



# Oregon

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**To:** Energy Facility Siting Council

**From:** Ash Woods, Compliance Officer

**Date:** September 6, 2024

**Subject:** Staff Report for Agenda Item B (Action Item): Review of Mitigation Plan Amendments for Golden Hills Wind Project; Leaning Juniper IIA Wind Power Facility; Leaning Juniper IIB Wind Power Facility; and Montague Wind Power Facility for the September 19-20, 2024 EFSC Meeting

**Attachments:**

1. Redline Amended Golden Hills Habitat Mitigation Plan
2. Redline Amended Leaning Juniper IIA & IIB Habitat Mitigation Plan
3. Redline Amended Montague Habitat Mitigation Plan

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## REGULATORY OVERVIEW FOR MITIGATION PLAN AMENDMENTS

The Energy Facility Siting Council (EFSC or Council) issues site certificates to certificate holders establishing terms and conditions applicable to the design, construction, operation and retirement of energy facilities, as defined in ORS 469.300(11)(a). Prior to Council's decision on whether to approve and grant issuance of a site certificate, Council reviews an Application for Site Certificate (ASC) and, as applicable, Requests to Amend Site Certificate. Council also reviews the Oregon Department of Energy's (Department) evaluation and recommendations on whether to approve or deny an ASC or amendment request. The information contained in an ASC or amendment request typically does not represent the final design of the facility nor final environmental but represents potential impacts to state protected resources necessitating mitigation.

Mitigation is imposed through site certificate conditions, typically through a mitigation plan. Generally, mitigation plans are not finalized at the time of Council review due to uncertainties in final design, final impact and even whether the facility will be constructed. Therefore, site certificate conditions imposing mitigation requirements often delegate final approval of the mitigation plan requirements to the Department, as authorized under ORS 469.402.

Under the same statutory authority, because mitigation plans are not guaranteed to be successful, there is often a clause that allows for the plan to be amended once finalized, with future review and approval of amendments delegated by Council to the Department. While Council typically delegates future review and approval of mitigation plan amendments to the Department, the plans often maintain an obligation that the amended plan be presented to

Council to provide an opportunity to approve, modify or reject the Department's recommendation.

## **PROPOSED HABITAT MITIGATION PLAN AMENDMENTS**

This staff report provides Council an update on amendments requested by certificate holders to their required Habitat Mitigation Plans (HMP) under the Site Certificates for Golden Hills (Condition PRE-FW-01), Leaning Juniper IIA (Condition 89), Leaning Juniper IIB (Condition 89) and Montague Wind Power Facility (Condition 93). The certificate holders of each of these site certificates is a project-specific LLC, but with a common parent company, Avangrid Renewables, LLC. The habitat mitigation areas for which the HMPs apply are adjacent to each other.

The certificate holders request that the HMPs be amended to facilitate routine monitoring and adaptive management of ecological conditions at the properties. Department recommendations provided below are based on continuous consultation with and concurrence from ODFW.

### **Leaning Juniper IIA, Leaning Juniper IIB and Montague Wind Power Facility HMP amended July 17, 2024.**

#### Issue 1

The HMP stipulates a Fire Management Plan be prepared for the mitigation area. The certificate holder requests to instead incorporate fire management practices into the HMP itself.

#### *Recommendation/Proposed Change*

Remove reference to Fire Management Plan and replace with fire control management practices.

#### Issue 2

While the Leaning Juniper IIA and IIB mitigation parcel is directly adjacent to the Certificate Holder's other HMAs for Golden Hills and Montague Wind Power Facility, the monitoring schedules represented in the HMPs are different for each facility. Additionally, as written, the current monitoring schedule would reduce monitoring frequency to once every five years upon completion of an initial 10-year annual monitoring phase. The Certificate Holder, ODOE, and the Oregon Department of Fish and Wildlife (ODFW) agree that once every five years is not frequent enough to facilitate adaptive management of the HMA. Therefore, the purpose of this change is to increase the monitoring frequency and to align all HMAs on the same schedule so they can all be surveyed during the same visit.

#### *Recommendation/Proposed Change*

Updated monitoring schedule to move to a semi-annual (every other year) frequency, as opposed to annual for 10 years followed by 5-year intervals.

#### Issue 3

The Leaning Juniper IIA and IIB and Montague Wind Power Facility HMP includes avian surveys to be conducted every 5 years. ODFW and ODOE agree that surveying for avian use has limited

benefit in terms of habitat enhancement update, and therefore should not be an ongoing requirement.

*Recommendation/Proposed Change*

Remove HMA avian survey language in Leaning Juniper HMP.

**Montague Wind Power Facility**

Issue 4

An artificial raptor nest structure was proposed as an enhancement action in the original HMP. However, based on lack of success in the region with these structures, ODFW has provided design recommendations which should be incorporated into the HMP as an amendment.

*Recommendation/Proposed Change*

Add a detailed, literature-based plan for design and installation of an artificial raptor nest structure.

**Golden Hills Wind Project**

Issue 1

The HMP stipulates a Fire Management Plan be prepared for the HMA. The certificate holder requests to instead incorporate fire management practices into the HMP.

*Recommendation/Proposed Change*

Remove reference to Fire Management Plan and replace with fire control management practices.

Issue 2

The HMA has demonstrated natural sagebrush regeneration after removal of grazing, which satisfies the intended outcome of the original proposed enhancement action of 0.62 acres of supplemental sagebrush planting. Therefore, the Certificate Holder has requested the requirement to perform sagebrush planting be removed from the HMP. Following an inspection of the HMA on August 31, 2024, ODFW and ODOE agreed to remove the requirement for supplemental sagebrush planting from the HMP and instead add language to the HMP requiring coordination with ODFW and ODOE to implement a corrective action of either annual grass treatment or supplemental planting if the site shows a decline in sagebrush density in the future. The site is currently exhibiting satisfactory sagebrush recruitment without plantings, which seems to indicate exotic annual grass pressure is not inhibiting recruitment at this time. Bunchgrass and native forb recruitment are also satisfactory. The long-term grazing restriction appears to be providing sufficient uplift for the site to meet the no net loss of habitat in Categories 2, 3 and 4 and a net benefit in habitat quantity or quality for impacts to habitat in Category 2.

*Recommendation/Proposed Change*

Removed sagebrush planting (0.62 acres) enhancement action. Add language to the HMP requiring coordination with ODFW and ODOE to implement a corrective action of either annual

grass treatment or supplemental planting if the site shows a decline in sagebrush density in the future. Status of sagebrush community over time is documented in monitoring reports prepared by the Certificate Holder.

### Issue 3

The Golden Hills Wind HMA is directly adjacent to the Certificate Holder's other HMAs for the Montague and Leaning Juniper IIA and IIB wind facilities. However, the monitoring schedules represented in the HMPs are different for each facility. Additionally, the original monitoring schedule would reduce monitoring frequency to once every five years upon completion of a 10-year annual monitoring phase. The Certificate Holder, ODOE, and ODFW agree that once every five years is not frequent enough to facilitate adaptive management of the HMA. Therefore, the purpose of this change is to increase the monitoring frequency and to align all HMAs on the same schedule so they can all be surveyed during the same visit.

### *Recommendation/Proposed Change*

Update monitoring schedule to move to a semi-annual (every other year) frequency, as opposed to annual for 10 years followed by 5-year intervals.

### **RECOMMENDED COUNCIL ACTION**

Staff recommends Council approve the amendments to the HMPs as described above for each facility.