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December 8, 2011

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**VIA U.S. MAIL AND EMAIL**

Mr. Tom Stoops  
Energy Facility Siting Assistant Director  
Oregon Department of Energy  
625 Marion Street, Suite 1  
Salem, OR 97301-3742

**Re: Request for Amendment No. 1 to Golden Hills Wind Project Site Certificate**

Dear Mr. Stoops:

Golden Hills Wind Farm LLC (“Certificate Holder” or “GHWF”) obtained a site certificate for the Golden Hills Wind Project (“Project”), effective May 18, 2009 (“Site Certificate”). Pursuant to OAR 345-027-0030, Certificate Holder files this timely request<sup>1</sup> to amend the Site Certificate to extend the construction deadlines contained in Conditions III.D.1 and III.D.2. Specifically, the Certificate Holder seeks to amend Condition III.D.1 to begin construction by June 18, 2014 (currently June 18, 2012) and Condition III.D.2 to end construction by June 18, 2017 (currently June 18, 2015). The following sections demonstrate that the amendment is warranted under OAR 345-027-0060 and 345-027-0070.

**A. Information Required Pursuant to OAR 345-027-0060(1)**

**1. OAR 345-027-0060(1)(a), Name and Mailing Address**

*(a) The name and mailing address of the certificate holder and the name, mailing address and phone number of the individual responsible for submitting the request.*

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<sup>1</sup> OAR 345-027-0030(1) requires that the Certificate Holder file this amendment request at least six months before June 18, 2012, or by approximately December 19, 2011.



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**Name and Mailing Address of Certificate Holder:**

Golden Hills Wind Farm LLC  
c/o Matthew Duffy  
BP Wind Energy  
Senior Director, Business Development  
700 Louisiana St., 33rd Floor  
Houston, Texas 77002  
(713) 354-6716

**Name, Mailing Address and Phone Number of Individual Submitting the Request:**

Elaine R. Albrich  
Stoel Rives LLP  
900 SW Fifth Avenue, Suite 2600  
Portland, Oregon 97204  
(503) 294-9394

**2. OAR 345-027-0060(1)(b), Description of Facility**

*(b) A description of the facility including its location and other information relevant to the proposed change.*

Response: The Project is described in Section III.B of the Site Certificate. This amendment request does not change the facility description.

**3. OAR 345-027-0060(1)(c) and (d), Description of the Proposed Change**

*(c) A detailed description of the proposed change and the certificate holder's analysis of the proposed change under the criteria of OAR 345-027-0050(1).*

Response: The proposed change to the Site Certificate would simply amend site certificate conditions to extend the construction deadlines for two additional years as authorized under OAR 345-027-0030(4). Specifically, Certificate Holder requests that the Oregon Energy Facility Council ("EFSC" or the "Council") amend the Site Certificate as follows:



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- (III.D.1) The certificate holder shall begin construction of the facility *by June 18, 2014* ~~within three years after the effective date of the site certificate~~. Under OAR 345-015-0085(8)(9), *an amended* site certificate is effective upon execution by the Council Chair and the applicant. The Council may grant an extension of the deadline to begin construction in accordance with OAR 345-027-0030 or any successor rule in effect at the time the request for extension is submitted.  
*[Amendment 1]*
- (III.D.2) The certificate holder shall complete construction of the facility *by June 18, 2017* ~~within six years after the effective date of the site certificate~~. Construction is complete when (1) the facility is substantially complete as defined by the certificate holder's construction contract documents; (2) acceptance testing has been satisfactorily completed; and (3) the energy facility is ready to begin continuous operation consistent with the site certificate. The certificate holder shall promptly notify the Department of the date of completion of construction. The Council may grant an extension of the deadline for completing construction in accordance with OAR 345-027-0030 or any successor rule in effect at the time the request for extension is submitted. *[Amendment 1]*

The proposed change would require modified condition language and therefore requires an amendment to the Site Certificate under OAR 345-027-0050(1)(c). However, extending the construction deadlines also triggers an amendment under OAR 345-027-0030(1).

#### **4. OAR 345-027-0060(1)(e), Relevant Council Standards**

*(e) A list of the Council standards relevant to the proposed change.*

Response: Approval of this first amendment request complies with all relevant standards contained in OAR chapter 345, divisions 22 and 24.

Organizational Expertise, OAR 345-022-0010.

**Discussion.** As described in Section IV(B) of the Final Order, the Council found that GHWF met the Organizational Expertise Standard based on its relationship with BP Alternative Energy North America Inc. and the fact that GHWF would hire qualified contractors with significant experience in the wind industry to engineer and construct the Project. Since the issuance of the Site Certificate, there has been no change in circumstances that affects previous



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Council findings for issuance of the Amended Site Certificate. Further, GHWF will continue to rely on an agreement to transmit power from the Project to the Klondike-Schoolhouse substation by means of an existing third-party transmission line. This amendment request does not affect any of the existing third-party permits and does not require any new third-party permits.

**Conclusion.** Thus, GHWF satisfies the requirements in OAR 345-022-0010(1). GHWF does not have an ISO 9000 or ISO 14000 certification; therefore subsection (2) is not applicable. GHWF also satisfies the requirements of OAR 345-022-0010(3). Accordingly, the Council may find that the amendment request meets the Organizational Expertise Standard in OAR 345-022-0010.

Structural Standard, OAR 345-022-0020.

**Discussion.** In Section V(A) of the Final Order, the Council found that the proposed facility site had been adequately characterized in terms of seismic zone and that Summit could construct the facility in order to avoid seismic hazards. The Council imposed site certificate conditions to ensure avoidance of seismic hazard. This amendment request will not require any changes to avoid seismic or soils hazards, and it does not affect the conditions included in the Site Certificate to satisfy the Council's structural standard.

**Conclusion.** Approval of this amendment request will satisfy the requirements of OAR 345-022-0020.

Soil Protection Standard, OAR 345-022-0022.

**Discussion.** In Section V(E) of the Final Order, the Council found that GHWF had adequately characterized soils within the site boundary and found that GHWF's proposed construction and operation of the Project would not have a significant adverse impact on soils. This amendment request will not result in any adverse impact on soils not already contemplated by the Council.

**Conclusion.** Approval of the amendment request will satisfy the requirements of OAR 345-022-0022.



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Land Use Standard, OAR 345-022-0030.

**Discussion.** GHWF elected to demonstrate to the Council that the proposed facility complies with the EFSC land use standard under OAR 345-022-0030(2)(b). In Section V(D) of the Final Order, the Council identified all aspects of facility construction, operation, and retirement that would implicate local or statewide land use review requirements and then found that the proposed facility would meet all applicable criteria. This amendment request does not affect the Council's prior findings or conditions related to the land use standard.

**Conclusion.** Approval of this amendment request will satisfy the requirements of OAR 345-022-0030.

Protected Areas Standard, OAR 345-022-0040.

**Discussion.** In Section V(F) of the Final Order, the Council identified 21 protected areas within 20 miles of the proposed facility site. The Council found that the facility could be constructed and operated without significant adverse impacts to any of the protected areas. This amendment request does not propose to change the facility's location and will not require any changes to the Site Certificate to satisfy the Council's protected areas standard. Thus, the request, if approved, will not change the facility's impacts on protected areas as previously analyzed in the Final Order.

**Conclusion.** This amendment request will satisfy the requirements of OAR 345-022-0040.

Retirement and Financial Assurance Standard, OAR 345-022-0050.

**Discussion.** In Section V(C) of the Final Order, the Council found that GHWF had demonstrated that it could adequately restore the site to a useful, nonhazardous condition. The Council found that the total cost of site restoration (in 2008 dollars) was \$14,491,000. Condition IV.C.4 of the Site Certificate requires that GHWF, before beginning construction of the facility, submit to the State of Oregon through the Council a bond or letter of credit in the amount of \$16,491,000 (in 2008 dollars), naming the State of Oregon, acting by and through the Council, as beneficiary or payee. This amendment request does not increase the scope or cost of the site restoration, and does not alter Condition IV.C.4. There has been no change to GHWF's ability to obtain the bond or letter of credit.



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**Conclusion.** Approval of this amendment request will satisfy the requirements of OAR 345-022-0050.

Fish and Wildlife Habitat Standard, OAR 345-022-0060.

**Discussion.** In Section V(M) of the Final Order, the Council classified the habitat areas to be affected by the proposed facility and by the related and supporting facilities. The Council imposed a number of conditions to ensure that construction and operation of the facility would be consistent with OAR 635-415-0025. This amendment request would not affect the Council's findings or conditions regarding this standard.

**Conclusion.** Approval of this amendment request will satisfy the requirements of OAR 345-022-0060.

Threatened and Endangered Species Standard, OAR 345-022-0070.

**Discussion.** In Section V(L) of the Final Order, the Council found that the proposed facility, taking mitigation into account, would not have the potential to significantly reduce the likelihood of the survival or recovery of any threatened or endangered species under Oregon law. This amendment request does not affect the Council's findings or conditions regarding this standard.

**Conclusion.** Approval of this amendment request will satisfy the requirements of OAR 345-022-0070.

Scenic and Aesthetic Values Standard, OAR 345-022-0080.

**Discussion.** In Section V(G) of the Final Order, the Council found that the proposed facility would not adversely impact identified scenic resources even though the proposed facility might be visible from within some of the identified scenic resources. In this request, GHWF does not change any visible part of the facility. Thus, this amendment request will not have any effect on the identified scenic and aesthetic values in the area of the facility.

**Conclusion.** Approval of this amendment request will satisfy the requirements of OAR 345-022-0080.



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Historic, Cultural, and Archaeological Resources Standard, OAR 345-022-0090.

**Discussion.** In Section V(B) of the Final Order, the Council identified certain archaeological sites within the analysis area. The Council imposed conditions requiring the Certificate Holder to avoid impacts to specific resource sites and other construction-related measures to ensure protection of the resources. This amendment request will not impact any identified historic and cultural resources. In this request, the Certificate Holder does not propose to change any aspect of facility siting, construction, or operation that would impact the identified historic and cultural resources. Thus, the impacts previously identified by the Council will not change, and the conditions previously imposed will remain sufficient.

**Conclusion.** Approval of this amendment request will satisfy the requirements of OAR 345-022-0090.

Recreation Standard, OAR 345-022-0100.

**Discussion.** In Section V(H) of the Final Order, the Council noted several recreation opportunities within five miles of the Project site. The Council concluded that the proposed design, construction, and operation of the facility would not have significant adverse impacts on these recreation opportunities. The Council did not impose any conditions related to the Council's recreation standard. This amendment request will not impact any identified recreation opportunities. As stated before, the Certificate Holder does not propose to change any physical aspect of facility siting, construction, or operation through this amendment request. Thus, the impacts on recreation opportunities previously identified by the Council will not change, and no additional conditions are necessary.

**Conclusion.** Approval of this amendment request will satisfy the requirements of OAR 345-022-0100.

Public Services Standard, OAR 345-022-0110.

**Discussion.** In Section V(C) of the Final Order, the Council identified the proposed facility's potential impacts on public services within the site boundary and 30 miles from the site boundary, including an area in the State of Washington. The Council imposed conditions requiring GHWF to develop and coordinate response protocols with local fire districts and implement other fire minimization measures. The Council also imposed conditions to ensure traffic safety. This amendment request will not change any aspect of facility siting, construction,



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or operation that will impact the identified public and private service providers. Thus, the impacts on local services previously identified by the Council will not change, and the conditions previously imposed will remain sufficient.

**Conclusion.** Approval of this amendment request will satisfy the requirements of OAR 345-022-0110.

Waste Minimization Standard, OAR 345-022-0120.

**Discussion.** In Section V(D) of the Final Order, the Council found that GHWF had proposed adequate strategies to minimize solid waste and wastewater generation and to maximize recycling. The Council made compliance with a number of these strategies conditions in the Site Certificate. This amendment request does not affect the Council's findings or conditions regarding this standard.

**Conclusion.** Approval of this amendment request will satisfy the requirements of OAR 345-022-0120.

Division 23 Standards:

None of the standards contained in OAR chapter 345, division 23 are applicable or relevant to the Project.

Public Health and Safety Standards for Wind Facilities, OAR 345-024-0010.

**Discussion.** In Section V(I) of the Final Order, the Council discussed how the Project's design, construction, and operation will preclude structural failure of towers or blades that could endanger the public safety. The Council also addressed GHWF's ability to exclude members of the public from coming in close proximity to turbine blades and electrical equipment. The Council found that the Project can meet the public health and safety standards and imposed conditions of approval, including safety setbacks. This amendment request does not change the Project's design, construction, or operation and therefore will not impact the Council's previous findings.

**Conclusion.** Approval of this amendment request will satisfy the requirements of OAR 345-024-0010.



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Siting Standards for Wind Energy Facilities, OAR 345-024-0015.

**Discussion.** In Section V(J) of the Final Order, the Council evaluated GHWF's ability to design and construct the Project to reduce cumulative adverse environmental effects. The Council found that the proposed design and construction of the Project would reduce visual impact, restrict public access, and reduce cumulative adverse environmental impacts. The Council imposed no findings under this standard. As discussed above, this amendment request will not change the Project's design or construction and therefore will not impact the Council's previous findings.

**Conclusion.** Approval of this amendment request will satisfy the requirements of OAR 345-024-0015.

**5. OAR 345-027-0060(1)(f), Applicable Laws, Rules, or Ordinances**

*(f) An analysis of whether the facility, with the proposed change, would comply with the requirements of ORS Chapter 469, applicable Council rules, and applicable state and local laws, rules and ordinances if the Council amends the site certificate as requested. For the purpose of this rule, a law, rule or ordinance is "applicable" if the Council would apply or consider the law, rule or ordinance under OAR 345-027-0070(9).*

Response: Section (e) above, demonstrates compliance with the applicable Council rules and local land use criteria. This section (f) demonstrates compliance with all other applicable state laws and rules.

Noise, OAR 340-035-0035(1)(b)(B).

The Council applies and enforces the Department of Environmental Quality's ("DEQ") noise standards for energy facilities under its jurisdiction. The DEQ noise standard, OAR 340-035-0035(1)(b)(B), provides as follows: "No person owning or controlling a new industrial or commercial noise source located on a previously unused industrial or commercial site shall cause or permit the operation of that noise source if the noise levels generated or indirectly caused by that noise source increase the ambient statistical noise levels, L10 or L50, by more than 10 dBA in any one area, or exceed the levels in Table 8, as measured at an appropriate measurement point \* \* \* ."



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**Discussion.** In Section VI(A)(1) of the Final Order, the Council found that the Project would comply with the applicable numeric noise limits established by DEQ. The Council imposed design, consultation, and survey-related conditions to ensure compliance. This amendment request will not create any additional noise impacts at the proposed facility. Thus, the noise levels previously identified by the Council will not change, and the noise-related conditions previously imposed will remain sufficient.

**Conclusion.** Approval of this amendment request will satisfy the requirements of OAR 340-035-0035(1)(b)(B).

Wetlands, ORS 196.800-.990.

Pursuant to OAR 345-022-0000, the Council must determine compliance with applicable statutes, ORS 196.800-.990, and applicable Division of State Lands (“DSL”) regulations, OAR 141-085-0005, *et seq.*, relating to fill and other operations taking place within wetlands. These regulations require persons to obtain a fill-removal permit if more than 50 cubic yards of material will be removed from or altered within “waters of the state.” The overall standard to be considered in granting a fill-removal permit is whether the proposed activity would not “unreasonably interfere with the paramount policy of this state to preserve the use of its waters for navigation, fishing and public recreation.” ORS 196.825(2).

**Discussion.** In Section VI(A)(2) of the Final Order, the Council found that the Project would not require a DSL fill-removal permit. This amendment request does not propose to change any part of the facility that would impact wetlands.

**Conclusion.** Approval of this amendment request will satisfy the Council’s obligation to determine compliance with DSL requirements.

Public Health and Safety, ORS 469.401(2).

The Council is required to impose conditions in the site certificate for the protection of public health and safety.

**Discussion.** The Site Certificate has several conditions relating to public health and safety, including cooling tower fogging and icing, electric fields, and magnetic fields; none of these conditions could be impacted by the proposed amendment to the Site Certificate.



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**Conclusion.** Approval of this amendment request will satisfy the Council's public health and safety standards.

**6. OAR 345-027-0060(1)(g), Change of Site Boundary**

- (g) *For an amendment to change the site boundary or to extend the deadlines for beginning or completing construction of the facility, an updated list of the owners of property located within or adjacent to the site of the facility, as described in OAR 345-021-0010(1)(f).*

Response: This amendment request seeks to extend the deadlines for beginning and completing construction of the proposed facility, and the updated list of owners of property located within or adjacent to the proposed facility site is enclosed.

**B. Information Required by OAR 345-027-0060(2)**

- (2) *In a request to amend a site certificate, the certificate holder shall provide the information described in applicable subsections of OAR 345-021-0010(1) in effect as of the date of the request. The certificate holder may incorporate by reference relevant information that was previously submitted to the Office of Energy in the site certificate application or that is otherwise included in the Office of Energy's administrative record on the facility.*

Response: Other than the information set forth in sections A(1)-(6) above, all information contained in the Application for Site Certificate, deemed complete on August 4, 2008 ("ASC"), remains relevant. GHWF hereby incorporates by reference relevant information previously submitted to ODOE in the ASC and otherwise included in ODOE's administrative record for the proposed facility.

**C. Information Required by OAR 345-027-0060(3)**

- (3) *Before submitting a request to amend a site certificate, the certificate holder may prepare a draft request and may confer with the Department about the content of the request. Although the Council does not require the certificate holder to prepare a draft request and confer with the Department, the Council recommends that the certificate holder follow this procedure.*



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Response: GHWF conferred with ODOE prior to filing this amendment request but did not provide a draft request for prior review.

**D. Information Required by OAR 345-027-0060(4)**

- (4) *The certificate holder shall submit an original and ten copies of the amendment request to the Department. In addition to the printed copies, the certificate holder shall submit the text (including appendices and graphical information to the extent practical) of the amendment request in a non-copy protected electronic format acceptable to the Department. \* \* \**

Response: GHWF has enclosed one original and 10 copies of this amendment request and also includes a CD with an electronic version of this request.

**E. Information Required Pursuant to OAR 345-027-0070(10)**

- (10) *In making a decision to grant or deny issuance of an amended site certificate, the Council shall apply the applicable substantive criteria, as described in OAR 345-022-0030, in effect on the date the certificate holder submitted the request for amendment and all other state statutes, administrative rules, and local government ordinances in effect on the date the Council makes its decision. The Council shall consider the following: \* \* \**
- (b) *For an amendment that extends the deadlines for beginning or completing construction, the Council shall consider:*
- (A) *Whether the Council has previously granted an extension of the deadline;*

Response: The Council has not previously granted an extension of the deadline for this Project.

- (B) *Whether there has been any change of circumstances that affects a previous Council finding that was required for issuance of a site certificate or amended site certificate; and*

Response: There are no changes of circumstances that affect a previous Council finding that was required for the issuance of the Project's Site Certificate.

- (C) *Whether the facility complies with all Council standards, except that the Council may choose not to apply a standard if the Council finds that:*



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*(i) The certificate holder has spent more than 50 percent of the budgeted costs on construction of the facility;*

Response: GHWF has not spent more than 50% of the budgeted cost on the Project's construction. This is not a relevant consideration for the Council.

*(ii) The inability of the certificate holder to complete the construction of the facility by the deadline in effect before the amendment is the result of unforeseen circumstances that are outside the control of the certificate holder;*

Response: GHWF has been actively seeking a customer for the renewable energy that will be produced upon completion of construction, yet has been unsuccessful to date due to regulatory restructuring in the marketplace. GHWF is confident once the regulatory arena becomes clearer that the market will rebound and therefore continues to actively pursue a customer for the renewable energy.

*(iii) The standard, if applied, would result in an unreasonable financial burden on the certificate holder; and*

Response: This is not a relevant consideration for the Council for this amendment request. GHWF can demonstrate that the proposed amendment still complies with all applicable Council standards.

*(iv) The Council does not need to apply the standard to avoid a significant threat to the public health, safety or the environment.*

Response: This is not a relevant consideration for the Council for this amendment request. GHWF can demonstrate that the proposed amendment still complies with all applicable Council standards.



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**F. Conclusion**

GHWF demonstrates above that it can satisfy all applicable substantive review criteria to warrant a site certificate amendment to extend the construction deadlines contained in Conditions III.D.1 and III.D.2. Thank you for taking the time to review the Certificate Holder's request for an amendment. If you need any additional information or clarification of the information presented above, please do not hesitate to contact me.

Very truly yours,

Elaine R. Albrich

Enclosure

cc: Daniel J. Runyan  
Brandy Gibson