

PUBLIC NOTICE



Obsidian Solar Center - Proposed Order on Site Certificate Amendment 1 & Opportunity to Request a Contested Case

Summary:

Notice Date: September 26, 2023

Site Certificate Amendment Request: Add approximately 169 acres to the site boundary to allow siting of a generation step-up (GSU) substation in an alternate location; and increase length and voltage of aboveground transmission line.

Location of Proposed Changes: North Lake County (see Figure 1 of this notice)

Review Process: Type A

Purpose of Notice:

- 1) To inform the public of the Oregon Department of Energy's (Department or ODOE) issuance of the Proposed Order on Request for Site Certificate Amendment 1 for Obsidian Solar Center (Proposed Order), described further on Page 2 below; and
- 2) To notify individuals or organizations that commented on the record of the Draft Proposed Order of their right to request for a Contested Case proceeding (requirements described in detail starting on Page 3 below).

Deadline to Request a Contested Case Proceeding: October 27, 2023 at 5:00 p.m. PDT

Description of Facility (Approved): The Obsidian Solar Center Site Certificate authorizes construction and operation of a 400-megawatt alternating current (MWac) solar photovoltaic (PV) energy generation facility within an approximately 3,921 acres (6.1 sq. miles) site boundary. The Site Certificate also authorizes construction and operation of 50 MWs of battery storage, a 34.5 kilovolt (kV) electrical collection system, up to four 1-acre collector substations, one 3-acre 115/500 kV GSU substation,

2 miles of 115 kV transmission line, up 2 operations and maintenance building(s), supervisory control and data acquisition (SCADA) system, approximately 50 miles of internal/perimeter roads, and 7-foot-tall perimeter fencing. Construction of the facility or phase must commence by February 2025.

Facility Location (approved): The facility site boundary is in Lake County, approximately eight miles northwest of Christmas Valley. A map of the approved and requested amended site boundary is included in this notice.

Obsidian Solar Center, Request for Site Certificate Amendment 1 - Process Overview:

Request for Site Certificate Amendment: Obsidian Solar Center LLC (certificate holder) filed a complete request for amendment 1 (RFA1) on August 1, 2023. RFA1 seeks approval from the Energy Facility Siting Council (EFSC or Council) to increase the site boundary from approximately 3,921 to 4,091 acres (increase of 169 acres) to allow siting of the GSU substation in an alternate location. Additionally, requested changes include increasing the voltage and length of the transmission line, from 115 to 138 kV and from 2 to 3.2 miles; and increasing the voltage of the electrical collection system from 34.5 to 138 kV.

Draft Proposed Order Issuance: On August 1, 2023 the Department issued a Draft Proposed Order (DPO) on RFA1. The DPO, ODOE's first evaluation of RFA1, included recommended findings of fact, conclusions of law, and recommended new and amended site certificate conditions. In the DPO, the Department recommended EFSC approve RFA1 and issue an amended site certificate.

Draft Proposed Order Public Hearing: Pursuant to OAR 345-027-0367, a public hearing on the DPO was held on August 24, 2023 at the Parks and Recreation

Department Community Hall in Christmas Valley. The public comment period extended from August 1 through August 24, 2023, with the record closing at the conclusion of the hearing.

Council Review of the Draft Proposed Order: At its September 22, 2023 meeting, EFSC reviewed the DPO, DPO comments, and provided comments to the Department for consideration in the Proposed Order.

Proposed Order: The Proposed Order is the Department's second evaluation of the changes proposed in RFA1 and addresses comments provided by Council during their DPO review.

The Proposed Order recommends that EFSC find that a preponderance of evidence on the record supports the conclusions that the portion of the facility within the area added to the site boundary by the amendment complies with all laws and Council standards applicable to an original site certificate application; the amount of the bond or letter of credit required under OAR 345-022-0050 is adequate; and, the facility, with the proposed RFA1 changes, complies with the applicable laws or Council standards that protect a resource or interest that could be affected by the proposed change, subject to recommended conditions; and that EFSC approve RFA1, subject to existing and recommended new and amended conditions. All changes from the DPO are shown in the Proposed Order in underline/strikethrough format. Material changes are summarized in Attachment 1 of this notice.

RFA1 and the Proposed Order are available online at: <https://www.oregon.gov/energy/facilities-safety/facilities/Pages/OSC.aspx>

In Hardcopy: Hard copies of RFA1, the DPO, and Proposed Order are available for public inspection at the following location at no cost:

Oregon Department of Energy
550 Capitol Street NE
Salem, OR 97301
Phone: 971-701-4913
Email: kathleen.sloan@energy.oregon.gov

Please contact the Department to arrange viewing of these documents. Hard copies will be provided at reasonable cost upon request to the Department.

Contested Case: Unlike an application for a site certificate (ASC), there is no requirement that an automatic contested case occur. For Type A amendment review, under OAR 345-027-0371, there is an opportunity to request a contested case proceeding. **Please go to pages 3-4 for information about contested cases for site certificate amendments, including how to request to request a contested case.**

If there are no requests for a contested case within the established deadline, the amendment request will proceed to the Final Order step.

Final Order: Following a contested case proceeding, or the Proposed Order phase if no requests for a contested case are received and granted by EFSC, EFSC will issue a Final Order either approving or rejecting RFA1. If approved, an Amended Site Certificate will be issued.

Receipt of this Notice: Please note that you may be receiving this notice for one or more of the following reasons:

1. You commented in person or in writing on the record of the DPO public hearing conducted under OAR 345-027-0367.
2. You own property within or adjacent to (within 500 feet of) the site boundary or proposed amended site boundary. You will automatically receive all future Council notices regarding this facility.
3. You have requested to receive paper notices on the Obsidian Solar Center. If you wish to be removed from this mailing list, please contact Kathleen Sloan.
4. You have previously signed up via GovDelivery/ClickDimensions to receive email notices related to the facility or all EFSC project-related notices. You will automatically receive all future email notices per your request, unless you unsubscribe via ClickDimensions or by contacting the Department.

Additional information about the facility and updates on the review process is available using any of the following options.

- 1) **Oregon Department of Energy’s webpage:** More details on the Obsidian Solar Center including RFA1, the DPO and the Proposed Order are available online at: <https://www.oregon.gov/energy/facilities-safety/facilities/Pages/OSC.aspx>

Additional resources to help you participate in the state siting process can be found at: <https://www.oregon.gov/energy/facilities-safety/facilities/Pages/Facilities-Under-EFSC.aspx>

- 2) **Updates by email/mail:** Subscribe to ClickDimensions, a self-managed, automated email system that sends notices and updates related to the Obsidian Solar Center as well as any or all other energy facilities and events under EFSC jurisdiction. For more information, please visit: <http://tinyurl.com/EFSC-email>. To receive notices by U.S. Mail, please contact Kathleen Sloan.

Accessibility information: The Oregon Department of Energy is committed to accommodating people with disabilities. If you require any special physical or language accommodations, or need information in an alternate format, please contact Nancy Hatch at 503-378-3895, toll-free in Oregon at 800-221-8035, or email to Nancy.Hatch@energy.oregon.gov

Contested Case Details: A ten-minute video describing the Type A Amendment Contested Case threshold is available at <https://www.youtube.com/watch?v=uBBGGhRXHu8>

Eligibility to Request a Contested Case: (OAR 345-027-0371(5)):

Only those persons, including the certificate holder, who commented in person or in writing on the record of the public hearing described in OAR 345-027-0367 may request a contested case proceeding on the proposed order for an amendment to the site certificate. To properly raise an issue in a request for a contested case proceeding on the proposed order

for an amendment, the issue must be within the jurisdiction of the Council, and the person must have raised the issue in person or in writing on the record of the DPO public hearing, unless the Department did not follow the requirements of OAR 345-027-0367, or unless the action recommended in the proposed order differs materially from the DPO, including any recommended conditions of approval, in which case the person may raise only new issues within the jurisdiction of the Council that are related to such differences. If a person has not raised an issue at the DPO public hearing with sufficient specificity to afford the decision maker an opportunity to respond to the issue, the Council may not grant a contested case proceeding for that issue. To have raised an issue with sufficient specificity, the person must have presented facts at the DPO public hearing that support that person’s position on the issue.

Deadline to submit a Request for a Contested Case: (OAR 345-027-0371(6)): Persons eligible to request a contested case must submit a written request to the Department. To be considered, all requests for contested case must be received no later than **October 27, 2023 at 5:00 p.m. PDT**. Requests may be submitted via U.S. mail, email or fax to the following address:

Kathleen Sloan
Oregon Department of Energy
550 Capitol Street NE, Salem, OR 97301
Fax: 503-373-7806
Email: Kathleen.sloan@energy.oregon.gov

If the Department does not receive the request by **October 27, 2023 at 5:00 p.m. PDT** the requesting person(s) will have waived any right to participate in a contested case, if one is granted.

Contents of a Request for Contested Case (OAR 345-027-0371(6)): Contested case requests must include:

- (a) The person's name, mailing address and email address and any organization the person represents;
- (b) A short and plain statement of the issue or issues the person desires to raise in a contested case proceeding;

(c) A statement that describes why the Council should find that the requester properly raised each issue, as described in OAR 345-027-0371(7), including a specific reference to the person's prior comments to demonstrate that the person raised the specific issue or issues on the record of the public hearing, if applicable;

(d) A statement that describes why the Council should determine that each identified issue justifies a contested case, under the evaluation described in OAR 345-027-0371(9);

(e) Name and address of the person's attorney, if any;

(f) A statement of whether the person's request to participate in a contested case is as a party or a limited party, and if as a limited party, the precise area or areas in which participation is sought;

(g) If the person seeks to protect a personal interest in the outcome of the proceeding, a detailed statement of the person's interest, economic or otherwise, and how such interest may be affected by the results of the proceeding;

(h) If the person seeks to represent a public interest in the results of the proceeding, a detailed statement of such public interest, the manner in which such public interest will be affected by the results of the proceeding, and the person's qualifications to represent such public interest; and

(i) A statement of the reasons why others who commented on the record of the public hearing cannot adequately represent the interest identified in OAR 345-027-0371(6)(h) or (i).

A template Request for Contested Case is provided as an attachment to this Notice, which can be used for submission of a Request in accordance with the submittal requirements outlined in this Notice (OAR 345-027-0371(6)).

EFSC Consideration of Requests for a Contested Case (OAR 345-027-0371(7)-(9))

Before considering whether an issue justifies a contested case proceeding under OAR 345-027-0371(9), the Council must determine that the person requesting a contested case commented in person or in writing on the record of the public hearing and properly raised each issue included in the request. To determine that a person properly raised each issue included in the request, the Council must find that:

(a) The person making the contested case request raised the issue on the record of the public hearing described in OAR 345-027-0367 with sufficient specificity to afford the Council, the Department, and the certificate holder an adequate opportunity to respond to the issue;

(b) The Department did not follow the requirements of OAR 345-027-0367; or

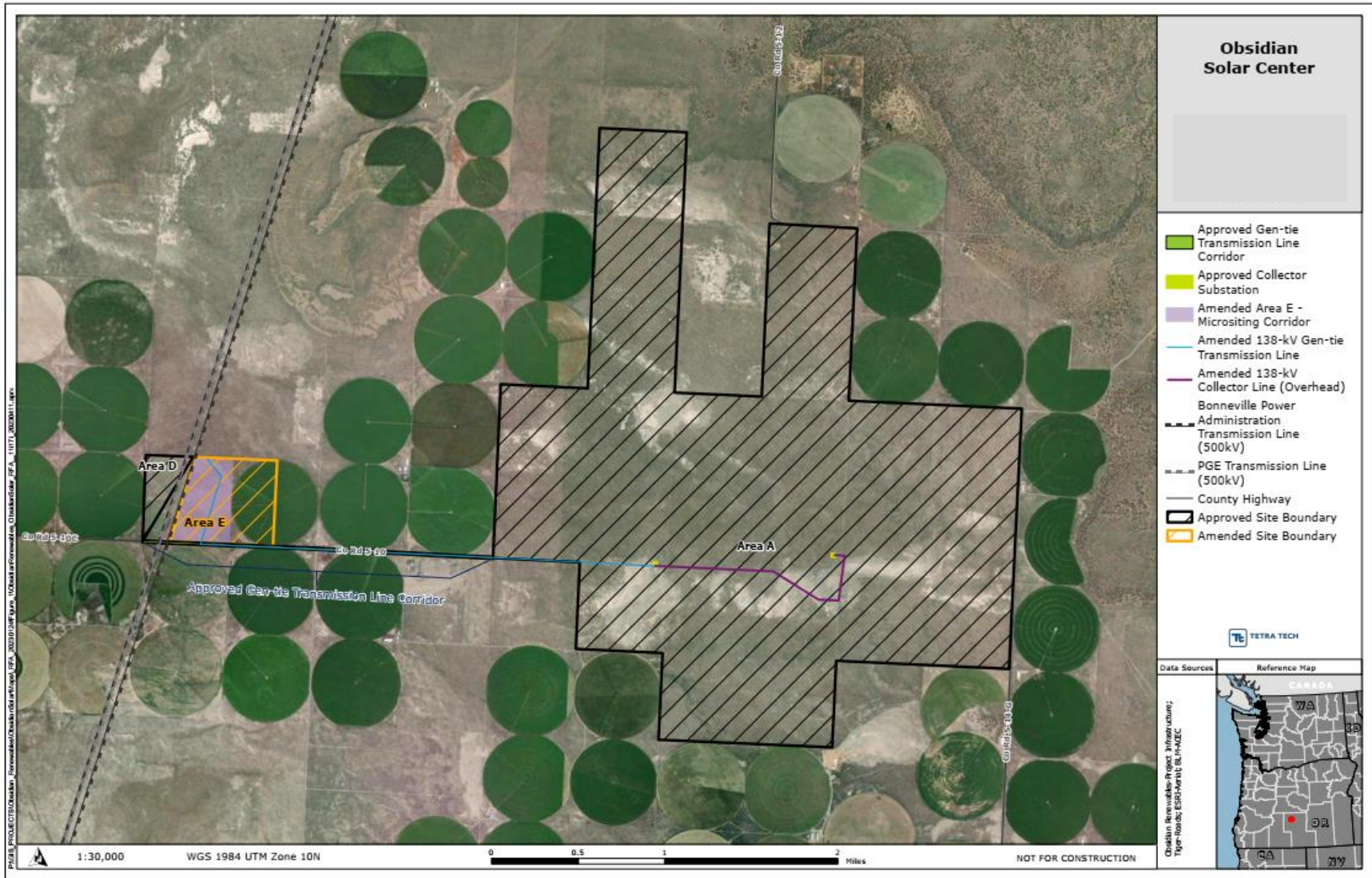
(c) If the action recommended in the Proposed Order, including any recommended conditions of approval, differs materially from the action recommended in the DPO, the contested case request identified new issues that are related to such material differences.

If the Council finds that the person requesting a contested case failed to comment in person or in writing on the record of the public hearing or failed to properly raise any issue, as described in OAR 345-027-0371(7), the Council must deny that person's contested case request. If the Council finds that the person requesting a contested case commented in person or in writing on the record of the public hearing and properly raised one or more issues, the Council's determination of whether an issue justifies a contested case, as described in OAR 345-027-0371(9), must be limited to those issues the Council finds were properly raised.

After identifying the issues properly raised the Council must determine whether any properly raised issue justifies a contested case proceeding on that issue. To determine that an issue justifies a contested case proceeding, **the Council must find that the request raises a significant issue of fact or law that is reasonably likely to affect the Council's determination whether the facility, with the change proposed by the amendment, meets the applicable**

laws and Council standards included in chapter 345 divisions 22, 23 and 24. If the Council does not have jurisdiction over the issue raised in the request, the Council must deny the request.

Figure 1: Obsidian Solar Center – Facility Location - Approved and Proposed Amended Site Boundary



ATTACHMENT 1
Summary of Material Changes from DPO to Proposed Order

Material changes include substantive changes to conditions of approval, an action, or recommendation; or a reversal of an action or recommendation. Material changes do not include updated or revised findings of fact unrelated to a change in a condition.

The following action recommended in the Proposed Order differs materially from the DPO:

- In Section III.N Wildfire Prevention and Mitigation, to address EFSC comments, the Department added findings of fact establishing that the Final Wildfire Mitigation Plan (Attachment X) as referenced in recommended Wildfire Prevention Condition 1 and 2 include requirements to establish a landowner notification process for wildfire at the site. Revisions can be found in the Proposed Order Section to III.N. and Attachment X.

- This template was developed by the Oregon Department of Energy (Department) and is provided as a courtesy for persons seeking to request a contested case on a proposed amendment to a site certificate. Individuals requesting a contested case proceeding are not required to use the template, but use is recommended to ensure requests contain required information and can be efficiently reviewed by Department staff and Council.
- Please contact the Department representative, Kathleen Sloan, to request a Word version of the template.

Request for a Contested Case (Template)

Description	Explanation of Information	Requestor Information
Requestor Name:	Provide Requestor first and last name.	
Requestor Addresses:	Provide physical mailing address and e-mail address, if available.	
Requestor Attorney:	Provide name and address of attorney, if any.	
Authorized Representative:	Provide name of any person(s) authorized by you to represent your issue(s) or confirm your intent to act as an authorized representative for the organization you intend to represent.	
Name of Any Organization Requestor Represents:	Confirm and provide the name of any organization(s) you represent in this proceeding, in addition to yourself.	
Party Status Requested (Limited or Full):	Confirm whether you are seeking to participate as a party or limited party and if as a limited party the precise area or areas in which you seek to participate.	
If seeking to represent a personal interest:	Provide a detailed statement of your personal interest (economic or otherwise).	
	Explain how your personal interest may be affected by the results of the proceeding.	

Request for a Contested Case (Template)

Description	Explanation of Information	Requestor Information
	Provide reasons why existing parties to the proceeding cannot adequately represent the personal interest you have identified.	
If seeking to represent a public interest:	Provide a detailed statement of the public interest you intend to represent.	
	Explain how such public interest would be impacted by the outcome of the proceeding.	
	Provide a reference to your qualifications to represent such public interest(s).	
	Provide reasons why existing parties to the proceeding cannot adequately represent the public interest(s) you have identified.	
Issue Information		
Instructions: Provide information for Items (1) – (2) below for each issue requested for review in the proceeding.		
Issue 1		
Issue Statement:	<p>Provide a <u>short and plain statement of each issue you wish to raise in a contested case</u>, including references to any facts, analysis or recommendations presented in the Proposed Order or Request for Amendment with which you take issue. Please reference any rules or statutes you believe are relevant to the issue(s) you are raising.</p> <p><u>Examples:</u> Issue #1. The evaluation of XX in the [Request for Amendment and/or Proposed Order] is not sufficient to demonstrate the project complies with XX [statute and/or rule] because [briefly summarize your position]; OR Issue #1. I contend the certificate holder does not meet [cite specific Council standard or applicable law] because [provide brief explanation of why you</p>	

Request for a Contested Case (Template)

Description	Explanation of Information	Requestor Information
	believe certificate holder does not meet the cited standard or law)).	
Provide date of DPO comments where issue was previously cited:	For each issue identified in your Issue Statement(s), provide the date and manner (verbal or written) in which you raised the issue(s) on the record of the Draft Proposed Order.	
Provide Statement of how issue raises significant issue of fact or law that is reasonably likely to affect the Council’s determination whether the facility, with the change proposed by the amendment, meets the applicable laws and Council standards:	Statement that describes why the Council should determine that each identified issue justifies a contested case because it raises a significant issue of fact or law that is reasonably likely to affect the Council’s determination whether the facility, with the change proposed by the amendment, meets the applicable laws and Council standards included in chapter 345 divisions 22, 23 and 24.	
Issue 2		
Instructions: If more than 1 issue, continue to provide responses to (1) and (2) for each additional issue requested for review in the proceeding.		
Issue Statement:	<p>Provide a short and plain statement of each issue you wish to raise in the contested case, including references to any facts, analysis or recommendations presented in the Proposed Order or Request for Amendment with which you take issue. Please reference any rules or statutes you believe are relevant to the issue(s) you are raising.</p> <p><u>Examples:</u> Issue #1. The evaluation of XX in the [Request for Amendment and/or Proposed Order] is not sufficient to demonstrate the project complies with</p>	

Request for a Contested Case (Template)

Description	Explanation of Information	Requestor Information
	XX [statute and/or rule] because [briefly summarize your position]; OR Issue #1. I contend the certificate holder does not meet [cite specific Council standard or applicable law] because [provide brief explanation of why you believe certificate holder does not meet the cited standard or law]).	
Provide date of DPO comments where issue was previously cited:	For each issue identified in your Issue Statement(s), provide the date and manner (verbal or written) in which you raised the issue(s) on the record of the Draft Proposed Order.	
Provide Statement of how issue raises significant issue of fact or law that is reasonably likely to affect the Council’s determination whether the facility, with the change proposed by the amendment, meets the applicable laws and Council standards:	Statement that describes why the Council should determine that each identified issue justifies a contested case because it raises a significant issue of fact or law that is reasonably likely to affect the Council’s determination whether the facility, with the change proposed by the amendment, meets the applicable laws and Council standards included in chapter 345 divisions 22, 23 and 24.	
<i>For additional issues, please add rows, copy and fill in the information provided above under Issue 1 and 2</i>		