

**COSNER
V.
UMATILLA COUNTY**

LUBA NO. 2011-070, 2011-071, 2011-072

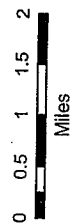
Local File Number
Text Amendment, #T-10-042

CONSOLIDATED RECORD

VOLUME 8 of 8, Page 4156 - 4442

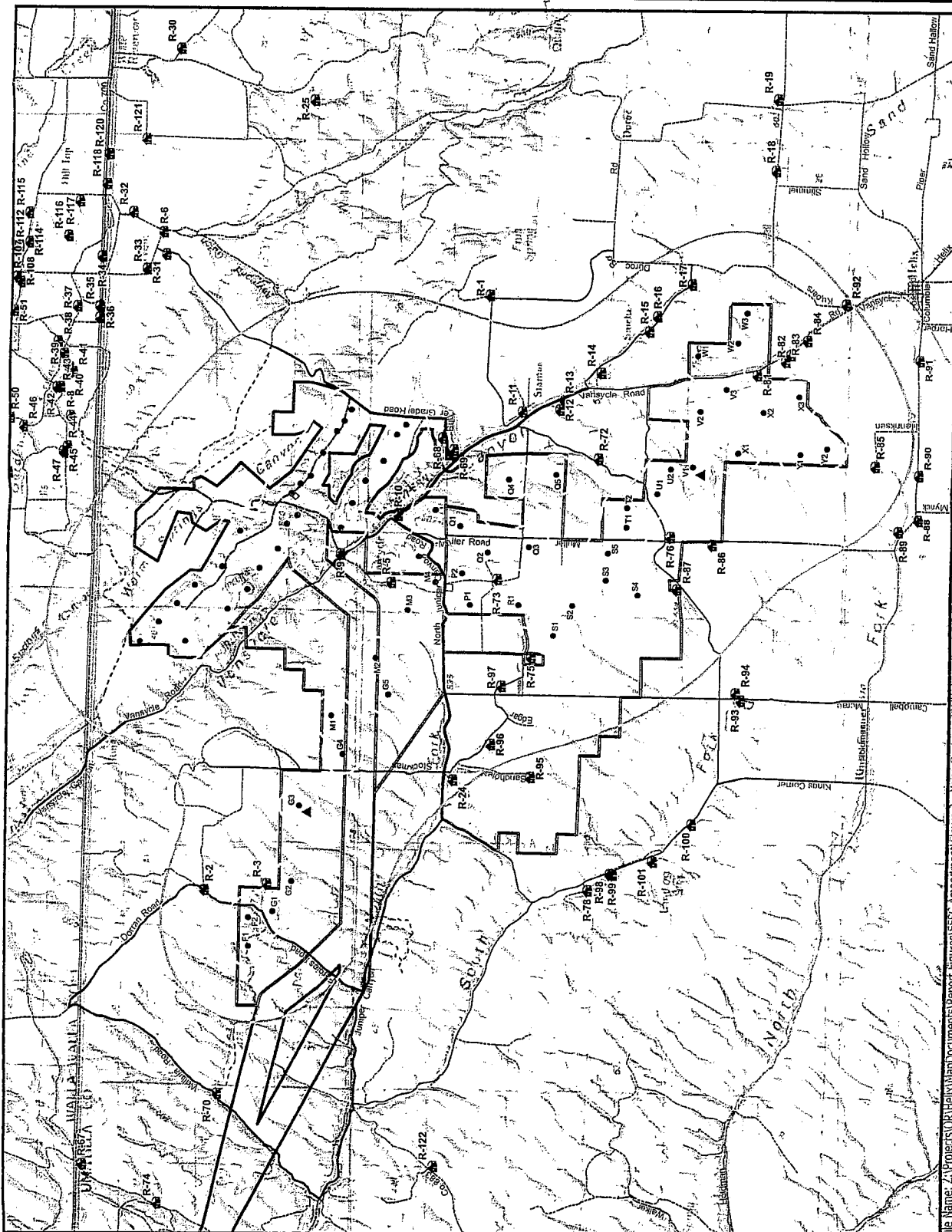
Figure 2
Noise Contours
 3.0-MW Turbine Layout
 (Minimum Turbine Layout)
 Helix Wind Power Facility Amendment
 Noise Analysis Addendum

- Proposed Expanded Helix Site Boundary
- Previously-Approved Helix Site Boundary
- Previously-Approved Turbine
- Previously-Approved Substation
- House
- 36-dBA Noise Contour
- 50-dBA Noise Contour
- Proposed Permanent Facilities
 - Proposed Turbine
 - Proposed Met Tower
 - Proposed Substation
- Existing Facilities
 - Existing Transmission Line
 - Railroad
 - Public, Paved
 - Public, Gravel
 - Other Public Road
 - Private, Farm Road
 - Other Private Road



**IBERDROLA
 RENEWABLES**

Modified Date: 8/4/2010



File Name: Z:\Projects\Helix\MapDocuments\Report Figures\FSC Amendment\Figure 2 - Noise Contours (3MW Layout).mxd

00004157

Wind Power Energy Developments: Assuring Fairness and Equity Across Communities

exhibit #3

Impact Analysis Relative to Current Community Citizen Groupings

I. Impacts on the General Community

- A. Community Impact Mitigation Fee Negotiated,
by County Board of Commissioners

II. Impacts on the Land Owner of Wind Tower Sites

- B. Land Owner Site Rental Fee Negotiated,
by the Land Owner

III. Impacts on Neighbors Living Near to Wind Tower Sites

(generally with no Wind Tower lease rents)

- A. Mitigation Fee Generally not Negotiated, until more recently
- B. "Indirect Effects" of wind towers generally "ignored" and/or
not respected as being "real" or "significant"

- C. Neighbors are pressed by the Wind Power Developers to

Sign Noise Waivers or Noise Easements (difficult for the elderly)

- D. Increasing conflict between neighbors with wind towers, and those
who have little choice but to live near the towers

- E. Those not living near the wind towers, including the developers, often
do not comprehend the intensity of negative impacts on the neighbors¹

Clinton Reeder

I. FAIRNESS AND EQUITY IN SHARING COSTS AND BENEFITS OF WIND POWER DEVELOPMENT ACROSS COMMUNITIES

<u>PARTIES INVOLVED</u>	<u>PAYMENTS & BENEFITS GENERALLY RECEIVED FROM THE DEVELOPER</u>
1. INVESTORS	Dividends, interest Gains (Losses) in invested principal (stock, bond values) Gain (loss) on sale of wind power development project
2. CREDITORS	Interest & General Service Fees Negotiated Special Service Payments Maybe, Gain (loss) on sale of wind power development project
3. EXECUTIVES	Salary and Benefits; Bonuses and Options
4. CONTRACTORS, SUPPLIERS	Sale of supplies, materials and services (rock, concrete, welding, etc) Construction Project Contract Payments
5. WIND TOWER SITE OWNERS	Tower site rents, maybe contract service fees (weed control, etc.) Improved field access roads, improved county roads & bridges Residual asset values of left-behind wind power facilities
6. EMERGENCY SERVICE PROVIDERS	Cash for equipment, training Contract fees for services, enhanced capabilities, out-of-area service
7. CITIES & RURAL COMMUNITIES	Negotiated Impact Mitigation Payments, shared across communities
8. CLOSE NEIGHBORS, TO WIND TOWERS	Often nothing, except maybe noise easement payments, which can vary widely among neighbors, via "confidential" separate agreements

II. FAIRNESS AND EQUITY IN SHARING COSTS AND BENEFITS OF WIND POWER DEVELOPMENT ACROSS COMMUNITIES

<u>PARTIES INVOLVED</u>	<u>NATURE OF PARTICIPATION</u>
1. INVESTORS	Voluntary
2. CREDITORS	Voluntary
3. EXECUTIVES	Voluntary
4. CONTRACTORS, SUPPLIERS	Voluntary
5. WIND TOWER SITE OWNERS	Voluntary
6. EMERGENCY SERVICE PROVIDERS	Imposed and Voluntary – have some choices, can negotiate
7. CITIES & RURAL COMMUNITIES	Imposed and Voluntary – have few choices, can negotiate
8. CLOSE NEIGHBORS, TO WIND TOWERS	<p>Involuntary – little protection from wind power project participation. May receive noise easement payment, must generally negotiate alone. Generally isolated from meaningful information, have few choices. Not generally protected by siting authority's standards, many do not feel adequately protected by state noise standards; feel like they are treated as 2nd class citizens in terms of alternatives and protections. Most do not want to because "trouble" but hate the encroachment of the wind towers and the impact on their lives and family.</p>

III. FAIRNESS AND EQUITY IN SHARING COSTS AND BENEFITS OF WIND POWER DEVELOPMENT ACROSS COMMUNITIES

<u>PARTIES INVOLVED</u>	<u>IMPOSED EFFECTS</u>
1. INVESTORS	
2. CREDITORS	
3. EXECUTIVES	
4. CONTRACTORS, SUPPLIERS	Job and Contracting Opportunities, Product & Service Sales
5. WIND TOWER SITE OWNERS	Some inconvenience during construction Some changes in field practices
6. EMERGENCY SERVICE PROVIDERS	Short term overload on limited capabilities Service demands out-of-service area
7. CITIES & RURAL COMMUNITIES	Short term overload on infrastructure, especially roads, bridges; temporary pressure on school class sizes and staff Pressure on short term living facilities, trailer parks, etc.
8. CLOSE NEIGHBORS, TO WIND TOWERS	Loss of privacy, increased traffic, blocked roads, delays in moving farm machinery & Equipment, livestock disturbance loss of view, little or no choice, legal costs, negotiating harassment, refusal of developer to share pertinent info, and unwanted NOISE-NOISE! And too many towers! Too close.

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Stress Induced Indirect Effects of Wind Tower Developments

Anger

Hostility

Feelings of helplessness, hopelessness, isolated, not listened to
Depression over circumstances imposed by wind power
development, without being consulted

Negative Feelings re “worth” of rural residents (lesser protection
provided relative to city residential zones)...

“2nd class citizen status for rural residents

Resistance to secret, divisive wind power development activity

Due to

Invasion of unwanted industrial wind towers,
especially noise and invaded day and night view

Being pressured to sign noise easements

Having peace and quiet, general rural environment destroyed

Having lifestyle expectations re EFU/GZ zones not protected -

“unlimited invasion of the industrial wind towers”

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Measuring Wind Power Development Noise Effects

- Multiple sources of Sound Level Meters Available (Oregon Noise Standard = 36dBA)
- Lifetime technical service available for meters
- Home delivery, for Internet orders
- Prices range from \$50.00 to \$4,000.00 (or more)
- Depending on the intended use, consider the technical specifications, Including whether the meter has data logging capability and PC connection, to enable data analysis and tracking (spreadsheets, charts, tables, trend lines, etc.)
- Data Logger meters accumulate noise readings over a longer period, and the data can be downloaded to a computer for analysis

Internet (first search re "Noise Meters" – listing does not constitute a recommendation)

- "Instrumart"
- "Extech Instruments"
- "D.A.S. Distribution, Inc."
- "Exair.com"

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Multiple professional consultants available to do measuring, analysis and provide written reports

A Proposal: Noise Measurement Study, After Operations Begin, Of the As-Built Wind Tower Facilities, for the Helix Project, to Verify Pre-construction Wind Noise Boundary Projections

Equipment.

- Reasonably credible data logging noise meters (microphones shielded from wind)
- Appropriately verified as to accuracy
- And appropriately calibrated each time set-up

Sampling Model.

- Set up at each site
- In accordance with generally acceptable protocol for metering location
- Installed at random intervals
- At randomly selected residences
- For no less than two full weeks
- Before rotating the meters on to the next home site
- For no less than two rotations
- In each 3-month season

Analysis.

- After each two-week measuring period
- Download the accumulated data to a computer
- Where the raw data is collected in an appropriate spreadsheet
- Then make calculations of average dBA for each hour of each day for each week
- For each two-week period
- Including the Standard Deviation of dBA measurements hour by hour
- Day by day, week by week, season by season (verify variability of noise)
- Maintain log of changing weather conditions, plus temperature and humidity
- Periodically, on a random schedule, video tape wind tower noise and conditions at multiple sites

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Proposed Other Wind Tower Economic, Environmental, Wildlife and Social Impact Analysis

1. **Property Values and Noise Easements.**
Projected effect of wind towers at different distances from existing homes,
On (1) likely general public response;
On (2) likely property values and on (3) likely noise easement fees required
Sorted on the basis of multiple demographic factors (time living at the residence,
family history re the residence, quality of view from the front of the residence, etc.)
2. **Property Value Discounts.**
Survey general public,
And three local communities
Concerning likely property value discounts
Associated with a range of conditions and circumstances
Concerning locations, density of installations, and distance from residences.
3. **Probable Impact on Future Property Taxes paid on Rural Residences**
4. **Impact of ground vibration on behavior of fish in running stream vs. lake waters**
(will fish swim, rest and/or feed in vibrating water bodies?) Maybe use geological
survey sizedomograph equipment

00004165

Public Utility Economics and Regulatory Philosophy

- “Public Utilities” are usually business organizations (sometimes publicly owned)
- Which Provide a public service
- In a market where it is not in the best public interest (Garbage, Electricity, etc.)
- To encourage multiple providers (freely competitive market not provide necessary stability of service)
- Because regularity and reliability of service is essential
- And can only be assured by reasonably well financed organizations
- Managed for longer term public benefits (rather than short term investor earnings)
- Not likely to go out of business in the foreseeable future
- A limited number of providers who are closely monitored
- As to rates and fees charged
- Quality and Reliability of Service
- Emergency Response Capability
- Longer Term Credibility, Honesty, lack of “corruption” (economic, social or “legal”) [Enron example]

Public Utility Economics and Regulatory Philosophy

(cont'd)

- Fairness and Equity Among Members of the Community being Served
- Regularly monitored as to performance standards
- To provide reasonable public transparency concerning costs, rates, fees, service
- Including financial status and trends
- Guaranteed a "reasonable profit"
- In exchange for exclusive (or semi-exclusive) access to protected site locations and market/s

- WIND POWER DEVELOPMENTS "FIT" THE PUBLIC UTILITY MODEL REASONABLY WELL,
- EXCEPT THAT THEIR FACILITY LOCATION IS RANDOM RATHER THAN CONCENTRATED AT INOBTRUSIVE SITES (Literally "where ever the wind blows"),
- AND HENCE CREATES A RANDOM DISTRIBUTION OF IMPACTS (Direct and Indirect) SCATTERED ACROSS COMMUNITIES

00004167

"Indirect Effects" of Wind Tower Noise

- **"Direct Effects"** of wind tower noise (hearing loss due to noise induced damage to the ear)
- NOT the typical complaint concerning wind towers

• **"Indirect Effects"** of Sleep Disruptions

- Asthma
 - Bronchitis
 - Morning Headaches
 - Chronic Sinusitis
 - Colds
 - Allergies
 - Cancer
 - Diabetes
 - Elevated Cholesterol
 - Hypertension
 - Heart attack
 - Heart disease
 - Stroke
 - Stress
 - Acid reflux
 - Mood Disorders
- * Stress
 - * Nasal Congestion
 - * Depression
 - * Obesity
 - * ADHD
 - * Chronic Fatigue
 - * Drowsiness
 - * Auto accidents (maybe 25%)
 - * Fibromyalgia
 - * Migraine Headaches
 - * Sleep Apnea
 - * Hypoxia
 - * Cold extremities
 - * Low blood pressure
 - * Aspiration pneumonia (acid related)
 - * Insomnia

See book: *"Sleep Interrupted... #1 Reason Why... Many... Are Sick and Tired"*.
Steven Y. Park, M.D. Jodev Press. 2008. Includes a general sleep-health model.

Extent of the Impact of Indirect Effects of Wind Tower Noise

Example: Helix Project, Umatilla County, OR
("Helix Wind Power Facility")

165 Phone Listings, Helix, OR (estimated from phone book count)
- 31 Company, Business, Organizations listed (to estimate only home numbers)
134 Estimated number of homes in Helix Phone Directory

45 Homes in immediate vicinity of Helix Project (34% of listed homes)
28 / 29 Homes within proposed Helix Noise Boundary, Helix Project
(1.5 MW towers vs. 3.0 MW Towers -- 22% of homes in Helix directory)

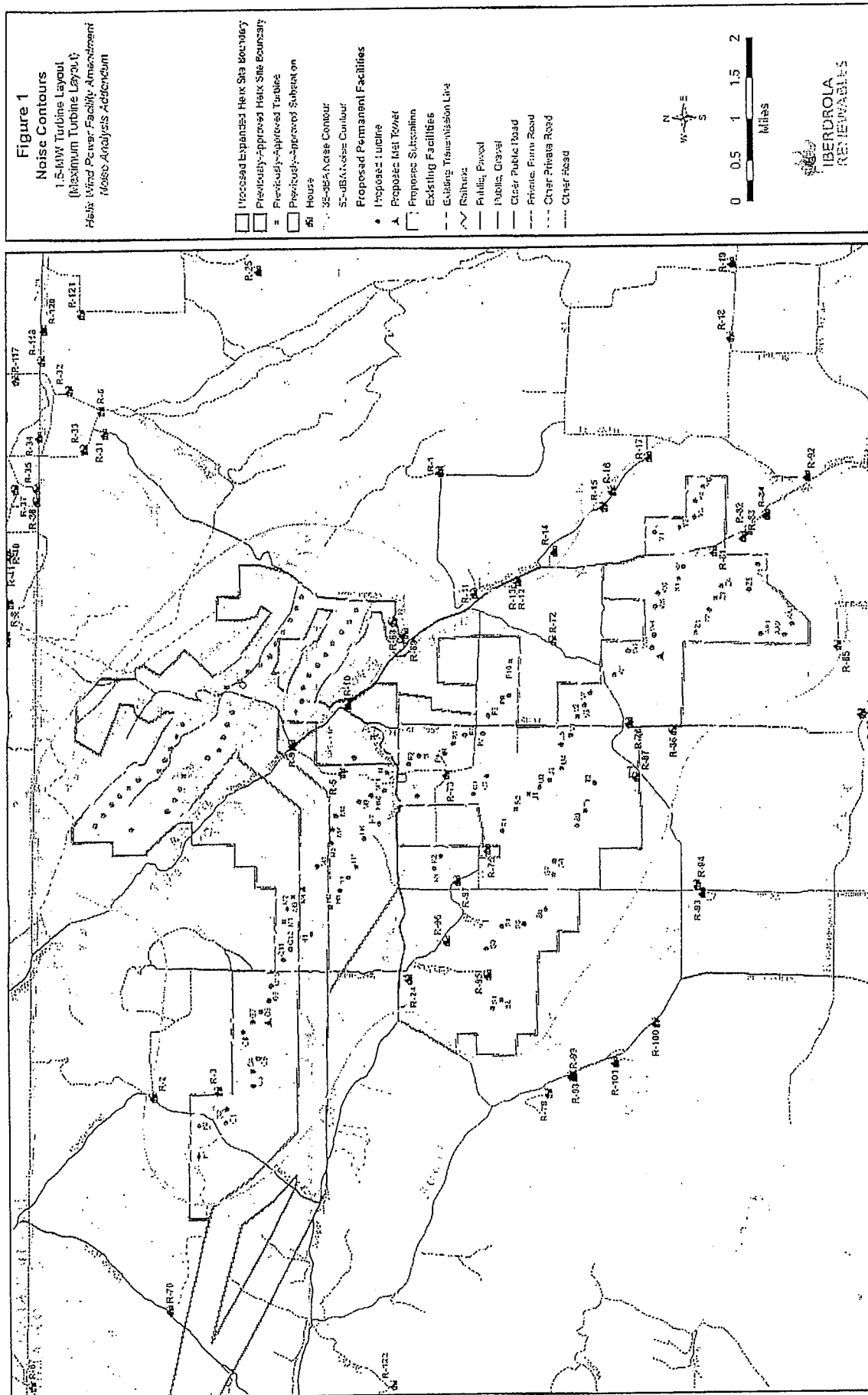
2-mile setback (proposed) -- would increase impacted home count by
11 more homes. Total homes impacted, Helix Project -- 40 (30% of homes
listed in Helix directory)

- * About 1/3 of Helix phone directory homes impacted
- * EFSC states that setback of 1,320 feet (1/4th mile) from rural residence
is adequate noise protection (Energy Facility Siting Council standard)
- * Noise Boundary Maps (Figure 1 and Figure 2, in Project Amendment #1) illustrate
that the 1,320 setback is entirely inadequate for rural residences!
- * 28 -29 Formal Noise Easements necessary for Helix Project

Extent of Wind Power Development Indirect Effects: Wind and Other Effects

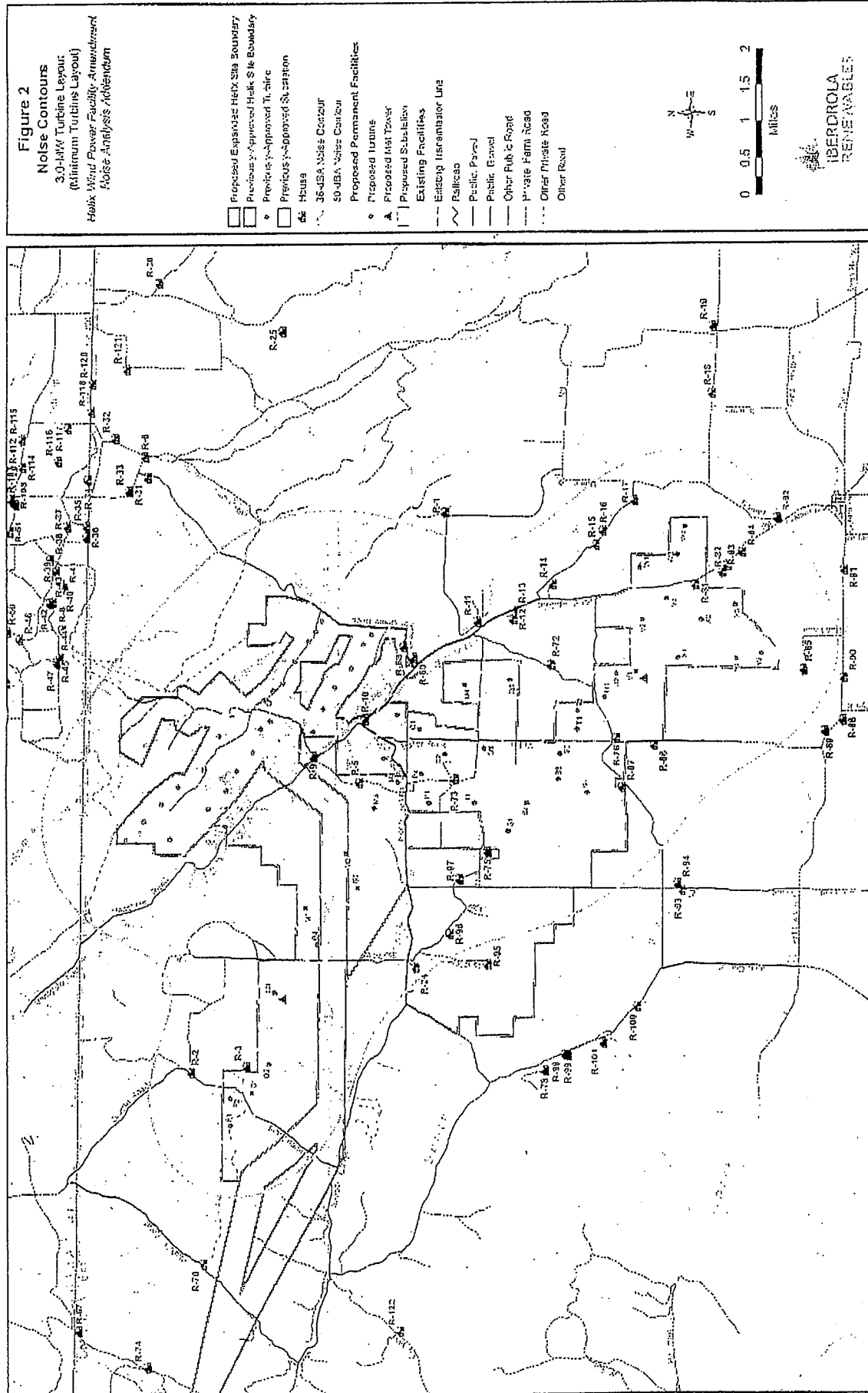
- Stress induced health effects

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A. WEST SIDE (UP-WIND)

1.5 MW 3.0 MW VARIANCE,

Towers Towers AVERAGE

0.5 0.5
1.6 1.5
0.6 2.0
1.0 1.7
1.4 2.0
1.0 1.5
1.6 **1.7**
0.5 0.5
1.1 1.2

Average
HIGH
Low
Range

0.5



B. EAST SIDE (DOWN-WIND)

1.3 1.4
1.3 2.5
0.7 1.5
1.0 1.8
1.6 1.8
1.4 1.8
1.2 1.8
1.6 **2.5**
0.7 1.4
0.9 1.1

Average
HIGH
Low
Range

0.6



Consider
**RISK FACTORS
WIND SPEED,
& DIRECTION**

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C. NORTH SIDE

1.5 MW 3.0MW VARIANCE,

Towers Towers AVERAGE

1.3 1.2
1.5 1.5
1.4 1.3
1.5 **1.5**
1.3 1.2
0.2 0.3

Average
High
Low
Range

-0.1



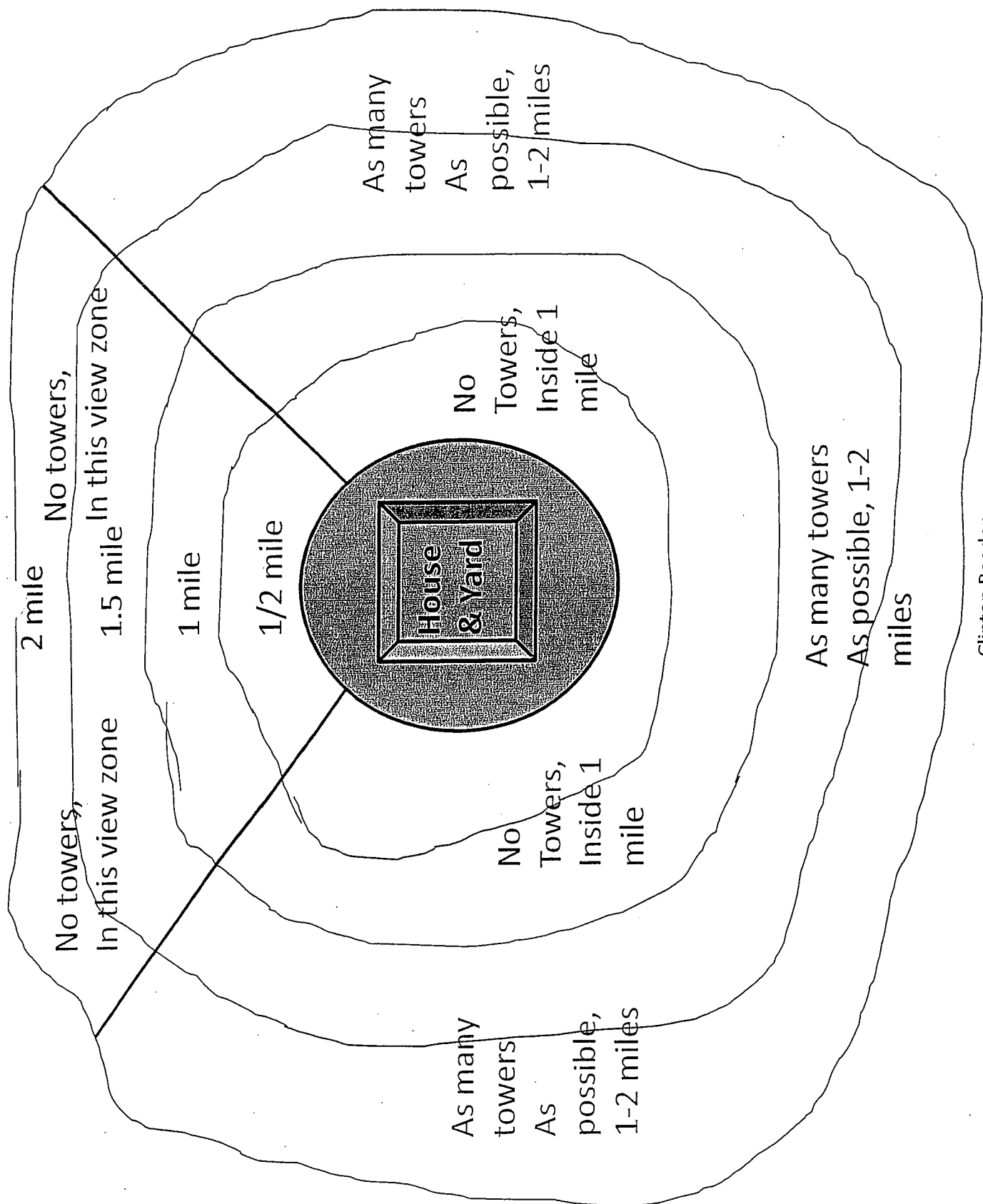
N, S Sides
perpendicular to
wind, not critical,
these 2 maps.

D. SOUTH SIDE

0.6 1.1 0.5

SUMMARY:

- Noise boundary, +.5 mi, 1.5 MW to 3.0 MW
- 1/4th -1/3rd mi difference, upwind, downwind
- 1.0 mi range between necessary high, low setback from noise boundary.
- Tower strings laid out perpendicular to prevailing winds; hence, outcomes as expected, but only for prevailing winds.
- Does not account for cumulative effect of other nearby wind projects.
- Projected wind direction a critical factor.
- EFSC's proposed 1.320 foot setbacks, tower to rural home, not defensible (1/4th mile)¹⁶



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HOW MUCH IS MY PROTECTED TERRORITY WORTH?

1. How many wind towers might be built upon it?
2. What is the site rental value for that many?
3. What property value will I lose if that many are built?
4. How much noise can I possibly tolerate?
5. What will the health effects of the noise be on me and my family?
6. How much noise harassment and blocked view do I expect my neighbor to suffer in order for me to get the tower site rental money?
7. What Is Reasonable, Fair and Equitable (all things considered) including the fact my neighbor with towers has them by accident of birth rather than through significant effort of his/her own.

8. What value do we put on maintaining reasonably friendly relationships among the neighbors?

3.1416 x 2 mi x 2 mi x 640 ac/mi² = 8,042 acres
3.1416 x 1.5 mi x 1.5 mi x 640 ac/mi² = 4,524 acres
3.1416 x 1 mi x 1 mi x 640 ac/mi² = 2,011 acres
3.1416 x 0.5 mi x 0.5 mi x 640 ac/mi² = 503 acres

9. Does the health of my neighbor's child (mate) matter at all in the decision? Autism? Epilepsy? Migraine headaches?

Noise easement on 1.5 mile to 2.0 miles = 3,518 acres free for towers
Noise easement on 1.0 miles to 1.5 miles = 2,513 acres free for towers (= 6,031)
Noise easement on 0.5 miles to 1.0 miles = 1,508 acres free for towers (= 7,539)

@ \$150,000 / 8,042 acres = \$18.65 / acre

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Proposed Amendments to UCDC 152.615 & 616 (HHH)

Version: February 24, 2011, replaces all previous versions.

LEGEND

- Green underlined text indicate changes recommended by the Planning Commission at the January 13th work session
- Blue underlined text indicate previously proposed changes
- ~~Red strikethrough text~~ is proposed to be omitted
- Purple underlined text indicates changes recommended by the Planning Commission at the February 24th hearing.

§ 152.615 ADDITIONAL CONDITIONAL USE PERMIT RESTRICTIONS.

In addition to the requirements and criteria listed in this subchapter, the Hearings Officer, Planning Director or the appropriate planning authority may impose the following conditions upon a finding that circumstances warrant such additional restrictions:

(A) Limiting the manner in which the use is conducted, including restricting hours of operation and restraints to minimize such an environmental effects as noise, vibration, air pollution, water pollution, glare or odor;

(B) Establishing a special yard, other open space or lot area or dimension;

(C) Limiting the height, size or location

of a building or other structure;

(D) Designating the size, number, location and nature of vehicle access points;

(E) Increasing the required street dedication, roadway width or improvements within the street right of way;

(F) Designating the size, location, screening, drainage, surfacing or other improvement of a parking or loading area;

(G) Limiting or otherwise designating the number, size, location, height and lighting of signs;

(H) Limiting the location and intensity of outdoor lighting and requiring its shielding;

(I) Requiring diking, screening, landscaping or other methods to protect adjacent or nearby property and designating standards for installation and maintenance.

(J) Designating the size, height, location and materials for a fence;

(K) Protecting and preserving existing trees, vegetation, water resources, air resources, wildlife habitat, or other ~~significant~~ natural resources;

(L) Parking area requirements as listed in §§ 152.560 through 152.562 of this chapter.

(Ord. 83-4, passed 5-9-83; Ord. 2005-02, passed 1-5-2005)

§ 152.616 STANDARDS FOR REVIEW OF CONDITIONAL USES AND LAND USE DECISIONS.

The following standards shall apply for review by the Hearings Officer, the Planning

Director or appropriate planning authority of the specific conditional uses and land use decisions listed in this chapter:

(HHH) Commercial Wind Power Generation Facility.

(1) County Permit Procedure.

The procedure for taking action on the siting of a facility is a request for a conditional use. A public hearing pursuant to Sections ~~152.750-755~~ and 152.771 shall be held to determine if the applicant meets the siting requirements for a Wind Power Generation Facility. ^(A) The requirement for a hearing will not apply to proposed facilities for which EFSC is making the land use decision.

[Former # (2) moved to # (5)]

(2) Pre-application Meeting.

A pre-application meeting(s) is required. The applicant will be expected to bring preliminary information about the application components described in Application Requirement (5) below. County staff will arrange the meeting and will invite local, state, federal and other agency representatives and individuals with pertinent expertise. The purpose of the pre-application meeting will be to identify potential impacts and opportunities and to advise on the level of detail required in each of the application components described in (5) below, and establish technical oversight requirements for monitoring plans.

all of this is done by EFC except
(3) Conditions of Approval.

Umatilla County may impose clear and objective conditions in accordance with the County Comprehensive Plan, County Development Code and state law, which Umatilla County considers necessary to protect the best interests of the surrounding area, or Umatilla County as a whole.

(4) Permits.

Prior to commencement of any construction, all other necessary preconstruction permits shall be obtained, including but not limited to a conditional use permit, e.g. Umatilla County Zoning Permit, and road access and other permits from the Umatilla County Public Works Department, and from the Oregon Department of Transportation. other permits from state agencies, with separate jurisdiction.

(2) (5) Application Requirements.

The following information shall be provided as part of the application:

(A) (1) A general description of the proposed Wind Power Generation Facility.

(2) A tentative construction schedule.

(3) The legal description of the property on which the facility will be located; and

(4) Identification of the general area for all components of the proposed Wind Power Generation Facility.

(B) A including a map showing the location of components.

(C) (1) Nonproprietary evidence of wind monitoring data qualifying the wind resources within the project boundary, such as a description of procedures and process for wind study.

provided from wind company
(2) Evidence of active utility transmission interconnect requests and/or process and description of same.

(3) Route and plan for transmission facilities connecting the project to the grid.

(B) (D) Identification of potential conflicts, if any, with: (1) Accepted farming practices as defined in ORS 215.203(2)-(e) and forest practices as provided in ORS

*Wind
Conflicts
Opposed*

527.620 through 527.990 on adjacent lands devoted to farm and/or forest uses; and (2) Neighboring rural homes and the steps to mitigate such conflicts, e.g., noise easements. Other resource operations and practices on adjacent lands except for wind power generation facilities on such adjacent lands; and (3) Accepted farm or forest practices on surrounding EFU/GF or NR land, including the nature and the extent of the impact of the proposed facility on the cost of such practices.

(C) (E) A Transportation Plan, with proposed recommendations, if any, reflecting the guidelines provided in the Umatilla County Transportation System Plan (TSP) and the transportation impacts of the proposed Wind Power Generation Facility upon the local and regional road system during and after construction, after consultation with Umatilla County Public Works Director. The plan will designate the size, number, location and nature of vehicle access points.

(G) (F) An revegetation and erosion control plan, developed in consultation with the Umatilla County Public Works Department, Soil and Water Conservation District, Watershed Council, the Oregon Agricultural Water Quality Management Program (administered by the Oregon Department of Agriculture), the Department of Environmental Quality and the Confederated Tribes of the Umatilla Indian Reservation. At a minimum, The plan shall include the seeding of all road cuts or related bare road areas as a result of all construction, demolition and rehabilitation with an appropriate mix of native vegetation or vegetation suited to the area. This requirement will be satisfied if the applicant has an NPDES (National Pollution Discharge Elimination System) permit. The plan shall also address monitoring during

and post construction.

(D) (G) An fish, wildlife and avian impact monitoring plan. The avian monitoring plan shall be designed and administered by the applicant's wildlife professionals. [See HHH (2), above] For projects being sited by EFSC, compliance with EFSC's avian monitoring requirements will be deemed to meet this requirement. The plan shall include the formation of a technical oversight committee to review the plan, and consist of the following persons:

(1) The landowners/farm tenants.

(2) Facility owner/operator representative. (Chair)

(3) Oregon Department of Fish and Wildlife representative, if the agency chooses to participate.

(4) Two Umatilla County residents with no direct economic interest in the project and recommended by the applicants for appointment by the Umatilla County Board of Commissioners.

(5) U.S. Fish and Wildlife representative, if the agency chooses to participate.

(6) Umatilla County Planning Commission member. At the request of applicant, this committee requirement may be waived or discontinued by the County.

[Former (2) (E) moved to (6) (I)]

(F) (H) An fire prevention and emergency management response plan for all phases of the life of the facility. The plan shall address the major concerns associated with the site, including but not

necessarily limited to terrain, dry conditions, and fire hazards, limited access, available water, and emergency response.

(1) The plan shall verify the fire district and/or contract fire department responsible for providing emergency services. High rise rescue is the responsibility of the wind project owner with local emergency responders providing ground level assistance.

(2) A spill prevention, control and counter measure plan (SPCC) shall be provided. The plan shall include verification that a local emergency service provider has equipment, training and personnel to respond to spills.

(3) An Operations and Maintenance Plan detailing expected work force, local response capability, (contract or otherwise) controlled access, and in the case of transmission lines proof of emergency response capability in accordance with OPUC rules governing operation and maintenance of such lines.

(4) An Emergency Response Plan for responding to natural and/or man made emergencies or disasters.

(H) (I) A weed control plan addressing prevention and control of all Umatilla County identified noxious weeds and other weeds such as thistles which distribute weed seed while blowing across nearby lands following maturity, directly resulting from the Wind Power Generation Facility during preparation, construction, operation and demolition/rehabilitation.

(H) (I) A socioeconomic impact assessment of the Wind Power Generation Facility, evaluating such factors as, but not limited to, the project's effects upon the

social, economic, public service, cultural, visual, and recreational aspects of affected communities and/or individuals. These effects can be viewed as either positive or negative. In order to maximize potential benefits and to mitigate outcomes that are viewed as problematic, decision makers need information about the socioeconomic impacts that are likely to occur.

[New (6) (K) below moved from (2) (K)]

(K) Information pertaining to the impacts of the Wind Power Generation Facility on:

(1) Wetlands and streams, including intermittent streams and drainages;

(2) Fish, Avian and Wildlife (all potential species of reasonable concern), including but not limited to federally listed threatened and endangered species);

(3) Fish, Avian and Wildlife Habitat;

(4) Criminal Activity (vandalism, theft, trespass, etc). Include a plan and proposed actions, if any, to avoid, minimize or mitigate negative impacts.

(5) Open space, scenic, historic, cultural and archaeological resources. This includes cultural resources, archaeological sites, archaeological objects, historic sites, and sites of historic or religious importance to Native American tribes.

[New (5) (L) below moved from (2) (L)]

(L) A dismantling, and decommissioning and rehabilitation plan of all components of the Wind Power Generation Facility, as provided in §152.616 (HHH) (7).

(5) (6) Standards/Criteria of Approval.

The following requirements and restrictions apply to the siting of a facility:

(A) Setbacks.

The minimum setback shall be a buffer distance of no less than the following: The Wind Power Generation Facility shall be on property zoned EFU/GF or NR, and no portion of the facility shall be within 3,520 feet of properties zoned residential use or designated on the Comprehensive Plan as residential. (For clarification purposes of this section, EFU/GF/NR zones are not considered zoned for residential use.)

(1) From tower to the City Urban Growth Boundary 2 miles or 20 times the overall tower-to-blade tip height, whichever is greater.

(2) From tower to land zoned Unincorporated Community (UC) 10 times the overall tower-to-blade tip height.

(3) From tower to a rural home 2 miles or 20 times the overall tower-to-blade tip height, whichever is greater, unless a written waiver is obtained from the landowner and recorded in the County Deed Records.

(4) From tower to the boundary right-of-way of county roads (gravel or paved) 2 times the overall tower-to-blade tip height.

(5) From tower to the boundary right-of-way of State or Interstate Highways 3 times the overall tower-to-blade tip height.

(6) From tower to Archeological or Cultural Sites 2 times the overall tower-to-blade tip height.

Note: The overall tower-to-blade tip height

is the vertical distance measured from grade to the highest vertical point of the blade tip.

(7) New electrical transmission lines associated with the project shall not be constructed closer than 500 feet to an existing residence without prior written approval of the homeowner, said written approval to be recorded with deed records. Exceptions to the 500 feet setback include transmission lines placed in a public right of way. Note: Transmission and distribution lines constructed and owned by the applicant that are not within the project boundary are subject to a separate land use permit.

(E) (8) The turbine/towers shall be of a size and design to help reduce noise or other detrimental effects. At a minimum, the facility shall be designed and operated within the limits of noise standard(s) established by the State of Oregon. A credible noise study may be required to verify noise impacts in all wind directions are in compliance with the State noise standard.

(B) Reasonable efforts shall be made to blend the wind facility turbine/towers with the natural surrounding area in order to minimize impacts upon open space and the natural landscape.

(C) The Development and Operation of the Facility will Reasonable efforts shall be taken to protect and to preserve existing trees, vegetation, water resources, wildlife, wildlife habitat, fish, avian, archaeological sites and objects sites of historic or religious significance to Native American Tribes or and other significant natural resources. Compliance with this standard may require mitigation and/or submission of an annual monitoring report.

(D) The turbine towers shall be designed and constructed to discourage bird nesting and wildlife attraction.

[Former (5) (E) was moved to (6) (A) (5)]

(F) (E) Private access roads established and controlled by the Wind Power Facility shall be gated and signed to protect the facility and property owners from illegal or unwarranted trespass, illegal dumping and hunting and for emergency response.

(G) (F) Where practicable the electrical cable collector system shall be installed underground, at a minimum depth of 3 feet; elsewhere the cable collector system shall be installed to prevent adverse impacts on agriculture operations.

(H) (G) Required permanent maintenance/operations buildings shall be located off-site in one of Umatilla County's appropriately zoned areas, except that such a building may be constructed on-site if:

(1) The building is designed and constructed generally consistent with the character of similar buildings used by commercial farmers or ranchers, and

(2) The building will be removed or converted to farm use upon decommissioning of the Wind Power Generation Facility consistent with the provisions of § 152.616 (HHH) (7).

(I) (H) A Wind Power Generation Facility shall comply with the Specific Safety Standards for Wind Facilities delineated in OAR 345-024-0010 (as adopted at time of application).

[New (6) (I) below, moved from (2) (E)]

(E) (I) A Covenant Not to Sue with

regard to generally accepted farming practices shall be recorded with the County. Generally accepted farming practices shall be consistent with the definition of Farming Practices under ORS 30.930. The applicant shall covenant not to sue owners, operators, contractors, employees, or invitees of property zoned for farm use for generally accepted farming practices.

(J) Roads.

(1) County Roads.

A Road Use Agreement with Umatilla County regarding the impacts and mitigation on county roads shall be required as a condition of approval.

(2) Project Roads.

Layout and design of the project roads shall use best management practices in consultation with the Soil Water Conservation District. The project road design shall be reviewed and certified by an independent civil engineer. Prior to road construction the applicant shall contact the State Department of Environmental Quality and if necessary, obtain a storm water permit (NPDES).

[New (6) (K) below, moved from (2) (J)]

(J) (K) Demonstrate All Wind Power Generation Facilities must show compliance with the standards found in OAR 660-033-0130 (37).

(6) ~~To the extent feasible, the county will accept information presented by an application for an EFSC proceeding in the form and on the schedule required by EFSC.~~

(7) (L) Submit a plan for The applicants dismantling of uncompleted construction and/or decommissioning plan for and/or re-powering of the Wind Power Generation Facility shall include the following

information as described in §152.616
(HHH) (7).

[New (6) (M) below, moved from # (8)]

(M) (8) A surety bond or letter of credit shall be established to cover for the cost of dismantling of uncompleted construction and/or decommissioning of the facility, and site rehabilitation pursuant to (See § 152.616 (HHH) (7) & (8)). The intent of this requirement is to guarantee performance (not just provide financial insurance) to protect the public interest and the county budget from unanticipated, unwarranted burden to decommission wind projects. For projects being sited by the State of Oregon's Energy Facility Siting Council (EFSC), the bond or letter of credit required by EFSC will be deemed to meet this requirement.

[New (6) (N) below, moved from # (9)]

(9) (N) The actual latitude and longitude location or Stateplane NAD 83(91) (suitable for GPS mapping) coordinates of each turbine tower, connecting lines, O & M building, substation, project roads and transmission lines, shall be provided to Umatilla County on or before starting once commercial electrical production begins.

(O) An Operating and Facility Maintenance Plan shall be submitted and subject to county review and approval.

[New (6) (P) below, moved from (10)]

(10) (P) A summary of as built changes in the facility from the original plan, if any, shall be provided by the owner/operator 90 days of starting electrical production.

[New (7) below was formerly (7) (A)]

(7) (A) Dismantling/Decommissioning.

A plan for dismantling and/or decommissioning that provides for completion of dismantling or decommissioning of the facility without significant delay and protects public health, safety and the environment in compliance with the restoration requirements of this section.

(B) (A) A description of actions the facility owner proposes to take to restore the site to a useful, non-hazardous condition, including options for post-dismantle or decommission land use, information on how impacts on fish, wildlife, avian populations and the environment would be minimized during the dismantling or decommissioning process, and measures to protect the public against risk or danger resulting from post-decommissioning site conditions in compliance with the requirements of this section.

(C) (B) A current detailed cost estimate, a comparison of that estimate with present funds, the bond set aside for dismantling or decommissioning, and a plan for assuring guaranteeing the availability of adequate funds for completion of dismantling or decommissioning. The cost estimate will be reviewed and be updated by the facility owner/operator on a 3 5 year basis, unless material changes have been made in the overall facility that would materially increase or decrease these costs. If so, the report must be revised within 120 days of completion of such changes.

(D) (C) Restoration of the site shall consist of the following:

(1) Dismantle turbines, towers, pad-mounted transformers, meteorological towers and related aboveground equipment.

All concrete turbine pads shall be removed to a depth of at least three feet below the surface grade.

(2) The underground collection and communication cables need not be removed if at a depth of three feet or greater. These cables at a depth of three feet or greater can be abandoned in place if they are deemed not a hazard or interfering with agricultural use or other consistent resource uses of the land.

(3) Gravel shall be removed from areas surrounding turbine pads.

restored (4) ~~Private~~ A-access roads shall be removed by removing gravel and restoring the surface grade and soil.

(5) After removal of the structures and roads, the area shall be graded as close as is reasonably possible to its original contours and the soils shall be restored to a condition compatible with farm uses or consistent with other resource uses. Re-vegetation shall include planting by applicant of native plant seed mixes, planting by applicant of plant species suited to the area, or planting by landowner of agricultural crops, as appropriate, and shall be consistent with the weed control plan approved by Umatilla County.

(6) Roads, cleared pads, fences, gates, and improvements may be left in place if a letter from the land owner is submitted to Umatilla County indicating said land owner will be responsible for, and will maintain said roads and/or facilities for farm or other purposes as permitted under applicable zoning.

[New # (8) below was formerly (7) (E)]

(8) ~~(E)~~ Decommissioning Fund.

The applicant (facility owner/operator) shall submit to Umatilla County a bond ~~or letter of credit~~ acceptable to the County, in the amount of the decommissioning fund naming Umatilla County ~~and the landowner~~ as beneficiary or payee.

(A) ~~(1)~~ The calculation of present year dollars shall be made using the U. S. Gross Domestic Product Implicit Price Deflator as published by the U. S. Department of commerce, Bureau of Economic Analysis, or any successor agency (the Aindex. @). The amount of the bond ~~or letter of credit~~ account shall be changed up or down if the change in the Index moves by more than ~~change if the Index changes be increased at such time when the cumulative percentage increase in the Index exceeds 10 percent from the last change, and then the amount shall be increased or decreased by the cumulative percentage increase change.~~ If at any time the Index is no longer published, Umatilla County and the applicant shall select a comparable calculation of present year dollars. ~~The amount of the bond or letter of credit account shall be pro-rated within the year to the date of decommissioning.~~

(B) ~~(2)~~ The decommissioning bond fund shall not be subject to revocation or unjustified reduction before decommissioning of the Wind Power Generation Facility and rehabilitation of the site/s.

(C) ~~(3)~~ The facility owner/operator shall describe the status of the decommissioning bond fund in the annual report submitted to the Umatilla County.

(F) If any disputes arise between Umatilla County and the landowner on the expenditure of any proceeds from the bond

**
Cost of loss
down not
not the
bond
don't allow
to go down
How
do we
monitor*

*revert to
to front of
portion*

or the letter of credit, either party may request non-binding arbitration. Each party shall appoint an arbitrator, with the two arbitrators choosing a third. The arbitration shall proceed according to the Oregon statutes governing arbitration. The cost of the arbitration (excluding attorney fees) shall be shared equally by the parties.

~~(D)~~ (G) For projects sited by EFSC, compliance with EFSC's financial assurance and decommissioning standards shall be deemed to be in compliance with the dismantling and decommissioning requirements of this § 152.616 (HHH)(7) & (8).

[Former # (8) moved to (6) (M)]

[Former # (9) moved to (6) (N)]

[Former # (10) moved to (6) (P)]

[New # (9) below, moved from # (12)]

(9) (12) Annual Reporting.

Within 120 days after the end of each calendar year the facility owner/operator shall provide Umatilla County an written and oral annual report including the following information:

(A) Energy production by month and year.

(B) Non-proprietary information about wind conditions,
(e. g., monthly averages, high wind events, bursts).

(C) A summary of changes to the facility that do not require facility requirement amendments.

(D) A summary of the fish, wildlife and avian monitoring program – bird injuries, casualties, positive impacts on area wildlife

and any recommendations for changes in the monitoring program.

(E) Employment impacts to the community and Umatilla County during and after construction.

(F) Success or failures of weed control practices.

(G) Status of the decommissioning bond fund.

(H) Summary of erosion control activities and its effectiveness. ✱

[New (I) below was formally (H) above]

(I) Summary comments –

(1) any Problems with the projects, any adjustments needed, or any suggestions.

(2) The annual report requirement may be modified discontinued or required at a less frequent schedule by the County as warranted by project conditions, circumstances and compliance. The reporting requirement and/or reporting schedule shall be reviewed, and possibly altered, at the request of the facility owner/operator. For facilities under EFSC jurisdiction and for which an annual report is required, the annual report to EFSC satisfies this requirement.

[New # (10) below, moved from # (11)]

(10) (11)(A) Permit Amendments.

The Wind Power Generation Facility requirements shall be facility specific, but can be amended as long as the facility does not exceed the boundaries of the Umatilla County conditional use permit where the original facility was constructed.

5-2005; Ord. 2009-09, passed 12-8-09)

(B) An amendment to the conditional use permit shall be subject to the standards and procedures found in § 152.611. Additionally, any of the following would require an amendment to the conditional use permit required if proposed facility changes would:

(1) ~~Increase the land area taken out of agricultural production by an additional 20 acres or more;~~ (2) ~~Increase the land area taken out of agricultural production sufficiently to trigger taking a Goal 3 exception;~~ (3) ~~Require an Expansion of the established facility boundaries;~~ (2) (4) ~~Increase the number of towers;~~ (3) (5) ~~Increase generator output by more than 25 percent relative to the generation capacity authorized by the initial permit due to the repowering or upgrading of power generation capacity-;~~ or (4) Changes to project private roads or access points to be established at or inside the project boundaries.

(C) In order to assure appropriate timely response by emergency service providers, Notification (by the facility owner/operator) to the Umatilla County Planning Department of changes not requiring an amendment such as a change in the project owner/operator of record, a change in the emergency plan or change in the maintenance contact are ~~encouraged, but not required~~ to be reported immediately. An amendment to a Site Certificate issued by EFSC will be governed by the rules for amendments established by EFSC.

[# (12) moved to # (9)]

(Ord. 83-4, passed 5-9-83; Ord. 2002-02, passed 5-20-2003; Ord. 2005-02, passed 1-

Exhibit # 45

Blue Mountain Alliance

Milton-Freewater, OR 97862

541-938-4623

bluemountainalliance@charter.net

www.bluemountainallinace.org

16 March 2011

Umatilla County Board of Commissioners
216 SE Fourth Street
Pendleton, OR 97862

RE: UCDC #T-10-039

Dear Commissioners,

We would like to commend your Planning Commissioners for the dedication and hard work they put in over the last two years learning about wind energy. It has been a process of reading and learning, listening and discussing, for them as well as the rest of us in attendance. The U.C. Planning Commissioners and staff worked diligently through numerous work sessions, public meetings, and public hearings; many meetings went late into the night.

The UCDC #T-10-039 is a document you can be proud of as it shows just how important all citizens of Umatilla County are, not just a few. Because of this, the Blue Mountain Alliance supports the document and urges you to support it in its entirety.

Respectfully,

Blue Mountain Alliance

Richard Jolly
henry.davies@rocketmail.com

Ed Chesnut
edjudy@charter.net

Debbie J. Kelley
djk146@charter.net

Ryan Stoner
ryanstoner2011@gmail.com

Norm Kralman
norm@kralmansteel.com

Jim Burns
brokenhorn67@yahoo.com

00004186



#35

TU Celebrates 50 Years of Protecting Cold, Clean, Fishable Water.

Tamra Mabbot
Land Use Planning Director
Umatilla County
216 SE 4th Street
Pendleton, OR 97801

RECEIVED

MAR 16 2011

UMATILLA COUNTY
PLANNING DEPARTMENT

March 16, 2011

Dear Director Mabbot:

Trout Unlimited is a national organization of approximately 140,000 anglers and conservationists, of which some 3,000 live in Oregon. TU's history in Oregon includes a Blue Mountain Chapter based in Pendleton, currently inactive – a piece of the not-so-distant past we are actively seeking to revive. Our mission is to conserve, protect and restore North America's coldwater fisheries and their watersheds. The purpose of this letter is to support proposed amendments to the Umatilla County Development Code 152.615 and 152.616, conditional use permit restrictions pertaining to commercial wind generating facilities.

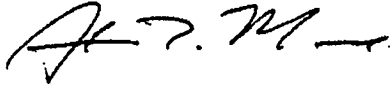
Fulfilling the nation's energy needs often comes at a calculated cost to the trout and salmon populations living in and around various energy sources. Those costs in the Pacific Northwest in particular have been steep, with many native trout (including steelhead) and salmon runs suffering steady declines attributable in part to expanding energy development in the last century. Diversifying the portfolio of energy sources to spread the burden closer to a sustainable balance, therefore, is unquestionably a fish conservation issue, and developing alternative energy sources is a pursuit TU wholeheartedly supports.

Equally important is conducting thorough and appropriate due diligence in siting and operating energy technologies and sources like hydro, wind or wave energy, to ensure that sustainable balance between meeting the needs of energy use, economics and infrastructure of local communities and the needs of fish and wildlife. We applaud Umatilla County for the steps it is taking in the proposed amendments to the UCDC 152.615 and 616 toward conducting that kind of due diligence in siting commercial wind generating facilities in order to find and maintain the proper balance to protect, conserve and restore Umatilla County's, and Oregon's fish and wildlife heritage. The proposed amendments will go a long way toward safeguarding the bull trout, steelhead, chinook salmon and innumerable other species of the Umatilla and Walla Walla watersheds from harmful sedimentation, temperature and other water quality concerns that can result from road densities and poorly sited wind generation towers, while still allowing development of alternative energy sources in Umatilla County, including wind.

00004187

Trout Unlimited thanks you for the opportunity to comment, and we look forward to continuing the dialogue with the County and its residents on these critical issues.

Sincerely,

A handwritten signature in black ink, appearing to read "A. T. Moore". The signature is fluid and cursive, with a horizontal line extending from the end.

Alan T. Moore
Northwest Director of Habitat Programs
Trout Unlimited
227 SW Pine Street, Suite 200
Portland, OR 97204

00004188

Exhibit # 44

3/15/2011

Umatilla County
Board of Commissioners
216 SE 4th Street
Pendleton, OR 97801

RE: Board of Commissioners Land Use Hearing
Proposed Amendments to UCDC 152.616 (HHH)

Honorable Chairman and Commissioners:


Please accept these written comments regarding the proposed amendment to UCDC 152.616 (HHH) as my wife and I are not able to attend your Land Use Hearing scheduled for March 17, 2011.

As landowners in Umatilla County, it is our desire to move forward with a wind farm development considered on our property. The proposed revisions to the code appear to make siting much more difficult in this County for developers, which will have a negative impact on my property rights. Not only will these revisions adversely impact my family's financial future, the County will be eliminating future revenue sources by restricting wind farm development.

With the current economic environment, the sky rocketing oil prices and crisis in Japan, I urge the Board of Commissioners to consider the impacts these amendments will have on personal property rights and the County's fiscal future and not approve the amendments.

I support renewable energy for this great nation. Please allow us the right to have a wind farm constructed on our property.

Sincerely,


Greg Tsiatsos


Doris Tsiatsos

00004189

Subject: FW: Hearing Thursday at 9 a.m.

From: JERRY DAVIS <jerdav@q.com>

Date: Tue, 15 Mar 2011 18:03:06 +0000

To: <buemountainalliance@charter.net>, <tamra@umatillacounty.net>

32

From: jerdav@q.com

To: tamra@umatillacounty.net

Subject: Hearing Thursday at 9 a.m.

Date: Tue, 15 Mar 2011 17:59:23 +0000

Dear County Commissioners:

We have in these Blue Mountains a regional treasurer. They currently provide forest products, agricultural products in the foothills, and scenic views and recreation for all of us. If wind turbines should be built in these beautiful mountains, our quality of life will be seriously diminished. Our beautiful Blues refresh the soul and add greatly to our lives.

Yes, I guess there is a place for wind turbines. But should they be allowed to be built in these mountains we would be extremely short-sighted and will regret it, is my opinion.

I grew up in this area and have always loved these mountains and have family property on Basket Mt. Road east of Weston for more than 50 years. Just thinking of having turbines and the blinking red lights in these mountains makes me ill. --

There are appropriate places to place these turbines, but the Blue Mountains and the foothills are just not the place for them.

Jerry Davis
389 SE Highland Park Drive
College Place, WA 99324
509-525-4810
jerdav@q.com

00004190



#34

Umatilla County Commissioners
Umatilla County Courthouse
216 SE Fourth Street
Pendleton, Or 97801

RECEIVED

MAR 16 2011

UMATILLA COUNTY
PLANNING DEPARTMENT

March 14, 2011

Dear County Commissioners;

I am writing to ask that you adopt the amendment to the Umatilla County Development Code (UCDC), sections 152.615 and 152.616 (HHH) as approved by the County Planning Commission on February 24, 2011.

Wind power certainly supplements other sources of energy in perhaps a less environmentally costly manner than many other sources. But there are costs to wind development, both tangible and intangible, and it is important for the wind energy companies to shoulder a fair share of the costs of doing business while respecting the rights of their neighbors. Public subsidies to encourage developing resources are one thing, allowing windfall profits and not adequately protecting neighbors of the wind farms themselves and the significant impact of their connections to the primary distribution grid are another. Pollution and negative impacts such as noise, dust, light, erosion and water run-off, disruption and destruction of wildlife habitat are all impacts that fall disproportionately on neighbors of these developments.

I strongly urge you to approve the recommended changes to the UCDC. It is the duty of the Planning Commission to uphold and protect the rights of all its citizens and natural resources from unfair and damaging exploitation.

Please vote in favor of the changes proposed by your Planning Commission.

I grew up in the Milton-Freewater area and have a part interest in a traditional farm in the area.

Sincerely,

Daniel Baldner
314 21st Ave. East
Seattle, WA 98112

00004191

RECEIVED

#351

MAR 16 2011

March 13, 2011

UMATILLA COUNTY COMMISSIONERS
PENDLETON, OREGON

UMATILLA COUNTY
PLANNING DEPARTMENT

RE: WINDMILLS

DEAR COMMISSIONERS:

THE ONLY REASON THESE PROPOSED SETBACKS ARE BEING MADE, IS FOR THE PEOPLE THAT DON'T WANT WINDMILLS. I'VE ATTENDED SOME OF THE PLANNING MEETINGS AND MY FEELINGS FOR WANTING WINDMILLS HASN'T BEEN EQUALLY ADDRESSED, ESPECIALLY BY OUR ESTEEMED PLANNER. HOW IS IT A DEPARTMENT HEAD, PLANNER, THAT I HELP PAY HER WAGES, ONLY SEEMS TO ADDRESS THE ISSUES OF THOSE NOT WANTING TOWERS? IT'S BEEN SAID MANY TIMES AT THE MEETINGS VIEW RIGHTS ARE MORE IMPORTANT THAN PROPERTY RIGHTS. THE ONLY WAY THEIR PROPERTY RIGHTS GET TAKEN AWAY IS BY THESE VERY ACTIONS. IT SEEMS SOME PEOPLE IN POWER FORGET HOW THEY GOT THERE. BY NOT HAVING A VOTE BY THE PEOPLE WITHIN THE COUNTY WE WILL NEVER KNOW WHAT THEY REALLY WANT. I NEVER WAS TOLD HOW MANY PEOPLE WERE FOR OR AGAINST WINDMILLS, YET WE SIGNED BEFORE THE MEETINGS WHAT SIDE WE WERE ON AND IF WE WANTED TO SPEAK. THE FEW MEETINGS I ATTENDED LOOKED PRETTY EQUAL FOR AND AGAINST. THE OPPOSITION SPOKE LOUDER BECAUSE MANY WERE ON CITY BOARDS, ETC. ALSO THEY HAD AN ATTORNEY PRESENT TO REPRESENT THEM PERSONALLY. EVEN THOUGH HORIZON HAD THEIR ATTORNEY, THEY DIDN'T REPRESENT US THAT WANTED WINDMILLS. I'M ONLY SORRY WE WEREN'T MORE ORGANIZED AND HAD OUR PERSONAL ATTORNEY. YOU HAVE A VERY IMPORTANT DECISION TO MAKE ON SETBACKS AS THEY ARE PRESENTED. THESE SETBACKS WILL TAKE MANY ACRES OUT OF MY PROPERTY RIGHTS. NOBODY IS HELD RESPONSIBLE TO RE-EMBURSE ME FOR MY LOSSES, YET OTHERS MAY GAIN AT MY EXPENSE! I ACKNOWLEDGE THAT THE SETBACKS FROM A HOME SHOULD BE MORE THAN ORIGINALLY PRESENTED, TWO MILES IS OVER KILL. A PERSON WITH LITTLE ACREAGE OR A LOT IN THE RURAL COUNTY CAN STOP SEVERAL NEIGHBORS FROM HAVING A WINDMILL ON THEIR PROPERTY. THE TWO MILE SETBACK FROM A RURAL HOME ALONE WILL MAKE IT SO I WON'T SEE A SINGLE TOWER ON MY PLACE. THROUGH OUR PLANNING DEPARTMENT AND BOARD ACTIONS ONLY THE VERY WEALTHY OR LARGE LAND OWNERS WILL BE ALLOWED THIS LUXURY, WHEN WILL THIS EVER END. I KNOW YOUR TIRED OF HEARING I'M A TAX PAYER, YET IT MAKE ME FEEL LIKE I HAVE NO SAY AND I HELP PAY THE PLANNERS WAGES THE SAME AS THOSE THAT DON'T WANT WINDMILLS AND GET NOTHING IN RETURN. I HOPE AT LEAST YOU WILL NOT AGREE WITH ALL THE PRESENT SETBACKS PROPOSED.

BY READING THE PAPER IT LOOKS TO ME LIKE THE PLANNERS AND BOARD ARE WANTING A FEATHER IN THEIR HAT FOR BEING A LEADING BODY IN SITTING

00004192

WINDMILLS. MR. REEDER, A BOARD MEMBER, MADE A STATEMENT IN THE PAPER, THAT OTHER COUNTIES AND STATES MAY HAVE THEIR EYE ON UMATILLA COUNTY TO SEE HOW THESE RULES WORK OUT. WHO SAID UMATILLA COUNTY HAS TO BE THE LEADER ON WINDMILL SETBACKS AT MY AND OTHERS RIGHTS.

HOW IS IT ONE PERSON CAN ASK THE PLANNING COMMISSIONERS FOR SOMETHING AND THEY O.K. IT? MR. WADE MULLER FROM HELIX SAID HE DIDN'T WANT HIS HOME IN THE COUNTRY TO BE LESS VALUED THAN ONE IN THE CITY. AFTER HIS RECOMENDITIONS THE PLANNING COMMISSIONERS AGREED WITH TWO MILES FROM ANY RUAL HOME. WHAT THOSE THAT DON'T WANT WINDMILLS DON'T REALIZE IS THEIR PROPERTY RIGHTS ARE ALSO BEING TAKEN AWAY, BUT THEY WILL GIVE UP ANYTHING TO STOP A NEIGHBOR. THIS IS A VERY SAD SITUATION.

I KNOW FOR A FACT MY NEIGHBOR HAS SPOKEN UP AT THE MEETINGS THAT HE IS AGAINST ANY WINDMILLS IN SITE FROM HIS PROPERTY. YET, AS I AM WRITING THIS, HIS LAND IS FOR SALE. IS IT FAIR TO ME BECAUSE OF THIS TWO MILE SETBACK HE SELLS AND MOVES. I'M ASKING YOU TO REALLY LOOK AT THE TWO MILE SETBACK FROM A RUAL HOME.

SINCERELY,



SHELDON C. KIRK
P.O. BOX 239
WESTON, OREGON 97886
541-566-3755

00004193



Umatilla County Commissioners
Umatilla County Courthouse
216 SE Fourth Street
Pendleton, Or 97801

RECEIVED

MAR 16 2011

UMATILLA COUNTY
PLANNING DEPARTMENT

33

March 12, 2011

Dear County Commissioners;

I am writing to ask that you adopt the amendment to the Umatilla County Development Code (UCDC), sections 152.615 and 152.616 (HHH) as approved by the County Planning Commission on February 24, 2011.

I, too, believe companies are making more than sufficient profit, in part by passing costs off to the nearby neighbors and communities. The rules that have been used to approve and monitor the operation of wind farms need to be addressed and revised and I support your foresight in doing so.

By approving the recommended changes to the UCDC, you are causing the energy companies to take more responsibility for the costs they generate and providing protection to those who live close to their wind mills.

Please vote in favor of the changes proposed by your Planning Commission.

Sincerely,

Kay Wolf
Shumway Conservancy Member
2931 Larch Avenue
Central Point, OR 97502

00004194



RECEIVED

MAR 15 2011

#31

UMATILLA COUNTY
PLANNING DEPARTMENT

Umatilla County Commissioners
Umatilla County Courthouse
216 SE Fourth Street
Pendleton, OR 97801

March 11, 2011

Dear County Commissioners,

I am writing to you in support of amendments to the Umatilla County Development Code, sections 152.615 and 152.616, as approved by the Umatilla Planning Commission on February 24, 2011.

It is my understanding that these amendments will enhance the county's ability to make well informed decisions on wind power projects, and will also help to provide a safer environment. As someone who has been contacted by a wind power company, and who may well be impacted by them soon, I have a genuine interest in how our county deals with them.

I believe that transparency is essential when considering applications for projects that have the broad impacts that wind farms do. Large corporate owned companies, understandably, are driven to maximize profits and may well have little regard for the interests of local residents. It is essential that we, of Umatilla County, provide clear guidelines and protections initially, rather than trying to sort out problems when it's too late.

Sincerely,

Emily Shumway Banks
80856 Couse Creek Rd
Milton-Freewater, OR 97862
541 938 7771

00004195

Walla Walla River Irrigation District
323 Evans Street, P.O. Box 248
Milton-Freewater, OR 97862
541-938-0144
wwrid@gwestoffice.net

Dear County commissioners,

March 10, 2011

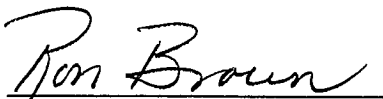
The Board of Director's of the Walla Walla River Irrigation District support the Umatilla County Planning Commission's proposed amendments to UCDC 152.615 and 616.

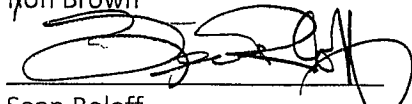
As you may know, the Walla Walla River is home to bull trout and steelhead, both of which are listed as threatened under the Endangered Species Act. The Walla Walla River Irrigation District has worked with the Confederated Tribes of the Umatilla Indian Reservation, US Fish & Wildlife Service and the National Marine Fisheries Service to restore water to the Walla Walla River to benefit aquatic species. We understand the environmental impact wind power development could have on our watershed. We have learned that any negative impact to the environment caused by wind power turbines will likely have to be addressed by the landowners in future generations. We applaud the County Planning Commission's attempt to protect the county's natural resources and residents.

The Walla Walla River Irrigation District is serious about protecting the water quality in the Walla Walla River. The Umatilla County Planning Commission addressed many of our concerns in their proposed amendments related to erosion prevention and control, increased setback distances and standards for developing roads.

Respectfully,


The Board of Directors of the Walla Walla River Irrigation District


Ron Brown


Sean Roloff


Tracy Larson


Dennis Burks


Alan Davis

00004196

exhibit
#47



#30

RECEIVED

Umatilla County Commissioners
Umatilla County Courthouse
216 SE Fourth Street
Pendleton, Or 97801

MAR 14 2011

UMATILLA COUNTY
PLANNING DEPARTMENT

March 9, 2011

Dear County Commissioners;

I am writing to ask that you adopt the amendment to the Umatilla County Development Code (UCDC), sections 152.615 and 152.616 (HHH) as approved by the County Planning Commission on February 24, 2011. I recognize that our society needs power and that the companies that produce that power need to make enough money to stay in business. But I believe companies are making more than sufficient profit, in part by passing costs off to the nearby neighbors and communities. The rules that have been used to approve and monitor the operation of wind farms have been too lax in the past. They have allowed development of farms that produce inconsequential amount of power. Those farms have consumed public subsidies that enrich the wind farm owners anyway and take funds away from other public needs. They have allowed a variety of pollution impacts on surrounding land owners (dust, light, noise, and water run-off). By approving the recommended changes to the UCDC, you are causing the energy companies to take more responsibility for the costs they generate and providing some modicum of protection to those of us who have to live in proximity to their facilities.

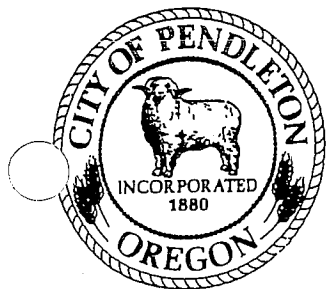
Please vote in favor of the changes proposed by your Planning Commission.

Sincerely,

Lindsay Winsor

Lindsay Winsor
224 S.E. 20th Place
Milton-Freewater, OR 97862

00004197



CITY OF PENDLETON

RECEIVED

MAR 10 2011

UMATILLA COUNTY
PLANNING DEPARTMENT

Office of the Mayor
500 S.W. Dorion Avenue
Pendleton, Oregon 97801-2090
Telephone (541) 966-0201
FAX (541) 966-0231
TDD (541) 966-0230

March 9, 2011

Office of County Commissioners
Umatilla County Courthouse
216 Se 4th Street
Pendleton, OR 97801

Dear Commissioners:

The City of Pendleton supports the recommendation of the County Planning Commission for the required setback of two miles from a City's Urban Growth Boundary.

We prefer the setback from the UGB versus the city limits due to expected expansion of the city limits into the UGB in the future.

The City is concerned that if the two mile from a resident is enforced it may stifle any opportunity for win power facilities in Umatilla County.

The City appreciates all the hard work the County Planning Commission and the Commissioners have done on this issue.

Sincerely yours,

Phillip W Houk
Mayor

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.... Home of the World Famous Pendleton Round-Up



March 9, 2011

#29

Commissioners Doherty, Givens and Hansell
Umatilla County Courthouse
216 SE Fourth Street
Pendleton, Or 97801 Umatilla County Courthouse
216 SE Fourth Street
Pendleton, Or 97801

RECEIVED

MAR 11 2011

UMATILLA COUNTY
PLANNING DEPARTMENT

Dear Commissioners:

The following residents of Milton-Freewater strongly support the amendments to ordinance approved by the Umatilla County Commissioners in February regarding UCDC 152.616 (HHH) Commercial Wind Power Generation Facility siting standards.

We support the increase in setback requirements. Milton-Freewater is already looking at windfarms to the north, west and soon to the south apparently. If applications are received and are approved to the east in the Blue Mountains, and we sincerely hope they won't, we'll be totally surrounded. There's an appropriate place for windfarms, and the scrub land in the hills is a great spot for them, but putting them in the Blue Mountains could have serious impacts on wildlife, water quality, and quality of life. As you know, the City Council of Milton-Freewater has strongly urged bigger setbacks and refraining from putting them in the Blues. We agree.

Windfarms are a boon to some landowners and to the County's coffers, but please consider how they impact the rest of the citizens of Umatilla County as well, particularly when setbacks are so small (for example, the windfarm companies are proposing only ¼ mile setbacks from rural homes!)

Please vote to approve bigger setbacks at your meeting on March 17!

Sincerely,

Nora Connors
Name

55207 WWRR, M-F, OR
Address

Patrick Smith
Name

55207 WWRR, M-F, OR
Address

Bruce Campbell
Name

113 NE 7th Ave
Address

Clark Colahan
Name

728 S. Columbia, M-F
Address

Dorothy Harless
Name

215 SW 13th
Address

Ella Adams
Name

215 SW 13th Ave
Address

Gary Chambers

Name

113 NE 7th AVE, M-F OR 97862

Address

Linda M Moats

Name

53935 Gabriel CT M-F OR 97862

Address

Shirley Howard

Name

311 S.W. 2nd Ave M-F

Address

Deane Beggs

Name

1221 S. Mill St. M-F

Address

Name

Address

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Address

Why Increase the Wind Tower Setbacks?

Clinton Reeder, Member
Umatilla County Planning Commission
February 27, 2011

Introduction. The Umatilla County Planning Dept. and Planning Commission, working with the general public and the county Board of Commissioners are making a sincere, caring, collective effort to somehow reasonably resolve the conflicting issues and concerns associated with the development of wind power in this county. Serving in these roles poses a serious, time consuming, thought provoking, practical and philosophical challenge for the persons who volunteer for such public service, are county employees and/or are elected officials. The Planning Commission members, the Planning Dept. staff and the County Board of Commissioners have long accepted this challenge as a unique opportunity to work toward maintaining a livable community that adapts and evolves in generally preferred fashion toward the uncertainties and challenges of today and tomorrow, as we learn from our past.

*** A WORD TO WIND POWER DEVELOPERS**

Your interests are not being ignored as the county proposes new wind tower setback requirements. The Planning Commission and Planning Dept. understand the impact of overhead costs upon business operations; understand that overhead can only be covered adequately with an efficient development project that reasonably maximizes net income from any given site. We can also understand that delays can cost the developers a great deal of lost revenue, and want to avoid legal confrontations that might lead to such delays.

No community can be truly sustainable unless it considers priorities other than purely economic outcomes. The county must consider the practical realities of any project that sets neighbor against neighbor (and the wind towers clearly do this); that intensifies political backlash; that jeopardizes county budget receipts relative to budget needs and priorities. The county cannot ignore lifestyle preferences of its citizens, including the indirect effects of wind towers upon emotional as well as physical health (which over the past 20-30 years have been increasingly well documented, especially health issues relating to sleep disruptions). A sustainable community depends increasingly upon improving general acceptance of the noise and other less acceptable effects of wind power development.

The county must be aware and sensitive to the broad range of issues and concerns of its citizens, whatever they might be, both favorable and unfavorable. While the proposed new setback standards in the county's wind power development ordinance are not primarily meant to limit tower placement and numbers, they will undoubtedly have that effect in some situations. The setback standards are written in a way that hopefully provides for meaningful and productive negotiations with mutually beneficial longer term outcomes, for affected neighbors to the tower sites as well as the developers.

The Umatilla County Planning Commission respectfully requests your continued support as the county works to provide an appropriate and productive long term environment for both local lifestyle choices and profitable wind power development projects.

**** THE RECENTLY PROPOSED SETBACK STANDARDS**

The following describes recently recommended setback amendments to the Umatilla County Wind Power Development Ordinance.

- (1) **City Setbacks.** Increase the setback of wind towers to 2 miles or 20 times the wind tower height from ground to upper blade tip, whichever is greater. This change includes moving the towers back from the Urban Growth Boundary, rather than the current City Limits, which assures better protection from wind tower noise and other effects as the city expands the city limit boundaries. If the setback is from the urban growth boundary, and the city moves that boundary, then the setback distance would automatically further push back the siting of future wind towers.
- (2) **Rural Home Setbacks.** Increase the setback of wind towers from rural homes to 20 times the wind tower height from ground to upper blade tip, or 2 miles, whichever is greater. This setback distance strongly encourages the rural home owner and the developer to engage in negotiations to mitigate the wind tower effects the home owner prefers not to experience, at least not without some level of compensation. On the other hand, this provision also provides express protection for the rural homeowner who simply does not want any wind towers close to their home, whatever their reason/s might be. The Planning Commission decision was largely based on not wanting to continue making unwilling "victims" of the neighbors to the wind towers; to reduce the current tendency of neighbors who may have been friends for years becoming divided and hostile over the wind tower placement.
- (3) **Road Setbacks.** Increase the setback from county roads and state highways to 2 times the wind tower height from ground to upper blade tip, and to 3 times this tower height near the Interstate highways, in order to lessen the tower distraction of drivers; better protects the public from ice thrown off turbine blades; and assure that debris from a falling tower will not block the roadway and/or cause injury to persons on or near the roadways.
- (4) **Transmission Line Setbacks.** Increase the setback of transmission lines from homes to 500 feet in order to (1) provide increased assurance that the "hum" from transmission lines will not adversely affect residents; as well as (2) push the transmission lines further out of the view from the residence; (3) provide increased protection from the debris associated with falling transmission towers and lines; and (4) better protect home sites from the potential threat from falling "hot" electrical lines. This setback would not apply if the transmission lines were in a road right-of-way.

- (5) **Satisfy State Noise Standards.** Increased setbacks are in addition to the current provision in the wind power development ordinance that all wind power towers must meet the noise standard established by DEQ. If some quirk of terrain channels noise in an unexpected manner and imposes noise in excess of the DEQ noise standard, the tower/s causing the excessive noise will have to be modified or removed to satisfy the noise standard at the home site of any complainant.
- (6) **Setback from Streams and Other Bodies of Water.** The appropriate setback from perennial streams and other bodies of water is not well understood at this time, and until better understood and documented, such setbacks will not likely be added to the county's wind power development ordinance. There is, however, considerable concern about whether fish will swim through and/or feed in water that is disturbed by wind tower vibration transmitted via the ground and/or via air turbulence and noise near the water bodies.

***** SOME HISTORY AND CONTINUING CONCERNS**

A Carefully Made Decision. Several persons have questioned the wisdom of increasing the setback of wind towers from homes and the boundaries of cities. This decision has been labeled by one wind power developer as appearing "arbitrary and capricious", which the dictionary defines as being "based on one's own preferences"; "unreasonable"; "determined by chance"; "changed without reason"; "fickle" (inconstant, unstable, volatile), all of which are disallowed by Oregon's land use planning program. I encourage developers to take a closer look at the truth of the process of arriving at this decision, and consider the content of over two years of public testimony, especially testimony in more recent public hearings.

It is not the primary intent of the increased setbacks to eliminate any wind towers, but to make sure that if wind towers are built, they are built in a manner that reasonably protects the interests of all parties affected by these developments. And yes, in some instances, the increased setbacks will likely result in preventing the erection of some towers and/or force a reduction of the size and thus also the negative effects of the tower installation.

The Umatilla County Planning Commission and the Planning Dept. staff have wrestled with the dilemma of setbacks since the wind towers first came into Umatilla County in 1997, and especially the past two years as the dimensions of the new towers have increased dramatically. The protective setbacks were not nearly as much of an issue at first when the wind towers were much smaller, and did not make nearly as loud a noise as the larger ones do now. Also, in the beginning, the vast proportion of the wind towers were built on high, more isolated ridges in north part of the county, where there was a lot of marginal land; where the hillsides were steep and not farmed, or maybe in the Conservation Reserve Program (CRP) planted with grasses. The number of access roads into these areas were few in number, not too well signed and few people drove those roads. In other words, for

several years when the wind towers were first in the county, they were for the most part nearly invisible – and there were few complaints about them. They were mostly a novelty that did not bother many people. Since they brought some jobs to the county and contributed funds to local communities, they soon became much more than just a novelty.

As the tower numbers increased, and the size of the towers grew to new heights (now nearly 500 feet from the ground to the uppermost blade tip) more and more homeowners in the rural areas began complaining about the number of towers and the noise from the towers (I understand there are now towers much taller than the ones being installed in this county at the current time). Once the 500 foot towers were introduced, and the numbers increased, the towers became much more visible, generated more noise, and the traffic increased as more curious people visited the tower sites. The larger towers “dominate the landscape” in ways the smaller towers did not. As the size and number of towers increased, more people began complaining about inappropriately “industrializing our rural areas”; invading the quiet rural landscape with noise and industrial wind towers and associated facilities. Furthermore, once the number of taller towers increased more dramatically, the blinking red warning lights rose above the horizon in more places, in larger numbers, and “contaminated” the night sky scene for more people.

During the earlier years, the tower setbacks from the roads and nearby homes were not increased as the tower height increased. As the tower numbers increased in this county, they also increased in size, all along the Interstate to the west, as far as the Columbia River Gorge protected area. While these Gorge towers were far away from Umatilla County, they did impact this county in one very important way: they made much more obvious that the cumulative effect upon people was going to be an increasing problem.

The wind towers were increasingly no longer just a novelty; they were an industrial invasion increasingly making victims of neighbors to the wind power development sites. Neighbors to the wind tower sites found them to be not just a nuisance, but a source of traumatic disruption to the peace and quiet of the rural landscape; a visual contaminate in the view from homes and from the roads. Increasingly, testimony at public hearings voiced concern and objections to the number, the size, the associated traffic (especially during the construction phase) and the noise, which was highlighted by legal action in Morrow County where towers that were generating noise were confirmed to violate the state-wide noise standard established by the Oregon Dept. of Environmental Quality (DEQ).

“Direct Effects” of Wind Tower Noise. Research concerning noise and the towers focused attention on what has been called the “direct effect” of noise; that is loss of hearing, for example, due to damage to elements of the human ear as a result of too loud a noise. The industrial noise studies over many years reasonably well documents that such effects are not likely from the wind towers. This appears to have been reasonably confirmed by more recent studies concerning the wind tower noise. However, direct effects of noise have absolutely not been the issue. The primary complaints have been the indirect effects, in particular the loss of sleep from the tower noise, the irritation and anger expressed by

neighbors to the towers due to the imposed noise and other consequences of having the wind power developments encroach upon the neighbors lifestyle.

"Indirect Effect" of Wind Tower Noise. The noise issue relative to the wind towers is due to "indirect effects" of the towers. Indirect effects include loss of sleep, which is much more of a problem than many people understand. Sleep deprivation, sleep disruption due to most any cause is at the heart of a wide range of health effects – and there is considerable literature that documents such concerns. In my personal opinion, the health effects of sleep interruption should be in the direct effects category, and I am quite confident it will eventually be recognized as far more of a problem than is recognized today. For further insight into the indirect effects of interrupted sleep, see the following: "The Promise of Sleep:...the Vital Connection Between Health, Happiness and a Good Night's Sleep". William C. Dement, M.D., Ph.D. and Christopher Vaughn. 1999. Dell Publishing. – AND- "Sleep, Interrupted: A Physician Reveals the #1 Reason Why So Many of Us Are Sick and Tired". Steven Y. Parl, M.D. 2008. Jodev Press. [This latter book presents a schematic model showing the relationship (linkage) between inadequate sleep and multiple health problems, including heart and other very serious disorders.)

Increasing Organized Resistance to Wind Towers. For the county Planning Dept and Planning Commission, the issues surrounding the wind towers became much more urgent as a group of citizens in the Milton-Freewater formed a concerned citizens group named "The Blue Mt. Alliance" (BMA) whose primary purpose was to protect the face of the Blue Mountains, between highway 11 and the crest of the mountains to the east from wind power development. The Walla Walla Valley vineyard and winery interests voiced concern about a negative relationship between too many wind towers and the tourism in the Valley, the fear being that people who came to appreciate the view of the Blue Mountains would be discouraged by how the wind towers negatively impacted that view. One person recently wondered if anyone would hang photos of the mountains on the wall in the future, if the scenery was heavy with wind towers. The BMA also raised questions about the protected view areas off highway 204 to Tollgate, and insisted the already designated view areas, plus additional areas be protected from wind tower development. Furthermore, many people voice opposition to any tower development that might negatively impact the wildlife and wildlife habitat, especially in the wildlife winter range and spring calving areas for deer and elk.

Roads, Silt and Clean Water Concern vs. Wind Towers. And then the really serious issue became more evident. Road building in the mountains and forests of the U.S. have been under attack for many years, one major reason being the negative impact of erosion and silt movement associated with road building upon the upper reaches of all watersheds. The federal Clean Water Act and associated state water quality regulations have made obvious that protection and enhancement of water quality will be forever a very high public priority. The state Source Water (drinking water) Protection program makes clear that drinking water protection programs will henceforth include all land areas that feed water from the upper watersheds clear through the entire state water delivery system as a high public

priority. As the DEQ developed their Total Maximum Daily Load (TMDL) studies across all watersheds, they identified certain contaminants that exceeded legal limits, a major one being silt. The overall resource protection regulatory process relative to water quality must respond to these water quality TMDL standards.

Endangered Species Act Protection. As the number and size of wind towers increased, and the watershed management programs became more concerned about silt and other contaminants in the rivers, the concern about wildlife intensified, with particular early reference being various bird and bat populations. In addition, ground squirrel populations had to be protected, and over time, greater attention was given to both elk and deer populations. Of special concern, however, relative to the Endangered Species Act have been the fisheries, with all aquatic species protected, not just fish; and any endangered birds were monitored carefully as the wind power developments expanded. The overall cumulative effect of the wind towers on various wildlife species is not yet well understood; most likely someone needs to collect the monitoring data and analyze the overall progressive and cumulative effects being documented.

Wind Towers vs. City Development and Expansion. Next, the City Council of Milton-Freewater aggressively entered into the wind tower discussions. Milton-Freewater has for several years been investing in the south side of their city, installing a new community water storage facility; providing infrastructure to support development such as the Sykes Commercial site; and proposes to encourage residential development in that area over coming years. The MF City Council has made their concerns very clear: they do not want wind towers in the view shed to the east of this new development area, for fear that contaminating the view with wind towers will degrade the development potential for the city, preventing them from recovering their investment in infrastructure for that area. At the most recent public hearing, the County Council requested the following setbacks: 6 miles from the city, if the tower would be out of sight from the city; and 15 miles, if the tower could be seen from the city. It seems rather obvious that the City Council would not be taking this stand if they did not have at least a reasonable level of support from members of that community. Furthermore, they have made reasonably clear that if they really had their way, maybe there would be no wind towers at all.

Increased Financial Information vs. Public Attitude Toward Wind Towers. As more information is available to the public, more people are aware that without the subsidies from the state of Oregon and the federal tax credits, there would likely be no wind towers – they are not, without the subsidies, economically competitive with other sources of electricity. With the current state budget difficulties, many people do not like the idea that wind towers are taking money that many think should more appropriately go to public education, increased numbers of state police officers, more Sheriff's deputies in local areas, etc. And when they discover that much of the investment money in wind towers is not U.S. investment funds but foreign money; and that the energy generated by Umatilla County wind towers is being sold out of state, they have further justification to oppose the wind towers, as a matter of principle.

The Wind Power Development Challenge to the County Land (Resource) Planning Program.

Increasingly, over especially the last two years, the Planning Commission and the Planning Dept. have been faced with the challenge of trying to (1) continue in support of the wind power development; while (2) making sure that the conflicts between wind power developments and members of the community, especially those victimized by the wind power developments, are managed in a manner that provides assurance to both the developers and local citizens that the industrialization of the rural areas will not simply make victims of the local citizens adversely impacted by the wind towers.

Does The County Want to Continue a Development Process that Creates Victims of Neighbors to the Developments, without Making Some Adjustments? As some landowners lease their land for wind towers, and receive the energy rents from the tower sites, other local landowners who are neighbors to the tower sites are increasingly feeling threatened, indeed victimized by the tower developments. They voice feelings of hopeless and helpless in the face of such developments and the vast amount of money being invested in them. Even though some substantial money is being shared with the local communities by the developers through mitigation payments to local communities, negotiated by the county Board of Commissioners, those neighbors to the developments that are most adversely affected by especially the tower noise, and not much impressed by the current circumstances – which make them feel their concerns are not listened to, their issues and concerns not taken seriously.

Does the County Want to Foster the Loss of Rural Lifestyle Benefits. As the number of unhappy neighbors increase, the opposition “noise” intensifies; those who are experiencing negative effects of the development are feeling robbed of the benefits of rural lifestyle, having their peace and quiet stolen away with no recourse but to “grin and bear it”; invaded against their will by the towers; without any way to protect their interests.

Does the County Want to Provide Equal Protection to Rural Homes as City Homes? These people do not like their rural homes being provided less protection than the residential areas of nearby towns. Many, if not the vast majority of these persons fear the loss of property values, and the threat to their mortgage status as a result.

Does the County Want Foster “Neighbors In Conflict”? Rural neighbors who have been friends for years, even generations, are now “neighbors in conflict”, negatively impacting the politics and social setting in local communities.

Must Economic Development Also Be Community Development? While there are certainly local benefits from the wind towers, but the economic benefits and the indirect cost effects are certainly not being shared equitably across the community. In spite of the mitigation funds being paid to local communities, the wind power development process continues to have increasingly disturbing negative effects upon certain persons in the local communities. “Economic Development” at its best, is “Community Development” – the county’s land

(resource) planning program is challenged to develop a more productive means of managing the intensifying "conflicts" relating to wind power development in order to minimize the negative consequences of the wind power development.

The Wind Energy "Classes of People". There are now five, maybe six primary "wind energy classes" of people in our local communities: (1) those with existing towers, who generally prefer to add towers, preferably larger towers which pay increased tower site rents; (2) those who have tower development potential on their property, and fear increased setbacks will prevent them from ever having towers and the associated income; (3) those without towers and little chance of ever having towers, and hence must directly suffer the consequences of wind towers without directly sharing in the income windfall to the community; (4) those who just do not like the towers and their negative effects on the rural lifestyle; and (5) those who do not live close the tower development areas, and know relatively little about what it is like to be directly involved in the controversy. And maybe even a sixth class, the "tourist" who collectively has mixed reaction to the towers in the day time, and the blinking red lights that dominate the horizon at night.

The Intensifying Conditions and Circumstances Define "Conflict". In the parlance of "land use planning" this set of circumstances relative to the wind power development constitutes a major "conflict" among competing uses of the resources of the community! It is the assigned task of the Planning Process to cope with such conflicts; resolve them as much as possible; and where resolution is maybe not possible, at least mitigate reasonably the circumstances to hopefully reduce (minimize) the negative effects of the conflict/s.

Mitigate the Negative Effects. The proposed changes in setback distances will, to some extent, force a re-distribution of the economic benefits from wind power development. With increased setbacks, a home owner can by refusing to sign a noise waiver or a noise easement (which now generally provides a negotiated financial settlement with the opposing home owner) prevent a wind tower from being built closer than the setback distance from their home. This will reduce the developer's income from the tower string, effectively shifting economic benefits from the developer (and via the reduced community mitigation funds, also from the general community) to the home site owner. On the other hand, this transfer of economic benefits might be reduced if the developer elects to use a smaller, quieter tower design, one that meets the state noise standard at a closer distance to the home. If a noise waiver or noise easement is negotiated, then the distance from the tower to the home could be considerably closer, further protecting income to the developer but transferring possibly a larger part of the income to the home owner to mitigate whatever the adverse tower effects might be on the home owner.

The ultimate in wind power mitigation was reported in the newspaper this past year. A rural homeowner in a nearby county aggressively opposed living near new wind towers; refused to sign any noise waiver or noise easement; and demanded repeatedly that the developer buy their property at a fair market value, so the home owner could move clear away from the wind power development site. The newspaper reported that this

homeowner received a price for the home and property that exceeded the current market value, which, all things considered, was likely an economical decision for the developer who by paying a higher than market price for the home avoided further legal fees and court costs, plus avoided any further delays in getting the development completed.

Should the County Protect the Current or the Future Circumstances? Of major concern, is whether the setback distances should protect only the current resident of a home or should the setback provisions provide some minimum setback distance that protects the home and/or the property from tower encroachment into the future; i.e., a setback that protects the market value of the home and property, and the lifestyle circumstances pertaining to that home. If the community values the rural lifestyle, then a more permanent minimum setback from homes should likely be established to protect access to rural homes in the future, as ownership changes. If a current rural home owner negotiates a very favorable financial mitigation, but in the process lets wind towers be built very close to that home, future home and property values may be considerably lower, benefitting the current home owner but reducing property tax revenues to the county and other local taxing districts, as well as reducing the future marketability of the home and property and tax revenues there from.

Should the County Protect Home Sites, or Property Boundaries? Another major concern has been whether to make the setbacks from a home site, or from the boundary of a property on which the home exists. In some cases, the rural home is on a smaller parcel of land, but the home is associated with one or more adjoining properties under the same ownership. If the setback was from the home, a much smaller area would be subject to the noise effects and the associated setback requirements. If the setback was from the property boundary upon which the home existed, and the larger the property, the greater the wind tower limitation might be. For example, if the home were in the corner of a 160 acre parcel, the protected area would be 2 miles from the entire boundary of that land parcel. If the setback were 2 miles from the home itself, then the protected area would be considerably smaller.

Another concern in making the setback from the property boundary rather than from the home site, is that rural properties are often divided in estate settlements; land is traded via property line adjustments with neighbors, and occasionally combined with other parcels into one larger parcel. Since the property boundaries are so subject to change, and hence also subject to purposeful manipulation, it has been decided not to tie setbacks to the home property boundaries, because the home site is considerably more stable and long lasting than are property boundaries.

One possible consideration would be to provide setbacks from the property boundaries of smaller land parcels, upon which persons might desire a home be built in the future, but upon which there is no existing home. Not protecting this property's future home site potential may serve to limit future rural home sites that are free of wind tower noise effects.

One Very Likely Certainty: The County Wind Power Development Ordinance Will Continue to Evolve. One factor seems very certain: as the conditions and circumstances change; as the

wind tower technology changes; the county wind power ordinance will undoubtedly adapt to better satisfy the current and developing conflicts among the various uses of rural and urban resources. Furthermore, the increasing size and impact of wind towers will (may) increasing conflict with the values generally supported by the general public relative to farm, grazing, forest and rural residential land.

Unresolved Wind Power Issues. If the county increasingly industrializes the rural landscape, where then will the urban population go to escape the city? What will be the future impact of rural industrialization on the values and preferences of the urban communities and those living in rural areas? Maybe the resource planning process should allow each local community more say in the setback of wind towers from their local community boundaries?

Maybe, since the wind is (maybe) a (free?) public resource, not yet even defined formally as "property of the state" (as is the case with water), the economic benefits of wind power development should also be property of the state, with regulations spreading the benefits more generally across the society, maybe into the state (and/or county) general fund, or dedicated to fundamental public services (fire, police, waste disposal, community water systems, education, etc.

Since wind towers quite literally spring up "wherever the wind blows", generating a rather random distribution of a windfall gains to only certain property owners, the distribution of benefits should be reconsidered. Unlike mineral rights which are specific to a certain property, or oil rights which are pumped from underground "pools" under multiple properties, and can be tapped by literally drilling sideways, trespassing under neighboring properties; and water which travels across multiple properties but is protected quality-wise while it travels across every property it traverses.....

Philosophically, socially, economically, there will continue to be old and new questions posed as the human population continues to struggle with how best to preserve, conserve and develop the global and local resources, including not only air quality but the wind itself, as a valuable alternative source of energy.

The European Experience vs. Umatilla County. As I understand from limited reading about wind power development experience in several European countries, they are experiencing similar effects as are the people in this county, including increased resistance as the number and size of wind towers increase. It appears as more local people here become familiar with the Internet, and have question about the European experience, they are searching for information from other areas of the world against which to compare our local experience. If my understanding is accurate, while wind power development continues in Europe, there is increasing opposition to multiplying the invasion of wind towers across the landscape there as well as here.

There is little doubt that the global demand for energy sources increases with population and along with intensifying general economic development across the global landscape. Therefore, a considerably intensified effort must be made, literally everywhere, to identify and develop alternative energy resources and technology. As the conflict between such development and the lack of acceptance of industrialization across the rural

landscape mounts, longer term energy preferences will likely move us toward fewer energy generation sites, generally out of sight, and generating less adverse environmental impacts.

UMATILLA COUNTY PLANNING COMMISSION
Meeting of Thursday, February 24, 2011
4:00 p.m., Umatilla County Justice Center, Media Room
Pendleton, Oregon

COMMISSIONERS

PRESENT:

Gary Rhinhart, Frank Kaminski, David Lynde, Tammie Williams, Clinton Reeder, Randy Randall, David Lee.

ABSENT:

Don Wysocki, John Standley.

STAFF:

Tamra Mabbott, Carol Johnson, Richard Jennings, Gina Miller.

NOTE: THE FOLLOWING IS A SUMMARY OF THE MEETING. A RECORDING OF THE MEETING IS AVAILABLE AT THE PLANNING DEPARTMENT OFFICE.

CALL TO ORDER:

Chairman Rhinhart called the meeting to order at 4:04 p.m.

APPROVAL OF MINUTES:

Chairman Rhinhart asked if there were any changes or additions to the minutes from the work session minutes of January 13, 2011. Commissioner Lynde moved to accept the minutes as presented, and Commissioner Lee seconded the motion. The minutes of January 13, 2011 were approved by consensus.

NEW HEARING:

- **Update of Umatilla County Development Code, #T-10-040.** A summary of the updates include the following:
 1. UCDC 152.059 (K) I (2) b (7) clarify language
 2. Enforcement of Code, refer to the Chapter 38
 3. Change TYPE IV Review II language
 4. Change TYPE IV Review III language
 5. Requesting a Continuance
 6. Remove UCDC 152.626 "Minor Variance" Section and References to Minor Variance in Other Sections
 7. Modify Setback Variance language in Commercial and Industrial Zones
 8. Clarify Non-Farm Dwelling Criteria
 9. Clarify Conditional Use Reference in UCDC 152.060
 10. Parking Standards
 11. Boundary Line Adjustments – Date of Creation
 12. Boundary Line Adjustments – DEQ Site Suitability Approval
 13. Mobile Homes Not to be used as Storage Units
 14. Modify Conditional Use Permit Section
 15. Replacement Dwellings in the EFU Zone
 16. Type II Land Division - UCDC 152.684 (E) modified
 17. Cargo containers

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Chairman Rhinhart read the opening statement, and called for any abstentions, or objections to the jurisdiction of the Planning Commission. There were none.

Planning Director Tamra Mabbott clarified that the hearing would be held in two parts, with the first addressing only the code update. This would be followed by a dinner break and the continued hearing for the Section HHH, Wind Energy siting standards, would be opened immediately after. Public testimony forms were available at the back of the room for both hearings for people to fill out and hand to a planning staff member.

Staff Report: Richard Jennings, Senior Planner, presented the staff report. Mr. Jennings stated that this annual update is a matter of clarifying the language for the ordinances, or updating to reflect adherence to state statute and administrative rules. These are fairly simple updates.

1. UCDC 152.059 (K) I (2) b (7) clarify language
2. Enforcement of Code, refer to the Chapter 38

The first update is just an addition of references in the code, related to dwellings in non-high value soils. The second update is a reference to the enforcement ordinance, Chapter 38.

3. Change TYPE IV Review II language
4. Change TYPE IV Review III language

These updates will be discussed in more detail later in the discussion.

5. Requesting a Continuance

This update pertains to continuances, and bringing the ordinance up to date with the administrative rules.

6. Remove UCDC 152.626 "Minor Variance" Section and References to Minor Variance in Other Sections
7. Modify Setback Variance language in Commercial and Industrial Zones

These changes deal with variances. In the past, there was an opportunity to do a minor variance, so this was eliminated. All variances are now administered the same way with this code update.

8. Clarify Non-Farm Dwelling Criteria

This update clarifies the date of creation for the parcel when processing a non-farm dwelling application. This is a clarification of state statute.

9. Clarify Conditional Use Reference in UCDC 152.060

This update adds a reference to the Conditional Use Permit section to all text for the criteria for approval found in UCDC 152.061.

10. Parking Standards

This update will address parking standards for applications.

11. Boundary Line Adjustments – Date of Creation

12. Boundary Line Adjustments – DEQ Site Suitability Approval

These updates address boundary line adjustment issues.

13. Mobile Homes Not to be used as Storage Units

This update will address the issue of mobile homes not being permitted as storage units.

14. Modify Conditional Use Permit Section

This is a detailed update of the Conditional Use Permit section. There are basically two types of permits issued, Conditional Use Permits and Land Use Decisions. This section deals with both types of permits, so this update will change the title to include the language for Land Use Decisions in addition to just Conditional Use Permits. This will update the procedures for reviewing both types of permit applications.

15. Replacement Dwellings in the EFU Zone

This update includes a feature of the state statute that previously was not included locally in the county ordinance.

16. Type II Land Division - UCDC 152.684 (E) modified

This update deals with the Type II Land Division. Currently this process requires a sign at intersections of county road or state highway. This modification will give the county some flexibility; if the application is for a private drive that will not serve many parcels, this requirement may be waived. This update will also add some language in regards to road standards (P-1 and P-2 standards), and they were not specified. References to these standards will now be a part of this section.

Mr. Jennings stated that the Type IV Land Division deals with land in the EFU (Exclusive Farm Use) zone or GF (Grazing Farm/Forest) zone. This update deals with the creation of an 80 acre parcel, and whether it can be made smaller by doing a boundary line adjustment later. Once this update is adopted, the 80 acre parcel cannot be made smaller by a boundary line adjustment, thus closing this loophole.

The Type IV Review III process deals with creating parcels for non-farm dwellings. This update will clarify the county ordinance to comply with the state statute; there can only be a total of two parcels and both must qualify for non-farm dwellings. To qualify for this process, the property can't have water rights, and must have 90% Class 7 soils.

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Mr. Jennings spoke about the issue of off-street parking standards. In industrial and commercial zones, the current standard is one parking space per employee and 1 parking space per 200 square feet of floor space. This standard will be changed to 1 parking space per 200 square feet of public space. If the public can access the area, then this standard must be met. This change will decrease the amount of off-street parking that would be required in commercial and industrial zones. It has been particularly difficult for warehouse structures to meet this old standard of floor space.

Mr. Jennings covered the topic of mobile homes being converted to use as a storage unit. The general policy in the past has been to not allow this conversion in residential zones, but it was allowed in the EFU zone in the past, for storage of feed and tack. This change to the code is to clarify this language; manufactured home will not be allowed to be converted to storage units except for the EFU and GF zones.

17. Cargo containers

Mr. Jennings spoke about the proposed code update to implement a policy of allowing and permitting cargo containers for storage purposes. He gave a brief history of how this topic has been covered in past Planning Commission hearings and work sessions. He explained the definition that will appear in the code. If the cargo container is greater than 120 square feet and is on the ground, it will require a Zoning Permit and must adhere to the setback requirements and floodplain development standards. If the cargo container has wheels on it, it will not fit under this definition and will not require the permit process.

Commissioner Reeder and Commissioner Lynde asked Mr. Jennings to clarify the language about the storage container being totally closed, and how semi-trailers with axels but not fit for road use will be handled. A brief discussion followed on these two questions. Mr. Jennings advised that any containers with wheels would not meet the definition and would not require permitting.

Mr. Jennings explained what a buildable area means; set back areas, easements and septic/drain fields are not considered areas where building should take place. The cargo containers will require a site plan to verify the placement and must adhere to floodplain development standards. The cargo containers cannot be stacked more than one level high, and must be on a level surface. They must be used for storage and would require further permitting if there was a change in use for the container. The cargo container must contain the belongings of the property owner; a person may not set up cargo containers on their property and rent them out for someone else's belongings. This may be allowed in the proper zone with a permit.

Commissioner Lee asked how this code update would affect the Humbert's rental service in Milton-Freewater. Mr. Jennings advised that no permits would be required for the property where the rental units are stored, and that property owners will be the responsible party for obtaining any permits for placement on their property. Mr. Jennings also advised that if the storage container was going to be present less than six months on the property, it would not require a Zoning Permit.

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Mr. Jennings spoke about the "grandfather" or grace period that will be offered to property owners who already have a storage container on their property. The property owner can get a Zoning Permit within the first six months following this ordinance being adopted. There will be no fee for this permit, and the storage container can remain where it is and will not have to meet setback requirements unless it is considered a hazard. If the existing storage container is located in a floodplain, it will require a floodplain development permit.

Commissioner Lynde asked if the county will inform the public about this new ordinance and the six month grace period. Mr. Jennings replied there will be public notice provided, press releases, radio spots, and it will be on the county website.

Public Testimony: Richard Barton, Barton Industries, Hermiston, OR. Mr. Barton stated that they sell storage boxes. He clarified that the boxes with chassis are exempt from this ordinance. He asked what the fee would be for the Zoning Permit, and would it be a one time fee or annual. Mr. Jennings advised him that Zoning Permits are currently \$75 and this would be a one-time fee. Mr. Jennings also stated that while the Zoning Permit fee could go up with proper public notice and approval from the Board of Commissioners, it was not likely to go up any time soon as it was just raised last year.

Mr. Barton asked for clarification on when the six month grace period would begin, and what if a person had multiple cargo containers on their property. Mr. Jennings replied that the Board of Commissioners would be considering the code update on March 17, 2011 and if approved, the six month grace period would start soon after that. He also advised that a person can permit multiple cargo containers with one permit. Mr. Jennings advised that the grace period would only apply to pre-existing storage containers when the ordinance goes into effect. Any newly placed storage containers would be required to be permitted and would be charged the permit fee.

Public Testimony: Sam Hopkins-Hubbard, Milton-Freewater, OR. Mr. Hopkins-Hubbard asked why this topic was before the Planning Commission, and why were they considering having to permit cargo containers. Commissioner Reeder advised it was because of the increasing amount of complaints, and problems with enforcement with set back and floodplain requirements. A definition was also required to classify exactly what was being discussed. Cargo containers are becoming more prevalent all over and other counties have started permitting them for a measure of regulation. Mr. Hopkins-Hubbard asked if these regulations would apply to areas within city limits, and Commissioner Randall advised that they would not at this time. Mr. Jennings explained that cargo containers were not allowed before and this process was designed to provide a way for people to have them. Discussion followed on how this ordinance would be enforced, and what would be considered solid waste.

Public Testimony: Richard Barton asked to speak again. He asked to enter into the record that he opposes having to go through this process of permitting cargo containers and having to pay a fee for this permit. Chairman Rhinhart advised him that he still had another opportunity to speak to the Board of Commissioners on March 17, 2011, when this code update would be heard by them.

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Commissioner Williams asked what kind of public notification would be implemented to advise property owners of this ordinance and the grace period. Mr. Jennings explained that a public notice would be put in the paper, press releases, radio and it will be on the county website. He also suggested that a notice would be sent to business owners like Mr. Barton, and Humbert's in Milton-Freewater. It would be too costly to notify all property owners directly. Commissioner Williams just wants to make sure that the maximum numbers of people are notified. Commissioner Williams asked where rail cars were addressed in the definition. Mrs. Mabbott explained that a caboose would not meet the definition. A rail car might if it's totally enclosed and not on wheels. A discussion followed on wheels versus no wheels and how it would meet the definition. Mrs. Mabbott clarified that this ordinance would only address structures that are 120 square feet or more to require the permit. Mrs. Mabbott explained that complaints will be addressed on a case by case basis, but Code Enforcement will not be going out and searching out all storage containers in the county.

Hearing Closed; Deliberation and Decision: Commissioner Reeder asked if they could do a package recommendation for all the updates, or did they have to do each one at a time. Mrs. Mabbott explained that they could do them all at once, or separately.

Commissioner Reeder moved to recommend the update of Umatilla County Development Code, #T-10-040, to the Board of Commissioners for adoption as presented. Commissioner Lynde seconded the motion. Question called; motion carried 7-0.

APPROVAL OF MINUTES:

Chairman Rhinhart asked if there were any changes or additions to the minutes from December 16, 2010. The minutes were approved by consensus.

NEW HEARING:

- **Update of Umatilla County Development Code, #T-10-039.** Amendment to Conditional Use Section 152. 616 (HHH) of the Umatilla County Development Code, pertaining to standards for large scale commercial wind energy projects.

Chairman Rhinhart asked Carol Johnson, Senior Planner, to summarize the additional comments that were received after the packets were mailed to the Planning Commission on February 17, 2011. Commissioner Lynde requested the remainder of time until the dinner break be used to review the additional materials submitted. Chairman Rhinhart called for recess at 5:07 p.m.

DINNER BREAK

Chairman Rhinhart reconvened the hearing at 5:54 p.m. He read the opening statement and called for the staff report.

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Staff Report: Commissioner Reeder presented the staff report. He conducted a brief discussion on the philosophical approach to creating these regulations, and to ensure that all parties' interests are being addressed with equity. He noted that there is now credible data available that shows how noise can impact health issues and cannot be ignored in this process. He also spoke about the negative impacts of sleep deprivation. He stated that all comments will be considered valuable, and that the Planning Commission must address the community as a whole when drafting this ordinance.

Commissioner Reeder referred to his prepared statement and discussed the last details of the ordinance left to define.

Pre-Application meeting: There will be a pre-application meeting requirement for all developers. This process will be standardized for all applicants to meet with staff to ensure completeness of the application. This meeting will not be open to the public.

Erosion and water quality issues: Commissioner Reeder commented that the issue of erosion and silt in the water ways is still the biggest threat to the Blue Mountain area. He and Mrs. Mabbott have met with water representatives from the state regarding water quality issues. The Department of Environmental Quality (DEQ) works through the Department of Agriculture for enforcement issues to respond to water quality complaints. Local enforcement will come through the local water conservation district, working to bring the property into compliance. Resistance to enforcement will result in further action. He stated that no silt damage to the water shed will be tolerated.

Emergency Management Plans: Wind developers must put forethought into their plans to head off catastrophes in the event of fire or other emergencies. Complete and accurate contact information for the wind projects must be provided to local emergency responders. High altitude rescues will be the responsibility of the wind developer.

Set back requirements: The Planning Commission's task is to set standards that fit the circumstances. They can either leave the set back's close and risk greater impact on rural land owners, and expose the developer to lawsuits, or they can increase the set backs, causing the developer to make the choice of putting smaller towers in. The set backs are based upon tower height. The set backs for roads will be 2 tower heights from county roads for safety issues (ice throw, flicker). The set back from a state highway will be 3 times the tower heights. Erosion related to roads must also be considered. Roads will be a primary source for silt movement in the mountains. The roads will be required to be engineered to promote erosion control.

Notification requirements: If a project changes hands, or contracts with other parties for emergency services, this information must be given to local first responders on a frequent basis so they always know who to contact in the event of an emergency with the projects.

Commissioner Reeder stated that the individuals involved in this process are as important as the wind developers, and that the changes to this ordinance are designed to put the burden of compliance with the developers. That is why the setbacks are increased.

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Commissioner Reeder referred to the copy of the proposed ordinance on the screen. The green underlined text is recent changes, the blue underlined text is added language, and red text that is crossed through has been eliminated.

The pre-application meeting requirement named in Chapter 152.616: HHH (2) was discussed. This meeting will be an opportunity for all parties to identify potential impacts to the area, and bring in other agencies to create a starting point for the project. Chapter 152.616: HHH C (1) was discussed. This addition involves the non-proprietary evidence of wind monitoring. The county wants to know if the data was collected by credible sources, and does it sustain the prospect of installing a wind energy facility. The county will trust the developer to only develop if the project can make it financially, and does not want to subject the landowners to the burden of having to restore the project back to its original status if the project goes bankrupt. The decommissioning bond will be in the name of the county for this reason.

Chapter 152.616: HHH C (3) was discussed. This addition involved the evidence of energy marketing connections. The applicant must be able to show credible proof that they have the ability to sell their generated power into the grid. This must be completed prior to construction being started.

Chapter 152.616: HHH (F) was discussed. This addition involves the developer providing evidence of adequate protection from soil erosion and associated contamination of the water shed. The developers suggested removing this list from the ordinance, but Commissioner Reeder felt it should remain. By including this list, developers will know that they are liable to the listed agencies if silt should run off into the water ways as a result of their project. DEQ will issue permits during the construction phase, but that will end once the project is built. They only become involved again if a complaint is received. Both the land owner and the developer will have to deal with these issues, and will be held accountable until the problem is mitigated. Commissioner Reeder further described the process that the Department of Agriculture takes when they receive a complaint about water quality. Mrs. Mabbott clarified that this requirement has always been a part of the process, but the added language states that the other agencies will be convened in the event of needing their particular expertise in re-vegetation planning.

Chapter 152.616: HHH (H) was discussed. This addition involves the language regarding emergency management plans, particularly in the case of fire prevention. If someone is not familiar with the terrain and conditions of this area, fire prevention planning may be more difficult. This is a crucial part of the planning stage.

Chapter 152.616: HHH (I) was discussed. This addition is regarding the weed control plan that must be submitted with the application. Weeds can impact all phases of farming, so it is crucial to have an effective weed control plan in place. Weeds can decrease the value of harvested crops, as well as water ways.

Commissioner Reeder referred back to Section (H) and the emergency management plan and what it needs to contain. Section H (2) deals with spill prevention of hazardous materials. There must be a contact plan in place on who to call in the event of this happening, and how to handle it.

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Chapter 152.616: HHH (J) was discussed. This addition pertains to the information of how the wind project will impact the surrounding areas. The developer must consider the terrain and soil conditions and how they will be affected by the development of a wind project. They are being asked to identify potential conflicts or problems, and submit a statement showing they have done this and how they intend to mitigate the effects.

Chapter 152.616: HHH (J) (2) was discussed. This section deals with the avian and wildlife impact studies that are required. This is required to obtain base level data and get an idea of what species and populations are currently there. There are specific protocols for monitoring the death rates and cause of death.

Commissioner Reeder referred back to the deleted section of Chapter 152.616: HHH (I), the socioeconomic impact study requirement, in response to a question from the floor. He explained that the EIS (Environmental Impact Statement) has federal guidelines that are very detailed and it is very costly to produce. So the county is trying to obtain the same information from the developer by requiring the impact letter cited in Section HHH (J). The person who commented went on to state that the elements deleted from the Section HHH (I) such as visual, financial, health and recreational impacts still needed to be included in impact assessment. Commissioner Reeder asked for a show of hands on how many agreed with this statement. Further discussion followed on this matter. Commissioner Reeder then asked for a show of hands of how many people felt that the original Section HHH (I) should be put back in. Commissioner Reeder said that, based on the positive response to this question, he would put that back in his notes.

Commissioner Lynde stated that the Planning Commission must listen to the citizens from Milton-Freewater who are opposed to the prospect of wind development. But they must also listen to the other citizens of Umatilla County who want wind development in their area and find a balance somewhere for all parties. There was further discussion about property owner rights versus the impact of wind development on the area. Commissioner Reeder promised that the staff and commission will take a second look at this requirement of the socioeconomic impact study.

Chapter 152.616: HHH (J) (5) was discussed. Commissioner Reeder spoke about the requirement for protection of cultural and archeological resources. The tribe has very strong feelings about this matter, but are not willing to provide specific maps because of the danger of vandalism or theft. This requirement has been a part of the process with boiler plate language to address the discovery of any sites during development. The tribe will do an assessment of proposed wind projects and mark any potential historic sites so the developer will know where not to build.

Chapter 152.616: HHH (K) was discussed. This section deals with the dismantling and decommissioning of a project and the rehabilitation plan. The county does not want to end up with abandoned wind projects left behind in the county. To avoid this, the developer must provide a surety bond based on the cost of removal of the towers, lines, and rehabilitation plan and this bond must be re-evaluated every three years to remain current with prices. The county will not accept letters of credit, and developers must

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provide a surety bond that is guaranteed to be good even if the developer goes under. The county is named the beneficiary of the bond. Developers wanted to change this, but the county refused to eliminate this requirement in lieu of the letters of credit. Commissioner Reeder clarified that the permit goes with the sale of any project, as well as the bonding requirement. Further discussion followed on the topic of decommissioning a wind project.

Chapter 152.616: HHH (6) (A) was discussed. This section deals with the standards and criteria of approval. The set back requirement has been changed from 3,520 feet from residentially zoned properties to a set back formula based on the height of the tower. The new set back is two miles or twenty times the tower-to-blade tip height, whichever is greater. The city of Milton-Freewater had submitted comments suggesting a six mile physical set back requirement all around the city and a fifteen mile visual set back all around the city. Further discussion followed on these suggested set backs and the impact of wind project development to the view shed of Milton-Freewater.

Commissioner Reeder spoke about the distance set back from a city limit versus a rural dwelling, in response to a comment from the floor. He asked if the two mile/twenty times set back should be applied to both the city limit and rural homes. Commissioner Reeder then asked how many people felt the set back requirement should be enforced from the property line instead of the rural dwelling. Further discussion followed on how this would affect future land use for the property owners and their ability to develop it. Commissioner Reeder stated that if they make the set backs further, then the burden is on the developer, not the land owner. The land owner can decide if they want to sign a noise easement or not to allow the closer development. Commissioner Reeder went on to discuss the drilling of a new well so that it won't interfere with the supply of city water, and how can the Planning Commission use that same process with wind development.

A guest commented from the floor that where they live, the decibel level is already at 36-50 and this will only increase with the addition of the proposed new Iberdrola project additions. They will be surrounded on all sides when that project is completed. Discussion followed on how the topography affects the way noise is carried. The citizen advised that they have been approached several times by Iberdrola to sign the noise easement, and they refuse to. The guest went on to comment that their quality of life was more or less destroyed for the benefit of one land owner who wanted the wind project on his property. Commissioner Reeder asked Mrs. Mabbott if the county could require modeling studies of noise exposure from wind developers. Mrs. Mabbott replied that anyone could participate in the EFSC proceedings. The guest also commented that their house and their neighbor's house were not included in the Iberdrola's mapping submitted to EFSC in their application.

Commissioner Reeder commented that citizens can have some impact on the government if they speak up and share their concerns. They should investigate how to contest the Iberdrola application. EFSC will not ignore 50 people who show up and voice their opinions.

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A guest from the floor stated that the two wind projects that are completed in Umatilla County are not connected to the grid and selling power. He claims that the projects are just transferring power back and forth between their substations. Another person commented from the floor that because the city of Milton-Freewater has their own power plant, their city income goes down when the hydro-electric dam powers down because of the wind energy projects. This causes a very negative effect on the city finances. Further discussion followed on the rates going up and down when the energy is generated by water versus wind power.

A guest asked if this new ordinance will impact the designated wind generation area. Mrs. Mabbott advised that the Energy Generation Area (EGA) was removed by EFSC. The county petitioned the state to remove the EGA so that smaller projects under 105 mw could be permitted locally.

Commissioner Reeder spoke briefly about the history of the development of wind standards in this county since 1997. The decisions made on this ordinance update will serve as a model for other counties considering the same problems. The mission has been to put in place the standards that best serve our county. This is an evolving process with changing technologies that must be addressed.

A guest asked about credible noise studies, and what was decided on standards. Commissioner Reeder stated that he believed that the available data is not credible, because it is not comparable. Mrs. Mabbott explained that this would be discussed during the pre-application meeting, and can be required if determined if necessary by planning staff.

A guest commented that they are upset with these new standards, because they signed lease contracts with wind developers under the old standards and now will be affected by this new ordinance. Commissioner Reeder advised that any new applications submitted after this new ordinance is adopted will be subject to the new standards being discussed this evening.

Commissioner Lynde commented on the letter from Dan Williams regarding the noise standards. He would like to see the noise study provided by a third party. Mrs. Mabbott explained that if the noise standard is considered a problem, the county can put out bids for a third party independent noise study that the developer would pay for.

A guest asked about transmission lines being placed in road easements. Further discussion followed on road easements and the locations and proximity of the transmission lines and the width of the road. Commissioner Reeder stated that the proposed set back for transmission lines is 500 feet from a residence. Transmission corridors have been discussed, but no one so far has come forward to develop this. Commissioner Lynde commented that all state highways can be used for transmission lines. The guest commented that they feel the road easements need to be relative to the size of the transmission lines and corridors should be created now. Commissioner Reeder stated that the power companies are very reluctant and secretive about their transmission line information. Mrs. Mabbott explained that there is a body of law regarding public utility access about their transmission line information. Commissioner Reeder stated

that there needs to be more investigation into transmission lines in road easements, and who has the authority and determines the size and number of lines allowed in that easement.

A guest commented on the emergency management plans. He asked who will be required to provide service in the event of a fire. Mrs. Mabbott explained that the wind projects will be paying taxes into the existing fire districts and that district will be the district required to respond. The guest also asked about hazardous materials spills, and what will be the reporting process as anything over five gallons must be reported. Mrs. Mabbott explained that all applications are required to submit Material Safety Data Sheets (MSDS) with their applications and are monitored just like any other development. The guest also asked if any impact studies were considered about vibration and how this will affect aging utility systems in the nearby cities. Commissioner Lynde commented that the Planning Commission had been looking into it, but there was no evidence available to them at this time.

Public Testimony: Jeff Anliker, council member from the city of Milton-Freewater, stated that most of his concerns had already been addressed. He would like to discuss recreational home sites on Highway 204 as noted in the Comprehensive Plan Technical Report, table D-17. In this document, recreational homes are listed as a potential conflict to scenic value for Highway 204. Will the wind towers be addressed as another source of conflict to scenic value? Commissioner Lynde responded that there is no clear definition of how far the view should be. The state has not established guidelines for visibility. Discussion followed on a suggestion of 15 mile set backs from the city council of Milton-Freewater.

Public Testimony: Sam Hopkins-Hubbard, 120 S. Andrea, Milton-Freewater, representing the city council of Milton-Freewater. He wanted the Planning Commission to understand that the decisions they are about to make will change everything that we know today. He stated that putting wind projects in the mountains will be industrializing them, and that wind projects are not really "green". What will be the impact on wildlife and tourism? County roads have been cut off due to the wind farms in other counties, and he doesn't want this to happen in Umatilla County. Mr. Hopkins-Hubbard advised that the impact is the difference between night and day, with all the blinking red lights on the projects that are already in existence. He commented that there should be a responsibility from citizens and the Planning Commission to protect the citizens. The decisions made are final and the impacts must be considered when making those decisions. He stated that the vibration issue impacts the elk worse than the deer populations, and asked why do the wind companies have to develop in such sensitive areas like the Blue Mountains.

Public Testimony: Cindy Severe, Helix, stated that all her questions had already been answered.

Public Testimony: Dave Price, 80488 Zerba Road, Athena. Most of the points had already been addressed tonight, but he would like to see the socioeconomic assessment put back into the standards. He is surrounded by wind project leases and they are getting closer all the time. He understands his neighbors signing leases for wind development

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on their properties, but what is the cost to him as a citizen. He wants these impacts recognized and feels this can be addressed through the socioeconomic assessment standards. Set backs have been discussed, and should be based on the most credible information, not guesses or estimates. There is not a lot of room left to put more projects up against people's property so he wants this decision to be the best one possible. He also stated that the set backs should be all essentially the same, because the impacts are the same. He feels that the tower height standard is good, but they must keep in mind the technological advances of the wind towers as they change quickly and become more powerful. He feels the credible noise study is essential and should be done as a baseline for future impact assessment and used as a monitoring tool. He spoke about amendments to the initial applications. When projects increase their generating capacity, it also increases the impact the project has on the area.

Public Testimony: Dick Stewart, 515 Fleetwood, College Place, WA. He is a property owner in Umatilla County. He commented that the scenic view along Highway 204 was compromised long ago when the county allowed people to build homes and transmission lines along the highway. The state Forestry Department requires a buffer zone between the area being logged and the road, so that view is impacted as well. He also has an interest in private property owner rights, and does not want them affected by these changes. These rights are basic and needed by each individual property owner.

Public Testimony: Tim Weinke; left the meeting before being called to testify.

Public Testimony: Wade Muller, 81414 Muller Road, Helix. He is impressed that the Planning Commission is listening to the testimony of the people, and taking it to heart. He wants to see rural residents treated the same as citizens in city limits, and likes the formula of the twenty times the blade height. He appreciates the people/neighbors who want to make money from the wind, but also wants protection for his quality of life as well. He likes the idea of requiring a sound study, because he is worried about the effect of having wind towers on each side of the canyon creating a harmonic resonance. This is an amplification of the sound waves crossing in the canyon. He stated that he does not want to stop the windmills. If someone wants to sign a waiver and have them on their property, that is fine, but he wants to be protected by the set back requirements too. He encourages the county to make comments to EFSC about the Iberdrola amendment process going through right now, since they are applying to increase their project size.

Public Testimony: Dot Schroeder, 80056 Stein Road, Milton-Freewater. Mrs. Schroeder feels that she would have a very hard time telling another land owner that they can't do what they want to with their land. She does not believe that one person should be able to push their views on another person. She does have sympathy for the people dealing with noise and vibrations, but feels that landowners should be able to do what they want to with their land.

Public Testimony: Jim Hatley; left the meeting before being called to testify.

Commissioner Reeder asked Mr. Muller if the Planning Commission were to protect him from his neighbors in this matter, would that protect his relationships with his neighbors? Mr. Muller commented that the neighbors currently respect each other in other things,

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such as spraying of pesticides, or by not building too close to their land. He feels the regulations set down by the Planning Commission do make it possible for neighbors to respect each other's property. He doesn't want to stop his neighbor from having a windmill, but they didn't ask him if it would bother him. He wants to be able to have a say in something that would affect his quality of life.

Public Testimony: Dana Dibble, 84504 Weiss Road, Milton-Freewater. Mr. Dibble displayed a flashlight with blinking red lights to simulate the red lights which he sees every night from his home on the tops of the wind towers every night. It bothers him and he is afraid of having these blinking red lights all around his house. He spoke about property rights. He has a piece of property that he cannot build a house on. If everyone could do what they wanted to with their property, then we would not need the Planning Commission. Mr. Dibble believes that people have to consider what they do on their property and how it affects the surrounding area. He stated that he feels that the EIS should be required for all the property east of Highway 11, because of the delicate nature of the land there. There are many issues that need to be considered about the Blue Mountain area. He commented that there are satellite photos that show the elk stay away from wind farms. He has seen pictures of the Blue Mountains all over, and this will all be ruined if wind turbines go up there. He has documents showing that Europe and the United Kingdom are not putting in wind farms any longer because of the problems they have experienced over the last 10-15 years. He stated that the vibration bothers people and causes hearing problems. Mr. Dibble commented about the recent story about a protected eagle being killed in Eastern Oregon that caused the stoppage of the wind farm. He doesn't agree that the EIS would be a costly burden to the developers; he feels that if they can't afford to pay for this study they shouldn't be developing in that area. Wind turbines are killing condors in California, and we are now getting the real story from other areas that have had wind farms for several years and how they impacted their areas.

Public Testimony: Richard Jolly, Weston, Oregon. Mr. Jolly thanked the Planning Commission for their efforts. Mr. Jolly feels that the EIS should be included in the standards where there is more danger of critical impact. There are no protections in place in the current proposed ordinance for the protection of the scenic views along Highway 204, and this must be dealt with. He feels the current language is too vague in regards to the impact information being requested. He asked about the surety bond and whether there will be a base amount that it doesn't go under for the decommission costs. Mr. Jolly feels that certain issues should not be removed from the annual reporting requirement.

Commissioner Lynde asked what issues he was referring to in the annual report. Mr. Jolly replied that the term "information" is too vague. Commissioner Reeder suggested that there be a specific list of details that should go into the annual reporting. He referred to Chapter 152.616: HHH (J) (1-5) and the details listed there to be included in the annual report. He just wants to see a more thorough reporting process specific to the site.

Public Testimony: Sam Hubbard-Hopkins, 120 S. Andrea, Milton-Freewater. Mr. Hubbard-Hopkins asked how in the future they would allow the 500 foot towers on the Blue Mountains and tell other property owners they can't build a home on their property

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in the same area. Chairman Rhinhart explained that according to the state statutes, wind farms are an allowable use on EFU land. Discussion followed on this topic.

A guest commented that the Planning Commission has more power to affect change than they are choosing to use in this matter.

Mrs. Mabbott clarified that the standards being considered will apply to any property in the county, so they are not taking action on a development proposal solely in the Blue Mountain area. The county is not obligated to approve an application. If an application were to be submitted for development in the Blue Mountain area, the public would have an opportunity to voice concerns during the processing of that application.

Deliberation and Decision: Chairman Rhinhart called for any other testimony, and there was none offered. Commission Lynde suggested that they discuss how to proceed. He wants to see what they have achieved this far forwarded to the Board of Commissioners now so that the new standards will apply if an application is filed in the near future. Commission Reeder stated that they can get implemented what they have so far, with the idea that they can immediately start on updating the new standards right away to further address the concerns raised and he would be willing to continue to review it with staff. Discussion followed on this matter. Commissioner Lee stated that he wants to see more information on the vibration impact.

Chairman Rhinhart asked if they had considered the proper set backs for property lines versus the actual dwelling locations enough. Commission Williams stated that she is concerned about finding the balance for property owner rights to develop wind farms, and for the property owners who want to be protected from the wind farms, and the wind developers who want it for the money. She cited the regulations for pesticide application as an example of having too many regulations, and will this continue with wind farm development? She sees her role on the Planning Commission as finding a balance and representing the land owners' rights.

Mrs. Mabbott stated that she believes the current proposed ordinance to be balanced, and there will never be absolute agreement from all sides of the issue. There is an option for the developers to apply for a variance process if the standards don't work for them. She commented that the Planning Department received an application just yesterday. The existing standards will apply, not the new proposed ones being considered this evening. She clarified that the application submission date is what determines what standards apply.

Chairman Rhinhart commented that he is ready to send the proposed ordinance on to the Board of Commissioners for adoption, but would like to see further discussion later on the set backs from the city limits to the Urban Growth Boundary (UGB). Further discussion followed on treating the city the same as the rural areas and UGB. Commissioner Williams stated that she supports using the UGB as the starting point for the two mile setback, and Commissioner Reeder called for a show of hands from the Commission of who agreed. Most of the Planning Commission agreed with this idea. Discussion followed on treating the city residents the same or differently as rural

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residents in regards to set back requirements, and what the best set back amount should be for all parties.

Commissioner Reeder asked that if you want justice in a community, where do you place the burden; on the person causing the problem or the person being victimized by the development? If the set back is two miles, it guarantees that if a wind tower is closer than two miles, someone will get compensated and have to agree to it. This does not limit where the towers go, it forces the developer to mitigate the impact it will have. This sets the standard for when the noise easement is triggered, and this helps both the land owner who wants towers, and offers protection to those who don't want them.

A guest commented that they would like to see the Planning Commission recommend the proposed ordinance to the Board of Commissioners so that it will apply to any applications submitted in the near future, with the idea that it requires further study. Further discussion followed on the set backs being set from the UGB versus city limits.

Commissioner Reeder suggested that he work further with the Planning staff to come up with suggestions to further refine the proposed ordinance, including the comments received at this hearing. This refined proposal would then be communicated by email to the Planning Commission for final approval prior to the Board of Commissioners hearing on March 17, 2011. Further discussion followed on the set back distances and noise easements in the UGB.

Mrs. Mabbott commented that she believes they have come up with the proposed changes now. She stated that they would change the language from city limits to UGB. Set backs would be the same for city limits and rural residents at 2 miles. Further discussion followed on having the same standard for city and rural residents. Commissioner Reeder suggested it could be 2 miles from the UGB and 2 miles from the rural dwelling. Further discussion followed on using the property line versus the location of the rural dwelling.

A guest who lives near Helix invited everyone to come out to their home to experience just how bad the noise impacts their lives and how it will just get worse with the expansion of the Iberdrola project currently under consideration by EFSC. She went on to say that it is very difficult to get information from Iberdrola; she has only been able to get information from DLCD. Commissioner Reeder stated they should contact EFSC to let them know that the noise is already a problem.

Mrs. Mabbott asked if the Planning Commission wanted to use property lines versus dwellings as the marker for the two mile set back. Mr. Jennings stated that using property lines would be very problematic. He recommended remaining with using the dwellings as the marker. Mr. Jennings said that he could come up with a map that would show how much area would be affected by using the property lines instead of dwellings as the marker for the set back. Commissioner Williams suggested keeping the set back for the UGB at 2 miles, but changing the rural dwellings set backs to a lesser amount with a possibility of requiring a noise study. A guest asked why her rural property was valued less than a city property by doing this. They have been offered \$145,000 to sign a noise easement and have refused the offer. The guest further commented that there is plenty of scab ground in the county where wind towers are appropriate, but they shouldn't be

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allowed around so many of the residences in their area. Further discussion followed on the fire danger of having wind towers close to rural residences.

Mrs. Mabbott confirmed that if this proposed ordinance is approved by the Board of Commissioners, it can be amended later after the current language is adopted.

Public Testimony: Ann Jolly, Milton-Freewater, OR. Mrs. Jolly commented that her friends' home in Umapine is 3 miles from the Combine Hills project. They hear the noise constantly, and it sounds like a big motor running all the time.

Mrs. Mabbott asked if the Planning Commission had decided to use the rural dwelling or a property line as the 2 mile marker. Commissioner Williams suggested that the distance to rural dwellings should be shorter, with a noise study requirement. Commissioner Reeder referred to the noise violation situation in Morrow County. The burden to prove the violation was put upon the land owner. They had to commission the noise studies and bring the legal action. All that can be done ahead of time is model potential noise violations. Discussion followed on what the decibel and safety levels should be. Mrs. Mabbott stated that the decision to require a third party noise study will be made by the Planning Commission and paid for by the developers. Noise monitoring could be written as a condition of approval for the application.

Mrs. Mabbott asked if the Planning Commission wanted to use property lines of leased ground or dwellings as the two mile marker for set backs. Commissioner Reeder suggested they continue to use the rural dwelling as the marker, and this can be investigated and changed later.

Mrs. Mabbott asked about the suggestion from the floor of keeping the socioeconomic study requirement in the proposed language. Mr. Jennings asked what criteria would be used to evaluate the data from the socioeconomic study, and how it would be applied. Commissioner Reeder stated there is a question of standards and criteria that should be examined further. Mrs. Mabbott commented that the Supplemental Investment Plan replaced the need for an EIS. It is assumed that there are impacts and the developers agree to pay mitigation to the community. If a socioeconomic impact is detected, what would be the consequences to the developer?

A guest commented that if the Planning Commission had the socioeconomic study data, they would have all the information they need to make an informed decision. That in itself is a reason to keep that requirement in the ordinance. Commissioner Reeder questioned if they would be able to get credible information from the applicants. He feels that the greater set backs are a compromise and protective according to the studies he has read. Discussion followed on the merits of including the socioeconomic study in the ordinance.

Chairman Rhinhart asked for a motion. Commissioner Reeder moved to recommend the ordinance as presented in the draft with modification by staff and himself in response to testimony at the hearing tonight. This modified draft will be sent by email to the Planning Commission for final comment and approval. After that time, it will be

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forwarded to the Board of Commissioners for adoption. Commissioner Lynde seconded the motion. Question called; motion carried 7-0.

ADJOURNMENT:

Chairman Rhinhart adjourned the meeting at 10:04 p.m.

Respectfully submitted,

A handwritten signature in cursive script that reads "Gina Miller".

Gina Miller
Secretary

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PROPOSED AMENDMENTS TO THE UMATILLA COUNTY ORDINANCE: RE: WIND POWER DEVELOPMENT

COMMENTS PROVIDED BY
CLINTON REEDER, MEMBER
UMATILLA COUNTY PLANNING COMMISSION

FOR DISCUSSION AND COMMENT

February 24, 2011

THIS IS A RATHER LENGTHY STATEMENT. HOWEVER, THE CONTENT IS INTENDED TO ANSWER QUESTIONS FOR THOSE PERSONS NOT GENERALLY INVOLVED IN WIND POWER DISCUSSIONS, WHO MAY WISH TO BECOME BETTER INFORMED. IN OTHER WORDS, THE STATEMENT IS LONGER IN ORDER TO HOPEFULLY RESULT IN SHORTER AND/OR MORE BENEFICIAL DISCUSSION. FIRST: AN EXECUTIVE SUMMARY OF THE PROPOSED ORDINANCE AMENDMENTS. SECOND: COMMENTS, SECTION BY SECTION, ON THE ACTUAL PROPOSED AMENDMENT LANGUAGE. THIRD: A COMMENTARY ON ENERGY DEVELOPMENT AND RELATED CONCERNS, PLUS A BIT ABOUT THE STATUS OF WIND POWER DEVELOPMENT IN UMATILLA COUNTY.

EXECUTIVE SUMMARY

On the above indicated date proposed amendments to the Umatilla County Wind Power Development Ordinance will be presented at public hearing to upgrade the ordinance language, including in particular the following major changes:

1. Sec. 152.616.2. Introduction of a Pre-Application Meeting with the county Planning Department to make sure the applicant is aware of the persons, the agencies, and the county ordinance provisions pertaining to wind power developments.
2. Sec. 152.616.F-H. Add more stringent Erosion Prevention and Control requirements, to protect water quality on and around wind power development sites.
3. Sec. 152.616.H Amend language to enhance the Emergency Management Plan, especially concerning Improved Service Road Mapping to enable local emergency service providers to find a reported emergency site; and to better clarify responsibilities relative to High Altitude Rescue activities (HHH.152.616.H1).
4. HHH.152.616.6.A. Increased Setback Distances, to better protect neighbors to wind power development sites from noise and other adverse effects of wind towers; and to take into account the dimensions of the wind towers in calculating setback distances.
5. HHH.152.616.6.J. Increased Standards for Developing Roads in and near wind tower sites, in order to enhance prevention and control of erosion (silt movement) from wind development sites into watersheds. The primary change is requiring that roads be engineered for enhanced erosion prevention and control, including in areas where there are only intermittent water flows.
6. HHH.152.616.10.C. Immediate Notification now required when changes by the wind power developer affect the county's ability to contact wind power developer's in-house or contract emergency services personnel in the event of an emergency on a wind power development site, such as changes in road locations and/or road identification for mapping purposes; or

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contact numbers for contract emergency services; or in-house personnel changes and/or emergency contact numbers.

This document results from a number of public hearings conducted by the county Planning Commission over the past two years; plus extended discussion between the planning staff and the author; plus a more detailed work session of the county Planning Commission to discuss the issues, the public testimony and possible amendment language.

Section –I- below describes in general terms the proposed amendments to the county wind power development ordinance.

Section – II – provides comments concerning the evolution of the wind power development program in Umatilla County, Oregon – as background for the proposed amendments to the current county ordinance. A copy of the proposed ordinance, as amended, is attached.

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THE PROPOSED AMENDMENTS TO THE COUNTY WIND POWER ORDINANCE.

The following material identifies the major amendments to the Umatilla County wind power development ordinance, including some comments concerning the reasons for the proposed changes.

An Underlying Assumption: Sustainable communities assure their citizenry that the burden of community economic development changes will not unreasonably be imposed on individuals, but shall more appropriately be a cost (1) paid by the community as a whole; and/or (2) via user and/or by development fees, so that those most directly benefitted pay the primary costs. Where ever possible, any direct or indirect costs imposed upon individual property owners or residents will be reasonably compensated and/or mitigated in fair and equitable manner. In general, the rights of individuals will be respected and honored in the process of providing public benefits, regardless of whether the public benefits are essential or generally elective.

- A. (HHH. 152.616.2). **ADMINISTRATIVE EFFICIENCY CONCERNS.** Not having a reasonably standardized pre-application awareness program for new wind power development projects leads too often to incomplete applications, either due to having overlooked one more items, and/or not satisfying the overall information needs essential to deem the application adequately complete to proceed with processing the application. Therefore, one major amendment to the wind power development ordinance is the addition of a Pre-Application Meeting Requirement, to acquaint the applicant/developer with:
- a. The general county ordinance requirements.
 - b. The county wind power development ordinance requirements.
 - c. The county planning staff involved in processing an application.
 - d. The various agencies involved in processing an application.

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- e. The various legal requirement and standards mandated by various federal mandates, plus pertinent state statutes and administrative rules.
- f. Potential resource use conflicts involved with wind power developments (preservation, conservation and enhancement; quantity and quality; and competing uses of land, water, air and other natural resources... along with such things as vehicle traffic, aggregate material sites, housing, drinking water, etc.)

B. (HHH. 152.616.C.1). **EVIDENCE OF WIND RESOURCE ADEQUACY.** For the most part, the county relies upon the integrity of wind power developers, assuming that they are not likely to engage in any wind power development without having in hand technical information adequate to justify the investment. The county acknowledges that a significant amount of the data generated in assessing the adequacy of the wind power resource is proprietary information, thus does not wish to invade the privacy of such information. On the other hand, the county needs evidence that the wind power resource has been credibly evaluated as to its "significance" (a planning technical term, pertaining to both quantity and quality of any resource potentially protected by the land use planning process). Therefore, the following amendment is proposed (see HHH sec. 152.616.C.1).

C. (HHH. 152.616.C.2-3). **EVIDENCE OF ENERGY MARKETING CONNECTION/S.** The county will not permit wind power project construction to start where there is too much risk of ending up with only partially completed energy projects which may be abandoned, leaving a potential problem for the county, local land owners and/or other affected parties. Therefore, The County will not issue a permit to an application until there is evidence that a feasible market connection is available to the developer, including any necessary right-of-way easements essential to connecting the wind power generation facilities to a primary electrical distribution grid. In order to not unreasonably delay construction, the county proposes this provision to assure that necessary marketing arrangements for the wind generated electrical energy, including negotiations for easements for right-of-way for transmission lines, are not just being considered by the developer but are evidenced by documented substantive ongoing appropriate energy marketing negotiations.

D. (HHH.sec.152.616.F). **EVIDENCE OF ADEQUATE PROTECTION FROM SOIL EROSION AND ASSOCIATED POTENTIAL CONTAMINATION OF WATERSHEDS.** This a major concern voiced repeatedly at recent public hearings pertaining to wind power development. There have been literally millions of dollars invested in protection, enhancement and development of county watersheds. In addition, there are multiple provisions in the federal Clean Water Act (and associated state environmental protection regulations) and the federal Endangered Species Act to protect water for all "potential beneficial uses" (language from the underlying Oregon water quality statute). Furthermore, the Oregon Agricultural Water Quality Management Program (AgWQMP) is a key program to prevent and control soil erosion on private rural lands, other than those lands that fall under the Oregon Forest Practices Act. This AgWQMP is especially significant because it serves to integrate water

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quality concerns of multiple state agencies involved in the DEQ's TMDL (Total Maximum Daily Load) water quality program for water bodies. Furthermore, the Oregon drinking water program under the Department of Environmental Quality which defers to this program for water quality protection on rural lands, as does the "Oregon Plan" to protect and enhance water quality for fisheries and wildlife habitat areas (related to the federal Endangered Species Act).

- E. (HHH. 152.616.G). **Evidence of Adequate Protection for Fish, Wildlife and Avian Species.** Because both the construction and operating phases of wind power developments pose possible threats to fisheries, wildlife and avian species, this amendment has been proposed to better assure protection for these species during the lifetime of the any wind power development project.

- F. (HHH. 152.616.H.3-4). **EVIDENCE OF AN ADEQUATE EMERGENCY MANAGEMENT PLAN.** Almost without exception, the wind power development sites are remote, with roads not adequately identified and signed, making emergency response difficult and time consuming. If emergency response teams are to provide appropriate emergency services, then developers need to maintain an adequate overall emergency response capability, including taking steps to assure that emergency services can locate the emergency site (road identification, signing and maps (see sec.152.616.6.N)).

- G. (HHH. 152.616.H.1). **FIRE PREVENTION AND CONTROL PLAN.** The area in which most wind power developments in the county exist involve very dry vegetation and often steep, rocky terrain. The dry conditions make fire a very real hazard; the steep terrain makes fighting wildfire a significant hazard, on locations where efficient firefighting equipment cannot operate safely.

This combination of factors, coupled with often relatively isolated rural locations poses a fire threat that often burns multiple thousands of acres prior to being extinguished. It is essential that the wind power developers first of all focus attention on fire prevention, as well as providing a rapid response capability that can be engaged on short notice in case of a fire.

Historically, when there were dry season fires, especially at harvest time, multiple farm firefighting crews would respond to fire on anyone's land within reasonable driving distance. However, that has changed materially in recent years. As the number of farms decrease and the size of farms increase, there simply are not as many farm fire crews available in many wind power development areas.

Furthermore, a large acreage of farm land is now planted to perennial conservation crops that are standing uncut, subject to very rapid spread of fire, especially if the wind is blowing. Since the wind towers are in the areas most exposed to winds, any fire in such areas is of great concern, and potential deadly to humans, livestock, parked machinery and equipment and rural homes and buildings. Wildfire under such conditions travels faster than a man can run, even faster than tractors can travel pulling disks or other firefighting equipment. Time is of the essence in fire response – hundreds of acres can burn in less than one hour of windblown fire!

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- H. (HHH. 152.616.I). WEED CONTROL PLAN. The spread of weeds, especially those on the county's noxious weed list, can be very costly to area farmers. Weed seeds contaminate crops, causing price discounts; use up moisture and compete with crops for nutrients; and when mature, tear loose from the soil and blow across the landscape spreading weed seeds, plugging drainage culverts, and even blocking roadways at times.
- I. (HHH. 152.616.H.1). HIGH RISE RESCUE CAPABILITY. Because most rural fire districts do not have either the necessary equipment or personnel training, this provision makes clear that the wind power developer is responsible to provide any high altitude rescue capability for their project sites, relying on local emergency services providers for ground level assistance. (Wind power developers indicate they prefer to maintain their own high rise rescue capability, including trained personnel.)
- J. (HHH.152.616.H2). SPILL PREVENTION AND CONTROL MEASURES. This provision requires a wind power developer to provide a plan that assures they have available or on call necessary personnel and equipment to respond to any hazardous spills.
- K. (HHH. 152.616.J). IMPACTS OF WIND POWER DEVELOPMENTS. This provision speaks to several potential concerns. Of special interest is the addition of reference to intermittent streams and drainages in #1. These areas are often overlooked in erosion control plans, because they are generally dry drainage areas, with little evidence of the potential silt load that might be carried down them in an extraordinary weather event.
- L. (HHH.152.616.J.5). CULTURAL AND ARCHEOLOGICAL RESOURCES. While this general provision has been in the ordinance in prior years, at the request of the local CTUIR staff it has been restated more broadly to speak more specifically to resources of special concern to the Tribes. This item poses a dilemma: the Tribes do not want to make public their maps of such known sites because such public knowledge often leads to vandalism and/or theft from such sites. Therefore, the county mandates that if such resources are uncovered or otherwise identified on wind power development sites that the developer report such discoveries to the appropriate authorities prior to continuing work on the site.
- M. (HHH. 152.616.K). DISMANTLING, RECONDITIONING AND REHABILITATION OF WIND POWER DEVELOPMENT SITES. The county does not intend to take financial responsibility for any costs or liabilities associated with the wind power development sites, other than those generally associated with reviewing applications and issuing development permits. Therefore, every wind power development permit application must provide adequate plans to assure that in the event of dismantling, reconditioning, rehabilitation or decommissioning of wind power sites there is credible preplanning to assure that such activity is not only anticipated but given sufficient attention to assure such activity will be appropriately accomplished when and if necessary, at the expense of the developer. (The

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landowner's responsibility in this respect is not yet well understood, but may later be addressed explicitly in this ordinance.)

N. HHH. 152.616.6A. STANDARDS / CRITERIA OF APPROVAL. The primary standards in this section of the wind power ordinance are the required setbacks of wind towers from various other facilities and structures. In general, the setback distances have been increased, primarily due to unacceptable actual noise effects impacting neighbors to the wind towers.

There are multiple legal challenges currently being debated and studied in Oregon to consider how best to deal with this noise dilemma. To a considerable extent, the neighbors to wind power development sites are having the noise imposed upon them without their approval or even having any say in the process, other than filing complaints or testifying at public hearings – where many of them do not feel their concerns are being given adequate and appropriate attention. The setback amendments to this ordinance are in large part intended to reduce the victimization of neighbors to the wind power development projects by imposition of unwarranted [unjustified] and unwanted financial and nonfinancial “costs”).

In addition to the noise issue, is the “invasion” of the wind towers into the view from complainant's property. The increased setback requirements are proposed as a means of broadening the protection for those opposed to the invasion of wind towers into their “private space”. Noise carried by air currents, like pesticide chemical drift, is a trespass of events from another property onto the property of the complainant.

Since there are documentable health effects associated with noise, it is appropriate that the setbacks provide adequate protection from the noise associated with development on another person's property. Some argue that it is inappropriate to force landowners into signing noise easements as the only means of mitigating the invasion of noise upon the neighbors.

As mentioned elsewhere in this material, noise has direct health effects (loss of hearing due to damage to the ear by excessive noise) and indirect health effects (stress induced negative health effects upon the human body imposed via stress associated with wind tower noise and other effects, which can harm human immune systems, and lead to more tangible physical health effects, such as ulcers, mental disorders associated with ongoing stress beyond one's control).

By increasing the setback distances, the wind power developer will be required to negotiate some kind of noise easement to compensate the willing neighbor for the inconvenience and stress associated with the wind tower noise, or keep their towers further away from the neighboring residences. Since there are ways of assigning dollar values to the cost and benefits to both parties, there are grounds for making reasonable forensic-like valuations of noise easement compensation.

Of considerable concern to area property owners is the secrecy surrounding the land leases and more recently pertaining to the potential noise easements. Prior to signing a noise easement or land lease, landowners are free to discuss such issues and concerns with their neighbors, and even make arrangements for one (or more) attorney/s to represent

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several landowners in arriving at reasonable compensation and lease agreements and/or to protect landowners from too close tower sites.

Amendments to this county ordinance are intended in part to better protect the interests of neighbors of wind power developments; to provide incentive for the parties involved in disputes over costs (including direct and indirect costs, such as inconvenience, irritation, and stress induced health concerns) imposed by the wind power developments to engage in mutually beneficial negotiations outside of the county permitting process.

- O. (HHH.152.616.6.A) **SETBACKS RELATED TO SIZE OF TOWER**. Since the size of the wind towers continues to increase, the setbacks have been stated in terms of multiples of the ground-to-blade tip distance for wind towers. By doing so, the expectation is that as the tower size increases further there will be an automatic associated increase in the setback distance which will hopefully adequately address the wind tower noise increase as tower height and generator size increases. While the current amendments do not make generator size a factor in determining setbacks, it will likely later be considered if generator size, separate from overall tower height, is found to be a noise factor.

- P. (HHH.152.616.6.J) **ROADS**. Water quality degradation associated with road development has been a major item of concern in public hearings dealing with wind power development. Those who testify voice significant concern about the potential adverse impacts of silt and associated chemistry being transported by water from wind power sites into watersheds especially where significant effort and money has been invested in water quality protection, enhancement and control and/or where established Total Maximum Daily Load (TMDL) factors pose regulatory pressure upon a watershed.

Furthermore, city water treatment facilities are impacted by increased siltation, which plug filters which in turn increases operating costs as the filters must be flushed and cleaned more often. The proposed amendments include requiring that roads accessing and servicing wind power sites be engineered and certified by a professional engineer to minimize potential erosion problems.

A related concern deals with the runoff of water and silt from wind power sites. Recent discussions with the Oregon Dept. of Environmental Quality suggest the DEQ will continue to issue NPDES permits for the construction period on wind power development sites. However, since the DEQ apparently does not actively monitor the sites, the permit itself does not assure water quality protection, except to the extent contractors honor the intent and requirements of the permit. Also, once DEQ signs off on the permit at the end of the construction phase, they assume no further responsibility for the potential erosion on the site, unless they receive formal complaints of such need.

Recent water quality discussions with the Oregon Dept. of Agriculture, the agency which administers the Oregon Agricultural Water Quality Management Program, indicates the ODA will exercise their authorities to administer this program during the operating phase of wind power developments. Since the wind tower sites are technically allowable "industrial" utility sites, the ODA may focus their attention on erosion from farm land near to the specific tower sites. If service roads on wind tower sites serve as conveyance for runoff water and silt, then the wind power developer will likely discover that both DEQ and the

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ODA (and fish and wildlife agencies, both state and federal, as well -- especially as pertain to the Endangered Species Act) will have an interest in the erosion concerns pertaining to wind power developments.

- Q. (HHH.152.616.6M). **SURETY BOND**. This county requires a surety bond from wind power developers, and will not accept a letter of credit as a substitute. The purpose of the bond is to guarantee the county will not at any time, under any circumstances assume the legal and financial obligation to dismantle wind power facilities, remove the debris and materials from the site and rehabilitate the site to conform with the applicable standards. Why the concern? Because parent corporations now have an incentive to split what might have begun as larger project proposals into smaller LLC's in order to qualify for multiple development subsidies. The county will not assume any financial risks associated with the developer's LLC going bankrupt leaving the county to pick up the pieces of any project failure, while a parent company may avoid any corporate liability for such a dilemma. The bond is payable to the county, and the county may negotiate with a landowner concerning who pays for which site restoration costs.

Landowners should be aware that they may have a contingent liability for such costs, even though the landowner's lease contract states the developer will be liable for the costs. If the developer files for bankruptcy, the developer's LLC may well simply evaporate and leave no funds to finance the activity -- making the landowner and/or the county liable for any "clean up" activity pertaining to the wind power project.

- R. (HHH.152.616.6N). **GPS FACILITY MAPPING**. This provision is important for project and permit administration purposes, especially the GPS mapping of roads servicing a wind power development site. Emergency service providers are likely to have considerable difficulty finding an emergency site if the service roads are not accurately mapped, named and/or numbered and appropriately signed.

- S. (HHH.152.616.8C). **NOTIFICATION OF CHANGES IN PLANS OR PERSONNEL**. In order to facilitate timely response of emergency services, it is very important that the wind power developer immediately notify the county Planning Department of any changes in road locations or emergency contact personnel and/or their contact numbers. If any emergency services are contracted out by the developer, it is important that such information be on record in the county Planning Department for immediate use in the event of an emergency.

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A BIT OF HISTORY PLUS SOCIAL-POLITICAL-ECONOMIC COMMENTARY

1. **IN THE BEGINNING**. The first of a growing list of commercial wind power development projects was formally permitted in Umatilla County in the year 1997. In the beginning, most such project developments were on high ridges, where population was sparse; where the land, even if farmed and / or grazed was generally lower valued land. There were few

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economically feasible competing uses for that land. For the most part, the wind power generating towers were unseen by the general public, except for a few sites, which were distant from populated areas. The original tower dimensions were generally compatible with the landscape (smaller, less visible, less likely to pose a noise problem). Most land parcels on which the early wind towers were developed were larger than 160 acres, much of that land owned and/or operated in multi-thousand acre farming and / or grazing operations (hereinafter collectively called "farms").

2. **THE CUMULATIVE EFFECT.** As the number of wind power projects increased, the towers increased in size and power output, resulting in much more obvious large scale industrial intrusions on the rural landscape. As their vertical dimensions increased, they were ever more visible at night via blinking red aviation warning lights. More recently, the wind towers have become very visible along the Interstate highway linking Umatilla County to Portland, OR; Spokane, WA and Boise, ID. As people travelled this major regional transportation network, they became much more aware of the increasing number of wind power project sites, and in particular the increasing size of the towers... becoming more aware of how the larger towers literally overpower the landscape, converting a natural rural environment into a more urbanized scene overtaken by an increasingly dense industrial maze of wind towers.

As the number and size of the wind towers increased and became increasingly visible closer to the transportation network, the "Cumulative Effect" of the wind power development projects became more evident and increasingly better defined as well.

3. **INCREASING COST AWARENESS.** In more recent years, the general public has become more aware of the financial subsidies being made available to the wind power development projects; became increasingly aware that the wind power projects most likely would not exist without the subsidy money. In other words, it became increasingly obvious that if the world is to increasingly rely upon wind power as an alternative energy source, it was going to be more costly, at least in the short term, than petroleum and coal based energy sources and hydro-power.

In Oregon and other states, the general economic decline in 2006-2010 made very evident that wind power subsidies had become very competitive with funding of education and other high state budget priorities. Many people have become irritated by the reality that the wind power subsidies have not been more responsibly limited while the public education programs, for example, have been a major trade-off in the public budget dilemma.

4. **ENERGY PRICES.** Energy prices in general have been steadily increasing, driven by the growing global competition for energy resources by the rapidly increasing demand from the lesser developed nations such as China, India and other Asian nations especially. The petroleum management cartels literally exercise major influence over oil and natural gas prices via controlled petroleum pumping rates.

An associated problem is that the Consumer Price Index (CPI) has now for several years NOT included food and energy prices, nor did it include owned housing costs during the house price bubble years. Supposedly, these items have been excluded from the "Core" CPI

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calculations in order to not unreasonably distort the CPI as a management tool. However, it is a myth to do so, for one reason the Core CPI is not rising is that consumer funds are being eaten up by higher housing, food and energy costs. In other words, the items being excluded from the Core CPI are in fact the explanation for the "stable" Core CPI – identifying a major problem, rather than just hiding a "distortion". The general public appears to be more aware of the problem than do the economists behind the CPI calculations.

5. **ENERGY DISTRIBUTION AND POLITICS.** Russia shut off the pipeline through the nation of Georgia (not the U.S. state of Georgia) letting the world know that Europe was highly dependent on this one pipeline route from Russia. A pipeline from Iraq through Turkey and/or nearby countries could help moderate Europe's dependence on the Russian pipeline if the politics of building such an alternative pipeline from Iraq were more favorable. A review of the international pipeline routes today provides an "interesting insight" into how Russia and others are able to impact, coerce and intimidate via energy deliveries.

7. **SOVEREIGN FUNDS VIA ENERGY TRADE AND INTERNATIONAL TRADE DEFICITS VS. WIND POWER.** As nations intentionally manipulate relative currency values and as "normal" imbalances in trade balances and deficits impose pressures on rebalancing currency exchange rates, the world adjusts the incentives to export and import goods and services among nations. In recent years the huge accumulation of nation-owned funds due to the rising cost of petroleum deliveries, and as trade deficits continue to increase under the manipulated currency values, wealth is effectively being transferred into the hands of those who control energy sources.

As the U.S. and other nations struggle to maintain a feasible balance in their domestic economies, they find they must rely increasingly upon the foreign holders of these sovereign funds to refinance U.S. national debt, which gives those foreign interests leverage with which to manipulate trade, international finance in general and global politics as well.

Energy prices are essentially a tax on the productive capacity of every nation, world-wide. Hence, any concentration of wealth as a result of energy prices effectively shifts global wealth and economic potential from the hands of energy buyers into the hands and banks of energy sellers. It is this tremendous economic pressure that motivates development of subsidies to aid in the development of alternative energy sources, such as Oregon's and the federal alternative energy development incentive programs.

In other words, the budget priorities of each and every public service provider (local, state and federal) is a function of global energy costs and trade balances among nations. Behind these wind power ordinance amendments is, at least in part, consideration of the local effects of the international energy "war", and the associated economic and financial "wars" now being waged among nations. Make no mistake: conflicts over relative currency exchange rates and financing of national debt is every bit as troublesome in economic terms as an actual "shooting war".

Local people increasingly resent having wind tower projects "in-their-face" that are financed by foreign money, with the energy generated being sold out of state, while local landowners receiving no rents from the projects are being forced against their will to suffer

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the adverse consequences of wind towers in their view and the noise from the wind towers disturbing the peace and tranquility of their rural lifestyle, including disturbing their sleep rather randomly at night time.

8. **ENERGY, THE ENVIRONMENT AND TRANSPORTATION.** With the Clean Air Act driving air quality concerns, and the issue of Global Warming incentivizing increasingly limited emission standards for vehicles and power generation facilities, the cost of energy in general began an upsurge that is yet to reach peak levels. And while many people do not yet know it, auto emission standards now have the potential of forcing all drivers to own and operate vehicles no older than 2007 (maybe 2001?), including commercial trucks which already face severe costs associated with rising emission standards. In fact, some states, especially California may find some trucking companies will simply no longer serve the state because of the economic cost of complying with such stringent emission standards, which significantly increase the cost of new trucks and other vehicles.

9. **THE ENERGY BACKLASH.** Energy issues and concerns now face a backlash of unknown eventual proportions, including the global warming issue. The cumulative effect of the visibility of wind power projects, the cumulative impact of energy cost increases, which are not being included in the Cost of Living index, to avoid "distorting" the index, has prevented any CPI (Consumer Price Index) triggered increases in Social Security payments to retired persons for the past two years. And the trade-off between energy costs and food costs is now in part driving the cost of "commodities" all across the global economy.

According to recent reports, as much as 40 percent of U.S. corn is now being diverted from food and feed markets to production of ethanol for blending with gasoline, and generation of "bio-fuels" for blending with diesel fuels. The key to the food issue is not as simple as just prohibiting the use of corn for ethanol – the real issue is land use: what will farmers grow on their tillable land?

Corn land can be shifted from food production to production of alternative "bio-mass" crops which cannot be eaten by humans. Therefore, the solution to rising food prices due to use of corn as a bio-fuel resource is not simply to prevent the corn being used for production of fuels. If corn land is shifted to sawgrass, for example rather than growing corn, it still means the food supply is reduced effectively in the same way as using corn itself as a "bio-mass" source.

10. **ENERGY COSTS, ALTERNATIVE TECHNOLOGIES AND FACILITY OBSOLESCENCE.** I regularly receive emails from a source that constantly comments on new ideas for energy development, some of which may literally lead to earthshaking changes in energy availability – such as small scale, highly efficient atomic energy electrical generation facilities. Yes, there is a problem with spent radioactive fuel sources. On the other hand, with smaller scale energy generation facilities, there would potentially be far less need for the new costly regional electrical distribution networks.

Rising costs of energy will incentivize (motivate, subsidize) creativity and innovation in energy production and distribution, and thereby likely make obsolete current capital investments in less time than expected for some existing energy sources. While the world

tends to look for huge scale new technology solutions, in the energy arena, the ultimate reality may be multiple smaller scale energy production alternatives. A major concern of this county is that the rate of obsolescence of wind power facilities and/or falling energy prices not result in abandoned wind power facilities at the expense of local landowners and the county budget.

11. **BALANCING ENERGY SOURCES.** In vast windy areas of the nation, there are few wind power development projects, because there is no electrical distribution system over which to market the wind power. Increasingly, the cumulative effect in areas with increasing numbers of wind towers are generating pressure to build new grid systems in areas where there is lots of wind, lots of low valued land, and few people – prime areas to build wind power projects (out of sight, out of mind). On the other hand, many such sites are also very dry, meaning hydro-power to balance against the irregular wind energy will not be built... which means in order to have wind power, some other source of energy will have to be developed, such as coal fired generation, or natural gas plants (which compete with agriculture for natural gas to make fertilizer to maintain food supplies).

12. **INCREASING LOUD LOCAL PUBLIC CONCERN.** Over the past couple years, the Umatilla County Planning Commission and Department have conducted multiple hearings and work sessions concerning wind power development in the county. One city in particular is very concerned that wind power development projects not distract from a major city investment in a residential expansion area. An organized group of opponents has intensified the discussion and debate over wind power development projects in areas assumed “sensitive” as far as wildlife are concerned; and erosion threats to water quality in watersheds that is related to wind power development.

The intensity of public comment concerning wind power development has been steadily mounting as more people become aware of the linkage between wind power and hydro-power – we cannot have more wind power without building more primary electrical distribution networks (grid capacity). Wind power is apparently now occasionally being diverted, due to limitations in “balancing” wind power with other power sources, to maintain a constant voltage across the electrical distribution system. Shutting down the county’s only coal powered electrical generating plant in the new future will further complicate this energy balancing challenge.

The limited ability to market wind power may in the not too distant future even more severely constrain additional wind power development, unless new electrical transmission facilities are built (this need is a major concern being currently discussed in the northwest region and elsewhere across the U.S.).

13. **THE ELEMENTS OF CONCERN.** This lengthy commentary is a long-winded way of getting to the critical point of why some of the amendments are being proposed for the Umatilla County wind power development ordinance. The cumulative effect of wind power development, which is the placement of industrial development upon rural farm land, is meeting with increasing public resistance. People are resisting the tax costs of development subsidies; resisting paying the costs locally while the power generated is sold out-of-

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state; resisting the wind power subsidies as a major cause of inadequate funding for education; opposed to the increasing number of blinking red lights at night; and seriously opposed to the impact of wind tower noise, especially at night. Etc. The development process, as currently administered, simply imposes too great a cost upon those who are neighbors to the developments, making them "victims" of such development, feeling they are without any meaningful direct voice in how this development process happens; and for the most part not being compensated for the range of personal costs being imposed on them. And for some, no amount of compensation will ever be sufficient for them to just "adjust", and make the best of the imposed consequences.

These amendments are in part to improve the overall effectiveness and efficiency of the wind power development process in this county, including making that development process more fair and equitable among the parties affected by such development.

14. **DIRECT VS. INDIRECT COSTS.** The costs being imposed are both financial and "nonfinancial". The studies of wind power noise effects speak primarily to "direct" health effects (for example, loss of hearing as a result of noise exposure) and "indirect" effects, such as "stress induced health effects", both physical and/or emotional in nature. The first (direct effects) are generally acknowledged by the wind power studies; however, the stress induced effects are generally discounted as being "too difficult to document with credible data".

Another "direct effect" would be loss in property values, due to the noise, loss of a particular view of the mountains and/or other landscape features; loss of privacy as local nonfarm traffic increases; and loss of security as the increased traffic brings the threat of increased vandalism, trespass and hunting intrusion upon their land.

While some claim such losses are difficult to analyze, there are ample forensic processes available to economists, engineers and lawyers to make a good case for the economic costs associated with stress induced disorders, including emotional effects (such as the "post traumatic stress syndrome / disorders" our military hospitals now deal with).

15. **THE COST OF HEALTH EFFECTS.** There is also an increasingly well documented literature base dealing with the health effects of sleep disturbance, including more recent information concerning the night-time noise effects from wind power developments (there are fewer "masking" noises at night to "cover up" the noise from wind towers, and wind changes character with the change in temperatures associate with day and night).

Sleep is a qualitative issue, meaning that one does not have to be literally "awakened" by noise to experience health problems related to the quality of sleep. "Disturbed sleep" causes health effects by preventing a person from experiencing the "deep" sleep essential to the physical regenerative benefits of such quality of sleep.

16. **WHO SHALL PAY?** The county must choose to either allow the "hidden" / "indirect" costs of wind power development to be borne by those who are being victimized by such development, or alter the development process to better protect the interests of those whose lives are being severely disrupted by the multiple costs, both direct and/or indirect costs, imposed against their will by the developments and the public permitting process.

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17. **MAINTAINING SUSTAINABLE PUBLIC BUDGETS.** The county must choose to either moderate the number of voters adversely affected month by month by the wind power development costs, for those people affected by such pressures often respond by simply voting "NO" on all public finance measures, as a way of voicing their general displeasure with how public officials are dealing with the effects of wind power (and other) development upon neighbors to such developments.

The cumulative negative budget effect of imposing development costs upon individuals on a continuing basis builds an increasing base of citizens carrying resentment and resistance that cannot be ignored. Allowing such adverse effects of development to continue in the short term only adds to the overall negative cumulative effect, assuring a longer term major dilemma for public finance. This is a significant "indirect" county budget issue, a factor that needs sincere short and long term attention as energy issues and concerns increasingly affect all economic activity, including all public budgets.

For the potential longer term benefit of all citizens of Umatilla County, I encourage the citizens of this county to debate these issues; carefully consider the alternatives; make helpful suggestions; and encourage the development of a more effective and efficient wind power development ordinance.

Respectfully submitted, for review, comment, debate and suggestions.

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FEB 24 2011

JUSTICE, FAIRNESS AND EQUITY

(A Community Development Exercise)

UMATILLA COUNTY
PLANNING DEPARTMENT

1. WHAT CONSTITUTES "JUSTICE" ACROSS THE COMMUNITY?
2. WHAT CRITERIA ALLOWS US TO KNOW
WHEN JUSTICE HAS BEEN SERVED?
3. CAN ECONOMICS ALONE
PROVIDE ADEQUATE CRITERIA
TO ASSURE JUSTICE IN A COMMUNITY?
4. CAN JUSTICE BE ASSURED
IF ECONOMICS IS IGNORED AS A CRITERIA?
5. CAN A COMMUNITY GENERATE JUSTICE,
IF WE CONSIDER ONLY DIRECT EFFECTS
OF ECONOMIC DEVELOPMENT...
6. OR MUST WE ALSO CONSIDER INDIRECT EFFECTS?
7. DO INDIVIDUALS MATTER
IF THE GREATER GOOD
OF THE COMMUNITY IS SERVED?

A. Would you be willing to volunteer to be the local citizen
thrown into the lion's den today,
for the economic benefit of the community?

B. If you are not willing to volunteer yourself,
please recommend someone else to fill that role.

C. If you do not know anyone else
who might volunteer,
please suggest criteria
by which another "volunteer"
might be selected from the Community.

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FEB 27 2011

UMATILLA COUNTY
CLERK DEPARTMENT

From:
Dana Dibble



October 7, 2009
California, Opinions

Wind turbines are killing condors

BY JIM WIEGAND: Special to Western Outdoor News: Oct 07, 2009 wonews.com

Two of California's highest priority environmental causes — promoting renewable energy and saving the California condor — are on a collision course. The proliferation of prop wind turbines and their well-documented history of killing birds of prey have put the future of the California condor at great risk.

The fact is, in recent years, many missing condors have most likely perished at wind farms in California. Many of the captive bred condors, released into the wild since 1992, have turned up missing. Nearly 1/3 (one-third) of all the captive bred condors released, perish for unknown reasons. If one looks into the scientific literature, collision is nearly always listed as a major cause of death to condors. But there is never any mention of collision in association with the thousands of prop wind turbines with blade tips spinning at 200 miles per hour in their habitat.

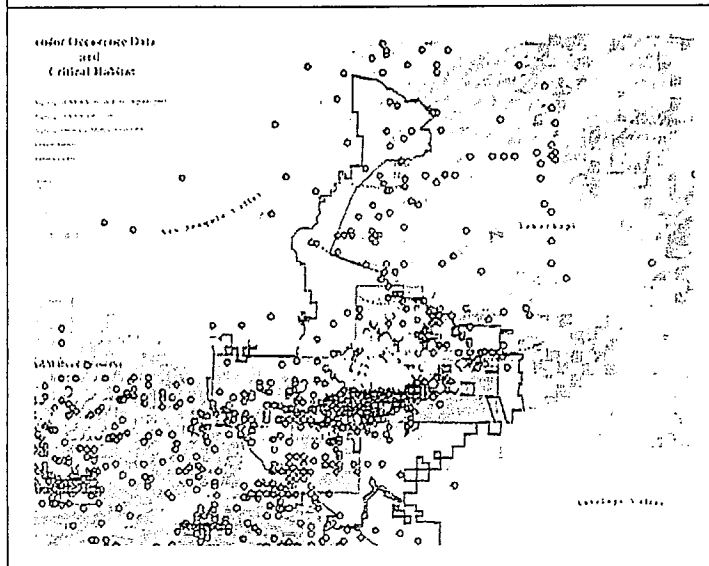
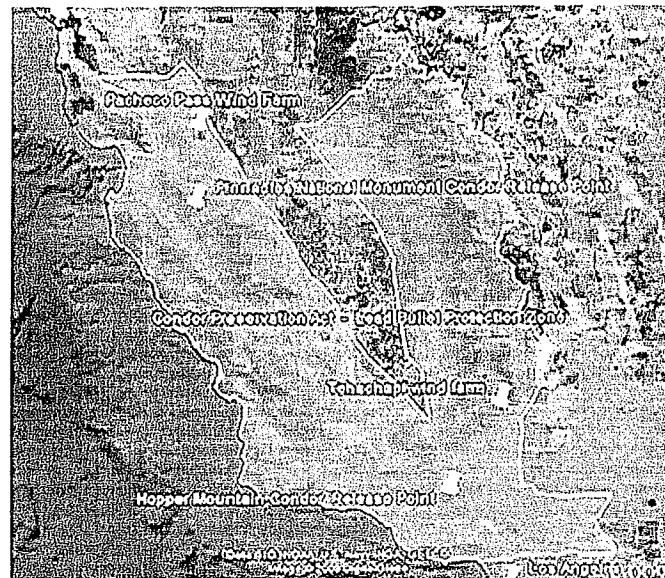
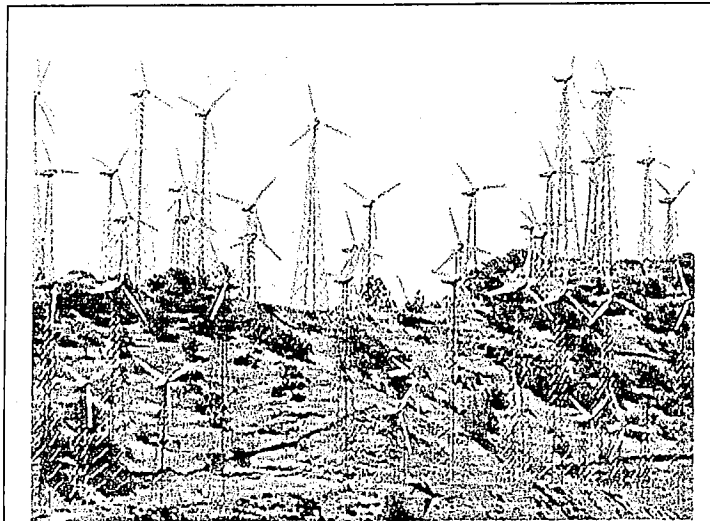
The number one cause of golden eagle mortality in California is from collisions with prop wind turbines. Why not the California condor?

At Altamont Pass, where nearly 7,000 prop wind turbines choke the landscape, over 1,000 birds of prey die each year. One of the most commonly killed species at the Altamont pass wind farm is the turkey vulture. This is well documented.

The condor, like the turkey vulture, is a scavenger. With their huge wings, condors catch thermal air currents and glide for hours looking for food. Flights for food can take a condor as far as 150 miles. A trip to a wind farm would be an easy flight if there were one located nearby. Pacheco Pass and the Tehachapi Pass wind farms currently exist in Condor habitat and support populations of game animals.

In Spain, the Griffon vulture, which is much like the condor in size and habits, is a very large vulture that is somewhat slow and awkward in flight. There, the prop turbine wind farms have been a slaughterhouse. Between 2000 and 2006, almost 1,000 Griffon vultures were found dead at just five of Spain's wind farms in the Zaragoza province. Mark Duchamp (save the eagles) estimates that nearly 2,000 Griffon vultures die at the prop wind farms each year in Spain.

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TOP: Huge wind turbine farms in the middle of condor country kill thousands of birds every year, and it is

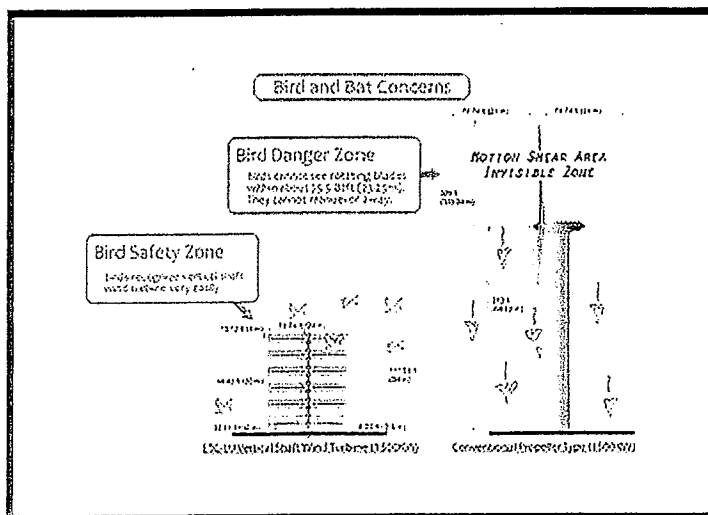
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assumed that condors are part of the numbers. In addition, other birds killed in the turbines would attract condors, making them even more dangerous. MIDDLE: Condors are at far more risk of being killed in wind turbines within their range than by the very unlikely event of eating a wounded animal and ingesting enough lead to impact their health. BOTTOM: This chart shows condor occurrences, and how likely it is that they would have contact with wind turbines within their critical range.

In the summer of 2006 the following statement was made in a press release: "The government began releasing condors in 1992, and there are now about 130 condors in the wild, 68 of them in California. Of 127 condors released in California from 1992 through 2006, 46 birds (36 percent) died or disappeared and are presumed dead. Scientists say poisoning from scavenging carcasses tainted by lead ammunition is likely responsible for many of the deaths." These figures were published three years ago when wildlife advocates filed suit to replace toxic lead bullets with safer alternatives.

Now, three years later, the number of missing and presumed dead condors is even higher. Yet nothing was said about the possibility of the missing condors perishing at two of California's largest prop turbine wind farms, Pacheco Pass and Tehachapi Pass. Both are located within the condors' home range and both have been in operation for decades.

In response to increasing losses to the reintroduced population and a growing number of unknown deaths and disappearances, Ventana Wilderness Society initiated an intensive (weekly) aerial GPS tracking program for all condors in California beginning in fall of 2000 to augment the ongoing ground tracking effort. Some of the satellite tracking is shown in the image provided. The image shows a history of condor sightings in the habitat occupied by the Tehachapi Pass Wind farm. THIS GRAPH shows how vertical shaft wind turbines are recognized by birds and avoided, while rotating wind turbines are undetectable to them



This graph shows how vertical shaft wind turbines are recognized by birds and avoided, while rotating wind turbines are undetectable to them, causing a major threat to bird survival.

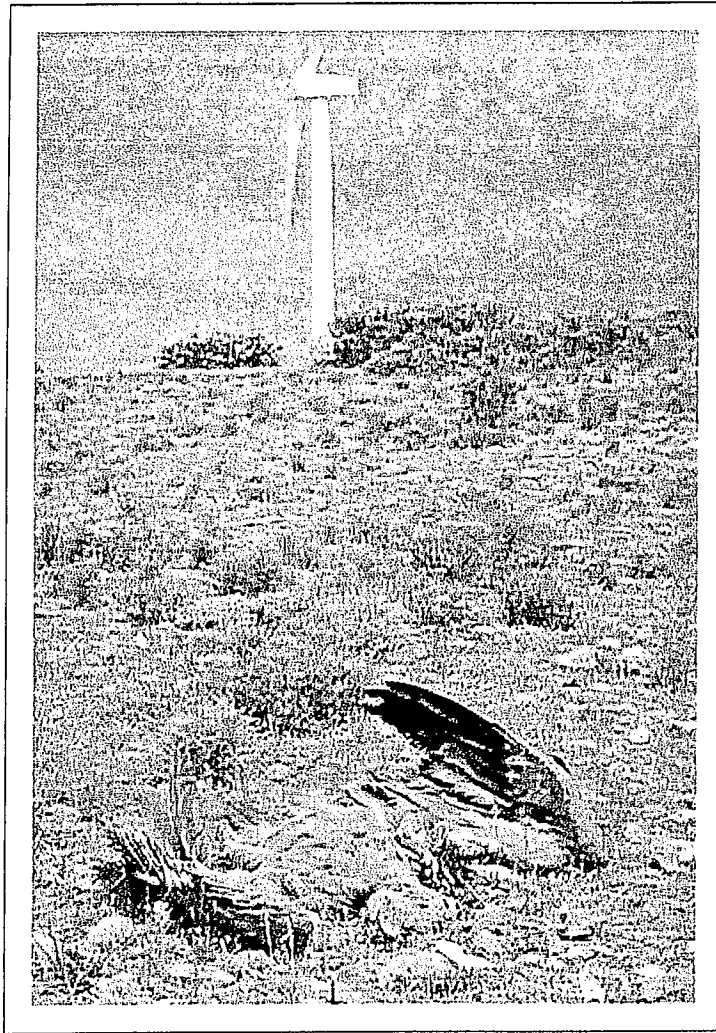
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An August, 2008, 59-page report, "Status of the California Condor and Efforts to Achieve its Recovery," concluded that California condors, rescued from extinction in an elaborate and expensive recovery effort, have become tantamount to a zoo animal in the wild and can't survive on their own without a ban on lead ammunition across its vast western ranges, the scientific study has concluded. The majestic scavengers, bred in captivity and released to nature in recent decades, require "constant and costly human assistance." The report prepared by the AOU Committee on Conservation, California Condor Blue Ribbon Panel, A Joint Initiative of The American Ornithologists' Union and Audubon California.

Not one word was written about the possibility of Prop Wind Turbines killing condors. Why not? These are all bright people. They all know the extreme danger of prop turbines to birds of prey. With a Prop Turbine, one fly-over could mean death. A single carcass seen from miles away could draw in a condor on any given day. In sharp contrast, the National Audubon Society hosted a news conference in September 1999 to denounce Enron Wind Corp.'s (now owned by GE) plans to build a prop wind farm near the town of Gorman in Southern California. "It is hard to imagine a worse idea than putting a condor Cuisinart next door to critical condor habitat," said Audubon Vice Pres. Daniel Beard.

Tehachapi Pass wind farm (now owned by GE) sits right next to critical condor habitat. There are 5,000 prop wind turbines spinning at this location. There are contracts with Southern California Edison to expand the Tehachapi Pass wind farm to more than 50 square miles of wind turbines, which is triple the size of any existing U.S. wind farm. As a result, more Condors will be killed. GRIFFON VULTURES, such as this one, are killed by the thousands in wind turbine farms in Spain, and there is no reason to suspect that the same is not occurring in California.

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Griffon vultures, such as this one, are killed by the thousands in wind turbine farms in Spain, and there is no reason to suspect that the same is not occurring in California.

Recently a ban was placed on the use of lead bullets in the habitat of the condor. In December, 2007, the California Department of Fish and Game prohibited the use of projectiles containing lead for hunting deer, bear, wild pig, elk, and antelope in areas designated as California condor range. This was for good reason, because the condors were eating carcasses left in their field by hunters and ingesting lead bullet fragments. Wounded animals that escaped would go off and die, only to be eaten later by condors. Scientists found very high levels of lead in some of the sick and condors. Similarly in Spain, dangerously high levels of lead were also found in the Griffon Vulture.

Assembly bill 821, the Ridley-Tree Condor Preservation Act, Now makes it a crime to use lead bullets in thousands of square miles of Condor in the Southern California habitat that surrounds the Sacramento Valley floor. A look at the map provided shows the area protected by law highlighted in yellow. The map also clearly shows that two of California's largest Prop Turbine farms, Pacheco Pass and the Tehachapi Pass wind farms, are located well within the protected condor habitat. Lead bullets are a great danger to Condors, but so are prop turbines. How is the Condor going to be protected from the proliferation of prop turbines from the wind industry? This is clearly the biggest danger facing the Condor.

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But, according to Chris Parish, condor program director for the Peregrine Fund, "Aside from lead poisoning, there is little to stop condors from spreading clear up to British Columbia." Sorry, Mr Parish, you are wrong. Prop turbines will stop the condor as sure as the Great Wall of China stopped invaders from the north.

As it now stands, without captive breeding and feeding stations, the California condor will never be able to expand its range where there is a prop turbine farm located near its critical habitat. The reproductive rate is too low and it is just too easy for them to cruise a few miles into the spinning blades of a wind farm. In fact, if it were not for the feeding stations, many more condors would have wandered off into the Pacheco Pass and Tehachapi Pass wind farms looking for food, only to perish.

I am an expert on birds of prey and in my opinion, California condors have died at the Tehachapi Pass wind farm. An independent team of observers having full access to the Tehachapi Pass wind farm could confirm this in 12 to 24 months time. No one from the blue ribbon panels associated with the 2008 Condor report should be a part of the independent team.

This may be the best reason yet to move on from the prop wind turbine era and stop the slaughter of birds of prey. The more efficient, vertical shaft wind turbines and other designs currently in development will take care of this problem.

We at Western Outdoor News do not believe that lead bullet fragments in "wounded animals" are a "great threat" to condors. Hunters are far too meticulous in tracking and retrieving any animals that may be wounded. But we do firmly believe that wind turbines are very probably a greater threat to condors.

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<http://www.wind-watch.org/news/>

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Govt: voluntary rules for wind farm bird impacts

By Frederic J. Frommer

Associated Press / February 8, 2011

WASHINGTON—The Fish and Wildlife Service Tuesday proposed voluntary guidelines for onshore wind energy developers to avoid bird deaths and other harm to wildlife as part of the Obama administration's big push for renewable and clean energy.

Bird advocates who had lobbied for mandatory standards warned that the new guidelines would do nothing to stem bird deaths as wind power builds up across the country.

"We have a responsibility to ensure that solar, wind and geothermal projects are built in the right way and in the right places so they protect our natural and cultural resources and balance the needs of our wildlife," Interior Secretary Ken Salazar said in a statement. President Barack Obama has called for the nation to get 80 percent of its electricity from clean energy sources by 2035, and renewable sources are expected to play a key role in that effort.

The department is seeking public comment for its proposed guidelines, which were released ahead of a two-day renewable energy conference in Washington. Among other things, the guidelines call for wind developers to eliminate from consideration areas that would pose high risk to animals and habitat, and to take steps to mitigate harm by, for example, restoring habitat nearby.

"With proper diligence paid to siting, operations and management of projects, it is possible to mitigate for adverse effects" on wildlife, the guidelines say. "This is best accomplished when the developer coordinates as early as possible with the (Fish and Wildlife) Service and other stakeholders."

The agency is also proposing new voluntary guidance aimed at preventing deaths of bald and golden eagles.

The American Bird Conservancy said that the wind industry's goal of providing 20 percent of the nation's electricity by 2030 would lead to a million bird deaths a year or more. The group took out print and online advertisements in political publications this week featuring a cartoon bird saying, "Help me get home alive," and asking people to sign a petition calling for mandatory standards.

"Let's not fast-track wind energy at the expense of America's birds," said Mike Parr, a vice president with the group. "Just a few small changes need to be made to make wind bird-smart, but without these, wind power simply can't be considered a green technology."

John M. Anderson, director of siting policy at the American Wind Energy Association, said that every form of energy, communication and transportation has an impact on wildlife.

"We really feel that based on post-construction data that's collected, that there is not a significant impact, and it is far exceeded by other sources of energy production and communication towers," he said. "Why are we being held to a different standard?"

Anderson said that the wind industry has a long history of collaborating with conservation groups to find ways to reduce bird deaths, and noted that wind energy displaces emissions of carbon dioxide blamed for global warming, which has been identified as a big threat to wildlife, including birds.

A 2005 Forest Service report estimated that 500 million to possibly more than 1 billion birds are killed in the U.S. every year in collisions with manmade structures such as vehicles, buildings, power lines, telecommunication towers and wind turbines. The report estimated that 550 million are killed by buildings and 130 million by power lines, while only 28,000 are killed by wind turbines; a 2009 report by Fish and Wildlife scientist put the figure at

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440,000 annual bird deaths by wind turbines.

Despite those lower numbers, the bird group argues that the wind industry is in a unique position because it's at the beginning of a nationwide build-out and can still take steps to minimize bird impacts before that occurs.

Last year, a second "State of the Birds" report from the Interior Department found that global climate change poses a significant threat to migratory bird populations. The previous year, the first such report, also released by the Interior secretary, found that all types of energy production -- such as wind, ethanol and mountaintop coal mining -- were contributing to steep drops in bird populations.

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Published on Sunday, August 2, 2009 by [The Independent/UK](#)

Are Wind farms a Health Risk? US Scientist Identifies 'Wind Turbine Syndrome'

Noise and vibration coming from large turbines are behind an increase in heart disease, migraine, panic attacks and other health problems, according to research by an American doctor

by Margareto Pagano

Living too close to wind turbines can cause heart disease, tinnitus, vertigo, panic attacks, migraines and sleep deprivation, according to groundbreaking research to be published later this year by an American doctor.

Dr Nina Pierpont, a leading New York paediatrician, has been studying the symptoms displayed by people living near wind turbines in the US, the UK, Italy, Ireland and Canada for more than five years. Her findings have led her to confirm what she has identified as a new health risk, wind turbine syndrome (WTS). This is the disruption or abnormal stimulation of the inner ear's vestibular system by turbine infrasound and low-frequency noise, the most distinctive feature of which is a group of symptoms which she calls visceral vibratory vestibular disturbance, or VVVD. They cause problems ranging from internal pulsation, quivering, nervousness, fear, a compulsion to flee, chest tightness and tachycardia - increased heart rate. Turbine noise can also trigger nightmares and other disorders in children as well as harm cognitive development in the young, she claims. However, Dr Pierpont also makes it clear that not all people living close to turbines are susceptible.

Until now, the Government and the wind companies have denied any health risks associated with the powerful noises and vibrations emitted by wind turbines. Acoustic engineers working for the wind energy companies and the Government say that aerodynamic noise produced by turbines pose no risk to health, a view endorsed recently by acousticians at Salford University. They have argued that earlier claims by Dr Pierpont are "imaginary" and are likely to argue that her latest findings are based on a sample too small to be authoritative.

At the heart of Dr Pierpont's findings is that humans are affected by low-frequency noise and vibrations from wind turbines through their ear bones, rather like fish and other amphibians. That humans have the same sensitivity as fish is based on new discoveries made by scientists at Manchester University and New South Wales last year. This, she claims, overturns the medical orthodoxy of the past 70 years on which acousticians working for wind farms are using to base their noise measurements. "It has been gospel among acousticians for years that if a person can't hear a sound, it's too weak for it to be detected or registered by any other part of the body," she said. "But this is no longer true. Humans

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can hear through the bones. This is amazing. It would be heretical if it hadn't been shown in a well-conducted experiment."

In the UK, Dr Christopher Hanning, founder of the British Sleep Society, who has also backed her research, said: "Dr Pierpont's detailed recording of the harm caused by wind turbine noise will lay firm foundations for future research. It should be required reading for all planners considering wind farms. Like so many earlier medical pioneers exposing the weaknesses of current orthodoxy, Dr Pierpont has been subject to much denigration and criticism and ... It is tribute to her strength of character and conviction that this important book is going to reach publication."

Dr Pierpont's thesis, which is to be published in October by K-Selected Books, has been peer reviewed and includes an endorsement from Professor Lord May, former chief scientific adviser to the UK government. Lord May describes her research as "impressive, interesting and important".

Her new material about the impact of turbine noise on health will be of concern to the Government given its plans for about 4,000 new wind turbines across the country. Ed Miliband, the Secretary of State for Energy and Climate Change, has made wind power a central part of his new green policy to encourage renewable energy sources. Another 3,000 are planned off-shore.

Drawing on the early work of Dr Amanda Harry, a British GP in Portsmouth who had been alerted by her patients to the potential health risk, Dr Pierpont gathered together 10 further families from around the world who were living near large wind turbines, giving her a cluster of 38 people, from infants to age 75, to explore the pathophysiology of WTS for the case series. Eight of the 10 families she analysed for the study have now moved away from their homes.

In a rare interview, Dr Pierpont, a fellow of the American Academy of Pediatrics, told The Independent on Sunday: "There is no doubt that my clinical research shows that the infrasonic to ultrasonic noise and vibrations emitted by wind turbines cause the symptoms which I am calling wind turbine syndrome. There are about 12 different health problems associated with WTS and these range from tachycardia, sleep disturbance, headaches, tinnitus, nausea, visual blurring, panic attacks with sensations of internal quivering to more general irritability.

"The wind industry will try to discredit me and disparage me, but I can cope with that. This is not unlike the tobacco industry dismissing health issues from smoking. The wind industry, however, is not composed of clinicians, nor is it made up of people suffering from wind turbines." The IoS has a copy of the confidential manuscript which is exhaustive in its research protocol and detailed case series, drawing on the work of leading otolaryngologists and neurologists - ear, nose and throat clinical specialists.

Some of the earliest research into the impact of low-frequency noise and vibrations was undertaken by Portuguese doctors studying the effects on military and civil personnel flying at high altitudes and at supersonic speed. They found that this exposure may also cause the rare illness, vibroacoustic disorder or VAD, which causes changes to the structure of certain organs such as the heart and lungs and may well be caused by vibrations from turbines. Another powerful side effect of turbines is the impact which the light thrown off the blades - known as flicker - has on people who suffer from migraines and epilepsy.

Campaigners have consistently argued that much research hitherto has been based on written complaints to environmental health officers and manufacturers, not on science-

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based research. But in Denmark, Germany and France, governments are moving towards building new wind farms off-shore because of concern over the potential health and environmental risks. In the UK there are no such controls, and a growing number of lobbyists, noise experts and government officials are also beginning to query the statutory noise levels being given to councils when deciding on planning applications from wind farm manufacturers. Lobbyists claim a new method of measuring is needed.

Dr Pierpont, who has funded all the research herself and is independent of any organisation, recommends at least a 2km set-back distance between potential wind turbines and people's homes, said: "It is irresponsible of the wind turbine companies - and governments - to continue building wind turbines so close to where people live until there has been a proper epidemiological investigation of the full impact on human health.

"What I have shown in my research is that many people - not all - who have been living close to a wind turbine running near their homes display a range of health illnesses and that when they move away, many of these problems also go away."

A breakthrough into understanding more of the impact of vibrations came last year, she said, when scientists at Manchester University and Prince of Wales Clinical School and Medical Research Institute in Sydney showed that the normal human vestibular system has a fish or frog-like sensitivity to low-frequency vibration. This was a turning point in understanding the nature of the problem, Dr Pierpont added, because it overturns the orthodoxy of the current way of measuring noise. "It is clear from the new evidence that the methods being used by acousticians goes back to research first carried out in the 1930s and is now outdated."

Dr Pierpont added that the wind turbine companies constantly argue that the health problems are "imaginary, psychosomatic or malingering". But she said their claims are "rubbish" and that medical evidence supports that the reported symptoms are real.

Case study: 'My husband had pneumonia, my father-in-law had a heart attack. Nobody was ill before'

Jane Davis, 53, a retired NHS manager, and her husband, Julian, 44, a farmer, lived in Spalding, Lincolnshire, until the noise of a wind farm 930m away forced them to leave

"People describe the noise as like an aeroplane that never arrives. My husband developed pneumonia very quickly after the turbines went up, having never had chest problems before. We suffer constant headaches and ear nuisance. My mother-in-law developed pneumonia and my husband developed atrial fibrillation - a rapid heartbeat. He had no pre-existing heart disease. Our blood pressure has gone up. My father-in-law has suffered a heart attack, tinnitus and marked hearing loss.

"I understand this can be regarded as a coincidence, but nobody was ill before 2006."

The defence: 'Wind turbines are quiet and safe'

The British Wind Energy Association, UK's biggest renewable energy trade association, said last night: "One of the first things first-time visitors to wind farms usually say is that they are surprised how quiet the turbines are.

"To put things in context: the London Borough of Westminster registered around 300,000 noise complaints from residents in 2008, none from wind turbines. The total number of noise complaints to local councils across the country runs into millions.

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"In contrast, an independent study on wind farms and noise in 2007 found only four complaints from about 2,000 turbines in the country, three of which were resolved by the time the report was published.

"Wind turbines are quiet, safe and sustainable. It is not surprising that, according to a DTI report, 94 per cent of people who live near wind turbines are in favour of them. There is no scientific research to suggest that wind turbines are in any way harmful, and even many of the detractors of wind energy are honest enough to admit this.

"Noise from wind farms is a non-problem, and we need to move away from this unproductive and unscientific debate, and focus on our targets on reducing carbon emissions."

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Protected eagle halts Eastern Oregon wind farms

Published: Wednesday, September 29, 2010, 6:48 PM Updated: Friday, November 05, 2010, 4:09 PM



By Ted Sickinger, The Oregonian

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The protected golden eagle has grounded the first wind farm in Wasco County, and is throwing another in Gilliam County into doubt.

Last week, the **U.S. Fish and Wildlife Service** recommended that the **Oregon Department of Energy** allow wind turbines no closer than 6 miles to a golden eagle nest. The letter concerned the Summit Ridge wind farm in Wasco County, being developed by LotusWorks of Vancouver, Wash.

Studies detected federally protected gold eagles, as well as bald eagles, in the area, and asked LotusWorks to prepare a protection plan for the species.

The letter prompted Portland General Electric to back off its push to buy development rights for a massive new wind farm near Arlington in Gilliam County.

The utility withdrew a request to regulators to waive normal competitive bidding requirements that apply to acquisition of new power plants. PGE originally said it needed to act fast to secure rights to one of the dwindling number of good development sites on the mid Columbia.

The utility said Wednesday that Rock Creek could still prove a feasible project, but it was no longer necessary to step outside the normal process on a project that could be affected by similar wildlife concerns.

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--Ted Sickinger

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I always wondered how these wind turbines could be classified "green" energy. They create a huge scar on the environment and do have a huge impact on all wildlife. Enough is enough already. Have you seen the wind farms that are already in place in the area just east of the Deschutes River in Sherman County? They are not pretty. And these are not small wind turbines. These are huge machines. As far as I know most of the power being generated is being sold to California. I think much more thought needs to be put into just where these farms are placed.

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mgreczyn

September 30, 2010 at 10:53AM

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Unfortunately, there's no such thing as consequence-free energy. While there might be some environmental problems for wind energy, they truly pale in comparison with those created by other sources. Further, if the power is being sold to California, it's offsetting coal and natural gas power in one of the power-hungriest markets in the nation AND boosting Oregon's economy in the process. What's bad about that?

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wiegand

September 30, 2010 at 9:29AM

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AGENCY CORRUPTION IN WASHINGTON

The information below illustrates an example of a Washington, DC agency that has been compromised by the wind industry. The information given by US Department of Energy is false. This industry also has several other agencies in their pocket. Most notably the USFWS. An agency that stood by while the wind industry constructed thousands of deadly wind turbines in California Condor and Whooping Crane habitat. They then created and gave the wind industry what are called Incidental Take Permits so this industry could avoid all liabilities for the killing of rare and endangered species..

From the Wind Energy Myths Fact Sheet

Myth 9 Wind turbines kill birds and thus have serious environmental impacts. Bird kills have caused serious scientific concern at only one location in the United States: Altamont Pass in California, one of the first areas in the country to experience significant wind development. Over the past decade, the wind community has learned that wind farms and wildlife CAN AND DO COEXIST SUCCESSFULLY. Wind energy development's overall impact on birds is extremely low (

What Should Be On US Department of Energy Fact Sheet

Fact- Millions of Birds are killed by wind turbines each year. Most are protected species and some are endangered. More than 2000 Golden Eagles have been killed at Altamont Pass wind farm. Wind turbines are the most likely cause for the recent population declines of bird species throughout Europe because tens of thousands of these turbines have invaded their habitats. Migratory bird species that visit Europe are also in a rapid state of decline. Wind turbines are lethal and are known to kill every species of bird that is forced to share their habitat them. When the propeller style wind turbine is introduced into their habitats, it becomes the number

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one cause of death for rare and endangered bird species. House cats, cars, buildings, any most other human related activities are not a factor in the survival of many rare species bird because of the isolation of their habitats

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September 30, 2010 at 9:42AM

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The Misery They Bring

Until the problem of AGENCY corruption in Washington is solved, bird and bat populations will continue to decline from the wind industry. As it is Not one agency will speak out about the extreme dangers these turbines pose to birds and bats. Not one Agency will speak out about the need for new turbine designs. Not one Agency will draw a line in the sand and say, enough. Instead the conspiracy of silence and fraudulent documents allows wind projects to be approved virtually anywhere.

Currently the industry uses the ridiculous and accepted practice of conducting Baseline Use Surveys to rig their Environmental Impact reports. Because some impacts cannot be hidden with these surveys, the USFWS as a backup gives out Incidental Take Permits to the industry. All this corrupt mess was created in Washington so the industry could get off the hook for killing rare and endangered species.

The irony of it all is that this industry has nothing to do with saving the world from the use of oil and coal. This is because the propeller style wind turbine is severely limited in its ability to produce energy. It can not solve America's energy needs. No matter how many are installed this style of turbine can never achieve the ridiculous goals set by State and Federal Regulators. People need to realize that Wind energy is really just a business and another way to create profits for a terrible industry.

The heavy federal subsidies given to the wind industry were generated in Washington by the investors. It is a mega payday for them and a robbery of the taxpayers. In addition, many states began REQUIRING electricity suppliers to obtain a percentage of their supply from renewable energy sources, with percentages typically increasing over time. These self serving regulations guarantee increasing demand for the prop turbine and profits for the wind industry.

Once the public realizes that this industry is totally corrupt, riddled with fraud, and driven by greed, The false green image portrayed by the industry will then be replaced with a public perception of being hoodwinked or hornswoggled. The public can then put prop turbine in the dumpster so the next generation of safe wind turbines can be brought into production.

Having said all this, the thing I detest the most, is the needless slaughter of rare and endangered species while this industry makes a fortune from the misery they bring upon the land.

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September 30, 2010 at 9:43AM

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The Soul of the Profiteer

Take the profit out of the wind farm equation and the turbine peddlers would be nowhere in sight. They are not representing what is good for society, they represent what is good for

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them. The profiteer is in it only because they are seeking personal gain and are driven by greed.

The bottom line is this..... Just like a slimy used car salesman, they will say anything to sucker you in..They are selling a product and want your money. Only in this case it represents a fortune.

I am a wildlife biologist and every Environmental Impact Report I have ever seen from this industry has been BOGUS. The industry is marketing a green friendly product that is really a disaster for birds and bats. If they would fraudulently produce documents about their impacts to rare and endangered species they would lie about anything else. And they do

People should believe nothing, and I mean absolutely nothing generated from the wind industry.

As truth emerges from the onslaught of propaganda and lies, the crowds will continue to grow in opposition to this terrible industry.

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FEB 24 2011

February 24, 2011

UMATILLA COUNTY
PLANNING DEPARTMENT

Received at hearing
2/24/11 CW

Umatilla County Planning Commissioners
Umatilla County 216 SE 4th Avenue
Pendleton, Oregon 97801

Honorable Planning Commissioners:

This input is being respectfully submitted for inclusion as my comments on the commission's **Proposed Umatilla County Development Code Amendments Public Hearing held February 24, 2011**. These comments relate to the version of the **Proposed Amendments to UCDC 152.615 and 616 HHH dated January 13, 2011**.

Section 4 (I) relating to a **Socioeconomic Assessment** was stricken from the proposed document.

I feel that the Socioeconomic Assessment is a valuable part of the decision making process and should be retained in the final document.

Page 4 and 5 of 10 **6 (A) Setbacks -**

Setback standards and requirements are very important to adjacent and affected nonparticipating landowners; these landowners need to be properly considered in the decision making process. It was not their choice to be affected by the windmill development project. They deserve nothing less than fair and equitable treatment.

Setback Standards must be adequate to mitigate the impact to these landowners. Impacts may be **noise, visual, health and other factors** on a site by site basis. To deal with this issue, it is imperative that setbacks be established based on the latest, most credible and supportive data and information available. This must not be an estimate or a guess.

There must be adequate explanation and reasoning as to what setback requirements are selected. Furthermore, if the setback standard is different from one affected group or individual to another, reasons need to be given as to why; i.e., City – Incorporated Community – Rural Resident. The impacts would be the same to individuals regardless of the category or group they are in.

Using a linear setback, feet or factor X tower height is a good start. However, due to rapidly advancing technology in the industry, size of generators should be factored in; i.e., a 1.5 MW generator verses a 2.3 MW generator could be on the same tower at approximately the same height but, produce totally different impacts. The **size of the generator** needs to be considered to determine the setback requirement.

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Page 5 of 10

(8) Instead if a "Credible Noise Study may be required, it should be "Shall be Required".

This should be done not only as a monitoring tool but, also to establish baseline data and information that would be used to evaluate the impact of the project, as well as serve to design mitigation measures into the project for indentified impacts.

Page 9 and 10 of 10 Amendments

I feel that the requirement for amendments with change in boundaries or number of towers is adequate. However, a change of 25% or more in generating capacity is excessive. A 25% change could produce a significant change in the project impacts. A limit of 10% would be more appropriate.

If an amendment is necessary it should follow the application process and be subject to the same requirements and stipulations as the original application.

Respectfully submitted,

Dave and Judy Price
80488 Zerba Road
Athena, OR 97813

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MAR 11 2011

UMATILLA COUNTY
PLANNING DEPARTMENT

Umatilla County Board of Commissioners
Umatilla County Courthouse
216 SE Fourth Street
Pendleton, OR 97801

Honorable County Board of Commissioners:

This input is being respectfully submitted for inclusion as my comments on the **Proposal Umatilla County Development Code Amendments – Public Hearing** held February 24, 2011. These comments relate to the version of the Proposed Amendments to UCDC 152.615 and 616 HHH dated February 24, 2011.

I commend the Umatilla County Planning Commissioners on their hard work and long hours that was required to submit the amended document to the Board of Commissioners for their consideration and approval on March 17, 2011.

Page 4 (J) – Socioeconomic Impact Assessment.

This section was added back into the February 24th document. I fully support the inclusion of the Socioeconomic impact assessments into the final document. It is an essential part of the decision process and necessary to assess all the county community impacts associated with proposed wind projects.

Page 5 (A) – Setbacks (1) – (6)

Setback standards and requirements are very important to adjacent and affected non-participating land owners. These landowners need to be properly considered in the decision making process. It was not their choice to be affected by windmill projects. They deserve nothing less than fair and equitable treatment.

Setback standards must be adequate to mitigate the impacts to these landowners. To adequately deal with this issue, it is imperative that setback requirements be established based on the latest, most credible and supportive data and information available at this time. It must not be an estimate or a guess.

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There must be adequate explanation and reasoning as to what setback requirements are selected. Furthermore if the setback standard is different from one affected group or individual to another, reasons need to be given as to why; i.e., City, Unincorporated Community or Rural Resident. The impacts would be the same to individuals regardless of the category or group they are in.

Using a linear setback, feet or factor X tower height is a good start. However, due to rapidly advancing technology in the industry, size of generators should be factored in; i.e., a 1.5 MW generator verses a 2.3 MW generator could be on the same tower at approximately the same height but, produce totally different impacts. **The size of the generator** needs to be considered to determine the setback requirement.

An assumption is made that 6 (A) (2) Setback for Unincorporated Community is in error; that it was meant to be the same setback as for City Urban Growth Boundary and Rural Residence, i. e. 2 miles or 20 times the tower height.

Page 5 (8) Credible Noise Study

I support this requirement as far as it goes. The "Credible Noise Study" is written in this context as "Monitoring" the project. I recommend the addition to the requirement of a Pre-Project Credible Noise Study to establish a basis to establish a base level of data on which to evaluate the Project Design. This would more clearly evaluate the true noise impacts when in operation when application site conditions dictate.

Page 9 and 10 – Permit Amendments

I support the requirement for amendments with a change in boundaries or number of towers is adequate. However, a change of 25% or more in generating capacity is excessive. A 25% change could produce a significant change in the project impacts. A limit of 10% would be more appropriate.

If an amendment is necessary it should follow the application process and be subject to the same requirements and stipulations as the original application.

Respectfully submitted,

Dave and Judy Price
80488 Zerba Road
Athena, OR 97813

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**COMMENTS ON PROPOSED REVISIONS TO UCDC 152.616 (HHH)
To the Umatilla County Planning Commission
Proposed Amendments Version of 1/13/11**

RECEIVED

By

FEB 24 2011

Aeropower Services Inc.
2/24/11

UMATILLA COUNTY
PLANNING DEPARTMENT

These comments are made by and on behalf of Aeropower Services Inc. (ASI), who's principle Don Bain has worked on several wind projects in the county.

CONTEXT and GENERAL COMMENTS

In addition to the excellent information provided in Clinton Reeder's PowerPoint "Intent of Planning Process" and paper "Comments Concerning Wind Power Noise Studies" there are additional relevant factors at hand here which should be considered in any decisions about the proposal, including:

A. General land use planning and permitting principles provide for avoiding, minimizing and mitigating the impacts of private actions on the public at large. This includes specific public agency actions, e.g., planning, building and operating a public highway or other public civil infrastructure. No action gets a 'free pass' short of a prior review of it in the context of a Comprehensive Land Use Plan and its designation as an allowable outright use in the code. Even outright uses are subject to code conditions. The standard for acceptable actions is an outcome which is a compromise between competing objectives – *it is not total elimination of any and all impacts*. Were the standard of acceptability total elimination of impacts, nearly nothing anywhere would be acceptable, e.g.:

- * Road noise from highways travels a great distance and can be heard on still nights miles and miles away – this would not be acceptable.
- * Dust and noise from farm tractors and combines impinges on residential neighborhoods and into cities where fields are nearby – this would not be acceptable.
- * Combines occasionally start fires during harvest and these first can run many miles across many properties – use of combines would not be permitted.
- * The smell of a private cattle yard or coral on the nearby public roadway would not be acceptable - so cattle yards or corals would be allowed.
- * The visibility of an agricultural processing plant from homes at any distance or homes in an EFU zone, and located at pastoral settings, would be totally inconsistent with those home locations – so these agricultural plants would not be allowed.
- * Since a level 9+ earthquake or a 500 year flood or weather condition *might* happen and there could be loss of life or property: only structures designed and built for these extremes would be allowed.
- * The sound from orchard fans running travels across public roads and many other properties, for miles under the right condition, so these would not be allowed.

Yet Umatilla county and best land use planning practices in general allow all these impacts, after reasonable consideration and planning, as provided in various regulations. This does not prevent prior fear the actions will cause intolerable impacts or impacts which a few members of society cannot or do not want to live with. The only way to completely eliminate that fear is to not allow the action at all. As long as there is fear, opponents will provide any and all manner of arguments and examples of extreme or rare or accidental conditions which appear to justify that fear from the proposed action. But a good planning and permitting process should not be swayed by fear and, in general for most impacts, should not allow zero impacts standards in permitting code.

B. *Regulation of land uses cannot be based on subjective factors.* These are impossible to adjudicate, objectively measure and test. For every person liking or disliking something as a matter of personal taste, there's another with an opposite viewpoint or opinion. Thus quantifiable, objective and factual standards must be used in the code.

C. There is an economic interest in most impacts and the nature of our system is to let these be negotiated between buyer and seller, relatively free of regulation. This kind of economic interest is the foundation of our national and local economy, and it should be considered in the decisions at hand. Were this not so:

- * Complaints about noise impacts of wind farms would be *at least* equally distributed between people leasing land for these projects (and getting paid for that) and people who have no direct economic benefit. But they are not equally distributed.
- * Noise easements would be impossible to buy and sell. Yet they commonly exist, in many locations where there are wind projects – which doesn't necessarily mean regulated noise was exceeded. (Sometimes NIMBY issues are thus mediated.)
- * Homeowners in rural cities like Athena, Adams, Westona, Milton-Freewater and Helix would be complaining about home values, dust, fire hazards, chemicals and noise of wheat farming on properties next to their homes. But they aren't because collectively they're the same people earning a living from that farming.

D. The public process is dominated by people who show up. However, there is constructive notice, via recorded documents on file in Umatilla county, of great interest in the economic opportunity of wind farming. There are agreements in the county between approximately four dozen companies and ~150-250 residents which provide for and allow wind projects to be done. If all brought to fruition, these have the potential to provide in excess of \$1B capital investment in the county, with associated jobs and services purchasing and property tax revenues.

E. The wind industry is focused on three areas of the county for potential wind development. A great deal of project development has already occurred in the county in only one of these areas, Vansycle Ridge, and this area's potential is not yet fully built out. Only one area out of three is causing significant controversy: The foothills of the Blue Mountains. The remaining area is roughly South of Pilot Rock. These are very different areas with different considerations and prior experience with wind projects.

Because the code applies county-wide, any changes will affect development opportunities at all three locations. It is common knowledge some opponents of wind development in the Blue Mountains want no projects there at all – a successful code revision would result in Blue Mountains projects becoming infeasible, uneconomic or impractical to do. It is easy to imagine the current code revision process would not be happening but for concerns about Blue Mountains development. The Planning Commission is rightly evaluating claims and testimony from persons concerned about development at this location and several iterations of code revisions have occurred.

However, the principle issues of Blue mountains wind development are largely unique to that location. A myriad of general wind development issues being presented because the current code revision process under way allows only general issues and cannot focus on unique factors of the Blue Mountains. This is a fundamental conflict, between issues resolution arising from one location which applies county-wide in the development code. The more appropriate venue for evaluating and resolving issues unique to development in the Blue Mountains is the land use planning process, in the Comprehensive Plan.

Successfully resolving Blue Mountains development issues very likely will cause severe impacts on the development potential in the other two areas of county opportunity for wind projects development. *What is an appropriate solution for the Blue Mountains will not be appropriate and will cause considerable unnecessary collateral damage to reasonable wind business opportunities in the other areas of the county. One of these areas already has many turbines which were installed under the 'lesser' prior standards than in the current draft code proposal – with no significant problems occurring in years of operation. This fact alone shows the current code standards do and did a good job at preventing adverse or unacceptable impacts, and many fears about specific impacts are largely unjustified. Were the proposed revisions imposed on these existing projects when they were permitted, the resulting development would be a mere fraction of what exists today – a great loss to the county and the residents who benefited and continue to benefit from these projects.*

Therefore, ASI recommends the code revision process be confined only to refinements of the current successful development code which are reasonable on a county-wide basis. Evaluation of what's appropriate for the Blue Mountains should be held over to a separate process focused on the land use issues in that zone and ultimately become a revision of the county Comprehensive Plan. That is the appropriate venue for consideration of issues unique to specific areas and the compatibility of actions there vis-à-vis existing resources, development and environmental issues.

F. Revisions to the setbacks should be evaluated after a study of those issues and setback distances in the three areas of the county where wind development is focused. Such a study is needed to evaluate the reasonableness of any proposed setback changes, both as possible additional protections and as potential constraints to reasonable and acceptable development. There is little doubt the proposed distances, e.g., from public roads, will cause a large reduction in the # of turbines and MW which could be permitted in the county. At current (and growing) turbine sizes and with many rural county roads along 1

mile section lines, large areas and entire properties would not be permitted for development after inclusion of terrain and other natural constraints to placement. This would be a loss of income to the landowners, jobs to the county and property tax base.

Data exists to evaluate the setbacks questions, in the form of roads, topographic and other information in the public domain to perform such an evaluation. The county has as-built mapping data for the existing wind projects, which could be used to review what would have been not permitted under the proposed setbacks.

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FEB 24 2011

Proposed amendments to UCDC 152.615 and 616 (HHH)

Here are our thoughts regarding the above listed amendments:

UMATILLA COUNTY
PLANNING DEPARTMENT

1. Under standard of review #5 application requirements, noise modeling of a proposed facility should be included. In OR Dept. of Energy "Guidelines for Siting a Wind Facility" (by John White 2005 and revised in 2008; available to all counties); it states on page 17, #.06.09 noise that, "the proposed energy project complies with the noise regulations and OAR Chapter 340, Division 35. The applicant must submit a qualified expert's analysis and written report." **It would be in the best interest to have a third party separate of the County and developer perform the modeling and analysis.**
2. The 2 mile setback from tower to the city limit boundary should be the same distance from tower to a rural residence.
3. Where are the provisions listed? It appears that no provisions that are set up to help facilitate the following process. An administrative ruling process needs to occur in the event that a complaint is filed. Within this process provisions listing a protocol and remedy in the event that a complaint and/or non-compliance issue exists after a wind facility has been installed and is operating. Provisions should be set forth listing protocol and remedy to ensure that this process isn't lengthy and drawn out in addition to being very costly to the landowner(s) who filed a complaint, **especially when the burden of proof relies on the developer.**
4. A measured or assumed ambient should be required under the Conditional Use Permit. On the Ambient Degradation Ruling, make sure it is in writing that the developer has either assumed the default ambient of 26 + 10 or has shown the actual measured ambient prior to facility construction.

We hope you take these issues we've raised into consideration as we have experienced these issues first hand in Morrow County with no resolve at hand. We are currently appealing to LUBA and would hope that no one in Umatilla County would ever have to go through what we've gone through to date.

Feel free to contact me with any questions/concerns.
Dan Williams
541-422-7213

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FEB 23 2011

Blue Mountain Alliance
Milton-Freewater, OR 97862
www.bluemountainalliance.org
541-938-4623

UMATILLA COUNTY
PLANNING DEPARTMENT

Feb. 22, 2011

Umatilla County Courthouse
Department of Land Use Planning
216 SE 4th ST, Pendleton, OR 97801

Attn: Tamra Mabbott, County Planning Director

Dear Tamra Mabbott;

The members of the Blue Mountain Alliance have reviewed the "Draft Amendments of the UCDC 152.616 (HHH) – Version: January 13, 2011, replaces all previous versions" and respectfully submit our comments and suggestions. They are easily identified as by the *words in italics* below text from the "Draft Amendments".

If you have any questions, please don't hesitate to contact any of us. We can be reached easily by email.

Respectfully,

Members of the Blue Mountain Alliance -

Richard Jolly
henry.davies@rocketmail.com

Ed Chesnut
edjudy@charter.net

Norm Kralman
norm@kralmansteel.com

Debbie Kelley
djk146@charter.net

Ryan Stoner
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Dale McKain
katdale@charter.net

Jim Burns
brokenhorn67@yahoo.com

DATE: February 22, 2011
TO: Umatilla County Planning Commissioners
FROM: Blue Mountain Alliance members
RE: Proposed Amendments to LCDC Sections 152.612, 152.615 & 152.616 (HHH)

The Blue Mountain Alliance (BMA) proposes the following additions, *shown in italics*:

152.615 Additional Conditional Use Permit Restrictions. Item (K) Protecting and preserving existing trees, vegetation, water resources, air resources wildlife habitat, or other significant natural resources;

No commercial wind energy development shall be allowed in designated critical wildlife habitat areas.

Add – Scenic View and Open Space. Hwy 204 is a designated “Scenic Highway” in the UC Comprehensive Plan Technical report. We defer to the recommendation by the City of Milton-Freewater regarding the protections of Highway 204.

152.616 Standards for Review of Conditional Uses and Land Use Decisions. Item (1) **County Permit Procedure.** The procedure for taking action on the siting of a facility is a request for a conditional use. A public hearing pursuant to Section 152.771 shall be held to determine if the applicant meets the siting requirements for a Wind Power Generation Facility.

At least 10 days in advance of the hearing, owners of record of properties which are within, or partly within, a 6 mile radius of the boundaries of the proposed facility shall be mailed a notice of the hearing.

152.616 Item (C) (2) Evidence of active utility transmission interconnect requests and/or process and description of same, and

(3) Route and plan for transmission connecting the project to the grid.

With the issues currently arising with available capacity on transmission lines, there is a need to prove availability of transmission capacity for power produced from the proposed project before being approved.

152.616 Item (G) A fish, wildlife and avian impact monitoring plan. The monitoring plan shall be designed and administered by the applicant's wildlife professionals.

We strongly advise an Environmental Impact Statement (EIS) be required when project boundaries are within 6 miles of watersheds containing endangered or threatened species, critical wintering areas, and any other areas containing threatened or endangered species. With the various types of special areas located in the Blue Mountains, they deserve to be protected with a more stringent review. An EIS would be an especially useful document when designing a fish, wildlife and avian impact monitoring plan.

152.616 Section proposed to be deleted, Formerly 5 (I) A socioeconomic impact assessment...

The proposal intends to delete from the existing codes the requirement for a socioeconomic impact

assessment of the Wind Power Generation Facility. We feel this would be acceptable only if a requirement for an Environmental Impact Statement were to be put in its place. Failure to assess the socioeconomic impacts of development projects which cover large areas and which have potentially significant impacts on wildlife, fish, birds, view-sheds, local economies, hunting and recreation opportunities, ambient noise levels, customary rural amenities, etc., is simply not prudent. Note that the State of Oregon has recently begun to specifically study one of the socioeconomic impacts of commercial Wind Energy Generation Facilities – effects on health.

152.616 (J) Information pertaining to the impacts of the Wind Power Generation Facility on:

We feel the word "Information" doesn't define well enough what should be a "report" on (1) wetlands and streams, (2) fish, avian, and wildlife, (3) fish, avian and wildlife habitat, (4) criminal activity. Items (J)(1) thru (J)(5) would be better addressed through an Environmental Impact Statement (EIS).

152.616 (6) Standards/Criteria of Approval (A) Setbacks

(1) We defer to the recommendation of the City of Milton-Freewater regarding setbacks from City Limits or Urban Growth Boundaries.

(2) From tower to land zoned Unincorporated Community (UC) 4 miles or 40 times the overall tower-to-blade tip height, whichever is greater.

(3) From tower to rural home 4 miles or 40 times the overall tower-to-blade tip height, whichever is greater, unless a written waiver is obtained from the landowner and recorded in the County Deed Records.

(4) From tower to adjacent "off facility" property 4 miles or 40 times the overall tower-to-blade tip height, whichever is greater, unless a written waiver is obtained from the landowner and recorded in the County Deed Records.

(5) From tower to the boundary right-of-way of county roads (gravel or paved) 2 times the overall tower-to-blade tip height.

(6) From tower to the boundary right-of-way of State or Interstate Highways 3 times the overall tower-to-blade tip height.

(7) From tower to Archeological or Cultural Sites 3 times the overall tower-to-blade tip

152.616 (A) (8) *The turbine/towers shall be of a size and design to help reduce noise or other detrimental effects. At a minimum, the facility shall be designed and operated within the limits of noise standards established by the State of Oregon. A credible noise study shall be required to verify noise impacts in all wind directions are in compliance with the State noise standard, and establish a baseline for noise, health, vibration, etc. impacts.*

152.616 (B) *Reasonable efforts shall be made to blend the wind turbine/towers with the natural surrounding area in order to minimize impacts upon open space and the natural landscape.*

Wind Generation Facilities shall not be located in the view-shed of Highway 204, unless, 1) such facilities are not visible from any point on Highway 204 or 2) they are located more than 15 miles from Highway 204.

152.616 (M) A surety bond shall be established to cover the cost of dismantling uncompleted construction and/or decommissioning of the facility and site rehabilitation pursuant to 152.616 (HHH) (7) & (8). The intent of this requirement is to guarantee performance (not just provide financial insurance) to protect the public interest and the county budget from unanticipated, unwarranted burden to decommission wind projects.

We note that no specific bond amount or minimum amount is ever listed. We suggest that the surety bond shall be not less than \$200,000 per installed/partially installed turbine. In addition, it seems that this section makes the assumption that county would be responsible for decommissioning wind projects in the event of financial failure of a project owner. Wouldn't liability for decommissioning fall to the property owner where the facilities have been constructed? The property owner has shared in the business proceeds by way of land leases and/or other financial arrangements. Wouldn't that business relationship and the fact that the facilities are located on the property make the property owner the liable party for decommissioning? Shouldn't that be made clear in the codes? Furthermore, if that line of reasoning is correct, shouldn't the property owner be required to establish a surety bond cover the cost of decommissioning?

If all else fails, it is the landowners responsibility to decommission and return the property back to its original state to the County's standards.

152.616 (8)(A) Add the following language: In no case shall the amount of the bond be less than \$200,000 per installed turbine.

152.616 (9) Annual Reporting (A) *Energy production by month and year compared to "nameplate theoretical capacity" by month and year. ("Nameplate theoretical capacity" is defined to mean the calculated potential electrical output of the facility if it had been able to operate at the full manufacturers rated output 100% of the time.) Standardize the report so it is the same from all developers.*

152.616 (I) Summary Comments (2) The annual report requirement may be modified by the County...

We would add the following language: In no case shall Items (A), (D), (F) (G) and (H) be removed from the reporting requirement.

152.616 (10) (B) (1) Expansion of the established facility boundaries; (2) increase the number of towers; (3) Increase generator output by more than ~~25~~ **10** percent relative to the generation capacity authorized by the initial permit due to the repowering or upgrading of power generation capacity; (4) Changes to project private roads or access points to be established at or inside the project boundaries.

February 17, 2011

RECEIVED

RE: REGULATIONS FOR TURBINES

FEB 18 2011

UMATILLA COUNTY PLANNING COMMISSION
PENDLETON, OREGON

UMATILLA COUNTY
PLANNING DEPARTMENT

GENTLEMEN:

THE AMENDMENTS PROPOSED TO THE UMATILLA COUNTY DEVELOPMENT CODE (UCDC) 152.615 AND 616 (HHH), SETTING REGULATIONS FOR WIND ENERGY BY YOU, WILL KILL ANY HOPE OF HAVING WIND TURBINES ON MY PROPERTY. JUST LIKE THAT, WITH YOUR MIGHTY PEN, YOU RULED OUT WIND ENERGY ON MY PROPERTY AND OTHERS WITHOUT A GOAL FIVE AREA. YET, THE RICHER AND LARGER LAND OWNERS CAN STILL HAVE THEM ON THEIR LAND.

MY FAMILY HASN'T HAD ANY GOOD EXPERIENCES WITH UMATILLA COUNTY PLANNERS AND THE BOARDS. I WAS HOPEING THIS TIME THINGS WOULD BE DIFFERENT, BUT THERE NOT. PLEASE TAKE TIME TO READ A BRIEF HISTORY OF MY PAST DEALINGS WITH UMATILLA COUNTY LANDPLANNERS AND THE BOARDS. MY FATHER WAS DIEING OF LUNG CANCER AND WANTED A SMALL HOME BUILT BY HIS FARM HOME SO HE AND MY MOTHER COULD BE THERE WHEN HE PASSED AWAY. SINCE I WAS TAKING OVER THE FARM, MY FAMILY WAS MOVING INTO OUR 4TH GENERATION FARM HOUSE. HE WAS VERY SICK, AND CALLED THE PLANNING DEPARTMENT. TWO PLANNERS SHOWED UP AND HELPED HIM DRAW PLANS UP, SETBACKS AND ALL PAPERWORK. HE DIDN'T WANT THE HARDSHIP PLAN BECAUSE WHEN HE DIED MY MOTHER WOULD HAVE HAD TO REMOVE THE HOUSE. THE NIGHT OF THE HEARING, DAD WAS TOLD HE HAD TO ATTEND. HE ASKED TO BE HEARD FIRST BECAUSE OF HIS ILLNESS. HE WAS ASSURED THE PLAN WOULD PASS. DAD WAS SO SICK, HE HAD TO LEAVE THE MEETING TWICE; HIS PLAN WAS HEARD AT 9:30-10:00 P.M. IT TURNED OUT, BECAUSE HE GAVE A HOUSE LOT ON THE END OF THE PROPERTY TO HIS GRANDDAUGHTER, THE HEARING OFFICER FROM HERMISTON TURNED HIS REQUEST DOWN. THE OTHER TWO DIRECTORS

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ALREADY KNEW ABOUT THE LOT FROM THE PREVIOUS MEETING WITH DAD. DAD ASKED IF IT WAS UNLAWFUL TO GRANT HIS REQUEST AS IT WAS PRESENTED. THEY SAID, NOT AS OF NOW, BUT THE STATE WOULD FROWN ON IT. THE HERMISTON MAN RULED AGAINST IT, SAYING IT WAS CLOSE TO BEING A SUBDIVISION. THE OTHER DIRECTORS, WHICH SAID IT WOULD PASS, TABLED THE REQUEST. LATER, IT WAS SUGGESTED DAD ANNEX THE PROPERTY INTO THE CITY OF WESTON AND LET THE CITY TAKE CARE OF IT. ONCE IN THE CITY LIMITS THE COUNTY DIDN'T HAVE JURISDICTION OVER IT. DAD DIED BEFORE HE COULD MOVE INTO THE HOME WITH MOM.

I'VE HAD MY PROBLEMS WITH COUNTY PLANNERS AND BOARDS. I WANTED TO BUILD A HOME ON MY LAND ON WESTON MOUNTAIN. THE LAND HAS BEEN IN MY FAMILY 102 YEARS. I'VE DISCOVERED IT'S ALL ABOUT WHO'S IN THE DEPARTMENT AND ON THE BOARD INTERPRETING THE RULES AND CODES. WHEN I STARTED, THERE WERE TWO MAIN PLANNERS IN THE DEPARTMENT, ONE SAID IT COULDN'T BE DONE, THE OTHER SAID IT COULD. I ELECTED TO WORK WITH HIM, AFTER THREE YEARS IT WAS APPROVED. BY THEN, THE MONEY WASN'T THERE BUT I WASN'T WORRIED BECAUSE I KNEW I COULD BUILD LATER, ALL WAS IN PLACE FOR IT TO HAPPEN. TWO YEARS LATER, I DECIDED TO GET MY BUILDING PERMIT, NEW PLANNERS WERE IN THE OFFICE AND RULED THE FIRST PERMIT VOID. IN THE BEGINNING I HAD TO MOVE BOUNDRIES FROM ONE TAX LOT TO ANOTHER TO HAVE 160 ACRES. NO PROBLEM, I HAD 300 ACRES TO PLAY WITH. ABOUT THAT TIME, I HAD A NEIGHBOR BUY A PIECE OF PROPERTY NEXT TO MINE WITH ONLY 158 ACRES, HE WAS TOLD HE DIDN'T MEET THE 160 ACRE RULE AND COULDN'T BUILD. HE NOW HAS A HOME ON THE PROPERTY AND I NEVER DID GET A STRAIGHT ANSWER FROM PLANNERS HOW THAT HAPPENED!!!

IT SEEMS THE CITIZENS THROUGHOUT OUR COUNTRY ARE TIRED OF ALL THE GOVERNMENT CONTROLS AND RULES. IT STARTS AT ALL LEVELS OF GOVERNMENT, EVEN AT COUNTY LEVEL WHERE PLANNERS AND COMMISSIONERS HELP ONLY THE BIG LANDOWNERS WHEN ACTION IS TAKEN.

THE NEW PROPOSED AMENDMENTS ONLY CAME ABOUT BECAUSE SOME PEOPLE DIDN'T WANT THE WINDMILLS IN THE BLUE MOUNTAINS. I DO WISH THERE COULD HAVE BEEN A VOTE, WE STILL DON'T KNOW HOW MANY WANTED WINDMILLS AND HOW MANY DIDN'T.

I HAVE NO DOUBT THAT OUR HEAD ESTEEM LANDPLANNER DOESN'T WANT TURBINES IN THE BLUE MOUNTAINS. AT THE FIRST MEETING SHE ANNOUNCED TO THOSE IN THE ROOM THAT DIDN'T WANT WINDMILLS IN THE BLUES A GOAL FIVE COULD BE FORMED. AS IF THAT WASN'T BAD ENOUGH, SHE SAID WHEN THE MEETING WAS ADJOURNING ANYONE INTERESTED IN FORMING A GOAL FIVE ZONE, CALL HER AND SHE WOULD BE GLAD TO MEET WITH THEM. I WISH I COULD HAVE HAD AN OFFER OF HELP LIKE THAT WHEN I WAS TRYING TO GET A BUILDING PERMIT!!!

SOME OF US GOT WIND THAT A GOAL FIVE MEETING IN MILTON-FREEWATER WAS HAPPENING, SO THOSE OF US THAT WERE AGAINST A GOAL FIVE CALLED MS. MABBOT ABOUT THE TIME AND PLACE OF THE MEETING. WHEN I CALLED I WAS ASKED IF I WAS FOR OR AGAINST THE WINDMILLS AND MY NAME-I WAS TOLD I WOULD BE NOTIFIED. THIS NOT ONLY HAPPENED TO ME, BUT SEVERAL OTHER PERSONS WHO WERE AGAINST A GOAL FIVE. WHY WERE WE ASKED ABOUT OUR POSITION AT THIS TIME INSTEAD OF TELLING US ABOUT THE INFORMATION PERTAINING TO THE MEETING?

IT'S CLEAR YOUR DECISIONS ARE ON THE SIDE OF HOMEOWNERS AND THEIR VIEW NOT PROPERTY RIGHTS. ISN'T IT SAD THAT THE VIEW IS MORE IMPORTANT THAN PERSONAL PROPERTY RIGHTS? WE HAVE A NEW GREEN ENERGY TIME IN HISTORY, YOU'RE COMMITTEE HAS DROPPED THE BALL. THIS COULD HAVE BEEN THE TIME THAT RESIDENTS WHO FELT THEIR VIEW WAS SO IMPORTANT COULD ACTUALLY PAY FOR IT THROUGH A NEW TAX. IT WOULD HAVE BEEN INTERESTING TO KNOW HOW MUCH IT WAS WORTH TO THEM! THIS IS BEING DONE NOW IN THE SCENIC COLUMBIA GORGE. THE CITIES ARE EXEMPT BUT PEOPLE OUTSIDE THE CITY LIMITS ARE TAXED ON A POINT SYSTEM. IT DEPENDS ON WHAT CAN BE SEEN FROM A 10FT. LADDER ON THEIR PROPERTY. THAT'S THE DETERMINING

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FACTOR FOR THE VIEW TAX. OH WELL, OUR COUNTY IS SO RICH WE DON'T NEED EXTRA VIEW TAX PLUS INCOME FROM WINDMILLS THAT WOULD GENERATE MONEY FOR SCHOOLS AND THE COUNTY. LET'S JUST LET THE BUSINESSES THAT USE THE BLUE MOUNTAINS AS A BACKDROP FOR THEIR INCOME, SUCH A WINERIES, CITY OF MILTON-FREEWATER, HOMEOWNERS, ETC. BENEFIT FROM MY FAMILIES YEARS OF STEWARTSHIP, STRUGGLE TO PAY THE TAXES AND KEEP THE LAND IN OUR FAMILIES FOR A FEW MORE GAENERATIONS. ISN'T IT SAD, YOU ARE SO NARROW MINDED AND OPPOSED TO CHANGE YOU'VE PLAYED INTO THEIR HANDS!!

SINCERELY,

Sheldon C Kirk
SHELDON C. KIRK
WESTON, OREGON
541-566-3755

00004278

CITY OF MILTON-FREEWATER
RESOLUTION NO. 2106

**RESOLUTION EXPRESSING CONCERN WITH THE PROPOSED
PLACEMENT OF WIND GENERATION TURBINES LOCATED IN
VIEWSHED OF SOUTH HILL OF CITY OF MILTON-FREEWATER**

WHEREAS, the City Council of the City of Milton-Freewater has become aware of potential plans to site wind turbines for wind power generation in the foothills of and Blue Mountains; and

WHEREAS, the City Council's concern is for those turbines which would be placed in the area lying directly east of the most southern boundary of city limits and the surrounding view shed; and

WHEREAS, the Council has concerns that the placement of a large number of turbines in this scenic view shed would have an adverse effect on the City's ability to recruit businesses and residential subdivision developers to Milton-Freewater; and

WHEREAS, the City has invested millions of dollars in infrastructure development in order to facilitate and accommodate development in the area of the south hill which could possibly be for naught if development is stagnated by the alteration of this pristine and scenic view of the majestic Blue Mountains; and

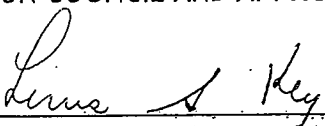
WHEREAS, the Council has been approached by many citizens requesting that the Council oppose the placement of wind turbines in the view shed to the east of the southern city limits; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Milton-Freewater that the City is hereby on record with the Umatilla County Planning Commission as expressing serious concern with the placement of a large number of wind turbines in the view shed of the south hill of the City of Milton-Freewater which extends to the Oregon/Washington border along Highways 11 and 204; and

BE IT FURTHER RESOLVED, that the Council respectfully requests that the County implement additional criteria and standards with regard to placement of wind turbines and transmission lines within this area's view shed; and

BE IT FURTHER RESOLVED that the Council be allowed input as to the development of these additional standards and criteria as an affected party.

*PASSED BY THE COMMON COUNCIL AND APPROVED BY THE MAYOR this 6th
day of November, 2008.*



Lewis S. Key, Mayor of Milton-Freewater

00004279



CITY OF
MILTON-FREEWATER

P.O. Box 6 • 722 S. Main • Milton-Freewater, OR 97862

RECEIVED

February 15, 2011

FEB 17 2011

Umatilla County Planning Commissioners
Umatilla County
216 SE 4th Avenue
Pendleton, Oregon 97801

UMATILLA COUNTY
PLANNING DEPARTMENT

RE: Submitted Comments for Inclusion in the Record of Public Hearing on Proposed Development Code Amendments for Commercial Wind Energy Generation Facilities

Honorable Planning Commissioners:

This letter is being respectfully submitted for inclusion as an official comment on the Commission's proposed Umatilla County Development Code Amendments public hearing to be held February 24, 2011.

As I am sure you are aware, the City Council of the City of Milton-Freewater has the duty and responsibility to protect the vested interest and resources of the citizens they have been elected to represent. In 2008 the Council unanimously adopted Resolution 2106, Resolution Expressing Concern with the Proposed Placement of Wind Generation Turbines Located in the Viewshed of the South Hill of the City of Milton-Freewater. I have attached a copy to this letter for your reference. In this resolution, the Council made a plea for the County Commissioners to implement additional and more stringent criteria and standards for the placement of wind turbines and transmission lines within our viewshed of the Blue Mountains---a visual as well as physical resource we greatly value and cherish. The Council continues to be concerned that nothing in the proposed amendments addresses the concerns documented in the aforementioned resolution. Indeed, it seems our concerns have been cast aside as illustrated by the proposal to delete the socioeconomic assessment. Since this seems to be the case, Council felt the need to specifically request physical and visual setbacks which would protect the interests of our citizens and their businesses.

The Council appreciates the tremendous amount of work that the Planning Commission and County staff members have obviously committed to the review and amendment of the Development Codes. However, it is vitally important for the Council to have input on the Codes that have a direct effect on our City's livability, economic health, identity and socioeconomic wellbeing.

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PHONE (541) 938-5531 FAX (541) 938-8224

www.milton-freewater-or.gov

In the interest of protecting these resources so important to the City, the Council is offering the following comments on the County's proposed codes:

Comments relate to the version of "Proposed Amendments to UCDC 152.615 & 616 (HHH)" dated January 13, 2011, which replaces all previous versions.

See page 4 of 10 of the proposed amendments, left hand column – Item (I) in red ink and "strike-through" font.

The Umatilla County Development Codes which are currently in effect call for the submission of, "A socioeconomic impact assessment of the Wind Power Generation Facility, evaluating such factors as, but not limited to, the project's effects upon the social, economic, public service, cultural, visual, and recreational aspects of affected communities and/or individuals." However, the proposed modifications to the Codes would strike this language. The City Council of Milton-Freewater feels that such an assessment is vitally important when the Umatilla County Planning Department is considering the possible siting and construction of commercial wind energy projects distributed across large portions of the landscape. The City Council feels that it is imperative that the requirement for a socioeconomic impact assessment should be retained in the UCDC. The City Council is seriously concerned that citizens of Milton-Freewater will be forced to bear "externalized" negative impacts to themselves and to their businesses if wind energy development is allowed to proceed on the face of the Blue Mountains. A socioeconomic assessment requirement would be an aid in identifying such factors. The lack of a requirement for a socioeconomic assessment would leave those potential harmful effects hidden and unexamined.

It seems a bit odd that the County would be proposing to drop a requirement for a socioeconomic assessment at about the same time that the state is initiating a state wide review of the effects of commercial wind energy facilities on at least one of those socioeconomic factors – health effects.

The City Council of Milton-Freewater feels that the requirement for a socioeconomic assessment of the effects of proposed commercial wind energy facilities as mentioned in the current codes should be retained.

See page 5 of 10 of the proposed amendments, top of left hand column, Item (1) regarding setback distances between wind generation towers and cities – quoted below:

"(1) From tower to the City Limit boundary 2 miles or 20 times the overall tower-to-blade tip height, whichever is greater."

This provision should be modified to provide a six mile physical setback and a 15 mile visual setback as the crow flies from the City's Urban Growth Boundaries.

The Umatilla County Comprehensive Plan Technical report identifies Highway 204 as a "Scenic Highway" (Table D-XVII, Page D-106). In addition, the table identifies "Recreational Homesites" as a potential conflict with the scenic value. Further, the table

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identifies the area as being worthy of "3C" level of protection. "3C" is defined as –
"Specifically limit conflicting use".

During the early 1970's when the views from Highway 204 were originally identified as having significant scenic value, and were evaluated as deserving of protection, it is quite likely that no County Official had even remotely imagined that commercial wind energy development could become a conflicting activity in the area. However, in 2011, it is hard to imagine how "Recreational Homesites" can be a potential conflict with the scenic value of the area and commercial wind energy development is not. Commercial wind energy development is clearly in conflict with the scenic value of the area. Since the commercial wind energy development codes are being improved/amended, this would seem to be a perfect time to correct the situation.

The views from Highway 204 have already been degraded by commercial wind energy development and further encroachment in the viewshed will severely conflict with the scenic values identified and inventoried in the early 1970's.

It is recommended that modifications to the development code be enacted which require:

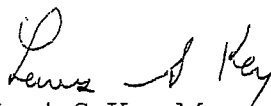
- 1. All commercial wind energy development facilities shall not be visible from Highway 204 unless they are more than 15 miles from any point on Highway 204. (includes wind turbines, maintenance buildings, transformer stations and roads)**

(Note: 15 miles is the approximate distance from Highway 204 to the OR/WA border. This distance would provide appropriate protection for the views deemed significant approximately 40 years ago.)

Again, the City of Milton-Freewater Council appreciates the opportunity to comment on the County's efforts toward amending and updating these important development codes.

We look forward to continuing to work with Umatilla County to ensure our City and County retain their unique identities and protect the resources that we have all come to depend upon and cherish.

Sincerely,


Lewis S. Key, Mayor
City of Milton-Freewater

Attachment: City of Milton-Freewater Resolution No. 2106

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RECEIVED

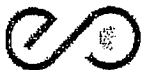
FEB 16 2011

From: Nicole Hughes [nicole.hughes@elpower.com]
Sent: Tuesday, February 15, 2011 1:37 PM
To: Tamra Mabbott
Subject: Comments on wind energy ordinance for Planning Commission
Attachments: Element Power Letter re UCDC w_edits to code 11.16.2010.pdf

UMATILLA COUNTY
PLANNING DEPARTMENT

Tamra, Element Power would like to resubmit our comments provided to the county at the last Planning Commission in November 2010. In addition, we would like the Planning Commission to address the following comments in their decision-making process tomorrow evening.

- The Planning Commission has yet to take into consideration comments provided by professionals from the wind industry and other NGO organizations who have significant experience in the field of wind energy development and assessment of impacts. The Planning Commission must consider and evaluate these comments; it cannot make decisions solely based upon unsubstantiated fear-driven suggestions.
- The Planning Commission should take into consideration the potentially negative economic impacts restrictions placed on renewable energy developers will have, and consequently the negative economic impacts to the county. For example, greater setbacks limit the amount of megawatts that can be developed on a site and in turn reduce the amount of investment in the county.
- The setback requirements in the Planning Commission's most recent draft are arbitrary and are not based upon any evaluated impacts, only unsubstantiated perceived threats. It appears that the county is using a variety of measures, including setbacks to try and limit future development in the county, without a clear understanding of the actual impacts. For example, the setback requirement for archaeological sites should be determined on a case by case basis. Archaeological resources come in a variety of forms, setbacks may not be appropriate for protection of these resources. It is not possible to determine what the impact on a resource will be until a full evaluation of the resource takes place. We recommend that any set back related to environmental issues are applied to projects on a case by case basis if impacts to resources are identified as a result of the environmental analysis and setbacks for protection of the resource are determined the best approach for minimization and avoidance of impacts.
- We encourage you to ensure that any change to the zoning ordinance is compliant with state law and we recommend that the Planning Commission take into consideration the siting requirements established by the Energy Facility Siting Council. These requirements have been vetted by many stakeholders and have been established through rigorous analysis.



elementpower

Nicole Hughes
Senior Project Manager
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00004283



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November 16, 2010

Umatilla County Planning Commission
C/O Tamra Mabbot
Department of Land Use Planning
216 SE 4th Street
Pendleton, OR 97801

RE: November 2010 draft changes to UCDC 152.616 (HHH)

Umatilla County Planning Commissioners,

Element Power is submitting comments on the November 2010 draft revisions to Umatilla County zoning ordinance pertaining to wind energy. While Element Power understands the County is attempting to address concerns over impacts associated with wind energy and we feel that some of the proposed changes to the ordinance place unnecessary and overly restrictive burdens on renewable energy development. Especially in the case where projects are mandated by state law to go through a rigorous approval process of the Energy Facility Siting Council, additional requirements imposed by the county are redundant and unnecessary. The following section is a description of specific concerns identified in the draft revised ordinance. Also included as an attachment to this letter are specific recommendations for language changes in the ordinance.

Section 152.616

(HHH)(5)(A)-(K)

- For projects subject to a conditional use permit, a pre-application meeting is appropriate, however the level of detail required in the revised ordinance language is unrealistic. It is difficult to move a project through a local permitting process successfully without allowing some level of flexibility in siting. Developers often prepare several iterations of project drawings in order to incorporate information about wind resource, environmental constraints and construction constraints during the permitting process. A reasonable expectation at the time of submittal of a permit application is a general permitting map which identifies buffered areas for facilities and an indicative layout of wind turbines and other facilities.
- Element Power is concerned that some of the "plans" listed as required at the application stage cannot be adequately prepared at this early stage of development. Several of these plans are typically not required until a building permit application is submitted, merely for the reason that at the application stage, there still may need to be modifications to the project, which may in turn invalidate some of the plans. Plans that should be required upon seeking an application for a building permit include; a Spill Prevention Control and countermeasure plan (SPCC), an

Element Power 421 SW Sixth Avenue, Suite 1000 Portland, OR 97204

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operations and maintenance plan, emergency response plan, revegetation and erosion control plan, and a decommissioning plan.

(HHH)(5)(C)(1)

- Requiring a developer to provide evidence of wind monitoring data is not appropriate as this is considered proprietary data and is usually held in confidence until a project has finalized all energy purchase and delivery agreements. The County should accept that private developers have addressed the risk associated with wind resource prior to investing in a project. It is not the County's position to evaluate the investment risk of private developers. Additionally, it is not clear from our perspective that the County has staff that is trained in analysis of wind resource data to the level that a meaningful evaluation could be made. The choice to lease land and begin the permitting process on a wind project occurs long after a developer has established the wind resource is sufficient to carry the substantial investment required. Information related to the wind resource is irrelevant to the permitting process and should not be required for a permit application.

(HHH)(5)(C)(2)

- It is common at this stage of development for a project not to have an interconnection application pending. The business decision around timing of an interconnection application is irrelevant to the County permitting process. A developer should be required to show proposed routes for overhead transmission lines and proposed points of interconnection and obtain all necessary permits for construction, but proof of interconnection application is not necessary. As with the wind resource, it is not clear that the County has the expertise to evaluate an interconnection application and determine its relevance to the County permitting process. Finally, there is currently a federal process governing interconnection to the utility grid. The County does not have the authority to interject themselves into this process.

(HHH)(5)(F)

- Element agrees that a wildlife and avian monitoring plan should be prepared for the project, but it cannot possibly be considered a valuable tool to rely on this early in the permitting process. This plan should be prepared upon finalization of all biological studies related to the project and upon consultation with the appropriate agencies. Furthermore, the language struck from the code which relates to the technical oversight committee should be retained. It is important for a developer to establish relationships early in the permitting process with all affected stakeholders, identifying the appropriate members up front of a technical oversight committee will help to establish these relationships. The County should not have the ability to assign this committee in a vacuum. Likewise, the language regarding compliance with this condition being met through the requirements of EFSC should be retained.

(HHH)(5)(H)

- The burden of approval of all plans submitted to the County for review should not be on the applicant. The County should oversee review of any and all plans submitted for review. The applicant should not have to seek approval from all agencies and tribes listed in this section for input on the revegetation plan. These agencies will have an opportunity to comment on plans through the existing permitting process through either the County or state permitting process.

(HHH)(6)(A)

- We suggest modification of the section pertaining to set-backs to mirror that of the standards required by EFSC. The EFSC set-back requirements have been tested and vetted by a broad range of stakeholders and we see no reason that Umatilla County should need to require greater set-backs.

(HHH)(6)(C)

- The language in this section should be redrafted to be consistent with the original draft. Developers should be required to make all reasonable efforts to protect resources, but requiring a developer preserve and protect resources without a reasonable analysis of resources to be protected or an understanding of the level of mitigation required is unreasonable. We suggest using the original language and providing a reference to the Oregon Columbia Plateau Ecoregion Wind Energy Siting and Permitting Guidelines, which were developed with significant stakeholder input, including that of County representatives. Reliance on existing guidelines provides a developer some level of understanding as to the protection, preservation and mitigation expected.

(HHH)(6)(K)

- The County should accept to the extent feasible information presented by an applicant to EFSC for satisfaction of County review requirements. If additional information is needed to process the application or approve the project, the County has an opportunity during the EFSC process to request this information.

(HHH)(6)(M)

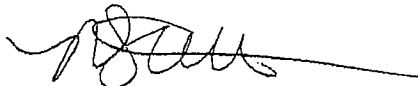
- The County should accept the EFSC requirements for bonding for projects which receive site certificates. Additional bonding should not be a requirement for projects receiving an EFSC site certificate. Additionally the requirement should be able to be met through a variety of financial assurances. The County should not unnecessarily impede a developer's availability to obtain the type of financial assurance that is commercially available at the time. We suggest retaining the original language for this section.

General Comments:

- We suggest retaining the language in the existing code which refers to adoption of EFSC documents and requirements for projects under EFSC jurisdiction. Removing language from the ordinance referring to EFSC and adding additional requirements for projects subject to EFSC jurisdiction undermines the intent of the Energy Facility Siting Council.
- In all references to a required bond, we suggest retaining the original language allowing a developer to meet these criteria through a letter of credit and to accept the EFSC bonding requirement as adequate for the County's needs.

Thank you for taking the time to review our comments on the Umatilla County zoning ordinance. Please feel free to call or write if you have any questions about our comments or suggested language revision

Sincerely,



Nicole Hughes
Senior Project Manager

Attachment: Proposed edits to UCDC 152.616

CONDITIONAL USES

Sub-Sections

<u>152.610</u>	<u>Definition</u>
<u>152.611</u>	<u>New or altered conditional uses: conformance with requirements; performance bonds</u>
<u>152.612</u>	<u>Procedure for taking action on a conditional use application</u>
<u>152.613</u>	<u>Time limit on a conditional use permit</u>
<u>152.614</u>	<u>Limit on reapplication</u>
<u>152.615</u>	<u>Additional restrictions</u>
<u>152.616</u>	<u>Standards for review of conditional uses and land use decisions</u>
<u>152.617</u>	<u>Standards for review of conditional uses and land use decisions on EFU zoned land</u>

§ 152.610 DEFINITION.

For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

CONDITIONAL USES. Activities that are similar to other activities permitted within a zone, but are not entirely compatible with the permitted uses or purpose and intent of the zone, or

compatible with surrounding land uses on adjacent lands in another zoning district.

LAND USE DECISION. Includes a final decision by a local government concerning the adoption, amendment or application of the statewide planning goals, a comprehensive plan provision, a land use regulation or a new land use regulation.

(A Land Use Decision does not include:

(1) a decision of a local government which is made under land use standards which do not require interpretation or the exercise of policy or legal judgment; (2) a decision of a local government which approved or denies a building permit issued under clear and objective land use standards.) (Pursuant to ORS 197.015 (10))

(Ord. 83-4, passed 5-9-83; Ord. 2005-02, passed 1-5-2005)

Proposed Amendments to UCDC Sections 152.612, 152.615 & 152.6126 (HHH)

§ 152.611 NEW OR ALTERED CONDITIONAL USES; CONFORMANCE WITH REQUIREMENTS; PERFORMANCE BONDS.

(A) Conditional uses listed in this chapter may be permitted, enlarged or altered contingent upon appropriate authorization, in accordance with the standards and procedures set forth in this subchapter.

(B) In permitting a new conditional use or the alteration of an existing conditional use, the appropriate planning authority may impose conditions, which are considered necessary to protect the best interests of the surrounding area or the county as a whole.

(C) In the case of a use existing prior to the effective date of this chapter and classified in this chapter as a conditional use, any change in use or in lot area or an alteration of structure shall conform with the requirements for a conditional use.

(D) The county may require an applicant to furnish the county with a performance bond or such other form of assurance that the county deems necessary to guarantee development in accordance

with the standards established and conditions attached in granting a conditional use.

(Ord. 83-4, passed 5-9-83; Ord. 2005-02, passed 1-5-2005)

§ 152.612 PROCEDURE FOR TAKING ACTION ON A CONDITIONAL USE APPLICATION.

The procedure for taking action on a conditional use or land use decision application shall be as follows:

(A) A property owner or the Planning Commission may initiate a request for a conditional use by filing an application ~~with the secretary of the Planning Commission~~, using forms prescribed pursuant to § 152.767;

(B) A conditional use and land use decision application shall be processed via administrative review per § 152.769;

(C) A conditional use permit or land use decision will not be approved unless the proposed use of the land will be in conformance with the County Comprehensive Plan;

(D) An applicant granted a conditional use permit or land use decision must obtain a county zoning permit ~~for each tax lot~~ before commencing construction. [NOTE: zoning permits should be treated the same as conditional use permits and land use decisions, and should be based on the project site boundary, not on the basis of tax lots].

(E) A conditional use or land use decision may be referred to the Umatilla County Planning Commission if the Planning Director deems circumstances warrant such additional review and

Proposed Amendments to UCDC Sections 152.612, 152.615 & 152.6126 (HHH)

consideration, except for a conditional use or land use decision issued under ORS 469.401(3). [NOTE: ORS 469.401(3) requires a county, after EFSC issues a site certificate, to issue the relevant conditional use permit or land use decision without hearings or other proceedings upon proper application and payment of fees.]

(Ord. 83-4, passed 5-9-83; Ord. 2005-02, passed 1-5-2005)

§ 152.613 TIME LIMIT ON A CONDITIONAL USE PERMIT.

(A) A conditional use permit shall be void after one year or such lesser time as the permit may specify unless 20% of the total estimated project cost has occurred or the proposed use has occurred. However, the Planning Director or the proper planning authority may extend authorization for an additional period not to exceed one year, on request from the applicant. The total time allowed shall not exceed two years from the original approval date.

(B) If delay in establishing the use is demonstrably due to a delay by a state or federal agency in issuing a required permit, at no fault of the applicant, the Planning Director or a Designee of the Planning Director may extend the time limit imposed by division (A) of this section for a period not to exceed one year following issuance of the state or federal agency permit. The applicant shall establish that state or federal permits have not yet been issued, and that the delay has not been caused by the applicant.

(C) Time Limitation on Transportation-Related Conditional Use Permits. Authorization of a conditional use shall be void after a period specified by the

applicant as reasonable and necessary based on season, right-of-way acquisition, and other pertinent factors. This period shall not exceed three years.

(Ord. 83-4, passed 5-9-83; Ord. 2005-02, passed 1-5-2005)

§ 152.614 LIMIT ONE APPLICATION.

No application for a conditional use permit shall be considered within one year of the denial of such a request, unless in the opinion of the Hearings Officer, Planning Director or the appropriate planning authority new evidence or a change of circumstances warrant it.

(Ord. 83-4, passed 5-9-83; Ord. 2005-02, passed 1-5-2005)

§ 152.615 ADDITIONAL CONDITIONAL USE PERMIT RESTRICTIONS.

In addition to the requirements and criteria listed in this subchapter, the Hearings Officer, Planning Director or the appropriate planning authority may impose the following conditions upon a finding that circumstances warrant such additional restrictions:

(A) Limiting the manner in which the use is conducted, including restricting hours of operation and restraints to minimize such ~~a~~ environmental effects as noise, vibration, air pollution, water pollution, glare or odor;

(B) Establishing a special yard, other open space or lot area or dimension;

(C) Limiting the height, size or location of a building or other structure;

(D) Designating the size, number, location and nature of vehicle access points;

(E) Increasing the required street dedication, roadway width or improvements within the street right of way;

(F) Designating the size, location, screening, drainage, surfacing or other improvement of a parking or loading area;

(G) Limiting or otherwise designating the number, size, location, height and lighting of signs;

(H) Limiting the location and intensity of outdoor lighting and requiring its shielding;

(I) Requiring diking, screening, landscaping or other methods to protect adjacent or nearby property and designating standards for installation and maintenance.

(J) Designating the size, height, location and materials for a fence;

(K) Protecting and preserving existing trees, vegetation, water resources, ~~air quality resources~~, wildlife habitat, or other significant natural resources [NOTE: the term "quality" is consistent with the DEQ regulatory scheme];

(L) Parking area requirements as listed in §§ 152.560 through 152.562 of this chapter.

(Ord. 83-4, passed 5-9-83; Ord. 2005-02, passed 1-5-2005)

§ 152.616 STANDARDS FOR
REVIEW OF
CONDITIONAL USES
AND LAND USE
DECISIONS.

The following standards shall apply for review by the Hearings Officer, the Planning Director or appropriate planning authority of the specific conditional uses and land use decisions listed in this chapter:

(HHH) Commercial Wind Power Generation Facility.

(1) The procedure for taking action on the siting of a facility is a request for a conditional use. A public hearing pursuant to Sections ~~152.750-755~~ and 152.771 shall be held to determine if the applicant meets the siting requirements for a Wind Power Generation Facility. The requirement for a hearing and any other procedure, including pre-application conference and application requirements, will not apply to proposed facilities for which the Oregon Energy Facility Siting Council (EFSC) is making the land use decision. [NOTE: clarifying that EFSC jurisdictional projects are subject only to the County's applicable substantive, and not procedural, requirements].

[Former # (2) moved to # (5)]

New→# (2) A pre-application meeting(s) is required. The applicant will be expected to bring preliminary information about the application components described in Application Requirement (5) below. County staff will arrange the meeting and will invite local, state, federal and other agency representatives and individuals with pertinent expertise in natural resources, to participate. The purpose of the pre-application meeting will be to identify potential impacts and opportunities and to

advise on the level of detail required in each of the application components described in (5) below, and establish technical oversight requirements for monitoring plans. This pre-application requirement does not apply to projects being sited through EFSC.

(3) Umatilla County may impose clear and objective conditions in accordance with the County Comprehensive Plan, County Development Code and state law, which Umatilla County considers necessary to protect the best interests of the surrounding area, or Umatilla County as a whole.

(4) Prior to commencement of any construction, all other necessary pre-construction permits shall be obtained, including but not limited to a conditional use permit, e.g. Umatilla County Zoning permit, and road access and other permits from the Umatilla County Public Works Department, and from the Oregon Department of Transportation, other permits from state agencies with the requisite jurisdiction.

(2) (5) Application Requirements. The following information shall be provided as part of the local land use application. For projects sited through EFSC, these application requirements do not apply as applicable substantive criteria and the applicant must provide as a part of the application for site certificate information consistent with the requirements in OAR chapter 345, division 21.

(A) (1) A general description of the proposed Wind Power Generation Facility;

(2) A tentative construction schedule;

(3) The legal description of the property on which the facility will be located; and

(4) Identification of the general area for all components of the proposed Wind Power Generation Facility;

(B) A including a map showing the location of components.

(C) (1) ~~Evidence of wind monitoring data qualifying the wind resources within the project boundary. [NOTE: this would require the applicant to provide proprietary business information. It is a business decision for an applicant to decide whether wind resources are adequate to support a commercially viable project.]~~

(2) ~~Evidence of active utility transmission interconnect requests and/or process and description of same, and [NOTE: this would require the applicant to provide proprietary business information. It is a business decision for an applicant to move forward with a land use application independent from an interconnection request]~~

(13) Route and plan for transmission facilities connecting the project to the grid.

(B)(D) Identification of potential conflicts, if any, with:
(1) Accepted forest practices and farming or ranching practices as defined in ORS 215.203(2) ~~(e)~~ on adjacent lands devoted to farm and/or forest uses; (2) Other resource operations and practices on adjacent lands except for ~~except for~~ including wind power generation facilities

on such adjacent lands. [NOTE: no standard requires applicant to evaluate potential impacts to existing operating wind facilities so it is unclear why this analysis would be provided. Treatment of wake impacts should be addressed by the developers and agreed-upon setbacks should be negotiated outside of the permit process.]
; and (3) Accepted farm or forest practices on surrounding EFU/GF or NR land, including the nature and the extent of the impact of the proposed facility on the cost of such practices.

(C)(E) A Transportation Plan, with proposed recommendations, if any, reflecting the guidelines provided in the Umatilla County Transportation System Plan (TSP) and the transportation impacts of the proposed Wind Power Generation Facility upon the local and regional road system during and after construction, after consultation with Umatilla County Public Works Director. The plan will designate the size, number, location and nature of vehicle access points.

(D)(F) An fish, wildlife and avian impact monitoring plan. The avian monitoring plan shall be designed and administered by the applicant's wildlife professionals. [See HHH (2), above] For projects being sited by EFSC, compliance with EFSC's avian monitoring requirements will be deemed to meet this requirement. The plan shall include the formation of a technical oversight committee to review the plan, and consist of the following persons:

(1) The landowners/farm tenants.

(2) Facility owner/operator representative. (Chair)

(3) Oregon Department of Fish and Wildlife representative, if the agency chooses to participate.

(4) Two Umatilla County residents with no direct economic interest in the project and recommended by the applicants for appointment by the Umatilla County Board of Commissioners.

(5) U.S. Fish and Wildlife representative, if the agency chooses to participate.

(6) Umatilla County Planning Commission member. ~~At the request of applicant, this committee requirement may be waived or discontinued by the County.~~

[Former (2) (E) moved to (6) (I)]

~~(F)(G) An fire prevention and emergency management and operations response plan for all phases of the life of the facility. The plan shall address the following: address the major concerns associated with the terrain, dry conditions, and fire hazards, limited access, and water quality as needed, addressing both normal and extraordinary conditions.~~

(1) The plan shall identify the fire district or fire department and verify that the district/department has the appropriate equipment, training and personnel to respond to fires, spills and high rise rescue. If the local fire district or department does not have adequate high rise rescue capability, the applicant shall provide a plan for providing such response in case of an emergency

~~(2) A spill prevention control and counter measure plan (SPCC) shall be provided. [NOTE: this is something that is not developed until closer to operations and would not be available at the time of the application. Plus, any need for a SPCC would be satisfied through applicable state permitting.]~~

(23) The plan shall identify the An Operations and Maintenance Plan detailing expected work force, local response capability, (contract or otherwise), controlled access, and in the case of transmission lines, proof of emergency response capability in accordance with OPUC rules governing operation and maintenance of such lines.

(34) The plan shall identify measures An Emergency Response Plan for responding to natural and/or man made emergencies or disasters.

~~(G)(H) An revegetation and erosion control plan, developed in consultation with the Umatilla County Public Works Department, Soil and Water Conservation District, Watershed Council, the Oregon Agricultural Water Quality Management Program (administered by the Oregon Department of Agriculture), the Department of Environmental Quality and the Confederated Tribes of the Umatilla Indian Reservation. [NOTE: is there an issue in the county that requires involving all these parties? This seems like a very intensive requirement that could take a significant amount of time to achieve. Such parties will have an opportunity to comment during the local land use proceeding, during which time any concern over the revegetation plan could be raised and addressed.] At a minimum, the plan should include the seeding of all road cuts or related bare road areas as a result of all~~

construction, demolition and rehabilitation with an appropriate mix of native vegetation or vegetation suited to the area. ~~This requirement will be satisfied if the applicant has an NPDES (National Pollution Discharge Elimination System) permit. The plan should also address monitoring during and post construction. This requirement will be satisfied if the applicant is seeking an NPDES (National Pollution Discharge Elimination System) permit~~

(H)(I) A weed control plan addressing prevention and control of all Umatilla County identified noxious weeds and other weeds such as thistles which distribute weed seed while blowing across nearby lands following maturity, directly resulting from the Wind Power Generation Facility during preparation, construction, operation and demolition/rehabilitation.

(I) — A socioeconomic impact assessment of the Wind Power Generation Facility, evaluating such factors as, but not limited to, the project's effects upon the social, economic, public service, cultural, visual, and recreational aspects of affected communities and/or individuals. These effects can be viewed as either positive or negative. In order to maximize potential benefits and to mitigate outcomes that are viewed as problematic, decision makers need information about the socioeconomic impacts that are likely to occur.

[New (6) (J) below moved from (2) (K)]

(K)(J) Information pertaining to the impacts of the Wind Power Generation Facility on:

(1)
Wetlands and Streams;

(2) Fish, Avian and Wildlife (all potential species of reasonable concern), including but not limited to federally listed threatened and endangered species;

(3) Fish, Avian and Wildlife Habitat;

(4)
Criminal Activity (vandalism, theft, trespass, etc). Include a plan and proposed actions, ~~if any~~, to avoid, minimize or mitigate negative impacts.

[New (5) (K) below moved from (2) (L)]

(L)(K) A dismantling and decommissioning plan of all components of the Wind Power Generation Facility, as provided in §152.616 (HHH) (7).

(5) (6)
Standards/Criteria of Approval. The following requirements and restrictions apply to the siting of a facility:

(A)
Setbacks.

(1) The Wind Power Generation Facility shall be on property zoned EFU/GF or NR, and ~~n~~No portion of the facility turbines/towers shall be within 3,520 feet of properties zoned residential use or designated on the Comprehensive Plan as residential. (For clarification purposes of this section, EFU/GF/NR zones are not considered zoned for residential use.)

(2) Turbines/towers must shall not be set back at least constructed closer than 1,320 feet one half mile of from an existing residence, measured from the centerline of the turbine tower to the center of the nearest residence existing at the time of tower

construction, unless a written waiver is obtained from the landowner and that shall be recorded with the County deed records.

[NOTE: the suggested setback is consistent with EFSC's conditions of approval for wind facilities. See Helix Site Certificate Condition 43(c).]

(3) New above-ground electrical transmission lines associated with the facility project shall not be constructed closer than 2500 feet to an existing residence, measured from the line to the center of the nearest residence existing at the time of line construction, unless a ~~without~~ prior written waiver is obtained from the landowner approval of the homeowner, said written approval to and be recorded with the County deed records, or unless the: Exceptions to the 500-foot setback include transmission lines are placed in public right of way. Note: Transmission and distribution lines constructed and owned by the applicant what are not within the project boundary are subject to a separate land use permit. [NOTE: the suggested language mirrors the language for the residential setback the facility for consistency and is consistent with EFSC's conditions of approval. Additionally, the facility and all related or supporting facilities are located within the facility site boundary and therefore should be subject to only one land use decision.]

(4) Public Safety. Turbines/towers must be setback from any public road right-of-way way a minimum distance of 110-percent of maximum two times the overall total tower to blade tip height, measured from the centerline of the turbine tower to the nearest edge of any public right-of-way. [NOTE: this suggested language is consistent with EFSC's conditions of

approval for wind facilities. See Helix Site Certificate Condition 43(b)]

E)(5) The turbines/towers shall be of a size and design to help minimize reduce noise or other detrimental effects. At a minimum, the facility shall be designed and operated within the limits of the noise standards established by DEQ rule the State of Oregon. A noise study may be required to confirm that the facility will be verify downwind noise impacts in all wind directions are in compliance with DEQ the noise standards.

(B) Reasonable efforts shall be made to design blend the wind facility turbines/towers to minimize adverse visual features with the natural surrounding area in order to minimize impacts upon open space and the natural landscape. [NOTE: this suggested language is consistent with the EFSC standard in OAR 345-024-0015.]

(C) The Development and Operation of the Facility will reasonably Reasonable efforts shall be taken to Reasonable efforts shall be taken to protect and to preserve existing trees, vegetation, water resources, wildlife, wildlife habitat, fish, avian or and other significant natural resources. Compliance with this standard may require mitigation and/or submission of an annual monitoring report. [NOTE: suggest keeping the original code language, or otherwise require an analysis of significant adverse impacts to provide more certainty of what the code criterion requires.]

(D) The turbine towers shall be designed and constructed to discourage bird nesting and wildlife attraction.

[Former (5) (E) was moved to (6) (A) (5)]

(F)(E)
Private access roads constructed as a part of the facility established and controlled by the Wind Power Facility shall may be gated to protect the facility and property owners from illegal or unwarranted trespass, and illegal dumping and hunting.

(G)(F)
Where practicable the electrical cable collector system shall be installed underground, at a minimum depth of 3 feet; elsewhere the cable collector system shall be installed to prevent adverse impacts on agriculture operations.

(H)(G)
Required permanent maintenance/operations buildings shall be located off-site in one of Umatilla County's appropriately zoned areas, except that such a building may be constructed on-site if:

- 1) The building is designed and constructed generally consistent with the character of similar buildings used by commercial farmers or ranchers, and
- 2) The building will be removed or converted to farm use upon decommissioning of the Wind Power Generation Facility consistent with the provisions of § 152.616 (HHH) (7).

(H)(H)
A Wind Power Generation Facility shall comply with the Specific Safety Standards for Wind Facilities delineated in OAR 345-024-0010 (as adopted at time of application).

[New (6) (I) below, moved from (2) (E)]

(E)(I)
A Covenant Not to Sue with regard to generally accepted farming practices shall be recorded with the County. Generally accepted farming practices shall be consistent with the definition of Farming Practices under ORS 30.930. The applicant shall covenant not to sue owners, operators, contractors, employees, or invitees of property zoned for farm use for generally accepted farming practices.

(J)
Roads.

(1) A Road Use Agreement with Umatilla County regarding the impacts and mitigation on county roads and mitigation for the impacts shall be required as a condition of approval.

(2) Design specifications Layout and design of the facility project roads shall comply with county standards and be reviewed and approved by the county road department prior to construction. [NOTE: the county will have the opportunity to review and approve the specific road design specifications when issuing building permits.]

[New (6) (K) below, moved from (2) (J)]

(K)(K)
Demonstrate All Wind Power Generation Facilities must show compliance with the standards found in OAR 660-033-0130 (37).

(
To the extent feasible, the county will accept information presented by an

application for an EFSC proceeding in the form and on the schedule required by EFSC.

~~(7)(L)~~
~~Submit a plan for The applicants dismantling of uncompleted construction and/or decommissioning plan for and/or re-powering of the Wind Power Generation Facility shall include the following information: as described in §152.616 (HHH) (7). [NOTE: this standard is duplicative of what is required under new subsection (5)(K) above as a part of the application. For projects sited through EFSC, this information is included in Exhibit W. If included as a standard or criterion of approval, it is unclear what is required to demonstrate compliance.]~~

[New (6) (M) below, moved from # (8)]

~~(LM)(8)~~
) ~~A surety bond, letter of credit, or other financial assurance mechanisms acceptable to the County or letter of credit shall be established to cover for the cost of dismantling of uncompleted construction and/or decommissioning of the facility, and site restoration rehabilitation pursuant to (See § 152.616 (HHH) (7) & (8)). For projects being sited through EFSC, the financial assurance required by EFSC will be deemed to meet this requirement. [NOTE: the code should provide sufficient flexibility to allow for various forms of financial assurances depending on what is available in the future. Additionally, financial assurance satisfying EFSC's standards should satisfy the substantive requirement of this code provision] For projects being sited by the State of Oregon's Energy Facility Siting Council (EFSC), the bond or letter of credit required by EFSC will be deemed to meet this requirement.~~

[New (6) (N) below, moved from # (9)]

~~(9)(M)~~
N) The actual latitude and longitude location or Stateplane NAD 83(91) coordinates of each turbine tower, connecting lines, operations and maintenance O & M building, substation and transmission lines, shall be provided to Umatilla County within 90 days of starting once commercial electrical production begins.

~~(O)~~
~~An Operating and Facility Maintenance Plan shall be submitted and subject to county review and approval. [NOTE: this already seems to be a requirement imposed under the emergency operation plan under subsection (5) above. If included as a standard or criterion of approval, it is unclear what is required to demonstrate compliance]~~

[New (6) (P) below, moved from (10)]

~~(10)(P)~~
~~A summary of as built construction changes in the facility from the original plan, if any, shall be provided by the owner/operator, within 90 days of starting electrical production. [NOTE: as revised, how is this requirement different than what is required as a part of subsection (N) above? Also, this seems to be a matter that would be addressed through the building permit process, not the land use process and is therefore unnecessary to include as a standard.]~~

[New (7) below was formerly (7) (A)]

~~(7)(A)~~ A plan for dismantling and/or decommissioning that provides for completion of dismantling or decommissioning of the facility without significant delay and protects public health,

safety and the environment in compliance with the restoration requirements of this section. For projects sited through EFSC, compliance with EFSC's financial assurance and decommissioning standards shall be deemed to be in compliance with the dismantling and decommissioning requirements of this § 152.616 (HHH)(7) & (8). [NOTE: this suggested language from subsection (8)(D) and was moved here for clarity]

(B)(A)

A description of actions the facility owner proposes to take to restore the site to a useful, non-hazardous condition, including options for post-dismantle or decommission land use, information on how impacts on fish, wildlife, avian populations and the environment would be minimized during the dismantling or decommissioning process, and measures to protect the public against risk or danger resulting from post-decommissioning site conditions in compliance with the requirements of this section.

(C)(B)

A current detailed cost estimate, a comparison of that estimate with present funds the bond set aside for dismantling or decommissioning, and a plan for assuring the availability of adequate funds for completion of dismantling or decommissioning. The cost estimate will be reviewed and ~~be~~ updated by the facility owner/operator on a 3 5-year basis, unless material changes have been made in the overall facility that would materially increase or decrease these costs. If so, the report must be revised within 120 days of completion of such changes.

(D)(C)

Restoration of the site shall consist of the following:

1) Dismantle turbines, towers, pad-mounted transformers, meteorological towers and related aboveground equipment. All concrete turbine pads shall be removed to a depth of at least three feet below the surface grade.

2) The underground collection and communication cables need not be removed if at a depth of three feet or greater. These cables at a depth of three feet or greater can be abandoned in place if they are deemed not a hazard or interfering with agricultural use or other ~~consistent~~ resource uses of the land.

3) Gravel shall be removed from areas surrounding turbine pads.

4) Private A access roads shall be removed by removing gravel and restoring the surface grade and soil, unless the landowner elects to maintain the private access roads. [NOTE: often-times landowners want to keep the private access roads for better access to fields]

5) After removal of the structures and roads, the area shall be graded as close as is reasonably possible to its original contours and the soils shall be restored to a condition compatible with farm uses or consistent with other resource uses. Re-vegetation shall include planting by applicant of native plant seed mixes, planting by applicant of plant species suited to the area, or planting by landowner of agricultural crops, as appropriate, and shall be consistent with the weed control plan approved by Umatilla County.

6) Roads, cleared pads, fences, gates, and improvements may be left in place if a letter from the land owner is submitted to Umatilla County indicating said land owner will be responsible for, and will maintain said roads and/or facilities for farm or other purposes as permitted under applicable zoning.

[New # (8) below was formerly (7) (E)]

(8)(E) The applicant (facility owner/operator) shall submit to Umatilla County proof of financial assurance a bond or letter of credit acceptable to the County, in the amount of the decommissioning fund naming Umatilla County ~~and the landowner as~~ beneficiary or payee. For projects sited through EFSC, compliance with EFSC's financial assurance and decommissioning standards shall be deemed to be in compliance with the dismantling and decommissioning requirements of this § 152.616 (HHH)(7) & (8). [NOTE: this suggested language is from subsection (8)(D) and was moved here for clarity. Also, using the term "financial assurance" provides flexibility for the type of mechanisms that may be used]

(A)(4) The calculation of present year dollars shall be made using the U.S. Gross Domestic Product Implicit Price Deflator as published by the U.S. Department of commerce, Bureau of Economic Analysis, or any successor agency (the Aindex.@). The amount of the financial assurance bond or letter of credit account shall be changed up or down if the change in the Index moves by more than change if the Index changes be increased at such time when the cumulative percentage increase in the Index exceeds 10 percent from the last change, and then the amount shall be increased or decreased by the cumulative percentage increase. If at

any time the Index is no longer published, Umatilla County and the applicant shall select a comparable calculation of present year dollars. The amount of the financial assurance bond or letter of credit account shall be pro-rated within the year to the date of decommissioning. [NOTE: using the term "financial assurance" provides flexibility for the type of mechanisms that may be used]

(B)(2) The decommissioning financial assurance bond fund shall not be subject to revocation or reduction before decommissioning of the Wind Power Generation Facility, and restoration rehabilitation of the project site/s. [NOTE: using the term "financial assurance" provides flexibility for the type of mechanisms that may be used]

(C)(3) The facility owner/operator shall describe the status of the decommissioning financial assurance bond fund in the annual report submitted to the Umatilla County.

(F) ——— If any disputes arise between ~~Umatilla County and the landowner on the expenditure of any proceeds from the bond or the letter of credit, either party may request non-binding arbitration. Each party shall appoint an arbitrator, with the two arbitrators choosing a third. The arbitration shall proceed according to the Oregon statutes governing arbitration. The cost of the arbitration (excluding attorney fees) shall be shared equally by the parties.~~

(D)(G) For projects sited by EFSC, compliance with EFSC's financial assurance and decommissioning standards shall be

~~deemed to be in compliance with the dismantling and decommissioning requirements of this § 152.616 (HHH)(7) & (8).~~ [NOTE: suggest moving to subsection (7) and (8) introductions for clarity]

[Former # (8) moved to (6) (M)]

[Former # (9) moved to (6) (N)]

[Former # (10) moved to (6) (P)]

[New # (9) below, moved from # (12)]

(9)(12) Within 120 days after the end of each calendar year the facility owner/operator shall provide Umatilla County an annual report including the following information:

(A)
Energy production by month and year.

(B)
Non-proprietary information about wind conditions, (e.-g., monthly averages, high wind events, bursts).

(C)
A summary of changes to the facility that do not require facility requirement amendments.

(D)
A summary of the fish, wildlife and avian monitoring program – bird injuries, casualties, positive impacts on area wildlife and any recommendations for changes in the monitoring program.

(E)
Employment impacts to the community and Umatilla County during and after construction.

(F)
Success or failures of weed control practices.

(G)
Status of the decommissioning financial assurance bond fund.

(H)
Summary comments –

1) ~~any~~ Problems with the projects, any adjustments needed, or any suggestions.

2) The annual report requirement may be modified discontinued or required at a less frequent schedule by the County: as warranted by project conditions, circumstances and compliance. The reporting requirement and/or reporting schedule shall be reviewed, and possibly altered, at the request of the facility owner/operator. For facilities under EFSC jurisdiction and for which an annual report is required, the annual report to EFSC satisfies this requirement.

[New # (10) below, moved from # (11)]

(10) (44) (A)
The Wind Power Generation Facility requirements shall be facility specific, but can be amended as long as the facility does not exceed the boundaries of the Umatilla County conditional use permit where the original facility was constructed.

(B)
An amendment to the conditional use permit shall be subject to the standards and procedures found in § 152.611. For projects sited through EFSC, a conditional use permit amendment is triggered under ORS 469.401(3) only if EFSC approves a site certificate amendment. Otherwise,

Additionally, an amendment shall be required if the proposed facility changes would:

1) ~~Increase the land area taken out of agricultural production by an additional 20 acres or more;~~ (2) ~~Increase the land area taken out of agricultural production sufficiently to trigger taking a Goal 3 exception;~~ (3) ~~Require an Expansion~~ Expand ~~of the established facility boundaries;~~ (2) (4) ~~Increase the number of towers;~~ (3) (5) ~~Increase generator output by more than 25 percent relative to the generation capacity authorized by the initial permit due to the repowering or upgrading of power generation capacity.~~ (4) ~~Changes to project private roads or access points to be established at or inside the project boundaries.~~ [NOTE: as long as a facility layout, such as a road route, is changed within the approved site boundary, no amendment should be required]

Notification by the facility owner/operator to the Umatilla County Planning Department of changes not requiring an amendment such as a change in the project owner/operator of record, a change in the emergency plan or change in the maintenance contact are encouraged but are not encouraged, but not required to be reported immediately. An amendment to a Site Certificate issued by EFSC will be governed by the rules for amendments established by EFSC. [NOTE: requiring immediate notification is subjective. The current code language seems sufficient.]

[# (12) moved to # (9)]

(Ord. 83-4, passed 5-9-83; Ord. 2002-02, passed 5-20-2003; Ord. 2005-02, passed 1-5-2005; Ord. 2009-09, passed 12-8-09)

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FEB 15 2011

For + Ida Schaefer
53798 Little Hwy. N.E. Rd.
Weston, OR 97146
2/15/11

UMATILLA COUNTY
PLANNING DEPARTMENT

Planning Commission of Umatilla Co.

As one of the land owners who are among those who have leases with Harizon Wind Energy.

Having a legal contract signed in good faith with Harizon we feel that the parameters set in the contract should be grandfathered in.

If the commission changes the criteria of the placement of windmills on properties it should be before new contracts are signed.

Not changing the rules on contracts already signed. They should be grandfathered in.

Maybe some contract owners receiving lease monies: have plans for those monies, such as buying a new home, car etc and are depending on these moneys. The new changes can effect the company and alter the project. Then contracts will be affected. So any change must be justified and not broken because of changes after the fact.

For landowners who already have windmills standing. If you (the Planning Commission) change the criteria on these landowners, maybe you should require the windmills be taken down that don't meet the new requirements.

It seems people want something done.

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about our energy situation.

Maybe we should put in a coal fire generating plant, or a nuclear plant or cover acres ^{with} solar panels instead of orchards or grape vineyards or grains.

Windmills: property owners can farm or run livestock on these low productive hills.

We have neighbors who have contracts besides us, (Tom Duck, S. Kirk) to name two and non-participating neighbors. The non participating neighbors don't care if the towers are near or far away.

But the contract owners will be affected with these changes.

Most people who travel Hwy 11 and 204 and see windmills could care less. If anything, they know something is being done about the energy situation.

We can not see how the wind towers will hurt our county. With new jobs, more wages that will come to the coffers of Umatilla County can only be beneficial and a win win situation.

Ida Schaefer



IBERDROLA
RENEWABLES

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FEB 17 2011

UMATILLA COUNTY
PLANNING DEPARTMENT

February 15, 2011

VIA ELECTRONIC MAIL AND U.S. MAIL

Planning Commissioners
c/o Ms. Tamra Mabbott
Umatilla County
216 SE Fourth Street
Pendleton, OR 97801

Re: Iberdrola Renewables, Inc.'s Comments on Proposed UCDC 152.616(HHH)

Dear Planning Commissioners:

In November 2010, Iberdrola Renewables, Inc. ("IRI") provided comments to the Planning Commission and staff, and presented oral testimony, on the proposed amendment to Umatilla County Development Code ("UCDC") section 152.616(HHH). Since that time, we understand that the Planning Commission has continued to develop draft code language, which culminated in the release of a revised draft dated January 13, 2011 (the "January Draft"). IRI respectfully submits the following comments to the January Draft.

IRI appreciates that the Planning Commission added language to clarify that wind monitoring data and interconnection request status should include nonproprietary evidence, such as a description of procedures and process, rather than raw wind data or other confidential information. However, the January Draft fails to consider IRI's comments on financial security, application materials, setbacks and other issues. In particular, IRI's earlier comments included suggested redline revisions to what was initially proposed. These proposed revisions were also summarized in IRI's November 15, 2010 letter to the Planning Commission. As the Planning Commission knows, IRI worked closely with the County in its capacity as a special advisory group for the Helix Wind Power Project and is very familiar with the UCDC and its requirements. From a procedural standpoint, IRI's comments were intended to help clarify the code language and document the interplay between the county and state Energy Facility Siting Council ("EFSC") permitting processes. Those comments continue to be relevant to the January Draft, and we hope that the Planning Commission will revisit our earlier comments. Further, from more of a substantive standpoint, IRI believes its earlier comments continue to have merit in light of the January Draft, as there is substantial benefit to the County adopting standards that

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are consistent with what EFSC has already found to be protective of public health and safety, wildlife, and public services. Along these lines, the precedent surrounding the EFSC standards provides the County with a rational basis for adopting the standards into the UCDC. At the same time, to the extent the County chooses to deviate from EFSC standards (whether the County chooses to toughen or weaken a particular EFSC standard), the County will need to have some explanation, or rational basis, for doing so. Otherwise, such deviations risk being rejected as arbitrary and capricious. Thus, while we respect the Planning Commission's desire to tailor standards to respond to those concerned with commercial wind energy development in the County, we also believe there is more for the County to be lost than gained with the creation of standards and criteria that are inconsistent from one county to the next, or are inconsistent with statewide standards.

Second, with respect to the new language presented in the January Draft, IRI has concerns with the proposed setbacks. None of the newly proposed setback distances in the January Draft include an analysis or reasoning for the proposed setback. IRI has suggested setbacks consistent with the state standards imposed through EFSC site certificates and believe these setbacks will help ensure consistency across the state. EFSC has determined that these setbacks adequately protect public health and safety, and a greater setback does not necessarily translate into greater protection of public health and safety. For example, the proposed setback from archeological and cultural sites does not reference the roll of the State Historic Preservation Office (SHPO) and is inconsistent with SHPO guidance or describe how an archeological or cultural site would be defined and evaluated. It is also unclear how the Planning Commission determined the proposed two mile setback from city boundaries. Absent some linkage between a desired benefit and a particular setback distance, some could argue that the proposed distance is arbitrary and capricious.

Finally, we would note that whatever the County's intentions may be with regard to the new setback distances, there are always many other competing needs and interests that may require generic setbacks to be moderated and balanced with such other needs and interests. Thus, developers often must accommodate multiple site constraints that involve buffers or setbacks to protect, for example, threatened and endangered species, wildlife habitat, wetlands, high value farmland soils, visual resources, cultural and archaeological sites, residences, and so forth. Having unnecessarily broad buffers for some particular land uses (city limits, non-agricultural land use zones, residences in agricultural land use zones, roadways, etc.) places unnecessary restrictions on the projects themselves, often to the detriment of other resources.

With these overarching concerns in mind, IRI provides the following alternatives and reasoning for the Planning Commission's consideration.

Setbacks from City Limits. The January Draft proposes a 2 mile or 20 times tower-to-blade tip height setback from city limits, whichever is greater.

Recommendation: We would propose that the current 3,520-foot setback for properties zoned for residential use also serve as the setback for city limits. In other words, just as a 3,520-foot setback has proven to be sufficiently protective of properties zoned for residential use, this same distance is also sufficiently protective of uses within city limits as well.

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Setbacks from Non-Agricultural Land Use Zones. The January Draft proposes a 10 times tower-to-blade tip height setback from unincorporated community zones and proposes to delete the requirement for a 3,520-foot setback from all properties zoned for residential use or designated on the Comprehensive Plan as residential.

Recommendation: We would propose maintaining the current 3,520-foot setback from properties zoned for residential use, and would propose that this setback also be applied to the unincorporated community zone as these zones are also used for residential use. Again, we feel that this setback has proven to be sufficiently protective of residential uses.

Setbacks from Residences in Agricultural Land Use Zones. The January Draft proposes a 3,520-foot setback or 10 times tower-to-blade tip height setback (whichever is greater) from rural homes, although what constitutes a rural home is left undefined.

Recommendation: If the January Draft is intended to refer to rural homes in rural residential zones, then we believe the County should simply preserve its current setback of 3,520 feet from properties zoned for residential use, for the reasons stated above. For rural homes in agricultural zones, however, the setback should be less. The purpose of agricultural zone is to promote and protect agricultural production. In an agricultural zone, the question is whether a proposed wind energy facility is compatible with accepted farming practices, not residential use. In fact, residential use in the agricultural zone can be subject to land use review, just like a wind energy facility, to ensure compatibility with accepted farming practices. It is statewide policy to encourage wind developers to site on agricultural lands and the January Draft's approach of imposing urban-like setbacks for residences on lands zoned for agricultural production is counter to this policy. We would suggest that the County adopt a 1,320-foot setback from existing residences on lands zoned for agriculture, which is a setback distance that has been found to be sufficiently protective of public health and safety. Furthermore, if the setbacks are intended to facilitate compliance with DEQ noise standards, compliance with the DEQ noise standards themselves results in very specific, quantitative setback distances.

Setbacks from Roadways. The January Draft proposes a 2 times tower-to-blade tip height setback from county road rights-of-way (measured from the boundary of the right-of-way) and a 3 times tower-to-blade tip height setback from state or interstate highway rights-of-way (measured from the boundary of the right-of-way).

Recommendation: We would recommend that the County adopt what EFSC has found to be protective of public health and safety. As such, the County should adopt a setback equal to 110 percent of blade-tip height, measured from the centerline of the turbine tower to the nearest edge of the right-of-way.

Setbacks from Cultural or Archaeological Sites. The January Draft proposes a 2 times tower-to-blade tip height setback from archaeological or cultural sites.

Recommendation: According to the State of Oregon Historic Preservation Office ("SHPO"), archaeological resources come in a variety of forms, and setbacks may not be appropriate for the

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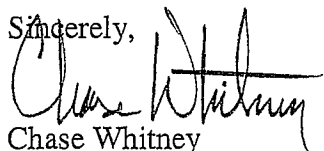
protection of these resources. It is not possible to determine what the impact on a resource will be until a full evaluation of the resource takes place. On several past IRI projects, IRI and SHPO have developed the following approach: if construction will occur within 200 feet of an identified historic, cultural or archaeological resource site, then a developer should flag a 30-meter no-entry buffer around the site (excluding use of existing roads). However, this 30 meter setback may not apply to all sites and SHPO recommends that each site be evaluated on a case by case basis before a setback is determined, if any. We would propose that the County defer to SHPO's expertise in this area.

Setbacks for Transmission Lines. The January Draft proposes a 500-foot setback for new electrical transmission lines from existing residences (unless in the public right-of-way).

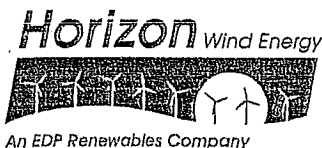
Recommendation: EFSC has imposed conditions requiring a 200-foot setback from existing residences, and without justification for why a 200-foot setback is inadequate to be protective of public health and safety, we believe the County should adopt this same 200-foot setback rather than a 500-foot setback requirement for aboveground transmission lines.

In conclusion, thank you for considering IRI's comments and suggestions for the January Draft. IRI looks forward to continuing our positive working relationship with the County and having the proposed amendment to the UCDC considered by the Board of County Commissioners.

Sincerely,



Chase Whitney
Business Developer



53 SW Yamhill Street
Portland, OR 97204

503.222.9400 phone
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FEB 15 2011

UMATILLA COUNTY
PLANNING DEPARTMENT

February 14, 2011

Umatilla County Planning Commission
Department of Land Use Planning
216 SE 4th Street
Pendleton, OR 97801

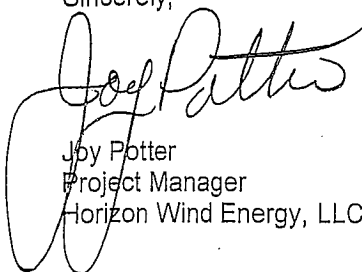
Dear Members of the Planning Commission:

Horizon Wind Energy submits the enclosed revisions and comments on the draft amendments to the UCDC 152.616 (HHH).

Horizon wishes to re-iterate the comments submitted to the Commission on November 16, 2010. The enclosed comments help provide clarity and consistency of the regulations, which we believe will provide assistance to the Umatilla County Planning Commission in providing a reliable and transparent process to companies proposing wind energy development in your County. We believe these changes will help to reassure companies that permitting a project through the County instead of the state Energy Facility Siting Council (EFSC) process will provide the developer with the same reliability of process, but will keep more self-determination in the hands of the County.

Many of the comments attached suggest the same standards that are used by the state EFSC. These high standards will ensure County protection and afford both the County and the developer a tested standard and interpretation to follow.

Sincerely,



Joy Potter
Project Manager
Horizon Wind Energy, LLC

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CONDITIONAL USES

Sub-Sections

<u>152.610</u>	<u>Definition</u>
<u>152.611</u>	<u>New or altered conditional uses: conformance with requirements; performance bonds</u>
<u>152.612</u>	<u>Procedure for taking action on a conditional use application</u>
<u>152.613</u>	<u>Time limit on a conditional use permit</u>
<u>152.614</u>	<u>Limit on reapplication</u>
<u>152.615</u>	<u>Additional restrictions</u>
<u>152.616</u>	<u>Standards for review of conditional uses and land use decisions</u>
<u>152.617</u>	<u>Standards for review of conditional uses and land use decisions on EFU zoned land</u>

§ 152.610 DEFINITION.

For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

CONDITIONAL USES. Activities that are similar to other activities permitted within a zone, but are not entirely compatible with the permitted uses or purpose and intent of the zone, or compatible with surrounding land uses on adjacent lands in another zoning district.

LAND USE DECISION. Includes a final decision by a local government concerning the adoption, amendment or application of the statewide planning goals, a comprehensive plan provision, a land use regulation or a new land use regulation.

(A Land Use Decision does not include:

(1) a decision of a local government which is made under land use standards which do not require interpretation or the exercise of policy or legal judgment; (2) a decision of a local government which approved or denies a building permit issued under clear and objective land use standards.) (Pursuant to ORS 197.015 (10))

(Ord. 83-4, passed 5-9-83; Ord. 2005-02, passed 1-5-2005)

Proposed Amendments to UCDC Sections 152.612, 152.615 & 152.6126 (HHH)

§ 152.611 NEW OR ALTERED CONDITIONAL USES; CONFORMANCE WITH REQUIREMENTS; PERFORMANCE BONDS...

(A) Conditional uses listed in this chapter may be permitted, enlarged or altered contingent upon appropriate authorization, in accordance with the standards and procedures set forth in this subchapter.

(B) In permitting a new conditional use or the alteration of an existing conditional use, the appropriate planning authority may impose conditions, which are considered necessary to protect the best interests of the surrounding area or the county as a whole.

(C) In the case of a use existing prior to the effective date of this chapter and classified in this chapter as a conditional use, any change in use or in lot area or an alteration of structure shall conform with the requirements for a conditional use.

(D) The county may require an applicant to furnish the county with a performance bond or such other form of assurance that the county deems necessary to guarantee development in accordance

with the standards established and conditions attached in granting a conditional use.

(Ord. 83-4, passed 5-9-83; Ord. 2005-02, passed 1-5-2005)

**§ 152.612 PROCEDURE FOR
TAKING ACTION ON A
CONDITIONAL USE
APPLICATION.**

The procedure for taking action on a conditional use or land use decision application shall be as follows:

(A) A property owner or the Planning Commission may initiate a request for a conditional use by filing an application ~~with the secretary of the Planning Commission~~, using forms prescribed pursuant to § 152.767;

(B) A conditional use and land use decision application shall be processed via administrative review per § 152.769;

(C) A conditional use permit or land use decision will not be approved unless the proposed use of the land will be in conformance with the County Comprehensive Plan;

(D) An applicant granted a conditional use permit or land use decision must obtain a county zoning permit ~~for each tax lot~~ before commencing construction. [NOTE: zoning permits should be treated the same as conditional use permits and land use decisions, and should be based on the project site boundary, not on the basis of tax lots].

(E) A conditional use or land use decision may be referred to the Umatilla County Planning Commission if the Planning Director deems circumstances warrant such additional review and

Proposed Amendments to UCDC Sections 152.612, 152.615 & 152.6126 (HHH)

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consideration, except for a conditional use or land use decision issued under ORS 469.401(3). [NOTE: ORS 469.401(3) requires a county, after EFSC issues a site certificate, to issue the relevant conditional use permit or land use decision without hearings or other proceedings upon proper application and payment of fees.]

(Ord. 83-4, passed 5-9-83; Ord. 2005-02, passed 1-5-2005)

**§ 152.613 TIME LIMIT ON A
CONDITIONAL USE
PERMIT.**

(A) A conditional use permit shall be void after one year or such lesser time as the permit may specify unless 20% of the total estimated project cost has occurred or the proposed use has occurred. However, the Planning Director or the proper planning authority may extend authorization for an additional period not to exceed one year, on request from the applicant. The total time allowed shall not exceed two years from the original approval date.

(B) If delay in establishing the use is demonstrably due to a delay by a state or federal agency in issuing a required permit, at no fault of the applicant, the Planning Director or a Designee of the Planning Director may extend the time limit imposed by division (A) of this section for a period not to exceed one year following issuance of the state or federal agency permit. The applicant shall establish that state or federal permits have not yet been issued, and that the delay has not been caused by the applicant.

(C) Time Limitation on Transportation-Related Conditional Use Permits. Authorization of a conditional use shall be void after a period specified by the

applicant as reasonable and necessary based on season, right-of-way acquisition, and other pertinent factors. This period shall not exceed three years.

(Ord. 83-4, passed 5-9-83; Ord. 2005-02, passed 1-5-2005)

**§ 152.614 LIMIT ONE
APPLICATION.**

No application for a conditional use permit shall be considered within one year of the denial of such a request, unless in the opinion of the Hearings Officer, Planning Director or the appropriate planning authority new evidence or a change of circumstances warrant it.

(Ord. 83-4, passed 5-9-83; Ord. 2005-02, passed 1-5-2005)

**§ 152.615 ADDITIONAL
CONDITIONAL USE
PERMIT
RESTRICTIONS.**

In addition to the requirements and criteria listed in this subchapter, the Hearings Officer, Planning Director or the appropriate planning authority may impose the following conditions upon a finding that circumstances warrant such additional restrictions:

(A) Limiting the manner in which the use is conducted, including restricting hours of operation and restraints to minimize such a environmental effects as noise, vibration, air pollution, water pollution, glare or odor;

(B) Establishing a special yard, other open space or lot area or dimension;

(C) Limiting the height, size or location of a building or other structure;

(D) Designating the size, number, location and nature of vehicle access points;

(E) Increasing the required street dedication, roadway width or improvements within the street right of way;

(F) Designating the size, location, screening, drainage, surfacing or other improvement of a parking or loading area;

(G) Limiting or otherwise designating the number, size, location, height and lighting of signs;

(H) Limiting the location and intensity of outdoor lighting and requiring its shielding;

(I) Requiring diking, screening, landscaping or other methods to protect adjacent or nearby property and designating standards for installation and maintenance.

(J) Designating the size, height, location and materials for a fence;

(K) Protecting and preserving existing trees, vegetation, water resources, air quality resources, wildlife habitat, or other significant natural resources [*NOTE: the term "quality" is consistent with the DEQ regulatory scheme*];

(L) Parking area requirements as listed in §§ 152.560 through 152.562 of this chapter.

(Ord. 83-4, passed 5-9-83; Ord. 2005-02, passed 1-5-2005)

§ 152.616 STANDARDS FOR
REVIEW OF
CONDITIONAL USES
AND LAND USE
DECISIONS.

The following standards shall apply for review by the Hearings Officer, the Planning Director or appropriate planning authority of the specific conditional uses and land use decisions listed in this chapter:

(HHH) Commercial Wind Power Generation Facility.

(1) The procedure for taking action on the siting of a facility is a request for a conditional use. A public hearing pursuant to Sections ~~152.750-755~~ and 152.771 shall be held to determine if the applicant meets the siting requirements for a Wind Power Generation Facility. The requirement for a hearing and any other procedure, including pre-application conference and application requirements, will not apply to proposed facilities for which the Oregon Energy Facility Siting Council (EFSC) is making the land use decision. [NOTE: clarifying that EFSC jurisdictional projects are subject only to the County's applicable substantive, and not procedural, requirements].

[Former # (2) moved to # (5)]

New→# (2) A pre-application meeting(s) is required. The applicant will be expected to bring preliminary information about the application components described in Application Requirement (5) below. County staff will arrange the meeting and will invite local, state, federal and other agency representatives and individuals with pertinent expertise in natural resources to participate. The purpose of the pre-application meeting will be to identify potential impacts and opportunities and to

advise on the level of detail required in each of the application components described in (5) below, and establish technical oversight requirements for monitoring plans. This pre-application requirement does not apply to projects being sited through EFSC.

(3) Umatilla County may impose clear and objective conditions in accordance with the County Comprehensive Plan, County Development Code and state law, which Umatilla County considers necessary to protect the best interests of the surrounding area, or Umatilla County as a whole.

(4) Prior to commencement of any construction, all other necessary pre-construction permits shall be obtained, including but not limited to a conditional use permit, e.g. Umatilla County Zoning Permit, and road access and other permits from the Umatilla County Public Works Department, and from the Oregon Department of Transportation. other permits from state agencies with the requisite jurisdiction.

(2) (5) Application Requirements. The following information shall be provided as part of the local land use application. For projects sited through EFSC, these application requirements do not apply as applicable substantive criteria and the applicant must provide as a part of the application for site certificate information consistent with the requirements in OAR chapter 345, division 21.

(A) (1) A general description of the proposed Wind Power Generation Facility;

(2) A tentative construction schedule;

(3) The legal description of the property on which the facility will be located; and

(4) Identification of the general area for all components of the proposed Wind Power Generation Facility.

(B) A including a map showing the location of components.

(C) (1) ~~Evidence of wind monitoring data qualifying the wind resources within the project boundary. [NOTE: this would require the applicant to provide proprietary business information. It is a business decision for an applicant to decide whether wind resources are adequate to support a commercially viable project.]~~

(2) ~~Evidence of active utility transmission interconnect requests and/or process and description of same, and [NOTE: this would require the applicant to provide proprietary business information. It is a business decision for an applicant to move forward with a land use application independent from an interconnection request]~~

(13) Route and plan for transmission facilities connecting the project to the grid.

(B)(D) Identification of potential conflicts, if any, with:
(1) Accepted forest practices and farming or ranching practices as defined in ORS 215.203(2) (e) on adjacent lands devoted to farm and/or forest uses; (2) Other resource operations and practices on adjacent lands except for except for including wind power generation facilities

on such adjacent lands. [NOTE: no standard requires applicant to evaluate potential impacts to existing operating wind facilities so it is unclear why this analysis would be provided. Treatment of wake impacts should be addressed by the developers and agreed-upon setbacks should be negotiated outside of the permit process.]; and (3) Accepted farm or forest practices on surrounding EFU/GF or NR land, including the nature and the extent of the impact of the proposed facility on the cost of such practices.

(G)(E) A Transportation Plan, with proposed recommendations, if any, reflecting the guidelines provided in the Umatilla County Transportation System Plan (TSP) and the transportation impacts of the proposed Wind Power Generation Facility upon the local and regional road system during and after construction, after consultation with Umatilla County Public Works Director. The plan will designate the size, number, location and nature of vehicle access points.

(D)(F) A fish, wildlife and avian impact monitoring plan. The avian monitoring plan shall be designed and administered by the applicant's wildlife professionals. [See HHH (2), above] For projects being sited by EFSC, compliance with EFSC's avian monitoring requirements will be deemed to meet this requirement. The plan shall include the formation of a technical oversight committee to review the plan, and consist of the following persons:

(1) The landowners/farm tenants.

(2) Facility owner/operator representative. (Chair)

(3) Oregon Department of Fish and Wildlife representative, if the agency chooses to participate.

(4) Two Umatilla County residents with no direct economic interest in the project and recommended by the applicants for appointment by the Umatilla County Board of Commissioners.

(5) U.S. Fish and Wildlife representative, if the agency chooses to participate.

(6) Umatilla County Planning Commission member. ~~At the request of applicant, this committee requirement may be waived or discontinued by the County.~~

[Former (2) (E) moved to (6) (I)]

~~(F)(G) An fire prevention and emergency management and operations response plan for all phases of the life of the facility. The plan shall address the following: address the major concerns associated with the terrain, dry conditions, and fire hazards, limited access, and water quality as needed, addressing both normal and extraordinary conditions.~~

(1) The plan shall identify the fire district or fire department and verify that the district/department has the appropriate equipment, training and personnel to respond to fires, spills and high rise rescue. If the local fire district or department does not have adequate high rise rescue capability, the applicant shall provide a plan for providing such response in case of an emergency

~~(2) A spill prevention control and counter measure plan (SPCC) shall be provided. [NOTE: this is something that is not developed until closer to operations and would not be available at the time of the application. Plus, any need for a SPCC would be satisfied through applicable state permitting.]~~

(23) The plan shall identify the ~~An Operations and Maintenance Plan~~ detailing expected work force, local response capability, (contract or otherwise), controlled access, and in the case of transmission lines, proof of emergency response capability in accordance with OPUC rules governing operation and maintenance of such lines.

(34) The plan shall identify measures ~~An Emergency Response Plan~~ for responding to natural and/or man made emergencies or disasters.

~~(G)(H) An revegetation and erosion control plan, developed in consultation with the Umatilla County Public Works Department, Soil and Water Conservation District, Watershed Council, the Oregon Agricultural Water Quality Management Program (administered by the Oregon Department of Agriculture), the Department of Environmental Quality and the Confederated Tribes of the Umatilla Indian Reservation. [NOTE: is there an issue in the county that requires involving all these parties? This seems like a very intensive requirement that could take a significant amount of time to achieve. Such parties will have an opportunity to comment during the local land use proceeding, during which time any concern over the revegetation plan could be raised and addressed.]~~ At a minimum, ~~The~~ plan should include the seeding of all road cuts or related bare road areas as a result of all

construction, demolition and rehabilitation with an appropriate mix of native vegetation or vegetation suited to the area. ~~This requirement will be satisfied if the applicant has an NPDES (National Pollution Discharge Elimination System) permit. The plan should also address monitoring during and post construction. This requirement will be satisfied if the applicant is seeking an NPDES (National Pollution Discharge Elimination System) permit~~

~~(H)(I)~~ A weed control plan addressing prevention and control of all Umatilla County identified noxious weeds and other weeds such as thistles which distribute weed seed while blowing across nearby lands following maturity, directly resulting from the Wind Power Generation Facility during preparation, construction, operation and demolition/rehabilitation.

~~(I) — A socioeconomic impact assessment of the Wind Power Generation Facility, evaluating such factors as, but not limited to, the project's effects upon the social, economic, public service, cultural, visual, and recreational aspects of affected communities and/or individuals. These effects can be viewed as either positive or negative. In order to maximize potential benefits and to mitigate outcomes that are viewed as problematic, decision makers need information about the socioeconomic impacts that are likely to occur.~~

[New (6) (J) below moved from (2) (K)]

~~(K)(J)~~ Information pertaining to the impacts of the Wind Power Generation Facility on:

(1)
Wetlands and Streams;

(2) Fish, Avian and Wildlife (all potential species of reasonable concern), including but not limited to federally listed threatened and endangered species);

(3) Fish, Avian and Wildlife Habitat;

(4)
Criminal Activity (vandalism, theft, trespass, etc). Include a plan and proposed actions, ~~if any~~, to avoid, minimize or mitigate negative impacts.

[New (5) (K) below moved from (2) (L)]

~~(L)(K)~~ A dismantling and decommissioning plan of all components of the Wind Power Generation Facility, as provided in §152.616 (HHH) (7).

~~(5) (6)~~ Standards/Criteria of Approval. The following requirements and restrictions apply to the siting of a facility:

(A)
Setbacks.

(1) ~~The Wind Power Generation Facility shall be on property zoned EFU/GF or NR, and n~~No portion of the facility turbines/towers shall be within 3,520 feet of properties zoned residential use or designated on the Comprehensive Plan as residential. (For clarification purposes of this section, EFU/GF/NR zones are not considered zoned for residential use.)

(2) Turbines/towers must shall not be set back at least constructed closer than 1,320 feet one half mile of from an existing residence, measured from the centerline of the turbine tower to the center of the nearest residence existing at the time of tower

construction, unless a written waiver is obtained from the landowner and that shall be recorded with the County deed records. [NOTE: the suggested setback is consistent with EFSC's conditions of approval for wind facilities. See Helix Site Certificate Condition 43(c).]

(3) New above-ground electrical transmission lines associated with the facility project shall not be constructed closer than 2500 feet to an existing residence, measured from the line to the center of the nearest residence existing at the time of line construction, unless a ~~without~~ prior-written waiver is obtained from the landowner ~~approval of the homeowner, said written approval to and be recorded with the County deed records, or unless the:~~ Exceptions to the 500-foot setback include transmission lines are placed in public right of way. ~~Note: Transmission and distribution lines constructed and owned by the applicant what are not within the project boundary are subject to a separate land use permit.~~ [NOTE: the suggested language mirrors the language for the residential setback the facility for consistency and is consistent with EFSC's conditions of approval. Additionally, the facility and all related or supporting facilities are located within the facility site boundary and therefore should be subject to only one land use decision.]

(4) Public Safety. Turbines/towers must be setback from any public road right-of-way ~~way~~ a minimum distance of 110-percent of maximum ~~two times the overall total tower to-blade tip height, measured from the centerline of the turbine tower to the nearest edge of any public right-of-way.~~ [NOTE: this suggested language is consistent with EFSC's conditions of

approval for wind facilities. See Helix Site Certificate Condition 43(b)]

E)(5) The turbines/towers shall be of a size and design to help ~~minimize reduce~~ noise or other detrimental effects. ~~At a minimum,~~ The facility shall be designed and operated within the limits of the noise standards established by DEQ ~~rule~~ the State of Oregon. A noise study may be required to confirm that the facility will be ~~verify downwind noise impacts in all wind directions are in~~ compliance with DEQ ~~the~~ noise standards.

(B)
Reasonable efforts shall be made to ~~design-blend the wind facility~~ turbines/towers to minimize adverse visual features with the natural surrounding area in order to minimize impacts upon open space and the natural landscape. [NOTE: this suggested language is consistent with the EFSC standard in OAR 345-024-0015.]

(C)
The Development and Operation of the Facility will reasonably Reasonable efforts shall be taken to ~~Reasonable efforts shall be taken to~~ protect and to preserve existing trees, vegetation, water resources, wildlife, wildlife habitat, fish, avian ~~or and~~ other significant natural resources. ~~Compliance with this standard may require mitigation and/or submission of an annual monitoring report. [NOTE: suggest keeping the original code language, or otherwise require an analysis of significant adverse impacts to provide more certainty of what the code criterion requires.]~~

(D)
The turbine towers shall be designed and constructed to discourage bird nesting and wildlife attraction.

[Former (5) (E) was moved to (6) (A) (5)]

~~(F)~~(E)

Private access roads constructed as a part of the facility established and controlled by the Wind Power Facility shall may be gated to protect the facility and property owners from illegal or unwarranted trespass, and illegal dumping and hunting.

~~(G)~~(F)

Where practicable the electrical cable collector system shall be installed underground, at a minimum depth of 3 feet; elsewhere the cable collector system shall be installed to prevent adverse impacts on agriculture operations.

~~(H)~~(G)

Required permanent maintenance/operations buildings shall be located off-site in one of Umatilla County's appropriately zoned areas, except that such a building may be constructed on-site if:

1) The building is designed and constructed generally consistent with the character of similar buildings used by commercial farmers or ranchers, and

2) The building will be removed or converted to farm use upon decommissioning of the Wind Power Generation Facility consistent with the provisions of § 152.616 (HHH) (7).

~~(I)~~(H)

A Wind Power Generation Facility shall comply with the Specific Safety Standards for Wind Facilities delineated in OAR 345-024-0010 (as adopted at time of application).

[New (6) (I) below, moved from (2) (E)]

~~(E)~~(I)

A Covenant Not to Sue with regard to generally accepted farming practices shall be recorded with the County. Generally accepted farming practices shall be consistent with the definition of Farming Practices under ORS 30.930. The applicant shall covenant not to sue owners, operators, contractors, employees, or invitees of property zoned for farm use for generally accepted farming practices.

(J)

Roads.

(1) A Road Use Agreement with Umatilla County regarding the impacts and mitigation on county roads and mitigation for the impacts shall be required as a condition of approval.

(2) Design specifications Layout and design of the facility project roads shall comply with county standards and be reviewed and approved by the county road department prior to construction. [NOTE: the county will have the opportunity to review and approve the specific road design specifications when issuing building permits.]

[New (6) (K) below, moved from (2) (J)]

~~(J)~~(K)

Demonstrate All Wind Power Generation Facilities must show compliance with the standards found in OAR 660-033-0130 (37).

6) To the extent feasible, the county will accept information presented by an

application for an EFSC proceeding in the form and on the schedule required by EFSC.

~~(7)(L)~~
~~Submit a plan for The applicants dismantling of uncompleted construction and/or decommissioning plan for and/or re-powering of the Wind Power Generation Facility shall include the following information: as described in §152.616 (HHH) (7). [NOTE: this standard is duplicative of what is required under new subsection (5)(K) above as a part of the application. For projects sited through EFSC, this information is included in Exhibit W. If included as a standard or criterion of approval, it is unclear what is required to demonstrate compliance.]~~

[New (6) (M) below, moved from # (8)]

~~(LM)(8)~~
) ~~A surety bond, letter of credit, or other financial assurance mechanisms acceptable to the County or letter of credit shall be established to cover for the cost of dismantling of uncompleted construction and/or decommissioning of the facility, and site restoration rehabilitation pursuant to (See § 152.616 (HHH) (7) & (8)). For projects being sited through EFSC, the financial assurance required by EFSC will be deemed to meet this requirement. [NOTE: the code should provide sufficient flexibility to allow for various forms of financial assurances depending on what is available in the future. Additionally, financial assurance satisfying EFSC's standards should satisfy the substantive requirement of this code provision] For projects being sited by the State of Oregon's Energy Facility Siting Council (EFSC), the bond or letter of credit required by EFSC will be deemed to meet this requirement.~~

[New (6) (N) below, moved from # (9)]

~~(9)(M)~~
~~N~~ The actual latitude and longitude location or Stateplane NAD 83(91) coordinates of each turbine tower, connecting lines, operations and maintenance O & M building, substation and transmission lines, shall be provided to Umatilla County within 90 days of starting once commercial-electrical production begins.

~~(O)~~
~~An Operating and Facility Maintenance Plan shall be submitted and subject to county review and approval. [NOTE: this already seems to be a requirement imposed under the emergency operation plan under subsection (5) above. If included as a standard or criterion of approval, it is unclear what is required to demonstrate compliance]~~

[New (6) (P) below, moved from (10)]

~~(10)(P)~~
~~A summary of as-built construction changes in the facility from the original plan, if any, shall be provided by the owner/operator, within 90 days of starting electrical production. [NOTE: as revised, how is this requirement different than what is required as a part of subsection (N) above? Also, this seems to be a matter that would be addressed through the building permit process, not the land use process and is therefore unnecessary to include as a standard.]~~

[New (7) below was formerly (7) (A)]

~~(7)(A)~~ A plan for dismantling and/or decommissioning that provides for completion of dismantling or decommissioning of the facility without significant delay and protects public health,

safety and the environment in compliance with the restoration requirements of this section. For projects sited through EFSC, compliance with EFSC's financial assurance and decommissioning standards shall be deemed to be in compliance with the dismantling and decommissioning requirements of this § 152.616 (HHH)(7) & (8). [NOTE: this suggested language from subsection (8)(D) and was moved here for clarity]

(B)(A)

A description of actions the facility owner proposes to take to restore the site to a useful, non-hazardous condition, including options for post-dismantle or decommission land use, information on how impacts on fish, wildlife, avian populations and the environment would be minimized during the dismantling or decommissioning process, and measures to protect the public against risk or danger resulting from post-decommissioning site conditions in compliance with the requirements of this section.

(C)(B)

A current detailed cost estimate, a comparison of that estimate with present funds ~~the bond set aside~~ for dismantling or decommissioning, and a plan for assuring the availability of adequate funds for completion of dismantling or decommissioning. The cost estimate will be reviewed and ~~be~~ updated by the facility owner/operator on a 3 5-year basis, unless material changes have been made in the overall facility that would materially increase or decrease these costs. If so, the report must be revised within 120 days of completion of such changes.

(D)(C)

____ Restoration of the site shall consist of the following:

1) Dismantle turbines, towers, pad-mounted transformers, meteorological towers and related aboveground equipment. All concrete turbine pads shall be removed to a depth of at least three feet below the surface grade.

2) The underground collection and communication cables need not be removed if at a depth of three feet or greater. These cables at a depth of three feet or greater can be abandoned in place if they are deemed not a hazard or interfering with agricultural use or other ~~consistent~~ resource uses of the land.

3) Gravel shall be removed from areas surrounding turbine pads.

4) Private A access roads shall be removed by removing gravel and restoring the surface grade and soil, unless the landowner elects to maintain the private access roads. [NOTE: often-times landowners want to keep the private access roads for better access to fields]

5) After removal of the structures and roads, the area shall be graded as close as is reasonably possible to its original contours and the soils shall be restored to a condition compatible with farm uses or consistent with other resource uses. Re-vegetation shall include planting by applicant of native plant seed mixes, planting by applicant of plant species suited to the area, or planting by landowner of agricultural crops, as appropriate, and shall be consistent with the weed control plan approved by Umatilla County.

6) Roads, cleared pads, fences, gates, and improvements may be left in place if a letter from the land owner is submitted to Umatilla County indicating said land owner will be responsible for, and will maintain said roads and/or facilities for farm or other purposes as permitted under applicable zoning.

[New # (8) below was formerly (7) (E)]

~~(8)(E)~~ The applicant (facility owner/operator) shall submit to Umatilla County proof of financial assurance a bond or letter of credit acceptable to the County, in the amount of the decommissioning fund naming Umatilla County ~~and the landowner as beneficiary or payee.~~ For projects sited through EFSC, compliance with EFSC's financial assurance and decommissioning standards shall be deemed to be in compliance with the dismantling and decommissioning requirements of this § 152.616 (HHH)(7) & (8). [NOTE: this suggested language is from subsection (8)(D) and was moved here for clarity. Also, using the term "financial assurance" provides flexibility for the type of mechanisms that may be used]

~~(A)(4)~~ The calculation of present year dollars shall be made using the U.S. Gross Domestic Product Implicit Price Deflator as published by the U.S. Department of commerce, Bureau of Economic Analysis, or any successor agency (the Aindex.@). The amount of the financial assurance bond or letter of credit account shall be changed up or down if the change in the Index moves by more than change if the Index changes be increased at such time when the cumulative percentage increase in the Index exceeds 10 percent from the last change, and then the amount shall be increased or decreased by the cumulative percentage increase. If at

any time the Index is no longer published, Umatilla County and the applicant shall select a comparable calculation of present year dollars. The amount of the financial assurance bond or letter of credit account shall be pro-rated within the year to the date of decommissioning. [NOTE: using the term "financial assurance" provides flexibility for the type of mechanisms that may be used]

~~(B)(2)~~ The decommissioning financial assurance bond fund shall not be subject to revocation or reduction before decommissioning of the Wind Power Generation Facility, and restoration rehabilitation of the project site/s. [NOTE: using the term "financial assurance" provides flexibility for the type of mechanisms that may be used]

~~(C)(3)~~ The facility owner/operator shall describe the status of the decommissioning financial assurance bond fund in the annual report submitted to the Umatilla County.

~~(F)~~ If any disputes arise between Umatilla County and the landowner on the expenditure of any proceeds from the bond or the letter of credit, either party may request non-binding arbitration. Each party shall appoint an arbitrator, with the two arbitrators choosing a third. The arbitration shall proceed according to the Oregon statutes governing arbitration. The cost of the arbitration (excluding attorney fees) shall be shared equally by the parties.

~~(D)(G)~~ For projects sited by EFSC, compliance with EFSC's financial assurance and decommissioning standards shall be

deemed to be in compliance with the dismantling and decommissioning requirements of this § ~~152.616 (HHH)(7) & (8)~~ [NOTE: suggest moving to subsection (7) and (8) introductions for clarity]

[Former # (8) moved to (6) (M)]

[Former # (9) moved to (6) (N)]

[Former # (10) moved to (6) (P)]

[New # (9) below, moved from # (12)]

(9)(12) Within 120 days after the end of each calendar year the facility owner/operator shall provide Umatilla County an annual report including the following information:

(A)
Energy production by month and year.

(B)
Non-proprietary information about wind conditions, (e.-g., monthly averages, high wind events, bursts).

(C)
A summary of changes to the facility that do not require facility requirement amendments.

(D)
A summary of the fish, wildlife and avian monitoring program – bird injuries, casualties, positive impacts on area wildlife and any recommendations for changes in the monitoring program.

(E)
Employment impacts to the community and Umatilla County during and after construction.

(F)
Success or failures of weed control practices.

(G)
Status of the decommissioning financial assurance bond fund.

(H)
Summary comments –

1) ~~any~~ Problems with the projects, any adjustments needed, or any suggestions.

2) The annual report requirement may be modified discontinued or required at a less frequent schedule by the County, as warranted by project conditions, circumstances and compliance. The reporting requirement and/or reporting schedule shall be reviewed, and possibly altered, at the request of the facility owner/operator. For facilities under EFSC jurisdiction and for which an annual report is required, the annual report to EFSC satisfies this requirement.

[New # (10) below, moved from # (11)]

(10) ~~(11)~~ (A)
The Wind Power Generation Facility requirements shall be facility specific, but can be amended as long as the facility does not exceed the boundaries of the Umatilla County conditional use permit where the original facility was constructed.

(B)
An amendment to the conditional use permit shall be subject to the standards and procedures found in § 152.611. For projects sited through EFSC, a conditional use permit amendment is triggered under ORS 469.401(3) only if EFSC approves a site certificate amendment. Otherwise,

Additionally, an amendment shall be required if the proposed facility changes would:

1) ~~Increase the land area taken out of agricultural production by an additional 20 acres or more;~~ (2) Increase the land area taken out of agricultural production sufficiently to trigger taking a Goal 3 exception; (3) ~~Require an Expansion~~ Expand of the established facility boundaries; (2) (4) Increase the number of towers; (3) (5) Increase generator output by more than 25 percent relative to the generation capacity authorized by the initial permit due to the repowering or upgrading of power generation capacity; (4) ~~Changes to project private roads or access points to be established at or inside the project boundaries.~~ [NOTE: as long as a facility layout, such as a road route, is changed within the approved site boundary, no amendment should be required]

Notification by the facility owner/operator to the Umatilla County Planning Department of changes not requiring an amendment such as a change in the project owner/operator of record, a change in the emergency plan or change in the maintenance contact are encouraged but are not encouraged, but not required ~~to be reported immediately~~. An amendment to a Site Certificate issued by EFSC will be governed by the rules for amendments established by EFSC. [NOTE: requiring immediate notification is subjective. The current code language seems sufficient.]

[# (12) moved to # (9)]

(Ord. 83-4, passed 5-9-83; Ord. 2002-02, passed 5-20-2003; Ord. 2005-02, passed 1-5-2005; Ord. 2009-09, passed 12-8-09)

RECEIVED

FEB 15 2011

UMATILLA COUNTY
PLANNING DEPARTMENT

February 14, 2011

To: Umatilla County Planning Commission

Concerning: Proposed Amendments to UCDC 152.615 & 616 (HHH) Wind Farm

We own 600 acres. We love the land and try to be good stewards and make wise decisions concerning it. After visiting several wind farms we have found wind turbines to be efficient with a relatively small footprint leaving the land available for grazing, harvesting, timber and wildlife.

Regarding 5A Setbacks 1-6 (page 5): These are extremely excessive and need to be less punitive. The distances need to be adjusted to reflect realistic as well as efficient use of the land.

We have other issues regarding these amendments, but not wanting to burden you ask that you please carefully read all ten(10) pages of the proposal before taking any action as some of the text is quite comical.

Thank You,

Tom and Jo Lynn Buell
78441 Rayborn Rd
Weston, OR 97886

Phone: 541-566-3277

Tom Buell
Jo Lynn Buell

00004322

Feb. 13, 2011

Planning Commission
Umatilla County

RECEIVED

FEB 16 2011

UMATILLA COUNTY
PLANNING DEPARTMENT

RECEIVED

FEB 15 2011

UMATILLA COUNTY
PLANNING DEPARTMENT

I am writing to appeal some of the Amendment to Development code T-10-039-
Conditional use Code.

Section 152.616 (HHH). Pertaining to standards for large scale commercial wind energy
projects.

I feel that any & all of those standards which exceed State & Federal siting standards &
conditions should be excluded from Umatilla County codes, standards & conditional
uses. Not only are some standards excessive for commercial companies, but could also
be detrimental to private land owners who would like to erect a wind turbine on their
property along County roads, State or Federal roads. Section 6. (A) Setbacks
Subsections 1 - 5.

Section 8. Noise Standards

I understand the state does not have noise standards for commercial business, but is doing
studies in this area. My questions is: Are the noise standards going to include orchardist
& vineyards which use wind turbines for frost control? These units have a very high
decibel reading when operating.

I feel that over regulating any & all standards & codes diminish the property values of all
Umatilla County land owners.

It's hard enough to maintain land & business holding today with the economy where it is
at the present and I feel will be with us for at least 5 - 10 years.

Maybe it's time the voters of Umatilla County have a say in what happens to the Rules &
Regulations that are being proposed by the County,

Respectfully,

Richard Stewart
Umatilla County Landowner
515 Fleetwood Ave. .
College Place, WA 99324

00004323

CROSSING PATHS AND SEASONS

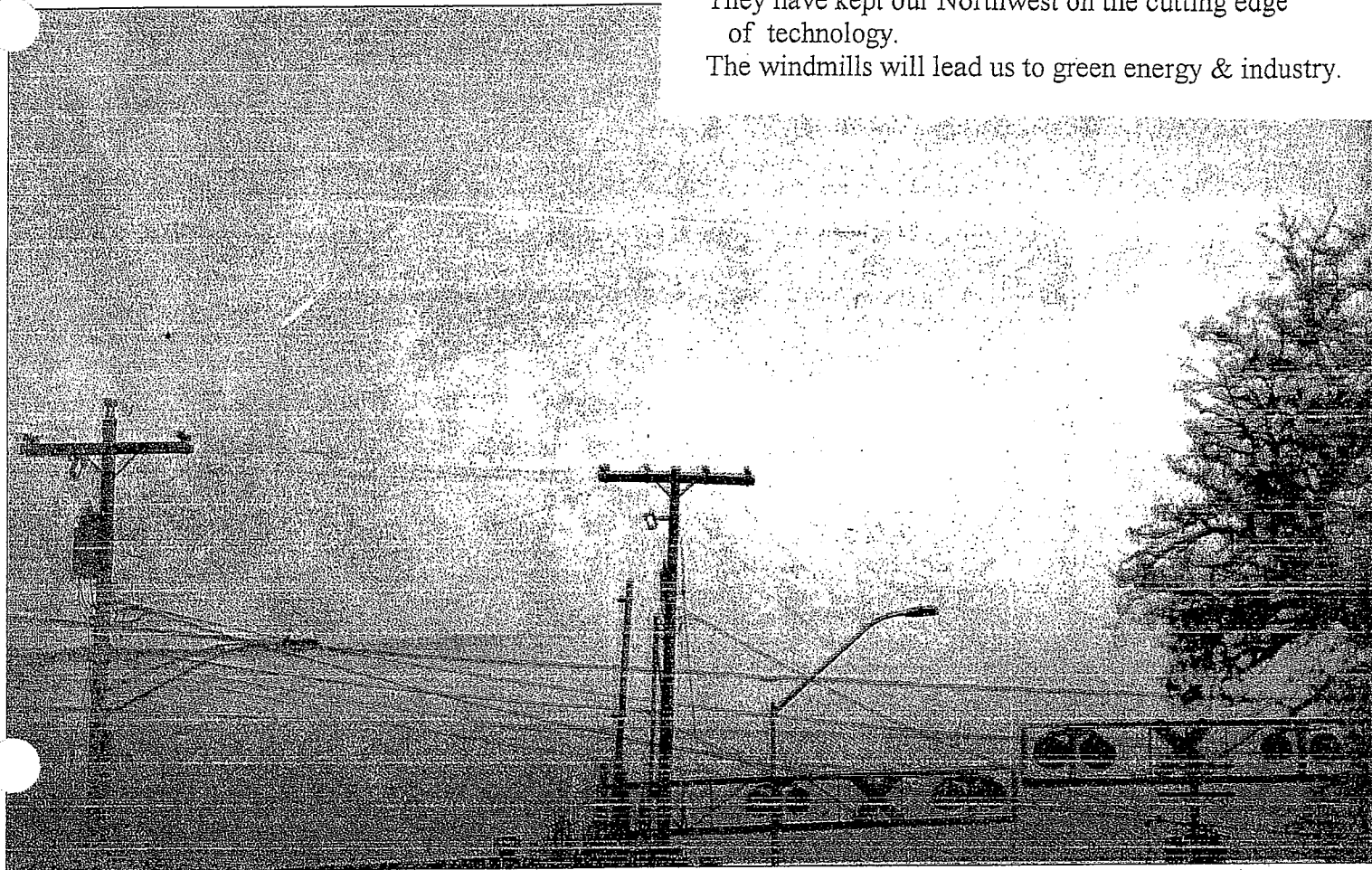
These poles & lines are everywhere!

When they were installed – early 1900's- they were ugly & destroyed the view scape.

Today they are part of the view & are accepted.

They have kept our Northwest on the cutting edge of technology.

The windmills will lead us to green energy & industry.



U-B photo by MATTHEW

00004324

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR UMATILLA COUNTY

}

AFFIDAVIT OF PUBLICATION

STATE OF OREGON

County of Umatilla } ss

I, Dayle Stinson being duly sworn, depose and
say that I am the principal clerk of the publisher of the East Oregonian,
a newspaper of general circulation, as defined by
ORS 193.010 and 193.020; printed and published at Pendleton
in the aforesaid county and state; that the

EO-5096
NOTICE OF LAND USE HEARINGS

a printed copy of which is hereto annexed; was published in the
entire issue of said newspaper for 1 successive and
consecutive issues in the following issues:

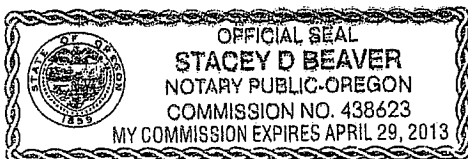
FEBRUARY 12, 2011

Subscribed and sworn to before me on this, 24 day of

FEBRUARY 2011

Dayle Stinson

Stacey O Beaver
Notary Public of Oregon



00004325

**EO-6096/HH-4859
NOTICE OF UMATILLA COUNTY
LAND USE HEARINGS**

YOU ARE HEREBY NOTIFIED of Public Hearings to be held before the Umatilla County Planning Commission on Thursday, February 24, 2011 at 4 PM in the Media Room of the Umatilla County Justice Center, 4700 NW Pioneer Place, Pendleton, and before the Board of County Commissioners on Thursday, March 17, 2011 at 9 AM in Room 114 of the County Courthouse, 216 SE 4th St, Pendleton. The hearings include numerous updates to the County Development Code. The Planning Commission will make a recommendation to the Umatilla County Board of County Commissioners. Applicable review criteria include UCDO 152.750-152.753.

**• Update of Umatilla County Development Code.
#T-10-040.** A summary of the updates include the following:

1. UCDC 152.059 (K) 1 (2) b (7) clarify language
2. Enforcement of Code, refer to the Chapter 38
3. Change TYPE IV Review II language
4. Change TYPE IV Review III language
5. Requesting a Continuance
6. Remove UCDC 152.626 "Minor Variance" Section and References to Minor Variance in Other Sections
7. Modify Setback Variance language in Commercial and Industrial Zones
8. Clarify Non-Farm Dwelling Criteria
9. Clarify Conditional Use Reference in UCDC 152.060
10. Parking Standards
11. Boundary Line Adjustments - Date of Creation
12. Boundary Line Adjustments - DEQ Site Suitability Approval

proval
13. Mobile Homes Not to be used as Storage Units
14. Modify Conditional Use Permit Section
15. Replacement Dwellings in the EFU Zone
16. Type II Land Division - UCDC 152.684 (E) modified
17. Cargo containers
For further information on the above proposal please contact Senior Planner, Richard H. Jennings at the Umatilla County Planning Department, 216 SE 4th Street, Pendleton, Oregon 97801; telephone 541-278-6249; email richardj@umatilla-county.net.

**• Update of Umatilla County Development Code.
#T-10-039.** Amendment to Conditional Use Section 152.616 (HHH) of the Umatilla County Development Code, pertaining to standards for large scale commercial wind energy projects.

For further information on the above proposal please contact Senior Planner, Carol Johnson at the Umatilla County Planning Department, 216 SE 4th Street, Pendleton, Oregon 97801; telephone 541-278-6301; email carol@umatilla-county.net.

Copies of all documents pertaining to the hearings listed above, and all relevant criteria are available for inspection at no cost and will be duplicated at printing cost. A complete packet is also available on the county website at www.umatillacounty.net. Hearings are governed by Section 152.772 of the Umatilla County Land Development Code.

Opportunity to voice support or opposition to the above proposal, or to ask questions, will be provided. Failure to raise an issue in a hearing, either in person or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to that issue, precludes appeal to the Land Use Board of Appeals based on that issue.

DATED THIS 4th DAY OF FEBRUARY 2011
UMATILLA COUNTY PLANNING
February 12, 2011

00004326

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR UMATILLA COUNTY

}

AFFIDAVIT OF PUBLICATION

STATE OF OREGON

County of Umatilla } ss

I, Dayle Stinson being duly sworn, depose and say that I am the principal clerk of the publisher of the Hermiston Herald, a newspaper of general circulation, as defined by ORS 193.010 and 193.020; printed and published at Pendleton in the aforesaid county and state; that the

#4859 NOTICE OF LAND USE HEARINGS

a printed copy of which is hereto annexed; was published in the entire issue of said newspaper for 1 successive and consecutive issues in the following issues:

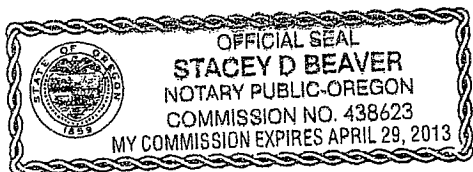
FEBRUARY 12, 2011

Subscribed and sworn to before me on this, 24 day of

FEBRUARY 2011

Dayle Stinson

Stacey D Beaver
Notary Public of Oregon



00004327

**EO-5096/HH-4859
NOTICE OF UMATILLA COUNTY
LAND USE HEARINGS**

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13. Mobile Homes Not to be used as Storage Units
14. Modify Conditional Use Permit Section
15. Replacement Dwellings in the EFU Zone
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DATED THIS 4th DAY OF FEBRUARY 2011
UMATILLA COUNTY PLANNING
February 12, 2011

RECEIVED

FEB 09 2011

UMATILLA COUNTY
PLANNING DEPARTMENT

February 3, 2011

Umatilla County Planning Commission
216 SE Fourth Street
Pendleton, OR 97801

Dear Planning Commissioners,

I am writing to let you know of my concern with wind turbines being placed in the Blue Mountains. The article in the East Oregonian last week said Horizon Wind continues to go ahead with a project placing wind turbines on Lincton and Weston mountains.

There are sensitive areas in these mountains with many kinds of wildlife and wintering grounds for elk and deer. There are also people that live there that need to be protected.

I understand that areas in the Blue Mountains are identified as significant resources, but do not have protections in place to keep them from being disturbed by industrial wind turbines. I urge you to take the steps to protect our wildlife and people who live there, so generations to come will be able to enjoy them as we and our ancestors have done.

Sincerely,

Robert Wanda

665 County Rd

Milton-Freewater, OR

97862

00004329

RECEIVED

FEB 03 2011

UMATILLA COUNTY
PLANNING DEPARTMENT

February 3, 2011

Umatilla County Planning Commission
216 SE Fourth Street
Pendleton, OR 97801

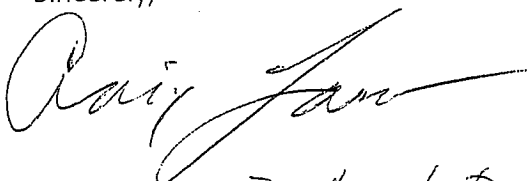
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Sincerely,

 (Craig Lane)

53910 E Appleton Rd.

M. F. Clark

00004330

RECEIVED

FEB 09 2011

UMATILLA COUNTY
PLANNING DEPARTMENT

February 3, 2011

Umatilla County Planning Commission
216 SE Fourth Street
Pendleton, OR 97801

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Sincerely,

James A. Rees

53862 HYW 332

M-F, ORE 97862

00004331

RECEIVED

FEB 22 2011

UMATILLA COUNTY
PLANNING DEPARTMENT

February 3, 2011

Umatilla County Planning Commission
216 SE Fourth Street
Pendleton, OR 97801

Dear Planning Commissioners,

I am writing to let you know of my concern with wind turbines being placed in the Blue Mountains. The article in the East Oregonian last week said Horizon Wind continues to go ahead with a project placing wind turbines on Linton and Weston mountains.

There are sensitive areas in these mountains with many kinds of wildlife and wintering grounds for elk and deer. There are also people that live there that need to be protected.

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Sincerely,

Bonnie Ebert

108 Dehaven

Milton Freuden OR 97862

00004332

RECEIVED

FEB 09 2011

UMATILLA COUNTY
PLANNING DEPARTMENT

February 3, 2011

Umatilla County Planning Commission
216 SE Fourth Street
Pendleton, OR 97801

Dear Planning Commissioners,

I am writing to you about my concerns regarding lack of protections for wildlife and habitats. An Environmental Impact Statement to build wind turbines in the Blue Mountains is extremely necessary to protect our fragile ecosystem in the Blue Mountains.

Some people say it is not necessary to require and EIS because of how the federal funding is utilized after the project. That is just a technicality that can be sidestepped by Umatilla County by making it a requirement regardless of federal or state requirements.

I urge you to protect the Blue Mountains and require an EIS for all industrial projects there.

Regards,

Mike Oliver

84227 East Side Rd

Myrtle - freewater OR

97862

00004333

RECEIVED

FEB 08 2011

UMATILLA COUNTY
PLANNING DEPARTMENT

February 3, 2011

Umatilla County Planning Commission
216 SE Fourth Street
Pendleton, OR 97801

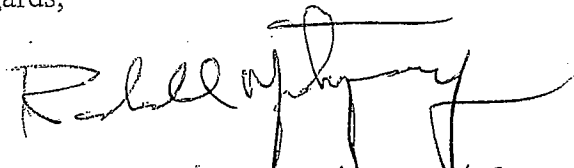
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I urge you to protect the Blue Mountains and require an EIS for all industrial projects there.

Regards,


167 Debra Ct NE
97802

00004334

RECEIVED

FEB 24 2011

UMATILLA COUNTY
PLANNING DEPARTMENT

February 3, 2011

Umatilla County Planning Commission
216 SE Fourth Street
Pendleton, OR 97801

Dear Planning Commissioners,

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I urge you to protect the Blue Mountains and require an EIS for all industrial projects there.

Regards,

W. L. Luke

00004335

RECEIVED

FEB 07 2011

UMATILLA COUNTY
PLANNING DEPARTMENT

February 3, 2011

Umatilla County Planning Commission
216 SE Fourth Street
Pendleton, OR 97801

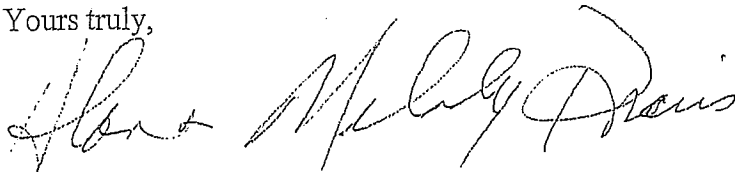
Dear Planning Commissioners,

I have concerns that there will be forests of rusting and broken wind turbines long after they have outlived their short lives. Even the best of plans to address decommissioning of wind turbines on private lands can leave citizens of Umatilla County unprotected.

If you have any doubts that this couldn't be a possibility in Umatilla County, you only have to look at California and Hawaii to see what can happen. Without adequate funds held to cover the cost of decommissioning, my fears will become a reality. Many experts believe the cost to remove them would be comparable to building them.

Adequate decommissioning costs can be required of the wind turbine developers. The LLC's they are built through can have devastating consequences if they go bankrupt, or just dissolve, leaving monumental problems for landowners and the County. I hope you do all in your power to protect our County and the people that live here.

Yours truly,



(Alan & Melody Davis)

00004336

RECEIVED

FEB 09 2011

UMATILLA COUNTY
PLANNING DEPARTMENT

February 3, 2011

Umatilla County Planning Commission
216 SE Fourth Street
Pendleton, OR 97801

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Yours truly,

Alice Meyer, property

*1102 Irving St
Milton - Newater, Ore 97862*

00004337

RECEIVED

FEB 10 2011

UMATILLA COUNTY
PLANNING DEPARTMENT



February 3, 2011

Umatilla County Planning Commission
216 SE Fourth Street
Pendleton, OR 97801

Dear Planning Commissioners,

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Yours truly,

McLean Miller
52794 county Rd.
Milton - Freewater
OREGON 97862

00004338

RECEIVED

MAR 03 2011

UMATILLA COUNTY
PLANNING DEPARTMENT

February 3, 2011

Umatilla County Planning Commission
216 SE Fourth Street
Pendleton, OR 97801

Dear Planning Commissioners,

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Yours truly,

Don & Marilyn DeFore

00004339

RECEIVED

FEB 09 2011

UMATILLA COUNTY
PLANNING DEPARTMENT

3 February 2011

Umatilla County Planning Commission
216 SE Fourth Street
Pendleton, OR 97801

Dear Planning Commissioners,

There has been lots of discussion about how far wind turbines should be from homes. I have read quite a bit lately about noise produced by wind turbines. The wind industry's standard response that "a wind turbine is no louder than a refrigerator" would be laughable if there weren't so many people's lives destroyed by the level of sounds and vibrations they really produce.

There are many articles from around the world published in mainstream newspapers and magazines that document the real effects industrial wind turbines noise and vibrations have on people and animals. It would be well worth your time to research information outside the wind industry's library of misinformation.

England, Canada, Denmark, New Zealand, and the United States to name a few places, have documented disputes and problems with wind turbines being placed too close to where people live. To decrease the possibility of similar problems here, standards need to be put in place to protect people and their property and way of life by erring on the side of too much distance rather than too little.

A distance of 4 to 6 miles is not unreasonable when it is your job to protect the people of Umatilla County and I encourage you to make this decision for all zoning in the County.

Sincerely,

 (Todd Davis)

53108 Appleton Rd

U-F OR 97862

00004340

RECEIVED

MAR 03 2011

UMATILLA COUNTY
PLANNING DEPARTMENT

3 February 2011

Umatilla County Planning Commission
216 SE Fourth Street
Pendleton, OR 97801

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Sincerely,

Thomas Walice

00004341

RECEIVED

FEB 24 2011

UMATILLA COUNTY
PLANNING DEPARTMENT

3 February 2011

Umatilla County Planning Commission
216 SE Fourth Street
Pendleton, OR 97801

Dear Planning Commissioners,

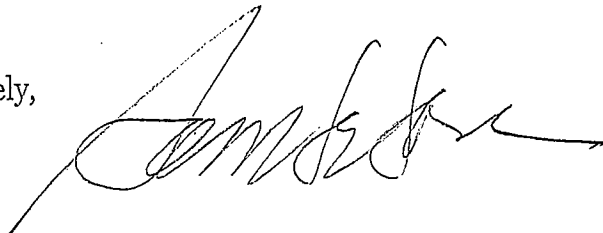
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Sincerely,



Sam Letore
54103 Letore Rd
M-F OR. 97862

541-938-6600

00004342

RECEIVED

FEB 22 2011

UMATILLA COUNTY
PLANNING DEPARTMENT

3 February 2011

Umatilla County Planning Commission
216 SE Fourth Street
Pendleton, OR 97801

Dear Planning Commissioners,

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A distance of ^{15 miles is not} ~~4 to 6 miles is not~~ unreasonable when it is your job to protect the people of Umatilla County and I encourage you to make this decision for all zoning in the County.

Sincerely,

Leona Shumway
415 Parkview
Melton Freewater, OR 97862

00004343

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR UMATILLA COUNTY

}

AFFIDAVIT

Legal Notices

energy projects

Copies of documents pertaining to the work session are available for inspection at no cost 7 days prior to the work session, and will be duplicated at printing cost. Materials are

Legal Notices

also available 7 days prior to the work session on the Umatilla County Planning Department website.

Opportunity to voice opinions to the above proposal, or to ask questions, may be provided at the

Legal Notices

discretion of the Planning Commission.

DATED THIS 1ST DAY OF JANUARY, 2010
UMATILLA COUNTY PLANNING DEPARTMENT
January 1, 2011

EO-5046/HH-4836
NOTICE OF
UMATILLA
COUNTY
PLANNING
COMMISSION
WORK SESSION

YOU ARE HEREBY NOTIFIED of a Public Work Session to be held by the Umatilla County Planning Commission on Thursday, January 13, 2011, at 4:00 PM in the Media Room of the Umatilla County Justice Center, 4700 NW Pioneer Place, Pendleton, Oregon.

WORK SESSION
BUSINESS:

*Discussion on code amendments to Conditional Use Section 152.616 (HHH) of the Umatilla County Development Code, pertaining to standards for large scale commercial wind en-

pose and
East Oregonian,
Pendleton

STATE OF OREGON

County of Umatilla } ss

I, Dayle Stinson being
say that I am the principal clerk of the
a newspaper of general circulation, a
ORS 193.010 and 193.020; printed
in the aforesaid county and state; the

EO-5046 NOTICE OF WORK

a printed copy of which is hereto annexed in the
entire issue of said newspaper for
consecutive issues in the following issue

held in the
and
pendleton

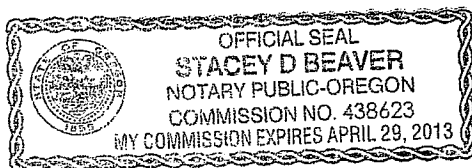
JANUARY 1, 2011

Subscribed and sworn to before me on this, 13 day of

JANUARY 2011

Dayle Stinson

Stacey D Beaver
Notary Public of Oregon



00004344

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR UMATILLA COUNTY

}

AFFIDAVIT OF PUBLICATION

STATE OF OREGON

County of Umatilla } ss

I, Dayle Stinson being duly sworn, depose and say that I am the principal clerk of the publisher of the Hermiston Herald, a newspaper of general circulation, as defined by ORS 193.010 and 193.020; printed and published at Pendleton in the aforesaid county and state; that the

HH-4836 NOTICE OF WORK SESSION

a printed copy of which is hereto annexed; was published in the entire issue of said newspaper for 1 successive and consecutive issues in the following issues:

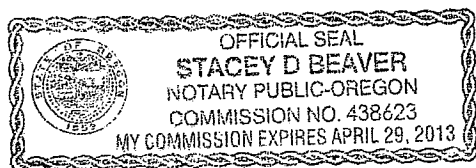
JANUARY 1, 2011

Subscribed and sworn to before me on this, 13 day of

JANUARY 2011

Dayle Stinson

Stacey D Beaver
Notary Public of Oregon



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WORK SESSION
BUSINESS:

*Discussion on code amendments to Conditional Use Section 152. 616 (HHH) of the Umatilla County Development Code, pertaining to standards for large scale commercial wind energy projects.

Copies of documents pertaining to the work session are available for inspection at no cost 7 days prior to the work session, and will be duplicated at printing cost. Materials are also available 7 days prior to the work session on the Umatilla County Planning Department website.

Opportunity to voice opinions to the above proposal, or to ask questions, may be provided at the discretion of the Planning Commission.

DATED THIS 1ST DAY OF JANUARY, 2010
UMATILLA COUNTY PLANNING DEPARTMENT
January 1, 2011

00004345



RECEIVED

NOV 18 2010

UMATILLA COUNTY
PLANNING DEPARTMENT

RES America Developments Inc.
700 SW Taylor Street
Suite 210
Portland, OR 97205
Phone: 503 219 9000
Fax: 503 219 9009
Email: info@res-americas.com
Web: www.res-americas.com

Umatilla County Courthouse
Department of Land Use Planning
Planning Commissioners
c/o Tamra Mabbot, County Planning Director
216 SE 4th Street
Pendleton, OR 97801

**RE: Draft Amendment to UCDC 152.616 (HHH) regarding Commercial Wind Power
Generating Facility Siting Standards**

Dear Planning Commissioners:

I am writing in response to the proposed amendments to UCDC 152.616 (HHH). RES America Developments Inc. (RES) has a strong interest in siting standards throughout the U.S. where wind resources may be utilized for energy generation. While RES understands the need to update and modify standards and codes as necessary, changes that create a more onerous process than proven standards applied by other governing authorities warrant careful consideration. Specifically, standards that exceed Oregon Administrative Rules as applied by Oregon's Energy Facility Siting Council (EFSC) should be thoroughly evaluated at both the County and State levels.

Particularly of interest are the proposed bonding or surety requirements and setback requirements that exceed current EFSC standards. We respectfully request that Umatilla County consider the proposed modifications included in the attached draft.

Umatilla County has a long history of utilizing wind for a variety of purposes and we hope that energy generation will remain on that list for a long time into the future. RES believes in responsible development that directly benefits the surrounding community and is compatible with the existing environment and uses. We look forward to working with Umatilla County and appreciate the opportunity to comment on this proposed amendment.

Sincerely,

A handwritten signature in black ink, appearing to be 'S/C Bell'.

Sean C. Bell
Development Manager
sean.bell@res-americas.com
(503) 318-0619

00004346

CONDITIONAL USES

Sub-Sections

<u>152.610</u>	<u>Definition</u>
<u>152.611</u>	<u>New or altered conditional uses: conformance with requirements: performance bonds</u>
<u>152.612</u>	<u>Procedure for taking action on a conditional use application</u>
<u>152.613</u>	<u>Time limit on a conditional use permit</u>
<u>152.614</u>	<u>Limit on reapplication</u>
<u>152.615</u>	<u>Additional restrictions</u>
<u>152.616</u>	<u>Standards for review of conditional uses and land use decisions</u>
<u>152.617</u>	<u>Standards for review of conditional uses and land use decisions on EFU zoned land</u>

§ 152.610 DEFINITION.

For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

CONDITIONAL USES. Activities that are similar to other activities permitted within a zone, but are not entirely compatible with the permitted uses or purpose and intent of the zone, or compatible with surrounding land uses on adjacent lands in another zoning district.

LAND USE DECISION. Includes a final decision by a local government concerning the adoption, amendment or application of the statewide planning goals, a comprehensive plan provision, a land use regulation or a new land use regulation.

(A Land Use Decision does not include:

(1) a decision of a local government which is made under land use standards which do not require interpretation or the exercise of policy or legal judgment; (2) a decision of a local government which approved or denies a building permit issued under clear and objective land use standards.) (Pursuant to ORS 197.015 (10))

(Ord. 83-4, passed 5-9-83; Ord. 2005-02, passed 1-5-2005)

Proposed Amendments to UCDC Sections 152.612, 152.615 & 152.6126 (HHH)

§ 152.611 NEW OR ALTERED CONDITIONAL USES; CONFORMANCE WITH REQUIREMENTS; PERFORMANCE BONDS.

(A) Conditional uses listed in this chapter may be permitted, enlarged or altered contingent upon appropriate authorization, in accordance with the standards and procedures set forth in this subchapter.

(B) In permitting a new conditional use or the alteration of an existing conditional use, the appropriate planning authority may impose conditions, which are considered necessary to protect the best interests of the surrounding area or the county as a whole.

(C) In the case of a use existing prior to the effective date of this chapter and classified in this chapter as a conditional use, any change in use or in lot area or an alteration of structure shall conform with the requirements for a conditional use.

(D) The county may require an applicant to furnish the county with a performance bond or such other form of assurance that the county deems necessary to guarantee development in accordance

with the standards established and conditions attached in granting a conditional use.

(Ord. 83-4, passed 5-9-83; Ord. 2005-02, passed 1-5-2005)

**§ 152.612 PROCEDURE FOR
TAKING ACTION ON A
CONDITIONAL USE
APPLICATION.**

The procedure for taking action on a conditional use or land use decision application shall be as follows:

(A) A property owner or the Planning Commission may initiate a request for a conditional use by filing an application ~~with the secretary of the Planning Commission~~, using forms prescribed pursuant to § 152.767;

(B) A conditional use and land use decision application shall be processed via administrative review per § 152.769;

(C) A conditional use permit or land use decision will not be approved unless the proposed use of the land will be in conformance with the County Comprehensive Plan;

(D) An applicant granted a conditional use permit or land use decision must obtain a county zoning permit ~~for each tax lot~~ before commencing construction. [NOTE: zoning permits should be treated the same as conditional use permits and land use decisions, and should be based on the project site boundary, not on the basis of tax lots].

(E) A conditional use or land use decision may be referred to the Umatilla County Planning Commission if the Planning Director deems circumstances warrant such additional review and

Proposed Amendments to UCDC Sections 152.612, 152.615 & 152.6126 (HHH)

consideration, except for a conditional use or land use decision issued under ORS 469.401(3). [NOTE: ORS 469.401(3) requires a county, after EFSC issues a site certificate, to issue the relevant conditional use permit or land use decision without hearings or other proceedings upon proper application and payment of fees.]

(Ord. 83-4, passed 5-9-83; Ord. 2005-02, passed 1-5-2005)

**§ 152.613 TIME LIMIT ON A
CONDITIONAL USE
PERMIT.**

(A) A conditional use permit shall be void after one year or such lesser time as the permit may specify unless 20% of the total estimated project cost has occurred or the proposed use has occurred. However, the Planning Director or the proper planning authority may extend authorization for an additional period not to exceed one year, on request from the applicant. The total time allowed shall not exceed two years from the original approval date.

(B) If delay in establishing the use is demonstrably due to a delay by a state or federal agency in issuing a required permit, at no fault of the applicant, the Planning Director or a Designee of the Planning Director may extend the time limit imposed by division (A) of this section for a period not to exceed one year following issuance of the state or federal agency permit. The applicant shall establish that state or federal permits have not yet been issued, and that the delay has not been caused by the applicant.

(C) Time Limitation on Transportation-Related Conditional Use Permits. Authorization of a conditional use shall be void after a period specified by the

applicant as reasonable and necessary based on season, right-of-way acquisition, and other pertinent factors. This period shall not exceed three years.

(Ord. 83-4, passed 5-9-83; Ord. 2005-02, passed 1-5-2005)

§ 152.614 LIMIT ONE APPLICATION.

No application for a conditional use permit shall be considered within one year of the denial of such a request, unless in the opinion of the Hearings Officer, Planning Director or the appropriate planning authority new evidence or a change of circumstances warrant it.

(Ord. 83-4, passed 5-9-83; Ord. 2005-02, passed 1-5-2005)

§ 152.615 ADDITIONAL CONDITIONAL USE PERMIT RESTRICTIONS.

In addition to the requirements and criteria listed in this subchapter, the Hearings Officer, Planning Director or the appropriate planning authority may impose the following conditions upon a finding that circumstances warrant such additional restrictions:

(A) Limiting the manner in which the use is conducted, including restricting hours of operation and restraints to minimize such ~~a~~ environmental effects as noise, vibration, air pollution, water pollution, glare or odor;

(B) Establishing a special yard, other open space or lot area or dimension;

(C) Limiting the height, size or location of a building or other structure;

(D) Designating the size, number, location and nature of vehicle access points;

(E) Increasing the required street dedication, roadway width or improvements within the street right of way;

(F) Designating the size, location, screening, drainage, surfacing or other improvement of a parking or loading area;

(G) Limiting or otherwise designating the number, size, location, height and lighting of signs;

(H) Limiting the location and intensity of outdoor lighting and requiring its shielding;

(I) Requiring diking, screening, landscaping or other methods to protect adjacent or nearby property and designating standards for installation and maintenance.

(J) Designating the size, height, location and materials for a fence;

(K) Protecting and preserving existing trees, vegetation, water resources, air quality resources, wildlife habitat, or other significant natural resources [NOTE: the term "quality" is consistent with the DEQ regulatory scheme];

(L) Parking area requirements as listed in §§ 152.560 through 152.562 of this chapter.

(Ord. 83-4, passed 5-9-83; Ord. 2005-02, passed 1-5-2005)

§ 152.616 STANDARDS FOR
REVIEW OF
CONDITIONAL USES
AND LAND USE
DECISIONS.

The following standards shall apply for review by the Hearings Officer, the Planning Director or appropriate planning authority of the specific conditional uses and land use decisions listed in this chapter:

(HHH) Commercial Wind Power Generation Facility.

(1) The procedure for taking action on the siting of a facility is a request for a conditional use. A public hearing pursuant to Sections ~~152.750-755~~ and 152.771 shall be held to determine if the applicant meets the siting requirements for a Wind Power Generation Facility. The requirement for a hearing and any other procedure, including pre-application conference and application requirements, will not apply to proposed facilities for which the Oregon Energy Facility Siting Council (EFSC) is making the land use decision. [NOTE: clarifying that EFSC jurisdictional projects are subject only to the County's applicable substantive, and not procedural, requirements.]

[Former # (2) moved to # (5)]

New→# (2) A pre-application meeting(s) is required. The applicant will be expected to bring preliminary information about the application components described in Application Requirement (5) below. County staff will arrange the meeting and will invite local, state, federal and other agency representatives and individuals with pertinent expertise in natural resources, to participate. The purpose of the pre-application meeting will be to identify potential impacts and opportunities and to

advise on the level of detail required in each of the application components described in (5) below, and establish technical oversight requirements for monitoring plans. This pre-application requirement does not apply to projects being sited through EFSC.

(3) Umatilla County may impose clear and objective conditions in accordance with the County Comprehensive Plan, County Development Code and state law, which Umatilla County considers necessary to protect the best interests of the surrounding area, or Umatilla County as a whole.

(4) Prior to commencement of any construction, all other necessary pre-construction permits shall be obtained, including but not limited to a conditional use permit, e.g. Umatilla County Zoning Permit, and road access and other permits from the Umatilla County Public Works Department, and from the Oregon Department of Transportation; other permits from state agencies with the requisite jurisdiction.

(2) (5) Application Requirements. The following information shall be provided as part of the local land use application. For projects sited through EFSC, these application requirements do not apply as applicable substantive criteria and the applicant must provide as a part of the application for site certificate information consistent with the requirements in OAR chapter 345, division 21.

(A) (1) A general description of the proposed Wind Power Generation Facility;

(2) A tentative construction schedule;

(3) The legal description of the property on which the facility will be located; and

(4) Identification of the general area for all components of the proposed Wind Power Generation Facility;

(B) A including a map showing the location of components.

(C) ~~(1)~~
~~Evidence of wind monitoring data qualifying the wind resources within the project boundary. [NOTE: this would require the applicant to provide proprietary business information. It is a business decision for an applicant to decide whether wind resources are adequate to support a commercially viable project.]~~

(2)
~~Evidence of active utility transmission interconnect requests and/or process and description of same, and [NOTE: this would require the applicant to provide proprietary business information. It is a business decision for an applicant to move forward with a land use application independent from an interconnection request]~~

(13) Route and plan for transmission facilities connecting the project to the grid.

(B)(D) Identification of potential conflicts, if any, with:

(1) Accepted forest practices and farming or ranching practices as defined in ORS 215.203(2) (e) on adjacent lands devoted to farm and/or forest uses; (2) Other resource operations and practices on adjacent lands except for ~~except for~~ including wind power generation facilities

on such adjacent lands. [NOTE: no standard requires applicant to evaluate potential impacts to existing operating wind facilities so it is unclear why this analysis would be provided. Treatment of wake impacts should be addressed by the developer and agreed-upon setbacks should be negotiated outside of the permit process.] and (3) Accepted farm or forest practices on surrounding EFU/GF or NR land, including the nature and the extent of the impact of the proposed facility on the cost of such practices.

(C)(E) A Transportation Plan, with proposed recommendations, if any, reflecting the guidelines provided in the Umatilla County Transportation System Plan (TSP) and the transportation impacts of the proposed Wind Power Generation Facility upon the local and regional road system during and after construction, after consultation with Umatilla County Public Works Director. The plan will designate the size, number, location and nature of vehicle access points.

(D)(F) A fish, wildlife and avian impact monitoring plan. The avian monitoring plan shall be designed and administered by the applicant's wildlife professionals. [See HHH (2), above] For projects being sited by EFSC, compliance with EFSC's avian monitoring requirements will be deemed to meet this requirement. The plan shall include the formation of a technical oversight committee to review the plan, and consist of the following persons:

(1) The landowners/farm tenants.

(2) Facility owner/operator representative. (Chair)

(3) Oregon Department of Fish and Wildlife representative, if the agency chooses to participate.

(4) Two Umatilla County residents with no direct economic interest in the project and recommended by the applicants for appointment by the Umatilla County Board of Commissioners.

(5) U.S. Fish and Wildlife representative, if the agency chooses to participate.

(6) Umatilla County Planning Commission member. ~~At the request of applicant, this committee requirement may be waived or discontinued by the County.~~

[Former (2) (E) moved to (6) (I)]

~~(F)(G) An fire prevention and emergency management and operations response plan for all phases of the life of the facility. The plan shall address the following: address the major concerns associated with the terrain, dry conditions, and fire hazards, limited access, and water quality as needed, addressing both normal and extraordinary conditions.~~

(1) The plan shall identify the fire district or fire department and verify that the district/department has the appropriate equipment, training and personnel to respond to fires, spills and high rise rescue. If the local fire district or department does not have adequate high rise rescue capability, the applicant shall provide a plan for providing such response in case of an emergency

~~(2) A spill prevention control and counter measure plan (SPCC) shall be provided. [NOTE: this is something that is not developed until closer to operations and would not be available at the time of the application. Plus, any need for a SPCC would be satisfied through applicable state permitting.]~~

(23) The plan shall identify the An Operations and Maintenance Plan detailing expected work force, local response capability, (contract or otherwise), controlled access, and in the case of transmission lines, proof of emergency response capability in accordance with OPUC rules governing operation and maintenance of such lines.

(34) The plan shall identify measures An Emergency Response Plan for responding to natural and/or man made emergencies or disasters.

(G)(H) An revegetation and erosion control plan, developed in consultation with the Umatilla County Public Works Department, Soil and Water Conservation District, Watershed Council, the Oregon Agricultural Water Quality Management Program (administered by the Oregon Department of Agriculture), the Department of Environmental Quality and the Confederated Tribes of the Umatilla Indian Reservation. [NOTE: is there an issue in the county that requires involving all these parties? This seems like a very intensive requirement that could take a significant amount of time to achieve. Such parties will have an opportunity to comment during the local land use proceeding, during which time any concern over the revegetation plan could be raised and addressed.] At a minimum, The plan should include the seeding of all road cuts or related bare road areas as a result of all

construction, demolition and rehabilitation with an appropriate mix of native vegetation or vegetation suited to the area. This requirement will be satisfied if the applicant has an NPDES (National Pollution Discharge Elimination System) permit. The plan should also address monitoring during and post construction. This requirement will be satisfied if the applicant is seeking an NPDES (National Pollution Discharge Elimination System) permit

(H)(I) A weed control plan addressing prevention and control of all Umatilla County identified noxious weeds and other weeds such as thistles which distribute weed seed while blowing across nearby lands following maturity, directly resulting from the Wind Power Generation Facility during preparation, construction, operation and demolition/rehabilitation.

(I) — A socioeconomic impact assessment of the ~~Wind Power Generation Facility, evaluating such factors as, but not limited to, the project's effects upon the social, economic, public service, cultural, visual, and recreational aspects of affected communities and/or individuals. These effects can be viewed as either positive or negative. In order to maximize potential benefits and to mitigate outcomes that are viewed as problematic, decision makers need information about the socioeconomic impacts that are likely to occur.~~

[New (6) (J) below moved from (2) (K)]

(K)(J) Information pertaining to the impacts of the Wind Power Generation Facility on:

(1)
Wetlands and Streams;

(2) Fish, Avian and Wildlife (all potential species of reasonable concern), including but not limited to federally listed threatened and endangered species);

(3) Fish, Avian and Wildlife Habitat;

(4)
Criminal Activity (vandalism, theft, trespass, etc). Include a plan and proposed actions, if any, to avoid, minimize or mitigate negative impacts.

[New (5) (K) below moved from (2) (L)]

(L)(K) A dismantling and decommissioning plan of all components of the Wind Power Generation Facility, as provided in §152.616 (HHH) (7).

(5) (6)
Standards/Criteria of Approval. The following requirements and restrictions apply to the siting of a facility:

(A)
Setbacks.

(1) ~~The Wind Power Generation Facility shall be on property zoned EFU/GF or NR, and a~~ No portion of the facility turbines/towers shall be within 3,520 feet of properties zoned residential use or designated on the Comprehensive Plan as residential. (For clarification purposes of this section, EFU/GF/NR zones are not considered zoned for residential use.)

(2) ~~Turbines/towers must shall not be set back at least constructed closer than 1,320 feet one-half mile of from an existing residence, measured from the centerline of the turbine tower to the center of the nearest residence existing at the time of tower~~

construction, unless a written waiver is obtained from the landowner and that shall be recorded with the County deed records.

[NOTE: the suggested setback is consistent with EFSC's conditions of approval for wind facilities. See Helix Site Certificate Condition 43(c).]

(3) New above-ground electrical transmission lines associated with the facility project shall not be constructed closer than 2500 feet to an existing residence, measured from the line to the center of the nearest residence existing at the time of line construction, unless a ~~without~~ prior written waiver is obtained from the landowner approval of the homeowner, said written approval to and be recorded with the County deed records, or unless the: Exceptions to the 500 foot setback include transmission lines are placed in public right of way. Note: Transmission and distribution lines constructed and owned by the applicant what are not within the project boundary are subject to a separate land use permit. [NOTE: the suggested language mirrors the language for the residential setback the facility for consistency and is consistent with EFSC's conditions of approval. Additionally, the facility and all related or supporting facilities are located within the facility site boundary and therefore should be subject to only one land use decision.]

(4) Public Safety. Turbines/towers must be setback from any public road right-of-way way a minimum distance of 110 percent of maximum two times the overall total tower to blade tip height, measured from the centerline of the turbine tower to the nearest edge of any public right-of-way. [NOTE: this suggested language is consistent with EFSC's conditions of

approval for wind facilities. See Helix Site Certificate Condition 43(b)]

E)(5) The turbines/towers shall be of a size and design to help minimize reduce noise or other detrimental effects. At a minimum, (The facility shall be designed and operated within the limits of the noise standards established by DEQ rule the State of Oregon. A noise study may be required to confirm that the facility will be verify downwind noise impacts in all wind directions are in compliance with DEQ the noise standards.

(B) Reasonable efforts shall be made to design blend the wind facility turbines/towers to minimize adverse visual features with the natural surrounding area in order to minimize impacts upon open space and the natural landscape. [NOTE: this suggested language is consistent with the EFSC standard in OAR 345-024-0015.]

(C) The Development and Operation of the Facility will reasonably Reasonable efforts shall be taken to Reasonable efforts shall be taken to protect and to preserve existing trees, vegetation, water resources, wildlife, wildlife habitat, fish, avian or and other significant natural resources. Compliance with this standard may require mitigation and/or submission of an annual monitoring report. [NOTE: suggest keeping the original code language, or otherwise require an analysis of significant adverse impacts to provide more certainty of what the code criterion requires.]

(D) The turbine towers shall be designed and constructed to discourage bird nesting and wildlife attraction.

[Former (5) (E) was moved to (6) (A) (5)]

(F)(E)
Private access roads constructed as a part of the facility established and controlled by the Wind Power Facility shall may be gated to protect the facility and property owners from illegal or unwarranted trespass, and illegal dumping and hunting.

(G)(F)
Where practicable the electrical cable collector system shall be installed underground, at a minimum depth of 3 feet; elsewhere the cable collector system shall be installed to prevent adverse impacts on agriculture operations.

(H)(G)
Required permanent maintenance/operations buildings shall be located off-site in one of Umatilla County's appropriately zoned areas, except that such a building may be constructed on-site if:

- 1) The building is designed and constructed generally consistent with the character of similar buildings used by commercial farmers or ranchers, and
- 2) The building will be removed or converted to farm use upon decommissioning of the Wind Power Generation Facility consistent with the provisions of § 152.616 (HHH) (7).

(I)(H)
A Wind Power Generation Facility shall comply with the Specific Safety Standards for Wind Facilities delineated in OAR 345-024-0010 (as adopted at time of application).

[New (6) (I) below, moved from (2) (E)]

(E)(I)
A Covenant Not to Sue with regard to generally accepted farming practices shall be recorded with the County. Generally accepted farming practices shall be consistent with the definition of Farming Practices under ORS 30.930. The applicant shall covenant not to sue owners, operators, contractors, employees, or invitees of property zoned for farm use for generally accepted farming practices.

(J)
Roads.

(1) A Road Use Agreement with Umatilla County regarding the impacts and mitigation on county roads and mitigation for the impacts shall be required as a condition of approval.

(2) Design specifications Layout and design of the facility project roads shall comply with county standards and be reviewed and approved by the county road department prior to construction. [NOTE: the county will have the opportunity to review and approve the specific road design specifications when issuing building permits.]

[New (6) (K) below, moved from (2) (J)]

(J)(K)
Demonstrate All Wind Power Generation Facilities must show compliance with the standards found in OAR 660-033-0130 (37).

(
6) To the extent feasible, the county will accept information presented by an

application for an EFSC proceeding in the form and on the schedule required by EFSC.

~~(7)(L) Submit a plan for The applicants dismantling of uncompleted construction and/or decommissioning plan for and/or re-powering of the Wind Power Generation Facility shall include the following information: as described in §152.616 (HHH) (7). [NOTE: this standard is duplicative of what is required under new subsection (5)(K) above as a part of the application. For projects sited through EFSC, this information is included in Exhibit W. If included as a standard or criterion of approval, it is unclear what is required to demonstrate compliance.]~~

[New (6) (M) below, moved from # (8)]

~~(LM)(8)) A surety bond, letter of credit, or other financial assurance mechanisms acceptable to the County or letter of credit shall be established to cover for the cost of dismantling of uncompleted construction and/or decommissioning of the facility, and site restoration rehabilitation pursuant to (See § 152.616 (HHH) (7) & (8)). For projects being sited through EFSC, the financial assurance required by EFSC will be deemed to meet this requirement. [NOTE: the code should provide sufficient flexibility to allow for various forms of financial assurances depending on what is available in the future. Additionally, financial assurance satisfying EFSC's standards should satisfy the substantive requirement of this code provision] For projects being sited by the State of Oregon's Energy Facility Siting Council (EFSC), the bond or letter of credit required by EFSC will be deemed to meet this requirement.~~

[New (6) (N) below, moved from # (9)]

~~(9)(M) N The actual latitude and longitude location or Stateplane NAD 83(91) coordinates of each turbine tower, connecting lines, operations and maintenance O & M building, substation and transmission lines, shall be provided to Umatilla County within 90 days of starting once commercial electrical production begins.~~

~~(6) An Operating and Facility Maintenance Plan shall be submitted and subject to county review and approval. [NOTE: this already seems to be a requirement imposed under the emergency operation plan under subsection (5) above. If included as a standard or criterion of approval, it is unclear what is required to demonstrate compliance]~~

[New (6) (P) below, moved from (10)]

~~(10)(P) A summary of as-built construction changes in the facility from the original plan, if any, shall be provided by the owner/operator, within 90 days of starting electrical production. [NOTE: as revised, how is this requirement different than what is required as a part of subsection (N) above? Also, this seems to be a matter that would be addressed through the building permit process, not the land use process and is therefore unnecessary to include as a standard.]~~

[New (7) below was formerly (7) (A)]

~~(7)(A) A plan for dismantling and/or decommissioning that provides for completion of dismantling or decommissioning of the facility without significant delay and protects public health,~~

safety and the environment in compliance with the restoration requirements of this section. For projects sited through EFSC, compliance with EFSC's financial assurance and decommissioning standards shall be deemed to be in compliance with the dismantling and decommissioning requirements of this § 152.616 (HHH)(7) & (8). [NOTE: this suggested language from subsection (8)(D) and was moved here for clarity]

(B)(A)

A description of actions the facility owner proposes to take to restore the site to a useful, non-hazardous condition, including options for post-dismantle or decommission land use, information on how impacts on fish, wildlife, avian populations and the environment would be minimized during the dismantling or decommissioning process, and measures to protect the public against risk or danger resulting from post-decommissioning site conditions in compliance with the requirements of this section.

(C)(B)

A current detailed cost estimate, a comparison of that estimate with present funds the bond set aside for dismantling or decommissioning, and a plan for assuring the availability of adequate funds for completion of dismantling or decommissioning. The cost estimate will be reviewed and be updated by the facility owner/operator on a 3 5-year basis, unless material changes have been made in the overall facility that would materially increase or decrease these costs. If so, the report must be revised within 120 days of completion of such changes.

(D)(C)

Restoration of the site shall consist of the following:

1) Dismantle turbines, towers, pad-mounted transformers, meteorological towers and related aboveground equipment. All concrete turbine pads shall be removed to a depth of at least three feet below the surface grade.

2) The underground collection and communication cables need not be removed if at a depth of three feet or greater. These cables at a depth of three feet or greater can be abandoned in place if they are deemed not a hazard or interfering with agricultural use or other consistent resource uses of the land.

3) Gravel shall be removed from areas surrounding turbine pads.

4) Private A access roads shall be removed by removing gravel and restoring the surface grade and soil, unless the landowner elects to maintain the private access roads. [NOTE: often-times landowners want to keep the private access roads for better access to fields]

5) After removal of the structures and roads, the area shall be graded as close as is reasonably possible to its original contours and the soils shall be restored to a condition compatible with farm uses or consistent with other resource uses. Re-vegetation shall include planting by applicant of native plant seed mixes, planting by applicant of plant species suited to the area, or planting by landowner of agricultural crops, as appropriate, and shall be consistent with the weed control plan approved by Umatilla County.

6) Roads, cleared pads, fences, gates, and improvements may be left in place if a letter from the land owner is submitted to Umatilla County indicating said land owner will be responsible for, and will maintain said roads and/or facilities for farm or other purposes as permitted under applicable zoning.

[New # (8) below was formerly (7) (E)]

~~(8)(E)~~ The applicant (facility owner/operator) shall submit to Umatilla County proof of financial assurance a bond or letter of credit acceptable to the County, in the amount of the decommissioning fund naming Umatilla County and the landowner as beneficiary or payee. For projects sited through EFSC, compliance with EFSC's financial assurance and decommissioning standards shall be deemed to be in compliance with the dismantling and decommissioning requirements of this § 152.616 (HHH)(7) & (8). [NOTE: this suggested language is from subsection (8)(D) and was moved here for clarity. Also, using the term "financial assurance" provides flexibility for the type of mechanisms that may be used]

~~(A)(1)~~ The calculation of present year dollars shall be made using the U.S. Gross Domestic Product Implicit Price Deflator as published by the U.S. Department of commerce, Bureau of Economic Analysis, or any successor agency (the Aindex.@). The amount of the financial assurance bond or letter of credit account shall be changed up or down if the change in the Index moves by more than change if the Index changes be increased at such time when the cumulative percentage increase in the Index exceeds 10 percent from the last change, and then the amount shall be increased or decreased by the cumulative percentage increase. If at

any time the Index is no longer published, Umatilla County and the applicant shall select a comparable calculation of present year dollars. The amount of the financial assurance bond or letter of credit account shall be pro-rated within the year to the date of decommissioning. [NOTE: using the term "financial assurance" provides flexibility for the type of mechanisms that may be used]

~~(B)(2)~~ The decommissioning financial assurance bond fund shall not be subject to revocation or reduction before decommissioning of the Wind Power Generation Facility; and restoration rehabilitation of the project site/s. [NOTE: using the term "financial assurance" provides flexibility for the type of mechanisms that may be used]

~~(C)(3)~~ The facility owner/operator shall describe the status of the decommissioning financial assurance bond fund in the annual report submitted to the Umatilla County.

~~(F)~~ ——— If any disputes arise between Umatilla County and the landowner on the expenditure of any proceeds from the bond or the letter of credit, either party may request non-binding arbitration. Each party shall appoint an arbitrator, with the two arbitrators choosing a third. The arbitration shall proceed according to the Oregon statutes governing arbitration. The cost of the arbitration (excluding attorney fees) shall be shared equally by the parties.

~~(D)(G)~~ For projects sited by EFSC, compliance with EFSC's financial assurance and decommissioning standards shall be

~~deemed to be in compliance with the dismantling and decommissioning requirements of this § 152.616 (HHH)(7) & (8).~~ [NOTE: suggest moving to subsection (7) and (8) introductions for clarity]

[Former # (8) moved to (6) (M)]

[Former # (9) moved to (6) (N)]

[Former # (10) moved to (6) (P)]

[New # (9) below, moved from # (12)]

(9)(12) Within 120 days after the end of each calendar year the facility owner/operator shall provide Umatilla County an annual report including the following information:

(A)
Energy production by month and year.

(B)
Non-proprietary information about wind conditions, (e.-g., monthly averages, high wind events, bursts).

(C)
A summary of changes to the facility that do not require facility requirement amendments.

(D)
A summary of the fish, wildlife and avian monitoring program – bird injuries, casualties, positive impacts on area wildlife and any recommendations for changes in the monitoring program.

(E)
Employment impacts to the community and Umatilla County during and after construction.

(F)
Success or failures of weed control practices.

(G)
Status of the decommissioning financial assurance bond fund.

(H)
Summary comments –

1) ~~any~~ Problems with the projects, any adjustments needed, or any suggestions.

2) The annual report requirement may be modified discontinued or required at a less frequent schedule by the County, as warranted by project conditions, circumstances and compliance. The reporting requirement and/or reporting schedule shall be reviewed, and possibly altered, at the request of the facility owner/operator. For facilities under EFSC jurisdiction and for which an annual report is required, the annual report to EFSC satisfies this requirement.

[New # (10) below, moved from # (11)]

(10) (11) (A)
The Wind Power Generation Facility requirements shall be facility specific, but can be amended as long as the facility does not exceed the boundaries of the Umatilla County conditional use permit where the original facility was constructed.

(B)
An amendment to the conditional use permit shall be subject to the standards and procedures found in § 152.611. For projects sited through EFSC, a conditional use permit amendment is triggered under ORS 469.401(3) only if EFSC approves a site certificate amendment. Otherwise,

Additionally, an amendment shall be required if the proposed facility changes would:

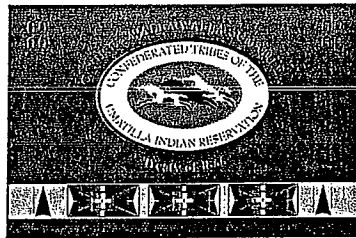
1) ~~Increase the land area taken out of agricultural production by an additional 20 acres or more;~~ (2) ~~Increase the land area taken out of agricultural production sufficiently to trigger taking a Goal 3 exception;~~ (3) ~~Require an Expansion~~ Expand of the established facility boundaries; (2) (4) ~~Increase the number of towers;~~ (3) (5) ~~Increase generator output by more than 25 percent relative to the generation capacity authorized by the initial permit due to the repowering or upgrading of power generation capacity;~~ (4) ~~Changes to project private roads or access points to be established at or inside the project boundaries.~~ [NOTE: as long as a facility layout, such as a road route, is changed within the approved site boundary, no amendment should be required]

Notification by the facility owner/operator to the Umatilla County Planning Department of changes not requiring an amendment such as a change in the project owner/operator of record, a change in the emergency plan or change in the maintenance contact are ~~encouraged but are not encouraged, but not required to be reported immediately.~~ An amendment to a Site Certificate issued by EFSC will be governed by the rules for amendments established by EFSC. [NOTE: requiring immediate notification is subjective. The current code language seems sufficient.]

[# (12) moved to # (9)]

(Ord. 83-4, passed 5-9-83; Ord. 2002-02, passed 5-20-2003; Ord. 2005-02, passed 1-5-2005; Ord. 2009-09, passed 12-8-09)

Confederated Tribes of
Umatilla Indian Reservation
Department of Natural Resources
Administration



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RECEIVED

November 18, 2010

NOV 22 2010

Tamra Mabbott
County Planning Director
Umatilla County, Department of Land Use Planning
216 SE 4th Street
Pendleton, Oregon 97801

UMATILLA COUNTY
PLANNING DEPARTMENT

RE: Umatilla County Planning Commission Public Hearing to modify siting standards of UCDC
152.616 (HHH) Commercial Wind Power Generation Facility

Dear Ms. Mabbott,

The Confederated Tribes of the Umatilla Indian Reservation (CTUIR), Department of Natural Resources (DNR) thanks you for the opportunity to provide comments on Umatilla County's proposed modified siting standards of UCDC 152.616 (HHH) Commercial Wind Power Generation Facility. The CRPP would like to address historic, cultural and archaeological resources and the potential affects wind power generating facilities can have on these resources.

The Columbia Plateau has seen a dramatic growth in wind power generation development in the last five years. Due to regulatory differences, projects were evaluated at varying levels of review. For instance, projects below 104MW are reviewed under county processes and larger projects are reviewed by the Oregon Energy Facility Siting Council (EFSC). This has led to vastly different review processes among counties and an attempt by developers to design projects so that fewer are reviewed under the EFSC process. In turn, this has led to confusion among federal, state and tribal natural resource managers as projects occur in different jurisdictions.

The majority of wind power generating facilities are located on private land however there has been an increased interest in public lands over the last two years. Umatilla County's current and modified siting standards do not adequately address effects to historic, cultural and archaeological resources. The CTUIR-DNR has seen wind power generating facilities damage and destroy historic, cultural and archaeological resources because the various counties did not require cultural resources inventory surveys to be conducted as part of their siting standards. The State of Oregon has several cultural resource laws that protect archaeological objects, sites, and burials on both private and public lands. See Oregon Revised Statue (ORS) Chapter 358, ORS 390.235, ORS 390.237, ORS 390.240, ORS 97.740 – 97.760, ORS 97.990 and Oregon Administrative Rule 736-051-0000 – 0090 for more information.

The CTUIR-DNR strongly urges Umatilla County to consider incorporating siting standards for historic, cultural and archaeological resources similar to those of the Oregon EFSC (siting standard 345-022-0090). There is a strong need to evaluate historic, cultural and archaeological resources prior to construction so that the resources are not adversely impacted. Once a resource is impacted the project must halt in that area and be assessed by a qualified archaeologist; this causes project delay and the costs to restore the impacted site can be very expensive. Oregon laws prohibit the intentional destruction of

"archaeological site or object" under ORS 358.920. Once archaeological sites are impacted, any further disturbance is "intentional" and therefore mitigation must be undertaken pursuant to a permit issued by the State Historic Preservation Office. Obviously, it is far preferred that archaeological and cultural sites are identified prior to impact so that impacts can be avoided rather than mitigated. Mitigation often takes a long time and can be very expensive, particularly when unanticipated events negatively impact construction schedules. Inclusion of this language should also address Goal 5 resources under the state planning goals, including open space, scenic and historic areas.

The Oregon EFSC Historic, Cultural and Archaeological Resources Siting Standards are to protect

the public interest in preserving places that have historic, cultural or archeological significance, including sites of historic or religious importance to Native American Tribes. The standards preserve historic and cultural artifacts and prevent permanent loss of the archaeological record unique to particular sites in the state.¹

Umatilla County prides itself on its history, from the tribe to Roundup to agriculture. These standards are simply another way for the county to protect cultural resources, allowing residents to maintain their connection with them and for visitors to more fully understand our past.

Under EFSC's standards

the applicant must conduct appropriate surveys at the proposed site to identify and avoid places of historic, cultural or archaeological significance. If previously unidentified resources are discovered during construction of an energy facility, ground-disturbing activities must halt until a qualified archaeologist can examine the site. If the project involves construction on an archaeological site, then the applicant may need a permit from the State Historic Preservation Officer in addition to the site certificate.²

Further, because many sites of cultural significance relate to the exercise of treaty rights, such as fishing sites, it should be understood that the cultural surveys conducted must also include review of tribal treaty hunting, fishing and gathering sites which are of cultural, historic and religious importance to tribes.

For the proposed regulations, we recommend, at a minimum, the following language changes:

Add a new section (6)(J)(5) which would read

(5) open space, scenic, historic, cultural and archaeological resources. This includes cultural resources, archaeological sites, archaeological objects, historic sites, and sites of historic or religious importance to Native American tribes.

Revise draft language (6)(C) to read

¹ http://www.oregon.gov/ENERGY/SITING/standards.shtml#Historic__Cultural_and_Archaeological_Resources

² *Id.*

CTUIR DNR Letter to Umatilla County Planning Department
Re: Wind Siting Standards Revision
November 18, 2010
Page 3 of 3

- (C) The Development and Operation of the Facility will protect and to preserve existing trees, vegetation, water resources, wildlife, wildlife habitat, fish, avian, archaeological sites and objects, sites of historic or religious significance to Native American Tribes ~~or~~ and other significant natural and cultural resources. Compliance with this standard may require mitigation and/or submission of an annual monitoring report.

Please consider adding siting standards for historic, cultural and archaeological resources. To do so will help ensure that Umatilla County properly considers these important resources when determining where to allow wind power developments. Should you have further questions, please feel free to contact me or Audie Huber, Intergovernmental Affairs Manager at (541) 276-3447 or ericquaempts@ctuir.org or audiehuber@ctuir.org.

Respectfully,

Teara Farrow Ferman

for Eric Quaempts, Director
Department of Natural Resources

Cc: Cultural Resources Committee, CTUIR
Board of Trustees, CTUIR
Teara Farrow Ferman, DNR-CRPP, CTUIR
Audie Huber, DNR, CTUIR



CUNNINGHAM SHEEP & LAND COMPANY
PENDLETON RANCHES, INC.
MUD SPRINGS RANCHES
HOKE RANCHES

CUNNINGHAM SHEEP COMPANY

303 S.E. 3RD STREET

P.O. BOX 1186

541-276-6391

PENDLETON, OREGON 97801

November 18, 2010

Received At
hearing
RECEIVED

NOV 18 2010

UMATILLA COUNTY
PLANNING DEPARTMENT

Umatilla County Planning Commission
Umatilla County Courthouse
216 S. E. Fourth Street
Pendleton, OR 97801

Re: Proposed Changes
Zoning - Wind Energy

Dear Commission:

On behalf of the above companies, I am writing to provide comments on the recently proposed changes to the Umatilla County Zoning Ordinance. In general, we recommend Umatilla County not adopt any overly and unnecessarily restrictive requirements for development of renewable energy in Umatilla County. From our perspective, the existing ordinance provides adequate language that protects Umatilla County from irresponsible development while encouraging economic development.

We find it particularly troubling in the proposed draft that it includes removal of references to adoption of the Oregon State Energy Facility Siting Council standards. The standards and requirements established by the State of Oregon are comprehensive and were established with input from stakeholder groups. Overall, we feel that the rigorous entitlement process established by the State of Oregon is appropriate for Umatilla County.

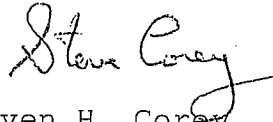
Additionally, we would propose that Umatilla County retain the language in the ordinance that allows an applicant to fulfill the bonding requirement through either a bond or a letter of credit. As ranchers and landowners, we understand how difficult it can be to obtain bonds for certain business activities. In our view, an applicant should be permitted to fulfill this requirement with whatever is safe, secure and commercially available at the time. That could be a bond, a letter of credit, or another type of financial assurance perhaps not contemplated by the proposed language in the revised ordinance.

00004364

Umatilla County Planning Commission
November 18, 2010
Page 2

Thank you.

Sincerely yours,



Steven H. Corey
Secretary

SHC:m

00004365

Comment Outline – Milton-Freewater City Councilor, Ed Chesnut
November 18, 2010

1. City of Milton-Freewater Resolution No. 2106 (copy provided)
 - Significant agri-tourism business in and around Milton-Freewater which would be adversely affected by wind development on the face of the Blue Mts.
 - See study by Dr. Bruce Sorte: Umatilla County Adaptive Farms, An Economic Analysis
 - Planning Commission considered, then deleted language calling for a socioeconomic study. This language should be re-inserted for and accepted.
2. Current and proposed codes put “off-project” property owners and wind developers at high risk of litigation regarding noise/vibration. Physical distance set-back standards should be improved.
 - Review Morrow County situation
 - Diagram of Milton-Freewater with approx. set-back distances shown
3. The proposed codes ought not to be sent on to the County Commissioners as they are. More work is needed . . . and additional hearing(s).
 - There should be a Public Hearing on this issue in Milton-Freewater.
 - Hearing should start after normal business/working hours end.
 - Council Chambers or Community Building will be made available at no charge.

RECEIVED

NOV 18 2010

UMATILLA COUNTY
PLANNING DEPARTMENT

At PC Hearing on 11/18/10

00004366

CITY OF MILTON-FREEWATER
RESOLUTION NO. 2106

RESOLUTION EXPRESSING CONCERN WITH THE PROPOSED
PLACEMENT OF WIND GENERATION TURBINES LOCATED IN
VIEWSHED OF SOUTH HILL OF CITY OF MILTON-FREEWATER

WHEREAS, the City Council of the City of Milton-Freewater has become aware of potential plans to site wind turbines for wind power generation in the foothills of and Blue Mountains; and

WHEREAS, the City Council's concern is for those turbines which would be placed in the area lying directly east of the most southern boundary of city limits and the surrounding view shed; and

WHEREAS, the Council has concerns that the placement of a large number of turbines in this scenic view shed would have an adverse effect on the City's ability to recruit businesses and residential subdivision developers to Milton-Freewater; and

WHEREAS, the City has invested millions of dollars in infrastructure development in order to facilitate and accommodate development in the area of the south hill which could possibly be for naught if development is stagnated by the alteration of this pristine and scenic view of the majestic Blue Mountains; and


WHEREAS, the Council has been approached by many citizens requesting that the Council oppose the placement of wind turbines in the view shed to the east of the southern city limits; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Milton-Freewater that the City is hereby on record with the Umatilla County Planning Commission as expressing serious concern with the placement of a large number of wind turbines in the view shed of the south hill of the City of Milton-Freewater which extends to the Oregon/Washington border along Highways 11 and 204; and

BE IT FURTHER RESOLVED, that the Council respectfully requests that the County implement additional criteria and standards with regard to placement of wind turbines and transmission lines within this area's view shed; and

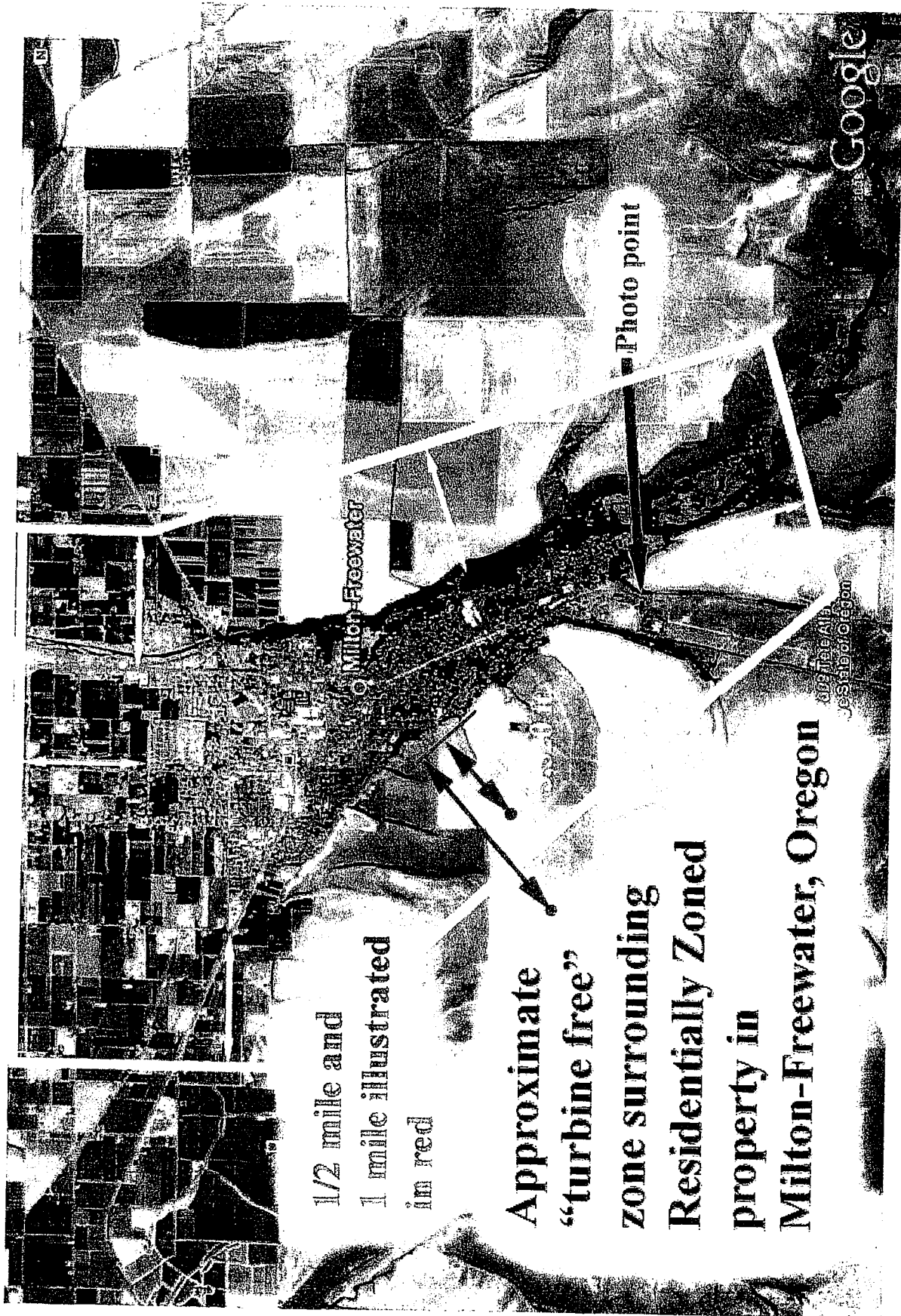
BE IT FURTHER RESOLVED that the Council be allowed input as to the development of these additional standards and criteria as an affected party.

PASSED BY THE COMMON COUNCIL AND APPROVED BY THE MAYOR this 6th
day of November, 2008.



Lewis S. Key, Mayor of Milton-Freewater

00004367



Comments to Umatilla County Planning Commissioners on Wind Tower Siting

First I want to go on record and file a formal complaint against this hearing.

This body has tried 3 times to write this document and this last one was posted 3 days prior to this meeting.

I spent a week writing a summary of the 2nd document. There was not enough time for me to do the same with this last document..

I ask at this time that you schedule another meeting, preferably in M-F so that the citizens of this county can come prepared to comment on this document.

I am going to comment on 2 items. The endangered bull trout and the critical wintering area for deer and elk.

Note: (Per Jim)
Replaced
by comments
submitted via
email on 11/19/10
Q.

First: On the Critical Wintering Range. For many years this county has closed this area from vehicular traffic of the citizens of this county specifically to protect the Critical Wintering Range of the deer and elk. This was prior to the ODFW actually finally preparing an official document to designate this area as critical. Yet there is nothing in this document to keep this area closed to vehicular traffic if you would put wind towers up there.

If you or the state would allow wind towers on the face of the Blues within a very few years there would be no deer or elk on this mountain. This is backed by facts. A study by ODFW in the Baker County area where wind towers drove in just a couple years up to 75% of the deer and elk from their normal range. Taiwan has a study where wind towers actually killed all the goats on an island, the cause, sleep deprivation. The vibration in the ground and the noise drives them away.

Second: The bull trout have become the poster child of the environmental and fish and wildlife groups and the Federal Government is responding with new and more stringent regulations to protect their habitat.

All of Umatilla County will fall under these new regulations. It no longer will be keep the headwaters of the Walla Walla River at 56 degrees to keep every one happy.

Now it will be your responsibility to protect the entire watershed of the Walla Walla River basin. This means from the

00004369

headwaters to the Columbia River.

The other watershed in this county, the Umatilla River watershed from the headwaters to the Columbia River must also be protected. Now that means every creek, be it full flowing year round or intermittent has to be protected. This means every foot of ground in this county now falls under these regulations.

You also have to protect the Columbia River Drainage also. Because these fish have to move from one river to other rivers to keep their gene pool vital and vibrant.

The TMDL of the Columbia Drainage has not been in compliance for years but I would deduce that will no longer be allowed.

This will now impact the placement of wind towers in this county but it will also now impact farmers ability to farm as they have for years. The new road restrictions on logging roads will also be placed on all roads that are not paved. It will also include roads that are built by farmers on their lands. I have pictures of roads on farm ground that could break a farmer if they came looking for the run-off from these roads. This will also include run-off from their fields. Several years ago the WWC Watershed Council was put on notice this was coming and they stated at that time they could trace any sediment right back to where it came from.

I Thank You for this opportunity to speak, and I hope that I will have this opportunity very soon at another meeting in Milton-Freewater.

James Burns
78381 Hodgson Rd
Weston, Or 97886
brokenhorn67@yahoo.com

Subject: Fwd: Fw: comment at public hearing
From: Tamra Mabbott <Tamra.Mabbott@ucem.us>
Date: Fri, 19 Nov 2010 11:30:02 -0800
To: Carol Johnson <carol@co.umatilla.or.us>, Clinton Reeder <clinton_reeder@westforkco.com>

Carol - please add this to the record.
Clinton - Congratulations! I would take this as a mark of success for your review of the process.
Thank you again. Job well done.
Cordially, Tamra

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NOV 19 2010

----- Original Message -----
Subject: Fw: comment at public hearing
Date: Thu, 18 Nov 2010 23:33:43 -0800 (PST)
From: James Burns <brokenhorn67@yahoo.com>
To: tamra Mabbott <tamra@co.umatilla.or.us>

Tamra: Please substitute this for the one I left you last night. Some of the comments on the one I left with you has some comments that after attending the meeting I feel now do not need to be stated. The Planning Commission has finally got the message that they need to protect the people that live here in Umatilla County and not be to concerned with pampering the wind companies.
Thanks: Jim

Comments to Umatilla County Planning Commissioners on Wind Tower Siting

First I want to go on record and file a formal complaint against this hearing.
This body has tried 3 times to write this document and this last one was posted
3 days prior to this meeting.

I spent a week writing a summary of the 2nd document. There was not enough time for me to do the same with this last document..

I ask at this time that you schedule another meeting, preferably in M-F so that the citizens of this county can come prepared to comment on this document.

I am going to comment on 2 items. The endangered bull trout and the critical wintering area for deer and elk.

First: On the Critical Wintering Range. For many years this county has closed this area from vehicular traffic of the citizens of this county specifically to protect the Critical Wintering Range of the deer and elk. This was prior to the ODFW actually finally preparing an official document to designate this area as critical. Yet there is nothing in this document to keep this area closed to vehicular traffic if you would put wind towers up there.

If you or the state would allow wind towers on the face of the Blues within a very few years there would be no deer or elk on this mountain. This is backed by facts. A study by ODFW in the Baker County area where wind towers drove in just a couple years up to 75% of the deer and elk from their normal range. Tiawan has a study where wind towers actually killed all the goats on an island, the cause, sleep deprivation. The vibration in the ground and the noise drives them away.

00004371

Second: The bull trout have become the poster child of the environmental and fish and wildlife groups and the Federal Government is responding with new and more stringent regulations to protect their habitat.

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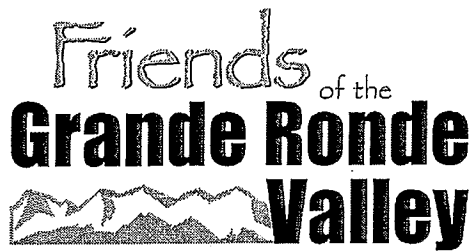
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I Thank You for this opportunity to speak, and I hope that I will have this opportunity very soon at another meeting in Milton-Freewater.

James Burns
78381 Hodgson Rd
Weston, Or 97886
brokenhorn67@yahoo.com

00004372



Umatilla County Planning
216 SE 4th
Pendleton, OR

November 17, 2010

Attention: Carol Johnson

In reviewing wind power siting standards that are proposed to be discussed at a meeting tomorrow our group finds issue with some of the guidelines that are being proposed. Our interest is not only for our area but for the entire state and especially a neighboring county. Our issues are as follows:

Page 5 Paragraph F

To allow the applicant to monitor the avian impact is a serious mistake. For example that is the way it is done here in Union County at the Elkhorn Wind Farm where there has been 4 Golden Eagle kills in the last year, plus other kills have been unreported due to the developer only checks the site every 28 days.

Page 8 Paragraph 4

The setback issue of 3520 feet is far from adequate for health issues and view shed concerns. To use the size of a tower as the basis for setback is ridiculous. A setback of 1.5 miles should be the minimum, preferably 2 miles from any property line, road, or residence should be the requirement. With the ongoing Oregon Health Study this is further ammunition that setbacks need to be a serious issue once this study is completed in June 2011.

Page 9 Paragraph B

Scenic areas need to be protected such as highway 204 where wind towers should be restricted, just as there are areas of Union County that wind towers would be very invasive. Once these areas are destroyed by wind tower construction they can never be restored.

Page 10 Paragraph L

Decommissioning is a serious issue since we cannot rely on ODOE or EFSC to lookout for the county regarding decommissioning. There needs to be guideline established as to when a wind farm is to be decommissioned since the state does not have a guideline regarding this issue, as a result the wind farm could be merely be abandoned. The county must also assure that the funds will be available if the project is abandoned or the developer goes bankrupt.

The A4 zone which is timber grazing land as a result if a wind farm is to be developed in a A4 zone it needs to be addressed by planning where a conditional use permit would be required, as a result we did not find any reference to this issue in the proposed guidelines. To put an industrial development in a timber zone is not in the best interest of the county and the state since to destroy the timber to allow for wind flow to a turbine is ludicrous.

00004373

Your wind power siting standards have all the earmarks of too much input from wind farm developers with not enough protection of the residents of Umatilla County. We would hope planning would recognize this fact since wind farms are not a solution to any of our needs.

Respectfully

00004374

Wheatridge Wind Energy, LLC

PO Box 133* Lone, OR 97843

Phone: (541) 422-7552

November 16, 2010

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NOV 18 2010

UMATILLA COUNTY
PLANNING DEPARTMENT

Umatilla County Courthouse
Department of Land Use Planning
Attn: Tamra Mabbott, Umatilla County Planning Director
216 SE 4th street
Pendleton, OR 97801

To the Umatilla County Department of Land Use Planning:

Thank you for accepting our comments on the proposed amendments to sections 152.612 and 152.616 (HHH) Conditional Use standards for commercial wind power generation facilities. Our company - Wheatridge Wind Energy, LLC - has a wind energy development project in southwestern Umatilla County, Oregon.

In your review, please consider the following comments to the proposed amendments:

- **Section 152.612 (D):** Zoning permits should be based on the project site boundary and not on tax lots.
- **Section 152.616 (5)C.1 (Evidence of Wind Monitoring Data) and Section 152.616 (5)C.2 (Evidence of Active Transmission Interconnect Requests):** This is proprietary information. The viability of the location seems to be a business decision and not a permitting question. In addition, the site's capacity has significant marketing value and should not be part of the record. We would agree that, at some level, proof that the wind power can be transmitted is important, but we do not want to publicly disclose issues that may allow competing projects to undermine our market position.
- **Section 152.616 (6)K.2:** A turbine setback of at least 1,320 feet from an existing residence is sufficient and complies with the State of Oregon's Energy Facility Siting Council (EFSC) standards.
- **Section 152.616 (6)K.3:** A minimum setback of 200 feet from new electrical transmission lines associated with a wind energy facility is sufficient and complies with the State of Oregon's EFSC standards. To clarify, these "associated transmission lines" should not include transmission lines constructed or owned by the Bonneville Power Administration or the Umatilla Electric Cooperative.
- **Section 152.616 (6)K.4:** A turbine setback of 110 percent maximum blade tip height from any public right-of-way is sufficient and complies with the State of Oregon's EFSC standards.

00004375

- **Section 152.616 (6)J.2:** Review and approval of the wind facility roads by the county road department should be completed prior to construction.
- **Section 152.616(6)M:** We ask that you require a decommissioning bond starting in year ten and that you consider the scrap/salvage value of any wind plant facility in the bond calculation.
- **Section 152.616 (10)B.4:** If a facility layout is changed within the approved site boundary, an amendment should not be required.

Thank you for your thoughtful review of the Umatilla County Wind Power Facility Siting Standards and for the opportunity to comment on the proposed changes.

Sincerely,

Andrew O'Connell, Manager
Wheatridge Wind Energy, LLC

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elementpower

NOV 18 2010

UMATILLA COUNTY
PLANNING DEPARTMENT

Element Power
421 SW Sixth Avenue, Suite 1000
Portland, OR 97204
503.416.0800 – Main
503.416.0801 – Fax
www.elpower.com

November 16, 2010

Umatilla County Planning Commission
C/O Tamra Mabbot
Department of Land Use Planning
216 SE 4th Street
Pendleton, OR 97801

RE: November 2010 draft changes to UCDC 152.616 (HHH)

Umatilla County Planning Commissioners,

Element Power is submitting comments on the November 2010 draft revisions to Umatilla County zoning ordinance pertaining to wind energy. While Element Power understands the County is attempting to address concerns over impacts associated with wind energy and we feel that some of the proposed changes to the ordinance place unnecessary and overly restrictive burdens on renewable energy development. Especially in the case where projects are mandated by state law to go through a rigorous approval process of the Energy Facility Siting Council, additional requirements imposed by the county are redundant and unnecessary. The following section is a description of specific concerns identified in the draft revised ordinance. Also included as an attachment to this letter are specific recommendations for language changes in the ordinance.

Section 152.616

(HHH)(5)(A)-(K)

- For projects subject to a conditional use permit, a pre-application meeting is appropriate, however the level of detail required in the revised ordinance language is unrealistic. It is difficult to move a project through a local permitting process successfully without allowing some level of flexibility in siting. Developers often prepare several iterations of project drawings in order to incorporate information about wind resource, environmental constraints and construction constraints during the permitting process. A reasonable expectation at the time of submittal of a permit application is a general permitting map which identifies buffered areas for facilities and an indicative layout of wind turbines and other facilities.
- Element Power is concerned that some of the "plans" listed as required at the application stage cannot be adequately prepared at this early stage of development. Several of these plans are typically not required until a building permit application is submitted, merely for the reason that at the application stage, there still may need to be modifications to the project, which may in turn invalidate some of the plans. Plans that should be required upon seeking an application for a building permit include; a Spill Prevention Control and countermeasure plan (SPCC), an

Element Power 421 SW Sixth Avenue, Suite 1000 Portland, OR 97204

00004377

operations and maintenance plan, emergency response plan, revegetation and erosion control plan, and a decommissioning plan.

(HHH)(5)(C)(1)

- Requiring a developer to provide evidence of wind monitoring data is not appropriate as this is considered proprietary data and is usually held in confidence until a project has finalized all energy purchase and delivery agreements. The County should accept that private developers have addressed the risk associated with wind resource prior to investing in a project. It is not the County's position to evaluate the investment risk of private developers. Additionally, it is not clear from our perspective that the County has staff that is trained in analysis of wind resource data to the level that a meaningful evaluation could be made. The choice to lease land and begin the permitting process on a wind project occurs long after a developer has established the wind resource is sufficient to carry the substantial investment required. Information related to the wind resource is irrelevant to the permitting process and should not be required for a permit application.

(HHH)(5)(C)(2)

- It is common at this stage of development for a project not to have an interconnection application pending. The business decision around timing of an interconnection application is irrelevant to the County permitting process. A developer should be required to show proposed routes for overhead transmission lines and proposed points of interconnection and obtain all necessary permits for construction, but proof of interconnection application is not necessary. As with the wind resource, it is not clear that the County has the expertise to evaluate an interconnection application and determine its relevance to the County permitting process. Finally, there is currently a federal process governing interconnection to the utility grid. The County does not have the authority to interject themselves into this process.

(HHH)(5)(F)

- Element agrees that a wildlife and avian monitoring plan should be prepared for the project, but it cannot possibly be considered a valuable tool to rely on this early in the permitting process. This plan should be prepared upon finalization of all biological studies related to the project and upon consultation with the appropriate agencies. Furthermore, the language struck from the code which relates to the technical oversight committee should be retained. It is important for a developer to establish relationships early in the permitting process with all affected stakeholders, identifying the appropriate members up front of a technical oversight committee will help to establish these relationships. The County should not have the ability to assign this committee in a vacuum. Likewise, the language regarding compliance with this condition being met through the requirements of EFSC should be retained.

(HHH)(5)(H)

- The burden of approval of all plans submitted to the County for review should not be on the applicant. The County should oversee review of any and all plans submitted for review. The applicant should not have to seek approval from all agencies and tribes listed in this section for input on the revegetation plan. These agencies will have an opportunity to comment on plans through the existing permitting process through either the County or state permitting process.

(HHH)(6)(A)

- We suggest modification of the section pertaining to set-backs to mirror that of the standards required by EFSC. The EFSC set-back requirements have been tested and vetted by a broad range of stakeholders and we see no reason that Umatilla County should need to require greater set-backs.

(HHH)(6)(C)

00004378

- The language in this section should be redrafted to be consistent with the original draft. Developers should be required to make all reasonable efforts to protect resources, but requiring a developer preserve and protect resources without a reasonable analysis of resources to be protected or an understanding of the level of mitigation required is unreasonable. We suggest using the original language and providing a reference to the Oregon Columbia Plateau Ecoregion Wind Energy Siting and Permitting Guidelines, which were developed with significant stakeholder input, including that of County representatives. Reliance on existing guidelines provides a developer some level of understanding as to the protection, preservation and mitigation expected.

(HHH)(6)(K)

- The County should accept to the extent feasible information presented by an applicant to EFSC for satisfaction of County review requirements. If additional information is needed to process the application or approve the project, the County has an opportunity during the EFSC process to request this information.

(HHH)(6)(M)

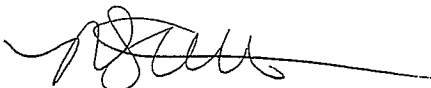
- The County should accept the EFSC requirements for bonding for projects which receive site certificates. Additional bonding should not be a requirement for projects receiving an EFSC site certificate. Additionally the requirement should be able to be met through a variety of financial assurances. The County should not unnecessarily impede a developer's availability to obtain the type of financial assurance that is commercially available at the time. We suggest retaining the original language for this section.

General Comments:

- We suggest retaining the language in the existing code which refers to adoption of EFSC documents and requirements for projects under EFSC jurisdiction. Removing language from the ordinance referring to EFSC and adding additional requirements for projects subject to EFSC jurisdiction undermines the intent of the Energy Facility Siting Council.
- In all references to a required bond, we suggest retaining the original language allowing a developer to meet these criteria through a letter of credit and to accept the EFSC bonding requirement as adequate for the County's needs.

Thank you for taking the time to review our comments on the Umatilla County zoning ordinance. Please feel free to call or write if you have any questions about our comments or suggested language revision

Sincerely,



Nicole Hughes
Senior Project Manager

Attachment: Proposed edits to UCDC 152.616

00004379

CONDITIONAL USES

Sub-Sections

<u>152.610</u>	<u>Definition</u>
<u>152.611</u>	<u>New or altered conditional uses; conformance with requirements; performance bonds</u>
<u>152.612</u>	<u>Procedure for taking action on a conditional use application</u>
<u>152.613</u>	<u>Time limit on a conditional use permit</u>
<u>152.614</u>	<u>Limit on reapplication</u>
<u>152.615</u>	<u>Additional restrictions</u>
<u>152.616</u>	<u>Standards for review of conditional uses and land use decisions</u>
<u>152.617</u>	<u>Standards for review of conditional uses and land use decisions on EFU zoned land</u>

§ 152.610 DEFINITION.

For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

CONDITIONAL USES. Activities that are similar to other activities permitted within a zone, but are not entirely compatible with the permitted uses or purpose and intent of the zone, or compatible with surrounding land uses on adjacent lands in another zoning district.

LAND USE DECISION. Includes a final decision by a local government concerning the adoption, amendment or application of the statewide planning goals, a comprehensive plan provision, a land use regulation or a new land use regulation. (A Land Use Decision does not include: (1) a decision of a local government which is made under land use standards which do not require interpretation or the exercise of policy or legal judgment; (2) a decision of a local government which approved or denies a building permit issued under clear and objective land use standards.) (Pursuant to ORS 197.015 (10))

(Ord. 83-4, passed 5-9-83; Ord. 2005-02, passed 1-5-2005)

§ 152.611 NEW OR ALTERED CONDITIONAL USES; CONFORMANCE WITH REQUIREMENTS; PERFORMANCE BONDS.

(A) Conditional uses listed in this chapter may be permitted, enlarged or altered contingent upon appropriate authorization, in accordance with the standards and procedures set forth in this subchapter.

(B) In permitting a new conditional use or the alteration of an existing conditional use, the appropriate planning authority may impose conditions, which are considered necessary to protect the best interests of the surrounding area or the county as a whole.

(C) In the case of a use existing prior to the effective date of this chapter and classified in this chapter as a conditional use, any change in use or in lot area or an alteration of structure shall conform with the requirements for a conditional use.

(D) The county may require an applicant to furnish the county with a performance bond or such other form of assurance that the county deems necessary to guarantee development in accordance

with the standards established and conditions attached in granting a conditional use.

(Ord. 83-4, passed 5-9-83; Ord. 2005-02, passed 1-5-2005)

**§ 152.612 PROCEDURE FOR
TAKING ACTION ON A
CONDITIONAL USE
APPLICATION.**

The procedure for taking action on a conditional use or land use decision application shall be as follows:

(A) A property owner or the Planning Commission may initiate a request for a conditional use by filing an application ~~with the secretary of the Planning Commission~~, using forms prescribed pursuant to § 152.767;

(B) A conditional use and land use decision application shall be processed via administrative review per § 152.769;

(C) A conditional use permit or land use decision will not be approved unless the proposed use of the land will be in conformance with the County Comprehensive Plan;

(D) An applicant granted a conditional use permit or land use decision must obtain a county zoning permit ~~for each tax lot~~ before commencing construction. [NOTE: zoning permits should be treated the same as conditional use permits and land use decisions, and should be based on the project site boundary, not on the basis of tax lots].

(E) A conditional use or land use decision may be referred to the Umatilla County Planning Commission if the Planning Director deems circumstances warrant such additional review and

Proposed Amendments to UCDC Sections 152.612, 152.615 & 152.6126 (HHH)

consideration, except for a conditional use or land use decision issued under ORS 469.401(3). [NOTE: ORS 469.401(3) requires a county, after EFSC issues a site certificate, to issue the relevant conditional use permit or land use decision without hearings or other proceedings upon proper application and payment of fees.]

(Ord. 83-4, passed 5-9-83; Ord. 2005-02, passed 1-5-2005)

**§ 152.613 TIME LIMIT ON A
CONDITIONAL USE
PERMIT.**

(A) A conditional use permit shall be void after one year or such lesser time as the permit may specify unless 20% of the total estimated project cost has occurred or the proposed use has occurred. However, the Planning Director or the proper planning authority may extend authorization for an additional period not to exceed one year, on request from the applicant. The total time allowed shall not exceed two years from the original approval date.

(B) If delay in establishing the use is demonstrably due to a delay by a state or federal agency in issuing a required permit, at no fault of the applicant, the Planning Director or a Designee of the Planning Director may extend the time limit imposed by division (A) of this section for a period not to exceed one year following issuance of the state or federal agency permit. The applicant shall establish that state or federal permits have not yet been issued, and that the delay has not been caused by the applicant.

(C) Time Limitation on Transportation-Related Conditional Use Permits. Authorization of a conditional use shall be void after a period specified by the

applicant as reasonable and necessary based on season, right-of-way acquisition, and other pertinent factors. This period shall not exceed three years.

(Ord. 83-4, passed 5-9-83; Ord. 2005-02, passed 1-5-2005)

§ 152.614 LIMIT ONE APPLICATION.

No application for a conditional use permit shall be considered within one year of the denial of such a request, unless in the opinion of the Hearings Officer, Planning Director or the appropriate planning authority new evidence or a change of circumstances warrant it.

(Ord. 83-4, passed 5-9-83; Ord. 2005-02, passed 1-5-2005)

§ 152.615 ADDITIONAL CONDITIONAL USE PERMIT RESTRICTIONS.

In addition to the requirements and criteria listed in this subchapter, the Hearings Officer, Planning Director or the appropriate planning authority may impose the following conditions upon a finding that circumstances warrant such additional restrictions:

(A) Limiting the manner in which the use is conducted, including restricting hours of operation and restraints to minimize such a-environmental effects as noise, vibration, air pollution, water pollution, glare or odor;

(B) Establishing a special yard, other open space or lot area or dimension;

(C) Limiting the height, size or location of a building or other structure;

(D) Designating the size, number, location and nature of vehicle access points;

(E) Increasing the required street dedication, roadway width or improvements within the street right of way;

(F) Designating the size, location, screening, drainage, surfacing or other improvement of a parking or loading area;

(G) Limiting or otherwise designating the number, size, location, height and lighting of signs;

(H) Limiting the location and intensity of outdoor lighting and requiring its shielding;

(I) Requiring diking, screening, landscaping or other methods to protect adjacent or nearby property and designating standards for installation and maintenance.

(J) Designating the size, height, location and materials for a fence;

(K) Protecting and preserving existing trees, vegetation, water resources, air quality resources, wildlife habitat, or other significant natural resources [NOTE: the term "quality" is consistent with the DEQ regulatory scheme];

(L) Parking area requirements as listed in §§ 152.560 through 152.562 of this chapter.

(Ord. 83-4, passed 5-9-83; Ord. 2005-02, passed 1-5-2005)

§ 152.616 STANDARDS FOR
REVIEW OF
CONDITIONAL USES
AND LAND USE
DECISIONS.

The following standards shall apply for review by the Hearings Officer, the Planning Director or appropriate planning authority of the specific conditional uses and land use decisions listed in this chapter:

(HHH) Commercial Wind Power Generation Facility.

(1) The procedure for taking action on the siting of a facility is a request for a conditional use. A public hearing pursuant to Sections ~~152.750-755~~ and 152.771 shall be held to determine if the applicant meets the siting requirements for a Wind Power Generation Facility. The requirement for a hearing and any other procedure, including pre-application conference and application requirements, will not apply to proposed facilities for which the Oregon Energy Facility Siting Council (EFSC) is making the land use decision. [NOTE: clarifying that EFSC jurisdictional projects are subject only to the County's applicable substantive, and not procedural, requirements].

[Former # (2) moved to # (5)]

New→# (2) A pre-application meeting(s) is required. The applicant will be expected to bring preliminary information about the application components described in Application Requirement (5) below. County staff will arrange the meeting and will invite local, state, federal and other agency representatives and individuals with pertinent expertise in natural resources, to participate. The purpose of the pre-application meeting will be to identify potential impacts and opportunities and to

advise on the level of detail required in each of the application components described in (5) below, and establish technical oversight requirements for monitoring plans. This pre-application requirement does not apply to projects being sited through EFSC.

(3) Umatilla County may impose clear and objective conditions in accordance with the County Comprehensive Plan, County Development Code and state law, which Umatilla County considers necessary to protect the best interests of the surrounding area, or Umatilla County as a whole.

(4) Prior to commencement of any construction, all other necessary pre-construction permits shall be obtained, including but not limited to a conditional use permit, e.g. Umatilla County Zoning Permit, and road access and other permits from the Umatilla County Public Works Department, and from the Oregon Department of Transportation; other permits from state agencies with the requisite jurisdiction.

~~(2)~~ (5) Application Requirements. The following information shall be provided as part of the local land use application. For projects sited through EFSC, these application requirements do not apply as applicable substantive criteria and the applicant must provide as a part of the application for site certificate information consistent with the requirements in OAR chapter 345, division 21.

(A) (1) A general description of the proposed Wind Power Generation Facility;

(2) A tentative construction schedule;

(3) The legal description of the property on which the facility will be located; and

(4) Identification of the general area for all components of the proposed Wind Power Generation Facility;

(B) A including a map showing the location of components.

(C) (4) ~~Evidence of wind monitoring data qualifying the wind resources within the project boundary. [NOTE: this would require the applicant to provide proprietary business information. It is a business decision for an applicant to decide whether wind resources are adequate to support a commercially viable project.]~~

(2) ~~Evidence of active utility transmission interconnect requests and/or process and description of same, and [NOTE: this would require the applicant to provide proprietary business information. It is a business decision for an applicant to move forward with a land use application independent from an interconnection request]~~

(13) Route and plan for transmission facilities connecting the project to the grid.

(B)(D) Identification of potential conflicts, if any, with:
(1) Accepted forest practices and farming or ranching practices as defined in ORS 215.203(2) (e) on adjacent lands devoted to farm and/or forest uses; (2) Other resource operations and practices on adjacent lands except for except for including wind power generation facilities

on such adjacent lands. [NOTE: no standard requires applicant to evaluate potential impacts to existing operating wind facilities so it is unclear why this analysis would be provided. Treatment of wake impacts should be addressed by the developers and agreed-upon setbacks should be negotiated outside of the permit process.]
; and (3) Accepted farm or forest practices on surrounding EFU/GF or NR land, including the nature and the extent of the impact of the proposed facility on the cost of such practices.

(C)(E) A Transportation Plan, with proposed recommendations, if any, reflecting the guidelines provided in the Umatilla County Transportation System Plan (TSP) and the transportation impacts of the proposed Wind Power Generation Facility upon the local and regional road system during and after construction, after consultation with Umatilla County Public Works Director. The plan will designate the size, number, location and nature of vehicle access points.

(D)(F) A fish, wildlife and avian impact monitoring plan. The avian monitoring plan shall be designed and administered by the applicant's wildlife professionals. [See HHH (2), above] For projects being sited by EFSC, compliance with EFSC's avian monitoring requirements will be deemed to meet this requirement. The plan shall include the formation of a technical oversight committee to review the plan, and consist of the following persons:

(1) The landowners/farm tenants.

(2) Facility owner/operator representative. (Chair)

(3) Oregon Department of Fish and Wildlife representative, if the agency chooses to participate.

(4) Two Umatilla County residents with no direct economic interest in the project and recommended by the applicants for appointment by the Umatilla County Board of Commissioners.

(5) U.S. Fish and Wildlife representative, if the agency chooses to participate.

(6) Umatilla County Planning Commission member. ~~At the request of applicant, this committee requirement may be waived or discontinued by the County.~~

[Former (2) (E) moved to (6) (I)]

~~(F)(G) An fire prevention and emergency management and operations response plan for all phases of the life of the facility. The plan shall address the following: address the major concerns associated with the terrain, dry conditions, and fire hazards, limited access, and water quality as needed, addressing both normal and extraordinary conditions.~~

(1) The plan shall identify the fire district or fire department and verify that the district/department has the appropriate equipment, training and personnel to respond to fires, spills and high rise rescue. If the local fire district or department does not have adequate high rise rescue capability, the applicant shall provide a plan for providing such response in case of an emergency

~~(2) A spill prevention control and counter measure plan (SPCC) shall be provided. [NOTE: this is something that is not developed until closer to operations and would not be available at the time of the application. Plus, any need for a SPCC would be satisfied through applicable state permitting.]~~

(23) The plan shall identify the ~~An Operations and Maintenance Plan~~ detailing expected work force, local response capability, (contract or otherwise), controlled access, and in the case of transmission lines, proof of emergency response capability in accordance with OPUC rules governing operation and maintenance of such lines.

(34) The plan shall identify measures ~~An Emergency Response Plan~~ for responding to natural and/or man made emergencies or disasters.

(G)(H) An revegetation and erosion control plan, developed in consultation with the Umatilla County Public Works Department, ~~Soil and Water Conservation District, Watershed Council, the Oregon Agricultural Water Quality Management Program (administered by the Oregon Department of Agriculture), the Department of Environmental Quality and the Confederated Tribes of the Umatilla Indian Reservation.~~ [NOTE: is there an issue in the county that requires involving all these parties? This seems like a very intensive requirement that could take a significant amount of time to achieve. Such parties will have an opportunity to comment during the local land use proceeding, during which time any concern over the revegetation plan could be raised and addressed.] At a minimum, the plan should include the seeding of all road cuts or related bare road areas as a result of all

construction, demolition and rehabilitation with an appropriate mix of native vegetation or vegetation suited to the area. This requirement will be satisfied if the applicant has an NPDES (National Pollution Discharge Elimination System) permit. The plan should also address monitoring during and post construction. This requirement will be satisfied if the applicant is seeking an NPDES (National Pollution Discharge Elimination System) permit

(H)(I) A weed control plan addressing prevention and control of all Umatilla County identified noxious weeds and other weeds such as thistles which distribute weed seed while blowing across nearby lands following maturity, directly resulting from the Wind Power Generation Facility during preparation, construction, operation and demolition/rehabilitation.

(I) — A socioeconomic impact assessment of the Wind Power Generation Facility, evaluating such factors as, but not limited to, the project's effects upon the social, economic, public service, cultural, visual, and recreational aspects of affected communities and/or individuals. These effects can be viewed as either positive or negative. In order to maximize potential benefits and to mitigate outcomes that are viewed as problematic, decision makers need information about the socioeconomic impacts that are likely to occur.

[New (6) (J) below moved from (2) (K)]

(K)(J) Information pertaining to the impacts of the Wind Power Generation Facility on:

(1)
Wetlands and Streams;

(2) Fish, Avian and Wildlife (all potential species of reasonable concern), including but not limited to federally listed threatened and endangered species);

(3) Fish, Avian and Wildlife Habitat;

(4)
Criminal Activity (vandalism, theft, trespass, etc). Include a plan and proposed actions, if any, to avoid, minimize or mitigate negative impacts.

[New (5) (K) below moved from (2) (L)]

(L)(K) A dismantling and decommissioning plan of all components of the Wind Power Generation Facility, as provided in §152.616 (HHH) (7).

(5) (6)
Standards/Criteria of Approval. The following requirements and restrictions apply to the siting of a facility:

(A)
Setbacks.

(1) ~~The Wind Power Generation Facility shall be on property zoned EFU/GF or NR, and n~~ No portion of the facility turbines/towers shall be within 3,520 feet of properties zoned residential use or designated on the Comprehensive Plan as residential. (For clarification purposes of this section, EFU/GF/NR zones are not considered zoned for residential use.)

(2) Turbines/towers must shall not be set back at least constructed closer than 1,320 feet one-half mile of from an existing residence, measured from the centerline of the turbine tower to the center of the nearest residence existing at the time of tower

construction, unless a written waiver is obtained from the landowner and that shall be recorded with the County deed records.

[NOTE: the suggested setback is consistent with EFSC's conditions of approval for wind facilities. See Helix Site Certificate Condition 43(c).]

(3) New above-ground electrical transmission lines associated with the facility project shall not be constructed closer than 2500 feet to an existing residence, measured from the line to the center of the nearest residence existing at the time of line construction, unless a ~~without~~ prior written waiver is obtained from the landowner approval of the homeowner, said written approval to and be recorded with the County deed records, or unless the: Exceptions to the 500-foot setback include transmission lines are placed in public right of way. ~~Note: Transmission and distribution lines constructed and owned by the applicant what are not within the project boundary are subject to a separate land use permit.~~ [NOTE: the suggested language mirrors the language for the residential setback the facility for consistency and is consistent with EFSC's conditions of approval. Additionally, the facility and all related or supporting facilities are located within the facility site boundary and therefore should be subject to only one land use decision.]

(4) Public Safety. Turbines/towers must be setback from any public road right-of-way way a minimum distance of 110-percent of maximum two times the overall total tower to blade tip height, measured from the centerline of the turbine tower to the nearest edge of any public right-of-way. [NOTE: this suggested language is consistent with EFSC's conditions of

approval for wind facilities. See Helix Site Certificate Condition 43(b)]

E)(5) The turbines/towers shall be of a size and design to help minimize reduce noise or other detrimental effects. At a minimum, ‡The facility shall be designed and operated within the limits of the noise standards established by DEQ rule the State of Oregon. A noise study may be required to confirm that the facility will be verify downwind noise impacts in all wind directions are in compliance with DEQ the noise standards.

(B)
Reasonable efforts shall be made to design blend the wind facility turbines/towers to minimize adverse visual features with the natural surrounding area in order to minimize impacts upon open space and the natural landscape. [NOTE: this suggested language is consistent with the EFSC standard in OAR 345-024-0015.]

(C)
The Development and Operation of the Facility will reasonably Reasonable efforts shall be taken to Reasonable efforts shall be taken to protect and to preserve existing trees, vegetation, water resources, wildlife, wildlife habitat, fish, avian or and other significant natural resources. Compliance with this standard may require mitigation and/or submission of an annual monitoring report. [NOTE: suggest keeping the original code language, or otherwise require an analysis of significant adverse impacts to provide more certainty of what the code criterion requires.]

(D)
The turbine towers shall be designed and constructed to discourage bird nesting and wildlife attraction.

[Former (5) (E) was moved to (6) (A) (5)]

(F)(E)

Private access roads constructed as a part of the facility established and controlled by the Wind Power Facility shall may be gated to protect the facility and property owners from illegal or unwarranted trespass, and illegal dumping and hunting.

(G)(F)

Where practicable the electrical cable collector system shall be installed underground, at a minimum depth of 3 feet; elsewhere the cable collector system shall be installed to prevent adverse impacts on agriculture operations.

(H)(G)

Required permanent maintenance/operations buildings shall be located off-site in one of Umatilla County's appropriately zoned areas, except that such a building may be constructed on-site if:

1) The building is designed and constructed generally consistent with the character of similar buildings used by commercial farmers or ranchers, and

2) The building will be removed or converted to farm use upon decommissioning of the Wind Power Generation Facility consistent with the provisions of § 152.616 (HHH) (7).

(H)(H)

A Wind Power Generation Facility shall comply with the Specific Safety Standards for Wind Facilities delineated in OAR 345-024-0010 (as adopted at time of application).

[New (6) (I) below, moved from (2) (E)]

(E)(I)

A Covenant Not to Sue with regard to generally accepted farming practices shall be recorded with the County. Generally accepted farming practices shall be consistent with the definition of Farming Practices under ORS 30.930. The applicant shall covenant not to sue owners, operators, contractors, employees, or invitees of property zoned for farm use for generally accepted farming practices.

(J)

Roads.

(1) A Road Use Agreement with Umatilla County regarding the impacts and mitigation on county roads and mitigation for the impacts shall be required as a condition of approval.

(2) Design specifications Layout and design of the facility project roads shall comply with county standards and be reviewed and approved by the county road department prior to construction. [NOTE: the county will have the opportunity to review and approve the specific road design specifications when issuing building permits.]

[New (6) (K) below, moved from (2) (J)]

(J)(K)

Demonstrate All Wind Power Generation Facilities must show compliance with the standards found in OAR 660-033-0130 (37).

6) ~~To the extent feasible, the county will accept information presented by an~~

application for an EFSC proceeding in the form and on the schedule required by EFSC.

~~(7)(L)~~
~~Submit a plan for The applicants dismantling of uncompleted construction and/or decommissioning plan for and/or re-powering of the Wind Power Generation Facility shall include the following information: as described in §152.616 (HHH) (7). [NOTE: this standard is duplicative of what is required under new subsection (5)(K) above as a part of the application. For projects sited through EFSC, this information is included in Exhibit W. If included as a standard or criterion of approval, it is unclear what is required to demonstrate compliance.]~~

[New (6) (M) below, moved from # (8)]

~~(LM)(8)~~
A surety bond, letter of credit, or other financial assurance mechanisms acceptable to the County or letter of credit shall be established to cover for the cost of dismantling of uncompleted construction and/or decommissioning of the facility, and site restoration rehabilitation pursuant to (See § 152.616 (HHH) (7) & (8)). For projects being sited through EFSC, the financial assurance required by EFSC will be deemed to meet this requirement. [NOTE: the code should provide sufficient flexibility to allow for various forms of financial assurances depending on what is available in the future. Additionally, financial assurance satisfying EFSC's standards should satisfy the substantive requirement of this code provision] For projects being sited by the State of Oregon's Energy Facility Siting Council (EFSC), the bond or letter of credit required by EFSC will be deemed to meet this requirement.

[New (6) (N) below, moved from # (9)]

~~(9)(M)~~
N) The actual latitude and longitude location or Stateplane NAD 83(91) coordinates of each turbine tower, connecting lines, operations and maintenance O & M building, substation and transmission lines, shall be provided to Umatilla County within 90 days of starting once commercial electrical production begins.

~~(O)~~
~~An Operating and Facility Maintenance Plan shall be submitted and subject to county review and approval. [NOTE: this already seems to be a requirement imposed under the emergency operation plan under subsection (5) above. If included as a standard or criterion of approval, it is unclear what is required to demonstrate compliance]~~

[New (6) (P) below, moved from (10)]

~~(10)(P)~~
A summary of as built construction changes in the facility from the original plan, if any, shall be provided by the owner/operator within 90 days of starting electrical production. [NOTE: as revised, how is this requirement different than what is required as a part of subsection (N) above? Also, this seems to be a matter that would be addressed through the building permit process, not the land use process and is therefore unnecessary to include as a standard.]

[New (7) below was formerly (7) (A)]

~~(7)(A)~~ A plan for dismantling and/or decommissioning that provides for completion of dismantling or decommissioning of the facility without significant delay and protects public health,

safety and the environment in compliance with the restoration requirements of this section. For projects sited through EFSC, compliance with EFSC's financial assurance and decommissioning standards shall be deemed to be in compliance with the dismantling and decommissioning requirements of this § 152.616 (HHH)(7) & (8). [NOTE: this suggested language from subsection (8)(D) and was moved here for clarity]

~~(B)~~(A)

A description of actions the facility owner proposes to take to restore the site to a useful, non-hazardous condition, including options for post-dismantle or decommission land use, information on how impacts on fish, wildlife, avian populations and the environment would be minimized during the dismantling or decommissioning process, and measures to protect the public against risk or danger resulting from post-decommissioning site conditions in compliance with the requirements of this section.

~~(C)~~(B)

A current detailed cost estimate, a comparison of that estimate with present funds ~~the bond set aside~~ for dismantling or decommissioning, and a plan for assuring the availability of adequate funds for completion of dismantling or decommissioning. The cost estimate will be reviewed and ~~be~~ updated by the facility owner/operator on a 3 5-year basis, unless material changes have been made in the overall facility that would materially increase or decrease these costs. If so, the report must be revised within 120 days of completion of such changes.

~~(D)~~(C)

Restoration of the site shall consist of the following:

1) Dismantle turbines, towers, pad-mounted transformers, meteorological towers and related aboveground equipment. All concrete turbine pads shall be removed to a depth of at least three feet below the surface grade.

2) The underground collection and communication cables need not be removed if at a depth of three feet or greater. These cables at a depth of three feet or greater can be abandoned in place if they are deemed not a hazard or interfering with agricultural use or other ~~consistent~~ resource uses of the land.

3) Gravel shall be removed from areas surrounding turbine pads.

4) Private A access roads shall be removed by removing gravel and restoring the surface grade and soil, unless the landowner elects to maintain the private access roads. [NOTE: often-times landowners want to keep the private access roads for better access to fields]

5) After removal of the structures and roads, the area shall be graded as close as is reasonably possible to its original contours and the soils shall be restored to a condition compatible with farm uses or consistent with other resource uses. Re-vegetation shall include planting by applicant of native plant seed mixes, planting by applicant of plant species suited to the area, or planting by landowner of agricultural crops, as appropriate, and shall be consistent with the weed control plan approved by Umatilla County.

6) Roads, cleared pads, fences, gates, and improvements may be left in place if a letter from the land owner is submitted to Umatilla County indicating said land owner will be responsible for, and will maintain said roads and/or facilities for farm or other purposes as permitted under applicable zoning.

[New # (8) below was formerly (7) (E)]

(8)(E) The applicant (facility owner/operator) shall submit to Umatilla County proof of financial assurance a bond or letter of credit acceptable to the County, in the amount of the decommissioning fund naming Umatilla County and the landowner as beneficiary or payee. For projects sited through EFSC, compliance with EFSC's financial assurance and decommissioning standards shall be deemed to be in compliance with the dismantling and decommissioning requirements of this § 152.616 (HHH)(7) & (8). [NOTE: this suggested language is from subsection (8)(D) and was moved here for clarity. Also, using the term "financial assurance" provides flexibility for the type of mechanisms that may be used]

(A)(4) The calculation of present year dollars shall be made using the U.S. Gross Domestic Product Implicit Price Deflator as published by the U.S. Department of commerce, Bureau of Economic Analysis, or any successor agency (the Aindex.@). The amount of the financial assurance bond or letter of credit account shall be changed up or down if the change in the Index moves by more than ~~change if the Index changes be~~ increased at such time when the cumulative percentage increase in the Index exceeds 10 percent from the last change, and then the amount shall be increased or decreased by the cumulative percentage increase. If at

any time the Index is no longer published, Umatilla County and the applicant shall select a comparable calculation of present year dollars. The amount of the financial assurance bond or letter of credit account shall be pro-rated within the year to the date of decommissioning. [NOTE: using the term "financial assurance" provides flexibility for the type of mechanisms that may be used]

(B)(2) The decommissioning financial assurance bond fund shall not be subject to revocation or reduction before decommissioning of the Wind Power Generation Facility; and restoration rehabilitation of the project site/s. [NOTE: using the term "financial assurance" provides flexibility for the type of mechanisms that may be used]

(C)(3) The facility owner/operator shall describe the status of the decommissioning financial assurance bond fund in the annual report submitted to the Umatilla County.

(F) ——— If any disputes arise between Umatilla County and the landowner on the expenditure of any proceeds from the bond or the letter of credit, either party may request non-binding arbitration. Each party shall appoint an arbitrator, with the two arbitrators choosing a third. The arbitration shall proceed according to the Oregon statutes governing arbitration. The cost of the arbitration (excluding attorney fees) shall be shared equally by the parties.

(D)(G) For projects sited by EFSC, compliance with EFSC's financial assurance and decommissioning standards shall be

~~deemed to be in compliance with the dismantling and decommissioning requirements of this § 152.616 (HHH)(7) & (8).~~ [NOTE: suggest moving to subsection (7) and (8) introductions for clarity]

[Former # (8) moved to (6) (M)]

[Former # (9) moved to (6) (N)]

[Former # (10) moved to (6) (P)]

[New # (9) below, moved from # (12)]

(9)(12) Within 120 days after the end of each calendar year the facility owner/operator shall provide Umatilla County an annual report including the following information:

(A)
Energy production by month and year.

(B)
Non-proprietary information about wind conditions, (e.-g., monthly averages, high wind events, bursts).

(C)
A summary of changes to the facility that do not require facility requirement amendments.

(D)
A summary of the fish, wildlife and avian monitoring program – bird injuries, casualties, positive impacts on area wildlife and any recommendations for changes in the monitoring program.

(E)
Employment impacts to the community and Umatilla County during and after construction.

(F)
Success or failures of weed control practices.

(G)
Status of the decommissioning financial assurance bond fund.

(H)
Summary comments –

(
1) any ~~P~~problems with the projects, any adjustments needed, or any suggestions.

(
2) The annual report requirement may be modified discontinued or required at a less frequent schedule by the County: as warranted by project conditions, circumstances and compliance. The reporting requirement and/or reporting schedule shall be reviewed, and possibly altered, at the request of the facility owner/operator. For facilities under EFSC jurisdiction and for which an annual report is required, the annual report to EFSC satisfies this requirement.

[New # (10) below, moved from # (11)]

(10) (11) (A)
The Wind Power Generation Facility requirements shall be facility specific, but can be amended as long as the facility does not exceed the boundaries of the Umatilla County conditional use permit where the original facility was constructed.

(B)
An amendment to the conditional use permit shall be subject to the standards and procedures found in § 152.611. For projects sited through EFSC, a conditional use permit amendment is triggered under ORS 469.401(3) only if EFSC approves a site certificate amendment. Otherwise,

Additionally, an amendment shall be required if the proposed facility changes would:

(
1) ~~Increase the land area taken out of agricultural production by an additional 20 acres or more;~~ (2) ~~Increase the land area taken out of agricultural production sufficiently to trigger taking a Goal 3 exception;~~ (3) ~~Require an Expansion~~ Expand of the established facility boundaries; (2) (4) ~~Increase the number of towers;~~ (3) (5) ~~Increase generator output by more than 25 percent relative to the generation capacity authorized by the initial permit due to the repowering or upgrading of power generation capacity;~~ (4) ~~Changes to project private roads or access points to be established at or inside the project boundaries.~~ [NOTE: as long as a facility layout, such as a road route, is changed within the approved site boundary, no amendment should be required]

Notification by the facility owner/operator to the Umatilla County Planning Department of changes not requiring an amendment such as a change in the project owner/operator of record, a change in the emergency plan or change in the maintenance contact are encouraged but are not encouraged, but not required to be reported immediately. An amendment to a Site Certificate issued by EFSC will be governed by the rules for amendments established by EFSC. [NOTE: requiring immediate notification is subjective. The current code language seems sufficient.]

[# (12) moved to # (9)]

(Ord. 83-4, passed 5-9-83; Ord. 2002-02, passed 5-20-2003; Ord. 2005-02, passed 1-5-2005; Ord. 2009-09, passed 12-8-09)



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RECEIVED

NOV 16 2010

UMATILLA COUNTY
PLANNING DEPARTMENT

November 16, 2010

Umatilla County Planning Commission
Department of Land Use Planning
216 SE 4th Street
Pendleton, OR 97801

Dear Members of the Planning Commission:

Horizon Wind Energy submits the enclosed revisions and comments on the draft amendments to the UCDC 152.616(HHH).

We hope that these comments will be helpful as Umatilla County (County) continues to consider amending its land use regulations for commercial wind energy projects.

Horizon has attempted to improve the clarity and consistency of the regulations, to assist the Umatilla County Planning Commission in providing a reliable and transparent process to companies proposing wind energy development in the county. We believe these changes will help to reassure companies that permitting a project through the County instead of the state Energy Facility Siting Council (EFSC) process will provide the developer with the same reliability of process, but will keep more self-determination in the hands of the County.

Many comments submitted here suggest using the same standard as that used by the state EFSC. Standards that are set at the same high level as the state EFSC will ensure County protection and afford both the County and the developer a tested standard and interpretation to follow.

If you have any questions regarding Horizon's comments, we'd be happy to discuss them with you in person or over the phone.

Sincerely,

Suzi Asmus
Project Manager
Horizon Wind Energy, LLC

00004394

CONDITIONAL USES

NOV 16 2010

*Sub-Sections*UMATILLA COUNTY
PLANNING DEPARTMENT152.610Definition152.611New or altered conditional uses; conformance with requirements;
performance bonds152.612Procedure for taking action on a conditional use application152.613Time limit on a conditional use permit152.614Limit on reapplication152.615Additional restrictions152.616Standards for review of conditional uses and land use decisions152.617Standards for review of conditional uses and land use decisions on
EFU zoned land**§ 152.610 DEFINITION.**

For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

CONDITIONAL USES. Activities that are similar to other activities permitted within a zone, but are not entirely compatible with the permitted uses or purpose and intent of the zone, or compatible with surrounding land uses on adjacent lands in another zoning district.

LAND USE DECISION. Includes a final decision by a local government concerning the adoption, amendment or application of the statewide planning goals, a comprehensive plan provision, a land use regulation or a new land use regulation.

(A Land Use Decision does not include:

(1) a decision of a local government which is made under land use standards which do not require interpretation or the exercise of policy or legal judgment; (2) a decision of a local government which approved or denies a building permit issued under clear and objective land use standards.) (Pursuant to ORS 197.015 (10))

(Ord. 83-4, passed 5-9-83; Ord. 2005-02, passed 1-5-2005)

Proposed Amendments to UCDC Sections 152.612, 152.615 & 152.6126 (HHH)

**§ 152.611 NEW OR ALTERED
CONDITIONAL USES;
CONFORMANCE WITH
REQUIREMENTS;
PERFORMANCE BONDS.**

(A) Conditional uses listed in this chapter may be permitted, enlarged or altered contingent upon appropriate authorization, in accordance with the standards and procedures set forth in this subchapter.

(B) In permitting a new conditional use or the alteration of an existing conditional use, the appropriate planning authority may impose conditions, which are considered necessary to protect the best interests of the surrounding area or the county as a whole.

(C) In the case of a use existing prior to the effective date of this chapter and classified in this chapter as a conditional use, any change in use or in lot area or an alteration of structure shall conform with the requirements for a conditional use.

(D) The county may require an applicant to furnish the county with a performance bond or such other form of assurance that the county deems necessary to guarantee development in accordance

with the standards established and conditions attached in granting a conditional use.

(Ord. 83-4, passed 5-9-83; Ord. 2005-02, passed 1-5-2005)

§ 152.612 PROCEDURE FOR TAKING ACTION ON A CONDITIONAL USE APPLICATION.

The procedure for taking action on a conditional use or land use decision application shall be as follows:

(A) A property owner or the Planning Commission may initiate a request for a conditional use by filing an application ~~with the secretary of the Planning Commission~~, using forms prescribed pursuant to § 152.767;

(B) A conditional use and land use decision application shall be processed via administrative review per § 152.769;

(C) A conditional use permit or land use decision will not be approved unless the proposed use of the land will be in conformance with the County Comprehensive Plan;

(D) An applicant granted a conditional use permit or land use decision must obtain a county zoning permit for each tax lot before commencing construction. [NOTE: zoning permits should be treated the same as conditional use permits and land use decisions, and should be based on the project site boundary, not on the basis of tax lots].

(E) A conditional use or land use decision may be referred to the Umatilla County Planning Commission if the Planning Director deems circumstances warrant such additional review and

Proposed Amendments to UCDC Sections 152.612, 152.615 & 152.6126 (HHH)

consideration, except for a conditional use or land use decision issued under ORS 469.401(3). [NOTE: ORS 469.401(3) requires a county, after EFSC issues a site certificate, to issue the relevant conditional use permit or land use decision without hearings or other proceedings upon proper application and payment of fees.]

(Ord. 83-4, passed 5-9-83; Ord. 2005-02, passed 1-5-2005)

§ 152.613 TIME LIMIT ON A CONDITIONAL USE PERMIT.

(A) A conditional use permit shall be void after one year or such lesser time as the permit may specify unless 20% of the total estimated project cost has occurred or the proposed use has occurred. However, the Planning Director or the proper planning authority may extend authorization for an additional period not to exceed one year, on request from the applicant. The total time allowed shall not exceed two years from the original approval date.

(B) If delay in establishing the use is demonstrably due to a delay by a state or federal agency in issuing a required permit, at no fault of the applicant, the Planning Director or a Designee of the Planning Director may extend the time limit imposed by division (A) of this section for a period not to exceed one year following issuance of the state or federal agency permit. The applicant shall establish that state or federal permits have not yet been issued, and that the delay has not been caused by the applicant.

(C) Time Limitation on Transportation-Related Conditional Use Permits. Authorization of a conditional use shall be void after a period specified by the

applicant as reasonable and necessary based on season, right-of-way acquisition, and other pertinent factors. This period shall not exceed three years.

(Ord. 83-4, passed 5-9-83; Ord. 2005-02, passed 1-5-2005)

§ 152.614 LIMIT ONE APPLICATION.

No application for a conditional use permit shall be considered within one year of the denial of such a request, unless in the opinion of the Hearings Officer, Planning Director or the appropriate planning authority new evidence or a change of circumstances warrant it.

(Ord. 83-4, passed 5-9-83; Ord. 2005-02, passed 1-5-2005)

§ 152.615 ADDITIONAL CONDITIONAL USE PERMIT RESTRICTIONS.

In addition to the requirements and criteria listed in this subchapter, the Hearings Officer, Planning Director or the appropriate planning authority may impose the following conditions upon a finding that circumstances warrant such additional restrictions:

(A) Limiting the manner in which the use is conducted, including restricting hours of operation and restraints to minimize such ~~a~~ environmental effects as noise, vibration, air pollution, water pollution, glare or odor;

(B) Establishing a special yard, other open space or lot area or dimension;

(C) Limiting the height, size or location of a building or other structure;

(D) Designating the size, number, location and nature of vehicle access points;

(E) Increasing the required street dedication, roadway width or improvements within the street right of way;

(F) Designating the size, location, screening, drainage, surfacing or other improvement of a parking or loading area;

(G) Limiting or otherwise designating the number, size, location, height and lighting of signs;

(H) Limiting the location and intensity of outdoor lighting and requiring its shielding;

(I) Requiring diking, screening, landscaping or other methods to protect adjacent or nearby property and designating standards for installation and maintenance.

(J) Designating the size, height, location and materials for a fence;

(K) Protecting and preserving existing trees, vegetation, water resources, air quality resources, wildlife habitat, or other significant natural resources [*NOTE: the term "quality" is consistent with the DEQ regulatory scheme*];

(L) Parking area requirements as listed in §§ 152.560 through 152.562 of this chapter.

(Ord. 83-4, passed 5-9-83; Ord. 2005-02, passed 1-5-2005)

§ 152.616 **STANDARDS FOR
REVIEW OF
CONDITIONAL USES
AND LAND USE
DECISIONS.**

The following standards shall apply for review by the Hearings Officer, the Planning Director or appropriate planning authority of the specific conditional uses and land use decisions listed in this chapter:

(HHH) Commercial Wind Power Generation Facility.

(1) The procedure for taking action on the siting of a facility is a request for a conditional use. A public hearing pursuant to Sections ~~152.750-755~~ and 152.771 shall be held to determine if the applicant meets the siting requirements for a Wind Power Generation Facility. The requirement for a hearing and any other procedure, including pre-application conference and application requirements, will not apply to proposed facilities for which the Oregon Energy Facility Siting Council (EFSC) is making the land use decision. [NOTE: clarifying that EFSC jurisdictional projects are subject only to the County's applicable substantive, and not procedural, requirements].

[Former # (2) moved to # (5)]

New→# (2) A pre-application meeting(s) is required. The applicant will be expected to bring preliminary information about the application components described in Application Requirement (5) below. County staff will arrange the meeting and will invite local, state, federal and other agency representatives and individuals with pertinent expertise in natural resources, to participate. The purpose of the pre-application meeting will be to identify potential impacts and opportunities and to

advise on the level of detail required in each of the application components described in (5) below, and establish technical oversight requirements for monitoring plans. This pre-application requirement does not apply to projects being sited through EFSC.

(3) Umatilla County may impose clear and objective conditions in accordance with the County Comprehensive Plan, County Development Code and state law, which Umatilla County considers necessary to protect the best interests of the surrounding area, or Umatilla County as a whole.

(4) Prior to commencement of any construction, all other necessary pre-construction permits shall be obtained, including but not limited to a conditional use permit, e.g. Umatilla County Zoning Permit, and road access and other permits from the Umatilla County Public Works Department, and from the Oregon Department of Transportation; other permits from state agencies with the requisite jurisdiction.

(2) (5) Application Requirements. The following information shall be provided as part of the local land use application. For projects sited through EFSC, these application requirements do not apply as applicable substantive criteria and the applicant must provide as a part of the application for site certificate information consistent with the requirements in OAR chapter 345, division 21.—

(A) (1) A general description of the proposed Wind Power Generation Facility;

(2) A tentative construction schedule;

(3) ~~The~~ legal description of the property on which the facility will be located; and

(4) Identification of the general area for all components of the proposed Wind Power Generation Facility;

(B) A including a map showing the location of components.

(C) ~~(1)~~
~~Evidence of wind monitoring data qualifying the wind resources within the project boundary. [NOTE: this would require the applicant to provide proprietary business information. It is a business decision for an applicant to decide whether wind resources are adequate to support a commercially viable project.]~~

~~(2)~~
~~Evidence of active utility transmission interconnect requests and/or process and description of same, and [NOTE: this would require the applicant to provide proprietary business information. It is a business decision for an applicant to move forward with a land use application independent from an interconnection request]~~

(13) Route and plan for transmission facilities connecting the project to the grid.

(B)(D) Identification of potential conflicts, if any, with:
(1) Accepted forest practices and farming or ranching practices as defined in ORS 215.203(2) ~~(e)~~ on adjacent lands devoted to farm and/or forest uses; (2) Other resource operations and practices on adjacent lands except for ~~except for including~~ wind power generation facilities

on such adjacent lands. [NOTE: no standard requires applicant to evaluate potential impacts to existing operating wind facilities so it is unclear why this analysis would be provided. Treatment of wake impacts should be addressed by the developers and agreed-upon setbacks should be negotiated outside of the permit process.]
~~and (3) Accepted farm or forest practices on surrounding EFU/GF or NR land, including the nature and the extent of the impact of the proposed facility on the cost of such practices.~~

~~(C)(E)~~ A Transportation Plan, with proposed recommendations, if any, reflecting the guidelines provided in the Umatilla County Transportation System Plan (TSP) and the transportation impacts of the proposed Wind Power Generation Facility upon the local and regional road system during and after construction, after consultation with Umatilla County Public Works Director. The plan will designate the size, number, location and nature of vehicle access points.

~~(D)(F)~~ A fish, wildlife and avian impact monitoring plan. The ~~avian~~ monitoring plan shall be designed and administered by the applicant's wildlife professionals. [See HHH (2), above] ~~For projects being sited by EFSC, compliance with EFSC's avian monitoring requirements will be deemed to meet this requirement.~~ The plan shall include the formation of a technical oversight committee to review the plan, and consist of the following persons:

(1) The landowners/farm tenants.

(2) Facility owner/operator representative. (Chair)

(3) Oregon Department of Fish and Wildlife representative, if the agency chooses to participate.

(4) Two Umatilla County residents with no direct economic interest in the project and recommended by the applicants for appointment by the Umatilla County Board of Commissioners.

(5) U.S. Fish and Wildlife representative, if the agency chooses to participate.

(6) Umatilla County Planning Commission member. ~~At the request of applicant, this committee requirement may be waived or discontinued by the County.~~

[Former (2) (E) moved to (6) (I)]

~~(F)(G) An fire prevention and emergency management and operations response plan for all phases of the life of the facility. The plan shall address the following: address the major concerns associated with the terrain, dry conditions, and fire hazards, limited access, and water quality as needed, addressing both normal and extraordinary conditions.~~

(1) The plan shall identify the fire district or fire department and verify that the district/department has the appropriate equipment, training and personnel to respond to fires, spills and high rise rescue. If the local fire district or department does not have adequate high rise rescue capability, the applicant shall provide a plan for providing such response in case of an emergency

~~(2) A spill prevention control and counter measure plan (SPCC) shall be provided. [NOTE: this is something that is not developed until closer to operations and would not be available at the time of the application. Plus, any need for a SPCC would be satisfied through applicable state permitting.]~~

(23) The plan shall identify the ~~An Operations and Maintenance Plan~~ detailing expected work force, local response capability, (contract or otherwise), controlled access, and in the case of transmission lines, proof of emergency response capability in accordance with OPUC rules governing operation and maintenance of such lines.

(34) The plan shall identify measures ~~An Emergency Response Plan~~ for responding to natural and/or man made emergencies or disasters.

~~(G)(H) An revegetation and erosion control plan, developed in consultation with the Umatilla County Public Works Department, Soil and Water Conservation District, Watershed Council, the Oregon Agricultural Water Quality Management Program (administered by the Oregon Department of Agriculture), the Department of Environmental Quality and the Confederated Tribes of the Umatilla Indian Reservation. [NOTE: is there an issue in the county that requires involving all these parties? This seems like a very intensive requirement that could take a significant amount of time to achieve. Such parties will have an opportunity to comment during the local land use proceeding, during which time any concern over the revegetation plan could be raised and addressed.] At a minimum, The plan should include the seeding of all road cuts or related bare road areas as a result of all~~

construction, demolition and rehabilitation with an appropriate mix of native vegetation or vegetation suited to the area. ~~This requirement will be satisfied if the applicant has an NPDES (National Pollution Discharge Elimination System) permit. The plan should also address monitoring during and post construction. This requirement will be satisfied if the applicant is seeking an NPDES (National Pollution Discharge Elimination System) permit~~

(H)(I) A weed control plan addressing prevention and control of all Umatilla County identified noxious weeds and other weeds such as thistles which distribute weed seed while blowing across nearby lands following maturity, directly resulting from the Wind Power Generation Facility during preparation, construction, operation and demolition/rehabilitation.

(I) — A socioeconomic impact assessment of the Wind Power Generation Facility, ~~evaluating such factors as, but not limited to, the project's effects upon the social, economic, public service, cultural, visual, and recreational aspects of affected communities and/or individuals. These effects can be viewed as either positive or negative. In order to maximize potential benefits and to mitigate outcomes that are viewed as problematic, decision makers need information about the socioeconomic impacts that are likely to occur.~~

[New (6) (J) below moved from (2) (K)]

(K)(J) Information pertaining to the impacts of the Wind Power Generation Facility on:

(1)
Wetlands and Streams;

(2) Fish, Avian and Wildlife (all potential species of reasonable concern), including but not limited to federally listed threatened and endangered species);

(3) Fish, Avian and Wildlife Habitat;

(4)
Criminal Activity (vandalism, theft, trespass, etc). Include a plan and proposed actions, if any, to avoid, minimize or mitigate negative impacts.

[New (5) (K) below moved from (2) (L)]

(L)(K) A dismantling and decommissioning plan of all components of the Wind Power Generation Facility, as provided in §152.616 (HHH) (7).

(5) (6)
Standards/Criteria of Approval. The following requirements and restrictions apply to the siting of a facility:

(A)
Setbacks.

(1) ~~The Wind Power Generation Facility shall be on property zoned EFU/GF or NR, and a~~ No portion of the facility turbines/towers shall be within 3,520 feet of properties zoned residential use or designated on the Comprehensive Plan as residential. (For clarification purposes of this section, EFU/GF/NR zones are not considered zoned for residential use.)

(2) Turbines/towers must shall not be set back at least constructed closer than 1,320 feet one half mile of from an existing residence, measured from the centerline of the turbine tower to the center of the nearest residence existing at the time of tower

construction, unless a written waiver is obtained from the landowner and ~~that shall be recorded with the County deed records.~~ [NOTE: the suggested setback is consistent with EFSC's conditions of approval for wind facilities. See Helix Site Certificate Condition 43(c).]

(3) New above-ground electrical transmission lines associated with the facility project shall not be constructed closer than 2500 feet to an existing residence, measured from the line to the center of the nearest residence existing at the time of line construction, unless a ~~without prior~~ written waiver is obtained from the landowner approval of the homeowner, said written approval to and be recorded with the County deed records, or unless the. ~~Exceptions to the 500-foot setback include transmission lines are placed in public right of way. Note: Transmission and distribution lines constructed and owned by the applicant what are not within the project boundary are subject to a separate land use permit.~~ [NOTE: the suggested language mirrors the language for the residential setback the facility for consistency and is consistent with EFSC's conditions of approval. Additionally, the facility and all related or supporting facilities are located within the facility site boundary and therefore should be subject to only one land use decision.]

(4) Public Safety. Turbines/towers must be setback from any public road right-of-way way a minimum distance of 110-percent of maximum ~~two times the overall total tower to blade tip height, measured from the centerline of the turbine tower to the nearest edge of any public right-of-way.~~ [NOTE: this suggested language is consistent with EFSC's conditions of

approval for wind facilities. See Helix Site Certificate Condition 43(b)]

E)(5) The turbines/towers shall be of a size and design to help minimize ~~reduce~~ noise or other detrimental effects. At a minimum, the facility shall be designed and operated within the limits of the noise standards established by DEQ rule the State of Oregon. A noise study may be required to confirm that the facility will be verify downwind noise impacts in all wind directions are in compliance with DEQ the noise standards.

(B) Reasonable efforts shall be made to design blend the wind facility turbines/towers to minimize adverse visual features with the natural surrounding area in order to minimize impacts upon open space and the natural landscape. [NOTE: this suggested language is consistent with the EFSC standard in OAR 345-024-0015.]

(C) The Development and Operation of the Facility will reasonably Reasonable efforts shall be taken to Reasonable efforts shall be taken to protect and to preserve existing trees, vegetation, water resources, wildlife, wildlife habitat, fish, avian or and other significant natural resources. Compliance with this standard may require mitigation and/or submission of an annual monitoring report. [NOTE: suggest keeping the original code language, or otherwise require an analysis of significant adverse impacts to provide more certainty of what the code criterion requires.]

(D) The turbine towers shall be designed and constructed to discourage bird nesting and wildlife attraction.

[Former (5) (E) was moved to (6) (A) (5)]

(F)(E)
Private access roads constructed as a part of the facility established and controlled by the Wind Power Facility shall may be gated to protect the facility and property owners from illegal or unwarranted trespass, and illegal dumping and hunting.

(G)(F)
Where practicable the electrical cable collector system shall be installed underground, at a minimum depth of 3 feet; elsewhere the cable collector system shall be installed to prevent adverse impacts on agriculture operations.

(H)(G)
Required permanent maintenance/operations buildings shall be located off-site in one of Umatilla County's appropriately zoned areas, except that such a building may be constructed on-site if:

1) The building is designed and constructed generally consistent with the character of similar buildings used by commercial farmers or ranchers, and

2) The building will be removed or converted to farm use upon decommissioning of the Wind Power Generation Facility consistent with the provisions of § 152.616 (HHH) (7).

(I)(H)
A Wind Power Generation Facility shall comply with the Specific Safety Standards for Wind Facilities delineated in OAR 345-024-0010 (as adopted at time of application).

[New (6) (I) below, moved from (2) (E)]

(E)(I)
A Covenant Not to Sue with regard to generally accepted farming practices shall be recorded with the County. Generally accepted farming practices shall be consistent with the definition of Farming Practices under ORS 30.930. The applicant shall covenant not to sue owners, operators, contractors, employees, or invitees of property zoned for farm use for generally accepted farming practices.

(J)
Roads.

(1) A Road Use Agreement with Umatilla County regarding the impacts and mitigation on county roads and mitigation for the impacts shall be required as a condition of approval.

(2) Design specifications Layout and design of the facility project roads shall comply with county standards and be reviewed and approved by the county road department prior to construction. [NOTE: the county will have the opportunity to review and approve the specific road design specifications when issuing building permits.]

[New (6) (K) below, moved from (2) (J)]

(J)(K)
Demonstrate All Wind Power Generation Facilities must show compliance with the standards found in OAR 660-033-0130 (37).

6) To the extent feasible, the county will accept information presented by an

application for an EFSC proceeding in the form and on the schedule required by EFSC.

(7)(L)

~~Submit a plan for The applicants dismantling of uncompleted construction and/or decommissioning plan for and/or re-powering of the Wind Power Generation Facility shall include the following information: as described in §152.616 (HHH) (7). [NOTE: this standard is duplicative of what is required under new subsection (5)(K) above as a part of the application. For projects sited through EFSC, this information is included in Exhibit W. If included as a standard or criterion of approval, it is unclear what is required to demonstrate compliance.]~~

[New (6) (M) below, moved from # (8)]

(LM)(8)

)} A surety bond, letter of credit, or other financial assurance mechanisms acceptable to the County ~~or letter of credit shall be established to cover for the cost of dismantling of uncompleted construction and/or decommissioning of the facility, and site restoration rehabilitation pursuant to (See § 152.616 (HHH) (7) & (8)). For projects being sited through EFSC, the financial assurance required by EFSC will be deemed to meet this requirement. [NOTE: the code should provide sufficient flexibility to allow for various forms of financial assurances depending on what is available in the future. Additionally, financial assurance satisfying EFSC's standards should satisfy the substantive requirement of this code provision] For projects being sited by the State of Oregon's Energy Facility Siting Council (EFSC), the bond or letter of credit required by EFSC will be deemed to meet this requirement.~~

[New (6) (N) below, moved from # (9)]

(9)(M)

N) The actual latitude and longitude location or Stateplane NAD 83(91) coordinates of each turbine tower, connecting lines, operations and maintenance O & M building, substation and transmission lines, shall be provided to Umatilla County within 90 days of starting once commercial electrical production begins.

(O)

~~An Operating and Facility Maintenance Plan shall be submitted and subject to county review and approval. [NOTE: this already seems to be a requirement imposed under the emergency operation plan under subsection (5) above. If included as a standard or criterion of approval, it is unclear what is required to demonstrate compliance]~~

[New (6) (P) below, moved from (10)]

(10)(P)

~~A summary of as-built construction changes in the facility from the original plan, if any, shall be provided by the owner/operator within 90 days of starting electrical production. [NOTE: as revised, how is this requirement different than what is required as a part of subsection (N) above? Also, this seems to be a matter that would be addressed through the building permit process, not the land use process and is therefore unnecessary to include as a standard.]~~

[New (7) below was formerly (7) (A)]

(7)(A)

A plan for dismantling and/or decommissioning that provides for completion of dismantling or decommissioning of the facility without significant delay and protects public health,

safety and the environment in compliance with the restoration requirements of this section. For projects sited through EFSC, compliance with EFSC's financial assurance and decommissioning standards shall be deemed to be in compliance with the dismantling and decommissioning requirements of this § 152.616 (HHH)(7) & (8). [NOTE: this suggested language from subsection (8)(D) and was moved here for clarity]

(B)(A)

A description of actions the facility owner proposes to take to restore the site to a useful, non-hazardous condition, including options for post-dismantle or decommission land use, information on how impacts on fish, wildlife, avian populations and the environment would be minimized during the dismantling or decommissioning process, and measures to protect the public against risk or danger resulting from post-decommissioning site conditions in compliance with the requirements of this section.

(C)(B)

A current detailed cost estimate, a comparison of that estimate with present funds the bond set aside for dismantling or decommissioning, and a plan for assuring the availability of adequate funds for completion of dismantling or decommissioning. The cost estimate will be reviewed and ~~be~~ updated by the facility owner/operator on a 3 5-year basis, unless material changes have been made in the overall facility that would materially increase or decrease these costs. If so, the report must be revised within 120 days of completion of such changes.

(D)(C)

Restoration of the site shall consist of the following:

1) Dismantle turbines, towers, pad-mounted transformers, meteorological towers and related aboveground equipment. All concrete turbine pads shall be removed to a depth of at least three feet below the surface grade.

2) The underground collection and communication cables need not be removed if at a depth of three feet or greater. These cables at a depth of three feet or greater can be abandoned in place if they are deemed not a hazard or interfering with agricultural use or other ~~consistent~~ resource uses of the land.

3) Gravel shall be removed from areas surrounding turbine pads.

4) Private A access roads shall be removed by removing gravel and restoring the surface grade and soil, unless the landowner elects to maintain the private access roads. [NOTE: often-times landowners want to keep the private access roads for better access to fields]

5) After removal of the structures and roads, the area shall be graded as close as is reasonably possible to its original contours and the soils shall be restored to a condition compatible with farm uses or consistent with other resource uses. Re-vegetation shall include planting by applicant of native plant seed mixes, planting by applicant of plant species suited to the area, or planting by landowner of agricultural crops, as appropriate, and shall be consistent with the weed control plan approved by Umatilla County.

6) Roads, cleared pads, fences, gates, and improvements may be left in place if a letter from the land owner is submitted to Umatilla County indicating said land owner will be responsible for, and will maintain said roads and/or facilities for farm or other purposes as permitted under applicable zoning.

[New # (8) below was formerly (7) (E)]

~~(8)(E)~~ The applicant (facility owner/operator) shall submit to Umatilla County proof of financial assurance ~~a bond or letter of credit~~ acceptable to the County, in the amount of the decommissioning fund naming Umatilla County ~~and the landowner as~~ beneficiary or payee. For projects sited through EFSC, compliance with EFSC's financial assurance and decommissioning standards shall be deemed to be in compliance with the dismantling and decommissioning requirements of this § 152.616 (HHH)(7) & (8). [NOTE: this suggested language is from subsection (8)(D) and was moved here for clarity. Also, using the term "financial assurance" provides flexibility for the type of mechanisms that may be used]

~~(A)(1)~~ The calculation of present year dollars shall be made using the U.S. Gross Domestic Product Implicit Price Deflator as published by the U.S. Department of commerce, Bureau of Economic Analysis, or any successor agency (the Aindex.@). The amount of the financial assurance bond or letter of credit account shall be changed up or down if the change in the Index moves by more than change if the Index changes be increased at such time when the cumulative percentage increase in the Index exceeds 10 percent from the last change, and then the amount shall be increased or decreased by the cumulative percentage increase. If at

any time the Index is no longer published, Umatilla County and the applicant shall select a comparable calculation of present year dollars. The amount of the financial assurance bond or letter of credit account shall be pro-rated within the year to the date of decommissioning. [NOTE: using the term "financial assurance" provides flexibility for the type of mechanisms that may be used]

~~(B)(2)~~ The decommissioning financial assurance bond fund shall not be subject to revocation or reduction before decommissioning of the Wind Power Generation Facility, and restoration rehabilitation of the project site/s. [NOTE: using the term "financial assurance" provides flexibility for the type of mechanisms that may be used]

~~(C)(3)~~ The facility owner/operator shall describe the status of the decommissioning financial assurance bond fund in the annual report submitted to the Umatilla County.

~~(F)~~ If any disputes arise between Umatilla County and the landowner on the expenditure of any proceeds from the bond or the letter of credit, either party may request non-binding arbitration. Each party shall appoint an arbitrator, with the two arbitrators choosing a third. The arbitration shall proceed according to the Oregon statutes governing arbitration. The cost of the arbitration (excluding attorney fees) shall be shared equally by the parties.

~~(D)(G)~~ For projects sited by EFSC, compliance with EFSC's financial assurance and decommissioning standards shall be

~~deemed to be in compliance with the dismantling and decommissioning requirements of this § 152.616 (HHH)(7) & (8).~~ [NOTE: suggest moving to subsection (7) and (8) introductions for clarity]

[Former # (8) moved to (6) (M)]

[Former # (9) moved to (6) (N)]

[Former # (10) moved to (6) (P)]

[New # (9) below, moved from # (12)]

(9)(12) Within 120 days after the end of each calendar year the facility owner/operator shall provide Umatilla County an annual report including the following information:

(A)
Energy production by month and year.

(B)
Non-proprietary information about wind conditions, (e.-g., monthly averages, high wind events, bursts).

(C)
A summary of changes to the facility that do not require facility requirement amendments.

(D)
A summary of the fish, wildlife and avian monitoring program – bird injuries, casualties, positive impacts on area wildlife and any recommendations for changes in the monitoring program.

(E)
Employment impacts to the community and Umatilla County during and after construction.

(F)
Success or failures of weed control practices.

(G)
Status of the decommissioning financial assurance bond fund.

(H)
Summary comments –

1) ~~any~~ Problems with the projects, any adjustments needed, or any suggestions.

2) The annual report requirement may be modified discontinued or required at a less frequent schedule by the County: as warranted by project conditions, circumstances and compliance. The reporting requirement and/or reporting schedule shall be reviewed, and possibly altered, at the request of the facility owner/operator. For facilities under EFSC jurisdiction and for which an annual report is required, the annual report to EFSC satisfies this requirement.

[New # (10) below, moved from # (11)]

(10) (11) (A)
The Wind Power Generation Facility requirements shall be facility specific, but can be amended as long as the facility does not exceed the boundaries of the Umatilla County conditional use permit where the original facility was constructed.

(B)
An amendment to the conditional use permit shall be subject to the standards and procedures found in § 152.611. For projects sited through EFSC, a conditional use permit amendment is triggered under ORS 469.401(3) only if EFSC approves a site certificate amendment. Otherwise,

Additionally, an amendment shall be required if the proposed facility changes would:

(
1) ~~Increase the land area taken out of agricultural production by an additional 20 acres or more;~~ (2) ~~Increase the land area taken out of agricultural production sufficiently to trigger taking a Goal 3 exception;~~ (3) ~~Require an Expansion~~ Expand of the established facility boundaries; (2) (4) Increase the number of towers; (3) (5) Increase generator output by more than 25 percent relative to the generation capacity authorized by the initial permit due to the repowering or upgrading of power generation capacity; (4) ~~Changes to project private roads or access points to be established at or inside the project boundaries.~~ [NOTE: as long as a facility layout, such as a road route, is changed within the approved site boundary, no amendment should be required]

Notification by the facility owner/operator to the Umatilla County Planning Department of changes not requiring an amendment such as a change in the project owner/operator of record, a change in the emergency plan or change in the maintenance contact are encouraged but are not encouraged, but not required to be reported immediately. An amendment to a Site Certificate issued by EFSC will be governed by the rules for amendments established by EFSC. [NOTE: requiring immediate notification is subjective. The current code language seems sufficient.]

[# (12) moved to # (9)]

(Ord. 83-4, passed 5-9-83; Ord. 2002-02, passed 5-20-2003; Ord. 2005-02, passed 1-5-2005; Ord. 2009-09, passed 12-8-09)



IBERDROLA RENEWABLES

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UMATILLA COUNTY
PLANNING DEPARTMENT

November 15, 2010

Umatilla County Planning Commission
c/o Tamra Mabbott, Planning Director
Umatilla County
216 SE Fourth Street
Pendleton, OR 97801

Re: Comments on Draft Amendment to UCDC 152.616(HHH)

Dear Planning Commissioners:

Iberdrola Renewables, Inc. ("IBR") appreciates the time and effort staff and the Planning Commission working group have contributed to preparing the draft amendment to Umatilla County Development Code ("UCDC") section 152.616(HHH) ("Draft Amendment"). IBR agrees that updating local land use codes is helpful to incorporate lessons learned from past projects and to better coordinate with other permitting processes. IBR has worked with Umatilla County ("County") in its capacity as a special advisory group ("SAG") for the Helix Wind Power Facility, approved by the Energy Facility Siting Council ("EFSC") July 31, 2009, and with this context in mind, provides the following comments to address some potential issues associated with the Draft Amendment. A redline of the Draft Amendment is also included for the Planning Commission's consideration and represents several wind developers' collaborative suggestions for addressing concerns with the proposed language.

Procedural v. Substantive Requirements. The Draft Amendment distinguishes between application requirements and standards and criteria for wind energy facilities. For energy projects sited through EFSC, only the "applicable substantive criteria" of the County's comprehensive plan and land use regulations apply in EFSC's decision-making process. ORS 469.504(1). The County, as the SAG, however, recommends to EFSC the "applicable substantive criteria" that EFSC should evaluate when making its decision. ORS 469.504(5).



IBERDROLA RENEWABLES

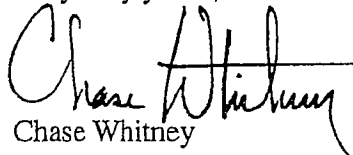
Given that EFSC has its own application and plan requirements, IBR encourages the County to ensure that the Draft Amendment recognize that some provisions of UCDC 152.616(HHH) will not apply to EFSC jurisdictional projects. See the suggested revised language to UCDC 152.616(HHH)(2) and (4) in the attached redline to address this concern.

Additionally, to the extent that the substantive standards and criteria in UCDC 152.616(HHH) overlap with an EFSC standard, an EFSC applicant should be able to demonstrate compliance with the County's "applicable substantive criteria" with information satisfactory for EFSC to deem the EFSC standard met. For example, to demonstrate compliance with the County's current decommissioning substantive criterion, an applicant can satisfy the County's requirement by demonstrating compliance with EFSC's decommissioning standard. IBR encourages the County to retain the current language. See the suggested revised language to UCDC 152.616(HHH)(7) and (8) in the attached redline.

Creating a Balance for Responsible Development. Earlier in 2010, the Umatilla County Energy Generation Area ("EGA") was removed through an EFSC rulemaking. The County initiated this rulemaking request to remove the economics and financial disadvantages for development of wind within the County. The County was the only county in Oregon with an EGA and saw it as a competitive disadvantaged when compared with the other 35 counties in the state. The suggested language in the attached redline attempts to address these concerns in a way that allows for continued responsible wind development in the County while providing more certainty for developers.

In sum, thank you for consideration of IBR's suggested revisions to the Draft Amendment and we look forward to appearing before you in person at the November 18, 2010 Planning Commission hearing.

Very truly yours,


Chase Whitney

cc: Carol Johnson
Doug Olsen
Elaine Albrich

CONDITIONAL USES

Sub-Sections

<u>152.610</u>	<u>Definition</u>
<u>152.611</u>	<u>New or altered conditional uses: conformance with requirements: performance bonds</u>
<u>152.612</u>	<u>Procedure for taking action on a conditional use application</u>
<u>152.613</u>	<u>Time limit on a conditional use permit</u>
<u>152.614</u>	<u>Limit on reapplication</u>
<u>152.615</u>	<u>Additional restrictions</u>
<u>152.616</u>	<u>Standards for review of conditional uses and land use decisions</u>
<u>152.617</u>	<u>Standards for review of conditional uses and land use decisions on EFU zoned land</u>

§ 152.610 DEFINITION.

For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

CONDITIONAL USES. Activities that are similar to other activities permitted within a zone, but are not entirely compatible with the permitted uses or purpose and intent of the zone, or compatible with surrounding land uses on adjacent lands in another zoning district.

LAND USE DECISION. Includes a final decision by a local government concerning the adoption, amendment or application of the statewide planning goals, a comprehensive plan provision, a land use regulation or a new land use regulation.

(A Land Use Decision does not include: (1) a decision of a local government which is made under land use standards which do not require interpretation or the exercise of policy or legal judgment; (2) a decision of a local government which approved or denies a building permit issued under clear and objective land use standards.) (Pursuant to ORS 197.015 (10))

(Ord. 83-4, passed 5-9-83; Ord. 2005-02, passed 1-5-2005)

Proposed Amendments to UCDC Sections 152.612, 152.615 & 152.6126 (HHH)

§ 152.611 NEW OR ALTERED CONDITIONAL USES; CONFORMANCE WITH REQUIREMENTS; PERFORMANCE BONDS.

(A) Conditional uses listed in this chapter may be permitted, enlarged or altered contingent upon appropriate authorization, in accordance with the standards and procedures set forth in this subchapter.

(B) In permitting a new conditional use or the alteration of an existing conditional use, the appropriate planning authority may impose conditions, which are considered necessary to protect the best interests of the surrounding area or the county as a whole.

(C) In the case of a use existing prior to the effective date of this chapter and classified in this chapter as a conditional use, any change in use or in lot area or an alteration of structure shall conform with the requirements for a conditional use.

(D) The county may require an applicant to furnish the county with a performance bond or such other form of assurance that the county deems necessary to guarantee development in accordance

with the standards established and conditions attached in granting a conditional use.

(Ord. 83-4, passed 5-9-83; Ord. 2005-02, passed 1-5-2005)

§ 152.612 PROCEDURE FOR TAKING ACTION ON A CONDITIONAL USE APPLICATION.

The procedure for taking action on a conditional use or land use decision application shall be as follows:

(A) A property owner or the Planning Commission may initiate a request for a conditional use by filing an application ~~with the secretary of the Planning Commission~~, using forms prescribed pursuant to § 152.767;

(B) A conditional use and land use decision application shall be processed via administrative review per § 152.769;

(C) A conditional use permit or land use decision will not be approved unless the proposed use of the land will be in conformance with the County Comprehensive Plan;

(D) An applicant granted a conditional use permit or land use decision must obtain a county zoning permit ~~for each tax lot~~ before commencing construction. [NOTE: zoning permits should be treated the same as conditional use permits and land use decisions, and should be based on the project site boundary, not on the basis of tax lots].

(E) A conditional use or land use decision may be referred to the Umatilla County Planning Commission if the Planning Director deems circumstances warrant such additional review and

Proposed Amendments to UCDC Sections 152.612, 152.615 & 152.6126 (HHH)

consideration, except for a conditional use or land use decision issued under ORS 469.401(3). [NOTE: ORS 469.401(3) requires a county, after EFSC issues a site certificate, to issue the relevant conditional use permit or land use decision without hearings or other proceedings upon proper application and payment of fees.]

(Ord. 83-4, passed 5-9-83; Ord. 2005-02, passed 1-5-2005)

§ 152.613 TIME LIMIT ON A CONDITIONAL USE PERMIT.

(A) A conditional use permit shall be void after one year or such lesser time as the permit may specify unless 20% of the total estimated project cost has occurred or the proposed use has occurred. However, the Planning Director or the proper planning authority may extend authorization for an additional period not to exceed one year, on request from the applicant. The total time allowed shall not exceed two years from the original approval date.

(B) If delay in establishing the use is demonstrably due to a delay by a state or federal agency in issuing a required permit, at no fault of the applicant, the Planning Director or a Designee of the Planning Director may extend the time limit imposed by division (A) of this section for a period not to exceed one year following issuance of the state or federal agency permit. The applicant shall establish that state or federal permits have not yet been issued, and that the delay has not been caused by the applicant.

(C) Time Limitation on Transportation-Related Conditional Use Permits. Authorization of a conditional use shall be void after a period specified by the

applicant as reasonable and necessary based on season, right-of-way acquisition, and other pertinent factors. This period shall not exceed three years.

(Ord. 83-4, passed 5-9-83; Ord. 2005-02, passed 1-5-2005)

**§ 152.614 LIMIT ONE
APPLICATION.**

No application for a conditional use permit shall be considered within one year of the denial of such a request, unless in the opinion of the Hearings Officer, Planning Director or the appropriate planning authority new evidence or a change of circumstances warrant it.

(Ord. 83-4, passed 5-9-83; Ord. 2005-02, passed 1-5-2005)

**§ 152.615 ADDITIONAL
CONDITIONAL USE
PERMIT
RESTRICTIONS.**

In addition to the requirements and criteria listed in this subchapter, the Hearings Officer, Planning Director or the appropriate planning authority may impose the following conditions upon a finding that circumstances warrant such additional restrictions:

(A) Limiting the manner in which the use is conducted, including restricting hours of operation and restraints to minimize such a environmental effects as noise, vibration, air pollution, water pollution, glare or odor;

(B) Establishing a special yard, other open space or lot area or dimension;

(C) Limiting the height, size or location of a building or other structure;

(D) Designating the size, number, location and nature of vehicle access points;

(E) Increasing the required street dedication, roadway width or improvements within the street right of way;

(F) Designating the size, location, screening, drainage, surfacing or other improvement of a parking or loading area;

(G) Limiting or otherwise designating the number, size, location, height and lighting of signs;

(H) Limiting the location and intensity of outdoor lighting and requiring its shielding;

(I) Requiring diking, screening, landscaping or other methods to protect adjacent or nearby property and designating standards for installation and maintenance.

(J) Designating the size, height, location and materials for a fence;

(K) Protecting and preserving existing trees, vegetation, water resources, air quality resources, wildlife habitat, or other significant natural resources [NOTE: the term "quality" is consistent with the DEQ regulatory scheme];

(L) Parking area requirements as listed in §§ 152.560 through 152.562 of this chapter.

(Ord. 83-4, passed 5-9-83; Ord. 2005-02, passed 1-5-2005)

§ 152.616 STANDARDS FOR
REVIEW OF
CONDITIONAL USES
AND LAND USE
DECISIONS.

The following standards shall apply for review by the Hearings Officer, the Planning Director or appropriate planning authority of the specific conditional uses and land use decisions listed in this chapter:

(HHH) Commercial Wind Power Generation Facility.

(1) The procedure for taking action on the siting of a facility is a request for a conditional use. A public hearing pursuant to Sections ~~152.750-755~~ and 152.771 shall be held to determine if the applicant meets the siting requirements for a Wind Power Generation Facility. The requirement for a hearing and any other procedure, including pre-application conference and application requirements, will not apply to proposed facilities for which the Oregon Energy Facility Siting Council (EFSC) is making the land use decision. [NOTE: clarifying that EFSC jurisdictional projects are subject only to the County's applicable substantive, and not procedural, requirements].

[Former # (2) moved to # (5)]

New→# (2) A pre-application meeting(s) is required. The applicant will be expected to bring preliminary information about the application components described in Application Requirement (5) below. County staff will arrange the meeting and will invite local, state, federal and other agency representatives and individuals with pertinent expertise in natural resources, to participate. The purpose of the pre-application meeting will be to identify potential impacts and opportunities and to

advise on the level of detail required in each of the application components described in (5) below, and establish technical oversight requirements for monitoring plans. This pre-application requirement does not apply to projects being sited through EFSC.

(3) Umatilla County may impose clear and objective conditions in accordance with the County Comprehensive Plan, County Development Code and state law, which Umatilla County considers necessary to protect the best interests of the surrounding area, or Umatilla County as a whole.

(4) Prior to commencement of any construction, all other necessary pre-construction permits shall be obtained, including but not limited to a conditional use permit, e.g. Umatilla County Zoning permit, and road access and other permits from the Umatilla County Public Works Department, and from the Oregon Department of Transportation, other permits from state agencies with the requisite jurisdiction.

(2) (5) Application Requirements. The following information shall be provided as part of the local land use application. For projects sited through EFSC, these application requirements do not apply as applicable substantive criteria and the applicant must provide as a part of the application for site certificate information consistent with the requirements in OAR chapter 345, division 21.→

(A) (1) A general description of the proposed Wind Power Generation Facility;

(2) A tentative construction schedule;

(3) The legal description of the property on which the facility will be located; and

(4) Identification of the general area for all components of the proposed Wind Power Generation Facility;

(B) A including a map showing the location of components.

(C) ~~(1)~~
~~Evidence of wind monitoring data qualifying the wind resources within the project boundary. [NOTE: this would require the applicant to provide proprietary business information. It is a business decision for an applicant to decide whether wind resources are adequate to support a commercially viable project.]~~

~~(2)~~
~~Evidence of active utility transmission interconnect requests and/or process and description of same, and [NOTE: this would require the applicant to provide proprietary business information. It is a business decision for an applicant to move forward with a land use application independent from an interconnection request]~~

~~(13)~~ Route and plan for transmission facilities connecting the project to the grid.

~~(B)~~(D) Identification of potential conflicts, if any, with:

(1) Accepted forest practices and farming or ranching practices as defined in ORS 215.203(2) (e) on adjacent lands devoted to farm and/or forest uses; (2) Other resource operations and practices on adjacent lands except for ~~except for~~ including wind power generation facilities

on such adjacent lands. [NOTE: no standard requires applicant to evaluate potential impacts to existing operating wind facilities so it is unclear why this analysis would be provided. Treatment of wake impacts should be addressed by the developers and agreed-upon setbacks should be negotiated outside of the permit process.]
; and (3) Accepted farm or forest practices on surrounding EFU/GF or NR land, including the nature and the extent of the impact of the proposed facility on the cost of such practices.

(C)(E) A Transportation Plan, with proposed recommendations, if any, reflecting the guidelines provided in the Umatilla County Transportation System Plan (TSP) and the transportation impacts of the proposed Wind Power Generation Facility upon the local and regional road system during and after construction, after consultation with Umatilla County Public Works Director. The plan will designate the size, number, location and nature of vehicle access points.

~~(D)~~(F) A fish wildlife and avian impact monitoring plan. The ~~avian~~ monitoring plan shall be designed and administered by the applicant's wildlife professionals. [See HHH (2), above] ~~For projects being sited by EFSC, compliance with EFSC's avian monitoring requirements will be deemed to meet this requirement.~~ The plan shall include the formation of a technical oversight committee to review the plan, and consist of the following persons:

(1) The landowners/farm tenants.

(2) Facility owner/operator representative. (Chair)

(3) Oregon Department of Fish and Wildlife representative, if the agency chooses to participate.

(4) Two Umatilla County residents with no direct economic interest in the project and recommended by the applicants for appointment by the Umatilla County Board of Commissioners.

(5) U.S. Fish and Wildlife representative, if the agency chooses to participate.

(6) Umatilla County Planning Commission member. ~~At the request of applicant, this committee requirement may be waived or discontinued by the County.~~

[Former (2) (E) moved to (6) (I)]

~~(F)(G) An fire prevention and emergency management and operations response plan for all phases of the life of the facility. The plan shall address the following: address the major concerns associated with the terrain, dry conditions, and fire hazards, limited access, and water quality as needed, addressing both normal and extraordinary conditions.~~

(1) The plan shall identify the fire district or fire department and verify that the district/department has the appropriate equipment, training and personnel to respond to fires, spills and high rise rescue. If the local fire district or department does not have adequate high rise rescue capability, the applicant shall provide a plan for providing such response in case of an emergency

~~(2) A spill prevention control and counter measure plan (SPCC) shall be provided. [NOTE: this is something that is not developed until closer to operations and would not be available at the time of the application. Plus, any need for a SPCC would be satisfied through applicable state permitting.]~~

(23) The plan shall identify the An Operations and Maintenance Plan detailing expected work force, local response capability, (contract or otherwise), controlled access, and in the case of transmission lines, proof of emergency response capability in accordance with OPUC rules governing operation and maintenance of such lines.

(34) The plan shall identify measures An Emergency Response Plan for responding to natural and/or man made emergencies or disasters.

(G)(H) An revegetation and erosion control plan, developed in consultation with the Umatilla County Public Works Department, Soil and Water Conservation District, Watershed Council, the Oregon Agricultural Water Quality Management Program (administered by the Oregon Department of Agriculture), the Department of Environmental Quality and the Confederated Tribes of the Umatilla Indian Reservation. [NOTE: is there an issue in the county that requires involving all these parties? This seems like a very intensive requirement that could take a significant amount of time to achieve. Such parties will have an opportunity to comment during the local land use proceeding, during which time any concern over the revegetation plan could be raised and addressed.] At a minimum, The plan should include the seeding of all road cuts or related bare road areas as a result of all

construction, demolition and rehabilitation with an appropriate mix of native vegetation or vegetation suited to the area. This requirement will be satisfied if the applicant has an NPDES (National Pollution Discharge Elimination System) permit. The plan should also address monitoring during and post construction. This requirement will be satisfied if the applicant is seeking an NPDES (National Pollution Discharge Elimination System) permit

~~(H)(I)~~ A weed control plan addressing prevention and control of all Umatilla County identified noxious weeds and other weeds such as thistles which distribute weed seed while blowing across nearby lands following maturity, directly resulting from the Wind Power Generation Facility during preparation, construction, operation and demolition/rehabilitation.

~~(I) — A socioeconomic impact assessment of the Wind Power Generation Facility, evaluating such factors as, but not limited to, the project's effects upon the social, economic, public service, cultural, visual, and recreational aspects of affected communities and/or individuals. These effects can be viewed as either positive or negative. In order to maximize potential benefits and to mitigate outcomes that are viewed as problematic, decision makers need information about the socioeconomic impacts that are likely to occur.~~

[New (6) (J) below moved from (2) (K)]

~~(K)(J)~~ Information pertaining to the impacts of the Wind Power Generation Facility on:

(1)
Wetlands and Streams;

(2) Fish, Avian and Wildlife (all potential species of reasonable concern), including but not limited to federally listed threatened and endangered species);

(3) Fish, Avian and Wildlife Habitat;

(4)
Criminal Activity (vandalism, theft, trespass, etc). Include a plan and proposed actions, ~~if any~~, to avoid, minimize or mitigate negative impacts.

[New (5) (K) below moved from (2) (L)]

~~(L)(K)~~ A dismantling and decommissioning plan of all components of the Wind Power Generation Facility, as provided in §152.616 (HHH) (7).

~~(5) (6)~~ Standards/Criteria of Approval. The following requirements and restrictions apply to the siting of a facility:

(A)
Setbacks.

(1) The Wind Power Generation Facility shall be on property zoned EFU/GF or NR, and nNo portion of the facility turbines/towers shall be within 3,520 feet of properties zoned residential use or designated on the Comprehensive Plan as residential. (For clarification purposes of this section, EFU/GF/NR zones are not considered zoned for residential use.)

(2) Turbines/towers must shall not be set back at least constructed closer than 1,320 feet one half mile of from an existing residence, measured from the centerline of the turbine tower to the center of the nearest residence existing at the time of tower

construction, unless a written waiver is obtained from the landowner and that shall be recorded with the County deed records.

[NOTE: the suggested setback is consistent with EFSC's conditions of approval for wind facilities. See Helix Site Certificate Condition 43(c).]

(3) New above-ground electrical transmission lines associated with the facility project shall not be constructed closer than 2500 feet to an existing residence, measured from the line to the center of the nearest residence existing at the time of line construction, unless a ~~without~~ prior written waiver is obtained from the landowner approval of the homeowner, said written approval to and be recorded with the County deed records, or unless the ~~Exceptions to the 500-foot setback include~~ transmission lines are placed in public right of way. ~~Note: Transmission and distribution lines constructed and owned by the applicant what are not within the project boundary are subject to a separate land use permit.~~ [NOTE: the suggested language mirrors the language for the residential setback the facility for consistency and is consistent with EFSC's conditions of approval. Additionally, the facility and all related or supporting facilities are located within the facility site boundary and therefore should be subject to only one land use decision.]

(4) Public Safety. Turbines/towers must be setback from any public road right-of-way way a minimum distance of 110-percent of maximum two times the overall total tower to blade tip height, measured from the centerline of the turbine tower to the nearest edge of any public right-of-way. [NOTE: this suggested language is consistent with EFSC's conditions of

approval for wind facilities. See Helix Site Certificate Condition 43(b)]

E)(5) The turbines/towers shall be of a size and design to help minimize reduce noise or other detrimental effects. At a minimum, the facility shall be designed and operated within the limits of the noise standards established by DEQ rule the State of Oregon. A noise study may be required to confirm that the facility will be verify downwind noise impacts in all wind directions are in compliance with DEQ the noise standards.

(B) Reasonable efforts shall be made to design blend the wind facility turbines/towers to minimize adverse visual features with the natural surrounding area in order to minimize impacts upon open space and the natural landscape. [NOTE: this suggested language is consistent with the EFSC standard in OAR 345-024-0015.]

(C) The Development and Operation of the Facility will reasonably Reasonable efforts shall be taken to Reasonable efforts shall be taken to protect and to preserve existing trees, vegetation, water resources, wildlife, wildlife habitat, fish, avian or and other significant natural resources. Compliance with this standard may require mitigation and/or submission of an annual monitoring report. [NOTE: suggest keeping the original code language, or otherwise require an analysis of significant adverse impacts to provide more certainty of what the code criterion requires.]

(D) The turbine towers shall be designed and constructed to discourage bird nesting and wildlife attraction.

[Former (5) (E) was moved to (6) (A) (5)]

(F)(E)
Private access roads constructed as a part of the facility established and controlled by the Wind Power Facility shall may be gated to protect the facility and property owners from illegal or unwarranted trespass, and illegal dumping and hunting.

(G)(F)
Where practicable the electrical cable collector system shall be installed underground, at a minimum depth of 3 feet; elsewhere the cable collector system shall be installed to prevent adverse impacts on agriculture operations.

(H)(G)
Required permanent maintenance/operations buildings shall be located off-site in one of Umatilla County's appropriately zoned areas, except that such a building may be constructed on-site if:

(
1) The building is designed and constructed generally consistent with the character of similar buildings used by commercial farmers or ranchers, and

(
2) The building will be removed or converted to farm use upon decommissioning of the Wind Power Generation Facility consistent with the provisions of § 152.616 (HHH) (7).

(I)(H)
A Wind Power Generation Facility shall comply with the Specific Safety Standards for Wind Facilities delineated in OAR 345-024-0010 (as adopted at time of application).

[New (6) (I) below, moved from (2) (E)]

(E)(I)
A Covenant Not to Sue with regard to generally accepted farming practices shall be recorded with the County. Generally accepted farming practices shall be consistent with the definition of Farming Practices under ORS 30.930. The applicant shall covenant not to sue owners, operators, contractors, employees, or invitees of property zoned for farm use for generally accepted farming practices.

(J)
Roads.

(1) A Road Use Agreement with Umatilla County regarding the impacts and mitigation on county roads and mitigation for the impacts shall be required as a condition of approval.

(2) Design specifications Layout and design of the facility project roads shall comply with county standards and be reviewed and approved by the county road department prior to construction. [NOTE: the county will have the opportunity to review and approve the specific road design specifications when issuing building permits.]

[New (6) (K) below, moved from (2) (J)]

(J)(K)
Demonstrate All Wind Power Generation Facilities must show compliance with the standards found in OAR 660-033-0130 (37).

(
6) To the extent feasible, the county will accept information presented by an

application for an EFSC proceeding in the form and on the schedule required by EFSC.

~~Submit a plan for The applicants dismantling of uncompleted construction and/or decommissioning plan for and/or re-powering of the Wind Power Generation Facility shall include the following information: as described in §152.616 (HHH) (7). [NOTE: this standard is duplicative of what is required under new subsection (5)(K) above as a part of the application. For projects sited through EFSC, this information is included in Exhibit W. If included as a standard or criterion of approval, it is unclear what is required to demonstrate compliance.]~~

[New (6) (M) below, moved from # (8)]

~~(LM)(8)~~
) A surety bond, letter of credit, or other financial assurance mechanisms acceptable to the County ~~or letter of credit~~ shall be established to cover for the cost of dismantling of uncompleted construction and/or decommissioning of the facility, and site restoration rehabilitation pursuant to ~~(See § 152.616 (HHH) (7) & (8)).~~ For projects being sited through EFSC, the financial assurance required by EFSC will be deemed to meet this requirement. [NOTE: the code should provide sufficient flexibility to allow for various forms of financial assurances depending on what is available in the future. Additionally, financial assurance satisfying EFSC's standards should satisfy the substantive requirement of this code provision] For projects being sited by the State of Oregon's Energy Facility Siting Council (EFSC), the bond or letter of credit required by EFSC will be deemed to meet this requirement.

[New (6) (N) below, moved from # (9)]

~~(9)(M)~~
(N) The actual latitude and longitude location or Stateplane NAD 83(91) coordinates of each turbine tower, connecting lines, operations and maintenance O & M building, substation and transmission lines, shall be provided to Umatilla County within 90 days of starting ~~once commercial~~ electrical production begins.

~~(O)~~
~~An Operating and Facility Maintenance Plan shall be submitted and subject to county review and approval. [NOTE: this already seems to be a requirement imposed under the emergency operation plan under subsection (5) above. If included as a standard or criterion of approval, it is unclear what is required to demonstrate compliance]~~

[New (6) (P) below, moved from (10)]

~~(10)(P)~~
~~A summary of as built construction changes in the facility from the original plan, if any, shall be provided by the owner/operator within 90 days of starting electrical production. [NOTE: as revised, how is this requirement different than what is required as a part of subsection (N) above? Also, this seems to be a matter that would be addressed through the building permit process, not the land use process and is therefore unnecessary to include as a standard.]~~

[New (7) below was formerly (7) (A)]

(7)(A) A plan for dismantling and/or decommissioning that provides for completion of dismantling or decommissioning of the facility without significant delay and protects public health,

safety and the environment in compliance with the restoration requirements of this section. For projects sited through EFSC, compliance with EFSC's financial assurance and decommissioning standards shall be deemed to be in compliance with the dismantling and decommissioning requirements of this § 152.616 (HHH)(7) & (8). [NOTE: this suggested language from subsection (8)(D) and was moved here for clarity]

~~(B)~~(A)

A description of actions the facility owner proposes to take to restore the site to a useful, non-hazardous condition, including options for post-dismantle or decommission land use, information on how impacts on fish, wildlife, avian populations and the environment would be minimized during the dismantling or decommissioning process, and measures to protect the public against risk or danger resulting from post-decommissioning site conditions in compliance with the requirements of this section.

~~(C)~~(B)

A current detailed cost estimate, a comparison of that estimate with present funds the bond set aside for dismantling or decommissioning, and a plan for assuring the availability of adequate funds for completion of dismantling or decommissioning. The cost estimate will be reviewed and ~~be~~ updated by the facility owner/operator on a 3 5-year basis, unless material changes have been made in the overall facility that would materially increase or decrease these costs. If so, the report must be revised within 120 days of completion of such changes.

~~(D)~~(C)

Restoration of the site shall consist of the following:

1) Dismantle turbines, towers, pad-mounted transformers, meteorological towers and related aboveground equipment. All concrete turbine pads shall be removed to a depth of at least three feet below the surface grade.

2) The underground collection and communication cables need not be removed if at a depth of three feet or greater. These cables at a depth of three feet or greater can be abandoned in place if they are deemed not a hazard or interfering with agricultural use or other ~~consistent~~ resource uses of the land.

3) Gravel shall be removed from areas surrounding turbine pads.

4) Private A access roads shall be removed by removing gravel and restoring the surface grade and soil, unless the landowner elects to maintain the private access roads. [NOTE: often-times landowners want to keep the private access roads for better access to fields]

5) After removal of the structures and roads, the area shall be graded as close as is reasonably possible to its original contours and the soils shall be restored to a condition compatible with farm uses or consistent with other resource uses. Re-vegetation shall include planting by applicant of native plant seed mixes, planting by applicant of plant species suited to the area, or planting by landowner of agricultural crops, as appropriate, and shall be consistent with the weed control plan approved by Umatilla County.

6) Roads, cleared pads, fences, gates, and improvements may be left in place if a letter from the land owner is submitted to Umatilla County indicating said land owner will be responsible for, and will maintain said roads and/or facilities for farm or other purposes as permitted under applicable zoning.

[New # (8) below was formerly (7) (E)]

~~(8)(E)~~ The applicant (facility owner/operator) shall submit to Umatilla County proof of financial assurance ~~a bond or letter of credit~~ acceptable to the County, in the amount of the decommissioning fund naming Umatilla County ~~and the landowner as~~ beneficiary or payee. For projects sited through EFSC, compliance with EFSC's financial assurance and decommissioning standards shall be deemed to be in compliance with the dismantling and decommissioning requirements of this § 152.616 (HHH)(7) & (8). [NOTE: this suggested language is from subsection (8)(D) and was moved here for clarity. Also, using the term "financial assurance" provides flexibility for the type of mechanisms that may be used]

(A)(1) The calculation of present year dollars shall be made using the U.S. Gross Domestic Product Implicit Price Deflator as published by the U.S. Department of commerce, Bureau of Economic Analysis, or any successor agency (the Aindex.@). The amount of the financial assurance ~~bond or letter of credit account shall be changed up or down if the change in the Index moves by more than change if the Index changes be increased at such time when the cumulative percentage increase in the Index exceeds 10 percent from the last change, and then the amount shall be increased or decreased by the cumulative percentage increase. If at~~

any time the Index is no longer published, Umatilla County and the applicant shall select a comparable calculation of present year dollars. The amount of the financial assurance ~~bond or letter of credit account~~ shall be pro-rated within the year to the date of decommissioning. [NOTE: using the term "financial assurance" provides flexibility for the type of mechanisms that may be used]

~~(B)(2)~~ The decommissioning financial assurance ~~bond fund~~ shall not be subject to revocation or reduction before decommissioning of the Wind Power Generation Facility; and restoration rehabilitation of the project site/s. [NOTE: using the term "financial assurance" provides flexibility for the type of mechanisms that may be used]

~~(C)(3)~~ The facility owner/operator shall describe the status of the decommissioning financial assurance ~~bond fund~~ in the annual report submitted to the Umatilla County.

~~(F)~~ ——— If any disputes arise between Umatilla County and the landowner on the expenditure of any proceeds from the bond or the letter of credit, either party may request non-binding arbitration. Each party shall appoint an arbitrator, with the two arbitrators choosing a third. The arbitration shall proceed according to the Oregon statutes governing arbitration. The cost of the arbitration (excluding attorney fees) shall be shared equally by the parties.

~~(D)(G)~~ For projects sited by EFSC, compliance with EFSC's financial assurance and decommissioning standards shall be

~~deemed to be in compliance with the dismantling and decommissioning requirements of this § 152.616 (HHH)(7) & (8).~~ [NOTE: suggest moving to subsection (7) and (8) introductions for clarity]

[Former # (8) moved to (6) (M)]

[Former # (9) moved to (6) (N)]

[Former # (10) moved to (6) (P)]

[New # (9) below, moved from # (12)]

(9)(12) Within 120 days after the end of each calendar year the facility owner/operator shall provide Umatilla County an annual report including the following information:

(A)
Energy production by month and year.

(B)
Non-proprietary information about wind conditions, (e.-g., monthly averages, high wind events, bursts).

(C)
A summary of changes to the facility that do not require facility requirement amendments.

(D)
A summary of the fish, wildlife and avian monitoring program – bird injuries, casualties, positive impacts on area wildlife and any recommendations for changes in the monitoring program.

(E)
Employment impacts to the community and Umatilla County during and after construction.

(F)
Success or failures of weed control practices.

(G)
Status of the decommissioning financial assurance bond fund.

(H)
Summary comments –

1) ~~any~~ Pproblems with the projects, any adjustments needed, or any suggestions.

2) The annual report requirement may be modified discontinued or required at a less frequent schedule by the County: as warranted by project conditions, circumstances and compliance. The reporting requirement and/or reporting schedule shall be reviewed, and possibly altered, at the request of the facility owner/operator. For facilities under EFSC jurisdiction and for which an annual report is required, the annual report to EFSC satisfies this requirement.

[New # (10) below, moved from # (11)]

(10) (11) (A)
The Wind Power Generation Facility requirements shall be facility specific, but can be amended as long as the facility does not exceed the boundaries of the Umatilla County conditional use permit where the original facility was constructed.

(B)
An amendment to the conditional use permit shall be subject to the standards and procedures found in § 152.611. For projects sited through EFSC, a conditional use permit amendment is triggered under ORS 469.401(3) only if EFSC approves a site certificate amendment. Otherwise,

Additionally, an amendment shall be required if the proposed facility changes would:

1) ~~Increase the land area taken out of agricultural production by an additional 20 acres or more;~~ (2) ~~Increase the land area taken out of agricultural production sufficiently to trigger taking a Goal 3 exception;~~ (3) ~~Require an Expansion~~ Expand of the established facility boundaries; (2) (4) Increase the number of towers; (3) (5) Increase generator output by more than 25 percent relative to the generation capacity authorized by the initial permit due to the repowering or upgrading of power generation capacity; (4) ~~Changes to project private roads or access points to be established at or inside the project boundaries.~~ [NOTE: as long as a facility layout, such as a road route, is changed within the approved site boundary, no amendment should be required]

Notification by the facility owner/operator to the Umatilla County Planning Department of changes not requiring an amendment such as a change in the project owner/operator of record, a change in the emergency plan or change in the maintenance contact are encouraged but are not encouraged, but not required to be reported immediately. An amendment to a Site Certificate issued by EFSC will be governed by the rules for amendments established by EFSC. [NOTE: requiring immediate notification is subjective. The current code language seems sufficient.]

[# (12) moved to # (9)]

(Ord. 83-4, passed 5-9-83; Ord. 2002-02, passed 5-20-2003; Ord. 2005-02, passed 1-5-2005; Ord. 2009-09, passed 12-8-09)

NOV 12 2011

Eric D. Johnston

From: Eric D. Johnston
Sent: Thursday, July 29, 2010 10:48 AM
To: Tamra Mabbott (tamra@co.umatilla.or.us); 'Carol Johnson (carol@co.umatilla.or.us)'
Subject: Proposed changes to the Umatilla County CUP for Wind Energy

UMATILLA COUNTY
PLANNING DEPARTMENT

Dear Tamra and Carole,

WKN USA has reviewed the proposed changes to the Umatilla CUP ordinance regarding the permitting of wind energy projects in Umatilla County. While WKN USA is not technically a "stakeholder" at this time, we are respectfully submitting the following comments to the proposed CUP ordinance language in the interest of open communications prior to a future WKN USA wind energy CUP application submittal.

New Application Items Required:

HHH.2: New pre-application meeting required, in which County Staff will arrange for County, State and Federal stakeholders to attend. -- *WKN USA believes having such a meeting can only help with creating an ongoing dialog between all of the interested agencies. We wholeheartedly agree with this proposed language.*

HHH.5.C.1: Evidence of wind monitoring data qualifying the wind resources within the project boundary. -- *WKN USA would request that there be some clarification to this proposed language. Would the County be requiring raw data from our monitoring meteorological towers? Or is the County looking for a third-party analysis of the data? As you may know, such data and reports are highly proprietary and confidential, and we would have serious concerns about data and reports becoming a matter of public record once an application is filed.*

Also, would the County be using a separate third party to review the wind data/reports submitted?

HHH.5.G.1: An emergency response plan for the life of the project -- must verify the local fire district has the equipment, training and personnel to respond to fires, spills, and high-rise rescue. -- *Will existing projects be required to comply with this? It is reasonable that if training and special equipment is necessary for the fire department(s) to respond to high-rise rescue incidents, that existing wind energy facilities in the County contribute to such training and equipment.*

HHH.5.G.3: An O&M plan overview. -- *WKN USA would like to see more specificity to this overview. Is the County looking for the approximate number of permanent employees and working hours? Or is the County requesting turbine specific maintenance schedules?*

HHH.6.A.2: Turbines and towers shall not be constructed closer than one-half mile to existing residences unless a waiver from the landowner is obtained. -- *This could put an undue burden on some landowners looking to develop their property for wind energy production. We have experienced an industry standard one-quarter mile setback used by most municipal agencies we have dealt with in the past, and propose that be the threshold.*

HHH.6.A.3: New electrical transmission lines shall not be constructed closer than 500 feet to an existing residence without prior written approval of the residence owner. -- *Delivering generated energy to market is one of the key constraints to developing a successful energy project of any kind. WKN USA proposes that the 500-foot buffer not be applicable to transmission lines proposed to be located in existing public right-of-ways.*

Thank you for the opportunity to comment on the proposed CUP ordinance language. WKN USA is excited to see Umatilla County taking a committed look at how development occurs in the County, and we look forward to working with you in the future to help deliver clean, renewable energy to Oregon and the Pacific Northwest.

Best Regards,

Eric D. Johnston
Project Manager

Windkraft Nord USA, Inc.
Suite 1470
4365 Executive Drive

00004425

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR UMATILLA COUNTY

}

AFFIDAVIT OF PUBLICATION

STATE OF OREGON

County of Umatilla } ss

I, Dayle Stinson being duly sworn, depose and say that I am the principal clerk of the publisher of the East Orego. a newspaper of general circulation, as defined by ORS 193.010 and 193.020; printed and published at Pendleton in the aforesaid county and state; that the

EO-4978 NOTICE OF PUBLIC HEARING

a printed copy of which is hereto annexed; was published in the entire issue of said newspaper for 1 successive and consecutive issues in the following issues:

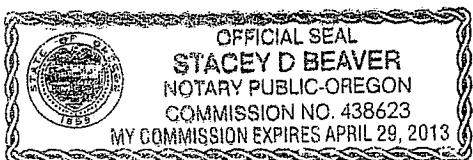
NOVEMBER 6, 2010

Subscribed and sworn to before me on this, 11 day of

NOVEMBER 2010

Dayle Stinson

Stacey D Beaver
Notary Public of Oregon



EO-4978/HH-4802
NOTICE OF PUBLIC HEARING
UMATILLA COUNTY PLANNING
COMMISSION

YOU ARE HEREBY NOTIFIED of a Public Hearing to be held before the Umatilla County Planning Commission on **Thursday, November 18th, 2010 at 4:00 PM** in the Media Room of the Umatilla County Justice Center, 4700 NW Pioneer Place, Pendleton, OR. The Board of Commissioners will then hold a hearing to consider the recommendation of the Planning Commission on Tuesday, February 22, 2010 at 9:00 am in Room 114 of the County Courthouse, 216 SE Fourth Street, Pendleton, OR.

NEW HEARING:

Amendment to Conditional Use Section 152.616 (HHH) of the Umatilla County Development Code, pertaining to standards for large scale commercial wind energy projects.

For further information concerning the above proposal, please contact Carol Johnson at 541-278-6301, or at the Umatilla County Planning Department, 216 SE 4th Street, County Courthouse, Pendleton, Oregon 97801; email carol@umatillacounty.net

Copies of the draft document are available for inspection at no cost and will be duplicated at printing cost. The document is also posted on the county website at umatilla-county.net/landuseplanning/windenergy/draftamendments. Hearings are governed by Section 152.772 of the Umatilla County Land Development Code.

Opportunity to voice support or opposition to the above proposal, or to ask questions, will be provided. Failure to raise an issue in a hearing, either in person or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to that issue, precludes appeal to the Land Use Board of Appeals based on that issue.

DATED THIS 6thTH DAY OF NOVEMBER, 2010
UMATILLA COUNTY PLANNING DEPARTMENT
November 6, 2010

00004426

YOU ARE HEREBY NOTIFIED of a Public Hearing to be held before the Umatilla County Planning Commission on **Thursday, November 18th, 2010 at 4:00 PM** in the Media Room of the Umatilla County Justice Center, 4700 NW Pioneer Place, Pendleton, OR. The Board of Commissioners will then hold a hearing to consider the recommendation of the Planning Commission on Tuesday, February 22, 2010 at 9:00 am in Room 114 of the County Courthouse, 216 SE Fourth Street, Pendleton, OR.

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DATED THIS 6th DAY OF NOVEMBER
2010
UMATILLA COUNTY PLANNING DEPARTMENT
November 6, 2010

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR UMATILLA COUNTY



AFFIDAVIT OF PUBLICATION

STATE OF OREGON
County of Umatilla } ss

I, Dayle Stinson being duly sworn, depose and say that I am the principal clerk of the publisher of the Hermiston Herald, a newspaper of general circulation, as defined by ORS 193.010 and 193.020; printed and published at Pendleton in the aforesaid county and state; that the

#4802
NOTICE OF PUBLIC HEARING

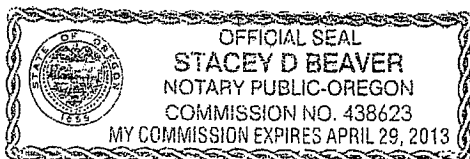
a printed copy of which is hereto annexed; was published in the entire issue of said newspaper for 1 successive and consecutive issues in the following issues:

NOVEMBER 6, 2010

Subscribed and sworn to before me on this, 11 day of

NOVEMBER 2010

Dayle Stinson
Stacey D Beaver
Notary Public of Oregon



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RECEIVED

NOV 15 2010

UMATILLA COUNTY
PLANNING DEPARTMENT

Affidavit of Publication

STATE OF WASHINGTON,
County of Walla Walla } ss.

William Thyken, being first duly
sworn upon oath deposes and says:

I am Controller of the
Walla Walla Union-Bulletin, Inc., Publisher of the

WALLA WALLA UNION
WALLA WALLA DAILY BULLETIN

approved as a legal newspaper by order of the Superior Court of the State
of Washington, in and for Walla Walla County; as such officer I make
this affidavit on behalf of said publisher.

The legal notice, a true copy
of which is annexed hereto, was published in the regular issues
(and not in supplement form) of said newspaper, for a period of
one day, commencing on the

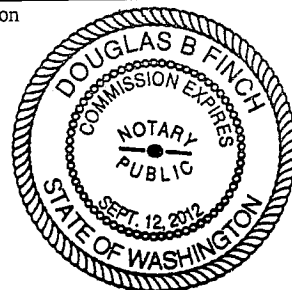
4th day of November, 2010, and
ending on the 4th day of November, 2010,

both dates inclusive, and said newspaper was regularly distributed to its
subscribers during all of said period. The full amount of the fee charged
for the foregoing publication is the sum of \$ 97.00;
which amount has been paid in full.

Subscribed and sworn to before me this 10th day of

November, 2010.

Douglas B Finch
Notary Public in and for the State of Washington
Residing at Walla Walla, Washington



NOTICE OF PUBLIC HEARING
UMATILLA COUNTY PLANNING COMMISSION
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spection at no cost and will be duplicated at printing
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energy/draftamendments](http://umatillacounty.net/landuseplanning/wind-energy/draftamendments). Hearings are governed by
Section 152.772 of the Umatilla County Land Devel-
opment Code. Opportunity to voice support or oppo-
sition to the above proposal, or to ask questions, will
be provided. Failure to raise an issue in a hearing,
either in person or by letter, or failure to provide
statements or evidence sufficient to afford the deci-
sion maker an opportunity to respond to that issue,
precludes appeal to the Land Use Board of Appeals
based on that issue.
Dated this 6th day of November, 2010, Umatilla
County Planning Department. (Pub. Nov. 4, 2010)

00004428

DLCD Notice of Proposed Amendment

THIS FORM 1 **MUST BE RECEIVED** BY DLCD AT LEAST
45 DAYS PRIOR TO THE FIRST EVIDENTIARY HEARING
 PER ORS 197.610, OAR 660-018-000

in person ☐ electronic ☐ mailed ☐

DATE
STAMP

For DLCD Use Only

Jurisdiction: **Umatilla County**

Local File Number: **T-10-039**

Is this a **REVISION** to a previously submitted proposal? ☐ Yes ☒ No Date submitted: **09/14/10**

☐ Comprehensive Plan Text Amendment

☒ Land Use Regulation Amendment

☐ New Land Use Regulation

☐ Transportation System Plan Amendment

Date of First Evidentiary Hearing: **11/18/10**

Date of Final Hearing: **02/22/11**

☐ Comprehensive Plan Map Amendment

☐ Zoning Map Amendment

☐ Urban Growth Boundary Amendment

☐ Other:

Briefly Summarize Proposal. Do not use technical terms. Do not write "See Attached" (limit 500 characters):
Update to Conditional Use Section 152,616 (HHH) of the Development Code that pertains to siting large scale commercial wind energy projects. Existing standards have been in place since 2003. This update refines the standards, clarifies the process and standards.

Has sufficient information been included to advise DLCD of the effect of proposal? ☒ Yes, text is included

For Map Changes: Include 8½"x11" maps of Current and Proposed designation. ☐ Yes, Maps included

Plan map changed from:

To:

Zone map changed from:

To:

Location of property (do not use Tax Lot):

Previous density:

New density:

Acres involved:

Applicable statewide planning goals:

☒ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 ☐ 6 ☐ 7 ☐ 8 ☐ 9 ☐ 10 ☐ 11 ☐ 12 ☐ 13 ☐ 14 ☐ 15 ☐ 16 ☐ 17 ☐ 18 ☐ 19

Is an exception to a statewide planning goal proposed? ☐ YES ☒ NO Goals:

Affected state or federal agencies, local governments or special districts (It is jurisdiction's responsibility to notify these agencies. DLCD only records this information)

Local Contact: **Carol Johnson or Tamra Mabbott**
 Address: **216 SE 4th Street**
 Fax Number: **511-278-5480**

Phone: **541-278-6252**

City: **Pendleton**

E-mail Address: **carol@co.umatilla.or.us**

tamra@co.umatilla.or.us

Extension: **N/A**

Zip: **97801**

DLCD file No. _____

00004429

SUBMITTAL REQUIREMENTS

This form must be received by DLCD at least 45 days prior to the first evidentiary hearing per ORS 197.610 and OAR Chapter 660, Division 18

1. This Form 1 must be submitted by local jurisdictions only (not by applicant).
2. When submitting, please print this **Form 1** on light green paper if available.
3. **Text:** Submittal of a proposed amendment to the text of a comprehensive plan or land use regulation must **include the text** of the amendment and any other information the local government believes is necessary to advise DLCD of the effect of the proposal. "Text" means the specific language being added to or deleted from the acknowledged plan or land use regulations. A general description of the proposal is not adequate. **Do Not Submit Form 1 Without Supporting Documentation.**
4. **Maps:** Submittal of a proposed map amendment must also include a map of the affected area showing existing and proposed plan and zone designations. The map should be legible and on 8½ x 11 inch paper. Please provide the specific location of property, such as an address and tax lot number. Include text regarding background, justification for the change, and the application if there was one accepted by the local government.
5. **Exceptions:** Submittal of proposed amendments that involve a goal exception must include the proposed language of the exception.
6. Unless exempt by ORS 197.610(2), proposed amendments must be received at the DLCD's Salem office at least 45-days before the first evidentiary hearing on the proposal. (The clock begins on the day **DLCD Receives** your proposal in the Salem Office.) The first evidentiary hearing is usually the first public hearing held by the jurisdiction's planning commission on the proposal.
7. DLCD would like you to submit **ONE PAPER COPY** and **ONE (1) Electronic Digital CD including any maps** (for submittal instructions, also see # 4)] **MAIL the PAPER COPY and CD** of the proposed amendment to:

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**

8. **Electronic Submittals:** Must be pre-authorized to meet the **Form 1 Notice of Proposed Amendment (45-day deadline)** only by a phone call to the **Plan Amendment Specialist**, email notification will not be acceptable for pre-authorization. After authorization an email copy maybe accepted as the substitute for the CD, and one hard copy must be sent via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.
9. **Need More Copies?** You can now access these forms online at <http://www.lcd.state.or.us/>. Please print forms on 8-1/2x11 green paper only if available. You may also call the DLCD Office at (503) 373-0050 x283; or Fax your request to: (503) 378-5518; or Email your request to larry.french@state.or.us.

CONDITIONAL USES

Sub-Sections

<u>152.610</u>	<u>Definition</u>
<u>152.611</u>	<u>New or altered conditional uses; conformance with requirements; performance bonds</u>
<u>152.612</u>	<u>Procedure for taking action on a conditional use application</u>
<u>152.613</u>	<u>Time limit on a conditional use permit</u>
<u>152.614</u>	<u>Limit on reapplication</u>
<u>152.615</u>	<u>Additional restrictions</u>
<u>152.616</u>	<u>Standards for review of conditional uses and land use decisions</u>
<u>152.617</u>	<u>Standards for review of conditional uses and land use decisions on EFU zoned land</u>

§ 152.610 DEFINITION.

For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

CONDITIONAL USES. Activities that are similar to other activities permitted within a zone, but are not entirely compatible with the permitted uses or purpose and intent of the zone, or compatible with surrounding land uses on adjacent lands in another zoning district.

LAND USE DECISION. Includes a final decision by a local government concerning the adoption, amendment or

application of the statewide planning goals, a comprehensive plan provision, a land use regulation or a new land use regulation. (A Land Use Decision does not include: (1) a decision of a local government which is made under land use standards which do not require interpretation or the exercise of policy or legal judgment; (2) a decision of a local government which approved or denies a building permit issued under clear and objective land use standards.) (Pursuant to ORS 197.015 (10)) (Ord. 83-4, passed 5-9-83; Ord. 2005-02, passed 1-5-2005)

§ 152.611 NEW OR ALTERED CONDITIONAL USES; CONFORMANCE WITH REQUIREMENTS; PERFORMANCE BONDS.

(A) Conditional uses listed in this chapter may be permitted, enlarged or altered contingent upon appropriate authorization, in accordance with the standards and procedures set forth in this subchapter.

(B) In permitting a new conditional use or the alteration of an existing conditional use, the appropriate planning authority may impose conditions, which are considered necessary to protect the best interests of the surrounding area or the county as a whole.

(C) In the case of a use existing prior to the effective date of this chapter and classified in this chapter as a conditional use, any change in use or in lot area or an alteration of structure shall conform with the requirements for a conditional use.

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(D) The county may require an applicant to furnish the county with a performance bond or such other form of assurance that the county deems necessary to guarantee development in accordance with the standards established and conditions attached in granting a conditional use.
(Ord. 83-4, passed 5-9-83; Ord. 2005-02, passed 1-5-2005)

§ 152.612 PROCEDURE FOR TAKING ACTION ON A CONDITIONAL USE APPLICATION.

The procedure for taking action on a conditional use or land use decision application shall be as follows:

(A) A property owner or the Planning Commission may initiate a request for a conditional use by filing an application ~~with the secretary of the Planning Commission~~, using forms prescribed pursuant to § 152.767;

(B) A conditional use and land use decision application shall be processed via administrative review per § 152.769;

(C) A conditional use permit or land use decision will not be approved unless the proposed use of the land will be in conformance with the County Comprehensive Plan;

(D) An applicant granted a conditional use permit or land use decision must obtain a county zoning permit for each tax lot before commencing construction.

(E) A conditional use or land use decision may be referred to the Umatilla

County Planning Commission if the Planning Director deems circumstances warrant such additional review and consideration.

(Ord. 83-4, passed 5-9-83; Ord. 2005-02, passed 1-5-2005)

§ 152.613 TIME LIMIT ON A CONDITIONAL USE PERMIT.

(A) A conditional use permit shall be void after one year or such lesser time as the permit may specify unless 20% of the total estimated project cost has occurred or the proposed use has occurred. However, the Planning Director or the proper planning authority may extend authorization for an additional period not to exceed one year, on request from the applicant. The total time allowed shall not exceed two years from the original approval date.

(B) If delay in establishing the use is demonstrably due to a delay by a state or federal agency in issuing a required permit, at no fault of the applicant, the Planning Director or a Designee of the Planning Director may extend the time limit imposed by division (A) of this section for a period not to exceed one year following issuance of the state or federal agency permit. The applicant shall establish that state or federal permits have not yet been issued, and that the delay has not been caused by the applicant.

(C) Time Limitation on Transportation-Related Conditional Use Permits. Authorization of a conditional use shall be void after a period specified by the applicant as reasonable and necessary based on season, right-of-way acquisition, and other pertinent factors.

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This period shall not exceed three years.
(Ord. 83-4, passed 5-9-83; Ord. 2005-02,
passed 1-5-2005)

§ 152.614 LIMIT ONE APPLICATION.

No application for a conditional use permit shall be considered within one year of the denial of such a request, unless in the opinion of the Hearings Officer, Planning Director or the appropriate planning authority new evidence or a change of circumstances warrant it.
(Ord. 83-4, passed 5-9-83; Ord. 2005-02, passed 1-5-2005)

§ 152.615 ADDITIONAL CONDITIONAL USE PERMIT RESTRICTIONS.

In addition to the requirements and criteria listed in this subchapter, the Hearings Officer, Planning Director or the appropriate planning authority may impose the following conditions upon a finding that circumstances warrant such additional restrictions:

(A) Limiting the manner in which the use is conducted, including restricting hours of operation and restraints to minimize such a environmental effects as noise, vibration, air pollution, water pollution, glare or odor;

(B) Establishing a special yard, other open space or lot area or dimension;

(C) Limiting the height, size or location of a building or other structure;

(D) Designating the size, number, location and nature of vehicle access points;

(E) Increasing the required street dedication, roadway width or improvements within the street right of way;

(F) Designating the size, location, screening, drainage, surfacing or other improvement of a parking or loading area;

(G) Limiting or otherwise designating the number, size, location, height and lighting of signs;

(H) Limiting the location and intensity of outdoor lighting and requiring its shielding;

(I) Requiring diking, screening, landscaping or other methods to protect adjacent or nearby property and designating standards for installation and maintenance.

(J) Designating the size, height, location and materials for a fence;

(K) Protecting and preserving existing trees, vegetation, water resources, air resources, wildlife habitat, or other significant natural resources;

(L) Parking area requirements as listed in §§ 152.560 through 152.562 of this chapter.
(Ord. 83-4, passed 5-9-83; Ord. 2005-02, passed 1-5-2005)

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**§ 152.616 STANDARDS FOR
REVIEW OF CONDITIONAL USES
AND LAND USE DECISIONS.**

The following standards shall apply for review by the Hearings Officer, the Planning Director or appropriate planning authority of the specific conditional uses and land use decisions listed in this chapter:

*(HHH) Commercial Wind Power
Generation Facility.*

(1) The procedure for taking action on the siting of a facility is a request for a conditional use. A public hearing pursuant to Sections ~~152.750-755~~ and 152.771 shall be held to determine if the applicant meets the siting requirements for a Wind Power Generation Facility. The requirement for a hearing will not apply to proposed facilities for which EFSC is making the land use decision.

[Former # (2) moved to # (5)]
New→# (2) A pre-application meeting(s) is required. The applicant will be expected to bring preliminary information about the application components described in Application Requirement (5) below. County staff will arrange the meeting and will invite local, state, federal and other agency representatives and individuals with pertinent expertise in natural resources to participate. The purpose of the pre-application meeting will be to identify potential impacts and opportunities and to advise on the level of detail required in each of the application components described in (5) below, and establish technical oversight requirements for monitoring plans.

(3) Umatilla County may impose clear and objective conditions in accordance with the County Comprehensive Plan, County Development Code and state law, which Umatilla County considers necessary to protect the best interests of the surrounding area, or Umatilla County as a whole.

(4) Prior to commencement of any construction, all other necessary preconstruction permits shall be obtained, including but not limited to a conditional use permit, e.g. Umatilla County Zoning Permit; and road access and other permits from the Umatilla County Public Works Department, and from the Oregon Department of Transportation; other permits from state agencies.

~~(2)~~ (5) Application Requirements.
The following information shall be provided as part of the application:

(A) (1) A general description of the proposed Wind Power Generation Facility;

(2) A tentative construction schedule;

(3) The legal description of the property on which the facility will be located; and

(4) Identification of the general area for all components of the proposed Wind Power Generation Facility;

(B) A including a map showing the location of components.

(C) (1) Evidence of wind monitoring data qualifying the wind resources within the project boundary.

(2) Evidence of active

utility transmission interconnect requests and/or process and description of same, and

(3) Route and plan for transmission facilities connecting the project to the grid.

~~(B)~~ (D) Identification of potential conflicts, if any, with: (1) Accepted forest practices and farming or ranching practices as defined in ORS 215.203(2) ~~(e)~~ on adjacent lands devoted to farm and/or forest uses; (2) Other resource operations and practices on adjacent lands ~~except for including~~ wind power generation facilities on such adjacent lands; ~~and (3) Accepted farm or forest practices on surrounding EFU/GF or NR land, including the nature and the extent of the impact of the proposed facility on the cost of such practices.~~

~~(C)~~ (E) A Transportation Plan, with proposed recommendations, if any, reflecting the guidelines provided in the Umatilla County Transportation System Plan (TSP) and the transportation impacts of the proposed Wind Power Generation Facility upon the local and regional road system during and after construction, after consultation with Umatilla County Public Works Director. The plan will designate the size, number, location and nature of vehicle access points.

~~(D)~~ (F) An fish, wildlife and avian impact monitoring plan. The avian monitoring plan shall be designed and administered by the applicant's wildlife professionals. [See HHH (2), above] For projects being sited by EFSC, compliance with EFSC's avian monitoring requirements will be deemed to meet this requirement. The plan shall

include the formation of a technical oversight committee to review the plan, and consist of the following persons:

(1) The landowners/farm tenants.

(2) Facility owner/operator representative. (Chair)

(3) Oregon Department of Fish and Wildlife representative, if the agency chooses to participate.

(4) Two Umatilla County residents with no direct economic interest in the project and recommended by the applicants for appointment by the Umatilla County Board of Commissioners.

(5) U.S. Fish and Wildlife representative, if the agency chooses to participate.

(6) Umatilla County Planning Commission member. ~~At the request of applicant, this committee requirement may be waived or discontinued by the County.~~

[Former (2) (E) moved to (6) (I)]

~~(F)~~ (G) An fire prevention and emergency management response plan for all phases of the life of the facility. The plan shall address the major concerns associated with the terrain, dry conditions, and fire hazards, limited access, and water quality as needed, addressing both normal and extraordinary conditions.

(1) The plan shall identify the fire district or fire department and verify that the district/department has the appropriate

equipment, training and personnel to respond to fires, spills and high rise rescue. If the local fire district or department does not have adequate high rise rescue capability, the applicant shall provide a plan for providing such in case of an emergency.

(2) A spill prevention control and counter measure plan (SPCC) shall be provided.

(3) An Operations and Maintenance Plan detailing expected work force, local response capability, (contract or otherwise) controlled access, and in the case of transmission lines proof of emergency response capability in accordance with OPUC rules governing operation and maintenance of such lines.

(4) An Emergency Response Plan for responding to natural and/or man made emergencies or disasters.

(G) (H) A revegetation and erosion control plan, developed in consultation with the Umatilla County Public Works Department, Soil and Water Conservation District, Watershed Council, the Oregon Agricultural Water Quality Management Program (administered by the Oregon Department of Agriculture), the Department of Environmental Quality and the Confederated Tribes of the Umatilla Indian Reservation. At a minimum, the plan should include the seeding of all road cuts or related bare road areas as a result of all construction, demolition and rehabilitation with an appropriate mix of native vegetation or vegetation suited to the area. This requirement will be satisfied if the applicant has an NPDES

(National Pollution Discharge Elimination System) permit. The plan should also address monitoring during and post construction.

(H) (I) A weed control plan addressing prevention and control of all Umatilla County identified noxious weeds and other weeds such as thistles which distribute weed seed while blowing across nearby lands following maturity, directly resulting from the Wind Power Generation Facility during preparation, construction, operation and demolition/rehabilitation.

(I) A socioeconomic impact assessment of the Wind Power Generation Facility, evaluating such factors as, but not limited to, the project's effects upon the social, economic, public service, cultural, visual, and recreational aspects of affected communities and/or individuals. These effects can be viewed as either positive or negative. In order to maximize potential benefits and to mitigate outcomes that are viewed as problematic, decision makers need information about the socioeconomic impacts that are likely to occur.

[New (6) (J) below moved from (2) (K)]

(K) (J) Information pertaining to the impacts of the Wind Power Generation Facility on:

(1) Wetlands and Streams;

(2) Fish, Avian and Wildlife (all potential species of reasonable concern), including but not limited to federally listed threatened and endangered species);

(3) Fish, Avian and Wildlife Habitat;

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(4) Criminal Activity (vandalism, theft, trespass, etc). Include a plan and proposed actions, if any, to avoid, minimize or mitigate negative impacts.

[New (5) (K) below moved from (2) (L)]
~~(L)~~ (K) A dismantling and decommissioning plan of all components of the Wind Power Generation Facility, as provided in §152.616 (HHH) (7).

(5) (6) Standards/Criteria of Approval. The following requirements and restrictions apply to the siting of a facility:

(A) Setbacks.

(1) ~~The Wind Power Generation Facility shall be on property zoned EFU/GF or NR, and a~~ No portion of the facility shall be within 3,520 feet of properties zoned residential use or designated on the Comprehensive Plan as residential. (For clarification purposes of this section, EFU/GF/NR zones are not considered zoned for residential use.)

(2) Turbine/towers shall not be constructed closer than one half mile of an existing residence unless a written waiver is obtained from the landowner that shall be recorded with deed records.

(3) New electrical transmission lines associated with the project shall not be constructed closer than 500 feet to an existing residence without prior written approval of the homeowner, said written approval to be recorded with deed records. Exceptions to the 500 feet setback include transmission lines placed in public right of way. Note: Transmission and distribution lines constructed and owned by the applicant what are not within the project boundary are subject to a

separate land use permit.

(4) Public Safety.

Turbine/towers must be setback from any public roadway a minimum distance of two times the overall total tower-to-blade tip height

~~(E)~~ (5) The turbine/towers shall be of a size and design to help reduce noise or other detrimental effects. At a minimum, the facility shall be designed and operated within the limits of noise standard established by the State of Oregon. A noise study may be required to verify downwind noise impacts in all wind directions are in compliance with the noise standard.

(B) Reasonable efforts shall be made to blend the wind facility turbine/towers with the natural surrounding area in order to minimize impacts upon open space and the natural landscape.

(C) The Development and Operation of the Facility will reasonably Reasonable efforts shall be taken to protect and to preserve existing trees, vegetation, water resources, wildlife, wildlife habitat, fish, avian or and other significant natural resources. Compliance with this standard may require mitigation and/or submission of an annual monitoring report.

(D) The turbine towers shall be designed and constructed to discourage bird nesting and wildlife attraction.

[Former (5) (E) was moved to (6) (A) (5)]

~~(F)~~ (E) Private access roads established and controlled by the Wind Power Facility shall be gated to protect

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the facility and property owners from illegal or unwarranted trespass, and illegal dumping and hunting.

~~(G)~~ (F) Where practicable the electrical cable collector system shall be installed underground, at a minimum depth of 3 feet; elsewhere the cable collector system shall be installed to prevent adverse impacts on agriculture operations.

~~(H)~~ (G) Required permanent maintenance/operations buildings shall be located off-site in one of Umatilla County's appropriately zoned areas, except that such a building may be constructed on-site if:

(1) ~~T~~he building is designed and constructed generally consistent with the character of similar buildings used by commercial farmers or ranchers, and

(2) ~~T~~he building will be removed or converted to farm use upon decommissioning of the Wind Power Generation Facility consistent with the provisions of § 152.616 (HHH) (7).

~~(I)~~ (H) A Wind Power Generation Facility shall comply with the Specific Safety Standards for Wind Facilities delineated in OAR 345-024-0010 (as adopted at time of application).

[New (6) (I) below, moved from (2) (E)]

~~(E)~~ (I) A Covenant Not to Sue with regard to generally accepted farming practices shall be recorded with the County. Generally accepted farming practices shall be consistent with the definition of Farming Practices under ORS 30.930. The applicant shall covenant not to sue owners, operators,

contractors, employees, or invitees of property zoned for farm use for generally accepted farming practices.

(J) Roads.

(1) A Road Use Agreement with Umatilla County regarding the impacts and mitigation on county roads shall be required as a condition of approval.

(2) Layout and design of the project roads shall be reviewed and approved by the county road department.

[New (6) (K) below, moved from (2) (J)]

~~(J)~~ (K) Demonstrate All Wind Power Generation Facilities must show compliance with the standards found in OAR 660-033-0130 (37).

~~(6) To the extent feasible, the county will accept information presented by an application for an EFSC proceeding in the form and on the schedule required by EFSC.~~

~~(7) (L) Submit a plan for The applicants dismantling of uncompleted construction and/or decommissioning plan for and/or re-powering of the Wind Power Generation Facility shall include the following information: as described in §152.616 (HHH) (7).~~

[New (6) (M) below, moved from # (8)]

~~(M)~~ (8) A surety bond or letter of credit shall be established to cover for the cost of dismantling of uncompleted construction and/or decommissioning of the facility, and site rehabilitation pursuant to (See § 152.616 (HHH) (7) & (8)). For projects being sited by the State of Oregon's Energy Facility Siting Council (EFSC),

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the bond or letter of credit required by EFSC will be deemed to meet this requirement.

[New (6) (N) below, moved from # (9)]

(9) (N) The actual latitude and longitude location or Stateplane NAD 83(91) coordinates of each turbine tower, connecting lines, O & M building, substation and transmission lines, shall be provided to Umatilla County within 90 days of starting once commercial-electrical production begins.

(O) An Operating and Facility Maintenance Plan shall be submitted and subject to county review and approval.

[New (6) (P) below, moved from (10)]

(10) (P) A summary of as built changes in the facility from the original plan, if any, shall be provided by the owner/operator within 90 days of starting electrical production.

[New (7) below was formerly (7) (A)]

(7) (A) A plan for dismantling and/or decommissioning that provides for completion of dismantling or decommissioning of the facility without significant delay and protects public health, safety and the environment in compliance with the restoration requirements of this section.

(B) (A) A description of actions the facility owner proposes to take to restore the site to a useful, non-hazardous condition, including options for post-dismantle or decommission land use, information on how impacts on fish, wildlife, avian populations and the environment would be minimized during the dismantling or decommissioning process, and measures

to protect the public against risk or danger resulting from post-decommissioning site conditions in compliance with the requirements of this section.

(C) (B) A current detailed cost estimate, a comparison of that estimate with present funds the bond set aside for dismantling or decommissioning, and a plan for assuring the availability of adequate funds for completion of dismantling or decommissioning. The cost estimate will be reviewed and be updated by the facility owner/operator on a 3 5 year basis, unless material changes have been made in the overall facility that would materially increase or decrease these costs. If so, the report must be revised within 120 days of completion of such changes.

(D) (C) Restoration of the site shall consist of the following:

(1) Dismantle turbines, towers, pad-mounted transformers, meteorological towers and related aboveground equipment. All concrete turbine pads shall be removed to a depth of at least three feet below the surface grade.

(2) The underground collection and communication cables need not be removed if at a depth of three feet or greater. These cables at a depth of three feet or greater can be abandoned in place if they are deemed not a hazard or interfering with agricultural use or other consistent resource uses of the land.

(3) Gravel shall be removed from areas surrounding turbine pads.

(4) Private A-access

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roads shall be removed by removing gravel and restoring the surface grade and soil.

(5) After removal of the structures and roads, the area shall be graded as close as is reasonably possible to its original contours and the soils shall be restored to a condition compatible with farm uses or consistent with other resource uses. Re-vegetation shall include planting by applicant of native plant seed mixes, planting by applicant of plant species suited to the area, or planting by landowner of agricultural crops, as appropriate, and shall be consistent with the weed control plan approved by Umatilla County.

(6) Roads, cleared pads, fences, gates, and improvements may be left in place if a letter from the land owner is submitted to Umatilla County indicating said land owner will be responsible for, and will maintain said roads and/or facilities for farm or other purposes as permitted under applicable zoning.

[New # (8) below was formerly (7) (E)]

(8) (E) The applicant (facility owner/operator) shall submit to Umatilla County a bond ~~or letter of credit~~ acceptable to the County, in the amount of the decommissioning fund naming Umatilla County and the landowner as beneficiary or payee.

(A) (4) The calculation of present year dollars shall be made using the U. S. Gross Domestic Product Implicit Price Deflator as published by the U. S. Department of commerce, Bureau of Economic Analysis, or any successor agency (the Aindex.@). The amount of the bond ~~or letter of credit~~

~~account shall be changed up or down if the change in the Index moves by more than change if the Index changes be increased at such time when the cumulative percentage increase in the Index exceeds 10 percent from the last change, and then the amount shall be increased or decreased by the cumulative percentage increase. If at any time the Index is no longer published, Umatilla County and the applicant shall select a comparable calculation of present year dollars. The amount of the bond or letter of credit account shall be pro-rated within the year to the date of decommissioning.~~

(B) (2) The decommissioning bond fund shall not be subject to revocation or reduction before decommissioning of the Wind Power Generation Facility ~~and rehabilitation of the site/s.~~

(C) (3) The facility owner/operator shall describe the status of the decommissioning bond fund in the annual report submitted to the Umatilla County.

~~(F) If any disputes arise between Umatilla County and the landowner on the expenditure of any proceeds from the bond or the letter of credit, either party may request non-binding arbitration. Each party shall appoint an arbitrator, with the two arbitrators choosing a third. The arbitration shall proceed according to the Oregon statutes governing arbitration. The cost of the arbitration (excluding attorney fees) shall be shared equally by the parties.~~

(D) (G) For projects sited by EFSC, compliance with EFSC's financial assurance and decommissioning standards shall be

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deemed to be in compliance with the dismantling and decommissioning requirements of this § 152.616 (HHH)(7) & (8).

[Former # (8) moved to (6) (M)]

[Former # (9) moved to (6) (N)]

[Former # (10) moved to (6) (P)]

[New # (9) below, moved from # (12)]

(9) (12) Within 120 days after the end of each calendar year the facility owner/operator shall provide Umatilla County an annual report including the following information:

(A) Energy production by month and year.

(B) Non-proprietary information about wind conditions, (e. g., monthly averages, high wind events, bursts).

(C) A summary of changes to the facility that do not require facility requirement amendments.

(D) A summary of the fish, wildlife and avian monitoring program – bird injuries, casualties, positive impacts on area wildlife and any recommendations for changes in the monitoring program.

(E) Employment impacts to the community and Umatilla County during and after construction.

(F) Success or failures of weed control practices.

(G) Status of the decommissioning bond fund.

(H) Summary comments –

(1) ~~any~~ Pproblems with the projects, any adjustments needed, or any suggestions.

(2) The annual report requirement may be modified ~~discontinued or required at a less frequent schedule by the County as warranted by project conditions, circumstances and compliance.~~ The reporting requirement and/or reporting schedule shall be reviewed, and possibly altered, at the request of the facility owner/operator. For facilities under EFSC jurisdiction and for which an annual report is required, the annual report to EFSC satisfies this requirement.

[New # (10) below, moved from # (11)]

(10) (11)(A) The Wind Power Generation Facility requirements shall be facility specific, but can be amended as long as the facility does not exceed the boundaries of the Umatilla County conditional use permit where the original facility was constructed.

(B) An amendment to the conditional use permit shall be subject to the standards and procedures found in § 152.611. Additionally, an amendment shall be required if the proposed facility changes would:

(1) ~~Increase the land area taken out of agricultural production by an additional 20 acres or more;~~ (2) ~~Increase the land area taken out of agricultural production sufficiently to trigger taking a Goal 3 exception;~~ (3) ~~Require an Expansion~~ Expand of the established facility boundaries; (2) (4) Increase the number of towers; (3) (5)

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Increase generator output by more than 25 percent relative to the generation capacity authorized by the initial permit due to the repowering or upgrading of power generation capacity. (4) Changes to project private roads or access points to be established at or inside the project boundaries.

Notification by the facility owner/operator to the Umatilla County Planning Department of changes not requiring an amendment such as a change in the project owner/operator of record, a change in the emergency plan or change in the maintenance contact are encouraged, but not required to be reported immediately. An amendment to a Site Certificate issued by EFSC will be governed by the rules for amendments established by EFSC.

[# (12) moved to # (9)]

(Ord. 83-4, passed 5-9-83; Ord. 2002-02, passed 5-20-2003; Ord. 2005-02, passed 1-5-2005; Ord. 2009-09, passed 12-8-09)

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