

## OREGON DEPARTMENT OF ENERGY

Regarding Statutes, Administrative Rules and  
Other Requirements Applicable to the Proposed  
Golden Hills Wind Farm Project )  
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PROJECT ORDER

On April 11, 2007, the Oregon Department of Energy (ODOE) received a Notice of Intent (NOI) to build a new wind energy generating facility in Sherman County, near Wasco Oregon. The applicant is BP Alternative Energy of North America (BPAE). The facility is called the Golden Hills Wind Farm Project (GHW). The facility would require a Site Certificate from the Oregon Energy Facility Siting Council (EFSC or the "Council").

On April 27, 2007, the Department prepared a memorandum, as described in OAR 345-015-0120, and distributed it, together with a copy of the NOI, to the officers, agencies and tribes described in OAR 345-020-0040. In the memorandum, the Department requested agency comments on the NOI by May 31, 2007. The Department received comments from Oregon Department of Fish and Wildlife (ODFW) and U.S. Fish and Wildlife Service (USFWS).

On April 23, 2007, the Department issued public notice of the NOI to the EFSC mailing list and to adjacent property owners as defined at OAR 345-020-0011(1)(f). The Department also published the notice in the Dalles Chronicle. In the notice, the Department requested public comments on the NOI by May 31, 2007. The notice also announced a public information meeting at the St. Mary's Parish in Wasco Oregon on May 16, 2007. At the meeting, some members of the public asked for clarification on recent amendments to Department of Environmental Quality noise standards. There were no other concerns raised about the project. The Department received no written comments from the public on the NOI.

On June 6, 2007, the Department issued a Project Order pursuant to ORS 469.330 and OAR 345-015-0160. GHWF submitted an Application for Site Certificate on July 10, 2008. On October 8, 2008, the Department notified GHWF that the application was incomplete, and issued its Request for Additional Information #1 (RAI #1).

The original project order included a 30 mile analysis area for scenic and aesthetic impacts. However, Council rules as modified in May 2007 now state that the default analysis area for scenic impacts is 10 miles, unless otherwise stated in the project order. The Department finds that the default value of 10 miles is adequate for GHWF. Therefore, the Department issues this revision 1 to the Project Order, changing the analysis area for scenic impacts to 10 miles.

In this Project Order revision 1, the Department also incorporates by reference RAI #1 dated October 8, 2007 and RAI #2 dated May 23, 2008.

Under Oregon law, the Department must issue a project order following receipt of a Notice of Intent. ORS 469.330(3). OAR 345-015-0160(1) requires in relevant sections that the Department issue a project order that establishes the following:

- (a) All state statutes and administrative rules containing standards or criteria that must be met for the Council to issue a site certificate for the proposed facility, including applicable standards of OAR Chapter 345, Divisions 22, 23 and 24;
- (b) All local government ordinances applicable to the Council's decision on the proposed facility;
- (c) All application requirements in OAR 345-021-0010 applicable to the proposed facility;
- (d) All state and local permits necessary to the construction and operation of the proposed facility and the name of each agency with the authority to issue such permits;
- (e) Any other data and information that must be included in the application for a site certificate to allow the Council to determine whether the proposed facility will comply with applicable statutes, administrative rules and local government ordinances;
- (f) The analysis areas for the proposed facility;
- (g) Public concerns that address matters within the jurisdiction of the Council that the applicant shall consider and discuss in the application for a site certificate, based on comments from the public and reviewing agencies; and
- (h) The expiration date of the notice of intent, according to OAR 345-020-0060(1).

ORS 469.401(4) provides that a site certificate issued by the Council does not govern certain matters. This project order does not consider matters outside the Council's jurisdiction. BPAE must nevertheless comply with all statutes, regulations and local ordinances applicable to the proposed facility.

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

THEREFORE, pursuant to 345-015-0160(1), the Oregon Department of Energy orders that:

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

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

## **1. Energy Facility Siting Council**

**Statute and Rule References:** Statutes pertaining to the regulation of energy facilities, starting at ORS 469.300, Administrative rules in OAR Chapter 345, Divisions 1, 21, 22, 24, 26 and 27

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

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

All general standards in OAR Chapter 345, Division 22, apply to the proposed facility. For a wind energy facility, the Council need not make findings on the standards described in OAR 345-022-0020 (Structural), OAR 345-022-0090 (Historic, Cultural and Archaeological Resources), OAR 345-022-0110 (Public Services), and OAR 345-022-0120 (Waste Minimization). Nevertheless, BPAE should address these standards in the application because the Council may apply the requirements of the standards to impose conditions on the site certificate.

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

Note: The Council extensively revised its rules on May 11, 2007. The changes include:

- The term “micrositing corridor” is now defined in OAR 345-001-0010.
- Requirements for providing copies of federally delegated permit applications have been modified (*see* OAR 345-021-0000).
- Requirements for the Structural Standard are extensively revised, OAR 345-021-0010(h).
- Siting standards for wind energy facilities have been revised, OAR 345-024-0015.

BPAE must apply the effective rules in all phases of application preparation.

## **2. Oregon Department of Agriculture – Plant Conservation Biology Program**

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

**Permit:** None required.

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

OAR 603-073-0070 contains the state list of endangered and threatened plant species. OAR 603-073-0080 gives ODA the authority to designate candidate plants. If BPAE finds any state-listed threatened or endangered plant species that may be affected by the proposed facility, BPAE must address the requirements of OAR 603-073-0090(5)(d)(A)-(E) in the application.

BPAE should include in its application a list of both state- and federally-listed endangered, threatened, and candidate plant species that have potential to occur in the analysis area. BPAE should identify these species based on a review of literature, consultation with knowledgeable individuals, and reference to the list of species on the Oregon Natural Heritage Program.<sup>1</sup>

BPAE should include in its application a description and the results of a field survey for the listed plant species. A qualified individual shall conduct the field survey during the season or seasons appropriate to the plant species under consideration. The field survey report should include written descriptions of the survey methods and areas surveyed. BPAE should consult with the Oregon Department of Agriculture, Native Plant Conservation Program, regarding field survey methods, appropriate survey seasons and qualifications of field survey personnel.

### **3. Department of Environmental Quality – Water Quality**

**Statute and Rule References:** ORS Chapter 468B, OAR Chapter 340, Divisions 40, 45 and 71.

**Permits:** National Pollutant Discharge Elimination System (“NPDES”) and Water Pollution Control Facilities (“WPCF”) permits

**Discussion:** Under OAR 345-021-0000(7), the Department shall not find a site certificate application complete unless the applicant has submitted to the Department a copy of each federally-delegated permit application. The applicant must also provide a letter or other indication from the Oregon Department of Environmental Quality (“DEQ”) stating that the agency has received a permit application from the applicant, identifying any additional information the agency is likely to need from the applicant based on the agency’s review of the application as submitted and estimating the date when the agency will complete its review and issue a permit decision.

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

### Storm Water

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

### Septic System

The NOI states that the Operation and Maintenance Building (O&M) will discharge sanitary waste to an onsite septic system. Such discharges may require a WPCF permit from DEQ. In such event, BPAE must first verify that the site is suitable for an on-site septic system by applying to DEQ or its designated agency for a site evaluation of groundwater and soil conditions.

If a WPCF permit is required, it is a state permit that is under Council jurisdiction. The substantive requirements for the onsite WPCF permit are set forth in OAR Chapter 340, Division 71. The specific regulations for WPCF permits are set forth in OAR Chapter 340, Division 45, "Regulations Pertaining to NPDES and WPCF Permits."

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

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

**Permit:** None required.

**Discussion:** BPAE must include in the application a list of all hazardous materials stored or used at the facility site during construction and operation. BPAE must comply with DEQ regulations concerning the use, clean up and disposal of hazardous materials.

## **5. Environmental Quality Commission – Noise Control Regulations**

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

**Permit:** None required

**Discussion:** The proposed facility must comply with the noise control regulations applicable to wind energy facilities. The requirement is incorporated in the general standard of review, OAR 345-022-0000.

BPAE shall include a noise analysis in the application. The analysis must contain information to support a finding by the Council that the proposed facility would comply with the requirements of OAR 340-035-0035.

## **6. Oregon Department of Fish and Wildlife**

**Statute and Rule References:** ORS Chapter 496, OAR Chapter 635, Divisions 100 and 415

**Permit:** None required

**Discussion:** The Oregon Department of Fish and Wildlife (“ODFW”) provides technical review and recommendations on compliance with Council rules set forth at OAR 345-022-0040, -0060 and -0070. ODFW will base its review and recommendations on state wildlife policy and threatened and endangered species policy (ORS 496.012 and ORS 496.171 - .192).

OAR Chapter 635, Division 100, provides authority for adoption of the state sensitive species list and the Wildlife Diversity Plan, and contains the state list of threatened and endangered wildlife species

OAR Chapter 635, Division 415, describes six habitat categories and establishes a mitigation goal for each category. The application for a site certificate must identify the appropriate habitat category for all areas affected by the proposed facility and provide the basis for each category designation, subject to ODFW review. BPAE must show how it would comply with the habitat mitigation goals and standards by appropriate monitoring and mitigation.

OAR Chapter 635, Division 425, contains requirements for in-water blasting. In the unlikely event that construction of the facility would require in-water blasting, an in-water blasting permit would be required. An application for an in-water blasting permit must include the information necessary to meet the requirements of ORS 509.140 and OAR 635-425-0000 through 635-425-0050 and be submitted to ODFW for approval. An application for an in-water blasting permit must be submitted 90 days prior to the date of blasting. An In-Water Blasting Permit Application form is available on the ODFW website at: [http://www.dfw.state.or.us/lands/inwater/inwater\\_app.pdf](http://www.dfw.state.or.us/lands/inwater/inwater_app.pdf).

ODFW notes that water for construction purposes on other wind energy facilities have amounted to millions of gallons, requiring temporary utilization of an existing water right. The application will need to address this anticipated water use for construction.

ODFW provided detailed comments on the NOI by letter dated May 31, 2007. ODFW noted it no longer has a Habitat Conservation Division, and ODFW’s review will be coordinated by Rose Owens of the Wildlife Division. ODFW strongly recommends that BPAE work with the District Biologist, Keith Kohl, stationed in The Dalles, and Chris Carey, Region Wildlife Diversity Biologist, stationed in Bend.

## **7. Department of Geology and Mineral Industries**

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

**Permit:** None required.

**Discussion:** The Department of Geology and Mineral Industries (“DOGAMI”) provides technical review and recommendations on compliance with the Council’s structural standard, OAR 345-022-0020. In its application, BPAE must include a geotechnical report that includes, as a minimum, the information required by OAR 345-021-0010(1)(h). Also relevant is the information required by OAR 345-021-0010(1)(i).

On May 11, 2007, the Council amended its rules in OAR Chapter 345. In particular, the Council amended OAR 345-022-0020, the Structural Standard, and OAR 345-021-0010(1)(h), which includes the requirements for Exhibit H of the application. Under the new rules, BPAE should submit a full geotechnical report meeting the guidelines of DOGAMI open file report O-00-04 “Guidelines for Engineering Geologic Reports and Site Specific Seismic Hazard Reports”.

The Department understands that wind developers typically do not perform the detailed site-specific geotechnical exploration described in this report until they have identified exact turbine sites. If BPAE plans to defer some of the site-specific geotechnical work pending completion of facility design, then the application must include evidence of consultation with DOGAMI regarding the appropriate level of pre-application site-specific geotechnical investigation.

## **8. Oregon Parks and Recreation Department**

**Statute and Rule References:** ORS 97.745, ORS 358.920, ORS 390.010 and -.235, OAR Chapter 736, Division 51

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

**Discussion:** The State Historic Preservation Office (SHPO) and affected tribes provide technical review and recommendations in reference to the Council’s Historic, Cultural and Archaeological Resources Standard (OAR 345-022-0090). The application should include an archaeological and cultural survey conducted by a qualified archaeologist.

The Department recommends that BPAE work as early as possible with the SHPO to ensure that BPAE provides required information in SHPO’s preferred formats.

The Oregon Parks and Recreation Department provides technical review and recommendations on compliance with Council standards in OAR 345-022-0040 (Protected Areas), OAR 345-022-0080 (Scenic and Aesthetic Values), and OAR 345-022-0100 (Recreation).

## **9. Oregon Division of State Lands**

**Statute and Rule References:** ORS 196.800 - .990, OAR Chapter 141, Division 85.

**Permit:** A removal-fill permit is required if 50 cubic yards or more of material is removed, filled or altered within a jurisdictional water of the State (OAR 141-085-0015).

**Discussion:** In a January 10, 2008 email from Jess Jordan of DSL, ODOE was notified that the applicant planned to bore under four waterway crossings, so that no waters of the state would be impacted, and therefore no DSL removal-fill permit is needed.

## **10. Water Resources Department – Water Rights Division**

**Statute and Rule References:** ORS Chapters 536 through 540, OAR Chapter 690, Divisions 1 through 410

**Permit:** Water right

**Discussion:** BPAE should include information in the application to support a finding of whether a water right is or is not needed. The NOI states that less than 5,000 gallons of water a day is required for use by employees at the O&M facility. The NOI does not address water consumption during construction, which may require a temporary use. The application must identify the sources of water to be used during construction and operation of the proposed facility, the quantity of water needed, and the means of disposal of all water discharges from the proposed facility

## **II. TRIBES**

**Statute and Rule References:** Not applicable

**Permit:** None

**Discussion:** The application should include evidence of consultation with affected tribes, including the Confederated Tribes of Umatilla and the Confederated Tribes of Warm Springs, regarding archaeological and cultural sites and materials that may be found on the proposed site of the facility.

## **III. APPLICABLE LOCAL GOVERNMENT ORDINANCES**

**Statute and Rule References:** Applicable substantive criteria from the Sherman County code and comprehensive plan

**Permit:** Conditional Use Permit

**Discussion:** The proposed site is entirely within Sherman County. In its application for site certificate, GHWF selected “path b”, EFSC determination of compliance with applicable substantive land use criteria, and included an analysis of compliance with Sherman county land use requirements in Exhibit K of the application.

#### **IV. OTHER CONSTRUCTION-RELATED REGULATIONS**

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

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

The application should include the information described in OAR 345-021-0010(1), as discussed below. The application should include the information described in OAR 345-021-0010(2) and (4). BPAE must also submit the information required by OAR 345-021-0000, particularly the information in sections (6) and (7) regarding the status of non-federally-delegated and federally delegated permits.

(a) Exhibit A – General Information about the Applicant

Paragraphs (A) through (D) apply. Note that paragraph (B) calls for a list of “participating persons, other than individuals.” “Person” is defined in OAR 345-001-0010(45). Include in the application information about all third-party entities (persons other than individuals) that are important to the project.

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

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

(c) Exhibit C – Location

Maps included in Exhibit C should provide enough information for property owners potentially affected by the facility to determine whether their property is within or adjacent to the site. Major roads should be named. The application should include identification of lands enrolled in the Conservation Reserve Program and lands currently used for commercial agriculture. BPAE should include a detailed map or set of maps drawn to a scale of 1 inch = 2,000 feet.

Maps should indicate the “site boundary” as defined in OAR 345-001-0010(53). The site boundary must include all areas within proposed micrositing corridors. The proposed turbine string layout should be indicated. If the use of different turbine sizes would result in different turbine string alignments, all variations in turbine string alignments should be shown.

(d) Exhibit D – Organizational Expertise

All paragraphs apply.

(e) Exhibit E – Permits

All paragraphs apply.

(f) Exhibit F – Property Owners

The entire site is within a farm zone. Accordingly, the distance in paragraph (C) applies.

(g) Exhibit G – Materials Analysis

All paragraphs apply.

(h) Exhibit H – Geology

All paragraphs apply. BPAE should note that the Council extensively revised the requirements for Exhibit H in its May 2007 rulemaking. The new rule requires more up-front geotechnical investigation than was submitted by previous wind applicants such as Klondike and Biglow. This was a conscious decision, made after extensive discussion with DOGAMI and wind industry representatives.

The application should include all results of field and laboratory investigations and any other geotechnical and geologic hazard evaluation work. A thorough ground shaking amplification, liquefaction, and lateral spread analysis with all of the calculations, methodologies, and recommendations based on this site-specific analysis will be required.

The Department understands that detailed site-specific geotechnical investigation for every turbine site is not always practical for wind energy facilities in advance of completing the facility design. However, the new rule requires consultation with DOGAMI prior to submitting the ASC if the applicant proposes to base Exhibit H on limited pre-application geotechnical work.

(i) Exhibit I – Soils

All paragraphs apply. BPAE must demonstrate that the proposed facility would have minimal impact on soil productivity in farm zones. Describe all measures proposed to maintain soil productivity during construction and operation. BPAE should consult with local farmers, landowners and soil conservation districts.

(j) Exhibit J – Wetlands

All paragraphs apply.

(k) Exhibit K – Land Use (Statewide Planning Goals)

The NOI states that BPAE will obtain local land use approval under ORS 469.504(1)(a). BPAE can change this election, but the election is final when the ASC is submitted.

(l) Exhibit L – Protected Areas

All paragraphs apply.

(m) Exhibit M – Financial Capability

All paragraphs apply.

(n) Exhibit N – Need for the Facility

Exhibit N does not apply.

(o) Exhibit O – Water Use

All paragraphs apply, except (E) and, if no groundwater or surface water permit or transfer of a water use is needed, (G).

(p) Exhibit P – Fish and Wildlife Habitat

All paragraphs apply. See in particular the written comments on the NOI from Rose Owen of ODFW and Nancy Gilbert of USFWS.

In a June 7, 2007 letter, USFWS stated that its primary concerns are migratory bird conservation, cumulative impacts, adequate mitigation measures to offset unavoidable project impacts, and the need for a standardized monitoring plan.

USFWS recommends the application include a cumulative impacts analysis that incorporates bird and bat survey data from existing and planned facilities in the vicinity. BPAE should consider the recommendations for mitigation and monitoring recommended by USFWS in their letter.

(q) Exhibit Q – Threatened and Endangered Species

All paragraphs apply.

(r) Exhibit R – Scenic Resources

All paragraphs apply.

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

All paragraphs except (C) apply. BPAE should pay particular attention to the Oregon Trail. The application should include a map showing where the site is in relation to the Oregon Trail, and should document the source of information regarding the Oregon Trail's location. This information should be provided even if the site does not include any portion of the Oregon Trail.

(t) Exhibit T – Recreation

All paragraphs apply.

(u) Exhibit U – Public Services

All paragraphs apply. Include an analysis of estimated facility-related traffic during construction and operation and the potential impact on traffic safety. Discuss transportation of heavy equipment and shipments of facility components during construction.

(v) Exhibit V – Solid Waste and Wastewater

All paragraphs apply.

(w) Exhibit W – Facility Retirement

All paragraphs apply.

(x) Exhibit X – Noise

All paragraphs apply. The project is considered an industrial noise source on a previously unused site. If BPAE intends to meet the ambient noise rule outright, then the application must include ambient noise measurements at the nearest noise sensitive receptor. The application should include documentation of any waivers that BPAE intends to rely on for the ambient noise rule.

(y) Exhibit Y – Carbon Dioxide Emissions

Exhibit Y does not apply.

(z) Exhibit Z – Cooling Tower Impacts

Exhibit Z does not apply.

(aa) Exhibit AA – Electric and Magnetic Fields

All paragraphs apply to any transmission line, regardless of size, that is a related or supporting facility, including underground collector cables.

(bb) Exhibit BB – Other Information

Any information requested in this project order that is not addressed in any other exhibit. The applicant should include in Exhibit BB information to support findings by the Council that the proposed facility complies with the Public Health and Safety Standards for Wind Energy Facilities (OAR 345-024-0010), the Siting Standards for Wind Energy Facilities (OAR 345-024-0015) and the Siting Standards for Transmission Lines (OAR 345-024-0090).

(cc) Exhibit CC – Other Law

Exhibit CC applies.

## VII. ANALYSIS AREAS FOR THE PROPOSED FACILITY

The analysis areas are the minimum areas that BPAE must study for potential impacts from the construction and operation of the proposed facility. The analysis areas described in this project order do not limit the applicant’s responsibility to assess the potential impacts of the facility. They are the areas in which significant adverse impacts from the proposed facility are likely to occur. If significant impacts could occur beyond the analysis areas described here, then BPAE must assess those impacts in the application and show how the facility would comply with the applicable standard with regard to the larger area where impacts could occur.

For all potential impacts, the analysis area includes all the area within the site boundary. “Site boundary” means “the perimeter of the site of the proposed energy facility, its related or supporting facilities, [and] all temporary laydown and staging areas” (OAR 345-001-0010(53)). In its application, BPAE must specifically describe the site boundary and provide a map showing the proposed site boundary. The analysis areas are as follows:

<u>Affected Standard or Resource</u>	<u>Exhibit</u>	<u>Analysis Area</u>
Structural Standard	Exh. H	The area within the site boundary.
Soils	Exh. I	The area within the site boundary.
Wetlands	Exh. J	The area within the site boundary.
Land Use	Exh. K	The area within the site boundary and one-half mile from the site boundary.
Protected Areas	Exh. L	The area within the site boundary and 20 miles from the site boundary, including areas outside the state.
Water Use	Exh. O	The area within the site boundary.
Fish and Wildlife Habitat	Exh. P	The area within the site boundary and within 1000 feet from all ground disturbing activities, unless otherwise described in an ODFW- and ODOE-approved protocol.
Threatened and Endangered Species	Exh. Q	The area within the site boundary and 5 miles from the site boundary.

Scenic and Aesthetic Values	Exh. R	The area within the site boundary and 10 miles from the site boundary.
Historic, Cultural and Archaeological Resources	Exh. S	The area within the site boundary.
Recreation	Exh. T	The area within the site boundary and five miles from the site boundary.
Public Services	Exh. U	The area within the site boundary and 30 miles from the site boundary.

**VIII. EXPIRATION DATE (OAR 345-015-0160(1)(j))**

Pursuant to OAR 345-20-0060(1) this NOI shall expire 18 months following the date this project order is issued. The date of expiration is January 6, 2009. BPAE may petition the Council to extend the duration of the NOI for the Golden Hills Wind Farm beyond January 6, 2009 as provided under OAR 345-020-0060(1).

As noted above, GHWF timely submitted its application for site certificate on July 10, 2008. Therefore, the NOI will not expire.

**IX. AMENDMENT AND COMPLETENESS**

The Council or the Department may amend this project order at any time (ORS 469.330(4)). Amendment may include changes to the analysis areas. To issue a site certificate, the Council must determine that the proposed facility complies with Oregon statutes and administrative rules identified in the project order, as amended, as applicable to the issuance of a site certificate for the proposed facility (ORS 469.503(3)).

Under OAR 345-015-0190(4), when the Department determines the application contains adequate information for the Council to make findings on all applicable Council standards, the Department may determine the application complete, regardless of whether the application contains all information required under OAR 345-021-0010. Notwithstanding a determination that an application is complete, the Department may require additional information from the applicant if the Department identifies a need for that information during its review of the application. OAR 345-015-0190(7).

**X. PUBLIC CONCERNS**

At its May 16, 2007 meeting on the NOI, the Department heard expressions of support rather than concern from those in attendance. If public comments that address matters within the jurisdiction of the Council are received during the review process, the Department may request that the applicant respond to those comments. In addition, the Department may request additional information from the applicant based on comments from reviewing agencies.

**XI. APPLICABILITY**

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

**OREGON DEPARTMENT OF ENERGY**

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Thomas M. Stoops, Siting Manager  
Oregon Department of Energy

Date of Issuance: July 6, 2007