



ENERGY FACILITY SITING COUNCIL

■ Kent Howe, Chair ■ Cindy Condon, Vice-Chair ■ Marcy Grail ■ Ann Beier ■ Richard Devlin ■ Katie Imes

Energy Facility Siting Council Meeting Minutes

Oregon Department of Energy
550 Capitol St. NE
Salem, OR 97301

Friday June 13, 2025 8:30 AM

- A. Consent Calendar (Action & Information Item)¹– Approval of May 16, 2025 Meeting Minutes; Council Secretary Report; and other routine Council business.
- B. Obsidian Solar Center Amendment 2 Proposed Order Review and Possible Final Decision (Action Item)²
- C. Trojan ISFSI Security Plan Revision 10 Review (Action Item)³
- D. Public Comment Period⁴
- E. Legislative Update (Information Item)⁵
- F. Compliance Rulemaking Initiation (Action Item)⁶
- G. Need Standard Overview (Information Item)⁷
- H. Amendment Rulemaking – Notice of Proposed Rulemaking (Action Item)⁸

¹ Audio/Video for Agenda Item A = 00:00:17 – 2025-05-16-EFSC-Meeting-Audio/Video

² Audio/Video for Agenda Item B = 00:08:52 – 2025-05-16-EFSC-Meeting-Audio/Video

³ Audio/Video for Agenda Item C = 00:37:29 – 2025-05-16-EFSC-Meeting-Audio/Video

⁴ Audio/Video for Agenda Item D = 00:50:28 – 2025-05-16-EFSC-Meeting-Audio/Video

⁵ Audio/Video for Agenda Item E = 01:09:12 – 2025-05-16-EFSC-Meeting-Audio/Video

⁶ Audio/Video for Agenda Item F = 01:50:31 – 2025-05-16-EFSC-Meeting-Audio/Video

⁷ Audio/Video for Agenda Item G = 02:10:40 – 2025-05-16-EFSC-Meeting-Audio/Video

⁸ Audio/Video for Agenda Item H = 02:41:48 – 2025-05-16-EFSC-Meeting-Audio/Video

I. Solar Photovoltaic Rules - 5 Year Review (Action Item)⁹

The meeting materials presented to Council are available online at:

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

Call to Order: Chair Howe called the meeting to order on June 13, 2025, at 9:15 a.m.

Roll Call: Council Members Ann Beier and Richard Devlin were present in person. Chair Kent Howe and Council Member Marcy Grail were present virtually.

Oregon Department of Energy representatives present were Council Secretary and Assistant Director for Siting Todd Cornett, Senior Siting Analyst Christopher Clark, Rules Coordinator Tom Jackman, Administrative Assistant Nancy Hatch, Nuclear Emergency Program Coordinator Mark Reese, and Government Relations Coordinator Christy Splitt. Oregon Department of Justice Senior Assistant Attorney General Patrick Rowe was also present.

Agenda Modification: There were no agenda modifications.

A. Consent Calendar (Action & Information Item)¹⁰ – Approval of May 13, 2025 Meeting Minutes; Council Secretary Report; and other routine Council business.

Council Member Devlin motioned Council approve the May 2025 meeting minutes as presented.

Council Member Grail seconded the motion.

The motion was carried unanimously.

Council Secretary Report

Secretary Cornett offered the following comments during his report to the Council:

Project Updates

- Umatilla Morrow County Connector – The project is proposed by Umatilla Electric Cooperative and would be a 230 kV transmission line connecting their existing Highway 730 Switchyard to their planned Ordnance Switchyard. There are four alternative routes ranging from approximately 13.1 to 14.4 miles. The Department received the preliminary Application for Site Certificate on May 29, 2025. Staff are currently reviewing the application for completeness.

⁹ Audio/Video for Agenda Item I= 03:33:17 – 2025-05-16-EFSC-Meeting-Audio/Video

¹⁰ Audio/Video for Agenda Item A= 00:00:17 – 2025-05-16-EFSC-Meeting-Audio/Video

Compliance Updates

- **Klondike III Wind Project** - The project is a wind power generation facility consisting of 176 turbines, with a maximum blade tip height of 492 feet, and an overall peak generating capacity of 300 megawatts located in Sherman County. On May 20, 2025, a fire in the underground collections system led to the deenergization of fifteen turbines (~34 MW). The Emergency Response Plan was activated, and firefighters quickly extinguished the blaze. There were no injuries or environmental impacts, and the turbines are back online.
- **Stateline Wind Project** - The Department completed its initial review of the results of wildlife monitoring activities that occurred at the facility in 2024, as presented in the Annual Compliance Report for the facility. The Wildlife Monitoring and Mitigation Plan (WMMP) for the facility requires the Department to provide an opportunity for public review and comment on the results of wildlife monitoring. Accordingly, a memo summarizing the monitoring results has been posted to the web page for the project and was emailed to Council Members on June 11, 2025. The WMMP and monitoring reports are also attached to the memo. The Department will accept comments on the monitoring results until 5:00 p.m. on July 10, 2025. The certificate holder provided the results of bird and bat fatality monitoring that was required after the 43 turbines included in the Vansycle II portion of the facility were repowered in 2022. The monitoring report showed an exceedance of the threshold of concern for bat fatalities established in the WMMP. Consultation between ODOE, ODFW, and the certificate holder on whether it would be appropriate to require additional mitigation or monitoring to address the exceedance is ongoing. The Department will provide an update with our recommendations regarding mitigation of the bat fatality exceedance and a summary of any public comments received on the monitoring activities at a future Council meeting.

Upcoming Meeting Dates

- July 18 in Salem
- August 21-22- TBD

B. Obsidian Solar Center Amendment 2 Proposed Order Review and Possible Final Decision (Action Item)¹¹ – Christopher Clark, Senior Siting Analyst presented the Proposed Order on Request for Amendment 2 of the Site Certificate for the Obsidian Solar Center and comments received on the record of the Draft Proposed Order to the Council for review.

Council Member Beier stated her understanding that the bond amount from 2018 will be the baseline, and the amount will be adjusted forward for current costs for the calculation of the Retirement and Financial Assurance Condition.

Mr. Clark confirmed that was correct. He noted that when the amount that is currently in the condition was calculated, there was an intermediate inflation adjustment, but the underlying estimate was made using 2018 unit costs. The proposed change removes the

¹¹ Audio/Video for Agenda Item B = 00:08:52 – 2025-05-16-EFSC-Meeting-Audio/Video

intermediate adjustment, but when the actual bond is submitted, they will adjust for inflation at that date.

Council Member Beier acknowledged this amendment request demonstrates the complexity of amendment requests even when only requesting an extension of the time frame for a project. She expressed her appreciation for Mr. Jackman and the RAC that have been working on the Amendment Rulemaking and for Mr. Clark for his work with other agencies to develop more effective conditions for EFSC.

Council Member Devlin motioned the Council issue a Final Order approving the certificate holder's request for amendment 2 to the site certificate for the Obsidian Solar Center, utilizing the Department's Proposed Order as the basis for the Final Order, and issue the 2nd amended site certificate consistent with the Final Order.

Council Member Grail seconded the motion.

The motion was carried unanimously.

- C. Trojan ISFSI Security Plan Revision 10 Review (Action Item)¹²** – Mark Reese, ODOE Radiological Emergency Planning Coordinator and Christopher Clark, Senior Siting Analyst presented a summary of Revision 10 of the Security Plan for the Trojan Independent Spent Fuel Storage Installation (ISFSI) and findings from Mr. Reese's recent site inspection.

Council Member Devlin asked if, with the closure of Trojan and its period of operation, any of the stored nuclear waste has been moved to any other site.

Mr. Reese responded no. He explained that the wastes generated by Trojan are still stored in the 34 canisters securely on the site. There is national discussion related to a federal interim spent nuclear storage facility, but no site currently exists.

Council Member Beier questioned if there are annual visits and reviews of the facility and if Council will be presented with any updates and/or changes if they occur.

Mr. Clark clarified there are annual visits. Significant changes will come before Council. The Council's review is specifically required when there is a revision to the security plan. There are occasionally updates to other plans which have specific requirements in the site certificate to which the nuclear safety and emergency preparedness team provide oversight.

Mr. Reese added Trojan is one of several fixed nuclear facilities that the nuclear safety and emergency preparedness team oversees. Trojan representatives also participated in the annual preparedness drills.

¹² Audio/Video for Agenda Item C = 00:37:29 – 2025-05-16-EFSC-Meeting-Audio/Video

Council Member Devlin motioned the Council approve Revision 10 to the Security Plan and authorize staff to issue the joint statement with the Director of the Department in accordance with OAR 345-070-0030(1), as presented by staff.

Council Member Grail seconded the motion.

The motion was carried unanimously.

D. Public Comment Period (Information Item)¹³ – This time was reserved for the public to address the Council regarding any item within Council jurisdiction that is not otherwise closed for comment.

Ms. Irene Gilbert - Noting her involvement in the Amendment Rulemaking RAC, Ms. Gilbert expressed her concern for the “significant changes” proposed for the Amendment Rules. She specifically noted the proposed change of the removal of the opportunity for contested cases on amended site certificate including any decisions made up to the approval of the site certificate included in House Bill 3681. She stated that there were no members of the public included in the group of stakeholders that met in effort to develop House Bill 3681. She believes the bill also states that Council’s decision on need is what is going to authorize certificate of public convenience and testing for properties in proposed energy development, meaning property owners in Oregon can have their land condemned for a transmission line based on Council issuing a site certificate. The decisions that EFSC make are becoming more and more impactful on people. She stated that Council’s job is not to just approve applications, it is to represent the public. She is concerned that a private group can come in and take control of land. They are not there to be stewards of the land. They are there to use the land.

Ms. Angela Crowley-Koch - Representing Oregon Solar and Storage Industries Association (OSSIA), Ms. Koch expressed her appreciation to Staff and the Council for thorough review of the amendment process and the Amendment Rulemaking, and having a good rulemaking advisory committee in order to streamline the process. There are several good changes that have been made. OSSIA was a part of the RAC for the Amendment Rulemaking and will continue to be engaged in the process as it goes forward. Regarding the removal of contested cases for an amendment to a previously approved site certificate, she stated the change is long overdue. The current process of a contested case on an amendment, some of which can be for very small reasons, has the ability to be abused and can slow the process for an approved project. She added during the scope of review for an amendment where there is land being added, the amendment and the review should be focused on the area that is being added, not the previously approved area. Ms. Crowley-Koch stated the new timeframe of 6 years from the issuance of a site certificate to the date by which the project must begin construction and 3 years for construction completion included in House Bill 3681 is a tight timeline for completion

¹³ Audio/Video for Agenda Item D = 00:50:28 – 2025-05-16-EFSC-Meeting-Audio/Video

of construction. OSSIA would like to see that changed through future rulemaking. Referring to need, she stated the need for transmission and for new energy generation is clear.

Secretary Cornett reminded the Amendment Rulemaking is currently in the informal phase. Council may decide at this meeting to move forward to formal rulemaking and allow the Department to initiate the formal rulemaking process with the Secretary of State. There will still be a public comment period and a public hearing in front of the Council.

Mr. Alex Joe - A property owner in the Christmas Valley area, Mr. Joe stated he attends the EFSC meetings to stay up to speed on energy development in the western states as well as what is happening in the Obsidian Solar project as his property is in close proximity. Responding to Ms. Gilbert's comments, Mr. Joe stated EFSC has regulations and monitoring in place for all projects. He recognized Secretary Cornett and EFSC working hard to try to stay up to speed on variations and changes in requirements for mitigations. He noted in a previous meeting, there was discussion regarding streamlining processes by additional coordination with other state agencies to help facilitate activities. He questioned how Council can work toward advancing coordination with other regulatory agencies in the western states.

Chair Howe closed the Public Comment Period.

E. Legislative Update (Information Item)¹⁴ – Christy Splitt, ODOE Government Relations Coordinator provided Council an overview of the 2025 legislative session.

Council Member Beier questioned when House Bills 3681 and 3874 become effective.

Secretary Cornett provided they become effective on January 1, 2026.

Council Member Beier asked if Council would need to make changes to the Administrative Rules to include language addressing the language in House Bill 3681 "to have standing in appeal, an entity must be able to demonstrate injury."

Secretary Cornett responded as the language was recently added to the house bill, Staff has not evaluated if anything in rules need to change as a result.

Council Member Devlin stated he believes the Administrative Rules will need to be updated. He expressed his concern for the impact of the additional requirement of demonstrating injury for a contested case.

Council Member Beier noted the proof of injury is part of the justification for an appeal to the Supreme Court in other types of contested cases.

¹⁴ Audio/Video for Agenda Item E = 01:09:12 – 2025-05-16-EFSC-Meeting-Audio/Video

Mr. Jackman added an individual can show personal injury, or an organization can represent an issue or that a member of the organization has separate injuries.

Chair Howe requested clarification of the language included in House bill 3681 that allows for changes in the site boundary without an amendment.

Secretary Cornett provided although the Amendment Rules currently include minor changes or expansions to the site boundary, as designated in OAR 345-027-0350, there is no ability to use that rule language because Council lacks the statutory authority. House Bill 3681 provides Council with that statutory authority as of January 1, 2026. Council would continue to evaluate the specific circumstances of any proposed site boundary change against OAR 345-027-0350(4), often referred to as “the three could’s,” which is what would trigger an amendment.

- (a) Could result in a significant adverse impact that the Council has not addressed in an earlier order and the impact affects a resource or interest protected by an applicable law or Council standard;*
- (b) Could impair the certificate holder’s ability to comply with a site certificate condition;*
or
- (c) Could require a new condition or a change to a condition in the site certificate.*

Council Member Beier suggested adding a detailed briefing on the steps and support it may take to implement the new House Bills to a future EFSC meeting agenda.

Chair Howe questioned if the allowed changes to the site include changes within the site boundary.

Secretary Cornett stated the House Bill provides for expansion of the site boundary. An Amendment Determination already exists in Rule which references changes within the site boundary.

Council Member Devlin expressed his concern for Oregon State budgeting and changes to the federal programs being implemented by the current federal administration, referencing his time as a Senator working on budgets in a recession.

F. Compliance Rulemaking Initiation (Action Item)¹⁵ – Tom Jackman, Siting Policy Analyst & Rules Coordinator. The Council considered Staff’s recommendation to initiate the Compliance Rulemaking.

Secretary Cornett noted there will be a compliance 6-month review on the July meeting agenda if Council has additional questions that arise from this agenda item.

¹⁵ Audio/Video for Agenda Item F = 01:50:31 – 2025-05-16-EFSC-Meeting-Audio/Video

Council Member Beier suggested as clarifying the process for reporting and how noncompliance events are handled is being reviewed, there should be consideration for treating different types of compliance issues differently. She added as Council addresses compliance and all the conditions applied, additional guidance from Staff regarding conditions that are easier to enforce and monitor would be appreciated. She further suggested having consistent yearly compliance reports would be an additional tool for Council to aid in decision making.

Secretary Cornett stated the current rules include a compliance issue be reported to Council if it is a significant issue. As it is an important part of the compliance program, the Department would like to include more reporting, both good and bad compliance reporting. There is value and lessons to be learned in both.

Council Member Beier stated additional reporting allows Council to see how new rules are being implemented and their effectiveness.

Council Member Devlin questioned what actions are utilized for issues of noncompliance.

Secretary Cornett stated the goal is to achieve compliance. If a project is in noncompliance, the Council or the manager of the division could issue a notice of violation. A notice of violation triggers a set of circumstances required to get to compliance. It also could result in civil penalties that can be assessed and ultimately the site certificate could be revoked. While maintaining the current compliance path in rule, a more detailed distinction leading up to termination is warranted.

Council Member Beier suggested as there are operational conditions and construction conditions as well as possible compliance with federal or state requirements, addressing them separately for the rulemaking may be beneficial.

Council Member Grail, in reference to the Staff's recommendation for a Rulemaking Advisory Council (RAC), strongly encouraged anyone who may have an interest in Rulemaking or Compliance or knows someone with an interest to direct them to the Department to see how they can get engaged in the RAC.

Council Member Devlin motioned the Council initiate the Compliance Rulemaking, with the scope and objectives recommended by staff, and approve the creation of a rulemaking advisory committee, as presented in the staff report. He motioned that the Council delegate the authority to appoint specific members to the rulemaking advisory committee to the Department.

Council Member Grail seconded the motion.

The motion was approved unanimously.

G. Need Standard Overview (Information Item)¹⁶ – Patrick Rowe, Senior Assistant Attorney General. The Council received an overview of the Council's Need Standard.

Council Member Beier questioned, as EFSC would rely on the Oregon Public Utility's (PUC) review of an integrated resource plan to make a finding on the need standard for investor-owned utilities, what is the process for consumer owned utilities (co-op's).

Mr. Rowe provided there is a System Reliability Rule for Transmission Lines that has 3 criteria that must be met for the Need Standard: 1) the facilities needed to enable the system to meet firm capacity needs, reasonably expected to occur within five years; 2) the facility's consistency with North American Electric Reliability Corporation standards; and 3) construction and operation of the facility is an economically reasonable method of meeting the requirements.

Council Member Grail expressed her appreciation for the presentation. It is a good reminder of the requirements from statute that EFSC is required to follow.

Council Member Devlin questioned if EFSC was involved with the Jordan Cove Energy Project, a proposed Liquid Natural Gas facility which included a proposed pipeline.

Secretary Cornett confirmed EFSC's involvement and stated there is no pipeline at this time. Recently there has been an interesting legal effort representing that the project was improperly denied (paraphrasing) and asserting that the project can move forward. Nothing has been issued at this time and the Department is monitoring the situation.

Council Member Beier, acknowledging that there are 2 projects coming before Council which are utilizing the Need Standard, asked for additional guidance for making findings regarding meeting the Need Standard.

Mr. Rowe reminded that Council has reviewed projects, including the Boardman to Hemingway Transmission Line Project, in which it found compliance with the Need Standard under both the Least Cost Plan Rule and System Reliability Rule, so Council can refer back to that.

Secretary Cornett offered it is the applicant's burden to provide evidence to justify that they meet the Standards. The Department will then utilize expertise either internally or externally. There will be coordination with the PUC and others who have the expertise needed.

¹⁶ Audio/Video for Agenda Item G= 02:10:40 – 2025-05-16-EFSC-Meeting-Audio/Video

Council Member Beier stated her struggle is whether EFSC is aiming for consistency or if these projects are so different that consistency is less important than ensuring that the threshold has been met.

H. Amendment Rulemaking – Notice of Proposed Rulemaking (Action Item)¹⁷ – Tom Jackman, Siting Policy Analyst & Rules Coordinator presented Staff’s draft Amendment Rules for Council’s review and potential initiation of formal rulemaking.

Chair Howe asked if the new directions that explain how a certificate holder may apply to Council to release a portion of the site from the terms and conditions of the site certificate would trigger the need to reclamation for that portion of the site.

Mr. Jackman provided the rule states whatever the process is for releasing the entire site can be used for a portion. All of the requirements to terminate the site, such as restoration, must be completed for the release of a portion of the site.

Council Member Grail asked for additional clarification for the removal of the requirement to explain why a beginning construction time extension is needed.

Secretary Cornett stated that in the current Amendment rules, this is a completeness requirement, but not a substantive threshold requirement. Meaning the certificate holder only has to state the reason, but Council does not evaluate whether that reason justifies a time extension. Because it is only a completeness issues, it has created confusion and Staff is therefore recommending removal.

Council Member Grail noted EFSC has a lot of complexity in their work. She acknowledged her appreciation for eliminating issues that create unintended confusion or outcomes.

Council Member Beier stated her appreciation for Staff and the Rulemaking Advisory Committee for the proposal to extend the comment period for a week after the hearing, acknowledging that was a suggestion Council has received from the members of the public.

Secretary Cornett in regard to the proposed approach of flexibility for the location of a public hearing stated the starting point will be a public hearing in proximity to the facility. If there is justification to not do so, Council or the Chair can make the decision for the location to be changed.

Council Member Beier questioned if there is an established time frame for the applicant to respond to comments.

¹⁷ Audio/Video for Agenda Item H= 02:41:48 – 2025-05-16-EFSC-Meeting-Audio/Video

Mr. Jackman responded the timeframe would be determined by the complexity of amendment request and comments. The timeframe will be established and included in the public notice for each individual amendment.

Secretary Cornett noted there is large amount of information included in the proposed rulemaking. There will be additional opportunities for Council and the member of public to ask questions about any of the details included in rulemaking process.

Council Member Beier questioned the timeframe for the completion of the rulemaking process.

Mr. Jackman explained the steps involved and stated the final draft of the proposed rulemaking most likely will be presented at the September EFSC meeting.

Council Member Beier noted there is plenty of time for the public to engage on this rulemaking. There will be a robust comment period. Council will then take information from those comments and include it in the decision making.

Secretary Cornett explained the options for the decision before Council presently. If Council approves to move forward with the rulemaking, there are opportunities provided for Council to make changes to the proposed rulemaking based on public comments.

Council Member Devlin questioned what was the reason for the Supreme Court past decision that any site boundary changes required a mandatory amendment request. His concern is the new legislation that allows for changes to the site boundary while the Supreme Court ruling is that changes require a mandatory amendment request.

Mr. Rowe stated the Supreme Court interprets legislation and the legislation is clear. It is explicit, saying an amendment is required to make a site boundary change. The current language in OAR 345-027-0350 allow Staff to approve a minor site boundary expansion through the amendment determination request process as long as “the three could’s” are not triggered by the proposed site boundary change. However, the Supreme Court determined based on statute that Council did not have the statutory authority to implement those rules. Part of House Bill 3681 was in response to the decision by the Supreme Court.

Council Member Devlin asked when does an amendment request become a new proposal for the site.

Secretary Cornett stated that question has come up before. There are current wind facility sites that are adding solar to the site that themselves would trigger an application if requested by themselves. However, they are still legally an amendment. There is nothing in statute that directs or designates a threshold for when a change to an existing facility is an amendment versus a new facility. It is a good policy question for Council to consider and will most likely be questioned in the public comments for this rulemaking.

Council Member Devlin questioned if Council would have within its authority the ability to make the clarification or would it need to be defined in Statute.

Secretary Cornett stated things are very explicit in statute with regards to applications. They are not very explicit with regards to amendments. It is his belief that Council has a lot of broad authority to establish how it wants to deal with amendments, though that has not been examined specifically.

Mr. Rowe agreed with Secretary Cornett.

Mr. Jackman added under the existing framework and under what is being proposed, the project as proposed or amended must meet all of Council standards.

Secretary Cornett reiterated substantively, there is no difference between an application and amendment. All of the same requirements must be met, the same evidence, and the same thresholds. Procedurally, there are differences. The question is, are some amendment requests big enough that there should be a new application procedure versus an amendment procedure.

Council Member Beier motioned the Council approve initiation of formal proceedings on the Amendment Rulemaking, with the scope and objectives recommended in the staff report; approve staff to file a notice of proposed rulemaking with the draft rules that are included in Attachment 1 to the staff report; and authorize staff to schedule a public hearing during the public comment period.

Council Member Grail seconded the motion.

The motion was carried unanimously.

- I. Solar Photovoltaic Rules - 5 Year Review (Action Item)¹⁸** – Tom Jackman, Siting Policy Analyst & Rules Coordinator presented the Solar PV Power Generation Rules (OAR 345-001-0250), adopted in June 2020, for Council's review.

Council Member Grail motioned the Council approve the Solar Photovoltaic Rules – 5 Year Review as presented and recommended by staff in the May 30, 2025 staff report.

Council Member Devlin seconded the motion.

The motion was carried unanimously.

Chair Howe adjourned the June 13, 2025 EFSC meeting at 1:27 p.m.

¹⁸ Audio/Video for Agenda Item I= 03:33:17 – 2025-05-16-EFSC-Meeting-Audio/Video