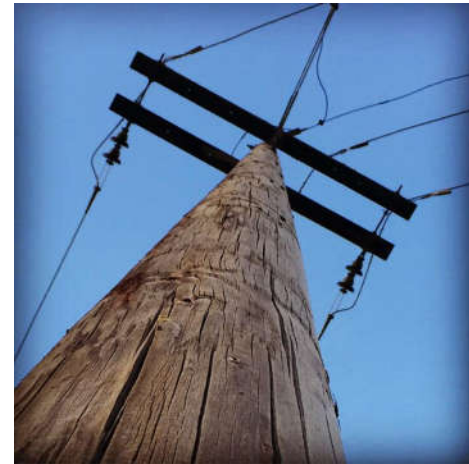


Oregon Department of **ENERGY**

Energy Facility Siting
Council Meeting

Hotel Condon
Lori's Place Restaurant
202 S. Main Street
Condon, OR

May 16-17, 2019



Opening Items:

- Call to Order
- Roll Call
- Announcements

Announcements:

- For those attending in person:
 - Comment Registration Cards are available on the table.
 - GovDelivery Sign Up Cards to receive project information by email are also on the table
- Those participating via the AT&T phone line, please mute your phone and if you receive a phone call, please hang up from this call and dial back in after finishing your other call



Announcements continued:

- If you would like to address the Council, please do not use the speaker phone feature, because it will create feedback
- For those signed onto the webinar, please do not broadcast your webcam
- Please silence your cell phones
- Energy Facility Council meetings shall be conducted in a respectful and courteous manner where everyone is allowed to state their positions at the appropriate times consistent with Council rules and procedures. Willful accusatory, offensive, insulting, threatening, insolent, or slanderous comments which disrupt the Council meeting are not acceptable. Pursuant to Oregon Administrative Rule 345-011-0080, any person who engages in unacceptable conduct which disrupts the meeting may be expelled.



Agenda Item A

- Consent Calendar
- Council Secretary Report



Agenda Item B

Proposed Madras Solar Project Special Advisory Group Appointment (Action Item)

May 16, 2019

Maxwell Woods, Senior Policy Advisor



Agenda Item C

Proposed Boardman to Hemingway Transmission Line Hearing Officer Appointment (Action Item)

May 16, 2019

Maxwell Woods, Senior Policy Advisor



Agenda Item D

Obsidian Solar Center Update on Ratified Order for SHPO Consultant Appointment (Information Item)

May 16, 2019

Maxwell Woods, Senior Policy Advisor



Agenda Item E

Montague Wind Power Facility: Presentation on Draft Proposed Order on Request for Amendment 4 (Information Item)

May 16, 2019

Chase McVeigh-Walker, Siting Analyst
Maxwell Woods, Senior Policy Advisor



Presentation Overview

- Certificate Holder/Facility and Facility Location Overview
- Site Certificate History
- Request For Amendment 4 (RFA4) Procedural History
- RFA4 Requested Facility Modifications
- Draft Proposed Order



Facility Overview

Certificate Holder: Montague Wind Power Facility, LLC

Certificate Holder Parent Company: Avangrid Renewables, LLC (Subsidiary of AVANGRID)

Type of Facility:

- “Phase 1”= 202 MW wind (56 wind turbines)

Construction Status: Phase 1 is currently under construction

Related or Supporting Facilities



Facility Site/Site Boundary Location

Site Boundary

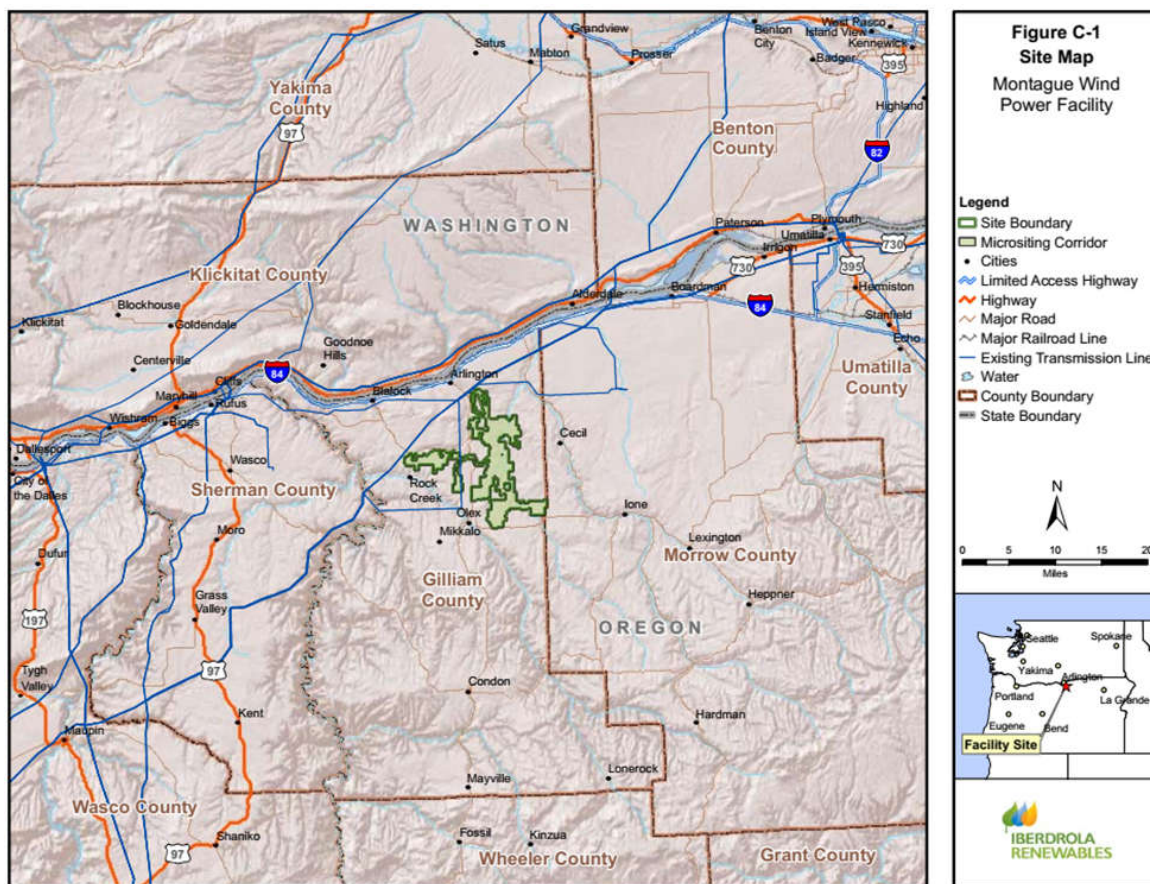
- Contains approximately 33,717 acres
- Private land, within Gilliam County

Site Certificate History

- Site Certificate effective Sept. 10, 2010

Site Certificate Amended three Times:

- June 2013
- December 2015
- July 2017



File: Z:\Projects\OR\Montague\MapDocuments\Report Figures\FSC\Figure C-1 - Site Map.mxd

RFA4 Procedural History

Requirement	Responsible Party	Date
Preliminary Request for Amendment 4	Certificate Holder	January 9, 2018
Amended Preliminary Request for Amendment 4	Certificate Holder	March 25, 2019
Complete RFA4 Received	Certificate Holder	April 5, 2019
Draft Proposed Order Issued	ODOE	April 5, 2019
Comment Period (41-days)	ODOE	April 5 – May 16, 2019
Public Hearing (Today)	EFSC	May 16, 2019
Council Review of Draft Proposed Order	EFSC	May 17, 2019*
Proposed Order/Public Notice and Notice of Contested Case Issued	ODOE	TBD
Contested Case Proceeding	EFSC	TBD
Final Order/Amended Site Certificate	EFSC	TBD
*The certificate holder (Avangrid Renewables) will have the opportunity to request additional time to respond to public comments. If such a request is made, Council's review of the Draft Proposed Order would not occur on May 17, 2019		

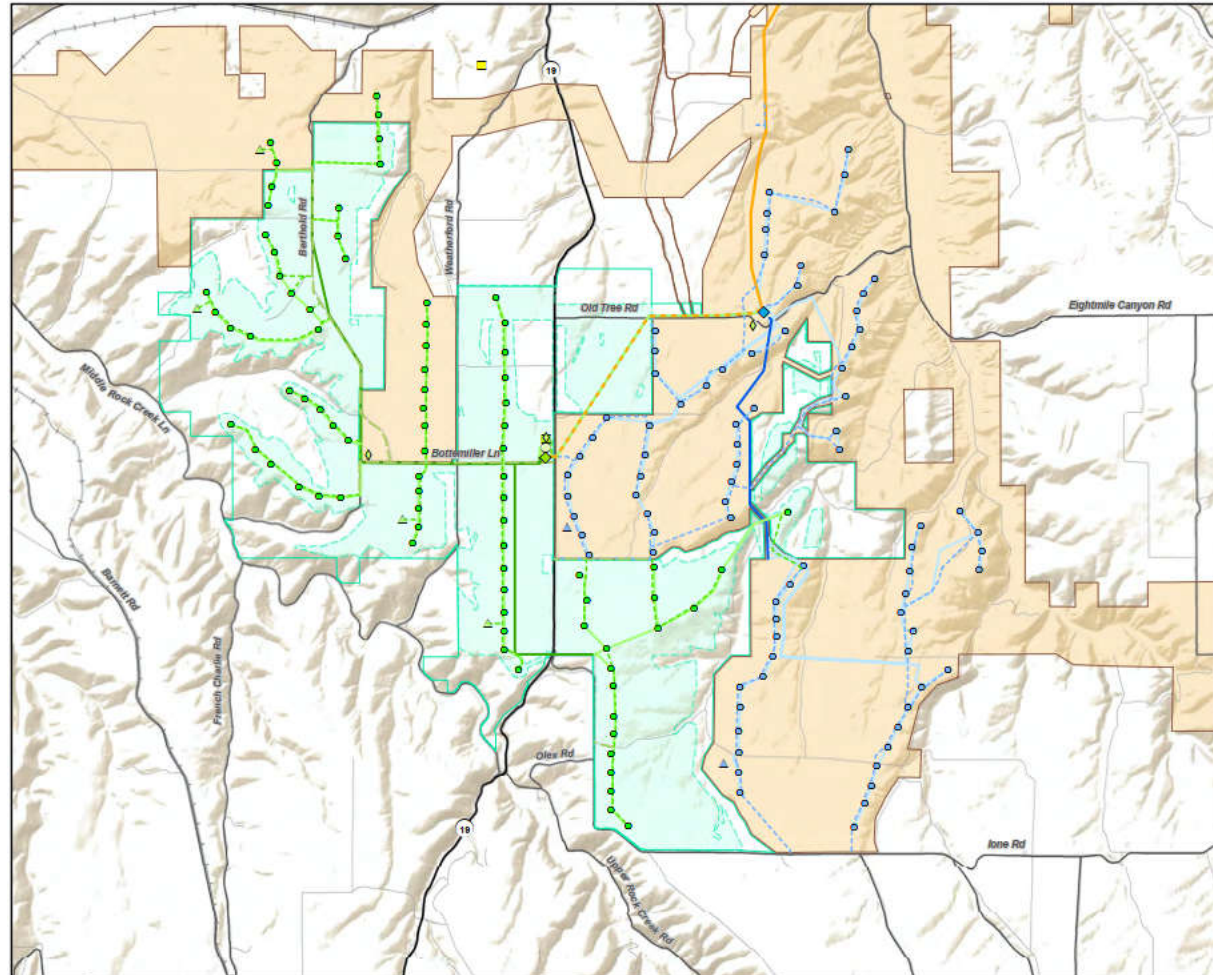
RFA4 – Proposed Modifications

- Site Boundary expansion by approximately 13,339 acres
Expansion of micrositing corridor by approximately 8,981 acres
- Three Design Scenarios
Design Scenarios A and B: maximum and minimum disturbance for wind and battery
Design Scenario C: solar photovoltaic array plus battery storage
- Amendments to several site certificate conditions

RFA4- Proposed Modifications

Proposed Design Scenario A

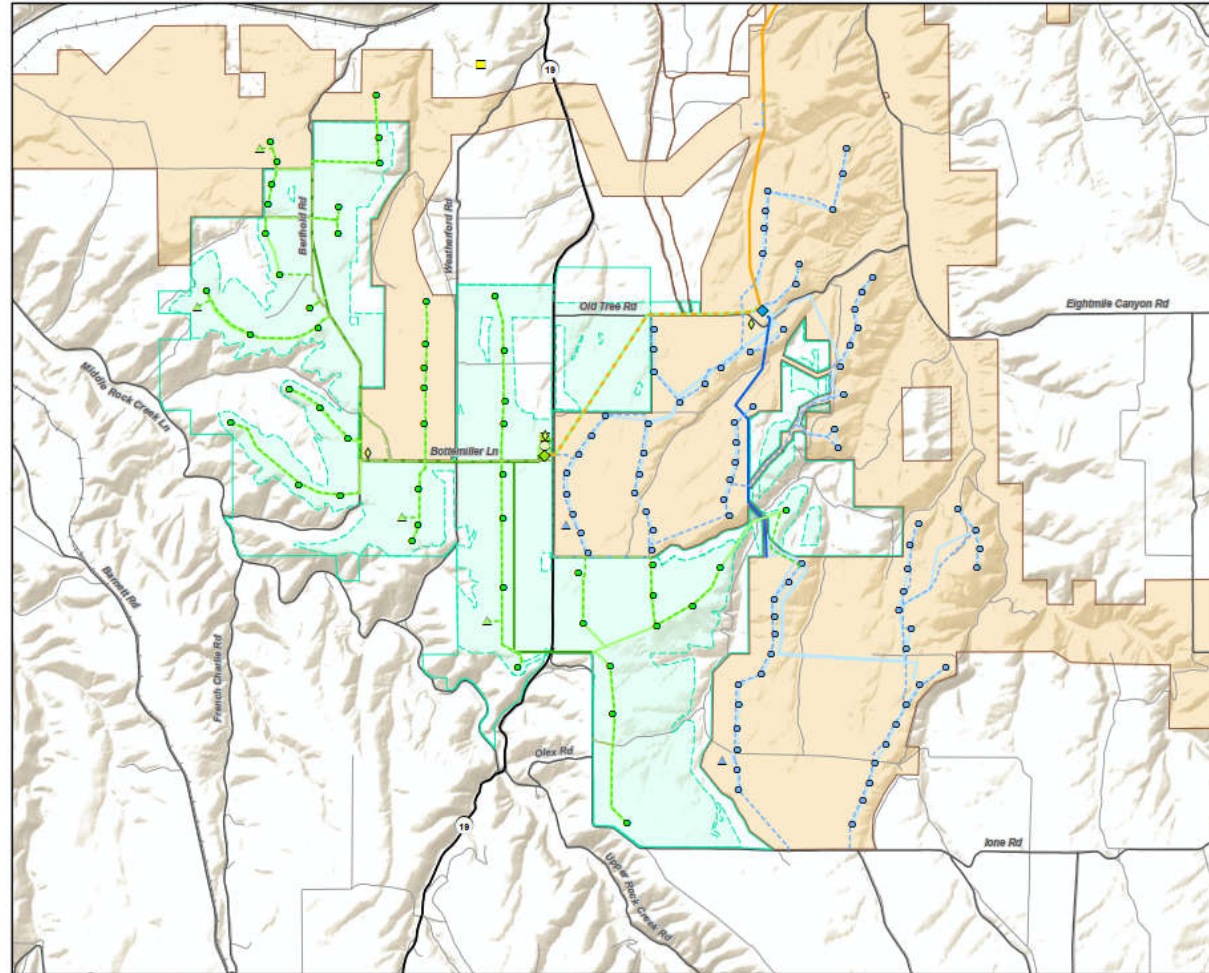
- Up to 81 wind turbines
- Lithium-ion or flow battery storage system
- 3-mile segment of aboveground 230 kV transmission line
- Related or Supporting Facilities



RFA4- Proposed Modifications

Proposed Design Scenario B

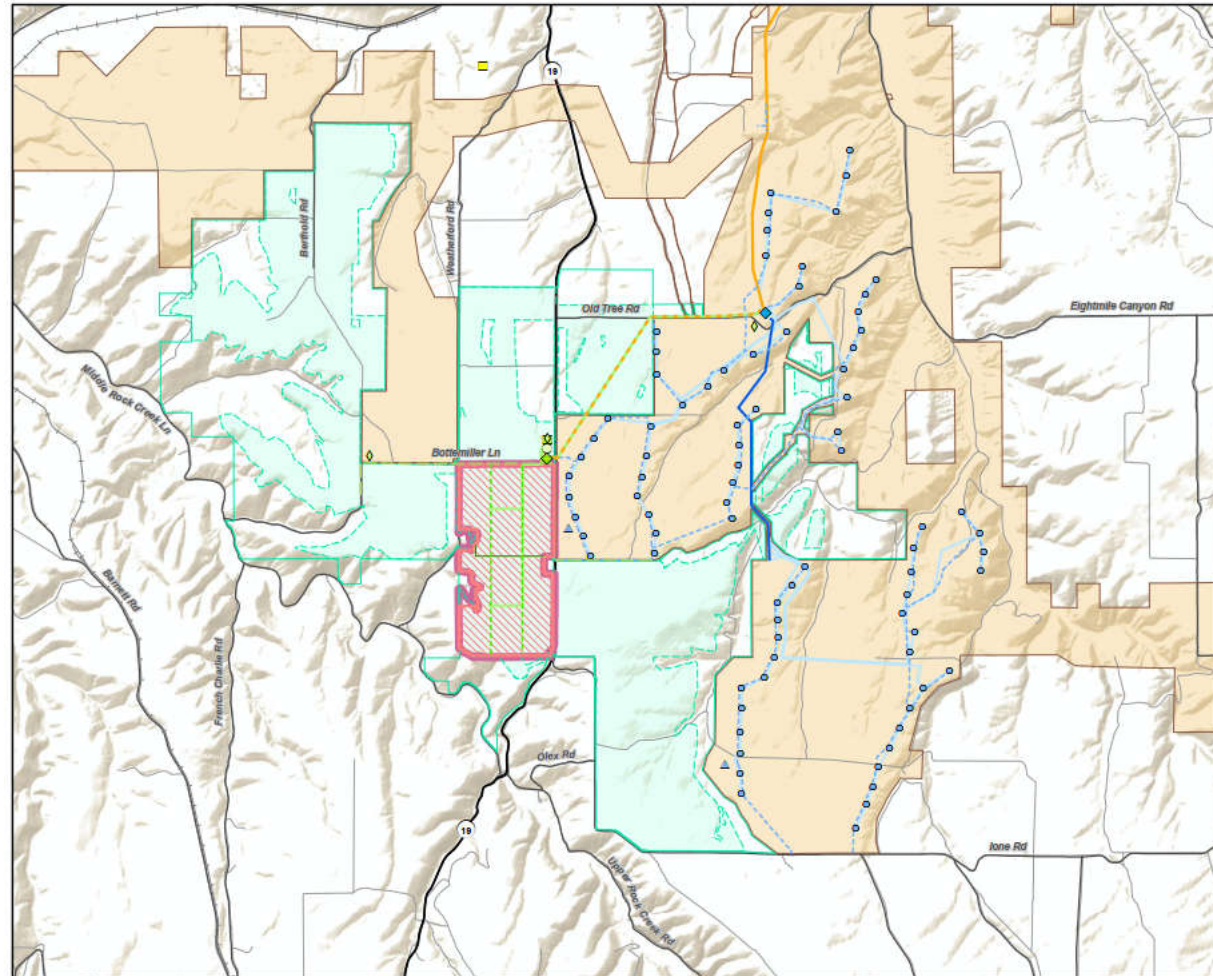
- Up to 48 wind turbines
- Lithium-ion or flow battery storage system
- 3-mile segment of aboveground 230 kV transmission line
- Related or Supporting Facilities



RFA4- Proposed Modifications

Proposed Design Scenario C

- Solar photovoltaic array up to 1,189 acres
- Lithium-ion or flow battery storage system
- 3-mile segment of aboveground 230 kV transmission line
- Related or Supporting Facilities



Comments on RFA4

Reviewing Agency and Tribal Government Comments

- Gilliam County Court (Special Advisory Group)
- Oregon Department of Land Conservation and Development
- Oregon Department of Fish and Wildlife
- Oregon Department of State Lands
- Oregon State Historic Preservation Office
- Oregon Department of Geology and Mineral Industries
- Oregon Department of Transportation
- Oregon Department of Aviation
- Confederated Tribes of the Umatilla Indian Reservation
- Confederated Tribes of the Warm Springs Reservation of Oregon



Review of Draft Proposed Order

No substantive changes in previous Council Findings:

- Protected Areas
- Threatened and Endangered Species
- Recreation
- Cumulative Effects Standard for Wind Energy Facilities [Division 24]
- Removal-Fill Law
- Water Rights

Review of Draft Proposed Order

General Standard of Review [OAR 345-022-0000]

Draft Proposed Order, Section III.A (p.13-18)

- Recommend amendments to conditions 24 and 25
Clarify Phase 2 construction commencement and completion deadlines
- Recommended administrative updates to conditions 18 and 27
Clarify size and length of the transmission line micrositing corridor (Phase 1 and Phase 2), and clarify specifications and dimensions of Phase 2 components

Review of Draft Proposed Order

Organizational Expertise [OAR 345-022-0010]

Draft Proposed Order, Section III.B (p.18-23)

- Updated findings relating to the certificate holder's experience and ability designing, constructing, and operating the facility, with proposed changes in a manner that protects public health and safety
- Recommend condition 116 (New Condition)
Onsight handling and transportation of battery and battery waste during construction and operation
- Recommend amendment to condition 29
Prior to construction, submit a list (to The Department and Gilliam County) of third-party permits to be obtained or have been obtained for Phase 2

Review of Draft Proposed Order

Structural Standard [OAR 345-022-0020]

Draft Proposed Order, Section III.C (p.23-29)

- Recommend administrative updates to site certificate conditions 12, 13, and 14 based on rule updates to mandatory conditions contained within OAR Chapter 345 Division 25.
- Recommend administrative updates to conditions 52 and 53
 - Clarify timing of geotechnical report submittal (90 days) prior to construction commencement, and clarify current building codes in place at the time Phase 2 begins construction
- Updated findings relating to “Disaster Resilience and Climate Change Adaptation,” based on rule updates to Chapter 345 Division 21.

Review of Draft Proposed Order

Soil Protection [OAR 345-022-0022]

Draft Proposed Order, Section III.D (p.29-39)

- Recommend administrative updates to conditions 55, 85, 87, and 92
Clarify construction phases and new facility components
- Recommend amendment to condition 80
 - Provide the Department with a topsoil management plan for Solar Array (if not incorporated into the Erosion and Sediment Control Plan)
 - Provide the Department with a SPCC plan or Spill prevention and Management plan (if SPCC is not required by DEQ)
 - Provide the Department with WPCF 1700-C if blade washing/solar array washing become necessary
- Recommend condition 118 (New Condition)
Require monthly inspections of battery storage systems during operations, and provide documentation of inspections



Review of Draft Proposed Order

Land Use [OAR 345-022-0030]

Draft Proposed Order, Section III.E (p.39-99)

- Recommend amendments to conditions 38 and 39
 - Require consultation with landowners and lessees during construction to avoid impacting farm practices on surrounding lands, and minimize permanent impacts to agricultural land
- Recommend administrative updates to condition 42
 - Establishes setback requirements for the proposed Solar Array and Battery Storage
- Updated findings relating to the facility's ability to comply with ORS 215.274 (associated transmission lines located within an exclusive farm use zone area), which was not evaluated in prior Final Orders because the statute is relatively new)

Review of Draft Proposed Order

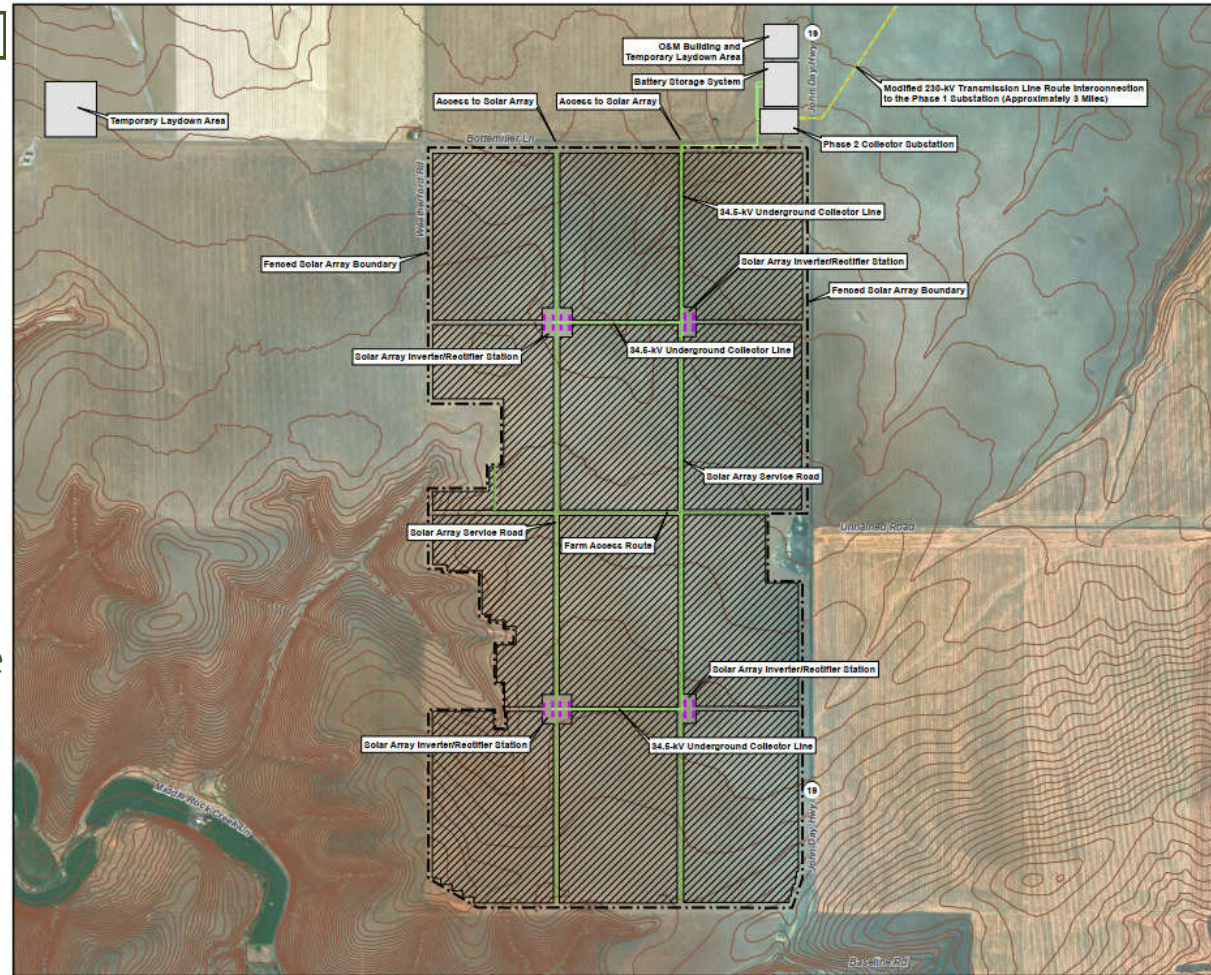
Land Use (continued) [OAR 345-022-0030]

Draft Proposed Order, Section III.E (p.39-99)

- Goal 3 Exception

Evaluation of Reasons

- Local Economic Benefits
- Minimal Loss to Productive Agriculture
- Lack of Water Rights
- Proximity to Existing Infrastructure



Review of Draft Proposed Order

Retirement and Financial Assurance [OAR 345-022-0050]

Draft Proposed Order, Section III.G (p.110-119)

- Recommend administrative updates to conditions 8 and 32

Clarify phased construction and increase in the total estimated cost of facility decommissioning

Phase 1 decommissioning: \$7,918,000 (Q2 2019 Dollars)

Phase 2 decommissioning: \$10,429,000 (Q2 2019 Dollars)

Review of Draft Proposed Order

Fish and Wildlife Habitat [OAR 345-022-0060]

Draft Proposed Order, Section III.H (p.119-134)

- Recommend updates to the Habitat Mitigation Plan, Wildlife Monitoring and Mitigation Plan, and Revegetation plan updates to ensure adequately mitigation for Phase 2 components
- Recommend administrative updates to condition 93
 - Clarify habitat impact and mitigation calculations 30 days prior to Phase 2 construction completion
- Recommend condition 119 (New Condition)
 - Require set back of Phase 2 Turbines from the nearest edge of the breaks at Rock Creek



Review of Draft Proposed Order

Scenic Resources [OAR 345-022-0080]

Draft Proposed Order, Section III.J (p.138-145)

- Recommended administrative update to condition 103
Clarify and add reference to new (Phase 2) facility components

Review of Draft Proposed Order

Historic, Cultural, and Archeological Resources [OAR 345-022-0090]

Draft Proposed Order, Section III.K (p.146-154)

- Review of Historic and Cultural Resources (NRHP-listed or Likely listed)

Impact Evaluation:

- Oregon National Historic Trail (ONHT)
- Historic Property of Religious and Cultural Significance to Indian Tribes (HPRCSIT)
- Built Environment Properties (Weatherford Barn)

- Recommend amendments to conditions 47 and 50

Updates to require a Phase 2 Historic Resource Mitigation Plan



Review of Draft Proposed Order

Public Services [OAR 345-022-0110]

Draft Proposed Order, Section III.M (p.160-168)

- Recommend administrative update to condition 75
Clarify Phase 2 process for repairs and maintenance to county roads
- Recommended administrative updates to conditions 77 and 78
Remove onsite security requirement during Phase 2 operation and update contact information for Gilliam County Sheriff's Office

Review of Draft Proposed Order

Waste Minimization [OAR 345-022-0120]

Draft Proposed Order, Section III.N (p.168-171)

- Recommend amendment to condition 87
Updates to require that WPCF 1700-B Permit be provided to the Department should solar array washing become necessary

Review of Draft Proposed Order

Public Health and Safety Standards for Wind Energy Facilities [OAR 345-024-0010]

Draft Proposed Order, Section III.P.1. (p.171-175)

- Recommend amendment to condition 69
 - Clarify and add reference to new (Phase 2) facility components
- Recommend amendment to condition 64
 - Updates to require FAA and ODA determinations be provided to the Department for final facility design

Review of Draft Proposed Order

Siting Standards for Transmission Lines [OAR 345-024-0090]

Draft Proposed Order, Section III.P.3. (p.178-180)

- Recommends the removal of a condition (condition 17) that requires compliance with an out of date National Electric Safety Code.

Review of Draft Proposed Order

Noise Control Regulation [OAR 340-035-0035]

Draft Proposed Order, Section III.Q.1. (p.180-190)

- Recommend amendment to condition 107
Updates to require preconstruction noise analysis and monitoring during first year of operation (for noise sensitive properties modeled within 1 dBA of maximum allowable noise standard)

Comments/Questions

BREAK

Agenda Item F (Hearing)

Montague Wind Power Facility: Public Hearing on the Draft Proposed Order on Request for Amendment 4

[5:30 PM]

May 16, 2019

Maxwell Woods, Senior Policy Advisor



Overview of Hearing

- Brief summary of the facility and Public Hearing process
- Open the public hearing for verbal comments. Comment registration cards are available and must be completed.
- Written comments can also be submitted until close of hearing.
All comments received prior to tonight's hearing have been provided in full to Council members
- Close of the hearing is also the close of the comment period.

Facility Overview

Certificate Holder: Montague Wind Power Facility, LLC

Certificate Holder Parent Company: Avangrid Renewables, LLC
(Subsidiary of AVANGRID)

Type of Facility:

- “Phase 1”= 202 MW wind (56 wind turbines)

Construction Status: Phase 1 is currently under construction



Facility Site/Site Boundary Location

Site Boundary

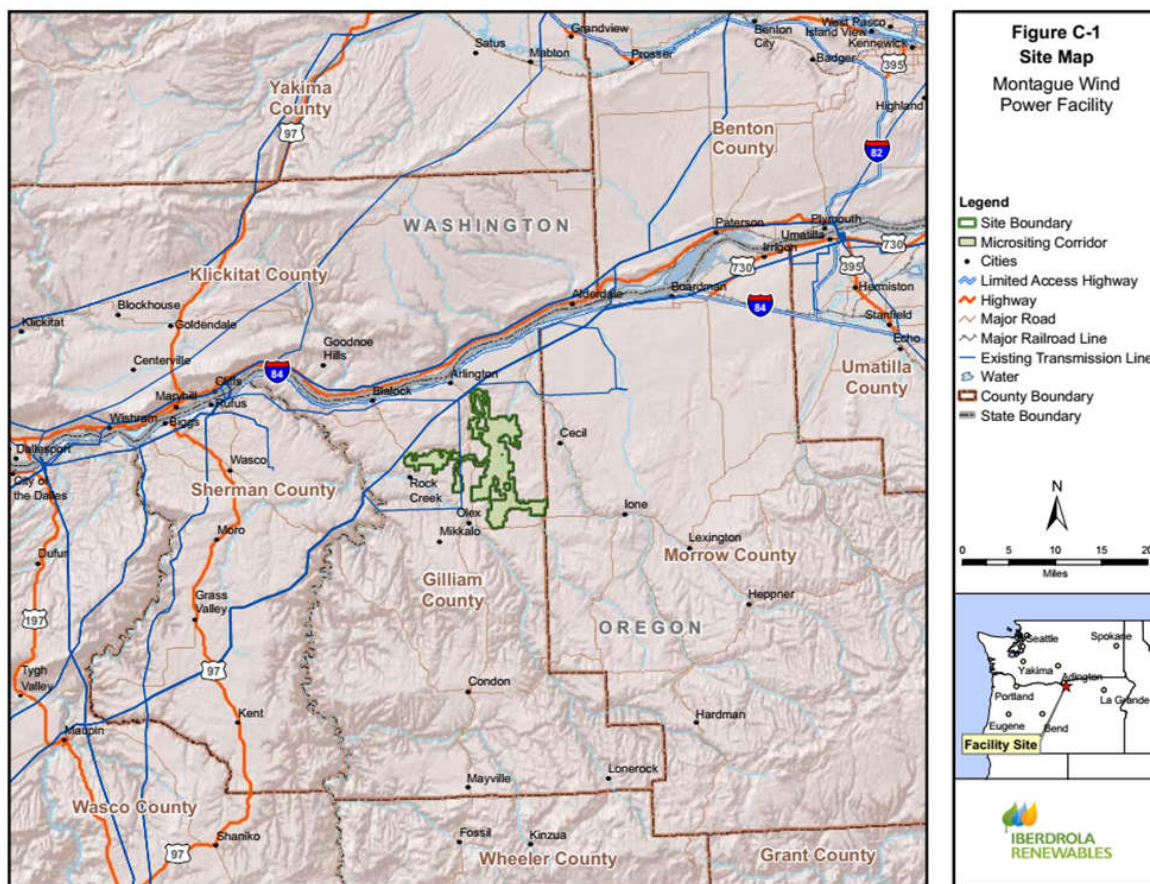
- Contains approximately 33,717 acres
- Private land, within Gilliam County

Site Certificate History

- Site Certificate effective Sept. 10, 2010

Site Certificate Amended three Times:

- June 2013
- December 2015
- July 2017



RFA4 Procedural History

Requirement	Responsible Party	Date
Preliminary Request for Amendment 4	Certificate Holder	January 9, 2018
Amended Preliminary Request for Amendment 4	Certificate Holder	March 25, 2019
Complete RFA4 Received	Certificate Holder	April 5, 2019
Draft Proposed Order Issued	ODOE	April 5, 2019
Comment Period (41-days)	ODOE	April 5 – May 16, 2019
Public Hearing (Today)	EFSC	May 16, 2019
Council Review of Draft Proposed Order	EFSC	May 17, 2019*
Proposed Order/Public Notice and Notice of Contested Case Issued	ODOE	TBD
Contested Case Proceeding	EFSC	TBD
Final Order/Amended Site Certificate	EFSC	TBD
*The certificate holder (Avangrid Renewables) will have the opportunity to request additional time to respond to public comments. If such a request is made, Councils review of the Draft Proposed Order would not occur on May 17, 2019		

RFA4 – Proposed Modifications

- Site Boundary expansion by approximately 13,339 acres
Expansion of micrositing corridor by approximately 8,981 acres
- Three Design Scenarios
Design Scenarios A and B: maximum and minimum disturbance for Wind and Battery
Design Scenario C: solar photovoltaic array plus battery storage
- Amendments to several site certificate conditions

Public Hearing Process

- Council Chair Opens Hearing
- Certificate Holder Comment (optional)
- Members of the Public Comment Opportunity
- Certificate Holder Rebuttal (optional)
- Council Chair Closes Hearing

*The Council may set time limits for comments.



Public Comments

OAR 345-027-0067(C) – (F)

- Issues must be raised in person or in writing before the close of the record of the public hearing*
- Failure to raise an issue on the record of the public hearing precludes the Council from considering whether to grant a contested case on that issue*
- Failure to raise an issue with sufficient specificity to allow the Council the Department and the certificate holder an opportunity to respond also precludes the Council from considering whether to grant a contested case on that issue*

Consideration of issues in a contested case

OAR 345-027-0071(7):

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.

Public Hearing on Montague Wind Power Facility Request for Amendment 4 “Montague Phase 2”



Agenda Item G

Stateline Wind Project Request for Amendment 5 of the Site Certificate (Action Item)

May 17, 2019

Sarah Esterson, Senior Siting Analyst



Presentation Overview

- Facility Overview and Site Certificate History
- Request for Amendment (RFA) 5 Procedural History
- RFA5 Proposed Changes
- Proposed Order (Action Item)

Facility Overview

Certificate Holder: FPL Energy Stateline II, Inc.

Certificate Holder Parent Company: NextEra Energy Resources, LLC

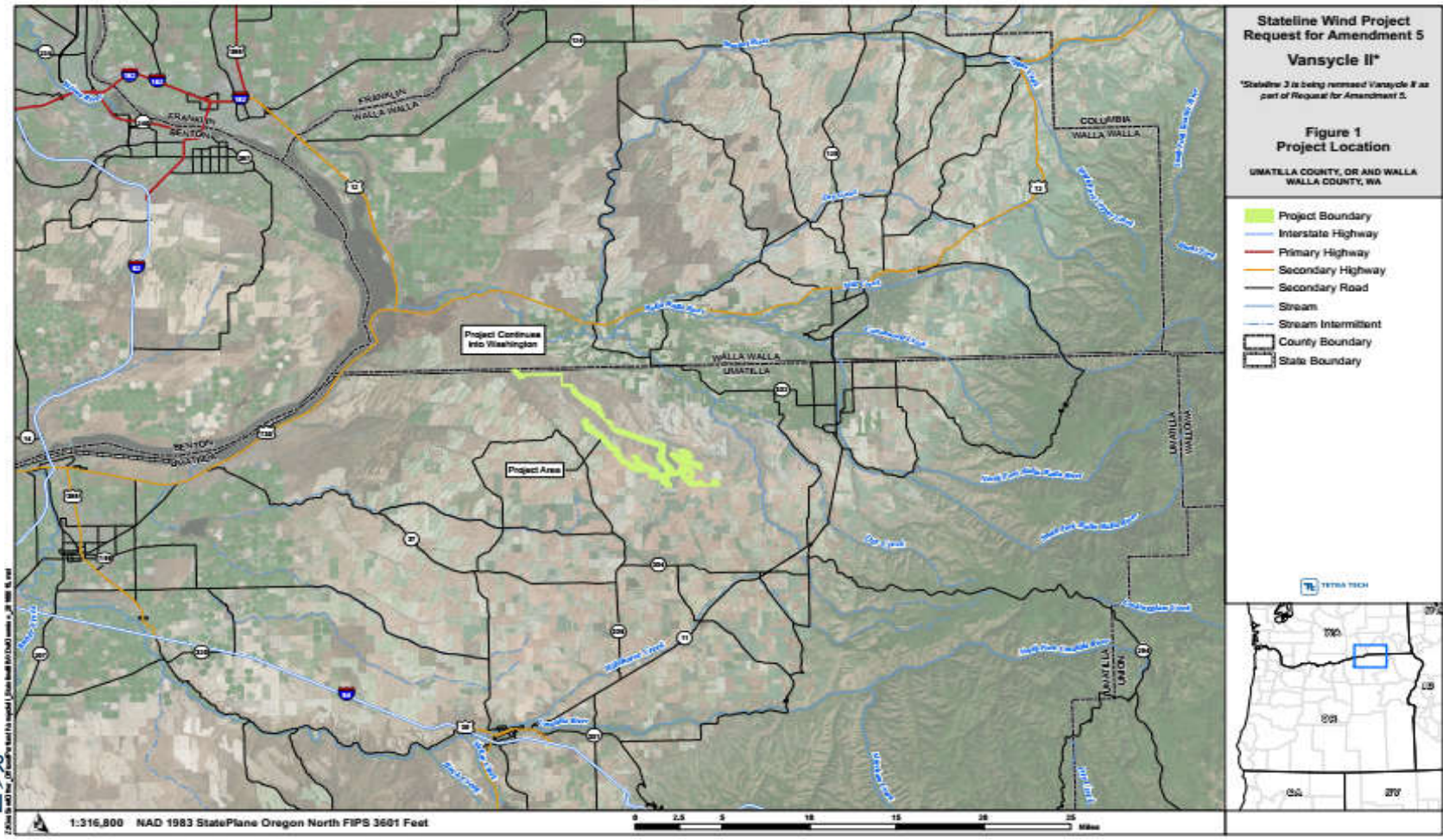
Type of Facility
(Operational): 222 MW wind; 166 wind turbines

Related or Supporting Facilities:

- substation
- O&M building
- meteorological towers
- power collection system
- transmission line
- SCADA
- access roads, temporary laydown areas



Facility Site/Site Boundary Location



Site Certificate History

- Site Certificate effective Sept 2001
- First Amended Site Certificate May 2002
- Second Amended Site Certificate June 2003
- Third Amended Site Certificate June 2005
- Fourth Amended Site Certificate March 2009
- Fifth Amended Site Certificate (Under Review)

RFA5 – Proposed Modifications

- Geographic unit name change: Stateline 3 to Vansycle II
- Repowering of 43 wind turbines (replacement of blades, nacelles)
 - Increase maximum blade tip height from 416 to 440 ft
 - Increase maximum rotor diameter from 305 to 354 ft
 - Decrease minimum aboveground blade tip clearance from 110 to 85 ft
- Re-disturb access roads and laydown areas
- Add and amend site certificate conditions

RFA5 Procedural History

Requirement	Responsible Party	Date
Complete RFA5 Received	Certificate Holder	Jan. 17, 2019
Draft Proposed Order Issued	ODOE	March 29, 2019
Comment Period (31-days)	ODOE	March 29 – Apr 29, 2019
Proposed Order/Public Notice	ODOE	May 3, 2019
Council Review of Proposed Order	EFSC	May 17, 2019
Final Order/Amended Site Certificate	EFSC	TBD

Review of Proposed Order

No substantive changes in findings in Proposed Order for the following standards:

- General Standard
- Organizational Expertise
- Soil Protection
- Waste Minimization
- Retirement and Financial Assurance
- Cumulative Effects Standard
- Removal-Fill Law
- Threatened and Endangered Species
- Historic, Cultural and Archeological Resources
- Structural
- Recreation
- Public Services
- Public Health and Safety for Wind
- Protected Areas
- Siting Standards for Transmission Lines
- Fish and Wildlife Habitat
- Water Rights
- Scenic Resources

Review of Proposed Order

Land Use[OAR 345-022-0030]

Proposed Order, Section III.E (p.24-19)

Recommended Changes (DPO to PO):

- Umatilla County comments on Condition 142
 - Restriction of repowering until setback with road right-of-way can be satisfied

Review of Proposed Order

Noise Control Regulation [OAR 345-035-0035]

Proposed Order, Section III.Q.1 (p.62 -68)

Recommended Changes (DPO to PO):

- Address public comments related to noise modeling (wind shear) and certificate holder responses to noise related comments

Council Decision on Proposed Order

Option 1

- Approve Proposed Order and adopt Final Order

Option 2

- Approve Proposed Order with Modifications and adopt Final Order

Option 3

- Deny Proposed Order, direct staff to make changes and re-issue Proposed Order

Agenda Item H

PUBLIC COMMENT

Agenda Item I (Action Item)

Summit Ridge Wind Farm: Council Decision on Contested Case and the Proposed Order on Request for Amendment 4 of the Site Certificate

May 17, 2019

Maxwell Woods, Senior Policy Advisor



Presentation Overview

- Facility Overview and Site Certificate History
- Request for Amendment (RFA) 4 Procedural History
- RFA4 Proposed Changes
- Request for Contested Case on Proposed Order (Action Item)
- Proposed Order (Action Item)

Facility Overview

Certificate Holder:	Summit Ridge Wind, LLC
Certificate Holder Parent Company:	Pattern Renewables 2 LP; Subsidiary of Pattern Energy Group 2 LP
Type of Facility (Approved, not yet constructed):	72 wind turbines (which would generate approximately 194.4 MW)
Related or Supporting Facilities:	<ul style="list-style-type: none">- collector substation- O&M building- meteorological towers- power collection system- transmission lines- SCADA- access roads and crane paths



Facility Site/Site Boundary Location 1 of 2

Site Boundary

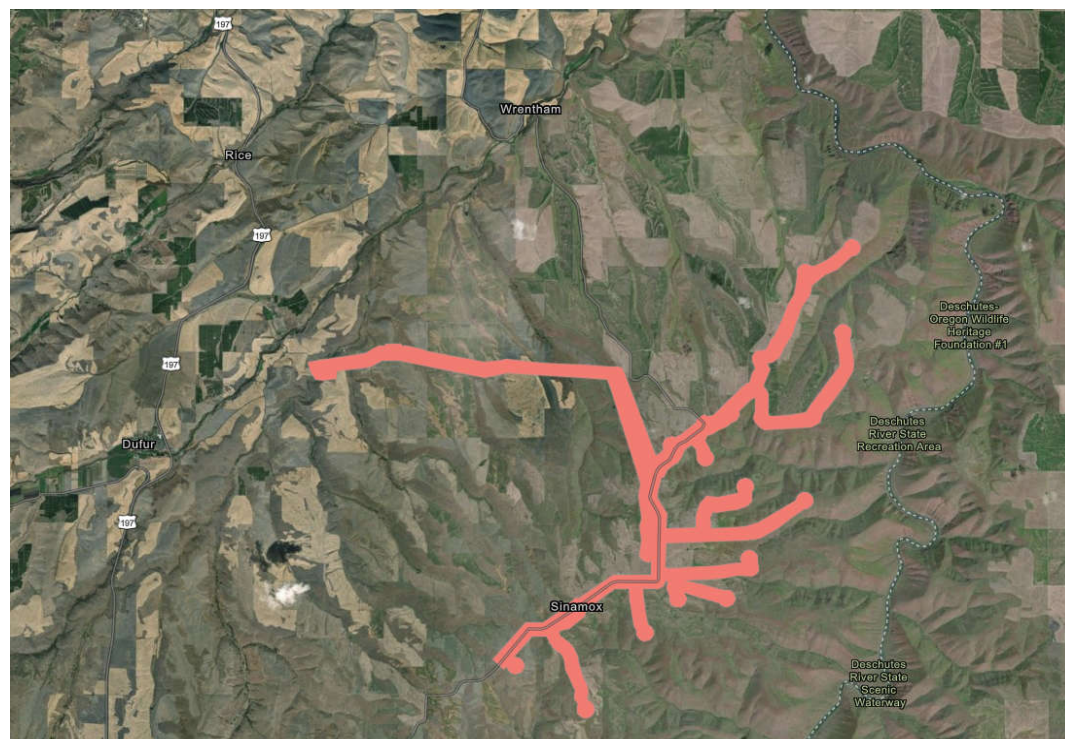
- Contains approximately 11,000 acres
- Private land, within Wasco County

Site Certificate History

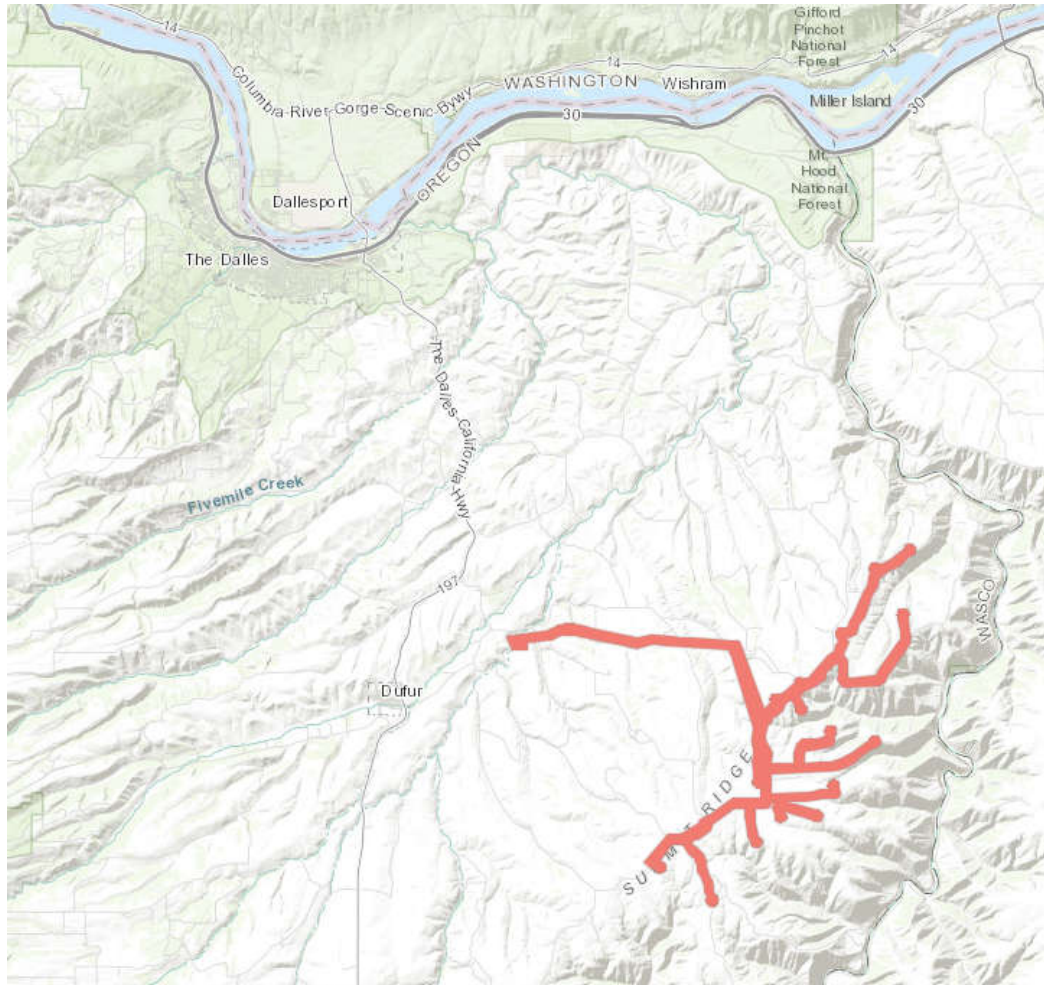
- Site Certificate effective August 19, 2011

Site Certificate Amended three Times:

- August 2015
- November 2016
- December 2017



Facility Site/Site Boundary Location 2 of 2



RFA4 – Requested Modifications

- Requests that the construction deadlines be extended by two years.*
- Requests that the construction commencement deadline be extended to August 19, 2020 and;
- Requests that the construction completion deadline be extended to August 19, 2023.

Condition Changes

- Condition 4.1
 - Condition 4.2
-
- *Note that the current site certificate requires construction to begin by August 19, 2018 and be completed by August 19, 2021. The receipt of the RFA4 stayed these construction deadlines.

RFA4 Procedural History

Requirement	Responsible Party	Date
Preliminary Request for Amendment 4	Certificate Holder	August 17, 2018
Type B Review Evaluation and Response	ODOE	August 23, 2018
Type B Review Supplementary Materials	Certificate Holder	September 5, 2018
Type B Re-Review and Determination	ODOE	November 28, 2018
Complete RFA4 Received	Certificate Holder	January 14, 2019
Draft Proposed Order Issued (Type B)	ODOE	January 16, 2019
Draft Proposed Order Re-Issued (Type A)	ODOE	February 1, 2019
Comment Period (37-days)	ODOE	January 16 – February 22, 2019
Public Hearing	EFSC	February 22, 2019
Council Review of Draft Proposed Order	EFSC	February 22 and March 22, 2019
Proposed Order/Public Notice and Notice of Contested Case Issued	ODOE	April 2, 2019
Review of Contested Case Requests (today)	EFSC	May 17, 2019
Final Order/Amended Site Certificate	EFSC	TBD

Council Review of Requests for Contested Case

Opportunity to Request a Contested Case

- Individuals that comment on record of draft proposed order hearing
- January 16 – February 22, 2019

Requests for Contested Case Received

- Friends of the Columbia Gorge, et al.
 - 13 issues raised
- Irene Gilbert, as individual and on behalf of Friends of the Grande Ronde Valley
 - 3 issues raised
- Fuji and Jim Kreider
 - 2 issues raised

Council Scope of Review – Contested Case Requests

- Evaluate whether issue was properly raised:
 - On the record of the draft proposed order, with sufficient specificity, within Council jurisdiction
- Evaluate whether request satisfies OAR 345-027-0071(6) requirements
- Evaluate whether request raises significant issue of law or fact that may affect Council's determination whether facility meets applicable laws and Council standards



Council Scope of Review – Continued

OAR 345-027-0071(10) identifies actions Council may take regarding requests for contested case on amendment subject to Type A review:

- Option 1: Grant a contested case – find that request raises significant issue of law or fact.*
- Option 2: Deny contested case – find that request raises significant issue of law or fact...but could be addressed through new or amended conditions.*
- Option 3: Deny contested case – find that request does not raise significant issue of law or fact.*

Staff Recommendations

Request for Contested Case:

Staff recommend Council deny requests for contested case

Proposed Order:

Approve proposed order, with modifications, and adopt as final order;
grant amended site certificate

Request for Contested Case – Friends of the Columbia Gorge, et al.

Gen. Issue: Surveys and data must be rectified and updated

Issue A.1: Compliance with OAR 345-021-0010(1)(p)

Issue A.2: Compliance with OAR 345-021-0010(1)(q)

Issue A.3: Compliance with OAR 345-022-0060(1)

Issue A.4: Compliance with OAR 345-022-0070(1)

Issue A.5: Compliance with OAR 345-024-0015 and 345-024-0015(4)

Issue A.6: Compliance with OAR 345-025-0016

Issue A.7: Compliance with OAR 635-415-0025



Request for Contested Case – Friends of the Columbia Gorge, et al. (continued)

- Issue B.1: Compliance with Wasco County LUDO §§ 19.030.C.5, 19.030C.5a, 19.030.C.5.b, 19.030.C.5.c, and 19.030.C.5.h
- Issue B.2: Compliance with LUDO §§ 5.020 and 5.020.F
- Issue B.3: Compliance with LUDO §§ 5.030, 5.030.A and 5.030.J, and 5.030.K
- Issues C.1/C.2: Compliance with OAR 345-027-0085(1)
- Issue D: Validity of Council's Amendment Rules

Review of General Issue

Gen. Issue: Surveys and data must be rectified and updated

Recommendations

- Core issue properly raised; modifications to Proposed Order not considered
- Issue does not raise a significant issue of law or fact

Review of Issue A.1

Issue A.1: Compliance with OAR 345-021-0010(1)(p) [Exhibit P]

Recommendations

- Core issue properly raised; modifications to Proposed Order not considered
- Issue does not raise a significant issue of law or fact

Review of Issue A.2

Issue A.2: Compliance with OAR 345-021-0010(1)(q) [Exhibit Q]

Recommendations

- Core issue properly raised; modifications to Proposed Order not considered
- Issue does not raise a significant issue of law or fact

Review of Issue A.3

Issue A.3: Compliance with OAR 345-022-0060(1) [F&W Habitat Stnd]

Recommendations

- Core issue properly raised; modifications to Proposed Order not considered
- Issue does not raise a significant issue of law or fact

Review of Issue A.4

Issue A.4: Compliance with OAR 345-022-0070(1) [T&E Standard]

Recommendations

- Core issue properly raised; modifications to Proposed Order not considered
- Issue does not raise a significant issue of law or fact

Review of Issue A.5

Issue A.5: Compliance with OAR 345-024-0015 and 345-024-0015(4)

Recommendations

- Core issue properly raised; modifications to Proposed Order not considered
- Issue does not raise a significant issue of law or fact

Review of Issue A.6

Issue A.6: Compliance with OAR 345-025-0016

Recommendations

- Core issue properly raised; modifications to Proposed Order not considered
- Issue does not raise a significant issue of law or fact

Review of Issue A.7

Issue A.7: Compliance with OAR 635-415-0025

Recommendations

- Core issue properly raised; modifications to Proposed Order not considered
- Issue does not raise a significant issue of law or fact

Review of Issue B.1

Issue B.1: Compliance with Wasco County LUDO §§ 19.030.C.5, 19.030C.5a, 19.030.C.5.b, 19.030.C.5.c, and 19.030.C.5.h

Recommendations

- Core issue properly raised; modifications to Proposed Order not considered
- Issue does not raise a significant issue of law or fact

Review of Issue B.2

Issue B.2: Compliance with LUDO §§ 5.020 and 5.020.F

Recommendations

- Core issue properly raised; modifications to Proposed Order not considered
- Issue does not raise a significant issue of law or fact

Review of Issue B.3

Issue B.3: Compliance with LUDO §§ 5.030, 5.030.A and 5.030.J, and 5.030.K

Recommendations

- Core issue properly raised; modifications to Proposed Order not considered
- Issue does not raise a significant issue of law or fact

Review of Issues C.1 and C.2

Issues C.1/C.2: Compliance with OAR 345-027-0085(1)

Recommendations

- Core issue properly raised; modifications to Proposed Order not considered
- Issue does not raise a significant issue of law or fact

Review of Issue D

Issue D: Validity of Council's Amendment Rules

Recommendations

- Should not be subject to a contested case proceeding because this issue is under consideration by the Supreme Court of Oregon

Request for Contested Case – Irene Gilbert, as an individual and on behalf of Friends of the Grande Ronde Valley

- Issue 1: Condition 10.9 (On-site Well)
- Issue 2: Compliance with Cumulative Effects Standard for Wind Energy Facilities and Protected Areas standard
- Issue 3: Compliance with ORS 469.401 / monitoring for birds and bats

Review of Issue 1

Issue 1: Condition 10.9 (On-site Well)

Recommendations

- Core issue properly raised; modifications to Proposed Order **recommended**
- Need not proceed to a contested case because the Proposed Order includes requested revision

Review of Issue 2

Issue 2: Compliance with Cumulative Effects Standard for Wind Energy Facilities and Protected Areas standard

Recommendations

- Core issue properly raised; modifications to Proposed Order not considered
- Did not identify changes in law or fact
- Issue does not raise a significant issue of law or fact

Review of Issue 3

Issue 3: Compliance with ORS 469.401 / monitoring for birds and bats

Recommendations

- Core issue properly raised; modifications to Proposed Order not considered
- Did not identify changes in law or fact
- Issue does not raise a significant issue of law or fact

Request for Contested Case – Jim and Fuji Kreider

- Issue 1: Wildlife impacts
- Issue 2: Need for the facility

Review of Issue 1

Issue 1: Wildlife impacts, Wildlife Surveys

Recommendations

- Core issue properly raised; modifications to Proposed Order not considered
- Did not identify changes in law or fact
- Issue does not raise a significant issue of law or fact

Review of Issue 2

Issue 2: Need for the facility

Recommendations

- Core issue properly raised; modifications to Proposed Order not considered
- Did not identify changes in law or fact
- Issue does not raise a significant issue of law or fact

Council Decision on Request for Contested Case

Option 1

- Grant a contested case – find that request raises significant issue of law or fact

Option 2

- Deny contested case – find that request raises significant issue of law or fact, but could be addressed through new or amended conditions

Option 3

- Deny contested case – find that request does not raise significant issue of law or fact

Review of Proposed Order

- Administrative changes
- Material changes were incorporated in response to comments in the following sections of the proposed order:
 - III.A. *General Standard of Review*,
 - III.E. *Land Use*,
 - III.F. *Protected Areas*,
 - III.G. *Retirement and Financial Assurance*,
 - III.H. *Fish and Wildlife Habitat*;
 - III.I *Threatened and Endangered Species*,
 - III.L. *Recreation*,
 - III.P.1 *Public Health and Safety for Wind Energy Facilities*; and
 - III.Q.3 *Water Rights*

Review of Proposed Order

General Standard of Review [OAR 345-022-0000]

Proposed Order, Section III.A (starting on page 15)

Change of finding to address public comments related to need for timeline extension and number of timeline extension requests

Review of Proposed Order

Land Use [OAR 345-022-0030]

Proposed Order, Section III.E (starting on page 36)

Changes to findings to address public comments related to WCLUDO 19.030(C)(5), Wasco County Comp Plan Goals 5 and 6

Changes to findings to address certificate holder comments re ORS 215.274(4)(a)(A)

Review of Proposed Order

Protected Areas [OAR 345-022-0040]

Proposed Order, Section III.F (starting on page 54)

Changes to findings to address public comments related to visibility of proposed turbines from the Deschutes River

Review of Proposed Order

Retirement and Financial Assurance [OAR 345-022-0050]

Proposed Order, Section III.G (starting on page 64)

Changes to findings related to how the Department assessed the retirement cost estimate

Review of Proposed Order

Fish and Wildlife Habitat [OAR 345-022-0060]

Proposed Order, Section III.H (starting on page 71)

Changes to findings to address public comments related to habitat categorization, field surveys, and methodologies for surveys.

Recommended changes to condition 10.7, related to final facility design and micrositeing to reduce wildlife impacts based on pre-construction surveys

Review of Proposed Order

Threatened and Endangered Species [OAR 345-022-0070]

Proposed Order, Section III.I (starting on page 87)

Changes to findings to address public comments related to T&E surveys

Review of Proposed Order

Recreation [OAR 345-022-0100]

Proposed Order, Section III.L (starting on page 95)

Changes to findings to address public comments related to impacts to recreational opportunities on the Deschutes River, specifically noise and visibility of turbines

Review of Proposed Order

Public Health and Safety Standards for Wind Facilities [OAR 345-024-0010]

Proposed Order, Section III.P.1 (starting on page 105)

Changes to findings to address public comments related to risk of mechanical failure of wind turbines and potential ice throw

Review of Proposed Order

Water Rights [OAR 345-022-0000(1)]

Proposed Order, Section III.Q.3 (starting on page 121)

Change in finding to address public comment related to water use from onsite well at O&M building

Change in recommended condition 10.9 to revert to original condition, limiting water use to 5,000 gallons per day at O&M building

Council Decision on Proposed Order

Option 1

- Approve Proposed Order and adopt Final Order

Option 2

- Approve Proposed Order with Modifications and adopt Final Order

Option 3

- Deny Proposed Order, direct staff to make changes and re-issue Proposed Order

Agenda Item J

2019 Administrative Housekeeping Rulemaking (Action Item)

May 17, 2019

Christopher Clark, Rulemaking Coordinator



Overview

- On Feb. 22, 2019, the Council adopted the Housekeeping Rulemaking Project as part of its 2019 Rulemaking Calendar.
- The purpose of the project is to improve the clarity and consistency of the rules and make minor procedural changes.
 - Some issues initially proposed for project are on hold pending outcomes of the legislative session (HB 2020 & SB 928).
 - Most proposed changes are related to electronic transmission of application materials and noticing requirements.
- Staff published draft proposed rules and an analysis document for public review on April 19, 2019.

Summary of Proposed Amendments

- **Issue 1019:** Amending OAR 345-001-0000 to specify that rulemaking notices under ORS 183.335 may be sent electronically and adopting procedures to update the Council's rulemaking mailing lists.
- **Issues 1007, 1108, and 1032:** Amending OAR 345-001-0010 to delete the definition of "Office of Energy," add the Department of Aviation to the definition of "Reviewing Agency," and amend the definition of "related or supporting facilities" to be more consistent with statute.
- **Issue 1014:** Amending several rules in OAR 345-015 to remove references to "project officers."

Summary of Proposed Amendments

- **Issue 1091:** Amending several rules to reduce the number of printed copies of project materials an applicant or certificate holder must submit from an original and two copies to an original and one copy.
- **Issue 1012:** Amending OAR 345-015-0220(3)(d) to clarify that a complete site certificate application is always posted online.
- **Issue 1106:** Amending rules related to distribution of application materials to provide that applicant must send electronic copies of materials to reviewing agencies, and must provide printed copies of all or part of the materials upon request.

Summary of Proposed Amendments

- **Issue 1107:** Amending OAR 345-021-0055 to clarify use of the terms “application supplement” and “complete application.”
- **Issue 1103:** Amending procedural rules to clarify noticing requirements following issuance of a draft proposed order on an application for site certificate or request for amendment. Amending OAR 345-015-0014 to be consistent with ORS 183.413, 183.415 and OAR 137-003-0001.
- **Issue 1062:** Amending rules related to property owner listing requirements to better align with local government practices.

Issue 1103.1 – Notice of Proposed Order on an Application for Site Certificate

- **Affected rules:** OAR 345-015-0014; 345-015-0016; 345-015-0080; 345-015-0230; 345-027-0071
- **Issue description:** OAR 345-015-0230 noticing requirements should better align with ORS 469.370(4).
- **Staff Recommendation:** Amend OAR 345-015-0230(3) to remove the reference to OAR 345-015-0014 and specify that the notice of proposed order will include a notice of a contested case hearing specifying a deadline for requests to participate as a party or limited party and a date for the prehearing conference.

Issue 1103.1 – OAR 345-015-0230 (Pg. 22)

(3) Following issuance of the proposed order, the Department ~~shall~~ will issue ~~a contested case notice, as described in OAR 345-015-0014. In addition, as required under ORS 469.370(4), the Department shall~~ issue a public notice of the proposed order, subject to the following:

(a) The notice will include:

(A) A description of the facility and the facility's general location

(B) A summary of the recommendations included in the Proposed Order;

(C) A description of the process and deadline for requests to participate as a party or limited party in the contested case; and

(D) The date of the prehearing conference, if any.

(b) The Department ~~and shall~~ will send the notice by mail or email to:

(A) ~~persons~~ All persons on the Council's general mailing list as defined in OAR 345-011-0020;

(B) ~~and to~~ All persons on any special mailing list set up for the proposed project

(C) All persons who commented in person or in writing on the record of the public hearing described in 345-015-0220; and

(D) ~~including a mailing list made up of those persons~~ The property owners listed in Exhibit F of the site certificate application as updated by the applicant upon the request of the Department.

(4) Following the deadline under paragraph (3)(a)(D) of this rule, the Department will issue a contested case notice as described in OAR 345-015-0014.



Issue 1103.2 – Notice of Proposed Order on a Request for Amendment

- **Affected rules:** OAR 345-015-0014; 345-015-0016; 345-015-0080; 345-015-0230; 345-027-0071
- **Issue description:** Rules are unclear about process and manner of service for notice of opportunity to request a contested case.
- **Staff Recommendations:** Amend OAR 345-027-0071 to combine the notice of opportunity to request a contested case with the notice of proposed order, and specify that the notice will be sent, by mail or email, to the certificate holder and to all persons who commented in person or in writing on the record of the public hearing.

Issue 1103.2 – OAR 345-027-0071 (Pg. 71)

(a) The Notice will include:

(A) A description of the facility and the facility's general location;

(B) A description of the process and deadline for requests for a contested case under sections (5) through (9) of this rule;

(C) The physical and website addresses of where the public may review copies of the proposed order; and

(D) The name, address, email address and telephone number of the Department representative to contact for more information.

Former (3)

(b) The Department will ~~by posting public the~~ notice as an announcement on its website, and will and by sending public the notice by mail or email to:

(aA) The certificate holder;

(B) All Ppersons on the Council's general mailing list as defined in OAR 345-011-0020_i;

(bB) All Ppersons on any special list established for the facility_i;

(eD) The reviewing agencies as defined in OAR 345-001-0010(52)_i; and

(dE) The ~~updated~~ property owners on the updated list as described in OAR 345-021-0010(1)(f) Exhibit F_i; and

(F) All persons who commented in person or in writing on the record of the public hearing as described in OAR 345-027-0067.



Issue 1103.3 – Contested Case Notices

- **Affected rules:** OAR 345-015-0014; 345-015-0016; 345-015-0080; 345-015-0230; 345-027-0071
- **Issue description:** The contested case notices rule implements statutes other than ORS 183.413 and 183.415.
- **Staff Recommendations:** Amend OAR 345-015-0014 to implement ORS 183.413, 183.415 and OAR 137-003-0001.

Issue 1103.3 – OAR 345-015-0014 (Pg. 12-13)

(1) In a Contested Case proceeding conducted by the Council, The the Department shall will issue a contested case notice notices for Council contested case proceedings as provided in OAR 137-003-0001. The notice will include, at a minimum:

- (a) A caption with the name of the person or agency to whom the notice is issued;
- (b) A short and plain statement of the issues to be considered under OAR 345-015-0016, and a reference to the particular sections of the statute and rules involved;
- (c) A statement of the party's right to be represented by counsel and that legal aid organizations may be able to assist a party with limited financial resources;
- (d) A statement of the party's rights to participate in the hearing a party or limited party;
- (e) A statement of the agency's authority and jurisdiction to hold a hearing on the issues; and
- (f) A statement of the time and place of the hearing; and
- (g) A statement that active duty servicemembers have a right to stay proceedings under the federal Servicemembers Civil Relief Act as described in ORS 183.415(3)(g); and

* * * * *

(32) The Department shall will send a contested case notice by registered or certified mail to the applicant and to each party to the contested case. following persons:

NOTE: All other sections deleted.



Issue 1062 – Property owner notice

- **Affected rules:** OAR 345-020-0011(1)(f); 345-021-0010(1)(f); 345-027-0060(1)(f); 345-027-0110(5)
- **Issue description:** The method Council uses to develop property owner notification lists is different from the local government processes.
- **Staff recommendation:** Amend rules to require applicants to provide list of property owners within specified distance of “property upon which the facility is proposed to be located,” which would better align with local government process.

Issue 1062 – OAR 345-020-0011 (Pg. 31-32)

(f) Exhibit F. A list of the names and mailing addresses of all owners of record, as shown on the most recent property tax assessment roll, of property ~~located within or adjacent to the site boundary as defined in OAR 345-001-0010 upon which the facility is proposed to be located and any adjacent property~~. In addition to incorporating the list in the NOI, the applicant ~~shall~~ must submit the list to the Department of Energy in an electronic format acceptable to the Department. ~~for the production of mailing labels. For the purpose of this rule, Property “adjacent property” to the site boundary means-~~ property that is:

- (A) Within 100 feet of the ~~site boundary~~ property upon which the facility is proposed to be located, where the ~~site, corridor or micrositing corridor is~~ property is wholly or in part within an urban growth boundary;
- (B) Within 250 feet of ~~the site boundary~~ property upon which the facility is proposed to be located, where the ~~site, corridor or micrositing corridor is~~ property is outside an urban growth boundary and not within a farm or forest zone; ~~and or~~
- (C) Within 500 feet of ~~the site boundary~~ property upon which the facility is proposed to be located, where the ~~site, corridor or micrositing corridor is~~ property is within a farm or forest zone.

Next Steps

Rulemaking Event	Completion Date (Possible)
Council approves rulemaking project & method of obtaining public input.	Dec. 22, 2018
Council appoints Rules Advisory Committee, if any.	Not Applicable
Staff obtains public input, as directed by Council.	May 2, 2019
Staff drafts proposed new or amended rules, or identify rules for repeal.	May 3, 2019
Staff prepares Notice of Proposed Rulemaking	May 3, 2019
Council authorizes staff to issue Notice	(May 17, 2019)
Staff issues Notice	(May 24, 2019)
Public Comment Period	(May 24 – Aug 23, 2019)
Rulemaking Hearing	(Aug. 22-23, 2019)
Council and Staff consider all written and oral comments, revise proposed rules as needed.	(Aug 23 or later)
Council adopts, amends, or repeals rules.	(Aug 23 or later)
Staff submits permanent rule filing to Secretary of State.	(Aug 30 or later)
Rules are effective	Sept./Oct. 2019

BREAK

Agenda Item K (Information Item)

Montague Wind Power Facility: Presentation on Draft Proposed Order on Request for Amendment 4 of the Site Certificate

May 17, 2019

Chase McVeigh-Walker, Siting Analyst
Maxwell Woods, Senior Policy Advisor



Presentation Overview

- Council Scope of Review
- Council's Review of the Draft Proposed Order and Comments



Council's Review Process

Review process

- Review Draft Proposed Order
- Consider all comments received on record of Draft Proposed Order public hearing. All comments received on the record **will be** provided to Council
- Provide comments to staff for consideration in the Proposed Order



Review of Public Comments


This slide is a “Placeholder” for the Department’s evaluation of any and all Public comments received on record for the Draft Proposed Order on Request For Amendment 4.



Council Comments on the Draft Proposed Order




Adjourn



Oregon
Department of
Energy


Check out our 2018 Biennial Energy Report!

READ THE REPORT




SAVE ENERGY

- [Home Energy Scoring](#)
- [Schools & Public Buildings](#)
- [Renewable Energy Development Grants](#)
- [On the Road](#)
- [Energy Code Hotline](#)
- [Help With My Project](#)




SAFETY + RESILIENCE

- [Energy System Resilience](#)
- [Hanford and Nuclear Safety](#)
- [Emergency Preparedness](#)
- [Oregon Fuel Action Plan](#)
- [Nuclear Emergency Info](#)



ENERGY FACILITIES

- [About Facility Siting](#)
- [Energy Facilities in Oregon](#)
- [Energy Facility Siting Council](#)
- [Council Jurisdiction](#)
- [Facilities Under Review](#)
- [Liquefied Natural Gas](#)



ENERGY IN OREGON

- [Biennial Energy Report](#)
- [Oregon's Electricity Mix](#)
- [Renewable Portfolio Standard](#)
- [Find Your Utility](#)
- [Electric Vehicles & Alternative Fuels](#)
- [Climate Change](#)
- [Renewable Energy](#)