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*Final  
Request for Transfer and Amendment*

**Request for Amendment No. 2 to  
the Site Certificate for the  
Golden Hills  
Wind Project**

Prepared for  
**Oregon Energy Facility Siting Council**

June 2014

Prepared by  
**Golden Hills Wind Farm, LLC**

Submitted by  
**Golden Hills Wind Farm, LLC,  
BP Wind Energy North America Inc.  
and  
Orion Golden Hills Wind Farm, LLC**

# Contents

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Section	Page
1	<b>Introduction</b> ..... 1-1
1.1	Proposed Transfer and Amendment Request ..... 1-1
1.2	Summary of Modifications ..... 1-3
1.2.1	Transfer of Site Certificate ..... 1-3
1.2.2	Extension of Construction Deadline..... 1-3
1.3	Regulatory Framework for This Request..... 1-3
2	<b>Information Required Pursuant to OAR 345-027-0060 and -0070(10) for Site Certificate Amendments</b> ..... 2-1
2.1	Information Required Pursuant to OAR 345-027-0060 ..... 2-1
2.2	Information Required Pursuant to OAR 345-027-0070(10)..... 2-5
3	<b>Information Required Pursuant to OAR 345-027-0030 for Extension of Construction Start and Completion Deadlines</b> ..... 3-1
4	<b>Information Required Pursuant to OAR 345-027-0060(1)(e) and (f) for Compliance with Applicable Council Standards, Laws and Council Rules</b> ..... 4-1
4.1	OAR 345-022 ..... 4-1
4.2	OAR 345-024 ..... 4-13
5	<b>Transfer of Site Certificate Pursuant to 345-027-0100</b> ..... 5-1

## Attachments

- 1 Updated Property Owners List
- 2 Exhibits Describing Orion Organizational Expertise
- 3 Redline Existing Site Certificate

## SECTION 1

# Introduction

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Golden Hills Wind Project is a permitted wind-energy generation facility in Sherman County, Oregon with electrical capacity of up to 400 megawatts (“MW”) (“Facility”). On June 18, 2009, the Oregon Energy Facility Siting Council (“EFSC” or “Council”) issued a Site Certificate approving the Facility. The Facility will consist of up to 267 wind turbines as well as various related and supporting facilities located within permitted survey corridors on approximately 30,000 acres of privately owned, Exclusive Farm Use land both east and west of Highway 97, between the cities of Wasco and Moro in Sherman County, Oregon. Golden Hills Wind Farm, LLC (“Certificate Holder”) holds the *First Amended Site Certificate for the Golden Hills Wind Project*, dated May 18, 2012 (“First Amended Site Certificate”).<sup>1</sup> BP Wind Energy North America Inc. (“BP Wind”) was Certificate Holder’s parent company when EFSC issued the First Amended Site Certificate.

On April 16, 2014, BP Wind filed a notice of intent with EFSC to transfer the First Amended Site Certificate. The notice disclosed that BP Wind and Orion Golden Hills Wind Farm, LLC (“Orion”) had entered into a purchase and sale agreement for the purchase of the Facility, including the ownership of all of the membership interests of Certificate Holder. The sale closed on May 22, 2014, at which time Certificate Holder became a wholly owned indirect subsidiary of Orion. This transaction has prompted the requested approval of a site certificate transfer and site certificate amendment.

### 1.1 Proposed Transfer and Amendment Request

Certificate Holder will remain the Facility owner and operator. The change in Certificate Holder’s ownership structure, however, requires Orion to file a request to transfer the First Amended Site Certificate under OAR 345-027-0100. This request will confirm that Orion, as Certificate Holder’s new parent company, complies with the applicable EFSC standards, as set forth in OAR 345-027-0100(8). In addition, Certificate Holder submits a request to amend the First Amended Site Certificate to extend the construction deadlines for an additional two years. Together, these two requests are referred to herein as the “Transfer and Amendment Request.” Certificate Holder, BP Wind and Orion are signatories to the Transfer and Amendment Request.<sup>2</sup>

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<sup>1</sup> The Council issued a Final Order approving the First Amended Site Certificate on May 11, 2012. The Final Amended Site Certificate was fully executed on May 18, 2012.

<sup>2</sup> OAR 345-027-0030 and OAR 345-027-0060 require that Certificate Holder must file an amendment request to extend construction deadlines. Certificate Holder is filing the request to amend the construction deadlines in the First Amended Site Certificate, but in an abundance of caution, BP Wind is also a signatory to the Transfer and Amendment Request, given that BP Wind was the parent company of Certificate Holder at the time the First Amended Site Certificate was issued. Please note, however, that BP Wind makes no representation or warranty regarding any statements being made herein by Certificate Holder or Orion, or as to the Facility or the future construction or operation of the Facility, as BP Wind is no longer the parent company of Certificate Holder or the owner of the Facility. In addition, the parties reserve the right to argue later whether BP Wind’s inclusion in this Transfer and Amendment Request is a procedural requirement under the applicable EFSC rules given the structure of the BP Wind-Orion transaction.

### Transfer Request

A transfer request is governed under OAR 345-027-0100. OAR 345-027-0100(4) provides:

*(4) To request a transfer of the site certificate, the transferee shall submit a written request to the Department that includes the information described in OAR 345-021-0010(1)(a), (d), (f) and (m), a certification that the transferee agrees to abide by all terms and conditions of the site certificate currently in effect and, if known, the date of the transfer of ownership. If applicable, the transferee shall include in the request the information described in OAR 345-021-0010(1)(y)(O)(iv).*

The information required by OAR 345-027-0100(4) is included in this Transfer and Amendment Request. Section 5 addresses the requirements for transfer and is supported by the following:

- Attachment 1 provides the property owner list required by OAR 345-021-0010(1)(f) and OAR 345-027-0100(4).
- Attachment 2 includes the information required by OAR 345-021-0010(1)(a), (d) and (m) (corresponding to Exhibits A, D and M of an application for site certificate).
- Attachment 3 provides Orion's certification that it will abide by the conditions of the First Amended Site Certificate.

### Amendments to Site Certificate

Certificate Holder is submitting this amendment request pursuant to OAR 345-027-0050(1) and OAR 345-027-0060(1). Sections 2, 3 and 4 address the applicable EFSC standards for the amendments to the site certificate, and are supported by the following:

- Attachment 4 provides a redline of the First Amended Site Certificate.
- Attachment 1 provides the updated property owner list required by OAR 345-027-0060(1)(g).

### Concurrent Processing

EFSC is authorized to process this Transfer and Amendment Request pursuant to OAR 345-027-0100(12)(a), which provides:

*(12) The Council may act concurrently on a request to transfer a site certificate and any other amendment request subject to the procedures described in this rule for the transfer request and:*

*(a) The procedures described in OAR 345-027-0030 for an amendment to extend construction beginning and completion deadlines.*

*(b) The procedures described in OAR 345-027-0090 for an amendment to apply subsequent laws or rules.*

*(c) The procedures described in OAR 345-027-0060 and OAR 345-027-0070 for any amendment request not described in (a) or (b).*

As explained briefly above and more fully in Section 4, BP Wind and Orion entered into a purchase and sale agreement for the purchase of the Facility, including ownership of the membership interests of Certificate Holder. The transaction was consummated on May 22, 2014. Certificate Holder is requesting to amend the First Amended Site Certificate only to extend construction deadlines. Certificate Holder and Orion acknowledge and agree that the combined request for transfer and amendment will be processed in accordance with the procedures for a transfer under OAR 345-027-0100 and the procedures for an amendment under OAR 345-027-0030 (extension of construction deadlines), OAR 345-027-0060 and OAR 345-027-0070.

## **1.2 Summary of Modifications**

As described above, this Transfer and Amendment Request seeks EFSC approval of (1) a transfer of ownership of Certificate Holder to Orion and (2) an extension of construction start and completion deadlines. This request does not seek to enlarge the existing site boundary or physical components of the Facility. There is no change to the previously approved maximum number of turbines or maximum generating capacity of the Facility from what was originally authorized. The total number of turbines at the Facility will not exceed 267 and the total MW will not exceed 400.

### **1.2.1 Transfer of Site Certificate**

Orion, as Certificate Holder's new parent company, is submitting the transfer request pursuant to OAR 345-027-0100(4). The articles of incorporation for Orion are provided in Attachment 2.

Should the Council decide to approve the requests, the parties envision that EFSC would approve the transfer and amendment in the Final Order on Amendment #2 for Certificate Holder. Given that closing has already occurred, the transfer would be effective as of the effective date of the Second Amended Site Certificate.

### **1.2.2 Extension of Construction Deadline**

This is the second request to extend construction deadlines for the Facility. The First Amended Site Certificate extended the deadline for beginning construction of the Facility from June 18, 2012 to June 18, 2014, and extended the deadline for completing construction of the Facility from June 18, 2015 to June 18, 2017. For the reasons described below, Certificate Holder seeks to extend the construction start deadline from June 18, 2014 to June 18, 2016, and the completion deadline from June 18, 2017 to June 18, 2019.

## **1.3 Regulatory Framework for This Request**

This request is organized in accordance with OAR 345-027-0030, OAR 345-027-0050, OAR 345-027-0060, OAR 345-027-0070 and OAR 345-027-0100, which set forth the required contents of a request to transfer and amend a site certificate as well as additional considerations for EFSC in deciding whether to grant an amended site certificate.

The following sections of this request provide the information required by OAR 345-027-0030, OAR 345-027-0050(1), OAR 345-027-0060, OAR 345-027-0070(10) and OAR 345-027-0100.

SECTION 2

**Information Required Pursuant to OAR 345-027-0060 and OAR 345-027-0070(10) for Site Certificate Amendments**

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**2.1 Information Required Pursuant to OAR 345-027-0060**

**OAR 345-027-0060(1)(a) Name and Mailing Address**

*(1) To request an amendment of a site certificate, the certificate holder shall submit a written request to the Department of Energy that includes the information described in section (2) and the following:*

*(a) The name and mailing address of the certificate holder and the name, mailing address and phone number of the individual responsible for submitting the request.*

**Name and Address of Certificate Holder:**

Golden Hills Wind Farm, LLC

Reid Buckley, Vice President  
Orion Golden Hills Wind Farm LLC  
Orion Renewable Energy Group LLC  
155 Grand Avenue, Suite 706  
Oakland, CA 94612  
(510) 267-8921  
[rbuckley@orionrenewables.com](mailto:rbuckley@orionrenewables.com)

**Name, Mailing Address and Phone Number of Individual Responsible for Submitting the Request:**

Elaine Albrich  
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900 SW Fifth Avenue, Suite 2600  
Portland, OR 97204  
(503) 294-9394  
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**Name, Mailing Address and Phone Number of BP Wind Contact Person:**

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**Name, Mailing Address and Phone Number of Orion Contact Person:**

Reid Buckley, Vice President  
Orion Golden Hills Wind Farm, LLC  
Orion Renewable Energy Group LLC  
155 Grand Avenue, Suite 706  
Oakland, CA 94612  
(510) 267-8921  
[rbuckley@orionrenewables.com](mailto:rbuckley@orionrenewables.com)

**OAR 345-027-0060(1)(b) Description of Facility**

*(b) A description of the facility including its location and other information relevant to the proposed change.*

Response: The Facility is a wind energy facility approved by the Council with a capacity to generate up to 400 MW of electricity. The Facility is located in Sherman County, Oregon. The Facility will consist of up to 267 wind turbines as well as various related and supporting facilities located within permitted survey corridors on approximately 30,000 acres of privately owned, Exclusive Farm Use land both east and west of Highway 97, between the cities of Wasco and Moro in Sherman County, Oregon. This request does not alter the description of the Facility as set forth in the First Amended Site Certificate.

**OAR 345-027-0060(1)(c) Proposed Changes to the Permitted Facility**

*(c) A detailed description of the proposed change and the certificate holder's analysis of the proposed change under the criteria of OAR 345-027-0050(1).*

Response: As described above, this Transfer and Amendment Request seeks to obtain EFSC approval (1) for the transfer of Certificate Holder's ownership to Orion, and (2) to extend the construction start and completion deadlines by two years. An amendment is therefore triggered under OAR 345-027-0050(1)(b) and (c).

This Transfer and Amendment Request does not seek to change the site boundary or physical components of the Facility. There is no change to the previously approved maximum number of turbines or maximum generating capacity of the Facility from what was originally authorized. The total number of turbines at the Facility will not exceed 267 and the total MW will not exceed 400.

**OAR 345-027-0060(1)(d) Proposed Changes to Site Certificate**

*(d) The specific language of the site certificate, including affected conditions, that the certificate holder proposes to change, add or delete by an amendment.*

Response: Certificate Holder proposes to change the language of Conditions III.D.1 and III.D.2 concerning construction start and completion deadlines. The proposed changes to these conditions are set forth in a redline of the First Amended Site Certificate (included as Attachment 4) and set forth below:

- (III.D.1) *The certificate holder shall begin construction of the facility by June 18, 2014~~2016~~. Under OAR 345-015-0085(9), an amended site certificate is effective upon execution by the Council Chair and the applicant. The Council may grant an extension of the deadline to begin construction in accordance with OAR 345-027-0030 or any successor rule in effect at the time the request for extension is submitted. [Amendment 1] [Amendment 2]*
- (III.D.2) *The certificate holder shall complete construction of the facility by June 18, 2017~~2019~~. Construction is complete when (1) the facility is substantially complete as defined by the certificate holder's construction contract documents; (2) acceptance testing has been satisfactorily completed; and (3) the energy facility is ready to begin continuous operation consistent with the site certificate. The certificate holder shall promptly notify the Department of the date of completion of construction. The Council may grant an extension of the deadline for completing construction in accordance with OAR 345-027-0030 or any successor rule in effect at the time the request for extension is submitted. [Amendment 1] [Amendment 2]*

**OAR 345-027-0060(1)(e) Relevant Council Standards**

*(e) A list of the Council standards relevant to the proposed change.*

Response: The relevant EFSC standards to the proposed change include Division 22 (General Standards for Siting Facilities) and Division 24 (Specific Standards for Siting Facilities). The standards are listed in Section 4. The Facility is an electric generating facility using wind turbine technology, therefore Division 23, which applies to nongenerating facilities, does not apply. Similarly, inapplicable provisions of Division 24 (e.g., standards applicable to gas plants, gas storage, nongenerating facilities, etc.) are not discussed.

**OAR 345-027-0060(1)(f) Applicable Laws and Council Rules**

*(f) An analysis of whether the facility, with the proposed change, would comply with the requirements of ORS Chapter 469, applicable Council rules, and applicable state and local laws, rules and ordinances if the Council amends the site certificate as requested. For the purpose of this rule, a law, rule or ordinance is "applicable" if the Council would apply or consider the law, rule or ordinance under OAR 345-027-0070(10).*

Response: Section 4 of this request contains an analysis of whether the Facility, with the proposed change, would comply with the requirements of ORS chapter 469, applicable EFSC rules, and applicable state and local laws, rules and ordinances if the EFSC amends the First Amended Site Certificate as requested.

**OAR 345-027-0060(1)(g) Landowners Within or Adjacent to the Facility**

*(g) An updated list of the owners of property located within or adjacent to the site of the facility, as described in OAR 345-021-0010(1)(f).*



Response: An updated list of property owners located within 500 feet of the Facility site boundary is included as Attachment 1. The list includes all property owners within 500 feet of the site boundary as required by OAR 345-021-0010(1)(f)(C) for a site located within a farm or forest zone.

Certificate Holder requested current landowner information from the Sherman County tax assessors for notice purposes within two weeks of filing this request.

**OAR 345-027-0060(2) Incorporation by Reference**

*(2) In a request to amend a site certificate, the certificate holder shall provide the information described in applicable subsections of OAR 345-021-0000 and OAR 345-021-0010. The certificate holder may incorporate by reference relevant information that the certificate holder has previously submitted to the Department or that is otherwise included in the Department's administrative record on the facility.*

Response: Other than the information set forth in this Transfer and Amendment Request, the information contained in the *Application for Site Certificate for the Golden Hills Wind Project* and the information forming the basis for the *Final Order approving the First Amended Site Certificate* and the *Final Amended Site Certificate*<sup>3</sup> are hereby incorporated by reference.

**OAR 345-027-0060(3) and (4) Consultation with the Department**

*(3) Before submitting a request to amend a site certificate, the certificate holder may prepare a draft request and may confer with the Department about the content of the request. Although the Council does not require the certificate holder to prepare a draft request and confer with the Department, the Council recommends that the certificate holder follow this procedure.*

Response: Certificate Holder, through its legal counsel, conferred with EFSC's legal counsel at the Oregon Department of Justice prior to submitting this request.

*(4) The certificate holder shall submit an original and two printed copies of the amendment request to the Department. Upon a request by the Department, the certificate holder must submit printed copies of the amendment request for members of the Council. In addition to the printed copies, the certificate holder shall submit the full amendment request in a non-copy-protected electronic format acceptable to the Department. The certificate holder shall provide additional copies of the amendment request to the Department upon request and copies or access to copies to any person requesting copies. If requested by the Department, the certificate holder shall send copies of the request to persons on a mailing list provided by the Department.*

Response: Certificate Holder submits an original and two printed copies of this Transfer and Amendment Request and will provide additional copies upon request.

<sup>3</sup> The Council issued a Final Order approving the First Amended Site Certificate on May 11, 2012. The Final Amended Site Certificate was fully executed on May 18, 2012.

## 2.2 Information Required Pursuant to OAR 345-027-0070(10)

### OAR 345-027-0070 Review of a Request for Amendment

*(10) In making a decision to grant or deny issuance of an amended site certificate, the Council shall apply the applicable substantive criteria, as described in OAR 345-022-0030, in effect on the date the certificate holder submitted the request for amendment and all other state statutes, administrative rules, and local government ordinances in effect on the date the Council makes its decision. The Council shall consider the following:*

*(a) For an amendment that would change the site boundary or the legal description of the site, the Council shall consider, for the area added to the site by the amendment, whether the facility complies with all Council standards;*

Response: This request does not seek to change the site boundary or legal description of the Facility.

*(b) For an amendment that extends the deadlines for beginning or completing construction, the Council shall consider:*

*(A) Whether the Council has previously granted an extension of the deadline;*

Response: EFSC previously granted one extension of the construction deadlines when it approved the First Amended Site Certificate in May 2012. In April 2013, BP announced it was selling its U.S. wind energy business. Subsequently, BP Wind began actively marketing the Facility. On March 31, 2014, BP Wind and Orion executed a purchase and sale agreement for Orion's acquisition of the Facility. The transaction did not close until May 22, 2014. This extension request gives Orion, as the new parent company of Certificate Holder, adequate time to prepare for construction of the Facility. There are numerous site certificate conditions that must be met prior to beginning construction, the majority of which are incapable of being satisfied between the time Orion acquired the Facility and June 18, 2014. A second extension to the construction deadlines is warranted because the Facility is under new ownership. The site is an excellent and well-documented wind resource, and it holds a Large Generator Interconnection Agreement with Bonneville Power Administration. It is a viable renewable energy resource, which justifies a second extension to allow Orion the necessary time to prepare for construction.

*(B) Whether there has been any change of circumstances that affects a previous Council finding that was required for issuance of a site certificate or amended site certificate; and*

Response: There have been no changes of circumstances that would affect a previous EFSC finding. The proposed changes in this request do not seek to enlarge the existing site boundary or change physical components of the Facility. There is no change to the previously approved maximum number of turbines or maximum generating capacity of the Facility from what was originally authorized. There is no change in turbine height or blade-tip height. The total number of turbines at the Facility will not exceed 267 and the total MW will not exceed 400. Accordingly, the proposed amendment makes no changes that would alter the basis for the Council's earlier findings.

*(C) Whether the facility complies with all Council standards, except that the Council may choose not to apply a standard if the Council finds that:*

*(i) The certificate holder has spent more than 50 percent of the budgeted costs on construction of the facility;*

*(ii) The inability of the certificate holder to complete the construction of the facility by the deadline in effect before the amendment is the result of unforeseen circumstances that are outside the control of the certificate holder;*

*(iii) The standard, if applied, would result in an unreasonable financial burden on the certificate holder; and*

*(iv) The Council does not need to apply the standard to avoid a significant threat to the public health, safety or the environment;*

Response: The Facility complies with all EFSC standards as set forth herein.

*(c) For any amendment not described above, the Council shall consider whether the amendment would affect any finding made by the Council in an earlier order.*

Response: The amendment is captured under the response to OAR 345-027-0070(10)(b) and therefore subsection (c) does not apply.

*(d) For all amendments, the Council shall consider whether the amount of the bond or letter of credit required under OAR 345-022-0050 is adequate.*

Response: The amount of the bond or letter of credit was evaluated in the Final Application for Site Certificate, and the financial assurance in the First Amended Site Certificate is adequate to ensure restoration of the site to a useful, non-hazardous condition. This amendment request does not seek to enlarge the existing site boundary or physical components of the Facility. There is no change to the previously approved maximum number of turbines or maximum generating capacity of the Facility from what was originally authorized. Therefore, no change in bond amount is required.

### SECTION 3

## Information Required Pursuant to OAR 345-027-0030 for Extension of Construction Start and Completion Deadlines

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*(1) The certificate holder may request an amendment to extend the deadlines for beginning or completing construction of the facility that the Council has specified in a site certificate or an amended site certificate. The certificate holder shall submit a request that includes an explanation of the need for an extension and that conforms to the requirements of 345-027-0060 no later than six months before the date of the applicable deadline, or, if the certificate holder demonstrates good cause for the delay in submitting the request, no later than the applicable deadline.*

Response: The First Amended Site Certificate requires that construction of the Facility begin by June 18, 2014. Under OAR 345-027-0030(1), a request to extend the construction deadline needed to be filed by January 18, 2014 or otherwise Certificate Holder must demonstrate good cause for the delay. Here, Certificate Holder demonstrates good cause for the delay in filing the request, which is filed no later than the applicable deadline of June 18, 2014 (i.e., the deadline seeking to be extended).

The need for an extension to construction deadlines is driven by the sale of the Facility from BP Wind to Orion. The parties did not sign a purchase and sale agreement until March 31, 2014. In anticipation of the ownership transfer, BP Wind filed a notice of intent to transfer on April 16, 2014 but the parties delayed filing this Transfer and Amendment Request until there was certainty that the transaction would close, which occurred on May 22, 2014. Upon closing, Orion promptly engaged legal counsel and worked expeditiously to prepare this Transfer and Amendment Request. It would have been impossible for the parties to file no later than six months prior to June 18, 2014, as the transaction for the sale of the Facility simply had not materialized.

For the reasons outlined above, Certificate Holder requests that EFSC find that there was good cause for not submitting this request by January 18, 2014.<sup>4</sup> Should EFSC make a finding of good cause, this request is timely as it was filed prior to the June 18, 2014 construction deadline.

*(2) A request within the time allowed in section (1) to extend the deadlines for beginning or completing construction suspends those deadlines until the Council acts on the request.*

Response: Certificate Holder maintains that it has shown good cause for not filing this request by January 18, 2014. Therefore, this request is timely under OAR 345-027-0030(1) and the applicable construction deadlines in the First Amended Site Certificate are suspended until EFSC acts on this Transfer and Amendment Request.

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<sup>4</sup> The "good cause" standard is undefined under EFSC's rules. Certificate Holder asserts that if there are reasonable justifications for a delayed filing, and Certificate Holder made reasonable efforts to file within the timely manner, then EFSC should make a finding of "good cause" under OAR 345-027-0030(1).

*(3) The Council shall review the request for an amendment as described in OAR 345-027-0070.*

Response: Certificate Holder requests that EFSC review this Transfer and Amendment Request without subjecting it to extended review. The proposed changes are minor and should not warrant extended review under OAR 345-027-0070(2).

*(4) If the Council grants an amendment under this rule, the Council shall specify new deadlines for beginning or completing construction that are not more than two years from the deadlines in effect before the Council grants the amendment.*

Response: Certificate Holder requests a two-year extension of the construction deadlines, specifically June 18, 2016 for beginning construction and June 18, 2019 for completing construction.

## SECTION 4

# Information Required Pursuant to OAR 345-027-0060(1)(e) and (f) for Compliance with Applicable Council Standards, Laws and Council Rules

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### OAR 345-027-0060(1)(e) Relevant Council Standards

*(e) A list of the Council standards relevant to the proposed change.*

Response: The relevant EFSC standards to the proposed amendment include Division 22 (General Standards for Siting Facilities) and Division 24 (Specific Standards for Siting Facilities). The Facility is a wind power generating facility, therefore Division 23, which applies to nongenerating facilities, does not apply. Similarly, inapplicable provisions of Division 24 (e.g., standards applicable to gas plants, gas storage, nongenerating facilities, etc.) are not discussed.

The requirements of each of the applicable EFSC standards are outlined below, along with Certificate Holder's responses.

## 4.1 OAR 345-022

The following Division 22 standards are addressed:

- OAR 345-022-0000 General Standard of Review
- OAR 345-022-0010 Organizational Expertise
- OAR 345-022-0020 Structural Standard
- OAR 345-022-0022 Soil Protection
- OAR 345-022-0030 Land Use
- OAR 345-022-0040 Protected Areas
- OAR 345-022-0050 Retirement and Financial Assurance
- OAR 345-022-0060 Fish and Wildlife Habitat
- OAR 345-022-0070 Threatened and Endangered Species
- OAR 345-022-0080 Scenic Resources
- OAR 345-022-0090 Historic, Cultural and Archaeological Resources
- OAR 345-022-0100 Recreation
- OAR 345-022-0110 Public Services
- OAR 345-022-0120 Waste Minimization

### OAR 345-022-0000 General Standard of Review

*(1) To issue a site certificate for a proposed facility or to amend a site certificate, the Council shall determine that the preponderance of evidence on the record supports the following conclusions:*

*(a) The facility complies with the requirements of the Oregon Energy Facility Siting statutes, ORS 469.300 to ORS 469.570 and 469.590 to 469.619, and the standards adopted by the Council*

*pursuant to ORS 469.501 or the overall public benefits of the facility outweigh the damage to the resources protected by the standards the facility does not meet as described in section (2)*

*(b) Except as provided in OAR 345-022-0030 for land use compliance and except for those statutes and rules for which the decision on compliance has been delegated by the federal government to a state agency other than the Council, the facility complies with all other Oregon statutes and administrative rules identified in the project order, as amended, as applicable to the issuance of a site certificate for the proposed facility. If the Council finds that applicable Oregon statutes and rules, other than those involving federally delegated programs, would impose conflicting requirements, the Council shall resolve the conflict consistent with the public interest. In resolving the conflict, the Council cannot waive any applicable state statute.*

Response: EFSC previously found that the Facility complies with the requirements of its statutes.<sup>5</sup> There is no change to the previously approved maximum number of turbines or maximum generating capacity of the Facility from what was originally authorized. Further, the amendment does not seek to enlarge or change the approved site boundary or physical components of the Facility. Thus, EFSC may rely on its previous findings and determine that the Facility, as amended, satisfies OAR 345-022-0000(1).

#### **OAR 345-022-0010 Organizational Expertise**

*(1) To issue a site certificate, the Council must find that the applicant has the organizational expertise to construct, operate and retire the proposed facility in compliance with Council standards and conditions of the site certificate. To conclude that the applicant has this expertise, the Council must find that the applicant has demonstrated the ability to design, construct and operate the proposed facility in compliance with site certificate conditions and in a manner that protects public health and safety and has demonstrated the ability to restore the site to a useful, non-hazardous condition. The Council may consider the applicant's experience, the applicant's access to technical expertise and the applicant's past performance in constructing, operating and retiring other facilities, including, but not limited to, the number and severity of regulatory citations issued to the applicant.*

*(2) The Council may base its findings under section (1) on a rebuttable presumption that an applicant has organizational, managerial and technical expertise, if the applicant has an ISO 9000 or ISO 14000 certified program and proposes to design, construct and operate the facility according to that program.*

*(3) If the applicant does not itself obtain a state or local government permit or approval for which the Council would ordinarily determine compliance but instead relies on a permit or approval issued to a third party, the Council, to issue a site certificate, must find that the third party has, or has a reasonable likelihood of obtaining, the necessary permit or approval, and that the applicant has, or has a reasonable likelihood of entering into, a contractual or other arrangement with the third party for access to the resource or service secured by that permit or approval.*

*(4) If the applicant relies on a permit or approval issued to a third party and the third party does not have the necessary permit or approval at the time the Council issues the site certificate, the Council may issue the site certificate subject to the condition that the certificate holder shall not*

<sup>5</sup> Final Order Approving Amendment #1 on the Golden Hills Wind Farm, p. 31 (May 11, 2012).

*commence construction or operation as appropriate until the third party has obtained the necessary permit or approval and the applicant has a contract or other arrangement for access to the resource or service secured by that permit or approval.*

Response:

A. Certificate Holder's Expertise

EFSC previously found "that the Facility, as amended, complies with the General Standard of Review."<sup>6</sup> No circumstances have changed that warrant reconsideration of this prior finding. There is sufficient evidence in this Transfer and Amendment Request upon which to base a finding that Certificate Holder is capable.

B. Third-Party Permits

EFSC has previously found that third parties either have any necessary permits or have a reasonable likelihood of obtaining any necessary permits.<sup>7</sup> The proposed amendment does not affect this previous finding.

**OAR 345-022-0020 Structural Standard**

*(1) Except for facilities described in sections (2) and (3), to issue a site certificate, the Council must find that:*

*(a) The applicant, through appropriate site-specific study, has adequately characterized the site as to Maximum Considered Earthquake Ground Motion identified for the site in the 2009 International Building Code and maximum probable ground motion, taking into account ground failure and amplification for the site specific soil profile under the maximum credible and maximum probable seismic events; and*

*(b) The applicant can design, engineer, and construct the facility to avoid dangers to human safety presented by seismic hazards affecting the site that are expected to result from maximum probable ground motion events. As used in this rule "seismic hazard" includes ground shaking, ground failure, landslide, liquefaction, lateral spreading, tsunami inundation, fault displacement, and subsidence;*

*(c) The applicant, through appropriate site-specific study, has adequately characterized the potential geological and soils hazards of the site and its vicinity that could, in the absence of a seismic event, adversely affect, or be aggravated by, the construction and operation of the proposed facility; and*

*(d) The applicant can design, engineer and construct the facility to avoid dangers to human safety presented by the hazards identified in subsection (c).*

*(2) The Council may issue a site certificate for a facility that would produce power from wind, solar or geothermal energy without making the findings described in section (1). However, the*

<sup>6</sup> Final Order Approving Amendment #1 on the Golden Hills Wind Farm, p. 31 (May 11, 2012).

<sup>7</sup> Final Order Approving Amendment #1 on the Golden Hills Wind Farm, p. 12 (May 11, 2012).



*Council may apply the requirements of section (1) to impose conditions on a site certificate issued for such a facility.*

Response: OAR 345-022-0020 authorizes EFSC to issue a site certificate without making findings with respect to the Structural Standard,<sup>8</sup> but the rules also authorize EFSC to impose site certificate conditions based on the requirements of OAR 345-022-0020. EFSC addressed the Structural Standard Section V.A of the *Final Order on the Application*. EFSC imposed five conditions in Section V.A of the Site Certificate to ensure compliance with the Structural Standard.<sup>9</sup> The extension of the respective deadlines to begin and to complete construction does not affect EFSC's findings that the construction and operation of the facility will be consistent with the Structural Standard.<sup>10</sup> The proposed amendment makes no changes that would alter the basis for EFSC's earlier findings.

This request does not seek to enlarge the existing site boundary or physical components of the Facility. There is no change to the previously approved maximum number of turbines or maximum generating capacity of the Facility from what was originally authorized. The total number of turbines at the Facility will not exceed 267 and the total MW will not exceed 400. Therefore, no additional information is needed to determine that this request does not change the Facility's compliance with OAR 345-022-0020(1) or any conditions in the First Amended Site Certificate.

*(3) The Council may issue a site certificate for a special criteria facility under OAR 345-015-0310 without making the findings described in section (1). However, the Council may apply the requirements of section (1) to impose conditions on a site certificate issued for such a facility.*

Response: This rule is not applicable.

#### **OAR 345-022-0022 Soil Protection**

*To issue a site certificate, the Council must find that the design, construction and operation of the facility, taking into account mitigation, are not likely to result in a significant adverse impact to soils including, but not limited to, erosion and chemical factors such as salt deposition from cooling towers, land application of liquid effluent, and chemical spills.*

Response: EFSC previously found that the Facility would comply with the Soil Protection Standard.<sup>11</sup> The proposed amendment makes no changes that would alter the basis for EFSC's earlier findings.

This request does not seek to enlarge the existing site boundary or physical components of the Facility. There is no change to the previously approved maximum number of turbines or to the maximum generating capacity of the Facility from what was originally authorized. The total number of turbines at the Facility will not exceed 267 and the total MW will not exceed 400. Therefore, EFSC may find that this amendment request also complies with OAR 345-022-0022.

<sup>8</sup> ORS 469.501(4).

<sup>9</sup> Final Order Approving Amendment #1 on the Golden Hills Wind Farm, p. 23 (May 11, 2012).

<sup>10</sup> Final Order Approving Amendment #1 on the Golden Hills Wind Farm, p. 24 (May 11, 2012).

<sup>11</sup> Final Order Approving Amendment #1 on the Golden Hills Wind Farm, p. 17 (May 11, 2012).

**OAR 345-022-0030 Land Use**

*(1) To issue a site certificate, the Council must find that the proposed facility complies with the statewide planning goals adopted by the Land Conservation and Development Commission.*

*(2) The Council shall find that a proposed facility complies with section (1) if:*

*(a) The applicant elects to obtain local land use approvals under ORS 469.504(1)(a) and the Council finds that the facility has received local land use approval under the acknowledged comprehensive plan and land use regulations of the affected local government; or*

*(b) The applicant elects to obtain a Council determination under ORS 469.504(1)(b) and the Council determines that:*

*(A) The proposed facility complies with applicable substantive criteria as described in section (3) and the facility complies with any Land Conservation and Development Commission administrative rules and goals and any land use statutes directly applicable to the facility under ORS 197.646(3);*

*(B) For a proposed facility that does not comply with one or more of the applicable substantive criteria as described in section (3), the facility otherwise complies with the statewide planning goals or an exception to any applicable statewide planning goal is justified under section (4); or*

*(C) For a proposed facility that the Council decides, under sections (3) or (6), to evaluate against the statewide planning goals, the proposed facility complies with the applicable statewide planning goals or that an exception to any applicable statewide planning goal is justified under section (4).*

*(3) As used in this rule, the "applicable substantive criteria" are criteria from the affected local government's acknowledged comprehensive plan and land use ordinances that are required by the statewide planning goals and that are in effect on the date the applicant submits the application. If the special advisory group recommends applicable substantive criteria, as described under OAR 345-021-0050, the Council shall apply them. If the special advisory group does not recommend applicable substantive criteria, the Council shall decide either to make its own determination of the applicable substantive criteria and apply them or to evaluate the proposed facility against the statewide planning goals.*

*(4) The Council may find goal compliance for a proposed facility that does not otherwise comply with one or more statewide planning goals by taking an exception to the applicable goal. Notwithstanding the requirements of ORS 197.732, the statewide planning goal pertaining to the exception process or any rules of the Land Conservation and Development Commission pertaining to the exception process, the Council may take an exception to a goal if the Council finds:*

*(a) The land subject to the exception is physically developed to the extent that the land is no longer available for uses allowed by the applicable goal;*

*(b) The land subject to the exception is irrevocably committed as described by the rules of the Land Conservation and Development Commission to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable; or*

*(c) The following standards are met:*

*(A) Reasons justify why the state policy embodied in the applicable goal should not apply;*

*(B) The significant environmental, economic, social and energy consequences anticipated as a result of the proposed facility have been identified and adverse impacts will be mitigated in accordance with rules of the Council applicable to the siting of the proposed facility; and*

*(C) The proposed facility is compatible with other adjacent uses or will be made compatible through measures designed to reduce adverse impacts.*

*(5) If the Council finds that applicable substantive local criteria and applicable statutes and state administrative rules would impose conflicting requirements, the Council shall resolve the conflict consistent with the public interest. In resolving the conflict, the Council cannot waive any applicable state statute.*

*(6) If the special advisory group recommends applicable substantive criteria for an energy facility described in ORS 469.300(10)(a)(C) to (E) or for a related or supporting facility that does not pass through more than one local government jurisdiction or more than three zones in any one jurisdiction, the Council shall apply the criteria recommended by the special advisory group. If the special advisory group recommends applicable substantive criteria for an energy facility described in ORS 469.300(10)(a)(C) to (E) or a related or supporting facility that passes through more than one jurisdiction or more than three zones in any one jurisdiction, the Council shall review the recommended criteria and decide whether to evaluate the proposed facility against the applicable substantive criteria recommended by the special advisory group, against the statewide planning goals or against a combination of the applicable substantive criteria and statewide planning goals. In making the decision, the Council shall consult with the special advisory group, and shall consider:*

*(a) The number of jurisdictions and zones in question;*

*(b) The degree to which the applicable substantive criteria reflect local government consideration of energy facilities in the planning process; and*

*(c) The level of consistence of the applicable substantive criteria from the various zones and jurisdictions.*

Response: EFSC previously concluded that the Facility complied with the Land Use Standard.<sup>12</sup> This request does not seek to enlarge the existing site boundary or change physical components of the Facility. There is no change to the previously approved maximum number of turbines or maximum generating capacity of the Facility from what was originally authorized. There also is no change to the previously approved maximum turbine height and blade tips of the Facility from what was originally authorized. The total number of turbines at the Facility will not exceed 267 and the total MW will not exceed 400. Finally, Sherman County has adopted no new land use

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<sup>12</sup> Final Order Approving Amendment #1 on the Golden Hills Wind Farm, p. 15 (May 11, 2012).

regulations since the Council approved the First Amended Site Certificate.<sup>13</sup> Therefore, EFSC may find that this amendment request also complies with OAR 345-022-0030.

**OAR 345-022-0040 Protected Areas**

*(1) Except as provided in sections (2) and (3), the Council shall not issue a site certificate for a proposed facility located in the areas listed below. To issue a site certificate for a proposed facility located outside the areas listed below, the Council must find that, taking into account mitigation, the design, construction and operation of the facility are not likely to result in significant adverse impact to the areas listed below. References in this rule to protected areas designated under federal or state statutes or regulations are to the designations in effect as of May 11, 2007:*

*(a) National parks, including but not limited to Crater Lake National Park and Fort Clatsop National Memorial;*

*(b) National monuments, including but not limited to John Day Fossil Bed National Monument, Newberry National Volcanic Monument and Oregon Caves National Monument;*

*(c) Wilderness areas established pursuant to The Wilderness Act, 16 U.S.C. 1131 et seq. and areas recommended for designation as wilderness areas pursuant to 43 U.S.C. 1782;*

*(d) National and state wildlife refuges, including but not limited to Ankeny, Bandon Marsh, Baskett Slough, Bear Valley, Cape Meares, Cold Springs, Deer Flat, Hart Mountain, Julia Butler Hansen, Klamath Forest, Lewis and Clark, Lower Klamath, Malheur, McKay Creek, Oregon Islands, Sheldon, Three Arch Rocks, Umatilla, Upper Klamath, and William L. Finley;*

*(e) National coordination areas, including but not limited to Government Island, Ochoco and Summer Lake;*

*(f) National and state fish hatcheries, including but not limited to Eagle Creek and Warm Springs;*

*(g) National recreation and scenic areas, including but not limited to Oregon Dunes National Recreation Area, Hell's Canyon National Recreation Area, and the Oregon Cascades Recreation Area, and Columbia River Gorge National Scenic Area;*

*(h) State parks and waysides as listed by the Oregon Department of Parks and Recreation and the Willamette River Greenway;*

*(i) State natural heritage areas listed in the Oregon Register of Natural Heritage Areas pursuant to ORS 273.581;*

*(j) State estuarine sanctuaries, including but not limited to South Slough Estuarine Sanctuary, OAR chapter 142;*

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<sup>13</sup> Telephone conference between Elaine Albrich, Stoel Rives LLP, and Georgia Macnab, Sherman County Planning Director (June 6, 2014).

*(k) Scenic waterways designated pursuant to ORS 390.826, wild or scenic rivers designated pursuant to 16 U.S.C. 1271 et seq., and those waterways and rivers listed as potentials for designation;*

*(l) Experimental areas established by the Rangeland Resources Program, College of Agriculture, Oregon State University: the Prineville site, the Burns (Squaw Butte) site, the Starkey site and the Union site;*

*(m) Agricultural experimental stations established by the College of Agriculture, Oregon State University...*

*(n) Research forests established by the College of Forestry, Oregon State University, including but not limited to McDonald Forest, Paul M. Dunn Forest, the Blodgett Tract in Columbia County, the Spaulding Tract in the Mary's Peak area and the Marchel Tract;*

*(o) Bureau of Land Management areas of critical environmental concern, outstanding natural areas and research natural areas;*

*(p) State wildlife areas and management areas identified in OAR chapter 635, division 8.*

*(2) Notwithstanding section (1), the Council may issue a site certificate for a transmission line or a natural gas pipeline or for a facility located outside a protected area that includes a transmission line or natural gas or water pipeline as a related or supporting facility located in a protected area identified in section (1), if other alternative routes or sites have been studied and determined by the Council to have greater impacts. Notwithstanding section (1), the Council may issue a site certificate for surface facilities related to an underground gas storage reservoir that have pipelines and injection, withdrawal or monitoring wells and individual wellhead equipment and pumps located in a protected area, if other alternative routes or sites have been studied and determined by the Council to be unsuitable.*

*(3) The provisions of section (1) do not apply to transmission lines or natural gas pipelines routed within 500 feet of an existing utility right-of-way containing at least one transmission line with a voltage rating of 115 kilovolts or higher or containing at least one natural gas pipeline of 8 inches or greater diameter that is operated at a pressure of 125 psig.*

Response: EFSC previously found that that the Facility is not located in any protected area listed in OAR 345-022-0040 and that the design, construction and operation of the Facility, taking mitigation into account, are not likely to result in significant adverse impact to any protected area.<sup>14</sup> This request does not seek to enlarge the existing site boundary or physical components of the Facility. There is no change in the maximum turbine height or blade tip heights. There also is no change to the previously approved maximum number of turbines or maximum generating capacity of the Facility from what was originally authorized. The total number of turbines at the Facility will not exceed 267 and the total MW will not exceed 400. Consequently, the proposed amendment makes no changes that would alter the basis for EFSC's earlier findings. Therefore, EFSC may find that this amendment request also complies with OAR 345-022-0040.

<sup>14</sup> Final Order Approving Amendment #1 on the Golden Hills Wind Farm, p. 19 (May 11, 2012).

**OAR 345-022-0050 Retirement and Financial Assurance**

*To issue a site certificate, the Council must find that:*

- (1) The site, taking into account mitigation, can be restored adequately to a useful, non-hazardous condition following permanent cessation of construction or operation of the facility.*
- (2) The applicant has a reasonable likelihood of obtaining a bond or letter of credit in a form and amount satisfactory to the Council to restore the site to a useful, non-hazardous condition.*

Response: EFSC previously found that Certificate Holder would meet EFSC's Retirement and Financial Assurance Standard.<sup>15</sup> This request does not seek to enlarge the existing site boundary or change the physical components of the Facility. There is no change to the previously approved maximum number of turbines or maximum generating capacity of the Facility from what was originally authorized. The total number of turbines at the Facility will not exceed 267 and the total MW will not exceed 400. Accordingly, the proposed amendment makes no changes that would alter the basis for EFSC's earlier findings and therefore EFSC may find that OAR 345-022-0050 is met.

**OAR 345-022-0060, Fish and Wildlife Habitat**

*To issue a site certificate, the Council must find that the design, construction and operation of the facility, taking into account mitigation, are consistent with the fish and wildlife habitat mitigation goals and standards of OAR 635-415-0025 in effect as of September 1, 2000.*

**OAR 635-415-0025 Requirements (Implementation of Department Habitat Mitigation Recommendations):<sup>16</sup>**

(1) "Habitat Category 1" is irreplaceable, essential habitat for a fish or wildlife species, population, or a unique assemblage of species and is limited on either a physiographic province or site-specific basis, depending on the individual species, population or unique assemblage.

*(a) The mitigation goal for Category 1 habitat is no loss of either habitat quantity or quality. \*\*\**

(2) "Habitat Category 2" is essential habitat for a fish or wildlife species, population, or unique assemblage of species and is limited either on a physiographic province or site-specific basis depending on the individual species, population or unique assemblage.

*(a) The mitigation goal if impacts are unavoidable, is no net loss of either habitat quantity or quality and to provide a net benefit of habitat quantity or quality. \*\*\**

(3) "Habitat Category 3" is essential habitat for fish and wildlife, or important habitat for fish and wildlife that is limited either on a physiographic province or site-specific basis, depending on the individual species or population.

*(a) The mitigation goal is no net loss of either habitat quantity or quality. \*\*\**

<sup>15</sup> Final Order Approving Amendment #1 on the Golden Hills Wind Farm, p. 14 (May 11, 2012).

<sup>16</sup> The provisions cited under OAR 635-415-0025 are included only in part, rather than in their entirety, for purposes of brevity.

(4) "Habitat Category 4" is important habitat for fish and wildlife species.

(a) The mitigation goal is no net loss in either existing habitat quantity or quality. \*\*\*

(5) "Habitat Category 5" is habitat for fish and wildlife having high potential to become either essential or important habitat.

(a) The mitigation goal, if impacts are unavoidable, is to provide a net benefit in habitat quantity or quality. \*\*\*

(6) "Habitat Category 6" is habitat that has low potential to become essential or important habitat for fish and wildlife.

(a) The mitigation goal is to minimize impacts. \*\*\*

Response: EFSC previously found that the Facility complies with EFSC's Fish and Wildlife Habitat Standard.<sup>17</sup> This request does not seek to enlarge the existing site boundary or physical components of the Facility. There is no change to the previously approved maximum number of turbines or maximum generating capacity of the Facility from what was originally authorized. The total number of turbines at the Facility will not exceed 267 and the total MW will not exceed 400. Accordingly, the proposed amendment makes no changes that would alter the basis for EFSC's earlier findings and therefore EFSC may find that OAR 345-022-0060 is satisfied.

#### **OAR 345-022-0070, Threatened and Endangered Species**

To issue a site certificate, the Council, after consultation with appropriate state agencies, must find that:

(1) For plant species that the Oregon Department of Agriculture has listed as threatened or endangered under ORS 564.105(2), the design, construction and operation of the proposed facility, taking into account mitigation:

(a) Are consistent with the protection and conservation program, if any, that the Oregon Department of Agriculture has adopted under ORS 564.105(3); or

(b) If the Oregon Department of Agriculture has not adopted a protection and conservation program, are not likely to cause a significant reduction in the likelihood of survival or recovery of the species; and

(2) For wildlife species that the Oregon Fish and Wildlife Commission has listed as threatened or endangered under ORS 496.172(2), the design, construction and operation of the proposed facility, taking into account mitigation, are not likely to cause a significant reduction in the likelihood of survival or recovery of the species.

Response: EFSC previously determined that the Facility complies with the Threatened and Endangered Species Standard.<sup>18</sup> This request does not seek to enlarge the existing site boundary

<sup>17</sup> Final Order Approving Amendment #1 on the Golden Hills Wind Farm, p. 24 (May 11, 2012).

<sup>18</sup> Final Order Approving Amendment #1 on the Golden Hills Wind Farm, p. 23 (May 11, 2012).

or physical components of the Facility. There is no change to the previously approved maximum number of turbines or maximum generating capacity of the Facility from what was originally authorized. The total number of turbines at the Facility will not exceed 267 and the total MW will not exceed 400. The proposed amendment makes no changes that would alter the basis for EFSC's earlier findings, thus this request complies with OAR 345-022-0070.

**OAR 345-022-0080 Scenic Resources**

*(1) Except for facilities described in section (2), to issue a site certificate, the Council must find that the design, construction and operation of the facility, taking into account mitigation, are not likely to result in significant adverse impact to scenic resources and values identified as significant or important in local land use plans, tribal land management plans and federal land management plans for any lands located within the analysis area described in the project order.*

*(2) The Council may issue a site certificate for a special criteria facility under OAR 345-015-0310 without making the findings described in section (1). However, the Council may apply the requirements of section (1) to impose conditions on a site certificate issued for such a facility.*

**Response:** EFSC previously found that the Facility complies with the Scenic Resources Standard.<sup>19</sup> This request does not seek to enlarge the existing site boundary or physical components of the Facility. There is no change to the previously approved maximum number of turbines or maximum generating capacity of the Facility from what was originally authorized. The total number of turbines at the Facility will not exceed 267 and the total MW will not exceed 400. Additionally, there is no change to the previously approved maximum turbine height and blade tips of the Facility from what was originally authorized. Consequently, the proposed amendment makes no changes that would alter the basis for EFSC's earlier findings and therefore EFSC may find that the amendment request satisfies OAR 345-022-0080.

**OAR 345-022-0090 Historic, Cultural and Archaeological Resources**

*(1) Except for facilities described in sections (2) and (3), to issue a site certificate, the Council must find that the construction and operation of the facility, taking into account mitigation, are not likely to result in significant adverse impacts to:*

*(a) Historic, cultural or archaeological resources that have been listed on, or would likely be listed on the National Register of Historic Places;*

*(b) For a facility on private land, archaeological objects, as defined in ORS 358.905(1)(a), or archaeological sites, as defined in ORS 358.905(1)(c); and*

*(c) For a facility on public land, archaeological sites, as defined in ORS 358.905(1)(c).*

*(2) The Council may issue a site certificate for a facility that would produce power from wind, solar or geothermal energy without making the findings described in section (1). However, the Council may apply the requirements of section (1) to impose conditions on a site certificate issued for such a facility.*

<sup>19</sup> Final Order Approving Amendment #1 on the Golden Hills Wind Farm, p. 20 (May 11, 2012).



Response: EFSC previously found that the Facility satisfied the Historic, Cultural and Archaeological Resources Standard.<sup>20</sup> This request does not seek to enlarge the existing site boundary or change the physical components of the Facility. There is no change to the previously approved maximum number of turbines or maximum generating capacity of the Facility from what was originally authorized. Additionally, there is no change to the previously approved maximum turbine height and blade tips of the Facility from what was originally authorized. The total number of turbines at the Facility will not exceed 267 and the total MW will not exceed 400. The proposed amendment makes no changes that would alter the basis for EFSC's earlier findings and OAR 345-022-0090 is met.

#### **OAR 345-022-0100 Recreation**

*(1) Except for facilities described in section (2), to issue a site certificate, the Council must find that the design, construction and operation of a facility, taking into account mitigation, are not likely to result in a significant adverse impact to important recreational opportunities in the analysis area as described in the project order. The Council shall consider the following factors in judging the importance of a recreational opportunity:*

- (a) Any special designation or management of the location;*
- (b) The degree of demand;*
- (c) Outstanding or unusual qualities;*
- (d) Availability or rareness;*
- (e) Irreplaceability or irretrievability of the opportunity.*

Response: EFSC previously found that the Facility would comply with the Recreation Standard.<sup>21</sup> This request does not seek to enlarge the existing site boundary or change the physical components of the Facility. There is no change to the previously approved maximum number of turbines or maximum generating capacity of the Facility from what was originally authorized. Additionally, there is no change to the previously approved maximum turbine height and blade tips of the Facility from what was originally authorized. The total number of turbines at the Facility will not exceed 267 and the total MW will not exceed 400. The proposed amendment makes no changes that would alter the basis for EFSC's earlier findings and therefore the amendment request meets OAR 345-022-0100.

#### **OAR 345-022-0110 Public Services**

*(1) Except for facilities described in sections (2) and (3), to issue a site certificate, the Council must find that the construction and operation of the facility, taking into account mitigation, are not likely to result in significant adverse impact to the ability of public and private providers within the analysis area described in the project order to provide: sewers and sewage treatment, water, storm water drainage, solid waste management, housing, traffic safety, police and fire protection, health care and schools.*

<sup>20</sup> Final Order Approving Amendment #1 on the Golden Hills Wind Farm, p. 25 (May 11, 2012).

<sup>21</sup> Final Order Approving Amendment #1 on the Golden Hills Wind Farm, p. 20 (May 11, 2012).

*(2) The Council may issue a site certificate for a facility that would produce power from wind, solar or geothermal energy without making the findings described in section (1). However, the Council may apply the requirements of section (1) to impose conditions on a site certificate issued for such a facility.*

Response: EFSC adopted site certificate conditions to address the Public Services Standard.<sup>22</sup> The proposed amendment makes no changes to the facility structures or configuration, and there are no other circumstances that would alter the basis for EFSC's earlier determination. Accordingly, the proposed amendment meets OAR 345-022-0110.

**OAR 345-022-0120 Waste Minimization**

*(1) Except for facilities described in sections (2) and (3), to issue a site certificate, the Council must find that, to the extent reasonably practicable:*

*(a) The applicant's solid waste and wastewater plans are likely to minimize generation of solid waste and wastewater in the construction and operation of the facility, and when solid waste or wastewater is generated, to result in recycling and reuse of such wastes;*

*(b) The applicant's plans to manage the accumulation, storage, disposal and transportation of waste generated by the construction and operation of the facility are likely to result in minimal adverse impact on surrounding and adjacent areas.*

*(2) The Council may issue a site certificate for a facility that would produce power from wind, solar or geothermal energy without making the findings described in section (1). However, the Council may apply the requirements of section (1) to impose conditions on a site certificate issued for such a facility.*

*(3) The Council may issue a site certificate for a special criteria facility under OAR 345-015-0310 without making the findings described in section (1). However, the Council may apply the requirements of section (1) to impose conditions on a site certificate issued for such a facility.*

Response: EFSC adopted site certificate conditions to address the Waste Minimization Standard.<sup>23</sup> This request does not seek to enlarge the existing site boundary or physical components of the Facility. There is no change to the previously approved maximum number of turbines or maximum generating capacity of the Facility from what was originally authorized. The total number of turbines at the Facility will not exceed 267 and the total MW will not exceed 400. The proposed amendment makes no changes that would alter the basis for EFSC's earlier findings and OAR 345-022-0120 is met.

**4.2 OAR 345-024**

The following Division 24 standards are addressed:

- OAR 345-024-0010 Public Health and Safety Standards for Wind Energy Facilities
- OAR 345-024-0015 Siting Standards for Wind Energy Facilities
- OAR 345-024-0090 Transmission Lines

<sup>22</sup> Final Order Approving Amendment #1 on the Golden Hills Wind Farm, p. 26 (May 11, 2012).

<sup>23</sup> Final Order Approving Amendment #1 on the Golden Hills Wind Farm, p. 26 (May 11, 2012).

### **OAR 345-024-0010, Public Health and Safety Standards for Wind Energy Facilities**

*To issue a site certificate for a proposed wind energy facility, the Council must find that the applicant:*

- (1) Can design, construct and operate the facility to exclude members of the public from close proximity to the turbine blades and electrical equipment.*
- (2) Can design, construct and operate the facility to preclude structural failure of the tower or blades that could endanger the public safety and to have adequate safety devices and testing procedures designed to warn of impending failure and to minimize the consequences of such failure.*

Response: EFSC previously found that the Facility complies with the Public Health and Safety Standards for Wind Energy Facilities.<sup>24</sup> This request does not seek to enlarge the existing site boundary or change the physical components of the Facility. There also is no change to the previously approved maximum number of turbines or maximum generating capacity of the Facility from what was originally authorized. The total number of turbines at the Facility will not exceed 267 and the total MW will not exceed 400. The proposed amendment makes no changes that would alter the basis for EFSC's earlier findings and therefore OAR 345-024-0010 is met.

### **OAR 345-024-0015 Cumulative Effects Standard for Wind Energy Facilities**

*To issue a site certificate for a proposed wind energy facility, the Council must find that the applicant can design and construct the facility to reduce cumulative adverse environmental effects in the vicinity by practicable measures including, but not limited to, the following:*

- (1) Using existing roads to provide access to the facility site, or if new roads are needed, minimizing the amount of land used for new roads and locating them to reduce adverse environmental impacts.*
- (2) Using underground transmission lines and combining transmission routes.*
- (3) Connecting the facility to existing substations, or if new substations are needed, minimizing the number of new substations.*
- (4) Designing the facility to reduce the risk of injury to raptors or other vulnerable wildlife in areas near turbines or electrical equipment.*
- (5) Designing the components of the facility to minimize adverse visual features.*
- (6) Using the minimum lighting necessary for safety and security purposes and using techniques to prevent casting glare from the site, except as otherwise required by the Federal Aviation Administration or the Oregon Department of Aviation.*

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<sup>24</sup> Final Order Approving Amendment #1 on the Golden Hills Wind Farm, p. 29 (May 11, 2012).

Response: EFSC previously found that the Facility complies with the Siting Standards for Wind Energy Facilities.<sup>25</sup> This request does not seek to enlarge the existing site boundary or change the physical components of the Facility. There is no change to the previously approved maximum number of turbines or maximum generating capacity of the Facility from what was originally authorized. Additionally, there is no change to the previously approved maximum turbine height and blade tips of the Facility from what was originally authorized. The total number of turbines at the Facility will not exceed 267 and the total MW will not exceed 400. The proposed amendment makes no changes that would alter the basis for EFSC's earlier findings and therefore the proposed amendment request satisfies OAR 345-024-0015.

#### **OAR 345-024-0090 Siting Standards for Transmission Lines**

*To issue a site certificate for a facility that includes any transmission line under Council jurisdiction, the Council must find that the applicant:*

- (1) Can design, construct and operate the proposed transmission line so that alternating current electric fields do not exceed 9 kV per meter at one meter above the ground surface in areas accessible to the public;*
- (2) Can design, construct and operate the proposed transmission line so that induced currents resulting from the transmission line and related or supporting facilities will be as low as reasonably achievable.*

Response: EFSC previously found that the Facility complies with this standard.<sup>26</sup> The proposed amendment does not propose changes to the previously approved collector system. Therefore, EFSC may rely on its earlier findings when concluding that the amendment meets OAR 345-024-0090.

#### **OAR 345-027-0060(1)(f) Other Applicable Requirements**

*(f) An analysis of whether the facility, with the proposed change, would comply with the requirements of ORS Chapter 469, applicable Council rules, and applicable state and local laws, rules and ordinances if the Council amends the site certificate as requested. For the purpose of this rule, a law, rule or ordinance is "applicable" if the Council would apply or consider the law, rule or ordinance under OAR 345-027-0070(10).*

Response: As described above, Certificate Holder has analyzed and demonstrated that the Facility, as amended, would comply with all applicable requirements outlined in OAR 345-027-0060(1)(f).

<sup>25</sup> Final Order Approving Amendment #1 on the Golden Hills Wind Farm, p. 20 (May 11, 2012).

<sup>26</sup> Final Order Approving Amendment #1 on the Golden Hills Wind Farm, p. 22 (May 11, 2012).

SECTION 5

**Transfer of Site Certificate Pursuant to  
345-027-0100**

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**OAR 345-027-0100 Transfer of a Site Certificate:**

*(1) For the purpose of this rule:*

*(a) A transfer of ownership requires a transfer of the site certificate when the person who will have the legal right to possession and control of the site or the facility does not have authority under the site certificate to construct, operate or retire the facility;*

Response: Pursuant to OAR 345-027-0100(4), Orion is submitting the request for EFSC's approval of the ownership transfer of Certificate Holder from BP Wind to Orion. While the First Amended Site Certificate for the Facility will still be held by Certificate Holder, the new parent company is now Orion. The articles of incorporation for Orion are provided in Attachment 2.

Orion, as the new parent company of Certificate Holder, has the legal right to possess and control the Facility. The transaction between BP Wind and Orion has closed, effective May 22, 2014, and this Transfer and Amendment Request effectuates Orion's ability to move forward with the development of the Facility.

*(b) "Transferee" means the person who will become the new applicant and site certificate holder.*

Response: See response to (2) below.

*(2) When a certificate holder has knowledge that any transfer of ownership of the facility that requires a transfer of the site certificate is or may be pending, the certificate holder shall notify the Department of Energy. In the notice, the certificate holder shall include, if known, the name, mailing address and telephone number of the transferee and the date of the transfer of ownership. If possible, the certificate holder shall notify the Department at least 60 days before the date of the transfer of ownership.*

Response: BP Wind filed a notice of intent to transfer the First Amended Site Certificate on April 16, 2014. This requirement has been met.

**Certificate Holder's name and address are:**

Golden Hills Wind Farm LLC  
155 Grand Avenue, Suite 706  
Oakland, CA 94612

**Contact Person, Address and Phone Number:**

Reid Buckley, Vice President  
Orion Golden Hills Wind Farm, LLC  
Orion Renewable Energy Group LLC  
155 Grand Avenue, Suite 706

Oakland, CA 94612  
(510) 267-8921  
[rbuckley@orionrenewables.com](mailto:rbuckley@orionrenewables.com)

*(3) The transferee is not allowed to construct or operate the facility until an amended site certificate as described in section (10) or a temporary amended site certificate as described in section (11) becomes effective.*

Response: The Facility has not yet been constructed. Orion will not begin construction until a transfer of the First Amended Site Certificate has been approved.

*(4) To request a transfer of the site certificate, the transferee shall submit a written request to the Department that includes the information described in OAR 345-021-0010(1)(a), (d) and (m), a certification that the transferee agrees to abide by all terms and conditions of the site certificate currently in effect and, if known, the date of the transfer of ownership. If applicable, the transferee shall include in the request the information described in OAR 345-021-0010(1)(y)(O)(iv).*

Response: Attachment 2 of this Transfer and Amendment Request includes information required under Exhibits A, D and M describing Orion's organizational expertise and retirement/financial assurance. Orion has certified that it agrees to abide by all the terms and conditions of the First Amended Site Certificate currently in effect and all terms and conditions that will result from this request.

*(5) The Department may require the transferee to submit a written statement from the current certificate holder, or a certified copy of an order or judgment of a court of competent jurisdiction, verifying the transferee's right, subject to the provisions of ORS Chapter 469 and the rules of this chapter, to possession of the site or the facility.*

Response: Please accept this request as a written statement from BP Wind verifying that Orion has the legal right to possess the Facility.

*(6) Within 15 days after receiving a request to transfer a site certificate, the Department shall mail a notice of the request to the reviewing agencies as defined in OAR 345-001-0010, to all persons on the Council's general mailing list as defined in OAR 345-011-0020, to any special list established for the facility and to the most recently received list of property owners. In the notice, the Department shall describe the transfer request, specify a date by which comments are due and specify the date of the Council's informational hearing.*

*(7) Before acting on the transfer request, the Council shall hold an informational hearing. The informational hearing is not a contested case hearing.*

*(8) At the conclusion of the informational hearing or at a later meeting, the Council may issue an order approving the transfer request if the Council finds that:*

*(a) The transferee complies with the standards described in OAR 345-022-0010, OAR 345-022-0050 and, if applicable, OAR 345-024-0710(1); and*

*(b) The transferee is lawfully entitled to possession or control of the site or the facility described in the site certificate.*

Response: Attachment 2 of this Transfer and Amendment Request includes Exhibits A, D and M (consistent with the application requirements of OAR 345-021-0010) to demonstrate Orion's compliance with the standards in OAR 345-022-0010 (Organizational Expertise) and OAR 345-022-0050 (Retirement and Financial Assurance). OAR 345-024-0710(1) relates to the "monetary path" option for compliance with EFSC's carbon dioxide emissions standard and therefore is not applicable to the Facility. As described above, Orion has the legal right to possess the Facility.

*(9) Except as described in section (12), the Council shall not otherwise change the terms and conditions of the site certificate in an order approving the transfer request.*

*(10) Upon issuing the order described in section (8), the Council shall issue an amended site certificate that names the transferee as the new certificate holder. The amended site certificate is effective upon execution by the Council chair and the transferee. The Council shall issue the amended site certificate in duplicate counterpart originals and each counterpart, upon signing, will have the same effect.*

Response: Certificate Holder and Orion seek EFSC approval of the requested changes effective immediately upon EFSC's approval of this Transfer and Amendment Request.

*(11) If the Council chair determines that special circumstances justify emergency action, the Council chair may, upon a written request from the transferee that includes a showing that the transferee can meet the requirements of section (8), issue a temporary amended site certificate that names the transferee as the new certificate holder. The temporary amended site certificate is effective upon execution by the Council chair and the transferee. The temporary amended site certificate expires when an amended site certificate as described in section (10) becomes effective or as the Council otherwise orders.*

Response: The parties are not requesting a temporary amended site certificate.

*(12) The Council may act concurrently on a request to transfer a site certificate and any other amendment request subject to the procedures described in this rule for the transfer request and:*

*(a) The procedures described in OAR 345-027-0030 for an amendment to extend construction beginning and completion deadlines.*

*(b) The procedures described in OAR 345-027-0090 for an amendment to apply subsequent laws or rules.*

*(c) The procedures described in OAR 345-027-0060 and OAR 345-027-0070 for any amendment request not described in (a) or (b).*

Response: As discussed in Section 3 above, this request includes proposals to extend construction beginning and completion deadlines and approve the transfer ownership of Certificate Holder from BP Wind to Orion. EFSC is authorized to consider these proposed changes concurrently in a single request.

ATTACHMENT 1  
**Updated Property Owners List**

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MAP TAX LOT	NAME	C/O-Attr.	ADDRESS 1	ADDRESS 2	CITY	STATE	ZIPCODE
02N16E00003800	MORGAN, ALETHA CHRISTINE	WELK, PATRICIA MAE FULTON	19855 SW TOUCHMARK WAY #421		Bend	OR	97702
02N16E00003100	WELK, PATRICIA MAE		19855 SW TOUCHMARK WAY #421		Bend	OR	97702
02N16E00003300	WELK, PATRICIA MAE		19855 SW TOUCHMARK WAY #421		Bend	OR	97702
01S17E00001500	CHRISTIANSON, BON & CORA MAY		10505 N SAGE HOLLOW WAY		Boise	ID	83714-9575
01N17E00007800	DEMOSSE SPRINGS RANCH LLC		PO BOX 2265		Bothell	WA	98041-2265
01S17E00001100	DEMOSSE SPRINGS RANCH LLC		PO BOX 2265		Bothell	WA	98041-2265
01S17E00001400	DEMOSSE SPRINGS RANCH LLC		PO BOX 2265		Bothell	WA	98041-2265
01S17E00001401	DEMOSSE, CAROLYN J TRUSTEE		PO BOX 2265		Bothell	WA	98041-2265
01S17E00003500	ROLFE, SHARON A LE ETAL		4036 GARFIELD STREET		Carlsbad	CA	92008
01N17E00001800	DUNN, DAVID E		21811 SHELTERING SPRUCE		Chuglak	AK	99567
01N16E0000804	LOHREY, BRAD A & DONNA C	WASHINGTON MUTUAL BANK (C/O ACS IMAGE SOLUTIONS)	12691 PALA DRIVE - MS156DPCA		Garden Grove	CA	92841
01N17E00007100	AMIDON, KARL F ETAL		202 KNIGHT ROAD		Goldendale	WA	98620
01S17E00001700	AMIDON, KARL F ETAL		202 KNIGHT ROAD		Goldendale	WA	98620
01S17E00001900	AMIDON, KARL F ETAL		202 KNIGHT ROAD		Goldendale	WA	98620
02N16E00005700	JUSTESEN RANCHES		59720 TWIN LAKES ROAD		Grass Valley	OR	97029
02N17E00006100	POSTON PROPERTIES LLC		301 SOUTH ELM STREET SUITE 206		Greensboro	NC	27401
01N16E0000200	ANDREWS FAMILY TRUST		8563 SE 257TH		Gresham	OR	97080
01N17E00001400	ANDREWS FAMILY TRUST		8563 SE 257TH		Gresham	OR	97080
01N17E00005800	ROGERS, SYLVIA IRENE ETAL		2010 SW NANCY DRIVE		Gresham	OR	97080
01N17E00007700	ROGERS, SYLVIA IRENE ETAL		2010 SW NANCY DRIVE		Gresham	OR	97080
01S17E00002000	ROGERS, SYLVIA IRENE ETAL		2010 SW NANCY DRIVE		Gresham	OR	97080
01N17E00005200	MCDERMID CENTURY FARM LLC		27640 POWERLINE ROAD		Halsey	OR	97348
01N17E00006000	MCDERMID CENTURY FARM LLC		27640 POWERLINE ROAD		Halsey	OR	97348
01N17E00006300	MCDERMID CENTURY FARM LLC		27640 POWERLINE ROAD		Halsey	OR	97348
01N17E00006400	MCDERMID CENTURY FARM LLC		27640 POWERLINE ROAD		Halsey	OR	97348
02N17E00004100	CARROLL, DWAYNE		77402 DESERT ROAD		Hermiston	OR	97838
02N16E00001700	CARROLL, GERALDINE ETAL		77402 DESERT RD.		Hermiston	OR	97838
02N16E00001800	CARROLL, GERALDINE ETAL		77402 DESERT RD.		Hermiston	OR	97838
02N16E00003500	CARROLL, GERALDINE ETAL		77402 DESERT RD.		Hermiston	OR	97838
01N17E0400400	O'MEARA, WILLIAM P ETAL		5080 GREEN ROAD		Hood River	OR	97031
01N17E00003100	O'MEARA, WILLIAM P ETAL		5080 GREEN ROAD		Hood River	OR	97031
01N18E00005200	O'MEARA, WILLIAM P ETAL		5080 GREEN ROAD		Hood River	OR	97031
01N18E00005500	O'MEARA, WILLIAM P ETAL		5080 GREEN ROAD		Hood River	OR	97031
01N18E00005700	O'MEARA, WILLIAM P ETAL		5080 GREEN ROAD		Hood River	OR	97031
01N16E00003700	FOSS, MICHAEL R		23826 SE 47TH PLACE		Issaquah	WA	98029
01S17E00001601	FOSS, MICHAEL R		23826 SE 47TH PLACE		Issaquah	WA	98029
01N18E00005100	THOMAS, JOSEPH M		4480 HILLCREST AVENUE		JunEAU	AK	99801
01N16E00005500	BLAU, SCOTT ETAL		314 2ND STREET		Lake Oswego	OR	97034-3115
02N16E00003700	BLAU, SCOTT ETAL		314 2ND STREET		Lake Oswego	OR	97034-3115
01N17E0000901	MORROW COUNTY GRAIN GROWERS	WASCO BRANCH	PO BOX 367		Lexington	OR	97839
01N17E00005300	YAMAUCHI, ALISON		4900 CRESTWOOD DRIVE		Little Rock	AR	72207

01N17E00005900	YAMAUCHI, ALISON	4900 CRESTWOOD DRIVE	Little Rock	AR	72207
01N17E00006100	YAMAUCHI, ALISON	4900 CRESTWOOD DRIVE	Little Rock	AR	72207
01N17E00006200	YAMAUCHI, ALISON	4900 CRESTWOOD DRIVE	Little Rock	AR	72207
01N17E00007200	YAMAUCHI, ALISON	4900 CRESTWOOD DRIVE	Little Rock	AR	72207
01S16E00001100	BARZEE, NORMA M	14404 SE WEBSTER RD #116	Milwaukie	OR	97267
01S16E00004000	BARZEE, NORMA M	14404 SE WEBSTER RD #116	Milwaukie	OR	97267
01S17E00001800	BARZEE, NORMA M	14404 SE WEBSTER RD #116	Milwaukie	OR	97267
01S17E17BC1500	ANDERSON, ANDREW & CAROL	PO BOX 103	Moro	OR	97039-0103
01S17E00002600	BLAYLOCK, ORVILLE ETAL	68808 HIGHWAY 97	Moro	OR	97039
01N16E00003600	BLAYLOCK, SHIRLEY E	68808 HIGHWAY 97	Moro	OR	97039
01N17E00006900	BLAYLOCK, SHIRLEY E	68808 HIGHWAY 97	Moro	OR	97039
01S17E00001600	BLAYLOCK, SHIRLEY E	68808 HIGHWAY 97	Moro	OR	97039
01S17E00001602	BLAYLOCK, SHIRLEY E	68808 HIGHWAY 97	Moro	OR	97039
01S17E00002400	BLAYLOCK, SHIRLEY E	68808 HIGHWAY 97	Moro	OR	97039
01S17E00003000	BURNET, STEVEN F LE ETAL	94699 MONKLAND LANE	Moro	OR	97039
01S17E00003003	BURNET, STEVEN F LE ETAL	94699 MONKLAND LANE	Moro	OR	97039
01S17E00003004	BURNET, STEVEN F LE ETAL	94699 MONKLAND LANE	Moro	OR	97039
01N17E00005600	HART, DARRYL R	63461 FRASER ROAD	Moro	OR	97039
01N17E00007900	HART, DARRYL R	63461 FRASER ROAD	Moro	OR	97039
01S17E00003000	HART, DARRYL R	63461 FRASER ROAD	Moro	OR	97039
01S17E17BC1600	KASER, JEFFREY	PO BOX 58	Moro	OR	97039
01S17E00003800	MAGNAB, TOM & GEORGIA	66390 HENRICHS ROAD	Moro	OR	97039
01S17E00003700	MARTIN, ROBERT L	65886 HENRICHS ROAD	Moro	OR	97039
01S17E18AA100	MEIZER, MYRNA L	PO BOX 342	Moro	OR	97039
01N18E00005800	MID COLUMBIA PRODUCERS INC	PO BOX 344	Moro	OR	97039
01N18E00005900	MID COLUMBIA PRODUCERS INC	PO BOX 344	Moro	OR	97039
01S17E00009000	MID COLUMBIA PRODUCERS INC	PO BOX 231	Moro	OR	97039
01S17E00002401	MORO, CITY	PO BOX 231	Moro	OR	97039
01S17E17BC1502	MORO, CITY	PO BOX 231	Moro	OR	97039
01N17E00006600	PINKERTON BROTHERS	PO BOX 312	Moro	OR	97039
01N17E00006700	PINKERTON BROTHERS	PO BOX 312	Moro	OR	97039
01N17E00007600	PINKERTON BROTHERS	PO BOX 312	Moro	OR	97039
01N17E00006500	PINKERTON RANCH	PO BOX 312	Moro	OR	97039
01N17E00007300	PINKERTON RANCH	PO BOX 343	Moro	OR	97039
01N17E00007400	PINKERTON RANCH	PO BOX 343	Moro	OR	97039
01N17E00007500	PINKERTON RANCH	PO BOX 343	Moro	OR	97039
01S17E00001300	PINKERTON RANCH	PO BOX 343	Moro	OR	97039
01S17E00004400	SHERMAN COUNTY EXPERIMENT	PO BOX 343	Moro	OR	97039
01S17E00002700	SHIPLEY, JOHN P	66365 LONEROCK ROAD	Moro	OR	97039
01S17E00002701	SHIPLEY, JOHN P	PO BOX 162	Moro	OR	97039
01S17E17BC800	SIMANTEL, ROLAND	PO BOX 162	Moro	OR	97039
01S17E17BC801	SIMANTEL, ROLAND	PO BOX 121	Moro	OR	97039
01S17E17BC802	SIMANTEL, ROLAND	PO BOX 121	Moro	OR	97039
	SIMANTEL, SHARON	PO BOX 121	Moro	OR	97039
	SIMANTEL, SHARON	PO BOX 121	Moro	OR	97039
	SIMANTEL, SHARON	PO BOX 121	Moro	OR	97039

01S17E00004501	SIMPSON, GRANT		PO BOX 370	Moro	OR	97039
01S17E17BC500	SIMPSON, GRANT		PO BOX 370	Moro	OR	97039
01S17E17BC501	SIMPSON, GRANT		PO BOX 370	Moro	OR	97039
01S17E17BC600	SIMPSON, GRANT		PO BOX 370	Moro	OR	97039
01S17E17BC601	SIMPSON, GRANT		PO BOX 370	Moro	OR	97039
01S17E17BC700	SIMPSON, GRANT		PO BOX 370	Moro	OR	97039
01N17E00005700	THOMPSON PEAKE, CAROLE TRUST		PO BOX 353	Moro	OR	97039
01N17E00005701	THOMPSON PEAKE, CAROLE TRUST		PO BOX 353	Moro	OR	97039
01S17E00001100	THOMPSON PEAKE, CAROLE TRUST		PO BOX 353	Moro	OR	97039
01S17E00002200	THOMPSON PEAKE, CAROLE TRUST		PO BOX 353	Moro	OR	97039
01S18E00001100	THOMPSON, DONALD DEAN TRUSTEE		PO BOX 248	Moro	OR	97039
01S18E00001200	THOMPSON, DONALD DEAN TRUSTEE		PO BOX 248	Moro	OR	97039
01S18E00001400	THOMPSON, DONALD DEAN TRUSTEE		PO BOX 248	Moro	OR	97039
01S18E00001600	THOMPSON, DONALD DEAN TRUSTEE		PO BOX 248	Moro	OR	97039
01S17E00002703	THOMPSON, GARY D	THOMPSON, LINDA K	66974 FAIRVIEW ROAD	Moro	OR	97039
01S18E00001401	THOMPSON, RONALD D		66351 HAY CANYON ROAD	Moro	OR	97039
01S18E00001500	THOMPSON, RONALD D		66351 HAY CANYON ROAD	Moro	OR	97039
01N18E00005600	THOMPSONS GOLDEN WINDS LLC		PO BOX 353	Moro	OR	97039
01S18E00001101	THOMPSONS GOLDEN WINDS LLC		PO BOX 353	Moro	OR	97039
01S17E00002500	UNION PACIFIC RAILROAD CO	PROPERTY TAX	1400 DOUGLAS STOP 1640	Omaha	NE	68179-1640
01S17E00007700	UNION PACIFIC RAILROAD CO	PROPERTY TAX	1400 DOUGLAS, STOP 1640	Omaha	NE	68179-1640
01N16E00002100	KASEBERG, J KENNETH GST TRUST&	RIPER, BARBARA J	1670 EDGEWOOD DRIVE	Palo Alto	CA	94303
01N17E00007301	PINKERTON, ALLAN ROBERT ETUX		1704 SW 3RD ST	Pendleton	OR	97801
01S17E00004100	COCKBURN, GLORIA F LE ETAL		10776 SE IDLEMAN ROAD	Portland	OR	97086
01S17E00004200	COCKBURN, GLORIA F LE ETAL		10776 SE IDLEMAN ROAD	Portland	OR	97086
02N16E00003101	DAVIES, DENICE C ETVIR	WAREHAM, DENICE	1611 NE GERTZ ROAD	Portland	OR	97211
01N17E00003200	MCGREGOR, RICHARD D & JEAN H		10242 SE WALNUT DRIVE	Portland	OR	97086
01N17E00005400	PROBSTFIELD-CLARK LLC	PROBSTFIELD, JUDITH	8395 SW 88TH	Portland	OR	97211
01N17E00005500	PROBSTFIELD-CLARK LLC	PROBSTFIELD, JUDITH	8395 SW 88TH	Portland	OR	97211
02N16E00004100	MARTIN BROTHERS LAND		PO BOX 201	Rufus	OR	97050
02N16E00001000	MARTIN, THOMSON S	MARTIN, CONSTANCE K	PO BOX 128	Rufus	OR	97050
02N16E00001100	MARTIN, THOMSON S	MARTIN, CONSTANCE K	PO BOX 128	Rufus	OR	97050
02N16E00001300	MARTIN, THOMSON S	MARTIN, CONSTANCE K	PO BOX 128	Rufus	OR	97050
02N16E00001501	MARTIN, THOMSON S	MARTIN, CONSTANCE K	PO BOX 128	Rufus	OR	97050
02N16E00001003	MARTIN, THOMSON S & CONSTANCE		PO BOX 128	Rufus	OR	97050
02N16E00001200	MARTIN, WILLIAM & DOUGLAS		PO BOX 128	Rufus	OR	97050
01N17E00004800	ANDERSON, A STANLEY & LELAND		PO BOX 201	Salem	OR	97302
01S17E00003300	HART, DEBBIE L ALAN R & DARVYL	PERNA, MARC & NANCY	3445 DOGWOOD DRIVE SOUTH	Salem	OR	97302
01S17E00002402	OREGON DEPT OF TRANSPORTATION	RIGHT OF WAY SECTION	3688 AUGUSTA NATL DR SOUTH	Salem	OR	97302
01N18E00005300	OREGON DEPT OF TRANSPORTATION		4040 FAIRVIEW INDUSTRIAL DR SE	Salem	OR	97302-1142
			MS#2			
			4040 FAIRVIEW INDUSTRIAL DR SE	Salem	OR	97302-1142
			MS#2			

01N18E00005400	OREGON DEPT OF TRANSPORTATION		4041 FAIRVIEW INDUSTRIAL DR SE		Salem	OR	97302-1142
			MS#2				
			4042 FAIRVIEW INDUSTRIAL DR SE				
			MS#2				
01N18E00006000	OREGON DEPT OF TRANSPORTATION		MS#2		Salem	OR	97302-1142
01N17E00004500	CLARK FARMS I LP	CLARK, LAWRENCE	PO BOX 145		Selah	WA	98942
01N17E00004501	CLARK FARMS I LP	CLARK, LAWRENCE	PO BOX 145		Selah	WA	98942
01N17E00005000	CLARK FARMS I LP	CLARK, LAWRENCE	PO BOX 145		Selah	WA	98942
01N17E00005001	CLARK FARMS I LP	CLARK, LAWRENCE	PO BOX 145		Selah	WA	98942
01N17E00004900	BARNUM, MAY TRUST	ASSET MGT)	PO BOX 3588, PD-WA-TTTR		Spokane	WA	99220-3588
		US BANK (FARM, RANCH & TIMBER					
01N17E00006800	BARNUM, MAY TRUST	ASSET MGT)	PO BOX 3588, PD-WA-TTTR		Spokane	WA	99220-3588
		US BANK (FARM, RANCH & TIMBER					
01N16E00002600	FULTON, JAMES TRUST	ASSET MGT)	PO BOX 3588, PD-WA-TTTR		Spokane	WA	99220-3588
		US BANK (FARM, RANCH & TIMBER					
02N16E00002200	FULTON, JAMES TRUST	ASSET MGT)	PO BOX 3588, PD-WA-TTTR		Spokane	WA	99220-3588
		US BANK (FARM, RANCH & TIMBER					
02N16E00002900	FULTON, JAMES TRUST	ASSET MGT)	PO BOX 3588, PD-WA-TTTR		Spokane	WA	99220-3588
		US BANK (FARM, RANCH & TIMBER					
02N17E00007500	RICE KEITH, CHRISTINE TRUST	ASSET MGT)	PO BOX 3588, PD-WA-TTTR		Spokane	WA	99220-3588
		US BANK (FARM, RANCH & TIMBER					
01S16E00005000	COATS, REATHAS TRUSTEE		3325 COLUMBIA VIEW DRIVE #7		The Dalles	OR	97058
01S17E00003100	SIGLOO RANCH LLC		3302 ROYAL CREST DRIVE		The Dalles	OR	97058
01S17E00003400	SIGLOO RANCH LLC		3302 ROYAL CREST DRIVE		The Dalles	OR	97058
01S18E00001300	SIGLOO RANCH LLC		3302 ROYAL CREST DRIVE		The Dalles	OR	97058
01N16E0000901	SKILES, PATRICIA A		504 VETERANS DRIVE		The Dalles	OR	97058
	BONNEVILLE POWER						
01S17E00001101	ADMINISTRATION	TRANSMISSION SERVICES	PO Box 491		Vancouver	WA	98666-0491
01N16E00002500	WALKER, JAMES MURRAY		15819 NE 43RD ST		Vancouver	WA	98682
01N17E00004700	WALKER, JAMES MURRAY		15819 NE 43RD ST		Vancouver	WA	98682
01N17E0000800	BARNETT ESTATE PARTNERSHIP	HILDERBRAND, JOSH	PO BOX 2		Wasco	OR	97065
02N17E00007400	BARNETT ESTATE PARTNERSHIP	HILDERBRAND, JOSH	PO BOX 2		Wasco	OR	97065
01S18E00001000	BELSHE, JAMES R & JERRINE A		PO BOX 327		Wasco	OR	97065
01S18E00001700	BELSHE, JAMES R & JERRINE A TR		PO BOX 327		Wasco	OR	97065
01S18E0000900	BELSHE, JAMES R & JERRINE A TR		PO BOX 327		Wasco	OR	97065
01N18E00004900	BELSHE, JAMES R & JERRINE CO-T		500 SANDON STREET		Wasco	OR	97065
01N17E00001000	BISH, DOUGLAS R		P O BOX 13		Wasco	OR	97065
01N17E00001100	BISH, DOUGLAS R		PO BOX 13		Wasco	OR	97065
02N17E00004200	BISH, DOUGLAS R		PO BOX 13		Wasco	OR	97065
02N17E00006300	BISH, DOUGLAS R		PO BOX 13		Wasco	OR	97065
02N17E00006800	BISH, DOUGLAS R		PO BOX 13		Wasco	OR	97065
02N17E00006900	BISH, DOUGLAS R		PO BOX 13		Wasco	OR	97065
02N17E00007300	BISH, DOUGLAS R; RICHELDERFER		PO BOX 13		Wasco	OR	97065
	BROTHERS	RICHELDERFER, MARTIN	PO BOX 93		Wasco	OR	97065

01S17E00002900	BURNET, STEVEN & PATRICIA	MCKINNEY, KIMBERLY TRUSTEE	70544 MCKINNEY ROAD	Wasco	OR	97065
01S17E00003200	BURNET, STEVEN & PATRICIA	MCKINNEY, KIMBERLY TRUSTEE	70544 MCKINNEY ROAD	Wasco	OR	97065
01S17E00003600	BURNET, STEVEN & PATRICIA	MCKINNEY, KIMBERLY TRUSTEE	70544 MCKINNEY ROAD	Wasco	OR	97065
01S17E00002100	BURNET, STEVEN F ETAL	MCKINNEY, KIMBERLY TRUSTEE	70544 MCKINNEY ROAD	Wasco	OR	97065
01N17E00001701	CORNIÉ, LINDA KAY	LAWRENCE, TRAVIS & MELISA	94144 HWY 206	Wasco	OR	97065
02N16E00001001	DORMAIER, F A	CLIFTON, BETTY JOYCE	PO BOX 64	Wasco	OR	97065
02N16E00001002	FIELDS, JOHN & NANCY		PO BOX 48	Wasco	OR	97065
02N16E00001900	FIELDS, JOHN & NANCY		PO BOX 48	Wasco	OR	97065
02N16E00003401	FIELDS, JOHN & NANCY		PO BOX 48	Wasco	OR	97065
02N16E00003402	FIELDS, JOHN & NANCY		PO BOX 48	Wasco	OR	97065
02N16E00002100	FIELDS, JOHN M		PO BOX 48	Wasco	OR	97065
02N16E00003400	FIELDS, JOHN M		PO BOX 48	Wasco	OR	97065
02N17E00006500	FIELDS, JOHN M		PO BOX 48	Wasco	OR	97065
02N16E00002000	HILDERBRAND, DONALD W		PO BOX 148	Wasco	OR	97065
01N16E00003000	KASEBERG, LEE & KAREN		70031 VAN GILDER RD	Wasco	OR	97065
01N16E00004000	KASEBERG, LEE & KAREN		70031 VAN GILDER RD	Wasco	OR	97065
01N16E00003300	KASEBERG, LEE C		70031 VANGILDER ROAD	Wasco	OR	97065
01N16E00008000	KASEBERG, LEE C		70031 VAN GILDER RD	Wasco	OR	97065
01N16E00008020	KASEBERG, STEVEN D		92883 LOCUST GROVE LANE	Wasco	OR	97065
01N16E00003010	KASEBERG, TERRY & DIANE		93431 HWY 206	Wasco	OR	97065
01N16E00008010	KASEBERG, TERRY D & DIANE		93431 HWY 206	Wasco	OR	97065
01N17E00004300	KOCK, STEPHEN	KOCK, ANITA	PO BOX 86	Wasco	OR	97065
01N16E00004200	MAGNAB, PETER J LE		608 YATES	Wasco	OR	97065
01N16E00006100	MAGNAB, PETER J LE		608 YATES STREET	Wasco	OR	97065
01N16E00004000	MAGNAB, PETER J TRUSTEE		608 YATES	Wasco	OR	97065
01N16E00004100	MAGNAB, PETER J TRUSTEE		608 YATES	Wasco	OR	97065
01N16E00003701	MCCARTHUR, MIKE & JEANNEY		93350 FOSS LANE	Wasco	OR	97065
01N17E00004101	MCCLENNAN, LYNDON P		PO BOX 215	Wasco	OR	97065
01N17E00004200	MCCLENNAN, LYNDON P		PO BOX 215	Wasco	OR	97065
01N17E00004400	MCCLENNAN, LYNDON P		PO BOX 215	Wasco	OR	97065
01N16E00003800	MCCOY LAND	MCCOY, THOMAS	PO BOX 215	Wasco	OR	97065-0215
01N16E00006200	MCCOY LAND	MCCOY, THOMAS	93340 HWY 206	Wasco	OR	97065
01N17E00007000	MCCOY LAND	MCCOY, THOMAS	93340 HWY 206	Wasco	OR	97065
01N17E00001600	PETERS, BRYAN F	PETERS, THOMAS	93340 HWY 206	Wasco	OR	97065
01N17E00001900	PETERS, BRYAN F	PETERS, FOREST A	P O BOX 63	Wasco	OR	97065
01N17E09009000	PETERS, BRYAN F	PETERS, FOREST A	P O BOX 63	Wasco	OR	97065
01N17E00001601	PETERS, FOREST	PETERS, FOREST A	P O BOX 63	Wasco	OR	97065
01N17E00001602	PETERS, FOREST		69420 N SAWTOOTH ROAD	Wasco	OR	97065
01N17E00004100	POWELL FARMS LLC		69420 N SAWTOOTH ROAD	Wasco	OR	97065
01N17E00004201	POWELL FARMS LLC	POWELL, PATRICK & CONNIE	PO BOX 440	Wasco	OR	97065
01N16E00003601	RHINEHART, DOUGLAS E & CAROLYN		72484 SCOTT CANYON ROAD	Wasco	OR	97065
01N17E00001300	RICHELDERFER BROTHERS	RICHELDERFER, MARTIN	PO BOX 93	Wasco	OR	97065
01N17E00001302	RICHELDERFER, E MARTIN		PO BOX 113	Wasco	OR	97065

01N17E00001200	RICHELDERFER, MARTIN	ZACHARIASEN, MARY	PO BOX 93	Wasco	OR	97065
02N16E00003000	SANDERSON, TERRY	SANDERSON, HAROLD	91608 BIGGS-RUFUS HWY	Wasco	OR	97065
02N16E00003200	SANDERSON, TERRY	SANDERSON, HAROLD C	91608 BIGGS-RUFUS HWY	Wasco	OR	97065
02N16E00003600	SANDERSON, TERRY	SANDERSON, HAROLD C	91608 BIGGS-RUFUS HWY	Wasco	OR	97065
01N16E00003900	SHERWOOD, DAWN M	VAN GILDER, GARY L	68192 PETES RD	Wasco	OR	97065
01N18E00006100	SHULL, EDITH LUETTA LE ETAL		PO BOX 171	Wasco	OR	97065
01N18E00005701	SHULL, GEREAMY E		PO BOX 212	Wasco	OR	97065
01N16E00009900	SKILES, PATRICIA ANN LE ETAL	KASEBERG, LARRY EDWARD LE ETAL	69384 WHEATAGRES RD	Wasco	OR	97065
01N16E00002702	SKILES, PATRICIA ANN LE ETAL	KASEBERG, LARRY EDWARD ETAL	69384 WHEATAGRES ROAD	Wasco	OR	97065
01N16E0000803	SMITH, JEFF E	SMITH, PAULA K	92740 HWY 206	Wasco	OR	97065
01N17E0900700	SMITH, RAY		PO BOX 293	Wasco	OR	97065
01N17E0900800	SMITH, RAY D		PO BOX 293	Wasco	OR	97065
01N16E0000100	VAN GILDER ENTERPRISES LLC	VAN GILDER, ARTHUR A	PO BOX 275	Wasco	OR	97065
01N17E00001301	VAN GILDER ENTERPRISES LLC	VAN GILDER, ARTHUR A	PO BOX 275	Wasco	OR	97065
01N17E04CB600	VAN GILDER ENTERPRISES LLC	VAN GILDER, ARTHUR A	PO BOX 275	Wasco	OR	97065
01N17E04CB700	VAN GILDER ENTERPRISES LLC	VAN GILDER, ARTHUR A	PO BOX 275	Wasco	OR	97065
01N17E04CC400	VAN GILDER ENTERPRISES LLC	VAN GILDER, ARTHUR A	PO BOX 275	Wasco	OR	97065
02N17E00006200	VAN GILDER ENTERPRISES LLC	VAN GILDER, ARTHUR A	PO BOX 275	Wasco	OR	97065
02N17E00006600	VAN GILDER ENTERPRISES LLC	VAN GILDER, ARTHUR A	PO BOX 275	Wasco	OR	97065
02N17E00007000	VAN GILDER ENTERPRISES LLC	VAN GILDER, ARTHUR A	PO BOX 275	Wasco	OR	97065
01N16E00002200	VAN GILDER HERITAGE LLC		PO BOX 96	Wasco	OR	97065
01N16E00002300	VAN GILDER HERITAGE LLC		PO BOX 96	Wasco	OR	97065
01N17E00001700	VAN GILDER HERITAGE LLC		PO BOX 96	Wasco	OR	97065
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01N16E00002400	VAN GILDER HRITAGE LLC		PO BOX 96	Wasco	OR	97065
01N17E0000900	VAN GILDER, ARTHUR A	VAN GILDER, MARJORIE E TRUST	PO BOX 275	Wasco	OR	97065
02N17E00007100	WASCO CEMETERY ASSOCIATION	RICHELDERFER, MARTIN	PO Box 155	Wasco	OR	97065
02N17E00007200	WASCO CEMETERY ASSOCIATION	RICHELDERFER, MARTIN	PO Box 155	Wasco	OR	97065
01N17E0000801	WASCO, CITY		PO BOX 26	Wasco	OR	97065
01N17E0000902	WASCO, CITY		PO BOX 26	Wasco	OR	97065
01N17E04CB500	WASCO, CITY		PO BOX 26	Wasco	OR	97065
01N16E00003500	ALT, BETTY SUZANNE LE ETAL		107 FERNWOOD	Williamsburg	VA	23185
01S17E00001102	PACIFIC POWER & LIGHT CO		825 NE Multnomah St.	Portland	OR	97232
01N17E00001500	SHERMAN COUNTY	Sherman County Assessor's Office	PO BOX 283 / 500 Court Street	Moro	OR	97039
01S17E00002800	SHERMAN COUNTY	Sherman County Assessor's Office	PO BOX 283 / 500 Court Street	Moro	OR	97040
01S17E0000800	SHERMAN COUNTY	Sherman County Assessor's Office	PO BOX 283 / 500 Court Street	Moro	OR	97041
01S17E0000901	SHERMAN COUNTY	Sherman County Assessor's Office	PO BOX 283 / 500 Court Street	Moro	OR	97042

ATTACHMENT 2  
**Exhibits Describing Orion  
Organizational Expertise**

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**EXHIBIT A**  
**APPLICANT INFORMATION**

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**Table of Contents**

Introduction ..... A-1  
A.1 Name and Address of Transferee and Contact Person ..... A-1  
A.2 Participant Information ..... A-2  
A.3 Limited Liability Company Information..... A-3  
A.4 Parent Company Information ..... A-4

**Attachments**

- Attachment A1: Delaware Articles of Organization  
Attachment A2: Oregon Certification



## Introduction

This Exhibit addresses OAR 345-021-0010(1)(a). Orion Golden Hills Wind Farm LLC ("Orion") acquired the ownership interest of Golden Hills Wind Farm LLC ("Certificate Holder"), the entity holding the First Amended Site Certificate for the Golden Hills Wind Project ("Facility"). Orion is filing a transfer request under OAR 345-027-0100 to document and receive Council approval of its acquisition of Certificate Holder's ownership interest. Should the Council approve this request, Certificate Holder will be the holder of the Second Amended Site Certificate. Orion is owned by Orion Renewable Energy Group LLC. Orion Renewable Energy Group LLC is an independent North American company focused on the development, ownership, and operation of wind energy generation facilities. The following sections address subsections (A) through (G) of OAR 345-021-0010(1)(a) and provide a more detailed description of the Orion's expertise.

### A.1 Name and Address of Transferee and Contact Person

**OAR 345-021-0010(1)(a)(A)** *The name and address of the applicant including all co-owners of the proposed facility, the name, mailing address and telephone number of the contact person for the application, and if there is a contact person other than the applicant, the name, title, mailing address and telephone number of that person.*

#### **RESPONSE**

Orion Golden Hills Wind Farm LLC  
Orion Renewable Energy Group LLC  
155 Grand Avenue, Suite 706  
Oakland, CA 94612  
510-250-3400

There are no co-owners of the Facility.

#### **Contact persons, mailing address, and telephone number:**

Reid Buckley, Vice President  
Orion Golden Hills Wind Farm LLC  
Orion Renewable Energy Group LLC  
155 Grand Avenue, Suite 706  
Oakland, CA 94612  
510-267-8921  
[rbuckley@orionrenewables.com](mailto:rbuckley@orionrenewables.com)

**Other contact persons :**

Elaine Albrich  
Stoel Rives LLP  
900 SW Fifth Ave., Suite 2600  
Portland, OR 97204  
(503) 294-9394  
[erabrich@stoel.com](mailto:erabrich@stoel.com)

Michael Rigo, Senior Counsel  
BP Wind Energy North America Inc.  
700 Louisiana Street, 33rd Floor  
Houston, TX 77002  
713-354-4814  
[michael.rigo@bp.com](mailto:michael.rigo@bp.com)

**A.2 Participant Information**

**OAR 345-021-0010(1)(a)(B)** *The contact name, address and telephone number of all participating persons, other than individuals, including but not limited to any parent corporation of the applicant, persons upon whom the applicant will rely for third-party permits or approvals related to the facility, and, if known, other persons upon whom the applicant will rely in meeting any facility standard adopted by the Council.*

**RESPONSE**

**Orion Parent Company:**

Orion Renewable Energy Group LLC  
155 Grand Avenue, Suite 706  
Oakland, CA 94612

**Contact person, mailing address, and telephone number:**

Jim Eisen, VP and General Counsel  
Orion Golden Hills Wind Farm LLC  
Orion Renewable Energy Group LLC  
155 Grand Avenue, Suite 706  
Oakland, CA 94612  
510-250-3400  
[jeisen@orionrenewables.com](mailto:jeisen@orionrenewables.com)

**Third-Party Permitting Assistance:**

None.

### A.3 Limited Liability Company Information

- OAD 345-021-0010(1)(a)(H)** *If the applicant is a limited liability company, it shall give:*
- (i) *The full name, official designation, mailing address, email address and telephone number of the officer responsible for submitting the application;*

#### **RESPONSE**

Orion is a Delaware limited liability company.

The full name, official designation, mailing address, and telephone number of the officer responsible for submitting the application is as follows:

Jim Eisen, VP and General Counsel  
Orion Golden Hills Wind Farm LLC  
Orion Renewable Energy Group LLC  
155 Grand Avenue, Suite 706  
Oakland, CA 94612  
510-250-3400  
[jeisen@orionrenewables.com](mailto:jeisen@orionrenewables.com)

- (ii) *The date and place of its formation;*

#### **RESPONSE**

A Certificate of Formation was filed on March 28, 2014, for Orion with the Delaware Secretary of State.

- (iii) *A copy of its articles of organization and its authorization for submitting the application; and*

#### **RESPONSE**

A copy of Orion's Delaware Articles of Organization is provided in Attachment A1.

- (iv) *In the case of a corporation not incorporated in Oregon, the name and address of the resident attorney-in-fact in this state and proof of registration to do business in Oregon.*

#### **RESPONSE**

Elaine R. Albrich  
Stoel Rives LLP  
900 SW 5th Avenue, Suite 2600  
Portland, OR 97204

(503) 294-9394  
[eralbrich@stoel.com](mailto:eralbrich@stoel.com)

See Attachment A2 for Certificate Holder's certification to do business in Oregon.

#### **A.4 Parent Company Information**

**OAR 345-021-0010(1)(a)(D)** *If the applicant is a wholly owned subsidiary of a company, corporation, or other business entity, in addition to the information required by paragraph (C), it shall give the full name and business address of each of the applicant's full or partial owners.*

Orion is owned by Orion Renewable Energy Group LLC. The name and business address of Orion Renewable Energy Group LLC is as follows:

Jim Eisen, VP and General Counsel  
Orion Golden Hills Wind Farm LLC  
Orion Renewable Energy Group LLC  
155 Grand Avenue, Suite 706  
Oakland, CA 94612  
510-250-3400  
[jeisen@orionrenewables.com](mailto:jeisen@orionrenewables.com)

**ATTACHMENTS**

**Attachment A1: Delaware Articles of Organization**

# Delaware

PAGE 1

*The First State*

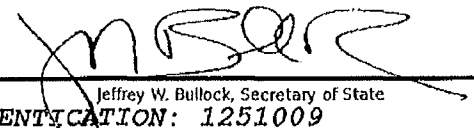
I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF FORMATION OF "ORION GOLDEN HILLS WIND FARM LLC", FILED IN THIS OFFICE ON THE TWENTY-EIGHTH DAY OF MARCH, A.D. 2014, AT 3:31 O'CLOCK P.M.

5507678 8100

140400094

You may verify this certificate online  
at [corp.delaware.gov/authver.shtml](http://corp.delaware.gov/authver.shtml)



  
Jeffrey W. Bullock, Secretary of State  
AUTHENTICATION: 1251009

DATE: 03-31-14

State of Delaware  
Secretary of State  
Division of Corporations  
Delivered 03:31 PM 03/28/2014  
FILED 03:31 PM 03/28/2014  
SRV 140400094 - 5507678 FILE

**STATE of DELAWARE  
LIMITED LIABILITY COMPANY  
CERTIFICATE of FORMATION**

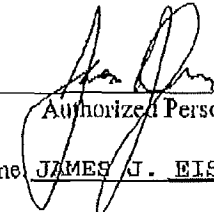
First: The name of the limited liability company is ORION GOLDEN HILLS  
WIND FARM LLC

Second: The address of its registered office in the State of Delaware is 2711  
CENTERVILLE RD SUITE 400 in the City of WILMINGTON.  
Zip code 19808. The name of its Registered agent at such address is  
CORPORATION SERVICE COMPANY

Third: (Use this paragraph only if the company is to have a specific effective date of  
dissolution: "The latest date on which the limited liability company is to dissolve is  
\_\_\_\_\_".)

Fourth: (Insert any other matters the members determine to include herein.)

In Witness Whereof, the undersigned have executed this Certificate of Formation this  
28 day of MARCH, 2014.

By:   
Authorized Person (s)  
Name JAMES J. EISEN

**ATTACHMENTS**

**Attachment A2: Oregon Certification**





Limited Liability Company - Information Change

Secretary of State - Corporation Division - 255 Capitol St. NE, Suite 151 - Salem, OR 97310-1327 - http://www.FilingInOregon.com - Phone: (503) 986-2200

FILED

JUN 12 2014

OREGON SECRETARY OF STATE

REGISTRY NUMBER: 437487-97

ENTITY TYPE:  DOMESTIC  FOREIGN

In accordance with Oregon Revised Statute 192.410-192.490, the information on this application is public record. We must release this information to all parties upon request and it will be posted on our website.

For office use only

Please Type or Print Legibly in Black Ink. Attach Additional Sheet if Necessary.

1. NAME OF LIMITED LIABILITY COMPANY:

Golden Hills Wind Farm LLC

2. PRINCIPAL PLACE OF BUSINESS: (Street Address)

155 Grand Avenue, Suite 706

Oakland, CA 94612

3. THE REGISTERED AGENT HAS BEEN CHANGED TO:

Corporation Service Company

4. REGISTERED AGENT'S PUBLICLY AVAILABLE ADDRESS:

Must be an Oregon Street Address, which is identical to the registered agent's office.

285 Liberty Street NE

Salem, OR 97301

5. ADDRESS WHERE THE DIVISION MAY MAIL NOTICES:

c/o Orion Renewable Energy Group LLC

155 Grand Avenue, Suite 706

Oakland, CA 94612

6. THE NEW REGISTERED AGENT HAS CONSENTED TO THIS APPOINTMENT.

7. THE STREET ADDRESS OF THE NEW REGISTERED OFFICE AND THE BUSINESS ADDRESS OF THE REGISTERED AGENT ARE IDENTICAL.

The entity has been notified in writing of this change.

MEMBERS AND/OR MANAGERS NAMES AND ADDRESSES

8. OWNERS: (MEMBERS) (Names and Street address)

Orion Golden Hills Wind Farm LLC

c/o Orion Renewable Energy Group LLC

155 Grand Avenue, Suite 706

Oakland, CA 94612

9. MANAGERS: (Names and Street address)

Orion Golden Hills Wind Farm LLC

c/o Orion Renewable Energy Group LLC

155 Grand Avenue, Suite 706

Oakland, CA 94612

10. EXECUTION: By my signature, I declare as an authorized signer, that this filing has been examined by me and is, to the best of my knowledge and belief, true, correct and complete. Making false statements in this document is against the law and may be penalized by fines, imprisonment or both.

SIGNATURE:

*Reid Buckley*

PRINTED NAME:

Reid Buckley

TITLE:

Vice President

CONTACT NAME: (To resolve questions with this filing)

Sherry Stratton

PHONE NUMBER: (Include area code)

503-294-9254

FEES

No Processing Fee

Free copies are available at FilingInOregon.com using the Business Name Search program.

Business Registry Business Name Search

New Search

Business Entity Data

06-13-2014 11:36

Registry Nbr	Entity Type	Entity Status	Jurisdiction	Registry Date	Next Renewal Date	Renewal Due?
437487-97	FLLC	ACT	DELAWARE	05-21-2007	05-21-2015	
<b>Entity Name</b>	GOLDEN HILLS WIND FARM LLC					
<b>Foreign Name</b>						

New Search

Associated Names

Type	PPB PRINCIPAL PLACE OF BUSINESS					
<b>Addr 1</b>	155 GRAND AVE STE 706					
<b>Addr 2</b>						
<b>CSZ</b>	OAKLAND	CA	94612	<b>Country</b>	UNITED STATES OF AMERICA	

Please click [here](#) for general information about registered agents and service of process.

Type	AGT REGISTERED AGENT		Start Date	Resign Date
<b>Of Record</b>	158720-88 CORPORATION SERVICE COMPANY			
<b>Addr 1</b>	285 LIBERTY ST NE			
<b>Addr 2</b>				
<b>CSZ</b>	SALEM	OR	97301	<b>Country</b> UNITED STATES OF AMERICA

Type	MAL MAILING ADDRESS					
<b>Addr 1</b>	C/O ORION RENEWABLE ENERGY GROUP LLC					
<b>Addr 2</b>	155 GRAND AVE STE 706					
<b>CSZ</b>	OAKLAND	CA	94612	<b>Country</b>	UNITED STATES OF AMERICA	

Type	MEM MEMBER			Resign Date
<b>Not of Record</b>	ORION GOLDEN HILLS WIND FARM LLC			
<b>Addr 1</b>	C/O ORION RENEWABLE ENERGY GROUP LLC			
<b>Addr 2</b>	155 GRAND AVE STE 706			
<b>CSZ</b>	OAKLAND	CA	94612	<b>Country</b> UNITED STATES OF AMERICA

Type	MGR MANAGER			Resign Date
<b>Not of Record</b>	ORION GOLDEN HILLS WIND FARM LLC			
<b>Addr 1</b>	C/O ORION RENEWABLE ENERGY GROUP LLC			
<b>Addr 2</b>	155 GRAND AVE STE 706			
<b>CSZ</b>	OAKLAND	CA	94612	<b>Country</b> UNITED STATES OF AMERICA

New Search

Name History




Business Entity Name	Name Type	Name Status	Start Date	End Date
GOLDEN HILLS WIND FARM LLC	EN	CUR	05-21-2007	

Please read before ordering [Copies](#).

New Search

Summary History

Image Available	Action	Transaction Date	Effective Date	Status	Name/Agent Change	Dissolved By
	AMNDMT TO ANNUAL RPT/INFO STATEMENT	06-12-2014		FI	Agent	

	AMENDED ANNUAL REPORT	05-24-2014		FI		
	NOTICE LATE ANNUAL	05-23-2014		SYS		
	AMENDED ANNUAL REPORT	05-21-2013		FI		
	AMENDED ANNUAL REPORT	05-21-2012		FI		
	ANNUAL REPORT PAYMENT	05-09-2011	05-06-2011	SYS		
	ANNUAL REPORT PAYMENT	05-24-2010	05-21-2010	SYS		
	ANNUAL REPORT PAYMENT	05-14-2009	05-13-2009	SYS		
	AMENDED ANNUAL REPORT	08-01-2008		FI		
	NOTICE LATE ANNUAL	05-23-2008		SYS		
	APPLICATION FOR AUTHORITY	05-21-2007		FI	Agent	

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**EXHIBIT D**  
**APPLICANT'S ORGANIZATION, MANAGERIAL, AND TECHNICAL EXPERTISE**

**Table of Contents**

Introduction .....	D-1
D.1 Applicant's Previous Experience .....	D-1
D.2 Qualifications of Applicant's Personnel .....	D-2
D.2.1 General Qualifications .....	D-2
D.2.1.1 Executive Management .....	D-4
D.2.1.2 Project Development .....	D-5
D.2.1.3 Environmental Permitting .....	D-5
D.2.1.4 Meteorology .....	D-6
D.2.1.5 Transmission Planning and Interconnection .....	D-6
D.2.1.6 Construction Management and Engineering .....	D-6
D.2.1.7 Origination .....	D-7
D.2.1.8 Operations, Maintenance, and Asset Management .....	D-7
D.2.1.9 Finance and Legal .....	D-7
D.3 Qualifications of Known Contractors .....	D-8
D.3.1 Facility Development and Permitting .....	D-8
D.3.2 Facility Design .....	D-8
D.3.3 Facility Construction .....	D-9
D.4 Applicant's Past Performance .....	D-9
D.5 Applicant With No Previous Experience .....	D-9
D.6 ISO-Certified Program .....	D-9
D.7 Mitigation .....	D-10

**List of Tables**

Table D1: Orion Wind Project Portfolio.....	D-1
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**Introduction**

Orion Golden Hills Wind Farm LLC (“Orion”) acquired the ownership interest in Golden Hills Wind Farm LLC, the current holder of the First Amended Site Certificate. Orion’s parent company is Orion Renewable Energy Group LLC (“Orion Renewable”). This exhibit addresses the requirements of OAR 345-021-0010(1)(d). It provides information about Orion’s organizational experience to construct and operate the Facility and provides evidence to support a finding by the EFSC as required by OAR 345-022-0010.

**D.1 Orion’s Previous Experience**

**OAR 345-021-0010(1)(d)(A)** *The applicant’s previous experience, if any, in constructing and operating similar facilities;*

**RESPONSE**

Orion is a project-specific LLC and therefore the organization experience rests with the parent company, Orion Renewable. Orion provides information about Orion Renewable’s expertise to support findings under OAR 345-022-0010.

Orion Renewable, through its principals, has been a pioneer in expanding the use of renewable energy in the United States, Great Britain, and around the world. Nearly 3,500 MW of clean, renewable energy projects have been developed by Orion Renewable’s management team worldwide and is in commercial operation. Orion Renewable’s track record of successfully completing projects is the result of expertise in siting, development, origination, finance, construction and operations.

Orion Renewable, through its principals, began in 1998 to develop wind power projects in the United States. In the United States, approximately 3,000 MW of operating wind power projects have been developed through Orion Renewable’s principals since 1999. (See Table D1 below.) Orion Renewable currently holds ownership interests in, and serves as operator and asset manager for, 280 MW of operating wind energy projects in the United States.

Table D1:

<b>Project Name</b>	<b>Location</b>	<b>Date Completed</b>	<b>Capacity (MW)</b>
Flat Ridge II Wind Farm	Barber and other Counties, KS	2012	419 MW
Trinity Hills Wind Farm	Archer and Young Counties, TX	2011	225 MW
Sherbino 2 Wind Farm	Pecos County, TX	2011	150 MW
Biglow Canyon Wind Farm, Phase 3	Sherman County, OR	2010	175 MW
Flat Ridge I Wind Farm	Barber County, KS	2009	100 MW
Fowler Ridge Wind Farm, Phase 2	Benton County, IN	2009	200 MW
Biglow Canyon Wind Farm, Phase 2	Sherman County, OR	2009	150 MW
Fowler Ridge Wind Farm, Phase 1	Benton County, IN	2008	400 MW

Project Name	Location	Date Completed	Capacity (MW)
Sherbino 1 Wind Farm	Pecos County, TX	2008	150 MW
Benton County Wind Farm	Benton County, IN	2008	130 MW
Biglow Canyon Wind Farm, Phase 1	Sherman County, OR	2007	125 MW
Camp Grove Wind Farm	Stark & Marshall Counties, IL	2007	150 MW
Red Canyon Wind Energy Center	Garza/Borden Counties, TX	2006	84 MW
Uinta County Wind Farm	Uinta County, WY	2003	144 MW
Green Mountain Wind Farm at Brazos	Scurry County, TX	2003	160 MW
Waymart Wind Farm	Wayne County, PA	2003	65 MW
Indian Mesa Wind Farm	Pecos County, TX	2001	83 MW
Green Mountain Wind Farm	Somerset County, PA	2000	10 MW
Delaware Mountain Wind Farm	Culberson County, TX	1999	30 MW

**D.2 Qualifications of Applicant's Personnel**

**OAR 345-021-0010(l)(d)(B)** *The qualifications of the applicant's personnel who will be responsible for constructing and operating the facility, to the extent that the identities of such personnel are known when the application is submitted;*

**D.2.1 General Qualifications**

**RESPONSE**

**D.2.1.1 Executive Management**

Michael Haas, President and CEO  
 Jim Eisen, Vice President and General Counsel  
 Reid Buckley, Vice President

**D.2.1.2 Project Development**

Reid Buckley, Vice President  
 Nicholas Hiza, Director of Development  
 Michael Cressner, Business Development Manager  
 Andrew Duszak, GIS Analyst

**D.2.1.3 Environmental Permitting**

Reid Buckley, Vice President  
 Nicholas Hiza, Director of Development  
 Michael Cressner, Business Development Manager  
 Andrew Duszak, GIS Analyst

**D.2.1.4 Meteorology**

Al Germain, Head of Technology and Resource Assessment  
Mark Lilly, Manager—Technology and Resource Assessment  
Andrew Duszak, GIS Analyst

**D.2.1.5 Transmission Planning and Interconnection**

Reid Buckley, Vice President  
Nicholas Hiza, Director of Development  
Michael Cressner, Business Development Manager

**D.2.1.6 Construction Management and Engineering**

Ryan McGraw, Manager, Asset Management  
M. Pete Mallonee, Director of Construction and Operations (Independent Contractor)

**D.2.1.7 Origination**

Reid Buckley, Vice President  
Nicholas Hiza, Director of Development  
Michael Cressner, Business Development Manager

**D.2.1.8 Operations, Maintenance, and Asset Management**

Ryan McGraw, Manager, Asset Management  
M. Pete Mallonee, Director of Construction and Operations (Independent Contractor)

**D.2.1.9 Finance and Legal**

Jim Eisen, Vice President and General Counsel  
Lisa Van Velsor, Real Estate Counsel  
Reid Buckley, Vice President  
Emily Molina, Real Estate Manager  
Jennifer Boehrer, Accounting Manager

**D.3 Qualifications of Known Contractors**

**OAR 345-021-0010(1)(d)(C)** *The qualifications of any architect, engineer, major component vendor, or prime contractor upon whom the applicant will rely in constructing and operating the facility, to the extent that the identities of such persons are known when the application is submitted;*

**RESPONSE**

No contractors have been selected as of this date.

**D.3.1 Facility Development and Permitting**

Orion is seeking to construct and operate the Facility the Council approved in the First Amended Site Certificate.

**D.3.2 Facility Design**

Final design of the Facility will be conducted prior to construction, and will take into account site specific data and constraints, including permitting conditions. Orion has not yet chosen a firm for this task. Orion typically selects a firm that is capable of completing design, procurement, and construction management.

**D.3.3 Facility Construction**

As noted above, Orion has not selected a prime contractor for construction of the proposed Facility, but will hire qualified contractors with direct experience in wind energy facility construction to design and build the proposed Facility. Orion also maintains a dedicated internal management team that oversees the construction contractor.

**D.4 Applicant's Past Performance**

**OAR 345-021-0010(1)(d)(D)** *The past performance of the applicant, including but not limited to the number and severity of any regulatory citations in constructing or operating a facility, type of equipment, or process similar to the proposed facility;*

**RESPONSE**

Orion Renewables has a long history of developing wind power projects in the United States, as described in Section D.1 above and incorporated here by reference. There have been no regulatory citations in constructing or operating a facility, type of equipment, or process similar to the proposed facility.

**D.5 Applicant With No Previous Experience**

**OAR 345-021-0010(1)(d)(E)** *If the applicant has no previous experience in constructing or operating similar facilities and has not identified a prime contractor for construction or operation of the proposed facility, other evidence that the applicant can successfully construct and operate the proposed facility. The applicant may include, as evidence, a warranty that it will, through contracts, secure the necessary expertise; and*

**RESPONSE**

OAR 345-021-0010(1)(d)(E) is not applicable.



**D.6 ISO-Certified Program**

**OAR 345-021-0010(1)(d)(F)** *If the applicant has an ISO 9000 or ISO 14000 certified program and proposes to design, construct and operate the facility according to that program, a description of the program;*

**RESPONSE**

Orion does not have an ISO 9000 or ISO 14000 certified program.

**D.7 Mitigation**

**OAR 345-021-0010(1)(d)(G)** *If the applicant relies on mitigation to demonstrate compliance with any standards of Division 22 or 24 of this chapter, evidence that the applicant can successfully complete such proposed mitigation, including past experience with other projects and the qualifications and experience of personnel upon whom the applicant will rely, to the extent that the identities of such persons are known at the date of submittal.*

**RESPONSE**

Orion will oversee and ensure that identified mitigation actions are successfully implemented. Orion's organizational expertise and ability to hire qualified contractors provide sufficient evidence upon which EFSC can conclude Certificate Holder can successfully complete the mitigation imposed as a part of the First Amended Site Certificate.

**EXHIBIT M**  
**FINANCIAL ANALYSIS**

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**Table of Contents**

Introduction ..... M-1  
M.1 Opinion of Legal Counsel ..... M-1  
M.2 Bond, Security, or Other Financial Instrument ..... M-1  
M.3 Evidence of Reasonable Likelihood of Obtaining Security ..... M-1

**Attachment**

Attachment M1: Legal Opinion on Authority to Construct  
Attachment M2: Bank Letter re Financial Assurance

## Introduction

This exhibit presents information about Orion's financial capability, providing evidence to support a finding by the EFSC as required by OAR 345-022-0050(2) and responds to the requirements of OAR 345-021-0010(1)(m), as follows:

**OAR 345-021-0010(1)(m)** *Information about the applicant's financial capability, providing evidence to support a finding by the Council as required by OAR 345-022-0050(2). Nothing in this subsection shall require the disclosure of information or records protected from public disclosure by any provision of state or federal law. The applicant shall include:*

### M.1 Opinion of Legal Counsel

**OAR 345-021-0010(1)(m)(A)** *An opinion or opinions from legal counsel stating that, to counsel's best knowledge, the applicant has the legal authority to construct and operate the facility without violating its bond indenture provisions, articles of incorporation, common stock covenants, or similar agreements;*

#### **RESPONSE**

An opinion, conforming with the requirements of OAR 345-021-0010, from Orion's legal counsel is included in Attachment M1.

### M.2 Bond, Security, or Other Financial Instrument

**OAR 345-021-0010(1)(m)(B)** *The type and amount of the applicant's proposed bond or letter of credit to meet the requirements of OAR 345-022-0050; and*

#### **RESPONSE**

Prior to construction of the Facility, Orion will submit a bond, bonds, or letter(s) of credit equal to the amount required for the net requirement cost provided in Condition IV.C.4 of the First Amended Site Certificate. The bond(s) or letter(s) of credit will be provided in a form approved by the EFSC and will assure that adequate funds will be available to retire the Facility and appropriately restore the site following the termination of operation. The bond(s) or letter(s) of credit will be annually adjusted for inflation according to the Gross Domestic Product Implicit Price Deflator Index.

### M.3 Evidence of Reasonable Likelihood of Obtaining Security

**OAR 345-021-0010(1)(m)(C)** *Evidence that the applicant has a reasonable likelihood of obtaining the proposed bond or letter of credit in the amount proposed in paragraph (B), before beginning construction of the facility.*

**RESPONSE**

Orion obtained a letter from one of Orion's banks that demonstrates the reasonable likelihood of obtaining bond(s) or letter(s) of credit equaling or exceeding the amount required for site restoration as set forth in Condition IV.C.4 in the First Amended Site Certificate. This letter is included as Attachment M2.

Orion's parent company, Orion Renewable Energy Group ("Orion Renewable"), has demonstrated ability to finance wind power plants across the nation. Over the past 15 years, Orion Renewables and its principals have secured financing for wind farms throughout the United States. In some cases, Orion Renewables has negotiated deals with utilities to finance a project (e.g., the 450 MW Biglow Canyon Wind Farm in Oregon, now owned and operated by Portland General Electric). In other cases, third party owner/operators have provided the financing (e.g., the 144 MW Uinta County Wind Farm in Wyoming, operated and operated by NextEra Energy). In still other cases, a related company, Orion Energy Group LLC ("Orion Energy"), has retained ownership interests in wind facilities and served as the managing member and asset manager (e.g., the 150 MW Camp Grove Wind Farm in Illinois and the 130 MW Benton County Wind Farm in Indiana). Orion Energy raised approximately \$600 million dollars to finance the Camp Grove and Benton County wind projects.

**ATTACHMENT**

**Attachment M1: Legal Opinion on Authority to Construct**

**ORION WIND RESOURCES LLC**

---

c/o Orion Renewable Energy Group LLC  
155 Grand Avenue, Suite 706  
Oakland, CA 94612  
Phone: 510-267-8921  
Fax: 510-267-8911

June 12, 2014

Oregon Department of Energy  
625 Marion Street, N.E.  
Salem, Oregon 97310

**Re: Site Certificate Transfer and Amendment Request - Golden Hills Wind Project**

Dear Sir or Madam:

I am Vice President of Orion Wind Resources LLC, responsible for legal matters of its direct and indirect subsidiaries, including Orion Golden Hills Wind Farm LLC, a Delaware limited liability company ("Orion"). Orion acquired the ownership interest of Golden Hills Wind Farm LLC, a Delaware limited liability company ("Certificate Holder"), the entity holding the First Amended Site Certificate for the Golden Hills Wind Project (the "Facility"). Orion is submitting this Site Certificate Transfer and Amendment Request to the Oregon Energy Facility Siting Council for the Facility, which is located in Sherman County, Oregon.

I have examined originals or copies certified or otherwise identified to my satisfaction of the books and records of Orion and Certificate Holder and such other documents, limited liability company records, and other instruments regarding Orion and Certificate Holder as I have deemed necessary and appropriate for the purposes of this opinion.

In rendering this opinion expressed below, I have (a) relied on that certain opinion letter from BP America Inc. to the Oregon Department of Energy dated July 19, 2007 and (b) assumed (i) the authenticity of all the documents submitted to me as original and (ii) the conformity to original documents of all documents submitted to me as copies.

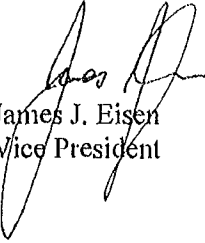
Based on the foregoing, to the best of my knowledge, I am of the opinion that, subject to compliance by Certificate Holder with all applicable federal, state and local laws (including all rules and regulations promulgated thereunder), Certificate Holder has the legal authority to construct and operate the Facility without violating its articles of incorporation, operating agreements, or similar agreements.

I am an active member of the California Bar. By issuing this opinion, I do not hold myself out as an expert in, and am not expressing an opinion with respect to, the law of any jurisdiction other than the law of the State of California.

Oregon Department of Energy  
June 12, 2014  
Page 2

Further, I express no opinion as to the applicability of, or compliance with, any federal, state or local laws (including all rules and regulations promulgated thereunder) to such construction and operation or as to the effects of the foregoing laws on such construction and operation.

Very truly yours,



James J. Eisen  
Vice President

**ATTACHMENT**

**Attachment M2: Bank Letter re Financial Assurance**





National CleanTech  
400 Hamilton Avenue, Suite 210  
Palo Alto, CA 94301

Fax: 650 855 6638

June 12, 2014

Oregon Energy Facility Siting Council  
Oregon Department of Energy  
625 Marion St. NE  
Salem, OR 97301-3742

**Re: Financial Assurance Requirements for Golden Hills Wind Project**

Dear EFSC Council Members:

Wells Fargo Bank, N.A. has a long standing business banking relationship with Orion Renewable Energy Group LLC ("Orion Renewable"), the parent company of Orion Golden Hills Wind Farm LLC, the legal entity who recently acquired the Golden Hills Wind Project and full ownership of Golden Hills Wind Farm LLC, the holder of the First Amended Site Certificate for the Golden Hills Wind Project. Orion Renewable and related companies have been, and continue to be, in good standing at Wells Fargo Bank.

Based upon the current dollars on deposit at Wells Fargo Bank and subject to acceptable pricing, terms and requisite approvals, Wells Fargo Bank would be willing to arrange a standby letter of credit in an amount up to \$16.491 million for the purpose of ensuring that the site of the Golden Hills Wind Project can be restored to a useful non-hazardous condition. Wells Fargo Bank believes Orion Renewable has a reasonable likelihood of obtaining this financial assurance upon request.

Sincerely,

Kyle J. Button  
Vice President  
Wells Fargo Bank, N.A.

cc: Jim Eisen, Orion Renewable Energy Group LLC

This letter is not intended to be, and should not be construed as, a commitment to lend, nor should it be construed as an attempt to establish all of the terms and conditions relating to a potential credit facility. It is intended only to be indicative of certain terms and conditions which credit approval may be sought, and once approved, how the Loan Documents might be structured, and not to preclude negotiations within the general scope of these terms and conditions. The Loan Documents containing final terms and conditions will be subject to approval by the Borrower and Wells Fargo.

Together we'll go far



ATTACHMENT 3

# Redline Existing Site Certificate

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**BEFORE THE  
ENERGY FACILITY SITING COUNCIL  
OF THE STATE OF OREGON**

IN THE MATTER OF THE REQUEST FOR  
AMENDMENT #1 OF THE SITE CERTIFICATE FOR  
THE GOLDEN HILLS WIND PROJECT

FINAL ORDER  
APPROVING AMENDMENT #1

Issued by  
**OREGON ENERGY FACILITY SITING COUNCIL**  
May 11, 2012

## TABLE OF CONTENTS

	Page
I. INTRODUCTION .....	1
II. DESCRIPTION OF THE PROPOSED AMENDMENT .....	1
A. The Site Certificate and Proposed Amendment.....	1
B. Amendment Procedure.....	1
C. Amendments to the Site Certificate as Proposed by the Certificate Holder .....	3
III. REVIEW PROCESS.....	4
A. The Site Certificate .....	4
B. Amendment Process.....	4
C. Comments on the Request for Amendment.....	5
1. Permits Required for Construction .....	6
2. Process for Reviewing Proposed Extensions to Construction Beginning and Ending Dates .....	6
3. Property Ownership and Transmission Line Construction.....	7
4. Golden Hills Wind Farm LLC .....	7
5. Sherman County Setback Ordinance .....	7
6. Responses Not Offering Commentary on the Request for Amendment.....	8
D. Comments on the Proposed Order .....	8
1. Donald Hilderbrand, Request for Contested Case (withdrawn) .....	8
2. Elaine Albrich, Comment in Response to Request for Contested Case.....	9
IV. COUNCIL SITING STANDARDS: DISCUSSION AND CONCLUSIONS .....	9
A. General Standard of Review .....	10
B. Organizational Expertise, OAR 345-022-0010.....	10
C. Retirement and Financial Assurance, OAR 345-022-0050 .....	11
D. Land Use, OAR 345-022-0030 .....	12
E. Soil Protection, OAR 345-022-0022.....	15
F. Protected Areas, OAR 345-022-0040 .....	16
G. Scenic Resources, OAR 345-022-0080 .....	18
H. Recreation, OAR 345-022-0100 .....	18
I. Public Health and Safety Standards for Wind Energy Facilities, OAR 345-024-0010 .....	19
J. Siting Standards for Wind Energy Facilities, OAR 345-024-0015 .....	20
K. Siting Standards for Transmission Lines, OAR 345-024-0090 .....	21
L. Threatened and Endangered Species, OAR 345-022-0070 .....	21
M. Fish and Wildlife Habitat, OAR 345-022-0060.....	22
V. STANDARDS NOT APPLICABLE TO SITE CERTIFICATE ELIGIBILITY .....	23
A. Structural Standard, OAR 345-022-0020 .....	23
B. Historic, Cultural and Archaeological Resources, OAR 345-022-0090.....	24
C. Public Services, OAR 345-022-0110.....	24
D. Waste Minimization, OAR 345-022-0120.....	25
VI. OTHER APPLICABLE REGULATORY REQUIREMENTS: DISCUSSION AND CONCLUSIONS.....	26

**TABLE OF CONTENTS**  
(continued)

	<b>Page</b>
A. Requirements under Council Jurisdiction.....	26
1. Noise Control Regulations for Industry and Commerce, OAR 340-035-0035 .....	26
2. Removal-Fill Law .....	27
3. Ground Water Act.....	27
4. Public Health and Safety.....	28
B. Requirements That Are Not Under Council Jurisdiction.....	29
1. Federally-Delegated Programs.....	29
2. Requirements That Do Not Relate to Siting .....	29
VII. CONDITIONS REQUIRED BY COUNCIL RULES .....	29
VIII. GENERAL CONCLUSION .....	30
A. ODOE's Recommended Revisions.....	30
IX. ORDERS.....	31

**GOLDEN HILLS WIND PROJECT  
FINAL ORDER DENYING A CONTESTED CASE PROCEEDING  
AND APPROVING AMENDMENT #1**

**I. INTRODUCTION**

The Oregon Energy Facility Siting Council (“Council” or “EFSC”) issues this order in accordance with ORS 469.405 and OAR 345-027-0070. This order addresses a request by Golden Hills Wind Farm LLC (“Certificate Holder” or “GHWF”) for Amendment #1 to the Site Certificate for the Golden Hills Wind Project (“Site Certificate”). The Golden Hills Wind Project (“Facility” or “Golden Hills”) is a proposed wind-energy generation facility in Sherman County, Oregon.

In its Request for Amendment (“RFA”), GHWF requests to extend by 24 months the deadline to begin construction and to extend by 24 months the deadline to end construction.<sup>1</sup> No other changes to the Facility are proposed as a part of the RFA.

The Council approves Amendment #1 and issues an amended site certificate for Golden Hills, subject to the terms and conditions set forth in this order.

The definitions in ORS 469.300 and OAR 345-001-0010 apply to terms used in this order.

**II. DESCRIPTION OF THE PROPOSED AMENDMENT**

**A. The Site Certificate and Proposed Amendment**

The Golden Hills Wind Project is a proposed wind-energy generation facility with electrical capacity of up to 400 megawatts. The Facility would consist of up to 267 wind turbines as well as various related and supporting facilities located within permitted survey corridors on approximately 30,000 acres of privately owned, Exclusive Farm Use land both east and west of Highway 97, between the cities of Wasco and Moro in Sherman County, Oregon.

GHWF requests an amendment to the Site Certificate to extend the construction deadlines contained in Conditions III.D.1 and III.D.2 of the Site Certificate. If approved, the amendment would extend the deadline for beginning construction from June 18, 2012 to June 18, 2014, and the deadline for completing construction from June 18, 2015 to June 18, 2017.

**B. Amendment Procedure**

OAR 345-027-0030 establishes the requirements for a certificate holder to request an extension of the deadlines for beginning and completing construction.

---

<sup>1</sup> Certificate Holder’s Request for Amendment No. 1 to Golden Hills Wind Project Site Certificate.

**OAR 345-027-0030**

**Amendment to Extend Construction Beginning and Completion Deadlines**

*(1) The certificate holder may request an amendment to extend the deadlines for beginning or completing construction of the facility that the Council has specified in a site certificate or an amended site certificate. The certificate holder shall submit a request that conforms to the requirements of 345-027-0060 no later than six months before the date of the applicable deadline, or, if the certificate holder demonstrates good cause for the delay in submitting the request, no later than the applicable deadline.*

*(2) A request within the time allowed in section (1) to extend the deadlines for beginning or completing construction suspends those deadlines until the Council acts on the request.*

*(3) The Council shall review the request for amendment as described in OAR 345-027-0070.*

*(4) If the Council grants an amendment under this rule, the Council shall specify new deadlines for beginning or completing construction that are not more than two years from the deadlines in effect before the Council grants the amendment.*

*(5) To grant an amendment extending the deadline for beginning or completing construction of an energy facility subject to OAR 345-024-0550, 345-024-0590, or 345-024-0620, the Council must find that the facility complies with the carbon dioxide standard in effect at the time of the Council's order on the amendment.*

Pursuant to these rules, the Council may grant an extension of no more than two years from the current deadlines for beginning or completing construction. OAR 345-027-0030(1) requires a certificate holder to submit the request “no later than six months before the date of the applicable deadline, or, if a certificate holder demonstrates good cause for the delay in submitting the request, no later than the applicable deadline.” Under the Site Certificate, the deadline to begin construction of Golden Hills is June 18, 2012 (Condition III.D.1).<sup>2</sup>

As discussed under the procedural history above in Section II.A, GHWF submitted the RFA on December 8, 2011, and ODOE deemed the request officially filed on December 15, 2011, more than six months before the deadline for beginning construction found in Condition III.D.1, thus meeting the timeliness requirement of OAR 345-027-0030(1). The Council finds that the RFA to extend the respective deadlines for beginning and completing construction was filed in a timely manner.

---

<sup>2</sup> Condition III.D.1 states: “The certificate holder shall begin construction of the facility within three years after the effective date of the site certificate. Under OAR 345-015-0085 (8), a site certificate is effective upon execution by the Council Chair and the applicant.” The effective date of the site certificate is June 18, 2009.

OAR 345-027-0070(10) provides:

*In making a decision to grant or deny issuance of an amended site certificate, the Council shall apply the applicable substantive criteria, as described in OAR 345-022-0030, in effect on the date the certificate holder submitted the request for amendment and all other state statutes, administrative rules, and local government ordinances in effect on the date the Council makes its decision.*

Under OAR 345-027-0070(10)(b), for an amendment that extends the deadlines for beginning or completing construction, the Council must consider:

*“(A) Whether the Council has previously granted an extension of the deadline.”*

The Council has not previously granted an extension of either deadline. The currently effective deadlines that the Certificate Holder proposes to amend (to begin construction by June 18, 2012 and to complete construction by June 18, 2015) are as found in the original site certificate for Golden Hills.

*“(B) Whether there has been any change of circumstances that affects a previous Council finding that was required for issuance of a site certificate or amended site certificate.”*

Based on the findings discussed under Sections IV and V below, the Council finds that there has not been any change of circumstances that affects a previous Council finding that was required for issuance of the Site Certificate or amended site certificate.

*“(C) Whether the facility complies with all Council standards...”*

In Sections IV and V below, we discuss compliance of the facility with all Council standards, as required under OAR 345-027-0070(10).

### **C. Amendments to the Site Certificate as Proposed by the Certificate Holder**

GHWF proposes the following amendments to conditions included in the Site Certificate. Proposed additions are shown in double-underlined bold typeface and proposed deletions have a strikethrough.

#### ***D. CONSTRUCTION DEADLINES***

*The certificate holder shall satisfy the following administrative conditions:*

*(III.D.1) The certificate holder shall begin construction of the facility by June 18, ~~2014~~2016 Under OAR 345-015-0085(9), an amended site certificate is effective upon execution by the Council Chair and the applicant. The Council may grant an extension of the deadline to begin construction in accordance with OAR 345-027-0030 or any successor rule in effect at the time the request for extension is submitted. [Amendment 1] [Amendment 2]*



(III.D.2) *The certificate holder shall complete construction of the facility by June 18, ~~2017~~**2019**. Construction is complete when (1) the facility is substantially complete as defined by the certificate holder's construction contract documents; (2) acceptance testing has been satisfactorily completed; and (3) the energy facility is ready to begin continuous operation consistent with the site certificate. The certificate holder shall promptly notify the Department of the date of completion of construction. The Council may grant an extension of the deadline for completing construction in accordance with OAR 345-027-0030 or any successor rule in effect at the time the request for extension is submitted. [Amendment 1] [Amendment 2]*

### **III. REVIEW PROCESS**

#### **A. The Site Certificate**

The Council issued the Final Order on the Application for Site Certificate for Golden Hills on May 15, 2009. The Site Certificate became effective upon execution by the signatures of EFSC Chair Robert Shiprack and Reid M. Buckley of Golden Hills Wind Farm LLC on June 18, 2009.<sup>3</sup>

This order is for GHWF's first and current request for amendment of its Site Certificate, Amendment #1.

#### **B. Amendment Process**

On December 8, 2011, GHWF submitted a request to ODOE to amend the Site Certificate to extend the construction deadlines. ODOE and GHWF consulted on the preliminary RFA, and on December 15, 2012, ODOE deemed the RFA officially filed consistent with discussions with GHWF.<sup>4</sup>

On December 30, 2011, the Certificate Holder sent copies of the RFA to reviewing agencies, with an attached memorandum from ODOE requesting agency comments by January 31, 2012. ODOE received three responses from reviewing agencies during the comment period on the RFA.

On December 30, 2011, ODOE sent notice of the RFA to all persons on the Council's general mailing list, to persons on the mailing list established for the facility, and to an updated list of property owners supplied by the Certificate Holder. ODOE requested public comments by January 30, 2012. ODOE received six responses to this notice during the comment period on the RFA.

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<sup>3</sup> ORS 469.300(26) defines a site certificate as "the binding agreement between the State of Oregon and the applicant, authorizing the applicant to construct and operate a facility on an approved site, incorporating all conditions imposed by the Council on the applicant."

<sup>4</sup> Letter re: "Golden Hills Site Certificate Amendment Request" from Elaine Albrich to Chris Green, December 23, 2011.

ODOE analyzed the RFA for compliance with all applicable Council standards and issued a Proposed Order containing recommended findings and conclusions on February 24, 2012. In the Proposed Order ODOE recommended that the Council approve the amendment request, subject to recommended revisions of the site certificate. On the same day, ODOE issued a notice of the proposed order in accordance with OAR 345-027-0070, specifying a March 26, 2012 deadline for public comments and requests for a contested case proceeding.

ODOE received two responses to this notice during the comment period on the Proposed Order, including one request for a contested case. The request for contested case was subsequently withdrawn on April 18, 2012.

On May 11, 2012, the Council took action on the request for contested case and request for amendment during its regular meeting in Hermiston, Oregon.

### **C. Comments on the Request for Amendment**

The following nine reviewing agencies, members of the public, and representatives of the Certificate Holder responded to ODOE's notice of the RFA:

#### Reviewing Agencies

Susie Anderson, Gilliam County Planning Director<sup>5</sup>  
Georgia Macnab, Sherman County Planning Director<sup>6</sup>  
Krista Ratliff, Oregon Department of Environmental Quality, Eastern Region<sup>7</sup>  
Charles Redon, Oregon Department of State Lands<sup>8</sup>

#### Public Comments

Joe Basargin, AFC Windows and Roofing, Inc.<sup>9</sup>  
J. Thomas Coats, Dunn, Toole, Carter & Coats, LLP, on behalf of Reatha S. Coats<sup>10</sup>  
Irene Gilbert<sup>11</sup>  
Donald Hilderbrand<sup>12</sup>  
Dennis Wilkinson, Friends of the Grande Ronde Valley<sup>13</sup>

#### Certificate Holder

Elaine Albrich, Stoel Rives LLP<sup>14</sup>

<sup>5</sup> Email from Susie Anderson, January 19, 2012.

<sup>6</sup> Phone conversations between Georgia Macnab and Chris Green on January 24, 2012 and February 1, 2012.

<sup>7</sup> Email from Krista Ratliff, January 25, 2012.

<sup>8</sup> Email from Charles Redon, January 20, 2012.

<sup>9</sup> Email from Joe Basargin, January 2, 2012.

<sup>10</sup> Letter from J. Thomas Coats, January 23, 2012.

<sup>11</sup> Email from Irene Gilbert, January 3, 2012.

<sup>12</sup> Emails from Donald Hilderbrand, December 29, 2011 and January 26, 2012.

<sup>13</sup> Letter from Dennis Wilkinson, January 2, 2012.

## 1. Permits Required for Construction

In her comments, Krista Ratliff identified the National Pollutant Discharge Elimination System (NPDES) 1200-C permit requirement for construction activities. This permit includes requirements for erosion and sediment control. All phases of construction at Golden Hills are subject to Condition IV.E.1 of the Site Certificate, which requires the Certificate Holder to conduct all construction work in compliance with an Erosion and Sediment Control Plan (ECSP) satisfactory to the Oregon Department of Environmental Quality (DEQ) and as required under the NPDES 1200-C permit. Ms. Ratliff's comments raised no other concerns regarding the proposed amendment.

In his comments, Charles Redon of Oregon Department of State Lands (DSL) noted that DSL had no record of a removal-fill permit for Golden Hills. Section VI(A)(2) of the *Golden Hills Wind Project Final Order*, dated May 15, 2009 ("Final Order") discusses the Certificate Holder's compliance with Oregon Removal-Fill Law<sup>15</sup> and regulations.<sup>16</sup> After initially applying for a removal-fill permit, a wetland delineation report was prepared and GHWF confirmed that it would avoid all permanent and temporary impacts to wetlands. Specifically, GHWF concluded it would avoid impacts to identified wetlands by boring wetland/waterway crossings and would no longer require a removal-fill permit in connection with construction of the proposed facility. DSL concurred with that conclusion in a comment in the record of the Final Order.<sup>17</sup>

## 2. Process for Reviewing Proposed Extensions to Construction Beginning and Ending Dates

Dennis Wilkinson, Chairman of Friends of the Grande Ronde Valley submitted a letter advocating for "serious constraints and requirements" based on hypothetical changes to regulations, financing issues, and other considerations during the two year period covered by the proposed extension. Mr. Wilkinson states that the Friends of the Grande Ronde Valley's position is that "the project must be withdrawn and resubmitted in its entirety," and that amendment requirements favor the developer.

Irene Gilbert of La Grande, Oregon submitted a similar comment by email, objecting to the proposed extension based on unspecified future changes to "legislation regarding wind farms," future results of "extensive current research being done on impacts of wind farms on health, wildlife, and multiple other issues," and the uncertainties that may be caused if these changes occur.

The Council addressed similar comments in the *Helix Wind Power Facility Final Order Denying a Contested Case Proceeding and Approving Amendment #1* (Final Order on Helix

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(. . . continued)

<sup>14</sup> Letter from Elaine Albrich, January 30, 2012.

<sup>15</sup> ORS 196.800 through 990.

<sup>16</sup> OAR 141-085-0500 through -0785.

<sup>17</sup> Email from Jess Jordan, DSL, January 15, 2008.

Amendment #1) in 2011. Under OAR 345-027-0070(10), the Council must consider whether the RFA complies with all Council standards in place at the time of the RFA, rather than speculative changes to legal or market conditions. As stated in response to similar comments in the Final Order on Helix Amendment #1, commenters may be arguing for a change in policy on how amendments are reviewed by the Council. Such a change to Council policy would be undertaken by rulemaking.

### **3. Property Ownership and Transmission Line Construction**

Donald Hilderbrand of Wasco, Oregon, expressed concern that his property was included in the Golden Hills project without being subject to the Certificate Holder's lease. A review of the record indicates that Mr. Hilderbrand is listed as the owner of a parcel within the site boundary but not currently under lease by the Certificate Holder. However, GHWF may not begin construction on the subject parcel until it has construction rights on that part of the site. This requirement is a mandatory condition under Council rules and is codified in the Site Certificate under Condition VII.5.<sup>18</sup> This RFA does not propose to revise Condition VII.5.

### **4. Golden Hills Wind Farm LLC**

Elaine Albrich, attorney for the Certificate Holder, submitted a comment letter on January 30, 2012 in response to some of the issues raised by earlier commenters. Ms. Albrich asserted that the issue raised by Ms. Gilbert's comment did not justify a contested case proceeding under Council rules.<sup>19</sup> Ms. Albrich's letter also raises questions concerning the applicability of Sherman County Ordinance #39-2007 to the Facility. This subject is discussed further under the Land Use Standard in Section IV.D of this order.

### **5. Sherman County Setback Ordinance**

On November 21, 2007, Sherman County adopted Ordinance #39-2007, requiring that wind energy facilities meet specific setback requirements or otherwise obtain agreements for mutually negotiated setbacks or variances to allow for lesser setbacks ("Setback Ordinance").<sup>20</sup>

In addition to Ms. Albrich's comments described above, J. Thomas Coats, an attorney representing Mrs. Reatha S. Coats, also raised the issue of the Setback Ordinance. Mr. Coats submitted a comment letter in response to the RFA stating Mrs. Coats' support of the Facility, as well as her belief that "it is important that the Golden Hills project be subject to the Sherman County set-back requirements for turbine placement." Georgia Macnab, Planning Director for Sherman County, contacted ODOE staff and discussed the applicability of the Sherman County Setback Ordinance to the proposed Amendment #1 and the process by which the Setback Ordinance was adopted.

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<sup>18</sup> OAR 345-027-0020(5) . OAR 345-001-0010 defines "construction."

<sup>19</sup> Ms. Albrich's letter references OAR 345-027-0070(7) and OAR 345-027-0080(9) on this point.

<sup>20</sup> In the Final Order, Council found that the Setback Ordinance did not apply to GHWF's ASC, which had been prior to Sherman County's adoption of the Setback Ordinance.

As mentioned above, the issue of the applicability of the Setback Ordinance, and the Certificate Holder's ability to demonstrate compliance with the Setback Ordinance is discussed further in relation to the Land Use standard in Section IV.D of this order.

## **6. Responses Not Offering Commentary on the Request for Amendment**

In her comments, Susie Anderson stated that the Gilliam County Planning Department had reviewed the RFA and had no objections or comments.

Joe Basargin of AFC Windows and Roofing, Inc. submitted an email request for further information on additional information and documentation on the project. In a subsequent phone conversation Mr. Basargin advocated for incorporation of solar energy development on the project site. ODOE staff clarified that the Council has no role in proposing new energy projects and directed him to general information on the Council review process.<sup>21</sup>

### **D. Comments on the Proposed Order**

The following members of the public and representatives of the Certificate Holder responded to ODOE's notice of the Proposed Order:

#### Public Comment

Donald Hilderbrand<sup>22</sup>

#### Certificate Holder

Elaine Albrich, Steel Rives LLP<sup>23</sup>

### **1. Donald Hilderbrand, Request for Contested Case (withdrawn)**

During the comment period on the draft Proposed Order, Donald Hilderbrand submitted a request for contested case. Mr. Hilderbrand's request focused primarily on concerns related to the inclusion of his property within the site certificate boundary for the Facility without a lease or other agreement in place between himself and the Certificate Holder.

Prior to presenting the Proposed Order for Council action, ODOE received a letter from Mr. Hilderbrand stating that he had reached an agreement with the Certificate Holder and withdrawing his request for contested case.<sup>24</sup>

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<sup>21</sup> Email from Chris Green to Joe Basargin, January 4, 2012.

<sup>22</sup> Letter received as an email attachment from Donald Hilderbrand, March 22, 2012. In the body of the email Mr. Hilderbrand states that this email should supersede "all previous." As such, ODOE reviewed the letter attached to this email in place of almost identical content contained in a hardcopy comment letter received February 28, 2012 and an email received March 21, 2012. These earlier comments are maintained in the record for the purpose of documenting the sequence of correspondence.

<sup>23</sup> Letter from Elaine Albrich, March 26, 2012.

## 2. Elaine Albrich, Comment in Response to Request for Contested Case

Ms. Albrich submitted a comment letter on behalf of the Certificate Holder responding to the request for contested case and requesting that the Council deny the contested case proceeding and approve Amendment #1. In the letter, Ms. Albrich argues that the request for contested case does not identify significant issues specific to the proposed amendment and that Mr. Hilderbrand's property rights concerns are already addressed by existing Site Certificate conditions.

Although Ms. Albrich's comment letter remains in the record, it does not address any issues other than those presented by Mr. Hilderbrand in his since-withdrawn request for contested case.

## IV. COUNCIL SITING STANDARDS: DISCUSSION AND CONCLUSIONS

The Council must decide whether the amendment complies with the facility siting standards adopted by the Council. In addition, the Council must impose conditions for the protection of the public health and safety, for the time of commencement and completion of construction, and for ensuring compliance with applicable standards, statutes and rules.<sup>25</sup>

The Council is not authorized to determine compliance with regulatory programs that have been delegated to another state agency by the federal government.<sup>26</sup> Nevertheless, the Council may consider these programs in the context of its own standards to ensure public health and safety, resource efficiency, and protection of the environment.

The Council has no jurisdiction over design or operational issues that do not relate to siting, such as matters relating to employee health and safety, building code compliance, wage and hour or other labor regulations, or local government fees and charges.<sup>27</sup>

In making its decision on an amendment of a site certificate, the Council applies the applicable state statutes, administrative rules and local government ordinances that are in effect on the date the Council makes its decision, except when applying the Land Use standard. In making findings on the Land Use standard, the Council applies the applicable substantive criteria in effect on the date the Certificate Holder submitted the RFA.<sup>28</sup>

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(... continued)

<sup>24</sup> Letter from Donald Hilderbrand to Chris Green withdrawing contested case request, received April 23, 2012.

<sup>25</sup> ORS 469.401(2)

<sup>26</sup> ORS 469.503(3)

<sup>27</sup> ORS 469.401(4)

<sup>28</sup> OAR 345 027 0070(9)

**A. General Standard of Review. OAR 345-022-0000**

*(1) To issue a site certificate for a proposed facility or to amend a site certificate, the Council shall determine that the preponderance of evidence on the record supports the following conclusions:*

*(a) The facility complies with the requirements of the Oregon Energy Facility Siting statutes, ORS 469.300 to ORS 469.570 and 469.590 to 469.619, and the standards adopted by the Council pursuant to ORS 469.501 or the overall public benefits of the facility outweigh the damage to the resources protected by the standards the facility does not meet as described in section (2);*

*(b) Except as provided in OAR 345-022-0030 for land use compliance and except for those statutes and rules for which the decision on compliance has been delegated by the federal government to a state agency other than the Council, the facility complies with all other Oregon statutes and administrative rules identified in the project order, as amended, as applicable to the issuance of a site certificate for the proposed facility. If the Council finds that applicable Oregon statutes and rules, other than those involving federally delegated programs, would impose conflicting requirements, the Council shall resolve the conflict consistent with the public interest. In resolving the conflict, the Council cannot waive any applicable state statute.*

The requirements of OAR 345-022-0000 are discussed in the sections that follow. Applicable statutes and rules of agencies other than EFSC are discussed below, in Section V.A of this order. The proposed amendment does not affect any permits issued by agencies other than EFSC.

**B. Organizational Expertise, OAR 345-022-0010**

*(1) To issue a site certificate, the Council must find that the applicant has the organizational expertise to construct, operate and retire the proposed facility in compliance with Council standards and conditions of the site certificate. To conclude that the applicant has this expertise, the Council must find that the applicant has demonstrated the ability to design, construct and operate the proposed facility in compliance with site certificate conditions and in a manner that protects public health and safety and has demonstrated the ability to restore the site to a useful, non-hazardous condition. The Council may consider the applicant's experience, the applicant's access to technical expertise and the applicant's past performance in constructing, operating and retiring other facilities, including, but not limited to, the number and severity of regulatory citations issued to the applicant.*

*(2) The Council may base its findings under section (1) on a rebuttable presumption that an applicant has organizational, managerial and technical expertise, if the applicant has an ISO 9000 or ISO 14000 certified program and proposes to design, construct and operate the facility according to that program.*

*(3) If the applicant does not itself obtain a state or local government permit or approval for which the Council would ordinarily determine compliance but instead relies on a*

*permit or approval issued to a third party, the Council, to issue a site certificate, must find that the third party has, or has a reasonable likelihood of obtaining, the necessary permit or approval, and that the applicant has, or has a reasonable likelihood of entering into, a contractual or other arrangement with the third party for access to the resource or service secured by that permit or approval.*

*(4) If the applicant relies on a permit or approval issued to a third party and the third party does not have the necessary permit or approval at the time the Council issues the site certificate, the Council may issue the site certificate subject to the condition that the certificate holder shall not commence construction or operation as appropriate until the third party has obtained the necessary permit or approval and the applicant has a contract or other arrangement for access to the resource or service secured by that permit or approval.*

## **Discussion**

The first two sections of the Organizational Standard require that the Certificate Holder demonstrate its ability to construct, operate and retire the Facility in accordance with Council standards and the terms of the site certificate. GHWF has proposed no change to the site, the Facility, or its construction or operation. We address retirement below, in the discussion of the Council's Retirement and Financial Assurance standard.

Sections 3 and 4 of the standard address permits for which the applicant will rely on a permit or approval issued to a third party. GHWF has proposed no change to the site, the Facility, or its construction or operation that would rely on a permit or approval issued to a third party.

Because GHWF has proposed no change to the site, the Facility, or its construction or operation, the Council finds that the findings in the Final Order on the Application are sufficient to demonstrate compliance with the Organizational Expertise standard.

## **Conclusion**

The Council finds that the Certificate Holder would meet the Council's Organizational Expertise standard if Amendment #1 were approved.

### **C. Retirement and Financial Assurance, OAR 345-022-0050**

*To issue a site certificate, the Council must find that:*

*(1) The site, taking into account mitigation, can be restored adequately to a useful, non-hazardous condition following permanent cessation of construction or operation of the facility.*

*(2) The applicant has a reasonable likelihood of obtaining a bond or letter of credit in a form and amount satisfactory to the Council to restore the site to a useful, non-hazardous condition.*



## Discussion

In Section IV.C of the Final Order on the Application, the Council found that the Certificate Holder demonstrated that it could adequately restore the site to a useful, non-hazardous condition following facility retirement. The Council imposed 10 Site Certificate conditions in Section IV.C of the Site Certificate to ensure compliance with the Retirement and Financial Assurance standard. The extension of the deadline to complete construction does not affect the Council's findings that the construction and operation of the Facility will comply with the Retirement and Financial Assurance standard.

Because GHWF has proposed no change to the site, the Facility, or its construction or operation, the Council finds that the findings in the Final Order on the Application are sufficient to demonstrate compliance with the Retirement and Financial Assurance standard.

## Conclusion

The Council finds that the Certificate Holder would meet the Council's Retirement and Financial Assurance standard if Amendment #1 were approved.

### D. Land Use, OAR 345-022-0030

*(1) To issue a site certificate, the Council must find that the proposed facility complies with the statewide planning goals adopted by the Land Conservation and Development Commission.*

*(2) The Council shall find that a proposed facility complies with section (1) if: (a) The applicant elects to obtain local land use approvals under ORS 469.504(1)(a) and the Council finds that the facility has received local land use approval under the acknowledged comprehensive plan and land use regulations of the affected local government; or (b) The applicant elects to obtain a Council determination under ORS 469.504(1)(b) and the Council determines that:*

*(A) The proposed facility complies with applicable substantive criteria as described in section (3) and the facility complies with any Land Conservation and Development Commission administrative rules and goals and any land use statutes directly applicable to the facility under ORS 197.646(3);*

*(B) For a proposed facility that does not comply with one or more of the applicable substantive criteria as described in section (3), the facility otherwise complies with the statewide planning goals or an exception to any applicable statewide planning goal is justified under section (4); or (C) For a proposed facility that the Council decides, under sections (3) or (6), to evaluate against the statewide planning goals, the proposed facility complies with the applicable statewide planning goals or that an exception to any applicable statewide planning goal is justified under section (4).*

*(3) As used in this rule, the "applicable substantive criteria" are criteria from the affected local government's acknowledged comprehensive plan and land use ordinances that are required by the statewide planning goals and that are in effect on the date the*

*applicant submits the application. If the special advisory group recommends applicable substantive criteria, as described under OAR 345-021-0050, the Council shall apply them. If the special advisory group does not recommend applicable substantive criteria, the Council shall decide either to make its own determination of the applicable substantive criteria and apply them or to evaluate the proposed facility against the statewide planning goals.*

*(4) The Council may find goal compliance for a proposed facility that does not otherwise comply with one or more statewide planning goals by taking an exception to the applicable goal. Notwithstanding the requirements of ORS 197.732, the statewide planning goal pertaining to the exception process or any rules of the Land Conservation and Development Commission pertaining to the exception process, the Council may take an exception to a goal if the Council finds:*

*(a) The land subject to the exception is physically developed to the extent that the land is no longer available for uses allowed by the applicable goal;*

*(b) The land subject to the exception is irrevocably committed as described by the rules of the Land Conservation and Development Commission to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable; or*

*(c) The following standards are met:*

*(A) Reasons justify why the state policy embodied in the applicable goal should not apply;*

*(B) The significant environmental, economic, social and energy consequences anticipated as a result of the proposed facility have been identified and adverse impacts will be mitigated in accordance with rules of the Council applicable to the siting of the proposed facility; and*

*(C) The proposed facility is compatible with other adjacent uses or will be made compatible through measures designed to reduce adverse impacts.*

## **Discussion**

In section IV.D of the Final Order on the Application, the Council found that the Certificate Holder demonstrated compliance with the Land Use standard. The Council imposed 21 Site Certificate conditions in section IV.D of the Site Certificate to ensure compliance with the Land Use standard.

GHWF proposes no change to the site, the Facility, or its construction and operation. Accordingly, no circumstance has changed that effect the Council's prior findings of compliance with the Land Use standard, with the exception of the applicability of the Setback Ordinance.

Section II.C.3 of the Final Order on the Application responds to several comments on the Draft Proposed Order that raised concerns about the applicability of the Sherman County

Ordinance #39-2007 ("Setback Ordinance") to the original Application for Site Certificate ("ASC"). In the Final Order on the Application the Council found that the Setback Ordinance was adopted after GHWF submitted its ASC and was therefore not applicable.<sup>29</sup> Council rules provide that when making a decision on an amendment request, the Council shall apply the applicable substantive criteria in effect on the date of the RFA is submitted.<sup>30</sup> "Applicable substantive criteria" are defined in Council rules as:

*"criteria from the affected local government's acknowledged comprehensive plan and land use ordinances that are required by the statewide planning goals and that are in effect on the date the applicant submits the application."*<sup>31</sup>

To the extent the Setback Ordinance falls within the scope of "applicable substantive criteria," it applies to GHWF's RFA as it was adopted prior to GHWF submitting the RFA. In response to comments raising the issue of the applicability of the Setback Ordinance, the Certificate Holder provided a summary of evidence in the record providing reasonable assurance that the Facility as proposed would comply with the Setback Ordinance.<sup>32</sup>

The Certificate Holder's representations of compliance with the ordinance and the Council's adoption of a site certificate condition implementing the Setback Ordinance render the question of the status of the Setback Ordinance as applicable substantive criteria moot.<sup>33</sup> Therefore, the Council finds these documents to be binding commitments made by the Certificate Holder to comply with the Ordinance.<sup>34</sup> The Council further adopts Condition IV.D.22, which

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<sup>29</sup> ORS 469.504(1)(b)(A)

<sup>30</sup> OAR 345 022 0030(2) and (3).

<sup>31</sup> OAR 345 022 030(3).

<sup>32</sup> Elaine Albrich's letter of February 23, 2012 specifically cites (1) a 2008 letter from Sherman County Court to ODOE concerning the applicability of the Setback Ordinance as well as the likelihood of compliance if the Setback Ordinance applied to the Facility; (2) a Cooperation and Waiver Agreement with the adjacent wind development; and (3) project maps showing the location of approved micrositing corridors in relation to project boundaries and cities.

<sup>33</sup> Letters from Elaine Albrich of January 30, 2012 and February 23, 2012 raised questions concerning the applicability of the Setback Ordinance as an applicable substantive criterion, as it was not adopted as a land use decision amending the Sherman County Comprehensive Land Use Plan or Sherman County Zoning Ordinance. The Certificate Holder also questioned whether it is proper to interpret OAR 345 027 0070(10)(b)(C) as triggering a complete "reopener" on an amendment request that only involves an extension of a deadline and no substantive changes to the approved Facility. As a means to resolve concerns raised in public comments, the Certificate Holder is agreeable to the proposed Condition IV.D.22 while retaining its right to raise legal or factual challenges to the applicability of the Setback Ordinance.

<sup>34</sup> OAR 345 027 0020(10) requires the Council to "include as conditions in the site certificate all representations in the site certificate application and supporting record the Council deems to be binding commitments made by the applicant.

implements the Certificate Holder's representations of compliance with the Setback Ordinance as binding commitments.<sup>35</sup>

The Council adds a Condition IV.D.22 as follows:

Prior to construction, Certificate Holder shall demonstrate that the final location of turbines within the micrositing corridors approved by the Council will satisfy setback requirements prescribed by Section 4 of the Sherman County Wind Setback Ordinance (Ordinance No. 39-2007) unless the Council or Oregon Department of Energy has approved a variance to such setback for the turbine or the Certificate Holder has negotiated a setback agreement with the affected adjacent property owner or wind project developer. [Amendment #1]

Because GHWF has proposed no change to the site, the Facility, or its construction or operation, the Council concludes that the findings in the Final Order on the Application are sufficient to demonstrate compliance with the Land Use standard, subject to the addition of Condition IV.D.22 as proposed by ODOE in the Proposed Order.

#### **Conclusion**

The Council finds that Golden Hills would comply with the Council's Land Use standard at OAR 345-022-0030 if Amendment #1 were approved, subject to the addition of Condition IV.D.22 as proposed by ODOE in the Proposed Order.

#### **E. Soil Protection, OAR 345-022-0022**

To issue a site certificate, the Council must find that the design, construction and operation of the facility, taking into account mitigation, are not likely to result in a significant adverse impact to soils including, but not limited to, erosion and chemical factors such as salt deposition from cooling towers, land application of liquid effluent, and chemical spills.

#### **Discussion**

The Council addressed the Soil Protection standard in section IV.E of the Final Order on the Application. The Council imposed six conditions in section IV.E of the Site Certificate to ensure compliance with the Soil Protection standard. The extension of the respective deadlines to begin and to complete construction does not affect the Council's findings that the construction and operation of the facility will be consistent with the Soil Protection standard.

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<sup>35</sup> The Council has previously addressed Ordinance #39 2007 in its final order granting Amendment #3 for Biglow Canyon Wind Farm. In that order the Council applied Ordinance #39 2007 as an applicable substantive criterion and included an implementing condition. That practice is continued here except that this order does not offer a finding on the Ordinance's status as an applicable substantive criterion. The recommended language in the proposed Condition IV.D.22 similar to Condition 128 for Biglow Canyon Wind Farm, as added by the Council in Biglow Canyon Wind Farm: Final Order on Amendment #3 of October 31, 2008.

Because GHWF has proposed no change to the site, the Facility, or its construction or operation, the Council finds that the findings in the Final Order on the Application are sufficient to demonstrate compliance with the Soil Protection standard.

#### **Conclusion**

The Council finds that Golden Hills would comply with the Council's Soil Protection standard at OAR 345-022-0022 if Amendment #1 were approved.

#### **F. Protected Areas, OAR 345-022-0040**

*(1) Except as provided in sections (2) and (3), the Council shall not issue a site certificate for a proposed facility located in the areas listed below. To issue a site certificate for a proposed facility located outside the areas listed below, the Council must find that, taking into account mitigation, the design, construction and operation of the facility are not likely to result in significant adverse impact to the areas listed below. References in this rule to protected areas designated under federal or state statutes or regulations are to the designations in effect as of May 11, 2007:*

*(a) National parks, including but not limited to Crater Lake National Park and Fort Clatsop National Memorial;*

*(b) National monuments, including but not limited to John Day Fossil Bed National Monument, Newberry National Volcanic Monument and Oregon Caves National Monument;*

*(c) Wilderness areas established pursuant to The Wilderness Act, 16 U.S.C. 1131 et seq. and areas recommended for designation as wilderness areas pursuant to 43 U.S.C. 1782;*

*(d) National and state wildlife refuges, including but not limited to Ankeny, Bandon Marsh, Baskett Slough, Bear Valley, Cape Meares, Cold Springs, Deer Flat, Hart Mountain, Julia Butler Hansen, Klamath Forest, Lewis and Clark, Lower Klamath, Malheur, McKay Creek, Oregon Islands, Sheldon, Three Arch Rocks, Umatilla, Upper Klamath, and William L. Finley;*

*(e) National coordination areas, including but not limited to Government Island, Ochoco and Summer Lake;*

*(f) National and state fish hatcheries, including but not limited to Eagle Creek and Warm Springs;*

*(g) National recreation and scenic areas, including but not limited to Oregon Dunes National Recreation Area, Hell's Canyon National Recreation Area, and the Oregon Cascades Recreation Area, and Columbia River Gorge National Scenic Area;*

*(h) State parks and waysides as listed by the Oregon Department of Parks and Recreation and the Willamette River Greenway;*

- (i) State natural heritage areas listed in the Oregon Register of Natural Heritage Areas pursuant to ORS 273.581;*
- (j) State estuarine sanctuaries, including but not limited to South Slough Estuarine Sanctuary, OAR Chapter 142;*
- (k) Scenic waterways designated pursuant to ORS 390.826, wild or scenic rivers designated pursuant to 16 U.S.C. 1271 et seq., and those waterways and rivers listed as potentials for designation;*
- (l) Experimental areas established by the Rangeland Resources Program, College of Agriculture, Oregon State University: the Prineville site, the Burns (Squaw Butte) site, the Starkey site and the Union site;*
- (m) Agricultural experimental stations established by the College of Agriculture, Oregon State University, including but not limited to: Coastal Oregon Marine Experiment Station, Astoria Mid-Columbia Agriculture Research and Extension Center, Hood River Agriculture Research and Extension Center, Hermiston Columbia Basin Agriculture Research Center, Pendleton Columbia Basin Agriculture Research Center, Moro North Willamette Research and Extension Center, Aurora East Oregon Agriculture Research Center, Union Malheur Experiment Station, Ontario Eastern Oregon Agriculture Research Center, Burns Eastern Oregon Agriculture Research Center, Squaw Butte Central Oregon Experiment Station, Madras Central Oregon Experiment Station, Powell Butte Central Oregon Experiment Station, Redmond Central Station, Corvallis Coastal Oregon Marine Experiment Station, Newport Southern Oregon Experiment Station, Medford Klamath Experiment Station, Klamath Falls;*
- (n) Research forests established by the College of Forestry, Oregon State University, including but not limited to McDonald Forest, Paul M. Dunn Forest, the Blodgett Tract in Columbia County, the Spaulding Tract in the Mary's Peak area and the Marchel Tract;*
- (o) Bureau of Land Management areas of critical environmental concern, outstanding natural areas and research natural areas;*
- (p) State wildlife areas and management areas identified in OAR chapter 635, Division 8.*

## **Discussion**

The Council addressed the Protected Areas standard in section IV.F of the Final Order on the Application. The Council did not impose any conditions to ensure compliance with the Protected Areas standard. The extension of the respective deadlines to begin and to complete construction does not affect the Council's findings that the construction and operation of the facility will be consistent with the Protected Areas standard.

Because GHWF has proposed no change to the site, the Facility, or its construction or operation, the Council finds that the findings in the Final Order on the Application are sufficient to demonstrate compliance with the Protected Areas standard.

## **Conclusion**

The Council finds that Golden Hills would comply with the Council's Protected Areas standard at OAR 345-022-0040 if Amendment #1 were approved.

### **G. Scenic Resources, OAR 345-022-0080**

*(1) Except for facilities described in section (2), to issue a site certificate, the Council must find that the design, construction and operation of the facility, taking into account mitigation, are not likely to result in significant adverse impact to scenic resources and values identified as significant or important in local land use plans, tribal land management plans and federal land management plans for any lands located within the analysis area described in the project order.*

## **Discussion**

The Council addressed the Scenic Resources standard in section IV.G of the Final Order on the Application. The Council imposed three conditions in section IV.G of the Site Certificate to ensure compliance with the Scenic Resources standard. The extension of the respective deadlines to begin and to complete construction does not affect the Council's findings that the construction and operation of the facility will be consistent with the Scenic Resources standard.

Because GHWF has proposed no change to the site, the Facility, or its construction or operation, the Council finds that the findings in the Final Order on the Application are sufficient to demonstrate compliance with the Scenic Resources standard.

## **Conclusion**

The Council finds that Golden Hills would comply with the Council's Scenic Resources standard at OAR 345-022-040 if Amendment #1 were approved.

### **H. Recreation, OAR 345-022-0100**

*(1) Except for facilities described in section (2), to issue a site certificate, the Council must find that the design, construction and operation of a facility, taking into account mitigation, are not likely to result in a significant adverse impact to important recreational opportunities in the analysis area as described in the project order. The Council shall consider the following factors in judging the importance of a recreational opportunity:*

- (a) Any special designation or management of the location;*
- (b) The degree of demand;*
- (c) Outstanding or unusual qualities;*
- (d) Availability or rareness;*

*(e) Irreplaceability or irretrievability of the opportunity.*

### **Discussion**

The Council addressed the Recreation standard in section IV.H of the Final Order on the Application. The Council did not impose any conditions to ensure compliance with the Recreation standard. The extension of the respective deadlines to begin and to complete construction does not affect the Council's findings that the construction and operation of the Facility will be consistent with the Recreation standard.

Because GHWF has proposed no change to the site, the Facility, or its construction or operation, the Council finds that the findings in the Final Order on the Application are sufficient to demonstrate compliance with the Recreation standard.

### **Conclusion**

The Council finds that Golden Hills would comply with OAR 345-022-0100, the Council's Recreation standard, if Amendment #1 were approved.

### **I. Public Health and Safety Standards for Wind Energy Facilities, OAR 345-024-0010**

*To issue a site certificate for a proposed wind energy facility, the Council must find that the applicant:*

*(1) Can design, construct and operate the facility to exclude members of the public from close proximity to the turbine blades and electrical equipment.*

*(2) Can design, construct and operate the facility to preclude structural failure of the tower or blades that could endanger the public safety and to have adequate safety devices and testing procedures designed to warn of impending failure and to minimize the consequences of such failure.*

### **Discussion**

The Council addressed Public Health and Safety Standards for Wind Energy Facilities in section IV.I of the Final Order on the Application. The Council imposed eight conditions in section IV.I of the Site Certificate to ensure compliance with the Public Health and Safety Standards for Wind Energy Facilities. The extension of the respective deadlines to begin and to complete construction does not affect the Council's findings that the construction and operation of the facility will be consistent with the Public Health and Safety Standards for Wind Energy Facilities.

Because GHWF has proposed no change to the site, the Facility, or its construction or operation, the Council finds that the findings in the Final Order on the Application are sufficient to demonstrate compliance with the Public Health and Safety Standards for Wind Energy Facilities.



## **Conclusion**

The Council finds that Golden Hills would comply with the OAR 345-024-0010, Public Health and Safety Standards for Wind Energy Facilities, if Amendment #1 were approved.

### **J. Siting Standards for Wind Energy Facilities, OAR 345-024-0015**

To issue a site certificate for a proposed wind energy facility, the Council must find that the applicant can design and construct the facility to reduce cumulative adverse environmental effects in the vicinity by practicable measures including, but not limited to, the following:

*(1) Using existing roads to provide access to the facility site, or if new roads are needed, minimizing the amount of land used for new roads and locating them to reduce adverse environmental impacts.*

*(2) Using underground transmission lines and combining transmission routes.*

*(3) Connecting the facility to existing substations, or if new substations are needed, minimizing the number of new substations.*

*(4) Designing the facility to reduce the risk of injury to raptors or other vulnerable wildlife in areas near turbines or electrical equipment.*

*(5) Designing the components of the facility to minimize adverse visual features.*

*(6) Using the minimum lighting necessary for safety and security purposes and using techniques to prevent casting glare from the site, except as otherwise required by the Federal Aviation Administration or the Oregon Department of Aviation.*

## **Discussion**

The Council addressed Siting Standards for Wind Energy Facilities in section IV.J of the Final Order on the Application. The Council did not impose any conditions to ensure compliance with the Siting Standards for Wind Energy Facilities. The extension of the respective deadlines to begin and to complete construction does not affect the Council's findings that the construction and operation of the Facility will be consistent with the Siting Standards for Wind Energy Facilities.

Because GHWF has proposed no change to the site, the Facility, or its construction or operation, the Council finds that the findings in the Final Order on the Application are sufficient to demonstrate compliance with the Siting Standards for Wind Energy Facilities.

## **Conclusion**

The Council finds that Golden Hills would comply with OAR 345-024-0015, Siting Standards for Wind Energy Facilities, if Amendment #1 were approved.

**K. Siting Standards for Transmission Lines, OAR 345-024-0090**

To issue a site certificate for a facility that includes any transmission line under Council jurisdiction, the Council must find that the applicant:

*(1) Can design, construct and operate the proposed transmission line so that alternating current electric fields do not exceed 9 kV per meter at one meter above the ground surface in areas accessible to the public;*

*(2) Can design, construct and operate the proposed transmission line so that induced currents resulting from the transmission line and related or supporting facilities will be as low as reasonably achievable.*

**Discussion**

The Council addressed Siting Standards for Transmission Lines in Section IV.K of the Final Order on the Application. The Council imposed one condition under section IV.K of the Site Certificate to ensure compliance with the Siting Standards for Transmission Lines. The extension of the respective deadlines to begin and to complete construction does not affect the Council's findings that the construction and operation of the Facility will be consistent with the Siting Standards for Transmission Lines.

Because GHWF has proposed no change to the site, the Facility, or its construction or operation, the Council finds that the findings in the Final Order on the Application are sufficient to demonstrate compliance with the Siting Standards for Transmission Lines.

**Conclusion**

The Council finds that Golden Hills would comply with OAR 345-024-0090, Siting Standards for Transmission Lines, if Amendment #1 were approved.

**L. Threatened and Endangered Species, OAR 345-022-0070**

*To issue a site certificate, the Council, after consultation with appropriate state agencies, must find that:*

*(1) For plant species that the Oregon Department of Agriculture has listed as threatened or endangered under ORS 564.105(2), the design, construction and operation of the proposed facility, taking into account mitigation:*

*(a) Are consistent with the protection and conservation program, if any, that the Oregon Department of Agriculture has adopted under ORS 564.105(3); or*

*(b) If the Oregon Department of Agriculture has not adopted a protection and conservation program, are not likely to cause a significant reduction in the likelihood of survival or recovery of the species; and*

*(2) For wildlife species that the Oregon Fish and Wildlife Commission has listed as threatened or endangered under ORS 496.172(2), the design, construction and operation of the proposed facility, taking into account mitigation, are not likely to cause a significant reduction in the likelihood of survival or recovery of the species.*

#### **Discussion**

The Council addressed the Threatened and Endangered Species standard in Section IV.L of the Final Order on the Application. The Council imposed ten conditions in section IV.L of the Site Certificate to ensure compliance with the Threatened and Endangered Species standard. The extension of the respective deadlines to begin and to complete construction does not affect the Council's findings that the construction and operation of the Facility will be consistent with the Threatened and Endangered Species standard.

Because GHWF has proposed no change to the site, the Facility, or its construction or operation, the Council finds that the findings in the Final Order on the Application are sufficient to demonstrate compliance with the Threatened and Endangered Species standard.

#### **Conclusion**

The Council finds that Golden Hills would comply with OAR 345-022-070, the Council's Threatened and Endangered Species standard, if Amendment #1 were approved.

#### **M. Fish and Wildlife Habitat, OAR 345-022-0060**

*To issue a site certificate, the Council must find that the design, construction, and operation of the facility, taking into account mitigation, are consistent with the fish and wildlife habitat mitigation goals and standards of OAR 635-415-0025 in effect as of September 1, 2000.*

#### **Discussion**

The Council addressed the Fish and Wildlife Habitat standard in Section IV.M of the Final Order on the Application. The Council imposed 10 conditions in section IV.M of the Site Certificate to ensure compliance with the Fish and Wildlife Habitat standard. The extension of the respective deadlines to begin and to complete construction does not affect the Council's findings that the construction and operation of the facility will be consistent with the Fish and Wildlife Habitat standard.

Because GHWF has proposed no change to the site, the Facility, or its construction or operation, the Council finds that the findings in the Final Order on the Application are sufficient to demonstrate compliance with the Fish and Wildlife Habitat standard.

#### **Conclusion**

The Council finds that Golden Hills would comply with OAR 345-022-0060, the Council's Fish and Wildlife Habitat standard if Amendment #1 were approved.

## V. STANDARDS NOT APPLICABLE TO SITE CERTIFICATE ELIGIBILITY

Under ORS 469.501(4), the Council may issue a site certificate without making the findings required by the standards discussed in this section (Structural Standard; Historic, Cultural, and Archaeological Resources Standard; Public Services Standard; and Waste Minimization Standard). Nevertheless, the Council may impose site certificate conditions based on the requirements of these standards.

### A. Structural Standard, OAR 345-022-0020

*(1) Except for facilities described in sections (2) and (3), to issue a site certificate, the Council must find that:*

*(a) The applicant, through appropriate site-specific study, has adequately characterized the site as to Maximum Considered Earthquake Ground Motion identified at International Building Code (2003 edition) Section 1615 and maximum probable ground motion, taking into account ground failure and amplification for the site specific soil profile under the maximum credible and maximum probable seismic events; and*

*(b) The applicant can design, engineer, and construct the facility to avoid dangers to human safety presented by seismic hazards affecting the site that are expected to result from maximum probable ground motion events. As used in this rule "seismic hazard" includes ground shaking, ground failure, landslide, liquefaction, lateral spreading, tsunami inundation, fault displacement, and subsidence;*

*(c) The applicant, through appropriate site-specific study, has adequately characterized the potential geological and soils hazards of the site and its vicinity that could, in the absence of a seismic event, adversely affect, or be aggravated by, the construction and operation of the proposed facility; and*

*(d) The applicant can design, engineer and construct the facility to avoid dangers to human safety presented by the hazards identified in subsection (c).*

### Discussion

The Council addressed the Structural standard Section V.A of the Final Order on the Application. The Council imposed five conditions in section V.A of the Site Certificate to ensure compliance with the Structural standard. The extension of the respective deadlines to begin and to complete construction does not affect the Council's findings that the construction and operation of the facility will be consistent with the Structural Standard

Because GHWF has proposed no change to the site, the Facility, or its construction or operation, the Council finds that the findings in the Final Order on the Application are sufficient to demonstrate compliance with the Structural standard.

## **Conclusion**

The Council finds that Golden Hills would comply with the OAR 345-022-0020, the Structural standard, if Amendment #1 were approved.

### **B. Historic, Cultural and Archaeological Resources, OAR 345-022-0090**

*(1) Except for facilities described in sections (2) and (3), to issue a site certificate, the Council must find that the construction and operation of the facility, taking into account mitigation, are not likely to result in significant adverse impacts to:*

*(a) Historic, cultural or archaeological resources that have been listed on, or would likely be listed on the National Register of Historic Places;*

*(b) For a facility on private land, archaeological objects, as defined in ORS 358.905(1)(a), or archaeological sites, as defined in ORS 358.905(1)(c); and*

*(c) For a facility on public land, archaeological sites, as defined in ORS 358.905(1)(c).*

## **Discussion**

The Council addressed the Historic, Cultural and Archaeological Resources standard in Section V.B of the Final Order on the Application. The Council imposed ten conditions in section V.B of the Site Certificate to ensure compliance with the Historic, Cultural and Archaeological Resources standard. The extension of the respective deadlines to begin and to complete construction does not affect the Council's findings that the construction and operation of the Facility will be consistent with the Historic, Cultural and Archaeological Resources standard.

Because GHWF has proposed no change to the site, the Facility, or its construction or operation, the Council finds that the findings in the Final Order on the Application are sufficient to demonstrate compliance with the Historic, Cultural and Archaeological Resources standard.

## **Conclusion**

The Council finds that Golden Hills would comply with OAR 345-022-0090, the Council's Historic, Cultural and Archaeological Resources standard, if Amendment #1 were approved.

### **C. Public Services, OAR 345-022-0110**

*(1) Except for facilities described in sections (2) and (3), to issue a site certificate, the Council must find that the construction and operation of the facility, taking into account mitigation, are not likely to result in significant adverse impact to the ability of public and private providers within the analysis area described in the project order to provide: sewers and sewage treatment, water, storm water drainage, solid waste management, housing, traffic safety, police and fire protection, health care and schools.*

## **Discussion**

The Council addressed the Public Services standard in section V.C of the Final Order on the Application. The Council imposed 14 conditions in Section V.C of the Site Certificate to ensure compliance with the Public Services standard. The extension of the respective deadlines to begin and to complete construction does not affect the Council's findings that the construction and operation of the Facility will be consistent with the Public Services standard.

Because GHWF has proposed no change to the site, the Facility, or its construction or operation, the Council finds that the findings in the Final Order on the Application are sufficient to demonstrate compliance with the Public Services standard.

## **Conclusion**

The Council finds that Golden Hills would comply with OAR 345-022-0110, the Council's Public Services standard if Amendment #1 were approved.

### **D. Waste Minimization, OAR 345-022-0120**

*(1) Except for facilities described in sections (2) and (3), to issue a site certificate, the Council must find that, to the extent reasonably practicable:*

*(a) The applicant's solid waste and wastewater plans are likely to minimize generation of solid waste and wastewater in the construction and operation of the facility, and when solid waste or wastewater is generated, to result in recycling and reuse of such wastes;*

*(b) The applicant's plans to manage the accumulation, storage, disposal and transportation of waste generated by the construction and operation of the facility are likely to result in minimal adverse impact on surrounding and adjacent areas.*

## **Discussion**

The Council addressed the Waste Minimization standard in Section V.D of the Final Order on the Application. The Council imposed four conditions in section V.D of the Site Certificate to ensure compliance with the Waste Minimization standard. The extension of the respective deadlines to begin and to complete construction does not affect the Council's findings that the construction and operation of the Facility will be consistent with the Waste Minimization Standard

Because GHWF has proposed no change to the site, the facility, or its construction or operation, the Council finds that the findings in the Final Order on the Application are sufficient to demonstrate compliance with the Waste Minimization standard.

## **Conclusion**

The Council finds that Golden Hills would comply with OAR 345-022-0120, the Waste Minimization standard, if Amendment #1 were approved.

## VI. OTHER APPLICABLE REGULATORY REQUIREMENTS: DISCUSSION AND CONCLUSIONS

### A. Requirements under Council Jurisdiction

Under ORS 469.503(3) and under the Council's General Standard of Review (OAR 345-022-0000), the Council must determine that a facility complies with "all other Oregon statutes and administrative rules identified in the project order, as amended, as applicable to the issuance of a site certificate for the proposed facility." In the Final Order on the Application, the Council found that the other applicable Oregon statutes and administrative rules were the Department of Environmental Quality noise control regulations, the regulations adopted by the Department of State Lands for removal or fill of material affecting waters of the state, and the Council's statutory authority to consider protection of public health and safety.

#### 1. Noise Control Regulations for Industry and Commerce, OAR 340-035-0035

*(1) Standards and Regulations:*

*(b) New Noise Sources:*

*(A) New Sources Located on Previously Used Sites. No person owning or controlling a new industrial or commercial noise source located on a previously used industrial or commercial site shall cause or permit the operation of that noise source if the statistical noise levels generated by that new source and measured at an appropriate measurement point, specified in subsection (3)(b) of this rule, exceed the levels specified in Table 8, except as otherwise provided in these rules. For noise levels generated by a wind energy facility including wind turbines of any size and any associated equipment or machinery, subparagraph (1)(b)(B)(iii) applies.*

### Discussion

DEQ noise regulations for new industrial and commercial noise sources<sup>36</sup> apply to Golden Hills. The DEQ noise regulations were addressed in Section VI.A.1 of the Final Order on the Application. The Council imposed four conditions in section VI.A.1 of the Site Certificate to ensure compliance with the DEQ noise regulations. The extension of the respective deadlines to begin and to complete construction does not affect the Council's findings that the construction and operation of the Facility will comply with the DEQ noise regulations.

Because GHWF has proposed no change to the site, the Facility, or its construction or operation, the Council finds that the findings in the Final Order on the Application are sufficient to demonstrate compliance with the DEQ noise standards applicable to the facility.

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<sup>36</sup> OAR 340 035 0035(1)(b)(B)

## **Conclusion**

The Council finds that Golden Hills would comply with the applicable noise control regulations in OAR 340-035-0035(1)(b)(B) if Amendment #1 were approved.

### **2. Removal-Fill Law**

The Oregon Removal-Fill Law<sup>37</sup> and Department of State Lands (DSL) regulations<sup>38</sup> require a Removal/Fill Permit if 50 cubic yards or more of material is removed, filled or altered within any "waters of the state" at the proposed site.

## **Discussion**

DSL removal-fill regulations were addressed in Section VI.A.2 of the Final Order on the Application. The Council found that the proposed Facility would not need a removal-fill permit. The extension of the respective deadlines to begin and to complete construction does not affect the Council's findings that the construction and operation of the Facility will comply with the DSL removal/fill regulations.

Because GHWF has proposed no change to the site, the Facility, or its construction or operation, Council finds that the findings in the Final Order on the Application are sufficient to demonstrate compliance with the DSL removal-fill permit requirements.

## **Conclusion**

The Council finds that Golden Hills would comply with the applicable DSL removal-fill permit requirements if Amendment #1 were approved.

### **3. Ground Water Act**

Through the provisions of the Ground Water Act of 1955<sup>39</sup> and the rules of the Oregon Water Resources Department<sup>40</sup>, the Oregon Water Resources Commission administers the rights of appropriation and use of the ground water resources of the state. The Council must determine whether the Facility complies with these statutes and administrative rules.<sup>41</sup>

## **Discussion**

The Council addressed the provisions of the Ground Water Act in Section VI.A.3 of the Final Order on the Application. The Council found that the proposed use of ground water for the construction and operation of Golden Hills complies with the Ground Water Act of 1955 and the rules of the Oregon Water Resources Department. The extension of the respective deadlines to

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<sup>37</sup> ORS 196.800 through ORS 196.990

<sup>38</sup> OAR 141 085 005 through OAR 141 085 0090

<sup>39</sup> ORS 537.505 to ORS 537.796

<sup>40</sup> OAR chapter 690

<sup>41</sup> OAR 345 022 0000(1).



begin and to complete construction does not affect the Council's findings that the construction and operation of the Facility will comply with the Ground Water Act of 1955 and rules of the Oregon Water Resources Department.

Because GHWF has proposed no change to the site, the Facility, or its construction or operation, the Council finds that the findings in the Final Order on the Application are sufficient to demonstrate compliance with the statutes and administrative rules applicable to the Ground Water Act.

### **Conclusion**

The Council finds that Golden Hills would comply with the Oregon Ground Water Act of 1955 and the rules of the Oregon Water Resources Department if Amendment #1 were approved.

### **4. Public Health and Safety**

The Council is charged with ensuring that the "siting, construction, and operation of energy facilities shall be accomplished in a manner consistent with the protection of public health and safety ..." <sup>42</sup> State law further provides that "the site certificate ... shall contain conditions for the protection of public health and safety." <sup>43</sup>

### **Discussion**

The Council addressed standards for the protection of public health and safety in Section VI.A.4 of the Final Order on the Application. In the Final Order on the Application, the Council specifically considered electric and magnetic fields, coordination with the Oregon Public Utility Commission Safety and Reliability Section ("PUC"), and coordination with local electric utilities and transmission service providers. The Council imposed three conditions in section VI.A.4 of the Site Certificate to ensure protection of public health and safety. The extension of the respective deadlines to begin and to complete construction of the Facility does not affect the Council's findings that the construction and operation of the Facility are consistent with the protection of public health and safety.

Because GHWF has proposed no change to the site, the Facility, or its construction or operation, the Council finds that the findings in the Final Order on the Application are sufficient to demonstrate consistency with the protection of public health and safety.

### **Conclusion**

The Council finds that Golden Hills would comply with the requirements found in ORS 469.310 for protection of public health and safety if Amendment #1 were approved.

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<sup>42</sup> ORS 469.310.

<sup>43</sup> ORS 469.401(2)

## **B. Requirements That Are Not Under Council Jurisdiction**

### **1. Federally-Delegated Programs**

The Council does not have jurisdiction for determining compliance with statutes and rules for which the federal government has delegated the decision on compliance to a state agency other than the Council.<sup>44</sup> Nevertheless, the Council may rely on the determinations of compliance and the conditions in the federally-delegated permits issued by these state agencies in deciding whether the proposed facility meets other standards and requirements under its jurisdiction.

### **2. Requirements That Do Not Relate to Siting**

The Council does not have authority to preempt the jurisdiction of any state agency or local government over matters that are not included in and governed by the site certificate or amended site certificate.<sup>45</sup> Such matters include design-specific construction or operating standards and practices that do not relate to siting. Nevertheless, the Council may rely on the determinations of compliance and the conditions in the permits issued by these state agencies and local governments in deciding whether the facility meets other standards and requirements under its jurisdiction.

## **VII. CONDITIONS REQUIRED BY COUNCIL RULES**

The Council addressed conditions to be included in the site certificate as specifically required by Council rules<sup>46</sup> in section VII of the Final Order on the Application. The conditions described in this order include conditions based on representations in the RFA and the supporting record. The Council deems these representations to be binding commitments made by the Certificate Holder. Also included are conditions Council finds necessary to ensure compliance with the siting standards of OAR Chapter 345, Divisions 22 and 24, or to protect public health and safety.

In addition to all other conditions described or included in this order, the site certificate holder is subject to all conditions and requirements contained in the rules of the Council and in local ordinances and state law in effect on the date the amended site certificate is executed. Upon a clear showing of a significant threat to the public health, safety or the environment that requires application of later-adopted laws or rules, the Council may require compliance with such later- adopted laws or rules.<sup>47</sup>

The Council recognizes that many specific tasks related to the design, construction, operation and retirement of the facility will be undertaken by the certificate holder's agents or

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<sup>44</sup> ORS 469.503(3).

<sup>45</sup> ORS 469.401(4).

<sup>46</sup> OAR 345 027 0020 (Mandatory Conditions in Site Certificates), OAR 345 027 0023 (Site Specific Conditions), OAR 345 027 0028 (Monitoring Conditions), and OAR chapter 345, division 26 (Construction and Operation Rules for Facilities).

<sup>47</sup> OAR 469.401(2)

contractors. Nevertheless, the certificate holder is responsible for ensuring that all agents and contractors comply with all provisions of the site certificate.

### VIII. GENERAL CONCLUSION

The amendment proposed by GHWF would extend the deadline for beginning construction of Golden Hills Wind Project from June 18, 2012, to June 18, 2014. The amendment would also extend the deadline for completing construction of the Facility from June 18, 2015 to June 18, 2017. The Council adopts the revisions proposed by GHWF and the new Condition IV.D.22 as proposed by ODOE in Section VIII.A below.

Based on the findings and conclusions included in this order, the Council makes the following findings:

1. The proposed Amendment #1 complies with the requirements of the Oregon Energy Facility Siting statutes, ORS 469.300 to ORS 469.570 and 469.590 to 469.619.
2. The proposed Amendment #1 complies with the applicable standards adopted by EFSC pursuant to ORS 469.501.
3. The proposed Amendment #1 complies with all other Oregon statutes and administrative rules applicable to the amendment of the Site Certificate that are within EFSC's jurisdiction.

Accordingly, the Council finds that the Facility, as amended, complies with the General Standard of Review.<sup>48</sup> The Council concludes, based on a preponderance of the evidence on the record, that the site certificate may be amended as requested by the Certificate Holder, subject to the recommendations of ODOE and set forth below.

#### A. ODOE's Recommended Revisions

New text recommended by ODOE is shown below in double-underlined bold typeface and recommended deletions have a strikethrough. All changes to Condition III.D.1 and Condition III.D.2 recommended by ODOE are identical to the changes requested by the Certificate Holder.

#### *III.D CONSTRUCTION DEADLINES*

*The certificate holder shall satisfy the following administrative conditions:*

*(III.D.1) The certificate holder shall begin construction of the facility by June 18, 2016 ~~2014~~ within three years after the effective date of the site certificate. Under OAR 345-015-0085(8)(9), an amended site certificate is effective upon execution by the Council Chair and the applicant. The Council may grant an extension of the deadline to*

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<sup>48</sup> OAR 345 022 0000.

begin construction in accordance with OAR 345-027-0030 or any successor rule in effect w the time the request for extension is submitted. [Amendment 1] [Amendment 2]

(III.D.2) The certificate holder shall complete construction of the facility by June 18, 2017. 2019. Construction is complete when (1) the facility is substantially complete as defined by the certificate holder's construction contract documents; (2) acceptance testing has been satisfactorily completed; and (3) the energy facility is ready to begin continuous operation consistent with the site certificate. The certificate holder shall promptly notify the Department of the date of completion of construction. The Council may grant an extension of the deadline for completing construction in accordance with OAR 345-027-0030 or any successor rule in effect at the time the request for extension is submitted. [Amendment 1] [Amendment 2]

#### IV.D LAND USE

(IV.D.22) Prior to construction, Certificate Holder shall demonstrate that the final location of turbines within the micrositing corridors approved by the Council will satisfy setback requirements prescribed by Section 4 of the Sherman County Wind Setback Ordinance (Ordinance No. 39-2007) unless the Council or Oregon Department of Energy has approved a variance to such setback for the turbine or the Certificate Holder has negotiated a setback agreement with the affected adjacent property owner or wind project developer. [Amendment #1]

### IX. ORDERS

EFSC approves Amendment #1 and issues an amended site certificate for Golden Hills, subject to the terms and conditions set forth above.

Issued this 11th day of May, 2012.

OREGON ENERGY FACILITY SITING COUNCIL

By: \_\_\_\_\_  
W. Bryan Wolfe, Chair  
Oregon Energy Facility Siting Council

#### Notice of the Right to Appeal

You have the right to appeal this order to the Oregon Supreme Court pursuant to ORS 469.403. To appeal you must file a petition for judicial review with the Supreme Court within 60 days from the day this order was served on you. If this order was personally delivered to you, the date of service is the date you received this order. If this order was mailed to you, the date of service date it was mailed, not the day you received it. If you do not file a petition for judicial review within the 60-day time period, you lose your right to appeal.