

OREGON DEPARTMENT OF ENERGY

Regarding Statutes, Administrative Rules, and)
Other Requirements Applicable to the Proposed)
Nolin Hills Wind Power Project)

PROJECT ORDER

**ISSUED BY
OREGON DEPARTMENT OF ENERGY
550 Capital Street NE
Salem, OR 97301-3742**

Issued January 10, 2018

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1 **I. INTRODUCTION**

2 The Oregon Department of Energy (ODOE or the Department) issues this Project Order for the
3 proposed Nolin Hills Wind Power Project in accordance with Oregon Administrative Rule (OAR)
4 345-015-0160. The applicant is Nolin Hills Wind, LLC. The proposed facility would be an
5 approximately 350 megawatt (MW) wind energy generation facility located in Umatilla County,
6 as further described below. On September 11, 2017, the applicant submitted to the
7 Department a Notice of Intent (NOI) to apply for a site certificate.

8 Following review of an NOI, Oregon Revised Statute (ORS) 469.330(3) and OAR 345-015-0160
9 require the Department to issue a Project Order to the applicant establishing the application
10 requirements for the proposed facility. Accordingly, the Department issues this Project Order
11 establishing the requirements for the site certificate application for the Nolin Hill Wind Power
12 Project. As provided in ORS 469.330(4), this is not a final order and the Department or the
13 Council may amend this Project Order at any time.

14 As noted, on September 11, 2017, Nolin Hills Wind, LLC submitted to the Department a NOI to
15 file an application for a site certificate for a proposed wind energy generation facility. The
16 proposed wind energy generation facility would have a site boundary of approximately 44,900
17 acres of private land in Umatilla County. The facility would connect to the proposed Bonneville
18 Power Administration (BPA) Stanfield Substation located approximately eight miles north of the
19 site boundary. As described in the NOI, the Nolin Hills Wind Power Project would have a
20 nominal electric generating capacity of approximately 350 MW, and, as a result, falls within the
21 jurisdiction of the Energy Facility Siting Council (EFSC or Council).¹ Therefore, a site certificate
22 from the Council is required to authorize the construction and operation of the facility.

23 On October 5, 2017, ODOE issued a public notice of the NOI to the EFSC mailing list and to
24 adjacent property owners as defined at OAR 345-020-0011(1)(f). ODOE also published the
25 notice in the *East Oregonian* newspaper that ran on October 7, 2017. The public notice included
26 information regarding the proposed facility and the EFSC review process, and set November 6,
27 2017 as the public comment deadline for the NOI.

28 Pursuant to ORS 469.480(1), EFSC must designate as a Special Advisory Group the governing
29 body of any local government within whose jurisdiction the facility is proposed to be located. At
30 the October 19, 2017 EFSC meeting, the Council appointed the Umatilla County Board of
31 County Commissioners as the Special Advisory Group.²

32 In compliance with OAR 345-021-0050(1), ODOE prepared a memorandum to reviewing
33 agencies, Tribal Governments, and the Special Advisory Group, and compiled a distribution list,
34 including all reviewing agencies identified and defined in OAR 345-001-0010(52). In accordance
35 with ORS 469.350(2) and OAR 345-020-0040, on October 5, 2017 ODOE sent the memorandum
36 and a copy of the NOI to each of the reviewing agencies listed in Table 1. The Department

¹ ORS 469.300(11)(a)(J) defines EFSC jurisdictional wind energy facilities.

² Pursuant to ORS 469.480, the governing body of a local government within whose jurisdiction the facility is proposed to be located shall be designated by EFSC as a “special advisory group.”

1 requested comments from reviewing agencies on or before November 6, 2017. Consistent with
 2 ORS 469.330(3), on November 1, 2017, the Department held a pre-application conference with
 3 reviewing agencies on the Nolin Hills Wind Power Project NOI to discuss the proposed facility
 4 and the EFSC review process.

5 At the close of the comment period, ODOE had received two public comments and five
 6 reviewing agency comments. As discussed in Section V, and in accordance with OAR 345-015-
 7 0140, the Department sent the applicant a copy of each comment received for review and
 8 consideration in preparing the application for site certificate.

9

10 **Table 1. Notice of Intent Distribution List**

State Agencies	
<ul style="list-style-type: none"> • Oregon Department of Environmental Quality • Oregon Department of Agriculture • Oregon Department of Fish and Wildlife • Oregon Department of Geology and Mineral Industries • Oregon Department of Aviation • Oregon Department of State Lands • Oregon Department of Transportation • Oregon Water Resources Department 	<ul style="list-style-type: none"> • Oregon Department of Forestry • Oregon Public Utilities Commission • Oregon Parks and Recreation Department • Department of Land Conservation and Development • Office of State Fire Marshal • State Historic Preservation Office
Native American Tribes	
<ul style="list-style-type: none"> • Confederated Tribes of the Umatilla Indian Reservation • Nez Perce Tribe 	<ul style="list-style-type: none"> • Confederated Tribes of the Warm Springs • Confederated Tribes and Bands of the Yakama Indian Nation
Counties and Cities	
<ul style="list-style-type: none"> • Umatilla County • Morrow County • City of Echo • City of Stanfield 	<ul style="list-style-type: none"> • City of Pendleton • City of Pilot Rock • City of Hermiston
Other Reviewing Agencies	
<ul style="list-style-type: none"> • Northwest Power Planning Council 	

11

12 Section II of this Project Order outlines the EFSC regulatory framework and references the main
 13 statutes and rules that govern the EFSC review process [per OAR 345-015-0160(1)]. Section III
 14 discusses the application content requirements under OAR 345-021-0010. Section IV specifies
 15 the impact assessment analysis areas for the proposed facility. Section V incorporates by
 16 reference comments received from reviewing agencies and the public that address matters
 17 within the jurisdiction of the Council that the applicant must consider and discuss in the
 18 application for a site certificate. Section VI provides the expiration date of the NOI, and Section
 19 VII discusses Project Order amendments and the requirements for the Department to find the
 20 application for site certificate complete. Section VIII describes the applicant’s duty to comply
 21 with applicable requirements.

22 ORS 469.401(4) provides that a site certificate issued by the Council does not govern certain
 23 matters. The Project Order identifies only those matters that will be included in and governed

1 by the site certificate, if issued by EFSC, and as applicable to issuance of the site certificate for
2 the proposed facility pursuant to ORS 469.503(3). Throughout this Project Order, the definitions
3 in ORS 469.300 and OAR 345-001-0010 apply, except where otherwise stated or where the
4 context indicates otherwise.

5 **II. EFSC REGULATORY FRAMEWORK**

6 Issuance of a site certificate is governed by the statutory requirements in ORS 469.300 *et seq.*
7 and administrative rules in OAR chapter 345. The following divisions of OAR chapter 345 include
8 rules related to application requirements, EFSC review of an application, and construction and
9 operation of an approved facility:

10
11 **OAR Chapter 345, Division 21** (Site Certificate Application Requirements) includes the primary
12 site certificate application requirements. See Section III of this Project Order for specific
13 information related to the site certificate application requirements for the proposed facility.
14

15 **OAR Chapter 345, Division 22** (Council Standards for Siting Facilities) includes most of the
16 regulatory standards by which the EFSC must evaluate the proposed facility. In addressing each
17 of the Division 21 application requirements, the applicant shall refer to the Division 22 standard
18 to which the requirement relates to ensure the application is responsive to the standards by
19 which the Council must evaluate it.
20

21 **OAR Chapter 345, Division 24** (Specific Standards for Siting Facilities) includes additional
22 standards for specific types of EFSC applications. In addressing the Division 21 application
23 requirements, the application shall refer to the Division 24 standards that apply to the
24 proposed facility to ensure the application is responsive to these standards. The Division 24
25 standards that applies to the proposed facility are OAR 345-024-0010 Public Health and Safety
26 for Wind Energy Facilities, OAR 345-024-0015 Cumulative Effects Standards for Wind Energy
27 Facilities, and OAR 345-024-0090, Siting Standards for Transmission Lines.
28

29 **OAR Chapter 345, Division 25** (Site Certificate Conditions) includes the mandatory conditions
30 that EFSC must apply to all site certificates, as well as applicable site-specific and monitoring
31 conditions. Note that per the mandatory condition included at OAR 345-025-0006(10), the
32 Council will include as conditions in the site certificate, if issued, all representations made in the
33 application and supporting record the Council deems to be binding commitments made by the
34 applicant.
35

36 **OAR Chapter 345, Division 26** (Construction and Operation Rules for Facilities) includes the
37 compliance plan requirements that will apply if the Council issues a site certificate for the
38 proposed facility. In addressing the Division 21 application requirements, the applicant shall
39 refer to the compliance plan requirements, described in OAR 345-026-0048, and reporting
40 requirements, described in OAR 345-026-0080. Note that, if a site certificate is issued, the
41 certificate holder must also comply with additional construction- and operation-related

1 regulations that may apply to the proposed facility but that may not be covered by the site
2 certificate, per ORS 469.401(4).

3 **III. APPLICATION REQUIREMENTS**

4 The applicant must adhere to the general requirements under OAR 345-021-0000, including, for
5 all state and local government agency permit approvals that the applicant proposes to be
6 included in and governed by the site certificate, the submittal of information that would
7 otherwise be required by the state or local government agency in an application for such
8 permit, license or certificate [OAR 345-021-0000(6)]. The applicant shall also submit copies of
9 the applications for federally-delegated permits that are needed for construction or operation
10 of the proposed facility [OAR 345-021-0000(7)]. OAR 345-021-0010(1) identifies the required
11 contents of an application for a site certificate. Each of the paragraphs below indicates which
12 provision(s) of OAR 345-021-0010(1)(a) – (dd) will apply to the Nolin Hills Wind Power Project.
13 The Application shall also include the information described in OAR 345-021-0010(3).

14 **(a) Exhibit A – General Information about the Applicant**

15 **Applicable Paragraphs:** All paragraphs apply except (C), (E), (F), and (G)

16 **Related Council and Other Standards:** General Standard of Review [OAR 345-022-0000]

17 **Discussion:** Note that paragraph (B) calls for a list of “participating persons, other than
18 individuals.” Please note the definition of “Person” in ORS 469.300(21). Please also note that
19 the applicant is required to notify the Department of any change in the identity or ownership of
20 the applicant prior to the change. This notification requirement continues to apply until the
21 Council issues a final order on the application.

22 **(b) Exhibit B – General Information about the Proposed Facility**

23 **Applicable Paragraphs:** All paragraphs apply except (A)(vi), (A)(vii), (A)(viii), and (E)(iv).

24 Paragraph (D) only applies if the proposed transmission line meets the definition of an energy
25 facility at ORS 469.300(11)(a)(C).

26 **Related Council and Other Standards:** General Standard of Review [OAR 345-022-0000]

27 **Discussion:** The description of the proposed facility in the application will form the basis for the
28 description of the facility in the site certificate. The site certificate, if issued, would require that
29 the applicant build the facility “substantially as described” (OAR 345-027-0020). The application
30 shall also describe all related and supporting facilities. Please note the definition of related and
31 supporting facilities includes those existing structures that must be substantially modified in
32 connection with the energy facility construction or operation.

33 While specific wind turbine dimensions and parameters (e.g., expected noise) should be
34 described and used in the subsequent impact analysis, specific electric output per turbine or for
35 the facility in its entirety does not need to be included in or governed by a site certificate, if
36 issued by EFSC.

1 **(c) Exhibit C – Location**

2 **Applicable Paragraphs:** All paragraphs apply.

3 **Related Council and Other Standards:** General Standard of Review [OAR 345-022-0000]

4 **Discussion:** Maps shall indicate the “site boundary” as defined in OAR 345-001-0010(55). Maps
5 shall provide enough information for property owners potentially affected by the facility to
6 determine whether their property is within or adjacent to the site boundary. Major roads
7 should be named. The Department notes that the applicant has already shared GIS data for the
8 proposed facility, and requests updated GIS data if there are changes to the site boundary or
9 facility layout between the NOI and the submittal of the preliminary application.

10 **(d) Exhibit D – Organizational Expertise**

11 **Applicable Paragraphs:** All paragraphs apply.

12 **Related Council and Other Standards:** Organizational Expertise [OAR 345-022-0010]

13 **Discussion:** Please note that the Council’s review for the Organizational Expertise standard
14 includes the applicant’s ability to construct, operate, and retire the proposed facility in
15 compliance with Council standards and conditions of the site certificate.

16 **(e) Exhibit E – Permits**

17 **Applicable Paragraphs:** All paragraphs apply.

18 **Related Council and Other Standards:** General Standard of Review [OAR 345-022-0000]

19 **Discussion:** Exhibit E shall describe and discuss all permits that the applicant proposes to be
20 included in and governed by the site certificate, as well as state and local permits that are
21 related to the siting, construction, or operation of the proposed facility but are proposed by the
22 applicant to not be included in and governed by the site certificate. Exhibit E shall also describe
23 required federal and federally-delegated permits. For federally-delegated permits needed for
24 construction or operation, the applicant must submit a copy of the permit application to the
25 Department, as required under OAR 345-021-000(7).

26 Although the Council does not have jurisdiction over federally-delegated permits, the Council
27 may rely on the determinations of compliance and the conditions in federally-delegated
28 permits in evaluating the application for compliance with Council standards.

1 **Federally-delegated Permits**

2 ***Oregon Department of Environmental Quality – Air Quality Division***

3 **Statute and Rule References**

- 4 • OAR Chapter 340, Division 216

5 **Permits**

- 6 • Basic Air Contaminant Discharge Permit (ACDP)

7 **Discussion**

8 The Environmental Protection Agency (EPA) has delegated authority to the Oregon Department
9 of Environmental Quality (DEQ) to administer air quality under the Clean Air Act. As described
10 in the September 2017 NOI, a mobile concrete batch plant would be temporarily installed
11 within the site boundary during construction of the facility. The concrete batch plant would
12 require a Basic Air Contaminant Discharge Permit (ACDP). A Basic ACDP authorizes operation of
13 a concrete manufacturing plant that produces more than 5,000 but less than 25,000 cubic yards
14 per year output. ACDPs for mobile, temporary concrete batch plants are associated with the
15 equipment itself. The requirements of OAR 345-021-0000(7) would apply to this federally-
16 delegated permit. If the applicant’s third-party contractor would instead obtain the ACDP, the
17 requirements described in the Third-Party Permits section below would apply.

18 ***Oregon Department of Environmental Quality – Water Quality Division***

19 **Statute and Rule References**

- 20 • ORS Chapter 468B (Water Quality)

- 21 • OAR Chapter 340, Division 45 (Regulations Pertaining To NPDES and WPCF Permits)

- 22 • OAR Chapter 340, Division 48 (Certification of Compliance with Water Quality
23 Requirements and Standards)

24 **Permits**

- 25 • National Pollution Discharge Elimination System (NPDES) Construction Storm Water
26 1200-C permit

- 27 • NPDES Storm Water and Mine Dewatering Discharge 1200-A permit

- 28 • Clean Water Act Section 401 Water Quality Certification

29 **Discussion**

30 The EPA has delegated authority to DEQ to issue NPDES Storm Water Discharge permits for
31 construction and operation activities. Based upon the information in the NOI, an NPDES 1200-C
32 permit will be required for the construction of the facility. In accordance with OAR 345-021-
33 0000(7), the applicant must submit to the Department one copy of all applications for federally-
34 delegated permits (including the NPDES permit), or provide a schedule of the date by which the
35 applicant intends to submit the application. Note that the Department will not be able to find
36 the application for site certificate complete before receiving a copy of the NPDES permit

1 application and a response letter from the DEQ. The DEQ response letter must state that the
2 agency has received a permit application from the applicant, and provide an estimated date
3 when the agency will complete its review and issue a permit decision. The applicant may
4 incorporate this information into Exhibit I (Soils) or Exhibit BB (Other Information) of the site
5 certificate application.

6 Disposal of concrete batch plant wash water (if a temporary batch plant is necessary) would
7 require either an NPDES 1200-A permit or a WPCF General Permit 1000. If the batch plant was
8 to discharge stormwater from a point source to surface water or to a conveyance system that
9 discharges to surface water, the plant would require an NPDES 1200-A permit. The
10 requirements of OAR 345-021-0000(7) (described in the preceding paragraph) would apply to
11 the NPDES 1200-A permit. If the applicant's third-party contractor would instead obtain the
12 NPDES 1200-A permit, the requirements described in the Third-Party Permits section below
13 would apply. Alternatively, if the batch plant would be located within a construction staging
14 yard for which the applicant would seek coverage under an NPDES 1200-C permit described
15 above, the applicant may seek coverage for the batch plant under the same NPDES 1200-C
16 permit.

17 If the batch plant would not discharge to surface waters, a WPCF General Permit 1000 would
18 instead be required to dispose of process wastewater and stormwater by recirculation,
19 evaporation, and/or controlled seepage (see the State Permits discussion below).

20 If a Section 404 Permit is needed from U.S. Army Corps of Engineers (Corps) for the discharge of
21 dredge or fill material in waters of the United States, a Section 401 Water Quality Certificate
22 must be granted by DEQ before a Section 404 permit may be issued. The applicant must include
23 in the application for a site certificate an itemized demonstration of each applicable provision in
24 OAR 340-048-0020. Removal-fill permits are discussed below.

25

26 **State Permits**

27

28 ***Oregon Department of State Lands***

29 **Statute and Rule References**

- 30 • ORS 196.795-.990 (Removal of Material, Filling)
- 31 • OAR Chapter 141, Division 85 (Administrative Rules Governing the Issuance and
- 32 Enforcement of Removal-Fill Authorizations Within Waters of Oregon Including
- 33 Wetlands)

34 **Permit**

- 35 • Removal-Fill Permit

1 **Discussion**

2 A removal-fill permit is required if any removal or fill activities occur in streams designated as
3 Essential Indigenous Anadromous Salmonid Habitat or 50 cubic yards or more of material is
4 removed, filled or altered within a jurisdictional water of the state [OAR 141-085-0520(2) and
5 (5)]. Removal-fill permits are state permits under Council jurisdiction.

6 The applicant must conduct a wetland delineation, to be sent to Department of State Lands
7 (DSL) for concurrence, according to OAR Chapter 141, Division 90 rules. The wetland
8 delineation determines the location of “waters of this state,” as defined in OAR 141-085-
9 0510(91), within the analysis area. Depending upon facility impacts to “waters of this state” a
10 removal-fill permit may be necessary, and the application for site certificate should include
11 information establishing whether a removal-fill permit is required. If a removal-fill permit is
12 required, the application for site certificate should include a concurred delineation from DSL
13 and a complete application for an individual permit which demonstrates consistency with ORS
14 196.825(1) and provides enough information for considerations under ORS 196.825(3). The
15 individual permit application must demonstrate independent utility for the portion of the
16 facility that is within EFSC jurisdiction, minimization of impacts to water resources, and best use
17 of waters of the state. The applicant should consult directly with DSL regarding the applicable
18 regulations.

19 Any compensatory wetland mitigation sites located near the facility are also protected by state
20 law. A Compensatory Wetland Mitigation Plan which meets the requirements of OAR 141-085-
21 0680 through OAR 141-085-0715 must be provided to replace all lost functions and values
22 previously provided by the impacted wetlands and waterways.

23 If the facility requires any dredge or fill of waters of the United States, the applicant must
24 submit to the Department one copy of an application for a Section 404 permit, in accordance
25 with OAR 345-021-0000(7), and a Section 401 Water Quality Certificate must be granted by
26 DEQ before a Section 404 may be issued. The DSL (removal-fill permit) and the Corps (Section
27 404 permit) use a joint application form. As discussed previously with regard to Exhibit E and
28 federally-delegated permits, the applicant must provide a letter or other indication from the
29 Corps stating that the agency received a permit application from the applicant, identifying any
30 additional information the agency is likely to need from the applicant based on the agency’s
31 review of the application, and an estimated date for when the agency will complete its review
32 and issue a permit decision.

33 The Council does not have jurisdiction over the Section 404 permit, but the Council may rely on
34 the determinations of compliance and the conditions in the permit in making its determination
35 about whether other standards and requirements under the Council’s jurisdiction are met.

36

1 ***Oregon Department of Environmental Quality***

2 **Statute and Rule References**

- 3 • ORS Chapter 454 (Sewage Treatment and Disposal Systems)
- 4 • ORS Chapter 468B (Water Quality)
- 5 • OAR Chapter 340, Division 45 (Regulations Pertaining To NPDES and WPCF Permits)
- 6 • OAR Chapter 340, Division 71 (Onsite Wastewater Treatment Systems)

7 **Permits**

- 8 • Onsite Sewage Disposal Construction-Installation Permit
- 9 • Water Pollution Control Facilities (WPCF) General Permit 1000

10 **Discussion**

11 As described in NOI, during operation the facility's operations and maintenance building would
12 discharge sanitary waste (in the form of domestic wastewater) to a licensed on-site septic
13 system with a daily sewage flow of fewer than 2,500 gallons. The Applicant indicates in the NOI
14 that its third-party contractor would obtain the necessary Construction-Installation Permit
15 directly from DEQ; this permit is therefore related to the siting and operation of the proposed
16 facility but would not be included in and governed by the site certificate (see the Third-Party
17 Permits discussion below).

18 In addition, disposal of concrete batch plant wash water (if a temporary batch plant is
19 necessary) would require either a WPCF General Permit 1000 or an NPDES permit. Concrete
20 batch plants that dispose of process wastewater and stormwater by recirculation, evaporation,
21 and/or controlled seepage with no discharge to surface waters require a WPCF General Permit
22 1000. A WPCF General Permit 1000 is a state permit under Council jurisdiction. If the applicant's
23 third-party contractor would obtain the necessary WPCF General Permit 1000 directly from
24 DEQ, this permit would be related to the siting and operation of the proposed facility but would
25 not be included in and governed by the site certificate (see the Third-Party Permits discussion
26 below).

27 If the batch plant was to instead discharge stormwater from a point source to surface water or
28 to a conveyance system that discharges to surface water, the plant would require an NPDES
29 1200-A permit or coverage under the NPDES 1200-C permit for the construction yard in which it
30 would be located (as discussed under the federally-delegated permits discussion of this Project
31 Order).

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Oregon Water Resources Department

Statute and Rule References

- ORS 537.505-.795 and ORS 537.992 (collectively, Ground Water Act of 1955)
- OAR Chapter 690, Division 340 (Water Use Authorizations)

Permits

- Limited License

Discussion

The NOI indicates that the applicant would obtain water for construction from existing municipal water sources with valid water rights, and states that if water is not available from these sources, the applicant may apply to the Oregon Water Resources Department (OWRD) for a limited water use license, to allow either a new well or an existing landowner’s well to be used to obtain facility construction water.

The NOI describes that operational water supplied at the operations and maintenance building would be obtained from an on-site well that would provide approximately 1,600 to 2,000 gallons per day. Because the well would provide no more than 5,000 gallons per day, it would be an exempt use pursuant to ORS 537.545(1)(f) and would not require a permit from OWRD.

Oregon Department of Transportation

Statute and Rule References

- ORS 818.030 (Exemptions from Weight Limitations)
- OAR Chapter 734, Division 82 (Variance Permits Issued for Non-Divisible Loads and Road Use Assessment Fees)
- OAR Chapter 734, Division 51 (Highway Approaches, Access Control, Spacing Standards, and Medians)
- OAR Chapter 734, Division 55 (Pole Lines, Buried Cables, and Miscellaneous Operations)

Permits

- Oversize Load Movement Permit/Load Registration
- Access Management Permit
- Permit to Occupy or Perform Operations Upon a State Highway

1 **Discussion**

2 Various permits from Oregon Department of Transportation (ODOT) may be required prior to
3 construction of the facility. Access from Oregon state highways would require an access permit.
4 Utility installations within the right-of-way of a state highway in Oregon require an Occupy or
5 Perform Operations upon a State Highway permit. Movement of construction cranes and other
6 large equipment and materials could also require an Oversize Load Movement permit. These
7 permits are not related to facility siting and are not included in or governed by the site
8 certificate. The applicant or its contractor must secure any applicable ODOT permits directly
9 from ODOT, independent of the site certificate process.

10

11 **Local Permits**

12 **Land Use Ordinance References**

- 13 • Umatilla County Development Code

14 **Permits**

- 15 • Umatilla County Zoning Permit
16 • Umatilla County Conditional Use Permit
17 • Umatilla County Installation of Utilities on County and Public Roads Permit (if applicable)
18 • Umatilla County Construction of Road Approaches onto County and Public Roads and
19 Private Road Crossings of County and Public Roads Permit (if applicable)
20 • Umatilla County Building Permit (administered by the Oregon Department of Consumer
21 and Business Services – Building Codes Division)

22 According to Umatilla County Special Advisory Group, the applicable substantive criteria
23 include, "...specific Conditional Use Permit criteria, Land Use Decision criteria and other
24 applicable standards from the Umatilla County Development Code (UCDC) as well as the County
25 Comprehensive Plan".

26 Umatilla County has permitting requirements that may or may not relate to the construction or
27 operation of the facility. The applicant shall identify those permits or approvals and include an
28 analysis of whether each should be included in and governed by the site certificate.

29 The applicant has elected to request that EFSC determine compliance with the substantive
30 criteria of all affected local governments' comprehensive plans and land use ordinances under
31 ORS 469.504(1)(b). The above-listed local zoning and conditional use permits will be included in
32 and governed by the site certificate. The listed building, utility, and road right of way permits
33 would not be included in or governed by the site certificate.

34 **Third-Party Permits**

35 As noted in the NOI, the applicant may rely upon third-party permits in its application for site
36 certificate. If the applicant does rely upon a state or local government permit issued to a third

1 party, the applicant must identify each third-party permit, and, for each, include evidence that
2 the applicant has, or has a reasonable likelihood of entering into, a contract or other agreement
3 with the third party for access to the resource or service to be secured by that permit; evidence
4 that the third party has or, has a reasonable likelihood of obtaining, the necessary permit; and,
5 an assessment of the impact of the proposed facility on any permits that a third party has
6 obtained and on which the applicant relies to comply with any applicable Council standard.

7 If the applicant relies on a federally-delegated permit issued to a third party, the applicant must
8 identify the third-party permit and include evidence that the applicant has, or has a reasonable
9 likelihood of entering into, a contract or other agreement with the third party for access to the
10 resource or service to be secured by that permit. The applicant must provide evidence that the
11 responsible agency has received the permit application, and provide the estimated date when
12 the responsible agency will complete its review and issue a permit decision.

13
14 **(f) Exhibit F – Property Owners**

15 **Applicable Paragraphs:** Paragraph (C) of the Rule applies.

16 **Related Council and Other Standards:** General Standard of Review [OAR 345-022-0000]

17 **Discussion:** As the proposed facility would be located entirely within an area zoned Exclusive
18 Farm Use (EFU), OAR 345-020-0011(1)(f)(C) applies and requires notice to property owners
19 within 500 feet of the site boundary. The Council requires notice to all owners of record, as
20 shown on the most recent property tax assessment roll within the specified distance from the
21 proposed site boundary. In order to ensure notifications are provided using the most up-to-date
22 property owner list, Exhibit F in the pASC should indicate that, pursuant to direction by the
23 Department, the property owner list will be generated just prior to the Department’s
24 determination of application completeness and in coordination with Department staff.

25
26 The property owner notification list must be accompanied by one or more maps that include the
27 site boundary, the area surrounding the site boundary consistent with the OAR 345-021-
28 0010(1)(f)(C) site distance requirement, and the properties/tax lots that are within the
29 applicable distances.

30 **(g) Exhibit G – Materials Analysis**

31 **Applicable Paragraphs:** All paragraphs apply.

32 **Related Council and Other Standards:** General Standard of Review [OAR 345-022-0000]; Soil
33 Protection [OAR 345-022-0022]

34 **Discussion:** The applicant shall include in the application any proposed fuel storage areas,
35 vehicle maintenance areas, or other areas that will be utilized for activities that could store
36 hazardous materials. The applicant shall identify the expected storage locations and quantities
37 of hazardous and non-hazardous materials expected to be used during construction and
38 operation of the facility.

1 **(h) Exhibit H – Geologic and Soil Stability**

2 **Applicable Paragraphs:** All paragraphs apply

3 **Related Council and Other Standards:** Structural Standard [OAR 345-022-0020]

4 **Discussion:**

5 The Oregon Department of Geology and Mineral Industries (DOGAMI) provides technical
6 review and recommendations on compliance with the Council’s Structural Standard. The
7 applicant must provide a summary of consultation with DOGAMI regarding the appropriate
8 methodology and scope of the seismic hazards and geology and soil-related hazards
9 assessments, and the appropriate site-specific geotechnical work that must be performed for
10 the application.

11 A geologic report included in Exhibit H shall meet the Oregon State Board of Geologist
12 Examiners geologic report guidelines, as determined based on consultation with DOGAMI.

13 As described in the Structural Standard at OAR 345-022-0020(2), the Council may not impose
14 the Structural Standard to approve or deny an application for site certificate for a facility that
15 would produce power from wind energy, though the Council may apply the requirements of
16 OAR 345-022-0020(1) to impose conditions on a site certificate issued for such a facility.

17 **(i) Exhibit I – Soils**

18 **Applicable Paragraphs:** All paragraphs apply.

19 **Related Council and Other Standards:** Soil Protection [OAR 345-022-0022]

20 **Discussion:** The applicant shall include information describing the impact of construction and
21 operation of the proposed facility on soil conditions in the analysis area. The application should
22 cross-reference information related to the federally-delegated NPDES 1200-C permit
23 application, as applicable. OAR 345-021-0000(7) requires the applicant to submit one copy of all
24 applications for federally-delegated permits, or provide a schedule of the date by which the
25 applicant intends to submit the application. In addition to a copy of the federally-delegated
26 permit application, the applicant must also provide a letter or other indication from the DEQ
27 stating that the agency has received a permit application from the applicant, identifying any
28 additional information the agency is likely to need from the applicant based on the agency’s
29 review of the application, and estimating the date when the agency will complete its review
30 and issue a permit decision. A draft erosion and sediment control plan must be provided for
31 review if the applicant will rely upon the erosion and sediment control plan to meet the Soil
32 Protection standard.

33 **(j) Exhibit J – Waters of the State and Removal-Fill**

34 **Applicable Paragraphs:** All paragraphs apply.

35 **Related Council and Other Standards:** General Standard of Review [OAR 345-022-0000];
36 Removal of Material, Filling [ORS 196.795-.990]; Administrative Rules Governing the Issuance
37 and Enforcement of Removal-Fill Authorizations Within Waters of Oregon Including Wetlands
38 [OAR Chapter 141, Division 85]

1 **Discussion:** Per the Exhibit J requirement, the application shall include a description of all areas
2 within the site boundary that might be waters of this state and a map showing the location of
3 these features. If a removal-fill permit is necessary for the facility, the information required for
4 Council to make a decision on the removal-fill permit application must be included in the
5 application.

6 **(k) Exhibit K – Land Use**

7 **Applicable Paragraphs:** Paragraphs (A) and (C) of the rule apply.

8 **Related Council and Other Standards:** Land Use [OAR 345-022-0030]

9 **Discussion:** The Council’s Land Use standard requires an evaluation for compliance with the
10 statewide planning goals. Under 469.504(1), the applicant may establish compliance with the
11 applicable statewide planning goals either by obtaining local land use approval under ORS
12 469.504(1)(a) or by obtaining Council approval under ORS 469.504(1)(b). The applicant has
13 indicated in the NOI that it has elected to seek a Council determination of compliance under
14 ORS 469.504(1)(b). Within Exhibit K, since the applicant has elected to obtain a Council
15 determination on land use under ORS 469.504(1)(b), paragraphs A and C of OAR 345-021-
16 0010(1)(k) apply; paragraph B does not apply. The Department understands that the proposed
17 facility is not located on federal land, so paragraph (D) does not apply.

18 The facility would be located on land zoned EFU in Umatilla County. As provided in ORS
19 469.401(3), if the Council issues a site certificate, Umatilla County would be bound to issue all
20 required permits and other land use approvals, subject to the conditions set forth in the site
21 certificate, that are included in and governed by the site certificate. The applicant should
22 discuss each applicable substantive criteria from the Umatilla County comprehensive plan and
23 zoning ordinances, and should demonstrate how the proposed facility complies with those
24 criteria. Umatilla County provided its list of applicable substantive criteria in a comment letter
25 on the NOI. If the proposed facility does not comply with one or more of the applicable
26 substantive criteria, the applicant must demonstrate that the facility nevertheless complies
27 with the applicable statewide planning goals or that an exception to a goal is justified under
28 ORS 469.504(2) and OAR 345-022-0030(4).

29 Exhibit K shall also provide evidence that the proposed facility would comply with any directly-
30 applicable LCDC administrative rules and statutory requirements related to the proposed
31 facility. Exhibit K shall provide evidence that the proposed facility would comply with the
32 applicable administrative rules at OAR 660-033-0130(37) related to development of wind
33 power facilities on EFU zoned land, as well as rules related to associated transmission lines to
34 energy generating facilities.

35 **(l) Exhibit L – Protected Areas**

36 **Applicable Paragraphs:** All paragraphs apply.

37 **Related Council and Other Standards:** Protected Areas [OAR 345-022-0040]

38 **Discussion:** The application must address the potential impacts to protected areas identified
39 in OAR 345-022-0040 within the analysis area. Please note that compliance with the DEQ noise

1 rules (Exhibit X) does not correlate to compliance with the noise assessment considered in the
2 Protected Areas standard. Particularly, while construction noise is exempt from the DEQ noise
3 rules, construction noise must be considered under the Protected Areas standard. However,
4 information developed to demonstrate compliance with the DEQ noise rules (such as noise
5 modeling) can be used in the assessment under the Protected Areas standard.

6 **(m) Exhibit M – Financial Capability**

7 **Applicable Paragraphs:** All paragraphs apply.

8 **Related Council and Other Standards:** Retirement and Financial Assurance [OAR 345-022-0050]

9 **Discussion:** The application shall include information about the applicant’s financial capability,
10 including the applicant’s legal authority to construct and operate the facility without violating
11 its bond indenture provisions, articles of incorporation, common stock covenants, or similar
12 agreements. To find that the proposed facility satisfies the Financial Assurance Standard (OAR
13 345-022-0050(2)), the Council must find that the applicant has a reasonable likelihood of
14 obtaining a bond or letter of credit in a form and amount satisfactory to the Council to restore
15 the site to a useful, non-hazardous condition. The application shall include the type and amount
16 of the applicant’s proposed bond or letter of credit to satisfy the requirements of OAR 345-022-
17 0050.

18 **(n) Exhibit N – Non-Generating Facility Need**

19 **Applicable Paragraphs:** Exhibit N does not apply because the proposed facility is not a
20 nongenerating facility for which the applicant must demonstrate need for the facility.

21 **(o) Exhibit O – Water Use**

22 **Applicable Paragraphs:** All paragraphs apply except (D).

23 **Related Council and Other Standards:** General Standard of Review [OAR 345-022-0000]; OAR
24 690, Divisions 310 and 380 (Water Resources Department permitting requirements)

25 **Discussion:** Exhibit O of the application must describe water use during construction and
26 operation of the proposed facility. The application must identify the sources of water to be
27 used, and include an estimate of the amount of water the facility will need during construction
28 and during operation from each source under annual average and worst-case conditions.
29 Exhibit O shall specify the final disposition of all wastewater and describe and quantify water
30 loss from the facility site.

31 If the proposed facility does not need a groundwater permit, a surface water permit, or a water
32 right transfer, Exhibit O shall include an explanation as to why such a permit or transfer is not
33 required for construction and operation of the proposed facility, as required by paragraph (E).

34 **(p) Exhibit P – Fish and Wildlife Habitat**

35 **Applicable Paragraphs:** All paragraphs apply.

36 **Related Council and Other Standards:** Fish and Wildlife Habitat [OAR 345-022-0060]

1 **Discussion:** The applicant shall consult with ODFW in developing the application materials.
2 Exhibit P shall include analysis of how the evidence provided supports a finding by the Council
3 that the proposed facility meets the Council’s Fish and Wildlife Habitat standard. Exhibit P must
4 include a description of biological and botanical surveys performed that support the
5 information in this exhibit, including a discussion of the timing and scope of each survey. Exhibit
6 P must also identify all state sensitive species that may be present in the analysis area.

7 If fish and wildlife habitat or state sensitive species are identified within the analysis area that
8 could be adversely affected as a result of the proposed facility, the applicant shall include a
9 description of the nature, extent, and duration of potential adverse impacts and a description
10 of any proposed mitigation measures. Fish and Wildlife Habitat Mitigation Policy (OAR Chapter
11 635, Division 415) classifies six habitat categories and establishes a mitigation goal for each
12 category. The applicant must identify the appropriate habitat category for all areas affected by
13 the proposed facility and provide the basis for each category designation, subject to ODFW
14 review. A map showing the different habitat categories is required under sub-paragraph (C) of
15 OAR 345-021-0010(1)(p), and inclusion of vegetation classes within the map is recommended.
16 The map must be of sufficient scale to show details. Exhibit P must include tables depicting the
17 estimated temporary and permanent impacts, broken down by habitat categories. The
18 applicant must show how it would comply with the habitat mitigation goals and standards by
19 appropriate monitoring and mitigation. This information may be incorporated into a proposed
20 Revegetation and Noxious Weed Control Plan and a proposed Habitat Mitigation Plan as
21 attachments to Exhibit P.

22 **(q) Exhibit Q – Threatened and Endangered Species**

23 **Applicable Paragraphs:** All paragraphs apply.

24 **Related Council and Other Standards:** Threatened and Endangered Species [OAR 345-022-
25 0070]

26 **Discussion:** The Oregon Department of Agriculture (ODA) provides technical review and
27 recommendations regarding compliance with the Council’s Threatened and Endangered Species
28 standard (OAR 345-022-0070) as it relates to plant species, and ODFW provides technical
29 review and recommendations related to fish and wildlife species. However, the Department has
30 been informed that the ODA no longer supports this program.

31 The application should include a list of state-listed endangered, threatened, and candidate
32 species that have potential to occur in the analysis area. The applicant should identify these
33 species based on a review of literature, consultation with knowledgeable individuals, and
34 reference to the list of species maintained by the Oregon Biodiversity Information Center.

35 The applicant should consult with ODFW regarding field survey methods, appropriate survey
36 seasons, qualifications of field survey personnel, and the information to be included in a field
37 survey report.

1 **(r) Exhibit R – Scenic Resources**

2 **Applicable Paragraphs:** All paragraphs apply.

3 **Related Council and Other Standards:** Scenic Resources [OAR 345-022-0080]

4 The application should include an analysis of significant potential impacts of the proposed
5 facility, if any, on scenic resources identified as significant or important in local land use plans,
6 tribal land management plans and federal land management plans for any lands located within
7 the analysis area. For the purposes of Exhibit R, “local” land use plans include state, county, and
8 city planning documents or inventories. The applicant shall also describe the measures it
9 proposes to avoid, reduce, or otherwise mitigate any significant adverse impacts to these scenic
10 resources.

11 **(s) Exhibit S – Historic, Cultural and Archaeological Resources**

12 **Applicable Paragraphs:** All paragraphs apply.³

13 **Related Council and Other Standards:** Historic, Cultural, and Archaeological Resources [OAR
14 345-022-0090]

15 **Discussion:** The application should include evidence of consultation with the potentially
16 affected tribes identified by the Legislative Commission on Indian Services, including the
17 Confederated Tribes of Warm Springs, Confederated Tribes of the Umatilla Indian Reservation,
18 Confederated Tribes and Bands of the Yakama Indian Nation, and the Nez Perce Tribe regarding
19 archaeological and cultural sites and materials within the site boundary. [See OAR 345-001-
20 0010(52)(n).] The affected tribes can provide technical review and recommendations in
21 reference to the Council’s Historic, Cultural and Archaeological Resources Standard (OAR 345-
22 022-0090). The Nez Perce Tribe notified ODOE on October 6, 2017 that the tribe defers to the
23 Confederated Tribes of the Umatilla Indian Reservation with regards to the Nolin Hills Wind
24 Power Project.

25 The application shall include the survey methodology, survey areas, and the results of all
26 surveys conducted for historic, cultural, and archaeological resources, as well as an analysis of
27 any significant adverse impacts anticipated and proposed mitigation measures. The applicant
28 should work closely with SHPO to understand the report formatting and submission
29 requirements, and to receive guidance on any survey protocols.

30 As described in the Historic, Cultural, and Archaeological Resources standard at OAR 345-022-
31 0090(2), the Council may issue a site certificate for a facility that would produce power from
32 wind energy without making the findings of the Historic, Cultural, and Archaeological Resources

³ Information concerning the location of archaeological sites or objects may be exempt from public disclosure under ORS 192.501(11). Specific location information about cultural resources should not be included in the text of application for a site certificate. Such information, including archaeological survey reports, should be provided confidentially under separate cover in hard copy format only after consultation with the Department. Confidential material shall also be provided directly to SHPO, following guidance from the Department and SHPO. Please contact the Department to discuss current practices regarding treatment and submittal of confidential material.

1 standard at OAR 345-022-0090(1), though the Council may apply the requirements of OAR 345-
2 022-0090(1) to impose conditions on a site certificate issued for such a facility.

3 **(t) Exhibit T – Recreation**

4 **Applicable Paragraphs:** All paragraphs apply.

5 **Related Council and Other Standards:** Recreation [OAR 345-022-0100]

6 **Discussion:** The application shall analyze the importance of recreational opportunities in the
7 analysis area using the factors listed in OAR 345-022-0100(1), discuss any significant potential
8 adverse impacts to important recreational opportunities, and describe measures proposed to
9 avoid, minimize or mitigate those impacts. Please list all recreational opportunities in the
10 analysis area and the applicant’s analysis of whether those recreational opportunities are
11 considered “important” or not. As described under the Protected Areas standard section above,
12 please note that compliance with the DEQ noise rules (Exhibit X) does not correlate to
13 compliance with the noise assessment considered in the Recreation standard. Particularly,
14 while construction noise is exempt from the DEQ noise rules, construction noise must be
15 considered under the Recreation standard. However, information developed to demonstrate
16 compliance with the DEQ noise rules (such as noise modeling) can be used in the assessment
17 under the Recreation standard.

18 **(u) Exhibit U – Public Services**

19 **Applicable Paragraphs:** All paragraphs apply.

20 **Related Council and Other Standards:** Public Services [OAR 345-022-0110]

21 **Discussion:** The application shall provide information related to the facility’s potential impacts
22 to the ability of public and private providers within the analysis area to provide: sewers and
23 sewage treatment, water, storm water drainage, solid waste management, housing, traffic
24 safety, police and fire protection, health care and schools (OAR 345-022-0110).

25 As described in the Public Services standard at OAR 345-022-0110(2), the Council may issue a
26 site certificate for a facility that would produce power from wind energy without making the
27 findings of the Public Services standard at OAR 345-022-0110(1), though the Council may apply
28 the requirements of OAR 345-022-0110(1) to impose conditions on a site certificate issued for
29 such a facility.

30 **(v) Exhibit V – Solid Waste and Wastewater**

31 **Applicable Paragraphs:** All paragraphs apply

32 **Related Council and Other Standards:** Waste Minimization [OAR 345-022-0120]; Public Services
33 [OAR 345-022-0110]

34 **Discussion:** To support a finding by the Council as required by OAR 345-022-0120, the
35 application shall provide information about the applicant’s plans to minimize the generation of
36 solid waste and wastewater in the construction and operation of the facility, and to recycle or
37 reuse solid waste and wastewater. Information in Exhibit V may be incorporated by reference in
38 Exhibit U’s discussion of impacts to solid waste and wastewater service providers.

1 As described in the Waste Minimization standard at OAR 345-022-0120(2), the Council may
2 issue a site certificate for a facility that would produce power from wind energy without making
3 the findings of the Waste Minimization standard at OAR 345-022-0120(1), though the Council
4 may apply the requirements of OAR 345-022-0120(1) to impose conditions on a site certificate
5 issued for such a facility.

6 **(w) Exhibit W – Facility Retirement**

7 **Applicable Paragraphs:** All paragraphs apply.

8 **Related Council and Other Standards:** Retirement and Financial Assurance [OAR 345-022-0050]

9 **Discussion:** The application shall provide an estimate of retirement costs, including a detailed
10 explanation and justification of the methodology it uses to estimate retirement costs. The
11 Council’s Retirement Standard requires evidence that the site can be restored, following facility
12 retirement, to a useful and non-hazardous condition.

13 **(x) Exhibit X – Noise**

14 **Applicable Paragraphs:** All paragraphs apply.

15 **Related Council and Other Standards:** General Standard of Review [OAR 345-022-0000]; DEQ
16 Noise Control Regulations [ORS 467.020 and ORS 467.030; OAR 340, Division 35]

17 **Discussion:** The application shall contain a noise analysis and information to support a Council
18 finding that the proposed facility would comply with applicable DEQ noise control standards in
19 OAR 340-035-0035.

20 **(y) Exhibit Y – Carbon Dioxide Emissions**

21 **Applicable Paragraphs:** Exhibit Y does not apply because the proposed facility is not a base load
22 gas plant, a non-base load power plant, or a non-generating energy facility that emits carbon
23 dioxide.

24 **(z) Exhibit Z – Cooling Tower Impacts**

25 **Applicable Paragraphs:** Exhibit Z does not apply because the proposed facility would not
26 include an evaporative cooling tower.

27 **(aa) Exhibit AA – Electric and Magnetic Fields**

28 **Applicable Paragraphs:** All paragraphs apply.

29 **Related Council and Other Standards:** General Standard of Review [OAR 345-022-0000]

30 **Discussion:** As the proposed facility would have a transmission line as a related and supporting
31 facility, the provisions of Exhibit AA apply.

1 **(bb) Exhibit BB – Other Information**

2 **Related Council Standard:** General Standard of Review [OAR 345-022-0000]

3 No additional information is required.

4 **(cc) Exhibit CC – Other Law**

5 **Related Council Standard:** General Standard of Review [OAR 345-022-0000]

6 All requirements apply.

7 **(dd) Exhibit DD – Specific Standards**

8 **Applicable Paragraphs:** Paragraphs (A) and (C) apply.

9 **Related Council and Other Standards:** Public Health and Safety for Wind Energy Facilities [OAR
10 346-024-0010]; Cumulative Effects Standard for Wind Energy Facilities [OAR 345-024-0015];
11 and Specific Standards for Transmission Lines [OAR 345-024-0090].

12 **Discussion:**

13 The Applicant should include in Exhibit DD information to support findings by the Council that
14 the proposed facility complies with the Public Health and Safety Standards for Wind Energy
15 Facilities (OAR 345-024-0010) and the Siting Standards for Wind Energy Facilities (OAR 345-024-
16 0015), or refer to other exhibits as appropriate.

17 The Council applies specific standards for transmission lines under its jurisdiction in OAR 345-
18 024-0090. The applicant should provide analysis regarding compliance with OAR 345-024-0090
19 in Exhibit DD or refer to Exhibit AA as appropriate.

20

21 **IV. ANALYSIS AREAS FOR THE PROPOSED FACILITY**

22 The analysis areas are the minimum areas that the applicant must study for potential impacts
23 from the construction and operation of the proposed facility. The analysis areas described in
24 this Project Order do not limit the applicant’s responsibility to assess the potential impacts of
25 the facility. They are the areas in which significant adverse impacts from the proposed facility
26 are more likely to occur. If significant impacts could occur beyond the analysis areas described
27 here, then the applicant must assess those impacts in the application for a site certificate and
28 show how the facility would comply with the applicable standard with regard to the larger area
29 where impacts could occur.

30 For all potential impacts, the analysis area includes all the area within the site boundary, as
31 defined in OAR 345-001-0010(55). The application for site certificate must specifically describe
32 the site boundary and provide a map showing the proposed site boundary, including all related
33 and supporting facilities. The minimum required analysis areas are presented in Table 2.

34

1 **Table 2. Analysis Areas**
2

Affected Standard or Resource	Exhibit	Analysis Area ⁴
Land Use	Exh. K	The area within the site boundary and 0.5 miles from the site boundary.
Protected Areas	Exh. L	The area within the site boundary and 20 miles from the site boundary.
Fish and Wildlife Habitat	Exh. P	The area within the site boundary and 0.5 miles from the site boundary.
Threatened and Endangered Species	Exh. Q	The area within the site boundary and 5 miles from the site boundary (for the transmission line, the analysis area is only the area within the site boundary).
Scenic Resources	Exh. R	The area within the site boundary and 10 miles from the site boundary.
Recreational Opportunities	Exh. T	The area within the site boundary and 5 miles from the site boundary (for the transmission line, the analysis area is only the area within the site boundary).
Public Services	Exh. U	The area within the site boundary and 10 miles from the site boundary.

3
4

5 **V. COMMENTS FROM THE PUBLIC AND REVIEWING AGENCIES**

6 The Department received two public comments and five reviewing agency comments on the
7 NOI. These comments have been provided under separate cover to the applicant and are
8 incorporated by reference in this order. Within each applicable exhibit of the application, the
9 applicant shall address those concerns raised by the public and reviewing agencies that are
10 under the jurisdiction of the Council.

11

12 **VI. EXPIRATION DATE OF THE NOTICE OF INTENT**

13 In accordance with OAR 345-020-0060, the Nolin Hills Wind Power Project NOI will expire two
14 years after the date of submittal, on September 11, 2019, unless the applicant submits a
15 petition to Council to extend the expiration date. Such a petition must be submitted no less

⁴ The applicant should note that analysis areas defined in this Project Order are to be used for the assessment of impacts to the associated resource. The applicant is not required to perform comprehensive field surveys of the entire analysis area if another method of impact assessment is suitable.

1 than 45 days before the NOI expiration date. If the Council finds that the extension petition
2 shows good cause, it may extend the NOI expiration date by up to one year.

3

4 **VII. PROJECT ORDER AMENDMENT AND APPLICATION COMPLETENESS**

5 The Council or the Department may amend this Project Order at any time [OAR 345-015-
6 0160(3)]. Amendment may include changes to the analysis areas. To issue a site certificate, the
7 Council must determine that the proposed facility complies with Oregon statutes and
8 administrative rules identified in the Project Order, as amended, as applicable to the issuance
9 of a site certificate for the proposed facility (ORS 469.503(3)).

10 Under OAR 345-015-0190(5), when the Department determines the application for a site
11 certificate contains adequate information for the Council to make findings on all applicable
12 Council standards, the Department will find the application for a site certificate complete. The
13 Department may find the application complete without requiring the applicant to submit all
14 information described under OAR 345-021-0000 and 0010. In accordance with OAR 345-015-
15 0190(9), after a determination that an application for a site certificate is complete, the
16 Department may require additional information from the applicant if the Department identifies
17 a need for that information during its review of the application for a site certificate.

18 **VIII. APPLICABILITY AND DUTY TO COMPLY**

19 Failure to include an applicable statute, rule, ordinance, permit or other requirement in this
20 Project Order does not render that statute, rule, ordinance, permit or other requirement
21 inapplicable, nor in any way relieves applicant from the duty to comply with the same.

22

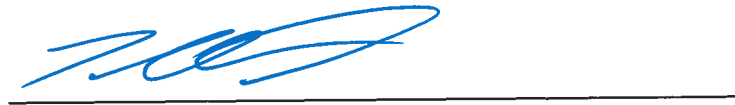
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1 **OREGON DEPARTMENT OF ENERGY**

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5 Todd R. Cornett, Assistant Director, Siting Division

6 Energy Facility Siting Division

7 Oregon Department of Energy

8

9 Date of Issuance: January 10, 2018