

April 26, 2012

Sent via Federal Express and electronic filing

Oregon Public Utility Commission
Attn: Filing Center
550 Capitol Street NE #215
P.O. Box 2148
Salem, OR 97308

**Re: Docket UM ____ - Lower Ridge Windfarm, LLC and High Plateau
Windfarm, LLC Request for Waiver of the Five-Mile Radius Requirement
Pursuant to ORS 756.568 and OAR 860-029-0005(3)(d)**

Dear Oregon Public Utility Commission:

Lower Ridge Windfarm, LLC (Lower Ridge) and High Plateau Windfarm, LLC (High Plateau), along with the other two “Butter Creek” project entities, all Oregon limited liability companies, are constructing 10 MW wind projects in Morrow County, Oregon. Each project has a power purchase agreement with PacifiCorp, and each project is a Qualifying Facility under Oregon’s PURPA regulations addressing cogeneration and small power production facilities.¹ Both project companies are wholly-owned by Intelligent Wind Energy, LLC, a Delaware limited liability company. An organizational chart is attached as Exhibit 1.

Last week, the United States Naval Air Station, Whidbey Island, WA, contacted the project companies and requested that the Lower Ridge project move its proposed turbine locations approximately 1.5 mile to the south to accommodate the Navy’s combat flight training concerns. The Lower Ridge project area currently lies within Special Use Airspace associated with the Boardman Naval Weapons Systems Training Facility (Boardman Complex), located south of Boardman, Oregon.

While the move presents challenges, the project companies are willing to try and accommodate the Navy’s request. One of the challenges confronting the move is the Oregon regulation – implemented in PacifiCorp’s Schedule 37 – that QFs receiving standard contract rates, terms and conditions that are owned or operated by the same person not be located within five miles of one another. To accommodate the Navy, the Lower Ridge project would need to be moved within approximately 3.5 miles of the High Plateau project (and the High Plateau project would therefore also be within 3.5 miles of the Lower Ridge project).

¹ OAR 860-029-0001 *et seq.*

Through this letter, pursuant to ORS 756.568² and OAR 860-029-0005(3)(d),³ Lower Ridge and High Plateau respectfully request that the Commission waive the 5-mile radius requirement so Lower Ridge and High Plains can accommodate the Navy's request.

Additionally, because of the significant time pressures facing the projects, Lower Ridge and High Plateau respectfully request that the Commission expeditiously consider and approve this request for waiver at its regularly scheduled public meeting on May 22, 2012.

The Navy supports this request.

REQUEST TO WAIVE FIVE-MILE RADIUS REQUIREMENT

At OAR 860-029-0040, the Commission has established rules governing the establishment of rates for purchases by public utilities of energy produced by QFs, including standard rates for purchases. In an order issued in UM 1129, the Commission stated that QFs eligible to receive standard contract rates, terms and conditions are limited to 10 MW.⁴ In Orders 06-538 and 06-586, also issued in UM 1129, the Commission provided that facilities owned or controlled by the same or affiliated person(s) cannot be located within a five-mile radius of each other – if they are, the generating facilities would be considered the “same site.”⁵

PacifiCorp's current Schedule 37, adopted pursuant to Order 06-538 and incorporated into the Butter Creek PPAs with PacifiCorp, includes the five-mile radius requirement in its “same site” definition.

As noted above, Lower Ridge and High Plateau are both constructing 10 MW wind projects. A map showing the general location of the current and proposed Lower Ridge project sites in relation to the Navy's restricted airspace is attached as Exhibit 2. A more detailed site map identifying the current and proposed Lower Ridge project locations, the High Plateau project location, other area projects,⁶ the five-mile radii of each project, and the Navy's restricted airspace is attached as Exhibit 3. Accommodating the Navy's request will require Lower

² ORS 756.568 provides:

The Public Utility Commission may at any time, upon notice to the public utility or telecommunications utility and after opportunity to be heard as provided in ORS 756.500 to 756.610, rescind, suspend or amend any order made by the commission. Copies of the same shall be served and take effect as provided in ORS 756.558 for original orders.

³ OAR 860-029-0005(3)(d) provides that:

[u]pon request or its own motion, the Commission may waive any of the Division 029 rules for good cause shown. A request for waiver must be made in writing, unless otherwise allowed by the Commission.

⁴ Order 05-584 at 17.

⁵ Order 06-586 at Exhibit “A”.

⁶ The Mule Hollow and Pine City projects are owned by affiliated entities, Mule Hollow Windfarm, LLC and Pine City Windfarm, LLC, respectively. The Echo project is not owned or operated by an affiliated person or entity.

Ridge's generating facilities to be placed within a five-mile radius of High Plateau's generating facilities. Thus, the generating facilities of the two affiliate entities would be considered the "same site" under Order 05-538. The projects would effectively then be considered a 20 MW project and would no longer be eligible for PacifiCorp's standard rates, terms and conditions. To allow the project companies to accommodate the Navy's request and remain eligible for Schedule 37 standard contract treatment, Lower Ridge and High Plateau respectfully request that the Commission, pursuant to ORS 756.568 and OAR 860-029-0005(3)(d), waive for good cause, the five-mile radius requirement as that requirement applies to the Lower Ridge and High Plateau generating facilities.

Good cause exists in this case to grant waiver of the five-mile radius requirement. The Navy has requested that Lower Ridge relocate its generating facilities to accommodate the low altitude training maneuvers conducted at the Boardman Complex. The Boardman Complex supports a variety of Department of Defense activities, including the Oregon National Guard, unmanned air systems, ground force small arms training, and serves as the Navy's only location in the Western United States at which the EA6-B Prowler and FA18-G Growler fighter jets can complete Low Level Tactical Training and Surface-to-Air Counter Tactics training maneuvers. These maneuvers are conducted at high-speed, high-g, and in three-dimensions, which involves the aircraft rapidly transiting the confines of the Boardman Complex. Although the maneuvers will take the aircraft through a variety of altitudes, the maneuvers can be down to as low as 200 feet above ground level. For this reason, obstruction free, flat terrain, like that at Boardman Complex, is critical for conducting this mission essential training and the proposed 1.5 mile move will help alleviate safety concerns. Currently, half of all Navy/Whidbey Island based aircraft LATT/SACT sorties are conducted at the Boardman Complex.

It is important to point out that the Lower Ridge project is properly authorized and could be constructed without relocation, and has made significant expenditures based on its existing permits. Under the circumstances, however, the project companies have agreed to accommodate the Navy's request to the greatest extent possible. It is also important to note that it is the project companies' expectations that the Navy will reimburse the projects for reasonable expenses incurred in undertaking the move, and we are working with the Navy in that regard.

The affected landowners, Kent Madison and Madison Ranches, own the land on which the existing Lower Ridge project is sited as well as the land on which the project would be relocated. The landowners have been informed of the Navy's request and are amenable to the project-location change. Energy estimates indicate that the difference in net energy at the former and proposed location of the Lower Ridge project is *de minimis*.

The relocation of the Lower Ridge project will affect other project permits and approvals. For example, the Morrow County Conditional Use Permit will require amendment.⁷ Fortunately, the project companies propose to relocate to existing FAA-approved coordinates, and the project companies are currently exploring whether any changes are necessary there. The project companies are also working with the Oregon Division of Wildlife to determine the presence of

⁷ Morrow County will hold a special session on June 5, 2012 to make a determination on the matter.

sensitive species within the proposed Lower Ridge project location and whether any additional permits or authorizations are required. We expect to know the answers to these questions soon and will update the Commission as necessary.

In addition to working with the Navy, the project companies have discussed the Navy's request with PacifiCorp. Because the PPAs delineate specific turbine coordinates, new coordinates will also require minor amendments to the PPAs. Technically, however, the project companies cannot require PacifiCorp to agree to the amendments.

REQUEST FOR EXPEDITED CONSIDERATION

As the Commission is aware, certain federal renewable energy incentives critical to the project companies expire at the end of this year. In order to qualify, the Butter creek projects, including Lower Ridge and High Plateau must be placed in service by the end of this year. The project companies' PPAs and interconnection agreements with PacifiCorp also have looming deadlines. As a result, the projects face significant timing pressure. Lower Ridge and High Plateau respectfully request that the Commission expedite consideration and approval of this request for waiver, and in accordance with the Commission's public meeting schedule, request that the Commission consider this request at the Commission's May 22, 2012 public meeting. The concerns raised by the Navy have introduced considerable uncertainties regarding the necessary steps to construct the Lower Ridge and High Plateau projects. An expeditious determination by the Commission will reduce those uncertainties and allow the project companies to move forward.

Please let us know if we may provide you with any additional information to support this request and aid in your decision-making.

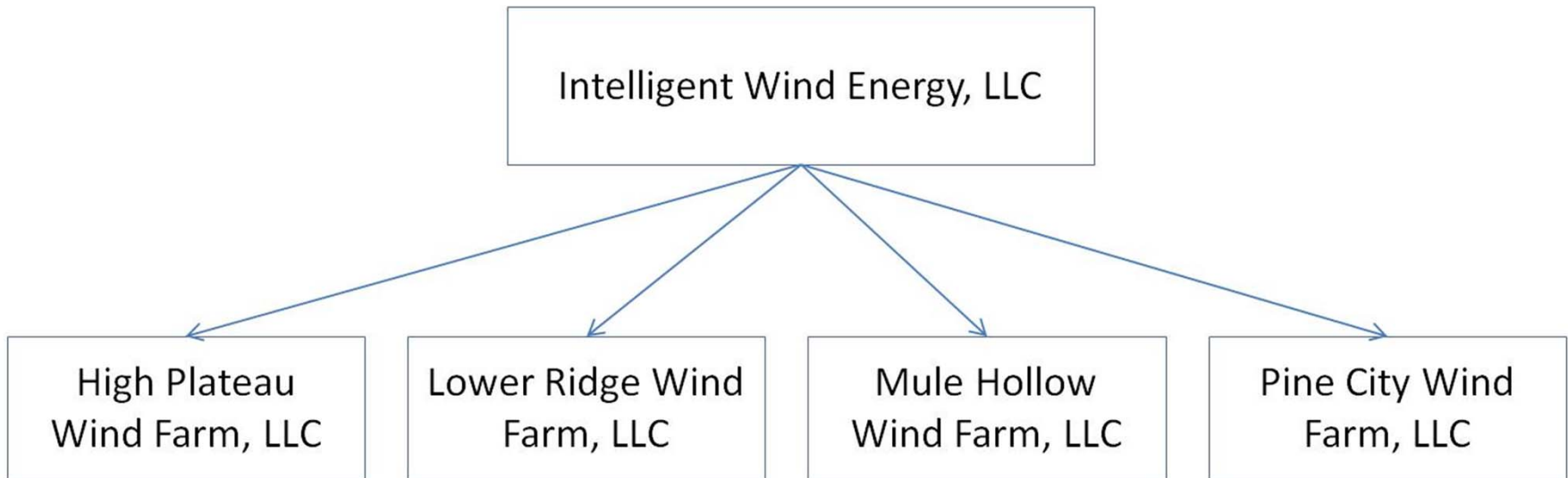
Respectfully submitted,

/s/ Robert Guertin

Robert Guertin
Oregon Windfarms, LLC
On behalf of Intelligent Wind Energy, LLC, Lower Ridge Windfarm, LLC and High Plateau Windfarm, LLC

c: Douglas Cannon, Esq., PacifiCorp (w/encl.)
Kent R. Mathes, Range Program Manager, Naval Air Station Whidbey Island (w/encl.)

**Exhibit 1
Organizational Chart**

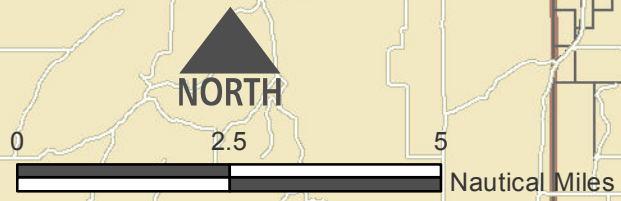
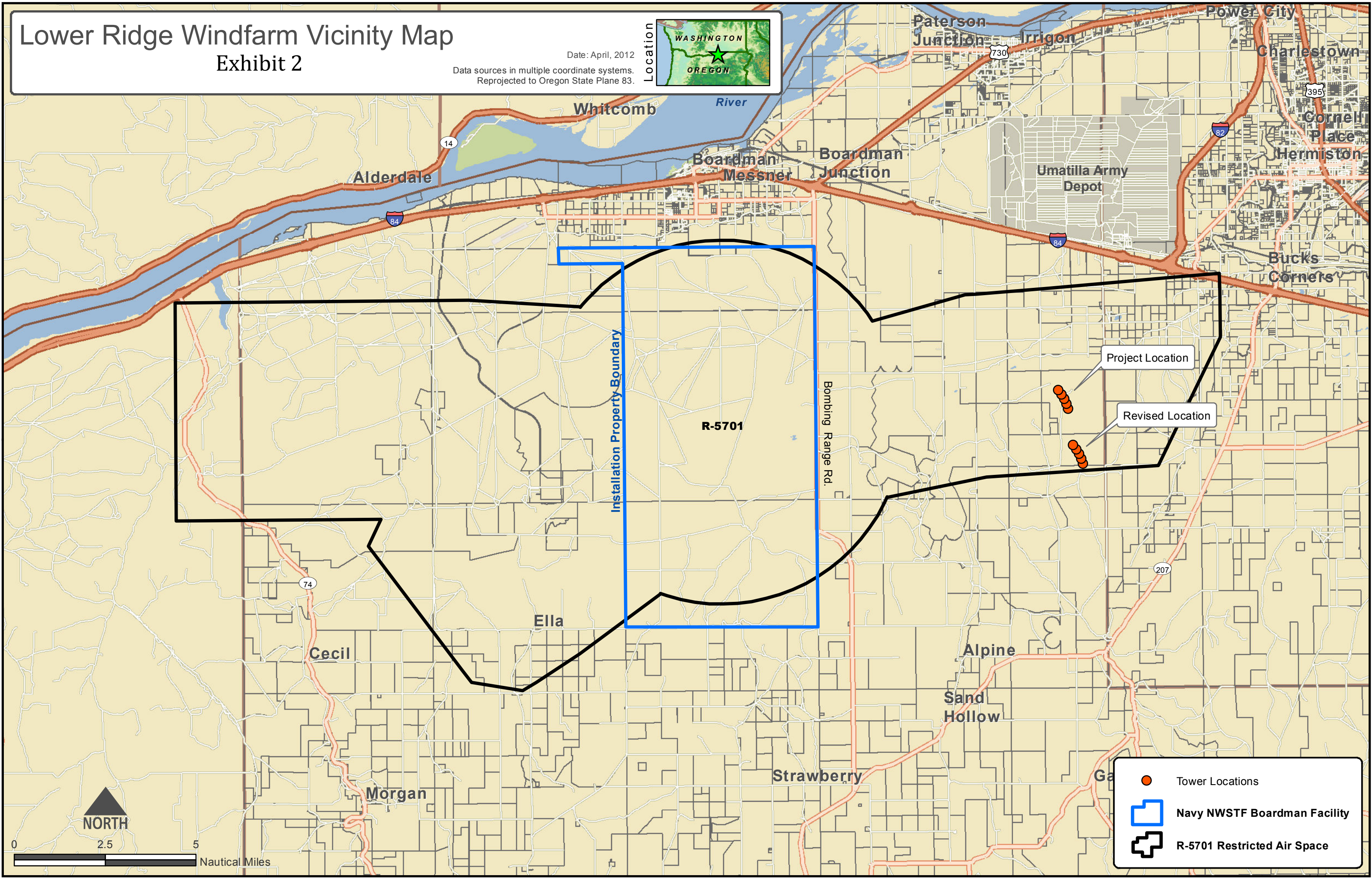


Lower Ridge Windfarm Vicinity Map

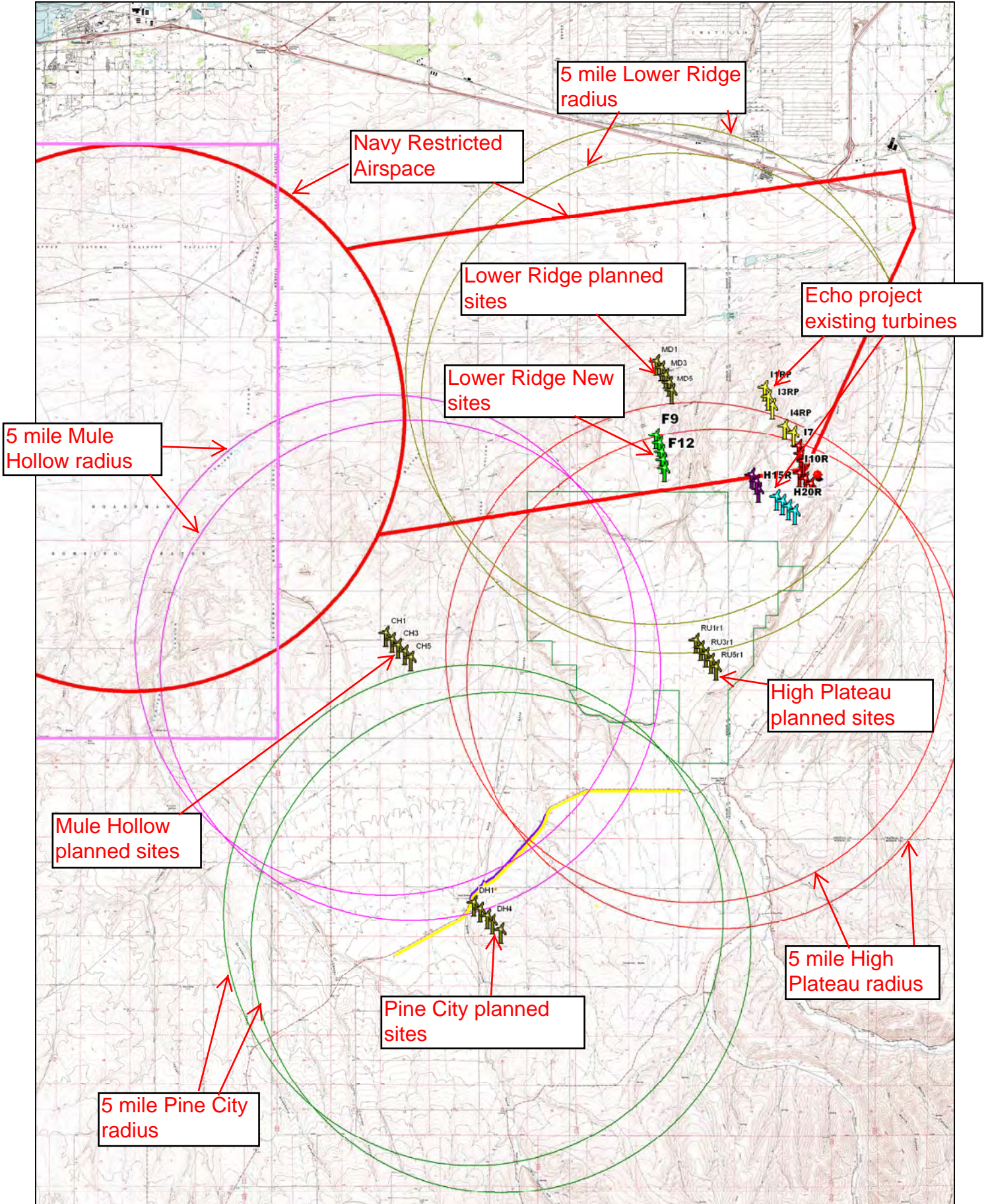
Exhibit 2

Date: April, 2012

Data sources in multiple coordinate systems.
Reprojected to Oregon State Plane 83.



-  Tower Locations
-  Navy NWSTF Boardman Facility
-  R-5701 Restricted Air Space



Data use subject to license.

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