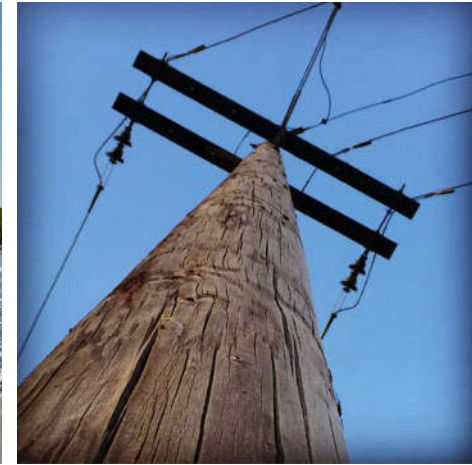


Oregon Department of **ENERGY**

Energy Facility Siting
Council Meeting

Webex/Teleconference

December 18, 2020



Opening Items:

- Call to Order
- Roll Call
- Announcements



Announcements:

- Reminder that this meeting is being held in it's entirety via teleconference and webinar.
- Reminder to Council and to anyone addressing the Council to please remember to state your full name clearly, and no not use the speakerphone feature, as it will create feedback.
- You may sign up for email notices by clicking the link on the agenda or the Council webpage.
- You are also welcome to access the online mapping tool and any documents by visiting our website.



Announcements continued:

- Please silence your cell phones
- Please use the “Raise Your Hand” feature in Webex to speak during the public comment period, or press *3 if you are on the telephone to raise our hand.
- 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

- Council Secretary Report



Agenda Item B (Action Item)

Radioactive Materials Enforcement Rulemaking Council Consideration of Proposed Rules

December 18, 2020

Maxwell Woods, ODOE Assistant Director for Nuclear Safety & Emergency Preparedness

Jeff Burrigh, ODOE Nuclear Waste Remediation Specialist

Christopher Clark, Siting Policy Analyst & EFSC Rules Coordinator



Overview

- Rulemaking Background
- Overview of Draft Proposed Rules
- Rulemaking Timeline
- Council Decision

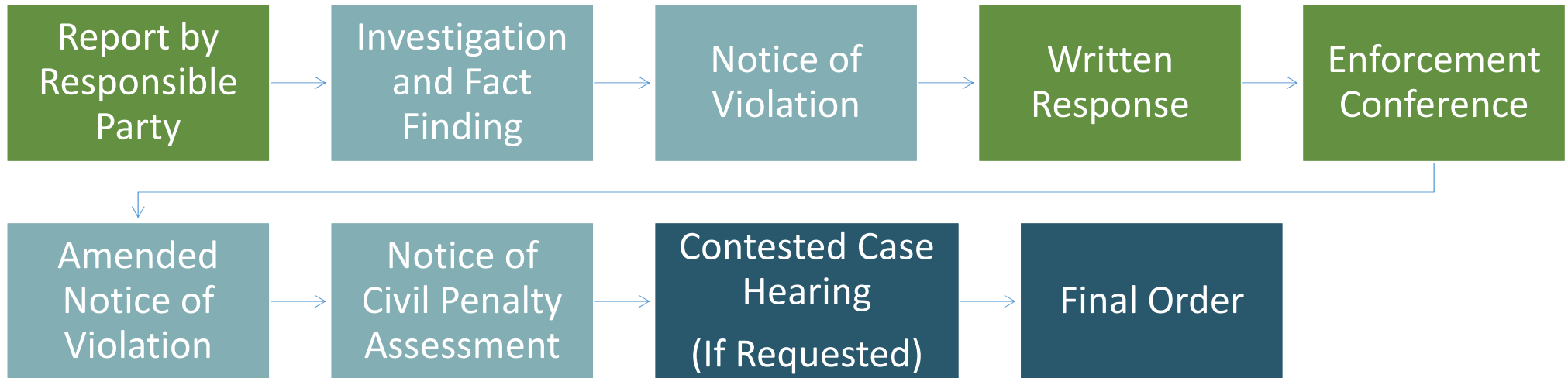


Rulemaking Background

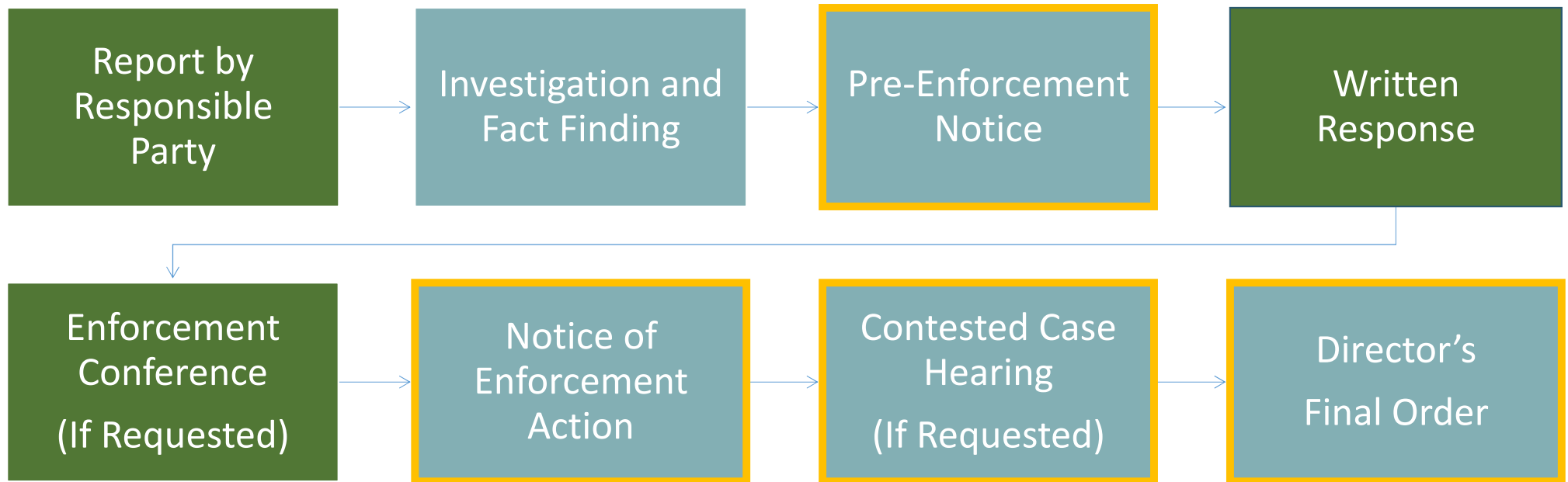
- In May 2020, EFSC initiated review of the administrative rules related to the enforcement of laws and rules governing in the transport and disposal of radioactive materials and wastes.
- Objective is to protect public health and safety, and the environment by:
 - Incentivizing preventative measures
 - Ensure that radioactive materials or wastes are not improperly transported or disposed of in Oregon, and
 - Require appropriate mitigation or penalties when a violation does occur.
- Rulemaking is in addition to a potential legislative concept for the 2021 legislative session.



Procedures for Energy Facilities Enforcement/Current Rules OAR 345-029-0003 to 345-029-0100



Procedures for Radioactive Materials Enforcement OAR 345-029-0503 to 345-029-0560



Comparison of Procedures

	Energy Facilities/ Current Rules	Radioactive Materials/ Proposed Rules
Procedural Steps	Notice of Violation → Amended Notice of Violation	Pre-Enforcement Notice → Notice of Enforcement Action
Classifications of Violations	Class II is default Violations may be escalated	Violations classified by type No escalation
Response to Notice	Requires admission or denial	Requires statement of facts
Civil Penalties	Available for Class I violations	Available for all violations
Contested Cases	Conducted by Council	Conducted by Director/OAH
Final Order by Default	Allowed	Allowed

Calculation of Civil Penalty

345-029-0560, pg. 15

- **Step 1:** Determine Base Penalty Amount based on class/severity of violation
- **Step 2:** Apply aggravating/mitigating multipliers
 - 5 if willful
 - 2.5 is repeated
 - 2.5 if irreversible
 - 0.75 if the responsible party was responsive
 - 0.8 if the violation was voluntarily reported
- **Step 3:** Multiply by total days of violation/number of occurrences
 - \$5 million maximum for a moderate violation; or
 - \$25,000 maximum for a minor violation
- Add amount for Economic Benefit



Classification of Violations

OAR 345-029-0530, pg. 12

Class I	Class II	Class III
<ul style="list-style-type: none">• Illegal disposal of radioactive waste• Failure to obtain an Oregon Radioactive Waste Material Transport Permit• Failure to report an incident involving radioactive materials• Failure to comply with an order of the Director or Council	<ul style="list-style-type: none">• Failure to properly route shipments of spent nuclear fuel or radioactive materials• General violation of OAR 345-060 or terms of an Oregon Radioactive Materials Transport Permit	<ul style="list-style-type: none">• Failure to give notice for inspection or schedule change of a radioactive materials shipment• Failure to maintain packaging, placarding, labeling, or shipment documentation for a radioactive materials shipment.

Severity Determinations

OAR 345-029-0560(1)(b), pg. 15

- **Major violations** include any violation determined to have caused, or having the potential to cause, a significant adverse impact on public health and safety, or the environment.
- **Moderate violations** include any violation determined to have caused, or having the potential to cause, no more than a minimal adverse impact on public health and safety or the environment, but could have the potential to cause a significant adverse impact on public health and safety or the environment if the physical conditions of the disposal did not limit pathways of exposure to human health or the environment.
- **Minor violations** include any violation having caused, or having the potential to cause, no more than a minimal adverse impact on public health and safety or the environment.



Civil Penalty Assessment - Base Penalty Amounts

OAR 345-029-0560(1)(c), pg. 15

	Minor	Moderate	Major
Class I	\$1,000	\$5,000	\$10,000
Class II	\$500	\$2,500	\$5,000
Class III	\$500		

Note: All amounts are per occurrence or per day of violation.

Penalty Scenario 1

- **Step 1: Determine Base Penalty**
 - Radioactive Waste disposed illegally (Class I)
 - Minimal potential for exposure due to conditions of disposal (Moderate Severity)
 - Base Penalty = \$5,000
- **Step 2: Apply Multipliers**
 - Irreversible – waste cannot be safely removed (x2.5)
 - Responsible Party voluntarily reported violation (x0.8)
 - Modified Penalty Amount = \$10,000
- **Step 3: Multiply by Days of Violation**
 - Multiple disposals occurred over past 6 months (x 180 days of violation)
 - Total Penalty Amount = \$1.8M
- **Step 4: Add amount for Economic Benefit**
 - Make reasonable estimate using EPA BEN Model
 - Up to \$2.7M available under statute

Penalty Scenario 2

- **Step 1: Determine Base Penalty**
 - Radioactive Materials transported on unauthorized route (Class II)
 - Minimal Potential for Impact (Minor Severity)
 - Base Penalty = \$500
- **Step 2: Apply Multipliers**
 - Responsible Party had reason to know action was illegal (x5)
 - Responsible Party has history of similar violation (x2.5)
 - Modified Penalty Amount = \$6,250
- **Step 3: Multiply by Days of Violation**
 - 3 shipments occurred (3 occurrences)
 - Total Penalty Amount = \$18,750
- **Step 4: Add amount for Economic Benefit**
 - Make reasonable estimate using EPA BEN Model
 - Up to \$6,250 available under statute



Rulemaking Process



Draft Notice of Proposed Rulemaking

- Includes Statement of Need and Fiscal Impact
- Schedules Rulemaking Hearing for Jan 21, 2020



Rulemaking Timeline

Permanent Rulemaking Steps	Projected Completion Date
Council initiates permanent rulemaking process	May 21, 2020
Staff convenes RAC and develops draft proposed rules	June – November 2020
Council considers proposed rules and authorization of Notice of Proposed Rulemaking	December 18, 2020
Staff issues Notice of Proposed Rulemaking	December 21, 2020
Council conducts rulemaking hearing	January 22, 2021
Last day to submit written comments	February 10, 2021
Council considers public comments and testimony and adoption of permanent rules	TBD

Council Decision on the Proposed Order

Option 1

Approve request to issue
Notice of Proposed
Rulemaking as presented

Option 2

Approve request to issue
Notice of Proposed
Rulemaking with
modifications

Option 3

Deny request to issue
Notice of Proposed
Rulemaking

Agenda Item C (Action Item)

Annual Election of Council Officers

December 18, 2020

Todd Cornett, Council Secretary

OAR 345-011-0010(1)

The Council shall annually elect a chair and a vice-chair. The chair and vice-chair shall serve for one year or until their successors are elected. A member may serve successive full terms as chair or vicechair. The chair or vice-chair may be removed by a unanimous vote of the other Council members



Agenda Item D (Information Item)

2021 EFSC Meeting Dates

December 18, 2020

Todd Cornett, Division Administrator, ODOE



2021 Calendar EFSC Proposed Meeting Dates

January 2021								February 2021								March 2021								April 2021							
W	S	M	T	W	T	F	S	W	S	M	T	W	T	F	S	W	S	M	T	W	T	F	S	W	S	M	T	W	T	F	S
53						1	2	5		1	2	3	4	5	6	9		1	2	3	4	5	6	13					1	2	3
1	3	4	5	6	7	8	9	6	7	8	9	10	11	12	13	10	7	8	9	10	11	12	13	14	4	5	6	7	8	9	10
2	10	11	12	13	14	15	16	7	14	15	16	17	18	19	20	11	14	15	16	17	18	19	20	15	11	12	13	14	15	16	17
3	17	18	19	20	21	22	23	8	21	22	23	24	25	26	27	12	21	22	23	24	25	26	27	16	18	19	20	21	22	23	24
4	24	25	26	27	28	29	30	9	28							13	28	29	30	31				17	25	26	27	28	29	30	
5	31																														

May 2021								June 2021								July 2021								August 2021							
W	S	M	T	W	T	F	S	W	S	M	T	W	T	F	S	W	S	M	T	W	T	F	S	W	S	M	T	W	T	F	S
17							1	22			1	2	3	4	5	26					1	2	3	31	1	2	3	4	5	6	7
18	2	3	4	5	6	7	8	23	6	7	8	9	10	11	12	27	4	5	6	7	8	9	10	32	8	9	10	11	12	13	14
19	9	10	11	12	13	14	15	24	13	14	15	16	17	18	19	28	11	12	13	14	15	16	17	33	15	16	17	18	19	20	21
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21	23	24	25	26	27	28	29	26	27	28	29	30			30	25	26	27	28	29	30	31	35	29	30	31					
22	30	31																													

September 2021								October 2021								November 2021								December 2021							
W	S	M	T	W	T	F	S	W	S	M	T	W	T	F	S	W	S	M	T	W	T	F	S	W	S	M	T	W	T	F	S
35				1	2	3	4	39						1	2	44		1	2	3	4	5	6	48				1	2	3	4
36	5	6	7	8	9	10	11	40	3	4	5	6	7	8	9	45	7	8	9	10	11	12	13	49	5	6	7	8	9	10	11
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39	26	27	28	29	30			43	24	25	26	27	28	29	30	48	28	29	30					52	26	27	28	29	30	31	
								44	31																						

- January 21-22, 2021
- February 25-26, 2021
- March 25-26, 2021
- April 22-23, 2021
- May 20-21, 2021
- June 24-25, 2021
- July 22-23, 2021
- August 26-27, 2021
- September 23-24, 2021
- October 21-22, 2021
- November 18-19, 2021
- December 16-17, 2021

Agenda Item

PUBLIC COMMENT

Phone Commenters: Press *3 to raise your hand to make comment, and *3 to lower your hand after you've made your comment.

Webinar Commenters: Open the Participant list, hover over your name and click on the "Raise Your Hand icon".



How to Raise Your Hand in Webex:

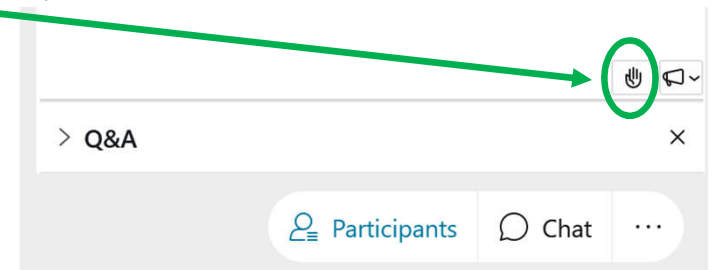
Webinar Participants

The bottom right of the main window is a set of icons:

Click on “Participants”

The bottom right of the participant window is a hand icon, click on the hand:

Clicking on it again will lower your hand.



Phone Participants

Press *3 on your telephone keypad to raise your hand.

Press *3 again on your telephone keypad to lower your hand.

Agenda Item F (Action Item)

Council's Continued Review of Request for Amendment 5 to Transfer Summit Ridge Wind Farm Site Certificate

December 18, 2020

Sarah Esterson, Senior Policy Advisor, ODOE

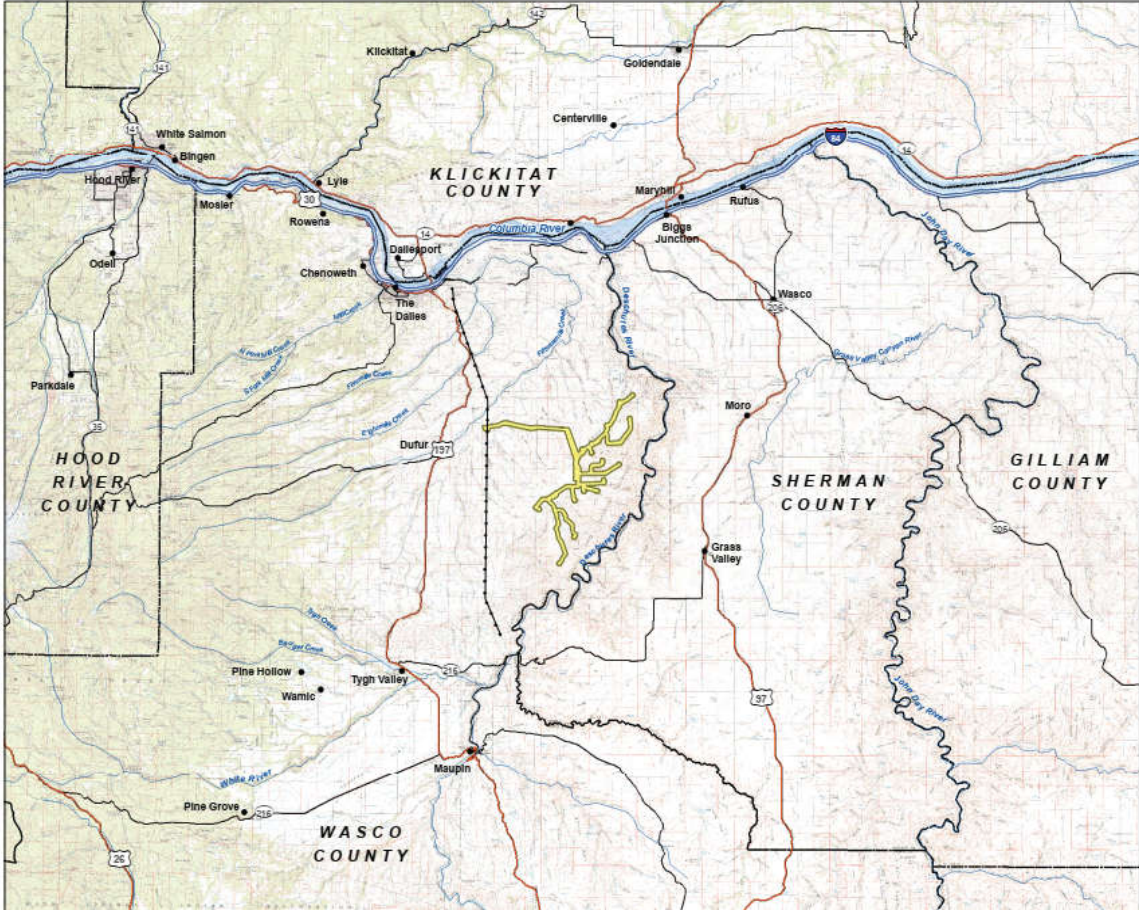


Facility/Certificate Holder Overview

Facility Type:	Wind (194.4 MW)
Facility Location:	Wasco County
Certificate Holder:	Summit Ridge Wind, LLC
Site Certificate History:	Original: 2011 AMD1 – AMD4: 2015 - 2019



Figure C-1
Project Location



- Legend**
- Site Boundary
 - County Line
 - Interstate Highway
 - Other Highway
 - Major Road
 - Bonneville 230 KV Line



Data Sources:
LotusWorks, 2009
USGS 30x60 Ortho Quadrangles: (Oregon) Condon, Hood River, and Mt. Hood



Transfer Procedural History

Requirement	Responsible Party	Date
Notification of Intent to Transfer Site Certificate	Certificate Holder	August 21, 2020
Submittal of Written Request	New Owner	Sept 14, 2020
Notice of Transfer Request	ODOE	Sept 30, 2020
Transfer Hearing	ODOE	Nov 19, 2020
Review of Transfer Request (cont'd to Dec 2020)	Council	Nov 19, 2020
Review/Decision on Transfer Request (potential)	Council	Dec 18, 2020

Review of Comments

Issues Raised

- Accuracy of information presented in staff report re: comment period
- Request for Amendment to Transfer Information
 - Date of transaction
 - Construction prior to approval of transfer
 - Royal Bank of Canada comfort letter
 - Limitations on changes to conditions through transfer process (Nov 16 staff report)

Transfer Review Process

OAR 345-027-0400

Council must find that the new owner complies with:

Organizational Expertise standard

- (OAR 345-022-0010)

Retirement and Financial Assurance standard

- (OAR 345-022-0050)

Standards for Facilities that Emit Carbon Dioxide – Monetary Path Payment Requirement (If applicable)

- (OAR 345-024-0710(1))



Organizational Expertise

- Experience in construction/operation of wind/other energy facilities
- Past Performance
 - Regulatory compliance
 - Mitigation experience
- Previously Imposed Conditions

Review of Nov 16 Staff Report

PLACEHOLDER SLIDE

(will screenshare staff report to allow Council review of previous recommendations)



Retirement and Financial Assurance

- Ability to Restore Site to Useful, Nonhazardous Condition
 - No changes in previously identified tasks/actions
- Ability to Obtain Bond/Letter of Credit (\$12 million)
 - Commitment letter from RBC Royal Bank
- Legal Authority to Construct/Operate Facility
 - Legal opinion from Special Counsel, Stoel Rives LLP

Council Action – Approval or Denial



Agenda Item G (Action Item)

Council Review of Department's Request to Use Consultant in Review of EFSC Facility Compliance with Cultural, Historic and Archeological Resources Std.

December 18, 2020

Sarah Esterson, Senior Policy Advisor, ODOE



BREAK



Council Deliberation



Adjourn

