



Oregon Natural Desert Association
33 NW Irving, Bend OR 97701

February 1, 2010

Governor Ted Kulongoski
160 State Capitol
900 Court Street
Salem, OR 97301-4047
Via email c/o Mike Carrier: michael.carrier@state.or.us

Tom Stoops, Council Secretary
Energy Facility Siting Council
Oregon Department of Energy
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Via email: tom.stoops@state.or.us

Dear Governor Kulongoski and the Oregon Department of Energy;

I am writing on behalf of the Oregon Natural Desert Association,ⁱ Audubon Society of Portland,ⁱⁱ and Defenders of Wildlifeⁱⁱⁱ to thank you for the adoption of the temporary administrative rules for the Business Energy Tax Credit (BETC) and ask that you extend similar criteria to determining Energy Facility Siting Council (EFSC) jurisdiction over wind, geothermal and solar development projects. We request that the Oregon Department of Energy (ODOE), through the EFSC, immediately adopt temporary administrative rules clarifying EFSC jurisdiction over segmented projects and, pursuant to the attached Petition, begin a rulemaking to adopt permanent rules.

ONDA, Audubon and Defenders support responsible renewable energy development in Oregon. We understand the imminent threat of climate change and recognize the potential for renewable energy to diversify our country's energy portfolio and reduce dependence on fossil fuels, while shrinking our carbon footprint. However, we believe renewable energy facilities, such as industrial-scale wind energy generation projects and associated transmission towers and lines, need to be sited with the utmost care to ensure that accumulating impacts are limited. In this way, Oregon can create an energy economy that is truly sustainable.^{iv}

The BETC program has the potential to generate significant economic benefits for Oregon while protecting the environment by providing incentives to those who invest in less-polluting fuels, energy conservation, recycling and renewable energy. However, abuse of the BETC program by developers submitting multiple applications for pieces of artificially segmented projects necessitated clarification of the rules. The decisive actions of ODOE and the Governor to protect the integrity of the BETC program will prevent undue economic burden on the State of Oregon and its citizens and taxpayers, and avoid subverting the intentions of the Legislature when it conceived the program.

Although the temporary BETC rules mark an important step, they do not address a similar issue involving permitting of large-scale energy generation projects. Similar to the abuse of the BETC program, developers who artificially segment energy generation projects to avoid State regulatory authority

undermine the public interest by avoiding oversight that ensures the protection of natural resources and scenic places, which all of Oregon's citizens enjoy. Breaking projects into allegedly separate developments also avoids Oregon Department of Fish & Wildlife (ODFW) mitigation requirements, thereby threatening harm to sensitive fish and wildlife species of statewide concern because local jurisdictions are often unequipped to evaluate and protect these resources. The principles in the new temporary rules governing BETC should be applied to clarify EFSC's jurisdiction over large-scale wind, geothermal and solar energy projects.

EFSC provides unique regulatory oversight in areas where impacts might accumulate from industrial-scale renewable energy development. However, because of possible ambiguities regarding EFSC's jurisdiction, developers may try to subdivide a single project into multiple smaller pieces, potentially allowing them to avoid the EFSC site-certification process and oversight from State regulatory agencies like the ODFW. As another step towards ensuring that the State of Oregon remains on the forefront of responsible renewable energy development, ONDA requests that the ODOE immediately adopt temporary rules that apply a set of criteria—comparable to the temporary rules which define a separate and distinct facility (OAR 330-090-0120(2)(b))—to the EFSC site certification process, and institute a rulemaking to make these rules permanent. We propose that the rule amendment proposed in the attached rulemaking Petition be adopted as the temporary rules pending completion of the rulemaking process.

In Oregon's high desert, we feel it is imperative that potential projects areas—whether involving a project that a developer acknowledges to be a facility within EFSC's jurisdiction, or multiple smaller projects that in reality constitute a single facility—would benefit from State oversight. Sagebrush-obligate species, such as the Greater sage-grouse, are in peril due to the loss of sagebrush habitat. According to the US Geological Survey, Oregon is one of 14 states where “fragmentation and loss of sagebrush habitat are the primary threats to Greater sage-grouse.”^v In 2008, the population of Greater sage-grouse in the state were around 22,000, which is approximately one-eighth of the estimated historical population.^{vi} A recent study shows that the population is estimated to be at an all-time low in the state^{vii}—making this an issue of great importance and priority for Oregon's policy makers.

Nesting success for Greater sage-grouse is variable and maintaining contiguous habitat is vital. Oregon is reported to have lower average nest success than other states within Greater sage-grouse range.^{viii} Overall this species requires a large contiguous area of sagebrush habitat to roam. ODFW has taken action to protect this vital habitat by issuing mitigation requirements in OAR 635 Division 415, which are mandatory for wind facilities that receive EFSC site certifications, even if those facilities are located on private land. Mandatory mitigation based on ODFW's policies ensures the protection of imperiled wildlife species. For example, ODFW recommends a 3-mile area of no development around an occupied sage-grouse lek for wind turbines and a 2-mile buffer separating transmission lines from occupied leks.^{ix} When industrial-scale energy projects are subdivided into multiple 104-megawatt (or smaller) sites, they can avoid following such requirements if the local government issuing the conditional use permit does not follow ODFW guidelines and mitigation standards, or lacks ODFW's expertise and mandate for protecting Oregon's wildlife. This could lead to irresponsible development, neglect for the accumulating impacts incurred from development and the potential loss of important species in Oregon's high desert.

The proposed Echanis, East Ridge and West Ridge generation sites in Harney County (see map attached to the Petition)—a cluster of development proposed by Columbia Energy Partners in the heart of core sage-grouse habitat on North Steens Mountain—illustrate our concerns. Three adjacent sites, proposed by a single developer, with shared infrastructure, and which would use a single transmission line to export

the generated power from the mountain, compel the conclusion that these sites must be treated as a single 312-megawatt facility rather than three separate projects just under 105-megawatts each. These projects would not qualify for three calls on the BETC under the new temporary rules, and they should not be allowed to avoid site certification from EFSC.

Development of these subdivided projects without ODFW mitigation requirements could adversely affect sagebrush obligates, like the Greater sage-grouse who depend on contiguous and intact habitat. Development not only breaks up fragile sagebrush habitat, but also could introduce invasive plants and disturb other native plant communities. Additionally, roads and increased traffic to an area during and after the construction phase will create added disturbances and threats to sagebrush obligates in the area.

We ask that the Governor's Office review the issue of project subdivision for EFSC permitting and that ODOE create temporary rules addressing this issue as you did for the BETC program. We think renewable energy development can be compatible with our high-desert ecosystem when it is done responsibly. Thank you for this opportunity to voice our concerns.

Sincerely,

Brent Fenty
Executive Director
Oregon Natural Desert Association
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ⁱ ONDA is a non-profit public interest organization dedicated to preserving and protecting the public lands of eastern Oregon. ONDA's mission is to protect, defend, and restore forever the health of Oregon's native deserts. The over 1,350 members of ONDA use and enjoy the public lands, waters, and natural resources of eastern Oregon for recreational, scientific, spiritual, educational, aesthetic, and other purposes.

ⁱⁱ Audubon Society of Portland is a nonprofit organization that promotes the understanding, enjoyment, and protection of native birds, other wildlife and their habitats. They focus on their local community and the Pacific Northwest. Address: 5151 Northwest Cornell Road Portland, OR 97210-1081

ⁱⁱⁱ Defenders of Wildlife is a national, non-profit membership organization dedicated to the protection of all native animals and plants in their natural communities. Address: 1880 Willamette Falls Dr #200 West Linn, OR 97068

^{iv} See ONDA's report entitled, "Oregon's High Desert and Wind Energy – Opportunities and Strategies for Responsible Development" at http://www.onda.org/protecting-wildlife-and-clean-water/Oregon%20Desert%20Wind_050809_FINAL.pdf

^v USGS, Briefing Paper: Greater Sage-Grouse Overview. September 29, 2009. Accessed from:

<http://sagemap.wr.usgs.gov/Docs/SAGRBriefingPaper2.pdf>

^{vi} <http://scorecard.sightline.org/wildlife.html>

^{vii} [http://www.sightline.org/press/releases/Sage-grouse-population-hits-troubling-low\(PDF\).pdf](http://www.sightline.org/press/releases/Sage-grouse-population-hits-troubling-low(PDF).pdf)

^{viii} Marshall, David B.; Hunter, Matthew G.; and Contreras, Alan L. (Eds.). (2003). Birds of Oregon: A general reference. Corvallis, Oregon: Oregon State University Press and Oregon Department of Fish and Wildlife (2005). Greater Sage-Grouse Conservation Assessment and Strategy for Oregon: A Plan to Maintain and Enhance Populations and Habitat. Salem, OR.

^{ix} Oregon Department of Fish and Wildlife. Recommendations for Greater Sage-Grouse Habitat classification under Oregon Department of Fish and Wildlife's Fish and Wildlife Habitat Mitigation Policy: OAR 635-415-0000. August 7, 2009. Accessed from: http://www.dfw.state.or.us/conservationstrategy/docs/Sage-Grouse_Habitat_Mitigation_Recommendations_FINAL%208-7-9.pdf

**BEFORE THE ENERGY FACILITY SITING COUNCIL,
OREGON DEPARTMENT OF ENERGY,
STATE OF OREGON**

**PETITION OF OREGON NATURAL DESERT ASSOCIATION, AUDUBON SOCIETY
OF PORTLAND, AND DEFENDER OF WILDLIFE FOR RULEMAKING PURSUANT
TO OAR 137-001-0070**

Pursuant to OAR 137-001-0070, the Oregon Natural Desert Association, Audubon Society of Portland, and Defenders of Wildlife (collectively “Petitioners”) hereby petition the Energy Facility Siting Council (EFSC) and the Oregon Department of Energy (ODOE) to amend existing regulations. The proposed regulatory amendment would clarify what constitutes a “single energy facility” for application of the EFSC jurisdictional threshold criteria in OAR Chapter 345 and ORS 469.300.

OAR 137-001-0070(1) Name and address of Petitioners and others interested in the rule

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Names and addresses of persons known to the Petitioners to be interested in the rule:

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OAR 137-001-0070(1)(a) The rule Petitioners request the agency to adopt, amend or repeal

Facilities which require site certificates from EFSC are defined in OAR Chapter 345 Division 1. The requirement that a “facility” obtain a site certificate is found in ORS 469.320 and OAR 345-021-0000.

The proposed amendment would amend two sections of OAR Chapter 345. OAR Chapter 345 Division 1 Section 0010, “Definitions,” would be amended to add a definition of “Single energy facility” at 345-001-0010(52), to read:

“Single energy facility” means a generating plant or the combination of multiple existing or proposed generating plants, despite the number of applications, owners or construction phases, if three or more of the following apply:

(A) The generating plants are located on one or more adjacent parcels of land or parcels;

(B) The generating plants share supporting facilities such as operation centers, operation and maintenance facilities, service and storage facilities, other related or supporting facilities, access roads, substations (except those owned by third party utility companies and not constructed specifically to serve the generating plant), transmission lines (except those owned by third party utility companies and not constructed specifically to serve the generating plant), water or discharge lines perimeter fencing, storage or parking areas; perimeter fencing, storage or parking areas;

(C) The generating plants have been recognized as a single facility by a federal, state, county, city or local authority including, but not limited to siting council, state or local boards or commissions;

(D) The generating plants have obtained or made application for siting or land use approval and other applicable permits, licenses or site certificates as a single facility, on a single application, or on applications that are substantially identical except for the site descriptions;

(E) When the generating plants are designed to generate energy, the construction of the generating plants are performed under the same contract with a general contractor licensed under ORS 701 or multiple contracts entered into within two years of each other with one or more general contractors licensed under ORS 701. If a facility is composed of generating plants that will be completed in phases over time, the applicant must demonstrate that each of the phases of the facility would independently qualify as a single energy facility and that each phase of the facility are not interdependent in purpose or the manner in which they will be owned, financed, constructed, operated, or maintained or the facilities or phases of the facility will be considered as a single energy facility for the purposes of these rules.

(F) The generating plant owners obtain or share one or more sources of financing, revenue, grants and other financial resources for the development, construction, operation and maintenance of the generating plants and associated equipment;

(G) The generating plant owners share project expenses, personnel, capital investments including generating equipment, or other resources related to the generating plants, demonstrated by an agreement, anticipated agreement, or ownership or personnel common to the owners regardless of the owners' form or forms of business entity;

(H) The generating equipment for the generating plant and the related generating plant was purchased by the same person or persons who own or operate the generating plant or have taken action under any of the above factors;

(I) The generating plants are connected to the grid through a single connection or multiple connections when there is a shared net metering, power purchase or other applicable transmission agreement; or

(J) Other factors or considerations which demonstrate that each generating plant is not a separate and distinct facility based on its construction, operation, maintenance and output.

Current section OAR 345-001-0000(52) would be renumbered to OAR 345-001-0000(53) and all remaining subsections of OAR Chapter 345 Division 001 Section 0000 would be renumbered accordingly.

In addition, a new section OAR 345-021-0000(3) would be added by the proposed amendment, reading:

(3) Any person who has submitted an application for a county or municipal conditional use permit for an electric power generating plant with an average electric generating capacity of less than 35 megawatts from geothermal, solar or wind energy must submit to the Council information demonstrating that the proposed plant is separate and distinct from existing or proposed facilities and that it is not a “single energy facility” as defined in 345-001-0010(52). The burden of proof shall be on the person to show that the proposed electric power generating plant is not a single energy facility.

Current section OAR 345-021-0000(3) would be renumbered to OAR 345-021-0000(4) and all remaining subsections of OAR Chapter 345 Division 021 Section 0000 would be renumbered accordingly.

OAR 137-001-0070(1)(b) Reasons for the request

Petitioners request that ODOE and EFSC amend existing regulations and adopt rules clarifying the statutory ambiguity regarding EFSC jurisdiction over segmented energy generation projects to limit the impacts and accumulating effects from multiple sites which are, for all practical purposes, and in terms of their effects, a single facility. According to ORS 469.300(11)(a)(J), one of the categories of “energy facility” for which a proponent must obtain site certification from EFSC is:

An electric power generating plant with an average electric generating capacity of 35 megawatts or more if the power is produced from geothermal, solar or wind energy at a single energy facility or within a single energy generation area.

A “facility” subject to site certification under ORS 469.320 is “an energy facility together with any related or supporting facilities.” ORS 469.300(14). However, the statutory term “energy facility” in ORS 469.300 is ambiguous because the term does not contain a definition of “single energy facility,” which is used in ORS 469.300(11)(a)(J) to define the threshold for EFSC jurisdiction over geothermal, solar and wind energy projects. The definition in ORS 469.300(11)(a)(J) thus defines one category of “energy facility” in terms of the generating capacity that is produced at a “single” energy facility, without providing legislative guidance on what constitutes a “single” facility. ODOE and EFSC must clarify this ambiguity to vindicate the legislature’s intent that EFSC have broad jurisdiction over energy development projects that have significant impacts based on their mere size.

Projects with an average generating capacity of less than 35 megawatts (equivalent to a peak generating capacity of 105 megawatts) only require local land use permitting and thereby avoid EFSC jurisdiction and oversight by the State of Oregon. Currently, developers may segment a large development—what would be considered a “single facility” under the new temporary rules governing the Oregon Business Energy Tax Credit (BETC)—by artificially separating development into allegedly separate sites. This loophole within EFSC permitting requires an immediate and permanent fix so that such artificially segmented projects can be evaluated by EFSC and subject to Oregon Department of Fish & Wildlife (ODFW) siting recommendations and mitigation requirements on the same footing as projects for which the proponents forthrightly present the full scope of the project to EFSC for review. Closing this loophole also will ensure that all developers of large-scale industrial energy generation projects are treated equally under Oregon permitting laws and will foreclose an unfair advantage sought by any developer who attempts to creatively segment a project to avoid EFSC jurisdiction.

EFSC provides unique regulatory oversight where accumulating effects from industrial-scale energy development might occur due the size or location of the project. EFSC members not only have valuable expertise and a history of effectively regulating and permitting wind development in Oregon, but they

also draw on the expertise of ODFW and other State agencies such as ODOE and the Oregon Department of Environmental Quality. Amending the regulatory definition of “facility” to ensure a permitting process that objectively evaluates whether allegedly separate projects are in fact one facility will guarantee that Oregon stays at the forefront of responsible energy development and EFSC jurisdiction is not illicitly avoided in favor of local permitting.

When a large project is segmented into smaller projects to avoid EFSC jurisdiction, the impacts of the smaller projects together are equivalent to a single project covering the same area—but the application requirements and permitting standards might be vastly different for local government permitting of the multiple smaller projects, compared to EFSC review if the project were forthrightly represented as a single facility. For example, if the county does not follow ODFW guidelines and mitigation standards, or if the county lacks ODFW’s expertise and mandate for protecting Oregon’s wildlife, this might lead to neglect for accumulating impacts incurred from development and a potential loss of important species. It is the State’s responsibility to support and oversee county and local governance. In the case of wind, solar and geothermal development, the State needs to step in to ensure development is responsible and that local governments issuing conditional use permits are doing so within their limits and responsibilities.

ODFW expertise and recommendations regarding wind development are especially important in Oregon’s high desert where large contiguous areas of sagebrush make up crucial habitat for imperiled sagebrush obligates such as the Greater sage-grouse. According to the US Geological Survey, Oregon is one of 14 states where “fragmentation and loss of sagebrush habitat are the primary threats to Greater sage-grouse.” The population in 2008 of Greater sage-grouse in the state is around 22,000, which is approximately one-eighth of the estimated historical population. A recent study shows that the population is estimated to be at an all-time low in the state —making this an issue of great importance and priority for Oregon’s policy makers.

The proposed Echanis, East Ridge, and West Ridge generation sites in Harney County (see attached map)—a cluster of development proposed by Columbia Energy Partners and in the heart of core sage-grouse habitat on North Steens Mountain—illustrate the need for a clearer definition of what constitutes a “single energy facility” for purposes of EFSC jurisdiction. The concentration of over 200 wind turbines, proposed for three adjoining sites, by a single developer, with common infrastructure, and which would use a single transmission line to export the generated power from the mountain, compel the conclusion the legislature intended that these sites be treated as a “single” 312 megawatt facility subject to EFSC site certification, rather as than three “separate” adjacent projects just under 105 megawatts each.

Petitioners’ request for a regulatory amendment clarifying EFSC’s jurisdiction is essential in the face of rapidly increasing wind, geothermal and solar energy development throughout Oregon. Without explicit language in OAR Chapter 345 Division 1, artificial segmentation of large industrial energy projects is likely to continue and possibly increase as Oregon’s renewable energy resources are developed. Clarification of the statutory ambiguity regarding the scope of EFSC’s jurisdiction to foreclose this practice will allow the State to exercise the legislatively-intended oversight over large-scale energy developments while protecting the natural resources and scenic places all Oregonians enjoy.

The proposed amendment to OAR Chapter 345 Division 21 ensures that all persons who have submitted applications for county or municipal conditional use permits for electric power generating plants are required to present proof to EFSC that their proposed plant is separate and distinct from other facilities and are not required to obtain a site certificate from EFSC.

OAR 137-001-0070(1)(c) Propositions of law to be asserted

Not applicable, except to the extent that Petitioner asserts that the definition of “energy facility” in ORS 349.30(11)(a)(J) is ambiguous.

OAR 137-001-0070(2)(a) Options for achieving the existing rule’s substantive goals while reducing the negative economic impact on businesses

The substantive goal of the existing rule is to require EFSC site certification for facilities that are sufficiently large to meet the state certification threshold established by the legislature. There will be no negative economic impact on businesses by clarifying what constitutes a single energy facility subject to the ORS Chapter 469 site certification requirement, and such clarification will further the substantive goal of that chapter and of OAR Chapter 345.

OAR 137-001-0070(2)(b) The continued need for the existing rule

The existing rule defines EFSC’s jurisdiction to certify construction of energy facilities in Oregon and therefore continues to be necessary to satisfy ORS Chapter 469. The proposed amendment clarifies what constitutes a single “facility” subject to EFSC jurisdiction.

OAR 137-001-0070(2)(c) The complexity of the existing rule

The existing rule is simple but ambiguous, adopting the statutory energy generation capacity threshold in ORS Chapter 469. The rule defining a facility does not address situations in which contemporaneous development of multiple sites or expansion of existing sites should be considered a “single energy facility” of sufficient capacity to be subject to the EFSC site certification requirement.

The current rule provides, in OAR 345-001-0000(20), that

“Facility” as defined in ORS 469.300 or a small generating plant for which an applicant must have a site certificate according to OAR 345-001-0210 together with any related or supporting facilities.

ORS 469.300(14) in turn defines “Facility” to mean “an energy facility together with any related or supporting facilities,” and ORS 469.300(11) defines “Energy facility” means any of the following (excluding hydroelectric facilities under ORS 469.300(11)(b)):

(A) An electric power generating plant with a nominal electric generating capacity of 25 megawatts or more, including but not limited to:

- (i) Thermal power; or
- (ii) Combustion turbine power plant.

(B) A nuclear installation as defined in this section.

(C) A high voltage transmission line of more than 10 miles in length with a capacity of 230,000 volts or more to be constructed in more than one city or county in this state, but excluding:

- (i) Lines proposed for construction entirely within 500 feet of an existing corridor occupied by high voltage transmission lines with a capacity of 230,000 volts or more; and
- (ii) Lines of 57,000 volts or more that are rebuilt and upgraded to 230,000 volts along the same right of way.

(D) A solar collecting facility using more than 100 acres of land.

(E) A pipeline that is:

(i) At least six inches in diameter, and five or more miles in length, used for the transportation of crude petroleum or a derivative thereof, liquefied natural gas, a geothermal energy form in a liquid state or other fossil energy resource, excluding a pipeline conveying natural or synthetic gas;

(ii) At least 16 inches in diameter, and five or more miles in length, used for the transportation of natural or synthetic gas, but excluding:

(I) A pipeline proposed for construction of which less than five miles of the pipeline is more than 50 feet from a public road, as defined in ORS 368.001; or

(II) A parallel or upgraded pipeline up to 24 inches in diameter that is constructed within the same right of way as an existing 16-inch or larger pipeline that has a site certificate, if all studies and necessary mitigation conducted for the existing site certificate meet or are updated to meet current site certificate standards; or

(iii) At least 16 inches in diameter and five or more miles in length used to carry a geothermal energy form in a gaseous state but excluding a pipeline used to distribute heat within a geothermal heating district established under ORS chapter 523.

(F) A synthetic fuel plant which converts a natural resource including, but not limited to, coal or oil to a gas, liquid or solid product intended to be used as a fuel and capable of being burned to produce the equivalent of two billion Btu of heat a day.

(G) A plant which converts biomass to a gas, liquid or solid product, or combination of such products, intended to be used as a fuel and if any one of such products is capable of being burned to produce the equivalent of six billion Btu of heat a day.

(H) A storage facility for liquefied natural gas constructed after September 29, 1991, that is designed to hold at least 70,000 gallons.

(I) A surface facility related to an underground gas storage reservoir that, at design injection or withdrawal rates, will receive or deliver more than 50 million cubic feet of natural or synthetic gas per day, or require more than 4,000 horsepower of natural gas compression to operate, but excluding:

(i) The underground storage reservoir;

(ii) The injection, withdrawal or monitoring wells and individual wellhead equipment; and

(iii) An underground gas storage reservoir into which gas is injected solely for testing or reservoir maintenance purposes or to facilitate the secondary recovery of oil or other hydrocarbons.

(J) An electric power generating plant with an average electric generating capacity of 35 megawatts or more if the power is produced from geothermal, solar or wind energy at a single energy facility or within a single energy generation area.

OAR 137-001-0070(2)(d) The extent to which the existing rule overlaps, duplicates, or conflicts with other state or federal rules and with local government regulations

The existing rule establishes exclusive jurisdiction in EFSC for energy facilities defined in ORS 469.300 and concurrent jurisdiction with local governments for electric power generating plants with an average electric generating capacity of less than 35 megawatts from wind energy (OAR 345-021-0000(2)). The existing rule does not conflict or duplicate other state, federal or local government regulation.

OAR 137-001-0070(2)(e) The degree to which technology, economic conditions, or other factors have changed in the subject area affected by the existing rule, since the agency adopted the rule

The primary factor that has changed in the area of energy facility site certification is the trend of developers subdividing projects into multiple sites to either claim excessive tax credits through the Business Energy Tax Credit (BETC) program or to attempt to avoid obtaining site certificates from EFSC. Recent revisions to the BETC program have highlighted the need to tighten the State's definition of what constitutes a single facility to prevent evasion of the legislature's intent in promulgating statutes governing energy development funding and siting.

In addition, the Association of Oregon Counties finalized a "Wind Energy Task Force Report and Recommendations" in early January 2010 which contained very weak recommendations for uniform siting guidelines for wind energy projects with average generating capacity of 35 megawatts or less. Rather than the expected "model ordinance," the resulting recommendations are simply "features counties should (may) consider when customizing their own review process and requirements." The complete absence of any recommended substantive criteria for wildlife and other resource protection in this Report and Recommendation makes it particularly critical that EFSC provide a mechanism for asserting jurisdiction over large, artificially subdivided projects.

North Steens Proposed Wind Development and Sensitive Public Lands

