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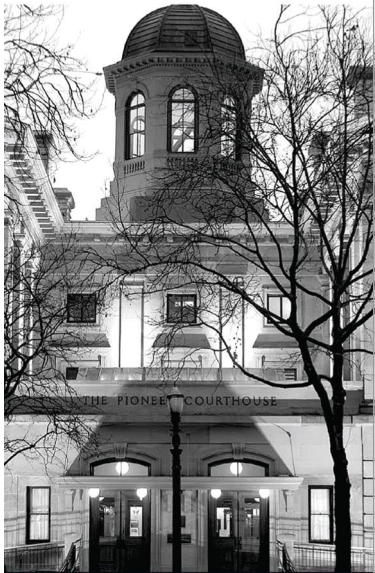
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**ENERGY FACILITY
SITING COUNCIL
PUBLIC HEARING COMMENTS**

**HELD ON
MONDAY, JULY 20, 2020**



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2	<p>1 ENERGY FACILITY</p> <p>2 SITING COUNCIL</p> <p>3 PUBLIC HEARING COMMENTS</p> <p>4 HELD ON</p> <p>5 MONDAY, JULY 20, 2020</p> <p>6</p> <p>7 MR. CORNETT: (Indiscernible)</p> <p>8 UNIDENTIFIED MALE SPEAKER:</p> <p>9 (Indiscernible).</p> <p>10 MR. CORNETT: (Indiscernible). So what</p> <p>11 we've done (indiscernible) is (indiscernible). And</p> <p>12 then please sit back a little bit from the mic</p> <p>13 (indiscernible).</p> <p>14 MS. TARDAEWETHER: Secretary Cornett, did</p> <p>15 you just -- oh, yeah, I think that if folks maybe</p> <p>16 sit back a little bit from the mic and, if they're</p> <p>17 comfortable, took off the mask, that might be a</p> <p>18 little bit easier to understand.</p> <p>19 We also do want to remind folks that this</p> <p>20 is also being recorded in the room and -- and that</p> <p>21 the recordings are -- are available.</p> <p>22 So anyhow, let's just -- thank you for</p> <p>23 your patience, and we will proceed.</p> <p>24 CHAIRMAN JENKINS: Thank you, Ms.</p> <p>25 Tardaewether.</p>	4
3	<p>1 Okay. Please state your first and last</p> <p>2 name, and spell them both.</p> <p>3 MR. SHUMWAY: Carl Shumway, S -- C-a-r-l</p> <p>4 S-h-u-m-w-a-y, P.O. Box 3, Christmas Valley.</p> <p>5 I'm opposed to any approval that includes</p> <p>6 battery houses without, first, our elected officials</p> <p>7 explaining battery houses and (indiscernible) in the</p> <p>8 area where the development takes place.</p> <p>9 Also, I'm disappointed that the process</p> <p>10 (indiscernible) reviewed or (indiscernible) largest</p> <p>11 monetarily development in the county's history</p> <p>12 without full disclosure of what the solar farm will</p> <p>13 do when completed. (Indiscernible) know that</p> <p>14 without being able to first view (indiscernible).</p> <p>15 And with that said, I think Obsidian has</p> <p>16 missed a great opportunity (indiscernible) the</p> <p>17 concerns by not making this paperwork available.</p> <p>18 (Indiscernible) is correct. (Indiscernible) failed</p> <p>19 in this planning process for Obsidian.</p> <p>20 CHAIRMAN JENKINS: Did we just lose a</p> <p>21 connection?</p> <p>22 UNIDENTIFIED FEMALE SPEAKER: No. He has</p> <p>23 (inaudible).</p> <p>24 CHAIRMAN JENKINS: Okay. We lost the</p> <p>25 video for a moment.</p>	5
2	<p>1 MR. CORNETT: Are you still having</p> <p>2 difficulty hearing people?</p> <p>3 UNIDENTIFIED FEMALE SPEAKER: Yes.</p> <p>4 MR. CORNETT: Okay --</p> <p>5 CHAIRMAN JENKINS: So that was</p> <p>6 (inaudible).</p> <p>7 MR. CORNETT: -- people have testimony to</p> <p>8 read from (indiscernible) can place your testimony</p> <p>9 and then read into the mic.</p> <p>10 Are you guys able to hear me now?</p> <p>11 CHAIRMAN JENKINS: Yes.</p> <p>12 MR. CORNETT: Okay. So if -- if -- if</p> <p>13 anybody in the room can kind of see what I'm doing,</p> <p>14 please try to copy that as much as possible. The</p> <p>15 last two, we -- we got the recording in the room.</p> <p>16 So we will post that online; if anybody wants to</p> <p>17 hear the recording, can. But the people online are</p> <p>18 having a little bit hard time hearing us in the</p> <p>19 room.</p> <p>20 CHAIRMAN JENKINS: Okay. Our next</p> <p>21 comment.</p> <p>22 MR. SIMMONS: (Indiscernible) hear me</p> <p>23 (indiscernible). But my name is Gerald Simmons, G-</p> <p>24 e-r-a-l-d S-i-m-m-o-n-s.</p> <p>25 My wife and I are adamantly opposed to</p>	4
3	<p>1 this solar project. I believe you have</p> <p>2 (indiscernible) real estate agent doing a section of</p> <p>3 the (indiscernible). She determined -- you can see</p> <p>4 the pictures and (indiscernible), but she determined</p> <p>5 we've got 20 to 40 percent. We live about a mile</p> <p>6 and a half due north (indiscernible). So we're</p> <p>7 going to wait and see probably 90 percent of</p> <p>8 everything that they're (indiscernible).</p> <p>9 And so the other problem is the visual</p> <p>10 clutter. We haven't (indiscernible) as of now. My</p> <p>11 assumption would be that they would be</p> <p>12 (indiscernible). If that's the case, we're going to</p> <p>13 have a (indiscernible). I (indiscernible) same</p> <p>14 person, but that's what I (indiscernible).</p> <p>15 Thank you.</p> <p>16 CHAIRMAN JENKINS: Okay, sir. First and</p> <p>17 last name -- spell them both, please.</p> <p>18 MR. BORROR: (Indiscernible).</p> <p>19 CHAIRMAN JENKINS: I think we lost part of</p> <p>20 that audio.</p> <p>21 MR. CORNETT: (Indiscernible).</p> <p>22 UNIDENTIFIED FEMALE SPEAKER: Todd's</p> <p>23 (indiscernible) for time out.</p> <p>24 CHAIRMAN JENKINS: Okay.</p> <p>25 MR. BORROR: Okay. My name is Aaron.</p>	5

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1 MR. CORNETT: (Inaudible).
 2 MR. BORROR: Okay. My name is Aaron
 3 Borrer, A-a-r-o-n B-o-r-r-o-r, P.O. Box 38, Fort
 4 Rock.
 5 I'm representing myself and my wife,
 6 Rebecca. We are cattle ranchers that are neighbors
 7 to this project. We -- we've spent our entire life
 8 building up the ranch and our cattle herd.
 9 We have several concerns about the
 10 project, the first being the dust. The desert soil
 11 is protected by plants adapted to the desert
 12 environment, and (indiscernible) damaging these
 13 plants (indiscernible) the project (indiscernible).
 14 Case in point, the -- the (indiscernible) is not
 15 (indiscernible). I don't know if you're aware of
 16 that. But that's what they did.
 17 February 23rd (indiscernible), there was a
 18 little wind event in our area, and I've got pictures
 19 of the (indiscernible) road bordering across the
 20 desert. And I've got to submit those. If this is
 21 what happens with one road, can you imagine what
 22 hundreds of roads are going to do the -- to the
 23 Oil Dri Road next to it? It will be (indiscernible)
 24 for us to get to Christmas Valley on a windy day.
 25 There -- the next concern we have is -- is

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1 (indiscernible) our gravel road that goes
 2 (indiscernible) to Oil Dri Road. It's about five
 3 miles long. This is the same road that -- that the
 4 workers and the (indiscernible) vehicle they will be
 5 using to get to the job site, as I discovered in the
 6 DPO.
 7 The DPO states that there would be about
 8 250 cars and 60 trucks per day using this road.
 9 This is a gravel road. (Indiscernible) a couple of
 10 Council or (indiscernible) Council people are here
 11 because I would like to invite you to drive out --
 12 drive down that road, drive out (indiscernible) --
 13 you know, another way to get to Fort Rock. It's a
 14 nice scenic route out there. But if cars go one at
 15 a time, it's not too dangerous. But if there's
 16 hundreds of cars, I just can't imagine that this
 17 would be safe.
 18 I believe -- I think the city should pave
 19 this road before any work starts on the -- on the
 20 project. Otherwise, somebody is going to die out
 21 there. I know personally (indiscernible) north
 22 (indiscernible) -- North Lake County from being on
 23 our road where the visibility was -- was poor.
 24 The last thing we want to cover -- we've
 25 got two minutes left -- is the cattle situation.

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1 One of our ranches is -- sits north and above the
 2 project. And in the -- in the wintertime, I come
 3 down to feed the cattle (indiscernible). And
 4 there's -- there's a lot of times where I can see a
 5 herd of elk that are down at that -- on the -- where
 6 the project is going to be.
 7 And through talking with people that know
 8 more about elk than I do, it's kind of a historic
 9 migration from Green Mountain to the Connelly Hills.
 10 And when you get -- you get around elk, when they --
 11 when they come up against your fence, usually they
 12 go right over it. But I -- I imagine they're going
 13 to have a good enough fence that -- that that won't
 14 happen. But it will stop the elk. And the fence
 15 will be right along Oil Dri Road, and that means the
 16 elk will be on Oil Dri Road. I think that's a
 17 safety concern. At the very least, I think that --
 18 UNIDENTIFIED FEMALE SPEAKER: Sir, you're
 19 --
 20 MR. BORR: -- (indiscernible).
 21 UNIDENTIFIED FEMALE SPEAKER: Sir, you're
 22 about 30 seconds.
 23 MR. BORR: Yes.
 24 UNIDENTIFIED FEMALE SPEAKER: Thank you.
 25 MR. BORR: (Indiscernible) back from the

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1 road 100 yards. (Indiscernible) that I'm going to
 2 just (indiscernible) and have these -- show you the
 3 pictures when -- when you get this.
 4 Thank you.
 5 CHAIRMAN JENKINS: Thank you.
 6 UNIDENTIFIED FEMALE SPEAKER: Secretary
 7 Cornett and Judge Allen, I'd like to add that
 8 Councilmember Winters has joined the meeting.
 9 CHAIRMAN JENKINS: Thank you.
 10 UNIDENTIFIED FEMALE SPEAKER:
 11 (Indiscernible).
 12 MR. CORNETT: (Inaudible).
 13 MR. HORTON: (Indiscernible), can you hear
 14 me?
 15 CHAIRMAN JENKINS: I can. Thank you, sir.
 16 Can I have your first and last name, spelling, too,
 17 as well.
 18 MR. HORTON: (Inaudible) Horton,
 19 (inaudible) R-o-y H-o-r-t-o-n.
 20 CHAIRMAN JENKINS: (Inaudible), I missed
 21 that. The audio cut out on us.
 22 MR. HORTON: Lee Roy Horton, L-e-e R-o-y
 23 (inaudible) r-t-o-n. My address is P.O. Box 78
 24 (indiscernible), Christmas Valley.
 25 I'm supposed to ask you, since I represent

10	<p>1 another party, too, that I manage some men for right 2 next to us if I have extra time to present their 3 case, also. 4 CHAIRMAN JENKINS: I'm sorry, sir. I'm 5 unclear on what you're asking. It's cutting in a 6 bit -- cutting in and out a bit. 7 MR. HORTON: I'm supposed to ask you if I 8 have (inaudible) five minutes to (indiscernible) I 9 represent another party (indiscernible). 10 UNIDENTIFIED FEMALE SPEAKER: Judge Allen, 11 I don't know if you heard. But he's asking -- but 12 he's asking if he only gets five minutes even though 13 he is representing other organizations. 14 CHAIRMAN JENKINS: Well, how many 15 organizations are we talking about? 16 MR. HORTON: Two. 17 UNIDENTIFIED FEMALE SPEAKER: Two. 18 CHAIRMAN JENKINS: (Inaudible) to 19 yourself, sir? 20 MR. HORTON: (Inaudible) -- 21 CHAIRMAN JENKINS: Sir, is that in 22 addition to your own testimony, or are you only 23 appearing as a representative of the organizations? 24 MR. HORTON: I'm doing this for the other 25 organizations (inaudible) --</p>	12
11	<p>1 CHAIRMAN JENKINS: You want to provide 2 testimony for two organizations; is that correct? 3 MR. HORTON: Yes. 4 UNIDENTIFIED FEMALE SPEAKER: And Judge, 5 I'd like to intervene. 6 CHAIRMAN JENKINS: Please. 7 UNIDENTIFIED FEMALE SPEAKER: He would 8 like five minutes for himself and five minutes for 9 an organization. 10 CHAIRMAN JENKINS: Thank you very much. 11 Any councilmember have an objection? 12 Or Ms. Tardaewether, is there an 13 objection? 14 UNIDENTIFIED FEMALE SPEAKER: None -- none 15 here. 16 CHAIRMAN JENKINS: Hearing no objection, 17 we'll allow it. 18 MR. CORNETT: (Inaudible). 19 MR. HORTON: All right. Can you hear me 20 okay (indiscernible)? 21 CHAIRMAN JENKINS: We hear you and -- 22 MR. HORTON: (Indiscernible) -- 23 CHAIRMAN JENKINS: -- you have 10 minutes 24 on the clock. 25 MR. HORTON: I am speaking -- speaking</p>	13

<p style="text-align: right;">14</p> <p>1 These refugee rodents are nongame animals. 2 The Oregon Department of Fish and Wildlife cannot 3 mitigate these refugee rabbits and rodents 4 (indiscernible) done to the (indiscernible) Fort 5 Rock and Christmas Valley (indiscernible) on Oil Dri 6 Road. 7 Jackrabbits are not rabbits, but, properly 8 named, are hares. They do not dig a burrow to live 9 in, but live their lives on the surface. Hare feed 10 -- hares feed on what we call rabbit (indiscernible) 11 in the winter. (Indiscernible) solar project calls 12 for chopping and removing 3,921 acres of their 13 primary feed, leaving them no place to hide from 14 animals (indiscernible). The hares will be forced 15 to move (indiscernible) into our hay barns and 16 livestock feeding area, do damage to our soy and 17 wheat crops, making (indiscernible). 18 I've seen on real cold winters 20 and 40 19 below 0. They look like ants crawling across the 20 ground (indiscernible) move together, moving to our 21 barns when (indiscernible) is frozen solid. And 22 they eat the strings right off the bottom of the 23 bales (indiscernible) they eat it and they're really 24 hard to deal with. 25 (Indiscernible) farm (indiscernible), too.</p>	<p style="text-align: right;">16</p> <p>1 panels may last 20 to 25 years (indiscernible) 2 effective and maybe only produce -- ineffective and 3 only produce (indiscernible) compared to new panels. 4 The last of these solar panels 5 (indiscernible) dust and dirt blowing in our 6 community. (Indiscernible) lead, (indiscernible), 7 and chromium will leach into the soil and water, but 8 never decay. There's no half-life for these 9 elements. 10 Eroding (indiscernible) in the Christmas 11 Valley (indiscernible) sand and soil 12 (indiscernible). Solar panels only produce energy 13 30 percent of the time. However, a small amount is 14 (indiscernible). (Indiscernible) solar panels there 15 is stirring a huge swath of the natural world that 16 they are intending to save (indiscernible). 17 Thank you very much. 18 CHAIRMAN JENKINS: Thank you. 19 MR. HORTON: I have a brief -- I have a 20 brief thing for Golden Acres. I manage their land 21 right next to us. And they have 1,800 acres, and 22 half of it lays (indiscernible) the solar site. 23 (Indiscernible) they rely on their hay to feed -- to 24 feed -- to feed their cows and kill them and makes 25 (indiscernible) -- makes (indiscernible) that's sold</p>
<p style="text-align: right;">15</p> <p>1 Let's talk about weed seeds. The installment will 2 serve as (indiscernible) doing it for years 3 (indiscernible) now they will grow. 4 (Indiscernible). They are called super 5 seeds. They can remain in the ground forever, and 6 you don't know they're there until the right 7 conditions (indiscernible) stirring soil and water 8 or (indiscernible). 9 (Indiscernible) South Korea and China and 10 (indiscernible) acceptable (indiscernible) revenue 11 off (indiscernible). What would be the effect 12 (indiscernible) of 1.74 million solar panels on 13 immediate parameters that surrounds our hay field 14 (indiscernible) solar panels will raise the ambient 15 temperature (indiscernible) large amounts of soil 16 (indiscernible) humidity and moisture changes in the 17 early morning dews that we will be unable to bale 18 our hay. (Indiscernible) and humidity that we 19 (indiscernible). And there is questions no one 20 seems to be able to answer. We really 21 (indiscernible) to bale our hay. 22 When you get right down to it, solar 23 panels probably maintain (indiscernible) toxic 24 waste. (Indiscernible) solar panels breaks down in 25 as little as five years. Also, well-built solar</p>	<p style="text-align: right;">17</p> <p>1 in the U.S -- they've sold in the U.S. widely. 2 (Indiscernible) 5,000 cows. 3 (Indiscernible) has 12,000 cows (indiscernible) and 4 (indiscernible) cows (indiscernible) and calves. 5 They rely on their hay. 6 And he was telling me earlier about the 7 elk. In the winter when it's really cold and you 8 can't get to their feed -- and I can tell you they 9 come down into their field, and they're mostly 10 (indiscernible). And they attack our hay barns, and 11 they'll tear down anything to get to it. 12 And (indiscernible) fence them off with 13 large bales of straw to keep them out, but a lot of 14 times they just will tear that down. You get them 15 big animals pushing and -- and tearing at something, 16 and it just doesn't stop. And -- and -- and they 17 don't go over a fence. They go through it, and they 18 go where they want -- they want to. 19 And it would just be one more problem 20 because they can't migrate through (indiscernible) 21 migration (indiscernible) anymore -- one more 22 problem that we'll have to deal (indiscernible) if 23 they attack our farms and (indiscernible). 24 Thank you. 25 CHAIRMAN JENKINS: Thank you, sir.</p>

18	<p>1 MS. THORSTENZ: Hello. My name is Mariam 2 Thorstenz, M-a-r-i-a-m T-h-o-r-s-t-e-z. 3 (Indiscernible). 4 And I'd like to speak a little bit about 5 my operation. I am (indiscernible) taking over the 6 animal operation of my father (indiscernible). And 7 I'm planning on continuing our farming. And I'm 8 just very worried about the future of my farm and 9 for the health of my livestock. 10 If you (indiscernible) which a lot of our 11 (indiscernible) that we've done, it seems that the 12 (indiscernible) in (indiscernible) will most likely 13 happen with how many solar panels where we put in 14 that the toxic waste will just go right back into 15 the ground and eventually to the wildlife that 16 (indiscernible) in that part of (indiscernible). 17 I'm very worried for the -- my livestock and for the 18 wildlife, for wild animals throughout, how that will 19 really affect them. 20 That's my -- that's my biggest concern, is 21 about the livestock for how much wind and -- and 22 dirt will be blown everywhere. And I don't know how 23 the production (indiscernible) animals 24 (indiscernible) with how much light pollution will 25 next -- right next door.</p>	20
19	<p>1 I mean, that's what I have to say. Thank 2 you. 3 CHAIRMAN JENKINS: Thank you. 4 MR. CORNETT: (Inaudible). 5 MS. THORSTENZ: (Inaudible) -- I guess I'll 6 say a little bit more about myself. 7 So our sheep are very important to me, and 8 how we raise them is natural. So we don't give them 9 any antibiotics before they go to market. And 10 they're -- they're all grass-fed here, and they're - 11 - they live on the ranch land (indiscernible). And 12 they're finished in the valley on grass feed fields, 13 and then they're -- they're taken to butcher 14 (indiscernible) in Eugene, and then the meat is sold 15 in high-end -- it is sold in high-end markets in 16 Portland and in Seattle. And it's -- if there's 17 something that happens to our animals where we have 18 to (indiscernible) antibiotics for (indiscernible) 19 reactions, we -- we will leave that market. 20 Thank you. 21 CHAIRMAN JENKINS: Thank you. 22 MR. CORNETT: (Inaudible). 23 CHAIRMAN JENKINS: (Indiscernible), Mr. 24 Cornett? 25 MR. CORNETT: (Inaudible).</p>	21
18	<p>1 CHAIRMAN JENKINS: Mr. Cornett, before the 2 next speaker, I want to make sure I get some 3 information from you. 4 UNIDENTIFIED MALE SPEAKER: 5 (Indiscernible). 6 CHAIRMAN JENKINS: I need to speak with 7 Mr. Cornett just briefly. 8 MR. CORNETT: Go ahead, Judge Allen. 9 CHAIRMAN JENKINS: Mr. Cornett, can you 10 confirm for us on the webinar the organization that 11 Mr. Horton was representing as well as himself? I 12 heard Golden Acres, but I did not hear if there was 13 more to that. 14 MR. CORNETT: (Inaudible). 15 MR. HORTON: Yeah. It would be under -- 16 okay. Can you hear me? Yes. The Law Offices of 17 Mike Reeder and the Law Offices of Aaron Noteboom 18 have more information about what I was talking 19 about. 20 MR. CORNETT: And -- and (inaudible). 21 MR. HORTON: Yes. 22 MR. CORNETT: (Inaudible). 23 MR. HORTON: Golden Acres, David Hogan. 24 CHAIRMAN JENKINS: Can you spell that, 25 please, sir?</p>	20
19	<p>1 MR. HORTON: David, D-a-v-i-d, Hogan, H-o- 2 g-a-n. 3 MR. CORNETT: (Inaudible). 4 CHAIRMAN JENKINS: Thank you. That's all 5 the information I needed. 6 MR. CORNETT: (Inaudible). 7 MR. HORTON: I don't have that memorized. 8 MR. CORNETT: (Inaudible). 9 MR. HORTON: Thank you. 10 MR. CORNETT: That's fine. 11 CHAIRMAN JENKINS: In addition, as a 12 reminder to the individuals participating in person, 13 Council is asking participants to provide their 14 written comments in person if you have them with 15 you. So if you can provide them to EFSC staff, that 16 would be appreciated. 17 MR. CORNETT: Judge Allen, I just 18 confirmed with Mr. Horton (indiscernible) contact 19 information for the other organizations he was 20 representing before he leaves today. 21 CHAIRMAN JENKINS: Thank you, Mr. Cornett. 22 Okay. Good evening, sir. Your first and 23 last name? 24 MR. BARKER: My name is Patrick Barker, P- 25 a-t-r-i-c-k B -- get closer -- B-a-r-k-e-r. Did you</p>	21

<p style="text-align: right;">22</p> <p>1 get all of that?</p> <p>2 CHAIRMAN JENKINS: Spell the last name for</p> <p>3 me again.</p> <p>4 MR. BARKER: B-a-r-k-e-r.</p> <p>5 CHAIRMAN JENKINS: Thank you very much,</p> <p>6 Mr. Barker. Go ahead.</p> <p>7 MR. BARKER: Thank you.</p> <p>8 First of all, I'm not a public speaker, so</p> <p>9 you're going to have to bear with me.</p> <p>10 I built my house within sight of this</p> <p>11 proposed solar facility a couple years ago. And</p> <p>12 like (indiscernible) testimony prior to mine, my</p> <p>13 property values are going to be drastically</p> <p>14 affected. And that's not my biggest concern.</p> <p>15 I have concerns as far as what is really</p> <p>16 the damage that this 3,900 acres going to do long</p> <p>17 term because wildlife habitat, the rodents -- what -</p> <p>18 - what really are the elk going to do when they hit</p> <p>19 this fence line? They're going to have two options</p> <p>20 -- east or west. And neither one of them is good --</p> <p>21 into the fields or onto the road. So that's a</p> <p>22 safety issue.</p> <p>23 When I built my house, I had to submit a</p> <p>24 crop plan, distances to (indiscernible) septic, all</p> <p>25 this stuff. It was closed by 1000 Friends of</p>	<p style="text-align: right;">24</p> <p>1 And when they do, they tear the fences up and</p> <p>2 (indiscernible).</p> <p>3 I have a problem because (indiscernible)</p> <p>4 have here (indiscernible) about halfway back</p> <p>5 (indiscernible). And (indiscernible). But</p> <p>6 (indiscernible) a picture is worth 1,000 words. And</p> <p>7 so I have a problem with the (indiscernible). And I</p> <p>8 think that if we could direct some of this maybe and</p> <p>9 (indiscernible) and have more (indiscernible).</p> <p>10 Then my other comment is (indiscernible)</p> <p>11 get a solar deals, that they give something to the</p> <p>12 community. I have yet to really hear what they're</p> <p>13 going to do for the community. They made some</p> <p>14 suggestions (indiscernible).</p> <p>15 Thank you for your time.</p> <p>16 CHAIRMAN JENKINS: Thank you, sir.</p> <p>17 MR. CORNETT: (Inaudible).</p> <p>18 Okay. Judge Allen, that's everybody in</p> <p>19 the room. And I just confirmed we do have Mr.</p> <p>20 Miles' contact information so we (indiscernible).</p> <p>21 CHAIRMAN JENKINS: Great. Thank you very</p> <p>22 much.</p> <p>23 MR. CORNETT: (Indiscernible) I'll turn it</p> <p>24 over to (indiscernible) for those on the WebEx.</p> <p>25 UNIDENTIFIED FEMALE SPEAKER: Thank you,</p>
<p style="text-align: right;">23</p> <p>1 Oregon, and this is on 15 acres on a rock pile. And</p> <p>2 it's interesting that all we get for what Obsidian</p> <p>3 is planning is a little phony generic map that just</p> <p>4 shows where it might be. We don't have a clue</p> <p>5 what's really going in here. It hopefully is not</p> <p>6 one of the things like we've got to pass it to see</p> <p>7 what's in it. I think we've heard that before.</p> <p>8 Thank you.</p> <p>9 CHAIRMAN JENKINS: Thank you, sir.</p> <p>10 MR. MILES: My name is Darryl Miles.</p> <p>11 MR. CORNETT: (Inaudible).</p> <p>12 CHAIRMAN JENKINS: Can you spell your name</p> <p>13 for me, please?</p> <p>14 MR. MILES: D-a-r-r-y-l M-i-l-e-s. I'm</p> <p>15 concerned about (indiscernible) actually</p> <p>16 (indiscernible) before (indiscernible). And I've</p> <p>17 had (indiscernible) several years ago, and I just</p> <p>18 (indiscernible). The wind blew that day. We built</p> <p>19 a fence line, stopped it (indiscernible). The wind</p> <p>20 also (indiscernible) in the field.</p> <p>21 I have concerns about the elk</p> <p>22 (indiscernible) back and forth. And it's about a</p> <p>23 mile and a half long and (indiscernible) directly</p> <p>24 through the solar (indiscernible) brought up and</p> <p>25 (indiscernible). We have hundreds (indiscernible).</p>	<p style="text-align: right;">25</p> <p>1 Mr. Cornett.</p> <p>2 (Inaudible) open the webinar (inaudible).</p> <p>3 First person up would be Donny Gallagher. At this</p> <p>4 time, you are now unmuted.</p> <p>5 MR. GALLAGHER: Hey, good evening,</p> <p>6 everyone. Yes. My name is Donny Gallagher, D-o-n-</p> <p>7 n-y G-a-l-l-a-g-h-e-r. I am the Director of</p> <p>8 Engineering for Swinerton. I've been with Swinerton</p> <p>9 Renewable Energy Group since 2013.</p> <p>10 And while at Swinerton, I have personally</p> <p>11 overseen the design and permitting of over 150</p> <p>12 turnkey engineering procurement and construction</p> <p>13 solar projects totaling more than five gigawatts.</p> <p>14 Twenty-two of those projects were in Southeast</p> <p>15 Oregon, with eight of those projects being in the</p> <p>16 North Great Basin area.</p> <p>17 Since Swinerton has been selected to be</p> <p>18 the EPC contractor for the Obsidian Solar Center, I</p> <p>19 will be overseeing the design of the project in</p> <p>20 question here today.</p> <p>21 I was hoping that today I could address</p> <p>22 some of the concerns that have been raised</p> <p>23 specifically around dust and traffic safety.</p> <p>24 Regarding dust control, there are a lot of</p> <p>25 mitigation measures that we will take to improve our</p>

<p style="text-align: right;">26</p> <p>1 ability to manage dust. 2 First off, we manage dust through 3 intelligent design. We have worked to develop a 4 proprietary wrapping system that allows our solar 5 panels to follow the native terrain with very 6 minimal grading. So many solar projects you may 7 have seen move a lot of dirt around in order to get 8 these installed, we have eliminated the need for 9 that. 10 We have also, probably in the past year or 11 so, developing and implementing an above-ground DC 12 collection system that eliminates miles of trenching 13 from a solar project. 14 We also take the approach that we only 15 install the roads that are needed for fire safety, 16 and we do not build temporary construction roads to 17 keep those impacts down. 18 Additionally, we put a big emphasis on 19 trying to preserving existing vegetation. Rather 20 than clearing and growing the site, we would rather 21 mow it down and keep that existing root structure 22 intact, hold all the soil together. 23 Another point to note on the construction 24 front is that we have a rolling construction 25 approach. So we're not going to be out there over</p>	<p style="text-align: right;">28</p> <p>1 we'll be running water trucks all day long on our 2 access roads to keep that dust down. 3 And if for some reason none of those dust 4 control measures work, we provide a way for the 5 public to contact the site directly. There will be 6 a large sign out front of the site with a cell phone 7 number directly to our onsite dust control person. 8 So if any neighbors see a concern, they will have 9 this gentleman or -- or gal's cell phone number, and 10 they can contract them directly to raise their 11 concern. 12 I think one of the other concerns we have 13 heard from the public was regarding traffic. The 14 project team has been in conversations with the 15 county roadmaster and will be entering into a road 16 use agreement with the county that requires the 17 project to repair any damages to roads at the 18 project's cost. Basically, in this conversation 19 with the roadmaster, the project has agreed to use 20 the roadmaster's preferred access to the site, which 21 is north via Oil Dri Road. And we will be using 22 water trucks as our primarily -- primary means of 23 dust control on their route. And again, we'll -- 24 we'll have some dust control signs along that route 25 as well. So if any neighbors are seeing dust</p>
<p style="text-align: right;">27</p> <p>1 the full, you know, 3,900 acres all at once. It's 2 more like a moving assembly line where you do some 3 civil work and foundation, fracking, electrical, et 4 cetera. And -- and this approach ensures that 5 you're disturbing only a small amount of acres at a 6 time. And -- and, again, not the full 3,900 acres 7 is being disturbed at once. And once we move out of 8 an area, we are stabilizing that soil before we move 9 on to the next area. 10 And I guess regarding the soil 11 stabilization from both storm water erosion control 12 standpoint and a dust control, our philosophy is 13 that those dust control plants, erosion plants, are 14 living documents. And as such, they're designed to 15 hit an angle, minimizing erosion and minimizing 16 dust. And so if something's not working, then those 17 plans allow us to make on-the-fly decisions to 18 change that. 19 And of course, there will be an array of 20 approved methods in there that can be used, 21 depending on exactly what is needed at the moment. 22 We might use, you know, crimped straw or straw 23 mulch, hydro mulch, or water. I mean, water is 24 probably the -- the -- one of the most effective, 25 best standard practices to keep the dust down, and</p>	<p style="text-align: right;">29</p> <p>1 issues, they can contact our team directly. 2 We also implement a strict safety plan 3 following all national and -- and local standards. 4 UNIDENTIFIED FEMALE SPEAKER: Thirty 5 seconds, sir. 6 MR. GALLAGHER: Thank you. 7 Yeah, so we follow national standards for 8 safety and have, in fact, very few safety-related 9 incidents, especially with traffic over the years. 10 I'm running out of time here. I think 11 those are the -- the major topics I -- I wanted to 12 hit. Thank you very much, and that concludes my 13 testimony. 14 CHAIRMAN JENKINS: Thank you, sir. 15 UNIDENTIFIED FEMALE SPEAKER: Okay. Next, 16 we have Elaine Albrich. 17 Elaine, you now have the floor. 18 MS. ALBRICH: Hi. Thank you. This is 19 Elaine Aldrich. I was expecting to address the 20 closing for Obsidian Renewables as the applicant at 21 the close of the hearing. 22 UNIDENTIFIED FEMALE SPEAKER: Okay. Thank 23 you. 24 MS. ALBRICH: Thank you. 25 UNIDENTIFIED FEMALE SPEAKER: Okay. At</p>

<p style="text-align: right;">30</p> <p>1 this time, Jen Kirby, you now -- you now have the 2 floor.</p> <p>3 MS. KIRBY: Hello. I'm Jen Kirby, J-e-n; 4 Kirby is K-i-r-b-y. I'm the Civil Engineering 5 Manager with Swinerton Builders. I've been with 6 Swinerton for -- since 2019, so about a year now, 7 but I was a subconsultant of theirs for just about 8 over 11 years. I have a civil engineering degree 9 with a specialty in environmental systems, and I've 10 designed and provided oversight on environmental 11 issues on very -- on many projects since 2005.</p> <p>12 I just wanted to touch on a couple of 13 things. One of them is the revegetation of the 14 site, which was addressed in the reveg plan. We 15 took into consideration that, with that feed mix, 16 it's good to have plants that'll -- not only native, 17 but will come up in various -- in the various 18 growing seasons. So the -- you want something that 19 grows up quickly, or after the -- the thaw so, in 20 the spring, it'll pop up quickly. And that'll help 21 for erosion and dust control.</p> <p>22 It'll also -- the -- we want the root 23 system to be established. So with that, it'll allow 24 the native plants to get -- be able to grow better 25 because the initial growth will hold the soil</p>	<p style="text-align: right;">32</p> <p>1 kind of mimic the original topsoil that was there. 2 And this -- what this does is it helps -- or gets 3 more uniform growth onsite.</p> <p>4 And then in regards to the noxious weeds, 5 we've had good success when we implement the methods 6 that were outlined in Section 3.1 of the 7 revegetation plan on other projects. We do 8 understand the importance of not introducing noxious 9 weeds into the area where we have projects.</p> <p>10 We typically have our contractors wash 11 equipment prior to them even arriving onsite, and 12 then we use the secondary stations if needed. This 13 will reduce the risk or chance of introducing 14 outside plant species.</p> <p>15 Our practice is to source the -- the straw 16 bales or the -- the straw, like the crimped straw 17 that we use onsite for sediment control locally. 18 And this also will help ensure that we're not 19 introducing anything foreign to the area.</p> <p>20 So that concludes my testimony. Thank 21 you.</p> <p>22 CHAIRMAN JENKINS: Thank you, Ms. Kirby. 23 I apologize.</p> <p>24 UNIDENTIFIED FEMALE SPEAKER: Okay. And 25 next we have Mary and Craig Foster.</p>
<p style="text-align: right;">31</p> <p>1 together so that the seed mix that was in the 2 revegetation plan is a good mix of the quick growing 3 with the early spring and then, also, the native 4 that will provide for long-term stabilization of the 5 site.</p> <p>6 Also, the -- the -- since we do try and 7 minimize the amount of grading that is onsite -- and 8 according to the storm water permit, after soil 9 disturbance, we have about 14 days to temporary or 10 permanent -- permanently stabilize it with erosion 11 control. So this can -- this includes the seeding, 12 but it's also -- we'd require some sort of ground 13 cover, which is either crimped straw or hydraulic 14 mulch.</p> <p>15 The crimped -- so the crimped straw or the 16 -- the mulch will kind of mimic the vegetation until 17 the seeds are able to -- to get -- to germinate and 18 the vegetation starts to grow. So this process kind 19 of cuts down on both the dust and any erosion, soil 20 erosion, onsite.</p> <p>21 We've had success on many projects with 22 this type of -- or handling of the site this way. 23 We're -- we conducted some grading activities, and 24 we've removed the topsoil. There are times, too, 25 where we'll take soil samples and add additives to</p>	<p style="text-align: right;">33</p> <p>1 You now have the floor.</p> <p>2 MS. FOSTER: Hi, there. My name is Mary 3 Foster, M-a-r-y, Foster, F-o-s-t-e-r. And I 4 represent Fosters Natural Resource Contracting. I'm 5 the owner and established Fosters Natural Resource 6 Contracting in 1999 and have specialized in wildlife 7 and wildlife habitat inventory, maybe plant 8 inventory and seed collection, noxious weed surveys, 9 and juniper inventory and treatment planning. Since 10 2019, I have been assisted by my husband, Craig 11 Foster.</p> <p>12 Obsidian hired Fosters Natural Resource 13 Contracting to complete juniper and noxious weed 14 inventories and develop a juniper treatment plan to 15 meet the actions identified in the Obsidian Solar 16 Center habitat mitigation plan. During our 17 employment with Obsidian, we've been asked to 18 provide comments on some of the input Obsidian has 19 received.</p> <p>20 And now I'm going to turn it over to my 21 husband, Craig.</p> <p>22 MR. FOSTER: Okay. So this is Craig 23 Foster, C-r-a-i-g F-o-s-t-e-r. Prior to retirement 24 in 2017, I was employed by Oregon Department of Fish 25 and Wildlife for 35 years as a wildlife biologist.</p>

<p style="text-align: right;">34</p> <p>1 Twenty-eight of those years, I was either the 2 Assistant District Wildlife Biologist or District 3 Wildlife Biologist in Lake County. 4 My duties during that period was inventory 5 of various wildlife populations with emphasis on big 6 game, response to private land damage caused by 7 various wildlife species and development and 8 protection habitat projects. From 2005 through 9 2016, I was responsible for implementing ODFW's 10 wildlife habitat mitigation policy on various 11 projects in Lake County, including the Ruby Pipeline 12 and some of the early solar developments in the 13 county. 14 So my testimony is pretty specific to the 15 juniper treatment plan we developed. Based on the 16 biological inventory of the solar site and the 17 comments that we've reviewed, the primary impacts to 18 wildlife habitat of the solar development is to 19 wintering big game animals, specifically, mule deer 20 and Rocky Mountain elk. 21 This spring, we completed a pre-treatment 22 juniper inventory and a weed -- noxious weed 23 inventory of two properties that Obsidian is 24 proposing for wildlife mitigation. And we used 25 those data that we collected to develop the juniper</p>	<p style="text-align: right;">36</p> <p>1 displacement of big game in the valley. The primary 2 concern is the migration of elk through that 3 property as they go from cover areas north and east 4 of the property or down to the Connelly Hills south 5 and west. My experience has been when you put an 6 impediment to migration for elk -- 7 UNIDENTIFIED FEMALE SPEAKER: Mr. Foster, 8 sorry. Mr. Foster, sorry. About 30 seconds. 9 MR. FOSTER: Yep, I've got that. 10 My experience is, is that'll -- it'll be a 11 temporary problem and take them about a year to 12 figure it out that they need to go around that 13 impediment. So it's -- I think it -- it has the 14 potential to be a problem, but it's going to be 15 temporary. It's not going to be permanent. 16 That is about all the time I have. So 17 thank you. 18 CHAIRMAN JENKINS: Thank you Mr. and Ms. 19 Foster. 20 UNIDENTIFIED FEMALE SPEAKER: Okay. Next 21 up, we have Mike Reeder. 22 Mike, (inaudible). 23 MR. REEDER: Yes. Good -- good evening. 24 My name is Mike Reeder, M-i-k-e R-e-e-d-e-r, and I 25 represent Gerald Simmons, Lee Roy and Nancy Horton,</p>
<p style="text-align: right;">35</p> <p>1 treatment plan that was submitted. 2 Winter cover is an important component for 3 deer and elk winter habitat, cover component. And 4 in the Fort Rock Valley, juniper and juniper stands, 5 stands of juniper are the (inaudible) the habitat 6 and vegetation component that provides that cover. 7 So therefore, the juniper treatment plan 8 focuses on improving and maintaining (inaudible) big 9 game habitat. It's more than just cutting juniper. 10 We do not propose to cut all the juniper on the 11 mitigation properties. The goal of the project is 12 to provide a cover component and close association 13 to forage areas to improve habitat on all of the 14 properties, not the mitigation properties. 15 So specific to the areas that we are 16 proposing to treat juniper, protecting the 17 understory plants are those plants that are used for 18 forage -- the shrubs, the grasses, and the forbs 19 during the juniper treatment is -- is as important 20 as moving the juniper. And so whether the slash 21 requires piling and burning to treat the slash, 22 those black spots will be reseeded, and they'll also 23 be monitored and treated should noxious weeds occur. 24 The next thing I want to step into is some 25 of the comments regarding big game use and</p>	<p style="text-align: right;">37</p> <p>1 Patrick Barker, Larry Turnbow, Jeremiah and Mariam 2 Thorsted, Dave Hogan, and Aaron Borrer, the Fort 3 Rock neighbors, collectively. 4 First of all, I would like to thank staff 5 for the professional and responsive job that they 6 have done in this complex application. So we -- we 7 -- actually, we really appreciate all that has been 8 done to move this forward. 9 We have provided you a 35-page letter that 10 outlines our objections to this application with 11 additional exhibits that support the 35-page letter. 12 What I'd like to do is just provide you with a high- 13 level understanding of what the concerns are. Many 14 of those concerns have been expressed tonight. 15 But specifically, this is a large, large 16 project. My understanding, though, is this is one 17 of the largest, if not the largest, solar facility 18 in the nation being proposed. As has been mentioned 19 before, this is six square miles. This is a large 20 site in that you can compare it to other 21 jurisdictions. So for example, this is about twice 22 the signs of -- size of Burns. We believe that this 23 -- this facility is inappropriately located. It is 24 in one of the worst possible spots to locate one of 25 these facilities for many -- many of the reasons</p>

<p style="text-align: right;">38</p> <p>1 have been expressed this evening. 2 What I'd like to call your attention to is 3 the fact that the land that abuts this project on 4 three sides has largely been put to farm uses, and 5 there are inherent conflicts between the farm uses 6 and the proposed facility. This is on land whose 7 soils are highly susceptible to wind erosion. And 8 within -- and it's also within the groundwater 9 restricted area. It is on pristine big game winter 10 range and on ground that lacks permitted access to 11 water (inaudible) fully operate this facility. 12 So what I'd like to point your attention 13 to is the testimony that you received from the 14 applicants' agents wherein Mr. -- let me get his 15 name -- Mr. Gallagher, Donny Gallagher, discussed 16 there will be minimal grading. We think that's -- 17 minimal grading is somewhat beside the point because 18 there will be so much -- so much destruction to the 19 native vegetation not only during the construction 20 phase, but also throughout the project life. 21 There's going to be mowing and crushing of the -- 22 the ground, and there's going -- we -- we believe 23 that there will be dust. Dust -- the issues that 24 come with the dust are extremely impactful to the 25 farming operations, which are -- which are numerous</p>	<p style="text-align: right;">40</p> <p>1 they bear directly on how the project will impact 2 the farming operations. We're very concerned about 3 that, and we believe that the comprehensive plan 4 that -- provisions that protect agriculture is 5 important. 6 It's important to understand that this is 7 a very, very intensive project. It's more 8 appropriate to have facilities such as this in areas 9 not located near residences and farms. There's -- 10 UNIDENTIFIED FEMALE SPEAKER: Mr. Reeder, 11 30 seconds. 12 MR. REEDER: Yes. Thank you very much. 13 UNIDENTIFIED FEMALE SPEAKER: Thank you. 14 MR. REEDER: There's a lot of that 15 property in the State of Oregon either owned by the 16 federal government, owned by the State, or simply 17 owned in private hands out away from farming 18 operations. 19 I would suggest that you take a hard look 20 at the letter that was received by -- by you -- that 21 should have been received today from our 22 environmental consultant, Bryan Myring (phonetic). 23 And I thank you for your attention in this 24 important matter. 25 CHAIRMAN JENKINS: Thank you, Mr. Reeder.</p>
<p style="text-align: right;">39</p> <p>1 in the area. 2 We're concerned about the lack of water. 3 We -- we talk about this in our 35-page letter in 4 great detail. But what I want to point your 5 attention to is the fact that (inaudible) discussed 6 this -- these living documents, these plans for dust 7 control and erosion control is being living. Well, 8 if it's living, what it means is that there's -- 9 that he is acknowledging that there will be -- there 10 may be impacts. And if there are impacts, they will 11 do something different. 12 The problem is, is that my clients will 13 bear the burden of those interim conditions. So my 14 clients will bear the risk that the dust and the 15 fugitive -- the fugitive dust and, also, the -- the 16 rodents will impact their farming operations. 17 That's something that is not allowed under the -- 18 under the regulations that we cite in our letter. 19 It's important to understand that the 20 statute requires that the application be in 21 conformance with the comprehensive plan and the 22 policies. These are mandatory plan policies. 23 There's no ambiguity as to whether or not they 24 apply. Those policies we've -- we have highlight in 25 our letter, but it's important to understand that</p>	<p style="text-align: right;">41</p> <p>1 UNIDENTIFIED FEMALE SPEAKER: Okay. Thank 2 you, Mr. Reeder. 3 Next, we have Sarah Reif. 4 Sarah, you have the floor. 5 MS. REIF: Thank you. Can everyone hear 6 me okay? 7 CHAIRMAN JENKINS: Yes. 8 MS. REIF: How about in the room, Todd? 9 MR. CORNETT: I can hear you 10 (indiscernible). Oh, sorry. I think we 11 (indiscernible). We can hear you fine. 12 MS. REIF: Okay. I think I heard him say 13 that you can hear me fine. Thumbs up? Good. 14 Great. Thank you. 15 Chair Jenkins, members of the Council, my 16 name is Sarah Reif. I'm the Energy Coordinator with 17 the Oregon Department of Fish and Wildlife. Address 18 is 4034 Fairview Industrial Drive in Salem. 19 ODFW is a reviewing agency. 20 CHAIRMAN JENKINS: Ms. -- 21 (Cross talk.) 22 CHAIRMAN JENKINS: Can I have you spell 23 that first and last name, please? 24 MS. REIF: Oh, yes, sir. 25 CHAIRMAN JENKINS: Thank you.</p>

<p style="text-align: right;">42</p> <p>1 MS. REIF: Sarah is S-a-r-a-h. Reif is R- 2 e-i-f, as in Frank. 3 CHAIRMAN JENKINS: Please continue. 4 MS. REIF: Everything I'm presenting to 5 you tonight can be found in our July 16th comments, 6 which we submitted to ODOE staff as well as previous 7 comments on the DPO, which we submitted on April 8 24th and May 18th. We appreciate the coordination 9 with ODOE staff and the responsiveness of the 10 applicant to ODFW recommendations thus far. 11 The Obsidian project is proposed in high- 12 quality, native sagebrush step that functions as 13 essential and limited habitat for wintering big game 14 and pygmy rabbits. This meets the Category 2 15 habitat definition according to the ODFW fish and 16 wildlife habitat mitigation policy. The mitigation 17 goal for Category 2 habitat is no net loss of either 18 habitat quantity or quality and to provide a net 19 benefit. Mitigation should be reliable and address 20 the nature and extent and duration of impacts. This 21 is the goal and standard upon which ODFW based all 22 of its recommendations for this project. 23 The application contains many measures 24 that meet -- help meet the no net loss net benefit 25 mitigation goal, and we appreciate the science-based</p>	<p style="text-align: right;">44</p> <p>1 the WLIP agreement, there is a risk that subsequent 2 landowners would not be beholden to the terms for 3 the life of the development actions impacts. 4 Further, in the event of disagreement 5 between the applicant and landowner regarding 6 allowable uses or termination by either party for 7 cause, there is no remedy offered in the current 8 agreement. 9 The WLIP agreement does not have clear 10 enforcement language that identifies responsible 11 parties and process. It's (inaudible) to see what 12 incentive the landowner or the applicant would have 13 to enforce uses that might be infringing on the 14 wildlife habitat goals of the mitigation plan. And 15 the WLIP agreement does not specifically include the 16 habitat mitigation plan, so it's not clear that the 17 landowner would be agreeing to meet the mitigation 18 goals and standards required by the site 19 certificate. 20 We have identified a number of measures 21 that we believe would improve the reliability and 22 durability of the mitigation and achieve the Fish 23 and Wildlife habitat standard. And rather than read 24 those here, given my limited time, (inaudible) refer 25 you to the bulleted list of recommendations we</p>
<p style="text-align: right;">43</p> <p>1 approach to the habitat treatments. However, there 2 are some critical aspects that should be addressed 3 in order to fully meet the EFSC fish and wildlife 4 habitat standard in your Division 22 rules. 5 There are three main issues I'll address. 6 The first is the applicant's proposed Working Lands 7 Improvement Program, or WLIP agreement, is not 8 structured in a way that demonstrates durability for 9 the mitigation. In the HMP, Obsidian plans to meet 10 the mitigation goal by recording the Lake -- with 11 Lake County an agreement between Obsidian and 12 private landowners to protect wildlife habitat 13 values on their mitigation site. This is how the 14 applicant is intending to meet the no net loss goal. 15 The applicant would then perform juniper treatments 16 to meet the net benefit. 17 In concept, ODFW has been open to this 18 WLIP agreement idea as the applicant's demonstration 19 of durability for their mitigation. However, we 20 still have some concerns with the substance of that 21 agreement as follows: While the WLIP agreement 22 states that it will carry with the land, that 23 statement and recording of the WLIP agreement with 24 the county do not ensure that outcome as a legal 25 matter. Instead, because of the unique nature of</p>	<p style="text-align: right;">45</p> <p>1 provided to ODOE staff in our July 16th letter. 2 Secondly, the applicant's proposed 3 mitigation ratio leaves little room for error. The 4 Obsidian project proposed in high-quality native 5 habitat for elk, deer, and pygmy rabbits with deeper 6 soils and sagebrush that are difficult to replace. 7 Replacing the lost habitat functions and values at 8 the Obsidian impact site is more challenging than it 9 would be if the development site were already 10 impacted. So to account for those lost functions 11 and values, ODFW recommended a two-to-one mitigation 12 ratio, and we believe that's warranted and 13 justified. 14 The applicant responded with a willingness 15 to increase the ratio from 1.1-to-1 to 1.2-to-1. 16 However, ODFW still recommends a higher ratio not 17 only to account for the losses habitat, but also to 18 address the potential risk of mitigation failure 19 that would come in the form of noxious weed invasion 20 that often inadvertently accompanies juniper 21 treatments and arid range lands. And we did provide 22 ODOE with a list of citations supporting this known 23 risk in our April 24th comment. 24 And lastly, mitigation should be provided 25 for the life of the (inaudible) in action, which</p>

<p style="text-align: right;">46</p> <p>1 includes the commission and reclamation phases of 2 the project. The applicant has taken issue with 3 ODFW's recommendation that mitigation be in place 4 for the duration of the impacts, which would include 5 the decommission and reclamation phases of the 6 project. However, this is a consistent 7 recommendation that ODFW makes on all projects 8 because our fish and wildlife habitat mitigation 9 policy directs us to do so in Section 20, Subsection 10 4.</p> <p>11 Beyond these issues, ODFW finds that -- 12 that ODOE and the applicant have adequately 13 addressed ODFW's concerns expressed in our DPO 14 comments through --</p> <p>15 UNIDENTIFIED FEMALE SPEAKER: Ms. Reif, 16 sorry --</p> <p>17 (Cross talk.)</p> <p>18 UNIDENTIFIED FEMALE SPEAKER: -- just -- 19 just about 20 seconds.</p> <p>20 MS. REIF: Yep. Thank you.</p> <p>21 So we think that other than -- other than 22 those three issues that I've raised, ODOE and the 23 applicant have adequately addressed our 24 recommendations and concerns and the site 25 certificate conditions.</p>	<p style="text-align: right;">48</p> <p>1 taking into account mitigation are not likely to 2 result in significant adverse effects to historic, 3 cultural, or archaeological resources that have been 4 listed on, or would likely be listed, on the 5 National Register of Historic Places. 6 (Inaudible) of Historic Places is a list 7 of historic buildings, structures, archaeological 8 sites, and other types of culture resources that 9 meet certain criteria for historic significance. 10 Protection of significant historic cultural or 11 archaeological resources involves avoiding impacts 12 to them all together, minimizing necessary impacts, 13 or mitigation of those impacts through scientific 14 collection of information prior to those impacts. 15 Obsidian Solar Center has developed plans employing 16 all three aspects of protection (inaudible) sources, 17 avoidance, minimization, and mitigation. 18 So how has Obsidian Solar Center met the 19 EFSC standard? First off (inaudible) standard is to 20 see that that cultural resources are present in a 21 project area. To do so, Obsidian Solar hired 22 professional consultant resource management firm, 23 Heritage Research Associates, out of Eugene, Oregon, 24 (inaudible) nearly 4,000-acre project. (Inaudible) 25 consultant found both Native American artifacts that</p>
<p style="text-align: right;">47</p> <p>1 And I appreciate the opportunity to lay 2 the remaining issues before (inaudible) during this 3 hearing. And -- and I remain confident and 4 optimistic that we'll find a workable solution that 5 allows the project to proceed.</p> <p>6 So with that, I'll close.</p> <p>7 CHAIRMAN JENKINS: Thank you, Ms. Reif.</p> <p>8 UNIDENTIFIED FEMALE SPEAKER: Thank you.</p> <p>9 Okay. Next on deck we have Terry Ozburn.</p> <p>10 Terry, you have the floor.</p> <p>11 MR. OZBUN: Thank you. My name is Terry 12 Ozburn. That's T-e-r-r-y O-z-b-u-n. And I'm a 13 Senior Archaeologist with Archaeological 14 Investigations Northwest. I'm a registered 15 professional archaeologist. I've been practicing 16 professional archaeology in Oregon for 33 years.</p> <p>17 I'd like to address the EFSC standard for 18 historic, cultural, and archaeological resources on 19 behalf of Obsidian Solar Center. The Oregon 20 Administrative Rules for the Department of Energy 21 Energy Facility Siting Council identify a standard 22 for protection of culture resources during 23 development of energy facilities.</p> <p>24 This states that the Council must find 25 that the construction and operation of the facility</p>	<p style="text-align: right;">49</p> <p>1 are thousands of years old and historic period 2 artifacts related to homesteading and (inaudible) 3 from the 18 -- late 1800s and early 1900s. They 4 included archaeological sites and isolates. The 5 sites are places (inaudible) artifacts or an 6 archaeological feature, such as (inaudible) or a 7 storage pit, and the archaeological isolates are 8 places that have fewer than 10 artifacts and no 9 archaeological features.</p> <p>10 (Inaudible) Center consulted with Native 11 American tribes on the survey findings. The Klamath 12 Tribes recommended setting aside certain areas 13 (inaudible) thought to potentially contain human 14 burials so that the construction would not disturb 15 the dead.</p> <p>16 In addition, another area with dense 17 archaeological resources was set aside for no 18 development. Solar Center agreed to set these areas 19 aside to avoid impacts to human remains and the 20 archaeological sites in those areas. They also 21 (inaudible) to hire tribal members to observe 22 construction in the remaining area. This is one of 23 the ways that Obsidian Solar is minimizing and 24 avoiding impacts.</p> <p>25 Obsidian Solar Center also coordinated</p>

<p style="text-align: right;">50</p> <p>1 with the Oregon State (inaudible) Office on which 2 archaeological resources might be significant and 3 eligible for listing in the National Register. SHPO 4 recommended identifying an archaeological district 5 instead of evaluating each archaeological site or 6 isolate individually. (Inaudible) holistic 7 consideration of archaeological resources in the 8 path and flank of constructive impacts regardless of 9 individual significance and treating them all in a 10 systematic way to mitigate the impacts by collecting 11 archaeological information prior to construction. 12 Archaeological Investigations Northwest, 13 the company that I work for, was hired by Obsidian 14 Solar Center to develop detailed specifications 15 (inaudible) suggested by SHPO. And these methods 16 were customized for the known types of resources and 17 the types of impacts that would be expected. 18 Obsidian Solar Center worked with the tribes and 19 State agencies so that everybody was on board with 20 these mitigation plans. 21 Oregon State law requires permits for any 22 work that impacts archaeological sites. So Oregon 23 SHPO collaborated with sister agency Oregon 24 Department of Energy to make sure permits would be 25 compatible with both agencies' processes. Since</p>	<p style="text-align: right;">52</p> <p>1 monitoring. 2 Thank you. 3 CHAIRMAN JENKINS: Thank you, Mr. Ozburn. 4 UNIDENTIFIED FEMALE SPEAKER: Okay. At 5 this time, there is no other attendees with their 6 hand raised. If I have missed you, please re-raise 7 your hand. 8 (No audible response.) 9 UNIDENTIFIED FEMALE SPEAKER: (Inaudible) 10 I do not believe anybody else on the webinar has any 11 comments. 12 CHAIRMAN JENKINS: Thank you very much. 13 At this time, we will go to our one 14 participant who has identified herself on the phone, 15 which would be Irene Gilbert. 16 UNIDENTIFIED FEMALE SPEAKER: Yes. Irene, 17 you now have the floor. 18 MS. GILBERT: Thank you. Irene Gilbert, 19 spelled Gilbert. And I am Co-Chair of the Stop 20 Boardman to Hemingway Coalition, and I am speaking 21 in opposition to this development and on behalf of 22 the impacted farmers. So I'd like my comments to be 23 incorporated with the attorney representing those 24 farmers. 25 The -- I'm -- I'm going to reference some</p>
<p style="text-align: right;">51</p> <p>1 archaeological permits are only issued to qualified 2 archaeologists -- 3 UNIDENTIFIED FEMALE SPEAKER: Thirty -- 4 thirty seconds, sir. 5 MR. OZBUN: Thank you. 6 UNIDENTIFIED FEMALE SPEAKER: Thank you. 7 MR. OZBUN: I applied for the permits on 8 behalf of the -- the applicant. And those four 9 permits, one for each (inaudible), were issued 10 earlier this year. 11 So what (inaudible) next is that we apply 12 those methods to the final solar design and 13 (indiscernible) scientific information that's 14 necessary to interpret those deposits. 15 (Inaudible) I'm (inaudible) out of time. 16 So I'll just say that Oregon Obsidian Solar Center 17 has worked with agencies, tribes, landowners, and 18 the public to -- to meet EFSC standard for 19 protecting important historic, cultural, and 20 archaeological resources. It -- plans include 21 avoidance, minimization of impacts through setting 22 aside some areas where no development will occur. 23 It also include mitigation agreements with the SHPO 24 and with the tribes for archaeological 25 (indiscernible) recovery and construction</p>	<p style="text-align: right;">53</p> <p>1 State statutes because they are overriding and the 2 EFSC does not have the authority to overrule them. 3 First off, it's ORS 469.504(a), which says a 4 proposed facility shall be found in compliance with 5 the statewide planning goals if the facility is -- 6 receives local land use approval under the 7 acknowledged comprehensive plan and land use 8 regulations of the affected local governments or -- 9 and then it says EFSC could approve it. 10 So the decision of the county, per the 11 statute, is considered equal with -- with the 12 decision of EFSC. That same section of rule, number 13 3, says if compliance with applicable substantive 14 local criteria and applicable statutes and State 15 administrative rules would result in conflicting 16 conditions in the site certificate or amended site 17 certificate, the Council shall -- pardon me -- shall 18 resolve the conflict consistent with the public 19 interest. A resolution may not result in a waiver 20 of any applicable State statutes. So they can't 21 overrule the State statutes. 22 The next section basically says an 23 applicant for a site certificate shall elect whether 24 to demonstrate compliance with the statewide 25 planning goals under that section, or the applicant</p>

<p style="text-align: right;">54</p> <p>1 shall make election on or before the date specified 2 by the Council. 3 So in this case -- and I'm referencing 4 these two sections of land where the local authority 5 made the land use decision. And according to the 6 statute, the applicant actually did make a decision 7 to go through the local counties prior to asking 8 EFSC to make the decision. So they met that part of 9 the statute. 10 The other part says that -- and this is in 11 Section 8 -- that the decisions on the land use from 12 the local county has to occur after the notice of 13 intent. Now, Obsidian made their notice of -- of 14 intent request on January 16, 2018. That was after 15 the county had began processing the application 16 locally. And the final land use decision May -- 17 happened May 2020, which is following the -- 18 following the letter of intent. 19 So in all instances I can come up with, 20 they are legal. That original decision with the 21 Land Use Board is a legal decision, and the appeal 22 should be honored. 23 So the other thing I want to talk about 24 just real briefly is the monitoring for the weeds is 25 not adequate. The State statute says that the</p>	<p style="text-align: right;">56</p> <p>1 hasn't -- who wants to make a comment who has not 2 had an opportunity to do so. So let's first go to 3 the in-person attendees. 4 Mr. Cornett, can I have you confirm that 5 there is no one in the room that has expressed a 6 late desire to make a comment? 7 MR. CORNETT: Judge Allen, (indiscernible) 8 checking right now. (Inaudible). 9 UNIDENTIFIED MALE SPEAKER: (Inaudible). 10 MR. CORNETT: Yeah. Judge Allen, it looks 11 like we have one person in the room who would like 12 to comment. 13 UNIDENTIFIED MALE SPEAKER: (Inaudible). 14 MR. CORNETT: (Inaudible). 15 CHAIRMAN JENKINS: Good evening, sir. 16 UNIDENTIFIED MALE SPEAKER: (Inaudible). 17 CHAIRMAN JENKINS: First and last name -- 18 spell them both. 19 MR. THORSTED: J-e-r-e-m-i-a-h T-h-o-r-s- 20 t-e-d. I am Lee Roy's son-in-law and a foreman 21 (indiscernible) I manage probably approximately 40 22 pieces of equipment. And (indiscernible) clear out 23 the street (indiscernible). We are moving from 24 Christmas Valley out past Fort Rock on that 25 (indiscernible) Oil Dri Road. And you know,</p>
<p style="text-align: right;">55</p> <p>1 developers cannot allow weeds to go to seed. So a 2 five-year period of monitoring weeds onsite is not 3 going to protect the adjoining farmers from the 4 impacts of weeds going to seed and affecting both 5 habitat and their farming practices in adjacent 6 land. And the State statute will require those 7 farmers who are impacted to deal with and pay for 8 controlling noxious weeds that come from this 9 development. 10 So those two are both, I think, very 11 significant issues that are not being adequately 12 addressed in the application and in the proposed 13 order -- or Draft Proposed Order. And I believe 14 that the farmers have a legitimate issue in terms of 15 contesting both the -- the failure to -- or the 16 ignoring of the local land use process and the 17 failure to deal with noxious weeds in a way that 18 protects this -- the local farmers from significant 19 cost and -- and difficulty with their farming 20 practices. 21 Thank you. 22 CHAIRMAN JENKINS: Thank you, Ms. Gilbert. 23 MS. GILBERT: Bye. 24 CHAIRMAN JENKINS: Okay. So I need to 25 clarify at this time whether there is anyone who</p>	<p style="text-align: right;">57</p> <p>1 sometimes I take up the whole road. So it seems the 2 added traffic on that road is going to cause me some 3 issues trying to move my farm equipment to get my 4 job done. 5 And my second issue you just heard Mr. 6 Craig Foster tell you that it takes about a year for 7 the elk to figure out to go around this facility. 8 And going around this facility means going right 9 through my fields and my crops. And that's -- that 10 -- that's going to be detrimental to me and my 11 operation. 12 So thank you for your time. 13 CHAIRMAN JENKINS: Thank you. 14 Okay. Now let's make sure that we have no 15 other individuals on the webinar who wish to make a 16 comment. 17 UNIDENTIFIED FEMALE SPEAKER: At this 18 time, there is no other (inaudible) webinar 19 (inaudible) applicants. I will go to the phone 20 lines. 21 MR. CORNETT: (Inaudible) comment. 22 (Inaudible). 23 UNIDENTIFIED MALE SPEAKER: (Inaudible). 24 UNIDENTIFIED FEMALE SPEAKER: I'm going to 25 mute.</p>

<p style="text-align: right;">58</p> <p>1 At this time, if anybody on the phone has 2 a comment, please say so. 3 (No audible response.) 4 UNIDENTIFIED FEMALE SPEAKER: Judge Allen, 5 there is no other comment on the phone. 6 CHAIRMAN JENKINS: Thank you very much. 7 At this time then, we will hear the 8 response from the applicant, Obsidian Resources, LLC 9 -- I'm sorry -- Obsidian Renewables, LLC. 10 Who is providing the response to comments 11 from the applicant? 12 UNIDENTIFIED FEMALE SPEAKER: Elaine 13 Albrich. 14 Elaine, you have the floor. 15 MS. ALBRICH: Great. Thank you. 16 Good evening. My name is Elaine Albrich. 17 I am permitting counsel with Davis Wright Tremaine 18 located in Portland, and my contact information is 19 on the record. 20 I have been working with the Obsidian 21 applicant an the applicant's team over the course of 22 this project, and we are very excited to be here 23 tonight at the DPO hearing. 24 I want to reiterate, as we have in our 25 response to DPO comments that we submitted to the</p>	<p style="text-align: right;">60</p> <p>1 I wanted to be responsive to ODF and W's comments. 2 Thank you for the July 16th letter. It had helpful 3 recommendations. And we did provide a written 4 response today in the form of response letter along 5 with revision -- proposed revisions to the HMP and 6 the -- the landowner agreement in response to those 7 comments. We think that will address your concerns 8 about the durability question. And so we reflect -- 9 excuse me -- we refer you to those written comments 10 rather than going through them tonight. 11 One point that we have heard from ODF and 12 W, and we have provided a written response in our 13 May 18th letter back to ODF and W, is that we do not 14 believe that a two-to-one ratio is required to meet 15 the ODF and W mitigation policy or the EFSC fish and 16 wildlife standard. We think a ratio that's less 17 than two-to-one is appropriate and supported by the 18 evidence that we have provided into the record. 19 The proposed mitigation involves a juniper 20 treatment and noxious weed control program that has 21 known success and that there are evidence in the 22 record to -- to demonstrate that. And you heard 23 from our natural resources consultants today on -- 24 on that point, also. 25 Finally, on ODF and W's point about</p>
<p style="text-align: right;">59</p> <p>1 Department in writing during this hearing, that we - 2 - we do hear the concerns of the neighbors. We have 3 recognized the concerns that you have and have 4 categorized them into -- to key areas and have 5 provided response to those comments in our July 16th 6 written response. 7 Most of the comments that we received in 8 writing prior to the DPO hearing raised similar 9 issues with respect to dust, wind erosion, 10 displacement of rodents, light pollution, visual 11 impacts, noxious weeds, and -- and water. And so 12 you will find those written responses in our July 13 16th submittal. 14 But just to touch on them briefly, we did 15 provide some additional evidence into the record in 16 response to comments, including a letter from our 17 natural resource consultant, Fosters Natural 18 Resource Contracting, about the potential impacts 19 associated with displacement of rodents during 20 construction. And you'll note that that letter 21 concludes that potential impacts are likely to be 22 minimal and, if -- if anything, just temporary. So 23 I'll refer you to -- to that in the record. 24 We also provided today, actually, a 25 response to ODF and W's July 16th comment letter, so</p>	<p style="text-align: right;">61</p> <p>1 decommissioning and needing to address mitigation 2 through the reclamation era, ODF -- or the applicant 3 did not reject ODF and W's comments, but suggested 4 rather that the more appropriate time would be to 5 address that issue during the preparation of the 6 decommission plan, which is a plan that the 7 certificate holder must prepare in consultation with 8 ODOE and ODF and W for how decommissioning will take 9 place. And then that plan goes before Council to 10 review and approve prior to decommissioning. 11 So we think that, given the length of the 12 project life, that that's a more appropriate time to 13 have the discussion for anything that may be 14 required during the reclamation of the project site 15 following the facility's end of life. 16 With that, I will conclude my oral 17 testimony in response to comments and -- and simply 18 direct staff and Council to our written -- written 19 response. 20 I would note that we did receive a few 21 comment letters since the hearing started. We also 22 received Mr. Reeder's 35-page comment letter with 23 several attachments today about 3:00 o'clock. And 24 so for the sake of being able to -- to review those 25 letters that came in late this afternoon and this</p>

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1 evening, we would request that the record be left
 2 open for the applicant to provide limited responsive
 3 comments to -- to those -- to those comments that
 4 were received. And we would request that the
 5 Hearings Officer approve the record be left open for
 6 application to provide their written response to
 7 those comments until noon on Wednesday, July 22nd.
 8 JUDGE ALLEN: Noon, Wednesday, July 22nd?
 9 MS. ALBRICH: Yes.
 10 JUDGE ALLEN: The record will be held open
 11 for written response.
 12 Anything further, Ms. Albrich?
 13 MS. ALBRICH: No, thank you. And just to
 14 confirm that the record is limited to only
 15 applicant's written response.
 16 JUDGE ALLEN: That is correct.
 17 MS. ALBRICH: Okay. Thank you for the
 18 clarification, and thank you for your time tonight.
 19 Thanks to ODOE staff the councilmembers
 20 who attended and participated. We appreciate your
 21 continued work on this project.
 22 JUDGE ALLEN: Thank you, Ms. Albrich.
 23 At this time, any questions or requests
 24 for Council?
 25 (No audible response.)

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1 JUDGE ALLEN: Hearing no response, it is
 2 7:56 p.m. on July 20th, 2020. Public hearing on the
 3 Draft Proposed Order for the Obsidian Solar Center
 4 is now closed.
 5 Thank you all for your participation.
 6 (WHEREUPON, the proceedings were closed at
 7 7:56 p.m.)
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1 CERTIFICATE
 2
 3 I, Karynn Willman, do hereby certify that the
 4 proceedings named herein was professionally transcribed on
 5 the date set forth in the certificate herein; that I
 6 transcribed all testimony adduced and other oral proceedings
 7 had in the foregoing matter; and that the foregoing
 8 transcript pages constitute a full, true, and correct record
 9 of such testimony adduced and oral proceeding had and of the
 10 whole thereof.
 11
 12
 13 IN WITNESS WHEREOF, I have hereunto set my hand this
 14 17th day of August, 2020.
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 20 /S/ Karynn Willman
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