

OREGON DEPARTMENT OF ENERGY

Statutes, Administrative Rules and Other)
Requirements Applicable to the Application for Site) **PROJECT ORDER**
Certificate for **Blue Marmot Solar Energy Facility**)

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

Issued February 23, 2021

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1 **I. INTRODUCTION**

2 The Oregon Department of Energy (Department) received a Notice of Intent (NOI) on October
3 27, 2020 by Blue Marmot Solar Park LLC (applicant), a wholly owned subsidiary of EDP
4 Renewables North America LLC, for the proposed Blue Marmot Solar Energy Facility (proposed
5 facility).¹ The NOI was submitted in accordance with OAR 345-020-0006, with the purpose of
6 notifying the Department and the Energy Facility Siting Council of (EFSC or Council) that the
7 applicant intends to apply for a site certificate for the proposed facility. The NOI provides
8 information about the proposed site and characteristics for the proposed facility and includes
9 the required contents under OAR 345-020-0011(1). The Department issues this Project Order
10 for the proposed facility in accordance with Oregon Administrative Rule (OAR) 345-015-0160.

11 The proposed facility is a solar photovoltaic energy generation facility with a nominal
12 generating capacity of up to 50 megawatts, located within a site boundary of approximately
13 2,332 acres.² The site boundary encompasses five solar array sites, related or supporting
14 facilities, and two alternative route segments for the 34.5-kilovolt (kV) collector lines in and
15 near the Town of Lakeview in Lake County.

16 Following review of an NOI, Oregon Revised Statute (ORS) 469.330(3) and OAR 345-015-0160
17 require the Department to issue a Project Order to the applicant establishing the application
18 requirements for the proposed facility. Accordingly, the Department issues this Project Order
19 establishing the requirements for the site certificate application for the Blue Marmot Solar
20 Energy Facility. As provided in ORS 469.330(4), this is not a final order and the Department or
21 the Council may amend this Project Order at any time.

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

28 As provided in the NOI, the proposed facility would have a site boundary of approximately
29 2,332 acres on privately owned land zoned for farm and agricultural use, with areas within the
30 Town of Lakeview’s Urban Growth Boundary. The proposed facility consists of PV solar
31 panels/modules, steel tracker tables and posts, cabling, power conversion stations, and related
32 or supporting facilities. Proposed related or supporting facilities include 34.5- kV collector lines
33 (underground or overhead) interconnecting the five solar array sites, including two route

¹ The applicant previously submitted a Notice of Intent (NOI) in January 2018, however, due to modifications of the proposed facility, the applicant submitted a revised NOI on October 27, 2020.

² Pursuant to ORS 469.300(11)(a)(D), proposed solar photovoltaic energy generation facilities that would use or occupy more than 160 acres of high value farmland, 1,280 acres of predominately cultivated or soil capability class I to IV, or 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 options for a short segment. Other related or supporting facilities include a 3-acre 115 kV step-
2 up substation; a 0.4-milelong 115-kV overhead generation-tie transmission line that would
3 connect the proposed 115 kV step-up substation to the existing PacifiCorp 115-kV Bullard
4 Substation; Operations and Maintenance Building; approximately 1 mile access road to the
5 Parmelee site; service roads including graveled interior roads to each solar array site and may
6 also include perimeter roads for each solar array site; security gates and perimeter fencing
7 around each solar array site; and temporary construction laydown areas within the solar array
8 sites and 115 kV step-up substation area.

9 On November 10, 2020, the Department issued public notice of the NOI to the EFSC mailing list
10 and to adjacent property owners as defined at OAR 345-020-0011(1)(f) and published the
11 notice in the *Lake County Examiner*, a newspaper in general circulation in the vicinity of the
12 proposed facility. The public notice included information regarding the proposed facility and
13 the EFSC review process; announced that a virtual public informational meeting would be held
14 on December 8, 2020; and established December 18, 2020 as the public comment deadline on
15 the NOI. The Department and applicant held the virtual public informational meeting on
16 December 8, 2020.

17 Pursuant to ORS 469.480(1), EFSC must designate as a Special Advisory Group (SAG) the
18 governing body of any local government within whose jurisdiction the facility is proposed to be
19 located. At the February 23, 2018 EFSC meeting, the Council appointed the Lake County Board
20 of Commissioners and Lakeview Town Council as the Special Advisory Groups.³

21 In compliance with OAR 345-021-0050(1), the Department prepared a memorandum to
22 reviewing agencies, Tribal Governments, and the SAGs, and compiled a distribution list,
23 including all reviewing agencies identified and defined in OAR 345-001-0010(52). In accordance
24 with ORS 469.350(2) and OAR 345-020-0040, on November 10, 2020 the Department sent the
25 memorandum and hyperlink for electronic access to the NOI to each of the reviewing agencies
26 listed in Table 1 below. The Department requested comments from reviewing agencies on or
27 before December 18, 2020.

28 At the close of the comment period, the Department received 14 public comments and 10
29 reviewing agency comments. As discussed in Section V, and in accordance with OAR 345-015-
30 0140, the Department sent the applicant a copy of each comment received for review and
31 consideration in preparing the application for site certificate.

32 Section II of this Project Order outlines the EFSC regulatory framework and references the main
33 statutes and rules that govern the EFSC review process [per OAR 345-015-0160(1)]. Section III
34 discusses the application content requirements under OAR 345-021-0010. Section IV specifies
35 the impact assessment analysis areas for the proposed facility. Section V incorporates by
36 reference comments received from reviewing agencies and the public that address matters
37 within the jurisdiction of the Council that the applicant must consider and discuss in the
38 application for a site certificate. Section VI provides the expiration date of the NOI, and Section

³ 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 VII discusses Project Order amendments and the requirements for the Department to find the
 2 application for site certificate complete. Section VIII describes the applicant’s duty to comply
 3 with applicable requirements.

4
 5

Table 1. Notice of Intent 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"> • The Klamath Tribes • Burns Paiute Tribe | <ul style="list-style-type: none"> • Confederated Tribes of the Warm Springs |
| Special Advisory Groups | |
| <ul style="list-style-type: none"> • Lake County Board of Commissioners • Town of Lakeview Town Council | |
| Other Reviewing Agencies | |
| <ul style="list-style-type: none"> • Northwest Power Planning Council | |

6

7 **II. EFSC REGULATORY FRAMEWORK**

8 Issuance of a site certificate is governed by the statutory requirements in ORS 469.300 *et seq.*
 9 and administrative rules in OAR chapter 345. The following divisions of OAR chapter 345 include
 10 rules related to application requirements, EFSC review of an application for site certificate
 11 (ASC), and construction and operation of an approved facility:

12

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

16

17 **OAR Chapter 345, Division 22** (Council Standards for Siting Facilities) includes most of the
 18 regulatory standards by which EFSC must evaluate the proposed facility. In addressing each of
 19 the Division 21 application requirements, the applicant shall refer to the Division 22 standard to

1 which the requirement relates to ensure the application is responsive to the standards by which
2 the Council must evaluate it.

3
4 **OAR Chapter 345, Division 24** (Specific Standards for Siting Facilities) includes additional
5 standards for specific types of EFSC applications. In addressing the Division 21 application
6 requirements, the application shall refer to the Division 24 standards that apply to the
7 proposed facility to ensure the application is responsive to these standards. The Division 24
8 standard that applies to the proposed facility is OAR 345-024-0090, Siting Standards for
9 Transmission Lines.

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

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

26 27 **III. APPLICATION REQUIREMENTS**

28 The applicant must submit information required under OAR 345-021-0000, including, for all
29 state and local government agency permit approvals that the applicant proposes to be included
30 in and governed by the site certificate, the submittal of information that would otherwise be
31 required by the state or local government agency in an application for such permit, license or
32 certificate [OAR 345-021-0000(6)].⁴ The applicant shall also submit copies of the applications for
33 federally-delegated permits that are needed for construction or operation of the proposed
34 facility [OAR 345-021-0000(7)]. OAR 345-021-0010(1) identifies the required contents of an
35 ASC. Each of the paragraphs below indicates which provision(s) of OAR 345-021-0010(1)(a) –
36 (dd) apply to the proposed facility. The ASC shall also include a table of contents for each
37 exhibit, as described in OAR 345-021-0010(3).

⁴ It is noted that under 345-015-0190(5), the Department may find that the application is complete without requiring the applicant to submit all information described under OAR 345-021-0000 and 345-021-0010.

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): “Person” means an
6 individual, partnership, joint venture, private or public corporation, association, firm, public
7 service company, political subdivision, municipal corporation, government agency, people’s
8 utility district, or any other entity, public or private, however organized. Please also note that
9 the applicant is required to notify the Department of any change in the identity or ownership of
10 the applicant prior to the change. This notification requirement continues to apply until the
11 Council issues a final order on the ASC.

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

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

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

17 **Discussion:** The description of the proposed facility in the ASC will form the basis for the
18 description of the facility in the site certificate. The applicant would be required to build the
19 facility “substantially as described” in the site certificate, if approved and issued by Council
20 (OAR 345-025-0006(3)(a)). The description should include details of facility construction,
21 including primary activities and any phasing (if the applicant proposes to pursue or reserve the
22 option of a phased construction approach); and details of routine operations and maintenance
23 activities. The ASC shall include detailed descriptions of major components, structures and
24 systems, including a description of the size (including maximum height), type and configuration
25 of equipment used to generate electricity and similar descriptions for all related or supporting
26 facilities as defined under ORS 469.300(24), including any structure (including roads)
27 constructed or substantially modified solely to serve the proposed facility. The ASC shall also
28 include detailed descriptions of equipment and systems for fire prevention and control.

29 If the applicant requests Council review and approval of flexibility to site proposed facility
30 components anywhere within the site boundary or seeks approval of a micrositing area, the
31 applicant must evaluate impacts of siting facility components anywhere within the entirety of
32 the site boundary or established micrositing area (i.e., desktop and field surveys must include
33 the entire site boundary or micrositing area, if different; impact assessment must be based on
34 maximum impact facility layout option within the site boundary or micrositing area, if
35 different).

1 **(c) Exhibit C – Location**

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

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

4 **Discussion:** Maps shall indicate the “site boundary” as defined in OAR 345-001-0010(54),
5 including any proposed transmission line routes and corridors for which the applicant seeks
6 Council approval. If the applicant seeks flexibility to site facility components anywhere within
7 the site boundary or an established micrositing area, please identify in maps and include an
8 evaluation to support the facility “micrositing area,” to be consistent with the intent of a
9 “micrositing corridor” (OAR 345-001-0010(32)). Maps shall provide enough information for
10 property owners potentially affected by the proposed facility to determine whether their
11 property is within or adjacent to property on which the site boundary is located. Major roads
12 shall be accurately named. The Department notes that the applicant has already shared GIS
13 data showing the site boundary for the proposed facility. The Department requests GIS data
14 showing the proposed facility layout and micrositing areas/corridors (if any), as well as an
15 updated site boundary shapefile if any changes to the site boundary have occurred between
16 the NOI and the submittal of the preliminary ASC (pASC).

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

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

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

20 **Discussion:** The Council’s review for the Organizational Expertise standard includes the
21 applicant’s ability to construct, operate, and retire the proposed facility in compliance with
22 Council standards and conditions of the site certificate; and, in a manner that protects public
23 health and safety. Please address safety programs or plans developed by the applicant for
24 wildfire response at the site and any fire control systems. Please note that Exhibit D requires
25 that if the applicant relies upon mitigation to meet any applicable Council standard, that the
26 applicant provide evidence (i.e., detailed description of mitigation projects) that it can
27 successfully complete such proposed mitigation.

28 **(e) Exhibit E – Permits**

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

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

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

- 1 Although the Council does not have jurisdiction over federally-delegated permits, the Council
- 2 may rely on the determinations of compliance and the conditions in federally-delegated
- 3 permits in evaluating the application for compliance with Council standards.
- 4 Table 2 lists permits that may be required for the proposed facility. Please see the discussion
- 5 that follows this table for additional information.

Table 2: Potentially Required Permits

| Permit Name/Description | EFSC Jurisdictional | Federally Delegated – Information required for Completeness Determination Only | Not EFSC Jurisdictional Per ORS 469.401(4) – Information about Permit Necessary for Information Purposes Only Per OAR 345-021-0010(1)(e)(A)&(B) |
|---|---------------------|--|---|
| Oregon DEQ Basic Air Contaminant Discharge Permit | | X ¹ | |
| Oregon DEQ National Pollution Discharge Elimination System Construction Storm Water 1200-C permit | | X ¹ | |
| Oregon DEQ NPDES Storm Water and Mine Dewatering Discharge 1200-A permit | | X ¹ | |
| Oregon DEQ Clean Water Act Section 401 Water Quality Certification ³ | -- | -- | -- |
| Fish Passage Plan Approval | X | | |
| Removal-Fill Permit | X | | |
| Onsite Sewage Disposal Construction-Installation Permit | X ¹ | | |
| Water Pollution Control Facilities (WPCF) General Permit 1000 | X ¹ | | |
| WPCF General Permit 1700-B ² | X ² | | |
| Ground Water Permit | X | | |
| Surface Water Permit | X | | |
| Water Right Transfer | X | | |
| Limited License | X | | |

Table 2: Potentially Required Permits

| Permit Name/Description | EFSC Jurisdictional | Federally Delegated – Information required for Completeness Determination Only | Not EFSC Jurisdictional Per ORS 469.401(4) – Information about Permit Necessary for Information Purposes Only Per OAR 345-021-0010(1)(e)(A)&(B) |
|---|---------------------|--|---|
| ODOT Oversize Load Movement Permit/Load Registration | | | X |
| ODOT Access Management Permit | | | X |
| ODOT Permit to Occupy or Perform Operations Upon a State Highway | | | X |
| SHPO Archaeological Permit | X ⁴ | | X ⁴ |
| Lake County/Town of Lakeview Conditional Use Permit | X | | |
| Lake County/Town of Lakeview Driveway and Road Approach Permit | | | X |
| Lake County/Town of Lakeview Right-of- Way Permit | | | X |
| Lake County/Town of Lakeview Building Permit | | | X |
| <p>¹ Unless obtained by third-party; see Third-Party Permits discussion.</p> <p>² Currently expired; please see the following discussion.</p> <p>³ State permit that would not be included in or governed by the site certificate. Please see the following discussion.</p> <p>⁴ The Department notes that a SHPO Archaeological Permit may be under EFSC jurisdiction if proposed by the applicant in the ASC.</p> | | | |

1

1 **Federally-Delegated Permits**

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

3 **Statute and Rule References**

- 4 • OAR Chapter 340, Division 216

5 **Permits**

- 6 • Basic Air Contaminant Discharge Permit (ACDP)
7 ○ Information needed for completeness (unless obtained by third-party; see Third-
8 Party Permits discussion) but not EFSC jurisdictional

9 **Discussion:** The United States Environmental Protection Agency (EPA) has delegated authority
10 to the Oregon Department of Environmental Quality (DEQ) to administer air quality under the
11 Clean Air Act. As described in the October 2020 NOI, a mobile concrete batch plant may be
12 utilized during proposed facility construction, with permits obtained by the batch plant owner
13 or the applicant’s third-party contractor. The mobile concrete batch plant would require a Basic
14 Air Contaminant Discharge Permit (ACDP). A Basic ACDP authorizes operation of a concrete
15 manufacturing plant that produces more than 5,000 but less than 25,000 cubic yards per year
16 output. ACDPs for mobile, temporary concrete batch plants are associated with the equipment
17 itself. The requirements of OAR 345-021-0000(6) would apply to this federally-delegated
18 permit. If the applicant’s third-party contractor would instead obtain the ACDP, the
19 requirements described in the Third-Party Permits section below would apply.

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

21 **Statute and Rule References**

- 22 • ORS Chapter 468B (Water Quality)
23 • OAR Chapter 340, Division 45 (Regulations Pertaining to NPDES and WPCF Permits)

24 **Permits**

- 25 • National Pollution Discharge Elimination System (NPDES) Construction Stormwater
26 1200-C permit
27 ○ Information needed for completeness (unless obtained by third-party; see Third-
28 Party Permits discussion) but not EFSC-jurisdictional
29 • NPDES Stormwater and Mine Dewatering Discharge 1200-A permit
30 ○ Information needed for completeness (unless obtained by third-party; see Third-
31 Party Permits discussion) but not EFSC-jurisdictional

32 **Discussion:** The EPA has delegated authority to DEQ to issue NPDES Stormwater Discharge
33 permits for construction and operation activities. Based upon the information in the NOI, a
34 NPDES 1200-C permit would be required for facility construction. In accordance with OAR 345-
35 021-0000(6), the applicant must submit to the Department one copy of all applications for
36 federally-delegated permits (including the NPDES permit), or provide a schedule of the date by

1 which the applicant intends to submit the application. Note that the Department will not be
2 able to find the application for site certificate complete before receiving a copy of the NPDES
3 permit application and a letter or other indication from DEQ. The DEQ response must state that
4 the agency has received a permit application from the applicant and provide an estimated date
5 when the agency will complete its review and issue a permit decision. The applicant may
6 incorporate this information into Exhibit I (Soils) or Exhibit BB (Other Information) of the ASC.

7 Disposal of concrete batch plant wash water (if a temporary batch plant is necessary) would
8 require either an NPDES 1200-A permit or a WPCF General Permit 1000. If the batch plant was
9 to discharge stormwater from a point source to surface water or to a conveyance system that
10 discharges to surface water, the plant would require an NPDES 1200-A permit. The
11 requirements of OAR 345-021-0000(6) (described in the preceding paragraph) would apply to
12 the NPDES 1200-A permit. If the applicant's third-party contractor would instead obtain the
13 NPDES 1200-A permit, the requirements described in the Third-Party Permits section below
14 would apply. Alternatively, if the batch plant would be located within a construction staging
15 yard for which the applicant would seek coverage under an NPDES 1200-C permit described
16 above, the applicant may seek coverage for the batch plant under the same NPDES 1200-C
17 permit.

18 If the batch plant would not discharge to surface waters, a WPCF General Permit 1000 would
19 instead be required to dispose of process wastewater and stormwater by recirculation,
20 evaporation, and/or controlled seepage (see the State Permits discussion below).

21 **State Permits**

22 ***Oregon Department of Fish and Wildlife***

23 **Statute and Rule References**

- 24 • ORS 509.580 through 509.910
- 25 • OAR 635, Division 412 (related to Fish Passage)

26 **Permit**

- 27 • Fish Passage Plan Approval
 - 28 ○ EFSC jurisdictional

29 **Discussion:** OAR Chapter 635, Division 412 (Fish Passage) requires upstream and downstream
30 fish passage at all existing or new artificial obstructions in Oregon waters in which migratory
31 native fish are currently or have historically been present, except under certain clearly defined
32 circumstances. A fish passage plan that complies with OAR Chapter 635, Division 412 shall be
33 included in Exhibit BB of the application, and Fish Passage Plan approval is to be included in and
34 governed by the site certificate, unless the applicant demonstrates that the design and location
35 of the proposed facility would not trigger this requirement.
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Oregon Department of State Lands

Statute and Rule References

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

Permit

- Removal-Fill Permit
 - EFSC jurisdictional

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.

The applicant must conduct a wetland delineation, to be sent to 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 OAR 141-085-0510(91), within the analysis area. Depending upon facility impacts to “waters of this state” a removal-fill permit may be necessary, and the application for site certificate should include information establishing whether a removal-fill permit is required. If a removal-fill permit is required, the ASC shall include a concurred delineation from DSL and a complete application for an individual permit which demonstrates consistency with ORS 196.825(1), and provides enough information for determinations and considerations under ORS 196.825(3) and OAR 141-085-0565.

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

If the proposed facility requires any dredge or fill of waters of the United States, the applicant must submit to the Department one copy of an application for a Section 404 permit, in accordance with OAR 345-021-0000(6), and a Section 401 Water Quality Certificate must be granted by DEQ before a Section 404 may be issued. The DSL (removal-fill permit) and the Corps (Section 404 permit) use a joint application form. As discussed previously with regard to Exhibit E and federally-delegated permits outside of Council jurisdiction, the applicant must provide a letter or other indication from the Corps stating that the agency received a permit application from the applicant, identifying any additional information the agency is likely to need from the applicant based on the agency’s review of the application, and an estimated date for when the agency will complete its review and issue a permit decision.

1 ***Oregon Department of Environmental Quality***

2 **Statute and Rule References**

- 3 • ORS Chapter 454 (Sewage Treatment and Disposal Systems)
- 4 • ORS Chapter 468B (Water Quality)
- 5 • OAR Chapter 340, Division 45 (Regulations Pertaining to NPDES and WPCF Permits)
- 6 • OAR Chapter 340, Division 71 (Onsite Wastewater Treatment Systems)
- 7 • OAR Chapter 340, Division 48 (Certification of Compliance with Water Quality
- 8 Requirements and Standards)

9 **Permits**

- 10 • Onsite Sewage Disposal Construction-Installation Permit
 - 11 ○ EFSC-jurisdictional unless obtained by third-party; see Third-Party Permits
 - 12 discussion
- 13 • Water Pollution Control Facilities (WPCF) General Permit 1000
 - 14 ○ EFSC-jurisdictional unless obtained by third-party; see Third-Party Permits
 - 15 discussion
- 16 • WPCF General Permit 1700-B (DEQ Expired/Not Required for Panel Washing)
- 17 • Clean Water Act Section 401 Water Quality Certification
 - 18 ○ This permit would not be included in or governed by the site certificate

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

27 If a temporary batch plant is necessary, disposal of concrete batch plant wash water would
28 require either a Water Pollution Control Facilities (WPCF) General Permit 1000 or a NPDES
29 permit. Concrete batch plants that dispose of process wastewater and stormwater by
30 recirculation, evaporation, and/or controlled seepage with no discharge to surface waters
31 require a WPCF General Permit 1000. A WPCF General Permit 1000 is a state permit under
32 Council jurisdiction. If the applicant's third-party contractor would obtain the necessary WPCF
33 General Permit 1000 directly from DEQ, this permit would be related to the siting and operation
34 of the proposed facility but would not be included in and governed by the site certificate (see
35 the Third-Party Permits discussion below). If the batch plant was to instead discharge
36 stormwater from a point source to surface water or to a conveyance system that discharges to

1 surface water, the plant would require an NPDES 1200-A permit or coverage under the NPDES
2 1200-C permit for the construction yard in which it would be located (as discussed under the
3 federally-delegated permits discussion of this Project Order).

4
5 In the NOI the applicant indicates that the solar modules may be washed once or twice
6 annually and the wash water would be released to the ground and allowed to evaporate and
7 infiltrate. The applicant states that either the applicant or the third-party contractor who would
8 conduct solar module washing activities would seek coverage under the WPCF General Permit
9 1700-B (Vehicle and equipment wash water) from DEQ following completion of construction
10 and before initiating any washing activities. DEQ indicated to the Department that a WPCF
11 General Permit 1700-B is not required for solar array washing activities that would not result in
12 discharge to surface waters, storm sewers, or dry wells, and that would not use acids, bases,
13 metal brighteners, steam, or heated water. The use of biodegradable, phosphate-free cleaners
14 with cold water is allowed. However, cleaning only with cold water is recommended.
15 Chemicals, soaps or detergents must be used sparingly. The applicant or its third-party
16 contractor should seek guidance from DEQ prior to conducting solar module washing activities.

17
18 If a Section 404 Permit is needed from the Corps for the discharge of dredge or fill material in
19 waters of the United States, a Section 401 Water Quality Certificate must be granted by DEQ
20 before a Section 404 permit may be issued. This approval would not be included in or governed
21 by the site certificate.

22 23 ***Oregon Water Resources Department***

24 **Statute and Rule References**

- 25 • ORS 537.110-.330 (Appropriation under 1909 Act; Limited Licenses)
- 26 • ORS 537.505-.795 and ORS 537.992 (collectively, Ground Water Act of 1955)
- 27 • ORS 540.505-.589 (Changes in Use of Water; Transfer of Water Rights; Exchange)
- 28 • OAR Chapter 690, Division 10 (Appropriation and Use of Ground Water)
- 29 • OAR Chapter 690, Division 310 (Water Right Application Processing)
- 30 • OAR Chapter 690, Division 320 (Water Right Permits),
- 31 • OAR Chapter 690, Division 340 (Water Use Authorizations)
- 32 • OAR Chapter 690, Division 380 (Water Right Transfers)
- 33 • OAR Chapter 690, Division 385 (District Water Right Transfers)

34 **Permits**

- 35 • Ground water permit
 - 36 ○ EFSC jurisdictional
- 37 • Surface water permit

- 1 ○ EFSC jurisdictional
- 2 • Water right transfer
- 3 ○ EFSC jurisdictional
- 4 • Limited License
- 5 ○ EFSC jurisdictional

6 **Discussion:** Under OAR 345-022-0000(1)(b), the Council must determine whether the proposed
7 facility would comply with all other Oregon statutes and administrative rules identified in this
8 Project Order, including those administered by OWRD listed above. OAR 345-021-0010(1)(o)(F)
9 requires that if a proposed facility needs a groundwater permit, surface water permit, or water
10 right transfer, that a decision on authorizing such a permit rests with the Council. Please note
11 that because limited licenses are for the use or storage of ground water or surface water, a
12 decision on authorizing OWRD to issue a limited license also rests with the Council. Please see
13 Section III(o), Exhibit O - Water Use, for additional discussion and application requirements.

14 As noted in the NOI, the applicant intends to obtain water for facility construction and
15 operation from a source with an existing water right such as the Town of Lakeview and
16 participating landowners with adequate existing water rights. If the water source is not
17 sufficient, an alternative offsite source will be considered, or water will be obtained from a new
18 onsite well to be permitted under a limited water use license and used during operations. The
19 applicant also states that if water for construction and operation is not available from
20 permitted sources, it will obtain the necessary water right permit or use authorization directly
21 from the Oregon Water Resources Department (OWRD). However, as stated in this section,
22 water use permits are state permits under EFSC jurisdiction and must be included in and
23 governed by the site certificate. If needed, a water right permit must be processed through the
24 EFSC review process and cannot be independently secured by the applicant from OWRD.

25 During operations, the applicant intends to connect to the Lakeview water system or install a
26 new onsite well, which would use fewer than 5,000 gallons per day. If the applicant constructs
27 and operates an on-site well(s) that, together, would use less than 5,000 gallons per day, the
28 well would be exempt from OWRD permit requirements. Pursuant to OAR 690-215-0080, the
29 landowner may be required to install totalizing flowmeters or dedicated measuring tubes on a
30 well exempted by ORS 537.545 (Exempt uses). A Limited License would be required if the well
31 would provide more than 5,000 gallons of water per day, and would be included and governed
32 by the site certificate.

33 ***Oregon Department of Transportation***

34 **Statute and Rule References**

- 35 • ORS 818.030 (Exemptions from Weight Limitations)
- 36 • OAR Chapter 734, Division 82 (Variance Permits Issued for Non-Divisible Loads and Road
37 Use Assessment Fees)

- 1 • OAR Chapter 734, Division 51 (Highway Approaches, Access Control, Spacing Standards,
2 and Medians)
- 3 • OAR Chapter 734, Division 55 (Pole Lines, Buried Cables, and Miscellaneous Operations)

4 **Permits**

- 5 • Oversize Load Movement Permit/Load Registration
 - 6 ○ Not EFSC jurisdictional and no additional information needed for the ASC
- 7 • Access Management Permit
 - 8 ○ Not EFSC jurisdictional and no additional information needed for the ASC
- 9 • Permit to Occupy or Perform Operations Upon a State Highway
 - 10 ○ Not EFSC jurisdictional and no additional information needed for the ASC

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

19 ***State Historic Preservation Office***

20 **Statute and Rule References**

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

23 **Permits**

- 24 • Archaeological Permit
 - 25 ○ May be EFSC jurisdictional if proposed in in ASC; if so, then ASC materials
26 required

27 **Discussion:** Per ORS 390.235 and 358.920 a person may not excavate or alter a known
28 archaeological site on public or private lands, or make an exploratory excavation on public lands
29 to determine the presence of an archaeological site, or remove from public or private lands any
30 material of an archaeological, historical, prehistoric or anthropological nature without first
31 obtaining a permit issued by the State Historic Preservation Office (SHPO). An Archaeological
32 Permit is needed for any excavation or artifact recovery within a known archaeological site on
33 non-federal public lands and private lands in Oregon. This permit is also needed for any
34 subsurface investigation on non-federal public lands. It is important to note that a “known site”
35 is one that any individual is aware of, or that is documented with the state or any other

1 institution. SHPO Archaeological Permits have a 30-day review period, require tribal
2 consultation during review, and must meet SHPO standards.

3
4 During facility construction, if a previously unidentified archaeological site is discovered, all
5 construction will cease and the applicant will report the finding to SHPO and the Department
6 immediately. In that instance, the permit may be required based on SHPO's determination. This
7 permit would not be included in and governed by the site certificate.

8
9 SHPO issues Archaeological Permits in accordance with ORS 390.235 and OAR 736-051-0000
10 through 0090. If an applicant proposes the SHPO Archaeological permits in the ASC to be
11 governed by the site certificate, the SHPO permit information requirement would apply to the
12 ASC. If an applicant proposes a SHPO Archaeological Permit to be included and governed by the
13 site certificate, advance coordination with the Department and SHPO is recommended.

14 15 **Local Permits**

16 **Land Use Ordinance References**

- 17 • Lake County Zoning Ordinance
- 18 • Lake County Comprehensive Plan
- 19 • Town of Lakeview Development Code
- 20 • Town of Lakeview Zoning Ordinance

21 **Permits**

- 22 • Lake County Conditional Use Permit
- 23 • Town of Lakeview Conditional Use Permit
- 24 • Lake County Right-of-Way Permit (if applicable)

25
26 **Discussion:** As stated in the NOI, the proposed facility is located in Lake County with some
27 segments of the 34.5-kV collector lines, and the 115-kV gen-tie line within the Town of
28 Lakeview. The applicant requests that EFSC determine compliance with the substantive criteria
29 of the Lake County Comprehensive Plan, Lake County Zoning Ordinance and Town of Lakeview
30 Development Code under ORS 469.504(1)(b). The Lake County and Town of Lakeview
31 conditional use permits would be included in and governed by the site certificate. The Lake
32 County Right-of-Way Permit would not be included in or governed by the site certificate.

33 34 **Third-Party Permits**

35 **Discussion:** As noted in the NOI, the applicant may rely upon third-party permits for access to
36 resources necessary for facility construction and operation. If the applicant relies upon a state
37 or local government permit issued to a third party that is related to the siting of the proposed
38 facility, the applicant must identify each third-party permit, and, for each, include evidence that

1 the applicant has, or has a reasonable likelihood of entering into, a contract or other agreement
2 with the third party for access to the resource or service to be secured by that permit; evidence
3 that the third party has or, has a reasonable likelihood of obtaining, the necessary permit; and,
4 an assessment of the impact of the proposed facility on any permits that a third party has
5 obtained and on which the applicant relies to comply with any applicable Council standard
6 (OAR 345-021-0010(1)(e)(E)).
7

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

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

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

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

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

26 **Discussion:** As the proposed facility would be located within an Urban Growth Boundary and in
27 Exclusive Farm Use zone, OAR 345-020-0010(1)(f)(A) applies and requires notice to property
28 owners;

29 (i) Within 100 feet of property which is the subject of the application, where the subject
30 property is wholly or in part within an urban growth boundary;

31 (ii) Within 250 feet of the property which is the subject of the application, where the
32 subject property is outside an urban growth boundary and not within a farm or forest
33 zone; or

34 (iii) Within 500 feet of the property which is the subject of the application, where the
35 property is within a farm or forest zone;
36

37 The Council requires notice to all owners of record (as shown on the most recent property tax
38 assessment roll obtained from the affected county) within the specified distance from the
39 property on which the site boundary is located. In order to ensure notifications are provided
40 using an up-to-date property owner list, Exhibit F in the pASC should indicate that, pursuant to

1 direction by the Department, the property owner list will be generated just prior to the
2 Department’s determination of ASC completeness and in coordination with Department staff.

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

10
11 **(g) Exhibit G – Materials Analysis**

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

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

16 **Discussion:** The applicant shall include in the application any proposed fuel storage areas,
17 vehicle maintenance areas, or other areas that will be utilized for activities that could store
18 hazardous materials. The applicant shall identify the expected storage locations and quantities
19 of hazardous and non-hazardous materials expected to be used during construction and
20 operation of the facility.

21
22 **(h) Exhibit H – Geologic and Soil Stability**

23 **Applicable Paragraphs:** All paragraphs apply

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

25 **Discussion:** The Oregon Department of Geology and Mineral Industries (DOGAMI) provides
26 technical review and recommendations on compliance with the Council’s Structural Standard.
27 DOGAMI submitted comments on the NOI providing an overview of potential seismic or other
28 geologic hazards related to siting the facility. In accordance with OAR 345-021-0010(1)(h)(B),
29 the applicant must consult with DOGAMI, and must provide a summary of this consultation,
30 regarding the appropriate methodology and scope of the seismic hazards and geology and soil-
31 related hazards assessments, and the appropriate site-specific geotechnical work that must be
32 performed for the ASC. The consultation shall identify all assumptions applicant intends to
33 utilize in its evaluation of OAR 345-022-0020 (e.g., site class design, site-specific probabilistic
34 hazard assessment, etc).

35
36 A geologic report included in Exhibit H shall meet the Oregon State Board of Geologist
37 Examiners geologic report guidelines, as determined based on consultation with DOGAMI.

38
39 As described in the Structural Standard at OAR 345-022-0020(2), the Council may not impose
40 the Structural Standard to approve or deny an ASC for a proposed facility that would produce

1 power from solar energy, though the Council may apply the requirements of OAR 345-022-
2 0020(1) to impose conditions on a site certificate issued for such a facility.

3
4 **(i) Exhibit I – Soils**

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

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

7 **Discussion:** This exhibit shall identify the major soil types and include a description of current
8 and historical (if distinct from current) land uses that require or depend on productive soils. If
9 applicant utilizes NRCS web-soil survey data to evaluate wind and water erosion potential at the
10 proposed facility site, Exhibit I shall include accurate references and hyperlinks to source data.
11 The applicant shall include information describing the impact of construction and operation of
12 the proposed facility on soil conditions in the analysis area, including potential impacts to soils
13 on adjacent properties. The application can cross-reference any applicable information related
14 to the federally-delegated NPDES 1200-C permit application. An erosion and sediment control
15 plan must be provided for review if the applicant will rely upon the erosion and sediment
16 control plan to meet the Soil Protection standard. Please note that an erosion and sediment
17 control plan that meets the NPDES 1200-C requirements may not necessarily be sufficient to
18 meet the EFSC Soil Protection standard. See Section III(e), *Exhibit E – Permits*, for additional
19 discussion of federally-delegated permits.

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

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

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

26 **Discussion:** Per Exhibit J requirement, the ASC shall include a description of all areas within the
27 site boundary that might be waters of the state and a map(s) showing the location of these
28 features. Based on the NOI, ODOE understands that several wetlands and waterbodies exist
29 within the site boundary. DSL commented on the NOI, and indicated that the additional
30 wetland delineation information had been received by DSL and was in line for review. If impacts
31 to waters of the state cannot be avoided and DSL determines that a removal-fill permit is
32 necessary for the proposed facility, the information required for Council to make a decision on
33 the removal-fill permit application must be included in the ASC. Wetland delineation reports
34 and removal-fill permit application materials can be sent directly by the applicant to DSL;
35 however, please note that all materials as well as DSL's concurrence with the wetland
36 delineation must also be submitted to the Department as part of ASC Exhibit J. The Department
37 will work closely with DSL in review of the removal-fill permit application, if applicable. If a
38 removal-fill permit is necessary for the proposed facility, a DSL draft removal-fill permit with
39 draft conditions, must be submitted to the Department by DSL to be included as an attachment
40 to the draft proposed order. For EFSC-jurisdictional facilities, authorization of a removal-fill

1 permit is an EFSC decision; should a permit be issued, the Department and DSL would maintain
2 dual responsibility for compliance with any associated permit conditions. See Section III(e),
3 *Exhibit E – Permits*, for additional discussion of state permits.

4 **(k) Exhibit K – Land Use**

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

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

7 **Discussion:** The Council’s Land Use standard requires an evaluation for compliance with the
8 statewide planning goals. Under ORS 469.504(1), the applicant may establish compliance with
9 the applicable statewide planning goals either by obtaining local land use approval under ORS
10 469.504(1)(a) or by obtaining Council approval under ORS 469.504(1)(b). The applicant
11 indicated in the NOI that it has elected to seek a Council determination of compliance under
12 ORS 469.504(1)(b). Within Exhibit K, since the applicant has elected to obtain a Council
13 determination on land use under ORS 469.504(1)(b), paragraphs A and C of OAR 345-021-
14 0010(1)(k) apply; paragraph B does not apply.

15
16 The facility would be located within the Exclusive Farm Use zone and within the Town of
17 Lakeview’s Urban Growth Boundary in Lake County. Pursuant to ORS 469.480 and in
18 preparation for review of the proposed facility after the submittal of the 2018 NOI, at its
19 February 23, 2018 EFSC meeting, the Council appointed the Lake County Board of
20 Commissioners and Lakeview Town Council as a Special Advisory Groups (SAG). As provided in
21 ORS 469.401(3), if the Council issues a site certificate, Lake County and the Town of Lakeview
22 would be bound to issue all required permits and other land use approvals, subject to the
23 conditions set forth in the site certificate, that are included in and governed by the site
24 certificate. The applicant shall discuss each of the applicable substantive criteria from the Lake
25 County Comprehensive Plan, Lake County Zoning Ordinance and Town of Lakeview Land
26 Development Code, and shall demonstrate how the proposed facility complies with those
27 criteria. The Lake County SAG provided information about the applicable substantive criteria in
28 a comment letter on the 2018 NOI and indicated in its letter submitted in response to the 2020
29 NOI that the criteria had not changed from 2018. If the proposed facility does not comply with
30 one or more of the applicable substantive criteria, the applicant must demonstrate that the
31 proposed facility nevertheless complies with the applicable statewide planning goals or that an
32 exception to Statewide Planning Goal 3 is justified under ORS 469.504(2) and OAR 345-022-
33 0030(4).

34
35 Exhibit K shall also provide evidence that the proposed facility would comply with any directly-
36 applicable Land Conservation and Development Commission (LCDC) administrative rules and
37 statutory requirements related to the proposed facility, including ORS 215.283 and 215.274.
38 Exhibit K shall provide evidence that the proposed facility would comply with the applicable
39 administrative rules at OAR 660-033-0130(38) related to development of solar power
40 generation facilities, as well as rules related to associated transmission lines to energy

1 generating facilities. Please note that in May 2019 LCDC adopted permanent amendments to
2 OAR 660-033-0130(38).

3
4 The proposed facility would require a Goal 3 exception. The Council’s goal exception process is
5 described at OAR 345-022-0030(4). A Goal 3 exception is necessarily based on site-specific
6 issues and reasons; as such, the applicant must provide site-specific evidence for each of the
7 five proposed solar array locations to support the evaluation of the Goal 3 exception. Reasons
8 that evaluate impacts to agriculture should include relevant information about the value of the
9 proposed site boundary area to the local agricultural community, including historic (last 10
10 years) agricultural revenue and number of workers and other agricultural resources/activities
11 which rely upon the impacted land. Reasons that support a local economic benefit should
12 provide specific and detailed information about how the proposed facility would provide
13 economic benefits which differ from any other type of development. The applicant should
14 address comments by reviewing agencies, the SAG, and stakeholder groups about impacts to
15 agriculture in the context of the Goal 3 exception request. See Section III(e), *Exhibit E – Permits*,
16 for additional discussion of local permits.

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

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

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

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

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

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

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

36 **Discussion:** The ASC shall include information about the applicant’s financial capability,
37 including the applicant’s legal authority to construct and operate the proposed facility without
38 violating its bond indenture provisions, articles of incorporation, common stock covenants, or
39 similar agreements. To find that the proposed facility satisfies the Retirement and Financial
40 Assurance standard (OAR 345-022-0050(2)), the Council must find that the applicant has a

1 reasonable likelihood of obtaining a bond or letter of credit in a form and amount satisfactory
2 to the Council to restore the site to a useful, non-hazardous condition. The ASC shall include the
3 type and amount of the applicant’s proposed bond or letter of credit to satisfy the
4 requirements of OAR 345-022-0050.

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

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

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 ASC must describe water use during construction and operation of
13 the proposed facility. The ASC must identify the sources of water to be used and include an
14 estimate of the amount of water the proposed facility would need during construction and
15 operation from each source under annual average and worst-case conditions. Exhibit O shall
16 specify the final disposition of all wastewater and describe and quantify water loss from the
17 facility site.

18 If the proposed facility does not need a groundwater permit, a surface water permit, or a water
19 right transfer, Exhibit O shall include an explanation as to why such a permit or transfer is not
20 required for construction and operation of the proposed facility, as required by paragraph (E). If
21 such a permit is necessary, the ASC shall include the evidence and application materials to
22 support a determination by Council that OWRD should issue such a permit. See Section III(e)
23 Exhibit E – *Permits*, for a discussion of OWRD permits and Section III(u) – *Public Services*, for
24 information requirements related to water service providers.

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

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

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

28 **Discussion:** The Oregon Department of Fish and Wildlife (ODFW) commented on the NOI
29 regarding potential impacts to big game winter range habitat, state sensitive species,
30 information about seasonally used playas for migratory birds, and raptor nests. ODFW
31 requested that the application address these potential impacts and provide a vegetation map
32 verified by on-site ground-truthing; a detailed plan for monitoring and treatment of invasive
33 and noxious plant species; a detailed habitat mitigation plan; and a revegetation plan.

34
35 The applicant shall consult with ODFW in developing the ASC materials. Exhibit P shall include
36 analysis of how the evidence provided supports a finding by the Council that the proposed
37 facility meets the Council’s Fish and Wildlife Habitat standard. OAR 345-021-0010(1)(p)
38 provides that Exhibit P must include a description of biological and botanical surveys performed

1 that support the information in this exhibit, including a discussion of the timing and scope of
2 each survey. Exhibit P must also provide baseline surveys of all state sensitive species that may
3 be present in the analysis area performed according to a protocol approved by the Department
4 and ODFW.

5
6 Oregon Fish and Wildlife Habitat Mitigation Policy (OAR Chapter 635, Division 415) classifies six
7 habitat categories and establishes a mitigation goal for each category. The applicant must
8 identify the appropriate habitat category for all areas affected by the proposed facility and
9 provide the basis for each category designation. The habitat classification is subject to the
10 Department and ODFW review. A map showing the different habitat categories within the
11 analysis area is required under sub-paragraph (C) of OAR 345-021-0010(1)(p), and inclusion of
12 vegetation classes within the map is recommended. The map must be of sufficient scale to
13 show details. Exhibit P must include tables depicting the estimated temporary and permanent
14 impacts, broken down by habitat categories and subtype.

15
16 The applicant must show how it would comply with the habitat mitigation goals and standards
17 by appropriate monitoring and mitigation, including measures proposed by the applicant to
18 avoid, reduce, and/or mitigate adverse impacts to habitat and state sensitive species. This
19 information shall be incorporated into a proposed Revegetation and Noxious Weed Control
20 Plan and a proposed Habitat Mitigation Plan (HMP) as attachments to Exhibit P. Exhibit P and
21 the HMP must clearly demonstrate how the applicant will provide mitigation, including
22 compensatory mitigation, in accordance with the Council's standard. This includes identifying in
23 the HMP the location of a specific habitat mitigation area that could be used to provide
24 compensatory mitigation, as well as ecological uplift mitigation actions that could be
25 implemented at the habitat mitigation area to provide the appropriate mitigation. The HMP
26 shall include results of a desktop or field-level survey assessing the habitat categories of the
27 habitat mitigation area. The HMP shall describe the mechanism, or mechanism options, for
28 acquiring the legal right to maintain and enhance the habitat mitigation area. The HMP shall
29 include draft success criteria for the proposed ecological uplift actions, and describe a process
30 for evaluating monitoring and reference site locations, prior to construction. This information is
31 required for the Department to find the application complete.

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

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

34 **Related Council and Other Standards:** Threatened and Endangered Species [OAR 345-022-
35 0070]

36 **Discussion:** The ASC shall include a list of state-listed endangered and threatened species that
37 have potential to occur in the analysis area, which as discussed in Section IV., *Analysis Area* is
38 the site boundary and 5 miles from the site boundary.⁵ The applicant shall identify these species

⁵ The Department notes that the information regarding potential Threatened and Endangered Species in the NOI was evaluated for the site boundary and two miles from the site boundary.

1 based on a review of literature, consultation with knowledgeable individuals, and reference to
2 the list of 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 (ODA) Native
7 Plant 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 **(r) Exhibit R – Scenic Resources**

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

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

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

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

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

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

4 **Discussion:** The ASC shall include the survey methodology, survey areas, and the results of all
5 surveys conducted for historic, cultural, and archaeological resources, as well as an analysis of
6 any significant adverse impacts anticipated and proposed mitigation measures. Exhibit S
7 materials shall include an inventory, impact assessment, and proposed mitigation measures (if
8 applicable) for potential impacts to historic, cultural or archaeological resources that have been
9 listed on, or would likely be listed on the National Register of Historic Places (NRHP), which
10 includes an evaluation of all NRHP criterion (A-D). The ASC shall also include an evaluation of
11 archaeological objects, as defined in ORS 358.905(1)(a), or archaeological sites, as defined in
12 358.905(1)(c) on private land, and archaeological sites, as defined in ORS 358.905(1)(c) on
13 public land, as applicable.

14

15 The applicant should work closely with the State Historic Preservation Office (SHPO) and the
16 Department to understand the report formatting and submission requirements, and to receive
17 guidance on any survey protocols. The Department is aware that the applicant has been
18 coordinating closely with the Klamath Tribes, and in a comment letter on the NOI, the Klamath
19 Tribes indicated it concurs with moving forward with the geoarchaeological subsurface survey
20 approach, to attempt to locate where buried deposits might be present.

21

22 It is recommended that the applicant continue to discuss the proposed facility with the Klamath
23 Tribes. The Confederated Tribes of Warm Springs and the Burns Paiute Tribe commented on
24 the NOI that they defer to the Klamath Tribes for review of the proposed facility. Previous
25 guidance from SHPO indicated that there may be standing structures near the proposed facility,
26 and requested that all standing structures be identified, and those that are over 50 years old be
27 evaluated for eligibility for NRHP-listing.

28

29 As described in the Historic, Cultural, and Archaeological Resources standard at OAR 345-022-
30 0090(2), the Council may issue a site certificate for a facility that would produce power from
31 solar energy without making the findings of the Historic, Cultural, and Archaeological Resources
32 standard at OAR 345-022-0090(1), though the Council may apply the requirements of OAR 345-
33 022-0090(1) to impose conditions in a site certificate issued for such a facility.

34

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 **(t) Exhibit T – Recreation**

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

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

4 **Discussion:** The ASC shall analyze the importance of recreational opportunities in the analysis
5 area using the factors listed in OAR 345-022-0100(1), discuss any significant potential adverse
6 impacts to important recreational opportunities, and describe measures proposed to avoid,
7 minimize or mitigate those impacts. Please list all recreational opportunities in the analysis area
8 and provide the applicant’s analysis of whether those recreational opportunities are
9 recommended as “important” or not. The importance of recreational opportunities is assessed
10 based on five factors outlined in the standard: special designation or management, degree of
11 demand, outstanding or unusual qualities, availability or rareness, and irreplaceability or
12 irretrievability of the recreational opportunity. Provide references including data sources and
13 hyperlinks to data sources which were reviewed to evaluate factors.

14 A visual impact assessment is required as part of Exhibit T; while no specific methodology is
15 required by EFSC rule, the applicant must submit evidence adequate to demonstrate how the
16 proposed facility would comply with the Recreation standard. Visual simulations or other visual
17 representations are not required but can provide important evidence for use by the
18 Department and Council in understanding the potential visual impact of the proposed facility to
19 important recreational opportunities. As described under the Protected Areas standard section
20 above, please note that compliance with the DEQ noise rules (Exhibit X) does not correlate to
21 compliance with the noise assessment considered in the Recreation standard. Particularly,
22 while construction noise is exempt from the DEQ noise rules, construction noise must be
23 considered under the Recreation standard. However, information developed to demonstrate
24 compliance with the DEQ noise rules (such as noise modeling) can be used in the assessment
25 under the Recreation standard.

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

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

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

29 **Discussion:** The ASC shall provide information related to the proposed facility’s potential
30 impacts to the ability of public and private providers within the analysis area to provide: sewers
31 and sewage treatment, water, storm water drainage, solid waste management, housing, air and
32 vehicular traffic safety, police and fire protection, health care and schools (OAR 345-022-0110).
33 Applications for site certificate typically include letters from local public services providers to
34 demonstrate that the proposed facility would not cause a significant adverse impact on the
35 ability of those providers to provide their services, in accordance with the Public Services
36 standard. Based on the information in the NOI and the proposed facility location within
37 portions of the Town of Lakeview, is it recommended that the applicant provide letters from
38 the following public and private service providers that may be impacted by the proposed
39 facility:

- 40 • Local fire department,

- 1 • Police department,
- 2 • Public works department,
- 3 • Sewer and sewage treatment providers,
- 4 • Water service providers
- 5 • Solid waste providers

6

7 Letters obtained from public service providers include analysis indicating that their level of
8 service would not be impacted. For instance, letters obtained from water service providers
9 should include an evaluation of permit limits, permit or water right numbers, type of water use,
10 and historical demand to demonstrate that it can meet proposed facility needs. Letters from
11 fire service providers should explain how resources used by the facility, in the event of a fire-
12 related issue, would not impact their ability to provide fire emergency response, rather than a
13 conclusory statement without supporting analysis demonstrating a clear understanding of the
14 facility. Letters from public works departments should demonstrate an understanding of
15 proposed facility road use, including maximum number of vehicle miles travelled and vehicle
16 weight, and confirmation of whether the use would impact local roads.

17

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

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

24 **Applicable Paragraphs:** All paragraphs apply

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

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

32

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

38

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

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

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

4 **Discussion:** The ASC shall provide an estimate of the total and unit retirement costs per task
5 and action necessary for facility decommissioning, including a detailed explanation,
6 assumptions, and justification of the methodology it uses to estimate site restoration costs. The
7 Council’s Retirement and Financial Assurance standard requires evidence that the amount
8 estimated for facility decommissioning is sufficient for restoration of the site to a useful,
9 nonhazardous condition; and that the applicant has a reasonable likelihood of obtaining a bond
10 or letter of credit in the amount identified for facility decommissioning. If applicant chooses to
11 provide a comfort letter from a financial institution as evidence to support Council’s review of
12 this requirement, the letter should refer to the applicant, be on letterhead, and accurately
13 reference, at a minimum, the dollar amount (in relevant quarter and year) of the
14 decommissioning amount. If the applicant would like to reserve the option to construct the
15 facility in phases, to the extent possible the applicant should provide sufficient cost estimating
16 detail to enable the bond or letter of credit amount to be adjusted based on phase.

17 **(x) Exhibit X – Noise**

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

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

21 **Discussion:** The ASC shall contain a noise analysis and information to support a Council finding
22 that the proposed facility would comply with applicable DEQ noise control standards in OAR
23 340-035-0035. The applicant shall include ambient noise monitoring results to support the
24 evaluation of compliance with the ambient antidegradation standard. OAR 340-035-0035(3)
25 provides that sound measurement procedures shall conform to those procedures which are
26 adopted by the Commission and set forth in Sound Measurement Procedures Manual (NPCS-1),
27 or to such other procedures as are approved in writing by the Department. If the applicant’s
28 sound measurement procedures differ from the NPCS-1, please provide a discussion and basis
29 for the variation. For instance, the number of ambient monitoring sites shall be sufficient to
30 reasonably represent the ambient noise conditions at noise sensitive receptor locations in
31 closest proximity to the proposed site. Ambient noise monitoring shall also be conducted to
32 determine ambient conditions at noise sensitive receptor locations in closest proximity to the
33 proposed 115 kV gen-tie transmission line. The analysis shall evaluate maximum noise levels
34 from all noise-generating equipment during construction and operation. Operational noise shall
35 be evaluated from both stationary sources (e.g. substation transformers, inverters/transformer
36 units, any HVAC systems, and inverters) and corona noise from the transmission line.

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

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

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

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

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

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

10 **Related Council and Other Standards:** Specific Standards for Transmission Lines [OAR 345-024-
11 0090].

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

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

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

16 **Discussion:** No additional information is requested at this time

17 **(cc) Exhibit CC – Other Law**

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

19 **Discussion:** All requirements apply.

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

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

22 **Related Council and Other Standards:** Specific Standards for Transmission Lines [OAR 345-024-
23 0090].

24 **Discussion:** The Council applies specific standards for transmission lines under its jurisdiction in
25 OAR 345-024-0090. The applicant should provide analysis regarding compliance with OAR 345-
26 024-0090 in Exhibit DD or refer to Exhibit AA as appropriate.

27

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

29 The analysis areas are the areas that the applicant must study for potential impacts from the
30 construction and operation of the proposed facility. **Please Note:** If significant impacts
31 associated with the applicable Council standards⁷ could occur beyond the analysis areas
32 described here, then the applicant must assess those impacts in the ASC and show how the

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 facility would comply with the applicable standard with regard to the larger area where impacts
 2 could occur.

3
 4 For all potential impacts, the analysis area includes all the area within the site boundary, as
 5 defined in OAR 345-001-0010(59). The minimum required analysis areas are presented in Table
 6 3, *Analysis Areas*.

7

Table 3: 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). |
| 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 20 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 from 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> <p>1. 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.</p> | | |

8

1 **V. COMMENTS FROM THE PUBLIC AND REVIEWING AGENCIES**

2 The Department and applicant received verbal and written comments (via Webex) from
3 members of the public at the December 8, 2020 NOI informational meeting. In addition, during
4 the course of the NOI comment period, the Department received 10 comments from
5 government entities including other state agencies and Special Advisory Groups, and 14
6 comments from members of the public, which include comments from stakeholder groups.
7 These comments were provided under separate cover to the applicant and were reviewed and
8 considered in the development of this Project Order. Within each applicable exhibit of the ASC,
9 the applicant shall address those concerns raised by reviewing agencies and members of the
10 public that are within the jurisdiction of the Council. OAR 345-015-0160(1)(g)

11 **VI. EXPIRATION DATE OF THE NOTICE OF INTENT**

12 In accordance with OAR 345-020-0060, the Blue Marmot Solar Energy Facility NOI will expire
13 two years after the date of submittal, on October 27, 2022, unless the applicant submits a
14 petition to Council to extend the expiration date. Such a petition must be submitted no less
15 than 45 days before the NOI expiration date. If the Council finds that the extension petition
16 shows good cause, it may extend the NOI expiration date by up to one year.
17

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

19 The Council or the Department may amend this Project Order at any time [OAR 345-015-
20 0160(3)]. Amendment may include changes to the analysis areas. To issue a site certificate, the
21 Council must determine that the proposed facility complies with Oregon statutes and
22 administrative rules identified in the Project Order, as amended, as applicable to the issuance
23 of a site certificate for the proposed facility (ORS 469.503(3)).

24 Under OAR 345-015-0190(5), when the Department determines the ASC contains adequate
25 information for the Council to make findings or impose conditions on all applicable Council
26 standards, the Department will issue a determination of completeness on the ASC. The
27 Department may determine that the ASC is complete without requiring the applicant to submit
28 all information described under OAR 345-021-0000 and -0010. In accordance with OAR 345-
29 015-0190(9), after a determination that an ASC is complete, the Department may require
30 additional information from the applicant if additional information is needed during its
31 continued review of the ASC.
32

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

34 Failure to include an applicable statute, rule, ordinance, permit or other requirement in this
35 Project Order does not render that statute, rule, ordinance, permit or other requirement
36 inapplicable, nor in any way relieve applicant from the duty to comply with the same.
37

38 **OREGON DEPARTMENT OF ENERGY**

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3

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

7

8 Date of Issuance: February 23, 2021