

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

In the Matter of the Request for Amendment #1 of
the Site Certificate for the Summit Ridge Wind Farm

)
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)

**AMENDED FINAL ORDER ON
AMENDMENT #1**

August 7, 2015

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1 **I. INTRODUCTION**

2
3 The Oregon Energy Facility Siting Council (Council) issues this final order in accordance with ORS
4 469.405 and OAR 345-027-0070. This final order addresses a request by LotusWorks-Summit
5 Ridge I, LLC (LotusWorks or certificate holder) for amendment of the site certificate for the
6 Summit Ridge Wind Farm.

7
8 **I.A. Name and Address of Certificate Holder**

9
10 LotusWorks-Summit Ridge I, LLC
11 9611 NE 117th Ave
12 Suite 2840
13 Vancouver, WA 98662

14
15 Individual Responsible for Submitting this Request:

16
17 Steven A. Ostrowski, Jr.
18 President
19 LotusWorks-Summit Ridge I, LLC
20 9611 NE 117th Ave
21 Suite 2840
22 Vancouver, WA 98662

23
24 **I.B. Description of the Facility**

25
26 The Oregon Energy Facility Siting Council (Council) issued the site certificate for the Summit
27 Ridge Wind Farm (Summit Ridge or facility) on August 19, 2011, authorizing the construction
28 and operation of a wind-energy generation facility with an electrical capacity of up to 200
29 megawatts. As approved, the facility consists of up to 87 wind turbines as well as related and
30 supporting facilities located on private land in Wasco County 17 miles southeast of The Dalles
31 and eight miles east of Dufur.¹ The related and supporting facilities include a power collection
32 system, a collector substation, a 230 kV transmission line, a Supervisory Control and Data
33 Acquisition System, an Operation and Maintenance (O&M) facility, Meteorological (met)
34 towers, access roads, temporary roadway modifications and additional temporary construction
35 areas (including laydown areas, crane paths and a concrete batch plant).

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37
38
39
40
41

¹ Application for Site Certificate at 1, August 24, 2010

1 **II. THE AMENDMENT PROCESS**

2
3 **II.A. Proposed Amendments**

4
5 **II.A.1. Summary of Proposed Changes to Site Certificate**

6
7 LotusWorks requests an amendment to the site certificate to (1) extend the deadline to begin
8 construction from August 19, 2014 to August 19, 2016; (2) extend the deadline to complete
9 construction from August 19, 2017 to August 19, 2019; (3) reduce the maximum number of
10 wind turbines from 87 to 72; (4) reduce the peak generating capacity from 200.1 MW to 194.4
11 MW; (5) increase the maximum wind turbine hub height from 80 meters to 91 meters; (6)
12 increase the maximum blade tip height from 132 meters to 152 meters; (7) decrease the blade
13 tip minimum clearance from 28 meters to 23 meters; and (8) reduce the project site boundary
14 from approximately 13,000 acres to approximately 11,000 acres (requested amendments).²
15 LotusWorks did not satisfy the requirement in OAR 345-027-0030 to submit the construction
16 extension request at least six months before the construction commencement deadline and
17 therefore must demonstrate “good cause” for the delay in submitting the request.

18
19 **II.A.2. Changes to the Site Certificate**

20
21 The Council approves the requested amendments to the site certificate.

22
23 The Council adopts the certificate holder’s proposed changes, except as specifically modified,
24 and subject to the conditions presented in the amended site certificate, attached as
25 Attachment A.

26
27 **II.B. Procedural History**

28
29 The Council issued the *Final Order on the Application* for Site Certificate for the Summit Ridge
30 Wind Farm on August 19, 2011. The site certificate became effective upon execution on that
31 day.

32
33 On August 15, 2014 LotusWorks submitted to the Oregon Department of Energy (department)
34 its Request for Amendment #1 to the site certificate for the Summit Ridge Wind Farm. On
35 August 29, 2014 the department sent notice of the amendment request to all persons on the
36 Council’s mailing list, to the special list established for the facility and to an updated list of

² The site certificate incorrectly states that the site boundary encompasses approximately 25,000 acres. Due to a miscommunication between the department and LotusWorks during the application process, the boundaries of all of the property leased by the certificate holder for the proposed development were mistakenly represented as the site boundary. However, all of the analysis for compliance with Council standards was based on the micrositing corridors boundary. As originally approved, that micrositing corridor included approximately 13,000 acres. During this amendment process LotusWorks confirmed its intent that the boundary of the micrositing corridors be the site boundary. This amendment reflects the corrected site boundary.

1 property owners supplied by the certificate holder. On August 29, 2014 the department sent
2 the certificate holder instructions to send an attached memorandum to a department-provided
3 list of reviewing agencies by September 5, 2014. The memorandum requested comments from
4 reviewing agencies by September 19, 2014.

5
6 On August 29, 2014, the department notified the certificate holder that the proposed order
7 would be issued no later than February 11, 2015. The department issued a Request for
8 Additional Information (RAI) to the site certificate holder on September 30, 2014 and received a
9 response from the site certificate holder on October 23, 2014. On February 10, 2015, the
10 department notified the site certificate holder that the proposed order would not be issued by
11 February 11, 2015 and explained the reasons for the delay.

12
13 The department issued the proposed order on February 26, 2015 recommending approval of
14 the amendment. On the same day, the department issued notice of the proposed order in
15 accordance with OAR 345-027-0070, specifying March 30, 2015 as the deadline for comments
16 and requests for a contested case on the proposed order. The department also posted notice
17 on the agency website, along with the proposed order. The department received two
18 comments and one request for contested case.

19
20 On behalf of Oregon Wild, Doug Heiken submitted a comment that expressed concern that the
21 requested increase in the height of the wind turbines will have adverse impacts on birds, bats
22 and scenic values. On behalf of the Friends of the Grande Ronde Valley (FGRV), Irene Gilbert
23 submitted a Request for Contested Case that raised two issues with the proposed order: (1)
24 that the request for amendment did not meet the good cause requirements of OAR 345-027-
25 0030; and (2) that the request for amendment relies on outdated information and lacked
26 sufficient information regarding water usage. The department construes FGRV's request as
27 both a comment on the proposed order and a request for contested case on those two issues.

28
29 At the EFSC meeting on May 15, 2015, the Council voted to deny the request for contested case
30 and approve amendment request #1, subject to the revisions identified in the Final Order on
31 Amendment # 1. The request for contested case was addressed in a separate order, also dated
32 May 15, 2015.

33
34 On June 18, 2015 Irene Gilbert, on behalf of FGRV, filed a request for reconsideration of the
35 denial of the requested contested case with the department. FGRV requested reconsideration
36 of the Council's denial of FGRV's contested case request based on two issues. First, FGRV
37 claimed that the Council erred in denying its request for a contested case regarding the
38 demonstration of good cause. Second, FGRV claimed that the Council erred in denying its
39 request for contested case based on the certificate holder's failure to provide updated
40 information to establish compliance with each of the Council standards.

41
42 Pursuant to ORS 469.405 "judicial review of an amendment to a site certificate shall be as
43 provided in ORS 469.403." ORS 469.403(1) states that "[any] party to a contested case

1 proceeding may apply for rehearing within 30 days from the date the approval or rejection is
2 served.” FGRV is not a party to a contested case because the Council denied its request for a
3 contested case. However, the Council considered FGRV’s request for reconsideration as a
4 request for rehearing under ORS 469.403(1). On June 25, 2015, the Council granted the request
5 for reconsideration and directed staff to evaluate the merits of the issues raised in the FGRV
6 request for reconsideration.

7
8 At the EFSC meeting on August 7, 2015, the Council voted to reaffirm its denial of the request
9 for contested case and reaffirm its approval of amendment request #1, subject to the revisions
10 identified in this Amended Final Order on Amendment # 1. The reconsidered contested case
11 decision is addressed in a separate amended order, also dated August 7, 2015.

12 **II.C. Reviewing Agency Comments on the Request for Amendment #1**

13 **Bureau of Land Management (BLM)**

14
15 BLM commented that it is concerned about visual impacts to the Lower Deschutes and White
16 Wild and Scenic Rivers and that it is the BLM’s preference to have the turbines placed out of the
17 view shed of these rivers. BLM is also concerned about the lighting of the towers impacting the
18 night sky surrounding recreational areas and the mortality rates of bats, ospreys and other
19 raptors.³

20 **Oregon Department of Agriculture (ODA)**

21
22 ODA recommended that the site certificate holder provide updated surveys for threatened or
23 endangered plant species to replace the existing outdated surveys.⁴

24 **Oregon Department of Aviation (Aviation)**

25
26 Aviation recommended that the amendment approval include a condition requiring the
27 certificate holder to file an FAA Form 7460-1 Notice of Proposed Construction or Alteration with
28 the FAA and the Oregon Department of Aviation and receive a determination of air safety.⁵

29 **Department of State Lands (DSL)**

30
31 DSL commented that it reviewed the proposed amendment and had no substantive comment
32 on the request.⁶

33 **Oregon Department of Fish and Wildlife (ODFW)**

34
35 ODFW had several comments. First, ODFW commented that the raptor nest surveys were
36 outdated and recommended that those surveys be updated using current raptor survey
37 protocols. Second, ODFW recommended that the certificate holder pursue the use of pre-
38 emergent herbicide to target annual grasses within areas disturbed by construction. Third,
39

³ Summit Ridge (SRW) Amendment #1 (AMD 1) Agency Comment BLM, September 18, 2014

⁴ SRW AMD 1 Agency Comment ODA, September 19, 2014

⁵ SRW AMD 1 Agency Comment Aviation, September 3, 2014

⁶ SRW AMD 1 Agency Comment DSL, September 8, 2014

1 ODFW recommended that the certificate holder coordinate with adjacent operational wind
2 facilities to conduct fatality monitoring in the same years to create a better data set. Finally,
3 ODFW recommended that the habitat mitigation plan be revisited to account for ODFW’s
4 change in policy regarding big game winter range, which recommends that impacts to wintering
5 big game be avoided or minimized and impacts to big game winter range be mitigated as
6 category 2 habitat.⁷

7
8 Oregon Historic Trails Advisory Council (OHTAC)

9 The OHTAC submitted two comments, one from OHTAC Chair Sam Woolsey and one from
10 OHTAC Vice Chair James R. Ford. Chair Sam Woolsey stated that he had no comments at the
11 time.⁸ Vice Chair James R. Ford commented that OHTAC had no objections to the amendment
12 request but wished to remain informed on any future changes or modifications to the project
13 as the Meeks Trail is located to the west of this project.⁹

14
15 Oregon Parks and Recreation Department (OPRD)

16 OPRD commented that it did not believe the facility would be visible from Cottonwood Canyon
17 State Park but that the project sits just above the Deschutes Scenic Waterway and several
18 OPRD managed properties within the Deschutes Scenic Waterway. OPRD also commented that
19 it believes that turbine heights of both 132 meters and 152 meters would be visible from the
20 Deschutes River at several locations.¹⁰

21
22 Oregon Water Resources Department (OWRD)

23 OWRD commented that because the amendment resulted in no increase or change in water
24 use, OWRD had no comments.¹¹

25
26
27 Oregon State Fire Marshall (OSFM)

28 OSFM commented that it has no comments.¹²

29
30 Sherman County Court

31 Gary Thompson, Sherman County Judge, commented that he supports approval of the facility.¹³

32
33 Sherman County Planning Department

34 The Sherman County Planning Department commented that it has no issues with the facility.¹⁴

35
36 Oregon State Historic Preservation Office (SHPO)

⁷ SRW AMD 1 Agency Comment ODFW, September 19, 2014

⁸ SRW AMD 1 Agency Comment OHTAC, September 16, 2014

⁹ SRW AMD 1 Agency Comment OHTAC, September 18, 2014

¹⁰ SRW AMD 1 Agency Comment OPRD, September 9, 2014

¹¹ SRW AMD 1 Agency Comment Water Resources Dept., September 16, 2014

¹² SRW AMD 1 Agency Comment OSFM, September 16, 2014

¹³ SRW AMD 1 Agency Comment Sherman County Court, September 16, 2014

¹⁴ SRW AMD 1 Agency Comment Sherman County, September 18, 2014

1 SHPO commented that it has no comments.¹⁵

2
3 Wasco County Planning Department

4 The Wasco County Planning Department provided its own comments while notifying the
5 department that the Wasco County Board of Commissioners had no comment at the time. The
6 Wasco County Planning Department commented that Chapter 19 of the Wasco County Land
7 Use and Development Ordinance (LUDO) was not in effect at the time the Application for Site
8 Certificate was submitted and now provides applicable substantive criteria for the proposed
9 amendment. The Planning Department provided its analysis of the applicable criteria for visual
10 impact (LUDO Section 19.030.C.4.a and 19.030.C.4.c), turbine lighting (LUDO Section
11 19.030.D.1.a.3) and setbacks (LUDO Section 19.030.D.1.C.)¹⁶

12
13 **II.D. Public Comments on the Request for Amendment #1**

14
15 Gail Carbiener

16 Mr. Carbiener commented that he is opposed to the amendment request because the deadline
17 to begin construction has passed and he believes that the basis for the extension, which he
18 describes as a vague letter of intent, is inadequate.¹⁷

19
20 Friends of the Columbia Gorge

21 The Friends of the Columbia Gorge commented that it was incorporating its comments
22 previously submitted on September 27, 2010 and October 8, 2010. It also noted that since
23 those comments were issued, the USFWS has adopted additional guidance regarding bald and
24 golden eagles that requires the department and EFSC to undertake additional review of the
25 impacts to these species.¹⁸

26
27 Friends of the Grande Ronde Valley (FGRV)

28 The FGRV commented on three issues: First, FGRV commented that “the stated basis for
29 granting an exception to the timeframe for requesting an exception to the rules is not justified”
30 and that the certificate holder has not demonstrated good cause for the delay in submitting the
31 request. Second, FGRV commented that the certificate holder has not adequately evaluated
32 visual impacts on protected areas and the existing site certificate conditions do not ensure
33 there will not be a significant impact on protected areas. Finally, FGRV commented that the
34 applicant’s assertion that the increased size of development will not increase bird and bat
35 fatalities is not supported by studies.¹⁹

36
37
38

¹⁵ SRW AMD 1 Agency Comment SHPO, September 16, 2014

¹⁶ SRW AMD 1 Agency Comment Wasco County, September 15, 2014

¹⁷ SRW AMD 1 Public Comment Carbiener, August 29, 2014

¹⁸ SRW AMD 1 Public Comment Friends of the Columbia Gorge, September 19, 2014

¹⁹ SRW AMD 1 Public Comment Friends of the Grande Ronde Valley, September 18, 2014

1 **II.E. Comments on the Proposed Order**

2
3 On behalf of Oregon Wild, Doug Heiken submitted a comment that expressed concern that the
4 requested increase in the height of the wind turbines will have adverse impacts on birds, bats
5 and scenic values. The comment does not provide any detailed discussion regarding the alleged
6 impacts. The impacts of the wind turbines on fish and wildlife in general, and on avian species
7 in particular, are addressed in this order in the findings of compliance with the Fish and Wildlife
8 Standard (at Sections III.B.3.h) and the Threatened and Endangered Species Standard (at
9 Section III.B.3.i.). The Council finds that, with conditions, the facility complies with both
10 standards, and that the comment does not establish a basis for changing or modifying those
11 findings.

12
13 On behalf of FGRV, Irene Gilbert submitted a comment and request for contested case that
14 raised two primary issues with the proposed order: (1) that the certificate holder has not
15 established good cause for the delay in submission of the request for amendment; and (2) that
16 the request for amendment relies on outdated information and lacked sufficient information
17 regarding water usage.

18
19 FGRV first challenged the department’s recommendation on the issue of whether the
20 certificate holder has demonstrated good cause. FGRV’s arguments reiterate the arguments
21 FGRV made in its comments on the amendment request. As explained in its written comments,
22 FGRV asserts that the Proposed Order erroneously considers the need for the energy that will
23 be produced by the facility when determining whether or not good cause has been
24 demonstrated; and argues that even if ‘need’ were relevant, the certificate holder has not
25 demonstrated good cause because there is nothing unique about not having a purchaser in
26 place prior to requesting an amendment to extend construction deadlines.

27
28 As more fully addressed in Section III.A of this Order, FGRV is correct that the Council may not
29 consider the market need for the proposed facility in evaluating an application for compliance
30 with the Council standards.²⁰ However, the “need” the certificate holder asserted in its good
31 cause demonstration related to the site certificate holder’s business decision that it did not
32 intend to apply for an amendment without a power purchase agreement or prospects for a
33 power purchaser. That “need” is not equivalent to the market need for the facility and the
34 power generated by the facility. Instead, the certificate holder argued that it needed a power
35 purchase agreement before it could determine whether to proceed with the amendment
36 request and construction of the facility and it finalized that agreement less than six months
37 before the deadline to begin construction. Based upon the Council’s evaluation of both the
38 basis for good cause provided by the site certificate holder and the arguments made by FGRV as
39 to why it believes the site certificate holder failed to demonstrate good cause, the Council finds
40 in Section III.A of this Order that the certificate holder demonstrated good cause.

²⁰ See, ORS 469.501(1)(l) (“The council shall not adopt a standard requiring a showing of need or cost-effectiveness for generating facilities as defined in ORS 469.503.”)

1
2 FGRV also submitted comments and requested a contested case on two issues related to
3 compliance with Council standards. First, FGRV argues that the site certificate holder “relied
4 primarily on information obtained and submitted during 2009 and 2010. That information is 5
5 years old and would be almost a decade old by the date the applicant is requesting the
6 construction to be completed.” FGRV argues that updated wildlife, nest and avian surveys are
7 needed to evaluate compliance with Council standards.

8
9 The Council agrees with FGRV that updated information is critical to evaluate continued
10 compliance with impacted Council standards. However, the Council disagrees that this Order is
11 based on outdated information. Rather, and in response to a specific request from Oregon
12 Department of Agriculture and Oregon Department Fish and Wildlife, this amended Order and
13 the amended site certificate require that the certificate holder complete updated surveys for
14 threatened and endangered species prior to beginning construction and complete two nesting
15 seasons worth of raptor nest surveys with at least one season coming prior to beginning
16 construction (Conditions IV.G.2.8 and IV.H.2.2). Those studies will ensure continued compliance
17 with the Council’s Fish and Wildlife Standard and Threatened and Endangered Species
18 Standard. However, as described more fully in findings on those two Standards, as originally
19 adopted those conditions did not include an express requirement that the certificate holder
20 report any changes based on those surveys to the department, or implement appropriate
21 measures based on any changes to ensure continued compliance with the applicable standard.
22 Therefore, on reconsideration, the Council has further amended those conditions. As
23 amended, Condition IV.G.2.8 provides that “The certificate holder shall report the results of the
24 field surveys to the Department and ODFW. If the surveys identify the presence of raptor nests
25 within the survey area, the certificate holder shall implement appropriate measures to assure
26 that the design, construction and operation of the facility are consistent with the fish and
27 wildlife habitat mitigation goals and standards of OAR 635-415-0025, as approved by the
28 Department, in consultation ODFW.” Condition IV.H.2.2, as amended, provides that “If the
29 surveys identify the presence of threatened or endangered species within the survey area, the
30 certificate holder shall implement appropriate measures to avoid a significant reduction in the
31 likelihood of survival or recovery of the species, as approved by the Department, in consultation
32 with ODA and ODFW.” Additionally, as discussed in this Order, ODFW has verified that the
33 proposed habitat mitigation site remains viable and requested an updated assessment of the
34 habitat categorization within mapped big game habitat areas.²¹

35
36 FGRV does not explain how or why the updated surveys do not adequately establish continued
37 compliance with the affected standards. Because this Order already addresses and requires the
38 updated information and surveys FGRV argues are necessary, the Council finds that FGRV’s
39 comment does not provide a basis to change or modify the department’s proposed order or
40 and does not raise a significant issue of fact or law that may affect the Council’s determination
41 that the facility, with the change proposed by the amendment, meets an applicable standard.

²¹ ODFW did not request an update of the habitat categorization for the site or other survey information.

1
2 Finally, FGRV expressed concern about the “cumulative impacts on the water resources of the
3 state as a result of this development in combination with other developments which have been
4 approved or built in the last 5 years.” Based on this concern, FGRV argues that “EFSC must
5 complete an evaluation regarding how this development will impact water resources given
6 current conditions including other developments and the fact that the state is in the midst of a
7 severe water shortage.” FGRV does not explain which Council standard requires the evaluation
8 FGRV seeks. In fact, there is no Council standard that requires the Council to evaluate how a
9 facility, alone or cumulatively, will impact water resources. As explained in this Order, the City
10 of The Dalles Department of Public Works has confirmed that it can still provide the water
11 needed for construction.²² In addition, evaluation of water use during facility construction and
12 operation is required to establish compliance with the Protected Areas standard. As explained
13 in the proposed order the requested amendments are anticipated to have no impact on the
14 water used for the facility’s construction or operation.

15
16 For the foregoing reasons, the Council agrees with the department’s recommendation and finds
17 that no additional modifications to this Order are warranted in response to the comment
18 letters.

19 20 **II.F. Request for Reconsideration**

21
22 The FGRV request for reconsideration of denial of the request for contested case raised two
23 issues. The first issue related to the denial of a contested case regarding the site certificate
24 holder’s failure to request an extension six months prior to the deadline for beginning
25 construction. In the second issue, FGRV repeated arguments provided in the comments and
26 addressed above that the Council should have allowed a contested case regarding the failure of
27 the site certificate holder to supply or the Council to require undated information in order to
28 make an eligibility determination.

29 30 **II.G. Applicable Standards**

31
32 Under ORS 469.405, “a site certificate may be amended with the approval of the Energy Facility
33 Siting Council.” The Council has adopted rules for determining when a site certificate
34 amendment is necessary (OAR 345-027-0030 and -0050) and rules setting out the procedure for
35 amending a site certificate (OAR 345-027-0060, -0070, and -0100).

36 37 **II.G.1. Amendment to Extend Construction Deadline**

38
39 OAR 345-027-0030 addresses “Amendments to Extend Construction Beginning and Completion
40 Deadlines.” Under OAR 345-027-0030, a site certificate holder may request an amendment to
41 extend the deadlines for beginning or completing the construction of a facility. The certificate

²² The department required the certificate holder to contact all public service providers listed in Exhibit U of the Application for Site Certificate for confirmation that the service providers could continue provide those services.

1 holder must submit the request “no later than six months before the date of the applicable
2 deadline, or, if the certificate holder demonstrates good cause for the delay in submitting the
3 request, no later than the applicable deadline.” If the Council grants such a request, the Council
4 must specify new deadlines for beginning or completing construction that are not more than
5 two years from the current deadlines.
6

7 In this instance, the certificate holder did not submit the request to extend the construction
8 deadline six months before the August 19, 2014 deadline for starting construction. Therefore,
9 under OAR 345-027-0030, LotusWorks is required to demonstrate good cause for the delay in
10 submitting the request.
11

12 Compliance with the applicable Council standards is discussed in Section III below.
13

14 **III. REVIEW OF THE PROPOSED AMENDMENT**

15 **III.A. Demonstration of Good Cause**

16
17
18 As discussed above, Condition III.D.1 of the site certificate requires the certificate holder to
19 begin construction by August 19, 2014; and Condition III.D.2 requires completion of the
20 construction by August 19, 2017. The site certificate holder submitted its request for extension
21 of the construction deadlines on August 15, 2014. Under OAR 345-027-0030, if the certificate
22 holder does not submit its request to extend the construction deadlines at least six months
23 before the deadlines, the certificate holder must demonstrate good cause for the delay in
24 submitting the request
25

26 The certificate holder explained that the delay in submitting the request for extension was due
27 to the nature of the renewable energy markets. As described in the request, LotusWorks has
28 been in active discussions with multiple entities over the last three years to acquire a Power
29 Purchase Agreement (PPA), including Pacific Gas and Electric, Google, Apple and PacifiCorp.
30 However, six months prior to the construction deadline, February of 2014, the site certificate
31 holder did not have a PPA and had no prospects for a PPA. Therefore, the certificate holder did
32 not submit an application to extend the construction deadline at that time. In May, 2014
33 another entity, Verde Energy, contacted the certificate holder about providing green energy to
34 a buyer. The two parties agreed to a PPA to provide energy for at least 20 years. Following this
35 agreement, the certificate holder promptly submitted a request to extend the construction
36 deadlines and did so prior to the deadline to begin construction.
37

38 The department received two public comments objecting that the certificate holder has not
39 established good cause for the delay in submitting the request. Gail Carbiener commented that
40 the certificate holder is asking the department to “bend the rules” based on a vague and non-
41 binding letter of intent that does not establish the financial viability of the project.²³ FGRV

²³ SRW AMD 1 Public Comment Carbiener, August 29, 2014

1 commented that Council is prohibited from adopting a standard requiring a showing of need or
2 cost-effectiveness; and therefore, that a lack of a PPA is not a valid basis for “granting an
3 exception to the timeframe for requesting an exception to the rules.” They further argue that
4 even if the costs associated with an extension were a basis to consider such an ‘exception’, that
5 the certificate holder has not met ‘the test for justifying an exception.’ They characterize the
6 delay in requesting the extension as a choice ‘not to do the required paperwork in a timely
7 manner” and that the request does not “justifying the ignoring of the EFSC rules.”²⁴ FGRV
8 concludes that “[a] determination of good cause requires a set of circumstances that are
9 substantially different than the norm and outside the control of the applicant.” FGRV repeated
10 similar claims in the request for reconsideration, and maintained that a lack of a purchase
11 agreement did not prohibit other applicants from filing timely amendment requests.²⁵
12

13 As summarized above, OAR 345-027-0030 requires that:
14

15 “The certificate holder shall submit a request that includes an explanation of the need for
16 an extension and that conforms to the requirements of 345-027-0060 no later than six
17 months before the date of the applicable deadline, or, if the certificate holder demonstrates
18 good cause for the delay in submitting the request, no later than the applicable deadline.”
19

20 The Council’s rules grant significant discretion to the Council in determining whether a
21 certificate holder has demonstrated good cause for the delay in requesting an extension to the
22 construction deadlines. However, the rules do explicitly permit a certificate holder to make that
23 demonstration. Contrary to the commenters’ objections, the demonstration required under
24 OAR 345-027-0030 is not a request for an “exception” to or the “bending of” the rules. The
25 substantive standards for consideration of the extension request remain the same; the only
26 additional requirement is that the certificate holder “demonstrate good cause for the delay.”
27 In this instance, the certificate holder has not requested any exception to the rules; rather its
28 request complies with the requirements in ORS 345-027-0030 that the request include a
29 demonstration not only of the need for the extension but of the reasons for the delay in filing
30 the request.
31

32 In addition, contrary to assertions in the comments, the good cause demonstration does not
33 require a showing of the “financial viability of the project.” Nor, however, is the need or cost-
34 effectiveness of completing the project relevant to the certificate holder’s demonstration of
35 good cause for the delay in submitting the request. FGRV is correct that the Council may not
36 adopt a siting standard that requires a showing of need for a proposed energy facility or
37 otherwise consider the need for the proposed facility itself or the energy to be generated by
38 the facility in evaluating an application for compliance with the Council standards.²⁶ However,
39 the certificate holder’s identified need for a PPA to render completion of the project financially

²⁴ SRW AMD 1 Public Comment FGRV September 18, 2014

²⁵ SRW AMD 1 Request for Reconsideration FGRV June 19, 2015

²⁶ Specifically, pursuant to ORS 469.501(1)(l), “[t]he council shall not adopt a standard requiring a showing of need or cost-effectiveness for generating facilities as defined in ORS 469.503.”

1 feasible is a separate inquiry that is unrelated to the market need for the facility or the power
2 that would be generated by the facility. In other words, the certificate holder is not claiming
3 that the energy to be produced by the energy facility is needed on the market. Instead, the
4 certificate holder explained its own business need and decision to have a PPA, or prospects for
5 a purchaser, in place prior to submitting an amendment request. The Council’s determination
6 that the business decision justifies good cause for delay is not inconsistent with ORS 469.310 or
7 ORS 469.501(1)(l).

8
9 Finally, even if it is the case that other wind facility developers have applied for extensions of
10 the beginning construction deadline without having a PPA in place, that does not, as a matter of
11 law, preclude a site certificate holder from demonstrating good cause for delay in submitting
12 the application in a similar situation. OAR 345-027-0030 does not require that the site
13 certificate holder demonstrate that it faces a set of circumstances that are substantially
14 different than the norm or that are outside of the control of the site certificate holder. Instead,
15 it requires that the site certificate holder demonstrate a good cause for the delay. It is then up
16 to the Council to determine if, in the Council’s judgment, the site certificate holder
17 demonstrated good cause. A site certificate holder’s business decision not to move forward
18 with an amendment without a PPA or prospects for a purchaser can provide the basis for a
19 demonstration of good cause.²⁷

20
21 In this case, the certificate holder was not able to determine that construction of the project
22 was financially feasible until less than six months before the construction deadline expired. The
23 site certificate holder explained that it had no prospects for obtaining a PPA prior to expiration
24 of the construction deadline. Therefore, the certificate holder’s business decision not to incur
25 the costs of applying for an extension and making lease payments to landowners for an
26 additional two years²⁸ constitutes a legitimate business decision that supports a demonstration
27 of good cause. Following its determination that the project was feasible, the certificate holder
28 acted promptly in submitting its amendment request and did so prior to the applicable
29 deadline.

30
31 Accordingly, the Council finds that the certificate holder’s explanation and analysis
32 demonstrates good cause for the delay in submitting the amendment request and, as a result,
33 that the request was timely submitted under OAR 345-027-0030(1).

²⁷ On January 30, 2015 the Council found that a site certificate holder demonstrated good cause for submitting an amendment request to extend the construction deadline less than six months before the date of the deadline to begin construction based upon the explanation by the site certificate holder that it had placed the facility up for sale and did not have a buyer until after the six month mark. In that case the Council found “that the lack of a purchaser for the facility until after the six-month deadline had passed constitutes good cause for the delay in filing the construction extension request.” Golden Hills Wind Project, Final Order on Amendment #2, January 30, 2015 at 14.

²⁸ The Council agrees with FGRV that the cost of complying with pre-construction conditions should not be factored in the costs supporting the claim of good cause in this case because those are not costs that the site certificate holder would be required to undertake prior to or as a part of requesting an extension in the deadline for construction. However, the Council has determined that the costs of additional lease payments and the costs of the request for the site certificate and the department’s and Council’s review of the request are legitimate costs in the relevant good cause determination.

1
2 III.B. Review of Amendment Request
3

4 The requested amendment includes two components: one to extend the construction deadlines
5 and one to make the substantive changes to the site certificate.
6

7 OAR 345-027-0070(10)(b) establishes the Council’s scope of review for requests to amend
8 construction deadlines. The Council must consider (1) whether the Council has previously
9 granted an extension of the deadline; (2) whether there has been any change of circumstances
10 that affects a previous Council finding that was required for issuance of a site certificate or
11 amended site certificate; (3) whether the facility complies with all Council standards; and (4)
12 whether the amount of the bond or letter of credit required under OAR 345-022-0050 is
13 adequate. OAR 345-027-0070(10)(c) establishes the Council’s scope of review for any
14 amendment not described in OAR 345-027-0070(10)(a)-(b),²⁹ which includes the request for
15 each of the substantive changes to the site certificate. That rule requires the Council to
16 “consider whether the amendment would affect any finding made by the Council in an earlier
17 order.”
18

19 III.B.1. OAR 345-027-0070(10)(b)(A)
20

21 For the extension request, OAR 345-027-0070(10)(b)(A) requires the Council to consider
22 “whether the Council has previously granted an extension of the deadline.”
23

24 This is the first request to extend the construction deadlines for Summit Ridge.
25

26 III.B.2. OAR 345-027-0070(10)(b)(B)
27

28 OAR 345-027-0070(1)(b)(B) requires that for a request to extend the construction deadlines,
29 the Council consider “whether there has been any change of circumstances that affects a
30 previous Council finding that was required for issuance of a site certificate or amended site
31 certificate.” In the request for amendment, LotusWorks states that there has been no such
32 change of circumstances.³⁰
33

34 Except as it relates to findings regarding compliance with the Fish and Wildlife and Threatened
35 and Endangered Species standards, the Council concurs with the certificate holder’s
36 assessment. Continued compliance with each Council Standard is addressed below. As
37 discussed in Sections III.B.3.h (Fish and Wildlife Habitat) and III.B.3.i (Threatened and
38 Endangered Species) this Order includes new conditions that require the certificate holder to
39 perform updated surveys to confirm whether there have been any changes in the presence of

²⁹ OAR 345-027-0070(10)(a) describes the scope of amendments that increase the size of the site boundary. Because the requested amendment does not seek to expand the site boundary, that provision does not apply to this request.

³⁰ *Request for Amendment #1* at 15

1 threatened and endangered species or to the raptor habitat in the area. The results of the
2 surveys may reveal changes in factual circumstances that require changes in the layout of the
3 facility or adjustments to the required mitigation.

4
5 III.B.3. Evaluation of Council Standards (OAR 345-027-0070(10)(b)(C))

6
7 For the requested construction deadline extension, OAR 345-027-0070(10)(b)(C) requires that
8 the Council consider whether the facility, as amended, complies with all Council standards. For
9 the requested substantive changes to the facility, OAR 345-027-0070(10)(c) requires the Council
10 to consider whether the amendment would affect any finding made by the Council in an earlier
11 order. Although most of the requested changes must be evaluated under only OAR 345-027-
12 0070(10)(c), because under OAR 345-027-0070(10)(b) the construction extension request
13 requires consideration of compliance with all Council standards, the certificate holder
14 evaluated the entire request for compliance with all Council standards.

15
16 III.B.3.a. General Standard of Review: OAR 345-022-0000

17
18 *(1) To issue a site certificate for a proposed facility or to amend a site certificate, the*
19 *Council shall determine that the preponderance of evidence on the record supports the*
20 *following conclusions:*

21
22 *(a) The facility complies with the requirements of the Oregon Energy Facility Siting*
23 *statutes, ORS 469.300 to ORS 469.570 and 469.590 to 469.619, and the standards*
24 *adopted by the Council pursuant to ORS 469.501 or the overall public benefits of the*
25 *facility outweigh the damage to the resources protected by the standards the facility*
26 *does not meet as described in section (2);*

27
28 *(b) Except as provided in OAR 345-022-0030 for land use compliance and except for*
29 *those statutes and rules for which the decision on compliance has been delegated by*
30 *the federal government to a state agency other than the Council, the facility*
31 *complies with all other Oregon statutes and administrative rules identified in the*
32 *project order, as amended, as applicable to the issuance of a site certificate for the*
33 *proposed facility. If the Council finds that applicable Oregon statutes and rules, other*
34 *than those involving federally delegated programs, would impose conflicting*
35 *requirements, the Council shall resolve the conflict consistent with the public interest.*
36 *In resolving the conflict, the Council cannot waive any applicable state statute.*

37 * * *

38
39 Based on the following analysis, the Council finds that the proposed amendment satisfies the
40 requirements of OAR 345-022-0000.

1 III.B.3.b. Organizational Expertise: OAR 345-022-0010

2
3 *(1) To issue a site certificate, the Council must find that the applicant has the*
4 *organizational expertise to construct, operate and retire the proposed facility in*
5 *compliance with Council standards and conditions of the site certificate. To conclude that*
6 *the applicant has this expertise, the Council must find that the applicant has*
7 *demonstrated the ability to design, construct and operate the proposed facility in*
8 *compliance with site certificate conditions and in a manner that protects public health*
9 *and safety and has demonstrated the ability to restore the site to a useful, non-*
10 *hazardous condition. The Council may consider the applicant’s experience, the*
11 *applicant’s access to technical expertise and the applicant’s past performance in*
12 *constructing, operating and retiring other facilities, including, but not limited to, the*
13 *number and severity of regulatory citations issued to the applicant.*

14
15 *(2) The Council may base its findings under section (1) on a rebuttable presumption that*
16 *an applicant has organizational, managerial and technical expertise, if the applicant has*
17 *an ISO 9000 or ISO 14000 certified program and proposes to design, construct and*
18 *operate the facility according to that program.*

19
20 *(3) If the applicant does not itself obtain a state or local government permit or approval*
21 *for which the Council would ordinarily determine compliance but instead relies on a*
22 *permit or approval issued to a third party, the Council, to issue a site certificate, must*
23 *find that the third party has, or has a reasonable likelihood of obtaining, the necessary*
24 *permit or approval, and that the applicant has, or has a reasonable likelihood of entering*
25 *into, a contractual or other arrangement with the third party for access to the resource*
26 *or service secured by that permit or approval.*

27
28 *(4) If the applicant relies on a permit or approval issued to a third party and the third*
29 *party does not have the necessary permit or approval at the time the Council issues the*
30 *site certificate, the Council may issue the site certificate subject to the condition that the*
31 *certificate holder shall not commence construction or operation as appropriate until the*
32 *third party has obtained the necessary permit or approval and the applicant has a*
33 *contract or other arrangement for access to the resource or service secured by that*
34 *permit or approval.*

35
36 **Findings of Fact**

37
38 As applicable to this amendment request, subsections (1) and (2) of the Council’s
39 Organizational Expertise Standard require that the certificate holder demonstrate the ability to
40 design, construct, and operate a facility in compliance with Council standards and all site
41 certificate conditions, as well as to restore the site to a useful, non-hazardous condition. The
42 Council may consider the certificate holder’s experience and past performance in constructing,
43 operating and retiring other facilities. Subsections (3) and (4) address third party permits.

1
2 The Council addressed the Organizational Expertise Standard in section IV.B of the *Final Order*
3 *on the Application*.³¹ The Council found that, with conditions, LotusWorks has the expertise to
4 construct, operate and retire the facility in compliance with Council standards and that no third
5 party permits were required.

6
7 The requested amendments will not cause a change to the certificate holder’s ability to
8 construct, operate and retire the facility in compliance with Council standards and conditions of
9 the site certificate. As a result, the proposed amendment will not have an impact on the
10 certificate holder’s compliance with the Organizational Expertise Standard. The certificate
11 holder will remain subject to the conditions in the site certificate.

12
13 **Conclusion**

14
15 The Council finds that LotusWorks satisfies the Council’s Organizational Expertise standard.

16
17 III.B.3.c. Structural Standard: OAR 345-022-0020

18
19 *(1) Except for facilities described in sections (2) and (3), to issue a site certificate, the*
20 *Council must find that:*

21
22 *(a) The applicant, through appropriate site-specific study, has adequately*
23 *characterized the site as to the Maximum Considered Earthquake Ground Motion as*
24 *shown for the site in the 2009 International Building Code and maximum probable*
25 *ground motion, taking into account ground failure and amplification for the site*
26 *specific soil profile under the maximum credible and maximum probable seismic*
27 *events; and*

28
29 *(b) The applicant can design, engineer, and construct the facility to avoid dangers to*
30 *human safety presented by seismic hazards affecting the site that are expected to*
31 *result from maximum probable ground motion events. As used in this rule “seismic*
32 *hazard” includes ground shaking, ground failure, landslide, liquefaction, lateral*
33 *spreading, tsunami inundation, fault displacement, and subsidence;*

34
35 *(c) The applicant, through appropriate site-specific study, has adequately*
36 *characterized the potential geological and soils hazards of the site and its vicinity*
37 *that could, in the absence of a seismic event, adversely affect, or be aggravated by,*
38 *the construction and operation of the proposed facility; and*

39
40 *(d) The applicant can design, engineer and construct the facility to avoid dangers to*
41 *human safety presented by the hazards identified in subsection (c).*

³¹ *Final Order on the Application* at 18

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

7 (3) The Council may issue a site certificate for a special criteria facility under OAR 345-
8 015-0310 without making findings described in section (1). However, the Council may
9 apply the requirements of section (1) to impose conditions on a site certificate issued for
10 such a facility.
11

12 **Findings of Fact**

13
14 Section (1) of the Structural Standard generally requires the Council to evaluate whether the
15 certificate holder has adequately characterized the potential seismic, geological and soil
16 hazards of the site, and can design, engineer and construct the facility to avoid dangers to
17 human safety from these hazards.³² Pursuant to OAR 345-022-0020(2), the Council may issue a
18 site certificate for a wind energy facility without making findings regarding the Structural
19 Standard; however, the Council may apply the requirements of the standard to impose site
20 certificate conditions. OAR 345-022-0020(3) does not apply to this proposed facility because
21 the facility is a not a special criteria facility under OAR 345-015-0310.
22

23 The Council addressed the Structural Standard in section V.A of the *Final Order on the*
24 *Application*. The Council imposed six conditions to ensure that all potential seismic and non-
25 seismic geologic hazards have been addressed.
26

27 The requested amendments do 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. Therefore no changes or
30 additions to the conditions imposed in the original site certificate are required to ensure
31 continued compliance with this Standard.
32

33 **Conclusion**

34
35 The Council finds that the conditions currently imposed in the site certificate to address the
36 Structural Standard are adequate to ensure issues related to that standard are fully addressed.
37
38
39
40

³² The Council’s jurisdictional authority does not preempt the jurisdiction of any state or local government over matters related to building code compliance.

1 III.B.3.d. Soil Protection: OAR 345-022-0022

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

7
8 **Findings of Fact**

9
10 The Soil Protection Standard requires the Council to find that the design, construction and
11 operation of the facility are not likely to result in significant adverse impacts to soil.

12
13 The Council addressed the Soil Protection Standard in section IV.C. of the *Final Order on the*
14 *Application*. The Council found that the design, construction, and operation of the Facility,
15 when taking into account mitigation, would not result in a significant adverse impact to soils. In
16 the original site certificate the Council adopted eight conditions to control and mitigate
17 potential adverse impact to soils and to mitigate the risk of soil contamination during
18 construction and operation.³³

19
20 The requested amendments will not result in any soil impacts that have not been addressed by
21 the Council or otherwise affect the certificate holder’s ability to design, construct and operate
22 the facility without significant adverse impact to soils. The certificate holder will remain subject
23 to the conditions included in the original site certificate.

24
25 **Conclusion**

26
27 Based on the reasoning discussed above, and subject to continued compliance with the related
28 conditions in the original site certificate, the Council finds that the Facility, as amended,
29 complies with the Council’s Soil Protection Standard.

30
31 III.B.3.e. Land Use: OAR 345-022-0030

32
33 *(1) To issue a site certificate, the Council must find that the proposed facility complies*
34 *with the statewide planning goals adopted by the Land Conservation and Development*
35 *Commission.*

36
37 *(2) The Council shall find that a proposed facility complies with section (1) if:*

38
39 *(a) The applicant elects to obtain local land use approvals under ORS 469.504(1)(a)*
40 *and the Council finds that the facility has received local land use approval under the*

³³Summit Ridge Wind Farm Site Certificate-Conditions 9.1-9.8

1 *acknowledged comprehensive plan and land use regulations of the affected local*
2 *government; or*

3
4 *(b) The applicant elects to obtain a Council determination under ORS 469.504(1)(b)*
5 *and the Council determines that:*

6
7 *(A) The proposed facility complies with applicable substantive criteria as*
8 *described in section (3) and the facility complies with any Land Conservation and*
9 *Development Commission administrative rules and goals and any land use*
10 *statutes directly applicable to the facility under ORS 197.646(3);*

11
12 *(B) For a proposed facility that does not comply with one or more of the*
13 *applicable substantive criteria as described in section (3), the facility otherwise*
14 *complies with the statewide planning goals or an exception to any applicable*
15 *statewide planning goal is justified under section (4); or*

16
17 *(C) For a proposed facility that the Council decides, under sections (3) or (6), to*
18 *evaluate against the statewide planning goals, the proposed facility complies*
19 *with the applicable statewide planning goals or that an exception to any*
20 *applicable statewide planning goal is justified under section (4).*

21 *****

22
23 For the amendment request, the certificate holder has requested a Council determination
24 under ORS 469.504(1)(b),³⁴ which requires:

25
26 *(A) The facility complies with applicable substantive criteria from the affected local*
27 *government's acknowledged comprehensive plan and land use regulations that are*
28 *required by the statewide planning goals and in effect on the date the application*
29 *is submitted, and with any Land Conservation and Development Commission*

³⁴The Council must apply the Land Use Standard in conformance with the requirements of ORS 469.504. In *Save Our Rural Oregon*, the Oregon Supreme Court held "under ORS 469.504(1)(b) and (5), the Council may choose to determine compliance with statewide planning goals by evaluating a facility under paragraph (A) or (B) or (C), but...it may not combine elements or methods from more than one subparagraph, except to the extent that the chosen subparagraph itself permit."

The Council may find compliance with statewide planning goals under ORS 469.504(1)(b)(A) if the Council finds that the proposed facility "complies with applicable substantive criteria from the affected local government's acknowledged comprehensive plan and land use regulations that are required by the statewide planning goals and in effect on the date the application is submitted." Under ORS 469.504(1)(b)(B) the Council must determine whether the proposed facility "otherwise [complies] with the applicable statewide planning goals." In *Save Our Rural Oregon*, the Oregon Supreme Court held that "paragraph (B) necessarily requires an evaluation of the same applicable substantive criteria as paragraph (A) and, to the extent those criteria are not met, directs the council to consider statewide planning goals." However, as noted above, the Council may not evaluate a proposed facility under both subparagraph (A) and subparagraph (B).

1 *administrative rules and goals and any land use statutes that apply directly to the*
2 *facility under ORS 197.646.*

3
4 *(B) For an energy facility or a related or supporting facility that must be evaluated*
5 *against the applicable substantive criteria pursuant to subsection (5) of this section,*
6 *that the proposed facility does not comply with one or more of the applicable*
7 *substantive criteria but does otherwise comply with the applicable statewide*
8 *planning goals, or that an exception to any applicable statewide planning goal is*
9 *justified under subsection (2) of this section.*

10
11 *(C) For a facility that the council elects to evaluate against the statewide planning*
12 *goals pursuant to subsection (5) of this section, that the proposed facility complies*
13 *with the applicable statewide planning goals or that than exception to any applicable*
14 *statewide planning goal is justified under subsection (2) of this section.³⁵*

15
16 ORS 469.504(5) provides, in relevant part:

17
18 *Upon request by the State Department of Energy, the special advisory group established under*
19 *ORS 469.480 shall recommend to the council, within the time stated in the request, the*
20 *applicable substantive criteria under subsection (1)(B)(A) of this section. If the special advisory*
21 *group does not recommend applicable substantive criteria within the time established in the*
22 *department's request, the council may either determine and apply the applicable substantive*
23 *criteria under subsection (1)(b) of this section or determine compliance with the statewide*
24 *planning goals under subsection (1)(b)(B) or (C) of this section.*

25
26 **Findings of Fact**

27
28 The Land Use Standard requires the Council to find that a proposed facility complies with the
29 statewide planning goals adopted by the Land Conservation and Development Commission
30 (LCDC). As described above, the Council may find compliance with the statewide planning goals
31 by applying the applicable substantive criteria from the local governing body under ORS
32 469.504(1)(b)(A) or ORS 469.504(1)(b)(B). In the original application, the applicant requested
33 that the Council make a determination of compliance under ORS 469.504(1)(b)(B).³⁶ The Council
34 appointed the Wasco County decision making body as the special advisory group (SAG) on July
35 31, 2009.³⁷ The SAG did not directly recommend applicable substantive criteria for the original
36 application, but did respond to the pASC and provided its interpretation of its local land use
37 regulations.³⁸ The Council applied the applicable substantive criteria identified by the Wasco
38 County Planning Director, as amended prior to submittal of the pASC, and found that the

³⁵ ORS 469.504(b)(2) provides the exceptions process for a facility that does not otherwise comply with one or more of the statewide planning goals. No party has identified the need for any exception in this amendment request.

³⁶ *Final Order on the Application* at 24.

³⁷ *Id.*

³⁸ *Id.*

1 proposed facility complied with each of the applicable substantive criteria identified by Wasco
2 County, except for WCLUDO 3.210(F)(1) and 19.030(C)(3) and (F)(1) with regard to turbine
3 setbacks. With regard to the criteria the Council determined the proposed facility did not
4 comply with, the Council found that the facility otherwise complied with the applicable
5 statewide planning in accordance with ORS 469.504(1)(b)(B).³⁹

6
7 In response to this amendment request, the SAG did not provide the substantive criteria in
8 effect on the date of the amendment request.⁴⁰ However, comments from the Wasco County
9 Planning Department indicate that the applicable criteria from the Wasco County Land Use
10 Ordinance have been substantially revised since the application was submitted in 2010.
11 Accordingly, and consistent with OAR 345-027-0070(10), the Council applies the applicable
12 substantive criteria in effect on the date the certificate holder submits a request for
13 amendment, as described by the Wasco County Planning Director. Those substantive criteria
14 include:

15
16 **Wasco County Land Use and Development Ordinance (WCLUDO)**

17
18 Chapter 1 – Introductory Provisions

19 Section 1.030 (Severability/Legal Parcel Determination)

20 Section 1.090 (Definitions of Parcel and Structure)

21
22 Chapter 3 – Basic Provisions

23 Section 3.210 (Exclusive Farm Use Zone)

24 Section 3.210(B) (Uses Permitted without Review)

25 Section 3.210(D) (Uses Permitted Subject to Standards/Type II Review)

26 Section 3.210(E) (Conditional Uses)

27 Section 3.210(F) (Property Development Standards)

28 Section 3.210(H) (Agricultural Protection)

29 Section 3.210(J) (Additional Standards)

30
31 Chapter 4 – Supplemental Provisions

32 Section 4.070 (General Exceptions to Building Height)

33 Section 4.140 (Traffic Impact Analysis [TIA])

34
35 Chapter 5 – Conditional Use Review

36 Section 5.020 (Authorization to Grant or Deny Conditional Uses, and Standards and Criteria
37 Used)

38
39

³⁹ Id. at 26.

⁴⁰ In comments related to the applicable substantive criteria dated September 15, 2014, Wasco County Planning Director John Roberts stated that “The following comments represent those of the Wasco County Planning Department. The Wasco County Board of Commissioners (Board) is providing no comments at this time.”

- 1 Chapter 10 – Fire Safety Standards
- 2
- 3 Chapter 19 – Standards for Energy Facilities and Commercial Energy Facilities
- 4 Section 19.010 (Classification of Energy Facilities)
- 5 Section 19.030 (Standards for Approval)
- 6

7 **Wasco County Comprehensive Plan (WCCP)**

- 8 Goal 1 (Citizen Involvement)
- 9 Goal 2 (Land Use Planning)
- 10 Goal 3 (Agricultural Lands)
- 11 Goal 5 (Open Space, Scenic and Historic Areas and Natural Resources)
- 12 Goal 6 (Air, Water and Land Resources Quality)
- 13 Goal 8 (Recreational Needs)
- 14 Goal 9 (Economy of the State)
- 15 Goal 11 (Public Facilities and Services)
- 16 Goal 12 (Transportation)
- 17 Goal 13 (Energy Conservation)
- 18

19 Consistent with the original application, the Council evaluates the identified applicable
20 substantive criteria under ORS 469.504(1)(b)(B). As provided below, the Council finds that the
21 proposed facility complies with each of the applicable substantive criteria identified above,
22 except for the setback provisions of WCLUDO 3.210(F)(1). With regard to those setback
23 provisions, and as described in greater detail in the findings of compliance with WCLUDO
24 3.210(F)(1), the Council finds that the proposed facility otherwise complies with the applicable
25 statewide planning goals in accordance with ORS 469.504(1)(b)(B).

26

27 ***WCLUDO Chapter 1 (Introductory Provisions)***
28 **Section 1.030 (Severability) and Section 1.090 (Definitions)**

29

30 ***WCLUDO Section 1.030 Severability***

31 *The provisions of this Ordinance are severable. If any section, sentence, clause, or phrase of*
32 *this Ordinance is adjudged to be invalid by a court of competent jurisdiction, that decision*
33 *shall not affect the validity of the remaining portion of this Ordinance. The Director, the*
34 *Director's designee or other Approving Authority shall not approve a development or use of*
35 *land that has been previously divided or otherwise developed in violation of this Ordinance,*
36 *regardless of whether the applicant created the violation, unless the violation can be rectified*
37 *as part of the development proposal.*

38

39 WCLUDO Sections 1.030 and 1.090 provide severability provisions and definitions for
40 implementation of the WCLUDO, which generally do not establish any substantive applicable
41 criteria under the Council’s jurisdiction. However, WCLUDO 1.030 specifically prohibits approval
42 of any development of a parcel that has been partitioned or otherwise developed in violation of
43 the WCLUDO, unless “the violation can be rectified as part of the development proposal.”

1 Under WCLUDO 1.090, a legal parcel is one that was created in a lot in an existing, duly
2 recorded subdivision; or a parcel in an existing, duly recorded major or minor land partition; or
3 by deed or land sales contract prior to September 4, 1975.

4
5 The certificate holder addressed WCLUDO Section 1.030 in section IV.D.1.a. of the *Final Order*
6 *on the Application* and found that, to the extent they provide specific land use requirements,
7 the proposed facility satisfies the criterion. The requested amendments will not affect the
8 Council’s previous findings, as evidence was provided in the original application, that all parcels
9 on which the facility will be located were legally created parcels. Therefore, the Council finds
10 that this criterion has been met.

11
12 **WCLUDO Chapter 3, Section 3.210 (Exclusive Farm Use [A-1] Zone)**

13
14 **WCLUDO Chapter 3, Section 3.210(B) Uses Permitted Without Review**

15 *The following uses may be allowed on lands designated Exclusive Farm Use without review:*

16 * * * * *

17
18 **TRANSPORTATION FACILITIES**

19 * * * * *

20 *7. Reconstruction or modification of public roads and highways, including the placement of*
21 *utility facilities overhead and in the subsurface of public roads and highways along the public*
22 *right-of-way, but not including additional travel lanes, where no removal or displacement of*
23 *buildings will occur and not resulting in any new land parcels.*

24 * * * * *

25
26 In the *Final Order on the Application*, the Council found that the proposed road improvements
27 are uses permitted without review under this section.⁴¹ The requested amendments do not
28 affect this finding. Therefore, the Council finds that the proposed road improvements continue
29 to be uses permitted without review under WCLUCO Section 3.210(B) as no additional road
30 improvements are proposed.

31
32 **WCLUDO Chapter 3, Section 3.210(D) Uses Permitted Subject to Standards/Type II Review**

33 *The following uses may be permitted on a legal parcel on lands designated “A-1” Exclusive*
34 *Farm Use subject to the Subsection F – Property Development Standards, Subsection H –*
35 *Agricultural Protection, Chapter 10 – Fire Safety Standard, Chapter 20 – Site Plan Review*
36 *only if the request includes off-street parking, off-street loading or bicycle parking, as well as*
37 *any other listed, referenced or applicable standards.*

38 * * * * *

39
40
41

⁴¹ *Final Order on the Application* at 27

1 **UTILITY/ENERGY FACILITIES**

2 Pursuant to Chapter 4 – Supplemental Provisions - Section 4.070, these uses do not require a
3 variance if they exceed 35 feet in height.

4
5 12. Utility facilities “necessary” for public service, including wetland waste treatment
6 systems, and Electrical Transmission Facilities under 200 feet in height, but not including
7 commercial utility facilities for the purpose of generating electrical power for public use by
8 sale, or transmission towers over 200 feet in height, subject to Section J(8), Additional
9 Standards below.

10 * * * * *

11
12 In the *Final Order on the Application*, the Council found that the transmission line for the facility
13 was subject to Section 3.210(J)(8) and that the remainder of the proposed facility is a
14 commercial utility facility for the purpose of generating electrical power for public use, a use
15 permitted subject to Conditional Use requirements.⁴² The requested amendments do not affect
16 that finding. Therefore, the Council continues to find that the transmission line is a use
17 permitted subject to Section 3.210(J)(8), and that the remainder of the proposed facility is a
18 commercial utility for the purpose of generating electrical power for public use, which is
19 permitted subject to Conditional Use requirements addressed below.

20
21 **WCLUDO Section 3.210(E) Conditional Uses⁴³**

22 *The following uses and activities may be allowed subject to a Type II or Type III Review on a*
23 *legal parcel designated Exclusive Farm Use subject to Subsection F - Property Development*
24 *Standards, H – Agricultural Protection, Chapter 5 – Conditional Use Review, Chapter 10 - Fire*
25 *Safety Standards as well as any other listed, referenced, or applicable standards.*

26 * * * * *

27
28 **ENERGY/UTILITY/SOLID WASTE DISPOSAL FACILITIES**

29 * * * * *

30
31 14. Commercial Power Generating facility (Utility facility for the Purpose of Generating
32 Power) subject to Section 19.030.

33
34 A wind power generation facility shall also be subject to Section J(17), Additional Standards
35 below.

36

⁴² *Final Order on the Application* at 27. The *Final Order on the Application* incorrectly referred to Section 4.070(13), which does not exist. The correct reference is Section 3.210(D)(13).

⁴³ Section 3.210(E) has been amended since the *Application for Site Certificate* was submitted. As a result, the requirements of Subsections (8) were incorporated into Subsection (14). The analysis done in the *Final Order on the Application* on Subsection (8) is still relevant for compliance with Subsection (14) but compliance with the new Subsection (8) is no longer required.

1 *Except for wind facilities, transmission lines or pipelines, unless otherwise allowed by state*
2 *regulations, the energy facility shall not preclude more than 12 acres from use as a*
3 *commercial agricultural enterprise unless an exception is taken pursuant to OAR Chapter 660,*
4 *Division 4, or 20 acres from use as a commercial agricultural enterprise unless an exception is*
5 *taken pursuant to OAR Chapter 660, Division 4 and ORS 197.732.*

6 * * * * *

7
8 The WCLUDO Section 3.210(E)(14) was added on April 10, 2012, and therefore applies to this
9 amendment request.

10
11 With the exception of the 230-kV transmission line and improvements to existing public roads,
12 which are addressed and allowed under WCLUDO 3.210(B) and 3.210(D), all components of the
13 wind energy facility and its related or supporting facilities qualify as a “wind power generation
14 facility,” which is a type of “commercial power generating facility” allowed as a conditional use
15 under WCLUDO 3.210(E). These components of the proposed wind energy facility include the
16 wind turbines, the electrical collection system, the collector substations, the meteorological
17 towers, and new and improved private access roads. All of these components are subject to the
18 general conditional use criteria, the commercial power generating facilities standards, and the
19 specific wind power generation criteria. As a wind facility, the proposed facility is expressly
20 exempt from the 12 acre and 20 acre limitations identified in WCLUDO 3.210(E)(14).

21
22 The Council finds that the proposed wind energy facility is a wind power generation facility,
23 which is a commercial power generating facility and a use permitted as a conditional use
24 pursuant to WCLUDO Section 3.210(D). Compliance with the conditional use criteria is
25 addressed below under WCLUDO Section 5.020 (general conditional use criteria); WCLUDO
26 Section 19.030 (applicable standards for commercial power generating facilities); and WCLUDO
27 Section 3.210(J)(17) (wind power generation facility criteria).

28
29 **WCLUDO Section 3.210(F) Property Development Standards**

30
31 *Property development standards are designed to preserve and protect the character and*
32 *integrity of agricultural lands, and minimize potential conflicts between agricultural operations*
33 *and adjoining property owners. A variance subject to WCLUDO Chapter 6 or Chapter 7 may be*
34 *utilized to alleviate an exceptional or extraordinary circumstance that would otherwise preclude*
35 *the parcel from being utilized. A variance to these standards is not to be used to achieve a*
36 *preferential siting that could otherwise be achieved by adherence to these prescribed standards.*

37
38 The development standards in WCLUDO Section 3.210(F) apply to all components of the wind
39 energy facility and the 230-kV transmission line.

40
41 **WCLUDO 3.210(F)(1) Setbacks**

42
43 **a. Property Line**

1
2 (1) All dwellings (farm and non farm) and accessory structures not in conjunction
3 with farm use, shall comply with the following property line setback
4 requirements:

5
6 (a) If adjacent land is being used for perennial or annual crops, the setback
7 shall be a minimum of 200 feet from the property line.

8 (b) If adjacent land is being used for grazing, is zoned Exclusive Farm Use and
9 has never been cultivated or is zoned F-1 or F-2, the setback shall be a
10 minimum of 100 feet from the property line.

11 (c) If the adjacent land is not in agricultural production and not designated
12 Exclusive Farm Use, F-1 or F-2, the setback shall be a minimum 25 Feet from
13 the property line.

14 (d) If any of the setbacks listed above conflict with the Sensitive Wildlife
15 Habitat Overlay the following shall apply and no variance shall be required:

16
17 i. The structure shall be set back a minimum of 25 feet from the road right
18 of way or easement;

19 ii. The structure shall be located within 300 feet of the road right of way
20 or easement pursuant Section 3.920(F)(2), Siting Standards; and

21 iii. As part of the application the applicant shall document how they are
22 siting the structure(s) to minimize impacts to adjacent agricultural uses to
23 the greatest extent practicable.

24 * * * * *

25
26 In the *Final Order on the Application*, the Council determined that all of the land adjacent to the
27 analysis area is currently being used for grazing and winter wheat production and that,
28 therefore, the facility is subject to the 200 foot setback described in subsection (1)(a). The
29 Council found that, with the exception of the transmission lines and poles that cannot be
30 located at least 200 feet from the property line, as proposed the facility satisfies this standard.⁴⁴
31 To the extent the transmission lines and poles did not satisfy the 200 foot setback, the
32 application was reviewed for compliance with the applicable statewide planning goals as
33 permitted under ORS 469.504(1)(b)(B). The Council also found that subsection (d) did not apply
34 to the facility.⁴⁵

35
36 While the certificate holder is proposing to remove 15 turbines, it is not requesting to relocate
37 any remaining components of the facility, and therefore the proposed facility, with the
38 exception of the transmission lines and poles, will continue to satisfy the setback requirements.
39 Furthermore, as the Council concluded in the *Final Order*, the 200 foot setback is not required
40 for the facility to be compliant with the statewide planning goals. The requested amendments

⁴⁴ *Final Order on the Application* at 29.Or, be

⁴⁵ *Id.*

1 do not affect that finding. Therefore, the Council continues to find that, with the exception of
2 the transmission line and poles, the facility satisfies the requirements of this section and that
3 subsection (d) does not apply. The Council further finds that the proposed facility otherwise
4 continues to comply with the applicable statewide planning goals in accordance with ORS
5 469.504(1)(b)(B) because the 200 foot setback required under this criterion is not required for
6 compliance with the statewide planning goals.

7
8 **WCLUDO Section 3.210(F)(1) Setbacks**

9
10 **b. Waterways**

11 *(1) Resource Buffers: All bottoms of foundations of permanent structures, or*
12 *similar permanent fixtures shall be setback from the high water line or mark,*
13 *along all streams, lakes, rivers, or wetlands.*

14 *(a) A minimum distance of one hundred (100) feet when measured*
15 *horizontally at a right angle for all waterbodies designated as fish bearing by*
16 *any federal, state or local inventory.*

17 *(b) A minimum distance of fifty (50) feet when measured horizontally at a*
18 *right angle for all waterbodies designated as non fish bearing by any federal,*
19 *state or local inventory.*

20 *(c) A minimum distance of twenty five (25) feet when measured horizontally*
21 *at a right angle for all waterbodies (seasonal or permanent) not identified on*
22 *any federal, state or local inventory.*

23 *(d) If the proposal does not meet these standards it shall be subject to Section*
24 *(a)(3), Additions or Modifications to Existing Structures, above.*

25 *(e) The following uses are not required to meet the waterway setbacks,*
26 *however they must be sited, designed and constructed to minimize intrusion*
27 *into the riparian area to the greatest extent possible:*

28 *(i) Fences;*

29 *(ii) Streets, roads, and paths;*

30 *(iii) Drainage facilities, utilities, and irrigation pumps;*

31 *(iv) Water-related and water-dependent uses such as docks and bridges;*

32 *(v) Forest practices regulated by the Oregon Forest Practices Act;*

33 *(vi) Agricultural activities and farming practices, not including the*
34 *construction of buildings, structures or impervious surfaces; and*

35 *(vii) Replacement of existing structures with structures in the same*
36 *location that do not disturb additional riparian surface area.*

37
38 In the *Final Order on the Application*, the Council found that no foundations or permanent
39 structures are proposed to be located within 100 feet of any waterways and that the 230 kV
40 transmission line is not subject to the waterways setback because it is considered a utility
41 pursuant to subsection (iii); and that, therefore, the facility satisfies this waterways setback

1 requirement.⁴⁶ The requested amendments do not affect this finding. As a result, the Council
2 finds that the facility continues to comply with this criterion.

3
4 *(2) Floodplains: Any development including but not limited to buildings,*
5 *structures or excavation, proposed within a FEMA designated flood zone, or sited*
6 *in an area where the Planning Director cannot deem the development reasonably*
7 *safe from flooding shall be subject to Section 3.740, Flood Hazard Overlay.*
8

9 In the *Final Order on the Application*, the Council found that the facility satisfied this
10 requirement as no development is proposed within a FEMA designated flood zone and all areas
11 are reasonably safe from flooding.⁴⁷ The requested amendments do not affect this finding.
12 Furthermore, the County did not express any concerns relating to flooding, and there is no
13 evidence in the record to suggest that any part of the facility would be built in an area that is
14 not reasonably safe from flooding. As a result, the Council finds that the facility continues to
15 comply with this criterion.

16
17 **WCLUDO Section 3.210(F)(1) Setbacks**
18

19 **c. Irrigation Ditches**

20 *All dwellings and structures shall be located outside of the easement of any irrigation or water*
21 *district. In the absence of an easement, all dwellings and structures shall be located a minimum*
22 *of 50 feet from the centerline of irrigation ditches and pipelines which continue past the subject*
23 *parcel to provide water to other property owners. Substandard setbacks must receive prior*
24 *approval from the affected irrigation district. These setbacks do not apply to fences and signs.*
25

26 In the *Final Order on the Application* the Council found that because the facility does not
27 require any development within 50 feet of the centerline of an irrigation ditch that continues
28 past the subject parcel to provide water to other property owners, the facility satisfies this
29 standard.⁴⁸ The requested amendments do not affect this finding. As a result, the Council finds
30 that the facility continues to comply with this criterion.

31
32 **WCLUDO Section 3.210(F)(2) Height**
33

34 *Except for those uses allowed by Section 4.070, General Exception to Building Height*
35 *Requirements, no building or structure shall exceed a height of 35 feet. Height is measured from*
36 *average grade.*
37

38 In the *Final Order on the Application*, the Council determined that the Operations and
39 Maintenance building is the only facility structure that must comply with this standard and that
40 it will not exceed 35 feet in height. Therefore, the Council found that the facility will comply

⁴⁶ *Id.* at 30

⁴⁷ *Id.*

⁴⁸ *Id.*

1 with this requirement.⁴⁹ The requested amendments do not affect this finding. As a result, the
2 Council finds that the facility continues to comply with this requirement.

3
4 **WCLUDO Section 3.210(F)(4) Signs**

- 5
6 *a. Permanent signs shall not project beyond the property line.*
7 *b. Signs shall not be illuminated or capable of movement.*
8 *c. Permanent signs shall describe only uses permitted and conducted on the property*
9 *on which the sign is located.*

10 *d. Size and Height of Permanent Signs:*

11 *(1) Freestanding signs shall be limited to twelve square feet in area and 8 feet in*
12 *height measured from natural grade.*

13 *(2) Signs on buildings are permitted in a ratio of one square foot of sign area to*
14 *each linear foot of building frontage but in no event shall exceed 32 square feet*
15 *and shall not project above the building.*

16 *e. Number of permanent signs:*

17 *(1) Freestanding signs shall be limited to one at the entrance of the property. Up*
18 *to one additional sign may be placed in each direction of vehicular traffic running*
19 *parallel to the property if they are more than 750 feet from the entrance of the*
20 *property.*

21 *(2) Signs on buildings shall be limited to one per building and only allowed on*
22 *buildings conducting the use being advertised.*

23
24 In the *Final Order on the Application* the Council found that the facility will be in compliance
25 with all signage requirements because the only signs that will be posted are required safety
26 signs.⁵⁰ The requested amendments do not affect this finding. As a result, the Council finds that
27 the facility continues to comply with this criterion.

28
29 **WCLUDO Section 3.210(F)(5) Lighting**

30
31 *Outdoor lighting shall be sited, limited in intensity, shielded and hooded in a manner that*
32 *prevents the lighting from projecting onto adjacent properties, roadways and waterways.*
33 *Shielding and hooding materials shall be composed of nonreflective, opaque materials.*

34
35 In the *Final order on the Application*, the Council found that, subject to a single condition to
36 ensure that all exterior lighting is shielded and hooded, the facility will meet this requirement.⁵¹
37 The requested amendments do not affect this finding. As a result, the Council finds that, as
38 conditioned, the facility continues to meet this criterion.

39
40

⁴⁹ *Id.* at 31

⁵⁰ *Id.* at 31

⁵¹ *Id.* at 32

1
2 **WCLUDO Section 3.210(F)(6) Parking**
3

4 *Off street parking shall be provided in accordance with Chapter 20.*
5

6 Pursuant to WCLUDO Section 3.210(E), wind power generation facilities are a category of
7 Commercial Power Generating Facility uses permitted subject to conditional use review. Since
8 the original site certificate was issued, Wasco County has amended the introductory language
9 at Section 3.210(E) to state that uses permitted conditionally under the section are subject to
10 Chapter 20 – Site Plan Review “only if the request includes off-street parking, off-street loading
11 or bicycle parking.” Exhibit K of the original application states that a graveled parking area for
12 employee, visitors and equipment will be located in the vicinity of the O&M building. Therefore,
13 the off-street parking standards of Chapter 20 are generally applicable to this request.
14 However, the County has not adopted off-street parking standards in WCLUDO Section 20.050
15 for wind facilities or other utility uses. Therefore, there are no standards for the Council to
16 consider regarding the Chapter 20 off-street parking requirements.
17

18 **WCLUDO Section 3.210(F)(7) New Driveways**
19

20 *All new driveways and increases or changes of use for existing driveways which access a public*
21 *road shall obtain a Road Approach Permit from the appropriate jurisdiction, either the Wasco*
22 *County Public Works Department or the Oregon Dept. of Transportation.*
23

24 In the *Final Order on the Application*, the Council determined that this requirement does not
25 apply to the facility because, as proposed, the facility would use existing private roads and no
26 changes to driveways accessing those private roads are proposed.⁵² The requested
27 amendments do not affect this finding. As a result, the Council continues to find that this
28 standard does not apply to the facility.
29

30 **WCLUDO Section 3.210(H) Agricultural Protection**
31

32 *The uses listed in Section D, Uses Allowed Subject to Standards and E, Conditional Uses*
33 *must meet the following standards:*
34

- 35 *1. Farm-Forest Management Easement: The landowner is required to sign and record*
36 *in the deed records for the county a document binding the landowner, and the*
37 *landowner’s successors in interest, prohibiting them from pursuing a claim for relief*
38 *or cause of action alleging injury from farming or forest practices for which no action*
39 *or claim is allowed under ORS 30.936 or 30.937.*
40 *2. Protection for Generally Accepted Farming and Forestry Practices – Complaint and*
41 *Mediation Process: The landowner will receive a copy of this document.*

⁵² *Id.*

1
2 In the *Final Order on the Application*, the Council found that the facility satisfied this
3 requirement, subject to compliance with Condition IV.D.2.4, which requires the certificate
4 holder to execute and record a Farm-Forest Management easement.⁵³ The requested
5 amendments do not affect this finding. As a result, the Council again finds that the facility, as
6 conditioned, continues to satisfy this criterion.

7
8 **WCLUDO Section 3.210(J)(8) Additional Standards; Utility Facility**
9

10 *a. A utility facility is necessary for public service if the facility must be sited in an*
11 *exclusive farm use zone in order to provide the service. To demonstrate that a utility*
12 *facility is necessary, an applicant must show that reasonable alternatives have been*
13 *considered and that the facility must be sited in an exclusive farm use zone due to*
14 *one or more of the following factors:*

15 *(1) Technical and engineering feasibility;*

16 *(2) The proposed facility is locationally dependent. A utility facility is locationally*
17 *dependent if it must cross land in one or more areas zoned for exclusive farm use*
18 *in order to achieve a reasonably direct route or to meet unique geographical*
19 *needs that cannot be satisfied on other lands;*

20 *(3) Lack of available urban and non-resource lands;*

21 *(4) Availability of existing rights of way;*

22 *(5) Public health and safety; and*

23 *(6) Other requirements of state and federal agencies.*

24 *b. Costs associated with any of the factors listed in a. may be considered, but cost*
25 *alone may not be the only consideration in determining that a utility facility is*
26 *necessary for public service. Land costs shall not be included when considering*
27 *alternative locations for substantially similar utility facilities and the siting of utility*
28 *facilities that are not substantially similar.*

29 *c. The owner of a utility facility approved under this section shall be responsible for*
30 *restoring, as nearly as possible, to its former condition any agricultural land and*
31 *associated improvements that are damaged or otherwise disturbed by the siting,*
32 *maintenance, repair or reconstruction of the facility. Nothing in this subsection shall*
33 *prevent the owner of the utility facility from requiring a bond or other security from a*
34 *contractor or otherwise imposing on a contractor the responsibility for restoration.*

35 *d. The governing body of the County or its designee shall impose clear and objective*
36 *conditions on an application for utility facility siting to mitigate and minimize the*
37 *impacts of the proposed facility, if any, on surrounding lands devoted to farm use in*
38 *order to prevent a significant change in accepted farm practices or a significant*
39 *increase in the cost of farm practices on surrounding farm lands.*
40

⁵³ *Id.*

1 WCLUDO Section 3.210(J)(8) directly implements ORS 215.275, which establishes the statutory
2 requirements for determining whether a utility facility proposed to be located on EFU land is
3 “necessary for public service.” ORS 215.275(2) and WCLUDO Section 3.210(J)(8)(a) include six
4 criteria for determining whether a utility facility is necessary for public service; a utility facility
5 must meet at least one of these criteria in order to be considered necessary for public service in
6 an EFU zone. These criteria apply only to the 230-kV transmission line that is proposed to serve
7 the facility.

8
9 In the *Final Order on the Application*, the Council found that because there is a lack of available
10 urban or non-resource land, the facility satisfied Criterion 3, which allows a utility facility to be
11 sited in exclusive farm use zone due to lack of available urban or nonresource lands.⁵⁴ The
12 Council further found that the proposed transmission line satisfied Criterion 1 (technical and
13 engineering feasibility) and Criterion 2 (locational dependency) because the location of the
14 wind power generation facility on EFU land requires the transmission line to also be located on
15 EFU land.⁵⁵ Finally, the Council found that Criterion 5 was satisfied because the proposed
16 transmission line was located away from populated areas.⁵⁶ The Council concluded the
17 proposed transmission line would also satisfy the restoration and condition requirements of
18 ORS 215.275(4) and (5) and WCLUDO 3.210(J)(8)(c) and (d), subject to restoration and other
19 conditions included in the site certificate.⁵⁷ The requested amendments do not affect these
20 findings. As a result, the Council finds that the proposed transmission line continues to meet
21 this criterion.

22
23 ***WCLUDO Section 3.210(J)(17) Wind Power Generation Facility***

24
25 *For purposes of this section a wind power generation facility includes, but is not limited to, the*
26 *following system components: all wind turbine towers and concrete pads, permanent*
27 *meteorological towers and wind measurement devices, electrical cable collection systems*
28 *connecting wind turbine towers with the relevant power substation, new or expanded private*
29 *roads (whether temporary or permanent) constructed to serve the wind power generation*
30 *facility, office and operation and maintenance buildings, temporary lay-down areas and all*
31 *other necessary appurtenances.*

32
33 WCLUDO Section 3.210(J)(17) directly implements OAR 660-033-0130(37), adopted by LCDC in
34 2009, to allow “wind power generation facilities” to be located on agricultural lands without
35 taking an exception to statewide planning goals. The proposed wind energy facility and its
36 related and supporting facilities, with the exception of the 230-kv transmission line, are
37 analyzed below as a “wind power generation facility” for purposes of Section 3.210(J)(17) and
38 OAR 660-033-0130(37).

39

⁵⁴ *Id.* at 34

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ *Id.*

1 **WCLUDO Section 3.210(J)(17)(a)(1)**

2
3 *For high-value farmland soils described in ORS 195.300(10), it must be found that all of the*
4 *following are satisfied:*

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

9 *(a) Technical and engineering feasibility;*

10 *(b) Availability of existing rights of way; and*

11 *(c) The long term environmental, economic, social and energy consequences of siting the facility*
12 *or component on alternative sites, as determined under paragraph (2) of this subsection.*

13
14 In the *Final Order on the Application*, the Council found that reasonable alternatives were not
15 available to avoid high-value farmland, and that the location of the proposed facility was
16 determined based on technical and engineering feasibility, in compliance with WCLUDO Section
17 3.210(J)(17)(1)(a).⁵⁸ The requested amendments, which include reducing the site boundary, will
18 result in a minor reduction in the amount of high-value farmland that would be impacted. As a
19 result, the Council again finds that the facility satisfies this criterion.

20
21 **WCLUDO Section 3.210(J)(17)(a)(2)**

22
23 *(2) The long-term environmental, economic, social and energy consequences*
24 *resulting from the wind power generation facility or any components thereof at*
25 *the proposed site with measures designed to reduce adverse impacts are not*
26 *significantly more adverse than would typically result from the same proposal*
27 *being located on other agricultural lands that do not include high-value farmland*
28 *soils.*

29
30 In the *Final Order on the Application*, the Council found that the impacts associated with
31 locating the facility on high-value farmland are not significantly greater than the impact of
32 locating the proposed facility on nearby non-high value soils, in compliance with WCLUDO
33 Section 3.210(J)(17)(2).⁵⁹ The requested amendments, which include reducing the site
34 boundary, will result in a minor reduction in the amount of high-value farmland that would be
35 impacted. As a result, the Council again finds that the facility satisfies this criterion.

36
37 **WCLUDO Section 3.210(J)(17)(a)(3)**

38
39 *(3) Costs associated with any of the factors listed in paragraph (1) of this*
40 *subsection may be considered, but costs alone may not be the only consideration*

⁵⁸ *Id.* at 36

⁵⁹ *Id.* at 37

1 *in determining that siting any component of a wind power generation facility on*
2 *high-value farmland soils is necessary.*

3
4 In the *Final Order on the Application*, the Council found that cost was not the only consideration
5 in determining that siting any component of a wind power generation facility on high-value
6 farmland soils.⁶⁰ The requested amendments do not affect this finding. As a result, the Council
7 again finds that the facility satisfies this criterion.

8
9 **WCLUDO Section 3.210(J)(17)(a)(4)**

10
11 *(4) The owner of a wind power generation facility approved under Section (a)*
12 *above shall be responsible for restoring, as nearly as possible, to its former*
13 *condition any agricultural land and associated improvements that are damaged*
14 *or otherwise disturbed by the siting, maintenance, repair or reconstruction of the*
15 *facility. Nothing in this subsection shall prevent the owner of the facility from*
16 *requiring a bond or other security from a contractor or otherwise imposing on a*
17 *contractor the responsibility for restoration.*

18
19 In the *Final Order on the Application*, the Council found that, subject to conditions to ensure
20 compliance with the Retirement and Financial Assurance Standard, the certificate holder could
21 satisfy this criterion. Those conditions ensure that the certificate holder will be responsible for
22 restoring the site, as nearly as possible, to its former condition.⁶¹ The requested amendments
23 do not affect this finding. As a result, the Council again finds that the facility satisfies this
24 criterion.

25
26 **WCLUDO Section 3.210(J)(17)(a)(5)**

27
28 *(5) The criteria in Section (b), below are satisfied.*

29
30 Continued compliance with the criteria for Section (b) are addressed as follows:

31
32 **WCLUDO Section 3.210(J)(17)(b)**

33
34 *(b) For arable lands, meaning lands that are cultivated or suitable for cultivation,*
35 *including high-value farmland soils described in ORS 195.300(10), it must be*
36 *found that:*

37 *(1) The proposed wind power facility will not create unnecessary negative*
38 *impacts on agricultural operations conducted on the subject property.*
39 *Negative impacts could include, but are not limited to, the unnecessary*
40 *construction of roads, dividing a field or multiple fields in such a way that*

⁶⁰ *Id.*

⁶¹ *Id.*

1 *creates small or isolated pieces of property that are more difficult to farm,*
2 *and placing wind farm components such as meteorological towers on lands in*
3 *a manner that could disrupt common and accepted farming practices; and*
4

5 In the *Final Order on the Application*, the Council found that, as conditioned, the facility would
6 be designed to reduce adverse impacts on farming practices and minimize the use of
7 agricultural land, in compliance with this requirement.⁶² The requested amendments do not
8 affect this finding. As a result, the Council again finds that the facility satisfies this criterion.
9

10 *(2) The presence of a proposed wind power facility will not result in unnecessary soil or*
11 *erosion or loss that could limit agricultural productivity on the subject property. This*
12 *provision may be satisfied by the submittal and county approval of a soil and erosion control*
13 *plan prepared by an adequately qualified individual, showing how unnecessary soil erosion*
14 *will be avoided or remedied and how topsoil will be stripped, stockpiled and clearly marked.*
15 *The approved plan shall be attached to the decision as a condition of approval; and*
16

17 In the *Final Order on the Application*, the Council found that, subject to compliance with
18 condition IV.C.2.1, the facility complied with this criterion. That condition requires the
19 certificate holder to conduct all construction work in compliance with an Erosion and Sediment
20 Control Plan and as required under the National Pollutant Discharge Elimination System Storm
21 Water Discharge General Permit #1200-C.⁶³ The requested amendments do not affect this
22 finding. As a result, the Council again finds that, as conditioned, the facility satisfies this
23 criterion.
24

25 *(3) Construction or maintenance activities will not result in unnecessary soil compaction that*
26 *reduces the productivity of soil for crop production. This provision may be satisfied by the*
27 *submittal and county approval of a plan prepared by an adequately qualified individual,*
28 *showing how unnecessary soil compaction will be avoided or remedied in a timely manner*
29 *through deep soil decompaction or other appropriate practices. The approval plan shall be*
30 *attached to the decision as a condition of approval; and*
31

32 In the *Final Order on the Application*, the Council found that the facility complied with this
33 criterion, subject to conditions IV.C.2.1 (requiring an Erosion and Sediment Control Plan),
34 IV.C.2.2 (limiting traffic to improved road services to minimize soil compaction), IV.C.2.6
35 (requiring restoration of temporarily disturbed areas immediately upon completion of
36 construction), IV.F.2.3 (preventing conditions that would preclude site restoration) and IV.D.2.5
37 (requiring restoration of agricultural land upon retirement.)⁶⁴ The requested amendments do
38 not affect this finding. As a result, the Council again finds that the facility, as conditioned,
39 satisfies this the criterion.
40

⁶² *Id.* at 38

⁶³ *Id.*

⁶⁴ *Id.* at 39

1 (4) Construction or maintenance activities will not result in the unabated introduction or
2 spread of noxious weeds and other undesirable weeds species. This provision may be
3 satisfied by the submittal and county approval of a weed control plan prepared by an
4 adequately qualified individual that includes a long-term maintenance agreement. The
5 approved plan shall be attached to the decision as a condition of approval.
6

7 In the *Final Order on the Application*, the Council found that the facility, subject to conditions
8 IV.D.2.8 (requiring Wasco County approval of the Revegetation and Weed Control Plan prior to
9 start of construction) and IV.C.2.6, IV.C.2.7, and IV.C.2.8 (requiring implementation of the
10 activities described in the Revegetation and Weed Control Plan during construction, operations,
11 and retirement of the facility), would not result in the unabated introduction or spread of
12 noxious weeds species and therefore complied with this criterion.⁶⁵ The requested
13 amendments do not affect this finding. As a result, the Council again finds that, as conditioned,
14 the facility satisfies this criterion.
15

16 **WCLUDO Section 3.210(J)(17)(c)** *For nonarable lands, meaning lands that are not*
17 *suitable for cultivation, it must be found that the requirements of Subsection (b)(4)*
18 *above are satisfied.*
19

20 **WCLUDO Section 3.210(J)(17)(d)** *In the event that a wind power generation facility is*
21 *proposed on a combination of arable and nonarable lands as described in Section (b)*
22 *and (c) above, the approval criteria of Section (b) shall apply to the entire project.*
23

24 In the *Final Order on the Application*, the Council found that because the facility site consists of
25 both arable and nonarable lands, the requirements of Section 3.210(J)(17)(b), addressed above,
26 apply to the entire project.⁶⁶ The requested amendments do not affect this finding. As a
27 result, the evaluation of these criteria are unchanged. The analysis of WCLUDO Section
28 3.210(J)(17)(b) above and in the *Final Order on the Application*, applied the requirements of
29 Subsection (b) to all lands arable and nonarable meeting the requirements of Subsections (c)
30 and (d). Therefore, the Council finds that these criteria continue to be satisfied.
31

32 **WCLUDO Chapter 4 – Supplemental Provisions**

33 **WCLUDO Section 4.070: General Exceptions to Building Height Requirements**

34 *Necessary roof structures housing elevators, stairways, tanks, fans and ventilators and towers,*
35 *steeple, flagpoles, smokestacks, silos, grain elevators, energy facilities and commercial energy*
36 *facilities, water tanks and skylights and fire or parapet walls may be erected above the height*
37 *limits of the zone in which they are located provided no usable floor space is provided in such*
38
39

65 *Id.*

66 *Id.*

1 structures above the required height limits. Transmission towers over 200 feet in height require
2 a Conditional Use Permit.

3
4 The Operations and Maintenance building is the only facility structure proposed to be
5 constructed with a usable floor and the transmission towers will be approximately 70 feet in
6 height. In the *Final Order on the Application*, the Council found that because the Operations
7 and Maintenance building will not exceed 35 feet and the transmission towers will be less than
8 200 feet in height the facility complies with this criterion.⁶⁷ The requested amendments do not
9 affect this finding. As a result, the Council again finds that the facility complies with this
10 criterion.

11
12 **WCLUDO Chapter 5: Conditional Use Review**

13
14 **WCLUDO Section 5.020 Authorization to Grant or Deny Conditional Uses, and Standards and**
15 **Criteria Used**

16
17 *Conditional uses listed in this Ordinance shall be permitted, enlarged or otherwise altered or*
18 *denied upon authorization by Administrative Action in accordance with the procedures set forth*
19 *in Chapter 2 of this Ordinance. In judging whether or not a conditional use proposal shall be*
20 *approved or denied, the Administrative Authority shall weigh the proposal's appropriateness*
21 *and desirability or the public convenience or necessity to be served against any adverse*
22 *conditions that would result from authorizing the particular development at the location*
23 *proposed, and to approve such use, shall find that the following criteria are either met, can be*
24 *met by observance of conditions, or are not applicable.*

25
26 With the exception of the 230 kV transmission feeder line (permitted subject to standards) and
27 improvements to existing public roads (permitted without review), all components of the
28 facility are subject to these conditional use criteria.

29
30 **WCLUDO Section 5.020(A)** *The proposal is consistent with the goals and objectives of the*
31 *Comprehensive Plan and implementing Ordinances of the County.*

32
33 The applicable Wasco County Comprehensive Plan (WCCP) provisions are evaluated below.
34 Consistency with the County's implementing ordinances is evaluated throughout this section.

35
36 **WCLUDO Section 5.020(B)** *Taking into account location, size, design and operational*
37 *characteristics of the proposed use, the proposal is compatible with the surrounding area*
38 *and development of abutting properties by outright permitted uses.*

39
40 In the *Final Order on the Application*, the Council found that, subject to compliance with
41 Conditions VI.A.2.1 and VI.A.2.2, which require a final acoustical analysis and evidence that

⁶⁷ *Id.* at 40

1 noise easements have been obtained, the facility can satisfy this criterion.⁶⁸ As discussed in the
2 *Final Order*, the surrounding existing uses consist primarily of dry land crop cultivation and
3 grazing. Given the nature of the surrounding area, the proposed increase to the size of the
4 turbines will not impact the facility’s compatibility with that area. As a result, the Council finds
5 that the facility continues to satisfy this criterion.

6
7 ***WCLUDO Section 5.020(C)*** *The proposed use will not exceed or significantly burden public*
8 *facilities and services available to the area, including, but not limited to: roads, fire and*
9 *police protection, sewer and water facilities, telephone and electrical service, or solid waste*
10 *disposal facilities.*

11
12 In the *Final Order on the Application*, the Council found that, with the fire mitigation measures
13 identified in the Public Health and Safety Standards Section and the Public Services Section, the
14 facility will not exceed or significantly burden public facilities and services available to the area,
15 in compliance with this criterion.⁶⁹ In order to address any potential change the affected service
16 providers’ ability to provide services since the site certificate was issued, the certificate holder
17 contacted each of the public service providers listed in Exhibit U of the Application for Site
18 Certificate and received confirmation of that each provider continues to be able to provide the
19 services listed to serve the facility.⁷⁰ Therefore, the Council finds that the facility, as amended,
20 continues to satisfy this criterion.

21
22 ***WCLUDO Section 5.020(D)*** *The proposed use will not unduly impair traffic flow or safety in*
23 *the area.*

24
25 In the *Final Order on the Application*, the Council found that while the facility may cause some
26 short-term delays on public roads, the overall delays and impact to traffic would be minimal, in
27 compliance with this criterion.⁷¹ The requested amendments do not affect this finding. As a
28 result, the Council finds that the facility continues to satisfy this criterion.

29
30 ***WCLUDO Section 5.020(E)*** *The effects of noise, dust and odor will be minimized during all*
31 *phases of development and operation for the protection of adjoining properties.*

32
33 In the *Final Order on the Application*, the Council found that, subject to compliance with
34 Conditions VI.A.2.1 and VI.A.2.2 (requiring noise minimization and mitigation) and IV.C.2.1
35 (requiring construction work to comply with an approved Erosion and Sediment Control Plan
36 and an approved NPDES# 1200-C permit), the facility complied with this criterion. .⁷² The
37 requested amendments do not affect this finding. As a result, the Council again finds that the
38 facility meets the requirements of this criterion.

⁶⁸ *Id.* at 41

⁶⁹ *Id.* at 42

⁷⁰ SRW AMD 1 Response to RAI #1

⁷¹ *Final Order on the Application* at 43

⁷² *Final Order on the Application* at 43

1
2 **WCLUDO Section 5.020(F)** *The proposed use will not significantly reduce or impair sensitive*
3 *wildlife habitat, riparian vegetation along streambanks and will not subject areas to*
4 *excessive soil erosion.*

5
6 In the *Final Order on the Application*, the Council found that, subject to compliance with
7 conditions imposed to ensure compliance with the mitigation measures identified in Exhibits J,
8 P and Q and Condition IV.C.2.1 (requiring construction work to comply with an approved
9 Erosion and Sediment Control Plan and an approved NPDES# 1200-C permit), the proposed
10 facility will not significantly reduce or impair sensitive wildlife habitat, riparian vegetation along
11 stream banks and will not subject boundary areas to excessive soil, erosion, in compliance with
12 this criterion.⁷³ The requested amendments do not affect this finding. As a result, the Council
13 again finds that the facility satisfies this criterion.

14
15 **WCLUDO Section 5.020(G)** *The proposed use will not adversely affect the air, water, or land*
16 *resource quality of the area.*

17
18 In the *Final Order on the Application*, the Council found that, subject to compliance with
19 Conditions IV.C.2.1, (requiring construction work to comply with an approved Erosion and
20 Sediment Control Plan and an approved NPDES# 1200-C permit) and Condition IV.D.2.8, which
21 requires routine inspection of the facility, erosion and sediment control measures and to
22 control the spread of noxious weeds, the facility can be constructed in a manner that will not
23 adversely affect the air, water or land resource quality of the area.⁷⁴ The requested
24 amendments do not affect this finding. As a result, the Council again finds that the facility
25 satisfies this criterion.

26
27 **WCLUDO Section 5.020(H)** *The location and design of the site and structures for the*
28 *proposed use will not significantly detract from the visual character of the area.*

29
30 In the *Final Order on the Application*, the Council found that due to the placement and limited
31 visibility of the turbines, the facility would not significantly detract from the visual character of
32 the area in compliance with this criteria.⁷⁵

33
34 The visual character of the area is dominated by agricultural uses. Almost all of the area within
35 the site boundary is used for primarily dryland winter wheat production while the remaining
36 areas within the site boundary serve as pasture for cattle, with some rocky outcroppings.^{76 77}
37 There are six wetlands identified within the site boundary, ranging in size from 0.02 acres to

⁷³ *Id.* at 44

⁷⁴ *Id.* at 45

⁷⁵ *Id.* at 46

⁷⁶ *Application for Site Certificate* Exhibit L at Attachment 2

⁷⁷ *Application for Site Certificate* Exhibit C at 1

1 0.25 acres.⁷⁸ Within the site boundary and the 400 feet around the site boundary there are
2 areas with grasslands, shrub-steppes and a small number of residences and other buildings
3 associated with farming/ranching in the area.⁷⁹
4

5 The proposed increase in turbine size from 132 meters to 152 meters tall could impact the
6 previous finding. The increased turbine height could enhance the visual impact on the
7 landscape. However, the criterion does not require a finding that the turbine structures
8 themselves will not significantly impact the visual character of the area. Rather, the criterion
9 requires that location and design of the site and of the structures will not significantly detract
10 from the visual character of the area.
11

12 The location of the site and the location of the turbines within the site is largely dictated by
13 project purpose. In other words, in order to have a viable wind energy facility, the turbines
14 must be located where the wind resource is located, and at a height to efficiently capture that
15 resource. However, given the character of the surrounding area, the incremental increase in the
16 height of the turbines will be minimal. Several conditions in the original site certificate will also
17 mitigate or reduce the impact of the increased height of turbines. Condition IV.I.2.1 relates to
18 turbine design and requires the turbines to be of a uniform, design color and height.
19 Additionally, each turbine must be uniformly finished in a neutral white or off-white color with
20 a low reflectivity finish unless otherwise required by the FAA. Conditions IV.D.2.3 and IV.I.2.3
21 further mitigate visual impacts by limiting lighting on the related and supporting facilities and
22 by limiting the lighting on the turbines themselves to the minimum necessary to satisfy FAA
23 safety requirements. The requested amendments do not impact the ability of the site
24 certificate holder to comply with these conditions.
25

26 Therefore, based on the foregoing analysis, and subject to compliance with Conditions IV.I.2.1,
27 IV.I.2.3 and IV.D.2.3, the Council finds that location and design of the site and structure will not
28 significantly detract from the visual character of the area.
29

30 ***WCLUDO Section 5.020(I)*** *The proposal will preserve areas of historic value, natural or*
31 *cultural significance, including archaeological sites, or assets of particular interest to the*
32 *community.*
33

34 In the *Final Order on the Application*, the Council found that, subject to Conditions V.B.2.1-6,
35 related to historic, cultural or archaeological resources, the facility will preserve areas of
36 historic value and natural or cultural significance, in compliance with this criterion.⁸⁰ The
37 requested amendments do not affect this finding. As a result, the Council finds that the facility
38 continues to satisfy this criterion.
39

⁷⁸ *Application for Site Certificate* Exhibit J at 1

⁷⁹ *Application for Site Certificate* Exhibit P at 7

⁸⁰ *Final Order on the Application* at 47

1 **WCLUDO Section 5.020(J)** *The proposed use will not significantly increase the cost of*
2 *accepted farm or forest practices on surrounding lands devoted to or available for farm and*
3 *forest use.*

4
5 In the *Final Order on the Application*, the Council found that, subject to conditions IV.D.2.6 and
6 IV.D.2.7, which require ongoing consultation with affected landowners to avoid adverse
7 impacts to farm practices and design and construction measures to minimize disturbance to
8 farming activities, the facility complies with this criterion.⁸¹ The requested amendments do not
9 affect this finding. As a result, the Council finds that, as amended, the facility continues to
10 satisfy this criterion.

11
12 **WCLUDO Section 5.020(K)** *The proposed use will not force a significant change in accepted*
13 *farm or forest practices on surrounding lands devoted to or available for farm or forest use.*

14
15 In the *Final Order on the Application*, the Council found that, subject to compliance with
16 conditions IV.D.2.5-7, discussed above, the facility satisfied this criteria.⁸² The requested
17 amendments do not affect this finding. As a result, the Council finds that, as amended, the
18 facility continues to satisfy this criterion.

19
20 **WCLUDO Chapter 10: Fire Safety Standards**

21
22 In the *Final Order on the Application*, the Council found that, subject to compliance with the
23 conditions imposed to ensure compliance with the Public Health and Safety Standards and the
24 Public Services Standard, the facility satisfies the County’s Fire Safety Standards.⁸³ The
25 requested amendments do not affect this finding. As a result, the Council finds that, as
26 amended, the facility continues to satisfy this criterion.

27
28 ***WCLUDO Chapter 19: Standards for Non-Commercial Energy Facilities, Commercial Energy***
29 ***Facilities, and Related Uses***

30
31 WCLUDO Chapter 19 was amended in April, 2012 and therefore was not applicable to the
32 original application for site certificate. The requirements of Chapter 19 are now applicable
33 substantive criteria for the requested amendment, and require the following:

34 *This chapter describes the requirements for establishing non-commercial energy facilities,*
35 *commercial energy facilities and related uses (as included) in Wasco County. The goals of this*
36 *chapter are to:*

- 37
38
 - *Encourage renewable energy production;*
 - *Utilize clear and objective standards;*

39

⁸¹ *Id.*

⁸² *Id.* at 48

⁸³ *Id.*

- 1 • Establish a clear, consistent and accountable application process;
- 2 • Collaborate and coordinate with agencies and other stakeholders;
- 3 • Minimize conflict with other permitted uses through compatibility review;
- 4 • Protect resource identified in the Wasco County Comprehensive Plan; and
- 5 • Protect the public health, safety and general welfare of the citizens of Wasco County.

6
7 *The uses described in this chapter are only allowed if listed in the zoning section in Chapter 3*
8 *applicable to the subject property.*

9
10 The proposed wind energy facility is listed as a conditional use under WCLUDO Section 3.210(E)
11 and therefore is allowed, subject to the standards in this section. The 230-kV transmission line
12 is permitted as a utility facility necessary for public service pursuant to Section 3.210(C). The
13 remainder of the facility, excluding improvements to existing public roads, is permitted as a
14 conditional use pursuant to Section 3.210(E).

15
16 **WCLUDO Section 19.030 Commercial Power Generating Facilities Review Process and**
17 **Approval Standards**

18
19 ***WCLUDO Section 19.030(A) Review Processes - Commercial Power Generating Facilities &***
20 ***Related Uses (energy facilities) shall be reviewed pursuant to the following. Where***
21 ***standards are less restrictive than comparative standards in other sections, the more***
22 ***restrictive shall govern.***

23
24 **1. Review Authority Review:**

25 * * * * *

26 **c. EFSC Review:**

- 27 (1) *EFSC has regulatory authority over all energy facilities designated by ORS*
28 *469.300. However, pursuant to ORS 469.480 EFSC shall designate the BOC as a*
29 *Special Advisory Group. As such and at their discretion the BOC may participate in*
30 *the siting process pursuant to the role established in ORS 469 and OAR 345, which*
31 *includes recommending substantive criteria applicable to the proposed energy*
32 *facility.*
- 33 (2) *Pursuant to ORS 469.320(8), notwithstanding the threshold limits in ORS 469.300,*
34 *an applicant can elect to have EFSC review an energy facility that may otherwise be*
35 *subject to Wasco County’s jurisdiction.*
- 36 (3) *If for any reason the BOC desires, they may defer regulatory authority of energy*
37 *facility to EFSC notwithstanding it is less than the threshold designated by ORS*
38 *469.300.*

1 As discussed above at the beginning of this section III.B.3.e. (Land Use) the certificate holder
2 has elected to seek a Council determination of compliance with the local land use applicable
3 substantive criteria under ORS 469.504(1)(b).⁸⁴

4
5 **WCLUDO Section 19.030(C) General Standards - The following standards apply to energy**
6 **facilities as outlined in Section A above, in addition to meeting the Conditional Use**
7 **Standards listed in Chapter 5:**

8
9 **WCLUDO Section 19.030(C)(1) Air Safety - All structures that are more than 200 feet**
10 **above grade or, exceed airport imaginary surfaces as defined in OAR Chapter 738,**
11 **Division 70, shall comply with the air hazard rules of the Oregon Department of Aviation**
12 **and/or Federal Aviation Administration. The applicant shall notify the Oregon**
13 **Department of Aviation and the Federal Aviation Administration of the proposed facility**
14 **and shall promptly notify the Planning Department of the responses from the Oregon**
15 **Department of Aviation and/or Federal Aviation Administration.**

16
17 *Aerial Sprayers and operators who have requested to be notified will receive all notifications*
18 *associated with the energy facility as required by Chapter 2, Development Approval Procedures.*

19
20 In the *Final Order on the Application*, the Council included Condition IV.K.2.4. This condition
21 states:

22
23 **Condition IV.K.2.4:** *“Before beginning construction, the certificate holder shall submit a*
24 *Notice of Proposed Construction or Alteration to the Federal Aviation Administration (FAA)*
25 *and the Oregon Department of Aviation identifying the proposed final locations of turbine*
26 *towers and meteorological towers. The certificate holder shall promptly notify the*
27 *Department of the responses from the FAA and Oregon Department of Aviation.”*

28
29 This condition requires the certificate holder to inform the department of the response of the
30 FAA and Oregon Department of Aviation, but does not require the certificate holder to act upon
31 the response. For this reason, the Council amends Condition IV.K.2.4 as follows to ensure
32 compliance with this criterion:

33
34 **Condition IV.K.2.4:** *“Before beginning construction, the certificate holder shall submit a*
35 *Notice of Proposed Construction or Alteration to the Federal Aviation Administration (FAA)*
36 *and the Oregon Department of Aviation identifying the proposed final locations of turbine*
37 *towers and meteorological towers, **and shall provide to the Department copies of a***
38 ***Determination of No Hazard for all turbine towers and meteorological towers or an***
39 ***equivalent determination to confirm that the structures comply with applicable FAA and***
40 ***Oregon Department of Aviation air hazard rules** ~~The certificate holder shall promptly notify~~*
41 *~~the Department of the responses from the FAA and Oregon Department of Aviation.”~~*

⁸⁴ SRW AMD 1 Response to RAI 1 at 10

1
2 With this revision, the Council finds that, as amended, the facility satisfies this criterion.

3
4 ***WCLUDO Section 19.030(C)(2) Interference with Communications*** - *The energy facility*
5 *shall be designed, constructed and operated so as to avoid any material signal*
6 *interference with communication systems such as, but not limited to, radio, telephone,*
7 *television, satellite, microwave or emergency communication systems. Should any*
8 *material interference occur, the permit holder must develop and implement a mitigation*
9 *plan in consultation with the Planning Department.*

10
11 The certificate holder discussed material signal interference in Exhibit AA of the *Application for*
12 *Site Certificate*. In the exhibit the certificate holder provided a study of the anticipated radio
13 frequency interference levels due to the corona effect. Additionally, the certificate holder
14 stated that modern hardware design and construction practices will be used.⁸⁵ Consistent with
15 these representations, the certificate holder represents that the facility “will be designed,
16 constructed and operated so as to avoid any material interference with communication systems
17 such as, but not limited to radio, telephone, satellite, microwave or emergency communication
18 systems. Should any material interference occur, LotusWorks will develop and implement a
19 mitigation plan in consultation with all appropriate authorities.”⁸⁶ Based on these
20 representations and to ensure compliance with this criterion, the Council adopts the following
21 condition:

22
23 **Condition IV.D.2.9: *The certificate holder shall design, construct and operate the facility in***
24 ***a manner to ensure that the facility avoids any material signal interference with***
25 ***communication systems such as, but not limited to, radio, telephone, television, satellite,***
26 ***microwave or emergency communication systems. Should any material interference occur,***
27 ***the certificate holder must develop and implement a mitigation plan in consultation with***
28 ***the department.***

29
30 The Council finds that, subject to compliance with the Condition IV.D.2.9, the facility can satisfy
31 WCLUDO 19.030(C)(2).

32
33 ***WCLUDO Section 19.030(C)(3) Noise*** - *The energy facility shall comply with the noise*
34 *regulations in OAR Chapter 340, Division 35. The applicant may be required to submit*
35 *a qualified expert’s analysis and written report.*

36
37 As described in greater detail in Section III.B.4.a of this Order, in the *Final Order on the*
38 *Application*, the Council considered compliance with the applicable provisions of OAR Chapter
39 340, Division 35 as an applicable regulatory requirement under Council jurisdiction. The
40 certificate holder provided information in Exhibit X of the ASC about the potential noise impacts

⁸⁵ *SRW Application for Site Certificate* Exhibit AA at 6

⁸⁶ *SRW AMD 1 Response to RAI 1* at 12

1 on noise sensitive receivers in the analysis area and results of its modeling based on the
2 preliminary facility design. Additionally the Council adopted Condition VI.A.2.2. to ensure
3 compliance with OAR Chapter 340, Division 35. This condition requires that the certificate
4 holder provide the department with the maximum sound power level and octave band for the
5 final turbine type selected and the results of the final noise analysis performed using the final
6 turbine layout and the final selected turbine model. The analysis must demonstrate that the
7 facility would meet the ambient degradation test at the appropriate measurement point for
8 potentially-affected noise sensitive properties, or that the certificate holder has obtained a
9 noise waiver for each noise-sensitive property where the ambient degradation standard cannot
10 be met. In the *Final Order* the Council found that the proposed facility, subject to Conditions
11 VI.A.2.1-2, could comply with OAR 340-035-0035.⁸⁷

12
13 The requested amendments could affect the Council’s previous findings to the extent the
14 change in the blade tip height could alter results of the noise modeling. However, Condition
15 VI.A.2.2, which requires final noise analysis based on the final selected turbine layout and
16 model, will account for any changes based on the change in blade tip height. Therefore, the
17 Council finds that, subject to Conditions VI.A.2.1-2, the facility, as amended, satisfies this
18 criterion.

19
20 ***Section 19.030(C)(4) Visual Impact***

21 *a. Scenic Resources – To issue a conditional use permit for an energy facility, the*
22 *county must find that the design, construction, and operation of the facility,*
23 *taking into account mitigation, are not likely to result in significant adverse*
24 *impact to scenic resources or values identified as significant or important in the*
25 *Wasco County Comprehensive Plan.*

26
27 The Council’s Scenic Resources Standard requires an evaluation of impacts to scenic resources
28 and values identified as significant or important in local land use plans, which includes those
29 identified as significant or important in the Wasco County Comprehensive Plan. Section III.B.3.j
30 of this order (Scenic Resources) includes the analysis of the resources identified in the County’s
31 Comprehensive Plan. The identified scenic resources within the analysis area include the
32 Columbia River Gorge National Scenic Area (CRGNSA), resources in the Lower Deschutes River
33 Canyon, the White River Canyon, resources in the John Day River Canyon, the Mt. Hood
34 National Forest, the Oregon National Historic Trail, the Journey Through Time Scenic Byway,
35 Wasco County Resources and Sherman County Resources. As discussed in that section, for each

⁸⁷ Conditions VI.A.2.1-2 include confining the noisiest operation of heavy machinery to the daylight hours, establishing a complaint response system to address noise complaints, perform a noise analysis consistent with the requirements of OAR 340-035-0035(1)(b)(B)(iii)(IV) and (VI) prior to the beginning of construction but after the final layout and turbine models have been determined, providing the analysis that shows that the facility would meet the ambient degradation test at the appropriate measurement point for potentially-affected noise sensitive properties, provide legally-effective noise easements or real covenants for properties that do not meet the ambient degradation test and provide a monitoring plan to be reviewed and approved by the department for noise levels.

1 of the resources other than the Lower Deschutes River Canyon, the impacts are minimal and at
2 a distance. For the Lower Deschutes River Canyon, the impacts are greater but will not result in
3 a significant adverse impact.

4
5 Based on the analysis and findings in III.B.3.j of this order, the Council finds that the facility
6 meets this requirement.

7
8 *b. Protected Areas: Except as provided in Subsections (b) [sic] and (c) below, an*
9 *energy facility shall not be located in the areas listed below:*

10 *(1) National recreation and scenic areas, including but not limited to the*
11 *Columbia River Gorge National Scenic Area;*

12 *(2) Scenic waterways designated pursuant to ORS 390.826, wild or scenic*
13 *rivers designated pursuant to 16 U.S.C. 1271 et seq., and those waterways*
14 *and rivers listed as potentials for designation;*

15 *(3) State parks and waysides as listed by the Oregon Department of Parks and*
16 *Recreation;*

17 *(4) State wildlife areas and management areas identified in OAR chapter 635,*
18 *division 8.*

19 *(5) National and state fish hatcheries or national and state wildlife refuges;*

20 *(6) State natural heritage areas listed in the Oregon Register of Natural*
21 *Heritage Areas pursuant to ORS 273.581;*

22 *(7) Wilderness areas established pursuant to The Wilderness Act, 16 U.S.C.*
23 *1131 et seq. and areas recommended for designation as wilderness areas*
24 *pursuant to 43 U.S.C. 1782; and [sic]⁸⁸*

25 *c. Additional Visual Mitigation Impacts for All Facilities - The design, construction*
26 *and operation of the energy facility, taking into account mitigation, are not likely*
27 *to result in significant adverse impact to scenic resources and values identified in*
28 *Subsection (b) above. Methods to mitigate adverse visual impacts could include*
29 *but are not limited to:*

30 *(1) Building the energy facility near the edge of contiguous timber areas or*
31 *using the natural topography to obscure the energy facility;*

32 *(2) Using materials and colors that blend with the background unless*
33 *otherwise required by the Federal Aviation Administration or the Oregon*
34 *Department of Aviation; and*

35 *(3) Retaining or planting vegetation to obscure views of the energy facility.*
36

37 All but one of the protected areas identified in this criterion are addressed in the Council's
38 Protected Area Standard, which is evaluated in Section III.B.3.f of this order. The certificate
39 holder does not propose to locate any facility components in any of those identified protected
40 areas. As discussed in the findings regarding the Council's Protected Area's Standard, the

⁸⁸ The "and" at the end of the list exists in the online version of WCLUDO also. The Department presumes this is a typographical error and there is nothing in the record to indicate the list is actually missing any protected areas that Wasco County intended to include.

1 Council finds that facility will not have a significant adverse impacts on any of those protected
2 areas.

3
4 The one protected area that is not addressed by the Council’s Protected Area Standard is the
5 newly formed Cottonwood Canyon State Park, which is located approximately 18.5 miles from
6 the facility. To address the visual effects of the facility to Cottonwood Canyon the certificate
7 holder provided visual simulation in in Exhibit C of the amendment request. Those visual
8 simulations indicate that the facility would not be visible from that state park. Accordingly, the
9 Council finds that the facility will not result in significant adverse impacts to Cottonwood
10 Canyon State.

11
12 Therefore, based on this reasoning and the analysis and findings set forth at Sections III.B.3.f.
13 (Protected Areas Standard), the Council finds that the proposed facility satisfies WCLUDO
14 Section 19.030(C)(4)(b) and (c).

15
16 ***WCLUDO Section 19.030(C)(5) Natural Resource/Wildlife Protection*** - Taking into
17 account mitigation, siting, design, construction and operation the energy facility will
18 not cause significant adverse impact to important or significant natural resources
19 identified in the Wasco County Comprehensive Plan, Wasco County Land Use and
20 Development Ordinance or by any jurisdictional wildlife agency resource
21 management plan adopted and in effect on the date the application is submitted. As
22 appropriate, the permit holder agrees to implement monitoring and mitigation
23 actions that Wasco County determines appropriate after consultation with the
24 Oregon Department of Fish and Wildlife, or other jurisdictional wildlife or natural
25 resource agency. Measures to reduce significant impact may include, but are not
26 limited to the following:

27 a. Providing information pertaining to the energy facility’s potential impacts and
28 measures to avoid impacts on:

- 29 (1) Wildlife (all potential species of reasonable concern);
30 (2) Wildlife Habitat;
31 (3) Endangered Plants; and
32 (4) Wetlands & Other Water Resources.

33 b. Conducting biologically appropriate baseline surveys in the areas affected by
34 the proposed energy facility to determine natural resources present and patterns
35 of habitat use.

36 c. Selecting locations to reduce the likelihood of significant adverse impacts on
37 natural resources based on expert analysis of baseline data.

38 d. Utilizing turbine towers that are smooth steel structures that lack features that
39 would allow avian perching. Where horizontal surfaces cannot be avoided, anti-
40 perching devices shall be installed where it is determined necessary to reduce
41 bird mortality.

- 1 *e. Designing and installing all aboveground transmission line support structures*
2 *following the current suggested practices for avian protection on power lines*
3 *published by the Avian Power Line Interaction Committee.*
4 *f. Utilizing towers and transmission line support structures designed so the*
5 *foundation area and supports avoid the creation of artificial habitat or shelter for*
6 *raptor prey.*
7 *g. Controlling weeds to avoid the creation of artificial habitat suitable for raptor*
8 *prey such as spreading gravel on turbine pad.*
9 *h. Avoiding construction activities near raptor nesting locations during sensitive*
10 *breeding periods and using appropriate no construction buffers around known*
11 *nest sites.*
12 *i. Using suitable methods such as coloration or sound producing devices to*
13 *discourage birds from entering areas of concentrated solar energy near solar-*
14 *thermal mirrors or other devices that concentrate solar radiation.*
15 *j. Locating transmission lines or associated transmission lines with the energy*
16 *facility at least 50 feet from the edge of the nearest wetland or water body*
17 *except where the line is required to cross the wetland or water body.*
18 *k. Separating transmission lines or associated transmission lines with the energy*
19 *facility from the nearest wetland or water body by topography or substantial*
20 *vegetation to the extent practical, except where the line is required to cross the*
21 *wetland or water body).*
22 *l. Locating transmission towers or associated transmission towers outside of*
23 *Class I or II streams unless:*
24 *(1) Adjoining towers and conductors cannot safely and economically support*
25 *the line(s) that span the stream without an in-stream tower; and*
26 *(2) The lines cannot be safely and economically placed under the water or*
27 *streambed.*
28 *m. Developing a plan for post-construction monitoring of the facility site using*
29 *appropriate survey protocols to measure the impact of the project on identified*
30 *natural resources in the area.*
31

32 The Wasco County Comprehensive Plan identifies five natural areas in Table 11B of the Natural
33 Resource Section of Chapter 2, Physical Characteristics. The Wasco County Land Use
34 Development Ordinance does not identify any natural areas specifically, but instead refers to
35 those identified in the Wasco County Comprehensive Plan. The only natural area located near
36 the facility is Sharps Island, which is listed as a natural area in the Wasco County
37 Comprehensive Plan because of the Great Blue Heron Rookery and the riparian habitat of the
38 area. As the facility is well outside the Deschutes River Canyon where the Sharps Island is
39 located, the Council finds that there will not be any significant adverse impacts to the natural
40 areas identified by the Wasco County Land Use Development Ordinance and Comprehensive
41 Plan.
42

1 The Oregon Department of Fish and Wildlife (ODFW) is the wildlife agency with subject matter
2 jurisdiction over other natural areas, and its requirements addressed under the Council’s Fish
3 and Wildlife Habitat Standard and the Threatened and Endangered Species Standard. The
4 certificate holder provided evidence related to the requirements of the Council’s Fish and
5 Wildlife Habitat Standard primarily in Exhibit P of the application, and that information is
6 analyzed in the Council’s findings set forth in Section IV.G of the *Final Order on the Application*.
7 The requirements of the Council’s Threatened and Endangered Species Standard are addressed
8 in Exhibit Q, in Section IV.H of the *Final Order on the Application*.

9
10 Therefore, based on the analysis above and findings set forth in particular Sections III.B.3.h. and
11 III.B.3.i. of this order, the Council finds that the proposed facility satisfies WCLUDO Section
12 19.030(C)(5).

13
14 ***WCLUDO Section 19.030(C)(6) Protection of Historical and Cultural Resources - The***
15 ***applicant shall complete a cultural resources survey of areas where there will be***
16 ***temporary or permanent disturbance. During construction, cultural resources***
17 ***included in the Wasco County Comprehensive Plan shall be flagged and avoided in***
18 ***areas of potential temporary or permanent disturbance, and construction activities***
19 ***monitored to ensure all cultural resources in such areas are avoided, unless***
20 ***appropriate permits are obtained from the Oregon State Historic Preservation Office.***
21 ***Prior to construction an Inadvertent Discovery Plan (IDP) shall be developed that***
22 ***must outline the procedures to be followed in the case previously undiscovered***
23 ***archeological, historical or cultural artifacts are encountered during construction or***
24 ***operation of the energy facility, in compliance with ORS 358.905-358.955 and any***
25 ***other applicable local, state and federal law.***

26
27 As addressed in findings regarding compliance with WCLUDO 5.020(I), the Council finds that the
28 proposal will preserve areas of historic value, natural or cultural significance, including
29 archaeological sites, or assets of particular interest to the community. Protection of historic and
30 cultural resources is also addressed in detail under the Council’s Historic, Cultural and
31 Archaeological Resources Standard in Section III.B.3.k. of this Order.

32
33 As described in Exhibit S of the *Application for Site Certificate*, the certificate holder completed
34 a cultural resources survey of areas where there could be temporary or permanent disturbance.
35 Therefore, the survey element of this criterion has been satisfied. Exhibit S identifies existing
36 cultural and historic resources in the analysis area and the potential impacts on those resources
37 associated with facility construction. The exhibit includes a survey of the entire transmission
38 corridor and all proposed turbine locations.⁸⁹ 19 prehistoric archaeological sites, one historic
39 archaeological site, and 30 isolated finds were identified during the survey. The layout was
40 redesigned to avoid impact to all of the sites.

41

⁸⁹ *Application for Site Certificate Exhibit S* at 4

1 The remaining requirements within this criterion require action be taken in the future and
2 therefore can only be met through conditions on the site certificate. Condition V.B.2.1 requires
3 that a 100-foot avoidance buffer be placed around the lithic scatter sites and 200-foot buffer
4 around all rock features. The buffer zones around each site will be flagged/barricaded to
5 prevent disturbance during construction. Condition V.B.2.3 requires that the certificate holder
6 hire qualified personnel to perform field investigations of any areas that will to be disturbed
7 during construction that have not already been surveyed, the results be provided to SHPO and
8 if any additional sites are found that they be avoided and the appropriate mitigation measures
9 be implemented. Condition V.B.2.2 requires that the certificate holder provide a map showing
10 the final layout of all components of the facility, the areas that would be temporarily disturbed
11 during construction and the areas that were previously surveyed. Condition V.B.2.6 requires
12 that the certificate holder prepare and implement an Archaeological Monitoring Plan for
13 construction and maintenance activities in the event that a previously unidentified cultural
14 resources. These conditions address all of the requirements of this subsection that require
15 future actions.

16
17 Based on the discussion above and the findings in the Historic, Cultural and Archaeological
18 Standard in Sections III.B.3.h. of this Order, and subject to the compliance with the conditions
19 summarized above, the Council finds that the facility satisfies the requirements of WCLUDO
20 Section 19.030(C)(6).

21
22 ***WCLUDO Section 19.030(C)(7) Fire Protection & Emergency Response*** - *A fire*
23 *protection and emergency response plan shall be developed and implemented in*
24 *consultation with the applicable fire district or department and/or land management*
25 *agency to minimize the risk of fire and respond appropriately to any fire or*
26 *emergency that occurs onsite for all phases of the life of the facility. In developing*
27 *the plan the applicant shall take into account, among other things, the terrain, dry*
28 *nature of the region, address risks on a seasonal basis, and identify the locations of*
29 *fire extinguishers, nearby hospitals, telephone numbers for emergency responders,*
30 *and first aid techniques.*

31
32 The *Final Order on the Application*, Section V.C.1.d addresses fire protection and emergency
33 response at the facility under the Council’s Public Services Standard.⁹⁰ As discussed in the
34 Council’s findings set forth at Section V.C.1.d, the Council adopted numerous conditions to
35 ensure that fire protection services for the facility are adequate to ensure public health and
36 safety and that the proposed facility does not impact the ability of public service providers to
37 provide services, including fire protection services. Two conditions were adopted that require
38 the site certificate holder develop to implement plans that address the fire protection and
39 emergency response plan required by this subsection:
40

⁹⁰ *Final Order on the Application* at 141

1 **Condition V.C.2.5:** *“During operation, the certificate holder shall develop and implement a*
2 *site health and safety plan that informs employees and others on-site about first aid*
3 *techniques and what do in case of an emergency and that includes important telephone*
4 *numbers and the locations of on-site fire extinguishers and nearby hospitals. The certificate*
5 *holder shall ensure that operations personnel are trained and equipped for tower rescue.*
6 *The facility must maintain training records and have a current copy of the site health and*
7 *safety plan onsite and available upon request by the Department of Energy.”*
8

9 **Condition V.C.2.6:** *“During construction and operation of the facility, the certificate holder*
10 *shall develop and implement fire safety plans in consultation with the Columbia Rural Fire*
11 *District to minimize the risk of fire and to respond appropriately to any fires that occur on*
12 *the facility site. In developing the fire safety plans, the certificate holder shall take into*
13 *account the dry nature of the region and shall address risks on a seasonal basis. The*
14 *certificate holder shall meet annually with local fire protection agency personnel to discuss*
15 *emergency planning and shall invite local fire protection agency and personnel to observe*
16 *any emergency drill or tower rescue training conducted at the facility.”*
17

18 Compliance with Conditions V.C.2.5 and V.C.2.6 will also ensure compliance with the county’s
19 Fire Protection and Emergency Response requirements. Therefore, subject to compliance with
20 these conditions, the Council finds that the facility, as amended, satisfies this criterion.
21

22 ***WCLUDO Section 19.030(C)(8) Public Safety*** *A public safety plan shall be developed*
23 *and implemented to exclude members of the public from hazardous areas within the*
24 *Energy facility Project Area.*
25

26 The Council’s Public Health and Safety Standard for Wind Energy Facilities at OAR 345-024-
27 0010(1), includes a requirement that proposed wind energy facilities include plans that ensure
28 exclusion of members of the public from hazardous areas near the wind turbines and electrical
29 equipment. In Section IV.K (Public Health and Safety) of the *Final Order on the Application*, the
30 Council found that the application could be designed safely and included plans to protect the
31 public from hazards. To ensure compliance with this Council Standard, the Council adopted the
32 following conditions:
33

34 Condition IV.K.2.1 requires that the turbine towers be constructed with no exterior access
35 or access to the turbine blades and shall install locked tower access doors which shall be
36 locked at all times, except when authorized personnel are present.
37

38 Condition IV.K.2.3 requires the certificate holder to physically control access to the
39 substation and other facility elements with potential electrical hazards through the use of
40 fences, locked gates, or locked cabinets.
41

1 Condition IV.K.2.2 requires that for turbine types having pad-mounted step-up
2 transformers, the certificate holder must install the transformers at the base of each tower
3 in locked cabinets designed to protect the public from electrical hazards.
4

5 In addition to the conditions adopted in Section IV.K related to ensuring public safety, two
6 other conditions from Section IV.M (Transmission Line Siting Standard) and VI.D (Public Safety)
7 are also relevant to compliance with this criterion:
8

9 Condition IV.M.2.2, a mandatory condition under OAR 345-027-0023(4), requires the
10 certificate holder to develop and implement a program that provides reasonable assurance
11 that all fences, gates, cattle guards, trailers or other objects or structures of a permanent
12 nature that could become inadvertently charged with electricity are grounded or bonded
13 through the life of the line.
14

15 Condition VI.D.2.2 requires the certificate holder to take reasonable steps to reduce or
16 manage human exposure to electromagnetic fields, including constructing all aboveground
17 collector and transmission lines at least 200 feet from any residence or other occupied
18 structure and providing to landowners a map of underground and overhead transmission
19 lines on their property and advising landowners of possible health and safety risks from
20 induced currents caused by electric and magnetic fields.
21

22 Collectively, these conditions address the requirements of WCLUDO Section 19.030(C)(8) by
23 requiring the certificate holder to include and implement a plan exclude the public from
24 hazardous areas within the facility. Therefore, subject to the compliance with the conditions
25 identified above, the Council finds that the proposed facility can satisfies the requirements of
26 WCLUDO Section 19.030(C)(8).
27

28 ***WCLUDO Section 19.030(C)(9) Transportation Plan*** - *A transportation plan shall be*
29 *developed and implemented in consultation with the Wasco County Road*
30 *Department and/or the Oregon Department of Transportation (ODOT). The plan shall*
31 *be consistent with any applicable requirements from the Wasco County*
32 *Transportation System Plan and shall also provide or address:*
33

- 34 *a. The size, number, and location of vehicle access points off of public roads;*
35 *b. Use of existing roads to the extent practical to minimize new access roads; and*
36 *c. Restoring the natural grade and revegetating all temporary road cuts, used*
37 *during construction of the energy facility. The applicant shall specify the type and*
38 *amount of native seed or plants used to revegetate the disturbed areas and a*
39 *timeline to complete this work.*
40 *d. A Road Impact Assessment/Geotechnical Report for roads to be used by the*
41 *project. Said report should include an analysis of project-related traffic routes to*
42 *be used during phases of construction, project operation and decommissioning.*
43 *The report and any subsequent amendments shall be used as a discipline study*

1 *and shall be incorporated into the Road Use Agreement between the applicant*
2 *and the County.*

3
4 The certificate holder provided information on traffic safety in Exhibit U of the *Application for*
5 *Site Certificate* and the traffic safety was analyzed in the *Final Order on the Application* in
6 Section V.C.1.g (Public Services.). Maps showing all proposed new access roads and roads that
7 are proposed to be improved are included in Exhibit C of the *Application for Site Certificate*.
8 These maps combined with the analysis provided in Exhibit U show all of the proposed access
9 points and their locations. Additionally, Exhibit U includes a list of existing public roads that will
10 be used and further explains that existing unpaved roads within the site boundary will be
11 utilized to the maximum extent possible to avoid constructing new roads.⁹¹ Therefore, the site
12 certificate holder provided the information required by subsections (a) and (b) in the original
13 application. The requested amendments do not change any of the factual information provided
14 in the application that relate to vehicle access.

15
16 Exhibit 1 to the Site Certificate includes the Revegetation and Weed Control Plan, which is
17 required to be implemented by Condition IV.C.2.6. This plan applies to all areas impacted by the
18 facility. Table 1 of the plan contains the proposed mix of seeds, which is based on the type of
19 vegetation on the land before disturbance.⁹² The plan also contains a five year schedule to
20 complete revegetation to the desired mix of plant species.⁹³ The temporal requirement to
21 complete the plan in five years satisfied the requirements of subsection (c).

22
23 While Exhibit U of the *Application for Site Certificate* summarizes the likely traffic impacts, the
24 application did not include a formal road impact assessment or geotechnical report, since none
25 was required by any Council Standard or then applicable local criterion. However, the
26 requirements of subsection (d) specifically require an assessment. While the rural nature of the
27 area and the proposed slight increase in traffic establish the feasibility of compliance with this
28 local criterion, in order to ensure compliance, the Council adopts the following condition:

29
30 **Condition V.C.2.17: Prior to the beginning of construction a Road Impact**
31 **Assessment/Geotechnical Report for roads to be used by the project shall be submitted to**
32 **the Department and Wasco County. Said report should include an analysis of project-**
33 **related traffic routes to be used during phases of construction, project operation and**
34 **decommissioning. These reports shall be incorporated into a Road Use Agreement with**
35 **the County.**

36
37 Based on the analysis above, and subject to compliance with the conditions in the final order
38 and Condition V.C.2.17, the Council finds that the facility, as amended, can satisfy this criterion.
39

⁹¹ *Application for Site Certificate Exhibit U* at 20

⁹² *Final Order on the Application Exhibit I* at 4

⁹³ *Id.* at 7

1 **WCLUDO Section 19.030(C)(10) Road Use Agreement** - Where applicable, the Wasco
2 County Road Department shall require the applicant to enter into a Road Use
3 Agreement with the County to ensure-that project construction traffic is mitigated
4 and any damage to county roads that is caused by the construction of the energy
5 facility or its related or supporting facilities is repaired by the applicant, and such
6 county roads are restored to pre-construction conditions or better (this includes a
7 weed plan and providing for revegetation).
8

9 Condition V.C.2.14 of the *Final Order on the Application for Site Certificate*, which the Council
10 adopted to ensure compliance with in the Public Service Standard, requires that the certificate
11 holder cooperate with the Wasco County Public Works Department to ensure that any unusual
12 damage or wear to county roads caused by the construction of the facility be repaired by the
13 certificate holder and that all public roads be restored to pre-construction condition or better
14 to the satisfaction of the applicable county departments. This condition, in combination with
15 the Revegetation and Weed Control Plan required through Conditions IV.C.2.6, fully address the
16 requirements of this criterion.
17

18 Based on the analysis and findings in the *Final Order* regarding the Public Service Standard, the
19 Council finds that, subject to Condition V.C.2.14 and IV.C.2.6, the facility, as amended, satisfies
20 this criterion.
21

22 **WCLUDO Section 19.030(C)(11) Onsite Access Roads and Staging Areas** - The
23 *impact of onsite access roads and staging areas within the Energy facility Project*
24 Area shall be limited by:
25

- 26 a. *Constructing and maintaining onsite access roads for all-weather use to assure*
27 adequate, safe and efficient emergency vehicle and maintenance vehicle access
28 to the site;
- 29 b. *Using existing onsite access roads to the extent practical and avoiding*
30 construction of new on-site access roads as much as possible; and
- 31 c. *Restoring the natural grade and revegetating all temporary access roads, road*
32 cuts, equipment staging areas and field office sites used during construction of
33 the energy facility. The applicant shall specify the type and amount of native seed
34 or plants used to revegetate the disturbed areas and a timeline to complete this
35 work.
36

37 The criteria in (b) and (c) of this subsection are substantively similar to sections (b) and (c) of
38 WCLUDO Section 19.030(C)(9), addressed above, except to the extent that WCLUDO Section
39 19.030(C)(9)(c) applies only to temporary road cuts whereas 19.030(C)(11)(c) applies to all
40 temporary access roads, road cuts, equipment staging areas and field office sites. However, the
41 evaluation of WCLUDO Section 19.030(C)(9) applies equally to the evaluation of this Section
42 and is incorporated here.
43

1 As discussed in the findings regarding WCLUDO Section 19.030(C)(9), the certificate holder
2 discussed construction of roads in the facility in Exhibit U of the *Application for Site Certificate*
3 and roads are also discussed in Section V.C.1.g. (Public Services) of the *Final Order on the*
4 *Application*. Those findings generally address the requirements of WCLUDO Section
5 19.030(C)(11). However to the extent this WCLUDO Section 19.030(C)(11) includes measures
6 related to future access for emergency and maintenance vehicles, in order to ensure
7 compliance with this criteria, the Council adopts the following condition:

8
9 **Condition V.C.2.18: The certificate holder must maintain all access roads for all-weather**
10 **use to assure adequate, safe and efficient emergency vehicle and maintenance vehicle**
11 **access to the site.**

12
13 Based on the analysis above and in findings regarding WCLUDO Section 19.030(C)(9), the
14 Council finds that, as conditioned, the facility meets this criterion.

15
16 ***WCLUDO Section 19.030(C)(12) Dust Control*** - All approved non-paved temporary or
17 permanent roads and staging areas within the Energy facility Project Area shall be
18 constructed and maintained to minimize dust, which may be addressed through the
19 Road Use Agreement. If roads and staging areas are not constructed with material
20 that would prevent dust, the permit holder must regularly water roads and staging
21 areas as necessary or apply an approved dust suppression agent such as Earthbind
22 100 to minimize dust and wind erosion.

23
24 As discussed in the findings related to compliance with WCLUDO Section 5.020(E), the Council's
25 Soil Protection Standard (addressed in Section IV.C of the *Final Order on the Application* and
26 Section III.B.3.d. of this Order) addresses mitigation measures for dust emissions. In the *Final*
27 *Order*, the Council adopted Condition IV.C.2.3, which requires the certificate holder to
28 implement best management practices to reduce and control dust emissions generated by
29 construction and operation activities. These BMPs include using sediment fence or other similar
30 forms of containment, watering to prevent windblown erosion in disturbed areas and
31 revegetation.⁹⁴ The combination of the condition and the implementation of best management
32 practices address all of the criteria for this subsection.

33
34 Based on this analysis, the Council finds that, subject to Condition IV.C.2.3, the facility satisfies
35 this criterion.

36
37 ***WCLUDO Section 19.030(C)(13) Erosion and Sediment Control*** - All ground
38 disturbing activities shall be conducted in compliance with a National Pollutant
39 Discharge Elimination System (NPDES) permit as may be required by Oregon
40 Department of Environmental Quality. Where applicable, an NPDES permit must be
41 obtained. The plan must include best management practices for erosion control

⁹⁴ *Final Order on the Application* at 10

1 *during construction and operation and permanent drainage and erosion control*
2 *measures to prevent damage to local roads or adjacent areas and to minimize*
3 *sediment run-off into waterways.*

4
5 As addressed above in the findings of compliance with WCLUDO Section 3.210(J)(17)(b)(2),
6 which requires that a wind facility submit a soil and erosion control plan, and as set forth in
7 Section IV.C of the *Final Order on the Application* (Soil Protection Standard) and Section III.B.3.d
8 of this Order (Soil Protection Standard), the certificate holder must construct the facility in
9 compliance with an NPDES 1200-C construction stormwater permit and associated Erosion and
10 Sediment Control Plan (ESCP). Condition IV.C.2.1 requires that operation of the facility in
11 compliance with the ESCP, which includes the implementation of best management practices to
12 prevent erosion and runoff.

13
14 Based on the analysis in WCLUDO Section 3.210(J)(17)(b)(2) and in findings regarding the
15 Council’s Soil Protection Standard, the Council finds that, subject to compliance with Condition
16 IV.C.2.1, the facility satisfies this criterion.

17
18 ***WCLUDO Section 19.030(C)(14) Weed Control*** - *A weed plan shall be developed in*
19 *consultation with the Wasco County Weed Department and implemented during*
20 *construction and operation of the energy facility.*

21
22 As addressed in the recommended findings of compliance with WCLUDO Section
23 3.210(J)(17)(b)(4) and in the discussion directly relevant to this standard set forth in Section
24 IV.C of the *Final Order on the Application* and in Section III.B.3.d of this Order (Soil Protection
25 Standard), a Revegetation and Weed Control Plan was included as Exhibit 1 to the *Final Order*
26 *on the Application*. Condition IV.D.2.8 requires that the final Revegetation and Weed Control
27 Plan be approved by the Wasco County Weed Department prior to the beginning of
28 construction and that the certificate holder implement the plan. The Council finds that, subject
29 to compliance with this condition, the facility, as amended, satisfies this criterion.

30
31 ***WCLUDO Section 19.030(C)(15) Signs*** - *Outdoor displays, signs or billboards within*
32 *the energy facility project boundary shall not be erected, except:*

- 33
34 *a. Signs required for public or employee safety or otherwise required by law;*
35 *(e.g., OSHA or compliance with the Manual of Uniform Traffic Control Devices*
36 *(MUTCD) administered through the County Road Department); and*
37 *b. No more than two signs relating to the name and operation of the energy*
38 *facility of a size and type to identify the property for potential visitors to the site,*
39 *but not to advertise the product. No signs for advertising of other products are*
40 *permitted.*

41
42 In the *Final Order on the Application*, signs requirements were addressed both within Section
43 IV.D (Land Use) and Section IV.I (Scenic Resources). To ensure compliance with those standards,

1 the Council adopted two conditions related to signs. Condition IV.I.2.1 bans any advertising on
2 any part of the facility and only permits signs required for facility safety, required by law or
3 otherwise required by the site certificate, with the exception of a sign near the O&M building to
4 identify the facility and paint turbine numbers on each tower. Condition IV.D.2.2 allows for
5 signs that conform to certain requirements related to safety. These two conditions ensure the
6 facility satisfies this criterion. As a result, the Council finds that, subject to compliance with
7 these conditions, the facility, as amended, satisfies this criterion.

8
9 ***WCLUDO Section 19.030(C)(16) Underground Systems*** - *Where reasonably*
10 *practicable, power collector and communication systems shall be installed*
11 *underground, at a minimum depth of 3 feet. Shallower depths may be authorized*
12 *where notification and safety measures are taken and wires are placed in schedule*
13 *40 conduit. The cable collector system shall be installed to prevent adverse impacts*
14 *on agriculture operations and natural resources.*

15
16 The Council’s Cumulative Effects Standard for Wind Energy Facilities has criteria directly
17 relevant to this local criterion. As set forth in the analysis and findings in Section IV.L of the
18 *Final Order on the Application* and in Section III.B.3.p of this Order, the facility, as amended,
19 satisfies that Council standard. To ensure compliance, Condition VI.D.2.1 requires that the
20 certificate holder install the 34.5-kV collector system underground to the extent practicable and
21 that they be installed at a depth of at least three feet. Communication lines are typically co-
22 located with collector lines. Compliance with the Council’s Cumulative Effects standard also
23 establishes compliance with this local criterion. For these reasons, the Council finds that, as
24 conditioned, that the facility, as amended, complies with this criterion.

25
26 ***WCLUDO Section 19.030(C)(17) Operation & Maintenance Buildings*** - *Permanent*
27 *maintenance/operations buildings shall be located in the same zone as the principal*
28 *energy facility, except that such buildings may be constructed in a separate zone if:*

- 29
30 *a. The building is designed and constructed generally consistent with the*
31 *character of similar buildings used in the surrounding area; and*
32 *b. The building will be removed or converted to another approved use upon*
33 *decommissioning of the energy facility consistent with the provisions of this*
34 *ordinance.*

35
36 As described in the *Application for Site Certificate* the facility and Operations & Maintenance
37 Building will be located in A-1 exclusive farm use zone.⁹⁵ As they are both located in the same
38 zone, the Council finds that the facility meets this criterion.

39
40 ***WCLUDO Section 19.030(C)(18) Coordination and Documentation*** - *Prior to*
41 *commencement of any construction, all other necessary permits shall be obtained,*

⁹⁵ *Application for Site Certificate Exhibit K* at 73

1 *e.g. building permit, rural address, road approach, utility and other permits from the*
2 *Wasco County Public Works Department, and/or from ODOT as well as any other*
3 *applicable local, state or federal permits or approvals.*
4

5 Exhibit E of the *Application for Site Certificate* identifies local, state, and federal permits needed
6 for construction and operation of the proposed facility, including those required for compliance
7 with this criterion. Condition IV.B.2.4 specifically requires that all permits needed for
8 construction, operation, and retirement be obtained prior to beginning construction. the
9 Council finds that, subject to this condition, the facility satisfies this criterion.

10
11 ***WCLUDO Section 19.030(C)(19) Termination and Decommissioning.*** *For an energy*
12 *facility sited through EFSC, compliance with EFSC's financial assurance and*
13 *decommissioning standards shall be deemed to be in compliance with these*
14 *requirements.*
15

16 The proposed facility is subject to the Council's Retirement and Financial Assurance Standard,
17 pursuant to OAR 345-022-0050. The Council's evaluation of the certificate holder's compliance
18 with that standard is set forth in Section IV.F of the *Final Order on the Application* and in
19 Section III.B.3.g of this Order.

20
21 Based on the analysis and findings set forth in Section III.B.3.g of this Order, and subject to
22 compliance with the conditions in that section, the Council finds that the proposed facility
23 satisfies this standard.
24

25 ***WCLUDO Section 19.030(C)(20) Final Location*** - *The actual latitude and longitude*
26 *location or Oregon State Plane NAD83 HARN (international feet) coordinates of the*
27 *energy facility and related or supporting facilities shall be provided to the County GIS*
28 *Department once commercial electrical power production begins. Alternatively, this*
29 *information could be provided in GIS layer consistent with the datum referenced*
30 *above or any other datum deemed acceptable by the Wasco County GIS Department.*
31

32 In the *Final Order on the Application*, Condition III.D.3, which is mandatory under OAR 345-027-
33 0020, states:

34
35 **Condition III.D.3:** *The certificate holder shall submit a legal description of the site to the*
36 *Department of Energy within 90 days after beginning operation of the facility. The legal*
37 *description required by this rule means a description of metes and bounds or a description of*
38 *the site by reference to a map and geographic data that clearly and specifically identifies the*
39 *outer boundaries that contain all parts of the facility.*
40

41 This condition partially addresses the requirements of this local criterion. However, to fully
42 address the criterion's requirements regarding GIS information, the Council adopts the
43 following condition:

1
2 **Condition IV.D.2.11: The certificate holder shall submit a legal description of the site to**
3 **the WASCO County GIS Department upon the beginning operation of the facility. This**
4 **information shall include the actual latitude and longitude or Oregon State Plane North**
5 **American Datum 1983 (NAD83) High Accuracy Reference Network (HARN) coordinates of**
6 **each turbine tower, support structures for the 34.5-kV collector lines and 230-kV**
7 **transmission line, and other related and supporting facilities. The certificate holder may**
8 **provide the information in a GIS layer based on the geospatial data that includes all**
9 **characteristics of spatial features of the facility site boundary. The certificate holder shall**
10 **confer with the Department prior to submittal of GIS-based information.**

11
12 Accordingly, the Council finds that, subject to compliance with this additional condition, the
13 facility, as amended, satisfies this criterion.

14
15 ***WCLUDO Section 19.030(C)(21) Power Production Reporting - The County may***
16 ***require a report of nonproprietary power production for any time frame after the***
17 ***energy facility first begins production if permitted through the County. If requested,***
18 ***the permit holder shall have 180 days to produce said report.***

19
20 In the *Final Order on the Application*, Condition VII.4.b.ii requires that the certificate holder
21 include in its annual report to the department, the plant availability and capacity factors for the
22 reporting year. Compliance with this condition also ensures compliance with the requirements
23 of this criterion. As a result, the Council finds, subject to this condition, that the facility, as
24 amended, satisfies this criterion.

25
26 ***WCLUDO Section 19.030(D) Specific Standards - The following standards apply to***
27 ***specific types of energy facilities as described, in addition to the General Standards in***
28 ***Section C above.***

29
30 ***WCLUDO Section 19.030(D)(1) Wind Energy Facilities:***

31 ***a. Visual Impact - To the extent practical, the proposed wind energy facility has***
32 ***been designed to minimize visual impact upon open space and natural landscape***
33 ***by:***

34 ***(1) Using underground communication and power collector lines***
35 ***(transmission lines that connect each turbine to a substation);***

36 ***(2) Using turbine towers of uniform design, color and height;***

37 ***(3) Lighting - Lighting of towers shall be evaluated on a case-by-case basis***
38 ***and is only allowed if required by the Oregon Department of Aviation or***
39 ***Federal Aviation Administration. If lighting is required by Oregon Department***
40 ***of Aviation or Federal Aviation Administration, the applicant shall seek***
41 ***approval of radar triggered lighting or use of the least polluting light source***
42 ***practicable under the law.***

1 (4) Using existing roads within the Energy facility Project Area to provide
2 access to the site, or if new roads within the Energy facility Project Area are
3 needed, minimizing the amount of land used for new roads and locating
4 roads to reduce visual impact;
5 (5) Using existing substations, or if new substations are needed, minimizing
6 the number of new substations; and
7

8 As described in the *Final Order on the Application* and throughout this Order, the facility has
9 been designed and conditioned to minimize visual impacts on open space and the natural
10 landscape as required by this criterion. The existing site certificate includes conditions to ensure
11 compliance with subsections (1) through (5) of this criterion, as follows:
12

13 Based on the requirements of WCLUDO Section 19.030(C)(16) (Underground Systems), Section
14 III.B.3.j (Scenic Resource Standard) of this Order and in the analysis and findings on the
15 Council’s Cumulative Effects Standard for Wind Energy Facilities in Section III.B.3.p of this
16 Order, the requirement of subsection (1) is addressed through Condition VI.D.2.1, which
17 requires that the certificate holder install the 34.5-kV collector lines underground to the extent
18 practical.
19

20 The requirements of subsection (2) are addressed in the findings of compliance in Section IV.I.
21 of the *Final Order* and Section III.B.3.j. of this Order (Scenic Resources Standard). In its
22 evaluation of the certificate holder’s compliance with the Council’s standard, the Council
23 adopted Condition IV.I.2.1., which requires the certificate holder to use turbine towers of
24 uniform design, color and height.
25

26 The requirements of subsection (3) are addressed in the analysis and findings on the Council’s
27 Cumulative Effects Standard for Wind Energy Facilities in Section III.B.3.p, and in Section III.B.3.j
28 (Scenic Resources Standard). The Cumulative Effects Standard requires the Council to find that
29 the proposed facility uses the minimum lighting necessary for safety and security purposes or
30 as otherwise required by the Federal Aviation Administration and the Oregon Department of
31 Aviation.
32

33 As set forth in Section IV.D of the *Final Order* (Land Use), the Council adopted Condition
34 IV.D.2.3., requiring the certificate holder to use only the minimum number and intensity of
35 lights on turbines required by the Federal Aviation Administration. In addition, Condition
36 IV.D.2.3. requires the certificate holder to implement mitigation measures for the impacts of
37 nighttime lighting, including the use of downward directed and hooded lights on facility
38 structures, use of sensors and timers to keep lights off when not needed, and restricting the use
39 of lighting during construction.
40

41 The requirements of subsection (4) are addressed in the analysis and findings on the Council’s
42 Cumulative Effects Standard for Wind Energy Facilities in Section III.B.3.p. and the Council’s Soil
43 Protection Standard in Section III.B.3.d., in addition to the findings of compliance with Section

1 III.B.3.j. (Scenic Resources). In the *Final Order* the Council adopted several conditions related to
2 limiting the number and size of new roads in the project area and reducing the amount of
3 temporary and permanent disturbance to the land.

4
5 The *Application for Site Certificate* requested only one new substation, which is needed to
6 connect the facility to the 230kV Big Eddy-Maupin transmission line. The requested amendment
7 does not propose any additional new substations. The Council finds that this single proposed
8 new substation complies with the requirements of subsection (5) to minimize the number of
9 new substations.

10
11 Based on its analysis and findings set forth elsewhere in this Order and identified above, and
12 subject to compliance with the identified conditions, the Council finds that the proposed facility
13 satisfies WCLUCO Section 19.030(D)(1)(a)(1) through (5).

14
15 ***WCLUCO Section 19.030(D)(1)(a)(6) Shadow Flicker*** – *Upon the non-*
16 *participating owner’s request, the applicant shall demonstrate that the wind*
17 *turbines, taking into account mitigation measures, will have no significant*
18 *adverse impact of shadow flicker on an existing dwelling of a non-*
19 *participating landowner within ¼ mile (1,320 feet) from a turbine, measured*
20 *from the centerline of the turbine to the centerline of the dwelling. Towers*
21 *shall be allowed to create an adverse shadow flicker impact to an existing*
22 *dwelling on a non-participating landowner’s property if written permission*
23 *from the property owner and an adjustment is granted under Section*
24 *19.030(D)(1)(c). Said written permission shall be made part of the deed*
25 *records of the non-participating landowner’s property.*

26
27 There are no non-participating landowners within ¼ mile from a planned turbine location.⁹⁶
28 Therefore, this criterion is not applicable.

29
30 ***WCLUCO Section 19.030(D)(1)(b) Public Safety*** - *The wind energy facility shall be*
31 *designed, constructed, and operated to protect the public by measures that may*
32 *include, but are not limited to, the following:*

33
34 *(1) Installing the tower so at the closest point, the sweep of any exposed*
35 *blade or other exposed moving component is at least 20 feet above the tallest*
36 *existing or foreseeable obstruction to blade movement unless based on the*
37 *proposed location and site specific circumstances, the tower will not*
38 *represent a safety hazard; and*

39
40 The proposed amendments to the facility include a reduction in the minimum blade clearance
41 to 23 meters above the ground, in compliance with subsection.

⁹⁶ *Response to RAI-1* at 24.

1
2 *(2) Designing, constructing and operating the energy facility to exclude*
3 *members of the public from close proximity to turbine blades and electrical*
4 *equipment, including installing locks on turbine tower access doors; and*
5

6 The requirements of this subsection are also addressed in the Council’s Public Health and Safety
7 Standard for Wind Energy Facilities, which is addressed in Section IV.K of the *Final Order on the*
8 *Application* and Section III.B.3.p of this Order. The *Final Order on the Application* includes
9 several conditions regarding public safety. Condition IV.K.2.1 requires that the turbine towers
10 be constructed with no exterior ladders and the tower be locked at all time, except when
11 authorized personnel are present. IV.K.2.2 requires that the if the turbine has a pad-mounted
12 step-up transformer that is be installed in a locked cabinet designed to keep the public safe and
13 avoid the creation of artificial habitat for raptor prey. Condition IV.K.2.3 requires that the
14 facility substation be enclosed by fences with a locked gate. IV.K.2.4 requires that the certificate
15 holder file a Notice of Proposed Construction or Alteration to the FAA and Oregon Department
16 of Aviation. Compliance with these conditions addresses and ensures compliance with this
17 subsection.
18

19 *(3) Designing, constructing and operating the energy facility to protect*
20 *against structural failure of the turbine tower or blades that could endanger*
21 *members of the public’s safety, including having adequate safety devices and*
22 *testing procedures designed to warn members of the public of impending*
23 *failure and to minimize the consequences of such failure.*
24

25 As with subsection (2), the requirements of this subsection are also addressed in the Council’s
26 Public Health and Safety Standard for Wind Energy Facilities, which is addressed in Section IV.K
27 of the *Final Order* and Section III.B.3.p of this Order.⁹⁷ In the *Final Order*, the Council adopted
28 numerous conditions to ensure the certificate holder has measures in place to protect against
29 structural failure, including:
30

31 Condition IV.K.2.5, requiring the certificate holder to follow manufacturers’ recommended
32 handling instructions and procedures to prevent damage to turbine or turbine tower
33 components;
34

35 Condition IV.K.2.6, requiring the certificate holder to implement an equipment maintenance
36 and inspection program for all turbine and turbine tower components; and
37

⁹⁷ Pursuant to OAR 345-024-0010(2), to issue a site certificate for a proposed wind energy facility, the Council must find that the applicant “Can design, construct and operate the facility to preclude structural failure of the tower or blades that could endanger the public safety and to have adequate safety devices and testing procedures designed to warn of impending failure and to minimize the consequences of such failure.”

1 Condition IV.K.2.7, requiring the certificate holder to install and maintain self-monitoring
2 devices on each turbine, linked to sensors at the operations and maintenance building, to
3 alert operators to potentially dangerous conditions.

4
5 Compliance with these conditions addresses and ensures compliance with this subsection.

6
7 As discussed above, and based on the conditions adopted in the *Final Order* to ensure
8 compliance with the Public Health and Safety Standard for Wind Energy Facilities, the Council
9 finds that the proposed facility, as amended, satisfies WCLUDO Section 19.030(D)(1)(b).

10
11 **WCLUCO Section 19.030(D)(1)(c) Setbacks:**

12
13 *(1) Project Boundaries - If the wind energy project encompasses more than*
14 *one parcel neither the wind turbine setback to non-project boundaries nor the*
15 *property line setbacks of the underlying zone in which the project is located*
16 *are applicable to any internal property lines within the project area.*

17 *(2) Non Project Boundaries - Wind turbines shall be set back from the*
18 *property line of any abutting property not part of the project (non-project*
19 *boundaries), the right-of-way of any dedicated road, and any above ground*
20 *major utility facility line a minimum of 1.5 times the height of the wind*
21 *turbine tower (i.e., fall height). Wind turbines shall be set back from any*
22 *above ground minor utility facility line a minimum of 1.1 times the height of*
23 *the wind turbine tower.*

- 24
25
 - *An applicant may request an adjustment to non-project boundaries*
 - *described in (3)(c) below.*
 - *Wind turbines shall meet the underlying zone setback requirement*
 - *unless a variance is granted pursuant to either Chapter 6 or 7.*

26
27
28
29
30 **(3) Resource Zone Dwellings**

31 *(a) Participating Landowners: For owners of legal resource dwellings who*
32 *are also landowners in the Energy facility Project Area, wind turbine*
33 *setbacks shall be 1,320 feet, measured from the centerline of the turbine*
34 *to the edge of the dwelling, or the distance necessary to comply with the*
35 *DEQ noise standard (OAR 345-035-0035). Applicant must provide*
36 *evidence into the permit record demonstrating with reasonable assurance*
37 *that the DEQ noise standard will be met and, prior to construction,*
38 *provide evidence of any recorded noise easement obtained under OAR*
39 *345-035-0035.*

40 *(b) Non-Participating Landowners: For owners of legal resource dwellings*
41 *who are not landowners in the Energy facility Project Area, wind turbine*
42 *setbacks shall be 3,520 feet, measured from the centerline of the turbine*
43 *to the edge of the dwelling, or the distance required to comply with the*

1 DEQ noise standard (OAR 345-035-0035), whichever is greater, unless a
2 noise easement is obtained under OAR 340-035-0035.

3 (c) Adjustment Provision - An administrative adjustment from regulations
4 addressing turbine setbacks from dwellings in resource zones may be
5 authorized pursuant to the Administrative Action process of Section
6 2.060(A) by the Director or designee. As part of the permitting process in
7 judging whether or not an administrative adjustment shall be approved or
8 denied, the administrative authority shall weigh the appropriateness of
9 the proposal against any adverse conditions that would result from
10 authorizing the proposed adjustment. An administrative adjustment to
11 wind turbine setbacks from dwellings in resource zones may be
12 authorized upon findings that the following criteria are met:

- 13 1. Written consent of all property owners directly impacted by the
14 proposed adjustment or if applicable road authority or utility.
- 15 2. The proposed adjustment does not establish a setback in conflict
16 with the DEQ noise standard.
- 17 3. The proposed adjustment will not force a significant change in
18 accepted farm or forest practices on surrounding lands devoted to or
19 available for farm or forest use.
- 20 4. The proposed adjustment will not unduly burden existing
21 infrastructure.
- 22 5. The proposed adjustment will not unduly impair safety in the area.
- 23 6. The proposed adjustment will minimize impacts to environmental
24 resources.

25 (4) Non-Resource Boundaries - Wind turbines shall be setback a minimum of 1
26 mile (5,280 feet) from all non-resource zoned property boundaries located
27 outside of urban growth boundaries or urban reserves (as measured from the
28 centerline of the turbine to the edge of the property boundary zoned for non-
29 resource purposes, e.g. rural residential). Adjustment provisions do not apply
30 to these non-resource zone property boundary setbacks.

31 (5) City Limits and Urban Areas – Wind turbines shall be setback ¼ mile (3,960
32 feet) from the established city limit, urban growth boundary or urban reserve
33 boundary of an incorporated city (whichever is the more restrictive applies)
34 unless a lesser setback is granted through the adjustment process under this
35 provision.

36
37 Adjustment Provision – applicant may, as part of the wind energy permitting
38 process, obtain an administrative adjustment to authorize a lesser setback
39 from regulations addressing turbine setbacks from city limits, urban growth
40 boundaries or urban reserves. This may be authorized as part of the CUP
41 pursuant to the Administrative Action process of Section 2.060(A) by the
42 Director or designee and upon findings that demonstrate the following
43 criteria are met:

1
2 (a) The incorporated city that would be affected has consented, in writing,
3 to an adjusted setback.

4 (b) The proposed adjustment complies with DEQ noise standard.

5 (c) The proposed adjustment will not force a significant change in
6 accepted farm or forest practices on surrounding lands devoted to or
7 available for farm or forest use.

8 (d) The proposed adjustment will not unduly burden existing
9 infrastructure (e.g., underground utilities or leach fields).

10 (e) The proposed adjustment will not unduly impair safety in the area.

11 (f) The proposed adjustment will minimize impacts to environmental
12 resources (e.g., wetlands or identified EPDs).

13 (6) Downwind Properties - The establishment of a commercial wind energy
14 facility consistent with the requirements of this ordinance shall not constitute
15 wind access rights that are protected by this ordinance beyond the following
16 setback requirement.

17 If a wind turbine 200' in height or taller has been previously placed on a
18 downwind property that is not part of the project, the closest tower on the
19 upwind property shall be set back a minimum of fifteen rotor diameters from
20 the downwind tower location or any lesser distance agreed to by the
21 downwind and upwind property owners or those authorized to act on their
22 behalf.
23

24 In its request for amendment, the certificate holder represents that, as proposed, it will comply
25 with all of the local setback requirements. Additionally, the Wasco County Planning Department
26 analyzed the project with regard to the setback requirements of this section and identified no
27 conflicts with boundaries or resource dwellings.⁹⁸ The comments from The Wasco County
28 Planning Department show that compliance is feasible, however, the final layout of the turbines
29 may change. To ensure compliance, the Council adopts the following condition:
30

31 **Condition IV.D.2.10: The certificate holder must comply with the following turbine**
32 **setback distances, as measured from the centerline of the turbine to the edge of the**
33 **dwelling, as set forth below.**
34

35 **a. Wind turbines shall be set back from the property line of any abutting property not**
36 **part of the project (non-project boundaries), the right-of-way of any dedicated road,**
37 **and any above ground major utility facility line a minimum of 1.5 times the blade tip**
38 **height of the wind turbine tower. Wind turbines shall be set back from any above**
39 **ground minor utility facility line a minimum of 1.1 times the blade tip height of the**
40 **wind turbine tower.**

⁹⁸ SRW AMD 1 Agency Comment Wasco County September 15, 2014

1 **b. Wind turbines must be setback a minimum of 1 mile (5,280 feet) from all non-**
2 **resource zoned property boundaries located outside of urban growth boundaries or**
3 **urban reserves (as measured from the centerline of the turbine to the edge of the**
4 **property boundary zoned for non-resource purposes, e.g. rural residential).**
5

6 Based on the analysis above, and subject to compliance with Condition IV.D.2.10, the Council
7 finds that the facility complies with this criterion.
8
9

10 **WCCP Section XV. Goals and Policies**
11

12 **WCCP Goal 1 – Citizen Involvement**

13 *To develop and maintain a citizen involvement program that insures the opportunity for citizens*
14 *to be involved in all phases of the planning process.*
15

16 In obtaining the site certificate, the certificate holder elected to have the Council make the land
17 use decision in accordance with ORS 469.504(1)(b), and therefore the Council’s procedural
18 requirements applied to the review and evaluation of the proposed facility. The Council’s site
19 certificate decision-making process is a public process. The application and the request for an
20 amendment, as well as all documents issued by the department, are public documents that
21 were made available to the public. The department uses information meetings, direct mailing,
22 newspaper publication and the internet to inform the public about the proceedings regarding
23 the proposed facility. There are opportunities for public comment throughout the site
24 certificate and site certificates amendment review processes. Before the Council took final
25 action on the site certificate application, a contested case proceeding was available to address
26 issues that were raised in the public hearings process that preceded the Proposed Order. The
27 public may also comment on this Order and request a contested case. The Council’s meetings
28 are open to the public.
29

30 The Council finds that the process used to review the proposed facility is consistent with the
31 WCCP, Section XV, Goal 1.
32

33 **WCCP Goal 2 – Land Use Planning**

34 *To establish a land use planning process and policy framework as a basis for all decisions and*
35 *actions related to use of land and to assure an adequate factual base for such decisions and*
36 *actions.*
37

38 This Order reviews compliance with the applicable substantive Wasco County development
39 criteria and Comprehensive Plan policies as well as relevant statewide land use planning goals,
40 administrative rules and statutes.
41

42 The Council finds that the process used to review the proposed facility is consistent with the
43 WCCP, Section XV, Goal 2.

1
2 **WCCP Goal 3 – Agricultural Lands**

3 *To preserve and maintain agricultural lands.*

4
5 **WCCP Goal 3, Policy 1: Maintain Exclusive Farm Use zoning.**

6 *Implementation: (B)(3) Non-farm uses permitted within farm use zones adopted pursuant to*
7 *O.R.S. 215.213 should be minimized to allow for maximum agricultural productivity.*

8
9 ORS 215.283 identifies land uses permitted in exclusive farm use zones.⁹⁹ As it relates to the
10 proposed facility, ORS 215.283(2)(g) permits, subject to approval, “Commercial utility facilities
11 for the purpose of generating power for public use by sale.” Effective January 2009, “wind
12 power generation facilities” are permitted on EFU-zoned lands under ORS 215.283(2)(g),
13 pursuant to OAR 660-033-0130(37), which Wasco County has implemented through WCLUDO
14 3.210(J)(17). As discussed above, the principal use of the facility, including the wind turbines,
15 power collection system, collector substation, met towers, control system, and O&M Building
16 constitute a use allowed under ORS 215.283(2)(g).

17
18 ORS 215.283(1)(c) allows “[u]tility facilities necessary for public service...but not including
19 commercial facilities for the purpose of generating electrical power for public use by sale or
20 transmission towers over 200 feet in height. A utility facility necessary for public service may be
21 established as provided in ORS 215.275.” As discussed above, the 230-kV transmission line is a
22 utility facility necessary for public service, as allowed under ORS 215.283(1)(d), subject to the
23 standards of ORS 215.275, which the county has implemented through Section 3.210(J)(8).

24
25 The findings of compliance with WCLUDO Section 3.210(J)(17), which also demonstrate
26 compliance with OAR 660-033-0130(37), establish that the proposed wind generation facility is
27 allowed under ORS 215.283(2)(g). The findings of compliance with WCLUDO Section 3.210(J)(8)
28 demonstrate that the proposed transmission line satisfies the requirements of ORS 215.275 and
29 is allowed under ORS 215.283(1)(d). Accordingly, the Council finds that the proposed facility
30 satisfies WCCP, Section XV, Goal 3, Policy 1.

31
32 **WCCP Goal 5 – Open Space, Scenic, and Historic Areas and Natural Resources**

33 *To conserve open space and protect natural and scenic resources.*

34
35 **WCCP Goal 5, Policy 5: The Deschutes and John Day River Scenic Waterways shall be**
36 ***maintained and protected as natural and open space areas with consideration for agriculture***
37 ***and recreation.***

38

⁹⁹ The WCCP cites ORS 215.213 as the statutory authority for implementing its Agricultural Goal. ORS 215.213 applies to uses of land designated for exclusive farm use in Marginal Lands Counties. ORS 215.283 applies to uses of EFU-designated lands in non-marginal lands counties. Wasco County is a non-marginal lands county and, therefore, is subject to ORS 215.283.

1 Consistent with this policy, the proposed facility will not be located within the boundary of the
2 scenic waterways. The potential impacts of the proposed facility on the Deschutes and John
3 Day Scenic Waterways are addressed in detail in the analysis and findings set forth in this Order
4 at Sections III.B.3.f. (Protected Areas Standard), III.B.3.j. (Scenic Resources Standard), and
5 III.B.3.l. (Recreation Standard). Those Council standards require analysis and findings that are
6 generally consistent with this policy. The analysis and findings provided in response to WCLUDO
7 19.030(C)(4) set forth above further demonstrate that the proposed facility is consistent with
8 this policy. In those sections the Council finds, subject to compliance with the conditions, that
9 even with the amended design of the proposed facility, it is not likely to have a significant
10 adverse impact on the Deschutes and John Day Scenic Waterways.

11
12 FGRV commented that the facility is not in compliance with Chapter 15 Goal 5, Policy 5,
13 Implementation C of the Wasco County Comprehensive Plan, which only allows buildings
14 customarily provided in conjunction with farm use within the visual corridors of the Deschutes
15 Scenic Waterway. However, this specific policy is not applicable to the facility. Wind turbines
16 do not meet the Wasco County definition of a building, which Wasco County defines as “Any
17 structure built for the support, shelter, or enclosure of any persons, animals, chattels, or
18 property of any kind.” The only building associated with the facility is the Operations of
19 Maintenance Building and it is not within the visual corridor of the Deschutes Scenic Waterway.

20
21 Therefore, based on the analysis and findings set forth above at WCLUDO Section 19.030(C)(4)
22 and in Sections III.B.3.f. (Protected Areas Standard), III.B.3.j. (Scenic Resources Standard), and
23 III.B.3.l. (Recreation Standard) of this Order, and subject to compliance with the conditions in
24 those sections, the Council finds that, as amended, the facility is consistent with WCCP, Chapter
25 15, Goal 5, Policy 5.

26
27 ***WCCP Goal 5, Policy 7: Maintain the existing aesthetic quality of the Columbia River Gorge.***

28
29 In the *Final Order on the Application*, the Council found that subject to compliance with Exhibit
30 R, the facility satisfied this policy.¹⁰⁰ The proposed amendment to increase the size of the wind
31 turbines does not alter this finding. As discussed under WCLUDO 5.020(H) and Section III.B.3.j.
32 (Scenic Resources Standard) of this Order, some portions of the facility would be visible from
33 some isolated portions of the CRGNSA but would have only minor effects on the view. As a
34 result, the Council finds that, as conditioned, the facility is consistent with WCCP Goal 5 Policy
35 5.

36
37 ***WCCP Goal 5, Policy 9: Fish and Wildlife***

- 38 - *Encourage land use and land management practices which contribute to the preservation and*
39 *enhancement of fish and wildlife resources, with consideration for private agricultural practices.*
40 - *To conserve and protect existing fish and wildlife areas.*

¹⁰⁰ *Final Order on the Application* at 66

1 - To maintain wildlife diversity and habitat so that it will support optimum numbers of game and
2 nongame wildlife for recreation and aesthetic opportunities.

3
4 In the *Final Order on the Application*, the Council found that, subject to the site certificate
5 conditions in the Fish and Wildlife Section, the facility is consistent with WCCP Goal 5, Policy
6 9.¹⁰¹ The requested amendments do not affect the Council’s analysis on which is based this
7 finding. Therefore, the Council finds that, subject to conditions, the facility is consistent with
8 WCCP Goal 5 Policy 9.

9
10 **WCCP Goal 5, Policy 10: Historic, Cultural and Archaeological Resources**
11 *Preserve the historic, cultural, and archeological resources of the County.*

12
13 In the *Final Order on the Application*, the Council found that the facility is in compliance with
14 WCCP Goal 5, Policy 10.¹⁰² The requested amendments do not affect the Council’s analysis on
15 which is based this finding. Therefore, the Council finds that, subject to conditions, the facility is
16 consistent with WCCP Goal 5, Policy 10.

17
18 **WCCP Goal 6 – Air, Water and Land Resources Quality**

19 *To maintain and improve the quality of the air, water and land resources of the County.*

20
21 **WCCP Goal 6, Policy 1: Encourage land uses and land management practices which preserve**
22 ***both the quantity and quality of air, water and land resources.***

23
24 In the *Final Order on the Application*, the Council found that subject to compliance with the
25 conditions found in the Soil Protection Section, including the Revegetation and Weed Control
26 Plan, that the facility was consistent with this goal.¹⁰³ The requested amendments do not affect
27 the Council’s analysis on which it based this finding. Therefore, the Council finds that, subject to
28 conditions, the facility is consistent with WCCP Goal 6, Policy 1.

29
30 **WCCP Goal 6, Policy 4: Noise levels should be maintained in compliance with state and federal**
31 ***standards.***

32
33 *A. Noise levels for all new industries must be kept within standards set by state and federal*
34 *agencies.*

35 *B. Consideration for the effects of noise on the surrounding environment will be given when*
36 *a new development of any kind is proposed.*

37 *C. Noise sensitive areas should be identified and only compatible uses permitted in their*
38 *vicinity.*

39

¹⁰¹ *Id.* at 67

¹⁰² *Id.*

¹⁰³ *Id.* at 68

1 In the *Final Order on the Application*, the Council found that, subject to compliance with
2 Conditions VI.A.2.1, VI.A.2.2 and VI.A.2.4, which require the certificate holder to perform a
3 complete noise analysis prior to the beginning of construction, that the facility was consistent
4 with this goal.¹⁰⁴

5
6 The requested amendments do not affect the Council’s analysis on which it based this finding.
7 Therefore, the Council finds that, subject to conditions, the facility is consistent with WCCP Goal
8 6, Policy 4.

9
10 **WCCP Goal 8 – Recreational Needs**

11 *To satisfy the recreational needs of the citizens of Wasco County and visitors.*

12
13 **WCCP Goal 8, Policy 1: Manage the Deschutes and John Day Scenic Waterways to minimize**
14 **recreational over- use, accumulation of solid waste and conflicts with agricultural use, while**
15 **maximizing their scenic and recreational values.**

16
17 In the *Final Order on the Application*, the Council found that the facility is consistent with this
18 goal because the facility is not providing any recreational uses, would not alter the land uses in
19 the vicinities of the waterways and that the minimal solid waste generated would be disposed
20 of at a land fill. The requested amendments do not affect the analysis that the Council relied on
21 in making this finding. Therefore, the Council finds that the facility is consistent with WCCP Goal
22 8, Policy 1.

23
24 **WCCP Goal 8, Policy 2: Develop and maintain a variety of recreational sites and open spaces**
25 **adjacent to population concentrations to adequately meet the County’s recreational needs.**
26 *Aesthetic values in existing and future recreational sites should be preserved and enhanced.*

27
28 In the *Final Order on the Application*, the Council found that, subject to the conditions in the
29 Protected Areas Section, Scenic Resources Section and the Recreation Section, the facility is
30 consistent with this goal. No future recreation sites were identified in the *Final Order on the*
31 *Application* and none were identified in the *Request for Amendment*. As stated in the analysis
32 under WCLUDO 19.030(C)(4) the proposed increase in turbine size would not have a significant
33 adverse impact on visual resources and recreational sites in the area. Therefore, the Council
34 finds that, as conditioned, the facility is consistent with WCCP Goal 8, Policy 2.

35
36 **WCCP Goal 9 – Economy of the State**

37 *To diversify and improve the economy of Wasco County.*

38
39
40
41

¹⁰⁴ *Id.*

1 **WCCP Goal 9, Policy 1: Maintain agriculture and forestry as a basis of the County's rural**
2 **economy.**

3
4 In the *Final Order on the Application*, the Council found that facility was consistent with this
5 goal because the facility will provide a benefit the local economy by providing stable revenue
6 for participating landowners, who will receive lease payments for the use of their land and that
7 it would have minimal impact on farming in the area.¹⁰⁵ The requested amendments do not
8 affect the analysis that the Council relied on in making this finding. Therefore, subject to
9 compliance with the conditions, the Council finds that the proposed facility is consistent with
10 WCCP Goal 9, Policy 1.

11
12 **WCCP Goal 9, Policy 2: Commercial and industrial development compatible with the County's**
13 **agricultural and forestry based economy will be encouraged.**

14
15 In the *Final Order on the Application*, the Council found that the facility was consistent with this
16 goal because the facility is consistent with the purposes of EFU, A-1 zone, which allows for the
17 development of commercial energy facilities as a conditional use. The requested amendments
18 do not affect the analysis that the Council relied on in making this finding. Therefore, subject to
19 compliance with conditions, the Council finds that the proposed facility is consistent with WCCP
20 Goal 9, Policy 2.

21
22 **WCCP Goal 9, Policy 3: Wasco County will support the expansion and increased productivity of**
23 **existing industries and firms as a means to strengthen local and regional economic**
24 **development.**

25
26 In the *Final Order on the Application*, the Council found that the facility was consistent with this
27 goal because the facility expands an existing regional industry (wind power generation) in
28 Wasco County.¹⁰⁶ The requested amendments do not affect the analysis that the Council relied
29 on in making this finding. Therefore, subject to compliance with conditions, the Council finds
30 that the proposed facility is consistent with WCCP Goal 9, Policy 2.

31
32 **WCCP Goal 11 – Public Facilities and Services**

33 *To plan and develop a timely, orderly and efficient arrangement of public facilities and services*
34 *to serve as a framework for urban and rural development.*

35 **WCCP Goal 11, Policy 1: Provide an appropriate level of fire protection, both structural and**
36 **wildfire, for rural areas.**

37
38 In the *Final Order on the Application*, the Council found that the facility was consistent with this
39 goal because of the conditions put into place to comply with WCLUDO Section 5.020(c),
40 WCLUDO Chapter 10, the Public Health and Safety Standard and the Public Services

¹⁰⁵ *Id.* at 69

¹⁰⁶ *Id.*

1 Standard.¹⁰⁷ These conditions are discussed in this Order under WCLUDO 5.020(C), WCLUDO
2 Chapter 10 and WCLUDO 19.030(C)(7) above. Based on the analysis contained in the identified
3 sections of this Order, the Council finds that this facility is consistent with WCCP Goal 11, Policy
4 1.

5
6 **WCCP Goal 11, Policy 3: Minimize adverse impacts resulting from power line corridor and**
7 **utility development.**

8
9 *A. The Bonneville Power Administration should compensate for damage resulting from*
10 *powerline corridor development at levels based on the loss of agricultural and residential*
11 *values and productivity.*

12 *B. When economically and physically feasible, transmission lines should be laid*
13 *underground.*

14 *C. The Planning Commission and Citizen Advisory Groups should review all future Bonneville*
15 *Power Administration power line corridor developments which may be routed through*
16 *Wasco County, as well as all electrical substation and power plant development proposals.*

17 *D. Public utility easements and transmission line corridors should be designed to provide for*
18 *multiple land use.*

19 *E. Maximum utilization of existing utility right-of-way should be encouraged to minimize the*
20 *need for additional rights-of-way.*

21 *F. Public utilities shall be responsible for appropriate maintenance including noxious weed*
22 *control on all existing and future rights-of-way.*

23
24 In the *Final Order on the Application*, the Council found that each of the criteria either did not
25 apply or was met by the facility.¹⁰⁸ Subsections (A), (C), (D) and (F) do not apply because the
26 facility will not require BPA to develop new power line corridors and the transmission line will
27 travel across only private property. The requested amendment does not proposed any change
28 in the transmission line route. As addressed in the *Final Order*, placing the transmission line
29 underground is physically and financially infeasible; and there is no existing public right-of-way
30 in the area that the transmission line could utilize. Therefore the Council finds that the facility
31 is consistent with WCCP Goal 11, Policy 3.

32
33 **WCCP Goal 12 – Transportation**

34 *To provide and encourage a safe, convenient and economic transportation system.*

35
36 **WCCP Goal 12, Policy 1: Develop and maintain an adequate County road system.**

37
38 In the *Final Order on the Application*, the Council found that the facility is consistent with this
39 goal because no new county roads will be developed and the conditions of the site certificate
40 require that the certificate holder repair the damage done to any road by the certificate

¹⁰⁷ *Id.* at 70

¹⁰⁸ *Id.* at 71

holder.¹⁰⁹ The requested amendments do not affect the analysis that the Council relied on in making this finding. Therefore, the Council finds that the facility is consistent with WCCP Goal 12, Policy 1.

WCCP Goal 13 – Energy Conservation

To conserve energy.

WCCP Goal 13, Policy 1: The County will work with appropriate state and federal agencies to identify and protect, and if feasible, develop potential energy resources, especially renewable energy resources.

In the *Final Order on the Application*, the Council found that to the extent this goal establishes approval criteria, the facility is consistent with this goal because, as a wind power generation facility, this facility will promote a renewable energy resource.¹¹⁰ The requested amendments do not affect the analysis that the Council relied on in making this finding. Therefore, the Council finds that the facility is consistent with WCCP Goal 13, Policy 3.

WCCP Goal 13, Policy 5: Use of renewable energy shall be encouraged.

A. Wind generators will be permitted in the forestry, agricultural and rural zones.

In the *Final order on the Application*, the Council found that the wind generation facility proposed to be located in an agricultural zone, is consistent with this goal.¹¹¹ The requested amendments do not affect the analysis that the Council relied on in making this finding. Therefore, the Council finds that the facility is consistent with WCCP Goal 13, Policy 5.

Conclusion

Based on reasons identified and discussed above, and subject to compliance with existing and proposed site certificate conditions, the Council finds that the facility, as amended, satisfies the Council’s Land Use Standard.

III.B.3.f. Protected Areas: OAR 345-022-0040

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

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

¹¹¹ *Id.*

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

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

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

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

(e) National coordination areas, including but not limited to Government Island, Ochoco and Summer Lake;

(f) National and state fish hatcheries, including but not limited to Eagle Creek and Warm Springs;

(g) National recreation and scenic areas, including but not limited to Oregon Dunes National Recreation Area, Hell's Canyon National Recreation Area, and the Oregon Cascades Recreation Area, and Columbia River Gorge National Scenic Area;

(h) State parks and waysides as listed by the Oregon Department of Parks and Recreation and the Willamette River Greenway;

(i) State natural heritage areas listed in the Oregon Register of Natural Heritage Areas pursuant to ORS 273.581;

(j) State estuarine sanctuaries, including but not limited to South Slough Estuarine Sanctuary, OAR Chapter 142;

(k) Scenic waterways designated pursuant to ORS 390.826, wild or scenic rivers designated pursuant to 16 U.S.C. 1271 et seq., and those waterways and rivers listed as potentials for designation;

1 (l) Experimental areas established by the Rangeland Resources Program, College of
2 Agriculture, Oregon State University: the Prineville site, the Burns (Squaw Butte) site,
3 the Starkey site and the Union site;
4

5 (m) Agricultural experimental stations established by the College of Agriculture,
6 Oregon State University, including but not limited to: Coastal Oregon Marine
7 Experiment Station, Astoria Mid-Columbia Agriculture Research and Extension
8 Center, Hood River Agriculture Research and Extension Center, Hermiston Columbia
9 Basin Agriculture Research Center, Pendleton Columbia Basin Agriculture Research
10 Center, Moro North Willamette Research and Extension Center, Aurora East Oregon
11 Agriculture Research Center, Union Malheur Experiment Station, Ontario Eastern
12 Oregon Agriculture Research Center, Burns Eastern Oregon Agriculture Research
13 Center, Squaw Butte Central Oregon Experiment Station, Madras Central Oregon
14 Experiment Station, Powell Butte Central Oregon Experiment Station, Redmond
15 Central Station, Corvallis Coastal Oregon Marine Experiment Station, Newport
16 Southern Oregon Experiment Station, Medford Klamath Experiment Station, Klamath
17 Falls;
18

19 (n) Research forests established by the College of Forestry, Oregon State University,
20 including but not limited to McDonald Forest, Paul M. Dunn Forest, the Blodgett
21 Tract in Columbia County, the Spaulding Tract in the Mary's Peak area and the
22 Marchel Tract;
23

24 (o) Bureau of Land Management areas of critical environmental concern,
25 outstanding natural areas and research natural areas;
26

27 (p) State wildlife areas and management areas identified in OAR chapter 635,
28 Division 8.
29

30 ***

31 **Findings of Fact**

32

33 The Council addressed the Protected Area Standard in section IV.E.1 of the *Final Order on the*
34 *Application* and found that the proposed facility complied with the Protected Area Standard,
35 without any required conditions.¹¹²
36

37 The requested amendments do not propose to locate the facility or any related and supporting
38 facilities within the protected areas listed in this standard. However, the proposed increase in
39 the size of the turbines impacts the analysis done in the *Final Order on the Application* with
40 regard to impacts to the listed protected areas.
41

¹¹² *Final Order on the Application* at 81

1 In the *Final Order on the Application* the impacts to protected areas were broken out into four
2 sections, including traffic impacts, water use and wastewater disposal, noise impacts and visual
3 impacts. The analysis for traffic impacts and water use and wastewater disposal are not
4 affected by the requested amendments.

5
6 With regard to noise impacts, the proposed larger turbines increase noise generated from the
7 turbines. However, Condition VI.A.2.2 requires that the certificate holder conduct a noise
8 analysis using the final turbine layout and final turbine model selected. This analysis must
9 demonstrate that the facility would meet the ambient degradation test at the appropriate
10 measurement point for potentially affected noise sensitive properties or obtain a noise waiver
11 from noise sensitive receptors. While protected areas are not listed as noise sensitive
12 receptors, compliance with this condition will ensure evaluation of the noise impact and
13 minimal impact from noise generated by the wind turbines.

14
15 With regard to visual impacts, protected areas that are likely to experience minimal impacts as
16 a result of the proposed larger turbines include Badger Creek Wilderness Area (18.7 miles
17 away), Heritage Landing State Park (9.1 miles away), John Day Wildlife Refuge (17.4 miles
18 away), Doug’s Beach State Park (14.8 miles), Lower Klickitat Federal Wild and Scenic River
19 (18.3), and Botanical/Scenic Areas within the Columbia River Gorge ACEC (15.8 miles). All of the
20 identified protected areas are at least nine miles away from the site boundary. As a result of
21 this distance, any additional visual impacts to the protected areas from the proposed increase
22 in turbine height and blade size are expected to be limited, and therefore are not likely to result
23 in a significant adverse visual impact to the protected areas. Additionally, neither the Columbia
24 Hills Nature Area Preserve nor the Columbia Basin Agricultural Research Center are managed
25 for scenic qualities, so the visual impact from the increased height of turbines will not affect
26 these protected areas.¹¹³

27
28 The protected areas that are most likely to be impacted visually by the requested amendments
29 are in the Columbia River Gorge National Scenic Area, the Lower Deschutes River Canyon, the
30 White River Canyon, and the John Day River Canyon. These areas are all analyzed for
31 compliance with the Scenic Resource Standard in Section III.B.3.j of this Order. While the
32 requirements of the Protected Areas Standard and the Scenic Resources Standard are different,
33 the Scenic Resource Standard requires an analysis of the impacts to identified scenic resources,
34 including each of the above listed resources. This visual analysis is also relevant to compliance
35 with the Protected Areas Standard, requires the Council to find that the facility will not likely
36 result in significant adverse impacts to identified protected areas. In Section III.B.3.j, the Council
37 finds that the facility is not likely to result in significant adverse visual impacts to the identified
38 scenic resources or values within these protected areas. For those identified protected areas
39 most likely to be impacted visually, the analysis of those specific areas in the Scenic Standard
40 also supports a finding that, taking into account mitigation, the design, construction and

¹¹³ *Id.* at 80

1 operation of the facility are not likely to result in significant adverse visual impact to those
2 areas.

3
4 **Conclusion**

5
6 Based on the analysis above, the Council finds that the facility, as amended, complies with the
7 Protected Areas Standard.

8
9 **III.B.3.g. Retirement and Financial Assurance: OAR 345-022-0050**

10
11 *To issue a site certificate, the Council must find that:*

12
13 *(1) The site, taking into account mitigation, can be restored adequately to a useful, non-*
14 *hazardous condition following permanent cessation of construction or operation of the*
15 *facility.*

16
17 *(2) The applicant has a reasonable likelihood of obtaining a bond or letter of credit in a*
18 *form and amount satisfactory to the Council to restore the site to a useful, non-*
19 *hazardous condition.*

20
21 The Council addressed the Retirement and Financial Assurance Standard in section IV.F of the
22 *Final Order on the Application*. The Council imposed six conditions to ensure that the actions
23 necessary to restore the site were feasible and that the restoration of the site to a useful, non-
24 hazardous condition could be achieved and that the certificate holder had demonstrated a
25 reasonable likelihood of obtaining a bond or letter of credit of at least \$6.965 million.

26
27 The requested amendments do not affect the ability of the certificate holder to restore the site
28 to a useful, non-hazardous condition or reduce the likelihood of the certificate holder obtaining
29 a bond or letter of credit of at least \$6.965 million. Therefore, no changes or additions to
30 conditions of the site certificate are required.

31
32 **Conclusion**

33
34 The Council finds that the facility, as amended, complies with the Council’s Retirement and
35 Financial Assurance standard.

36
37 **III.B.3.h. Fish and Wildlife Habitat: OAR 345-022-0060**

38
39 *To issue a site certificate, the Council must find that the design, construction and operation of*
40 *the facility, taking into account mitigation, are consistent with the fish and wildlife habitat*
41 *mitigation goals and standards of OAR 635-415-0025 in effect as of September 1, 2000.*

1
2 **Findings of Fact**
3

4 The Fish and Wildlife Standard requires the Council to find that the design, construction, and
5 operation of the facility are consistent with fish and wildlife habitat mitigation goals as set forth
6 in OAR 635-415-0025.

7
8 The Council addressed the Fish and Wildlife Standard in section IV.G of the *Final Order on the*
9 *Application*. The Council made findings regarding the characteristics of the habitat types within
10 the site boundary and the State sensitive species observed within or near the lease boundaries
11 during avian point-counts and other wildlife surveys. Based on those findings, the Council found
12 that, subject to specified conditions, the design, construction and operation of the proposed
13 facility, taking mitigation into consideration, would be consistent with ODFW’s habitat
14 mitigation goals and standards.¹¹⁴
15

16 In its comments on the request for amendment, ODFW recommended that, because the raptor
17 nest surveys are outdated, the site certificate holder complete two seasons of raptor nest
18 surveys prior to beginning of construction.¹¹⁵ ODFW subsequently agreed that two seasons of
19 raptor nest surveys, with at least one season completed prior to the beginning of construction,
20 would provide assurance that habitat was properly categorized to account for active raptor
21 nests. To address the recommendation, the certificate holder produced a Raptor Nest Survey
22 Protocol for the Summit Ridge Wind Farm, which has been approved by ODFW. That protocol is
23 attached as Attachment B.¹¹⁶
24

25 Condition IV.G.2.8 in the Final Order on Amendment #1 adopted by the Council on May 15,
26 2015, included a requirement for the site certificate holder to conduct the raptor nest surveys,
27 but did not include an express requirement for the site certificate holder report the results to
28 the Department or ODFW. The condition also lacked an express requirement for the site
29 certificate holder to take steps to ensure compliance with the Fish and Wildlife Standard
30 depending on the results of those surveys. Those steps could include avoidance or additional
31 habitat mitigation depending on the habitat categorization.¹¹⁷ Therefore, on reconsideration, to

¹¹⁴ *Final Order on the Application* at 110

¹¹⁵ *SRW AMD 1 Reviewing Agency Comment ODFW*, September 19, 2014. In that comment, ODFW also initially recommended that LotusWorks coordinate with nearby adjacent operational wind facilities regarding fatality monitoring. The intent of this coordination would be to create a better set of data to better understand the impacts of wind facilities on wildlife in the Columbia Plateau Ecoregion. After further consideration, ODFW determined that more scientific and policy research was needed before recommending this change. (Email from Art Martin, October 22, 2014.) While the department generally supports voluntary coordination efforts by the site certificate holder, the coordination is not required to comply with OAR 635-415-00025 or the Council’s standard.

¹¹⁶ Due to a clerical error the wrong attachment was included in the Final Order. The correct attachment has been included with this Order.

¹¹⁷ Pursuant to ORS 469.402, the Council may elect to impose conditions on an amended site certificate that require subsequent review and approval of a future action. The Council may also delegate the future review and approval to the Department, if in the Council’s discretion, the delegation is warranted. In this case, the Council is delegating to

1 ensure compliance with the Fish and Wildlife Standard, the Council adopts the following revised
2 condition:

3
4 **Condition IV.G.2.8: “The certificate holder shall conduct two (2) seasons of raptor nest**
5 **surveys with at least one (1) season of the surveys occurring prior to the beginning of**
6 **construction. The raptor nest surveys shall be conducted following the instructions set**
7 **forth in the Raptor Nest Survey Protocol for Summit Ridge Wind Farm included as**
8 **Attachment B to the First Amended Site Certificate. The certificate holder shall report the**
9 **results of the field surveys to the Department and ODFW. If the surveys identify the**
10 **presence of raptor nests within the survey area, the certificate holder shall implement**
11 **appropriate measures to assure that the design, construction and operation of the facility**
12 **are consistent with the fish and wildlife habitat mitigation goals and standards of OAR**
13 **635-415-0025, as approved by the Department, in consultation with ODFW.”**

14
15 ODFW also commented that the Habitat Mitigation Plan did not account for Big Game Winter
16 Range.¹¹⁸ The certificate holder consulted with ODFW and revisited Summit Ridge’s Habitat
17 Mitigation Plan so that the plan adequately mitigated for impacts to Big Game Winter Range.
18 The Amended Habitat Mitigation Plan is included as Attachment C. Additionally, ODFW
19 commented that no construction should occur between December 1 and April 15 to avoid
20 displacing big game winter range. The Council adopts the following condition:

21
22 **Condition IV.G.2.9: “The certificate holder shall not conduct any construction activities on**
23 **land mapped as Big Game Winter Range by the Oregon Department of Fish and Wildlife**
24 **between December 1 and April 15.”**

25
26 Friends of the Columbia Gorge (FOCG) submitted a comment expressing their concerns with the
27 facility being located within potential golden eagle habitat and the possibility for violations of
28 the Bald and Golden Eagle Protection Act.¹¹⁹ However, the Bald and Golden Eagle Protection
29 Act is a federal law and is therefore outside of Council jurisdiction. The site certificate holder
30 has the obligation to comply with any directly applicable federal laws independent of the
31 Council’s process and the site certificate.

32
33 The BLM commented expressing its concern that an increase in perching opportunities will
34 result in an increase in the mortality rates of bats, ospreys and other raptors.¹²⁰ Condition
35 IV.H.2.1 requires that the certificate holder implement several measures to reduce the risk of
36 injury to avian species such as installing turbine towers that lack features that would allow
37 perching, installing meteorological towers that are non-guyed and installing transmission

the Department the review and approval of any additional mitigation or avoidance action required based upon the results of the surveys.

¹¹⁸ ODFW did not identify any additional site specific changes that would alter the habitat classifications provided in the original application and habitat mitigation plan.

¹¹⁹ SRW AMD 1 Public Comments FOCG September 19, 2014

¹²⁰ SRW AMD 1 Reviewing Agency Comment BLM September 18, 2014

1 towers that follow the most current suggested practices published by the Avian Power Line
2 Interaction Committee. This condition will minimize opportunities for bats, osprey and other
3 raptors to perch on the turbines. The Council finds that by limiting new perching opportunities,
4 this condition will sufficiently protect bats and birds of prey.

5
6 **Conclusion**

7
8 For the reasons discussed above, and subject to the existing Site Certificate conditions and
9 Conditions IV.G.2.8 and 9, the Council find that the facility complies with the Council’s Fish and
10 Wildlife Standard.

11
12 **III.B.3.i. Threatened and Endangered Species: OAR 345-022-0070**

13
14 *To issue a site certificate, the Council, after consultation with appropriate state agencies, must*
15 *find that:*

16
17 *(1) For plant species that the Oregon Department of Agriculture has listed as threatened*
18 *or endangered under ORS 564.105(2), the design, construction and operation of the*
19 *proposed facility, taking into account mitigation:*

20
21 *(a) Are consistent with the protection and conservation program, if any, that the*
22 *Oregon Department of Agriculture has adopted under ORS 564.105(3); or*

23
24 *(b) If the Oregon Department of Agriculture has not adopted a protection and*
25 *conservation program, are not likely to cause a significant reduction in the likelihood*
26 *of survival or recovery of the species; and*

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

32
33 **Findings of Fact**

34
35 The Threatened and Endangered Species Standard requires the Council, in consultation with
36 appropriate state agencies, to find that the construction and operation of a facility is consistent
37 with applicable protection plans for threatened or endangered plant and animal species. The
38 Council must also determine that the facility’s construction and operation are not likely to
39 cause a significant reduction in the likelihood of a species’ survival or recovery.

1 The Council addressed the Threatened and Endangered Species Standard in section IV.H of the
2 *Final Order on the Application* and determined that, subject to specified conditions, the
3 proposed facility complied with the Council’s standard.¹²¹
4

5 For the requested amendments, the certificate holder prepared a proposal for new surveys for
6 threatened and endangered plants to address a comment from ODA that the threatened and
7 endangered plants species surveys were now outdated.¹²² Condition IV.H.2.2 in the Final Order
8 on Amendment #1 adopted by the Council on May 15, 2015, included a requirement for the site
9 certificate holder to conduct those new surveys, but did not include an express requirement for
10 the site certificate holder report the results to the Department, ODA or ODFW. The condition
11 also lacked an express requirement for the site certificate holder to take steps to ensure
12 compliance with the Threatened and Endangered Species Standard depending on the results of
13 those surveys. Therefore, on reconsideration, to ensure compliance with the Threatened and
14 Endangered Species Standard, the Council adopts the following revised condition:
15

16 **Condition IV.H.2.2: “Prior to the beginning of construction of the facility the certificate**
17 **holder shall perform new field surveys for threatened and endangered species following**
18 **the survey protocol set forth in the Northwest Wildlife Consultants Memorandum**
19 **regarding Endangered and Threatened Plant Species and Raptor Nest Surveys dated**
20 **October 17, 2014. The certificate holder shall report the results of the field surveys to the**
21 **Department, ODA and ODFW. If the surveys identify the presence of threatened or**
22 **endangered species within the survey area, the certificate holder shall implement**
23 **appropriate measures to avoid a significant reduction in the likelihood of survival or**
24 **recovery of the species, as approved by the Department, in consultation with ODA and**
25 **ODFW.”**
26

27 **Conclusion**

28
29 For the reasons discussed above, and subject to the existing Site Certificate conditions and
30 Condition IV.H.2.2, the Council finds that the facility complies with the Council’s Threatened
31 and Endangered Species Standard.
32

33 **III.B.3.j. Scenic Resources: OAR 345-022-0080**

34
35 *(1) Except for facilities described in section (2), to issue a site certificate, the Council must*
36 *find that the design, construction and operation of the facility, taking into account*
37 *mitigation, are not likely to result in significant adverse impact to scenic resources and*
38 *values identified as significant or important in local land use plans, tribal land*
39 *management plans and federal land management plans for any lands located within the*
40 *analysis area described in the project order.*

¹²¹ *Final Order on the Application* at 110

¹²² Response to RAI 1, July 12, 2014

1
2 **Findings of Fact**
3

4 The Scenic Resources Standard requires the Council to find that the design, construction, and
5 operation of the facility are not likely to result in adverse impacts to scenic resources and
6 values identified as important in the identified management plans.
7

8 The Council addressed the Scenic Resource Standard in section IV.I of the *Final Order on the*
9 *Application*. The Council found that subject to specified conditions to ensure adequate
10 mitigation, the design, construction and operation of the facility, taking into account mitigation,
11 were not likely to result in significant adverse impacts to scenic resources and values identified
12 as significant or important in local land use plans, tribal land management plans and federal
13 land management plans for any lands located within the analysis area.¹²³
14

15 The requests to increase the size of the turbines and rotors and to decrease the number of
16 turbines affect the previous findings.
17

18 The scenic resources identified by the applicable resource plans within the analysis area are the
19 Columbia River Gorge National Scenic Area (CRGNSA), the Lower Deschutes River Canyon, the
20 White River Canyon, resources in the John Day River Canyon, the Mt. Hood National Forest, the
21 Oregon National Historic Trail, the Journey Through Time Scenic Byway, Wasco County
22 Resources and Sherman County Resources. The site certificate holder included a report from
23 David Evans and Associates (David Evans) as Exhibit C of the *Request for Amendment* that
24 addresses the expected effects of the proposed change in turbine layout and design on
25 identified scenic resources.
26

27 **CRGNSA**

28 The CRGNSA Management Plan (date) identifies key viewing areas which are important
29 viewpoints open to the public offering opportunities to view the gorge. The impact to the
30 CRGNSA was analyzed in Section IV.I.1.a.i. of the *Final Order on Application* where the Council
31 found that there would not be a significant adverse impact to the visual characteristics of the
32 identified resource because the facility would only be visible from a distance of 11 miles and in
33 only a small area of the CRGNSA that is not accessible by the public.¹²⁴ The report provided by
34 the certificate holder's consultant, David Evans & Associates (David Evans), concluded that the
35 impacts would be slightly increased in the CRGNSA but only in areas not readily accessible by
36 the public.¹²⁵ The requested amendments to increase the size of the turbines may slightly
37 increase the visibility in these isolated areas but an increase of 20 meters to the wind turbines
38 11 miles away will not result in a significant change that would affect the Council's previous
39 findings for visual impacts to the CRGNSA. As a result the Council finds that the facility will not

¹²³ *Final Order on Application* at 121

¹²⁴ *Id.* at 116

¹²⁵ *Request for Amendment* Exhibit C at 3

1 have significant adverse impacts to resources and values identified as significant or important in
2 CRGNSA Management Plan.

3
4 **Lower Deschutes River Canyon**

5 The BLM Lower Deschutes Management Plan (February 1993) states that the Lower Deschutes
6 River Canyon is an “Area of High Visual Quality” that should be managed to provide “protection
7 and enhancement to the river’s outstandingly remarkable values while providing adequate
8 levels of recreation use and diversity of opportunities.” The Two Rivers Resource Management
9 Plan (September 1986) also identifies the Deschutes River Canyon (the rim to rim area) as an
10 “area of high visual quality” which should be protected while allowing compatible uses in the
11 same area. The impact to the Lower Deschutes River Canyon was analyzed in Section IV.I.1.a.ii
12 of the *Final Order on the Application* where the Council found that there would not be
13 significant adverse impacts to identified resources with the Lower Deschutes River Canyon.
14 While turbines will likely be visible from the canyon floor the turbines will be subordinate to the
15 surrounding landscape and that assuming the impacts can be characterized as “adverse” the
16 impacts would be minimal and not “significant.”¹²⁶ The requested amendments to increase the
17 size of the turbines and eliminate 15 turbines from the southern portion of the facility impacts
18 the previously completed analysis.

19
20 As OPRD and BLM point out in their comments, the turbines will be visible from certain points
21 along the Deschutes River.¹²⁷ The proposed amendment to increase the size of wind turbines
22 does cause the turbines to become visible in places where they previously were not and
23 increases their prominence in the areas where they would have been visible. To address the
24 increased visual impact, LotusWorks prepared a visual analysis that depicts the visibility of the
25 facility from key locations along the Deschutes River.¹²⁸ The visual analysis shows that the
26 change in turbine sizes results in a minimal increase to the visual impacts and does not result in
27 the facility dominating the viewshed.

28
29 FGRV comments also raised several issues regarding visual impacts to the Lower Deschutes
30 River Canyon, arguing that all of the appropriate management plans regarding the Deschutes
31 River had not been reviewed; that no site certificate conditions had been adopted to help
32 prevent significant visual impacts; that the visual simulations had been created with different
33 programs; it is not clear how the visual analysis points were identified.

34

¹²⁶ *Final Order on the Application* at 121

¹²⁷ SRW AMD 1 Reviewing Agency Comment OPRD and SRW AMD 1 Reviewing Agency Comment BLM

¹²⁸ FGRV commented that the visual simulations included with the *Request for Amendment* were made with different programs and that they should be completed using the same program. The department agreed and requested the simulations using the same program. The certificate holder supplemented the amendment request with those requested simulations.

Additionally OPRD commented that the facility would be visible from the Deschutes River at several locations but did not provide an analysis of the impact to the viewshed.

1 FGRV did not specify which management plan had not been reviewed but all the management
2 plans that were reviewed and applied are listed in Section IV.I.1.a.ii of the *Final Order on the*
3 *Application*. While there will be impacts to the visual character of the surrounding areas,
4 including from the Deschutes River, there are three conditions included in Section IV.I.2 of the
5 *Final Order on the Application* to help reduce the visual impacts. These conditions include such
6 measures as mounting the nacelle on smooth uniform steel structures that are painted in a
7 uniformly in a low-reflectivity neutral gray, white or off-white color and requiring the minimum
8 turbine lighting required by law.

9
10 In addition to providing the visual analysis, the certificate holder included an explanation of
11 how the key locations within the Lower Deschutes River Canyon were selected by stating:

12
13 “Viewpoint locations were determined based on the visibility analysis and fieldwork to reflect
14 “worst case” conditions when viewed from important or significant scenic and aesthetic
15 resources. In other words, these viewpoints include locations with relatively high use (based on
16 ease of access and presence of developed recreational facilities) and positions from which
17 turbines would be most visible.”

18
19 For further clarification, viewpoints were located along developed trails (e.g., abandoned
20 railroad grade) and roads paralleling the river. These points are generally higher on the canyon
21 side slopes and would thus provide a better vantage point from which to view turbines, if
22 visible. Topography was also considered in locating viewpoints. For example, Viewpoint 3 at
23 Snake-in-the-Box is purposely oriented toward a side canyon with the most direct views of
24 proposed turbines, even though views into side canyons towards turbines are not typical in the
25 subject landscape; that is, views are typically oriented up and down river, not into side
26 canyons.”¹²⁹

27
28 As a result the Council finds that the facility is not likely to result in adverse impacts to the
29 scenic resources and values identified in the Lower Deschutes River Canyon Management Plan
30 and Two Rivers Resource Management Plan.

31 32 **White River Canyon**

33 The White River Canyon is managed by the White River Canyon Management Plan (1994). The
34 Council analyzed the impacts to the White River Canyon in Section IV.I.1.a.iii of the *Final Order*
35 *on the Application*. As originally proposed, the Council found that there would not be significant
36 impacts to the visual characteristics of the White River Canyon. The requested amendments
37 would eliminate the turbines that would have been visible from the White River Canyon; and
38 would not result in any additional turbines being visible from the canyon. Therefore, the
39 increased height of the turbines will not result in any increased impact to the White River
40 Canyon.¹³⁰ As a result, the Council finds that the facility is not likely to result in adverse

¹²⁹ *Response to RAI I Exhibit C at 2*

¹³⁰ *Request for Amendment Exhibit C at 3*

1 impacts to scenic resources and values identified in White River National Wild and Scenic River
2 Management Plan.

3
4 **John Day River Canyon**

5 The John Day River Canyon (from rim to rim) is identified as an area of “high visual quality” by
6 the John Day River Canyon Management Plan (February 2001) and the Two Rivers Resource
7 Management Plan (September 1986). The Council analyzed the impacts to the resources
8 identified in the John Day River Canyon in Section IV.I.1.a.iv. of the *Final Order on the*
9 *Application*. The Council found that there would not be significant impacts to the visual
10 characteristics of the resources in the John Day River Canyon because the facility would be
11 visible only from small portions of the higher canyon walls with little access at distances of over
12 18 miles.¹³¹ In Exhibit C of the *Request for Amendment* David Evans found the increase in
13 turbine height would not increase the impact.¹³² Because the resources are 18 miles away, any
14 impacts of the proposed 20 meter increase in the size of the turbines on the visual
15 characteristics of the John Day River Canyon resources is likely to be minimal. As a result the
16 Council finds that the facility is not likely to result in adverse impacts to scenic resources and
17 values identified in the John Day River Canyon Management Plan and the Two Rivers Resource
18 Management Plan.

19
20 **Mt. Hood National Forest**

21 Portions of the Mt. Hood National Forest are within the analysis area and are identified by the
22 Mt. Hood National Forest Land and Resource Management Plan (October 1990) as having
23 scenic viewsheds that are protected by the United States Forestry Service’s Visual Management
24 System Visual Quality Objectives. The Council analyzed the impacts to the Mt. Hood National
25 Forest in Section IV.I.1.a.v of the *Final Order on the Application*. The Council found that the
26 proposed facility would not have significant adverse visual impacts on the Mt. Hood National
27 Forest as the facility is 15 miles away and access to the areas where the facility would be visible
28 are limited.¹³³ In Exhibit C of the *Request for Amendment*, David Evans concluded that the
29 amendments would have a negligible impact because the views would be obscured by
30 vegetation.¹³⁴ Because the resource is 15 miles away and obscured by vegetation, the proposed
31 20 meter increase in the size of the turbines will have minimal, if any impact on this to this
32 resource. As a result the Council finds that the facility is not likely to result in adverse impacts to
33 scenic resources and values identified as important in the Mt. Hood National Forest Land and
34 Resource Management Plan.

35
36 **Oregon National Historic Trail**

37 The Oregon National Historic Trail Management Plan (August 1999) provides for the
38 preservation, interpretation, public use and understanding of the Oregon Historic Trail. The
39 Council analyzed the impacts to the Oregon National Historic Trail in Section IV.I.1.a.vi of the

¹³¹ *Final Order on the Application* at 118

¹³² *Request for Amendment* Exhibit C at 3

¹³³ *Final Order on the Application* at 119

¹³⁴ *Request for Amendment* Exhibit C at 3

1 *Final Order on the Application*. The Council found that the facility would not be visible from the
2 four high-potential sites identified by the Oregon National Historic Trail management plan.¹³⁵ In
3 Exhibit C of the *Request for Amendment*, David Evans concluded that even with the requested
4 amendments to increase the size of the turbines, the facility would not be visible from the four
5 high-potential sites.¹³⁶ The Council concurs with that assessment. As a result, the Council finds
6 that the facility is not likely to result in adverse impacts to scenic resources and values
7 identified as important in the Oregon National Historic Trail Management Plan.

8 9 **Journey Through Time Scenic Byway**

10 The Journey Through Time Scenic Byway Plan is administered through the Oregon Department
11 of Transportation Scenic Byway Program and the plan is referenced by the Sherman County
12 Comprehensive Plan. The Council analyzed the impacts to the Journey Through Time Scenic
13 Byway in Section IV.I.1.a.vii of the *Final Order on the Application*. The Council found that the
14 facility would be visible in the background along portions of the byway, but would be
15 subordinate to the surrounding landscape, and that the facility is compatible with the byway's
16 stated goals, in particular the goals of job creation and building a regional identity.¹³⁷ In Exhibit
17 C of the *Request for Amendment*, David Evans evaluated the proposed increase in height on the
18 byway and concluded the requested increase in turbine size would not alter the visual
19 impact.¹³⁸ Because the facility is 6.5 miles from the byway, any impact on the proposed 20
20 meter increase in the height of the turbines is likely to be minimal. As a result, the Council finds
21 that the facility is not likely to result in adverse impacts to scenic resources and values
22 identified as important in the Journey Through Time Scenic Byway Management Plan.

23 24 **Wasco County Resources**

25 The Council analyzed the impacts to Wasco County Resources identified by the Wasco County
26 Comprehensive Plan in Section IV.I.1.a.viii of the *Final Order on the Application*. The Council
27 found that even though the facility would be visible from portions of identified scenic highways
28 at a distance of 7.6 miles to 1.8 miles, given the intermittent nature of the views, the distance
29 and the presence of existing transmission lines, the facility would have minimal impacts of the
30 identified Wasco County Resources.¹³⁹ In Exhibit C of the *Request for Amendment*, David Evans
31 further analyzed the visual impact of the proposed increased turbine heights on the identified
32 Wasco County Resources, and concluded that the increased height of the turbines would not
33 alter the visual impact.¹⁴⁰ The Council concurs with the certificate holder's analysis and
34 conclusion. As a result, the Council finds that the facility is not likely to result in adverse impacts
35 to scenic resources and values identified as important in the Wasco County Comprehensive
36 Plan.

37

¹³⁵ *Final Order on the Application* at 119

¹³⁶ *Request for Amendment* Exhibit C at 3

¹³⁷ *Final Order on the Application* at 120

¹³⁸ *Request for Amendment* Exhibit C at 3

¹³⁹ *Final Order on the Application* at 120

¹⁴⁰ *Request for Amendment* Exhibit C at 3

1 **Sherman County Resources**

2 Sherman County identifies scenic resources and values in Goal VI of the Sherman County
3 Comprehensive Plan. The Council analyzed the impacts to Sherman County Resources identified
4 in the Sherman County Comprehensive Plan in Section IV.I.1.a.ix of the *Final Order on the*
5 *Application*. The Council found that because the facility is entirely located within Wasco County,
6 there will be minimal impact to trees and the rural nature of Sherman County will not be
7 subject to significant adverse impacts that the facility would not have significant adverse
8 impacts to Sherman County Resources.¹⁴¹ Given that the facility is located entirely within Wasco
9 County it will not impact the trees in Sherman County or the rural nature of the Sherman
10 County Landscape the Council finds that, as amended, the facility will not likely result in
11 significant adverse impact to the identified Sherman County Resources identified in the
12 Sherman County Comprehensive Plan.

13
14 **Conclusion**

15
16 For the reasons discussed above, and subject to compliance with the conditions in the Site
17 Certificate, the Council finds that the facility, as amended, complies with the Council’s Scenic
18 Resources standard.

19
20 **III.B.3.k. Historic, Cultural and Archaeological Resources: OAR 345-022-0090**

21
22 *(1) Except for facilities described in sections (2) and (3), to issue a site certificate, the*
23 *Council must find that the construction and operation of the facility, taking into account*
24 *mitigation, are not likely to result in significant adverse impacts to:*

25
26 *(a) Historic, cultural or archaeological resources that have been listed on, or would*
27 *likely be listed on the National Register of Historic Places;*

28
29 *(b) For a facility on private land, archaeological objects, as defined in ORS*
30 *358.905(1)(a), or archaeological sites, as defined in ORS 358.905(1)(c); and*

31
32 *(c) For a facility on public land, archaeological sites, as defined in ORS 358.905(1)(c).*

33
34 *(2) The Council may issue a site certificate for a facility that would produce power from*
35 *wind, solar or geothermal energy without making the findings described in section (1).*
36 *However, the Council may apply the requirements of section (1) to impose conditions on*
37 *a site certificate issued for such a facility.*

38 * * *

39
40
41

¹⁴¹ *Final Order on the Application* at 121

1 **Findings of Fact**

2
3 Section (1) of the Historic, Cultural and Archaeological Resources standard generally requires
4 the Council to find that the proposed facility is not likely to result in significant adverse impacts
5 to identified historic, cultural or archaeological resources. Under Section (2), the Council may
6 issue a Site Certificate for a wind power facility without making findings of compliance with this
7 section. However, the Council may impose Site Certificate conditions based on the
8 requirements of this standard.
9

10 The Council addressed the Historic, Cultural and Archaeological Standard in section V.B of the
11 *Final Order on the Application*. To ensure the certificate holder addresses the requirements of
12 this standard, the Council adopted Conditions V.B.2.1 through V.B.2.6 requiring mitigation
13 measures.¹⁴²
14

15 The requested amendments would not increase ground disturbance or otherwise alter the
16 Council’s previous findings regarding the Council’s Historic, Cultural and Archaeological
17 Resources standard. The site certificate holder will remain subject to the conditions included in
18 the original site certificate.
19

20 **Conclusion**

21
22 The Council finds that the conditions currently imposed in the site certificate to address the
23 Historic, Cultural and Archaeological Resources Standard are adequate to ensure issues related
24 to that standard are fully addressed.
25

26 **III.B.3.I. Recreation: OAR 345-022-0100**

27
28 *(1) Except for facilities described in section (2), to issue a site certificate, the Council must*
29 *find that the design, construction and operation of a facility, taking into account*
30 *mitigation, are not likely to result in a significant adverse impact to important*
31 *recreational opportunities in the analysis area as described in the project order. The*
32 *Council shall consider the following factors in judging the importance of a recreational*
33 *opportunity:*
34

- 35 (a) Any special designation or management of the location;
36 (b) The degree of demand;
37 (c) Outstanding or unusual qualities;
38 (d) Availability or rareness;
39 (e) Irreplaceability or irretrievability of the opportunity.
40
41

¹⁴² *Final Order on Application* at 138

1 **Findings of Fact**

2
3 The Recreation Standard requires the Council to find that the design, construction, and
4 operation of the facility are not likely to result in adverse impacts to important recreational
5 opportunities.

6
7 The Council addressed the Recreation Standard in section IV.J of the *Final Order on the*
8 *Application*. The Council identified four important recreational resources: the Deschutes River
9 Corridor; Mack’s Canyon Archaeological and recreational Site; the Lower Deschutes Back
10 Country Byway; and Wasco County Scenic Highway Segments. The Council found that the
11 design, construction and operation of the facility were not likely to result in a significant
12 adverse impact to any important recreational opportunities in the analysis area.¹⁴³ The Council
13 did not impose any conditions related to this standard.

14
15 The requested amendment to increase the size of the wind turbines affects the analysis of this
16 standard. As discussed in the analysis under Section III.B.3.j the proposed larger turbines will
17 likely be visible from the Lower Deschutes River Canyon but the impacts will be intermittent
18 and subordinate to the landscape. As such, the visual impacts should not have a significant
19 adverse impact on the opportunities for fishing, rafting, camping and other recreational
20 activities are available in the Lower Deschutes River Canyon. The same analysis applies to the
21 Lower Deschutes Back Country Byway and Mack’s Canyon Archaeological and Recreational Site
22 as they are both located within the Lower Deschutes River Canyon and provide similar
23 recreational opportunities. Section III.B.3.j also contains the analysis for visual impacts to
24 Wasco County Scenic Highway segments, which were identified for their value to road touring
25 as a recreational opportunity.

26
27 Since the *Final Order on the Application*, a new state recreation area was opened within the
28 analysis area. Cottonwood Canyon State Park opened in September, 2013 and is located 18.5
29 miles from the facility. Because of the distance of the facility from the park, even if Cottonwood
30 Canyon Park was an important recreational opportunity under the relevant factors, the
31 recreational opportunities available at the park are not likely to be impacted by the facility.
32 Based on the information provided by the site certificate holder, the proposed facility would be
33 inaudible in the park and would not be visible from the park.¹⁴⁴ Therefore, the facility would not
34 result in a significant adverse impact to important recreational opportunities within
35 Cottonwood Canyon State Park.

36
37 **Conclusion**

38
39 For the reasons discussed above, the Council finds that the facility, as amended, complies with
40 the Council’s Recreation Standard.

¹⁴³ *Final Order on Application* at 124

¹⁴⁴ SRW Response to RAI 1 October 16, 2014

1
2 III.B.3.m. Public Services: OAR 345-022-0110
3

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

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

15 * * * * *

16
17
18 **Findings of Fact**

19
20 The Council's Public Services standard requires the Council to evaluate a proposed facility's
21 impacts on the ability of public and private service providers to supply sewer and sewage
22 treatment, water, stormwater drainage, solid waste management, housing, traffic safety, police
23 and fire protection, health care, and schools.

24
25 Under OAR 345-022-0110(2), the Council may issue a site certificate for a facility that would
26 produce power from wind without making findings with respect to the Public Services Standard.
27 However, the Council may impose site certificate conditions based upon the requirements of
28 the standard.

29
30 The Council addressed the Public Services Standard in section V.C of the *Final Order on the*
31 *Application*, and imposed numerous conditions to address the requirements of this standard.¹⁴⁵

32
33 The findings in the *Final Order on the Application* were based on the public service provider's
34 representations of their ability to provide their respective services. However, because the
35 affected service providers' ability to provide their services could have changed, the certificate
36 holder contacted each of the public service providers listed in Exhibit U and received
37 confirmation of their continuing ability to provide the services listed in the *Final Order*.¹⁴⁶

38
39
40

¹⁴⁵ *Final Order on Application* at 145

¹⁴⁶ *Response to RAI 1* at Appendix E

1 **Conclusion**

2
3 The Council finds the conditions currently imposed in the site certificate to address the Public
4 Services Standard are adequate to ensure issues related to that standard are fully addressed.

5
6 **III.B.3.n. Waste Minimization: OAR 345-022-0120**

7
8 *(1) Except for facilities described in sections (2) and (3), to issue a site certificate, the*
9 *Council must find that, to the extent reasonably practicable:*

10
11 *(a) The applicant’s solid waste and wastewater plans are likely to minimize*
12 *generation of solid waste and wastewater in the construction and operation of the*
13 *facility, and when solid waste or wastewater is generated, to result in recycling and*
14 *reuse of such wastes;*

15
16 *(b) The applicant’s plans to manage the accumulation, storage, disposal and*
17 *transportation of waste generated by the construction and operation of the facility*
18 *are likely to result in minimal adverse impact on surrounding and adjacent areas.*

19
20 **Findings of Fact**

21
22 The Waste Minimization Standard requires the Council to find that the certificate holder will
23 minimize generation of solid waste and wastewater, and manage waste generated to result in
24 minimal adverse impacts on the surrounding and adjacent areas.

25
26 The Council addressed the Waste Minimization Standard in section V.D of the *Final Order on*
27 *the Application* and found that the facility, with conditions, complied with the Waste
28 Minimization standard.¹⁴⁷

29
30 The requested amendments would not impact the facility’s ability to comply with the Waste
31 Minimization Standard or otherwise impact the Council’s previous findings of compliance with
32 this standard. Accordingly, the Council finds that the certificate holder will minimize and
33 manage solid waste and wastewater resulting in minimal adverse impacts on surrounding and
34 adjacent areas.

35
36 **Conclusion**

37
38 For the reasons discussed above, and subject to compliance with the conditions in the Site
39 Certificate, the Council finds that the facility, as amended, complies with the Council’s Waste
40 Minimization Standard.

41

¹⁴⁷ *Final Order on Application* at 149

1 III.B.3.o. Division 23 Standards

2
3 The Division 23 standards apply only to “nongenerating facilities” as defined in ORS
4 469.503(2)(e)(K), except non-generating facilities that are related or supporting facilities. The
5 facility is not a nongenerating facility as defined in statute, and therefore Division 23 is
6 inapplicable to the requested amendment.

7
8 III.B.3.p. Division 24 Standards

9
10 The Council’s Division 24 standards include specific standards for siting facilities including wind,
11 underground gas storage reservoirs, transmission lines and facilities that emit carbon dioxide.

12
13 **Public Health and Safety Standards for Wind Energy Facilities: OAR 345-024-0010**

14 *To issue a site certificate for a proposed wind energy facility, the Council must find that the*
15 *applicant:*

16
17 *(1) Can design, construct and operate the facility to exclude members of the public from*
18 *close proximity to the turbine blades and electrical equipment.*

19
20 *(2) Can design, construct and operate the facility to preclude structural failure of the*
21 *tower or blades that could endanger the public safety and to have adequate safety*
22 *devices and testing procedures designed to warn of impending failure and to minimize*
23 *the consequences of such failure*

24
25 **Findings of Fact**

26
27 OAR 345-024-0010 requires the Council to consider specific public health and safety standards
28 related to wind energy facilities. In particular, the Council must evaluate the applicant’s
29 proposed measures to exclude members of the public from close proximity to the turbine blades
30 and electrical equipment, and the applicant’s ability to design, construct and operate the facility
31 to prevent structural failure of the tower or blades and to provide sufficient safety devices to
32 warn of failure.

33
34 The Council addressed the Public Health and Safety Standard for Wind Facilities in section IV.K
35 of the *Final Order on the Application* and found that the certificate holder could design,
36 construct and operate the facility to exclude members of the public from close proximity to the
37 turbine blades and electrical equipment.¹⁴⁸ The Council further found that the certificate holder
38 could design, construct and operate the facility to preclude structural failure of the tower or
39 blades that could endanger public safety, and to have adequate safety devices and testing
40 procedures designed to warn of impending failure and to minimize the consequences of such
41 failure. Accordingly, the Council found that the facility, with conditions, complied with this

¹⁴⁸ *Id.* at 127

1 standard. The requested amendments would not have any additional impact on compliance
2 with the Public Health and Safety for Wind Facilities Standard.

3
4 However, Condition IV.K.2.4 of the original site certificate requires that before beginning
5 construction, the certificate holder shall submit to the FAA and the Oregon Department of
6 Aviation a Notice of Proposed Construction or Alteration identifying the proposed final
7 locations of the turbines and related or supporting facilities and shall provide a copy of this
8 notice to the department. As discussed in the analysis under WCLUDO 19.030(C)(1) the
9 department is recommending that the Council amend this condition to require the certificate
10 holder both inform the department of the response of the FAA and Oregon Department of
11 Aviation and act upon the response.

12 13 **Conclusion**

14
15 Based on the reasoning above, and subject to compliance with the Site Certificate conditions,
16 the Council concludes that the facility, as amended, continues to comply with the Council's
17 Public Health and Safety Standards for Wind Energy Facilities.

18 19 **Siting Standards for Wind Energy Facilities: OAR 345-024-0015**

20
21 *To issue a site certificate for a proposed wind energy facility, the Council must find that the*
22 *applicant can design and construct the facility to reduce cumulative adverse environmental*
23 *effects in the vicinity by practicable measures including, but not limited to, the following:*

24
25 *(1) Using existing roads to provide access to the facility site, or if new roads are needed,*
26 *minimizing the amount of land used for new roads and locating them to reduce adverse*
27 *environmental impacts.*

28
29 *(2) Using underground transmission lines and combining transmission routes.*

30
31 *(3) Connecting the facility to existing substations, or if new substations are needed,*
32 *minimizing the number of new substations.*

33
34 *(4) Designing the facility to reduce the risk of injury to raptors or other vulnerable wildlife*
35 *in areas near turbines or electrical equipment.*

36
37 *(5) Designing the components of the facility to minimize adverse visual features.*

38
39 *(6) Using the minimum lighting necessary for safety and security purposes and using*
40 *techniques to prevent casting glare from the site, except as otherwise required by the*
41 *Federal Aviation Administration or the Oregon Department of Aviation*

1 **Findings of Fact**

2
3 The Wind Energy facility Cumulative Effects Standard requires the certificate holder to use
4 practicable measures in designing and constructing the facility to reduce the cumulative
5 adverse environmental effects in the vicinity. The standard does not require the Council to find
6 that the facility would have no cumulative environmental impacts. Instead, the Council must
7 find that the applicant is able to use “practicable measures” in the design and construction of
8 the facility to reduce the cumulative effects.
9

10 The Council addressed the Cumulative Effects Standard for Wind Facilities in section IV.L of the
11 *Final Order on the Application* and found that the proposed design, construction and operation
12 of the facility would minimize cumulative adverse environmental effects in the vicinity by in
13 compliance with the requirements of the Council’s Siting Standards for Wind Energy
14 Facilities.¹⁴⁹ Specifically, in approving the original application, the Council considered and made
15 findings regarding cumulative impacts of the subject facility related to (1) roads; (2)
16 transmission lines and substations; (3) wildlife protection; (4) visual features; and (5) lighting. As
17 approved, the certificate holder is required to use existing county roads to gain access to the
18 site.¹⁵⁰ The transmission lines and the one substation are required to, where possible,
19 underground the power collection system.¹⁵¹ The facility is required to be designed to adhere
20 to the 2006 Avian Powerline Interaction Committee’s suggested practices for raptor protection
21 on powerlines and provide mitigation according to ODFW’s habitat mitigation guidelines.¹⁵² The
22 wind turbine towers must be coated with a neutral gray, white or off-white tones to blend in
23 surrounding landscape.¹⁵³ The turbines are required to have only the minimum lighting
24 required by the FAA and the substation and O&M facilities is required to have lighting that is
25 shielded or directed downward.¹⁵⁴
26

27 The requested amendments do not impact the cumulative environmental effects of the
28 components authorized for construction or otherwise change the facts upon which the Council
29 relied in making findings for this standard regarding the cumulative environmental effects from
30 this wind facility.
31

32 **Conclusion**

33
34 The Council finds that, subject to the existing site certificate conditions, the facility, as
35 amended, complies with the Council’s siting Standards for Wind Energy Facilities.
36
37

¹⁴⁹ *Id.* at 128

¹⁵⁰ *Id.*

¹⁵¹ *Id.* at 129

¹⁵² *Id.*

¹⁵³ *Id.*

¹⁵⁴ *Id.*

1 **Siting Standards for Transmission Lines: OAR 345-0240-0090**

2
3 *To issue a site certificate for a facility that includes any transmission line under Council*
4 *jurisdiction, the Council must find that the applicant:*

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

8
9 *(2) Can design, construct and operate the proposed transmission line so that induced*
10 *currents resulting from the transmission line and related or supporting facilities will be*
11 *as low as reasonably achievable*

12
13 **Findings of Fact**

14
15 These standards address safety hazards associated with electric fields around transmission
16 lines. Section (1) of OAR 345-024-0090 sets a limit for electric fields from transmission lines of
17 not more than 9 kV per meter at one meter above the ground surface in areas that are
18 accessible to the public. Section (2) requires measures to reduce the risk of induced current.

19
20 The Council addressed the Siting Standards for Transmission Lines in section IV.K of the *Final*
21 *Order on the Application*. In the *Final Order on the Application*, the Council found that the
22 certificate holder could construct and operate the proposed transmission lines so that
23 alternating current electric fields do not exceed 9 kV per meter at one meter above the ground
24 surface in areas accessible to the public.¹⁵⁵ The Council further found that the certificate holder
25 could design, construct and operate the proposed transmission lines so that induced currents
26 resulting from the transmission lines will be as low as reasonably achievable.¹⁵⁶ Therefore, the
27 Council concluded that the facility complied with the Siting Standards for Transmission Lines.¹⁵⁷

28
29 The requested amendments do not propose any physical changes to the approved transmission
30 line, and therefore would not impact the facility’s ability to comply with the Siting Standards for
31 Transmission Lines or otherwise impact the Council’s previous findings of compliance with this
32 standard.

33
34 **Conclusion**

35
36 For the reasons discussed above, and subject to compliance with the conditions in the Site
37 Certificate, the Council finds that the facility, as amended, complies with the Council’s Siting
38 Standards for Transmission Lines.

39
40

¹⁵⁵ *Id.* at 132

¹⁵⁶ *Id.*

¹⁵⁷ *Final Order on Application* at 106

1 III.B.4. Other Applicable Regulatory Requirements Under Council Jurisdiction

2
3 Under ORS 469.503(3) and under the Council’s General Standard of Review (OAR 345-022-
4 0000), the Council must determine whether the proposed facility complies with “all other
5 Oregon statutes and administrative rules..., as applicable to the issuance of a site certificate for
6 the proposed facility.” This section addresses the applicable Oregon statutes and administrative
7 rules that are not otherwise addressed in Council standards, including noise control regulations,
8 regulations for removal or fill of material affecting waters of the state, and regulations for
9 appropriating ground water.

10
11 III.B.4.a. Noise Control Regulations: OAR 340-035-0035

12
13 *(1) Standards and Regulations:*

14 ***

15 *(b) New Noise Sources:*

16
17 *(A) New Sources Located on Previously Used Sites. No person owning or*
18 *controlling a new industrial or commercial noise source located on a previously*
19 *used industrial or commercial site shall cause or permit the operation of that*
20 *noise source if the statistical noise levels generated by that new source and*
21 *measured at an appropriate measurement point, specified in subsection (3)(b) of*
22 *this rule, exceed the levels specified in Table 8, except as otherwise provided in*
23 *these rules. For noise levels generated by a wind energy facility including wind*
24 *turbines of any size and any associated equipment or machinery, subparagraph*
25 *(1)(b)(B)(iii) applies.*

26 *****

27
28 **Findings of Fact**

29
30 The noise control regulations in OAR 340-035-0035 apply to noise associated with operation of
31 the facility as a new industrial or commercial noise source. The Council addressed the Noise
32 Control Regulations in section VI.A of the *Final Order on the Application*. In the original
33 application, to represent the range of turbines that could be used at the proposed facility, the
34 certificate holder provided total and octave band sound power level data for the worst case
35 (loudest) scenario. To ensure that the facility as-built would comply with the noise regulations,
36 the Council adopted four conditions that required the certificate holder to provide information
37 to the department about the turbines selected and the final design layout before beginning
38 construction. Condition VI.A.2.2 specifically requires that the certificate holder submit a new
39 noise analysis to the department prior to construction that demonstrates that the facility will
40 be in compliance with all relevant noise related requirements. The Council found that the
41 facility, with conditions, complied with the Noise Control Regulations.¹⁵⁸

158 *Final Order on Application* at 156

1
2 The requested amendments affect the Council’s previous findings to the extent the change in
3 the blade tip height could alter results of the noise modeling. However, Condition VI.A.2.2,
4 which requires final noise analysis based on the final selected turbine layout and model, will
5 account for any changes based on the change in blade tip height. Therefore, the Council finds
6 that, subject to Conditions VI.A.2.1-2, the facility, as amended, satisfies this standard.

7
8 **Conclusion**
9

10 For the reasons discussed above, and subject to the existing site certificate conditions, the
11 Council concludes that the facility, as amended, complies with the applicable noise control
12 regulations in OAR 340-035-0035.
13

14 **III.B.4.b. Removal-Fill**
15

16 The Oregon Removal-Fill Law (ORS 196.800 through .990) and DSL regulations (OAR 141-085-
17 0005 through 141-085-0090) require a Removal/Fill Permit if 50 cubic yards or more of material
18 is removed, filled or altered within any “waters of the state” at the proposed site.¹⁵⁹
19

20 **Findings of Fact**
21

22 The Council addressed the Removal Fill Law in section VI.A.2 of the *Final Order on the*
23 *Application*. The Council found that the facility would not require a Removal Fill Permit.¹⁶⁰ The
24 proposed amendments do not increase the development or construction footprint of the
25 facility, and therefore do not alter the conclusion that the facility will not require a removal-fill
26 permit.
27

28 The requested amendments likewise would not affect any areas that were not previously
29 addressed by the delineation report on the wetlands and waters within the analysis area.
30 Therefore, the Council find that the removal fill laws are not impacted by the requested
31 amendment.
32

33 **Conclusion**
34

35 The Council concludes that the proposed facility, as amended, will not require a state Removal
36 Fill Permit.
37
38
39
40

¹⁵⁹ OAR 141-085-0010(225) defines “Waters of this State.” The term includes wetlands and certain other water bodies

¹⁶⁰ *Final Order on Application* at 158

1 III.B.4.c. Water Rights

2
3 Under ORS Chapters 537 and 540 and OAR Chapter 690, OWRD administers water rights for
4 appropriation and use of the water resources of the state. Under OAR 345-022-0000(1), the
5 Council must determine whether the proposed facility would comply with these statutes and
6 administrative rules.

7
8 **Findings of Fact**

9
10 The Council addressed the Ground Water Act in section VI.C of the *Final Order on the*
11 *Application*. The Council found that the facility would comply with the Ground Water Act of
12 1955 and the rules of the Water Resource Department.¹⁶¹

13
14 The requested amendments would not impact the facility’s water use or otherwise impact
15 compliance with the Ground Water Act of 1955 or any Water Resources Department rules.

16
17 **Conclusion**

18
19 For the reasons discussed above, the Council concludes that the facility, as amended, complies
20 with the applicable water rights statutes and regulations.

21
22 **IV. GENERAL APPLICATION OF CONDITIONS**

23
24 The conditions referenced in this Order include conditions that are specifically required by OAR
25 345-027-0020 (Mandatory Conditions in Site Certificates), OAR 345-027-0023 (Site Specific
26 Conditions), OAR 345-027-0028 (Monitoring Conditions) or OAR Chapter 345, Division 26
27 (Construction and Operation Rules for Facilities). The conditions referenced in this Order
28 include conditions based on representations in the request for amendment and the supporting
29 record. The Council deems these representations to be binding commitments made by the
30 certificate holder. This Order also includes conditions that the Council finds necessary to ensure
31 compliance with the siting standards of OAR Chapter 345, Divisions 22 and 24.

32
33 The Council recognizes that many specific tasks related to the design, construction, operation
34 and retirement of the facility will be undertaken by the certificate holder’ agents or contractors.
35 Nevertheless, the certificate holder is responsible for ensuring that all agents and contractors
36 comply with all provisions of the Site Certificate.

37
38 **V. GENERAL CONCLUSION AND FINAL ORDER**

39
40 The proposed amendment would (1) extend the deadline to begin construction from August 19,
41 2014 to August 19, 2016; (2) extend the deadline to complete construction from August 19,

¹⁶¹ *Final Order on Application* at 160

1 2017 to August 19, 2019; (3) reduce the maximum number of wind turbines from 87 to 72; (4)
2 reduce the peak generating capacity from 200.1 MW to 194.4 MW; (5) increase the maximum
3 wind turbine hub height from 80 meters to 91 meters; (6) increase the maximum blade tip
4 height from 132 meters to 152 meters; (7) decrease the blade tip minimum clearance from 28
5 meters to 23 meters; and (8) reduce the project site boundary from approximately 13,000 acres
6 to approximately 11,000 acres. This Amended Final Order includes an amended site certificate
7 that authorizes LotusWorks to construct and operate the facility subject to terms and
8 conditions set forth herein.

9
10 Based on the findings and conclusions included in this order, the Council makes the following
11 findings:

12
13 (1) LotusWorks-Summit Ridge I, LLC has demonstrated good cause for the delay in
14 submitting the Request for Amendment #1, as required under OAR 345-027-0030.

15
16 (2) The Proposed Amendment #1 to the Summit Ridge Site Certificate complies with the
17 requirements of the Oregon Energy Facility Siting statutes, ORS 469.300 to ORS 469.570
18 and ORS 469.590 to ORS 469.619.

19
20 (3) The Proposed Amendment #1 to the Summit Ridge Site Certificate complies with the
21 applicable standards adopted by the Council pursuant to ORS 469.501.

22
23 (4) The Proposed Amendment #1 to the Summit Ridge Site Certificate complies with all
24 other Oregon statutes and administrative rules that were included in and governed by
25 the original site certificate and are applicable to the amendment of the site certificate
26 for the Summit Ridge Wind Farm.


27
28 Accordingly, the Council finds that the proposed amendment complies with the General
29 Standard of Review (OAR 345-022-0000). The Council finds, based on a preponderance of the
30 evidence on the record, that the Site Certificate may be amended as requested.

1 **Final Order**

2
3 The Council approves Amendment #1 and issues an amended site certificate for the Summit
4 Ridge Wind Farm, subject to the terms and conditions set forth above.

5
6 Issued this 7th day of August, 2015

7
8 The Oregon Energy Facility Siting Council

9
10 By: 
11 Barry Beyeler, Chair
12 Energy Facility Siting Council

13
14 **Attachments:**

15 Attachment A: Amended Site Certificate

16 Attachment B: Threatened and Endangered Species and Raptor Nest Survey Protocol

17 Attachment C: Amended Habitat Mitigation Plan

18
19 **Notice of the Right to Appeal**

20 *The right to appeal this order approving an amendment to a site certificate is provided in ORS*
21 *469.403. Pursuant to ORS 469.403, any party to a contested case proceeding on an amended*
22 *site certificate application may appeal the Council's approval or rejection of the amended site*
23 *certificate application to the Oregon Supreme Court. To appeal you must file a petition for*
24 *judicial review with the Supreme Court within 60 days from the day this order was served on*
25 *you. If this order was personally delivered to you, the date of service is the date you received this*
26 *order. If this order was mailed to you, the date of service is the date it was mailed, not the date*
27 *you received it. if you do not file a petition for judicial review within the 60-day time period, you*
28 *lose your right to appeal*

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FIRST AMENDED SITE CERTIFICATE
FOR THE
SUMMIT RIDGE WIND FARM

Issued by

OREGON ENERGY FACILITY SITING COUNCIL
625 Marion Street NE
Salem, OR 97301-3737

PHONE: 503-378-4040
FAX: 503-373-7806

Amending the
Site Certificate for the Summit Ridge Wind Farm
of August 19, 2011

**SUMMIT RIDGE WIND FARM SITE CERTIFICATE
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Acronyms and Abbreviations

Council	Oregon Energy Facility Siting Council
Department	Oregon Department of Energy
DOGAMI	Oregon Department of Geology and Mineral Industries
DPO	Draft Proposed Order
ESCP	Erosion and Sediment Control Plan
FAA	Federal Aviation Administration
NPDES	National Pollutant Discharge Elimination System
O&M	Operations and Maintenance
OAR	Oregon Administrative Rule
ODFW	Oregon Department of Fish and Wildlife
ORS	Oregon Revised Statute
WCLUDO	Wasco County Land Use and Development Ordinance

1 **1.0. INTRODUCTION**
2

3 The Oregon Energy Facility Siting Council (Council) issues this site certificate for the Summit
4 Ridge Wind Farm (Summit Ridge) in the manner authorized under ORS Chapter 469. This site
5 certificate is a binding agreement between the State of Oregon (State), acting through the
6 Council, and LotusWorks – Summit Ridge I, LLC (certificate holder) authorizing the certificate
7 holder to construct and operate the facility in Wasco County, Oregon.
8

9 The findings of fact, reasoning, and conclusions of law underlying the terms and conditions of
10 this site certificate are set forth in the Council’s *Final Order in the Matter of the Application for a*
11 *Site Certificate for the Summit Ridge Wind Farm* (Final Order) issued on August 19, 2011, and
12 the Council’s *Amended Final Order in the Matter of the Request for Amendment #1* (Amended
13 Final Order on Amendment 1), and incorporated herein by this reference. In interpreting this site
14 certificate, any ambiguity will be clarified by reference to the following, in order of priority: (1)
15 this Site Certificate, (2) the Amended Final Order on Amendment #1, (3) the Final Order and (4)
16 the record of the proceedings that led to the Final Order.
17

18 This site certificate does not address, and is not binding with respect to, matters that were not
19 addressed in the Council’s Final Order. Such matters include, but are not limited to: building
20 code compliance; wage; hour; and other labor regulations; local government fees and charges;
21 other design or operational issues that do not relate to siting the facility [Oregon Revised Statute
22 (ORS) 469.401(4)]; and permits issued under statutes and rules for which the decision on
23 compliance has been delegated by the federal government to a state agency other than the
24 Council. ORS 469.503(3).
25

26 The obligation of the certificate holder to report information to the Department or the Council
27 under the conditions listed in this site certificate is subject to the provisions of ORS 192.502 *et*
28 *seq.* and ORS 469.560. To the extent permitted by law, the Department and the Council will not
29 publicly disclose information that may be exempt from public disclosure if the certificate holder
30 has clearly labeled such information and stated the basis for the exemption at the time of
31 submitting the information to the Department or the Council. If the Council or the Department
32 receives a request for the disclosure of the information, the Council or the Department, as
33 appropriate, will make a reasonable attempt to notify the certificate holder and will refer the
34 matter to the Attorney General for a determination of whether the exemption is applicable,
35 pursuant to ORS 192.450.
36

37 The Council recognizes that many specific tasks related to the design, construction, operation and
38 retirement of the facility will be undertaken by the certificate holder’s agents or contractors.
39 Nevertheless, the certificate holder is responsible for ensuring compliance with all provisions of
40 the site certificate.
41

42 The definitions in ORS 469.300 and OAR 345-001-0010 apply to terms used in this site
43 certificate, except where otherwise stated, or where the context clearly indicates otherwise.
44
45
46

1 **2.0. SITE CERTIFICATION**
2

3 2.1. To the extent authorized by state law and subject to the conditions set forth herein, the
4 State authorizes the certificate holder to construct, operate, and retire a wind energy
5 facility, together with certain related or supporting facilities, at the site in Wasco
6 County, Oregon, as described in Section 3.0 of this site certificate.

7 [ORS 469.401(1)]
8

9 2.2. This site certificate is effective until 1) it is terminated under OAR 345-027-0110 or the
10 rules in effect on the date that termination is sought; or 2) until the site certificate is
11 revoked under ORS 469.440 and OAR 345-029-0100 or the statutes and rules in effect
12 on the date that revocation is ordered.

13 [ORS 469.401(1)]
14

15 2.3. Both the State and the certificate holder shall abide by local ordinances, state law, and
16 the rules of the Council in effect on the date this site certificate is executed. ORS
17 469.401(2). In addition, upon a clear showing of a significant threat to public health,
18 safety, or the environment that requires application of later-adopted laws or rules, the
19 Council may require compliance with such later-adopted laws or rules.

20 [ORS 469.401(2)]
21

22 2.4. For a permit, license, or other approval addressed in and governed by this site
23 certificate, the certificate holder shall comply with applicable state and federal laws
24 adopted in the future to the extent that such compliance is required under the respective
25 state agency statutes and rules.

26 [ORS 469.401(2)]
27

28 2.5. Subject to the conditions herein, this site certificate binds the State and all counties,
29 cities, and political subdivisions in Oregon as to the approval of the site and the
30 construction, operation, and retirement of the facility as to matters that are addressed in
31 and governed by this site certificate.

32 [ORS 469.401(3)]
33

34 2.6. Each affected state agency, county, city, and political subdivision in Oregon with
35 authority to issue a permit, license, or other approval addressed in or governed by this
36 site certificate shall, upon submission of the proper application and payment of the
37 proper fees, but without hearings or other proceedings, issue such permit, license, or
38 other approval subject only to conditions set forth in this site certificate.

39 [ORS 469.401(3)]
40

41 2.7. After issuance of this site certificate, each state agency or local government agency that
42 issues a permit, license, or other approval for the facility shall continue to exercise
43 enforcement authority over such permit, license, or other approval.

44 [ORS 469.401(3)]
45
46

- 1 2.8. After issuance of this site certificate, the Council shall have continuing authority over
2 the site and may inspect, or direct the Oregon Department of Energy (Department) to
3 inspect, or request another state agency or local government to inspect, the site at any
4 time in order to ensure that the facility is being operated consistently with the terms and
5 conditions of this site certificate.
6 [ORS 469.430]
7
- 8 2.9. The certificate holder shall request an amendment of the site certificate to increase the
9 combined peak generating capacity of the facility beyond 194.4 megawatts, to increase
10 the number of wind turbines to more than 72 wind turbines or to install wind turbines
11 with a hub height greater than 91 meters, a blade tip height greater than 152 meters or a
12 blade tip clearance less than 23 meters above ground.
13 [Final Order III.D.7] [Mandatory Condition OAR 345-027-0020(3)]
14
- 15 2.10. Before any transfer of ownership of the facility or ownership of the site certificate
16 holder, the certificate holder shall inform the Department of the proposed new owners.
17 The requirements of OAR 345-027-0100 apply to any transfer of ownership that
18 requires a transfer of the site certificate.
19 [Final Order IV.B.2.8] [Mandatory Condition OAR 345-027-0020(15)]
20
- 21 2.11. Any matter of non-compliance under the site certificate shall be the responsibility of the
22 certificate holder. Any notice of violation issued under the site certificate shall be
23 issued to the certificate holder. Any civil penalties assessed under the site certificate
24 shall be levied on the certificate holder.
25 [Final Order IV.B.2.5]
26
- 27 2.12. Within 72 hours after discovery of conditions or circumstances that may violate the
28 terms or conditions of the site certificate, the certificate holder shall report the
29 conditions or circumstances to the Department.
30 [Final Order IV.B.2.7]
31
- 32 2.13. The Council shall not change the conditions of this site certificate except as provided
33 for in OAR Chapter 345, Division 27.
34 [Final Order VII.1] [Mandatory Condition OAR 345-027-0020(1)]
35
- 36 2.14. Following the completion of surveys required by this site certificate, the Department
37 will present the results of those surveys and required consultations at the next regularly
38 scheduled Council meeting.
39 [Added at the August 7, 2015 Energy Facility Siting Council Meeting]
40

41 3.0 DESCRIPTION OF FACILITY

42

43 LOCATION AND SITE BOUNDARY

44 Summit Ridge I is located in Wasco County, Oregon approximately 17 miles southeast of The
45 Dalles, and eight miles east of Dufur, Oregon. The facility site boundary encompasses
46 approximately 25,000 acres on private land subject to long-term wind energy leases with the

1 landowners.

2
3
4
5

6 As defined by OAR 345-001-0010, the "site boundary" is the perimeter of the site of the energy
7 facility, its related or supporting facilities, all temporary laydown and staging areas and all
8 corridors and micrositing corridors. The Summit Ridge turbines will be located within
9 micrositing corridors approximately 1,300 feet wide.

10

11 **THE ENERGY FACILITY**

12 Summit Ridge I has a combined peak generating capacity of 194.4 megawatts (MW). The facility
13 consists of up to 72 wind turbine generators.

14

15 Turbines will be mounted on tubular steel towers no greater than 91 meters (299 feet) tall at the
16 turbine hub, with a maximum blade tip height no greater than 152 meters (499 feet) and a
17 minimum blade tip clearance of no less than 23 meters (75 feet) above the ground. Turbines
18 include a nacelle that houses the generator and gearbox, and supports the rotor and blades at the
19 hub. A gravel turbine pad area would surround the base of each concrete turbine foundation. A
20 step-up transformer increases the output voltage of each wind turbine generator to the voltage of
21 the power collection system. The step-up transformer will be installed on its own concrete pad at
22 the base of each wind turbine tower, or located in the nacelle, depending on the final turbine
23 model selected.

24

25 Summit Ridge will include the following related or supporting facilities:

26

- 27 ● Power collection system
- 28 ● Collector substation
- 29 ● 230-kV transmission line
- 30 ● Supervisory Control and Data Acquisition (SCADA) System
- 31 ● Operations and maintenance (O&M) facility
- 32 ● Meteorological (met) towers
- 33 ● Access roads
- 34 ● Temporary roadway modifications
- 35 ● Additional temporary construction areas (including laydown areas, crane paths, and a
36 concrete batch plant)

37

38 **POWER COLLECTION SYSTEM**

39 Power from each turbine will be transmitted via the approximately 49-mile collection line system
40 to the collector substation. The new 34.5-kV collection lines will be constructed underground to
41 the extent possible, although up to 10% of the collector lines may be placed aboveground due to
42 site-specific geotechnical or environmental considerations. Aboveground segments would be
43 supported by H-frame wood poles approximately 55 feet in height.

44

45 **COLLECTOR SUBSTATION**

46 The 34.5 kV collector line system will link each turbine to the facility collector substation, which

1 will step up the power from 34.5 kV to 230 kV. The centrally-located collector substation will
2 occupy approximately five acres, surrounded by a graveled, fenced area.
3
4
5

6 **230 KV TRANSMISSION LINE**

7 A new overhead 230 kV transmission feeder line approximately eight miles in length will
8 connect the facility's collector substation to the regional grid at a substation operated by the
9 Bonneville Power Administration (BPA). The 230 kV transmission line runs northwest from the
10 collector substation for approximately two miles, then almost due west for another six miles to
11 the BPA substation, connecting with BPA's 500 kV "Big Eddy to Maupin-Redmond"
12 transmission line.
13

14 The Summit Ridge transmission line will be supported on wooden H-frame poles that are 70 feet
15 in height and spaced approximately 800 feet apart. The right-of-way for the transmission line is
16 approximately 150 feet wide.
17

18 BPA will be responsible for the operation and maintenance of the interconnection facility. If the
19 Summit Ridge facility ceases operation and a decommissioning/retirement plan is implemented,
20 the transmission system operator is not obliged under this site certificate to dismantle the
21 interconnection station, which will also be used to serve other customers.
22

23 **SUPERVISORY CONTROL AND DATA ACQUISITION (SCADA) SYSTEM**

24 A SCADA system will be installed at the facility to enable remote operation and collect operating
25 data for each wind turbine, and archive wind and performance data. The SCADA system will be
26 linked via fiber optic cables or other means of communication to a central computer in the
27 Operations and Maintenance (O&M) building. SCADA system wires will be installed in the
28 collector line underground trenches, or overhead as necessary with the collector line.
29

30 **OPERATIONS AND MAINTENANCE (O&M) FACILITY**

31 One permanent O&M facility will be located within the five-acre facility collector substation site,
32 and will include up to 10,000 square feet of enclosed space for office and workshop areas, a
33 control room, and kitchen and sanitary facilities. The O&M facility will have an adjacent
34 graveled parking area and an approximately 300-foot by 300-foot fenced storage area. The
35 Facility will also include an on-site well and septic system. Domestic water needs for the O&M
36 facility will be served by an on-site well and septic system.
37

38 **METEOROLOGICAL TOWERS**

39 A maximum of three permanent un-guyed meteorological towers will be placed within the site
40 boundary to collect wind resource data (these towers will replace seven existing temporary
41 towers). The met towers will be the same height as the hub of the turbines, approximately 80
42 meters (263 feet) tall. Met tower foundations may be constructed as deep as 40 feet, depending
43 on soil conditions and geotechnical engineering requirements.
44

45 **ACCESS ROADS**

46 Approximately 19 miles of new roads will be constructed within the site boundary to provide

1 access to the turbines and other facility components. Access roads will be designed to be 20-
2 foot wide graveled surfaces with 10-foot compacted shoulders to accommodate construction
3 cranes. After the completion of construction, all new roads within the site boundary will be
4 restored to a total width of 20 feet for general use during facility operation.

5
6 **TEMPORARY ROADWAY MODIFICATIONS**

7 Approximately six miles of existing private roads will be upgraded to accommodate construction
8 and operation of the facility. Where needed, existing roads will be improved to 20-foot wide
9 graveled surfaces with 10-foot compacted shoulders to accommodate construction equipment and
10 cranes. After the completion of construction, improved roads within the site boundary will be
11 restored to a total width of 20-feet for general use during facility operation.

12
13 **ADDITIONAL CONSTRUCTION AREAS**

14 During construction, six temporary laydown areas will be used for the delivery and staging of
15 wind turbine components and other equipment and materials, as well as the staging of
16 construction trailers for the construction crews. Five of the six temporary laydown areas will be
17 located on approximately four acres, covered with gravel, which will be removed following
18 completion of facility construction. The sixth temporary laydown area will encompass the
19 permanent five-acre collector substation and O&M site. Concrete for construction of the facility
20 would be obtained from an on-site concrete batch plant to be located on a graveled 2-acre site
21 within the site boundary.

22
23 **4.0. GENERAL ADMINISTRATIVE CONDITIONS**

24
25 4.1. The certificate holder shall begin construction of the facility by August 19, 2016. The
26 Council may grant an extension of the deadline to begin construction in accordance
27 with OAR 345-027-0030 or any successor rule in effect at the time the request for
28 extension is submitted.

29 [Amended Final Order on Amendment 1 III.D.1] [Mandatory Condition OAR 345-027-
30 0020(4)]

31
32 4.2. The certificate holder shall complete construction of the facility by August 19, 2019.
33 Construction is complete when: 1) the facility is substantially complete as defined by
34 the certificate holder's construction contract documents, 2) acceptance testing has been
35 satisfactorily completed; and 3) the energy facility is ready to begin continuous
36 operation consistent with the site certificate. The certificate holder shall promptly notify
37 the Department of the date of completion of construction. The Council may grant an
38 extension of the deadline for completing construction in accordance with OAR 345-
39 027-0030 or any successor rule in effect at the time the request for extension is
40 submitted.

41 [Amended Final Order on Amendment 1 III.D.2] [Mandatory Condition OAR 345-027-
42 0020(4)]

43
44 4.3. The certificate holder shall submit a legal description of the site to the Department of
45 Energy within 90 days after beginning operation of the facility. The legal description
46 required by this rule means a description of metes and bounds or a description of the

1 site by reference to a map and geographic data that clearly and specifically identifies the
2 outer boundaries that contain all parts of the facility.

3 [Final Order III.D.3] [Mandatory Condition OAR 345-027-0020(2)]
4
5

6 4.4. The certificate holder shall design, construct, operate and retire the facility:
7

8 a. Substantially as described in the site certificate;

9 b. In compliance with the requirements of ORS Chapter 469, applicable Council
10 rules, and applicable state and local laws, rules and ordinances in effect at the
11 time the site certificate is issued; and

12 c. In compliance with all applicable permit requirements of other state agencies.

13 [Final Order III.D.4] [Mandatory Condition OAR 345-027-0020(3)]
14

15 4.5. The certificate holder shall construct the turbines and transmission line within the
16 corridor locations set forth in Exhibit C of the application for site certificate, subject to
17 the conditions of this site certificate.

18 [Final Order III.D.8] [Mandatory Condition OAR 345-027-0023(5)]
19

20 4.6. The certificate holder shall obtain all necessary federal, state, and local permits or
21 approvals required for construction, operation, and retirement of the facility or ensure
22 that its contractors obtain the necessary federal, state, and local permits or approvals.

23 [Final Order IV.B.2.4]
24

25 5.0. PRE-CONSTRUCTION REQUIREMENTS

26
27 In addition to pre-construction requirements contained elsewhere in this site certificate, the
28 certificate holder must meet the following requirements:
29

30 5.1. Before beginning construction, the certificate holder shall notify the Department of the
31 identity and qualifications of the major design, engineering and construction
32 contractor(s) for the facility. The certificate holder shall select contractors that have
33 substantial experience in the design, engineering and construction of similar facilities.
34 The certificate holder shall report to the Department any change of major contractors.

35 [Final Order IV.B.2.1]
36

37 5.2. The certificate holder shall contractually require all construction contractors and
38 subcontractors involved in the construction of the facility to comply with all applicable
39 laws and regulations and with the terms and conditions of the site certificate. Such
40 contractual provisions shall not operate to relieve the certificate holder of responsibility
41 under the site certificate.

42 [Final Order IV.B.2.2]
43

44 5.3. Before beginning construction, the certificate holder shall ensure that participating
45 landowners obtain a Farm-Forest Management Easement. The landowner is required to
46 sign and record in the deed records for the county a document binding the landowner,

1 and the landowner's successors in interest, prohibiting them from pursuing a claim for
2 relief or cause of action alleging injury from farming or forest practices for which no
3 action or claim is allowed under ORS 30.936 or 30.937.

4 [Final Order IV.D.2.4] [WCLUDO section 3.210(H)]
5

6 5.4. Before beginning construction, the certificate holder shall submit a Notice of Proposed
7 Construction or Alteration to the Federal Aviation Administration (FAA) and the
8 Oregon Department of Aviation identifying the proposed final locations of turbine
9 towers and meteorological towers, and shall provide to the Department copies of a
10 Determination of No Hazard for all turbine towers and meteorological towers or an
11 equivalent determination to confirm that the structures comply with applicable FAA
12 and Oregon Department of Aviation air hazard rules The certificate holder shall
13 promptly notify the Department of the responses from the FAA and Oregon Department
14 of Aviation.

15 [Amended Final Order on Amendment I IV.K.2.4]
16

17 5.5. Before beginning construction, the certificate holder shall provide to the Department a
18 description of the turbine types selected for the facility demonstrating compliance with
19 this condition. The certificate holder may select turbines of any type, subject to the
20 following restrictions and compliance with all other site certificate conditions:
21

- 22 a. The total number of turbines at the facility must not exceed 72 turbines.
- 23 b. The combined peak generating capacity of the facility must not exceed 194.4
24 megawatts.
- 25 c. The turbine hub height must not exceed 91 meters and the maximum blade tip
26 height must not exceed 152 meters above grade.
- 27 d. The minimum blade tip clearance must be 23 meters above ground.

28 [Amended Final Order on Amendment 1 III.D.5] [Mandatory Condition OAR 345-027-
29 0020(3)]
30

31 5.6. Before beginning construction the certificate holder shall obtain approval of a
32 Revegetation and Weed Control Plan [Exhibit 1 to Final Order] by the Wasco County
33 Weed Department to control the introduction and spread of noxious weeds, and shall
34 implement that approved plan during all phases of construction and operation of the
35 facility.

36 [Final Order IV.D.2.8] [WCLUDO Section 3.210(J)(17)(5)]
37

38 5.7. Except as necessary for the initial survey or as otherwise allowed for wind energy
39 facilities, transmission lines or pipelines under OAR 345-027-0020, the certificate
40 holder shall not begin construction, as defined in OAR 345-001-0010, or create a
41 clearing on any part of the site until the certificate holder has construction rights on all
42 parts of the site. For the purpose of this rule, "construction rights" means the legal right
43 to engage in construction activities. For wind energy facilities, transmission lines or
44 pipelines, if the certificate holder does not have construction rights on all parts of the
45 site, the certificate holder may nevertheless begin construction, as defined in OAR 345-
46 001-0010, or create a clearing on a part of the site if the certificate holder has

1 construction rights on that part of the site and:
2
3
4
5

- 6 a. The certificate holder would construct and operate part of the facility on that
7 part of the site even if a change in the planned route of the transmission line or
8 pipeline occurs during the certificate holder's negotiations to acquire
9 construction rights on another part of the site; or
10 b. The certificate holder would construct and operate part of a wind energy facility
11 on that part of the site even if other parts of the facility were modified by
12 amendment of the site certificate or were not built.

13 [Final Order III.D.6] [Mandatory Condition OAR 345-027-0020(5)].
14

15 5.8. Before beginning construction, the certificate holder shall conduct a site-specific
16 geotechnical investigation and shall report its findings to the Oregon Department of
17 Geology & Mineral Industries (DOGAMI) and the Department. The certificate holder
18 shall conduct the geotechnical investigation after consultation with DOGAMI and in
19 general accordance with DOGAMI open file report 00-04 "Guidelines for Engineering
20 Geologic Reports and Site-Specific Seismic Hazard Reports."
21 [Final Order V.A.2.1]
22

23 5.9. Before beginning construction of any new State Highway approaches or utility
24 crossings, the certificate holder shall obtain all required permits from the Oregon
25 Department of Transportation (ODOT) subject to the applicable conditions required by
26 OAR Chapter 734, Divisions 51 and 55. The certificate holder shall submit the
27 necessary application or applications in a form satisfactory to ODOT and the
28 Department for the location, construction and maintenance of approaches to State
29 Highway 197 for access to the site. The certificate holder shall submit the necessary
30 application or applications in a form satisfactory to ODOT and the Department for the
31 location, construction and maintenance of collector cables or transmission lines
32 crossing Highway 197.
33 [Final Order V.C.2.12]
34

35 5.10. Before beginning construction, the certificate holder shall notify the Department in
36 advance of any work on the site that does not meet the definition of "construction" in
37 ORS 469.300 (excluding surveying, exploration, or other activities to define or
38 characterize the site) and shall provide to the Department a description of the work and
39 evidence that its value is less than \$250,000.
40 [Final Order IV.B.2.6]
41

42 5.11. Prior to the beginning of construction a Road Impact Assessment/Geotechnical Report
43 for roads to be used by the project shall be submitted to the Department and Wasco
44 County. Said report should include an analysis of project-related traffic routes to be
45 used during phases of construction, project operation and decommissioning. These
46 reports shall be incorporated into a Road Use Agreement with the County.

6 **6.0. DESIGN, CONSTRUCTION AND OPERATIONS**
7

8 6.1. During construction, the certificate holder shall have a full-time, on-site assistant
9 construction manager who is qualified in environmental compliance to ensure
10 compliance with all site certificate conditions. The certificate holder shall notify the
11 Department of the name, telephone number, and e-mail address of this person prior to
12 the start of construction and immediately upon any change in the contact information.
13 [Final Order IV.B.2.3]
14

15 6.2. The certificate holder shall provide portable toilets for on-site sewage handling during
16 construction and shall ensure that they are pumped and cleaned regularly by a licensed
17 contractor who is qualified to pump and clean portable toilet facilities.
18 [Final Order V.C.2.1]
19

20 6.3. The certificate holder shall implement a waste management plan during construction
21 that includes but is not limited to the following measures:
22

- 23 a. Recycling steel and other metal scrap.
- 24 b. Recycling wood waste.
- 25 c. Recycling packaging wastes such as paper and cardboard.
- 26 d. Collecting non-recyclable waste for transport to a local landfill by a licensed
27 water hauler.
- 28 e. Segregating all hazardous wastes such as used oil, oily rags and oil-absorbent
29 materials, mercury-containing lights and lead-acid and nickel-cadmium
30 batteries for disposal by a licensed firm specializing in the proper recycling or
31 disposal of hazardous wastes.
- 32 f. Confining concrete delivery truck rinse-out to a designated wash-out area and
33 burying other concrete waste as part of backfilling.

34 [Final Order V.D.2.1]
35

36 6.4. The certificate holder shall install the 34.5-kV collector system underground to the
37 extent practical. The certificate holder shall install underground lines at a minimum
38 depth of three feet. Based on geotechnical conditions or other engineering
39 considerations, the certificate holder may install segments of the collector system
40 aboveground, but the total length of aboveground segments must not exceed five miles.
41 [Final Order VI.D.2.1]
42

43 6.5. In advance of, and during, preparation of detailed design drawings and specifications
44 for the 230-kV and 34.5-kV transmission lines, the certificate holder shall consult with
45 the Utility Safety and Reliability Section of the Oregon Public Utility Commission to
46 ensure that the designs and specifications are consistent with applicable codes and

standards.

[Final Order VI.D.2.3]

6.6. The certificate holder must design, construct and operate the transmission line in accordance with the requirements of the National Electrical Safety Code (American National Standards Institute, Section C2, 1997 Edition.

[Final Order IV.M.2.1] [Mandatory Condition OAR 345-027-0023(4)(a)]

6.7. The certificate holder shall consult with the Wasco Electric Cooperative during the design, construction, and operation of the Summit Ridge Wind Farm to ensure that the integrity and reliability of the power grid in Wasco County is maintained.

[Final Order VI.D.2.4]

6.8. The certificate holder shall design and construct the facility in accordance with requirements set forth by the Oregon Building Codes Division and any other applicable codes and design procedures.

[Final Order V.A.2.4]

6.9. To protect wetlands and waterways, the certificate holder shall construct the proposed facility substantially as described in the Final Order. Specifically, the certificate holder shall not remove material from waters of the State or add new fill material to waters of the State such that the total volume of removal and fill exceeds 50 cubic yards for the project as a whole.

[Final Order VI.B.2.1]

6.10. 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.

[Final Order V.A.2.5]

6.11. The certificate holder shall design, engineer and construct the facility to avoid dangers to human safety presented by seismic hazards affecting the site that are expected to result from all maximum probable seismic events. "Seismic hazard" includes ground shaking, landslide, liquefaction, lateral spreading, tsunami inundation, fault displacement and subsidence.

[Final Order V.A.2.6] [Mandatory Condition OAR 345-027-0020(12)]

6.12. The certificate holder shall design and construct the facility using the minimum land area necessary for safe construction and operation. The certificate holder shall locate access roads and temporary construction laydown and staging areas to minimize disturbance of farming practices and, wherever feasible, shall place turbines and transmission interconnection lines along the margins of cultivated areas to reduce the potential for conflict with farm operations.

[Final Order IV.D.2.7] [WCLUDO Section 3.210(J)(17)(5)]

1
2 6.13. The certificate holder shall notify the Department, the State Building Codes Division
3 and DOGAMI promptly if site investigations or trenching reveal that conditions in the
4 foundation rocks differ significantly from those described in the application for a site
5 certificate. After the Department receives the notice, the Council may require the
6 certificate holder to consult with the DOGAMI and the Building Codes Division and to
7 propose mitigation actions.

8 [Final Order V.A.2.2] [Mandatory Condition OAR 345-027-0020(13)]
9

10 6.14. The certificate holder shall notify the Department, the State Building Codes Division
11 and DOGAMI promptly if shear zones, artesian aquifers, deformations or clastic dikes
12 are found at or in the vicinity of the site.

13 [Final Order V.A.2.3] [Mandatory Condition OAR 345-027-0020(14)]
14

15 6.15. To reduce the visual impact of the facility, the certificate holder shall:

- 16
17 a. Mount nacelles on smooth, steel structures, painted uniformly in a low-
18 reflectivity, neutral gray, white, or off-white color.
19 b. Paint the substation structures in a low-reflectivity neutral color to blend with
20 the surrounding landscape.
21 c. Not allow any advertising to be used on any part of the facility.
22 d. Use only those signs required for facility safety, required by law or otherwise
23 required by this site certificate, except that the certificate holder may erect a
24 sign near the O&M building to identify the facility, may paint turbine numbers
25 on each tower and may allow unobtrusive manufacturers' logos on turbine
26 nacelles.
27 e. Maintain any signs allowed under this condition in good repair.

28 [Final Order IV.I.2.1]
29

30 6.16. The certificate holder shall design and construct the O&M building to be generally
31 consistent with the character of similar buildings used by commercial farmers or
32 ranchers in the area and shall paint the building in a low-reflectivity, neutral color to
33 blend with the surrounding landscape.

34 [Final Order IV.I.2.2]
35

36 6.17. The certificate holder shall design and construct new access roads and private road
37 improvements to standards approved by the Wasco County Road Department. Where
38 modifications of County roads are necessary, the certificate holder shall construct the
39 modifications entirely within the County road rights-of-way and in conformance with
40 County road design standards subject to the approval of the Wasco County Road
41 Department. Where modifications of State roads or highways are necessary, the
42 certificate holder shall construct the modifications entirely within the public road rights-
43 of-way and in conformance with ODOT standards subject to the approval of ODOT.

44 [Final Order V.C.2.13]
45

46 6.18. The certificate holder shall cooperate with the Wasco County Public Works

1 Department to ensure that any unusual damage or wear to county roads that is caused
2 by construction of the facility is repaired by the certificate holder. Upon completion of
3 construction, the certificate holder shall restore public roads to pre-construction
4 condition or better to the satisfaction of the applicable county departments.

5 [Final Order V.C.2.14]
6

7 6.19. During construction of the facility, the certificate holder shall implement measures to
8 reduce traffic impacts, including:

- 9
- 10 a. Providing notice to adjacent landowners when heavy construction traffic is
 - 11 anticipated.
 - 12 b. Providing appropriate traffic safety signage and warnings.
 - 13 c. Requiring flaggers to be at appropriate locations at appropriate times during
 - 14 construction to direct traffic reduce accident risks.
 - 15 d. Using traffic diversion equipment (such as advance signage and pilot cars)
 - 16 when slow or oversize construction loads are anticipated.
 - 17 e. Maintaining at least one travel lane at all times to the extent reasonably possible
 - 18 so that roads will not be closed to traffic because of construction vehicles.
 - 19 f. Encouraging carpooling for the construction workforce.
 - 20 g. Including traffic control procedures in contract specifications for construction
 - 21 of the facility.
 - 22 h. Keeping Highway 197 free of gravel that tracks out onto the highway at facility
 - 23 access points.

24 [Final Order V.C.2.15]
25

26 6.20. The certificate holder shall ensure that no equipment or machinery is parked or stored
27 on any County road whether inside or outside the site boundary. The certificate holder
28 may temporarily park equipment off the road but within County rights-of-way with the
29 approval of the County Roadmaster.

30 [Final Order V.C.2.16]
31

32 6.21. The height of the proposed Operations and Maintenance building shall not exceed 35
33 feet in height.

34 [Final Order IV.D.2.1] [WCLUDO Section 3.210(F)(2)]
35

36 6.22. Signage for the proposed facility shall conform to the following requirements:

- 37
- 38 a. The certificate holder shall install the following signs at the facility:
39
 - 40 i. "No Trespassing" signs shall be attached to any perimeter fence;
 - 41 ii. "Danger" signs shall be posted at the height of five feet on turbine towers
 - 42 and accessory structures;
 - 43 iii. A sign shall be posted on the tower showing an emergency telephone
 - 44 number; and
 - 45 iv. Manual electrical and/or overspeed shutdown disconnect switch(es) shall
 - 46 be clearly labeled.

1 [Final Order IV.D.2.2] [WCLUDO Section 19.030(C)(7)]
2

3 b. Signage installed in accordance with Condition 6.22.a shall meet the following
4 requirements:

5
6 i. Permanent signs shall not project beyond the property line.

7 ii. Signs shall not be illuminated or capable of movement.

8 iii. Permanent signs shall describe only uses permitted and conducted on the
9 property on which the sign is located.

10 iv. Freestanding signs shall be limited to twelve square feet in area and 8 feet in
11 height measured from natural grade. Signs on buildings are permitted in a
12 ratio of one square foot of sign area to each linear foot of building frontage
13 but in no event shall exceed 32 square feet and shall not project above the
14 building.

15 v. Freestanding signs shall be limited to one at the entrance of the property.

16 Up to one additional sign may be placed in each direction of vehicular traffic
17 running parallel to the property if they are more than 750 feet from the
18 entrance of the property.

19 vi. Signs on buildings shall be limited to one per building and only allowed on
20 buildings conducting the use being advertised.

21 [Final Order IV.D.2.2] [WCLUDO Section 3.210(F)(4)]
22

23 6.23. Except as necessary to meet the requirements of the Federal Aviation Administration to
24 warn aircraft of obstructions, the certificate holder shall design and implement a
25 lighting plan to ensure that all outdoor lighting is directed downward, limited in
26 intensity, and is shielded and hooded to prevent light from projecting onto adjacent
27 properties, roadways, and waterways. Shielding and hooding materials shall be
28 composed of nonreflective, opaque materials.

29 [Final Order IV.D.2.3] [WCLUDO section 3.210(F)(4)]
30

31 6.24. The certificate holder shall be responsible for restoring, as nearly as possible, to its
32 former condition any agricultural land and associated improvements that are damaged
33 or otherwise disturbed by the siting, maintenance, repair or reconstruction of the
34 facility.

35 [Final Order IV.D.2.5] [WCLUDO Section 3.210(J)(8)(c)]
36

37 6.25. The certificate holder shall consult with area landowners and lessees during
38 construction and operation of the facility and shall implement measures to reduce or
39 avoid any adverse impacts to farm practices on surrounding lands and to avoid any
40 increase in farming costs.

41 [Final Order IV.D.2.6] [WCLUDO Sections 5.020(J) and 5.020(K)]
42

43 6.26. The certificate holder shall not use exterior nighttime lighting except:

44
45 a. The minimum turbine tower lighting required or recommended by the Federal
46 Aviation Administration.

1 b. Safety and security lighting at the O&M facility and substation, if such lighting
2 is shielded or downward-directed to reduce offsite glare.
3 [Final Order IV.I.2.3]
4

5
6 6.27. The certificate holder shall design, construct and operate the facility in a manner to
7 ensure that the facility avoids any material signal interference with communication
8 systems such as, but not limited to, radio, telephone, television, satellite, microwave or
9 emergency communication systems. Should any material interference occur, the
10 certificate holder must develop and implement a mitigation plan in consultation with the
11 department.

12 [Amended Final Order on Amendment 1 IV.D.2.9]
13

14 6.28. The certificate holder must comply with the following turbine setback distances, as
15 measured from the centerline of the turbine to the edge of the dwelling, as set forth
16 below.
17

18
19 a. Wind turbines shall be set back from the property line of any abutting property
20 not part of the project (non-project boundaries), the right-of-way of any
21 dedicated road, and any above ground major utility facility line a minimum of
22 1.5 times the blade tip height of the wind turbine tower. Wind turbines shall be
23 set back from any above ground minor utility facility line a minimum of 1.1
24 times the blade tip height of the wind turbine tower.

25 b. Wind turbines must be setback a minimum of 1 mile (5,280 feet) from all non-
26 resource zoned property boundaries located outside of urban growth boundaries
27 or urban reserves (as measured from the centerline of the turbine to the edge of
28 the property boundary zoned for non-resource purposes, e.g. rural residential).

29 [Amended Final Order on Amendment 1 IV.D.2.10]
30

31 6.29. The certificate holder must maintain all access roads for all-weather use to assure
32 adequate, safe and efficient emergency vehicle and maintenance vehicle access to the
33 site.

34 [Amended Final Order on Amendment 1 V.C.2.18]
35

36 6.30. The certificate holder shall submit a legal description of the site to the Wasco County
37 GIS Department upon the beginning operation of the facility. This information shall
38 include the actual latitude and longitude or Oregon State Plane North American Datum
39 1983 (NAD83) High Accuracy Reference Network (HARN) coordinates of each turbine
40 tower, support structures for the 34.5-kV collector lines and 230-kV transmission line,
41 and other related and supporting facilities. The certificate holder may provide the
42 information in a GIS layer based on the geospatial data that includes all characteristics
43 of spatial features of the facility site boundary. The certificate holder shall confer with
44 the Department prior to submittal of GIS-based information.

45 [Amended Final Order on Amendment 1 IV.D.2.11]
46

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2
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4
5
6 **7.0. PUBLIC HEALTH AND SAFETY**
7

8 7.1. The certificate holder shall construct turbine towers with no exterior ladders or access
9 to the turbine blades and shall install locked tower access doors. The certificate holder
10 shall keep tower access doors locked at all times, except when authorized personnel are
11 present.

12 [Final Order IV.K.2.1]
13

14 7.2. For turbine types having pad-mounted step-up transformers, the certificate holder shall
15 install the transformers at the base of each tower in locked cabinets designed to protect
16 the public from electrical hazards and to avoid creation of artificial habitat for raptor
17 prey.

18 [Final Order IV.K.2.2]
19

20 7.3. To protect the public from electrical hazards, the certificate holder shall enclose the
21 facility substation with appropriate fencing and locked gates.

22 [Final Order IV.K.2.3]
23

24 7.4. The certificate holder shall follow manufacturers' recommended handling instructions
25 and procedures to prevent damage to turbine or turbine tower components that could
26 lead to failure.

27 [Final Order IV.K.2.5]
28

29 7.5. The certificate holder shall have an operational safety-monitoring program and shall
30 inspect all turbine and turbine tower components on a regular basis. The certificate
31 holder shall maintain or repair turbine and turbine tower components as necessary to
32 protect public safety.

33 [Final Order IV.K.2.6]
34

35 7.6. The certificate holder shall install and maintain self-monitoring devices on each turbine,
36 linked to sensors at the operations and maintenance building, to alert operators to
37 potentially dangerous conditions, and the certificate holder shall immediately remedy
38 any dangerous conditions. The certificate holder shall maintain automatic equipment
39 protection features in each turbine that would shut down the turbine and reduce the
40 chance of a mechanical problem causing a fire.

41 [Final Order IV.K.2.7]
42

43 7.7. The certificate holder shall notify the Department of Energy and Wasco County within
44 72 hours of any occurrence involving the facility if:

45
46 a. There is an attempt by anyone to interfere with its safe operation;

- 1 b. A natural event such as an earthquake, flood, tsunami or tornado, or a human-
2 caused event such as a fire or explosion affects or threatens to affect the public
3 health and safety or the environment;
4 c. There is a mechanical failure or accident on the site associated with
5 construction or operation of the facility that may result in public health and
6 safety concerns; or
7 d. There is any fatal injury at the facility.
8 [Final Order IV.K.2.8 and OAR 345-026-017]

9
10 7.8. During operation, the certificate holder shall discharge sanitary wastewater generated at
11 the Operations and Maintenance building to a licensed on-site septic system in
12 compliance with State of Oregon permit requirements. The certificate holder shall
13 design the septic systems for a discharge capacity of less than 5,000 gallons per day.
14 [Final Order V.C.2.2]

15
16 7.9. The certificate holder shall take reasonable steps to reduce or manage human exposure
17 to electromagnetic fields, including but not limited to:

- 18
19 a. Constructing all aboveground transmission lines at least 200 feet from any
20 residence or other occupied structure, measured from the centerline of the
21 transmission line.
22 b. Constructing all aboveground 34.5-kV transmission lines with a minimum
23 clearance of 20 feet from the ground.
24 c. Constructing all aboveground 230-kV transmission lines with a minimum
25 clearance of 25 feet from the ground
26 d. Providing to landowners a map of underground and overhead transmission lines
27 on their property and advising landowners of possible health risks from electric
28 and magnetic fields.
29 e. Designing and maintaining all transmission lines so that alternating current
30 electric fields do not exceed 9-kV per meter at one meter above the ground
31 surface in areas accessible to the public.
32 f. Designing and maintaining all transmission lines so that induced voltages
33 during operation are as low as reasonably achievable.

34 [Final Order VI.D.2.2]

35
36 7.10. The certificate holder must develop and implement a program that provides reasonable
37 assurance that all fences, gates, cattle guards, trailers, or other objects or structures of a
38 permanent nature that could become inadvertently charged with electricity are grounded
39 or bonded throughout the life of the line.

40 [Final Order IV.M.2.2] [Mandatory Condition OAR 345-027-0023(4)]

41
42 7.11. A current copy of the electrical protection plan developed in compliance with Condition
43 7.10 must be available at the O&M building and provided upon request by ODOE staff.
44 [Final Order IV.M.2.3]

45 **8.0. ON-SITE SAFETY AND SECURITY**

1
2 8.1. During construction and operation of the facility, the certificate holder shall provide for
3 on-site security and shall establish good communications between on-site security
4 personnel and the Wasco County Sheriff's Office. During operation, the certificate
5 holder shall ensure that appropriate law enforcement agency personnel have an up-to-
6 date list of the names and telephone numbers of facility personnel available to respond
7 on a 24-hour basis in case of an emergency on the facility site.
8 [Final Order V.C.2.3]
9

10 8.2. During construction, the certificate holder shall require that all on-site construction
11 contractors develop and implement a site health and safety plan that informs workers
12 and others on-site about first aid techniques and what to do in case of an emergency and
13 that includes important telephone numbers and the locations of on-site fire
14 extinguishers and nearby hospitals. The certificate holder shall ensure that construction
15 contractors have personnel on-site who are trained and equipped for tower rescue and
16 who are first aid and CPR certified.
17 [Final Order V.C.2.4]
18

19 8.3. During operation, the certificate holder shall develop and implement a site health and
20 safety plan that informs employees and others on-site about first aid techniques and
21 what to do in case of an emergency and that includes important telephone numbers and
22 the locations of on-site fire extinguishers and nearby hospitals. The certificate holder
23 shall ensure that operations personnel are trained and equipped for tower rescue. The
24 facility must maintain training records and have a current copy of the site health and
25 safety plan on-site and available upon request by the Department of Energy.
26 [Final Order V.C.2.5]
27

28 8.4. During construction and operation of the facility, the certificate holder shall develop
29 and implement fire safety plans in consultation with the Columbia Rural Fire District to
30 minimize the risk of fire and to respond appropriately to any fires that occur on the
31 facility site. In developing the fire safety plans, the certificate holder shall take into
32 account the dry nature of the region and shall address risks on a seasonal basis. The
33 certificate holder shall meet annually with local fire protection agency personnel to
34 discuss emergency planning and shall invite local fire protection agency personnel to
35 observe any emergency drill or tower rescue training conducted at the facility.
36 [Final Order V.C.2.6]
37

38 8.5. Upon the beginning of operation of the facility, the certificate holder shall provide a site
39 plan to the Columbia Rural Fire District. The certificate holder shall indicate on the site
40 plan the identification number assigned to each turbine and the actual location of all
41 facility structures. The certificate holder shall provide an updated site plan if additional
42 turbines or other structures are later added to the facility. During operation, the
43 certificate holder shall ensure that appropriate fire protection agency personnel have an
44 up-to-date list of the names and telephone numbers of facility personnel available to
45 respond on a 24-hour basis in case of an emergency on the facility site.
46 [Final Order V.C.2.7]

- 1
2 8.6. The certificate holder shall construct turbines and pad-mounted transformers on
3 concrete foundations and shall cover the ground within a 15-foot radius with non-
4 flammable material. The certificate holder shall maintain the non-flammable pad area
5 covering during operation of the facility.
6 [Final Order V.C.2.8]
7
8 8.7. During construction and operation of the facility, the certificate holder shall ensure that
9 the O&M building and all service vehicles are equipped with shovels and portable fire
10 extinguishers of a 4A50BC or equivalent rating.
11 [Final Order V.C.2.9]
12
13 8.8. During construction, the certificate holder shall ensure that construction vehicles and
14 equipment are operated on graveled areas to the extent possible and that open flames,
15 such as cutting torches, are kept away from dry grass areas.
16 [Final Order V.C.2.10]
17
18 8.9. During operation, the certificate holder shall ensure that all on-site employees receive
19 annual fire prevention and response training by qualified instructors or members of the
20 local fire districts. The certificate holder shall ensure that all employees are instructed to
21 keep vehicles on roads and off dry grassland, except when off-road operation is
22 required for emergency purposes.
23 [Final Order V.C.2.11]
24

25 9.0. PROTECTION OF SOIL

- 26
27 9.1. The certificate holder shall conduct all construction work in compliance with an
28 Erosion and Sediment Control Plan (ESCP) satisfactory to the Oregon Department of
29 Environmental Quality and as required under the National Pollutant Discharge
30 Elimination System (NPDES) Storm Water Discharge General Permit #1200-C. The
31 certificate holder shall include in the ESCP any procedures necessary to meet local
32 erosion and sediment control requirements or storm water management requirement.
33 [Final Order IV.C.2.1]
34
35 9.2. During construction, the certificate holder shall limit truck traffic to improved road
36 surfaces to avoid soil compaction and wind erosion on dirt roads, to the extent
37 practicable.
38 [Final Order IV.C.2.2]
39
40 9.3. During construction, the certificate holder shall implement best management practices
41 to control any dust generated by construction activities, such as applying water to roads
42 and disturbed soil areas.
43 [Final Order IV.C.2.3]
44
45 9.4. The certificate holder shall handle hazardous materials used on the site in a manner that
46 protects public health, safety and the environment and shall comply with all applicable

1 local, state and federal environmental laws and regulations. The certificate holder shall
2 not store diesel fuel or gasoline on the facility site.

3 [Final Order IV.C.2.4]
4
5

6 9.5. If a spill or release of hazardous material occurs during construction or operation of the
7 facility, the certificate holder shall notify the Department within 72 hours and shall
8 clean up the spill or release and dispose of any contaminated soil or other materials
9 according to applicable regulations. The certificate holder shall make sure that spill kits
10 containing items such as absorbent pads are located on equipment and at the O&M
11 building. The certificate holder shall instruct employees about proper handling, storage
12 and cleanup of hazardous materials.

13 [Final Order IV.C.2.5]
14

15 9.6. Upon completion of construction, the certificate holder shall restore vegetation to the
16 extent practicable and shall landscape all areas disturbed by construction in a manner
17 compatible with the surroundings and proposed use and in compliance with the
18 Revegetation and Weed Control Plan (Exhibit 1 to the Final Order). Upon completion
19 of construction, the certificate holder shall remove all temporary structures not required
20 for facility operation and dispose of all timber, brush, refuse and flammable or
21 combustible material resulting from clearing of land and construction of the facility.

22 [Final Order IV.C.2.6] [Mandatory Condition OAR 345-027-0020(11)]
23

24 9.7. During operation of the facility, the certificate holder shall restore areas that are
25 temporarily disturbed during facility maintenance or repair activities using the same
26 methods and monitoring procedures described in the Revegetation and Weed Control
27 Plan.

28 [Final Order IV.C.2.7]
29

30 9.8. During facility operation, the certificate holder shall routinely inspect and maintain all
31 transmission line corridors, roads, pads and trenched areas and, as necessary, maintain
32 or repair erosion and sediment control measures and control the introduction and spread
33 of noxious weeds.

34 [Final Order IV.C.2.8]
35

36 **10.0. PROTECTION OF NATURAL RESOURCES** 37

38 10.1. Before beginning construction, the certificate holder shall provide to the Department, to
39 the Oregon Department of Fish and Wildlife (ODFW) and to the Planning Director of
40 Wasco County detailed maps of the facility site, showing the final locations where the
41 certificate holder proposes to build facility components, and a table showing the acres
42 of temporary habitat impact by habitat category and subtype and the acres of permanent
43 habitat impact by habitat category and subtype. The detailed maps of the facility site
44 shall indicate the habitat categories of all areas that would be affected during
45 construction. In classifying the affected habitat into habitat categories, the certificate
46 holder shall consult with ODFW. The certificate holder shall not begin ground

1 disturbance in an affected area until the habitat assessment has been approved by the
2 Department. The Department may employ a qualified contractor to confirm the habitat
3 assessment by on-site inspection.

4 [Final Order IV.G.2.1]
5

6 10.2. The certificate holder shall incorporate the design elements listed below into the final
7 facility design to avoid or mitigate impacts to sensitive wildlife habitat:
8

9 a. Where practicable, facility components and construction areas shall be located
10 to avoid or minimize temporary and permanent impacts to high quality native
11 habitat and to retain habitat cover in the general landscape.

12 b. No facility components may be constructed within areas of Category 1 habitat
13 and temporary disturbance of Category 1 habitat shall be avoided.

14 c. The design of the facility and areas of temporary and permanent disturbance
15 shall avoid impacts to any Category 1 habitat, to any State-listed threatened or
16 endangered plant or wildlife species, and to any State Candidate plant species.

17 [Final Order IV.G.2.2]
18

19 10.3. The certificate holder shall implement measures to avoid or mitigate impacts to
20 sensitive wildlife habitat during construction including, but not limited to, the
21 following:
22

23 a. Preparing and distributing maps to employees and contractors to show areas
24 that are off-limits to construction personnel, such as nesting or denning areas for
25 sensitive wildlife species;

26 b. Avoiding unnecessary road construction, temporary disturbance and vehicle
27 use;
28

29 c. Limiting construction work to approved and surveyed areas shown on facility
30 constraint maps; and

31 d. Ensuring that all construction personnel are instructed to avoid driving cross-
32 country or taking short-cuts within the site boundary or otherwise disturbing
33 areas outside of the approved and surveyed construction areas.

34 [Final Order IV.G.2.3]
35

36 10.4. The certificate holder shall acquire the legal right to create, enhance, maintain and
37 protect a habitat mitigation area, as long as the site certificate is in effect, by means of
38 an outright purchase, conservation easement or similar conveyance and shall provide a
39 copy of the documentation to the Department prior to the start of construction. Within
40 the habitat mitigation area, the certificate holder shall improve the habitat quality as
41 described in the Habitat Mitigation Plan that is incorporated as Exhibit 3 of the Final
42 Order and as amended from time to time.

43 [Final Order IV.G.2.4]
44

45 10.5. The certificate holder shall conduct wildlife monitoring as described in the Wildlife
46 Monitoring and Mitigation Plan that is incorporated as Exhibit 2 of the Final Order and

1 as amended from time to time.

2 [Final Order IV.G.2.5] [Mandatory Condition OAR 345-027-0020(6)]

3
4 10.6. The certificate holder shall hire a qualified environmental professional to provide
5 environmental training during construction and operation. Environmental training
6 includes information on the sensitive species present onsite, precautions to avoid
7 injuring or destroying wildlife or sensitive wildlife habitat, exclusion areas, permit
8 requirements and other environmental issues. The certificate holder shall instruct
9 construction and operations personnel to report any injured or dead wildlife detected
10 while on the site to the appropriate onsite environmental manager.

11 [Final Order IV.G.2.6]

12
13 10.7. Before beginning construction and after considering all micro-siting factors, the
14 certificate holder shall provide to the Department a map showing the final design
15 locations of all components of the facility and the areas that would be disturbed during
16 construction and identifying the survey areas for all plant and wildlife surveys. This
17 information may be combined with the map submitted per the requirements of
18 Condition 9.1. The certificate holder shall hire a qualified professional biologist to
19 conduct a pre-construction plant and wildlife investigation of all areas that would be
20 disturbed during construction that lie outside of the previously surveyed areas. The
21 certificate holder shall provide a written report of the investigation to the Department
22 and to the Oregon Department of Fish and Wildlife (ODFW).

23 [Final Order IV.G.2.7]

24
25 10.8. The certificate holder shall reduce the risk of injuries to avian species by:

- 26
27 a. Installing turbine towers that are smooth steel structures that lack features that
28 would allow avian perching.
29 b. Installing meteorological towers that are non-guyed structures to eliminate the
30 risk of avian collision with guy-wires.
31 c. Designing and installing all aboveground transmission line support structures
32 following the most current suggested practices for avian protection on power
33 lines published by the Avian Power Line Interaction Committee.

34 [Final Order IV.H.2.1]

35
36 10.9. During facility operation, the certificate holder shall obtain water for on-site uses from
37 an on-site well located near the O&M building. The certificate holder shall construct
38 the on-site well subject to compliance with the provisions of ORS 537.765 relating to
39 keeping a well log. The certificate holder shall not use more than 5,000 gallons of water
40 per day from the on-site well. The certificate holder may use other sources of water for
41 on-site uses subject to prior approval by the Department.

42 [Final Order VI.C.2.1]

43
44 10.10. During facility operation, if equipment washing becomes necessary, the certificate
45 holder shall ensure that there is no runoff of wash water from the site or discharges to
46 surface waters, storm sewers or dry wells. The certificate holder shall not use acids,

1 bases or metal brighteners with the wash water. The certificate holder may use
2 biodegradable, phosphate-free cleaners sparingly.
3 [Final Order VI.C.2.2]
4
5

6 10.11. The certificate holder shall implement a waste management plan during operation that
7 includes but is not limited to the following measures:
8

- 9 a. Training employees to minimize and recycle solid waste.
- 10 b. Recycling paper products, metals, glass and plastics.
- 11 c. Recycling used oil and hydraulic fluid.
- 12 d. Collecting non-recyclable waste for transport to a local landfill by a licensed
13 waste hauler.
- 14 e. Segregating all hazardous, non-recyclable wastes such as used oil, oily rags and
15 oil-absorbent materials, mercury-containing lights and lead-acid and nickel-
16 cadmium batteries for disposal by a licensed firm specializing in the proper
17 recycling or disposal of hazardous wastes.

18 [Final Order V.D.2.2]
19

20 10.12 The certificate holder shall not conduct any construction activities on land mapped as
21 Big Game Winter Range by the Oregon Department of Fish and Wildlife between
22 December 1 and April 15.

23 [Amended Final Order on Amendment 1 IV.G.2.2]
24

25 10.13. Prior to the beginning of construction of the facility the certificate holder shall perform
26 new field surveys for threatened and endangered species following the survey protocol
27 set forth in the Northwest Wildlife Consultants Memorandum regarding Endangered
28 and Threatened Plant Species and Raptor Nest Surveys dated October 17, 2014. The
29 certificate holder shall report the results of the field surveys to the Department, ODA
30 and ODFW. If the surveys identify the presence of threatened or endangered species
31 within the survey area, the certificate holder shall implement appropriate measures to
32 avoid a significant reduction in the likelihood of survival or recovery of the species, as
33 approved by the Department, in consultation with ODA and ODFW.

34 [Amended Final Order on Amendment 1 IV.H.2.2]
35

36 10.14. The certificate holder shall conduct two (2) seasons of raptor nest surveys with at least
37 one (1) season of the surveys occurring prior to the beginning of construction. The
38 raptor nest surveys shall be conducted following the instructions set forth in the Raptor
39 Nest Survey Protocol for Summit Ridge Wind Farm included as Attachment B to the
40 First Amended Site Certificate. The certificate holder shall report the results of the field
41 surveys to the Department and ODFW. If the surveys identify the presence of raptor
42 nests within the survey area, the certificate holder shall implement appropriate measures
43 to assure that the design, construction and operation of the facility are consistent with
44 the fish and wildlife habitat mitigation goals and standards of OAR 635-415-0025, as
45 approved by the Department, in consultation with ODFW.

46 [Amended Final Order on Amendment 1 IV.G.2.8]

1
2 10.15. The certificate holder shall not conduct any construction activities on land mapped as
3 Big Game Winter Range by the Oregon Department of Fish and Wildlife between
4 December 1 and April 15.
5 [Amended Final Order on Amendment 1 IV.G.2.9]
6

7 **11.0. PROTECTION OF HISTORIC, CULTURAL AND ARCHAEOLOGICAL**
8 **RESOURCES**
9

10 11.1. Before beginning construction, the certificate holder shall label all identified historic,
11 cultural or archaeological resource sites on construction maps and drawings as “no
12 entry” areas. The applicant shall implement a 200 foot buffer for all rock alignment and
13 cairn sites, and shall implement a 100 foot buffer for all other archaeological sites. The
14 certificate holder may use existing private roads within the buffer areas but may not
15 widen or improve private roads within the buffer areas. The no-entry restriction does
16 not apply to public road rights-of-way within the buffer areas.
17 [Final Order Section V.B.2.1]
18

19 11.2. Before beginning construction, the certificate holder shall provide to the Department a
20 map showing the final design locations of all components of the facility, the areas that
21 would be temporarily disturbed during construction and the areas that were previously
22 surveyed as described in the Application for Site Certificate.
23 [Final Order V.B.2.2]
24

25 11.3. The certificate holder shall hire qualified personnel to conduct field investigation of all
26 areas to be disturbed during construction that lie outside the previously-surveyed areas.
27 The certificate holder shall provide a written report of the field investigation to the
28 Department and to the Oregon State Historic Preservation Office (SHPO). If any
29 potentially significant historic, cultural or archaeological resource sites are found during
30 the field investigation, the certificate holder shall instruct all construction personnel to
31 avoid the identified sites and shall implement appropriate measures to protect the sites,
32 including the measures described in Condition 11.5 and in accordance with the
33 Archaeological Monitoring Plan required per Condition 11.6.
34 [Final Order V.B.2.3]
35

36 11.4. The certificate holder shall ensure that a qualified archaeologist, as defined in OAR
37 736-051-0070, instructs construction personnel in the identification of cultural materials
38 and avoidance of accidental damage to identified resource sites. Records of such
39 training shall be maintained at the Operations and Maintenance Building and made
40 available to authorized representatives of the Oregon Department of Energy upon
41 request.
42 [Final Order V.B.2.4]
43

44 11.5. The certificate holder shall ensure that construction personnel cease all ground-
45 disturbing activities in the immediate area if any archaeological or cultural resources are
46 found during construction of the facility until a qualified archeologist can evaluate the

1 significance of the find. The certificate holder shall notify the Department and SHPO
2 of the find. If the SHPO determines that the resource is significant, the certificate
3 holder shall make recommendations to the Council for mitigation, including avoidance,
4 field documentation and data recovery, in consultation with the Department, SHPO,
5 interested tribes and other appropriate parties. The certificate holder shall not restart
6 work in the affected area until the certificate holder has demonstrated to the Department
7 and the SHPO that it has complied with archaeological resource protection regulations.
8 [Final Order V.B.2.5]
9

- 10 11.6. The certificate holder shall prepare and implement an Archaeological Monitoring Plan
11 for construction and maintenance activities to address and mitigate impacts from
12 exposure of unanticipated or previously unidentified cultural properties that may be
13 exposed during construction or operation of the facility. A current copy of the plan
14 must be maintained at the Operations and Maintenance Building and made available to
15 authorized representatives of the Oregon Department of Energy upon request.
16 [Final Order V.B.2.6]
17

18 **12.0. NOISE CONTROL AND NOISE COMPLAINT RESPONSE**

- 19
20 12.1. To reduce construction noise impacts at nearby residences, the certificate holder shall:

- 21
22 a. Confine the noisiest operation of heavy construction equipment to the daylight
23 hours.
24 b. Require contractors to install and maintain exhaust mufflers on all combustion
25 engine-powered equipment; and
26 c. Establish a complaint response system at the construction manager's office to
27 address noise complaints. Records of noise complaints during construction
28 must be made available to authorized representatives of the Department of
29 Energy upon request.

30 [Final Order VI.A.2.1]
31

- 32 12.2. Before beginning construction, the certificate holder shall provide to the Department:

- 33
34 a. Information that identifies the final design locations of all turbines to be built at
35 the facility;
36 b. The maximum sound power level for the substation transformers and the
37 maximum sound power level and octave band data for the turbine type(s)
38 selected for the facility based on manufacturers' warranties or confirmed by
39 other means acceptable to the Department;
40 c. The results of the noise analysis of the final facility design performed in a
41 manner consistent with the requirements of OAR 340-035-
42 0035(1)(b)(B)(iii)(IV) and (VI). The analysis must demonstrate to the
43 satisfaction of the Department that the total noise generated by the facility
44 (including the noise from turbines and substation transformers) will not exceed
45 the maximum allowable noise level at any potentially- affected noise receptor.
46 The analysis must also demonstrate that the facility would meet the ambient

1 degradation test at the appropriate measurement point for potentially-affected
2 noise sensitive properties, or that the certificate holder has obtained the noise
3 waiver described in Condition 12.2.d for each noise-sensitive property where the
4 ambient degradation standard cannot be met.

5 d. For each noise-sensitive property where the certificate holder relies on a noise
6 waiver to demonstrate compliance with OAR 340-035-0035(1)(b)(B)(iii)(III), a
7 copy of the a legally effective easement or real covenant pursuant to which the
8 owner of the property authorizes the certificate holder's operation of the facility
9 to increase ambient statistical noise levels L10 and L50 by more than 10 dBA at
10 the appropriate measurement point. The legally-effective easement or real
11 covenant must meet all of the following criteria:

- 12 i. Include a legal description of the burdened property (the noise sensitive
- 13 property);
- 14 ii. Be recorded in the real property records of the county;
- 15 iii. Expressly benefit the certificate holder;
- 16 iv. Expressly run with the land and bind all future owners, lessees or holders of
- 17 any interest in the burdened property; and
- 18 v. Not be subject to revocation without the certificate holder's written approval.

19 [Final Order VI.A.2.2]
20
21

22 12.3. During operation, the certificate holder shall maintain a complaint response system to
23 address noise complaints. The certificate holder shall notify the Department within 15
24 days of receiving a complaint about noise from the facility. The notification should
25 include, but is not limited to, the date the complaint was received, the nature of the
26 complaint, the complainant's contact information, the location of the affected property,
27 and any actions taken, or planned to be taken, by the certificate holder to address the
28 complaint.

29 [Final Order VI.A.2.3]
30

31 12.4. Upon written notification from the Department, the certificate holder will monitor and
32 record the actual statistical noise levels during operations to verify that the certificate
33 holder is operating the facility in compliance with the noise control regulations. The
34 monitoring plan must be reviewed and approved by the Department prior to
35 implementation. The cost of such monitoring, if required, will be borne by the
36 certificate holder.

37 [Final Order VI.A.2.4]
38

39 **13.0. MONITORING AND REPORTING REQUIREMENTS - GENERAL** 40

41 13.1. In addition to monitoring and reporting requirements elsewhere in this Site Certificate,
42 the certificate holder shall also report according to the following requirements:

- 43 a. General reporting obligation for energy facilities under construction or
44 operating:
45
46

- 1 i. Within six months after beginning construction, and every six months
2 thereafter during construction of the energy facility and related or supporting
3 facilities, the certificate holder shall submit a semiannual construction
4 progress report to the Department of Energy. In each construction progress
5 report, the certificate holder shall describe any significant changes to major
6 milestones for construction. The certificate holder shall include such
7 information related to construction as specified in the site certificate. When
8 the reporting date coincides, the certificate holder may include the
9 construction progress report within the annual report described in Condition
10 13.1.b.
11 ii. By April 30 of each year after beginning construction, the certificate holder
12 shall submit an annual report to the Department addressing the subjects
13 listed in Condition 13.1.b. The Council Secretary and the certificate holder
14 may, by mutual agreement, change the reporting date.
15 iii. To the extent that information required by Condition 13.1.b is contained in
16 reports the certificate holder submits to other state, federal or local agencies,
17 the certificate holder may submit excerpts from such other reports to satisfy
18 this rule. The Council reserves the right to request full copies of such
19 excerpted reports.

20 [Final Order VII.4.a] [Mandatory Condition OAR 345-026-0080(1)]
21

22 b. In the annual report, the certificate holder shall include the following
23 information for the calendar year preceding the date of the report:
24

- 25 i. Facility Status: An overview of site conditions, the status of facilities under
26 construction, and a summary of the operating experience of facilities that are
27 in operation. In this section of the annual report, the certificate holder shall
28 describe any unusual events, such as earthquakes, extraordinary windstorms,
29 major accidents or the like that occurred during the year and that had a
30 significant adverse impact on the facility.
31 ii. Reliability and Efficiency of Power Production: For electric power plants,
32 the plant availability and capacity factors for the reporting year. The
33 certificate holder shall describe any equipment failures or plant breakdowns
34 that had a significant impact on those factors and shall describe any actions
35 taken to prevent the recurrence of such problems.
36 iii. Status of Surety Information: Documentation demonstrating that bonds or
37 letters of credit as described in the site certificate are in full force and effect
38 and will remain in full force and effect for the term of the next reporting
39 period.
40 iv. Monitoring Report: A list and description of all significant monitoring and
41 mitigation activities performed during the previous year in accordance with
42 site certificate terms and conditions, a summary of the results of those
43 activities and a discussion of any significant changes to any monitoring or
44 mitigation program, including the reason for any such changes.
45 v. Compliance Report: A description of all instances of noncompliance with a
46 site certificate condition. For ease of review, the certificate holder shall, in

1 this section of the report, use numbered subparagraphs corresponding to the
2 applicable sections of the site certificate.

3 vi. Facility Modification Report: A summary of changes to the facility that
4 the certificate holder has determined do not require a site certificate
5 amendment in accordance with OAR 345-027-0050.

6 [Final Order VII.4.b] [Mandatory Condition OAR 345-026-0080(b)]
7

8 13.2. The certificate holder and the Department of Energy shall exchange copies of all
9 correspondence or summaries of correspondence related to compliance with statutes,
10 rules and local ordinances on which the Council determined compliance, except for
11 material withheld from public disclosure under state or federal law or under Council
12 rules. The certificate holder may submit abstracts of reports in place of full reports;
13 however, the certificate holder shall provide full copies of abstracted reports and any
14 summarized correspondence at the request of the Department.

15 [Final Order VII.5] [Mandatory Condition OAR 345-026-0105]
16

17 13.3. The following general monitoring conditions apply:
18

19 a. The certificate holder shall consult with affected state agencies, local
20 governments and tribes and shall develop specific monitoring programs for
21 impacts to resources protected by the standards of Divisions 22 and 24 of OAR
22 Chapter 345 and resources addressed by applicable statutes, administrative rules
23 and local ordinances. The certificate holder must submit the monitoring
24 programs to the Department of Energy and receive Department approval before
25 beginning construction or, as appropriate, operation of the facility.

26 b. The certificate holder shall implement the approved monitoring programs
27 described in Condition 13.3.a and monitoring programs required by permitting
28 agencies and local governments.

29 c. For each monitoring program described in Conditions 13.3.a and 13.3.b, the
30 certificate holder shall have quality assurance measures approved by the
31 Department before beginning construction or, as appropriate, before beginning
32 commercial operation.

33 d. If the certificate holder becomes aware of a significant environmental change or
34 impact attributable to the facility, the certificate holder shall, as soon as
35 possible, submit a written report to the Department describing the impact on the
36 facility and any affected site certificate conditions.

37 [Final Order VII.2] [Mandatory Condition OAR 345-027-0028]
38

39 **14.0. RETIREMENT AND FINANCIAL INSURANCE** 40

41 14.1. Before beginning construction, the certificate holder shall submit to the State of Oregon
42 through the Council a bond or letter of credit in the amount described herein naming the
43 State of Oregon, acting by and through the Council, as beneficiary or payee. The initial
44 bond or letter of credit amount is either \$6.965 million (in 3rd Quarter 2010 dollars), to
45 be adjusted to the date of issuance as described in (b), or the amount determined as
46 described in Condition 14.1.a below. The certificate holder shall adjust the amount of

1 the bond or letter of credit on an annual basis thereafter as described in Condition
2 14.1.b.

- 3
4
5
- 6 a. The certificate holder may adjust the amount of the bond or letter of credit
7 based on the final design configuration of the facility and turbine types selected.
8 Any revision to the restoration costs should be adjusted to the date of issuance as
9 described in Condition 14.1.b, and is subject to review and approval by the
10 Department.
 - 11 b. The certificate holder shall adjust the amount of the bond or letter of credit,
12 using the following calculation and subject to approval by the Department:
13
 - 14 i. Adjust the Subtotal component of the bond or letter of credit amount
15 (expressed in 3rd Quarter 2010 dollars) to present value, using the U.S. Gross
16 Domestic Product Implicit Price Deflator, Chain-Weight, as published in the
17 Oregon Department of Administrative Services "Oregon Economic and
18 Revenue Forecast" or by any successor agency (the "Index") and using the
19 3rd Quarter 2010 index value and the quarterly index value for the date of
20 issuance of the new bond or letter of credit. If at any time the Index is no
21 longer published, the Council shall select a comparable calculation to adjust
22 3rd Quarter 2010 dollars to present value.
 - 23 ii. Add 1 percent of the adjusted Subtotal (i) for the adjusted performance bond
24 amount to determine the adjusted Gross Cost.
 - 25 iii. Add 10 percent of the adjusted Gross Cost (ii) for the adjusted
26 administration and project management costs and 10 percent of the adjusted
27 Gross Cost (ii) for the adjusted future developments contingency.
 - 28 iv. Add the adjusted Gross Cost (ii) to the sum of the percentages (iii) and
29 round the resulting total to the nearest \$1,000 to determine the adjusted
30 financial assurance amount.
 - 31
 - 32 c. The certificate holder shall use a form of bond or letter of credit approved by the
33 Council.
 - 34 d. The certificate holder shall use an issuer of the bond or letter of credit approved
35 by the Council.
 - 36 e. The certificate holder shall describe the status of the bond or letter of credit in
37 the annual report submitted to the Council required by Condition 13.1.b.
 - 38 f. The bond or letter of credit shall not be subject to revocation or reduction before
39 retirement of the facility site.

40 [Final Order IV.F.2.1] [Mandatory Condition OAR 345-027-0020(8)]

- 41
- 42 14.2. If the certificate holder elects to use a bond to meet the requirements of Condition 14.1,
43 the certificate holder shall ensure that the surety is obligated to comply with the
44 requirements of applicable statutes, Council rules and this site certificate when the
45 surety exercises any legal or contractual right it may have to assume construction,
46 operation or retirement of the energy facility. The certificate holder shall also ensure

1 that the surety is obligated to notify the Council that it is exercising such rights and to
2 obtain any Council approvals required by applicable statutes, Council rules and this site
3 certificate before the surety commences any activity to complete construction, operate
4 or retire the energy facility.

5 [Final Order IV.F.2.2]
6

7 14.3. The certificate holder shall prevent the development of any conditions on the site that
8 would preclude restoration of the site to a useful, non-hazardous condition to the extent
9 that prevention of such site conditions is within the control of the certificate holder.

10 [Final Order IV.F.2.3] [Mandatory Condition OAR 345-027-0020(7)]
11

12 14.4. The certificate holder must retire the facility in accordance with a retirement plan
13 approved by the Council if the certificate holder permanently ceases construction or
14 operation of the facility. The retirement plan must describe the activities necessary to
15 restore the site to a useful, non-hazardous condition, as described in OAR 345-027-
16 0110(5). After Council approval of the plan, the certificate holder must obtain the
17 necessary authorization from the appropriate regulatory agencies to proceed with
18 restoration of the site.

19 [Final Order IV.F.2.4] [Mandatory Condition OAR 345-027-0020(9)]
20

21 14.5. The certificate holder is obligated to retire the facility upon permanent cessation of
22 construction or operation. If the Council finds that the certificate holder has
23 permanently ceased construction or operation of the facility without retiring the facility
24 according to a final retirement plan approved by the Council, as described in OAR 345-
25 027-0110, the Council shall notify the certificate holder and request that the certificate
26 holder submit a proposed final retirement plan to the Department within a reasonable
27 time not to exceed 90 days. If the certificate holder does not submit a proposed final
28 retirement plan by the specified date, the Council may direct the Department to prepare
29 a proposed final retirement plan for the Council's approval.

30 [Final Order IV.F.2.5] [Mandatory Condition OAR 345-027-0020(16)]
31

32 14.6. Upon the Council's approval of the final retirement plan, the Council may draw on the
33 bond or letter of credit submitted per the requirements of Condition 6.1 to restore the
34 site to a useful, non-hazardous condition according to the final retirement plan, in
35 addition to any penalties the Council may impose under OAR Chapter 345, Division 29.
36 If the amount of the bond or letter of credit is insufficient to pay the actual cost of
37 retirement, the certificate holder shall pay any additional cost necessary to restore the
38 site to a useful, non-hazardous condition. After completion of site restoration, the
39 Council shall issue an order to terminate the site certificate if the Council finds that the
40 facility has been retired according to the approved final retirement plan.

41 [Final Order IV.F.2.6] [Mandatory Condition OAR 345-027-0020(16)]
42

43 14.7. Following receipt of the site certificate or an amended site certificate, the certificate
44 holder shall implement a plan that verifies compliance with all site certificate terms and
45 conditions and applicable statutes and rules. As a part of the compliance plan, to verify
46 compliance with the requirement to begin construction by the date specified in the site

1 certificate, the certificate holder shall report promptly to the Department of Energy
2 when construction begins. Construction is defined in OAR 345-001-0010. In reporting
3 the beginning of construction, the certificate holder shall describe all work on the site
4 performed before beginning construction, including work performed before the Council
5 issued the site certificate, and shall state the cost of that work. For the purpose of this
6 exhibit, "work on the site" means any work within a site or corridor, other than
7 surveying, exploration or other activities to define or characterize the site or corridor.
8 The certificate holder shall document the compliance plan and maintain it for inspection
9 by the Department or the Council.

10 [Final Order VII.3] [Mandatory Condition OAR 345-026-0048]
11

12 **15.0. SUCCESSORS AND ASSIGNS**
13

14 To transfer this site certificate or any portion thereof or to assign or dispose of it in any other
15 manner, directly or indirectly, the certificate holder shall comply with OAR 345-027-0100.
16

17 **16.0. SEVERABILITY AND CONSTRUCTION**
18

19 If any provision of this agreement and certificate is declared by a court to be illegal or in conflict
20 with any law, the validity of the remaining terms and conditions shall not be affected, and the
21 rights and obligations of the parties shall be construed and enforced as if the agreement and
22 certificate did not contain the particular provision held to be invalid.
23

24 **17.0. GOVERNING LAW AND FORUM**
25

26 This site certificate shall be governed by the laws of the State of Oregon. Any litigation or
27 arbitration arising out of this agreement shall be conducted in an appropriate forum in Oregon.
28


29 **18.0. EXECUTION**
30

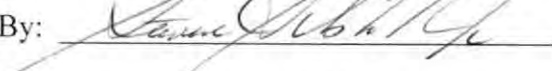
31 This site certificate may be executed in counterparts and will become effective upon signature by
32 the Chair of the Energy Facility Siting Council and the authorized representative of the certificate
33 holder.
34

35 **IN WITNESS THEREOF**, this site certificate has been executed by the State of Oregon, acting
36 by and through its Energy Facility Siting Council, and by LotusWorks – Summit Ridge I, LL.
37

38 ENERGY FACILITY SITING COUNCIL

LotusWorks – Summit Ridge I, LLC

39
40
41 By: 
42 Barry Beyeler, Chair
43 Oregon Energy Facility Siting Council
44

By: 
Print: STEVEN A OSTROWSKI, Jr

45 Date: AUGUST 7, 2015
46

Date: 08/07/15

Attachment B



LotusWorks-Summit Ridge I, LLC
Response to Request for Information #1
Appendix B

Northwest Wildlife Consultants Memorandum regarding
Endangered and Threatened Plant Species and Raptor
Nest Surveys dated October 17, 2014



Northwest
Wildlife
Consultants, Inc.

MEMORANDUM

Date: October 17, 2014

To: Steven Ostrowski, LotusWorks

From: Rick Gerhardt, Wildlife Biologist
Northwest Wildlife Consultants, Inc.

Subject: Proposal to address ODFW and ODA concerns about Amendment to Summit Ridge Wind Farm Site Certificate

In response to LotusWork's request for an amendment to the Summit Ridge Wind Farm Site Certificate, the Oregon Department of Energy (ODE) received comments from both the Oregon Department of Agriculture (ODA) and the Oregon Department of Fish and Wildlife (ODFW) in September 2014. The ODA commented that the rare plant surveys conducted for the original application are outdated, and the ODFW commented that the original raptor nest surveys are outdated (Desmarais, 2014). LotusWorks has contracted Northwest Wildlife Consultants, Inc. (NWC), which conducted the initial wildlife, plant, and habitat surveys, to prepare a proposal for conducting the requested additional rare plant and raptor nest surveys. This memorandum represents that proposal.

Rare Plants

The original special status plant species surveys were conducted in June 2009, and methods and results are described in the ecological baseline studies and impact assessment and in the site certificate application for the Summit Ridge Wind Power Project (Gerhardt et al., 2010a; LotusWorks, 2010). Prior to field surveys, a literature review yielded a list of 19 plant species of concern with the potential for occurrence within leased lands associated with this project; of these, one was a state threatened species and four were state candidate species (Appendix C, Gerhardt et al., 2010a). Among the 111 species of vascular plant species recorded on the project (Appendix E, Gerhardt et al., 2010a), none of these listed or candidate species was found, and none of the 19 species of concern was found. Moreover, no suitable habitat was believed to occur on the project for three of the four candidate species, and there was low likelihood of occurrence for the remaining candidate species (dwarf evening-primrose) or the threatened species (Tygh Valley milk-vetch). Since those surveys were conducted in 2009, there has been no substantive change in land management practices, and livestock grazing continues to occur on most or all of the habitats. Thus, there is very low likelihood that these species of concern have colonized portions of the project since that time.

Nonetheless, LotusWorks is proposing an additional survey in all potentially suitable habitat within 200 feet of proposed turbine string center lines, access roads, and other facilities. Surveys will be conducted in late May or early June 2015. The target species will include the two mentioned above and the other three state candidate species (diffuse stickseed, hepatic monkeyflower, and Henderson's ryegrass). Searches will be conducted using an intuitively controlled survey method commonly used for rare plant surveys (USDA BLM, 1998; Elzinga et al., 1998). More detailed descriptions of the methods to be employed can be found in Gerhardt et al. (2010a). Following completion of this survey, a summary report will be submitted to ODA and ODE.

Raptor Nests

The original raptor nest survey was conducted from a helicopter by an experienced NWC raptor biologist in early May 2009 (Gerhardt et al., 2010a), with an additional survey conducted along the proposed transmission line in May 2010 (Gerhardt et al., 2010b). Nests of several common raptor species were identified within 2 miles of the proposed facilities; these included turkey vulture, red-tailed hawk, prairie falcon, great horned owl, and long-eared owl (Gerhardt et al., 2010). There were no nests documented for any federal or state listed or candidate raptor species or for any state sensitive raptor species.

LotusWorks is proposing an additional raptor nest survey covering the proposed project area and a buffer of 0.5 mile of all proposed turbines, roads, and other facilities. The survey will be conducted in May 2015 (and prior to the start of construction), a time at which early nesting species (e.g., great horned owl) will still be on or near nests and late nesting species (e.g., Swainson's hawk) will have initiated incubation. (The project is outside the documented breeding range of the three state sensitive raptor species generally of concern in the Columbia Plateau Ecoregion, Swainson's hawk, ferruginous hawk, and burrowing owl.) This survey will be conducted primarily from the ground, but a helicopter will be used if there are areas that might contain raptor nests that cannot be efficiently examined from the ground. More detailed descriptions of the methods to be employed can be found in Gerhardt et al. (2014a).

Following completion of this survey, a summary report will be submitted to ODFW and ODE.

Should construction of this project not begin in 2015, then a second additional raptor nest survey will be conducted in the spring of the year of construction. The survey area and methods will be as described above, and a summary report will be submitted to ODFW and ODE.

References

- Desmarais, E. 2014. Letter from E. Desmarais, ODE, to S. Ostrowski, LotusWorks, dated September 30, 2014 requesting additional information regarding the Summit Ridge Wind Farm Site Certificate Amendment.
- Elzinga, C. L., D. W. Salzer, and J. W. Willoughby. 1998. Measuring and monitoring plant populations. TR 1730-1. USDI Bureau of Land Management, Denver, Colorado. 477pp.
- Gerhardt, R., R. Gritski, and B. Anderson. 2010a. Ecological baseline studies and impact assessment for the Summit Ridge Wind Power Project, Wasco County, Oregon, consolidated report. Prepared for LotusWorks, Vancouver, Washington. Prepared by Northwest Wildlife Consultants, Inc., Pendleton, Oregon.
- Gerhardt, R., R. Gritski, B. Anderson. 2010b. Raptor nest survey of the proposed transmission line, Summit Ridge Wind Power Project, Wasco County, Oregon. Addendum to Consolidated Report. Prepared for LotusWorks, Vancouver, Washington. Prepared by Northwest Wildlife Consultants, Pendleton, Oregon.
- LotusWorks—Summit Ridge I, LLC. 2010. Site Certificate Application. Submitted to Oregon Energy Facility Siting Council on August 24, 2010.
- USDA Bureau of Land Management. 1998. Survey protocols for survey and manage strategy 2: Vascular Plants, V 2.0. Available online at: <http://www.blm.gov/or/plans/surveyandmanage/SP/VascularPlants>

Attachment C



LotusWorks-Summit Ridge I, LLC
Response to Request for Information #1
Appendix A

Revised Habitat Mitigation Plan

**Habitat Mitigation Plan
for the
Summit Ridge Wind Project
(As Amended)**

Prepared for:

LotusWorks

9611 NE 117th Avenue, Suite 2840
Vancouver, Washington 98662

Prepared by:

Rick Gerhardt

Northwest Wildlife Consultants, Inc.

815 NW 4th St.
Pendleton, Oregon 97801



Revised October 21, 2014

Introduction

This document was originally prepared for the Summit Ridge Wind Project (Project) Site Certificate Application (SCA) submitted to the Oregon Department of Energy (ODOE) in 2010. It has been updated in association with a request by LotusWorks for an Amendment to the Site Certificate in order to address two sets of changes. One is a decrease in the number of turbines proposed for installation, which resulted in a decrease in the acreages of both permanent and temporary impacts. The other is a change (in 2013) in the way the Oregon Department of Fish and Wildlife (ODFW) categorizes several habitat types (including exotic annual grassland, old field, revegetated grassland, native perennial grassland, and rabbitbrush/buckwheat shrub-steppe habitats) when they lie within designated deer and/or elk winter habitat (ODFW, 2013). The proposed concepts of this Habitat Mitigation Plan (HMP) were originally discussed with the Oregon Department of Fish and Wildlife in December 2009 and again on March 30, 2010; the changes contained herein were made in response to ODFW comments on the Request for an Amendment and were discussed with ODFW personnel in October 2014.

The Summit Ridge Wind Project is located in Wasco County, Oregon. As part of the SCA (Exhibits P and Q), Northwest Wildlife Consultants, Inc. (NWC) completed habitat mapping and quality assessment of the Project area, and conducted site-specific biological studies that included rare plant surveys, avian use surveys, a grassland bird displacement study, special status vertebrate wildlife species surveys, a raptor nest survey, an inventory of bat species, and big game observations, as well as reviews for potential occurrence of or records of special status species (Gerhardt et al., 2009a, 2009b). Based on a combination of the results of these studies, Project impact estimates provided by LotusWorks and David Evans Associates (DEA), experience with such mitigation, and knowledge of the wildlife and habitats impacted by wind energy development in the Columbia Plateau, NWC offers the concepts in this document as recommendations for inclusion in the Project's final Habitat Mitigation Plan. Details on habitat types, subtypes, and Categories 1–6 can be found in the SCA, Exhibit P.

Description of Project Impacts

As presently designed (as of October 17, 2014), the Summit Ridge Wind Project will consist of up to 72 2.7 megawatt (MW) turbines. The Project is expected to have a generating capacity of 200 megawatts. Other associated facilities include turbine pads, maintenance roads, overhead and underground electrical cables, an operations and maintenance building, a batch plant, and one 230-kilovolt overhead transmission line.

Most of the Project's footprint (area to be covered by permanent facilities) will occupy dryland agriculture, which is Category 6 habitat. No Category 1 habitat will be impacted, but a small amount of habitat traditionally designated Category 2 (big sagebrush shrub-steppe) will be permanently impacted. Most of the remaining footprint will occupy habitats originally designated Category 3 (revegetated grassland, native perennial grassland, or rabbitbrush/buckwheat shrub-steppe) or Category 4 (old field or exotic annual grassland)

but now designated by ODFW as Category 2 because the land lies within designated deer and/or elk winter range (ODFW, 2013).

In addition to the permanent impacts mentioned above, construction of the Project will entail temporary impacts to the same types and categories of habitat. Temporary impacts are summarized as follows: no Category 1 impacts, a small amount of impact to traditional Category 2 habitat, some impacts to habitats traditionally designated Category 3 and Category 4 but now designated by ODFW as Category 2, and mostly Category 6 habitat will be impacted. Grassland habitats that were traditionally Category 3 (revegetated grassland and native perennial grassland) are expected to require two to five years after restoration activities start to achieve a trend towards recovery to a mature state of grassland cover. Old field and exotic annual grassland habitats are expected to be improved—within two or three years—as restoration will result in more native grasses and far fewer of the invasive, noxious weeds that existed prior to disturbance). Native forbs in perennial grasslands (as well as in shrub-steppe) may not recover to pre-construction diversity or will take longer to recolonize the restored areas. Shrub-steppe habitats—Category 2 and (traditionally) Category 3—may take much longer to achieve the shrub species maturity and height that existed prior to construction.

Calculation of the Size of the Mitigation Area

The Habitat Mitigation Area (HMA) must be large enough and have the characteristics to meet the standards set by the Oregon Department of Fish and Wildlife (ODFW) in their Wildlife Habitat Mitigation Policy (OAR 635-415-0025). These standards include “no net loss” and a “net benefit” in habitat quality and quantity for Category 2 habitats, and “no net loss” of habitat for Categories 3 and 4. Mitigation standards for Category 6 involve minimizing direct habitat loss and avoiding impacts to off-site habitat.

For the purposes of this discussion, the acreages of impact are the current estimate of the maximum affected area. The actual areas of disturbance will be determined based on the final design layout of the Project. It is anticipated that ODOE and ODFW will require that they be provided with the final design layout and the associated impact acreages prior to the beginning of Project construction.

Current maximum habitat impact estimates of the Summit Ridge Wind Project (including the transmission line) are:

<u>Habitat Category</u>	<u>Permanent Impacts</u>	<u>Temporary Impacts</u>
Category 2 (traditional)	0.43	0.37
Category 2 (big game)	25.80	35.15
Category 6*	41.78	47.16
Total Acres	68.01	82.68

* no mitigation required

Based on these impact estimates, calculation of the mitigation area requirement is as follows:

Category 2 (Traditional)

Footprint: 0.43 acres (2:1 ratio)

Temporary impacts: 0.37 acres (2:1 ratio)

Mitigation area required: $(0.43 \times 2) + (0.37 \times 2) = 1.60$ acres

Category 2 (Big Game)

Footprint: 25.80 acres (>1:1 ratio)

Temporary impacts: revegetated grassland 17.19 acres (1:1); native perennial grassland and shrub-steppe 6.23 acres (1:1 ratio); old field and exotic annual grassland 10.86 acres (1:1)

Mitigation area required: $25.80 + 17.19 + 6.23 + 10.86 = > 60.08$ acres

Total mitigation area required: Approximately 65 acres (i.e., > 61.68 acres)

Description of the Habitat Mitigation Area (HMA)

According to ODFW standards, areas appropriate for mitigation of Category 2 habitat impacts must be “in proximity” to the Project and have potential for habitat and enhancement. The applicant has identified four habitat parcels for consideration by ODFW and ODOE (Figure 1). These range in size from 15 to 77 acres, and are revegetated grasslands of varying quality. NWC believes that the identified parcels have adequate potential for mitigating the habitat loss expected to occur and for providing benefit for the wildlife species most likely to be impacted by habitat loss associated with the Project, including grasshopper sparrow (*Ammodramus savannarum*), Brewer’s sparrow (*Spizella breweri*), vesper sparrow (*Pooecetes gramineus*), and loggerhead shrike (*Lanius ludovicianus*). The referenced parcels for mitigation have been discussed with ODFW, LotusWorks, NWC, and the associated landowners, and other parcels may be considered as well.

Possible Habitat Enhancement Options

It is assumed that the habitat designated for mitigation will be conserved and protected from alteration for the life of the Project. Besides such legal protection, actions that are proposed for enhancement of the mitigation area include fencing out livestock (if not already fenced), modification of livestock grazing (wildlife habitat values take precedence over livestock grazing), weed control, revegetation with native plants, and fire control.

Monitoring

It is expected that a comprehensive program of monitoring the HMA and the success of its protection and enhancements will be required by ODOE and ODFW. Such monitoring will be conducted by an independent and qualified specialist (wildlife biologist/botanist). Annual monitoring will include assessments of quality of vegetation, success of weed control measures, recovery of native grasses and forbs (in response to reductions in livestock grazing), and success of revegetation measures (where applicable). In addition, some requirement for periodic monitoring of avian species use of the area (especially during the breeding season) is recommended for understanding the enhancement success. Details of monitoring time frames and success criteria will be designed after the final site is selected.

Results of all monitoring will be reported to ODOE and ODFW on an annual basis, along with a report of the mitigation/enhancement measures undertaken that year.

Criteria for Success

Success of this Habitat Mitigation Plan will be predicated upon several criteria. These include increased vegetative cover consisting of desired native vegetation (relative to the structure prior to initiation of enhancement actions), similar or increased avian use of the area (similar or increased diversity of species), success of noxious weed control, increased recruitment of native forbs, and increased seed production of native bunchgrasses.

References

- Gerhardt, R., R. Gritski, B. Anderson. 2009a. Ecological baseline studies and impact assessment for the Summit Ridge Wind Power Project, Wasco County, Oregon—Interim Report. Prepared for LotusWorks, Vancouver, Washington. Prepared by Northwest Wildlife Consultants, Pendleton, Oregon.
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<http://nrimp.dfw.state.or.us/DataClearinghouse/default.aspx?p=202&XMLname=885.xml>.