



# Oregon

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**To:** Oregon Energy Siting Council

**From:** Sarah Esterson, Senior Policy Advisor

**Date:** January 8, 2021

**Subject:** Agenda Item F (Action Item):  
Golden Hills Wind Project, Council Review of the Proposed Order on Request for Amendment 6 of the Site Certificate for the January 22, 2021 EFSC Meeting

**Attachments:** Attachment 1: Draft Proposed Order on Request for Amendment 6  
Attachment 2: Draft Proposed Order Comments\*  
(\*All comments received during comment period to date [Dec. 18, 2020 – January 8, 2021]; comment period closes on January 15, 2021)  
Attachment 3: Proposed Order on Request for Amendment 6  
(\*to be provided in Supplemental Council packet materials prior to January 22, 2021)

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## STAFF RECOMMENDATION

Golden Hills Wind Farm, LLC (certificate holder) requests approval by the Energy Facility Siting Council (Council) for changes proposed in Request for Amendment 6 (RFA6 or amendment request) of the Golden Hills Wind Project Site Certificate. On December 18, 2020, the Oregon Department of Energy (Department) issued a Draft Proposed Order on RFA6, recommending Council approve the changes proposed in RFA6, subject to existing and proposed amended site certificate conditions (see Attachment 1 of his staff report). The public comment period on the Draft Proposed Order on RFA6 extends from December 18, 2020 through January 15, 2021.

At the January 22, 2021 meeting, staff will present the changes proposed in RFA6 and recommendations as presented in the Proposed Order on RFA6; the Proposed Order on RFA6 will be issued following the close of the DPO comment period and will be provided to Council members, in electronic format, prior to the January 22, 2021 Council meeting.

## BACKGROUND

Council issued a site certificate for the Golden Hills Wind Project on May 15, 2009, authorizing construction and operation of a 400 megawatt (MW) (125 wind turbines) wind energy generation facility (facility) to be located in Sherman County. Council subsequently has approved five site certificate amendments, authorizing three previous extensions of the construction commencement and completion deadlines; changes in wind turbine specification and facility design; and a transfer of certificate holder ownership. Construction of the facility commenced in June 2020 and must be

completed by June 2021, based on the existing construction completion deadline unless an extension of the completion deadline is approved by Council, as is requested in RFA6. The facility, based on current final design, would consist of up to 51 wind turbines and would include as related and supporting facilities: a power collection system, a substation, an approximately 8-mile 230-kilovolt (kV) transmission line, 2 meteorological towers, supervisory control and data acquisition (“SCADA”) system, operations and maintenance facility, access roads, and temporary laydown areas.

## **PROPOSED FACILITY MODIFICATIONS**

The certificate holder requests that Council approve changes to the site certificate to extend the construction completion deadline by 18-months from June 18, 2021 to December 31, 2022. The amendment request also seeks Council approval to add 534 acres to the existing micrositing corridor, entirely within the previously approved site boundary, to allow changes in final facility design including shortening underground collector line routes between wind turbines, improving access road alignments to minimize agricultural impacts, and consolidating collector line routes into a single corridor. The changes to the micrositing corridor would also include removal of 84 acres (see RFA6 Figures 1 and 2 for additional detail – available via hyperlink at: [https://www.oregon.gov/energy/facilities-safety/facilities/Facilities library/2020-12-16-Complete-RFA6.pdf](https://www.oregon.gov/energy/facilities-safety/facilities/Facilities%20library/2020-12-16-Complete-RFA6.pdf)).

The amendment request seeks Council approval to amend language of preconstruction conditions to align with a phased construction schedule; amend Conditions GEN-HC-01, PRE-HC-01, PRE-HC-02, PRE-HC-03, CON-HC-01, CON-HC-03, and CON-HC-04; and remove Conditions GEN-HC-02 and CON-HC-02, all of which were previously imposed under the Council’s Historic, Cultural and Archeological Resources standard; and amend Condition GEN-FW-04, which was previously imposed under the Council’s Fish and Wildlife Habitat standard. Specific changes to conditions, along with the Department’s evaluation of the proposed condition changes, are presented in the Draft Proposed Order on RFA6 and in Table 1 below.

As part of RFA6, the certificate holder requested that the amendment request be processed under Type B Review pursuant to OAR 345 Division 27. Based on review of RFA6 and the Type B review factors under OAR 345-027-0357(8), the Department determined that Type B review was justified. The Department’s evaluation and determination of Type B Review was issued on December 16, 2020 and is available on the Department’s project webpage. As a reminder, under the Type B Review process, there is not a requirement for the Council to conduct a public hearing on the draft proposed order or an opportunity to request a contested case proceeding on the Department’s proposed order.

## **DRAFT PROPOSED ORDER**

On December 18, 2020, the Department issued a Draft Proposed Order on RFA6 recommending Council approve the proposed changes to the Golden Hills Wind Project Site Certificate. On the same day, the Department issued Public Notice of a Complete RFA6, Draft Proposed Order on RFA6 and of a 27-day public comment period extending from December 18, 2020 through January 15, 2021. To date, the Department has received 3 comments including from a member of the public (Ms. Gilbert) and two state governmental agencies (Oregon Department of Fish and Wildlife [ODFW] and Oregon Department of Geology and Mineral Industries [DOGAMI]). Comments received to date are provided for Council review as Attachment 2 of this staff report.

The Draft Proposed Order on RFA6 addresses each Council standard and recommends Council find that based on existing and proposed amended site certificate conditions the facility, with proposed changes, would continue to comply with Council standards and applicable rules and statutes. As presented in the

Draft Proposed Order on RFA6, the Department recommends Council find that the certificate holder satisfied the criteria for requesting an extension of the construction deadline extension and that the proposed changes and amended conditions would not result in new or greater impacts that those previously evaluated by Council and addressed by existing site certificate conditions.

As presented in the Draft Proposed Order on RFA6, Table 1 below presents the Department's evaluation of the certificate holder's proposed site certificate condition changes including whether those changes would result in new or greater impacts previously evaluated by Council.

**Table 1: Department’s Evaluation of Certificate Holder’s Proposed Condition Changes**

Condition No.	Existing Condition	Requested Amended Condition	Department Evaluation of Requested Change
GEN-HC-01	<p>Prior to and during construction, the certificate holder shall ensure that construction personnel receive training from a cultural resources specialist on how to identify sensitive historic, cultural, and archeological resources present onsite and on measures to avoid accidental damage to identified resource sites. Records of such training must be maintained onsite during construction, and made available to the Department upon request.</p>	<p>Prior to and during construction, the certificate holder shall ensure that construction personnel receive training from a cultural resources specialist on how to identify sensitive historic, cultural, and archeological resources <u>that could be inadvertently uncovered during construction, and on measures to avoid accidental damage to such resources present onsite and on measures to avoid accidental damage to identified resource sites.</u> Records of such training must be maintained onsite during construction, and made available to the Department upon request.</p>	<p>Certificate holder requests that the condition be amended for clarification. The Department considers the modified language to maintain intent of existing condition and that it would not result in a significant adverse impact.</p>
GEN-HC-02	<p>Prior to and during construction, “no access” buffers shall be identified on construction plans and temporarily demarcated in the field if work is planned within 200 feet of known cultural resources that require buffers. The facility Environmental Inspector shall monitor flagged “no access” buffers around archeological sites during construction to prevent accidental damage to cultural resources. These flags or markers shall not be moved or removed during construction activities, and construction personnel shall be advised of these restrictions.</p>	<p><del>Prior to and during construction, “no access” buffers shall be identified on construction plans and temporarily demarcated in the field if work is planned within 200 feet of known cultural resources that require buffers. The facility Environmental Inspector shall monitor flagged “no access” buffers around archeological sites during construction to prevent accidental damage to cultural resources. These flags or markers shall not be moved or removed during construction activities, and construction personnel shall be advised of these restrictions.</del></p>	<p>Certificate holder requests removal of the condition because it was intended to apply to unevaluated or partially evaluated resources, which has been completed; the certificate holder proposes to modify the buffer distance from 200 to 15 feet for 5 of 22 resources where disturbance may occur in proximity and is reflected in the CRMP rather than in a condition in order to be specific to the resource (buffer would continue to apply to the other resources). Department considers that removal of the condition and</p>

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			incorporation of appropriate buffers in the CRMP would not result in significant adverse impacts.
PRE-HC-01	The certificate holder shall design the facility to avoid impacts to sites 35SH217, 35SH220, GH site 6 (above-ground resources) and 35SH219 and GH Isolate 6.	The certificate holder shall design the facility to avoid impacts to sites <u>that have been identified by surveys and recommended to be eligible, unevaluated for listing on the National Register of Historic Places (NRHP), or archeological sites and objects under ORS 358.905(1)(a) and (c), as presented in the CRMP, unless certificate holder obtains the required archeological permit(s) from SHPO. Certificate holder shall identify the sites on the map provided to the Department under PRE-HC-03.</u> <del>35SH217, 35SH220, GH site 6 (above-ground resources) and 35SH219 and GH Isolate 6.</del>	Certificate holder requests the condition language be amended to remove specificity to resource name, establish applicability of avoidance, and incorporate a potential archeological permit. The Department considers that, with the proposed changes (shown in red), the condition would continue to provide the same level of protection to resources and would not result in significant adverse impacts.
PRE-HC-02	At least 45 days prior to construction, the certificate holder shall prepare a Cultural Resource Management Plan (the “CRMP”) and shall submit the CRMP to the Department and State Historic Preservation Office (the “SHPO”) for review. The Department must approve the CRMP, in consultation with SHPO, prior to construction. The CRMP shall at a minimum include: (a) Specific protocols and procedures for protecting known cultural resources including imposing a 30-meter buffer and designating as a “no-work zones,” around sites 35SH215, 35SH216, 35SH221, and to	At least 45 days prior to construction, the certificate holder shall prepare a Cultural Resource Management Plan (the “CRMP”) and shall submit the CRMP to the Department and State Historic Preservation Office (the “SHPO”) for review. The Department must approve the CRMP, in consultation with SHPO, prior to construction. The CRMP shall at a minimum include: (a) <u>Identification of each resource</u> and specific protocols and procedures for protecting known <u>NRHP-eligible and unevaluated</u> cultural resources including imposing a 30-meter buffer and designating as a “no-work	Certificate holder requests condition language be modified to be consistent with applicable buffer distance and list of resources fully evaluated. The Department considers that the condition changes would maintain the same level of resource protection, with the Department’s recommended changes (shown in red) because the CRMP has been amended with additional management measures for each of the 22 previous and newly identified resources.

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	<p>the sites identified in Condition V.B.1: 35SH217, 35SH220, GH site 6 (above ground resource), 35SH219 and GH Isolate 6. Both the buffer and no work zones apply to cultural resources, including any additional archeological sites and possible human remains accidentally discovered during construction. The CRMP shall identify how protocols will follow State laws and rules at ORS 358.905-961, ORS 390.235, OAR 736-051-0090 and ORS 97.740-760 as in effect on the date of this site certificate,, The certificate holder shall submit the CRMP to the State Historic Preservation Office (the “SHPO”) for concurrence and shall provide to the Department documentation confirming SHPO concurrence prior to start of construction.</p> <p>(b) Protocols and procedures for responding to accidental discovery of cultural resources during operations and ongoing maintenance activities.</p>	<p>zones,” around sites <u>mapped under PRE-HC-01, and archeological sites and objects under ORS 358.905(1)(a) and (c).</u> 35SH215, 35SH216, 35SH221, and to the sites identified in Condition V.B.1: 35SH217, 35SH220, GH site 6 (above ground resource), 35SH219 and GH Isolate 6. Both the buffer and no work zones apply to cultural resources, including any additional archeological sites and possible human remains accidentally discovered during construction. The CRMP shall identify how protocols will follow State laws and rules at <del>ORS 358.905-961, ORS 390.235, OAR 736-051-0090 and ORS 97.740-760 as in effect on the date of this site certificate,,</del> The certificate holder shall submit the CRMP to the State Historic Preservation Office (the “SHPO”) for concurrence and shall provide to the Department documentation confirming SHPO concurrence prior to start of construction.</p> <p>(b) Protocols and procedures for responding to <u>inadvertent</u> accidental discovery of cultural resources during operations and ongoing maintenance activities.</p>	
PRE-HC-03	Before beginning construction of any phase of the facility, the certificate holder shall provide to the Department a map showing the final design locations of all components of that	Before beginning construction of any phase of the facility, the certificate holder shall provide to the Department a <u>confidential</u> map showing the final design locations of all components of that	Certificate holder requests that the condition be amended for clarification because there have been multiple surveys and reports submitted, not

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	<p>phase of the facility and areas that would be temporarily disturbed during construction, and also showing the areas surveyed by Tetra Tech in preparing the Archeological Inventory for Golden Hills Wind Energy Development included in the Application for a Site Certificate as Attachment S-1. If there are any additional areas where ground-disturbing activities will occur that were not part of the original facility area, the certificate holder shall notify the Department and SHPO to determine whether additional surveys or avoidance measures are necessary.</p>	<p>phase of the facility, <del>and</del> areas that would be temporarily disturbed during construction, <del>and</del> areas that were not included in <del>pedestrian-level ground</del> cultural resource surveys, and known cultural resources within the siting corridors; <del>and also showing the areas surveyed by Tetra Tech in preparing the Archeological Inventory for Golden Hills Wind Energy Development included in the Application for a Site Certificate as Attachment S-1.</del> If there are any additional areas where ground-disturbing activities will occur that were not part of the <u>prior pedestrian level ground original facility area surveyed by Project-related</u> cultural resources surveys, the certificate holder shall notify the Department and SHPO to determine whether additional surveys or avoidance measures are necessary.</p>	<p>limited to the Archeological Inventory referenced. The Department considers the revised language to be clarifying in its intent, without removal of any previous protection, and would not result in significant adverse impacts.</p>
CON-HC-01	<p>During construction, if any cultural resources are discovered, all work at that location shall cease immediately and the certificate holder shall notify the Department and SHPO to determine whether it is necessary to have an archeologist travel to the worksite and assess the discovery or monitor construction activities.</p>	<p>During construction, <u>the certificate holder shall implement the Cultural Resource Management Plan (“CRMP”) developed under PRE-HC-02, including all inadvertent discovery protocols and procedures specified in the CRMP if any cultural resources are discovered,</u> all work at that location shall cease immediately and the certificate holder shall notify the Department and SHPO to determine whether it is necessary to have an archeologist travel to the worksite and assess the discovery or monitor construction activities.</p>	<p>Certificate holder requests to amend the condition for clarification. Based on review of the language, it is redundant and/or reflected in the CRMP, and would not result in significant adverse impacts. (Draft CRMP is provided as Attachment D to the Draft Proposed Order on RFA6)</p>

**Table 1: Department’s Evaluation of Certificate Holder’s Proposed Condition Changes**

Condition No.	Existing Condition	Requested Amended Condition	Department Evaluation of Requested Change
CON-HC-02	<p>During construction, the certificate holder shall ensure that construction personnel cease all ground disturbing activities in the immediate area if any archaeological or cultural resources are found during construction of the facility until a qualified archaeologist can evaluate the significance of the find. No construction personnel will be allowed in the discovery area except for facility management in consultation with the SHPO. The certificate holder shall notify the Department and the SHPO of the find. If the SHPO determines that the resource is significant, the certificate holder shall make recommendations to the Council for mitigation, including avoidance or data recovery, in consultation with the Department, the SHPO, the appropriate Oregon tribes and other appropriate parties. The certificate holder shall not restart work in the affected area until the certificate holder has demonstrated to the Department that it has complied with State archaeological protection and archaeological permit laws in coordination with the SHPO.</p>	<p><del>During construction, the certificate holder shall ensure that construction personnel cease all ground disturbing activities in the immediate area if any archaeological or cultural resources are found during construction of the facility until a qualified archaeologist can evaluate the significance of the find. No construction personnel will be allowed in the discovery area except for facility management in consultation with the SHPO. The certificate holder shall notify the Department and the SHPO of the find. If the SHPO determines that the resource is significant, the certificate holder shall make recommendations to the Council for mitigation, including avoidance or data recovery, in consultation with the Department, the SHPO, the appropriate Oregon tribes and other appropriate parties. The certificate holder shall not restart work in the affected area until the certificate holder has demonstrated to the Department that it has complied with State archaeological protection and archaeological permit laws in coordination with the SHPO.</del></p>	<p>Certificate holder requests that the condition be deleted due to redundancy with the requirements of the CRMP, imposed under Condition CON-HC-02. Based on review of the CRMP, the Department agrees and recommends that, because there would be no change in protection to resources from condition removal and would not result in significant adverse impacts.</p>
CON-HC-03	<p>If any intact physical evidence of the trail is discovered that was not previously identified, the certificate holder shall avoid any disturbance to the intact segments by redesign, reengineering or restricting the area of construction activity. The certificate holder</p>	<p><u>During construction, the certificate holder shall ensure that construction personnel are instructed on the location of the mapped alignment of the Oregon Trail, per Condition GEN-HC-01.</u> If any intact physical evidence of the <del>trail</del> <u>Oregon Trail</u> is discovered that was not</p>	<p>Certificate holder requests to amend the condition for clarification. Based on review of the language, intended to protect the Oregon Trail, the Department considers the language to be clarifying in its intent, without</p>



**Table 1: Department’s Evaluation of Certificate Holder’s Proposed Condition Changes**

Condition No.	Existing Condition	Requested Amended Condition	Department Evaluation of Requested Change
	shall promptly notify the Department and the SHPO of the discovery. The certificate holder shall consult with the Department and with the SHPO to determine appropriate mitigation measures.	previously identified, the certificate holder shall avoid any disturbance to the intact segments by redesign, reengineering or restricting the area of construction activity. The certificate holder shall promptly notify the Department and the SHPO of the discovery <u>and follow procedures for inadvertent discoveries outlined in the CRMP.</u> The certificate holder shall consult with the Department and with the SHPO to determine appropriate mitigation measures.	removal of any previous protection, and would not result in significant adverse impacts.
CON-HC-04	Upon completion of construction, the certificate holder shall consult with the Oregon-California Historic Trails Advisory Council regarding the appropriate content of an interpretive sign. After such consultation, the certificate holder shall place in a publicly accessible location a sign giving notice of the historic background of the facility site and surrounding areas.	<del>Upon completion of</del> Within three years of construction <u>completion</u> , the certificate holder shall <del>consult with the Oregon-California Trails Association Historic Trails Advisory Council regarding the appropriate content of an interpretive sign. After such consultation, the certificate holder shall</del> <u>place an interpretive sign on the historic background of the facility site and surrounding areas</u> in a publicly accessible location. <u>The certificate holder shall consult with the Department and Sherman County regarding the content of the interpretative sign.</u> <del>a sign giving notice of the historic background of the facility site and surrounding areas.</del>	Certificate holder requests that the condition be revised to remove reference to consultation with the Oregon-California Historic Trails Advisory Council because the Council no longer exists, and replace with consultation with the Department and Sherman County. Based on review of the Oregon-California Historic Trails website, the Department affirms the representation and agrees that consultation with the Department and County, because the Oregon Trail is a Goal 5 resource, is an adequate alternative, and would not result in significant adverse impacts.
GEN-FW-04	The certificate holder shall design and construct all aboveground transmission line support structures following the practices suggested by the Avian Powerline Interaction Committee	The certificate holder shall design and construct all aboveground transmission line support structures following the practices suggested by the Avian Powerline Interaction Committee	Certificate holder request that the condition be revised to remove a requirement to install perch diverters on 230 kV transmission line structures

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<b>Condition No.</b>	<b>Existing Condition</b>	<b>Requested Amended Condition</b>	<b>Department Evaluation of Requested Change</b>
	(APLIC 2006; APLIC 2012) and shall install anti-perching devices on transmission pole tops and cross arms where the poles are within the site or are located within one-quarter mile of any wind turbine.	(APLIC 2006; APLIC 2012) and <u>install spiral markers over Grass Valley Canyon</u> <del>shall install anti-perching devices on transmission pole tops and cross arms where the poles are within the site or are located within one-quarter mile of any wind turbine.</del>	because it is inconsistent with APLIC design recommendations. Based on consultation with ODFW, the Department agrees that the replacement with perch diverter with spiral markers provides the same, if not better, level of protection, and would not result in significant adverse impacts.

## **DRAFT PROPOSED ORDER COMMENTS**

As described above, to date, the Department has received three comments on the Draft Proposed Order on RFA6. Public comments from Ms. Gilbert expressed concerns regarding the site certificate condition changes, as presented in Table 1. Comments received from ODFW and DOGAMI confirmed support for site certificate condition changes to CON-FW-04 (see Table 1 above for reference) and concurrence that the proposed changes would not result in new or different seismic or nonseismic concerns not previously evaluated, respectively.

During the week of January 15, 2021, the Department will provide Council electronic copies of all comments received on the Draft Proposed Order on RFA6, received after the date of this staff report, along with the Proposed Order on RFA6 for their review and consideration at the January 22, 2021 Council meeting.

### **Attachments:**

Attachment 1: Draft Proposed Order on Request for Amendment 6

Attachment 2: Draft Proposed Order Comments\*

(\*received to date; comment period closes on January 15, 2021)

Attachment 3: Proposed Order on Request for Amendment 6

(\*to be provided in Supplemental Council packet materials prior to January 22, 2021)