

## OREGON DEPARTMENT OF ENERGY

Regarding Statutes, Administrative Rules and )  
Other Requirements Applicable to the Proposed ) FIRST AMENDED PROJECT  
Saddle Butte Wind Park ) ORDER  
\_\_\_\_\_ )

1 On August 7, 2009, Saddle Butte Wind LLC, (the applicant) submitted a Notice of Intent  
2 (NOI) to Apply for a Site Certificate for the Saddle Butte Wind Park (SBWP). The proposed  
3 facility is a wind energy facility consisting of up to 171 wind turbines and related facility  
4 components with a peak generating capacity of up to 565 megawatts. The proposed facility site is  
5 entirely on private lands located in Morrow County and Gilliam County.

6 On August 17, 2009, the Department sent a public notice of the NOI to persons on the  
7 general mailing list of the Oregon Energy Facility Siting Council (Council), to persons on the  
8 special list set up for the project and to property owners identified in the NOI, as required under  
9 OAR 345-015-0110.

10 On August 17 and 18, 2009, the applicant sent copies of the NOI to a list of reviewing  
11 agencies provided by the Oregon Department of Energy (Department or ODOE) together with a  
12 memorandum from the Department as described in OAR 345-015-0120.

13 On August 30, 2009, the Department published notice of the NOI in the *East Oregonian*  
14 and the *Condon Times-Journal*.

15 On September 10, 2009, the Department held a public information meeting about the  
16 proposed SBWP and the site certificate process in Arlington, Oregon, as described in OAR 345-  
17 015-0130. The Department accepted public comment on the NOI through September 25, 2009.

18 On May 31, 2011, the applicant submitted a request to extend the expiration date of the  
19 NOI. On June 24, 2011, the Council approved an extension of the NOI expiration for a period of  
20 one year.

21 Under ORS 469.330, the Department must issue a project order following review of a  
22 notice of intent and any public comments received in response to the notice of intent. Under  
23 OAR 345-015-0160, the Department must send the project order to the applicant following the  
24 review and any public information meeting. OAR 345-015-0160(1) requires, in relevant sections,  
25 that the Department issue a project order that establishes the following:

- 26 (a) All state statutes and administrative rules containing standards or criteria that must be  
27 met for the Council to issue a site certificate for the proposed facility, including  
28 applicable standards of OAR Chapter 345, Divisions 22, 23 and 24.
- 29 (b) All local government ordinances applicable to the Council's decision on the proposed  
30 facility.
- 31 (c) All application requirements in OAR 345-021-0010 applicable to the proposed  
32 facility.
- 33 (d) All state and local permits necessary to the construction and operation of the  
34 proposed facility and the name of each agency with the authority to issue such  
35 permits.

- 1 (e) Any other data and information that must be included in the application for a site  
2 certificate to allow the Council to determine whether the proposed facility will  
3 comply with applicable statutes, administrative rules and local government  
4 ordinances.
- 5 (f) The analysis areas for the proposed facility.
- 6 (g) Public concerns that address matters within the jurisdiction of the Council that the  
7 applicant shall consider and discuss in the application for a site certificate, based on  
8 comments from the public and reviewing agencies.
- 9 (h) If the applicant has identified one or more proposed corridors in Exhibit D of the  
10 notice of intent as required by OAR 345-020-0011(1)(d), any adjustments to the  
11 corridor(s) that the applicant shall evaluate in the corridor selection assessment  
12 described in OAR 345-021-0010(1)(b).
- 13 (i) The expiration date of the notice of intent.

14 ORS 469.401(4) provides that a site certificate does not govern certain matters. This  
15 project order does not address matters that are outside the Council's jurisdiction. The applicant  
16 must nevertheless comply with all statutes, regulations and local ordinances applicable to the  
17 proposed facility. These include, but are not limited to, employee health and safety regulations,  
18 building code compliance, labor regulations and local government fees or charges.

19 As provided in ORS 469.330(4), the Department or the Council may amend this project  
20 order at any time. The definitions in ORS 469.300 and OAR 345-001-0010 apply to the terms  
21 used in this project order, except where otherwise stated or where the context indicates  
22 otherwise.

23 THEREFORE, the Department orders as follows:

#### 24 I. STATUTES, ADMINISTRATIVE RULES, RELATED PERMITS OR OTHER 25 APPROVALS AND DISCUSSION OF SPECIFIC INFORMATION

26 This section identifies the Oregon statutes and administrative rules that the applicant must  
address in the application and identifies related state permits and approvals. This section  
discusses specific information to be included in the application.

##### 1. Energy Facility Siting Council

27 **Statute and Rule References:** ORS 469.300 to ORS 469.507; OAR Chapter 345,  
28 Divisions 1, 21, 22, 24, 26 and 27.

29 **Permit:** An energy facility site certificate is required before construction or operation.

30 **Discussion:** Section V below describes specific application requirements under OAR 345-  
31 021-0010.

32 All general standards in OAR Chapter 345, Division 22, apply to the proposed facility.  
33 For a wind energy facility, the Council need not make findings on the standards described  
34 in OAR 345-022-0020 (Structural), OAR 345-022-0090 (Historic, Cultural and  
35 Archaeological Resources), OAR 345-022-0110 (Public Services) and OAR 345-022-  
36 0120 (Waste Minimization). Nevertheless, the applicant should address these standards in

1 the application because the Council may apply the requirements of the standards to  
2 impose conditions in the site certificate.

3 If the Council issues a site certificate for the proposed facility, the certificate holder must  
4 implement a compliance plan, as described in OAR 345-026-0048. The site certificate will  
5 contain the mandatory conditions, applicable site-specific conditions and monitoring  
6 conditions described in OAR 345-027-0020, -0023 and -0028.

## 2. Oregon Department of Agriculture – Plant Conservation

7 **Statute and Rule References:** ORS Chapter 564; OAR Chapter 603, Division 73.

8 **Permit:** None required.

9 **Discussion:** The Oregon Department of Agriculture (ODA) provides technical review and  
10 recommendations regarding compliance with the Council's threatened and endangered  
11 species standard (OAR 345-022-0070) as it relates to plant species.

12 The State list of threatened and endangered plant species is contained in OAR 603-073-  
13 0070. In addition, OAR 603-073-0080 gives ODA the authority to designate candidate  
14 plants. If the applicant finds any State-listed threatened or endangered plant species that  
15 could be adversely affected by the proposed facility, then the applicant must address the  
16 information requirements of OAR 603-073-0090(5)(d)(A)-(E) in the application.

17 The applicant should include in its application a list of both State-listed and federally-  
18 listed threatened, endangered and candidate plant species that have potential to occur in  
19 the analysis area. The applicant should identify these species based on a review of  
20 literature, consultation with knowledgeable individuals and reference to the list of species  
21 published by the Oregon Biodiversity Information Center (previously known as the  
22 Oregon Natural Heritage Information Center).<sup>1</sup>

23 The applicant should conduct a field survey for the listed plant species performed by  
24 qualified survey personnel during the season or seasons appropriate to the detection of  
25 threatened, endangered and candidate plant species. The application should include a field  
26 survey report containing written descriptions of the survey methods and areas surveyed  
27 and an analysis of the results of the survey. The applicant should consult with the ODA  
28 Native Plant Conservation Program regarding field survey methods, appropriate survey  
29 seasons and qualifications of field survey personnel.

## 3. Department of Environmental Quality – Water Quality

30 **Statute and Rule References:** ORS Chapters 468 and 468B; OAR Chapter 340,  
31 Divisions 41, 45 and 71.

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<sup>1</sup> OAR 345-022-0070 applies only to state-listed plant and animal species. Nevertheless, OAR 345-021-0010(1)(q) requires applicants to consider plant and animal species listed as endangered or threatened under either State or federal law. This requirement applies because the Council, in making its decision, must be mindful of possible adverse impacts to federally listed species. Note also that OAR 345-022-0070 applies to all lands affected by a proposed facility including state, federal and private lands.

1 **Permits:** National Pollutant Discharge Elimination System (NPDES), Water Pollution  
2 Control Facilities (WPCF) permits and on-site sewage disposal construction-installation  
3 permits.

4 **Discussion:** Under OAR 345-021-0000(7), the Department may not find a site certificate  
5 application complete unless the applicant has submitted to the Department a copy of each  
6 federally-delegated permit application. The applicant must provide a letter or other  
7 indication from the Oregon Department of Environmental Quality (DEQ) stating that the  
8 agency has received a permit application from the applicant, identifying any additional  
9 information the agency needs from the applicant and estimating the date when the agency  
10 will complete its review and issue a permit decision.

#### 11 Storm Water

12 The U.S. Environmental Protection Agency has delegated authority to DEQ to issue  
13 NPDES Storm Water Discharge permits. The Council does not have jurisdiction over the  
14 federally-delegated NPDES permits, but the Council may rely on the determinations of  
15 compliance and the conditions in the federally-delegated permits in making its  
16 determination about whether other standards and requirements under the Council's  
17 jurisdiction are met.

#### 18 Septic System

19 The applicant proposes to construct an on-site field workshop. Wastewater from uses at  
20 the field workshop would be discharged to a septic system. DEQ may require a WPCF  
21 permit or an on-site sewage disposal construction permit for a septic system. In the site  
22 certificate application, the applicant should provide information demonstrating that the  
23 proposed septic system is exempt from the WPCF permit requirement or, if not exempt,  
24 that the system would meet the requirements for a permit. The substantive requirements  
25 for WPCF permits and on-site sewage construction permits are set forth in OAR Chapter  
26 340, Division 71. The specific regulations for WPCF permits are set forth in OAR Chapter  
27 340, Division 45, "Regulations Pertaining to NPDES and WPCF Permits."

### 4. Department of Environmental Quality – Hazardous Materials

28 **Statute and Rule References:** ORS Chapters 465 and 466; OAR Chapter 340, Divisions  
29 100 through 122.

30 **Permit:** None required.

31 **Discussion:** The applicant must include in the application a list of all hazardous materials  
32 that potentially would be stored or used at the facility site during construction or  
33 operation, which may include lubricating oils, antifreeze, fuels, solvents, cleaners and  
34 pesticides. The application should estimate the amount (gallons) of each type of hazardous  
35 material that would be on-site at any one time during construction and operation of the  
36 facility. The application should describe methods for storage of the materials, including  
37 new materials as well as used materials being held for disposal or recycling. The applicant  
38 must comply with DEQ regulations concerning the use, clean up and disposal of  
39 hazardous materials.

## 5. Department of Environmental Quality – Noise Control Regulations

1       **Statute and Rule References:** ORS 467.020 and ORS 467.030; OAR 340-035-0035

2       **Permit:** None required.

3       **Discussion:** The proposed facility must comply with the noise control regulations  
4       applicable to wind energy facilities. The requirement is incorporated in the general  
5       standard of review, OAR 345-022-0000. The applicant must include a noise analysis in  
6       the application. The analysis must contain information to support a finding by the Council  
7       that the proposed facility could comply with the requirements of OAR 340-035-0035. The  
8       analysis must:

- 9           • Identify the locations of all noise sensitive properties that might receive noise  
10          levels potentially exceeding applicable limits from SBWP turbines.
- 11          • Identify all potential noise sources from facility components (for example, wind  
12          turbines, substation transformers and transmission lines).
- 13          • Identify all turbine locations used in performing the analysis.
- 14          • Provide manufacturer's declared sound power levels and uncertainty ranges,  
15          including octave band data, for representative specific turbine types that might be  
16          used at the SBWP. Include the manufacturer's declared sound power level and the  
17          "K" factor determined in accordance with IEC 61400-14. The analysis must  
18          include at least one turbine type representing the maximum sound power level and  
19          octave band data that would not be exceeded by any turbine type used at the  
20          SBWP.
- 21          • Provide manufacturer's sound power levels of substation transformers.
- 22          • Identify all input parameters used in performing noise modeling.
- 23          • Provide noise modeling output data, including the contribution of each facility  
24          noise source to the predicted sound levels at each noise sensitive receiver.
- 25          • Provide the names and mailing addresses of all property owners who may be  
26          asked to grant a noise waiver due to the location of their residences.

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## 6. Oregon Department of Fish and Wildlife

27       **Statute and Rule References:** ORS Chapters 496, 498, 506 and 509; OAR Chapter 635,  
28       Divisions 100 and 415.

29       **Permit:** None required.

30       **Discussion:** The Oregon Department of Fish and Wildlife (ODFW) provides technical  
31       review and recommendations on compliance with Council standards. ODFW will base its  
32       review and recommendations on state wildlife policy (ORS 496.012) and threatened and  
33       endangered species policy (ORS 496.171 - .192) as well as statutes regarding screening  
34       and bypass devices for water diversions or obstructions (ORS 498.301 - .346), protection  
35       and propagation of fish (ORS 506.036), food fish management (ORS 506.109), placing  
36       explosives in water (ORS 509.140), and fish passage statutes and requirements (ORS  
37       509.580 - .910). ODFW's review will include State Sensitive Species and State

1 Threatened and Endangered Species rules (OAR Chapter 635, Division 100) and habitat  
2 mitigation goals and standards (OAR Chapter 635, Division 415).

3 OAR Chapter 635, Division 100, provides authority for adoption of the state sensitive  
4 species list and the Wildlife Diversity Plan and contains the State list of threatened and  
5 endangered wildlife species. The applicant should include, in its application, lists of both  
6 State-listed and federally-listed threatened and endangered wildlife species and State  
7 Sensitive Species that have potential to occur in the analysis area. The applicant should  
8 identify these species based on a review of literature, consultation with knowledgeable  
9 individuals and reference to the list of species published by the Oregon Biodiversity  
10 Information Center.

11 The applicant should conduct field surveys for listed wildlife species performed by  
12 qualified survey personnel during the season or seasons appropriate to the detection of  
13 these species. The applicant should consult with ODFW regarding field survey methods,  
14 appropriate survey seasons, duration of surveys and qualifications of field survey  
15 personnel. The application should include a report on all field surveys conducted,  
16 describing the field surveys, survey methods and areas surveyed. The report should  
17 include an analysis of the findings of the field surveys.

18 OAR Chapter 635, Division 415, describes six habitat categories and establishes a  
19 mitigation goal for each category. In the application, the applicant must identify the  
20 appropriate habitat category for all areas affected by the proposed facility (temporary and  
21 permanent impacts) and explain the basis for each category designation. The applicant  
22 must show how the facility would comply with the habitat mitigation goals and standards  
23 by appropriate monitoring and mitigation.

## 7. Department of Geology and Mineral Industries

24 **Statute and Rule References:** OAR 345-022-0020.

25 **Permit:** None required.

26 **Discussion:** The Department of Geology and Mineral Industries (DOGAMI) provides  
27 technical review and recommendations on compliance with the Council's structural  
28 standard, OAR 345-022-0020. In the application, the applicant must include the  
29 information required by OAR 345-021-0010(1)(h) and OAR 345-021-0010(1)(i).

30 The Department understands that wind developers typically do not perform the detailed  
31 geotechnical exploration described in engineering geological reports and site-specific  
32 seismic hazard reports until they have identified exact turbine sites. If the applicant plans  
33 to defer some of the site-specific geotechnical work pending completion of facility design,  
34 then the application must include evidence of personal consultation with DOGAMI staff  
35 regarding the appropriate level of site-specific geotechnical investigation that the  
36 application should address.

## 8. Oregon Parks and Recreation Department

37 **Statute and Rule References:** ORS 97.745, 358.920, 390.010 and 390.235; OAR  
38 Chapter 736, Division 51.

1 **Permit:** An archaeological permit may be required to conduct archaeological  
2 investigations of the site.

3 **Discussion:** The Oregon Parks and Recreation Department provides technical review and  
4 recommendations on compliance with Council standards. State parks and waysides are  
5 protected areas under OAR 345-022-0040.

6 The State Historic Preservation Office (SHPO) within the Oregon Parks and Recreation  
7 Department provides technical review and recommendations in reference to the Council's  
8 Historic, Cultural and Archaeological Resources Standard (OAR 345-022-0090). The  
9 applicant should conduct a survey of the proposed facility site for historic, cultural and  
10 archaeological resources (collectively referred to as a "cultural resource survey"). The  
11 survey should be conducted by qualified archaeologists approved by SHPO. The  
12 application should include a cultural survey report detailing the findings and prepared in  
13 the manner described in the "State of Oregon Archaeological Reporting Guidelines"  
14 (SHPO, January 2009). The applicant should work as early as possible with SHPO to  
15 ensure that the application includes required information in SHPO's preferred formats.  
16 SHPO requests up to 30 days to review and comment on cultural resource survey reports.

17 **Note:** Information concerning the location of archaeological sites or objects may be  
18 exempt from public disclosure under ORS 192.501(11). Please do not include specific  
19 location information in the text of site certificate application. Such sensitive information,  
20 including archaeological survey reports, should be provided separately after consultation  
21 with the Department.

## 9. Oregon Department of State Lands

22 **Statute and Rule References:** ORS 196.795 through 196.990; OAR Chapter 141,  
23 Division 85.

24 **Permit:** Removal/Fill Authorization.

25 **Discussion:** The applicant should include information in the application to demonstrate  
26 whether a removal-fill authorization is needed. The application should include a  
27 delineation of potentially jurisdictional wetlands and waters in all areas to be affected by  
28 the proposed facility. If a removal-fill authorization is needed, the application must  
29 include the information described in OAR 141-085-0550.

30 **Note:** If the delineation report required by the Department of State Lands or the U.S.  
31 Army Corps of Engineers contains information concerning the location of archaeological  
32 sites or objects, such sensitive information should be extracted from the delineation report.  
33 The applicant should consult with ODOE regarding submittal of sensitive information  
34 separate from the site certificate application.

## 10. Water Resources Department – Water Rights Division

35 **Statute and Rule References:** ORS Chapters 537 and 540; OAR Chapter 690, Divisions  
36 200 through 240, 310, 340 and 380.

37 **Permit:** Water right or limited license.

1 **Discussion:** The applicant should include information in the application to support  
2 findings on whether a water right is needed. The application must identify sources of  
3 water that could be used during construction and operation, the water rights under which  
4 the water would be provided, the quantity of water needed and the means of disposal of all  
5 water discharges from the facility.

6 If the applicant will need to obtain a new water right or water right transfer, the  
7 application must include information demonstrating that the requirements for issuing the  
8 right or transfer are met. These requirements are found in ORS Chapter 537 (for a  
9 groundwater or surface water permit) and ORS Chapter 540 (for transfer of a water use).  
10 The application should include a discussion and evaluation of all relevant factors,  
11 including those factors listed in ORS 537.153(2) and (3), ORS 537.170(8) and OAR  
12 Chapter 690, Divisions 310 and 380. If a permit or transfer is needed, the Council will  
13 make the issuing decision in consultation with the Water Resources Department.

14 The NOI indicates that the applicant proposes to construct a water well near the field  
15 workshop. Water use would be no more than 5,000 gallons of water per day during facility  
16 operation. The application should include information demonstrating that water use from  
17 the well would be exempt from water right permitting under ORS 537.545. SB 788 (2009)  
18 amended ORS 537.545 to require the owner of land on which an exempt well is drilled to  
19 provide a map to WRD showing the exact location of the well and to file the exempt water  
20 use with WRD for recording with submittal of a fee.

## 11. Oregon Public Utility Commission

21 **Statute and Rule References:** ORS 757.035; OAR Chapter 860, Division 24.

22 **Permit:** None required.

23 **Discussion:** The Oregon Public Utility Commission reviews transmission line safety and  
24 may recommend site certificate conditions.

## 12. Oregon Department of Aviation

25 **Statute and Rule References:** ORS Chapters 836; OAR Chapter 738, Division 70.

26 **Permit:** None required.

27 **Discussion:** Both the Federal Aviation Administration (FAA) and the Oregon Department  
28 of Aviation are responsible for determining whether any wind turbine tower presents a  
29 hazard to aviation in Oregon. ORS 836.530 authorizes the Oregon Department of Aviation  
30 to adopt rules to “define physical hazards to air navigation and determine whether specific  
31 types or classes of objects or structures constitute hazards.” The agency has adopted rules  
32 in OAR Chapter 738, Division 70, regarding physical hazards to air safety.

33 The applicant should discuss aviation safety in Exhibit BB of the site certificate  
34 application. The FAA has recently issued Notices of Presumed Hazard regarding proposed  
35 wind turbine locations in Gilliam and Morrow counties. The basis of these notices was  
36 presumed interference with an Air Force military radar installation near Fossil, Oregon.  
37 Although the hazard notices were later withdrawn, the applicant should consult with the  
38 FAA and the Air Force to determine whether the proposed SBWP wind turbines would be  
39 considered a hazard to air navigation or radar operation.

1 In addition, given the proximity of the facility site to the Boardman Bombing Range, the  
2 applicant should discuss the potential location of facility structures with appropriate  
3 officials at the Naval Air Station Whidbey Island and identify any conflicts with restricted  
4 air space.

## II. TRIBES

5 **Permit:** None required.

6 **Discussion:** The application should include evidence of consultation with affected tribes,  
7 including the Confederated Tribes of Umatilla Indian Reservation and the Confederated  
8 Tribes of Warm Springs, regarding archaeological and cultural sites and materials within  
9 the site boundary. The affected tribes provide technical review and recommendations in  
10 reference to the Council's Historic, Cultural and Archaeological Resources Standard  
11 (OAR 345-022-0090).

## III. APPLICABLE LOCAL GOVERNMENT ORDINANCES

12 **Local Governments:** Morrow County and Gilliam County.

13 **Statute and Rule References:** Applicable substantive criteria from the Morrow County  
14 and Gilliam County codes and comprehensive plans.

15 **Permit:** Conditional Use Permit.

16 **Discussion:** In the application, the applicant may elect to request a Council determination  
17 regarding land use in accordance with ORS 469.504(1)(b) or to seek land use approval  
18 from the applicable local governments. In the NOI, the applicant has indicated the  
19 intention to seek a Council determination regarding land use.

20 Because parts of the proposed facility are located in Gilliam County and other parts are  
21 located in Morrow County, the Council must consider the applicable substantive criteria  
22 from both counties. The governing bodies of both counties have been appointed as Special  
23 Advisory Groups, as required under ORS 469.480. The applicable substantive criteria, as  
24 defined by ORS 469.504(1)(b)(A), are those criteria identified by the Special Advisory  
25 Groups that are required by the statewide planning goals and in effect on the date the  
26 Preliminary Application is submitted (see OAR 345-021-0000(10)).

27 In addition, the application must identify any Land Conservation and Development  
28 Commission administrative rules and goals and any land use statutes that are not  
29 implemented in the counties' comprehensive plans and that are therefore directly  
30 applicable to the facility under ORS 197.646. The applicant should demonstrate how the  
31 proposed facility would comply with OAR 660-033-0130(37), if applicable.

32 In the application, the applicant should discuss each land use ordinance and  
33 comprehensive plan policy that contains substantive criteria and should demonstrate how  
34 the proposed facility complies with those criteria. If the proposed facility does not comply  
35 with one or more of the criteria, the applicant must demonstrate how the proposed facility  
36 complies with the applicable statewide planning goal. If the proposed facility does not  
37 comply with an applicable statewide planning goal, the applicant must demonstrate that an  
38 exception is justified under ORS 469.504(2).

1 The applicant should contact the Gilliam County and Morrow County Planning Directors  
2 to discuss the requirements for Conditional Use Permits (CUPs), Zoning Permits, County  
3 Road Use Agreements and any other local land use permits or authorizations that may be  
4 required for the proposed SBWP and to discuss the procedure required to obtain the CUPs  
5 and other permits if the Council issues a final order granting a site certificate. As provided  
6 in ORS 469.401(3), if the Council issues a site certificate, the County will be bound to  
7 issue local land use permits, subject only to the conditions set forth in the site certificate.  
8 Therefore, the applicant should request that the county planning directors identify the  
9 conditions that the counties would include in the CUPs. The planning directors may  
10 identify the conditions by providing draft CUPs.

#### IV. OTHER CONSTRUCTION-RELATED REGULATIONS

11 If the Council issues a site certificate, the certificate holder must comply with  
12 construction-related regulations that apply to the proposed facility. As provided under ORS  
13 469.401(4), the site certificate does not address these regulations.

#### V. APPLICABLE REQUIREMENTS FROM OAR CHAPTER 345, DIVISION 21

14 The application should include the information described in OAR 345-021-0010(1),  
15 including but not limited to the information discussed below. In addition, the applicant must  
16 submit the information required by OAR 345-021-0000, particularly the information in sections  
17 (6) and (7) regarding the status of non-federally-delegated and federally delegated permits. The  
18 applicant should provide sufficient information under OAR 345-021-0010(1) to demonstrate that  
19 the proposed facility would comply with the Council standards described in OAR Chapter 345,  
20 Divisions 22 and 24.

##### (a) Exhibit A – General Information about the Applicant

21 Paragraphs (A) through (D) apply. Note that paragraph (B) calls for a list of  
22 “participating persons, other than individuals.” “Person” is defined in OAR 345-001-  
23 0010(45). If the applicant is a limited liability company (LLC), the applicant must  
24 provide information about the LLC similar to the information listed in the rule for  
25 corporations (OAR 345-021-0010(1)(a)(C)). The applicant must include in the  
26 application information about all third-party entities (persons other than individuals) that  
27 are important to the project.  
28

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

29 All paragraphs apply except (A)(vi), (A)(vii) and (A)(viii).

30 The applicant must provide specifications on all turbine types that might be used at the  
31 facility. If not all specific turbine types are known, the applicant must provide  
32 information on specific turbine types representing the range of turbine types that might be  
33 used and the maximum specifications that would not be exceeded. Specifications include:  
34 peak generating capacity, maximum turbine hub height in meters, maximum rotor  
35 diameter in meters, maximum sound power level (and octave band data) for all  
36 equipment associated with the turbine, maximum overall weight of metals in the tower  
37 and nacelle per turbine in net (U.S.) tons, maximum estimated cubic yards of concrete per  
38 turbine in the tower foundation and transformer pad to a depth of three feet below grade  
39 (that is, the concrete in the foundation above that depth including any portion above  
40

1 grade) and the maximum diameter of the foundation. The applicant must state the  
2 maximum number of turbines that would be built and the maximum combined peak  
3 generating capacity of the facility as a whole.

4 The NOI describes a 230-kV transmission line that would be more than 10 miles in  
5 length and would be constructed in more than one county. The line would not be  
6 constructed entirely within 500 feet of an existing corridor. Therefore, the application  
7 must include a corridor selection assessment as described in paragraph (D).

8 The application must include a physical description of all components of the facility and  
9 their proposed locations including, but not limited to, turbines, met towers, new access  
10 roads, modifications of existing roads, transmission lines (including collector lines),  
11 substations, interconnection facilities and workshops or O&M buildings.

12 (c) Exhibit C – Location

13 All paragraphs apply.

14 Maps included in Exhibit C should provide enough information for property owners  
15 potentially affected by the facility to determine whether their property is within or near  
16 the site. Names of public roads and other landmarks should be shown on the maps. At  
17 least one map should identify the locations of other permitted or operating wind energy  
18 facilities within 10 miles of the proposed SBWP site.

19 The application should identify lands enrolled in the Conservation Reserve Program and  
20 lands currently used for commercial agriculture. If OAR 660-033-0130(37) is applicable,  
21 the application should include maps showing the location of “high-value farmland soils”  
22 within the site boundary.

23 Maps should show the location of the site boundary as defined in OAR 345-001-  
24 0010(53). The proposed turbine string layout should be indicated. The application should  
25 include alternative layouts if the use of different turbine sizes would result in different  
26 turbine string alignments.

27 Although a legal description of the site is not required under paragraph (B), the  
28 application must include a written description of the micrositing corridors in addition to a  
29 map. A legal description of the site will be needed if a site certificate is issued. See OAR  
30 345-027-0020(2). The applicant is advised to anticipate the need for a legal description  
31 when deciding where to draw the boundary lines of the micrositing corridors for the  
32 purposes of the application (for example, straight boundary lines are easier to describe  
33 than curved or intricate boundaries).

34 (d) Exhibit D – Organizational Expertise

35 All paragraphs apply.

36 (e) Exhibit E – Permits

37 All paragraphs apply.

38 (f) Exhibit F – Property Owners

39 The entire site is within farm zones. Accordingly, the distance in paragraph (C) applies  
40 (500 feet from the site boundary).

- 1 (g) Exhibit G – Materials Analysis  
2 All paragraphs apply.
- 3 (h) Exhibit H – Geology  
4 All paragraphs apply.
- 5 (i) Exhibit I – Soils  
6 All paragraphs apply. The application should include information describing the impact  
7 of construction and operation of the proposed facility on soil productivity in farm zones.  
8 Describe all measures proposed to maintain soil productivity during construction and  
9 operation and measures to mitigate erosion and compaction. The applicant should consult  
10 with local farmers, landowners and soil conservation districts regarding mitigation of  
11 impacts to farmland. The application should include a description of accepted farm  
12 practices on surrounding lands devoted to farm use.
- 13 (j) Exhibit J – Jurisdictional Waters  
14 All paragraphs apply. The applicant should include information in the application to  
15 demonstrate whether a removal-fill authorization is needed. The application should  
16 include a delineation of potentially jurisdictional wetlands and waters in all areas to be  
17 affected by the proposed facility. The delineation report should be submitted to the  
18 Department of State Lands as early as possible for review and possible concurrence. This  
19 can be done in advance of submitting the Preliminary Application to ODOE.  
20 The definition of “waters of this state” is found in OAR 141-085-0510. Removal/fill  
21 authorizations are described in OAR 141-085-0540. If a removal-fill authorization is  
22 needed, the application must include the information described in OAR 141-085-0550.
- 23 (k) Exhibit K – Land Use (Statewide Planning Goals)  
24 Paragraphs A and C apply. Paragraphs B and D do not apply. The application should  
25 include a discussion of whether the proposed facility would be compatible with farm use.  
26 The application should demonstrate that the proposed SBWP would not seriously  
27 interfere with accepted farm practices and would not significantly increase the cost of  
28 accepted farm practices. See further discussion under Part III above.  
29 If OAR 660-033-0130(37) applies, the application should include a table showing the  
30 acres of high-value and non-high-value farmland soils occupied by facility components  
31 and a discussion of whether there are reasonable alternatives to locating the facility on  
32 high-value farmland soils.
- 33 (l) Exhibit L – Protected Areas  
34 All paragraphs apply.
- 35 (m) Exhibit M – Financial Capability  
36 All paragraphs apply.
- 37 (n) Exhibit N – Need for the Facility  
38 Exhibit N does not apply.
- 39 (o) Exhibit O – Water Use

1 All paragraphs apply except (D).

2 (p) Exhibit P – Fish and Wildlife Habitat

3 All paragraphs apply. The applicant should consult with the Oregon Department of Fish  
4 and Wildlife regarding the classification of habitat within the site boundary. The  
5 applicant should accurately classify all habitat within the micro-siting areas. The applicant  
6 should identify areas of high-value habitat that would be avoided.

7 The application should include a table showing the quantity of habitat (in acres) that  
8 would be affected temporarily during construction and permanently during operation  
9 (areas occupied by facility components) broken down by habitat category and habitat  
10 subtype. The application should include tables for both the expected or typical facility  
11 layout and for a “maximum habitat impacts” layout. The maximum habitat impacts table  
12 should be based on a buildable project layout with all components hypothetically located  
13 where they would affect the greatest quantity of higher-value habitat within the  
14 micro-siting area (but avoiding proposed exclusion areas, such as Category 1 habitat).

15 The maps required under paragraph (C), must be of sufficient scale to show details (a  
16 scale of 1 inch = 2,000 feet is suggested).

17 The application must include a proposed Wildlife Monitoring and Mitigation Plan, a  
18 proposed Revegetation Plan and a proposed Habitat Mitigation Plan.

19 (q) Exhibit Q – Threatened and Endangered Species

20 All paragraphs apply.

21 (r) Exhibit R – Scenic Resources

22 All paragraphs apply. For the purposes of Exhibit R, “local” land use plans include state,  
23 county and city land management plans. Copies of the local, tribal and federal plans (or  
24 relevant excerpts) that identify scenic resources as significant or important should be  
25 included as attachments to the exhibit (or, if the documents are available on-line, the  
26 application should include website addresses). Zone of Visual Influence modeling or  
27 photo-simulations may be included to help demonstrate compliance with the Scenic  
28 Resources standard (OAR 345-022-0080).

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

30 All paragraphs except (C) apply.

31 Information concerning the location of archaeological sites or objects may be exempt  
32 from public disclosure under ORS 192.502(4) or ORS 192.501(11). The applicant should  
33 submit such information separately, clearly marked as “confidential,” with a written  
34 request that the Department and the Council keep the information confidential to the  
35 extent permitted by law.

36 Before undertaking cultural resource surveys of the site, the applicant should consult with  
37 the State Historic Preservation Office (SHPO) for guidance on survey protocols and  
38 qualifications of the survey team. Cultural surveys should be completed early and  
39 submitted to SHPO allowing at least 30 days for review before the application will be  
40 determined complete.

1 (t) Exhibit T – Recreation

2 All paragraphs apply.

3 (u) Exhibit U – Public Services

4 All paragraphs apply. Include an analysis of estimated facility-related traffic during  
5 construction and operation and the potential impact on traffic safety.

6 The application should include a discussion of the transportation of heavy equipment and  
7 large facility components to the site during construction. The applicant should describe  
8 the transportation routes from the nearest Interstate Highway to the construction areas  
9 and should determine whether any alterations of public roads would be needed along  
10 these routes. The applicant should consult with the Oregon Department of Transportation  
11 and county public works departments regarding transportation routes and the need for any  
12 modifications of the public roadways. The application must describe any alterations of  
13 public rights-of-way or adjacent lands that will be necessary during facility construction.

14 (v) Exhibit V – Solid Waste and Wastewater

15 All paragraphs apply.

16 (w) Exhibit W – Facility Retirement

17 All paragraphs apply. The Department recommends estimating site restoration costs  
18 based on determining the unit costs for removal of facility components and reclamation  
19 of the affected lands. The applicant should review recent Siting Council orders as a guide  
20 to the level of detail required in the cost estimate. The Siting Council does not allow any  
21 deduction for the salvage or scrap value of wind turbines or turbine towers.

22 (x) Exhibit X – Noise

23 All paragraphs apply. The applicant should engage a qualified expert to conduct a noise  
24 modeling analysis demonstrating that the proposed facility could be built in compliance  
25 with the applicable noise regulations (see OAR 340-035-0035(1)(b)(B)(iii)(IV) and (VI)).  
26 The application should include data from the turbine manufacturers to verify the sound  
27 power levels used in the noise modeling. In predicting sound levels, the analysis should  
28 use conservative assumptions regarding atmospheric conditions and other parameters to  
29 ensure that actual noise levels generated by the proposed facility would not exceed the  
30 predicted levels. The application should include a map showing the location of  
31 potentially affected noise sensitive properties and data demonstrating the contribution of  
32 each noise source to the predicted noise levels at those properties. The application should  
33 specify any waivers that the applicant would need from affected property owners if the  
34 predicted noise levels would exceed the ambient degradation standard. If such waivers  
35 have been negotiated, the applicant should submit copies of the waivers (with proof of  
36 recording in the real property records of the county). If waivers have not been negotiated,  
37 the applicant should inform the affected property owners of the potential noise levels at  
38 the affected residences and request the waivers. If a waiver that is necessary to achieve  
39 compliance for the desired facility layout cannot be negotiated with the landowner, the  
40 applicant will have to re-design the facility layout to achieve compliance without the  
41 waiver.

1 (y) Exhibit Y – Carbon Dioxide Emissions

2 Exhibit Y does not apply.

3 (z) Exhibit Z – Cooling Tower Impacts

4 Exhibit Z does not apply.

5 (aa) Exhibit AA – Electric and Magnetic Fields

6 All paragraphs apply to the transmission lines that are components of the facility,  
7 including aboveground and underground collector cables.

8 (bb) Exhibit BB – Other Information

9 Include any information requested in this project order that is not addressed in any other  
10 exhibit.

11 (cc) Exhibit CC – Other Law

12 Exhibit CC applies.

13 (dd) Exhibit DD – Specific Standards

14 Paragraphs (A) and (C) apply.

## VI. ANALYSIS AREAS FOR THE PROPOSED FACILITY

15 The analysis areas are the minimum areas that the applicant must study for potential  
16 impacts from the construction and operation of the proposed facility. The analysis areas  
17 described in this project order do not limit the applicant's responsibility to assess the potential  
18 impacts of the facility. Analysis areas are the areas in which significant adverse impacts from the  
19 proposed facility, if any, are likely to occur. If significant impacts could occur beyond the  
20 analysis areas described herein, then the applicant must assess those impacts in the application  
21 and show how the facility would comply with the applicable standards with regard to the larger  
22 area where impacts could occur.

23 For all potential impacts, the analysis area includes, at a minimum, all the area within the  
24 site boundary. For potential impacts to particular resources, the analysis area includes additional  
25 area beyond the site boundary as described in the following table. "Site boundary" means "the  
26 perimeter of the site of a proposed energy facility, its related or supporting facilities, all  
27 temporary laydown and staging areas and all corridors and micrositing corridors proposed by the  
28 applicant." (OAR 345-001-0010(53)). In the application, the applicant must specifically describe  
29 the site boundary and provide a map showing the proposed site boundary and the boundaries of  
30 the analysis areas. The analysis areas are as follows:

<u>Affected Standard or Resource</u>	<u>Exhibit</u>	<u>Analysis Area</u>
Structural Standard	H	The area within the site boundary.
Soils	I	The area within the site boundary.
Wetlands and Waters	J	The area within the site boundary.
Land Use	K	The area within the site boundary and one-half mile from the site boundary.
Protected Areas	L	The area within the site boundary and 20 miles from the site boundary, including areas outside the state.

Fish and Wildlife Habitat	P	The area within the site boundary and one-half mile from the site boundary.
Threatened and Endangered Species	Q	The area within the site boundary and 5 miles from the site boundary.
Scenic Resources	R	The area within the site boundary and 10 miles from the site boundary.
Historic, Cultural and Archaeological Resources	S	The area within the site boundary.
Recreation	T	The area within the site boundary and 5 miles from the site boundary.
Public Services	U	The area within the site boundary and 10 miles from the site boundary.

## VII. PUBLIC AND REVIEWING AGENCY CONCERNS

1 The Department received comments on the NOI from the following reviewing agencies  
2 and members of the public. For the purposes of the site certificate application for the proposed  
3 SBWP, the Department identifies the U.S. Fish and Wildlife Service and the Oregon Historic  
4 Trails Advisory Council as reviewing agencies in addition to the agencies listed in OAR 345-  
5 001-0010(50). The applicant responded to questions raised in person at the public information  
6 meeting on September 10, 2009. The application requirements discussed above cover all issues  
7 discussed at the information meeting that are not otherwise addressed in the summary below.

8 The Department has sent copies of all written comments to the applicant. In the  
9 application, the applicant should respond to the issues raised in the comments summarized  
10 below. The Department notes that recommendations expressed in the comments summarized  
11 below reflect the commenter's opinions and do not necessarily represent the Department's own  
12 recommendations. If additional comments are received during the review process, the  
13 Department may request that the applicant respond to those comments and provide additional  
14 information.

### 1. Reviewing Agency Comments

15 The Department received the following comments on the NOI from reviewing agencies:

16 Susan Lynn White, State Historic Preservation Office (letter, 8/20/09):

- 17 • The NOI acknowledges the need to conduct a cultural resources assessment  
18 survey. The SHPO looks forward to reviewing the report.

19 Jan Houck, Oregon Parks & Recreation Department (email, 8/27/09):

- 20 • The John Day Scenic Waterway is a State Scenic Waterway. The J.S. Burres State  
21 Park is a State Park in Gilliam County managed by the Bureau of Land  
22 Management. The Arlington Wayside is an undeveloped wayside near Arlington.  
23 The application should acknowledge and analyze these areas. In addition, in a  
24 follow-up email, Jan Houck identified an additional area recently purchased by  
25 the State consisting of over 2,400 acres along the John Day River Scenic  
26 Waterway. This property (a portion of the Murtha Ranch) is in close proximity to  
27 the Burres property. [The Department notes that the John Day Scenic Waterway  
28 and the Arlington Wayside are protected areas under OAR 345-022-0040. The

1 status of the J.S. Burres State Park, managed by the BLM, needs to be clarified in  
2 further consultation with OPRD. The applicant should discuss the “Murtha”  
3 property because it is potentially a protected State Park.]

4 Jerry Sauter, Oregon Water Resources Department (email, 9/14/09):

- 5 • Water for construction must be obtained from a municipality or other source  
6 under a limited license.
- 7 • A water right for irrigation may not be used for construction purposes.
- 8 • Any geotechnical hole or well installation work must be in compliance with ORS  
9 537 and OAR Chapter 690, Divisions 200 through 240.

10 Rose Owens, Oregon Department of Fish and Wildlife (email and attached letter, 9/24/09):

- 11 • Include a discussion of how habitat categorization and vegetation classification  
12 subsets for the project area were determined. Include a description of these  
13 groupings.
- 14 • Micrositing corridors should be identified. [The Department notes that micrositing  
15 areas should be based on areas that could be directly affected during construction,  
16 allowing for needed flexibility in developing the final design configuration of the  
17 facility and considering the desirability of establishing simplified boundaries that  
18 can be easily described in writing. Areas that will not be affected under any  
19 design scenario should be excluded to the extent practical. Proper habitat  
20 categorization should be determined, in consultation with ODFW, for all areas  
21 within the site boundary.]
- 22 • The applicant should avoid or minimize impacts to Strategy species and Strategy  
23 habitats listed in the Oregon Conservation Strategy.
- 24 • The application should clarify the methods used in the Washington ground  
25 squirrel (WGS) surveys. ODFW recommends a second survey in potential WGS  
26 habitat prior to construction.
- 27 • Raptor nest surveys should be conducted within a 2-mile radius of the project  
28 area. The applicant should map the location of inactive nests that have the  
29 potential of use by raptor species of concern.
- 30 • ODFW recommends that construction not occur within a half-mile of active  
31 raptor nests during the nesting season.
- 32 • The application should include a proposed Wildlife Monitoring and Mitigation  
33 Plan including fatality monitoring of birds and bats. ODFW recommends raptor  
34 nest monitoring for the life of the facility.
- 35 • The application should include a proposed Habitat Mitigation Plan that addresses  
36 temporary and permanent losses of habitat as a result of construction. ODFW  
37 recommends that a conservation easement be acquired with provisions for  
38 enhancement, monitoring and management, as well as potential wildlife surveys  
39 or research activities.

- 1           • ODFW requests clarification of mitigation for “collector or transmission lines”  
2           placed within the “Shepherds Flat Wind Farm” (NOI, Exhibit J, p. 5).

3           Carla McLane, Morrow County (email, 9/25/09, and follow-up letter with attachments):

- 4           • The applicable substantive criteria were identified and copies of appropriate  
5           ordinances and plans were attached. [Carla McLane sent a follow-up email to the  
6           Department and the applicant on 10/14/09 that further specified applicable  
7           ordinances and Comprehensive Plan policies.]
- 8           • County review would include avian, wildlife and habitat studies; analysis of  
9           noxious and invasive weeds and a weed control plan; noise modeling and testing;  
10          Traffic Impact Analysis (depending on the number of vehicle trips); and reviews  
11          relative to flood and other hazards.

## 2. Public Comments

12          Glenn Harrison, Oregon-California Trails Association (letter, 9/10/09):

- 13          • The Oregon-California Trails Association (OCTA) is concerned about “Class 1”  
14          ruts identified in the “Mapping Emigrant Trails” Manual. There are Class 1 rut  
15          swales on the east side of Fourmile Canyon that will potentially be crossed by  
16          three separate turbine strings (shown on map attached to the comment letter).
- 17          • OCTA recommends that the applicant do a full historic resources survey of the  
18          Class 1 ruts with OCTA and Oregon Historic Trails Advisory Council experts  
19          present to consult and identify the Oregon Trail traces.
- 20          • OCTA recommends that the applicant avoid placing facility components within  
21          0.25 miles of “a contributing segment” of the Oregon Trail. [The Department  
22          notes that the comment letter does not define “contributing segments” but the  
23          letter states that the concern is avoidance of Class 1 ruts.]
- 24          • The applicant should minimize any impact to the historic viewshed from the  
25          Oregon Trail.

26          Jerry Cordova, US Fish and Wildlife Service (email with attached letter, 9/25/09):

- 27          • The Service is primarily concerned about the potential for project specific  
28          mortality to birds and bats and about measures to avoid, minimize or mitigate  
29          project impacts to biological resources.
- 30          • The Service supports and encourages the use of the 2008 Oregon Columbia  
31          Plateau Ecoregion Wind Energy Siting and Permitting Guidelines. [The  
32          Department notes that the Guidelines have not been adopted by the Siting  
33          Council. The Guidelines were written by an ad hoc committee of developers, state  
34          and federal agencies, county planners, utilities and interest groups and were  
35          developed as voluntary guidelines to inform new wind energy developers and to  
36          provide a possible framework for developers to work within.]
- 37          • The Service requests copies of biological surveys and reports to assist in the  
38          Service’s evaluation of project impacts.

- 1 • The Service would like to assist the applicant in the pre-project assessment,  
2 monitoring, micro-siting, post-project monitoring and mitigation phases of the  
3 project to ensure identified wildlife and habitat impacts are addressed and  
4 mitigated.
- 5 • The Service recommends complete surveys for birds, bats and other wildlife  
6 species and their habitats, as outlined in the Guidelines (the comment letter  
7 describes specific methods).
- 8 • The Service recommends that final project design incorporate the  
9 recommendations outlined in the Guidelines.
- 10 • The Service recommends a 0.25-mile setback for turbine locations from any  
11 ponds, streams and wetlands; avoidance of developing components within 0.5  
12 miles of active eagle nests that have a line-of-site to the development and within  
13 0.25 miles of active eagle nests that do not have a line-of-site; a 0.5-mile no-  
14 construction setback for active raptor nests during the nesting season; and a 200-  
15 foot construction buffer from any stream.
- 16 • The Service recommends that the certificate holder be required to develop a  
17 Technical Advisory Committee (TAC) that would be responsible for reviewing  
18 results of monitoring data and making suggestions to the Council and resource  
19 agencies regarding the need to adjust mitigation and monitoring requirements.  
20 [The Department notes that it has not consistently recommended that a TAC be  
21 required for previous wind energy facilities. For the Leaning Juniper II Wind  
22 Power Facility, the Council approved a Wildlife Monitoring and Mitigation Plan  
23 that allowed the certificate holder to establish a TAC but did not require that the  
24 certificate holder do so. The Council, however, required a TAC for the Golden  
25 Hills Wind Project.]
- 26 • The Service recommends monitoring of known golden eagle “and other raptor”  
27 nest sites within the project area (noting nest successes and failures) for the life of  
28 the facility.
- 29 • The Service recommends implementation of the ODFW Habitat Mitigation Policy  
30 as outlined in the Guidelines.
- 31 • The Service recommends the following measures be considered when developing  
32 mitigation for the proposed facility:
  - 33 ○ Identify the expected life of the project and discuss the decommissioning  
34 process.
  - 35 ○ Provide a mitigation ratio of 2:1 or higher for Category 2 and 3 shrub-  
36 steppe habitat, springs, seeps and wetlands. Provide mitigation for all  
37 other habitat at a compensatory ratio described in the ODFW Habitat  
38 Mitigation Policy.
  - 39 ○ “Collaboratively develop” a management and monitoring plan for the  
40 mitigation area for the life of the facility with a “dedicated, non-wasting,  
41 interest-bearing funding source” and describe how and where restoration  
42 at the mitigation site will occur. [The Department notes that the Council

1 has never required a “dedicated funding source” to ensure management of  
2 a mitigation area. Instead, the obligation to manage the mitigation area is  
3 incorporated in site certificate conditions, which are enforceable through  
4 the Council’s statutory authority and OAR Chapter 345, Division 29.]

5 ○ Use turbine cut-in speeds of 5.0 m/s or 6.5 m/s for each turbine, based on  
6 evidence (Arnett *et al.*, 2009) that this would “significantly” reduce bat  
7 mortality “with marginal annual power loss.”

- 8 • Most Oregon songbirds, wading bird, waterfowl and birds of prey are protected  
9 under either the Migratory Bird Treaty Act or the Bald and Golden Eagle  
10 Protection Act. The Service therefore recommends the “above iterative wind  
11 project planning, development, and operational steps, as proactive project actions  
12 to address potentially negative wind energy development impacts to migratory  
13 birds and their habitats.”
- 14 • The applicant should summarize existing available data on wildlife impacts  
15 associated with existing wind projects “proximal to the proposed Project.” The  
16 applicant should prepare a Cumulative Impacts Report, including “habitat,  
17 displacement and mortality data, and an estimation of how the new proposed wind  
18 project may affect those existing impacts.” The applicant should “collaboratively  
19 create” a report focusing on key species (for example, ferruginous hawk) and  
20 including “status, trends and ‘impact thresholds of concern’ for a limited number  
21 of key species that are highly sensitive to additional mortality, and species highly  
22 sensitive to habitat loss or displacement.”

## VIII. EXPIRATION

23 OAR 345-020-0060 provides that an NOI expires two years after the date the applicant  
24 submits the NOI to the Department unless the applicant submits a timely petition to extend the  
25 expiration date. On June 24, 2011, the Council granted the applicant’s request for an extension  
26 and ordered that the NOI will expire on August 7, 2012. If the applicant does not submit a  
27 Preliminary Application for a site certificate before the expiration of the NOI or any extension  
28 period granted by the Council, the applicant must submit a new NOI to satisfy ORS 469.330.

## IX. AMENDMENT AND COMPLETENESS

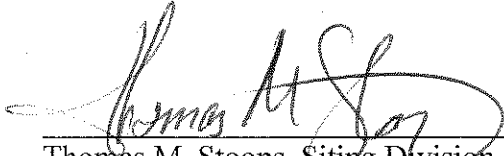
29 The Council or the Department may amend this project order at any time (ORS  
30 469.330(4)). Amendments may include changes to the analysis areas. To issue a site certificate,  
31 the Council must determine that the proposed facility complies with the Oregon statutes and  
32 administrative rules that this project order identifies as applicable (ORS 469.503(3)).

33 Under OAR 345-015-0190(5), when the Department determines the application contains  
34 adequate information for the Council to make findings on all applicable Council standards, the  
35 Department may determine that the application is complete, whether or not the application  
36 contains all information required under OAR 345-021-0000 and OAR 345-021-0010. After a  
37 determination that an application is complete, the Department may require the applicant to  
38 submit additional information if the Department identifies a need for that information during its  
39 review of the application. OAR 345-015-0190(9).

**X. APPLICABILITY**

- 1 Failure to include an applicable statute, rule, ordinance, permit or other requirement in
- 2 this project order does not render that statute, rule, ordinance, permit or other requirement
- 3 inapplicable nor in any way relieve applicant from the duty to comply with the same.

**OREGON DEPARTMENT OF ENERGY**



Thomas M. Stoops, Siting Division Administrator  
Oregon Department of Energy

Date of Issuance: July 12, 2011