

**BEFORE THE
OREGON ENERGY FACILITY SITING COUNCIL**

In the Matter of the Application for Site Certificate
for the **Echo Solar Project**)
) **PROJECT ORDER**
)

**ISSUED BY
OREGON DEPARTMENT OF ENERGY
550 Capital Street NE
Salem, OR 97301-3742**

September 26, 2022

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Acronyms and Abbreviations

ACDP	Air Contaminant Discharge Permit
ASC	Application for Site Certificate
Applicant	Echo Solar, LLC
DEQ	Oregon Department of Environmental Quality
DSL	Oregon Department of State Lands
EFSC or Council	Energy Facility Siting Council
EFU	Exclusive Farm Use
EPA	United States Environmental Protection Agency
GW	Gigawatts
GWh	Gigawatt hours
kV	Kilovolts
LCDC	Oregon Land Conservation and Development Commission
LLC	Limited Liability Company
MW	Megawatts
NOI	Notice of Intent to File an Application for Site Certificate
NPDES	National Pollutant Discharge Elimination System
OAR	Oregon Administrative Rule
ODA	Oregon Department of Agriculture
ODF	Oregon Department of Forestry
ODOE or Department	Oregon Department of Energy
ODOT	Oregon Department of Transportation
ODFW	Oregon Department of Fish and Wildlife
ORS	Oregon Revised Statute
Parent Company	Pine Gate Renewables, LLC
pASC	Preliminary Application for Site Certificate
SHPO	Oregon State Historic Preservation Office
WPCF Permit	Water Pollution Control Facilities General Permit

1 **I. INTRODUCTION**

2 On May 10, 2022, the Oregon Department of Energy (ODOE or Department) received a Notice
3 of Intent to File an Application for a Site Certificate for the Echo Solar Project (NOI). The NOI
4 was submitted by Echo Solar, LLC (Applicant), a wholly owned subsidiary of Pine Gate
5 Renewables, LLC (Parent Company).

6
7 The Echo Solar Project (proposed facility) is a proposed solar photovoltaic energy generation
8 facility with up to 1,250 megawatts (MW) of nominal electric generating capacity. In addition to
9 solar arrays, the proposed facility would include up to 7.5 gigawatt hours (GWh) of distributed
10 battery storage capacity, an interconnection substation, up to seven collector substations, an
11 operations and maintenance building, and other structures including roads, perimeter fencing
12 and gates.

13
14 The facility is proposed to be sited within an approximately 10,900-acre (17 sq. mile) site
15 boundary in Morrow County. The proposed site encompasses part or all of Sections 1, 2, 3, 4, 5,
16 8, 9, 10, 11, 12, 14, 15 of Township 1N, Range 26E and Sections 27, 28, 29, 30, 31, 32, 33, 34,
17 35, 36 of Township 2N, Range 26E. All land within the proposed site boundary is privately
18 owned and zoned for Exclusive Farm Use. The land within the proposed site boundary is
19 predominately cultivated and includes high-value farmland as defined in ORS 195.300. The land
20 area for full build-out of the Facility is not expected to exceed 10,000 acres.

21
22 Because the proposed facility would use and occupy more than 1,280 acres of predominately
23 cultivated land, the proposed facility is an “energy facility” subject to the jurisdiction of the
24 Oregon Energy Facility Siting Council (EFSC or Council).¹ Under ORS 469.320, no energy facility
25 may be constructed or operated in Oregon without a Site Certificate from the Council.

26
27 The Applicant expects to submit its preliminary Application for Site Certificate (ASC) in early
28 2023. This Project Order establishes the statutes, administrative rules, Council standards, local
29 ordinances, application requirements and study requirements for the ASC in accordance with
30 ORS 469.330 and OAR 345-015-0160. As provided in ORS 469.330(4), this Project Order is not a
31 final order. The Department or Council may amend this Project Order at any time.

32
33 **Procedural History**

34 The Applicant submitted the NOI on May 6, 2022, and submitted the fee required under OAR
35 345-020-0006 on May 10, 2022. On June 10, 2022, the Department sent notice of the NOI to
36 persons on the Council's general mailing list and to the owners of record for all tax lots located
37 within 500 feet of properties that contain the site boundary. Public Notice also appeared in the
38 East Oregonian, a newspaper of general circulation for Umatilla and Morrow counties, on July
39 9, 2022. The public notice provided information regarding the proposed facility and the EFSC

¹ Under ORS 469.300(11)(a)(D), any solar photovoltaic energy generation facilities that would use or occupy more than 160 acres of high value farmland, 1,280 acres of predominately cultivated or soil capability class I to IV, or 1,920 acres of “other land” is an “energy facility” which requires approval and issuance of a site certificate by the Oregon Energy Facility Siting Council prior to construction and operation of the facility.

1 review process and announced that a public informational meeting on the NOI would be held in
2 Boardman, Oregon on July 27, 2022. The Public Notice requested public comment on the NOI
3 and established August 5, 2022, as the public comment deadline.

4
5 The Department held the public informational meeting on the NOI on July 27, 2022. The
6 Department and the Applicant appeared at the informational meeting and provided
7 information about the siting process and the proposed facility and responded to questions from
8 the public.

9
10 Three persons provided public comment at the informational meeting. All comments were from
11 participating or neighboring landowners who supported the proposed facility. Three persons
12 provided written comment on the NOI prior to the August 5 comment deadline. Written
13 comments included two letters of support and one comment from the Department of the Navy
14 confirming that the proposed facility is located outside of military utilized airspace.

15
16 ORS 469.480(1) requires the Council to designate the governing body of any local government
17 within whose jurisdiction a facility is proposed to be located as a Special Advisory Group. On
18 May 26, 2022, the Department sent a letter requesting comments and recommendations on
19 applicable local substantive criteria from the Morrow County Board of Commissioners.

20
21 The Council appointed the Morrow County Board of Commissioners as the Special Advisory
22 Group for the proposed facility on June 28, 2022. The Morrow County Board of Commissioners
23 provided comments on the NOI on July 27, 2022.

24
25 In accordance with OAR 345-021-0050(1), the Department prepared a memorandum
26 requesting comments from the reviewing agencies identified under OAR 345-001-0010. The
27 Department sent the memorandum to reviewing agencies on June 9, 2022. The Department
28 requested comments from reviewing agencies on or before August 5, 2022. The Department
29 followed up with individual reviewing agencies between June 9, 2022, and September 16, 2022.
30 Table 1 shows the reviewing agencies that were notified.

31
32
33 **Table 1. Notice of Intent Distribution List**

State Agencies	
<ul style="list-style-type: none">• Oregon Department of Agriculture• Oregon Department of Aviation• Oregon Department of Environmental Quality• Oregon Department of Fish and Wildlife• Oregon Department of Forestry• Oregon Department of Geology and Mineral Industries	<ul style="list-style-type: none">• Oregon Department of Land Conservation and Development• Oregon Department of State Lands• Oregon Department of Transportation• Oregon Office of State Fire Marshal• Oregon Public Utility Commission• Oregon State Historic Preservation Office• Oregon Water Resources Department

Native American Tribes	
<ul style="list-style-type: none"> • Burns Paiute Tribe • Confederated Tribes of the Umatilla Indian Reservation • Confederated Tribes of Warm Springs 	
Special Advisory Group	
<ul style="list-style-type: none"> • Morrow County Board of Commissioners/Planning Department 	
Affected Local Governments	
<ul style="list-style-type: none"> • City of Boardman • City of Heppner • City of lone 	<ul style="list-style-type: none"> • Town of Lexington • Umatilla County
Federal/Other Reviewing Agencies	
<ul style="list-style-type: none"> • Northwest Power and Conservation Council • US Department of Navy • US Fish and Wildlife Service 	

1
 2 The Department separately requested comments from the Tribal Councils of the Confederated
 3 Tribes of Warm Springs, Confederated Tribes of the Umatilla Indian Reservation, and the Burns
 4 Paiute Tribe in letters issued on June 27, 2022. The Department received comments from the
 5 Confederated Tribes of the Umatilla Indian Reservation on August 5, 2022.

6
 7 Exact copies of all comments from local governments, state agencies, tribal governments and
 8 members of the public are attached to this Project Order.

9
 10 **Project Order Outline**
 11 Section II of this Project Order outlines the EFSC regulatory framework and references the main
 12 statutes and rules that govern the EFSC review process [per OAR 345-015-0160(1)]. Section III
 13 discusses the application content requirements under OAR 345-021-0010. Section IV specifies
 14 the impact assessment analysis areas for the proposed facility. Section V provides the
 15 expiration date of the NOI, and Section VI discusses Project Order amendments and the
 16 requirements for the Department to find the application for site certificate complete. Section
 17 VIII describes the applicant’s duty to comply with applicable requirements.

18
 19 **II. EFSC REGULATORY FRAMEWORK**
 20 Issuance of a site certificate is governed by ORS 469.300 to 469.563, 469.590 to 469.619,
 21 469.930 and 469.992 and OAR chapter 345. The following divisions of OAR chapter 345 include
 22 rules related to application requirements, EFSC review of an application for site certificate
 23 (ASC), and construction and operation of an approved facility:

24
 25 **OAR Chapter 345, Division 21** (Site Certificate Application Requirements) includes the primary
 26 site certificate application requirements. See Section III of this Project Order for specific

1 information related to the site certificate application requirements for the proposed facility.

2
3 **OAR Chapter 345, Division 22** (Council Standards for Siting Facilities) includes most of the
4 regulatory standards by which EFSC must evaluate the proposed facility. In addressing each of
5 the Division 21 application requirements, the applicant shall refer to the Division 22 standard to
6 which the requirement relates to ensure the application is responsive to the standards by which
7 the Council must evaluate it.

8
9 **OAR Chapter 345, Division 24** (Specific Standards for Siting Facilities) includes additional
10 standards for specific types of EFSC applications. In addressing the Division 21 application
11 requirements, the application shall refer to the Division 24 standards that apply to the
12 proposed facility to ensure the application is responsive to these standards. The Division 24
13 standard that applies to the proposed facility is OAR 345-024-0090, Siting Standards for
14 Transmission Lines.

15
16 **OAR Chapter 345, Division 25** (Site Certificate Conditions) includes the mandatory conditions
17 that EFSC must apply to all site certificates, as well as applicable site-specific and monitoring
18 conditions. Note that per the mandatory condition included at OAR 345-025-0006(10), the
19 Council will include as conditions in the site certificate, if issued, all representations of
20 mitigation made in the ASC and supporting record that the Council deems to be binding
21 commitments made by the applicant.

22
23 **OAR Chapter 345, Division 26** (Construction and Operation Rules for Facilities) includes the
24 compliance plan requirements that will apply if the Council issues a site certificate for the
25 proposed facility. In addressing the Division 21 application requirements, the applicant shall
26 refer to the compliance plan requirements, described in OAR 345-026-0048, and reporting
27 requirements, described in OAR 345-026-0080. Note that, if a site certificate is issued, the
28 certificate holder must also comply with additional construction- and operation-related
29 regulations that may apply to the proposed facility but that may not be covered by the site
30 certificate, per ORS 469.401(4).

31 32 **III. APPLICATION REQUIREMENTS**

33 The applicant must submit information required under OAR 345-021-0000, including, for all
34 state and local government agency permit approvals that the applicant proposes to be included
35 in and governed by the site certificate, the submittal of information that would otherwise be
36 required by the state or local government agency in an application for such permit, license, or
37 certificate [OAR 345-021-0000(6)].²

38
39 The applicant must submit copies of the applications for federally delegated permits that are
40 needed for construction or operation of the proposed facility [OAR 345-021-0000(7)].
41

² Under OAR 345-015-0190(5), the Department may find that the application is complete without requiring the applicant to submit all information described under OAR 345-021-0000 and 345-021-0010.

1 OAR 345-021-0010(1) identifies the required contents of an ASC. Each of the paragraphs below
2 indicates which provisions of OAR 345-021-0010(1) apply to the proposed facility.
3 The ASC shall also include a table of contents for each exhibit, as described in OAR 345-021-
4 0010(3).

5
6 **(a) Exhibit A – General Information about the Applicant and Participating Persons**

7 **Applicable Paragraphs:** OAR 345-021-0010(1)(a)(A), (B), (D), and (H)

8 **Related Council and Other Standards:** General Standard of Review [OAR 345-022-0000]

9 **Discussion:** OAR 345-021-0010(1)(a)(A) and (B) apply to all applicants. Because Applicant is
10 organized and registered with the Oregon Secretary of State as a Domestic Limited Liability
11 Company, paragraphs (C), (E), (F), and (G) do not apply.

12
13 Under OAR 345-021-0010(1)(a)(A), Exhibit A must identify the legal name and address of the
14 Applicant and any co-owners of the proposed facility. The Application must provide the name,
15 mailing address, email address and telephone number of at least one contact person for the
16 Applicant, and if there is a contact person other than the applicant, the name, title, mailing
17 address, email address and telephone number of that person. The NOI identifies Echo Solar, LLC
18 as the Applicant. Applicant should describe any changes in the legal name or entity of the
19 Applicant in Exhibit A.

20
21 Under OAR 345-021-0010(1)(a)(B), Exhibit A must identify any participating entities other than
22 the applicant, including but not limited to the parent company of the applicant and any persons
23 upon whom the applicant will rely for third-party permits or approvals related to the facility,
24 and, if known, other persons upon whom the applicant will rely in meeting any facility standard
25 adopted by the Council.³

26
27 Under OAR 345-021-0010(1)(a)(D), Exhibit A must identify the legal name and business address
28 of each of the applicant’s full or partial owners. The NOI identifies Pine Gate Renewables, LLC,
29 as the parent company for the applicant. Exhibit A must either verify that Pine Gate
30 Renewables, LLC, continues to be the Sole Member of Echo Solar, LLC, or provide an updated
31 list identifying all LLC members. In addition, Exhibit A should explain the relationship between
32 FP 2021 Dev Holdco, LLC, the appointed manager of Echo Solar, LLC, Pine Gate Development,
33 LLC, its manager, and Pine Gate Renewables, LLC.

34
35 The applicant must notify the Department of any change in the identity or ownership of the
36 applicant prior to the change. This notification requirement continues to apply until the Council
37 issues its Final Order on the ASC.

38
39 Under OAR 345-0010(1)(a)(H), Exhibit A must identify the full name, official designation, mailing

³ OAR 345-021-0010(1)(b)(B) requires a list of “participating persons, other than individuals.” As defined in ORS 469.300(21), “Person” means an individual, partnership, joint venture, private or public corporation, association, firm, public service company, political subdivision, municipal corporation, government agency, people’s utility district, or any other entity, public or private, however organized.

1 address, email address and telephone number of the officer responsible for submitting the
2 application, the date and place of Echo Solar, LLC’s formation, and a copy of its articles of
3 organization and its authorization for submitting the application. Because Echo Solar, LLC is
4 registered in Oregon as a Domestic Limited Liability Company, sub-paragraph (H)(iv) does not
5 apply.
6

7 **(b) Exhibit B – General Information about the Proposed Facility**

8 **Applicable Paragraphs:** OAR 345-021-0010(1)(b)(A)(i) through (vi), (B), (C), (E) and (F).

9 **Related Council and Other Standards:** General Standard of Review [OAR 345-022-0000]

10 **Discussion:** Exhibit B must provide information about the proposed facility, construction
11 schedule and temporary disturbances of the site. OAR 345-021-0010(1)(b)(A)(i) to (vi), (B), (C),
12 and (F) are applicable to applications for all types of energy facilities. OAR 345-021-
13 0010(1)(b)(A)(vi) through (viii), (D), and (E)(iv) are not applicable to the proposed facility.
14

15 Under OAR 345-021-0010(1)(b)(A) through (C), Exhibit B must include a description of the
16 facility that includes, at a minimum:

- 17 • The nominal electric generating capacity and the average electrical generating capacity
18 of the proposed solar photovoltaic power generating
- 19 • A detailed description of all major components, structures and systems that will be part
20 of the proposed facility, including the capacity, dimensions, type, and configuration of
21 equipment used to generate, store, transmit, or transport electricity, and the
22 dimensions and configurations of any other related or supporting facilities, including but
23 not limited to roads, storage facilities, fences, or other structures.⁴
- 24 • A site plan and general arrangement of buildings, equipment, and structures, including
25 any proposed temporary laydown or staging areas and any proposed micrositing
26 corridors proposed by the applicant. Note that if the applicant seeks flexibility to site
27 proposed facility components anywhere within the site boundary, or seeks approval of a
28 micrositing corridor, the applicant must evaluate impacts to resources within the entire
29 site boundary or micrositing corridor based on maximum the impact facility layout
30 option within the site boundary or micrositing area, if different.
- 31 • Identification and description of all fuel and chemical storage facilities, including
32 structures and systems for spill containment
- 33 • Equipment and systems for fire prevention and control in any system components,
34 including water tanks, internal fire suppression systems, and access and egress points
35 for fire responders.
36

37 The description above should be as complete and accurate as possible as the information
38 provided will form the basis for the description of the facility in the site certificate, if approved
39 by the Council. OAR 345-025-0006(3)(a) provides that all site certificates must contain

⁴ ORS 469.300(13) “Related or supporting facilities” means any structure, proposed by the applicant, to be constructed or substantially modified in connection with the construction of an energy facility, including associated transmission lines, reservoirs, storage facilities, intake structure, road and rail access, pipelines, barge basins, office or public buildings, and commercial and industrial structures.

1 conditions requiring certificate holders to design, construct, operate and retire the facility
2 substantially as described in the site certificate.

3
4 Under OAR 345-021-0010(1)(b)(F), Exhibit B must include a construction schedule including a
5 description of all primary construction activities that will be performed at the site and the
6 estimated timing of those activities. "Construction activities" include all work performed at the
7 site, excluding surveying, exploration, or other activities to define or characterize the site. For
8 the purposes of the ORS 469.320 and 469.370(12), construction of the facility begins when the
9 cost of all construction activities performed at the site exceed \$250,000. The construction
10 schedule included in Exhibit B must describe any construction activities that have been or will
11 be performed at the site prior to issuance of the site certificate and an estimate of the cost of
12 that work. The construction schedule should also specify the date by which applicant proposes
13 to begin construction of the facility and the date by which the applicant proposes to complete
14 construction activities. If the applicant proposes to construct the facility in phases, the
15 construction schedule should describe the timing of construction activities for each phase.

16
17 Exhibit B must also describe routine operations and maintenance activities that will be
18 performed during operation of the facility, including any anticipated need to replace or
19 repower facility components, and the expected timeline for decommissioning the facility, if any.

20
21 **(c) Exhibit C – Location**

22 **Applicable Paragraphs:** All paragraphs apply.

23 **Related Council and Other Standards:** General Standard of Review [OAR 345-022-0000]

24 **Discussion:** Exhibit C must include information about the proposed facility site.

25
26 Under OAR 345-021-0010(1)(c)(A) and (C), Exhibit C must include maps indicating the "site
27 boundary", including any proposed transmission line routes and corridors for which the
28 applicant seeks Council approval, and all areas that might be temporarily disturbed during
29 construction of the facility in relation to major roads, water bodies, cities and towns, important
30 landmarks, and topographic features. Exhibit C must also include a map showing the
31 approximate locations of any other energy generation facilities that are known to the applicant
32 to be permitted at the state or local level within 10 miles of the proposed site boundary. Maps
33 must provide enough information for property owners potentially affected by the proposed
34 facility to determine whether their property is within or adjacent to property on which the site
35 boundary is located. Major roads must be accurately named. If the applicant seeks flexibility to
36 site facility components anywhere within the site boundary or an established micrositing area,
37 please identify in maps and include an evaluation to support the facility "micrositing area," to
38 be consistent with the intent of a "micrositing corridor" (OAR 345-001-0010(32)).

39
40 Under OAR 345-021-0010(1)(c)(C), Exhibit C must also include a narrative description of the
41 proposed energy facility site, the proposed site of each related or supporting facility and areas
42 of temporary disturbance, including the total land area (in acres) within the proposed site
43 boundary, the total area of permanent disturbance, and the total area of temporary
44 disturbance.

1 **(d) Exhibit D – Organizational Expertise**

2 **Applicable Paragraphs:** All paragraphs apply.

3 **Related Council and Other Standards:** Organizational Expertise [OAR 345-022-0010]

4 **Discussion:** Exhibit D must include information about the organizational expertise of the
5 applicant to construct and operate the proposed facility, providing evidence to support a
6 finding that the applicant has the ability to construct, operate, and retire the proposed facility
7 in compliance with Council standards and conditions of the site certificate; and, in a manner
8 that protects public health and safety. If the Applicant will rely on the organizational expertise
9 or financial capability of its parent company to construct and operate the proposed facility, the
10 Parent Company must guarantee performance of the Applicant’s obligations under the site
11 certificate and must indemnify the Council against costs and expenses it may incur as a result of
12 the enforcement of the Site Certificate. The Applicant must coordinate with the Department to
13 obtain the appropriate form and content of this guarantee.

14
15 Under OAR 345-021-0010(1)(d)(A), Exhibit D must describe the applicant's previous experience,
16 if any, in constructing and operating solar photovoltaic power generation facilities or other
17 similar facilities. The description should include, at a minimum, the size, location, and date of
18 commercial operation for any facilities upon which applicant wishes to rely as evidence of
19 organizational expertise.

20
21 Under OAR 345-021-0010(1)(d)(B) and (C), Exhibit D must describe the qualifications of the
22 applicant's personnel who will be responsible for constructing and operating the facility, and
23 the qualifications of any architect, engineer, major component vendor, or prime contractor
24 upon whom the applicant will rely in constructing and operating the facility, to the extent that
25 the identities of such persons are known when the application is submitted.

26
27 Under OAR 345-021-0010(1)(d)(D), Exhibit D must include an evaluation of the applicant’s
28 compliance history that describes whether it or any other participating entities have received
29 regulatory citations in any jurisdiction in the past 10 years and the status of resolution of those
30 citations.

31
32 Under OAR 345-021-0010(1)(d)(G), Exhibit D must include evidence that the applicant can
33 successfully complete any mitigation proposed to demonstrate compliance with any applicable
34 Council standards, including a description of past experience with other projects and the
35 qualifications, experience, and contact information of personnel upon whom the applicant will
36 rely, to the extent that the identities of such persons are known at the date of submittal. The
37 applicant must provide evidence that past mitigation projects required as part of a land use
38 approval or other permitting process were completed successfully, such as final reports
39 submitted to the permitting agency. Please also provide drafts of safety programs or plans
40 developed by the applicant for wildfire, emergency, and spill response at the site and any fire
41 control systems if those plans are not included in another exhibit.

1 **(e) Exhibit E – Permits**

2 **Applicable Paragraphs:** All paragraphs apply.

3 **Related Council and Other Standards:** General Standard of Review [OAR 345-022-0000]

4 **Discussion:** Under OAR 345-021-0010(1)(e)(A) and (B), Exhibit E must identify all federal, state,
5 and local government permits related to the siting of the proposed facility. For each permit,
6 Exhibit E must include:

- 7 • A description of the permit and the reasons the permit is needed.
- 8 • A legal citation of the statute, rule or ordinance governing the permit.
- 9 • The name, mailing address, email address and telephone number of the agency or office
10 responsible for the permit.
- 11 • The applicant’s analysis of whether the permit should or should not be included in and
12 governed by the site certificate.

13
14 The applicant’s analysis of whether the permit should or should not be included in and
15 governed by the site certificate.

16
17 Under OAR 345-021-0010(1)(e)(C) for any state or local government agency permits, licenses or
18 certificates that are proposed to be included in and governed by the site certificate, Exhibit E
19 must also provide evidence to support findings by the Council that construction and operation
20 of the proposed facility will comply with the statutes, rules, and standards applicable to the
21 permit. Information about any required removal-fill or water rights permits should be provided
22 in Exhibits J and O, respectively. If the applicant will rely on a contractor or third party to obtain
23 a required state or local permit, license or certificate that will be governed by the site
24 certificate, Exhibit E must also include the information required by OAR 345-021-0010(1)(e)(E).

25
26 Although the Council does not have jurisdiction over federally delegated permits, the Council
27 may rely on the determinations of compliance and the conditions in federally delegated permits
28 in evaluating the application for compliance with Council standards. Under OAR 345-021-
29 0010(1)(e)(D), Exhibit E must include evidence that the responsible agency for any federally
30 delegated permitted program has received a permit application. The applicant must provide the
31 estimated date when the responsible agency will complete its review and issue a permit
32 decision. If the applicant will rely on a contractor or third party to obtain a required state or
33 local permit, license or certificate that will be governed by the site certificate, Exhibit E must
34 also include the information required by OAR 345-021-0010(1)(e)(F).

35
36 Table 2 lists permits that may be required for the proposed facility. Please see the discussion
37 that follows this table for additional information.

Table 2: Potentially Required Permits

Permit Name/Description	EFSC Jurisdictional	Federally Delegated – Information required for Completeness Determination Only	Not EFSC Jurisdictional Per ORS 469.401(4) – Information about Permit Necessary for Information Purposes Only Per OAR 345-021-0010(1)(e)(A) &(B)
Oregon DEQ Basic Air Contaminant Discharge Permit		X ¹	
Oregon DEQ National Pollution Discharge Elimination System Construction Storm Water 1200-C permit		X ¹	
Oregon DEQ NPDES Storm Water and Mine Dewatering Discharge 1200-A permit		X ¹	
Oregon DEQ Clean Water Act Section 401 Water Quality Certification		X	
Removal-Fill Permit	X		
Onsite Sewage Disposal Construction-Installation Permit	X ¹		
Water Pollution Control Facilities (WPCF) General Permit 1000	X ¹		
WPCF General Permit 1700-B	X		
Water Right Permit or Water Use Authorization	X		
ODOT Oversize Load Movement Permit/Load Registration			X
ODOT Access Management Permit			X
ODOT Permit to Occupy or Perform Operations Upon a State Highway			X

Table 2: Potentially Required Permits

Permit Name/Description	EFSC Jurisdictional	Federally Delegated – Information required for Completeness Determination Only	Not EFSC Jurisdictional Per ORS 469.401(4) – Information about Permit Necessary for Information Purposes Only Per OAR 345-021-0010(1)(e)(A) &(B)
SHPO Archaeological Permit	X ²		X ²
Morrow County Conditional Use Permit	X		
Morrow County Utility Crossing Permit and Access Approach Site Permit			X
Morrow County Build on Right-of- Way Permit			X

¹ Unless obtained by third-party; see Third-Party Permits discussion.
² The Department notes that a SHPO Archaeological Permit may be under EFSC jurisdiction if proposed by the applicant in the ASC.

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Federally Delegated Permits

Oregon Department of Environmental Quality – Air Quality Division

Statute and Rule References

- OAR Chapter 340, Division 216

Permits

- Basic Air Contaminant Discharge Permit (ACDP)
 - Information needed for completeness (unless obtained by third-party; see Third-Party Permits discussion) but not EFSC jurisdictional

Discussion: The United States Environmental Protection Agency (EPA) has delegated authority to the Oregon Department of Environmental Quality (DEQ) to administer air quality under the Clean Air Act. A Basic ACDP authorizes operation of a concrete manufacturing plant that produces more than 5,000 but less than 25,000 cubic yards per year output. ACDPs for mobile, temporary concrete batch plants are associated with the equipment itself. The requirements of OAR 345-021-0000(6) would apply to this federally delegated permit. If the applicant’s third-party contractor would instead obtain the ACDP, the requirements described in the Third-Party Permits section below would apply.

Oregon Department of Environmental Quality – Water Quality Division

Statute and Rule References

- ORS Chapter 468B (Water Quality)
- OAR Chapter 340, Division 45 (Regulations Pertaining to NPDES and WPCF Permits)

1 **Permits**

- 2 • National Pollution Discharge Elimination System (NPDES) Construction Stormwater
3 1200-C permit
 - 4 ○ Information needed for completeness (unless obtained by third-party; see Third-
5 Party Permits discussion) but not EFSC-jurisdictional
- 6 • NPDES Stormwater and Mine Dewatering Discharge 1200-A permit
 - 7 ○ Information needed for completeness (unless obtained by third-party; see Third-
8 Party Permits discussion) but not EFSC-jurisdictional

9 **Discussion:** The EPA has delegated authority to DEQ to issue NPDES Stormwater Discharge
10 permits for construction and operation activities. Based upon the information in the NOI, a
11 NPDES 1200-C permit would be required for facility construction. In accordance with OAR 345-
12 021-0000(6), the applicant must submit to the Department one copy of all applications for
13 federally delegated permits (including the NPDES permit) or provide a schedule of the date by
14 which the applicant intends to submit the application. Note that the Department will not be
15 able to find the application for site certificate complete before receiving a copy of the NPDES
16 permit application and a letter or other indication from DEQ. The DEQ response must state that
17 the agency has received a permit application from the applicant and provide an estimated date
18 when the agency will complete its review and issue a permit decision. The applicant may
19 incorporate this information into Exhibit I (Soils) or Exhibit BB (Other Information) of the ASC.

20
21 Disposal of concrete batch plant wash water (if a temporary batch plant is necessary) would
22 require either an NPDES 1200-A permit or a WPCF General Permit 1000. If the batch plant was
23 to discharge stormwater from a point source to surface water or to a conveyance system that
24 discharges to surface water, the plant would require an NPDES 1200-A permit. The
25 requirements of OAR 345-021-0000(6) (described in the preceding paragraph) would apply to
26 the NPDES 1200-A permit. If the applicant's third-party contractor would instead obtain the
27 NPDES 1200-A permit, the requirements described in the Third-Party Permits section below
28 would apply. Alternatively, if the batch plant would be located within a construction staging
29 yard for which the applicant would seek coverage under an NPDES 1200-C permit described
30 above, the applicant may seek coverage for the batch plant under the same NPDES 1200-C
31 permit.

32
33 If the batch plant would not discharge to surface waters, a WPCF General Permit 1000 would
34 instead be required to dispose of process wastewater and stormwater by recirculation,
35 evaporation, and/or controlled seepage (see the State Permits discussion below).

36
37 **State Permits**

38 ***Oregon Department of State Lands***

39 **Statute and Rule References**

- 40 • ORS 196.795-990 (Removal of Material, Filling)
- 41 • OAR Chapter 141, Division 85 (Administrative Rules Governing the Issuance and
42 Enforcement of Removal-Fill Authorizations Within Waters of Oregon Including
43 Wetlands)

1 **Permit**

- 2 • Removal-Fill Permit
- 3 ○ EFSC jurisdictional

4 **Discussion:** A removal-fill permit is required if any removal or fill activities occur in streams
5 designated as Essential Indigenous Anadromous Salmonid Habitat or 50 cubic yards or more of
6 material is removed, filled, or altered within a jurisdictional water of the state [OAR 141-085-
7 0520(2) and (5)]. Removal-fill permits are state permits under Council jurisdiction.

8 The applicant must conduct a wetland delineation, to be sent to Department of State Lands
9 (DSL) for concurrence, according to OAR Chapter 141, Division 90 rules. The wetland
10 delineation determines the location of “waters of this state,” as defined in OAR 141-085-
11 0510(91), within the analysis area. Depending upon facility impacts to “waters of this state” a
12 removal-fill permit may be necessary, and the application for site certificate should include
13 information establishing whether a removal-fill permit is required. If a removal-fill permit is
14 required, the ASC shall include a concurred delineation from DSL and a complete application for
15 an individual permit which demonstrates consistency with ORS 196.825(1) and provides enough
16 information for determinations and considerations under ORS 196.825(3) and OAR 141-085-
17 0565.

18
19 A Compensatory Wetland Mitigation Plan which meets the requirements of OAR 141-085-0680
20 through OAR 141-085-0715 must be provided to replace all lost functions and values previously
21 provided by the impacted wetlands and waterways.

22
23 If the proposed facility requires any dredge or fill of waters of the United States, the applicant
24 must submit to the Department one copy of an application for a Section 404 permit, in
25 accordance with OAR 345-021-0000(6), and a Section 401 Water Quality Certificate must be
26 granted by DEQ before a Section 404 may be issued. The DSL (removal-fill permit) and the
27 Corps (Section 404 permit) use a joint application form. As discussed previously with regard to
28 Exhibit E and federally-delegated permits outside of Council jurisdiction, the applicant must
29 provide a letter or other indication from the Corps stating that the agency received a permit
30 application from the applicant, identifying any additional information the agency is likely to
31 need from the applicant based on the agency’s review of the application, and an estimated date
32 for when the agency will complete its review and issue a permit decision.

33 ***Oregon Department of Environmental Quality***

34 **Statute and Rule References**

- 35 • ORS Chapter 454 (Sewage Treatment and Disposal Systems)
- 36 • ORS Chapter 468B (Water Quality)
- 37 • OAR Chapter 340, Division 45 (Regulations Pertaining to NPDES and WPCF Permits)
- 38 • OAR Chapter 340, Division 71 (Onsite Wastewater Treatment Systems)
- 39 • OAR Chapter 340, Division 48 (Certification of Compliance with Water Quality
40 Requirements and Standards)

41 **Permits**

- 42 • Onsite Sewage Disposal Construction-Installation Permit
- 43 ○ EFSC-jurisdictional unless obtained by third-party; see Third-Party Permits

1 discussion

- 2 • Water Pollution Control Facilities (WPCF) General Permit 1000
- 3 ○ EFSC-jurisdictional unless obtained by third-party; see Third-Party Permits
- 4 discussion
- 5 • WPCF General Permit 1700-B (DEQ Expired/Not Required for Panel Washing)
- 6 • Clean Water Act Section 401 Water Quality Certification
- 7 ○ This permit would not be included in or governed by the site certificate

8 **Discussion:** Facilities with an on-site sewage disposal system must obtain a Construction-
9 Installation Permit before construction. If the applicant will construct an on-site septic system,
10 the applicant or its third-party contractor would be required to obtain a Construction-
11 Installation Permit. Such a permit would be governed by and included in the site certificate
12 unless obtained by a third-party permitter (see the Third-Party Permits discussion below.)
13

14 If a temporary batch plant is necessary, disposal of concrete batch plant wash water would
15 require either a Water Pollution Control Facilities (WPCF) General Permit 1000 or a NPDES
16 permit. Concrete batch plants that dispose of process wastewater and stormwater by
17 recirculation, evaporation, and/or controlled seepage with no discharge to surface waters
18 require a WPCF General Permit 1000. A WPCF General Permit 1000 is a state permit under
19 Council jurisdiction. If the applicant's third-party contractor would obtain the necessary WPCF
20 General Permit 1000 directly from DEQ, this permit would be related to the siting and operation
21 of the proposed facility but would not be included in and governed by the site certificate (see
22 the Third-Party Permits discussion below). If the batch plant was to instead discharge
23 stormwater from a point source to surface water or to a conveyance system that discharges to
24 surface water, the plant would require an NPDES 1200-A permit or coverage under the NPDES
25 1200-C permit for the construction yard in which it would be located (as discussed under the
26 federally delegated permits discussion of this Project Order).
27

28 Disposal of solar panel wash water would require a WPCF 1700-B permit. The NOI indicates that
29 either the Applicant or a third-party contractor who will conduct the solar panel washing
30 activities may seek coverage under the WPCF-1700-B permit from ODEQ following completion
31 of construction and before initiating any washing activities. DEQ has indicated to the
32 Department that a WPCF General Permit 1700-B is not required for solar array washing
33 activities that would not result in discharge to surface waters, storm sewers, or dry wells, and
34 that would not use acids, bases, metal brighteners, steam, or heated water. The use of
35 biodegradable, phosphate-free cleaners with cold water is allowed. However, cleaning only
36 with cold water is recommended. Chemicals, soaps, or detergents must be used sparingly. The
37 applicant or its third-party contractor should seek guidance from DEQ prior to conducting solar
38 module washing activities. A WPCF 1700-B and WPCF General Permit 1000 are state permits
39 under Council jurisdiction. If the applicant's third-party contractor would obtain the necessary
40 WPCF 1700-B permit directly from DEQ, this permit would not be included in and governed by
41 the site certificate (see the Third-Party Permits discussion below).
42

43 If a Section 404 Permit is needed from the Corps for the discharge of dredge or fill material in
44 waters of the United States, a Section 401 Water Quality Certificate must be granted by DEQ

1 before a Section 404 permit may be issued. This approval would not be included in or governed
2 by the site certificate.

3
4 ***Oregon Water Resources Department***

5 **Statute and Rule References**

- 6 • ORS 537.110-.330 (Appropriation under 1909 Act; Limited Licenses)
- 7 • ORS 537.505-.795 and ORS 537.992 (collectively, Ground Water Act of 1955)
- 8 • ORS 537.992 (Civil Penalties)
- 9 • ORS 540.505-.589 (Changes in Use of Water; Transfer of Water Rights; Exchange)
- 10 • OAR Chapter 690, Division 310 (Water Right Application Processing)
- 11 • OAR Chapter 690, Division 340 (Water Use Authorizations)
- 12 • OAR Chapter 690, Division 410 (Statewide Water Resource Management)

13 **Permits**

- 14 • Water Right Permit or Water Use Authorization
 - 15 ○ EFSC jurisdictional
- 16 • Limited License
 - 17 ○ EFSC jurisdictional

18 **Discussion:** As represented in NOI Exhibit J, the applicant proposes to either construct an on-
19 site well or obtain water from existing private or municipal water sources with valid water
20 rights and trucked to the site. Water right permits, limited water use licenses, and other water
21 authorizations for energy facilities are subject to review and authorization by the Council, and
22 any permit would be included in and governed by the site certificate.

23
24 ***Oregon Department of Transportation***

25 **Statute and Rule References**

- 26 • ORS 818.030 (Exemptions from Weight Limitations)
- 27 • OAR Chapter 734, Division 82 (Variance Permits Issued for Non-Divisible Loads and Road
28 Use Assessment Fees)
- 29 • OAR Chapter 734, Division 51 (Highway Approaches, Access Control, Spacing Standards,
30 and Medians)
- 31 • OAR Chapter 734, Division 55 (Pole Lines, Buried Cables, and Miscellaneous Operations)

32 **Permits**

- 33 • Oversize Load Movement Permit/Load Registration
 - 34 ○ Not EFSC jurisdictional and no additional information needed for the ASC
- 35 • Access Management Permit
 - 36 ○ Not EFSC jurisdictional and no additional information needed for the ASC
- 37 • Permit to Occupy or Perform Operations Upon a State Highway
 - 38 ○ Not EFSC jurisdictional and no additional information needed for the ASC

39 **Discussion:** Various permits from Oregon Department of Transportation (ODOT) may be
40 required prior to construction of the facility. Access from Oregon state highways would require
41 an access permit. Utility installations within the right-of-way of a state highway in Oregon
42 require an Occupy or Perform Operations upon a State Highway permit. Movement of
43 construction cranes and other large equipment and materials could also require an Oversize

1 Load Movement permit. These permits are not related to facility siting and are not included in
2 or governed by the site certificate. The applicant or its contractor must secure any applicable
3 ODOT permits directly from ODOT, independent of the site certificate process. The impacts
4 associated with road use and modifications, however, must be evaluated in Exhibit U.

5 **State Historic Preservation Office**

6 **Statute and Rule References**

- 7 • ORS Chapter 97, 358, and 390
- 8 • OAR Chapter 736, Division 51

9 **Permits**

- 10 • Archaeological Excavation Permit
 - 11 ○ May be EFSC jurisdictional if proposed in ASC; if so, then ASC materials required

12 **Discussion:** Per ORS 390.235 and 358.920 a person may not excavate, injure, destroy, or alter
13 an archaeological site or object or remove an archaeological object located on public or private
14 lands in Oregon unless that activity is authorized by an Archaeological Permit issued by the
15 State Historic Preservation Office (SHPO). Because there are previously identified archaeological
16 objects or sites (Oregon Revised Statute [ORS] 358.905), or Native American cairn, burial,
17 human remains, sacred objects and objects of cultural patrimony (ORS 97.740-760) in or
18 adjacent to the site, an Archaeological Excavation Permit will be required for the construction
19 of the proposed facility.⁵ The applicant has not proposed to have this permit be included and
20 governed by the site certificate, and as such the applicant will be required to obtain this permit
21 from the State Historic Preservation Office prior to ground disturbing activities at the site.

22
23 **Local Permits**

24 **Land Use Ordinance References**

- 25 • Morrow County Zoning Ordinance
- 26 • Morrow County Comprehensive Plan
- 27 • OAR Chapter 734, Division 51

28 **Permits**

- 29 • Morrow County Conditional Use Permit
- 30 • Morrow County Zoning Permit
- 31 • Morrow County Build on Right-of-Way Permit
- 32 • Morrow County Utility Crossing Permit and Access Approach Site Permit
- 33 • Morrow County Oversized Load Movement Permit

34 **Discussion:** Morrow County has permitting requirements that relate to the siting, construction,
35 or operation of the proposed facility. The applicant shall identify those permits or approvals
36 and include an analysis of whether each should be included in and governed by the site
37 certificate.

38
39 As stated in the NOI, the applicant requests that the Council determine compliance with the
40 statewide planning goals under ORS 469.504(1)(b). Accordingly, land use permits including the
41 zoning permit and conditional use permit will be included in and governed by the site

⁵ August 22, 2022, Letter to ODOE regarding SHPO Case No. 22-1199.

1 certificate.

2
3 The other listed Morrow County permitting requirements are not related to facility siting and as
4 such will not be included in or governed by the site certificate. Building permits are specifically
5 excluded from EFSC jurisdiction by statute, ORS 469.401(4). In the NOI, the applicant explained
6 that any other county permits required for the construction of the proposed facility will be
7 obtained by the construction contractor prior to the start of construction activities at the site.

8
9 **Third-Party Permits**

10 **Discussion:** As noted in the NOI, the applicant may rely upon third-party permits for access to
11 resources necessary for facility construction and operation. If the applicant relies upon a state
12 or local government permit issued to a third party that is related to the siting of the proposed
13 facility, the applicant must identify each third-party permit, and, for each, include evidence that
14 the applicant has, or has a reasonable likelihood of entering into, a contract or other agreement
15 with the third party for access to the resource or service to be secured by that permit; evidence
16 that the third party has or, has a reasonable likelihood of obtaining, the necessary permit; and,
17 an assessment of the impact of the proposed facility on any permits that a third party has
18 obtained and on which the applicant relies to comply with any applicable Council standard
19 (OAR 345-021-0010(1)(e)(E)).

20
21 If the applicant relies on a federally delegated permit issued to a third party that is related to
22 the siting of the proposed facility, the applicant must identify the third-party permit and include
23 evidence that the applicant has, or has a reasonable likelihood of entering into, a contract or
24 other agreement with the third party for access to the resource or service to be secured by that
25 permit. The applicant must provide evidence that the responsible agency has received the
26 permit application and provide the estimated date when the responsible agency will complete
27 its review and issue a permit decision (OAR 345-021-0010(1)(e)(F)).

28
29 In accordance with OAR 345-022-0010(4), if the applicant relies on a permit or approval issued
30 to a third party and the third party does not have the necessary permit or approval at the time
31 the Council issues the site certificate, the Council may issue the site certificate subject to the
32 condition that the certificate holder shall not commence construction or operation as
33 appropriate until the third party has obtained the necessary permit or approval and the
34 applicant has a contract or other arrangement for access to the resource or service secured by
35 that permit or approval.

36
37 **(f) Exhibit F – Property Owners**

38 **Applicable Paragraphs:** All paragraphs apply.

39 **Related Council and Other Standards:** General Standard of Review [OAR 345-022-0000]

40 **Discussion:** Exhibit F must include a list of all owners of record of property located within the
41 site boundary and extending 500 feet from the property boundary of any tax lot or parcel that
42 wholly or partially within the site boundary.

43
44 Property owner lists used for the issuance of public notices must be based on the most the

1 most recent county tax assessment roll and the applicant will be required to provide updated
2 property owner information prior to the determination of completion. To avoid the duplication
3 of work, the applicant may omit specific property owner information from the preliminary
4 Application for Site Certificate but must still include a list of all tax lots within the notification
5 area described above. The list should be accompanied by legible maps that clearly identify tax
6 lot identification numbers as well as adjacent road names. In addition to incorporating the list in
7 the application, the applicant must submit the list to the Department in Excel Workbook (.xlsx)
8 or comma-separated values (.csv) format.

9
10 The applicant must submit updated property owner lists as requested by the Department to
11 ensure that all public notices issued use the most recent tax assessment roll.

12
13 **(g) Exhibit G – Materials Analysis**

14 **Applicable Paragraphs:** All paragraphs apply.

15 **Related Council and Other Standards:** General Standard of Review [OAR 345-022-0000]; Soil
16 Protection [OAR 345-022-0022]

17 **Discussion:** Exhibit G must include a materials analysis including an inventory of substantial
18 quantities of industrial materials flowing into and out of the proposed facility during
19 construction and operation; the applicant's plans to manage hazardous substances during
20 construction and operation, including measures to prevent and contain spills; and the
21 applicant's plans to manage non-hazardous waste materials during construction and operation.
22 Exhibit G must identify any proposed fuel storage areas, vehicle maintenance areas, or other
23 areas that will be utilized for activities that could store hazardous materials.

24
25 **(h) Exhibit H – Geologic and Soil Stability**

26 **Applicable Paragraphs:** All paragraphs apply

27 **Related Council and Other Standards:** Structural Standard [OAR 345-022-0020]

28 **Discussion:** Exhibit H must include Information regarding the geological and soil stability within
29 the analysis area. The contents of Exhibit H must be based on a consultation with the Oregon
30 Department of Geology and Mineral Industries regarding the appropriate methodology and
31 scope of the seismic hazards and geology and soil-related hazards assessments, the
32 appropriate geotechnical work that must be performed at the site, and the guidelines for
33 preparing the geologic report for the application required under OAR 345-021-0010(1)(h)(A).
34 Under OAR 345-021-0010(1)(h)(B), Exhibit H must include a summary of this consultation.

35
36 Under OAR 345-021-0010(1)(h)(A), (E), and (F), Exhibit H must include a geologic report
37 meeting the Oregon State Board of Geologist Examiners geologic report guidelines and an
38 assessment of seismic hazards and appropriate mitigation consistent with the
39 recommendations made by DOGAMI during the consultation and the requirements of the rule.

40
41 Under OAR 345-021-0010(1)(h)(C) and (D), exhibit H must provide a description and schedule
42 of site-specific geotechnical work that will be performed before construction activities begin at
43 the site, and a description of any locations where the applicant proposes to perform site
44 specific geotechnical work associated with facility collector lines or overhead transmission

1 lines.

2
3 **(i) Exhibit I – Soils**

4 **Applicable Paragraphs:** All paragraphs apply.

5 **Related Council and Other Standards:** Soil Protection [OAR 345-022-0022]

6 **Discussion:** Exhibit I must include information from reasonably available sources regarding soil
7 conditions and uses in the analysis area.

8
9 Under OAR 345-021-0010(1)(i)(A) and (B), Exhibit I must identify the major soil types within the
10 study area and include a description of current and historical (if distinct from current) land uses
11 that require or depend on productive soils. If applicant utilizes NRCS web-soil survey data to
12 evaluate wind and water erosion potential at the proposed facility site, Exhibit I shall include
13 accurate references and hyperlinks to source data.

14
15 Under OAR 345-021-0010(1)(i)(C) through (E), Exhibit I must identify and assess potential
16 adverse impacts of construction and operation of the proposed facility, including impacts such
17 as erosion, soil compaction, and any impacts from liquid effluent associated with panel washing
18 or other maintenance activities, on soils in the analysis area, including potential impacts to soils
19 on adjacent properties.

20
21 Exhibit I must also describe any measures the applicant proposes to avoid or mitigate adverse
22 impacts to soils to soils during construction and operation of the proposed facility and any
23 proposed monitoring program. For cultivated or arable lands, Exhibit I should contain sufficient
24 evidence to demonstrate that temporary disturbances during construction or maintenance
25 activities will not result in long-term losses of productivity. Any mitigation activities for
26 permanent disturbance areas should also be described in Exhibit X. If the applicant will rely
27 upon an erosion and sediment control plan to meet the Soil Protection Standard a draft of that
28 plan must be included in the application.

29
30 The applicant can cross-reference any applicable information related to the federally delegated
31 NPDES 1200-C permit application. Please note that an erosion and sediment control plan that
32 meets the NPDES 1200-C requirements may not necessarily be sufficient to meet the EFSC Soil
33 Protection standard. See Section III(e), *Exhibit E – Permits*, for additional discussion of federally-
34 delegated permits.

35
36 **(j) Exhibit J – Waters of the State and Removal-Fill**

37 **Applicable Paragraphs:** All paragraphs apply.

38 **Related Council and Other Standards:** General Standard of Review [OAR 345-022-0000];
39 Removal of Material, Filling [ORS 196.795-.990]; Administrative Rules Governing the Issuance
40 and Enforcement of Removal-Fill Authorizations Within Waters of Oregon Including Wetlands
41 [OAR chapter 141, division 085]

42 **Discussion:** Exhibit J must include information based on literature and field study, as
43 appropriate, about waters of this state, as defined under ORS 196.800.

1 Under OAR 345-021-0010(1)(j)(A), Exhibit J must include a description of all areas within the
2 site boundary that might be waters of the state and a map(s) showing the location of these
3 features. Based on information in the NOI, ODOE understands that there are several
4 intermittent streams within the site boundary.

5
6 Under OAR 345-021-0010(1)(j)(B), (C), and (F), Exhibit J must describe whether construction or
7 operation of the proposed facility could result in potential adverse impacts to any of these
8 streams or other waters of the state, assess the significance of those impacts, and describe
9 proposed actions to avoid or mitigate adverse impacts and the applicant's proposed monitoring
10 program, if any, for such impacts. If impacts to waters of the state cannot be avoided, Exhibit J
11 must describe the amount and type of material that could be deposited or removed from any
12 waters of the state, consistent with the requirements of OAR 141-085-0525, and any other
13 information needed to determine whether a removal-fill permit is required under OAR chapter
14 141, division 085.

15
16 Under OAR 345-021-0010(1)(j)(D) and (E), Exhibit J must include an analysis of whether or not a
17 removal-fill permit is required. If a removal-fill permit is necessary for the proposed facility, the
18 Exhibit J must include all information required for the Council to make a decision on the
19 removal-fill permit application. Wetland delineation reports and removal-fill permit application
20 materials can be sent directly by the applicant to DSL; however, all materials as well as DSL's
21 concurrence with the wetland delineation must also be submitted to the Department as part of
22 Exhibit J. The Department will work closely with DSL in review of the removal-fill permit
23 application, if applicable. If a removal-fill permit is necessary for the proposed facility, a DSL
24 draft removal-fill permit with draft conditions, must be submitted to the Department by DSL to
25 be included as an attachment to the draft proposed order. For EFSC-jurisdictional facilities,
26 authorization of a removal-fill permit is an EFSC decision; should a permit be issued, the
27 Department and DSL would maintain dual responsibility for compliance with any associated
28 permit conditions. See Section III(e), *Exhibit E – Permits*, for additional discussion of state
29 permits.

30
31 **(k) Exhibit K – Land Use**

32 **Applicable Paragraphs:** (A) and (C).

33 **Related Council and Other Standards:** Land Use [OAR 345-022-0030]

34 **Discussion:** Exhibit K must include information about the proposed facility's compliance with
35 the statewide planning goals adopted by the Land Conservation and Development Commission,
36 providing evidence to support a finding by the Council as required by OAR 345-022-0030.

37
38 Under OAR 345-021-0010(1)(k)(A), Exhibit K must include a map showing the comprehensive
39 plan designations and land use zones in the analysis area. Based on information provided in the
40 NOI, the Department understands that with the exception of the Naval Weapons Systems
41 Training Facility Boardman, the analysis area is entirely within the Exclusive Farm Use Zone in
42 Morrow County.

43
44 Exhibit K must state the Applicant's election to either obtain local land use approval under ORS

1 469.504(1)(a) or to obtain a Council determination under ORS 469.504(1)(b). In the NOI, the
 2 Applicant indicated that it intends to satisfy the Council’s land use standard, OAR 345-022-
 3 0030, by seeking a Council determination under ORS 469.504(1)(b). Assuming the applicant has
 4 not changed its election OAR 345-021-0010(1)(k)(B) does not apply to the application. Note that
 5 once the election is made in the ASC, it is final.

6
 7 The Morrow County Board of Commissioners is the Special Advisory Group for the Echo Solar
 8 Project.⁶ The Board of Commissioners appointed the Morrow County Planning Director as the
 9 appropriate contact for the review of the Application in their comments on the Notice of Intent
 10 dated July 27, 2022.

11
 12 Under OAR 345-021-0010(1)(k)(C), the applicant must identify all applicable substantive criteria
 13 from the Morrow County Comprehensive Plan and any land use regulations adopted by
 14 Morrow County that are required by the statewide planning goals and that are in effect on the
 15 date the application is submitted.

16
 17 In its comment letter on the NOI dated July 27, 2022, Morrow County recommended the
 18 policies, ordinances and land use regulations shown in Table 3 below as applicable substantive
 19 criteria.

20
 21 **Table 3. Applicable Substantive Criteria**

Morrow County Comprehensive Plan
Citizen Involvement Policies General Land Use Policies Agricultural Lands Policies Economic Policies Housing Policies Public Facilities and Services Policies Energy Policies
Morrow County Zoning Ordinance (As updated July 5, 2017)
<p><u>Article 3</u></p> <ul style="list-style-type: none"> • Section 3.010 Exclusive Farm Use Zone <ul style="list-style-type: none"> ○ Section 3.010(B)(24) and (25) and (D)(9) and (10): Utility facility service lines and utility facilities necessary for public service. ○ Section 3.010(N) Transportation Impacts ○ Section 3.010(C)(24) and (K)(3) commercial photovoltaic solar power generation facilities

⁶ Energy Facility Siting Council Order Appointing the Morrow County Board of Commissioners as a Special Advisory Group in the Matter of the Application for a Site Certificate for the Proposed Echo Solar Project, June 28, 2022.

<p><u>Article 4 Supplementary Procedures</u></p> <ul style="list-style-type: none"> • Section 4.165 Site Plan Review • Section 4.170 Site Development Review <p><u>Article 6 Conditional Uses</u></p> <ul style="list-style-type: none"> • Section 6.020 General Criteria • Section 6.025 Resource Zones Standards for Approval (same as ORS 215.296) • Section 6.030 General Conditions • Section 6.040 Permit and Improvements
<p>Morrow County Subdivision Ordinance (As updated November 7, 2001)</p> <ul style="list-style-type: none"> • As applicable if subdivisions or partitions are proposed.
<p>Morrow County 2012 Transportation System Plan (as updated July 1, 2017)</p> <ul style="list-style-type: none"> • Chapter 6 Transportation System Plan • Appendix C Traffic Impact Analysis Guidelines Road Use Agreement (Sample to be provided by Morrow County Planning Department)
<p>Morrow County Public Works Policy on Renewable Energy Development</p> <ul style="list-style-type: none"> • As applicable for road impacts, mitigation, and upgrades.
<p>Morrow County Solid Waste Ordinance</p> <ul style="list-style-type: none"> • Section 5.000 Public Responsibilities
<p>Morrow County Code Enforcement Ordinance (as updated July 5, 2021)⁷</p> <ul style="list-style-type: none"> • Section 5.400 Compliance with Zoning and Subdivision Ordinances • Section 8 Noise as a Public Nuisance • Section 10 Environmental Health • Section 11. Weed Control
<p>Morrow County Multi-Jurisdictional Natural Hazard Mitigation Plan (2016)</p> <ul style="list-style-type: none"> • Information should be reviewed in preparing Exhibit H, K and V, and U

1
2 Exhibit K must discuss each applicable substantive criteria listed in Table 3 and must
3 demonstrate how the proposed facility complies with those criteria. If the proposed facility will
4 not comply with one or more of the applicable substantive criteria, the applicant must
5 demonstrate that the proposed facility nevertheless complies with the applicable statewide
6 planning goals or that an exception to a goal is justified under ORS 469.504(2) and OAR 345-
7 022-0030(4).

⁷ Applicant is responsible for ensuring compliance with all sections.

1 Exhibit K shall also provide evidence that the proposed facility would comply with any directly-
2 applicable Land Conservation and Development Commission (LCDC) administrative rules and
3 statutory requirements related to the proposed facility, including ORS 215.243, 215.274,
4 215.283, 215.296, and specifically including all requirements regarding the location of the
5 proposed facility within the EFU zone. Exhibit K shall provide evidence that the proposed facility
6 would comply with the applicable administrative rules at OAR 660-033-0130(38) related to
7 development of solar power generation facilities, as well as rules related to associated
8 transmission lines to energy generating facilities. As part of the evaluation of compliance with
9 OAR 660-033-0130(38), Exhibit K must include evidence that demonstrates that the proposed
10 facility will not make it more difficult for existing farms and ranches in the area extending one
11 mile from the center of project to continue operation due to diminished opportunities to
12 expand, purchase or lease farmland, acquire water rights, or diminish the number of tracts or
13 acreage in farm use in a manner that will destabilize the overall character of the study area.

14
15 The proposed facility also requires an exception to Statewide Planning Goal 3 (Agricultural
16 Lands). The Council's goal exception process is described at ORS 469.504(2) and OAR 345-022-
17 0030(4). Because the land within the site is not physically developed or irrevocably committed
18 to non-agricultural use ORS 469.504(2)(a) and (b) are not applicable to the proposed facility and
19 Exhibit K must be evaluated whether or not each of the standards listed under ORS 469.504(2)(c)
20 are met:

- 21 • Reasons justify why the state policy embodied in the applicable goal should not apply
- 22 • The significant environmental, economic, social and energy consequences anticipated as
23 a result of the proposed facility have been identified and adverse impacts will be
24 mitigated in accordance with rules of the council applicable to the siting of the proposed
25 facility
- 26 • The proposed facility is compatible with other adjacent uses or will be made compatible
27 through measures designed to reduce adverse impacts

28
29 Exhibit K must clearly demonstrate that all three standards are met and must provide site-
30 specific evidence to support the evaluation. Evaluation of significant impacts to agriculture
31 should include relevant information about specific uses and historic agricultural production on
32 properties within and adjacent to the proposed facility, including agricultural revenue and
33 number of workers employed for agricultural activities on the impacted land. Reasons that
34 support a local economic benefit should provide specific and detailed information about how
35 the proposed facility would provide economic benefits which differ from any other type of
36 development. The applicant should address comments by reviewing agencies, the SAG, and
37 stakeholder groups about impacts to agriculture in the context of the Goal 3 exception request.
38 See Section III(e), *Exhibit E – Permits*, for additional discussion of local permits.

39
40 **(I) Exhibit L – Protected Areas**

41 **Applicable Paragraphs:** All paragraphs apply.

42 **Related Council and Other Standards:** Protected Areas [OAR 345-022-0040]

43 **Discussion:** As shown in Table 4 below, Exhibit J of the NOI identifies 10 protected areas within
44 the 20-mile study area for protected areas. Five of the ten protected areas are more than 12

1 miles from the proposed facility site and are separated from the proposed facility site by major
 2 roads (Interstate 84 and State Highways 74 and 207) and other infrastructure development,
 3 including energy facility development. Based on distance, topography, and intervening
 4 development, the Department recommends that the proposed facility is not likely to result in
 5 significant adverse impacts to these protected areas. Accordingly, the Department is
 6 establishing an analysis area of 12 miles for impacts to protected areas. ASC Exhibit L must
 7 include information about the proposed facility’s impact on the remaining five protected areas
 8 in the modified analysis area.

9

10 **Table 4: Protected Areas within 20-miles of proposed facility site⁸**

Type	Area Name	Approx. Distance to Site Boundary (Miles)	Direction from Facility	Evaluation Required in Exhibit L.
(d) National and State Wildlife Refuges	Umatilla National Wildlife Refuge	14.7	Northwest	No
(f) Fish Hatcheries	Irrigon Hatchery	18.7	North	No
	Umatilla Hatchery	19.9	North	No
(i) State Natural Heritage Areas	Lindsay Prairie Preserve	1.3	West	Yes
(m) Agricultural Experimental Stations	Oregon State University Agriculture Research and Extension Center, Hermiston	17.7	Northeast	No
(o) Bureau of Land Management Areas of Critical Environmental Concern	Oregon Trail Area of Critical Environmental Concern, Echo Meadows	11.5	Northeast	Yes
(o) Bureau of Land Management Research Natural Areas and Outstanding Natural Areas	Boardman Research Natural Area	3.7	Northwest	Yes
	Boardman/Willow Creek Natural Area	6.1	Northwest	Yes
(p) State Wildlife Areas and Management Areas (per OAR 635, Div. 8)	Columbia Basin-Irrigon ODFW Wildlife Refuge	18.6	North	No
	Columbia Basin-Coyote Springs ODFW Wildlife Refuge	14.2	North	No

11

12 Under OAR 345-021-0010(1)(L)(A) and (B), Exhibit L must include a list and map of the
 13 protected areas within the analysis area showing the distance and direction from the proposed
 14 facility. If any additional protected areas in the analysis area are identified during the
 15 development of the ASC or if the site boundary is amended, the table and map must be
 16 updated accordingly.

17

18 Under OAR 345-021-0010(1)(L)(C), Exhibit L must include a description of significant potential
 19 impacts of the proposed facility, if any, on the protected areas including, but not limited to,
 20 potential impacts such as:

21

- Noise resulting from facility construction or operation.
- Increased traffic resulting from facility construction or operation.

22

⁸ Table adapted from NOI Table J-2.

- 1 • Water use during facility construction or operation.
- 2 • Wastewater disposal resulting from facility construction or operation.
- 3 • Visual impacts of facility structures.
- 4 • Visual impacts from air emissions resulting from facility construction or operation.

5
6 Note that a visual impact assessment is required as part of Exhibit L. While no specific
7 methodology is required, the applicant must submit sufficient evidence to demonstrate how
8 the proposed facility would comply with the Recreation standard. The applicant should consider
9 the extent of impacts and prior Council evaluations when designing the impact assessment
10 methodology. Visual simulations or other visual representations are not required but can
11 provide important evidence for use by the Department and Council in understanding the
12 potential visual impact of the proposed facility to Protected Areas.

13
14 Please note that compliance with the DEQ noise rules does not correlate to compliance with
15 the noise assessment considered in the Protected Areas standard. Particularly, while
16 construction noise is exempt from the DEQ noise rules, construction noise must be considered
17 under the Protected Areas standard. However, information developed to demonstrate
18 compliance with the DEQ noise rules (such as noise modeling) included in Exhibit Y can be used
19 in the assessment under the Protected Areas standard.

20
21 If the applicant becomes aware of any potential significant impacts to the identified Protected
22 Areas other than those described above, including impacts to wildlife or wildlife habitat in the
23 protected areas, the impacts must be disclosed and evaluated in Exhibit L.

24
25 **(m) Exhibit M – Financial Capability**

26 **Applicable Paragraphs:** All paragraphs apply.

27 **Related Council and Other Standards:** Retirement and Financial Assurance [OAR 345-022-0050]

28 **Discussion:** Exhibit M must include information about the applicant’s financial capability and
29 should include basic information about the applicant’s financial condition. The applicant is not
30 included to provide information or records protected from public disclosure by any provision of
31 state or federal law.

32
33 Under OAR 345-021-0010(1)(m)(A), Exhibit M must include an opinion or opinions from legal
34 counsel stating that, to counsel's best knowledge, the applicant has the legal authority to
35 construct and operate the facility without violating its bond indenture provisions, articles of
36 incorporation, common stock covenants, or similar agreements.

37
38 Under OAR 345-021-0010(1)(m)(B) and (C), Exhibit M must include the type and amount of the
39 applicant’s proposed bond or letter of credit. The proposed amount should be based on the
40 information provided under Exhibit X, and the applicant must explain any discrepancies
41 between the proposed bond amount and the retirement estimate. If the applicant would like to
42 reserve the option to construct the facility in phases, the applicant must provide sufficient
43 detail in Exhibit X to allow the Council to determine an appropriate bond or letter of credit
44 amount based on phase.

1 Exhibit M evidence that the applicant has a reasonable likelihood of obtaining the proposed
2 bond or letter of credit from a reputable financial institution in that amount before beginning
3 construction of the facility. If applicant chooses to provide a comfort letter from a financial
4 institution as evidence to support Council’s review of this requirement, the letter should refer
5 to the applicant, be on letterhead, and accurately reference, at a minimum, the dollar amount
6 (in relevant quarter and year) of the estimated decommissioning amount.

7
8 **(n) Exhibit N – Non-Generating Facility Need**

9 **Applicable Paragraphs:** OAR 345-021-0010(1)(n) does not apply because the proposed facility is
10 a generating facility. Exhibit N is not required.

11
12 **(o) Exhibit O – Water Use**

13 **Applicable Paragraphs:** All paragraphs apply except (D).

14 **Related Council and Other Standards:** General Standard of Review [OAR 345-022-0000]; OAR
15 690, Divisions 310 and 380 (Water Resources Department permitting requirements)

16 **Discussion:** Exhibit O must include information about anticipated water use during construction
17 and operation of the proposed facility.

18
19 Under OAR 345-021-0010(1)(o)(A) through (C) and (G), Exhibit O must include a description of
20 how water will be used during construction and operation of the proposed facility, and must
21 describe each source of water and the estimated amount of water the facility will need from
22 each source during construction and during operation under annual average and worst-case
23 conditions, and a description of proposed actions to mitigate the adverse impacts of water use
24 on affected resources.

25
26 Under OAR 345-021-0010(1)(o) E) and (F), Exhibit O must provide an evaluation of whether or
27 not the proposed facility would need a groundwater permit, surface water permit or a water
28 right transfer. If the proposed facility would need a groundwater permit, a surface water permit
29 or a water right transfer, Exhibit O information to support a determination by the Council that
30 the Water Resources Department should issue the permit or transfer of a water use, including
31 information in the form required by the Water Resources Department under OAR Chapter 690,
32 Divisions 310 and 380. See Section III(e) Exhibit E – *Permits*, for a discussion of OWRD permits
33 and Section III(u) – *Public Services*, for information requirements related to water service
34 providers.

35
36 **(p) Exhibit P – Fish and Wildlife Habitat**

37 **Applicable Paragraphs:** All paragraphs apply.

38 **Related Council and Other Standards:** Fish and Wildlife Habitat [OAR 345-022-0060]

39 **Discussion:** Exhibit P must include Information about fish and wildlife habitat and the species
40 that could be affected by the proposed facility, providing evidence to support a finding by the
41 Council that the design, construction, and operation of the facility, taking into account
42 mitigation, are consistent with the general fish and wildlife habitat mitigation goals and
43 standards of OAR 635-415-0025(1) through (6) in effect as of February 24, 2017. The applicant
44 must consult with the Oregon Department of Fish and Wildlife (ODFW) in developing the

1 materials for Exhibit P.

2

3 The Oregon Fish and Wildlife Habitat Mitigation Policy under OAR Chapter 635, Division 415
4 classifies six habitat categories and establishes a mitigation goal for each category. Under OAR
5 345-021-0010(1)(p)(B) and (C), Exhibit P must identify all fish and wildlife habitat in the analysis
6 area, classified by both vegetation class and habitat category as set forth in OAR 635-415-0025
7 and describe the characteristics and condition of that habitat in sufficient detail to justify the
8 categorizations. The habitat classification is subject to the Department and ODFW review.
9 Exhibit P must include maps and a table of the areas of permanent disturbance and temporary
10 disturbance (in acres) in each habitat category and subtype.

11

12 Under OAR 345-021-0010(1)(p)(A) through (E), Exhibit P must include a description of biological
13 and botanical surveys performed that support the habitat categorization and other information
14 in Exhibit P, including a discussion of the proposed timing and scope of each survey.

15

16 The applicant must conduct surveys for raptor nests within one quarter mile of all proposed
17 disturbance areas. The applicant should also provide information on how it will avoid or
18 minimize and monitor impacts to raptors and other avian species, including curtailing
19 construction activities within one quarter mile of active raptor nests during the nesting season.

20

21 Under OAR 345-021-0010(D), based on consultation with the ODFW and appropriate field study
22 and literature review, Exhibit P must identify all state sensitive species that might be present in
23 the analysis area and a discussion of any site-specific issues of concern to ODFW. Based on
24 comments from ODFW. Initial comments from ODFW indicate that burrowing owls, loggerhead
25 shrikes, long billed curlews, white-tailed jack rabbits, grasshopper sparrows, and sage sparrows
26 may occur in the analysis area. Exhibit P must include baseline surveys in appropriate habitats
27 for these species, and any other identified state sensitive species within the analysis area and
28 must provide a map showing the locations of the different species and habitats with respect to
29 the proposed activities. If state sensitive species, or suitable habitat for state sensitive species,
30 are identified within the analysis area that could be adversely affected as a result of the
31 proposed facility, the applicant shall include a description of the nature, extent, and duration of
32 potential adverse impacts and a description of any proposed mitigation measures, consistent
33 with the Exhibit P requirements, the EFSC Fish and Wildlife Habitat standard, and the ODFW
34 Habitat Mitigation Policy.

35

36 Exhibit P must show how it would comply with the habitat mitigation goals and standards by
37 appropriate monitoring and mitigation, including measures proposed by the applicant to avoid,
38 reduce, or otherwise mitigate adverse impacts to habitat and state sensitive species. This
39 information must also be incorporated into a draft Revegetation and Noxious Weed Control
40 Plan, a draft Habitat Mitigation Plan, and a draft Post Construction Monitoring Plan, which
41 should be included as attachments to Exhibit P.

42

43 The draft Revegetation and Noxious Weed Control Plan and associated information in Exhibit P
44 must describe how the areas that are temporarily disturbed during construction or operation of

1 the facility will be rehabilitated and returned to their pre-construction functionality. The plan
2 should clearly describe draft success criteria for revegetation activities and describe the
3 monitoring program that will be used to ensure those criteria are met.

4
5 The draft Habitat Mitigation Plan and associated information in Exhibit P must clearly
6 demonstrate how the applicant will provide mitigation for both short- and long-term habitat
7 impacts in accordance with the ODFW Habitat Mitigation Policy. This includes identifying the
8 location of a specific habitat mitigation area that could be used to provide in-kind, in-proximity
9 mitigation for any impacts to Category 1 to 4 Habitat, as well as ecological uplift mitigation
10 actions that could be implemented at the habitat mitigation area to provide the appropriate
11 mitigation.

12
13 The Habitat Mitigation Plan must include results of a desktop or field-level survey assessing the
14 habitat categories of the habitat mitigation area and must describe the legal mechanism or
15 mechanisms proposed for acquiring the legal right to maintain and enhance the habitat
16 mitigation area. The Habitat Mitigation Plan must include draft success criteria for the proposed
17 ecological uplift actions and describe a process for evaluating monitoring and reference site
18 locations, prior to construction.

19
20 The post construction monitoring plan for the project should provide for, at a minimum,
21 monitoring of all known raptor nest sites in the project area for the life of the project and two
22 years of post-construction fatality monitoring to determine fatality effects of solar projects on
23 avian species using the airspace above and around the proposed project.

24
25 **(q) Exhibit Q – Threatened and Endangered Species**

26 **Applicable Paragraphs:** All paragraphs apply.

27 **Related Council and Other Standards:** Threatened and Endangered Species [OAR 345-022-
28 0070]

29 **Discussion:** Exhibit Q must include information about threatened and endangered plant and
30 animal species that may be affected by the proposed facility, providing evidence to support a
31 finding by the Council as required by OAR 345-022-0070.

32
33 Under OAR 345-021-0010(1)(q)(A) through (G), Exhibit Q must include a list of all threatened
34 and endangered species listed in OAR 635-100-0125 or 603-073-0070 that have the potential to
35 occur in the analysis area. The applicant shall identify these species based on a review of
36 literature, consultation with knowledgeable individuals, and reference to the list of species
37 maintained by the Oregon Biodiversity Information Center. For each species identified, Exhibit
38 Q must describe the nature, extent, locations, and timing of its occurrence in the analysis area;
39 how the facility might adversely affect the species; what measures the applicant proposes to
40 avoid or reduce and adverse impact; and the applicant’s proposed monitoring program for
41 impacts.

42
43 For each threatened and endangered plant species, Exhibit Q must describe how the proposed
44 facility, including any mitigation measures, complies with the protection and conservation

1 program adopted by the Oregon Department of Agriculture (ODA), or if there is no protection
2 and conservation program in place for an identified threatened or endangered plant species,
3 describe any significant potential impacts the proposed facility may have on the continued
4 existence of the species and on the critical habitat of such species, and must provide evidence
5 that the proposed facility, including any mitigation measures, is not likely to cause a significant
6 reduction in the likelihood of survival or recovery of the species.

7
8 For each threatened and endangered animal species, Exhibit Q must describe any significant
9 potential impacts of the proposed facility on the continued existence of such species and on the
10 critical habitat of such species, and must provide evidence that the proposed facility, including
11 any mitigation measures, is not likely to cause a significant reduction in the likelihood of
12 survival or recovery of the species.

13
14 Field surveys for any threatened and endangered species that may occur within the analysis
15 area are required within or near suitable habitat that will be disturbed during construction and
16 operation of the proposed facility. The applicant must consult with ODFW and ODA's Native
17 Plant Conservation Program regarding appropriate field survey methods, survey areas, survey
18 seasons, qualifications of field survey personnel, and the information to be included in a field
19 survey report.

20
21 Surveys that will be required for the proposed facility, include, but are not limited to, surveys
22 for Washington Ground Squirrel in any suitable habitat within 1,000 feet of all proposed ground
23 disturbing activities. If Washington Ground Squirrel colonies or occupied habitats are identified
24 during surveys, Exhibit Q must include information about how the applicant proposes to avoid
25 impacts to Washington Ground Squirrel and must provide a plan for monitoring colonies for the
26 life of the facility. Any information about monitoring and mitigating impacts to threatened or
27 endangered species should be incorporated into the Revegetation and Noxious Weed Control
28 Plan, draft Habitat Mitigation Plan, and draft Post Construction Monitoring Plan included in
29 Exhibit P, as appropriate.

30
31 **(r) Exhibit R – Scenic Resources**

32 **Applicable Paragraphs:** All paragraphs apply.

33 **Related Council and Other Standards:** Scenic Resources [OAR 345-022-0080]

34 **Discussion:** Exhibit R must include an analysis of potential significant visual impacts of the
35 proposed facility on scenic resources identified as significant or important in local land use
36 plans, tribal land management plans and federal land management plans for any lands located
37 within the analysis area. For the purposes of Exhibit R, "local" land use plans include state,
38 county, and city planning documents or inventories.

39
40 As identified in the NOI, the Wells Spring Segment of the Oregon National Historic Trail and the
41 Wells Spring Interpretive Site are within the ten-mile study area for scenic resources. The
42 applicant must also evaluate visual impacts to these resources under Exhibit T and may refer to
43 that evaluation in Exhibit R.

1 The NOI also identifies the Blue Mountain Scenic Byway as a potentially affected scenic
2 resource. The Blue Mountain Scenic Byway includes the portion of State Highway 74 that
3 travels through Lone, Lexington, and Heppner. If the applicant’s visual impacts assessment for
4 other exhibits shows that the proposed facility would not be visible from the portion State
5 Highway 74 that is within the ten-mile study area for scenic resources, no further analysis is
6 required under Exhibit R.

7
8 **(s) Exhibit S – Historic, Cultural and Archaeological Resources**

9 **Applicable Paragraphs:** All paragraphs apply.

10 **Related Council and Other Standards:** Historic, Cultural, and Archaeological Resources [OAR
11 345-022-0090]

12 **Discussion:** Exhibit S must include information about historic, cultural, and archaeological
13 resources. As described under OAR 345-022-0090(2), the Council may issue a site certificate for
14 a facility that would produce power from solar energy without making the findings required
15 under OAR 345-022-0090(1); however, the applicant must still provide sufficient information
16 for the Council to determine whether conditions of approval to ensure compliance with the
17 Standard are appropriate.

18
19 Information concerning the location of archaeological sites or objects may be exempt from
20 public disclosure under ORS 192.345(11). Such information, including archaeological survey
21 reports, should be provided confidentially under separate cover in **hard copy only** format, and
22 only after consultation with the Department. Confidential material shall also be provided
23 directly to SHPO, following guidance from the Department and SHPO. Please contact the
24 Department to discuss current practices regarding treatment and submittal of confidential
25 material.

26
27 According to comments on the NOI provided by SHPO and the Confederated Tribes of the
28 Umatilla Indian Reservation, there are previously identified archaeological objects or sites, or
29 Native American cairn, burial, human remains, sacred objects and objects of cultural patrimony
30 in or adjacent to the proposed site boundary. Accordingly, , the Department is extending the
31 analysis area for visual and noise impacts to aboveground historic and cultural resources to the
32 area within and extending 2 miles from the site boundary. The applicant must consult with
33 SHPO to determine the appropriate methods for historic property and cultural resource surveys
34 and other measures that are needed to locate, identify, and assess historic, cultural, and
35 archaeological resources, including archaeological sites and objects as defined in ORS 358.905,
36 to provide sufficient evidence to support the findings required by OAR 345-022-0090. The
37 Department expects that the level of analysis within the 2-mile indirect analysis area may vary
38 based on the potential for impacts and a viewshed and/or noise analysis may be used to inform
39 the extent of literature review and field work that is required for particular areas.

40
41 As described under OAR 345-021-0010(1)(s)(D)(i) to (iii), Exhibit S must describe survey
42 methodology, survey areas, and the results of all surveys conducted for historic, cultural, and
43 archaeological resources as well as an analysis of any significant adverse impacts anticipated
44 and proposed mitigation measures.

1 Under OAR 345-021-0010(1)(s)(A) through (C), Exhibit S must include an inventory of all historic
2 properties discovered in the analysis area, including any archaeological sites or objects on
3 private land in the analysis area and archaeological sites on public land in the analysis area.
4 Exhibit S must include an evaluation of whether the historic properties have been listed on, or
5 would likely be listed on, the National Register of Historic Places, based on an evaluation of the
6 National Register Evaluation Criteria as described in National Register Bulletin 15.⁹

7
8 Under OAR 345-021-0010(1)(s)(D), Exhibit S must also include an impact assessment, and
9 proposed measures to avoid or mitigate potential impacts to historic, cultural, or archaeological
10 resources that have been listed on, or would likely be listed on the National Register of Historic
11 Places.

12
13 Under OAR 345-021-0010(1)(s)(E), Exhibit S must include the applicant’s proposed monitoring
14 program, if any, for impacts to historic, cultural, and archaeological resources during
15 construction and operation of the proposed facility, including a program to address inadvertent
16 discovery of resources during ground disturbing activities at the site.

17
18 The Applicant is strongly encouraged to discuss the proposed facility with the potentially
19 affected tribes identified by the Legislative Commission on Indian Services, including the Burns
20 Paiute Tribe, Confederated Tribes of the Warm Springs, and the Confederated Tribes of the
21 Umatilla Indian Reservation.

22
23 **(t) Exhibit T – Recreation**

24 **Applicable Paragraphs:** All paragraphs apply.

25 **Related Council and Other Standards:** Recreation [OAR 345-022-0100]

26 **Discussion:** Exhibit T must include information about the impacts the proposed facility would
27 have on important recreational opportunities. As identified in the NOI, the Wells Spring
28 Segment of the Oregon National Historic Trail and the Wells Spring Interpretive Site are within
29 the five-mile study area for recreation resources. No other recreational opportunities have
30 been identified, or are known by the Department to exist, in the study area for recreational
31 opportunities.

32
33 Under OAR 345-021-0010(1)(t)(A), Exhibit T must include a description of recreational
34 opportunities in the analysis area, and information identifying whether or not the opportunity
35 is considered “important” under OAR 345-022-0100.

36
37 The Council has previously determined that the Wells Spring Segment and Interpretive Site are
38 important recreational resources.¹⁰ Unless the applicant disagrees with this determination, an
39 evaluation of the factors under OAR 345-022-0100(1) is not required for Exhibit T.

40
41 Under OAR 345-021-0010(1)(t)(B) and (C), and (E), Exhibit T must include a description of any

⁹ Available from: <https://www.nps.gov/subjects/nationalregister/publications.htm>

¹⁰ See Final Order on the Application for Site Certificate for the Wheatridge Wind Energy Facility; April 2017.

1 potential significant adverse impacts to the Wells Spring Segment of the Oregon National
2 Historic Trail and the Wells Spring Interpretive Site, and a description of measures the applicant
3 proposes to avoid, reduce, or otherwise mitigate and monitor those impacts. Impacts that must
4 be evaluated in Exhibit T include:

- 5
- 6 • Direct or indirect loss of a recreational opportunity as a result of facility construction or
7 operation.
- 8 • Noise resulting from facility construction or operation.
- 9 • Increased traffic resulting from facility construction or operation.
- 10 • Visual impacts of facility structures.
- 11

12 Note that a visual impact assessment is required as part of Exhibit T. While no specific
13 methodology is required, the applicant must submit sufficient evidence to demonstrate how
14 the proposed facility would comply with the Recreation standard. The applicant should consider
15 the extent of impacts and prior Council evaluations when designing the impact assessment
16 methodology. Visual simulations or other visual representations are not required but can
17 provide important evidence for use by the Department and Council in understanding the
18 potential visual impact of the proposed facility to important recreational opportunities.

19

20 Compliance with the DEQ noise rules (Exhibit X) does not correlate to compliance with the
21 noise assessment considered in the Recreation standard. Particularly, while construction noise
22 is exempt from the DEQ noise rules, construction noise must be considered under the
23 Recreation standard. However, information developed to demonstrate compliance with the
24 DEQ noise rules such as noise modeling can be used in the assessment under the Recreation
25 standard.

26

27 If the applicant becomes aware of any potentially significant impacts to the identified
28 recreational opportunities other than those described above, the impacts must be disclosed
29 and evaluated in Exhibit T.

30

31 **(u) Exhibit U – Public Services**

32 **Applicable Paragraphs:** All paragraphs apply.

33 **Related Council and Other Standards:** Public Services [OAR 345-022-0110]

34 **Discussion:** Exhibit U must include information on how the construction and operation of the
35 proposed facility will impact public services. Exhibit U must include sufficient evidence to
36 support a finding by the Council that construction and operation of the proposed facility, taking
37 into account mitigation, are not likely to result in significant adverse impact to the ability of
38 public and private service providers to provide sewers and sewage treatment, water, storm
39 water drainage, solid waste management, housing, traffic safety, police and fire protection,
40 health care and schools. As described in the Public Services standard at OAR 345-022-0110(2),
41 the Council may issue a site certificate for a facility that would produce power from solar
42 energy without making the findings of the Public Services standard at OAR 345-022-0110(1),
43 though the Council may apply the requirements of OAR 345-022-0110(1) to impose conditions
44 on a site certificate issued for such a facility.

1 The Town of Lexington is partially inside the 10-mile study area for impacts to public services,
2 but based on comments from Lexington Town Council Member Katie Imes, the Town of
3 Lexington has limited housing and temporary accommodations and residents of the Town rely
4 on transportation routes that may be affected by the construction and operation of the
5 proposed facility for access to healthcare and other services. In comments on the NOI from the
6 Morrow County Board of Commissioners dated July 27, 2022, the County recommended that, in
7 addition to the Town of Lexington, the Cities of Lone, Heppner and Boardman may also be
8 affected by the construction and operation of the proposed facility, and by demands on public
9 services from temporary workers. Based on the rural nature of the proposed facility location
10 and potential for impacts to local communities across a larger geographic area, the Department
11 is establishing an analysis area that includes the area within and extending 15 miles from the
12 site certificate and including the Town of Lexington and Cities of Lone, Heppner, and
13 Boardman.

14
15 Under OAR 345-021-0010(1)(u)(A) through (D), Exhibit U must include an analysis identifying
16 the public and private service providers in the analysis area that would likely be affected by
17 construction and operation of the proposed facility, a description of any likely impacts on the
18 ability of the service providers to provide their respective services, and evidence that any
19 adverse impacts, taking into account any mitigation proposed by the applicant, are not likely to
20 be significant. The analysis must describe any important assumptions the applicant used to
21 evaluate potential impacts. Mitigation may include funding for equipment or capital
22 improvements, training, or other actions intended to increase the capacity of public service
23 providers.

24
25 The applicant may include information developed in support of Exhibit V in its evaluation of
26 impacts to fire protection providers, an evaluation of any potential impacts that may affect
27 responders to structural fires at the proposed facility, including but not limited to fires involving
28 Battery Energy Storage Systems or electrical equipment at the site should also be included as
29 part of Exhibit U.

30
31 In evaluating impacts to traffic safety, Exhibit U must contain sufficient evidence to
32 demonstrate that the construction and operation of the proposed facility will not result in
33 significant safety impacts to drivers along State Highway 207. Impacts that must be evaluated
34 should include the impacts of vehicles entering and exiting the site during construction and the
35 potential for glint or glare from solar modules and other surfaces during operation. Exhibit U
36 should also evaluate whether any significant traffic delays will occur and whether or not these
37 delays could affect ambulance services or other emergency responders. In addition, Exhibit U
38 must evaluate the impacts that the construction and operation of the proposed facility will
39 have on local aviation resources, including the Lexington Airport and the West Butter Creek
40 Airport, sufficient to demonstrate compliance with OAR chapter 738, division 070.

41
42 Exhibit U must evaluate the impact that the temporary and permanent workforce will have on
43 housing in the analysis area, including the availability of hotels, RV parks, and other temporary
44 accommodations. This evaluation must assume that 100 percent of the temporary construction

1 workforce will require temporary accommodations unless the applicant can provide evidence
2 to demonstrate the availability of local workers or can provide evidence of a local hiring
3 program.

4
5 In addition to the analysis described above, the applicant is encouraged to obtain letters from
6 local public services providers to demonstrate that the proposed facility would not cause a
7 significant adverse impact on their ability to provide their respective services. Including:

- 8
- 9 • Local fire department,
- 10 • Police department,
- 11 • Public works department,
- 12 • Sewer and sewage treatment providers,
- 13 • Water service providers
- 14 • Solid waste providers

15
16 Letters obtained from public service providers include analysis indicating that their level of
17 service would not be impacted. For instance, letters obtained from water service providers
18 should include an evaluation of permit limits, permit or water right numbers, type of water use,
19 and historical demand to demonstrate that it can meet proposed facility needs. Letters from
20 fire service providers should explain how resources used by the facility, in the event of a fire-
21 related issue, would not impact their ability to provide fire emergency response, rather than a
22 conclusory statement without supporting analysis demonstrating a clear understanding of the
23 facility. Letters from public works departments should demonstrate an understanding of
24 proposed facility road use, including maximum number of vehicle miles travelled and vehicle
25 weight, and confirmation of whether the use would impact local roads.

26
27 Under OAR 345-021-0010(1)(u)(E), Exhibit U must include the applicant's proposed monitoring
28 program, if any, for impacts to public services.

29
30 **(v) Exhibit V – Wildfire Prevention and Risk Mitigation**

31 **Applicable Paragraphs:** All paragraphs apply

32 **Related Council and Other Standards:** Wildfire Prevention and Risk Mitigation [OAR 345-022-
33 0115]

34 **Discussion:** Exhibit V must include information about wildfire risk within the analysis area
35 sufficient to support the Council findings required under OAR 345-022-0115. This must include
36 a characterization of wildfire risk within the analysis area that identifies each of the following:

- 37
- 38 • Baseline wildfire risk, based on factors that are expected to remain fixed for multiple
39 years, including but not limited to topography, vegetation, existing infrastructure, and
40 climate.
- 41 • Seasonal wildfire risk, based on factors that are expected to remain fixed for multiple
42 months but may be dynamic throughout the year, including but not limited to,
43 cumulative precipitation and fuel moisture content.

- 1 • Areas subject to a heightened risk of wildfire, based on the Baseline and Seasonal risk
2 information.
- 3 • High-fire consequence areas, including but not limited to areas containing residences,
4 critical infrastructure, recreation opportunities, timber and agricultural resources, and
5 fire-sensitive wildlife habitat.

6
7 The characterization must also describe all data sources and methods used to model and
8 identify risks. The applicant may select data sources and methods as appropriate for the site,
9 but all data must be current and from reputable sources.

10
11 Exhibit V must also include a draft Wildfire Mitigation Plan for the proposed facility.¹¹ The
12 Wildfire Mitigation Plan must, at a minimum:

- 13 • Identify areas within the site boundary that are subject to a heightened risk of wildfire,
14 using current data from reputable sources, and discuss data and methods used in the
15 analysis.
- 16 • Describe the procedures, standards, and time frames that the applicant will use to
17 inspect facility components and manage vegetation in any identified areas of
18 heightened risk of wildfire.
- 19 • Identify preventative actions and programs that the applicant will carry out to minimize
20 the risk of facility components causing wildfire, including procedures that will be used to
21 adjust operations during periods of heightened wildfire risk. This should include a
22 discussion of the use of defensible space, fire hardened infrastructure, and power
23 shutoff protocols, as applicable.
- 24 • Identify procedures to minimize risks to public health and safety, the health and safety
25 of responders, and damages to resources protected by Council standards in the event
26 that a wildfire occurs at the facility site, regardless of ignition source. This should
27 include:
 - 28 ○ A description of who will respond to wildfires at the site and a plan for ensuring
29 responders are aware of sensitive resources that should be avoided during fire
30 suppression activities.
 - 31 ○ A description and maps of access and egress options for wildfire responders and
32 emergency vehicles to enter and exit the site in a fire emergency.
 - 33 ○ Information about whether any specialized equipment or training will be needed
34 to respond to fire events at the site involving solar arrays, battery systems, or
35 other facility components.
- 36 • Describe methods the applicant will use to ensure that updates of the plan incorporate
37 best practices and emerging technologies to minimize and mitigate wildfire risk.

38
39
40
41

¹¹ The requirements for the draft Wildfire Prevention Plan also reflect information requested to be included by the Oregon Department of Forestry in their July 18, 2022, comment letter.

1 **(w) Exhibit W – Solid Waste and Wastewater**

2 **Applicable Paragraphs:** All paragraphs apply

3 **Related Council and Other Standards:** Waste Minimization [OAR 345-022-0120]; Public Services
4 [OAR 345-022-0110]

5 **Discussion:** Exhibit W must describe the applicant's plans to minimize the generation of solid
6 waste and wastewater and to recycle or reuse solid waste and wastewater, providing evidence
7 to support findings by the Council under OAR 345-022-0120. As provided in OAR 345-022-
8 0120(2), the Council may issue a site certificate for a facility that would produce power from
9 solar energy without making the findings required by OAR 345-022-0120(1); however, the
10 applicant must still provide sufficient evidence in Exhibit W for the Council to determine
11 whether conditions of approval are needed to ensure that waste generation will be minimized.

12
13 Under OAR 345-021-0010(1)(w)(A), (B), and (D), Exhibit W must include a description of the
14 major types and amount of solid waste and wastewater that construction, operation, and
15 retirement of the facility are likely to generate; the structures, systems, and equipment for
16 management and disposal of the wastes, including any plans to minimize, recycle or reuse the
17 wastes. This should include a discussion of whether or not the applicant has plans in place to
18 recycle solar modules or other facility components.

19
20 Under OAR 345-021-0010(1)(w)(C), Exhibit W must include a discussion of any actions or
21 restrictions proposed by the applicant to reduce consumptive water use during construction
22 and operation of the facility. This includes water needed for operation and maintenance of the
23 facility and should include a discussion of wastewater and runoff generated from panel
24 washing.

25
26 Under OAR 345-021-0010(1)(w)(E) and (F), Exhibit W must include a description of any adverse
27 impact on surrounding and adjacent areas from the accumulation, storage, disposal and
28 transportation of solid waste, wastewater and stormwater during construction and operation of
29 the facility and evidence that those impacts, taking into account any account any measures the
30 applicant proposes to avoid, reduce, or otherwise mitigate the impacts, will be minimal.

31
32 Under OAR 345-021-0010(1)(w)(G), Exhibit W must include the applicant's proposed monitoring
33 program, if any, for minimization of solid waste and wastewater impacts.

34
35 The applicant is encouraged to reference information provided under other exhibits, including
36 but not limited Exhibits O and U, in the development of this exhibit.

37
38 **(x) Exhibit X – Facility Retirement**

39 **Applicable Paragraphs:** All paragraphs apply.

40 **Related Council and Other Standards:** Retirement and Financial Assurance [OAR 345-022-0050]

41 **Discussion:** Exhibit X must provide information about site restoration, providing evidence to
42 support a finding that the site can be restored adequately to a useful, non-hazardous condition
43 following permanent cessation of construction or operation of the facility.

44 Under OAR 345-021-0010(1)(x)(A) and (B), this information must include the estimated useful

1 life of the proposed facility and a description of the specific actions and tasks to restore the site
 2 to a useful, non-hazardous condition.

3
 4 Under OAR 345-021-0010(1)(x)(C) and (D), Exhibit X must also include an estimate, in current
 5 dollars, of the total and unit costs of restoring the site to a useful, non-hazardous condition and
 6 a discussion and justification of the methods and assumptions used in preparing the estimate.
 7 The estimate should include sufficient detail to identify costs associated with individual tasks
 8 and units.

9
 10 Under 345-021-0010(1)(x)(E), Exhibit X must include a proposed monitoring plan for any
 11 potential site contamination by hazardous materials, including oils or fuels used or stored on
 12 site, such as periodic environmental site assessment and reporting. If the applicant believes no
 13 monitoring for soil contamination is necessary, Exhibit X must provide evidence to support this
 14 position.

15
 16 **(y) Exhibit Y – Noise**

17 **Applicable Paragraphs:** All paragraphs apply.

18 **Related Council and Other Standards:** General Standard of Review [OAR 345-022-0000]; DEQ
 19 Noise Control Regulations [ORS 467.020 and ORS 467.030; OAR 340, Division 35]

20 **Discussion:** Exhibit Y must include information about noise generated by construction and
 21 operation of the proposed facility, providing evidence to support a finding by the Council that
 22 the proposed facility complies with the Oregon Department of Environmental Quality’s noise
 23 control standards in OAR 340-035-0035.

24
 25 Under OAR 345-021-0010(1)(y)(A), Exhibit Y must include predicted noise levels from all
 26 potential noise-generating components of the facility including, but limited to the solar
 27 photovoltaic modules and trackers, cabling, inverters, transformers, transmission lines and
 28 switchgears.

29
 30 Under OAR 345-021-0010(1)(y)(B), Exhibit Y must include an analysis of demonstrating that the
 31 predicted noise levels will not exceed the ambient antidegradation standards established under
 32 OAR 340-035-0035. Noise generated by the facility may not increase the ambient statistical
 33 noise levels, L10 or L50, by more than 10 dBA in any one hour, and may not exceed the levels
 34 specified in Table 5 below.

35
 36 **Table 5. New Industrial and Commercial Noise Source Standards Allowable**
 37 **Statistical Noise Levels in Any One Hour (OAR 340-035-0035, Table 8)**

7:00 a.m. – 10:00 p.m.	10:00 p.m. – 7:00 a.m.
L50 – 55 dBA	L50 – 50 dBA
L10 – 60 dBA	L10 – 55 dBA
L1 – 75 dBA	L1 – 60 dBA

38

1 The Analysis must include a discussion and justification of the methods and assumptions used,
2 including methods used to measure ambient noise levels at the site. OAR 340-035-0035(3)
3 provides that sound measurement procedures must conform to the procedures set forth in
4 Sound Measurement Procedures Manual (NPCS-1).¹² If the applicant's sound measurement
5 procedures differ from the NPCS-1, please provide a discussion and basis for the variation. The
6 analysis must evaluate noise impacts using the maximum expected noise levels from all noise-
7 generating equipment during construction and operation. Operational noise shall be evaluated
8 from both stationary sources and corona noise from transmission lines.

9
10 Under OAR 345-021-0010(1)(y)(E), Exhibit Y must include a list of the names and addresses of
11 all owners of all dwellings or other noise sensitive properties within one mile of the proposed
12 site boundary; however, if the applicant determines potential exceedances of the ambient
13 antidegradation standards may occur beyond the 1-mile distance, impacts to noise sensitive
14 properties within the area of potential exceedance must be evaluated. The applicant is not
15 required to conduct ambient noise monitoring at each noise sensitive property; however, the
16 number of ambient monitoring sites shall be sufficient to reasonably represent the ambient
17 noise conditions at noise sensitive receptor locations in closest proximity to the proposed site.

18
19 Under OAR 345-021-0010(1)(y)(C) and (D), Exhibit Y must describe any measures the applicant
20 proposes to reduce noise levels or noise impacts or to address public complaints about noise
21 from the facility and any measures the applicant proposes to monitor noise generated by
22 operation of the facility. This information must be provided regardless of whether or not any
23 exceedances of the ambient antidegradation standards are expected.

24
25 **(z) Exhibit Z – Cooling Tower Impacts**

26 **Applicable Paragraphs:** OAR 345-021-0010(1)(z) does not apply because the applicant has not
27 proposed to construct an evaporative cooling tower in relation to the proposed facility.

28
29 **(aa) Exhibit AA – Electric and Magnetic Fields**

30 **Applicable Paragraphs:** All paragraphs apply.

31 **Related Council and Other Standards:** Specific Standards for Transmission Lines [OAR 345-024-
32 0090].

33 **Discussion:** Because the proposed facility would include transmission lines as a related and
34 supporting facilities, the provisions of OAR 345-021-0010(1)(aa) and OAR 345-024-0090 apply.
35 For the purposes of this exhibit, all

36
37 Exhibit AA must include sufficient information to support a finding that the applicant:

- 38
39
 - Can design, construct, and operate the proposed transmission lines so that alternating
40 current electric fields do not exceed 9 kV per meter at one meter above the ground
41 surface in areas accessible to the public.
 - Can design, construct, and operate the proposed transmission line so that induced

¹² Available from the Department upon request.

1 currents resulting from the transmission lines will be as low as reasonably achievable.

2
3 This must include the information about the expected electric and magnetic fields from each
4 transmission line required under OAR 345-021-0010(1)(aa)(A), and information about any radio
5 interference likely to be caused by the transmission line in the primary reception area near
6 State Highway 207.

7
8 **(bb) Exhibit BB – Other Information**

9 **Related Council Standard:** General Standard of Review [OAR 345-022-0000]

10 **Discussion:** No additional information is requested at this time

11
12 **(cc) Exhibit CC – Other Law**

13 **Related Council Standard:** General Standard of Review [OAR 345-022-0000]

14 **Discussion:** All requirements apply.

15 (cc) Exhibit CC. Identification, by legal citation, of all state statutes and administrative rules and
16 local government ordinances containing standards or criteria that the proposed facility must
17 meet for the Council to issue a site certificate, other than statutes, rules and ordinances
18 identified in Exhibit E, and identification of the agencies administering those statutes,
19 administrative rules, and ordinances. The applicant must identify all statutes, administrative
20 rules, and ordinances that the applicant knows to be applicable to the proposed facility,
21 whether or not identified in the project order. To the extent not addressed by other materials
22 in the application, the applicant must include a discussion of how the proposed facility meets
23 the requirements of the applicable statutes, administrative rules, and ordinances.

24
25 **(dd) Exhibit DD – Specific Standards**

26 **Applicable Paragraphs:** Paragraph (C) applies.

27 **Related Council and Other Standards:** Specific Standards for Transmission Lines [OAR 345-024-
28 0090].

29 **Discussion:** The Council applies specific standards for transmission lines under its jurisdiction in
30 OAR 345-024-0090. The applicant must provide analysis regarding compliance with OAR 345-
31 024-0090 in Exhibit AA.

32
33 **IV. ANALYSIS AREAS FOR THE PROPOSED FACILITY**

34 The analysis areas are the areas that the applicant must study for potential impacts from the
35 construction and operation of the proposed facility. **Please Note:** If significant impacts
36 associated with the applicable Council standards¹³ could occur beyond the analysis areas
37 described here, then the applicant must assess those impacts in the ASC and show how the
38 facility would comply with the applicable standard with regard to the larger area where impacts
39 could occur.

40
41 For all potential impacts, the analysis area includes all the area within the site boundary. The

¹³ OAR 345-022-0080 - Scenic Resources, OAR 345-022-0100 – Recreation, and OAR 345-022-0110 - Public Services directly reference the analysis area as described in the Project Order.

1 minimum required analysis areas are presented in Table 3.
 2

Table 6: Analysis Areas

Affected Standard or Resource	Exhibit	Analysis Area
Structural Standard	H	The area within the site boundary, notwithstanding the distances related to an assessment of seismic hazards required by OAR 345-021-0010(1)(h).
Soil Protection	I	The area within the site boundary.
Wetlands	J	The area within the site boundary.
Land Use	K	The area within and extending 0.5 mile from the site boundary.
Protected Areas	L	The area within and extending 12 miles from the site boundary.
Fish and Wildlife Habitat	P	The area within and extending 0.5 mile from the site boundary.
Threatened and Endangered Species	Q	The area within and extending 5 miles from the site boundary.
Scenic Resources	R	Not Required (Analysis of visual impacts to Wells Spring Segment of Oregon Trail required under Exhibit T)
Historic, Cultural and Archaeological Resources	S	For direct impacts to archeologic sites and objects, the area within the site boundary. For indirect impacts to aboveground resources, including Traditional Cultural Properties or Historic Properties of Religions and Cultural Significance to Indian Tribes, the area within and extending 2 miles from the site boundary.
Recreation	T	The area within and extending 5 miles from the site boundary.
Public Services	U	The area within and extending 15 miles from the site boundary, including the Cities of Lone, Heppner, and Boardman and the Town of Lexington.
Noise Control Regulation	X	The area within and extending 1-mile from the site boundary.
<p>Notes:</p> <p>1. The applicant should note that analysis areas defined in this Project Order are to be used for the assessment of impacts to the associated resource. The applicant is not required to perform comprehensive field surveys of the entire analysis area if another method of impact assessment is suitable. However, the Department reserves the right to require field surveys if it is determined that a different method of analysis is insufficient to provide the level of information necessary to find the application complete. It is recommended that the Department be consulted if the applicant wishes to propose alternative methods of analysis than field surveys.</p>		

3
 4

1 **V. EXPIRATION DATE OF THE NOTICE OF INTENT**

2 The NOI will expire on May 10, 2024, unless the Applicant submits a petition to extend the
3 expiration date in accordance with OAR 345-020-0060 not less than 45 days before that date. If
4 the Council finds that such a petition shows good cause, the Council may extend the expiration
5 date for a period of up to one year. The applicant's submission of a timely petition for an
6 extension under this rule stays the expiration of the NOI until the Council's decision to grant or
7 deny the extension.

8
9 **VI. PROJECT ORDER AMENDMENT AND APPLICATION COMPLETENESS**

10 As provided in ORS 469.330(4) and OAR 345-015-0160(3), the Council or the Department may
11 amend this Project Order at any time. Amendment may include changes to the analysis areas.
12 To issue a site certificate, the Council must determine that the proposed facility complies with
13 Oregon statutes and administrative rules identified in the Project Order, as amended, as
14 applicable to the issuance of a site certificate for the proposed facility (ORS 469.503(3)).

15
16 Under OAR 345-015-0190(5), when the Department determines the ASC contains adequate
17 information for the Council to make findings or impose conditions on all applicable Council
18 standards, the Department will issue a determination of completeness on the ASC. The
19 Department may determine that the ASC is complete without requiring the applicant to submit
20 all information described under OAR 345-021-0000 and -0010. In accordance with OAR 345-
21 015-0190(9), after a determination that an ASC is complete, the Department may require
22 additional information from the applicant if additional information is needed during its
23 continued review of the ASC.

24
25 **VII. APPLICABILITY AND DUTY TO COMPLY**

26 Failure to include an applicable statute, rule, ordinance, permit or other requirement in this
27 Project Order does not render that statute, rule, ordinance, permit or other requirement
28 inapplicable, nor in any way relieve applicant from the duty to comply with the same.

29
30 **OREGON DEPARTMENT OF ENERGY**

31
32
33
34 *Todd Cornett*

35 Todd Cornett (Sep 26, 2022 16:09 PDT)

36

Todd R. Cornett, Assistant Director, Siting Division
37 Energy Facility Siting Division
38 Oregon Department of Energy

39
40 Date of Issuance: September 26, 2022

Attachment NOI Comments

From: [LAPP Thomas](#)
Sent: Monday, June 13, 2022 8:03 AM
To: [CLARK Christopher * ODOE](#)
Cc: [SIPP Craig A](#); [PENNINGER Teresa B](#); [BOYD David](#); [LANI Richard](#)
Subject: RE: Request for Agency Comments on Notice of Intent on Echo Solar Project in Morrow County

Mr. Clark,

For ODOT District 12 permitting concerns my comments are for utility permitting and for highway access to the proposed site. This highway section is within ODOT District 12 and I will be the contact for any utility crossings or longitudinal cable installations within the highway right of way, and for new approaches (driveways) or evaluation of existing driveways to the site.

Thanks,

Thomas Lapp
District 12 Permit Specialist
1327 SE 3rd Street
Pendleton, OR 97801
Ph (541)278-3450
Fax (541)276-5767



MEMORANDUM

Department of Fish and Wildlife
Wildlife Division
Intra Departmental

Date: June 13, 2022
To: Christopher Clark - Oregon Department of Energy
From: Steve Cherry – Wildlife Biologist
Subject: ODFW Comments on the Notice of Intent for the Echo Solar Project

Oregon Department of Energy (ODOE) has requested comments from the Oregon Department of Fish and Wildlife (ODFW) on the Notice of Intent for the Echo Solar Facility. This memo contains: (1) ODFW contact information for the project; and (2) ODFW's comments on the Application.

Contacts

Steve Cherry will be the main contact person for ODFW for the Energy Facility Siting Council (EFSC) permitting process and his contact information is: Steve Cherry, Wildlife Biologist, PO Box 363, Heppner, OR 97836. His phone number is (541) 676-5230. ODFW requests hard copies of project documents be sent to Steve Cherry.

General Comments

ODFW reviews and makes recommendations for the proposed project based on the following applicable Oregon Revised Statutes (ORS), Oregon Administrative Rules (OAR), and associated plans.

Applicable Statutes, Rules, and Plans

- Energy Facility Siting Council Siting Standards – Fish and Wildlife Habitat (OAR 345-022-0060)
This standard requires that the design, construction, and operation of a proposed facility (including mitigation) be consistent with the habitat mitigation goals and standards in OAR chapter 635, division 415. Oregon's Energy Facility Siting Council (EFSC) must determine whether the applicant has done appropriate site-specific studies to characterize the fish and wildlife habitat at the site and nearby. If impacts cannot be avoided, the applicant must provide a habitat mitigation plan. The plan must provide for appropriate mitigation measures, depending on the habitat categories affected by the proposed facility. The plan

may require setting aside and improving other land for fish and wildlife habitat to make up for the habitat removed by the facility.

- Energy Facility Siting Council Siting Standards – Threatened and Endangered Species (OAR 345-022-0070)
To issue a site certificate, EFSC must (after consultation with ODFW) determine that the design, construction and operation of the proposed facility, taking into account mitigation, are not likely to cause a significant reduction in the likelihood of survival or recovery of a species listed under the Oregon Endangered Species Act. This standard seeks to avoid harmful impacts to plant and animal species identified as threatened or endangered under state law. In practice, this means that the applicant must provide appropriate studies of the site to identify threatened or endangered species that the proposed facility could affect. ODFW determines the state-listed threatened or endangered wildlife species. If a potential risk to the survival or recovery of a threatened or endangered species exists, the applicant must redesign or relocate the facility to avoid that risk or propose appropriate mitigation measures.
- Wildlife Policy (ORS 496.012)
Establishes wildlife management policy to prevent serious depletion of any indigenous species and maintain all species of fish and wildlife at optimum levels for future generations.
- State Endangered Species Act (ORS 496.171-182)
Requires conservation and recovery of wildlife species that are classified as endangered or threatened. Authorizes ODFW to develop conservation and recovery plans for listed wildlife species. At ORS 498.026(1), prohibits “taking” of any listed species. Illegal take is a violation of the wildlife laws, subject to criminal prosecution as a Class A misdemeanor or violation pursuant to ORS 496.992.
- Prohibition of harassment, etc. of wildlife (ORS 498.006)
Prohibits chasing, harassment, molestation, worrying or disturbing any wildlife, except as the Fish and Wildlife Commission may allow by rule.
- Criminal penalties for wildlife violations (ORS 496.992)
Makes violation of any wildlife statute or Fish and Wildlife Commission rule subject to prosecution as a Class A misdemeanor or violation.
- Fish and Wildlife Habitat Mitigation Rule (OAR 635-415-0000-0025)
Governs ODFW’s provision of biological advice and recommendations concerning mitigation for losses of fish and wildlife habitat caused by development actions. Based on standards in the rule, ODFW determines the appropriate category to apply to land where a development action is proposed. If ODFW determines that such land is Category 1, ODFW must recommend that impacts to the habitat be avoided. If impacts cannot be avoided, ODFW must recommend against the development action. If ODFW determines that such land is Category 2, ODFW must recommend that impacts to the habitat be avoided. If impacts cannot be avoided, ODFW must recommend a high level of mitigation (as specified in more detail in the rule). If such mitigation is not required, ODFW must recommend against the development action.

- Wildlife Diversity Plan (OAR 635-100-0001 through 0030)
Establishes a plan to maintain Oregon's wildlife diversity by protecting and enhancing populations and habitats of native wildlife at self-sustaining levels throughout natural geographic ranges. Defines lists for state sensitive, threatened, and endangered species.
- Oregon Conservation Strategy (Adopted by Commission)
A blueprint for conservation of the state's native fish and wildlife and their habitats, the Strategy provides information on at-risk species and habitats, identifies key issues affecting them, and recommends actions. The Conservation Strategy emphasizes proactively conserving declining species and habitats to reduce the possibility of future federal or state listings.
- Oregon Plan for Salmon and Watersheds (ORS 541.405)
Establishes plan to restore native fish populations and the aquatic systems that support them to productive and sustainable levels that will provide environmental, cultural, and economic benefits.
- ODFW's Fish Passage Law (ORS 509.580 - 509.645)
Requires upstream and downstream passage at all artificial obstructions in those Oregon waters in which migratory native fish are currently or have historically been present.
- General Fish Management Goals (OAR 635-007-0510)
Establishes the goals that fish be managed to take full advantage of the productive capacity of natural habitats, and that ODFW address losses in fish productivity due to habitat degradation through habitat restoration.
- Native Fish Conservation Policy (OAR 635-007-0502-0535)
Protects and promotes natural production of indigenous fishes.
- Trout Management (OAR 635-500-0100-0120)
Requires maintenance of genetic diversity and integrity of wild trout stocks, and the protection, restoration, and enhancement of trout habitat.
- Oregon's Mule Deer Management Plan (OAR 635-190-0000-0030)
Establishes a plan to protect and enhance mule deer populations in Oregon to provide optimum balance among recreational uses, habitat availability, primary land uses, and other wildlife species.
- Oregon's Elk Management Plan (OAR 635-160-0000-0030)
Establishes a plan to protect and enhance elk populations in Oregon, to provide optimum recreational benefits to the public, and be compatible with habitat capability and primary land uses.
- Oregon's Wolf Conservation and Management Plan (OAR 635-110-0000-0040)
Establishes measures ODFW will take to conserve and manage the species. This includes actions that could be taken to protect livestock from wolf depredation and address human safety concerns.

- Recommendations for Greater Sage-Grouse Habitat Classification Under Oregon Department of Fish and Wildlife's Fish and Wildlife Habitat Mitigation Policy (OAR 635-140-0000)
This document provides policy direction, consistent recommendations, and supporting rationale to guide ODFW habitat mitigation recommendations associated with impacts to greater sage-grouse habitat from energy development, its associated infrastructure, or other industrial/commercial development.

General Comments

Comment 1

ODFW recommends the application include a map that shows the different vegetation classifications for the project area. The map should also include the habitat classified into habitat categories based on ODFW's Mitigation policy. Mapped vegetation classes will assist ODOE, ODFW, and the Applicant identify areas of potential wildlife occurrence across the project area.

Comment 2

ODFW recommends Washington ground squirrel surveys are completed in suitable habitat within 1,000 feet of all ground disturbing activities. These surveys will assist ODOE, ODFW and the Applicant identify occupied Washington ground squirrel habitats and work together to avoid any impacts to Washington ground squirrels in the project area.

Comment 3

ODFW recommends raptor nest surveys are completed within a quarter mile radius of the project area prior to construction. ODFW also recommends that no construction occur within one-quarter mile of active raptor nests during the nesting season.

Comment 4

ODFW recommends the Applicant surveys for any State Sensitive Species (Burrowing owls, Loggerhead shrikes, Long billed curlews, White-tailed jack rabbits, Grasshopper sparrows, and Sage sparrows) in appropriate habitats within the project area, and provide a map showing the locations of the different species with respect to the proposed activities.

Comment 5

ODFW recommends the application clearly detail a post construction monitoring plan for the project which includes: 1) monitoring of all known raptor nest sites in the project area for the life of the project. 2) Two years of post-construction fatality monitoring to determine fatality effects of solar projects on avian species using the airspace above and around the proposed project; and 3) monitoring of all known WGS colonies in the project area for the life of the project.

Comment 6

ODFW recommends that the application include a mitigation package which addresses the loss of habitat as a result of the construction of the proposed facility, operation of the facility, and any other loss of function due to maintenance of facilities. ODFW recommends the mitigation package include mitigation for both short- and long-term impacts. ODFW recommends consideration of acquisition through fee title and/or a conservation easement of proposed mitigation site to protect habitat to compensate for the habitat that is altered or degraded by the proposed project. ODFW recommends that the conservation easement include provisions for

monitoring as well as management activities including habitat improvement and potential wildlife surveys and/or research activities.

Comment 7

ODFW recommends the applicant include a vegetation plan as part of the application. The plan should outline how the areas that are temporarily disturbed will be rehabilitated and returned to their pre-construction functionality.

I appreciate the opportunity to comment on this Notice of Intent and look forward to working with ODOE and the Applicant on this project.



Oregon

Kate Brown, Governor

Department of Forestry

State Forester's Office
2600 State Street
Salem, OR 97310-0340
503-945-7200
FAX 503-945-7212
www.oregon.gov/ODF

July 18, 2022



To: Christopher Clark, Senior Siting Analyst, Oregon Department of Energy

Re: Comments on Notice of Intent to Apply for a Site Certificate for the Echo Solar Project in Morrow County.

The questions and comments below are regarding the policy of Chapter 477-Fire Protection of Forests & Vegetation. The protection from fire policy ORS 477.005(2)(a) states, "The need for a complete and coordinated forest protection system is acknowledged and the primary mission of the State Forestry Department in such a system is protecting forest resources, second only to saving lives. Structural protection, though indirect, shall not inhibit protection of forest resources." The Oregon Department of Forestry would recommend the project to address the following questions regarding wildfire prevention and suppression:

- Will there be a facility wildfire prevention plan including, defensible space, fire hardening infrastructure and power shutoffs?
- Access for wildfire responders & emergency vehicles with multiple egress options for workers to enter/exit in case of a fire emergency.
- Are there any additional or known wildfire risks or concerns associated with transmitting power through the Umatilla electric cooperative transmission line?
- Who will be responsible for wildfire suppression for this facility?

Thank you for the time,

Levi Hopkins
Wildfire Prevention & Policy Manager
503-949-3572



BOARD OF COMMISSIONERS

110 N Court St. • P.O. Box 788
Heppner, OR 97836
541-676-5613
www.co.morrow.or.us

Jim Doherty, Chair
Melissa Lindsay, Commissioner
Don Russell, Commissioner

July 27, 2022

Christopher M. Clark,
Senior Siting Analyst
Oregon Department of Energy
550 Capitol Street NE
Salem, OR 97301

RE: Request for Comments on the Notice of Intent
submitted by Tetra Tech Inc. for the proposed Echo
Solar Project in Morrow County.

Dear Mr. Clark:

Thank you for the opportunity to comment on the Notice of Intent and to provide the applicable substantive criteria for the Echo Solar Project. The Morrow County Board of Commissioners also acts as the Special Advisory Group (SAG) as appointed by the Energy Facility siting Council (EFSC). As requested in your May 26, 2022 letter, Morrow County provides a response in accordance with OAR 345-015-0120, below.

OAR 345-015-0120 standards are shown below in bold, followed by a response in standard font.

- (a) The name, address and telephone number of the agency contact person assigned to review the application.** The local contact person is Tamra Mabbott, Planning Director, tmabbott@co.morrow.or.us, (541) 922-3226 X 5505
- (b) Comments on aspects of the proposed facility that are within the particular responsibility or expertise of the reviewing agency.** Morrow County has responsibility for land use planning and regulation, county road maintenance, construction and access management, weed control and solid waste. As part of our land use review process, we coordinate with local, state and federal agencies.
- (c) Recommendations regarding the size and location of analysis area.** In Figure 4 (Analysis Area Boundaries), the analysis area includes the Town of Lexington. Morrow County recommends the study area be expanded to include the City of Ione and the Cities of Heppner and Boardman. Ione, Heppner and Boardman offer more services such as food, dining, hotel and RV camping and will likely be impacted. The project is located in a remote, rural area and based on experience with other renewable energy construction projects in Morrow County, all towns within a 30-mile area are impacted. Some of those impacts are positive, for example, additional commerce for grocery and lodging businesses. Some of the impacts have had negative impacts, for

example temporary construction workers occupying non-permitted camping areas which presents public health and fire and safety concerns.

Other analysis areas proposed appear to be adequate.

- (d) A list of studies that should be conducted to identify potential impacts of the proposed facility and mitigation measures.** Based on adopted Morrow County ordinances, policies and plans, we would require the following: wildlife and habitat studies; an analysis of current noxious and invasive weeds and a mitigation plan; Traffic Impact Analysis; a review of possible flood and other hazards; a cultural resource analysis of the lands; an assessment of socioeconomic impacts.
- (e) If the applicant has identified one or more proposed corridors in Exhibit D of the NOI as required by OAR 345-020-0011(1)(d), a discussion of the relative merits of the corridors described in the NOI and recommendations, if any, on the selection of a corridor;** Page 7 of the NOI claims the “facility will connect with the existing Umatilla Electric Cooperative (UEC) 230-kV BlueRidge Line...” However, it is not clear if the transmission will co-locate or require an additional line. Morrow County requests additional information about the transmission lines and their proposed locations. Additionally, where new transmission lines will be constructed as part of this solar facility, Morrow County requests that the transmission lines be permitted as part of this project in order to fully assess the impacts of the entire project, including the transmission lines.
- (f) A list of statutes, administrative rules and local government ordinances administered by the agency that might apply to construction or operation of the proposed facility and a description of any information needed for determining compliance.** Morrow County applicable ordinances include the following: Morrow County Comprehensive Plan, Morrow County Zoning Ordinance, Morrow County Subdivision Ordinance, Morrow County Transportation System Plan, Morrow County Public Works Policy on Renewable Energy Development, Morrow County Solid Waste Ordinance, Morrow County Code Enforcement Ordinance, Morrow County Weed Control Ordinance, and the Morrow County Natural Hazard Mitigation Plan. A detailed list is attached and is also accessible on the county website.
- (g) A list of any permits administered by the agency that might apply to construction or operation of the proposed facility and a description of any information needed for reviewing a permit application.**
Plan Amendment for Exception to Statewide Planning Goal 3
Conditional Use Permit (including Articles 3,4 and 6 standards)
Site Plan Review
Zoning Permit
Road Use Agreement (to be provided by county after completion of Traffic Analysis)
Access Permits (to all county roadways)
- (h) For tribes affected by the proposed facility, a list of tribal codes that the tribe recommends to the Council for its review of the**

application and specific information regarding the proposed facility or study areas described in the NOI that is necessary for determining compliance with those tribal codes.

Morrow County is not a tribal entity. This standard does not apply.

Thank you for your consideration of comments regarding the Notice of Intent submitted by Tetra Tech, Inc. for the Echo Solar Project in Morrow County.

If you have any comments or questions about this or the Ordinances, Plans and Policies referenced herein, please contact me at (541) 922-4624 X 5505, tmabbott@co.morrow.or.us or Eric Imes, Morrow County Public Works Director, eimes@co.morrow.or.us, (541) 989-8584.


Thank you for your outreach consideration of applicable Morrow County policies, standards, plans and regulations.

Sincerely,

MORROW COUNTY BOARD OF COMMISSIONERS



Jim Doherty, Chair



Melissa Lindsay, Commissioner



Don Russell, Commissioner

Applicable Plans, Ordinances, Policies, Morrow County

Morrow County Comprehensive Plan (MCCP)

- Citizen Involvement Policies
- General Land Use Policies
- Agricultural Lands Policies
- Economic Policies
- Housing Policies
- Public Facilities and Services Policies
- Energy Policies

<https://www.co.morrow.or.us/planning/page/comprehensive-plan>

Morrow County Zoning Ordinance (MCZO)

Article 3 Section 3.00 Exclusive Farm

Use Zone

- Section 3.010(B)24 and (25), 3.010 (D)(9) and D (10) utility facility service lines and utility facilities necessary for public service.

- Section 3.010(N) Transportation Impacts

Article 3.010(C)(24) solar facilities and (K)(3) commercial Facilities for Generating Power, Photovoltaic Solar Power Generation Facility.

Article 4 Supplementary Procedures (relative to access, parking and related measure)

- Section 4.165 Site Plan Review

- Section 4.170 Site

Development Review Article 6

Conditional Uses

- Section 6.020 General

- Criteria

- Section 6.025 Resource Zones Standards for Approval (same as ORS 215.296)

- Section 6.030 General

- Conditions

- Section 6.040 Permit and Improvements

Assurance

<https://www.co.morrow.or.us/planning/page/zoning-ordinance>

Oregon Revised Statutes and Oregon Administrative Rules

ORS 215.243 Agricultural Lands Policy

ORS 215.296 standards for approval of certain uses in EFU Zones

https://www.oregonlegislature.gov/bills_laws/ors/ors215.html

OAR 660-033-0130 (38) Standards for solar facilities.

<https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=3083>

OAR 660-004 Exception Process for Goal 3 Exception
<https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=3054>

Morrow County Transportation System Plan (TSP)
Chapter 6 Transportation System Plan Appendix D Traffic Impact Analysis Guidelines
Road Use Agreement (sample to be provided)
https://www.co.morrow.or.us/sites/default/files/fileattachments/planning/page/12211/tsp_complete_document.pdf

Morrow County Public Works Renewable Energy Project Development Policy
https://www.co.morrow.or.us/sites/default/files/fileattachments/public_works/page/1141/renewable_energy_development_policy_september2010.pdf

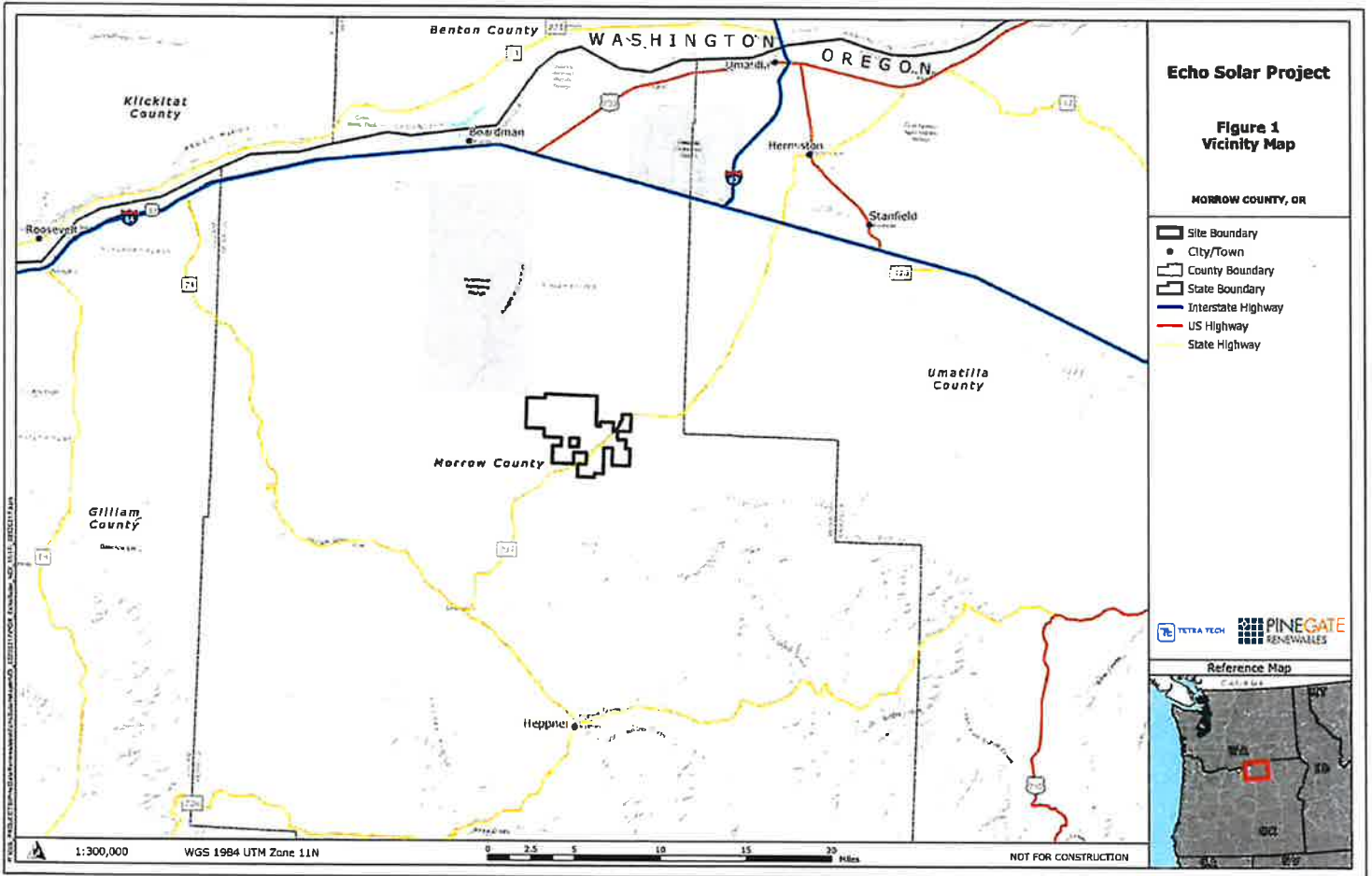
Morrow County Solid Waste Management Ordinance Section 5.000 Public Responsibilities
https://www.co.morrow.or.us/sites/default/files/fileattachments/public_works/page/2181/ordinance2008update-1.pdf

Morrow County Code Enforcement Ordinance
https://www.co.morrow.or.us/sites/default/files/fileattachments/planning/page/11881/2019_code_enforcement_final_.pdf

Morrow County Weed Control Ordinance
https://www.co.morrow.or.us/sites/default/files/fileattachments/public_works/page/2361/morrow_county_weed_ordinance.pdf

Morrow County Multi-Jurisdictional Natural Hazard Mitigation Plan
https://www.co.morrow.or.us/sites/default/files/fileattachments/planning/page/2451/nhmp_2016_-_final_adoption.pdf







Oregon
Kate Brown, Governor

Parks and Recreation Department
State Historic Preservation Office
725 Summer St NE Ste C
Salem, OR 97301-1266
Phone (503) 986-0690
Fax (503) 986-0793
www.oregonheritage.org



August 22, 2022

Mr. Christopher Clark
Oregon Dept of Energy
550 Capitol St. NE
Salem, OR 97301

RE: SHPO Case No. 22-1199
ODOE 87070, Echo Solar Project
10900 acre solar install
(1N 26E 1-5, 9-12, 14, 15) (2N 26E 27-36), Morrow County

Dear Mr. Clark:

Thank you for submitting information for the project referenced above. According to our records there are previously identified archaeological objects or sites (Oregon Revised Statute [ORS] 358.905), or Native American cairn, burial, human remains, sacred objects and objects of cultural patrimony (ORS 97.740-760) in or adjacent to the project area. Our office recommends a historic properties survey is undertaken prior to construction.

This recommendation is meant to assist with compliance of state law. Under ORS 358.920 and ORS 97.745, archaeological sites, objects and human remains are protected on both state public and private lands in Oregon.

A list of contractors can be found on the Association of Oregon Archaeologists website (www.oregonarchaeologists.com). This list includes qualified archaeologists in the state of Oregon. Some of these contractors have professional staff to address built-environment resources. For assistance in hiring a contractor, our office has published advice in Archaeology Bulletin 4 (<https://www.oregon.gov/oprd/OH/Documents/Bulletin4.pdf>).

If the project has a federal nexus (lands, funding, permitting, or oversight) coordinate with the lead federal agency to ensure compliance with Section 106 of the National Historic Preservation Act. If you have not already done so, be sure to consult with all appropriate Native American tribes regarding the proposed project. Additional consultation regarding this case must be sent through Go Digital. In order to help us track the project accurately, reference the SHPO case number above in all correspondence.

Please contact our office if you have any questions, comments or need additional assistance.

Sincerely,

Jamie French, M.A.
Assistant State Archaeologist
(503) 979-7580
Jamie.French@oprd.oregon.gov

cc: Linnea Fossum, Tetra Tech, Inc.



From: [FOOTE Hilary * DLCD](#)
Sent: Friday, August 26, 2022 2:36 PM
To: [CLARK Christopher * ODOE](#); [JININGS Jon * DLCD](#); [JOHNSON James * ODA](#)
Cc: [CORNETT Todd * ODOE](#); [ESTERSON Sarah * ODOE](#); [HOWARD Gordon * DLCD](#); [HERT Dawn * DLCD](#)
Subject: RE: Request for Agency Comments on Notice of Intent on Echo Solar Project in Morrow County

Categories: Tracked To Dynamics 365

Thank you for reaching out Chris.

DLCD does have concerns about this proposal and would like to offer the following comments:

- DLCD would like to see the farmland classification analysis as it relates to ORS 195.300(10). The property is in active farm use for dryland wheat cultivation. In reviewing the property on [OWRD's Water Right Information Search interactive map](#), it appears that the property has had irrigation rights for quite some time and has an active irrigation allocation this year. If that is the case, the land is appropriately classified as High Value Farmland under ORS 195.300(10)(a) and (c) given that the proposed project is located on soils that are prime if irrigated and have high value capability class under ORS 215.710 if irrigated, and the subject property appears to be a place of use associated with an irrigation water right.
- According to USDA NASS, 165,386 acres in Morrow County are in use for wheat cultivation and approximately 111,486 acres in Morrow county are irrigated. The subject property represents just under 10% of the land devoted to wheat cultivation in the County. We are concerned that the conversion of 10,000 acres of high-value farmland to solar development in Morrow represents a substantial portion of the cultivated land in the county has the potential to significantly impact the farming economy in the area. We would like to understand the history of agricultural use on the subject property and to see the potential impact of the removal of the subject property from agricultural use on the local agricultural economy addressed in the ESEE.
- Cumulatively, over 21,000 acres of farmland in Morrow County are either under review by the County and EFSC, or have been permitted for conversion to solar development. All but one of these projects have requested or obtained Goal exceptions to statewide planning Goal 3 as part of their application process because they cannot meet the renewable energy development standards established by the state to allow development and protect agricultural lands in conformance with the values articulated in the State's legislative Agricultural Lands Policy at ORS 215.243. For comparison, since 1987 just over 40,000 acres of farmland statewide has been rezoned through an exceptions or non-resource process or an Urban Growth Boundary expansion. It is notable that half the amount of land rezoned in the entire state over the last 35 years has been permitted or proposed for solar development through the exceptions process in Morrow County alone in just the past few years.

Thank you for considering these concerns and comments and we would be more than happy to discuss them further with ODOE staff if there are any questions.

Regards,



Hilary Foote

Farm/Forest Specialist | Community Services Division
Oregon Department of Land Conservation and Development
635 Capitol Street NE, Suite 150 | Salem, OR 97301-2540
Cell: 503-881-9249 hilary.foote@dlcd.oregon.gov | www.oregon.gov/LCD

From: CLARK Christopher * ODOE <Christopher.CLARK@energy.oregon.gov>
Sent: Monday, August 15, 2022 11:03 AM

Mayor: Juli Kennedy
Council: Bobbi Gordon
Council: Will Lemmon
Council: Bill Beard
Council: Katie Imes



Town of Lexington

425 F Street
PO Box 416
Lexington, OR 97839
Phone: 541-989-8515
Email: Lexington.oregon@gmail.com
Town Recorder: Veronica Hess

To: Christopher Clark, Senior Siting Analyst, Oregon Department of Energy
From: Katie Imes, Council Member, Town of Lexington, Oregon
Date: September 14, 2022
Re: Comments requested on Notice of Intent to Apply for a Site Certificate for the Echo Solar Project in Morrow County

Mr. Clark,

Thank you for your memorandum dated August 12, 2022, the Notice of Intent for the Echo Solar Project located approximately 15 miles northeast of Lexington. As your memorandum states, reviewing agencies play an important role in the review of the NOI by providing information about what resources could be affected siting, construction, and operation of the proposed facility. While the Town of Lexington does not have any relevant statutes, rules, or standards in place for large energy projects, I do think it important to point out a few challenges that we face with such projects.

1. This project may produce an influx of construction workers that require our hospitality which we welcome. Unfortunately, Lexington does not have an RV park or motel to accommodate this need.
2. Residents of Lexington drive Hwy 207 regularly to access many services and healthcare needs. When we drive through a large energy project, we can't help but think about the disconnect between large corporations and small rural communities.

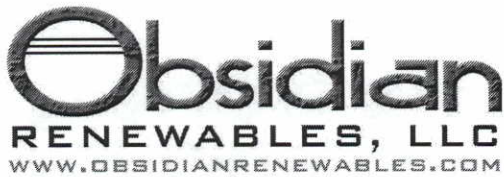
Considerations:

1. Public/Private partnership to improve our lodging needs
2. Community involvement to improve public support of large energy projects.

Katie Imes, Lexington Council Member
105 E. Arcade
Lexington, OR. 97839
503-475-9864

A handwritten signature in black ink that reads "Katie Imes". The signature is written in a cursive, flowing style.

Home of the Lexington Jack Rabbits!



July 26, 2022

Oregon Energy Facility Siting Council
via email

Subject: Echo Solar Project

Dear Commissioners of the Oregon Energy Facility Siting Council,

Obsidian Renewables, LLC is pleased to support the decision of Pine Gate Renewables to develop the Echo Solar project in Northeast Oregon. Obsidian is in a similar business as Pine Gate and has, as you know, direct experience with the Energy Facility Siting processes.

While the Pine Gate project is very large, many large solar projects are essential to meeting the established energy and climate goals set by the State of Oregon and by the federal government. Siting these projects in Oregon has enormous benefits for rural communities compared to siting these projects in other states and importing the electricity into Oregon. Bills get passed by the legislature, but implementation of the policies and success at reaching the goals requires entrepreneurial effort and investment by companies like Pine Gate, in this case under the supervision of EFSC.

I know your review will be careful and complete. I would also like to urge prompt. There is every reason to expect Pine Gate will develop a solid and responsible project.

Thank you for your consideration.

A handwritten signature in black ink that reads "David W. Brown". The signature is written in a cursive style with a long horizontal line extending from the start of the name.

David W. Brown
Principal

Hello, my name is Ken Grieb and this is my wife Carri. We represent ourselves and Grieb Farms as property owners in the proposed Echo Solar Project area and would like to make a statement in favor of the project.

I am a past Morrow County Commissioner and have participated in many meetings with big companies that have come to our area in the past. I know the benefits that these companies can bring to rural areas like ours. The jobs and extra funding for the schools and taxing districts in our County is very valuable. This project would bring both to Morrow County.

I remember several years ago when Governor Brown said that the area near our farm would be an energy corridor. It certainly seems that it is becoming that. Our property already has 3 natural gas pipelines that run through it. We also have 2.5 miles of a large powerline that services the Wheatridge wind and solar projects. The proposed Boardman to Hemingway Transmission line will go right through a part of our farm. The ground for the B2H line may possibly be taken without our consent by eminent domain if we can't reach reasonable terms with the developer. All of these projects have made it harder to operate because of lack of production in certain areas and having to change farming practices to accommodate others. As you can see, our farm already has a long history of supplying the energy needs of others.

I am the third generation to actively farm this ground that has been in my family since 1952. We are a dryland wheat farm of average size. In recent years it has become more difficult to produce a successful crop on our acreage as input costs continue to rise and we have seen fluctuating market prices. We are in an extremely low rainfall area which often leads to low crop yields. Many years we rely heavily on our crop insurance payments.

The proposed project will sit on very dry and marginal farm ground. We have to be careful with the soil when we work it so that we don't have a blowing dust problem when we get the big winds that often occur. As mentioned previously, the project will bring good jobs and money to the area during the construction phase. The additional money that it will bring to Morrow County when the negotiations take place and are finalized will do many great things for our area. A diversified economic base is critical to the future success of our County. We look forward to continuing to work with the developers involved with Echo Solar Project and hope that you move forward with it.

Thank you, Ken and Carri Grieb and Grieb Farms

From: [Peacher, Kimberly N CIV USN NAVFAC NW SVD WA.\(USA\)](#)
Sent: Friday, June 10, 2022 3:12 PM
To: [CLARK Christopher * ODOE](#)
Cc: [ESTERSON Sarah * ODOE](#); [CORNETT Todd * ODOE](#)
Subject: RE: Comments Requested on Notice of Intent for the Echo Solar Project by August 5

Hello Christopher,

Thank you for the project notice.

I did re-review the proposal based on the slightly revised footprint from when it was Bombing Range Solar. The project remains outside of military utilized airspace except for the lines coming out of the solar component which are already built and charted.

Let me know if you would like any additional information from the military for the files.

Thanks.

V/R,

Kimberly Peacher
Community Planning & Liaison Officer
Northwest Training Range Complex
(360) 930-4085