

OREGON DEPARTMENT OF ENERGY

Regarding Statutes, Administrative Rules, and)
Other Requirements Applicable to the Proposed) **PROJECT ORDER**
Obsidian Solar Center)

ISSUED BY
OREGON DEPARTMENT OF ENERGY
550 Capital Street NE
Salem, OR 97301-3742

Issued May 24, 2018

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1 **I. INTRODUCTION**

2 The Oregon Department of Energy (ODOE or the Department) issues this Project Order for the
3 proposed Obsidian Solar Center in accordance with Oregon Administrative Rule (OAR) 345-015-
4 0160. The applicant is Obsidian Solar Center, LLC, a wholly owned subsidiary of Obsidian
5 Renewables, LLC. On January 12, 2018, the applicant submitted to the Department a Notice of
6 Intent (NOI) to apply for a site certificate. The proposed facility will occupy up to 7,000 acres
7 and provide a nominal generating capacity of up to 600 megawatt (MW) from photovoltaic (pv)
8 power.

9 Following the review of an NOI, Oregon Revised Statute (ORS) 469.330(3) and OAR 345-015-
10 0160 require the Department to issue a Project Order to the applicant establishing the
11 application requirements for the proposed facility. Accordingly, the Department issues this
12 Project Order establishing the requirements for the site certificate application for the Obsidian
13 Solar Center. As provided in ORS 469.330(4), this is not a final order and the Department or the
14 Council may amend this Project Order at any time.

15 Section II of this Project Order outlines the EFSC regulatory framework and references the main
16 statutes and rules that govern the EFSC review process [per OAR 345-015-0160(1)]. Section III
17 discusses the application content requirements under OAR 345-021-0010. Section IV specifies
18 the impact assessment analysis areas for the proposed facility. Section V incorporates by
19 reference comments received from reviewing agencies and the public that address matters
20 within the jurisdiction of the Council that the applicant must consider and discuss in the
21 application for a site certificate. Section VI provides the expiration date of the NOI, and Section
22 VII discusses Project Order amendments and the requirements for the Department to find the
23 application for site certificate complete. Section VIII describes the applicant’s duty to comply
24 with applicable requirements.

25 ORS 469.401(4) provides that a site certificate issued by the Council does not govern certain
26 matters. The Project Order identifies only those matters that will be included in and governed
27 by the site certificate, if issued by EFSC, and as applicable to issuance of the site certificate for
28 the proposed facility pursuant to ORS 469.503(3). Throughout this Project Order, the definitions
29 in ORS 469.300 and OAR 345-001-0010 apply, except where otherwise stated or where the
30 context indicates otherwise.

31 As noted, on January 12, 2018, Obsidian Solar Center, LLC submitted to the Department a NOI
32 to file an application for a site certificate for a proposed photovoltaic energy generation facility.
33 According to the NOI, the proposed photovoltaic energy generation facility would occupy up to
34 7,000 acres of land in Lake County. The proposed facility may also include battery storage. The
35 electricity would be collected through 34.5-kV electrical collection lines, up to four collector
36 substations would aggregate the power, and then transported via 115-kV transmission lines.
37 Depending on final design, the facility may include up to three 115-kV transmission lines of
38 approximately two miles each. The facility would connect to the adjacent 500-kV transmission
39 line at the proposed Point of Interconnect (POI), within the site boundary. As described in the
40 NOI, the Obsidian Solar Center would have a nominal electric generating capacity of
41 approximately 600 MW, and use up to 7,000 acres of land, as a result, falls within the

1 jurisdiction of the Energy Facility Siting Council (EFSC or Council).¹ Therefore, a site certificate
2 from the Council is required to authorize the construction and operation of the proposed
3 facility and its related or supporting facilities.

4 On February 7, 2018, ODOE issued a public notice of the NOI to the EFSC mailing list and to
5 adjacent property owners as defined at OAR 345-020-0011(1)(f). ODOE also published the
6 notice in the *Lake County Examiner* newspaper that ran on February 7, 2018. The public notice
7 included information regarding the proposed facility and the EFSC review process, and set
8 March 9, 2018 as the public comment deadline for the NOI.

9 Pursuant to ORS 469.480(1), EFSC must designate as a Special Advisory Group the governing
10 body of any local government within whose jurisdiction the facility is proposed to be located. At
11 the February 23, 2018 EFSC meeting, the Council appointed the Lake County Board of
12 Commissioners as the Special Advisory Group.²

13 In compliance with OAR 345-021-0050(1), ODOE prepared a memorandum to reviewing
14 agencies, Tribal Governments, and the Special Advisory Group, and compiled a distribution list,
15 including all reviewing agencies identified and defined in OAR 345-001-0010(52). In accordance
16 with ORS 469.350(2) and OAR 345-020-0040, on February 7, 2018 ODOE sent the memorandum
17 and a copy of the NOI to each of the reviewing agencies listed in Table 1. The Department
18 requested comments from reviewing agencies on or before March 9, 2018. Consistent with ORS
19 469.330(3), on March 5, 2018 the Department held a pre-application conference with reviewing
20 agencies to discuss the NOI, the proposed facility and the EFSC review process.

21 As discussed in Section V, and in accordance with OAR 345-015-0140, the Department sent the
22 applicant a copy of each public comment and reviewing agency comment letter received for
23 their review and consideration in preparing the application for site certificate.

¹ ORS 469.300(11)(a)(D) defines EFSC jurisdictional solar photovoltaic power generation facilities.

² Pursuant to ORS 469.480, the governing body of a local government within whose jurisdiction the facility is proposed to be located shall be designated by EFSC as a “special advisory group.”

1 **Table 1. Reviewing Agency Distribution List**

State Agencies	
<ul style="list-style-type: none"> • Oregon Department of Environmental Quality • Oregon Department of Agriculture • Oregon Department of Fish and Wildlife • Oregon Department of Geology and Mineral Industries • Oregon Department of Aviation • Oregon Department of State Lands • Oregon Department of Transportation • Oregon Water Resources Department 	<ul style="list-style-type: none"> • Oregon Department of Forestry • Oregon Public Utilities Commission • Oregon Parks and Recreation Department • Department of Land Conservation and Development • Office of State Fire Marshal • Oregon State Historic Preservation Office
Native American Tribes	
<ul style="list-style-type: none"> • Klamath Tribes • Burns Paiute Tribe 	<ul style="list-style-type: none"> • Confederated Tribes of the Warm Springs
Special Advisory Group	
<ul style="list-style-type: none"> • Lake County Board of Commissioners 	
Other Reviewing Agencies	
<ul style="list-style-type: none"> • Northwest Power Planning Council 	

2

3 **II. EFSC REGULATORY FRAMEWORK**

4 Issuance of a site certificate is governed by the statutory requirements in ORS 469.300 *et seq.*
 5 and administrative rules in OAR chapter 345. The following divisions of OAR chapter 345 include
 6 rules related to application requirements, EFSC review of an application, and construction and
 7 operation of an approved facility:

8

9 **OAR Chapter 345, Division 21** (Site Certificate Application Requirements) includes the primary
 10 site certificate application requirements. See Section III of this Project Order for specific
 11 information related to the site certificate application requirements for the proposed facility.

12

13 **OAR Chapter 345, Division 22** (Council Standards for Siting Facilities) includes most of the
 14 regulatory standards by which the EFSC must evaluate the proposed facility. In addressing each
 15 of the Division 21 application requirements, the applicant shall refer to the Division 22 standard
 16 to which the requirement relates to ensure the application is responsive to the standards by
 17 which the Council must evaluate it.

18

19 **OAR Chapter 345, Division 24** (Specific Standards for Siting Facilities) includes additional
 20 standards for specific types of EFSC applications. In addressing the Division 21 application
 21 requirements, the application shall refer to the Division 24 standards that apply to the
 22 proposed facility to ensure the application is responsive to these standards. The Division 24
 23 standards that applies to the proposed facility is OAR 345-024-0090, Siting Standards for
 24 Transmission Lines.

25

1 **OAR Chapter 345, Division 25** (Site Certificate Conditions) includes the mandatory conditions
2 that EFSC must apply to all site certificates, as well as applicable site-specific and monitoring
3 conditions. Note that per the mandatory condition included at OAR 345-025-0006(10), the
4 Council will include as conditions in the site certificate, if issued, all representations made in the
5 application and supporting record the Council deems to be binding commitments made by the
6 applicant.

7
8 **OAR Chapter 345, Division 26** (Construction and Operation Rules for Facilities) includes the
9 compliance plan requirements that will apply if the Council issues a site certificate for the
10 proposed facility. In addressing the Division 21 application requirements, the applicant shall
11 refer to the compliance plan requirements, described in OAR 345-026-0048, and reporting
12 requirements, described in OAR 345-026-0080. Note that, if a site certificate is issued, the
13 certificate holder must also comply with additional construction- and operation-related
14 regulations that may apply to the proposed facility but that may not be covered by the site
15 certificate, per ORS 469.401(4).

17 **III. APPLICATION REQUIREMENTS**

18 The applicant must adhere to the general requirements under OAR 345-021-0000, including, for
19 all state and local government agency permit approvals that the applicant proposes to be
20 included in and governed by the site certificate, the submittal of information that would
21 otherwise be required by the state or local government agency in an application for such
22 permit, license or certificate [OAR 345-021-0000(6)]. The applicant shall also submit copies of
23 the applications for federally-delegated permits that are needed for construction or operation
24 of the proposed facility [OAR 345-021-0000(7)]. OAR 345-021-0010(1) identifies the required
25 contents of an application for a site certificate. Each of the paragraphs below indicates which
26 provision(s) of OAR 345-021-0010(1)(a) – (dd) will apply to the Obsidian Solar Center Project.
27 The Application shall also include the information described in OAR 345-021-0010(3).

1 **(a) Exhibit A – General Information about the Applicant**

2 **Applicable Paragraphs:** All paragraphs apply except (C), (E), (F), and (G)

3 **Related Council and Other Standards:** General Standard of Review [OAR 345-022-0000]

4 **Discussion:** Note that paragraph (B) calls for a list of “participating persons, other than
5 individuals.” Please note the definition of “Person” in ORS 469.300(21). Please also note that
6 the applicant is required to notify the Department of any change in the identity or ownership of
7 the applicant prior to the change.

8
9 **(b) Exhibit B – General Information about the Proposed Facility**

10 **Applicable Paragraphs:** All paragraphs apply except (A)(vi), (A)(vii), (A)(viii), and (E)(iv).
11 Paragraph (D) only applies if the proposed transmission line meets the definition of an energy
12 facility at ORS 469.300(11)(a)(C).

13 **Related Council and Other Standards:** General Standard of Review [OAR 345-022-0000]

14 **Discussion:** The description of the proposed facility in the application will form the basis for the
15 description of the facility in the site certificate. Please note that construction laydown yards
16 must be considered in the application. The site certificate, if issued, would require that the
17 applicant build the facility “substantially as described” (OAR 345-027-0020). The application
18 shall also describe all related or supporting facilities, including access roads, operations and
19 maintenance buildings, gen-tie transmission lines, substations, and any other related and
20 supporting facility proposed by the applicant. Please note the definition of related or
21 supporting facilities at ORS 469.300(24) includes those existing structures that must be
22 substantially modified in connection with the energy facility construction or operation. If the
23 applicant is requesting Council review and approval of transmission line route option(s), then all
24 routes need to be included within the site boundary and evaluated based on the applicable
25 analysis area.

26
27 **(c) Exhibit C – Location**

28 **Applicable Paragraphs:** All paragraphs apply.

29 **Related Council and Other Standards:** General Standard of Review [OAR 345-022-0000]

30 **Discussion:** Maps shall indicate the “site boundary” as defined in OAR 345-001-0010(55),
31 including any proposed transmission line routes which the applicant is seeking Council
32 approval. Maps shall provide enough information for property owners potentially affected by
33 the facility to determine whether their property is within or adjacent to the site boundary.
34 Major roads should be accurately named. The Department notes that the applicant has already
35 shared GIS data for the proposed facility, and requests updated GIS data if there are changes to
36 the site boundary or proposed facility layout between the NOI and the submittal of the
37 preliminary application.

1 **(d) Exhibit D – Organizational Expertise**

2 **Applicable Paragraphs:** All paragraphs apply.

3 **Related Council and Other Standards:** Organizational Expertise [OAR 345-022-0010]

4 **Discussion:** The Council’s review for the Organizational Expertise standard includes the
5 applicant’s ability to construct, operate, and retire the proposed facility in compliance with
6 Council standards and conditions of the site certificate. Please note that Exhibit D requires that
7 if the applicant relies upon mitigation to meet any applicable Council standard, that the
8 applicant provide evidence that it can successfully complete such proposed mitigation.

9
10 **(e) Exhibit E – Permits**

11 **Applicable Paragraphs:** All paragraphs apply.

12 **Related Council and Other Standards:** General Standard of Review [OAR 345-022-0000]

13 **Discussion:** Exhibit E shall describe and discuss all permits that the applicant proposes to be
14 included in and governed by the site certificate, as well as state and local permits that are
15 related to the siting, construction, or operation of the proposed facility but are proposed by the
16 applicant to not be included in and governed by the site certificate. Exhibit E shall also describe
17 required federal and federally-delegated permits. For federally-delegated permits needed for
18 construction or operation, the applicant must submit a copy of the permit application to the
19 Department, as required under OAR 345-021-000(7).

20 Although the Council does not have jurisdiction over federally-delegated permits, the Council
21 may rely on the determinations of compliance and the conditions in federally-delegated
22 permits in evaluating the application for compliance with Council standards.

23 **Federally-delegated Permits**

24 ***Oregon Department of Environmental Quality — Water Quality Division***

25 **Statute and Rule References**

- 26 • ORS Chapter 468B (Water Quality)
- 27 • OAR Chapter 340, Division 45 (Regulations Pertaining To NPDES and WPCF Permits)
- 28 • OAR Chapter 340, Division 48 (Certification of Compliance with Water Quality
- 29 Requirements and Standards)

30 **Permits**

- 31 • National Pollution Discharge Elimination System (NPDES) Construction Storm Water
- 32 1200-C permit
- 33 • Clean Water Act Section 401 Water Quality Certification

1

2 **Discussion**

3 The EPA has delegated authority to DEQ to issue NPDES Storm Water Discharge permits for
4 construction and operation activities. Based upon the information in the NOI, an NPDES 1200-C
5 permit will be required for the construction of the facility. In accordance with OAR 345-021-
6 0000(7), the applicant must submit to the Department one copy of all applications for federally-
7 delegated permits (including the NPDES permit), or provide a schedule of the date by which the
8 applicant intends to submit the application. Note that the Department will not be able to find
9 the application for site certificate complete before receiving a copy of the NPDES permit
10 application and a response letter from the DEQ. The DEQ response letter must state that the
11 agency has received a permit application from the applicant, and provide an estimated date
12 when the agency will complete its review and issue a permit decision. The applicant may
13 incorporate this information into Exhibit I (Soils) or Exhibit BB (Other Information) of the site
14 certificate application.

15 The 401 Water Quality Certification is required for projects that are processed under the U.S.
16 Army Corps of Engineers Section 404 Nationwide Permits. If a Section 404 Permit is needed
17 from U.S. Army Corps of Engineers (Corps) for the discharge of dredge or fill material in waters
18 of the United States, a Section 401 Water Quality Certificate must be granted by DEQ before a
19 Section 404 permit may be issued.

20 **State Permits**

21 ***Oregon Department of State Lands***

22 **Statute and Rule References**

- 23 • ORS 196.795-990 (Removal of Material, Filling)
- 24 • OAR Chapter 141, Division 85 (Administrative Rules Governing the Issuance and
25 Enforcement of Removal-Fill Authorizations Within Waters of Oregon Including
26 Wetlands)

27 **Permit**

- 28 • Removal-Fill Permit

29 **Discussion**

30 A removal-fill permit is required if any removal or fill activities occur in streams designated as
31 Essential Indigenous Anadromous Salmonid Habitat or 50 cubic yards or more of material is
32 removed, filled or altered within a jurisdictional water of the state [OAR 141-085-0520(2) and
33 (5)]. Removal-fill permits are state permits under Council jurisdiction.

34 Based on the NOI, the Department understands that Obsidian must secure a removal-fill permit
35 for the Obsidian Solar Center. As such, the applicant must provide the information required by
36 Exhibit J. To receive a removal-fill permit, the applicant must conduct a wetland delineation, to
37 be reviewed by Department of State Lands (DSL) for concurrence, according to OAR Chapter

1 141, Division 90 rules. The wetland delineation determines the location of “waters of this
2 state,” as defined in OAR 141-085-0510(91), within the analysis area. As a removal-fill permit is
3 required, the application for site certificate shall include a wetland delineation report and an
4 application for a removal-fill permit which demonstrates consistency with ORS 196.825(1) and
5 provides enough information for considerations under ORS 196.825(3). The applicant should
6 consult directly with DSL regarding the applicable regulations.

7 A Compensatory Wetland Mitigation Plan which meets the requirements of OAR 141-085-0680
8 through OAR 141-085-0715 must be provided to replace all lost functions and values previously
9 provided by the impacted wetlands and waterways.

10 ***Oregon Department of Environmental Quality***

11 **Statute and Rule References**

- 12 • ORS Chapter 454 (Sewage Treatment and Disposal Systems)
- 13 • ORS Chapter 468B (Water Quality)
- 14 • OAR Chapter 340, Division 45 (Regulations Pertaining To NPDES and WPCF Permits)
- 15 • OAR Chapter 340, Division 71 (Onsite Wastewater Treatment Systems)

16 **Permits**

- 17 • Onsite Sewage Disposal Construction-Installation Permit
- 18 • WPCF 1700-B Washwater Discharge from Equipment Cleaning
- 19 • WPCF General Permit 1000

20 **Discussion**

21 Facilities with an on-site sewage disposal system must obtain a Construction-Installation Permit
22 before construction. As described in the NOI, during operation the facility’s O&M building
23 would discharge sanitary waste (in the form of domestic wastewater) to a licensed on-site
24 septic system with a daily sewage flow of fewer than 2,500 gallons. The applicant indicates in
25 the NOI that its third-party contractor would obtain the necessary Construction-Installation
26 Permit directly from DEQ; this permit is therefore related to the siting and operation of the
27 proposed facility but would not be included in or governed by the site certificate (see the Third-
28 Party Permits discussion below).

29 Disposal of solar panel wash water would require a WPCF 1700-B Washwater Discharge from
30 Equipment Cleaning permit and disposal of concrete batch plant wash water (if a temporary
31 batch plant is necessary) would require a WPCF General Permit 1000. A WPCF 1700-B and
32 WPCF General Permit 1000 are state permits under Council jurisdiction. If the applicant’s third-
33 party contractor would obtain the necessary WPCF 1700-B permit directly from DEQ, this
34 permit would not be included in and governed by the site certificate (see the Third-Party
35 Permits discussion below).

1 ***Oregon Water Resources Department***

2 **Statute and Rule References**

- 3 • ORS 537.505-.795 and ORS 537.992
4 • OAR Chapter 690, Division 340 (Water Use Authorizations)

5 **Permits**

- 6 • Water Right Permit or Water Use Authorization
7 • Limited License

8 **Discussion**

9 As indicated in the February 14, 2018 comment letter from Oregon Water Resources
10 Department (OWRD), the construction water could be obtained from a municipal provider if the
11 amounts are available within the limits of the municipal providers existing rights. As
12 represented in Exhibit E of the NOI, the applicant would seek temporary authorization from
13 OWRD if the construction water is not available from municipal providers. However, water use
14 permits are state permits under Council jurisdiction and must be included in and governed by
15 the site certificate. If needed, a water right permit must be processed through the EFSC review
16 process and cannot be independently secured by the applicant from OWRD.

17 Additionally, the NOI indicates that the operation and maintenance (O&M) building(s) would
18 consume water to the extent of supporting less than 20 people. The applicant may consider
19 constructing up to two on-site wells to supply the water needs for the O&M building(s). A
20 limited water license or permit would be required if the well would provide more than 5,000
21 gallons of water per day, and if necessary, a limited that license or permit would be included
22 and governed by the site certificate.

23 ***Oregon Department of Transportation***

24 **Statute and Rule References**

- 25 • ORS 818.030 (Exemptions from Weight Limitations)
26 • OAR Chapter 734, Division 82 (Variance Permits Issued for Non-Divisible Loads and Road
27 Use Assessment Fees)
28 • OAR Chapter 734, Division 51 (Highway Approaches, Access Control, Spacing Standards,
29 and Medians)
30 • OAR Chapter 734, Division 55 (Pole Lines, Buried Cables, and Miscellaneous Operations)

31 **Permits**

- 32 • Oversize Load Movement Permit/Load Registration
33 • Access Management Permit
34 • Permit to Occupy or Perform Operations Upon a State Highway

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Discussion

Various permits from Oregon Department of Transportation (ODOT) may be required prior to construction of the facility. Access from Oregon state highways would require an access permit. Utility installations within the right-of-way of a state highway in Oregon require an Occupy or Perform Operations upon a State Highway permit. Movement of construction cranes and other large equipment and materials could also require an Oversize Load Movement permit. These permits are not related to facility siting and are not included in or governed by the site certificate. The applicant or its contractor must secure any applicable ODOT permits directly from ODOT, independent of the site certificate process.

State Historic Preservation Office

Statute and Rule References

- ORS Chapter 97, 358, and 390;
- OAR Chapter 736, Division 51

Permits

- Archaeological Excavation Permit

Discussion

This permit is required if excavation is needed within the boundaries of a known cultural site regardless of land ownership. If disturbance to cultural sites cannot be avoided, a State Historic Preservation Office (SHPO) Archaeological Permit will be required to determine if cultural sites are eligible for listing under the National Register of Historic Places (NRHP). An excavation permit will also be required for any data recovery mitigation efforts within an NRHP-eligible site.

During facility construction, if a previously unidentified archaeological site is discovered, all construction will cease and the applicant will report the finding to SHPO and ODOE immediately. In that instance, the permit may be required based on SHPO’s determination. This permit will not be included in and governed by the site certificate.

Per its comment letter on the NOI, SHPO will issue archaeological excavation permits in accordance with ORS 390.235 and OAR 736-051-0000 through 0090. Archaeological permits have a 30-day review period, require tribal consultation during review, and must meet SHPO standards.

1 **Local Permits**

2 **Land Use Ordinance References**

- 3 • Lake County Zoning Ordinance
- 4 • Lake County Comprehensive Plan (all other documents listed in the Comprehensive Plan
- 5 as amended)
- 6 • Transportation Plan
- 7 • Natural Hazards Mitigation Plan
- 8 • Lake County Atlas of 1973
- 9 • Lake County Parks Master Plan Lake County Airport Master Plan

10 **Permits**

- 11 • Lake County Conditional Use Permit
- 12 • Lake County Right-of-Way Permit
- 13 • Lake County Building Permit
- 14 • Lake County Onsite Sewage Permit

15 Lake County has permitting requirements that may or may not relate to the siting, construction
16 or operation of the facility. The applicant shall identify those permits or approvals and include
17 an analysis of whether each should be included in and governed by the site certificate.

18 As stated in NOI, the applicant has elected to request that EFSC determine compliance with the
19 substantive criteria of all affected local governments' comprehensive plans and land use
20 ordinances under ORS 469.504(1)(b).³ The conditional use permit shall be included in and
21 governed by the site certificate. Any other Lake County permitting requirements are not related
22 to facility siting and as such shall not be included in or governed by the site certificate, and the
23 applicant shall secure any such permits independent of the site certificate process.

24 **Third-Party Permits**

25 As noted in the NOI, the applicant may rely upon third-party permits in its application for site
26 certificate. If the applicant relies upon a state or local government permit issued to a third party
27 that is related to the siting of the proposed facility, the applicant must identify each third-party
28 permit, and, for each, include evidence that the applicant has, or has a reasonable likelihood of
29 entering into, a contract or other agreement with the third party for access to the resource or
30 service to be secured by that permit; evidence that the third party has or, has a reasonable
31 likelihood of obtaining, the necessary permit; and, an assessment of the impact of the proposed

³ OSCNOI Exhibit I, Land Use, 2018-01-12, page 24.

1 facility on any permits that a third party has obtained and on which the applicant relies to
2 comply with any applicable Council standard (OAR 345-021-0010(1)(e)(E)).

3 If the applicant relies on a federally-delegated permit issued to a third party that is related to
4 the siting of the proposed facility, the applicant must identify the third-party permit and include
5 evidence that the applicant has, or has a reasonable likelihood of entering into, a contract or
6 other agreement with the third party for access to the resource or service to be secured by that
7 permit. The applicant must provide evidence that the responsible agency has received the
8 permit application, and provide the estimated date when the responsible agency will complete
9 its review and issue a permit decision (OAR 345-021-0010(1)(e)(F)).

10

11 **(f) Exhibit F – Property Owners**

12 **Applicable Paragraphs:** Paragraph (C) of the Rule applies.

13 **Related Council and Other Standards:** General Standard of Review [OAR 345-022-0000]

14 **Discussion:** As the proposed facility would be located entirely within an area zoned A-2
15 Agricultural Use, OAR 345-020-0011(1)(f)(C) applies and requires notice to property owners
16 within 500 feet of the site boundary. The Council requires notice to all owners of record, as
17 shown on the most recent property tax assessment roll within the specified distance from the
18 proposed site boundary. In order to ensure notifications are provided using the an up-to-date
19 property owner list, Exhibit F in the pASC should indicate that, pursuant to direction by the
20 Department, the property owner list will be generated just prior to the Department’s
21 determination of application completeness and in coordination with Department staff.

22

23 The property owner notification list must be accompanied by maps that include the site
24 boundary, the area surrounding the site boundary consistent with the OAR 345-021-
25 0010(1)(f)(C) site distance requirement, and the properties/tax lots that are within the
26 applicable distances. Maps should correspond to the property owner list, be legible and clearly
27 identify tax lot ID numbers as well as adjacent road names, as applicable.

28

29 **(g) Exhibit G – Materials Analysis**

30 **Applicable Paragraphs:** All paragraphs apply.

31 **Related Council and Other Standards:** General Standard of Review [OAR 345-022-0000]; Soil
32 Protection [OAR 345-022-0022]

33 **Discussion:** The applicant shall include in the application any proposed fuel storage areas,
34 vehicle maintenance areas, or other areas that will be utilized for activities that could store
35 hazardous materials, including potential battery storage facilities. The applicant shall identify
36 the expected storage locations and quantities of hazardous and non-hazardous materials
37 expected to be used during construction and operation of the facility.

1 **(h) Exhibit H – Geologic and Soil Stability**

2 **Applicable Paragraphs:** All paragraphs apply

3 **Related Council and Other Standards:** Structural Standard [OAR 345-022-0020]

4 **Discussion:** The Oregon Department of Geology and Mineral Industries (DOGAMI) provides
5 technical review and recommendations on compliance with the Council’s Structural Standard.
6 The applicant must provide a summary of consultation with DOGAMI regarding the appropriate
7 methodology and scope of the seismic hazards and geology and soil-related hazards
8 assessments, and the appropriate site-specific geotechnical work that must be performed for
9 the application.

10 A geologic report included in Exhibit H shall meet the Oregon State Board of Geologist
11 Examiners geologic report guidelines, as determined based on consultation with DOGAMI.

12 As described in the Structural Standard at OAR 345-022-0020(2), the Council may not impose
13 the Structural Standard to approve or deny an application for site certificate for a proposed
14 facility that would produce power from solar energy, though the Council may apply the
15 requirements of OAR 345-022-0020(1) to impose conditions on a site certificate issued for
16 such a facility.

17

18 **(i) Exhibit I – Soils**

19 **Applicable Paragraphs:** All paragraphs apply.

20 **Related Council and Other Standards:** Soil Protection [OAR 345-022-0022]

21 **Discussion:** This exhibit should identify the major soil types and include a description of current
22 and historical, if distinct from current, land uses that require or depend on productive soils. The
23 applicant shall include information describing the impact of construction and operation of the
24 proposed facility on soil conditions in the analysis area, including potential impacts to soils on
25 adjacent properties. The application can cross-reference information related to the federally-
26 delegated NPDES 1200-C permit application, as applicable. An erosion and sediment control
27 plan must be provided for review if the applicant will rely upon the erosion and sediment
28 control plan to meet the Soil Protection standard. Please note that an erosion and sediment
29 control plan that meets the NPDES 1200-C requirements may not necessarily be sufficient to
30 meet the EFSC Soil Protection standard.

31

32 **(j) Exhibit J – Waters of the State and Removal-Fill**

33 **Applicable Paragraphs:** All paragraphs apply.

34 **Related Council and Other Standards:** General Standard of Review [OAR 345-022-0000];
35 Removal of Material, Filling [ORS 196.795-.990]; Administrative Rules Governing the Issuance
36 and Enforcement of Removal-Fill Authorizations within Waters of Oregon Including Wetlands
37 [OAR Chapter 141, Division 85]

1 **Discussion:** Per the Exhibit J requirement, the application shall include a description of all areas
2 within the site boundary that might be waters of this state and a map(s) showing the location of
3 these features. Based on the NOI, ODOE understands that a removal-fill permit is necessary for
4 the facility. As such, the information required for Council to make a decision on the removal-fill
5 permit application must be included in the application. Wetland delineation reports and
6 removal-fill permit application materials can be sent directly by the applicant to the Oregon
7 Department of State Lands (DSL); however, please note that all materials must also be
8 submitted to the Department as part of the application for site certificate. The Department will
9 work closely with DSL in review of any wetland delineation report and removal-fill permit
10 application. For EFSC-jurisdictional facilities, authorization of a removal-fill permit is an EFSC
11 decision, should a permit be issued, DSL will maintain the ongoing responsibility for compliance
12 with any associated permit conditions.

13
14 **(k) Exhibit K – Land Use**

15 **Applicable Paragraphs:** Paragraphs (A) and (C) of the rule apply.

16 **Related Council and Other Standards:** Land Use [OAR 345-022-0030];

17 **Discussion:** The Council’s Land Use standard requires an evaluation for compliance with the
18 statewide planning goals. Under 469.504(1), the applicant may establish compliance with the
19 applicable statewide planning goals either by obtaining local land use approval under ORS
20 469.504(1)(a) or by obtaining Council approval under ORS 469.504(1)(b). The applicant has
21 indicated in the NOI that it has elected to seek a Council determination of compliance under
22 ORS 469.504(1)(b). Within Exhibit K, since the applicant has elected to obtain a Council
23 determination on land use under ORS 469.504(1)(b), paragraphs A and C of OAR 345-021-
24 0010(1)(k) apply; paragraph B does not apply. The Department understands that the proposed
25 facility is not located on federal land, so paragraph (D) does not apply.

26 The facility would be located on land zoned Agricultural Use (A-2) in Lake County. Pursuant to
27 ORS 469.480 and in preparation for review of the facility, at its February 23, 2018 meeting the
28 Council appointed the Lake County Board of Commissioners as a Special Advisory Group. As
29 provided in ORS 469.401(3), if the Council issues a site certificate, Lake County would be bound
30 to issue all required permits and other land use approvals, subject to the conditions set forth in
31 the site certificate, that are included in and governed by the site certificate. The applicant
32 should discuss each applicable substantive criteria from the Lake County Comprehensive Plan
33 and zoning ordinances, and should demonstrate how the proposed facility complies with those
34 criteria. Lake County provided its list of applicable substantive criteria in a comment letter on
35 the NOI. If the proposed facility does not comply with one or more of the applicable substantive
36 criteria, the applicant must demonstrate that the facility nevertheless complies with the
37 applicable statewide planning goals or that an exception to a goal is justified under ORS
38 469.504(2) and OAR 345-022-0030(4).

39 Exhibit K shall also provide evidence that the proposed facility would comply with any directly-
40 applicable Land Conservation and Development Commission (LCDC) administrative rules and

1 statutory requirements related to the proposed facility, including ORS 215.283 and 215.274,
2 and specifically including all requirements regarding the location of the proposed facility within
3 the EFU zone. Exhibit K shall provide evidence that the proposed facility would comply with the
4 applicable administrative rules at OAR 660-033-0130(38) related to development of solar power
5 generation facilities, as well as rules related to associated transmission lines to energy
6 generating facilities.

7
8 Solar photovoltaic facilities that are proposed to use more than 12 acres of high-value
9 farmland, 20 acres of arable land, or 320 acres of other land require a Goal 3 exception. The
10 Council’s goal exception process is described at OAR 345-022-0030(4). A Goal 3 exception is
11 necessarily based on site-specific issues and reasons; as such, the applicant must provide site-
12 specific evidence that the proposed facility should be granted a Goal 3 exception.
13

14 **(l) Exhibit L – Protected Areas**

15 **Applicable Paragraphs:** All paragraphs apply.

16 **Related Council and Other Standards:** Protected Areas [OAR 345-022-0040]

17 **Discussion:** The application must address the potential impacts to protected areas identified in
18 OAR 345-022-0040 within the analysis area. Please note that compliance with the DEQ noise
19 rules (Exhibit X) does not correlate to compliance with the noise assessment considered in the
20 Protected Areas standard. Particularly, while construction noise is exempt from the DEQ noise
21 rules, construction noise must be considered under the Protected Areas standard. However,
22 information developed to demonstrate compliance with the DEQ noise rules (such as noise
23 modeling) can be used in the assessment under the Protected Areas standard. A visual impact
24 assessment is required as part of Exhibit L; while no specific methodology are required by EFSC
25 rule, the applicant must demonstrate why the proposed facility is compliance with the
26 Protected Areas standard. Visual simulations or other visual representations are not required,
27 but can provide important evidence for use by the Department and Council in understanding
28 the potential visual impact of the proposed facility to Protected Areas.
29

30 **(m) Exhibit M – Financial Capability**

31 **Applicable Paragraphs:** All paragraphs apply.

32 **Related Council and Other Standards:** Retirement and Financial Assurance [OAR 345-022-0050]

33 **Discussion:** The application shall include information about the applicant’s financial capability,
34 including the applicant’s legal authority to construct and operate the proposed facility without
35 violating its bond indenture provisions, articles of incorporation, common stock covenants, or
36 similar agreements. To find that the proposed facility satisfies the Financial Assurance Standard
37 (OAR 345-022-0050(2)), the Council must find that the applicant has a reasonable likelihood of
38 obtaining a bond or letter of credit in a form and amount satisfactory to the Council to restore
39 the site to a useful, non-hazardous condition. The application shall include the type and amount

1 of the applicant's proposed bond or letter of credit to satisfy the requirements of OAR 345-022-
2 0050.

3

4 **(n) Exhibit N – Non-Generating Facility Need**

5 **Applicable Paragraphs:** Exhibit N does not apply because the proposed facility is not a
6 nongenerating facility for which the applicant must demonstrate need for the facility.

7

8 **(o) Exhibit O – Water Use**

9 **Applicable Paragraphs:** All paragraphs apply except (D).

10 **Related Council and Other Standards:** General Standard of Review [OAR 345-022-0000]; OAR
11 690, Divisions 310 and 380 (Water Resources Department permitting requirements)

12 **Discussion:** Exhibit O of the application must describe water use during construction and
13 operation of the proposed facility. The application must identify the sources of water to be
14 used, and include an estimate of the amount of water the facility will need during construction
15 and during operation from each source under annual average and worst-case conditions.

16 If the proposed facility does not need a groundwater permit, a surface water permit, or a water
17 right transfer, Exhibit O shall include an explanation as to why such a permit or transfer is not
18 required for construction and operation of the proposed facility, as required by paragraph (E). If
19 such a permit is necessary, the application shall include the evidence and application materials
20 to support a determination by Council that OWRD should issue such a permit.

21

22 **(p) Exhibit P – Fish and Wildlife Habitat**

23 **Applicable Paragraphs:** All paragraphs apply.

24 **Related Council and Other Standards:** Fish and Wildlife Habitat [OAR 345-022-0060]

25 **Discussion:** The applicant shall consult with ODFW in developing the application materials.
26 Exhibit P shall include analysis of how the evidence provided supports a finding by the Council
27 that the proposed facility meets the Council's Fish and Wildlife Habitat standard. OAR 345-021-
28 0010(1)(p) provides that exhibit P must include a description of biological and botanical surveys
29 performed that support the information in this exhibit, including a discussion of the timing and
30 scope of each survey. Exhibit P must also provide baseline surveys of all state sensitive species
31 that may be present in the analysis area performed according to a protocol approved by the
32 Department and ODFW. This includes surveys for pygmy rabbit, a state sensitive species
33 anticipated to occur in the analysis area, including within the site boundary.

34 The comment letter submitted by ODFW on March 16, 2018 identified the project area falls
35 within mapped ODFW Big Game Winter Range habitat. Big game winter range is classified as
36 Category 2 habitat. Additionally, for pygmy rabbits, a state designated sensitive species, ODFW
37 requests focused, protocol-level surveys specifically designed to detect current or recently

1 vacated pygmy rabbit colonies.⁴ The applicant shall include a description of the nature, extent,
2 and duration of potential adverse impacts and a description of any proposed mitigation
3 measures, consistent with the Exhibit P requirements, the EFSC Fish and Wildlife Habitat
4 standard, and the ODFW Habitat Mitigation Policy.

5 In addition to addressing project impacts to mapped wetlands within the project are in
6 consultation with DSL, the applicant should further evaluate seasonal wet playa impacts that
7 may affect shorebird migration patterns or areas of use in consultation with ODFW.

8 Oregon Fish and Wildlife Habitat Mitigation Policy (OAR Chapter 635, Division 415) classifies six
9 habitat categories and establishes a mitigation goal for each category. The applicant must
10 identify the appropriate habitat category for all areas affected by the proposed facility and
11 provide the basis for each category designation. The habitat classification is subject to the
12 Department and ODFW review. As noted, ODFW commented that the proposed facility would
13 be located in big game winter range and as such, is considered Category 2 habitat. A map
14 showing the different habitat categories is required under sub-paragraph (C) of OAR 345-021-
15 0010(1)(p), and inclusion of vegetation classes within the map is recommended. The map must
16 be of sufficient scale to show details. Exhibit P must include tables depicting the estimated
17 temporary and permanent impacts, broken down by habitat categories and subtype. The
18 applicant must show how it would comply with the habitat mitigation goals and standards by
19 appropriate monitoring and mitigation, including measures proposed by the applicant to avoid,
20 reduce, or mitigate adverse impacts on habitat and state sensitive species. This information
21 should be incorporated into a proposed Revegetation and Noxious Weed Control Plan and a
22 proposed Habitat Mitigation Plan (HMP) as attachments to Exhibit P. Exhibit P and the HMP
23 must clearly demonstrate how the applicant will provide mitigation, including compensatory
24 mitigation, in accordance with the Council's standard. This includes identifying in the HMP a
25 specific habitat mitigation area that could be used to provide compensatory mitigation, as well
26 as ecological uplift mitigation actions that could be implemented at the habitat mitigation area
27 to provide the appropriate mitigation. This information is required for the Department to find
28 the application complete. Additional ODFW guidance and policy clarification for surveys and
29 mitigation was provided to the applicant by the Department in a letter dated May 16, 2017.⁵ If
30 the applicant is contemplating and would like to propose an alternative method of
31 demonstrating compliance with the standard (for example, a "payment to provide" type of
32 mitigation), please be aware that the Department and ODFW will need detailed information in
33 order to validate that the alternative method will be in compliance with the standard.

34

⁴ OSCNOI Reviewing Agency Comment ODFW Muir 2018-03-16

⁵ OSCNOI Reviewing Agency Comment ODFW Mitigation Policy Clarification Reif 2018-05-16

1 **(q) Exhibit Q – Threatened and Endangered Species**

2 **Applicable Paragraphs:** All paragraphs apply.

3 **Related Council and Other Standards:** Threatened and Endangered Species [OAR 345-022-
4 0070]

5 **Discussion:** The Oregon Department of Agriculture provides technical review and
6 recommendations regarding compliance with the Council’s Threatened and Endangered Species
7 standard (OAR 345-022-0070) as it relates to plant species, and ODFW provides technical
8 review and recommendations related to fish and wildlife species. However, the Department has
9 been informed that the Oregon Department of Agriculture no longer supports this program. As
10 such, the Department will conduct the review on behalf of Department of Agriculture and may
11 engage an outside consultant to support its review.

12 The application should include a list of state-listed endangered and threatened, species that
13 have potential to occur in the analysis area. The applicant should identify these species based
14 on a review of literature, consultation with knowledgeable individuals, and reference to the list
15 of species maintained by the Oregon Biodiversity Information Center.

16 Please see the ODFW comment letters on the NOI for information related to specific survey
17 requirements. The applicant should consult with ODFW regarding field survey methods,
18 appropriate survey seasons, qualifications of field survey personnel, and the information to be
19 included in a field survey report. For state-listed threatened or endangered plant species, field
20 surveys are required for any species that may occur within the analysis area and may
21 potentially be impacted by the facility.

22
23 **(r) Exhibit R – Scenic Resources**

24 **Applicable Paragraphs:** All paragraphs apply.

25 **Related Council and Other Standards:** Scenic Resources [OAR 345-022-0080]

26 The application should include an analysis of significant potential impacts of the proposed
27 facility, if any, on scenic resources identified as significant or important in local land use plans,
28 tribal land management plans and federal land management plans for any lands located within
29 the analysis area. For the purposes of Exhibit R, “local” land use plans include state, county, and
30 city planning documents or inventories. The applicant shall also describe the measures it
31 proposes to avoid, reduce, or otherwise mitigate any significant adverse impacts to these scenic
32 resources. A visual impact assessment is required as part of Exhibit R; while no specific
33 methodology is required by EFSC rule, the applicant must demonstrate why the proposed
34 facility is compliance with the Scenic Resources standard. Visual simulations or other visual
35 representations are not required, but can provide important evidence for use by the
36 Department and Council in understanding the potential visual impact of the proposed facility to
37 Scenic Resources.

1 **(s) Exhibit S – Historic, Cultural and Archaeological Resources**

2 **Applicable Paragraphs:** All paragraphs apply.⁶

3 **Related Council and Other Standards:** Historic, Cultural, and Archaeological Resources [OAR
4 345-022-0090]

5 **Discussion:** The application shall include the survey methodology, survey areas, and the results
6 of all surveys conducted for historic, cultural, and archaeological resources, as well as an
7 analysis of any significant adverse impacts anticipated and proposed mitigation measures. The
8 applicant should work closely with the State Historic Preservation Office (SHPO) to understand
9 the report formatting and submission requirements, and to receive guidance on any survey
10 protocols.

11 It is recommended that the applicant discuss the proposed facility with the potentially affected
12 tribes identified by the Legislative Commission on Indian Services, including the Confederated
13 Tribes of Warm Springs, the Klamath Tribes and the Burns Paiute Tribe.

14 As described in the Historic, Cultural, and Archaeological Resources standard at OAR 345-022-
15 0090(2), the Council may issue a site certificate for a facility that would produce power from
16 solar energy without making the findings of the Historic, Cultural, and Archaeological Resources
17 standard at OAR 345-022-0090(1), though the Council may apply the requirements of OAR 345-
18 022-0090(1) to impose conditions on a site certificate issued for such a facility.

19 The comment letter received from SHPO on March 3, 2018 noted that the proposed project
20 area is in an area with one of the highest concentrations of archaeological and cultural
21 properties in the county. Based on SHPO’s comment letter, a robust culture resource
22 assessment under all four of the National Register of Historic Places (NRHP) criteria is to be
23 expected in the site certificate application.

24
25 **(t) Exhibit T – Recreation**

26 **Applicable Paragraphs:** All paragraphs apply.

27 **Related Council and Other Standards:** Recreation [OAR 345-022-0100]

28 **Discussion:** The application shall analyze the importance of recreational opportunities in the
29 analysis area using the factors listed in OAR 345-022-0100(1), discuss any significant potential
30 adverse impacts to important recreational opportunities, and describe measures proposed to
31 avoid, minimize or mitigate those impacts. Please list all recreational opportunities in the
32 analysis area and the applicant’s analysis of whether those recreational opportunities are

⁶ Information concerning the location of archaeological sites or objects may be exempt from public disclosure under ORS 192.501(11). Specific location information about cultural resources should not be included in the text of application for a site certificate. Such information, including archaeological survey reports, should be provided confidentially under separate cover in hard copy format only after consultation with the Department. Confidential material shall also be provided directly to SHPO, following guidance from the Department and SHPO. Please contact the Department to discuss current practices regarding treatment and submittal of confidential material.

1 considered “important” or not. As described under the Protected Areas standard section above,
2 please note that compliance with the DEQ noise rules (Exhibit X) does not correlate to
3 compliance with the noise assessment considered in the Recreation standard. Particularly,
4 while construction noise is exempt from the DEQ noise rules, construction noise must be
5 considered under the Recreation standard. However, information developed to demonstrate
6 compliance with the DEQ noise rules (such as noise modeling) can be used in the assessment
7 under the Recreation standard. A visual impact assessment is required as part of Exhibit T;
8 while no specific methodology is required by EFSC rule, the applicant must demonstrate why
9 the proposed facility is compliance with the Recreation standard. Visual simulations or other
10 visual representations are not required, but can provide important evidence for use by the
11 Department and Council in understanding the potential visual impact of the proposed facility to
12 important Recreation sites.

13

14 **(u) Exhibit U – Public Services**

15 **Applicable Paragraphs:** All paragraphs apply.

16 **Related Council and Other Standards:** Public Services [OAR 345-022-0110]

17 **Discussion:** The application shall provide information related to the facility’s potential impacts
18 to the ability of public and private providers within the analysis area to provide: sewers and
19 sewage treatment, water, storm water drainage, solid waste management, housing, traffic
20 safety, police and fire protection, health care and schools (OAR 345-022-0110). Applications for
21 site certificate typically include letters from local public services providers, including local fire
22 departments and police departments, to demonstrate that the proposed facility will not cause a
23 significant adverse impact on the ability of those providers to provide their services, in
24 accordance with the Public Services standard.

25 As described in the Public Services standard at OAR 345-022-0110(2), the Council may issue a
26 site certificate for a facility that would produce power from solar energy without making the
27 findings of the Public Services standard at OAR 345-022-0110(1), though the Council may apply
28 the requirements of OAR 345-022-0110(1) to impose conditions on a site certificate issued for
29 such a facility.

30

31 **(v) Exhibit V – Solid Waste and Wastewater**

32 **Applicable Paragraphs:** All paragraphs apply

33 **Related Council and Other Standards:** Waste Minimization [OAR 345-022-0120]; Public Services
34 [OAR 345-022-0110]

35 **Discussion:** To support a finding by the Council as required by OAR 345-022-0120, the
36 application shall provide information about the applicant’s plans to minimize the generation of
37 solid waste and wastewater in the construction and operation of the facility, and to recycle or

1 reuse solid waste and wastewater. Information in Exhibit V may be incorporated by reference in
2 Exhibit U’s discussion of impacts to solid waste and wastewater service providers.

3 As described in the Waste Minimization standard at OAR 345-022-0120(2), the Council may
4 issue a site certificate for a facility that would produce power from solar energy without making
5 the findings of the Waste Minimization standard at OAR 345-022-0120(1), though the Council
6 may apply the requirements of OAR 345-022-0120(1) to impose conditions on a site certificate
7 issued for such a facility.

8

9 **(w) Exhibit W – Facility Retirement**

10 **Applicable Paragraphs:** All paragraphs apply.

11 **Related Council and Other Standards:** Retirement and Financial Assurance [OAR 345-022-0050]

12 **Discussion:** The application shall provide an estimate of the total and unit retirement costs per
13 acre of development (not per megawatt), including a detailed explanation, assumptions, and
14 justification of the methodology it uses to estimate site restoration costs. The Council’s
15 Retirement Standard requires evidence that the site can be restored, following facility
16 retirement, to a useful and non-hazardous condition.

17

18 **(x) Exhibit X – Noise**

19 **Applicable Paragraphs:** All paragraphs apply.

20 **Related Council and Other Standards:** General Standard of Review [OAR 345-022-0000]; DEQ
21 Noise Control Regulations [ORS 467.020 and ORS 467.030; OAR 340, Division 35]

22 **Discussion:** The application shall contain a noise analysis and information to support a Council
23 finding that the proposed facility would comply with applicable DEQ noise control standards in
24 OAR 340-035-0035.

25

26 **(y) Exhibit Y – Carbon Dioxide Emissions**

27 **Applicable Paragraphs:** Exhibit Y does not apply because the proposed facility is not a base load
28 gas plant, a non-base load power plant, or a non-generating energy facility that emits carbon
29 dioxide.

30

31 **(z) Exhibit Z – Cooling Tower Impacts**

32 **Applicable Paragraphs:** Exhibit Z does not apply because the proposed facility would not
33 include an evaporative cooling tower.

34

1 **(aa) Exhibit AA – Electric and Magnetic Fields**

2 **Applicable Paragraphs:** All paragraphs apply.

3 **Related Council and Other Standards:** General Standard of Review [OAR 345-022-0000]

4 **Discussion:** As the proposed facility would have a transmission line as a related and supporting
5 facility, the provisions of Exhibit AA apply.

6

7 **(bb) Exhibit BB – Other Information**

8 **Related Council Standard:** General Standard of Review [OAR 345-022-0000]

9 No additional information is required.

10

11 **(cc) Exhibit CC – Other Law**

12 **Related Council Standard:** General Standard of Review [OAR 345-022-0000]

13 All requirements apply.

14

15 **(dd) Exhibit DD – Specific Standards**

16 **Applicable Paragraphs:** Paragraph (C) applies.

17 **Related Council and Other Standards:** Specific Standards for Transmission Lines [OAR 345-024-
18 0090]

19 **Discussion:** The Council applies specific standards for transmission lines under its jurisdiction in
20 OAR 345-024-0090. The applicant should provide analysis regarding compliance with OAR 345-
21 024-0090 in Exhibit DD.

22

23 **IV. ANALYSIS AREAS FOR THE PROPOSED FACILITY**

24 The analysis areas are the areas that the applicant must study for potential impacts from the
25 construction and operation of the proposed facility. Some of the analysis areas described in this
26 Project Order do not limit the applicant’s responsibility to assess the potential impacts of the
27 facility. They are the areas in which significant adverse impacts from the proposed facility are
28 likely to occur. If significant impacts associated with the applicable Council standards⁷ could
29 occur beyond the analysis areas described here, then the applicant must assess those impacts
30 in the application for a site certificate and show how the facility would comply with the
31 applicable standard with regard to the larger area where impacts could occur.

⁷ OAR 345-022-0080 - Scenic Resources, OAR 345-022-0100 – Recreation, and OAR 345-022-0110 - Public Services directly reference the analysis area as described in the Project Order.

1 For all potential impacts, the analysis area includes all the area within the site boundary, as
 2 defined in OAR 345-001-0010(55) as well as any additional distances beyond the site boundary
 3 described in Table 2 below. The application for site certificate must specifically describe the site
 4 boundary and provide a map showing the proposed site boundary, including all related and
 5 supporting facilities. The minimum required analysis areas are presented in Table 2.

6 **Table 2. Analysis Areas**

Affected Standard or Resource	Exhibit	Analysis Area ⁸
Structural Standard	Exh. H	The area within the site boundary, notwithstanding the distances related to an assessment of seismic hazards required by OAR 345-021-0010(1)(h).
Soil Protection	Exh. I	The area within the site boundary and 500 feet from the site boundary.
Wetlands	Exh. J	The area within the site boundary.
Land Use	Exh. K	The area within the site boundary and 0.5 miles from the site boundary.
Protected Areas	Exh. L	The area within the site boundary and 20 miles from the site boundary.
Fish and Wildlife Habitat	Exh. P	The area within the site boundary and 0.5 miles from the site boundary.
Threatened and Endangered Species	Exh. Q	The area within the site boundary and 5 miles from the site boundary.
Scenic Resources	Exh. R	The area within the site boundary and 10 miles from the site boundary.
Historic, Cultural and Archaeological Resources	Exh. S	The area within the site boundary (pedestrian archaeological field survey and desktop review). The area within the site boundary and 1 mile of the site boundary (desktop review).
Recreation	Exh. T	The area within the site boundary and 5 miles from the site boundary.
Public Services	Exh. U	The area within the site boundary and 15 miles from the site boundary.

⁸ The applicant should note that analysis areas defined in this Project Order are to be used for the assessment of impacts to the associated resource. The applicant is not required to perform comprehensive field surveys of the entire analysis area if another method of impact assessment is suitable. However, the Department reserves the right to require field surveys if it is determined that a different method of analysis is insufficient to provide the level of information necessary to find the application complete. It is recommended that the Department be consulted if the applicant wishes to propose alternative methods of analysis than field surveys.

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V. COMMENTS FROM THE PUBLIC AND REVIEWING AGENCIES

The Department received approximately 44 public comments and 10 reviewing agency comment letters on the NOI. Comments submitted are on-the record and must be provided in written form, such as an email or letter. These comments have been provided under separate cover to the applicant and are incorporated by reference in this order. Within each applicable exhibit of the application, the applicant shall address those concerns raised by the public and reviewing agencies that are within the jurisdiction of the Council.

VI. EXPIRATION DATE OF THE NOTICE OF INTENT

In accordance with OAR 345-020-0060, the Obsidian Solar Center NOI will expire two years after the date of submittal, on January 12, 2020, unless the applicant submits a petition to Council to extend the expiration date. Such a petition must be submitted no less than 45 days before the NOI expiration date. If the Council finds that the extension petition shows good cause, it may extend the NOI expiration date by up to one year.

VII. PROJECT ORDER AMENDMENT AND APPLICATION COMPLETENESS

The Council or the Department may amend this Project Order at any time [OAR 345-015-0160(3)]. Amendment may include changes to the analysis areas. To issue a site certificate, the Council must determine that the proposed facility complies with Oregon statutes and administrative rules identified in the Project Order, as amended, as applicable to the issuance of a site certificate for the proposed facility (ORS 469.503(3)).

Under OAR 345-015-0190(5), when the Department determines the application for a site certificate contains adequate information for the Council to make findings or impose conditions on all applicable Council standards, the Department will find the application for a site certificate complete. The Department may find the application complete without requiring the applicant to submit all information described under OAR 345-021-0000 and 0010. In accordance with OAR 345-015-0190(9), after a determination that an application for a site certificate is complete, the Department may require additional information from the applicant if the Department identifies a need for that information during its review of the application for a site certificate.

VIII. APPLICABILITY AND DUTY TO COMPLY

Failure to include an applicable statute, rule, ordinance, permit or other requirement in this Project Order does not render that statute, rule, ordinance, permit or other requirement inapplicable, nor in any way relieves applicant from the duty to comply with the same.

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OREGON DEPARTMENT OF ENERGY



Todd R. Cornett, Assistant Director, Siting Division
Energy Facility Siting Division
Oregon Department of Energy

Date of Issuance: May 24, 2018