



**TABLE OF CONTENTS**

1

2 **I. INTRODUCTION..... 1**

3 **II. EFSC REGULATORY FRAMEWORK..... 3**

4 **III. APPLICATION REQUIREMENTS..... 4**

5     (a) *Exhibit A – General Information about the Applicant..... 5*

6     (b) *Exhibit B – General Information about the Proposed Facility..... 5*

7     (c) *Exhibit C – Location..... 6*

8     (d) *Exhibit D – Organizational Expertise..... 6*

9     (e) *Exhibit E – Permits..... 6*

10    (f) *Exhibit F – Property Owners..... 17*

11    (g) *Exhibit G – Materials Analysis..... 17*

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

13    (i) *Exhibit I – Soils..... 18*

14    (j) *Exhibit J – Waters of the State and Removal-Fill..... 18*

15    (k) *Exhibit K – Land Use..... 19*

16    (l) *Exhibit L – Protected Areas..... 20*

17    (m) *Exhibit M – Financial Capability..... 21*

18    (n) *Exhibit N – Non-Generating Facility Need..... 21*

19    (o) *Exhibit O – Water Use..... 21*

20    (p) *Exhibit P – Fish and Wildlife Habitat..... 21*

21    (q) *Exhibit Q – Threatened and Endangered Species..... 23*

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

23    (s) *Exhibit S – Historic, Cultural and Archaeological Resources..... 23*

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

25    (t) *Exhibit T – Recreation..... 24*

26    (u) *Exhibit U – Public Services..... 25*

27    (v) *Exhibit V – Solid Waste and Wastewater..... 26*

28    (w) *Exhibit W – Facility Retirement..... 26*

29    (x) *Exhibit X – Noise..... 27*

30    (y) *Exhibit Y – Carbon Dioxide Emissions..... 27*

31    (z) *Exhibit Z – Cooling Tower Impacts..... 28*

32    (aa) *Exhibit AA – Electric and Magnetic Fields..... 28*

33    (bb) *Exhibit BB – Other Information..... 28*

34    (cc) *Exhibit CC – Other Law..... 28*

35    (dd) *Exhibit DD – Specific Standards..... 28*

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

37 **V. COMMENTS FROM THE PUBLIC AND REVIEWING AGENCIES..... 29**

38 **VI. EXPIRATION DATE OF THE NOTICE OF INTENT..... 30**

39 **VII. PROJECT ORDER AMENDMENT AND APPLICATION COMPLETENESS ..... 30**

40 **VIII. APPLICABILITY AND DUTY TO COMPLY..... 30**

41

1 **I. INTRODUCTION**

2 The Oregon Department of Energy (Department) received a Notice of Intent (NOI) on  
3 November 3, 2020 by Wheatridge East Wind, LLC (applicant), a wholly owned subsidiary of  
4 NextEra Energy Resources, LLC, for the proposed Wagon Trail Solar Project (proposed facility).  
5 On March 23, 2021, the Department issued a Project Order for the proposed facility in  
6 accordance with Oregon Administrative Rule (OAR) 345-015-0160. Due to modifications of the  
7 proposed facility, the applicant submitted an amended NOI on June 11, 2021. The amended  
8 NOI was submitted in accordance with OAR 345-020-0006, with the purpose of notifying the  
9 Department and the Energy Facility Siting Council of (EFSC or Council) that the applicant intends  
10 to apply for a site certificate for the proposed facility. The amended NOI provides information  
11 about the proposed site and characteristics for the proposed facility and includes the required  
12 contents under OAR 345-020-0011(1). The Department issues this amended Project Order  
13 The Department issues this Project Order for the proposed facility in accordance with Oregon  
14 Administrative Rule (OAR) 345-015-0160.

15  
16 The proposed facility is a solar photovoltaic energy generation facility with a nominal  
17 generating capacity of up to 500 megawatts, is anticipated to occupy approximately 4,5005,000  
18 acres of private land within a site boundary of 5,9577,339 acres, all of which is zoned for  
19 Exclusive Farm Use by Morrow County.<sup>12</sup> Proposed related and supporting facilities to the  
20 energy facility would consist of a distributive battery storage system, collector substations, 230-  
21 kV transmission lines, operations and maintenance (O&M) building, meteorological (met)  
22 towers, access roads and security infrastructure, and temporary construction areas. The  
23 proposed energy facility and its related or supporting facilities are referred to as the proposed  
24 facility.

25  
26 Following review of an NOI, Oregon Revised Statute (ORS) 469.330(3) and OAR 345-015-0160  
27 require the Department to issue a Project Order to the applicant establishing the application  
28 requirements for the proposed facility. Accordingly, the Department issues this amended  
29 Project Order establishing the requirements for the site certificate application for the Wagon  
30 Trail Solar Project. As provided in ORS 469.330(4), this is not a final order and the Department  
31 or the Council may amend this Project Order at any time.

32  
33 ORS 469.401(4) provides that a site certificate issued by the Council does not govern certain  
34 matters. The Project Order identifies only those matters that could be included in and governed  
35 by the site certificate, if issued by EFSC, and as applicable to issuance of the site certificate for  
36 the proposed facility pursuant to ORS 469.503(3). Throughout this Project Order, the definitions

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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 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.

<sup>2</sup> The original proposal included an approximately 5,957 acres (9.3 sq. miles) site boundary.

1 in ORS 469.300 and OAR 345-001-0010 apply, except where otherwise stated or where the  
2 context indicates otherwise.

3  
4 On November 25, 2020, ODOE issued a public notice of the NOI to the EFSC mailing list and to  
5 adjacent property owners as defined at OAR 345-020-0011(1)(f). ODOE also published the  
6 notice in the East Oregonian newspaper that ran on November 26, 2020, and in the Heppner  
7 Gazette which ran on November 25, 2020. The public notice included information regarding the  
8 proposed facility and the EFSC review process; announced that a virtual public informational  
9 meeting would be held on January 7, 2021; and established January 22, 2021 as the public  
10 comment deadline on the NOI. The Department and applicant held the virtual public  
11 informational meeting on January 7, 2021.

12  
13 Pursuant to ORS 469.480(1), EFSC must designate as a Special Advisory Group the governing  
14 body of any local government within whose jurisdiction the facility is proposed to be located. At  
15 the November 19-20, 2020 EFSC meeting, the Council appointed the Morrow County Board of  
16 Commissioners as the Special Advisory Group (SAG).<sup>3</sup>

17  
18 In compliance with OAR 345-021-0050(1), the Department prepared a memorandum to  
19 reviewing agencies, Tribal Governments, and the SAGs, and compiled a distribution list,  
20 including all reviewing agencies identified and defined in OAR 345-001-0010(52). In accordance  
21 with ORS 469.350(2) and OAR 345-020-0040, on December 21, 2020, the Department sent the  
22 memorandum and hyperlink for electronic access to the NOI to each of the reviewing agencies  
23 listed in Table 1 below. The Department requested comments from reviewing agencies on or  
24 before January 22, 2021.

25  
26 At the close of the comment period, the Department received 10 reviewing agency comments,  
27 and no public comments. As discussed in Section V. Comments on the Notice of Intent, and in  
28 accordance with OAR 345-015-0140, the Department sent the applicant a copy of each  
29 reviewing agency comment letter received for their review and consideration in preparing the  
30 application for site certificate.

31  
32 At the close of the Amended NOI comment period, the Department received six comments  
33 from reviewing agencies, and one from a member of the public. In accordance with OAR 345-  
34 015-0140, the Department sent the applicant a copy of each reviewing agency comment letter  
35 received, and the single comment from a member of the public, for their review and  
36 consideration in preparing the application for site certificate.

37  
38 Section II of this Project Order outlines the EFSC regulatory framework and references the main  
39 statutes and rules that govern the EFSC review process [per OAR 345-015-0160(1)]. Section III  
40 discusses the application content requirements under OAR 345-021-0010. Section IV specifies  
41 the impact assessment analysis areas for the proposed facility. Section V incorporates by

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<sup>3</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.”

1 reference comments received from reviewing agencies and the public that address matters  
 2 within the jurisdiction of the Council that the applicant must consider and discuss in the  
 3 application for a site certificate. Section VI provides the expiration date of the NOI, and Section  
 4 VII discusses Project Order amendments and the requirements for the Department to find the  
 5 application for site certificate complete. Section VIII describes the applicant’s duty to comply  
 6 with applicable requirements.  
 7

8 **Table 1. Notice of Intent Distribution List**

State Agencies	
<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> </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> </ul>
<ul style="list-style-type: none"> <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>• Department of Land Conservation and Development</li> <li>• Office of State Fire Marshal</li> <li>• Oregon State Historic Preservation Office</li> </ul>
Native American Tribes	
<ul style="list-style-type: none"> <li>• Confederated Tribes of the Warm Springs Burns</li> <li>• Confederated Tribes of the Yakima</li> </ul>	<ul style="list-style-type: none"> <li>• Confederated Tribes of the Umatilla Indian Reservation</li> <li>• Nez Perce Tribe</li> </ul>
Special Advisory Groups	
<ul style="list-style-type: none"> <li>• Morrow County Board of Commissioners</li> </ul>	
Other Reviewing Agencies	
<ul style="list-style-type: none"> <li>• Northwest Power Planning Council</li> </ul>	

9

10 **II. EFSC REGULATORY FRAMEWORK**

11 Issuance of a site certificate is governed by the statutory requirements in ORS 469.300 *et seq.*  
 12 and administrative rules in OAR chapter 345. The following divisions of OAR chapter 345 include  
 13 rules related to application requirements, EFSC review of an application for site certificate  
 14 (ASC), and construction and operation of an approved facility:  
 15

16 **OAR Chapter 345, Division 21** (Site Certificate Application Requirements) includes the primary  
 17 site certificate application requirements. See Section III of this Project Order for specific  
 18 information related to the site certificate application requirements for the proposed facility.  
 19

20 **OAR Chapter 345, Division 22** (Council Standards for Siting Facilities) includes most of the  
 21 regulatory standards by which EFSC must evaluate the proposed facility. In addressing each of  
 22 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)].<sup>4</sup> 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).

---

<sup>4</sup> 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  
30 If the applicant requests Council review and approval of flexibility to site proposed facility  
31 components anywhere within the site boundary or seeks approval of a micrositing area, the  
32 applicant must evaluate impacts of siting facility components anywhere within the entirety of  
33 the site boundary or established micrositing area (i.e., desktop and field surveys must include  
34 the entire site boundary or micrositing area, if different; impact assessment must be based on  
35 maximum impact facility layout option within the site boundary or micrositing area, if  
36 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).  
38



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  
 5 Table 2 lists permits that may be required for the proposed facility. Please see the discussion  
 6 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 <sup>1</sup>	
Oregon DEQ National Pollution Discharge Elimination System Construction Storm Water 1200-C permit		X <sup>1</sup>	
Oregon DEQ NPDES Storm Water and Mine Dewatering Discharge 1200-A permit		X <sup>1</sup>	
Oregon DEQ Clean Water Act Section 401 Water Quality Certification		X	
Removal-Fill Permit	X		
Onsite Sewage Disposal Construction-Installation Permit	X <sup>1</sup>		
Water Pollution Control Facilities (WPCF) General Permit 1000	X <sup>1</sup>		
WPCF General Permit 1700-B	X		
Water Right Permit or Water Use Authorization	X		
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

**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)
SHPO Archaeological Permit	X <sup>2</sup>		X <sup>2</sup>
Morrow County Conditional Use Permit	X		
Morrow County Utility Crossing Permit and Access Approach Site Permit			X
Morrow County Build on Right-of- Way Permit			X
City of Boardman Building Permit			X

<sup>1</sup> Unless obtained by third-party; see Third-Party Permits discussion.  
<sup>2</sup> The Department notes that a SHPO Archaeological Permit may be under EFSC jurisdiction if proposed by the applicant in the ASC.

1  
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19

**Federally-Delegated Permits**

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

**Statute and Rule References**

- OAR Chapter 340, Division 216

**Permits**

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

**Discussion:** The United States Environmental Protection Agency (EPA) has delegated authority to the Oregon Department of Environmental Quality (DEQ) to administer air quality under the Clean Air Act. As described in the November 2020 NOI, each mobile concrete batch would require a Basic Air Contaminant Discharge Permit (ACDP). A Basic ACDP authorizes operation of a concrete manufacturing plant that produces more than 5,000 but less than 25,000 cubic yards per year output. ACDPs for mobile, temporary concrete batch plants are associated with the equipment itself. The requirements of OAR 345-021-0000(6) would apply to this federally-delegated permit. If the applicant’s third-party contractor would instead obtain the ACDP, the requirements described in the Third-Party Permits section below would apply.

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 NPDES and WPCF Permits)

5 **Permits**

- 6 • National Pollution Discharge Elimination System (NPDES) Construction Stormwater  
7 1200-C permit
  - 8 ○ Information needed for completeness (unless obtained by third-party; see Third-  
9 Party Permits discussion) but not EFSC-jurisdictional
- 10 • NPDES Stormwater and Mine Dewatering Discharge 1200-A permit
  - 11 ○ Information needed for completeness (unless obtained by third-party; see Third-  
12 Party Permits discussion) but not EFSC-jurisdictional

13 **Discussion:** The EPA has delegated authority to DEQ to issue NPDES Stormwater Discharge  
14 permits for construction and operation activities. Based upon the information in the NOI, a  
15 NPDES 1200-C permit would be required for facility construction. In accordance with OAR 345-  
16 021-0000(6), the applicant must submit to the Department one copy of all applications for  
17 federally-delegated permits (including the NPDES permit), or provide a schedule of the date by  
18 which the applicant intends to submit the application. Note that the Department will not be  
19 able to find the application for site certificate complete before receiving a copy of the NPDES  
20 permit application and a letter or other indication from DEQ. The DEQ response must state that  
21 the agency has received a permit application from the applicant and provide an estimated date  
22 when the agency will complete its review and issue a permit decision. The applicant may  
23 incorporate this information into Exhibit I (Soils) or Exhibit BB (Other Information) of the ASC.

24  
25 Disposal of concrete batch plant wash water (if a temporary batch plant is necessary) would  
26 require either an NPDES 1200-A permit or a WPCF General Permit 1000. If the batch plant was  
27 to discharge stormwater from a point source to surface water or to a conveyance system that  
28 discharges to surface water, the plant would require an NPDES 1200-A permit. The  
29 requirements of OAR 345-021-0000(6) (described in the preceding paragraph) would apply to  
30 the NPDES 1200-A permit. If the applicant's third-party contractor would instead obtain the  
31 NPDES 1200-A permit, the requirements described in the Third-Party Permits section below  
32 would apply. Alternatively, if the batch plant would be located within a construction staging  
33 yard for which the applicant would seek coverage under an NPDES 1200-C permit described  
34 above, the applicant may seek coverage for the batch plant under the same NPDES 1200-C  
35 permit.

36  
37 If the batch plant would not discharge to surface waters, a WPCF General Permit 1000 would  
38 instead be required to dispose of process wastewater and stormwater by recirculation,  
39 evaporation, and/or controlled seepage (see the State Permits discussion below).

1 **State Permits**

2 ***Oregon Department of State Lands***

3 **Statute and Rule References**

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

8 **Permit**

- 9 • Removal-Fill Permit
  - 10 ○ EFSC jurisdictional

11 **Discussion:** A removal-fill permit is required if any removal or fill activities occur in streams  
12 designated as Essential Indigenous Anadromous Salmonid Habitat or 50 cubic yards or more of  
13 material is removed, filled or altered within a jurisdictional water of the state [OAR 141-085-  
14 0520(2) and (5)]. Removal-fill permits are state permits under Council jurisdiction.

15 The applicant must conduct a wetland delineation, to be sent to Department of State Lands  
16 (DSL) for concurrence, according to OAR Chapter 141, Division 90 rules. The wetland  
17 delineation determines the location of “waters of this state,” as defined in OAR 141-085-  
18 0510(91), within the analysis area. Depending upon facility impacts to “waters of this state” a  
19 removal-fill permit may be necessary, and the application for site certificate should include  
20 information establishing whether a removal-fill permit is required. If a removal-fill permit is  
21 required, the ASC shall include a concurred delineation from DSL and a complete application for  
22 an individual permit which demonstrates consistency with ORS 196.825(1), and provides  
23 enough information for determinations and considerations under ORS 196.825(3) and OAR 141-  
24 085-0565.

25  
26 A Compensatory Wetland Mitigation Plan which meets the requirements of OAR 141-085-0680  
27 through OAR 141-085-0715 must be provided to replace all lost functions and values previously  
28 provided by the impacted wetlands and waterways.

29  
30 If the proposed facility requires any dredge or fill of waters of the United States, the applicant  
31 must submit to the Department one copy of an application for a Section 404 permit, in  
32 accordance with OAR 345-021-0000(6), and a Section 401 Water Quality Certificate must be  
33 granted by DEQ before a Section 404 may be issued. The DSL (removal-fill permit) and the  
34 Corps (Section 404 permit) use a joint application form. As discussed previously with regard to  
35 Exhibit E and federally-delegated permits outside of Council jurisdiction, the applicant must  
36 provide a letter or other indication from the Corps stating that the agency received a permit  
37 application from the applicant, identifying any additional information the agency is likely to  
38 need from the applicant based on the agency’s review of the application, and an estimated date  
39 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 and drain fields with a daily sewage flow of fewer than 2,500 gallons during  
23 operation. The applicant indicates in the NOI that its third-party contractor would obtain the  
24 necessary Construction-Installation Permit directly from DEQ; this permit is therefore related to  
25 the siting and operation of the proposed facility but would not be included in and governed by  
26 the site certificate (see the Third-Party Permits discussion below).

27  
28 If a temporary batch plant is necessary, disposal of concrete batch plant wash water would  
29 require either a Water Pollution Control Facilities (WPCF) General Permit 1000 or a NPDES  
30 permit. Concrete batch plants that dispose of process wastewater and stormwater by  
31 recirculation, evaporation, and/or controlled seepage with no discharge to surface waters  
32 require a WPCF General Permit 1000. A WPCF General Permit 1000 is a state permit under  
33 Council jurisdiction. If the applicant's third-party contractor would obtain the necessary WPCF  
34 General Permit 1000 directly from DEQ, this permit would be related to the siting and operation  
35 of the proposed facility but would not be included in and governed by the site certificate (see  
36 the Third-Party Permits discussion below). If the batch plant was to instead discharge  
37 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 Disposal of solar panel wash water would require a WPCF 1700-B permit. The NOI indicates that  
6 either the Applicant or a third-party contractor who will conduct the solar panel washing  
7 activities may seek coverage under the WPCF-1700-B permit from ODEQ following completion  
8 of construction and before initiating any washing activities. DEQ has indicated to the  
9 Department that a WPCF General Permit 1700-B is not required for solar array washing  
10 activities that would not result in discharge to surface waters, storm sewers, or dry wells, and  
11 that would not use acids, bases, metal brighteners, steam, or heated water. The use of  
12 biodegradable, phosphate-free cleaners with cold water is allowed. However, cleaning only  
13 with cold water is recommended. Chemicals, soaps or detergents must be used sparingly. The  
14 applicant or its third-party contractor should seek guidance from DEQ prior to conducting solar  
15 module washing activities. A WPCF 1700-B and WPCF General Permit 1000 are state permits  
16 under Council jurisdiction. If the applicant's third-party contractor would obtain the necessary  
17 WPCF 1700-B permit directly from DEQ, this permit would not be included in and governed by  
18 the site certificate (see the Third-Party Permits discussion below).

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

## 24 ***Oregon Water Resources Department***

### 25 **Statute and Rule References**

- 26 • ORS 537.110-.330 (Appropriation under 1909 Act; Limited Licenses)
- 27 • ORS 537.505-.795 and ORS 537.992 (collectively, Ground Water Act of 1955)
- 28 • ORS 537.992 (Civil Penalties)
- 29 • ORS 540.505-.589 (Changes in Use of Water; Transfer of Water Rights; Exchange)
- 30 • OAR Chapter 690, Division 310 (Water Right Application Processing)
- 31 • OAR Chapter 690, Division 340 (Water Use Authorizations)
- 32 • OAR Chapter 690, Division 410 (Statewide Water Resource Management)

### 33 **Permits**

- 34 • Water Right Permit or Water Use Authorization
  - 35 ○ EFSC jurisdictional
- 36 • Limited License
  - 37 ○ EFSC jurisdictional

1 **Discussion:** As represented in NOI Exhibit J, the applicant does not anticipate the need for a  
2 Water Right Permit or Water Use Authorization, and intends to obtain water for facility  
3 construction and operation from an offsite municipal or commercial source. If water for  
4 construction and operation is not available from permitted sources, and after considering  
5 alternate sources, water may be obtained from a new well permitted under a limited water use  
6 license. The applicant explains that if water for construction and operation is not available from  
7 permitted sources, the applicant would obtain the necessary water right permit or water use  
8 authorization. Water right permits, limited water use licenses, and other water authorizations  
9 for EFSC-jurisdictional energy facilities are subject to review and authorization by EFSC, and this  
10 permit would be included in and governed by the site certificate.

11  
12 A limited water license or permit would be required if the well would provide more than 5,000  
13 gallons of water per day, and if necessary, a limited that license or permit would be included  
14 and governed by the site certificate.

### 15 ***Oregon Department of Transportation***

#### 16 **Statute and Rule References**

- 17 • ORS 818.030 (Exemptions from Weight Limitations)
- 18 • OAR Chapter 734, Division 82 (Variance Permits Issued for Non-Divisible Loads and Road  
19 Use Assessment Fees)
- 20 • OAR Chapter 734, Division 51 (Highway Approaches, Access Control, Spacing Standards,  
21 and Medians)
- 22 • OAR Chapter 734, Division 55 (Pole Lines, Buried Cables, and Miscellaneous Operations)

#### 23 **Permits**

- 24 • Oversize Load Movement Permit/Load Registration
  - 25 ○ Not EFSC jurisdictional and no additional information needed for the ASC
- 26 • Access Management Permit
  - 27 ○ Not EFSC jurisdictional and no additional information needed for the ASC
- 28 • Permit to Occupy or Perform Operations Upon a State Highway
  - 29 ○ Not EFSC jurisdictional and no additional information needed for the ASC

30 **Discussion:** Various permits from Oregon Department of Transportation (ODOT) may be  
31 required prior to construction of the facility. Access from Oregon state highways would require  
32 an access permit. Utility installations within the right-of-way of a state highway in Oregon  
33 require an Occupy or Perform Operations upon a State Highway permit. Movement of  
34 construction cranes and other large equipment and materials could also require an Oversize  
35 Load Movement permit. These permits are not related to facility siting and are not included in  
36 or governed by the site certificate. The applicant or its contractor must secure any applicable  
37 ODOT permits directly from ODOT, independent of the site certificate process. The impacts  
38 associated with road use and modifications, however, must be evaluated in Exhibit U.



1 **State Historic Preservation Office**

2 **Statute and Rule References**

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

5 **Permits**

- 6 • Archaeological Excavation Permit
  - 7 ○ May be EFSC jurisdictional if proposed in in ASC; if so, then ASC materials
  - 8 required

9 **Discussion:** Per ORS 390.235 and 358.920 a person may not excavate or alter a known  
10 archaeological site on public or private lands, or make an exploratory excavation on public lands  
11 to determine the presence of an archaeological site, or remove from public or private lands any  
12 material of an archaeological, historical, prehistoric or anthropological nature without first  
13 obtaining a permit issued by the State Historic Preservation Office (SHPO). An Archaeological  
14 Permit is needed for any excavation or artifact recovery within a known archaeological site on  
15 non-federal public lands and private lands in Oregon. This permit is also needed for any  
16 subsurface investigation on non-federal public lands. It is important to note that a “known site”  
17 is one that any individual is aware of, or that is documented with the state or any other  
18 institution. SHPO Archaeological Permits have a 30-day review period, require tribal  
19 consultation during review, and must meet SHPO standards.

20  
21 During facility construction, if a previously unidentified archaeological site is discovered, all  
22 construction will cease, and the applicant will report the finding to SHPO and the Department  
23 immediately. In that instance, the permit may be required based on SHPO’s determination. This  
24 permit would not be included in and governed by the site certificate.

25  
26 SHPO issues Archaeological Permits in accordance with ORS 390.235 and OAR 736-051-0000  
27 through 0090. If an applicant proposes the SHPO Archaeological permits in the ASC to be  
28 governed by the site certificate, the SHPO permit information requirement would apply to the  
29 ASC. If an applicant proposes a SHPO Archaeological Permit to be included and governed by the  
30 site certificate, advance coordination with the Department and SHPO is recommended.

31 **State Approvals**

32 **Oregon Department of Aviation**

33 **Statute and Rule References**

- 34 • ORS 836.530 and 836.535
- 35 • OAR Chapter 738, Division 070 (Physical Hazards to Air Navigation)

36 **Permit**

- 37 • Determination of No Hazard to Air Navigation
  - 38 ○ EFSC Jurisdictional
  - 39

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Discussion

ORS 836.530 authorizes the Oregon Department of Aviation to define physical hazards to air navigation and determine whether specific types or classes of objects or structures constitute hazards. The standards and procedures for determining when a structure or object constitutes a physical hazard to air navigation are found in OAR Chapter 738, Division 070.

The applicant must identify the distance and direction of the following airports and any private airstrips within 3 nautical miles, from the micro-siting corridor from the following airports:

- Lexington Airport
- PGE Boardman
- West Buttercreek

In addition, applicant must provide the preliminary latitude, longitude, height above mean sea level, and height above ground level for any proposed facility components that would exceed 200 ft in height above ground level or would be:

- within 20,000 ft of an airport listed above and would exceed a 100:1 surface from any point on the runway of each airport with at least one runway more than 3,200 ft.
- within 10,000 ft of an airport listed above and would exceed a 50:1 surface from any point on the runway of each airport with its longest runway no more than 3,200 ft.
- within 5,000 ft of a public use heliport and would exceed a 25:1 surface from each heliport.

The applicant must include the requested data using FAA Form 7460-1 or in another format that is approved by the department. The applicant may also provide a supplemental analysis of why it believes the proposed facility components would not exceed the obstruction standards in OAR 738-070-0100 or, if the applicant believes the components would exceed the standards, why they would not constitute a hazard to air navigation. This information may be provided as part of one or more of the following exhibits: Exhibit E, Exhibit U, Exhibit BB, and Exhibit CC. Satisfaction of this requirement does not relieve the applicant of its responsibility to comply with any regulations and requirements of the Federal Aviation Administration under 14 CFR Part 77.

**Local Permits**

**Land Use Ordinance References**

- Morrow County Zoning Ordinance
- Morrow County Comprehensive Plan
- OAR Chapter 734, Division 51

**Permits**

- 1 • Morrow County Conditional Use Permit
- 2 • Morrow County Zoning Permit
- 3 • Morrow County Build on Right-of-Way Permit
- 4 • Morrow County Utility Crossing Permit and Access Approach Site Permit
- 5 • Morrow County Oversized Load Movement Permit
- 6 • City of Boardman Building Permit

7  
8 **Discussion:** Morrow County has permitting requirements that relate to the siting, construction  
9 or operation of the proposed facility. The applicant shall identify those permits or approvals  
10 and include an analysis of whether each should be included in and governed by the site  
11 certificate.

12  
13 As stated in the NOI, the applicant requests that EFSC determine compliance with the  
14 substantive criteria of all affected local governments' comprehensive plans and land use  
15 ordinances under ORS 469.504(1)(b). The conditional use permit shall be included in and  
16 governed by the site certificate. The other listed Morrow County permitting requirements are  
17 not related to facility siting and as such shall not be included in or governed by the site  
18 certificate, and the applicant shall secure any such permits independent of the site certificate  
19 process. Building permits are specifically excluded from EFSC jurisdiction by statute, ORS  
20 469.401(4).

### 21 **Third-Party Permits**

22 **Discussion:** As noted in the NOI, the applicant may rely upon third-party permits for access to  
23 resources necessary for facility construction and operation. If the applicant relies upon a state  
24 or local government permit issued to a third party that is related to the siting of the proposed  
25 facility, the applicant must identify each third-party permit, and, for each, include evidence that  
26 the applicant has, or has a reasonable likelihood of entering into, a contract or other agreement  
27 with the third party for access to the resource or service to be secured by that permit; evidence  
28 that the third party has or, has a reasonable likelihood of obtaining, the necessary permit; and,  
29 an assessment of the impact of the proposed facility on any permits that a third party has  
30 obtained and on which the applicant relies to comply with any applicable Council standard  
31 (OAR 345-021-0010(1)(e)(E)).

32  
33 If the applicant relies on a federally-delegated permit issued to a third party that is related to  
34 the siting of the proposed facility, the applicant must identify the third-party permit and include  
35 evidence that the applicant has, or has a reasonable likelihood of entering into, a contract or  
36 other agreement with the third party for access to the resource or service to be secured by that  
37 permit. The applicant must provide evidence that the responsible agency has received the

1 permit application, and provide the estimated date when the responsible agency will complete  
2 its review and issue a permit decision (OAR 345-021-0010(1)(e)(F)).

3  
4 In accordance with OAR 345-022-0010(4), if the applicant relies on a permit or approval issued  
5 to a third party and the third party does not have the necessary permit or approval at the time  
6 the Council issues the site certificate, the Council may issue the site certificate subject to the  
7 condition that the certificate holder shall not commence construction or operation as  
8 appropriate until the third party has obtained the necessary permit or approval and the  
9 applicant has a contract or other arrangement for access to the resource or service secured by  
10 that permit or approval.

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

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

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

14 **Discussion:** As the proposed facility would be located entirely within an EFU-zoned land, OAR  
15 345-020-0010(1)(f)(A)(iii) applies and requires notice to property owners within 500 feet of the  
16 property which is the subject of the application, where the property is within a farm or forest  
17 zone.

18  
19 The Council requires notice to all owners of record (as shown on the most recent property tax  
20 assessment roll obtained from the affected county) within the specified distance from the  
21 property on which the site boundary is located. In order to ensure notifications are provided  
22 using an up-to-date property owner list, Exhibit F in the pASC should indicate that, pursuant to  
23 direction by the Department, the property owner list will be generated just prior to the  
24 Department’s determination of ASC completeness and in coordination with Department staff.

25  
26 The property owner notification list must be accompanied by maps that include the site  
27 boundary, the tax lots on which the site boundary is located, the buffered area surrounding the  
28 tax lots on which the site boundary is located consistent with the OAR 345-021-0010(1)(f)(A) site  
29 distance requirement, and the properties/tax lots that are within the applicable distances. Maps  
30 shall correspond to the property owner list, be legible, and clearly identify tax lot ID numbers as  
31 well as adjacent road names.

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

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

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

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

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

**Applicable Paragraphs:** All paragraphs apply

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

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

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

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

**(i) Exhibit I – Soils**

**Applicable Paragraphs:** All paragraphs apply.

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

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

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

**Applicable Paragraphs:** All paragraphs apply.

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

5 **Discussion:** Per Exhibit J requirement, the ASC shall include a description of all areas within the  
6 site boundary that might be waters of the state and a map(s) showing the location of these  
7 features. Based on the NOI, ODOE understands that there are seven ephemeral streams within  
8 the site boundary, and one roadside drainage ditch. If impacts to waters of the state cannot be  
9 avoided and DSL determines that a removal-fill permit is necessary for the proposed facility, the  
10 information required for Council to make a decision on the removal-fill permit application must  
11 be included in the ASC. Wetland delineation reports and removal-fill permit application  
12 materials can be sent directly by the applicant to DSL; however, please note that all materials as  
13 well as DSL's concurrence with the wetland delineation must also be submitted to the  
14 Department as part of ASC Exhibit J. The Department will work closely with DSL in review of the  
15 removal-fill permit application, if applicable. If a removal-fill permit is necessary for the  
16 proposed facility, a DSL draft removal-fill permit with draft conditions, must be submitted to  
17 the Department by DSL to be included as an attachment to the draft proposed order. For EFSC-  
18 jurisdictional facilities, authorization of a removal-fill permit is an EFSC decision; should a  
19 permit be issued, the Department and DSL would maintain dual responsibility for compliance  
20 with any associated permit conditions. See Section III(e), *Exhibit E – Permits*, for additional  
21 discussion of state permits.

22 **(k) Exhibit K – Land Use**

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

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

25 **Discussion:** The Council's Land Use standard requires an evaluation for compliance with the  
26 statewide planning goals. Under ORS 469.504(1), the applicant may establish compliance with  
27 the applicable statewide planning goals either by obtaining local land use approval under ORS  
28 469.504(1)(a) or by obtaining Council approval under ORS 469.504(1)(b). The applicant  
29 indicated in the NOI that it has elected to seek a Council determination of compliance under  
30 ORS 469.504(1)(b). Within Exhibit K, since the applicant has elected to obtain a Council  
31 determination on land use under ORS 469.504(1)(b), paragraphs A and C of OAR 345-021-  
32 0010(1)(k) apply; paragraph B does not apply.

33  
34 The facility would be located on Exclusive Farm Use (EFU)- zoned land in Morrow County.  
35 Pursuant to ORS 469.480 and in preparation for review of the proposed facility, at its November  
36 19-20, 2020 EFSC meeting, the Council appointed the Morrow County Board of Commissioners  
37 as the SAG. As provided in ORS 469.401(3), if the Council issues a site certificate, Morrow  
38 County would be bound to issue all required permits and other land use approvals, subject to  
39 the conditions set forth in the site certificate, that are included in and governed by the site  
40 certificate. The applicant should discuss each applicable substantive criteria from the Morrow  
41 County Comprehensive Plan and Morrow County Zoning Ordinance, and should demonstrate  
42 how the proposed facility complies with those criteria. If the proposed facility does not comply



1 with one or more of the applicable substantive criteria, the applicant must demonstrate that  
2 the proposed facility nevertheless complies with the applicable statewide planning goals or that  
3 an exception to a goal is justified under ORS 469.504(2) and OAR 345-022-0030(4).

4  
5 Exhibit K shall also provide evidence that the proposed facility would comply with any directly-  
6 applicable Land Conservation and Development Commission (LCDC) administrative rules and  
7 statutory requirements related to the proposed facility, including ORS 215.283, 215.274, and  
8 specifically including all requirements regarding the location of the proposed facility within the  
9 EFU zone. Exhibit K shall provide evidence that the proposed facility would comply with the  
10 applicable administrative rules at OAR 660-033-0130(38) related to development of solar power  
11 generation facilities, as well as rules related to associated transmission lines to energy  
12 generating facilities. Please note that in May 2019 LCDC adopted permanent amendments to  
13 OAR 660-033-0130(38).

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

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

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

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

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



1 information developed to demonstrate compliance with the DEQ noise rules (such as noise  
2 modeling) can be used in the assessment under the Protected Areas standard.

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

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

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

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

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

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

18 **(o) Exhibit O – Water Use**

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

20 **Related Council and Other Standards:** General Standard of Review [OAR 345-022-0000]; OAR  
21 690, Divisions 310 and 380 (Water Resources Department permitting requirements)

22 **Discussion:** Exhibit O of the ASC must describe water use during construction and operation of  
23 the proposed facility. The ASC must identify the sources of water to be used and include an  
24 estimate of the amount of water the proposed facility would need during construction and  
25 operation from each source under annual average and worst-case conditions. Exhibit O shall  
26 specify the final disposition of all wastewater and describe and quantify water loss from the  
27 facility site.

28  
29 If the proposed facility does not need a groundwater permit, a surface water permit, or a water  
30 right transfer, Exhibit O shall include an explanation as to why such a permit or transfer is not  
31 required for construction and operation of the proposed facility, as required by paragraph (E). If  
32 such a permit is necessary, the ASC shall include the evidence and application materials to  
33 support a determination by Council that OWRD should issue such a permit. See Section III(e)  
34 Exhibit E – *Permits*, for a discussion of OWRD permits and Section III(u) – *Public Services*, for  
35 information requirements related to water service providers.

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

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

38 **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 If fish and wildlife habitat or state sensitive species are identified within the analysis area that  
11 could be adversely affected as a result of the proposed facility, the applicant shall include a  
12 description of the nature, extent, and duration of potential adverse impacts and a description  
13 of any proposed mitigation measures, consistent with the Exhibit P requirements, the EFSC Fish  
14 and Wildlife Habitat standard, and the ODFW Habitat Mitigation Policy.

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

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

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

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

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

5   **Discussion:** The ASC shall include a list of state-listed endangered and threatened species that  
6   have potential to occur in the analysis area. The applicant shall identify these species based on  
7   a review of literature, consultation with knowledgeable individuals, and reference to the list of  
8   species maintained by the Oregon Biodiversity Information Center.

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

16           **(r) Exhibit R – Scenic Resources**

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

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

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

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

1 **Applicable Paragraphs: All paragraphs apply.**<sup>5</sup>

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.

18

19 It is recommended that the applicant discuss the proposed facility with the potentially affected  
20 tribes identified by the Legislative Commission on Indian Services, including the Confederated  
21 Tribes of the Warm Springs Burns, Confederated Tribes of the Yakima, Confederated Tribes of  
22 the Umatilla Indian Reservation, and the Nez Perce Tribe.

23

24 As described in the Historic, Cultural, and Archaeological Resources standard at OAR 345-022-  
25 0090(2), the Council may issue a site certificate for a facility that would produce power from  
26 solar energy without making the findings of the Historic, Cultural, and Archaeological Resources  
27 standard at OAR 345-022-0090(1), though the Council may apply the requirements of OAR 345-  
28 022-0090(1) to impose conditions in a site certificate issued for such a facility.

29 **(t) Exhibit T – Recreation**

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

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

32 **Discussion:** The ASC shall analyze the importance of recreational opportunities in the analysis  
33 area using the factors listed in OAR 345-022-0100(1), discuss any significant potential adverse  
34 impacts to important recreational opportunities, and describe measures proposed to avoid,

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<sup>5</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 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 only** format, and 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 minimize or mitigate those impacts. Please list all recreational opportunities in the analysis area  
2 and provide the applicant’s analysis of whether those recreational opportunities are  
3 recommended as “important” or not. The importance of recreational opportunities is assessed  
4 based on five factors outlined in the standard: special designation or management, degree of  
5 demand, outstanding or unusual qualities, availability or rareness, and irreplaceability or  
6 irretrievability of the recreational opportunity. Provide references including data sources and  
7 hyperlinks to data sources which were reviewed to evaluate factors.

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

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

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

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

23 **Discussion:** The ASC shall provide information related to the proposed facility’s potential  
24 impacts to the ability of public and private providers within the analysis area to provide: sewers  
25 and sewage treatment, water, storm water drainage, solid waste management, housing, air and  
26 vehicular traffic safety, police and fire protection, health care and schools (OAR 345-022-0110).  
27 Applications for site certificate typically include letters from local public services providers to  
28 demonstrate that the proposed facility would not cause a significant adverse impact on the  
29 ability of those providers to provide their services, in accordance with the Public Services  
30 standard. It is recommended that the applicant provide letters from the following public and  
31 private service providers within the Public Services analysis area (~~10-15~~ miles) that may be  
32 impacted by the proposed facility:

- 34 • Local fire department,
  - 35 • Police department,
  - 36 • Public works department,
  - 37 • Sewer and sewage treatment providers,
  - 38 • Water service providers
  - 39 • Solid waste providers
- 40

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

11  
12 As described in the Public Services standard at OAR 345-022-0110(2), the Council may issue a  
13 site certificate for a facility that would produce power from solar energy without making the  
14 findings of the Public Services standard at OAR 345-022-0110(1), though the Council may apply  
15 the requirements of OAR 345-022-0110(1) to impose conditions on a site certificate issued for  
16 such a facility.

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

18 **Applicable Paragraphs:** All paragraphs apply

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

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

26  
27 As described in the Waste Minimization standard at OAR 345-022-0120(2), the Council may  
28 issue a site certificate for a facility that would produce power from solar energy without making  
29 the findings of the Waste Minimization standard at OAR 345-022-0120(1), though the Council  
30 may apply the requirements of OAR 345-022-0120(1) to impose conditions on a site certificate  
31 issued for such a facility.

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

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

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

35 **Discussion:** The ASC shall provide an estimate of the total and unit retirement costs per task  
36 and action necessary for facility decommissioning, including a detailed explanation,  
37 assumptions, and justification of the methodology it uses to estimate site restoration costs. The  
38 Council’s Retirement and Financial Assurance standard requires evidence that the amount  
39 estimated for facility decommissioning is sufficient for restoration of the site to a useful,  
40 nonhazardous condition; and that the applicant has a reasonable likelihood of obtaining a bond



1 or letter of credit in the amount identified for facility decommissioning. If applicant chooses to  
2 provide a comfort letter from a financial institution as evidence to support Council’s review of  
3 this requirement, the letter should refer to the applicant, be on letterhead, and accurately  
4 reference, at a minimum, the dollar amount (in relevant quarter and year) of the  
5 decommissioning amount. If the applicant would like to reserve the option to construct the  
6 facility in phases, to the extent possible the applicant should provide sufficient cost estimating  
7 detail to enable the bond or letter of credit amount to be adjusted based on phase.

8 **(x) Exhibit X – Noise**

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

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

12 **Discussion:** The ASC shall contain a noise analysis and information to support a Council finding  
13 that the proposed facility would comply with applicable DEQ noise control standards in OAR  
14 340-035-0035. The analysis must include all potential noise-generating components of the  
15 facility including, but limited to the solar photovoltaic modules and trackers, cabling, inverters,  
16 transformers, and switchgear. The applicant shall include ambient noise monitoring results to  
17 support the evaluation of compliance with the ambient antidegradation standard. OAR 340-  
18 035-0035(3) provides that sound measurement procedures shall conform to those procedures  
19 which are adopted by the Commission and set forth in Sound Measurement Procedures Manual  
20 (NPCS-1), or to such other procedures as are approved in writing by the Department. If the  
21 applicant’s sound measurement procedures differ from the NPCS-1, please provide a discussion  
22 and basis for the variation. For instance, the number of ambient monitoring sites shall be  
23 sufficient to reasonably represent the ambient noise conditions at noise sensitive receptor  
24 locations in closest proximity to the proposed site.

25  
26 Ambient noise monitoring shall also be conducted to determine ambient conditions at noise  
27 sensitive receptor locations in closest proximity to the proposed 230 kV transmission line. The  
28 analysis shall evaluate maximum noise levels from all noise-generating equipment during  
29 construction and operation. Operational noise shall be evaluated from both stationary sources  
30 and corona noise from the transmission line.

31  
32 Please note that the Exhibit X analysis area includes all noise sensitive receptors that could  
33 experience a predicted 10 or 50 A-weighted decibel (dBA) increase from the proposed facility in  
34 ambient noise level and maximum allowable noise level, respectively. Identification of noise  
35 sensitive properties within 1-mile of the proposed site boundary is required; however, if facility  
36 noise impacts may extend beyond the 1-mile distance, those impacts must be assessed.

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

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



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

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

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

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

6       **Related Council and Other Standards:** Specific Standards for Transmission Lines [OAR 345-024-  
7 0090].

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

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

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

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

13       **(cc) Exhibit CC – Other Law**

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

15       **Discussion:** All requirements apply.

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

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

18       **Related Council and Other Standards:** Specific Standards for Transmission Lines [OAR 345-024-  
19 0090].

20       **Discussion:** The Council applies specific standards for transmission lines under its jurisdiction in  
21 OAR 345-024-0090. The applicant should provide analysis regarding compliance with OAR 345-  
22 024-0090 in Exhibit DD or refer to Exhibit AA as appropriate.

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

25       The analysis areas are the areas that the applicant must study for potential impacts from the  
26 construction and operation of the proposed facility. **Please Note:** If significant impacts  
27 associated with the applicable Council standards<sup>6</sup> could occur beyond the analysis areas  
28 described here, then the applicant must assess those impacts in the ASC and show how the  
29 facility would comply with the applicable standard with regard to the larger area where impacts  
30 could occur.

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<sup>6</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.

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

4

**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 <u>10-15</u> 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>		

5

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

7 The Department and applicant received one verbal comment (via Webex) from a member of  
 8 the public during the January 7, 2021 NOI informational meeting. In addition, during the  
 9 original NOI comment period, the Department received 10 comments from government entities  
 10 including other state agencies and Special Advisory Groups, and no other comments from

1 members of the public. During the amended NOI comment period, as discussed above in  
2 Section I. Introduction, the Department received six comments from government entities  
3 including other state agencies and Special Advisory Groups, and one comment from members  
4 of the public. All of these comments were provided under separate cover to the applicant and  
5 were reviewed and considered in the development of this Project Order. Within each applicable  
6 exhibit of the ASC, the applicant shall address those concerns raised by reviewing agencies and  
7 members of the public that are within the jurisdiction of the Council.

#### 8 **VI. EXPIRATION DATE OF THE NOTICE OF INTENT**

9 In accordance with OAR 345-020-0060, the Wagon Trail Solar Project amended NOI will expire  
10 two years after the date of submittal of the original NOI, on November 3, 2022, unless the  
11 applicant submits a petition to Council to extend the expiration date. Such a petition must be  
12 submitted no less than 45 days before the NOI expiration date. If the Council finds that the  
13 extension petition shows good cause, it may extend the NOI expiration date by up to one year.

#### 14 **VII. PROJECT ORDER AMENDMENT AND APPLICATION COMPLETENESS**

15 The Council or the Department may amend this Project Order at any time [OAR 345-015-  
16 0160(3)]. Amendment may include changes to the analysis areas. To issue a site certificate, the  
17 Council must determine that the proposed facility complies with Oregon statutes and  
18 administrative rules identified in the Project Order, as amended, as applicable to the issuance  
19 of a site certificate for the proposed facility (ORS 469.503(3)).  
20

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

#### 29 **VIII. APPLICABILITY AND DUTY TO COMPLY**

30 Failure to include an applicable statute, rule, ordinance, permit or other requirement in this  
31 Project Order does not render that statute, rule, ordinance, permit or other requirement  
32 inapplicable, nor in any way relieve applicant from the duty to comply with the same.  
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**OREGON DEPARTMENT OF ENERGY**



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

Date of Issuance: ~~March~~ August 17, 2021