

**OREGON DEPARTMENT OF ENERGY**

Statutes, Administrative Rules and Other )  
Requirements Applicable to the Application for Site )  
Certificate for **Archway Solar Energy Facility** )

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**PROJECT ORDER**

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

**Issued September 9, 2020**

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1 **I. INTRODUCTION**

2  
3 The Oregon Department of Energy (ODOE or Department) received a Notice of Intent (NOI) on  
4 June 23, 2020 from Archway Solar Energy LLC (applicant), a wholly owned subsidiary of  
5 Invenergy Development North America LLC. The NOI was submitted in accordance with OAR  
6 345-020-0006 and provides information about the proposed site and characteristics of the  
7 Archway Solar Energy Facility (proposed facility), a proposed 400 megawatt (MW) solar  
8 photovoltaic energy facility that would use or occupy up to 3,650 acres of Agricultural (A-2)  
9 zoned, nonarable land in Lake County, Oregon.<sup>1</sup> The proposed facility would be located on both  
10 public (Bureau of Land Management-owned land) and private land.

11  
12 Following review of an NOI, pursuant to Oregon Revised Statute (ORS) 469.330(3) and OAR 345-  
13 015-0160, the Department issues a Project Order to the applicant establishing the statutes,  
14 administrative rules, Council standards, local ordinances, information and study requirements  
15 for the application for site certificate (ASC). Accordingly, the Department issues this Project  
16 Order establishing the requirements for the ASC for the proposed facility. As provided in ORS  
17 469.330(4), this is not a final order and the Department or the Energy Facility Siting Council  
18 (EFSC or Council) may amend this Project Order at any time.

19  
20 ORS 469.401(4) provides that a site certificate issued by the Council does not govern certain  
21 matters. The Project Order identifies only those matters that will be included in and governed  
22 by the site certificate, if issued by EFSC, and as applicable to issuance of the site certificate for  
23 the proposed facility pursuant to ORS 469.503(3). Throughout this Project Order, the definitions  
24 in ORS 469.300 and OAR 345-001-0010 apply, except where otherwise stated or where the  
25 context indicates otherwise.

26  
27 As presented in the NOI, the proposed facility is a 400 MW solar photovoltaic energy  
28 generation facility that would occupy up to 3,650 acres of Agricultural (A-2) zoned, nonarable  
29 land in Lake County. Energy generation components would consist of solar power blocks  
30 (modules, inverters, trackers and racks), steel posts, above and belowground cabling system  
31 and inverter/transformer units. Proposed related and supporting facilities to the energy facility  
32 would consist of a lithium-ion or flow battery energy storage system; generator step-up  
33 transformer and collection substation; 500 kilovolt (kV) substation; 500 kV transmission line:  
34 operations and maintenance (O&M) building; perimeter fencing; and temporary construction  
35 staging areas. The proposed energy facility and its related or supporting facilities are referred to  
36 as the proposed facility.

37  
38 On July 22 and August 1, 2020, the Department issued public notice of the NOI to the EFSC  
39 mailing list, adjacent property owners as defined at OAR 345-020-0011(1)(f), and newspaper

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<sup>1</sup> Pursuant to ORS 469.300(11)(a)(D), proposed solar photovoltaic energy generation facilities that would use or occupy more than 1,920 acres of “other land” are energy facilities under State jurisdiction, which requires approval and issuance of a site certificate by the Oregon Energy Facility Siting Council prior to construction and operation of the facility.

1 publications with general circulation within the vicinity of the proposed facility site (*Lake*  
2 *County Examiner, Community Breeze* and *Desert Whispers*). The public notice included  
3 information regarding the proposed facility and the EFSC review process, and established  
4 September 4, 2020 as the public comment deadline for the NOI.

5  
6 Pursuant to ORS 469.480(1), the Council must designate as a Special Advisory Group (SAG) the  
7 governing body of any local government within whose jurisdiction the facility is proposed to be  
8 located. At the July 24, 2020 EFSC meeting, the Council appointed the Lake County Board of  
9 County Commissioners as the SAG.<sup>2</sup>

10  
11 In compliance with OAR 345-021-0050(1), ODOE prepared a memorandum to reviewing  
12 agencies, Tribal Governments, and the SAG, and compiled a distribution list, including all  
13 reviewing agencies identified and defined in OAR 345-001-0010(52). In accordance with ORS  
14 469.350(2) and OAR 345-020-0040, on August 11, 2020 ODOE sent the memorandum and a  
15 hyperlink for electronic access to the NOI to each of the reviewing agencies, Tribal  
16 Governments and SAG, as presented in Table 1 below. The Department requested comments  
17 from reviewing agencies on or before August 28, 2020. Consistent with ORS 469.330(3),  
18 throughout July and August 2020, the Department conducted phone conferences with staff  
19 from the Lake County Planning Department, on behalf of the SAG; reviewing agencies; and,  
20 Tribal Governments and presented at a Lake County Board of Commissioners' meeting to  
21 discuss the NOI, the proposed facility and the EFSC review process.

22  
23 As discussed in Section V. *Comments on the Notice of Intent*, and in accordance with OAR 345-  
24 015-0140, the Department sent the applicant a copy of each reviewing agency comment letter  
25 received for their review and consideration in preparing the application for site certificate; no  
26 public comments were received on the NOI during the July 22 through September 4, 2020  
27 comment period.<sup>3</sup>

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<sup>2</sup> 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."

<sup>3</sup> The Department received several inquiries, via telephone and email, from the general public about the proposed facility; however, none of the inquiries were considered comments on the NOI.

1

**Table 1. Reviewing Agency Distribution List**

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

2

3 **II. EFSC REGULATORY FRAMEWORK**

4

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

9

10 **OAR Chapter 345, Division 21** (Site Certificate Application Requirements) includes the  
 11 primary site certificate application requirements (see Section III. *Application*  
 12 *Requirements* of this Project Order).

13

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

19

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

1 standard that applies to the proposed facility is OAR 345-024-0090, Siting Standards for  
2 Transmission Lines.

3  
4 **OAR Chapter 345, Division 25** (Site Certificate Conditions) includes the mandatory  
5 conditions that EFSC must apply to all site certificates, as well as applicable site-specific  
6 and monitoring conditions. Note that per the mandatory condition included at OAR 345-  
7 025-0006(10), the Council will include as conditions in the site certificate, if issued, all  
8 representations of mitigation made in the ASC and supporting record that the Council  
9 deems to be binding commitments made by the applicant.

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

### 19 20 **III. APPLICATION REQUIREMENTS**

21  
22 The applicant must submit information required under OAR 345-021-0000, including, for all  
23 state and local government agency permit approvals that the applicant proposes to be included  
24 in and governed by the site certificate, the submittal of information that would otherwise be  
25 required by the state or local government agency in an application for such permit, license or  
26 certificate [OAR 345-021-0000(6)]. The applicant shall also submit copies of the applications for  
27 federally-delegated permits that are needed for construction or operation of the proposed  
28 facility [OAR 345-021-0000(7)]. OAR 345-021-0010(1) identifies the required contents of an  
29 ASC. Each of the paragraphs below indicates which provision(s) of OAR 345-021-0010(1)(a) –  
30 (dd) apply to the proposed facility. The ASC shall also include the information described in OAR  
31 345-021-0010(3).

#### 32 33 **(a) Exhibit A – General Information about the Applicant**

34  
35 **Applicable Paragraphs:** All paragraphs apply except (C), (E), (F), and (G)

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

37 **Discussion:** Note that paragraph (B) calls for a list of “participating persons, other than  
38 individuals.” Please note the definition of “Person” in ORS 469.300(21). Please also note that  
39 the applicant is required to notify the Department of any change in the identity or ownership of  
40 the applicant prior to the change. This notification requirement continues to apply until the  
41 Council issues a final order on the ASC.

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

2  
3   **Applicable Paragraphs:** All paragraphs apply except (A)(vi), (A)(vii), (A)(viii), and (E)(iv).  
4   Paragraph (D) only applies if the proposed transmission line meets the definition of an energy  
5   facility at ORS 469.300(11)(a)(C).

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

7   **Discussion:** The description of the proposed facility in the ASC will form the basis for the  
8   description of the facility in the site certificate. The applicant would be required to build the  
9   facility “substantially as described” in the site certificate, if approved and issued by Council  
10   (OAR 345-025-0006(3)(a)). The description should include details of facility construction,  
11   including primary activities and any phasing; and details of routine operations and maintenance  
12   activities. The ASC shall also describe all related or supporting facilities, including any structure  
13   constructed or substantially modified solely to serve the proposed facility such as the point of  
14   interconnect 500 kV substation, internal and external access roads and driveways, operations  
15   and maintenance building, above- and belowground transmission and collector lines, collection  
16   substations, and any other related and supporting facility proposed by the applicant. If the  
17   applicant requests Council review and approval of flexibility to site proposed facility  
18   components anywhere within the site boundary, the applicant must evaluate impacts of siting  
19   facility components anywhere within the entirety of the site boundary (i.e. desktop and field  
20   surveys must include all site boundary area; impact assessment must be based on maximum  
21   impact facility layout option within the site boundary).

22  
23           **(c) Exhibit C – Location**

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

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

27   **Discussion:** Maps shall indicate the “site boundary” as defined in OAR 345-001-0010(55),  
28   including any proposed transmission line routes and corridors which the applicant seeks Council  
29   approval. If applicant seeks flexibility to site facility components anywhere within the site  
30   boundary, please identify in maps and include an evaluation to support the facility “micrositing  
31   area,” to be consistent with the intent of a “micrositing corridor” (OAR 345-001-0010(32)).  
32   Maps shall provide enough information for property owners potentially affected by the  
33   proposed facility to determine whether their property is within or adjacent to property for  
34   which the site boundary is located. Major roads shall be accurately named. The Department  
35   notes that the applicant has already shared GIS data for the proposed facility, and requests  
36   updated GIS data if there are changes to the site boundary or proposed facility layout between  
37   the NOI and the submittal of the preliminary ASC (pASC).

38  
39           **(d) Exhibit D – Organizational Expertise**

40  
41   **Applicable Paragraphs:** All paragraphs apply.

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

43   **Discussion:** The Council’s review for the Organizational Expertise standard includes the  
44   applicant’s ability to construct, operate, and retire the proposed facility in compliance with



1 Council standards and conditions of the site certificate; and, in a manner that protects public  
2 health and safety. Please address safety programs or plans developed by the applicant in  
3 response to wildfire response at the site, and potential safety risks from operation of the  
4 battery energy storage system (thermal runaway events, etc.) and fire control systems that  
5 would minimize and control such risk. Please note that Exhibit D requires that if the applicant  
6 relies upon mitigation to meet any applicable Council standard, that the applicant provide  
7 evidence (i.e. detailed description of mitigation projects) that it can successfully complete such  
8 proposed mitigation.  
9

10 **(e) Exhibit E – Permits**  
11

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

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

14 **Discussion:** Exhibit E shall describe and discuss all permits that the applicant proposes to be  
15 included in and governed by the site certificate, as well as state and local permits that are  
16 related to the siting, construction, or operation of the proposed facility but are proposed by the  
17 applicant to not be included in and governed by the site certificate. Exhibit E shall also describe  
18 required federal and federally-delegated permits. For federally-delegated permits needed for  
19 construction or operation, the applicant must submit a copy of the permit application to the  
20 Department, as required under OAR 345-021-0010(1)(e)(F)(ii).  
21

22 **Federal Approvals**

23 ***Bureau of Land Management***

24 **Statute and Rule References:** 90 Stat. 2776; 43 USC 1761

25 **Permits:** Right of Way Grant

26 **Discussion:** The Bureau of Land Management (BLM) issues Right of Way Grants authorizing use  
27 of, or impacts to, BLM owned land. As described in the June 2020 NOI, two right of way grants  
28 are required for the proposed facility, including an access road and transmission line crossing  
29 on BLM owned parcels.  
30

31 **Federally-delegated Permits**

32 ***Oregon Department of Environmental Quality – Air Quality Division***

33 **Statute and Rule References:** OAR Chapter 340, Division 216

34 **Permits:** General Air Contaminant Discharge Permit (ACDP)

35 **Discussion:** The United States Environmental Protection Agency (EPA) has delegated authority  
36 to the Oregon Department of Environmental Quality (DEQ) to administer air quality under the  
37 Clean Air Act. As described in the June 2020 NOI, a mobile concrete batch plant may be utilized  
38 during proposed facility construction, with permits obtained by the applicant’s third-party  
39 contractor. The mobile concrete batch plant would require a General Air Contaminant  
40 Discharge Permit (ACDP). A General ACDP authorizes operation of a concrete manufacturing  
41 plant that produces more than 5,000 but less than 25,000 cubic yards per year output.  
42

1 **Oregon Department of Environmental Quality – Water Quality Division**

2 **Statute and Rule References**

- 3 • ORS Chapter 468B (Water Quality)
- 4 • OAR Chapter 340, Division 45 (Regulations Pertaining To National Pollutant Discharge Elimination System (NPDES) and Water Pollution Control Facilities (WPCF) Permits)
- 5 • OAR Chapter 340, Division 48 (Certification of Compliance with Water Quality Requirements and Standards)

6 **Permits:** NPDES Construction Storm Water 1200-C permit: Clean Water Act Section 401 Water Quality Certification; Section 404 Permit

7 **Discussion:** The EPA has delegated authority to DEQ to issue NPDES Storm Water Discharge permits for construction and operation activities. Based upon the information in the NOI, a NPDES 1200-C permit would be required for facility construction. In accordance with OAR 345-021-0010(1)(e)(F)(ii), the applicant must submit to the Department one copy of all applications for federally-delegated permits (including the NPDES permit), or provide a schedule of the date by which the applicant intends to submit the application. The DEQ response letter must state that the agency has received a permit application from the applicant, and provide an estimated date when the agency will complete its review and issue a permit decision. The applicant may incorporate this information into Exhibit I (Soils) or Exhibit BB (Other Information) of the ASC.

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

25 **State Permits**

26 **Oregon Department of State Lands**

27 **Statute and Rule References**

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

30 **Permit:** Removal-Fill Permit

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

32 Based on the NOI, the Department understands that a removal-fill permit may be needed. If needed, the applicant must provide the information required by Exhibit J. To confirm whether a removal-fill permit is needed, the applicant must conduct a wetland delineation, to be reviewed by Department of State Lands (DSL) for concurrence, according to OAR Chapter 141, Division 90 rules. The wetland delineation determines the location of “waters of this state,” as defined in

1 OAR 141-085-0510(91), within the analysis area. If a removal-fill permit is required, the ASC  
2 shall include a wetland delineation report and an application for a removal-fill permit which  
3 demonstrates consistency with ORS 196.825(1) and provides enough information for  
4 considerations under ORS 196.825(3). The applicant should consult directly with DSL regarding  
5 the applicable regulations.

6  
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  
11 ***Oregon Department of Environmental Quality***

12 **Statute and Rule References**

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

17 **Permits:** Onsite Sewage Disposal Construction-Installation Permit; WPCF General Permit 1000

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

26  
27 Disposal of concrete batch plant wash water (if a temporary batch plant is necessary) would  
28 require a WPCF General Permit 1000. The applicant indicates that its third-party contractor  
29 would obtain the necessary WPCF 1700-B permit directly from DEQ; therefore, this permit  
30 would not be included in and governed by the site certificate (see the Third-Party Permits  
31 discussion below).

32  
33 ***Oregon Water Resources Department***

34 **Statute and Rule References**

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

37 **Permits:** None

38 **Discussion:** The applicant proposes to construct and operate a 5,000 gallons per day, on-site  
39 well to supply the water needs for the O&M building(s); based on the withdrawal amount, the  
40 well would be exempt from OWRD permit requirements.

1 ***Oregon Department of Transportation***

2 **Statute and Rule References:** OAR Chapter 734, Division 51 (Highway Approaches, Access  
3 Control, Spacing Standards, and Medians)

4 **Permits:** Oversize Load Movement Permit/Load Registration

5 **Discussion:** Movement of large equipment and materials could require an Oversize Load  
6 Movement permit. These permits are not related to facility siting and are not included in or  
7 governed by the site certificate. The applicant or its contractor must secure any applicable  
8 ODOT permits directly from ODOT, independent of the site certificate process.

9  
10 ***State Historic Preservation Office***

11 **Statute and Rule References**

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

14 **Permits:** Archaeological Excavation Permit

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

21  
22 During facility construction, if a previously unidentified archaeological site is discovered, all  
23 construction will cease and the applicant will report the finding to SHPO and ODOE  
24 immediately. In that instance, the permit may be required based on SHPO's determination. This  
25 permit will not be included in and governed by the site certificate.

26  
27 SHPO issues archaeological excavation permits in accordance with ORS 390.235 and OAR 736-  
28 051-0000 through 0090. Archaeological permits have a 30-day review period, require tribal  
29 consultation during review, and must meet SHPO standards.

30  
31 **Local Permits**

32 **Land Use Development Code References**

- 33 • Lake County Development Code (Adopted May 1980; Amended September 1989)
- 34 • Lake County Comprehensive Plan (Adopted May 1980; Amended June 1989)

35 **Permits:** Building Permit (O&M building, collection substation, 500 kV substation, battery  
36 energy storage system)

37 **Discussion:** As stated in the NOI, the applicant requests that EFSC determine compliance with  
38 the substantive criteria of the Lake County Comprehensive Plans and Lake County Development  
39 Code under ORS 469.504(1)(b). Local permits and approvals including a conditional use/zoning  
40 permit and site plan review are incorporated entirely into the ASC process; the only local  
41 permits to be issued outside of the siting process include building permits for structures (O&M  
42 building, collection substation, 500 kV substation, battery energy storage system).

1 **Third-Party Permits**

2 As noted in the NOI, the applicant may rely upon third-party permits for access to resources  
3 necessary for facility construction and operation. If the applicant relies upon a state or local  
4 government permit issued to a third party that is related to the siting of the proposed facility,  
5 the applicant must identify each third-party permit, and, for each, include evidence that the  
6 applicant has, or has a reasonable likelihood of entering into, a contract or other agreement  
7 with the third party for access to the resource or service to be secured by that permit; evidence  
8 that the third party has or, has a reasonable likelihood of obtaining, the necessary permit; and,  
9 an assessment of the impact of the proposed facility on any permits that a third party has  
10 obtained and on which the applicant relies to comply with any applicable Council standard  
11 (OAR 345-021-0010(1)(e)(E)).

12  
13 If the applicant relies on a federally-delegated permit issued to a third party that is related to  
14 the siting of the proposed facility, the applicant must identify the third-party permit and include  
15 evidence that the applicant has, or has a reasonable likelihood of entering into, a contract or  
16 other agreement with the third party for access to the resource or service to be secured by that  
17 permit. The applicant must provide evidence that the responsible agency has received the  
18 permit application, and provide the estimated date when the responsible agency will complete  
19 its review and issue a permit decision (OAR 345-021-0010(1)(e)(F)).

20  
21 In accordance with OAR 345-022-0010(4), if the applicant relies on a permit or approval issued  
22 to a third party and the third party does not have the necessary permit or approval at the time  
23 the Council issues the site certificate, the Council may issue the site certificate subject to the  
24 condition that the certificate holder shall not commence construction or operation as  
25 appropriate until the third party has obtained the necessary permit or approval and the  
26 applicant has a contract or other arrangement for access to the resource or service secured by  
27 that permit or approval.

28  
29 **(f) Exhibit F – Property Owners**

30  
31 **Applicable Paragraphs:** Paragraph (C) of the rule applies.

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

33 **Discussion:** As the proposed facility would be located entirely within Agricultural Use (A-2)  
34 zoned land, OAR 345-020-0010(1)(f)(C) applies and requires notice to property owners within  
35 500 feet of the property which is the subject of the ASC (i.e. 500 feet from the property  
36 boundary of the property on which the site boundary is located). The Council requires notice to  
37 all owners of record, as shown on the most recent property tax assessment roll within the  
38 specified distance from the property of the proposed facility. In order to ensure notifications are  
39 provided using an up-to-date property owner list, Exhibit F in the pASC should indicate that,  
40 pursuant to direction by the Department, the property owner list will be generated just prior to  
41 the Department’s determination of ASC completeness and in coordination with Department  
42 staff.

1 The property owner notification list must be accompanied by maps that include the site  
2 boundary, the tax lots on which the site boundary is located, the buffered area surrounding the  
3 tax lots on which the site boundary is located consistent with the OAR 345-021-0010(1)(f)(C) site  
4 distance requirement, and the properties/tax lots that are within the applicable distances. Maps  
5 shall correspond to the property owner list, be legible and clearly identify tax lot ID numbers as  
6 well as adjacent road names, as applicable.

7  
8 **(g) Exhibit G – Materials Analysis**

9  
10 **Applicable Paragraphs:** All paragraphs apply.

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

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

18  
19 **(h) Exhibit H – Geologic and Soil Stability**

20  
21 **Applicable Paragraphs:** All paragraphs apply.

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

23 **Discussion:** The Oregon Department of Geology and Mineral Industries (DOGAMI) provides  
24 technical review and recommendations on compliance with the Council’s Structural Standard.  
25 The applicant must provide a summary of consultation with DOGAMI regarding the appropriate  
26 methodology and scope of the seismic hazards and geology and soil-related hazards  
27 assessments, and the appropriate site-specific geotechnical work that must be performed for  
28 the ASC. A geologic report included in Exhibit H shall meet the Oregon State Board of Geologist  
29 Examiners geologic report guidelines, as determined based on consultation with DOGAMI.  
30 As described in the Structural Standard at OAR 345-022-0020(2), the Council may not impose  
31 the Structural Standard to approve or deny an ASC for a proposed facility that would produce  
32 power from solar energy, though the Council may apply the requirements of OAR 345-022-  
33 0020(1) to impose conditions on a site certificate issued for such a facility.

34  
35 **(i) Exhibit I – Soils**

36  
37 **Applicable Paragraphs:** All paragraphs apply.

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

39 **Discussion:** This exhibit shall identify the major soil types and include a description of current  
40 and historical, if distinct from current, land uses that require or depend on productive soils. The  
41 applicant shall include information describing the impact of construction and operation of the  
42 proposed facility on soil conditions in the analysis area, including potential impacts to soils on  
43 adjacent properties. The application can cross-reference information related to the federally-  
44 delegated NPDES 1200-C permit application, as applicable. An erosion and sediment control

1 plan must be provided for review if the applicant will rely upon the erosion and sediment  
2 control plan to meet the Soil Protection standard. Please note that an erosion and sediment  
3 control plan that meets the NPDES 1200-C requirements may not necessarily be sufficient to  
4 meet the EFSC Soil Protection standard.

5  
6 **(j) Exhibit J – Waters of the State and Removal-Fill**

7  
8 **Applicable Paragraphs:** All paragraphs apply.

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

13 **Discussion:** Per Exhibit J requirement, the ASC shall include a description of all areas within the  
14 site boundary that might be waters of this state and a map(s) showing the location of these  
15 features. Based on the NOI, ODOE understands that a removal-fill permit may be necessary for  
16 the facility and that a wetland delineation report submitted to DSL in March 2020 is close to  
17 review completion. If determined necessary by the applicant, following DSL’s review of the  
18 wetland delineation report, the information required for Council to make a decision on the  
19 removal-fill permit application must be included in the ASC. Wetland delineation reports and  
20 removal-fill permit application materials can be sent directly by the applicant to DSL; however,  
21 please note that all materials must also be submitted to the Department as part of the ASC. The  
22 Department will work closely with DSL in review of the removal-fill permit application, if  
23 applicable. For EFSC-jurisdictional facilities, authorization of a removal-fill permit is an EFSC  
24 decision, should a permit be issued, DSL will maintain the ongoing responsibility for compliance  
25 with any associated permit conditions.

26  
27 **(k) Exhibit K – Land Use**

28  
29 **Applicable Paragraphs:** Paragraphs (A) and (C) of the rule apply.

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

31 **Discussion:** The Council’s Land Use standard requires an evaluation for compliance with the  
32 statewide planning goals. Under 469.504(1), the applicant may establish compliance with the  
33 applicable statewide planning goals either by obtaining local land use approval under ORS  
34 469.504(1)(a) or by obtaining Council approval under ORS 469.504(1)(b). The applicant has  
35 indicated in the NOI that it has elected to seek a Council determination of compliance under  
36 ORS 469.504(1)(b). Within Exhibit K, since the applicant has elected to obtain a Council  
37 determination on land use under ORS 469.504(1)(b), paragraphs A, C and D of OAR 345-021-  
38 0010(1)(k) apply; paragraph B does not apply.

39  
40 The facility would be located on A-2-zoned land in Lake County. Pursuant to ORS 469.480 and in  
41 preparation for review of the proposed facility, at its July 24, 2020 meeting the Council  
42 appointed the Lake County Board of County Commissioners as a Special Advisory Group (SAG).  
43 As provided in ORS 469.401(3), if the Council issues a site certificate, Lake County would be  
44 bound to issue all required permits and other land use approvals, subject to the conditions set

1 forth in the site certificate, that are included in and governed by the site certificate. The  
2 applicant shall discuss each applicable substantive criteria from the Lake County  
3 Comprehensive Plan and Lake County Development Code, and shall demonstrate how the  
4 proposed facility complies with those criteria. The SAG provided its list of applicable substantive  
5 criteria in a comment letter on the NOI. If the proposed facility does not comply with one or  
6 more of the applicable substantive criteria, the applicant must demonstrate that the proposed  
7 facility nevertheless complies with the applicable statewide planning goals or that an exception  
8 to a goal is justified under ORS 469.504(2) and OAR 345-022-0030(4).

9  
10 Exhibit K shall also provide evidence that the proposed facility would comply with any directly-  
11 applicable Land Conservation and Development Commission (LCDC) administrative rules and  
12 statutory requirements related to the proposed facility, including ORS 215.283 and 215.274,  
13 and specifically including all requirements regarding the location of the proposed facility within  
14 the A-2 zone. Exhibit K shall provide evidence that the proposed facility would comply with the  
15 applicable administrative rules at OAR 660-033-0130(38) related to development of solar power  
16 generation facilities, as well as rules related to associated transmission lines to energy  
17 generating facilities.

18  
19 Solar photovoltaic facilities that are proposed to use more than 12 acres of high-value  
20 farmland, 20 acres of arable land, or 320 acres of other land require a Goal 3 exception. The  
21 Council’s goal exception process is described at OAR 345-022-0030(4). A Goal 3 exception is  
22 necessarily based on site-specific issues and reasons; as such, the applicant must provide site-  
23 specific evidence that the proposed facility should be granted a Goal 3 exception.

24  
25 Exhibit K shall also include an evaluation of consistency with relevant requirements imposed  
26 under the Bureau of Land Management’s Resource Management Plan, if adopted, applicable to  
27 the analysis area.

28  
29 **(I) Exhibit L – Protected Areas**

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

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

33 **Discussion:** The ASC must address potential impacts to protected areas identified in OAR 345-  
34 022-0040 within the analysis area. Please note that compliance with the DEQ noise rules  
35 (Exhibit X) does not correlate to compliance with the noise assessment considered in the  
36 Protected Areas standard. Particularly, while construction noise is exempt from the DEQ noise  
37 rules, construction noise must be considered under the Protected Areas standard. However,  
38 information developed to demonstrate compliance with the DEQ noise rules (such as noise  
39 modeling) can be used in the assessment under the Protected Areas standard. A visual impact  
40 assessment is required as part of Exhibit L; while no specific methodology is required by EFSC  
41 rule, the applicant must submit evidence adequate to demonstrate how potential impacts from  
42 the proposed facility would not be likely to result in potentially significant, adverse impacts  
43 under the Protected Areas standard. Visual simulations or other visual representations are not



1 required, but can provide important evidence for use by the Department and Council in  
2 understanding the potential visual impact of the proposed facility to Protected Areas.

3  
4  
5  
6 **(m) Exhibit M – Financial Capability**

7  
8 **Applicable Paragraphs:** All paragraphs apply.

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

10 **Discussion:** The ASC shall include information about the applicant’s financial capability,  
11 including the applicant’s legal authority to construct and operate the proposed facility without  
12 violating its bond indenture provisions, articles of incorporation, common stock covenants, or  
13 similar agreements. To find that the proposed facility satisfies the Retirement and Financial  
14 Assurance standard (OAR 345-022-0050(2)), the Council must find that the applicant has a  
15 reasonable likelihood of obtaining a bond or letter of credit in a form and amount satisfactory  
16 to the Council to restore the site to a useful, non-hazardous condition. The ASC shall include the  
17 type and amount of the applicant’s proposed bond or letter of credit to satisfy the  
18 requirements of OAR 345-022-0050.

19  
20 **(n) Exhibit N – Non-Generating Facility Need**

21  
22 **Applicable Paragraphs:** Exhibit N does not apply because the proposed facility is not a  
23 nongenerating facility.

24  
25 **(o) Exhibit O – Water Use**

26  
27 **Applicable Paragraphs:** All paragraphs apply except (D).

28 **Related Council and Other Standards:** General Standard of Review [OAR 345-022-0000]; OAR  
29 690, Divisions 310 and 380 (Water Resources Department permitting requirements)

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

34  
35 If the proposed facility does not need a groundwater permit, a surface water permit, or a water  
36 right transfer, Exhibit O shall include an explanation as to why such a permit or transfer is not  
37 required for construction and operation of the proposed facility, as required by paragraph (E). If  
38 such a permit is necessary, the ASC shall include the evidence and application materials to  
39 support a determination by Council that OWRD should issue such a permit.

40  
41 **(p) Exhibit P – Fish and Wildlife Habitat**

42  
43 **Applicable Paragraphs:** All paragraphs apply.

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

1 **Discussion:** The applicant shall consult with ODFW in developing the ASC materials. Exhibit P  
2 shall include analysis of how the evidence provided supports a finding by the Council that the  
3 proposed facility meets the Council’s Fish and Wildlife Habitat standard. OAR 345-021-  
4 0010(1)(p) provides that Exhibit P must include a description of biological and botanical surveys  
5 performed that support the information in this exhibit, including a discussion of the timing and  
6 scope of each survey. Exhibit P must also provide baseline surveys of all state sensitive species  
7 that may be present in the analysis area performed according to a protocol approved by the  
8 Department and ODFW.

9  
10 Oregon Fish and Wildlife Habitat Mitigation Policy (OAR Chapter 635, Division 415) classifies six  
11 habitat categories and establishes a mitigation goal for each category. The applicant must  
12 identify the appropriate habitat category for all areas affected by the proposed facility and  
13 provide the basis for each category designation. The habitat classification is subject to the  
14 Department and ODFW review. A map showing the different habitat categories is required  
15 under sub-paragraph (C) of OAR 345-021-0010(1)(p), and inclusion of vegetation classes within  
16 the map is recommended. The map must be of sufficient scale to show details. Exhibit P must  
17 include tables depicting the estimated temporary and permanent impacts, broken down by  
18 habitat categories and subtype.

19  
20 The applicant must show how it would comply with the habitat mitigation goals and standards  
21 by appropriate monitoring and mitigation, including measures proposed by the applicant to  
22 avoid, reduce, or mitigate adverse impacts on habitat and state sensitive species. This  
23 information shall be incorporated into a proposed Revegetation and Noxious Weed Control  
24 Plan and a proposed Habitat Mitigation Plan (HMP) as attachments to Exhibit P. Exhibit P and  
25 the HMP must clearly demonstrate how the applicant will provide mitigation, including  
26 compensatory mitigation, in accordance with the Council’s standard. This includes identifying in  
27 the HMP the location of a specific habitat mitigation area that could be used to provide  
28 compensatory mitigation, as well as ecological uplift mitigation actions that could be  
29 implemented at the habitat mitigation area to provide the appropriate mitigation. The HMP  
30 shall include results of a desktop or field-level survey assessing habitat category of the habitat  
31 mitigation area. The HMP shall describe the mechanism, or mechanism options, for acquiring  
32 the legal right to maintain and enhance the habitat mitigation area. The HMP shall include draft  
33 success criteria for the proposed ecological uplift actions; and describe a process for evaluating  
34 monitoring and reference site locations, prior to construction. This information is required for  
35 the Department to find the application complete.

36  
37 **(q) Exhibit Q – Threatened and Endangered Species**

38  
39 **Applicable Paragraphs:** All paragraphs apply.

40 **Related Council and Other Standards:** Threatened and Endangered Species [OAR 345-022-  
41 0070]

42 **Discussion:** The ASC shall include a list of state-listed endangered and threatened, species that  
43 have potential to occur in the analysis area. The applicant shall identify these species based on

1 a review of literature, consultation with knowledgeable individuals, and reference to the list of  
2 species maintained by the Oregon Biodiversity Information Center.

3  
4 For state-listed threatened or endangered plant species, field surveys are required for any  
5 species that may occur within the analysis area and may potentially be impacted by the facility.  
6 The applicant shall consult with ODFW and Oregon Department of Agriculture Native Plant  
7 Conservation Program, if applicable, regarding field survey methods, appropriate survey  
8 seasons, qualifications of field survey personnel, and the information to be included in a field  
9 survey report.

10  
11 **(r) Exhibit R – Scenic Resources**

12  
13 **Applicable Paragraphs:** All paragraphs apply.

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

15 **Discussion:** The ASC shall include an analysis of significant potential impacts of the proposed  
16 facility on scenic resources identified as significant or important in local land use plans, tribal  
17 land management plans and federal land management plans for any lands located within the  
18 analysis area. For any significant or important scenic resources identified in a local, tribal or  
19 federal land management plan, the applicant shall include in the ASC an evaluation of the  
20 proposed facility’s consistency or compliance with any development or land use criteria  
21 included in the land management plan for the identified resource. The applicant shall also  
22 describe the measures it proposes to avoid, reduce, or otherwise mitigate any significant  
23 adverse impacts to these scenic resources. A visual impact assessment is required as part of  
24 Exhibit R; while no specific methodology is required by EFSC rule, the applicant must submit  
25 evidence adequate to demonstrate why the proposed facility is compliance with the Scenic  
26 Resources standard. Visual simulations or other visual representations are not required, but can  
27 provide important evidence for use by the Department and Council in understanding the  
28 potential visual impact of the proposed facility to Scenic Resources.

29  
30 **(s) Exhibit S – Historic, Cultural and Archaeological Resources**

31  
32 **Applicable Paragraphs:** All paragraphs apply.<sup>4</sup>

33 **Related Council and Other Standards:** Historic, Cultural, and Archaeological Resources [OAR  
34 345-022-0090]

---

<sup>4</sup> 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 must not be included in the text of application for a site certificate. Such information, including archaeological survey reports, shall 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 **Discussion:** The ASC shall include the survey methodology, survey areas, and the results of all  
2 surveys conducted for historic, cultural, and archaeological resources, as well as an analysis of  
3 any significant adverse impacts anticipated and proposed mitigation measures. The applicant  
4 should work closely with the State Historic Preservation Office (SHPO) to understand the report  
5 formatting and submission requirements, and to receive guidance on any survey protocols.  
6

7 It is recommended that the applicant discuss the proposed facility with the potentially affected  
8 tribes identified by the Legislative Commission on Indian Services, including the Klamath Tribes,  
9 Confederated Tribes of Warm Springs and the Burns Paiute Tribe.  
10

11 As described in the Historic, Cultural, and Archaeological Resources standard at OAR 345-022-  
12 0090(2), the Council may issue a site certificate for a facility that would produce power from  
13 solar energy without making the findings of the Historic, Cultural, and Archaeological Resources  
14 standard at OAR 345-022-0090(1), though the Council may apply the requirements of OAR 345-  
15 022-0090(1) to impose conditions on a site certificate issued for such a facility.  
16

17 **(t) Exhibit T – Recreation**

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

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

20 **Discussion:** The ASC shall analyze the importance of recreational opportunities in the analysis  
21 area using the factors listed in OAR 345-022-0100(1), discuss any significant potential adverse  
22 impacts to important recreational opportunities, and describe measures proposed to avoid,  
23 minimize or mitigate those impacts. Please list all recreational opportunities in the analysis area  
24 and the applicant’s analysis of whether those recreational opportunities are considered  
25 “important” or not. As described under the Protected Areas standard section above, please  
26 note that compliance with the DEQ noise rules (Exhibit X) does not correlate to compliance with  
27 the noise assessment considered in the Recreation standard. Particularly, while construction  
28 noise is exempt from the DEQ noise rules, construction noise must be considered under the  
29 Recreation standard. However, information developed to demonstrate compliance with the  
30 DEQ noise rules (such as noise modeling) can be used in the assessment under the Recreation  
31 standard. A visual impact assessment is required as part of Exhibit T; while no specific  
32 methodology is required by EFSC rule, the applicant must submit evidence adequate to  
33 demonstrate how the proposed facility would comply with the Recreation standard. Visual  
34 simulations or other visual representations are not required, but can provide important  
35 evidence for use by the Department and Council in understanding the potential visual impact of  
36 the proposed facility to important Recreation sites.  
37  
38

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

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

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

42 **Discussion:** The ASC shall provide information related to the proposed facility’s potential  
43 impacts to the ability of public and private providers within the analysis area to provide: sewers  
44

1 and sewage treatment, water, storm water drainage, solid waste management, housing, traffic  
2 safety, police and fire protection, health care and schools (OAR 345-022-0110). Applications for  
3 site certificate typically include letters from local public services providers, including local fire  
4 departments and police departments, to demonstrate that the proposed facility would not  
5 cause a significant adverse impact on the ability of those providers to provide their services, in  
6 accordance with the Public Services standard. It is recommended that letters obtained from  
7 public service providers include analysis indicating that their level of service would not be  
8 impacted. In other words, letters obtained from water service providers should include an  
9 evaluation of permit limits and historical demand to demonstrate that it can meet proposed  
10 facility needs. Letters from fire service providers should explain how resources used by the  
11 facility, in the event of a fire-related issue, would not impact their ability to provide fire  
12 emergency response, rather than a conclusory statement without supporting analysis  
13 demonstrating a clear understanding of the facility.

14  
15 As described in the Public Services standard at OAR 345-022-0110(2), the Council may issue a  
16 site certificate for a facility that would produce power from solar energy without making the  
17 findings of the Public Services standard at OAR 345-022-0110(1), though the Council may apply  
18 the requirements of OAR 345-022-0110(1) to impose conditions on a site certificate issued for  
19 such a facility.

20  
21 **(v) Exhibit V – Solid Waste and Wastewater**

22  
23 **Applicable Paragraphs:** All paragraphs apply

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

26 **Discussion:** To support a finding by the Council as required by OAR 345-022-0120, the ASC shall  
27 provide information about the applicant’s plans to minimize the generation of solid waste and  
28 wastewater in the construction and operation of the facility, and to recycle or reuse solid waste  
29 and wastewater. Information in Exhibit V may be incorporated by reference in Exhibit U’s  
30 discussion of impacts to solid waste and wastewater service providers.

31  
32 As described in the Waste Minimization standard at OAR 345-022-0120(2), the Council may  
33 issue a site certificate for a facility that would produce power from solar energy without making  
34 the findings of the Waste Minimization standard at OAR 345-022-0120(1), though the Council  
35 may apply the requirements of OAR 345-022-0120(1) to impose conditions on a site certificate  
36 issued for such a facility.

37  
38 **(w) Exhibit W – Facility Retirement**

39  
40 **Applicable Paragraphs:** All paragraphs apply.

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

42 **Discussion:** The ASC shall provide an estimate of the total and unit retirement costs per task  
43 and action necessary for facility decommissioning, including a detailed explanation,  
44 assumptions, and justification of the methodology it uses to estimate site restoration costs. The

1 Council’s Retirement and Financial Assurance standard requires evidence that the amount  
2 estimated for facility decommissioning is sufficient for restoration of the site to a useful,  
3 nonhazardous condition.

4  
5 **(x) Exhibit X – Noise**

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

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

10 **Discussion:** The ASC shall contain a noise analysis and information to support a Council finding  
11 that the proposed facility would comply with applicable DEQ noise control standards in OAR  
12 340-035-0035. The applicant shall include ambient noise monitoring results to support the  
13 evaluation of compliance with the ambient antidegradation standard. The number of ambient  
14 monitoring sites shall be sufficient to reasonably represent the ambient noise conditions at  
15 noise sensitive receptor locations in closest proximity to the proposed site. Ambient noise  
16 monitoring shall also be conducted specific to ambient conditions at noise sensitive receptor  
17 locations in closest proximity to the proposed 500 kV transmission line. The analysis shall  
18 evaluate maximum noise levels from all noise-generating equipment during construction and  
19 operation. Operational noise shall be evaluated from both stationary sources (e.g. substation  
20 transformers, inverters/transformer units, battery storage system HVAC and inverters) and  
21 corona noise from the transmission line.

22  
23 **(y) Exhibit Y – Carbon Dioxide Emissions**

24  
25 **Applicable Paragraphs:** Exhibit Y does not apply because the proposed facility is not a base load  
26 gas plant, a non-base load power plant, or a non-generating energy facility that emits carbon  
27 dioxide.

28  
29 **(z) Exhibit Z – Cooling Tower Impacts**

30  
31 **Applicable Paragraphs:** Exhibit Z does not apply because the proposed facility would not  
32 include an evaporative cooling tower.

33  
34 **(aa) Exhibit AA – Electric and Magnetic Fields**

35  
36 **Applicable Paragraphs:** All paragraphs apply.

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

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

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

2  
3   **Related Council Standard:** General Standard of Review [OAR 345-022-0000]  
4   No additional information is required.

5  
6           **(cc) Exhibit CC – Other Law**

7  
8   **Related Council Standard:** General Standard of Review [OAR 345-022-0000]  
9   All requirements apply.

10  
11          **(dd) Exhibit DD – Specific Standards**

12  
13   **Applicable Paragraphs:** Paragraph (C) applies.

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

15  
16   **Discussion:** The Council applies specific standards for transmission lines under its jurisdiction in  
17   OAR 345-024-0090. The applicant should provide analysis regarding compliance with OAR 345-  
18   024-0090 in Exhibit DD.

19  
20   **IV. ANALYSIS AREAS FOR THE PROPOSED FACILITY**

21  
22   The analysis areas are the areas that the applicant must study for potential impacts from the  
23   construction and operation of the proposed facility. Some of the analysis areas described in this  
24   Project Order do not limit the applicant’s responsibility to assess the potential impacts of the  
25   facility. They are the areas in which significant adverse impacts from the proposed facility are  
26   likely to occur. If significant impacts associated with the applicable Council standards<sup>5</sup> could  
27   occur beyond the analysis areas described here, then the applicant must assess those impacts  
28   in the ASC and show how the facility would comply with the applicable standard with regard to  
29   the larger area where impacts could occur.

30  
31   For all potential impacts, the analysis area includes all the area within the site boundary, as  
32   defined in OAR 345-001-0010(55) as well as any additional distances beyond the site boundary  
33   described in Table 2, *Analysis Areas* below. The ASC must specifically describe the site boundary  
34   and provide a map showing the proposed site boundary, including all related and supporting  
35   facilities. The minimum required analysis areas are presented in Table 2, *Analysis Areas*.

**Table 2: Analysis Areas**

Affected Standard or Resource	Exhibit	Analysis Area
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).

---

<sup>5</sup> 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.

**Table 2: Analysis Areas**

Affected Standard or Resource	Exhibit	Analysis Area
Soil Protection	Exh. I	The area within the site boundary.
Wetlands	Exh. J	The area within the site boundary.
Land Use	Exh. K	The area within and extending 0.5 mile from the site boundary.
Protected Areas	Exh. L	The area within and extending 10 miles from the site boundary.
Fish and Wildlife Habitat	Exh. P	The area within and extending 0.5 mile from the site boundary.
Threatened and Endangered Species	Exh. Q	The area within and extending 5 miles from the site boundary.
Scenic Resources	Exh. R	The area within and extending 10 miles from the site boundary.
Historic, Cultural and Archaeological Resources	Exh. S	The area within the site boundary. If aboveground resources, including Traditional Cultural Properties or Historic Properties of Religions and Cultural Significance to Indian Tribes, were identified within 1-mile of the site boundary during the desktop review, the analysis area shall include the area within and extending 1-mile of the site boundary.
Recreation	Exh. T	The area within and extending 5 miles from the site boundary.
Public Services	Exh. U	The area within and extending 10 miles from the site boundary.
Noise Control Regulation	Exh. X	The area within and extending 1-mile from the site boundary.
<p>Notes:</p> <ol style="list-style-type: none"> <li>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.</li> </ol>		

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**V. COMMENTS ON THE NOTICE OF INTENT**

The Department received 4 reviewing agency comment letters on the NOI; no comments specific to the NOI were received from members of the public. Comments submitted are on-the record and must be provided in written form, such as an email or letter. These comments were provided under separate cover to the applicant and are incorporated by reference in this order. Within each applicable exhibit of the ASC, the applicant shall address those concerns raised by 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 Archway Solar Energy Facility NOI will expire two years after the date of submittal, on September 9, 2022, unless the applicant submits a petition



1 to Council to extend the expiration date. Such a petition must be submitted no less than 45  
2 days before the NOI expiration date. If the Council finds that the extension petition shows good  
3 cause, it may extend the NOI expiration date by up to one year.

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5 **VII. PROJECT ORDER AMENDMENT AND APPLICATION COMPLETENESS**

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7 The Council or the Department may amend this Project Order at any time [OAR 345-015-  
8 0160(3)]. Amendment may include changes to the analysis areas. To issue a site certificate, the  
9 Council must determine that the proposed facility complies with Oregon statutes and  
10 administrative rules identified in the Project Order, as amended, as applicable to the issuance  
11 of a site certificate for the proposed facility (ORS 469.503(3)).

12

13 Under OAR 345-015-0190(5), when the Department determines the ASC contains adequate  
14 information for the Council to make findings or impose conditions on all applicable Council  
15 standards, the Department will issue a determination of completeness on the ASC. The  
16 Department may determine that the ASC is complete without requiring the applicant to submit  
17 all information described under OAR 345-021-0000 and 0010. In accordance with OAR 345-015-  
18 0190(9), after a determination that an ASC is complete, the Department may require additional  
19 information from the applicant if the Department identifies a need for that information during  
20 its continued review of the ASC.

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22 **VIII. APPLICABILITY AND DUTY TO COMPLY**

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

1 **OREGON DEPARTMENT OF ENERGY**

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4 By:  \_\_\_\_\_

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

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9 Date of Issuance: September 9, 2020