Opening Items:

- Call to Order
- Roll Call
- Announcements
Announcements:

• Reminder to Council and to anyone addressing the Council to please remember to state your full name clearly, and do not use the speakerphone feature, as it will create feedback.

• You may sign up for email notices by clicking the link on the agenda or the Council webpage.

• You are also welcome to access the online mapping tool and any documents by visiting our website.
Announcements Continued:

• For those attending in person:
  • Please wear a mask or face covering.
  • Please maintain a distance of 6 feet from others. This venue has been appropriately set up to maintain this social distancing.
  • Hand sanitizer is provided on the tables.
  • During the public hearing staff will ask for a show of hands from those who want to comment and will call on you one at a time.
  • Please silence your phone.

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• Please use the “Raise Your Hand” feature in Webex to speak during the public comment period, or press *3 to raise your hand if you are participating by telephone.

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• The Department will indicate the order in which public comments are provided for a hearing on a draft proposed order. Individuals may provide comments in-person, via the webinar, or via the phone-in option.

• Energy Facility Council meetings shall be conducted in a respectful and courteous manner where everyone is allowed to state their positions at the appropriate times consistent with Council rules and procedures. Willful accusatory, offensive, insulting, threatening, insolent, or slanderous comments which disrupt the Council meeting are not acceptable. Pursuant to Oregon Administrative Rule 345-011-0080, any person who engages in unacceptable conduct which disrupts the Council meeting may be expelled.
Agenda Item A

- February Meeting Minutes
- Council Secretary Report
Agenda Item B
(Public Hearing)

Madras Solar Energy Facility
Draft Proposed Order Hearing

April 22, 2021

Chase McVeigh-Walker, Senior Siting Analyst, Oregon Department of Energy

Joe Allen, Senior Administrative Law Judge, Oregon Office of Administrative Hearings
WebEx Webinar Features
Energy Facility Siting Council (EFSC) Review

- Consolidated review and oversight of most large-scale energy facilities and infrastructure in Oregon

- 7 Members of EFSC
  - Governor appointed, Senate confirmed – Volunteers from around the State

- ODOE’s Siting Division is staff to EFSC
Energy Facility Siting Process

Notice of Intent

Project Order

Application (pASC and ASC)

Draft Proposed Order

Proposed Order

Contested Case

Final Order and Site Certificate

Applicant

ODOE

Applicant

ODOE

Applicant

ODOE

Hearing Officer

ODOE & EFSC

Public Comment

Agency Coordination

Public Comment

Agency Coordination

Agency Coordination

Agency Coordination

Agency Coordination

Agency Coordination
Madras Solar Energy Facility: Project Overview

- Applicant: Madras PV1, LLC.

  - Related or supporting facilities would include above- and belowground 34.5 kilovolt (kV) collector lines; a 230 kV step-up substation; operations and maintenance enclosure; point of interconnection switching station; and lithium-ion or flow battery storage system.
Madras Solar Energy Facility: Project Overview
# Madras Solar Energy Facility: Procedural History

<table>
<thead>
<tr>
<th>Milestone</th>
<th>Responsible Party</th>
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</tr>
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<tr>
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</tr>
<tr>
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<td>ODOE/EFSC</td>
<td>April 22, 2021 (Today)</td>
</tr>
<tr>
<td>EFSC Review of DPO and Comments</td>
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<td>Proposed Order and Notice of Contested Case</td>
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* Pending the close of the record of the DPO
Public Participation at DPO Phase

• The issuance of the DPO notice initiates the opportunity for public comment on the proposed facility;

• Notice opens comment period and provides details on public hearing;

• The public may submit comments by:
  • Mail, email, hand-delivery, or fax during the comment period;
  • Providing oral or written comments at the in-person, webinar/call-in DPO public hearing.
Public Participation at DPO Phase (cont’d)

- Persons commenting on DPO during the comment timeframe are eligible to be considered for party status in the contested case proceeding;
  - The Council will not accept comments on the application or on the DPO after the close of the record on April 22, 2021;
- For consideration in the contested case, issues raised must be raised with sufficient specificity so that the Council, the Department, and the applicant understand the issue raised and are afforded an opportunity to respond to the issue;
- To raise an issue with sufficient specificity, a person must present facts that support the person’s position on the issue.
Public Participation at DPO Phase (cont’d)

**Effective Comments**

- Referencing specific Council siting standards and OAR’s. Providing specific information supporting whether or not a standard has been met;
- Stating supporting facts in comments & attaching reference materials;
- Referencing specific pages or sections of the application (ASC) or DPO.

**Less Effective**

- Only stating support or opposition to a proposed facility;
- Only providing a copy of a report without presenting any analysis or facts related to compliance with a standard;
- Raising issues outside of EFSC’s jurisdiction;
- Making unsubstantiated statements.
Madras Solar Energy Facility Draft Proposed Order Public Hearing

April 22, 2021
Presiding Officer - Joe Allen, Senior Administrative Law Judge
Office of Administrative Hearings
EFSC Appointed Hearing Officer
Format for Public Testimony

• Each commenter (in-person, on webinar and on conference line) shall state their name, with spelling, and physical mail or email address for the record;
• Applicant will have opportunity to provide DPO comments within time limits and will have an opportunity to respond to comments last;
• Hearing is being recorded.
A person who intends to raise any issue that may be the basis for a contested case must raise the issue:

- in person at the hearing or in a written comment submitted to the Department of Energy before the deadline stated in the notice of the public hearing (Today, April 22, 2021).

- with sufficient specificity to afford the Council, the Department of Energy and the applicant an adequate opportunity to respond, including a statement of facts that support the person’s position on the issue.

OAR 345-015-0220 (5)(a) and (b)
To raise an issue in a contested case proceeding, the issue must be:

- within the jurisdiction of the Council;
- raised in person or in writing before the deadline stated in the notice of the public hearing; and
- raised with sufficient specificity to afford the Council, the Department of Energy, and the applicant an adequate opportunity to respond.

To raise an issue with sufficient specificity, a person must present facts that support the person’s position on the issue.

OAR 345-015-0016(3) and OAR 345-015-0220
Madras Solar Energy Facility: Public Hearing
Testimony

Prior to Testifying, state the following:
• Full name with spelling
• Name of organization or group if you are representing one
• Title if you are representing an organization or group
• Physical mail or email address if you wish to receive notice of the Proposed Order which includes a description of how to request to participate in the contested case

Please Note: If you do not wish to provide your mailing or email address in this format, you may email it to the Department at chase.mcveigh-walker@Oregon.gov or call the following number and provide the information, including spelling, in a voicemail: 503-934-1582.
Close of the Public Hearing
Opening Items:

• Call to Order
• Roll Call
• Announcements
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Montague Wind Power Facility, Request to Amend Wildlife Monitoring and Mitigation Plan

April 23, 2021
Sarah Esterson, Senior Policy Advisor, Oregon Department of Energy
Request to Amend WMMP

Post Construction Fatality Monitoring - Proposed Changes

• Increase search frequency
• Change survey years from Year 1 and 5 to Years 1 and 2
• Clarify the number of turbine sample size
• Add option to use road and pad survey plot
• Use GenEst instead of Schoenfeld
Council Deliberation
Agenda Item D
(Action Item)

Golden Hills Wind Project, Request to Amend Wildlife Monitoring and Mitigation Plan
April 23, 2021
Sarah Esterson, Senior Policy Advisor, Oregon Department of Energy
Request to Amend WMMP

Post Construction Fatality Monitoring - Proposed Changes

- Increase search frequency from 16 to 24 per year
- Change survey years from Year 1 and 5 to Years 1 and 2
- Clarify the number of turbine sample size
- Add option to use road and pad survey plot
- Use GenEst instead of Schoenfeld

Other WMMP Proposed Changes

- Remove references to bird handling
- Remove raptor nest survey mitigation trigger
- Remove avian use and behavior surveys
Agenda Item E

PUBLIC COMMENT

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

Webinar Commenters: Open the Participant list, hover over your name and click on the “Raise Your Hand icon”.
How to Raise Your Hand in Webex:

**Webinar Participants**
The bottom right of the main window is a set of icons:
   Click on “Participants”
The bottom right of the participant window is a hand icon, click on the hand:
   Clicking on it again will lower your hand.

**Phone Participants**
Press *3 on your telephone keypad to raise your hand.
Press *3 again on your telephone keypad to lower your hand.
Agenda Item F
(Potential Action Item)

Protected Areas, Scenic Resources, and Recreation Rulemaking

April 23, 2021
Christopher M. Clark, Siting Policy Analyst & Rules Coordinator, ODOE
Overview

• Background
• Overview of Rulemaking Project
• Rulemaking Recommendations from Stakeholders and Staff
• Staff Recommendations on Conduct of Proceedings
• Council Deliberation
• This rulemaking is intended to ensure that the Protected Areas, Scenic Resources, and Recreation standards and associated rules are up to date, clear, and consistent with the Council’s review process.

• At its October 23, 2020 meeting, Council initiated the rulemaking and directed staff to seek public input and provide additional recommendations on the conduct of the proceedings.

• On November 6, 2020, staff requested stakeholder recommendations on the rulemaking. The responses are included as Attachment 2.
• ORS 469.470(2) requires the Council to adopt standards for the siting, construction, and operation of energy facilities. Standards adopted include:
  • OAR 345-022-0040, Protected Areas
  • OAR 345-022-0080, Scenic Resources
  • OAR 345-022-0100, Recreation

• Rulemaking is needed to address several areas of rule that are out of date, ambiguous, unclear, or inconsistent with the Council’s review processes.
Scope and Objectives

• Staff recommends that the scope of this rulemaking be limited to issues related to the three standards and associated information requirements.

• Based on preliminary analysis and recommendations, objectives are to:
  • Ensure that the language of the Standards clearly identifies important resources and values the standards are intended to protect.
  • Ensure that the standards are consistent with ORS 469.310.
  • Improve efficiency and effectiveness of Council’s review processes and procedures by resolving ambiguity, lack of clarity, and inconsistency in rule.
Potential Impacts on Stakeholders

• Changes to standards could result in some potential fiscal or economic impacts on applicants if resources protected under the standards are expanded.

• Impacts would only apply to future applications and would be highly dependent on the size, type, and location of a proposed facility.

• Some reductions in the overall costs associated with the application process review could result from resolving ambiguity, lack of clarity, and inconsistency in rules.
Stakeholder Recommendations

• Staff received 8 responses to the November 6 request
• Some stakeholders recommended Council appoint a RAC to provide additional input on new and existing issues
• Most stakeholders were supportive of rulemaking, but some recommended this rulemaking be suspended until issues included in the Application Process Review rulemaking are addressed
• Several stakeholders raised new issues related to the standards under consideration.
## Summary of Staff Recommendations

<table>
<thead>
<tr>
<th>Description</th>
<th>Staff Recommendation</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1</strong> Rules do not require manager a protected area to be given notice of an NOI or ASC.</td>
<td>Issue policy directive requiring public notice Amend OAR 345-020-0011 and 345-021-0010</td>
</tr>
<tr>
<td><strong>2</strong> The Scenic Resources and Recreation standards limit the scope of Council’s findings to resources in the analysis area identified in the project order. The Protected Area Standard contains no similar limitation.</td>
<td>Amend OAR 345-022-0080(1) and 345-022-0100(1) to remove reference to project order.</td>
</tr>
<tr>
<td><strong>2.1</strong> * Study areas for impacts to Protected Areas, Recreation, and Scenic Resources may be too large, especially for renewable energy facilities.</td>
<td>More Input Needed Exceeds Scope</td>
</tr>
</tbody>
</table>

*Issue raised in whole or part by stakeholders*
# Summary of Staff Recommendations

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<tr>
<td><strong>3</strong> The Protected Areas Standard refers to “designations in effect as of May 11, 2007.”</td>
<td>Amend OAR 345-022-0040(1) to remove reference to date.</td>
</tr>
<tr>
<td><strong>4</strong> The Protected Areas Standard contains a list of designation categories and specific protected areas that may be incomplete or out of date.</td>
<td>Amend OAR 345-022-0040(1) to update protected areas categories.</td>
</tr>
<tr>
<td><strong>5</strong> The Protected Areas Standard does not list Outstanding Resource Waters as Protected Areas.</td>
<td>Make no changes</td>
</tr>
<tr>
<td><strong>6</strong> The Protected Areas Standard may permit a transmission line or natural gas pipeline to be sited in a protected area when other lesser impact alternatives are available.</td>
<td>Amend rule to clarify OAR 345-022-0040(2)</td>
</tr>
<tr>
<td></td>
<td>Description</td>
</tr>
<tr>
<td>---</td>
<td>---------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>7*</td>
<td>The Scenic Resources standard does not specify that scenic resources and values identified as significant or important in state land management plans are protected.</td>
</tr>
<tr>
<td>8*</td>
<td>The application of new rules or standards to an Application for Site Certificate that is under review may prejudice the applicant.</td>
</tr>
<tr>
<td>9*</td>
<td>More specificity in how the Council evaluates impacts to scenic and recreation resources, and protected areas may be needed.</td>
</tr>
<tr>
<td>10*</td>
<td>The criteria for identifying important recreational opportunities may be unclear</td>
</tr>
</tbody>
</table>

*Issue raised in whole or part by stakeholders*
Recommendations

• Staff recommends Council authorize staff to conduct one or more public workshops to refine the draft proposed rules and further discuss the issues related to the Protected Areas, Scenic Resources, and Recreation Standards.

• Due to the ongoing COVID-19 pandemic, staff recommends workshops be held remotely, but the workshop could be delayed until an in-person workshop is possible if Council believes this would be appropriate.
Option 1
Authorize staff to conduct public workshops on outstanding issues (staff recommendation)

Option 2
Review staff’s draft proposed rules and initiate formal rulemaking proceedings

Option 3
Suspend rulemaking and defer consideration of issues until a later time
Legislative Update
April 23, 2021
Sarah Esterson, Senior Policy Advisor, Oregon Department of Energy
### 2021 Legislative Session – EFSC Related Bills

<table>
<thead>
<tr>
<th>Bill #</th>
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| **HB 2063** | **Position:** For  **Priority:** 1  **Relating To:** Standby Generators  
**Description** - Eliminates need to receive an exemption from EFSC for standby generation facilities.  
**Status:** Approved by House, referred to Senate Energy & Environment Committee |
| **HB 2064** | **Position:** For  **Priority:** 1  **Relating To:** A quorum of the Energy Facility Siting Council  
**Description** - Reduces EFSC quorum from 5 – 4  
**Status:** Approved by House Rules Committee. Headed to House floor vote. |
| **HB 2691** | **Position:** Neutral  **Priority:** 2  **Relating To:** Prevention of avian deaths at wind energy facilities  
**Description** – Amended – Directs OSU & ODOE to conduct study about painting turbine blades to increase visibility for birds and reduce avian deaths  
**Status:** Approve by House Agriculture and Natural Resources Committee. Headed to House floor vote. |
### Bill Information

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| SB 353  | **Position:** Neutral  **Priority:** 2  **Relating To:** Energy Facility Siting Council  
**Description** - Requires State Department of Energy to conduct study related to Energy Facility Siting Council and report findings to interim committees of Legislative Assembly by September 15, 2022  
**Status:** No public hearing or work session. Bill should not be moving forward. |
| SB 246  | **Position:** For  **Priority:** 1  **Relating To:** Radioactive Material  
**Description** - Requires EFSC to adopt standards and rules necessary to prevent disposal of radioactive waste in Oregon. Provides Director of State Department of Energy and council additional authority for administration and enforcement of laws related to disposal of radioactive waste.  
**Status:** Approved by Senate. Referred to House Energy & Environment Committee. |
<p>| HB 2831 | House version of SB 246. No public hearing or work session. Bill should not be moving forward. |</p>
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| HB 2692  | **Position:** Neutral  **Priority:** 2  **Relating To:** Energy  
**Description** – Small modular reactor exemptions. Exempt's issuance of site certificate for small modular reactors from requirement that proposal by EFSC to issue site certificate for nuclear-fueled thermal power plant must be approved by voters.  
**Status:** No public hearing or work session. Bill should not be moving forward.                                                                 |
| HB 2332  | **Position:** Neutral  **Priority:** 2  **Relating To:** Energy  
**Description** - Nuclear Waste Repository Licensing Requirements - Repeals provisions requiring that before issuing site certificate for nuclear-fueled thermal power plant, EFSC must find that repository for disposal of waste produced by plant is licensed to operate by federal government.  
**Status:** No public hearing or work session. Bill should not be moving forward.                                                                 |
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| SB 360  | **Position:** Neutral  **Priority:** 2  **Relating To:** Small nuclear reactors  
**Description** - Exempts small modular reactors from certain siting restrictions that apply to nuclear-fueled thermal power plants. Requires small modular reactors to be sited in city or county where electors of city or county have approved small modular reactors being located in city or county. Requires emergency planning zones for small modular reactors to be located in county where electors of county have approved small modular reactors being located in county. Requires proposed disposal of high-level radioactive waste by small modular reactor to comport with process approved or adopted by United States Nuclear Regulatory Commission.  
**Status:** Public hearing held but no work session. Bill should not be moving forward. |
| HB 2520 | **Position:** Neutral  **Priority:** 2  **Relating To:** The adoption of energy policies into statewide land use planning goals  
**Description** – Amended to direct LCDC to convene RAC and adopt rules before July 1, 2022 identifying reasons sufficient for County to justify a goal exception for renewable projects.  
**Status:** Public hearing and work session held. |
## 2021 Legislative Session – EFSC Related Bills

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| HB 3180 | **Position:** Neutral  **Priority:** 2  **Relating To:** Utilities  
**Description** - Requires delivery of certain land use notices to property owners and to properties within wider geographic range.  
**Status:** Public hearing held but no work session held. Bill should not be moving forward. |
| HB 2109 | **Position:** Neutral  **Priority:** 3  **Relating To:** County land use permits to establish renewable energy facilities; amending ORS 215.446  
**Description** – Modifies definition of “renewable energy facility” for purposes of certain energy facilities. This is a fix to HB 2329 in the 2019 session to preclude M56 notification by DLCD.  
**Status:** Approved by House. Referred to Senate Energy & Environment Committee. |
## 2021 Legislative Session – EFSC Related Bills

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<td><strong>SB 287</strong></td>
<td><strong>Position:</strong> Neutral  <strong>Priority:</strong> 3  <strong>Relating To:</strong> Wildfire</td>
</tr>
<tr>
<td></td>
<td><strong>Description</strong> – Requires that electrical companies and consumer-owned utilities have wildfire plans based on best practices.</td>
</tr>
<tr>
<td></td>
<td><strong>Status:</strong> Public hearing held but no work session held. While this bill will not likely be moving forward, it was rolled into SB 762, a “Wildfire Omnibus Bill”</td>
</tr>
<tr>
<td><strong>SB 287</strong></td>
<td><strong>Position:</strong> Neutral  <strong>Priority:</strong> 3  <strong>Relating To:</strong> Wildfire</td>
</tr>
<tr>
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<td><strong>Description</strong> – Directs Legislative Policy and Research Office to study strategies to promote wildfire response and recovery and report to appropriate committee or interim committee of Legislative Assembly on or before September 15, 2022.</td>
</tr>
<tr>
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<td><strong>Status:</strong> Public hearing and a work session. Also referred to Ways and Means Committee so bill is not necessarily subject to the same deadlines as other bills.</td>
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<tr>
<td>SB 5415</td>
<td>• Allows clean energy projects to opt into the Energy Facility Site Evaluation Council (EFSEC) review and certification process (including energy storage, biofuel processing, natural gas replacement, clean energy manufacturing)</td>
</tr>
<tr>
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<td>• EFSEC may waive the required adjudicative proceeding if it determines genuine issues of fact do not exist with the application for site certification and the application is consistent and in compliance with local land-use laws.</td>
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<td>• Creates a least-conflict priority clean energy project siting program.</td>
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<td>• Requires a list of mitigation measures for likely environmental impacts of clean energy projects seeking EFSEC certification.</td>
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<td>• Last update was executive session of Senate Environment, Energy &amp; Technology Committee on Feb 11th. No action was taken.</td>
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Agenda Item H
(Action Item)

Council Appointment of Consultant for Exhibit S (Historic, Cultural and Archaeological Resources)
April 23, 2021
Sarah Esterson, Senior Policy Advisor, Oregon Department of Energy
Council Deliberation
Agenda Item I
(Information Item)

April 23, 2021
Chase McVeigh-Walker, Senior Siting Analyst, Oregon Department of Energy
Council Scope of Review

OAR 345-015-0230

• Review DPO, DPO Comments by issue/standard, applicant’s response to issues raised; Department recommendations

• Provide comments for Department consideration in proposed order
  • Provide comments individually, consensus, or vote at EFSC meeting
  • Provide comments by issue or standard as staff presents
Description of Proposed Facility

- Applicant: Madras PV1, LLC
- Proposed Facility: 63 MW Solar PV Facility
- Location: Jefferson County, approximately 5.5 miles west of the City of Madras; 284 acre site boundary
Description of Related or Supporting Facilities

- Belowground 34.5 kilovolt (kV) collector lines;
- a 230 kV step-up substation;
- 230 kV transmission line segment;
- operations and maintenance enclosure;
- point of interconnection switching station;
- and lithium-ion or flow battery storage system
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Council Review of DPO/Comments

Comments received to date (Reviewing Agencies):
  • Oregon Department of Geology and Mineral Industries (DOGAMI)

Comments received to date (General Public):
  • None
Council Review of DPO/Comments

Section IV.A. General Standard of Review: OAR 345-022-0000

General Standard of Review requires the Council to find that a preponderance of evidence on the record supports the conclusion that a proposed facility would comply with the requirements of EFSC statutes and the siting standards adopted by the Council and that a proposed facility would comply with all other Oregon statutes and administrative rules applicable to the issuance of a site certificate for the proposed facility.
Section IV.A. General Standard of Review: OAR 345-022-0000

Applicant represents a 9-month maximum construction schedule in ASC. (DPO page 16)

**Recommended General Standard Condition 1** allocates up to three-years after the date of Council action for the applicant to begin construction, and 18 months from that date to complete construction.

Additional conditions include Mandatory conditions (required pursuant to OAR 345-025-0006) and Site-Specific conditions (OAR 345-025-0010)
Subsections (1) and (2) of the Council’s Organizational Expertise standard require that the applicant demonstrate its ability to design, construct and operate the proposed facility in compliance with Council standards and all site certificate conditions, and in a manner that protects public health and safety, as well as its ability to restore the site to a useful, nonhazardous condition. Subsections (3) and (4) address third party permits.
Council Review of DPO/Comments

Section IV.B. Organizational Expertise: OAR 345-022-0010

Subsidiary of Ecoplexus (parent company); additional details regarding the parent company’s experience in the United States, and elsewhere in the world. (DPO page 23)

Conditions confirm that the responsibility of compliance with the site certificate would be with the applicant. (DPO page 24)
Section IV. C Structural Standard: OAR 345-022-0020  [DPO page 29]

Structural Standard generally requires the Council to evaluate whether the applicant has adequately characterized the potential seismic, geological and soil hazards of the site, and whether the applicant can design, engineer and construct the facility to avoid dangers to human safety and the environment from these hazards.
Section IV. C Structural Standard: OAR 345-022-0020

Applicant represents that the risk of seismic hazards to human safety and environment at the proposed site is considered low. (DPO page 31)

Conditions would require pre-construction geotechnical investigation, and that the facility be designed, engineered, & constructed in accordance with current building codes

Recommended Structural Condition 6 clarification
Council Review of DPO/Comments

Section IV. D Soil Protection: OAR 345-022-0022  [DPO page 37]

Soil Protection standard requires the Council to find that, taking into account mitigation, the design, construction, and operation of a proposed facility are not likely to result in a significant adverse impact to soils.
Council Review of DPO/Comments

Section IV. D Soil Protection: OAR 345-022-0022  [DPO page 37]

Soil Protection standard requires the Council to find that, taking into account mitigation, the design, construction, and operation of a proposed facility are not likely to result in a significant adverse impact to soils.
Section IV. D Soil Protection: OAR 345-022-0022

Applicant approximates 270.18 acres of permanent disturbance, and 6.68 acres of temporary disturbance. (DPO page 38)

Recommended Soil Protection Condition 1 requires DEQ-issued NPDES 1200-C permit, including final Erosion Sediment Control Plan, and evidence of compliance with the permit to be reported to the Department. (DPO page 39)
Land Use standard requires the Council to find that a proposed facility complies with the statewide planning goals adopted by the Land Conservation and Development Commission (LCDC). Under ORS 469.504(1)(b)(A), the Council may find compliance with statewide planning goals if the Council finds that a proposed facility “complies with applicable substantive criteria from the affected local government’s acknowledged comprehensive plan and land use regulations that are required by the statewide planning goals and in effect on the date the application is submitted...”
Section IV. E Land Use: OAR 345-022-0030
Applicant seeks a Council land use determination under ORS 469.504(1)(b). (DPO page 43)

• Special advisory group: Jefferson County Board of Commissioners
• Entirely located within Exclusive Farm Use A-1 (EFU A-1) zone.
• Analysis of compliance with:
  - Jefferson County applicable substantive criteria
    Sensitive Bird Habitat Overlay Zone (DPO page 49)
  - Directly applicable state statutes and administrative rules
  - Statewide Planning Goal 3 Exception
• North Unit Irrigation District (NUID)
Section IV. E Land Use: OAR 345-022-0030

Applicant evaluated the proposed 230 kV transmission line as an associated transmission line under ORS 215.274 (DPO page 86)

Reasons supporting a Statewide Planning Goal 3 Exception:
• Proposed Facility Components are Locationally Dependent (DPO page 101)
• No Direct Impacts to Agriculture (DPO page 102)
Section IV. F Protected Areas: OAR 345-022-0040 [DPO page 106]

Protected Areas standard requires the Council to find that, taking into account mitigation, the design, construction and operation of a proposed facility are not likely to result in significant adverse impacts to any protected area as defined by OAR 345-022 0040.
Table 1: Protected Areas within 20-mile Analysis Area

<table>
<thead>
<tr>
<th>Protected Area</th>
<th>Approx. Distance from Proposed Site Boundary (miles)</th>
<th>Direction from Proposed Site Boundary</th>
<th>Basis for Protection (OAR 345-022-0040)</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Cove Palisades State Park</td>
<td>3.1</td>
<td>South</td>
<td>(h) State parks and waysides</td>
</tr>
<tr>
<td>Central Oregon Agriculture Research and Extension Center</td>
<td>3.5</td>
<td>East</td>
<td>(m) Agricultural experimental stations</td>
</tr>
<tr>
<td>Lower Deschutes Wild and Scenic River – from Pelton Dam downstream to the north county line</td>
<td>4.2</td>
<td>North</td>
<td>(k) Scenic waterways</td>
</tr>
<tr>
<td>Warm Springs State Wildlife Management Area</td>
<td>5.1</td>
<td>North</td>
<td>(p) State wildlife areas and management areas</td>
</tr>
<tr>
<td>The Island Area of Critical Environmental Concern</td>
<td>6.3</td>
<td>South</td>
<td>(o) Bureau of Land Management areas of critical environmental concern, outstanding natural areas and research natural areas</td>
</tr>
<tr>
<td>Deschutes Canyon-Steelhead Falls Wilderness Study Area</td>
<td>8.9</td>
<td>South</td>
<td>(c) Wilderness areas</td>
</tr>
<tr>
<td>Middle Deschutes Wild and Scenic River – from Odin Falls to the upper end of Lake Billy Chinook</td>
<td>11.7</td>
<td>South</td>
<td>(k) Scenic waterways</td>
</tr>
<tr>
<td>Metolius Wild and Scenic River – from Deschutes National Forest boundary to Lake Billy Chinook</td>
<td>12.1</td>
<td>West</td>
<td>(k) Scenic waterways</td>
</tr>
<tr>
<td>Lower Crooked Wild and Scenic River – from the National Grasslands boundary to Dry Creek</td>
<td>12.8</td>
<td>South</td>
<td>(k) Scenic waterways</td>
</tr>
<tr>
<td>Warm Springs National Fish Hatchery</td>
<td>13.5</td>
<td>North</td>
<td>(f) National and state fish hatcheries</td>
</tr>
<tr>
<td>Peter Skene Ogden State Scenic Viewpoint</td>
<td>18.2</td>
<td>South</td>
<td>(h) State parks and waysides</td>
</tr>
<tr>
<td>Smith Rock State Park</td>
<td>19.7</td>
<td>South</td>
<td>(h) State parks and waysides</td>
</tr>
</tbody>
</table>
Council Review of DPO/Comments

Section IV. G Retirement and Financial Assurance: OAR 345-022-0050  [DPO page 118]

Retirement and Financial Assurance standard requires a finding that the proposed facility site can be restored to a useful, non-hazardous condition at the end of the facility’s useful life, should either the applicant (certificate holder) stop construction or should the facility cease to operate. In addition, it requires a demonstration that the applicant can obtain a bond or letter of credit in a form and amount satisfactory to the Council to restore the site to a useful, non-hazardous condition.
Council Review of DPO/Comments

Section IV. G Retirement and Financial Assurance: OAR 345-022-0050

Applicant estimates a proposed useful life of 40 years (DPO page 118) and provided a cost estimate for maximum battery storage of $4,093,387. (DPO page 121)

Department’s recommended retirement cost estimate: $4.9 million (DPO page 124)

Applicant provided letter from The Hanover Insurance Group to demonstrate financial assurance. (DPO page 125)

Recommended Retirement and Financial Assurance Condition 4 would require submittal of bond or letter of credit before construction, and Recommended Retirement and Financial Assurance Condition 3 would require restoration if construction or operation is permanently ceased. (DPO pages 125 and 120 respectively)
Fish and Wildlife Habitat standard requires the Council to find that the design, construction and operation of a facility is consistent with the Oregon Department of Fish and Wildlife’s (ODFW) habitat mitigation goals and standards, as set forth in OAR 635-415 0025. This rule creates requirements to mitigate impacts to fish and wildlife habitat, based on the quantity and quality of the habitat as well as the nature, extent, and duration of the potential impacts to the habitat.
Section IV. H Fish and Wildlife Habitat: OAR 345-022-0060

Permanent Habitat Impacts to Category 4 habitat types within the site boundary (Exotic Annual Grassland and Rabbitbrush Shrub-Steppe (DPO page 128)) would be approximately 270.18 acres.

Temporary Habitat Impacts to Category 4 Habitat would be approximately 6.66 acres. (DPO Page 128)
Section IV. H Fish and Wildlife Habitat: OAR 345-022-0060

Recommended Fish and Wildlife Habitat Conditions 1, 2, and 3 require the applicant to submit a Revegetation Plan, a Noxious Weed Control Plan, and a Habitat Mitigation Plan for review and approval respectively. (DPO pages 130, 131, and 133 respectively)

Recommended Fish and Wildlife Habitat Condition 4 requires a preconstruction raptor nest survey within 0.25 miles from proposed disturbance areas. (DPO page 135)
Section IV. Threatened and Endangered Species: OAR 345-022-0070 [DPO page 137]

Threatened and Endangered Species standard requires the Council to find that the design, construction, and operation of the proposed facility are not likely to cause a significant reduction in the likelihood of survival or recovery of a fish, wildlife, or plant species listed as threatened or endangered by Oregon Department of Fish and Wildlife (ODFW) or Oregon Department of Agriculture (ODA).

The applicant’s literature review confirmed that there are no state listed threatened or endangered (T&E) plants or mammal species or suitable habitat within the analysis area. Additionally, suitable habitat for two federally-listed fish species was identified within the analysis area, but outside of the proposed facility site boundary. (DPO page 139)
Scenic Resources standard requires the Council to find that visibility of proposed facility structures, plumes, vegetation loss and landscape alterations would not cause a significant adverse impact to identified scenic resources and values. To be considered under the standard, scenic resources and values must be identified as significant or important in local land use plans, tribal land management plans, and/or federal land management plans.
Section IV. J Scenic Resources: OAR 345-022-0080

Applicant evaluated potential impacts from construction and operation to the following five scenic resources identified as significant or important in the local, state, tribal, and federal land management plans (DPO pages 147-148):

- Lower Deschutes River
- Madras Mountain Views Scenic Bikeway
- The Cove Palisades State Park
- Canyon walls of Deschutes and Crooked Rivers
- Lake Billy Chinook View Area
Section IV. K Historic, Cultural, and Archaeological Resources: OAR 345-022-0090

Section (1) of the Historic, Cultural and Archaeological Resources standard generally requires the Council to find that a proposed facility is not likely to result in significant adverse impacts to identified historic, cultural, or archaeological resources.

The applicant’s Cultural Survey Report was provided to three tribal governments and SHPO, to which SHPO concurred that the proposed facility would likely have no effect on any significant archeological objects or sites. (DPO page 157)

Recommended Historic, Cultural and Archeological Condition 1 requires the applicant to conduct construction activities in compliance with the Inadvertent Discovery Plan and the Attachment Tribal Position Paper on the Treatment of Human Remains. (DPO page 158)
Section IV. L Recreation: OAR 345-022-0100  [DPO page 158]

Recreation standard requires the Council to find that the design, construction, and operation of a facility would not likely result in significant adverse impacts to “important” recreational opportunities. Therefore, the Council’s Recreation standard applies only to those recreation areas that the Council finds to be “important,” utilizing the factors listed in the subparagraphs of section (1) of the standard.
## Section IV. L Recreation: OAR 345-022-0100

Table 8: Recreational Opportunities within the 10-Mile Analysis Area and Distance from Proposed Site Boundary

<table>
<thead>
<tr>
<th>Recreational Opportunity</th>
<th>Management or Jurisdiction</th>
<th>Distance from Site Boundary (miles)</th>
<th>Special Designation</th>
<th>Determination of Importance (Yes/No)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Crooked River National Grassland</td>
<td>Local/State/Federal</td>
<td>0</td>
<td>Ranger District</td>
<td>Yes</td>
</tr>
<tr>
<td>Willow Creek Canyon Trail</td>
<td>State/Federal</td>
<td>0.3</td>
<td>Regional Trail</td>
<td>Yes</td>
</tr>
<tr>
<td>Madras Mountain Views Scenic Bikeway</td>
<td>State</td>
<td>2.5</td>
<td>State-designated Scenic bikeway</td>
<td>Yes</td>
</tr>
<tr>
<td>The Cove Palisades State Park</td>
<td>State</td>
<td>3.1</td>
<td>State Park</td>
<td>Yes</td>
</tr>
<tr>
<td>Round Butte Overlook Park</td>
<td>Portland General Electric</td>
<td>4.0</td>
<td>None</td>
<td>Yes</td>
</tr>
<tr>
<td>Lower Deschutes Wild and Scenic River</td>
<td>Federal</td>
<td>4.2</td>
<td>Federal Wild and Scenic River; State Scenic Waterway</td>
<td>Yes</td>
</tr>
<tr>
<td>Jefferson County Fairgrounds</td>
<td>Jefferson County</td>
<td>4.6</td>
<td>None</td>
<td>Yes</td>
</tr>
</tbody>
</table>

Notes: Cells hi-lited/shaded grey indicates recreational opportunities are recommended “important,” and therefore evaluated under the Council’s Recreation standard.
Council Review of DPO/Comments

Section IV. M Public Services: OAR 345-022-0110  [DPO page 177]

Public Services standard requires the Council to find that a proposed facility is not likely to result in significant adverse impacts on the ability of public and private service providers to supply sewer and sewage treatment, water, stormwater drainage, solid waste management, housing, traffic safety, police and fire protection, health care, and schools.
Council Review of DPO/Comments

Section IV. M Public Services: OAR 345-022-0110 [DPO page 177]
Applicant estimates approximately 290 total roundtrip vehicle trips during peak construction periods. (DPO page 181)

Recommended Public Services Condition 1 requires the development and implementation of a Construction Traffic Management Plan. (DPO page 183)

Recommended Public Services Condition 2 requires the applicant in an extension of the Federal Aviation Administration’s (FAA) Determination of No Hazard to Air Navigation for solar facility components. (DPO page 186)
Council Review of DPO/Comments

Section IV. N Waste Minimization: OAR 345-022-0120  [DPO page 191]

Waste Minimization Standard requires the Council to find that the applicant would minimize the generation of solid waste and wastewater, and that the waste generated would be managed to minimally impact surrounding and adjacent areas.

Recommended Waste Minimization Condition 1 requires review, approval, and implementation of a Waste Management Plan, which includes a materials and waste inventory (type and estimated quantity) consistent with the inventory included in ASC Exhibit G; and the Hazardous Materials Business Plan and Spill Control and Countermeasure Plan. (DPO page 194)
Section IV.P. Division 24 Standards


[Siting Standards for Transmission Lines address issues associated with alternating current electric fields and induced currents generated by high-voltage transmission lines. OAR 345-024-0090(1) sets a limit for electric fields from transmission lines of not more than 9 kV per meter at one meter above the ground surface in areas that are accessible to the public. Section (2) requires implementation of measures to reduce the risk of induced current.]
Section IV.P. Division 24 Standards

[DPO page 195]

Applicant indicates that the 200-foot segment of 230-kV transmission line would be located within the proposed facility perimeter fenceline and inaccessible to the public, and determined that the the 9-kV per meter standard and modeling of electric fields would not be required to demonstrate compliance with the standard. (DPO page 196)
Section IV.Q. Other Applicable Regulatory Requirements Under Council Jurisdiction

IV.Q.1. Noise Control Regulations: OAR 340-035-0035 [DPO page 197]

OAR 340-035-0035 provides the Oregon Department of Environmental Quality (DEQ) noise rules for industry and commerce and establishes noise limits for new industrial or commercial noise sources based upon whether those sources would be developed on a previously used or previously unused site.

**Recommended Noise Control Condition 1** requires the submission of a noise summary report presenting the sound power levels (in dBA) of noise generating equipment.

**Recommended Noise Control Condition 2** establishes a noise complaint response program. (DPO page 205)
Council Review of DPO/Comments

Section IV.Q. Other Applicable Regulatory Requirements Under Council Jurisdiction

IV.Q.2. Removal-Fill [DPO page 205]

The Oregon Removal-Fill Law (ORS 196.795 through 196.990) and Department of State Lands (DSL) regulations (OAR 141-085-0500 through 141-085-0785) require a removal-fill permit if 50 cubic yards or more of material is removed, filled, or altered within any “waters of the state.”

Applicant indicates, and DSL concurs that no adverse impacts to any waters of the state are expected and the requirements for a removal-fill permit would not be triggered. (DPO page 206)
Section IV.Q. Other Applicable Regulatory Requirements Under Council Jurisdiction

IV.Q.3. Water Rights  [DPO page 207]

Under ORS Chapters 537 and 540 and OAR Chapter 690, the Oregon Water Resources Department (OWRD) administers water rights for appropriation and use of the water resources of the state.

Department recommends that a groundwater permit, surface water permit, or water right transfer are not needed by the applicant. (DPO page 209)
Montague Solar Facility,
Update on Preconstruction Survey Reports
April 23, 2021
Sarah Esterson, Senior Policy Advisor, Oregon Department of Energy
Adjourn