

Sunset Solar EFSC Staff Report Supplement

Attachment 1: Comments Received on Sunset Solar Project

Draft Proposed Order

October 9, 2025

Kathleen Sloan
Oregon Department of Energy – Energy Facility Siting Office
550 Capitol St. NE, 1st Floor
Salem, OR, 97301-3742

Re: Sunset Solar Project RFA 1 – Certificate Holder DPO Comment Letter

Dear Kathleen Sloan,

This letter provides comments by Sunset Solar, LLC (“Certificate Holder”) on the Draft Proposed Order on Request for Site Certificate Amendment 1, dated September 9, 2025 (“DPO”). Certificate Holder supports the Oregon Department of Energy (“ODOE”) findings that Certificate Holder can safely and responsibly construct and operate the Sunset Solar Project (“Facility”). The Certificate Holder provides the following comments and revisions on the DPO for the reasons outlined below.

Condition GEN-OE-04

Redlined Text

The certificate holder shall, as soon as reasonably possible:

- a. Report incidents or circumstances that ~~may~~ violate the terms or conditions of the site certificate, terms or conditions ~~of any order~~ of the Council, to the Department. ~~In the report to the Department, the certificate holder shall provide all pertinent facts including an estimate of how long the conditions or circumstances existed, how long they are expected to continue before they can be corrected, and whether the conditions or circumstances were discovered as a result of a regularly scheduled compliance audit;~~
- b. Initiate and complete appropriate action to correct the conditions or circumstances and to minimize the possibility of recurrence;
- c. Submit a written report within 30 days of discovery to the Department. The report must contain:
 - i. A discussion of the cause of the reported conditions or circumstances;
 - ii. The date of discovery of the conditions or circumstances by the responsible party, how long they are expected to continue before they can be corrected, and whether the conditions or circumstances were discovered as a result of a regularly scheduled compliance audit;
 - iii. A description of immediate actions taken to correct the reported conditions or circumstances;
 - iv. A description of actions taken or planned to minimize the possibility of recurrence; and
 - v. ~~If the above analysis determines that For conditions or circumstances that may violate the~~ terms or conditions of ~~a the~~ site certificate have been violated, an assessment of the impact on the resources considered under the standards of OAR Chapter 345 Division 22 and 24 as a result of the reported conditions or circumstances.
- d. Upon receipt of the written report in sub(c) of this condition, the Department may review the facility record for incidents or circumstances reported or reportable under sub(a) related to public health and safety, the environment, or other resources protected under Council standards. If these incidences are determined by the Department to impact the adequacy of the facility decommissioning cost, the

Department or Council may adjust the contingencies identified in Final Order on Amendment 1 of Sunset Solar Project Site Certificate, Table 7 and request that the certificate holder promptly provide an updated bond or letter of credit in the adjusted amount.
[OAR 345-029-0010, GEN-OE-04; Final Order on SSF AMD1]

Rationale

Certificate Holder proposes removing the word "may" and focusing on only those incidents that do violate the conditions. We also suggest removing the words "any order" and focusing on those orders included in the site certificate. We suggest moving some of the text from (a) to (c), which includes the list of items to include in the report, for clarity.

Condition PRE-TE-01

Redlined Text

Prior to construction ~~or operation~~ of the facility, facility component or phase, the certificate holder shall:

- a. ~~Conduct Complete~~ botanical surveys ~~to confirm the presence or absence of Tygh Valley milkvetch, a state listed threatened or endangered plant species, within unsurveyed areas of permanent or temporary disturbance. The certificate holder shall submit a survey protocol to establish the survey area and methods to coordinate with the Department for review, in consultation with the Oregon Department of Agriculture or third-party consultant.~~
 - i. If any T&E species are identified and cannot be avoided, certificate holder must submit and Amendment Determination Request to the Department for a determination on whether the impacts and mitigation must be reviewed by Council through the site certificate amendment process.
 - ii. If the impacts and mitigation are determined by the Department not to require review through the Council's site certificate amendment process, certificate holder shall implement and adhere to the mitigation requirements approved by the Department.
- b. ~~If the pre-construction surveys identify Tygh Valley milkvetch, or any other state threatened or endangered plant species, the certificate holder shall complete an impact assessment to determine whether temporary or permanent impacts would significantly reduce the likelihood of survivability or recovery of the impacted species, and shall propose mitigation, as determined appropriate by the Department, in consultation with the Oregon Department of Agriculture or its third-party consultant, as necessary.~~

[Threatened and Endangered Species Condition 1, Final Order on ASC (2020); AMD1 (2021)]

Rationale

Certificate Holder proposes revising this condition to be consistent with language included in the Site Certificate for the Yellow Rosebush Energy Center. Botanical surveys were completed within the micrositng corridor and area subject to RFA1 by Certificate Holder in 2018, with the Tygh Valley milkvetch as a target species. No Tygh Valley milkvetch or other state listed threatened or endangered plant species were observed. Based on comments received from the Oregon Department of Agriculture regarding RFA1, Certificate Holder believes the revised condition language will avoid impacts to state listed threatened or endangered plant species.

Condition PRE-RF-01

Redlined Text

Prior to construction, where and as applicable, the certificate holder shall provide, to the Department, valid jurisdictional determination concurrence letter(s) from DSL for areas to be impacted during construction demonstrating that no Removal-Fill Permit is needed for the construction of the facility.
[Final Order on SSF AMD1]

Rationale

Certificate Holder proposes revising this language to clarify that jurisdictional determination concurrence letter(s) are required to be submitted in instances where applicable. For example, if areas to be impacted during construction are absent of wetlands and surface waters or if Certificate Holder can demonstrate wetlands and surface waters are entirely avoided during construction of the facility.

Condition CON-OE-01

Redlined Text

During construction, the certificate holder shall have an on-site construction manager to ensure compliance with construction-related site certificate conditions. ~~require that a qualified compliance manager is onsite during ground disturbance activities to manage compliance with site certificate requirements~~. The certificate holder shall promptly notify the Department and Wasco County Sheriff's Department ~~within 72 hours~~ upon any change to the on-site construction ~~compliance~~ manager.
[Final Order on SSF AMD1]

Rationale

Certificate Holder proposes revising this condition to resemble the text provided in Condition 34 of the Third Amended Site Certificate for the Leaning Juniper IIA Wind Power Facility. We also suggest a "prompt" notification in lieu of the 72-hour notification period.

Condition PRO-OE-01

Redlined Text

Before beginning operation, the certificate holder shall notify the Department of the identity, telephone number, e-mail address and qualifications of the ~~facility/asset~~ operations permit compliance manager. Qualifications shall demonstrate that the operations permit compliance manager has experience in managing permit and regulatory compliance requirements and is qualified to manage operation of a utility scale solar facility.
[Final Order on SSF AMD1]



Rationale

Certificate Holder proposes revising this condition language to better align with the position details of the manager responsible for operational permit compliance.

Condition OPR-OE-1

Redlined Text

During operation, the certificate holder shall require that a qualified ~~facility/asset~~ operations permit compliance manager be responsible for managing compliance with operations-related site certificate requirements.

[Final Order on SSF AMD1]

Rationale

Certificate Holder proposes revising this condition language to align with the changes proposed in Condition PRO-OE-1.

Thank you for your consideration of Certificate Holder's comments and suggested revisions. Certificate Holder appreciates ODOE's review of the project and looks forward to working with ODOE on making this project successful.

Sincerely,

A handwritten signature in black ink, appearing to read "Marcy Patrick".

Marcy Patrick
Permit Manager, Avangrid

Cc: Paul Violante, Senior Business Developer, Avangrid
Elaine Albrich, Partner, Davis Wright Tremaine LLP
Saira Shahid, Tetra Tech
Aaftab Jain, Tetra Tech

RE: Email Summary of Public Notice: Comment Period on Sunset Solar Project - Request for Amendment 1 and Draft Proposed Order (Type B Review Process)

From EVANS Daniel * DSL <Daniel.EVANS@dsl.oregon.gov>
Date Wed 9/10/2025 11:39 AM
To SLOAN Kathleen * ODOE <Kathleen.SLOAN@energy.oregon.gov>
Cc SALGADO Jessica * DSL <Jessica.SALGADO@dsl.oregon.gov>; FITZGERALD Richard W * DSL <Richard.W.FITZGERALD@dsl.oregon.gov>

Hi Kathleen,

I previously responded to a Type B review for Sunset Solar on May 23, 2025.

I've cut and paste that response below my signature. There are a few updates, which I have immediately below.

-

The delineation to support the Bakeoven Project (now Sunset Solar) is no longer eligible for reissuance. WD2019-0059. The delineation expired 9/4/2024, and the period in which to reissue it expired on 9/4/2025.

Exhibit J for this project states that all wetlands and waters were avoided and that a removal-fill permit would therefore not be needed. DSL did not review the construction plan set and therefore did not issue a No State Permit required for this project. DSL cannot verify the Exhibit J statement. It was not submitted to this Agency for review. Now that the delineation has expired, a No State Permit review would no longer be possible, without a current wetland delineation.

If there are any questions about permitting, please contact Richard Fitzgerald at 541-910-4565
If there are any questions about wetland delineations, please contact Jess Salgado at 541-408-1892

Regards,

Daniel Evans, PWS

He/him/his

Wetland Ecology Specialist

[Oregon Department of State Lands](#)

Mobile: 503-428-8188

May 23, 2025 response

From: EVANS Daniel * DSL Daniel.EVANS@dsl.oregon.gov
Sent: Friday, May 23, 2025 1:26 PM
To: SLOAN Kathleen * ODOE Kathleen.SLOAN@energy.oregon.gov
Cc: ESTERSON Sarah * ODOE Sarah.ESTERSON@energy.oregon.gov; FITZGERALD Richard W * DSL Richard.W.FITZGERALD@dsl.oregon.gov

Subject: RE: Reviewing Agency Request and Public Notice of Preliminary Request for Amendment 1 and Type B Review Request for Sunset Solar Project Site Certificate

Hi Kathleen,

For the Sunset Solar Project (a portion of the project known as the Bakeoven Solar Project) I reviewed the following information and have this information:

1. The name, address and telephone number of the contact person assigned to review the application for your agency.

If there are new wetland delineation requirements please contact Maya Goklany at 971-458-2919.

Unclear, read on.

If there are wetland removal fill permitting requirements please contact Richard Fitzgerald 541-910-4565.

Unclear, read on.

2) Comments on aspects of the proposed facility that are within the particular responsibility or expertise of your agency.

A wetland delineation WD2019-0059 was previously reviewed and approved for the Sunset Solar Project footprint. **This delineation expired 9/4/2024.**

A review of our files does not indicate that a wetland removal-fill permit was applied for and received, or that a No State Permit Required Letter was issued. Please contact Richard Fitzgerald for follow up.

3) A list of statutes, administrative rules and local government ordinances administered by your agency that might apply to construction or operation of the proposed facility and a description of any information needed for determining compliance.

Wetland delineations will be reviewed per OAR 141-090

Wetland Removal-Fill applications, if required, will be reviewed per OAR 141-085

4) A list of any permits administered by your agency that might apply to construction or operation of the proposed facility and a description of any information needed for reviewing a permit application.

Wetland Removal-Fill Permit

5) Recommendations regarding the size and location of analysis areas (see below for more information).

Please provide Richard Fitzgerald documentation that there is a record indicating no permit required for the Sunset Solar Project. A review of our files did not result anything for Sunset Solar or Bakeoven Solar, other than Wetland Delineations. Perhaps an issued permit was given under another name.

6) A list of studies that should be conducted to identify potential impacts of the proposed facility and mitigation measures.

Wetland Delineation, which may include additional supporting studies, depending on the site. These may include but are not limited to Stream Duration Assessment Method, identification of Aquatic Resources of Special Concern (e.g.: vernal pools). The current delineation has expired, but is eligible for reissuance of another 5 years if additional information is turned in by 9/4/2025. If there is an existing authorization for wetland removal-fill, and it has not expired, then a new delineation is not required, unless additional new study area is added.

Wetland Removal-Fill Permit, which may include additional supporting studies, depending on the site. These may include but are not limited to the Oregon Rapid Wetland Assessment Protocol and Stream

From: SLOAN Kathleen * ODOE <Kathleen.SLOAN@energy.oregon.gov>
Sent: Tuesday, September 9, 2025 3:17 PM
To: BLEAKNEY Leann <lbleakney@nwcouncil.org>; ODA_listedplants <listedplants@oda.oregon.gov>; PIKE Brandon <Brandon.PIKE@odav.oregon.gov>; THOMPSON Jeremy L * ODFW <Jeremy.L.THOMPSON@odfw.oregon.gov>; WILKES Jessica S * ODFW <jessica.s.clark@odfw.oregon.gov>; MEYERS Andrew R * ODFW <Andrew.R.MEYERS@odfw.oregon.gov>; TOKARCZYK John A * ODF <John.A.TOKARCZYK@odf.oregon.gov>; HOLSCHBACH Tim J * ODF <Tim.J.HOLSCHBACH@odf.oregon.gov>; FIELDS Tom * ODF <Tom.FIELDS@odf.oregon.gov>; HOPKINS Levi A * ODF <Levi.A.HOPKINS@odf.oregon.gov>; CLEARANCE ORSHPO * OPRD <orshpo.clearance@oregon.gov>; MCCLAUGHRY Jason * DGMI <Jason.MCCLAUGHRY@dogami.oregon.gov>; JININGS Jon * DLCD <Jon.JININGS@dlcd.oregon.gov>; EVANS Daniel * DSL <Daniel.EVANS@dsl.oregon.gov>; SALGADO Jessica * DSL <Jessica.SALGADO@dsl.oregon.gov>; RASHID Yassir * PUC <Yassir.RASHID@puc.oregon.gov>; CRUSE Martha * DEQ <Martha.CRUSE@deq.oregon.gov>; BJORK Mary F * WRD <Mary.F.BJORK@water.oregon.gov>
Cc: ESTERSON Sarah * ODOE <Sarah.ESTERSON@energy.oregon.gov>
Subject: Email Summary of Public Notice: Comment Period on Sunset Solar Project - Request for Amendment 1 and Draft Proposed Order (Type B Review Process)

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ENERGY FACILITY SITING COUNCIL

Email Summary of Public Notice: Comment Period on Sunset Solar Project - Request for Amendment 1 and Draft Proposed Order (Type B Review Process)

On September 9, 2025, the Oregon Department of Energy (Department) issued Public Notice of a 30-day comment period on Sunset Solar, LLC's (certificate holder) Request for Amendment 1 of the Sunset Solar Project Site Certificate (RFA1) and on the Department's Draft Proposed Order on RFA1 (DPO). RFA1 was determined by the Department to justify review under the Type B review process, which omits a public hearing.

The Sunset Solar Project (facility) is an approved, not-yet constructed 103 megawatt alternating current (MWac) solar photovoltaic (PV) power

generation facility, authorized to use or occupy up to 2,196 acres (3.4 sq. miles) in Wasco County, approximately 5 miles east of the City of Maupin.

RFA1 seeks approval from the Energy Facility Siting Council to:

1. Extend the construction commencement deadline from April 24, 2025 to April 24, 2028; and amend the completion deadline from April 24, 2026 to a date extending three years from the actual commencement date.
2. Reduce both areas within the approved 10,640 acre site boundary and 2,196 acre micrositing area to 1,870 acres.

The RFA1 and the DPO are available on the [Department's project webpage](#).

Comment Period:

Written comments on RFA1 and the DPO must be received by ODOE before 5:00 pm Pacific Time on **October 10, 2025**. Comments must be submitted in writing, and may be submitted through the public comment portal described below, or by mail, email, fax, or hand delivery to:

Kathleen Sloan, Senior Siting Analyst

Oregon Department of Energy

550 Capital Street NE Salem, OR 97301

Phone: (971) 701-4913

Fax: 503-871-7254

Email: kathleen.sloan@energy.oregon.gov

Or via the Department's [Online Comment Portal](#). Choose “**Sunset Solar Project RFA1 and DPO**” from the drop-down menu. Click “Next” and follow the instructions on the screen. You will receive an email confirmation after submitting your comment.

ODOE also has a [docket system](#) available which displays comments that have been submitted. Comments for this RFA1 and DPO will be posted to the docket and are normally available to view within 3 business days of receipt.

Additional Information:

The Public Notice, RFA1, DPO and the Department's Type B Review Amendment Determination Request determination are [available online](#).

You received this notice either because you previously signed up for email updates through GovDelivery or ClickDimensions related to specific siting projects or all Energy Facility Siting Council activities (the "General List"). You will automatically receive all future notices per your request or GovDelivery/ClickDimensions choices, unless you unsubscribe [via ClickDimensions](#) or by contacting the Department.

If you have any questions or comments about ClickDimensions please feel free to contact the Department's Administrative Assistant, Nancy Hatch at 503-428-7905, toll-free in Oregon at 800-221-8035, or email to nancy.hatch@energy.oregon.gov.

Oregon Department of Energy

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Oregon

Tina Kotek, Governor

Department of Fish and Wildlife

East Region

61374 Parrell Road

Bend, Oregon 97702

(541) 388-6363

FAX (541) 388-6281

October 10, 2025

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

RE: Request for comments on the Request for Amendment 1 of the Sunset Solar Project Site Certificate (RFA1) and on the Department's Draft Proposed Order on RFA1 (DPO) on Sunset Solar, LLC's Sunset Solar Project in Wasco County.

Dear Ms. Sloan:

Oregon Department of Energy (ODOE) has requested comments from the Oregon Department of Fish and Wildlife (ODFW) on the RFA1 and the DPO for Sunset Solar Project outside of Maupin. This Letter contains: (1) ODFW contact information for the project; and (2) ODFW's comments on the RFA1 and DPO.

A. Contacts

I will be the main contact person for ODFW for the Energy Facility Siting Council (EFSC) permitting process and my contact information is: Jessica Wilkes, 61374 Parrell Road, Bend, OR 97702. My phone number is (541) 388-6099, Jessica.S.Wilkes@odfw.oregon.gov. In addition, please copy Andrew Meyers, District Wildlife Biologist, 3561 Klindt Dr, The Dalles, OR 97058. Phone number (541) 296-8026, andrew.r.meyers@odfw.oregon.gov. ODFW requests that as applicable, all correspondence for this project be conveyed electronically.

B. Comments

The requested amendments to Fish and Wildlife Habitat: OAR 345-022-0050 (III.H) of the Sunset Solar Project – Draft Proposed Order on Request for Site Certificate Amendment 1 (pg. 59-60) include the option of utilizing sheep grazing as a method of vegetation control (c). There is a high possibility of spreading a deadly disease (*Mycoplasma ovipneumoniae*) from domestic livestock to bighorn sheep. Therefore, we discourage the use of vegetation control via domestic sheep or goats without proper mitigative measures to ensure separation of domestic livestock and wild bighorn sheep populations on the landscape. If domestic livestock must be used, applying proper preventative measures and best management practices (BMPs) will be very important to ensuring the integrity of bighorn sheep populations. ODFW is currently developing BMPs for use of domestic sheep in solar facilities, and we ask that the applicant consult with ODFW and adopt these BMPs prior to sheep stocking. Some examples of BMPs include actions such as monitoring the integrity of the fencing, constructing double-fencing, reporting sightings of

bighorn sheep, and regularly communicating the status and composition of the flock to department agencies.

ODFW also requests that the Noxious Weed Control Plan retain a 'reporting format including report content and supporting materials to be included to demonstrate completion of noxious weed control activities' (a2). ODFW sees this step as an opportunity to communicate progress of noxious weed control efforts and to ensure that agreed-upon BMPs and other requirements are being met throughout all phases of the facility, including pre-construction.

ODFW appreciates the opportunity to comment on this RFA1 and DPO and the actions taken to consider fish and wildlife impacts. ODFW looks forward to working with ODOE and the Applicant on this proposed project.

Respectfully,

A handwritten signature in black ink, appearing to read "Jessica Wilkes". The signature is fluid and cursive, with the first name "Jessica" written in a more stylized, looped manner and the last name "Wilkes" in a simpler, more legible script.

Jessica Wilkes, Acting Regional Habitat Biologist, Deschutes District

Cc:

Andrew Meyers, The Dalles
Sara Gregory, Bend
Jeremy Thompson, Salem
Applicant