

November 3, 2020

## **For Immediate Release**

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### **Oregon Department of Energy Violated Oregon Law by Failing to Terminate Expired State Permit for Fracked-Gas Plant in Umatilla County**

Portland, OR - Today Columbia Riverkeeper and Friends of the Columbia Gorge filed a Petition for Judicial Review in Multnomah County Circuit Court against the Oregon Department of Energy (ODOE). The suit challenges various unlawful determinations by ODOE allowing Perennial WindChaser LLC (Perennial) to begin building a proposed 415-MW fracked gas power plant project in Umatilla County without first meeting numerous pre-construction permitting requirements and in violation of Oregon law.

Although a state permit for the power project, called a “site certificate,” was previously issued by the Oregon Energy Facility Siting Council (EFSC), that certificate has now expired because Perennial failed to lawfully start construction by the September 23, 2020 deadline. ODOE erroneously concluded that construction lawfully began prior to the deadline, and even facilitated Perennial’s unlawful actions purporting to start construction.

For example, before Perennial could begin construction of the power plant, it was required to satisfy numerous pre-construction requirements, including demonstrating that the company had procured various permits and environmental reviews. Instead, ODOE unilaterally—without public input or EFSC approval—allowed the company to modify the terms and conditions of the site certificate and the previously approved construction schedule for the project. Specifically, ODOE allowed Perennial to purportedly start construction by grading a portion of the site for a future access road. Perennial and ODOE dubbed this road work as a new “Phase 1” for project construction, which was neither presented to nor approved by EFSC.

In making its decisions on the Perennial project, ODOE made numerous determinations about which pre-construction requirements needed to be completed before the September 23 deadline and which did not. Among other violations, ODOE failed to ensure that the company had obtained a construction stormwater permit from the Oregon Department of Environmental Quality (DEQ). ODOE also allowed Perennial to reduce the monetary value of the bond required to be posted for restoration of the site, despite the fact that the site certificate specifically requires that any revision to the bond amount can only be approved by EFSC (not by ODOE).

“By changing or waiving the terms of Perennial’s site certificate, ODOE was acting far beyond its authority,” said Erin Saylor, Staff Attorney for Columbia Riverkeeper. “Only EFSC has the authority to amend the terms and conditions of a site certificate, and any amendments must happen in public, not behind closed doors.”

Had Perennial applied for and received approval of an amendment to the site certificate to extend the construction start deadline, the proposed power plant would be subject to recently increased rates for mitigating the project’s carbon emissions. If fully constructed, Perennial will be one of the largest stationary sources of greenhouse gas emissions in the state. By circumventing the requirement for a site certificate amendment, ODOE effectively helped Perennial save as much as \$11 million, and at much greater harm to the environment.

Furthermore, even though Perennial first proposed this controversial power plant in 2014, the company still has not secured a purchaser for any power that it would produce. In enacting and amending the Oregon Energy Facility Siting Act, the Oregon Legislature sought to prohibit situations where proposed facilities remain on the books but unbuilt for long periods of time. “The legislature has expressly forbidden energy developers from ‘banking’ and locking up sites for years on end without truly starting construction, which is exactly what is happening here,” said Nathan Baker, Senior Staff Attorney for Friends of the Columbia Gorge. “Perennial has been proposing to pollute Oregon’s air with this new power plant for more than six years. If the company still desires to build the plant, it will first need to file a new permit application, which must be reviewed under current law.”

Columbia Riverkeeper and Friends of the Columbia Gorge are represented in the case by Maura Fahey of Crag Law Center, the Law Office of Karl G. Anuta, Erin Saylor, and Nathan Baker.

According to ODOE’s website, Perennial-WindChaser LLC is a wholly owned subsidiary of Perennial Power Holdings, Inc., which is a wholly owned subsidiary of Sumitomo Corporation and Sumitomo Corporation of America.

*Images: Columbia Riverkeeper can furnish images of the site and the road-building upon request.*

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