

Exhibit E

Permits Needed for Construction and Operation

OAR 345-021-0010(1)(e)

Table of Contents

E.1 Introduction	E-1
E.2 Identification of Permits	E-1
E.2.1 Federal Permits	E-1
E.2.2 State Permits, Non-Federally Delegated	E-1
E.2.3 State Permits, Federally Delegated	E-1
E.2.4 Local Permits	E-1
E.3 Description of Necessary Permits	E-4
E.3.1 Federal Permits	E-4
E.3.2 State Permits, Non-Federally Delegated	E-6
E.3.3 State Permits, Federally Delegated	E-8
E.3.4 Local Permits	E-8
E.4 Non-Federally Delegated Permit Application	E-9
E.5 Federally Delegated Permit Application	E-9
E.6 Third-Party Permits	E-9
E.7 Federally Delegated Permits Issued to a Third Party	E-10
E.8 Monitoring Program	E-11
E.9 Conclusion	E-11
N	

Tables

Table E-1. Federal Permits Needed Prior to Construction and Operation of the Facility	E-2
Table E-2. State Permits, Non-Federally Delegated, Needed Prior to Construction and Operation of the Facility	E-3
Table E-3. State Permits, Federally Delegated, Needed Prior to Construction and Operation of the Facility	E-3
Table E-4. Local Permits Needed Prior to Construction and Operation of the Facility	E-4

E.1 INTRODUCTION

Exhibit E addresses federal, state, and local level permits needed prior to construction and operation of the proposed Cascade Wind facility, in compliance with Oregon Administrative Rule (OAR) 345-021-0010(1)(e), which requires that:

OAR 345-021-0010(1)(e) *Information about permits needed for construction and operation of the facility, including:*

Response:

Sections E.2 through E.8 provide information about permits needed for construction and operation of the proposed facility.

E.2 IDENTIFICATION OF PERMITS

OAR 345-021-0010(1)(e)(A) *Identification of all federal, state, and local government permits needed before construction and operation of the proposed facility; legal citation of the statute, rule, or ordinance governing each permit; and the name, address, and telephone number of the agency or office responsible for each permit.*

Response:

E.2.1 Federal Permits

Table E-1 identifies federal permits that may be needed prior to construction and operation of the proposed facility. These federal permits are discussed in more depth in Section E.3.1.

E.2.2 State Permits, Non-Federally Delegated

The Energy Facility Siting Council (Council) determines compliance with Oregon statutes and rules for state agencies. Table E-2 lists the authorizations that would be required under state law. These state-level permits are discussed in more depth in Section E.3.2.

E.2.3 State Permits, Federally Delegated

Federally delegated state permits are listed below in Table E-3. The Council does not determine compliance with statutes and rules if the federal government has delegated the decision on compliance to a state agency other than the Council. The first part of this table lists state permits issued by state agencies under federally delegated programs. These permits are discussed in more depth in Section E.3.3.

E.2.4 Local Permits

Table E-4 lists local permits needed prior to construction and operation of the facility. These local-level permits are discussed in more depth in Section E.3.4.

Table E-1. Federal Permits Needed Prior to Construction and Operation of the Facility

Permit	Agency	Authority
Federal Permits		
National Environmental Policy Act (NEPA) Compliance (led by Bonneville Power Administration) and Record of Decision (ROD)	Attn: Carl Keller Bonneville Power Administration 905 NE 11th Avenue Portland, Oregon 97232 (503) 230-7692	National Environmental Policy Act, Section 102 (42 USC § 4332); 40 CFR § 1500 (2005)
Notice of Proposed Construction or Alteration (FAA Form 7460-1)	Federal Aviation Administration Northwest Mountain Region Air Traffic Division ANM-520 1601 Lind Avenue SW Renton, Washington 98055 (425) 227-2520	Federal Aviation Act of 1958 (14 USC § 44718); 14 CFR § 77.13, 77.15, 77.17 (2005)
Determination of No Hazard	Same as above	Same as above
Clean Water Act Section 404 Individual or Regional General Permit	Attn: Karla Ellis U.S. Army Corps of Engineers Northwest Division, Portland District 333 SW First Avenue Portland, Oregon 97204 (503) 808-4377	Clean Water Act, Section 404 (33 USC § 1344); 33 CFR §§ 320, 323, 325-28, and 330 (2005)
Federal Consultation and Review		
Endangered Species Act Review of potential impacts on plants, animals, and fish	U.S. Fish and Wildlife Service 2600 SE 98th, Suite 100 Portland, Oregon 97266 (503) 503-231-6179	16 USCA §§ 1531, 1536, 1539; 50 CFR § 462

Table E-2. State Permits, Non-Federally Delegated, Needed Prior to Construction and Operation of the Facility

Permit	Agency	Authority
Energy Facility Site Certificate	Oregon Department of Energy Energy Facility Siting Council 625 Marion Street NE Salem, Oregon 97301-3742 (503) 378-4040	ORS 469.300 <i>et seq.</i> ; OAR Chapter 345, Divisions 1, 21-24
Removal/Fill Permit	Attn: Russ Klassen Oregon Department of State Lands 775 Summer Street NE, Suite 100 Salem, Oregon 97031-1279 (503) 378-3805 Extension 244	ORS 196; OAR Chapter 141, Division 85
Onsite Sewage Disposal Construction- Installation Permit	Wasco-Sherman Public Health Department 419 E 7th Street The Dalles, Oregon 97058 (541) 506-2600	ORS 454 and 468B; OAR Chapter 340, Divisions 71 and 73
Water Right Permit or Water Use Authorization	Oregon Water Resources Department Division of Water Rights 158 12th Street NE Salem, Oregon 97310 (503) 986-0900	ORS 537; OAR Chapter 690, Divisions 310, 340, 410, and 502
Single/Annual Trip Permit; Port of Entry Permit Oversize Load Movement Permit/ Load Registration	Oregon Department of Transportation Motor Carrier Transportation Division 550 Capitol Street NE Salem, Oregon 97301 (503) 378-5849	ORS 818.030; OAR Chapter 734 Division 82
Archaeological Permit	Oregon Parks and Recreation Department Heritage Conservation State Historic Preservation Office 725 Summer Street NE, Suite C Salem, Oregon 97301 (503) 986-0707	ORS 97, 197, 358, and 390; OAR Chapter 736, Division 51

Table E-3. State Permits, Federally Delegated, Needed Prior to Construction and Operation of the Facility

Permit	Agency	Authority
National Pollutant Discharge Elimination System General Discharge Stormwater Permit for Construction (1200-C)	Attn: Walt West Oregon Department of Environmental Quality Division of Water Quality, Eastern Region 2146 NE Fourth Bend, Oregon 97701 (541) 388-6146 Extension 232	Clean Water Act, Section 402 (33 USC § 1342); 40 CFR § 122 (2005); ORS 468 and 468B; OAR Chapter 340, Division 45
Water Quality Certification	Attn: Tom Melville Oregon Department of Environmental Quality Division of Water Quality 811 SW 6th Avenue Portland, Oregon 97204 (503) 229-5845	Clean Water Act, Section 401 (33 USC § 1341); OAR Chapter 340, Division 48

Table E-4. Local Permits Needed Prior to Construction and Operation of the Facility

Permit	Agency	Authority
Local Permits		
Statutes and regulations affecting local land use ordinances and permits pursuant to ORS 197.732; ORS 215.2-3 <i>et seq.</i> ; ORS 469.504(2); and OAR 660, Divisions 4, 12, and 33.		
Conditional Use Permit	Attn: Todd Cornett Wasco County Planning and Development Department 2705 E 2nd Street The Dalles, Oregon 97058 (541) 506-2560	Wasco County Land Use and Development Ordinance (WCLUDO) § 3.120 F-2 zone, § 3.210 EFU A-1 zone, § 3.920 Environmental Protection District Sensitive Wildlife Habitat Overlay, §§ 5.020-5.030 Conditional Use Approval Criteria and Conditions of Approval
Building Permit	Consumer and Business Services Department of Building Codes Division Regional Inspection Services The Dalles Field Office 312 Court Street, Suite 415 The Dalles, Oregon 97058 (541) 298-4461	Wasco County Land Use and Development Ordinance
Road Approach/Utility Permit	Wasco County Public Works Department Road Operations Division 2705 E 2nd Street The Dalles, Oregon 97058 (541) 506-2640	ORS 374.305-340 and ORS 758.010-030, Wasco County Road Utility Permit Ordinance
Weed Control	Wasco County Public Works Department Weed/Watermaster Division 2705 E 2nd Street The Dalles, Oregon 97058 (541) 506-2650	ORS 758.010, Wasco County Road Utility Permit Ordinance

E.3 DESCRIPTION OF NECESSARY PERMITS

OAR 345-021-0010(1)(e)(B) *A description of each permit and the reasons the permit is needed for construction or operation of the facility.*

Response:

The following subsections in E.3 describe the necessary federal, state, and local permits as stated above.

E.3.1 Federal Permits

E.3.1.1 National Environmental Policy Act Compliance/Record of Decision

42 USC § 4332; 40 CFR § 1500 (2005)

Interconnection to Bonneville Power Administration's (BPA) transmission system is subject to review under the National Environmental Policy Act (NEPA). BPA would be reviewed under NEPA for interconnection of the Cascade Wind facility to the proposed switching station/substation. This would include review under the Endangered Species Act (ESA), the National Historic Preservation Act (NHPA), and related cultural resources protection

statutes. BPA must find that the 60-MW interconnection for the Cascade Wind facility is within the scope of the Business Plan Final Environmental Impact Statement.

E.3.1.2 Notice of Proposed Construction or Alteration (FAA Form 7460-1)

14 USC § 44718; 14 CFR §§ 77.13, 77.15, 77.17 (2005)

The proposed facility's turbines would be more than 200 feet in height, which triggers review by the Federal Aviation Administration (FAA). The FAA must be notified of any construction that may affect the National Airspace System under provisions of 14 CFR 77. A Notice of Proposed Construction or Alteration form must be completed and submitted to the FAA Northwest Mountain Region, Air Traffic Division ANM-520 office prior to beginning construction. This notice ensures that wind turbines, meteorological towers, and construction cranes would not interfere with aviation and provides certainty that proper lighting will be installed to ensure aviation safety. Upon review of tower latitude, longitude, and height, the FAA issues a determinative notice if the proposed facility would interfere with flight paths or would require specific site certificate conditions, such as minimum lighting requirements. Temporary or permanent structures that exceed an overall height of 200 feet above sea level, or exceed any obstruction standards contained in 14 CFR 77, should normally be marked and/or lighted. In most cases, after an FAA aeronautical study, marking or lighting of individual turbine is not required if the particular structure does not impair aviation safety. In the case of multiple wind turbine arrays, lighting of a subset of turbines is typically required. The FAA also identifies when notification of actual construction is required; however, no permit is issued.

E.3.1.3 Determination of No Hazard

14 USC § 44718; 14 CFR §§ 77.13, 77.15, 77.17 (2005)

The proposed facility may require a Determination of No Hazard from the FAA for each of the facility's 40 turbines, stating that the proposed development has been determined not to be hazardous to air navigation. Additionally, these reviews determine the lighting plan that would be required at the site.

E.3.1.4 Clean Water Act, Section 404 Nationwide or Individual Permit

33 USC § 1344; 33 CFR §§ 320, 323, 325-28, and 330 (2005)

A Clean Water Act Section 404 permit is triggered if there are discharges of dredged or fill material into waters of the United States, including their adjacent wetlands, by construction of the proposed facility.

Section 404 of the Clean Water Act establishes a program to regulate the discharge of dredged or fill material into waters of the United States, including wetlands. Activities in national waters regulated under this program include fill for development, water resource projects, infrastructure development, and mining projects. Section 404 requires a permit before dredged or fill material may be discharged into national waters, unless the activity is exempt from Section 404 regulation (e.g., certain farming and forestry activities). It depends

on the specific impacts as to what type of permit is needed (generally anything less than 0.5 acre requires a nationwide permit and anything more than 0.5 acre requires an individual permit). The requirement for a Section 404 permit could also trigger NEPA review, Section 7 consultation under ESA, and Section 106 consultation under NHPA.

E.3.2 State Permits, Non-Federally Delegated

E.3.2.1 Energy Facility Site Certificate

ORS 469.300 et seq.; OAR Chapter 345, Divisions 1, 21-24

An Energy Facility Site Certificate is required before construction or operation. This Site Certificate is triggered for siting of large (more than 105-MW nameplate capacity) wind facilities. An Application for a Site Certificate includes a detailed description of the proposed site, the proposed facility, and the anticipated impacts. The Applicant must show how the proposed facility complies with the Council's standards. The project order and the specific requirements of OAR 345-021-0010 define the content of the Application.

E.3.2.2 Removal/Fill Permit

ORS 196; OAR Chapter 141, Division 85

This permit is required if there are impacts to waters of the state, including wetlands, for fill or removal of more than 50 cubic yards. The purpose of the law, enacted in 1967, is to protect public navigation, fishery, and recreational uses of the waters. "Waters of the state" are defined as "natural waterways including all tidal and nontidal bays, intermittent streams, constantly flowing streams, lakes, wetlands, and other bodies of water in this state, navigable and non-navigable, including that portion of the Pacific Ocean that is in the boundaries of this state." The law applies to all landowners, whether private individuals or public agencies. Road improvements and other activities associated with the proposed facility that may impact streams or wetlands will need to be permitted by the Oregon Department of State Lands and the U.S. Army Corps of Engineers.

E.3.2.3 Onsite Sewage Disposal Construction-Installation Permit

ORS 454 and 468B; OAR Chapter 340, Divisions 71 and 73

This permit is required to construct/install an onsite sewage disposal system for the operations and maintenance building. Facilities with an onsite sewage disposal system and a projected daily sewage flow of less than 2,500 gallons must obtain a Construction-Installation Permit prior to construction. A Construction-Installation Permit would be obtained for the Cascade Wind facility. The permitting process is to ensure that septic systems are sited and constructed so that human health and the environment are protected.

E.3.2.4 Water Right Permit or Water Use Authorization

ORS 537; OAR Chapter 690, Divisions 310, 340, 410, and 502

Under Oregon law, all water is publicly owned. With some exceptions, cities, farmers, factory owners, and other users must obtain a permit or water right from the Water Resources Department to use water from any source—whether it is underground, or from lakes or streams. Landowners with water flowing past, through, or under their property do not automatically have the right to use that water without a permit.

Water rights are obtained in a three-step process. The Applicant first must apply for a permit to use water. Once a permit is granted, the Applicant must construct a water system and begin using water. When water is applied, the permit holder must hire a certified water rights examiner to complete a survey of water use and submit a map and report detailing how and where water is being applied. If water has been used according to the provisions of the permit, a water right certificate is issued based upon the report findings.

E.3.2.5 Oversize Load Movement Permit/Load Registration

ORS 818.030; OAR Chapter 734 Division 82

This permit is required for hauling oversized or heavy loads on state highways. Transportation of loads on state highways that exceed legal size and/or weight limits (more than 8.6 feet wide or 14 feet high, rear overhang more than 5 feet long, and/or more than 80,000 gross pounds) requires a permit from the Oregon Department of Transportation. If general dimensions are more than 12 to 14 feet wide (depending on specific roadways), 14 feet high, 75 feet long, and/or the weight is more than 98,000 gross pounds, the Single Trip Permit is needed. The maximum length of this permit may not exceed 10 days and can only be used for one trip per truck. The Annual Permit is needed if the general dimensions are more than legal limits but less than the Single Trip Permit limits. This permit lasts 1 year per truck. A Joint Permit (Single Trip or Annual Permits) may be acquired for State of Oregon and Wasco County roads where everything applies. In addition to other requirements for operating in Oregon, such as registration requirements and motor carriers transporting oversize or overweight loads, variances may be needed for super loads. Any load exceeding the following dimensions would be considered a super load: load over 16 feet wide on the Interstate, load over 14 feet wide on any two-lane highway, load over 17 feet high on any highway, and an overall length over 150 feet.

E.3.2.6 Archaeology Permit

ORS 97, 197, 358, and 390; OAR Chapter 736, Division 51

Ground-disturbing activity that may affect a known or unknown archaeological resource on public or private lands requires a permit issued by the Oregon Parks and Recreation Department. Applications must be submitted by an archaeologist meeting the qualifications in ORS 390.235(6)(b).

E.3.3 State Permits, Federally Delegated

E.3.3.1 NPDES General Discharge Stormwater Permit for Construction (1200-C)

Clean Water Act, Section 402 (33 USC § 1342); 40 CFR § 122 (2005); ORS 468 and 468B; OAR Chapter 340, Division 45

The 1200-C permit is intended to meet the need of a National Pollutant Discharge Elimination System (NPDES) permit for stormwater discharges associated with construction activity. This permit is required for construction activities that disturb more than 1 acre of ground. This permit may be necessary for stormwater management associated with construction. A stormwater discharge permit is required for construction activities, clearing, grading, and excavation that disturb more than 1 acre of land. This permit requires an application, an erosion and sediment control plan containing erosion control best management practices and sediment management measures, and a Notice of Termination.

E.3.3.2 Water Quality Certification

Clean Water Act, Section 401 (33 USC § 1341); OAR Chapter 340, Division 48

Under Section 401 of the Clean Water Act, a Water Quality Certification is required if there is a federal permit to conduct an activity that may result in a discharge to waters of the state. A water quality certification is the mechanism by which the state evaluates whether an activity may proceed, and whether it meets water quality standards.

E.3.4 Local Permits

E.3.4.1 Land Use Approval

Wasco County Land Use and Development Ordinance

The Applicant must choose to either seek land use approval from the local jurisdiction, or have the Council make the land use determination. The Applicant request that the Council make the land use determination, and therefore local land use permits are not required.

E.3.4.2 Building Permit

Wasco County Land Use and Development Ordinance

A Building Permit would be required prior to construction of the proposed facility. The Building Permit would be required for the foundation, and tower and permit fees would be based on the cost of both the foundation and tower for each wind turbine.

E.3.4.3 Road Approach/Utility Permit

ORS 374.305-340 and ORS 758.010-030, Wasco County Road Utility Permit Ordinance

If access roads must be widened or built from a county right-of-way, a Road Approach Permit is required. If transmission lines built for the facility cross county roadways, a Utility Permit may be required.

E.3.4.4 Weed Control

ORS 758.010, Wasco County Road Utility Permit Ordinance

Weed control may be required to manage the invasion and spread of noxious weeds throughout the county.

E.4 NON-FEDERALLY DELEGATED PERMIT APPLICATION

OAR 345-021-0010(1)(e)(C) *For state or local government permits or approvals for which the Council must determine compliance with applicable standards, evidence to support findings by the Council that construction and operation of the proposed facility will comply with all statutes, rules, and standards applicable to the permit. The applicant may show this evidence:*

(i) In Exhibit J for permits related to wetlands;

Response:

See Exhibit J. A state removal/fill permit will be required to construct the proposed facility, due to the need to upgrade crossings of jurisdictional waters. The applicant expects to submit the required evidence to the Department in spring of 2007, in the form of a removal/fill permit application.

(ii) In Exhibit O for permits related to water rights.

Response:

See Exhibit O. The Applicant's contractor will secure construction water from a permitted source (likely a municipal water source such as Chenoweth Water PUD). During operations, the only water use will be about 1,000 gallons per day from an on-site well at the O&M building. Commercial and industrial water uses of less than 5,000 gallons per day from a groundwater well are exempt from having to obtain a water right.

E.5 FEDERALLY DELEGATED PERMIT APPLICATION

OAR 345-021-0010(1)(e)(D) *For federally delegated permit applications, evidence that the responsible agency has received a permit application and the estimated date when the responsible agency will complete its review and issue a permit decision.*

Response:

Work on the 1200-C Permit application is ongoing. The permit will be submitted to the Oregon Department of Environmental Quality (DEQ) later in 2007. At that time, the Applicant will ask DEQ for the required information.

E.6 THIRD-PARTY PERMITS

OAR 345-021-0010(1)(e)(E) *If the applicant will not itself obtain a state or local government permit or approval for which the Council would ordinarily determine compliance but instead relies on a permit issued to a third party, identification of any such third party permit and for each:*

(i) Evidence that the applicant has, or has a reasonable likelihood of entering into, a contract or other agreement with the third party for access to the resource or service to be secured by that permit;

Response:

It is not anticipated that any third-party permits would be required to construct and operate the proposed facility.

Water for construction will be purchased from Chenoweth Water PUD, an already permitted source by the construction contractor. No permit or transfer is required because these water rights are assumed to allow use for industrial purposes such as the energy facility.

(ii) Evidence that the third party has, or has a reasonable likelihood of obtaining, the necessary permit; and

Response:

OAR 345-021-0010(1)(e)(E)(ii) is not applicable.

(iii) An assessment of the impact of the proposed facility on any permits that a third party has obtained and on which the applicant relies to comply with any applicable Council standard.

Response:

OAR 345-021-0010(1)(e)(E)(iii) is not applicable.

E.7 FEDERALLY DELEGATED PERMITS ISSUED TO A THIRD PARTY

OAR 345-021-0010(1)(e)(F) *If the applicant relies on a federally delegated permit issued to a third party, identification of any such third party permit for each:*

(i) Evidence that the applicant has, or has a reasonable likelihood of entering into, a contract or other agreement with the third party for access to the resource or service to be secured by that permit;

Response:

No federally delegated permits would be needed by a third party in order to construct and operate the proposed facility.

(ii) Evidence that the responsible agency has received a permit application; and

Response:

OAR 345-021-0010(1)(e)(F)(ii) is not applicable.

(iii) The estimated date when the responsible agency will complete its review and issue a permit decision.

Response:

OAR 345-021-0010(1)(e)(F)(iii) is not applicable.

E.8 MONITORING PROGRAM

OAR 345-021-0010(1)(e)(G) *The applicant's proposed monitoring program, if any, for compliance with permit conditions:*

Response:

Monitoring requirements, if any, will be determined by the Council and federal agencies responsible for issuing permits or approvals for the proposed facility. The monitoring measures proposed by the Applicant for compliance with permit conditions are described in the applicable applications (e.g., 1200-C Permit requirements include erosion control monitoring and reporting).

E.9 CONCLUSION

Based on this exhibit, which was prepared in accordance with the requirements of OAR 345-021-0010(1)(e), federal, state, and local permits needed for construction and operation of the proposed facility are discussed and will be obtained prior to construction and operation.

