



## Energy Facility Siting Council Meeting Notice and Agenda

**Port of Morrow – Riverfront Room  
2 Marine Drive  
Boardman, OR**

Thursday, August 22, 2019 at 3:00 p.m.  
Friday, August 23, 2019 at 8:30 a.m.

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**Please Note:** Every effort will be made to consider items as they are indicated. However, the Council agenda and the order of agenda items are subject to change.

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### **Thursday, August 22, 2019**

#### **Roll Call and Opening Remarks**

- A. Wheatridge Wind Energy Facility, Draft Proposed Order on Request for Amendment 4 of the Site Certificate (Information Item)** – Sarah Esterson, Senior Siting Analyst. The Council will receive a presentation on the Draft Proposed Order on Request for Amendment 4 of the Wheatridge Wind Energy Facility site certificate; a public hearing will be conducted as Agenda Item C; the comment period extends through September 9, 2019. Request for Amendment 4 (RFA4) seeks Council approval to add 1,527 acres to the approved site boundary within Morrow County for construction and operation of up to 150 megawatts (MW) of photovoltaic solar energy facility components, up to 41 distributed energy storage (battery) system sites and expansion the Wheatridge West collector substation. RFA4 also seeks Council approval for site certificate condition amendments. The certificate holder's RFA4 and the Department's Draft Proposed Order on RFA4 are available for review at: [Department's Wheatridge Wind Energy Facility webpage](#).
- B. Perennial Wind Chaser Station, Draft Proposed Order on Request for Amendment 1 of the Site Certificate (Information Item)** – Katie Clifford, Senior Siting Analyst. The Council will receive a presentation on the Draft Proposed Order on Request for Amendment 1 of the Perennial Wind Chaser Station site certificate; a public hearing will be conducted as Agenda Item D, which will then conclude the public comment period. Request for Amendment 1 (RFA1) seeks Council approval to extend the construction commencement and completion timelines by two years for the previously approved 450 MW natural gas-fueled power generation facility and related or supporting facility components. The certificate holder's RFA1 and the Department's Draft Proposed Order on RFA1 are available for review at: [Department's Perennial Wind Chaser Station Webpage](#).

- C. Site Certificate Amendment Process Rulemaking (Action Item)** – Patrick Rowe, Department of Justice and Christopher Clark, Rulemaking Coordinator. On October 24, 2017, the Energy Facility Siting Council filed Permanent Administrative Orders EFSC 4-2017 and EFSC 5-2017, amending OAR 345-025 and 345-027. The rules were intended to improve the process by which the Council reviews requests for amendments to site certificates. On August 1, 2019, the Oregon Supreme Court decided that these rules were invalid because the Council failed to substantially comply with ORS 183.335(3)(d) because Council did not provide a written statement identifying how it would later determine whether the proposed rules were accomplishing their objective. In addition, the Court held that the Council exceeded its statutory authority by adopting rules that limited the scope of judicial review of an order amending a site certificate under the Type B review process. Council will consider two actions to address these issues:
- I. The Council will first consider adopting temporary rules to replace the amendment rules adopted on October 24, 2017. The temporary rules would be similar to the October 2017 amendment rules, except that they would include modifications to:
    1. Establish that the Department and Council will apply the temporary rules to requests for amendments and other review processes submitted on or after October 24, 2017 for which Council or the Department has not yet made a final decision, without requiring certificate holders to resubmit a new request for amendment or amendment determination request.
    2. Amend provisions identified by the Supreme Court as exceeding the Council’s statutory authority because they limited judicial review under the Type B review process.
  - II. The Council will then consider initiating a rulemaking process to adopt permanent rules for the review of amendments to site certificates. Council must adopt permanent rules within 180 days. Council may adopt permanent rules that are the same as temporary rules, or may make modifications based on input from stakeholders. Staff recommends Council solicit written advice from stakeholders on potential improvements to the amendment rules prior to issuing a Notice of Proposed Rulemaking.
- D. [5:00 pm] Wheatridge Wind Energy Facility, Public Hearing on the Draft Proposed Order on Request for Amendment 4 of the Site Certificate (Hearing)** – Barry Beyeler, Council Chair/Presiding Officer. The public hearing on the Draft Proposed Order on Request for Amendment 4 (RFA4) of the Wheatridge Wind Energy Facility site certificate will begin after Council receives a brief overview from staff. The purpose of the hearing is for members of the public to provide verbal comments to Council members on RFA4 and the Draft Proposed Order on RFA4. RFA4 seeks Council approval to add 1,527 acres to the approved site boundary within Morrow County for construction and operation of up to 150 MW of photovoltaic solar energy facility components, up to 41 distributed energy storage (battery) system sites and expansion of the Wheatridge West collector substation. RFA4 also seeks Council approval for site certificate condition amendments. The written comment period on the draft proposed order and amendment request is open until September 9, 2019 at 5:00 PM, unless extended by Council.
- E. [5:45pm] Perennial Wind Chaser Station, Public Hearing on the Draft Proposed Order on Request for Amendment 1 of the Site Certificate (Hearing)** – Barry Beyeler, Council Chair/Presiding Officer. The public hearing on the Draft Proposed Order on Request for Amendment 1 (RFA1) of the Perennial Wind Chaser site certificate will begin after Council receives a brief overview from staff. The purpose of the hearing is for members of the public to provide verbal comments to Council members on RFA1 and the Draft Proposed Order on RFA1. RFA1 seeks Council approval to extend the

construction commencement and completion timelines by two years. The comment period on the Draft Proposed Order and RFA1 closes at the end of the hearing, unless extended by Council.

### Friday, August 23, 2019

- F. **Consent Calendar** – Approval of minutes; Council Secretary Report; and other routine Council business.
- G. **The Climate Trust Audit Update (Information Item)** – Maxwell Woods, Acting Council Secretary. The Council will receive a presentation on The Climate Trust’s 2017 Financial Audit.
- H. **[9:00 am] Rulemaking Hearing: 2019 Housekeeping Rulemaking Project (Hearing)** – Christopher Clark, Rules Coordinator. The Council will receive oral public comments on the proposed amendments to OAR chapter 345. The deadline to provide the Council with oral or written comments on the proposed rule amendments is the close of the hearing.
- I. **Perennial Wind Chaser Station, Council Review of Draft Proposed Order on Request for Amendment 1 of the Site Certificate (Information Item)** – Katie Clifford, Senior Siting Analyst. Council will review the Draft Proposed Order, consider comments received on the record of the Draft Proposed Order public hearing, and may provide comments to staff on the Draft Proposed Order for consideration in the Proposed Order.
- J. **Public Comment** – This time is reserved for the public to address the Council regarding any item within the Council’s jurisdiction that is not otherwise closed for comment.
- K. **Nolin Hills Wind Power Project, Request for Extension of Notice of Intent Timeline (Action Item)** – Katie Clifford, Senior Siting Analyst. Council will consider a request from Capitol Power Corporation to extend the expiration date for the Notice of Intent for the proposed Nolin Hills Wind Power Project by one year.
- L. **Montague Wind Power Facility, Council Review and Decision on Amendment 4 of the Site Certificate (Action Items)** – Chase McVeigh-Walker Senior Siting Analyst. Council will review the Proposed Order on Amendment 4 and will either adopt, modify, or reject the proposed order as the final order. Request for Amendment 4 seeks Council approval of the following: Expansion of the site boundary and micro-siting corridor; construction and operation of up to 81 wind turbines; construction and operation of a solar photovoltaic generating system of up to 1,189 acres; construction and operation of up to a 100-megawatt battery storage system, and related or supporting facility components.
- M. **Summit Ridge Wind Farm, Council Decision on Requests for Contested Case; and the Amended Proposed Order on Request for Amendment 4 of the Site Certificate (Action Items)** – Maxwell Woods, Acting Council Secretary. The Council will first consider requests for contested case on the Amended Proposed Order on Request for Amendment 4 of the Summit Ridge Wind Farm site certificate. If Council accepts a contested case request, it will direct a contested case to be conducted. If Council denies all contested case requests, Council will proceed to review the Amended Proposed Order on Amendment 4 and will either adopt, modify, or reject the Amended Proposed

Order as the final order. Request for Amendment 4 seeks Council approval to extend the construction commencement and completion deadlines by two years.

- I. **Council Decision on Requests for Contested Case** – The Council will consider requests for contested case on the Amended Proposed Order on Request for Amendment 4.
- II. **Council Decision on Proposed Order** – Unless a contested case proceeding is granted, Council will proceed to review the Amended Proposed Order on Amendment 4 and will either adopt, modify, or reject the Amended Proposed Order as the final order.

**N. Rulemaking: 2019 Housekeeping – Council Deliberation (Action Item)** – Christopher Clark, Rules Coordinator. After considering all the comments received on the record for this rulemaking (i.e. before the comment deadline at the close of the hearing that occurred as Agenda Item H), the Council will deliberate and decide whether to approve final rule language, or provide additional direction to staff.

## Adjourn

### Anticipated Future Energy Facility Siting Council Meetings:

- **September 26-27, 2019** – Clatskanie
- **October 24-25, 2019** – location to be determined
- **November 21-22, 2019** – location to be determined
- **December 19-20, 2019** – location to be determined

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**To participate by teleconference please call toll-free:** 1-877-873-8017 and enter code 799345.

**Webinar Presentation:** [Join Skype Meeting](#) Trouble Joining? [Try Skype Web App](#)

**Meeting Materials** associated with the agenda items are available at:

<https://www.oregon.gov/energy/facilities-safety/facilities/Pages/Council-Meetings.aspx>

### Requests to the Council to Address an Issue:

Pursuant to Oregon Administrative Rule 345-011-0035, the public may ask the Council formally to address relevant issues within the Council's jurisdiction at future meetings. Please be sure to include information about why the issue should be on the agenda. Your request must be in writing and received at least 14 days before the Council meeting.

### To ask the Council to address an issue, call or write:

EFSC Secretary

Energy Siting Division/ODOE

550 Capitol St. NE

Salem, OR 97301-3737

Toll-Free (in Oregon): 1-800-221-8035

Phone: 503-378-8328

<https://www.oregon.gov/energy/facilities-safety/facilities>

**Americans with Disabilities Act:** The Oregon Department of Energy will make reasonable accommodations upon request. Please contact us at least 72 hours before the meeting. Call Sean Mole at 503-934-4005; Fax 503-373-7806, or toll free in Oregon at 800-221-8035. TTY users should call the Oregon Relay Service at 711.