



# Oregon

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**To:** Energy Facility Siting Council

**From:** Sarah Esterson, Senior Siting Analyst

**Date:** February 28, 2020

**Subject:** Agenda Item H (Action Items):  
Wheatridge Wind Energy Facility -  
Council approval, modification or rejection of Certificate Holder's Request for  
Condition Exception; and, Habitat Mitigation Plan Amendment for the March  
13, 2020 EFSC Meeting

**Attachments:** Attachment 1: Draft Amended Habitat Mitigation Plan

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## STAFF RECOMMENDATION

The Wheatridge Wind Energy Facility is an approximately 300 megawatt (MW) wind energy generation facility currently under construction in Morrow County. The certificate holder, Wheatridge Wind LLC, makes two request of the Energy Facility Siting Council (Council). The Oregon Department of Energy recommends the Council:

- 1) Approve an exception request to Site Certificate Condition PRE-TE-03, subject to proposed mitigation measures; and,
- 2) Approve an amendment of the Habitat Mitigation Plan.

## BACKGROUND

### 1. Site Certificate Condition Exception Request

Condition PRE-TE-03 of the Wheatridge Wind Energy Facility site certificate is a pre-construction condition requiring completion of rare plant surveys for Laurent's milkvetch (*Astragalus collinus* var. *laurentii*), a state-listed threatened plant, with suitable habitat within the site boundary. Condition PRE-TE-03 requires that, if the state-listed threatened plant is identified during pre-construction surveys, that the certificate holder avoid impacts. However, the condition provides an exception request process in the event the certificate holder demonstrates infeasibility of avoidance. In December 2019, based on identification of two population occurrences during 2018/19 pre-construction surveys, Wheatridge Wind Energy, LLC (certificate holder) submitted an exception request for Site Certificate Condition PRE-TE-03.

The exception request includes an impact assessment, which finds that approximately 428 of 1,880 individual plants in the area are anticipated to be permanently disturbed (noted that 1,880 plants is not the entirety of the species). While the certificate holder maintains that such impacts not be considered significant, based on the Department's consultation with Oregon Department of Agriculture, Native Plant Division, based on the size of the populations identified onsite (61 acres, 1,880 individual plants) and location of impacts (middle of the population), it is recommended that Council consider the impacts on the likelihood of survival or recovery of the species potentially significant (OAR 345-022-0070). As such, the Department recommends application of mitigation as described below.

## *2. Habitat Mitigation Plan Amendment Request*

On February 25, 2020, the certificate holder submitted a request to amend the Habitat Mitigation Plan to modify the methodology for calculating the habitat mitigation area size for temporary impacts to Category 2 habitat grasslands.

### **PROPOSED MITIGATION**

#### *1. Site Certificate Condition Exception Request*

The certificate holder proposes to implement mitigation including protection of the remaining plants through a landowner lease agreement term, based on 2 acres for every 1 acre permanently impacted by the facility (approximately 30 acres). Additional mitigation includes allocation of specific funds (\$10-25k) to the Oregon Department of Agriculture Native Plant Division, or similar conservation-based entity, for research to be conducted on the state-listed threatened plant. Research could include a conservation assessment, conservation strategy, seed banking and propagation, and protocol development. The mitigation would include monitoring and reporting to the Department to ensure tracking, documentation and benefit to the impacted resource.

#### *2. Habitat Mitigation Plan Amendment Request*

The certificate holder proposes to modify the methodology included in the Habitat Mitigation Plan, based on recommendations from Oregon Department of Fish and Wildlife (ODFW), for temporary impacts to Category 2 grassland habitat. The habitat mitigation plan currently requires that the certificate holder include in its habitat mitigation area 1 acre for every 1 acre of Category 2 grassland habitat temporarily impacted. The modified methodology includes removal of acres allocated in the habitat mitigation area for temporary impacts to Category 2 grassland habitat.

The applicant is also obligated to revegetate all habitat temporarily disturbed during construction, and would only be obligated to include area within its habitat mitigation area for temporary impacts when revegetation efforts are expected to take longer than 3-5 years to recover, where grassland habitat are expected to recover in 3-5 years. Therefore, the applicant proposes to remove the acreage approach and rely solely upon revegetation within temporarily impacted grasslands to meet the Council's Fish and Wildlife Habitat standard (OAR 345-022-

006). The Department consulted with ODFW during its review of the request and confirmed that the proposed approach is consistent with ODFW policy.

#### **RECOMMENDED COUNCIL ACTION**

For the exception request to Condition PRE-TE-03, the Department, in consultation with Oregon Department of Agriculture, agree in concept with the certificate holder's proposed mitigation and considers the benefit received from completion of the mitigation to adequately mitigate the disturbance impacts anticipated from the facility. The Department intends to provide Council a supplemental staff report with the complete exception request and final recommendations, prior to the March 13, 2020 Council meeting.

For the habitat mitigation plan amendment request, based on consultation with ODFW, the Department recommends Council approve the requested change in the methodology for evaluation of temporary habitat mitigation and find that the amended plan would continue to satisfy the Council's Fish and Wildlife Habitat standard (OAR 345-022-0060).

#### **ATTACHMENTS:**

Attachment 1: Draft Amended Habitat Mitigation Plan