existing Condition GEN-LU-02 (see Attachment K-1).

F. Access within the Influence Area of an Interchange Access within the influence area of existing or proposed state highway interchanges is regulated by standards in OAR 734-051, which are included as Appendix F of the 2005 Morrow County Transportation System Plan Update. These standards do not retroactively apply to interchanges existing prior to adoption of the 1999 Oregon Highway Plan, except or until any redevelopment, change of use, or highway construction, reconstruction or modernization project affecting these existing interchanges occurs. It is the goal at that time to meet the appropriate spacing standards, if possible, but, at the very least, to improve the current conditions by moving in the direction of the spacing standard.

Response: There are no interchanges nor an Influence Area of an Interchange Access in the Analysis Area. Therefore, this standard does not apply.

G. Signalized Intersection Spacing on State Facilities. New traffic signals proposed for state facilities, whether the intersecting facility is a public or private road, shall meet the requirements for installation of a traffic signal on a state highway in OAR 734-020-0400. New traffic signals on state facilities must be approved by the State Traffic Engineer. For approval of a new traffic signal on a County facility as part of a condition of development approval, the applicant shall be required to show, through analysis prepared by a qualified professional engineer registered in the State of Oregon, that the signal is warranted to improve traffic operations, address safety deficiencies, or a combination, based upon traffic signal warrants in the current version of the Manual on Uniform Traffic Control Devices.

Response: No new traffic signals are proposed for state facilities as part of this RFA 1. Therefore, this standard does not apply.

H. Access Spacing Requirements for Development Accessing County Facilities. All developments shall have legal access to a County or public road. Except for interim access as provided in Section 4.010 H [Interim Access], access onto any County road in the unincorporated or incorporated urban area shall be permitted only upon issuance of an access permit upon

demonstration of compliance with the provisions of the County road standards and the standards of Section 4.010. For County roadways designated as major collector or arterial in the Transportation System Plan, the standards in Table 4.010-2 apply for intersections created by a new public roadway, new private roadway or new private driveway. For County roadways designated as minor collectors or local access roads, intersections created by a new public roadway, new private roadway or new private driveway shall meet minimum County traffic safety and operational requirements, including sight distance, as determined by the County Engineer.

TABLE 4.010-2
ACCESS MANAGEMENT STANDARDS FOR MORROW COUNTY ROADWAYS

Classification	Access Spacing Standards for Public or Private Access (ft)		
	Public Roadway	Private Roadway	Private Driveway ^a
Arterial	600	600	300
Collector	300	300	100
Local	200	200	Access to each lot

a. For most roadways, at-grade crossings are appropriate. Also, allowed moves and spacing requirements may be more restrictive than those shown to optimize capacity and safety. Any access to a state highway requires a permit from the district office of ODOT and is subject to the access spacing standards in Table 4.010-1 in this section.

No use will be permitted to have direct access to a street or road except as specified below, or as provided in Section 4.010.H (Interim Access). Access spacing shall be measured from existing or approved accesses on either side of a street or road. Measurements shall be made from easement or right-of-way line to easement or right-of-way line. (See following access diagram where R/W = Right-of-Way; P.I. = Point-of-Intersection where P.I. shall be located based upon a 90 degree angle of intersection between ultimate right-of-way lines, and 'C' and 'D' = each side of adjacent accesses to private property.

1. All minimum distances stated in the following sections shall be governed by sight distance requirements according to this Ordinance and applicable County Road Standards.
2. All minimum distances stated in the following sections shall be measured to the nearest easement line of the access or edge of travel lane of the access on both sides of the road.
3. The minimum curb radius shown in the diagram below (i.e., distance from Point "A" to Point "B") shall be 15 feet. In areas zoned for industrial uses, the minimum curb radius shall be 30 feet. At intersections between facilities classified as major collector, arterial or highway, any new or modified intersection shall be designed to accommodate a WB-50 Semitrailer Design Vehicle. If either route is designated by the County as a truck route, the intersection shall be designed to accommodate a WB-65 Interstate Semitrailer Design Vehicle. The curb alignment shall be designed so that the

design vehicle can complete a right turn without entering a lane used by opposing traffic.

4. All minimum distances between accesses shall be measured from existing or approved accesses on both sides of the road.

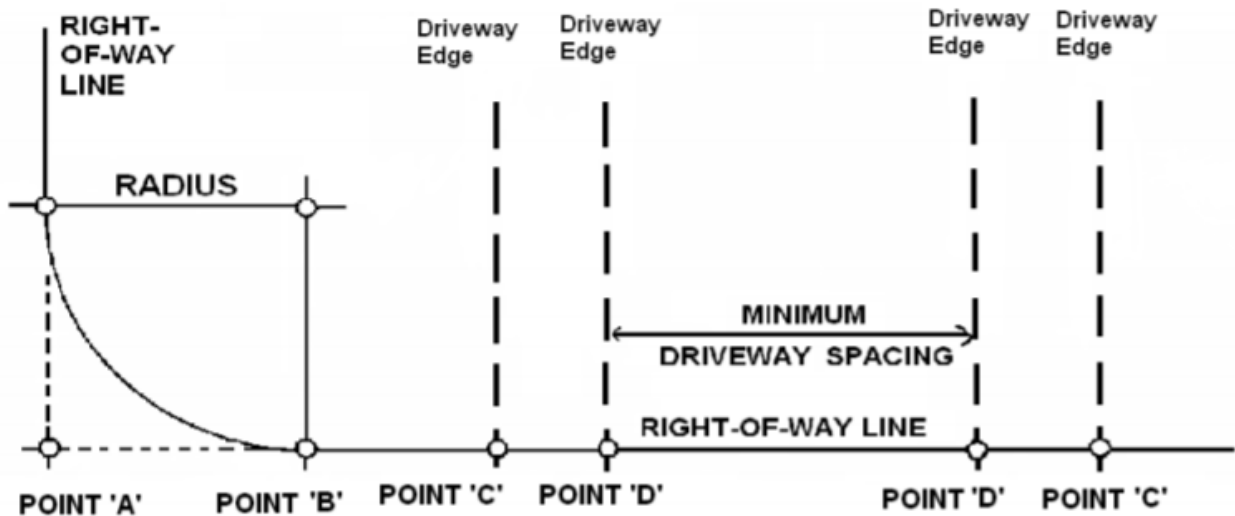
5. Minimum spacing between driveways shall be measured from Point "D" to Point "D" as shown below (i.e., the edges of adjacent driveways closest to each other).

6. In all instances, access points near an intersection with a Collector or Arterial shall be located beyond the influence of standing queues of the intersection in accordance with AASHTO standards. Additionally, access shall be located beyond the back of any left turn refuge either existing on the affected road or required to accommodate the proposed development. This requirement may result in an access spacing greater than one hundred (100) feet in the case of a collector, or 300 feet in the case of an arterial.

7. Access onto local roads will not be permitted within ten (10) feet of Point "B" as shown below. If no radius exists, access will not be permitted within twenty-five (25) feet of Point "A".

8. Access onto collector roads will not be permitted within fifty (50) feet of Point "B" as shown below. If no radius exists, access will not be permitted within sixty-five (65) feet of Point "A". Where a common or shared access is available it shall be used, provided that such use will not result in operational or safety problems. Minimum spacing between driveways shall be one-hundred (100) feet.

9. Direct access to an arterial will be permitted provided that Point 'C' of such access is more than three hundred (300) feet from any intersection Point 'A' or other access to that minor arterial.



Response: As shown on Figure K-2, the lots that the proposed changes will be located on will have access to public ROW that meet access management standards, which will be documented through existing Condition GEN-LU-02 (see Attachment K-1). Therefore, this standard is satisfied.

I. Interim Access onto County Facilities. No development with sole access onto a County arterial or major collector shall be denied based only on an inability to provide an access that meets applicable access spacing standards. In such an event, the use may be issued an interim access permit which shall expire when access as required under this Ordinance becomes available. An interim access permit may be granted based upon the following:

- 1. The site is situated such that adequate access cannot otherwise be provided in accord with the access spacing requirements of this Code.*
- 2. The interim access shall meet minimum County traffic safety and operational requirements, including sight distance.*
- 3. Alternate access shall not be deemed adequate and connections to alternate access shall not be required if the resulting route of access would require a trip in excess of one (1) block or five-hundred (500) feet out of direction (whichever is less).*
- 4. The property owner signs a consent to participate agreement for the formation of a Local Improvement District or similar financing mechanism for the primary purpose of constructing a public road or right-of-way providing access to the arterial or collector road; such access shall meet the minimum applicable County standard.*
- 5. The property owner records an agreement to participate in any project that would consolidate access points where such project would not result in new or more severe traffic operation or safety problems.*
- 6. The property owner records an agreement to abandon use of the existing private access way when an adequate alternative access becomes available.*

Response: As the Council previously found, consistent with existing Condition GEN-LU-02, the Amended Facility will meet Morrow County access standards (see Attachment K-1). It is not anticipated that the changes proposed in RFA 1 will require interim access onto County facilities.

5.4.1 Section 4.020. Sight Distance

Response: Adequate sight distance, per the requirements stated under MCZO Section 4.020 A, will be maintained at facility approaches as part of the zoning permit consistent with existing Condition PRE-LU-01 and existing Condition GEN-LU-02 (see Attachment K-1).

5.4.2 Section 4.035. Permit Requirements For Land Use Development

Response: The Amended Facility, as proposed, will require increased automobile trips during construction; but the expected proposed use will not exceed 400 trips per day. Traffic is not expected to be impacted during the long-term operation of the Amended Facility. Prior to

construction, the Certificate Holder will implement Conditions PRE-PS-01 and PRE-PS-02 (see Attachment K-1).

5.4.3 Section 4.040. Off-Street Vehicle Parking Requirements and Section 4.060. Design and Improvement Standards – Parking Lots

Response: There will be very little ongoing maintenance required for the wind power generation facilities. The majority of the wind power generation facilities are operated and maintained remotely. However, periodic visits from O&M personnel are required for vegetation control, and equipment inspections. O&M staff would utilize pickups for these visits. Immediately adjacent to the shared/existing O&M Building is a parking lot for employees, visitors and Amended Facility equipment. In addition, earth and gravel pads for turbines effectively add weight to the foundation and further stabilize the turbine; but also serve as a parking area for maintenance vehicles.

5.4.4 Section 4.070. Sign Limitations and Regulations

Response: Signage may be included at the site access road and will comply with Morrow County requirements under MCZO Section 4.070, as documented through the zoning and building permit process.

5.4.5 Section 4.165 Site Plan Review

Site Plan Review is a nondiscretionary or “ministerial” review conducted without a public hearing by the County Planning Director or designee. Site Plan Review is for less complex developments and land uses that do not require site development or conditional use review and approval through a public hearing.

A. Purpose. The purpose of Site Plan Review (ministerial review) is based on clear and objective standards and ensures compliance with the basic development standards of the land use district, such as building setbacks, lot coverage, maximum building height, and similar provisions. Site Plan review also addresses conformity to floodplain regulations, consistency with the Transportation System Plan, and other standards identified below.

B. Pre-application review. Prior to filing its application for site plan review, the applicant shall confer with the County Planning Director or designee, who shall identify and explain the relevant review procedures and standards.

C. Applicability. Site Plan Review shall be required for all land use actions requiring a Zoning Permit as defined in Section 1.050 of this Ordinance. The approval shall lapse, and a new application shall be required, if a building permit has not been issued within one year of Site Review approval, or if development of the site is in violation of the approved plan or other applicable codes.

Response: The Council previously found the Certificate Holder would be required to secure zoning permits from Morrow County prior to issuance of building permits and adopted a condition of

compliance to ensure this process would be followed.¹⁷ Accordingly, a zoning permit will be sought from Morrow County prior to construction consistent with Condition PRE-LU-01: Obtain all necessary local permits (see Attachment K-1). Therefore, the site plan review criteria at MCZO 4.165.D apply.

D. Review Criteria.

1. The lot area shall be adequate to meet the needs of the establishment.

Response: The Council previously found the Approved Facility secured a site adequate to meet the needs of the establishment.¹⁸ The proposed changes in RFA 1 will be located on leased land and will not require new lots or parcels. The Certificate Holder proposes to add approximately 74,403 acres of land adjacent to the Approved Site Boundary (i.e., micrositing corridors) to include the adjacent lease boundary, equating to approximately 78,985 acres for the new, Amended Site Boundary, which is an adequate area of land to meet the needs of the Amended Facility, as proposed. This criterion is satisfied.

2. The proposed land use is permitted by the underlying land use district.

Response: The Council previously found the Approved Facility would be permissible within the Morrow County EFU zone.¹⁹ The portion of the Amended Site Boundary within Morrow County is entirely within Morrow County's designated EFU zone. As described in response to MCZO 3.010.C(24) above, the proposed changes do not affect the Council's previous determination that the Amended Facility meets the definition of a "wind power generation facility," and is therefore permitted as a conditional use in Morrow County's EFU zone.

3. The land use, building/yard setback, lot area, lot dimension, density, lot coverage, building height and other applicable standards of the underlying land use district and any sub-district(s) are met.

Response: The Council previously found the Certificate Holder could design and construct the Approved Facility in accordance with the MCZO 4.165(D)(3) review criteria.²⁰ The Certificate Holder identified and demonstrated that the proposed changes in RFA 1 comply with the applicable development standards of the Morrow County EFU zone, as described above in responses to MCZO 3.010.K, M, and N. Therefore, the Amended Facility, as proposed, complies with this provision.

4. Development in flood plains shall comply with Section 3.100 Flood Hazard Overlay Zone of the Ordinance.

Response: The Council previously found the design of the Approved Facility would be consistent with MCZO Section 3.100.²¹ Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps show that almost all of the Amended Site Boundary is located in Flood Zone X. The Morrow

¹⁷ Final Order on Application for the Wheatridge Wind Energy Facility (April 2017), page 65

¹⁸ Final Order on Application for the Wheatridge Wind Energy Facility (April 2017), page 66

¹⁹ Final Order on Application for the Wheatridge Wind Energy Facility (April 2017), page 66

²⁰ Final Order on Application for the Wheatridge Wind Energy Facility (April 2017), page 66

²¹ Final Order on Application for the Wheatridge Wind Energy Facility (April 2017), page 66

County Flood Hazard Overlay Zone does not regulate FEMA Flood Zone X. FEMA maps show there are areas of the Amended Site Boundary within FEMA Zone A (1 percent annual chance of flood; FEMA 2021). A "structure" is defined in MCZO Section 3.100 as "a walled and roofed building including a gas or liquid storage tank that is principally above ground." No "structures" associated with the Amended Facility will occur within flood hazard areas of Morrow County. The Amended Facility is being sited to avoid floodplains. Therefore, the Amended Facility remains in compliance with MCZO Section 3.100.

5. Development in hazard areas identified in the Morrow County Comprehensive Plan shall safely accommodate and not exacerbate the hazard and shall not create new hazards.

Response: The Council previously found the design of the Approved Facility would comply with MCZO 4.165(D)(5) review criteria.²² The only hazard areas identified in the applicable substantive policies of the MCCP are those areas within Morrow County's Flood Hazard Overlay Zone. As described above in the response to MCZO 4.165.D(4), the Amended Site Boundary is almost entirely within a moderate to low-risk flood area, as defined by FEMA Flood Insurance Rate Maps. MCZO Section 3.100 applies to the development of "structures" in flood hazard areas. A "structure" is defined in MCZO Section 3.100 as "a walled and roofed building including a gas or liquid storage tank that is principally above ground." The Amended Facility does not involve the construction of any "structures" in flood hazard areas of Morrow County. As such, the Amended Facility, as proposed, meets this criterion.

6. Off-street parking and loading-unloading facilities shall be provided as required in Section 4.040 and 4.050 of the Morrow County Zoning Ordinance. Safe and convenient pedestrian access to off-street parking areas also shall be provided as applicable.

Response: The Council previously found the design of the Approved Facility would comply with MCZO 4.165(D)(6) review criteria.²³ Minimum vehicle parking requirements for various types of land uses are listed under MCZO 4.040, and criteria for off-street parking and loading areas for uses that receive and distribute materials and merchandise by trucks are provided in MCZO 4.050. A wind power generation facility is not a use listed or described in these Section 4.040 and 4.050 of the MCZO. In addition, the Amended Facility as modified by RFA 1 will not receive and distribute materials and merchandise by trucks during operation. Therefore, the Amended Facility, as proposed, complies with this provision.

7. County transportation facilities shall be located, designed and constructed in accordance with the design and access standards in the Morrow County Transportation System Plan.

Response: The Council previously found the Approved Facility would comply with MCZO 4.165(D)(7) review criteria.²⁴ As stated above, traffic is not expected to be impacted during the

²² Final Order on Application for the Wheatridge Wind Energy Facility (April 2017), page 67

²³ Final Order on Application for the Wheatridge Wind Energy Facility (April 2017), page 67

²⁴ Final Order on Application for the Wheatridge Wind Energy Facility (April 2017), page 68

long-term operation of the Amended Facility because there will be only up to 10 operations employees. Additionally the Certificate Holder will follow the Morrow County transportation standards to ensure that road improvements are consistent with Condition PRE-PS-02. Therefore, this standard is satisfied.

8. Site planning, including the siting of structures, roadways and utility easements, shall provide, wherever practicable, for the protection of trees eight inch caliper or greater measured four feet from ground level, with the exception of noxious or invasive species, such as Russian olive trees.

Response: The Council previously found the Approved Facility would comply with the MCZO 4.165(D)(8) review criteria.²⁵ The area within the Amended Site Boundary consists mostly of mixed grassland with scattered cultivated winter wheat and is almost entirely devoid of trees (see Exhibit P). Therefore, this standard is satisfied.

9. Development shall comply with Section 3.200 Significant Resources Overlay Zone or 3.300 Historic Buildings and Sites protecting inventoried significant natural and historic resources.

Response: MCZO 3.200 applies to sites that have been designated by Morrow County as a “Significant Resource” and listed in the M CCP (MCZO 3.200.B). MCZO 3.300 applies when an applicant proposes to alter or demolish a historic structure or site (MCZO 3.300.B).

The Council previously found the Approved Facility would comply with the MCZO 4.165(D)(9) review criteria.²⁶ The Amended Facility, as modified by RFA 1, is in compliance with MCZO 3.200 and 3.300 regarding these significant resources as follows:

- The Amended Facility has been designed to avoid impacts to wetlands, as discussed in Exhibit J.
- As discussed in Exhibits P and Q, the Amended Facility has been sited and designed to minimize impacts to wildlife habitat.
- The Amended Facility will have no material impact on groundwater resources due to its minimal operational water demand. Water for construction will be obtained from permitted municipal sources and will not exceed the combined available water rights for those sources.
- There are no designated natural areas or public open space, and the County has no protected scenic views or sites, within the Analysis Area.
- The Amended Facility would not impact any structure listed in the M CCP inventory of significant historical resources, as no such listed resources exist in the Analysis Area. Nonetheless, the Certificate Holder will protect cultural and historic resources in Morrow

²⁵ Final Order on Application for the Wheatridge Wind Energy Facility (April 2017), page 68

²⁶ Final Order on Application for the Wheatridge Wind Energy Facility (April 2017), page 68

County eligible or potentially eligible for regulatory protection consistent with the recommendations of the Confederated Tribes of the Umatilla Indian Reservation (CTUIR).

- The Amended Facility is located entirely on private land, none of which is designated as open space, and permanently impacts only a very small percentage of the Amended Site Boundary. The Amended Facility will not significantly impact the existing open space character of lands within the Amended Site Boundary.

Identified Native American cultural and archaeological sites eligible or potentially eligible for regulatory protection are avoided, as required by applicable standards and in compliance with Condition CON-HC-02. As such, MCZO 3.300.B does not apply. The impacts of the Amended Facility, as modified by RFA 1, on scenic, protected, historic, and recreational areas are also discussed in further detail in Exhibits R, L, S and T, respectively. Therefore, this standard is satisfied.

10. The applicant shall determine if compliance is required with Oregon Water Resources Department water quantity and/or Oregon Department of Environmental Quality water quality designations.

Response: The Council has previously found the Certificate Holder demonstrated compliance with the MCZO 4.165(D)(10) review criteria would be required for the Approved Facility.²⁷ See Exhibit O for Amended Facility compliance with Oregon Water Resources Department water quantity and/or Oregon Department of Environmental Quality water quality designations. As identified in Exhibit O, existing Condition CON-SP-01 requires the Certificate Holder to operate under an Erosion and Sediment Control Plan (ESCP) required under the National Pollutant Discharge Elimination System (NPDES) Construction Stormwater Discharge General permit 1200-C (see Exhibit I). In addition, the Amended Facility will implement required best management practices (BMP) to preserve water quality. PRE-WM-02 requires confirmation of no surface/ground/drinking water impacts from concrete washout water. The Amended Facility will obtain appropriate permits from the U.S. Army Corps of Engineers to the extent required under the federal Clean Water Act. Therefore, this standard is satisfied.

11. The applicant shall determine if previous Code Enforcement violations have been cleared as applicable.

Response: The Council previously found the review criteria of MCZO 4.165(D)(11) would not apply to the Approved Facility.²⁸ The Certificate Holder is unaware of any Code Enforcement violations associated with the new area proposed by RFA 1 for inclusion in the Amended Site Boundary. Therefore, this provision does not apply.

12. The applicant shall determine the method of disposal for solid waste, with staff providing information to the applicant about recycling opportunities.

²⁷ Final Order on Application for the Wheatridge Wind Energy Facility (April 2017), page 69

²⁸ Final Order on Application for the Wheatridge Wind Energy Facility (April 2017), page 69

Response: The Council previously found the Approved Facility would comply with MCZO Section 4.165(D)(12).²⁹ Solid waste, disposal, and recycling for the Amended Facility is addressed in Exhibits G, U, and W. Condition GEN-PS-01 ensures compliance with MCZO Section 4.165(D)(12) by requiring the Certificate Holder to coordinate with its solid waste handler to provide the information solicited through the Oregon Department of Environmental Quality's Recycling Collector Survey to the Morrow County waste shed representative on an annual basis. Therefore, this standard is satisfied.

13. The applicant shall obtain the necessary access permit through the Public Works Department as required by Morrow County Resolution R-29-2000.

Response: The Council previously found the Approved Facility would comply with MCZO Section 4.165(D)(12).³⁰ Per the existing Site Certificate conditions in Attachment K-1, the Certificate Holder will obtain all necessary local permits for the Amended Facility, including access permits through the Morrow County Public Works Department, prior to construction. Therefore, this standard is satisfied.

5.5 Article 6. Conditional Uses

5.5.1 Section 6.020. General Criteria

In judging whether or not a conditional use proposal shall be approved or denied, the Commission shall weigh the proposal's appropriateness and desirability, or the public convenience or necessity to be served against any adverse conditions that would result from authorizing the particular development at the location proposed and, to approve such use, shall find that the following criteria are either met or can be met by observance of conditions.

A. The proposal will be consistent with the Comprehensive Plan and the objectives of the Zoning Ordinance and other applicable policies and regulations of the County.

Response: The Council previously found the conditions of the Approved Facility would comply with MCZO Sections 6.020(A), (B), and (C).³¹ The Certificate Holder demonstrates in the responses to the applicable substantive criteria of the MCCP and MCZO that the Amended Facility and all new impacts proposed by RFA 1 and not previously evaluated by the Council are consistent with and comply with the MCCP, MCZO, and other applicable policies and regulations of Morrow County. Therefore, this provision is met.

B. If located within the Urban Growth Boundary of a city, that said city has had an opportunity to review and comment on the subject proposal.

Response: The Amended Facility is not located within the urban growth boundary (UGB) of a city; therefore, this criterion is not applicable.

²⁹ Final Order on Application for the Wheatridge Wind Energy Facility (April 2017), page 70

³⁰ Final Order on Application for the Wheatridge Wind Energy Facility (April 2017), page 70

³¹ Final Order on Application for the Wheatridge Wind Energy Facility (April 2017), page 73

C. The proposal will not exceed carrying capacities of natural resources or public facilities.

Response: Exhibits I, J, P, Q, S, and U of this RFA 1 demonstrate that the carrying capacities of natural resources or public facilities would not be exceeded.

5.5.2 Section 6.025. Resource Zone Standards for Approval

A. In the Exclusive Farm Use zone a conditional use may be approved only when the County finds that the use will not:

- 1. Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or*
- 2. Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.*

Response: Under ORS 215.203, lands devoted to farm use include “wasteland” such as the grasslands and other areas that are not economical to cultivate, because they are interspersed with cultivated lands and are also within the EFU zone. The lands devoted to farm use in Morrow County are used primarily for cultivation of wheat and grazing of livestock, and related accessory uses.

The original WWEF ASC application stated that, within the Approved Site Boundary in Morrow County, approximately 10,815 acres, or 95 percent of the area, are devoted to farm use; once built, permanent facility components would occupy (at most) approximately 146 acres, or about 2 percent of the agricultural lands within the Approved Site Boundary in Morrow County. The Council previously found the Approved Facility would not force a significant change in accepted farming practices and would satisfy the conditional use standards of MCZO Section 6.025.A.³²

With the proposed changes in RFA 1, Table K-5 shows that the Amended Site Boundary within Morrow County has approximately 66,823 acres, or 93 percent of the total area within the Amended Site Boundary, devoted to farm use. Once built, permanent RFA 1 Amended Facility components would occupy (at most) approximately 150 acres, or about 0.2 percent of the agricultural lands within the Amended Site Boundary in Morrow County. Of the agricultural lands within the Amended Site Boundary in Morrow County, a smaller amount (29 acres, or 0.04 percent) of high-value farmland would be permanently impacted by the Amended Facility.

³² Final Order on the Application for the Wheatridge Wind Energy Facility (April 2017), p. 80-82

Table K-5. Impacts to Farmland in Morrow County

Feature	Area	
Total Area within Amended Site Boundary in Morrow County	71,878 acres	
Total Area within Amended Micrositing Corridor in Morrow County	12,876 acres	
Area within Amended Site Boundary Devoted to Farm Use ¹	66,823 acres total, of which 7,945 acres are High Value Farmland	
	Non-High Value Farmland	High Value Farmland²
Acres Permanently Impacted by Amended Facility ³	121 acres	29 acres
Total	150 acres	
<p>1. Consistent with the definition of "farm use" in ORS 215.203 and OAR 660-033-0020(7), all land shown on Figure K-3 as Developed-Dryland Wheat, Developed-Irrigated Agriculture, Developed-Revegetated or Other Planted Grassland, Grassland-Exotic Annual and Grassland-Native Perennial has been included in the calculation of land devoted to farm use for this exhibit.</p> <p>2. Pursuant to MCZO 3.010.K.2(b), this calculation applies the definition of "high-value farmland" from ORS 195.300(10)(a), (c), and (f).</p> <p>3. The permanent impact on non-high-value farmland and high-value farmland for the proposed layout in Morrow County includes the Intraconnection Line route.</p>		

The Amended Facility, as proposed to be modified by RFA 1, will comply with the Site Certificate conditions included in Attachment K-1. The impact of the Amended Facility, as modified by RFA 1, would not force a significant change in accepted farm practices, nor significantly increase the cost of farm practices, for the following reasons:

- To ensure compliance with MCZO Section 6.025, the Council adopted Condition GEN-LU-04 to require the Certificate Holder to design and construct the Approved Facility using the minimum land area necessary for safe construction and operation.³³ As required by that condition, Amended Facility components and temporary construction laydown and staging areas—including new Amended Facility components proposed with RFA 1—are being sited to minimize disturbance to farming operations, including by avoiding unnecessarily dividing fields. To minimize impacts to agricultural operations, grazing lands, and wildlife habitat, existing private roads and farm access tracks would be utilized to the greatest extent practicable.

With RFA 1, the Certificate Holder proposes amended wind micrositing corridors that establish the locations of turbine strings and would encompass all of the permanent and temporary Amended Facility infrastructure, including the location of a laydown area along Myers Ln. Proposed placement of turbines and transmission lines are shown along the margins of cultivated areas, which reduces the potential for conflict with farm operations (Figure 2). The amended wind micrositing corridors will also include underground collector lines, private access roads, service roads, gates, and security fencing.

³³ Final Order on the Application for the Wheatridge Wind Energy Facility (April 2017), p. 81

The Certificate Holder is describing the full build-out potential of the amended wind micro-siting corridors to analyze the greatest potential impact for each resource. The amended wind micro-siting corridors exclude areas, where appropriate, to avoid and minimize impacts to sensitive cultural, biological, or environmental resources. Siting the Amended Facility close to other existing or approved renewable energy facilities allows for efficient use of transmission infrastructure while consolidating land use impacts to a specific area as opposed to spreading land use impacts out across a broader patchwork of facilities. The Amended Facility will share use of the Wheatridge Renewable Energy Facility (WREF) II O&M Building and existing Blue Ridge Substation. For these reasons, the Certificate Holder demonstrates its ability to maintain compliance with Condition GEN-LU-04 for the changes proposed with RFA 1.

- Land converted from farm use due to siting of permanent Amended Facility improvements is a de minimis percentage of the total farm use land in Morrow County—150 acres or approximately 0.01 percent of the 1,126,101 acres of farmland in Morrow County (USDA 2017). Of those 150 acres, only 29 acres (0.003 percent of the total farmland in Morrow County) are classified as high-value farmland. Therefore, the inability to use the land for farm purposes over the life of the Amended Facility will have insignificant impacts on farm practices in Morrow County as a whole.
- The Certificate Holder maintains the commitment from the Approved Facility that the Amended Facility, as modified by RFA 1, will be designed and legally structured such that the cost burden constructing and maintaining access roads and other facilities would not fall on participating landowners and would not increase the costs of farming for affected landowners.³⁴ Condition OPR-LU-04 requires the Certificate Holder to prepare an Operating and Facility Maintenance Plan (Plan) and submit the Plan to Oregon Department of Energy (ODOE) for approval in consultation with Umatilla and Morrow Counties. OPR-SP-01 requires the Certificate Holder to “routinely inspect and maintain all facility components including roads, pads and other facility components.” The Amended Facility will utilize the existing WREFII O&M Building (see Figure 2), where O&M staff will have the ability to access the site for inspections.
- Amended Facility access roads improved or developed for the Amended Facility could benefit agricultural users of land in the Analysis Area through improved access to farm fields and resulting lower fuel costs. Specific improvements will be identified in consultation with the appropriate county road master prior to construction, and permitting will be sought through the counties at that time. Regardless, upgrades to existing roads will be done according to applicable state and county road standards and after consultation with Morrow and Umatilla County staff. A road use agreement with each county will specify requirements, including that all existing public roads used to access the Amended Facility

³⁴ Final Order on the Application for the Wheatridge Wind Energy Facility (April 2017), p. 150

will be left in as good or better condition than the condition that existed prior to the start of construction (per Conditions PRE-PS-02 and PRE-PS-03).

- Morrow County did not request a TIA for the Approved Facility.³⁵ While some increase in traffic is anticipated during construction, Exhibit U demonstrates that the temporary increase in the level of traffic will not significantly impact level of service on local roads. Therefore, construction traffic will not interfere with harvest time activities such as tractor movement between fields or trucks delivering agricultural products to market.
- The Certificate Holder will record in the real property records of Morrow County a Covenant Not to Sue against its Amended Facility leasehold interests with regard to generally accepted farming practices on adjacent farmland (Condition PRE-LU-04).
- The Council previously imposed PRE-LU-03 with the Approved Facility to ensure compliance with OAR 660-033-0130(37)(b)(D), which provides that facility construction or maintenance activities must not result in the “unabated introduction or spread of noxious weeds and other undesirable weed species.³⁶ The Certificate Holder has prepared a draft Noxious Weed Control Plan for the Amended Facility, as modified by RFA 1, to reduce the risk of weed infestation in cultivated land and the associated cost to the farmer for weed control. The Certificate Holder will submit the final plan for implementation no less than 30 days prior to the beginning of construction (Condition PRE-LU-03).
- The Council previously found the Approved Facility would not force a significant change in accepted farming practices, including aerial spraying or irrigation and that the Approved Facility would not significantly increase the cost of aerial spraying or irrigation.³⁷ The Amended Facility will not affect the application of pesticides or fertilizers using ground-based methods. Aerial spraying may be utilized for application of pesticides or fertilizers to crops within the Analysis Area. Although the presence of wind turbines can increase both the difficulty and the risk of aerial spraying in the vicinity of a wind farm, the presence of wind turbines does not remove the possibility of aerial spraying in an area, as spray pilots commonly fly at very low altitudes, navigating around terrain, trees, utility poles, transmission lines, farm structures, and other obstacles. As shown on Figure K-3, there are only a few small areas of irrigated lands within the Analysis Area. Wind turbines are not proposed to be sited closer than 1 mile from pivot irrigated plots (detailed on Figure 2).
- Construction and operation of the Amended Facility could cause changes in routes of access to fields and changes in the pattern of cultivation, seeding, fertilizing and harvesting near the turbines and access roads. To minimize this, the Certificate Holder, in consultation with the landowners, will minimize obstacles to farming in cultivated fields (Amended Facility components around which the farmer would have to plow, plant, and harvest). As stated in the upfront Division 27 document, no site access road improvements are expected to be

³⁵ Final Order on the Application for the Wheatridge Wind Energy Facility (April 2017), page 85

³⁶ Final Order on the Application for the Wheatridge Wind Energy Facility (April 2017), p. 151

³⁷ Final Order on the Application for the Wheatridge Wind Energy Facility (April 2017), p. 80

necessary. The same unimproved farm access tracks and field crossings would sufficiently serve the light trucks generally used for maintenance operations. As with other site access roads, an 82-foot wide temporary impact corridor is used for purposes of assessing impacts of site access roads used for constructing the Intraconnection Line route selected; however, there is no permanent impact associated with these site access roads.

- The original ASC for WWEF detailed a commitment to consult with area landowners during construction and operation to determine further measures to reduce or avoid any adverse impacts to farm practices on surrounding lands and to avoid any increase in farming costs. The Council previously stated it considers this a “binding commitment” and adopted Condition PRE-LU-05.³⁸ The Certificate Holder will maintain the commitment to consult with area landowners during construction and operation of the Amended Facility to determine further measures to reduce or avoid any adverse impacts to farm practices on surrounding lands and to avoid any increase in farming costs (Condition PRE-LU-05).
- Construction of the Amended Facility could adversely affect soil quality by erosion or compaction. Some farmland would be temporarily disturbed and unavailable for farming during construction. Condition GEN-SR-02 requires the Certificate Holder to water roads and other areas of ground disturbance during construction, as needed, to avoid the generation of airborne dust. To avoid or reduce adverse impacts to soil quality, the Certificate Holder will implement dust control and erosion-control measures during construction and operation of the Amended Facility (see Exhibit I).
- The Certificate Holder will follow Condition CON-LU-01. Construction vehicles will use previously disturbed areas including existing roadways and tracks. When practical, temporary construction yards and laydown areas will be located within existing disturbed areas or the future footprint of permanent structures. The width of new permanent roadways will be the minimum consistent with safe use. Underground communication and electrical lines will be buried within the area disturbed by temporary road widening to the extent practicable. Upon completion of construction, the Certificate Holder will restore temporarily disturbed areas to their pre-construction condition (Condition CON-LU-01).

Potential construction impacts will largely be limited to traffic (see Exhibit U), dust control (see Exhibit I), and weed impacts (see Exhibit P). Existing Site Certificate conditions will be complied with to minimize these temporary impacts including:

- Condition OPR-SP-01: Prevention of erosion, soil disturbance
- Condition CON-SP-01: Erosion and Sediment Control Plan (ESCP)
- Condition CON-SP-02: Best management practices to be included in ESCP
- Condition PRE-PS-01: Preparation of Traffic Management Plan
- Condition PRE-PS-02: Road Use Agreements with counties

³⁸ Final Order on the Application for the Wheatridge Wind Energy Facility (April 2017), page 81

There are no lands in the Analysis Area in forest use; therefore, construction and maintenance of the Amended Facility will not force a change to, or increase the cost of, forest practices on surrounding lands.

5.5.3 Section 6.030. General Conditions

In addition to the standards and conditions set forth in a specific zone, this article, and other applicable regulations; in permitting a new conditional use or the alteration of an existing conditional use, the Commission may impose conditions which it finds necessary to avoid a detrimental impact and to otherwise protect the best interests of the surrounding area or the County as a whole. These conditions may include the following:

- A. Limiting the manner in which the use is conducted including restricting the time an activity may take place and restraints to minimize such environmental effects as noise, vibration, air pollution, glare and odor.*
- B. Establishing a special yard or other open space or lot area or dimension.*
- C. Limiting the height, size or location of a building or other structure.*
- D. Designating the size, number, location and nature of vehicle access points.*
 - 1. Where access to a county road is needed, a permit from Morrow County Public Works department is required. Where access to a state highway is needed, a permit from ODOT is required.*
 - 2. In addition to the other standards and conditions set forth in this section, a Traffic Impact Analysis (TIA) will be required for all projects generating more than 400 passenger car equivalent trips per day. A TIA will include: trips generated by the project, trip distribution for the project, identification of intersections for which the project adds 30 or more peak hour passenger car equivalent trips, and level of service assessment, impacts of the project, and mitigation of the impacts. If the corridor is a State Highway, use ODOT standards. (MC-C-8-98)*
- E. Increasing the amount of street dedication, roadway width or improvements within the street right-of-way.*
 - 1. It is the responsibility of the landowner to provide appropriate access for emergency vehicles at the time of development. (MC-C-8-98)*
- F. Designating the size, location, screening, drainage, surfacing or other improvement of a parking area or loading area.*
- G. Limiting or otherwise designating the number, size, location, height, and lighting of signs.*
- H. Limiting the location and intensity of outdoor lighting and requiring its shielding.*
- I. Requiring diking, screening, landscaping or another facility to protect adjacent or nearby property and designating standards for its installation and maintenance.*

J. Designating the size, height, location and materials for a fence

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

L. Other conditions necessary to permit the development of the County in conformity with the intent and purpose of this Ordinance and the policies of the Comprehensive Plan.

Response: The provisions under MCZO 6.030 describe conditions that may be imposed “to avoid a detrimental impact and to otherwise protect the best interests of the surrounding area or the County as a whole.” The section is a list of discretionary conditions and does not contain substantive standards. The Amended Facility, has been designed to avoid detrimental impacts. In addition, the Site Certificate, with which the Certificate Holder must comply, provides adequate conditions for the best interests and protection of the surrounding area and Morrow County as a whole. Accordingly, no additional discretionary conditions from MCZO 6.030 are warranted.

5.5.4 Section 6.040. Permit and Improvements Assurance

The Commission may require an applicant to furnish the County with a performance bond or such other form of assurance that the Commission deems necessary to guarantee development in accordance with the standards established and the conditions attached in granting a conditional use permit.

Response: This provision does not establish approval standards. Financial assurance for facilities constructed and operated through RFA 1 will be in accordance with the Council’s Retirement and Financial Assurance standard, OAR 345-022-0050 (see Exhibit X). Therefore, this provision does not apply.

5.5.5 Section 6.050. Standards Governing Conditional Uses

A conditional use shall comply with the standards of the zone in which it is located and with the standards set forth in this subsection.

O. Radio, television tower, utility station or substation:

1. In a residential zone, all equipment storage on the site may be required to be within an enclosed building.

Response: This provision, MCZO 6.050.O(1), does not apply because the Amended Facility is not located in a residential zone.

2. The use may be required to be fenced and provided with landscaping.

Response: This provision provides for a discretionary condition. The ordinance does not contain a substantive standard for imposing the fencing or landscaping requirement; however, the Amended Facility substation will be fenced for security. No other fencing or landscaping is proposed.

3. The minimum lot size for a public utility facility may be waived on finding that the waiver will not result in noise or other detrimental effects to adjacent property.

Response: This provision is not applicable to RFA 1, because no new lots are proposed.

4. Transmission towers, hoses, overhead wires, plumbing stations, and similar gear shall be so located, designed and installed as to minimize their conflict with scenic values.

Response: There are no identified scenic views or resources located within or in the vicinity of the Site Boundary (see Exhibit R). Nonetheless, the proposed Intraconnection Line routes have been designed to minimize their visibility for area residents and travelers on public roads and designed to minimize visual impact through the use of monopoles or wooden H-frames and non-reflective finishes. Collector Lines will be placed underground to the extent practicable. Accordingly, the Amended Facility as proposed to be modified by RFA 1 complies with this standard.

5.6 Applicable Substantive Criteria from the Morrow County Comprehensive Plan (Policies)

In 1986, Morrow County adopted a comprehensive plan to address the sustainable management of resources within the county that might be threatened by population growth and development. The MCCP (Morrow County 2018b) has several “Goals” or “Elements” relating to different resources within the county. This section demonstrates consistency with the MCCP Elements applicable to the Amended Facility.

5.6.1 Goal 3: Agricultural Lands Element

Policy 1: It shall be the policy of Morrow County, Oregon, to preserve agricultural lands, to protect agriculture as its main economic enterprise, to balance economic and environmental conditions, to limit noncompatible nonagricultural development, and to maintain a high level of livability in the County.

Response: The Council previously found the Approved Facility would be consistent with MCCP Agricultural Policy 1.³⁹ The changes proposed by RFA 1 are located on agricultural lands as defined in the MCCP. The proposed use—wind energy generation—is consistent with MCCP Goal 3, Policy 1, as it will not permanently convert agricultural lands to non-agricultural lands. The proposed changes will occupy agricultural land under a long-term lease, but will not permanently damage the soils within the Amended Site Boundary, allowing the land to convert back to agricultural use after the Amended Facility is decommissioned. According to the most current Morrow County Census of Agriculture (USDA 2017), approximately 1,126,101 acres of land in Morrow County are considered to be “farms.” Land to be converted from farm use due to siting of permanent Amended Facility improvements is an area of 150 acres, or approximately 0.01 percent of land on farms in Morrow County, and therefore a de minimis removal of land from agricultural use. Of those 150 acres, only

³⁹ Final Order on the Application for the Wheatridge Wind Energy Facility (April 2017), p. 91

29 acres (0.003 percent of the total farmland within Morrow County) is classified as high-value farmland.

The proposed changes in RFA 1 will also be compatible with adjacent agricultural uses, as they will not limit or impact current or future farm activities on the surrounding land. MCZO Section 3.010.C (23) conditionally permits wind power generation facilities on agricultural land subject to Section 3.010.K.2. Compliance with these standards is detailed above in Section 5.3.5. The carrying capacities of natural resources or public facilities would not be exceeded by the changes proposed in RFA 1; therefore, RFA 1 will not have a significant adverse impact on “livability” in Morrow County (see Exhibits I, J, P, Q, S, and U). Instead, the Amended Facility will have a positive impact on “livability” by supporting the local economy as detailed further below in response to M CCP Goal 9.

Policy 4: It shall be the policy of the County to develop and implement comprehensive and definitive criteria for the evaluation of all non-farm developments to ensure that all objectives and policies set forth herein are complied with to the maximum level possible.

Response: Morrow County has established comprehensive and definitive criteria in the MCZO for the evaluation of all non-farm developments within agricultural lands. As provided in previous sections of this application, the Amended Facility proposed in RFA 1 will comply with the applicable MCZO Section 3.010.K.2 standards (for wind power generation facilities) to the maximum level possible. Therefore, RFA 1 is consistent with this standard.

5.6.2 Goal 9: Economic Element

Policy 2A: To maximize the utilization of the local work force as job opportunities increase.

Response: The Council previously found the Approved Facility would be consistent with M CCP Economic Element Goal 9 Policy 2A.⁴⁰ RFA 1 will provide temporary employment opportunities during construction and will contribute to the local tax base during operation, as described in Exhibit U. Further, per the Umatilla Electric Cooperative (UEC) website:

In September 2017, the Oregon Business Development Commission estimated that the \$795 million Wheatridge project would add 20 to 25 new full-time jobs with average wages of \$60,000, generate 250 to 300 construction jobs and create substantial economic benefits to lease holders and surrounding communities.

Over 16 years, the project would generate tens of millions of dollars in property taxes and community service fees to Morrow and Umatilla counties (UEC 2018).

Adding the changes proposed in RFA 1 to the Approved Facility will create additional benefits in the form of up to ten additional full-time jobs, construction jobs, taxes, compensation to landowners via commercial contracts including leases as noted below and community service fees. Because most of Morrow County is EFU zoned, these benefits will largely support EFU zoning uses and the stability

⁴⁰ Final Order on Request for Amendment 4 to the Site Certificate for the Wheatridge Wind Energy Facility, (November 2019), p. 49

of the lease payments allow farmers to continue their agricultural operations on other areas of their land. Therefore, RFA 1 is consistent with this standard.

Policy 3A: To encourage local producers to new markets for local products and to seek out new products that are in demand in the market place and that can be produced locally.

Response: The proposed changes to the Amended Facility in RFA 1 will support Morrow County's Goal to diversify its existing industries and to promote economic growth and stability of the County by adding a new source of tax revenue while ensuring the existing agricultural industries in the surrounding area are not impacted. In addition, the proposed changes in RFA 1 will supplement the landowners' farm income through the lease payments, stabilizing their farm uses by diversifying their income sources while not restricting the landowner's ability to farm the remaining portions of the parcel. Therefore, RFA 1 is consistent with this standard.

Policy: 5A: To utilize appropriate mechanisms in implementing regulations to reduce undesirable impacts from industrial and commercial developments, including the establishment of buffer zones or other mitigation measures if determined to be necessary.

Response: MCZO Section 3.010.C(23) conditionally permits wind power generation facilities on agricultural land subject to Subsection K.2. As provided in previous section of this exhibit, the Amended Facility will comply with these criteria to the maximum level possible. Therefore, RFA 1 is consistent with this standard.

Policy: 6C: To require that development plans be based on the best economic information available, comply with applicable environmental standards, and take into account the effects of the development on the existing economy and available resources, including transportation and work force.

Response: The proposed changes in RFA 1 will monetize the available wind energy resources in Morrow County while minimizing its impacts to the environment (see Exhibits P and Q) and public services. Exhibit U presents an analysis of potential impacts on public service and demonstrates that the Amended Facility will comply with the Public Services standard. It also provides updated information on providers and demographic information within the Analysis Area and demonstrates that there has been no significant change to area resources since the Site Certificate was issued. Therefore, RFA 1 is consistent with this standard.

Policy: 7B: To ensure implementing regulations require the use of best management practices to protect surface and groundwater supplies.

Response: The primary drivers of water use during construction of the Amended Facility as modified under RFA 1 are mixing concrete for turbine foundations and dust control. Minimal wastewater or water loss will be generated during operations. The use of water during construction and operations will be as efficient as practicable (see Exhibit O). During construction, the proposed changes and cumulative Amended Facility will require an anticipated maximum of approximately 57 million gallons of water. This water will be used in activities described above as well as what was already approved in the ASC, including road construction, installation of the Intraconnection

Line, and concrete mixing, among others. Water will also be used for dust control on dirt and gravel roads, turbine pads, and laydown areas. The Certificate Holder intends to use water trucks for the delivery of water from nearby locations with existing water rights. No groundwater permit, surface water permit, or water right transfer is anticipated for this Amended Facility because water will be procured from municipal sources, as near to the construction sites as reasonably possible. The Certificate Holder has re-contacted the suppliers identified in the ASC and listed in Table O-2, who have tentatively indicated willingness and ability to supply water for the Amended Facility. No adverse impacts are expected to result from Amended Facility water use during construction or operation as modified by RFA 1; therefore, no new mitigation measures are proposed and RFA 1 is consistent with this standard

5.6.3 Goal 13: Energy Conservation Element

Policy 2: To conserve energy and develop and use renewable energy resources.

Response: The Council previously found the Approved Facility would be consistent with MCCP Energy Policy 2.⁴¹ Renewable energy sources include wind per Policy 15, under MCCP Goal 13. Therefore, wind energy is considered a renewable energy resource under the MCCP, and the Amended Facility proposed in RFA 1 will utilize wind resources in Morrow County to generate electric power for public use. The RFA 1 is consistent with this standard.

Policy 3: Encourage development of solar and wind resources.

Response: The Council previously found the Approved Facility would be consistent with MCCP Energy Policy 3.⁴² The Amended Facility, as proposed in RFA 1 will utilize wind resources in Morrow County to generate electric power for public use. Therefore, the RFA 1 is consistent with this standard.

Policy 9: The County will encourage the development of alternative energy sources in County industries and businesses.

Response: The Council previously found the Approved Facility would be consistent with MCCP Energy Policy 9.⁴³ Wind energy is considered an alternative energy source because it is not fossil-based. The Amended Facility, as proposed in RFA 1 will generate electric power from wind for public use, and therefore is developing an alternative energy source in Morrow County. As such, RFA 1 is consistent with this standard.

⁴¹ Final Order on the Application for the Wheatridge Wind Energy Facility (April 2017), p. 91

⁴² Final Order on the Application for the Wheatridge Wind Energy Facility (April 2017), p. 91

⁴³ Final Order on Request for Amendment 4 to the Site Certificate for the Wheatridge Wind Energy Facility, (November 2019), p. 49

5.7 Compliance with Applicable Substantive Criteria from the Umatilla County Development Ordinance / Umatilla County Development Code (UCDC) Criteria

5.7.1 UCDC §152.060 CONDITIONAL USES PERMITTED

In an EFU zone the following uses may be permitted conditionally via administrative review (§ 152.769), subject to the requirements of this section, the applicable criteria in § 152.061, §§ 152.610 through 152.615, 152.617 and §§ 152.545 through 152.562. A zoning permit is required following the approval of a conditional use pursuant to § 152.025. Existing uses classified as conditional uses and listed in this section may be expanded subject to administrative review and subject to the requirements listed in OAR 660, Division 033.

(E) Commercial utility facilities for the purpose of generating power for public use by sale as provided in § 152.617 (I)(C). (For specific criteria for Wind Power Generation see § 152.617 (I)(W))

Response: As previously discussed, a portion of the Amended Facility extends north into Umatilla County on land within the EFU zone. The Amended Facility, as proposed to be modified by RFA 1, meets the definition of Wind Power Generation Facility as defined in UCDC §152.003 and, therefore, is a conditional use per UCDC §152.060(E).

The UCDC provides specific criteria for wind power generation facilities under UCDC §152.617(I)(W). See the sections below for a discussion of the Amended Facility's compliance or noncompliance with the applicable criteria listed in UCDC §152.061, §152.615, §152.616, and §152.617.

Under ORS 469.401(3), following issuance of the Site Certificate, the County, upon the Certificate Holder's submission of the proper application and fee, shall issue the conditional use and zoning permits addressed in the Site Certificate, subject only to the conditions set forth in the Site Certificate and without hearings or other proceedings.

5.7.2 UCDC §152.061 STANDARDS FOR ALL CONDITIONAL USES [IN EFU ZONE]

The following limitations shall apply to all conditional uses in an EFU zone. Uses may be approved only where such uses:

(A) Will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and

(B) Will not significantly increase the cost of accepted farm or forest practices on lands devoted to farm or forest use.

Response: Under ORS 215.203, lands devoted to farm use include "wasteland" such as the grasslands and other areas that are not economical to cultivate, because they are interspersed with

cultivated lands and are also within the EFU zone. The lands devoted to farm use in Umatilla County are used primarily for cultivation of wheat and grazing of livestock, and related accessory uses.

The original WWEF ASC application stated that, within the Approved Site Boundary in Umatilla County, approximately 1,689 acres, or 99 percent of the total area within the Approved Site Boundary in Umatilla County, are devoted to farm use; once built, permanent Amended Facility components would occupy (at most) 24.37 acres, or about 1.4 percent of the agricultural lands within the Approved Site Boundary in Umatilla County. The Council previously found the Approved Facility would not force a significant change in accepted farming practices and would satisfy the conditional use standards of UCDC §152.061.⁴⁴

With the proposed changes in RFA 1, the Amended Site Boundary within Umatilla County has approximately 6,908 acres, or 97 percent of the total area within the Approved Site Boundary in Umatilla County devoted to farm use. Once built, permanent Amended Facility components would occupy (at most) approximately 15 acres, or about 0.2 percent of the agricultural lands within the Amended Site Boundary in Umatilla County. A smaller percentage (0.1 percent) of high-value farmland agricultural lands within the Amended Site Boundary in Umatilla County would be permanently impacted by the Amended Facility (Table K-6).

Table K-6. Impacts to Farmland in Umatilla County

Feature	Area	
Total Area within Amended Site Boundary in Umatilla County	7,107 acres	
Total Area within Amended Micrositing Corridor in Umatilla County	1,764 acres	
Farmland within Amended Site Boundary ¹	6,908 acres total, of which 1,517 acres are High Value Farmland	
	Non-High Value Farmland	High Value Farmland ²
Acres Permanently Impacted by Amended Facility ³	11 acres	4 acres
Total	15 acres	
1. Consistent with the definition of "farm use" in ORS 215.203 and OAR 660-033-0020(7), all land shown on Figure K-3 as Developed-Dryland Wheat, Developed-Irrigated Agriculture, Developed-Revegetated or Other Planted Grassland, Grassland-Exotic Annual and Grassland-Native Perennial has been included in the calculation of land devoted to farm use for this exhibit. 2. Pursuant to UCDC 152.616(HHH)(6)(k), this calculation applies the definition of "high-value farmland" from ORS 195.300(10)(a), (c), and (f). 3. Layout within Umatilla County does not contain any portion of the Intraconnection Line route		

The Amended Facility, as proposed to be modified by RFA 1, will comply with the Site Certificate conditions included in Attachment K-1. The impact of the Amended Facility, as modified by RFA 1, would not force a significant change in accepted farm practices or significantly increase the cost of farm practices, for the following reasons:

⁴⁴ Final Order on the Application for the Wheatridge Wind Energy Facility (April 2017), p. 99

- To ensure compliance with UCDC §152.061, the Council adopted Condition GEN-LU-04 to require the Certificate Holder to design and construct the Approved Facility using the minimum land area necessary for safe construction and operation. As required by that condition, Amended Facility components and temporary construction laydown and staging areas— including new Amended Facility components proposed with RFA 1—are being sited to minimize disturbance to farming operations, including by avoiding unnecessarily dividing fields. To minimize impacts to agricultural operations, grazing lands, and wildlife habitat, existing private roads and farm access tracks would be utilized to the greatest extent practicable.

With RFA 1, the Certificate Holder proposes amended wind micrositing corridors that establish the locations of turbine strings and would encompass all of the permanent and temporary Amended Facility infrastructure, including the location of a laydown area along Myers Lane in Morrow County. Proposed placement of turbines are shown along the margins of cultivated areas, which reduces the potential for conflict with farm operations (Figure 2). The amended wind micrositing corridors will also include underground collector lines, private access roads, service roads, gates, and security fencing.

The Certificate Holder is describing the full build-out potential of the amended wind micrositing corridors to analyze the greatest potential impact for each resource. The amended wind micrositing corridors exclude areas, where appropriate, to avoid and minimize impacts to sensitive cultural, biological, or environmental resources. Siting the Amended Facility close to other existing or approved renewable energy facilities allows for efficient use of transmission infrastructure while consolidating land use impacts to a specific area as opposed to spreading land use impacts out across a broader patchwork of facilities. The Amended Facility will share use of the Wheatridge Renewable Energy Facility (WREF) II O&M Building and existing Blue Ridge Substation. For these reasons, the Certificate Holder demonstrates its ability to maintain compliance with GEN-LU-04 for the changes proposed with RFA 1.

- Land converted from farm use due to siting of permanent Amended Facility improvements is a de minimis percentage of the total farm use land in Umatilla County—15 acres or approximately 0.001 percent of the 1,352,241 acres of land in farms in Umatilla County (USDA 2017). Of those 15 acres, only 4 acres (0.0003 percent) are classified as high-value farmland. Therefore, the inability to use the land within the Amended Site Boundary for farm purposes will have an insignificant impact on farming practices in Umatilla County as a whole.
- The Certificate Holder maintains the commitment from the Approved Facility that the Amended Facility, as modified by RFA 1, will be designed and legally structured such that the cost burden constructing and maintaining access roads and other facilities would not fall on participating landowners and would not increase the costs of farming for affected

landowners.⁴⁵ Condition OPR-LU-04 requires the Certificate Holder to prepare an Operating and Facility Maintenance Plan (Plan) and submit the Plan to ODOE for approval in consultation with Umatilla and Morrow Counties. OPR-SP-01 requires the Certificate Holder to “routinely inspect and maintain all facility components including roads, pads and other facility components.” The Amended Facility will utilize the existing WREFII O&M Building (see Figure 2), where O&M staff will have the ability to access the site for inspections.

- Amended Facility access roads improved or developed for the Amended Facility could benefit agricultural users of land in the Analysis Area through improved access to farm fields and resulting lower fuel costs. Specific improvements will be identified in consultation with the appropriate county road master prior to construction, and permitting will be sought through the counties at that time. Regardless, upgrades to existing roads will be done according to applicable state and county road standards and after consultation with Morrow and Umatilla County staff. A road use agreement with each county will specify requirements, including that all existing public roads used to access the Amended Facility will be left in as good or better condition than the condition that existed prior to the start of construction (per Conditions PRE-PS-02 and PRE-PS-03).
- While some increase in traffic is anticipated during construction, Exhibit U demonstrates that the temporary increase in the level of traffic will not significantly impact level of service on local roads. Therefore, construction traffic will not interfere with harvest time activities such as tractor movement between fields or trucks delivering agricultural products to market.
- The Certificate Holder will record in the real property records of Umatilla County a Covenant Not to Sue against its Amended Facility leasehold interests with regard to generally accepted farming practices on adjacent farmland (Condition PRE-LU-09).
- The Council previously imposed PRE-LU-03 with the Approved Facility to ensure compliance with OAR 660-033-0130(37)(b)(D), which provides that facility construction or maintenance activities must not result in the “unabated introduction or spread of noxious weeds and other undesirable weed species.”⁴⁶ The Certificate Holder has prepared a draft Noxious Weed Control Plan for the Amended Facility, as modified by RFA 1, to reduce the risk of weed infestation in cultivated land and the associated cost to the farmer for weed control. The Certificate Holder will submit the final plan for implementation no less than 30 days prior to the beginning of construction (Condition PRE-LU-03).
- The Council previously found the Approved Facility would not force a significant change in accepted farming practices, including aerial spraying or irrigation and that the Approved Facility would not significantly increase the cost of aerial spraying or irrigation.⁴⁷ The Amended Facility will not affect the application of pesticides or fertilizers using ground-

⁴⁵ Final Order on the Application for the Wheatridge Wind Energy Facility (April 2017), p. 99

⁴⁶ Final Order on the Application for the Wheatridge Wind Energy Facility (April 2017), p. 151

⁴⁷ Final Order on the Application for the Wheatridge Wind Energy Facility (April 2017), p. 99

based methods. Aerial spraying may be utilized for application of pesticides or fertilizers to crops within the Analysis Area. Although the presence of wind turbines can increase both the difficulty and the risk of aerial spraying in the vicinity of a wind farm, the presence of wind turbines does not remove the possibility of aerial spraying in an area, as spray pilots commonly fly at very low altitudes, navigating around terrain, trees, utility poles, transmission lines, farm structures, and other obstacles. As shown on Figure K-3, there are only a few small areas of irrigated lands within the Analysis Area. Wind turbines are not proposed to be sited closer than 1 mile from pivot irrigated plots (detailed on Figure 2).

- Construction and operation of the Amended Facility could cause changes in routes of access to fields and changes in the pattern of cultivation, seeding, fertilizing and harvesting near the turbines and access roads. To minimize this, the Certificate Holder, in consultation with the landowners, will minimize obstacles to farming in cultivated fields (Amended Facility components around which the farmer would have to plow, plant, and harvest). As stated in the upfront Division 27 document, no site access road improvements are expected to be necessary. The same unimproved farm access tracks and field crossings would sufficiently serve the light trucks generally used for maintenance operations. As with other site access roads, an 82-foot wide temporary impact corridor is used for purposes of assessing impacts of site access roads used for constructing the selected Intraconnection Line route; however, there is no permanent impact associated with these site access roads.
- The original ASC for WWEF detailed a commitment to consult with area landowners during construction and operation to determine further measures to reduce or avoid any adverse impacts to farm practices on surrounding lands and to avoid any increase in farming costs. The Council previously stated it considers this a “binding commitment” and adopted Condition PRE-LU-05.⁴⁸ The Certificate Holder will maintain the commitment to consult with area landowners during construction and operation of the Amended Facility to determine further measures to reduce or avoid any adverse impacts to farm practices on surrounding lands and to avoid any increase in farming costs (Condition PRE-LU-05).
- Construction of the Amended Facility could adversely affect soil quality by erosion or compaction. Some farmland would be temporarily disturbed and unavailable for farming during construction. Condition GEN-SR-02 requires the Certificate Holder to water roads and other areas of ground disturbance during construction, as needed, to avoid the generation of airborne dust. To avoid or reduce adverse impacts to soil quality, the Certificate Holder will implement dust control and erosion-control measures during construction and operation of the Amended Facility (see Exhibit I).
- The Certificate Holder will follow Condition CON-LU-01. Construction vehicles will use previously disturbed areas including existing roadways and tracks. When practical, temporary construction yards and laydown areas will be located within existing disturbed areas or the future footprint of permanent structures. The width of new permanent

⁴⁸ Final Order on the Application for the Wheatridge Wind Energy Facility (April 2017), p 99

roadways will be the minimum consistent with safe use. Underground communication and electrical lines will be buried within the area disturbed by temporary road widening to the extent practicable. Upon completion of construction, the Certificate Holder will restore temporarily disturbed areas to their pre-construction condition (Condition CON-LU-01).

Potential construction impacts will largely be limited to traffic (see Exhibit U), dust control (see Exhibit I), and weed impacts (see Exhibit P). Existing Site Certificate conditions will be complied with to minimize these temporary impacts including:

- Condition OPR-SP-01: Prevention of erosion, soil disturbance
- Condition CON-SP-01: Erosion and Sediment Control Plan (ESCP)
- Condition CON-SP-02: Best management practices to be included in ESCP
- Condition PRE-PS-01: Preparation of Traffic Management Plan
- Condition PRE-PS-02: Road Use Agreements with counties

The measures above are intended to avoid or minimize the impacts of the Amended Facility on farming operations in the Analysis Area, and to mitigate for necessary impacts. The Certificate Holder will consult with area landowners during construction and operation of the Amended Facility to determine further measures to reduce or avoid any adverse impacts to farm practices on surrounding lands and to avoid any increase in farming costs.

As it relates to farm practices on the participating landowners' properties, the Amended Facility is designed and legally structured through lease agreements such that the cost burden of constructing and maintaining access roads and other facilities would not fall on the landowner and would not increase the costs of farming for affected landowners. Additionally, each participating landowner will be compensated for the loss of agricultural lands, and the new income stream from lease payments will help to stabilize fluctuating agricultural income, making farming more sustainable.

Therefore, the Amended Facility would not force a significant change in accepted farm practices or significantly increase the cost of farm practices.

There is no forest use or forest practices within the Analysis Area (Figure K-2). Therefore, the Amended Facility would not force a significant change in accepted forest practices or significantly increase the cost of forest practices.

5.7.3 UCDC §152.615 ADDITIONAL CONDITIONAL USE PERMIT RESTRICTIONS

In addition to the requirements and criteria listed in this subchapter, the Hearings Officer, Planning Director or the appropriate planning authority may impose the following conditions upon a finding that circumstances warrant such additional restrictions: [list of conditions omitted for brevity]

Response: To the extent any restrictions or conditions of the type listed in Section 152.615 are deemed necessary to mitigate the impacts of the Amended Facility, they will be implemented through the Council Site Certificate process consistent with ORS 469.401(2).

5.7.4 UCDC §152.616 (HHH) CONDITIONAL USE CRITERIA FOR COMMERCIAL WIND POWER GENERATION FACILITIES

Response: UCDC §152.616(HHH)(1) provides that the procedural requirements of 152.616(HHH)(1) through (5) do not apply to a wind energy facility for which the Council is making the land use decision. In general, UCDC §§ 152.616(HHH)(1) through (4) contain only procedural requirements, while UCDC § 152.616(HHH)(5) provides both procedural and substantive requirements in the form of a list of conditional use application submittal requirements. As a result, this application only discusses the substantive criteria of 152.616 §§ (HHH)(5) through (11).

UCDC §152.616(HHH)(5) Application Requirements

The following information shall be provided as part of the application, or subject to the County's discretionary authority, be required prior to the construction or operation of the Wind Power Generation Facility through a condition of approval: [subsections (a) through (l) omitted for brevity]

Response: Except for subsection (d), UCDC §156.616(HHH)(5) lists materials that are required to be submitted to the County as part of an application for a County Conditional Use Permit. The requirements are procedural in nature and do not apply to this Amended Facility, for which the Certificate Holder is electing a Council decision on land use. Therefore, the information submitted as part of this RFA 1, or that will be provided as conditions of the Site Certificate, will satisfy the information requirements identified by Umatilla County. Subsection (d) requires a demonstration of compliance with UCDC §152.061, which is discussed above. Thus, to the extent it applies, this criterion is satisfied.

UCDC §152.616(HHH)(6) Standards/Criteria of Approval; Statewide Goal Findings to Address Residential Setback Criteria

The following requirements and restrictions apply to the siting of a Wind Power Generation Facility:

(a) Setbacks. The minimum setback shall be a distance of not less than the following:

(1) From a turbine tower to a city urban growth boundary (UGB) shall be two miles. The measurement of the setback is from the centerline of a turbine tower to the edge of the UGB that was adopted by the city as of the date the application was deemed complete.

Response: The Amended Facility, as proposed to be modified by RFA 1, complies with this standard. The Amended Site Boundary is located no closer than 5.5 miles from the nearest UGB in Umatilla County, for the city of Echo.

(2) From turbine tower to land zoned Unincorporated Community (UC) shall be 1 mile.

Response: The Amended Facility, as proposed to be modified by RFA 1, complies with this standard. There are no lands zoned UC within one mile of the Amended Site Boundary.

(3) From a turbine tower to a rural residence shall be 2 miles. For purposes of this section, "rural residence" is defined as a legal, existing single family dwelling meeting the standards of §152.058 (F)(1)-(4), or a rural residence not yet in existence but for which a zoning permit has been issued, on a unit of land not a part of the Wind Power Generation Facility, on the date a Wind Power Generation Facility application is submitted. For purposes of this section, the setback does not apply to residences located on properties within the Wind Power Generation Facility project application. The measurement of the setback is from the centerline of the turbine tower to the center point of the rural residence.

Response: The Amended Facility, as proposed to be modified by RFA 1, complies with this standard. The Certificate Holder's residential survey determined there is only one dwelling within Umatilla County located within two miles of any turbines, and it is located on a unit of land within the Amended Facility project application (Figure K-6). Site survey reconnaissance for noise sensitive receptors reported one additional structure within the 2-mile radius of proposed turbines, however it was identified as a small, corrugated building and agricultural work area. Aerial imagery indicates the structure is likely an agricultural building and not a rural residence subject to the 2-mile turbine tower setback.

(4) From a turbine tower to the boundary right-of-way of County Roads, state and interstate highways, 110% of the overall tower-to-blade tip height. Note: The overall tower-to-blade tip height is the vertical distance measured from grade to the highest vertical point of the blade tip.

Response: Because the tallest turbine type under consideration is 499 feet in overall height, the minimum setback could be as much as 549 feet. Depending on the turbine model selected, the Amended Facility will be microsited to meet the 110 percent overall tower to blade height from public ROW. The Amended Facility, as proposed to be modified by RFA 1, will, therefore, be in compliance with this requirement.

(5) From tower and project components, including transmission lines, underground conduits and access roads, to known archeological, historical or cultural sites shall be on a case by case basis, and for any known archeological, historical or cultural site of the Confederated Tribes of the Umatilla Indian Reservation the setback shall be no less than 164 feet (50 meters).

Response: Exhibit S provides information on the historic, cultural, and archaeological resources that may potentially be impacted by the Amended Facility. The information in Exhibit S demonstrates that the Amended Facility will comply with the Council's Historic, Cultural, and Archaeological Resources Standard, OAR 345-022-0090. Additionally, the Amended Facility has

been designed to avoid impacts to other known archaeological, historic, and cultural resources deemed eligible or potentially eligible for listing on the National Register of Historic Places.

(6) New electrical transmission lines associated with the wind project shall not be constructed closer than 500 feet to an existing residence without prior written approval of the homeowner, said written approval to be recorded with county deed records. Exceptions to the 500 feet setback include transmission lines placed in a public right of way. Note: Note: The wind project associated transmission lines and substation(s) are subject to a separate land use permit. The applications for the wind project and the associated transmission line and substation(s) shall be submitted together for processing.

Response: The proposed Intraconnection Line route is not located in Umatilla County, and no Umatilla County dwellings are located within 500 feet of the Intraconnection Line route. The Certificate Holder does not intend to construct or own any other transmission or distribution lines outside the Amended Site Boundary in connection with the Amended Facility. Therefore, the Amended Facility, as proposed to be modified by RFA 1, will comply with this requirement.

(7) The turbine/towers shall be of a size and design to help reduce noise or other detrimental effects. At a minimum, the Wind Power Generation Facility shall be designed and operated within the limits of noise standard(s) established by the State of Oregon. A credible noise study may be required to verify that noise impacts in all wind directions are in compliance with the State noise standard.

Response: The analysis presented in Exhibit Y demonstrates that the Amended Facility is designed and can be operated within the limits of the State of Oregon's noise standards.

(b) Reasonable efforts shall be made to blend the wind turbine/towers with the natural surrounding area in order to minimize impacts upon open space and the natural landscape.

Response: No part of the Analysis Area is designated open space. Nonetheless, the Amended Facility is designed to minimize impacts upon undeveloped lands and the natural landscape by siting turbines and roads at the edges of farm fields and along existing natural and developed site contours and utilizing existing farm access roads as much as possible. This approach minimizes the need for grading and cut-and-fill slopes, allowing the Amended Facility to maintain natural contours and blend into the existing environment to the greatest extent practicable. The turbines will be painted standard white per Federal Aviation Administration guidelines. Accordingly, this requirement is satisfied.

(c) The development and operation of the Wind Power Generation Facility will include reasonable efforts to protect and preserve existing trees, vegetation, water resources, wildlife, wildlife habitat, fish, avian, resources, historical, cultural and archaeological site.

Response: As described in Exhibits P, Q, and S, the Amended Facility is being designed to protect and preserve existing vegetation, wildlife and wildlife habitat (including avian resources), and historic, cultural, and archeological resources. As noted in Exhibits J, O, and P, the Amended Facility has been designed to protect and preserve fish and water resources.

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

Response: The Amended Facility, as proposed to be modified by RFA 1, complies with this standard. The turbines are designed to discourage bird nesting and wildlife attraction. The turbine towers are hollow cylinders that do not provide suitable areas for perching or nesting. Likewise, the turbine nacelles are constructed with a smooth outer shell that does not facilitate perching or nesting.

(e) Private access roads established and controlled by the Wind Power Facility shall be gated and signed to protect the Wind Power Generation Facility and property owners from illegal or unwarranted trespass, illegal dumping and hunting and for emergency response.

Response: The Amended Facility complies with this standard. The Certificate Holder will install gates and no trespassing signs at Amended Facility access roads established or improved for the purpose of Amended Facility construction and operation.

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

Response: The electrical collector system lines will be installed at a minimum depth of 3 feet underground to the extent practicable. In agricultural fields, the minimum depth will be 3 feet such that they would not interfere with or be susceptible to damage from agricultural operations. Where land use and soil conditions make a buried depth of 3 feet infeasible, collector lines may be buried at a depth of less than 3 feet, while still adhering to National Electrical Safety Code standards.

(g) Required permanent maintenance/operations buildings shall be located off site in one of Umatilla County's appropriately zoned areas, except that such a building may be constructed on site if:

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

(2) The building will be removed or converted to farm use upon decommissioning of the Wind Power Generation Facility consistent with the provisions of §152.616 (HHH) (7).

Response: There is no O&M Building proposed to be constructed in Umatilla County. The Amended Facility will share use of the existing O&M Building in Morrow County. Therefore, these standards are not applicable.

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

Response: The Amended Facility complies with the Specific Safety Standards for Wind Energy Facilities, as discussed in Exhibit DD.

(i) A Covenant Not to Sue with regard to generally accepted farming practices shall be recorded with the County. Generally accepted farming practices shall be consistent with the definition of Farming Practices under ORS 30.930. The Wind Power Generation Facility owner/operator shall covenant not to sue owners, operators, contractors, employees, or invitees of property zoned for farm use for generally accepted farming practices.

Response: As noted previously in this exhibit (and as required by Condition PRE-LU-04), the Certificate Holder will record a Covenant Not to Sue against its leasehold interests prior to construction of the Amended Facility.

(j) Roads.

(1) County Roads. A Road Use Agreement with Umatilla County regarding the impacts and mitigation on county roads shall be required as a condition of approval.

Response: The Certificate Holder acknowledges and has accepted a condition of approval requiring that it enter into a Road Use Agreement with Umatilla County prior to beginning construction on the Amended Facility (Conditions PRE-PS-02 and PRE-PS-03). Under the terms of the agreement, the Certificate Holder will leave public roads utilized during construction of the Amended Facility in as good or better condition as exists at the time construction commences.

(2) Project Roads. Layout and design of the project roads shall use best management practices in consultation with the Soil Water Conservation District. The project road design shall be reviewed and certified by a civil engineer. Prior to road construction the applicant shall contact the State Department of Environmental Quality and if necessary, obtain a storm water permit (National Pollution Discharge Elimination System).

Response: The Certificate Holder will implement BMPs for stormwater management as described in Exhibit I, and as will be required under the terms of the NPDES 1200-C permit and associated ESCP. Amended Facility roads are being designed and reviewed by a certified civil engineer.

(k) Demonstrate compliance with the standards found in OAR 660-033-0130 (37)

Response: The wind power generation facility provisions at OAR 660-033-0130(37) apply both in Morrow and Umatilla counties. Therefore, the Certificate Holder combined analysis for the entire Amended Facility in Section 5.10.4.

(l) Submit a plan for dismantling of uncompleted construction and/or decommissioning and/or re-powering of the Wind Power Generation Facility as described in §152.616 (HHH) (7).

Response: The Amended Facility is designed to have a useful life of approximately 50 years, at which time it may be repowered or decommissioned. Exhibit X provides an initial dismantling and site restoration plan. The Council previously found that the Certificate Holder demonstrated compliance with the Retirement and Financial Assurance standard (Exhibit M, Exhibit X). The changes proposed in RFA 1 would not result in changes in tasks or actions previously approved by Council as reasonable for facility decommissioning. The retirement cost estimate for Amended Facility components has been updated (Attachment X-1). If the Amended Facility is to be decommissioned, the Certificate Holder will provide a final decommissioning plan to Umatilla County prior to beginning decommissioning activities. Providing a decommissioning/repowering plan prior to initial construction of the Amended Facility is not an optimal approach because technologies and practices for wind project decommissioning and repowering are certain to change significantly between Amended Facility approval and the time at which decommissioning or repowering becomes necessary. Nonetheless, the County will be protected against decommissioning costs pursuant to the decommissioning bond discussed in Exhibit M.

(m) A surety bond shall be established to cover the cost of dismantling uncompleted construction and/or decommissioning of the Wind Power Generation Facility, and site rehabilitation pursuant to §152.616 (HHH) (7) and (8). The intent of this requirement is to guarantee performance (not just provide financial insurance) to protect the public interest and the county budget from unanticipated, unwarranted burden to decommission wind projects. For projects being sited by the State of Oregon's Energy Facility Siting Council (EFSC), the bond or letter of credit required by EFSC will be deemed to meet this requirement.

Response: As described in Exhibit X, the Certificate Holder will provide a bond or letter of credit to cover the cost of site rehabilitation in the event of decommissioning or dismantling of uncompleted construction, which will also satisfy the County's standard.

(n) The actual latitude and longitude location or Stateplane NAD 83(91) (suitable for GPS mapping) coordinates of each turbine tower, connecting lines, O & M building, substation, project roads and transmission lines, shall be provided to Umatilla County on or before starting electrical production.

Response: Prior to beginning commercial operations, the Certificate Holder will provide actual locational data to Umatilla County and area emergency service providers, in a form to be agreed upon at that time.

(o) An Operating and Facility Maintenance Plan shall be submitted and subject to County review and approval.

Response: Prior to beginning commercial operations, the Certificate Holder will provide an Operating and Facility Maintenance Plan for Umatilla County's review and approval, in compliance with this standard.

(p) A summary of as built changes to the original plan, if any, shall be provided by the Wind Power Generation Facility owner/operator 90 days of starting electrical production.

Response: In compliance with this standard, within 90 days after beginning commercial operations, the Certificate Holder will provide a summary of any as built changes to the original plan to Umatilla County.

(q) Submit a Socioeconomic Assessment of the Wind Power Generation Facility.

Response: A socioeconomic assessment of the impacts of the Amended Facility is provided as part of Exhibit U.

UCDC §152.616(HHH)(7) Dismantling/Decommissioning

A plan for dismantling and/or decommissioning that provides for completion of dismantling or decommissioning of the Wind Power Generation Facility without significant delay and protects public health, safety and the environment in compliance with the restoration requirements of this section. [Detailed list of plan contents omitted for brevity.]

Response: The Amended Facility is designed to have a useful life of up to approximately 50 years, at which time it may be repowered or decommissioned. Exhibit X provides an initial dismantling and site restoration plan. When the Amended Facility is to be decommissioned, the Certificate Holder will provide a final decommissioning plan to Umatilla County prior to beginning decommissioning activities. Providing a decommissioning/repowering plan prior to initial construction of the Amended Facility is not an optimal approach because technologies and practices for wind project decommissioning and repowering are certain to change significantly between Amended Facility approval and the time at which decommissioning, or repowering becomes necessary.

UCDC §152.616(HHH)(8) Decommissioning Fund

The Wind Power Generation Facility owner/operator shall submit to Umatilla County a bond acceptable to the County, in the amount of the decommissioning fund naming Umatilla County beneficiary or payee. [Detailed list of bond conditions omitted for brevity.]

Response: As described in Exhibit M, the Certificate Holder will provide a bond or letter of credit to cover the cost of site rehabilitation in the event of decommissioning or dismantling of uncompleted construction, which will also satisfy the County's standard.

UCDC §152.616(HHH)(9) Annual Reporting

Within 120 days after the end of each calendar year the Wind Power Generation Facility owner/operator shall provide Umatilla County a written and oral annual report including the following information: [Detailed list of report contents omitted for brevity.]

Response: The Certificate Holder will provide Umatilla County with annual reports of Amended Facility operations, within 120 days of the end of each calendar year, in compliance with Council standards.

UCDC §152.616(HHH)(10) Permit Amendments

The Wind Power Generation Facility requirements shall be facility specific, but can be amended as long as the Wind Power Generation Facility does not exceed the boundaries of the Umatilla County conditional use permit where the original Wind Power Generation Facility

was constructed. ... An amendment to a Site Certificate issued by EFSC will be governed by the rules for amendments established by [EFSC].

Response: As noted in the criterion, any amendment to the Council Site Certificate shall be processed with the Council according to the applicable statutes and administrative rules governing amendment of Site Certificates. The Certificate Holder's proposal follows the rules for amendments established by the Council, as addressed throughout RFA 1.

UCDC §152.616(HHH)(11) Walla Walla Watershed

Lands located within the Walla Walla Sub-basin east of Highway 11 shall be subject to additional standards. The purpose of these criteria is to prevent impacts to the following: highly erodible soils (as defined by the Oregon Department of Agriculture) and federally listed threatened and endangered species. The standards are also designed to protect sensitive streams and to be consistent with the Clean Water Act.

Response: This criterion applies only to land within the Walla Walla sub-basin east of Highway 11 and, as such, does not apply to this Amended Facility.

5.8 Applicable Substantive Criteria from the Umatilla County Comprehensive Plan (Policies)

5.8.1 Chapter 5. Citizen Involvement

1. Provide information to the public on planning issues and programs, and encourage continuing citizen input to planning efforts.

Response: The Council previously outlined that its site certificate decision is a public process, where an application is made available on ODOE's website and Council meetings are open to the public.⁴⁹ The ASC and RFA approval process, which is applicable to the Amended Facility, incorporates opportunities for citizen input on the planning and permitting process, through the Notice of Intent, scoping meetings, official notices to surrounding property owners and solicitation of comments, and the public hearings process. Therefore, this UCCP policy regarding citizen involvement is satisfied. Therefore, RFA 1 is consistent with this standard.

5. Through appropriate media, encourage those County residents' participation during both city and County deliberation proceedings.

Response: As noted above, the Amended Facility is subject to a Site Certificate process with the Council that provides ample opportunity for public review of application materials and input and participation in the planning process, including at least one hearing in the local area. The Council process is consistent with Statewide Land Use Planning Goal 1 regarding citizen involvement. Accordingly, the UCCP policies regarding citizen involvement are met. Therefore, RFA 1 is consistent with this standard.

⁴⁹ Final Order on the Application for the Wheatridge Wind Energy Facility (April 2017), p. 119

5.8.2 Chapter 6. Agriculture

1. *Umatilla County will protect, with Exclusive Farm Use zoning pursuant to ORS 215, lands meeting the definition of farmland in this plan and designated as Agricultural on the Comprehensive Plan Map.*

Response: The Council previously found the Approved Facility within Umatilla County would be located entirely on EFU zoned lands subject the applicable EFU ordinances of the UCDC.⁵⁰ Umatilla County has adopted zoning and allocated lands identified as Agricultural on the Comprehensive Plan Map to the EFU zoning district pursuant to ORS 215. As discussed above, the Amended Facility within Umatilla County is entirely within the EFU zone and meets the applicable substantive criteria of the Umatilla County EFU zone. Therefore, RFA 1 is consistent with this standard.

8. *The county shall require appropriate procedures/ standards/policies be met in the Comprehensive Plan and Development Ordinance when reviewing non-farm uses for compatibility with agriculture.*

Response: As stated above, the Amended Facility is located in the EFU zone and this exhibit demonstrates compliance with applicable substantive criteria for the EFU zoning district in Umatilla County. Therefore, RFA 1 is consistent with this standard.

17. *Continue to encourage timber management to occur on lower elevation seasonal grazing as permitted in the Exclusive Farm Use Zone.*

Response: The Council previously found there would be no conflict between the Approved Facility and the County's goal to encourage timber management in appropriate areas zoned EFU.⁵¹ Umatilla County has indicated in prior site certificates that most, but not all comprehensive plan policies are implemented by the UCDC. In the case of these agricultural policies, they are implemented by the regulations of the EFU zone including the substantive criteria of the UCDC discussed above in Section 5.8. Specifically, with respect to Policy 17, there is no active timber management within the Amended Site Boundary. Therefore, RFA 1 is consistent with this standard.

5.8.3 Chapter 8. Open Space, Scenic & Historic Areas, and Natural Areas

1. (a) *The County shall maintain this resource [Open Space] by limiting development mainly to existing built up areas.*

Response: The Council previously found the Approved Facility would not significantly alter the rural, sparsely developed character of the site boundary and surrounding lands.⁵² The Amended Facility will be built on existing, cultivated farmlands, and grassland, and will consist of wind turbines spaced at large intervals and supporting connecting infrastructure, much of which will be buried underground. The Amended Facility is located entirely on private land, none of which is

⁵⁰ Final Order on the Application for the Wheatridge Wind Energy Facility (April 2017), p. 120

⁵¹ Final Order on the Application for the Wheatridge Wind Energy Facility (April 2017), p. 120

⁵² Final Order on the Application for the Wheatridge Wind Energy Facility (April 2017), p. 121

designated as open space. The Site Boundary is crossed by several highways, and there is an existing wind energy facility to the west. The footprint of the Amended Facility is relatively small compared to the Amended Site Boundary (see Figure K-1). The Amended Facility will not significantly alter the rural, sparsely developed character of the land within the Amended Site Boundary. The impacts of the Amended Facility on scenic, protected and recreational areas are discussed in further detail in Exhibits R, L, and T. Therefore, RFA 1 is consistent with this standard.

5. (a) The County shall maintain rural agricultural lands, Development shall be of low density to assure retention of upland game habitat,

Response: The Council previously found the density of developed areas due to the Approved Facility and existing land uses would be very low, and the vast majority of land within the Approved Site Boundary would remain available for agricultural use.⁵³ Although the Amended Site Boundary encompasses a fairly large geographic area (78,985 acres), the density of developed areas from the Amended Facility and existing agricultural land uses will remain very low, and the vast majority of land within the Amended Site Boundary will remain undeveloped. Amended Facility impacts will occur primarily on grassland and developed dryland wheat such that upland game habitat, and particularly the streams, wetlands and riparian areas on which game relies, will be minimally affected. Therefore, RFA 1 is consistent with this standard.

(b) Land uses should maintain the vegetation along stream banks, fence rows, woodlots, etc. Research ways to reduce harassment and loss of upland game by free roaming dogs and cats.

Response: The Council previously found the Approved Facility would not permanently disturb vegetation and there were no characteristics that would attract or exacerbate the problem of free roaming dogs and cats.⁵⁴ The Amended Facility is a widely spaced series of turbines with a relatively small footprint and with minimal supporting infrastructure, much of which is located underground (collector lines); as such, it will not interfere with game movement or habitat. Sensitive habitat and vegetated areas along stream banks, fence rows, and woodlots will not be permanently disturbed by the Amended Facility. There are no characteristics of the Amended Facility that would attract or exacerbate the problem of free roaming dogs and cats. Therefore, RFA 1 is consistent with this standard.

6. (a) Developments or land uses that require drainage, channelization, filling or excessive removal of riparian vegetation in sensitive waterfowl areas should be identified.

Response: The Council previously found the Certificate Holder identified habitat within the Approved Site Boundary in ASC Exhibit P.⁵⁵ The Amended Facility does not require drainage, channelization, filling, or excessive removal of riparian vegetation in sensitive waterfowl areas. Therefore, RFA 1 is consistent with this standard.

8. (a) Setbacks shall be established to protect significant and other wetlands.

⁵³ Final Order on the Application for the Wheatridge Wind Energy Facility (April 2017), p. 121

⁵⁴ Final Order on the Application for the Wheatridge Wind Energy Facility (April 2017), p. 121

⁵⁵ Final Order on the Application for the Wheatridge Wind Energy Facility (April 2017), p. 122

Response: The Council previously found the Certificate Holder addressed wetland impacts in ASC Exhibit J.⁵⁶ Setbacks for the Amended Facility shall be established and met as required by UCDC 152.616(HHH)(a) for wind energy facilities. The Amended Facility has been designed to avoid impacts to wetlands and maintain sufficient setbacks from wetland edges to prevent indirect impacts to nearby wetlands. Therefore, RFA 1 is consistent with this standard.

9. (a) The County shall encourage land use practices which protect and enhance significant wetlands.

Response: The Council previously found the Approved Site Boundary did not appear to include any wetlands identified in the UCCP as “significant.”⁵⁷ The Amended Facility will not disturb wetlands in Umatilla County, as further discussed in Exhibit J. Therefore, RFA 1 is consistent with this standard.

10. (c) Compatible land use shall maintain the riparian vegetation along streams in the floodplain. Stream bank vegetation shall be maintained along streams outside of the floodplain by utilizing appropriate setbacks.

Response: As in the case with the Approved Facility, the Amended Facility has been designed to avoid impacts to riparian or other stream bank vegetation (see Exhibit J). Therefore, RFA 1 is consistent with this standard.

10. (d) Development or land use that requires channelization, excessive removal of streamside vegetation, alteration of stream banks and filling into stream channels shall be restricted in order to maintain streams integrity.

Response: The Council previously referred to Condition PRE-FW-05 to determine consistency with this standard.⁵⁸ The Amended Facility has been designed to avoid nearly all impacts to streams and would potentially impact only ephemeral streams where access roads must cross (see Exhibit J). If there are impacts to ephemeral streams, appropriate measures will be implemented to maintain stream integrity. Streamside vegetation removal will be avoided to the extent practicable, and areas disturbed temporarily will be restored to approximately original contours and reseeded with native species. Therefore, RFA 1 is consistent with this standard.

10. (e) New roads, bridges and access rights-of-way shall be designed to avoid channel capacity, and minimize removal of shoreline vegetation.

Response: As in the case with the Approved Facility, any new or improved roads associated with the Approved Facility shall be sited in consultation with the affected landowner and the County to minimize removal of shoreline vegetation, if any exists on the Amended Facility site. No new roads, bridges or access rights-of-way will adversely affect channel capacity (see Exhibit J). Therefore, RFA 1 is consistent with this standard.

⁵⁶ Final Order on the Application for the Wheatridge Wind Energy Facility (April 2017), p. 122

⁵⁷ Final Order on the Application for the Wheatridge Wind Energy Facility (April 2017), p. 122

⁵⁸ Final Order on the Application for the Wheatridge Wind Energy Facility (April 2017), p. 122

20. (a) Developments of potentially high visual impacts shall address and mitigate adverse visual effects in their permit application, as outlined in the Development Ordinance standards.

Response: As in the case with the Approved Facility, Exhibits L, R, and T provide evidence that the Amended Facility will not result in significant adverse visual impacts to protected areas, scenic resources, and recreational resources. Visual impacts are minimized as discussed in Exhibit R and Section 5.8, which addresses the Development Ordinance standards applicable to the Amended Facility. The presence of the Amended Facility components, primarily the wind turbines, will be non-natural vertical elements in locations where they are visible. Development of the Amended Facility components will result in minimal changes to the existing topography, landforms, and land cover. The Certificate Holder will implement BMPs (outlined in Exhibit R) to blend the appearance of the Amended Facility components and limit their visual contrast in the landscape to the extent practicable. Therefore, RFA 1 is consistent with this standard.

20. (b) It is the position of the County that the Comprehensive Plan designations and zoning already limit scenic and aesthetic conflicts by limiting land uses or by mitigating conflicts through ordinance criteria. However, to address any specific, potential conflicts, the County shall insure special consideration of the following when reviewing a proposed change of land use:

- (1) Maintaining natural vegetation whenever possible.*
- (2) Landscaping areas where vegetation is removed and erosion might result.*
- (3) Screening unsightly land uses, preferably with natural vegetation or landscaping.*
- (4) Limiting rights-of-way widths and numbers of roads intersecting scenic roadways to the minimum needed to safely and adequately serve the uses to which they connect.*
- (5) Limiting signs in size and design so as not to distract from the attractiveness of the area.*
- (6) Siting Developments to be compatible with surrounding area developments and recognizing the natural characteristics or the location.*
- (7) Limiting excavation and filling only to those areas where alteration of the natural terrain is necessary and re-vegetating such areas as soon as possible.*
- (8) Protection vistas and other views which are important to be recognized because of their limited number and importance to the visual attractiveness of the area.*

Response: The Council previously imposed Condition CON-LU-03 for the Approved Facility to ensure electrical collector lines would be located underground to the extent practicable.⁵⁹ Exhibit R reviews Amended Facility impacts to important scenic resources in Umatilla County. Wind energy projects are a conditional use in the Umatilla County EFU zone and aesthetic and scenic conflicts are addressed for a project as part of the substantive criteria applicable to the project. Nonetheless, the Amended Facility incorporates many of the design guidance elements enumerated in this standard

⁵⁹ Final Order on the Application for the Wheatridge Wind Energy Facility (April 2017), p. 124

to minimize aesthetic impacts. For example, vegetation removal will be largely limited to agricultural crops and within the minimum area needed to construct the Amended Facility. Disturbed areas will be revegetated as soon as practicable following construction to restore the visual quality of the land and to prevent erosion. Amended Facility access roads have been reduced to the minimum length needed to develop the Amended Facility, and they will be narrowed following construction to a minimum width needed for typical maintenance vehicles. Signage will be limited to small identifying markers and “no trespassing” signs at the base of each turbine, safety signage within each substation, and a small identifying sign at the shared/existing O&M Building; commercial signage (e.g., advertising) is not proposed and will not be permitted. Turbines will be painted with a grey, white, or off-white, low-reflectivity coating to minimize reflection and contrast with the sky; this reduces the visual impact of skylining while still making the turbines visible to pilots during daytime. Support towers for the transmission lines will be either wood, which will largely blend with the surroundings, or steel, which will have a low-reflectivity coating. In compliance with Condition CON-LU-03, electrical collector lines will be located underground to the extent practicable. The access road routes and turbine locations have been chosen to limit the need for cut and fill, and to follow existing terrain as much as possible. While the turbines represent a nontraditional structure on the landscape that cannot reasonably be screened, the shared/existing O&M Building appears similar to existing agricultural structures in the area. Outdoor lighting at the Amended Facility substations will be kept to the minimum required for safety, motion sensors will connect with switches to reduce lighting when an area is not in use, and lighting will be directed downward and inward to prevent off-site glare. Therefore, RFA 1 is consistent with this standard.

22. The County shall cooperate with state agencies and other historical organizations to preserve historic buildings and sites, cultural areas, and archeological sites and artifacts.

Response: The Council previously adopted Condition CON-HC-02 to ensure that identified resources are protected during construction of the Approved Facility.⁶⁰ The Amended Facility will not impact historic buildings (see Exhibit S). Other known historic, cultural, and archaeological resources have been avoided through modifications to the Amended Facility layout or will have insignificant impacts. The Certificate Holder has initiated engagement with stakeholders by holding an introductory meeting with Archaeological Investigations Northwest, Inc. and CTUIR to discuss the Amended Facility (AINW et al., 2022). In compliance with CON-HC-02, in the event that previously undiscovered sites or artifacts are found during construction of the Amended Facility, the Certificate Holder will coordinate with the State Historic Preservation Office (SHPO) regarding an appropriate course of action to conserve the resource. Avoidance of impacts to cultural or archaeological resources is discussed in Exhibit S. Therefore, RFA 1 is consistent with this standard.

23. (a) Umatilla County shall encourage and cooperate in developing a detailed county-wide historic site inventory.

⁶⁰ Final Order on the Application for the Wheatridge Wind Energy Facility (April 2017), p. 125

Response: Any historic site information developed in the course of Amended Facility development shall be provided for inclusion in the Umatilla County historic site inventory. Therefore, RFA 1 is consistent with this standard.

24. (a) Umatilla County shall protect significant historical and cultural sites from land use activities which diminish their value as historical resources.

Response: The Council previously found there were no historic buildings located within the Approved Site Boundary in Umatilla County.⁶¹ Avoidance of impacts to cultural or historical resources is discussed in Exhibit S. The Amended Facility, taking into account mitigation, has been designed to avoid significant impacts on historic, cultural, and archaeological resources. Direct impacts on known resources have been avoided through Amended Facility design (see Exhibit S). Avoidance has been achieved either through spanning overhead lines over the resource or through moving Amended Facility components. Avoidance of these resources will be ensured through monitoring during construction (see Exhibit S). Despite this effort, some indirect impacts (visual and auditory) may occur as a result of the Amended Facility. All will be mitigated to less than significant (see Exhibit S). Therefore, RFA 1 is consistent with this standard.

26. The County shall cooperate with the Tribe, Oregon State Historic Preservation Office, and others involved in concern identifying and protecting Indian cultural areas and archeological sites.

Response: The Council previously detailed the Certificate Holder's prior engagement with CTUIR and SHPO.⁶² The Certificate Holder will consult with Oregon SHPO through the RFA process regarding cultural and archaeological resources (see Exhibit S). Identified native American cultural and archaeological sites eligible or potentially eligible for regulatory protection are avoided, as required by applicable standards and in compliance with Condition CON-HC-02. Therefore, RFA 1 is consistent with this standard.

37. The County shall ensure compatible interim uses provided through Development Ordinance standards, and where applicable consider agriculturally designated land as open space for appropriate and eventual resource or energy facilities use.

Response: The Council previously found the Approved Facility is consistent with this standard because agricultural lands have been identified as appropriate areas for wind energy facility use provided the conditional use requirements are satisfied.⁶³ The Amended Facility is an energy facility on agricultural designated land, as encouraged by this standard, and compliance with the applicable conditional use standards are detailed in Section 5.7.3 of this exhibit. Therefore, RFA 1 is consistent with this standard.

38. (a) The County shall encourage mapping of future agencies [sic] sites, ensure their protection from conflicting adjacent land uses, and required reclamation plans.

⁶¹ Final Order on the Application for the Wheatridge Wind Energy Facility (April 2017), p. 125

⁶² Final Order on the Application for the Wheatridge Wind Energy Facility (April 2017), p. 125

⁶³ Final Order on the Application for the Wheatridge Wind Energy Facility (April 2017), p. 125

Response: The Council previously found the Approved Facility would not impact any known aggregate sites, and no landowners have disclosed the existence of any such sites or prospective sites within the Approved Site Boundary or surrounding areas, and the Approved Facility would not prevent the future development of aggregate or mineral extraction sites, or represent a conflicting land use that would adversely affect or be adversely affected by mining activities in the vicinity.⁶⁴ The Amended Facility does not involve aggregate or mineral exploration, extraction, or reclamation, and will not impact any existing aggregate or mineral extraction site except to the extent that the Amended Facility may purchase aggregate from a permitted mine (see upfront Division 27 document). The Amended Facility will not prevent the future development of aggregate or mineral extraction site and will not represent a conflicting land use that would adversely affect or be adversely affected by mining activities in the vicinity. Therefore, RFA 1 is consistent with this standard.

(b) Aggregate and mineral exploration, extraction, and reclamation shall be conducted in conformance with the regulations of the Department of Geology and Mineral Industries.

Response: The Council cited Condition PRE-OE-05 for this standard as a requirement to provide Umatilla County information regarding the source of aggregate used for purchase.⁶⁵ The Amended Facility does not involve aggregate or mineral exploration, extraction, or reclamation, and will not impact any existing aggregate or mineral extraction site except to the extent that the Amended Facility may purchase aggregate from a permitted mine. In this case the Certificate Holder will follow the requirements of PRE-OE-05. Therefore, RFA 1 is consistent with this standard.

(c) The County Development Ordinance shall include conditional use standards and other provisions to limit or mitigate conflicting uses between aggregate sites and surrounding land uses.

Response: As stated above, the Amended Facility will not impact any known aggregate sites, and no landowners associated with the Amended Facility has disclosed the existence of any such sites or prospective sites within the Site Boundary. The Amended Facility does not include the development of any aggregate or other mining sites. The Amended Facility complies with the applicable substantive criteria related to protection of aggregate resources. Therefore, RFA 1 is consistent with this standard.

39. (a) The County shall strictly enforce state and county development standards pertaining to gravel extraction/processing uses through appropriate agencies; whether new operations or expansions of existing sites.

Response: As stated above, the Amended Facility does not propose any new mining sites, nor the expansion of existing mining sites. The Certificate Holder will obtain gravel as needed from permitted providers outside the Site Boundary. Therefore, RFA 1 is consistent with this standard.

42. (a) Encourage development of alternative sources of energy.

⁶⁴ Final Order on the Application for the Wheatridge Wind Energy Facility (April 2017), p. 126

⁶⁵ Final Order on the Application for the Wheatridge Wind Energy Facility (April 2017), p. 126

Response: The Council previously found the Approved Facility is considered an alternative source energy.⁶⁶ The Amended Facility is a wind energy generation facility and therefore remains an alternative energy project that is consistent with and implements this standard.

5.8.4 Chapter 9. Air, Land, Water Quality

1. Discharges from existing and future developments shall not exceed applicable environmental standards.

Response: The Council previously cited Condition CON-SP-01 for this standard as a requirement to obtain a NPDES permit prior to construction and comply with and ESCP during construction.⁶⁷ The Amended Facility will not discharge any pollutants or other regulated materials in exceedance of environmental standards. In compliance with CON-SP-01, the Certificate Holder will obtain and comply with an NPDES permit for stormwater discharge and shall follow BMPs to minimize discharges and emissions during construction. Once operational, the Amended Facility will not discharge pollutants or other materials regulated by environmental law. Waste materials will be managed in compliance with applicable laws and regulations (see upfront Division 27 document and Exhibit DD). Therefore, RFA 1 is consistent with this standard.

7. Consider cumulative noise impacts and compatibility of future developments, including the adoption of appropriate mitigating requirements of plan updates.

Response: The Council imposed conditions for the Approved Facility to ensure that the facility is operated in a Noise Reduced Operating mode that ensures the facility is consistent with the Oregon Department of Environmental Quality (ODEQ) noise rules.⁶⁸ Noise impacts and mitigation are discussed in Exhibit Y, which demonstrates that the Amended Facility can be operated to comply with state noise regulations. The Certificate Holder has considered the potential for and is not aware of potential future developments that could give rise to cumulative noise impact issues. Therefore, RFA 1 is consistent with this standard.

8. Recognize that protection of existing wells has priority over development proposals requiring additional subsurface sewage disposal.

Response: The only subsurface sewage disposal will be at the shared/existing O&M Building, which is located sufficiently far from any existing wells to avoid any potential conflict. The septic system was be designed to be operated according to State and County standards that are designed to protect groundwater quality as confirmed through building permits (see upfront Division 27 document). Therefore, RFA 1 is consistent with this standard.

⁶⁶ Final Order on the Application for the Wheatridge Wind Energy Facility (April 2017), p. 127

⁶⁷ Final Order on the Application for the Wheatridge Wind Energy Facility (April 2017), p. 127

⁶⁸ Final Order on the Application for the Wheatridge Wind Energy Facility (April 2017), p. 127

5.8.5 Chapter 10. Natural Hazards

1. The County will endeavor, through appropriate regulations and cooperation with applicable governmental agencies, to protect life and property from natural hazards and disasters found to exist in Umatilla County.

Response: The Council previously stated the Certificate Holder evaluated seismic and other hazards in ASC Exhibit H.⁶⁹ The Amended Facility will incorporate many features protective of life and property and is in an area largely free of natural hazards (see Exhibit H). The Amended Facility incorporates substantial setbacks to public roads, such that it would not represent a hazard to public health or safety even in the event of a catastrophic failure. Amended Facility components, in particular the turbines, will be located away from known hazard areas. The turbine foundations and other structures will be designed and built to rigorous engineering standards as required by current building codes so that they can withstand earthquakes. Exhibit H demonstrates that the Amended Facility can be designed, engineered, and constructed to avoid dangers to human safety and the environment in case of a design seismic event. The upfront Division 27 document provides the additional permits that will be obtained to demonstrate compliance. Therefore, RFA 1 is consistent with this standard.

4. Potentially hazardous major developments (e.g. power plants) must address earthquake hazard possibilities.

Response: The Council previously cited Condition GEN-SS-01 for this standard as a requirement to design, engineer, and construct the facility in accordance with the current versions of the latest International Building Code, Oregon Structural Specialty Code.⁷⁰ There are no known or active faults mapped within the Amended Site Boundary (see Exhibit H). The risk of seismic hazards to human safety at the Amended Facility is considered low. Along with the relatively low seismic event potential, this indicates that soil liquefaction within the Amended Site Boundary is unlikely (See Exhibit H). Foundations will be built to applicable engineering standards for earthquake safety, and County setbacks from roads will be observed, reducing the risk that Amended Facility improvements could collapse onto roads. In Exhibit H, the Certificate Holder has demonstrated that the Amended Facility can be designed, engineered, and constructed to avoid dangers to human safety and the environment in case of a seismic event. Therefore, RFA 1 is consistent with this standard.

5.8.6 Chapter 11. Recreation Needs

1. Encourage and work with local, state, federal agencies and private enterprise to provide recreational areas and opportunities to citizens and visitors to the County.

⁶⁹ Final Order on the Application for the Wheatridge Wind Energy Facility (April 2017), p. 128

⁷⁰ Final Order on the Application for the Wheatridge Wind Energy Facility (April 2017), p. 127

Response: The Council previously found the Approved Facility was located on private land with no identified recreational opportunities located within the Approved Site Boundary.⁷¹ The Amended Facility will not interfere with or have any influence on the ability of the County to implement this standard. The Amended Facility is located in a rural area dedicated to agricultural use and, as noted above, Amended Facility structures will take up a limited area of land. Additionally, there are no areas zoned Open Space or for parks in the Amended Site Boundary. In general, the setting of the Amended Facility, primarily agricultural with no major waterways, does not provide any ideal spaces for recreational areas or opportunities especially in consideration of other areas of the County. Therefore, RFA 1 is consistent with this standard.

5.8.7 Chapter 12. Economy

1. Encourage diversification within existing and potential resource-based industries.

Response: The Council previously found the Approved Facility would diversify Umatilla County's economy, which is primarily agriculture based.⁷² The Amended Facility is consistent with this standard because it represents a diversification of existing resource-based industries, primarily agriculture. The existing economic use of Amended Facility land will not be significantly impacted by the Amended Facility, so the Amended Facility will be an addition to and diversification of the County economy rather than a replacement of one economic use with another. Therefore, RFA 1 is consistent with this standard.

4. Participate in selected economic development programs and projects applicable to the County desired growth.

Response: The Council previously found the Approved Facility would generally generate economic growth and jobs within Umatilla County.⁷³ The Amended Facility is outside of all UGBs. The Amended Facility will make economic use of the wind resource of Umatilla County without detriment to other wind projects or natural resource uses. The Amended Facility will generate economic growth and jobs within Umatilla County and will integrate two compatible land uses – agricultural and renewable energy generation. Therefore, RFA 1 is consistent with this standard.

7. Cooperate with development-oriented entities in promoting advantageous aspects of the area.

Response: The existing economic use of Amended Facility land – agriculture – will not be significantly impacted by the Amended Facility. The Amended Facility will be an addition to the County economy rather than a replacement of one economic use with another while taking advantage of the renewable energy/wind resources of the area. Additionally, the landowners' loss of available agricultural land will be compensated by lease payments to each landowner, which can

⁷¹ Final Order on the Application for the Wheatridge Wind Energy Facility (April 2017), p. 128

⁷² Final Order on the Application for the Wheatridge Wind Energy Facility (April 2017), p. 129

⁷³ Final Order on the Application for the Wheatridge Wind Energy Facility (April 2017), p. 129

provide a stable source of income over a period of many years for farmers and ranchers. Therefore, RFA 1 is consistent with this standard.

8. Evaluate economic development proposals upon the following:

Will the proposal:

- a. increase or decrease available [water] supplies?*
- b. improve or degrade [water] qualities?*
- c. balance [water] withdrawal with recharge rates?*
- d. be a beneficial use?*
- e. have sufficient [water] quantities available to meet needs of the proposed project and other existing and reassembly anticipated needs?*
- f. reduce other [water] use opportunities and if so, will the loss be compensated by other equal opportunities?*

Response: The Council previously found water used during operation of the Approved Facility in Umatilla County would be supplied by a new on-site well and would be limited to no more than 5,000 gallons per day.⁷⁴ The Amended Facility will provide economic growth and jobs within Umatilla County; will have no effect on water supplies or quality; and will be a net beneficial use by reducing the need for carbon intensive energy sources. Exhibit O demonstrates that construction and operation of the Amended Facility will not result in significant adverse impacts to water resources. During construction, the Amended Facility will require an anticipated maximum of 57 million gallons of water. The primary drivers of water use during construction are mixing concrete for foundations, road construction, installation of the selected Intraconnection Line route, and dust control. The Certificate Holder's third-party construction contractor can obtain construction water from the potential water suppliers outlined in Table O-1 in Exhibit O. Water use for the shared/existing O&M Building requires less than 5,000 gallons per day. This is considered an exempt use, which would not require a new water right to be obtained under ORS 537.545 (see Exhibit O). Therefore, RFA 1 is consistent with this standard.

5.8.8 Chapter 14. Public Facilities and Services

1. The county will control land development in a timely, orderly, and efficient manner by requiring that public facilities and services be consistent with established levels of rural needs consistent with the level of service requirements listed on pages J-27 and J-28 of the Technical Report. Those needs are identified as follows:

- a. Fire protection shall be provided consistent with Policies 8,9,10.*

Response: The Council previously imposed conditions for the Approved Facility to ensure that there would not be a significant impact on the ability of the fire protection providers to provide fire

⁷⁴ Final Order on the Application for the Wheatridge Wind Energy Facility (April 2017), p. 129

protection services.⁷⁵ The Amended Facility will comply with the Condition PRE-PS-05, which requires preparing an Emergency Management Plan in coordination with the appropriate local fire protection districts. Policies 8, 9, and 10 respectively call for the formation or expansion of rural fire districts in areas designated for non-resource use; the provision of adequate fire-fighting water supplies for significant new rural developments in coordination with the appropriate fire district; and assistance by the County in locating satellite fire stations. As described in Exhibit U, fire protection service in the Analysis Area is provided by a number of agencies, including the Boardman Rural Fire Protection District, the Ione Rural Fire Protection District, the Heppner Volunteer Fire Department, and the Echo Rural Fire Protection District. The Certificate Holder will provide construction plans, phasing information, and locational information for Amended Facility components, including Amended Facility access, to involved fire departments. During construction, and particularly during activities that present a potential fire hazard, the Certificate Holder will maintain water trucks on site for rapid response in the event of a fire. None of the fire departments have suggested that water supplies should be maintained for the Amended Facility; any specific requirements will be determined prior to beginning construction. The development of the Amended Facility would not preclude the use of other portions of the participating properties for use as the location of a future fire station. Therefore, RFA 1 is consistent with this standard.

b. Police protection shall be provided consistent with Policy 7.

Response: The Council previously found the Approved Facility would contribute toward funding of police services through increased taxes, allowing the County to maintain this minimum level of service.⁷⁶ Policy 7 calls for the allocation of county funding to maintain at least the state average of 0.34 officers per 1,000 people. During operations, the Amended Facility will create full-time employment for up to 10 workers, some of whom may be new residents in Umatilla County. However, the addition of a small number of employees and their families would not significantly affect the provision of police services. Additionally, as stated, the Amended Facility will contribute toward funding of police services through increased property tax revenues, allowing the County to maintain this minimum level of service. Therefore, RFA 1 is consistent with this standard.

c. Surface. Water Drainage-Roadside drainage shall be maintained and plans for drainage shall be required in multiple use areas.

Response: The Council previously cited Condition CON-SP-01 for this standard as a requirement to obtain a NPDES permit prior to construction and comply with and ESCP during construction.⁷⁷ Roadside drainage will be maintained on roads developed or improved for the County, including at locations where Amended Facility access roads intersect County roads or state highways. The specific requirements for roadside drainage will be determined through the NPDES permit and the associated ESCP that must meet applicable local government erosion and sediment control or stormwater management requirements. The Certificate Holder will coordinate with Umatilla

⁷⁵ Final Order on the Application for the Wheatridge Wind Energy Facility (April 2017), p. 130

⁷⁶ Final Order on the Application for the Wheatridge Wind Energy Facility (April 2017), p. 130

⁷⁷ Final Order on the Application for the Wheatridge Wind Energy Facility (April 2017), p. 131

County Public Works to ensure the roadside drainage plans for the Amended Facility will meet County specifications. Therefore, RFA 1 is consistent with this standard.

d. Roads shall be maintained or improved to standards adopted by the County Road Department which are consistent with nationally accepted standards that correlate traffic to desired road conditions.

Response: The Council previously cited Condition PRE-PS-02 for this standard as a requirement to enter into a road use agreement with Umatilla County.⁷⁸ In compliance with this condition, the Certificate Holder will enter into a road use agreement with Umatilla County to ensure that roads will be maintained or improved to County standards. Therefore, RFA 1 is consistent with this standard.

2. Require that domestic water and sewage disposal systems for rural areas be provided and maintained at levels appropriate for rural use only. Rural services are not to be developed to support urban uses.

Response: The Council previously found that once in operation, the Approved Facility would not have significant water needs.⁷⁹ Water supply and sewage disposal plans for the Amended Facility are consistent with the rural nature of the site. Once in operation, the Amended Facility will not have significant water needs; water for the shared/existing O&M Building will be provided by an exempt well in coordination with the local building permits. Construction water will be obtained from municipal water suppliers or from some other permitted source (see Exhibit O) in quantities within the service capacity of those providers and hauled to the Amended Facility site. Sewage disposal will be handled by portable toilets during construction, and thereafter by an on-site septic system (see Exhibit U). Therefore, RFA 1 is consistent with this standard.

9. Require adequate water supplies for firefighting as part of significant new developments in rural areas in coordination with the appropriate rural fire district.

Response: The Council previously cited Condition PRE-PS-05 for this standard as requirement to prepare an Emergency Management Plan in coordination with the appropriate local fire protection districts.⁸⁰ The Certificate Holder believes this standard is directed more at occupied development such as residential and commercial buildings. Nonetheless, in compliance with PRE-PS-05, the Certificate Holder has confirmed the adequacy of fire protection services in Umatilla County as discussed in Exhibit U. Attachments U-2 through U-5 detail records of correspondence with the Boardman Fire Rescue District, Echo Rural Fire Protection District, Heppner Volunteer Fire Department, and Ione Rural Fire Protection District confirming that the construction and operation of the Amended Facility will not impede their abilities to provide emergency services. In general, wind projects do not pose a significant fire risk. Therefore, RFA 1 is consistent with this standard.

19. Where feasible, all utility lines and facilities shall be located on or adjacent to existing public or private rights-of-way so as to avoid dividing existing farm or forest

⁷⁸ Final Order on the Application for the Wheatridge Wind Energy Facility (April 2017), p. 131

⁷⁹ Final Order on the Application for the Wheatridge Wind Energy Facility (April 2017), p. 131

⁸⁰ Final Order on the Application for the Wheatridge Wind Energy Facility (April 2017), p. 131

units; and transmission lines should be located within existing corridors as much as possible.

Response: The Council previously cited Condition CON-LU-03 for this standard as a requirement to bury electrical collector lines.⁸¹ The Amended Facility will follow CON-LU-03 as required. Electrical collector lines will generally follow Amended Facility access roads, which are routed to avoid dividing existing farm fields to the maximum extent practicable. Due to the location of the turbines and public ROW setback requirements, it is generally not practical to place collector lines in public ROWs. There are no existing transmission or ROW corridors in the vicinity of the Amended Facility that could be used to electrically connect the Amended Facility from the east to the west; therefore, the route has been chosen to be the most direct and avoid undue habitat impacts. Therefore, RFA 1 is consistent with this standard.

5.8.9 Chapter 15. Transportation

18. The County will review right-of-way acquisitions and proposals for transmission lines and pipelines so as to minimize adverse impacts on the community.

Response: The Approved Facility did not propose to acquire ROW.⁸² Electric transmission lines that are part of the Amended Facility will be reviewed by the Council as part of this RFA 1. The Certificate Holder understands that the County will comment on the ASC content regarding ROW for Amended Facility transmission lines, however there are no transmission lines proposed within the portion of the Facility in Umatilla County. Therefore, RFA 1 is consistent with this standard.

20. Request larger industrial and commercial development proposals, consider sponsoring carpooling programs.

Response: The Council previously found the Approved Facility's 10 to 15 employees was not a sufficient workforce to justify a formal carpooling program during operation.⁸³ During operations, the Amended Facility will create full-time employment for five to 10 people in a rural location. Given that all employees will not be working at the same time, the temporary nature and short-term duration of various jobs during construction, significant carpooling is not a viable option. Therefore, RFA 1 is consistent with this standard.

5.8.10 Chapter 15. Energy Conservation

1. Encourage rehabilitation /weatherization of older structures and the utilization of locally feasibly renewable energy resources through use of tax and permit incentives.

Response: The Approved Facility did not propose to reuse existing structures.⁸⁴ The Amended Facility is a wind energy facility that utilizes locally feasible renewable energy resources, in

⁸¹ Final Order on the Application for the Wheatridge Wind Energy Facility (April 2017), p. 132

⁸² Final Order on the Application for the Wheatridge Wind Energy Facility (April 2017), p. 132

⁸³ Final Order on the Application for the Wheatridge Wind Energy Facility (April 2017), p. 132

⁸⁴ Final Order on the Application for the Wheatridge Wind Energy Facility (April 2017), p. 132

furtherance of this standard. The Amended Facility does not involve the reuse of existing structures that could be considered for rehabilitation or weatherization. Therefore, RFA 1 is consistent with this standard.

5.9 Directly Applicable Rules, Statutes, and Goals – OAR 345-021-0010(1)(k)(C)(iii)

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

Response: The Project Order requires the Certificate Holder to identify any LCDC administrative rules and goals and any land use statutes that apply directly to the Amended Facility. Pursuant to OAR 660-033-0120, wind power generation facilities must comply with the standards set forth in OAR 660-033-0130(5) and (37). The standards of OAR 660-033-0130(5) are discussed above in response to MCZO Section 6.025 and UCDC §152.061. The standards of OAR 660-033-0130(37) are discussed below (Section 5.10.4). The land use statutes applicable to the transmission line which is proposed only within Morrow County, are addressed in Section 5.3.4. The Intraconnection Line route proposed with RFA 1 will connect the Amended Facility to the existing Blue Ridge Substation, thereby connecting the proposed energy facility to the Northwest power grid. As such, the Intraconnection Line route, as proposed in RFA 1, meets the definition of “associated transmission line” under ORS 469.300 and is subject to ORS 215.274 and MCZO 3.010.D.10(b). These standards are met as detailed above (Section 5.3.4) in response to the MCZO Section 3.010 Use Standards. The applicable statewide planning goals are Goal, 3, Goal, 13, and Goal 14. The Amended Facility is consistent with these goals and applicable statewide planning goals as demonstrated in Section 6.0.

5.9.1 ORS 215.274 Associated Transmission Lines Necessary for Public Service

As explained above, in response to the initial ASC submittal for the WWEF, ODOE requested supplemental analysis of the Intraconnection Line by itself as a “utility facility necessary for public service” under ORS 215.283(1)(c). Under that statute, a utility facility necessary for public service may be established in an EFU zone as provided in ORS 215.275, or if the utility facility meets the requirements for an associated transmission line as defined in ORS 215.274 and 469.300.

ORS 215.274(1) and 469.300 define an "associated transmission line" as a "new transmission line constructed to connect an energy facility to the first point of junction of such transmission line ... with either a power distribution system or an interconnected primary transmission system or both or to the Northwest Power Grid." The Intraconnection Line route will connect the proposed Amended Facility to the Northwest Power Grid and is therefore subject to ORS 215.274, which mirror the standards of MCZO 3.010.D.10(b).

An associated transmission line is necessary for public service if it meets at least one of the requirements of ORS 215.274(3), or the requirements of ORS 215.274(4). The requirements of ORS

215.274(4) are met if the associated transmission line meets at least two of the listed factors. Among that list of factors are technical and engineering feasibility and locational dependence, which are met, as discussed above (Section 5.3.4).

5.9.2 ORS 215.296 Standards for Approval of Certain Uses in Exclusive Farm Use Zones

(1) A use allowed under ORS 215.213 (Uses permitted in exclusive farm use zones in counties that adopted marginal lands system prior to 1993) (2) or (11) or 215.283 (Uses permitted in exclusive farm use zones in nonmarginal lands counties) (2) or (4) may be approved only where the local governing body or its designee 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.

As stated in Sections 5.5.2 and 5.7.2, the proposed changes in RFA 1 will not force a significant change in accepted farm practices on surrounding lands devoted to farm use nor significantly increase the cost of farming practices on surrounding land.

There is no forest use or forest practices within the Analysis Area (Figure K-2). The lands devoted to farm use in north-central Morrow County and surrounding the proposed wind facility are used primarily for cultivation of winter wheat, and related accessory uses or grassland or areas due to slope or other topographical features that make them unsuitable for farming. Consistent with ORS 215.203, lands devoted to farm use include “wasteland” such as the grasslands and other areas that are not economical to cultivate, because they are interspersed with cultivated lands and are also within the EFU zone.

5.9.3 OAR 660-033-0130(5)

(5) Approval requires review by the governing body or its designate under ORS 215.296. Uses may be approved only where such uses:

(a) Will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and

(b) Will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

Response: As stated in Sections 5.5.2 and 5.7.2, the proposed changes in RFA 1 will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use nor significantly increase the cost of farming of forest practices on surrounding land.

5.9.4 OAR 660-033-0130(37)

(37) For purposes of this rule a wind power generation facility includes, but is not limited to, the following system components: all wind turbine towers and concrete pads, permanent meteorological towers and wind measurement devices, electrical cable collection systems connecting wind turbine towers with the relevant power substation, new or expanded private roads (whether temporary or permanent) constructed to serve the wind power generation facility, office and operation and maintenance buildings, temporary lay-down areas and all other necessary appurtenances, including but not limited to on-site and off-site facilities for temporary workforce housing for workers constructing a wind power generation facility. Such facilities must be removed or converted to an allowed use under OAR 660-033-0130(19) or other statute or rule when project construction is complete. Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request filed after a decision to approve a power generation facility. A minor amendment request shall be subject to OAR 660-033-0130(5) and shall have no effect on the original approval. A proposal for a wind power generation facility shall be subject to the following provisions:

Response: The Council previously found the Certificate Holder has demonstrated an ability to comply with the standards of OAR 660-033-0130(37) as reviewed during WWEF.⁸⁵ The Amended Facility, as modified by RFA 1, is a wind power generation facility with a maximum peak generating capacity of up to 300 MW in Morrow and Umatilla counties (see Figure K-1). The wind power generation facility provisions at OAR 660-033-0130(37) apply both in Morrow and Umatilla counties. Therefore, the Certificate Holder combined analysis for the entire facility.

The Council previously approved the Facility components detailed in Table K-1 in Section 2 of this exhibit. Table K-2 also lists the proposed RFA 1 Amended Facility components, which will include up to 107 turbines and the portion of the Amended Facility within Morrow County will be connected by an “Intraconnection Corridor” containing the proposed overhead 230-kV transmission Intraconnection Line, no longer than 27 miles in length. The Certificate Holder does not propose temporary workforce housing with this request for amendment.

As discussed above, the Intraconnection Line meets the definition of “associated transmission line” under ORS 469.300 and is subject to ORS 215.274 and MCZO 3.010.D.10(b). Other Amended Facility components include access roads, an electrical collection and control system, the Amended Facility’s substation, shared/existing O&M Building, BESS, and temporary construction yards. Pursuant to OAR 660-033-0130(37), these Amended Facility system components are included within the definition of a wind power generation facility.

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

⁸⁵ Final Order on the Application for the Wheatridge Wind Energy Facility (April 2017), p. 146-151

(A) Reasonable alternatives have been considered to show that siting the wind power generation facility or component thereof on high-value farmland soils is necessary for the facility or component to function properly or if a road system or turbine string must be placed on such soils to achieve a reasonably direct route considering the following factors:

(i) Technical and engineering feasibility;

Response: The Council previously concluded that OAR 660-033-0130(37)(a)(A) requires “reasonable alternatives to be considered to locating the facility, or components of the facility, on high-value farmland” and an “applicant must show that siting the wind power generation facility or component thereof on high-value farmland soils is necessary for the facility or component to function properly.”⁸⁶ In prior Council Orders, the Council has found that an alternative location or logical configuration of a proposed wind power generation facility on land that does not contain high-value farmland is a “reasonable” alternative under OAR 660-033- 0130(37)(a)(A) only if the alternative location has a substantially similar wind resource compared to the configuration that would affect high-value farmland.⁸⁷ However, to utilize a high wind resource, there must be topographic features suitable for wind turbines and areas that are technically feasible for construction, including the installation of linear facilities. These are represented by the Amended Facility micrositing corridors.

The rule references ORS 195.300(10) for the definition of “high-value farmland soils.” As noted in Section 3, the Amended Site Boundary and micrositing corridor includes areas with high-value farmland designations per ORS 195.300(10)(a), (c), and (f). Table K-4 notes the existing Site Boundary includes 9,462 acres of high-value farmland, and the Amended Facility micrositing corridor includes 3,015 acres of high-value farmland, which constitutes about 4 percent of the total high-value farmland within the Amended Site Boundary. Figure K-4 demonstrates how high-value farmland occurs on a patchy basis throughout the Analysis Area, Site Boundary, and micrositing corridor. Because the definition in ORS 195.300(10)(f)(a) is not tied to soils, water availability, or actual use of the land, high-value farmland defined by these criteria can occur indiscriminately on land, even on developed areas.

The Amended Facility area enables the concentration of significant renewable energy generation on a single site, at a scale that can respond to the region’s clean energy needs, goals, and policies. Due to the patchy nature of the areas of high-value farmland associated with the AVA as defined by ORS 195.300(10)(f)(a) criteria, it is difficult to avoid high-value farmland within the Analysis Area in any comprehensive way that addresses site attributes—attributes that also limit the range of potential agricultural operations and enable the integration of renewable energy with agricultural practices. These areas of AVA high-value farmland are highly irregular in shape and size, are not reflective of actual land uses, and are overall well-distributed with no substantial open areas or areas of particular concentration. There is no substantive difference in the proportion or

⁸⁶ Final Order on the Application for the Wheatridge Wind Energy Facility (April 2017), p. 146

⁸⁷ Final Order on the Application for the Wheatridge Wind Energy Facility (April 2017), p. 147; Final Order on the Request for Amendment 4 Montague Wind Power Facility Site Certificate (August 2019), p. 84.

distribution of high-value farmland in the Site Boundary versus in the Analysis Area. Thus, any alternative siting configuration would not materially reduce the impact on high-value farmland while still meeting the Amended Facility purpose and objectives. Alternate locations could slightly increase the impact to high-value farmland given the somewhat higher percentage of high-value farmland in other parts of Morrow and Umatilla County, specifically to the North.

In consideration of technical and engineering feasibility, wind energy projects have specific siting needs that require turbines to be located near the tops of hills and ridges, away from objects or landforms that could shield the wind or cause turbulence. The relationship between turbine sites is also strictly controlled to avoid turbulence impacts or wakes from one turbine on another. For these reasons, changing the micrositing corridors would likely have significant detrimental economic and energy-generation impacts on the Amended Facility. Based on the proportion and location of high-value farmland in and around the Analysis Area, it is not possible to completely avoid or substantially further reduce impacts to high-value farmland without compromising the technical feasibility of the Amended Facility without introducing additional impacts.

Some adjustments to Amended Facility component locations are expected to occur during final engineering design, and these are expected to result in further reductions of Amended Facility impacts. However, neither minor adjustments nor significant relocations of Amended Facility components will be likely to materially reduce the impact on high-value farmland, due to the relatively even distribution of high-value farmland within the Amended Site Boundary. Moreover, even if the Amended Facility were to be developed on similar agricultural lands in the general area, it is unlikely that a similar project will have significantly lower impacts to high-value farmland or lands dedicated to agricultural use due to the similar land uses and proportion and distribution of high-value farmland in the surrounding area. In general, development of the Amended Facility in another location will require a similar amount of land disturbance and will likely have similar social and environmental consequences as the Amended Facility.

The location of turbines and associated facilities must be approved by each participating landowner pursuant to the Certificate Holder's lease agreements. The proposed locations are vetted with the landowners to minimize disruption to current agricultural lands and practices. The Amended Facility also utilizes existing agricultural access routes and places turbines at the edges of farm fields (see upfront Division 27 document). Condition CON-LU-01 requires the Certificate Holder to use previously disturbed areas including roadways and tracks during construction. Prior to construction, Condition PRE-LU-05 requires the Certificate Holder to consult with surrounding landowners and lessees and shall consider proposed measures to reduce or avoid any adverse impacts to farm practices on surrounding lands and to avoid any increase in farming costs during construction and operation of the Amended Facility. Because landowners have an interest in minimizing impacts to the most valuable portions of their farms, wind turbine corridor locations that deviate from the layout vetted by the landowners would only increase, rather than decrease, impacts to profitable farmland.

(ii) Availability of existing rights of way; and

Response: The Council previously explained this factor applies primarily to access roads and transmission lines associated with a wind power facility, which can sometimes take advantage of existing utility and road rights-of-way to reduce overall project impacts to farmland.⁸⁸ The Amended Facility already maximizes the use of existing ROWs to the extent feasible to minimize impacts. Specifically, the Amended Facility also maximizes the use of existing agricultural access roads to minimize the need to construct new roads through productive agricultural land. Because of the large size of lots, topography, and rural nature of the surrounding, there are fewer straight stretches of ROW that could be used for Amended Facility purposes. In general, there are few if any available ROWs in the Site Boundary that could serve the Amended Facility in a reasonably direct manner and, at the same time, significantly reduce impacts to high-value farmland.

In summary, the evidence shows that feasible alternative layouts or micrositing corridors within or near the Analysis Area would not materially lessen the impacts on high-value farmland while still meeting Amended Facility objectives. A major relocation of the Amended Facility to other parts of the county or state is not practical or feasible. This is a locationally dependent wind energy project that seeks to take advantage of favorable wind conditions on areas of high elevation within the Site Boundary, the remoteness of the site away from urban areas, the cooperation of the site's landowners, and the location relative to transmission distribution networks.

RFA 1 proposes to add a shared use facility condition for use of the existing, operational WREFII O&M Building. The Certificate Holder finds benefits to siting the Amended Facility close to other existing or approved renewable energy facilities. Consolidating renewable energy project locations allows for efficient use of transmission infrastructure while consolidating land use impacts to a specific area as opposed to spreading land use impacts out across a broader patchwork of facilities. Other areas of the Morrow and Umatilla counties will have either similar impacts or more impacts due to greater predominance of high-value farmland soils and access to irrigation. Further, many sites simply are not topographically suitable for wind energy generation. Therefore, reasonable alternatives have been considered, and the evidence demonstrates that siting the wind power generation facility on some high-value farmland is necessary for the Amended Facility to function properly.

(iii) The long term environmental, economic, social and energy consequences of siting the facility or component on alternative sites, as determined under paragraph (B);

(B) The long-term environmental, economic, social and energy consequences resulting from the wind power generation facility or any components thereof at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically

⁸⁸ Final Order on the Application for the Wheatridge Wind Energy Facility (April 2017), p. 148

result from the same proposal being located on other agricultural lands that do not include high-value farmland soils;

Response: The Amended Facility's Amended Site Boundary is between or adjacent to areas of the Approved Site Boundary. Therefore, because of the proximity to the Approved Site Boundary, the areas of the Amended Site Boundary have similar habitat types, topography, and land uses to what was previously assessed.

Environmental. First, operation of the Amended Facility will not result in any air emissions or pollutants. Wind energy is an internationally recognized clean, renewable source of energy and considered a non-polluting industry. Second, potential impacts to the area's water quality will be avoided and minimized through the implementation of the Amended Facility's erosion control measures and BMPs, as required by the NPDES Construction Stormwater Discharge General permit 1200-C (Conditions CON-SP-01 and CON-SP-02; see Attachment I-1 for the draft ESCP; the Certificate Holder will apply for the permit before construction via the ODEQ's online Your DEQ Online platform⁸⁹).

Third, high-value farmlands and lands dedicated to agricultural use are found throughout the Amended Facility and the surrounding vicinity, such that any chosen location in the general area would be likely to encompass similar proportions of both high-value farmland and agricultural lands. Additionally, due to the way that high-value farmlands are defined (i.e. within AVA and meets, slope, elevation, aspect criteria), it is unlikely that a significant amount of agricultural land that is not also classified as high-value farmland and is suitable to wind energy development could be found in the vicinity. Figure K-4 demonstrates how high-value farmland occurs on a patchy basis throughout the Analysis Area, Amended Site Boundary, and micrositing corridor. Because the definition in ORS 195.300(10)(f)(a) is not tied to soils, water availability, or actual use of the land, high-value farmland defined by these criteria can occur indiscriminately on land, even on developed areas. Ultimately, given that water for irrigation is generally not available for almost all of the Amended Site Boundary, and grapes require substantially more water than is naturally available as precipitation in the Analysis Area, it is unlikely these areas of high-value farmland could be used for viticulture use. Additionally, the area of high-value farmland impacted by this Amended Facility represents an insignificant portion of the 11.52-million-acre Columbia Valley AVA.

Pursuant to an existing Site Certificate condition, the Certificate Holder is required to design and construct the Amended Facility using the minimum land area necessary for safe construction and operation (Condition GEN-LU-04). The impact avoidance and minimization measures described throughout this application would be implemented during project design, construction and operation regardless of specific location. Therefore, even if the entire Amended Facility were to be moved elsewhere in the vicinity, it would have a similar level of impacts as a whole, and similar levels of impacts to high-value farmland and lands dedicated agricultural use as the Amended Facility as proposed in this application.

⁸⁹ <https://ordeq-edms-public.govonlinesaas.com/pub/login?web=1>

The Division 22 Standards and applicable Council rules provide a comprehensive approach to best ensure actionable consideration of impacts on resources. The Amended Facility will have limited long-term environmental consequences in that a small footprint (approximately 149 acres) of agricultural land will be made unavailable for the life of the Amended Facility. However, this impact is insignificant because most of the permanent impacts are to “wasteland” such as the grasslands and other areas that are not economical to cultivate and areas of existing agricultural practices can continue around the wind turbines. Overall, the Amended Facility provides a positive long-term environmental impact by reducing reliance on carbon-based sources of energy and thereby reducing greenhouse gas emissions and helping Oregon meet its renewable energy goals.

Fourth, the region has warmed nearly 2 degrees Fahrenheit since 1900 because of increased greenhouse gas emissions (Dalton et al. 2017). This warming includes warmer waters that affect both river and coastal ecosystems, threatening salmon runs and other important marine and freshwater species. Additionally, in eastern Oregon, large mountain areas have suffered mountain pine beetle infestations, wildfires, or both, causing widespread shifts in forest ecosystems (Dalton et al. 2017). A mission of Oregon’s Climate Action Plan is to achieve a reduction in greenhouse gas emissions levels to at least 45 percent below 1990 emissions levels by 2035 and at least 80 percent below 1990 emissions levels by 2050. One of the measures identified to accomplish this is through supporting renewable energy development such as wind facilities. Therefore, the Amended Facility contributes to the reduction of greenhouse gas emissions, which thereby may result in a beneficial environmental impact.

Economic. The Amended Facility will generate both temporary and permanent jobs, bringing economic benefits and development to Morrow and Umatilla counties. Additionally, the Amended Facility will have positive economic benefits by bringing additional revenue to local farmers and to the community in the form of property taxes, employment and improved roads. The small permanent impact on high-value farmland within the Amended Site Boundary (approximately 0.3 percent of the total high-value farmland in the Amended Site Boundary) will have negligible economic impact in the long term.

The Certificate Holder anticipates that construction of the Amended Facility would create an average of 240 temporary construction jobs for a period of up to 12 months. Wind energy facility construction requires specialized skills; many workers move from project to project. Therefore, the Certificate Holder assumes that approximately 30 percent of the estimated construction workforce hired to work on the Amended Facility would be hired locally (i.e., from Oregon), and the remaining 70 percent of the workforce would be from out of state and would temporarily relocate to the Amended Facility. An estimated 5 to 10 operational personnel would be permanently employed at the Amended Facility at its full 300-MW capacity; this amount is in addition to the existing O&M staff currently employed at the operational Wheatridge Renewable Energy Facility I and II. The O&M staff would be hired locally, to the extent that skilled workers are available. Job creation has a multiplier effect within the local community, increasing business for local restaurants, hotels, and retail establishments. Workers employed in service of the construction of the proposed Project would spend portions of their salaries in local communities, creating “induced” economic benefits

at various local area businesses, especially retail, lodging, and food and entertainment establishments.

Social. The long-term social consequences of the Amended Facility are minimal, and they cannot be materially reduced by relocating the Amended Facility elsewhere in the general vicinity. The remote location of the Amended Facility renders insignificant any other adverse social consequences (i.e., noise and visual impacts). As discussed above, high-value farmland and lands dedicated to agricultural use are found throughout the Analysis Area and are distributed such that any chosen location in the general area would be likely to encompass similar proportions of both high-value farmland and agricultural lands. As shown on the figures, high-value farmland occurs on a patchy basis throughout the Amended Site Boundary and Analysis Area, and arable land is prevalent throughout the Amended Site Boundary and Analysis Area. Therefore, the Amended Facility layout must cross high-value farmland and/or arable land, as there is no feasible alternative to completely avoid these lands and still connect the Amended Facility to the Blue Ridge Substation.

The Amended Facility complies with applicable criteria of the EFU zoning districts in Morrow and Umatilla counties, where wind power generation facilities are allowed as a conditional use. The Certificate Holder has demonstrated (Section 5.5.2 and 5.7.2) that the Amended Facility will not interfere with agricultural productivity on surrounding lands or within each respective county. The additional revenues received by the landowner from the Facility lease and easement payments would provide a steady source of income that would supplement revenues and help ensure that lessor-landowner operations would remain viable.

In addition, the Amended Facility will not substantially impact local or regional public services. Based on the evidence presented in this Exhibit U, the Council may rely on its earlier findings to conclude in accordance with OAR 345-022-0110 that the construction and operation of the Amended Facility, taking into account Site Certificate conditions, is not likely to result in significant adverse impacts on the ability of the providers within the Analysis Area to provide the following services: sewers and sewage treatment, water, stormwater drainage, solid waste management, housing, traffic safety, police and fire protection, healthcare, and schools.

Energy. As discussed above, the Amended Facility will support the generation of reliable renewable energy for sale to the public and, while doing so, promote the goals of Umatilla and Morrow counties, as well as Oregon's Renewable Portfolio Standard (RPS) and commitment to rural economic development. Oregon's RPS establishes a requirement for how much of Oregon's electricity must come from renewable resources like wind. The current RPS is set at 50 percent by 2040. In 2021, Governor Kate Brown signed House Bills 2021, 2165, 2475, and 3141 to address the climate crisis by accelerating the clean energy transition in Oregon by moving to 100 percent clean electricity sources by 2040 (State of Oregon 2021). In addition to Oregon's RPS and clean energy goals, private companies have their own renewable energy procurement policies, which increase the demand for renewable energy in Oregon. These public and private policies are intended to reduce greenhouse gas emissions, mitigate climate impact, and reduce reliance on carbon-based fuels. Wind power generation, like that proposed in the Amended Facility's micrositing corridor,

helps further these public and private policies and outweighs removing approximately 149 acres of agricultural land for the life of the Amended Facility.

Conclusion. The Council previously found the Approved Facility would comply with the identified applicable substantive criteria and the directly applicable state statute and rule.⁹⁰ On balance, the Council may find that the environmental, economic, social, and energy consequences associated with the Amended Facility, as proposed to be modified by RFA 1, coupled with proposed mitigation measures, are not more adverse than the same Amended Facility sited in areas without high-value farmland. The impact avoidance and minimization measures described throughout this application (e.g., Noxious Weed Control Plan) will be implemented during the Amended Facility design, construction, and operation, keeping adverse consequences at a minimum, regardless of specific location. Therefore, even if the entire Amended Facility were to be moved elsewhere in the Analysis Area, it would have a similar (low) level of overall impacts, and similar levels of impacts to high-value farmland and lands dedicated to agricultural use. Consequently, there is no evidence that a different site exists that meets the Amended Facility's objectives and has significantly less adverse environmental, economic, social, and energy consequences as the proposed layouts and micrositing corridors.

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

Response: As discussed further in response to subsection (A) above, regardless of cost, feasible alternatives affecting materially less high-value farmland are not available in the general area. Costs are not a determinative factor in siting the Amended Facility in the proposed location as opposed to any other location. Fundamentally, the wind resource value, access to transmission, and relatively low natural resource constraints are the determinative factors.

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

Response: As described in Exhibit M, the Certificate Holder will provide a bond or letter of credit to cover the cost of site rehabilitation in the event of decommissioning or dismantling of uncompleted construction. Exhibit X details compliance with the Retirement and Financial Assurance standard.

(E) The criteria of subsection (b) are satisfied.

⁹⁰ Final Order on the Application for the Wheatridge Wind Energy Facility (April 2017), p. 151

Response: The requirements of OAR 660-033-0130(37) subsection (b) are addressed below.

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

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

Response: As stated in the preceding section and Sections 5.5.2 and 5.7.2 the evidence demonstrates that proposed changes in RFA 1 will not force a significant change in accepted farm practices on surrounding lands devoted to farm use nor significantly increase the cost of farming practices on surrounding land in Morrow and Umatilla counties. The measures described in Sections 5.5.2 and 5.7.2 are intended to avoid or minimize the impacts of the Amended Facility on farming operations on the subject property, and to mitigate for necessary impacts.

The Amended Facility is designed and legally structured such that the cost burden of constructing and maintaining access roads and other facilities would not fall on the landowner and would not increase the costs of farming for affected landowners. In order to minimize impacts to agricultural operations, grazing lands, and wildlife habitat, existing private roads and farm access tracks would be utilized to the greatest extent practicable. Proposed placement of turbines and transmission lines are shown along the margins of cultivated areas, which reduces the potential for conflict with farm operations (Figure 2) and does not divide fields in such a way that creates isolated property that are more difficult to farm. Additionally, each participating landowner will be compensated for the loss of agricultural lands, and the new income stream from lease payments will help to stabilize often-fluctuating agricultural income, making farming more viable.

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

Response: Mitigation of geologic impacts, including soil erosion, is discussed in Exhibits H and I. The risk of seismic hazards to human safety at the Amended Facility is low. The Certificate Holder reviewed regional geologic information and performed a site-specific desktop analysis of potential seismic, geologic, and soils hazards. In addition, a site-specific geotechnical investigation will be

conducted, allowing the Certificate Holder to design, engineer, and construct the Amended Facility to the most current standards at the time of construction. Condition PRE-SS-01 requires the Certificate Holder to conduct a site-specific geological and geotechnical investigation and report its findings to Department and Oregon Department of Geology & Mineral Industries (DOGAMI) and ODOE.

During construction, the potential for soil erosion and contamination will be minimized by avoiding problematic areas to the extent practical and by adhering to the Conditions CON-SP-01 and CON-SP-02, Turbine operation would not impact soil erosion. Following Condition OPR-SP-01, the Certificate Holder will routinely inspect and maintain all Amended Facility components and maintain or repair erosion and sediment control measures as needed. Vehicles will stay on constructed access roads to avoid unnecessary compaction, erosion, or spill risk (Condition OPR-SP-01). The Amended Facility's operations are not expected to cause any additional ground disturbances. Further, the Certificate Holder will comply with the terms of its NPDES permit and the associated ESCP.

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

Response: Minimization of impacts to soil are discussed in Exhibit I. BMPs, that may be implemented along with other measures identified in the ESCP include stabilized construction entrances/exits, dust abatement measures, preserving existing vegetation, silt fencing, straw wattles, mulching, stabilization matting, soil binders and tackifiers, concrete washout area, stockpile management, revegetation, check dams and sediment traps, pollutant management, and construction timing during the dry season whenever possible.

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

Response: The original WWEF ASC stated the Certificate Holder will implement a weed control plan that will reduce the risk of weed infestation in cultivated land and the associated cost to the farmer for weed control. The Certificate Holder has prepared a draft Noxious Weed Control Plan for the Amended Facility to reduce the risk of weed infestation in cultivated land and the associated cost to the farmer for weed control. The Certificate Holder will submit the final plan for implementation no fewer than 30 days prior to the beginning of construction (Condition PRE-LU-03).

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

Response: The Amended Facility is located primarily on arable lands but would impact some non-arable lands as well. OAR 660-033-0130(37)(b)(D) addresses the spread of noxious weeds; as noted above, the Certificate Holder will implement a Noxious Weed Control Plan that will reduce the risk of weed infestation in cultivated land and the associated cost to the farmer for weed control. Noxious weed species can adversely affect the structure, composition, and success of revegetation efforts associated with construction-related temporary disturbances. The intent of the Noxious Weed Control Plan is to provide clear methods to prevent the introduction and spread of designated noxious weeds from the construction and operation of the Amended Facility, to control existing populations of noxious weeds within construction areas, and to monitor efforts to prevent and control noxious weeds. The Certificate Holder and its contractors will be responsible for implementing the methods detailed in the Noxious Weed Control Plan.

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

Response: The wind power generation facility provisions at OAR 660-033-0130(37) apply both in Morrow and Umatilla counties. Therefore, the Certificate Holder combined analysis for the entire Amended Facility in Section 5.10.4. The Amended Facility would impact some nonarable land around the edges of existing farm fields, thus would include both arable and nonarable lands. Compliance with the approval criteria of OAR 660-033-0130(37)(b) is demonstrated above.

6.0 Statewide Planning Goal Exceptions – OAR 345-021-0010(1)(k)(C)(v)

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

The Amended Facility complies with all substantive criteria and is consistent with applicable statewide planning goals. Accordingly, no exception to statewide planning goals is necessary.

7.0 Federal Land Management Plans – OAR 345-021-0010(1)(k)(D)

(D) If the proposed facility will be located on federal land:

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

No portion of the Amended Site Boundary is located on federal land, and the provisions under OAR 345-021-0010(1)(k)(D) do not apply to this amendment request.

8.0 Summary

The information provided in this exhibit demonstrates the Amended Facility's compliance with all applicable substantive criteria. Therefore, the Council may find that the Amended Facility is consistent with statewide planning goals under OAR 345-022-0030(2)(b)(A) and complies with the land use standard set forth in OAR 345-022-0030.

9.0 References

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Figures

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Wheatridge Renewable Energy Facility East

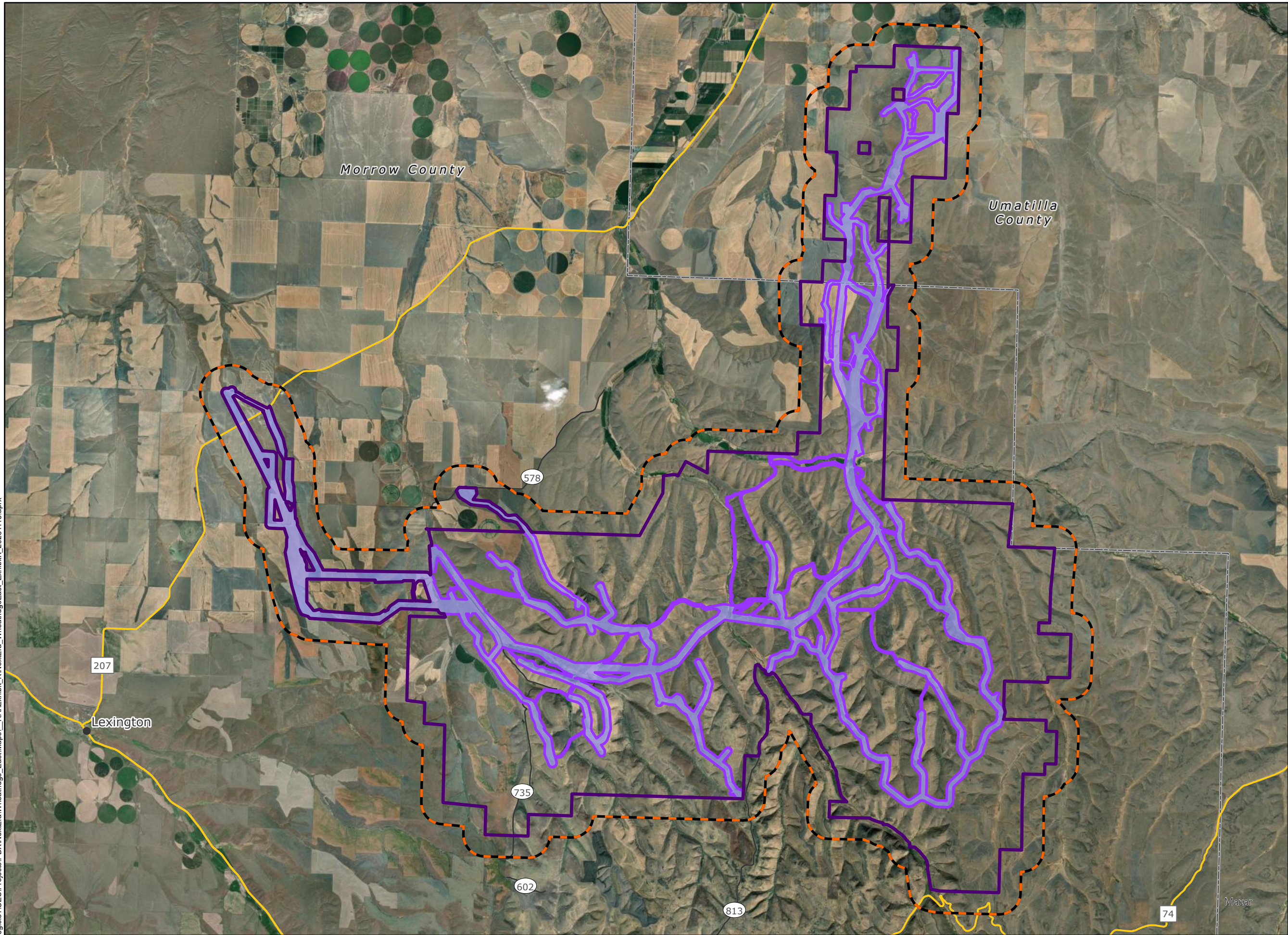
Figure K-1 Analysis Area

MORROW AND UMATILLA COUNTIES, OR

-  Amended Site Boundary
-  Amended Wind Micrositing Corridors
-  Analysis Area (.5-mile buffer)
-  City/Town
-  County Boundary
-  State Highway
-  County Highway



Reference Map

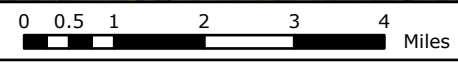


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






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Wheatridge Renewable Energy Facility East

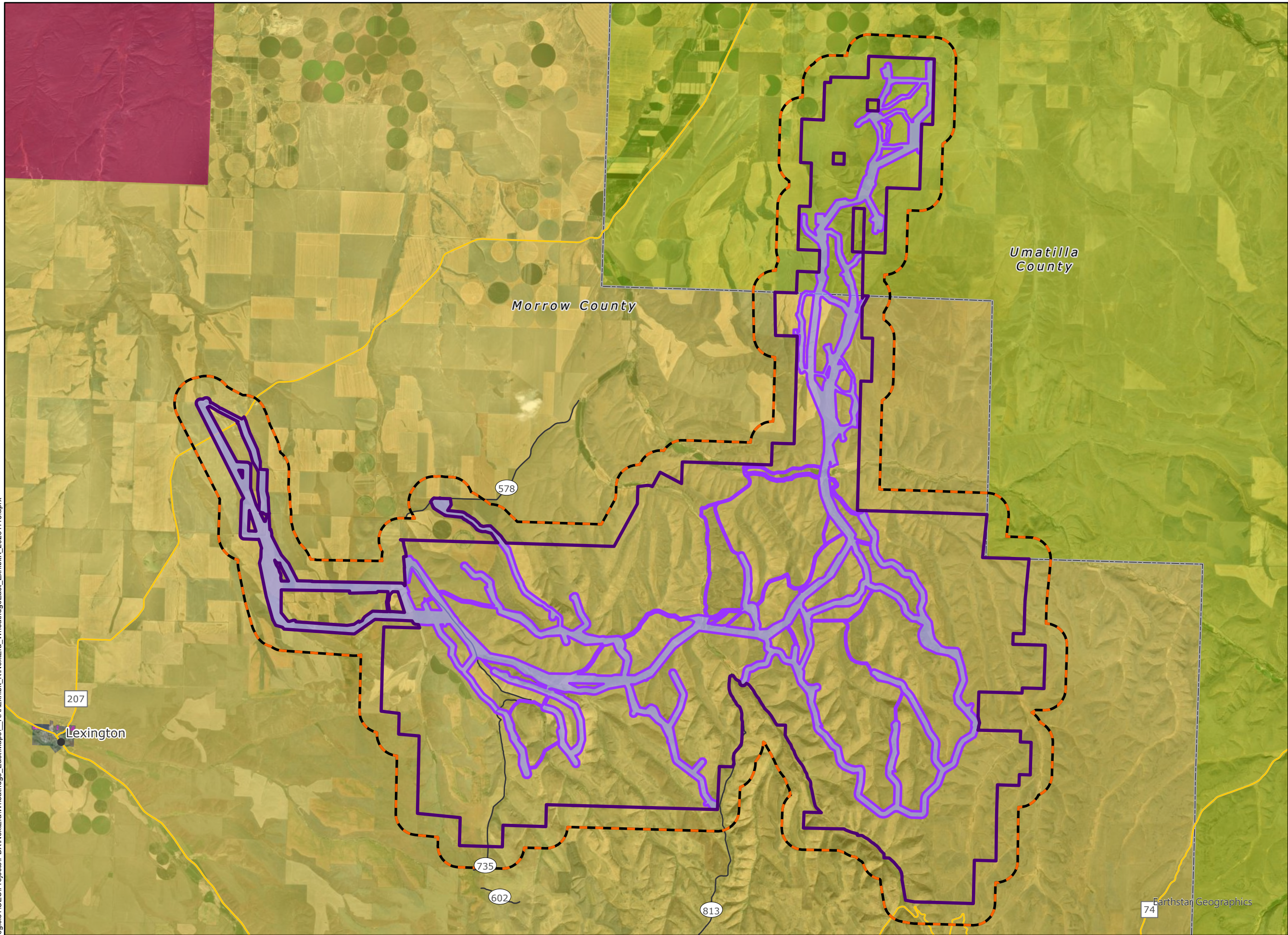
Figure K-2 Zoning

MORROW AND UMATILLA COUNTIES, OR

-  Amended Site Boundary
-  Amended Wind Micrositing Corridors
-  Analysis Area (.5-mile buffer)
-  State Highway
-  County Highway
-  City/Town
-  County Boundary
- Morrow County Zoning**
-  Exclusive Farm Use
-  Public
-  Rural Light Industrial
-  Suburban Residential
- Umatilla County Zoning**
-  Exclusive Farm Use



Reference Map

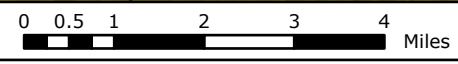


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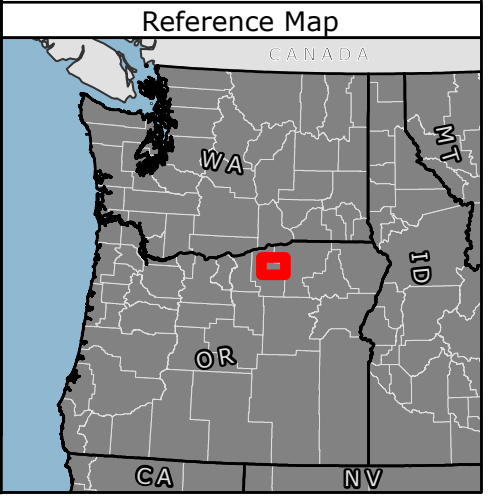
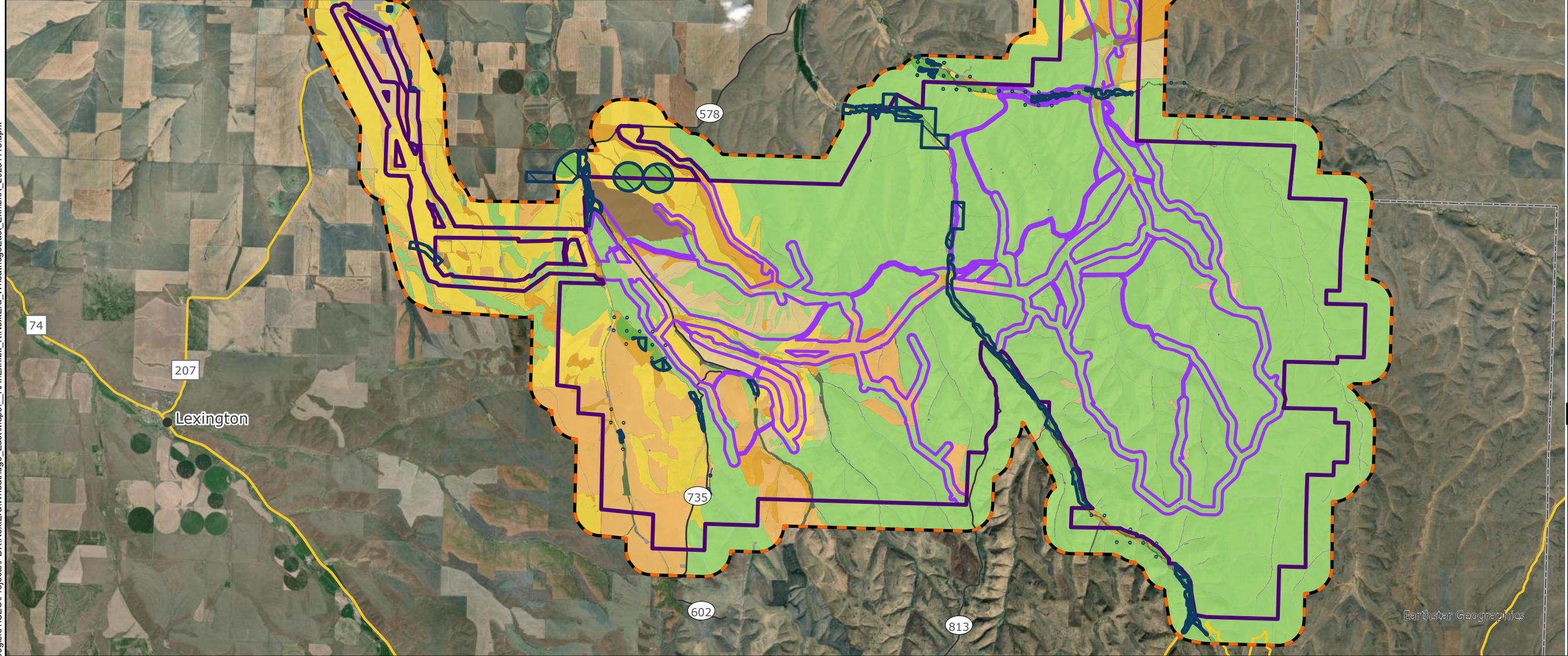
- Habitat Type**
- Cliffs, Caves and Talus-Cliffs, Caves and Talus
 - Developed-Dryland Wheat
 - Developed-Irrigated Agriculture
 - Developed-Other
 - Developed-Revegetated/Other Planted Grassland
 - Grassland-Exotic Annual
 - Grassland-Native Perennial
 - Open Water – Lakes, Rivers, Streams-Intermittent or Ephemeral Streams
 - Open Water – Lakes, Rivers, Streams-Perennial Streams
 - Open Water – Lakes, Rivers, Streams-Permanent Ponds/Lakes
 - Open Water – Lakes, Rivers, Streams-Seasonal Ponds
 - Riparian Forest and Natural Shrubland Complexes-Eastside (interior) Riparian
 - Shrub-steppe-Basin Big Sagebrush
 - Shrub-steppe-Rabbitbrush/Snakeweed Shrub-steppe
 - Wetlands-Emergent Wetlands
 - Wetlands-Riverine Wetlands
 - Wetlands-Scrub-shrub Wetlands

Wheatridge Renewable Energy Facility East

Figure K-3 Land Use

MORROW AND UMATILLA COUNTIES, OR

- Amended Site Boundary
- Amended Wind Micrositing Corridors
- Analysis Area (.5-mile buffer)
- State Highway
- County Highway
- City/Town
- County Boundary
- HVF per Water Right Authorized Place of Use

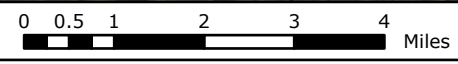


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Wheatridge Renewable Energy Facility East

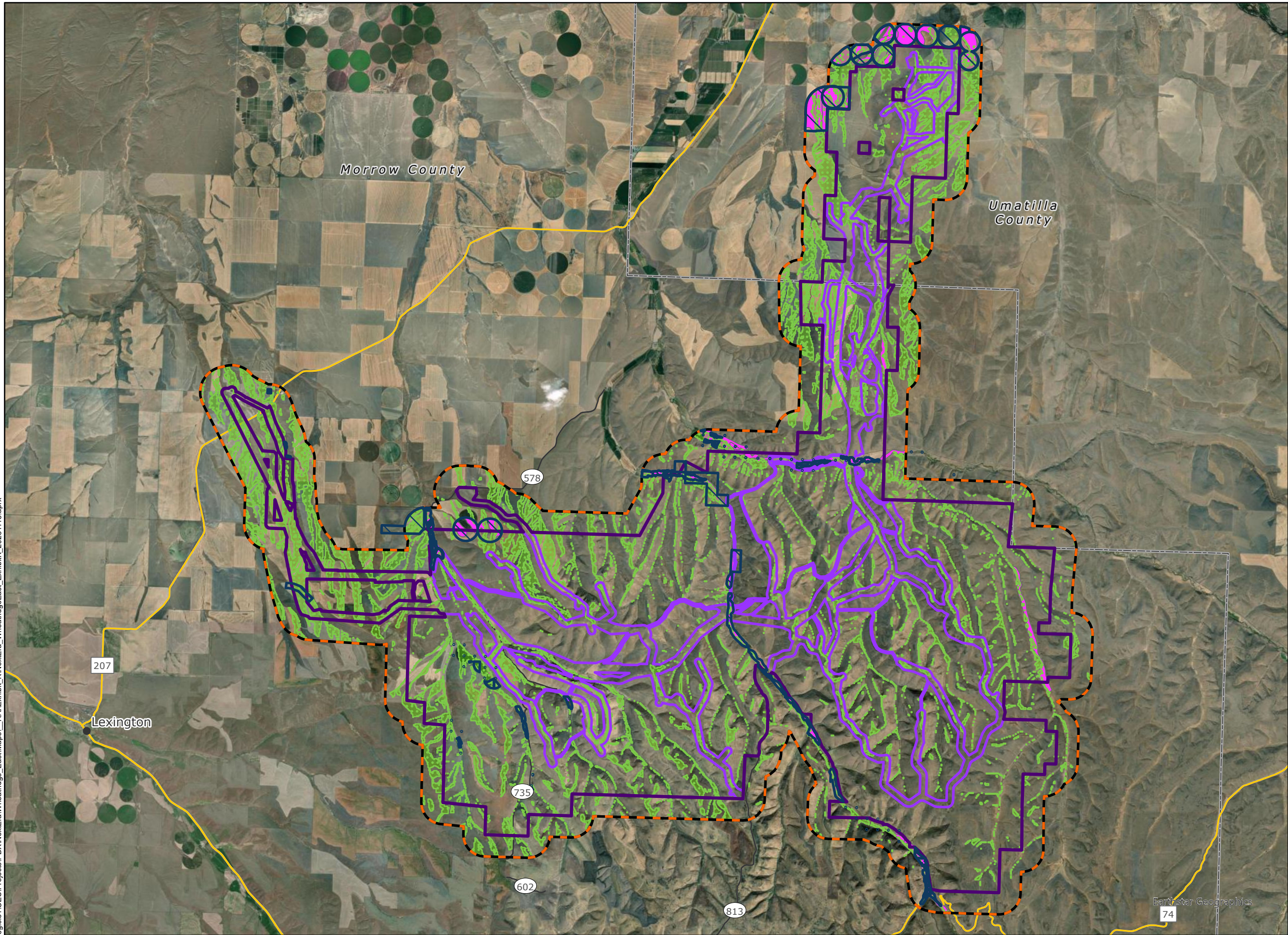
Figure K-4 High Value Farmland

MORROW AND UMATILLA COUNTIES, OR

-  Amended Site Boundary
-  Amended Wind Micrositing Corridors
-  Analysis Area (.5-mile buffer)
-  City/Town
-  County Boundary
-  State Highway
-  County Highway
-  HVF per Water Right Authorized Place of Use
-  HVF Class I and II Soils
-  HVF per AVA



Reference Map

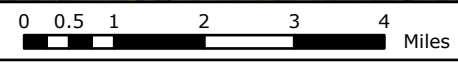


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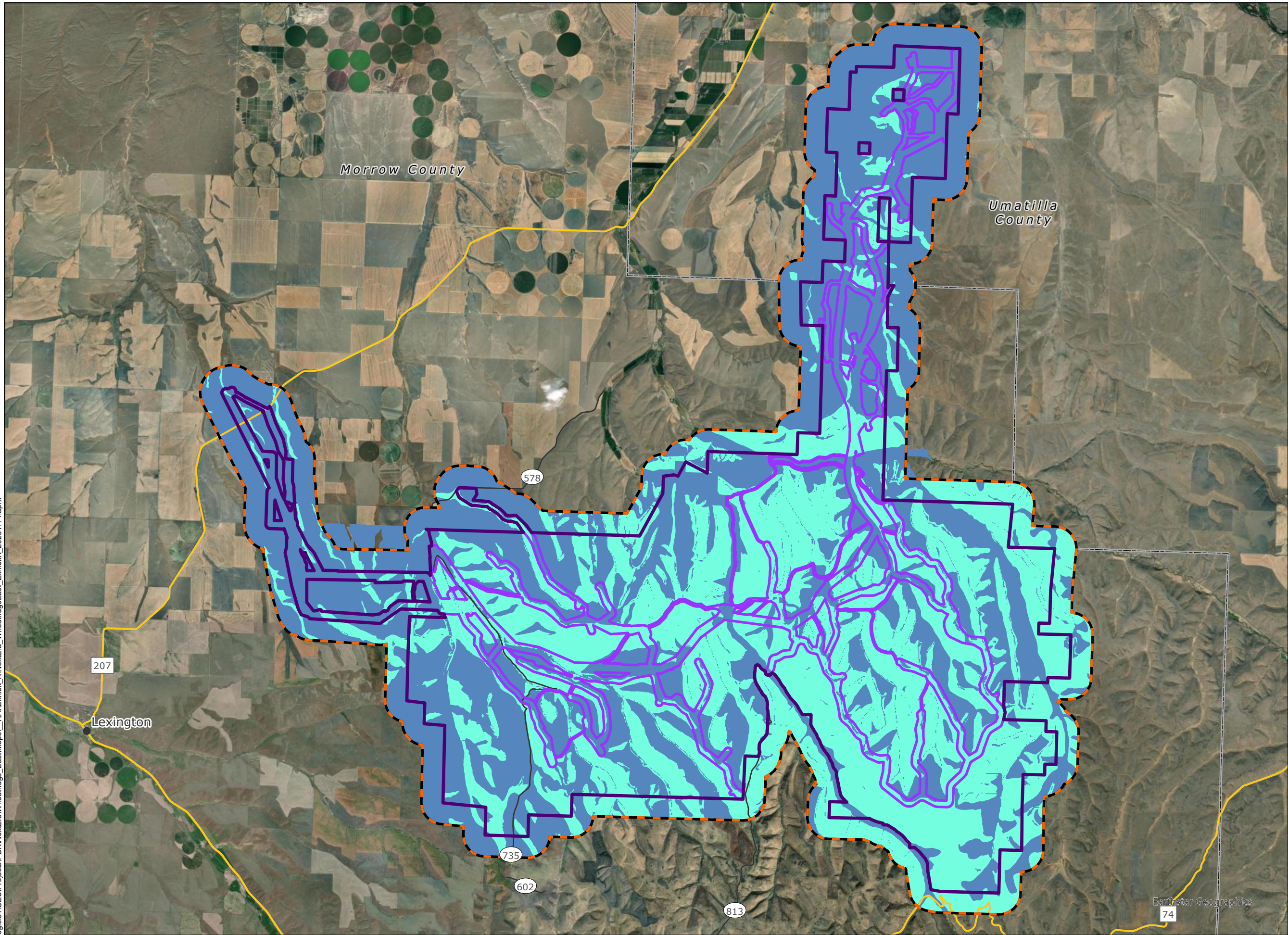
Earthstar Geographics

Wheatridge Renewable Energy Facility East

Figure K-5 Arable and Non-Arable Land

MORROW AND UMATILLA COUNTIES, OR

-  Amended Site Boundary
-  Amended Wind Micrositing Corridors
-  Analysis Area (.5-mile buffer)
-  City/Town
-  County Boundary
-  State Highway
-  County Highway
-  Arable
-  Non-Arable

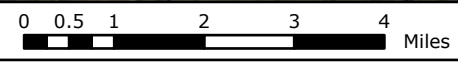


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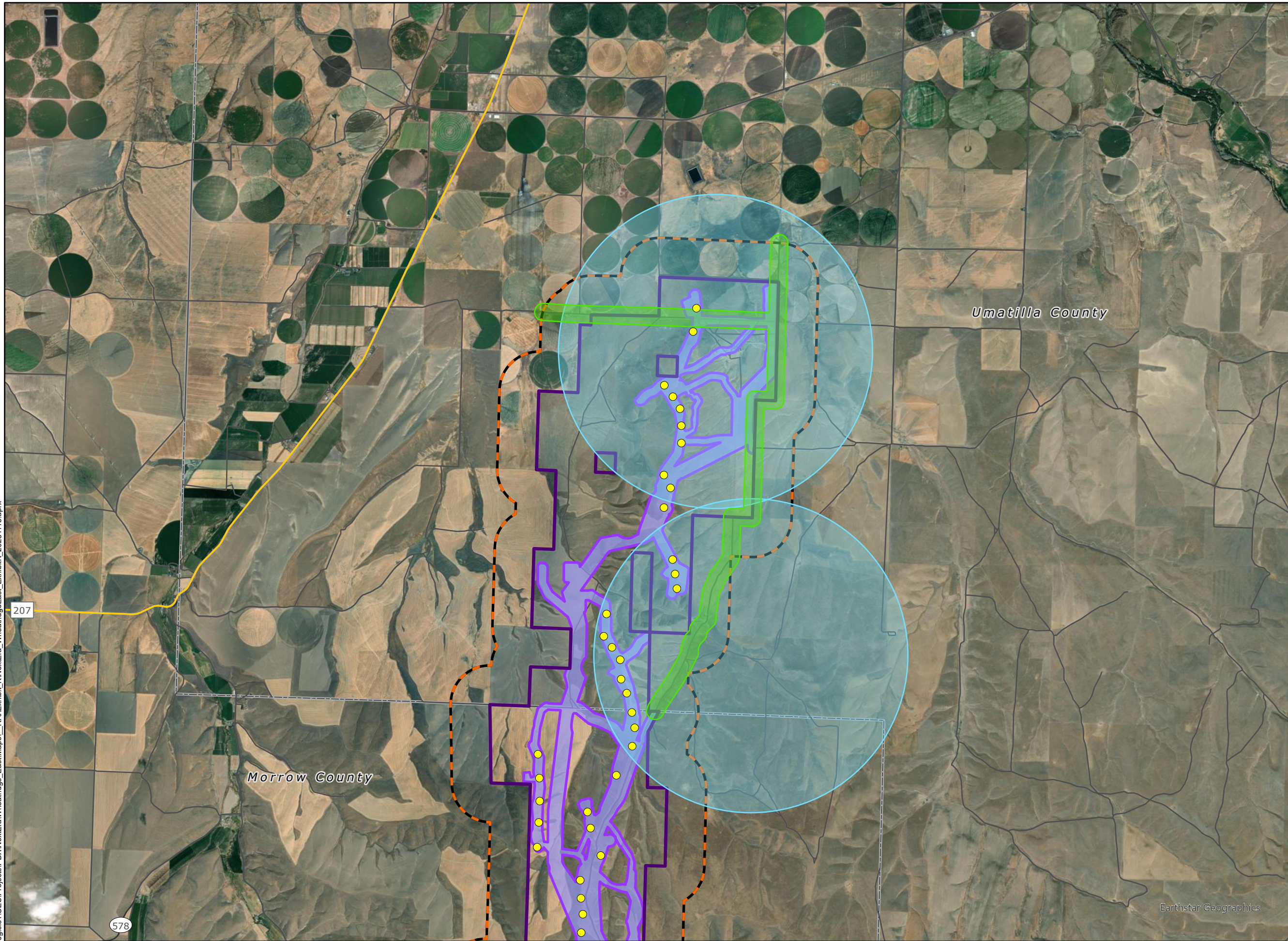
Earthstar Geographics

Wheatridge Renewable Energy Facility East

Figure K-6 Umatilla County Setbacks

MORROW AND UMATILLA COUNTIES, OR

-  Amended Site Boundary
-  Amended Wind Micrositing Corridors
-  Analysis Area (.5-mile buffer)
-  Turbines
-  City/Town
-  County Boundary
-  State Highway
-  County Highway
-  Local Roads
-  2-mile rural residence setback
-  County Road ROW 110% of overall tower-to-blade tip height (549 feet)



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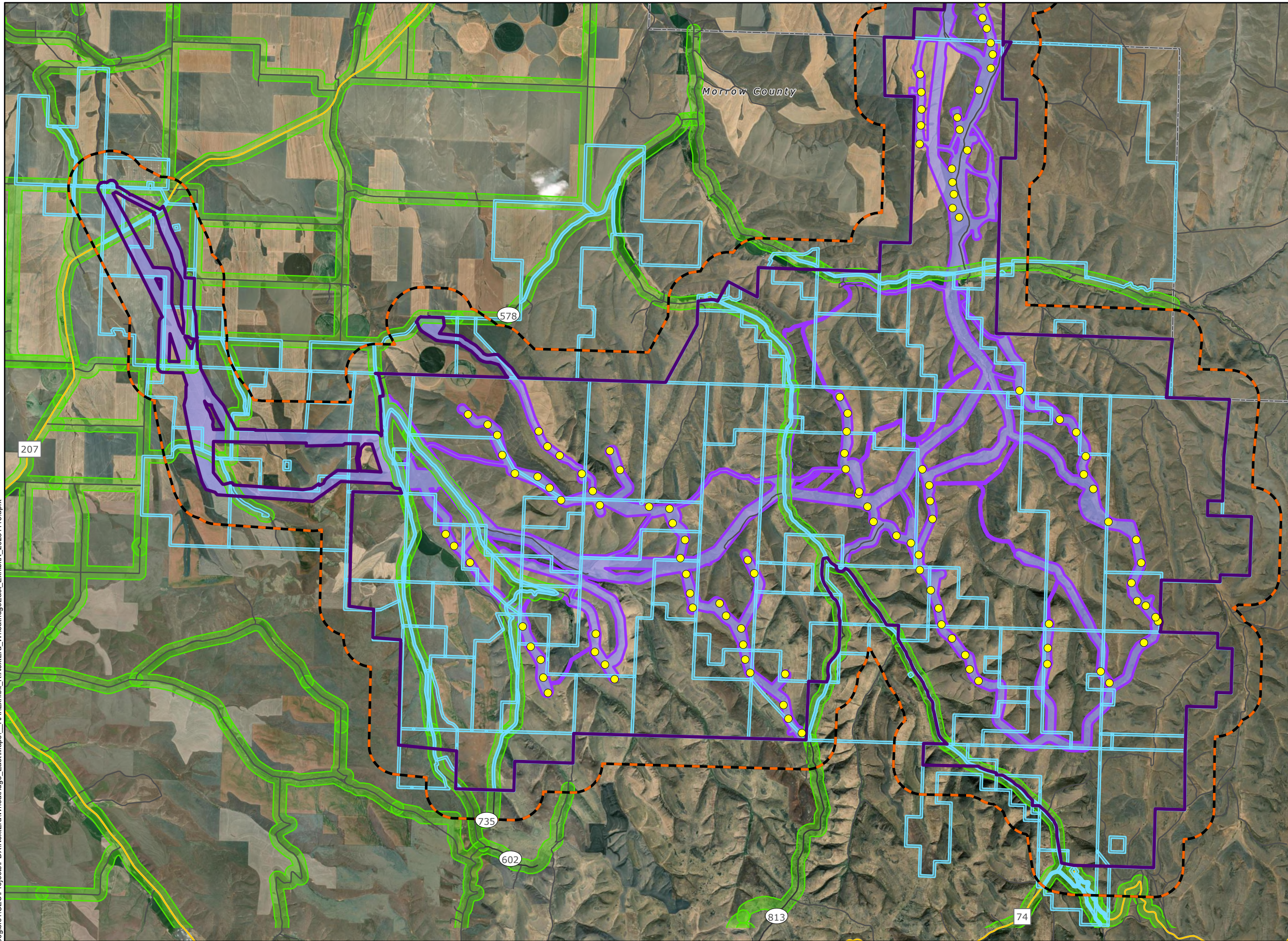
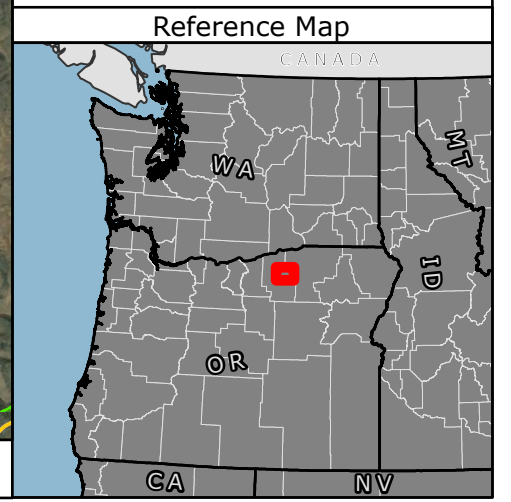
Earthstar Geographics

Wheatridge Renewable Energy Facility East

Figure K-7 Morrow County Setbacks

MORROW AND UMATILLA COUNTIES, OR

- Amended Site Boundary
- Amended Wind Micrositing Corridors
- Analysis Area (.5-mile buffer)
- Turbines
- City/Town
- County Boundary
- State Highway
- County Highway
- Local Roads
- 100-ft Buffer around Property Boundaries
- County Road ROW 110% of overall tower-to-blade tip height (549 feet)

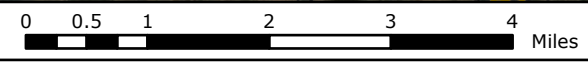


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Attachment K-1. Land Use Site Certificate Conditions

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STANDARD: LAND USE (LU) [OAR 345-022-0030]

GEN-LU-01	<p>The certificate holder shall design the facility to comply with the following setback distances in Morrow County:</p> <ul style="list-style-type: none">a. Wind turbines shall be setback from the property line of any abutting property of any non- participant property owners a minimum of 110 percent of maximum blade tip height of the wind turbine tower.b. Wind turbines shall be setback 100 feet from all property boundaries, including participant property boundaries within the site boundary, if practicable.c. Wind turbine foundations shall not be located on any property boundary, including participant property boundaries within the site boundary.d. Wind turbines shall be setback 110% of the overall tower-to-blade tip height from the boundary right-of-way of county roads, state and interstate highways. <p>[Final Order on ASC (2017), Land Use Condition 1; AMD3 (2018); AMD4 (2019); AMD5 (2020); AMD1 (2020)]</p>
GEN-LU-02	<p>During design and construction of the facility, the certificate holder shall:</p> <ul style="list-style-type: none">a. Obtain an access permit for changes in access on Morrow County roads; andb. Improve or develop private access roads impacting intersections with Morrow County roads in compliance with Morrow County access standards. <p>[Final Order on ASC (2017), Land Use Condition 4]</p>
GEN-LU-03	<p>During design and construction, the certificate holder shall implement the following actions on all meteorological towers approved through the site certificate:</p> <ul style="list-style-type: none">a. Paint the towers in alternating bands of white and red or aviation orange; orb. Install aviation lighting as recommended by the Federal Aviation Administration. <p>[Final Order on ASC (2017), Land Use Condition 9]</p>
GEN-LU-04	<p>The certificate holder shall design and construct the facility using the minimum land area necessary for safe construction and operation. The certificate holder shall:</p> <ul style="list-style-type: none">a. Locate access roads and temporary construction laydown and staging areas to minimize disturbance of farming practices;b. Place turbines and transmission intraconnection lines along the margins of cultivated areas to reduce the potential for conflict with farm operations, where feasible.c. Bury underground communication and electrical lines within the area disturbed by temporary road widening, where possible. <p>[Final Order on ASC (2017), Land Use Condition 11; AMD4 (2019); AMD1 (2020)]</p>
GEN-LU-05	<p>During design and construction of the facility, the certificate holder shall ensure that fencing and landscaping selected and used for the O&M building and similar facility components sited within Morrow County blend with the nature of the surrounding area.</p> <p>[Final Order on ASC (2017), Land Use Condition 14]</p>
GEN-LU-06	<p>During micrositing of the facility, the certificate holder shall ensure that wind turbines are sited based on a minimum setback of: design the facility to comply with the following setback distances in Umatilla County</p> <ul style="list-style-type: none">a. 110% of the overall tower-to-blade tip height from the boundary right-of-way of county roads and state and interstate highways in Umatilla County County and Morrow counties.b. 2 miles from turbine towers to a city urban growth boundary.c. 1 mile from turbine towers to land within Umatilla County lands zoned Unincorporated Community.d. 2 miles from turbine towers to rural residences owned by non-participating landowners within Umatilla County.e. 164 feet (50 meters) from tower and facility components to known archeological, historical and cultural sites or CTUIR cultural site.

STANDARD: LAND USE (LU) [OAR 345-022-0030]	
	f. [Final Order on ASC (2017), Land Use Condition 16; AMD3 (2018)]
GEN-LU-07	During design and construction, the certificate holder must ensure that the O&M building in Umatilla County is consistent with the character of similar agricultural buildings used by commercial farmers or ranchers in Umatilla County. [Final Order on ASC (2017), Land Use Condition 20]
GEN-LU-08	During facility design and construction of new access roads and road improvements, the certificate holder shall implement best management practices after consultation with the Umatilla County Soil Water Conservation district. The new and improved road designs must be reviewed and certified by a civil engineer. [Final Order on ASC (2017), Land Use Condition 22]
GEN-LU-09	Before beginning electrical production, the certificate holder shall provide the location of each turbine tower, electrical collecting lines, the O&M building, the substations, project access roads, and portion of the intraconnection transmission line located in Umatilla County to the department and Umatilla County in a format suitable for GPS mapping. [Final Order on ASC (2017), Land Use Condition 24]
GEN-LU-10	During construction and operation of the facility, the certificate holder shall deliver a copy of the annual report required under OAR 345-026-0080 to the Umatilla County Planning Commission on an annual basis. [Final Order on ASC (2017), Land Use Condition 28]
PRE-LU-01	Before beginning construction of the facility, facility component or phase, as applicable, the certificate holder shall complete the following: <ul style="list-style-type: none"> a. Pay the requisite fee and obtain a Zoning Permit from Morrow County for all facility components sited in Morrow County; and b. Obtain all other necessary local permits, including building permits. c. Provide the county with a building permit application, a third party technical report which includes: <ul style="list-style-type: none"> 1. Evaluates fire hazards and; 2. Presents mitigation and recommendations for a fire suppression system designed for the battery storage systems. d. The certificate holder shall provide copies of the third-party technical report and issued permits to the Department. [Final Order on ASC (2017), Land Use Condition 3; AMD2 (2018), AMD1 (2020)]
PRE-LU-02	Before beginning construction of the facility, facility component or phase, as applicable, the certificate holder shall pay the requisite fee and obtain a Conditional Use Permit as required under Morrow County Zoning Ordinance Article 6 Section 6.015. [Final Order on ASC (2017), Land Use Condition 5, AMD1 (2020)]
PRE-LU-03	Before beginning construction, the certificate holder shall prepare a Weed Control Plan that is consistent with Morrow and Umatilla County weed control requirements to be approved by the department, substantially similar to the draft plan provided in the Attachment E of the <i>Final Order on Amendment 1 of the Wheatridge Renewable Energy Facility East# Site Certificate</i> (MONTH YEAR November 2020). The department shall consult with Morrow and Umatilla counties and ODFW. The final plan must be submitted to the department no less than 30 days prior to the beginning of construction. The certificate holder shall implement the requirements of the approved plan during all phases of construction and operation of the facility. [Final Order on ASC (2017), Land Use Condition 6; AMD5 (2020); AMD1 (2020)]
PRE-LU-04	Before beginning construction of the facility, facility component or phase, as applicable, the certificate holder shall record in the real property records of Morrow County a Covenant Not to Sue with regard to generally accepted farming practices on adjacent farmland. [Final Order on ASC (2017), Land Use Condition 7, AMD1 (2020)]
PRE-LU-05	Prior to beginning construction of the facility, facility component or phase, as applicable, the certificate holder shall consult with surrounding landowners and lessees and shall consider proposed measures to reduce or avoid

STANDARD: LAND USE (LU) [OAR 345-022-0030]	
	any adverse impacts to farm practices on surrounding lands and to avoid any increase in farming costs during construction and operation of the facility. Prior to beginning construction, the certificate holder shall provide evidence of this consultation to the department, Morrow County, and Umatilla County. [Final Order on ASC (2017), Land Use Condition 12; AMD5 (2020), AMD1 (2020)]
PRE-LU-06	Before beginning construction of the facility, facility component or phase, as applicable, the certificate holder shall work with the Morrow County Road Department to identify specific construction traffic related concerns, and develop a traffic management plan that specifies necessary traffic control measures to mitigate the effects of the temporary increase in traffic. The certificate holder must provide a copy of the traffic management plan to the department and Morrow County, and must implement the traffic management plan during construction. [Final Order on ASC (2017), Land Use Condition 13, AMD1 (2020)]
PRE-LU-07	Before beginning construction of the facility, facility component or phase, as applicable, the certificate holder must: <ul style="list-style-type: none"> a. Pay the requisite fee(s) and obtain a Zoning Permit(s) from Umatilla County for facility components sited within Umatilla County, including, but not limited to, turbines, substations, O&M building, and the intraconnection line. b. Provide the Department and county with a building permit application that includes a third party technical report which: <ol style="list-style-type: none"> 1. Evaluates fire hazards, and 2. Presents mitigation and recommendations for a fire suppression system designed for the battery storage systems. c. The certificate holder shall provide copies of the third-party technical report and issued permits to the Department. [Final Order on ASC (2017), Land Use Condition 15; AMD2 (2018), AMD1 (2020)]
PRE-LU-08	Prior to facility construction of the facility, facility component or phase, as applicable, the certificate holder shall install gates and no trespassing signs at all private access roads established or improved for the purpose of facility construction and operation if requested by the underlying landowner. [Final Order on ASC (2017), Land Use Condition 18; AMD4 (2019), AMD1 (2020)]
PRE-LU-09	Before beginning construction of the facility, facility component or phase, as applicable, the certificate holder shall record in the real property records of Umatilla County a Covenant Not to Sue with regard to generally accepted farming practices on adjacent farmland. [Final Order on ASC (2017), Land Use Condition 21, AMD1 (2020)]
CON-LU-01	During construction, the certificate holder shall comply with the following requirements: <ul style="list-style-type: none"> a. Construction vehicles shall use previously disturbed areas including existing roadways and tracks. b. Temporary construction yards and laydown areas shall be located within the future footprint of permanent structures to the extent practicable. c. New, permanent roadways will be the minimum width allowed while still being consistent with safe use and satisfying county road and safety standards. d. Underground communication and electrical lines will be buried within the area disturbed by temporary road widening to the extent practicable. [Final Order on ASC (2017), Land Use Condition 8]
CON-LU-02	During construction, the certificate holder shall install smooth turbine tower structures and turbine nacelles that lack perching or nesting opportunities for birds. [Final Order on ASC (2017), Land Use Condition 17]
CON-LU-03	During construction, the certificate holder shall install the electrical cable collector system underground, where practicable. In agricultural areas, the collector system lines must be installed at a depth of 3 feet or deeper as necessary to prevent adverse impacts on agriculture operations. In all other areas, the collector system lines must be installed a minimum of 3 feet where practicable.

STANDARD: LAND USE (LU) [OAR 345-022-0030]	
	[Final Order on ASC (2017), Land Use Condition 19]
OPR-LU-01	<p>Within one month of commencement of commercial operation, the certificate holder shall submit an as-built survey for each construction phase that demonstrates compliance with the setback requirements in Land Use Condition 1 to the department and Morrow County.</p> <p>[Final Order on ASC (2017), Land Use Condition 2]</p>
OPR-LU-02	<p>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 final Revegetation Plan referenced in Fish and Wildlife Habitat Condition 11.</p> <p>[Final Order on ASC (2017), Land Use Condition 10]</p>
OPR-LU-03	<p>Before beginning decommissioning activities, the certificate holder must provide a copy of the final retirement plan to Morrow County and Umatilla County.</p> <p>[Final Order on ASC (2017), Land Use Condition 23]</p>
OPR-LU-04	<p>Before beginning electrical production, the certificate holder shall prepare an Operating and Facility Maintenance Plan (Plan) and submit the Plan to the department for approval in consultation with Umatilla and Morrow Counties.</p> <p>[Final Order on ASC (2017), Land Use Condition 25]</p>
OPR-LU-05	<p>Within 90 days of the commencement of electrical service from Wheatridge East, the certificate holder shall provide a summary of as-built changes to the department and Umatilla County.</p> <p>[Final Order on ASC (2017), Land Use Condition 26]</p>
OPR-LU-06	<p>Prior to facility retirement, the certificate holder must include the following minimum restoration activities in the proposed final retirement plan it submits to the Council pursuant to OAR 345-025-0006(9) or its equivalent:</p> <ol style="list-style-type: none"> 1. Dismantle turbines, towers, pad mounted transformers, meteorological towers and related aboveground equipment, and remove concrete pads to a depth of at least three feet below the surface grade. 2. Remove underground collection and communication cables that are buried less than three feet in depth and are deemed by Council to be a hazard or a source of interference with surface resource uses. 3. Remove gravel from areas surrounding turbine pads. 4. Remove and restore private access roads unless the landowners directs otherwise. 5. Following removal of facility components, grade disturbed areas as close as reasonably possible to the original contours and restore soils to a condition compatible with farm uses or other resources uses. 6. Revegetate disturbed areas in consultation with the land owner and in a manner consistent with the final Revegetation Plan referenced in Fish and Wildlife Habitat Condition 11. 7. If the landowner wishes to retain certain facilities, provide a letter from the land owner that identifies the roads, cleared pads, fences, gates and other improvements to be retained and a commitment from the land owner to maintain the identified facilities for farm or other purposes permitted under the applicable zone. <p>[Final Order on ASC (2017), Land Use Condition 27]</p>