

Table 1: List of Issues, Commenters and Comment Evaluation Process Summary

Issue ID	Issue Summary	Commenter	Change Incorporated into Draft Final Order
General Standard of Review (OAR 345-022-0000)			
Issue GS-01	Concern about single hearing for a complex amendment	Kathryn McCullough	No
Issue GS-02	Request for correction to Existing Facility Site Location	Certificate Holder	Yes, minor changes to findings or conditions
Issue GS-03	Request for correction to Turbine Dimensions in Existing Energy Facility Description	Certificate Holder	Yes, minor changes to findings or conditions
Issue GS-04	Request for correction to Existing Related or Supporting Facilities Description	Certificate Holder	Yes, minor changes to findings or conditions
Issue GS-05	Request for correction to Existing O&M Building Description	Certificate Holder	Yes, minor changes to findings or conditions
Issue GS-06	Request for revision of proposed road dimension width, from 20 to 16 feet	Certificate Holder	Yes, changes to Facility Description and draft Construction Wildfire Mitigation Plan
Issue GS-07	Request to allow Temporary Construction Areas outside fenceline, within Solar Micrositing Area	Certificate Holder	Yes, minor changes to findings or conditions
Issue GS-08	Request for flexibility in perimeter fencing design	Certificate Holder	Yes, minor changes to findings or conditions
Issue GS-09	Request for correction of description of Solar Micrositing Area	Certificate Holder	Yes, minor changes to findings or conditions
Issue GS-10	Property owner does not consent to project being developed on his private property, as currently proposed.	Jered Reid/Donald Hilderbrand	No
Organizational Expertise (OAR 345-022-0060)			
Issue OE-01	Maintenance issues at existing wind facility	Kathryn and Kevn McCullough	No

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Issue ID	Issue Summary	Commenter	Change Incorporated into Draft Final Order
Issue OE-02	Request to amend recommended Amended Condition 3 (CON-OE-01), removing reference to fax number as contact method for construction managers.	Certificate Holder	Yes, minor changes to findings or conditions
Issue OE-03	Request to revise requirement to provide executed Build Transfer Agreement in draft Operations and Maintenance Plan Framework, allowing for submission of redacted copy	Certificate Holder	Yes, minor changes to findings or conditions
Issue OE-04	Request to amend frequency of performance monitoring reports	Certificate Holder	Yes, minor changes to findings or conditions
Issue OE-05	Request to clarify frequency of inspections using thermal imaging	Certificate Holder	Yes, minor changes to findings or conditions
Structural Standard (OAR 345-022-0020)			
Issue SS-01	Request for flexibility to conduct ground disturbing activities on areas with steep slopes with engineer review	Certificate Holder	Yes, changes to Condition 68
Soil Protection (OAR 345-022-0022)			
Issue SP-01	Questions the type and height of weeds required to be controlled	Kathryn McCullough	No
Issue SP-02	Requests to clarify statement referring to the use of Sherman County for weed control.	Certificate Holder	Yes, minor changes to findings or conditions
Issue SP-03	Requests Revisions to Mapped Soil Units in Analysis Area	Certificate Holder	Yes, minor changes to findings or conditions
Issue SP-04	Concerns related to 1-3" veg height under WMP and ability of that height to provide erosion control	Sherman County Weed District	Yes, changes made to Section IV.D Soil Protection, IV.N Wildfire Prevention and Risk Mitigation, Appendix F of the draft Comprehensive Revegetation and Soil Management Plan and

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Issue ID	Issue Summary	Commenter	Change Incorporated into Draft Final Order
			draft Construction Wildfire Mitigation Plan.
Issue SP-05	Long-term soil health	Kathryn McCullough	No
Issue SP-06	Requests to develop a strong working relationship with certificate holder/BrightNight to ensure soil protection measures are in place.	Sherman County Soil and Water Conservation District, A. Whitman	No
Issue SP-07	Potential soil contamination from fire-damaged photovoltaic modules or battery components.	Sherman County Soil and Water Conservation District, A. Whitman	No
Issue SP-08	Enforcement of requirements for natural resource protection.	Sherman County Soil and Water Conservation District, A. Whitman	No
Issue SP-09	Requests to Clarify Terms, Clear Brush Free and Vegetation Clearance Area/Zone	Certificate Holder	Yes, changes made to Section IV.D Soil Protection, IV.N Wildfire Prevention and Risk Mitigation, Appendix F of the draft Comprehensive Revegetation and Soil Management Plan and draft Construction Wildfire Mitigation Plan.
Issue SP-10	Recommended edits to Draft Comprehensive Revegetation and Solar Management Plan	Certificate Holder	Yes, changes made to Appendix F of the draft Comprehensive Revegetation and Soil Management Plan

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Issue SP-11	Erosion Issues	Sherman County Soil and Water Conservation District, A. Whitman	No
Issue SP-12	Weed Control	Sherman County Soil and Water Conservation District, A. Whitman	No
Land Use (OAR 345-022-0030)			
Issue LU-01	Request for reduction in requirements for Site Plan Review	Certificate Holder	Yes, minor changes to findings or conditions
Issue LU-02	Objection to Evaluation of Compliance with SCZO 5.2(5)	Certificate Holder	No
Issue LU-03	Objection to Evaluation of Compliance with SCZO 5.2(6)	Certificate Holder	Yes, minor changes to findings or conditions
Issue LU-04	Objection to Evaluation of Compliance with SCZO 5.8	Certificate Holder	No
Issue LU-05	Objection to Evaluation of Compliance with SCZO 5.8(20)(3)	Certificate Holder	No
Issue LU-06	Concern with cumulative impacts of solar development in Sherman County	Alan von Borstel	No
Issue LU-07	Recommendation that “Right to Farm” protections are needed to protect farmers from wildfire liability	Kathryn McCullough, Kevin McCullough, Irene Gilbert	No
Issue LU-08	Objection to Evaluation of OAR 660-033-0130(38)(G)	Certificate Holder	No
Issue LU-09	Recommendation to include impact of lost assessments in economic impact analysis	Oregon Wheat Growers League	No
Issue LU-10	Objection to claim that Community Investment Plan will offset impacts to agricultural economy	Oregon Wheat Growers League	No
Issue LU-11	Recommendation to include Oregon Wheat Growers League in Community Investment Selection Committee	Oregon Wheat Growers League	Yes, change to Section III.E Goal 3 Exception and draft

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Issue ID	Issue Summary	Commenter	Change Incorporated into Draft Final Order
			Community Investment Plan
Issue LU-12	Need for engagement with Market Development Organizations in developing Community Investment Plan	Oregon Wheat Growers League	No
Issue LU-13	Concern with inclusion of agrivoltaics research as pre-screened project in Community Investment Plan	Oregon Wheat Growers League	Yes, change to Section III.E Goal 3 Exception and draft Community Investment Plan
Issue LU-14	Concern with including weed management projects as pre-screened project in Community Investment Plan	Oregon Wheat Growers League	No
Issue LU-15	Concern with including fire mitigation projects as pre-screened project in Community Investment Plan	Oregon Wheat Growers League	No
Issue LU-16	Objection to statement that lease payments will compensate for lost agricultural revenue	Oregon Wheat Growers League	No
Issue LU-17	Goal Exception - Consistency with State Climate Goals and Policies Reasons	Certificate Holder	No
Issue LU-18	Goal Exception - Minimal Impacts to Other Resources Reason	Certificate Holder	No
Fish and Wildlife Habitat (OAR 345-022-0060)			
Issue FW-01	Adequacy of Exhibit P and Evaluation of Impacts to Wildlife	Kathryn McCullough	No
Issue FW-02	Srivener's Error	Certificate Holder	Yes, minor changes to findings or conditions
Issue FW-03	Flexibility on ground clearing activities in Category 2 Habitat	Certificate Holder	No
Issue FW-04	Recommended edits to Draft Habitat Mitigation Plan	Certificate Holder	Yes, minor changes to findings or conditions
Historic, Cultural and Archaeological Resources (OAR 345-022-0090)			
Issues HCA-01	Supplement Record with Tribal Consultation Details	Certificate Holder	Yes, minor changes to findings or conditions

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Issue ID	Issue Summary	Commenter	Change Incorporated into Draft Final Order
Issues HCA-02	Adequacy of archaeological monitoring and protective measures	Confederated Tribes of Warm Springs	Yes, changes to Section III.K Historic, Cultural and Archaeological Resources, and Condition GEN-HC-03.
Public Services (OAR 345-022-0110)			
Issue PS-01	Concerns about capacity of local fire responders to fight fire at energy facility	Kathryn McCullough	No
Issue PS-02	Concern that local fire responders do not have adequate training to respond to fire at energy facility or BESS	Kathryn McCullough	No
Wildfire Prevention and Risk Mitigation (OAR 345-022-0115)			
Issue WF-01	Concerns about burn probability data used in fire risk analysis	Kathryn McCullough	No
Issue WF-02	Concerns about use of climate normal for fire risk analysis In Exhibit V	Kathryn McCullough	No
Issue WF-03	Concerns about fuel models used for fire risk analysis	Kathryn McCullough	No
Issue WF-04	Request for flexibility in road design standards for roads not needed for fire access	Certificate Holder	Yes, changes to draft Construction Wildfire Mitigation Plan, draft Amended Site Certificate and dFO Section I.D.3, description of roads.
Issue WF-05	Recommendations for BESS design criteria to minimize fire risk	Kathryn McCullough	No
Issue WF-06	Request for clarification of setback requirement	Certificate Holder	Yes, minor changes to findings or conditions
Issue WF-07	Concerns about adequacy of 50-foot fire setbacks	Kathryn McCullough; Kevin McCullough	No
Issue WF-08	Concern about adequacy of 20-foot fuel breaks	Sherman County Soil and Water Conservation District; Irene Gilbert	No

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Issue ID	Issue Summary	Commenter	Change Incorporated into Draft Final Order
Issue WF-09	Support for recommended vegetation maintenance standards for wildfire season	Colton McCullough	Yes, changes made to Section IV.D Soil Protection, IV.N Wildfire Prevention and Risk Mitigation, Appendix F of the draft Comprehensive Revegetation and Soil Management Plan and draft Construction Wildfire Mitigation Plan.
Issue WF-10	Objection to recommended vegetation maintenance standards for wildfire season	Certificate Holder	
Issue WF-11	Request to remove requirement to include drip can with fire suppression equipment.	Certificate Holder	
Issue WF-12	Concern about lack of availability of Operational Wildfire Mitigation Plan.	Kathryn McCullough, Irene Gilbert	
Siting Standards for Transmission Lines (OAR 345-024-0090)			
Issue TL-01	Request for additional flexibility in transmission line siting	Certificate Holder	Yes, changes made to draft Amended Site Certificate and dFO Section I.D.3, description of 230 kV transmission line.
Noise Control Regulation (OAR 340-035-0035)			
Issue NC-01	Requests Proposed Order Table 26 be revised to add NSR13 and reference to RFA Exhibit Y Table Y-7.	Certificate Holder	Yes, minor changes to findings or conditions
Issue NC-02	Requests revisions to recommended Noise Control Condition 2 (PRE-NC-02) allowing for general waiver versus solar specific	Certificate Holder	Yes, changes made to Condition PRE-NC-02.
Water Rights			
Issue WR-01	Requests revisions to recommended Amended Water Rights Condition 1 (PRE-WR-01) to Clarify Well Log Submission Timing	Certificate Holder	Yes, changes made to Condition PRE-WR-01 (now CON-WR-01)

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Issue ID	Issue Summary	Commenter	Change Incorporated into Draft Final Order
Issue WR-02	Requests revisions to recommended Amended Condition 75 (OPR-WR-01) on Applicability of Groundwater Usage Monitoring and 5,000 gallon/day limit	Certificate Holder	Yes, changes made to Condition OPR-WR-01.
Issue WR-03	Requests revisions to recommended Amended Condition 75 (OPR-WR-01) on Applicability of 5,000 gallon/day limit	Certificate Holder	Yes, changes made to Condition OPR-WR-01.

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I. Introduction

Portland General Electric Company (certificate holder) filed Request for Amendment 4 of the Site Certificate for the Biglow Canyon Wind Farm (RFA4) to the Energy Facility Siting Council (EFSC or Council) seeking authorization to expand the existing 450-megawatt (MW) wind power generation facility to allow construction and operation of a 125-MW solar power generation facility and related or supporting facilities within a 1,924-acre solar micro-siting area.

On December 16, 2025, the Oregon Department of Energy (Department or ODOE) issued its Proposed Order on RFA4. On the same date, in accordance with OAR 345-027-0367(4), the Department issued a Public Notice, initiating a 45-day comment period, to conclude on January 30, 2026. The Notice also established deadlines for the subsequent comment evaluation process, including:

- February 13, 2026, for the Department and certificate holder responses to comments;
- February 27, 2026, for commenters to reply to Department/certificate holder responses; and,
- March 6, 2026, for the Department/certificate to file sur-replies.

II. Public Comment Process Overview

The Council adopted changes to the Site Certificate Amendment comment process (OAR 345-027-0367) in September 2025, effective October 2025. This is the first amendment request under the new rules.

The purpose of the rule changes was to make the site certificate amendment review process more efficient and effective, improve the public comment process and increase the public's understanding of how to participate in the process. As presented above, the new process includes a step for the certificate holder and the Department to respond to comments; allows for those commenters to then reply; and then concludes with an opportunity for the Department and certificate holder to offer sur-reply.

The rules require that the certificate holder respond to all comments received during the comment period; the Department does not have the same obligation but may choose to respond. As presented in the document below, the Department has provided responses to commenters in a manner that provides organization for the public, the Department and the Council.

The intent of this new comment process is for each commenter to receive feedback from the Department and the certificate holder on the nature of their comments – specifically, whether they were raised with sufficient specificity so that the commenters can then reply with additional information or clarification. Where comments were raised with sufficient specificity,

the process is intended to provide each commenter with feedback on whether those issues warrant remedy or change to a recommended finding of fact or recommended new or amended condition, and provide an opportunity for commenters to further explain and provide factual reasoning to support the Department and Council’s evaluation of whether the certificate holder has met their burden of proof that they either can or have satisfied the requirements of applicable Council standards and other laws.

III. Evaluation of Issues by Standard

III.A. General Standard of Review (OAR 345-022-0000)

Issue GS-01 (McCullough, Kathryn): Concern about single hearing for a complex amendment

Comment ID: BCWAMD4Doc24-06 Proposed Order Public Comment McCulloughK-6 2026-01-09
Response ID: BCWAMD4Doc26-01 Proposed Order Public Comment ODOE Responses 2026-02-12

Comment Summary

Commenter raises concern about single hearing for complex amendment.

Department Evaluation

On December 16, 2025, the Department issued public notice of the complete RFA4 and the Proposed Order on RFA4 which included notice of a 45-day comment period closing on January 30, 2026. The public notice included information for the in-person and remote public hearing held in Grass Valley on January 15, 2026.

The Department followed procedural rules and no requests were made to Council with a good-cause justification for time extensions or additional hearings, therefore, the Department recommends no further action is needed on this issue.

Issue GS-02 (Certificate Holder): Request for correction to Existing Facility Site Location

Comment ID: BCWAMD4Doc24-08 Proposed Order Public Comment Certificate Holder 2026-01-14
Response ID: BCWAMD4Doc26-01 Proposed Order Public Comment ODOE Responses 2026-02-12

Comment Summary

Certificate holder requests correction to description of facility site location. The Proposed Order Cover Letter identifies the Facility Site Location being 4.8 miles northeast of the City of Wasco. The proposed Solar Micrositing Area is 4.8 miles northeast of the City of Wasco, but the Facility Site Location is 2.5 miles northeast of the City of Wasco.

Department Evaluation

The Department’s draft Final Order will not include the Cover Letter with the referenced discrepancy. However, the Department agrees that the corrections should be incorporated into

the Proposed Order Section I.C., Approved Site Description and in Section I.D.4., Proposed Solar Micrositing Area; and, in Section 3.3. of the draft Amended Site Certificate, as presented below.

Proposed Order Section I.C. The site is located approximately 2.5 miles northeast of the City of Wasco in Townships 1 and 2 North, Ranges 17 and 18 East, Willamette Meridian.

Proposed Order Section I.D.4. The facility components proposed in RFA4 would be located within a proposed 1,924-acre Solar Micrositing Area. The Solar Micrositing Area is located approximately 4.8 miles northeast of the City of Wasco.

Draft Amended Site Certificate Section 3.3. The facility is located about 2.5 miles northeast of the City of Wasco in Townships 1 and 2 North, Ranges 17 and 18 East, Willamette Meridian, Sherman County, Oregon. The Solar Micrositing Area is located approximately 4.8 miles northeast of the City of Wasco.

Issue GS-03 (Certificate Holder): Request for correction to Turbine Dimensions in Existing Energy Facility Description

Comment ID: BCWAMD4Doc24-08 Proposed Order Public Comment Certificate Holder 2026-01-14

Response ID: BCWAMD4Doc26-01 Proposed Order Public Comment ODOE Responses 2026-02-12

Comment Summary

The Certificate Holder requests the following corrections be made to the description of turbine dimensions in the Proposed Order, Section I.B.1, to reflect the facility as built:

~~The wind turbines are located on private land that the certificate holder has leased from the affected landowners. The Siemens 2.3 MW turbines are mounted on tubular steel towers with a hub height of 280 262 feet at the hub and maximum blade tip an overall height of 445 413 feet including the turbine blades. The wind turbines are located on private land that the certificate holder has leased from the participating landowners.~~

Department Evaluation

The certificate holder seeks to clarify the description in the Proposed Order and draft Amended Site Certificate of the dimensions of existing, operational wind turbines based on actual dimensions. Because the certificate holder has the best information about actual turbine dimensions at the facility, the Department agrees to amend Section I.B.1. of the Proposed Order and Section 3.1 of the draft Amended Site Certificate accordingly.

Issue GS-04 (Certificate Holder): Request for correction to Existing Related or Supporting Facilities Description

Comment ID: BCWAMD4Doc24-08 Proposed Order Public Comment Certificate Holder 2026-01-14

Comment Summary

The certificate holder requests the following revisions to Table 1 of the Proposed Order be made to reflect existing facility components as built:

- Collector line length, underground: ~~10675~~ miles
- Collector line length, overhead: ~~3.95~~ miles
- O&M Building Quantity: ~~23~~ each

Department Evaluation

The certificate holder seeks to clarify the description in the Proposed Order Table 1 and draft Amended Site Certificate Section 3.1, Subsection 2.a of existing facility components, consistent with final design. Because the certificate holder has the best information about existing facility components/final design, the Department agrees to amend the Proposed Order Table 1 and draft Amended Site Certificate Section 3.1, Subsection 2.a, based on the changes presented above.

Issue GS-05 (Certificate Holder): Request for correction to Existing O&M Building Description

Comment ID: BCWAMD4Doc24-08 Proposed Order Public Comment Certificate Holder 2026-01-14

Response ID: BCWAMD4Doc26-01 Proposed Order Public Comment ODOE Responses 2026-02-12

Comment Summary

The certificate holder requests that the total square footage of the as built O&M buildings total identified in Section 3.1, Subsection 2.d of the site certificate be changed from 17,500 square feet to 19,500 square feet due to the building evaluated through ODOE's Change Request process.

Department Evaluation

Based on review of the record, the Department confirms that on January 12, 2017, it issued a determination under previous rules referring to a Change Request process, confirming that construction of an additional warehouse at the O&M site could occur without being reviewed through the site certificate process. The square footage of the additional warehouse was 3,600 feet (the amount reflected in the certificate holder's revision).

It is the Department's intent to incorporate changes reviewed through Change Requests, Facility Modifications and Amendment Determination Requests into a Site Certificate when the Site Certificate is open through the amendment process. Therefore, the Department agrees to incorporate changes in the O&M square footage reference, consistent with the dimensions reviewed through the Change Request process, into the draft Amended Site Certificate Section 3.1, Subsection 2.d.

Issue GS-06 (Certificate Holder): Request for revision of proposed road dimension width, from 20 to 16 feet

Comment ID: BCWAMD4Doc24-08 Proposed Order Public Comment Certificate Holder 2026-01-14

Response ID: BCWAMD4Doc26-01 Proposed Order Public Comment ODOE Responses 2026-02-12

Reply: BCWAMD4Doc28-04 Proposed Order Public Comment CH Reply to ODOE 2026-02-28

Comment Summary

The certificate holder requests that the Proposed Order Section I.D.3 be amended to clarify that all new facility access roads will be 16, rather than 20, feet in width.

Department Evaluation

In RFA4, Section 4.1.3.6, the certificate holder represented that “all newly constructed roads within the Solar Micrositing Area will be graveled to meet load requirements for all equipment. These internal access roads are expected to be approximately 20 feet in width.” In RFA4, Exhibit V, Attachment V-1, the Draft Construction Wildfire Mitigation Plan states that “new roads proposed within the Solar Micrositing Area shall be sufficiently sized for emergency vehicle access in accordance with 2022 Oregon Fire Code requirements, including Section 503 and Appendix D - Fire Apparatus Access Roads. Specifically, the new roads proposed within the solar area fence lines will be 20 feet in width.” In a subsequent comment, the certificate holder stated that this representation was only intended to apply to certain external access roads and other roads needed for emergency access (See Issue WF-04.)

In its response to this issue, the Department requested that the certificate holder provide a site plan showing the location and width of designated emergency access roads and other internal access roads to support the evaluation.

In reply to the Department’s response to comments, the certificate holder provided a map showing that new roads connecting the existing facility access roads to the proposed substation, O&M building and solar array access gates would be designed to allow fire access (e.g. 20-foot roads) but all roads within solar array fencelines would be 16 feet.

Compliance with 2022 Oregon Fire Code Requirements is not required for all roads, only those that are intended to provide emergency vehicles access to structures and buildings in the event of a fire-related emergency. In addition, during a brief call on March 4, 2026, the Department discussed the road width changes with Chief Burbank of the North Sherman County Rural Fire Protection District (RFPD). Chief Burbank confirmed that fire response within the proposed solar array perimeter fencelines would be limited, and that the RFPD would primarily seek to contain any fire that started within or spread into a solar array from outside of the perimeter fences and that response vehicles have off-road capabilities. Because there would be limited need to ensure access by full-size emergency vehicles to portions of the facility within the perimeter fencelines, the Department recommends the Council grant the additional flexibility requested; however, under the Construction Wildfire Mitigation Plan attached to the draft Final

Order, the final site plan must be reviewed and approved by the Department in consultation with local fire and emergency management officials.

Issue GS-07 (Certificate Holder): Request to allow Temporary Construction Areas outside fenceline, within Solar Micrositing Area

Comment ID: BCWAMD4Doc24-22 Proposed Order Public Comment Certificate Holder-2 2026-01-30

Response ID: BCWAMD4Doc26-01 Proposed Order Public Comment ODOE Responses 2026-02-12

Reply: BCWAMD4Doc28-04 Proposed Order Public Comment CH Reply to ODOE 2026-02-28

Comment Summary

Certificate holder requests clarification in the Proposed Order Section I.D.3 that temporary construction areas may be placed anywhere within the proposed Solar Micrositing Area, not only within perimeter fencelines. The certificate holder indicates that this clarification is consistent with the RFA and ensures construction logistics are not inadvertently limited.

Department Evaluation

In RFA4, Section 4.1.3.7., the certificate holder represented that temporary construction yards would be located within the fenceline (permanent disturbance footprint) of the proposed facility:

“During construction, one 8.7-acre temporary construction area (laydown area) within the perimeter fencing will be used to support construction, store supplies and equipment, and facilitate the delivery and assembly of materials and equipment...Additional temporary construction areas may be used as determined by the construction contractor, but these would be within the solar areas considered permanent disturbance; therefore, maximum impact is evaluated in RFA4”

Certificate holder indicates that the proposed clarification is consistent with the RFA. In its reply to the Department’s initial response, the certificate holder explains that there are inconsistencies in the BCWF RFA4 Division 27, Sections 4.1.3.7 and 4.4.3 regarding the location of temporary construction areas. Section 4.4.3 states:

“Any temporary disturbance impacts requiring restoration and revegetation will only occur outside of the perimeter fencing for the solar areas, BESS, and collector substation and include temporary impacts from the underground collector lines, laydown areas, installation of perimeter fencing, construction of the O&M building, gen-tie line, and use of any additional temporary construction areas.”

Section 4.4.3, Table 2 explains that temporary disturbance areas outside the perimeter fenceline include, among other things “...Temporary disturbance for the laydown area for construction” and states that “...the construction area will be reclaimed following construction.”

The certificate holder further explains that because the layout within RFA4 represented the maximum disturbance scenario, solar arrays were represented as being fenced in large blocks so that the largest permanent disturbance possible was represented, but this was not intended to represent that the primary laydown area would be located within a solar array fenceline. All areas within the micrositing area have been evaluated; therefore, regardless of whether the laydown area is within the permanent fenceline, the impacts have been evaluated.

The Department appreciates the certificate holder's clarification and agrees to make the following changes in Section I.D.3 of the Draft Final Order. Similar changes are presented in Section 3.2 of the Draft Amended Site Certificate:

An approximately 8.7 acre, temporary construction area would be ~~established within the perimeter fenceline,~~ used to store supplies and equipment and facilitate the delivery and assembly of materials and equipment during construction. Additional temporary construction areas may be utilized within the ~~permanent footprint of the proposed solar arrays~~ Solar Micrositing Area. The areas would consist of a crushed gravel surface that will be removed following construction ~~and revegetated,~~ crushed gravel surface that will remain following construction because that was the pre-existing surface condition, or vegetation that is left in place for which the need to revegetate would be evaluated following construction.

Issue GS-08 (Certificate Holder): Request for flexibility in perimeter fencing design

Comment ID: BCWAMD4Doc24-22 Proposed Order Public Comment Certificate Holder-2 2026-01-30

Response ID: BCWAMD4Doc26-01 Proposed Order Public Comment ODOE Responses 2026-02-12

Comment Summary

Certificate holder requests additional flexibility in perimeter fencing materials, including use of wire mesh or similar perimeter fencing up to 8 feet in height.

Department Evaluation

The description of perimeter fencing in the draft Site Certificate is consistent with information provided in RFA4, Section 4.1.3.6; however, the Department agrees that flexibility in the final design and type of fencing is allowable as long as the fencing is constructed and grounded in accordance with NESC Rule 110, would maintain public health and safety by preventing unauthorized entrance to the site, and would not create an unnecessary hazard for wildlife. The Department will incorporate changes in the draft Final Order Section I.D.3, draft Amended Site Certificate Section 3.2, and Section 4.1.5 of the Construction Wildfire Mitigation Plan, to allow the additional flexibility requested.

Issue GS-09 (Certificate Holder): Request for correction of description of Solar Micrositing Area

Comment ID: BCWAMD4Doc24-22 Proposed Order Public Comment Certificate Holder-2 2026-01-30

Comment Summary

Certificate holder requests changes to a footnote in Facility Component Table to clarify Solar Micrositing Area is larger than permanent disturbance footprint, as presented below:

~~The Solar Micrositing Area would occupy approximately 1,445 acres within fenced areas and transmission line corridor. The entire solar facility footprint is considered a permanent disturbance area for the purposes of evaluating and mitigating impacts to resources such as Fish and Wildlife Habitat; however, soil reclamation and weed management is applicable to the solar facility footprint as discussed in applicable section in this order.~~

The approved BCWF site boundary encompasses approximately 25,000 acres and includes all existing and approved BCWF components. The Certificate Holder proposes to modify the use of approximately 1,924 acres within the approved BCWF site boundary (Figure 3) to accommodate the Solar Components. These 1,924 acres comprise the Solar Micrositing Area (also referred to as the RFA 4 Site Boundary), within which construction of the Solar Components may occur.

Department Evaluation

The Department agrees with the certificate holder that the description of the Solar Micrositing Area and maximum permanent disturbance of the Solar Facility, as provided in the Proposed Order Section I.D, Table 2 footnote 1, should be clear and consistent with the table itself, (e.g. 1,924 acre Solar Micrositing Area and 1,445 acre maximum permanent disturbance.)

The footnote is intended to clarify the term “permanent footprint” from an impact assessment perspective. For example, impacts within the perimeter fence of a solar facility are a permanent impact under the Fish and Wildlife Habitat standard. But that does not mean impacts to soils and vegetation within the fenceline are permanent. In fact, impacts to soils and vegetation within the fenceline are not permanent and these impacts need to be minimized and mitigated under other standards, such as Soil Protection and Land Use.

The certificate holder’s proposed revisions are providing a different intent – of clarifying that the existing site boundary is being used to accommodate solar, which has nothing to do with the impact assessment under Fish and Wildlife, Soil Protection or Land Use for this amendment. The Department disagrees with the incorporating the certificate holder’s proposed language, but agrees to make the following change:

Solar facility components would permanently occupy up to 1,445 acres within the 1,924 acre Solar Micrositing Area~~would occupy approximately 1,445 acres within fenced areas and transmission line corridor. The entire solar facility footprint is~~ are considered a permanent disturbance area

~~for the purposes of evaluating and mitigating impacts to resources such as~~ impact under the Fish and Wildlife Habitat standard; however, impacts within the perimeter fence line to soils, vegetation and noxious weeds are not considered permanent under the Soil Protection and Land Use standards and must be minimized and mitigated, soil reclamation and weed management is applicable to the solar facility footprint as discussed in applicable sections in this order.

Issue GS-10 (Jered Reid/Donald Hilderbrand): Property owner does not consent to project being developed on his private property, as currently proposed.

Comment ID: BCWAMD4Doc24-16 Proposed Order Public Comments HilderbrandD via Law Office of Jered Reid 2026-01-29

Response ID: BCWAMD4Doc26-01 Proposed Order Public Comment ODOE Responses 2026-02-12; BCWAMD4Doc27-04 Proposed Order Public Comment CH Response to Donald Hilderbrand 2026-02-13

Comment Summary

Mr. Hilderbrand, a person with an ownership interest in real property included in the proposed site, commented that he does not consent to his property being included in the project.

Department Evaluation

Matters related to property rights, including land access, purchasing, and leasing are generally outside of EFSC jurisdiction, meaning that EFSC cannot resolve disputes associated with these issues between landowners and the certificate holder, or between individual owners of a property.

In its responses to this issue, the Certificate Holder further clarified that no portion of the proposed facilities described in RFA4, or associated infrastructure, is planned on property owned by Mr. Hilderbrand, nor does the request contemplate the inclusion of non-participating landowners' property.

Because the commenter has not raised an issue related to a matter within the Council's jurisdiction, the Department does not intend to make any changes to the draft of the Final Order based on this comment.

III.B. Organizational Expertise (OAR 345-022-0060)

Issue OE-01 (McCullough, Kathryn; McCullough, Kevin); Maintenance issues at existing wind facility

Comment ID: BCWAMD4Doc24-01 Proposed Order Public Comment McCulloughK-1 2025-12-23

Response ID: BCWAMD4Doc26-01 Proposed Order Public Comment ODOE Responses 2026-02-12; BCWAMD4Doc27-09 Proposed Order Public Comment CH Response to Kathy and Kevin McCullough 2026-02-13.

Reply ID: BCWAMD4Doc28-01 Proposed Order Public Comment McCulloughK Reply 2026-02-24

Sur-reply ID: BCWAMD4Doc29-02 Proposed Order Public Comment CH Sur-Reply to Kathy and Kevin McCullough 2026-03-06

Comment Summary

Commenters object to approval of RFA4 until maintenance issues at the existing wind facility are addressed, stating that the certificate holder “should not be allowed to build solar until the Vestas towers are fixed.” Commenter provides documentation of ongoing maintenance issues at existing wind facility, including blade throw, leaks of hydraulic oil from nacelles and turbine towers, transformer failures, multiple fallen bolts, hatch doors, nose cones, and other objects from turbines.

Department Evaluation

In its responses to this issue, the certificate holder also acknowledges the operational incidents documented at the BCWF and explains that it has implemented targeted improvements specific to the BCWF, including changes to internal management structure and personnel; a change in the turbine operations and maintenance provider with a newly negotiated contract to mitigate future technical challenges and better align with site-specific performance goals; and improved monitoring of contractor performance. Improved preventative maintenance, robust monitoring, and corrective action planning will be the result of these changes, which are still ongoing. The certificate holder represents that “lessons learned from past challenges have resulted in more robust preventative maintenance and corrective action protocols, stronger vendor performance accountability, clearer performance standards tied to equipment health, and improved quality assurance and quality control oversight” and that the lessons “have informed the design, operational planning, and compliance framework for the proposed solar and battery energy storage systems under RFA4...” The certificate holder further maintains that recommended new and amended conditions in the Proposed Order and the implementing plans and conditions address the commenters concerns through mandatory reporting, defined timelines, corrective action tracking and inspection authority.

In replies, the commenter expressed their continuing concern with this issue.

As discussed on page 40 of the Proposed Order, the Department acknowledges that the existing wind facility has experienced substantial equipment and maintenance issues over the past several years.

While the Department does not agree that the maintenance issues demonstrate that the certificate holder, in partnership with BIGL, LLC, cannot operate or maintain a solar facility in compliance with site certificate conditions, the issues do demonstrate a deficiency in the adequacy of the existing site certificate conditions in ensuring systematic oversight of vendor performance, preventive maintenance, and safe, reliable construction and operation.

The Department has recommended the Council adopt additional conditions of approval to improve oversight and ensure the safe operation of the proposed solar components, including recommended Organizational Expertise Conditions 1 and 2 which require the finalization of the Draft O&M Framework Plan included as Attachment C to the Proposed Order. Based on comments and information provided on the record, the Department does not recommend any changes to the draft Final Order.

Issue OE-02 (Certificate Holder): Request to amend recommended Amended Condition 3 (CON-OE-01), removing reference to fax number as contact method for construction managers.

Comment ID: BCWAMD4Doc24-08 Proposed Order Public Comment Certificate Holder 2026-01-14

Response ID: BCWAMD4Doc26-01 Proposed Order Public Comment ODOE Responses 2026-02-12

Comment Summary

Certificate holder requests changes to recommended Amended Condition 3 (CON-OE-01) to remove requirement to provide fax numbers for construction managers.

Department Evaluation

The Department agrees that requiring a fax number is unnecessary given the other communication methods included in the recommended amended condition, including phone number and email address. The Department agrees to remove reference to “fax number” in recommended Amended Condition 3 (CON-OE-01) in the draft Final Order.

Issue OE-03 (Certificate Holder): Request to revise requirement to provide executed Build Transfer Agreement in draft Operations and Maintenance Plan Framework, allowing for submission of redacted copy

Comment ID: BCWAMD4Doc24-08 Proposed Order Public Comment Certificate Holder 2026-01-14

Response ID: BCWAMD4Doc26-01 Proposed Order Public Comment ODOE Responses 2026-02-12

Comment Summary

Certificate holder requests changes to recommended Organizational Expertise Condition 1 and Proposed Order Table 5, which requires submittal of an executed Build Transfer Agreement (BTA) as part of finalization of the O&M Framework Plan. Specifically, certificate holder requests that they be authorized to submit a redacted copy, redacting confidential terms and conditions.

Department Evaluation

The Department agrees that there are likely confidential terms and conditions of the BTA which do not have a nexus with the Organizational Expertise standard and therefore do not need to be included in the version submitted to the Department. Receipt by the Department of an executed BTA is a recommended requirement because it is the mechanism that will establish the certificate holder’s role and responsibility for oversight and control over a third-party; and, the third-party’s role and responsibility in selecting and managing construction contractors, construction and operation of the proposed solar components. The Department proposes to incorporate the following language in Proposed Order Table 5 and Table 1 of the draft O&M Framework Plan.

Confidential terms and conditions, unrelated to the roles, responsibilities, oversight and control of the certificate holder, third-parties, site certificate and facility, may be redacted from the executed BTA provided to the Department.

Issue OE-04 (Certificate Holder): Request to amend frequency of performance monitoring reports

Comment ID: BCWAMD4Doc24-22 Proposed Order Public Comment Certificate Holder-2 2026-01-30

Response ID: BCWAMD4Doc26-01 Proposed Order Public Comment ODOE Responses 2026-02-12

Comment Summary

Certificate holder requests changes to recommended Organizational Expertise Condition 1 (PRO-OE-01) through Table 1 of the O&M Framework Plan (Proposed Order Attachment C) and Proposed Order Table 5, to reduce the frequency of reporting results of vendor performance from monthly to quarterly. Certificate holder states that monthly reporting may over-emphasize short-term variability that does not reflect underlying performance trends, while quarterly reporting allows for more meaningful evaluation of system performance and provides sufficient time for the certificate holder and O&M contractors to address identified issues.

Department Evaluation

As presented in Table 1 of the O&M Framework Plan (Proposed Order Attachment C) and Proposed Order Table 5, under the heading “Reporting,” the proposed monthly reporting requirement applies to identification of any significant performance issues and corrective actions taken by or for the participating entity, contractor(s) and vendor(s). Further, monthly reporting shall identify corrective actions, including stop work or removal from site, required of the vendor(s) for any performance scores less than 95% percent on-time inspection and repair completion rate.

The Department understands the certificate holder’s concerns but disagrees that a lesser frequency be established prior to establishing a cadence or implementation and evaluation of the plan. The Department’s experience with the existing operating facility demonstrates that more frequency is necessary to track and understand operational and maintenance issues and status and/or plan for repairs.

The draft O&M Framework Plan allows for annual review and update of the plan (see Proposed Order Attachment C, Section 5, Conclusions. The Department maintains that changes in monitoring and reporting frequency be evaluated once the plan is implemented, based on revisions necessary to support effective review and understanding of vendor performance.

The Department recommends an additional change to Section 5.0 of the draft O&M Framework Plan, stating that:

All changes are subject to review and approval by the Department.

Issue OE-05 (Certificate Holder): Request to clarify frequency of inspections using thermal imaging

Comment ID: BCWAMD4Doc24-22 Proposed Order Public Comment Certificate Holder-2 2026-01-30

Response ID: BCWAMD4Doc26-01 Proposed Order Public Comment ODOE Responses 2026-02-12

Reply ID: BCWAMD4Doc28-04 Proposed Order Public Comment CH Reply to ODOE 2026-02-28

Comment Summary

Certificate holder requests to modify Proposed Order Attachment C, draft O&M Framework Plan, Section 3.4.2 as presented below:

Routine module inspections and annual infrared/aerial thermal imaging with anomalies detected via SCADA generating corrective work orders within 48 hours according to the final Operations and Maintenance Plan.

Certificate holder requests this change stating that it is unlikely that SCADA will detect module-level anomalies for work order creation.

Department Evaluation

The Department accepts the certificate holder’s clarification on the frequency of thermal imaging because it is the certificate holder’s proposal, but requests further clarification related to SCADA’s identification of anomalies and generation of work orders.

In its responses, the Department requested clarification of the intent of the change. In its replies, the certificate holder explained that the current language in Section 3.4.2 of the Draft O&M Plan conflates two different work streams for generating corrective work orders for anomalies detected 1) via routine module inspections and annual infrared/aerial thermal imaging, and 2) via the SCADA system. The certificate holder provided revised language replacing the original language in the Draft O&M Plan Section 3.4.2 (first and fifth bulleted item) with the following language to clarify these processes:

o Routine module inspections and annual infrared/aerial thermal imaging:

Anomalies detected will generate corrective work orders within 48 hours, and will be addressed according to level of severity; otherwise, as soon as reasonably possible and according to the final O&M Plan.

o Routine SCADA monitoring and data analysis: Anomalies detected will generate corrective work orders within 48 hours and will be addressed according to level of severity; otherwise, as soon as reasonably possible and according to the final O&M Plan.

Because the proposed language merely clarifies that inspections and SCADA monitoring are two different pathways for identifying anomalies and potential issues occurring within the PV system, the Department agrees to make the proposed changes.

III.C. Structural Standard (OAR 345-022-0022)

Issue SS-01 (Certificate Holder): Request for flexibility to conduct ground disturbing activities on areas with steep slopes with engineer review

Comment ID: BCWAMD4Doc24-22 Proposed Order Public Comment Certificate Holder-2 2026-01-30

Response ID: BCWAMD4Doc26-01 Proposed Order Public Comment ODOE Responses 2026-02-12

Comment Summary

Certificate holder requests that recommended Amended Condition 68 be changed to allow ground disturbing activities in areas with slopes exceeding 20 percent when reviewed and approved by the Geotechnical Engineer of Record and designed to adequately address non-seismic hazard risks, as presented below.

Proposed Clarified Condition 68 (CON-SS-03):

The Certificate Holder shall design, engineer, and construct the solar facility to avoid dangers to human safety presented by non-seismic hazards, including but not limited to settlement, landslides, flooding, erosion, and collapsible soils. Ground-disturbing activities shall be avoided in areas with slopes exceeding 20 percent unless such activities are reviewed and approved by the Geotechnical Engineer of Record and designed to adequately address non-seismic hazard risks.

Department Evaluation

Recommended Amended Condition 66 requires that the certificate holder complete and submit a final Geotechnical Investigation prepared, which must be prepared for Geotechnical Engineer of Record and would evaluate seismic and non-seismic hazards at the site, based on final design. The language proposed by the certificate holder therefore is duplicative. Any changes to recommended Amended Condition 68 must be reviewed in tandem with recommended Amended Condition 66.

To assist in the evaluation of relaxing the prohibition of ground disturbing works on slopes exceeding 20%, the Department requests additional information regarding the types of ground disturbing activities on slopes exceeding 20 percent that are under consideration, the locations at the site where they are being considered, and any supporting evidence demonstrating how non-seismic geologic hazards in these areas will be mitigated. Please note that the recommended Condition 68 was intended to ensure compliance with the requirements of Sherman County's Natural Hazards (NH) Combining Zone and SCZO Section 3.7. If work on steep slopes within the NH Combining Zone is proposed, all information required under SCZO 3.7(5) must be included in RFA4.

In its reply, the certificate holder provided an additional map showing locations where cut and-fill on existing slopes above 20 percent would occur.

Based on this additional information, the Department acknowledges that there are some areas within the proposed Solar Micrositing Area outside of Sherman County's Natural Hazard Combining Zone where cut and fill to grade existing slopes to below 20 percent would not present a significant hazard, but the Department continues to have concerns about the certificate holder's proposal to locate facility components on or near the steep edges of Biglow Canyon and other areas within the County's Natural Hazard Combining Zone (see RFA4 Land Use Exhibit, Figure K-2).

To ensure these areas are avoided, while providing additional flexibility on the remainder of the site, the Department suggests Recommended Amended Condition 68 be further revised. Changes to the condition as presented in the Proposed Order are shown in underline, strikethrough, black font; additional changes recommended as a result of the comment evaluation process are shown un underline, strikethrough, red font.

Recommended Amended Condition 68: The certificate holder shall design, engineer and construct the solar facility to avoid dangers to human safety presented by non-seismic hazards. ~~As used in this condition, "non-seismic hazards", including but not limited to settlement, landslides, flooding, and erosion, and collapsible soils.~~ Ground disturbing activities are not permitted in areas within Sherman County's Natural Hazard Combining Zone, nNo ground disturbing activity may occur in areas where slopes exceeding 20 percent.

III.C. Soil Protection (OAR 345-022-0022)

Issue SP-01 (McCullough, Kathryn); Questions the type and height of weeds required to be controlled

Comment ID: BCWAMD4Doc24-06 Proposed Order Public Comment McCulloughK-6 2026-01-09
Response ID: BCWAMD4Doc26-01 Proposed Order Public Comment ODOE Responses 2026-02-12; BCWAMD4Doc27-09 Proposed Order Public Comment CH Response to Kathy and Kevin McCullough 2026-02-13

Comment Summary

Commenter questions whether weeds are allowed to be a foot in height and whether noxious weeds, or all weeds, are required to be controlled/mitigated.

Department Evaluation

Noxious weeds will not be allowed to be 1-foot in height. The vegetation height limit of 1-foot established in the draft Construction Wildfire Mitigation Plan (WMP) Section 4.6.1. applies to beneficial vegetation, not noxious weeds.

Noxious weeds and invasive annual grass are required to be treated, controlled and monitored during construction and operation (see recommended Soil Protection Conditions 1 to 3).

In its responses to this issue, the certificate holder also commented that it believes the concerns are already addressed by the Proposed Order and its recommended plans and conditions.

The Department considers this issue resolved.

Issue SP-02 (Certificate Holder); Requests to clarify statement referring to the use of Sherman County for weed control.

Comment ID: BCWAMD4Doc24-08 Proposed Order Public Comment Certificate Holder 2026-01-14

Response ID: BCWAMD4Doc26-01 Proposed Order Public Comment ODOE Responses 2026-02-12

Comment Summary

Certificate Holder requests to clarify that while there is intent to contract the Sherman County Weed Control District to implement measures of the Weed Control Plan, the District may not have sufficient capacity to manage implementation, in which case other qualified vendors may be contracted to implement the measures of the Weed Control Plan.

Department Evaluation

RFA4 Exhibit K Land Use, Section 8.1.3.1 states, “The Certificate Holder currently contracts with the Sherman County Weed Control District to inspect and treat weeds at BCFW and will continue to use their staff’s services to treat the Solar Micrositing Area.” This representation was incorporated into the Proposed Order Section D.1. Soil Protection; however, it was not expressly incorporated into a condition or weed-related mitigation requirement.

Recommended Soil Protection Conditions 1 to 3 require finalization and implementation of the draft Comprehensive Solar Vegetation and Soil Management Plan (Proposed Order Attachment D). Weed control requirements applicable prior to and during construction and operation are included in this plan. The plan does not require that the certificate holder contract with Sherman County Weed Control District to implement and monitor the requirements of the plan but rather requires that it be implemented by a qualified Weed Control Contractor.

The Department agrees that the recommended findings of fact can be updated based on the certificate holder’s revised representation. Rather than revising the facts to refer to the potential of contracting with Sherman County Weed District or qualified vendors for weed control, the Department recommends that the findings of fact be revised to refer to the requirements of the draft Comprehensive Solar Revegetation and Soil Management Plan, as presented below:

~~The certificate holder has indicated that the District will be contracted to implement the measures of the Weed Control Plan.¹ Prior to and during construction and operation of the facility components proposed in RFA4, the certificate holder will be required to hire a Weed Control Contractor responsible for performing weed control in accordance with the Comprehensive Solar Revegetation and Soil Management Plan under recommended Soil Protection Conditions 1 through 3.²~~

The Department considers this issue resolved.

Issue SP-03 (Certificate Holder); Requests Revisions to Mapped Soil Units in Analysis Area

Comment ID: BCWAMD4Doc24-08 Proposed Order Public Comment Certificate Holder 2026-01-14

Response ID: BCWAMD4Doc26-01 Proposed Order Public Comment ODOE Responses 2026-02-12

Comment Summary

Certificate holder requests revision of percentage of Solar Micrositing Area in Soil Unit 16D in Proposed Order Table 7. Commenter recommends amount should be 0.1%, not 0.2%.

Department Evaluation

Based on review of AMD4 Exhibit I, the Department agrees to correct Table 7 in the draft Final Order, as requested.

The Department considers this issue resolved.

Issue SP-04 (Sherman County Weed District) Concerns related to 1-3" veg height under WMP and ability of that height to provide erosion control

Comment ID: BCWAMD4Doc24-15 Proposed Order Public Comment Sherman County Weed District 2026-01-28

Response ID: BCWAMD4Doc26-01 Proposed Order Public Comment ODOE Responses 2026-02-12; BCWAMD4Doc27-02 Proposed Order Public Comment CH Response to Colton McCullough 2026-02-13; BCWAMD4Doc27-09 Proposed Order Public Comment CH Response to Kathy and Kevin McCullough 2026-02-13; BCWAMD4Doc27-13 Proposed Order Public Comment CH Response to Sherman Co Weed District 2026-02-13;

Comment Summary

Sherman County Weed District (SCWD) recommends vegetation be maintained at 4-8 inch height during dry season to support erosion control. SCWD suggests that a vegetative height of

² BCWAMD4DocXX. Proposed Order on AMD4 Attachment D, Table A-2, pg. A-3. The draft Comprehensive Solar Revegetation and Soil Management Plan includes additional experience requirements for the Weed Control Contractor.

1-3 inches will not support erosion control. SCWD also expresses concerns with the viability of bunchgrass species if maintained at the 1-3 inch height.

Department Evaluation

The Department is evaluating several comments related to the recommendation that vegetation within the solar facility and other vegetation clearance areas be maintained at 1 to 3 inches during fire season to mitigate fire risk. Mr. McCullough recommends the recommendation be implemented throughout the life of the facility (Issue WF-09). SCWD recommends that the vegetation height standard be increased to 4 to 8 inches to support erosion control and enhance viability of bunchgrass species.

In its comments, the certificate holder requested that the height standard be increased to 10 to 12 inches year-round but in reply to the Sherman County Weed District, requested that ODOE take the District's professional recommendation into consideration and revise the Proposed Order and implementing plans accordingly to require management of grass height at 4 to 8 inches during dry season. Mr. McCullough commented that he did not agree that 8" vegetation would be safe from a wildfire standpoint, but acknowledged the importance of not mowing native bunch grasses shorter than 3-4" to protect the crown of the plant. He conceded that a slightly taller vegetation height (3" to 6" during fire season June-Oct) would be acceptable considering erosion control, vegetation health, and fire risk together.

The Department maintains that vegetation management is a critical tool for minimizing wildfire risk associated with the proposed facility but defers to the professional recommendation of the County Weed Control District as to the appropriate standard to best balance wildfire risk mitigation and soil protection. Consistent with the District's recommendation, the Department revised Section III.N.I Wildfire Prevention and Risk Mitigation of the draft Final Order, Attachment G draft Construction Wildfire Mitigation Plan, and Appendix F of the draft Comprehensive Revegetation and Soil Management Plan to include reference to vegetation requirements below:

a. Vegetation Height and Clearance

Vegetation within and adjacent to the Solar Components will be maintained as follows:

- During the dry season (June to October), vegetation height will be limited to 4 to 8 inches. Vegetation will be mowed to a height of 4 inches prior to June of each year.
- Outside of the dry season (November to May), vegetation will be maintained at a maximum height of less than 12 inches,
- ~~with a~~ A minimum vertical clearance of 12 inches from all electrical and mechanical equipment will be maintained at all times.
- ~~Vegetation exceeding this~~ the heights listed above will be mowed or removed prior to local in accordance with any ODF- or County-issued fire restrictions.

...

Issue SP-05 (McCullough, Kathryn); Long-term soil health

Comment ID: BCWAMD4Doc24-17 Proposed Order Public Comment McCulloughK-10 2026-01-29

Response ID: BCWAMD4Doc26-01 Proposed Order Public Comment ODOE Responses 2026-02-12

Comment Summary

Ms. McCullough raises concerns about lack of evidence supporting claims related to long-term soil improvement following use of the site for solar after 50 years.

Department Evaluation

Ms. McCullough does not identify a specific recommended finding, condition, or conclusion for which she objects. Vegetation management and erosion control is required under the Draft Comprehensive Revegetation and Soil Management Plan established under recommended Soil Protection Conditions 1 to 3, however commenter has not explained how plan is deficient or could be improved.

In its responses on this issue, the certificate holder provides a memo summarizing some recent published literature outlining some of the ecosystem service benefits that can result from native vegetation management practices at solar photovoltaic facilities, such as the creation of microhabitats around solar panels with lower air temperatures and evapotranspiration rates, higher soil water content, and additional surface roughness that slows wind speeds and protects against erosion. The certificate holder also highlighted conditions of approval related to soil protection and the provisions of the draft Comprehensive Revegetation and Soil Management Plan for vegetation management and erosion control at the site.

The Department does not recommend revisions to the draft Final Order based on this comment because the commenter did not identify the recommended findings of fact, conclusions of law or conditions of approval identified in the proposed order to which they object.

Issue SP-06 (Sherman County Soil and Water Conservation District, A. Whitman); Requests to develop a strong working relationship with certificate holder/BrightNight to ensure soil protection measures are in place.

Comment ID: BCWAMD4Doc24-21 Proposed Order Public Comment Sherman SWCD 2026-01-30

Response ID: BCWAMD4Doc26-01 Proposed Order Public Comment ODOE Responses 2026-02-12; BCWAMD4Doc27-14 Proposed Order Public Comment CH Response to SWCD 2026-02-13

Comment Summary

Ms. Whitman of Sherman County Soil and Water Conservation District (SCSWCD) requests to develop a strong working relationship with certificate holder/BrightNight to ensure soil protection measures are in place.

Department Evaluation

In its responses to the Sherman County SWCD on this issue, the certificate holder emphasized previous attempts to engage with Ms. Whitman and highlighted the conditions related to soil protection included in the Proposed Order.

In the Department's responses, the Department requested that Ms. Whitman identify specific recommended findings, conditions, or conclusions of law to which she objects and explain the regulatory nexus for requiring consultation, and adherence to recommendations provided during consultation.

Ms. Whitman did not reply to either the certificate holder or Department. Because the commenter did not identify the specific recommended findings, conditions, or conclusions of law to which she objects, the Department does not believe the commenters issue was raised with sufficient specificity to afford the Council, Department, or certificate holder an opportunity to respond. Accordingly, the Department does not recommend any changes to the draft Final Order in response to this issue.

Issue SP-07 (Sherman County Soil and Water Conservation District, A. Whitman); Potential soil contamination from fire-damaged photovoltaic modules or battery components.

Comment ID: BCWAMD4Doc24-21 Proposed Order Public Comment Sherman SWCD 2026-01-30

Response ID: BCWAMD4Doc26-01 Proposed Order Public Comment ODOE Responses 2026-02-12; BCWAMD4Doc27-14 Proposed Order Public Comment CH Response to SWCD 2026-02-13

Comment Summary

Ms. Whitman of SCSWCD raises concerns about potential for panels or batteries damaged by fire or other cause to release toxins into soils and waterways.

Department Evaluation

In its responses to the Sherman County SWCD on this issue, the certificate holder emphasized previous attempts to engage with Ms. Whitman and highlighted the conditions related to soil protection included in the Proposed Order.

In its responses, the Department notes that Ms. Whitman does not identify a specific recommended finding, condition, or conclusion for which she objects. Control of noxious weeds and annual grasses is required under the Draft Comprehensive Revegetation and Soil Management Plan established under recommended Soil Protection Conditions 1 to 3, however Ms. Whitman has not explained how the plan is deficient or could be improved. Wildfire minimization and mitigation are required under Wildfire Prevention and Risk Mitigation Conditions 1 to 3, however commenter has not explained how plan is deficient or could be improved.

Because the issue was not raised with sufficient specificity to afford the Council, Department, or certificate holder an opportunity to respond, the Department does not recommend any changes to the draft Final Order in response to this issue.

Issue SP-08 (Sherman County Soil and Water Conservation District, A. Whitman); Enforcement of requirements for natural resource protection.

Comment ID: BCWAMD4Doc24-21 Proposed Order Public Comment Sherman SWCD 2026-01-30

Response ID: BCWAMD4Doc26-01 Proposed Order Public Comment ODOE Responses 2026-02-12; BCWAMD4Doc27-14 Proposed Order Public Comment CH Response to SWCD 2026-02-13

Comment Summary

Ms. Whitman of SCSWCD raises concerns about enforcement of measures to protect environment and natural resources. She suggests that the State hold the certificate holder accountable for controlling weeds, preventing soil erosion, promoting fire prevention, and any other practices that ensure the health of the surrounding community and watersheds.

Department Evaluation

In its responses to this issue, the certificate holder highlights conditions of approval related to soil protection in the Proposed Order and provisions related to weed control, erosion control, and fire prevention in the draft Comprehensive Solar Revegetation and Soil Management Plan included as Attachment D of the Proposed Order.

In its responses, the Department noted that Ms. Whitman did not identify a specific recommended finding, condition, or conclusion of law to which she objects, and that Ms. Whitman had not explained how the draft Comprehensive Solar Revegetation and Soil Management Plan is deficient or could be improved.

Because the issue was not raised with sufficient specificity to afford the Council, Department, or certificate holder an opportunity to respond, the Department does not recommend any changes to the draft Final Order in response to this issue..

Issue SP-09 (Certificate Holder); Requests to Clarify Terms, Clear Brush Free and Vegetation Clearance Area/Zone

Comment ID: BCWAMD4Doc24-22 Proposed Order Public Comment Certificate Holder-2 2026-01-30

Response ID: BCWAMD4Doc26-01 Proposed Order Public Comment ODOE Responses 2026-02-12

Reply ID: BCWAMD4Doc28-04 Proposed Order Public Comment CH Reply to ODOE 2026-02-28

Comment Summary

Certificate holder provides the following clarification to ensure consistent interpretation of buffer area requirements along roads and perimeter fencelines within the Solar Micrositing Area. The terms “clear, brush-free area” and “vegetation-clearance area/zone” are used in

multiple locations in the Proposed Order and Attachments D and G without consistent definition. To improve the clarity and avoid misinterpretation, the certificate holder requests that these terms be replaced with “low-growing, fire-resistant vegetation,” or that the documents otherwise clarify that these buffer areas are intended to be maintained with low-growing, fire-resistant vegetation rather than fully devoid of vegetation.

In addition, the certificate holder notes an inconsistency regarding whether the required buffer along the perimeter fenceline is intended to be 10 feet on each side or 20 feet measured along the exterior or interior and requests clarification from ODOE to ensure consistent understanding and implementation of the buffer requirement.

Department Evaluation

In the Proposed Order Attachment G Section 4.1.6 (draft Construction WMP), the Department recommended the following:

During construction clearing, grubbing, and grading, the contractor will establish a noncombustible buffer zone extending a minimum of 10 feet inside the fenceline and another minimum 10-foot limits of disturbance buffer outside the fenceline for a total of a minimum of 20 feet of noncombustible buffer around the perimeter of the site.

Also as presented in the draft Amended Site Certificate Table 1 attached to the Proposed Order, the vegetation management buffer for the perimeter fenceline is established at 20 feet. These requirements were based on the draft Construction Wildfire Mitigation Plan and draft Comprehensive Revegetation and Soil Management Plan provided by the certificate holder.

In its responses, the Department agreed that the varying terms used in Section III.D.1 and draft Amended Site Certificate should be replaced with a consistent term, “noncombustible buffer” and be further clarified that for the perimeter fenceline, the buffer extends 10-feet on either side.

In replies, the certificate holder provided additional information to support its request to replace all references to a “noncombustible buffer” with the term ““low-growing, fire-resistant vegetation.” The certificate holder requests that this change be applied to areas along the solar array fencelines, access roads, and perimeter fenceline. While the certificate holder does not request to reduce the size of the 20-foot fuel breaks around the perimeter of the site the certificate holder does request to change the standards for vegetation management in this zone. The certificate holder argues that these changes are necessary to address existing erosion concerns while providing wildfire mitigation at the Project site.

In sur-replies to Kevin and Kathryn McCullough, the certificate holder provided a redlined of the draft Construction Wildfire Mitigation Plan which removes the perimeter buffer from the list of areas the certificate holder previously represented would be “managed to be vegetation-free, noncombustible space, or gravel surface” and instead represents that “20 feet of low-growing, fire-resistant vegetation buffer [would be maintained] around the perimeter of the site (10 feet

on each side of the fenceline).” The revised draft Construction Wildfire Mitigation Plan further represents that “Vegetation within 10 feet of each side of all service roads will be managed with low-growing, fire-resistant vegetation” rather than a vegetation free, noncombustible, zone.

Section 1205.5.1 of the Oregon Fire Code provides:

“A clear brush free area of 10 feet shall be required around the perimeter of the ground-mounted photovoltaic arrays or as determined by the fire code official. A maintained vegetative surface or noncombustible base, approved by the fire code official, shall be installed and maintained under the photovoltaic arrays and associated electrical equipment installations.”

The Department acknowledges the need to balance wildfire protection with erosion control, particularly given the presence of highly erodible soils at the site. Given this need, as well as the inconsistencies in the record, the Department will defer to the requirements of the Oregon Fire Code and will insert the term “clear, brush free area.” The Department acknowledges that this term may include either a noncombustible, non-vegetated area or an area of low-growing, fire resistant vegetation, and requests that the certificate holder consult with local fire officials on specific management criteria and provide documentation of the local fire officials determination of what standard is appropriate as part of the pre-construction compliance review process.

The following changes are incorporated into Section III.D.1 Soil Protection, draft Construction Wildfire Mitigation Plan and Appendix F of the draft Comprehensive Solar Revegetation and Soil Management Plan attached to the draft Final Order:

- A minimum 20-foot ~~non-combustible buffer~~ clear, brush free area will be maintained around the ~~interior or exterior~~ perimeter of fenced solar array areas (10-feet inside the fence and 10-feet outside the fence); activities necessary to maintain the area as clear, brush free shall be based on consultation with the local fire code official, ~~and~~

Issue SP-10 (Certificate Holder); Requests revisions to Draft Comprehensive Revegetation and Solar Management Plan

Comment ID: BCWAMD4Doc24-22 Proposed Order Public Comment Certificate Holder-2 2026-01-30

Response ID: BCWAMD4Doc26-01 Proposed Order Public Comment ODOE Responses 2026-02-12

Comment Summary

Certificate holder provides additional recommended edits to the draft Comprehensive Revegetation and Solar Management Plan presented as Attachment D to the Proposed Order.

Department Evaluation

The Department reviewed the certificate holder's proposed changes to the draft Comprehensive Revegetation and Solar Management Plan and generally agrees to administrative changes and clarifications. As presented for Issue FW-03, the Department does not agree to the certificate holder's request for flexibility in ground disturbing activities during the sensitive ground nesting bird season.

The Department reviewed the certificate holder's requested changes to the seed mix presented in Appendix F Table 2 in consultation with ODFW. ODFW confirmed that the proposed seed mix is acceptable, but recommend ensuring the forbs are available, as some of those species can be difficult to find and have appropriate alternates or additions to the seed mix.

Issue SP-11 (Sherman County Soil and Water Conservation District, A. Whitman); Erosion Control

Comment ID: BCWAMD4Doc25-03 Proposed Order Public Hearing Transcript 2026-01-15
Response ID: BCWAMD4Doc26-01 Proposed Order Public Comment ODOE Responses 2026-02-12; BCWAMD4Doc27-14 Proposed Order Public Comment CH Response to SWCD 2026-02-13

Comment Summary

Ms. Whitman of SCSWCD raises general concerns about the spread of noxious weeds and annual grass at the site and their potential to increase wildfire risk.

Department Evaluation

In responses to this issue, the certificate holder highlights conditions of approval related to soil protection in the Proposed Order and provisions related to weed control in the draft Comprehensive Solar Revegetation and Soil Management Plan included as Attachment D of the Proposed Order.

In its responses, the Department notes that Ms. Whitman did not identify a specific recommended finding, condition, or conclusion of law to which she objected and that Ms. Whitman had not explained how the draft Comprehensive Solar Revegetation and Soil Management Plan is deficient or could be improved.

Because the issue was not raised with sufficient specificity to afford the Council, Department, or certificate holder an opportunity to respond, the Department does not recommend any changes to the draft Final Order in response to this issue.

Issue SP-12 (Sherman County Soil and Water Conservation District, A. Whitman); Weed Control

Comment ID: BCWAMD4Doc25-03 Proposed Order Public Hearing Transcript 2026-01-15
Response ID: BCWAMD4Doc26-01 Proposed Order Public Comment ODOE Responses 2026-02-12; BCWAMD4Doc27-14 Proposed Order Public Comment CH Response to SWCD 2026-02-13

Comment Summary

Ms. Whitman of SCSWCD raises general concerns about the spread of noxious weeds and annual grass at the site and their potential to increase wildfire risk.

Department Evaluation

In its responses to this issue, the certificate holder highlights conditions of approval related to soil protection in the Proposed Order and provisions related to weed control in the draft Comprehensive Solar Revegetation and Soil Management Plan included as Attachment D of the Proposed Order.

In its response, the Department notes that Ms. Whitman did not identify a specific recommended finding, condition, or conclusion of law to which she objects. Ms. Whitman has not explained how the draft Comprehensive Solar Revegetation and Soil Management Plan is deficient or could be improved.

Because the issue was not raised with sufficient specificity to afford the Council, Department, or certificate holder an opportunity to respond, the Department does not recommend any changes to the draft Final Order in response to this issue.

III.D. Land Use (OAR 345-022-0030)

Issue LU-01 (Certificate Holder); Request for reduction in requirements for Site Plan Review

Comment ID: BCWAMD4Doc24-22 Proposed Order Public Comment Certificate Holder-2 2026-01-30

Response ID: BCWAMD4Doc26-01 Proposed Order Public Comment ODOE Responses 2026-02-12

Reply ID: BCWAMD4Doc28-04 Proposed Order Public Comment CH Reply to ODOE 2026-02-28

Comment Summary

Certificate holder requests the following changes be made to recommended Land Use Condition 3:

- a. Prior to construction of any component or phase of the solar facility, the certificate holder shall submit, to the Department and the Sherman County Planning Commission, an application for Conditional Use Permit pursuant to ~~ORS 469.401(3)~~ meeting the requirements of SCZO Section 5.4(1) and (3).
- b. ~~The Site Plan required under SCZO 5.4(1) must demonstrate compliance with all applicable local ordinances and site certificate conditions.~~
[Final Order on AMD4]

The certificate holder asserts that because it has elected to seek a Council determination of compliance with statewide land use planning goals under ORS 469.504(1)(b), Sherman County would not have discretionary approval of a CUP or Site Plan, and compliance with applicable sections of the Sherman County Zoning Code (SCZO) would be determined by Council and memorialized in the Final Order and Site Certificate.

Department Evaluation

The certificate holder is correct that under ORS 469.401(3), an affected County does not have general discretion to reject a permit addressed in an amended site certificate, the statute explicitly authorizes the County to consider whether the permit is consistent with the terms and conditions of the amended site certificate. The statute also requires the certificate holder to submit “proper applications and payment of the proper fees” for any permit addressed in the site certificate, including the Conditional Use Permit. In its responses to this issue, the Department requested additional information on why the certificate holder believed requiring a site plan would not be needed, or why, the condition, as written would be inconsistent with ORS 469.401(3).

In its reply, the certificate holder argues that requiring a demonstration of compliance with all applicable local ordinances and site certificate conditions when applying for a conditional use permit is contrary to the plain language and the intent of the statute because it would require the County to exercise discretion in making its determination. The certificate holder that issuance of a conditional use permit under ORS 469.401(3) is not supposed to involve discretion. Here, the Department disagrees. The statute provides as follows:

“...After the site certificate or amended site certificate is issued, the only issue to be decided in an administrative or judicial review of a state agency or local government permit for which compliance with governing law was considered and determined in the site certificate or amended site certificate proceeding *shall be whether the permit is consistent with the terms of the site certificate or amended site certificate.*” (emphasis added)

In addition, ORS 469.401(5) provides that

“Nothing in ORS chapter 469 shall be construed to preempt the jurisdiction of any state agency or local government over matters that are not included in and governed by the site certificate or amended site certificate. Such matters include but are not limited to employee health and safety, building code compliance, wage and hour or other labor regulations, local government fees and charges *or other design or operational issues that do not relate to siting the facility.*”

Taken together, these provisions establish a limited scope of local review to ensure that a facility is consistent with the terms and conditions of a site certificate, and with any applicable local ordinances that were not included in and governed by the site certificate. While this review is generally limited to ministerial level decisions, some level of discretion on part of the County planning staff is necessary.

The Department and the County will need a final site plan in order to verify that the facility will comply with setback, dimensional requirements, and other restrictions imposed through site certificate conditions and applicable local ordinances. While the Department believes the

condition is appropriate as written, the following clarifying edits have been made in the draft Final Order:

Recommended Land Use Condition 3

- a. Prior to construction of any component or phase of the solar facility, the certificate holder shall submit, to the Department and the Sheman County Planning Commission, an application for Conditional Use Permit pursuant to ~~ORS 469.401(3)~~ meeting the requirements of SCZO Section 5.4(1) and (3).
- b. The Site Plan required under SCZO 5.4(1) must demonstrate compliance with all ~~applicable local ordinances and~~ site certificate conditions and the applicable substantive criteria addressed in the Final Order on AMD4.

[Final Order on AMD4]

Issue LU-02 (Certificate Holder); Objection to Evaluation of Compliance with SCZO 5.2(5)

Comment ID: BCWAMD4Doc24-22 Proposed Order Public Comment Certificate Holder-2 2026-01-30

Response ID: BCWAMD4Doc26-01 Proposed Order Public Comment ODOE Responses 2026-02-12

Reply ID: BCWAMD4Doc28-04 Proposed Order Public Comment CH Reply to ODOE 2026-02-28

Comment Summary

Certificate holder objects to the Department’s recommended finding that the proposed facility would not comply with SCZO 5.2(5) and requests that the Department reconsider its recommended finding that the acreage thresholds under OAR 660-033-0130(38)(k) are a “land standard” within the meaning of the SCZO, arguing instead that they are thresholds that, if triggered, require the application of more stringent review criteria under the exceptions test. The certificate holder restated its position in its reply but did not provide new argument or evidence.

Department Evaluation

In the Proposed Order, the Department recommends the Council find:

“...the facility components proposed in RFA4 would generally comply with applicable air, water, and solid waste standards; however, as described in the evaluation of directly applicable state rules and laws under ORS 197.646, below, the facility components proposed in RFA4 would exceed the maximum amounts of arable and high-value farmland allowed under OAR 660-033-0130(38), and for this reason cannot be approved without an exception to Statewide Planning Goal 3.”

OAR 660-033-0130 establishes the minimum standards applicable to the schedule of permitted and conditional uses under OAR 660-033-0120. OAR 660-033-0130(38)(g) provides as follows: “For high-value farmland described at ORS 195.300(10), a photovoltaic solar power generation facility shall not use, occupy, or cover more than 12 acres” unless certain standards are met. A similar standard is established under OAR 660-033-0130(38)(i) which provides; “For arable

lands, a photovoltaic solar power generation facility shall not use, occupy, or cover more than 20 acres...”

Similar to all other standards set in the rule and the SCZO, if a facility would use, occupy, or cover, more land than allowed by the rule, then the facility cannot be approved as a conditional use. Instead, the project proponent must seek an exception to the standards and the Statewide Planning Goal the standards implement. Because the acreage thresholds in OAR 660-033-0130(38) are used to determine whether a facility can be approved as a Conditional Use, and because they are directly applicable to any Sherman County Land Use decision under ORS 197.646, the Department maintains that they are effectively land use standards within the meaning of SCZO 5.2.

Issue LU-03 (Certificate Holder); Objection to Evaluation of Compliance with SCZO 5.2(6)

Comment ID: BCWAMD4Doc24-22 Proposed Order Public Comment Certificate Holder-2 2026-01-30

Response ID: BCWAMD4Doc26-01 Proposed Order Public Comment ODOE Responses 2026-02-12

Comment Summary

Certificate holder objects to the Department’s recommended finding that the proposed facility would not comply with SCZO 5.2(6) and requests that the Department reconsider its finding that failure to comply with acreage threshold under OAR 660-033-0130(38)(k) is a “use violation” within the meaning of the SCZO.

Department Evaluation

The Department agrees with the certificate holder that the obligation to receive approval of a Goal 3 exception does not constitute a “use violation” of the SCZO and agrees to revise the analysis.

Issue LU-04 (Certificate Holder); Objection to Evaluation of Compliance with SCZO Section 5.8(20)(1)

Comment ID: BCWAMD4Doc24-22 Proposed Order Public Comment Certificate Holder-2 2026-01-30

Response ID: BCWAMD4Doc26-01 Proposed Order Public Comment ODOE Responses 2026-02-12

Reply ID: BCWAMD4Doc28-04 Proposed Order Public Comment CH Reply to ODOE 2026-02-28

Comment Summary

Certificate holder objects to the Department’s recommended finding that the proposed facility would not comply with SCZO 5.8(20)(1) and request that the Department reconsider its finding that failure to comply with acreage threshold under OAR 660-033-0130(38) would result in the proposed facility being incompatible with farm use. The certificate holder restated its position in its reply.

Department Evaluation

The Department interprets the “compatibility with farm use” standard under SCZO 5.8(20)(1) to mean that the non-farm use is compatible with farm uses on the subject tract, which is a distinct issue from the compatibility with adjacent uses criteria found in SCZO 5.8(20)(2) and in the Council’s exception criteria under ORS 469.504(2)(c)(C). The Department maintains that the minimum standards applicable to conditional uses under OAR 660-033-0130 are an appropriate measure of whether a proposed facility is compatible with farm use when the County has not adopted its own standards or criteria.

Issue LU-05 (Certificate Holder) Objection to Evaluation of Compliance with SCZO 5.8(20)(3)

Comment ID: BCWAMD4Doc24-22 Proposed Order Public Comment Certificate Holder-2 2026-01-30

Response ID: BCWAMD4Doc26-01 Proposed Order Public Comment ODOE Responses 2026-02-12

Reply: BCWAMD4Doc28-04 Proposed Order Public Comment CH Reply to ODOE 2026-02-28

Comment Summary

Certificate holder objects to the Department’s recommended finding that that proposed facility would not comply with SCZO 5.8(20)(3) and requests that the Department reconsider its finding that conversion of approximately 1,445 acres of cultivated land, including 1,006 acres of high-value farmland, to a non-farm use has the potential to materially alter the overall land use pattern of the analysis area by reducing the number of tracts available for farmland and potentially affecting the local agricultural economy.

Department Evaluation

The Department disagrees with the scope of the analysis provided by the certificate holder, including 130 square miles. The Land Use analysis area includes the area within and extending ½-mile from the site boundary. In its response on this issue, the Department requested that the certificate holder provide an analysis of SCZO 5.8(20)(3) based on the established Land Use analysis area, to support review of this comment. In its reply, the certificate holder declined to provide the requested analysis, arguing that the geographic extent in SCZO 5.8(20)(3) requires a look beyond the EFSC Land Use Analysis Area at the “overall land use pattern of the area.” This is the broadest geographic extent language in SCZO 5.8(20), expanding beyond the adjacent lands or the tract. The EFSC Land Use Analysis Area is frequently used to describe the adjacent or surrounding lands to the project site. When considering changes to overall patterns, that means land use patterns within swaths of the County like North Sherman County, not the surrounding lands within the EFSC Land Use Analysis Area.

The Department maintains that the Analysis Area is the appropriate scale on which to evaluate stability of the overall land use pattern, particularly considering the 1-mile study radius for smaller projects that is required under OAR 660-033-0130(38)(h)(G) and (i)(D). The Department does not recommend any changes to the draft Final Order based on this issue.

Issue LU-06 (von Borstel, Alan); Concern with cumulative impacts of solar development in Sherman County

Comment ID: BCWAMD4Doc24-11 Proposed Order Public Comment Von BorstelA 2026-01-20

Response ID: BCWAMD4Doc26-01 Proposed Order Public Comment ODOE Responses 2026-02-12; BCWAMD4Doc27-00 Proposed Order Public Comment CH Response to Alan von Borstel 2026-02-13

Comment Summary

Mr. Von Borstel raises concern that cumulative impacts of solar development in Sherman County may adversely affect wildlife, wildfire protection, cultural, historic and scenic the agricultural community, and supporting industries.

Department Evaluation

Mr. Von Borstel raises concerns about the cumulative impact of solar development in Sherman County. He did not identify a specific standard or legal requirement or a specific impact that would result from the construction and operation of the proposed facility under consideration.

As such, the Department does not believe the commenters issue was raised with sufficient specificity to afford the Council, Department, or certificate holder an opportunity to respond. If the commenter objects to one or more findings of fact, conclusions of law, or conditions of approval in the Proposed Order, the Department requests that commenter identifies these findings, conclusions, or conditions in their reply.

Issue LU-07 (Multiple Commenters); Recommendation that “Right to Farm” protections are needed to protect farmers from wildfire liability

Comment ID: BCWAMD4Doc24-02 Proposed Order Public Comment McCulloughK-2 2025-12-24; BCWAMD4Doc24-04 Proposed Order Public Comment McCulloughK-4 2026-01-05; BCWAMD4Doc24-22 Proposed Order Public Comment Certificate Holder-2 2026-01-30; BCWAMD4Doc25-03 Proposed Order Public Hearing Transcript 2026-01-15

Response ID: BCWAMD4Doc26-01 Proposed Order Public Comment ODOE Responses 2026-02-12; BCWAMD4Doc27-05 Proposed Order Public Comment CH Response to Irene Gilbert 2026-02-13; BCWAMD4Doc27-09 Proposed Order Public Comment CH Response to Kathy and Kevin McCullough 2026-02-13

Reply ID: BCWAMD4Doc28-01 Proposed Order Public Comment McCulloughK Reply 2026-02-24 Sur-Reply ID: BCWAMD4Doc29-02 Proposed Order Public Comment CH Sur-Reply to Kathy and Kevin McCullough 2026-03-06

Comment Summary

Commenters raise concerns about the increased risk of liability to farmers that could arise if a fire started by farming practices damaged the solar facility. Commenters object to recommended approval of solar facility in "high fire risk area" without hold harmless clause. Commenters assert that potential liability for a wildfire started by normal farming practices could result in bankruptcy, and without protections from liability the project infringes on the commenters “right to farm” under ORS 30.930 to 30.947.

Department Evaluation

Matters of liability are generally not within the Council’s jurisdiction. Providing farmers the suggested liability protections would be a matter to take up with the state legislature. There

was no new argument or evidence provided in the commenter’s reply, as such, the Department does recommend any revisions in the draft of the Final Order based on this comment because the comment raises an issue that is not within the scope of Council’s authority.

Issue LU-08 (Certificate Holder); Objection to Evaluation of OAR 660-033-0130(38)(G)

Comment ID: BCWAMD4Doc24-22 Proposed Order Public Comment Certificate Holder-2

Response ID: BCWAMD4Doc26-01 Proposed Order Public Comment ODOE Responses 2026-02-12

Comment Summary

Certificate holder objects to Departments recommended findings under evaluation of OAR 660-033-0130(38)(h)(G).

Department Evaluation

In its evaluation of this criteria, the Department states, “No solar facilities have been constructed or have been approved within the study area identified by rule, so no further analysis is necessary; however, the rule was intended to apply to a facility less than 12 acres in size and does not accurately capture the proposed facilities’ potential impacts on the stability of the overall land use pattern...”

As stated, the Department’s recommended finding is that no further analysis of the criteria is needed. The additional explanation is intended to provide context for recommended findings under the evaluation of SCZO 5.8.20(3). The Department will include clarifying changes in both sections to clarify that the Department’s evaluation of the proposed facilities potential impacts on the stability of the overall land use pattern of the area is informed by, but independent of, the test required under OAR 660-033-0130(38)(h)(G).

Issue LU-09 (Oregon Wheat Growers League); Recommendation to include impact of lost assessments in economic impact analysis

Comment ID: BCWAMD4Doc24-20 Proposed Order Public Comment OWGL 2026-01-30

Response ID: BCWAMD4Doc26-01 Proposed Order Public Comment ODOE Responses 2026-02-12; BCWAMD4Doc27-10 Proposed Order Public Comment CH Response to Oregon Wheat Growers 2026-02-13

Comment Summary

Commenter raises a concern that the certificate holder’s analysis of economic impacts of the RFA4 facility changes does not account for lost agricultural assessments that fund research, market development, and grower services. Recommends updating the impact analysis to account for lost assessment revenues.

Department Evaluation

The commenter has not objected to a Department recommended finding of fact, conclusion of law or condition of approval in the Proposed Order, but rather to the scope of the certificate holder’s analysis of the indirect economic impacts of the proposed RFA4 changes.

In its responses the certificate holder explains that, while wheat assessment revenues were not evaluated as a discrete category, the indirect impacts to the local agricultural economy in Sherman County associated with changes in production were estimated and mitigated through the sector-based approach reflected in the record (Attachment K-2, Agricultural and Fiscal Impact Analysis).

The Department does not recommend any changes to the draft Final Order based on this issue because the comment does not identify the recommended findings of fact, conclusions of law or conditions of approval identified in the proposed order to which they object.

Issue LU-10 (Oregon Wheat Growers League); Objection to claim that Community Investment Plan will offset impacts to agricultural economy

Comment ID: BCWAMD4Doc24-20 Proposed Order Public Comment OWGL 2026-01-30

Response ID: BCWAMD4Doc26-01 Proposed Order Public Comment ODOE Responses 2026-02-12; BCWAMD4Doc27-10 Proposed Order Public Comment CH Response to Oregon Wheat Growers 2026-02-13

Comment Summary

Commenter contends the draft Community Investment Plan (CIP) “does not deliver” on a statement by the certificate holder that the CIP will “ensure any negative economic impacts that could result from the decrease in total acres of wheat production in the county will be offset by investments in the local agricultural community.”³ Contends that mitigation cannot fully offset the loss of agricultural land into an industrial use.

Department Evaluation

The commenter has not objected to a Department recommended finding of fact, conclusion of law or condition of approval in the Proposed Order regarding the CIP, but rather to a statement the certificate holder made about the CIP. Council must consider whether the proposed CIP supports a “rural economic benefits” reason for granting an exception to statewide planning Goal 3, which seeks to preserve agricultural land. The Department has not contended the CIP will fully offset any/all negative economic impacts to the local agricultural community. Rather, the Department has recommended the Council find the proposed CIP “*reasonably addresses* the indirect impacts of converting agricultural lands in the proposed Solar Micrositing Area to nonfarm use”⁴ and recommended Council find that implementation of the CIP supports a rural economic benefits reason for granting an exception to Goal 3.

In its responses on this issue, the certificate holder restated that the economic modeling supporting the CIP adequately accounted for indirect and induced impacts to the agricultural economy. And that the evidence provided in the record, and the stakeholders consulted, adequately informs the market conditions for Sherman County wheat growers.

³ RFA4, Exhibit K, Land Use, p. 71.

⁴ Proposed Order, pp. 139-140.

The Department does not recommend any revisions to the draft Final Order based on this comment because the comment does not identify a recommended findings of fact, conclusions of law or conditions of approval identified in the proposed order to which the commenter objects.

Issue LU-11 (Oregon Wheat Growers League): Recommendation to include Oregon Wheat Growers League in Community Investment Selection Committee

Comment ID: BCWAMD4Doc24-20 Proposed Order Public Comment OWGL 2026-01-30
Response ID: BCWAMD4Doc26-01 Proposed Order Public Comment ODOE Responses 2026-02-12; BCWAMD4Doc27-10 Proposed Order Public Comment CH Response to Oregon Wheat Growers 2026-02-13

Comment Summary

Commenter recommends that farmer representatives should be included in decision making process. Recommends Oregon Wheat Growers League be included in structure.

Department Evaluation

The commenter expresses concern there is no guarantee a farmer representative will be "built into the decision-making process" and proposes to "update the structure to include a representative from the Oregon Wheat Growers League."

To help inform the development of the CIP and to identify potential projects that would support the local agricultural economy the certificate holder met with, among other persons and groups, local wheat farmers and the Oregon Wheat Commission. That coordination led to the certificate holder including in the CIP five "pre-screened" projects that would qualify for funding. For other proposals, a five-person advisory committee (Selection Committee) would review applications and make recommendations to the Sherman County Board of Commissioners on funding. The Selection Committee would include one representative from Sherman County government; one representative from an academic institution engaged in agriculture research in Sherman County or an agricultural-related nonprofit entity located in Sherman County; *one dryland farm producer in the County*; one community member; and one representative with expertise in wildfire as it relates to agricultural lands.⁵

In its response to this issue, the certificate holder responded that they supported revising the final CIP to include a representative from the OWGL on the Selection Committee. The certificate holder requested that ODOE acknowledge this request and recommend to EFSC that the CIP be revised in Section 4.2.1 to identify the addition of one representative from the OWGL. The Department agrees with the certificate holder's request.

Issue LU-12 (Oregon Wheat Growers League): Need for engagement with Market Development Organizations in developing Community Investment Plan

Comment ID: BCWAMD4Doc24-20 Proposed Order Public Comment OWGL 2026-01-30

⁵ Proposed Order, p. 139 and Attachment E (the draft CIP), Section 4.2.1.

Response ID: BCWAMD4Doc26-01 Proposed Order Public Comment ODOE Responses 2026-02-12; BCWAMD4Doc27-10 Proposed Order Public Comment CH Response to Oregon Wheat Growers 2026-02-13

Comment Summary

Commenter recommends that further consultation with market development organizations (e.g. , Oregon Wheat Commission, U.S. Wheat Associates, National Association of Wheat Growers and Northwest Grain Growers) seeking to understand the long-term markets in domestic and international capacities “is needed to clarify statements listed in the market statements.”

Department Evaluation

In its response on this issue, the Department is not clear on what “market statements” the commenter is referring, nor what further consultation with the recommended organizations would achieve. As such, the Department does not recommend any changes be made to the draft Final Order based on this issue because the commenter does not identify the recommended findings of fact, conclusions of law or conditions of approval identified in the proposed order to which they object.

Issue LU-13 (Oregon Wheat Growers League): Concern with inclusion of agrivoltaics research as pre-screened project in Community Investment Plan

Comment ID: BCWAMD4Doc24-20 Proposed Order Public Comment OWGL 2026-01-30

Response ID: BCWAMD4Doc26-01 Proposed Order Public Comment ODOE Responses 2026-02-12; BCWAMD4Doc27-10 Proposed Order Public Comment CH Response to Oregon Wheat Growers 2026-02-13

Comment Summary

Commenter raises concern with inclusion of agrivoltaics research in pre-screened mitigation project list, alleging “[t]his areas is overstated” and the project “would not produce meaningful results.” Recommends producer-led analysis of research proposals would allow research investments to match the growing area most effectively.

Department Evaluation

Dryland wheat agrivoltaics research is one of five pre-screened projects identified in the draft Community Investment Plan (CIP) as having a direct benefit to the rural agricultural economy of Sherman County. These five projects were developed based on outreach and coordination with key stakeholders from the Sherman County agricultural community, as well as state-wide agricultural-related organizations including local wheat farmers, the Oregon Watershed Enhancement Board (OWEB), Oregon State University (OSU) including its extension service in Sherman County and the College of Agricultural Sciences, the Oregon Wheat Commission, the Sherman County Fire District, Sherman County Emergency Services, the Rural Sherman County Fire Board, the Weed Master, the Road Master, the County Planning Office, and County Judge. Further, as noted above, the Selection Committee for CIP mitigation projects will include one representative one dryland farm producer in the County.

In its responses to OWGL’s comments, the certificate holder commented that it agreed the League’s input would be valuable in the development of a proposal for an agrivoltaics project and that it anticipates that the proponent of this project would seek the input from OWGL when developing the proposal to ensure that the research directly benefited the Sherman County wheat economy. The certificate holder requested that the Department acknowledge this request and recommend to the Council that the final CIP be revised at Section 5 to require the project proponent to consult OWGL when developing the project proposal to include in the CIP funding application.

Given the concerns of OWGL, and the certificate holder’s acknowledgement that additional input in the development of a proposal would be beneficial, the Department recommends the Council reject the Dryland Wheat Agrivoltaics Research in Sherman County as a pre-screened project. The project sponsor would continue to be able to apply for funding through the normal selection process and investing in research to further agrivoltaics for dryland wheat lands would continue to be one of the selection criteria for review. The Department recommends that having this project go through the full selection process is the best way to incentivize successful stakeholder engagement in the project design process.

Issue LU-14 (Oregon Wheat Growers League): Concern with including weed management projects as pre-screened project in Community Investment Plan

Comment ID: BCWAMD4Doc24-20 Proposed Order Public Comment OWGL 2026-01-30
Response ID: BCWAMD4Doc26-01 Proposed Order Public Comment ODOE Responses 2026-02-12; BCWAMD4Doc27-10 Proposed Order Public Comment CH Response to Oregon Wheat Growers 2026-02-13

Comment Summary

Commenter raises concern with inclusion of weed management projects in the pre-screened mitigation project funding list. Asserts the project adds burden to neighboring properties and recommends weed management be incorporated into the project requirements rather than diminishing agricultural mitigation funds.

Department Evaluation

The commenter contends “the project should ensure that a weed management plan that can be reasonably enforced is completed outside of ag mitigation efforts.”

Weed control is a requirement under Proposed Order. The certificate holder has prepared the Comprehensive Solar Revegetation and Soil Management Plan (Comprehensive Plan) to serve as a primary source of commitments related to revegetation, soil management, dust control, stormwater management, and noxious weed control through the pre-construction, construction, and operations phases for the photovoltaic solar energy generation and battery storage (Solar Components) associated with RFA4. In its responses to this issue, the certificate holder also confirmed that they agree with the League that weed control is not a separate mitigation effort, but a mandatory and integral part of project construction and operation

Under the Proposed Order recommended Soil Protection Conditions 1 through 3, the certificate holder would be required to finalize the draft Comprehensive Plan (included as Attachment D), and construct and operate the solar facility in compliance with the Plan. As with all site certificate conditions, the Department and Council maintain authority to enforce these condition requirements. The commenter has not raised any issues related to the adequacy of the draft Comprehensive Plan or Recommended Soil Protection Conditions 1 through 3.

The weed control measures funded under the draft CIP would not address weeds related to the Biglow facility but rather would provide a grant program for county wheat farmers to invest in precision agricultural technology such as weed management equipment, remote sensing technology to assist with weed mapping or soil mapping.

The draft CIP Project 4 is a “[g]rant program for county wheat farmers to invest in precision agricultural technology such as weed management equipment, remote sensing technology to assist with weed mapping or soil mapping, variable rate technology to collect data on soil variability to inform application of fertilizers, and other technologies.” The description further states “[t]he cost-share grant program for precision agricultural technology is assumed to increase the number of farmers who otherwise would not have access to precision management technology due to the significant upfront cost barrier.”⁶

The Department does not recommend any revisions in the draft Final Order based on this comment because recommended conditions in the Proposed Order would already require the certificate holder to take weed control measures, and the weed control funding measures described under the draft CIP would not be used to control weeds related to the certificate holder’s project but rather would be utilized by county wheat farmers.

Issue LU-15 (Oregon Wheat Growers League): Concern with including fire mitigation projects as pre-screened project in Community Investment Plan

Comment ID: BCWAMD4Doc24-20 Proposed Order Public Comment OWGL 2026-01-30

Response ID: BCWAMD4Doc26-01 Proposed Order Public Comment ODOE Responses 2026-02-12; BCWAMD4Doc27-10 Proposed Order Public Comment CH Response to Oregon Wheat Growers 2026-02-13

Comment Summary

Commenter raises concern with inclusion of investments in minimizing fire risk in the pre-screened mitigation project funding list. Recommends fire mitigation should be considered separately from agricultural mitigation.

Department Evaluation

⁶ Proposed Order Attachment E, Draft Community Investment Plan, pp. 10-11.

Under Council’s Wildfire Prevention and Risk Mitigation standard, OAR 345-022-0115, Council must find the certificate holder has adequately characterized wildfire risk within the analysis area and that the proposed facility will be designed, constructed, and operated in compliance with a Wildfire Mitigation Plan approved by the Council.

In the Proposed Order, the Department recommends the Council impose new conditions requiring the certificate holder to submit plans addressing wildfire risks associated with the construction and operation of the solar facility. Recommended Wildfire Prevention and Risk Mitigation Conditions 1 and 2 require the certificate holder to submit to the Department, for review and approval, a Construction Wildfire Mitigation Plan (WMP), (consistent with Attachment G to the Order) and to adhere to the WMP during construction of the solar facility. And Recommended Wildfire Prevention and Risk Mitigation Conditions 3 and 4 require the certificate holder to submit to the Department for review and approval an Operational Wildfire Mitigation Plan and adhere to it during operations.

In its responses, the certificate holder also confirms that fire risk minimization and mitigation is not a separate mitigation effort, but a mandatory and integral part of project construction and operation.

In 2024, separate from the Council process related to the proposed Biglow solar facility, Sherman County developed and adopted a Community Wildfire Protection Plan (CWPP) to identify and mitigate wildfire risk in the county and to develop a strategy to reduce those risks. The CWPP identifies several projects that would assist the County in mitigating wildfire risk (e.g., upgrading, maintaining, or adding firefighting equipment for Sherman County’s Rural Fire Protection Districts and training for volunteers).

In the certificate holder’s draft CIP, “Agricultural Wildfire Risk Minimization and Capacity Building” is one of the five pre-screened projects identified as having a direct benefit to the rural agricultural economy of Sherman County. Under the draft CIP Project 2, the County could allocate mitigation funding to support either partial or full implementation of the projects identified in its CWPP, as well as other initiatives aimed at supporting the County’s agricultural community in wildfire mitigation and response.

The Department does not recommend any revisions in the draft Final Order based on this comment because recommended conditions in the Proposed Order already require the certificate holder to take measures to comply with the Council’s Wildfire Prevention and Risk Mitigation standard. Separately, the wildfire risk minimization measures described under the draft CIP would not be used to address wildfire risks related to the certificate holder’s project but rather would benefit the County overall.

Issue LU-16 (Oregon Wheat Growers League): Objection to statement that lease payments will compensate for lost agricultural revenue

Comment ID: BCWAMD4Doc24-20 Proposed Order Public Comment OWGL 2026-01-30

Comment Summary

Commenter objects to a statement by the certificate holder that lease payments will compensate for any lost agricultural revenue incurred by a landowner/farmer due to conversion of farmland to energy use⁷; the commenter contends that the farm operator may not own the subject parcel and may not benefit from lease payments and suggests clarification is needed to determine if the persons who provided statements are only landowners or if they are also farm operators.

Department Evaluation

In its responses on this issue, the certificate holder notes that the agricultural economic analysis presented in BCWF RFA 4 Attachment K-2 of Exhibit K and referenced the Proposed Order evaluates direct, indirect, and induced impacts from removing land from agricultural production. Impacts to the agricultural economy are assessed in terms of employment, labor income, and economic output using the IMPLAN economic modeling package. The Community Investment Plan (CIP) then ensures that the local rural economic benefits will offset potential adverse impacts the development of BCWF RFA 4 may have on Sherman County's agricultural economy. Mitigation under the Energy Facility Siting Council (EFSC) Land Use Standard and the CIP address local agricultural community and economic impacts at a county and community level, rather than compensating individual producers for lost production. That type of impact is handled by private agreement, as mentioned above.

In its responses, the Department noted that the commenter had not objected to a Department recommended finding of fact, conclusion of law or condition of approval in the Proposed Order, but rather to a statement the certificate holder made that lease payments will offset the direct loss of agricultural production resulting from its proposed solar facility.

As discussed in the Proposed Order, because the proposed solar facility would use, occupy, or cover more farmland than allowed under state laws and regulations, for Council to approve the facility, it would have to provide an exception to Statewide Planning Goal 3, which seeks to preserve and maintain agricultural lands for farm use.

The certificate holder argues that one reason Council should provide an exception to Goal 3 is because its proposed solar facility will promote rural economic development in several ways including through lease payments to affected landowners. The Department analyzed this argument in the Proposed Order and, while it agreed that some aspects of the proposal support Council granting an exception to Goal 3 because of the rural economic development that will result (e.g., through the proposed Community Investment Plan), the Department

⁷ RFA4, Exhibit K, Land Use, p. 18.

recommended Council find that the certificate holder has not provided sufficient evidence to demonstrate that lease payments will benefit agricultural operations because the participating landowner or individuals farming the land have not demonstrated, or even indicated, they intend to use the lease payments from the proposed solar facility to make or allow for new farm investment.⁸

Therefore, it is not necessary to seek clarification regarding the landowner statements, and the Department does not intend to make any revisions in the draft of the Final Order based on this comment because the Department has recommended Council reject the certificate holder's position that the lease payments support Council granting an exception to Goal 3.

Issue LU-17 (Certificate Holder); Land Use/Goal Exception – Project Furthers Oregon's Clean Energy Directives and Goals

Comment ID: BCWAMD4Doc25-03 Proposed Order Public Hearing Transcript 2026-01-15;
BCWAMD4Doc24-23 Proposed Order Public Comment Certificate Holder-3 2026-01-30

Response ID: BCWAMD4Doc26-01 Proposed Order Public Comment ODOE Responses 2026-02-12

Reply ID: BCWAMD4Doc28-04 Proposed Order Public Comment CH Reply to ODOE 2026-02-28

Comment Summary

Certificate holder objects to the Department recommending Council reject their argument that an exception to Goal 3 is justified because authorizing the facility components proposed in RFA4 is consistent with State policies and goals addressing climate change and encouraging the acceleration of Oregon's clean energy transition.

In their comments on the Proposed Order, the certificate holder provides additional evidence and argument in support of its position. The certificate holder discusses state legislation (SB 1547, ORS 469A.005-469A.210) mandating that large investor-owned utilities, including PGE, meet Renewable Portfolio Standard targets. The certificate holder also addresses two recent Executive Orders issued by Governor Kotek, Executive Order 25-25, *Accelerating Wind and Solar Energy Development in Advance of Elimination of Federal Clean Energy Tax Credits* (EO 25-25), and Executive Order 25-29 *Reducing Greenhouse Gas Emissions and Advancing Oregon's Clean Energy Future* (EO 25-29). The certificate holder contends "a Goal 3 exception is justified because the facility, as amended, directly furthers Oregon's clean energy directives and goals."

Department Evaluation

The Department does not recommend any revisions to the draft of the Final Order based on this comment.

The State of Oregon has taken several measures to combat climate change and encourage the development of renewable energy, including those discussed by the certificate holder. At the same time, Oregon has a rigorous land use system that seeks, among other goals, to preserve

⁸ Proposed Order on RFA4, pp. 141-142.

the state's agricultural lands, via Goal 3. None of the statutes or Executive Orders the certificate holder cites require EFSC to grant an exception to Goal 3 for a renewable energy facility. Indeed, per statute, EFSC "*may* find goal compliance for a facility that does not otherwise comply with one or more statewide planning goals by taking an exception to the applicable goal" (ORS 459.504(2), emphasis added). Therefore, as the certificate holder has noted, EFSC has the discretion to decide when to grant an exception to a statewide planning goal.

In recent years, most projects reviewed by EFSC have sought an exception to Goal 3. That is because large renewable energy facilities, in particular solar photovoltaic power generation facilities, require significant amounts of land and that land is often zoned for Exclusive Farm Use. Therefore, it is up to EFSC to balance Oregon's goals and directives to combat climate change/encourage renewable energy against the state's Goal 3, seeking to preserve agricultural land. This is a responsibility the Department and EFSC take seriously. The Department believes that granting an exception to Goal 3 based solely on the fact that a proposal would result in the construction or expansion of a renewable energy facility, without specific evidence demonstrating that a site or facility is particularly well suited to meeting those goals or policies, is tantamount to ignoring Goal 3 altogether.

Indeed, EFSC has consistently rejected arguments that a proposed facility's potential contributions toward meeting Oregon's climate change and renewable energy policies is a reason justifying taking an exception to Goal 3. Rather, the Department and Council have sought to identify the specific impacts a proposed facility would have on agricultural lands and the agricultural economy. This is a location-specific and project-specific analysis. Council has regularly approved exceptions to Goal 3 where the project proponent can demonstrate the facility is located near existing energy or transportation infrastructure (and thus would displace less agricultural land than a facility farther from such infrastructure), will have minimal impacts to agriculture and/or provide a benefit to the rural/agricultural economy. In the Proposed Order the Department recommends Council find that the certificate holder has provided sufficient evidence to justify an exception to Goal 3 based on the RFA4 facility components being locationally dependent on nearby major transmission infrastructure and transportation corridors and because the proposed Community Investment Plan funds are likely to be used in a manner that benefits the local agricultural economy and provide rural economic development benefits. Therefore, should Council agree with the Department's recommendation, it would grant an exception to Goal 3 for the proposed additions to the facility, not based solely on the fact that those additions will further Oregon's clean energy directives and goals, but because it makes sense to site an energy facility at that location, given the presence of nearby energy and transportation infrastructure and because the certificate holder will implement measures that will benefit the rural/agricultural economy.

The Department maintains its recommendation that Council not base a goal exception on the proposed facility components furthering Oregon's clean energy directives and goals because the certificate holder has failed to provide any specific or unique reasons that demonstrate that the proposed solar facility or the Biglow site is particularly well suited to meeting the states goals or the certificate holders' legal obligations other than the locational dependence on the

availability of excess interconnection capacity resulting from the underperforming wind facility. Were Council to acknowledge that the existence of state energy policies and priorities alone are an adequate reason to override state policies protecting farmland, proponents of future renewable energy projects may cite such a decision as a basis for Council to grant an exception to Goal 3 even if their projects, unlike this one, are not locationally dependent, would not provide a benefit to the rural/agricultural economy and/or would have greater impact on agricultural lands and productivity.

Issue LU-18 (Certificate Holder); Land Use/Goal Exception – Minimal impacts to Other Resources

BCWAMD4Doc24-23 Proposed Order Public Comment Certificate Holder-3 2026-01-30

Response ID: BCWAMD4Doc26-01 Proposed Order Public Comment ODOE Responses 2026-02-12

Reply ID: BCWAMD4Doc28-04 Proposed Order Public Comment CH Reply to ODOE 2026-02-28

Comment Summary

Certificate holder objects to recommended rejection of Minimal Impacts to Other Resources Reason to support an exception to Statewide Planning Goal 3. Provides comparison of potential impacts compared to other recent orders.

Department Evaluation

The Department does not recommend any changes to the draft Final Order based on this comment and recommends Council not make changes in its Final Order based on this comment.

The certificate holder maintains that an exception to Goal 3 is justified because their proposed Solar Micrositing Area would have minimal impacts on other resources protected by Council standards since it would avoid sensitive environmental features, including Washington ground squirrel occupied habitat, FEMA 100-year floodplains, U.S. Fish and Wildlife Service-designated critical habitat, and ODFW-designated big game winter ranges, and wetlands and waters. They contend their proposal would impact less Category 2 through 4 habitats than three other facilities to which Council granted a Goal 3 exception and that the permanent habitat loss that would occur will be mitigated according to ODFW Habitat Mitigation Policy goal. While the overall acreages may be greater, the Department notes that the construction and operation of the proposed facility would result in permanent impacts to up to 21 acres of Category 2 Sagebrush Shrub-Steppe habitat that is in or adjacent to a Priority Wildlife Connectivity Area. Two of the three facilities which the certificate holder used for comparison in its comments affected no Category 2 habitat, while the remaining facility affected 0.1 acres. The Department maintains that this level of impact on essential, limited, habitat is, in itself, more than a “minimal impact.”

Per ORS 469.504(2)(c) the Council may take an exception to a statewide planning goal if it finds the following standards are met:

- (A) Reasons justify why the state policy embodied in the applicable goal should not apply;*
- (B) The significant environmental, economic, social and energy consequences anticipated as a result of the proposed facility have been identified and adverse impacts will be mitigated in accordance with rules of the council applicable to the siting of the proposed facility; and*
- (C) The proposed facility is compatible with other adjacent uses or will be made compatible through measures designed to reduce adverse impacts.*

Thus, for Council to grant an exception to Goal 3, in addition to finding there are sufficient reasons to justify taking an exception, ORS 469.504(2)(c)(B) requires Council to also find that the significant environmental, economic, social and energy consequences anticipated as a result of the facility components proposed in RFA4 have been identified and adverse impacts will be mitigated in accordance with rules of the Council. Here, because the Department believes the certificate holder had already demonstrated sufficient reasons to grant an exception to Goal 3, it recommended Council reject minimal impacts as a reason for granting an exception under ORS 469.504(2)(c)(A) and instead consider those minimal impacts and mitigation per the ODFW Habitat Mitigation Policy as meeting the mitigation requirement in ORS 469.502(2)(c)(B).⁹ This approach avoids “double counting” - *i.e.*, finding the same underlying facts and evidence as meeting two separate criteria necessary for granting an exception. Accordingly, the Department recommends Council not make any changes to the Draft Final Order in response to the certificate holder’s comments.

III.E. Fish and Wildlife Habitat (OAR 345-022-0060)

Issue FW-01 (McCullough, Kathryn); Adequacy of Exhibit P and Evaluation of Impacts to Wildlife

Comment ID: BCWAMD4Doc24-03 Proposed Order Public Comment McCulloughK-3 2026-01-01
Response ID: BCWAMD4Doc26-01 Proposed Order Public Comment ODOE Responses 2026-02-12; BCWAMD4Doc27-09 Proposed Order Public Comment CH Response to Kathy and Kevin McCullough 2026-02-13

Comment Summary

Ms. McCullough raises concerns regarding the adequacy of RFA4 Exhibit P and the evaluation of impacts to wildlife. She states that the Exhibit P (to the preliminary RFA4) is incomplete and appears to apply only to birds and bats, arguing that other mammals should be addressed. She provides photographic documentation of other animals in the vicinity of the site.

⁹ See Proposed Order, p. 146: “. . . the construction and operation of the facility components proposed in RFA4 could have significant adverse impacts on soils, fish and wildlife habitat, cultural resources, and waters of the State, but the Department recommends the Council find that existing and recommended conditions of approval are adequate to avoid, minimize, or mitigate these impacts.”

Department Evaluation

The Department believes RFA4 Exhibit P, and associated findings in the Proposed Order, adequately address potential impacts to fish and wildlife species, including the species identified by Ms. McCullough. Because impacts to all wildlife and wildlife habitat, not just bird and bat species, were considered in the evaluation of the RFA4, the Department does not recommend any additional changes to the Proposed Order are warranted at this time.

Under OAR 345-022-0060(3)(d) [formerly OAR 345-021-0010(1)(p)(D)], Exhibit P must identify all *state sensitive species* that might be present in the analysis area, based on consultation with ODFW and appropriate field study and literature review. Information about state sensitive species is required to be included in the Fish and Wildlife Exhibit, in part, to inform habitat categorization based and determine appropriate measures to avoid and minimize impacts in accordance with ODFW's Habitat Mitigation Policy, but the importance and use of habitat to wildlife more generally is also considered when making these determinations.

In Exhibit P, Section 6.1, of the final RFA4, the certificate holder identifies that 16 *state sensitive species* that have the potential to occur in the analysis area. This list is not intended to be a list of all species that are potentially present at the site, only those species identified by ODFW as State Sensitive, or Sensitive-Critical, which for the proposed Solar Micrositing Corridor, includes primarily bird and bat species and two reptile species.

As referenced by the commenter, the biologists conducting field surveys of the site also recorded non-listed species encountered during surveys in the Biological Survey Reports included in Attachment P-1, including some of the species identified in the comments and associated photographs. Impacts to non-listed species were further addressed in Exhibit P, and the Proposed Order, through the consideration of mapped Big Game Winter Range (for Elk and Mule Deer) and Priority Wildlife Connectivity Areas (based on connectivity needs for 54 surrogate species) in the categorization of habitat, which resulted in additional areas shrubland-steppe and grassland habitat being considered Category 2 "essential and limited" habitat. ODFW also recommended additional measures to protect wildlife and habitat which were incorporated into the draft Comprehensive Solar Revegetation and Soil Management Plan included as Attachment D to the Proposed Order.

The Department does not recommend any changes in the draft Final Order based on this comment, for the reasons described above.

Issue FW-02 (Certificate Holder); Scrivener's Error

Comment ID: BCWAMD4Doc24-08 Proposed Order Public Comment Certificate Holder 2026-01-14

Response ID: BCWAMD4Doc26-01 Proposed Order Public Comment ODOE Responses 2026-02-12

Comment Summary

Certificate holder requests correction of a Scrivener's error in Condition GEN-FW-02. Notes that GEN-FW-02 references Condition 63 (should now be GEN-FW-03)

Department Evaluation

The Department agrees to make the recommended change, applicable language where the change would be presented is shown below, in **red underline, strikethrough font**:

Condition GEN-FW-02:...

- a. ...
- b.
- c. ... If the construction would result in additional permanent impacts, the certificate holder shall increase the area of mitigation for permanent loss of Category 3 and Category 4 habitat as described in the Habitat Mitigation Plan incorporated herein by ~~Condition 63~~ GEN-FW-03.

Issue FW-03 (Certificate Holder) Flexibility on ground clearing activities in Category 2 Habitat

Comment ID: BCWAMD4Doc24-08 Proposed Order Public Comment Certificate Holder 2026-01-14

Response ID: BCWAMD4Doc26-01 Proposed Order Public Comment ODOE Responses 2026-02-12

Comment Summary

The certificate holder comments that the proposed restrictions on vegetation removal in Category 2 habitat during the critical period for ground nesting birds (Apr 15 to Sept 1) would preclude almost all work in those areas and would incentivize grading instead of mowing or drive and crush. The certificate holder requests that the Department make the following changes to Section 5.0, Table 4 of the draft Comprehensive Solar Revegetation and Soil Management Plan included as Attachment D to the Proposed Order:

~~On or before April 15 of any year in which construction occurs within Category 2 habitat, all mowing, vegetation removal and/or ground disturbance associated with site preparation must be completed. No mowing, vegetation removal and/or ground disturbance associated with site preparation may occur within Category 2 habitat between April 15 through September 1.~~

To the extent practical, mowing or other vegetation removal activities in Category 2 habitat will be scheduled to occur outside the critical period for ground nesting birds (April 15 – September 1), to avoid disturbing active nests. If mowing or other vegetation removal activities in Category 2 habitat are necessary between April 15 to September 1, the Certificate Holder shall hire a qualified biologist to conduct a clearance survey for nesting birds prior to vegetation removal. The Certificate Holder shall ensure that active nest sites identified during the clearance survey are flagged and marked as sensitive areas for avoidance on construction maps.

Department Evaluation

As explained on page 181 of the Proposed Order, the language in the draft Comprehensive Solar Revegetation and Soil Management Plan was intended to require the certificate holder to complete all initial mowing, vegetation removal and ground disturbance *associated with site preparation* in Category 2 habitat before April 15 or after September 1, and not to prohibit any subsequent vegetation management activities such as mowing. The location and extent of Category 2 habitat is isolated, within a distinct location expanding 20 acres. In response to this comment, the Department agreed to evaluate the proposed change, but requested that the certificate holder provide reasons why, for the isolated area of Category 2 habitat, site preparation activities would not be able to planned and completed at time that would avoid the critical period for ground nesting birds.

In its reply, the certificate holder noted that Facility construction is scheduled to begin in June and that if vegetation or ground disturbance is restricted in Category 2 habitat during the breeding season, then construction will not be able to begin in Category 2 habitat until after September 1. It remains unclear why the certificate holder would not be able to mobilize vegetation management crews for the limited area of Category 2 habitat prior to construction, or if waiting until September to work in the habitat area would. In addition, the Department consulted with ODFW on the proposed change. ODFW commented that clearance surveys are ineffective for accurate identification and requested that vegetation removal activities occur prior to the beginning of nesting season (April 15).

Based on ODFW's recommendation and the information on the record, the Department does not recommend any changes in the draft Final Order based on this issue.

Issue FW-04 (Certificate Holder); Recommended edits to Draft Habitat Mitigation Plan

Comment ID: BCWAMD4Doc24-22 Proposed Order Public Comment Certificate Holder-2 2026-01-30

Response ID: BCWAMD4Doc26-01 Proposed Order Public Comment ODOE Responses 2026-02-12

Comment Summary

Certificate holder provides additional recommended edits to the Draft Habitat Mitigation Plan presented as Attachment F to the Proposed Order.

Department Evaluation

The Department reviewed the certificate holder's proposed changes to the draft Habitat Mitigation Plan and considers the changes not to modify the substantive intent of the plan but rather clarify to ensure appropriate approach for evaluating success for noxious weed control and shrub planting. The Department is reviewing the proposed changes with ODFW and will provide any agreed upon changes in the draft Final Order.

III.F. Historic, Cultural and Archaeological Resources (OAR 345-022-0090)

Issue HCA-01 (Certificate Holder): Supplement Record with Tribal Consultation Details

Comment ID: BCWAMD4Doc24-08 Proposed Order Public Comment Certificate Holder 2026-01-14

Comment Summary

Certificate holder requests additional details about its outreach to Tribes be incorporated into the Proposed Order.

Department Evaluation

The Department appreciates the certificate holder's efforts to engage with Tribes regarding this project; however, we do not agree with the proposed additions for the draft Final Order. The Tribes themselves have had the opportunity to provide input on the record, and as described under Issue HCA-02, the Confederated Tribes of the Warm Springs Reservation of Oregon have expressed concerns with recommended conditions of approval. The Department has included clarifying changes to Section III.K.1 of the draft Final Order explaining that additional information regarding the certificate holder's and Department's outreach efforts is provided in Exhibit S and comments on the Proposed Order.

Issue HCA-02 (Confederated Tribes of Warm Springs) Adequacy of archaeological monitoring and protective measures

Comment ID: BCWAMD4Doc24-09 Proposed Order Public Comment CTWS 2026-01-15

Response ID: BCWAMD4Doc26-01 Proposed Order Public Comment ODOE Responses 2026-02-12

Comment Summary

CTWS express concerns that the certificate holder characterized archaeological monitoring as limited in scope and duration, focused on a single location, rather than implementing monitoring for all ground-disturbing activities, as recommended in the Cultural Resources Survey Report. CTWS requests that the full suite of cultural resource protection measures identified through survey and consultation be implemented."

Department Evaluation

There are two proposed conditions that require avoidance and monitoring.

- Recommended Historic, Cultural, and Archaeological Condition 1 (GEN-HC-02) requires the certificate holder to avoid ground disturbing activities within 20-meters of all sites and isolates identified as eligible for, or likely eligible for, listing on the National Register of Historic Places during construction and operation of the proposed solar facility.
- Recommended Historic, Cultural, and Archaeological Condition 2 (GEN-HC-03) requires the certificate holder to submit a Cultural Resources Monitoring Plan demonstrating that an Oregon Qualified Archaeologist or Tribal Cultural Resource Monitor will be onsite during ground disturbing activities that would occur within the 20-meter buffer.

The Cultural Resources Survey Report provided as Attachment S-1 to RFA4 Exhibit S, includes several recommendations for monitoring, including the following:

“GeoVisions recommends a monitoring plan and Inadvertent Discovery Plan be in place prior to Project construction, that an archaeological monitor who meets the standards of “qualified archaeologist” as defined by the existing site certificate be present during and observe all ground disturbing activities, as well as construction activities in and around recorded archaeological sites and isolates, as well as the probable location of the Oregon Trail, and that a tribal monitor is present for all construction activities within 20 meters of sites and isolates with precontact or culturally important material to ensure that no identified or unidentified archaeological sites are “excavat[ed], injur[ed], destroy[ed] or alter[ed],” (ORS 358.920(1)(a) to identify and to ensure that any subsurface archaeological objects, sites, and/or historic properties be properly identified and preserved over the course of Project construction activities and uphold the intent of the State of Oregon (ORS 358.910(2)).” RFA4, Att S-1, pg. 102.

In its responses to this issue, the Department acknowledged that the monitoring requirements of these conditions are more limited than what was recommended by GeoVisions, which recommends that a Qualified Archaeologist be on site during all ground disturbing activities and that a Tribal Cultural Resource Monitor be present when ground disturbing activities occur within a 20-meter avoidance buffer. The Department requested that the certificate holder provide a draft Cultural Resources Monitoring Plan that is consistent with the recommendations included in the GeoVisions Report.

In the certificate holder’s responses, they restated their commitment to cultural resource protection but disagreed with the recommendation for additional monitoring. The certificate holder emphasized that archaeological monitoring, if required, would not be focused on a single location; it would be focused for all ground-disturbing actions within 20- meters of eligible and unevaluated sites, as defined by the GeoVisions report and the State Historic Preservation Office’s (SHPO) concurrence. The certificate holder noted that the project has been designed to avoid all such sites with a 20-meter buffer; thus, monitoring of the 20-meter buffers is not expected to be necessary. If project design changes, or in the event of inadvertent discoveries during construction, then monitoring would be implemented and impacts would be evaluated. The certificate holder further asserts that while GeoVisions’ recommendations for avoidance of NRHP-ineligible resources and for archaeological monitoring during all ground-disturbing activities, including within 20 meters of those resources, may be in line with conditions imposed for the existing wind facility, those conditions are inconsistent with the SHPO concurrence. The certificate holder commented that it did not have record of a request from CTWSRO, through informal coordination or at our November 2025 meeting at CTWSRO’s offices or formal government-to-government consultations, for protective measures beyond those reflected in the Proposed Order and draft Amended Site Certificate and noted that if the Tribal Historic Preservation Officer (THPO) believed that certain resources should be managed differently or that additional protection measures should be required, the certificate holder would support continued government-to-government consultation between CTWSRO THPO

and ODOE, as determinations regarding applicable standards, conditions, and mitigation requirements fall within the Council's and ODOE's purview.

In reply to the certificate holder, the CTWS THPO reiterated the importance of ensuring appropriate Tribal presence during ground-disturbing activities and requested that a Dedicated Tribal Monitor be incorporated into the construction-phase coordination framework for the Project to:

- Provide real-time coordination between the Tribe and the construction team;
- Observe implementation of cultural resource protection measures during ground disturbance;
- Facilitate immediate communication in the event of discoveries or unanticipated conditions;
- Maintain government-to-government engagement during construction activities occurring within culturally sensitive areas.

The CTWSRO noted that its request was not intended to reopen SHPO concurrence or challenge ODOE's Proposed Order but rather to reflect the Tribe's expectation that consultation extends meaningfully into the implementation phase of the Project.

The Department notes that, while the certificate holder may have preferred this issue to have been raised by the Tribes at an earlier point in time, the CTWS THPO did raise this issue on the record with sufficient specificity for the issue to be evaluated. The Department appreciates the Tribes' engagement in the review process. The Department further notes that the recommendation for a Qualified Archaeologist to be present during all ground-disturbing activities included in the GeoVisions' report is consistent with SHPO's July 10, 2025 concurrence letter, which was based on the certificate holder's own representations in the preliminary Request for Amendment that it would comply with existing Site Certificate Condition 71 during construction of the solar components.

The Department believes the request to have a Dedicated Tribal Monitor present during all ground disturbing activities goes beyond the recommendations in the GeoVisions Report, and beyond what was requested in the initial comment; however, the Department believes the Tribes' request to have a qualified archaeologist on site during ground disturbing activities is reasonable given the history of the area and potential for additional unidentified pre-contact sites or isolates to be present at the site documented in the cultural resources survey report. The Department further recommends that the requirements are consistent with the recommendations made in SHPO's concurrence letter.

Accordingly, in the draft Final Order the Department will include the following changes to Recommended Historic, Cultural, and Archaeological Condition 2 (GEN-HC-03):

~~Prior to construction activities that occur within the 20-meter avoidance buffer for archaeological sites (35SH00188, BSP-1-S02, BSP-1-S10, and BSP-1-S12) and~~

archaeological isolate (BSP-1-104), the certificate holder must submit to the Department for approval, in consultation with SHPO, a Cultural Resources Monitoring Plan demonstrating that an Oregon Qualified Archaeologist or Tribal Cultural Resource Monitor will be onsite during ground disturbing activities ~~associated with the resources listed in this condition at the site.~~ The plan may provide for exceptions to monitoring scope and frequency, subject to approval by the Department, in consultation with the Confederated Tribes of Warm Springs. The certificate holder shall adhere to the measures approved in the Cultural Resources Monitoring Plan.

III.G. Public Services (OAR 345-022-0110)

Issue PS-01 (McCullough, Kathryn); Concerns about capacity of local fire responders to fight fire at energy facility

Comment ID: BCWAMD4Doc24-05 Proposed Order Public Comment McCulloughK-5 2026-01-06
Response ID: BCWAMD4Doc26-01 Proposed Order Public Comment ODOE Responses 2026-02-12; BCWAMD4Doc27-09 Proposed Order Public Comment CH Response to Kathy and Kevin McCullough 2026-02-13

Reply ID: BCWAMD4Doc28-01 Proposed Order Public Comment McCulloughK Reply 2026-02-24
Sur-Reply ID: BCWAMD4Doc29-02 Proposed Order Public Comment CH Sur-Reply to Kathy and Kevin McCullough 2026-03-06

Comment Summary

Commenter raises concerns about the adequacy of fire protection services at the site and potential risks to volunteer firefighters, particularly risks associated with fighting fire involving BESS components. Provides examples of risks, including toxic fumes, thermal runaway, and the ineffectiveness of water-based firefighting, in combination with challenging fire environment and rural setting.

Department Evaluation

In Section 4.4.7 of RFA4 Exhibit V, PGE explains that it would provide the North Sherman County Rural Fire Protection District with construction plans, schedules, and locations prior to the start of construction and that the Construction and Operations Wildfire Management Plans required under Wildfire Prevention and Risk Mitigation Condition 1 to 4 would address structural, BESS, and wildfire scenarios, and would include provider training on facility-specific hazards, established communication channels, site access, and firefighting resources.

In responses to this comment, the certificate further explained that on August 12, 2025, BrightNight presented details about the project and wildfire mitigation measures to the North Sherman County Rural Fire Protection District Board and represents that it has been coordinating closely with Sherman County Emergency Services, the North Sherman County Rural Fire Protection District (RFPD), and Fire Chief Burbank of the North Sherman RFPD.

The certificate holder also indicates that BrightNight also plans to donate \$200,000 to the RFPD to help build capacity to address wildfire risks but no additional details on when this donation would occur or how it would be spent were provided on the record of RFA4.

On March 4, 2026, the Department had a brief call with Chief Burbank and confirmed that he was familiar with the facility and Wildfire Mitigation Plan. Chief Burbank concerned that he did not have any concerns, but was clear that volunteer firefighters would not be expected to respond to fires at the BESS and that fire response within the proposed solar array perimeter fencelines would be limited, and that the RFPD would primarily seek to contain any fire that started within or spread into a solar array from outside of the perimeter fences.

The certificate holder's responses also identifies that the proposed BESS would utilize Tesla Megapack battery systems, which are equipped with an internal fire suppression system. The BESS is also designed in compliance with spacing standards intended to limit the propagation of fire between units and other features to prevent spread beyond the BESS yard.

Because the role of local firefighters in responding to a BESS would be limited to actions to prevent the propagation and spread of a fire outside of the BESS yard, the Department does not recommend any revisions to the draft Final Order be made in response to this issue.

Issue PS-02 (McCullough, Kathryn); Concern that local fire responders do not have adequate training to respond to fire at energy facility or BESS

Comment ID: BCWAMD4Doc24-05 Proposed Order Public Comment McCulloughK-5 2026-01-06
Response ID: BCWAMD4Doc26-01 Proposed Order Public Comment ODOE Responses 2026-02-12; BCWAMD4Doc27-09 Proposed Order Public Comment CH Response to Kathy and Kevin McCullough 2026-02-13

Reply ID: BCWAMD4Doc28-01 Proposed Order Public Comment McCulloughK Reply 2026-02-24
Sur-Reply ID: BCWAMD4Doc29-02 Proposed Order Public Comment CH Sur-Reply to Kathy and Kevin McCullough 2026-03-06

Comment Summary

Ms. McCullough provides specific recommendations for improving training and recruitment of volunteer firefighters:

- Provide specialized (NFPA-855 compliant) training to local firefighters for BESS response.
- Fund and/or create a dedicated BESS response unit within existing RFPDs.
- Conduct annual drills at BESS site, simulating windy conditions.
- Conduct outreach to improve volunteer recruitment/retention.
- Conduct community outreach to increase awareness/transparency around BESS Safety Issues.
- Require facility staff to have BESS-fire response capability until firefighters arrive.
- Provide insurance coverage and financial incentives to volunteer firefighters that respond to BESS fires.

- Supply RFPDs with SCBA, foam kits, and hazmat suits
- Create a community fund to cover:
 - Emergency payouts for injured/killed volunteers' families.
 - Training and equipment upgrades.
 - Community wildfire prevention (e.g., vegetation control).

Department Evaluation

As described in the Proposed Order Section III.M, the certificate holder provided a record of correspondence documenting coordination with the North Sherman Rural Fire Protection District (NSRFPD) Fire Board and Chief Jacob Burbank indicating that NSRFPD raised several concerns about access considerations, training, and equipment needed to address fire risk associated with the facility components proposed in RFA4. In response the certificate holder indicated that they intend to provide annual training that would cover response procedures, the risks associated with PV and BESS systems, and protocols for both fire and non-fire emergencies. Training would be provided by Coffman Engineers.

Some of the mitigation proposed by Ms. McCullough, such as providing insurance coverage, financial incentives, and emergency payouts to volunteer firefighters that respond to BESS fires, may be outside of the scope of the Council's authority, but others, including providing training and equipment needed to respond to fires at the site would be established under the Wildfire Mitigation Plans required under recommended Wildfire Prevention and Risk Mitigation Conditions 1 to 4.

In responses to this comment, the certificate further explained that on August 12, 2025, BrightNight presented details about the project and wildfire mitigation measures to the North Sherman County Rural Fire Protection District Board and represents that it has been coordinating closely with Sherman County Emergency Services, the North Sherman County Rural Fire Protection District (RFPD), and Fire Chief Burbank of the North Sherman RFPD.

On March 4, 2026, the Department had a brief call with Chief Burbank and confirmed that he was familiar with the facility and Wildfire Mitigation Plan. Chief Burbank concerned that he did not have any concerns, but was clear that volunteer firefighters would not be expected to respond to fires at the BESS and that fire response within the proposed solar array perimeter fencelines would be limited, and that the RFPD would primarily seek to contain any fire that started within or spread into a solar array from outside of the perimeter fences.

The certificate holder's responses also identifies that the proposed BESS would utilize Tesla Megapack battery systems, which are equipped with an internal fire suppression system. The BESS is also designed in compliance with spacing standards intended to limit the propagation of fire between units and other features to prevent spread beyond the BESS yard.

Because the role of local firefighters in responding to a BESS would be limited to actions to prevent the propagation and spread of a fire outside of the BESS yard, the Department does not recommend any revisions to the draft Final Order be made in response to this issue.

III.H. Wildfire Prevention and Risk Mitigation (OAR 345-022-0115)

Issue WF-01 (McCullough, Kathryn); Concerns about burn probability data in fire risk analysis

Comment ID: BCWAMD4Doc24-04 Proposed Order Public Comment McCulloughK-4 2026-01-05
Response ID: BCWAMD4Doc26-01 Proposed Order Public Comment ODOE Responses 2026-02-12; BCWAMD4Doc27-09 Proposed Order Public Comment CH Response to Kathy and Kevin McCullough 2026-02-13

Reply ID: BCWAMD4Doc28-01 Proposed Order Public Comment McCulloughK Reply 2026-02-24

Sur-Reply ID: BCWAMD4Doc29-02 Proposed Order Public Comment CH Sur-Reply to Kathy and Kevin McCullough 2026-03-06

Comment Summary

Ms. McCullough raises concerns about the adequacy of the wildfire risk analysis provided in RFA4, Exhibit V. Specifically, she takes issue with the estimate of burn probability in Section 2.1.5. of Exhibit V.

Department Evaluation

Commenter takes issue with the description of burn probability in RFA4 Exhibit V, stating “high burn probability is much higher than 66%, but 66% is very high, especially in an area that already has 6-10 fires in a normal year...”

Ms. McCullough did not identify a recommended finding of fact, conclusion of law or condition of approval identified in the Proposed Order to which she objects but instead takes issue with evidence in the record provided to support the evaluation of wildfire risk at the site. In preliminary RFA4 Exhibit V, the certificate holder noted that 66 percent of the Solar Micrositing Area was rated with “a High to Very High (1-in-100 to 1-in-50) burn probability.” In the complete RFA4, this estimate was revised to 98 percent of the wildfire analysis area based on the refined Solar Micrositing Area. In its responses to the comment, the certificate holder also explains that the fuel models used to describe the site likely overestimate the fuel load on site due to current fallow practices and the resulting estimate of burn probability may therefore be greater than actual conditions.

The certificate holder and Department notes that the revised estimate is derived from the 2023 Pacific Northwest Quantitative Wildfire Risk Assessment (McEvoy, Andy; Dunn, Christopher; Rickert, Ian), and not the certificate holder’s own data or methods.

The Department generally considers the Pacific Northwest Quantitative Wildfire Risk Assessment to be a reputable source of data for wildfire risk, and as noted above, the revised estimate that resulted from its use includes a larger portion of analysis area than the initial estimate. As a result, the Department does not recommend any changes to the draft Final Order based on this issue.

Issue WF-02 (McCullough, Kathryn); Concerns about use of climate normal for fire risk analysis

Comment ID: BCWAMD4Doc24-04 Proposed Order Public Comment McCulloughK-4 2026-01-05
Response ID: BCWAMD4Doc26-01 Proposed Order Public Comment ODOE Responses 2026-02-12; BCWAMD4Doc27-09 Proposed Order Public Comment CH Response to Kathy and Kevin McCullough 2026-02-13

Reply ID: BCWAMD4Doc28-01 Proposed Order Public Comment McCulloughK Reply 2026-02-24
Sur-Reply ID: BCWAMD4Doc29-02 Proposed Order Public Comment CH Sur-Reply to Kathy and Kevin McCullough 2026-03-06

Comment Summary

Ms. McCullough objects to use of “climate normal” to reflect temperature data of site in RFA4 Exhibit V Section 2.1.4 and Table V-4. Ms. McCullough asserts that use of the climate normals “effectively lower the high temperatures” experienced in the area. As an example, she provides data showing high temperatures of 101 – 103° F measured at the Arlington Weather Station in July 2018, compared to the 1991-2020 Average (normal) maximum temperature for July of 88.9° F at the Arlington Station.

Department Evaluation

The Department believes that climate normals, published by the National Oceanic and Atmospheric Administration in accordance with global climate data reporting standards, are a reputable source of climate data. As an average, the data does not reflect extreme temperatures that may occur in a given year, but they still provide valuable data on seasonal conditions at the site that can be used to inform the overall risk analysis. The Department also notes that the draft Construction Wildfire Mitigation Plan also accounts for extreme weather events by imposing work restrictions and additional requirements during fire weather watches and red flag warning events.

As such, no substantive changes are recommended in the draft Final Order, but the Department has including clarifying changes in section explaining the limitations on the climate normal data.

Issue WF-03 (McCullough, Kathryn); Concerns about fuel models used for fire risk analysis

Comment ID: BCWAMD4Doc24-04 Proposed Order Public Comment McCulloughK-4 2026-01-05
Response ID: BCWAMD4Doc26-01 Proposed Order Public Comment ODOE Responses 2026-02-12; BCWAMD4Doc27-09 Proposed Order Public Comment CH Response to Kathy and Kevin McCullough 2026-02-13

Reply ID: BCWAMD4Doc28-01 Proposed Order Public Comment McCulloughK Reply 2026-02-24
Sur-Reply ID: BCWAMD4Doc29-02 Proposed Order Public Comment CH Sur-Reply to Kathy and Kevin McCullough 2026-03-06

Comment Summary

Ms. McCullough objects to fuel models used in RFA4 Exhibit V Section 2.1.2. She notes that Fuel Models 102 and 93 used for agricultural lands in the site do not reflect fallow conditions at the site.

Department Evaluation

In the complete RFA4, the certificate holder notes that 93 percent of the proposed solar Micrositing Area is described by Fuel Model 102 or 242, which reflect low load, dry climate grasses and burnable wheat fields, respectively. These fuel models are derived from data from the Community Wildfire Protection Plan (CWPP) Planning Tool (Oregon Explorer 2025), which in turn, is based on the 2023 Pacific Northwest Quantitative Wildfire Risk Assessment (McEvoy, Andy; Dunn, Christopher; Rickert, Ian).

The Department generally considers the Pacific Northwest Quantitative Wildfire Risk Assessment to be a reputable source of data for wildfire risk. Accordingly, the Department does not recommend any changes in the draft Final Order based on this issue.

Issue WF-04 (Certificate Holder); Request for flexibility in road design standards for roads not needed for fire access

Comment ID: BCWAMD4Doc24-22 Proposed Order Public Comment Certificate Holder-2 2026-01-30

Response ID: BCWAMD4Doc26-01 Proposed Order Public Comment ODOE Responses 2026-02-12

Comment Summary

Certificate holder requests clarification of design standards for internal access roads. States that exterior roads and other roads designated for emergency access will be designed in accordance with 2022 Oregon Fire Code Section 503. Certificate holder requests that other interior roads not intended for fire access not be required to comply with Oregon Fire Code Standards.

Department Evaluation

The Department appreciates the clarification of conflicting statements in RFA4. To assist in the evaluation of this issue, the Department requests the certificate holder provide the site plan showing the designated emergency access roads and documentation of any additional correspondence with the North Sherman Rural Fire Protection District other than what was included in RFA4 Attachment U-1.

In its response to this issue, the Department requested that the certificate holder provide a site plan showing the location and width of designated emergency access roads and other internal access roads to support the evaluation.

In reply to the Department's response to comments, the certificate holder provided a map showing that new roads connecting the existing facility access roads to the proposed substation, O&M building and solar array access gates would be designed to allow fire access (e.g. 20-foot roads) but all roads within solar array fencelines would be 16 feet.

Compliance with 2022 Oregon Fire Code Requirements is not required for all roads, only those that are intended to provide emergency vehicles access to structures and buildings in the event of a fire-related emergency. In addition, during a brief call on March 4, 2026, the Department discussed the road width changes with Chief Burbank of the North Sherman County Rural Fire Protection District (RFPD). Chief Burbank confirmed that fire response within the proposed solar array perimeter fencelines would be limited, and that the RFPD would primarily seek to contain any fire that started within or spread into a solar array from outside of the perimeter fences and that response vehicles have off-road capabilities. Because there would be limited need to ensure access by full-size emergency vehicles to portions of the facility within the perimeter fencelines, the Department recommends the Council grant the additional flexibility requested; however, under the Construction Wildfire Management Plan attached to the draft Final Order, the final site plan must be reviewed and approved by the Department in consultation with local fire and emergency management officials.

Issue WF-05 (McCullough, Kathryn); Recommendations for BESS design criteria to minimize fire risk

Comment ID: BCWAMD4Doc24-05 Proposed Order Public Comment McCulloughK-5 2026-01-06
Response ID: BCWAMD4Doc26-01 Proposed Order Public Comment ODOE Responses 2026-02-12; BCWAMD4Doc27-09 Proposed Order Public Comment CH Response to Kathy and Kevin McCullough 2026-02-13

Reply ID: BCWAMD4Doc28-01 Proposed Order Public Comment McCulloughK Reply 2026-02-24

Sur-Reply ID: BCWAMD4Doc29-02 Proposed Order Public Comment CH Sur-Reply to Kathy and Kevin McCullough 2026-03-06

Comment Summary

Ms. McCullough recommends specific design criteria that could be incorporated into the design of the BESS to minimize fire risk. Specifically, the commenter recommends:

- That BESS enclosures be made of metal or fiberglass with steel reinforcements to resist turbine debris impacts
- That windbreaks (e.g., berms, fences) be installed around BESS components to reduce debris and ember spread
- That multiple generators/solar-powered cooling units be installed to prevent overheating.

Department Evaluation

In its responses to this issue, the certificate holder asserted that Ms. McCullough’s concerns are addressed by the Proposed Order and its recommended plans and conditions. Specifically, the certificate holder provided the following information:

- BESS enclosures are manufactured to meet applicable building, electrical, and fire code standards, including resistance to environmental stressors. The centralized BESS yard

layout further reduces exposure to potential turbine debris compared to dispersed configurations and site design maintains appropriate setbacks from turbines (520 feet).

- Each BESS unit includes thermal sensors, continuous monitoring, alarm systems, and automatic shutdown capabilities. These systems are designed to detect overheating or abnormal operating conditions early and initiate protective measures. The system is UL 9540A tested, meaning it has undergone rigorous fire propagation testing under nationally recognized safety standards.
- BESS will be housed in enclosed, containerized units located within a centralized BESS yard. Each unit includes internal separation and dedicated monitoring systems designed to detect abnormal conditions and isolate potential thermal events before propagation. The containerized configuration localizes any potential incident within an individual unit.

The certificate holder's responses also identifies that the proposed BESS would utilize Tesla Megapack battery systems, which are equipped with an internal fire suppression system. The BESS is also designed in compliance with spacing standards intended to limit the propagation of fire between units and other features to prevent spread beyond the BESS yard.

The Department believes that while concerns about fire safety are valid, a preponderance of the evidence on the record shows that the proposed BESS can be designed to minimize risks to public health and safety and that there is not adequate justification to impose the additional requirements raised in this comment. As such, the Department does not recommend any changes to the draft proposed order as a result of this issue.

Issue WF-06 (Certificate Holder); Request for clarification of setback requirement

Comment ID: BCWAMD4Doc24-22 Proposed Order Public Comment Certificate Holder-2 2026-01-30

Response ID: BCWAMD4Doc26-01 Proposed Order Public Comment ODOE Responses 2026-02-12

Comment Summary

Certificate holder requests clarification that perimeter fencing must be set back 50 feet from property line of *non-participating* landowner.

Department Evaluation

The Department agrees to make the requested change in Section III.N.1 of the draft Final Order and Section 4.1.3 of the draft Construction Wildfire Mitigation Plan.

Issue WF-07 (Multiple Commenters); Concerns about adequacy of 50-foot fire setbacks

(Commenters include: Kathryn McCullough; Kevin McCullough; Colton McCullough; Sherman County Soil and Water Conservation District, Whitman, A.; Irene Gilbert)

Comment ID: BCWAMD4Doc25-03 Proposed Order Public Hearing Transcript 2026-01-15

Response ID: BCWAMD4Doc26-01 Proposed Order Public Comment ODOE Responses 2026-02-12; BCWAMD4Doc27-09 Proposed Order Public Comment CH Response to Kathy and Kevin McCullough 2026-02-13

Comment Summary

Commenters raise concerns with the adequacy of 50-foot setbacks imposed in recommended Land Use Condition 1. Suggests that larger setbacks may be needed.

Department Evaluation

In its response to this issue the Department noted that the commenters have identified an issue related to a condition of approval but have not provided sufficient evidence to 1) support the claim that the 50-foot setback does not provide adequate protection from wildfire or access to emergency responders; or 2) support the imposition of a greater setback.

The certificate holder restated requirements in the Proposed Order and Draft Site Certificate in its responses but did not provide additional information. No additional evidence supporting larger setbacks was provided in replies.

Because there is not adequate evidence on the record, the Department does not recommend any changes to the draft Final Order based on this issue.

Issue WF-08 (Multiple Commenters); Concern about adequacy of 20-foot fuel breaks

(Sherman County Soil and Water Conservation District, Irene Gilbert)

Comment ID: BCWAMD4Doc25-03 Proposed Order Public Hearing Transcript 2026-01-15

Response ID: BCWAMD4Doc26-01 Proposed Order Public Comment ODOE Responses 2026-02-12; BCWAMD4Doc27-09 Proposed Order Public Comment CH Response to Kathy and Kevin McCullough 2026-02-13

Comment Summary

Commenters raise concern about adequacy of 20-foot fire break around the perimeter of the facility to stop fire from spreading from the facility. Recommends additional research is needed. Sherman County Soil and Water Conservation District suggests that 30-foot is minimum recommended by NRCS. Ms. Gilbert recommends that 30-feet may not be adequate, and that additional research is needed.

Department Evaluation

In its responses to this issue the Department noted that the commenters have identified an issue related to a condition of approval but have not provided sufficient evidence to 1) support the claim that the 20-foot fuel break does not provide adequate protection from wildfire; or 2) support the imposition of a greater setback. The Department also requested clarification on what NRCS standard was referenced or how it is applied to utility facilities.

The certificate holder restated requirements in the Proposed Order and Draft Site Certificate in its responses but did not provide additional information. No additional evidence supporting larger setbacks was provided in replies.

Because there is not adequate evidence on the record, the Department does not recommend any changes to the draft Final Order based on this issue.

Issue WF-09 (McCullough, Colton); Support for recommended vegetation maintenance standards for wildfire season

Comment ID: BCWAMD4Doc25-03 Proposed Order Public Hearing Transcript 2026-01-15

Response ID: BCWAMD4Doc26-01 Proposed Order Public Comment ODOE Responses 2026-02-12

Comment Summary

Mr. McCullough supports recommendation that vegetation be maintained at 1 to 3 inches during fire season to mitigate fire risk. The recommended finding in the Proposed Order, pg. 233, for a 1 to 3 inch vegetation height is not reflected in the draft Comprehensive Solar Revegetation and Soil Management Plan. He requests that the requirement be binding through construction and operation.

Department Evaluation

The Department is evaluating several comments related to the recommendation that vegetation within the solar facility and other vegetation clearance areas be maintained at 1 to 3 inches during fire season to mitigate fire risk. Mr. McCullough recommends the recommendation be implemented throughout the life of the facility. The Sherman County Weed Control District recommends that the vegetation height standard be increased to 4 to 8 inches to support erosion control and enhance viability of bunchgrass species.

In its comments, the certificate holder requested that the height standard be increased to 10 to 12 inches year-round but in reply to the Sherman County Weed District, requested that ODOE take the District’s professional recommendation into consideration and revise the Proposed Order and implementing plans accordingly to require management of grass height at 4 to 8 inches during dry season. Mr. McCullough commented that he did not agree that 8” vegetation would be safe from a wildfire standpoint but acknowledged the importance of not mowing native bunch grasses shorter than 3-4” to protect the crown of the plant. He conceded that a slightly taller vegetation height (3” to 6” during fire season June-Oct) would be acceptable considering erosion control, vegetation health, and fire risk together.

The Department maintains that vegetation management is a critical tool for minimizing wildfire risk associated with the proposed facility but defers to the professional recommendation of the County Weed Control District as to the appropriate standard to best balance wildfire risk mitigation and soil protection. Consistent with the District’s recommendation, the Department revised Section III.N.I Wildfire Prevention and Risk Mitigation of the draft Final Order, Attachment G draft Construction Wildfire Mitigation Plan, and Appendix F of the draft Comprehensive Revegetation and Soil Management Plan to include reference to vegetation requirements below:

a. Vegetation Height and Clearance

- Vegetation within and adjacent to the Solar Components will be maintained as follows:
- During the dry season (June to October), vegetation height will be limited to 4 to 8 inches. Vegetation will be mowed to a height of 4 inches prior to June of each year.
- Outside of the dry season (November to May), vegetation will be maintained at a maximum height of less than 12 inches,
- with a A minimum vertical clearance of 12 inches from all electrical and mechanical equipment will be maintained at all times.
- Vegetation exceeding this the heights listed above will be mowed or removed prior to local in accordance with any ODF- or County-issued fire restrictions.

Issue WF-10 (Certificate Holder); Objection to Vegetation Maintenance Standards for Wildfire Season

Comment ID: BCWAMD4Doc24-22 Proposed Order Public Comment Certificate Holder-2 2026-01-30

Response ID: BCWAMD4Doc26-01 Proposed Order Public Comment ODOE Responses 2026-02-12

Comment Summary

Certificate holder objects to the Department’s recommendation that vegetation be maintained at 1 to 3 inches during fire season to mitigate fire risk. Requests that the vegetation height requirements be set to limit a height of 10 to 12 inches year-round.

Department Evaluation

The Department is evaluating several comments related to the recommendation that vegetation within the solar facility and other vegetation clearance areas be maintained at 1 to 3 inches during fire season to mitigate fire risk. Mr. McCullough recommends the recommendation be implemented throughout the life of the facility. The Sherman County Weed Control District recommends that the vegetation height standard be increased to 4 to 8 inches to support erosion control and enhance viability of bunchgrass species.

In its comments, the certificate holder requested that the height standard be increased to 10 to 12 inches year-round but in reply to the Sherman County Weed District, requested that ODOE take the District’s professional recommendation into consideration and revise the Proposed Order and implementing plans accordingly to require management of grass height at 4 to 8 inches during dry season. Mr. McCullough commented that he did not agree that 8” vegetation would be safe from a wildfire standpoint, but acknowledged the importance of not mowing native bunch grasses shorter than 3-4” to protect the crown of the plant. He conceded that a slightly taller vegetation height (3” to 6” during fire season June-Oct) would be acceptable considering erosion control, vegetation health, and fire risk together.

The Department maintains that vegetation management is a critical tool for minimizing wildfire risk associated with the proposed facility but defers to the professional recommendation of the

County Weed Control District as to the appropriate standard to best balance wildfire risk mitigation and soil protection. Consistent with the District’s recommendation, the Department revised Section III.N.I Wildfire Prevention and Risk Mitigation of the draft Final Order, Attachment G draft Construction Wildfire Mitigation Plan, and Appendix F of the draft Comprehensive Revegetation and Soil Management Plan to include reference to vegetation requirements below:

a. **Vegetation Height and Clearance**

- Vegetation within and adjacent to the Solar Components will be maintained as follows:
- During the dry season (June to October), vegetation height will be limited to 4 to 8 inches. Vegetation will be mowed to a height of 4 inches prior to June of each year.
- Outside of the dry season (November to May), vegetation will be maintained at a maximum height of less than 12 inches,
- with a A minimum vertical clearance of 12 inches from all electrical and mechanical equipment will be maintained at all times.
- Vegetation exceeding this the heights listed above will be mowed or removed prior to local in accordance with any ODF- or County-issued fire restrictions.

...

Issue WF-11 (Certificate Holder); Request to remove requirement for drip can with fire suppression equipment.

Comment ID: BCWAMD4Doc24-22 Proposed Order Public Comment Certificate Holder-2 2026-01-30

Response ID: BCWAMD4Doc26-01 Proposed Order Public Comment ODOE Responses 2026-02-12

Comment Summary

Certificate holder requests that the Department remove a requirement in the Construction WMP that a 5-gallon Drip Can be carried in maintenance vehicles and stored on-site at the O&M building. Certificate holder clarifies that the project would not conduct activities requiring use of drip cans, and that workers would not have adequate experience to use drip cans.

Department Evaluation

Inclusion of drip cans in the draft Construction WMP was a representation made by the certificate holder, versus a recommended requirement. Given that the certificate holder seeks to clarify equipment that would not be needed or appropriate for the site, the Department agrees to remove the requirement as requested.

Issue WF-12 (McCullough, Kathryn; Gilbert, Irene); Concern about lack of availability of Operational Wildfire Mitigation Plan.

Comment ID: BCWAMD4Doc25-03 Proposed Order Public Hearing Transcript 2026-01-15; BCWAMD4Doc24-06 Proposed Order Public Comment McCulloughK-6 2026-01-09
Response ID: BCWAMD4Doc26-01 Proposed Order Public Comment ODOE Responses 2026-02-12; BCWAMD4Doc27-09 Proposed Order Public Comment CH Response to Kathy and Kevin McCullough 2026-02-13

Comment Summary

Commenters raise concern about lack of availability of Operational Wildfire Mitigation Plan for review as part of Proposed Order.

Department Evaluation

Under OAR 345-022-0115(1)(b), the Council must find that a proposed facility will be designed, constructed, and operated in compliance with a Wildfire Mitigation Plan approved by the Council. The rule sets forth the requirements that must be met in the plan. While it is preferred that draft plans for both the construction and operations phases of a facility be included in an application or request for amendment, it is not required by the standard. The Department has described the requirements that must be satisfied in Section III.N of the Proposed Order.

In its responses to this issue, the certificate holder explained that it is developing a site-specific Operational WMP, which will provide any site-specific information outlined in ODOE’s Operational WMP template that is not already addressed in PGE’s 2026-2028 Corporate WMP which was filed with the Oregon Public Utility Commission on December 31, 2025. The Operational WMP will include the same components as described for the Construction WMP with construction specific actions will be replaced with site-specific operations and maintenance actions. The certificate holder also provided an outline of the Operational WMP with generic examples of information that would be included.

The Department does not recommend any revisions to the draft Final Order based on this comment because the comment has not Identified a specific legal deficiency.

III.I. Siting Standards for Transmission Lines (OAR 340-035-0090)

Issue TL-01 (Certificate Holder); Request for additional flexibility in transmission line siting

Comment ID: BCWAMD4Doc24-08 Proposed Order Public Comment Certificate Holder 2026-01-14

Response ID: BCWAMD4Doc26-01 Proposed Order Public Comment ODOE Responses 2026-02-12

Reply ID: BCWAMD4Doc28-04 Proposed Order Public Comment CH Reply to ODOE 2026-02-28

Comment Summary

Certificate holder requests changes to recommended Amended Condition 119 to provide additional flexibility in transmission line siting, as presented in **red underline, strikeout** font below:

~~(119) OAR 345-027-0023(5): If the proposed energy facility is a pipeline or a transmission line or has, as a related or supporting facility, a pipeline or transmission line, the Council shall specify an approved corridor in the site certificate and shall allow the certificate holder to shall construct the pipeline or 230-kV transmission line connecting the Biglow Canyon Substation to the Solar Substation anywhere within a 150-foot corridor, as identified in the final site design presented in Figure 2 of the Amended Site Certificate identified in the final site design the corridor, subject to the conditions of the site certificate. If the applicant has analyzed more than one corridor in its application for a site certificate, the Council may, subject to the Council's standards, approve more than one corridor.~~

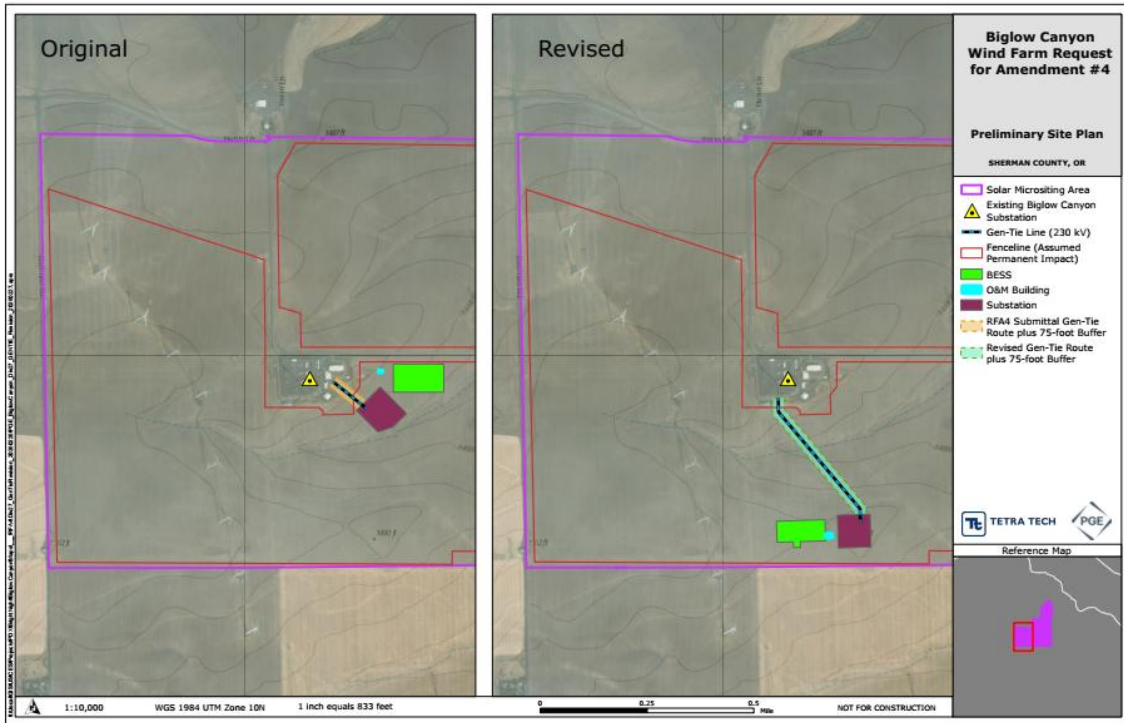
Department Evaluation

Under OAR 345-025-0010(5), the Council must specify an approved corridor for any transmission line approved in a site certificate. The Department disagrees with the certificate holder's proposed changes. The certificate holder only included one proposed corridor for the 600-foot segment of 230 kV transmission line in the Request for Amendment, which was presented in RFA4 Figure 2.2.

In its response to this issue the Department notes that if the certificate holder wishes to change the alignment of the transmission line it must present the alternate corridors so that they can be evaluated for compliance with applicable laws, rules and standards.

In its reply, the certificate holder explained that continued engineering evaluation of site conditions and infrastructure layout identified that the original substation site presented constraints relative to the existing infrastructure. Accordingly, a new location for the proposed substation and battery energy storage system (BESS) was identified to avoid low elevation areas, better align with existing infrastructure, and improve constructability, long-term operability, and overall infrastructure resilience. The certificate holder asserts that this refinement reflects prudent final engineering and results in improved consistency, new and existing infrastructure, rather than a change in project scope. Moving the collector substation location results in a corresponding adjustment to the transmission line corridor, with an updated alignment of a 230-kV transmission line approximately 1,900 feet in length, supported by three 80-foot tall steel monopole structures. The figure below shows the new location of the project substation and gen-tie transmission line, all still located within the Solar Micrositing Area.

Figure 1. Original and Revised Collector Substation Location and Transmission Corridor



The newly proposed substation location is within the proposed Solar Micrositing Area and has been fully surveyed and evaluated for all applicable resources and impacts. In addition, there do not appear to be any residences or linear structures that could be inadvertently energized within the refined corridor. Accordingly, the Department recommends the Proposed Order and draft Amended Site Certificate be amended with the revised substation location. Site certificate conditions will require an updated site plan, acoustic modeling, retirement estimate, and other resource studies to be provided prior to construction. III.J. Noise Control Regulation (OAR 340-035-0035)

Issue NC-01 (Certificate Holder) Requests Proposed Order Table 26 be revised to add NSR13 and reference to RFA Exhibit Y Table Y-7.

Comment ID: BCWAMD4Doc24-08 Proposed Order Public Comment Certificate Holder 2026-01-14

Response ID: BCWAMD4Doc26-01 Proposed Order Public Comment ODOE Responses 2026-02-12

Comment Summary

Certificate holder requests for Table 26, *Modeled Operational Noise of the Facility, As Amended*, to be revised to include NSR 13, and requests for Table 26 to include Table Y-7 as a source included in the noise modeling.

Department Evaluation

RFA4 Exhibit Y includes Tables Y-6 and Y-7. Both tables include 6 NSRs, including NSR 13. The data from Tables Y-6 and Y-7 are represented in the Proposed Order Table 26, but NSR is omitted and reference to RFA4 Exhibit Y Table Y-7 is also omitted, as indicated by the certificate holder.

Changes to Proposed Order Table 26 will be incorporated into the draft Final Order to be consistent with RFA4 Exhibit Y, as requested by certificate holder.

Issue NC-02 (Certificate Holder) Requests revisions to recommended Noise Control Condition 2 (PRE-NC-02) allowing for general waiver versus solar specific

Comment ID: BCWAMD4Doc24-22 Proposed Order Public Comment Certificate Holder-2 2026-01-30

Response ID: BCWAMD4Doc26-01 Proposed Order Public Comment ODOE Responses 2026-02-12

Comment Summary

Certificate holder requests that Noise Control Condition 2 (PRE-NC-02) be amended to allow any waivers needed to demonstrate compliance be general, rather than specifically reference the solar facility, consistent with the fact that the noise analysis is based on the facility as a whole.

Department Evaluation

As presented in Section IV.A Noise Control Regulation, the existing, operational wind facility relies on noise waivers to comply with the antiambient degradation standard. The addition of the facility components proposed in RFA4 would not change or increase the predicted exceedances of the existing, operational wind facility; however, the facility, as amended, must demonstrate compliance with the regulation (i.e., obligation to have an executed waiver where exceedances occur).

To ensure that the facility maintains compliance but is not obligated to update waivers solely to refer to a wind and solar facility, the Department agrees to modify recommended Noise Control Condition 2, as provided below in red, underline/strikeout, to be able to accept noise waivers that are applicable to the “facility.” The intent of the condition is to receive waivers that align with the NSR ID’s and property owners with exceedances identified in RFA4 for compliance verification.

Recommended Noise Control Condition 2 (PRE-NC-02): Prior to construction of the solar facility, the certificate holder must submit to the Department copies of executed legally effective easement(s) or real covenant(s) for all Noise Sensitive Properties impacted by the solar facility with noise exceedance. ~~The easement or covenant must authorize the solar energy facility to increase the ambient statistical noise levels, L10 or L50, on the sensitive property by more than 10 dBA at the appropriate measurement point.~~

[PRE-NC-01; OAR 340-035-0035(1)(b)(B)(iii)(H); Final Order on AMD4]

III.K. Water Rights (OAR Ch. 690)

Issue WR-01 (Certificate Holder); Requests Revisions to recommended Amended Water Rights Condition 1 (PRE-WR-01) to Clarify Well Log Submission Timing

Comment ID: BCWAMD4Doc24-08 Proposed Order Public Comment Certificate Holder 2026-01-14

Response ID: BCWAMD4Doc26-01 Proposed Order Public Comment ODOE Responses 2026-02-12

Comment Summary

Certificate holder requests to modify the language of recommended Water Rights Condition 1 (PRE-WR-01) to clarify that the obligation to submit a well log to Oregon Water Resources Department (OWRD) applies within 30-days of well construction rather than prior to well construction. Certificate holder describes that the requested changes are consistent with ORS 537.765.

Department Evaluation

The Department agrees with the certificate holder as ORS 537.765(2) states:

(2) The business or activity of constructing new wells or altering, abandoning or converting existing wells is declared to be a business or activity affecting the public welfare, health and safety. In order to enable the state to protect the welfare, health and safety of its residents, any licensed or permitted person shall keep a log of each well constructed, altered, abandoned or converted and shall electronically file a certified copy of the log with the Water Resources Department within 30 days after the completion of the construction, alteration, abandonment or conversion.

Based on the above statutory language, in the draft Final Order the Department will include the condition language changes, as presented in red, underline/strikeout font below, as requested.

Recommended Water Rights Condition 1 (PRECON-WR-01)

~~No later than 30 days after completing construction prior to construction~~ of any new well, the certificate holder shall provide the Department a copy of the map, well log and all other information it provided to OWRD pursuant to ORS 537.545 and ORS 537.765 to qualify for an exempt ground water use for any onsite exempt wells.

[Final Order on AMD4]

Issue WR-02 (Certificate Holder); Requests Revisions to recommended Amended Condition 75 (OPR-WR-01) on Applicability of Groundwater Usage Monitoring

Comment ID: BCWAMD4Doc24-08 Proposed Order Public Comment Certificate Holder 2026-01-14

Comment Summary

Certificate holder requests for recommended Amended Condition 75 (OPR-WR-01) to be amended to clarify that onsite well usage monitoring will not be required until a new well is installed, at which point meters would be installed.

Department Evaluation

Recommended Amended Condition 75 (OPR-WR-01) is intended to limit onsite well groundwater usage to 5,000 gallons per day and establishes a requirement for daily monitoring and usage recordkeeping. The recommended amended condition requiring use of flow meters to monitor combined water usage is intended to apply if new well(s) are constructed to support construction and operation of the facility components proposed in RFA4. Therefore, the Department agrees with the certificate holder and recommends that the applicability of the monitoring requirements be clarified. In the draft Final Order, the Department will include the condition language changes, as presented in red, underlined font below.

Recommended Amended Condition 75 (OPR-WR-01)

- a. For any onsite exempt wells, Before beginning operation of the facility, the certificate holder shall have in operation a well suitable for delivering water, combined water usage shall not exceed 5,000 gallons per day, for domestic use at the facility's O&M buildings and, provided the rate of extraction would not exceed 5,000 gallons per day, solar panel and blade-washing activities.
- b. If new exempt well(s) are constructed for the solar facility, certificate holder shall install flow meters on the existing and new well(s); monitor the volume of groundwater used from all onsite wells on a daily basis; maintain a record of such use; and, make the monitoring records available to the Department upon request. The certificate holder shall not change the source of water for the facility's domestic use without prior Council approval.

[Final Order on AMD4]

Issue WR-03 (Certificate Holder); Requests Revisions to recommended Amended Condition 75 (OPR-WR-01) on Applicability of 5,000 gallon/day limit

Comment ID: BCWAMD4Doc24-22 Proposed Order Public Comment Certificate Holder-2 2026-01-30

Response ID: BCWAMD4Doc26-01 Proposed Order Public Comment ODOE Responses 2026-02-12

Comment Summary

Certificate holder seeks clarification that the 5,000 gallon per day limitation on groundwater usage only applies to onsite exempt wells.

Department Evaluation

The Department confirms that recommended Amended Condition 74 (OPR-WR-01) is only applicable to exempt wells. In the draft Final Order, the Department will add reference to “exempt wells” to the condition, as presented in the Department Evaluation of Issue WR-02.