

OREGON DEPARTMENT OF ENERGY

Regarding Statutes, Administrative Rules, and)
Other Requirements Applicable to the **Sunset Solar**)
Project)

PROJECT ORDER

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

Project Order Issued December 23, 2021

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1 **I. INTRODUCTION**

2 The Oregon Department of Energy (Department) issues this Project Order for the Sunset Solar
3 Project in accordance with Oregon Administrative Rule (OAR) 345-015-0160. The certificate
4 holder is Sunset Solar, LLC, a wholly owned subsidiary of Avangrid Renewables, LLC. The solar
5 photovoltaic energy generation would be capable of generating 103 megawatts (MW) of
6 energy. The site certificate authorizes placement of facility components anywhere within an
7 approved 2,196 acres (3.4 sq. miles) micro-siting area.

8 Oregon Revised Statute (ORS) 469.330(3) and OAR 345-015-0160 require the Department to
9 issue a Project Order to an applicant which establishes the application for site certificate (ASC)
10 or request for amendment (RFA) information requirements for a facility. The original Project
11 Order for the Bakeoven Solar Project was issued on February 1, 2019. The Department issues
12 this Project Order under OAR 345-015-0160(3) for the Sunset Solar Project as a result of
13 Council’s decision on the Final Order on Request for Amendment 1 (RFA1), discussed further
14 below, which allocated approved facility components into three separate site certificates for
15 three facilities, with shared related or supporting facilities represented in each site certificate.
16 As provided in ORS 469.330(4), this is not a final order and the Department or the Energy
17 Facility Siting Council (EFSC or Council) may amend this Project Order at any time.

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

24 The photovoltaic energy generation facility occupies 420 acres (0.65 sq. miles) of land in Wasco
25 County and is capable of generating up to 60 MW of energy. Approved related or supporting
26 facilities to the energy facility consist of a 100 MW battery storage system, a 34.5 kV collection
27 system, collector substation, an 11-mile 230 kV transmission line, operation and maintenance
28 building, private service and access roads, and temporary construction staging areas. The
29 energy facility and its related or supporting facilities are referred to as the facility.¹ As described
30 in the ASC, the originally approved Bakeoven Solar Project would have a nominal electric
31 generating capacity of approximately 303 MW, and use up to 3,030 acres of land, as a result, is
32 an energy facility regulated by the Council.² Therefore, a site certificate from the Council is
33 required to authorize the construction and operation of the facility.

34
35 **I.A. Site Certificate History**

36
37 On November 1, 2018, the Department received a Notice of Intent (NOI) from Bakeoven Solar,
38 LLC (applicant) to file an ASC for a proposed 303 megawatt (MW) solar photovoltaic energy
39 facility. On February 1, 2019, the Department issued a project order in accordance with ORS

¹ 345-001-0010(21).

² ORS 469.300(11)(a)(D) defines EFSC jurisdictional solar photovoltaic power generation facilities.

1 469.330(3) and OAR 345-015-0160(1). Council issued a Final Order on the ASC, granting
2 issuance of a site certificate for the Bakeoven Solar Project on April 20, 2020.

3
4 On September 22, 2021, the certificate holder filed the complete RFA1.³ RFA1 requested
5 Council approval to split the previously approved site certificate, including 303 megawatts
6 (MW) of solar photovoltaic energy generation equipment and related or supporting facilities,
7 into an amended and two original site certificates, but did not propose any physical changes to
8 the approved facility or an expansion to the site boundary. RFA1 requested to amend the site
9 certificate for the Bakeoven Solar Project, and issue new site certificates for the Daybreak Solar
10 Project and Sunset Solar Project. Each of the three facilities would have separate certificate
11 holders, under the existing certificate holder owner, Avangrid Renewables, LLC. Council issued a
12 Final Order on RFA1, granting issuance of an amended and two original site certificates for the
13 Bakeoven Solar Project, Daybreak Solar Project and Sunset Solar Project, respectively, on
14 November 19, 2021

15
16 As noted above, the Department issues this Project Order under OAR 345-015-0160(3) for the
17 Sunset Solar Project as a result of Council's Final Order on RFA1, so that each approved facility
18 has its own project order.

19
20 For all EFSC-siting procedural requirements for the Sunset Solar Project, reviewing agencies to
21 be notified are presented in Table 1 below.

³ The Department received pRFA1, inclusive of a Type B Review Amendment Determination Request (Type B Review ADR), on June 11, 2021.

1

Table 1. Reviewing Agency Distribution List

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

2

3 **II. EFSC REGULATORY FRAMEWORK**

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

8

9 **OAR Chapter 345, Division 21** (Site Certificate Application Requirements) includes the
 10 primary site certificate application requirements, which apply similarly to applications
 11 for site certificate amendments (see Section III. *Amendment Requirements*). Under OAR
 12 345-027-0360, specific Division 21 requirements that are required as applicable to a
 13 request for amendment.

14

15 **OAR Chapter 345, Division 22** (Council Standards for Siting Facilities) includes most of
 16 the regulatory standards by which the EFSC must evaluate potential impacts from a
 17 facility, with proposed changes. In addressing each of the Division 21 application
 18 requirements applicable to an amendment, the certificate holder shall refer to the
 19 Division 22 standard to which the requirement relates to ensure the RFA is responsive to
 20 the standards by which the Council must evaluate it.

21

22 **OAR Chapter 345, Division 24** (Specific Standards for Siting Facilities) includes additional
 23 standards for specific types of EFSC facilities. In addressing the Division 21 information
 24 requirements applicable to the amendment, the RFA shall refer to the Division 24

1 standards that apply to the facility to ensure the RFA is responsive to these standards.
2 The Division 24 standards that apply to this facility is OAR 345-024-0090, Siting
3 Standards for Transmission Lines.
4

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

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

19 **OAR Chapter 345, Division 27** (Expiration, Amendment, and Termination of Site
20 Certificates) includes rules applicable to the submission of amendment determination
21 requests (ADRs) and the amendment pathways; Type A, Type B, and Type C. Division 27
22 provides process descriptions for amendment processing, including timeframes and
23 hearings, as well as description of changes that may not require an amendment to a site
24 certificate. Division 27 is the basis for the submission requirements that govern the
25 submission of a preliminary request for amendment (pRFA) and complete request for
26 amendment (RFA), as described in this Project Order.
27

28 **III. AMENDMENT REQUIREMENTS**

29 The certificate holder must adhere to the submission requirements under OAR 345-027-0360.
30 To request an amendment to the site certificate required by OAR 345-027-0350(3) or (4), the
31 certificate holder must submit a written preliminary request for amendment to the Department
32 that includes the following:
33

34 **1. OAR 345-027-0360(1)(a) Requirements**

35

36 The name of the facility, the name and mailing address of the certificate holder, and the name,
37 mailing address, email address and phone number of the individual responsible for submitting
38 the request. OAR 345-027-0360(1)(a).
39

40 **2. OAR 345-027-0360(1)(b) Requirements**

41

1 A detailed description of the proposed change, including a description of how the proposed
2 change(s) affect the facility and a description of how the proposed change(s) affect those
3 resources or interests protected by applicable laws and Council standards. Include the specific
4 location of the proposed change(s), and any updated maps and/or geospatial data layers
5 relevant to the proposed change. OAR 345-027-0360(1)(b).
6

7 3. OAR 345-027-0360(1)(c) Requirements
8

9 Provide references to any specific Division 21 information that may be required for the
10 Department to make its findings. OAR 345-027-0360(1)(c). The certificate holder shall provide a
11 discussion of the Division 21 Exhibit information that is relevant to the proposed change(s) and
12 provide information in each Exhibit, as necessary, following the below guidelines and
13 requirements. The Department will review the Division 21 requirements identified by the
14 certificate holder and any other applicable Exhibit information that should be included in the
15 Department’s review of the RFA. Each of the paragraphs below indicates which provision(s) of
16 OAR 345-021-0010(1)(a) – (dd) may apply to the Sunset Solar Project. For each applicable
17 Division 21 Exhibit provide or consider providing the following information:
18

19 **(a) Exhibit A – General Information about the Certificate holder**
20

21 **Applicable Paragraphs:** All paragraphs apply except (C), (E), (F), and (G)
22

23 **Related Council and Other Standards:** General Standard of Review [OAR 345-022-0000]
24

25 **Discussion:** Note that paragraph (B) calls for a list of “participating persons, other than
26 individuals.” Please note the definition of “Person” in ORS 469.300(21). Please also note that
27 the certificate holder is required to notify the Department of any change in the identity or
28 ownership of the certificate holder prior to the change.
29

30 **(b) Exhibit B – General Information about the Change to the Facility**
31

32 **Applicable Paragraphs:** All paragraphs apply except (A)(vi), (A)(vii), (A)(viii), and (E)(iv).
33 Paragraph (D) only applies if the transmission line meets the definition of an energy facility at
34 ORS 469.300(11)(a)(C).
35

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

38 **Discussion:** The description of the changes to the facility in the RFA will form the basis for the
39 description of the facility in the amended site certificate. Please note that construction laydown
40 yards must be considered in an RFA. The amended site certificate would require that the
41 certificate holder build the facility “substantially as described” (OAR 345-027-0020). The RFA
42 shall also describe all related or supporting facilities, including access roads, operations and
43 maintenance buildings, gen-tie transmission lines, substations, and any other related or

1 supporting facilities by the certificate holder. Please note the definition of related or
2 supporting facilities at ORS 469.300(24) includes those existing structures that must be
3 substantially modified in connection with the energy facility construction or operation. If the
4 certificate holder requests Council review and approval of transmission line route option(s),
5 then all routes need to be included within the site boundary and evaluated based on the
6 applicable analysis area.

7
8 **(c) Exhibit C – Location**

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

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

13
14 **Discussion:** Maps shall indicate the “site boundary” as defined in OAR 345-001-0010(55),
15 including any transmission line routes and corridors which the certificate holder seeks Council
16 approval. Maps shall provide enough information for property owners potentially affected by
17 the changes to the facility to determine whether their property is within or adjacent to the site
18 boundary. Major roads should be accurately named. The Department notes that the certificate
19 holder has already shared GIS data for the facility, and requests updated GIS data if there are
20 changes to the site boundary or facility layout.

21
22 **(d) Exhibit D – Organizational Expertise**

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

25
26 **Related Council and Other Standards:** Organizational Expertise [OAR 345-022-0010]

27
28 **Discussion:** The Council’s review for the Organizational Expertise standard includes the
29 certificate holder’s ability to construct, operate, and retire the facility, with proposed changes,
30 in compliance with Council standards and conditions of the amended site certificate. Please
31 note that Exhibit D requires that if the certificate holder relies upon mitigation to meet any
32 applicable Council standard, that the certificate holder provide evidence that it can successfully
33 complete such mitigation.

34
35 **(e) Exhibit E – Permits**

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

38
39 **Related Council and Other Standards:** General Standard of Review [OAR 345-022-0000]

40
41 **Discussion:** Exhibit E shall describe and discuss all permits that the certificate holder proposes
42 to be included in and governed by the site certificate, as well as state and local permits that are
43 related to the siting, construction, or operation of the facility but are by the certificate holder
44 to not be included in and governed by the site certificate. Exhibit E shall also describe required

1 federal and federally-delegated permits. For federally-delegated permits needed for
2 construction or operation, the certificate holder must submit a copy of the permit application
3 to the Department, as required under OAR 345-021-000(7).
4

5 Although the Council does not have jurisdiction over federally-delegated permits, the Council
6 may rely on the determinations of compliance and the conditions in federally-delegated
7 permits in evaluating the application for compliance with Council standards.
8

9 **Federally-delegated Permits**

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

11 **Statute and Rule References**

- 12 • ORS Chapter 468B (Water Quality)
- 13 • OAR Chapter 340, Division 45 (Regulations Pertaining to NPDES and WPCF Permits)
- 14 • OAR Chapter 340, Division 48 (Certification of Compliance with Water Quality
15 Requirements and Standards)

16 **Permits**

- 17 • National Pollution Discharge Elimination System (NPDES) Construction Storm Water
18 1200-C permit
- 19 • Clean Water Act Section 401 Water Quality Certification
20

21 **Discussion:** The EPA has delegated authority to DEQ to issue NPDES Storm Water Discharge
22 permits for construction and operation activities. A NPDES 1200-C permit may be required for
23 the construction of changes to the facility. If applicable, in accordance with OAR 345-021-
24 0000(7), the certificate holder must submit to the Department one copy of all applications for
25 federally-delegated permits (including the NPDES permit), or provide a schedule of the date by
26 which the certificate holder intends to submit the application.
27

28 The 401 Water Quality Certification is required for projects that are processed under the U.S.
29 Army Corps of Engineers Section 404 Nationwide Permits. If a Section 404 Permit is needed
30 from U.S. Army Corps of Engineers (Corps) for the discharge of dredge or fill material in waters
31 of the United States, a Section 401 Water Quality Certificate must be granted by DEQ before a
32 Section 404 permit may be issued.
33
34
35

1 **State Permits**

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

4
5 **Statute and Rule References**

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

10 **Permit**

- 11 • Removal-Fill Permit

12
13 **Discussion:** A removal-fill permit is required if any removal or fill activities occur in streams
14 designated as Essential Indigenous Anadromous Salmonid Habitat or 50 cubic yards or more of
15 material is removed, filled or altered within a jurisdictional water of the state [OAR 141-085-
16 0520(2) and (5)]. Removal-fill permits are state permits under Council jurisdiction.

17
18 If a removal fill permit is needed based on the changes to the facility, the certificate holder
19 must provide the information required by Exhibit J. To confirm whether a removal-fill permit is
20 needed, the certificate holder must conduct a wetland delineation, to be reviewed by
21 Department of State Lands (DSL) for concurrence, according to OAR Chapter 141, Division 90
22 rules. The wetland delineation determines the location of “waters of this state,” as defined in
23 OAR 141-085-0510(91), within the analysis area. If a removal-fill permit is required, the RFA
24 shall include a wetland delineation report and an application for a removal-fill permit which
25 demonstrates consistency with ORS 196.825(1) and provides enough information for
26 considerations under ORS 196.825(3). The certificate holder should consult directly with DSL
27 regarding the applicable regulations.

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

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

2
3 **Statute and Rule References**

- 4 • ORS Chapter 454 (Sewage Treatment and Disposal Systems)
- 5 • ORS Chapter 468B (Water Quality)
- 6 • OAR Chapter 340, Division 45 (Regulations Pertaining To NPDES and WPCF Permits)
- 7 • OAR Chapter 340, Division 71 (Onsite Wastewater Treatment Systems)

8
9 **Permits**

- 10 • Onsite Sewage Disposal Construction-Installation Permit
- 11 • WPCF 1700-B Washwater Discharge from Equipment Cleaning
- 12 • WPCF General Permit 1000

13
14 **Discussion:** Facilities with an on-site sewage disposal system must obtain a Construction-
15 Installation Permit before construction. The approved facility's O&M building would discharge
16 sanitary waste (in the form of domestic wastewater) to a licensed on-site septic system with a
17 daily sewage flow of fewer than 2,500 gallons. The certificate holder's third-party contractor
18 would obtain the necessary Construction-Installation Permit directly from DEQ; this permit is
19 therefore related to the siting and operation of the facility but would not be included in or
20 governed by the site certificate (see the Third-Party Permits discussion below).

21
22 Disposal of solar panel wash water would require a WPCF 1700-B Washwater Discharge from
23 Equipment Cleaning permit and disposal of concrete batch plant wash water (if a temporary
24 batch plant is necessary) would require a WPCF General Permit 1000. A WPCF 1700-B and
25 WPCF General Permit 1000 are state permits under Council jurisdiction. If the certificate
26 holder's third-party contractor would obtain the necessary WPCF 1700-B permit directly from
27 DEQ, this permit would not be included in and governed by the site certificate (see the Third-
28 Party Permits discussion below).

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Oregon Water Resources Department

Statute and Rule References

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

Permits

- Water Right Permit or Water Use Authorization
- Limited License

Discussion: The certificate holder may seek temporary authorization from OWRD if the construction water is not available from municipal providers. However, water use permits are state permits under Council jurisdiction and must be included in and governed by the amended site certificate. If needed, a water right permit must be processed through the EFSC review process and cannot be independently secured by the certificate holder from OWRD.

Additionally, the approved operation and maintenance (O&M) building(s) would consume water to the extent of supporting less than 20 people. The certificate holder may consider constructing an on-site well to supply the water needs for the O&M building(s). A limited water license or permit would be required if the well would provide more than 5,000 gallons of water per day, and if necessary, a limited that license or permit would be included and governed by the amended site certificate.

Oregon Department of Transportation

Statute and Rule References

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

Permits

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

Discussion: Various permits from Oregon Department of Transportation (ODOT) may be required prior to construction of the facility with proposed changes. Access from Oregon state highways would require an access permit. Utility installations within the right-of-way of a state highway in Oregon require an Occupy or Perform Operations upon a State Highway permit.

1 Movement of construction cranes and other large equipment and materials could also require
2 an Oversize Load Movement permit. These permits are not related to facility siting and are not
3 included in or governed by the site certificate. The certificate holder or its contractor must
4 secure any applicable ODOT permits directly from ODOT, independent of the site certificate
5 process.

6 ***State Historic Preservation Office***

7 **Statute and Rule References**

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

10 **Permits**

- 11 • Archaeological Excavation Permit

12
13 **Discussion:** This permit is required if excavation is needed within the boundaries of a known
14 cultural site regardless of land ownership. If disturbance to cultural sites cannot be avoided, a
15 State Historic Preservation Office (SHPO) Archaeological Permit will be required to determine if
16 cultural sites are eligible for listing under the National Register of Historic Places (NRHP). An
17 excavation permit will also be required for any data recovery mitigation efforts within an NRHP-
18 eligible site.

19
20 During facility construction, if a previously unidentified archaeological site is discovered, all
21 construction will cease and the certificate holder will report the finding to SHPO and ODOE
22 immediately. In that instance, the permit may be required based on SHPO's determination.
23 SHPO issues archaeological excavation permits in accordance with ORS 390.235 and OAR 736-
24 051-0000 through 0090. Archaeological permits have a 30-day review period, require tribal
25 consultation during review, and must meet SHPO standards.

26 **Local Permits**

27 **Land Use Ordinance References**

- 28 • Wasco County Comprehensive Plan
- 29 • Wasco County Land Use and Development Ordinance

30 **Permits**

- 31 • Wasco County Conditional Use and Zoning Permit
- 32 • Wasco County Utility Crossing Permit and Access Approach Site Permit
- 33 • Wasco County Building Permit

34
35 **Discussion:** Wasco County has permitting requirements that may or may not relate to the
36 siting, construction or operation of the facility, with proposed changes. The certificate holder

1 shall identify those permits or approvals and include an analysis of whether each should be
2 included in and governed by an amended site certificate.

3
4 The Wasco County conditional use permit is included in and governed by the site certificate.
5 Any other Wasco County permitting requirements may not be related to facility siting and as
6 such shall not be included in or governed by an amended site certificate, and the certificate
7 holder shall secure any such permits independent of the site certificate process.

8
9 **Third-Party Permits**

10
11 **Discussion:** The certificate holder may rely upon third-party permits in its RFA. If the certificate
12 holder relies upon a state or local government permit issued to a third party that is related to
13 the siting of the facility, with proposed changes, the certificate holder must identify each third-
14 party permit, and, for each, include evidence that the certificate holder has, or has a reasonable
15 likelihood of entering into, a contract or other agreement with the third party for access to the
16 resource or service to be secured by that permit; evidence that the third party has or, has a
17 reasonable likelihood of obtaining, the necessary permit; and, an assessment of the impact of
18 the facility on any permits that a third party has obtained and on which the certificate holder
19 relies to comply with any applicable Council standard (OAR 345-021-0010(1)(e)(E)).

20
21 If the certificate holder relies on a federally-delegated permit issued to a third party that is
22 related to the siting of the facility, with proposed changes, the certificate holder must identify
23 the third-party permit and include evidence that the certificate holder has, or has a reasonable
24 likelihood of entering into, a contract or other agreement with the third party for access to the
25 resource or service to be secured by that permit. The certificate holder must provide evidence
26 that the responsible agency has received the permit application, and provide the estimated
27 date when the responsible agency will complete its review and issue a permit decision (OAR
28 345-021-0010(1)(e)(F)).

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

31
32 **Applicable Paragraphs:** See OAR 345-027-0360(1)(f)

33
34 **Related Council and Other Standards:** General Standard of Review [OAR 345-022-0000]

35
36 **Discussion:** See Section III.6, below.

37
38 **(g) Exhibit G – Materials Analysis**

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

41
42 **Related Council and Other Standards:** General Standard of Review [OAR 345-022-0000]; Soil
43 Protection [OAR 345-022-0022]

1 **Discussion:** The certificate holder shall include in the RFA any fuel storage areas, vehicle
2 maintenance areas, or other areas that will be utilized for activities that could store hazardous
3 materials, including potential battery storage facilities. The certificate holder shall identify the
4 expected storage locations and quantities of hazardous and non-hazardous materials expected
5 to be used during construction and operation of the facility, with proposed changes.
6

7 **(h) Exhibit H – Geologic and Soil Stability**
8

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

11 **Related Council and Other Standards:** Structural Standard [OAR 345-022-0020]
12

13 **Discussion:** The Oregon Department of Geology and Mineral Industries (DOGAMI) provides
14 technical review and recommendations on compliance with the Council’s Structural Standard. If
15 applicable to the changes proposed in an RFA, the certificate holder must provide a summary of
16 consultation with DOGAMI regarding the appropriate methodology and scope of the seismic
17 hazards and geology and soil-related hazards assessments, and the appropriate site-specific
18 geotechnical work that must be performed for the application.
19

20 A geologic report included in Exhibit H shall meet the Oregon State Board of Geologist
21 Examiners geologic report guidelines, as determined based on consultation with DOGAMI.
22 As described in the Structural Standard at OAR 345-022-0020(2), the Council may not impose
23 the Structural Standard to approve or deny an application for site certificate for a facility that
24 would produce power from solar energy, though the Council may apply the requirements of
25 OAR 345-022-0020(1) to impose conditions on a site certificate issued for such a facility.
26

27 **(i) Exhibit I – Soils**
28

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

31 **Related Council and Other Standards:** Soil Protection [OAR 345-022-0022]
32

33 **Discussion:** This exhibit should identify the major soil types and include a description of current
34 and historical, if distinct from current, land uses that require or depend on productive soils. The
35 certificate holder shall include information describing the impact of construction, operation and
36 retirement of the facility, with proposed changes, on soil conditions in the analysis area,
37 including potential impacts to soils on adjacent properties. The application can cross-reference
38 information related to the federally-delegated NPDES 1200-C permit application, as applicable.
39 An erosion and sediment control plan must be provided for review if the certificate holder will
40 rely upon the erosion and sediment control plan to help meet the Soil Protection standard
41 associated with potential impacts from a changed proposed in an RFA. Please note that an
42 erosion and sediment control plan that meets the NPDES 1200-C requirements may not
43 necessarily be sufficient to meet the EFSC Soil Protection standard.
44

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

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

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

9
10 **Discussion:** Per the Exhibit J requirement, the RFA shall include a description of all areas within
11 the site boundary that might be waters of this state and a map(s) showing the location of these
12 features. If a removal fill permit is necessary for a changed proposed in an RFA, the information
13 required for Council to make a decision on the removal-fill permit application must be included
14 in the RFA. Wetland delineation reports and removal-fill permit application materials can be
15 sent directly by the certificate holder to the Oregon Department of State Lands (DSL); however,
16 please note that all materials must also be submitted to the Department as part of the RFA. The
17 Department will work closely with DSL in review of any wetland delineation report and
18 removal-fill permit application. For EFSC-jurisdictional facilities, authorization of a removal-fill
19 permit is an EFSC decision, should a permit be issued, DSL will maintain the ongoing
20 responsibility for compliance with any associated permit conditions.

21
22 **(k) Exhibit K – Land Use**

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

25
26 **Related Council and Other Standards:** Land Use [OAR 345-022-0030];

27
28 **Discussion:** The Council’s Land Use standard requires an evaluation for compliance with the
29 statewide planning goals. Under 469.504(1), the certificate holder may establish compliance
30 with the applicable statewide planning goals either by obtaining local land use approval under
31 ORS 469.504(1)(a) or by obtaining Council approval under ORS 469.504(1)(b), which Council
32 previously approved.

33
34 At its November 16, 2018 meeting the Council appointed the Wasco County Board of County
35 Commissioners as a Special Advisory Group. As provided in ORS 469.401(3) Wasco County is
36 bound to issue all required permits and other land use approvals, subject to the conditions set
37 forth in the site certificate, that are included in and governed by the site certificate. The
38 certificate holder should discuss each applicable substantive criteria from the Wasco County
39 Comprehensive Plan and Wasco County Land Use and Development Ordinance that is
40 applicable to any proposed changes in an RFA, and should demonstrate how the facility
41 complies with those criteria. If the facility, with proposed changes, does not comply with one or
42 more of the applicable substantive criteria, the certificate holder must demonstrate that the
43 facility nevertheless complies with the applicable statewide planning goals or that an exception
44 to a goal is justified under ORS 469.504(2) and OAR 345-022-0030(4).

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

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

(l) Exhibit L – Protected Areas

Applicable Paragraphs: All paragraphs apply.

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

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

(m) Exhibit M – Financial Capability

Applicable Paragraphs: All paragraphs apply.

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

Discussion: The RFA shall include information about the certificate holder’s financial capability, including the certificate holder’s legal authority to construct and operate the facility without

1 violating its bond indenture provisions, articles of incorporation, common stock covenants, or
2 similar agreements. To find that the facility, with proposed changes, satisfies the Financial
3 Assurance Standard (OAR 345-022-0050(2)), the Council must find that the certificate holder
4 has a reasonable likelihood of obtaining a bond or letter of credit in a form and amount
5 satisfactory to the Council to restore the site to a useful, non-hazardous condition. The RFA
6 shall include the type and amount of the certificate holder's bond or letter of credit to satisfy
7 the requirements of OAR 345-022-0050.

8
9 **(n) Exhibit N – Non-Generating Facility Need**

10
11 **Applicable Paragraphs:** Exhibit N does not apply because the facility is not a nongenerating
12 facility for which the certificate holder must demonstrate need for the facility.

13
14 **(o) Exhibit O – Water Use**

15
16 **Applicable Paragraphs:** All paragraphs apply except (D).

17
18 **Related Council and Other Standards:** General Standard of Review [OAR 345-022-0000]; OAR
19 690, Divisions 310 and 380 (Water Resources Department permitting requirements)

20
21 **Discussion:** Exhibit O of the RFA must describe water use during construction and operation of
22 the facility, with proposed changes. The application must identify the sources of water to be
23 used, and include an estimate of the amount of water the facility will need during construction
24 and during operation from each source under annual average and worst-case conditions.

25
26 If the changes to the facility do not need a groundwater permit, a surface water permit, or a
27 water right transfer, Exhibit O shall include an explanation as to why such a permit or transfer is
28 not required for construction and operation of the facility, as required by paragraph (E). If such
29 a permit is necessary, the RFA shall include the evidence and application materials to support a
30 determination by Council that OWRD should issue such a permit.

31
32 **(p) Exhibit P – Fish and Wildlife Habitat**

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

35
36 **Related Council and Other Standards:** Fish and Wildlife Habitat [OAR 345-022-0060]

37
38 **Discussion:** If applicable to the changes in an RFA, the certificate holder shall consult with
39 ODFW in developing the RFA materials. Exhibit P shall include analysis of how the evidence
40 provided supports a finding by the Council that the facility, with proposed changes, meets the
41 Council's Fish and Wildlife Habitat standard. OAR 345-021-0010(1)(p) provides that exhibit P
42 must include a description of biological and botanical surveys performed that support the
43 information in this exhibit, including a discussion of the timing and scope of each survey. Exhibit

1 P must also provide baseline surveys of all state sensitive species that may be present in the
2 analysis area performed according to a protocol approved by the Department and ODFW.

3
4 The certificate holder shall include a description of the nature, extent, and duration of potential
5 adverse impacts and a description of any proposed mitigation measures, consistent with the
6 Exhibit P requirements, the EFSC Fish and Wildlife Habitat standard, and the ODFW Habitat
7 Mitigation Policy.

8
9 Oregon Fish and Wildlife Habitat Mitigation Policy (OAR Chapter 635, Division 415) classifies six
10 habitat categories and establishes a mitigation goal for each category. The certificate holder
11 must identify the appropriate habitat category for all areas affected by the changes to the
12 facility and provide the basis for each category designation. The habitat classification is subject
13 to the Department and ODFW review. The approved facility is located in big game winter range
14 and as such, is considered Category 2 habitat. A map showing the different habitat categories is
15 required under sub-paragraph (C) of OAR 345-021-0010(1)(p), and inclusion of vegetation
16 classes within the map is recommended. The map must be of sufficient scale to show details.
17 Exhibit P must include tables depicting the estimated temporary and permanent impacts,
18 broken down by habitat categories and subtype.

19
20 The certificate holder must show how it would comply with the habitat mitigation goals and
21 standards by appropriate monitoring and mitigation, including measures proposed by the
22 certificate holder to avoid, reduce, or mitigate adverse impacts on habitat and state sensitive
23 species. This information should be incorporated into an amended Revegetation and Noxious
24 Weed Control Plan and an amended Habitat Mitigation Plan (HMP) as attachments to Exhibit P.
25 Exhibit P and the HMP must clearly demonstrate how the certificate holder will provide
26 mitigation, including compensatory mitigation, in accordance with the Council's standard. This
27 includes identifying in the HMP a specific habitat mitigation area that could be used to provide
28 compensatory mitigation, as well as ecological uplift mitigation actions that could be
29 implemented at the habitat mitigation area to provide the appropriate mitigation. This
30 information is required for the Department to find the RFA complete.

31
32 **(q) Exhibit Q – Threatened and Endangered Species**

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

35
36 **Related Council and Other Standards:** Threatened and Endangered Species [OAR 345-022-
37 0070]

38
39 **Discussion:** The Oregon Department of Agriculture provides technical review and
40 recommendations regarding compliance with the Council's Threatened and Endangered Species
41 standard (OAR 345-022-0070) as it relates to plant species, and ODFW provides technical
42 review and recommendations related to fish and wildlife species.
43

1 The RFA should include a list of state-listed endangered and threatened, species that have
2 potential to occur in the analysis area. The certificate holder should identify these species
3 based on a review of literature, consultation with knowledgeable individuals, and reference to
4 the list of species maintained by the Oregon Biodiversity Information Center.
5 For state-listed threatened or endangered plant species, field surveys are required for any
6 species that may occur within the analysis area and may potentially be impacted by changes to
7 the facility. The certificate holder should consult with ODFW regarding field survey methods,
8 appropriate survey seasons, qualifications of field survey personnel, and the information to be
9 included in a field survey report.

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

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

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

16
17 **Discussion:** If applicable, the RFA should include an analysis of significant potential impacts of
18 the facility, with proposed changes, on scenic resources identified as significant or important in
19 local land use plans, tribal land management plans and federal land management plans for any
20 lands located within the analysis area. For the purposes of Exhibit R, “local” land use plans
21 include state, county, and city planning documents or inventories. The certificate holder shall
22 also describe the measures it proposes to avoid, reduce, or otherwise mitigate any significant
23 adverse impacts to these scenic resources. A visual impact assessment is required as part of
24 Exhibit R; while no specific methodology is required by EFSC rule, the certificate holder must
25 demonstrate why the facility, with proposed changes, is compliance with the Scenic Resources
26 standard. Visual simulations or other visual representations are not required, but can provide
27 important evidence for use by the Department and Council in understanding the potential
28 visual impact of the facility to Scenic Resources.

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

31
32 **Applicable Paragraphs:** All paragraphs apply.⁴

33
34 **Related Council and Other Standards:** Historic, Cultural, and Archaeological Resources [OAR
35 345-022-0090]

36

⁴ 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 **Discussion:** If applicable, the RFA shall include the survey methodology, survey areas, and the
2 results of all surveys conducted for historic, cultural, and archaeological resources, as well as an
3 analysis of any significant adverse impacts anticipated and proposed mitigation measures. The
4 certificate holder should work closely with the State Historic Preservation Office (SHPO) to
5 understand the report formatting and submission requirements, and to receive guidance on
6 any survey protocols.

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

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

17
18 **(t) Exhibit T – Recreation**

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

21
22 **Related Council and Other Standards:** Recreation [OAR 345-022-0100]

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

41
42 **(u) Exhibit U – Public Services**

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

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

Discussion: If applicable, the RFA shall provide information related to the facility modification’s potential impacts to the ability of public and private providers within the analysis area to provide: sewers and sewage treatment, water, storm water drainage, solid waste management, housing, traffic safety, police and fire protection, health care and schools (OAR 345-022-0110). The Department recommends the certificate holder include letters from local public services providers, including water providers, local fire departments and police departments, to demonstrate that the facility, with proposed changes, will not cause a significant adverse impact on the ability of those providers to provide their services, in accordance with the Public Services standard.

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

(v) Exhibit V – Solid Waste and Wastewater

Applicable Paragraphs: All paragraphs apply

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

Discussion: To support a finding by the Council as required by OAR 345-022-0120, if applicable, the RFA shall provide information about the certificate holder’s plans to minimize the generation of solid waste and wastewater in the construction, operation, and retirement of the facility, with proposed changes, and to recycle or reuse solid waste and wastewater. Information in Exhibit V may be incorporated by reference in Exhibit U’s discussion of impacts to solid waste and wastewater service providers.

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

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

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

4
5 **Related Council and Other Standards:** Retirement and Financial Assurance [OAR 345-022-0050]

6
7 **Discussion:** The RFA shall provide an estimate of the total and unit retirement costs per acre of
8 development (not per megawatt), including a detailed explanation, assumptions, and
9 justification of the methodology it uses to estimate site restoration costs. The Council’s
10 Retirement Standard requires evidence that the site can be restored, following facility
11 retirement, to a useful and non-hazardous condition.

12
13 **(x) Exhibit X – Noise**

14
15 **Applicable Paragraphs:** All paragraphs apply.

16
17 **Related Council and Other Standards:** General Standard of Review [OAR 345-022-0000]; DEQ
18 Noise Control Regulations [ORS 467.020 and ORS 467.030; OAR 340, Division 35]

19
20 **Discussion:** If applicable, the RFA shall contain a noise analysis and information to support a
21 Council finding that the facility, with proposed changes, would comply with applicable DEQ
22 noise control standards in OAR 340-035-0035.

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

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

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

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

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

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

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

39
40 **Discussion:** As the facility would have a transmission line as a related or supporting facility, the
41 provisions of Exhibit AA apply.

42
43 **(bb) Exhibit BB – Other Information**

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

2
3 No additional information is required.

4
5 **(cc) Exhibit CC – Other Law**

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

8
9 All requirements apply.

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

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

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

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

21
22 4. OAR 345-027-0360(1)(d) Requirements

23
24 The specific language of the site certificate, including conditions, that the certificate holder
25 proposes to change, add, or delete through the amendment. OAR 345-027-0360(1)(d). The
26 Department recommends the certificate holder provide a thorough basis for any revisions to
27 conditions or for the addition or removal of any site certificate conditions.

28
29 5. OAR 345-027-0360(1)(e) Requirements

30
31 A list of all Council standards and other laws, including statutes, rules and ordinances,
32 applicable to the proposed change, and an analysis of whether the facility, with the proposed
33 change, would comply with those applicable laws and Council standards. For the purpose of this
34 rule, a law or Council standard is “applicable” if the Council would apply or consider the law or
35 Council standard under OAR 345-027-0375(2). OAR 345-027-0360(1)(e). The Department notes
36 that it may use the information outlined above from Division 21 to demonstrate how a
37 proposed change in an RFA meets an applicable Council standard potentially impacted by a
38 proposed change in an RFA identified by the certificate holder or Department.

39
40 6. OAR 345-027-0360(1)(f) Requirements

41
42 A list of the names and mailing addresses of property owners, under OAR 345-027-0360(1)(f)
43 including:

- 1 (A) The list must include all owners of record, as shown on the most recent property tax
2 assessment roll, of property located:
- 3 (i) Within 100 feet of property which the subject of the request for amendment, where
4 the subject property is wholly or in part within an urban growth boundary;
 - 5 (ii) Within 250 feet of property which is the subject of the request for amendment,
6 where the subject property is outside an urban growth boundary and not within a
7 farm or forest zone; or
 - 8 (iii) Within 500 feet of property which is the subject of the request for amendment,
9 where the subject property is within a farm or forest zone.

10
11 The facility is located entirely within Exclusive Farm Use zoned land, therefore, OAR 345-027-
12 0360(1)(f)(A)(iii) applies and requires notice to property owners within 500 feet of the property
13 boundary for which the site boundary is located. The Council requires notice to all owners of
14 record, as shown on the most recent property tax assessment roll within the specified distance
15 from the site boundary. In order to ensure notifications are provided using the an up-to-date
16 property owner list, Exhibit F in the RFA should indicate that, pursuant to direction by the
17 Department, the property owner list will be generated upon submission of the pRFA and, if
18 older than 60-days, again prior to the Department's issuance of the draft proposed order on an
19 amendment and, if necessary, prior to the issuance of the proposed order, in coordination with
20 Department staff.

21
22 The property owner notification list may be accompanied by maps that include the site
23 boundary, the area surrounding the site boundary consistent with the OAR 345-021-
24 0010(1)(f)(C) site distance requirement, and the properties/tax lots that are within the
25 applicable distances. Maps should correspond to the property owner list, be legible and clearly
26 identify tax lot ID numbers as well as adjacent road names, as applicable.

27 28 7. Analysis Areas per OAR 345-001-0010(59)

29
30 For any Council standard that requires evaluation of impacts within an analysis area, the
31 analysis area is the larger of either the study areas, as defined in OAR 345-001-0010(59), or the
32 analysis areas described in this Project Order for the site certificate, unless otherwise approved
33 in writing by the Department following a pre-amendment conference. The Department
34 reiterates that under OAR 345-015-0160(3), the Department or Council may amend a project
35 order at any time, and may do so to modify an analysis area to evaluate impacts proposed in an
36 amendment.

37 38 8. Record of EFSC Site Certificate Proceedings

39
40 The certificate holder may incorporate, by specific reference, evidence previously submitted to
41 the Department in the ASC or previous RFA, or evidence that is otherwise included in the
42 Department's record on the facility. If the certificate holder relies upon information on the
43 record for the facility, the Department strongly recommends the certificate holder evaluate the
44 sufficiency and applicability of information on the record of the ASC for the facility that may

1 apply to an RFA. Depending on the scope of the changes proposed in an RFA, an updated
 2 evaluation may need to be conducted for resources protected un applicable Council standards
 3 and the certificate holder should review and provide information outlined in Section III.3 of this
 4 Project Order, as applicable to changes in an RFA.

5

6 **IV. ANALYSIS AREAS FOR THE FACILITY**

7

8 The analysis areas are the areas that the certificate holder must study for potential impacts
 9 from the construction, operation, and retirement of the facility, with proposed changes. Some
 10 of the analysis areas described in this Project Order do not limit the certificate holder’s
 11 responsibility to assess the potential impacts of the facility, with proposed changes. They are
 12 the areas in which significant adverse impacts from the facility are likely to occur. If significant
 13 impacts associated with the applicable Council standards⁵ could occur beyond the analysis
 14 areas described here, then the certificate holder must assess those impacts in the RFA and
 15 show how the facility, with proposed changes, would comply with the applicable standard with
 16 regard to the larger area where impacts could occur.

17

18 For all potential impacts, the analysis area includes all the area within the site boundary, as
 19 defined in OAR 345-001-0010(55) as well as any additional distances beyond the site boundary
 20 described in Table 2, *Analysis Areas* below. The RFA must specifically describe the site boundary
 21 and provide a map showing the site boundary, including all related or supporting facilities. The
 22 minimum required analysis areas are presented in Table 2, *Analysis Areas*.

Table 2: Analysis Areas

| Affected Standard or Resource | Exhibit | Analysis Area ⁶ |
|-------------------------------|---------|--|
| 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 the site boundary and 0.5 miles from the site boundary. |
| Protected Areas | Exh. L | The area within the site boundary and 10 miles from the site boundary. |

⁵ 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.

⁶ The certificate holder should note that analysis areas defined in this Project Order are to be used for the assessment of impacts to the associated resource. The certificate holder 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 RFA complete. It is recommended that the Department be consulted if the certificate holder wishes to propose alternative methods of analysis than field surveys.

Table 2: Analysis Areas

| Affected Standard or Resource | Exhibit | Analysis Area ⁶ |
|---|---------|--|
| Fish and Wildlife Habitat | Exh. P | The area within the site boundary and 0.5 miles from the site boundary. |
| Threatened and Endangered Species | Exh. Q | The area within the site boundary and 5 miles from the site boundary. |
| Scenic Resources | Exh. R | The area within the site boundary and 10 miles from the site boundary. |
| Historic, Cultural and Archaeological Resources | Exh. S | The area within the site boundary. |
| Recreation | Exh. T | The area within the site boundary and 10 miles from the site boundary. |
| Public Services | Exh. U | The area within the site boundary and 20 miles from the site boundary. |
| Noise Control Regulation | Exh. X | The area within the site boundary and extending 1-mile from the site boundary. |

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V. PROJECT ORDER AMENDMENT AND RFA COMPLETENESS

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

Under OAR 345-027-0363(1), until the Department determines a request for amendment to the site certificate is complete, it is a preliminary request for amendment (pRFA). Under OAR 345-027-0363(2), unless the certificate holder agrees to additional time, within 60 days after receipt of a pRFA under type A review, and within 21 days after receipt of a pRFA under type B review, the Department must notify the certificate holder whether the request for amendment is complete. If the pRFA is not complete the Department will notify the certificate holder that it is incomplete, and indicate additional information needed to complete the RFA to the extent that is known to the Department at the time of the notification, including identification of applicable laws and Council standards not addressed in the preliminary request for amendment. The Department may specify a date by which the certificate holder must submit additional information needed to complete the RFA. Pursuant to OAR 345-027-0363(5), a RFA is complete when the Department finds that the certificate holder has submitted information adequate for the Council to make findings or impose conditions on all applicable laws and Council standards. The Department must notify the certificate holder when the Department finds that the request for amendment is complete. If the Department does not notify the certificate holder as described in OAR 345-027-0363(2), the RFA under type A review is deemed complete 60 days after receipt of a pRFA, and the RFA under type B review is deemed complete 21 days after receipt of a pRFA.

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2 Under OAR 345-027-0363(7) If, after a determination that a request for amendment is
3 complete, the Department identifies a need for additional information during its review of the
4 request for amendment, the Department may request additional information from the
5 certificate holder. If follow-up requests for additional information are needed, the Department
6 may specify dates by which the certificate holder must submit the information. At the request
7 of the certificate holder, the Department may allow additional time for submission of the
8 information. Under OAR 345-027-0363(4), if the certificate holder does not submit the
9 information by the deadline specified by the Department, including any allowed extension, the
10 Council may reject the pRFA. The rejection of a preliminary request for amendment is subject to
11 appeal under ORS 469.403(3).

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13 Pursuant to OAR 345-027-0363(6), after receiving notification from the Department that the
14 RFA is complete, the Department may require the certificate holder to prepare a consolidated
15 request for amendment that includes all revisions to the pRFA and all additional information
16 requested by the Department before the determination of completeness. The Department
17 recommends the certificate holder maintain detailed records of its responses to information
18 requests during the review of the pRFA and ensure that all responses deemed sufficient by the
19 Department are provided in a singular consolidated document with all of the most recent
20 information.

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22 Upon a request by the Department, the certificate holder must submit printed and non-copy-
23 protected electronic copies of the consolidated request for amendment to the Department, as
24 specified by the Department.

25 **VI. APPLICABILITY AND DUTY TO COMPLY**

26 Failure to include an applicable statute, rule, ordinance, permit or other requirement in this
27 Project Order does not render that statute, rule, ordinance, permit or other requirement
28 inapplicable, nor in any way relieves certificate holder from the duty to comply with the same.
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30 **OREGON DEPARTMENT OF ENERGY**



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33 Todd R. Cornett, Assistant Director, Siting Division
34 Energy Facility Siting Division
35 Oregon Department of Energy
36

37 Date of Issuance: December 23, 2021