

# Oregon Department of **ENERGY**

Energy Facility Siting  
Council Meeting

Oxford Suites  
Oxford Room  
1050 N. First Street  
Hermiston

March 21- 22, 2024



## Opening Items:

- Call to Order
- Roll Call
- Announcements



# Announcements:

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- Reminder that this meeting is being held in its entirety via teleconference and webinar.
- Reminder to Council and to anyone addressing the Council to please remember to state your full name clearly, and do not use the speakerphone feature, as it will create feedback.
- You may sign up for email notices by clicking the link on the agenda or the Council webpage.
- You are also welcome to access the online mapping tool and any documents by visiting our website.



# Announcements continued:

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- Please silence your cell phones
- Please use the “Raise Your Hand” feature in Webex to speak during the public comment period, or press \*3 to raise your hand if you are participating by telephone.
- Energy Facility Council meetings shall be conducted in a respectful and courteous manner where everyone is allowed to state their positions at the appropriate times consistent with Council rules and procedures. Willful accusatory, offensive, insulting, threatening, insolent, or slanderous comments which disrupt the Council meeting are not acceptable. Pursuant to Oregon Administrative Rule 345-011-0080, any person who engages in unacceptable conduct which disrupts the meeting may be expelled.



# Agenda Item A (Information Item)

## **Leaning Juniper IIA Request for Amendment 3 Draft Proposed Order Public Hearing Chase McVeigh-Walker, Senior Siting Analyst**

March 21, 2024



# LJIIA Request for Amendment 3: Public Hearing on Draft Proposed Order Overview

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1. Facility Overview: Department overview of the siting process, approved facility components and location, the amendment request, and Draft Proposed Order.
2. Public Hearing Overview: Presiding Officer will explain the legal requirements for providing comments on the record and will facilitate the hearing.
3. Public Hearing:
  - a. The certificate holder will be provided an opportunity to provide/present on anything in the Draft Proposed Order and/or may submit additional information/evidence to supplement the record.
  - b. Members of the public will be provided an opportunity to comment on the Draft Proposed Order and/or the Request for Amendment 3.
  - c. Council will be provided an opportunity to make comments about any concerns they have related to the Draft Proposed Order and/or the Request for Amendment 3.
  - d. The certificate holder will be provided an opportunity to respond to any comments prior to the close of the public hearing tonight and until April 1, 2024 at 5:00 p.m. They also may request that the Department extend the time they have to respond.

# Energy Facility Siting Council (EFSC) Review

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- Consolidated review and oversight of most large-scale energy facilities and infrastructure in Oregon

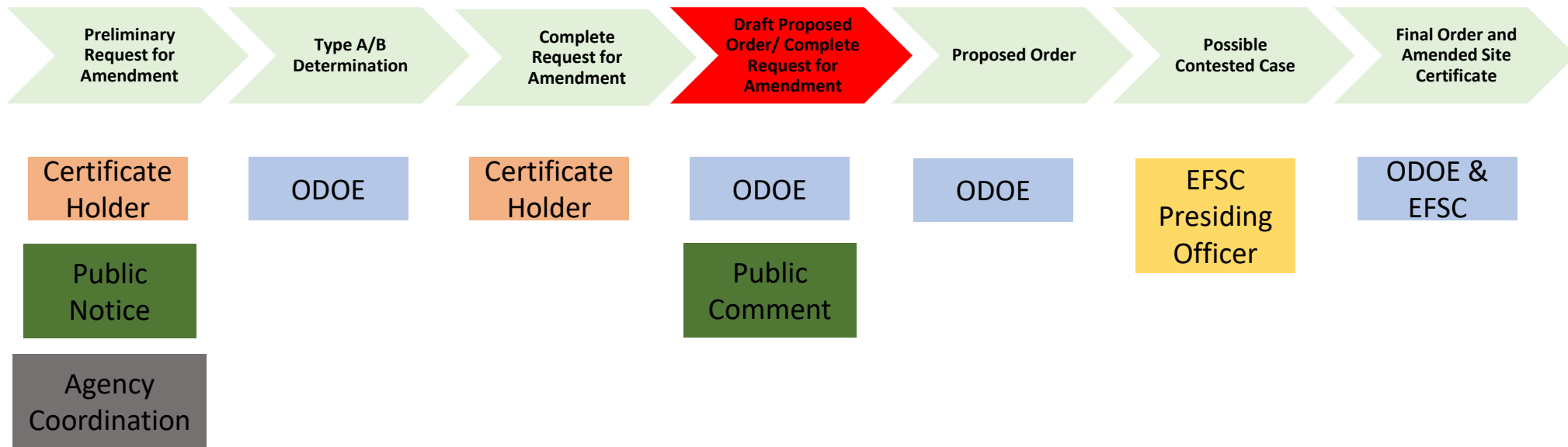


- 7 Members of EFSC
  - Governor appointed, Senate confirmed – Volunteers from around the State



- ODOE's Siting Division is staff to EFSC

# Energy Facility Siting Amendment Process





# LJIIA Approved Facility Overview

Certificate Holder

Leaning Juniper Wind Power II, LLC

Parent Company

Avangrid Renewables, LLC

Facility Type

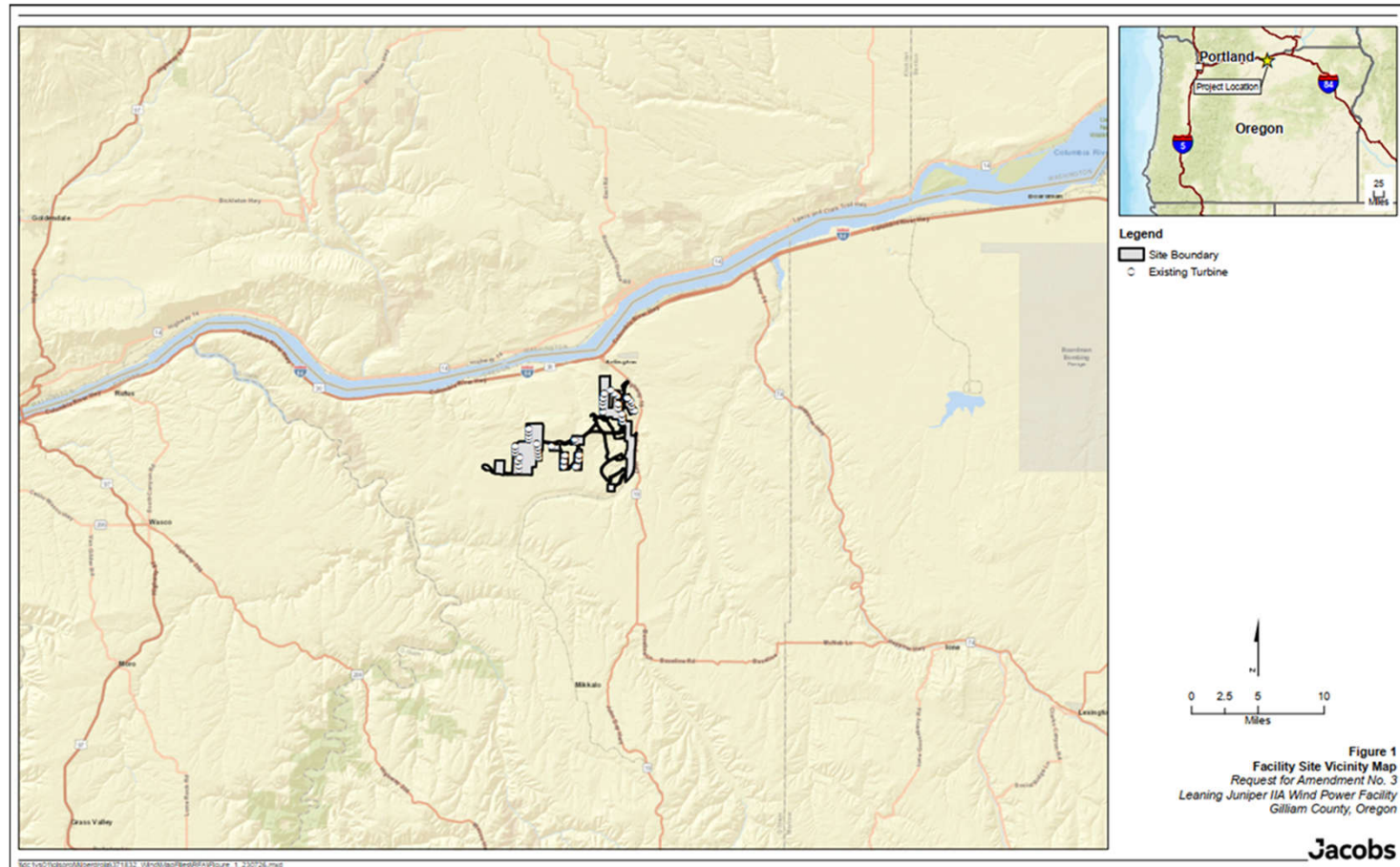
Wind

Capacity

90.3 MW

Site Boundary

6,404 acres in Gilliam County, south of the City of Arlington, and west of State Highway 19



# LJIIA RFA3 Procedural History

Milestone	Responsible Party	Date
Preliminary RFA3	Cert Holder	9/22/2023
Request for Additional Information (RAI)	ODOE	11/21/2023
Complete RFA3	Cert Holder	2/14/2024
Draft Proposed Order	ODOE	2/29/2024
<b>Draft Proposed Order Public Hearing</b>	<b>EFSC</b>	<b>3/21/2024</b>
Close of Public Comment Period	Public	3/29/2024
EFSC Review of DPO, Public Comments, and Responses	EFSC	TBD
Proposed Order	ODOE	TBD
Final Decision	EFSC	TBD

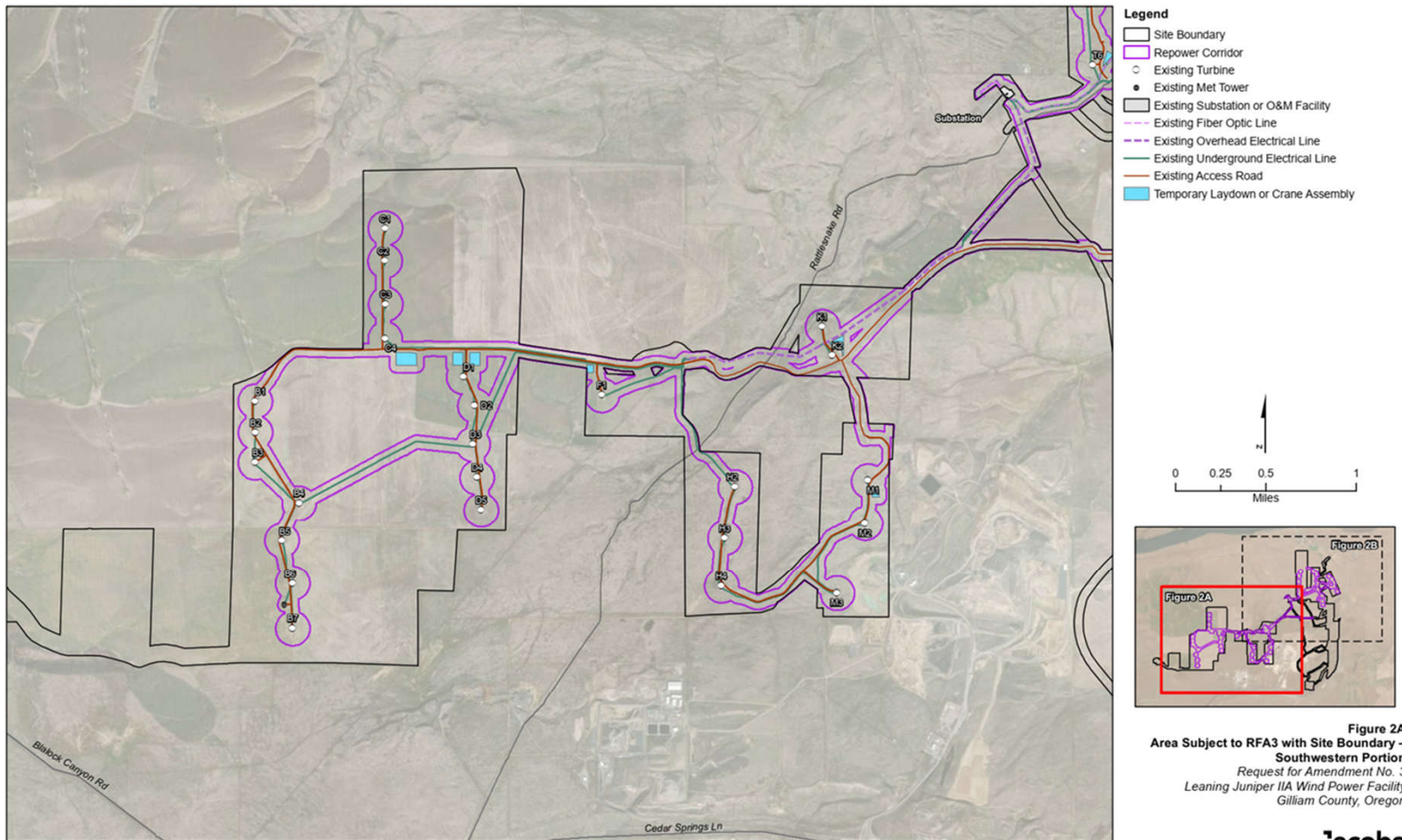
# LJIIA Request for Amendment 3

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## **In RFA3, the certificate holder seeks authorization to:**

- Repower 36 wind turbines (replacement of rotors, nacelles and generator; and foundation reinforcement); increase blade tip height from 404 to 453 feet.
- Temporarily disturb approximately 396.2 acres within a proposed RFA3 repower corridor. Install approximately 19 miles of a new underground, 34.5 kilovolt (kV) collector line system.
- Reduce quantity of operating turbines at the facility from 43 to 40 (includes the already decommissioned Turbine “Z2”, and the decommissioning of turbines “Z1” and “M3”)
- New conditions

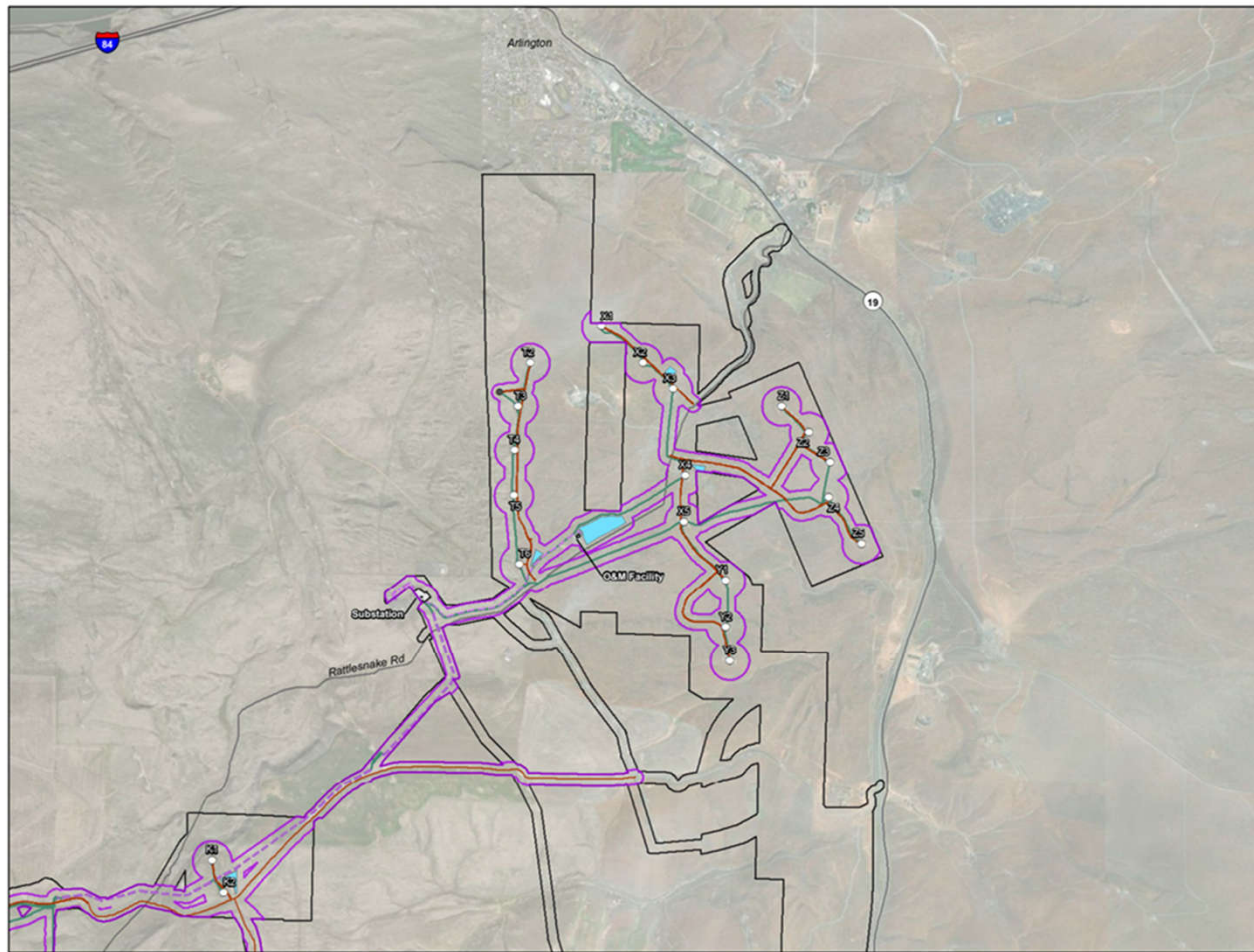
# LJIIA Request for Amendment 3



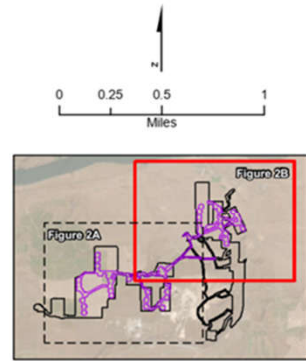
**Figure 2A**  
**Area Subject to RFA3 with Site Boundary –**  
**Southwestern Portion**  
 Request for Amendment No. 3  
 Leaning Juniper IIA Wind Power Facility  
 Gilliam County, Oregon



# LJIIA Request for Amendment 3



- Legend**
- Site Boundary
  - █ Repower Corridor
  - Existing Turbine
  - Existing Met Tower
  - Existing Substation or O&M Facility
  - - - Existing Fiber Optic Line
  - - - Existing Overhead Electrical Line
  - Existing Underground Electrical Line
  - Existing Access Road
  - Temporary Laydown or Crane Assembly



**Figure 2B**  
**Area Subject to RFA3 with Site Boundary –**  
**Northeastern Portion**  
 Request for Amendment No. 3  
 Leaning Juniper IIA Wind Power Facility  
 Gilliam County, Oregon

# LJIIA Request for Amendment 3: Scope of Review & Comments

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## **Scope of Council Review for Amendments – OAR 345-027-0375**

- The Council must determine that the preponderance of evidence on the record supports the following conclusions:
  - to add new area to the site boundary, the portion of the facility within the area added to the site by the amendment complies with all laws and Council standards applicable to an original site certificate application and in effect on the dates described in section (3) of the rule
  - For all requests for amendment, the amount of the bond or letter of credit required under OAR 345-022-0050 is adequate

## **Scope of Comments**

- Everything in the complete amendment request and Draft Proposed Order is eligible for comment

# LJIIA Request for Amendment 3 Draft Proposed Order

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In the DPO, the Department recommends that existing conditions, or existing conditions with minor amendments, are adequate to ensure that the facility, with the changes proposed in RFA3, complies with the following standards:

- Structural Standard (DPO Section III.C, pg. 21-28)
- Land Use (DPO Section III.E, pg. 33-42)
- Protected Areas (DPO Section III.F, pg. 42-52)
- Scenic Resources (DPO Section III.J, pg. 70-76)
- Recreation (DPO Section III.L, pg. 82-86)
- Public Health and Safety Standards for Wind Energy Facilities (DPO Section III.P, pg. 101-103)
- Cumulative Effects Standard for Wind Energy Facilities (DPO Section III.Q, pg. 103-105)
- Noise Control Regulations (DPO Section IV.A, pg. 105-110)
- Water Rights (DPO Section IV.C, pg. 114)

# LJIIA Request for Amendment 3 Draft Proposed Order

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## **General Standard of Review (DPO Section III.A, pg. 12-16)**

- Condition 27 - Continue to require that the facility be designed and operate consistently with the dimensions currently under review but relieve the automatic amendment in the future if there were to be minor dimensional changes during final engineering. (DPO pg. 15)
- Condition 117 - Establish a repower commencement deadline within 2 years of execution of the amended site certificate, and a completion deadline three years following date commencement. (DPO pg. 16)



# LJIIA Request for Amendment 3 Draft Proposed Order

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## **Organizational Expertise (DPO Section III.B, pg. 16-21)**

- Condition 21 - require the certificate holder to submit progress reports on the status of compliance with the conditions applicable to the repower every 3-months, rather than every 6-months, to afford the Department the ability to more closely track compliance status (DPO pg. 18-19)
- Condition 106 - require the certificate holder to identify and obtain all necessary third-party permits in advance of the facility repower, as applicable to the action necessitating the permit. (DPO pg. 21)

# LJIIA Request for Amendment 3 Draft Proposed Order

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## **Soil Protection (DPO Section III.D, pg. 28-33)**

- Condition 106 - require the certificate holder, prior to repower disturbance, to obtain a National Pollutant Discharges Elimination System Construction Stormwater General Permit 1200-C (DPO pg. 32)
- Condition 120 - require the certificate holder, during facility repower, adhere to the requirements of a 1200-C/Erosion and Sediment Control Plan. (DPO pg. 32)
- Condition 107 - require the certificate holder to adhere to the requirements of the Soil Monitoring Plan prior to the facility repower. (DPO pg. 32)
- Condition 121 - require the certificate holder to adhere to the requirements of the Soil Monitoring Plan during the facility repower. (DPO pg. 32)

# LJIIA Request for Amendment 3 Draft Proposed Order

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## **Retirement and Financial Assurance (DPO Section III.G, pg. 52-59)**

- Condition 108 - require the certificate holder to submit to the Department a bond or letter of credit that address the decommissioning amount for the repowered facility. (DPO pg. 57- 58)
- Condition 122 - require the certificate holder to describe the status of the bond or letter of credit in the semi-annual report submitted to the Council under Condition 21(a). Additionally, Condition 122 clarifies that the Department and Council reserve the right to adjust the contingencies, as appropriate and necessary to ensure that costs to restore the site are adequate to maintain health and safety of the public and environment. (DPO pg. 58)
- Condition 30 - delineate the applicability of condition requirements based on phase of repower (preconstruction, construction, operation). (DPO pg. 58-59)

# LJIIA Request for Amendment 3 Draft Proposed Order

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## **Fish and Wildlife Habitat (DPO Section III.H, pg. 59-68)**

- Condition 109 - require the certificate holder to finalize the Repower Revegetation and Noxious Weed Control Plan, subject to approval by the Department in consultation with ODFW. (DPO pg. 66)
- Condition 123 - require that the Repower Revegetation and Noxious Weed Control Plan be implemented and adhered to during construction and the facility operational lifetime. (DPO pg. 66)
- Condition 110 - require the certificate holder to finalize the Repower Habitat Mitigation Plan subject to approval by the Department in consultation with ODFW. (DPO pg. 67-68)
- Condition 124 - require the certificate holder to adhere to and implement the Repower Habitat Mitigation Plan during construction and the facility operational lifetime. (DPO pg. 68)

# LJIIA Request for Amendment 3 Draft Proposed Order

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## **Threatened and Endangered Species (DPO Section III.I, pg. 68-70)**

- Condition 111 - require the certificate holder to perform Washington Ground Squirrel surveys (WGS) (non-protocol, spot check) and update maps and flagging in areas of ground disturbance within 1,000-feet of previously identified WGS colonies, prior to the facility repower. (DPO pg. 70)
- Condition 125 - require the certificate holder to install flagging/temporary fencing extending 150-feet from any WGS colonies identified during the pre-repower WGS spot check. (DPO pg. 70)

# LJIIA Request for Amendment 3 Draft Proposed Order

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## **Historic, Cultural, and Archaeological Resources (DPO Section III.K, pg. 76-81)**

- Condition 112 - require the certificate holder to install flagging extending 100-feet from the site boundaries of recorded sites 35GM373 and 35GM388, prior to disturbance within 200-feet of the recorded sites. (DPO pg. 81)
- Condition 126 - require the certificate holder to prohibit ground disturbance within 100-feet from the site boundaries of 35GM373 and 35GM388 during the facility repower. (DPO pg. 81)
- Condition 113 - require the certificate holder to review/update the contact information presented in Section 2.1.2 (No. 4) of the Inadvertent Discovery Plan (IDP), prior to the facility repower. (DPO pg. 81)
- Condition 118 - require the certificate holder and any onsite contractors, to adhere to the requirements of the Inadvertent Discovery Plan. (DPO pg. 81)

# LJIIA Request for Amendment 3 Draft Proposed Order

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## **Public Services (DPO Section III.M, pg. 86-89)**

- Condition 114 - require the certificate holder to notify local police services of the schedule and expected number of temporary workers and traffic volume to result from repower activities, prior to facility repower. (DPO pg. 89)
- Condition 115 - require the certificate holder to execute a Road Use Agreement with the Gilliam County Public Works Department, prior to facility repower. (DPO pg. 89)
- Condition 119 - require the certificate holder to adhere to the terms and conditions of the Road Use Agreement, during and post facility repower. (DPO pg. 89)

# LJIIA Request for Amendment 3 Draft Proposed Order

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## **Wildfire Prevention and Risk Mitigation (DPO Section III.N, pg. 90-98)**

The Council adopted its Wildfire Prevention and Risk Mitigation Standard after the approval of Amendment 2 to the site certificate.

- Condition 115 - require the certificate holder to submit a Final Repower Wildfire Mitigation Plan (WMP) to the Department for review and approval, prior to facility repower. (DPO pg. 95)
- Condition 119 - require the certificate holder to require onsite contractors and employees to adhere to the Repower WMP (updated as needed), during the facility repower. (DPO pg. 95)
- Condition 129 - require the certificate holder to adhere to the requirements of the WMP, report annually to the Department on the status of updates to BMPs and technologies. (DPO pg. 98)



# LJIIA Request for Amendment 3 Draft Proposed Order

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## **Waste Minimization (DPO Section III.O, pg. 98-100)**

- Condition 130 - require the certificate holder to submit copies of any agreements or contracts with contractors who will manage the recycling or reuse of wind turbine components. If there is no feasible recycling or reuse options for the wind turbines, then the condition requires the certificate holder to explain the reasons why it is not available and document the process and final disposal of the components. (DPO pg. 100)

## **Removal-Fill (DPO Section IV.B, pg. 110-114)**

- Condition 128 - require the certificate holder to flag and avoid via 50-meter buffer impacts to Wetlands 1 and 2, and Streams 1 and 2, unless DSL concurrence is obtained and determines that Streams 1 and 2 are not jurisdictional (DPO pg. 113)

# Public Participation at DPO Phase

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- The issuance of the Public Notice on the DPO initiated a public comment period on the requested amendment
- The public may submit:
  - Written comments by mail, email, public comment portal, hand-delivery, or fax until March 29, 2024, at 5:00 pm Pacific Time (PT).
  - Oral comments at the in-person, webinar/call-in DPO public hearing on March 21, 2024.
- The Council will not accept public comments on the Request for Amendment 3 or on the DPO after the close of the record. The Department requests the Council hold the record open for the certificate holder

# Certificate Holder Responses to Public Comments

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- The Council may allow the record to remain open for the certificate holder to respond to public comments received if requested.
- Because the public comment period will end between Council meetings, the Department recommends the Council direct the record to remain open for certificate holder responses until April 1, 2024, at 5:00 P.M. (PT)
- The Department requests the Council authorize staff to allow further continuances if requested by the certificate holder.

# Public Participation at DPO Phase (cont'd)

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- Persons commenting on DPO during the comment timeframe are eligible to request a contested case proceeding, which is not an automatic part of the amendment process.
- For consideration in the contested case, issues must:
  - Be submitted within the comment timeframe.
  - Be within the jurisdiction of the Council.
  - Include sufficient specificity with facts so that the Council, the Department, and the certificate holder understand the issue raised and are afforded an opportunity to respond to the issue.

# Public Participation at DPO Phase (cont'd)

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- Threshold for a contested case for a Type A Amendment:
  - Council must find that the request raises a significant issue of fact or law that is reasonably likely to affect the Council's determination whether the facility, with the change proposed by the amendment, meets the applicable laws and Council standards included in chapter 345 divisions 22, 23 and 24. And Council must determine whether the preponderance of evidence on the record supports that the portions of the facility within the area added to the site boundary by the amendment complies with all laws and Council standards.
- A ten-minute video describing the Type A Amendment Contested Case threshold is available on YouTube and the link was included in the Public Notice.
- Council Options on Requests for a Contested Case:
  - Hold a contested case –properly raised issue(s) could affect the Council's determination
  - Remand Proposed Order to Department - properly raised issue(s) could be addressed through new findings and/or conditions
  - Deny – request does not include properly raised issue(s)

# Agenda Item A (Public Hearing)

## **Leaning Juniper IIA Request for Amendment 3 Public Hearing**

**Cindy Condon, Council Vice-Chair**

March 21, 2024



# LJIIA Request for Amendment 3 Public Hearing

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A person who intends to raise any issue that may be the basis for a contested case must raise the issue:

- In person at the hearing or in a written comment submitted to the Department of Energy **before 5:00 pm (PT) on March 29, 2024.**
- With sufficient specificity to afford the Council, the Department of Energy and the certificate holder an adequate opportunity to respond, including a statement of facts that support the person's position on the issue.



# LJIIA Request for Amendment 3 Public Hearing

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Order of Oral Testimony and Comments for this Public Hearing:

1. Certificate Holder (testimony or additions to record)
  - Members of Council may ask clarifying questions.
2. Members of the Public (will be called on in the following order):
  - Oral in-person testimony
  - Oral testimony via WebEx
  - Oral testimony via phone
3. Members of Council
4. Certificate Holder's Responses to Comments (optional)





# LJIIA Request for Amendment 3 Public Hearing

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Prior to testifying, state the following:

- Full name with spelling
- Name of organization or group if you are representing one
- Physical mail or email address if you wish to receive notice of the Proposed Order which includes a description of how to submit a petition to participate in the contested case\*

Provide any written comments or supplemental materials to a staff member

\*If you do not wish to provide your mailing or email address in this format, you may email it to [chase.mcveigh-walker@energy.oregon.gov](mailto:chase.mcveigh-walker@energy.oregon.gov) or provide by phone to (971) 600-5323.



# LJIIA Request for Amendment 3 Public Hearing

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## **Certificate Holder**

The certificate holder may provide/present on anything in the Draft Proposed Order and/or may submit additional information/evidence to supplement the record.

Council Members may ask clarifying questions.

# LJIIA Request for Amendment 3 Public Hearing

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## Written Comments

Written comments on Request for Amendment 3 and/or the Draft Proposed Order and may be submitted until 5:00 pm (PT) on March 29, 2024. Written comments may be submitted:

- Via online siting comment portal: <https://odoe.powerappsportals.us/en-US/SitingPublicComment/>
- Via email: [chase.mcveigh-walker@energy.Oregon.gov](mailto:chase.mcveigh-walker@energy.Oregon.gov)
- Hand delivery to one of the staff members or by mail to: Oregon Department of Energy; 550 Capitol St. NE; Salem, OR, 97301



# LJIIA Request for Amendment 3 Public Hearing

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## **Public**

Members of the public may comment on the Draft Proposed Order and/or the Request for Amendment 3.

Council Members may ask clarifying questions.

Time limits may be set depending on the number of people interested in testifying.

# How to Indicate Your Interest in Commenting:

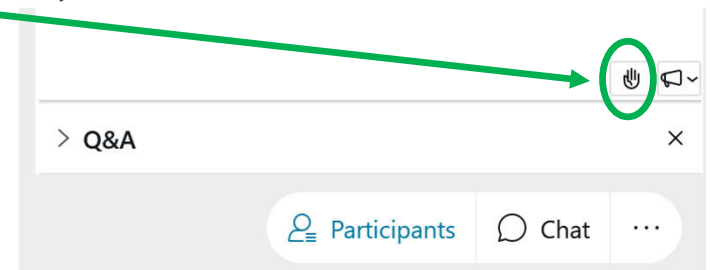
## Webinar Participants

The bottom right of the main window is a set of icons:

Click on “Participants”

The bottom right of the participant window is a hand icon, click on the hand:

Clicking on it again will lower your hand.



## Phone Participants

Press \*3 on your telephone keypad to raise your hand.

Press \*3 again on your telephone keypad to lower your hand.

# LJIIA Request for Amendment 3 Public Hearing

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## **Council**

Council may comment about any concerns they have related to the Draft Proposed Order and/or the Request for Amendment 3.

# LJIIA Request for Amendment 3 Public Hearing

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## **Certificate Holder's Response to Comments**

The certificate holder may respond to any comments by:

- Providing oral responses
- Submitting additional information/evidence to supplement the record:
  - Tonight
  - By April 1, 2024, at 5:00 p.m. (PT)
  - At a later date if more time is requested and approved by the Department



# LJIIA Request for Amendment 3 Public Hearing

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## CONCLUSION OF HEARING

Written comments on Request for Amendment 3 and/or the Draft Proposed Order and may continue to be submitted until 5:00 p.m. (PT) on March 29, 2024. Comments may be submitted:

- Via online siting comment portal: <https://odoe.powerappsportals.us/en-US/SitingPublicComment/>
- Via email: [chase.mcveigh-walker@energy.Oregon.gov](mailto:chase.mcveigh-walker@energy.Oregon.gov)
- Hand delivery to one of the staff members or by mail to: Oregon Department of Energy; 550 Capitol St. NE; Salem, OR, 97301





# Agenda Item B (Information Item)

## **Wheatridge Renewable Energy Facility East Request for Amendment 1 Draft Proposed Order Overview**

**Christopher Clark, Senior Siting Analyst**



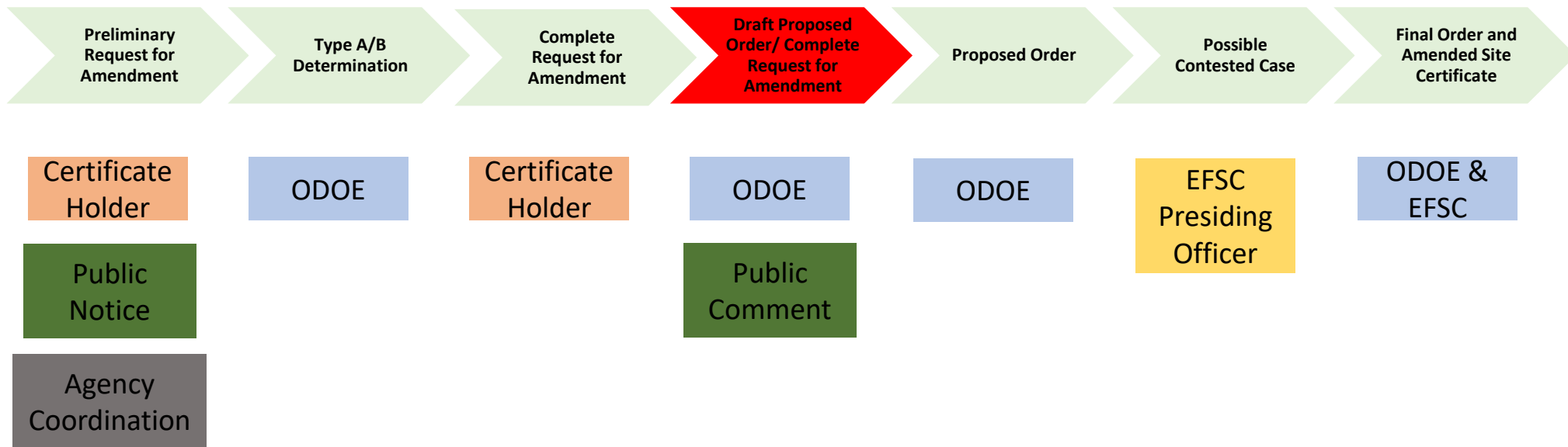
March 21, 2024

# WREFE Request for Amendment 1: Public Hearing on Draft Proposed Order Overview

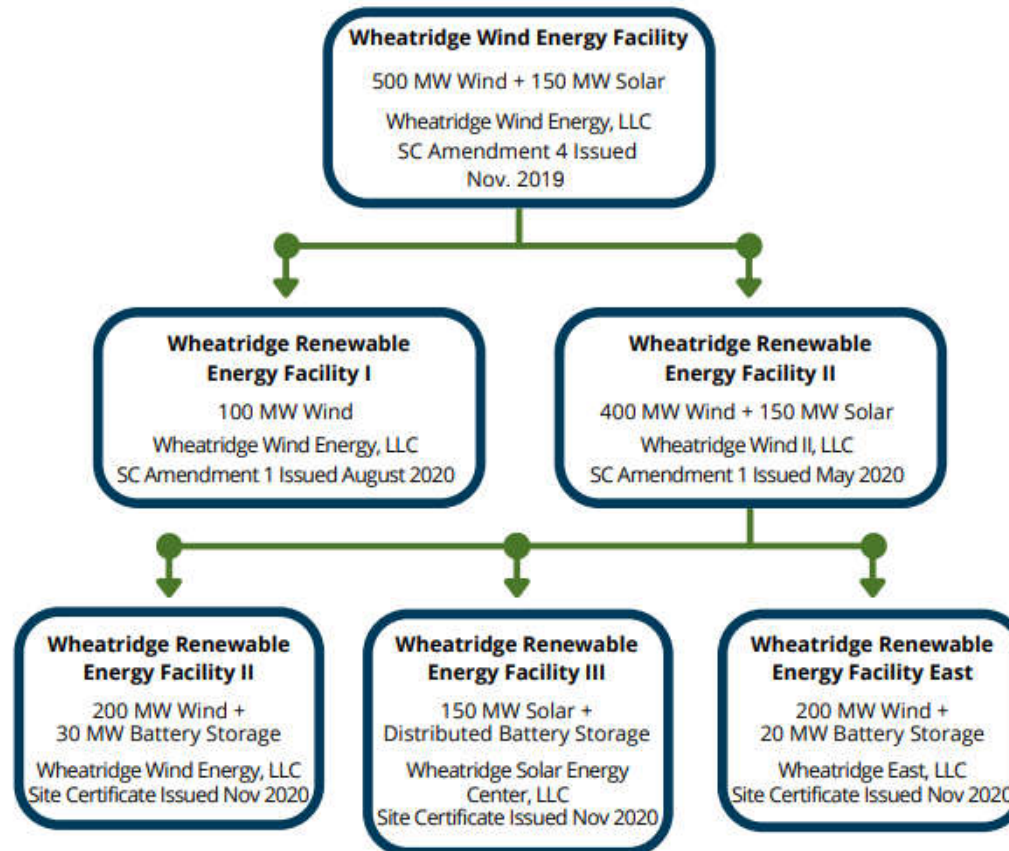
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1. Facility Overview: Department overview of the siting process, approved facility components and location, the amendment request, and Draft Proposed Order.
2. Public Hearing Overview: Presiding Officer will explain the legal requirements for providing comments on the record and will facilitate the hearing.
3. Public Hearing:
  - a. The certificate holder will be provided an opportunity to provide/present on anything in the Draft Proposed Order and/or may submit additional information/evidence to supplement the record.
  - b. Members of the public will be provided an opportunity to comment on the Draft Proposed Order and/or the Request for Amendment 1.
  - c. Council will be provided an opportunity to make comments about any concerns they have related to the Draft Proposed Order and/or the Request for Amendment 1.
  - d. The certificate holder will be provided an opportunity to respond to any comments prior to the close of the public hearing tonight and until April 8, 2024 at 5:00 p.m. They also may request that the Department extend the time they have to respond.

# Energy Facility Siting Amendment Process



# Wheatridge Site Certificate History



# WREFE Approved Facility Overview

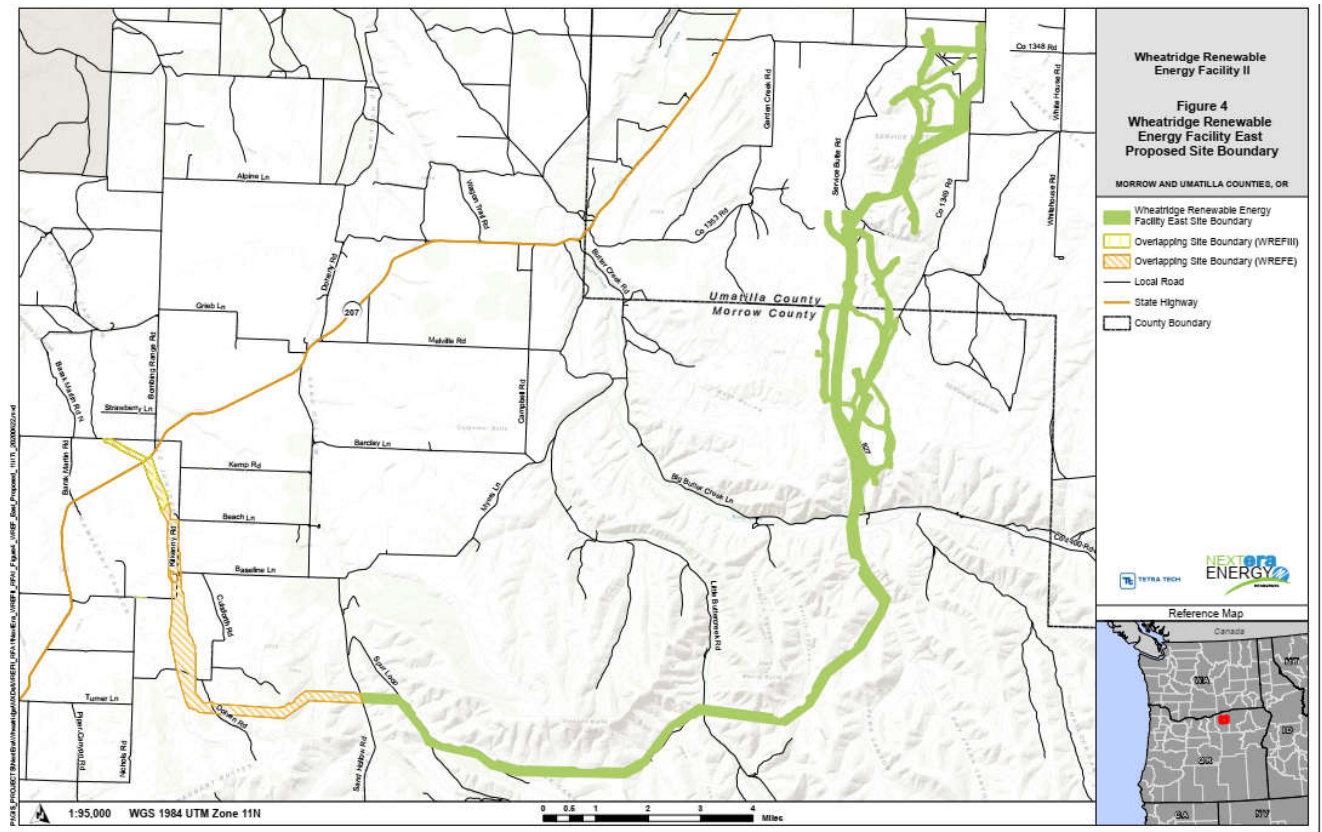
Certificate Holder  
Wheatridge East Wind, LLC

Parent Company  
NextEra Energy Resources, LLC

Facility Type  
Wind + Battery

Capacity  
200 MW Wind  
20 MW Battery Storage

Site Boundary  
4,582-acre site in Morrow and Umatilla County



# WREFE Request for Amendment 1 Procedural History

Milestone	Responsible Party	Date
Preliminary RFA1	Cert Holder	5/16/2023
Request for Additional Information (RAI)	ODOE	7/14/2023
Complete RFA1	Cert Holder	1/30/2024
Draft Proposed Order	ODOE	2/29/2024
<b>Draft Proposed Order Public Hearing</b>	<b>EFSC</b>	<b>3/21/2024</b>
Close of Public Comment Period	Public	4/4/2024
EFSC Review of DPO, Public Comments, and Responses	EFSC	TBD
Proposed Order	ODOE	TBD
Final Decision	EFSC	TBD

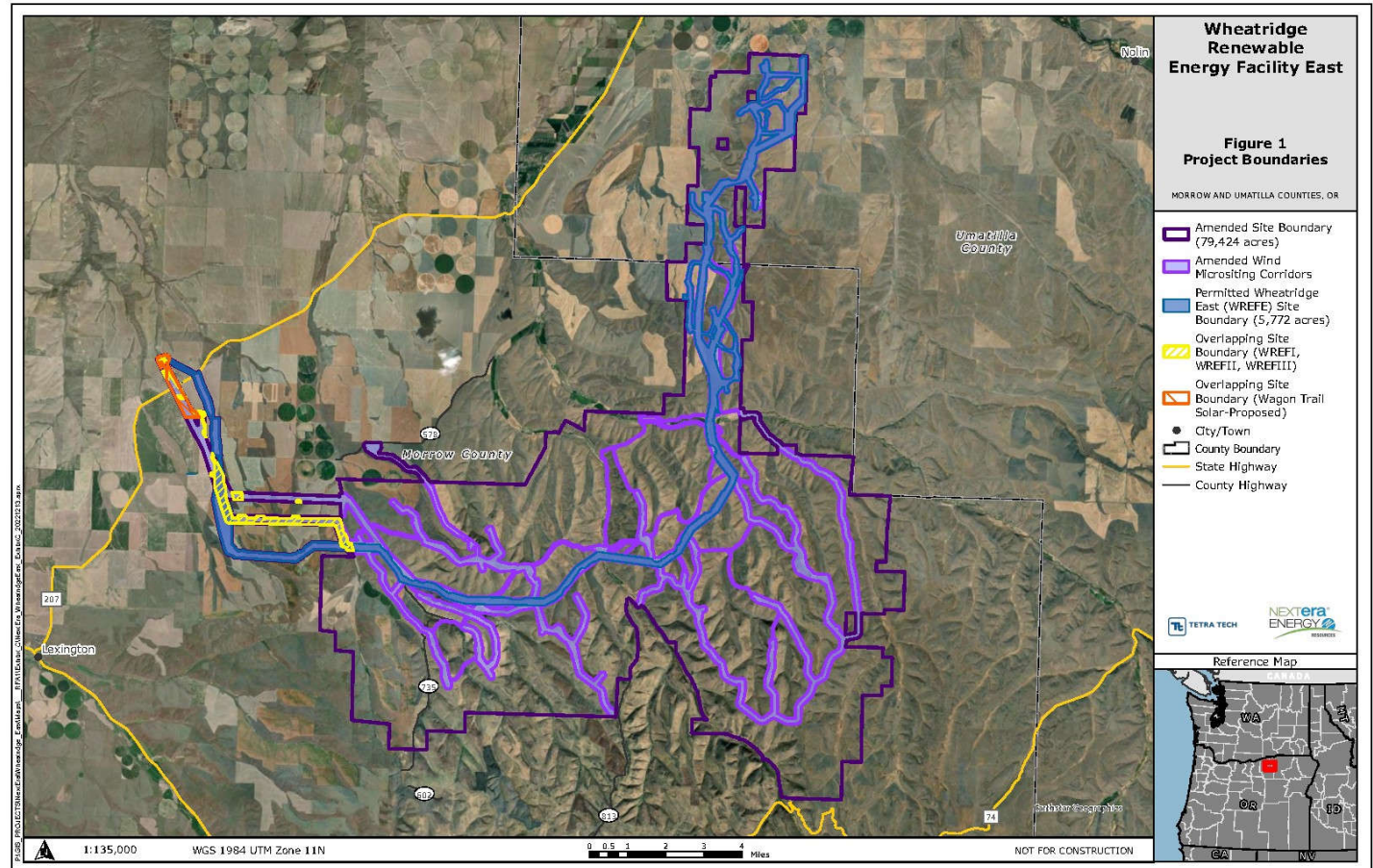


# WREFE Request for Amendment 1

In RFA1, the certificate holder proposes to:

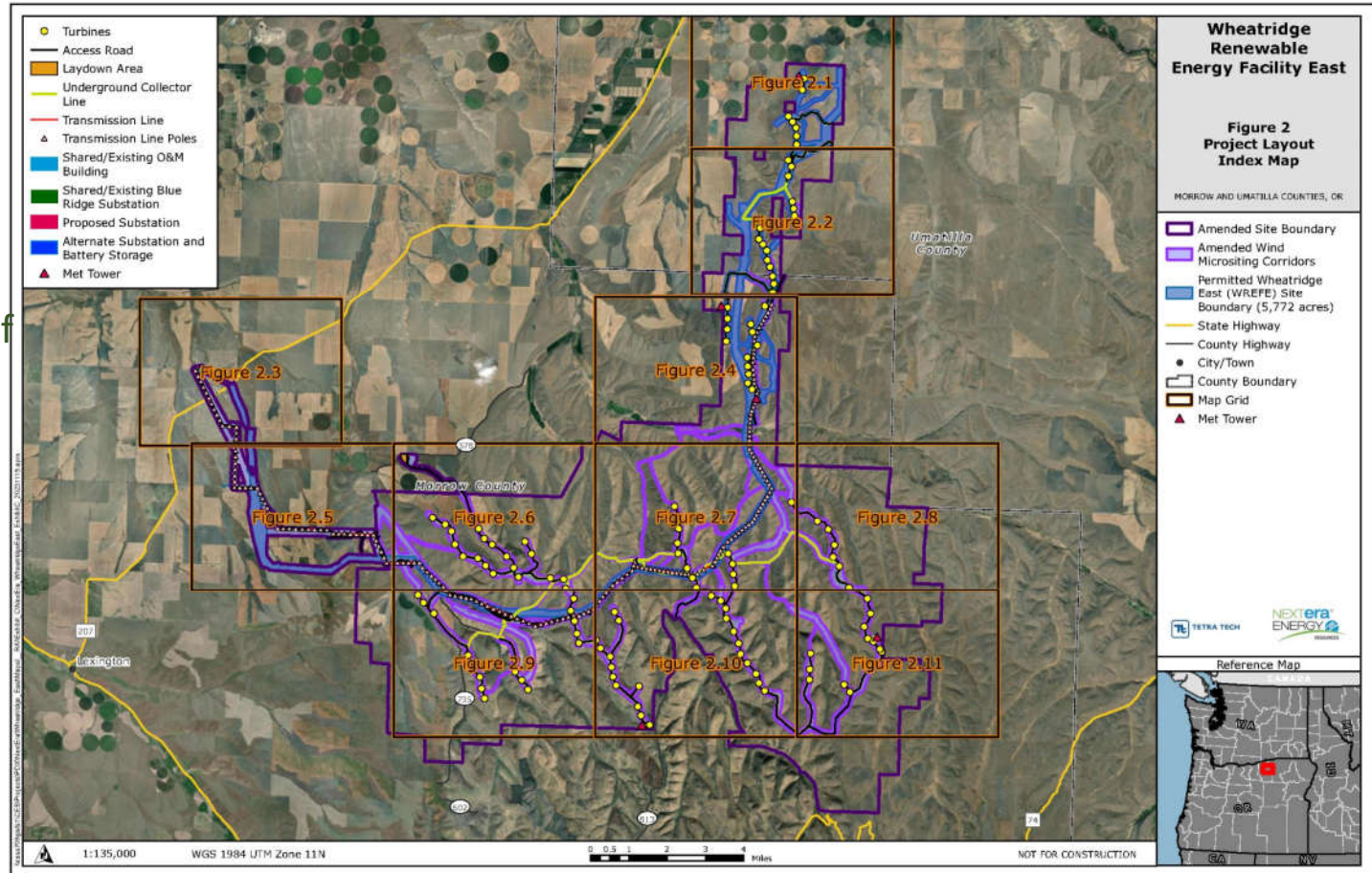
- Expand site boundary by approx. 74,403 acres, to 78,985 acres.
- Expand micrositing corridors by approx. 10,058 acres, to 14,640 acres.
- Extend the construction completion deadline by 3 years, from May 24, 2023, to May 24, 2026.

(cont'd)



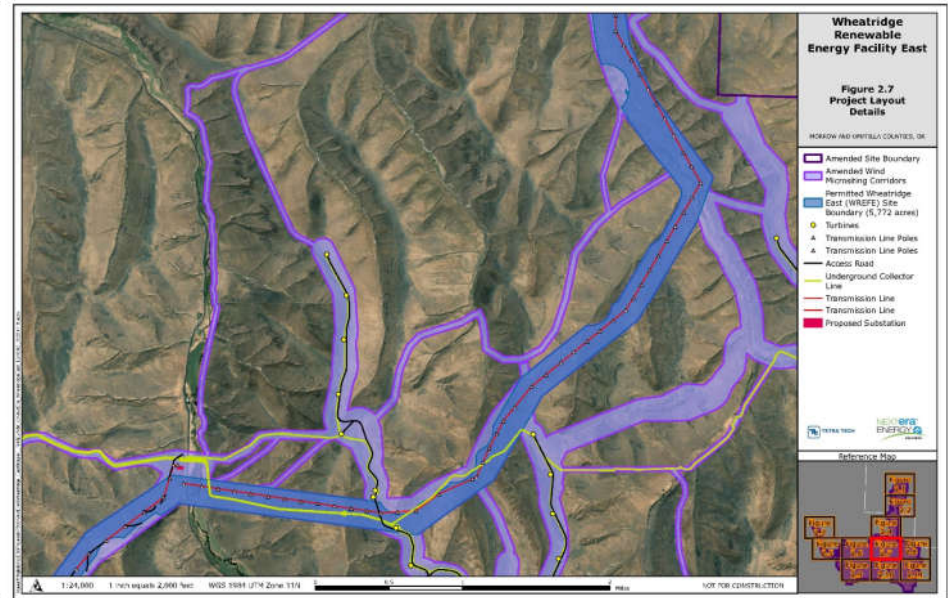
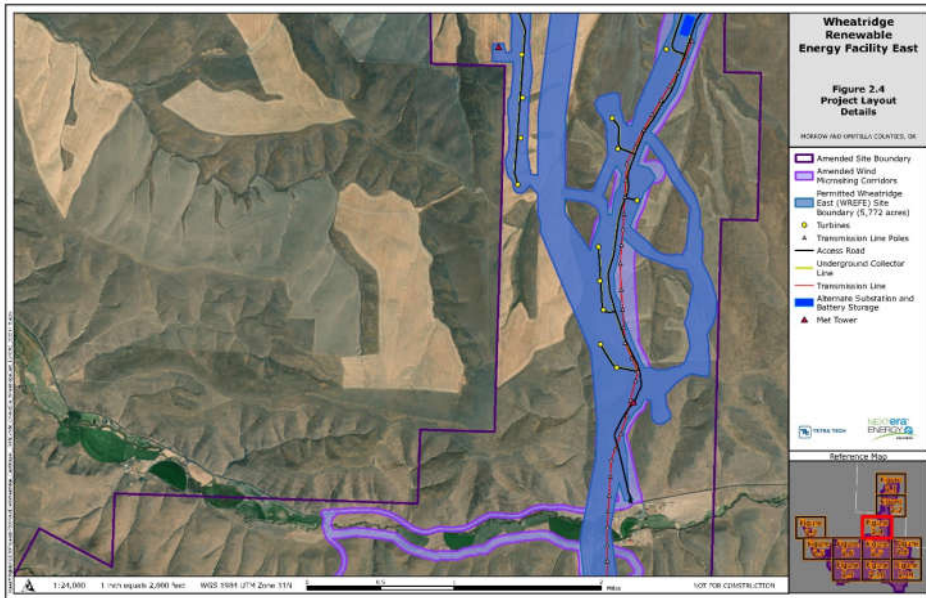
# WREFE Request for Amendment 1

- Construct up to 41 additional turbines, for a total of up to 107 turbines with combined generating capacity of up to 300 MW.
- Expand collection system to include approx. 95 mi. of underground 34.5kV line.
- Realign 230-kV overhead transmission line along a newly proposed corridor.
- Construct up 56 mi. of additional permanent access roads, for a total of 76 mi





# WREFE Request for Amendment 1

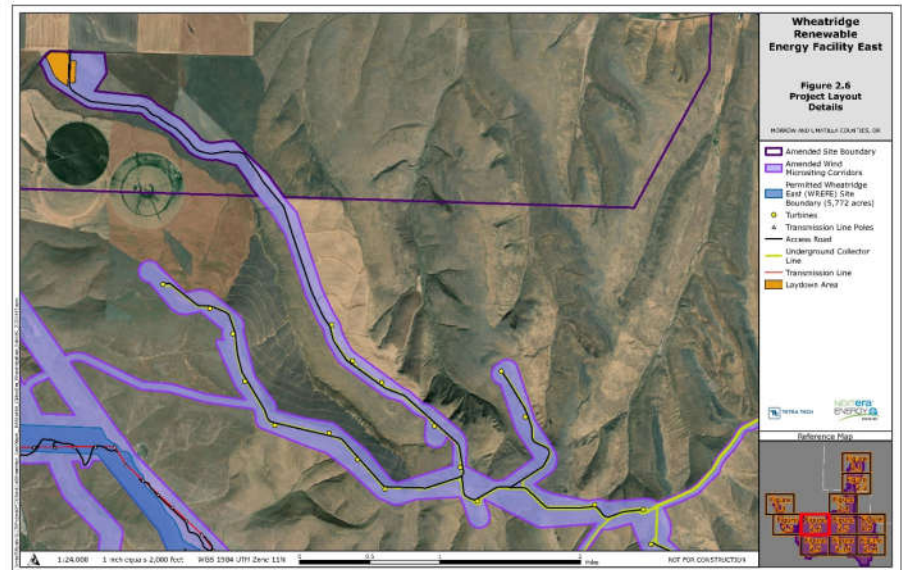


Expand Battery Energy Storage capacity by 10 MW, for a total of 30 MW and expand project substations to accommodate new generating capacity at two proposed sites.

# WREFE Request for Amendment 1



Utilize the existing O&M Building at Wheatridge Renewable Energy Facility II.



Add a new temporary construction yard with up to 60 acres of temporary disturbance area.

(cont'd)

# WREFE RFA1

## Scope of Review & Comments

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### **Scope of Council Review for Amendments – OAR 345-027-0375**

- Because RFA1 proposes to add area to the site boundary, and extend the construction completion deadline, the Council must determine that the preponderance of evidence on the record supports the following conclusions:
  - The portion of the facility within the area added to the site by the amendment complies with all laws and Council standards applicable to an original site certificate application.
  - After considering any changes in facts or law since the date the current site certificate was executed, the entire facility complies with all laws and Council standards applicable to an original site certificate application.
  - The amount of the bond or letter of credit required under OAR 345-022-0050 is adequate

### **Scope of Comments**

- Everything in the complete amendment request and Draft Proposed Order is eligible for comment

# WREFE RFA1

## Draft Proposed Order

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In the DPO, the Department recommends that existing conditions, or existing conditions with minor amendments, are adequate to ensure that the facility, with the changes proposed in RFA1, complies with the following standards:

- Structural (Section III.C, pg. 38-46)
- Land Use (Section III.E, pg. 57-115)
- Scenic Resources (Section III.J, pg. 182-188)
- Recreation (Section III.L, pg. 196-205)
- Public Services (Section III.M, pg. 205-221)
- Waste Minimization (Section III.O, pg. 234-241)
- Public Health and Safety Standards for Wind Energy Facilities (Section III.P, pg. 241-243)
- Siting Standards for Transmission Lines (Section III.R, pg. 252-253)

# WREFE Request for Amendment 1 Draft Proposed Order

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## **General Standard of Review (Section III.A, pg. 21-31)**

- Condition GEN-GS-13 - Because a separate O&M building is no longer proposed, the certificate holder is required to provide evidence of a shared use agreement and provide full coverage for the O&M building at the time of decommissioning. The DPO also recommends the Council amend or delete other site certificate conditions or requirements that are only applicable to the previously approved O&M buildings. (DPO pg. 24-28)
- Condition GEN-GS-02 - Extend the deadline for the completion of construction by two years, consistent with the requirements of OAR 345-027-0385(5)(d). (DPO pg. 29)
- Condition GEN-GS-12 - Authorize the construction of the 230-kV transmission line within the certificate holder's proposed corridor. (DPO pg. 30)



# WREFE Request for Amendment 1

## Draft Proposed Order

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### **Organizational Expertise (Section III.B, pg. 31-38)**

- The certificate holder continues to rely on the organizational expertise of its parent, NextEra Energy Resources, LLC, to satisfy the standard.
- The DPO recommends the Council amend conditions GEN-OE-03, PRE-OE-01, PRE-OE-04, PRE-OE-05, and PRE-OE-07 to ensure that certificate holder maintains access to parent company's resources and to address parent company's regulatory performance.

### **Soil Protection (Section III.D, pg. 46-57)**

- The certificate holder proposes to expand the energy facility, electrical collector system, and access road network.
- The DPO recommends the Council amend conditions CON-SP-01, CON-SP-02, OPR-SP-01, and OPR-LU-06 to ensure that the potential adverse impacts on soils, including the potential for additional erosion associated with the expansion would be adequately

addressed.



# WREFE Request for Amendment 1 Draft Proposed Order

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## **Retirement and Financial Assurance (Section III.G, pg. 128-136)**

- Condition PRE-RF-02 - Require the certificate holder to provide financial assurance for the \$28.4 million estimated to be needed retire the facility, with the changes proposed in RFA1. (DPO pp. 135-136)

## **Fish and Wildlife Habitat (Section III.H, pg. 137-172)**

- The areas proposed to be added to the site boundary consist primarily of grassland and shrub steppe habitat.
- The DPO recommends the Council amend conditions PRE-FW-04, PRE-FW-05, PRE-LU-04 to incorporate revisions to the Habitat Mitigation Plan, Revegetation Plan, and Weed Control Plan to address temporary and permanent disturbances in these areas. The Department recommends the Council amend site certificate condition CON-FW-02 to incorporate the updated guidance on avoidance buffers for active ferruginous hawk nests.

# WREFE Request for Amendment 1 Draft Proposed Order

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## **Threatened and Endangered Species (Section III.I, pg. 172-182)**

- Surveys identified extensive occurrences of Washington Ground Squirrel and Lawrence's Milkvetch throughout the proposed site boundary.
- The DPO recommends the Council amend site certificate condition PRE-TE-03 and impose a new site certificate condition PRE-TE-04 to require mitigation for impacts to occupied Lawrence's Milkvetch habitat, including the loss of up to 2,604 plants. Mitigation would include seed collection, propagation, and planting implemented by the Oregon Department of Agriculture.



# WREFE Request for Amendment 1 Draft Proposed Order

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## **Historic, Cultural, and Archaeological Resources (Section III.K, pg. 188-196)**

- Surveys identified historic and cultural resources within the proposed site boundary that are eligible for, or likely to be eligible for, listing on the National Register of Historic Places.
- 411 acres within proposed micro-siting areas have not yet been surveyed for cultural or archaeological resources.
- The DPO recommends the Council amend condition PRE-HC-01 to ensure that cultural resource surveys are completed prior to ground disturbing activities; amend CON-HC-01 to authorize the certificate holder to conduct ground disturbing areas within 200-feet of identified cultural resources when a tribal monitor or qualified archaeologist is present, and adopt CON-HC-02 to require the certificate holder to implement the Inadvertent Discovery Plan during construction of the facility.

# WREFE Request for Amendment 1

## Draft Proposed Order

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### **Wildfire Prevention and Risk Mitigation (Section III.N, pg. 221-234)**

- The Council adopted its Wildfire Prevention and Risk Mitigation Standard after the approval of the site certificate.
- The DPO recommends the Council impose new site certificate conditions PRO-WP-01 and OPR-WP-01 requiring compliance with a Wildfire Mitigation Plan during construction and operation of the facility.

### **Cumulative Effects Standard for Wind Energy Facilities (Section III.Q, pg. 244-252)**

- The certificate holder provided evidence suggesting that the cumulative effects of wind development in the Columbia Plateau Ecoregion may result in adverse population level impacts to some sensitive bird and bat species.
- The DPO recommends the Council amend conditions PRE-FW-02 to require bird and bat fatality thresholds be revised to address potential cumulative effects and impose a new condition GEN-CE-01 to impose setback requirements based on certificate holder representations.



# WREFE Request for Amendment 1 Draft Proposed Order

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## **Other State Regulatory Requirements (Section IV, pg. 255-270)**

- The DPO recommends the Council find that, subject to existing and recommended conditions of approval, the facility, with the changes proposed in RFA1 would comply with:
  - DEQ Noise Regulations for Industry and Commerce under OAR 340-035-0035
  - OWRD water regulations under ORS chapter 537 and OAR chapter 690.
- Because the certificate holder has elected to obtain a required Removal-Fill Permit directly from the Oregon Department of State Lands, the Department recommends the Council amend an existing condition to require the certificate holder to demonstrate that it has complied with the Removal-Fill law prior to beginning construction.

# Public Participation at DPO Phase

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- The issuance of the Public Notice on the DPO initiated a public comment period on the requested amendment
- The public may submit:
  - Written comments by mail, email, public comment portal, hand-delivery, or fax until April 4, 2024, at 5:00 pm.
  - Oral comments at the in-person, webinar/call-in DPO public hearing on March 21, 2024.
- The Council will not accept public comments on the Request for Amendment 1 or on the DPO after the close of the record. The Department requests the Council hold the record open for the certificate holder

# Certificate Holder Responses to Public Comments

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- The Council may allow the record to remain open for the certificate holder to respond to public comments received if requested.
- Because the public comment period will end between Council meetings, the Department recommends the Council direct the record to remain open for certificate holder responses until April 8, 2024, at 5:00 P.M.
- The Department requests the Council authorize staff to allow further continuances if requested by the certificate holder.

## Slide 61

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**CC0** Todd: Not sure if this should be here or somewhere else  
CLARK Christopher \* ODOE, 2024-03-13T18:43:34.293

**TC0 0** Yes. Let's keep this. Important to reiterate this a couple of times and I think it makes sense here.  
CORNETT Todd \* ODOE, 2024-03-14T15:07:48.230

## Public Participation at DPO Phase (cont'd)

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- Persons commenting on DPO during the comment timeframe are eligible to request a contested case proceeding, which is not an automatic part of the amendment process.
- For consideration in the contested case, issues must:
  - Be submitted within the comment timeframe.
  - Be within the jurisdiction of the Council.
  - Include sufficient specificity with facts so that the Council, the Department, and the certificate holder understand the issue raised and are afforded an opportunity to respond to the issue.

## Slide 62

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**CC0** Do we need this and next slide? Is all this covered in Public Hearing presentation?

CLARK Christopher \* ODOE, 2024-03-13T18:44:24.605

**TC0 0** Yes. I think it is important to reiterate this information. And much of the detail on the next slide is not included in the public hearing presentation.

CORNETT Todd \* ODOE, 2024-03-14T15:07:01.565



# Public Participation at DPO Phase (cont'd)

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- Threshold for a contested case for a Type A Amendment:
  - Council must find that the request raises a significant issue of fact or law that is reasonably likely to affect the Council's determination whether the facility, with the change proposed by the amendment, meets the applicable laws and Council standards included in chapter 345 divisions 22, 23 and 24. And Council must determine whether the preponderance of evidence on the record supports that the portions of the facility within the area added to the site boundary by the amendment complies with all laws and Council standards.
- A ten-minute video describing the Type A Amendment Contested Case threshold is available on YouTube and the link was included in the Public Notice.
- Council Options on Requests for a Contested Case:
  - Hold a contested case –properly raised issue(s) could affect the Council's determination
  - Remand Proposed Order to Department - properly raised issue(s) could be addressed through new findings and/or conditions
  - Deny – request does not include properly raised issue(s)

# Agenda Item B (Public Hearing)

## **Wheatridge Renewable Energy Facility East Request for Amendment 1 Public Hearing**

**Cindy Condon, Council Vice-Chair**

March 21, 2024



# WREFE Request for Amendment 1 Public Hearing

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A person who intends to raise any issue that may be the basis for a contested case must raise the issue:

- In person at the hearing or in a written comment submitted to the Department of Energy **before 5:00 pm on April 4, 2024.**
- With sufficient specificity to afford the Council, the Department of Energy and the certificate holder an adequate opportunity to respond, including a statement of facts that support the person's position on the issue.



# WREFE Request for Amendment 1 Public Hearing

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Order of Oral Testimony and Comments for this Public Hearing:

1. Certificate Holder (testimony or additions to record)
  - Members of Council may ask clarifying questions.
2. Members of the Public (will be called on in the following order):
  - Oral in-person testimony
  - Oral testimony via WebEx
  - Oral testimony via phone
3. Members of Council
4. Certificate Holder's Responses to Comments (optional)



# WREFE Request for Amendment 1 Public Hearing

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Prior to testifying, state the following:

- Full name with spelling
- Name of organization or group if you are representing one
- Physical mail or email address if you wish to receive notice of the Proposed Order which includes a description of how to submit a petition to participate in the contested case\*

Provide any written comments or supplemental materials to a staff member CC0

\*If you do not wish to provide your mailing or email address in this format, you may email it to [christopher.clark@energy.oregon.gov](mailto:christopher.clark@energy.oregon.gov) or provide by phone to (503) 871-7254.



## Slide 67

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**CC0** Added...confirm

CLARK Christopher \* ODOE, 2024-03-13T18:45:09.672

**TC0 0** This should have already been included so I am not sure what you are asking.

CORNETT Todd \* ODOE, 2024-03-14T15:11:59.556

# WREFE Request for Amendment 1 Public Hearing

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## **Certificate Holder**

The certificate holder may provide/present on anything in the Draft Proposed Order and/or may submit additional information/evidence to supplement the record.

Council Members may ask clarifying questions.



# WREFE Request for Amendment 1 Public Hearing

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## Written Comments

Written comments on Request for Amendment 1 and/or the Draft Proposed Order and may be submitted until 5:00 on April 4, 2024. Written comments may be submitted:

- Via online siting comment portal: <https://odoe.powerappsportals.us/en-US/SitingPublicComment/>
- Via email: [christopher.clark@energy.Oregon.gov](mailto:christopher.clark@energy.Oregon.gov)
- Hand delivery to one of the staff members or by mail to: Oregon Department of Energy; 550 Capitol St. NE; Salem, OR, 97301





# WREFE Request for Amendment 1 Public Hearing

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## **Public**

Members of the public may comment on the Draft Proposed Order and/or the Request for Amendment 1.

Council Members may ask clarifying questions.

Time limits may be set depending on the number of people interested in testifying.

# How to Indicate Your Interest in Commenting:

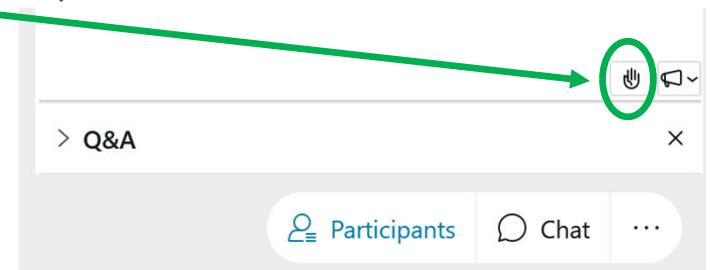
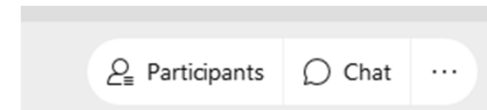
## Webinar Participants

The bottom right of the main window is a set of icons:

Click on “Participants”

The bottom right of the participant window is a hand icon, click on the hand:

Clicking on it again will lower your hand.



## Phone Participants

Press \*3 on your telephone keypad to raise your hand.

Press \*3 again on your telephone keypad to lower your hand.

# WREFE Request for Amendment 1 Public Hearing

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## **Council**

Council may comment about any concerns they have related to the Draft Proposed Order and/or the Request for Amendment 1.

# WREFE Request for Amendment 1 Public Hearing

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## **Certificate Holder's Response to Comments**

The certificate holder may respond to any comments by:

- Providing oral responses
- Submitting additional information/evidence to supplement the record:
  - Tonight
  - By April 8, 2024 at 5:00 p.m.
  - At a later date if more time is requested and approved by the Department



# WREFE Request for Amendment 1 Public Hearing

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## CONCLUSION OF HEARING

Written comments on Request for Amendment 1 and/or the Draft Proposed Order and may continue to be submitted until 5:00 on April 4, 2024. Comments may be submitted:

- Via online siting comment portal: <https://odoe.powerappsportals.us/en-US/SitingPublicComment/>
- Via email: [christopher.clark@energy.Oregon.gov](mailto:christopher.clark@energy.Oregon.gov)
- Hand delivery to one of the staff members or by mail to: Oregon Department of Energy; 550 Capitol St. NE; Salem, OR, 97301



RECESS

Meeting will resume at 8:30 am  
March 22, 2024

# Agenda Item C (Action Item & Information Item)

## Consent Calendar

- February Council Meeting Minutes
- Council Secretary Report

March 22, 2024



# Agenda Item D (Action Item)

## Contested Case Rulemaking Public Hearing

**Christopher Clark, Senior Siting Analyst**

March 22, 2024





# Contested Case Rulemaking Public Hearing – Agenda

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- Review of projected timeline for rulemaking
- Background and overview of proposed rule language
- Opportunity for public to make comments
  - In-person testimony (**Please fill out a comment card**)
  - Testimony via WebEx
  - Testimony via phone

Note: There will not be any Q&A offered at this hearing, however any questions related to this rulemaking can be directed to Tom Jackman at

[tom.jackman@energy.oregon.gov](mailto:tom.jackman@energy.oregon.gov)

# Contested Case Rulemaking Public Hearing – Timeline

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Event	Date
Rulemaking initiated by Council	July 18, 2023
Final Rulemaking Advisory committee meeting held	Feb 1, 2024
Notice of Proposed Rulemaking filed with Secretary of State	Feb 27, 2024
<b>Public hearing</b>	<b>March 22, 2024</b>
Public comment ends	April 19, 2024
Presentation of proposed rule language to Council for final consideration	May 2024 (est)

# Contested Case Rulemaking Public Hearing – Background

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- A “contested case” is the process by which procedural and factual concerns related to the possible granting of a site certificate, which were properly raised during the public comment period of the draft proposed order (DPO), are raised again in front of a Hearing Officer appointed by the Council.
- The rules governing the Energy Facility Siting Council’s contested case process are primarily found in OAR 345, Division 15.

# Contested Case Rulemaking Public Hearing – Scope and Purpose

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1. Reorder and reorganize the rules to better match the flow of the contested case process.
2. Update the rules to reflect a proposed adoption of the Office of Administrative Hearing's model rules for contested cases.
3. Improve the consistency of the rules, both internally and to ensure they properly match Oregon laws and other administrative rules.
4. Improve the clarity of the rules by providing or enhancing definitions.
5. Improve the efficiency of the contested case process by providing additional guidance to prospective parties.

# How to Indicate Your Interest in Commenting:

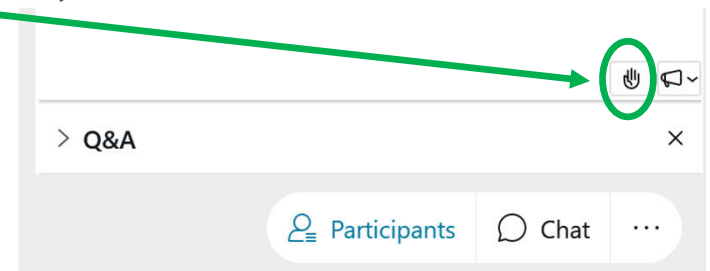
## Webinar Participants

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Clicking on it again will lower your hand.



## Phone Participants

Press \*3 on your telephone keypad to raise your hand.

Press \*3 again on your telephone keypad to lower your hand.

# Contested Case Rulemaking Public Hearing

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Prior to testifying, state the following:

- Full name with spelling
- Name of organization or group if you are representing one
- Provide any written comments or supplemental materials to a staff member



# Contested Case Rulemaking Public Hearing

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## Written Comments

Written comments on the Contested Case rulemaking may be submitted until 5:00 pm on April 19, 2024. Written comments may be submitted:

- Via online siting comment portal: <https://odoe.powerappsportals.us/en-US/SitingPublicComment/>
- Via email: [efsc.rulemaking@oregon.gov](mailto:efsc.rulemaking@oregon.gov)
- Hand delivery to one of the staff members or by mail to: Oregon Department of Energy; 550 Capitol St. NE; Salem, OR, 97301



# How to Indicate Your Interest in Commenting:

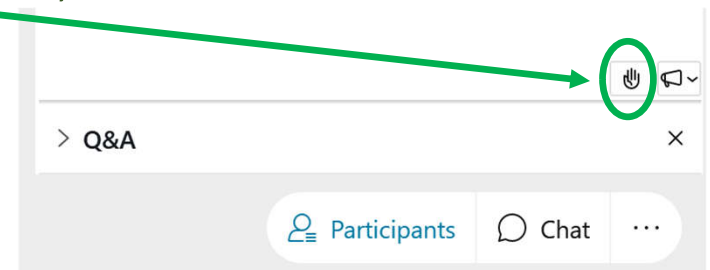
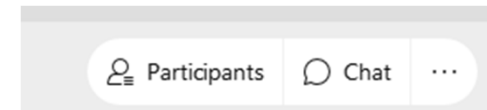
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## Phone Participants

Press \*3 on your telephone keypad to raise your hand.

Press \*3 again on your telephone keypad to lower your hand.



BREAK



# Agenda Item E (Action Item)

## **Trojan Independent Spent Fuel Storage Installation Security Plan Decision**

**Christopher Clark, Senior Siting Analyst**

March 22, 2024



# Background

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- On August 29, 2023, PGE submitted Revision 9 of the Security Plan for the Trojan Independent Spent Fuel Storage Installation (ISFSI) to the Nuclear Regulatory Commission (NRC).
- On September 19, 2023, the Department received the transmittal letter that accompanied the revision. The transmittal letter indicates that the Security Plan was being revised to:
  - Update the Organizational Chart to conform with the ISFSI Quality Assurance Program.
  - Incorporate updated language in OAR 345-070-0015.
  - Remove the search requirements specific to ISFSI Specialists to comply with direction from the NRC.
  - Revise figures to reflect a new Vehicle Barrier System constructed around the ISFSI Protected Area.
  - Revise the process for summoning offsite assistance.

# Background

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- During the October 19, 2023, Council meeting, the Council appointed Mark Reese, the Department's Radiological Emergency Program Coordinator, to inspect the Security Plan and report back to the Council.
- At the February 23, 2024, Council meeting, Mr. Reese reported that he had conducted a review of the revised Security Plan and an inspection of physical security systems at the site and based on his experience and training, was satisfied that the Security Plan met the requirements for public safety and site security.

# Staff Recommendation

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- Based on Mr. Reese's report, the Department recommends the Council find that Revision 9 to the ISFSI Security Plan does not appear to have adversely affected the effectiveness of the plan, and that the plan continues to provide adequate provisions for the protection of public health and safety.
- The Department further recommends the Council authorize staff to issue a joint statement summarizing this finding with the Director in compliance with OAR 345-070-0030.

# Council Options

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## Option 1 – Recommended

Approve Revision 9 and  
authorize statement as  
presented

## Option 2

Approve Revision 9 and  
authorize statement  
with changes

## Option 3

Reject Revision 9  
and/or request  
additional information

# Council Deliberation



# Agenda Item F

## PUBLIC COMMENT

**Phone Commenters: Press \*3 to raise your hand to make comment, and \*3 to lower your hand after you've made your comment.**

**Webinar Commenters: Open the Participant list, hover over your name and click on the "Raise Your Hand icon".**





# How to Raise Your Hand in Webex:

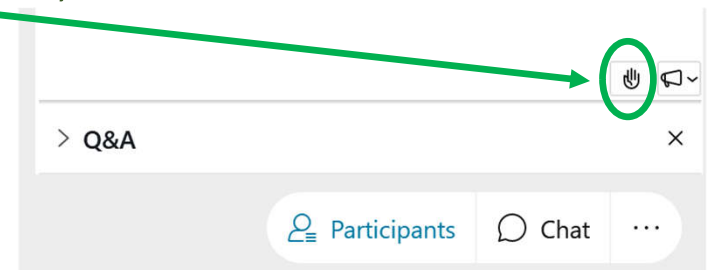
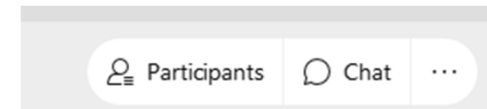
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## Phone Participants

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Press \*3 again on your telephone keypad to lower your hand.

# Agenda Item G (Action Item)

## **Boardman Solar Energy Project Termination of Site Certificate**

**Todd Cornett, Assistant Director to Siting Division**

March 22, 2024



# Project Overview

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- 75 MW solar PV facility on 798 acres (1.25 sq. miles) and related and supporting facilities
- Main components in north Morrow County, just south of I-84. 115 kV transmission line in north Gilliam County
- Certificate holder is Boardman Solar Energy LLC, a wholly owned subsidiary Invenergy Solar Development LLC, which is a wholly owned subsidiary of Invenergy LLC



# Project Timeline

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Date	Action
February 2018	Final Order and Site Certificate with beginning construction deadline of February 23, 2021
September 2021	Final Order and Site Certificate on Amendment #1 approving extension of beginning construction deadline to February 23, 2024
December 14, 2023	Sarah Esterson sends email reminder to Certificate Holder about beginning construction deadline
February 7, 2024	Certificate Holder responds to December email indicating they will let site certificate expire and seek local government approval
February 24, 2024	Site Certificate expiration

# Applicable Council Rules

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## ***345-027-0110 - Termination of a Site Certificate***

***\*\*\****

*(9) When the Council finds that the site certificate has expired as described in OAR 345-027-0313, the Council shall issue an order terminating the site certificate.*

## ***345-027-0313 - Certificate Expiration***

*If the certificate holder does not begin construction of the facility by the construction beginning date specified in the site certificate or amended site certificate, the site certificate expires on the construction beginning date specified, unless expiration of the site certificate is suspended pending final action by the Council on a request for amendment to a site certificate under OAR 345-027-0385(2).*

# Council Options

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## Option 1 - Recommended

Terminate site  
certificate

## Option 2

Terminate site  
certificate, with  
changes to the draft  
termination order

## Option 3

Do not terminate site  
certificate at this time,  
and request additional  
information

# Council Deliberation



# Adjourn

