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# ENERGY FACILITY SITING COUNCIL

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Hanley Jenkins, Chair ■ Marcy Grail, Vice-Chair ■ Kent Howe ■ Mary Winters ■ Jordan Truitt ■ Cynthia Condon

**Energy Facility Siting Council  
July 20, 2020  
Special Meeting Minutes**

**Monday, July 20, 2020 at 5:30 p.m.  
Christmas Valley, OR – Community Hall  
In-Person/Webex Teleconference Meeting**

**Links to meeting audio**

**On-site/In-person recording:** <https://soundcloud.com/odoe/2020-07-20-osc-efsc-special-meeting-on-site-audio?in=odoe/sets/july-20-2020-special-efsc>

**Webex recording:** <https://soundcloud.com/odoe/2020-07-20-osc-efsc-special-meeting-webex-audio?in=odoe/sets/july-20-2020-special-efsc>

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- A. Obsidian Solar Center, Draft Proposed Order Public Hearing (Public Hearing) – Kellen Tardaewether, Senior Siting Analyst and Joe Allen, Senior Administrative Law Judge, Oregon Office of Administrative Hearings.

The meeting materials presented to Council are available online at:

<https://www.oregon.gov/energy/facilities-safety/facilities/Pages/Council-Meetings.aspx>

## **Monday, July 20, 2020 – Christmas Valley, OR & Webex Teleconference**

**Call to Order:** The meeting was called to order at 5:30 p.m. on July 20, 2020 by Chair Jenkins.

**Roll Call:** Council Chair Hanley Jenkins, Council Members Mary Winters, Jordan Truitt and were present by teleconference. Vice Chair Marcy Grail, Council Members Cynthia Condon, and Kent Howe attended in-person.

Oregon Department of Energy representatives present in-person were Assistant Director for Siting/Council Secretary, Todd Cornett, Senior Siting Analyst Chase McVeigh-Walker, and Operations

and Policy Analyst Robert Del Mar. Senior Policy Advisor Maxwell Woods, Senior Siting Analyst Kellen Tardaewether, and Division Assistant Michiko Mata were present by teleconference. Hearing Officer Joe Allen, Senior Law Judge was also present by teleconference.

- A. [5:30 p.m.] Obsidian Solar Center, Draft Proposed Order Public Hearing (Public Hearing)<sup>1</sup>** – The proposed Obsidian Solar Center facility includes approximately 400 megawatts of solar photovoltaic power generation equipment and its related or supporting facilities, occupying up to 3,921 acres in north Lake County, near Christmas Valley, Oregon. The applicant is Obsidian Renewables, LLC.
1. Proposed Facility Overview: Kellen Tardaewether, Senior Siting Analyst will provide a brief overview of the proposed facility and the procedural history for the Application for Site Certificate.
  2. Hearing Officer Process Overview: Joe Allen, Senior Administrative Law Judge, Oregon Office of Administrative Hearings and Council-appointed hearing officer will outline the procedural steps for the hearing as provided in the Oregon Administrative Rules.
  3. Testimony: Opportunity for members of the public and reviewing agencies to provide oral testimony administered by the hearing officer. Written comments may be submitted to the Department up to the close of the comment period which ends at the close of the hearing. See below for more details: <https://www.oregon.gov/energy/facilities-safety/facilities/Pages/OSC.aspx>

Applicant Opening Comments from David Brown and Michelle Slater on behalf of Obsidian Renewables LLC<sup>2</sup> Applicant provided a project overview, description of the company and experience siting solar facilities.

#### Public Testimony

**Terry Craigg, Retired United States Department of Agriculture representing Fort Rock and Silver Lake Soil & Water Conservation District**<sup>3</sup>: Asked by the Board to draft and submit the report to the Oregon Department of Energy. The report was mainly directed towards the Obsidian Solar Project, but hoped it could be used with the development of future projects in the area. Mr. Craigg outlined the following issues identified in the report which can be found on the combined DPO comments [here](#). The main concerns were regarding soil conservation, and ensuring the application of the Obsidian Solar Project would meet the requirements by the Soil and Water Conservation District.

- Wind soil erosion during and after installation
- Establishing adequate vegetation cover to protect soil from long-term wind erosion
- Grading and leveling soil in the areas of slopes ranging 2-20%, exposing or mixing surface and subsoils, driving on slopes could displace soil enough to expose lower horizons
- Soil detachment and loss of natural velocity.
- Control of non-native and noxious weeds, but did say he supported the efforts by Obsidian as they have done a good job in responding
- Monitoring adaptive management

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<sup>1</sup> On-site Audio for Agenda Item A = 00:07:30 – July 20, 2020

<sup>2</sup> On-site Audio for Applicant Opening Comments = 00:47:56 – July 20, 2020

<sup>3</sup> On-site Audio for Public Testimony (T. Craigg) = 00:55:01 – July 20, 2020

He closed by saying the report had a summary of the issues and identified a step-by-step process to fix them. For further details refer to the audio recording or the full meeting transcription (to be provided in the future).

**Carl Shumway**<sup>4</sup>: Mr. Shumway raised concerns about the proposed battery components and stated the applicant should have done a better job with their site plan information. Mr. Shumway provided his comments both orally and in written form. Please refer to his written [comments](#), audio, or the full meeting transcription (transcription to be provided in the future).

**Jerald and Verlinda Simmons**<sup>5</sup>: Mr. and Mrs. Simmons expressed their opposition to the proposed project because of impacts to their home value; wildlife; and both daytime and nighttime scenic values. Mr. and Mrs. Simmons provided comments both orally and in written form. Please refer to their written [comments](#), audio, or the full meeting transcription (transcription to be provided in the future).

**Aaron and Rebecca Borrer**<sup>6</sup>: Mr. and Mrs. Borrer raised concerns related to: 1) increased dust due to the removal of plants on the project site; 2) damage to roads due to increased traffic; 3) displacement of elk due to fencing leading to road safety concerns; 4) displacement of rodents causing damage to their hay crop; 5) disposal of project materials and reclamation of the project site at the end of the project's lifecycle; 6) the characterization of the project site as non-arable instead of arable; and 7) a conflict of interest because part of the project is proposed on state owned lands and the project is being reviewed by the state. Mr. and Mrs. Borrer provided comments both orally and in written form. Please refer to their written [comments](#), audio, or the full meeting transcription (transcription to be provided in the future).

**LeeRoy and Nancy Horton, as well as on behalf of Golden Acres**<sup>7</sup>: Mr. and Mrs. Horton raised concerns about: 1) soil erosion, dust and high winds impacting their farm; 2) displaced rodents eating their crops; 3) displaced hares moving onto their cropland and into their barns and haystacks; 4) the proliferation of invasive weeds which could jeopardize their organic crops; 5) an increase in ambient air temperature which could cause humidity and moisture changes in early mornings limiting the ability to hay and bale; and 6) negative impacts to soil and water due to the toxic components in solar panels. Mr. and Mrs. Horton provided comments both orally and in written form. Please refer to his written [comments](#), audio, or the full meeting transcription (transcription to be provided in the future).

**Mariam and Jeremiah Thorsted**<sup>8</sup>: Mrs. and Mr. Thorsted raised concerns about potential impacts to their livestock (cattle and sheep). Specifically they cited: : 1) dust creating respiratory problems; 2) young sheep development; 3) light pollution preventing sleep resulting in weight loss; 4) dogs distracted by construction not guarding sheep; 5) displacement of coyotes from the project site moving closer to her animals. Additional concerns include: 1) the use of water for the project which should be for farmers and ranchers; 2) increased dust creating road hazards and potentially allergic reactions for her employees; and 3) safety due to temporary construction workers. Mrs. and Mr. Thorsted provided

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<sup>4</sup> On-site Audio for Public Testimony (C. Shumway) = 01:02:58 – July 20, 2020

<sup>5</sup> On-site Audio for Public Testimony (J.V. Simmons) = 01:005:23 – July 20, 2020

<sup>6</sup> On-site Audio for Public Testimony (A.B. Borrer) = 01:07:10 – July 20, 2020

<sup>7</sup> On-site Audio for Public Testimony (L. Horton) = 01:14:30 – July 20, 2020

<sup>8</sup> On-site Audio for Public Testimony (M.J.Thorsted) = 01:26:46 – July 20, 2020

comments both orally and in written form. Mr. Thorsted provided his oral comments separately (see below). Please refer to their written [comments](#), audio, or the full meeting transcription (transcription to be provided in the future).

**Patrick Barker**<sup>9</sup>: Mr. Barker orally submitted concerns regarding long-term damage to wildlife, rodents, and elk. He is concerned his property value will decrease significantly, and the maps of the projects submitted were inadequate to fully understand where things are being built. For further details refer to the audio recording or the full meeting transcription (transcription to be provided in the future).

**Harold Miles**<sup>10</sup>: Mr. Miles orally submitted concerns regarding erosion and the elk's migration route. For further details refer to the audio recording or the full meeting transcription (transcription to be provided in the future).

**Donny Gallagher representing Swinerton Renewable Energy, an Obsidian Renewables LLC contractor**<sup>11</sup>: Mr. Gallagher provided oral comments via Webex. Mr. Gallagher outlined his long history with Swinerton, and stated they have been chosen as the contractor for the Obsidian Solar Center. He addressed some of the concerns brought up regarding dust control, soil stabilization, and traffic safety. For further details refer to the audio recording or the full meeting transcription (transcription to be provided in the future).

**Jen Kirby representing Swinerton Renewable Energy, an Obsidian Renewables LLC contractor**<sup>12</sup>: Ms. Kirby provided oral comments via Webex. Ms. Kirby outlined her long history and experience with Swinerton. She addressed the concerns regarding the revegetation and amount of grading on the job site. For further details refer to the audio recording or the full meeting transcription (transcription to be provided in the future).

**Mary Foster representing Foster's Natural Resource Contracting, an Obsidian Renewables LLC contractor**<sup>13</sup>: Mrs. Foster provided oral comments via Webex. Mrs. Foster stated that their company was hired by Obsidian to provide juniper and noxious weed inventory, and to develop a juniper treatment plan to meet the requirement in the habitat mitigation plan for Obsidian. For further details refer to the audio recording or the full meeting transcription (transcription to be provided in the future).

**Craig Foster representing Foster's Natural Resource Contracting, an Obsidian Renewables LLC contractor**<sup>14</sup>: Mr. Foster provided oral comments via Webex. Mr. Foster outlined his long history, experience, and duties with ODFW. Mr. Foster's statements were focused on the juniper treatment plan they developed for Obsidian, and wildlife migration. For further details refer to the audio recording or the full meeting transcription (transcription to be provided in the future).

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<sup>9</sup> On-site Audio for Public Testimony (P. Barker) = 01:32:20 – July 20, 2020

<sup>10</sup> On-site Audio for Public Testimony (H.Miles) = 01:34:18 – July 20, 2020

<sup>11</sup> On-site Audio for Public Testimony (D. Gallagher) = 01:37:57 – July 20, 2020

<sup>12</sup> On-site Audio for Public Testimony (J. Kirby) = 01:43:41 – July 20, 2020

<sup>13</sup> On-site Audio for Public Testimony (M. Foster) = 01:47:45 – July 20, 2020

<sup>14</sup> On-site Audio for Public Testimony (C. Foster) = 01:48:56 – July 20, 2020

**Mike Reeder representing Fort Rock Neighbors<sup>15</sup>:** Mr. Reeder provided oral comments via Webex, and acknowledged ODOE staff for the work they've done so far. Mr. Reeder stated they provided a 35 page letter and attachments outlining the objections to the project, and he outlined the main points, which were:

- The size of the solar PV project being proposed
- The project being inappropriately located
- Conflicts with farm use on three sides of the property
- Impacts to big game winter range
- Grading and impacts to native vegetation
- Dust affecting farming operations
- Lack of water

For further details refer to the audio recording or the full meeting transcription (transcription to be provided in the future).

**Sarah Reif representing Oregon Department of Fish & Wildlife<sup>16</sup>:** Ms. Reif provided oral comments via Webex. Ms. Reif outlined her role at ODFW and how it relates to ODOE, and that her comments could also be found in their July 15, 2020 written comment as well as previous comments submitted on the DPO. Her comments were in regards to the wildlife habitat mitigation plan for a category 2 habitats. She outlined the following concerns that still needed to be addressed:

- Proposed working land improvement program, grievance language, agreement doesn't include the habitat mitigation plan
- Applicants proposed mitigation ratio
- Decommissioning

For further details refer to the audio recording or the full meeting transcription (transcription to be provided in the future).

**Terry Ozbun representing Archeological Investigations Northwest, an Obsidian Renewables, LLC contractor<sup>17</sup>:** Mr. Ozbun provided oral comments via Webex outlining his experience in archeology and that he would be addressing EFSC Standards for historical cultural and archeological resources on behalf of Obsidian Solar. Mr. Ozbun referred to the Oregon Administrative Rules and the EFSC Standards that protect cultural resources during the development of energy facility projects and they would not affect any property already on or potentially could be on the historical property index. He stated Native American artifacts have been found along with other isolates, and potentially human burials in the area. He stated Obsidian Solar is working with the Tribes and several agencies to preserve these areas and to minimize any impacts. For further details refer to the audio recording or the full meeting transcription (transcription to be provided in the future).

**Irene Gilbert<sup>18</sup>:** Ms. Gilbert provided oral comments via Webex expressing her opposition to the Obsidian Solar Project on behalf of the impacted farmers and requested her comment be incorporated

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<sup>15</sup> On-site Audio for Public Testimony (M. Reeder) = 01:53:25 – July 20, 2020

<sup>16</sup> On-site Audio for Public Testimony (S. Reif) = 01:58:58 – July 20, 2020

<sup>17</sup> On-site Audio for Public Testimony (T. Ozbun) = 02:05:16 – July 20, 2020

<sup>18</sup> On-site Audio for Public Testimony (I. Gilbert) = 02:12:00 – July 20, 2020

with the ones by the attorney representing those farmers. She outlined Statutes explaining they overrode EFSC and EFSC did not have authority to overrule any previous land use decisions. Monitoring for the weeds is not adequate with the current State Statutes, and allowing the weeds to seed. She felt these two issues are not being addressed in the DPO. For further details refer to the audio recording or the full meeting transcription (transcription to be provided in the future).

**Jeremiah and Mariam Thorsted**<sup>19</sup>: Mr. and Mrs. Thorsted provided comments both orally and in written form. Mrs. Thorsted provided her oral comments separately (see above for more details on the issues they raised). Please refer to their written comments, audio, or the full meeting transcription (transcription to be provided in the future).

**Applicant Response - Elaine Albrich, Davis Wright Tremaine, LLP on behalf of Obsidian LLC**<sup>20</sup>: Ms. Albrich provided an oral response via Webex that they do hear the concerns of the neighbors, and have categorized them into key areas which were submitted to ODOE in writing on July 16, 2020. She stated commenters raised similar issues regarding dust, erosion, pollution, visual impacts, noxious weeds, and water. She stated that the applicant provided additional evidence in the record regarding potential impacts to rodents, and referred commenters to that record. She went on to thank ODFW for the July 16, 2020 letter with their recommendations, and that the applicant does not believe the 2:1 mitigation ratio would be required to meet the ODFW Mitigation Policy or the EFSC Fish and Wildlife Standard which is supported by the evidence submitted to the record. She stated that the applicant does not reject the decommissioning and the mitigation within the reclamation area, but that would be more appropriately addressed during the preparation of the decommissioning plan near the end of the lifecycle of the facility. For further details refer to the audio recording or the full meeting transcription (transcription to be provided in the future).

Ms. Albrich requested the record be left open until noon on Wednesday, July 22, 2020, to allow time for the applicant to review and provide limited responses to Mr. Reeder's letter submitted at 3 p.m. The open record would be limited to only the applicants written response.

Administrative Judge Allen approved the request to keep the record open until noon on July 22, 2020.

More information is located on the [Council Meetings website](#) for additional details pertaining to this [presentation](#).

**ADJOURN** at 7:56 pm

For more details visit the [Council Meetings website](#).

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<sup>19</sup> On-site Audio for Public Testimony (J. Thorsted) = 02:17:50 – July 20, 2020

<sup>20</sup> On-site Audio for Applicant Response (E. Albrich) = 02:20:23 – July 20, 2020