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VIA EMAIL

Columbia County Planning Commission
230 Strand Street
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c/o Kate McGuire, Planning Division Manager

Re: Application CU 25-169 – Applicant's Final Written Argument

Dear Chair Lynch and Honorable Planning Commissioners:

As you know, my office represents Northwest Natural Gas Company ("NW Natural") in its application to develop four well pads and twelve wells (the "Project") at the existing Mist Underground Storage Facility ("Mist Facility").

The Mist Facility has been a vital contributor to Columbia County's economy and the regional energy grid for more than 40 years. Most of the facility falls under the Oregon Energy Facility Siting Council's ("EFSC") exclusive siting jurisdiction, and EFSC has consistently authorized updates and expansions at the facility over that time. Just last year, EFSC approved the Mist Resiliency Project—including an expansion at the North Mist Compressor Station—after a full public process in which the Northwest Environmental Defense Center ("NEDC") participated.

NW Natural is now seeking a Conditional Use Permit ("CUP") for the well pads and wells necessary to implement the Mist Resiliency Project. The Project is before the County because wells and wellhead equipment are outside EFSC's jurisdiction under ORS 469.300(11)(a)(I)(ii). County staff have recommended that the Planning Commission approve the Project. This recommendation is consistent with EFSC's, the County's, and NW Natural's approach toward similar permitting at the Mist Facility since at least the 1990s.

NEDC has raised several new objections to the Project. As NW Natural explained at the March 9 hearing, both the application materials and the March 2 staff report ("Staff Report") already address NEDC's concerns and demonstrate why the Application meets applicable legal criteria and should be approved. Nonetheless, to assist the Planning Commission in its deliberations, this submittal briefly responds to NEDC's latest arguments, as allowed under ORS 197.797(6)(e).

I. Analysis

This section addresses NEDC's primary arguments. For a more detailed analysis of the Project's compliance with applicable criteria, see NW Natural's February 17, March 2, March 16, and March 23 supplemental submittals ("NW Natural's Supplemental Information").

A. The Proposed Use Qualifies as "Processing" Under Applicable Law.

***CCZO § 505.2*:**

> ***Exploring, mining and processing of oil, gas, or other subsurface resources, as defined in ORS Chapter 520 and the mining and processing of mineral and aggregate resources as defined in ORS Chapter 517.***

NEDC argues that development and operation of the well pads and wells (the "Proposed Use") is not a "processing" use, despite both EFSC's and the County's consistent conclusions to the contrary since at least the 1990s.

The Proposed Use plainly qualifies as the "processing of…gas, or other subsurface resources," which is conditionally authorized in the PF-80 zone under both OAR 660-006-0025(4)(g) and CCZO § 505.2. The Project's wells and associated equipment actively process gas by conditioning, stabilizing, and preparing natural gas for commercial use during injection, storage, and withdrawal. The Proposed Use is an essential step in managing pressure, moisture, particulates, and temperature so that gas can be reliably delivered when demand requires. *See* NW Natural's Supplemental Information, Ex. I. The Proposed Use also functions as an integral part of the larger gas-processing system already approved by EFSC. *See id.*

NEDC's reliance on *Fritch v. Clackamas County* is misplaced. *Fritch* addressed whether assembly of custom log homes qualified as the "primary processing of forest products" under an entirely different use category. 68 Or LUBA 184, 2013 WL 5507072, at *3–4 (2013). *Fritch* did not address the definition of "processing" in this context. To the extent *Fritch* is even relevant, it actually *supports* NW Natural's view of "processing," because the Land Use Board of Appeals ("LUBA") generally recognized that transforming materials into products for market by "some process" qualifies as "processing." *Id.* The Project's active conditioning and preparation of gas for ultimate use by customers easily qualifies as processing, even under the reasoning in *Fritch*.

Accordingly, because the Proposed Use qualifies as gas "processing" in the PF-80 zone, it is properly authorized through the CUP process, as staff have correctly concluded.

B. Under the Correct Legal Standard, the Project Will Not Force a Significant Change in or Significantly Increase the Cost of Accepted Forest Practices.

CCZO § 508.1:

> ***The proposed use will not force significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands;***

NEDC misstates the legal standard under CCZO § 508.1. The "farm impacts test" repeatedly cited by NEDC simply does not apply in this context. That test, which derives from ORS 216.296, applies to certain land uses on agricultural land. Meanwhile, the applicable legal

standard—CCZO § 508.1—derives from OAR 660-006-0025(5), a distinct regulation that implements Statewide Planning Goal 4 and applies on *forest* land.

LUBA has consistently recognized that the controlling standard at OAR 660-006-0025(5) does not require application of the farm impacts test. *See, e.g.*, *York v. Clackamas County*, 79 Or LUBA 278, 296 (2019). Oregon courts and LUBA have never extended the farm impacts test to forest lands, and NEDC cites no authority suggesting otherwise. To the contrary, in *Comden v. Coos County*, LUBA expressly rejected that approach, holding that when a county is applying local code provisions specifically applicable to forest lands, the county need not apply the farm impacts test. 56 Or LUBA 214, 223–24 (2008).

Under CCZO § 508.1, the controlling question is whether the Proposed Use will force a significant change in, or significantly increase the cost of, accepted forest practices on forest lands. Measured against that standard, NW Natural has clearly met its burden to demonstrate compliance. The Mist Facility has operated for decades in coordination with forest management activities without disrupting forestry operations. *See* NW Natural's November 6, 2025 Revised Narrative at 5. The Project area has already been cleared of merchantable timber, Staff Report at 10, and the record includes testimony from the forest operator who owns some of the subject properties and surrounding lands confirming that the Project will not affect accepted forest practices. *See* NW Natural's Supplemental Information, Ex. W.

Meanwhile, NEDC has identified no forest practice that will change and no forestry cost that will increase because of the Project. Instead, NEDC relies on a speculative chain of hypothetical events—*e.g.*, loss of well containment, followed by wildfire, emissions, or groundwater contamination—that could theoretically impact forest practices. *See* NEDC March 9, 2026 Comment at 6–7. This type of conjecture is not evidence of a significant change or increase in cost attributable to the Proposed Use. Further, the Project was designed with these very risks in mind, so there is simply no evidence that these types of events are likely to occur. *See, e.g.*, NW Natural's Supplemental Information, Ex. V.

The Project satisfies the legal standard at CCZO § 508.1, as staff correctly concluded.

C. The Project Will Not Significantly Increase Fire Risk or Fire Suppression Costs.

CCZO § 508.2:

> ***The proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel;***

NEDC argues that NW Natural has failed to demonstrate compliance with CCZO § 508.2, but that argument again relies on the wrong legal standard. Under CCZO § 508.2, the County must assess whether the *Proposed Use* could significantly increase fire risk or suppression costs

compared to existing land uses (here, active forest use)— not whether the Project (or other natural gas facilities) could have any conceivable fire risks. *Cf. York*, 79 Or LUBA at 299.

NEDC offers no evidence to conclude that the Project will increase fire hazards or suppression costs. NEDC's argument again rests on speculation that the Project could increase fire risk and therefore fire suppression costs. *See* NEDC March 9 Comment at 9. Again, that type of conjecture does not qualify as evidence relevant to the legal standard. Similarly, references to fires at unrelated facilities in other states, *see id.*, are not evidence that *this* Project will increase fire suppression costs compared to existing forest uses.

By contrast, the record shows that the Project has been carefully designed to reduce fire risks. The well pads will be gravel-surfaced and maintained free of vegetation, functioning as fuel breaks that reduce ignition potential and limit fire spread, especially when compared to unmanaged forest land. *See* NW Natural's Revised Narrative at 5, 9 (Nov. 6, 2025); NW Natural's Supplemental Information, Exs. L at 2–3 & M at 2–3. The Project will also incorporate state-of-the-art safety systems, including automatic shutoffs and monitoring, and NW Natural has operated similar wells in the area for years without a single fire incident. *See* NW Natural's Supplemental Information at 6 & Ex. V at 3. The record also includes a comprehensive fire hazard plan and, critically, statements from the local fire chief confirming that the Project will not increase fire hazards or suppression burdens for his crews. *See* NW Natural's Supplemental Information, Exs. J, L, M, & Y.

The Project satisfies the legal standard at CCZO § 508.2, as staff correctly concluded.

D. To the Extent CCZO § 1193 Applies, NW Natural Has Demonstrated Compliance with Big Game Habitat Siting Standards.

CCZO § 1193

> ***All new residential development and uses located in Major and Peripheral Big Game or Columbian White-tailed Deer Habitat shall be subject to following siting standards:***

As NW Natural explained in its Feb. 17, 2026 letter to the County, it is not clear that the requirements of CCZO § 1193 even apply to the Project, which is not a "new residential development" or "use." Nonetheless, to the extent this criterion applies, NW Natural has demonstrated compliance with its requirements for the reasons explained in the Staff Report. NW Natural further responds to NEDC's specific arguments as follows.

> ***B. Dwellings and structures shall be located to avoid habitat conflicts and utilize least valuable habitat areas.***

NEDC argues that NW Natural must show that the Project (1) will "avoid any impacts to big game habitat" and (2) will be "sited in the least harmful site possible." *See* NEDC March 9, 2026 Comment at 10. That is not what the CCZO requires.

CCZO § 1193(B) does not require *zero* impact to big game habitat. As the Staff Report acknowledges, most of Columbia County has been mapped as big game habitat, so such a standard would effectively prevent development anywhere in the County. The CCZO also does not require applicants to analyze every conceivable site configuration. Instead, it recognizes that some mapped habitat areas have lower value than others and directs "dwellings and structures," where possible, to those areas. As staff have concluded, the Project meets that standard.

The well pads and wells are "locationally dependent." *See* Staff Report at 18. Their placement is dictated, first and foremost, by the location of the underground reservoirs, which limits where wells can be safely and effectively located. *See* NW Natural Supplemental Information, Ex. V at 1-2; *see also id.* Ex. X at 2. In selecting specific sites, NW Natural also considered subsurface conditions, avoided landslide-prone and environmentally sensitive areas such as streams and wetlands, and chose locations that are relatively flat and already cleared of timber. *Id.* Ex. V at 2. Big game habitat was one of several factors considered.

Consistently with CCZO §1193(B), the Project *was* sited to avoid habitat conflicts and use least valuable habitat areas. Conflicts with big game habitat typically arise where a use concentrates people onsite or removes substantial vegetative cover. *See* County Comprehensive Plan § A.4. Neither condition is present here. Although the Project will permanently affect approximately six acres of mapped big game habitat, it will not involve regular human presence beyond brief, infrequent maintenance visits by limited staff. *See* NW Natural Supplemental Information, Ex. V. In addition, the well pad locations are logged areas cleared of vegetative cover and are adjacent to existing roads—areas that already provide limited habitat value. *See id.* Ex. X at 2.

Further, as Tetra Tech, NW Natural's professional wildlife biologist, explained, the Project footprint represents less than one percent of the subject properties and is surrounded by extensive, contiguous habitat that big game could utilize. *Id.* at 2–3 & Fig. 1. In Tetra Tech's professional judgment, surrounding lands are generally of similar (or better) habitat quality than the locations selected for the Project, and "relocating the well pads within the general vicinity would not be expected to meaningfully reduce impacts to big game habitat." *Id.* at 3.

For these reasons, the Project satisfies CCZO § 1193(B), as staff correctly concluded.

E. Staff's Proposed Condition (4)(D) Does Not Impermissibly Defer Findings.

CCZO § 1193

> ***C. Road development shall be minimized to that which is necessary to support the proposed use and the applicant shall utilize existing roads as much as possible.***

Staff Report Proposed Condition (4)(D):

> ***Road development shall be conservative and minimized to only that which is necessary to support development of the use authorized through this review. The applicant shall utilize existing roads as much as possible.***

Finally, NEDC claims that staff's proposed road condition improperly defers a finding of compliance with CCZO § 1193(C) and unidentified fire safety standards. *See* NEDC March 16 Comment at 2. NEDC's argument assumes the County must conduct a detailed analysis of hypothetical future roads and their potential impacts—even though no new roads are proposed.

Generally, conditions of approval may authorize future development where the existing record shows that compliance with applicable approval criteria is "feasible." *See, e.g.*, *Gould v. Deschutes Cnty*, 227 Or App 601, 611, 206 P3d 1106 (2009). This means that (1) the condition can feasibly be implemented and (2) if the condition is implemented, it is reasonable to conclude that applicable approval criteria will be satisfied. *See id.*

Here, staff's proposed Condition (4)(D) does exactly that. It simply restates CCZO § 1193(C) by requiring road development to be limited to what is necessary and to use existing roads whenever possible. Compliance with those requirements can readily be evaluated based on the current record, including the many maps before the Commission.

More importantly, NW Natural has not proposed to develop and is not requesting approval to develop any new roads as part of this Project. To address NEDC's concerns, the simplest resolution would be for the Planning Commission to adopt staff's recommendation approving the Application without Condition (4)(D).

II. Conclusion

For all the reasons discussed in NW Natural's written submittals and oral testimony, the Project is vital to Columbia County and our shared regional energy supply. NW Natural has also thoroughly demonstrated compliance with all applicable legal criteria. Approving the Project, as staff have recommended, is the right decision for Columbia County.

NW Natural respectfully asks the Planning Commission to approve CU 25-169 as recommended by staff. Thank you for your consideration.

Sincerely,

Merissa A. Moeller