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OREGON DEPARTMENT OF ENERGY

Regarding Statutes, Administrative Rules,)
and Other Requirements Applicable to the) **PROJECT ORDER**
Proposed SUMMIT RIDGE WIND PROJECT)

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BACKGROUND

5 On May 28, 2009, LotusWorks – Summit Ridge I, LLC (LotusWorks) submitted to the
6 Oregon Department of Energy (ODOE or the “Department”) a Notice of Intent (NOI) to file an
7 application for a site certificate for a proposed wind energy facility. The proposed facility,
8 named the Summit Ridge Wind Project, would be located entirely within Wasco County about
9 ten miles east of Dufur, Oregon, and as described in the NOI would have a peak generating
10 capacity of up to 200 megawatts (MW). The facility will require a site certificate from the
11 Oregon Energy Facility Siting Council (EFSC or the “Council”).

12 On June 11, 2009, the Department issued a public notice of the NOI to the EFSC mailing
13 list and to adjacent property owners as defined at Oregon Administrative Rule (OAR) 345-020-
14 0011(1)(f). The Department also published the notice on June 21, 2009, in *The Dalles Chronicle*
15 newspaper. The public notice included announcement of a public information meeting to be held
16 June 25, 2009 in Dufur, Oregon, and requested public comments on the NOI by 5:00 p.m. July
17 13, 2009.¹ While several persons attended the June 25 information meeting, no parties present
18 expressed an objection specific to the proposed facility. At the close of the comment period on
19 July 13, 2009 the Department had not received any written comments from members of the
20 public. Public comments are discussed further in Section VII.

21 On June 11, 2009 LotusWorks distributed the NOI to the reviewing agencies identified
22 by the Department. In accordance with OAR 345-020-0040, the NOI was sent with a
23 memorandum from the Department requesting comments from reviewing agencies no later than
24 July 13, 2009. At the close of the comment period the Department had received comments from
25 the Wasco County Public Works Department, Oregon Department of Fish and Wildlife (ODFW),
26 the Oregon Parks and Recreation Department (OPRD), the State Historic Preservation Office
27 (SHPO, an office within OPRD), and the U.S. Fish and Wildlife Service (USFWS). Comments
28 from the Wasco County Planning Department were received on July 14, 2009. Comments from
29 reviewing agencies are also discussed in Section VII.

30 The Department issues this project order in accordance with Oregon Administrative Rule
31 (OAR) 345-015-0160, which requires the Department to specify the state statutes, administrative
32 rules, and local, state, and tribal permitting requirements applicable to the construction and
33 operation of the proposed facility (see Sections I through V). This project order specifies the
34 analysis areas for the proposed facility (Section VI) and discusses comments received by the

¹ The notice published in *The Dalles Chronicle*, and the notice sent to the information repositories, was a revised version of the original notice sent to the project mailing list. The revision corrected a typographical error to the public meeting date on page 3 of the original notice.

1 Department from reviewing agencies and members of the public that address matters within the
 2 jurisdiction of the Council that the applicant shall consider and discuss in the application for a
 3 site certificate (Section VII). This project order also includes sections concerning the expiration
 4 date of the Notice of Intent (Section VIII), discussion of project order amendments (Section IX)
 5 and the applicant’s duty to comply with applicable requirements (Section X).

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

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

14 THEREFORE, pursuant to ORS 469.330(3) and OAR 345-015-0160(1), the Department
 15 issues this project order establishing the requirements for a site certificate application for the
 16 Summit Ridge Wind Project.

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 18 **PROPOSED FACILITY: SUMMIT RIDGE WIND PROJECT**
 19 **PROJECT ORDER**
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31	I. State Statutes, Administrative Rules, And Related Permit Requirements Applicable	
32	To The Proposed Facility	
33	This section identifies the Oregon statutes and administrative rules that LotusWorks must	
34	address in the application, and related state permits and approvals.	
35	(a) Energy Facility Siting Council	
36	Statute and Rule References: Statutes pertaining to the regulation of energy	
37	facilities, starting at ORS 469.300, and administrative rules in OAR Chapter 345,	
38	including the general provisions of Division 1 and the requirements of Divisions 21,	
39	22, 24, 26 and 27 (as discussed further below).	
40	Permit: An energy facility site certificate is required before construction or	
41	operation.	
42	Discussion:	
43	<u>OAR Chapter 345, Division 21 (Application for Site Certificate)</u>	

1 See Section V for a discussion of specific information to be included in the
2 application per the requirements of OAR 345-021-0010.

3 OAR Chapter 345, Division 22 (General Standards for Siting Facilities)

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

12 OAR Chapter 345, Division 24 (Specific Standards for Siting Facilities)

13 Specific standards addressed in OAR Chapter 345, Division 24, apply to the
14 proposed facility, including: Public Health and Safety Standards for Wind Energy
15 Facilities (OAR 345-024-0010); Siting Standards for Wind Energy Facilities (OAR
16 345-024-0015); and Siting Standards for Transmission Lines (OAR 345-024-0090).

17 OAR Chapter 345, Division 26 (Construction and Operation Rules for Facilities)

18 If the Council issues a site certificate for the proposed facility, the certificate holder
19 must implement a compliance plan, as described in OAR 345-026-0048 and
20 periodically must submit reports as described in OAR 345-026-0080.

21 OAR Chapter 345, Division 27 (Site Certificate Conditions)

22 The site certificate will contain the mandatory conditions, applicable site-specific
23 conditions, and monitoring conditions described in OAR 345-027-0020, -0023 and -
24 0028.

25 **(b) Oregon Department of Agriculture, Plant Division — Native Plant**
26 **Conservation Program**

27 **Statute and Rule References:** ORS Chapter 564 (Wildflowers; Threatened or
28 Endangered Plants); and OAR Chapter 603, Division 73 (Plants: Wildflowers and
29 Endangered, Threatened, and Candidate Species).

30 **Permit:** None required.

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

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

1 LotusWorks should include in its application for a site certificate a list of both state-
2 and federally-listed endangered, threatened, and candidate plant species that have
3 potential to occur in the analysis area. LotusWorks should identify these species
4 based on a review of literature, consultation with knowledgeable individuals, and
5 reference to the list of species maintained by the Oregon Natural Heritage
6 Program.²

7 LotusWorks should include in its application for a site certificate a description and
8 the results of a field survey for the listed plant species. The survey must be
9 conducted by a person with expertise in field botany, plant taxonomy and biological
10 conservation. The survey should be conducted during the time of year when it is
11 possible to identify any listed plants (usually when these plants are in flower or
12 fruit). The field survey report should include written descriptions of the survey
13 methods and areas surveyed. LotusWorks should consult with the Oregon
14 Department of Agriculture, Native Plant Conservation Program, regarding field
15 survey methods, appropriate survey seasons, qualifications of field survey
16 personnel, and the information to be included in the field survey report.

17 **(c) Oregon Department of Environmental Quality — Water Quality Division**

18 **Statute and Rule References:** ORS Chapter 468B (Water Quality); OAR Chapter
19 340, Divisions 40 (Groundwater Quality Protection), 45 (Regulations Pertaining To
20 NPDES and WPCF Permits), 71 (Onsite Wastewater Treatment Systems), and 216
21 (Air Contaminant Discharge Permits).

22 **Permits:** National Pollutant Discharge Elimination System (NPDES), Water
23 Pollution Control Facilities (WPCF), and onsite wastewater system permits.

24 **Discussion:**

25 OAR Chapter 340, Division 45 (NPDES and WPCF Permits)

26 In accordance with OAR 345-021-0000(7), LotusWorks must submit to the
27 Department one copy of all applications for federally-delegated permits (including
28 NPDES permits). The applicant must also provide a letter or other indication from
29 the Oregon Department of Environmental Quality (DEQ) stating that the agency
30 has received a permit application from the applicant, identifying any additional
31 information the agency is likely to need from the applicant based on the agency's
32 review of the application as submitted, and estimating the date when the agency
33 will complete its review and issue a permit decision.

34 The U.S. Environmental Protection Agency has delegated authority to DEQ to issue
35 NPDES Storm Water Discharge permits for construction and operation activities.
36 The Council does not have jurisdiction over the federally-delegated NPDES permit,

² 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 both state and federal law. This requirement applies because the Council, in making its decision, must be mindful of possible adverse impacts to federally listed species. Note also that OAR 345-022-0070 applies to all lands affected by a proposed facility including state, federal and private lands.

1 but the Council may rely on the determinations of compliance and the conditions in
2 the federally-delegated permit in making its determination about whether other
3 standards and requirements under the Council's jurisdiction are met.

4 Pursuant to OAR 340-045-0033(6), a WPCF-1000 permit is required for gravel
5 mining and concrete batch plant activities related to the proposed facility.

6 OAR Chapter 340, Division 71 (Onsite Wastewater Treatment Systems)

7 The NOI states that the Operations and Maintenance (O&M) Building will
8 discharge domestic wastewater to an onsite septic tank and drain field. Such
9 discharges may require a WPCF permit from DEQ. In such event, LotusWorks
10 must first verify that the site is suitable for an onsite sewage disposal system by
11 applying to DEQ or its designated agency for a site evaluation of groundwater and
12 soil conditions. In the application for a site certificate, LotusWorks should provide
13 information demonstrating that the proposed septic system is exempt from the
14 WPCF permit requirement or, if it is not exempt, that it meets the requirements for
15 a permit.

16 If a WPCF permit is required, it is a state permit that is under Council jurisdiction.
17 The requirements for the WPCF permit are set forth in OAR Chapter 340, Division
18 71. Regulations pertaining to WPCF permits are in OAR Chapter 340, Division 45.
19 LotusWorks must include in the application for a site certificate all information that
20 would otherwise be required by DEQ in an application for the permit.

21 OAR Chapter 340, Division 216 (Air Contaminant Discharge Permits)

22 Pursuant to OAR 345-216-0060(2)(a), a general Air Contaminant Discharge Permit
23 (ACDP) is required for rock crushers and ready-mix concrete plants related to the
24 proposed facility.

25 **(d) Oregon Department of Environmental Quality – Land Quality Division**

26 **Statute and Rule References:** ORS Chapters 465 and 466 (Hazardous Waste and
27 Hazardous Materials I and II); and OAR Chapter 340, Divisions 100 through 122
28 (Hazardous Waste Management).

29 **Permit:** None required.

30 **Discussion:** LotusWorks must include in the application a list of all hazardous
31 materials that potentially would be stored or used at the facility site during
32 construction and operation. LotusWorks must comply with DEQ regulations
33 concerning the use of hazardous materials and the clean up and disposal of
34 hazardous wastes. The requirement is incorporated in the general standard of
35 review, OAR 345-022-0000.

36 The DEQ hazardous waste program implements requirements of the U.S.
37 Environmental Protection Agency (EPA) and is a federally-delegated program.
38 However, information on hazardous materials use and storage is important in
39 determining the potential for spills that could adversely affect soils and potentially
40 affect the cost and success of site restoration. A complete application would
41 include sufficient information on plans and programs for storage of hazardous

1 materials and management of hazardous waste for DEQ to comment on their
2 adequacy.

3 **(e) Oregon Department of Environmental Quality — Noise Control Regulations**

4 **Statute and Rule References:** ORS 467.020 and ORS 467.030 (Noise Control);
5 and OAR Chapter 340, Division 35 (Noise Control Regulations).

6 **Permit:** None required

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

10 LotusWorks shall include a noise analysis in the application for a site certificate.
11 The analysis must contain information to support a finding by the Council that the
12 proposed facility would comply with the requirements of OAR 340-035-0035. The
13 analysis must:

- 14 • Identify the locations of all noise sensitive properties that might receive noise
15 levels potentially exceeding applicable limits from the Summit Ridge Wind
16 Project turbines;
- 17 • Identify all turbine locations used in performing the analysis;
- 18 • Provide manufacturer’s warranted sound power levels, including octave band
19 data, for all turbine types that might be used at the Summit Ridge Wind
20 Project. If specific turbine types are not known, LotusWorks must provide the
21 maximum sound power level and octave band data that would not be exceeded
22 by any turbine type used at the facility; and
- 23 • Identify all input parameters used in performing noise modeling.

24 **(f) Oregon Department of Fish and Wildlife**

25 **Statute and Rule References:** ORS Chapter 496 (Application, Administration and
26 Enforcement of Wildlife Laws); ORS Chapter 498 (ORS 498.301 through
27 498.346—Screening and By-pass Devices for Water Diversions or Obstructions);
28 ORS Chapter 506 (ORS 506.036—Protection and Propagation of Fish and ORS
29 506.109—Food Fish Management Policy); ORS Chapter 509 (ORS 509.140—
30 Placing Explosives in Waters and ORS 509.580 through 509.910—related to Fish
31 Passage); and OAR Chapter 635, Division 100 (Wildlife Diversity Plan) and
32 Division 415 (Fish and Wildlife Habitat Mitigation Policy).

33 **Permit:** None required

34 **Discussion:**

35 OAR Chapter 635, Division 100 (Wildlife Diversity Plan)

36 The Oregon Department of Fish and Wildlife (ODFW) provides technical review
37 and recommendations on compliance with Council standards. ODFW will base its
38 review and recommendations on state wildlife policy and threatened and

1 endangered species policy (Application, Administration and Enforcement of
2 Wildlife Laws, see ORS 496.012 and ORS 496.171 - 192).

3 OAR Chapter 635, Division 100, provides authority for adoption of the state
4 sensitive species list and the Wildlife Diversity Plan and contains the State list of
5 threatened and endangered wildlife species. LotusWorks should include in its
6 application for a site certificate a list of both state-listed and federally-listed
7 threatened and endangered wildlife species and State Sensitive Species that have
8 potential to occur in the analysis area. LotusWorks should identify these species
9 based on a review of literature, consultation with knowledgeable individuals, and
10 reference to the list of species published by the Oregon Natural Heritage
11 Information Center.

12 LotusWorks should include in its application a description and the results of a field
13 survey for the listed wildlife species performed by qualified survey personnel
14 during the season or seasons appropriate to the detection of these species. The field
15 survey report should include written descriptions of the survey methods and areas
16 surveyed. LotusWorks should consult with ODFW regarding field survey methods,
17 appropriate survey seasons and qualifications of field survey personnel.

18 OAR Chapter 635, Division 415 (Fish and Wildlife Habitat Mitigation Policy)

19 OAR Chapter 635, Division 415, classifies six habitat categories and establishes a
20 mitigation goal for each category. LotusWorks must identify the appropriate
21 habitat category for all areas affected by the proposed facility and provide the basis
22 for each category designation. LotusWorks must show how it would comply with
23 the habitat mitigation goals and standards by appropriate monitoring and mitigation.

24 **(g) Oregon Department of Geology and Mineral Industries**

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

26 **Permit:** None required.

27 **Discussion:** The Department of Geology and Mineral Industries (DOGAMI)
28 provides technical review and recommendations on compliance with the Council's
29 structural standard, OAR 345-022-0020. In its application, LotusWorks must
30 include a geotechnical report that includes, as a minimum, the information required
31 by OAR 345-021-0010(1)(h). Also relevant is the information required by OAR
32 345-021-0010(1)(i). (See Section V of this project order for additional discussion
33 concerning application requirements.)

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

1 **(h) Oregon Parks and Recreation Department**

2 **Statute and Rule References:** ORS 97.740 (Indian Graves and Protected Objects);
3 ORS 358.905 (Archaeological Objects and Sites); ORS 390.010 (Outdoor
4 Recreation); ORS 390.235 (Archaeological Sites and Historical Material); and OAR
5 Chapter 736, Division 51 (Archaeological Permits).

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

8 **Discussion:** The Oregon Parks and Recreation Department provides technical
9 review and recommendations on compliance with Council standards.

10 The State Historic Preservation Office (SHPO) within the Oregon Parks and
11 Recreation Department provides technical review and recommendations in
12 reference to the Council’s Historic, Cultural and Archaeological Resources
13 Standard (OAR 345-022-0090). The application for a site certificate should include
14 an archaeological and cultural survey conducted by a qualified archaeologist.
15 LotusWorks should work as early as possible with SHPO to ensure that
16 LotusWorks provides required information in SHPO’s preferred formats.

17 **NOTE:** Information concerning the location of archaeological sites or objects may be exempt
18 from public disclosure under ORS 192.501(11). Specific location information should not be
19 included in the text of application for a site certificate. Such information, including
20 archaeological survey reports, should be provided separately only after consultation with the
21 Department.

22 **(i) Oregon Department of State Lands — Removal-Fill Authorizations**

23 **Statute and Rule References:** ORS 196.800 - 990 (Removal of Material; Filling);
24 and OAR Chapter 141, Division 85 (Administrative Rules Governing the Issuance
25 and Enforcement of Removal-Fill Authorizations Within Waters of Oregon
26 Including Wetlands).

27 **Permit:** A removal-fill permit is required if 50 cubic yards or more of material is
28 removed, filled or altered within a jurisdictional water of the State [OAR 141-085-
29 0520(4)(b)].

30 **Discussion:** LotusWorks should include information in the application for a site
31 certificate to support a finding on whether a removal-fill permit is needed.
32 LotusWorks should consult with the Department of State Lands and obtain its
33 concurrence, which may require a formal delineation of wetlands and waters of the
34 State within the site boundary. If a removal-fill permit is needed, the application
35 must include an itemized demonstration of each applicable provision of ORS
36 196.825 (Criteria for Issuance of a Permit) and OAR 141-085-0550 (Application
37 Requirements for All Authorizations). If the permit is needed, the Council will
38 make the issuing decision in consultation with the Department of State Lands.

39 **(j) Oregon Water Resources Department — Water Rights/Adjudications Division**

40 **Statute and Rule References:** ORS Chapters 536 through 540 (Water
41 Resources/Water Rights); and OAR Chapter 690 (Water Resources Department).

1 **Permit:** Water right.

2 **Discussion:** LotusWorks should include information in the application for a site
3 certificate to support a finding of whether a water right is or is not required. The
4 application for a site certificate must identify the sources of water to be used by the
5 proposed facility during construction and operation, the water right under which the
6 water would be provided, the quantity of water needed, and the means of disposal
7 of all water discharges from the proposed facility.

8 If a new water right or water right transfer is required, the application for a site
9 certificate must include information to support a finding for issuance of a
10 groundwater or surface water permit under ORS Chapter 537 (Appropriation of
11 Water Generally) or transfer of a water use under ORS Chapter 540 (Transfer or
12 Forfeiture of Water Rights), including a discussion and evaluation of all relevant
13 factors, including those factors listed in ORS 537.153(2) and (3), ORS 537.170(8)
14 and OAR Chapter 690, Divisions 310 (Water Right Application Processing) and
15 380 (Water Right Transfers). If a permit or transfer is needed, the Council will
16 make the issuing decision in consultation with the Oregon Water Resources
17 Department.

18

19 **II. NATIVE AMERICAN TRIBES**

20 **Statute and Rule References:** Not applicable

21 **Permit:** None

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

30 **III. APPLICABLE LOCAL GOVERNMENT ORDINANCES**

31 **Statute and Rule References:** Applicable substantive criteria from the Wasco County
32 code and comprehensive plan.

33 **Permit:** Conditional Use Permits.

34 **Discussion:** In the NOI, LotusWorks states that it intends to request a Council
35 determination regarding land use in accordance with ORS 469.504(1)(b). The proposed
36 site is entirely within Wasco County (the “County”) and the Council must consider the
37 applicable substantive criteria from this county. Wasco County has been appointed as a
38 Special Advisory Group, as required under ORS 469.480. The applicable substantive
39 criteria are those in effect on the date the application is submitted, as defined by ORS
40 469.504(1)(b)(A). In addition, the application must identify any Land Conservation and
41 Development Commission administrative rules and goals and any land use statutes that

1 are not implemented in the County’s comprehensive plans and are therefore directly
2 applicable to the facility under ORS 197.646.

3 LotusWorks should contact the Wasco County Planning Department to discuss the
4 requirements for conditional use permits. In the application for a site certificate,
5 LotusWorks should include information necessary to demonstrate compliance with the
6 substantive criteria from the Wasco County code and comprehensive plan that are
7 applicable to issuance of the permits. As provided in ORS 469.401(3), if the Council
8 issues a site certificate, the County will be bound to issue the conditional use permits,
9 subject only to the conditions set forth in the site certificate.

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

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

14 15 **V. APPLICABLE REQUIREMENTS FROM OAR CHAPTER 345, DIVISION 21**

16 OAR 345-021-0000 (General Requirements)

17 All requirements apply. LotusWorks must submit the information required by OAR 345-
18 021-0000, particularly the information in sections (6) and (7) regarding the status of non-
19 federally-delegated and federally delegated permits.

20 OAR 345-021-0010 (Contents of an Application)

21 The application for a site certificate should include the information described in OAR
22 345-021-0010(2) and (3), as well as the information from 345-021-0010(1), which
23 requires the applicant to include in its application the information necessary to address
24 each provision of the rules identified in this project order. Each of the paragraphs below
25 indicates which provision(s) of OAR 345-021-0010(1)(a) – (dd) will apply to the Summit
26 Ridge Wind Project.

27 **(a) Exhibit A – General Information about the Applicant**

28 Paragraphs (A) through (D) apply. Note that paragraph (B) calls for a list of
29 “participating persons, other than individuals.” “Person” is defined in OAR 345-
30 001-0010(45). Include in the application information about all third-party entities
31 (persons other than individuals) that are important to the facility.

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

33 All paragraphs apply except (A)(vi), (vii) and (viii). Paragraph (D) applies only if
34 the transmission line associated with the Summit Ridge Wind Project (a “related
35 facility” under Council Rules) is more than 10 miles long.

36 LotusWorks must provide specifications on all turbine types that might be used at
37 the Summit Ridge Wind Project. If specific turbine types are not known,
38 LotusWorks must provide information on the range of turbine types that might be
39 used. Specifications include: peak generating capacity, turbine hub height in

1 meters, rotor diameter in meters, maximum sound power level (and octave band
2 data), overall weight of metals in the tower and nacelle per turbine in net (U.S.)
3 tons, estimated cubic yards of concrete per turbine in the tower foundation to a
4 depth of three feet below grade (that is, the concrete in the foundation above that
5 depth), and the maximum diameter of the tower foundation. If the proposed
6 facility might include more than one size of turbine (generating capacity),
7 LotusWorks must state the maximum number of turbines in each turbine size that
8 would be built and the maximum combined peak generating capacity of the
9 facility as a whole.

10 LotusWorks must include a physical description and description of the location of
11 all components of the facility including, but not limited to, turbines,
12 meteorological towers, access roads, road modifications, transmission lines
13 (including collector lines), concrete batch plant and gravel mining operations,
14 substations, interconnection facilities, and O&M buildings. LotusWorks must
15 include a written legal description of the micro-siting corridors similar in form to
16 the legal description required under OAR 345-027-0020(2). Corridors for turbine
17 strings, access roads and transmission lines may be defined by Global Positioning
18 System (GPS) coordinates and a distance from centerline. LotusWorks must
19 describe any improvement or modification of existing structures, including roads.

20 The applicant should note the additional information required by OAR 345-021-
21 0010(1)(b)(D)(i) – (viii) if the Summit Ridge Wind Project transmission line
22 exceeds 10 miles in length and crosses more than one jurisdiction.

23 **(c) Exhibit C – Location**

24 Maps included in Exhibit C should provide enough information for property
25 owners potentially affected by the facility to determine whether their property is
26 within or adjacent to the site. Major roads should be named. The application for
27 a site certificate should include identification of lands enrolled in the
28 Conservation Reserve Program and lands currently used for commercial
29 agriculture. LotusWorks should include maps drawn to a scale of 1 inch = 2,000
30 feet when necessary to show detail.

31 Maps should indicate the “site boundary” as defined in OAR 345-001-0010(53).
32 The site boundary must include all areas within proposed micro-siting corridors for
33 turbines or other components. The proposed turbine string layout should be
34 indicated. If the use of different turbine sizes would result in different turbine
35 string alignments, all variations in turbine string alignments should be shown.

36 **(d) Exhibit D – Organizational Expertise**

37 All paragraphs apply.

38 **(e) Exhibit E – Permits**

39 All paragraphs apply.

1 **(f) Exhibit F – Property Owners**

2 The NOI states that the facility corridors are located outside of the urban growth
3 boundary within zoned farmland. Accordingly, the distance in paragraph (C)
4 applies (500 feet from the site boundary).

5 **(g) Exhibit G – Materials Analysis**

6 All paragraphs apply. See discussion in Section I.D (Oregon Department of
7 Environmental Quality) of this project order regarding the importance of listing
8 hazardous materials used and stored at the facility, or at temporary access and
9 laydown areas. ODOE also uses the materials analysis to identify any hazardous
10 materials whose storage could affect site restoration.

11 **(h) Exhibit H – Geology**

12 All paragraphs apply except (E).

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

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

23 **NOTE:** OAR 345-021-0010(1)(h), paragraphs (A), (F)(i), and (F)(iv), each contain
24 references to potentially outdated guidelines and codes. The applicant should consult directly
25 with the Oregon Department of Geology and Mineral Industries regarding the most current
26 standards the applicant should use in preparing information for the site certificate application.
27 The application should note the codes and guidelines used to prepare information in Exhibit H
28 and provide an explanation if any are different from those cited in the Council’s rules.

29 **(i) Exhibit I – Soils**

30 All paragraphs apply. LotusWorks should include information describing the
31 impact of construction and operation of the proposed facility on soil productivity
32 in farm zones. Describe all measures proposed to maintain soil productivity
33 during construction and operation. LotusWorks should consult with local
34 farmers, landowners, and soil conservation districts regarding mitigation of
35 impacts to farmland. Specific discussion should be included of issues related to
36 weed encroachment, interference with irrigation equipment, and the potential for
37 restrictions to aerial applications caused by the proximity of tall structures
38 (turbines or meteorological towers). Erosion control should also be emphasized
39 on forestland (if any are impacted) to minimize/mitigate damage to forest soils
40 and streams.

1 **(j) Exhibit J – Jurisdictional Waters**

2 All paragraphs apply.

3 **NOTE:** OAR Chapter 141, Division 85 (“Administrative Rules Governing the Issuance and
4 Enforcement of Removal-Fill Authorizations Within Waters of Oregon Including Wetlands”) was recently revised. The citations in OAR 345-021-0010(1)(j) to rules in Division 85 of
5 OAR Chapter 141 are no longer valid. For example, reference to OAR 141-085-0010 should
6 now be 141-085-0510 (Definitions). The citation to OAR 141-085-0018 should now be to
7 OAR 141-085-0520. The applicant should consult directly with the Oregon Department of
8 State Lands if there are any questions regarding the applicable regulations.
9

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

11 The NOI states that LotusWorks will obtain a Council determination of
12 compliance with Wasco County’s land use laws and regulations under ORS
13 469.504(1)(b). LotusWorks can change this election, but the election is final when
14 the application is submitted.

15 Paragraphs (A) and (C) apply. Paragraphs (B) and (D) do not apply.

16 The application for a site certificate should include a discussion of whether the
17 proposed facility, including its related collection and transmission lines, would be
18 compatible with farm use, would not seriously interfere with accepted farm
19 practices, and would not significantly increase the cost of accepted farm practices.

20 **(l) Exhibit L – Protected Areas**

21 All paragraphs apply.

22 **(m) Exhibit M – Financial Capability**

23 All paragraphs apply.

24 **(n) Exhibit N – Need for the Facility**

25 Exhibit N does not apply.

26 **(o) Exhibit O – Water Use**

27 All paragraphs apply except (D).

28 **(p) Exhibit P – Fish and Wildlife Habitat**

29 All paragraphs apply.

30 **(q) Exhibit Q – Threatened and Endangered Species**

31 All paragraphs apply.

32 **(r) Exhibit R – Scenic Resources**

33 All paragraphs apply. Include visual depictions of the project’s impact on scenic
34 resources within the analysis area, if visual depictions are available.

- 1 **(s) Exhibit S – Historic, Cultural and Archaeological Resources**
2 All paragraphs apply.
- 3 **(t) Exhibit T – Recreation**
4 All paragraphs apply.
- 5 **(u) Exhibit U – Public Services**
6 All paragraphs apply. Include an analysis of estimated facility-related traffic
7 during construction and operation and the potential impact on traffic safety.
8 Discuss transportation of heavy equipment and shipments of facility components
9 during construction, including proposed transportation routes.
- 10 **(v) Exhibit V – Solid Waste and Wastewater**
11 All paragraphs apply.
- 12 **(w) Exhibit W – Facility Retirement**
13 All paragraphs apply. Explain and justify the methodology used to estimate
14 retirement costs.
- 15 **(x) Exhibit X – Noise**
16 All paragraphs apply. The project is considered an industrial noise source on a
17 previously unused site. The analysis should include noise predictions based on a
18 “worst case analysis” that assumes that turbines would be located within
19 micrositing corridors in a position closest to the nearest noise sensitive receiver.
20 The application for a site certificate should include documentation of any waivers
21 that LotusWorks needs if the predicted noise levels at an affected property exceed
22 the ambient degradation standard.
- 23 **(y) Exhibit Y – Carbon Dioxide Emissions**
24 Exhibit Y does not apply.
- 25 **(z) Exhibit Z – Cooling Tower Impacts**
26 Exhibit Z does not apply.
- 27 **(aa) Exhibit AA – Electric and Magnetic Fields**
28 All paragraphs apply to any transmission line, regardless of size, that is a related
29 or supporting facility, including collector lines.
- 30 **(bb) Exhibit BB – Other Information**
31 Any information requested in this project order that is not addressed in any other
32 exhibit.

1 **(cc) Exhibit CC – Other Law**

2 Exhibit CC applies.

3 **(dd) Exhibit DD – Specific Standards**

4 Paragraphs (A) and (C) apply. Per Section I(a) of this project order, the applicant
5 should include in Exhibit DD information to support findings by the Council that
6 the proposed facility complies with the Public Health and Safety Standards for
7 Wind Energy Facilities (OAR 345-024-0010), the Siting Standards for Wind
8 Energy Facilities (OAR 345-024-0015), and the Siting Standards for
9 Transmission Lines (OAR 345-024-0090).

10
11 **VI. ANALYSIS AREAS FOR THE PROPOSED FACILITY**

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

20 For all potential impacts, the analysis area includes all the area within the site boundary.
21 In addition to the definition of “site boundary” in OAR 345-001-0010(53), the site
22 boundary includes the perimeter of any micrositing corridors, of all outlying components
23 (facility components lying outside of any micrositing corridor), and all temporary
24 laydown and staging areas, turn-around areas and crane transport corridors. In its
25 application for a site certificate, LotusWorks must describe the site boundary and provide
26 a map showing the proposed site boundary.

27 The analysis areas are included in the following table:

Affected Standard or Resource	Exhibit	Analysis Area
Structural Standard	Exh. H	The area within the site boundary, notwithstanding the distances related to an assessment of seismic hazards required by OAR 345-021-0010(1)(h).
Soils	Exh. I	The area within the site boundary.
Wetlands	Exh. J	The area within the site boundary, and wetland areas hydrologically connected to wetlands within the site boundary.
Land Use	Exh. K	The area within the site boundary and one-half mile from the site boundary.
Protected Areas	Exh. L	The area within the site boundary and 20 miles from the site boundary.
Fish and Wildlife Habitat	Exh. P	The area within the site boundary and within one-half mile from all ground disturbing activities anticipated during construction, unless otherwise described in an ODFW- and ODOE-approved protocol.
Threatened and Endangered Species	Exh. Q	The area within the site boundary and 5 miles from the site boundary.
Scenic and Aesthetic Values	Exh. R	The area within the site boundary and 20 miles from the site boundary.
Historic, Cultural and Archaeological Resources	Exh. S	The area within the site boundary.
Recreational Opportunities	Exh. T	The area within the site boundary and 5 miles from the site boundary.
Public Services	Exh. U	The area within the site boundary and 10 miles from the site boundary, including the city of The Dalles.

1

2 **VII. COMMENTS FROM REVIEWING AGENCIES AND THE PUBLIC**

3 **(a) Public Comments**

4 In addition to the applicable statutes, rules, and land use requirements listed in
5 this Project Order, the application must address issues arising from public comments
6 following the informational meeting on the NOI (OAR 345-015-0130). However, at the
7 close of the comment period on July 13, 2009 the Department had not received any
8 written comments from members of the public.

9 **(b) Reviewing Agency and Other Comments**

10 The Department has received comments on the Summit Ridge Wind Project NOI
11 from the Wasco County Public Works Department, ODFW, OPRD, the State Historic
12 Preservation Office (SHPO, an office within OPRD), the USFWS, and the Wasco County
13 Planning Department. These comments have been sent to LotusWorks for their

1 consideration in development of a preliminary application for site certificate, as required
2 by OAR 345-015-0140. LotusWorks should conduct an in-depth review of agency
3 comments and work closely with each commenting agency prior to the submittal of the
4 preliminary application. The application must include sufficient information for the
5 Council to determine the adequacy of the applicant's response to significant comments
6 from reviewing agencies.
7

8 VIII. EXPIRATION DATE OF THE NOTICE OF INTENT

9 In accordance with OAR 345-20-0060, the Summit Ridge Wind Project NOI expires on
10 May 28, 2011, unless LotusWorks petitions the Council for an extension. If LotusWorks does
11 not submit an application for a site certificate before the expiration of the NOI, then LotusWorks
12 must submit a new NOI to satisfy ORS 469.330.
13

14 IX. PROJECT ORDER AMENDMENT AND APPLICATION COMPLETENESS


15 The Council or the Department may amend this project order at any time [ORS
16 469.330(4)]. Amendment may include changes to the analysis areas. To issue a site certificate,
17 the Council must determine that the proposed facility complies with Oregon statutes and
18 administrative rules identified in the project order, as amended, as applicable to the issuance of a
19 site certificate for the proposed facility [ORS 469.503(3)].

20 Under OAR 345-015-0190(5), when the Department determines the application for a site
21 certificate contains adequate information for the Council to make findings on all applicable
22 Council standards, the Department may find the application for a site certificate complete,
23 regardless of whether the application for a site certificate contains all information required under
24 OAR 345-021-0000 and OAR 345-021-0010. Notwithstanding a determination that an
25 application for a site certificate is complete, the Department may require additional information
26 from the applicant if the Department identifies a need for that information during its review of
27 the application for a site certificate [OAR 345-015-0190(9)].
28

29 X. APPLICABILITY AND DUTY TO COMPLY

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

33 OREGON DEPARTMENT OF ENERGY

34
35
36
37 
38 _____
39 Thomas M. Stoops, Siting Manager

39 Oregon Department of Energy

40 Date of Issuance: July 30, 2009