

OREGON DEPARTMENT OF ENERGY

Regarding Statutes, Administrative Rules and)
Other Requirements Applicable to the Proposed)
Baseline Wind Energy Facility)
_____)

PROJECT ORDER

1 On June 28, 2010, Baseline Wind LLC (the applicant) submitted a Notice of Intent (NOI)
2 to apply for a site certificate for the proposed Baseline Wind Energy Facility (BWEF). The
3 proposed facility is a wind energy facility consisting of up to 333 wind turbines and related
4 facility components with a peak generating capacity of up to 500 megawatts.

5 On July 8, 2010, the Department sent a public notice of the NOI to persons on the general
6 mailing list of the Oregon Energy Facility Siting Council (Council), to persons on the special list
7 set up for the project and to property owners identified in the NOI, as required under OAR 345-
8 015-0110.

9 On July 8, 2010, the applicant sent copies of the NOI to a list of reviewing agencies
10 provided by the Oregon Department of Energy (Department) together with a memorandum from
11 the Department as described in OAR 345-015-0120.

12 On August 3, 2010, the Department published notice of the NOI in the *East Oregonian*.
13 On August 5, the Department published notice of the NOI in the *Condon Times-Journal*.

14 On August 12, 2010, in Arlington, Oregon, the Department held a public information
15 meeting about the proposed BWEF and the site certificate process. The Department accepted
16 public comment on the NOI through August 13, 2010.

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

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

- 1 (f) The analysis areas for the proposed facility.
- 2 (g) Public concerns that address matters within the jurisdiction of the Council that the
- 3 applicant shall consider and discuss in the application for a site certificate, based on
- 4 comments from the public and reviewing agencies.
- 5 (h) The expiration date of the notice of intent.

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

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

15 THEREFORE, the Department orders as follows:

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

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

1. Energy Facility Siting Council

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

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

22 **Discussion:** Section V below describes specific application requirements under OAR 345-
23 021-0010.

24 All general standards in OAR Chapter 345, Division 22, apply to the proposed facility.
25 For a wind energy facility, the Council need not make findings on the standards described
26 in OAR 345-022-0020 (Structural), OAR 345-022-0090 (Historic, Cultural and
27 Archaeological Resources), OAR 345-022-0110 (Public Services) and OAR 345-022-
28 0120 (Waste Minimization). Nevertheless, the applicant should address these standards in
29 the application because the Council may apply the requirements of the standards to
30 impose conditions in the site certificate.

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

2. Oregon Department of Agriculture – Plant Conservation

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

1 **Permit:** None required.

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

5 The State list of threatened and endangered plant species is contained in OAR 603-073-
6 0070. In addition, OAR 603-073-0080 gives ODA the authority to designate candidate
7 plants. If the applicant finds any State-listed threatened or endangered plant species that
8 could be adversely affected by the proposed facility, then the applicant must address the
9 information requirements of OAR 603-073-0090(5)(d)(A)-(E) in the application.

10 The applicant should include in its application a list of both State-listed and federally-
11 listed threatened, endangered and candidate plant species that have potential to occur in
12 the analysis area. The applicant should identify these species based on a review of
13 literature, consultation with knowledgeable individuals and reference to the list of species
14 published by the Oregon Biodiversity Information Center (previously known as the
15 Oregon Natural Heritage Information Center).¹

16 The applicant should a conduct a field survey for the listed plant species performed by
17 qualified survey personnel during the season or seasons appropriate to the detection of
18 threatened, endangered and candidate plant species. The application should include a field
19 survey report containing written descriptions of the survey methods and areas surveyed
20 and an analysis of the results of the survey. The applicant should consult with the ODA
21 Native Plant Conservation Program regarding field survey methods, appropriate survey
22 seasons and qualifications of field survey personnel.

3. Department of Environmental Quality – Water Quality

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

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

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

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

1 Storm Water

2 The U.S. Environmental Protection Agency has delegated authority to DEQ to issue
3 NPDES Storm Water Discharge permits. The Council does not have jurisdiction over the
4 federally-delegated NPDES permits, but the Council may rely on the determinations of
5 compliance and the conditions in the federally-delegated permits in making its
6 determination about whether other standards and requirements under the Council’s
7 jurisdiction are met.

8 Septic System

9 The NOI anticipates that the proposed facility will include one Operations & Maintenance
10 (O&M) building on the site and that wastewater from water uses at the O&M building
11 would be discharged to a septic system. DEQ may require a WPCF permit or an on-site
12 sewage disposal construction permit for a septic system. In the site certificate application,
13 the applicant should provide information demonstrating that the proposed septic system is
14 exempt from the WPCF permit requirement or, if not exempt, that the system would meet
15 the requirements for a permit. The substantive requirements for WPCF permits and on-site
16 sewage construction permits are set forth in OAR Chapter 340, Division 71. The specific
17 regulations for WPCF permits are set forth in OAR Chapter 340, Division 45,
18 “Regulations Pertaining to NPDES and WPCF Permits.”

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

19 **Statute and Rule References:** ORS Chapters 465 and 466; OAR Chapter 340, Divisions
20 100 through 122.

21 **Permit:** None required.

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

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

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

32 **Permit:** None required.

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

- 1 • Identify the locations of all noise sensitive properties that might receive noise
2 levels potentially exceeding applicable limits from BWEF turbines.
- 3 • Identify all potential noise sources from facility components (for example, wind
4 turbines and substation transformers).
- 5 • Identify all turbine locations used in performing the analysis.
- 6 • Provide manufacturer’s warranted sound power levels and uncertainty ranges,
7 including octave band data, for representative specific turbine types that might be
8 used at the BWEF. The analysis must include at least one turbine type
9 representing the maximum sound power level and octave band data that would not
10 be exceeded by any turbine type used at the BWEF.
- 11 • Identify all input parameters used in performing noise modeling.
- 12 • Provide noise modeling output data, including the contribution of each turbine to
13 the predicted sound levels at each noise sensitive receiver.

6. Oregon Department of Fish and Wildlife

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

16 **Permit:** None required.

17 **Discussion:** The Oregon Department of Fish and Wildlife (ODFW) provides technical
18 review and recommendations on compliance with Council standards. ODFW will base its
19 review and recommendations on state wildlife policy (ORS 496.012) and threatened and
20 endangered species policy (ORS 496.171 - .192) as well as statutes regarding screening
21 and bypass devices for water diversions or obstructions (ORS 498.301 - .346), protection
22 and propagation of fish (ORS 506.036), food fish management (ORS 506.109), placing
23 explosives in water (ORS 509.140), and fish passage statutes and requirements (ORS
24 509.580 - .910). ODFW’s review will include State Sensitive Species and State
25 Threatened and Endangered Species rules (OAR Chapter 635, Division 100) and habitat
26 mitigation goals and standards (OAR Chapter 635, Division 415).

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

35 The applicant should conduct field surveys for listed wildlife species performed by
36 qualified survey personnel during the season or seasons appropriate to the detection of
37 these species. The applicant should consult with ODFW regarding field survey methods,
38 appropriate survey seasons, duration of surveys and qualifications of field survey
39 personnel. The application should include a report on all field surveys conducted,

1 describing the field surveys, survey methods and areas surveyed. The report should
2 include an analysis of the findings of the field surveys.

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

7. Department of Geology and Mineral Industries

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

10 **Permit:** None required.

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

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

8. Oregon Parks and Recreation Department

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

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

26 **Discussion:** The Oregon Parks and Recreation Department provides technical review and
27 recommendations on compliance with Council standards. State parks and waysides are
28 “protected areas” under OAR 345-022-0040.

29 The State Historic Preservation Office (SHPO) within the Oregon Parks and Recreation
30 Department provides technical review and recommendations in reference to the Council’s
31 Historic, Cultural and Archaeological Resources Standard (OAR 345-022-0090). The
32 applicant should conduct a survey of the proposed facility site for historic, cultural and
33 archaeological resources (collectively referred to as a “cultural resource survey”). The
34 survey should be conducted by qualified archaeologists approved by SHPO. The
35 application should include a cultural survey report detailing the findings. The applicant
36 should work as early as possible with the SHPO to ensure that the application includes
37 required information in SHPO’s preferred formats. SHPO requests up to 30 days to review
38 and comment on cultural resource survey reports.

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

9. Oregon Department of State Lands

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

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

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

14 **Note:** If the delineation report required by the Department of State Lands or the U.S.
15 Army Corps of Engineers contains information concerning the location of archaeological
16 sites or objects, such sensitive information should be extracted from the delineation report
17 and provided to the Department of Energy separately after consultation with the
18 Department.

10. Water Resources Department – Water Rights Division

19 **Statute and Rule References:** ORS Chapters 537 and 540; OAR Chapter 690, Divisions
20 200 through 240, 310, 340 and 380.

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

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

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

35 The applicant proposes to construct a water wells near the O&M building or truck water to
36 the facility during operation. Water use would be no more than 5,000 gallons of water per
37 day during facility operation. The application should include information demonstrating
38 that water use from the wells would be exempt from water right permitting under ORS
39 537.545. SB 788 (2009) amended ORS 537.545 to require the owner of land on which an

1 exempt well is drilled to provide a map to WRD showing the exact location of the well
2 and to file the exempt water use with WRD for recording with submittal of a fee.

11. Oregon Public Utility Commission

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

4 **Permit:** None required.

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

12. Oregon Department of Aviation

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

8 **Permit:** None required.

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

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

II. TRIBES

22 **Permit:** None required.

23 **Discussion:** The application should include evidence of consultation with affected tribes,
24 including the Confederated Tribes of Umatilla Indian Reservation and the Confederated
25 Tribes of Warm Springs, regarding archaeological and cultural sites and materials within
26 the site boundary. The affected tribes provide technical review and recommendations in
27 reference to the Council’s Historic, Cultural and Archaeological Resources Standard
28 (OAR 345-022-0090).

III. APPLICABLE LOCAL GOVERNMENT ORDINANCES

29 **Local Governments:** Gilliam County.

30 **Statute and Rule References:** Applicable substantive criteria from the Gilliam County
31 codes and comprehensive plans.

32 **Permit:** Conditional Use Permit.

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

5 The Council must consider the applicable substantive criteria from Gilliam County. On
6 July 30, 2010, the Council appointed the Gilliam County Board of Commissioners as the
7 Special Advisory Group, as required under ORS 469.480. The applicable substantive
8 criteria, as defined by ORS 469.504(1)(b)(A), are those criteria identified by the Special
9 Advisory Group that are required by the statewide planning goals and in effect on the date
10 the Preliminary Application is submitted (see OAR 345-021-0000(10)). The applicant
11 should contact Susie Anderson, Gilliam County Planning Director, regarding the
12 applicable substantive criteria for wind energy facilities in Gilliam County.

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

18 In the application, the applicant should discuss each land use ordinance and
19 comprehensive plan policy that contains substantive criteria and should demonstrate how
20 the proposed facility complies with those criteria. If the proposed facility does not comply
21 with one or more of the criteria, the applicant must demonstrate how the proposed facility
22 complies with the applicable statewide planning goal. If the proposed facility does not
23 comply with an applicable statewide planning goal, the applicant must demonstrate that an
24 exception is justified under ORS 469.504(2).

25 The applicant should contact the Gilliam County Planning Director to discuss the
26 requirements for a Conditional Use Permit (CUP) and any other land use permits that may
27 be required for the proposed BWEF and to discuss the procedure required to obtain the
28 CUP and other permits if the Council issues a final order granting a site certificate. As
29 provided in ORS 469.401(3), if the Council issues a site certificate, the County will be
30 bound to issue local land use permits, subject only to the conditions set forth in the site
31 certificate. Therefore, the applicant should request that the Planning Director identify the
32 conditions that the County would include in the CUP. The Planning Director may identify
33 the conditions by providing a draft CUP.

IV. OTHER CONSTRUCTION-RELATED REGULATIONS

34 If the Council issues a site certificate, the certificate holder must comply with
35 construction-related regulations that apply to the proposed facility. As provided under ORS
36 469.401(4), the site certificate does not address these regulations.

V. APPLICABLE REQUIREMENTS FROM OAR CHAPTER 345, DIVISION 21

37 The application should include the information described in OAR 345-021-0010(1),
38 including but not limited to the information discussed below. In addition, the applicant must
39 submit the information required by OAR 345-021-0000, particularly the information in sections
40 (6) and (7) regarding the status of non-federally-delegated and federally delegated permits. The

1 applicant should provide sufficient information under OAR 345-021-0010(1) to demonstrate that
2 the proposed facility would comply with the Council standards described in OAR Chapter 345,
3 Divisions 22 and 24.

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

5 Paragraphs (A) through (D) apply. Note that paragraph (B) calls for a list of
6 “participating persons, other than individuals.” “Person” is defined in OAR 345-001-
7 0010(45). If the applicant is a limited liability company (LLC), the applicant must
8 provide information about the LLC similar to the information listed in the rule for
9 corporations (OAR 345-021-0010(1)(a)(C)). The applicant must include in the
10 application information about all third-party entities (persons other than individuals) that
11 are important to the project.

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

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

14 The applicant must provide specifications on all turbine types that might be used at the
15 facility. If not all specific turbine types are known, the applicant must provide
16 information on the range of turbine types that might be used. Specifications include: peak
17 generating capacity, turbine hub height in meters, rotor diameter in meters, maximum
18 sound power level (and octave band data) for all equipment associated with the turbine,
19 overall weight of metals in the tower and nacelle per turbine in net (U.S.) tons, estimated
20 cubic yards of concrete per turbine in the tower foundation and transformer pad to a
21 depth of three feet below grade (that is, the concrete in the foundation above that depth
22 including any portion above grade) and the maximum diameter of the foundation. The
23 applicant must state the maximum number of turbines that would be built and the
24 maximum combined peak generating capacity of the facility as a whole.

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

29 (c) Exhibit C – Location

30 All paragraphs apply.

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

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

40 Maps should show the location of the site boundary as defined in OAR 345-001-
41 0010(53). The proposed turbine string layout should be indicated. The application should

1 include alternative layouts if the use of different turbine sizes would result in different
2 turbine string alignments.

3 Although a legal description of the site is not required under paragraph (B), the
4 application must include a written description of the micrositing corridors in addition to a
5 map. A legal description of the site will be needed if a site certificate is issued. See OAR
6 345-027-0020(2). The applicant is advised to anticipate the need for a legal description
7 when deciding where to draw the boundary lines of the micrositing corridors for the
8 purposes of the application (for example, straight boundary lines are easier to describe
9 than curved or intricate boundaries).

10 (d) Exhibit D – Organizational Expertise

11 All paragraphs apply.

12 (e) Exhibit E – Permits

13 All paragraphs apply.

14 (f) Exhibit F – Property Owners

15 The entire site is within a farm zone in Gilliam County. Accordingly, the distance in
16 paragraph (C) applies (500 feet from the site boundary).

17 (g) Exhibit G – Materials Analysis

18 All paragraphs apply.

19 (h) Exhibit H – Geology

20 All paragraphs apply.

21 (i) Exhibit I – Soils

22 All paragraphs apply. The application should include information describing the impact
23 of construction and operation of the proposed facility on soil productivity in farm zones.
24 Describe all measures proposed to maintain soil productivity during construction and
25 operation and measures to mitigate erosion and compaction. The applicant should consult
26 with local farmers, landowners and soil conservation districts regarding mitigation of
27 impacts to farmland. The application should include a description of accepted farm
28 practices on surrounding lands devoted to farm use.

29 (j) Exhibit J – Jurisdictional Waters

30 All paragraphs apply. The applicant should include information in the application to
31 demonstrate whether a removal-fill authorization is needed. The application should
32 include a delineation of potentially jurisdictional wetlands and waters in all areas to be
33 affected by the proposed facility. The delineation report should be submitted to the
34 Department of State Lands as early as possible for review and possible concurrence. This
35 can be done in advance of submitting the Preliminary Application to the Department.

36 The definition of “waters of this state” is found in OAR 141-085-0510. Removal/fill
37 authorizations are described in OAR 141-085-0540. If a removal-fill authorization is
38 needed, the application must include the information described in OAR 141-085-0550.

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

2 Paragraphs A and C apply. Paragraphs B and D do not apply. The application should
3 include a discussion of whether the proposed facility would be compatible with farm use.
4 The application should demonstrate that the proposed BWEF would not seriously
5 interfere with accepted farm practices and would not significantly increase the cost of
6 accepted farm practices. See further discussion under Part III above.

7 (l) Exhibit L – Protected Areas

8 All paragraphs apply.

9 (m) Exhibit M – Financial Capability

10 All paragraphs apply.

11 (n) Exhibit N – Need for the Facility

12 Exhibit N does not apply.

13 (o) Exhibit O – Water Use

14 All paragraphs apply except (D).

15 (p) Exhibit P – Fish and Wildlife Habitat

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

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

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

30 The application must include a proposed Wildlife Monitoring and Mitigation Plan, a
31 proposed Revegetation Plan and a proposed Habitat Mitigation Plan.

32 (q) Exhibit Q – Threatened and Endangered Species

33 All paragraphs apply.

34 (r) Exhibit R – Scenic Resources

35 All paragraphs apply. For the purposes of Exhibit R, “local” land use plans include state,
36 county and city land management plans. Copies of the local, tribal and federal plans (or
37 relevant excerpts) that identify scenic resources as significant or important should be
38 included as attachments to the exhibit (or, if the documents are available on-line, the
39 application should include the website address). Zone of Visual Influence modeling or

1 photo-simulations may be included to help demonstrate compliance with the Council
2 standard (OAR 345-022-0080).

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

4 All paragraphs except (C) apply.

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

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

15 (t) Exhibit T – Recreation

16 All paragraphs apply.

17 (u) Exhibit U – Public Services

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

20 The application should include a discussion of the transportation of heavy equipment and
21 large facility components to the site during construction. The applicant should describe
22 the transportation routes from the nearest Interstate Highway to the construction areas
23 and should determine whether any alterations of public roads would be needed along
24 these routes. The applicant should consult with the Oregon Department of Transportation
25 and county public works departments regarding transportation routes and the need for any
26 modifications of the public roadways. The application must describe any alterations of
27 public rights-of-way or adjacent lands that will be necessary during facility construction.

28 (v) Exhibit V – Solid Waste and Wastewater

29 All paragraphs apply.

30 (w) Exhibit W – Facility Retirement

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

36 (x) Exhibit X – Noise

37 All paragraphs apply. The applicant should engage a qualified expert to conduct a noise
38 modeling analysis demonstrating that the proposed facility could be built in compliance
39 with the applicable noise regulations (see OAR 340-035-0035(1)(b)(B)(iii)(IV) and (VI)).
40 The application should include data from the turbine manufacturers to verify the sound

1 power levels used in the noise modeling. The application should include a map showing
2 the location of potentially affected noise sensitive properties and data demonstrating the
3 contribution of each noise source to the predicted noise levels at those properties. The
4 application should specify any waivers that the applicant would need from affected
5 property owners if the predicted noise levels would exceed the ambient degradation
6 standard. If such waivers have been negotiated, the applicant should submit copies of the
7 waivers (with proof of recording in the real property records of the county). If waivers
8 have not been negotiated, the applicant should inform the affected property owners of the
9 potential noise levels at the affected residences and request the waivers. If a waiver that is
10 necessary to achieve compliance for the desired facility layout cannot be negotiated with
11 the landowner, the applicant will have to re-design the facility layout to achieve
12 compliance without the waiver.

13 (y) Exhibit Y – Carbon Dioxide Emissions

14 Exhibit Y does not apply.

15 (z) Exhibit Z – Cooling Tower Impacts

16 Exhibit Z does not apply.

17 (aa) Exhibit AA – Electric and Magnetic Fields

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

20 (bb) Exhibit BB – Other Information

21 Include any information requested in this project order that is not addressed in any other
22 exhibit.

23 (cc) Exhibit CC – Other Law

24 Exhibit CC applies.

25 (dd) Exhibit DD – Specific Standards

26 Paragraphs (A) and (C) apply.

VI. ANALYSIS AREAS FOR THE PROPOSED FACILITY

27 The analysis areas are the minimum areas that the applicant must study for potential
28 impacts from the construction and operation of the proposed facility. The analysis areas
29 described in this project order do not limit the applicant’s responsibility to assess the potential
30 impacts of the facility. Analysis areas are the areas in which significant adverse impacts from the
31 proposed facility, if any, are likely to occur. If significant impacts could occur beyond the
32 analysis areas described herein, then the applicant must assess those impacts in the application
33 and show how the facility would comply with the applicable standards with regard to the larger
34 area where impacts could occur.

35 For all potential impacts, the analysis area includes all the area within the site boundary.
36 “Site boundary” means “the perimeter of the site of a proposed energy facility, its related or
37 supporting facilities, all temporary laydown and staging areas and all corridors and micro-siting
38 corridors proposed by the applicant.” (OAR 345-001-0010(53)). In the application, the applicant

- 1 must specifically describe the site boundary and provide a map showing the proposed site
 2 boundary and the boundaries of the analysis areas. The analysis areas are as follows:

<u>Affected Standard or Resource</u>	<u>Exhibit</u>	<u>Analysis Area</u>
Structural Standard	H	The area within the site boundary.
Soils	I	The area within the site boundary.
Wetlands and Waters	J	The area within the site boundary.
Land Use	K	The area within the site boundary and one-half mile from the site boundary.
Protected Areas	L	The area within the site boundary and 20 miles from the site boundary, including areas outside the state.
Fish and Wildlife Habitat	P	The area within the site boundary and one-half mile from the site boundary.
Threatened and Endangered Species	Q	The area within the site boundary and 5 miles from the site boundary.
Scenic Resources	R	The area within the site boundary and 10 miles from the site boundary.
Historic, Cultural and Archaeological Resources	S	The area within the site boundary.
Recreation	T	The area within the site boundary and 5 miles from the site boundary.
Public Services	U	The area within the site boundary and 10 miles from the site boundary.

VII. PUBLIC AND REVIEWING AGENCY CONCERNS

3 The Department received comments on the NOI from the following reviewing agencies
 4 and members of the public. For the purposes of the site certificate application for the proposed
 5 BWEF, the Department identifies the U.S. Fish and Wildlife Service and the Oregon Historic
 6 Trails Advisory Council as reviewing agencies in addition to the agencies listed in OAR 345-
 7 001-0010(50).

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

1. Reviewing Agency Comments

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

16 Lynn McAllister, Department of State Lands (email, 7/13/10):

- 17 • The applicant should have a wetland delineation done within the entire project area
 18 and may need to apply for a removal-fill permit from our department. We provide

1 jurisdictional determinations of the wetlands and waters on site and approval for
2 delineations.

3 Jerry Murray, Oregon Public Utility Commission (email, 7/14/10):

- 4 • The applicant in constructing the subject facility will become an “operator” of
5 electrical supply lines (i.e. power lines) and is subject to the Oregon PUC’s safety
6 rules in Chapter 860, Division 24 of the Oregon Administrative Rules (OAR) per
7 statutory authority provided under ORS 757.035. Per OAR 860-024-0010, every
8 operator shall construct, operate and maintain electrical supply and communication
9 lines in compliance with the standards prescribed National Electrical Safety Code
10 (NESC). The applicant should also note responsibilities covered in OAR 860-024-
11 0000, 860-024-0001, 860-024-0005, 860-024-0007, 860-024-0010, 860-024-0011,
12 860-024-0012, 860-024-0015 and 860-024-0016.
- 13 • The applicant should provide a schedule to OPUC Safety Reliability Security Staff
14 as to when and how it will provide the following information:
 - 15 ○ Before project design and construction, brief the OPUC Safety Reliability
16 Security Staff as to how it will comply with OAR Chapter 860, Division 24,
17 during design, construction, operation and maintenance and on an ongoing
18 basis.
 - 19 ○ When the project is put into service, brief the OPUC Safety Reliability
20 Security Staff as to how operator of the project it will comply with OAR
21 Chapter 860, Division 24, on an ongoing basis considering future operations,
22 maintenance, emergency response, and alterations until project retirement.
 - 23 ○ Name of the qualified person, including contact information, who will be
24 responsible for the operation, maintenance and safety of the electrical supply
25 system.
 - 26 ○ Name of the person and organization, including contact information,
27 responsible for receiving emergency notifications and responding to
28 imminent conditions per OAR 860-024-0012(1).
 - 29 ○ Map of the final routes and installation of electrical supply lines showing
30 transmission lines and structures (over 50 kV), distribution lines and
31 structures (differentiating underground and overhead lines), substations,
32 roads and highways.
 - 33 ○ Plan and profile drawings of the transmission lines.

34 Steve Cherry, Oregon Department of Fish and Wildlife (letter, 8/6/10):

- 35 • The application should include a map that shows the different vegetation
36 classifications for the project area.
- 37 • The applicant should conduct Washington ground squirrel surveys in suitable habitat
38 within 1,000 feet of all ground disturbing activities.

- 1 • The applicant should conduct raptor nest surveys within a 2 mile radius of the project
2 area. ODFW recommends that no construction occur within a quarter mile of active
3 raptor nests during the nesting season.
- 4 • The applicant should conduct surveys for any Sensitive species (burrowing owls,
5 loggerhead shrikes, long-billed curlews, white-tailed jack rabbits, grasshopper
6 sparrows and sage sparrows) within the project area and provide a map showing the
7 locations of the different species in respect to the proposed activities.
- 8 • The applicant should conduct bat surveys along the Rock Creek drainage to
9 determine if bat abundance and diversity appears different from in surveys
10 completed on other regional wind sites that lacked riparian areas similar to Rock
11 Creek.
- 12 • The application should include a detailed monitoring plan for the project. ODFW
13 recommends that the certificate holder monitor all known raptor nest sites in the
14 project area for the life of the project. ODFW requests permission to conduct wildlife
15 surveys on the project area that might help ODFW better understand the long-term
16 effects of the wind farm on the native wildlife.
- 17 • The application should include a mitigation package that addresses the loss of habitat
18 as a result of the construction of the proposed facility. ODFW recommends that the
19 certificate holder acquire a “conservation easement” to protect and enhance habitat
20 that is similar to the habitat that is altered or degraded by the proposed project. The
21 “conservation easement” should include provisions for monitoring as well as
22 management activities including habitat improvement as well as potential wildlife
23 surveys or research activities.
- 24 • The application should include a revegetation plan. The plan should outline how the
25 areas that are temporarily disturbed will be rehabilitated and returned to their pre-
26 construction functionality.

27 Carla McLane, Morrow County Planning Director (letter, 8/9/10):

- 28 • Figure G-4 in the NOI misrepresents the size of the Boardman Bombing Range.
29 Close to 100,000 acres of what the applicant has represented as the Boardman
30 Bombing Range is now privately owned.
- 31 • An analysis of Goal 5 resources may be needed to identify potential impacts to the
32 Cecil Store and the Oregon Trail.
- 33 • The applicant should do on-the-ground surveys to identify impacts to wildlife and
34 habitat areas. Species to be aware of are: Washington Ground Squirrel; the Long-
35 billed Curlew; Bald and Golden Eagles, particularly nesting sites; and furbearers.
36 Other species of concern identified since development of the Comprehensive Plan
37 include: Ferruginous Hawk; Loggerhead Shrike; and Sage Sparrow.
- 38 • The Morrow County Transportation System Plan and various components codified
39 with the Morrow County Zoning Ordinance may apply should any activity related to
40 the development, operation or maintenance of the facility impact roads in Morrow
41 County.

- 1 • The proposed facility will impact the Blue Mountain Scenic Byway (Bluway) based
2 on Figure G-3 in the NOI. Morrow County has not adopted any regulations
3 concerned with the Bluway, but does include reference to the Bluway when
4 appropriate. There is a “Blue Mountain National Scenic Byway Interpretive Guide”
5 published by the Umatilla National Forest in about 1993. This Interpretive Guide is
6 not regulatory and is intended to guide development along and for the Bluway.
7 Morrow County Planning staff can provide a copy of the Interpretive Guide, if
8 necessary.
- 9 • The application should include an analysis of the proposed turbines, their modeled
10 noise impacts and any noise sensitive properties within Morrow County that could be
11 affected.

12 Todd Hesse, Oregon Department of Environmental Quality, Water Quality Section (email,
13 8/10/10):

- 14 • When selecting the locations of wind turbines, transmission lines, staging yards, and
15 maintenance roads, the project should take into consideration the proximity to
16 surface waters, among other factors, and locate the infrastructure and staging areas
17 away from water bodies and drainages when feasible to minimize the potential for
18 water quality impacts from sediment delivery.
- 19 • Selection of maintenance road location and design (including surface stabilization)
20 should focus on eliminating or minimizing the potential for sediment discharge
21 during and after construction of the project.
- 22 • Exhibit J indicates that the applicant will obtain coverage under the 1200-C permit
23 for construction of the Baseline Wind Facility. DEQ may elect to require coverage
24 under an individual NPDES permit for this project rather than the general 1200-C
25 construction permit due to the size and scope of the proposed project, but does not
26 anticipate doing so based on the currently available information.

27 Alex Phillips, Oregon Parks and Recreation Department (letter, 8/12/10):

- 28 • The Notice of Intent failed to list Cottonwood State Park as a protected area within
29 the Project Study Area.
- 30 • We are concerned with the impacts to the scenery as visible from the parks, and in
31 particular, the viewpoints and views from entrance roads and viewpoints, the audible
32 sounds of the turning blades and the ground vibrations resulting from the active wind
33 turbines. OPRD requests: (1) an assessment of the towers and their visibility from
34 the state park; (2) an assessment of the noise generated from the turbine blades,
35 including a comparison of the existing quieter night time background noise with the
36 noise level of the turbines at various wind direction and speeds; and (3) an
37 assessment of the ground vibration levels thought the park, including the combined
38 vibrations of all the levels at various wind speeds.

2. Public Comments

1 The Department received the following public comments on the NOI:

2 David Welch, Oregon-California Trails Association (email, 7/29/10):

- 3 • We wish to emphasize the potential for impacts to the Oregon National Historic Trail
4 and its setting. We look forward to working with the developer, SHPO and OEFSC
5 to assess impacts and determine appropriate solutions. We would like to meet with
6 First Wind and others at an early date to discuss the project.

7 Greg Currie, Bureau of Land Management, Prineville District (email, 8/12/10):

- 8 • Of concern to the BLM is the potential for effects to scenic quality particularly from
9 key viewpoints such as the John Day River and the Oregon Trail Interpretive Site.
10 The BLM maintains an inventory of scenic values on BLM-administered lands. This
11 includes identification of Key Observation Points, Existing Scenic Quality, and
12 management standards for design and development of future projects. The BLM uses
13 a defined process (Contrast Rating, BLM Manual 8431) for analyzing visual
14 resource effects during environmental review. This information may be useful in the
15 design and assessment of the proposed project.

16 Don and Diana Roberts (email, 8/12/10 and 8/13/10):

- 17 • It appears that the proposed overhead transmission line will come within 30-50 feet
18 of our home. The wind turbines lie from within 2 miles to ¼ mile of our property.
19 The close proximity of the power lines and wind turbines will seriously impact the
20 use and enjoyment of our home.
- 21 • We request that the applicant select a different route for the overhead transmission
22 lines, a route that will not fall adjacent to our property.
- 23 • We feel strongly that government approval decisions about high impact land use
24 should be guided by a policy that's intended to prevent significant negative impacts
25 on property values, while also upholding the peaceful use and enjoyment of an
26 existing property by its residents.
- 27 • We, and the previous owners, successfully created an "island habitat" for birds and
28 butterflies in the middle of Shutler Flat, an area which consists of an almost
29 unbroken expanse of 2000 acres of wheat fields. We are concerned for the birds that
30 have become accustomed to using our yard as an annual nesting and drop-in area.
31 Both turbines and transmission lines have been shown to increase bird mortality. We
32 request that the applicant create a "buffer zone" around this property, to assure the
33 safety of the breeding, resident and migrating birds.

34 Catherine Lee (email, 8/13/10):

- 35 • We do not need any more wind turbines in this county, including the Baseline Wind
36 Energy Facility. It seems the power grid administrators (Bonneville Power
37 Administration) cannot even support all the power these wind turbines are
38 generating. And when the wind is blowing too hard and the water is running too fast
39 and high near the dams, these huge wind turbines have to be turned off. At times like
40 that, which has already occurred this year, it seems especially unfair that our part of

1 the state has to endure all these unsightly towers that aren't even being fully utilized
2 due to the limitations of the power grid system.

- 3 • There has not been enough research done on the impact these wind towers have on
4 the wildlife of the area (birds and bats) or the environmental concerns of Wind
5 Turbine Syndrome (effects on the inner ear due to low-frequency noise and
6 vibrations of the wind turbines within a two mile radius).

VIII. EXPIRATION

7 OAR 345-020-0060 provides that an NOI expires two years after the date the applicant
8 submits the NOI to the Department. Accordingly, the NOI submitted by Baseline Wind LLC will
9 expire on June 28, 2012, unless the applicant submits a timely petition to extend the expiration
10 date. If the applicant does not submit a Preliminary Application for a site certificate before the
11 expiration of the NOI or any extension period granted by the Council, the applicant must submit
12 a new NOI to satisfy ORS 469.330.

IX. AMENDMENT AND COMPLETENESS

13 The Council or the Department may amend this project order at any time (ORS
14 469.330(4)). Amendments may include changes to the analysis areas. To issue a site certificate,
15 the Council must determine that the proposed facility complies with the Oregon statutes and
16 administrative rules that this project order identifies as applicable (ORS 469.503(3)).

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

X. APPLICABILITY

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

OREGON DEPARTMENT OF ENERGY

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

Date of Issuance: September 15, 2010