



Oregon

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To: Oregon Energy Siting Council

From: Sarah Esterson, Senior Policy Advisor

Date: February 12, 2021

Subject: Agenda Item E (Hearing/Action Item):
Transfer Hearing and Council Review of draft Final Order on Request for Amendment 3 to Transfer Ownership of the Shepherds Flat South Certificate Holder for the February 26, 2021 EFSC Meeting

Attachments: Attachment 1: Request for Amendment 3
(Available via hyperlink: <https://www.oregon.gov/energy/facilities-safety/facilities/Pages/SFS.aspx>)
Attachment 2: Draft Final Order on Request for Amendment 3 to Transfer Ownership of the Shepherds Flat South Certificate Holder

STAFF RECOMMENDATION

The Oregon Department of Energy (Department) recommends that the Energy Facility Siting Council (Council) review Request for Amendment 3 to Transfer Ownership of the Shepherds Flat South Certificate Holder, the Department's draft Final Order on the Request for Amendment, any comments received during the comment period (February 5 through February 26, 2021) and take action at the February 26, 2021 Council meeting to either approve or reject the transfer request.

BACKGROUND

Shepherds Flat South is a wind energy facility with approximately 116 wind turbines and a power generating capacity of 290 megawatts. The facility includes a 34.5 kV electrical collection system, a collector substation, a 230 kV interconnection transmission line, two meteorological towers, a field workshop, supervisory control and data acquisition system, and access roads.

Pursuant to OAR 345-027-0400(1), "A request for amendment to a site certificate to transfer the site certificate is required for a transaction that results in a change in the ownership, possession or control of the facility or the certificate holder." A "new owner" refers to the person or entity that will gain ownership, possession or control of the facility or the certificate holder." In the Request for Amendment to Transfer, the new owner requests a site certificate transfer to reflect the change in certificate holder ownership from Caithness Energy, LLC to BEP SF Holdings, LLC where BEP SF Holdings, LLC would be the "new owner."

On January 6, 2021, the certificate holder, North Horseshoe Bend Wind, LLC, and certificate holder owner provided notice to the Department, pursuant to OAR 345-027-0400(2), of a potential transfer of ownership of the certificate holder.¹ On February 2, 2021, the existing and new owners jointly filed its Request for Amendment to Transfer Ownership of the Shepherds Flat South Certificate Holder. On February 5, 2021, the Department issued Public Notice of the Request for Amendment to Transfer to all persons on the Council's general mailing list, the special mailing list established for the facility, an updated list of property owners supplied by the existing and new owners, and reviewing agencies as defined in OAR 345-001-0010(52). The notice included a request for comments and established a comment deadline February 26, 2021.

To date, the Department has not received comments on the transfer request. The notice also included the date and time of the Transfer Hearing, as required for site certificate transfers pursuant to OAR 345-027-0400(7), to be conducted during the February 26, 2021 Council meeting via WebEx and teleconference. The Department will also provide notice of the Transfer Hearing in its February 26, 2021 Council agenda, to be issued during the week of February 15, 2021. In addition to issuing the notice, the Department posted the public notice, date and time of the Transfer Hearing, and transfer request materials on the Department's project webpage.

TRANSFER REQUEST PROCESS

The procedural requirements for a Request for Amendment to Transfer a Site Certificate are established in OAR 345-027-0400, and require that the Council conduct a transfer hearing prior to its approval or denial of the request. The transfer hearing is scheduled to occur at the February 26, 2021 Council meeting, via WebEx and teleconference, at approximately 10:45 p.m. (Additional details on WebEx login and conference call-in number for the transfer hearing are provided on the Department's Council meeting webpage at:

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

Following the transfer hearing, the Department will present its recommendations included in the draft Final Order on the Request for Amendment to Transfer Certificate Holder Ownership of the Shepherds Flat South Site Certificate, provided as Attachment 2 of this staff report. To approve a Request for Amendment to Transfer a Site Certificate, Council must find that the new owner has the ability to satisfy the requirements of the Organizational Expertise (OAR 345-022-0010) and Retirement and Financial Assurance (OAR 345-022-0050) standards; and if applicable, Standards for Facilities that Emit Carbon Dioxide (OAR 345-024-0710(1)). Council must also find that the new owner is or will be lawfully entitled to possession or control of the site or facility.

STAFF EVALUATION OF THE REQUEST FOR TRANSFER

The Department evaluated the new owner's request to transfer certificate holder ownership of the Shepherds Flat South site certificate from the current certificate holder owner, Caithness Energy, LLC to BEP SF Holdings, LLC. The Department will also evaluate any comments received in writing before the comment deadline, or during the February 26, 2021 transfer hearing, and

¹ Site Certification 2.10 of the site certificate requires that the certificate holder, prior to any transfer of ownership of the facility or ownership of the certificate holder, inform the Department of the proposed new owners.

will incorporate any necessary modifications into the draft Final Order as directed by the Council.

The Department requested additional evidence from the new owner to demonstrate its ability to obtain a bond or letter of credit in the established amount for the facility, in accordance with OAR 345-021-0010(1)(w) on February 10, 2021, expected to be received on or before February 22, 2021. Upon receipt and evaluation, the Department will complete recommended findings in the draft Final Order and expects to recommend that Council find that the new owner would satisfy the requirements of the Organizational Expertise and Retirement and Financial Assurance standards. As a wind energy generation facility, the facility does not emit carbon dioxide, and thus the evaluation of compliance with Standards for Facilities that Emit Carbon Dioxide – Monetary Path Payment Requirement is not applicable.

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