

Gilliam County Road Use Agreement

Road Use Agreement No. 2018-02

THIS AGREEMENT (the “**Agreement**”) is entered into this ____ day of August, 2021 between North Hurlburt Wind, LLC, a Delaware limited liability company (“**NHW**”), South Hurlburt Wind, LLC, a Delaware limited liability company (“**SHW**”) and Horseshoe Bend Wind, LLC (“**HBW**”, together with NHW and SHW, collectively, the “**Wind Operators**”) and Gilliam County (hereinafter “**County**”) (referred to jointly as “**Parties**” and individually as “**Party**”).

WHEREAS, (i) SHW is the owner of a wind project located in Morrow and Gilliam Counties, Oregon (the “**South Hurlburt Project**”), (ii) NHW is the owner of a wind project located in Gilliam County, Oregon (the “**North Hurlburt Project**”) (iii) HBW is the owner of a wind project located in Morrow and Gilliam Counties, Oregon (the “**Horseshoe Bend Project**”, together with the South Hurlburt Project and the North Hurlburt Project, collectively, the “**Projects**” and each individually, a “**Project**”); and

WHEREAS, the Wind Operators intend to repower the Projects; and

WHEREAS, in the course of hauling equipment and materials and traveling associated with repowering to and from the Projects, the Wind Operators anticipate operating delivery vehicles and equipment over a portion of the roads shown on **Exhibit A** attached hereto, as the same may be amended by the Parties from time to time (hereinafter “**Gilliam County Road(s)**”) (the “**Repowering Work**”); and

WHEREAS, the Parties desire to agree as to certain terms and conditions for the Repowering Work and for the Wind Operators to be held responsible for any and all damage to Gilliam County Road(s) that results from all such Repowering Work and as consideration for permission to use Gilliam County Road(s) to complete the Repowering Work.

NOW THEREFORE, the Parties agree as follows:

1. Scope of Work: The Wind Operators, their respective contractors (including the EPC Contractor (as defined below)) and their respective subcontractors shall have the right to haul equipment and materials over the Gilliam County Road(s) in connection with the Repowering Work. The Wind Operators shall make best efforts to conduct delivery operations so that the Repowering Work does not interfere with public usage of the Gilliam County Road(s), and the Wind Operators shall not block the Gilliam County Road(s). The Gilliam County Road(s) are approximately 50-60 feet wide.

Prior to Repowering Work commencement, the Wind Operators shall have an assessment of the Gilliam County Road(s) performed by a third party. The assessment will include photos which will cover the existing conditions, fencing location(s) and any special conditions associated with the Gilliam County Road(s). This assessment shall serve as record to the pre-Repowering Work condition of the Gilliam County Road(s) and will be

relied upon while performing improvements and repairs of Gilliam County Road(s) at completion of the Repowering Work.

2. Traffic Control: The Wind Operators shall provide, at their expense, appropriate traffic signs, flaggers, and warning devices on Gilliam County Road(s). Sign and warning device location will be determined by Gilliam County Road Master. Traffic delays due to Repowering Work shall not exceed ten (10) minutes, unless the delay is not within Wind Operators' reasonable control. Emergency vehicles shall have immediate access to the Gilliam County Road(s). Maximum speed for loaded trucks traveling on Gilliam County Road(s) shall be held to 25 miles per hour.
3. Dust Suppression: When Repowering Work begins, the Wind Operators will water the Gilliam County Road(s) in a sufficient amount to eliminate the dust where houses are located along such Gilliam County Road(s).
4. Road Maintenance: If a Gilliam County Road(s)' surface (paved or gravel) should deteriorate as a result of the Repowering Work, the Wind Operators shall make necessary repairs under the direction of Gilliam County Road Master to eliminate potholes, washboards and surface deteriorations. Should the Wind Operators be unable to maintain the road surface, then following notification to the Wind Operators sufficiently detailing Wind Operators' specific failures to comply with their obligations hereunder, County will grade the road or make pavement repairs at County rates and the Wind Operators shall reimburse County's costs of grading or repairing such Gilliam County Road(s) within ten (10) business days after written demand from the County.

County will carry out, at its own expense, snow removal on Gilliam County Road(s) in accordance with County's own customary snow removal schedule for such roads. The Wind Operators shall be responsible, at their own expense, for any additional snow removal needed for their Repowering Work. If the Wind Operators need to deliver equipment and snow is not removed by County on Gilliam County Road(s) in accordance with the County's customary snow removal schedule, the Wind Operators will perform, at their own expense, snow removal as necessary to support the Repowering Work.

5. Road Repairs: With respect to any repairs required of any Wind Operator under this Agreement, such Wind Operator shall repair soft spots by digging out the base material, backfilling with base rock, compacting and re-graveling the surface, or make asphalt repairs under the direction of the Gilliam County Road Master and in accordance with the County's material/construction specifications attached hereto as **Exhibit B**. The Wind Operators will blade road surface or make asphalt repairs of Gilliam County Road(s) requiring such repairs as a result of the Repowering Work within sixty (60) days after completion of such Repowering Work.

The Parties have agreed that the Wind Operators will utilize asphalt, rock/stone, etc. as

specified by the County as commonly described in Exhibit B to this Agreement when restoring Gilliam County Road(s) damaged by a Wind Operator or its contractors/subcontractors during Repowering Work.

6. Inclement Weather Conditions: The Gilliam County Road Master will survey road conditions and instruct the Wind Operators to discontinue the Repowering Work when weather conditions are deemed dangerous in the County's reasonable judgment.
7. Access: The Wind Operators agree to abide by all contractual or applicable governmental regulations concerning access of property owners to their driveways during the course of the Repowering Work.
8. Successors: This Agreement shall be binding upon and inure to the benefit of the respective heirs, successors, and assigns of the Parties.
9. Attorney Fees: In the event any suit or action is brought to enforce the terms of this Agreement, the prevailing Party shall be entitled to recover as part of its cost, its reasonable attorney fees and costs incurred in such suit or action in any trial court of competent jurisdiction or any appellate court upon appeal.
10. Indemnity: County shall defend, indemnify, and hold harmless each Wind Operator and its respective representatives, beneficiaries, and trustees from and against all claims, demands, liabilities, causes of action, suits, judgments, damages, and expenses (including reasonable attorneys' fees and costs) arising from any injury to or death of any person that stems from County's activities regarding the Gilliam County Road(s). The Wind Operators shall, without duplication, defend, indemnify, and hold harmless County and its representatives, beneficiaries, and trustees from and against all claims, demands, liabilities, causes of action, suits, judgments, damages, and expenses (including reasonable attorneys' fees and costs) arising from any injury to or death of any person that stems from the Repowering Work on the Gilliam County Road(s).
11. Insurance: Each Party shall carry, at its sole cost, all necessary insurance customary for the Repowering Work. Each Party shall secure and maintain liability insurance policies in amounts and types satisfactory to the other Parties which insure both the Wind Operators and the County as additional insured. The liability insurance policies required by this Section shall be maintained by the Parties throughout the term of this Agreement, and any such other period of time during which the Wind Operators are conducting the Repowering Work. Each Party shall maintain continuous uninterrupted insurance coverage and shall provide such policies upon any other Party's request.
12. Entire Agreement: This Agreement is the entire agreement between the Parties with respect to the subject matter hereof, and there are no agreements or representations between the Parties except as expressed herein.

13. Modifications: This Agreement may not be modified except by written agreement, dated and signed by the Parties.
14. Severability: If a court of competent jurisdiction holds any portion of this Agreement to be illegal, invalid or unenforceable as written, it is the intention of the Parties that (i) such portion of this Agreement be enforced to the extent permitted by law and (ii) the balance of this Agreement remain in full force and effect.
15. Counterparts: This Agreement may be executed in counterparts, each of which shall be an original, but all of which shall constitute one and the same Agreement. The words “execution”, “signed”, “signature,” and words of like import in this Agreement shall be deemed to include electronic signatures or electronic records, each of which shall be of the same legal effect, validity, or enforceability as a manually executed signature or the use of a paper-based record keeping system, as the case may be, to the extent and as provided for in any applicable law.
16. Acknowledgment of EPC Contractor: County acknowledges that General Electric, Inc. (“**EPC Contractor**”) has been retained by the Wind Operators as the contractor for the purposes of the Repowering Work on the Projects. Accordingly, as between each Wind Operator and EPC Contractor, EPC Contractor will be responsible for many of the obligations and liabilities of such Wind Operator under this Agreement, including, without limitation, those obligations and liabilities under Sections 1, 2, 3, 4, 5, 7 and 11 hereof. Notwithstanding anything to the contrary in the foregoing, the Parties further acknowledge and agree that as between each Wind Operator and County, such Wind Operator shall remain responsible to County under this Agreement for any and all such obligations and liabilities. For the avoidance of doubt, the EPC Contractor has no obligations and liabilities to County.
17. Governing Law: Any dispute between the Parties arising out of a breach, or purported breach, in relation to this Agreement, shall be governed by and construed in accordance with the laws of the State of Oregon.
18. Term: This Agreement shall become effective immediately upon the execution hereof by both Parties hereto and shall remain in effect until the Repowering Work is complete plus a reasonable period required to repair any Gilliam County Road(s).
19. Notices. All notices shall be in writing and sent (including via email transmission) to the Parties at the addresses set forth below (or to such other address and email address as any Party shall designate in writing to the other Parties at any time):

If to any Wind Operator:
P.O. Box 248
Arlington, Oregon, 97812
daniel.perry@brookfieldrenewable.com

with copy to:

c/o Brookfield Renewable U.S.
200 Liberty St., 14th Floor
New York, New York, 10281
legal.department.na@brookfieldrenewable.com

If to the County:
Gilliam County
[address]
[e-mail address]

20. Assignment. This Agreement may not be assigned without the prior written consent of the Parties, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, each Wind Operator may assign this Agreement to its affiliates and may collaterally assign this Agreement to any financing party in support of the Projects without County's prior written consent.

Executed in duplicate on the above date.

HORSESHOE BEND WIND, LLC
By _____

By _____
NORTH HURLBURT WIND, LLC

By _____

By _____
SOUTH HURLBURT WIND, LLC

By _____

By _____

GILLIAM COUNTY

By _____
Elizabeth Farrar, Judge

By _____

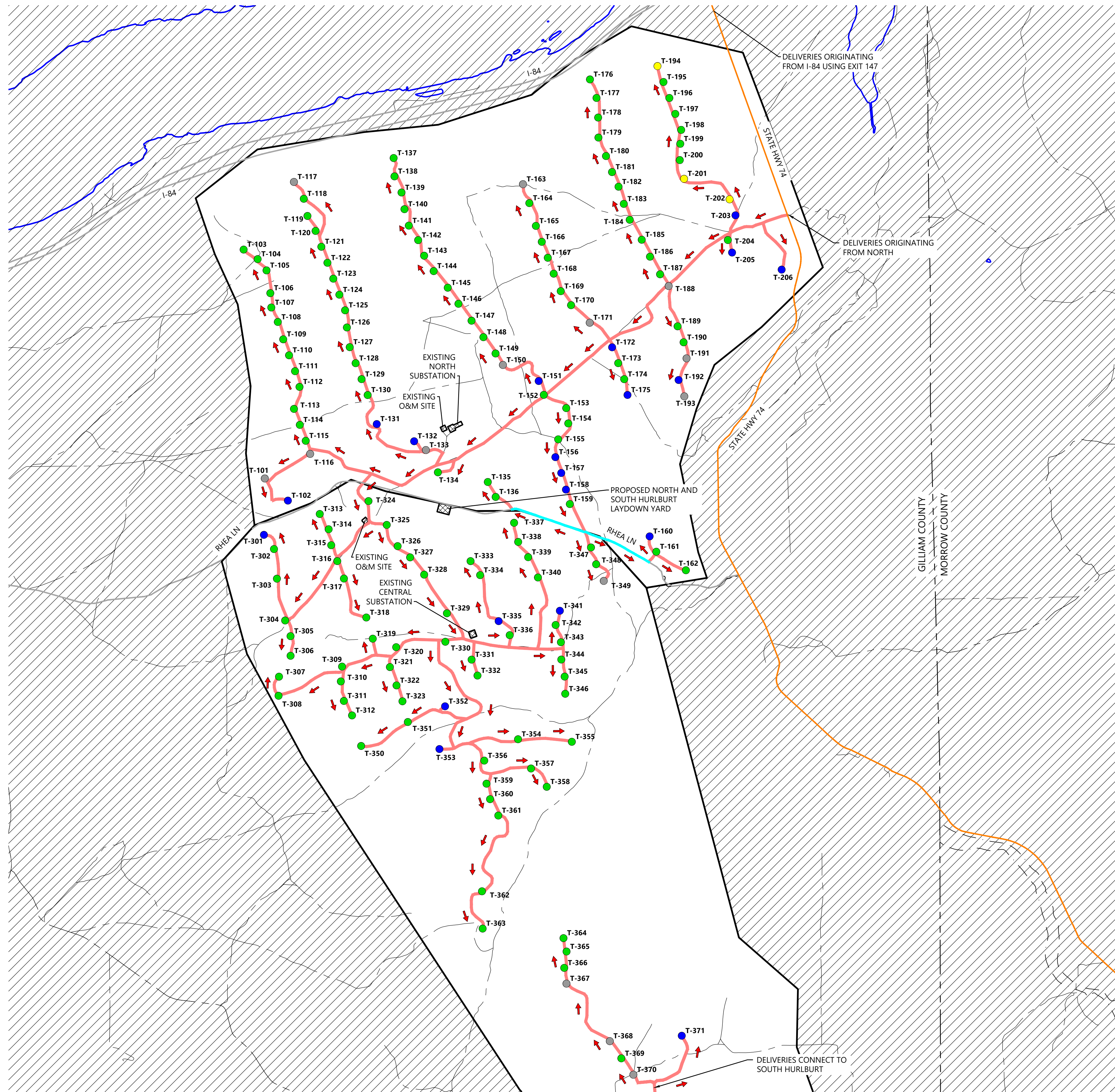
Sherri Wilkins, Commissioner

By _____
Leslie Wetherell, Commissioner

EXHIBIT A
Access Routes Map

EXHIBIT B

County Specifications for Asphalt, Rock/Stone, etc.



SEE SHEET 02

LEGEND:

- PROJECT BOUNDARY
- GE 2.75-127 TURBINE LOCATION (262)
- GE 2.75-116 TURBINE LOCATION (52)
- GE 2.5-116 TURBINE LOCATION (3)
- TURBINE LOCATION OUT OF SCOPE (21)
- DELIVERY ROUTE
- EXISTING ACCESS ROAD
- EXISTING NON-DELIVERY ROAD
- EXISTING STATE HIGHWAY
- EXISTING PUBLIC PAVED DELIVERY ROAD
- EXISTING PUBLIC GRAVEL DELIVERY ROAD
- EXISTING PUBLIC ROAD
- EXISTING COUNTY BOUNDARY
- EXISTING WATER EDGE
- PROJECT FACILITIES

ITEM	LENGTH
EXISTING PUBLIC PAVED DELIVERY ROUTE	2.1 mi
EXISTING PUBLIC GRAVEL DELIVERY ROUTE	14.9 mi

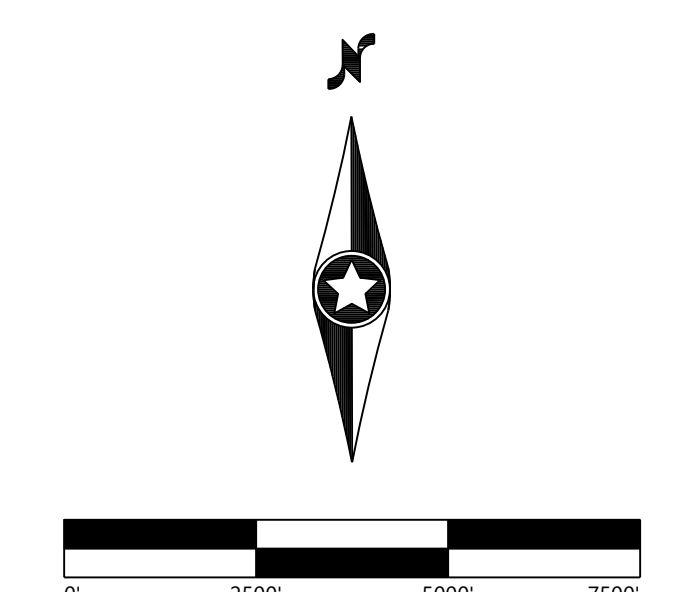
PREPARED FOR:



700 Meadow Lane North
 Minneapolis, MN 55422

REVISIONS:

#	DATE	COMMENT



**Shepherd's Flat
 Wind Energy**

Gilliam And Morrow Counties,
 Oregon

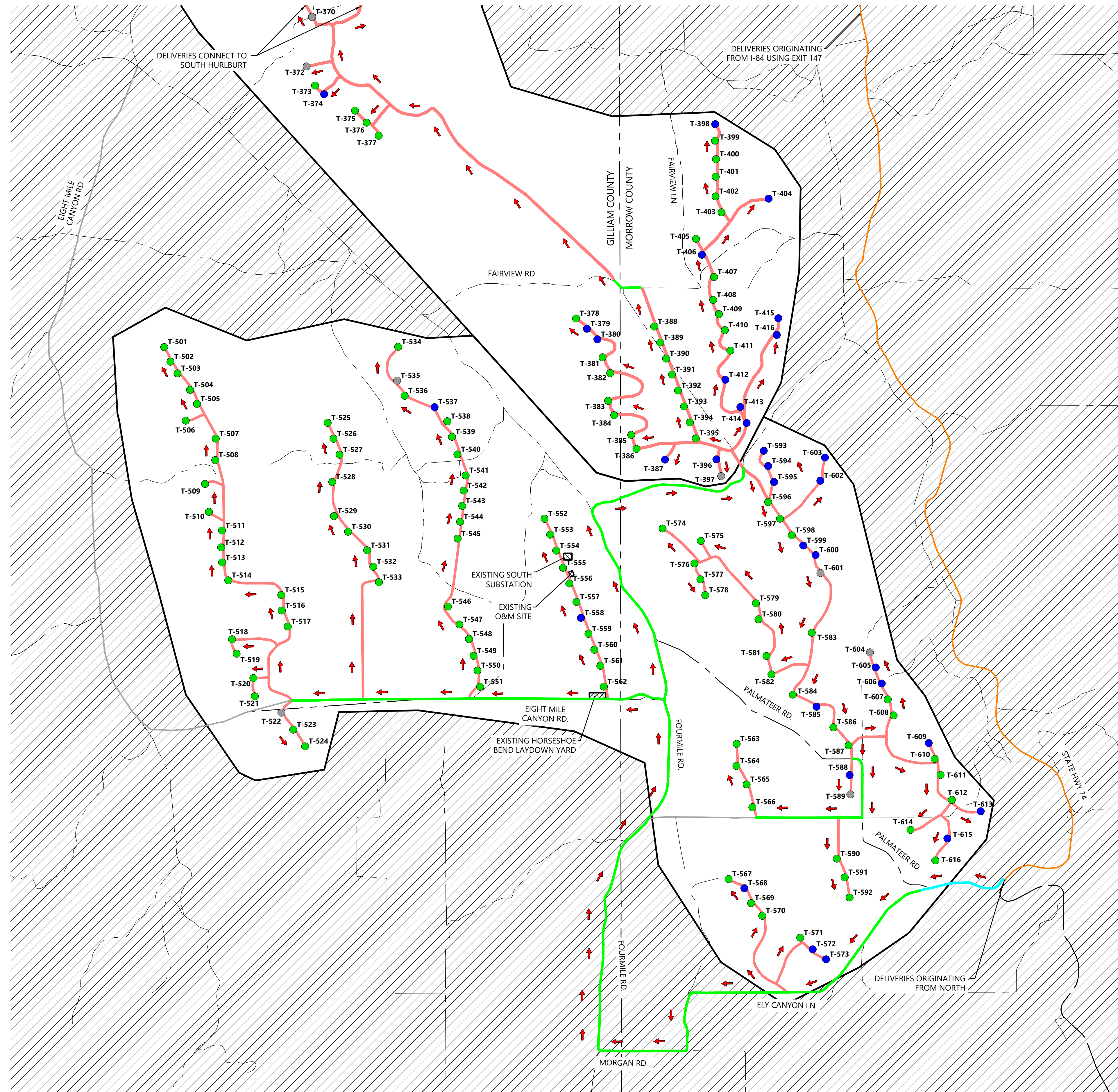
North Transportation
 Plan Exhibit

NOT FOR CONSTRUCTION

DATE: 8/13/2021

SHEET: 01

SEE SHEET 01



LEGEND:

- PROJECT BOUNDARY
- GE 2.75-127 TURBINE LOCATION (262)
- GE 2.75-116 TURBINE LOCATION (52)
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- EXISTING PUBLIC ROAD
- EXISTING COUNTY BOUNDARY
- EXISTING WATER EDGE
- PROJECT FACILITIES

ITEM	LENGTH
EXISTING PUBLIC PAVED DELIVERY ROUTE	2.1 mi
EXISTING PUBLIC GRAVEL DELIVERY ROUTE	14.9 mi

Westwood

Phone (952) 937-5150 12701 Whitewater Drive, Suite #300
 Fax (952) 937-5822 Minneapolis, MN 55343
 Toll Free (888) 937-5150 westwoodps.com
 Westwood Professional Services, Inc.

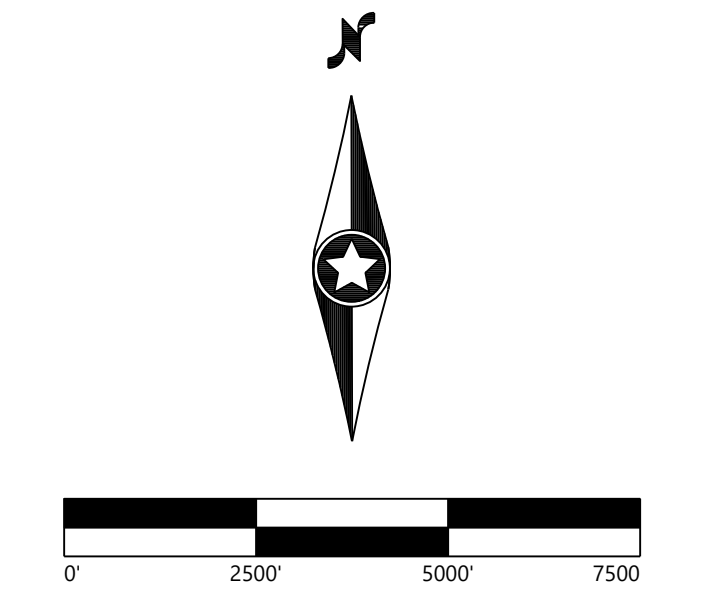
PREPARED FOR:



700 Meadow Lane North
 Minneapolis, MN 55422

REVISIONS:

#	DATE	COMMENT



**Shepherd's Flat
 Wind Energy**
 Gilliam And Morrow Counties,
 Oregon

South Transportation
 Plan Exhibit

NOT FOR CONSTRUCTION

DATE: 8/13/2021

SHEET: 02

04/20/2021 10:00 AM C:\Users\jordan\OneDrive\Documents\2021\08\13\2021_08_13_Plan Exhibit\02.mxd
 04/20/2021 10:00 AM C:\Users\jordan\OneDrive\Documents\2021\08\13\2021_08_13_Plan Exhibit\02.mxd

1. BEFORE YOU START

- 1.1. Ensure approval has been granted from all necessary parties (DOT, County Sherriff, State Patrol) and inform them of the date and time the crossing will take place at a minimum 48 hours in advance.
- 1.2. Ensure there is an approved traffic control plan. This should be sent to the DOT and/or County Engineer for approval.
- 1.3. Ensure all materials (dirt, mats) and equipment are staged and prepared for the crane crossing.
- 1.4. Ensure flaggers are in the proper position and well informed of the procedure to be completed.
- 1.5. Ensure proper signage is on location and in the proper position.
- 1.6. Ensure all parties have radios and know the correct channel being utilized for the work.

2. ROAD CLOSURE / WALKING PROCEDURE

- 2.1. Before closing the road double check that all equipment and materials are prepared
- 2.2. Ensure the crane is 100% ready to begin walking across the road (boomed down if ducking power lines).
- 2.3. At the approved time and, with the use of flaggers and signage, bring traffic to a stop at the approved locations.
- 2.4. Place the Road Closed signs in the middle of the road so that traffic cannot travel around them.
- 2.5. Begin spreading 2' of dirt with the use of a front end loader and blade in the areas the mats will be placed.
 - 2.5.1. Dirt shall be piled on both sides of the road so that the crane will be on a level surface before reaching the inside surface of the pavement and remain level until completely off the far side of the road being crossed (mats may be used to get the crane onto a level position)
- 2.6. Once the dirt has been moved into position, begin placing 8' x 16'x1' crane mats with a fork truck where the crane is intended to travel.
- 2.7. Instruct the crane operator to begin moving forward slowly onto the mats
 - 2.7.1. Spotters will be utilized on each side of the crane to ensure the crane is travelling as intended and will be in constant communication with the operator.
 - 2.7.2. If applicable, spotters will also be needed to ensure crane is travelling under power lines in accordance with OSHA 1926.1408 (h) Table A.
- 2.8. Once the crane has completely cleared the road instruct the forklift operator to begin moving the crane mats off the road.
- 2.9. Clear the dirt off the road, if applicable, with a front end loader and blade. Sweep any remaining dirt and wash the road down.

3. OPEN THE ROAD

- 3.1. Once all the dirt and equipment have been completely cleared from the road and all personnel are at a safe distance, announce over the radio that the road can now be reopened and remove the signs.



Road Closure / Crane Crossing Procedure

- 3.2. Have the flaggers/signalers keep traffic moving slowly until all backed up traffic has been cleared of the area and it is safe for normal traffic to begin moving at the posted speeds.