

Helix Wind Power Facility

Proposed Order Comments and Department Responses

On February 9, 2011, the Oregon Department of Energy (ODOE) issued the Proposed Order on Amendment #1 for the Helix Wind Power Facility (HWPF). On February 11, the Department issued public notice and requested comments on the proposed order and stated a deadline of March 14 for comments or requests for a contested case proceeding. On March 16, the Department issued a second notice, extending the deadline for comments or requests for a contested case proceeding to April 11. On April 7, the Department issued a third notice, extending the deadline for comments or requests for a contested case proceeding to April 27. The Department received comments from the persons and agencies listed below. In the table that follows, the Department has summarized the issues raised in the comments and has provided a response.¹ In addition, on April 27, 2011, the applicants submitted responses to comments received before that date, along with supporting materials.² Department received responses to the comments from the applicant.

Public Comments

Dennis Wilkinson, Friends of the Grande Ronde Valley (2/15/11)
Dennis Wilkinson, Friends of the Grande Ronde Valley (2/25/11, 8:53 AM)
Dennis Wilkinson, Friends of the Grande Ronde Valley (2/25/11, 2:07 PM)
Dennis Wilkinson, Friends of the Grande Ronde Valley (3/11/11)
Dennis Wilkinson, Friends of the Grande Ronde Valley (oral comments, 4/27/11)

[Dennis Wilkinson requested a contested case proceeding]

Robin and Cindy Severe (2/24/11)
Robin and Cindy Severe (2/25/11)
Robin and Cindy Severe (3/23/11, 4:10 PM)
Robin and Cindy Severe (3/23/11, 6:18 PM)
Robin and Cindy Severe (3/27/11)
Robin and Cindy Severe (3/29/11)
Robin and Cindy Severe (oral comments and additional written comments, 4/27/11)

[Robin and Cindy Severe requested a contested case proceeding]

Janell Leake (3/01/11)
Wade Muller (3/9/11)
Wade Muller (4/3/11)
Wade Muller (oral comments, 4/27/11)

[Wade Muller requested a contested case proceeding]

Irene Gilbert (3/20/11)
Irene Gilbert (oral comments and additional written comments, 4/27/11)

[Irene Gilbert requested a contested case proceeding]

Dave and Judy Price (3/21/11)
Dave and Judy Price (3/30/11)
Jay and Julia Spratling (3/28/11)
Julia Spratling (oral comments and additional written comments, 4/27/11)
Fay Swanson (4/7/11)
Bill Timmermann (4/10/11)
Bill Timmermann (oral comments and additional written comments, 4/27/11)

[Bill Timmermann requested a contested case proceeding]

Gunder Terjeson and Kirk Terjeson (4/14/11)
Kirk Terjeson (oral comments, 4/27/11)
Tom Winn (4/21/11)
Raymond Rees (4/24/11)
Richard Jolly, Blue Mountain Alliance (4/27/11)

[Blue Mountain Alliance requested a contested case proceeding]

Richard Jolly (oral comments, 4/27/11)

¹ The full text of all comment letters and supporting materials are on record. ODOE sent copies of all comment letters and supporting materials to the members of the Energy Facility Siting Council.

² The applicants' responses and supporting materials are on record. ODOE sent copies of the applicants' responses and supporting materials to the members of the Energy Facility Siting Council.

Proposed Order Comments and Department Responses

Casey Beard (oral comments, 4/27/11)
 Wendell Baskins (oral comments, 4/27/11)
 Bill and Marcy Holton (oral comments, 4/27/11)
 Tom Peterson (oral comments, 4/27/11)
 Nancy Rees Duff (oral comments, 4/27/11)
 Ron Brown (oral comments, 4/27/11)
 Gary Rhinehart (oral comments, 4/27/11)
 Jeff Newton (oral comments, 4/27/11)
 William and Barbara Andrus; Michael Kilby (4/27/11)

Reviewing Agency Comments

Dennis Griffin, State Historic Preservation Office (2/14/11)
 Carol Johnson, Umatilla County Department of Land Use Planning (2/23/11)³
 Carol Johnson, Umatilla County Department of Land Use Planning (3/14/11)
 Jeff Everett, U.S. Fish and Wildlife Service (3/21/11)

Comment	Response
Public Comments	
Dennis Wilkinson, Friends of the Grande Ronde Valley (2/15/11)	
<p>“When a request for expansion is applied for it should automatically require the application be referred back to the beginning due to the fact the expansion creates an entirely new set of issues..”</p>	<p>[1] The applicants are requesting a site certificate amendment in compliance with state statutes and the rules of the Council. Under ORS 469.405, the Council has broad discretion to decide when an amendment is allowed. The Council has followed all applicable rules in handling this amendment request. Under OAR 345-027-0070(10), the Council must consider whether the proposed expanded facility complies with all Council standards. ODOE’s proposed order includes recommended findings on all Council standards.</p>
<p>“The mission statement of the ODOE is to “ensure Oregon has an adequate supply of reliable and affordable energy”. This statement is contrary as to what is happening as they site more unreliable wind farms and the power continues to go out of state.”</p>	<p>[2] The ODOE mission statement is not a Council standard applicable to approval of a site certificate amendment. The portion quoted is out of context. The full statement supports the development of renewable energy sources, such as wind: <i>“The mission of the Oregon Department of Energy is to ensure Oregon has an adequate supply of reliable and affordable energy and is safe from nuclear contamination, by helping Oregonians save energy, develop clean energy resources, promote renewable energy, and clean up nuclear waste.”</i></p>
<p>“In reviewing the application it is found to be incomplete since there is no final site plan plus numerous other issues regarding land use, wildlife and impact to the area.”</p>	<p>[3] A final site plan is not required prior to approval of the amendment. Condition 30 of the site certificate requires the certificate holder to submit a final design map of the facility site before beginning construction.</p>
<p>“Nowhere in the application has Iberdrola or ODOE shown there is a need for the wind farm, which is an OAR requirement. Per OAR 345-022-0000, “The applicant has the burden to show that the overall public benefits outweigh the damage to the resources, and the burden increases proportionately with the degree of damage to the resources. The Council shall weigh</p>	<p>[4] ORS 469.501(1)(L) prohibits the Council from adopting a standard requiring a showing of need or cost-effectiveness for generating facilities. The balancing authority addressed by OAR 345-022-0000(2) does not apply unless the applicant has shown</p>

³ Carol Johnson forwarded a letter from Calista Berg and Stephanie Hutchinson, dated January 19, 2011. Although the letter was sent before the Department’s first notice of the proposed order, it is included here for completeness.

Proposed Order Comments and Department Responses

Comment	Response
overall public benefits and damage to the resources.”	“that the proposed facility cannot meet Council standards or has shown, to the satisfaction of the Council, that there is no reasonable way to meet the Council standards through mitigation or avoidance of the damage to the protected resources.” ODOE has recommended that the Council find that the expansion meets all applicable Council standards, and therefore OAR 345-022-0000(2) does not apply.
“It is also obvious that Iberdrola is splitting the HWPF off as a limited liability company to avoid a liability issue, wherein if decommissioning is not completed their liability is very limited. There is also the liability issue regarding turbine or tower failure that is occurring all around the world as these wind farms proliferate the rural area.”	[5] Condition 8 requires the certificate holder to submit 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. The certificate holder must submit this financial assurance before beginning construction and must maintain it in effect for the life of the facility. The amount is determined according to Condition 31 and is adjusted annually for inflation. Condition 9 requires the certificate holder to retire the site according to a retirement plan approved by the Council and to pay the actual costs of site restoration. Condition 16 allows the Council to restore the site if the certificate holder fails to do so and allows the Council to use the financial assurance funds for this purpose.
Dennis Wilkinson, Friends of the Grande Ronde Valley (2/25/11, 8:53 AM)	
“Yes we will be filing for a contested case since this revised application is setting precedence in the siting process that is not in the best interest of the people of Oregon. We feel we can show how incomplete the revised application is and fails to address some the OARS, plus this fast track approach will have far reaching effects on future applications.”	[6] The Department acknowledges the commenter’s intent to request a contested case proceeding.
Dennis Wilkinson, Friends of the Grande Ronde Valley (2/25/11, 2:07 PM)	
“We will do so by the 14th even though it is a very short unreasonable time frame for such a big issue. It appears the ODOE has doubts about our capability to address the issues since you keep sending me the requirements. It is unfortunate that the ODOE is more interested in the developers position than the people of Oregon.”	[7] The Department acknowledges the commenter’s intent to request a contested case proceeding.
Dennis Wilkinson, Friends of the Grande Ronde Valley (3/11/11) [contested case request]	
“First of all, there are no guidelines as to when the site is to be decommissioned and the site restored, which must be part of the criteria for this application. On page 17 of the Final Order, it states "The certificate holder is obligated to retire the facility upon permanent cessation of construction or operation." What are the criteria and definition as to "permanent"? A time frame must be established due to the fact the developer may claim they will retrofit the tower one day leaving the project gathering rust for years.”	[8] OAR 345-027-0020(9) and Condition 9 of the site certificate require the certificate holder to retire the facility if the certificate holder permanently ceases construction or operation of the facility. The certificate holder must retire the facility according to a final retirement plan approved by the Council. Alternatively, the Council may make a determination that the certificate holder has permanently ceased construction or operation of the facility. This is a determination that would be made based on the facts and circumstances existing at the time. Under OAR 345-027-0020(16) and Condition 16 of the site certificate, the Council may request a final retirement plan from the certificate holder or direct ODOE to prepare a final retirement plan. The Council may draw upon the bond or letter of credit described in OAR 345-027-0020(8) to pay the costs of restoring the site.

Proposed Order Comments and Department Responses

Comment	Response
<p>"On page 17 of the Final Order, it states the following "Concrete turbine tower and transformer pads and underground foundations would be removed to a minimum depth of three feet below grade." In farm ground, a 3 foot depth is not deep enough for many crops due to compaction of the soil and the root structure reaching the 3 foot depth."</p>	<p>[9] The Council has previously found that removing underground components and foundations to a depth of three feet would not interfere with farming practices. This finding was based in part on a letter from the Umatilla County Crops Agent, Oregon State University Extension Service (<i>Final Order on the Application for a Site Certificate for the Helix Wind Power Facility</i>, p. 17).</p>
<p>"On page 18 of the Final Order, it states "In current dollars, the applicant's estimate (reduced) would amount to approximately \$3.283 million. "While on page 19, the table indicates the restoration costs will be \$6.1 million. As a result, the final order needs to be revised."</p>	<p>[10] The commenter refers to the <i>Final Order on the Application for a Site Certificate for the Helix Wind Power Facility</i> (July 31, 2009). That order is not subject to appeal or revision at this time. As discussed in the proposed order at pages 9-14, ODOE has recommended that the Council find that \$14.930 million (1st Quarter 2011 dollars) adjusted annually as described in revised Condition 31 is a conservative estimate of the cost to restore the expanded HWPF site (with up to 134 turbines) to a useful, non-hazardous condition. ODOE's estimate is based on unit costs developed by a qualified independent consultant.</p>
<p>"On page 20 of the Final Order, it states "The letter does not constitute a firm commitment from the bank to issue the letter of credit, but evidence of a reasonable likelihood that IBR could obtain the necessary financial assurance. " In the ORS and OAR, it clearly states the developer must have a surety bond. For the council to accept that the developer may be able to provide the bond is unacceptable and fails to meet the OAR and ORS requirement."</p>	<p>[11] The applicable siting standard, OAR 345-022-0050, requires the Council to find that applicant has a "reasonable likelihood" of obtaining a bond or letter of credit in a form and amount satisfactory to the Council. The bond or letter of credit need not be in place before a site certificate is issued. Under OAR 345-027-0020(8) and Condition 8 of the site certificate, the bond or letter of credit must be submitted to the State of Oregon before the certificate holder begins construction of the facility.</p>
<p>"In Attachment 7 of the application, there are serious issues with the cost estimates for restoration of the site and is far from complete."</p>	<p>[12] The commenter refers to Attachment 7 of the applicants' Request for Amendment #1 and does not address the proposed order. ODOE considered the applicants' estimate but independently calculated a restoration cost estimate to support recommendations to the Council regarding site restoration costs (proposed order, pp. 9-14).</p>
<p>"The steel tonnage is incorrect since there are 222 tons in each tower wherein with 134 towers there would be 29,748 tons. In addition, the cost of \$78.09 per ton is unsubstantiated and we contend it cannot be accomplished at that rate."</p>	<p>[13] See Response 12 above. ODOE's estimate is based on 134 turbine towers and a unit cost of \$82 per ton for tower removal. All unit costs used in ODOE's estimate are based on the updated Cost Guide, which incorporates unit costs developed by a qualified independent consultant.</p>
<p>"The disposal of the fiberglass blades will require they be cut up and shipped to an appropriate landfill, such as Arlington. That would consist 3,417 tons which would be impossible to dispose of at a cost of \$370,734. A complete cost analysis would need to be done to include, but not limited to costs to remove the blades, cut them up and haul them to Arlington, which would require a minimum of 85 round trips, etc."</p>	<p>[14] See Response 12 above. In ODOE's estimate, the cost of disposal of turbine blades is included in the line item "Remove turbine blades, hub and nacelle" with a cost of \$790,600 for 134 turbine towers.</p>
<p>"The \$6.6 million bond for decommissioning is far from adequate to restore the site. In order to protect the landowner and the county from a default by the developer, thus leaving the project to rust away and become a safety hazard, a minimum of 25% of the initial</p>	<p>[15] See Responses 10 and 12 above.</p>

Proposed Order Comments and Department Responses

Comment	Response
development cost must be provided.”	
<p>“In the original application (Table 2), the cost to decommission the project was indicated as \$6.1 million and in the revised decommissioning Attachment 7, it is indicated that the cost will be \$8.1 million. Wherein the number of towers has increased to 134 which would be double the original 60 towers, but the cost has only increased by \$2 million.”</p>	<p>[16] See Responses 10 and 12 above.</p>
<p>“The Restoration Cost Table 7 does not address environmental issue, such as large spills. Since there will be 107,000 gallons of transformer oil, 116,000 gallons of gear oil and 1,600 gallons of ethylene glycol, spills would be nearly impossible to avoid. This does not include spills from the construction equipment.”</p>	<p>[17] See Response 12 above.</p> <p>Spills of hazardous materials that might occur during operation are addressed by Conditions 55 and 56, which require proper handling of hazardous materials, prompt cleanup of any spills according to applicable regulations and notification to ODOE. Further, under Condition 7, the certificate holder must prevent the development of any conditions on the site that would preclude restoration to a useful, non-hazardous condition. ODOE’s estimate of site restoration costs includes a line item for “Future Developments Contingency” which may be used to clean up spills of hazardous materials.</p> <p>The commenter’s estimates of the quantities of transformer oil, gear oil and ethylene glycol are not based on any evidence in the record. ODOE notes that Exhibit G of the site certificate application included an estimate of 3 gallons of ethylene glycol and 10 gallons of gear oil and turbine lubricant per turbine. The amendment would allow the HWPF to have a maximum of 134 turbines.</p>
<p>“There is in excess of 4,000 lbs. of Neodymium Alloy in each turbine.... This material has not been addressed in the application.”</p>	<p>[18] See Responses 10 and 12 above.</p> <p>The commenter’s estimate of the quantity of this substance in the turbines proposed for the Helix facility is not based on any evidence in the record. The applicants state that the turbines being considered for the HWPF would not contain this material (Applicants’ Response to Comments, Vol. 1., Table 1, p. 9).</p>
<p><i>[The commenter quotes the different amounts stated for the bond or letter of credit in Attachments 3 and 7 of the amendment request.]</i></p> <p>“...there is an issue of what is the required bond.”</p>	<p>[19] See Response 10 above.</p> <p>The commenter refers to Attachments 3 and 7 of the applicants’ Request for Amendment #1 and does not address the proposed order.</p>
<p>“On page 15 of Attachment 3 The certificate holder shall ensure that a qualified archeologist, as defined in OAR 736-05 11-0070, instructs construction personnel in the identification of cultural materials and avoidance of accidental damage to identified resource sites. The proposal to attempt to teach a construction machine operator to be able to recognize cultural materials is a ridiculous idea and will not provide protection of cultural materials. If a backhoe operator digs up a bean can, how is he to know if it is of cultural value?”</p>	<p>[20]</p> <p>The commenter refers to Attachment 3 of the applicants’ Request for Amendment #1 and does not address the proposed order.</p> <p>The commenter refers to language that is contained in site certificate Condition 50. No change to Condition 50 is being proposed in Amendment #1. This condition was approved by the Council in the <i>Final Order on the Application for a Site Certificate for the Helix Wind Power Facility</i> (July 31, 2009), which is not subject to appeal. The language of Condition 50 was approved by the Oregon State Historic Preservation Office.</p> <p>If the amendment is approved, the transferee, Helix Wind Power Facility LLC, as the new certificate holder would abide by all terms and conditions of the site certificate</p>

Proposed Order Comments and Department Responses

Comment	Response
<p>“On page 15 of Attachment 3: If a spill or release of hazardous material occurs during construction or operation of the ... facility, the certificate holder shall notify the Department within 72 hours and shall clean ... up the spill or release and dispose of any contaminated soil or other materials according to ... applicable regulations. To allow for 72 hours before notification is sent to the Department needs to be changed to 12 hours.”</p>	<p>(proposed order, p. 3).</p> <p>[21]</p> <p>The commenter refers to Attachment 3 of the applicants’ Request for Amendment #1 and does not address the proposed order.</p> <p>The commenter refers to Condition 56 of the site certificate. The Council has previously approved this condition language in the <i>Final Order on the Application for a Site Certificate for the Helix Wind Power Facility</i> (July 31, 2009), which is not subject to appeal. ODOE believes that 72 hours is a reasonable deadline for notification to ODOE. Condition 56 requires the certificate holder to clean up any spills according to applicable regulations. In addition to the notification to ODOE under Condition 56, the certificate holder would be required to comply with other state or federal reporting requirements.</p>
<p>On page 16 of attachment 3: During construction and operation of the facility, the certificate holder shall develop and ... implement fire safety plans in consultation with the Milton-Freewater Rural Fire ... Department to minimize the risk of fire and to respond appropriately to any fires that occur ... on the facility site.</p> <p>To utilize the Milton Freewater Rural Fire appears to be a serious issue primarily due to the distance from the site. The fire departments of Athena or Pendleton are a lot closer and should be the departments that are designated.</p>	<p>[22]</p> <p>The commenter refers to Attachment 3 of the applicants’ Request for Amendment #1 and does not address the proposed order.</p> <p>The commenter refers to Condition 60 of the site certificate. The Council has previously approved this condition language in the <i>Final Order on the Application for a Site Certificate for the Helix Wind Power Facility</i> (July 31, 2009), which is not subject to appeal. No change to Condition 60 is being proposed in Amendment #1.</p> <p>Based on a letter from the Fire Chief stating that the Milton-Freewater Rural Fire Department (MFRFD) is the primary fire and emergency response provider for the area where the HWPF would be built, the Council specified consultation with the MFRFD in Conditions 60 and 61 (<i>Final Order on the Application</i>, p. 121 and p. 137). It would be appropriate for the certificate holder to consult with the Helix Fire District and other nearby districts as well in developing plans for emergency response. Condition 60 requires the certificate holder to develop and implement fire safety plans during construction and operation of the HWPF. If a fire were to occur on the site during construction or operation of the facility, it is likely that the first responders would be construction or operational personnel. For that reason, Condition 60 requires the development of a plan for responding appropriately. Further, Condition 60 requires the certificate holder to meet annually with local fire protection agency personnel to discuss emergency planning. Condition 61 requires the certificate holder to provide information to the MFRFD, including a site plan, turbine identification numbers and locations and contact information for facility personnel available to respond to any emergency on a 24-hour basis. This information should also be provided to the Helix Fire District and other nearby districts.</p>
<p><i>[The commenter quotes from the Request for Amendment #1, Attachment 12, page 3:</i></p> <p><i>“As described in the Final Order (July 31, 2009), the certificate holder seeks micro-siting flexibility for the proposed expanded HWPF with regard to the final layout</i></p>	<p>[23]</p> <p>Oregon law requires the Council to apply the noise control regulations that have been adopted by the Department of Environmental Quality (DEQ), as amended in 2004. The certificate holder must comply with the requirements of OAR 340-035-0035(1)(b)(B)(i).</p>

Proposed Order Comments and Department Responses

Comment	Response
<p>for turbines.”</p> <p><i>(Part of the text is then omitted by the commenter.)</i></p> <p>“After the precise turbine locations and type have been selected and prior to HWPF construction, the certificate holder will submit for the Oregon Department of Energy’s (Department) review an acoustical analysis of the final HWPF design along with evidence, including any noise easements, that demonstrates compliance with OAR 340-035-0035.”]</p> <p>“These 2 paragraphs clearly are in conflict with the OAR siting requirements, since the final site plan has not been established. As a result, the noise analysis issue cannot be addressed as to the effects to landowners and adjacent land owners.”</p>	<p>The applicable provisions are set forth in the proposed order at pages 84-86.</p> <p>A “final site plan” is not required before approval of a site certificate. Condition 101 of the site certificate requires the certificate holder to perform a noise analysis consistent with OAR 340-035-0035(1)(b)(B)(iii)(IV) and (VI). In order to comply with the noise regulation, the certificate holder may need noise waivers from some property owners. Waivers are authorized under OAR 340-035-0035(1)(b)(B)(iii)(III). Based on tentative layouts, waivers may be needed from property owners whose residences are located within the 36-dBA contour lines shown on the noise contour maps. The certificate holder can design a final turbine layout only when the certificate holder has determined which property owners are willing to grant a waiver. The final design must ensure that the ambient noise level would not be increased by more than 10 dBA at those noise sensitive locations for which no waiver has been granted.</p>
<p>“In Table 3 and 4, it indicates that 90% of the towers listed will require a landowner waiver, but it does not address adjacent landowners and the traveling public. In addition, there are only a small portion of the towers listed. As a result, all 134 towers must be listed as to the noise level that is generated.”</p>	<p>[24]</p> <p>Tables 3 and 4 do not list wind turbines. As described in the proposed order at page 86, the certificate holder used two tentative turbine layouts. The 1.5-MW turbine layout consists of 134 turbines. The 3.0-MW turbine layout consists of 67 turbines. In the analysis of each layout, the noise from all turbines was included. The applicable noise control regulations limit noise impacts at “an appropriate measurement point” and do not refer to “adjacent landowners and the traveling public.” OAR 340-035-0015(3) defines “appropriate measurement point.”</p>
<p>“Since noise has become a serious health issue all around the world, the project needs to address health. The health impacts of noise must be carefully analyzed for the entire community. This report from CH2M Hill is incomplete and a new study needs to be conducted addressing the full size of the project.”</p>	<p>[25]</p> <p>The Council is required to enforce the existing noise regulations. Those regulations were adopted by DEQ based on consideration of the health impacts of noise. The certificate holder must comply with the requirements of OAR 340-035-0035(1)(b)(B).</p>
<p><i>[The commenter quotes from UCDC Section 152.616(2)(I) and UCDC Section 152.616(11)(B) and then comments as follows:]</i></p> <p>“The socioeconomic impacts, as a result of expansion of the project, create an entirely new set of issues that have not been addressed in the amendment.”</p>	<p>[26]</p> <p>UCDC Section 152.616(2)(I) has been addressed in the proposed order at pages 26-29. The ordinance describes the content of an application for a Conditional Use Permit under the County process. As described in the proposed order, the applicant’s Request for Amendment #1 contains information required under the ordinance. UCDC Section 152.616(11)(B) has been addressed in the proposed order at pages 32-33. The ordinance by its own terms does not apply to an amendment of a site certificate.</p>
<p>The case of EFSC overriding the land use planning for Umatilla County just because at the time of the original siting the area was in a state-designated Energy Generation Area (EGA) which has since been removed. As a result this amended application needs to comply with all planning codes for Umatilla County which will require a new public input session and application for a conditional use permit.</p>	<p>[27]</p> <p>The applicant elected to apply for a site certificate under ORS 469.320(8) (<i>Final Order on the Application for a Site Certificate for the Helix Wind Power Facility</i> (July 31, 2009), p. 2). The applicant waived the right to request an exemption under OAR 345-001-0210 (which applies to Energy Generation Areas). The basis of the Council’s jurisdiction over the site certificate application for the HWPF was ORS 469.320(8) rather than the fact that the proposed facility was located within an Energy Generation Area at the time.</p> <p>To obtain the site certificate for the HWPF, Iberdrola</p>

Proposed Order Comments and Department Responses

Comment	Response
	<p>demonstrated that the facility complied with the land use requirements in the original application. The previously-issued site certificate is not subject to appeal in the amendment proceeding.</p> <p>As described in detail in the proposed order at pages 14-52, ODOE applied all applicable substantive criteria that were recommended by the Umatilla County Department of Land Use Planning. ODOE recommended that the Council find that the HWPF, including the expansion proposed by Amendment #1, would comply with those criteria.</p> <p>If an amended site certificate is granted, an amended Conditional Use Permit can be issued under ORS 469.401(3).</p>
<p>Dennis Wilkinson, Friends of the Grande Ronde Valley (oral comments, 4/27/11)</p>	
<p><i>Dennis Wilkinson introduced himself as the Chair of the Friends of the Grand Ronde Valley out of LaGrande. He said he was speaking to follow up on his written comments.</i></p> <p><i>He said that it was a failure by the Oregon Department of Energy to allow an amendment of this size—over double in size—to even happen. He said that he has reviewed other applications, including Antelope Ridge, and he has observed that there are numerous cases where applications are not complete. He said the Department of Energy needs to be more thorough in what they do to make the applications clear so that EFSC can make the appropriate decisions.</i></p>	<p style="text-align: right;">[28]</p> <p>ORS 469.405 authorizes the Council to approve amendments to a site certificate. The Council has adopted rules governing the procedures for amendments. The relevant procedures for amendment of a site certificate are set forth in OAR 345-027-0050, -0060, and -0070. There is no rule or statute that prohibits an amendment of the size proposed for the HWPF. ODOE has followed all applicable procedures in issuing a proposed order on the amendment request. ODOE has conducted a thorough review of the amendment request. The proposed order contains recommendations to the Council that are supported by the record.</p>
<p>Robin and Cindy Severe (2/24/11)</p>	
<p>“As a land owner who will be greatly affected by the proposed expansion of the Helix Wind project. We would like to make a request that the siting counsel add into their language that there will be ZERO tolerance for noise violations for those land owners who have not signed a noise waiver. We also request that it be stated that the land owners who do not sign a noise waiver shall bear NO burden of proving noise violations. Also that an annual monitoring system go into effect for the Helix Wind project.”</p>	<p style="text-align: right;">[29]</p> <p>The proposed order does not recommend any degree of “tolerance” for violation of the applicable state noise regulations. The certificate holder must comply with the requirements of OAR 340-035-0035(1)(b)(B) set forth in the proposed order at pages 84-86. Condition 102 addresses claims by landowners when they believe that a violation of the noise regulations may have occurred. The Condition places the burden on the certificate holder to verify that the facility is in compliance with the regulations. If necessary, the Council can require the certificate holder to demonstrate compliance by monitoring and recording statistical noise levels.</p> <p>Under ORS 469.430, the Council retains regulatory authority over the facility after a site certificate has been issued, and on behalf of the Council, ODOE provides ongoing monitoring for compliance with all site certificate conditions for the life of the facility. Any suspected violations of the site certificate should be reported to ODOE.</p>
<p>Robin and Cindy Severe (2/25/11)</p>	
<p>“We have a major concern with fire. These turbines are being constructed in standing wheat and/or CRP. Our residence is down wind of a majority of the turbines. In the event of a fire the wheat field next to our house will undoubtedly burn. There are several residences besides our that will be in danger of burning if a fire is started</p>	<p style="text-align: right;">[30]</p> <p>See Response 22 above.</p> <p>The dangers of wildfire in wheat-growing country are well known. The site certificate contains conditions to reduce the risk of fire and to ensure effective response to any fire within the site boundary (whatever the cause).</p>

Proposed Order Comments and Department Responses

Comment	Response
<p>either during construction or later when a turbine catches fire.”</p>	<p>Condition 57 requires a non-flammable ground cover in the immediate area surrounding turbine towers and pad-mounted transformers.</p> <p>Condition 58 requires all turbines to have self-monitoring devices to immediately notify the operators of any malfunction or potentially dangerous conditions. Automatic equipment protection features shut down the turbine in the event of a malfunction and reduce the risk of a fire due to mechanical problems.</p> <p>Condition 59 requires all service vehicles as well as the O&M building be equipped with shovels and portable fire extinguishers.</p> <p>Condition 60 requires the certificate holder to develop and implement a fire safety plan to minimize the risk of fire and to respond appropriately to any fires that occur on the facility site. The fire safety plan must be developed in consultation with the MFRFD and other nearby fire and emergency response providers in the area where the facility is located. If a fire were to occur on the site during construction or operation of the facility, it is likely that the first responders would be construction or operational personnel. Condition 60 requires the development of a plan for responding appropriately. Further, Condition 60 requires the certificate holder to meet annually with local fire protection agency personnel to discuss emergency response.</p> <p>Condition 61 requires the certificate holder to provide the MFRFD with site maps and turbine identification numbers. The certificate holder must ensure that appropriate fire protection agency personnel have an up-to-date list of the names and telephone numbers of facility personnel available to respond on a 24-hour basis in case of an emergency on the facility site.</p> <p>Condition 62 requires that construction vehicles and equipment are operated on graveled areas to the extent possible and that open flames, such as cutting torches, are kept away from dry grass areas.</p> <p>Condition 63 ensures that during operation, all on-site employees receive annual fire prevention and response training by qualified instructors or members of the local fire districts. The certificate holder must ensure that all employees are instructed to keep vehicles on roads and off dry grassland, except when off-road operation is required for emergency purposes.</p> <p>The improvements to existing farm roads and construction of new roads for access to the turbine areas provide better access to areas within the site boundary than currently exists. Better access allows for more rapid and effective response to any fires that occur. The roads also provide effective fire-breaks.</p> <p>Wind turbines have been operating in Oregon for nearly a decade. There have been no reported cases of fires caused by wind turbines in wheat-growing areas.</p>

Proposed Order Comments and Department Responses

Comment	Response
<p>Robin and Cindy Severe (3/23/11, 4:10 PM) [contested case request]</p> <p>Robin and Cindy Severe (3/23/11, 6:18 PM) [contested case request]</p> <p><i>[These two comment letters raise the same concerns and are nearly identical. ODOE’s response addresses both letters.]</i></p>	
<p>“We Request a Contested Case Hearing for the Helix Wind Facility Siting Amendment.</p> <p>“The additional turbines will be sited in dry land wheat and some CRP areas. This poses significant threat to the homes and properties that are in that area. There are at least 20 rural residences that located directly adjacent or down wind of these proposed turbine sitings. Fire in standing wheat coupled with low humidity and wind is nearly impossible to stop. The wind developer has hired a company out of Milton-Freewater, Oregon which is about an hour away from this site. The nearest fire department is the Helix fire dept. which is manned strictly with volunteers. The average response time is 1/2 hour. The steepness of the terrain makes it extremely difficult – if not impossible – to fight fire. By the time the Milton-Freewater company or the Helix fire dept. gets on site the potential for several homes and properties to be lost is almost a certainty. The potential for loss of life is extremely high. This is an UNACCEPTABLE RISK to public safety and far OUT WEIGHS ANY benefits that may be gained from putting in these additional turbines.”</p>	<p>[31]</p> <p>See Response 30 above.</p>
<p>“The original and the amendment to the Helix project is sited closely to an already existing wind farm that is located on Vansycle ridge. There are 26 of the small towers and 4 of the 500’, 3 megawatt turbines already in place. The ridge that the existing wind farm is located on is above our property. We are located in Vansycle canyon. On the Iberdrola noise map our home is R-13. The addition to the proposed Helix Wind project will be located on the ridge behind our residence. With the discovery by my neighbor and myself that several residences were left off of the Iberdrola noise map that was sent to the state siting officer---we have serious questions about the validity of this map and the state siting process. It is noise modeling and we feel strongly that it does NOT take into account the noise from the existing wind farm on the Raymond property or the CUMULATIVE EFFECTS. This would increase the decibels altogether. We are at the 40 decibel level already if we were to believe the Iberdrola noise map. This is figure #2 map as Iberdrola has already stated that they want to put in the 3 megawatt turbines. We are very concerned that the noise maps are inaccurate and invalid. We do NOT want to have to go through what the folks at Willow Creek project did. It is far better for EFSC to err on the side of caution and consider what is in the BEST interest of the public and deny this amendment to the Helix project!”</p>	<p>[32]</p> <p>See Response 23 above and Responses 39, 62 and 83 below.</p> <p>ODOE believes that the commenters refer to wind turbines on Vansycle Ridge that include four turbines that are part of the Stateline Wind Project and 28 turbines that are part of the Vansycle Ridge Wind Project. The Stateline turbines are Siemens 2.3-MW turbines that have a maximum blade tip height of approximately 415 feet. The Stateline Wind Project has a site certificate and is under the jurisdiction of the Siting Council. The Vansycle Ridge turbines are 660-kW turbines. Similar turbines used elsewhere for the Stateline project have a maximum blade tip height of approximately 242 feet. The Vansycle Ridge facility was approved by Umatilla County under a Conditional Use Permit and has been operating since 1998. The facility is not under the jurisdiction of the Energy Facility Siting Council.</p> <p>The noise contour maps that the applicants submitted in the amendment request accurately show the noise contours, based on the two proposed layouts. The corrected noise contour maps, which were submitted by the applicants in response to public comments, added three residences that had not been identified by the applicants when the original maps were prepared in August 2010. The noise contour lines remain the same.</p> <p>Figure 2 shows the noise contours based on the tentative proposed layout of 3.0-MW turbines that is described in the proposed order at page 86. The predicted noise generated by the HWPf at R-13 is 40 dBA, based on that layout. This could occur only if the</p>

Proposed Order Comments and Department Responses

Comment	Response
	<p>property owner grants a noise waiver for the residence at R-13.</p> <p>If the property owner does not grant a noise waiver, then site certificate Condition 101 would prevent the certificate holder from building the facility as shown on Figure 2. The certificate holder would have to redesign the facility, changing the locations of the turbines so that the noise at R-13 would not exceed the ambient limit. If the assumed background ambient of 26 dBA is used in the analysis, the noise generated by the HWPF would not exceed 36 dBA at R-13.</p>
<p>“Property de-valuation for land owners that are in a 2 mile radius of wind turbines.”</p>	<p>[33]</p> <p>There is no applicable siting standard that requires the Council to assess the potential but uncertain effects of a proposed energy facility on real property values. Nevertheless, the HWPF site certificate includes conditions that may reduce any potential adverse effect. Condition 43 requires that wind turbines be set back from residences by a <i>minimum</i> of 1,320 feet. Condition 101 requires compliance with the applicable state noise regulations, and a setback distance of more than 1,320 feet may be necessary to comply with the noise limits at particular residences. Conditions 97, 98 and 99 impose mitigation measures to reduce the visual impacts of the facility.</p>
<p>Robin and Cindy Severe (3/27/11) [contested case request]</p>	
<p><i>[The commenters submitted documents (approximately 240 pages) in support of these comments. ODOE provided copies of these documents to the members of the Council.]</i></p>	
<p>“I would like to add additional comments on the proposed Helix Wind Facility amendment. These comments will go hand in hand with what we have already presented in our request for a contested case hearing for this project.”</p> <p>***</p> <p>“We have questions on the ability of the Helix fire dept. volunteers to respond to an industrial turbine and/or ground fire on the proposed HWF amendment. We also have concerns that the Helix fire dept. could fight a fire that might be over 100' in the air. We suspect they do not have this ability and would be forced to try and control the fire once it hits the ground. We assume this would be burning accelerants. See photos enclosed. This also brings into question response times and expertise on chemical/haz mat fires. Terrain will also play a big role on how these fires are fought. Homes are in the middle of dry land wheat and some CRP with steep side hills and down draft winds. We have taken photos of some of the sites that these proposed towers could possibly be sited. There are Iberdrola met towers in some of these photos.”</p>	<p>[34]</p> <p>See Response 30 above.</p> <p>Condition 60 requires a fire safety plan during construction and operation of the facility. The plan must address how to respond to any type of fire that occurs on the site (this should include pre-positioning of fire response equipment and water supplies). Condition 60 also requires annual meetings with local fire protection agency personnel to discuss emergency response planning (these meetings should include the Helix Fire District and other nearby fire response agencies).</p>

Proposed Order Comments and Department Responses

Comment	Response
<p>"We have also talked to Iberdrola and the statement that no fire plan is in place until the project is done. Until then all Iberdrola vehicles contain shovels and a fire extinguisher. It is of no comfort to the residences who KNOW what a dry land wheat fire is like."</p>	<p>[35] See Responses 30 and 34 above. The statement that no fire plan would be in place "until the project is done" is incorrect. Condition 60 requires a fire safety plan to be implemented <u>during construction and operation of the facility.</u></p>
<p>"Iberdrola project manager has stated to us that they are proposing to put up the larger turbines and the figure #2 noise modeling map they submitted to EFSC is the map I refer to."</p>	<p>[36] Under Condition 26, the certificate holder must identify the turbine types selected for the facility before beginning construction. The certificate holder has not yet done so.</p>
<p>"We believe this map is inaccurate and flawed as it has left 3 (known) residences off that would require notification as they are inside of the 36 decibels sound level. It was myself and my neighbor who discovered this over sight-- not Iberdrola nor the state siting officer. Not a comfort if we were to believe that this is an accurate map. Simply contacting the county and looking at the 911 grid map would have brought these errors to light. Neither Iberdrola nor the EFSC siting officer bothered to do their homework."</p>	<p>[37] See Response 32 above. Corrected noise contour maps have been submitted by the applicants and have been made available to the public. ODOE sent notice of the proposed order to the owners of all three residences that were not shown on the earlier maps and provided opportunity for them to comment. The facility must comply with the applicable noise regulations at all noise sensitive receivers, including any receivers that are omitted from the maps and tables submitted by the applicants.</p>
<p>"Further this map is a noise modeling map that we firmly believe does NOT accurately reflect noise correctly at our residence."</p>	<p>[38] See Responses 23 and 32 above and Response 39 below. The noise contour maps do not show the current ambient noise levels at any residence. The purpose of the maps is to illustrate <u>only the predicted levels of noise generated by the proposed facility</u> based on tentative layouts and turbine selections. For residences within the 36 dBA contour shown on the maps, the predicted noise from the HWPF facility would not be permitted unless all property owners signed noise waivers. The predicted noise levels are discussed in the proposed order at pages 86-90. Under OAR 340-035-0035(1)(b)(B)(iii)(I), the applicants may choose to conduct the noise analysis using an assumed ambient background noise level of 26 dBA or they can measure the actual ambient background level: <i>"The increase in ambient statistical noise levels is based on an assumed background L50 ambient noise level of 26 dBA or the actual ambient background level."</i> Because the applicants have chosen to use the assumed background ambient level of 26 dBA in the noise analysis, measurement of existing noise levels at residences is not required. The methodology used in the analysis complies with OAR 340-035-0035(1)(b)(B)(iii).</p>
<p>"Another big over sight is the fact neither Iberdrola nor the state siting officer has considered is the fact that there is another wind farm on the ridge above our residence. See county map. Not Iberdrola nor the state siting officer can say that this was included in the permitting process or if it was even a consideration. WHY??? A very glaring omission of fact and would influence the noise levels. It seems reasonable to us that this would add to negative cumulative effects. We believe that until a CREDIBLE noise study is conducted that the HWF amendment should NOT be permitted."</p>	<p>[39] See Responses 23, 32 and 38 above. The noise regulations do, in fact, take cumulative noise sources into account in the ambient degradation test that applies to wind energy facilities. Specifically, OAR 340-035-0035(1)(b)(B)(i) prohibits an increase of more than 10 dBA compared to the background ambient noise levels (the noise at a residence that already occurs from other noise sources). To comply with this test, OAR 340-035-0035(1)(b)(B)(iii) allows the operator of the new</p>

Proposed Order Comments and Department Responses

Comment	Response
<p>There are too many unknowns that the residences in the shadow of this project would have to live with. EFSC should take a step back and look hard at their permitting process of this projects."</p>	<p>facility to use an assumed background ambient noise level of 26 dBA. If the operator chooses to use the assumed background level of 26 dBA, the noise from the new facility must not exceed 36 dBA at a residence, unless the property owner grants a waiver.</p> <p>The regulation allows the applicant for a new (or expanded) facility to choose to measure the ambient background noise level, instead of basing the analysis on the assumed level of 26 dBA. Where cumulative noise effects from more than one wind energy facility are possible, the actual ambient background level may be higher than 26 dBA. The applicant may choose to measure the level. However, if the measured background ambient noise level is above 26 dBA, then the noise generated by the facility would be allowed to increase the noise level at the residence by 10 dBA above the measured background ambient level.</p> <p>For example, if the measured background ambient level were found to be 30 dBA, the noise generated by the facility could increase the ambient noise level at the residence to 40 dBA and be in compliance with the regulation.</p> <p>Where older wind energy facilities nearby have already increased the ambient noise at a residence, the ambient background level is likely to be higher than 26 dBA. In analyzing a new or expanded wind facility, the applicant's use of the assumed level of 26 dBA favors the residential property owner's interest in keeping the cumulative noise as low as possible. By designing the facility based on the assumed background ambient level of 26 dBA, the noise from the new facility would not be allowed to increase the ambient noise at the residence above 36 dBA.</p>
<p>Robin and Cindy Severe (3/29/11) [contested case request]</p>	
<p>"I am also adding to the request for contest of case for HWPF amendment the following:</p> <p>"OAR 345-027-0060(1)(g) Landowners Within or Adjacent to the Facility</p> <p>"Exhibit F. A list of names and mailing addresses of all owners of record, as shown on the most recent property tax assessment roll, of property located within or adjacent to the site boundary as defined in OAR-345-015-0220. In addition to incorporating the list in the application for a site certificate, the applicant shall submit the list to the Department in electronic format acceptable to the Department for the production of mailing labels. Property adjacent to the site boundary means property that is:</p> <p>(C) Within 500 feet of the site boundary where the site, corridor or micrositing corridor is within a farm or forest zone;</p> <p>Response: An updated list of the owners of property, consistent with OAR 345-021-0010(1)(f)(C), is contained in Attachment 14 to this amendment request. A second, identical list formatted for label printing is provided electronically."</p>	<p>[40]</p> <p><i>[To clarify the record, ODOE notes that the commenters have given a partial quotation from the Request for Amendment #1, Section 4, pp. 53-53. Some words have been omitted.]</i></p> <p>The notice that is required for a proposed order on a site certificate amendment is described in OAR 345-027-0070(5):</p> <p><i>"After issuing the proposed order, the Department shall send a notice of the proposed order to the 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 or the updated list supplied by the certificate holder under OAR 345-027-0060(1)(g). In the notice, the Department shall specify a deadline for submission of written public comments that is at least 30 days from the date of the notice."</i></p> <p>ODOE issued three separate public notices of the proposed order. In each case, ODOE complied with OAR 345-027-0070(5) by sending the notice "to the most recently received list of property owners or the updated</p>

Proposed Order Comments and Department Responses

Comment	Response
<p>“As I am sure you know this wording -- I have put it here to clearly make my point that Iberdrola did not comply with the standard. There were 3 (known) residences left off of Iberdrolas noise map and these landowners were not notified. Leakes are clearly within 500 feet of the project boundary- yet they were never notified. My calls (two) to John White- siting officer - made this clear as neither Iberdrola nor the state siting officer were aware that these land owners were even to be included in the Iberdrola map.</p> <p>“The approval of the HWPF amendment should be denied.”</p>	<p><i>list supplied by the certificate holder under OAR 345-027-0060(1)(g)” and to the other mailing lists described in the rule. In addition, all three notices were posted on the ODOE website when they were issued.</i></p> <p>Of the three property owners whose residences were not shown on the earlier noise contour maps, only one was not on the property owner mailing list used for the first notice mailing.</p> <p>After the first notice, ODOE asked the certificate holder for an updated list of property owners in response to public comment that one or more property owners had not received notice. ODOE sent a second notice to the updated list (which included all three property owners whose residences were not shown on the earlier noise contour maps). The second notice extended the comment period for an additional 30 days and provided notice of corrected noise contour maps (which show all three of the previously omitted residences).</p> <p>A third notice was sent to the updated property owner list and extended the comment period by an additional 16 days.</p> <p>Two of the three of the property owners whose residences were not shown on the original noise contour maps have submitted comments on the proposed order. This demonstrates that they have had actual notice of the proposed order.</p>
<p>Robin and Cindy Severe (oral comments and written comments, 4/27/11)</p>	
<p><i>[At the meeting on 4/27/11, Cindy Severe read from her written comments (submitted after she spoke). In addition, she submitted documents (approximately 8 pages) in support of her comments. ODOE provided copies of these documents to the members of the Council.]</i></p> <p><i>Cindy Severe said that she wanted to address four issues: notification of all affected residents; property devaluation; environmental, economic, social and energy consequences; and cumulative effects.</i></p> <p>“Six months ago in October 2010 my husband thought we should go to the Iberdrola open house at the Helix school. As we started looking at the Iberdrola exhibits and the people who were attending, it became apparent to us that this was to be a large wind project. Little did we know until we looked at the Iberdrola noise maps. We were shocked to see how many turbines and the proximity to our home and property. It was also unnerving to see the Iberdrola figure 2 noise map that showed our residence at 40 decibels. How could this be that we had not even heard about this project? Many of our neighbors said the same thing- they had no idea that turbine project was coming so close to our homes and properties. Why were we not informed about this proposed HWPF amendment until after the fact? The process of approving the application was already under way. This was quite an unpleasant surprise to several residents that live in Vansycle.”</p>	<p style="text-align: right;">[41]</p> <p>See Response 38 above.</p> <p>The commenter acknowledges that she had notice about the proposed amendment as early as October 2010. She did not submit any comments on the proposed amendment until February 24, 2011.</p> <p>ODOE issued the proposed order on February 11, 2011. Since that time, ODOE has extended the public comment period twice, and the Council has held a public listening session for oral comments.</p>

Proposed Order Comments and Department Responses

Comment	Response
<p><i>[Cindy Severe quoted from the proposed order, page 42, but omitted part of the sentence. The complete sentence is as follows (omitted words underlined): “The Department issued a public notice of the amendment request on August 26, 2010, by direct mail to all persons on the Council’s mailing list, including property owners in the vicinity of the HWPF, <u>and by posting on the Department’s website.</u>]</i></p> <p>“If this is true why were so many residents who live in close proximity to the HWPF project not notified? The very persons who will be affected the most were not notified by the Department. Why did so many residents in the vicinity of the HWPF project find out by chance at the October 2010 Iberdrola open house? The permitting process was already in motion and the affected residents were left in the dark. We believe the Department did not follow their own standards.”</p>	<p style="text-align: right;">[42]</p> <p>See Response 40 and 41 above.</p> <p>ODOE followed the rules with regard to giving notice of the amendment request. The public notice that is required for a proposed order on a site certificate amendment is described in OAR 345-027-0070(1):</p> <p style="padding-left: 40px;"><i>(1) Within 15 days after receiving a request to amend a site certificate, the Department of Energy shall determine whether the amendment requires extended review based on the criteria in section (2) and:</i></p> <p style="padding-left: 40px;">***</p> <p style="padding-left: 40px;"><i>(b) Send a notice of the amendment request 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 or the updated list supplied by the certificate holder under OAR 345-027-0060(1)(g) and specify a date by which comments on the request are due;</i></p> <p>ODOE received the amendment request on August 12, 2010, and on August 26, ODOE sent the notice as required, including mailing the notice to all persons on the list of property owners provided by the certificate holder under OAR 345-027-0060(1)(g). Under OAR 345-027-0060(1)(g), the certificate holder must submit a list of property owners “located within or adjacent to the site of the facility, as described in OAR 345-021-0010(1)(f).” OAR 345-021-0010(1)(f) defines property “adjacent to the site boundary” as property within 500 feet of the site boundary where the site is within a farm zone (which is the case for the HWPF).</p> <p>If the commenter’s property lies more than 500 feet from the proposed site boundary of the expanded HWPF facility, she would not have been on the mailing list described in OAR 345-027-0070(1). Nevertheless, she had actual notice of the proposed HWPF amendment as early as October 2010.</p>
<p>“Neither Iberdrola nor the Department contacted everyone whose homes were to be directly within or adjacent to the proposed project. A neighboring land owner was never contacted until the discovery of residences that were left off of the Iberdrola noise maps. Their property bordered the project boundary. Other residences that were also left off of the map were not contacted in a timely way even though they were also inside of the 36 decibel noise contour. We believe the state siting officer was relying on information from Iberdrola and did no investigating of the facts. Just a look at the Umatilla county 911 grid map would show all the current residences. All addresses in the county had to change for the 911 grid or you did not get your mail.”</p>	<p style="text-align: right;">[43]</p> <p>See Responses 38 and 42 above.</p>

Proposed Order Comments and Department Responses

Comment	Response
<p>“Poor standards for the Department to rely on the wind developer for accurate information. This alone calls into question the accuracy of the Iberdrola noise maps. Why would the state siting officer still approve Iberdrola’s petition even though it was known to the Department that the map contained inaccuracies? What else has been approved that is inaccurate?”</p>	<p>[44] See Response 23 above.</p> <p>The noise contour maps that the applicants submitted in the amendment request accurately show the noise contours, based on the two proposed layouts. The corrected noise contour maps, which were submitted by the applicants in response to public comments, added three residences that had not been identified by the applicants when the original maps were prepared in August 2010. The noise contour lines remain the same.</p> <p>Corrected noise contour maps have been submitted by the applicants and have been made available to the public. ODOE sent notice of the proposed order to the owners of all three residences that were not shown on the earlier maps and extended the comment period to provide opportunity for them to comment. The facility must comply with the applicable noise regulations at all noise sensitive receivers, including any receivers that are omitted from the maps and tables submitted by the applicants.</p>
<p>“EFSC standards are indefensible in regards to protecting land owners and property values for non participating land owners in the 2 mile foot print of turbine projects. It has been stated by wind developers as well as land owners who participate in wind projects that wind projects do not damage property values. This mayor may not be true for participating land owners as they make monetary gain to offset any such drop in their property values. But for non participating land owners this is not true. Non participating land owners suffer a drop in property values just because they are in a turbine project footprint.”</p>	<p>[45] See Response 33 above.</p>
<p>“We do not object to our neighbors making money off of their properties. However this should not be done at the expense of damage and "bleed- over" from their wind projects to their neighbors homes and properties. We also believe that there is a place for turbines—but not in close proximity to homes. With the 2½ year research that has been done by the Umatilla county planning commission and what I have found documented myself—it is clear—properties that are in the 2 mile footprint of a wind project are negatively affected. The closer to the turbines the greater the drop in value.”</p>	<p>[46] See Response 33 above.</p>
<p>“Conclusion: It is documented that a 2 mile set back will alleviate the burden on non participating land owners and protect their property values.”</p>	<p>[47] See Response 33 above.</p>
<p><i>[The commenter quotes from the proposed order, page 39: "The proposed expansion would have beneficial economic and social consequences and no significant adverse economic consequences."]</i></p> <p>“While this statement may be true for a very small number of participating land owners and the SIP agreements already in place for the Helix school district, fire dept., and city. What about the residents who choose not to participate by refusing to sign noise easements and will have the intrusion of the HWPF project into the community anyway?”</p>	<p>[48]</p> <p>The quoted sentence is taken out of context. The statement in the proposed order is in the context of a discussion of the land use requirements of OAR 660-033-0130(37) which is found on pages 34-41 of the proposed order. Under OAR 660-033-0130(37)(a)(B), the applicant must show that “the long term environmental, economic, social and energy consequences” of the facility or its components, taking mitigation into account, “are not significantly more adverse than would typically result from the same proposal being located on other agricultural lands that do not include high-value farmland soils.” As explained more fully in the proposed order, there is no contiguous area of non-high-value farmland</p>

Proposed Order Comments and Department Responses

Comment	Response
	<p>close to the previously-approved site boundary that is large enough to accommodate the proposed expansion. To accommodate the proposed expansion on other agricultural lands that do not include high-value farmland soils would require unreasonably circuitous and indirect routes for the road system and turbine strings and would likely result in a reduction in the number of wind turbines that could be built or in an increase in the size of the expansion area. In contrast with the alternative of requiring the facility to be located entirely on non-high-value farmland, the proposed expansion would likely have less adverse environmental, economic, social and energy consequences.</p> <p>OAR 660-033-0130(37) does not provide a standard for protection of property values.</p>
<p>“Doesn't everyone get an equal right to expect the same protection from damages to their properties, property values, homes and way of life? How can it be that a few land owners can dictate that a community as a whole live in an industrial turbine complex? Who is going to decide what is fair? EFSC council must weigh this against the wind developer and the participating land owners who stand to gain greatly.”</p>	<p>[49] See Responses 1 and 33 above.</p>
<p><i>[The commenter quotes from the proposed order, page 67: "The proposed amendment would expand the HWPF site and increase the number of wind turbines authorized for construction. Some cumulative impacts would increase, but, for the reasons discussed in the subsections below and subject to the site certificate conditions described herein, the Department recommends that the Council find that the proposed design and construction of the HWPF, with the changes proposed by Amendment #1, would reduce cumulative adverse environmental effects in the vicinity by practicable measures in accordance with the requirements of OAR 345-021-0015."</i></p> <p><i>The rule number is misquoted. The correct reference is "OAR 345-024-0015."]</i></p> <p>“It is then explained in the subsections that there has been a comprehensive study of cumulative effects of bats, avian, the Washington ground squirrel, wildlife protection, visual features, and lighting. No where does it address the consequences of negative cumulative effects on humans who will live in proximity to industrial wind turbines. I wonder how you can build 134 of the 3 megawatt turbines that stand 492 feet high, huge noise factor, and ground vibration and still be able to reduce cumulative effects? Does this seem to be reasonable or intelligent thinking?”</p>	<p>[50] See Response 39 above.</p> <p>The statements quoted by the commenter are contained in the discussion of OAR 345-024-0015 in the proposed order (pages 66-71). The rule does <u>not</u> require the Council to find that a proposed wind energy facility would have <u>no</u> cumulative impacts. Rather, the rule requires the use of “practicable measures” to reduce the “cumulative adverse environmental effects” <i>from what the effects would be in the absence of those measures</i>. The rule is limited to environmental effects and does not address potential adverse social or economic effects.</p> <p>There is a discussion of amendments to OAR 345-024-0015 in the Hearing Officer’s Report (April 25, 2007) that was submitted to the Council in the rulemaking proceedings leading up to the Council’s adoption of the current rule language. In an earlier draft version of the amendments, section (5) of the rule would have required designing the facility “to avoid adverse visual features.” The Hearing Officer summarized the concern of several comment letters about the potential use of that language by a determined opponent of a wind power project to argue that the Council should find that wind turbines themselves are “adverse visual impacts” and that “avoidance” means elimination. The Hearing Officer noted the staff’s efforts to use language “to clarify that the rule is intended to address ‘design-level measures and not the facility structures themselves.’” The Hearing Officer’s recommendation to the Council was as follows:</p> <p><i>Although there may be no perfect word in this case, I recommend the term “minimize.” This word (unlike “avoid”) does not suggest reduction of the visual impact to zero and also (unlike “reduce”) does not imply an assumption that wind turbines are inherently unpleasant to look at.</i></p> <p>This discussion provides context for understanding the</p>

Proposed Order Comments and Department Responses

Comment	Response
	standard. The standard is focused on a finding that the applicant can design and construct a facility in a way that would “reduce cumulative adverse environmental effects in the vicinity by practicable measures.” The standard requires the Council to consider measures to reduce the environmental effects of the facility rather than eliminating environmental effects entirely.
<p>“Figure #2 Iberdrola noise map is the base of the map that was overlaid with Umatilla county maps of existing wind projects in our area. These include Vansycle Ridge, Stateline 1, 2, and 3, and Combine Hills Turbine Ranch. As you look at the proposed amendment and the already approved HWPf project, the yellow noise contour line (36 decibels) runs right through some of the Stateline 1, 2, and 3 turbines as well as Vansycle Ridge turbines and the edge of Combine Hills turbine ranch. What does this contribute to negative cumulative effects? What about the noise levels? A glaring omission of fact that would add to adverse cumulative impacts for the residents that live in the project area. We believe that the Iberdrola noise map is flawed and does not accurately reflect the actual noise levels. We believe that until a CREDIBLE noise study is done this project should not be permitted. Noise modeling does not address the questions that have been asked here and EFSC should take a harder look at the way wind projects are sited. There are too many unknowns that EFSC nor Iberdrola have addressed.</p> <p>“Proposed Order for Amendment #1 (Feb.9, 2011), page 93, EFSC standard OAR 469.310 “the Council is charged with ensuring that the “siting”, construction and operation of energy facilities shall be accomplished in a manner consistent with protection of the public health and safety”. We believe that the state siting officer has approved this Iberdrola petition with flawed or non-existent information. More research into the impacts of negative cumulative effects needs to be done.”</p>	<p>[51]</p> <p>See Response 39 above.</p>
<p>“OAR 345-024-0010 Public Health and Safety Standards for Wind Energy Facilities. We believe that this standard is indefensible and totally inadequate. Why is there no data required by EFSC for communities in the footprint of turbines on adverse cumulative effects? Why is it that bats and birds carry more weight to EFSC standards than humans?”</p>	<p>[52]</p> <p>The requirements of OAR 345-024-0010 are discussed in the proposed order at pages 65-66. In considering this amendment request, the Council must apply the standards that are currently in effect. Current energy facility siting standards adequately address potential adverse impacts to human populations.</p>
<p><i>[At the meeting on 4/27/11, Robin Severe read from his written comments (submitted after he spoke). In addition, he submitted documents (approximately 9 pages) in support of his comments. ODOE provided copies of these documents to the members of the Council.]</i></p> <p>“Public Health and Safety Standards, OAR 345-024-0010. In reading the original HWPf Final order (July 31,2009) and the Proposed Order for Amendment #1 (Feb.9,2011) for fire protection there is a substantial difference in the projects. The amendment footprint in acres is greater in size. Also vastly greater in the number of residences located in and adjacent to the amendment project. The entire amendment is located in the Helix Rural Fire District .</p> <p>“See Data # 1, Umatilla County, Oregon, Rural Fire Protection Districts and ODF Fire Patrol Areas (portion of</p>	<p>[53]</p> <p>See Response 30 above.</p>

Proposed Order Comments and Department Responses

Comment	Response
<p>map).</p> <p>“The Helix fire district is a volunteer department. Which means it is dependant on who is available to fight fire. We believe that siting industrial turbines within standing wheat and CRP would add additional challenges to the Helix fire department. Fuel loads or standing wheat next to rural homes are a risk we live with in this area.</p> <p>“See Data #2, Photos of the wheat field in early spring next to residence. Wind Turbines on fire.</p> <p>“The risk is magnified just by siting heavy construction in standing wheat. We believe that this increases the danger to human health and safety. We believe the highest danger will be during the construction phase due to the amount of increased equipment, trucks, and vehicles in close proximity to high fuel load . I would like to bring to the Councils attention that in reading the original and the amendment of HWPF proposals I can find no mention of a fire risk assessment being completed for these projects.”</p>	
<p>“If I were to do a logging operation on either US Forest Service or State Forestry controlled ground, both of those entities would already have done a fire risk assessment. This would dictate the dedicated fire equipment required on site. This equipment would be tested and proven to be in serviceable order before starting the job. I find it very hard to believe that EFSC does not require like conditions in siting heavy industrial turbines in rural areas. The very minimal requirements stated in the Iberdrola fire plan is completely inadequate in protection for rural residences and people in the project area. Health and human safety requirements should dictate at the very least a risk assessment. The amount of risk would determine if the wind developers plan is adequate. Without a risk assessment I believe the Departments siting of these turbines would be indefensible.”</p>	<p>[54]</p> <p>Condition 60 addresses the need for a site-specific fire risk assessment. Although the condition does not use the term “fire risk assessment,” it requires consultation with local fire protection agency personnel to develop a plan “to minimize the risk of fire and to respond appropriately to any fires that occur on the facility site.” The condition requires the certificate holder to “take into account the dry nature of the region” and to “address risks on a seasonal basis.”</p> <p>Unlike the example of a logging operation where the location of roads, types of equipment and training of personnel are already known, the assessment of both fire risk and fire response for a wind energy facility cannot be done before the final layout of the facility has been completed and the types and locations of turbines and the locations of access roads become known. Likewise, an adequate assessment of fire response capabilities cannot be done without knowing the location of O&M facilities and on-site equipment and without evaluating the training of facility construction and operational personnel.</p> <p>Condition 60 requires a fire safety plan to be put into place before construction begins and to remain in place throughout facility operation. Emergency planning must be updated on an annual basis through meetings with local fire protection personnel.</p>
<p>“My call and conversation with Milton-Freewater rural fire chief Rick Saager was informative and positive. He stated that he would respond to a fire call in his designated district of the HWPF project. He said that he had just recently received a map showing the original and the proposed amendment HWPF. He stated that he thought 15-20 turbines were in his fire district.</p> <p>“See Data #1, Map Umatilla county, Oregon Fire Districts.</p> <p>“Saager stated that he would respond up Butler Grade road to all sites in his district. He would not cross district</p>	<p>[55]</p> <p>See Responses 34 and 54 above.</p> <p>Until the final design of the facility is known, the number of turbines within the Milton-Freewater Fire Protection District cannot be determined. The fire safety plan should assess the abilities of both the Milton-Freewater Rural Fire Department and the Helix Rural Fire Department to respond to any fires that occur on the HWPF site (whatever the cause of the fire). The fire safety plan should include a discussion of pre-positioning of fire-fighting equipment and water supplies.</p>

Proposed Order Comments and Department Responses

Comment	Response
<p>lines unless called to do so by Helix rural fire department. When asked what his recommendations would be to Iberdrola's fire plan. He stated that he had not received a written plan on the amendment HWPF. This may be due to the fact that none of the amendment is in his district. When I asked, Saager said he would like to see 2 tenders or 5,000 gallons of water sited in project area. He also said that he could do a fire risk assessment if asked."</p>	
<p>"Final Order HWPF (July 31, 2009) Page 121 line 31 & 32.</p> <p>"Iberdrola's statement to the Department names the Milton-Freewater fire district as primary fire and emergency response provider. Proposed Order on Amendment #1 Page 93 line 9-16 "Fire Protection": "In the final order on the application, the Council made findings and adopted conditions 57, 58, 59, 60, 61, 62, and 63 regarding fire prevention and emergency response for the HWPF. The Council's previous findings are incorporated herein by reference. 282 The proposed amendment would enlarge the HWPF site to accommodate additional wind turbines and other facility components. The changes requested by the amendment would not result in new fire risks that would be different from the types of risk already considered by the Council. The Department recommends that the Council find that no new fire protection conditions are needed."</p> <p>"It appears that Milton-Freewater fire district is still the primary responder to HWPF original and amendment even though the amendment is out of their fire district. This causes great concern for the rural residents who will be exposed to added fire danger during and after construction of HWPF."</p>	<p>[56]</p> <p>Based on a letter from the Fire Chief stating that the Milton-Freewater Rural Fire Department (MFRFD) is the primary fire and emergency response provider for the area where the HWPF would be built, the Council specified <u>consultation</u> with the MFRFD in Conditions 60 and 61 (<i>Final Order on the Application</i>, p. 121 and p. 137). It would be appropriate for the certificate holder to consult with the Helix Fire District and other nearby districts as well in developing plans for emergency response. Condition 60 does not specify that the MFRFD would be the "primary responder."</p> <p>Condition 60 requires the certificate holder to develop and implement fire safety plans during construction and operation of the HWPF. If a fire were to occur on the site during construction or operation of the facility, it is likely that the first responders would be construction or operational personnel.</p>
<p>"Proposed Order for Amendment #1, Page 26 line 15-17.</p> <p>"The applicants have elected to have the Council make the land use decision in accordance with ORS 469.504(1)(b), and therefore Council's procedural requirements apply."</p> <p>(2) "The following shall be provided as part of the application:</p> <p>(F) A fire prevention and emergency response plan for all phases of the life of the facility. The plan shall address the major concerns associated with the terrain, dry conditions, and limited access."</p> <p>"I do not believe terrain, dry conditions, and limited access related to fire danger have been adequately addressed. Conditions 57 and 59 are not adequate to contain a fire on site. History of this area has proven that a fire that burns into Vansycle canyon are extremely difficult to fight due to steep canyon walls and limited access. The last major fire that burned into Vansycle canyon burned for 3 days and reached the Walla Walla river in Washington. I would like to state again, I believe that the fire protection requirements set forth by Iberdrola are inadequate and therefore EFSC's procedural requirements are indefensible."</p>	<p>[57]</p> <p><i>[To clarify the record, ODOE notes that the portions of the proposed order that the commenter quotes are from two separate sections of the land use analysis. The first quoted sentence is part of the discussion of UCDC Section 152.616(HHH)(1), and appears at page 26 of the proposed order. The remainder of the quoted material is part of the text of UCDC Section 152.616(HHH)(2), with much of the accompanying text omitted. The ordinance language appears at pages 26-28 of the proposed order. The discussion of the ordinance appears at pages 28-29 of the proposed order.]</i></p> <p>See Response 54 above.</p>

Proposed Order Comments and Department Responses

Comment	Response
<p><i>[In addition to the comments made on 4/27/11 and summarized above, the commenters submitted additional written comments, summarized below.]</i></p> <p>“Request for contested case on this issue. Attn: John White. High Value Farm Ground</p> <p>“I would like to address the amount of high value farm ground that will come out of production in the amendment HWPf. Compared to the original HWPf.</p> <p>“Proposed Order for Amendment #1, Page 34 line 22& 23</p> <p>"(a) For high-value farm land soils described at ORS 195.300(10), the governing body or it's designate must find that all of the following are satisfied:</p> <p>(A) Reasonable alternatives have been considered to show that siting the wind power generation facility or component thereof on high-value farmland soils is necessary for the facility or component to function properly or if a road system or turbine string must be placed on such soils to achieve a reasonably direct route considering the following factors:</p> <p>(i) Technical and engineering feasibility ;</p> <p>(ii) Availability of existing rights of way; and</p> <p>(iii) The long term environmental, economic, social, and energy consequences of siting the facility or component on alternative sites, as determined under OAR 660-033-0130(37)(a)(B).</p> <p>(B) The long term environmental, economic, social, and energy consequences resulting from the wind power generation facility or any components thereof at the proposed site with measures designed to reduce adverse impacts are significantly more adverse than would typically result from the same proposal being located on other agricultural lands that do not include highvalue farm land soils."</p> <p>“I contend that keeping the amendment project on the north side of North Fork Vansycle road would have given Iberdrola the desired megawat capacity, same size project footprint, and kept the high value farm land footprint at less than half of what it is. According to the county map of wind leases in Umatilla county, Oregon Iberdrola holds wind leases on the north side of Juniper Canyon to the bluffs over looking the Columbia river.</p> <p>“See Data #1 map, Umatilla County, Oregon-approved wind energy facilities (up dated 8/19/2010).</p> <p>“They would not have had to turn south in high value farm land soils. They also would not have had to bring this project within 2 ¼ miles of the city of Helix. Looking at the county's map it also shows Iberdrola holds leases that would put the entire project in a straight line down the north side of North fork Juniper Canyon.”</p>	<p>[58]</p> <p><i>[To clarify the record, ODOE notes that the portions of the proposed order that the commenters quote are a portion of the text of OAR 660-033-0130(37), which appears at pages 34-36.]</i></p> <p>The requirements of OAR 660-033-0130(37) are discussed at pages 36-41 of the proposed order. That discussion incorporates previous Council findings regarding whether “reasonable alternatives” to locating the wind generation facility or components of a wind generation facility on high-value-farmland have been considered (<i>Final Order on the Application</i>, pp. 58-60). The Council has found that an alternative location or configuration of a proposed wind power generation facility is a “reasonable alternative” only if the alternative location has a substantially similar wind resource compared to the configuration that would affect high value farmland soils. In addition, the developer must be able to secure lease rights to locate wind turbines on many contiguous parcels of private property owned by individual landowners. In the area described by the commenters, the applicants have lease or easement rights for a transmission corridor, but they may not have sufficient rights to construct wind turbines.</p> <p>The Council must evaluate the site that is proposed by the applicants. ODOE has recommended that the Council find that the expansion proposed in the amendment request meets the criteria described in OAR 660-033-0130(37).</p>
<p>Janelle Leake (3/01/11)</p>	
<p>“I appreciate you taking the time to discuss the Helix Wind Power maps with me last Friday. I would like to ask if when you learn from Iberdrola which house is not listed</p>	<p>[59]</p> <p>In response to public comments, ODOE asked the applicants to provide corrected noise contour maps to</p>

Proposed Order Comments and Department Responses

Comment	Response
<p>between the Reese R-81 house and the Brocker R-92 house if you could possibly let me know.</p> <p>“My husband has leased the farm ground for the past sixteen years from an elderly lady that owns one of those houses between R-81 and R-92 and we want to make sure she has not been overlooked. I have attached their map of this area and wrote the names of the homes that should be listed.”</p>	<p>replace Figures 1 and 2 of Attachment 12 of the Request for Amendment #1. The applicants provided the corrected maps, which show R-136 as the previously-omitted house between R-81 and R-92. The corrected maps were posted on the ODOE website and public notice was given on in mid-March, 2011. Corrected Tables 3 and 4 were also posted.</p>
<p>Wade Muller (3/9/11) [contested case request]</p>	
<p>“First, the maps contained in the technical memorandum submitted by CH2MHill on August 10, 2010 are missing 3 residences. There appear to be two residences missing between R-12 and R-81 on Vansycle Road and one residence on Muller Road between R-86 and R-76. This could severely affect the residents in these homes and I question whether they have had any opportunity to have a voice in either the original permitting process or the amendment. Without question, they have not had sufficient time or been provided with sufficient data to make any decisions concerning this project. In this day and age of GPS positioning and satellite imagery, there really is no excuse for the inadequacy of these maps. If these were the maps used for the initial permitting of the Helix Wind Power Facility, I believe the original permitting should be called into question and review, possibly requiring the original permit to be voided and resubmitted. The company that originally applied for this permit would be hard pressed to explain why, in the time period that wind data has been collected, they continued to miss three affected residences.”</p>	<p>[60]</p> <p>See Response 23 above.</p> <p>The noise contour maps that the applicants submitted in August 2010 accurately show the noise contours, based on the two tentative layouts. In March 2011, the applicants submitted corrected noise contour maps to show three residences that had not been identified by the applicants when the original maps were prepared. The noise contour lines remain the same. The corrected noise contour maps were made available to the public on the ODOE website and the comment period was extended.</p> <p>The facility must comply with the applicable noise regulations at all residences, including any residences that are omitted from the maps and tables submitted by the applicants.</p> <p>In addition to the applicants’ direct contacts with residents in and near the facility site, the ODOE website has provided current and updated information about the proposed amendment since August 2010, and ODOE has mailed four public notices about the amendment to local property owners (August 26, 2010 and February 11, March 16 and April 7, 2011).</p> <p>The commenter refers to the “original permitting.” That is the existing site certificate for the HWPF, which was approved by the Council in the <i>Final Order on the Application</i> (July 31, 2009). That order is final and is not subject to appeal. Nevertheless, ODOE notes that the three residences in question are located outside of the 36-dBA noise contours that were predicted for the previously-approved HWPF facility and are located more than 2 miles from the previously-approved site boundary.</p>
<p>“Second, the Umatilla County Planning Commission has been conducting exhaustive research and held multiple meetings to provide the public the opportunity to weigh in on proposed revisions of the ordinances governing “wind farms”. As has been evident from the interest in these meetings, there are many affected residents, within the noise easement boundary, that feel they have not had a fair “voice” in the original permitting process. The recent litigation involving the wind farm near Moro should give everyone reason to pause in the headlong rush to approve sites and expansion of existing permits. I believe that since the Helix Wind Power Facility has not begun construction, the recent findings of the Umatilla County Planning Commission should carry great weight in the reconsideration of not only the amendment to the Facility, but in the original permit. The work that the Planning Commission has done embraces a compromise</p>	<p>[61]</p> <p>In accordance with the requirements of OAR 345-027-0070 (10), ODOE has made recommendations to the Energy Facility Siting Council based on the land use ordinances of Umatilla County that were in effect at the time the amendment request was submitted. Although amendments of the county ordinances are under consideration, Umatilla County has not yet adopted the proposed changes.</p> <p>The site certificate authorizing construction and operation of the previously-approved components of the HWPF was issued in July 2009 and is not subject to appeal.</p>

Proposed Order Comments and Department Responses

Comment	Response
<p>that still allows land owners and residents, who so choose, to permit wind towers on their land and near their homes while offering reasonable protection to those who wish to have a buffer between their homes and the towers. Reapplying for and/or reconfiguring the original permit would still allow the construction of the wind facility in the area, but would provide protection to those that do not feel justly served by the previous process.”</p>	
<p>“Third, as the litigation near Moro has shown, previous noise studies should be put into question and even considered flawed. Lengthy discussion has been held concerning “cumulative effect” when it comes to noise and vibrations from the wind towers and its affect on residents and wildlife. In the case of residence R-81, there are no less than three 50 dba noise boundaries within a very short distance of the home. The possible cumulative effect of the sound waves and resulting amplification of the noise should not be ignored. In addition, the harmonic resonance of the vibrations from these towers being so close to a residence, resulting in greatly amplified disturbance in the area, should not be ignored and needs to be addressed by further scientific study.”</p>	<p>[62] See Responses 23 and 39 above.</p> <p>The existing state noise regulations take cumulative noise sources into account in the ambient degradation test that applies to wind energy facilities. The ambient degradation test prohibits an increase of more than 10 dBA compared to the ambient noise levels that already occur at the receiver from other noise sources. The owner of the property where R-81 is located may waive this noise limit but is under no obligation to do so. If the property owner declines to grant a noise waiver, the HWPF would be redesigned so that the facility would comply with the 10-dBA limit at the residence. This would also have the effect of moving the 50-dBA noise contour boundaries farther away from the residence.</p> <p>The “litigation near Moro” refers to the Willow Creek Wind facility that was approved by Morrow County under a Conditional Use Permit (CUP-N-213) in 2005. The facility is not under the jurisdiction of the Energy Facility Siting Council. The noise studies done before construction of the facility did not conform to the studies that are required by the Council. A noise analysis done after construction of the facility showed that the noise generated by the facility exceeded state noise regulation limits at two residences.</p>
<p>Wade Muller (4/3/11) [contested case request]</p>	
<p>“I am sending this email as a request for a contested case in regard to the amendment of the Helix Wind Power Facility. In my earlier request for a contested case, I pointed out that the Noise Contour Maps were invalid, due to the exclusion of three residences. This exclusion, I believe, negated their right to be included in discussions leading up to the original permit, and certainly the discussions for this amendment. I also pointed out that the Umatilla County Planning Commission had done extensive research and held public discussions which led to their recommendation of a 2 mile set-back for wind turbines from residences.”</p>	<p>[63] See Responses 60 and 61 above.</p>
<p>“The Noise Contour Maps in the original permitting process were invalid, which should result in voiding the original permit, require a re-application for the original certificate, and therefore make the amendment an non-issue.”</p>	<p>[64] See Response 60 above.</p>
<p>“Recent extensive research and hearings completed by the Umatilla Planning Commission show adequate fact and support for not granting this amendment.”</p>	<p>[65] See Response 61 above.</p>
<p>“Recent scientific study shows indisputable evidence of the harmful affects of wind turbine noise, especially in the number and placement of wind turbines” ***</p>	<p>[66] Oregon law requires the Council to apply the noise control regulations that have been adopted by DEQ. The regulations were adopted “to protect the health, safety, and welfare of Oregon citizens from the hazards and</p>

Proposed Order Comments and Department Responses

Comment	Response
<p>"I would like to refer you to the web address: http://www.windturbinesyndrome.com/img/WTSbrain-color.pdf."</p> <p><i>[ODOE downloaded the document http://www.windturbinesyndrome.com/img/WTSbrain-color.pdf and sent copies of the document to all Council members.]</i></p> <p>"I encourage you to read the entire missive. I will be referring to Dr. Nina Pierpoint's work on Wind Turbine Syndrome extensively because it includes research from a Nobel Peace Lauriate, the New England Journal of Medicine, and numerous other doctors and experts in the field of sound and how it affects humans.</p> <p>"As you can see when you access Dr. Pierpoint's missive, the abstract states,</p> <p>"Abstract</p> <p>"The latest research, as discussed below, suggests the following mechanism for Wind Turbine Syndrome: airborne or body-borne low-frequency sound directly stimulates the inner ear, with physiologic responses of both cochlea (hearing organ) and otolith organs (sacculle and utricle—organs of balance and motion detection).</p> <p>"Research has now proved conclusively that physiologic responses in the cochlea suppress the hearing response to low-frequency sound but still send signals to the brain, signals whose function is, at present, mostly unknown. The physiologic response of the cochlea to turbine noise is also a trigger for tinnitus and the brain-cell-level reorganization that tinnitus represents—reorganization that can have an impact on language processing and the profound learning processes related to language processing.</p> <p>"New research also demonstrates that the "motion-detecting" otolith organs of mammals also respond to air-borne low-frequency sound. Physiologic responses and signals from the otolith organs are known to generate a wide range of brain responses, including dizziness and nausea (seasickness, even without the movement), fear and alerting (startle, wakefulness), and difficulties with visually-based problem-solving.</p> <p>"Increased alerting in the presence of wind turbine noise disturbs sleep, even when people do not recall being awakened. A population-level survey in Maine now shows clear disturbances of sleep and mental wellbeing out to 1400 m (4600 ft) from turbines, with diminishing effects out to 5 km (3 miles). "</p>	<p>deterioration of the quality of life imposed by excessive noise emissions" (OAR 340-035-0005).</p> <p>Site certificate conditions to ensure compliance with the noise regulations are in place for other wind energy facilities that the Council has approved in recent years. The Stateline Wind Project has been operating since 2001, the Klondike III Wind Power Project has been operating since 2007 and the Biglow Canyon Wind Farm has been operating since 2007. Residents living in homes near those facilities have not complained about excessive noise levels. There have been no cases of reported health problems caused by the operation of those wind energy facilities.</p> <p>This record suggests that the DEQ noise regulations are working as they were intended—that is, to prevent excessive noise—and that the site certificate conditions that ensure compliance with the regulations have been effective.</p> <p>The Oregon Public Health Division is currently conducting a Health Impact Assessment to respond to concerns about the potential health impacts of wind energy facilities on Oregon communities. A draft report is due in the fall of 2011. For more information, see the website at: http://public.health.oregon.gov/HealthyEnvironments/HealthyNeighborhood/BuiltEnvironments/HealthImpactAssessment/Health/Pages/windenergy.aspx.</p> <p>The Council has previously approved a site certificate for the HWPf to include up to 60 wind turbines. The order approving the site certificate is final and is not subject to appeal.</p>
<p>"According to Dr. Pierpoint, Tinnitus, is a major problem resulting from wind turbine noise. She states that "58% of the adults and older teens in my sample of affected families had tinnitus. In the general population, it's 4%." This is a truly disturbing development when you consider that existing wind turbine sitings were done without this research.</p> <p>"Dr. Pierpoint explains that "Noise exposure, even at relatively low sound levels, fouls up the parts of the brain</p>	<p>[67]</p> <p>See Response 66 above.</p>

Proposed Order Comments and Department Responses

Comment	Response
<p>responsible for figuring out language sounds (what we call language processing), and the parts responsible for understanding and learning and remembering things we hear or read (what we call language-based learning)...Noise exposure, even at low levels that don't damage hearing, can do this." This issue is especially notable when you consider that there are already wind turbine sitings within 3 miles of schools. Once again I urge you to read the entire document presented by Dr. Pierpoint and pay particular attention to this portion.</p> <p>"Dr. Pierpoint also points out that "The symptoms of Wind Turbine Syndrome directly mirror the symptom clusters that practicing otolaryngologists have seen for years in patients with balance problems due to vestibular inner ear pathology...Over 90% of my sample of affected people, both adults and children, had cognitive difficulties during wind turbine exposure -- problems that lingered and resolved slowly after exposure ended. These included difficulties with reading, math, spelling, writing, multitasking in kitchen and home, remembering a series of errands, maintaining a train of thought in a telephone conversation, following the plot of a TV show, following recipes, and following directions to put together furniture."</p> <p>"Dr. Pierpoint refers to the work of Dr. Alec Salt that shows that balance disturbance can be related to Wind Turbine Syndrome and actually cause panic, especially during sleep, that effected 2/3 of her adult subjects."</p>	
<p>"Dr. Pierpoint's summary is as follows:</p> <p>"Summary</p> <ul style="list-style-type: none"> • Wind turbine noise causes tinnitus in many exposed people. Tinnitus at the physiologic level is the result of a change in sound processing by the brain. • Other types of environmental noise have been shown to impair children's learning by changing how they process language sounds. Families exposed to wind turbines noticed deterioration in their children's thinking and learning abilities during exposure. Adults also had problems with thinking, memory, and concentration during exposure. • Other clinical and brain studies have shown that diminished thinking and performance are tied to malfunctioning of the vestibular portion of the inner ear. • Distorted balance signaling has a close connection with panic and anxiety in a variety of situations, a linkage that may explain how panic in the night crops up in previously non-panicked but motionsensitive people exposed to wind turbines." <p>I urge you to read all of Dr. Pierpoint's document, but I feel compelled to include her parting remarks:</p> <p>"It's worth pointing out that, with one notable exception, none of this was done with government or industry or foundation support -- either financial or moral support. Just the opposite, governments (at all levels) and the wind energy industry have actively tried to thwart this</p>	<p style="text-align: right;">[68]</p> <p>See Response 66 above.</p>

Proposed Order Comments and Department Responses

Comment	Response
<p>research. But -- this pleases me immensely -- it was accomplished despite their opposition...While governments, the wind industry, and its scientific and clinical hirelings, and the media continue to belittle and deny the experience of these individuals -- Lord knows the media is filled with denial, ridicule, and venom (Google "Wind Turbine Syndrome") -- I am reminded, once more, that the physical, mental, social, and financial consequences of this perfectly correctable condition are appalling."</p>	
<p>"I believe that the research of these notable individuals gives adequate fact to contest the amendment to the Helix Wind Power Facility. This is up to date, verifiable, scientific data. Ignoring this data would lead me to believe that the Umatilla Planning Commission, the Umatilla County Commissioners, EFSC, the DOE, and the State of Oregon are all willing to accept responsibility for future financial compensation resulting from litigation that residents and families of school children, might bring forth due to the physical and mental suffering endured from the effects of Wind Turbine Syndrome.</p>	<p>[69] See Response 66 above.</p>
<p>Wade Muller (oral comments, 4/27/11)</p>	
<p><i>Wade Muller said that he would highlight the written comments that he had already submitted. He said that the a violation of Land Use Planning Goal 1 had occurred because three homes were left off the original noise impact maps. He said that Goal 1 requires continuity of citizen participation and of information that enables citizens to identify and comprehend the issues. Based on that fact alone, the amendment should have been denied or the applicants should have been asked to start over.</i></p> <p><i>He said the original permit appears to have affected about 6 homes, but the amendment appears to affect 31 homes, which is an increase of five-fold. He said that he had little knowledge, if any, of concerns or complaints about the original permit, but there are many complaints and concerns about the amendment.</i></p> <p><i>He said that there are tens of thousands of acres to the west, northwest, southwest that would possibly be a site for a wind project that would affect few homes. To make an amendment to a project that would affect so many residents in this small area, does not seem right to him.</i></p> <p><i>He said that this amendment is a poor location because the affected homes are downwind. He said that the tabletop computer models that the noise contour maps are made from do not apply to downwind or extreme topographical differences. He said that the recent litigation in Morrow County where landowners had to do their own sound studies to show that the existing models were not satisfactory should show EFSC that caution is needed.</i></p> <p><i>He said that Land Use Planning Goal 9 for economic development says that the plan should also take into account the social, environmental, energy and economic impacts upon resident populations. He said that the homes missing from the maps and the proximity to a highly populated area for the region shows that the</i></p>	<p>[70] ORS 469.504(1) requires the Council to find that a proposed facility complies with the statewide planning goals if the Council determines "that the facility complies with applicable substantive criteria from the affected local government's acknowledged comprehensive plan and land use regulations that are required by the statewide planning goals and in effect on the date the application is submitted." That is, if the Council finds that the facility complies with the land use criteria identified by the county under ORS 469.504(5), then the Council does not apply the statewide planning goals directly. In the proposed order, ODOE recommended that the Council find that the proposed expanded HWPF complies with all applicable substantive criteria (proposed order, pp.14-52). If the Council adopts this finding, then the proposed facility complies with the statewide planning goals, including Goal 1 and Goal 9, according to ORS 469.504(1).</p> <p>Goal 1 requires "the governing body charged with preparing and adopting a comprehensive plan" to adopt a program for citizen involvement. This Goal requires Umatilla County to have a program and procedures to allow the public to be involved in the on-going land-use planning process. The Goal does not apply to EFSC, which is not a governing body and is not charged with preparing a comprehensive plan.</p> <p>Goal 9 contains guidelines for the adoption of comprehensive plans. The goal directs that a comprehensive plan should "contribute to a stable and healthy economy in all regions of the state" and advises that the plan "should also take into account the social, environmental, energy, and economic impacts upon the resident population." The Goal does not apply to EFSC, which has no authority to develop a comprehensive plan.</p> <p>The Council must determine whether the energy facility at the proposed site complies with the energy facility</p>

Proposed Order Comments and Department Responses

Comment	Response
<i>amendment does not comply with this land use planning goal.</i>	siting standards. The Council has no authority to direct an applicant to locate a facility at a different site, even if an alternate site would be farther from residences.
Irene Gilbert (3/20/11)	
<p>“The proposal to amend the application for Helix Wind Farm is against the legislatively mandated procedure for approval of a site certificate under ORS 469.320. The legislative procedure for authorizing a facility composed of 74 wind generators is defined by statute. It includes the steps as defined in the Department of Energy Siting Process flow chart. This process is defined by OAR 345-020-0011, OAR 345-021-0000, OAR 345-021- 0010.”</p>	<p>[71]</p> <p>The Council issued a site certificate for the HWPF in July 2009. The applicants are requesting a site certificate amendment to expand the previously-approved energy facility. They are not applying for a site certificate for a separate facility. The expanded HWPF would be operated as a single energy facility.</p> <p>The amendment procedure complies with all applicable state statutes and the rules of the Council. Under ORS 469.405, the Council has discretion to decide when an amendment is allowed. ORS 469.470 gives the Council the authority to adopt standards and rules for the siting of energy facilities. The Council has adopted rules governing the procedures for amendments. The relevant procedures for this amendment are set forth in OAR 345-027-0050, -0060, and -0070. ODOE has followed all applicable procedures in issuing a proposed order on the amendment request.</p> <p>Amendment of the site certificate is the appropriate procedure. Under OAR 345-027-0070(10), the Council must consider whether the proposed expanded facility complies with all Council standards.</p>
<p>“This is a thinly veiled end play intended to avoid addressing current science, cumulative impacts on all statutorily required areas and an effort to shorten the timeframes and opportunity for public analysis and comment by several months compared to the proper citing procedure as defined in the DOE’s public documents and statutory language. A review of the testimony preceding the development of the original statutes indicate an intent to assure adequate analysis and opportunity for review. Just as the original project required a full siting process, so too should the currently proposed 74 turbine facility.”</p>	<p>[72]</p> <p>See Response 71 above.</p>
<p>“Either there was an intent to over estimate the generation capacity of the original application for 60 wind turbines as 102MW or there is an intent to underestimate the generation capacity of the proposed additional 74 wind turbines. The statement that the combined capacity of the addition of 74 additional turbines only increases the generation capacity 99MW appears to be an intentional effort to understate the capacity of the new addition to try to justify the application as an amendment rather than a completely new facility, which in fact, it is.”</p>	<p>[73]</p> <p>The total generating capacity of a wind facility depends on the individual wind turbine generating capacity. Condition 26 allows the certificate holder to select any type of wind turbine, subject to a limit of 60 turbines and a limit of 102 MW for the combined peak generating capacity of the facility a whole. For example, the certificate holder could install 60 wind turbines, each having a generating capacity of 1.5 MW. The combined peak generating capacity of the facility would be 90 MW, which would be allowed under the 102-MW limit.</p> <p>In the amendment request, the applicants request authorization to construct up to 134 wind turbines with a combined peak generating capacity of up to 201 MW. If the amendment is approved, the actual number of turbines and total generating capacity will depend on the turbine type that is selected by the certificate holder. If 1.5-MW turbines are used, the certificate holder could install 134 turbines and the combined peak generating capacity would be 201 MW, which would be allowed under the amendment. If larger turbines are used, a</p>

Proposed Order Comments and Department Responses

Comment	Response
	smaller number of turbines would be built in compliance with the combined limit of 201 MW. Condition 26 requires that the peak generating capacity of any individual turbine must not exceed 3.0 MW.
<p>“The Energy Citing Counsel and the Department of Energy needs to follow their own procedures as defined by statute and DOE’s published documents. Not doing so negatively impacts the public trust, the perception of transparency in the citing process and is not consistent with an honest and thorough citing process.</p> <p>“Not following established citing procedures effectively denies due process due to the fact that the process timeframes for citing are reduced by several months. The public has been led to believe that the citing process takes at least a year.”</p>	<p>[74] See Response 71 above.</p>
<p>“1. This is an obvious effort to circumvent the opportunity for thoughtful analysis of the impacts of this wind farm on the environment, landscape, impact on services, economy, etc., etc. based upon currently available information which was not available during the original facility citing process.</p> <p>“2. The changes in impacts as a result of the cumulative effect of increasing numbers of wind turbines in proximity to one another have been addressed multiple times in front of the Energy Citing Committee. Cumulative effects cannot be addressed by simply saying there will be more of the same and referencing data that is over two years old.”</p>	<p>[75] See Response 71 above.</p>
<p>Irene Gilbert (oral comments and written comments, 4/27/11)</p>	
<p><i>[On 4/27/11, Irene Gilbert submitted two documents containing written comments. Her oral presentation largely addressed the comments contained in the document dated “April 20, 2011,” summarized below. In addition, she submitted documents (approximately 33 pages) in support of her comments. ODOE provided copies of these documents to the members of the Council.]</i></p> <p><i>Irene Gilbert said that the focus on wind energy has gotten to the point where people have forgotten the issues related to having a balance. She is no longer supportive of wind energy. She said that there are multiple statutes that say there needs to be a balance. She said that more needs to be considered than just this is the request, absent any need.</i></p> <p><i>She stated that the Energy Policy Act of 1992 requires a least-cost strategy in the National Energy Plan. She stated that the Oregon Department of Energy Mission says that Oregon must have an adequate supply of reliable and affordable energy but, she stated, wind generated electricity is neither affordable nor reliable.</i></p> <p><i>She stated that EFSC rules say that the applicant has the burden to show that the overall public benefits outweigh the damage to the resources, and the burden increases proportionately with the degree of damage to the resources.</i></p> <p><i>She stated that Oregon statutes require cost-effectiveness be considered in state agency</i></p>	<p>[76] See Response 2 above.</p> <p>The Council’s authority and responsibility for siting energy facilities is limited by Oregon statutes (primarily ORS 469.300 to 469.520) and by the rules that the Council has adopted under its statutory authority. The National Environmental Policy provisions cited by the commenter contain general statements of national policy but to not impose specific legal obligations on the Council.</p> <p>In quoting the rule language (“the applicant has a burden to show that the overall public benefits outweigh the damage to resources”), the commenter refers to the Council’s balancing authority under OAR 345-022-0000(2). This rule does not apply unless the applicant has shown “that the proposed facility cannot meet Council standards or has shown, to the satisfaction of the Council, that there is no reasonable way to meet the Council standards through mitigation or avoidance of the damage to the protected resources.” The applicant has made no such showing, and ODOE has recommended that the Council find that the expansion meets Council standards. The quoted language from OAR 345-022-0000(2) does not apply.</p> <p>In referring to Oregon statutes that require consideration of “cost-effectiveness,” the commenter apparently refers to ORS 469.010(2)(f). However, this statute must be interpreted in light of ORS 469.310, which includes the following Legislative policy regarding “cost-effectiveness”</p>

Proposed Order Comments and Department Responses

Comment	Response
<p><i>decisionmaking relating to energy sources, facilities, or conservation, and that cost-effectiveness be considered in all agency decision-making relating to energy facilities.</i></p> <p><i>She stated that US Code 42, Chapter 55, Subchapters 4321 and 4331 require the federal government, state and local governments to preserve national resources and not degrade them.</i></p> <p><i>She stated that according to John White, the process for siting and operating large energy facilities in the state reflects the state's policy of preserving a legacy and protecting resources. The energy facility siting policy calls for "protection of public health and safety" and "compliance with the energy policy and air, water, solid waste, land use and other environmental protection policies of this state"</i></p> <p><i>She stated that her request for a contested case proceeding includes things relating to showing that it is not cost effective. She stated that Bonneville Power has facilities that can't sell their power and yet we continue to approve wind farms when Oregon is currently producing more wind energy than our requirement for 2025 if we were directing that toward Oregon's resource need.</i></p> <p><i>She said that she had a hard time understanding how anybody could justify continuing to damage resources in the state when you are not meeting any of these requirements of statute and rule.</i></p>	<p>and the role of the Council:</p> <p><i>It is furthermore the policy of this state, notwithstanding ORS 469.010 (2)(f) and the definition of cost-effective in ORS 469.020, that the need for new generating facilities, as defined in ORS 469.503, is sufficiently addressed by reliance on competition in the market rather than by consideration of cost-effectiveness and shall not be a matter requiring determination by the Energy Facility Siting Council in the siting of a generating facility, as defined in ORS 469.503.</i></p> <p>ORS 469.501(1)(L) prohibits the Council from adopting a standard requiring a showing of need or cost-effectiveness for generating facilities.</p>
<p><i>[On 4/27/11, Irene Gilbert submitted a second document, dated "April 25, 2011" and summarized below.]</i></p> <p><i>"I am requesting a contested case regarding the above Wind Farm Amendment as the Energy Facility Siting Council failed to adopt sufficient standards concerning amendments to an existing Site Certificate as required under ORS 469.405. As a result, this application needs to be denied and refiled as a new application as would meet the legislative intent.</i></p> <p><i>"Treating this as an amendment circumvents the legislatively mandated procedure for approval of a site certificate under ORS 469.320. That process includes the steps as defined in the Department of Energy Siting Process flow chart. This process is defined by OAR 345-020-0011, OAR 345-021-0000, OAR 345-021-0010. Any reasonable group or individual could not believe that the legislative intent was to allow an amendment absent a defined threshold that required a new application."</i></p>	<p>[77]</p> <p>See Response 71 above.</p>
<p><i>"According to a phone call with you, Mr. White, on 4/26/2011, there is no limitation on the size of the increase in a facility that would be considered as an "Amendment" under the current rules of the Energy Facility Siting Committee. A review of the legislative testimony regarding ORS 469.405 will affirm that this rule does not meet the legislative intent for an amendment. Given that the individuals drafting the OAR would have reason to believe that the Department of Energy and the Energy Siting Counsel would apply reasonable diligence to the development of the rules for amendments, the applicant needs to be required to meet the complete application requirements including a valid assessment of the cumulative damages which would result from the</i></p>	<p>[78]</p> <p>See Response 71 above.</p> <p>Under OAR 345-027-0070(10), the Council must consider whether the proposed expanded facility complies with all Council standards. That is, the same standards that apply to applications for a certificate apply, as well, to site certificate amendments.</p>

Proposed Order Comments and Department Responses

Comment	Response
<p>increase in the number of turbines and all other requirements as outlined in the siting rules, just as would be required of any new application.</p> <p>“This is a thinly veiled end play intended to avoid addressing current science, cumulative impacts on all statutorily required areas and an effort to shorten the timeframes and opportunity for public analysis and comment by several months compared to the proper citing procedure as defined in the DOE’s public documents and statutory language. A review of the testimony preceding the development of the original statues will indicate an intent to assure adequate analysis and opportunity for review. Just as the original project required a full siting process, so too should the currently proposed 74 turbine facility.”</p>	
<p>“Either there was an intent to over estimate the generation capacity of the original application for 60 wind turbines as 102MW or there is an intent to underestimate the generation capacity of the proposed additional 74 wind turbines. The statement that the combined capacity of the addition of 74 additional turbines only increases the generation capacity 99MW appears to be an intentional effort to understate the capacity of the new addition to try to justify the application as an amendment rather than a completely new facility, which in fact, it is.”</p>	<p>[79] See Response 73 above.</p>
<p>“1. In addition, the amendment is incomplete. It has been two years since the original application was made. That application addressed impacts of a facility half the size of the one now being proposed. The science regarding impacts of noise, wildlife impacts and every other issue related to this facility have changed in the past two years. Additional wildlife guidelines have been issued, and the cumulative effects of doubling the size of the wind farm completely change virtually all the impacts and necessary mitigation to a much greater extent than the applicant is stating in the application.</p> <p>2. This is an obvious effort to circumvent the opportunity for thoughtful analysis of the impacts of this wind farm on the environment, landscape, impact on services, the economy, etc., etc. based upon the actual size of the wind farm and currently available information which was not available during the original facility citing process.</p> <p>3. The changes in impacts as a result of the cumulative effect of increasing numbers of wind turbines in proximity to one another have been addressed multiple times in front of the Energy Citing Committee. Cumulative effects cannot be addressed by simply saying there will be more of the same and referencing data that is over two years old.</p>	<p>[80] See Responses 1 and 71 above.</p>
<p>Dave and Judy Price (3/21/11)</p>	
<p>I am forwarding input for the EFSC 3/25/11 Meeting for review of the Helix Wind Project. Even Though this input was prepared for the Umatilla County Commissioners, it is most pertinent to the EFSC meeting in the Dalles. I would like this input logged in and become part of the record for the 3/25/11 Helix Wind Project Siting Review.”</p> <p><i>[by attachment:]</i></p> <p>“This input is being respectfully submitted for inclusion as</p>	<p>[81] The proposed amendments to UCDC Sections 152.615 and 152.616 have not been adopted by Umatilla County. As required under OAR 345-027-0070(10), the Council must apply the County’s land use ordinances that were in effect when the amendment request was submitted. The applicable County ordinances are those that were in effect as of August 12, 2010.</p>

Proposed Order Comments and Department Responses

Comment	Response
<p>my comments on the Proposal Umatilla County Development Code Amendments – Public Hearing held By the Board of Commissioners on March 17, 2011 and for the proposed meeting of May 12, 2011. These comments relate to the version of the Proposed Amendments To UCDC 152.615 and 616 HHH dated February 24, 2011.”</p>	
<p>“The Windmill issue is important to two basic groups; those that stand to gain and those that stand to lose. The gain group consists of participating land owners and windmill companies. The risk to this group is minimal to nonexistent. The participating landowners in particular, risk nothing but, stand to gain significantly. The lose group is in a unique position. The possibility of a gain is near zero; the possibility of a loss is great.”</p> <p>***</p> <p>“It is obvious from the process thus far, that the major issue between the two groups is Setbacks and how they affect adjacent and affected landowners. Input on this issue has varied widely from minimal to perhaps unreasonable requirements. Let us look closely as to the objective of “Setbacks”; what are they supposed to accomplish? They are to Mitigate impacts to the second group, while not unnecessarily impacting the first group. That is, legitimate impacts to the second group must be dealt with adequately, fairly and equitably. Setback Requirements must be realistic and mitigate the significant issues.”</p> <p>***</p> <p>“The Helix Wind Project Noise Report and Mr. Reeder’s subsequent analysis brings with it another important variable in arriving at a decision for Setback Requirements. That is the issue of Cumulative Effects. The Helix Project is adjacent to and in close proximity to older windmill projects that are in operation. Cumulative Effects of the affected area need to be considered.”</p> <p>***</p> <p>“Taking the Cumulative Effects issue a step further, it would seem that a Credible Noise Study should be required to determine the base dBA levels if Cumulative Effects appear to be a critical issue. It also appears to indicate that the assumed base level of 26dBA to be outdated and in need of rethinking and revision. This needs to be taken into consideration to accurately assess impacts and establish Setback Requirements.”</p>	<p>[82]</p> <p>See Response 39 above.</p> <p>Site certificate Condition 43 incorporates the setback requirement in UCDC Section 152.616(HHH)(5) (“no portion of the facility shall be within 3,520 feet of properties zoned residential use or designated on the Comprehensive Plan as residential”). Where this setback does not apply, Condition 43 requires a minimum turbine setback of 1,320 feet from the nearest residence. The facility, however, must also comply with Condition 101 of the site certificate, which requires compliance with the applicable noise regulations. Compliance with Condition 101 may result in a setback distance greater than 1,320 feet.</p> <p>If the property owner has not granted a noise waiver, then the ambient degradation test will determine the setback distance. Before beginning construction, the certificate holder must provide a final turbine layout and must identify the turbine type and provide data on the maximum sound power level of the turbine. The certificate holder must provide a noise analysis demonstrating that the ambient noise test is met at all residences (unless the property owner has granted a noise waiver). The actual setback distance will be determined by compliance with the noise regulation and by other design constraints.</p>
<p>“The “Credible Noise Study” could be used as a planning tool. A Pre- project Noise Study would establish base data, potential conflicts as well as being useful in project monitoring. This would only be required on projects where potential conflicts might exist; as we look ahead in the wind program that might well be most of the future projects. Therefore, the Noise Study would become an important planning and monitoring tool for dealing with the primary Setback issue – “Noise”.”</p>	<p>[83]</p> <p>ODOE and the Council require noise studies consistent with the requirements of the noise control regulations. The noise studies must be done for all new wind energy facilities and for any expansion of a previously-permitted facility. OAR 340-035-0035(1)(b)(B)(iii)(IV) describes the analysis that must be done to demonstrate that a proposed facility (new or expanded) will comply with the ambient noise standard. OAR 340-035-0035(1)(b)(B)(iii)(VI) describes the analysis that must be done to demonstrate that a proposed facility will comply with the Table 8 limits (the “maximum allowable test” described in the proposed order at page 87).</p>

Proposed Order Comments and Department Responses

Comment	Response
	<p>For the proposed expansion of the HWPF, ODOE required the applicants to conduct a noise analysis based on the tentative layouts of the expanded facility (the analysis also includes turbines within the previously-approved site boundary). The applicants submitted a noise analysis for two tentative layouts (described in the proposed order at page 86).</p> <p>Under Condition 101 of the site certificate, the certificate holder must conduct a final design noise analysis based on the turbine type selected for the facility and the final turbine layout. The final design analysis must be submitted by the certificate holder and approved by ODOE before construction begins.</p>
<p>Dave and Judy Price (3/30/11)</p>	
<p>“Setback requirements are pivotal in the decision process of future windmill development for all citizens of Umatilla County. They impact affected landowners greatly. In the past, setback requirements have been determined as a guess or estimate at best. This has placed affected landowners at a significant disadvantage in the decision making process. As a result, it has impacted these landowner’s quality of life and property values. We must have a factual way to establish setback requirements; a way that will reduce the hardships and financial losses to those landowners. That requires Setback Requirements to be established on fact and credible information and data. The objective of Setback Requirements is to mitigate the impacts to the affected landowners and make them part of the process. This will reduce their exposure to adverse impacts resulting from the proposed wind projects and will provide future opportunities for better project overviews.”</p>	<p>[84]</p> <p>See Response 82 above.</p>
<p>“At the Board of Commissioner’s meeting on March 17, 2011 Mr. Reeder and the Planning Commission Committee presented a proposed document UCDC#T-10-039 . A vital part of that proposal dealt with recommended Setback Requirements. We support the Commission’s Proposal as presented.</p> <p>“Mr. Reeder submitted data generated by the Windmill Company and their Engineering Contractor, CH2M Hill for the proposed Helix Wind Project. Mr. Reeder’s analysis was based on their data and maps displaying the projected analysis for this specific project at two proposed generating alternatives – 1.5mw and 3.0mw respectively. Mr. Reeder’s analysis is the most credible and applicable data on which to establish Setback Requirements. We support this process and analysis and its’ use in making your decision on Setback Requirements.</p> <p>“It should be pointed out that Mr. Reeder took his measurements from proposed tower sites to establish distance to the 36dBA threshold line. However, to meet Oregon DEQ Noise Setback Requirements, distances must be such as to be less than 36dBA as that is the threshold point. Therefore, Mr. Reeder’s calculations as to required setbacks are to be considered minimal and in actuality, would not resolve mitigation issues. i.e., Mr. Reeder’s resulting setback distances must be increased</p>	<p>[85]</p> <p>See Response 82 above.</p> <p>The commenters suggest that the “Oregon DEQ Noise Setback Requirements” should be used as the basis for establishing setback distances. The commenters propose that the setback be increased, if necessary, to meet DEQ requirements. The Council follows the same approach in Condition 101 of the HWPF site certificate. The setback distance should not be less than what is required to meet the requirements of DEQ’s noise regulations.</p>

Proposed Order Comments and Department Responses

Comment	Response
<p>to meet DEQ requirements. This is a straight forward fix in Mr. Reeder's analysis but, one that must be done to establish the setback issue to meet DEQ's requirements."</p>	
<p>"Mr. Reeder's analysis of the Helix Wind Project data brings to light another issue - Cumulative Effects. The Helix Project is adjacent to and in close proximity to previously constructed and operating windmill projects. The adjacent landowners are impacted already and proposed projects only tend to add to those impacts. Therefore, pre-project data such as the Credible Noise Study should be required for future projects, where this appears to be an issue. The pre-project data would be valuable as a project planning tool that would help in being Proactive rather than Reactive to these issues."</p>	<p>[86] See Response 39 above.</p>
<p>"The Helix Wind Project application and subsequent amendment serves to demonstrate what can happen if setbacks are based on guesswork, estimates and pure emotion. The project is well along in the approval process and with no factual guidance on which to base setbacks, the wind company and the affected landowners, of which there appear to be as many as forty residences that are within the 36dBA parameters, are faced with a huge dilemma. The process guidelines, or lack thereof, have literally thrown them to the wolves. The landowners with limited resources are forced to defend their property rights against a system that has basically unlimited resources. All, if not most of this unfair, unnecessary burden on these landowners could have been avoided if adequate setback standards and guidelines were in place at the beginning of the process, rather than by default at the conclusion of the project. We now have an opportunity to correct this unfair and unacceptable mistake by simply applying facts, data and professional engineering science to avoid these costly mistakes to the landowner in the future. We support the BOC doing exactly that; adopt Mr. Reeder's analysis and the Planning Proposal as presented."</p>	<p>[87] See Responses 82 and 83 above.</p> <p>Condition 101 of the site certificate provides the basis for determining the minimum setback requirements for the HWPf. Condition 101 requires compliance with the DEQ noise regulations. The regulations contain a specified method for determining compliance by modeling before a facility is built. The certificate holder is required to comply with the noise regulations at all residences.</p> <p>The noise contour maps that have been provided by the applicants illustrate the preliminary noise modeling analysis that has been done. It is important to understand that the noise contour maps are based on tentative layouts. They do not show the final layout of the turbines, and they do not represent a layout that has been approved for construction. These maps are essential, however, because they identify areas where noise from the proposed wind facility might exceed 36 dBA. Simply by choosing not to grant a noise waiver, the property owners of residences within these areas can change the final design of the facility.</p> <p>For those residences that are located inside the 36-dBA contour lines on the maps, the property owner has the right to choose whether to grant a noise waiver. If the property owner chooses not to grant a waiver, then the certificate holder must relocate turbines or eliminate turbines in order to comply with the ambient noise test at the residence. This will result in a greater turbine setback distance from the residence than what is shown on the preliminary noise contour maps.</p> <p>The burden is on the certificate holder to comply with the noise regulations. The Council enforces those regulations through the site certificate.</p>
<p>Jay and Julia Spratling (3/28/11)</p>	
<p>"We farm and reside in Vansycle Canyon, north of Helix, Oregon. I am writing in reference to the Helix Wind Farm Amendment Project currently in the process of being permitted in our neighborhood for Iberdrola Renewables. The location of our residence is R16 on the map submitted by Iberdrola Renewables. We currently have wind farms to the north of our home and another wind farm to the east of our home, neither of which is shown on the aforementioned map. If the proposed wind farm is</p>	<p>[88] See Responses 33 and 66 above.</p> <p>ODOE believes that the commenters refer to the Vansycle Ridge Wind Project that lies to the north of R-16 and to parts of the Stateline Wind Project that lie to the east. The Stateline Wind Project has a site certificate and is under the jurisdiction of the Energy Facility Siting Council. The Vansycle Ridge facility was approved by Umatilla County under a Conditional Use Permit and has</p>

Proposed Order Comments and Department Responses

Comment	Response
<p>allowed to go in, we will be completely surrounded by wind turbines. How much encroachment are individual residents to be subjected to by entities who do not live in this area? We believe that these wind farms are detrimental to our health, our property values and our very way of life. We also know that they are a poor use of taxpayer dollars. The facts are simple: 1. Wind farms do not supply adequate “firm” electricity. They are considered an “intermittent” energy source. 2. The cost of wind farms is only sustainable by taxpayer subsidies. 3. Wind farms and their noise are detrimental to those living within their boundaries. 4. Wind farms are detrimental to property values. 5. Wind turbines are unsightly and a bane to the landscape. 6. Wind farms are unprofitable. The only one’s profiting from them are those who choose to install wind turbines on their property at the expense of every tax payer in this nation. Wind turbines have no place on agricultural land. We farm here and can make an adequate living by working our land. Those farmers who state they are unable to profit from farming and thus must grow “wind turbines” need to work harder at their craft. We have chosen to live in rural America because of a love for the land, and allowing more unsightly wind turbines is damaging to our lifestyle. Why should “neighbors” be allowed to make changes to their property that adversely affects all those surrounding neighbors? We have found that few of our friends and neighbors in Vancycle Canyon are in favor of these wind turbines and the noise and nuisance they bring with them. It is interesting to me that those farmers wishing to build wind turbines on their property don’t live near the wind turbines. When they put one in their backyard, perhaps it will make their ideas more credible.”</p>	<p>been operating since 1998. The facility is not under the jurisdiction of the Council.</p> <p>A wind power generation facility is an allowable use on agricultural land under UCDC Section 152.060. ORS 215.283(2)(g) authorizes “commercial utility facilities for the purpose of generating power for public use by sale” on agricultural land. OAR 660-033-0120 refers to a “wind power generation facility” as an allowable use on agricultural land. OAR 660-033-0130(37) defines a “wind power generating facility” and provides criteria for the approval of a wind power generating facility sited on farmland.</p> <p>The Council has no authority to determine whether an energy facility qualifies for incentives that have been authorized by the Oregon Legislature or the federal government.</p>
<p>“There are three residences on our gravel road. When the wind farm that is to the west of us was built, forty semi loads of materials drove by our house each day. The dust and the damage to the county road was unbelievable. The county road continues to be abused by the maintenance people who travel this road multiple times every day.”</p>	<p>[89]</p> <p>Site certificate Condition 72 requires the certificate holder to cooperate with the Umatilla County Public Works Department and the appropriate officials of the City of Helix to ensure that any unusual damage or wear to county or City roads that is caused by construction of the facility is repaired by the certificate holder. Condition 79 requires the certificate holder to implement best management practices to control any dust generated by construction activities, such as applying water to roads and disturbed soil areas.</p>
<p>“The noise is constant. As soon as you drive over a nearby rise, you can hear the constant drone of the turbines. Chase Whitney of Iberdrola Renewables has contacted many of our neighbors about signing a noise easement to allow the DBA to go above the current DBA approval rate. While we have not been contacted personally by Mr. Chase, we have spoken to our neighbors and know that none of them are interested in signing a noise easement. We will not be signing a noise easement. I wonder if the taxpayers would be interested in knowing the amount of money that is being offered to “buy” the silence of each neighbor to the wind farm. After all, it is the taxpayers money.”</p>	<p>[90]</p> <p>See Response 23 above.</p> <p>If the predicted noise levels at a residence exceed the ambient noise standard described in OAR 340-035-0035(1)(b)(B)(i), the applicants may ask the property owner for a noise waiver. The property owner is under no obligation to grant a waiver. The use of noise waivers is allowed under OAR 340-035-0035(1)(b)(B)(iii)(III).</p>

Proposed Order Comments and Department Responses

Comment	Response
<p>“Another question I would be interested in receiving an answer to is why are we so interested in allowing entities of foreign countries to build in our area?”</p>	<p>[91] There is no applicable siting standard establishing a nationality test for issuing site certificates.</p>
<p>“In conclusion, anyone with common sense and who have any interest in our country and its continuing energy needs, knows that wind power is not the answer. They are not self-sustaining. They cannot bring sustainable jobs without taxpayer subsidies. There is no credible information on how long they will last; if there was there would not be clauses added to contracts for their removal. They are detrimental to the health and well-being of everyone who lives within sight or sound of them. They are a mar on the landscape and they are an insult to the intelligence of rural Americans. Plain and simple, they are a “get cash quick scheme” for a few individuals at the expense of all those around them.”</p>	<p>[92] ORS 469.300 defines “energy facility” to include electric power generating plants that produce power from wind energy. It is the responsibility of the Council to issue site certificates for energy facilities that meet the applicable standards.</p>
<p>Julia Spratling (oral comments and written comments, 4/27/11)</p>	
<p><i>[Julia Spratling read her written comments, summarized below.]</i></p> <p>“I have written my remarks tonight, because this is an emotional issue for me and my family. We farm and reside in Vancyde Canyon. The location of our residence is R16 on the map provided by Iberdrola Renewables. We currently have wind farms to the north and east of our home, as shown in the Cumulative Wind Projects Map-North Umatilla County which has been presented to you tonight. If the proposed wind farm is allowed, we will be completely surrounded by wind turbines. How much encroachment are individual residents to be subjected to by wind turbines? We believe that these wind farms are detrimental to our health, our property values and our very way of life.</p> <p>“Our family are 4th generation farmers and we choose to be good stewards of the land. Wind farms have no place on agricultural land. We farm here and make an adequate living by our own hands, not on the backs of the American taxpayer. As the number of American farmers dwindles, so does the ability to feed the people of our country and the world. We have chosen to live and work in rural America because of a love for the land, and allowing more unsightly wind towers is damaging to our lifestyle and our sensibilities. Why should "neighbors" be allowed to make changes to their property that adversely affects all those surrounding neighbors? We have found that few of our friends and neighbors in Vancyde Canyon are in favor of these wind turbines and the noise and nuisance they bring with them.”</p>	<p>[93] See Response 88 above.</p>
<p>“There are three residences on our gravel road. When the wind farm to the west of us was built, forty semi loads of materials drove by our house each day. The dust and the damage to the county road was unbelievable. The county road continues to be abused by the maintenance people who travel this road multiple times every day. All promises of dust control, speed limits, and improved maintenance of the road were disregarded and continue to be so.”</p>	<p>[94] See Response 89 above.</p>
<p>“The noise is constant. As soon as you drive over a nearby rise, you can hear the constant drone of the turbines. While many of our neighbors have been</p>	<p>[95] See Response 90 above.</p>

Proposed Order Comments and Department Responses

Comment	Response
<p>approached about signing a noise easement to allow the DBA to rise above the currently approved rate, we find that few are interested in allowing this increase in noise. We will not be signing a noise easement. Some things are not for sale in this world, and one of those for us is the peace and serenity that comes from choosing to live and work in rural America.”</p>	
<p>“The facts are simple:</p> <p>“1. Wind farms do not supply adequate "firm" electricity.They are considered an intermittent energy source. There is already too much wind energy being generated with no place for it to go. There is no local need for this expensive form of energy. Everyone will pay more for their electrical needs due to the cost of wind power.</p> <p>“2. The cost of wind farms is astronomical and only sustainable by taxpayer subsidies. It is a proven fact that they will never generate enough electricity to pay for themselves.</p> <p>“3. Wind farms and their noise and lights are detrimental to those living within their boundaries.</p> <p>“4. Wind farms are detrimental to property values.</p> <p>“5. Wind farms are unsightly and a mar on the landscape.</p> <p>“6. Wind farms are unprofitable. The only one's profiting from them are those who choose to install wind towers on their property at the expense of every tax payer in this nation. These property owners boast of the increase in monies being given to local taxing districts, but again remember these monies are already being financed by the taxpayers.</p>	<p>[96] See Responses 76 and 88 above.</p>
<p>“In conclusion, anyone with common sense and who has any interest in our country and its continuing energy needs, knows that wind power is not the answer. They are not self-sustaining. They cannot bring sustainable jobs without astronomical taxpayer subsidies. There is no credible information on how long they will last. They are detrimental to the health and well-being of everyone who lives within sight or sound of them. They are a mar on the landscape and they are an insult to the intelligence of rural Americans. They will change every aspect of our everyday lives.</p> <p>“While I dislike that this issue pits neighbor again neighbor, what benefits a handful cannot and should not be a burden to the majority.</p> <p>“It is with respect that we ask, no plead, that you reconsider allowing the siting of yet another wind project in our area.”</p>	<p>[97] See Responses 88 and 92 above.</p>
<p>Fay Swanson (4/7/11)</p>	
<p>“Anyone who thinks these wind turbines are green are not educated. Hope that you can see that they are environmentally non green, and are a waste of our tax dollars.”</p>	<p>[98] See Responses 88 and 92 above.</p>

Proposed Order Comments and Department Responses

Comment	Response
Bill Timmermann (4/10/11) [contested case request]	
<p>"1) The red blinking Aircraft Warning Lights atop the existing wind towers in this area are visible to many residents. They are many in number and are disturbing and almost hypnotic in nature."</p>	<p>[99] Site certificate Condition 99 limits exterior nighttime lighting and allows the minimum turbine tower lighting required or recommended by the Federal Aviation Administration.</p>
<p>"2) The noise generated by the turbines are constant background disturbances that are in the lower frequency range. The noise interferes with sleep and doing daily tasks about my residence(R-17 on the Siting maps) and farm ground.</p> <p>"3) Florida Power And Light has recently erected six large turbines NNE about one to one and a quarter miles of my residence. The Siting Amendment would put three large turbines SW less than one mile and three more SW to WSW less than two miles from my residence. I am very concerned about the cumulation of noise from these sitings."</p>	<p>[100] See Responses 23 and 39 above.</p> <p>The noise contour maps that have been provided by the applicants illustrate the preliminary noise modeling analysis that has been done. The noise contour maps are based on tentative turbine layouts. They do not show the final layout, and they do not represent a layout that has been approved for construction.</p> <p>The preliminary noise analysis shows that under either of the tentative layouts, the predicted noise levels at R-17 would exceed 36 dBA. Based on this analysis, the turbines could not be built in the locations shown near R-17 unless the property owners of R-17 and other residences nearby on Vansycle Road and Kupers Road all granted noise waivers.</p>
<p>"4) Building of gravel roads for building and maintaining the sites would cause dramatic increases in airborne dust in the area and would cause discomfort and/ or illness among residents suffering lung or allergy maladies."</p>	<p>[101] Site certificate Condition 79 requires the certificate holder to implement best management practices to control any dust generated by construction activities, such as applying water to roads and disturbed soil areas.</p>
<p>"1) In light of the growing concern for food production for a rapidly expanding world population I cannot see the value of decreasing the amount of highly productive farmland to produce a minuscule amount of electrical power that is tremendously expensive to produce (compliments of Oregon taxpayers) and then sent to another state to run air conditioners."</p>	<p>[102] A wind power generation facility is an allowable use on agricultural land under UCDC Section 152.060. ORS 215.283(2)(g) authorizes "commercial utility facilities for the purpose of generating power for public use by sale" on agricultural land. OAR 660-033-0120 refers to a "wind power generation facility" as an allowable use on agricultural land. OAR 660-033-0130(37) defines a "wind power generating facility" and provides criteria for the approval of a wind power generating facility sited on farmland.</p> <p>The amendment would expand the area occupied by HWPF to approximately 134 acres. This is less than one percent of the farmland within the analysis area.</p>
<p>"2) The unsightliness of the wind towers and their accrements devaluate the surrounding properties with no compensation to the owners of those properties. Even if most of us wouldn't sell our farms, the towers are eyesores and, in my case, real irritation."</p>	<p>[103] See Response 33 above.</p>
<p>"1) Many of the proposed towers lie to the SW and WSW of my farm. Failure of bearings or rotating parts in combination with flammable fluids are the building blocks of a disastrous fire as these proposed towers are located in wheat fields that are adjacent to neighbors' wheat fields. I do not doubt that no fire department can react quickly enough to save my residence if a fire breaks out within a mile of my residence in a twenty to thirty five mile per hour SW or WSW wind which is common in the summertime in this locale.</p>	<p>[104] See Response 30 above.</p>
<p>"1) I am sure that the bat and bird kill surveys reported in the Amendment are re-assuring. However, those surveys just count the casualties in the areas around the towers</p>	<p>[105] Avian and bat fatality studies have both positive and negative biases. Although fatality study protocols do not</p>

Proposed Order Comments and Department Responses

Comment	Response
<p>but how about the flying wounded who crash and die from a few yards or miles off-site?</p> <p>"2) I haven't seen one deer on or around my farm since the FPL towers were constructed when in the time prior to the construction sightings were common. I believe that the low frequency noise generated by the turbines and blades are detrimental to animals and as far as that goes, to humans as well."</p>	<p>adjust for fatalities possibly occurring outside of the survey plots, the data on distribution of fatalities as a function of distance from the turbine show that most fatalities are found within 80 meters of the turbine. A small percentage of fatalities may have fallen outside of search plots (See, for example, <i>Year 1 Post-Construction Avian and Bat Monitoring Report, Biglow Canyon Wind Farm Phase II, Sherman County, Oregon, January 7, 2011</i>, pp. 17-18).</p>
<p>"3) Rain water runs off hard-packed gravel roads. During hard and sustained rainy conditions, the water that falls on the road must run off downhill into ditches that are already running adding to the amount of sediment that is carried eventually into the Walla Walla River or Wildhorse Creek and the Umatilla River. There are many miles of service roads as well as the pads included in the proposed siting."</p>	<p>[106]</p> <p>Site certificate Condition 40 requires the certificate holder to design and construct new access roads and road improvements to standards approved by the Umatilla County Public Works Director. The certificate holder must design new roads and road improvements to minimize alteration of natural drainage and must install culverts, water bars or other measures as necessary to reduce erosion. The certificate holder must consult with the Oregon Department of Fish and Wildlife and with the local Soil and Water Conservation District for any minor drainage improvements necessary to ensure effective drainage on surrounding agricultural lands.</p>
<p>Bill Timmermann (oral comments and written comments, 4/27/11)</p>	
<p><i>[Bill Timmerman summarized his written comments that he submitted earlier. He submitted additional documents (approximately 4 pages) in support of his comments. ODOE provided copies of these documents to the members of the Council.]</i></p> <p><i>Bill Timmerman said that he contested the amendment in four categories: health endangerment; property devaluation; fire danger; and environmental issues. He said that he decried the huge cost of subsidies provided by the federal government and the state of Oregon. He stated that Oregon's contribution to wind power would have easily balanced the current state budget had it not overly subsidized wind power. Oregon taxpayers pay more for their electrical use because BPA was forced to increase its rate by 14% because the federal government forced BPA to buy wind power, which is more expensive than hydro power.</i></p> <p><i>He stated that in Umatilla county, the current setbacks from wind turbines for rural residents and city residents are not the same. He said that he supported the Umatilla County planning commission's proposed equal setbacks.</i></p> <p><i>He said the unsightliness of wind towers and their attendant overhead power lines and collection stations, as well as the noise that wind towers generate, invades his privacy and are offensive to him.</i></p> <p><i>He said that there is no need for more wind power in the northwest. He said that BPA has an overflow of power. He said the politicians are forcing BPA to idle hydroelectric generation because the wind power companies can't earn their tax credits if they aren't spinning. He said that hydroelectric power is not considered green even though it is cheaper to produce than windpower. He asked why there is a push for expensive power that is not needed and that taxpayers are paying for at the bidding of the politicians. He</i></p>	<p>[107]</p> <p>See Responses 23, 76, 81 and 98 above.</p>

Proposed Order Comments and Department Responses

Comment	Response
<p><i>suggested that some people, with the “connivance of those in power,” want to generate a huge pool of electrical power and then say that hydroelectrical power is no longer needed and and that we should rid of the dams.</i></p>	
<p>Gunder Terjeson and Kirk Terjeson (4/14/11)</p>	
<p>“We are writing this letter in support of the Helix Wind Power Facility Amendment. Some of our ground is enrolled in the original Siting of the Helix Wind Power Facility. Although we have chosen not to enroll additional ground into the amended site, we would like to voice our support for this amendment and also to retain the current noise easement setback regulations.”</p>	<p>[108] ODOE acknowledges this comment as favorable to the recommendations contained in the proposed order.</p>
<p>“Kirk ... met with Clinton Reeder, a member of the Umatilla County Planning Commission. Mr. Reeder has provided considerable research to the Commissioners and the public concerning the Helix Wind Power Facility Amendment. Unfortunately, for being in a position of influence. Mr. Reeder has misrepresented some key facts and important issues.</p> <p>1) Setback Regulations: Mr. Reeder keeps claiming that the current setback for a rural home is ¼ of a mile and that the landowner is stuck with this distance. This is not true. The Helix Wind Power Facility Amendment will comply with EFSC conditions 100-102 which is a much larger setback from non participating rural residences than the 1320 ft. required by EFSC condition 43. ... Because the project must demonstrate compliance with DEQ noise rules, distances from turbine strings to nonparticipating homes would range from approximately 3800 to 8500 feet (0.7 to 1.6 miles) based on a turbine with maximum sound power level of 106 dBA.”</p>	<p>[109] See Response 82 above.</p> <p>The comment correctly states that to comply with the noise regulations under Condition 101, the actual distance from a residence to the nearest turbine may exceed the 1,320 foot setback that is required under Condition 43.</p>
<p>“What research was done to come up with the proposed arbitrary 2 mile setback? We farm within 1/8 mile of a string of turbines, have one household and our place of business approximately 1 mile from a string of turbines and have not noticed any ill effects or distractions. They have become a part of the landscape. The Umatilla Co. Planning Commission, with Mr. Reeder's input, is proposing a 2 mile setback. A two mile setback may virtually end wind projects in Eastern Oregon as not many places have an area that does not have a dwelling on it in that distance. We feel the current regulations are more than sufficient. They protect land owners with the distance conditions that are approved by EFSC and decibel levels approved by the Oregon Department of Environmental Quality while allowing wind developers stretches of land to build longer strings of turbines.”</p>	<p>[110] ODOE acknowledges this comment as favorable to the recommendations contained in the proposed order.</p>
<p>“The elk and upland bird population have increased since the installation of turbines on the Stateline wind projects in our area. The Oregon Department of Fish and Wildlife have now issued general season elk tags to the public. The elk herd has increased in size to the point where ODFW has started to issue crop damage elk tags to local area landowners. The mule deer population has remained constant.”</p>	<p>[111] ODOE acknowledges this comment as favorable to the recommendations contained in the proposed order.</p>
<p>“Kirk and I have lived in the Helix area all our lives. Our Grandfather and relatives homesteaded this ground in 1888. Our fathers, aunts and uncles have helped to</p>	<p>[112] ODOE acknowledges this comment as favorable to the recommendations contained in the proposed order.</p>

Proposed Order Comments and Department Responses

Comment	Response
<p>maintain this farm for almost 125 years. There have been many changes in farming and the landscape in those years. Some have been welcomed while others took some getting used to. The number of farms in our small area of Helix have dwindled since Kirk and I took over our farm 30 years ago. There are a small number of opportunities for communities our size to increase the revenues for dry land farmers, while also gaining revenues for the tax districts and school in Helix. We hope to be able to pass on the tradition of farming to our family and the opportunity that will be provided by the Helix Wind Power Facility Amendment can help in reaching that goal.”</p>	
<p>Kirk Terjeson (oral comments 4/27/11)</p>	
<p><i>[Kirk Terjeson’s oral comments were substantially the same as the comments contained in the letter submitted on 4/14/11, which are summarized above.]</i></p>	<p>[113] See Responses 108 through 112 above.</p>
<p>Tom Winn (4/21/11)</p>	
<p>I am a land owner who has leased property to Iberdrola Renewables, which is proposing to construct the Helix Wind Facility.</p> <p>I write today to support the amendment referenced above. Other land owners involved have communicated with your office outlining the benefits of this project on the local school district, city of Helix and local taxing districts, both for this project and others already completed in the Helix area. I will not repeat that information here other than to state that I am in complete agreement with those comments submitted.</p> <p>A very small and vocal contingent in the area are opposed to the project and have stated that opposition many times. I would point out that none of those individuals are operating wheat and small grain producers and do not have any vested interest in this project other than to complain. That is their right but it does not make them right.</p> <p>My desire is to have this project completed soon. The revenue from wind generation will greatly assure my families ability to pass the farm onto the next and subsequent generations. Iberdrola has been a superb corporate partner in this venture and should be commended, not condemned for bringing this project to Helix. It is good for all.</p>	<p>[114] ODOE acknowledges this comment as favorable to the recommendations contained in the proposed order.</p>
<p>Raymond Rees (4/24/11)</p>	
<p>My name is Raymond F. Rees and I own property leased to Iberdrola Renewables for use in the siting of the subject sustainable energy project. I am aware that there is to be another opportunity for comment in Helix on 27 April. I will be unable to attend this event. I do want to be on record as being supportive of the project. I have read the 7 April memo of Gunder and Kirk Terjeson and find their reasoning cogent and comprehensive. The revenue generated is not only beneficial to the landowners but to the county and community governments and citizens as well. Even though I do not currently reside at the</p>	<p>[115] ODOE acknowledges this comment as favorable to the recommendations contained in the proposed order.</p>

Proposed Order Comments and Department Responses

Comment	Response
farmstead, I will move there within the next 24 months. I have no doubt that my wife and I will be comfortable in that environment with turbines on our property.	
Richard Jolly, Blue Mountain Alliance (4/27/11) [contested case request]	
<p>“Blue Mountain Alliance would like to contest the HWPF amendment. OAR 345-027-0060(1)(g) Landowners Within or Adjacent to the Facility. "Exhibit F. A list of names and mailing addresses of all owners of record, as shown on the most recent property tax assessment roll, of property located within or adjacent to the site boundary as defined in OAR-345-015-0220. In addition to incorporating the list in the application for a site certificate, the applicant shall submit the list to the Department in electronic format acceptable to the Department for the production of mailing labels. Property adjacent to the site boundary means property that is: (C) Within 500 feet of the site boundary where the site, corridor or micrositing corridor is within a farm or forest zone;</p> <p>“EFSC is fully aware the an updated list of the owners of property, consistent with OAR 345-021-0010(1)(f)(C), is contained in Attachment 14 to this amendment request. Iberdrola did not comply with the standard. There were 3 (known) residences left off of Iberdrolas noise map and these landowners were not notified. Leakes are clearly within 500 feet of the project boundary- yet they were never notified. John White siting officer has stated that neither Iberdrola nor the state siting officer were aware that these land owners were even to be included in the Iberdrola map.”</p>	<p style="text-align: right;">[116]</p> <p><i>[To clarify the record, ODOE notes that the commenters have given a partial quotation from the Request for Amendment #1, Section 4, pp. 53-53. Some words have been omitted.]</i></p> <p>See Response 40 above.</p>
<p>“In addition, the map submitted by Iberdrola does not address the cumulative effects of the wind towers that are currently in place. The map only addresses proposed towers for the amendment. EFSC is not taking into consideration the OAR’s addressing cumulative effects when siting this project.”</p>	<p style="text-align: right;">[117]</p> <p>See Response 39 above.</p>
<p>“A cumulative effect on wildlife has not been addressed compliant with OAR 345-022-0060. As each project is sited with additional towers there is a greater risk to wildlife. Birds and bats in particular are impacted as more towers go up. Cumulative effects of roads has not been addressed either.”</p>	<p style="text-align: right;">[118]</p> <p>The proposed order addresses the requirements of the habitat standard, OAR 345-022-0060 (proposed order, pp. 74-79).</p> <p>Under OAR 345-024-0015, discussed in the proposed order at pages 67-71), one measure to reduce cumulative adverse environmental effects focuses on access roads. The standard encourages the use of existing roads to provide access to the facility site, minimizing the amount of land used for new roads, and locating new roads in a manner that reduces adverse environmental impacts. Condition 38 requires that roads be the minimum size necessary for safe operation of the facility. Condition 91 requires the certificate holder to locate new roads to avoid or minimize significant impacts wildlife habitat.</p>
<p>“High valued farm ground taken out of production along with miles of roads (approximately 47.4 miles of new roads) that increases sediment into the local Walla Walla River which has endangered species in it is not being addressed. This amendment is not in compliant with OAR 660-033-0130. As more roads are added an</p>	<p style="text-align: right;">[119]</p> <p><i>[To clarify the record, ODOE notes that the current site certificate authorizes the construction of up to 16.2 miles of new roads. If approved, the amendment would authorize an additional 31.2 miles of new roads.]</i></p> <p>See Response 128 below.</p>

Proposed Order Comments and Department Responses

Comment	Response
<p>increased amount of sediment will be going into the Walla Walla River which is in this area. Both the state and Iberdrola have not addressed these issues as stated within the OAR's. DEQ has already stated that no additional sediment can be entered into the Walla Walla River."</p>	<p>OAR 660-033-0130 is applicable only to the extent that UCDC Section 152.616(HHH)(2)(J) requires a demonstration of compliance with the standards found in OAR 660-033-0130(37). The proposed order addresses these standards at pages 34-41.</p> <p>Site certificate conditions address erosion and sediment control. Condition 40 requires all roads to be designed according to standards approved by the Umatilla County Public Works Director. New roads and road improvements must be designed to minimize alteration of natural drainage and to utilize culverts, water bars or other measures as necessary to reduce erosion. The certificate holder must consult with the Oregon Department of Fish and Wildlife and with the local Soil and Water Conservation District for any minor drainage improvements necessary to ensure effective drainage on surrounding agricultural lands. Condition 54 requires the certificate holder to design and construct the facility to avoid dangers to human safety presented by non-seismic hazards, including erosion. Condition 77 requires the certificate holder to have an NPDES 1200-C permit and to conduct all construction work in compliance with and Erosion and Sediment Control Plan that is satisfactory to DEQ and that includes any procedures necessary to meet local erosion and sediment control requirements or storm water management requirements. Condition 82 requires the certificate holder to inspect, maintain and repair erosion control measures during facility operation.</p>
<p>"In addition, cumulative effects for noise have not been addressed. Towers that are currently in place are not included on Iberdrola's maps. This means that ambient noise levels that currently exist and may be already near the Oregon state noise threshold are not being addressed by the applicant or EFSC. The proposed amendment is not in compliant with OAR 340-035-0035."</p>	<p>[120] See Response 39 above.</p>
<p>"Lastly, we have doubts that the local fire district of Helix can support a fire if one were to be caused by a turbine. We have heard that the Helix fire chief is Matt Benedict and that he lives in Adams, OR which is approximately 15 miles from the city of Helix. We have questions on the ability of the Helix fire dept. volunteers to respond to an industrial turbine and/or ground fire on the proposed HWF amendment. We also have concerns that the Helix fire dept. could fight a fire that might be over 100' in the air. We suspect they do not have this ability and would be forced to try and control the fire once it hits the ground. We assume this would be burning accelerants. This also brings into question response times and expertise on chemical/haz mat fires. Terrain will also play a big role on how these fires are fought. Homes are in the middle of dry land wheat and some CRP with steep side hills and down draft winds. We have also talked to Iberdrola and the statement that no fire plan is in place until the project is done. Until then all Iberdrola vehicles contain shovels and a fire extinguisher. It is of no comfort to the residences who know what a dry land wheat fire is like. A true fire plan would have similar requirements that a logging outfit has to meet. Equipment, a capable and easily accessible fire</p>	<p>[121] See Responses 30, 35 and 54 above.</p>

Proposed Order Comments and Department Responses

Comment	Response
<p>team available, and an approved plan with a complete risk assessment by local officials would be required.</p>	
<p>Richard Jolly (oral comments, 4/27/11)</p>	
<p><i>Richard Jolly spoke in reference to some of the statements made on modeling and what the repercussions of that are when, he said, we don't take into account the cumulative effects of other wind turbines. He said the people in these rural areas almost need to take a sound study out of their own pocket before any development has even started and as far away as 10 miles to see what their lifestyle was like before development began. He said that he understood that the state standards go up to 50 decibels.</i></p> <p><i>He said that Helix is in the heart of the wind generation area that was done away with. He said that some of the siting that was done originally is definitely in the right place to have had wind turbines. One of the reasons for having the wind generation areas was to do studies on cumulative effects. We have no studies being done now.</i></p> <p><i>He said that as you have built more wind turbines there is less capability for birds to fly through and there are cumulative effects of farmland being taken out of service. He said the state is not keeping numbers of quantitative acreage in the state being take out from one project to the next, and the same with the classified wildlife habitat from one project to another. We just keep taking a look at these projects individually. The same with the roads; how much will we take for roads in certain areas?</i></p>	<p>[122]</p> <p>See Responses 29 and 39 above.</p> <p>Although OAR 340-035-0035(1)(b)(B) contains a 50 dBA "maximum allowable" noise limit for wind energy facilities, this level of noise generated by a wind facility could occur only if the property owner chooses to grant a noise waiver. If the property owner does not grant a noise waiver and if the facility is designed based on the assumed ambient background level of 26 dBA, then the maximum noise from the facility would not be permitted to exceed 36 dBA at the residence.</p> <p>The cumulative effect of multiple wind energy facilities on avian fatalities is discussed in the proposed order at pages 67-69.</p> <p>The acres of permanent habitat impact, including the areas occupied by roads, are described in the proposed order at pages 74-79. All areas of permanent habitat impact are mitigated in accordance with the habitat mitigation goals and standards of ODFW, which are incorporated in OAR 345-022-0060. The same standard has been applied to all energy facilities for which site certificates have been issued. The standard requires appropriate mitigation for all habitat impacts.</p>
<p>Casey Beard (oral comments, 4/27/11)</p>	
<p><i>Casey Beard said he was concerned about the use of modeling without verification. He said he was concerned that we are not looking at the cumulative effect of these projects when they are in close proximity to each other. Modeling is only a starting point to be verified by on the ground measurements. Relying on modeling leaves the adjoining property owners at potential risk. They are helpless unless they want to hire experts at their own expense. If we are going to use these models, we should have a process in place to confirm that they are true and measure the noise levels at residences in proximity so that they are not left to fight the battle on their own. He said that Oregon has a standard and that as part of the process, Oregon should enforce that standard.</i></p>	<p>[123]</p> <p>See Responses 29 and 39 above.</p> <p>Without modeling, there is no means of determining whether a proposed wind energy facility would comply with OAR 340-035-0035(1)(b)(B). The regulation allows an applicant to measure the background ambient noise levels as a basis for determining whether the predicted noise from the proposed facility would increase the ambient noise levels at any residence by more than 10 dBA. The regulation, however, does not require measurement to be done, but instead, allows the applicant to assume a background ambient noise level of 26 dBA. Use of the assumed background ambient noise level is a more conservative approach and results in a lower noise impact on nearby residences, especially for residences that are already receiving noise from existing wind energy facilities.</p> <p>The Council has a process in place to confirm that a wind energy facility is operating in compliance with the noise standards. That process is incorporated in Conditions 3 and 102 of the HWPf site certificate.</p>
<p>Wendell Baskins (oral comments, 4/27/11)</p>	
<p><i>Wendell Baskins said he was representing the Oregon Historic Trails Advisory Council, which, he said, has no position for or against this project. He said he was present to speak for the Oregon Historic Trail and its variant routes. The project appears to be away from the</i></p>	<p>[124]</p> <p>ODOE acknowledges this comment as neutral as to the recommendations contained in the proposed order.</p>

Proposed Order Comments and Department Responses

Comment	Response
<p><i>designated route. He wants EFSC to be aware that there are variant routes recorded in the diaries, and these deserve due research and caution.</i></p>	
<p>Bill and Marcy Holton (oral comments, 4/27/11)</p>	
<p><i>Bill Holton said that he and his wife live on Juniper Canyon Road and that they have their property signed up in the project. He said that he has no trouble having windmills on his place and having them close enough so that he could hear them. He said that the benefits to county and to the school district outweigh the noise factor. He said that farming the wind is farming, and if that is what the landowner wants to do with his land, it is okay.</i></p>	<p>[125] ODOE acknowledges this comment as favorable to the recommendations contained in the proposed order.</p>
<p>Tom Peterson (oral comments, 4/27/11)</p>	
<p><i>Tom Peterson said that he lives within 2 miles of a Florida Wind Power turbine or several turbines. He wanted to address the noise issue. He said that his residence has direct line of site to the turbines that he did not hear a thing.</i></p>	<p>[126] ODOE acknowledges this comment as favorable to the recommendations contained in the proposed order.</p>
<p>Nancy Rees Duff (oral comments, 4/27/11)</p>	
<p><i>Nancy Rees Duff said that she lives on Butler Grade Road and that she is scheduled to have turbines on her property. She said that she is in support of the project, but she has two concerns about the project. First, during construction, she is concerned about the transportation of the turbine parts. She said that she supports using a transportation route up Hatch Grade Road, because that would be less disruptive than the routh through Helix. Second, she said she was concerned about lights. She understands the need for lights. The synchronized flashing is really annoying. She said that if EFSC has control over this that they should ask that the lights be intermittent. She said that she knew of another project at which the developer agreed to keep the lights as low as possible, and she asked for this to be considered at the Helix project also.</i></p>	<p>[127] ODOE acknowledges this comment as favorable to the recommendations contained in the proposed order. The commenter describes a transportation route that would approach the site from the north, using Hatch Grade Road. The applicants have identified this route as the “primary” route that would be used during construction. Transportation impacts during construction are discussed at page 83 of the proposed order. The commenter requests that the aviation warning lights be intermittent, rather than synchronized. Condition 99 requires the certificate holder to use the minimum tower lighting required or recommended by the Federal Aviation Administration (FAA). The most recent guidance from the FAA recommends synchronized flashing lights for nighttime visibility. (James W. Patterson, Jr., <i>Development of Obstruction Lighting Standards for Wind Turbine Farms</i> (FAA, November 2005), cited in the <i>Final Order on the Application for the Montague Wind Power Facility</i> (September 10, 2010), p. 39.)</p>
<p>Ron Brown (oral comments, 4/27/11)</p>	
<p><i>Ron Brown said that he chairs the Walla Walla River Irrigation District and the Walla Walla Watershed Alliance. He said that he was not for or against the wind towers. He stated that there are two endangered species in the Walla Walla system. He said that these projects have runoff water that is finding its way into the rivers. He said that erosion from the new roads could get into the Walla Walla system. He said that as you increase the roads you increase the possiblity that noxious weeds have to be sprayed. He said that the Clean Water Act is trumping everything. He said that when you site these facilities, the applicant can elect to go to the local government to the state. He asked, if there is non-point pollution, who is responsible? Is it the landowner, the power company that put the towers up, or is it the</i></p>	<p>[128] See Response 106 above. In Oregon, DEQ is the federally-delegated state agency for administering the Clean Water Act. As a reviewing agency under EFSC rules, DEQ receives all site certificate applications and all requests for site certificate amendments. ODOE requests comments from DEQ on all proposed energy facilities. On September 15, 2010, Todd Hesse submitted comments on behalf of DEQ regarding the proposed HWPf expansion. He said: <i>The proposed amendment does not raise any water quality issues for the Department of Environmental Quality if the conditions of the construction permit are met. The amendment indicated that the existing</i></p>

Proposed Order Comments and Department Responses

Comment	Response
<p><i>county? He said that EFSC should consider the impacts on the Clean Water Act. He said he is shocked that these towers do not have to have an EIS. He said that all upper watersheds are critical habitat. I came to give information and awareness that as we do any of these projects that we are aware of the Clean Water Act.</i></p>	<p><i>1200-C construction permit will be amended to include the proposed expansion.</i></p> <p>Condition 77 requires the certificate holder to have an NPDES 1200-C permit and to conduct all construction work in compliance with and Erosion and Sediment Control Plan satisfactory to DEQ.</p> <p>During facility operation, Condition 82 requires the certificate holder to routinely inspect, maintain and repair erosion and sediment control measures.</p>
<p>Gary Rhinehart (oral comments, 4/27/11)</p>	
<p><i>Gary Rhinehart said that he is the current chair of the Umatilla County Planning Commission. He said that most of the testimony that the commission has received over the last three years says that they want the Umatilla County to have a stronger siting plan. They say that EFSC doesn't do their job, is not protecting neighbors, and is not protecting environmental issues. He said that the state needs to put a moratorium on these projects and get experts out and look at what has happened with these projects and try to come up with something that will work for the neighbors and for the landowners that want wind turbines on their property. He said most of the citizens support reasonable wind power development. He said that the county would require certified engineers for roads to protect for runoff. He said that's the stuff that EFSC should be doing. He said its time that the state needs to step up and relook at their stuff.</i></p>	<p>[129]</p> <p>In considering the proposed amendment, the Council must determine whether the facility complies with the standards adopted by the Council as required by ORS 469.501. The Council, further, must decide whether the facility complies with all other applicable Oregon statutes and administrative rules. The proposed order discusses the applicable standards, statutes and administrative rules in detail.</p> <p>The Council does not have legal authority to impose a "moratorium" on issuing site certificates for wind energy facilities.</p> <p>The Council must apply the Land Use Standard in conformance with the requirements of ORS 469.504. Under ORS 469.504(1)(b)(A), the Council must determine whether facility complies with applicable substantive criteria from the affected local government's acknowledged comprehensive plan and land use regulations that are required by the statewide planning goals and in effect on the date the amendment request was submitted.</p> <p>Condition 40 requires the certificate holder to design and construct new access roads and road improvements to standards approved by the Umatilla County Public Works Director.</p>
<p>Jeff Newtonson (oral comments, 4/27/11)</p>	
<p><i>Jeff Newtonson said that he is in support of the Helix amendment. He said that he supports everything that Kirk Terjeson said. He stated that the HELP funds have been very good for the community. He talked about the erosion concerns. He said that Vansycle Canyon is a steep canyon and that no one farms up to the bottom of the canyon. He said that on his farm where the amendment is going to take place in the Juniper Canyon drainage, he has 250 acres of continuous CRP filter strips which are 100-120 foot buffers along every canyon. He said that 90% of the acreage the project is going on is conservation farmed. He said that if there is runoff, it's not going to reach the waterways of Vansycle or Juniper Canyon, but it should be studied. He said that he is the chairman of the Helix Rural Fire Department and that the Fire Department has the capability to respond to fires in their district. He said that the majority of the project is in the Helix fire protection district. He said that the Fire Department has one station in Helix and another station in Juniper Canyon, closer to the project, and so the concerns are unfounded.</i></p>	<p>[130]</p> <p>ODOE acknowledges this comment as favorable to the recommendations contained in the proposed order.</p>

Proposed Order Comments and Department Responses

Comment	Response
William and Barbara Andrus; Michael Kilby (4/27/11)	
<p>“The value of renewable energy sources is more apparent today than ever. With fuel costs nearing record highs and air pollution a continuing threat, the need for a future with alternatives to oil and other fossil fuels as an energy source is increasing. Projects such as the Helix Wind Power Facility are a step toward the future. One project alone might seem a small contribution, but taken together, wind and solar projects can be a big part of the solution.”</p>	<p>[131] ODOE acknowledges this comment as favorable to the recommendations contained in the proposed order.</p>
<p>“In 2008, ODE energy analyst Chris Dymond said in an interview with the East Oregonian newspaper, "There's more than enough renewable energy opportunity in Eastern Oregon than is needed to meet all of our heating, cooling, industrial and transportation needs for the state." He was talking about potential, but the potential can't be tapped unless projects like the Helix Wind Power Facility go forward. With a transmission infrastructure already in place, the power from Eastern Oregon wind farms can be a benefit throughout the west coast states in meeting important new renewable energy requirements.”</p>	<p>[132] ODOE acknowledges this comment as favorable to the recommendations contained in the proposed order.</p>
<p>“There would be immediate, local economic benefits from the project as well. There would be the jobs and payroll construction would bring to the area, followed by permanent jobs for maintenance and operating personnel when the facility is operating. Umatilla County and Helix-area tax districts would benefit from energy dollars. Local farmers and landowners who own land on which the facility will be built would also benefit. As a member of that group, we do have a personal stake in the issue, but financial benefit would extend beyond the individual farmer. Agriculture is the backbone of this region's economy. At a time when the fast-rising cost of fuel, fertilizer and other inputs is putting area farmers' backs to the financial wall, a source of income that would help them stay in business would be a huge benefit to businesses in the county who provide the supplies and services they need to operate.”</p>	<p>[133] ODOE acknowledges this comment as favorable to the recommendations contained in the proposed order.</p>
<u>Reviewing Agency Comments</u>	
Dennis Griffin, State Historic Preservation Office (2/14/11)	
<p>“Our office will require that a new cultural resource survey is completed and approved for the new project APE before the amendment is approved. All sites identified during the survey would need to be avoided or mitigated, if found to be eligible to the National Register of Historic Places.”</p>	<p>[134] A cultural resource survey of the expansion area has been done, as described in the proposed order at page 81.</p>
Carol Johnson, Umatilla County Department of Land Use Planning (2/23/11)	
<p>“Umatilla County received a comment letter from Calista Berg regarding a noise easement for what appears to be the amendment to Iberdrola's Site Certificate.”</p> <p><i>[quoting from the attached letter:]</i></p> <p>“In October 2010 I was contacted by a representative of Iberdrola and asked to sign a noise easement for the turbines that were going to be built near my farmhouse two miles north of Helix, on land that I had sold to Fred</p>	<p>[135] See Response 90 above.</p>

Proposed Order Comments and Department Responses

Comment	Response
<p>Rees in 2004.</p> <p>“Until then I had not known that our Century Farm would be affected in any way by turbines. In fact, decades earlier a representative of Kennetech Corp. (James Taylor) called on Vern Hutchinson and me to try to convince us to consider putting wind turbines on our farm. Verne said absolutely not; we’re wheat farmers, not wind farmers.</p> <p>“I concur with him. Our two daughters who will inherit this farm agree that we do not want wind turbines near our two farmhouses.</p> <p>“We are not against wind energy turbines per se but we do not want to sacrifice our wonderful quality of life to them.”</p>	
<p>Carol Johnson, Umatilla County Department of Land Use Planning (3/14/11)</p>	
<p>“As you may be aware Umatilla County is currently amending the requirements for the siting of commercial wind generating facilities. During this amendment process the County has heard many concerns from local citizens on the increasing march of wind turbines on the landscape. Much of this concern has focused on the distance from turbines to rural homes, public right of ways and cities. Some of the more specific issues stem from noise related to prospective turbines on nearby leased lands.</p> <p>“One unique example is a residence along Vansycle Road located in proximity to an operating wind project to the northeast and nearby the proposed amendment area for the Helix Wind Power Facility to the west. This property owner now expects to have an overlapping of noise from both facilities. On page 89 of the Proposed Order a similar circumstance is mentioned where a residence could receive noise from turbines belonging to two different wind energy facilities. Although this situation could result in a combined noise level exceeding the 50-dBA maximum allowable test for the residence, the noise from each facility could comply with the maximum allowable test. This situation appears to warrant review under the siting standards in OAR 345-024-0015, where “... 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:” [Emphasis provided.] The county would encourage such a review.”</p>	<p style="text-align: right;">[136]</p> <p>See Responses 32 and 39 above.</p> <p>The hypothetical example that is discussed at page 89 of the proposed order could occur only if the property owner had granted noise waivers to both energy facilities. Using the figures in the example, the noise waivers would allow noise up to 50 dBA from one facility and 41-50 dBA from the other facility. The combined noise (assuming both facilities were operating at wind speeds corresponding to the maximum sound power levels of the turbines) would be 51-53 dBA.</p> <p>This level of noise cannot occur if the property owner chooses not to grant noise waivers. If the property owner in the example does not grant a noise waiver to either wind facility and if both facilities are designed based on the assumed ambient background level of 26 dBA, then the maximum cumulative noise from the two wind facilities would not exceed 39 dBA at the residence.</p>
<p>“The County supports Condition 101 to ensure that the Helix Wind Power Facility complies with noise control regulations, supplies EFSC with turbine selection and final design layout prior to commencing construction and provides a noise analysis based on the final design, demonstrating compliance with the applicable noise regulations. Although Condition 101 is valuable a review of cumulative effects should be expanded to include unique situations such as residences already impacted by one operating facility and the potential impact from a new facility.”</p>	<p style="text-align: right;">[137]</p> <p>See Response 39 above.</p>

Proposed Order Comments and Department Responses

Comment	Response
Jeff Everett, U.S. Fish and Wildlife Service (3/21/11)	
<p>“On March 11, 2011, Iberdrola hosted a site tour of the Helix project with representatives from the Service's state office and Migratory Birds office as well as representatives from Northwest Wildlife Consultants and Oregon Department of Fish & Wildlife. This field tour was organized in response to the Service's September 24, 2010 letter to EFSC which generally supported the Helix amendment, but recommended larger turbine set-backs for ferruginous and Swainson's hawk nests. During the field trip Iberdrola discussed turbine locations with us in relation to the known ferruginous hawk and Swainson's hawk nest locations, topography, habitat, line of site and other site-specific features, siting strategies, and monitoring commitments. Based on this field trip, the Service no longer has concerns with Iberdrola's wildlife plan for the Helix project, and we support the project as proposed. When implemented, Iberdrola's wildlife plan will result in a well designed and sited project.</p>	<p>[138] ODOE acknowledges this comment as favorable to the recommendations contained in the proposed order.</p>