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To: Energy Facility Siting Council

From: Christopher M. Clark, Senior Siting Analyst

Date: June 27, 2025

Subject: Agenda Item E (Action Item): Wheatridge Renewable Energy Facility East – Wildlife Monitoring and Mitigation Plan Amendment for the July 18, 2025, EFSC Meeting

Attachments: Attachment 1: Draft Amended Wildlife Monitoring and Mitigation Plan
Attachment 2: Certificate Holder Memo

STAFF RECOMMENDATION

The Department recommends the Council approve amendments to the Wildlife Monitoring and Mitigation Plan for Wheatridge Renewable Energy Facility East, as presented by staff.

BACKGROUND

On June 5, 2024, the Council issued its Final Order on Request for Amendment 1 of the Site Certificate for Wheatridge Renewable Energy Facility East (Final Order on WREFE RFA1). The First Amended Site Certificate authorizes NextEra Energy Resources LLC, via its subsidiary, Wheatridge East Wind LLC (certificate holder), to construct and operate up to 107 wind turbines with a maximum combined generating capacity of up to 300 MW and related or supporting facilities at an 78,985-acre site in Morrow and Umatilla Counties.

In the Final Order on RFA1, the Council amended Site Certificate Condition PRE-FW-02, which had previously been imposed to address the potential impacts of the facility on sensitive bird and bat species by requiring the certificate holder to develop and implement a final Wildlife Monitoring and Mitigation Plan (WMMP). The amended condition narrowed the scope of required plan finalization to updating the previously established thresholds of concerns for bird and bat fatalities. In amending the condition, the Council found that wind facility fatality data available at that time suggested that the thresholds of concern included in the WMMP, which were established in 2006, allow for significantly higher rates of fatality for raptors and bats than would be expected at a typical wind facility in the Columbia Plateau ecoregion.¹

The amended condition required this update to be completed in consultation with the Department and the Oregon Department of Fish and Wildlife before the facility commenced operation. The condition also allows the WMMP to be amended by agreement of the certificate

¹ Final Order on Request for Amendment 1 of the Site Certificate for Wheatridge Renewable Energy Facility East, (DATE), pg. 269-270.

holder and Department and requires the Department to notify the Council of any such amendment. As specified in the condition, the Council retains the authority to approve, reject, or modify any amendment of the WMMP agreed to by the Department.

On May 30, 2025, the certificate holder submitted the draft Amended WMMP provided in Attachment 1 of this staff report. Based on consultation with the Department and ODFW, the draft Amended WMMP does not include updates to the thresholds of concern for bird and bat fatalities. The draft WMMP does include several changes to fatality monitoring methods, as well as administrative changes, and updates to requirements for Washington Ground Squirrel monitoring as required by Site Certificate Condition PRE-TE-02. These changes are discussed in more detail in the sections that follow.

BIRD AND BAT FATALITY THRESHOLDS OF CONCERN

The Final Order on the Application for Site Certificate for the Klondike III Wind Project, issued on June 20, 2006, established thresholds of concern for four categories: raptors, raptor species of special concern, grassland species, and state sensitive avian species. The Final Order on the Application for Site Certificate for the Biglow Canyon Wind Project, issued on the same date, included these thresholds, as well as an additional threshold for bats. As described in the Final Orders, the thresholds were intended to “provide a rough measure for deciding whether the Council should be concerned about observed fatality rates” and were not intended to be relied upon as a scientific indicator that operation of the facility would result in range-wide population level decline of any species.² The same thresholds have subsequently been incorporated into WMMP’s for most operating wind facilities. In general, most WMMPs require one or two years of post-construction fatality monitoring and, if a threshold of concern is exceeded, provide the option to conduct additional monitoring to determine whether the exceedance was an anomaly before consultation with the Department and ODFW is required to determine whether mitigation is required. Some plans also include provisions for longer term monitoring, typically one year of monitoring every five years.

In the nearly 20 years since the thresholds of concern were first established, additional data describing the impacts of wind facilities on wildlife has become available, including the data produced by post-construction fatality studies conducted in Oregon and other states. For example, the 2023 study prepared by Jansen cited in the Final Order on WREFE AMD1 reviewed 55 fatality studies conducted at 42 wind energy facilities in Oregon and Washington to determine whether current and future levels of wind energy generation may increase the potential for significant adverse impacts on bird and bat populations in the Columbia Plateau Ecoregion. The Certificate Holder also provided its own analysis of nine fatality studies conducted at six NextEra facilities between 2018 and 2024. The Council’s threshold of concern for raptors was lower than average fatality rates reported in both the Jansen and NextEra studies, where the threshold for bat fatalities was higher. The fatality rates estimated by the studies, along with the Council’s current thresholds of concern are shown in Table 1, below.

² Final Order on Application for Site Certificate for the Klondike III Wind Project (June 30, 2006), p. 82-83, Att. A; Final Order on the Application for Site Certificate for the Biglow Canyon Wind Farm (June 30, 2006), pg. 105-106; Att. A.

As discussed in the certificate holder's memo included in Attachment 2, the certificate holder initially indicated that the categories represented in the thresholds of concern for WREFE should be simplified, and that the thresholds themselves should be based not on average (mean or median) fatality rates, but on the 75th percentile rate found in their study. The Department did not agree that such an approach would be appropriate or supported by the direction provided in the Council's Order. The Department initially recommended utilizing the median fatality rates in the Jansen study, but the certificate holder raised concerns about the validity of studies conducted using older estimation methodologies. Based on ongoing conversations and given the desire by all parties to develop meaningful, actionable, and empirically supported tools to decide when additional action to mitigate bird and bat fatalities may be needed, the Department, ODFW, and certificate holder agreed that it would be appropriate to leave the current thresholds in place until a more robust analysis can be completed. Based on this agreement, the Department notified the Certificate Holder that its pre-operational obligations have been satisfied. The Department intends to work with ODFW to review the thresholds of concern and provide recommendations that can be applied to future Council decisions.

PROPOSED AMENDMENTS TO STANDARDIZED CARCASS SEARCH METHODS

The draft Amended WMMP prepared by the certificate holder contains a number of changes to the protocols for standardized carcass searches, which are the primary tool used to detect bird and bat fatalities during post-construction monitoring. The proposed changes include:

- Adding a third search method (6-m spaced transects), consistent with amendments made to the Wheatridge II WMMP after the first year of post-construction fatality monitoring at Wheatridge II.
- Increasing search frequency from bi-weekly to weekly in Spring, Summer, and Fall.
- Adjusting start time of monitoring from the start of the first full season after commercial operation to within 6 months after commercial operation.
- Removing the option to conduct a second year of monitoring if there is an exceedance of the thresholds in the first year of monitoring.
- Adding additional specificity on clearance searches, treatment of incidental finds, bias trials, and protocols for responding to injured wildlife.

The Department is coordinating with the certificate holder and ODFW to address some technical issues in the draft amended WMMP, but in general, recommends the proposed changes to search methods and frequency are generally consistent with previously approved changes to the WMMP for Wheatridge II and are likely to improve fatality detection, and by extension, the accuracy of fatality estimates for the facility.

The Department notes that while the removal of the option to conduct a second year of monitoring if there is an exceedance is a substantive change to the plan, the certificate holder already has the option to forgo additional monitoring and work with the Department and ODFW to determine if additional monitoring is appropriate based on the first-year results. The certificate holder provided additional details about adaptive management practices or compensatory mitigation options that could be implemented in the event of an exceedance in the first year of monitoring. While specific practices or options would need to be considered based on the monitoring results, the Department generally supports the use of adaptive

management practices that would avoid or minimize fatalities at the facility. While there is no reference to, or incorporation of, adaptive management practices in the draft Amended WMMP, the Department believes the language of the plan would allow consideration of this approach if determined to be appropriate and necessary based on the results of the post-construction fatality monitoring.

WASHINGTON GROUND SQUIRREL MONITORING

In addition to changes to bird and bat fatality monitoring, the draft Amended WMMP incorporates a provision for ongoing monitoring of Washington Ground Squirrel colonies at the site. The Department recommends that the provisions of the plan are consistent with the requirements of Site Certificate Condition PRE-TE-02.

RECOMMENDED COUNCIL ACTION

The WMMP authorizes the Department to agree to amendments of the plan and to mitigation actions that may be required under the plan without prior Council approval, but the Council has retained the authority to approve, reject or modify any such amendments or mitigation actions.

The Department is currently coordinating with the certificate holder and ODFW to address some technical issues in the draft amended WMMP, but generally agrees to (1) the continued use of existing thresholds of concern to determine when consideration of additional mitigation is required; and (2) the proposed changes to the protocols for standardized carcass searches. The Department will notify the Council of any additional changes to the draft Amended WMMP agreed to by the Department and Certificate Holder prior to the meeting. The Department requests the Council's concurrence with the amended plan, as presented, or additional direction if the Council determines additional modification of the Plan is needed to ensure compliance with the Council's standards and conditions of the site certificate.