

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

In the Matter of Request for Amendment 6 for the
Golden Hills Wind Project Site Certificate

)
) FINAL ORDER ON REQUEST FOR
) AMENDMENT 6 TO THE SITE
) CERTIFICATE
)

January 22, 2021

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1 **I. INTRODUCTION**
2

3 The Energy Facility Siting Council (Council or EFSC) issues this final order, in accordance with
4 Oregon Revised Statute (ORS) 469.405(1) and Oregon Administrative Rule (OAR) 345-027-0372,
5 based on its review of Request for Amendment 6 (amendment request or RFA6) to the Golden
6 Hills Wind Farm site certificate, as well as comments and recommendations received by state
7 agencies and local governments during review of the preliminary amendment request and
8 during the Draft Proposed Order comment period (December 18, 2020 through January 15,
9 2021). The certificate holder is Golden Hills Wind Farm, LLC, (Golden Hills or certificate holder),
10 a wholly owned by Pacific Wind Development, LLC, a subsidiary of Avangrid Renewables, LLC.
11

12 The certificate holder requests that the Energy Facility Siting Council (EFSC or Council) approve
13 changes to the site certificate to extend the construction completion deadline by 18-months
14 from June 18, 2021 to December 31, 2022. For amendments requesting to extend construction
15 deadlines, the Department and Council evaluate whether there have been “changes in fact or
16 law” since the site certificate or amended site certificate was issued to determine whether,
17 based on changes in fact or law, the facility would continue to satisfy requirements of the
18 standard.¹
19

20 The amendment request also seeks Council approval to add 534 acres to the existing
21 micrositing corridor to allow changes in final facility design including shortening underground
22 collector line routes between wind turbines, improving access road alignments to minimize
23 agricultural impacts, and consolidating collector line routes into a single corridor. The changes
24 to the micrositing corridor would also include removal of 84 acres. The amendment request
25 seeks Council approval to amend language of preconstruction conditions to align with a phased
26 construction schedule; amend Conditions GEN-HC-01, PRE-HC-01, PRE-HC-02, PRE-HC-03, CON-
27 HC-01, CON-HC-03, and CON-HC-04; and remove Conditions GEN-HC-02 and CON-HC-02, all of
28 which were previously imposed under the Council’s Historic, Cultural and Archeological
29 Resources standard; and amend Condition GEN-FW-04, which was previously imposed under
30 the Council’s Fish and Wildlife Habitat standard (specific changes to conditions are presented in
31 Attachment A Amended Site Certificate and Section III. H. *Fish and Wildlife Habitat* and III.K.
32 *Historic, Cultural and Archeological Resources* of this order).
33

34 Based upon review of this amendment request, in conjunction with comments and
35 recommendations received by state agencies and local governments, the Council approves the

¹ OAR 345-027-0375(2)(b)

1 amendment request and grants issuance of a sixth amended site certificate for the Golden Hills
2 Wind Project, subject to the existing and amended conditions set forth in this final order.

3

4 **I.A. Name and Address of Certificate Holder**

5

6 Golden Hills Wind Farm, LLC
7 1125 NW Couch Street, Suite 700
8 Portland, OR 97209

9

10 ***Parent Company of the Certificate Holder***

11

12 Pacific Wind Development, LLC
13 a wholly-owned subsidiary of Avangrid Renewables, LLC
14 The U.S. division of Iberdrola, S.A.
15 1125 NW Couch Street, Suite 700
16 Portland, OR 97209

17

18 ***Certificate Holder Contact***

19

20 Matt Hutchinson, Senior Permit Manager
21 Avangrid Renewables, LLC
22 1125 NW Couch Street, Suite 700
23 Portland, OR 97209

24

25 **I.B. Description of the Approved Facility**

26

27 The Golden Hills Wind Project (facility) is an approved wind energy generation facility, currently
28 under construction, in Sherman County, with a peak generating capacity of up to 400
29 megawatts (MW) of electricity and an average electric generating capacity of about 133 MW.
30 The facility is approved to include up to 125 wind turbines as well as related or supporting
31 facilities including: meteorological towers, a power collection system, a substation, operations
32 and maintenance facility, two 230-kilovolt (kV) transmission line segments, supervisory control
33 and data acquisition (SCADA) system, access roads, and temporary laydown areas (see Figure 1
34 below).²

² In the amendment request, the certificate holder represents that the maximum number of wind turbines at the site would be 51. See Attachment 5 Golden Hills Decommissioning Cost Estimate (Pre Construction Facility).

1 The facility may include up to six unguayed tubular meteorological tower structures, about 95
2 meters (312 feet) tall, and set in concrete foundations. The power collection system may
3 include up to approximately 55 miles of aboveground 34.5 kV collector lines to transport the
4 power from the wind turbines to the substation. The substation includes transformers,
5 switching equipment and a parking area and would be located in a graveled and fenced area
6 about 5 acres in size. A 5,000-square-foot operations and maintenance (O&M) building is
7 located adjacent to the facility's centrally located substation. The O&M building includes office
8 and workshop areas, a control room for the SCADA system, and a kitchen, bathroom and
9 shower. A fiber optic communications network will link the wind turbines to a central computer
10 at the O&M facility. The SCADA system will collect operating and performance data from each
11 wind turbine and the facility as a whole and will provide for remote operation of the wind
12 turbines.

13
14 The 230 kV transmission line will extend approximately 5 miles and would interconnect the
15 substation to the existing Hay Canyon 230 kV transmission line. From there, electricity will be
16 transmitted using the existing Hay Canyon 230 kV line to the northernmost transmission pole
17 structure near the existing Klondike Substation where an approximately 700 foot segment of
18 230 kV transmission line would be constructed along with associated structures and equipment
19 necessary to interconnect the facility to Bonneville Power Administration's (BPA's) transmission
20 structure located approximately 300 feet north of the Klondike Substation.

21
22 The facility may include approximately 41 miles of new roads to provide access to the turbine
23 strings and other facility components. Access roads would connect to graveled turbine pad
24 areas at the base of each wind turbine. Temporary access roads are approved to be 40 feet
25 wide and permanent access roads would be 20 feet wide and constructed with crushed gravel.
26 In addition, the certificate holder would improve and widen some existing county and farm
27 roads. The facility may include up to seven principal, temporary laydown areas to stage
28 construction and store supplies and equipment during construction. In addition, temporary
29 laydown areas would be required at the base of each wind turbine. The laydown areas will be
30 covered with gravel, and the gravel would be removed and the areas would be restored to their
31 preconstruction conditions following completion of construction.

32
33 Construction of the facility commenced on June 8, 2020, including development of the O&M
34 building and building site. Facility construction is being completed in phases, with Phase I
35 inclusive of the O&M building activities. Remaining phases are anticipated to commence in

1 December/January 2021. Phased construction was accounted for in the Final Order on ASC in
2 several conditions (PRE-RT-01, PRE-HC-03 and CON-FW-01).³

3

4 **I.C. Description of Approved Facility Site Location**

5

6 *Site Boundary*

7

8 The approved facility site boundary includes approximately 29,500 acres of private land,
9 between the cities of Wasco and Moro in Sherman County, Oregon, as presented in Figure 1,
10 *Facility Site Boundary and Wind Turbine Micrositing Corridors*. The facility is currently under
11 constructed.

12

13 *Micrositing Corridor*

14

15 For this facility, the site boundary includes previously approved “micrositing corridors” to allow
16 some flexibility in specific component locations and design in response to site-specific
17 conditions and engineering requirements to be determined prior to construction. The Council
18 permits final siting flexibility within a micrositing corridor when the certificate holder
19 demonstrates that requirements of all applicable standards have been satisfied by adequately
20 evaluating the entire corridor and location of facility components anywhere within the corridor.

21

22 The micrositing corridor includes approximately 900-feet in diameter around turbines, and
23 wider in some locations, and 200-feet in width for the 5-mile and 700-foot segments of 230 kV
24 transmission line. The amendment request includes changes to the previously-approved
25 micrositing corridors, as described in Section II.A. *Requested Amendment* of this order.

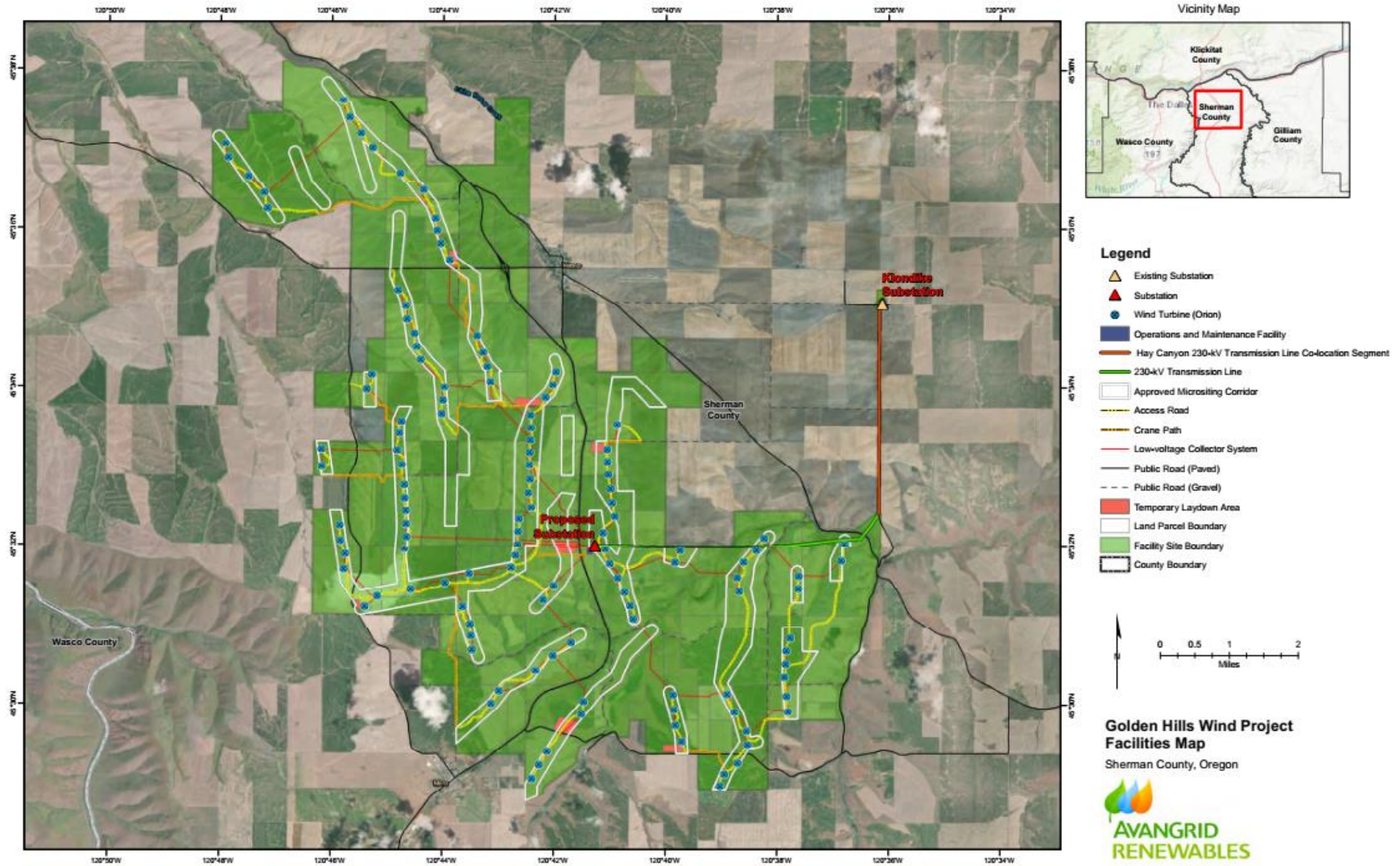
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27

³ Condition PRE-RT-01 states, “..If the certificate elects to build the facility in more than one phase...”; Condition PRE-HC-03 states, “Before beginning construction of any phase of the facility..” and Condition CON-FW-01 states, “During the year in which construction of any phase occurs..”

1 **Figure 1: Facility Site Boundary and Wind Turbine Micrositing Corridors**

2



3

1 **I.D. Procedural History**
2

3 The Council issued the *Final Order on the Application for Site Certificate (ASC)* for the Golden
4 Hills Wind Project on May 15, 2009 (Final Order on ASC). The site certificate became effective
5 upon execution on June 18, 2009. In December 2011, the certificate holder submitted RFA1 to
6 the site certificate, requesting to extend the construction beginning and completion deadlines
7 by two years. The Council issued the final order and the first amended site certificate in May
8 2012, approving the amendment request. That amended site certificate extended the beginning
9 construction date to June 18, 2014 and the construction completion date to June 18, 2016.

10
11 In June 2014, the certificate holder submitted RFA2, again requesting an extension of the
12 construction deadlines and also requesting a transfer of ownership of the parent company to
13 Orion Renewable Energy Group LLC from the previous parent company owner. Council issued a
14 final order and the second amended site certificate in January 2015. In December 2015, the
15 certificate holder submitted RFA3, which requested an extension to the construction
16 commencement and completion deadlines, and changes to the facility design. In February 2017,
17 Council issued a final order and the third amended site certificate. In October 2017, the
18 certificate holder submitted RFA4, which requested an extension to the construction
19 commencement deadlines, and a transfer of ownership of the certificate holder from Orion
20 Renewable Energy Group LLC to Pacific Wind Development, LLC, a subsidiary of Avangrid
21 Renewables. At its April 27, 2018, Council issued a final order and fourth amended site
22 certificate approving the site certificate transfer and construction commencement deadline
23 extension. In July 2018, the certificate holder submitted RFA5, seeking Council approval of
24 changes in wind turbine maximum blade tip height (technology dimension specifications). In
25 October 2018, Council issued a final order and a fifth amended site certificate.

26
27 **II. AMENDMENT PROCESS**
28

29 **II.A. Requested Amendment**
30

31 *Construction Completion Deadline Extension*
32

33 The certificate holder requests an amendment to the site certificate to extend the deadline to
34 complete construction from June 18, 2021 to December 31, 2022. The construction
35 commencement deadline was June 18, 2020, which was satisfied via certificate holder
36 notification and submittal of preconstruction compliance documentation on and prior to June
37 12, 2020. The first phase of construction includes the O&M building.

38
39 *Changes to Micrositing Corridor*
40

41 The certificate holder requests an amendment to the site certificate to change the micrositing
42 corridor (add 534 acres, remove 85 acres) to allow for changes in final facility design. The
43 changes to the micrositing corridor would expand or modify the overall size from 6,820 acres to

1 7,267 acres, based on the changes summarized below (as presented in Figure 2: *Proposed*
2 *Micrositing Corridor Changes*).

3

4 Road or Collector Line Realignment to Minimize Disturbance

5

6 Proposed changes to the micrositing corridor would allow roads and collector lines to be
7 realigned to provide more direct and/or consolidated routes (see RFA6 Figures 2.3, 2.4, 2.5, 2.6,
8 2.10, and 2.11), avoid ditches and natural features such as streams, wetlands and steep slopes
9 (see Figures 2.2, 2.3, 2.6, 2.7, 2.11, and 2.15). In addition, consolidating the collector line
10 temporary work area would reduce the temporary impact acres.

11

12 Road Realignment due to Consultation with Landowners and to Minimize Property Impacts

13

14 Proposed changes to the micrositing corridor reflect required landowner consultation (PRE-LU-
15 02) and would further minimize impacts from facility access roads to existing farm practices and
16 increase the ability to use existing farm accesses and follow property lines.

17

18 Relocate Met Tower for Final Design

19

20 Proposed changes to the micrositing corridor would allow adjustment to final siting location of
21 one meteorological (met) tower that needs to be placed slightly outside the existing micrositing
22 corridors (see RFA6 Figure 2.2).

23

24 Expansion of Temporary Disturbance Areas

25

26 Proposed changes to the micrositing corridor would allow for expansion of temporary
27 disturbance areas within turbine laydown areas, sites of the O&M building and substation, and
28 outside of the 230 kV transmission line corridor during construction, if needed (see RFA6
29 Figures 2.2, 2.3, 2.5, 2.6 – 2.8, 2.10, and 2.15).

30

31 *Proposed Condition Amendments*

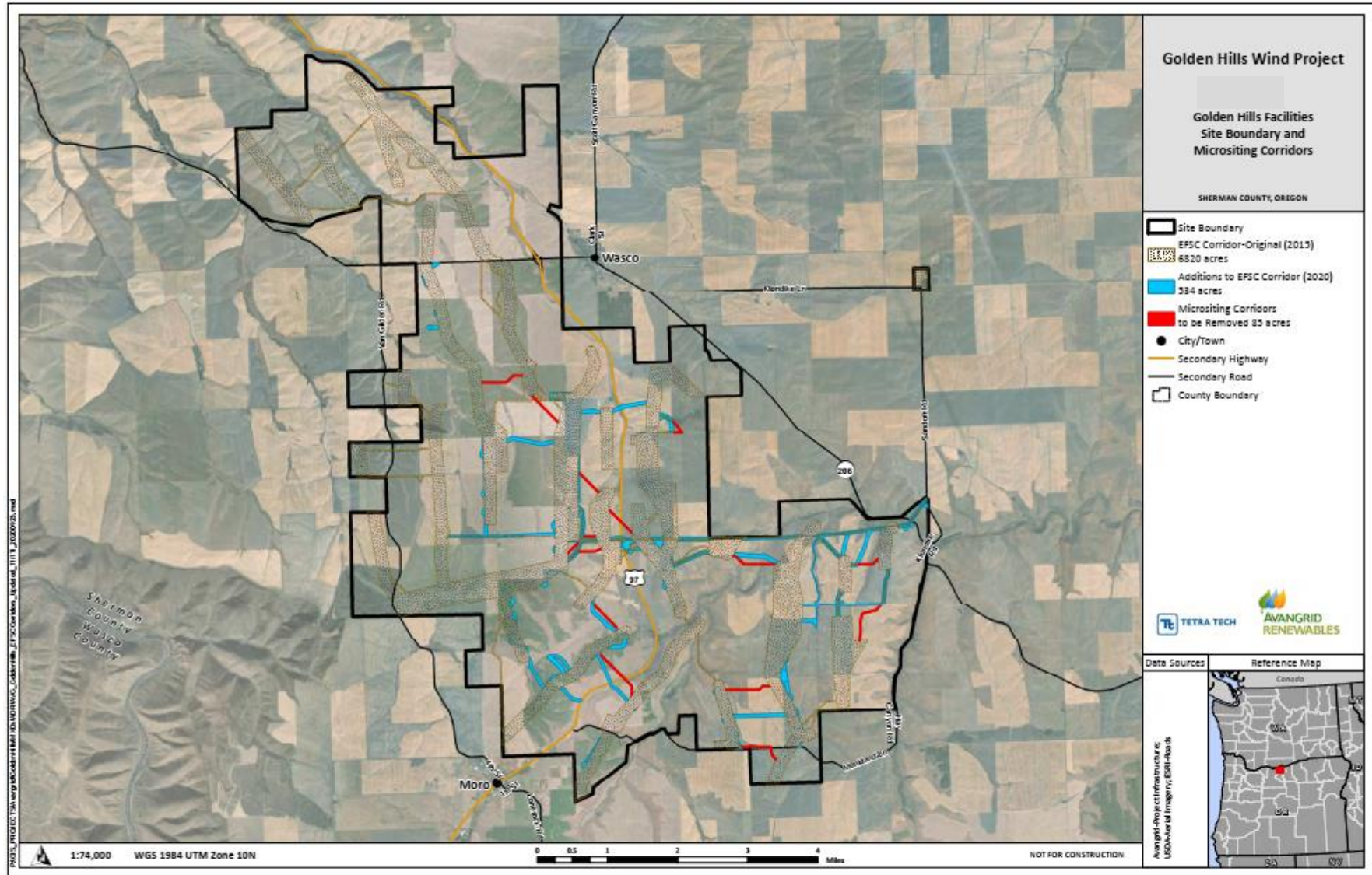
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33 OAR 345-027-0060(1)(d) requires that the certificate holder provide the specific language for
34 changes in the site certificate, including affected conditions. The certificate holder proposes
35 changes to Conditions GEN-HC-01, PRE-HC-01, PRE-HC-02, PRE-HC-03, CON-HC-01, CON-HC-03,
36 and CON-HC-04; and removal of Conditions GEN-HC-02 and CON-HC-02, as presented and
37 evaluated in Section III.K. *Historic, Cultural and Archeological Resources Standard* of this order.
38 The certificate holder proposes changes to Condition GEN-FW-04, as presented and evaluated
39 in Section III.H. *Fish and Wildlife Habitat* of this order. As described above, several site
40 certificate conditions refer to potential construction activities occurring in phases; however, the
41 language is not reflected in all preconstruction conditions. The certificate holder requests that
42 preconstruction conditions be clarified by adding preamble language such as “prior to
43 construction of the facility, facility component or phase,..” to establish applicability of

- 1 requirements based on construction schedule; these changes are represented in Figure 2 below
- 2 and Attachment A Amended Site Certificate of this order.

1 **Figure 2: Proposed Micrositing Corridor Changes**

2



1 **II.B. Amendment Review Process**
2

3 Council rules describe the differences in review processes for the Type A and Type B review
4 paths at OAR 345-027-0051. The Type A review is the standard or “default” amendment review
5 process for changes that require an amendment. A key procedural difference between the Type
6 A and Type B review process is that the Type A review requires a public hearing on the draft
7 proposed order, and provides an opportunity to request a contested case proceeding on the
8 Department’s proposed order. Another difference between the Type A and Type B review
9 process relates to the time afforded to the Department in its determination of completeness of
10 the amendment and issuance of the draft proposed order. It is important to note that Council
11 rules authorize the Department to adjust the timelines for these specific procedural
12 requirements, if necessary.
13

14 A certificate holder may submit an amendment determination request to the Department for a
15 written determination of whether a request for amendment justifies review under the Type B
16 review process. The certificate holder has the burden of justifying the appropriateness of the
17 Type B review process as described in OAR 345-027-0051(3). The Department may consider,
18 but is not limited to, the factors identified in OAR 345-027-0057(8) when determining whether
19 to process an amendment request under Type B review.
20

21 On October 1, 2020, the certificate holder submitted a Type B review amendment
22 determination request (Type B Review ADR) in conjunction with its preliminary Request for
23 Amendment 6 (pRFA6). The Type B Review ADR requested that the Department review and
24 determine whether, based on evaluation of the factors contained within OAR 345-027-0357(8),
25 the RFA should be reviewed under the Type B review process. On December 16, 2020, the
26 Department determined that Type B review was justified based on the evaluation of the
27 complete RFA6 and the OAR 345-027-0057(8) factors. The Department provided courtesy
28 notice via its electronic notification system (ClickDimensions) of receipt of the Type B Review
29 ADR on October 1, 2020 and of the Department’s determination on December 18, 2020, both of
30 which were posted to the Department’s project webpage for the facility.
31

32 Pursuant to OAR 345-027-0363(2), on October 23, 2020 the Department determined pRFA6 to
33 be incomplete and issued a request for additional information.⁴ The certificate holder provided
34 responses to the information requests on November 13, December 1 and December 15, 2020.
35

⁴ GH1AMD6. Determination Letter and RAIs. 2020-10-23.

1 After reviewing the responses to its information request, the Department determined the RFA
2 to be complete on December 16, 2020. Under OAR 345-027-0363(5), an RFA is complete when
3 the Department finds that a certificate holder has submitted information adequate for the
4 Council to make findings or impose conditions for all applicable laws and Council standards. On
5 December 18, 2020, the Department posted an announcement on its project website notifying
6 the public that the complete RFA had been received. The Department issued its DPO on RFA6,
7 under the Type B process, on December 18, 2020, and opened a 27-day public comment period
8 extending from December 18, 2020 through January 15, 2020.

9
10 Reviewing Agency Comments on Preliminary Request for Amendment 6

11
12 As presented in Attachment B of this final order, the Department received comments on pRFA6
13 from the following reviewing agencies:

- 14
15 • Oregon State Historic Preservation Office
16 • Confederated Tribes of the Warm Springs Reservation of Oregon
17 • Oregon Department of Aviation⁵
18 • Sherman County Planning Department
19 • Oregon Department of Fish and Wildlife⁶

20
21 **II.C. Council Review Process**

22
23 On December 18, 2020, the Department issued the draft proposed order, and a notice of
24 comment period on RFA6 and the draft proposed order (notice). The draft proposed order
25 comment period extended from December 18, 2020 through January 15, 2021. The notice was
26 distributed to all persons on the Council's general mailing list, to the special mailing list
27 established for the facility, to an updated list of property owners supplied by the certificate
28 holder, and to a list of reviewing agencies as defined in OAR 345-001-0010(52).

29
30 To raise an issue on the record of the draft proposed order, a person must raise the issue in a
31 written comment submitted after the date of the notice of the draft proposed order received

⁵ Comments on pRFA6 were received from Oregon Department of Aviation (ODA) via phone conferences conducted during October 1 – December 16, 2020. ODA expressed minimal concern of the proposed changes. ODA is continuing their review of wind turbine locations consistent with Condition PRE-HC-03.

⁶ Comments from ODFW's District Biologist Jeremy Thompson were received during a telephone conference on December 16, 2020. Mr. Thompson reviewed the certificate holder's proposed changes to Condition GEN-FW-04 and concurred that the requested revisions were appropriate and would result in greater benefit to avian species, as further described in Section III.H *Fish and Wildlife Habitat* of this order.

1 by the Department before the written comment deadline. The Council will not accept or
2 consider public comments on RFA6 or on the draft proposed order after the written comment
3 deadline, listed above, that closes the record on the draft proposed order. The Department
4 received comments on the record of the draft proposed order, including comments from a
5 member of the public, responses to those public comments from the certificate holder, and
6 comments from four state and Tribal government agencies (Oregon Department of Aviation,
7 Oregon Department of Fish and Wildlife, Oregon Department of Geology and Mineral Industry
8 and Confederated Tribes of the Umatilla Indian Reservation). All comments received on the
9 record of the draft proposed order are provided in Attachment C of this order; comments are
10 addressed throughout this order.

11
12 On January 20, 2021, the Department issued the proposed order, addressing comments
13 received on the record of the draft proposed order, along with a notice of proposed order
14 issuance. The proposed order notice was distributed to all persons on the Council’s general
15 mailing list, to the special mailing list established for the facility and a current list of property
16 owners supplied by the certificate holder. The proposed order recommended Council approve
17 the amendment request and issue a sixth amended site certificate.

18
19 At its January 22, 2021 meeting, in accordance with OAR 345-027-0372, Council reviewed and
20 adopted, with modifications, the proposed order as the final order and granted a sixth
21 amended site certificate.⁷ Judicial review of the Council’s final order granting an amended site
22 certificate shall be as provided in ORS 469.403.

23
24 **II.D. Applicable Division 27 Rule Requirements**

25
26 A site certificate amendment is necessary under OAR 345-027-0350(3) and (4) because the
27 certificate holder requests to extend the construction completion deadline and requests to
28 design, construct, and operate the facility in a manner different from the description in the site
29 certificate, and the proposed change would impair the certificate holder’s ability to comply with
30 a site certificate condition, and would require new conditions or modification to existing
31 conditions in the site certificate.

32
33 OAR 345-027-0385 imposes specific requirements relating to a request for amendment to
34 extend construction deadlines and OAR 345-027-0375 sets the scope of Council’s review. OAR
35 345-027-0375(2)(b) provides that an amendment, which requests a timeline extension request,

⁷ Modifications approved by Council are noted throughout this order, in Section III.A. *General Standard of Review*, III.K. *Historic, Cultural and Archeological Resources* and III.H. *Fish and Wildlife Habitat*.

1 must be evaluated “after considering any changes in facts or law since the date the current site
2 certificate was executed.” The Council interprets OAR 345-027-0370(10)(b)(B) as requiring the
3 review of any change to facility design as well as any change to the existing environment, or
4 changes in law.

5
6 The Type B amendment review process (consisting of rules 345-027-0359, -0360, -0363, -0365, -
7 0368, -0372, and -0375) shall apply to the Council’s review of a request for amendment that the
8 Department or the Council approves for Type B review under 345-027-0357.

9
10 **III. REVIEW OF THE REQUESTED AMENDMENT**

11
12 Under ORS 469.310, the Council is charged with ensuring that the “siting, construction and
13 operation of energy facilities shall be accomplished in a manner consistent with protection of
14 the public health and safety.” ORS 469.401(2) further provides that the Council must include in
15 the amended site certificate “conditions for the protection of the public health and safety, for
16 the time for completion of construction, and to ensure compliance with the standards, statutes
17 and rules described in ORS 469.501 and ORS 469.503.”⁸ The Council implements this statutory
18 framework by adopting findings of fact, conclusions of law, and conditions of approval
19 concerning the amended facility’s compliance with EFSC standards set forth in OAR Chapter
20 345, Divisions 22 and 24 as well as all other applicable statutes, rules and standards (including
21 those of other state or local agencies).

22
23 This final order includes the Council’s analysis of whether the proposed changes meet each
24 applicable Council Standard (with mitigation and subject to compliance with existing and
25 amended conditions, as applicable), based on the information in the record.

26
27 **III.A. General Standard of Review: OAR 345-022-0000**

28
29 *(1) To issue a site certificate for a proposed facility or to amend a site certificate, the*
30 *Council shall determine that the preponderance of evidence on the record supports the*
31 *following conclusions:*

32
33 *(a) The facility complies with the requirements of the Oregon Energy Facility Siting*
34 *statutes, ORS 469.300 to ORS 469.570 and 469.590 to 469.619, and the standards*
35 *adopted by the Council pursuant to ORS 469.501 or the overall public benefits of the*
36 *facility outweigh the damage to the resources protected by the standards the facility*
37 *does not meet as described in section (2);*

⁸ ORS 469.401(2).

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

** * **

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

Findings of Fact

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

The requirements of OAR 345-022-0000 are discussed in the sections that follow. The Department consulted other state agencies as well as the Sherman County Planning Department (reviewing on behalf of the Special Advisory Group - Sherman County Board of County Commissioners) during its review of pRFA6 to aid in the evaluation of whether the facility, with proposed RFA6 changes, would continue to satisfy the requirements of applicable statutes, rules and ordinances otherwise administered by other agencies. Additionally, in many circumstances the Department relies upon these reviewing agencies' special expertise in evaluating compliance with the requirements of Council standards.

OAR 345-022-0000(2) and (3) apply to RFAs where a certificate holder has shown that the proposed amendment cannot meet Council standards or has shown that there is no reasonable way to meet the Council standards through mitigation or avoidance of the damage to protected resources; and, for those instances, establish criteria for the Council to evaluate in making a balancing determination. In RFA6, the certificate holder represents that the facility would continue to meet, with conditions, all applicable Council standards. Therefore, OAR 345-022-0000(2) and (3) would not apply to this review.

1 *OAR 345-027-0385: Certificate Holder’s Explanation of Need for Construction Deadline*
2 *Extension*

3
4 Council’s rules and statute require that a site certificate establish dates for commencement and
5 completion of construction, which can be modified through the site certificate amendment
6 process.⁹ For a request to extend a construction commencement or completion deadline, a
7 certificate holder must include in its amendment request an explanation of the need for the
8 extension. In RFA6, the certificate holder requests its fourth deadline extension, but is limited
9 to the construction completion deadline, and provides four reasons. The first reason for the
10 construction completion deadline extension includes that the certificate holder desires to align
11 the construction schedule with the timing of bringing the facility online for energy transmission
12 to the grid under its executed Power Purchase Agreement (PPA) with Puget Sound Energy,
13 which establishes an operational date of December 31, 2022. The certificate holder asserts that
14 completing construction prior to the general timing of need under its PPA would not be
15 economically feasible, as the facility would be built without an ability to transmit generated
16 power. The second reason for the construction completion deadline extension includes that
17 interconnection to the Bonneville Power Administration’s (BPA) Schoolhouse Substation has
18 been delayed due to additional necessary upgrades identified by BPA for the substation. The
19 third reason for the construction completion deadline extension includes that the certificate
20 holder seeks additional time to evaluate whether the facility qualifies for production tax credits
21 under new guidance issued by the Internal Revenue Service in May 2020. The fourth reason for
22 the construction completion deadline extension includes uncertainty in potential delays in
23 equipment and workforce due to the COVID-19 global pandemic.

24
25 Council rules only require that an explanation of the need for the extension be provided and
26 does not establish specific evaluative criteria. However, Council considers the reasons provided
27 by the certificate holder to be acceptable.¹⁰ Therefore, Council considers the reasons provided
28 to satisfy the informational requirements.

29
30 OAR 345-027-0385(5)(c) provides that “when considering whether to grant a request for
31 amendment for a deadline extension made under this section, the Council shall consider how

⁹ ORS 469.401(2) states, “The site certificate or amended site certificate shall contain conditions..for the time for completion of construction..” OAR 345-025-0006(4) requires that Council impose a mandatory condition in every site certificate establishing dates that a certificate holder must begin and complete construction of the facility.

¹⁰ Based on review of the proposed order, Council requested that the findings confirm Council’s determination that the reasons provided for the request for extension of the construction completion deadline were acceptable.

1 many extensions it has previously granted.” This is the fourth construction deadline extension
2 request for this facility.

3
4 OAR 345-027-0385(5) provides that, for facilities approved prior to October 24, 2017,
5 subsections (3) and (4) of OAR 345-027-0385 do not apply. The certificate holder received
6 approval of a site certificate on May 2009, and therefore -0385(3) and (4) do not apply to this
7 amendment request. Pursuant to OAR 345-027-0385(5)(d), the Council must specify new
8 deadlines for beginning or completing construction that are not more than two years from the
9 deadlines in effect before the Council grants the amendment. As described in Section II.A.
10 *Requested Amendment*, the certificate holder requests that the construction completion
11 deadline be extended by 18-months from June 18, 2021 to December 31, 2022. The certificate
12 holder’s request of an 18-month extension for construction completion is consistent with the
13 Council’s authority to grant an extension up to 24-months from the previously established
14 deadline. Therefore, Council amends Condition GEN-DC-02 as requested by the certificate
15 holder, as follows:

16
17 **Amended Condition GEN-DC-02:** The certificate holder shall complete construction of the
18 facility by ~~June 18, 2021~~ December 31, 2022. Construction is complete when (1) the facility is
19 substantially complete as defined by the certificate holder’s construction contract
20 documents; (2) acceptance testing has been satisfactorily completed; and (3) the energy
21 facility is ready to begin continuous operation consistent with the site certificate. The
22 certificate holder shall promptly notify the Department of the date of completion of
23 construction. The Council may grant an extension of the deadline for completing
24 construction in accordance with OAR 345-027-0030 or any successor rule in effect at the
25 time the request for extension is submitted.

26 [Final Order on ASC, Condition III.D.2; Amended in Final Order on AMD2, AMD3, AMD6]

27

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

29

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

1 and the certificate holder must construct, operate, and retire the facility in accordance with all
2 applicable rules adopted by the Council in OAR Chapter 345, Division 26.¹¹

3
4 As noted in Section II. *Requested Amendment*, the certificate holder requests that the site
5 certificate be amended to align the language of preconstruction conditions with a phased
6 construction approach, which is reflected in some existing conditions but not all. The facility
7 may be constructed in phases. For any phase of construction, the certificate holder is only
8 required to comply with the preconstruction conditions applicable to the phase. [ORS
9 469.300(6)]. Therefore, Council amends previously imposed preconstruction conditions with
10 the language, “prior to construction of the facility, facility component, or phase, as
11 applicable...” as presented in Attachment A (Amended Site Certificate) of this order.

12
13 **Conclusions of Law**

14
15 Based on the foregoing findings of fact and conclusions of law, and subject to compliance with
16 the existing and amended condition, the Council finds that the facility, with proposed changes,
17 would satisfy the requirements of OAR 345-022-0000.

18
19 **III.B. Organizational Expertise: OAR 345-022-0010**

20
21 *(1) To issue a site certificate, the Council must find that the applicant has the*
22 *organizational expertise to construct, operate and retire the proposed facility in*
23 *compliance with Council standards and conditions of the site certificate. To conclude that*
24 *the applicant has this expertise, the Council must find that the applicant has*
25 *demonstrated the ability to design, construct and operate the proposed facility in*
26 *compliance with site certificate conditions and in a manner that protects public health*
27 *and safety and has demonstrated the ability to restore the site to a useful, non-*
28 *hazardous condition. The Council may consider the applicant’s experience, the*
29 *applicant’s access to technical expertise and the applicant’s past performance in*
30 *constructing, operating and retiring other facilities, including, but not limited to, the*
31 *number and severity of regulatory citations issued to the applicant.*

32
33 *(2) The Council may base its findings under section (1) on a rebuttable presumption that*
34 *an applicant has organizational, managerial and technical expertise, if the applicant has*

¹¹ Applicable rule requirements established in OAR Chapter 345, Division 26 include OAR 345-026-0048, OAR 345-026-0080, OAR 345-026-0105, and OAR 345-026-0170.

1 *an ISO 9000 or ISO 14000 certified program and proposes to design, construct and*
2 *operate the facility according to that program.*

3
4 *(3) If the applicant does not itself obtain a state or local government permit or approval*
5 *for which the Council would ordinarily determine compliance but instead relies on a*
6 *permit or approval issued to a third party, the Council, to issue a site certificate, must*
7 *find that the third party has, or has a reasonable likelihood of obtaining, the necessary*
8 *permit or approval, and that the applicant has, or has a reasonable likelihood of entering*
9 *into, a contractual or other arrangement with the third party for access to the resource*
10 *or service secured by that permit or approval.*

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

19
20 **Findings of Fact**

21
22 Subsections (1) and (2) of the Council’s Organizational Expertise standard require that the
23 applicant (certificate holder) demonstrate its ability to design, construct, operate, and retire the
24 facility in compliance with Council standards and all site certificate conditions, in a manner that
25 protects public health and safety, as well as demonstrate an ability to restore the site to a
26 useful, non-hazardous condition. The Council may consider the certificate holder’s experience
27 and past performance in the construction, operation and retirement of other facilities in
28 determining whether the proposal complies with the Council’s Organizational Expertise
29 standard. Subsections (3) and (4) address third party permits.

30
31 *Compliance with Council Standards and Site Certificate Conditions*

32
33 The Council may consider a certificate holder’s past performance, including but not limited to
34 the quantity or severity of any regulatory citations in constructing or operating a facility, in
35 evaluating whether a proposed change may impact the certificate holder’s ability to design,

1 construct and operate a facility in compliance with Council standards and site certificate
2 conditions.¹²

3
4 Golden Hills Wind Farm, LLC is a project-specific LLC and therefore relies upon the
5 organizational expertise and experience of Avangrid, the parent company of Pacific Wind and
6 Golden Hills Wind Farm LLC. Avangrid currently holds six site certificates for facilities projects in
7 Oregon. Council has previously evaluated Avangrid’s organizational expertise.¹³ For the six
8 facilities that Avangrid currently owns (as a parent owner), Council has previously determined
9 that Avangrid has the expertise to construct, operate and retire a facility in compliance with
10 Council standards and that it has a reasonable likelihood of obtaining all third party permits
11 necessary. The Council continues to rely on record of the proceedings for this facility and find
12 that the certificate holder continues to demonstrate an ability to comply with Council standards
13 and site certificate conditions.

14
15 To ensure that the design, construction and operation of the facility is conducted in a manner
16 that protects public health and safety in accordance with the Organizational Expertise standard,
17 Council previously imposed the following conditions GEN-OE-01 through GEN-OE-06 in the site
18 certificate, which would continue to apply to the facility, with proposed changes. The certificate
19 holder’s ability to restore the facility site to a useful, non-hazardous condition is evaluated in
20 Section III.G. *Retirement and Financial Assurance* of this order, in which Council finds that the
21 certificate holder would continue to be able to comply with the Retirement and Financial
22 Assurance standard.

23
24 Based upon the findings presented here and compliance with existing site certificate conditions,
25 the Council continues to find that the certificate holder has the ability to design, construct,
26 operate, and retire the facility in compliance with Council standards and site certificate
27 conditions.

28
29 *Public Health and Safety*

30
31 The certificate holder proposes changes to the micrositing corridor to allow for adjustment of
32 access roads and collector lines routes, but would not result in changes to wind turbine
33 specifications or site boundary and therefore would not be expected to result in new public
34 health and safety risks. Council previously imposed conditions PRE-PH-01, PRE-PH-02, PRE-PH-

¹² OAR 345-021-0010(1)(d)(D)

¹³ The six facilities that Avangrid currently owns as a parent owner are Klondike III Wind Project, Leaning Juniper IIA Wind Project, Leaning Juniper IIB Wind Project, Klamath Generation Facility, Klamath Generation Peakers, and Klamath Cogen.

1 03, and GEN-PH-01, which relate to public health and safety and on-site safety and security.
2 This is further discussed in Sections III.P.1., *Public Health and Safety Standards for Wind Energy*
3 *Facilities* of this order. Based on the reasoning and analysis provided in that section, the Council
4 continues to find that the certificate holder continues to have the ability to design, construct,
5 and operate the facility in a manner that protects public health and safety.

6
7 *Ability to Restore the Site to a Useful, Non-Hazardous Condition*

8
9 A certificate holder's ability to restore a site to a useful, non-hazardous condition is evaluated
10 based on its ability to conduct necessary restoration tasks and actions, and to obtain a bond or
11 letter of credit in the amount necessary for implementation of the identified tasks and actions.
12 The certificate holder is not proposing changes that would impact facility decommissioning or
13 site restoration; however, based on potential changes in unit cost and labor rates since the
14 previous retirement cost estimate was prepared, the certificate holder provides an updated
15 retirement cost estimate of in 4th Quarter 2020 dollars) (compared to the previously approved
16 \$6.9 million [in 3rd Qtr dollars] retirement cost estimate).

17
18 *ISO 9000 or ISO 14000 Certified Program*

19
20 OAR 345-022-0010(2) is not applicable because the certificate holder has not proposed to
21 design, construct or operate the amended facility according to an International Organization for
22 Standardization (ISO) 9000 or ISO 14000 certified program.

23
24 *Third-Party Permits*

25
26 OAR 345-022-0010(3) addresses the requirements for potential third party permits. In RFA6,
27 the certificate holder describes that the proposed changes would not require any additional
28 state or local government permits or approvals for which the Council would ordinarily
29 determine compliance but that would instead be issued to a third-party not previously
30 considered.

31
32 **Conclusions of Law**

33
34 Based on the evidence in the record, and subject to compliance with the existing conditions of
35 approval, the Council finds that the certificate holder would continue to satisfy the
36 requirements of the Council's Organizational Expertise standard.

37
38 **III.C. Structural Standard: OAR 345-022-0020**

39
40 *(1) Except for facilities described in sections (2) and (3), to issue a site certificate, the*
41 *Council must find that:*

42
43 *(a) The applicant, through appropriate site-specific study, has adequately*
44 *characterized the seismic hazard risk of the site;*

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

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

(d) The applicant can design, engineer and construct the facility to avoid dangers to human safety and the environment presented by the hazards identified in subsection (c).

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

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

Findings of Fact

As provided in section (1) above, the Structural Standard generally requires the Council to evaluate whether the applicant (certificate holder) has adequately characterized the potential seismic, geological and soil hazards of the site, and that the applicant (certificate holder) can design, engineer and construct the facility to avoid dangers to human safety and the environment from these hazards.¹⁴ Pursuant to OAR 345-022-0020(2), the Council may issue a site certificate for a wind energy facility without making findings regarding compliance with the Structural Standard; however, the Council may apply the requirements of the standard to impose site certificate conditions.

¹⁴ OAR 345-022-0020(3) does not apply to the facility, with proposed changes, because it is a not a special criteria facility under OAR 345-015-0310.

1 For this amendment, the evaluation must consider whether there have been “changes in fact or
2 law” since the site certificate or amended site certificate was issued to determine whether,
3 based on changes in fact or law, the facility would continue to satisfy requirements of the
4 standard; and whether the proposed changes to the micrositing corridor would result in any
5 impacts not previously evaluated.

6
7 The proposed micrositing corridor changes would occur within the previously approved 29,500
8 acre site boundary. The analysis area for the Structural Standard is the area within the site
9 boundary. Site boundary, as defined in OAR 345-001-0010(55), is the area within the perimeter
10 of the facility, its related or supporting facilities, all temporary laydown and staging areas, and
11 all micrositing corridors proposed by the applicant (certificate holder). Therefore, because the
12 site boundary remains the same, the previous analysis would have evaluated the same analysis
13 area and therefore the proposed changes in micrositing corridor would not be expected to
14 result in impacts not previously evaluated

15
16 *Potential Seismic, Geological and Soil Hazards*

17
18 The certificate holder conducted site specific geotechnical work at the site, conducted by a
19 licensed Professional Engineer under the laws of the State of Oregon from Barr Engineering Co.,
20 as provided in the August 2020 Final Geotechnical Engineering Report. The report provides
21 results of the geotechnical investigations including geotechnical borings (hollow-stem auger
22 drilling), standard penetration tests, bulk soil sampling, rock coring, geophysical testing,
23 laboratory testing, and geotechnical review of the proposed and alternate wind turbine
24 locations. The draft report was reviewed by Yumei Wang from the Department of Geology and
25 Mineral Industries (DOGAMI) in May 2020 and considered appropriate for evaluation the
26 seismic hazards at the site.

27
28 To aid the Council in its review and understanding of its previous evaluation, the Department
29 presents a summary of the seismic and non-seismic hazards as evaluated in the ASC and 2009
30 *Final Order on the ASC*. Previously identified seismic hazards in the facility vicinity were from
31 three seismic sources: Cascadia Subduction Zone (“CSZ”) interplate events, CSZ intraslab events
32 and crustal events (referred to as mechanisms). The CSZ is located near the coastlines of
33 Oregon, Washington and British Columbia.

34
35 Nine mapped crustal faults were previously identified within the facility vicinity. One was within
36 1.2 miles of the southwest corner of the site, and one was within 3.7 miles. The others ranged
37 from 6.2 to 52.2 miles from the site.

38
39 As previously evaluated, non-seismic hazards in the facility vicinity include stability failure at
40 native slope angles and deep-seated slope failure. However, the certificate holder represented
41 that most slopes within the site boundary are gentle rolling hills consisting of basalt with a
42 relatively thin veneer of windblown silts, which are generally not susceptible to stability failures
43 at native slope angles and that the likelihood of deep-seated slope failures is very low.

1 *Design, Engineer and Construct Facility to Avoid Dangers to Human Safety from Seismic and*
2 *Non-Seismic Hazards*

3
4 The proposed amendments would be located within the previously approved site boundary and
5 micrositing corridor areas. The certificate holder refers to compliance with existing site
6 certificate Conditions PRE-SS-01 (V.A.1), PRE-SS-02 (V.A.4), PRE-SS-03 (V.A.5), and GEN-SS-01
7 (V.A.3) and asserts that its ability to design, engineer and construct the facility, with proposed
8 changes, to avoid dangers to human safety would not be affected by the proposed
9 amendment.¹⁵

10
11 The Council notes that conditions PRE-SS-01 (V.A.1), PRE-SS-02 (V.A.4), PRE-SS-03 (V.A.5), and
12 GEN-SS-01 (V.A.3) require the certificate holder to receive concurrence from the Department,
13 in consultation with DOGAMI, on its pre-construction site-specific geotechnical investigation; to
14 design the facility to avoid non-seismic hazards, including implementing sufficient setbacks
15 from steep slopes; and, design the facility in accordance with applicable state building code and
16 design procedures. As described above, compliance with Condition PRE-LU-04 (IV.D.6) would
17 further reduce potential risk of siting facility components with areas of marginally stable slope.

18
19 Based upon compliance with existing site certificate conditions, and because the proposed
20 amendments would not change site boundary or analysis area previously evaluated, the Council
21 finds that the proposed amendments would not affect the certificate holder's characterization
22 of the site or seismic hazards, or its ability to design, engineer, and construct the facility to
23 avoid dangers to human safety presented by seismic, geologic or soils hazards.

24
25 Based upon compliance with existing site certificate conditions, and because the proposed
26 amendments would not change site boundary or analysis area previously evaluated, the Council
27 finds that the facility would not affect the certificate holder's characterization of the site or
28 seismic hazards, or its ability to design, engineer, and construct the facility to avoid dangers to
29 human safety presented by seismic, geologic or soils hazards.

30
31 **Conclusions of Law**

32
33 Based on the foregoing findings of fact and conclusions, the Council finds that the facility, with
34 the proposed changes, would continue to comply with the Council's Structural Standard.

¹⁵ In comments on the DPO, DOGAMI Eastern Oregon Regional Geologist Jason McLaughry confirmed that, based on the previous analysis and compliance with existing site certificate conditions, that RFA6 would not result in changes to DOGAMI recommendations or certificate holder's ability to comply with the standard. GH1AMD6 DPO Comments Reviewing Agency DOGAMI McLaughry. 2021-01-05.

1 **III.D. Soil Protection: OAR 345-022-0022**

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

8
9 **Findings of Fact**

10
11 The Soil Protection standard requires the Council to find that the design, construction, and
12 operation of a proposed facility, or facility with proposed changes, is not likely to result in
13 significant adverse impacts to soil.

14
15 The analysis area for the Soil Protection standard, as defined in the project order, includes the
16 area within the site boundary.

17
18 For amendments requesting to extend construction deadlines, the Department and Council
19 evaluate whether there have been “changes in fact or law” since the site certificate or amended
20 site certificate was issued to determine whether, based on changes in fact or law, the facility
21 would continue to satisfy requirements of the standard. The certificate holder evaluates
22 potential changes in land use that could impact the evaluation of potential impacts to soils
23 within the analysis area. Based on 2020 preconstruction surveys, the certificate holder affirms
24 that existing uses are predominately dry-land wheat farming, as previously evaluated. Based on
25 review of current data obtained from the Natural Resources Conservation Service (October
26 2020), the soil types within the analysis area consist primarily of five General Soil Units: Walla
27 Walla-Anderly, Wato Anders, Wrentham-Lickskillet-Rock Outcrop, Lickskillet-Nansene, and
28 Mikkalo-Ritzville, which are the same or consistent with the soil types previously identified in
29 ASC Exhibit I for previous reviews of the facility.

30
31 *Potential Significant Adverse Impacts to Soil*

32 The proposed changes in micrositing corridor would modify the overall size from 6,820 acres
33 to 7,267 (6,820 existing acres, plus 534 acres, less 87 acres, to total 7,267 acres) however, the
34 certificate holder asserts that overall temporary and permanent disturbance would decrease
35 by using the new area identified within the expanded micrositing corridor due to reduced
36 area impacts from design/layout improvements allowing for consolidated and shorter routes
37 for access roads and collector lines (facility components within new micrositing corridor
38 would result in 5.4 acres of new permanent impact). Council previously imposed Conditions
39 GEN-SP-01 (IV.E.1), CON-SP-01 (IV.E.2), PRE-SP-01 (IV.E.4), CON-SP-02 (IV.E.5), OPR-SP-01
40 (IV.E.3), and OPR-SP-02 (IV.E.6) to minimize potentially significant adverse impacts to soils
41 during construction and operation of the facility, with proposed changes.

1 Specifically, Condition CON-SP-01 (IV.E.2) requires the certificate holder to manage and
2 salvage temporarily disturbed topsoil by stripping, stockpiling, protecting (with plastic
3 sheeting or mulch) and redistributing soils. Conditions GEN-SP-01 (IV.E.1) and OPR- SP-01
4 (IV.E.3) require the certificate holder to implement erosion and sediment control measures
5 and conduct routine inspections of the erosion control measures during construction and
6 operation, respectively.¹⁶ Because the existing land use and soil types at the site have not
7 changed, and overall type and level of impacts to soils would not change as a result of the
8 proposed changes in this amendment request, the Council finds that the existing site
9 certificate conditions are sufficient to minimize the potential for significant adverse impacts
10 to soils.

11

12 **Conclusions of Law**

13

14 Based on the foregoing findings of fact and conclusions of law, and subject to compliance with
15 existing site certificate conditions, the Council finds that the facility, with proposed changes,
16 would continue to satisfy the requirements of the Council’s Soil Protection standard.

17

18 **III.E. Land Use: OAR 345-022-0030**

19

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

23

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

25

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

30

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

33

¹⁶ Conditions CON-SP-02 (IV.E.5) and OPR-SP-02 (IV.E.6) require the certificate holder to manage and eliminate concrete wash wastewater and blade wash wastewater runoff during construction and operation, respectively. Condition PRE-SP-01 (IV.E.4) requires the certificate holder to implement a weed control plan during construction and for the life of facility operation.

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

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

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

15 ***

16 **Findings of Fact**

17
18 The Land Use standard requires the Council to find that a proposed facility or facility, with
19 proposed changes, would continue to comply with local applicable land use substantive criteria,
20 as well as the statewide planning goals adopted by the Land Conservation and Development
21 Commission (LCDC).¹⁷

22
23 The analysis area for the Council’s Land Use standard is the area within and extending ½-mile
24 from the site boundary.

25
26 **Local Applicable Substantive Criteria**

27
28 On August 17, 2007, during the review of the ASC, the Council appointed the Sherman County
29 Board of Commissioners as the Special Advisory Group (SAG) for the facility. On behalf of and as
30 authorized by the SAG, the Sherman County Planning Director identified applicable substantive
31 criteria to be considered during the ASC phase and through subsequent amendment requests
32 has identified changes in local code to be considered applicable substantive criteria. In RFA6,
33 the certificate holder describes that there have been no changes in local code provisions or the
34 Comprehensive Plan since Council’s previous evaluation. Table 1: *Sherman County Applicable*
35 *Substantive Criteria*, below, summarizes the applicable substantive criteria that the Council
36 previously evaluated and determined the certificate holder could satisfy.

¹⁷ The Council must apply the Land Use standard in conformance with the requirements of ORS 469.504.

Table 1: Sherman County Applicable Substantive Criteria

| Sherman County Zoning Ordinance (SCZO) | |
|--|---|
| <i>Article 3 – Use Zones</i> | |
| Section 3.1 | Exclusive Farm Use, F-1 Zone |
| Section 3.1(1) | General Purpose |
| Section 3.1(2) | Uses Permitted |
| Section 3.1(3) | Conditional Uses Permitted |
| Section 3.1(4) | Dimensional Standards/Setback Requirements |
| <i>Article 4 – Supplementary Provisions</i> | |
| Section 4.9 | Compliance with and Consideration of State and Federal Agency Rules and Regulations |
| Section 4.13 | Additional Conditions to Development Proposals |
| <i>Article 5 – Conditional Uses</i> | |
| Section 5.2 | General Criteria |
| Section 5.8 | Standards Governing Specific Conditional Uses |
| Section 5.8(14) | Public Facilities and Services |
| Section 5.8(20) | Non-farm Uses in an F-1 Zone |
| Sherman County Ordinances | |
| Ordinance No. 39-2007 ¹⁸ | Setback Ordinance for Wind Power Generation Siting |
| Transportation System Plan (2015 Update) | |
| Section 7 | Rural Road Design Standards |
| Sherman County Comprehensive Plan | |
| Section VIII Planning Process and Citizen Involvement Goal I: Policy I, II | |
| Section XI Physical Characteristics Goal I: Policy I; Goal II; Goal III; Goal IV; Goal V; Goal VI, Policy VII; Goal VII; Goal VIII | |
| Section XII Social Characteristics Goal I, Policy I, IX, X; Goal II, Policy XI, XII | |
| Section XIV Economics Goal I | |
| Section XV Energy Goal I, Policy I | |
| Section XVI Land Use Goal I, Policy IV | |

- 1
- 2 The facility, with proposed changes, could impact the certificate holder’s ability to satisfy the
- 3 applicable substantive criteria contained in Sherman County Zoning Ordinance (SCZO) Section
- 4 5.8(20), specifically the proposed changes to micro-siting corridor. Therefore, the Council

¹⁸ Ordinance 35-2007 was amended on July 15, 2009.

1 provides its evaluation of the certificate holder’s compliance with this applicable substantive
2 criteria below.

3

4 ***SCZO Section 5.8 Standards Governing Specific Conditional Uses***

5

6 ***20 – Non-Farm Uses in an F-1 Zone*** *Non-farm uses, excluding farm related, farm accessory uses,*
7 *or uses conducted in conjunction with a farm use as a secondary uses thereof, may be approved*
8 *upon a finding that each such use:*

9

- 10 1. *Is compatible with farm uses described in ORS 215.203(2);*
- 11 2. *Does not interfere seriously with accepted farming practices on adjacent lands*
12 *devoted to farm use;*
- 13 3. *Does not materially alter the overall land use pattern of the area;*
- 14 4. *Is situated upon generally unsuitable land for the production of farm crops and*
15 *livestock, considering the terrain, adverse soil or land conditions, drainage and*
16 *flooding, vegetation, location and size of the tract, and the availability of necessary*
17 *support resources for agriculture;*

18

19 The changes proposed in RFA6 would occur within a previously approved 29,500 site boundary,
20 where the analysis area remains the same as that previously evaluated by Council. Therefore,
21 the evaluation of SCZO Section 5.8(20) focuses entirely on continued compliance with SCZO
22 Section 5.8(20)(2) because the proposed changes could result in new or differing impacts to
23 accepted farming practices on adjacent lands devoted to farm use.

24

25 ***Potential Facility-related Impacts to Agricultural Soils***

26

27 As presented in RFA6, the new micrositing corridor area has a combination of high value
28 farmland (296 acres), arable land (492 acres), and nonarable land (41 acres) (see RFA6 Table 7).
29 While the changes to micrositing corridor as described as those that would minimize
30 disturbance to farming operations, the proposed changes may result in impacts to accepted
31 farm practices such as temporary soil compaction, weed dispersion from ground disturbance,
32 and temporarily removing agricultural land from production and, therefore, is evaluated. Based
33 on the potential disturbance impact, the Council reviewed the sufficiency of existing conditions
34 CON-SP-01 (IV.E.2), GEN-SP-01 (IV.E.1), OPR-SP-01 (IV.E.3) and PRE-SP-01 (IV.E.4) related to
35 topsoil management; erosion and sediment control; and weed control.

36

37 Condition CON-SP-01 (IV.E.2) requires the certificate holder to manage and salvage
38 approximately 3 feet of temporarily disturbed topsoil, in cultivated areas, by stripping,
39 stockpiling, protecting (with plastic sheeting or mulch) and redistributing soils. Additionally, the
40 condition requires that upon removal of temporary features, the certificate holder shall
41 cultivate the subsoil depth of at least 12 inches and then redistribute the salvaged topsoil to
42 match adjacent grades. Conditions GEN-SP-01 (IV.E.1) and OPR-SP-01 (IV.E.3) require the
43 certificate holder to implement erosion and sediment control measures and conduct routine
44 inspections of the erosion control measures during construction and operation, respectively.

1 PRE-SP-01 (IV.E.4) requires the certificate holder to, prior to construction, develop a weed
2 control plan as approved by the Department in consultation with the Sherman County Weed
3 Control Supervisor. The final approved weed control plan is then required to be implemented
4 during construction and for the life of facility operations. Further, the certificate holder has in
5 place an executed contract with the Sherman County Weed Department for control of noxious
6 weeds consistent with the County’s weed control ordinance and priorities and to meet the
7 requirements of Condition PRE-SP-01. The certificate holder asserts that a contract will remain
8 in place with Sherman County Weed Control Department for annual herbicide spraying of
9 project access roads and turbine pads.

10
11 *Potential Facility-related Impacts to Agricultural Practices*

12
13 The proposed expanded micrositing corridor is predominately within agricultural lands,
14 including high-value farmland, arable and nonarable land. The certificate holder provides
15 detailed maps (see RFA6 Figures 4-6) to demonstrate that the new areas within the micrositing
16 corridor have been selected to minimize impacts to farm practices, such as division of existing
17 farm units. The certificate holder also describe various design measures intended to minimize
18 potential impacts to existing farm practices including consultation with landowners to ensure
19 location of facility components do not create obstacles and using previously disturbed areas for
20 construction laydown yards. Council previously imposed several conditions, consistent with
21 these measures, as further described below.

22
23 Based on review of RFA6 Figures 4-6 and compliance with existing site certificate conditions,
24 Council concludes that the proposed changes to micrositing corridor would not cause a
25 significant change in agricultural land use nor significantly increase the cost of farm practices.
26 For these reasons, Council finds that the facility, with proposed changes, would continue to
27 satisfy the conditional use standards at SCZO Section 5.8(20)(2).

28
29 Directly Applicable State Statutes and Administrative Rules

30
31 Conditional use standards at OAR 660-033-0130(37), effective January 2, 2009, apply directly to
32 the facility, with proposed changes.

33
34 *OAR 660-033-0130(37)(b) Wind Power Generation Facility Minimum Standards, Additional*
35 *Criteria*

36
37 Subsections (b), (c) and (d) of OAR 660-033-0130(37) provide additional criteria for wind power
38 generation facilities located on “arable” or “nonarable” land. OAR 660-033-0130(37)(b) defines
39 “arable land” as “lands that are cultivated or suitable for cultivation, including high-value
40 farmland soils” and provides criteria for locating a facility on arable land. OAR 660-033-
41 0130(37)(c) defines “nonarable land” as land “not suitable for cultivation” and provides that the
42 criteria in subsection (b)(D) apply on nonarable land. Subsection (d) provides that when a
43 proposed wind power generation facility is located on a combination of arable and nonarable
44 lands, then all of the criteria in subsection (b) apply to the entire facility. The facility is approved

1 to be located on a combination of arable and nonarable lands. Accordingly, the criteria in
2 subsection (b) apply to the facility, with proposed changes. These criteria are discussed below.

3
4 (A) Impacts on Agricultural Operations

5
6 OAR 660-033-0130(37)(b)(A) provides that the facility, with proposed changes, must not
7 “create unnecessary negative impacts on agricultural operations conducted on the subject
8 property.” Council previously imposed Condition PRE-LU-02 (IV.D.3) requiring the certificate
9 holder to consult with affected landowners in the design and construction of private access
10 roads to minimize the division of existing farm units. In RFA6, the certificate holder explains
11 that the change in micrositing corridor resulted from implementation of this condition because
12 it resulted in needed to adjust access road locations (see RFA6 Figures 2.2, 2.3, 2.4, 2.10, 2.11,
13 2.12, and 2.15).

14
15 (B) Soil Erosion or Loss

16
17 OAR 660-033-0130(37)(b)(B) provides that “the presence of a proposed wind power facility”
18 must not result in unnecessary soil erosion or loss that could limit agricultural productivity.
19 Potential adverse impacts to soils and measures to avoid or control soil erosion and loss are
20 addressed by the Council’s Soil Protection standard, discussed in Section III.D, *Soil Protection* of
21 this order. The findings in that section indicate that based upon compliance with existing
22 conditions, construction and operation of the facility, with proposed changes, would not result
23 in unnecessary soil erosion or loss that would reduce the productivity of soil for crop
24 production.

25
26 (C) Soil Compaction

27
28 OAR 660-033-0130(37)(b)(C) provides that facility construction or maintenance activities must
29 not result in unnecessary soil compaction that reduces the productivity of soil for crop
30 production. Potential adverse impacts to soils and measures to avoid or control soil compaction
31 are addressed by the certificate holder’s Habitat Mitigation and Revegetation Plan (HMRP)
32 required to be implemented following construction completion per existing site certificate
33 Condition PRE-FW-01 (IV.M.1). The HMRP requirements include consultation with the Sherman
34 County Soil and Water Conservation District to identify proper procedures for restoring
35 agricultural quality to its pre-disturbance condition, which would include de-compaction
36 procedures. The Council finds, based upon compliance with Condition PRE-FW-01 (IV.M.1) that
37 construction and operation of the facility, with proposed changes, would not result in
38 unnecessary soil compaction that would reduce the productivity of soil for crop production.

39
40 (D) Weed Control

41
42 OAR 660-033-0130(37)(b)(D) provides that facility construction or maintenance activities must
43 not result in the “unabated introduction or spread of noxious weeds and other undesirable
44 weeds species.” To ensure compliance with this rule, the Council previously imposed Condition

1 PRE-SP-01 (IV.E.4) which requires the certificate holder to, prior to construction, develop a
2 weed control plan as approved by the Department in consultation with the Sherman County
3 Weed Control Supervisor. The certificate holder has submitted a final Weed Control Plan in
4 compliance with this condition, which is then required to be implemented during construction
5 and for the life of facility operations.

6
7 Based on the above analysis and compliance with existing site certificate conditions, the Council
8 finds that the facility, with proposed changes, would continue to satisfy the requirements of
9 OAR 660-033-0130(37)(b).

10
11 **Conclusions of Law**

12
13 Based on the foregoing findings and the evidence in the record, and subject to compliance with
14 existing site certificate conditions, the Council finds that the facility, with proposed changes,
15 would continue to comply with the Land Use standard.

16
17 **III.F. Protected Areas: OAR 345-022-0040**

18
19 *(1) Except as provided in sections (2) and (3), the Council shall not issue a site certificate*
20 *for a proposed facility located in the areas listed below. To issue a site certificate for a*
21 *proposed facility located outside the areas listed below, the Council must find that,*
22 *taking into account mitigation, the design, construction and operation of the facility are*
23 *not likely to result in significant adverse impact to the areas listed below. References in*
24 *this rule to protected areas designated under federal or state statutes or regulations are*
25 *to the designations in effect as of May 11, 2007:*

26
27 *(a) National parks, including but not limited to Crater Lake National Park and Fort*
28 *Clatsop National Memorial;*

29
30 *(b) National monuments, including but not limited to John Day Fossil Bed National*
31 *Monument, Newberry National Volcanic Monument and Oregon Caves National*
32 *Monument;*

33
34 *(c) Wilderness areas established pursuant to The Wilderness Act, 16 U.S.C. 1131 et*
35 *seq. and areas recommended for designation as wilderness areas pursuant to 43*
36 *U.S.C. 1782;*

37
38 *(d) National and state wildlife refuges, including but not limited to Ankeny, Bandon*
39 *Marsh, Baskett Slough, Bear Valley, Cape Meares, Cold Springs, Deer Flat, Hart*
40 *Mountain, Julia Butler Hansen, Klamath Forest, Lewis and Clark, Lower Klamath,*
41 *Malheur, McKay Creek, Oregon Islands, Sheldon, Three Arch Rocks, Umatilla, Upper*
42 *Klamath, and William L. Finley;*
43

- 1 (e) National coordination areas, including but not limited to Government Island,
2 Ochoco and Summer Lake;
- 3
- 4 (f) National and state fish hatcheries, including but not limited to Eagle Creek and
5 Warm Springs;
- 6
- 7 (g) National recreation and scenic areas, including but not limited to Oregon Dunes
8 National Recreation Area, Hell's Canyon National Recreation Area, and the Oregon
9 Cascades Recreation Area, and Columbia River Gorge National Scenic Area;
- 10
- 11 (h) State parks and waysides as listed by the Oregon Department of Parks and
12 Recreation and the Willamette River Greenway;
- 13
- 14 (i) State natural heritage areas listed in the Oregon Register of Natural Heritage
15 Areas pursuant to ORS 273.581;
- 16
- 17 (j) State estuarine sanctuaries, including but not limited to South Slough Estuarine
18 Sanctuary, OAR Chapter 142;
- 19
- 20 (k) Scenic waterways designated pursuant to ORS 390.826, wild or scenic rivers
21 designated pursuant to 16 U.S.C. 1271 et seq., and those waterways and rivers listed
22 as potentials for designation;
- 23
- 24 (l) Experimental areas established by the Rangeland Resources Program, College of
25 Agriculture, Oregon State University: the Prineville site, the Burns (Squaw Butte) site,
26 the Starkey site and the Union site;
- 27
- 28 (m) Agricultural experimental stations established by the College of Agriculture,
29 Oregon State University, including but not limited to: Coastal Oregon Marine
30 Experiment Station, Astoria Mid-Columbia Agriculture Research and Extension
31 Center, Hood River Agriculture Research and Extension Center, Hermiston Columbia
32 Basin Agriculture Research Center, Pendleton Columbia Basin Agriculture Research
33 Center, Moro North Willamette Research and Extension Center, Aurora East Oregon
34 Agriculture Research Center, Union Malheur Experiment Station, Ontario Eastern
35 Oregon Agriculture Research Center, Burns Eastern Oregon Agriculture Research
36 Center, Squaw Butte Central Oregon Experiment Station, Madras Central Oregon
37 Experiment Station, Powell Butte Central Oregon Experiment Station, Redmond
38 Central Station, Corvallis Coastal Oregon Marine Experiment Station, Newport
39 Southern Oregon Experiment Station, Medford Klamath Experiment Station, Klamath
40 Falls;
- 41
- 42 (n) Research forests established by the College of Forestry, Oregon State University,
43 including but not limited to McDonald Forest, Paul M. Dunn Forest, the Blodgett

1 *Tract in Columbia County, the Spaulding Tract in the Mary's Peak area and the*
 2 *Marchel Tract;*

3
 4 *(o) Bureau of Land Management areas of critical environmental concern,*
 5 *outstanding natural areas and research natural areas;*

6
 7 *(p) State wildlife areas and management areas identified in OAR chapter 635,*
 8 *Division 8.*

9 ***

10 **Findings of Fact**

11
 12 The Protected Areas standard requires the Council to find that, taking into account mitigation,
 13 the design, construction, and operation of a proposed facility or facility, with proposed changes,
 14 are not likely to result in significant adverse impacts to any protected area as defined by OAR
 15 345-022-0040. Impacts to protected areas are evaluated based on identification of protected
 16 areas (pursuant to OAR 345-022-0040) within the analysis area and an evaluation of the
 17 following potential impacts during facility construction and operation: excessive noise,
 18 increased traffic, water use, wastewater disposal, visual impacts of facility structures or plumes,
 19 and visual impacts from air emissions.

20
 21 In accordance with OAR 345-001-0010(59)(e) and consistent with the study area boundary, the
 22 analysis area for protected areas is the area within and extending 20 miles from the site
 23 boundary.

24
 25 In RFA6, the certificate holder evaluated multiple online database sources including ArcGIS's
 26 2020 Wilderness Areas of the United States, Bureau of Land Management Resource
 27 Management Plans, National Wild and Scenic Rivers System, Oregon State Parks, Google Earth
 28 and Oregon State University's OAES Branch and Agricultural Experimentation Stations (see
 29 RFA6 Section 6.1.6 and Section 8 References). Based on this review, the certificate holder
 30 confirms that no new protected areas were identified within the 20-mile analysis area since the
 31 Council's 2018 *Final Order on Amendment 5*, which also confirmed that no new protected areas
 32 had been identified since the Council's *Final Order on the ASC*. The protected areas within the
 33 analysis area, in Oregon, as previously identified are presented in Table 2 below:

34 **Table 2: Protected Areas within Analysis Area (Oregon) and Distance from Site Boundary**

| Protected Area | Distance (miles) and Direction |
|--|--------------------------------|
| Columbia Basin Agriculture Research Center | 0.4 Southwest |
| Lower Deschutes Wildlife Area | 1.8 Southwest |
| Deschutes Federal Wild and Scenic River | 2.3 West |
| Deschutes State Scenic Waterway (Pelton Dam to Columbia River) | 2.4 West |
| Columbia River Gorge National Scenic Area | 2.7 West |
| Deschutes River State Recreation Area | 4.3 West |
| John Day Federal Wild and Scenic River | 5.2 East |

Table 2: Protected Areas within Analysis Area (Oregon) and Distance from Site Boundary

| Protected Area | Distance (miles) and Direction |
|--|--------------------------------|
| John Day State Scenic Waterway (Parrish Creek to Tumwater Falls) | 5.3 East |
| John Day Wildlife Refuge | 5.3 East |
| Heritage Landing (Deschutes) | 5.4 West |
| JS Burres State Recreation Site / BLM Cottonwood Facility | 6.8 Southeast |

1
 2 As presented in Table 2, *Protected Areas within Analysis Area and Distance from Site Boundary*,
 3 the majority of the listed protected areas are located at least three miles from the facility site
 4 boundary. As previously identified in the *Final Order on ASC*, the protected areas closest to the
 5 site boundary include the Columbia Basin Agriculture Research Center (0.4 mile), Lower
 6 Deschutes Wildlife Area (1.8 mile), and Deschutes Federal Wild and Scenic River (2.3 miles).
 7 Because the amendment request would not result in a different analysis area or changes in
 8 facility construction or operational impacts (no changes in noise levels, transport or haul routes,
 9 water use or wastewater disposal, or visual impacts), and because there are no new protected
 10 areas, the Council finds that RFA6 would not result in impacts not previously evaluated and rely
 11 on its previous findings of compliance for this standard.

12
 13 **Conclusions of Law**

14
 15 Based on the foregoing findings, the Council concludes that the design, construction and
 16 operation of the facility, with proposed changes, would not be likely to result in significant
 17 adverse impacts to any protected areas, in compliance with the Council’s Protected Area
 18 standard.

19
 20 **III.G. Retirement and Financial Assurance: OAR 345-022-0050**

21
 22 *To issue a site certificate, the Council must find that:*

23
 24 *(1) The site, taking into account mitigation, can be restored adequately to a useful, non-*
 25 *hazardous condition following permanent cessation of construction or operation of the*
 26 *facility.*

27
 28 *(2) The applicant has a reasonable likelihood of obtaining a bond or letter of credit in a*
 29 *form and amount satisfactory to the Council to restore the site to a useful, non-*
 30 *hazardous condition.*

31
 32 **Findings of Fact**

33
 34 The Retirement and Financial Assurance standard requires a finding that the facility site can be
 35 restored to a useful, non-hazardous condition at the end of the facility’s useful life, should
 36 either the certificate holder stop construction or should the facility cease to operate. In

1 addition, it requires a demonstration that the certificate holder has a reasonable likelihood of
2 obtaining a bond or letter of credit to restore the site to a useful, non-hazardous condition.

3
4 For amendments requesting to extend construction deadlines, the Department and Council
5 evaluate whether there have been “changes in fact or law” since the site certificate or amended
6 site certificate was issued to determine whether, based on changes in fact or law, the facility
7 would continue to satisfy requirements of the standard. For this standard, the Council evaluates
8 whether there have been changes in unit costs or labor rates that would affect the previous site
9 restoration estimate and whether there have been any changes in the certificate holder’s
10 corporate structure that would impact the likelihood that the certificate holder would continue
11 to demonstrate a likelihood of obtaining a bond or letter of credit in the amount necessary for
12 site restoration.

13
14 *Restoration of the Site Following Cessation of Construction or Operation*

15
16 OAR 345-022-0050(1) requires the Council to find that the site of a proposed facility or facility,
17 with proposed changes, can be restored to a useful non-hazardous condition at the end of the
18 facility’s useful life, or if construction of the facility were to be halted prior to completion.
19 Restoring the site to a useful, nonhazardous condition upon permanent cessation of
20 construction or operations would involve the following tasks and actions, as evaluated in the
21 ASC:

- 22
- 23 • Remove turbines, towers, and blades using cranes and other conventional equipment.
24 Recyclable and reusable materials will be recycled and reused to the extent practical.
25 Other materials will be disposed of in accordance with all applicable federal, state, and
26 local laws in nearby landfills.
 - 27 • Remove concrete foundations to a minimum of three feet below the ground level, and
28 grade adjacent soils to cover, so that tilling and farming can resume. Concrete would be
29 disposed of at a landfill or buried on the property at least three feet below the ground
30 level, with the landowners’ permission.
 - 31 • Remove roads, unless the farmer(s) desire to have the road remain on their property.
32 Gravel would be removed by standard equipment and used for another project or
33 disposed of in accordance with all federal, state, and local laws. Areas beneath removed
34 roads would be disked or tilled to restore compacted soils to farmable condition.
 - 35 • Underground collector lines would be abandoned in place, at least 3 feet below the
36 ground level.
 - 37 • Remove transformers and other substation equipment and recycle or reuse these
38 materials to the extent practical. Remove gravel for reuse in another project or dispose
39 of at a local landfill. Areas beneath removed substations would be disked or tilled to
40 restore compacted soils to farmable condition.
 - 41 • The O&M building would be demolished using conventional equipment. Recyclable and
42 reusable materials would be recycled and reused to the extent practical. Other materials
43 will be landfilled in accordance with all federal, state, and local laws. Areas beneath the

1 removed O&M facilities would be disked or tilled to restore compacted soils to farmable
2 condition.

- 3 • Overhead transmission lines may be transferred to another entity for power
4 transmission.

5
6 Council previously imposed conditions obligating the certificate holder to prevent the
7 development of conditions (Condition IV.C.1 through IV.C.10) on the site that would preclude
8 restoration. Because there are no changes to the tasks and actions proposed for facility
9 decommissioning and because there have been no changes in land use practices at the site, the
10 Council finds that the certificate holder would continue to be able to adequately restore to a
11 useful, non-hazardous condition following permanent cessation of construction or operation.

12 *Estimated Cost of Site Restoration*

13
14
15 OAR 345-022-0050(2) requires the Council to find that the certificate holder continues to have a
16 reasonable likelihood of obtaining a bond or letter of credit in a form and *amount* necessary to
17 restore the site of the facility, with proposed changes, to a useful non-hazardous condition
18 [Emphasis added].

19
20 In RFA6, Section 6.1.7 Retirement and Financial Assurance, the certificate holder provides an
21 updated retirement cost estimate summary of approximately \$9.8 million (4th Quarter 2020
22 dollars), or \$11.9 million (4th Quarter 2020 dollars) with contingencies. The site restoration cost
23 estimate was prepared by the certificate holder's consultant, Tetra Tech. The scope of work and
24 individual tasks were established using professional experience, in collaboration with the
25 certificate holder's engineering staff and contractors. Production rates were based on
26 professional knowledge and published standards, including review of "RS Means," a
27 construction cost estimating software. Labor and equipment rates were obtained based on U.S.
28 Department of Labor wage determinations. Typical industry standards were applied including
29 for overhead and fee. The updated decommissioning estimate is provided in Table 3 below.

30
Table 3: Updated Facility Decommissioning Estimate

| Cost Estimate for Site Restoration (Q4 2020 Dollars) | | | |
|---|-----------------|------------------|------------------|
| Cost Estimate Component | Quantity | Unit Cost | Extension |
| Remove turbine blades, hubs and nacelles (per turbine) | 51 | \$43,536 | \$2,220,370 |
| Remove turbine towers (per net ton of steel) | 26,120 | \$149 | \$3,905,484 |
| Remove and load pad transformers (per turbine) | 51 | \$1,686 | \$86,007 |
| Turbine foundation removal (per cubic yard of concrete) | 8,211 | \$63 | \$521,269 |
| Restore turbine pads (per turbine) | 102 | \$3,114 | \$317,646 |
| <u>Met Towers</u> | | | |
| Dismantle and dispose of met towers (per tower) | 2 | \$4,012 | \$8,024 |
| <u>Substations and O&M Facility</u> | | | |
| Dismantle and dispose of substations (per unit) | 1 | \$126,483 | \$126,483 |
| Dismantle and dispose of O&M facility (per unit) | 1 | \$111,908 | \$111,908 |
| <u>Transmission Line</u> | | | |
| Removal of 230-kV transmission line wire (per mile) | 4.3 | \$30,101 | \$129,437 |

| | | | |
|---|----|-------------|---------------------|
| Junction boxes - remove electrical to 4' below grade (per unit) | 12 | \$200 | \$2,409 |
| Access Roads | | | |
| Road removal, grading and seeding (per mile) | 22 | \$18,564 | \$408,413 |
| Temporary Areas | | | |
| Grade and seed temporarily disturbed areas (per acre) | 53 | \$3,114 | \$165,042 |
| General Costs | | | |
| Permits, mobilization, engineering, overhead, utility disconnects (unit cost) | 1 | \$1,818,170 | \$1,818,170 |
| SUBTOTAL | | | \$9,820,675 |
| Performance Bond | | 1% | \$98,206 |
| GROSS COST | | | \$9,918,882 |
| Administration and Project Management | | 10% | \$991,888 |
| Future Developments Contingency | | 10% | \$991,888 |
| TOTAL SITE RESTORATION COST | | | \$11,902,658 |
| TOTAL SITE RESTORATION COST (ROUNDED TO NEAREST \$1,000) | | | \$11,903,000 |

1
 2 Council previously imposed Condition PRE-RT-01 (IV.C.4) requiring that the certificate holder,
 3 prior to construction, provide a bond or letter of credit based on a final retirement cost
 4 estimate of \$14.4 million in 2008 dollars (based on 125 wind turbines). Condition PRE-RT-01
 5 requires that the final retirement cost estimate be based on final facility design and the unit
 6 and general costs illustrated in Table IV.C.1 of the Final Order on the ASC. Table IV.C.1 is based
 7 upon ASC Exhibit W, which utilized the Department’s previously recommended
 8 Decommissioning Cost Estimate Tool.

9
 10 As presented in Table 3 above and in RFA6, the certificate holder provided updated line item
 11 costs based on current labor rates, and adjusted the cost estimate based on final design for 51
 12 wind turbines, reducing the decommissioning estimate from \$14 million in 2008 dollars to \$11
 13 million in 2020 dollars. It is noted that, based on the updated retirement cost estimate, if the
 14 certificate holder maintained 125 wind turbines, the cost estimate would be significantly more
 15 than the 2008 estimate. Based on review of the sources and methods used to provide the
 16 updated decommissioning estimate, and use of a third-party consultant with qualified
 17 experience, the Council finds that the updated \$11 million retirement cost estimate is a
 18 reasonable estimate of an amount satisfactory to restore the facility site to a useful, non-
 19 hazardous condition. Further, Council amends Condition PRE-RT-01 to refer the unit costs of
 20 Table 3 in this order.

21
 22 *Ability of the Applicant (Certificate Holder) to Obtain a Bond or Letter of Credit*

23
 24 OAR 345-022-0050(2) requires the Council to find that the applicant (certificate holder) has a
 25 reasonable likelihood of obtaining a bond or letter of credit in a *form* and amount necessary to
 26 restore the proposed facility site to a useful non-hazardous condition [Emphasis added]. A bond
 27 or letter of credit provides a site restoration remedy to protect the state of Oregon and its
 28 citizens if the certificate holder fails to perform its obligation to restore the site. The bond or
 29 letter of credit must remain in force until the certificate holder has fully restored the site. OAR
 30 345-025-0010(8) establishes a mandatory condition, Condition PRE-RT-01 (IV.C.4), which
 31 ensures compliance with this requirement.

1 In RFA6, the certificate holder requests that Council consider its executed PPA with Puget
2 Sound Energy as sufficient evidence to support a likelihood that the certificate holder would be
3 able to obtain a bond or letter of credit in the amount determined satisfactory by Council to
4 restore the site to a useful nonhazardous condition. The certificate holder asserts that the PPA
5 should be relied upon because it provide the certificate holder assurance that the project would
6 be built with a guaranteed revenue stream. The Council notes that the certificate holder has
7 provided a letter of credit from Liberty Mutual to the Department to cover Phase 1
8 construction. In addition, the certificate holder previously provided a December 19, 2017
9 financial assurance letter from Liberty Mutual Insurance Company (approx. 3 years since
10 issuance), which is an entity included on the Council’s pre-approved financial institution list.
11 The financial assurance letter states that the certificate holder “is qualified for issuance of a
12 single bond in the amount of \$75,000,000 with aggregate capacity of \$75,000,000.”¹⁹ Based on
13 the fact that the certificate holder has obtained a bond from Liberty Mutual for Phase 1 and has
14 received a reasonable recent (less than 5 years) letter from the same entity, the Council finds
15 that the certificate holder has demonstrated a reasonable likelihood of obtaining a bond or
16 letter of credit in a form and amount satisfactory to the Council to restore the site to a useful,
17 nonhazardous condition.

18

19 **Conclusions of Law**

20

21 Based on the foregoing findings of fact, and subject to compliance with the existing and
22 amended conditions, the Council finds that the facility, with proposed changes, would comply
23 with the Council’s Retirement and Financial Assurance standard.

24

25 **III.H. Fish and Wildlife Habitat: OAR 345-022-0060**

26

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

29

30 *(1) The general fish and wildlife habitat mitigation goals and standards of OAR 635-415-*
31 *0025(1) through (6) in effect as of February 24, 2017****

32

33 **Findings of Fact**

34

35 The EFSC Fish and Wildlife Habitat standard requires the Council to find that the design,
36 construction and operation of a proposed facility, or facility with proposed changes, is

¹⁹ GH1AMD4Doc2-1 RFA4 Supplement, p.115, 2017-12-30.

1 consistent with the Oregon Department of Fish and Wildlife’s (ODFW) habitat mitigation policy,
2 goals, and standards, as set forth in OAR 635-415-0025. The ODFW Habitat Mitigation Policy
3 and EFSC Fish and Wildlife Habitat standard creates requirements to mitigate impacts to fish
4 and wildlife habitat, based on the quantity and quality of the habitat as well as the nature,
5 extent, and duration of the potential impacts to the habitat. The policy also establishes a
6 habitat classification system based on value the habitat would provide to a species or group of
7 species. There are six habitat categories; Category 1 being the most valuable and Category 6 the
8 least valuable.

9
10 The analysis area for habitat characterization is 750 feet from 900 foot wide corridors
11 surrounding wind turbines and roads, as well as 750 feet from new roads, substations, staging
12 areas, meteorological towers, and overhead transmission lines.²⁰

13
14 *Habitat Types and Categories in the Proposed Amended Micrositing Corridor*

15
16 In RFA6, the certificate holder provides results of updated and current desktop and field
17 surveys. Desktop surveys were conducted using aerial photography, topographic maps and
18 Oregon Department of Fish and Wildlife (ODFW) Big Game habitat data. A field based habitat
19 survey was conducted from June 6 to 10, 2020, including a 2,181-acre survey area
20 encompassing all 534 acres of new area under review for inclusion in the micrositing corridor.
21 Habitat was then mapped using data collected during field surveys using ArcGIS Collector
22 software. Based on the desktop and field surveys, habitat within the proposed amended
23 micrositing corridor includes Categories 2, 3, 4 and 6, with Category 6 (agricultural land, the
24 lowest quality habitat) representing 85 percent of total habitat. The identified habitat subtypes
25 within Categories 2, 3, 4 and 5 within the study area include: Agricultural Planted Grasslands,
26 Riparian Forest and Natural Shrubland Complexes, Wetlands, Open Water, Shrub-Steppe and
27 Grassland-steppe

28
29 *Potential Impacts to Habitat*

30
31 *Construction Impacts*

32
33 In RFA6, the certificate holder represents that the facility, with proposed changes, would result
34 in 58 acres of permanent habitat impacts and less than 25 acres of temporary habitat impacts. If
35 additional temporary or temporal impacts to Category 2, 3 and 4 result from the facility, with
36 proposed changes, the certificate holder would be required to mitigate impacts in accordance

²⁰ GH1APPD0c208 Final Order on ASC, p.114. 2009-05-15.

1 with its Habitat Mitigation and Revegetation Plan (HMRP), as required per existing site certificate
2 Condition PRE-FW-01 (IV.M.1) and GEN-FW-01 (IV.M.2).

3
4 As required in the HMRP, to address the temporal loss of temporarily impacted Category 2
5 Shrub-steppe habitat quality and to satisfy ODFW's Category 2 habitat mitigation goal of "no net
6 loss of either habitat quantity or quality and to provide a net benefit of habitat quantity or
7 quality," the certificate holder agrees to enhance or create an additional 0.5 acres of Category 2
8 Shrub-steppe (representing 0.5:1 acre ratio) within a designated mitigation area. This is in
9 addition to revegetation of the temporarily impacted area to pre-impact habitat quality and
10 function. Temporary impacts to the remaining Category 2, 3 and 4 habitat subtypes including
11 CREP, CRP and Grassland would be mitigated through required revegetation efforts, as described
12 further in the draft HMRP. In the event that temporary impacts to Native Grassland habitat
13 subtypes within Category 3 and 4 habitat are not restored within a short timeframe (i.e. 2-3
14 years) following completion of construction, the Department in consultation with ODFW may
15 require compensatory mitigation.

16
17 *Operational Impacts*

18
19 In RFA6, the certificate holder confirms that the final facility layout is anticipated to result in a
20 50 percent reduction in permanent impacts, as previously evaluated (from 132 to 58 acres),
21 primarily due to the decrease from 125 to 51 wind turbines. As presented in Table 2 of the draft
22 HMRP, the certificate holder previously estimated the maximum impact from permanent loss of
23 habitat in Categories 3 (CRP and Grassland) and 4 (Grassland) to be 5.6 acres from the facility,
24 as approved. The maximum impact of the facility, as approved, from permanent loss within
25 Category 6 habitat is estimated at 49 acres.²¹

26
27 *Potential Impacts to State Sensitive Species*

28
29 In RFA6, the certificate holder identifies that 2020 survey results identified one sensitive species
30 (common nighthawk), two previously identified, occupied red-tailed hawk nests. Council
31 previously imposed several conditions to ensure avoidance and minimization of potential
32 impacts to avian species including PRE-FW-01, PRE-FW-02, PRE-FW-03, PRE-DC-02 and GEN-
33 FW-04. These conditions require preconstruction surveys to identify presence of nest sites to
34 ensure construction activities are restricted within a certain distance from the nest site during
35 sensitive nesting and breeding seasons; and that structures are designed to minimize impacts

²¹ Impacts to Category 6 habitat do not require compensatory mitigation, per ODFW Policy and the EFSC Fish and Wildlife standard, and would be restored following construction per agreements with the landowner.

1 to avian species. Based on request for review by ODFW, no additional conditions or restrictive
2 measures were recommended. Therefore, Council continues to find that these conditions are
3 sufficient for minimizing potential adverse impacts from wind facility components to avian
4 species.

5
6 In RFA6, the certificate holder requests to amend Condition GEN-FW-04 to remove the
7 requirement to install anti-perching devices and replace with spiral markers. The certificate
8 holder requests the proposed change to Condition GEN-FW-04 because they assert that anti-
9 perching devices are not a recommended APLIC design measure. APLIC (2006) states, “perch
10 discouragers are intended to move birds from unsafe locations to a safe location and do not
11 *prevent* perching” and that “electrocution risk may increase if perch discouragers are installed
12 on long consecutive spans without providing alternative perch sites.²² Certificate holder
13 explains that its electrical designs follow the APLIC guidance for 40 inches vertical separation
14 and 60 inches horizontal separation (isolation) between energized conductors and second point
15 of contact to reduce the likelihood of electrocution based on bird sizes. The certificate holder
16 explains that facility 34.5 kV collector lines would be buried to minimize risk to birds, and that
17 any 34.5 kV riser poles into the substation would have appropriate APLIC recommended covers
18 and precautions. The certificate holder describes that perch diverters are used as nesting sites
19 for ravens, which causes ongoing maintenance issues.

20
21 Based on a conference call on December 16, 2020 with certificate holder, Department and
22 ODFW, ODFW’s Jeremy Thompson provided confirmation that perch diverters were not the
23 preferred technology and that spiral markers along Grass Valley Canyon would be a more
24 effective, improved technology to minimize avian collision risk at transmission structures.²³
25 ²⁴The Council reviewed the current APLIC guidance and concurs that perch diverters are not a
26 recommended transmission line design measure. Based on this review, in conjunction with
27 ODFW’s comments, Council amends Condition GEN-FW-04 but with clarification that the

²² GHAMD6 DPO Comments Certificate Holder Avangrid Hutchinson 2020-01-15.

²³ In comments on the DPO, ODFW District Biologist reaffirmed that anti-perch devices are no longer recommended at wind facilities, and concurred with recommended amended Condition GEN-FW-04. GH1AMD6 DPO Comments Thompson ODFW. 2020-12-28.

²⁴ In comments on the DPO, Ms. Gilbert expressed concerns that recommended amended Condition GEN-FW-04 were based on the certificate holder’s final facility design rather than wildlife protection. GH1AMD6 DPO Comments Gilbert 2020-12-18. As described above, the Department consulted with and relies upon comments from ODFW concurring the proposed change from anti-perching devices to spiral markers.

1 location of, or transmission line span to contain spiral markers, be based on consultation with
2 the Department and ODFW, and based on APLIC recommended spacing, as presented below:²⁵

3
4 **Amended Condition GEN-FW-04:** The certificate holder shall design and construct all
5 aboveground transmission line support structures following the practices suggested by the
6 Avian Powerline Interaction Committee (APLIC 2006; APLIC 2012) and install spiral markers
7 over Grass Valley Canyon, based on APLIC spacing recommendations and consultation on
8 number and location (span and segment) with the Department and ODFW. ~~shall install anti-~~
9 ~~perching devices on transmission pole tops and cross arms where the poles are within the~~
10 ~~site or are located within one-quarter mile of any wind turbine.~~

11 [Final Order on ASC, Condition IV.M.8, AMD4; AMD6]

12
13 Council previously imposed Condition OPR-FW-05 (IV.M.11) requiring the certificate holder to
14 implement a Wildlife Monitoring and Mitigation Plan (WMMP). The WMMP requires the
15 certificate holder to conduct short-term and long-term surveys to evaluate wildlife impacts.
16 Specifically, the WMMP requires that the certificate holder conduct raptor nest surveys on 5-
17 year intervals for the life of the facility. The WMMP also requires that the certificate holder
18 conduct a short-term post-construction bird and bat fatality monitoring study and an avian use
19 and behavior study, both of which will provide important data that can be used in adaptive
20 management. The WMMP was previously approved by Council, and reviewed by ODFW. The
21 WMMP addresses previous comments received from ODFW, including that the post-
22 construction bird and bat fatality monitoring study to specify that the sample size of wind
23 turbines include an equal proportion of each wind turbine type, if a mix of wind turbines is
24 selected during final design, and that it include meteorological towers. Including a
25 representative sample of all wind turbine models used at the facility will provide data regarding
26 each wind turbine model's impact on avian and bat species that can be used in adaptive
27 management at the facility and future management recommendations in accordance with the
28 WMMP.²⁶ Results of these post-construction studies would be compared against the WMMP's
29 thresholds of concern that, if exceeded, would require the certificate holder to implement
30 additional mitigation if determined appropriate.

²⁵ Based on review of the proposed order, Council approved amended Condition GEN-FW-04 with modifications to provide clarification and specificity on the location or transmission segment/span for which spiral markers are required to be installed.

²⁶ GHAMD5Doc13, pRFA Reviewing Agency Comment ODFW Thompson, 2018-07-02.

1 **Conclusions of Law**
2

3 Based on the foregoing findings of fact and conclusions, and subject to compliance with existing
4 and amended site certificate conditions, the Council finds that the facility would continue
5 comply with the Council’s Fish and Wildlife Habitat standard.
6

7 **III.I. Threatened and Endangered Species: OAR 345-022-0070**
8

9 *To issue a site certificate, the Council, after consultation with appropriate state agencies,*
10 *must find that:*
11

12 *(1) For plant species that the Oregon Department of Agriculture has listed as*
13 *threatened or endangered under ORS 564.105(2), the design, construction and*
14 *operation of the proposed facility, taking into account mitigation:*
15

16 *(a) Are consistent with the protection and conservation program, if any, that the*
17 *Oregon Department of Agriculture has adopted under ORS 564.105(3); or*
18

19 *(b) If the Oregon Department of Agriculture has not adopted a protection and*
20 *conservation program, are not likely to cause a significant reduction in the*
21 *likelihood of survival or recovery of the species; and*
22

23 *(2) For wildlife species that the Oregon Fish and Wildlife Commission has listed as*
24 *threatened or endangered under ORS 496.172(2), the design, construction and*
25 *operation of the proposed facility, taking into account mitigation, are not likely to*
26 *cause a significant reduction in the likelihood of survival or recovery of the species.*
27

28 **Findings of Fact**
29

30 The Threatened and Endangered Species standard requires the Council to find that the design,
31 construction, and operation of the facility are not likely to cause a significant reduction in the
32 likelihood of survival or recovery of a fish, wildlife, or plant species listed as threatened or
33 endangered by ODFW or Oregon Department of Agriculture (ODA). For threatened and
34 endangered plant species, the Council must also find that the facility is consistent with an
35 adopted protection and conservation program from ODA. Threatened and endangered species
36 are those listed under ORS 564.105(2) for plant species, and ORS 496.172(2) for fish and wildlife

1 species. For the purposes of this standard, threatened and endangered species are those
2 identified as such by either the ODA or the Oregon Fish and Wildlife Commission.²⁷

3
4 The analysis area for threatened or endangered plant and wildlife species is the area within and
5 extending five miles from the site boundary.

6
7 *Potential Impacts to Identified Threatened and Endangered Species*

8
9 In order to identify endangered and threatened species that might occur within the analysis
10 area, the certificate holder conducted an updated and current desktop and field survey. For this
11 amendment request, the certificate holder conducted desktop surveys using ORBIC data (2019),
12 the U.S. Fish and Wildlife Service Information for Planning and Consultation (IPaC) species list
13 (USFWS 2020), the ODA listed plant species for Sherman County (ODA 2020), and the ODFW list
14 of threatened, endangered, and candidate fish and wildlife species in Oregon (ODFW 2019).
15 Additionally, the certificate holder conducted rare plant surveys in 2020 which confirmed that
16 no listed plant species were observed and habitat would not support listed plants.

17
18 Based on 2020 field surveys, the certificate holder did not identify the presence of any state
19 listed threatened and endangered species. Species with the potential to occur within the
20 analysis area include the North American wolverine, Washington ground squirrel, Snake River
21 chinook salmon, northern wormwood, and Laurence’s milkvetch. This list of species, with the
22 exception of species no longer listed, was previously evaluated by Council for the facility.

23
24 The Council concludes that because the site boundary and analysis area have not changed,
25 because the site boundary is predominantly Category 6 habitat and there were no state listed
26 threatened and endangered species, that the facility with proposed changes would not be likely
27 to cause a significant reduction in the likelihood or survival of any species listed as threatened
28 or endangered.

29
30 Council previously imposed conditions to minimize potential impact to threatened and
31 endangered species, which would continue to apply to the facility, with proposed changes.
32 Conditions PRE-TE-01 (IV.L.1), PRE-TE-02 (IV.L.2), and PRE-TE-03 (IV.L.3) require a pre-
33 construction database review for documentation of nesting bald eagles and peregrine falcon;

²⁷ Although the Council’s Threatened and Endangered Species standard does not address federally-listed
threatened or endangered species, a certificate holder must comply with all applicable federal laws, including
laws protecting those species, independent of the site certificate.

1 preparation of sensitive wildlife area maps during construction activities; and a pre-
2 construction field survey for threatened and endangered species.²⁸

3

4 **Conclusions of Law**

5

6 Based on the foregoing findings of fact and conclusions, and subject to compliance with the
7 existing site certificate conditions, the Council finds that the facility, with proposed changes,
8 would comply with the Council’s Threatened and Endangered Species standard.

9

10 **III.J. Scenic Resources: OAR 345-022-0080**

11

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

18

19 **Findings of Fact**

20

21 The Scenic Resources standard requires the Council to find that the facility would not cause a
22 significant adverse impact to identified scenic resources and values. To be considered under the
23 standard, scenic resources and values must be identified as significant or important in local land
24 use plans, tribal land management plans, and/or federal land management plans.

25

26 The analysis area for scenic resources includes the area within and extending 20 miles from the
27 site boundary. There are no lands administered by tribal governments within the analysis area.

28

29 The analysis area for scenic resources includes the area within and extending 10 miles from the
30 site boundary.²⁹ There are no lands administered by tribal governments within the analysis
31 area.

32

33

34

²⁸ In RFA6, the certificate holder requests that Condition PRE-TE-01 be removed because bald eagle and peregrine falcon have been delisted. Because the condition was originally imposed based on its status in 2009-11, the Council removes the condition because the species referenced in the condition are no longer listed.

²⁹ GH1APPD0c208 Final Order on ASC, p. 86, 2009-05-15.

1 Applicable Land Use Plans

2
 3 For amendments requesting to extend construction deadlines, the Department and Council
 4 evaluate whether there have been “changes in fact or law” since the site certificate or amended
 5 site certificate was issued to determine whether, based on changes in fact or law, the facility
 6 would continue to satisfy requirements of the standard. The certificate holder reviewed
 7 updates to relevant land use and management plans, including:

- 8
- 9 • Management Plan for the Columbia River Gorge National Scenic Area, September 1992,
 10 revised May 10, 2004: Updated in 2016;
 - 11 • Lewis and Clark National Historic Trail Comprehensive Plan and Management and Use,
 12 January 1982: Updated to the Lewis and Clark National Historic Trail Long-Range
 13 Interpretive Plan, dated September 2018;
 - 14 • Sherman County [Oregon] Comprehensive Land Use Plan 1994, revised June 2003:
 15 Updated in 2007;
 - 16 • Comprehensive Plan for Wasco County [Oregon], August 25, 1983: Updated in June
 17 2010; and
 - 18 • Gilliam County [Oregon] Comprehensive Land Use Plan, October 25, 2000: Updated in
 19 May 2017.

20
 21 Based on the relevant updates to these plans, the certificate holder affirms that there are no
 22 new important scenic resources or values beyond those that were previously evaluated by the
 23 Council. The Council presents the applicable land use plans with significant or important scenic
 24 resources in Table 4, *Summary of Applicable Land Use Plans and Scenic Resources within the*
 25 *Analysis Area* below.

26
Table 4: Summary of Applicable Land Use Plans and Scenic Resources within the Analysis Area

| Applicable Land Use Plans for Analysis Area | Important or Significant Resource Identified within Analysis Area |
|---|---|
| Sherman County Comprehensive Land Use Plan (Amended 2007) | No |
| Management Plan for the Columbia River Gorge National Scenic Area (Revised May 2004) | Yes |
| John Day Proposed Management Plan, Two Rivers and John Day Resource Management Plan Amendments and Final Environmental Impact Statement (June 2001) | Yes |
| National Historic Trail and Mormon Pioneer National Historic Trail (August 1999) | Yes |
| Lewis and Clark National Historic Trail Comprehensive Plan for and Management and Us (January 1998) | Yes |
| Lower Deschutes River Management Plan and Final Environmental Impact Statement (January 1993) | Yes |

Table 4: Summary of Applicable Land Use Plans and Scenic Resources within the Analysis Area

| Applicable Land Use Plans for Analysis Area | Important or Significant Resource Identified within Analysis Area |
|--|---|
| Proposed Two Rivers Resource Management Plan Final Environmental Impact Statement (September 1985) | No |
| Spokane Resource Management Plan Record of Decision (May 1987) | No |
| Journey Through Time Management Plan (April 1996) | Yes |
| Comprehensive Plan for Wasco County [Oregon] (June 2010) | No |
| Gilliam County [Oregon] Comprehensive Land Use Plan (May 2017) | No |

1
2 Significant or important scenic resources previously identified in applicable land use plans
3 within the analysis area include:³⁰

- 4
- 5 • Lands within the Columbia River Gorge National Scenic Area (CRSNSA)
 - 6 • State Route 14 within CRGNSA
 - 7 • Lower Deschutes River and corridor
 - 8 • John Day River and corridor
 - 9 • Journey Through Time Scenic Byway
 - 10 • Oregon National Historic Trail (high-potential sites)
 - 11 • Sherman County landscape

12
13 Because the amendment request would not result in a different analysis area or changes in
14 facility construction or operational impacts (no changes in visual impacts), and because there
15 are no new scenic resources, the Council finds that RFA6 would not result in impacts not
16 previously evaluated and rely on its previous findings of compliance for this standard.

17
18 **Conclusion of Law**

19
20 Based on the foregoing findings of fact and conclusions of law, the Council finds that the facility,
21 with proposed changes, would continue to comply with the Council’s Scenic Resources
22 standard.

23

³⁰ GH1APPD0c208 Final Order on ASC, Table IV.G.1, 2009-05-19.

1 **III.K. Historic, Cultural, and Archaeological Resources: OAR 345-022-0090**

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

6
7 *(a) Historic, cultural or archaeological resources that have been listed on, or would*
8 *likely be listed on the National Register of Historic Places;*

9 *(b) For a facility on private land, archaeological objects, as defined in ORS*
10 *358.905(1)(a), or archaeological sites, as defined in ORS 358.905(1)(c); and*

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

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

16 ***

17 **Findings of Fact**

18
19 Subsection (1) of the Historic, Cultural and Archaeological Resources standard, OAR 345-022-
20 0090, requires the Council to find that a proposed facility, or facility with proposed changes, is
21 not likely to result in significant adverse impacts to identified historic, cultural, or archaeological
22 resources. Pursuant to OAR 345-022-0090(2), the Council may issue a site certificate for a
23 facility that would produce power from wind energy without making findings regarding the
24 Historic, Cultural and Archeological standard; however, the Council may impose site certificate
25 conditions based upon the requirements of the standard.

26
27 The analysis area for the evaluation of potential impacts to identified historic, cultural or
28 archeological resources, as defined in the project order, is the area within the site boundary.
29 However, the certificate holder has historically included results of literature reviews of survey
30 results within 1-mile of the site boundary.

31
32 *Description of Discovery Measures*

33
34 As described in Section II.A. *Requested Amendment*, proposed RFA6 facility changes include a
35 request to extend the construction completion deadline by 18-months, add 534 acres to the
36 micrositing corridor and amend or remove conditions previously imposed under this standard.
37 To evaluate potential impacts from the proposed changes, the certificate holder provided an
38 updated literature review utilizing the Oregon State Historic Preservation Office (SHPO)
39 databases of cultural resources (Oregon Archaeological Records Remote Access (OARRA) and
40 Historic Sites Database), for recorded surveys or resources within 1-mile of analysis area. In the
41 Cultural Resources Survey Report Addendum, dated September 2020, the certificate holder
42 affirms that there were no additional surveys or resources identified through the database
43 review, other than those previously identified on the record of ASC Exhibit S and amendment
44 proceedings for the facility.

1
2 The certificate holder also conducted “non-collection” pedestrian cultural resource surveys on
3 June 1-5, 2020 and July 27-28, 2020, including subsurface probing, of a 553-acre survey area
4 (i.e. area within proposed amended micrositing corridor). Survey methods included survey
5 personnel walking 20-meter transects, consistent with SHPO’s 2016 Guidelines for Conducting
6 Field Archeology in Oregon.

7
8 *Historic and Cultural Resource Impact Assessment*
9

10 The 2020 pedestrian surveys identified 7 new cultural resources including 1 historic,
11 aboveground site, 5 archeological sites and 1 isolate. The certificate holder previously
12 conducted literature and pedestrian-level cultural surveys within the analysis area, resulting in
13 identification of 16 cultural resources. Of the 7 new cultural resources identified in 2020, the
14 certificate holder recommends that the resources not be considered likely eligible for listing on
15 the National Register of Historic Places (NRHP). Identifies resources include: Joseph C. Hockman
16 Farmstead Garage (historic site); GH-BB-02, GH-BB-03, GH-Site-06, GH-Site-04, and GH-Site-09
17 (archeological sites); and GH-BB-ISO-01 (isolate). An impact evaluation of these resources is
18 presented below.

19
20 *Joseph C. Hockman Farmstead Garage (historic site)*
21

22 The Joseph H. Hockman Farmstead Garage consists of a standing garage building with
23 associated remnants of farm equipment. Based on comparison of historic photographs, the
24 certificate holder describes that the historic site is the only extant structure that comprised at
25 least a farmhouse, garage and a barn; but, the barn and farmhouse were demolished between
26 1954 and 1994. Certificate holder identified that there was no available information linking the
27 property to a significant person. Based on a detailed evaluation provided in the Cultural
28 Resources Survey Report Addendum, dated September 2020, the certificate holder
29 recommends that the historic site be considered not likely eligible for NRHP-listing. On
30 November 2, 2020, the Department received concurrence from SHPO’s Jason Allen that the
31 Joseph H. Hockman Farmstead Garage is not NRHP-eligible.³¹ Therefore, based on SHPO’s
32 determination of not likely eligible for NRHP-listing, the Council finds that potential
33 construction or operational direct (disturbance) or indirect (visual) impacts to the site would
34 not be significant.

35
36

³¹ GH1AMD6. pRFA6 Reviewing Agency Comment SHPO J. Allen. 2020-11-03.

1 *GH-BB-02*

2
3 GH-BB-02 is an archeological site consisting of remnants of a collapsed historical bridge. The
4 forecasted dates of use of the bridge, before collapse, is 1850 to 1950. The site is represented
5 as in poor condition, more than 95 percent destroyed. Based on a detailed evaluation provided
6 in the Cultural Resources Survey Report Addendum, dated September 2020, the certificate
7 holder recommends that the historic site be considered not likely eligible for NRHP-listing.

8
9 GH-BB-02 is considered an archeological site, as defined in ORS 385.905(1)(a), and therefore
10 impacts are evaluated under OAR 345-022-0090(1)(b) of the Historic, Cultural and
11 Archaeological Resources standard. Based on the certificate holder’s draft amended CRMP, as
12 provided in Attachment D of this order, impacts to the resource would be avoided via 15-foot
13 buffer. Based on avoidance of impacts to the resource and compliance with the CRMP in
14 accordance with Condition CON-HC-01, the Council finds that the resource would not be
15 impacted.

16
17 *GH-BB-03*

18
19 GH-BB-03 is an archeological site consisting of a refuse scatter with a disarticulated windmill
20 and water trough. The site represents agricultural-related refuse dumping typical with farm
21 use. Based on a detailed evaluation provided in the Cultural Resources Survey Report
22 Addendum, dated September 2020, the certificate holder recommends that the historic site be
23 considered not likely eligible for NRHP-listing.

24
25 GH-BB-03 is considered an archeological site, as defined in ORS 385.905(1)(a), and therefore
26 impacts are evaluated under OAR 345-022-0090(1)(b) of the Historic, Cultural and
27 Archaeological Resources standard. Based on the certificate holder’s draft amended CRMP, as
28 provided in Attachment D of this order, impacts to the resource would be avoided via 15-foot
29 buffer. Based on avoidance of impacts to the resource and compliance with the CRMP in
30 accordance with Condition CON-HC-01, the Council finds that the resource would not be
31 impacted.

32
33 *GH-Site-06*

34
35 GH-Site-06 is an archeological site interpreted as an agricultural locality including a standing
36 windmill, hand-constructed stone retaining wall, an abandoned road and stone pile of
37 indeterminate function. The forecasted dates of use of the site are between 1934 and 1960.
38 The site is represented as being in good condition, with 5 to 40 percent destruction. Based on a
39 detailed evaluation provided in the Cultural Resources Survey Report Addendum, dated
40 September 2020, the certificate holder recommends that the historic site be considered not
41 likely eligible for NRHP-listing.

42
43 GH-Site-06 is considered an archeological site, as defined in ORS 385.905(1)(a), and therefore
44 impacts are evaluated under OAR 345-022-0090(1)(b) of the Historic, Cultural and

1 Archaeological Resources standard. Based on the certificate holder’s draft amended CRMP, as
2 provided in Attachment D of this order, impacts to the resource would be avoided via 15-foot
3 buffer. Based on avoidance of impacts to the resource and compliance with the CRMP in
4 accordance with Condition CON-HC-01, the Council finds that the resource would not be
5 impacted.

6

7 *GH-Site-04*

8

9 GH-Site-04 (35SH0217) is an archeological site recorded as a standing windmill, a hand
10 constructed stone retaining wall, an abandoned road, and a stone pile of indeterminate
11 function. The site is estimated to have been used between 1934 and 1960. The site is
12 recommended as not likely eligible for NRHP-listing.

13

14 GH-Site-04 is considered an archeological site, as defined in ORS 385.905(1)(a), and therefore
15 impacts are evaluated under OAR 345-022-0090(1)(b) of the Historic, Cultural and
16 Archaeological Resources standard. Based on the certificate holder’s draft amended CRMP, as
17 provided in Attachment D of this order, impacts to the resource would be avoided via 15-foot
18 buffer. Based on avoidance of impacts to the resource and compliance with the CRMP in
19 accordance with Condition CON-HC-01, the Council finds that the resource would not be
20 impacted.

21

22 *GH-Site-09*

23

24 GH-Site-09 (35SH0221) is an archeological site recorded as the remains of a historic farmstead
25 encircled by a line of locust trees. The site is interpreted as a location of a former building. The
26 site is estimated to have been in use in 1947 and to have been razed between 1954 and 1970.
27 The site is recommended as not likely eligible for NRHP-listing.

28

29 GH-Site-09 is considered an archeological site, as defined in ORS 385.905(1)(a), and therefore
30 impacts are evaluated under OAR 345-022-0090(1)(b) of the Historic, Cultural and
31 Archaeological Resources standard. Based on the certificate holder’s draft amended CRMP, as
32 provided in Attachment D of this order, impacts to the resource would be avoided via 15-foot
33 buffer. Based on avoidance of impacts to the resource and compliance with the CRMP in
34 accordance with Condition CON-HC-01, the Council finds that the resource would not be
35 impacted.

36

37 *GH-BB-ISO-01*

38

39 GH-BB-ISO-01 consists of two pieces of historic refuse, both pull-tab cans. The resource is
40 recommended as not likely eligible for NRHP-listing.

41

42 GH-BB-ISO-01 is considered an archeological object, as defined in ORS 385.905(1)(c), and
43 therefore impacts are evaluated under OAR 345-022-0090(1)(b) of the Historic, Cultural and
44 Archaeological Resources standard. Based on the certificate holder’s draft amended CRMP, as

1 provided in Attachment D of this order, the resource is located outside of any potential impact
2 areas. Based on avoidance of impacts to the resource as presented in the CRMP and
3 compliance with the CRMP in accordance with Condition CON-HC-01, the Council finds that the
4 resource would not be impacted.

5

6 *Certificate Holder's Proposed Condition Amendments*

7

8 As described in Section II.A. *Requested Amendment*, the certificate holder requests condition
9 amendments of 9 previously imposed conditions under the standard. The Council provides an
10 analysis of the proposed changes in Table 5 below. Comments were received from CTUIR and a
11 member of the public on the proposed condition changes and draft Cultural Resource
12 Mitigation Plan (CRMP). In response to the public comments, the certificate holder provided
13 additional explanation which is presented in Table 5 below. In addition, based on
14 recommendations from CTUIR, the Council adopts additional changes to conditions and edits to
15 the draft CRMP.³²

16

17 Based on the analysis and reasoning presented in the table, the Council amends the conditions
18 as requested, with additional modifications, as presented in red-line in the table, and in
19 Attachment A of this order.

³² GH1AMD6 DPO Comments Gilbert 2020-12-18. GH1AMD6 DPO Comments CTUIR 2021-01-11; 2021-01-14.

Table 5: Council’s Evaluation of Certificate Holder’s Proposed Condition Changes

| Condition No. | Existing Condition | Requested Amended Condition | Certificate Holder Response to DPO Public Comments of Requested Amended Condition | Council Evaluation of Requested Change |
|---------------|--|--|---|--|
| GEN-HC-01 | Prior to and during construction, the certificate holder shall ensure that construction personnel receive training from a cultural resources specialist on how to identify sensitive historic, cultural, and archeological resources present onsite and on measures to avoid accidental damage to identified resource sites. Records of such training must be maintained onsite during construction, and made available to the Department upon request. | Prior to and during construction, the certificate holder shall ensure that construction personnel receive training from a cultural resources specialist on how to identify sensitive historic, cultural, and archeological resources <u>that could be inadvertently uncovered during construction, and on measures to avoid accidental damage to such resources present onsite and on measures to avoid accidental damage to identified resource sites.</u> Records of such training must be maintained onsite during construction, and made available to the Department upon request. | No additional response. | Certificate holder requests that the condition be amended for clarification. The Council considers the modified language to maintain intent of existing condition and that it would not result in a significant adverse impact. |
| GEN-HC-02 | Prior to and during construction, “no access” buffers shall be identified on construction plans and temporarily demarcated in the field if work is planned within 200 feet of known cultural resources that require buffers. The facility Environmental Inspector shall monitor flagged “no access” buffers around archeological sites during construction to prevent accidental damage to cultural resources. These flags or markers shall not be moved or removed during construction activities, and construction personnel shall be advised of these restrictions. | Prior to and during construction, “no access” buffers shall be identified on construction plans and temporarily demarcated in the field if work is planned within 200 feet of known cultural resources that require buffers. The facility Environmental Inspector shall monitor flagged “no access” buffers around archeological sites during construction to prevent accidental damage to cultural resources. These flags or markers shall not be moved or removed during construction activities, and construction personnel shall be advised of these restrictions. | Certificate holder’s qualified archeologist (Tetra Tech) recommends that five resources with the reduced buffers are not eligible for listing on the National Registry of Historic Places and therefore not protected under state or federal law. The proposed 15-foot buffer would ensure the site is avoided in the | Certificate holder requests removal of the condition because it was intended to apply to unevaluated or partially evaluated resources, which has been completed; the certificate holder proposes to modify the buffer distance from 200 to 15 feet for 5 of 22 resources where disturbance may occur in proximity and is reflected in the CRMP rather than in a condition in order to be specific to the resource (buffer would continue to apply to the other resources). Council considers that removal of the condition and |

Table 5: Council’s Evaluation of Certificate Holder’s Proposed Condition Changes

| Condition No. | Existing Condition | Requested Amended Condition | Certificate Holder Response to DPO Public Comments of Requested Amended Condition | Council Evaluation of Requested Change |
|---------------|---|--|--|---|
| | | | event that SHPO’s concurrence is not received before construction. ³³ | incorporation of appropriate buffers in the CRMP would not result in significant adverse impacts. Requirement for flagging in CRMP will specify use of t-posts rather than wooden stakes. ³⁴ |
| PRE-HC-01 | The certificate holder shall design the facility to avoid impacts to sites 35SH217, 35SH220, GH site 6 (above-ground resources) and 35SH219 and GH Isolate 6. | The certificate holder shall design the facility to avoid impacts to sites <u>that have been identified by surveys and recommended to be eligible, unevaluated for listing on the National Register of Historic Places (NRHP), or archeological sites and objects under ORS 358.905(1)(a) and (c), as presented in the CRMP, unless certificate holder obtains the required archeological permit(s) from SHPO. Certificate holder shall identify the sites on the map provided to the Department under</u> | No additional response. | Certificate holder requests the condition language be amended to remove specificity to resource name, establish applicability of avoidance, and incorporate a potential archeological permit. The Council considers that, with the proposed changes (shown in red), the condition would continue to provide the same level of protection to resources and |

³³ Information was provided by certificate holder in response to Ms. Gilbert’s DPO comments.

³⁴ In comments on the record of the DPO, CTUIR Archeologist Shawn Steinmetz recommended that flagging be completed using t-posts rather than wooden stakes to maintain integrity of flagging for exclusion. GH1AMD6 DPO Comments Tribal Government CTUIR Steinmetz 2021-01-14. It is noted that based on Council’s January 22, 2021 review of the proposed order, one of the approved modifications was to correct the language in Table 5 due to transposing of the recommendation, where the proposed order referred to wooden stakes rather than t-posts where the recommendation was intended to refer to t-posts rather than wooden stakes.

Table 5: Council’s Evaluation of Certificate Holder’s Proposed Condition Changes

| Condition No. | Existing Condition | Requested Amended Condition | Certificate Holder Response to DPO Public Comments of Requested Amended Condition | Council Evaluation of Requested Change |
|---------------|---|--|--|--|
| | | PRE-HC-03. 35SH217, 35SH220, GH site 6 (above-ground resources) and 35SH219 and GH Isolate 6. | | would not result in significant adverse impacts. |
| PRE-HC-02 | <p>At least 45 days prior to construction, the certificate holder shall prepare a Cultural Resource Management Plan (the “CRMP”) and shall submit the CRMP to the Department and State Historic Preservation Office (the “SHPO”) for review. The Department must approve the CRMP, in consultation with SHPO, prior to construction.</p> <p>The CRMP shall at a minimum include:</p> <p>(a) Specific protocols and procedures for protecting known cultural resources including imposing a 30-meter buffer and designating as a “no-work zones,” around sites 35SH215, 35SH216, 35SH221, and to the sites identified in Condition V.B.1: 35SH217, 35SH220, GH site 6 (above ground resource), 35SH219 and GH Isolate 6. Both the buffer and no work zones apply to cultural resources, including any additional archeological sites and possible human remains accidentally discovered during construction. The CRMP shall identify how protocols will follow State laws and rules at ORS 358.905-961, ORS 390.235,</p> | <p>At least 45 days prior to construction, the certificate holder shall prepare a Cultural Resource Management Plan (the “CRMP”) and shall submit the CRMP to the Department and State Historic Preservation Office (the “SHPO”) for review. The Department must approve the CRMP, in consultation with SHPO, prior to construction.</p> <p>The CRMP shall at a minimum include:</p> <p>(a) Identification of each resource and specific protocols and procedures for protecting known NRHP-eligible and unevaluated cultural resources including imposing a 30-meter buffer and designating as a “no-work zones,” around sites mapped under PRE-HC-01, and archeological sites and objects under ORS 358.905(1)(a) and (c). 35SH215, 35SH216, 35SH221, and to the sites identified in Condition V.B.1: 35SH217, 35SH220, GH site 6 (above ground resource), 35SH219 and GH Isolate 6. Both the buffer and no work zones apply to cultural resources, including any additional archeological sites and possible human remains accidentally discovered during</p> | <p>Certificate holder requests to clarify inconsistencies in the site certificate because previously text listed specific cultural sites by name, but it was not clear why buffers applied to some sites and not others and did not account for changes in the final design that resulted in known and buffered sites being a significant distance from any planned disturbance.</p> <p>The proposed revisions clarify and restate the Council’s previous findings that all sites determined by SHPO to be eligible for listing on the NRHP are to be avoided.</p> | <p>Certificate holder requests condition language be modified to be consistent with applicable buffer distance and list of resources fully evaluated. The Council considers that the condition changes would maintain the same level of resource protection, with the Council’s changes (shown in red) because the CRMP has been amended with additional management measures for each of the 22 previous and newly identified resources.</p> |

Table 5: Council’s Evaluation of Certificate Holder’s Proposed Condition Changes

| Condition No. | Existing Condition | Requested Amended Condition | Certificate Holder Response to DPO Public Comments of Requested Amended Condition | Council Evaluation of Requested Change |
|---------------|---|---|--|---|
| | <p>OAR 736-051-0090 and ORS 97.740-760 as in effect on the date of this site certificate,, The certificate holder shall submit the CRMP to the State Historic Preservation Office (the “SHPO”) for concurrence and shall provide to the Department documentation confirming SHPO concurrence prior to start of construction.</p> <p>(b) Protocols and procedures for responding to accidental discovery of cultural resources during operations and ongoing maintenance activities.</p> | <p>construction. The CRMP shall identify how protocols will follow State laws and rules at ORS 358.905-961, ORS 390.235, OAR 736-051-0090 and ORS 97.740-760 as in effect on the date of this site certificate,, The certificate holder shall submit the CRMP to the State Historic Preservation Office (the “SHPO”) for concurrence and shall provide to the Department documentation confirming SHPO concurrence prior to start of construction.</p> <p>(b) Protocols and procedures for responding to <u>inadvertent</u> accidental discovery of cultural resources during operations and ongoing maintenance activities.</p> | <p>SHPO concurrence is and continues to be required for removal of the work buffer zones.³⁵</p> | |
| PRE-HC-03 | <p>Before beginning construction of any phase of the facility, the certificate holder shall provide to the Department a map showing the final design locations of all components of that phase of the facility and areas that would be temporarily disturbed during</p> | <p>Before beginning construction of any phase of the facility, the certificate holder shall provide to the Department a <u>confidential</u> map showing the final design locations of all components of that phase of the facility, and areas that would be temporarily disturbed</p> | <p>Certificate holder requests that the resource map be marked as confidential consistent with state law for treating archaeological site and object locations as confidential (ORS 192.345(11); see</p> | <p>Certificate holder requests that the condition be amended for clarification because there have been multiple surveys and reports submitted, not limited to the Archeological Inventory referenced. The Council considers the</p> |

³⁵ Information was provided by certificate holder in response to Ms. Gilbert’s DPO comments.

Table 5: Council’s Evaluation of Certificate Holder’s Proposed Condition Changes

| Condition No. | Existing Condition | Requested Amended Condition | Certificate Holder Response to DPO Public Comments of Requested Amended Condition | Council Evaluation of Requested Change |
|---------------|---|--|--|--|
| | <p>construction, and also showing the areas surveyed by Tetra Tech in preparing the Archeological Inventory for Golden Hills Wind Energy Development included in the Application for a Site Certificate as Attachment S-1. If there are any additional areas where ground-disturbing activities will occur that were not part of the original facility area, the certificate holder shall notify the Department and SHPO to determine whether additional surveys or avoidance measures are necessary.</p> | <p>during construction, and areas that were not included in pedestrian level ground cultural resource surveys, and known cultural resources within the siting corridors, and also showing the areas surveyed by Tetra Tech in preparing the Archeological Inventory for Golden Hills Wind Energy Development included in the Application for a Site Certificate as Attachment S-1. If there are any additional areas where ground-disturbing activities will occur that were not part of the <u>prior pedestrian level ground original facility area surveyed by Project-related cultural resources</u> surveys, the certificate holder shall notify the Department and SHPO to determine whether additional surveys or avoidance measures are necessary.</p> | <p>also SHPO Bulletin #1). However, RFA 6 Section 6 describes the type and character of each cultural site in the project area, and Figure 2 shows the proposed construction areas in detail.³⁶</p> | <p>revised language to be clarifying in its intent, without removal of any previous protection, and would not result in significant adverse impacts.</p> |
| CON-HC-01 | <p>During construction, if any cultural resources are discovered, all work at that location shall cease immediately and the certificate holder shall notify the Department and SHPO to</p> | <p>During construction, <u>the certificate holder shall implement the Cultural Resource Management Plan (“CRMP”) developed under PRE-HC-02, including all inadvertent discovery</u></p> | <p>Certificate holder provided a draft CRMP as part of RFA6, which is also</p> | <p>Certificate holder requests to amend the condition for clarification. Based on review of the language, it is redundant and/or reflected in the</p> |

³⁶ Information was provided by certificate holder in response to Ms. Gilbert’s DPO comments.

Table 5: Council’s Evaluation of Certificate Holder’s Proposed Condition Changes

| Condition No. | Existing Condition | Requested Amended Condition | Certificate Holder Response to DPO Public Comments of Requested Amended Condition | Council Evaluation of Requested Change |
|---------------|--|---|---|---|
| | determine whether it is necessary to have an archeologist travel to the worksite and assess the discovery or monitor construction activities. | protocols and procedures specified in the CRMP if any cultural resources are discovered, all work at that location shall cease immediately and the certificate holder shall notify the Department and SHPO to determine whether it is necessary to have an archeologist travel to the worksite and assess the discovery or monitor construction activities. | attached to the Proposed Order (Attachment D). ³⁷ | CRMP, and would not result in significant adverse impacts. |
| CON-HC-02 | During construction, the certificate holder shall ensure that construction personnel cease all ground disturbing activities in the immediate area if any archaeological or cultural resources are found during construction of the facility until a qualified archaeologist can evaluate the significance of the find. No construction personnel will be allowed in the discovery area except for facility management in consultation with the SHPO. The certificate holder shall notify the | During construction, the certificate holder shall ensure that construction personnel cease all ground disturbing activities in the immediate area if any archaeological or cultural resources are found during construction of the facility until a qualified archaeologist can evaluate the significance of the find. No construction personnel will be allowed in the discovery area except for facility management in consultation with the SHPO. The certificate holder shall notify the | Certificate holder requests deletion of this condition because the same requirements are included in the Inadvertent Discovery Plan, which is part of the CRMP (see Attachment D of this Proposed Order). ³⁸ | Certificate holder requests that the condition be deleted due to redundancy with the requirements of the CRMP, imposed under Condition CON-HC-02. Based on review of the CRMP, the Council agrees and finds that, because there would be no change in protection to resources from condition removal and would not result in significant adverse impacts. |

³⁷ *Id.*

³⁸ *Id.*

Table 5: Council’s Evaluation of Certificate Holder’s Proposed Condition Changes

| Condition No. | Existing Condition | Requested Amended Condition | Certificate Holder Response to DPO Public Comments of Requested Amended Condition | Council Evaluation of Requested Change |
|---------------|--|--|--|---|
| | <p>Department and the SHPO of the find. If the SHPO determines that the resource is significant, the certificate holder shall make recommendations to the Council for mitigation, including avoidance or data recovery, in consultation with the Department, the SHPO, the appropriate Oregon tribes and other appropriate parties. The certificate holder shall not restart work in the affected area until the certificate holder has demonstrated to the Department that it has complied with State archaeological protection and archaeological permit laws in coordination with the SHPO.</p> | <p>Department and the SHPO of the find. If the SHPO determines that the resource is significant, the certificate holder shall make recommendations to the Council for mitigation, including avoidance or data recovery, in consultation with the Department, the SHPO, the appropriate Oregon tribes and other appropriate parties. The certificate holder shall not restart work in the affected area until the certificate holder has demonstrated to the Department that it has complied with State archaeological protection and archaeological permit laws in coordination with the SHPO.</p> | | |
| CON-HC-03 | <p>If any intact physical evidence of the trail is discovered that was not previously identified, the certificate holder shall avoid any disturbance to the intact segments by redesign, reengineering or restricting the area of construction activity. The certificate holder shall promptly notify the Department and the SHPO of the discovery. The certificate holder shall consult with the Department and with the SHPO to determine appropriate mitigation measures.</p> | <p><u>During construction, the certificate holder shall ensure that construction personnel are instructed on the location of the mapped alignment of the Oregon Trail, per Condition GEN-HC-01.</u> If any intact physical evidence of the trail Oregon Trail is discovered that was not previously identified, the certificate holder shall avoid any disturbance to the intact segments by redesign, reengineering or restricting the area of construction activity. The certificate holder shall promptly notify the Department and the SHPO of the discovery <u>and follow procedures for inadvertent discoveries outlined in the CRMP.</u></p> | No additional response. | <p>Certificate holder requests to amend the condition for clarification. Based on review of the language, intended to protect the Oregon Trail, the Council considers the language to be clarifying in its intent, without removal of any previous protection, and would not result in significant adverse impacts.</p> |

Table 5: Council’s Evaluation of Certificate Holder’s Proposed Condition Changes

| Condition No. | Existing Condition | Requested Amended Condition | Certificate Holder Response to DPO Public Comments of Requested Amended Condition | Council Evaluation of Requested Change |
|---------------|--|---|--|---|
| | | The certificate holder shall consult with the Department and with the SHPO to determine appropriate mitigation measures. | | |
| CON-HC-04 | Upon completion of construction, the certificate holder shall consult with the Oregon-California Historic Trails Advisory Council regarding the appropriate content of an interpretive sign. After such consultation, the certificate holder shall place in a publicly accessible location a sign giving notice of the historic background of the facility site and surrounding areas. | Upon completion of Within three years of construction completion, the certificate holder shall consult with the Oregon-California Historic Trails Advisory Council regarding the appropriate content of an interpretive sign. After such consultation, the certificate holder shall place <u>an interpretive sign on the historic background of the facility site and surrounding areas</u> in a publicly accessible location. <u>The certificate holder shall consult with the Department and Sherman County regarding the content of the interpretative sign. a sign giving notice of the historic background of the facility site and surrounding areas.</u> | Certificate holder explains that remnants of the Oregon Trail, such as ruts, associated archaeological deposits, or public interpretation sites, are not within the facility’s impact corridors, which have been surveyed for such resources multiple times. While the Oregon-California Trails Association is a recognized volunteer organization with specialty skills related to identifying and preserving the Oregon Trail and associated resources, it is not a formally designated state, local, or federal agency. ³⁹ | Certificate holder requests that the condition be revised to remove reference to consultation with the Oregon-California Historic Trails Advisory Council because the Council no longer exists, and replace with consultation with the Department and Sherman County. Based on review of the Oregon-California Historic Trails website, the Council affirms the representation and agrees that consultation with the Department and County, because the Oregon Trail is a Goal 5 resource, is an adequate alternative, and would not result in significant adverse impacts. |

1
2

³⁹ *Id.*

1 **Conclusions of Law**
2

3 Based on the foregoing findings of fact and conclusions, the Council finds that the facility, with
4 proposed RFA6 changes, would continue to comply with the Council’s Historic, Cultural, and
5 Archaeological Resources standard.
6

7 **III.L. Recreation: OAR 345-022-0100**
8

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

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

21 ***

22 **Findings of Fact**
23

24 The Recreation standard requires the Council to find that the design, construction, and
25 operation of a facility would not likely result in significant adverse impacts to “important”
26 recreational opportunities. Therefore, the Council’s Recreation standard applies only to those
27 recreation areas that the Council finds to be “important,” utilizing the factors listed in the sub-
28 paragraphs of section (1) of the standard. The importance of recreational opportunities is
29 assessed based on five factors outlined in the standard: special designation or management,
30 degree of demand, outstanding or unusual qualities, availability or rareness, and irreplaceability
31 or irretrievability of the recreational opportunity. The certificate holder evaluates impacts to
32 important recreational opportunities based on the potential of construction or operation of the
33 facility, with proposed changes, to result in any of the following: direct or indirect loss of a
34 recreational opportunity, excessive noise, increased traffic, and visual impacts of facility
35 structures or plumes.
36

37 **Recreational Opportunities within the Analysis Area**
38

39 In RFA6, the certificate holder confirms that no new, important recreational opportunities were
40 identified within the 5-mile analysis area since the Council’s 2018 *Final Order on Amendment 5*,
41 which also confirmed that no new important recreational opportunities had been identified
42 within the analysis area since the Council’s *Final Order on the ASC*. The important recreational
43 opportunities within the 5-mile analysis area include:
44

- 1 • Columbia River Gorge National Scenic Area
- 2 • Deschutes River Corridor
- 3 • Columbia River Corridor
- 4 • Journey Through Time Scenic Byway
- 5 • Oregon National Historic Trail and Barlow Road Cutoff Trail
- 6 • Lewis and Clark National Historic Trail
- 7 • Maryhill Museum of Art
- 8 • Maryhill's Stonehenge
- 9 • DeMoss Springs Memorial Park

10

11 Evaluation of Potential Impacts to Important Recreation Opportunities

12

13 Because the amendment request would not result in a different analysis area or changes in
14 facility construction or operational impacts (no changes in visual impacts), and because there
15 are no new important recreational opportunities, the Council finds that RFA6 would not result
16 in impacts not previously evaluated and rely on its previous findings of compliance for this
17 standard.

18

19 Conclusions of Law

20

21 Based on the foregoing findings of fact and conclusions, the Council finds that the facility, with
22 proposed changes, would continue to comply with the Council's Recreation standard.

1 **III.M. Public Services: OAR 345-022-0110**

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

9
10 *(2) The Council may issue a site certificate for a facility that would produce power from*
11 *wind, solar or geothermal energy without making the findings described in section (1).*
12 *However, the Council may apply the requirements of section (1) to impose conditions on*
13 *a site certificate issued for such a facility.*

14 ***

15 **Findings of Fact**

16
17 The Council’s Public Services standard requires the Council to find that the facility, with
18 proposed changes, is not likely to result in significant adverse impacts on the ability of public
19 and private service providers to supply sewer and sewage treatment, water, stormwater
20 drainage, solid waste management, housing, traffic safety, police and fire protection, health
21 care, and schools. Pursuant to OAR 345-022-0110(2), the Council may issue a site certificate for
22 a facility that would produce power from wind energy without making findings regarding the
23 Public Services standard; however, the Council may impose site certificate conditions based
24 upon the requirements of the standard.

25
26 The analysis area for potential impacts to public services from construction and operation of
27 the facility, with proposed changes, is defined as the area within and extending 10-miles from
28 the site boundary.

29
30 **Sewers and Sewage Treatment, Water, and Stormwater Drainage**

31
32 As described in RFA6, the facility, with proposed changes, would not change construction or
33 operational water use or source, sewer or sewage treatment needs, or stormwater drainage from
34 what was previously found by Council. As described in the *Final Order on Amendment 4*, Council
35 found that facility water use would not impact private or public water service providers
36 because water would be secured from an off-site source (e.g., City of Moro and/or City of
37 Wasco) during construction and supplied from an on-site well during operations.

38
39 Council previously found that facility sewage treatment needs would not impact private or
40 public sewage treatment providers because portable toilets would be used during construction
41 and an onsite septic system would be installed for operational use. Council previously found
42 that facility stormwater drainage needs would not impact private or public stormwater
43 drainage systems because the facility would not be connected to a public stormwater drainage
44 system. Based on the Council’s previous reasoning and because the facility, with proposed

1 changes, would not result in changes to water use or source, sewer or sewage treatment needs,
2 or stormwater drainage, the Council finds that the facility, with proposed changes, would not
3 likely result in a significant adverse impact on the ability of public and private providers of
4 water, sewer or sewage treatment, or stormwater drainage to deliver services.

5
6 Solid Waste Management

7
8 Construction and operation of the facility, with proposed changes, would not increase or
9 change the type and amount of solid waste generated during construction or operation
10 previously found by Council. The Council previously imposed Conditions PRE-WM-01 (V.D.1),
11 Construction Waste Management Plan and PRO-WM-01 (V.D.2), Operational Waste
12 Management Plan and found that based on the estimated amount of solid waste generated and
13 compliance with the referenced condition, that the facility would not be likely to result in a
14 significant adverse impact on the ability of public and private providers of solid waste
15 management to deliver services. Conditions PRE-WM-01 (V.D.1), Construction Waste
16 Management Plan and PRO-WM-01 (V.D.2), Operational Waste Management Plan require the
17 certificate holder to develop and implement plans for waste minimization, recycling, and
18 proper management and disposal of non-recyclable hazardous and non-hazardous materials.
19 Based on the Council's previous reasoning and because the facility, with proposed changes,
20 would not result in changes to solid waste generation during construction or operation, the
21 Council finds that the facility, with proposed changes, would not likely result in a significant
22 adverse impact on the ability of public and private providers of solid waste management to
23 deliver services.

24
25 Housing, Police Services, Health Care and Schools

26
27 As described in RFA6, the facility, with proposed changes, would not change the previously
28 estimated temporary or permanent number of workers as found in Council's *Final Order on*
29 *Amendment 4*.⁴⁰ RFA4 assumed there would be 170 average and 300 peak number of workers
30 during construction, and 10 to 15 permanent workers during operations. As described in the
31 *Final Order on Amendment 4*, Council found that there was sufficient supply of hotel rooms and
32 other housing options for construction workers, that temporary construction workers from out
33 of the area tend not to move their families and as such, would not be likely to affect local
34 schools, and that police and health care providers could manage a short-term increase that
35 could occur during facility construction and could handle any permanent increase in demand
36 for services that could result from the small increase in number of permanent new jobs created

⁴⁰ GHAMD5Doc15 Complete Request for Amendment 5, Section 4.13, pp. 45-46, 2018-07-06.

1 by the facility.⁴¹ Based on the Council’s previous reasoning and because the facility, with
2 proposed changes, would not increase the expected number of temporary or permanent
3 workers, the Council finds that the facility, with proposed changes, would not likely result in a
4 significant adverse impact on the ability of public and private providers of housing, police
5 services, health care, and schools to deliver services.

6
7 Traffic Safety

8
9 Construction of the facility, with proposed changes, could affect the ability of public and private
10 providers of traffic safety to deliver services. The certificate holder describes that haul and
11 delivery routes would include Highway 97 and county roads. RFA6 Attachment 9 provides the
12 certificate holder’s maintenance agreement with Sherman County of roads to upgrade or
13 maintain during construction. The Council previously imposed Condition PRE-PS-02 (V.C.10)
14 requiring the certificate holder to implement a construction traffic management plan that
15 would address and minimize potential adverse impacts that could arise from construction-
16 related traffic flow to public providers of traffic safety.

17
18 The Council previously imposed conditions related to road design, construction, and restoration
19 of any damage. Condition PRE-LU-01 (IV.D.1) requires the certificate holder to demonstrate
20 that new or substantially modified public roads meet or exceed road standards in accordance
21 with the County’s transportation plan, and that private road connections to public roads also
22 meet County road requirements. Condition PRE-LU-13 (IV.D.20) requires the certificate holder
23 to secure any local permits necessary for work in county rights of way or road approaches onto
24 county roads. Condition PRE-LU-12 (IV.D.19) requires the certificate holder, in consultation with
25 the County road department, to conduct a pre-construction survey of public road conditions of
26 transportation routes to the facility, fund an escrow account with an estimated cost of possible
27 road damage attributed to facility construction vehicle use, and conduct a post-construction
28 inspection of County roads used and impacted. These conditions would continue to apply to the
29 facility, with proposed changes, and would address and minimize potential adverse impacts
30 that could arise to public providers of traffic safety from facility-related road damage during
31 construction.⁴²

32

⁴¹ GH1AMD4Doc25 Final Order on Amendment 4, Section III.A.13, 2018-04-27.

⁴² Issues that could result with air traffic safety are discussed in Section III.P.1 *Public Health and Safety Standards for Wind Energy Facilities* (OAR 345-024-0010).

1 The Council finds that compliance with existing conditions would address and minimize
2 potential adverse impacts from construction and operation of the facility, with proposed
3 changes, to public providers of traffic safety.⁴³

4
5 Fire Protection

6
7 In RFA6, the certificate holder explains that the facility, with proposed changes, would not alter
8 the facility's impact on the ability of public and private service providers to provide fire
9 protection services. Fire service providers include the Moro Rural Fire Protection District, North
10 Sherman Fire Protection District, and numerous community fire service providers (Condon,
11 Goldendale, Moro, Rufus, Dufur, The Dalles, Maupin and Mosier). RFA6 Attachment 8 provides
12 a November 3, 2020 letter from Judge Joe Dubulskis of Sherman County Court confirming that
13 North Sherman County Rural Fire Protection District and Moro Rural Fire Protection District
14 have adequate equipment and staff to provide emergency support services during construction
15 and operation.

16
17 The Council previously imposed Conditions PRE-PS-01 (V.C.3) and OPR-PS-02 (V.C.8), which
18 require the certificate holder to develop and implement a fire safety and response plan during
19 construction and operation, and to ensure that on-site employees receive annual fire
20 prevention and response training, including tower rescue training. All previously imposed
21 conditions would continue to apply.

22
23 Conclusions of Law

24
25 Based on the foregoing findings of fact and conclusions and compliance with previously
26 imposed conditions, the Council finds that the facility, with proposed changes, would continue
27 to comply with the Council's Public Services standard.

28
29 III.N. Waste Minimization: OAR 345-022-0120

30
31 *(1) Except for facilities described in sections (2) and (3), to issue a site certificate, the*
32 *Council must find that, to the extent reasonably practicable:*

33
34 *(a) The applicant's solid waste and wastewater plans are likely to minimize*
35 *generation of solid waste and wastewater in the construction and operation of the*

⁴³ Issues that could result with air traffic safety are discussed in *Section III.P.1 Public Health and Safety Standards for Wind Energy Facilities: OAR 345-024-0010.*

1 *facility, and when solid waste or wastewater is generated, to result in recycling and*
2 *reuse of such wastes;*

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

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

10 ***

11
12 **Findings of Fact**

13
14 As provided in section (1) above, the Waste Minimization standard requires the Council to find
15 that the applicant (certificate holder) will minimize the generation of solid waste and
16 wastewater, and that the waste generated will be managed to result in minimal adverse
17 impacts to surrounding and adjacent areas. Pursuant to OAR 345-022-0120(2), the Council may
18 issue a site certificate for a facility that would produce power from wind energy without making
19 findings regarding the Waste Minimization standard; however, the Council may impose site
20 certificate conditions based upon the requirements of the standard.

21
22 The facility, with proposed changes, would generate solid waste and wastewater during
23 construction and operation. In RFA6, the certificate holder asserts that the proposed changes
24 would not increase the quantities of solid waste and wastewater, nor change the certificate
25 holder’s plans for managing solid waste and wastewater.⁴⁴ The certificate holder currently
26 represents that the facility would include a maximum of 51 wind turbines, rather than the
27 maximum 125 wind turbines as currently authorized in the site certificate, thereby reducing
28 solid waste and wastewater produced during facility construction and operation.

29
30 To address the standard, the Council previously imposed Condition PRE-WM-01 (V.D.1) and
31 PRO-WM-01 (V.D.2), which require the certificate holder to develop and implement solid waste
32 management plan during construction and operation, respectively. Condition OPR-WM-01
33 (V.D.4) requires the certificate holder to discharge sanitary wastewater generated at the O&M
34 building to licensed on-site septic systems in compliance with State permit requirements. The
35 certificate holder asserts that the proposed amendments would not require modifications of
36 the procedures and practices to be used to handle solid waste and wastewater, nor impact its

⁴⁴ GHAMD6 Complete Request for Amendment 6, Section 6.1.14, p. 48, 2020-12-16.

1 ability to comply with site certificate conditions. The Council finds that compliance with existing
2 conditions would minimize and manage solid waste and wastewater, resulting in minimal
3 adverse impacts on surrounding and adjacent areas from construction and operation of the
4 facility, with proposed changes.

5
6 **Conclusions of Law**

7
8 Based on the foregoing findings of fact and conclusions, the Council finds that the facility, with
9 proposed changes, would continue to comply with the Council’s Waste Minimization standard.

10
11 **III.O. Division 23 Standards**

12
13 The Division 23 standards apply only to “nongenerating facilities” as defined in ORS
14 469.503(2)(e)(K), except nongenerating facilities that are related or supporting facilities. The
15 facility, with proposed changes, would not be a nongenerating facility as defined in statute and
16 therefore Division 23 is inapplicable to the facility, with proposed changes.

17
18 **III.P. Division 24 Standards**

19
20 The Council’s Division 24 standards include specific standards for the siting of energy facilities,
21 including wind projects, underground gas storage reservoirs, transmission lines, and facilities
22 that emit carbon dioxide.

23
24 **III.P.1. Public Health and Safety Standards for Wind Energy Facilities: OAR 345-024-0010**

25
26 *To issue a site certificate for a proposed wind energy facility, the Council must find that the*
27 *applicant:*

28
29 *(1) Can design, construct and operate the facility to exclude members of the public from*
30 *close proximity to the turbine blades and electrical equipment.*

31
32 *(2) Can design, construct and operate the facility to preclude structural failure of the tower*
33 *or blades that could endanger the public safety and to have adequate safety devices and*
34 *testing procedures designed to warn of impending failure and to minimize the consequences*
35 *of such failure.*

36
37 **Findings of Fact**

38
39 For amendments requesting to extend construction deadlines, the Department and Council
40 evaluate whether there have been “changes in fact or law” since the site certificate or amended
41 site certificate was issued to determine whether, based on changes in fact or law, the facility
42 would continue to satisfy requirements of the standard. The certificate holder reviewed
43 changes to facts or law that would affect the certificate holder’s ability to comply with the
44 standard and provides that based on 2020 surveys, the land use is predominately dry-land

1 wheat and no changes to the built environment (i.e. no new residential structures, roads or
2 buildings).⁴⁵

3

4 *Potential Public Health and Safety Impacts from Proximity to Turbine Blades*

5

6 Wind turbines and meteorological towers could result in public health and safety impacts to low
7 flying aircraft. Council previously imposed Condition PRE-PH-03 (IV.K.1) requiring that the
8 certificate holder obtain review from the Federal Aviation Administration and Oregon
9 Department of Aviation (ODA) of all wind turbines and related or supporting facilities. The
10 certificate holder does not propose an increase to turbine height nor an increase to blade size
11 specifications; however, one proposed change is a relocation of a meteorological tower within
12 the proposed amended micrositing area. Based on consultation with ODA and comments on the
13 record of the DPO from ODA, the Council finds that compliance with Condition PRE-PH-03 would
14 ensure evaluation and minimization of risks from structures to aircraft.⁴⁶

15

16 *Potential Impacts from Structural Failure of the Tower or Blades; Safety Devices and Testing*
17 *Procedures to Warn of Impending Failure*

18

19 The facility could result in public health and safety risks from potential blade failure from
20 stresses that exceed the design parameters of the blade or its connection to the hub. However,
21 there are no proposed changes to facility design. The site certificate includes a number of
22 existing conditions that will continue to apply to the facility, to address subsection (2) of the
23 standard, and which will ensure that the certificate holder reduces the risk of potential impacts
24 from structural failure of the tower or blades. Condition PRO-PH-01 (IV.I.4) requires the
25 certificate holder to develop and implement an operational safety-monitoring program that
26 includes regular inspections and maintenance; and, Condition PRE-PH-01 (IV.I.2) requires
27 installation of self-monitoring devices installed on each wind turbine that would alert operators
28 of dangerous conditions and would also automatically shut down wind turbines in the event of
29 abnormal levels of vibration. Condition CON-PH-01 (IV.I.1) requires that turbine manufacturer's
30 recommendations for handling instruction and procedures are followed during construction.
31 Finally, Condition GEN-PH-01 (IV.I.8) requires that the facility be constructed in compliance with
32 setback requirements from public roads, residences, and the boundary of the facility lease area.

33

⁴⁵ GH1AMD6. Request for Amendment 6, Attachment 12 provides a memo dated May 11, 2020 describing the results of a targeted residential survey conducted on March 17, 2020 within a 2-mile buffer of the maximum wind turbine layout. The results identified 7 residential structures, each which represent structures previously identified.

⁴⁶ GH1AMD6 DOI Comments Reviewing Agency ODA Thomson 2021-01-15.

1 Based upon the analysis presented here, and in compliance with existing site certificate
2 conditions, the Council finds that the certificate holder can continue to design, construct, and
3 operate the facility, with proposed changes, in compliance with the Public Health and Safety
4 Standards for Wind Energy Facilities.

5
6 **Conclusions of Law**

7
8 Based on the foregoing analysis, and subject to compliance with the site certificate conditions,
9 the Council finds that the facility, with proposed changes, would continue to comply with the
10 Council’s Public Health and Safety Standards for Wind Energy Facilities.

11
12 **III.P.2. Siting Standards for Transmission Lines: OAR 345-024-0090**

13
14 *To issue a site certificate for a facility that includes any transmission line under Council*
15 *jurisdiction, the Council must find that the applicant:*

16
17 *(1) Can design, construct and operate the proposed transmission line so that alternating*
18 *current electric fields do not exceed 9 kV per meter at one meter above the ground*
19 *surface in areas accessible to the public;*

20
21 *(2) Can design, construct and operate the proposed transmission line so that induced*
22 *currents resulting from the transmission line and related or supporting facilities will be*
23 *as low as reasonably achievable.*

24
25 **Findings of Fact**

26
27 This standard addresses safety hazards associated with electric fields around transmission lines.
28 Section (1) of OAR 345-024-0090 sets a limit for electric fields from transmission lines of not
29 more than 9 kV per meter at one meter above the ground surface in areas that are accessible to
30 the public. Section (2) requires implementation of measures to reduce the risk of induced
31 current.

32
33 RFA6 does not propose changes to the previously approved 230 kV transmission line segments
34 or its location, and therefore does not apply to the proposed changes included in the
35 amendment request.

36
37 The Council addressed the Siting Standards for Transmission Lines in section IV.K of the *Final*
38 *Order on the ASC* and found the facility to be in compliance with the standard. In the *Final*
39 *Order on the ASC*, the Council found that the certificate holder could construct and operate the
40 transmission lines so that alternating current electric fields do not exceed 9 kV per meter at one
41 meter above the ground surface in areas accessible to the public. The Council further found
42 that the certificate holder could design, construct and operate the transmission lines so that

1 induced currents resulting from the transmission lines would be as low as reasonably
2 achievable.⁴⁷

3
4 Subsection (2) of the standard requires the Council to find that a certificate holder can design,
5 construct, and operate transmission lines so that induced currents will be as low as reasonably
6 achievable. The Council previously found that the facility would comply with this standard, as
7 the certificate holder would provide appropriate grounding of fences and metal-roofed
8 buildings in order to reduce the risk of induced current. The Council previously imposed
9 Condition GEN-MC-12 [VII.17] requiring that the certificate holder design, construct and
10 operate the transmission line in accordance with the 2012 Edition National Electric Safety Code
11 standards, reducing risk of induced current.

12
13 **Conclusions of Law**

14
15 For the reasons discussed above, and subject to compliance with the existing site certificate
16 conditions, the Council finds that the facility, with proposed changes, would not result in a
17 significant adverse impact under OAR 345-024-0090 that was not addressed in a previous
18 Council order and would continue to comply with the Council's Siting Standards for
19 Transmission Lines.

20
21 **III.P.3. Cumulative Effects Standard for Wind Energy Facilities OAR 345-024-0015**

22
23 *To issue a site certificate for a proposed wind energy facility, the Council must find that the*
24 *applicant can design and construct the facility to reduce cumulative adverse environmental*
25 *effects in the vicinity by practicable measures including, but not limited to, the following:*

- 26
27 (1) *Using existing roads to provide access to the facility site, or if new roads are needed,*
28 *minimizing the amount of land used for new roads and locating them to reduce adverse*
29 *environmental impacts.*
30 (2) *Using underground transmission lines and combining transmission routes.*
31 (3) *Connecting the facility to existing substations, or if new substations are needed,*
32 *minimizing the number of new substations.*
33 (4) *Designing the facility to reduce the risk of injury to raptors or other vulnerable wildlife in*
34 *areas near turbines or electrical equipment.*
35 (5) *Designing the components of the facility to minimize adverse visual features.*

⁴⁷ GH1APPD0208 Final Order on Application, Section IV.K. 2009-05-15

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

4
5 **Findings of Fact**

6
7 This standard requires the use of practicable measures to reduce the “cumulative adverse
8 environmental effects” compared to possible wind energy facility effects in the absence of
9 those measures. The standard is limited to environmental effects that are capable of being
10 reduced and does not require the Council to find that a wind energy facility would have no
11 cumulative environmental impacts.

12
13 *Access Roads*

14
15 OAR 345-024-0015(1) encourages the use of existing roads for facility site access, minimizing
16 the amount of land used for new roads, and locating new roads in such a manner that reduces
17 adverse environmental impacts.

18
19 RFA6 proposes changes in the location of access roads within new micrositing corridor areas
20 and represents, supported by RFA6 Figures 2.3, 2.4, 2.5, 2.6, 2.10 and 2.11, that the changes
21 would result in reduced disturbance areas by providing more direct/consolidated routes and
22 would avoid ditches and other natural features. The certificate holder affirms that facility
23 construction and operation would utilize existing roads, where possible. Therefore, based on
24 review of RFA6 figures, the Council finds that RFA6 would not result in a significant adverse
25 impact under OAR 345-024-0015(1). Based on the representations in RFA6, the Council
26 continues to find that the certificate holder demonstrates that it would use existing roads
27 where practicable to provide access to the site of the facility, with proposed changes, and
28 where access roads would be needed within proposed new micrositing area, they would be
29 located to reduce adverse environmental impacts and constructed in a manner that minimizes
30 the amount of land used.

31
32 *Transmission Lines and Substations*

33
34 OAR 345-024-0015(2) and (3) encourage wind facilities to utilize underground transmission
35 lines, combine transmission routes and minimize the number of new substations.

36
37 RFA6 does not propose new transmission lines or substations. RFA6, however, proposes new
38 micrositing corridor area to consolidate and/or provide more direct collector line routes, and
39 based on final design information, also results in a reduction in facility layout from 125 to 51
40 wind turbines, which would further reduce the collector line length. Based on review of RFA6
41 Figures 2.3, 2.4, 2.5, 2.6, 2.10 and 2.11 provided to support review of reduced impacts from
42 collector line locations, and reduction in overall total wind turbines at the site, the Council finds
43 that RFA6 would not result in a significant adverse impact under OAR 345-024-0015(2) and (3)

1 that was not addressed in a previous Council order and incorporate reasoning and analysis
2 presented in its previous final orders for the facility.

3
4 The facility, as approved, includes two 230 kV transmission line segments, extending 8-miles
5 and 700-feet; up to 55 miles of 34.5 kV collector lines; and, 1 substation. For the 8-mile 230 kV
6 transmission line segment, 3-miles would be co-located with the existing 230 kV Hay Canyon
7 transmission line. The 34.5 kV collector lines would be located primarily underground with
8 aboveground segments occurring only in specific locations to avoid impacts or accommodate
9 unforeseen geotechnical conditions. The substation is necessary to collect power generated
10 from the wind turbines and provide an interconnection point to transmit electricity via the
11 facility 230 kV transmission line to BPA's grid-interconnection point at Klondike Substation.
12 Based on the design of the facility, as approved, the Council continues to find, based on its
13 previous reasoning, that the certificate holder demonstrates it can reduce cumulative adverse
14 environmental effects in the vicinity by co-locating a segment of 230 kV transmission with an
15 existing transmission line, minimizing aboveground collector lines, and relying on one
16 substation for facility operation.

17
18 *Wildlife Protection*

19
20 OAR 345-024-0015(4) encourages facility design that reduces the risk of injury to raptors or
21 other vulnerable wildlife in areas near wind turbines or electrical equipment.

22
23 In RFA6, the certificate holder represents that final facility design includes 51 wind turbines,
24 rather than the maximum approved 125 wind turbines, which would reduce avian collision risk
25 through reduced facility footprint. As discussed in Section III.H, *Fish and Wildlife Habitat*, the
26 Council previously imposed Condition OPR-FW-05 (IV.M.7) requiring the certificate holder to
27 implement a Wildlife Monitoring and Mitigation Plan (WMMP). The WMMP requires the
28 certificate holder to conduct a post-construction bird and bat fatality monitoring study and an
29 avian use and behavior study, both of which will provide important data that can be used in
30 adaptive management.

31
32 In addition, Council previously imposed Condition GEN-FW-04 (IV.M.8) requiring that the
33 certificate holder design the facility to minimize raptor injury by adhering to the 2012 Avian
34 Powerline Interaction Committee suggested practices for raptor protection on powerlines and
35 installing anti-perching devices on transmission pole tops and cross arms where poles are
36 within the site or are located within one-quarter mile of any wind turbine. As discussed in
37 Section III.H. Fish and Wildlife Habitat of this section, the certificate holder requests that
38 Condition GEN-FW-04 be amended to replace the requirement for anti-perching devices within
39 spiral markers for transmission line structures (at Grass Valley Canyon). Based on concurrence
40 from ODFW, the Council amends the condition as requested. Additionally, as described in
41 *Section III.I Threatened and Endangered Species*, there are no avian species listed as threatened
42 or endangered by ODFW that are anticipated to occur in the facility analysis area. As described
43 in *Section III.H Fish and Wildlife Habitat*, 85% of the amended micrositing corridor is Category 6
44 habitat, the lowest quality habitat.

1 Based on compliance with other existing site certificate conditions, the certificate holder would
2 implement the following measures to further reduce and avoid wildlife impacts:

- 3
- 4 • Pre- and post-construction raptor nest monitoring, seasonal timing restrictions and
5 avoidance requirements (Condition PRE-FW-02 [IV.M.4]); Condition PRE-FW-05
6 [IV.M.11]); Condition PRE-FW-05 [IV.M.11]; PRE-TE-01 [IV.L.1]; Condition CON-FW-01
7 [IV.M.10]))
- 8 • Pre-construction grassland bird monitoring and avoidance requirements (Condition PRE-
9 FW-03 [IV.M.5]);
- 10 • Habitat mitigation, revegetation and monitoring (Condition PRE-FW-01 [IV.M.1])
- 11 • Weed control and monitoring (Condition PRE-SP-01 [IV.E.4])

12

13 Subject to compliance with existing site certificate conditions, the Council finds that the
14 certificate holder continues to demonstrate that it can reduce cumulative adverse
15 environmental effects in the vicinity by designing the facility, with proposed changes, to reduce
16 the risk of injury to raptors or other vulnerable wildlife in areas near wind turbines or electrical
17 equipment.

18

19 *Visual Features*

20

21 OAR 345-024-0015(5) encourages the certificate holder to design a facility to minimize adverse
22 visual features.

23

24 Based on compliance with existing site certificate conditions, the certificate holder would
25 implement the following measures to reduce potential visual impacts from the facility:

- 26
- 27 • The O&M building would be designed and constructed to be generally consistent with
28 the character of agricultural buildings used by farmers or ranchers in the area, and the
29 buildings finished in a neutral color to blend with the surrounding landscape (Condition
30 GEN-SR-01 [IV.G.2])
- 31 • Substation structures would be finished in neutral colors to blend with the surrounding
32 landscape (Condition PRE-SR-01 [IV.G.1])
- 33 • Lighting would be kept to a minimum necessary, and designed to prevent offsite glare
34 (Condition ORP-SR-01 [IV.G.3])
- 35 • No advertising or commercial signage would be displayed on any part of the proposed
36 facility (Condition PRE-SR-01 [IV.G.1])
- 37 • Temporary impact areas would be restored and revegetated as soon as practicable
38 following completion of construction (Condition GEN-M-06 [VII.1.1])

39

40 Based on the evidence in the record and subject to compliance with existing site certificate
41 conditions, the Council finds that the certificate holder continues to demonstrate that it can
42 reduce cumulative adverse environmental effects in the vicinity by designing the components
43 of the facility, with proposed changes, to minimize adverse visual features.

1 *Lighting*

2

3 OAR 345-024-0015(6) requires the use of techniques to prevent casting glare from the site and
4 the use of minimum lighting necessary for safety and security purposes, except as otherwise
5 required by the Federal Aviation Administration (FAA) and the Oregon Department of Aviation.

6

7 RFA6 does not propose changes to previously evaluated exterior lighting of the facility
8 substation and O&M building. Therefore, the Council finds that RFA6 would not result in a
9 significant adverse impact under OAR 345-024-0015(4) that was not addressed in a previous
10 Council order and incorporate reasoning and analysis presented in its previous final orders for
11 the facility.

12

13 Condition OPR-SR-01 [IV.G.3] requires wind turbines to be equipped with the minimum turbine
14 tower lighting required by FAA; O&M building and substation lighting to be shielded and
15 directed downward to reduce glare; and minimum lighting necessary used during repairs and
16 emergencies. Subject to compliance with existing site certificate conditions, the Council finds
17 that the certificate holder continues to demonstrate that it can reduce cumulative adverse
18 environmental effects in the vicinity by designing the components of the facility, with proposed
19 changes, to minimize the adverse impacts of lighting.

20

21 **Conclusions of Law**

22

23 For the reasons discussed above, and subject to compliance with the existing site certificate
24 conditions, the Council finds that the facility, with proposed changes, would not result in a
25 significant adverse impact under OAR 345-024-0015 that was not addressed in a previous
26 Council order and would continue to comply with the Council’s Cumulative Effects Standard for
27 Wind Energy Facilities.

28

29 **III.Q. Other Applicable Regulatory Requirements Under Council Jurisdiction**

30

31 Under ORS 469.503(3) and under the Council’s General Standard of Review (OAR 345-022-
32 0000), the Council must determine whether the proposed facility complies with “all other
33 Oregon statutes and administrative rules...as applicable to the issuance of a site certificate for
34 the proposed facility.” This section addresses the applicable Oregon statutes and administrative
35 rules that are not otherwise addressed in Council standards, including noise control regulations,
36 regulations for removal or fill of material affecting waters of the state, and regulations for
37 appropriating water.

38

39 **III.Q.1. Noise Control Regulations: OAR 340-035-0035**

40

41 *(1) Standards and Regulations:*

42 ***

43 *(b) New Noise Sources:*

44 *(B) New Sources Located on Previously Unused Site:*

- 1 (i) *No person owning or controlling a new industrial or commercial noise source*
2 *located on a previously unused industrial or commercial site shall cause or permit*
3 *the operation of that noise source if the noise levels generated or indirectly*
4 *caused by that noise source increase the ambient statistical noise levels, L10 or*
5 *L50, by more than 10 dBA in any one hour, or exceed the levels specified in Table*
6 *8, as measured at an appropriate measurement point, as specified in subsection*
7 *(3)(b) of this rule, except as specified in subparagraph (1)(b)(B)(iii).*
- 8 (ii) *The ambient statistical noise level of a new industrial or commercial noise source*
9 *on a previously unused industrial or commercial site shall include all noises*
10 *generated or indirectly caused by or attributable to that source including all of its*
11 *related activities. Sources exempted from the requirements of section (1) of this*
12 *rule, which are identified in subsections (5)(b) - (f), (j), and (k) of this rule, shall*
13 *not be excluded from this ambient measurement.*
- 14 (iii) *For noise levels generated or caused by a wind energy facility:*
- 15 (I) *The increase in ambient statistical noise levels is based on an assumed*
16 *background L50 ambient noise level of 26 dBA or the actual ambient*
17 *background level. The person owning the wind energy facility may*
18 *conduct measurements to determine the actual ambient L10 and L50*
19 *background level.*
- 20 (II) *The "actual ambient background level" is the measured noise level at the*
21 *appropriate measurement point as specified in subsection (3)(b) of this*
22 *rule using generally accepted noise engineering measurement practices.*
23 *Background noise measurements shall be obtained at the appropriate*
24 *measurement point, synchronized with windspeed measurements of hub*
25 *height conditions at the nearest wind turbine location. "Actual ambient*
26 *background level" does not include noise generated or caused by the wind*
27 *energy facility.*
- 28 (III) *The noise levels from a wind energy facility may increase the ambient*
29 *statistical noise levels L10 and L50 by more than 10 dBA (but not above*
30 *the limits specified in Table 8), if the person who owns the noise sensitive*
31 *property executes a legally effective easement or real covenant that*
32 *benefits the property on which the wind energy facility is located. The*
33 *easement or covenant must authorize the wind energy facility to increase*
34 *the ambient statistical noise levels, L10 or L50 on the sensitive property by*
35 *more than 10 dBA at the appropriate measurement point.*
- 36 (IV) *For purposes of determining whether a proposed wind energy facility*
37 *would satisfy the ambient noise standard where a landowner has not*
38 *waived the standard, noise levels at the appropriate measurement point*
39 *are predicted assuming that all of the proposed wind facility's turbines*
40 *are operating between cut-in speed and the wind speed corresponding to*
41 *the maximum sound power level established by IEC 61400-11 (version*
42 *2002-12). These predictions must be compared to the highest of either the*
43 *assumed ambient noise level of 26 dBA or to the actual ambient*
44 *background L10 and L50 noise level, if measured. The facility complies*

1 with the noise ambient background standard if this comparison shows
2 that the increase in noise is not more than 10 dBA over this entire range
3 of wind speeds.

4 (V) For purposes of determining whether a proposed wind energy facility
5 would satisfy the Table 8 standards, noise levels at the appropriate
6 measurement point are predicted by using the turbine's maximum sound
7 power level following procedures established by IEC 61400-11 (version
8 2002-12), and assuming that all of the proposed wind facility's turbines
9 are operating at the maximum sound power level.

10 (VI) For purposes of determining whether an operating wind energy facility
11 satisfies the Table 8 standards, noise generated by the energy facility is
12 measured at the appropriate measurement point when the facility's
13 nearest wind turbine is operating at the windspeed corresponding to the
14 maximum sound power level and no turbine that could contribute to the
15 noise level is disabled.

16 ***

17 **Findings of Fact**

18
19 The Noise Control Regulation at OAR 340-035-0035 have been adopted by Council as the
20 compliance requirements for EFSC-jurisdiction energy facilities.

21
22 For amendments requesting to extend construction deadlines, the Department and Council
23 evaluate whether there have been “changes in fact or law” since the site certificate or amended
24 site certificate was issued to determine whether, based on changes in fact or law, the facility
25 would continue to satisfy requirements of the administrative rule. To evaluate potential
26 changes in fact within the analysis area since the previous evaluation, the certificate holder
27 conducted a targeted residential survey to verify whether there were any new noise sensitive
28 receptors within 2-miles of the site boundary. Based on the results of this survey, the certificate
29 holder affirms that there are no new noise sensitive receptors that could be impacted by the
30 facility. Therefore, there would be no changes proposed in RFA6 that would impact Council’s
31 previous findings of compliance.

32
33 To ensure that the facility would comply with noise regulations, the Council adopted Conditions
34 VI.A.1.1 - VI.A.1.4 (CON-CJ-01, PRE-CJ-01, OPR-CJ-01, PRO-CJ-01) in its *Final Order on the ASC*.
35 These conditions, in pertinent part, require the certificate holder to provide information to the
36 Department relating to its final wind turbine selection and design layout prior to beginning
37 construction, and must demonstrate compliance with the DEQ noise regulations or otherwise
38 obtain a noise easement from a property owner, and establish a noise-compliant response
39 system.

40
41 RFA6 would not change the wind turbine micrositing corridors and the certificate holder would
42 still be required to demonstrate that it maintains compliance with the DEQ noise control
43 regulations as per the above described site certificate conditions.

1 **Conclusions of Law**

2

3 Based on the foregoing findings of fact and conclusions of law, and subject to compliance with
4 existing site certificate conditions, the Council finds that the facility would continue to comply
5 with the Noise Control Regulations in OAR 340-035-0035.

6

7 **III.Q.2. Removal-Fill**

8

9 The Oregon Removal-Fill Law (ORS 196.795 through 196.990) and Department of State Lands
10 (DSL) regulations (OAR 141-085-0500 through 141-085-0785) require a removal-fill permit if 50
11 cubic yards or more of material is removed, filled, or altered within any “waters of the state,”⁴⁸
12 or if any removal or fill activities occur in streams designated as Essential Indigenous
13 Anadromous Salmonid Habitat. The Council, in consultation with DSL, must determine whether
14 a removal-fill permit is needed and if so, whether a removal-fill permit should be issued. The
15 analysis area for wetlands and other waters of the state is the area within the site boundary.

16

17 **Findings of Fact**

18

19 The Council addressed the removal-fill law in Section VI.B.1 of the *Final Order on the ASC* and
20 found that the facility did not require a removal-fill permit.

21

22 For RFA6, certificate holder’s consultant, Tetra Tech, conducted a literature review and field
23 survey to evaluate potential impacts to wetlands and waters of the state for within the
24 micrositing corridor, including existing and new areas. The literature review evaluated the
25 United States Fish and Wildlife Service’s National Wetlands Inventory (NWI) (April 2020), United
26 States Geological Survey’s National Hydrology Dataset (2020), National Resource Conservation
27 Service’s Web Soil Survey data (2020) and aerial photographs to identify potential wetlands and
28 other waters of the state within the study area. Pedestrian field surveys were conducted in
29 June 15-18, 2020 and July 6 and 13, 2020 using methods from the Manual and Arid West
30 Supplement.⁴⁹ The results of the desktop survey were used to inform the field survey areas,
31 where sample plots were established in all features identified by the NWI data. Based on the
32 survey results, the certificate holder identifies 8 wetlands and 24 other water features within
33 the study area, as summarized in Table 6 below.

34

⁴⁸ ORS 196.800(15) defines “Waters of this state.” The term includes wetlands and certain other waterbodies.

⁴⁹ GHAMD6. Request for Amendment 6 Attachment 14. 2020-12-16.

Table 6: Summary of Identified Wetlands and Other Waters of the State and Impacts within New Micrositing Corridor Area

| Type | Number of Features | Acres | Impact? |
|-----------------------------|--------------------|-------|------------------|
| <i>Wetland</i> | | | |
| Palustrine Emergent wetland | 8 | 1.54 | No |
| <i>Other Waters</i> | | | |
| Perennial | 2 | 0.20 | Yes – 0.09 acres |
| Ephemeral | 22 | 0.30 | No |
| | | | |

1
 2 In RFA6, the certificate holder describes that construction and operation of the facility, with
 3 proposed changes, would avoid impacts to wetlands and waters of the State to the maximum
 4 extent, but that there would be temporary impacts. As presented in Table 6 above, RFA6 could
 5 result in up to 1.8 acres of impact, which would be less than the 2 acre threshold for a removal-
 6 fill permit. The certificate holder confirms that a Removal/Fill Permit would not be required for
 7 the facility, with proposed changes. The Council previously imposed Condition PRE-CJ-02
 8 (Removal Fill Condition 1) requiring that the certificate holder conduct an updated wetland
 9 delineation survey prior to construction. The survey must review all areas subject to temporary
 10 or permanent impacts, and must submit the delineation survey report to both the Department
 11 as well as the Department of State Lands (DSL), and obtain DSL concurrence. If the survey
 12 determines that a removal-fill permit is required to construct and operate the facility, then the
 13 certificate holder must file a site certificate amendment at that time to request the removal-fill
 14 permit. The Department received confirmation from DSL’s Christine Stevenson that the wetland
 15 delineation report was submitted in August 2020. Compliance with the condition will be
 16 established upon DSL concurrence of the report currently under review.

17
 18 Based on compliance with existing Condition PRE-CJ-02 (Removal Fill Condition 1), the Council
 19 finds that the facility, with proposed changes, continues to satisfy the requirements of the
 20 removal-fill law and the certificate holder is not currently required to obtain a removal-fill
 21 permit.

22
 23 **Conclusions of Law**

24
 25 Based on the foregoing findings of fact and conclusions, the Council finds that a removal-fill
 26 permit is not needed for the facility with proposed changes.

27
 28 **III.Q.3. Water Rights**

29
 30 Under ORS Chapters 537 and 540 and OAR Chapter 690, OWRD administers water rights for
 31 appropriation and use of the water resources of the state. Under OAR 345-022-0000(1), the
 32 Council must determine whether the proposed facility would comply with these statutes and
 33 administrative rules.

1 **Findings of Fact**

2

3 OAR 690 establishes the procedures and standards which shall be applied by the OWRD in the
4 evaluation of applications for a permit to appropriate surface water or ground water, to
5 construct a reservoir and store water, to use reserved water, or to use water stored in a
6 reservoir. The certificate holder does not request a groundwater permit, a surface water
7 permit, or a water rights transfer during the construction or operation of the proposed facility.

8

9 **Conclusions of Law**

10

11 Based on the foregoing findings of fact, the Council concludes that the facility, with proposed
12 RFA6 changes, does not require a groundwater permit, surface water permit, or water right
13 transfer.

14

1 **IV. FINAL CONCLUSIONS AND ORDER**

2
3 Based on the findings and conclusions included in this order, the Council makes the following
4 findings:

- 5
6 1. The facility, with proposed RFA6 changes, complies with the requirements of the
7 Oregon Energy Facility Siting Statutes, ORS 469.300 to 469.520.
8
9 2. The facility, with proposed RFA6 changes, complies with the standards adopted by
10 the Council pursuant to ORS 469.501.
11
12 3. The facility, with proposed RFA6 changes, complies with all other Oregon statutes
13 and administrative rules identified in the project order as applicable to the issuance
14 of a site certificate for the proposed facility.
15

16 Accordingly, the Council finds that the Golden Hills Wind Project, with proposed RFA6 changes,
17 complies with the General Standard of Review (OAR 345-022-0000). The Council finds, based on
18 a preponderance of the evidence on the record, that the site certificate may be amended as
19 requested.
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1 **Final Order**

2

3 The Council approves Amendment 6 of the Golden Hills Wind Project site certificate, subject to
4 the terms and conditions as set forth in the amended site certificate.

5

Issued this 22nd day of January 2021

The ENERGY FACILITY SITING COUNCIL

Marcia L. Grail

By: Marcia L. Grail (Jan 26, 2021 14:17 PST)

**Marcia L. Grail, Madame Chair
Energy Facility Siting Council**

- 6 Attachment A: Amended Site Certificate
- 7 Attachment B: Reviewing Agency Comments on preliminary RFA6
- 8 Attachment C: Draft Proposed Order Comments/Index
- 9 Attachment D: Draft Cultural Resources Mitigation Plan

Attachment A: Amended Site Certificate

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

**Sixth Amended Site
Certificate for the
Golden Hills Wind Project**

ISSUANCE DATES

| | |
|--|--------------------------|
| Site Certificate | May 15, 2009 |
| First Amended Site Certificate | May 11, 2012 |
| Second Amended Site Certificate | January 30, 2015 |
| Third Amended Site Certificate | February 24, 2017 |
| Fourth Amended Site Certificate | April 27, 2018 |
| Fifth Amended Site Certificate | October 25, 2018 |
| Sixth Amended Site Certificate | January 22, 2021 |

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GOLDEN HILLS WIND PROJECT SITE CERTIFICATE

Attachments

Attachment A Facility Site Boundary Map

Acronyms and Abbreviations

| | |
|------------|---|
| ASC | Application for Site Certificate |
| Council | Oregon Energy Facility Siting |
| Department | Oregon Department of Energy |
| DOGAMI | Oregon Department of Geology and Mineral Industries |
| DSL | Department of State Lands |
| HMRP | Habitat Mitigation and Revegetation Plan |
| NH zone | Natural Hazards Combining Zone |
| O&M | Operations and Maintenance |
| OAR | Oregon Administrative Rule |
| ODFW | Oregon Department of Fish and Wildlife |
| ODEQ | Oregon Department of Environmental Quality |
| ORS | Oregon Revised Statute |
| SHPO | State Historic Preservation Office |

1.0 Introduction and Site Certification

This site certificate is a binding agreement between the State of Oregon (State), acting through the Energy Facility Siting Council (Council), and Golden Hills Wind Farm LLC (certificate holder), which is a wholly-owned subsidiary of Pacific Wind Development, LLC (Pacific Wind or parent company). As authorized under Oregon Revised Statute (ORS) Chapter 469, the Council issues this site certificate authorizing the certificate holder to construct, operate and retire the Golden Hills Wind Project (facility) at the below described site within Sherman county, subject to the conditions set forth herein.

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

The findings of fact, reasoning, and conclusions of law underlying the terms and conditions of this site certificate are set forth in the Council's Final Order in the Matter of the Application for a Site Certificate for the Golden Hills Wind Project (the "Final Order on the Application" or "Final Order") issued on May 15, 2009, the Council's Final Order in the Matter of the Request for Amendment #1 of the Site Certificate for the Golden Hills Wind Project ("Final Order on Amendment #1") issued May 11, 2012; the Council's Final Order in the Matter of the Request for Amendment #2 of the Site Certificate for the Golden Hills Wind Project ("Final Order on Amendment #2"), issued January 30, 2015; the Council's Final Order in the Matter of the Request for Amendment #3 of the Site Certificate for the Golden Hills Wind Project ("Final Order on Amendment #3"), issued February 24, 2017; the Council's Final Order in the Matter of the Request for Amendment #4 of the Site Certificate for the Golden Hills Wind Project ("Final Order on Amendment #4"), issued April 27, 2018; the Council's Final Order in the Matter of the Request for Amendment #5 of the Site Certificate for the Golden Hills Wind Project ("Final Order on Amendment #5), issued October 2018, and the Council's Final Order in the Matter of the Request for Amendment #6 of the Site Certificate for the Golden Hills Wind Project ("Final Order on Amendment #6), issued January 22, 2021 incorporated herein by this reference. In interpreting the amended site certificate, any ambiguity shall be clarified by reference to the following, in order of priority: (1) this amended site certificate; (2) the Final Order on Amendment #6 (3) the Final Order on Amendment #5; (4) the Final Order on Amendment #4; (5) the Final Order on Amendment #3; (6) the Final Order on Amendment #2; (7) the Final Order on Amendment #1; (8) the Final Order on the Application; and (9) the record of the proceedings that led to all the Final Orders.

This site certificate binds the State and all counties, cities and political subdivisions in Oregon as to the approval of the site and the construction, operation, and retirement of the facility as to matters that are addressed in and governed by this site certificate (ORS 469.401(3)). This site certificate does not address, and is not binding with respect to, matters that are not included in and governed by this site certificate, and such matters include, but are not limited to: employee health and safety; building code compliance; wage and hour or other labor regulations; local government fees and charges; other design or operational issues that do not relate to siting the facility (ORS 469.401(4)); and permits issued under statutes and rules for which the decision on compliance has been delegated by the federal government to a state agency other than the Council (ORS 469.503(3)).

Each affected state agency, county, city, and political subdivision in Oregon with authority to issue a permit, license, or other approval addressed in or governed by this site certificate, shall upon submission of the proper application and payment of the proper fees, but without hearings or other proceedings, issue such permit, license or other approval subject only to conditions set forth in this site certificate. In addition, each state agency or local government agency that issues a permit, license or other approval for this facility shall continue to exercise enforcement authority over such permit, license or other approval (ORS 469.401(3)). For those permits, licenses, or other approvals addressed in and governed by this site certificate, the certificate holder shall comply with applicable state and federal laws adopted in the future to the extent that such compliance is required under the respective state agency statutes and rules (ORS 469.401(2)).

The certificate holder must construct, operate and retire the facility in accordance with all applicable rules as provided for in Oregon Administrative Rule (OAR) Chapter 345, Division 26. After issuance of this site certificate, the Council shall have continuing authority over the site and may inspect, or direct the Oregon Department of Energy (Department) to inspect, or request another state agency or local government to inspect, the site at any time in order to ensure that the facility is being operated consistently with the terms and conditions of this site certificate (ORS 469.430).

The obligation of the certificate holder to report information to the Department or the Council under the conditions listed in this site certificate is subject to the provisions of ORS 192.502 *et seq.* and ORS 469.560. To the extent permitted by law, the Department and the Council will not publicly disclose information that may be exempt from public disclosure if the certificate holder has clearly labeled such information and stated the basis for the exemption at the time of submitting the information to the Department or the Council. If the Council or the Department receives a request for the disclosure of the information, the Council or the Department, as appropriate, will make a reasonable attempt to notify the certificate holder and will refer the matter to the Attorney General for a determination of whether the exemption is applicable, pursuant to ORS 192.450.

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

The duration of this site certificate shall be the life of the facility, subject to termination pursuant to OAR 345-027-0013 or the rules in effect on the date that termination is sought, or revocation under ORS 469.440 and OAR 345-029-0100 or the statutes and rules in effect on the date that revocation is ordered. The Council shall not change the conditions of this site certificate except as provided for in OAR Chapter 345, Division 27.

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

2.0 Facility Location and Site Boundary

The energy facility and its related and supporting facilities will be located within Sherman County. The site boundary, as defined in OAR 345-001-0010, encompasses approximately 29,500 acres and be located near Wasco in Sherman County, Oregon. More particularly, the site would occupy portions of Sections 1-17, Township 1 South, Range 17 East, Sections 6-7, Township 1 South, Range 18 East, Sections 29-31, Township 1 North, Range 18 East, Sections 5-9, 14-23, and 25-36, Township 1 North, Range 17 East, Sections 1-3, 12-14, 23-26, and 35-36, Township 1 North, Range 16 East, Sections 29-32, Township 2 North, Range 17 East, Sections 25-27 and 34-36, Township 2 North, Range 16 East. Attachment A of this site certificate contains a map of the site boundary.

2.1 Micrositing Corridor

For this facility, the site boundary includes approved “micrositing corridors” to allow some flexibility in specific component locations and design in response to site-specific conditions and engineering requirements to be determined prior to construction. The Council permits final siting flexibility within a micrositing corridor when the certificate holder demonstrates that requirements of all applicable standards have been satisfied by adequately evaluating the entire corridor and location of facility components anywhere within the corridor.

The micrositing corridor is approximately 7,267 acres within the site boundary and includes 900-foot diameter corridors around turbines, wider in some locations, and a 200-foot corridor for the 5-mile and 700-foot segments of 230 kV transmission line.

3.0 Facility Description

As is reflected in the record of the proceedings for this facility and site certificate, the facility may be constructed in phases. For any phase of construction, the certificate holder is only required to comply with the preconstruction conditions applicable to the phase. [ORS 469.300(6)]

3.1 Energy Facility

ORS 469.300(11)(a)(J) defines the “energy facility” in this case as an electric power generating plant with an average electric generating capacity of 35 megawatts or more if the power is produced from wind energy at a single energy facility.” The facility consists of up to 51 wind turbine locations, each consisting of a turbine tower and foundation, turbine pad area, nacelle, rotor and blade assembly, and step-up transformer. Wind turbines are placed in micro-siting survey corridors as shown in the Application for a Site Certificate and Attachment A of this site certificate. Golden Hills has a peak electric generating capacity of up to 400 MW and an average electric generating capacity of about 133 MW.

Golden Hills has not yet selected the wind turbine model or models that would be installed in the facility. Golden Hills requested a site certificate that would allow the installation of up to 51 turbines with turbine towers measuring up to 123 meters (404 feet) at the rotor hub, the diameter of the rotor-swept area measuring up to 150 meters (492 feet), and the total maximum turbine height measuring up to 198 meters (650 feet). Wind turbine dimensions represent maximum allowable dimensions, but do not restrict the certificate holder from utilizing a mix of wind turbine types within the allowable dimensions.

A wind turbine features a nacelle mounted on a tubular steel tower. The nacelle houses the generator and gearbox and supports the rotor and blades at the hub. The turbine tower supports and provides access to the nacelle. Each turbine unit sits on a concrete pad that accommodates the turbine pedestal, a step-up transformer and a turnout area for service vehicles. The purpose of the step-up transformer is to increase the output voltage of the wind turbine to the voltage of the power collection system. Underlying the pad would be a deep concrete turbine foundation with a surface area dependent upon the type and size of wind turbine selected.

3.2 Related or Supporting Facilities

Golden Hills proposes to construct the following related or supporting facilities:

- Power collection system
- Substation
- 230 kV transmission line
- Meteorological towers
- Supervisory Control and Data Acquisition (“SCADA”) System
- O&M facility
- Access roads
- Temporary laydown areas

Power Collection System. About 55 miles of power collection system, operating at 34.5 kV, would transport the power from the wind turbines to the substation. Some portion of the power collection

system may be installed above ground to avoid impacts or to accommodate unforeseen geotechnical conditions.

Substation. The facility would include one substation, located near the center of the Golden Hills site. The substation would occupy a graveled and fenced area about 5 acres in size to facilitate transformers, switching equipment and a parking area.

230-kV Transmission Line. An approximately 5-mile, 230 kV transmission line would interconnect the substation to the existing Hay Canyon 230 kV transmission line. From there, electricity would be transmitted using the existing Hay Canyon 230 kV line to the northernmost transmission pole structure near the existing Klondike Substation where up to approximately 700 feet of new 230 kV transmission line would be constructed along with associated structures and equipment necessary to interconnect the facility to Bonneville Power Administration's (BPA's) transmission structure located approximately 300 feet north of the Klondike Substation.

Meteorological Towers. The facility includes up to two permanent meteorological towers ("met towers"). The met towers would be unguyed tubular structures about 95 meters (312 feet) tall and set in concrete foundations.

SCADA System. A fiber optic communications network would link the wind turbines to a central computer at the O&M facility. The SCADA system would collect operating and performance data from each wind turbine and Golden Hills as a whole and provide for remote operation of the wind turbines.

O&M Facility. The facility includes a 5,000-square-foot operations and maintenance ("O&M") building would be constructed. The O&M building would house office and workshop areas, a control room for the SCADA system, and a kitchen, bathroom and shower. The 5-acre O&M facility site would include parking for vehicles. Domestic water use would not exceed 5,000 gallons per day, and domestic water would be obtained from an on-site well. Domestic wastewater would be drained into an on-site septic system.

Access Roads. Approximately 41 miles of new roads would be constructed to provide access to the turbine strings and other facility components. Access roads would connect to graveled turbine pad areas at the base of each wind turbine. The permanent access roads would be 20 feet wide and constructed with crushed gravel. In addition, GHWF would improve and widen some existing county and farm roads. Approximately 41 miles of temporary access roads and 11 miles of temporary crane paths would be constructed. The temporary access roads and crane paths would be up to 100 feet wide to account for the delivery of larger turbine components. The actual width of temporary roads and crane paths would depend on need for cut and fill slopes and associated work area.

Temporary Laydown Areas. Up to seven principal, temporary laydown areas would be used to stage construction and store supplies and equipment during construction. In addition, temporary laydown areas would be required at the base of each wind turbine. The laydown areas would be covered with gravel, and the gravel would be removed and the areas would be restored to their preconstruction conditions following completion of construction.

4.0 Site Certificate Conditions

4.1 Condition Format

The conditions in Sections 4.2 through 4.7 of this Site Certificate are organized and coded to indicate the phase of implementation, the standard the condition is required to satisfy, and an identification number (1, 2, 3, etc.)¹. The table below presents a “key” for phase of implementation:

| Key | Type of Conditions/Phase of Implementation |
|-----|--|
| GEN | General Conditions: Design, Construction and Operation |
| PRE | Pre-Construction Conditions |
| CON | Construction Conditions |
| PRO | Pre-Operational Conditions |
| OPR | Operational Conditions |
| RET | Retirement Conditions |

The standards are presented using an acronym; for example, the General Standard of Review is represented in the condition numbering as “GS”; the Soil Protection standard is represented in the condition numbering as “SP” and so forth.

For example, the coding of Condition GEN-GS-01 represents that the condition is a general condition (GEN) to be implemented during design, construction and operation of the facility, is required to satisfy the Council’s General Standard of Review, and is condition number 1.

Conditions from the site certificate that have either been incorporated into other amended conditions or deleted due to duplication with other conditions have been removed.² No substantive changes were made to the requirements of each of the removed conditions, and still apply to the certificate holder.

¹ The identification number is not representative of an order that conditions must be implemented; it is intended only to represent a numerical value for identifying the condition.

² The removed conditions that were either incorporated into other amended conditions or deleted due to duplication with other conditions are; IV.B.3, IV.C.9, IV.D.16, IV.D.17, IV.D.21, V.B.3, V.C.12, V.C.13, V.C.14, VII.6, and VII.19.

4.2 General Conditions (GEN): Design, Construction and Operations

| Condition Number | Pre-Construction (PRE) Conditions |
|---|--|
| DESCRIPTION CONDITIONS (DC) | |
| GEN-DC-01 | <p>The certificate holder shall begin construction of the facility by June 18, 2020. Under OAR 345-015-0085(9), an amended site certificate is effective upon execution by the Council Chair and the certificate holder. The Council may grant an extension of the deadline to begin construction in accordance with OAR 345-027-0030 or any successor rule in effect at the time the request for extension is submitted.</p> <p>On or before June 18, 2020, the certificate holder shall provide written notification to the Department that it has met the construction commencement deadline. Construction is defined in OAR 345-001-0010.</p> <p>[Final Order on ASC, Condition III.D.1; AMD2, AMD3, AMD4]</p> |
| GEN-DC-02 | <p>The certificate holder shall complete construction of the facility by December 31, 2022. Construction is complete when (1) the facility is substantially complete as defined by the certificate holder’s construction contract documents; (2) acceptance testing has been satisfactorily completed; and (3) the energy facility is ready to begin continuous operation consistent with the site certificate. The certificate holder shall promptly notify the Department of the date of completion of construction. The Council may grant an extension of the deadline for completing construction in accordance with OAR 345-027-0030 or any successor rule in effect at the time the request for extension is submitted.</p> <p>[Final Order on ASC, Condition III.D.2; AMD2, AMD3, AMD6]</p> |
| STANDARD: ORGANIZATIONAL EXPERTISE (OE) [OAR 345-022-0010] | |
| GEN-OE-01 | <p>During construction, operation and facility retirement, the certificate holder shall report to the Department within 7 days, any change in the corporate structure of Avangrid Renewables LLC (a subsidiary of Avangrid, Inc., and the parent company of Pacific Wind Development, LLC). The certificate holder shall report promptly to the Department any change in its access to the resources, expertise and personnel of Avangrid Renewables LLC. The certificate holder shall include in the report, an evaluation of whether the change in corporate structure represents a change in ownership of the certificate holder and whether a site certificate transfer is warranted.</p> <p>[Final Order on ASC, Condition IV.B.1; AMD2, AMD4]</p> |
| GEN-OE-02 | <p>Any matter of noncompliance under the site certificate shall be the responsibility of the certificate holder. Any notice of violation issued under the site certificate shall be issued to the certificate holder. Any civil penalties assessed under the site certificate shall be levied on the certificate holder.</p> <p>[Final Order on ASC, Condition IV.B.4]</p> |
| GEN-OE-03 | <p>The certificate holder shall contractually require the engineering and procurement contractor and all independent contractors and subcontractors involved in the construction and operation of the facility to comply with all applicable laws and regulations and with the terms and conditions of the site certificate. Such contractual provision shall not operate to relieve the certificate holder of responsibility under the site certificate.</p> <p>[Final Order on ASC, Condition IV.B.5]</p> |
| GEN-OE-04 | <p>During construction, operation and retirement, the certificate holder shall obtain, or shall ensure that its contractors obtain, necessary federal, State and local permits or approvals. The certificate holder shall work with local and State fire officials to ensure compliance with all fire code regulations regarding public buildings.</p> <p>[Final Order on ASC, Condition IV.B.6; AMD4]</p> |
| GEN-OE-05 | <p>The certificate holder shall:</p> <ul style="list-style-type: none"> (a) Prior to construction of the facility, facility component or phase, notify the Department of the identity, telephone number, e-mail address and qualifications of the on-site construction manager or assistant construction manager. The construction manager or assistant construction manager must be capable |

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| | <p>of managing a wind facility construction project, including permit and regulatory compliance requirements.</p> <p>(b) Prior to operation, notify the Department of the identity, telephone number, e-mail address and qualifications of the facility operations manager. The facility operations manager must be capable of managing permit and regulatory compliance requirements and manage operation of a wind facility.</p> <p>(c) Prior to facility retirement, notify the Department of the identity, telephone number, and e-mail address and qualifications of the personnel or entity responsible for facility decommissioning and restoration activities. The personnel or entity responsible for facility decommissioning and restoration activities must be capable of managing permit and regulatory compliance requirements and be qualified to decommission a wind facility.</p> <p>The certificate holder shall notify the Department within three business days upon any change in personnel or contact information provided to satisfy Condition IV.B.7 (a) through (c).</p> <p>[Final Order on ASC, Condition IV.B.7; AMD4; AMD5]</p> |
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| GEN-OE-06 | <p>Within three business days after discovery of conditions or circumstances that may violate the terms or conditions of the site certificate, the certificate holder shall report, in accordance with OAR 345-029-0010(1), the conditions or circumstances to the Department. Within 30-days of discovery, the certificate holder shall submit to the Department a written report pursuant to OAR 345-029-0010(3).</p> <p>[Final Order on ASC, Condition IV.B.8; AMD4]</p> |
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STANDARD: STRUCTURAL STANDARD (SS) [OAR 345-022-0020]

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|-----------|--|
| GEN-SS-01 | <p>The certificate holder shall design and construct the facility in accordance with requirements set forth by the State’s Building Code Division and any other applicable codes and design procedures.</p> <p>Prior to operation, the certificate holder shall provide confirmation to the Department that facility design and construction satisfies the requirements set forth by the State’s Building Code Division and any other applicable codes and design procedures.</p> <p>[Final Order on ASC, Condition V.A.3; AMD4]</p> |
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STANDARD: SOIL PROTECTION (SP) [OAR 345-022-0022]

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|-----------|---|
| GEN-SP-01 | <p>The certificate holder shall conduct all construction work in compliance with an Erosion and Sediment Control Plan (the “ESCP”) satisfactory to the Oregon DEQ and as required under the National Pollutant Discharge Elimination System Storm Water Discharge General Permit #1200-C. The certificate holder shall include in the ESCP any procedures necessary to meet local erosion and sediment control requirements or storm water management requirements.</p> <p>[Final Order on ASC, Condition IV.E.1]</p> |
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STANDARD: LAND USE (LU) [OAR 345-022-0030]

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| GEN -LU-01 | <p>The certificate holder shall ensure that no equipment or machinery is parked or stored on any county road except while in use.</p> <p>[Final Order on ASC, Condition IV.D.2]</p> |
| GEN-LU-02 | <p>Aboveground transmission line structures shall not occupy areas that show gross indicators of landslide activity or marginal stability. Prior to construction of aboveground transmission line structures, the certificate holder shall provide confirmation to the Department that the locations of the aboveground transmission line structures do not occupy areas that show gross indicators of landslide activity or marginal stability. The certificate holder may rely upon the analysis included in the pre-construction geotechnical investigation, as required per Condition V.A.1, to satisfy this condition.</p> <p>[Final Order on ASC, Condition IV.D.5; AMD4]</p> |

STANDARD: RETIREMENT AND FINANCIAL ASSURANCE (RT) [OAR 345-022-0050]

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| GEN -RT-01 | <p>The certificate holder shall prevent the development of any conditions on the site that would preclude</p> |
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| | restoration of the site to a useful, non-hazardous condition to the extent that prevention of such site conditions is within the control of the certificate holder. [Final Order on ASC, Condition IV.C.3] |
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STANDARD: FISH AND WILDLIFE HABITAT (FW) [OAR 345-022-0060]

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| GEN -FW-01 | The certificate holder shall restore areas outside the permanent footprint that are disturbed, according to the methods and monitoring procedures described in the HMRP included in the Final Order on Amendment 4 as Attachment BC and as amended from time to time. Mitigation and restoration requirements in the plan shall apply to all laydown areas and other areas of temporary disturbance, including those associated with construction of transmission lines. [Final Order on ASC, Condition IV.M.2; AMD4] |
| GEN -FW-02 | Permanent met towers shall not have guy wires. [Final Order on ASC, Condition IV.M.3] |
| GEN -FW-03 | Trees in Category 3 upland tree habitat shall not be physically harmed or removed. [Final Order on ASC, Condition IV.M.6] |
| GEN -FW-04 | The certificate holder shall design and construct all aboveground transmission line support structures following the practices suggested by the Avian Powerline Interaction Committee (APLIC 2006; APLIC 2012) and install spiral markers over Grass Valley Canyon, based on APLIC spacing recommendations and consultation on number and location (span or segment) with the Department and ODFW. [Final Order on ASC, Condition IV.M.8; AMD4; AMD6] |

STANDARD: SCENIC RESOURCES (SR) [OAR 345-022-0080]

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| GEN -SR-01 | The certificate holder shall design and construct the O&M facility to be generally consistent with the character of similar buildings used by commercial farmers or ranchers in the area and shall paint the building in a neutral color to blend with the surrounding landscape. [Final Order on ASC, Condition IV.G.2] |
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STANDARD: HISTORIC, CULTURAL, AND ARCHEOLOGICAL RESOURCES (HC) [OAR 345-022-0090]

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| GEN -HC-01 | Prior to and during construction, the certificate holder shall ensure that construction personnel receive training from a cultural resources specialist on how to identify sensitive historic, cultural, and archaeological resources that could be inadvertently uncovered during construction, and on measures to avoid accidental damage to such resources. Records of such training must be maintained onsite during construction, and made available to the Department upon request. [Final Order on ASC, Condition V.B.5; AMD4; AMD6] |
| GEN -HC-02 | Deleted [AMD6] |

STANDARD: PUBLIC SERVICES (PS) [OAR 345-022-0100]

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|------------|--|
| GEN -PS-01 | During construction and operation of the facility, the certificate holder shall install on-site security and shall require on-site security personnel to establish a line of communication with the Sherman County Sheriff's Office to regularly report on the status of on-site security operations. [Final Order on ASC, Condition V.C.2] |
| GEN -PS-02 | During construction and operation of the facility, the certificate holder shall ensure that the O&M facility and all service vehicles are equipped with shovels and portable fire extinguishers of a 4A50BC or equivalent rating. [Final Order on ASC, Condition V.C.5] |

STANDARD: PUBLIC HEALTH AND SAFETY STANDARDS FOR WIND ENERGY FACILITIES (PH) [OAR 345-024-0010]

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| GEN -PH-01 | The certificate holder shall construct all facility components in compliance with the following setback requirements |
|------------|--|

- a. The certificate holder shall maintain a minimum distance of 110 percent of maximum blade tip height, measured from the centerline of the turbine tower to the nearest edge of any public road right-of-way. The certificate holder shall assume a minimum right-of-way width of 60 feet.
- b. The certificate holder shall maintain a minimum distance of 1,320 feet, measured from the centerline of the turbine tower to the center of the nearest residence existing at the time of tower construction.
- c. The certificate holder shall maintain a minimum distance of 110 percent of maximum blade tip height, measured from the centerline of the turbine tower to the nearest boundary of the certificate holder's lease area.

Prior to construction of turbine towers, the certificate holder shall submit to the Department final facility design and layout maps, with supporting distance tables (i.e. distance of facility component to nearest setback location – residence, right of way, etc), demonstrating compliance with the aforementioned setback requirements.

[Final Order on ASC, Condition IV.I.8; AMD4]

REQUIREMENTS UNDER COUNCIL JURISDICTION (CJ)

GEN -CJ-01

Prior to construction of the facility, facility component or phase, the certificate holder shall take reasonable steps to reduce or manage human exposure to electric and magnetic fields, including, but not limited to:

- a) Submittal of final facility design maps to the Department demonstrating that all aboveground transmission lines would be located at least 200 feet from any residence or other occupied structure, measured from the centerline of the transmission line;
- b) Fencing all areas near the facility substations to ensure that substation equipment is not accessible to the public;
- c) Submittal of evidence to the Department that a map of underground and overhead transmission lines on private property and an advisory of possible health risks has been provided to all landowners within 200-feet of the transmission line; and
- d) Designing and maintaining all transmission lines so that alternating current electric fields do not exceed 9 kV per meter at one meter above the ground surface in areas accessible to the public.

[Final Order on ASC, Condition VI.A.4.1; AMD4; AMD6]

MANDATORY CONDITIONS (MC)

GEN -MC-01

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

[Final Order on ASC, Condition VII.1; AMD4]

GEN -MC-02

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

- a) Substantially as described in the site certificate;
- b) In compliance with the requirements of ORS Chapter 469, applicable Council rules, and applicable state and local laws, rules and ordinances in effect at the time the site certificate is issued; and
- c) In compliance with all applicable permit requirements of other state agencies.

[Final Order on ASC, Condition VII.3; AMD4]

GEN-MC-03

OAR 345-025-0006 (4): The certificate holder shall begin and complete construction of the facility by the dates specified in the site certificate. [See Conditions GEN-DC-01 and GEN-DC-02]

[Final Order on ASC, Condition VII.4; AMD4]

GEN -MC-04

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

[Final Order on ASC, Condition VII.7; AMD4]

GEN -MC-05

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

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| | <p>applicant.</p> <p>[Final Order on ASC, Condition VII.10; AMD4]</p> |
| GEN -MC-06 | <p>OAR 345-025-0006(11): Upon completion of construction, the certificate holder shall restore vegetation to the extent practicable and shall landscape all areas disturbed by construction in a manner compatible with the surroundings and proposed use. Upon completion of construction, the certificate holder shall remove all temporary structures not required for facility operation and dispose of all timber, brush, refuse and flammable or combustible material resulting from clearing of land and construction of the facility.</p> <p>[Final Order on ASC, Condition VII.11; AMD4]</p> |
| GEN -MC-07 | <p>OAR 345-025-0006 (12): The certificate holder shall design, engineer and construct the facility to avoid dangers to human safety and the environment presented by seismic hazards affecting the site that are expected to result from all maximum probable seismic events. As used in this rule “seismic hazard” includes ground shaking, ground failure, landslide, liquefaction triggering and consequences (including flow failure, settlement buoyancy, and lateral spreading), cyclic softening of clays and silts, fault rupture, directivity effects and soil-structure interaction.</p> <p>[Final Order on ASC, Condition VII.12; AMD4]</p> |
| GEN -MC-08 | <p>OAR 345-025-0006 (13): The certificate holder shall notify the Department, the State Building Codes Division and the Department of Geology and Mineral Industries promptly if site investigations or trenching reveal that conditions in the foundation rocks differ significantly from those described in the application for a site certificate. After the Department receives the notice, the Council may require the certificate holder to consult with the Department of Geology and Mineral Industries and the Building Codes Division and to propose mitigation actions.</p> <p>[Final Order on ASC, Condition VII.13; AMD4]</p> |
| GEN -MC-09 | <p>OAR 345-025-0006 (14): The certificate holder shall notify the Department, the State Building Codes Division and the Department of Geology and Mineral Industries promptly if shear zones, artesian aquifers, deformations or clastic dikes are found at or in the vicinity of the site.</p> <p>[Final Order on ASC, Condition VII.14; AMD4]</p> |
| GEN -MC-10 | <p>OAR 345-025-0006 (15): Before any transfer of ownership of the facility or ownership of the site certificate holder, the certificate holder shall inform the Department of the proposed new owners. The requirements of OAR 345-027-0100 apply to any transfer of ownership that requires a transfer of the site certificate.</p> <p>[Final Order on ASC, Condition VII.15; AMD4]</p> |
| GEN -MC-11 | <p>OAR 345-025-0006 (16): If the Council finds that the certificate holder has permanently ceased construction or operation of the facility without retiring the facility according to a final retirement plan approved by the Council, as described in OAR 345-027-0110, the Council shall notify the certificate holder and request that the certificate holder submit a proposed final retirement plan to the Office within a reasonable time not to exceed 90 days. If the certificate holder does not submit a proposed final retirement plan by the specified date, the Council may direct the Department to prepare a proposed a final retirement plan for the Council’s approval. Upon the Council’s approval of the final retirement plan, the Council may draw on the bond or letter of credit described in OAR 345-027-0020(8) to restore the site to a useful, non-hazardous condition according to the final retirement plan, in addition to any penalties the Council may impose under OAR Chapter 345, Division 29. If the amount of the bond or letter of credit is insufficient to pay the actual cost of retirement, the certificate holder shall pay any additional cost necessary to restore the site to a useful, non-hazardous condition. After completion of site restoration, the Council shall issue an order to terminate the site certificate if the Council finds that the facility has been retired according to the approved final retirement plan.</p> <p>[Final Order on ASC, Condition VII.16; AMD4]</p> |
| GEN -MC-12 | <p>OAR 345-025-0006 (4):</p> |

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| | <p>a) The certificate holder shall design, construct and operate the transmission line in accordance with the requirements of the 2012 Edition of the National Electrical Safety Code approved on June 3, 2011, by the American National Standards Institute; and</p> <p>b) The certificate holder shall develop and implement a program that provides reasonable assurance that all fences, gates, cattle guards, trailers, or other objects or structures of a permanent nature that could become inadvertently charged with electricity are grounded or bonded throughout the life of the line.</p> <p>[Final Order on Amendment No. 3]</p> <p>[Final Order on ASC, Condition VII.17 [OAR 345-027-0023(4)]; AMD4]</p> |
| <p>GEN -MC-13</p> | <p>OAR 345-025-0006 (5): The certificate holder is authorized to construct a 230-kV transmission line anywhere within the approved corridor, subject to the conditions of the site certificate. The approved corridor includes a 5-mile segment and 700-foot segment extending the length of the 230-kV transmission line route and is 200 feet in width.</p> <p>[Final Order on ASC, Condition VII.18; AMD4]</p> |
| <p>GEN -MC-14</p> | <p>OAR 345-026-0048: Following receipt of the site certificate or an amended site certificate, the certificate holder shall implement a plan that verifies compliance with all site certificate terms and conditions and applicable statutes and rules. As a part of the compliance plan, to verify compliance with the requirement to begin construction by the date specified in the site certificate, the certificate holder shall report promptly to the Department of Energy when construction begins. Construction is defined in OAR 345-001-0010. In reporting the beginning of construction, the certificate holder shall describe all work on the site performed before beginning construction, including work performed before the Council issued the site certificate, and shall state the cost of that work. For the purpose of this exhibit, “work on the site” means any work within a site or corridor, other than surveying, exploration or other activities to define or characterize the site or corridor. The certificate holder shall document the compliance plan and maintain it for inspection by the Department or the Council.</p> <p>[Final Order on ASC, Condition VII.20]</p> |
| <p>GEN-MC-15</p> | <p>OAR 345-026-0080: The certificate holder shall report according to the following requirements:</p> <p>(a) General reporting obligation for energy facilities under construction or operating:</p> <ul style="list-style-type: none"> i. Within six months after beginning construction, and every six months thereafter during construction of the energy facility and related or supporting facilities, the certificate holder shall submit a semiannual construction progress report to the Department of Energy. In each construction progress report, the certificate holder shall describe any significant changes to major milestones for construction. The certificate holder shall include such information related to construction as specified in the site certificate. When the reporting date coincides, the certificate holder may include the construction progress report within the annual report described in OAR 345-026-0080. ii. By April 30 of each year after beginning construction, the certificate holder shall submit an annual report to the Department addressing the subjects listed in OAR 345-026-0080. The Council Secretary and the certificate holder may, by mutual agreement, change the reporting date. iii. To the extent that information required by OAR 345-026-0080 is contained in reports the certificate holder submits to other state, federal or local agencies, the certificate holder may submit excerpts from such other reports to satisfy this rule. The Council reserves the right to request full copies of such excerpted reports. <p>(b) In the annual report, the certificate holder shall include the following information for the calendar year preceding the date of the report:</p> <ul style="list-style-type: none"> i. Facility Status: An overview of site conditions, the status of facilities under construction, and a summary of the operating experience of facilities that are in operation. In this section of the annual report, the certificate holder shall describe any unusual events, such as earthquakes, extraordinary windstorms, major accidents or the like that occurred during the year and that had a significant adverse impact on the facility. ii. Reliability and Efficiency of Power Production: For electric power plants, the plant availability and capacity factors for the reporting year. The certificate holder shall describe any equipment |

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| | <p>failures or plant breakdowns that had a significant impact on those factors and shall describe any actions taken to prevent the recurrence of such problems.</p> <ul style="list-style-type: none"> iii. Status of Surety Information: Documentation demonstrating that bonds or letters of credit as described in the site certificate are in full force and effect and will remain in full force and effect for the term of the next reporting period. iv. Monitoring Report: A list and description of all significant monitoring and mitigation activities performed during the previous year in accordance with site certificate terms and conditions, a summary of the results of those activities, and a discussion of any significant changes to any monitoring or mitigation program, including the reason for any such changes. v. Compliance Report: A description of all instances of noncompliance with a site certificate condition. For ease of review, the certificate holder shall, in this section of the report, use numbered subparagraphs corresponding to the applicable sections of the site certificate. vi. Facility Modification Report: A summary of changes to the facility that the certificate holder has determined do not require a site certificate amendment in accordance with OAR 345-027-0050. <p>[Final Order on ASC, Condition VII.21; AMD4]</p> |
| <p>GEN-MC-16</p> | <p>OAR 345-026-0105: The certificate holder and the Department of Energy shall exchange copies of all correspondence or summaries of correspondence related to compliance with statutes, rules and local ordinances on which the Council determined compliance, except for material withheld from public disclosure under state or federal law or under Council rules. The certificate holder may submit abstracts of reports in place of full reports; however, the certificate holder shall provide full copies of abstracted reports and any summarized correspondence at the request of the Department.</p> <p>[Final Order on ASC, Condition VII.22]</p> |
| <p>GEN-MC-17</p> | <p>OAR 345-026-0170(1): The certificate holder shall notify the Department of Energy within 72 hours of any occurrence involving the facility if:</p> <ul style="list-style-type: none"> a) There is an attempt by anyone to interfere with its safe operation; b) A natural event such as an earthquake, flood, tsunami or tornado, or a human-caused event such as a fire or explosion affects or threatens to affect the public health and safety or the environment; or c) There is any fatal injury at the facility. <p>[Final Order on ASC, Condition VII.23]</p> |
| <p>GEN-MC-18</p> | <p>OAR 345-025-0006(6): If the certificate holder becomes aware of a significant environmental change or impact attributable to the facility, the certificate holder shall, as soon as possible, submit a written report to the Department describing the impact on the facility and any affected site certificate conditions.</p> <p>[AMD5]</p> |

4.3 Pre-Construction (PRE) Conditions

| Condition Number | Pre-Construction (PRE) Conditions |
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| DESCRIPTION CONDITIONS (DC) | |
| PRE-DC-01 | <p>The certificate holder shall construct a facility substantially as described in the site certificate and may select up to 51 turbines, subject to the following restrictions and compliance with other site certificate conditions. Before beginning construction of the facility, facility component or phase, as applicable, the certificate holder shall provide to the Department a description of the turbine types selected for the facility demonstrating compliance with this condition.</p> <ul style="list-style-type: none"> (a) The total number of turbines at the facility must not exceed 51 turbines. (b) The combined peak generating capacity of the facility must not exceed 400 megawatts. (c) The turbine hub height must not exceed 123 meters and the maximum blade tip height must not exceed 198 meters. (d) The minimum blade tip clearance must be 14 meters above ground. (e) Wind turbine types with the maximum dimension specifications listed in this condition shall be equipped with serrated trailing edge blades. <p>[Final Order on ASC, Condition III.A.1; AMD6]</p> |
| PRE-DC-02 | <p>At least 45-days prior to construction, but not more than two years before beginning construction of the facility, facility component or phase, as applicable, and after considering all micro-siting factors, the certificate holder shall:</p> <ul style="list-style-type: none"> (a) Conduct a field-based habitat survey to confirm the habitat categories of areas that will be affected by facility components, as well as the locations of any sensitive resources such as active raptor and other bird nests. The survey protocols and habitat classification categories shall be confirmed with the Department and ODFW. (b) At least 45-days prior to construction, unless otherwise agreed to by the Department, submit to the Department a habitat assessment report that includes: <ul style="list-style-type: none"> • Habitat impact table, based upon final facility design and updated habitat survey, including permanent and temporary impacts by facility component and habitat category/type/subtype. • Maps showing: habitat categories and subtypes of all areas within the site boundary, final location of temporary and permanent facility components, and locations of any sensitive resources within areas that will be affected by facility components. If any sensitive resources are identified, they will need to be flagged as exclusion zones in accordance with Condition IV.M.10. If necessary, sensitive resource information shall be submitted to the Department in hard copy only and provided under request for information to be treated as confidential. <p>The field survey and information in the habitat assessment report will be used to finalize the HRMP for Department and ODFW approval (Condition PRE-TL). The certificate holder shall not construct any facility components within areas of Category 1 habitat and shall avoid temporary disturbance of Category 1 habitat.</p> <p>[Final Order on ASC, Condition III.C.1; AMD4]</p> |
| PRE-DC-03 | <p>Before beginning construction of the facility, facility component or phase, as applicable, the certificate holder shall notify the Department in advance of any work on the site that does not meet the definition of “construction” in ORS 469.300(6), excluding surveying, exploration or other activities to define or characterize the site, and shall provide to the Department a description of the work and evidence that its value is less than \$250,000.</p> <p>[Final Order on ASC, Condition III.D.3]</p> |
| STANDARD: ORGANIZATIONAL EXPERTISE (OE) [OAR 345-022-0010] | |

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| PRE-OE-01 | <p>Before beginning construction of the facility, facility component or phase, as applicable, the certificate holder shall notify the Department of the identity and qualifications of the major design, engineering and construction contractor(s) for the facility. The certificate holder shall select contractors that have substantial experience in the design, engineering and construction of similar facilities. Within three business days, the certificate holder shall report to the Department any change of major contractors.</p> <p>[Final Order on ASC, Condition IV.B.2; AMD4]</p> |
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STANDARD: STRUCTURAL STANDARD (SS) [OAR 345-022-0020]

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| PRE-SS-01 | <p>Prior to construction of the facility, facility component or phase, as applicable, the certificate holder shall:</p> <ul style="list-style-type: none"> (a) Submit a protocol to the Department and Oregon Department of Geology & Mineral Industries, for review, with the applicable codes, standards, and guidelines to be used, and proposed geotechnical work to be conducted for the site-specific geotechnical investigation report. (b) Submit a draft site-specific geotechnical investigation report to the Department and Oregon Department of Geology & Mineral Industries (“DOGAMI”), for review. The investigation and report shall conform to the Oregon State Board of Geologist Examiners guidelines titled “Guidelines for Engineering Geologic Reports.” The site-specific geotechnical investigation shall address Quaternary faults, landslide hazards, and non-seismic hazards and shall include design and construction recommendations to meet public safety for the anticipated lifespan of the facility. (c) The Department shall review and concur with the report, in consultation with DOGAMI, prior to construction. <p>[Final Order on ASC, Condition V.A.1; AMD4; AMD5]</p> |
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| PRE-SS-02 | <p>The certificate holder shall design, engineer and construct the facility to avoid dangers to human safety presented by non-seismic hazards. As used in this condition, “non-seismic hazards” include settlement, landslides, flooding and erosion.</p> <p>[Final Order on ASC, Condition V.A.4]</p> |
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| PRE-SS-03 | <p>The certificate holder shall ensure that wind turbine corridors and major structures are constructed with sufficient setbacks from all steeper slopes to minimize the potential for creating unstable or marginally stable conditions.</p> <p>[Final Order on ASC, Condition V.A.5]</p> |
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STANDARD: SOIL PROTECTION (SP) [OAR 345-022-0022]

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| PRE-SP-01 | <p>Prior to construction of the facility, facility component or phase, as applicable, the certificate holder shall develop a plan to control the introduction and spread of noxious weeds during facility construction and operation. The plan shall be developed in consultation with the Department, the Sherman County Weed Control manager, and ODFW. The plan shall be approved by the Department prior to construction. The plan shall focus on weed species listed on the Sherman County noxious weed list, but shall also include preventative measures, based on consultation with the Sherman County Weed Control Manager, to combat noxious weeds of concern in the area.</p> <p>[Final Order on ASC, Condition IV.E.4; AMD3, AMD4]</p> |
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STANDARD: LAND USE (LU) [OAR 345-022-0030]

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| PRE-LU-01 | <p>Prior to construction of the facility, facility component or phase, as applicable, the certificate holder shall provide to the Department, Sherman County Planning Department, and Sherman County Transportation Department, as applicable, road design plans demonstrating that:</p> <ul style="list-style-type: none"> (a) New or substantially modified public roads meet or exceed road standards for the road classifications in the County’s Transportation System Plan and Zoning Ordinance. (b) Private access connection and driveway design of the O&M facility and substation comply with applicable requirements established in Sherman County Zoning Ordinance Section 4.14.4. <p>[Final Order on ASC, Condition IV.D.1; AMD4]</p> |
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| PRE-LU-02 | <p>The site certificate holder shall, in consultation with affected landowners, design and construct private access roads to minimize the division of existing farm units.</p> <p>[Final Order on ASC, Condition IV.D.3]</p> |
| PRE-LU-03 | <p>The certificate holder shall not locate any aboveground facility structure (including wind turbines, O&M building, substation and met towers, but not including aboveground power collection and transmission lines and poles and junction boxes) within 50 feet from any external property line or within 50 feet from the right of way of any arterial or major collector road. Prior to construction of any aboveground facility structure, the certificate holder shall submit to the Department maps and distance tables (i.e. distance from nearest facility component to setback location), based on final facility design, demonstrating that the aboveground facility structures are not located within 50 feet from any external property line or within 50 feet from the right of way of any arterial or major collector road.</p> <p>[Final Order on ASC, Condition IV.D.4; AMD4]</p> |
| PRE-LU-04 | <p>Collector lines in the Natural Hazards Combining Zone (“NH zone”) shall be placed under ground except in instances where it is more practical to install aboveground power collection lines and provided that the aboveground power collection lines will be designed to minimize slope stability and other NH zone hazards. The site-specific geotechnical investigation required prior to construction shall address native soil and bedrock stability concerns at cuts, fills and culvert crossings, and shall include design and construction recommendations to minimize the potential for destabilizing marginally stable slopes and the potential for stream erosion.</p> <p>[Final Order on ASC, Condition IV.D.6]</p> |
| PRE-LU-05 | <p>Prior to construction of the facility, facility component or phase, as applicable, the certificate holder shall submit to the Department evidence that the Sherman County Planning Department has received and concurred with the SCZO Article 3.7.5(e) Development Proposal, required for uses within a NH zone.</p> <p>[Final Order on ASC, Condition IV.D.7; AMD4]</p> |
| PRE-LU-06 | <p>Construction staging areas shall be limited to areas outside the Natural Hazards Combining Zone. Prior to construction of staging areas, the certificate holder shall provide construction related maps demonstrating that the staging areas are located outside the Natural Hazards Combining Zone (“NH Zone”).</p> <p>[Final Order on ASC, Condition IV.D.8; AMD4]</p> |
| PRE-LU-07 | <p>The certificate holder shall stabilize all roads or streets in the Natural Hazards Combining by planking, gravel or pavement as deemed necessary, and shall build roadways without installation of excessive fill, diversion of water or excessive cuts unless the site investigation determines that such conditions will not be detrimental to the area or create unwarranted maintenance problems or additional hazards.</p> <p>[Final Order on ASC, Condition IV.D.9; AMD4]</p> |
| PRE-LU-08 | <p>Prior to construction of the facility, facility component or phase, as applicable, the certificate holder shall submit to the Department final facility design maps presenting the location of temporary construction laydown and staging areas, including those associated with construction of transmission lines or placement of conductors on third-party transmission lines. The facility shall be designed to minimize disturbance with farming practices and, wherever feasible, as determined in consultation with affected landowners, shall place turbines and transmission interconnection lines along the margins of cultivated areas to reduce the potential for conflict with farm operations. The certificate holder shall place aboveground transmission and collector lines and poles and junction boxes along property lines and public road rights-of-way to the extent practicable.</p> <p>[Final Order on ASC, Condition IV.D.10; AMD4]</p> |
| PRE-LU-09 | <p>Prior to construction of the facility, facility component or phase, as applicable, the certificate holder shall submit to the Department evidence that a Farm Management Easement covering the properties on which the certificate holder locates wind power generation facility components has been recorded in the real property records of Sherman County and the Sherman County Planning Director.</p> <p>[Final Order on ASC, Condition IV.D.13; AMD4]</p> |

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| PRE-LU-10 | <p>The certificate holder shall remove from Special Farm Assessment the portions of parcels on which facilities are located and shall pay all property taxes due and payable after the Special Farm Assessment is removed from such properties.</p> <p>[Final Order on ASC, Condition IV.D.14]</p> |
| PRE-LU-11 | <p>Prior to start of construction of the facility, facility component or phase, as applicable, the certificate holder shall, in consultation with Sherman County, assign a 9-1-1 5-digit rural address to every tower road that intersects a State or county road. The county will provide and install the signage for these addresses.</p> <p>[Final Order on ASC, Condition IV.D.18]</p> |
| PRE-LU-12 | <p>The certificate holder shall:</p> <p>(a) Prior to beginning construction of the facility, facility component or phase, as applicable, provide evidence to the Department that both a pre-construction road condition inspection and consultation with the Sherman County Road Department has occurred. Through the consultation, the certificate holder shall, at a minimum, obtain confirmation of the following or provide the following documentation to the Sherman County Road Department:</p> <ol style="list-style-type: none"> (1) Final facility design maps identifying the route or routes for the transport of wind turbine construction material (including water, aggregate, concrete, machinery and tower pieces) and facility access for construction personnel; and, concurrence on the pre-construction conditions of any routes using or crossing Sherman county roads. (2) A written summary of possible anticipated road damage to the designated route or routes, and an estimate of the cost of repair to the designated route or routes; (3) Communication protocol for reporting to the Sherman County Road Department unusual damage or wear identified during facility construction and determined to be a result of facility construction vehicle use. (4) Establish and maintain an escrow account for so long as construction is ongoing, funded in an amount equal to the estimated cost to repair the designated route or routes consistent with the estimate provided in (2); and (5) Conduct an inspection of the roads along the designated route or routes after construction with a representative of the Sherman County Road Department and an independent third party with the required expertise to inspect and evaluate paved and graveled roads. In the event a dispute arises, the third party shall be the final arbiter. The cost of the hiring of the third party shall be borne by the certificate holder. <p>(b) Following completion of construction and prior to operation, conduct the inspection of the roads along the designated route or routes with a representative of the Sherman County Road Department and an independent third party, as specified in sub(a)(5) of this condition.</p> <p>(c) After completing the inspection required per sub(b), the certificate holder shall coordinate with the Sherman County Road Master and shall provide adequate funding to allow the county to restore any necessary damages to Sherman County roads resulting from facility construction as agreed upon by the Sherman County Road Department. The escrow account established in (a)(4) shall not be closed until Sherman County Road Department has agreed with the restoration to Sherman County roads, or otherwise that the certificate holder has not caused damage to Sherman County roads.</p> <p>[Final Order on ASC, Condition IV.D.19; AMD4, AMD5]</p> |
| PRE-LU-13 | <p>Before beginning construction of facility access roads, the certificate holder shall confer with the Sherman County Road Master regarding any utility permits needed for county road right-of-ways and obtain permits for construction of all approach roads onto county roads.</p> <p>[Final Order on ASC, Condition IV.D.20; AMD4]</p> |
| PRE-LU-14 | <p>Prior to construction of the facility, facility component or phase, as applicable, Certificate Holder shall demonstrate that the final location of turbines within the micro-siting corridors approved by the Council will satisfy setback requirements prescribed by the Sherman County Wind Setback Ordinance (Ordinance No. 39-2007) unless the Council has approved a variance to such setback for the turbine or the Certificate Holder has negotiated a setback agreement with the affected adjacent property owner or wind project developer in</p> |

accordance with Section 3 of the ordinance as follows:

- (a) Setback from property lines in all East-West upwind and downwind directional property line installation shall be no less than 7.5 times the rotor diameter and no less than 1.5 times the rotor diameter for all North-South property line delineations. These requirements shall only apply to project boundaries and will not be required for towers installed internally within the site boundary. (Sherman County Ordinance 39-2007, Section 4)
- (b) Setbacks from pre-existing wind turbines shall be 15 times the rotor diameter upwind and downwind for all East-West setback considerations and 3 times the rotor diameter for all North-South setback considerations. (Sherman County Ordinance 39-2007, Section 5)
- (c) Setbacks from an operating wind turbine to the boundary lines of any incorporated city in Sherman County shall be a distance of one (1) mile, unless a variance to such distance is obtained through the city council of an affected city, after public hearing. (Sherman County Ordinance 39-2007, Section 6)

[Condition IV.D.22; AMD1, AMD4, AMD5]

STANDARD: RETIREMENT AND FINANCIAL ASSURANCE (RT) [OAR 345-022-0050]

PRE-RT-01

Before beginning construction of the facility, facility component or phase, as applicable, the certificate holder shall submit to the State through the Council a bond or letter of credit in the amount described herein naming the State, acting by and through the Council, as beneficiary or payee. If the certificate holder elects to build the facility in a single phase, the initial bond or letter of credit amount is \$11.9 (in Q4 2020 dollars), adjusted to the date of issuance as described in (b), or the amount determined as described in (a). If the certificate holder elects to build the facility in more than one phase, the amount of the initial bond or letter of credit for each phase of construction shall be the amount determined as described in (a). The certificate holder shall adjust the amount of each bond or letter of credit on an annual basis thereafter as described in (b).

- (a) The certificate holder may adjust the amount of each bond or letter of credit based on the final design configuration of the facility by applying the unit costs and general costs illustrated in Table 3 of the Final Order on Amendment 6 to the final design and calculating the financial assurance amount as described in that order, adjusted to the date of issuance as described in (b) and subject to approval by the Department.
- (b) The certificate holder shall adjust the amount of each bond or letter of credit, using the following calculation and subject to approval by the Department:
 - (i) Adjust the subtotal component of the bond or letter of credit amount (expressed in 2020 dollars) to present value, using the U.S. Gross Domestic Product Implicit Price Deflator, Chain-Weight, as published in the Oregon Department of Administrative Services' "Oregon Economic and Revenue Forecast" or by any successor agency (the "Index") and using the annual average index value for 2020 dollars and the quarterly index value for the date of issuance of the new bond or letter of credit. If at any time the Index is no longer published, the Council shall select a comparable calculation to adjust Q4 2020 dollars to present value.
 - (ii) Calculate the adjusted performance bond amount as 1 percent of the new subtotal (i).
 - (iii) Add the subtotal (i) to the adjusted performance bond amount (ii) for the adjusted gross cost.
 - (iv) Calculate the adjusted administration and project management costs as 10 percent of the adjusted gross cost (iii).
 - (v) Calculate the adjusted future developments contingency as 10 percent of the adjusted gross cost (iii).
 - (vi) Add the adjusted gross cost (iii) to the sum of adjusted administration and project management costs (iv) and the adjusted future developments contingency (v) and round the resulting total to the nearest \$1,000 to determine the adjusted financial assurance amount.
- (c) The certificate holder shall use a form of bond or letter of credit approved by the Council.
- (d) The certificate holder shall use an issuer of the bond or letter of credit approved by the Council.
- (e) The certificate holder shall describe the status of the bond or letter of credit in the annual report submitted to the Council under Condition (VII.21.a.ii).

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| | <p>(f) The bond or letter of credit shall not be subject to revocation or reduction before retirement of the facility site.</p> <p>[Final Order on ASC, Condition IV.C.4; AMD3]</p> |
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STANDARD: FISH AND WILDLIFE HABITAT (FW) [OAR 345-022-0060]

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| PRE-FW-01 | <p>Prior to construction of the facility, facility component or phase, as applicable, the certificate holder shall finalize and implement the Habitat Mitigation and Revegetation Plan (HMRP), included as Attachment C to the Final Order on Amendment, as approved by the Department in consultation with ODFW and as amended from time to time. Such amendments may be made without amendment of the site certificate. The Council authorizes the Department to agree to amendments, and the Council retains the authority to approve, reject, or modify any amendments of the HMRP agreed to by the Department. [Final Order on Amendment 4]</p> <p>The finalized HMRP shall incorporate the maps, habitat classifications, and anticipated temporary and permanent habitat impact assessment completed as per site certificate Condition III.C.1. Prior to start of construction, the certificate holder shall acquire the legal right to create, enhance, maintain and protect a habitat mitigation area so long as the site certificate is in effect by means of outright purchase, conservation easement or similar conveyance and shall provide a copy of the documentation to the Department. The nominal lease term shall be at least 30 years, with an option to extend if the facility continues operations past year 30. The mitigation area shall be as shown in figures 1, 2 and 3 of Attachment B to the Final Order. Any different mitigation area shall require prior approval of the Department in consultation with ODFW.</p> <p>If, prior to the achievement of success criteria for revegetation and restoration of temporarily impacted areas as provided in the final HMRP, any area temporarily disturbed during facility construction is converted for some other use such that the Department, in consultation with ODFW, determines the success criteria cannot be achieved, or the Department otherwise determines, in consultation with ODFW, that the success criteria cannot be achieved, the Department shall amend the HMRP using the process described above to require additional mitigation consistent with the habitat classifications and mitigation requirements for other areas permanently impacted by the facility.</p> <p>[Final Order on ASC, Condition IV.M.1; AMD3, AMD4]</p> |
| PRE-FW-02 | <p>The certificate holder shall survey the status of known raptor nests within 0.5 miles before ground-disturbing activities begin. If an active nest is found, and ground-disturbing activities are scheduled to begin before the end of the sensitive nesting and breeding season (mid-April to mid-August), the certificate holder will not engage in ground-disturbing activities within a 0.25-mile buffer around the nest until the nest fledges young or the nest fails, unless ODFW approves an alternative plan. If ground-disturbing construction activities continue into the sensitive nesting and breeding season for the following year, the certificate holder will not engage in ground-disturbing activities within the 0.25-mile buffer if the nest site is found to be active until the nest fledges young or the nest fails, unless ODFW approves an alternate plan.</p> <p>[Final Order on ASC, Condition IV.M.4]</p> |
| PRE-FW-03 | <p>Prior to construction of the facility, facility component or phase, as applicable, the certificate holder will survey the status of known loggerhead shrikes nests and visit sites where non-nesting loggerhead shrikes were observed in order to determine old and new nest sites. The certificate holder shall avoid all construction activities within a 492-foot (150-meter) buffer from active loggerhead shrikes nests.</p> <p>[Final Order on ASC, Condition IV.M.5; Amended in Final Order on AMD4]</p> |
| PRE-FW-04 | <p>Prior to construction of the facility, facility component or phase, as applicable, the certificate holder shall submit to the Department final facility design maps confirming that turbines and other facility components will be located within the 900-foot corridors shown on Figure 1 of the Amended Site Certificate. The certificate holder shall not construct any facility components within areas of Category 1 or Category 2 habitat and shall avoid temporary disturbance of Category 1 or Category 2 habitat, except for those acreages allowed in the final Habitat Mitigation and Revegetation Plan (HMRP). The certificate holder may rely upon the maps and data submitted per Condition IV.M.1 to satisfy this condition.</p> <p>[Final Order on ASC, Condition IV.M.9; AMD3, AMD4, AMD5]</p> |

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| PRE-FW-05 | <p>Prior to construction of the facility, facility component or phase, as applicable, the certificate holder shall:</p> <ol style="list-style-type: none"> a. Conduct one (1) year of raptor nest surveys. The raptor nest surveys shall be conducted following the instructions set forth in the Raptor Nest Survey Protocol for Golden Hills Wind Project included as Attachment D to the Fourth Amended Site Certificate. b. At least 45-days prior to construction, the certificate holder shall provide a written report on the raptor nest surveys to the Department and ODFW. If the surveys identify the presence of raptor nests within the survey area, the certificate holder shall implement appropriate measures, consistent with the Wildlife Monitoring and Mitigation Plan, and as approved by the Department in consultation with ODFW, to assure that design, construction, and operation of the facility are consistent with the Fish and Wildlife Habitat standard. <p>[Final Order on ASC, Condition IV.M.11; AMD3, AMD4]</p> |
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STANDARD: THREATENED AND ENDANGERED SPECIES (TE) [OAR 345-022-0070]

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| PRE-TE-01 | Deleted [AMD6] |
| PRE-TE-02 | <p>The certificate holder shall implement measures to mitigate impacts to sensitive wildlife habitat during construction including, but not limited to, the following:</p> <ol style="list-style-type: none"> (a) Preparing maps to show sensitive areas, such as nesting or denning areas for sensitive wildlife species, that are off limits to construction personnel; (b) Ensuring that a qualified person instructs construction personnel to be aware of wildlife in the area and to take precautions to avoid injuring or destroying wildlife or significant wildlife habitat; and (c) Avoiding unnecessary road construction, temporary disturbance and vehicle use. <p>[Final Order on ASC, Condition IV.L.2]</p> |

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| PRE-TE-03 | <p>Prior to the beginning of construction of the facility, facility component or phase, as applicable, but no more than two years prior to the beginning of construction, the certificate holder shall:</p> <ol style="list-style-type: none"> a. Submit protocol for field surveys for threatened and endangered species to the Department for review and approval, in consultation with ODFW. The survey protocol shall be based on the protocol included on ASC Exhibit P, Attachment P-1, and shall be updated based on consultation with ODFW. b. Perform new field surveys for threatened and endangered species following the survey protocol as approved per sub(a). c. The certificate holder shall report the results of the field surveys to the Department and ODFW. If the surveys identify the presence of threatened or endangered species within the site boundary, the certificate holder shall implement appropriate measures to avoid a significant reduction in the likelihood of survival or recovery of the species, as approved by the Department in consultation with ODFW. <p>[AMD2, Condition IV.L.3; AMD3, AMD4]</p> |
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STANDARD: SCENIC RESOURCES (SR) [OAR 345-022-0080]

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| PRE-SR-01 | <p>To reduce the visual impact of the facility, the certificate holder shall:</p> <ol style="list-style-type: none"> a. Mount nacelles on smooth steel structures painted uniformly in a neutral color to blend with the surrounding landscape; b. Paint substation structures in a neutral color to blend with the surrounding landscape; c. Not allow any advertising to be used on any part of the facility; d. Use only those signs required for facility safety or required by law, except that the certificate holder may erect a sign to identify the facility; and e. Maintain any signs allowed under this condition in good repair. <p>[Final Order on ASC, Condition IV.G.1]</p> |
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STANDARD: HISTORIC, CULTURAL, AND ARCHEOLOGICAL RESOURCES (HC) [OAR 345-022-0090]

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| PRE-HC-01 | <p>The certificate holder shall design the facility to avoid impacts to sites that have been identified by surveys and recommended to be eligible or unevaluated for listing on the National Register of Historic Places (NRHP), or archeological sites and objects under ORS 358.905(1)(a) and (c), as presented in the Cultural Resource Mitigation Plan (CRMP) provided as Attachment D to the Final order on Amendment 6, unless certificate holder obtains the required archaeological permit(s) from SHPO. Certificate holder shall identify the sites on the map provided to the Department under PRE-HC-03.</p> <p>[Final Order on ASC, Condition V.B.1; AMD5; AMD6]</p> |
| PRE-HC-02 | <p>At least 45 days prior to construction of the facility, facility component or phase, as applicable, the certificate holder shall finalize the Cultural Resource Management Plan (the "CRMP"), substantially as proposed in Attachment D of the Final Order on Amendment 6, and shall submit the CRMP to the Department and State Historic Preservation Office (the "SHPO") for review. The Department must approve the CRMP, in consultation with SHPO or third-party consultant, prior to construction.</p> <p>The CRMP shall at a minimum include:</p> <ul style="list-style-type: none">(a) Identification of 22 previously identified resources and specific protocols and procedures for protecting known NRHP-eligible and unevaluated cultural resources including imposing a 30-meter buffer and designating as a "no-work zones," around sites mapped under PRE-HC-01, and archeological sites and objects under ORS 358.905(1)(a) and (c).(b) Protocols and procedures for responding to inadvertent discovery of cultural resources during operations and ongoing maintenance activities <p>[Final Order on ASC, Condition V.B.2; AMD4, AMD5; AMD6]</p> |
| PRE-HC-03 | <p>Before beginning construction of any phase of the facility or facility component, as applicable, the certificate holder shall provide to the Department a confidential map showing the final design locations of all components of that phase of the facility, areas that would be temporarily disturbed during construction, areas that were not included in cultural resource surveys, and known cultural resources within the siting corridors.. If there are any additional areas where ground-disturbing activities will occur that were not part of the prior pedestrian level ground surveys, the certificate holder shall notify the Department and SHPO to determine whether additional surveys or avoidance measures are necessary.</p> <p>[Final Order on ASC, Condition V.B.4; AMD4; AMD5; AMD6]</p> |

STANDARD: PUBLIC SERVICES (PS) [OAR 345-022-0100]

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| PRE-PS-01 | <p>Before beginning construction of the facility, facility component or phase, as applicable, the certificate holder shall develop a fire safety and response plan for both construction and operation phases in consultation with the Oregon State Fire Marshal, the Sherman County Emergency Services, North Sherman Fire and Rescue, Moro Rural Fire Protection District and other first-response agencies the facility will rely upon for fire protection services. A copy of the Construction Fire Safety and Response plan must be provided to the Department at least 30 days before beginning construction. A copy of the Operational Fire Safety and Response Plan must be provided to the Department at least 30 days before beginning operation. The Operational plan must be updated at least annually by the agencies identified in (a) below and a copy provided to the agencies identified in (a), (b), and (c) and to the Department within 30 days of the update. The fire safety and response plan shall address, at a minimum, the following:</p> <ul style="list-style-type: none">(a) Identification of agencies that participated in developing the plan;(b) Identification of agencies that are designated as first response agencies or are included in any mutual aid agreements with the facility;(c) A list of any other mutual aid agreements or fire protection associations in the vicinity of the facility;(d) Complete contact information for each agency listed in (a), (b), and (c) above, including at least two facility contacts available on a 24-hour basis; |
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| | <ul style="list-style-type: none"> (e) Communication protocols for both routine and emergency events and the incident command system to be used in the event a fire response by multiple agencies is needed at the facility; (f) Access and fire response at the facility site during construction and operations. Fire response plans during construction shall address regular and frequent communication amongst the agencies regarding the number and location of construction sites within the site boundary, access roads that are completed and those still under construction, location of water receptacles, and a temporary signage system until permanent addresses and signs are in place; (g) The minimum designated time period of the fire season (i.e., May 1 through October 15) and the criteria to modify the designated fire season to respond to changing conditions; (h) The number, size, and location of onsite water receptacles to be staged around the facility site for firefighting purposes during the fire season; and (i) Training needs (both for facility personnel and for first responders) including at a minimum fall protection and rescue employee training requirements. (j) Copies of mutual aid, fire protection association, or other agreements entered into concerning fire protection at the facility site. <p>[Final Order on ASC, Condition V.C.3; AMD2, AMD5]</p> |
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| PRE-PS-02 | <p>Before beginning construction of the facility, facility component or phase, as applicable, the certificate holder shall develop, in consultation with Sherman County Road Department, a construction-phase traffic management plan.. The certificate holder shall submit to the Department a copy of the final construction-phase traffic management plan.</p> <p>[Final Order on ASC, Condition V.C.10; AMD4]</p> |
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STANDARD: WASTE MINIMIZATION (WM) [OAR 345-022-0120]

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| PRE-WM-01 | <p>Prior to construction of the facility, facility component or phase, as applicable, the certificate holder shall submit to the Department a Construction Waste Management Plan that includes, but is not limited to, the following measures:</p> <ul style="list-style-type: none"> (a) Recycling steel and other metal scrap; (b) Recycling wood waste; (c) Recycling packaging wastes, such as paper and cardboard; (d) Collecting non-recyclable waste for transport to a landfill; and (e) Segregating all hazardous wastes, such as used oil, oily rags and oil-absorbent materials, lubricant and cleaning solution containers, mercury-containing lights, and lead-acid and nickel-cadmium batteries, for disposal by a licensed firm specializing in the proper recycling or disposal of hazardous wastes. <p>The requirements of the plan shall be implemented and adhered to during construction activities.</p> <p>[Final Order on ASC, Condition V.D.1; AMD4]</p> |
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STANDARD: PUBLIC HEALTH AND SAFETY STANDARDS FOR WIND ENERGY FACILITIES (PH) [OAR 345-024-0010]

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| PRE-PH-01 | <p>The certificate holder shall:</p> <ul style="list-style-type: none"> a) During facility construction, install self-monitoring devices on each turbine, connected to a fault annunciation panel or SCADA system at the O&M facility to alert operators to potentially dangerous conditions. The certificate holder shall equip each turbine with vibration-sensing equipment that will shut down the turbine in the event of abnormal levels of vibration. b) During facility operation, maintain the self-monitoring devices and vibration-sensing equipment on each turbine, connected to the fault annunciation panel or SCADA system at the O&M facility. <p>[Final Order on ASC, Condition IV.I.2; AMD4]</p> |
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| PRE-PH-02 | <p>Prior to construction of the facility, facility component or phase, as applicable, the certificate holder shall provide evidence to the Department demonstrating that the facility substations will be enclosed with appropriate fencing and locked gates.</p> |
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| | [Final Order on ASC, Condition IV.I.6; AMD4; AMD5] |
| PRE-PH-03 | <p>Before beginning construction of the facility, facility component or phase, as applicable, the certificate holder shall submit to the FAA and the Oregon Department of Aviation (“ODA”) a Notice of Proposed Construction or Alteration identifying the proposed final locations of the turbines and related or supporting facilities and shall provide a copy of this notice to the Department. The certificate holder shall notify the Department of the FAA’s and ODA’s responses as soon as they have been received.</p> <p>[Final Order on ASC, Condition IV.I.7]</p> |

STANDARD: SITING STANDARDS FOR TRANSMISSION LINES (ST) [OAR 345-024-0090]

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| PRE-ST-01 | <p>The certificate holder shall install the underground segments of the 34.5-kV collector system at a minimum depth of three feet.</p> <p>[Final Order on ASC, Condition IV.K.1]</p> |
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REQUIREMENTS UNDER COUNCIL JURISDICTION (CJ)

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| PRE-CJ-01 | <p>The certificate holder shall submit, for Department approval prior to construction of wind turbines, a complete new noise analysis for the facility based on the final design layout and generate a new table listing each noise-sensitive property, as defined in OAR 340-035-0015(38), and the predicted maximum hourly L50 noise level at each noise-sensitive property. In addition, the certificate holder shall provide the predicted sound levels contributed by each turbine at each noise-sensitive property that does not provide a waiver of the ambient noise rule. The certificate holder shall perform the analysis using the CADNA/A by DataKustik GmbH of Munich, Germany, and shall base the analysis on the final facility design including final choice of turbine and location of all facility components. The analysis shall demonstrate to the satisfaction of the Department that each of the following requirements have been met:</p> <p>(a) For any noise-sensitive property, the certificate holder shall identify the final design locations of all turbines to be built and perform a noise analysis demonstrating, in accordance with OAR 340-035-0035(1)(b)(B)(iii)(IV), that the total hourly L50 noise level generated by the facility would not exceed 50 dBA at the appropriate measurement point. The certificate holder shall assume the following input parameters:</p> <ul style="list-style-type: none"> • The maximum sound power level warranted by the manufacturer or confirmed by other means acceptable to the Department; • The exact locations of the proposed turbines; • Attenuation of sound due to absorption to be calculated using a methodology satisfactory to the Department; • The use of 50° F temperature and 70 percent relative humidity in the analysis; • A 2dB safety margin shall be added to turbine sound power levels; • No credit for shielding of any residence by terrain; and • All receptors treated as simultaneously downwind of all turbines. <p>(b) If the hourly L50 noise levels caused by the facility at any noise-sensitive property would increase the ambient noise level at any noise-sensitive property over the full set of wind conditions ranging from cut in to full load by more than 10 dBA, the certificate holder shall obtain a legally effective easement or real covenant from that property owner pursuant to which the owner of the property authorizes the certificate holder’s operation of the facility to increase ambient statistical noise levels L50 and L50 by more than 10 dBA at the appropriate measurement point. A legally effective easement or real covenant shall (i) include a legal description of the burdened property (the noise-sensitive property); (ii) be recorded in the real property records of the county; (iii) expressly benefit the certificate holder; (iv) expressly run with the land and bind all future owners, lessees or holders of any interest in the burdened property; and (v) not be subject to revocation without the certificate holder’s written approval.</p> <p>(c) If, for any noise-sensitive property where the hourly L50 noise levels caused by the facility would increase by more than 10 dBA above the ambient level over the full range of wind conditions</p> |
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| | <p>measured for that property and where the certificate holder has not obtained a legally effective easement or real covenant as described in (b), the certificate holder shall identify measures to reduce noise at that property either by eliminating or moving turbines, and shall perform the noise analysis again to demonstrate, in accordance with OAR 340-035-0035(1)(b)(B)(iii)(IV), that the total noise generated by the facility would meet the ambient noise degradation test at the appropriate measurement point at that noise-sensitive property. The certificate holder shall obtain Department concurrence of the new analysis prior to start of construction.</p> <p>[Final Order on ASC, Condition VI.A.1.2]</p> |
| PRE-CJ-02 | <p>Prior to construction of the facility, facility component or phase, as applicable, the certificate holder shall:</p> <ol style="list-style-type: none"> 1) Conduct an updated wetlands and waters delineation survey of all areas to be temporarily or permanently impacted by the facility based on final layout and design. 2) Submit the delineation survey report to the department and Oregon Department of State Lands and receive concurrence of the report from DSL. 3) Confirm from the results of the delineation survey and DSL concurrence that the facility will not need a removal-fill permit. 4) If a removal-fill permit is necessary, file a site certificate amendment request to review and process the permit request. <p>(Final Order on Amendment No. 3, Removal-Fill Condition 1)</p> |
| PRE-CJ-03 | <p>Prior to construction of transmission lines, the certificate holder shall prepare detailed design drawings and specifications for 230 kV, and 34.5 kV transmission lines, in consultation with the Utility Safety and Reliability Section of the Oregon Public Utility Commission to ensure that the designs and specifications are consistent with applicable codes and standards.</p> <p>[Final Order on ASC, Condition VI.A.4.2; Amended in Final Order on AMD4]</p> |
| PRE-CJ-04 | <p>Prior to start of construction of the facility, facility component or phase, as applicable, the certificate holder shall submit to ODOE a procedure for coordinating, with all affected local electric service utilities and transmission service providers, crane movements under electric transmission lines during construction and maintenance of the facility. The procedure shall address subjects including, but not limited to, minimum advance notification prior to any crane movement under an electric transmission or distribution line, protocols for determining adequate line clearance and specific crane path locations. With the procedure, the certificate holder shall provide evidence of concurrence by each affected electric service utility or transmission service provider. The certificate holder shall ensure that all employees, construction contractors and subcontractors adhere to this procedure throughout construction and maintenance of the facility.</p> <p>[Final Order on ASC, Condition VI.A.4.3]</p> |
| MANDATORY CONDITIONS (MC) | |
| PRE-MC-01 | <p>OAR 345-025-0006 (5): Except as necessary for the initial survey or as otherwise allowed for wind energy facilities, transmission lines or pipelines under this section, the certificate holder shall not begin construction, as defined in OAR 345-001-0010, or create a clearing on any part of the site until the certificate holder has construction rights on all parts of the site. For the purpose of this rule, "construction rights" means the legal right to engage in construction activities. For wind energy facilities, transmission lines or pipelines, if the certificate holder does not have construction rights on all parts of the site, the certificate holder may nevertheless begin construction, as defined in OAR 345-001-0010, or create a clearing on a part of the site if the certificate holder has construction rights on that part of the site and:</p> <ol style="list-style-type: none"> a) The certificate holder would construct and operate part of the facility on that part of the site even if a change in the planned route of the transmission line or pipeline occurs during the certificate holder's negotiations to acquire construction rights on another part of the site; or b) The certificate holder would construct and operate part of a wind energy facility on that part of the site even if other parts of the facility were modified by amendment of the site certificate or were not built. |

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| | [Final Order on ASC, Condition VII.5; AMD4] |
| PRE-MC-02 | <p>OAR 345-025-0006 (8): Before beginning construction of the facility, the certificate holder shall submit to the State of Oregon, through the Council, a bond or letter of credit in a form and amount satisfactory to the Council to restore the site to a useful, non-hazardous condition. The certificate holder shall maintain a bond or letter of credit in effect at all times until the facility has been retired. The Council may specify different amounts for the bond or letter of credit during construction and during operation of the facility. [See Condition IV.C.4.]</p> <p>[Final Order on ASC, Condition VII.8; AMD4]</p> |

4.4 Construction (CON) Conditions

| Condition Number | Pre-Construction (PRE) Conditions | | | | | | | | | | | | | | | |
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| STANDARD: ORGANIZATIONAL EXPERTISE (OE) [OAR 345-022-0010] | | | | | | | | | | | | | | | | |
| STANDARD: SOIL PROTECTION (SP) [OAR 345-022-0022] | | | | | | | | | | | | | | | | |
| CON-SP-01 | <p>During construction, the certificate holder shall salvage approximately three feet of topsoil and stockpile this topsoil in windrows, wherever temporary impacts will occur in cultivated areas. The certificate holder shall protect the windrows with plastic sheeting or mulch. Upon removal of the temporary features, the certificate holder shall cultivate the subsoil to a depth of at least 12 inches (except where bedrock prohibits achieving this depth) and then redistribute the salvaged topsoil to match adjacent grades.</p> <p>[Final Order on ASC, Condition IV.E.2; AMD4]</p> | | | | | | | | | | | | | | | |
| CON-SP-02 | <p>During construction, the certificate holder shall ensure that the wash down of concrete trucks occurs only at a contractor-owned batch plant or at tower foundation locations. If such wash down occurs at tower foundation locations, then the certificate holder shall ensure that wash down wastewater does not run off the construction site into otherwise undisturbed areas and that the wastewater is disposed of on backfill piles and buried underground with the backfill over the tower foundation.</p> <p>[Final Order on ASC, Condition IV.E.5]</p> | | | | | | | | | | | | | | | |
| STANDARD: LAND USE (LU) [OAR 345-022-0030] | | | | | | | | | | | | | | | | |
| CON-LU-01 | <p>During construction, the certificate holder shall provide access across construction trenches to fields within the facility site and otherwise provide adequate and timely access to properties during critical periods in the farming cycle, such as harvest, as necessary and as determined feasible by the certificate holder and landowner.</p> <p>[Final Order on ASC, Condition IV.D.12; Amended in Final Order on AMD4]</p> | | | | | | | | | | | | | | | |
| STANDARD: FISH AND WILDLIFE HABITAT (FW) [OAR 345-022-0060] | | | | | | | | | | | | | | | | |
| CON-FW-01 | <p>During construction, the certificate holder shall protect the area within a 1300-foot buffer around any active nests of the following species during the sensitive period, as provided in this condition:</p> <table border="1" data-bbox="574 1213 1474 1432"> <thead> <tr> <th>Species</th> <th>Sensitive Period</th> <th>Early Release Date</th> </tr> </thead> <tbody> <tr> <td>Swainson's hawk</td> <td>April 1 to August 15</td> <td>May 31</td> </tr> <tr> <td>Golden eagle</td> <td>February 1 to August 31</td> <td>May 31</td> </tr> <tr> <td>Ferruginous hawk</td> <td>March 15 to August 15</td> <td>May 31</td> </tr> <tr> <td>Burrowing owl</td> <td>April 1 to August 15</td> <td>July 15</td> </tr> </tbody> </table> <p>The 1300-foot buffer may be reduced, with Department approval, if there is an adequate physical barrier between the nest site and the construction impacts such that a 1300-foot buffer proves to be excessive.</p> <p>During the year in which construction of any phase occurs, the certificate holder shall use a protocol approved by ODFW to determine whether there are any active nests of these species within a half-mile of any areas that would be disturbed during construction. If a nest is occupied by any of these species after the beginning of the sensitive period, the certificate holder shall not engage in high-impact construction activities (activities that involve blasting, grading or other major ground disturbance) or allow high levels of construction traffic within 1300 feet of the nest site, or such lesser distance as may be approved by the Department in the event there is an adequate physical barrier between the nest site and the construction impacts.</p> <p>In addition, the certificate holder shall flag the boundaries of the 1300-foot buffer area, or such lesser distance as may be approved by the Department in the event there is an adequate physical barrier between the nest site and the construction impacts, and shall instruct construction personnel to avoid any unnecessary activity within the buffer area. The certificate holder shall direct a qualified independent third-party biological monitor, as</p> | Species | Sensitive Period | Early Release Date | Swainson's hawk | April 1 to August 15 | May 31 | Golden eagle | February 1 to August 31 | May 31 | Ferruginous hawk | March 15 to August 15 | May 31 | Burrowing owl | April 1 to August 15 | July 15 |
| Species | Sensitive Period | Early Release Date | | | | | | | | | | | | | | |
| Swainson's hawk | April 1 to August 15 | May 31 | | | | | | | | | | | | | | |
| Golden eagle | February 1 to August 31 | May 31 | | | | | | | | | | | | | | |
| Ferruginous hawk | March 15 to August 15 | May 31 | | | | | | | | | | | | | | |
| Burrowing owl | April 1 to August 15 | July 15 | | | | | | | | | | | | | | |

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| | <p>approved by the Department, to observe the active nest sites during the sensitive period for signs of disturbance and to notify the Department of any noncompliance with this condition. If the monitor observes nest site abandonment or other adverse impact to nesting activity, the certificate holder shall implement appropriate mitigation, in consultation with ODFW and subject to the approval of the Department, unless the adverse impact is clearly shown to have a cause other than construction activity. The certificate holder may begin or resume high-impact construction activities before the ending day of the sensitive period if any known nest site is not occupied by the early release date. If a nest site is occupied, then the certificate holder may begin or resume high-impact construction before the ending day of the sensitive period with the approval of ODFW, but after the young are fledged. The certificate holder shall use a protocol approved by ODFW to determine when the young are fledged (meaning the young are independent of the core nest site).</p> <p>[Final Order on ASC, Condition IV.M.10]</p> |
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STANDARD: HISTORIC, CULTURAL, AND ARCHEOLOGICAL RESOURCES (HC) [OAR 345-022-0090]

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| CON-HC-01 | <p>During construction, the certificate holder shall implement the Cultural Resource Management Plan (“CRMP”) developed under PRE-HC-02, including all inadvertent discovery protocols and procedures specified in the CRMP.</p> <p>[Final Order on ASC, Condition V.B.6; AMD4; AMD5; AMD6]</p> |
| CON-HC-02 | [Deleted AMD6] |
| CON-HC-03 | <p>During construction, the certificate holder shall ensure that construction personnel are instructed on the location of the mapped alignment of the Oregon Trail, per Condition GEN-HC-01. If any intact physical evidence of the trail Oregon Trail is discovered that was not previously identified, the certificate holder shall avoid any disturbance to the intact segments by redesign, reengineering or restricting the area of construction activity. The certificate holder shall promptly notify the Department and the SHPO of the discovery and follow procedures for inadvertent discoveries outlined in the CRMP. The certificate holder shall consult with the Department and with the SHPO to determine appropriate mitigation measures.</p> <p>[Final Order on ASC, Condition V.B.9; AMD4; AMD6]</p> |
| CON-HC-04 | <p>Within three years of completion of construction of the facility, , the certificate holder shall place an interpretive sign on the historic background of the facility site and surrounding areas in a publicly accessible location. The certificate holder shall consult with the Department and Sherman County regarding the content of the interpretative sign.</p> <p>[Final Order on ASC, Condition V.B.10; AMD6]</p> |

STANDARD: PUBLIC SERVICES (PS) [OAR 345-022-0100]

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| CON-PS-01 | <p>During construction of the facility, the certificate holder shall ensure that construction vehicles and equipment are operated on graveled areas to the extent possible and that open flames, such as cutting torches, are kept away from grassy areas. [Final Order on ASC, Condition V.C.4]</p> |
| CON-PS-02 | <p>During construction of the facility, the certificate holder shall maintain a water truck on site to respond to potential fire incidents.</p> <p>[Final Order on ASC, Condition V.C.6]</p> |
| CON-PS-03 | <p>The certificate holder shall construct turbines on concrete pads with a minimum of 10 feet of nonflammable and non-erosive ground cover on all sides. The certificate holder shall cover turbine pad areas with nonflammable, non-erosive material immediately following exposure during construction and shall maintain the pad area covering during operation of the facility.</p> <p>[Final Order on ASC, Condition V.C.7]</p> |
| CON-PS-04 | <p>During construction of the facility, the certificate holder shall implement measures to reduce traffic impacts, including:</p> <ul style="list-style-type: none"> (a) Providing notice to all affected local jurisdictions in advance of deliveries; (b) Providing notice to adjacent landowners and residents of Biggs Junction in advance of deliveries; and |

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| | <p>(c) Requiring flaggers to be at appropriate locations at appropriate times during construction to direct traffic and reduce accident risks.</p> <p>[Final Order on ASC, Condition V.C.11]</p> |
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STANDARD: WASTE MINIMIZATION (WM) [OAR 345-022-0120]

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| CON-WM-01 | <p>During construction, the certificate holder shall provide portable toilets for on-site sewage handling and shall ensure that they are pumped and cleaned regularly by a licensed contractor.</p> <p>[Final Order on ASC, Condition V.D.3]</p> |
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STANDARD: PUBLIC HEALTH AND SAFETY STANDARDS FOR WIND ENERGY FACILITIES (PH) [OAR 345-024-0010]

| | |
|-----------|---|
| CON-PH-01 | <p>During construction, the certificate holder shall follow manufacturer’s recommended handling instructions and procedures to prevent damage to turbine or turbine tower components that could lead to failure. In the compliance plan required per OAR 345-026-0048, the certificate holder shall describe the process or protocol to be implemented to ensure manufacturer’s handling instructions and procedures are followed during equipment delivery.</p> <p>[Final Order on ASC, Condition IV.I.1; Final Order on AMD4]</p> |
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| CON-PH-02 | <p>The certificate holder shall construct turbine towers with no exterior ladders or access to the turbine blades and shall install locked tower access doors. The certificate holder shall keep tower access doors locked at all times except when authorized personnel are present.</p> <p>[Final Order on ASC, Condition IV.I.3]</p> |
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REQUIREMENTS UNDER COUNCIL JURISDICTION (CJ)

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|-----------|---|
| CON-CJ-01 | <p>During construction, to reduce noise impacts at nearby residential areas, the certificate holder shall:</p> <ul style="list-style-type: none"> (a) Confine the noisiest operation of heavy construction equipment to the daylight hours; (b) Require contractors to install and maintain exhaust mufflers on all combustion engine-powered equipment; and (c) Establish a complaint response system at the construction manager’s office to address noise complaints. <p>[Final Order on ASC, Condition VI.A.1.1; Amended in Final Order on AMD4]</p> |
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MANDATORY CONDITIONS (MC)

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| CON-MC-01 | <p>OAR 345-025-0006 (4): The certificate holder shall begin and complete construction of the facility by the dates specified in the site certificate. [See Conditions (III.D.1) and (111.D.2).]</p> <p>[Final Order on ASC, Condition VII.4; Amended in Final Order on AMD4]</p> |
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4.5 Pre-Operational (PRO) Conditions

| Condition Number | Pre-Construction (PRE) Conditions |
|--|---|
| STANDARD: PUBLIC SERVICES (PS) [OAR 345-022-0100] | |
| PRO -PS-01 | <p>Before beginning operation of the facility, the certificate holder shall provide to North Sherman Fire Protection District and Moro Rural Fire Protection District a site plan indicating the identification number assigned to each turbine and the location of all facility structures. During operation of the facility, the certificate holder shall ensure that appropriate district personnel have an up-to-date list of the names and telephone numbers of facility personnel available to respond on a 24-hour basis in case of an emergency on the facility site.</p> <p>[Final Order on ASC, Condition V.C.9; Amended in Final Order on AMD4]</p> |
| STANDARD: WASTE MINIMIZATION (WM) [OAR 345-022-0120] | |
| PRO -WM-01 | <p>Prior to operation, the certificate holder shall submit to the Department an Operational Waste Management Plan that includes, but is not limited to, the following measures:</p> <ul style="list-style-type: none"> (a) Training employees to minimize and recycle solid waste; (b) Recycling paper products, metals, glass and plastics; (c) Recycling used oil and hydraulic fluid; (d) Collecting non-recyclable waste for transport to a landfill; and (e) Segregating all hazardous wastes, such as used oil, oily rags and oil-absorbent materials, oil and cleaning solution containers, mercury-containing lights, and lead-acid and nickel-cadmium batteries, for disposal by a licensed firm specializing in the proper recycling or disposal of hazardous wastes. <p>The requirements of the plan shall be implemented and adhered to during operational activities.</p> <p>[Final Order on ASC, Condition V.D.2; Amended in Final Order on AMD4]</p> |
| STANDARD: PUBLIC HEALTH AND SAFETY STANDARDS FOR WIND ENERGY FACILITIES (PH) [OAR 345-024-0010] | |
| PRO-PH-01 | <p>Prior to operation, the certificate holder shall:</p> <ul style="list-style-type: none"> (a) Submit to the Department materials or other documentation demonstrating the facility's operational safety-monitoring program and cause analysis program, for review and approval. The program shall, at a minimum, include requirements for regular turbine blade and turbine tower component inspections and maintenance, based on wind turbine manufacturer recommended frequency. (b) The certificate holder shall document inspection and maintenance activities including but not limited to date, turbine number, inspection type (regular or other), turbine tower and blade condition, maintenance requirements (i.e. equipment used, component repair or replacement description, impacted area location and size), and wind turbine operating status. This information shall be submitted to the Department pursuant to OAR 345-026-0080 in the facility's annual compliance report. (c) In the event of blade or tower failure, the certificate holder shall report the incident to the Department within 72 hours, in accordance with OAR 345-026-0170(1), and shall, within 90-days of blade or tower failure event, submit a cause analysis to the Department for its compliance evaluation. <p>[Final Order on ASC, Condition IV.I.4; Amended in Final Order on AMD4, AMD5]</p> |
| PRO-PH-02 | <p>Prior to operation, the certificate shall submit to the Department evidence demonstrating that, for turbine types having pad-mounted step-up transformers, transformers are installed at the base of each tower in locked cabinets designed to protect the public from electrical hazards and to avoid creation of artificial habitat for raptor prey.</p> <p>[Final Order on ASC, Condition IV.I.5; Amended in Final Order on AMD4]</p> |
| REQUIREMENTS UNDER COUNCIL JURISDICTION (CJ) | |

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| PRO-CJ-01 | <p>Prior to start of commercial operation, the certificate holder shall submit a plan for complaint-based operational noise monitoring to the Department. Commercial operation shall not commence until the Department has concurred in writing with the complaint-based noise monitoring protocol. The plan shall provide for testing at houses whose owners or occupants submit a complaint to the Council or the Department. The plan shall include a schedule for completion of required testing and a date certain by which written results shall be provided to the Council. If the owner of the property that filed the complaint refuses to grant access for the purpose of performing the noise test described in this condition after reasonable attempts are made by the certificate holder to receive permission for access, then the Department shall not require further corrective action.</p> <p>[Final Order on ASC, Condition VI.A.1.4]</p> |
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4.6 Operational (OPR) Conditions

| Condition Number | Pre-Construction (PRE) Conditions |
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| STANDARD: SOIL PROTECTION (SP) [OAR 345-022-0022] | |
| OPR -SP-01 | <p>During facility operation, the certificate holder shall routinely inspect and maintain all roads, pads and trenched areas and, as necessary, maintain or repair erosion control measures. The certificate holder shall restore areas that are temporarily disturbed during facility maintenance or repair activities to predisturbance condition or better.</p> <p>[Final Order on ASC, Condition IV.E.3]</p> |
| OPR -SP-02 | <p>During facility operation, if blade-washing becomes necessary, the certificate holder shall ensure that there is no runoff of wash water from the site or discharges to surface waters, storm sewers or dry wells. The certificate holder shall not use acids, bases or metal brighteners with the wash water. The certificate holder may use biodegradable, phosphate-free cleaners sparingly.</p> <p>[Final Order on ASC, Condition IV.E.6]</p> |
| STANDARD: LAND USE (LU) [OAR 345-022-0030] | |
| OPR -LU-01 | <p>During operation of the facility, the certificate holder, in cooperation with landowners, shall avoid impact on cultivated land to the extent reasonably possible when performing facility repair and maintenance activities.</p> <p>[Final Order on ASC, Condition IV.D.11]</p> |
| OPR -LU-02 | <p>Within 90 days after beginning operation, the certificate holder shall provide to the Department and to the Sherman County Planning Director the actual latitude and longitude location or Stateplane NAD 83(91) coordinates of each turbine tower, connecting lines and transmission lines. In addition, the certificate holder shall provide to the Department and to the Sherman County Planning Director, a summary of as-built changes in the facility compared to the original plan, if any.</p> <p>[Final Order on ASC, Condition IV.D.15]</p> |
| STANDARD: RETIREMENT AND FINANCIAL ASSURANCE (RT) [OAR 345-022-0050] | |
| OPR -RT-01 | <p>The certificate holder shall:</p> <ul style="list-style-type: none"> (a) Notify the Department of any spill or release of hazardous material during construction, operation or retirement of the facility-within one working day after the discovery. The certificate holder shall follow applicable Oregon Department of Environmental Quality (“DEQ”) response requirements regulations pursuant to OAR Chapter 340 Division 142. (b) Within 45-days of the discovery, the certificate holder shall submit to the Department copies of the Oregon Emergency Response System Spill/Release Report, as submitted to DEQ. <p>[Final Order on ASC, Condition IV.C.6; AMD4]</p> |

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| OPR -RT-02 | <p>If the certificate holder has not remedied a spill consistent with applicable ODEQ standards within six months after the date of the spill, the certificate holder shall submit to the Council for its approval an independently prepared estimate of the additional cost of remediation or correction within such six-month period.</p> <ul style="list-style-type: none"> (a) Upon approval of an estimate by the Council, the certificate holder shall increase the amount of its bond or letter of credit by the amount of the estimate. (b) In no event, however, shall the certificate holder be relieved of its obligation to exercise all due diligence in remedying a spill of hazardous substances. <p>[Final Order on ASC, Condition IV.C.7, AMD4]</p> |
| STANDARD: FISH AND WILDLIFE HABITAT (FW) [OAR 345-022-0060] | |
| OPR -FW-01 | <p>During facility operation, the certificate holder shall conduct wildlife monitoring as described in the Wildlife Monitoring and Mitigation Plan that is included as Attachment E to the Final Order on Amendment 4 and as amended from time to time.</p> <p>[Final Order on ASC, Condition IV.M.7; AMD4]</p> |
| STANDARD: SCENIC RESOURCES (SR) [OAR 345-022-0080] | |
| OPR -SR-01 | <p>During operation of the facility, the certificate holder shall not use exterior nighttime lighting except:</p> <ul style="list-style-type: none"> a. The minimum turbine tower lighting required or recommended by the Federal Aviation Administration (the "FAA"); b. Security lighting at the O&M facility and substations, provided that such lighting is shielded or directed downward to reduce glare; c. Minimum lighting necessary for repairs or emergencies; and d. As otherwise required by federal, State or local law. <p>[Final Order on ASC, Condition IV.G.3]</p> |
| STANDARD: PUBLIC SERVICES (PS) [OAR 345-022-0100] | |
| OPR -PS-01 | <p>During operation of the facility, the certificate holder shall obtain water for on-site use from one well located at the O&M facility, subject to compliance with applicable permit requirements. During operation of the facility, the certificate holder shall not use more than 5,000 gallons of water per day from the on-site well.</p> <p>[Final Order on ASC, Condition V.C.1]</p> |
| OPR -PS-02 | <p>During operation of the facility, the certificate holder shall ensure that all on-site employees receive annual fire prevention and response training, including tower rescue training, from qualified instructors or members of local fire districts and shall ensure that all employees are instructed to keep vehicles on roads and off dry grassland, except when off-road operation is required for emergency purposes.</p> <p>[Final Order on ASC, Condition V.C.8]</p> |
| STANDARD: WASTE MINIMIZATION (WM) [OAR 345-022-0120] | |
| OPR -WM-01 | <p>During operation, the certificate holder shall discharge sanitary wastewater generated at the O&M facility to a licensed on-site septic system in compliance with county permit requirements. The certificate holder shall design the septic system with a discharge capacity of less than 5,000 gallons per day. The certificate holder shall provide copies of all necessary septic system permits to the Department.</p> <p>[Final Order on ASC, Condition V.D.4; AMD4]</p> |
| REQUIREMENTS UNDER COUNCIL JURISDICTION (CJ) | |
| OPR-CJ-01 | <p>During operation, the certificate holder shall maintain a complaint response system to address noise complaints. The certificate holder shall promptly notify the Department of any complaints received regarding facility noise and of any actions taken by the certificate holder to address those complaints. Prior to start of commercial operation, the certificate holder shall notify, in writing, the owners of potentially affected noise-sensitive properties identified in Exhibit X of the completed Application for a Site Certificate. The notice shall inform the</p> |

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| | <p>property owners of the procedure and contact information for filing a complaint regarding the noise level from the facility once it is operating. The certificate holder shall document the issuance of this notice and provide that documentation to the Department.</p> <p>[Final Order on ASC, Condition VI.A.1.3]</p> |
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MANDATORY CONDITIONS (MC)

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| OPR-MC-01 | <p>OAR 345-025-0006 (2): The certificate holder shall submit a legal description of the site to the Department of Energy within 90 days after beginning operation of the facility. The legal description required by this rule means a description of metes and bounds or a description of the site by reference to a map and geographic data that clearly and specifically identifies the outer boundaries that contain all parts of the facility.</p> <p>[Final Order on ASC, Condition VII.2; Amended in Final Order on AMD4]</p> |
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4.7 Retirement Conditions (RET)

| Condition Number | Pre-Construction (PRE) Conditions |
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| STANDARD: RETIREMENT AND FINANCIAL ASSURANCE (RT) [OAR 345-022-0050] | |
| RET -RT-01 | <p>The certificate holder shall retire the facility if the certificate holder permanently ceases construction or operation of the facility. The certificate holder shall retire the facility according to a final retirement plan approved by the Council, as described in OAR 345-027-0110, and prepared pursuant to Condition (IV.C.2).</p> <p>[Final Order on ASC, Condition IV.C.1]</p> |
| RET -RT-02 | <p>Two years before closure of the energy facility, the certificate holder shall submit to the Department a proposed final retirement plan for the facility and site, pursuant to OAR 345-027-0110, including:</p> <ul style="list-style-type: none"> (a) A plan for retirement that provides for completion of retirement within two years after permanent cessation of operation of the energy facility and that protects the public health and safety and the environment; (b) A description of actions the certificate holder proposes to take to restore the site to a useful, non-hazardous condition suitable for agricultural use; and (c) A detailed cost estimate, a comparison of that estimate with the dollar amount secured by a bond or letter of credit and any amount contained in a retirement fund, and a plan for assuring the availability of adequate funds for completion of retirement. <p>[Final Order on ASC, Condition IV.C.2]</p> |
| RET -RT-03 | <p>If the certificate holder elects to use a bond to meet the requirements of Condition (IV.C.4), the certificate holder shall ensure that the surety is obligated to comply with the requirements of applicable statutes, Council rules and this site certificate when the surety exercises any legal or contractual right it may have to assume construction, operation or retirement of the energy facility. The certificate holder shall also ensure that the surety is obligated to notify the Council that it is exercising such rights and to obtain any Council approvals required by applicable statutes, Council rules and this site certificate before the surety commences any activity to complete construction, operate or retire the energy facility.</p> <p>[Final Order on ASC, Condition IV.C.5]</p> |
| RET-RT-04 | <p>The certificate holder shall pay the actual cost to restore the site to a useful, non-hazardous condition at the time of retirement, notwithstanding the Council’s approval in the site certificate of an estimated amount required to restore the site.</p> <p>[Final Order on ASC, Condition IV.C.9]</p> |
| RET-RT-05 | <p>If the Council finds that the certificate holder has permanently ceased construction or operation of the facility</p> |

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| | <p>without retiring the facility according to a final retirement plan approved by the Council, as described in OAR 345-027-0110 and prepared pursuant to Condition (IV.C.2), the Council shall notify the certificate holder and request that the certificate holder submit a proposed final retirement plan to the Department within a reasonable time not to exceed 90 days.</p> <ul style="list-style-type: none"> (a) If the certificate holder does not submit a proposed final retirement plan by the specified date or if the Council rejects the retirement plan that the certificate holder submits, the Council may direct the Department to prepare a proposed a final retirement plan for the Council’s approval. (b) Upon the Council’s approval of the final retirement plan prepared pursuant to (a), the Council may draw on the bond or letter of credit described in Condition (IV.C.4) and shall use the funds to restore the site to a useful, non-hazardous condition according to the final retirement plan, in addition to any penalties the Council may impose under OAR Chapter 345, Division 29. (c) If the amount of the bond or letter of credit is insufficient to pay the actual cost of retirement, the certificate holder shall pay any additional cost necessary to restore the site to a useful, non-hazardous condition. (d) After completion of site restoration, the Council shall issue an order to terminate the site certificate if the Council finds that the facility has been retired according to the approved final retirement plan. <p>[Final Order on ASC, Condition IV.C.10]</p> |
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COUNCIL’S MANDATORY CONDITIONS (MC)

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| <p>RET-MC-01</p> | <p>OAR 345-025-0006 (9): The certificate holder shall retire the facility if the certificate holder permanently ceases construction or operation of the facility. The certificate holder shall retire the facility according to a final retirement plan approved by the Council, as described in OAR 345-027-0110. The certificate holder shall pay the actual cost to restore the site to a useful, non-hazardous condition at the time of retirement, notwithstanding the Council’s approval in the site certificate of an estimated amount required to restore the site.</p> <p>[Final Order on ASC, Condition VII.9; Amended in Final Order on AMD4]</p> |
| <p>RET-MC-02</p> | <p>OAR 345-025-0006 (16): If the Council finds that the certificate holder has permanently ceased construction or operation of the facility without retiring the facility according to a final retirement plan approved by the Council, as described in OAR 345-027-0110, the Council shall notify the certificate holder and request that the certificate holder submit a proposed final retirement plan to the Office within a reasonable time not to exceed 90 days. If the certificate holder does not submit a proposed final retirement plan by the specified date, the Council may direct the Department to prepare a proposed a final retirement plan for the Council’s approval. Upon the Council’s approval of the final retirement plan, the Council may draw on the bond or letter of credit described in OAR 345-027-0020(8) to restore the site to a useful, non-hazardous condition according to the final retirement plan, in addition to any penalties the Council may impose under OAR Chapter 345, Division 29. If the amount of the bond or letter of credit is insufficient to pay the actual cost of retirement, the certificate holder shall pay any additional cost necessary to restore the site to a useful, non-hazardous condition. After completion of site restoration, the Council shall issue an order to terminate the site certificate if the Council finds that the facility has been retired according to the approved final retirement plan.</p> <p>[Final Order on ASC, Condition VII.16; Amended in Final Order on AMD4]</p> |

5.0 Successors and Assigns

To transfer this site certificate or any portion thereof or to assign or dispose of it in any other manner, directly or indirectly, the certificate holder shall comply with OAR 345-027-0400.

6.0 Severability and Construction

If any provision of this agreement and certificate is declared by a court to be illegal or in conflict with any law, the validity of the remaining terms and conditions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the agreement and certificate did not contain the particular provision held to be invalid.

7.0 Execution

This amended site certificate may be executed in counterparts and will become effective upon signature by the Chair of the Energy Facility Siting Council and the authorized representative of the certificate holder.

IN WITNESS THEREOF, this site certificate has been executed by the State of Oregon, acting by and through the Energy Facility Siting Council and by Golden Hills Wind Farm, LLC.

ENERGY FACILITY SITING COUNCIL

Golden Hills Wind Farm, LLC

By: _____

By: _____

Marcia L. Grail, Madame Chair
Oregon Energy Facility Siting Council

_____ [Print Name]

Date: _____

Date: _____

By: _____

_____ [Print Name]

Date: _____

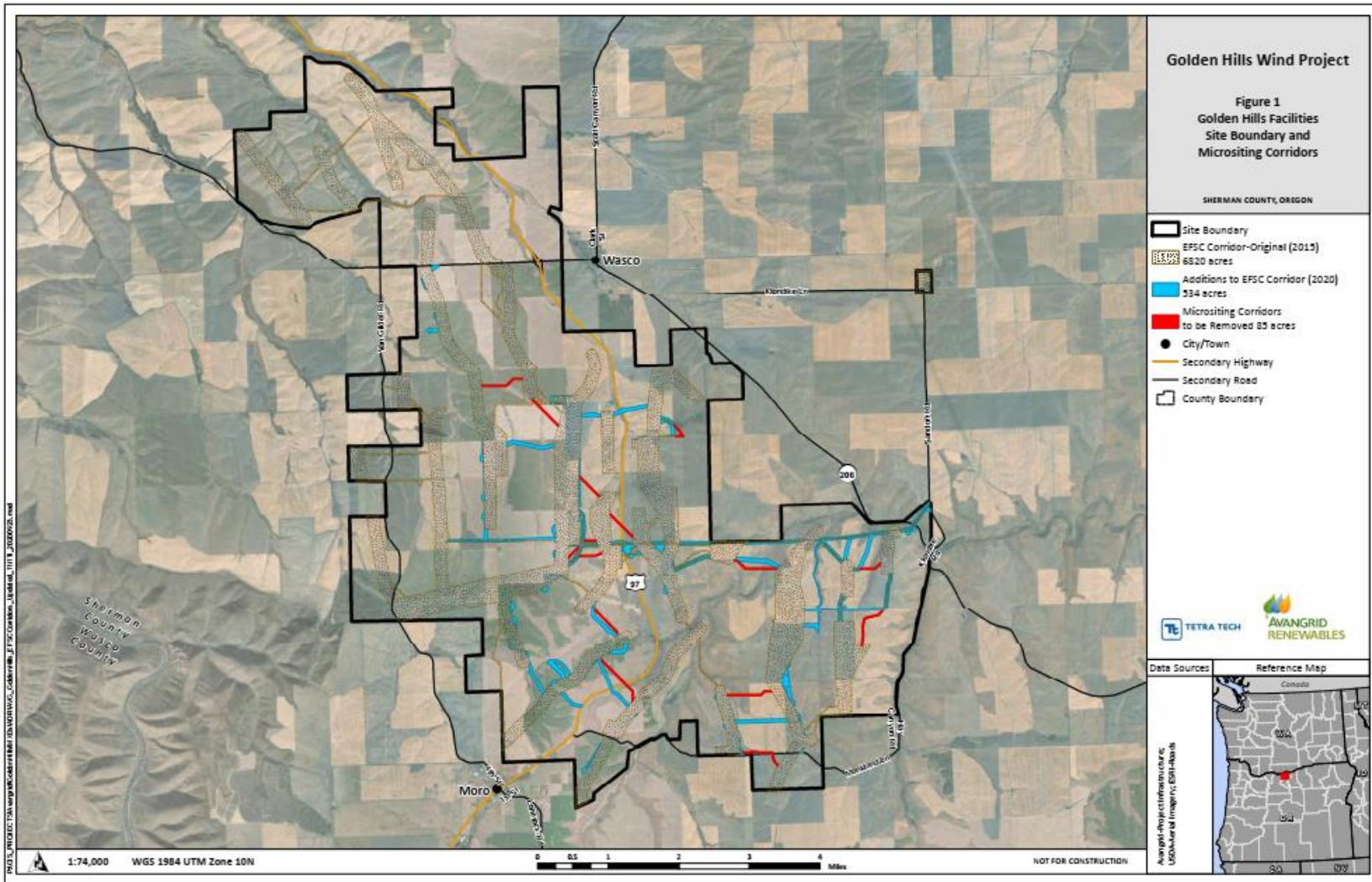
By: _____

_____ [Print Name]

Date: _____

Attachment A
Facility Site Boundary Map

Golden Hills Site Boundary and Approved Micrositing Corridors



Attachment B: Reviewing Agency Comment Letters

(Received during review of preliminary Request for Amendment 6)

ESTERSON Sarah * ODOE

Subject: FW: Golden Hills Wind Project
Attachments: PastedGraphic-1.pdf

From: Christian Nauer <christian.nauer@ctwsbnr.org>
Sent: Wednesday, December 16, 2020 11:10 AM
To: ESTERSON Sarah * ODOE <Sarah.Esterson@oregon.gov>
Cc: Robert Brunoe <robert.brunoe@ctwsbnr.org>
Subject: Re: Golden Hills Wind Project

Hi Sarah,

Thank you very much for the opportunity to provide comment on the Golden Hills Wind Project (Amendment 6).

General Comment:

As the technical reviewer for NHPA Section 106 and other cultural resource issues for the Confederated Tribes of the Warm Springs Reservation of Oregon (CTWSRO), the CTWSRO Tribal Historic Preservation Office (THPO) has concerns with the potential effects to historic properties or cultural resources within the Project Area of Potential Effects (APE). The Project APE is within the areas of concern for the CTWSRO.

Project-specific Comment(s):

With regard to the recent cultural resources supplemental survey of 553 acres (micrositing corridor adjustments for Amendment 6), this office considers the report (King and Berger 2020) to represent a reasonable and good faith effort to identify and evaluate potential historic properties within the supplemental Project APE.

In order to protect cultural resources that may not have been identified, this office recommends that an explicit Inadvertent Discovery Plan (IDP) for human remains, items of cultural patrimony, and intact archaeological deposits is in place in advance of Project implementation; construction crews will be trained/briefed on the contents and importance of the IDP.

With regard to the recommendation of *Not Eligible* for the 6 resources located during the supplemental survey, this office would like to defer comment to the Oregon State Historic Preservation Office (SHPO). Concurrence from SHPO on National Register of Historic Places (NRHP) eligibility recommendations must be received before any effects occur to any resources located within the Project APE, or these resources must be avoided.

Thank you for your efforts to protect cultural resources.

Best Regards, and Stay Safe,

Christian

Christian Nauer, MS
Archaeologist
Confederated Tribes of the Warm Springs Reservation of Oregon
Branch of Natural Resources

christian.nauer@ctwsbnr.org

Office 541.553.2026

Cell 541.420.2758

December 18, 2020

TO: Sarah T. Esterson

Energy Facility Siting Analyst
Oregon Department of Energy
550 Capitol Street N.E., 1st Floor
Salem, OR 97301

FROM: Georgia L. Macnab

Sherman County Planning Director
PO Box 381
Moro, Or 97039

RE: Golden Hills Wind Project- Amendment #6

Thank you for the opportunity to comment on the **Request for Amendment #6 for the Golden Hills Wind Project**. These comments are provided on behalf of the Special Advisory Group for Sherman County by Georgia Macnab, Sherman County Planning Director.

General Comments

Sherman County has no objections to the amendment itself regarding the additional 534 acres for the micrositing area which will allow flexibility in the final design of access roads and collector lines and to extend the construction completion deadline by 18 months from June 18, 2020 to December 31, 2021. We also understand that these additional acres are within the site boundary and do not include any extra acres outside of that boundary.

Specific Comments

Ordinance #39-2007

Sherman County requests that this ordinance still be applied to the current amendment request.

Conditions of Approval

We would also request that all previous conditions of approval in the original site certificate and previous amendments remain in the proposed amendment. This would include the condition regarding the minimum setback distance from turbines to public roadways of 110 % of maximum blade tip height. Please contact me at 541-565-3601 if you have any questions or need more information.



Oregon

Kate Brown, Governor

Parks and Recreation Department

State Historic Preservation Office

725 Summer St NE Ste C

Salem, OR 97301-1266

Phone (503) 986-0690

Fax (503) 986-0793

www.oregonheritage.org



November 2, 2020

Ms. Sarah Esterson
OR Dept of Energy
550 Capitol St NE, 1st Flr
Salem, OR 97301

RE: SHPO Case No. 14-1150
Golden Hills Wind Project, BPA Project OR 2018 101
Install of wind turbines
Multiple Legals, Sherman County

Dear Ms. Esterson:

We have reviewed the materials submitted on the project referenced above, and we concur with the determination that the Joseph C. Hockman Garage is not eligible for listing in the National Register of Historic Places. **This letter refers to above-ground historic resources only. Comments pursuant to a review for archaeological resources will be sent separately.**

Unless there are changes to the project, or additional consultation becomes necessary, this concludes the requirement for consultation with our office for above-ground historic properties. Local regulations, if any, still apply and review under local ordinances may be required. Please feel free to contact me if you have any questions, comments or need additional assistance.

Sincerely,

Jason Allen, M.A.
Historic Preservation Specialist
(503) 986-0579
jason.allen@oregon.gov

cc: Erin King, Tetra Tech Inc



Attachment C: Draft Proposed Order Comments/Index

Draft Proposed Order on RFA6 of the Golden Hills Wind Project – DPO Comment Index

| Commenter Name | Organization | Date |
|-----------------------|-------------------------------|--------------------------|
| Irene Gilbert | Public | 12/18/2020 |
| Jeremy Thompson | ODFW | 12/28/2020 |
| Jason McLaughry | DOGAMI | 01/05/2021 |
| Shawn Steinmetz | CTUIR | 01/11/2021 01/14/2021 |
| Seth Thompson | ODA | 01/15/2021 |
| Matt Hutchinson | Avangrid (Certificate holder) | 01/15/2021 |

COMMENTS AND OBJECTION TO TYPE B REVIEW OF AMENDMENT 6 FOR GOLDEN HILLS WIND DEVELOPMENT

1. Please see that these comments go into the currently non-existent file for review in determining whether the type B procedure is appropriate and allows for public input. It does not work for the public and denies us access to a legal remedy unless we are rich.
2. Normally I would not bother to make comment due to the fact that public comments have no influence absent the threat that a contested case might be required when the recommended actions are outrageous as they often are.

I AM COMMENTING SIMPLY TO DEMONSTRATE THE KINDS OF CHANGES THAT ARE BEING INFLICTED UPON THE PUBLIC AND THE RESOURCES OF THIS STATE WITH A PROCEDURE THAT DENIES THE PUBLIC ANY RECOURSE OTHER THAN SPENDING THE MONEY TO APPEAL DIRECTLY TO THE OREGON SUPREME COURT. THE OREGON DEPARTMENT OF ENERGY HAS MADE THE CONTESTED CASE PROCESS FOR AMENDED SITE CERTIFICATES VIRTUALLY NON-EXISTENT AS THEY ARE NOW APPROVING NEARLY ALL AMENDED SITE CERTIFICATE REQUESTS WITH THE TYPE B PROCEDURE DENYING THE PUBLIC ANY ACCESS TO A CONTESTED CASE. THIS PROCESS IS CLEARLY INTENDED TO SEND THE MESSAGE TO THE PUBLIC THAT ANY OBJECTION TO THE ACTIONS OF THE OREGON DEPARTMENT OF ENERGY OR ENERGY FACILITY SITING COUNCIL ARE POINTLESS UNLESS YOU ARE PREPARED TO PAY FOR AN APPEAL TO THE OREGON SUPREME COURT. IT IS CLEARLY DISCRIMINATORY AGAINST THE BULK OF THE CITIZENS OF THIS STATE WHO CANNOT AFFORD TO PAY FOR AN APPEAL AND ARE BEING REQUIRED TO LIVE WITH THE CONSEQUENCES OF THIS OUT OF CONTROL AGENCY. THE FIRST ABUSE OF THE PUBLIC TRUST IS IN ALLOWING THIS DEVELOPER TO ADD OVER 500 ACRES TO THE SITE AND DENY THE PUBLIC ANY OPPORTUNITY TO OBJECT THROUGH A CONTESTED CASE.

Regarding the changes in the site certificate for Golden Hills Wind development which the Oregon Department of Energy determined were not substantial and do not justify a full review under the Type A Amendment rules. If I were allowed a contested case, I would address the following issues in a more complete manner

and would have commented on the multiple other amendments that have been approved under a Type B procedure:

PRE-HC-01:

I object to the condition removing the requirement to train personnel on treatment of archeological resources already identified. While the referenced procedures for newly identified resources would be a useful addition, not at the expense of removing the existing condition requiring training in the treatment of resources already identified.

Reducing the buffer distance from 200 feet to 15 feet means there will no doubt be damages to the resources. Since when is a 15 foot buffer for construction activities going to protect anything? I can see the comment now: "Oops—the ground was slippery and my excavator just slipped a little. Oh well, it is just an irreplaceable historical artifact!!" If it is worth protecting at all, the setback should require a distance that has some chance of actually keeping the item from being destroyed.

PRE-HC-02: I object to removing the requirement that the State Historic Preservation office must concur with the setbacks and procedures document for specific sites and only leave the requirement that the department "consult" with them. The use of the term "consult" means that the department will ask for an opinion and then do whatever they want. They have demonstrated this in virtually every site certificate including "consultation" requirements. Furthermore, 30 meters is less than 100 feet. Again, why even pretend to be meeting the requirements to protect public resources if there is no intent to do so?

PREHC-3: The maps of components of the facility and areas of disturbance and construction as well as areas not included in resource surveys should not be hidden from the public by calling it "confidential".

This information is the only way the public can tell whether or not surveys were actually done as required by the site certificate, or if the department changed the requirements to allow the developer to avoid doing all the required surveys. It is also the only way the public can tell how much habitat is actually destroyed and whether the mitigation agreed to by the department is based upon the actual

impacts as required by the site certificate, or is adjusted for some unknown reason that is not included in the Oregon Department of Fish and Wildlife mitigation rules.

None of the information that the department is saying should be considered “confidential” other than the location of archeological resources actually is confidential and should be treated that way.

CON-HC-01: I object due to the fact that the public was not allowed access to the Cultural Resource Management Plan to determine or provide input regarding what it contains. Removing a requirement in the site certificate based upon a statement by the department that it is included begs the term, “Trust but verify”. In addition, since the department can unilaterally change conditions in this document, it provides no assurance that the condition will not magically disappear in the future.

CON-HC-02: I object to removing this condition from the site certificate for the same reason as above. The department and the developer are the only ones who will know if the condition exists and if it will continue to exist. The public cannot trust that any requirement in a plan under the control of the department will remain in effect.

CON-HC-04: I object to moving the decisions regarding what should appropriately be included in a sign to the department and the county. The Oregon Trail is not a resource that should be protected, or damaged, or mitigated based upon decisions from these groups. While the Advisory Council no longer exists, the Oregon California Trails Association does continue to exist and is the group that provides oversight and attempts to protect these resources for the citizens of the state and nation. They are the appropriate ones to determine the content of the sign which will provide a laughable amount of mitigation for the damages this development is inflicting on a national treasure.

GEN-FW-04: I object to this change. It removes the required anti-perch devices that are include in the site certificate condition to be applied to all pole tops and cross arms within the site and within ¼ mile of any wind turbine and replaces the condition to only require spiral markers over Grass Valley Canyon. This change is justified by the statement that the current condition does not comply with the way the applicant wants to design the facility. SINCE WHEN DOES THE

DEPARTMENT THINK THEY SHOULD REMOVE A SITE CERTIFICATE CONDITION THAT IS TO PROTECT WILDLIFE TO ACCOMMODATE A DEVELOPER'S DESIGN WISHES????? This developer is not the Oregon Department of Energy's Customer, though I have heard that is what they are referred to. The public and the resources of the state should not be sacrificed due to a design desire of the developer.

As with nearly every amendment the department has processed under a Type B procedure, this amendment should have been processed under a full Type A amendment procedure to allow the public some influence on the outcome. It is just one more example to add to the fact that the department allowed the replacement of over 300 wind turbine blades after 9 years of service for a development that was sited based upon a projected 20+ years of service without allowing the public an opportunity to contest the decision. How much longer is the Energy Facility Siting Council and the Director of the Oregon Department of Energy going to allow the Siting Division of the Department to deny the public opportunity to object to their illegal and unethical actions?

Obviously, the Oregon Department of Energy is again taking liberties in terms of allowing the developer to avoid complying with the site certificate conditions that the public agreed to originally and changing them to conditions that would be objected to.

Irene Gilbert
2310 Adams Ave
La Grande, Oregon 97850
Email: ott.irene@frontier.com

ESTERSON Sarah * ODOE

Subject: Golden Hills Wind Project - Request for Review of Condition re: Anti-Perch Devices

From: Jeremy Thompson <Jeremy.L.Thompson@state.or.us>

Sent: Monday, December 28, 2020 11:37 AM

To: ESTERSON Sarah * ODOE <Sarah.Esterson@oregon.gov>

Subject: RE: Golden Hills Wind Project - Request for Review of Condition re: Anti-Perch Devices

Sarah,

I concur with removing the anti-perch devices along the power lines for Golden Hills, they are no longer a recommendation for wind projects.

I also concur with adding markers through Grass Valley canyon to reduce collision risk

Jeremy Thompson

District Wildlife Biologist

Mid-Columbia District, ODFW

3701 W. 13th. St.

The Dalles, OR 97058

541-296-4628 office

541-980-8524 cell

541-298-4993 fax

ESTERSON Sarah * ODOE

Subject: Public Notice Issued for Draft Proposed Order on Request for Amendment 6 (RFA6) and Complete RFA6 of the Golden Hills Wind Project Site Certificate

From: MCCLAUGHRY Jason * DGMI <Jason.MCCLAUGHRY@oregon.gov>

Sent: Tuesday, January 5, 2021 2:27 PM

To: ESTERSON Sarah * ODOE <Sarah.Esterson@oregon.gov>

Subject: RE: Public Notice Issued for Draft Proposed Order on Request for Amendment 6 (RFA6) and Complete RFA6 of the Golden Hills Wind Project Site Certificate

Hi Sarah:

I have looked over the Golden Hills Wind documents referenced in the below email.

Based upon compliance with existing site certificate conditions, and because the proposed amendments would not change site boundary or analysis area previously evaluated, I do not have additional comment at present on the certificate holder's characterization of the site or seismic hazards, or its ability to design, engineer, and construct the facility to avoid dangers to human safety presented by seismic, geologic or soils hazards.

Thank you for the opportunity to provide comments.

*Best Regards,
Jason*

Jason D. McClaughry, RG

Eastern Oregon Regional Geologist |

National Cooperative Geologic Mapping Program (STATEMAP) Coordinator for Oregon

Oregon Department of Geology and Mineral Industries | Baker City Field Office

1995 3rd Street, Suite 130 | Baker City, Oregon 97814

Cell: (541) 519-3419

jason.mcclaughry@oregon.gov | <https://www.oregongeology.org>

Unless otherwise indicated, all information in this correspondence is classified as Level 1, "Published" according to State of Oregon statute and administrative policy.



Confederated Tribes *of the*
Umatilla Indian Reservation
Department of Natural Resources

46411 Timine Way, Pendleton, Oregon 97801

MEMORANDUM

To: Sarah Esterson, Senior Siting Analyst
Oregon Department of Energy
Sent via email to: Sarah.Esterson@oregon.gov

From: Shawn Steinmetz, Archaeologist
Cultural Resources Protection Program
Confederated Tribes of the Umatilla Indian Reservation
46411 Timine Way, Pendleton, OR 97801

Date: January 11, 2021

RE: Confederated Tribes of the Umatilla Indian Reservation's Comments on the Golden Hills Wind Energy Facility Request for Comment for the Request for Amendment 6 to the Golden Hills Wind Project Site Certificate

General Comments:

Thank you for contacting the Confederated Tribes of the Umatilla Indian Reservation (CTUIR) regarding the Golden Hills Wind Project's Request for Amendment 6 to the Golden Hills Wind Project's Site Certificate. The CTUIR offers the following comments for the project.

Specific Comments:

The location of the proposed facilities described in the Request for Amendment 6 that have not been inventoried for cultural resources should be inventoried for cultural resources. Exhibit S for the project states that eight archaeological sites were located during the initial cultural resource inventory for this project. This demonstrates that other archaeological sites may be located within the Amendment 6 area.

This question is not specific to this request for Amendment 6, but for the whole project ultimately. How will identified cultural resources be protected from potential damage when construction begins? Will physical barriers be used to protect identified cultural resources from potential damage when construction begins? In Exhibit S it states that the cultural resources areas will be flagged. How will this be accomplished?

Exhibit S also states that a Cultural Resource Management Plan (CRMP) will be developed by the Applicant in coordination with the OSHPO. Are the affected Tribes part of the development of this plan?

ESTERSON Sarah * ODOE

Subject: Golden Hills Wind Project - Comments on the Draft Proposed Order on RFA6

From: Shawn Steinmetz <ShawnSteinmetz@ctuir.org>

Sent: Thursday, January 14, 2021 12:37 PM

To: ESTERSON Sarah * ODOE <Sarah.Esterson@oregon.gov>

Cc: Christian Nauer <christian.nauer@ctwsbnr.org>; Tera Farrow Ferman <TeraFarrowFerman@ctuir.org>

Subject: Golden Hills Wind Farm Cultural Resource Management Plan

Sarah:

Just a few observation from reviewing the Golden Hills Wind Farm Cultural Resource Management Plan.

On Page 6 it states: To ensure avoidance of known cultural resources during construction, the buffers around cultural resources will be flagged in the field. The avoidance buffers described above will be flagged anytime work is planned within 200 feet of known resources (Table 1). These areas will be indicated as “environmentally sensitive areas” to provide confidentiality of the cultural resource locations. Flagging will consist of wooden stakes driven into the ground at approximately 65-foot (20-meter) intervals, with netting or flagging tape between each stake, clearly distinguishing avoidance areas.

The CRPP does not believe that flagging with wooden stakes driven into the ground is adequate. It has been our experience that wooden stakes are easily broken and fail over time. **The CRPP suggest that metal T-post be used instead of wooden stakes.**

On Page 7 it states: If cultural resources are inadvertently discovered during construction, all work within 100 feet (30 meters) will be stopped until the find can be assessed by a Professional Archaeologist in consultation with Golden Hills, SHPO, ODOE, and (as necessary) tribes.

The CRPP suggest deleting “(as necessary)” from the sentence.

On Page 7 it states: SHPO John Pouley Assistant State Archaeologist Phone: (503) 503-986-0675 Email: John.Pouley@state.or.us

The CRPP suggest changing this to “State Archaeologist” to correctly identify Mr. Pouley’s job title. This needs to be corrected on the Inadvertent Discovery Plan (p5 of plan) page 39 in the document too.

Thanks for the opportunity to review this document.

~Shawn

Shawn Steinmetz
Archaeologist
Confederated Tribes of the Umatilla Indian Reservation
Cultural Resources Protection Program
46411 Timine Way
Pendleton, Oregon 97801
(541) 429-7963
shawnsteinmetz@ctuir.org

The opinions expressed by the author are his or her own and are not necessarily those of the Confederated Tribes of the Umatilla Indian Reservation. The information, contents and attachments in this email are Confidential and Private.



Matt Hutchinson
Sr. Permit Manager

January 15, 2020

VIA EMAIL

Sarah Esterson
Oregon Department of Energy
550 Capitol St. NE, 1st Floor
Salem, OR 97301

Re: Certificate Holder Response to Public Comments on Golden Hills Wind Project Draft Proposed Order

Dear Ms. Esterson:

Golden Hills Wind Farm, LLC (Certificate Holder) has reviewed comments submitted by Irene Gilbert on the Draft Proposed Order (DPO) for the Request for Amendment 6 (RFA 6) to the Golden Hills Wind Project Site Certificate and provides the following responses. First, the purpose of RFA 6 is to extend the construction timeline and add corridors for supporting and relating facilities in order to reduce Project-related impacts. Approval of RFA 6 will result in less habitat impacts and fewer disruptions to agricultural activities. Further, the Certificate Holder believes the proposed changes to site certificate conditions on cultural resources and avian protection measures will clarify and enhance previous Energy Facility Siting Council (Council) findings rather than dilute resource protections as suggested by Ms. Gilbert's comments. For example, the Council previously imposed a 200-foot setback around cultural sites because the cultural surveys at that time had not provided NRHP eligibility evaluations for the known resources within the micro-siting corridors. The 200-foot setback was intended to be applied only to those "known cultural resources that *require* buffers" (GEN-HC-02; emphasis added). Condition PRE-HC-01 identified specific resources requiring avoidance. Now, however, the

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Telephone 503-478-6317
www.avangridrenewables.com, matthew.hutchinson@avangrid.com

Certificate Holder has completed additional field investigations and NRHP-eligibility evaluations of all cultural resources within the proposed development area and has new information to conclude that these buffers are no longer needed. Similarly, new scientific research on avian protection in the years since Golden Hills was first approved has determined that perch diverters are not effective for the purpose suggested by the site certificate. The proposed changes to the cultural and avian protection site certificate conditions are based on the best available data and results in clarity for implementation.

The following responses to comments on specific proposed conditions are provided in addition to the findings by the Oregon Department of Energy (ODOE) on the proposed changes on pages 54-59 of the DPO:

PRE-HC-01: I object to the condition removing the requirement to train personnel on treatment of archeological resources already identified. While the referenced procedures for newly identified resources would be a useful addition, not at the expense of removing the existing condition requiring training in the treatment of resources already identified.

Reducing the buffer distance from 200 feet to 15 feet means there will no doubt be damages to the resources. Since when is a 15 foot buffer for construction activities going to protect anything? I can see the comment now: "Oops—the ground was slippery and my excavator just slipped a little. Oh well, it is just an irreplaceable historical artifact!!" If it is worth protecting at all, the setback should require a distance that has some chance of actually keeping the item from being destroyed.

Response: The Certificate Holder's qualified archeologist recommends that five resources with the reduced buffers are not eligible for listing on the National Registry of Historic Places; or, more directly, these resources are not protected under state or federal law. However, only the Oregon State Historic Preservation Office (SHPO) can determine the eligibility of cultural resources and, although SHPO's concurrence for this project has been requested, it is outstanding. As such, the proposed 15-foot buffer will ensure the site is avoided in the event that SHPO's concurrence is not received before construction but not result in undue constraints on the design of the facility. The 15-foot buffer will be flagged, and prior to construction, all workers will undergo environmental awareness training including for cultural resources. If SHPO concurs with the findings of the survey reports, then the buffer will be removed and no protections will be imposed. If any new resource is inadvertently found during construction a 200-foot buffer would be applied, per the Golden Hills Wind Project Inadvertent Discovery Plan [Condition PRE-HC-02].

PRE-HC-02: I object to removing the requirement that the State Historic Preservation office must concur with the setbacks and procedures document for specific sites and only leave the requirement that the department "consult" with them. The use of the term "consult" means that the department will ask for an opinion and then do whatever they want. They have demonstrated this in virtually every site certificate including "consultation" requirements.

Furthermore, 30 meters is less than 100 feet. Again, why even pretend to be meeting the requirements to protect public resources if there is no intent to do so?

Response: The suggested change to this condition clarifies inconsistencies in the site certificate because previously text listed specific cultural sites by name, but it was not clear why buffers applied to some sites and not others and did not account for changes in the final design that resulted in known and buffered sites being a significant distance from any planned disturbance. Plus, the previous condition language was ambiguous on how additional sites would be treated if new surveys were conducted, as is now the case. The proposed revisions clarify and restate the Council's previous findings that all sites determined by SHPO to be eligible for listing on the NRHP are to be avoided.

The Certificate Holder provided the cultural resources survey report to SHPO for concurrence in August 2020, and SHPO is a reviewing agency in Council proceedings. In the absence of SHPO comment on the report, the Certificate Holder is providing a buffer to archaeological resources that are recommended as NRHP-ineligible and protected under OAR 345-022-0090(1)(b).

PREHC-3: The maps of components of the facility and areas of disturbance and construction as well as areas not included in resource surveys should not be hidden from the public by calling it "confidential".

This information is the only way the public can tell whether or not surveys were actually done as required by the site certificate, or if the department changed the requirements to allow the developer to avoid doing all the required surveys. It is also the only way the public can tell how much habitat is actually destroyed and whether the mitigation agreed to by the department is based upon the actual impacts as required by the site certificate, or is adjusted for some unknown reason that is not included in the Oregon Department of Fish and Wildlife mitigation rules.

None of the information that the department is saying should be considered "confidential" other than the location of archeological resources actually is confidential and should be treated that way.

Response: The Certificate Holder is following state law for treating archaeological site and object locations as confidential (ORS 192.345(11); see also SHPO Bulletin #1). However, Section 6 of RFA 6 describes the type and character of each cultural site in the project area, and Figure 2 shows the proposed construction areas in detail.

Regarding the comment on surveys, the Certificate Holder views the information provided in RFA 6 as comprehensive and complete, and notes that it includes full, unredacted copies of the habitat mapping (Attachment 2), noxious weed surveys (Attachment 3), hydrology study (Attachment 4), botanical survey (Attachment 6), sensitive species information (Attachment 7), 2 years of raptor nest data (Attachments 10 & 11), wetland survey maps and reports (Attachments 13 & 14). Certificate Holder encourages public feedback on these reports but disagrees that it is hiding information under confidential label.

CON-HC-01: I object due to the fact that the public was not allowed access to the Cultural Resource Management Plan to determine or provide input regarding what it contains. Removing a requirement in the site certificate based upon a statement by the department that it is included begs the term, "Trust but verify".

In addition, since the department can unilaterally change conditions in this document, it provides no assurance that the condition will not magically disappear in the future.

CON-HC-02: I object to removing this condition from the site certificate for the same reason as above. The department and the developer are the only ones who will know if the condition exists and if it will continue to exist. The public cannot trust that any requirement in a plan under the control of the department will remain in effect.

Response: The Cultural Resource Management Plan (CRMP) is available on ODOE's public website page. The plan will be approved by ODOE and provided to SHPO for review. Public comments on the CRMP will also be considered.

CON-HC-04: I object to moving the decisions regarding what should appropriately be included in a sign to the department and the county. The Oregon Trail is not a resource that should be protected, or damaged, or mitigated based upon decisions from these groups. While the Advisory Council no longer exists, the Oregon California Trails Association does continue to exist and is the group that provides oversight and attempts to protect these resources for the citizens of the state and nation. They are the appropriate ones to determine the content of the sign which will provide a laughable amount of mitigation for the damages this development is inflicting on a national treasure.

Response: Remnants of the Oregon Trail, such as ruts, associated archaeological deposits, or public interpretation sites, are not within the Project's impact corridors, which have been surveyed for such resources multiple times. While the Oregon-California Trails Association is a recognized volunteer organization with specialty skills related to identifying and preserving the Oregon Trail and associated resources, it is not a formally designated state, local, or federal agency. As such, it is the Certificate Holder's position that a non-agency entity should not be referenced by the site certificate condition.

GEN-FW-04: I object to this change. It removes the required anti-perch devices that are include in the site certificate condition to be applied to all pole tops and cross arms within the site and within ¼ mile of any wind turbine and replaces the condition to only require spiral markers over Grass Valley Canyon. This change is justified by the statement that the current condition does not comply with the way the applicant wants to design the facility. SINCE WHEN DOES THE DEPARTMENT THINK THEY SHOULD REMOVE A SITE CERTIFICATE CONDITION THAT IS TO PROTECT WILDLIFE TO ACCOMMODATE A DEVELOPER'S DESIGN WISHES????? This developer is not the Oregon Department of Energy's Customer, though I have

heard that is what they are referred to. The public and the resources of the state should not be sacrificed due to a design desire of the developer.

Response: The Certificate Holder’s parent company, Avangrid Renewables, is member company of the Avian Power Line Interaction Committee¹ (APLIC), and has special expert in the application of APLIC-recommended practices for reducing avian impacts from power lines. In this case, the previous version of Condition GEN-FW-04 referenced an outdated idea that raptors could be discouraged from perching on transmission line structures by using anti-perch devices (also known as perch discouragers). APLIC (2006) states, “perch discouragers are intended to move birds from unsafe locations to a safe location and do not *prevent* perching” and that “electrocution risk may increase if perch discouragers are installed on long consecutive spans without providing alternative perch sites.” APLIC (2006) recommends that agencies and developers consider site specific data in assessing avian risk. In this case, the Certificate Holder use the distribution of raptor nests (mapped in 2019 and 2020), habitat data (mapped in 2020), topology, and literature reviews on raptor behavior to identify the portion of the transmission line spanning Grass Valley Canyon as a higher risk area and suitable for additional measures. The Certificate Holder will install spiral markers on this span of the transmission line to increase the visibility of the line to raptors foraging in Grass Valley Canyon. The proposed revision to this condition was developed in coordination with ODFW (see ODFW comment letter).

The facility’s 230-kilovolt line will follow APLIC (2006) suggested practices for avian safe design, and the 34.5-kilovolt collector lines between turbines will be buried. As such, the facility will be designed and constructed following the most current practices for wildlife protection.

Thank you for your consideration.

Sincerely,



Matt Hutchinson

cc: Brian Walsh/Avangrid Renewables
Elaine R. Albrich/DWT
Carrie Konkol/Tetra Tech
Anneke Solsby/Tetra Tech

¹ https://www.aplic.org/member_websites.php



Oregon

Kate Brown, Governor



TO: Sarah Esterson, Senior Policy Advisor
Oregon Department of Energy
550 Capitol St N.E., 1st Floor
Salem, OR 97301

3040 25th Street, SE
Salem, OR 97302-1125
Phone: (503) 378-4880
Toll Free: (800) 874-0102
FAX: (503) 373-1688

FROM: Seth Thompson, Aviation Planner
Oregon Department of Aviation
3040 25th Street, SE
Salem, OR 97302-1125
503-378-2529
Seth.Thompson@aviation.state.or.us

DATE: January 15, 2021

RE: Oregon Department of Aviation Agency Comments on the Draft Proposed Order on Request for Amendment 6 (RFA6) and Complete RFA6 of the Golden Hills Wind Project Site Certificate

Dear Sarah Esterson:

The Oregon Department of Aviation (ODA) appreciates the opportunity to review and comment on the Draft Proposed Order on Request for Amendment 6 (RFA6) and Complete RFA6 of the Golden Hills Wind Project Site Certificate. The ODA has reviewed the proposal and provides the following report with recommendations.

The amendment request seeks Council approval to extend the construction completion deadline by 18-months; change the micro-siting corridor including adding new and removing previously approved area within the site boundary to allow for changes in final facility layout; and amend various site certificate conditions (amend preconstruction conditions to align with phased construction schedule, amend 9 previously imposed conditions under the Council's Historic, Cultural and Archeological Resources standard, and amend 1 condition previously imposed under the Council's Fish and Wildlife Habitat standard).

Though the proposed RFA6 does seek to change the micro-siting corridor to allow roads and collector lines to be realigned, the ODA notes that all collector lines will still be placed below ground per the original site design and proposal.


The ODA provides the following recommendations for this proposal:

- The ODA requests the following Site Certificate Conditions provided in the original Site Certificate for the Golden Hills Wind Project continue to be applied to all future amended and new site certificates for this facility: OPR-SR-01 and PRE-PH-03.
- The proposed RFA6 seeks to change the micro-siting corridor to allow adjustment to the final siting location of one meteorological (met) tower that needs to be

placed slightly outside the existing micro-siting corridors. For this reason, the certificate holder shall submit to the FAA and ODA a Notice of Proposed Construction or Alteration identifying the proposed final location. The height of the met tower should not penetrate FAA Part 77 Imaginary Surfaces, as determined by the ODA and FAA.

ODA appreciates the opportunity to comment on this proposal. If you have any questions or need clarification on these comments, please feel free to contact me at 503-378-2529 or Seth.Thompson@aviation.state.or.us.

Sincerely,

A handwritten signature in black ink, appearing to read "Seth Thompson". The signature is fluid and cursive, with the first name "Seth" written in a larger, more prominent script than the last name "Thompson".

Seth Thompson
Aviation Planner

CC: Heather Peck
Planning & Projects Manager
Oregon Department of Aviation

Attachment D: Draft Cultural Resources Mitigation Plan

Cultural Resource Management Plan

**Golden Hills Wind Power Project
Sherman County, Oregon
SHPO Case No. 14-1150**

**Prepared for
Golden Hills Wind Farm, LLC**

Prepared by



**Tetra Tech, Inc.
Portland, Oregon**

Tetra Tech Project #194-APW564001

Authors

Erin King, MA, RPA and Brady Berger

December 2020

**As recommended amended by the Oregon Department of Energy in January 2021 based on RFA6 DPO
Comments (changes are presented in red-line)**

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1.0 Introduction

The Golden Hills Wind Project (Project) is a wind energy facility on private land in Sherman County, Oregon (Figure 1). Golden Hills Wind Farm, LLC (Golden Hills) holds the Project's Fifth Amended Site Certificate issued by the Oregon Energy Facility Siting Council (EFSC).

This Cultural Resource Management Plan (CRMP or Plan) and Inadvertent Discovery Plan (IDP) provides protocols for construction avoidance measures around known cultural resources, and response measures in the event of an inadvertent discovery of archaeological resources or human remains and associated artifacts during construction. The CRMP is based on background research and all cultural resource surveys completed for the Project through April 2020, as well as the requirements outlined in site certificate condition PRE-HC-02.

The Project is authorized by EFSC under Oregon Revised Statute (ORS) Chapter 469, and subject to EFSC's Historic, Cultural, and Archaeological Resources Standard in Oregon Administrative Rules (OAR) 345-022-0090(1). EFSC's findings on cultural resources are presented in its Final Order¹ on the project. The Project is also subject to the state statues for protections of Indian graves (ORS 97.745) and archaeological sites and objects in general (ORS 358.920).

Since the Project is located on private land, Oregon State Historic Preservation Office (SHPO) guidelines for recording archaeological resources apply. While federal regulations dictate that archaeological resources must be 50 years or older, under the SHPO guidelines, resources must be at least 75 years old to be considered a cultural resource.

1.1 EFSC's General Standards for Siting Facilities

The Historic, Cultural, and Archaeological Resources Standard in Oregon Administrative Rules (OAR) 345-022-0090(1) provides that applicants for site certificates must demonstrate that the construction and operation of an energy facility, taking into account mitigation, are not likely to result in significant adverse impacts to:

OAR 345-021-0010(1)(s)(A): Historic, cultural or archaeological resources that have been listed on, or would likely be listed on the National Register of Historic Places (NRHP);

OAR 345-021-0010(1)(s)(B): For a facility on private land, archaeological objects, as defined in Oregon Revised Statutes (ORS) 358.905(1)(a), or archaeological sites, as defined in ORS 358.905(1)(c); and

OAR 345-021-0010(1)(s)(C): For a facility on public land, archaeological sites, as defined in ORS 358.905(1)(c).²

¹ 2009. Golden Hills Wind Project, Final Order on the Application for Site Certificate, pp. 132-136.

² There are no public lands in the Project.

1.2 Applicable Oregon Revised Statutes

1.2.1 ORS 97.745 Indian Graves and Protected Objects

ORS 97.745 provides protection for Indian graves and protected objects. It describes acts prohibited in relation to the above resources, the applicability of the statute, and the notification procedures for when suspected Indian human remains are discovered. In summary, the statute states:

- 1) No person shall willfully remove, mutilate, deface, injure or destroy any cairn, burial, human remains, funerary object, sacred object or object of cultural patrimony of any native Indian. Persons disturbing native Indian cairns or burials through inadvertence, including by construction, mining, logging or agricultural activity, shall at their own expense reinter the human remains or funerary object under the supervision of the appropriate Indian tribe.
- 2) Except as authorized by the appropriate Indian tribe, no person shall: Possess any native Indian artifacts, human remains or funerary object having been taken from a native Indian cairn or burial; Publicly display or exhibit any native Indian human remains, funerary object, sacred object or object of cultural patrimony; or Sell any native Indian artifacts, human remains or funerary object having been taken from a native Indian cairn or burial or sell any sacred object or object of cultural patrimony.
- 3) Any discovered human remains suspected to be native Indian shall be reported to the state police, the SHPO, the appropriate Indian tribe, and the Oregon Commission on Indian Services.

1.2.2 ORS 358.920: Archaeological Objects and Sites

ORS 358.920 identifies prohibited acts on public and private lands in Oregon, relative to archaeological resources. It states that disturbances to archaeological sites or objects on public or private lands must be completed under a permit issued under ORS 390.235, and provides direction for disposition of those archaeological materials and any human remains and associated funerary objects. The section is not applicable to the disturbance of Native American cairns, which is covered by the provisions of ORS 97.740 to 97.760 (see ORS 97.745 above). In summary, the statute states:

- 1) A person may not excavate, injure, destroy or alter an archaeological site or object or remove an archaeological object located on public or private lands in Oregon unless that activity is authorized by a permit issued under ORS 390.235.
- 2) A person may not excavate an archaeological site on privately owned property unless that person has the property owner's written permission.
- 3) If human remains are encountered during excavations of an archaeological site on privately owned property, the person shall stop all excavations and report the find to the landowner, the state police, the SHPO and the Oregon Commission on Indian Services. All funerary objects relating to the burial shall be delivered as required by ORS 358.940.

4) Violation of the provisions of this section is a Class B misdemeanor.

1.3 Previously Conducted Studies and Known Cultural Resources

Golden Hills has completed pedestrian field surveys for all areas of the micro-siting corridor. The results of these surveys are documented in the following survey reports that have been submitted to SHPO:

- Fogerty and Reeve 2007
- Reeve and Fogerty 2008
- King 2020 (no findings)
- King and Berger 2020

These reports document a total of 19 cultural resources within the Project Area, comprising two prehistoric archaeological sites, seven historic-era archaeological sites, two historic built environment sites, and eight historic-era archaeological objects (also referred to as isolated finds) (Table 1). Locations of each resource relative to the Project design are included in confidential Appendix A. The recorded resources are indicative of historic agriculture and ranching practices in the area, with two prehistoric sites indicative of past Native American lifeways in the area. None of the resources in Table 1 are listed on the NRHP, but 12 are considered unevaluated for listing on the NRHP. The remaining seven are considered not eligible for listing on the NRHP based on the recommendations of King and Berger (2020); however, concurrence on these NRHP eligibility recommendations has not yet been received from SHPO. Of the resources identified by Project surveys, five resources are within the proposed impact area footprint: 35SH 00217, 35SH 00221, GH Site 6, GH-BB-02, and GH-BB-03.

Table 1. Cultural Resources Identified by Project Surveys

| Trinomial/Site ID | Description | Survey Report | Management Recommendation ^a | NRHP Status |
|---|-------------------------------|--|--|---------------------------|
| Archaeological Sites^b | | | | |
| 35SH 00215 | Lithic Scatter (Prehistoric) | Fogerty and Reeve 2007 | N/A – outside of impact area | Unevaluated |
| 35SH 00216 | Refuse Scatter (Historic) | Fogerty and Reeve 2007 | N/A – outside of impact area | Unevaluated |
| 35SH 00217 | Structural Remains (Historic) | Fogerty and Reeve 2007; King and Berger 2020 | Transmission line to span site and 15-foot (4.5-meter) buffer. | Not Eligible ^c |
| 35SH 00219 | Lithic Scatter (Prehistoric) | Fogerty and Reeve 2007 | N/A – outside of impact area | Unevaluated |
| 35SH 00220 | Structural Remains (Historic) | Fogerty and Reeve 2007 | N/A – outside of impact area | Unevaluated |

| Trinomial/Site ID | Description | Survey Report | Management Recommendation ^a | NRHP Status |
|---|-----------------------------------|--|--|---------------------------|
| 35SH 00221 | Agricultural Refuse (Historic) | Reeve and Fogerty 2008; King and Berger 2020 | Transmission line to span site and 15-foot (4.5-meter) buffer. | Not Eligible ^c |
| GH-Site-6 | Abandoned Utility Line (Historic) | Fogerty and Reeve 2007; King and Berger 2020 | Avoid disturbance within 15 feet (4.5 meters) of each remaining pole (standing or fallen). Disturbance may occur between poles, which are the only remaining features of the site. | Not Eligible ^c |
| GH-BB-02 | Structural Remains (Historic) | King and Berger 2020 | Avoid disturbance within 15 feet (4.5 meters) of site. | Not Eligible ^c |
| GH-BB-03 | Windmill & Refuse (Historic) | King and Berger 2020 | Directionally bore collector line beneath site and 15-foot (4.5-meter) buffer. | Not Eligible ^c |
| Historic Sites/Built Environment Sites | | | | |
| GH-Site-8 | In-Use Utility Line (Historic) | Fogerty and Reeve 2007 | N/A – outside of impact area | Unevaluated |
| Joseph C. Hockman Farmstead Garage | Building (Historic) | King and Berger (2020) | N/A – outside of impact area | Not Eligible ^c |
| Archaeological Objects^b | | | | |
| GH-ISO-1 | License Plate (Historic) | Fogerty and Reeve 2007 | N/A – outside of impact area | Unevaluated |
| GH-ISO-2 | Glass Shards (Historic) | Fogerty and Reeve 2007 | N/A – outside of impact area | Unevaluated |
| GH-ISO-3 | Ceramic (Historic) | Fogerty and Reeve 2007 | N/A – outside of impact area | Unevaluated |
| GH-ISO-4 | Chert Flake (Prehistoric) | Fogerty and Reeve 2007 | N/A – outside of impact area | Unevaluated |
| GH-ISO-5 | Rusted Tin (Historic) | Fogerty and Reeve 2007 | N/A – outside of impact area | Unevaluated |
| GH-ISO-6 | Windmill (Historic) | Fogerty and Reeve 2007 | N/A – outside of impact area | Unevaluated |
| GH-ISO-7 | Chert Flake (Prehistoric) | Fogerty and Reeve 2007 | N/A – outside of impact area | Unevaluated |

| Trinomial/Site ID | Description | Survey Report | Management Recommendation ^a | NRHP Status |
|---|--------------------------|----------------------|--|---------------------------|
| GH-BB-ISO-01 | Pull-tab Cans (Historic) | King and Berger 2020 | N/A – outside of impact area | Not Eligible ^c |
| <p>a If redesign of the Project results in impact area being within 15 feet (4.5 meters) of resource, an avoidance buffer of 15 feet (4.5 meters) will be placed around the resource where disturbance will not occur.</p> <p>b Per ORS 358.905(1)(a) for archaeological sites and ORS 358.905(1)(c) for archaeological objects.</p> <p>c Pending SHPO concurrence on recommendation.</p> | | | | |

The Facility is within the general vicinity of the historic Oregon National Historic Trail. The National Park Service–designated route passes 1.6 miles north of the northernmost extent of the impact area (see Appendix A). However, no evidence of the trail, such as ruts or markers, has been identified by the Project surveys. Therefore, no specific management requirements related to the Oregon National Historic Trail are proposed (CON-HC-02).

2.0 Minimization and Avoidance Measures

Golden Hills will implement the following protocols and procedures for protecting known NRHP-eligible and unevaluated cultural resources during construction.

2.1 Facility Layout Avoids Cultural Resources

As proposed, the facility design avoids impacts to the sites listed in Table 1, regardless of NRHP-eligibility³, plus a 15-foot (4.5-meter) buffer around the boundary of each resource. Resource locations relative to the Project’s final design are depicted in confidential Appendix A. The transmission line will span over archaeological sites 35SH 00217 and 35SH 00221. Both sites have been recommended as not eligible for listing on the NRHP; however, SHPO concurrence with these recommendations has not yet been received. Therefore, no ground disturbance will occur within 16 feet (5 meters) of these sites for the installation of the transmission line. The very northern extent of archaeological site GH-Site-6 is also within the transmission line corridor. This site has also been recommended as NRHP ineligible but has not received SHPO concurrence yet. Therefore, ground disturbance related to the transmission line will not occur within 15 feet (4.5 meters) of the remaining poles of the abandoned utility line. Current design provides for a collector line to pass just north of archaeological site GH-BB-02 and an access road to the south of the site. No disturbance will be allowed within 15 feet (4.5 meters) of the site. Buffer areas that overlap County rights-of-way will be excluded from the buffer. Likewise, the electrical design will ensure that collector lines are routed at least 15 feet (4.5 meters) from archaeological site GH-BB-03. Alternatively, Golden Hills could install the collector line at this location using directionally bore

³ If SHPO provides concurrence with NRHP-ineligibility recommendations, avoidance of those resources will not be required.

methods to install the line below the site (minimum depth 36 inches [91 centimeters]) without surface disturbance within 15 feet (4.5 meters) of the site.

To ensure avoidance of known cultural resources during construction, the buffers around cultural resources will be flagged in the field. The avoidance buffers described above will be flagged anytime work is planned within 200 feet of known resources (Table 1). These areas will be indicated as “environmentally sensitive areas” to provide confidentiality of the cultural resource locations. Flagging will consist of ~~wooden stakes~~ T-posts driven into the ground at approximately 65-foot (20-meter) intervals, with netting or flagging tape between each stake, clearly distinguishing avoidance areas. The location of avoidance areas will be determined using sub-meter accurate GPS units in the field. Flagging will be maintained during construction by the contractor, checking on the flagging/buffer when works occurs in the area and repairing if necessary. Once construction is complete in an area, with no further ground disturbance or driving of vehicles/equipment anticipated, the flagging can be removed.

If the facility design changes in a manner that cultural resources may be impacted, Golden Hills will seek approval from ODOE before proceeding and update this plan accordingly. If avoidance of NRHP-eligible or unevaluated resources (including an inadvertent discovery – see below) is not feasible, a formal NRHP-eligibility testing or data recovery program may be necessary to mitigate impacts. Golden Hills will determine the appropriate treatment or mitigation in consultation with SHPO, ODOE, and, as appropriate, consulted tribes. The Project Archaeologist will develop a research design or treatment plan for the specific resources and obtain necessary archaeological permits from SHPO prior to initiating an agreed-upon treatment or mitigation. Resources determined to be not eligible for listing on the NRHP may be subject to ground disturbance or destruction without treatment, mitigation, or obtaining an archaeological permit from SHPO.

These avoidance measures will ensure that disturbances to archaeological sites and objects are avoided.

2.2 Worker Environmental Awareness Program

In accordance with Golden Hill’s construction safety program, all construction workers will receive site orientation training before beginning work on site. Part of this site orientation includes a Worker Environmental and Awareness Program (WEAP) training that outlines the general environmental and archaeological procedures everyone must follow during construction. The cultural resources component of the WEAP will describe the importance of protecting cultural resources, the types of cultural resources that might be inadvertently discovered during construction activities, and the protocol in the event of a possible inadvertent discovery. The WEAP training will be presented as part of the pre-construction meeting with informational slides, which will address the following:

1. What a cultural resource is, why they are important, and the types of pre-contact and/or historic cultural materials, objects, and deposits that could be found in the area and that could be exposed as a result of construction activities;

2. The significance of the Project Area to Native Americans, including its historical use (this portion of the training may be presented by a tribal representative, if desired);
3. All applicable laws regarding cultural resources, and penalties under those laws pertaining to unlawful excavation, removal, destruction, injury, or defacement of archaeological resources, human remains, and Native American cultural resources;
4. The type of permit that the Project is operating under, and what that permit stipulates about cultural resource protection; and
5. Protocols for the inadvertent discovery of archaeological resources or human remains (see Section 2.4).

The cultural resources portion of the WEAP is also included in this CRMP as Appendix B. This material was developed by a Professional Archeologist. **(Confidential Appendix A, with known resource locations, will NOT be distributed beyond these staff members.)**

2.3 Inadvertent Discovery Procedures

Golden Hills will implement the procedures of its IDP (Appendix C) if construction activities reveal the presence of unknown cultural resources. Implementation of the IDP will ensure compliance with ORS 97.745 and 358.920 as well as the conditions imposed by ODOE for the Project.

If cultural resources are inadvertently discovered during construction, all work within 100 feet (30 meters) will be stopped until the find can be assessed by a Professional Archaeologist in consultation with Golden Hills, SHPO, ODOE, and ~~(as necessary)~~ tribes. If human remains are discovered, all work within 200 feet (61 meters) will be stopped until the find can be assessed, and the nature of the remains determined. All discoveries will be kept confidential by personnel and contractors. Contact information for key contacts in the event of an inadvertent discovery are provided in Table 2.

Table 2. Key Project Contacts

| Organization | Name | Position | Contact Information |
|--|---------------------|--|---|
| Golden Hills Wind Farm, LLC | David Wallace | Construction Manager | Phone: (503) 796-7000 |
| Golden Hills Wind Farm, LLC | Matt Hutchinson | Sr. Permit Manager | Phone: (503) 478-6317 |
| Tetra Tech, Inc. | TBD | Project Archaeologist | TBD |
| ODOE Official | Sarah Esterson | ODOE Senior Policy Advisor | Phone: (503) 373-7945 |
| State Police | N/A | N/A | Phone: (503) 378-3720 |
| State Police | N/A | The Dalles Area Command | Phone: (541) 296-9646 |
| SHPO | John Pouley | Assistant State Archaeologist | Phone: (503) 503-986-0675 Email: John.Pouley@state.or.us |
| Confederated Tribes of the Umatilla Indian Reservation | Teara Farrow Ferman | Program Manager | Phone: (541) 276-3447 |

| Organization | Name | Position | Contact Information |
|--|---------------|---|-----------------------|
| Confederated Tribes of the Warm Springs Indian Reservation of Oregon | Robert Brunoe | Branch of Natural Resources General Manager | Phone: (541) 553-2002 |

3.0 References

CH2M (CH2M Hill Engineers, Inc.)

2016 *Cultural Resources Investigation for the Golden Hills Wind Project, Sherman County, Oregon.* Portland, Oregon. Submitted to Golden Hills Wind Farm LLC.

EFSC (Energy Facility Siting Council)

2017 Golden Hills Wind Project, Final Order on Request for Contested Case and Amendment 3 of the Site Certificate, pp. 91.

Fogerty, John, and Stuart Reeve

2007 *Cultural Resources Inventory for the Golden Hills Wind Energy Development, Sherman County, Oregon.* Tetra Tech EC, Inc., Portland, Oregon. Submitted to BP Alternative Energy.

King, Erin

2020 Memo: Golden Hills Wind Project: Supplemental Cultural Resources Pre-Construction Survey. Tetra Tech, Inc., Portland, Oregon. Submitted to Matt Hutchinson, Avangrid. May 4, 2020. SHPO Case No. 14-1150. Tetra Tech Project #194-APW564001.

King, Erin, and Brady Berger

2020 *Cultural Resources Survey Report Addendum, Golden Hills Wind Project, Sherman County, Oregon.* Tetra Tech, Inc., Portland, Oregon. Submitted to Golden Hills, LLC. SHPO Case No. 14-1150. Tetra Tech Project #194-APW564001.

Tetra Tech (Tetra Tech, Inc.)

2008 *Archaeological Sensitivity Model and Supplemental Phase 1B Archaeological Fieldwork Design, Golden Hills Wind Energy Development, Sherman County, Oregon.* Portland, Oregon. Submitted to BP Alternative Energy.

Reeve, Stuart, and John Fogerty

2008 *Supplemental Phase 1B Archaeological Investigations for the Golden Hills Wind Energy Development, Sherman County, Oregon.* Tetra Tech EC, Inc., Morris Plains, New Jersey. Submitted to BP Alternative Energy.

Figure

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Appendix A. Known Cultural Resources and Final Design (CONFIDENTIAL)

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Appendix B. Worker Environmental Awareness Program – Cultural Resources

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Cultural Resources Training

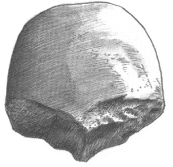
Golden Hills Wind Project



Cultural Resources

- ▶ **Definition:** Evidence of past human activity (site, object, structure, natural feature, or landscape) considered significant by a group of people traditionally associated with it. Cultural Resources are defined as being 50 years or older.
- ▶ **Unanticipated Discovery:** Cultural Resources that are found unexpectedly during construction or maintenance activities.
- ▶ Look for any of the following conditions that could indicate the presence of cultural resources:
 - ▶ Discolored soils, for example; gray-black soil with a “greasy” feel to it, or black with red and brown, containing cracked rocks or broken shells. These soils may suggest a hearth or midden
 - ▶ A thin layer or series of layers, particularly dark layers containing charcoal or ash, in an excavation side wall
 - ▶ Bone (animal or human): The proper treatment of Native American graves is of great concern. Possession of artifacts or human remains from a Native American grave is a felony (Public Resources Code [PRC] § 5097.99)
 - ▶ Shells (freshwater or marine) or shell artifacts
 - ▶ Any unusual concentration of rocks, which form a pattern such as an alignment or Cairn
 - ▶ Stone tools, stone tool fragments, and stone flakes resulting from stone tool production. Flakes are often found in concentrations, but not always, and are typically made from obsidian or chert
 - ▶ A concentration of historic-era trash, including bottles, broken glass, broken ceramic, bone, and metal pieces
 - ▶ A concentration of brick, concrete, or mortared stone that might indicate a structural foundation

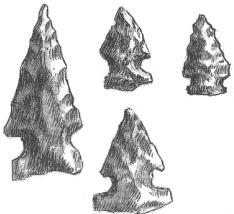
Cultural Resources - Examples



- ▶ **Flakes** are the by-product of making stone tools, typically small sharp stone fragments broken off a larger stone.
- ▶ **Flaked cobbles** were used for scraping, digging, or cutting. They may be found in a variety of shapes and sizes with a smooth end for holding.



- ▶ **Scrapers** had a variety of uses including preparing animal skins, shaping wood, or preparing food. They may be found in many shapes and sizes, indicating their various functions.



- ▶ **Projectile points** are also very distinctive and are commonly referred to as arrowheads. They're made from hard materials, typically stone, formed into a point by flaking or grinding. They have various uses, but are generally designed to be a projectile.



- ▶ **Historic artifacts** that may be present include glass bottles, bone, ceramics, metal cans, and other metal objects including wire, nails, and building hardware, as well as the remains of former building foundations and underground utilities.

Cultural Resources - Your Responsibility

Take the following actions if you think you have found a cultural resources:

- ▶ Stop work in the immediate area.
- ▶ It is **your** responsibility to stop work and notify the Construction Manager, who will notify an Archaeologist so that your find can be evaluated as quickly as possible.
- ▶ Stake and flag a 30-meter/100-foot avoidance buffer around the find in such a way that others will know not to enter that area. Work will not resume in the avoidance buffer until the Construction Supervisor and Archaeologist determine how to redirect the halted work.
- ▶ Most importantly, **leave the item where it is** until the Archaeologist can evaluate it. Removing the artifact may violate the law, and may result in Project delays and you being fined personally.
- ▶ Construction may proceed only after the proper archaeological inspections have occurred and environmental clearances are obtained. This requires coordination with State Historic Preservation Office (SHPO) and appropriate Native American Tribes.
- ▶ After an unanticipated discovery, the area may be specified for close monitoring or “no work zones.” Such areas will be identified by the Archaeologist, Project Manager, and contractor personnel.
- ▶ The Project Manager and Construction Manager will verify these identified areas and be sure that the areas are clearly demarcated in the field as needed.

Oregon National Historic Trail

The Oregon National Historic Trail passes near to the Project. Although no trail ruts were identified within the Project area during pre-construction surveys, there is possibility that unrecorded ruts may be observed during construction. In such an event, follow the same procedures as for any other archaeological discovery - stop work and notify Construction Manager. Trail ruts may appear similar to abandoned two-track roads, but more narrow or as a single narrow swale.

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Appendix C. Inadvertent Discovery Plan

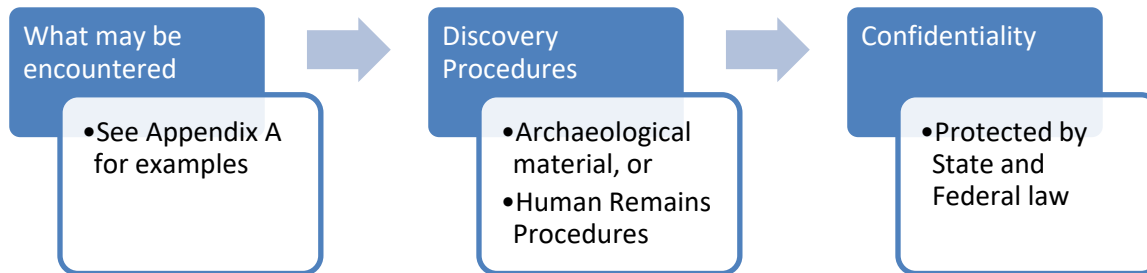
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ARCHAEOLOGICAL INADVERTENT DISCOVERY PLAN (IDP)

[Project Name]

[Project Manager] [Date] [SHPO case number]

HOW TO USE THIS DOCUMENT



Archaeology consists of the physical remains of the activities of people in the past. This IDP should be followed should any archaeological sites, objects, or human remains are found. These are protected under Federal and State laws and their disturbance can result in criminal penalties.

This document pertains to the work of the Contractor, including any and all individuals, organizations, or companies associated with [the project].

WHAT MAY BE ENCOUNTERED

Archaeology can be found during any ground-disturbing activity. If encountered all excavation and work in the area MUST STOP. Archaeological objects vary and can include evidence or remnants of historic-era and precontact activities by humans. Archaeological objects can include but are not limited to:

- **Stone flakes, arrowheads, stone tools, bone or wooden tools, baskets, beads.**
- Historic building materials such as **nails, glass, metal** such as cans, barrel rings, farm implements, **ceramics, bottles, marbles, beads.**
- Layers of **discolored earth** resulting from hearth fire
- Structural remains such as **foundations**
- **Shell** Middens
- **Human skeletal remains** and/or **bone fragments** which may be whole or fragmented.

For photographic examples of artifacts, please see Appendix A. (Human remains not included)

If there is an inadvertent discovery of any archaeological objects see procedures below.

If in doubt call it in.

DISCOVERY PROCEDURES: WHAT TO DO IF YOU FIND SOMETHING

1. Stop ALL work in the vicinity of the find
2. Secure and protect area of inadvertent discovery with 30 meter/100 foot buffer—work may continue outside of this buffer

3. Notify Project Manager and Agency Official
4. Project Manager will need to contact a professional archaeologist to assess the find.
5. If archaeologist determines the find is an archaeological site or object, contact SHPO. If it is determined to *not* be archaeological, you may continue work.

HUMAN REMAINS PROCEDURES

1. If it is believed the find may be human remains, stop ALL work.
2. Secure and protect area of inadvertent discovery with 30 meter/100 foot buffer, then work may continue outside of this buffer with caution.
3. Cover remains from view and protect them from damage or exposure, restrict access, and leave in place until directed otherwise. **Do not take photographs. Do not speak to the media.**
4. Notify:
 - Project Manager
 - Agency Official
 - Oregon State Police **DO NOT CALL 911**
 - SHPO
 - LCIS
 - Appropriate Native American Tribes
5. If the site is determined not to be a crime scene by the Oregon State Police, do not move anything! The remains will continue to be *secured in place* along with any associated funerary objects, and protected from weather, water runoff, and shielded from view.
6. Do not resume any work in the buffered area until a plan is developed and carried out between the State Police, SHPO, LCIS, and appropriate Native American Tribes and you are directed that work may proceed.

CONTACT INFORMATION

- Project Manager, [Name]: [555-555-5555]
- Agency Official, [Name]: [555-555-5555]
- Contracted Archaeologist, [Name]: [555-555-5555]
- Oregon State Police, Sgt. Chris Allori: 503-731-4717 Cell: 503-708-6461
- Oregon State Historic Preservation Office (SHPO),
 - [SHPO archaeologist who reviewed submission]: [number]
 - State Archaeologist: 503-986-0674
 - State Archaeologist, John Pouley: 503-986-0675
- LCIS, Mitch Sparks: 503-986-1086
- Appropriate Tribes
 - [add tribes as provided by LCIS]

CONFIDENTIALITY

[The project] and employees shall make their best efforts, in accordance with federal and state law, to ensure that its personnel and contractors keep the discovery confidential. The media, or any third-party member or members of the public are not to be contacted or have information regarding the discovery, and any public or media inquiry is to be reported to [lead agency]. Prior to any release, the responsible agencies and Tribes shall concur on the amount of information, if any, to be released to the public.

To protect fragile, vulnerable, or threatened sites, the National Historic Preservation Act, as amended (Section 304 [16 U.S.C. 470s-3]), and Oregon State law (ORS 192.501(11)) establishes that the location of archaeological sites, both on land and underwater, shall be confidential.

APPENDICES AND SUPPLEMENTARY MATERIALS

A. Visual reference and examples of archaeology

[B. Relevant maps such as APE and monitoring areas if relevant]

APPENDIX A

VISUAL REFERENCE GUIDE TO ENCOUNTERING ARCHAEOLOGY



Figure 1: Stone flakes



Figure 2: Stone tool fragments



Figure 3: Cordage



Figure 4: Shell midden



Figure 5: Historic glass artifacts



Figure 6: Historic metal artifacts



Figure 7: Historic building foundations

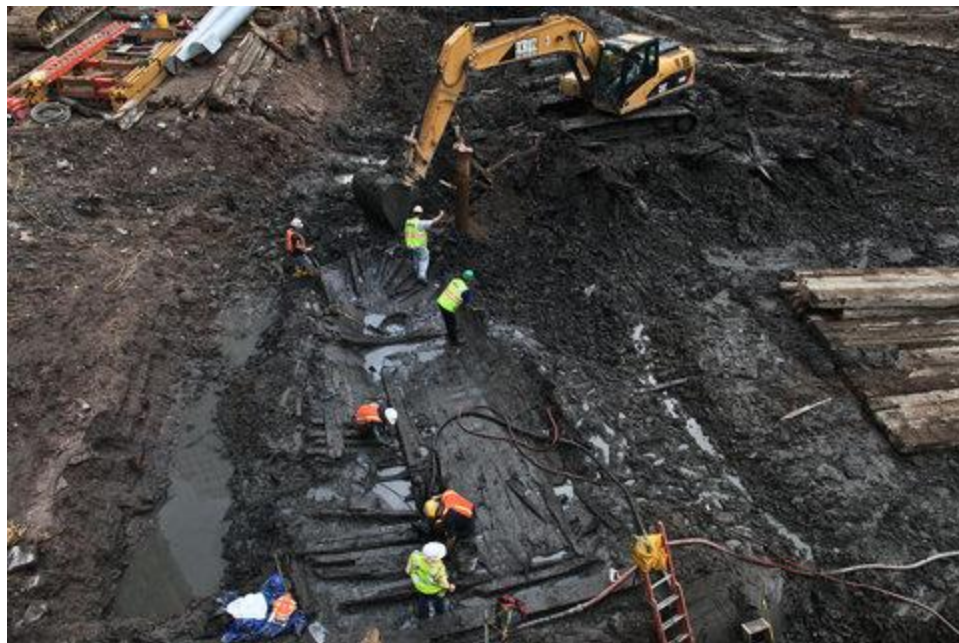


Figure 8: 18th Century ship