

PUBLIC NOTICE

Nolin Hills Wind Power Project



Notice of Proposed Order & Contested Case Hearing

Notice Summary:

Notice Date: August 4, 2022

Proposal: 600 megawatt (MW) wind and solar energy facility (340 MW wind; 260 MW solar)

Proposed Facility Location: Northwestern Umatilla County

Purpose of Notice:

- 1) To inform the public that the Proposed Order on the Application for Site Certificate has been issued (described on Page 2 below); and
- 2) To notify individuals or organizations that commented on the record of the Draft Proposed Order of their right to request to participate in the Contested Case (described starting on Page 4 below).

Deadline to Request Party or Limited Party Status in Contested Case Proceeding: September 6, 2022, at 5:00 p.m. Pacific Standard Time (PST)

Description of Proposed Facility:

The 600 MW Nolin Hills Wind Power Project (proposed facility), proposed by Nolin Hills Wind, LLC (applicant), a subsidiary of Capital Power Corporation, would be located within an overall site boundary of 48,196 acres and would consist of the following:

Main Components:

- 340 MWs of wind energy generation components, consisting of up to 112 wind turbines with a maximum height of 496-feet.
- 260 MWs of solar photovoltaic energy generation components consisting of up to approximately 816,812 solar modules, occupying up to 1,896 acres (2.96 sq. miles) to be surrounded with an 8-foot-tall perimeter security fence.

Related and Supporting Facilities:

- A 120 MW battery energy storage system;
- Two project substations occupying 16.4 acres;
- A 6.8 mile 230 kilovolt (kV) transmission line that would connect the two project substations with towers up to 140 feet tall;

- A 230 kV transmission line that would connect the facility to the electrical grid with towers up to 140 feet tall. This line has two options:
 - Option 1 would be 25.3 miles long and connect to the Cottonwood substation and would consist of both new and upgraded segments.
 - Option 2 would be 5 miles long and connect to the planned Bonneville Power Administration Stanfield substation.
- An operations and maintenance area with a building occupying 7.6 acres;
- Up to 9.1 miles of overhead electrical collector lines;
- Up to 89 miles of underground electrical collector lines;
- Up to 43 miles of new permanent site access roads;
- Up to 19 miles of temporary site access roads;
- Up to three 266 feet tall meteorological data collection towers; and
- Approximately 27 acres of temporary construction yards.

More detailed information about the proposed energy facility and the related or supporting facilities is available in Application for Site Certificate (ASC) Exhibit B.

Location of Proposed Facility:

The proposed facility would be located in Northwestern Umatilla County, south of I-84, and approximately 4 miles south of Echo and 10 miles west of Pendleton.

Specific locational maps can be found in ASC Exhibit C at: <https://www.oregon.gov/energy/facilities-safety/facilities/Pages/NHW.aspx> and on ODOE's online mapping tool at: <https://tinyurl.com/EFSCmap>.

EFSC Review Process Overview:

The proposed facility would include a wind energy facility with an average electric generating capacity of more than 50 MW and a solar photovoltaic energy generation facility located on more than 160 acres of

high-value farmland as defined in ORS 195.300, and more than 1,280 acres of land that is predominately cultivated, and therefore is an energy facility subject to EFSC jurisdiction under ORS 469.300(11)(a)(D) and (J). As such, the applicant must obtain a site certificate from the Energy Facility Siting Council (EFSC or the Council) prior to the construction and operation of the proposed facility.

The site certificate process is a consolidated, comprehensive review process. To obtain a site certificate, the applicant must demonstrate that the proposed facility meets the Council's standards established under Oregon Revised Statute (ORS) 469.501 and set forth in Oregon Administrative Rule (OAR) Chapters 345, Divisions 22 and 24, as well as all other applicable Oregon statutes, rules and standards. Oregon Department of Energy staff (ODOE or the Department) serves as staff to EFSC and conducts the application review process.

Nolin Hills Wind Power Project – Siting Process Overview:

Application for Site Certificate: The applicant filed a complete ASC on January 31, 2022. The Department held a remote Public Informational Meeting on the proposed facility on February 16, 2022.

Draft Proposed Order Issuance: On April 19, 2022, the Department issued a Draft Proposed Order (DPO) on the ASC, which is the Department's first evaluation of the proposed facility which includes findings of facts, conclusions of law and conditions, recommends EFSC approve the ASC and issue a site certificate.

Public Hearing: A public hearing on the DPO was held on May 26, 2022 and the public comment period concluded at the close of the public hearing. At the applicant's request, the record was held open until June 24, 2022 for the applicant to respond to comments received during the public comment timeframe.

Council Review of the Draft Proposed Order: At its June 24, 2022 meeting, EFSC reviewed the DPO and all submitted comments and provided their comments to the Department.

Proposed Order: The Proposed Order is the Department's second evaluation of the proposed facility and includes changes from the DPO made in in

response to comments raised on the record of the DPO and by EFSC. The Proposed Order recommends that the proposed facility/applicant have demonstrated compliance with all applicable standards and that EFSC approve the ASC and grant a site certificate, subject to recommended conditions. All changes from the DPO are shown in the Proposed Order in underline/strikethrough format. Revisions to recommended site certificate conditions and findings of fact are summarized in Attachment 1 of this notice.

Contested Case Hearing: The next step in EFSC's review process is the Contested Case Hearing. Please go to Page 4 for information on how to request to participate in the Contested Case.

Final Order: Following the Contested Case Hearing, EFSC will issue a Final Order either approving or rejecting the ASC. If approved, a Site Certificate will also be issued.

The Siting Division Public Guide contains additional information on the EFSC process. To view this information on the Department's website, please use the following link: <http://tinyurl.com/EFSCPublicGuide>

Receipt of this Notice: Please note that you may be receiving this notice for multiple reasons:

1. You commented in person or in writing on the record of the DPO public hearing conducted under [OAR 345-015-0220](#), discussed in this notice.
2. You own property within or adjacent to (within 500 feet) the property boundary on which the proposed facility would be located. You will automatically receive all future Council notices for this proposed facility.
3. You have requested to receive paper notices on the Nolin Hills Wind Power Project. If you wish to be removed from this mailing list, please contact Kathleen Sloan.
4. You have previously signed up via GovDelivery/ClickDimensions to receive email notices related to the Nolin Hills Wind Power Project or all EFSC project-related notices. You will automatically receive all future email notices per your request, unless you unsubscribe via ClickDimensions or by contacting the Department.

Additional Information: Please contact Kathleen Sloan, the Department representative, if you have

questions or would like to schedule an appointment to review materials.

The public can also receive more information about the proposed facility and updates on the review process by using the following options:

Oregon Department of Energy's webpage

More details on the proposed Nolin Hills Wind Power Project, including the ASC, DPO and the Proposed Order, are available online at:

<https://www.oregon.gov/energy/facilities-safety/facilities/Pages/NHW.aspx>

Updates by Email/Mail: Sign-up for email updates on the proposed Nolin Hills Wind Power Project or other energy facilities under Council jurisdiction. The Department's email update system is automated and allows interested members of the public to manage subscriptions to information received about Department projects and events. For more information, please visit: <https://tinyurl.com/ODOE-EFSC>.

To receive notices by U.S. Mail, please contact Nancy Hatch at 503-378-3895, toll-free in Oregon at 800-221-8035, or email to Nancy.Hatch@energy.oregon.gov and request to be added to the hardcopy notice list.

In Hardcopy: Hard copies of the ASC, DPO, and Proposed Order are available for public inspection at the following location at no cost. Please contact the Department to arrange viewing of hard copies of the ASC, DPO, and Proposed Order. Hard copies will be provided at reasonable cost upon request to the Department.

Oregon Department of Energy
550 Capitol Street NE
Salem, OR 97301
Phone: 971-701-4913
Email: kathleen.sloan@energy.oregon.gov

Accessibility information: The Oregon Department of Energy is committed to accommodating people with disabilities. If you require any special physical or language accommodations, or need information in an alternate format, please contact Nancy Hatch at 503-378-3895, toll-free in Oregon at 800-221-8035, or email to Nancy.Hatch@energy.oregon.gov

Contested Case Details:

Overview: Following issuance of the Proposed Order, EFSC must conduct a contested case hearing on the ASC in accordance with the applicable provisions of ORS chapter 183, the Attorney General's Model Rules of Procedure for Contested Cases in OAR chapter 137, division 003, and the Council's rules in OAR chapter 345, division 015. The Council appoints a Hearing Officer to conduct the Contested Case hearing. The Hearing Officer for this proceeding is Administrative Law Judge Kate Triana from the Oregon Office of Administrative Hearings.

The applicant is a party to the Contested Case, and the Department must participate in the contested case with the same rights as a party. Only individuals or organizations that commented on the record of the DPO public hearing, either in person at the May 26, 2022 public hearing, or in writing between April 19, 2022 through May 26, 2022, are eligible to request to participate in the contested case hearing as a party or limited party under [OAR 345-015-0016](#).

To raise an issue in a contested case proceeding, the issue must be within the jurisdiction of the Council, and the person must have raised the issue in person or in writing on the record of the public hearings on the DPO with sufficient specificity to afford the council, the Department and the applicant an adequate opportunity to respond. To have raised an issue with sufficient specificity, the person must have presented facts verbally or in writing prior to the close of the record of the public hearing that support the person's position on the issue

Issues not raised on the record of the public hearing on the DPO may not be considered in the contested case hearing unless the Department did not follow the noticing requirements of ORS 469.310(2) or (3), or unless the action recommended in the Proposed Order, including any recommended conditions of approval, differs materially from the action recommended in the Draft Proposed Order, in which case the person may raise only new issues within the jurisdiction of the Council that are related to such differences

Deadline for Requests to Participate as a Party or Limited Party: Persons eligible to request party or limited party status in the contested case proceeding must submit a written petition to the Hearing Officer. All petitions must be received no later than

September 6, 2022 at 5:00 p.m. PST to be considered. Petitions may be submitted via U.S. mail, email or fax to the following address:

Kate Triana, Administrative Law Judge
c/o Oregon Department of Energy Siting Division
Attn: Kathleen Sloan
550 Capitol Street NE, Salem, OR 97301
Fax: 503-373-7806
Email: OED_OAH_Referral@oregon.gov (*Please note two underscores ("_") in email address)

Additionally, please submit an electronic copy of the petition to the Department's Siting Analyst at: kathleen.sloan@energy.oregon.gov

If the Hearing Officer does not receive the petition by **September 6, 2022 at 5:00 p.m. PST** the requesting person(s) will have waived any right to participate in the contested case.

Contents of a Petition for Party or Limited Party Status: A petition for party or limited party status must comply with [OAR 345-015-0016](#), and must include:

1. The name and addresses of the petitioner and of any organization the petitioner represents;
2. The name and address of the petitioner's attorney, if any;
3. A statement of whether the request is for participation as a party or a limited party, and, if as a limited party, the precise area or areas in which participation is sought;
4. If the petitioner seeks to protect a personal interest in the outcome of the agency's proceeding, a detailed statement of the petitioner's interest, economic or otherwise, and how such interest may be affected by the results of the proceeding;
5. If the petitioner seeks to represent a public interest in the results of the proceeding, a detailed statement of such public interest, the manner in which such public interest will be affected by the results of the proceeding, and the petitioner's qualifications to represent such public interest;
6. A statement of the reasons why existing parties to the proceeding cannot adequately represent the interest identified above;

7. A short and plain statement of the issue or issues that the person desires to raise in the contested case proceeding; and,
8. A reference to the person's comments at the public hearing showing that the person raised the issue or issues at the public hearing.

A template petition is provided as an attachment to this notice, which can be used for submission of a petition in accordance with the submittal requirements outlined in this notice.

Date of Prehearing Conference: Following the deadline for petitions for party or limited party status, the Hearing Officer will conduct a prehearing conference to facilitate the conduct and resolution of the contested case. The prehearing conference will be conducted by telephone at 10:00 a.m. PST on **September 27, 2022**, unless rescheduled by the Hearing Officer.

Persons requesting party or limited party status must:

- Appear at the prehearing conference either as an individual or through legal counsel or an authorized representative;
- Confirm the issues they would like to address in the contested case; and,
- Raise any issues regarding the contested case process, or such issues will be waived as provided in OAR 345-015-0083.

Following the prehearing conference, the Hearing Officer will issue a Contested Case Notice as required by OAR 345-015-0014, including information described in ORS 183.413 and 183.415 to all those granted party status. The Hearing Officer's Order on Party or Limited Status and Issues is final unless the requestor submits an appeal to the Council within seven days after the date of service.

Contested Case Proceeding: Unless rescheduled by the Hearing Officer, the contested case proceeding will begin on September 27, 2022. The Case Management Order will establish the schedule for the contested case hearing which will likely include all or some of the following steps:

- Informal Discovery
- Motions for Discovery Orders
- Motions for Summary Determination (potentially)
- Written Direct Testimony
- Written Rebuttal Testimony
- Requests for Cross-Examination
- Oral Cross-Examination Hearing
- Written Closing Argument
- Written Response Briefs
- Hearing Officer Proposed Contested Case Order
- Written Exceptions
- Written Responses to Exceptions
- Council Hearing on Proposed Contested Case Order and Exceptions

Default: In accordance with ORS 469.370(6), if no one requests party status, the Proposed Order shall be forwarded to the Council and the contested case hearing shall be concluded. If a person submits a request for party status and fails to appear at the prehearing conference, the Council may issue a final order adverse to that person upon making the determinations required by ORS 469.503.

Summary of Material Changes in Proposed Order to Recommended Site Certificate Conditions

In response to issues raised with sufficient specificity on the record of the DPO public hearing, within Council jurisdiction, the following recommended site certificate conditions were materially revised in the Proposed Order:

In Section IV.B *Organizational Expertise*, the following material change was made in response to comments received from Council members at the May 26, 2022 hearing and June 26, 2022 DPO review:

Recommended Organizational Expertise Condition 1 (PRE): Prior to construction, the certificate holder shall submit to the Department a guarantee signed by its parent company guaranteeing payment and performance of the certificate holder's obligations under the site certificate using the form:

- a. Provided in Final Order on ASC Attachment F; or
- b. Substantially similar to Final Order on ASC Attachment F, if approved by the Department in consultation with the Department's legal Counsel at Oregon Department of Justice.

In Section IV.E1.b. *Land Use, Goal 3 Exception*, the following material change was made in response to comments received from Council members at the May 26, 2022 hearing and June 26, 2022 DPO review:

Recommended Land Use Condition 16 (PRE): Prior to construction of solar photovoltaic energy generation components, the certificate holder shall document that turbine strings with a minimum of 50 MW generation capacity be constructed in close proximity to the proposed solar site and that the wind and solar facility components will share the northern project substation and any existing roads during construction and operation. Documentation of the combination of wind and solar energy generation components, at final design, shall be submitted to the Department or Council for review and approval, per (a) or (b) as applicable:

- a. If construction of wind energy generation components will commence within the same 12-month period as solar energy generation components, certificate holder shall submit to the Department final facility design documents and executed contracts (e.g., construction contract, Power Purchase Agreement) or other evidence that shows a minimum of 50 MW within turbine strings in close proximity to the solar site will be constructed and that the wind and solar facility components will share the northern project substation and any existing roads during construction and operation; or
- b. If commencement of wind energy generation components will occur more than 12-months after solar energy generation components, certificate holder shall submit to Council, for review at a regularly scheduled Council meeting, facility design documents and executed contracts (e.g., construction contract, Power Purchase Agreement) or other evidence that demonstrates to Council's satisfaction that turbine string with a minimum of 50 MW generation capacity will be constructed in close proximity to the solar site and that the wind and solar facility components will share the northern project substation and any existing roads during construction and operation prior to the construction completion deadline.

Petition for Party Status in the Contested Case (Template)

Notes:

1. This template was developed by the Oregon Department of Energy (Department) and is provided as a courtesy for persons seeking to participate in the contested case proceeding. Petitioners are not required to use the template, but use is recommended to ensure petitions contain required petition information and can be efficiently reviewed by Department staff and Hearing Officer.
2. Please contact the Department representative, Kathleen Sloan, to request a Word version of the template.

Description	Explanation of Information	Petitioner Information
Petitioner Name:	Provide petitioner first and last name.	
Petitioner Address:	Provide physical mailing address and e-mail address, if available.	
Petitioner Attorney:	Provide name and address of attorney, if any.	
Authorized Representative:	Provide name of any person(s) authorized by you to represent your issue(s) or confirm your intent to act as an authorized representative for the organization you intend to represent.	
Name of Any Organization Petitioner Represents:	Confirm and provide the name of any organization(s) you represent in this proceeding, in addition to yourself.	
Party Status Requested (Limited or Full):	Confirm whether you are seeking to participate as a party or limited party and if as a limited party the precise area or areas in which you seek to participate.	
If seeking to represent a personal interest:	Provide a detailed statement of your personal interest (economic or otherwise).	

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Description	Explanation of Information	Petitioner Information
If seeking to represent a public interest:	Explain how your personal interest may be affected by the results of the proceeding.	
	Provide reasons why existing parties to the proceeding cannot adequately represent the personal interest you have identified.	
	Provide a detailed statement of the public interest you intend to represent.	
Issue Information	Explain how such public interest would be impacted by the outcome of the proceeding.	
	Provide a reference to your qualifications to represent such public interest(s).	
	Provide reasons why existing parties to the proceeding cannot adequately represent the public interest(s) you have identified.	

Issue Information

Instructions: Provide information for Items (1) – (2) below for each issue requested for review in the proceeding.

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Description	Explanation of Information	Petitioner Information
Issue 1		
Issue Statement:	<p>Provide short and plain statement of each issue you wish to raise in the contested case, including facts or legal analysis presented in the Proposed Order or ASC believed to be at issue and provide a reference to applicable rules or statutes believed applicable to the issue.</p> <p><u>Examples:</u></p> <p>Issue #1. The evaluation of XX does not comply with XX because (identify and provide explanation of facts or legal analysis believed to be at issue); OR</p> <p>Issue #1. I contend the applicant does not meet [cite specific Council standard or applicable law] because [provide brief explanation of why you believe applicant does not meet the cited standard or law]).</p>	
Provide date of DPO comments where issue was previously cited:	For each issue identified in your Issue Statement(s), provide date and manner (verbal or written) in which you raised the issue(s) on the record of the Draft Proposed Order.	
Issue 2 Instructions: If more than 1 issue, continue to provide responses to (1) and (2) for each additional issue requested for review in the proceeding.		

Petition for Party Status in the Contested Case (Template)

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Provide date of DPO comments where issue was previously cited:	For each issue identified in your Issue Statement(s), provide date and manner (verbal or written) in which you raised the issue(s) on the record of the Draft Proposed Order.	