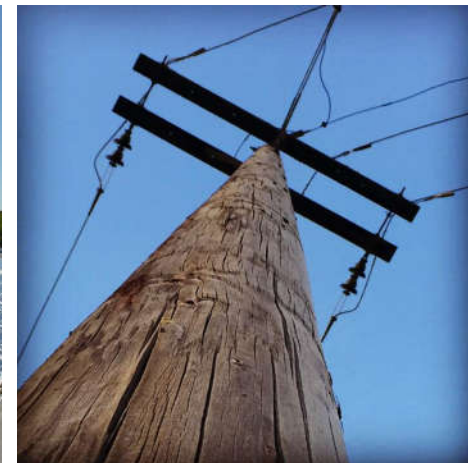


Oregon Department of **ENERGY**

Energy Facility Siting
Council Meeting

ODOE Office
550 Capitol St. NE
Salem Oregon

September 22, 2023



Opening Items:

- Call to Order
- Roll Call
- Announcements

Announcements:

- Reminder that this meeting is being held in its entirety via teleconference and webinar.
- Reminder to Council and to anyone addressing the Council to please remember to state your full name clearly, and do not use the speakerphone feature, as it will create feedback.
- You may sign up for email notices by clicking the link on the agenda or the Council webpage.
- You are also welcome to access the online mapping tool and any documents by visiting our website.



Announcements continued:

- Please silence your cell phones
- Please use the “Raise Your Hand” feature in Webex to speak during the public comment period, or press *3 to raise your hand if you are participating by telephone.
- Energy Facility Council meetings shall be conducted in a respectful and courteous manner where everyone is allowed to state their positions at the appropriate times consistent with Council rules and procedures. Willful accusatory, offensive, insulting, threatening, insolent, or slanderous comments which disrupt the Council meeting are not acceptable. Pursuant to Oregon Administrative Rule 345-011-0080, any person who engages in unacceptable conduct which disrupts the meeting may be expelled.



Agenda Item A (Action Item & Information Item)

Consent Calendar

- July and August Council Meeting Minutes
- Council Secretary Report

September 22, 2023

Compliance Updates - Inspections

Facility	Inspection Date	Inspection Type	Findings and/or Comments	Estimated Completion
Wheatridge REF I	05/10/2023	Annual	<ul style="list-style-type: none">• Develop and provide to ODOE/ODAg/ for review and concurrence, an enhanced noxious weed monitoring and treatment plan.• Identify actions certificate holder plans to take to ensure that turbine tower doors are locked when not being access by O&M staff.• Replenish gravel around base of WG1-0003.	TBD

Agenda Item B (Action Item)

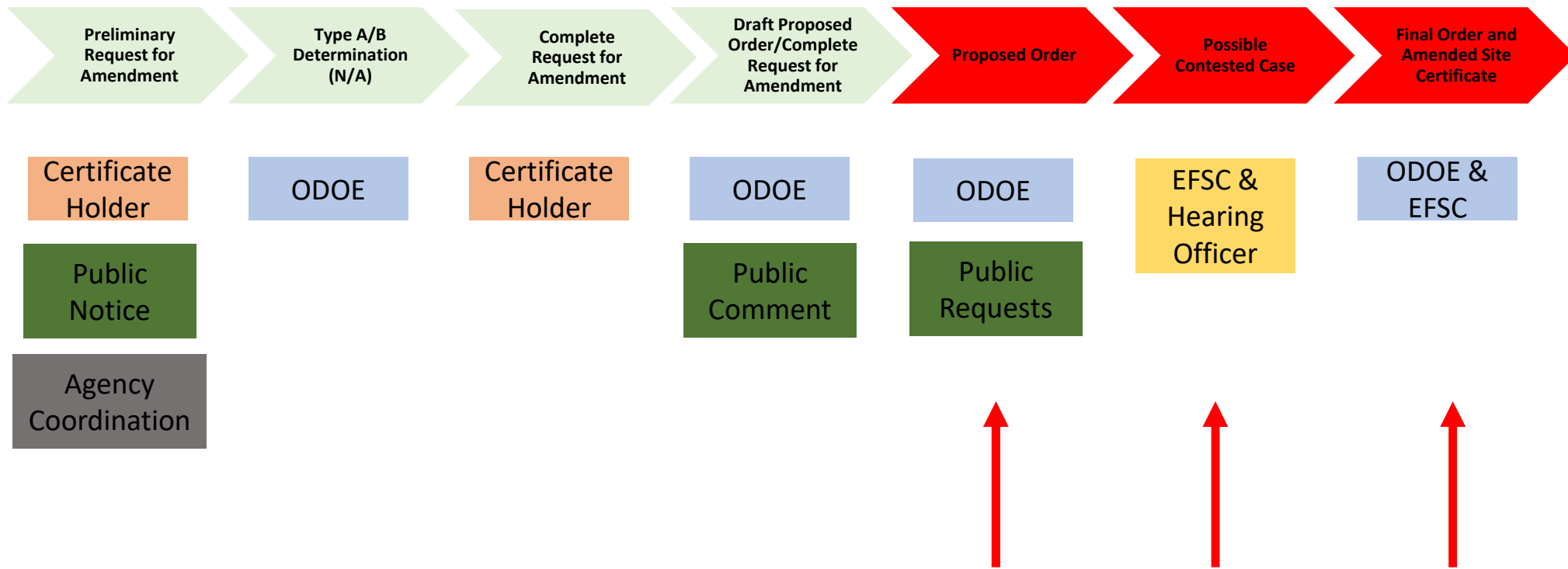
Boardman to Hemingway RFA 1 Review of Requests for Contested Case Possible Final Decision/Hearing to Adopt Final Order

September 22, 2023

Kellen Tardaewether, Senior Siting Analyst



Energy Facility Siting Amendment Process

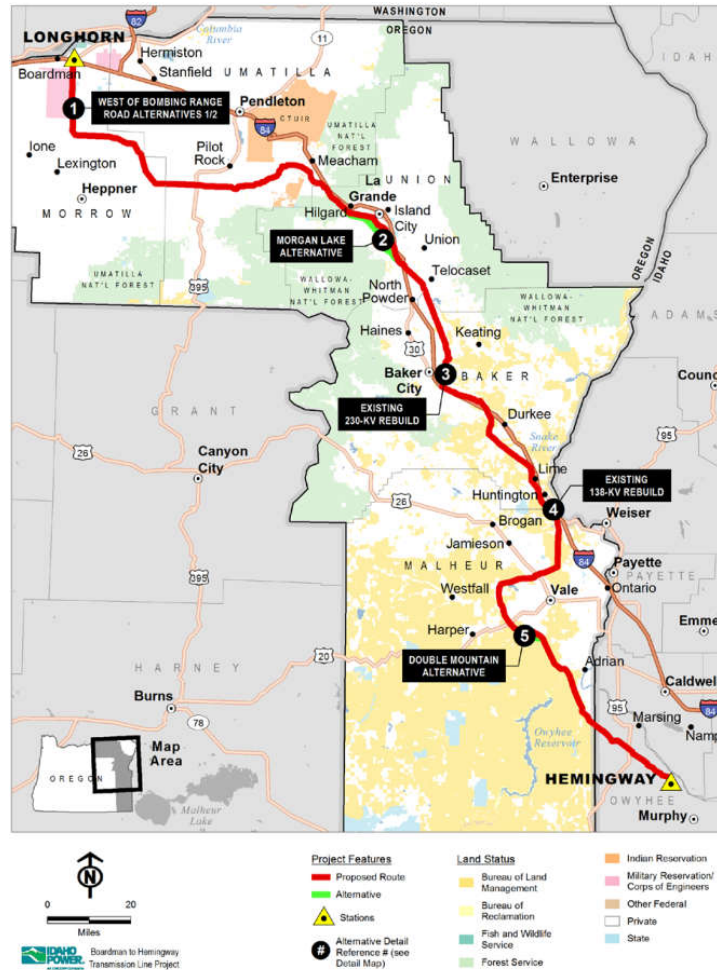


Boardman to Hemingway Transmission Line Overview

Certificate Holder
Idaho Power Company

Approved Facility
Approximately 273 miles of
predominantly 550 kV
transmission line, includes
related or supporting facilities

Facility Location:
Morrow, Umatilla, Union, Baker
and Malheur Counties

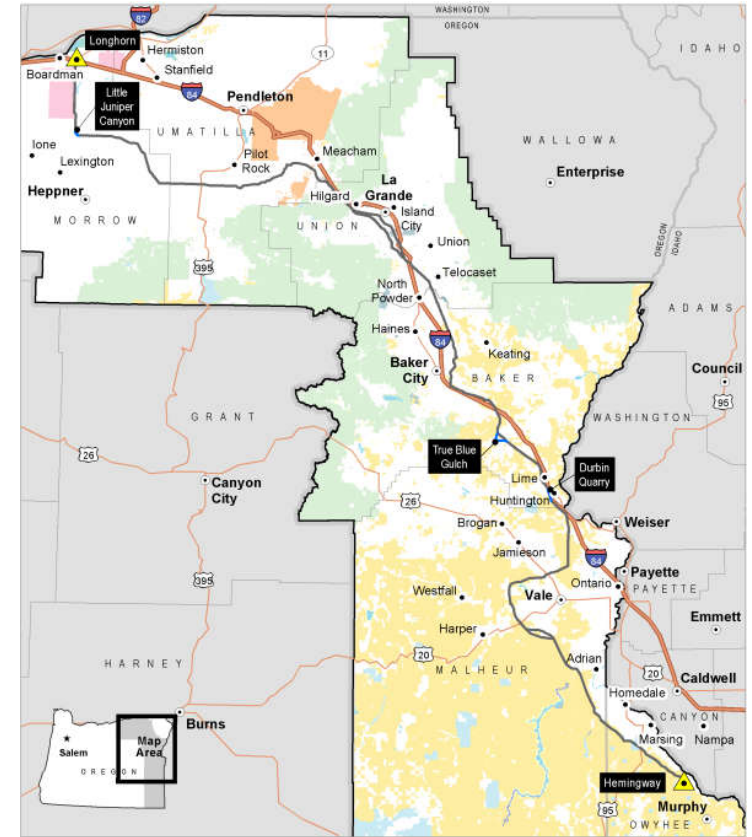
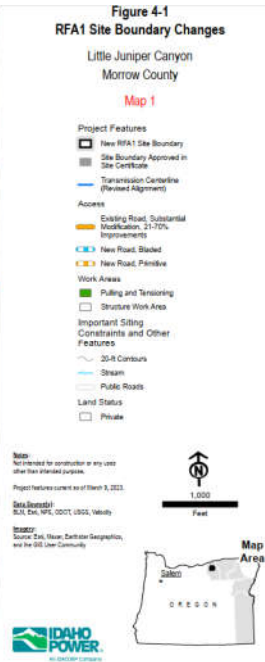
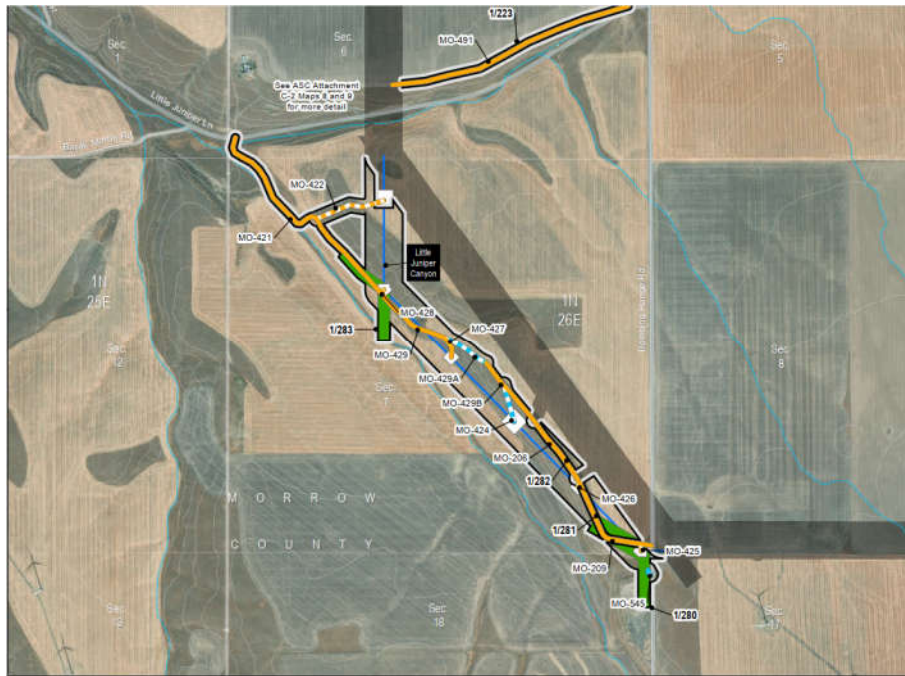


Boardman to Hemingway Transmission Line: Request for Amendment 1

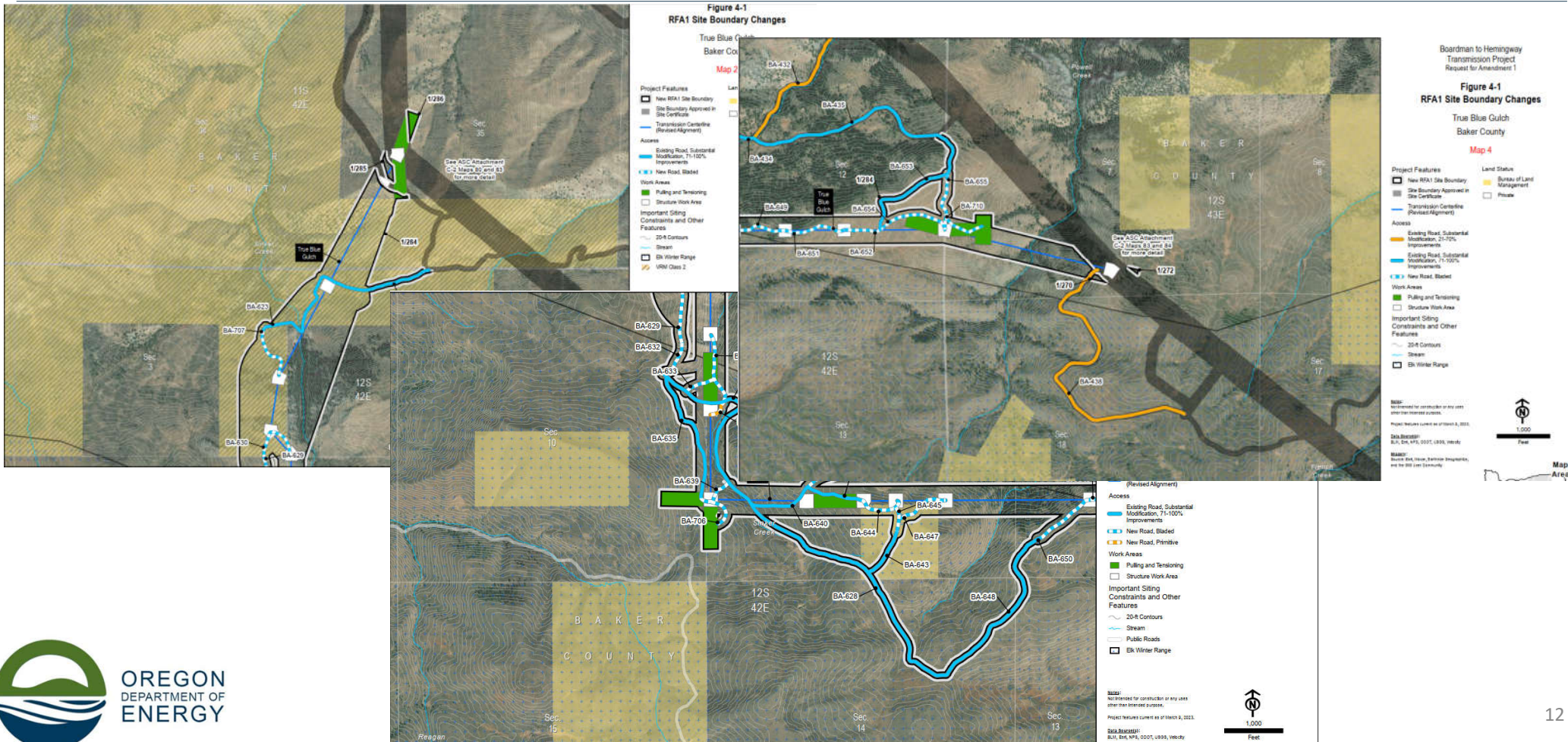
Request for Amendment 1 (RFA1) seeks approval from EFSC for the following changes:

- **To add area to the site boundary to allow siting of previously approved facility components in new locations. This includes using the proposed new site boundary area to site approximately 8.8 miles of 500-kV transmission line and 45.9 miles of new or substantially modified access roads.**
- **Amend site certificate language to support implementation and interpretation.**

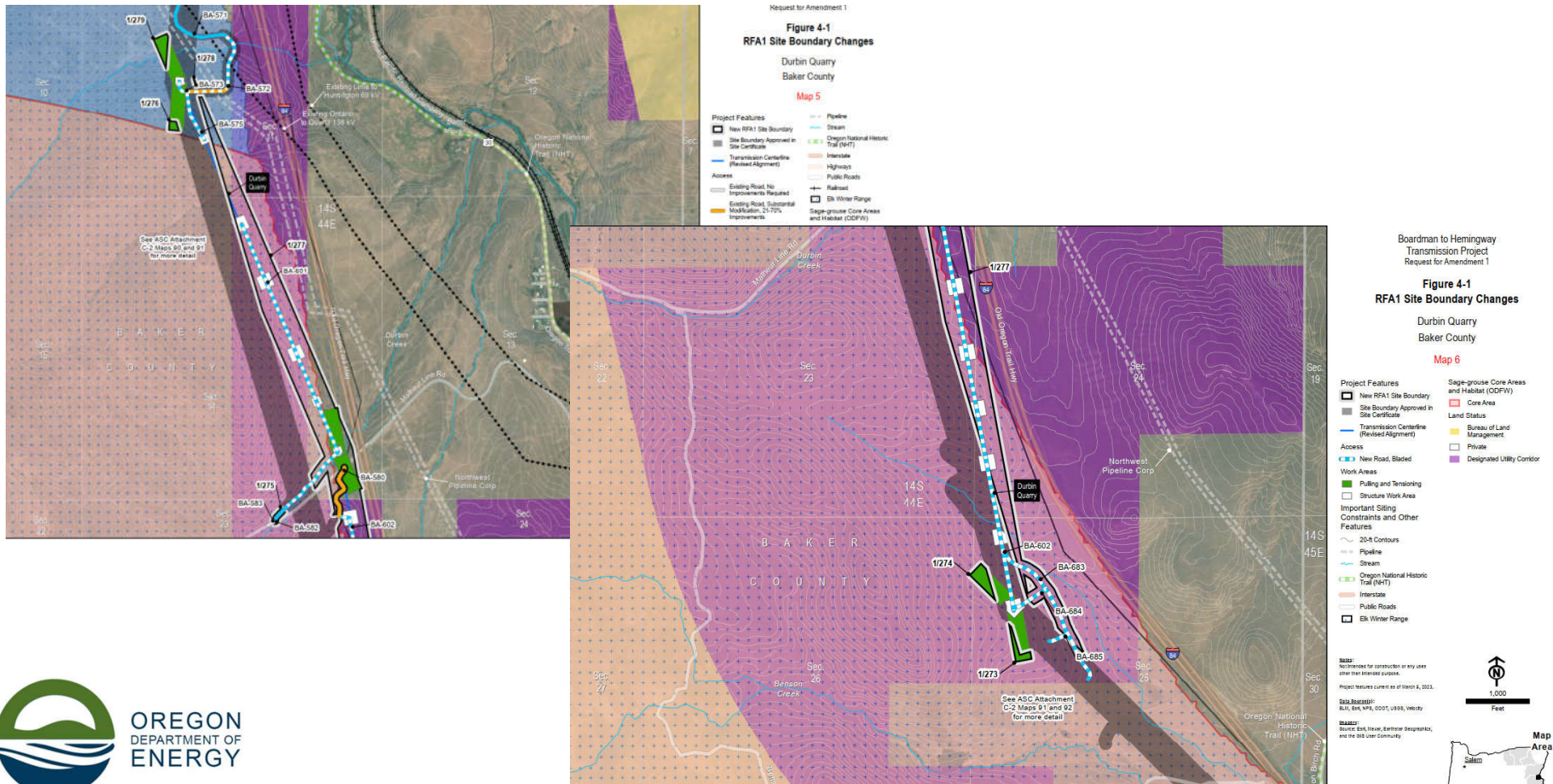
Boardman to Hemingway Transmission Line: Request for Amendment 1



Boardman to Hemingway Transmission Line: Request for Amendment 1



Boardman to Hemingway Transmission Line: Request for Amendment 1



Boardman to Hemingway Transmission Line RFA1- Scope of Council Review

OAR 345-027-0375 – Scope of Council’s Review for Adding Areas to the Site Boundary

- 1. That the portion of the facility within the area added to the site boundary by the amendment complies with all laws and Council standards applicable to an original site certificate application;*
- 2. The amount of the bond or letter of credit required under OAR 345-022-0050 is adequate; and,*
- 3. The facility, with proposed RFA1 changes, complies with the applicable laws or Council standards that protect a resource or interest that could be affected by the proposed RFA1 changes.*

Boardman to Hemingway: RFA1 Procedural History

Milestone	Responsible Party	Date
Preliminary RFA1 under Type A Review	Cert Holder	Dec 7, 2022
Complete RFA1	ODOE	June 8, 2023
Draft Proposed Order	ODOE	June 14, 2023
Draft Proposed Order Public Hearing(s)	EFSC/Public	July 17-18, 2023
EFSC Review of DPO and Public Comments	EFSC	July 19, 2023
Proposed Order, Notice of Opportunity to Req. for Contested Case	ODOE	August 8, 2023
Deadline to Submit Req. for Contested Case	Public	September 8, 2023
EFSC Review of Req. for Contested Case	EFSC	September 22, 2023
Possible Contested Case*	EFSC/Hearing Officer/Public	TBD
Possible Final Decision**	EFSC	September 22, 2023

* Pending EFSC Review of Req. for Contested Case

**Pending CC, if no CC, then Possible Final Decision in September 2023

Boardman to Hemingway RFA1- EFSC Review of Requests for Contested Case

Applicable Standards for EFSC to Review Contested Case Requests:

1. Properly raised issue
2. File complete requests for contested case
3. After identifying the issues properly raised the Council must determine whether any properly raised issue justifies a contested case proceeding. To determine that an issue justifies a contested case proceeding, the Council must find that **the request raises a significant issue of fact or law that is reasonably likely to affect the Council's determination on whether the facility, with the changes proposed by the amendment, meets the applicable laws and Council standards included in chapter 345 divisions 22, 23 and 24.** If the Council does not have jurisdiction over the issue raised in the request, the Council must deny the request.



Boardman to Hemingway RFA1- EFSC Review of Requests for Contested Case

The Council must take one of the following actions when determining if issues raised in request(s) justify a contested case proceeding:

1. If the Council finds that the request identifies one or more → properly raised issue(s) → that justify a contested case proceeding, the Council must conduct a contested case proceeding according to the applicable provisions of OAR 345-015-0012 to 345-015-0014 and 345-015-0018 to 345-015-0085. The parties to a contested case proceeding must be limited to those persons who commented on the record of the public hearing and who properly raised issues in their contested case request that the Council found sufficient to justify a contested case, except that the certificate holder is an automatic party to a contested case. The issues a party to a contested case proceeding may participate on must be limited to those issues that party properly raised in its contested case request that the Council found sufficient to justify a contested case, except that the certificate holder may participate on any issue the Council found sufficient to justify a contested case proceeding



Boardman to Hemingway RFA1- EFSC Review of Requests for Contested Case

The Council must take one of the following actions when determining if issues raised in request(s) justify a contested case proceeding:

2. If the Council finds that the request identifies one or more properly raised issues that an amendment to the proposed order, including modification to conditions, would settle in a manner satisfactory to the Council, the Council may deny the request as to those issues and direct the Department to amend the proposed order and send a notice of the amended proposed order to the same persons who received notice of the proposed order and opportunity to request a contested case



Boardman to Hemingway RFA1- EFSC Review of Requests for Contested Case

The Council must take one of the following actions when determining if issues raised in request(s) justify a contested case proceeding:

3. If the Council finds that the request does not identify a properly raised issue that justifies a contested case proceeding, the Council must deny the request. In a written order denying the request, the Council must state the basis for the denial. The Council must then adopt, modify or reject the proposed order based on the considerations described under the Council's Scope of Review in OAR-345-027-0375



Boardman to Hemingway RFA1- EFSC Review of Requests for Contested Case

Department received 3 contested case requests (with 4 primary issues):

1. Ms. Irene Gilbert filed contested case requests, on behalf of herself and Stop Boardman to Hemingway (B2H) Coalition (STOP B2H), for two issues: non-compliance with the Forest Practices Act (FPA), and the adequacy of the retirement bond to restore the site
2. Ms. Gilbert also filed another request as an individual for the issue of failure to notify the public of the ability to comment on proposed site certificate condition revisions
3. Mr. John Williams filed a contested case request on the issue of the availability of cultural resource mapping.

Boardman to Hemingway RFA1- EFSC Review of Requests for Contested Case

Summary RFA1 Requests for Contested Case

Issue	Requestor
Compliance with Forest Practices Act (FPA)	STOP B2H and Irene Gilbert
Retirement Bond Adequacy	STOP B2H and Irene Gilbert
Procedural – Failure to Notice of Opportunity to Comment on Conditions	Irene Gilbert
Adequacy of Cultural Resource Mapping	John Williams

Boardman to Hemingway RFA1- EFSC Review of Requests for Contested Case

At this point at the presentation, Department staff will access the September 15, Supplemental Staff Report, Table 1: which provides a Summary of DPO Comments, Certificate Holder Responses, Council Review of DPO, Proposed Order Recommendations, and ODOE Evaluation of Requests for Contested Case Requests. (Image of Staff Report Table below)

[Link to EFSC Meeting Webpage for Access to Item B, Supplemental Staff Report:](https://www.oregon.gov/energy/facilities-safety/facilities/Pages/Council-Meetings.aspx)
<https://www.oregon.gov/energy/facilities-safety/facilities/Pages/Council-Meetings.aspx>

Table 1: Summary of DPO Comments, Certificate Holder Responses, Council Review, Proposed Order, and ODOE Evaluation of Requests for Contested Case Requests

Draft Proposed Order Phase		Proposed Order Phase		Requests for Contested Case		
Commenter	DPO Comment Summary and Facts/Evidence Submitted on Record	Certificate Holder DPO Comment Response Summary	Recommendations, Responses, and Location in Proposed Order	Issue Statement in Request for Contested Case	Issue Properly Raised in Request for Contested Case* (Yes/No)	Does the request raise a significant issue of fact or law that is reasonably likely to affect the Council's determination whether the facility, with the change proposed by the amendment, meets the applicable laws and Council standards included in chapter 345 divisions 22, 23 and 24; and therefore, justifies a contested case? (Yes/No)
Issue/Petitioner: Forest Practices Act (FPA) - STOP B2H and Irene Gilbert						
STOP B2H – 07-18-2023 Written Comments	<p>DPO comments related to the FPA:</p> <ul style="list-style-type: none"> New OARs for the Oregon Dept. of Forestry (ODF), apply to the facility, Setbacks from streams and waterways apply to the facility, Standards for roads in forest areas, Evaluation of and impacts to avian and wildlife species not consistent with FPA, Reforestation practices apply to the facility, Plan for an Alternate Practice, Conditions in the Site Certificate conflict with and waive requirements of FPA. <p>Facts/Evidence to Support Issue:</p> <ol style="list-style-type: none"> DPO Comment Attachment 1: Office of Governor Kate Brown memo regarding 	<p>Comments are outside the scope of the Council's review because the Council has chosen not to assert jurisdiction over the application of the FPA for the facility, as amended. Certificate holder will work directly with ODF regarding compliance with FPA requirements, including its Plan for an Alternate Practice</p>	<p>Department and Council concur with certificate holder responses that, in the Final Order on ASC, Council did not assert jurisdiction of the FPA and stated certificate holder should work directly with ODF but the certificate holder nonetheless must comply with applicable provisions of FPA, including but not limited to the Plan of Alternate Practice.</p> <p>Pursuant to Council direction at the RFA1 DPO hearing, the proposed order includes a statement asserting that Council has not established jurisdiction over the FPA. See Section III.R., <i>Other Applicable</i></p>	Failure to Comply with FPA	<p>Yes, as raised in DPO comments*</p> <p>*Additional arguments and facts provided in Ms. Gilbert's request were not properly raised on the record.</p> <p>Facts/Evidence to Support Issue that Cannot be Considered:</p> <ol style="list-style-type: none"> Oregon Forest Resources Institute, Oregon Forest Protection Laws Illustrated Manual; Third Edition; Letter from ODF regarding ODF's review of the ApASC and compliance with edits with the FPA. ODOE-B2HAPDoc13-5 ASC Reviewing Agency Comment ODF_Tokarczyk 2018-11-15; 2022 Private Forest Accord, (presented to the Oregon Legislature, 	<p>No.</p> <p>Compliance with FPA is not an issue within Council jurisdiction and therefore is not relevant to whether the changes proposed in the amendment request comply with an applicable Council standard, statute or rule.</p> <p>The second amended project order for the facility does not identify the FPA OHS/OAR as applicable to this facility.¹¹⁻¹³ Further, as discussed in the Final Order on ASC and by Council at its July 19, 2023 review of the DPO on RFA1, Council did not assert jurisdiction of the FPA and continues not to assert jurisdiction of the FPA for RFA1. For these reasons, the Department recommends Council deny the request.</p> <p>The Department recommends Council find that the responses to this issue as provided in Proposed Order Table A-1 are sufficient and no amendments to the Proposed Order are necessary.</p>

¹¹ B2HAPDoc15 ApASC Second Amended Project Order 2018-07-26. Page 11 of 29. The second amended project order continues by stating, "if the removal of trees would be necessary as part of the proposed project development, and such removal is part of a commercial operation, that activity may be subject to the Oregon Forest Practices Act." As designated in the 2021 ODF FPA rule guidance document, an activity must meet the ODF rule definitions of "operation," "forestland," "forest tree species," and "commercial" go together with ODF policy guidance in determining Forest Practices Act jurisdiction over an activity. Generally, the FPA jurisdiction relates to activities that are intended to profit from the harvesting of trees. <https://www.oregon.gov/odf/Documents/workingforests/fpa-guidance-division-600-definitions.pdf>

¹² A project order is the document that establishes the state statutes and administrative rules containing standards or criteria that are applicable to the facility. OAR 345-015-0160(1).



Council Decision on CC Request: Compliance with FPA

Requestors – Stop B2H and Irene Gilbert

Option 1

Approve Requests and Begin Contested Case Proceeding on Properly Raised Forest Practices Act Compliance Issue

Option 2

Deny Requests and Direct Staff to Amend Proposed Order on Properly Raised Forest Practices Act Compliance Issue

Option 3 Recommended

Deny Requests for Contested Case on Forest Practices Act Compliance Issue

Council Decision on CC Request: Adequacy of Retirement Bond

Requestors – Stop B2H and Irene Gilbert

Option 1

Approve Requests and Begin Contested Case Proceeding on Properly Raised Adequacy of Retirement Bond Issue

Option 2

Deny Requests and Direct Staff to Amend Proposed Order on Properly Raised Adequacy of Retirement Bond Issue

Option 3 Recommended

Deny Requests for Contested Case on Adequacy of Retirement Bond Issue

Council Decision on CC Request: Failure to Notice Public of Ability to Comment on Conditions

Requestor – Irene Gilbert

Option 1

Approve Requests and Begin Contested Case Proceeding on Properly Raised Failure to Notice Public Issue

Option 2

Deny Requests and Direct Staff to Amend Proposed Order on Properly Raised Failure to Notice Public Issue

Option 3 Recommended

Deny Requests for Contested Case on Failure to Notice Public Issue

Council Decision on CC Request: Cultural Resource Mapping Issue

Requestor – John Williams

Option 1

Approve Requests and Begin Contested Case Proceeding on Properly Cultural Resource Mapping Issue

Option 2

Deny Requests and Direct Staff to Amend Proposed Order on Properly Raised Cultural Resource Mapping Issue

Option 3 Recommended

Deny Requests for Contested Case on Cultural Resource Mapping Issue

Boardman to Hemingway RFA1- EFSC Review of Proposed Order and Final Decision

If the Council finds that the request does not identify a properly raised issue that justifies a contested case proceeding, the Council must deny the request. In a written order denying the request, the Council must state the basis for the denial. The Council must then adopt, modify or reject the Proposed Order based on the considerations described under the Council's Scope of Review in OAR-345-027-0375

OAR-345-027-0375

- 1. That the portion of the facility within the area added to the site boundary by the amendment complies with all laws and Council standards applicable to an original site certificate application;*
- 2. The amount of the bond or letter of credit required under OAR 345-022-0050 is adequate; and,*
- 3. The facility, with proposed RFA1 changes, complies with the applicable laws or Council standards that protect a resource or interest that could be affected by the proposed RFA1 changes.*

Boardman to Hemingway RFA1- EFSC Review of Proposed Order and Final Decision

See Proposed Order, Section II.C.2., Draft Proposed Order (page 21); Table A-1: Summary of DPO Comments, Certificate Holder Responses, Council Review, and Department Recommendations (as represented in Proposed Order (link to Proposed Order and image of Table below)

[Link to B2H AMD1 Proposed Order: https://www.oregon.gov/energy/facilities-safety/facilities/Facilities%20library/2023-08-07-B2HAMD1-Proposed-Order.pdf](https://www.oregon.gov/energy/facilities-safety/facilities/Facilities%20library/2023-08-07-B2HAMD1-Proposed-Order.pdf)

Table A-1: Summary of DPO Comments, Certificate Holder Responses, Council Review, and Department Recommendations (as represented in Proposed Order)

Commenter	Comment Summary	Certificate Holder Response Summary	DPO Applicability (Section Reference)	Recommendations, Responses, and Location in Proposed Order
Public Comments				
STOP B2H				
STOP B2H-07-18-2023 Written Comments	<p>Comments related to the Oregon Forest Practices Act (FPA):</p> <ul style="list-style-type: none"> New OARs for the Oregon Dept. of Forestry (ODF) apply to the facility Reforestation practices apply to the facility Plan for an Alternate Practice Conditions in the Site Certificate conflict with and waive requirements of FPA 	<p>Comments outside the scope of the Council's review because the Council has chosen not to assert jurisdiction over the application of the FPA for the facility, as amended. Certificate holder will work directly with ODF regarding compliance with FPA requirements, including its Plan for an Alternate Practice</p>	N/A	<p>Department and Council concur with certificate holder responses that, in the Final Order on ASC, Council did not assert jurisdiction of the FPA and stated certificate holder should work directly with ODF but the certificate holder nonetheless must comply with applicable provisions of FPA, including but not limited to the Plan of Alternate Practice.¹¹</p> <p>Pursuant to Council direction at the RFA1 DPO hearing, the proposed order includes a statement asserting that Council has not established jurisdiction over the FPA. See Section III.R., Other Applicable Regulatory Requirements Under Council Jurisdiction, which summarizes Council's prior position in the Final Order on ASC regarding the FPA.</p>
STOP B2H-07-18-2023 Written Comments	<p>Roads and associated structures, access and construction areas had not been completed and as such were not available to analyze in the Final Environmental Impact Statement ("EIS").</p> <p>Detailed analysis of impacts to waters of the US was not conducted during the final EIS due to lack of availability of micro-siting information for tower pads, laydown yards, tensioning sites and other sub-facilities.</p>	<p>The EIS is a federal review conducted pursuant to the National Environmental Policy Act. The EIS is outside the Council's jurisdiction and concerns regarding the analysis in the EIS are outside the scope of RFA1.</p>	N/A	<p>Certificate holder response sufficient. No revisions to Proposed Order recommended.</p>
STOP B2H-07-18-2023 Written Comments	<p>For the record and specificity, we would like to incorporate the comments of Jim Kreider, Stop B2H Coalition, Wendy King, and Sam Myers in the Public Utility Commission of Oregon ("OPUC") docket UM2209.</p>	<p>STOP B2H's reference to "specificity" appears to suggest that STOP B2H seeks to preserve for a potential contested case in this matter any issues raised in other parties' testimonies in a separate proceeding before an entirely different agency. ORS 469.370(3) requires that "[a]ny issue that may be the basis for a contested case . . . be raised with sufficient specificity to afford the council, the department and the applicant an adequate opportunity to respond to each issue." Referring to comments from multiple parties in a separate proceeding before a different agency does not inform the Council, ODOE, or Idaho Power of any alleged error in the DPO for RFA1.</p>	N/A	<p>Department added footnote in Section II.C.4 reiterating ORS 469.370(3) and explaining Council's position that it will not accept DPO comments that are provided by reference.¹⁴</p>



Material Change Hearing (if applicable)

Applicable to material changes made by EFSC from Proposed Order to Draft Final Order that are not related to requests for contested case issues.



Material Changes in Draft Final Order

Material changes include substantive changes to conditions of approval imposed to meet a standard or conditions imposed based upon an applicant representation.

...Council may amend or reject the Proposed Order, so long as the council provides public notice of its hearing to adopt a Final Order, and provides an opportunity for the applicant and any party to the contested case to comment on material changes to the proposed order, including material changes to conditions of approval resulting from the council's review...ORS 469.370(7)



Council Decision on Boardman to Hemingway RFA1

Option 1 Recommended

Approve the Proposed Order as the Final Order, as presented, and issue a First Amended Site Certificate

Option 2

Approve the Proposed Order as the Final Order, as presented but with changes, and issue a First Amended Site Certificate

Option 3

Reject the Proposed Order, with amended findings of facts and conclusions of law

BREAK



Agenda Item C

PUBLIC COMMENT

Phone Commenters: Press *3 to raise your hand to make comment, and *3 to lower your hand after you've made your comment.

Webinar Commenters: Open the Participant list, hover over your name and click on the "Raise Your Hand icon".



How to Raise Your Hand in Webex:

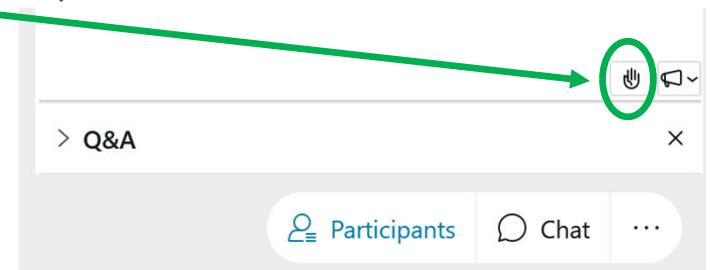
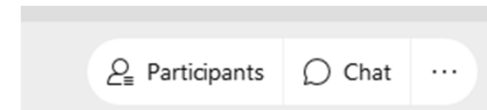
Webinar Participants

The bottom right of the main window is a set of icons:

Click on “Participants”

The bottom right of the participant window is a hand icon, click on the hand:

Clicking on it again will lower your hand.



Phone Participants

Press *3 on your telephone keypad to raise your hand.

Press *3 again on your telephone keypad to lower your hand.

Agenda Item D (Information Item)

Obsidian Solar Center Request for Amendment 1 Council Review of Draft Proposed Order and Public Comments Received

September 22, 2023

Kathleen Sloan, Senior Siting Analyst, ODOE



Agenda Item Overview

1. Facility Overview: Department overview of the siting process, approved facility components and location, the amendment request, Draft Proposed Order.
2. Public Comment Overview: Staff summary and Council review of public comments received on the record of the DPO.
3. Council Deliberation and Discussion: Council may make comments, request changes to the DPO to be included in a Proposed Order, or direct staff to prepare a Proposed Order with no additional changes in findings and recommended conditions.



Obsidian Solar Center: Approved Facility

Certificate Holder

Obsidian Solar Center, LLC

Parent Company

Obsidian Renewables, LLC

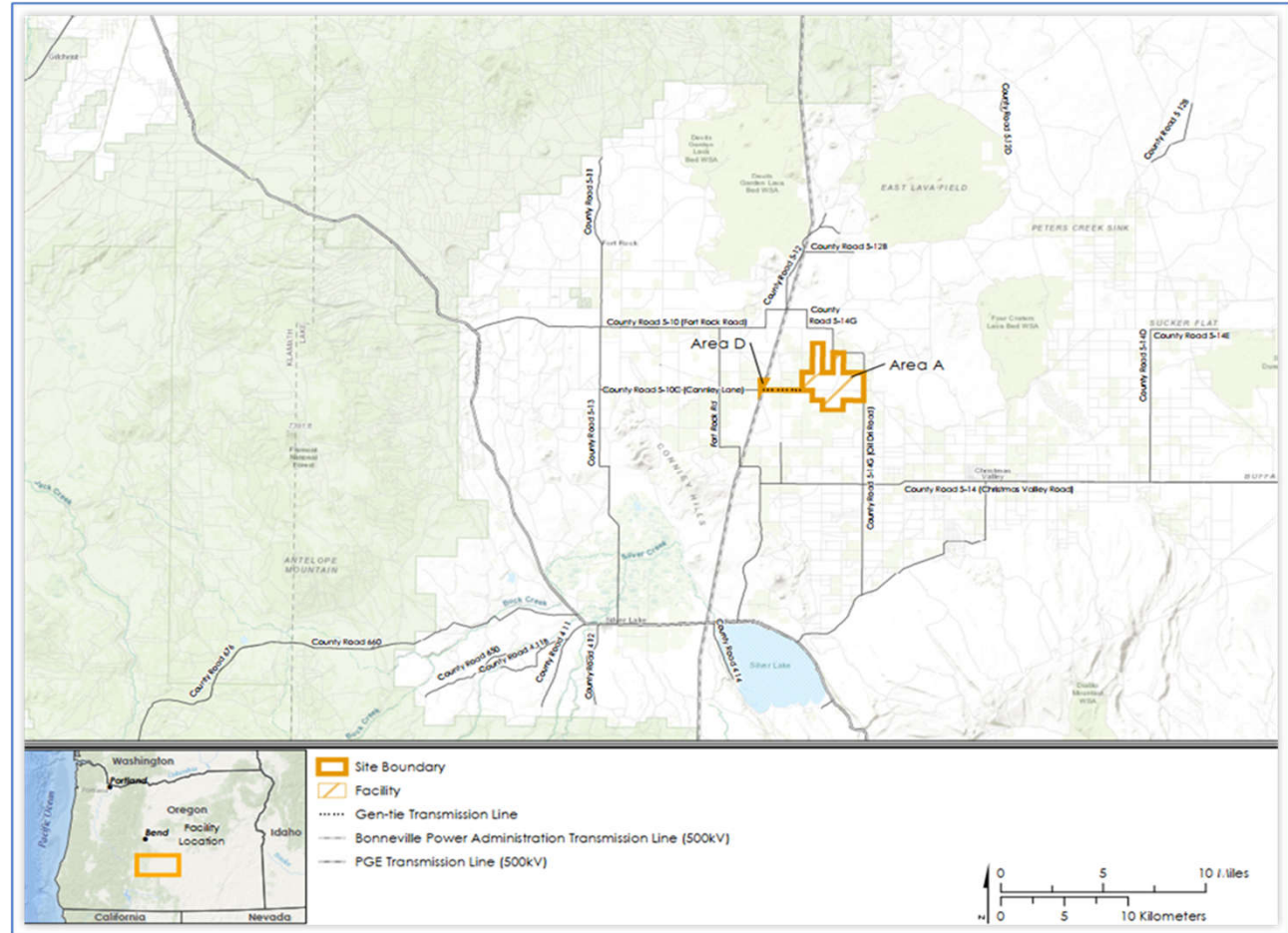
Facility Type & Capacity

400 MW Solar

50 MW Battery Storage

Site Boundary

3,921 acres in Lake County,
approximately eight miles NW of
Christmas Valley.



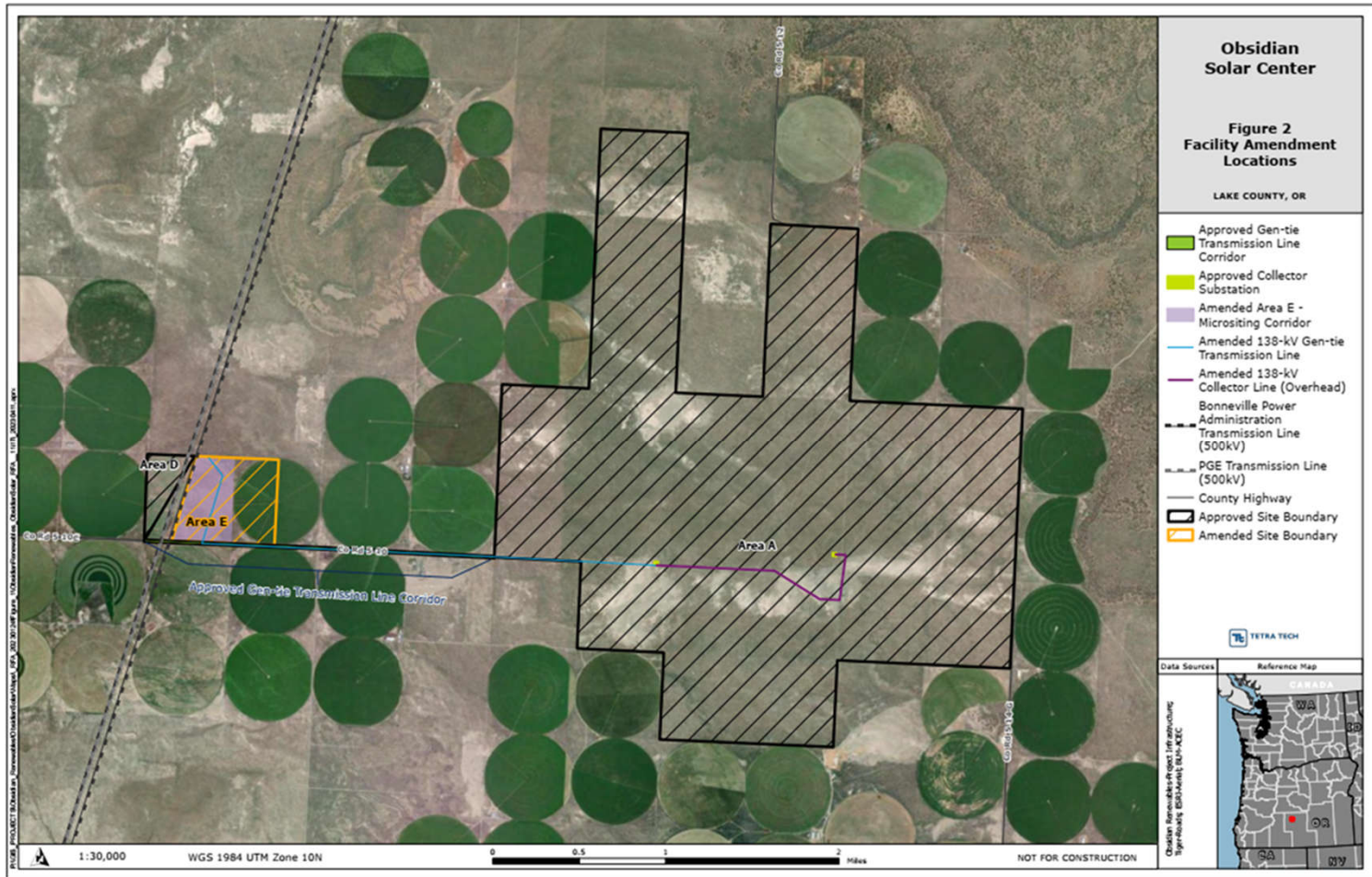
Obsidian Solar Center Request for Amendment 1

RFA1 requests Council approval to:

- amend the site boundary to include an additional 169 acres;
- construct 1 site generation step-up (GSU) substation in alternative location;
- increase the length and voltage of 115 kilovolt (kV) transmission line from 2 to 3.2 miles and from 115 to 138 kV;
- increase the voltage of the electrical collection system from 34.5 to 138 kV; and
- change structure type and height for aboveground collector system for 2.3 miles.



Obsidian Solar Center Request for Amendment 1



Obsidian Solar Center Request for Amendment 1

Scope of Council Review for Amendments – OAR 345-027-0375

- The Council must determine that the preponderance of evidence on the record supports the following conclusions:
 - To add new area to the site boundary, the portion of the facility within the area added to the site by the amendment complies with all laws and Council standards applicable to an original site certificate application and in effect on the dates described in section (3) of the rule.
 - For all requests for amendment, the amount of the bond or letter of credit required under OAR 345-022-0050 is adequate.

Scope of Comments

- Everything in the complete amendment request and Draft Proposed Order is eligible for Council comment.



Draft Proposed Order on Obsidian Solar Center Request for Amendment 1

Based on the Department's review of information on proposed changes, literature reviews, consultations, and field work included in the ASC and the RFA1, *and public comments received on the record of the DPO*, the Department does not identify any substantive changes or make recommended amended or new conditions for the following Council standards:

- Structural Standard
- Soil Protection Standard
- Protected Areas Standard
- Fish and Wildlife Habitat Standard
- Threatened & Endangered Species Standard
- Scenic Resources Standard
- Historic, Cultural and Archaeological
- Public Services Standard
- Waste Minimization Standard
- Resources Standard
- Recreation Standard
- Noise Control
- Removal Fill
- Water Rights



Draft Proposed Order on Obsidian Solar Center Request for Amendment 1

Based on the Department's review of information on proposed changes, literature reviews, consultations, and field work included in the ASC and the RFA1, the Department made additional and new findings of fact and recommended amended and new conditions in the DPO. These recommended findings and new or amended condition changes were available for public comment between August 1 – August 24, 2023. Based upon the public comments received, the Department does not recommend any substantive changes from the DPO to be included in a Proposed Order for the following Council Standards:

- General Standard of Review
- Organizational Expertise Standard
- Land Use Standard
- Retirement and Financial Assurance Standard
- Wildfire Prevention and Risk Mitigation Standard
- Siting Standards for Transmission Lines



Draft Proposed Order on Obsidian Solar Center Request for Amendment 1

III.A. GENERAL STANDARD OF REVIEW: OAR 345-022-0000 p. 14-19.

RFA1 requests a change in transmission line corridor extending to the proposed alternate GSU substation location per OAR 345-025-0010(5), consistent with the Council’s definition of a transmission line “corridor”.

Because RFA1 includes changes to the approved corridor, the Department recommends Council amend General Standard Condition 9 (See P. 18 in DPO) to allow the certificate holder to construct a 138 kV line within an extended approved corridor in Area A to allow for a Point of Interconnection in either Area D or Area E.



Draft Proposed Order on Obsidian Solar Center Request for Amendment 1

III.A. Recommended Amended General Standard of Review Condition 9 (P. 18):

The certificate holder is authorized to construct a ~~138~~115-kV transmission line anywhere within the approved corridor, subject to the conditions of the site certificate. The approved corridor extends approximately ~~3.2~~ miles from the collector substation within Area A to the south boundary of Area D or, alternatively, approximately 3.2 miles from the collector substation within Area A to the point of interconnection (POI) in Area E.

For an Area D POI: From east to west, the first mile is within the PV Array in Area A, the next 0.5-mile corridor extends 60 feet in width within a private property transmission easement, ~~and the remaining the~~ next 1.5-mile corridor extending extends 60 feet in width within the exiting road right-of-way of Connley Lane, as further described in ASC Exhibits B and C and as presented in Figure 3 of the site certificate.

For an Area E POI: From east to west, the first 1-mile is within the PV Array in Area A, the next 0.5-mile corridor extends 60 feet in width within a private property transmission easement, the next 1.2-mile corridor extends 60 feet in width within the existing right-of-way of Connley Lane, and the remaining 0.5 mile corridor is within Area E.



Draft Proposed Order on Obsidian Solar Center Request for Amendment 1

III.B. ORGANIZATIONAL EXPERTISE: OAR 345-022-0010

P. 19-22

RFA1 changes include increases in transmission line voltage from 115 to 138 kV, increase in transmission line length and extent of above-ground components, increases in GSU step-up substation transformer size, collector substation transformer size, and change in GSU step-up substation location.

To ensure qualified personnel oversee and complete the facility, and because of the changes in capacity and components, the Department recommends Council amend Organizational Expertise Condition 2 and impose new recommended Organizational Expertise Conditions 6, 7 and 8 (See P. 21-22 in DPO) requiring submittal of construction and site manager qualifications for each phase of the facility.



Draft Proposed Order on Obsidian Solar Center Request for Amendment 1

III.B. Recommended amended Organizational Expertise Condition 2: (P. 21-22)

Before beginning construction of the facility or facility component, as applicable, the certificate holder shall notify the Department of the identity, telephone number, email address and qualifications of the on-site construction manager or qualified designated representative. Qualifications shall demonstrate that the construction manager has experience in managing permit and regulatory compliance requirements and is qualified to manage a utility-scale solar facility construction project. The certificate holder shall notify the Department within 72-hours upon any change to the on-site construction manager. ~~major design, engineering and construction contractor(s). The certificate holder shall select contractors that have substantial experience in the design, engineering and construction of similar facilities. The certificate holder shall report to the Department any changes of major contractors.~~



Draft Proposed Order on Obsidian Solar Center Request for Amendment 1

III.B. Recommended new Organizational Expertise Conditions 6, 7 and 8: (P. 22)

Recommended Organizational Expertise Condition 6: During construction of the facility or a facility component, as applicable, the certificate holder shall require that the qualified construction manager, or qualified designated representative, is on site during ground disturbance activities to manage compliance with site certificate requirements. The certificate holder shall notify the Department within 72-hours upon any change to the on-site construction manager.

Recommended Organizational Expertise Condition 7: Before beginning operation, the certificate holder shall notify the Department of the identity, telephone number, e-mail address and qualifications of the facility/asset manager. Qualifications shall demonstrate that the operations manager has experience in managing permit and regulatory compliance requirements and is qualified to manage operation of a utility scale solar facility.

Recommended Organizational Expertise Condition 8: During operation, the certificate holder shall require that the qualified facility/asset manager be responsible for managing compliance with operations-related site certificate requirements.



Draft Proposed Order on Obsidian Solar Center Request for Amendment 1

II.E. LAND USE: OAR 345-022-0030

P.33-43

The addition of Area E includes adding a parcel of land currently used for irrigated agriculture with an existing water right for that purpose. In RFA1, the landowner stated their intent to transfer that water right for ongoing agricultural use (See RFA1 Attachment 4). Lake County Special Advisory Group (SAG) commented that as long as the water right for irrigation is transferred for the same use within the county, there would be no-net loss of irrigated agriculture.

To ensure no-net loss of irrigated agriculture, and consistent with the certificate holder's representations, and the SAG's comments, the Department recommends Council impose new recommended Land Use Condition 8 (See P. 43 in DPO) which requires the certificate holder to submit evidence of the water right transfer for facility impacts in Area E (if selected for construction) for similar use (irrigated agriculture) in Lake County, prior to construction.



Draft Proposed Order on Obsidian Solar Center Request for Amendment 1

II.E. Recommended new Land Use Condition 8:

(P.43)

Recommended Land Use Condition 8: If the GSU step-up substation is located in Area E, prior to construction, the certificate holder shall provide the Department with documentation (deed or similar conveyance) that demonstrates that the water right associated with the portions of Area E impacted by facility construction and operations has been duly and legally transferred for same or similar use (irrigated agriculture) to another parcel within Lake County to ensure no-net-loss to irrigated agriculture.

Draft Proposed Order on Obsidian Solar Center Request for Amendment 1

III.G. RETIREMENT AND FINANCIAL ASSURANCE: OAR 345-022-0050

p.50-57

RFA1 changes would result in increased costs for retirement of the facility and its components. To demonstrate its ability to receive an adequate bond or letter of credit, the certificate holder provides a June 28, 2023 letter from Heffernan Insurance Brokers, stating their likely ability to obtain a bond for up to \$40 million. The new estimate for retirements costs is \$38,108,395 in Q3 2023 dollars.

The Department recommends Council amend Retirement and Financial Assurance Condition 5 (See P. 56-57 in DPO) to reflect the adjusted bond amount based on the updated estimate of \$38.1 million Q3 2023 dollars to retire the facility, with RFA1 changes. These are the only changes proposed to this existing condition.



Draft Proposed Order on Obsidian Solar Center Request for Amendment 1

III.N. WILDFIRE PREVENTIONS AND RISK MITIGATION OAR-345-022-0115

p. 86-95

Since Council's approval of the Final Order on the ASC included fire prevention measures for the facility construction and operations (Public Services Condition 4) Council adopted the Wildfire Prevention and Risk Mitigation standard. Updated fire risk assessment as part of RFA1 indicates that the addition of RFA1 is not likely to increase wildfire risk because risk is relatively low. However, the Department recommends that Council require the certificate holder to prepare updated plan(s) per new conditions under this Wildfire standard.

For these reasons, the Department recommends Council replace Public Services Condition 4 and impose new recommended Wildfire Prevention Condition 1 (replaces existing Public Services Condition 4(a) and new recommended Wildfire Prevention Condition 2 (replaces existing Public Services Condition 4(b)), to require final Wildfire Mitigation Plans for both construction and operation phases of the facility, and to require implementation and adherence to those plans, per new recommended Wildfire Prevention Conditions 3 and 4.



Draft Proposed Order on Obsidian Solar Center Request for Amendment 1

III.N. Recommended New Wildfire Prevention Condition 1*:

(P. 93)

*Replaces existing Public Services Condition 4(a)

Prior to construction of the facility, the certificate holder shall submit a Final ~~Construction Fire Protection and Emergency Response Plan~~ Wildfire Mitigation Plan to the Department, ~~consistent with the components included in the draft plan provided in Attachment U-3 of the Final Order on the ASC,~~ for review and approval. ~~Plan finalization shall include documentation of~~

a. The final plan shall, at a minimum:

- i. Document coordination with local fire protection and emergency services; qualifications and contact information for the onsite emergency medical technician; and executed agreement, or similar conveyance, for ~~the~~ onsite emergency ~~medical technician~~ transport service. The plan shall also include an updated Emergency and Fire contact list.
- ii. Identify areas within the site boundary that are subject to a heightened risk of wildfire, using current data from reputable sources, and discuss data and methods used in the analysis.
- iii. Describe the procedures, standards, and time frames that the certificate holder will use to inspect facility components and manage vegetation in the areas identified under section (a) of this condition.



Draft Proposed Order on Obsidian Solar Center Request for Amendment 1

III.N. Recommended New Wildfire Prevention Condition 1 (continued):

- iv. Identify preventative actions and programs that the certificate holder will carry out to minimize the risk of construction equipment or vehicles causing wildfire, including procedures that will be used to adjust operations during periods of heightened wildfire risk.
 - v. Identify procedures to minimize risks to public health and safety, the health and safety of responders, and damages to resources protected by Council standards in the event that a wildfire occurs at the facility site, regardless of ignition source.
 - vi. Describe the methods the certificate holder will use to ensure that updates of the plan incorporate best practices and emerging technologies to minimize and mitigate wildfire risk, including the schedule by which updates of the plan will occur.
- b. The actions, programs, and procedures in section (a)(iii)-(v) shall be consistent with those included in the draft plan provided in *Final Order on the RFA1*.

Draft Proposed Order on Obsidian Solar Center Request for Amendment 1

III.N. Recommended New Wildfire Prevention Condition 2*:

(P. 94)

*Replaces Public Services Condition 4(b)

Prior to operation of the facility, the certificate holder shall submit a Final Operational ~~Fire Protection and Emergency Response~~ Wildfire Mitigation Plan to the Department ~~consistent with the components included in the draft plan provided in Attachment U-3 of the Final Order on the ASC. The plan shall also include an updated Emergency and Fire contact list~~ for review and approval.

a. The final plan shall, at a minimum:

- i. Include an updated Emergency and Fire contact list.
- ii. Identify areas within the site boundary that are subject to a heightened risk of wildfire, using current data from reputable sources, and discuss data and methods used in the analysis.
- iii. Describe the procedures, standards, and time frames that the certificate holder will use to inspect facility components and manage vegetation in the areas identified under section (a) of this condition.



Draft Proposed Order on Obsidian Solar Center Request for Amendment 1

III.N. Recommended New Wildfire Prevention Conditions 2 (continued):

iv. Identify preventative actions and programs that the certificate holder will carry out to minimize the risk of facility components or equipment causing wildfire, including procedures that will be used to adjust operations during periods of heightened wildfire risk.

v. Identify procedures to minimize risks to public health and safety, the health and safety of responders, and damages to resources protected by Council standards in the event that a wildfire occurs at the facility site, regardless of ignition source.

vi. Describe the methods the certificate holder will use to ensure that updates of the plan incorporate best practices and emerging technologies to minimize and mitigate wildfire risk, including the schedule by which updates of the plan will occur.

b. The actions, programs, and procedures in section (a)(iii)-(v) shall be consistent with those included in the draft plan provided in Final Order on RFA1 Attachment X.



Draft Proposed Order on Obsidian Solar Center Request for Amendment 1

III.N. Recommended New Wildfire Prevention Conditions 3 and 4:

(P. 94 and 95)

Recommended New Wildfire Prevention Condition 3: During construction of the facility, the certificate holder shall:

- a. Adhere to the requirements of the Wildfire Mitigation Plan finalized in accordance with Condition PRE-WP-01.
- b. Adhere to the requirements of any updates to the Wildfire Mitigation Plan, completed in accordance with Condition PRE-WP-01(a)(vi), following review and approval by the Department.

Recommended New Wildfire Prevention Condition 4: During operation of the facility, the certificate holder shall:

- a. Adhere to the requirements of the Wildfire Mitigation Plan finalized in accordance with Condition PRO-WP-01.
- b. Adhere to the requirements of any updates to the Wildfire Mitigation Plan, completed in accordance with Condition PRO-WP-01(a)(vi), following review and approval by the Department.



Draft Proposed Order on Obsidian Solar Center Request for Amendment 1

III.P. SITING STANDARDS FOR TRANSMISSION LINES : OAR 345-024-0090 P.96-98

RFA1 requests changes in transmission line from 115 kV to 138 kV and includes 138kV collector lines. Existing Siting Standards for Transmission Lines Condition 1 requires notification of landowners prior to operation on potential health and safety risks associated from induced current and electric magnetic fields,

The Department recommends the Council amend Siting Standard for Transmission Lines Condition 1 (See P. 98 in DPO) to update this condition to reflect RFA1 changes to 138kV transmission and collector lines.



Draft Proposed Order on Obsidian Solar Center Request for Amendment 1

III.P. Recommended Amended Siting Standard for Transmission Lines Condition 1: (P:98)

Prior to operation of the facility, the certificate holder shall provide landowners within 500 feet of the site boundary a map of the ~~115~~138-kV transmission line and the 138 kV collection line(s) inform landowners of possible health and safety risks from induced currents caused by electric and magnetic fields.

Draft Proposed Order on Obsidian Solar Center Request for Amendment 1

Department Recommendations in Draft Proposed Order issued August 1, 2023

The Department recommends that the Council find, based on a preponderance of the evidence on the record, and with recommended new, amended and existing site certificate conditions, that the site certificate may be amended as requested. The Department also recommends that the Council find that with existing, and recommended amended and new conditions, the facility, with proposed RFA1 changes, will continue to comply with the General Standard of Review OAR 345-022-0000 and OAR 345-027- 0375.



Draft Proposed Order on Obsidian Solar Center Request for Amendment 1

Public Comments Received on RFA1 and Draft Proposed Order

- August 1, 2023: Department issued the Draft Proposed Order and Public Notice of Complete RFA1 and Draft Proposed Order and Public Hearing/Public Comment Period.
- Public Comment period extended from August 1, 2023 through August 24, 2023 and ended at the close of the Public Hearing.
- The Department received 1 written public comment via the comment portal during the public comment period. (Seibert August 21, 2023)



Draft Proposed Order on Obsidian Solar Center Request for Amendment 1

Public Comment Summary – Written Comments received on DPO:

One written comment was submitted via the ODOE comment portal on 8/21/2023. Council was provided copies prior to the 8/24/2023 Public Hearing.

The commenter was Megan Seibert, a representative of The REAL New Green Deal Project. Ms. Seibert is the co-author of *“Through the Eye of a Needle- An Eco-Heterodox Perspective on the Renewable Energy Transition (Seibert & Rees 2021)”* and submitted copy of this article as an attachment to comments that oppose renewable energy projects in general. Comments were not specific to any EFSC siting standards for this facility, the DPO, or this amendment request.



Draft Proposed Order on Obsidian Solar Center Request for Amendment 1

Public Hearing Summary – Comments Received at Public Hearing

- The Public Hearing was held in Christmas Valley on August 24, 2023 and included an oral testimony/public comment period.
- 11 people attended the Public Hearing in-person and 7 attended via WebEx.
- The certificate holder’s representative made oral comments during the Public Hearing.
- Council members made comments and asked clarifying questions at the Public Hearing.
- No additional public comments were received during the Public Hearing.
- The Public Comment period was closed at the close of the Public Hearing.
- The certificate holder’s representative did not request to keep the record open to respond to comments.



Obsidian Solar Center Draft Proposed Order on RFA 1

Public Comment Summary – Oral Comments at Public Hearing

Name	Organization	Comment
Laurie Hutchinson	Obsidian Renewables	<p>Thanks to Lake County participants for coming. Proposed changes to the site certificate are basic – many of you know, I am the main liaison for this project in Lake county.</p> <p>We have added irrigated land to the project area – we know this is a sensitive issue; there is not a lot of private, irrigated land here. We checked with the landowners to ensure they can move their water right – landowners have provided a letter on the record that they will move the water rights and the DPO requirements for no-net-loss.</p> <p>Other changes are technical. Upgrading of the voltage to 138 kilovolts would occur for either interconnect option. Length of gen-tie line has been adjusted based on micrositing. Siting the substation in Area E in the northern most portion of get farthest away from any residences.</p>
Perry Chocktoot	Council Member	Conflict on this project. Will be recusing himself consistent with past recusal on this facility.
Anne Beier	Council Member	<p>Proposal is to give you options for gen-tie?</p> <p>Response: We will most likely connect with the east set of lines (what RFA1 is requesting). Thanks members of public for attending in person. All previous conditions carry forward so all that is being proposed are minor adjustments to existing conditions, and wildfire, to adjust for the changes in this amendment request.</p>
Richard Devlin	Council Member	<p>In this changing of where water rights are being used, what are the landowner costs and impacts to soils (types and condition of soils)? Is the landowner being compensated?</p> <p>Response: Landowner is being compensated for the land. It's a 5/8 pivot – they are a large landowner. Land close to a viable powerline goes for a premium value.</p>
Marcy Grail	Chair Grail	Appreciates in person attendance. One of the things that I want you to know is that my peers and I take the role very seriously – I don't think anyone would be surprised to know that we are concerned about wildfire, and expertise; we are working with staff to make sure we are holding applicants/certificate holder accountable to meet standards/requirements.
Laurie Hutchinson	Obsidian Renewables	Confirmed that certificate holder agreed to close the record.

Draft Proposed Order on Obsidian Solar Center Request for Amendment 1

Department Recommendations for Proposed Order based on Public Comments:

The Department recommends that the Council find, based on a preponderance of the evidence on the record, and with recommended new, amended and existing site certificate conditions, that the site certificate may be amended as requested.

The Department also recommends that the Council find that with existing, and recommended amended and new conditions, the facility, with proposed RFA1 changes, will continue to comply with the General Standard of Review OAR 345-022-0000 and OAR 345-027-0375.

The Department has reviewed all comments received on the record of the DPO and does not propose any substantive changes from the DPO to a Proposed Order, however, Council may make comments and request additional changes for the Department to consider in the preparation of a Proposed Order.



Council Comments/Discussion



Agenda Item E (Information Item)

Council Process Concerns

September 22, 2023

Irene Gilbert



BREAK



Agenda Item F (Information and Action Item)

CNA Financial Institution Review Requested by Idaho Power Corporation

**September 22, 2023
Sisily Fleming, Siting Fiscal Analyst**



Financial Institution List



ENERGY FACILITY SITING COUNCIL

2023 Financial Institutions

As Proposed September 2023

Letter of Credit	Bond
Banco Stantander	Arch Insurance Company
Bank of America N.A.	CNA Financial (Proposed September 2023)
Bank of Nova Scotia (NY Agency)	Federal Insurance Co
Bank of the West	Fidelity & Deposit Co of MD
Barclay's Bank, PLC (NY Branch)	Hanover Insurance Group
Citibank, N.A.	Liberty Mutual Insurance Company
CoBank	SAFECO Insurance Co of America
Helaba (NY Branch of Landesbank Hessen-Thuringen GZ)	Travelers Casualty & Surety Co of America
JP Morgan/Chase Bank, N.A.	Westchester Fire Insurance Co
MUFG Bank, N.A.	
Natixis (NY Branch)	
Royal Bank of Canada (NY Branch)	
Royal Bank of Scotland Connecticut Branch	
US Bank	
Wells Fargo Bank, N.A.	
Sumitomo Mitsui Banking Corporation (SMBC, NY Branch)	

Request for Consideration

- Idaho Power Corporation has requested to add CNA Financial Corporation to the Council's pre-approved financial institution list for the use of bonds and letters of credit related to the Council's Retirement and Financial Assurance Standard.

- CNA Ratings

Rating Agency	Rating	Long Term Outlook
Standard & Poor's	A+	Stable
Fitch Ratings	A+	Stable
A.M. Best Company	A	Stable

- A “**Stable**” outlook indicates a **low likelihood** of rating change in the next two years. A “**Positive**” outlook indicates a **higher likelihood** of an upward rating revision in the next two years. A “**Negative**” outlook indicates a **higher chance** of a downward rating revision in the next two years.

Council Options

Option 1 - Recommended

Add CNA Financial
Corporation

Option 2

Do Not Add CNA
Financial Corporation

Council Deliberation



Agenda Item G (Information and Action Item)

Radioactive Waste Disposal Regulations Rulemaking

September 22, 2023

Tom Jackman, Rulemaking Coordinator

Max Wood, Assistant Director, Nuclear Safety and Emergency Preparedness Division

Tom Sicilia, Hanford Hydrogeologist/Fuels Specialist



Origin and Legislative Direction

- Oregon Legislature passes Senate Bill 246 (2021)
- SB 246 updates multiple sections of statute, including the following:
 - **ORS 469.525(1) – Notwithstanding any other provision of this chapter, no radioactive waste shall be disposed of within this state, no person may arrange for disposal of radioactive waste within this state, no person may transport radioactive waste for disposal in this state and no waste disposal facility for any radioactive waste shall be established, operated or licensed within this state, except as follows...**

Directives and Objectives

SB 246 includes two main directives to EFSC

- ORS 469.525(2) – The Energy Facility Siting Council shall, in accordance with the applicable provisions of ORS chapter 183, **adopt standards and rules as necessary to prevent the disposal of radioactive waste within this state.**
- 469.300(23)
 - (a) “Radioactive waste” includes all material which is discarded, unwanted or has no present lawful economic use, and contains mined or refined naturally occurring isotopes, accelerator produced isotopes and by-product material, source material or special nuclear material as those terms are defined in ORS 453.605
 - (b) “Radioactive waste” does not include:
 - **(A) Materials identified by the council [EFSC] by rule as presenting no significant danger to the public health and safety.**

Summary of Objectives

- Carry out directive from legislature
- Evaluate whether changes to rules are needed
- Consider what, if any, standards and rules are necessary to prevent disposal of radioactive waste in Oregon
- Consider whether to update rules to identify if there are specific materials that present no significant danger to the public health and safety, and therefore should not be considered radioactive waste
- Align requirements with practicable actions

Rulemaking History

- EFSC initiates rulemaking in 2021
- EFSC appoints a Rulemaking Advisory Committee
- RAC meets five times
- RAC and ODOE staff work on draft rules. Rules are developed, revised, reviewed, edited, and finally being presented today, with contributions from RAC members at every step.
- Written RAC comments and staff responses are included as Attachments 2 and 3 to Council staff report.

RAC Representation

Organization	Representative
Association of Oregon Counties	Brandon Pursinger
Confederated Tribes of the Umatilla Indian Reservation	Mason Murphy
Gilliam County Government	Commissioner Pat Shannon
League of Women Voters of Oregon	Shirley Weathers
Oregon Business and Industry	Sharla Moffett, Emily Caffrey
Oregon Dept. of Environmental Quality	Jamie Jones
Oregon Health Authority, Radiation Protection Services	Hillary Haskins
Oregon Metro	Kevin Six
Oregon Physicians for Social Responsibility	Damon Motz-Storey
Oregon Refuse and Recycling Association	Andrea Fogue, Andy Lombardo
Oregon State University, Radiation Center	Dr. Steve Reese
Public at Large	Dave Smith
Public at Large	Wayne Lei
Waste Management	Jim Denson



Rad Waste Disposal Prohibited

- It is illegal to play any role in the disposal of radioactive waste in the state (ORS 469.525).
- Almost everything emits small amounts of radiation.
- This rule defines the line between “waste with some isotopes” and “radioactive waste”



Proposed Language

- Practical changes to the rules that allow for easier implementation and remove impractical barriers to compliance while maintaining public health and safety.
- Modification to the “Seven-Day Rule” – consistent with quarterly disposal “milk-runs” for known radioactive waste that must be transported and disposed at an out-of-state landfill by specialized companies
 - Allowable storage for waste generators that have an OHA-RPS license is consistent with license terms (up to 1 year accumulation)
 - Without an OHA-RPS license (unanticipated materials), allow for 90-day temporary storage with a possibility for an extension request. Requires ODOE and OHA-RPS check-in to ensure material is safely stored.



Proposed Language

- Re-organized the exemption sections so the referenced tables were introduced numerically, and the categorization was internally consistent.
- Add new exemptions:
 - A narrow exemption for lead-210 in petroleum refining related wastes when out of equilibrium with Uranium-238.
 - Metabolized medical waste with short half-life exemption, provided that the receiving facility has a management plan approved by ODOE (in consultation with OHA-RPS).
 - Added animal cadaver with medical isotopes to existing human body exemption.

Administrative Updates

- No modifications proposed to Tables 1, 2, or 3.
- Instead, staff developed an online screening tool which allows users to change units and includes specific exemptions with appropriate citation.

DIVISION 50
Table 1
EXEMPT CONCENTRATIONS

(See notes at the end of this table.)

Element (atomic number)	Isotope	Liquid and Solid Concentration (uCi/ml for liquids) (uCi/gm for solids)
Aluminum (13)	Al-26	4×10^{-4}
Americium (95)	Am-241	8×10^{-7}
Antimony (51)	Sb-122	3×10^{-4}
	Sb-124	2×10^{-4}
	Sb-125	1×10^{-3}
	Sb-126	6×10^{-4}
Arsenic (33)	As-73	5×10^{-3}
	As-74	5×10^{-4}
	As-76	2×10^{-4}
	As-77	8×10^{-4}
Barium (56)	Ba-131	2×10^{-3}
	Ba-133	2×10^{-3}
	Ba-140	3×10^{-4}
Beryllium (4)	Be-7	2×10^{-2}

Note 1: Many radioisotopes transform into isotopes that are also radioactive. In expressing the concentrations in Table 1, the activity stated is that of the parent isotope and takes into account the daughters.

Note 2: For purposes of OAR 345-050-0025, where a combination of isotopes is involved, the limit for the combination should be derived as follows:

Determine for each isotope in the product the ratio between the radioactivity concentration present in the product and the exempt radioactivity concentration established in Table 1 for the specific isotope when not in combination. The sum of such ratios must not exceed "1".

Example:

$$\frac{\text{Concentration of Isotope A in Product}}{\text{Exempt Concentration of Isotope A}} + \frac{\text{Concentration of Isotope B in Product}}{\text{Exempt Concentration of Isotope B}} \leq 1$$



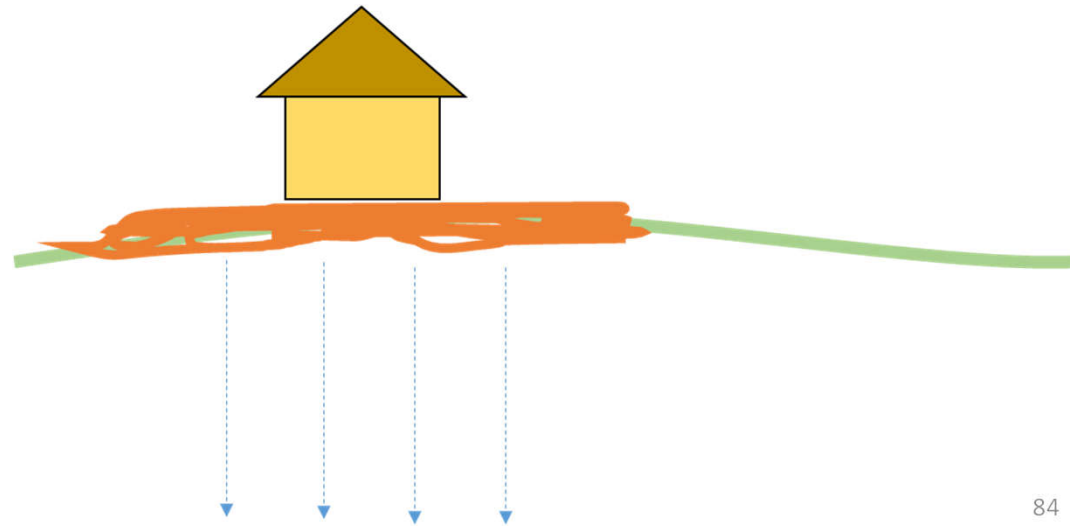
RAC Comments

- Attachments 2 and 3 of Council packet contains RAC member comments and staff response-summary tables on earlier iterations of draft rules
- There is agreement from RAC members (that commented) on most, but not all, proposed rule changes
- Specifically: proposed 345-050-0020(4) regarding lead-210

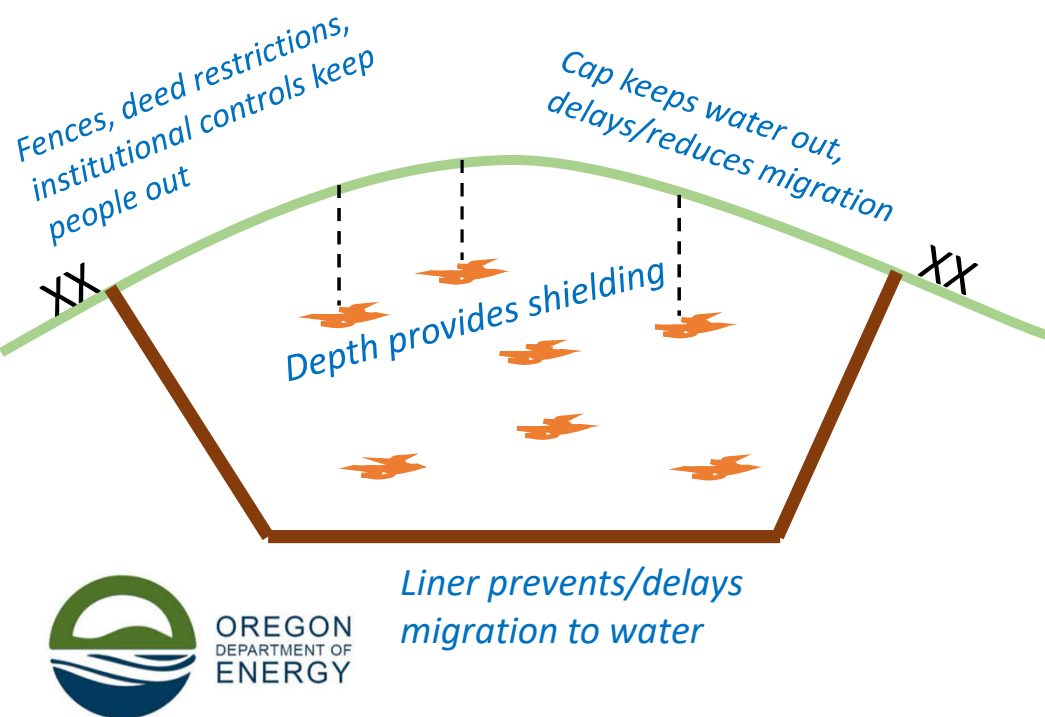
Questions of Dose and Risk

A pressing question early in the RAC was whether or not the Pathway Exemption (345-50-0035 through -0038) is sufficiently protective.

- Acceptable annual dose currently in rule is 500 mRem (NRC's unrestricted use is 100 mRem)
- Dose is not evaluated cumulatively across all pathways
- Plant uptake/consumption pathway is not evaluated



One piece in the statewide framework



- Regulation of NORM users by OHA-RPS requires that the waste is disposed in an industrial landfill
- Waste that is generated at an un-licensed industrial facility must also go to a landfill per DEQ rules
- Landfills post-closure are sufficiently protected from re-development as residential/agricultural use
- In this context, the current pathway exemption process does not pose an undue risk to human health or the environment. Future consideration may be warranted if the above regulations were to change.

Next Steps

- Request: Direct staff to file a Notice of Proposed Rulemaking as proposed in Attachment 1, which will open the public comment period on proposed rules
- Select a public hearing date. Options:
 - Use October EFSC meeting date (Oct 20)
 - Schedule a separate date and time for hearing
 - Hold hearing as part of November EFSC meeting (Nov 17)

Council Options

Option 1 - Recommended

Approve the Filing of
NOPR for Radioactive
Waste Rulemaking

Option 2

Approve the Filing of
NOPR for Radioactive
Waste Rulemaking,
with Changes

Option 3

Deny the Filing of NOPR
for Radioactive Waste
Rulemaking

Council Deliberation



Adjourn

