



# Oregon

Kate Brown, Governor



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November 10, 2022

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**RE: Department Determination on Type B Review Amendment Determination Request (Type B Review ADR) on Request for Amendment 1 of Oregon Trail Solar Site Certificate**

Dear Ms. Goland,

On August 19, 2022, the Oregon Department of Energy (Department) received Oregon Trail Solar, LLC's (certificate holder) preliminary Request for Amendment 1 (pRFA1), inclusive of a Type B Review Amendment Determination Request (Type B Review ADR), for the Oregon Trail Solar Site Certificate.

In RFA1, the certificate holder seeks Energy Facility Siting Council (Council) approval to amend two site certificate conditions, Condition 24 and Condition 50. The request to amend Condition 24 would extend the construction commencement date from August 30, 2022 to August 30, 2025, and also results in a three year extension of the construction completion deadline. The request to amend Condition 50 would clarify that cultural monitoring applies during collection line trenching at depths of 12 inches or greater rather than during all ground disturbance activities. Based on review of pRFA1, the Type B Review ADR and the evaluation presented below (Attachment 1), the Department determines that Type A review be maintained. Council will be provided notice of this determination at the November 17-18, 2022 Council meeting.

Please feel free to contact me with any questions or comments.

Respectfully,

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Oregon Trail Solar, Request for Amendment 1 - ODOE Type B Review ADR Determination  
November 10, 2022

## **Attachment 1: ODOE Type B Review ADR Determination**

## **Introduction**

Energy Facility Siting Council (EFSC or Council) rules describe the process for Type A and Type B review of a request for amendment at OAR 345-027-0351. The Type A review is the standard or “default” site certificate amendment process. Under OAR 345-027-0357(3), a certificate holder may submit a request for a written determination from the Department of whether a proposed site certificate amendment justifies the Type B review process described in OAR 345-027-0351(3), but the certificate holder has the burden of justifying review under the Type B process based on an evaluation of factors identified in OAR 345-027-0357(8).

As is referenced in the Type B Review ADR, the certificate holder requests that the Department consider, based on review of the OAR 345-027-0357(8) factors and information contained in pRFA1, that Type B review is justified.

## **Changes Proposed in Request for Amendment 1**

### ***Evaluation – OAR 345-027-0357(8) Factors***

#### *(a) The complexity of the proposed change*

The certificate holder suggests that the changes proposed in pRFA1 are not complex because: there are no changes proposed to previously approved facility components, site boundary or micro siting areas. The certificate holder describes that the proposed condition amendments are administrative in nature and would not impact their ability to comply with any other existing site certificate conditions.

The Department disagrees that the request to extend the construction commencement deadline is administrative and non-complex. Given the history and heritage of the wind micro siting area extending to pre-2010 and the certificate holder’s reliance on historic data for RFA1, the process required by the Department, Council, reviewing agencies and the public, should they choose to evaluate the information being relied upon, includes searching through historic files, extracting data and facts from these historic files and reviewing maps and figures in efforts to apply previously compiled information for a different project (Montague Wind Project) to the current project. For these reasons, the Department concludes that the evaluation of the request to extend the construction deadline is complex.

#### *(b) The anticipated level of public interest in the proposed change;*

The certificate holder suggests that the level of public interest should be anticipated as low because the proposed changes are administrative in nature and because the level of public interest in the past for prior amendments for Montague Wind Power Facility was low, noting that for Request for Amendment 5 of the MWP Facility Site Certificate, which resulted in the approved site certificate, received two comments from the general public.

The Department considers public interest in the amendment request to be moderate. The Montague Solar Facility, which is adjacent to the Oregon Trail Solar micro siting area, is currently under construction. A project that is under construction allows the public and local regulatory agencies the ability to observe actual project construction and associated impacts. The “actual” impacts being realized for a project that is adjacent to and being developed by the same underlying parent company, Avangrid Renewables, LLC, has the potential to result in greater interest in the outcome of this amendment. For these reasons, the Department concludes that there is a potential for higher level of interest in the outcome of this amendment request.

*(c) The anticipated level of interest by reviewing agencies;*

The certificate holder states that due to the administrative nature of the requested changes, that the level of reviewing agency interest should be anticipated to be low. The certificate holder explains that they have been coordinating with the Confederated tribes of the Umatilla Indian Reservation (CTUIR) on the requested change to Condition 50(b) and that the proposed change to Condition 50(b) is a result of that coordination. The certificate holder represents in RFA1 that they have coordinated with the Gilliam County Planning Department, Oregon Department of Fish and Wildlife, Department of State Lands, the CTUIR, and local service providers (Gilliam County Fire Services and the Gilliam County Sheriff's Office) prior to submittal of pRFA1.

The Department is statutorily obligated to consult with reviewing agencies to support review by subject matter experts of the potential issues and impacts resulting from a proposed facility change. Substantive comments have been received on RFA1 from: Gilliam County Planning Department, Oregon Department of Agriculture, Oregon Department of Fish and Wildlife, and CTUIR. Therefore, the Department concludes that reviewing agency interest is pre-established at a moderate level.

*(d) The likelihood of significant adverse impact;*

The certificate holder asserts that the requested amendment will not create significant new impacts affecting those resources protected by the Council's siting standards and will not alter the basis of the Council's previous findings that the facility complies with all applicable laws and standards. Council has previously found that the facility, with mitigations and conditions, can be constructed and operated without resulting in a significant adverse impact.

The Department concludes that the changes proposed in RFA1 are not likely to result in new, significant adverse impacts not previously evaluated by Council.

*(e) The type and amount of mitigation, if any.*

The certificate holder states that because there are no new impacts resulting from this amendment request, there would not be any new mitigation resulting from the proposed amendment.

The Department concludes that the changes proposed in RFA1 are not likely to result in significant or substantive changes in the type and amount of mitigation needed to address applicable requirements and EFSC standards.

**Amendment Review Process Determination**

In summary, and as presented below in *Table 1: Type B Review – Factor Assessment Summary*, based on the complexity, the anticipated limited level of interest from the public and reviewing agencies, the Department determines that Type A review be maintained for the amendment request.

<b>Table 1: Type B Review ADR Request – Factor Assessment Summary</b>		
<b>OAR 345-027-0357(8) Factors</b>	<b>Type A</b>	<b>Type B</b>
(a) The complexity of the proposed change	X	
(b) The anticipated level of public interest in the proposed change	X	
(c) The anticipated level of interest by reviewing agencies	X	
(d) The likelihood of significant adverse impact		X
(e) The type and amount of mitigation, if any		X