To: Oregon Energy Facility Siting Council

From: Chase McVeigh-Walker, Siting Analyst

Date: April 13, 2018

Subject: Agenda Items C (Information Item) & D (Action Item): Golden Hills Wind Project, Proposed Order on Request for Amendment #4 for April 27, 2018 EFSC Meeting

BACKGROUND AND SUMMARY OF AMENDMENT REQUEST

The Oregon Energy Facility Siting Council (Council) issued a site certificate for the Golden Hills Wind Project (facility) on June 18, 2009, authorizing a wind-energy generation facility with electrical capacity of up to 400 megawatts (MW). The facility would be located on privately owned land both east and west of Highway 97, between the cities of Wasco and Moro in Sherman County. The Council approved an amendment to the site certificate in May 2012, a second amendment to the site certificate in January 2015, and a third amendment to the site certificate in February 2017. The facility has not yet been constructed.

Golden Hills Wind LLC (Golden Hills or certificate holder) submitted the fourth amendment request (amendment request or RFA #4) in October 2017. The amendment request would: (1) transfer ownership of the Golden Hills Wind Project Site Certificate holder from the current parent company, Orion Renewable Energy Group, LLC (Orion) to Pacific Wind Development, LLC (Pacific Wind), a new parent company and wholly-owned subsidiary of Avangrid Renewables, LLC (Avangrid); and (2) extend the construction commencement deadline from June 18, 2018 to June 18, 2020. The request does not seek to extend the completion of construction deadline (June 18, 2021).

On March 2, 2018, the Department issued the Proposed Order on Amendment #4 of the Site Certificate (proposed order) which recommended approval of an amended site certificate. The Department issued a public notice and opened a comment period for the proposed order, with a comment deadline of April 2, 2018.

By rule, Council is required to hold an informational hearing on the ownership transfer. The informational hearing will be held during the April EFSC meeting (April 27, 2018), at the Columbia Gorge Discovery Center. Comments on the transfer will be accepted through the end of Council’s informational hearing on April 27, 2018.
Because the request for amendment was received prior to Council taking action to change its amendment processing rules on October 24, 2017, RFA#4 is being processed under the rules that existed at the time of submittal. References in this staff report (and in the proposed order) to Council rules are those rules that existed at that time.

**ASSESSMENT OF AMENDMENT REQUEST**

**Council Scope of Review**

Pursuant to Oregon Administrative Rule (OAR) 345-027-0070(10)(b), (c), and (d), the Council must consider these factors for extension of construction deadlines:

- Whether the Council has previously granted an extension of the deadline;
- Whether there has been any change of circumstances that affect a previous Council finding required for approval;
- Whether the facility complies with all Council standards;
- Whether the amendment would affect any finding made by the Council in an earlier order; and
- Whether the amount of the bond or letter of credit required under OAR 345-022-0050 is adequate.

To approve the Request for Transfer, Council must find that the new owner of the certificate holder has the ability to satisfy the requirements of OAR 345-022-0010 (Organizational Expertise), OAR 345-022-0050 (Retirement and Financial Assurance), and if applicable, OAR 345-024-0710(1) (Carbon Dioxide). EFSC must also find that the new owner of the certificate holder is or will be lawfully entitled to possession or control of the site or facility.

**Staff Evaluation of Amendment Request and Summary of Proposed Order**

The proposed order addresses each of the Council standards, and recommends that the Council find that the amended facility complies with, or, with new or modified site certificate conditions, can comply with each of the Council standards. OAR 345-027-0070(10) requires that the Council apply the local land use criteria in effect on the date that the request for amendment is submitted; the Sherman County Planning Department reviewed the amendment request, and commented that the County has no objections to the amendment itself regarding the transfer of ownership and the request of an extension to the construction start date.

As discussed in the proposed order, this is the certificate holder’s fourth request to extend the construction deadlines. In compliance with OAR 345-027-0030(1), Golden Hills submitted the construction extension request more than six months before the construction commencement deadline, and therefore, the “good cause” requirement to OAR 345-027-0030(1) is not applicable. As stated by Golden Hills, the construction deadline extension request is not only driven by the upgrades to the Biglow Substation and interconnection point, which are done by BPA and out of the developer’s
control, but also the sale of the site certificate to Avangrid warrants additional time to both revise and renegotiate with landowners, and to verify whether the redesign of the facility will require additional surveying and analysis. As further discussed in the proposed order, the Department recommends that a construction commencement deadline extension be approved.

The Department’s assessment concluded that based on a preponderance of the evidence on the record, and subject to the terms and conditions set forth in the proposed order and site certificate, the amended facility would remain in compliance with the applicable Oregon Administrative Rules and the applicable requirements of the Oregon Energy Facility Siting statutes.

The proposed order also discusses the Department’s evaluation of the transfer of ownership of the certificate holder from the current parent company, Orion Renewable Energy Group, LLC (Orion) to Pacific Wind Developer LLC, which is owned by Avangrid Renewables LLC. The Department concludes that Avangrid has the ability to comply with the applicable Council standards, particularly the Organizational Expertise standard and the Retirement and Financial Assurance standard.

**Site Certificate Reorganization**

While reviewing the certificate holder’s proposed changes to the site certificate (red-lined version of the site certificate) that were included in the request for amendment, the Department proposed a number of administrative changes to conditions, and also is proposing to reorganize the site certificate by project phase of implementation (e.g., pre-construction, construction, operation, retirement) rather than in order by standard. The majority of the administrative changes proposed either clarify specific submittal requirements of conditions, or clarify the implementation schedule and timing of conditions (aiding in the identification of phase, when unclear). The administrative changes are not intended to change the substantive requirements of conditions. An evaluation of each substantive change was included in the Department’s proposed order.

The reorganization of the site certificate aligns with current EFSC practices on site certificate organization and will aid in future compliance management during facility pre-construction, construction, operation, and retirement.

**COMMENTS AND REQUESTS FOR CONTESTED CASE ON THE PROPOSED ORDER**

The Department received two comments during the comment period on the Proposed Order. One of the comment letters, from Ms. Irene Gilbert, requested a contested case. All comments are provided to Council as attachments to this staff report. The Department will evaluate any comments received during the informational hearing on the transfer, and will incorporate its assessment of comments into a Final Order as necessary.

1. **Agency Comments**
The Department received one comment letter from Ms. Teara Farrow Ferman, on behalf of the Confederated Tribes of the Umatilla Indian Reservation (CTUIR) during the comment period. The comment stated that the CTUIR does not oppose the transfer of the certificate [holder]. The comment did not raise any specific or substantive issues, did not introduce any evidence or facts, and did not request a contested case. This comment is not further addressed.

2. Public Comments and Request for Contested Case

The Department received one request for a contested case proceeding on the proposed order. The request was received on April 2, 2018 from Irene Gilbert. Her submittal included a request for contested case and comments relating to the proposed order. Therefore, staff construes her request as both comments on the proposed order under OAR 345-027-0070(5) and a request, pursuant to OAR 345-027-0070(6), that the Council hold a contested case proceeding on two identified issues. As further described below, the Department recommends the Council deny Ms. Gilbert’s request for contested case on each of the identified issues.

3. Council Scope of Review of Request for Contested Case on Amendment

OAR 345-027-0070(7)1 contains the standard of review for contested case requests for amendments. It states:

To determine that an issue justifies a contested case proceeding under section (8), the Council must find that the request raises a significant issue of fact or law that may affect the Council’s determination that the facility, with the change proposed by the amendment, meets an applicable standard. If the Council finds that the request would not affect the Council’s determination if the alleged facts were found to be true but that those facts could affect a site certificate condition, the Council may deny the request and may adopt appropriate conditions.

Therefore, simply raising a significant issue of law or fact is not sufficient to justify a contested case. That significant issue of law or fact must have some connection to the Council’s ability to determine that the facility,2 which in this case is the Golden Hills Wind Project, as amended, meets an applicable standard.

OAR 345-027-0070(7) and (8) gives the Council four options for action on a contested case request:

- **Option 1**: Under OAR 345-027-0070(8)(a), if the Council decides that an issue justifies a contested case under the criteria quoted above, the Council can decide to conduct a contested case proceeding. The contested case proceeding would be limited to the issues that the Council

---

1 As previously mentioned in this Staff Report, the amendment request is being reviewed in accordance with the procedures in effect on the date the request was received. EFSC’s decision to grant the request is based on the analysis required under OAR 345-027-0070(7), as this rule existed on October 19, 2017.

2 Pursuant to OAR 345-001-0010(21) and ORS 469.300((14) the “facility” means an energy facility together with any related or supporting facilities.
found sufficient to justify the proceeding.

**Option 2:** Under OAR 345-027-0070(7), if the Council finds that the request would not affect the Council’s determination that the facility, as amended, meets an applicable standard if the alleged facts were found to be true but that those facts could affect a site certificate condition, the Council may deny the request and may adopt appropriate conditions.

**Option 3:** Under OAR 345-027-0070(8)(b), if the Council decides that an issue can be settled by amending the revised proposed order, the Council can direct the Department to amend the revised proposed order. The Department would issue an amended revised proposed order and a public notice. Within 30 days, any person could, in writing, request a contested case proceeding limited to issues raised by the amendment of the revised proposed order. If there were requests for a contested case, then the Council would have to decide at a future meeting whether a contested case proceeding is justified.

**Option 4:** Under OAR 345-027-0070(8)(c), if the Council decides that an issue does not justify a contested case under the criteria quoted above, the Council can deny the contested case request. The Council would issue a written order specifying the basis for the decision. The Council would then have the further option to adopt, modify or reject the revised proposed order on the amendment request.

4. **Staff Evaluation of Request for Contested Case**

In her request for contested case, Ms. Gilbert identified two issues and included language of selected statutes and rules related to the contested case issues. The exact language of the two issues is presented below in italics, followed by the Department’s analysis. In addition, Ms. Gilbert’s comment letter in its entirety is included as Attachment 1 to this staff report.

The Council will deliberate on whether a contested case should be granted during the April 27, 2018 Council meeting. The Department notes that if the Council were to deny a contested case based on the Council’s evaluation of whether the issues raised a significant issue of law or fact that could affect the Council’s determination that the facility, as amended, could meet an applicable standard, Ms. Gilbert would have the right to appeal the Council’s final order in this case to the Oregon Supreme Court.

**Ms. Gilbert Issue One**

Ms. Gilbert states:

“The site certificate fails to require surveys and documentation of vulnerable wildlife near turbines or electrical equipment to assure the design of the facility reduces the risk to these animals as required by the “Cumulative Analysis Rules” sited below.

a. There is no indication that surveys will be required beyond those specifically identified in the site certificate.”
Ms. Gilbert’s first issue references the Council’s Cumulative Effects Standard for Wind Energy Facilities (OAR 345-024-0015) and asserts that the “site certificate fails to require surveys and documentation of vulnerable wildlife near turbines or electrical equipment to assure the design of the facility reduces the risk to these animals.” Section 4 of OAR 345-024-0015 requires the Council to find that the applicant can design the facility to reduce the risk of injury to raptors or other vulnerable wildlife in areas near turbines or electrical equipment. Because OAR 345-024-0015(4) does not define vulnerable wildlife, a list of sensitive species occurring or potentially occurring in Sherman County was presented as Table 1 of the Protocol for Wildlife Baseline Studies\(^3\). The comprehensive baseline study protocol was developed according to protocol approved by the Department and the Oregon Department of Fish and Wildlife (ODFW).

The Council previously found that the design and construction of Golden Hills facility would comply with the requirements of the Council’s Cumulative Effects Standard for Wind Energy Facilities (OAR 345-024-0015). Request for Amendment 4 does not change any aspect of the facility design from what has been previously reviewed and approved by Council. Surveys and studies conducted for, and presented in ASC Exhibit P documented the occurrence of federal and state threatened, endangered, proposed, candidate and sensitive-status animals/sensitive species, as well as habitat acreage within the analysis area of the facility. Furthermore, as explained in the 2009 Final Order (Final Order), Council required mitigation for two kinds of impacts; 1) Impacts to habitat land, consistent with ODFW habitat mitigation goals and policies, and 2) Bird and Bat fatalities during operations.

The Department notes that the amendment request does not seek to enlarge the existing site boundary or any physical components of the facility. The habitat categorization and acreages of impact within the site boundary have not changed since Council’s issuance of the Final Order of Amendment 3 (which occurred in February 2017). The estimated acreage of impact per habitat category for the facility are as follows; No Category 1 impacts. Temporary impacts to Category 2 are estimated to total 2.9 acres, and approximately 74 square feet permanent Category 2 impact. Temporary impacts to Category 3 will total 57 acres, with a permanent impact total to Category 3 of 5.5 acres. Temporary impacts to Category 4 will total 6.5 acres, and will permanently impact a total of 0.1 Category 4 acres. No Category 5 impacts have been identified, both temporary and permanent. Category 6 temporary impacts will total 1,002.2 acres, and permanent Category 6 impacts will be 126.7 acres. The certificate holder performed desktop surveys between December 1, 2015, and March 3, 2016, and conducted field surveys on March 4, 2016. An evaluation of accepted farm practices within the surrounding area was performed by the certificate holder and presented in ASC Exhibit K, and explained that the lands within the site boundary and surrounding area were predominantly used for dryland wheat farming, which is considered Category 6 habitat by ODFW, the lowest quality habitat. As part of RFA#4, ODFW verified that the Habitat Categorization, function, and condition provided in Amendment 3 was still accurate for the Categorization of Amendment 4.\(^4\)

\(^3\) GH1APPDoc1-20, p. 126-136.
\(^4\) GH1AMD4Doc15
Council previously determined that due to the limitations of desktop surveys, additional pre-construction field surveys would be necessary to assess that the proposed facility continues to comply with the Threatened and Endangered Species standard. Condition IV.L.3 requires that the certificate holder perform new field surveys for threatened and endangered species, report back to ODOE, ODFW, and the Department of Agriculture, and validate that the proposed facility maintains compliance with the Council’s Threatened and Endangered Species standard.

Council also adopted Condition IV.M.11 into the amended site certificate to require the certificate holder to conduct two years of raptor nest surveys with at least one year of the surveys occurring prior to the beginning of construction.

Conditions IV.M.1 through IV.M.11 of the site certificate were imposed by the Council to ensure compliance with the requirements of the Fish and Wildlife Habitat Standard. In addition the Council found that taking into account mitigation, and subject to the conditions stated in the Final Order, the design, construction, operation, and retirement of the proposed facility would be consistent with ODFW’s habitat mitigation goals and standards (OAR 635-415-0025). The Council concluded that the facility complied with the Council’s Fish and Wildlife Habitat Standard. In subsequent Final Orders on Site Certificate Amendments, the Council has found that the facility, as amended, continues to comply with the Council’s Fish and Wildlife Habitat standard. Additionally, these conditions include set back measures during construction from active nests for Swainson’s hawks, Golden eagles, Ferruginous hawks, and burrowing owls. Conditions also include requirements to construct aboveground transmission lines in accordance with the Avian-Powerline Interaction Committee measures to reduce impacts to birds, to install anti-perching devices on poles near wind turbines, and measures to protect nesting bald eagles and peregrine falcons.

Ms. Gilbert does not address the existing site certificate conditions nor does she explain how the existing conditions were inadequate to demonstrate compliance with the Cumulative Effects Standard for Wind Energy Facilities. Specifically, that standard, as reference by Ms. Gilbert, directs Council to conclude that a proposed facility is “designed to reduce the risk of injury to raptors or other vulnerable wildlife in areas near turbines or electrical equipment.” The site certificate measures listed above do just that – help reduce the risk of injury to raptors and other wildlife. Additionally, as noted above, the Golden Hills facility is sited in majority Category 6 habitat, the lowest quality habitat to wildlife.

For the reasons set forth above, the Department recommends that the Council find that Ms. Gilbert’s first Issue (Issue One) does not provide a basis to change or modify the proposed order; and does not raise a significant issue of fact or law that may affect the Council’s determination that the facility, as amended, meets an applicable standard. Therefore, the Department recommends that the Council deny the request for contested case on Issue One.

Ms. Gilbert Issue Two

Ms. Gilbert states:
“Category 1 habitat identification is not limited to “threatened and endangered” wildlife. It applies to all vulnerable wildlife at the site. Surveys performed previously, and required to be performed prior to the start of construction are incorrectly limited to raptors and state sensitive or listed threatened and endangered species. There is no indication that surveys are being required for federally listed or sensitive species which will meet the definition of “vulnerable” wildlife. Absent a site certificate condition that clearly requires expanded surveys to cover these additional animals, the developer will be able to limit surveys to animals identified.

(Note that in the April 20, 2017 response from the State of Oregon Legislative Council Committee they state: “Despite the EFSC’s recent rule change, applicants for energy facility site certificates must continue to identify all threatened and endangered species that may be affected by the construction and operation of the proposed facility, regardless of whether those species are listed on the federal or state list. First, the applicant must disclose any affected state listed species to the EFSC in Exhibit Q of its site certificate application. Second, the applicant must identify all additional fish and wildlife species and habitat that may be affected by the project in Exhibit P of the site certificate application, which would include any federally listed species. Third, if any of the potentially affected species are listed on the federal endangered or threatened species list, the federal ESA may require the applicant to apply separately to the Secretary of the Interior for an ITP. Accordingly, the EFSC’s recent rule change does not appear to be in conflict with any applicable federal laws because applicants must still identify all fish and wildlife species and habitat that may be affected by the project in the site certificate application. In addition, the federal ESA continues to apply to energy facility site certificate applicants.”

Ms. Gilbert’s second issue does not cite an EFSC standard or rule, though the Department would understand this contested case request relates to the Fish and Wildlife Habitat standard, which references ODFW’s habitat mitigation policy and includes prohibitions on development impacting Category 1 habitat. Ms. Gilbert argues that the impacts on habitat “are not limited to state listed wildlife … [and that an] interpretation obtained from Oregon Legislative Council confirmed that federally listed species fall under this rule”.

The Department agrees that Category 1 habitat is not necessarily defined by use by threatened and endangered wildlife, and also is not necessarily defined by use by state-listed threatened and endangered wildlife. Category 1 habitat is defined by ODFW as “irreplaceable, essential habitat for a fish or wildlife species, population, or a unique assemblage of species and is limited on either a physiographic province or site-specific basis, depending on individual species, population, or unique assemblage.” However, Category 1 habitat is frequently identified as providing irreplaceable and essential habitat for a threatened or endangered species, such as active burrows for Washington Ground Squirrel (a state listed endangered species). The Department acknowledges that habitat that

---

5 Ms. Gilbert added emphasis to the portion of Issue Two, referencing a response from the State of Oregon Legislative Council Committee. She added emphasis by integrating bold font into the quoted statement.
was irreplaceable and essential for a federally-listed species could quality as Category 1 habitat and as such, would be off-limits to an EFSC facility impacts.

As noted under the response to Contested Case issue 1, there are a number of pre-construction surveys required of the certificate holder to validate that it maintains compliance with the EFSC standards. Additionally, it is important to note that any impacts to federally listed species would require that a developer discuss permitting requirements with the appropriate federal agency under the United States Endangered Species Act. However, any requirements of the federal government related to the Golden Hills facility compliance with the US Endangered Species Act are not the responsibility of EFSC and ODOE.

Finally, and most importantly, Ms. Gilbert has not identified that there is any indication or likelihood of Category 1 habitat being present in the site boundary of the Golden Hills facility. Ms. Gilbert has not identified which species, whether listed by the federal government or ODFW as threatened or endangered, could be present in the Golden Hills site boundary, or what habitat is present in the site boundary that should be considered “irreplaceable, essential, and limited” and thus qualify as Category 1 habitat. The Department and Council have previously found the facility to be in compliance with the Fish and Wildlife Habitat standard, including no impacts to Category 1 habitat, and ODFW has validated that the habitat assessment remains accurate. The majority of the Golden Hills facility would be sited on Category 6 habitat, the lowest quality.

For the reasons discussed above, the Department recommends that the Council find that Ms. Gilbert’s Issue Two does not provide a basis to change or modify the proposed order; and does not raise a significant issue of fact or law that may affect the Council’s determination that the facility, as amended, meets an applicable standard. For these reasons, the Department recommends that the Council deny the request for contested case on Issue Two.

STAFF CONCLUSION AND RECOMMENDED COUNCIL ACTION

The Department recommends that the Council exercise “Option 4” for both of Ms. Gilbert’s Issues, and find that these issues do not present a significant issue of fact or law that may affect the Council’s determination that the facility, as amended, meets an applicable standard. The Department further recommends that the Council find that these issues do not present any issues that warrant modification of recommendations in the proposed order.

If comments on the transfer request are received prior to the close of the Informational Hearing, the information and comments will be evaluated and addressed by the Department. The Department’s evaluation of comments received would be presented, timing permitting, in an amended version of the draft of the final order and provided to Council during the April 27, 2018 Council meeting. If substantive comments are received at the Informational Hearing, it is possible that Council would not make a decision on the transfer request at the April 27 Council meeting, and rather, would review and decide at a subsequent Council meeting to allow for additional time to consider and address those substantive comments.
With the implementation of the recommended conditions and modifications as described in the proposed order, the Department recommends that Council approve the amendment request, conclude that the facility complies with all applicable Council standards and other applicable rules and statutes, issue the final order as presented to the Council, and grant the transfer request of the certificate holder to the Golden Hills Wind Project.
ATTACHMENT 1
Request for Contested Case
Dear Mr. McVeigh-Walker:

Regarding: Contest case request regarding Amendment 4 to Golden Hills Wind Project

First, let me comment on the lack of consistency between the issuance of the public notice regarding the opportunity to comment or request a contested case on this development and the stated intent of the Oregon Department of Energy to encourage public participation in your processes. I find it difficult to believe that no one at the Oregon Department of Energy was aware that comments would be due the day after Easter and following spring break. Multiple individuals plan vacations and family gatherings around these two events. How serious is this agency in encouraging public participation in your processes?

Contested Case Issues:

1. The site certificate fails to require surveys and documentation of vulnerable wildlife near turbines or electrical equipment to assure the design of the facility reduces the risk to these animals as required by the “Cumulative Analysis Rules” sited below.
   a. There is no indication that surveys will be required beyond those specifically identified in the site certificate.

2. Category 1 habitat identification is not limited to “threatened and endangered” wildlife. It applies to all vulnerable wildlife at the site. Surveys performed previously, and required to be performed prior to the start of construction are incorrectly limited to raptors and state sensitive or listed threatened and endangered species. There is no indication that surveys are being required for federally listed or sensitive species which will meet the definition of “vulnerable” wildlife. Absent a site certificate condition that clearly requires expanded surveys to cover these additional animals, the developer will be able to limit surveys to animals identified.

(Note that in the April 20, 2017 response from the State of Oregon Legislative Council Committee they state: “Despite the EFSC’s recent rule change, applicants for energy facility site certificates must continue to identify all threatened and endangered species that may be affected by the construction and operation of the proposed facility, regardless of whether those species are listed on the federal or state list. First, the applicant must disclose any affected state listed species to the EFSC in Exhibit Q of its site certificate application. Second, the applicant must identify all additional fish and wildlife species and habitat that may be affected by the project in Exhibit P of the site certificate application, which would include any federally listed species. Third, if any of the potentially affected species are listed on the federal endangered or threatened species list, the federal ESA may require the applicant to apply separately to the Secretary of the Interior for an ITP. Accordingly, the EFSC’s recent rule change does not appear to be in conflict with any applicable federal laws because applicants must still identify all fish and wildlife species and habitat that may be affected by the project in...
the site certificate application. In addition, the federal ESA continues to apply to energy facility
site certificate applicants.”

Statutes Relied Upon:
The Oregon Department of Energy and Energy Facility Siting Council cannot ignore state statutes in
resolving conflicts with the site certificate.

ORS 469.505 Consultation with other agencies
(2) Before resolving any conflicting conditions in site certificates or amended site certificates under ORS
469.503(3) and 469504, the council shall notify and consult with the agencies and local governments
responsible for administering the statutes, administrative rules or substantive local criteria that result in
the conflicting conditions regarding potential conflict resolution.
(This rule requires consultation with the US Fish and Wildlife Service regarding the issue I am
contesting).

ORS 469.370(l) “Based on its review of the application and the comments and recommendations on the
application from state agencies and local governments, the State Department of Energy Shall prepare
and issue a draft proposed order on the application.”
(This statute as well as ORS 469.360 require review of the application. Since this review is required by
statute, a failure to require information that must be included in the application must be allowed as
contested case issues.)

Rules Relied Upon:
OAR 345-024-0015(4) Cumulative Impacts Analysis
Requires developer to design the facility to reduce the risk of injury to raptors or other vulnerable
wildlife in areas near turbines or electrical equipment.
(This rule is not limited to only state listed threatened and endangered species. All federally listed
species would be “vulnerable”. The applicant needs to provide current surveys to identify where these
animals exist on the site and design the facility to reduce risk to them.)

OAR 345-022-0060 Fish and Wildlife Habitat

Impacts on habitat are not limited to state listed wildlife. Interpretation obtained from Oregon
Legislative Council confirmed that federally listed species fall under this rule as noted above. Absent
current surveys, an assessment of areas of “Category 1 and Category 2 habitat for these animals cannot
be made.
The site certificate fails to require current wildlife surveys to identify species other than those identified
as state listed “Threatened and Endangered” or raptors. Absent current biological and botanical
surveys, a determination that the applicant meets the requirements of OAR 345-022-0060 cannot be
made.

While it is clear that citizens are not being provided an opportunity to challenge the actions of the
Oregon Department of Energy or Energy Facility Siting Council through the contested case process,
you will again be provided with an opportunity to justify actions which are not consistent with the
statutes and rules related to the siting of energy facilities in Oregon.
Thank you very much for responding to this contested case request. Please include my entire request in any response and the order to assure that it is reflected absent any unintended interpretation.

Sincerely,

Irene Gilbert
2310 Adams Ave.
La Grande, Oregon 97850
Ott.irene@frontier.com
Phone: 541-963-8160