



Oregon

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To: Oregon Energy Siting Council

From: Chase McVeigh-Walker, Senior Siting Analyst

Date: 12/5/2019

Subject: Agenda Item C (Action Item):
Shepherds Flat North Request for Amendment 2 – Council Final Decision for
the December 19-20, 2019 EFSC Meeting.

Attachments: Attachment A: Draft Proposed Order on Request for Amendment 2
Attachment B: Copies of Comments Received on the Draft Proposed Order (as
of December 5, 2019)

STAFF RECOMMENDATION

The Department recommends Council adopt the Proposed Order as the Final Order and grant an amended site certificate.

BACKGROUND

Shepherds Flat North (facility) is an operating wind energy generation facility approved by the Council in 2008 with 106 wind turbines and a maximum generating capacity of 265 megawatts. The facility is located within a site boundary of approximately 9,264 acres in northeastern Gilliam County.

The certificate holder, North Hurlburt Wind, LLC (certificate holder), a wholly owned subsidiary of Caithness Energy, LLC, a subsidiary of Caithness Equities Corporation, submitted a complete Request for Amendment 2 (amendment request or RFA2) on November 21, 2019. The amendment request seeks Council's approval to amend Condition 26 to install longer turbine blades on the existing towers, known as wind turbine repowering. The repowering would also include the replacement and modification to associated machinery including the rotor upgrade (replacing the hub casting), modification to existing nacelles roof, and installation of a new gearbox and bedplate in the nacelle. The longer turbine blades would increase the blade-tip height and rotor diameter for the two turbines, remaining within the parameters already allowed by the site certificate. The longer turbine blades would lower the minimum allowed blade tip clearance for the two turbines from 25 meters to 21.5 meters.

On November 22, 2019, the Oregon Department of Energy (Department) issued its draft proposed order (DPO) recommending that Council approve RFA2. On the same day, the

Department also issued a notice of a public comment period on the amendment request and DPO. The comment period extends from November 22 through December 13, 2019, which represents a 21-day comment period. This amendment request is being processed under Council's Type B review process, and therefore does not include a public hearing on the draft proposed order nor an opportunity to request a contested case proceeding on the proposed order.

During the Department's review of the amendment request (prior to the issuance of the DPO), the Department received comments from the following reviewing agencies which are included in Attachment B of the DPO. The DPO is included as Attachment A to this staff report.

- The Oregon Department of Fish and Wildlife (ODFW) – Recommended two years of fatality monitoring upon completion of the proposed RFA2 facility repower.
- The Oregon Department of Aviation (ODA) – Recommended that a Notice of Proposed Construction or Alteration be submitted to the Federal Aviation Administration (FAA), and to notify both ODA and ODOE of the response from the FAA.
- The Gilliam County Planning Department – Recommended a pre-construction meeting between the Gilliam County Road Master and the Certificate Holder. Additionally, the Gilliam County Planning Department encouraged the Department to review existing conditions (particularly those that include “words and phrases about construction...[and/or] ‘during construction’”), clarifying that the proposed RFA2 facility repower “is in fact a type of construction.”

As of the issuance of this staff report, the Department has received one comment on the DPO from ODFW (provided as Attachment B to this staff report). In their comment, ODFW expresses their appreciation of the opportunity to review the project, and the [Certificate Holder's] incorporation of ODFW comments from an earlier consultation into their current RFA, and as reflected in the DPO.

Any additional written comments received during the comment period will be transmitted to Council electronically, prior to the December 19-20 Council meeting. All comments will also be included in an attachment (Attachment C) to the proposed order, which will be prepared and released after the close of the public comment period.

At the December 19-20, 2019 Council meeting, the Department will present to Council a summary of the RFA2, the DPO, comments received on the DPO, and the Department's proposed order which will be prepared after the close of the public comment period and provided to Council electronically, prior to the December 19-20 Council meeting.

PROPOSED FACILITY MODIFICATIONS

Pursuant to OAR 345-027-0365, the DPO addresses each of the Council standards, and comments received on the record during the completeness review phase, and recommends that Council find that the facility, with proposed modifications, would comply with, or based on compliance with existing and recommended amended site certificate conditions, each of the Council standards.

As presented in the DPO, the Department does not recommend any changes in conditions between the existing Site Certificate and the DPO on RFA2 for the following standards and applicable rules. As such, these standards are not further addressed in this staff report. However, the Department has conducted a full review of these standards, which can be found in the respective sections of the DPO.

- Organizational Expertise
- Protected Areas
- Retirement and Financial Assurance
- Threatened and Endangered Species
- Scenic Resources
- Historic, Cultural and Archeological Resources
- Recreation
- Public Services
- Siting Standards for Transmission Lines
- Removal-Fill Law
- Water Rights

Based on the scope of the requested amendment, the DPO includes analysis and findings and recommended new or amended site certificate conditions related to the following standards:

Division 22 Standards

- General Standard of Review
 - Staff recommends Council adopt new Site Certificate Conditions 104 and 105 to grant a construction commencement and completion deadlines for the proposed RFA2 facility repower activities, based upon three years following the amended site certificate execution date and an additional three years following date of construction commencement. (Page 13 of the DPO)
- Structural Standard
 - Staff recommends Council adopt new Site Certificate Condition 106 to require the certificate holder to implement any necessary mitigation and remediation measures, or operational timing recommendations, if identified in the forthcoming foundation upright analysis. (Page 19 of the DPO)
 - Staff recommends Council amend Site Certificate Condition 62 to require an inspection of all turbine and turbine tower components within 6 months of being repowered. (Page 19 of the DPO)
- Soil Protection
 - Staff recommends Council amend Site Certificate Condition 73 to clarify that the requirements of Condition 73 (ensuring that an Oregon Department of Environmental Quality issued 1200-C National Pollutant Discharge Elimination System permit is obtained prior to construction and that erosion control measures are implemented in accordance with the Erosion and Sediment Control Plan (ESCP), if determined to be necessary) would continue to apply to the proposed RFA2 facility repower activities. (Page 22 of the DPO)

- Land Use
 - Staff recommends Council adopt new Site Certificate Condition 107 to require the certificate holder to request a zoning and conditional use permit amendment or alteration from Gilliam County, and to obtain all other local permits including access and haul permits, to satisfy an applicable Gilliam County Zoning Ordinance (GCZO) provisions. (Page 26 of the DPO)
 - Staff recommends Council adopt new Site Certificate Condition 108 to minimize potential impacts to local roads. (Page 27 of the DPO)
 - Staff recommends Council adopt new Site Certificate Condition 109 to require a specific Weed Control Plan be developed, in consultation with the Department and Gilliam County Weed Control Department. (Page 28 of the DPO)
 - Staff recommends Council adopt new Site Certificate Condition 110 to ensure the proposed RFA2 facility repower complies with GCZO Section 7.020(T)(5)(d) setback requirements. Specifically, the setback requirements correlating to a calculated percentage (110 or 150 percent) of the maximum blade tip height from turbine towers within Gilliam County to road rights-of-way, rights of ingress or egress, overhead utility lines and federal transmission lines, all property lines, existing guy wires, and residences. (Page 29 of the DPO)

- Fish and Wildlife Habitat
 - Staff recommends Council adopt new Site Certificate Condition 111 to implement and track measures that apply specifically to the proposed RFA2 facility repower disturbance areas, including submitting a Roadway Weed Control Plan. (Page 33 of the DPO)
 - Staff recommends Council adopt new Site Certificate Condition 112 to minimize potential disturbance impacts to state-sensitive species. (Page 34 of the DPO)
 - Staff recommends Council adopt new Site Certificate Condition 113, in response to ODFW recommendations, requiring the certificate holder to conduct a bird and bat fatality monitoring study be for two years following completion of the facility repowering activities. (Page 35 of the DPO)

- Waste Minimization
 - Staff recommends Council adopt new Site Certificate Condition 114 to ensure the certificate holder minimizes waste generation consistent with Council's standard. (Page 43 of the DPO)

Division 24 Standards

- Public Health and Safety Standards for Wind Energy Facilities
 - Staff recommends Council amend Site Certificate Condition 26 to change the minimum blade tip clearance for the repowered turbines from 25 meters (82 feet) to 21.5 meters (70.5 feet), and to remove from the condition a limitation on the megawatt output of the facility. (Page 45 of the DPO)
 - Staff recommends Council adopt new Site Certificate Condition 115 to require the certificate holder to submit a Notice of Proposed Construction and Alteration

to the FAA and ODA, prior to RFA2 facility repower activities. (Page 46 of the DPO)

Other Applicable Regulatory Requirements Under Council Jurisdiction

- Noise Control Regulations
 - Staff recommends Council adopt new Site Certificate Condition 116 to verify the repowered turbines ongoing compliance with the applicable State noise regulations and requirements. (Page 54 of the DPO)

RECOMMENDED COUNCIL ACTION

The Department recommends Council conclude that RFA2, with staff proposed conditions, complies with all applicable standards and that Council adopt the Proposed Order as the final order and grant an amended site certificate.

Attachments:

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