



ENERGY FACILITY SITING COUNCIL

■ Kent Howe, Chair ■ Cindy Condon, Vice-Chair ■ Marcy Grail ■ Ann Beier ■ Richard Devlin ■ Katie Imes

Energy Facility Siting Council Meeting Minutes

Friday March 21, 2025 8:30 AM

Oregon Department of Energy
550 Capitol St. NE
Salem, OR 97301

- A. Consent Calendar (Action & Information Item)¹ – Approval of January 17, 2025 Meeting Minutes; Council Secretary Report; and other routine Council business.
- B. Madras Solar Energy Facility Amendment 1 (Action Item)²
- C. Application Process Phase 2 Rulemaking (Action Item)³
- D. Public Comment Period⁴
- E. Exemptions Rulemaking Initiation (Action Item)⁵
- F. Modernization Rulemaking Initiation (Action Item)⁶
- G. Wildfire Mitigation Plan Templates (Information Item)⁷
- H. Cascade Renewable Transmission Project (Action Item)⁸

The meeting materials presented to Council are available online at:

<https://www.oregon.gov/energy/facilities-safety/facilities/Pages/Council-Meetings.aspx>

¹ Audio/Video for Agenda Item A = 00:02:49 – 2025-03-21-EFSC-Meeting-Audio/Video

² Audio/Video for Agenda Item B = 01:12:00 – 2025-03-21-EFSC-Meeting-Audio/Video

³ Audio/Video for Agenda Item C = 01:40:25 – 2025-03-21-EFSC-Meeting-Audio/Video

⁴ Audio/Video for Agenda Item D = 02:18:00 – 2025-03-21-EFSC-Meeting-Audio/Video

⁵ Audio/Video for Agenda Item E = 02:34:45 – 2025-03-21-EFSC-Meeting-Audio/Video

⁶ Audio/Video for Agenda Item F = 02:56:55 – 2025-03-21-EFSC-Meeting-Audio/Video

⁷ Audio/Video for Agenda Item G = 03:11:47 – 2025-03-21-EFSC-Meeting-Audio/Video

⁸ Audio/Video for Agenda Item H = 04:18:20 – 2025-03-21-EFSC-Meeting-Audio/Video

Call to Order: Chair Howe called the meeting to order on March 21, 2025, at 8:30 a.m.

Roll Call: Chair Howe, Vice-Chair Cynthia Condon, Council Members Marcy Grail, Katie Imes and Ann Beier were present in person. Council Member Richard Devlin was present virtually.

Oregon Department of Energy representatives present in person were Assistant Director for Siting/Council Secretary Todd Cornett, Senior Siting Analysts Chase McVeigh-Walker, Kellen Tardaewether, and Christopher Clark, Rules Coordinator Tom Jackman and Administrative Assistant Nancy Hatch. Oregon Department of Justice Senior Assistant Attorney General Patrick Rowe was also present in person. Senior Policy Advisor Sarah Esterson was present virtually.

Agenda Modification: There were no agenda modifications.

A. Consent Calendar (Action & Information Item)⁹ –

Approval of January 17, 2025 Meeting Minutes

Council Member Imes motioned the Council approve the minutes of the January 17, 2025 meeting as presented and recommended by staff.

Council Member Beier seconded the motion.

The motion was carried unanimously.

Council Secretary Report – Secretary Cornett provided the following during his report to the Council:

Council and Staff Updates

- Vice-Chair Condon has been appointed to EFSC for a second four year term from December 2024 through the end of June 2028.
- The Department welcomed our new compliance officer, Egan Bull, on March 3, 2025. We are very excited to have him join our team.
- The Department was not able to find an additional siting analyst and will restart that recruitment in the near future.

Project Updates

- Leaning Juniper IIA – On January 31, 2025, Staff issued its determination on an Amendment Determination Request (ADR) from Avangrid Renewables for the Leaning Juniper IIA facility. The ADR sought approval to: 1) change the crane walk disturbance footprint; 2) clarify and expand the decommissioning disturbance area for two wind turbines; and 3) expand a storage yard area at the existing Operations and Maintenance building. Staff determined that none of the changes warranted review through the Council's site certificate amendment process. Per OAR 345-027-0357(6), at the request

⁹ Audio/Video for Agenda Item A = 00:02:49 – 2025-03-21-EFSC-Meeting-Audio/Video

of any Council member, the Department must refer its determination to the Council for concurrence, modification, or rejection.

- Obsidian Solar Center – On February 26, 2025, Staff issued a Type B Review ADR Determination for Request for Amendment 2 of the Obsidian Solar Center Site Certificate, concurring that the amendment request (deadline extension) justified review under the Type B Review process. The Obsidian Solar Center project is located in North Lake County in the vicinity of Christmas Valley on 4,091 acres and was originally approved in February of 2022.
- Deschutes Solar and Battery Energy Storage System: A revised Notice of Intent (NOI) was submitted on February 21, 2025. The applicant is DECH bn LLC, a subsidiary of Brightnight LLC. The Public Notice of Public Comment Period and Public Information Meeting on the NOI was issued on February 26, 2025. The proposed facility is a 1,000 MW photovoltaic power generating facility with a Battery Energy Storage System with up to 1,000 MW storage capacity on 13,626 acres of privately-owned land predominately zoned for Exclusive Farm Use in Wasco County. The Public Information Meeting will be held in person and virtually on March 27, 2025 in Maupin. Public Comment period closes April 25, 2025.
- Sunrise Solar and Storage Project – On February 27, 2025, PacifiCorp filed a Notice of Intent (NOI) for the Sunrise Solar and Storage Project to be located in Morrow County. The proposed facility is an 800 MW photovoltaic power generating facility with a Battery Energy Storage System (BESS) with up to 800 MW storage capacity on 6,981 acres of privately-owned land zoned for Exclusive Farm Use. A public notice of public comment period and a public information meeting on the NOI will be issued at the end of March. The public information meeting is scheduled for April 24, 2025.

Council Member Beier noting that Council has reviewed proposed battery storage facilities, questioned if any battery storage facilities have been constructed in the state.

Secretary Cornett confirmed that there are a few battery storage facilities constructed in the state. He also noted that an information agenda item regarding battery storage and new technologies involving battery storage is being scheduled for a future EFSC meeting.

Compliance and Inspections Updates

Mitigation Plan Amendments

- Wheatridge Renewable Energy Facility III A 50 MW solar power generation facility on 375 acres in Morrow County, operational since 2022. The facility had a habitat mitigation obligation to address the permanent loss of 50 acres of Category 4 habitat. One of the primary enhancement actions required in the Habitat Mitigation Plan (HMP) was to apply a herbicide treatment on 20 acres to result in a 70% reduction in annual grasses. This enhancement action was not successful; resulting in the Department requesting that the certificate holder propose an alternative enhancement action to address failed success. In

January 2025, after over 6 months of review and coordination between certificate holder, the Department and the Oregon Department of Fish and Wildlife (ODFW), the Department approved an amended HMP inclusive of a new enhancement action: planting of sagebrush on 5 acres within the Habitat Mitigation Area, at a rate of 200 seedlings per acre. The Department and ODFW believe this is a well-suited enhancement action for the site and worked with the certificate holder to develop success criteria based on evaluation density – successful planting/living sagebrush at a rate of 70 seedling/acre is the metric to determine success.

- Bakeoven Solar and Daybreak Solar Projects Noxious Weed Plan Amendments – In December 2024, Staff approved a revision to the noxious weed plans of the Bakeoven Solar Project and Daybreak Solar Project, two adjacent solar facilities totaling 200 MW in Wasco County, to allow for sheep grazing at the site. The facilities have been constructed but are not yet fully operational (sheep grazing has not yet occurred at the site). Approval was based on review by staff, in coordination with ODFW, where specific best management practices (BMPs) were agreed upon to be implemented by the certificate holder. ODFW expressed concerns regarding disease transmittal from domestic sheep to big horn sheep. BMPs include use of fewer and older, non-breeding sheep during summer or fall to reduce attracting big horn sheep; issuing letters to adjacent landowners prior to use of domestic sheep onsite; and reporting to ODFW if domestic or big horn sheep are observed outside the fence or in proximity to the site.

Vice-Chair Condon asked if there is a specific timeframe for reviewing the success or failure of a mitigation plan.

Secretary Cornett explained each mitigation plan is different. The specifics of the habitat mitigation area and success criteria are typically established as a stage gate process to evaluate mitigation in terms of year one, year two, year three etc. to determine success or failure of the plan. If the plan is not successful, it is time to regroup and determine a different path to achieve the same ultimate mitigation goal.

Vice-Chair Condon asked if the Department's compliance team would determine the success of the mitigation plans.

Secretary Cornett stated that it depends on the particular mitigation plan, and which agency has capacity and the expertise for the plan. The Department would work to monitor the plan with the applicable agency.

Vice-Chair Condon asked if there were fences to contain the grazing sheep.

Secretary Cornett confirmed that every solar project that gets approved has a perimeter fence around it. The concern is not if the sheep and the big horn sheep are going to interact

together, but whether they will interact with the fence between them and is that interaction enough to potentially spread disease.

Council Member Beier suggested as mitigation plans are becoming more robust, additional compliance presentations from sister agencies would be helpful for Council.

Compliance Updates

- Boardman to Hemingway - In December 2024, the Department received a formal complaint from Ms. Wendy King alleging compliance issues by Idaho Power Company (IPC) for the Boardman to Hemingway project. The alleged compliance issues relate to the preconstruction requirements associated with agricultural impact minimization and mitigation, cultural resource recordation and accuracy of raptor nest surveys. The Department provided Ms. King final mitigation plans; IPC provided survey reports and the results. The Department conducted two phone conferences: one with the King family, and one with the King family and IPC. As the information has been provided and clearly explained, the Department does not believe there are any issues of non-compliance but continues to work with the Kings to make sure that they have the information they need about where the line will be located, the extent of impacts, survey results and protections that will apply during construction. The Department will be seeking confirmation from Ms. King on whether her issues have been resolved in the next month.

Secretary Cornett noted this has been a valuable experience in understanding the frustrations of the public and landowners in navigating the B2H process and to see where and how the Department can work to make information available and support communication to resolve questions and discomfort.

- Biglow Canyon Wind Farm – This is a 450 MW wind facility located in Sherman County and owned by Portland General Electric. There are three issues to report related to the facility. The first is a transformer failure at a wind turbine. Approximately 446 gallons of mineral oil were released and subsequently cleaned up. There was also a small fire in the transformer when technicians arrived which they extinguished with a fire extinguisher. This incident is now closed. The second report was of 3 turbine doors found to be open due to malfunctioning locks. All similar doors will be inspected during the monthly inspection rounds. Any locks found to be defective will be replaced. This incident is also closed. The third issue reported was that a blade shroud and metal support cap were found on the ground near a wind turbine. The turbine is currently offline. Portland General Electric (PGE) will provide an update once the root cause analysis is complete. This incident is therefore still open.

Council Member Imes questioned the compliance report of 3 hatch doors being open due to malfunctioning locks being unusual. She stated her concern is for attempted break in's given the rural setting of the facility.

Secretary Cornett stated that there was no indication of a break-in included in the report. He noted he would follow up with the compliance report for additional confirmation.

Council Member Beier noting the number of compliance issues reported for the site, asked if Biglow Canyon Wind Farm was one of the older wind facilities in the state and when did it become operational.

Secretary Cornett provided the application was approved in 2006 and the facility began operation in 2010. He confirmed it is one of the older wind facilities in the state.

Council Member Grail asked if the certificate holder, PGE, has modified their maintenance schedule in response to the number of issues.

Secretary Cornett referred to an incident on the site regarding a blade liberation which resulted in PGE implementation of additional checking of bolts in the maintenance schedule for the site. As there has been a pattern of transformers failing, PGE has a plan to replace the transformers over time.

Council Member Grail stressed she would like to see PGE proactively overhaul or change their maintenance protocols to prevent issues from occurring rather than reacting to issues after they occur.

Secretary Cornett stated every facility has their conditions of approval which are evaluated on an annual basis. Some incidents are issues of compliance, some are not violations of conditions. Staff determines if issues of compliance are involved and the necessary steps to ensure the issues are addressed and the issues are not reoccurring.

Council Member Beier noted Council is seeing patterns here with particularly the older facilities. She added Council may need to consider proactively adjusting conditions in the future.

Secretary Cornett stated as more sites are constructed and become operational, there are lessons learned. Adjustments in conditions for new applications and site certificates are made from those experiences and lessons.

Vice-Chair Condon questioned if an application for an amendment to a site certificate were received, would that create an opportunity for Council to review and make changes to the conditions in the original site certificate.

Secretary Cornett stated a request for an amendment triggers a particular review of conditions related to the amendment, not a review of all of the previously approved

conditions. There is limited ability for Council to apply later adopted laws for the purposes of public health and safety, though that has never been applied.

Council Member Imes asked if the parent company for Biglow Canyon has other sites in Oregon.

Secretary Cornett stated the parent company is PGE. PGE is the certificate holder for several energy facilities in the State. Most of them are natural gas power plants, but there are some other wind and solar facilities.

Council Member Imes questioned, given the scenario of repeated blade replacement on multiple sites for the same certificate holder due to issues, what would trigger a review of the certificate conditions.

Secretary Cornett stated that it is an operation and maintenance issue if a blade falls off and needs to be replaced. During a repower, all three blades and the nacelle are replaced for most or all of the facility because there is some purpose or value in the upgrade. There are legitimate operational maintenances which do not trigger an amendment.

Counselor Rowe added if there is an issue or concern, the Department would turn to the Compliance team. The Council has the authority to issue a Notice of Violation (NOV) if necessary. The NOV requires the certificate holder to be responsive to the notice and as part of the response, they have to identify what corrective actions they have taken or that they plan to take. If Council was concerned about repeated incidents, Staff and Council would review the compliance action in a corrective action plan from the certificate holder regarding how they would address those issues.

Secretary Cornett noted that the compliance rulemaking process is scheduled for 2025. This is a good conversation to help determine what changes, if any, are needed to the compliance rules.

Council Member Beier stated as Council looks at the compliance rules, there is an opportunity to flag the rules where Council can say if there have been a lot of issues for a certificate holder, there must be a better operational plan.

- Port Westward Generating Project – This is a 650 MW natural gas fired electric plant in Columbia County that is owned by PGE. All natural gas power plants have a 5 year true up reporting requirement to ensure they are not exceeding their forecasted amount of power production. This compliance issue relates to the amount a gas plant has paid for their carbon offsets. If, based on the report, they exceed the forecasted amounts, they must pay additional money for carbon offsets. PGE has not submitted the five-year true up report to the Department within the required 30 days of the anniversary date of beginning commercial operation of Unit 2. As of March 19, 2025 the report was 47 days late. The incident is still open.

Vice-Chair Condon asked for clarification of the number of days the report is late.

Secretary Cornett stated his understanding is the report is 47 days late from the 90 day report due date. He will verify his understanding and clarify at a later date.

Council Member Beier asked does the facility pay at the assigned rate or at the new rate if the facility is short on their carbon credits.

Secretary Cornett provided conditions are related to each facility at the time that they were approved. The offset rate is built into the conditions.

Vice-Chair Condon expressed her concern that the offset rate being set at the time of application approval could be an incentive to underrepresent the carbons at the beginning as rates are rising.

Secretary Cornett explained the certificate holder is not only paying for the amount that they exceeded during that five year, but also for the remaining of the life of the facility.

Legislative Updates – Council was provided an update on EFSC related House and Senate bills currently being proposed in the legislative session. These include:

HB 3631 - EFSC Permitting and Other Statutory Changes: 1) EFSC must conclude contested case and issue final order within 12 months of issuance of proposed order; 2) adds language regarding appeals; 3) EFSC must issue decision on an amendment to make minor changes to site boundary within 14 days of receiving request; 4) EFSC must approve final order for construction time extensions under certain circumstances without an amendment request; 5) changes Public Utility Commission certificate of public convenience and necessity requirements (related to eminent domain); and 6) adds transmission lines of statewide significance to sub 1 uses in Exclusive Farm Use zones in ORS 215.212 and 215.283.

HB 3422 - Goal Exception Criteria: Requires EFSC to make a finding for any facility requiring a goal exception that there are no other areas which do not require a goal exception that could support the facility (i.e., an alternatives analysis).

Vice-Chair Condon asked how would HB3422 change the process for application as other locations would have to be identified.

Secretary Cornett stated the language in the bill is confusing. While it is unclear how EFSC would implement it, an alternative analysis is most probable.

Vice-Chair Condon commented if the House Bill passes, it would dramatically change the responsibility of the applicant.

SB 1034 - Applicable Substantive Criteria: Removes language that allows EFSC to not have to implement all local government applicable substantive criteria and includes language that requires it.

HB 3874 - Wind Facility Jurisdictional Thresholds: Raises the threshold before a wind project would be required to be reviewed by EFSC from 50 MW average (150 MW nameplate capacity) to 100 MW average (300 MW nameplate capacity).

SB 969 - EFSC and NEPA Review: Prohibits EFSC from exercising jurisdiction over an energy facility that is a renewable energy facility or transmission line, is sited wholly within federal lands and is subject to review under NEPA.

Council Member Beier asked if the bill involves projects that are partially Federal land with a NEPA review and partially County land.

Secretary Cornett stated it only involves projects which are entirely located on Federal land.

SB 215, HB 2426, SB 3548, SB 216 - Nuclear Energy Facilities: All variations related to: 1) repealing the requirement that there be a licensed repository for the disposal of high-level radioactive waste; and 2) repealing the requirement that a proposed facility must receive approval from the electors of the state.

SB 994, SB 995, SB 996, SB 997, HB 3565 - Small Modular Nuclear Reactors: All variations related to: 1) repealing the requirement that there be a licensed repository for the disposal of high-level radioactive waste; and 2) repealing the requirement that a proposed facility must receive approval from the electors of the state.

SB 2410 - Small Modular Nuclear Reactor Demo: 1) Allows EFSC to approve demo project in Umatilla County; 2) Directs the Department to prepare report and provide legislature any OAR and ORS needed changes; 3) Establishes demo project fund; and 4) Refers act to the electors of Umatilla County for approval.

SB 398 - Carbon Offset Funds: Reallocates all carbon offset funds received by executive branch agencies, including EFSC's carbon standard, to ODOT's road fund.

Vice-Chair Condon asked if SB 398 involves any changes to the statute regarding the biannual limit to increases in the Carbon offset value.

Secretary Cornett stated he was unaware of any changes, but the bill could be changed based on two related clauses that are included in the bill.

Upcoming Meeting Dates

May 15-16, 2025 - TBD if 2 days are needed.

June 12-13, 2025

Vice-Chair Condon suggested scheduling additional educational sessions during the months without a regularly scheduled Council meeting.

B. Madras Solar Energy Facility Amendment 1 (Action Item)¹⁰ – Chase McVeigh Walker, Senior Siting Analyst. Council reviewed the Proposed Order and any contested case requests. The site certificate authorizes construction and operation of a 63 megawatt (MW) solar facility in Jefferson County. The amendment request sought approval to extend the construction commencement deadline by 3 years.

Council Member Grail expressed her appreciation for the efforts to develop more robust wildfire mitigation plans.

Vice-Chair Condon questioned the language in the General Standard Condition 12 regarding clarifying the limited access right of way to the transmission line. She suggested it should be more specific to who would have access.

Counselor Rowe clarified the intent of the language, noting the intent of the condition is to ensure Tribal access to the transmission line.

After further Council discussion involving the language, the following motion was made.

Council Member Beier motioned the Council Issue a Final Order approving the certificate holder's request for Amendment 1 to the site certificate for the Madras Solar Energy Facility, and Issue the 1st Amended Site Certificate consistent with the Final Order, utilizing the Department's Proposed Order as the basis for the Final Order with the following changes:

Add the following to the end of Condition 12: "unless an access agreement has been executed between certificate holder and line owner, and a copy of such agreement is provided to the Department."

Council Member Devlin seconded the motion.

The motion was carried unanimously.

¹⁰ Audio/Video for Agenda Item B = 01:12:00 – 2025-03-21-EFSC-Meeting-Audio/Video

C. Application Process Phase 2 Rulemaking (Action Item)¹¹ – Tom Jackman, Rules Coordinator presented for consideration by Council permanent rules related to better align the application requirements in OAR 345-020 and 021 with the standards in OAR 345-022 to 345-024 and improve the consistency of rules and the application process.

Council Member Grail stated the proposed changes are going to help members of the public as well as applicants as they make the information more accessible to everyone involved.

Vice-Chair Condon agreed with Council Member Grail's comment, adding her appreciation for the clarity and effort. It is very focused and will make it easier for people coming into the process.

Secretary Cornett stated the application process requires "connecting the dots" between the exhibit requirements and the standards which can be confusing. While changes can be difficult for some people who have understood and done things in a certain way, the new trajectory with the standards and the application requirements connected should result in better clarity for everyone.

Council Member Beier questioned if the miscellaneous informational requirements are still included in the exhibits.

Mr. Jackman provided the miscellaneous informational requirements are included in Division 21. No information requirements have been deleted.

Council Member Beier asked if any comments were received noting that the changes will be helpful.

Mr. Jackman stated that one comment was received that said they appreciated the rulemaking work being done and that these changes were good.

Vice-Chair Condon suggested adding the language: "applicable to energy facilities under EFSC jurisdiction" to the submission requirements set by the project which states: To assist the council in determining compliance with all state and local laws and regulations.

In reference to a comment received from Friends of the Gorge regarding the monthly siting report description of the rulemaking not matching the refined scope of the rulemaking approved by Council, Council Member Grail questioned the legality perspective if there was a challenge to the monthly siting report.

Counselor Rowe noted that the important issue is that Council is consistent with information included in the Notice of Proposed Rulemaking.

¹¹ Audio/Video for Agenda Item C = 01:40:25 – 2025-03-21-EFSC-Meeting-Audio/Video

Vice-Chair Condon suggested adding a background information exhibit or miscellaneous relevant information exhibit to the list of exhibit documents to house additional reviewed materials which are not included or directly tied to a standard or in Division 22.

Council Member Imes questioned if some of the miscellaneous information will eventually be added to specific standards. She referenced water being an important requirement that is not reflected in a specific standard.

Mr. Jackman stated with the rulemaking schedule, Staff is thinking ahead to how the standards are viewed and organized in an effort to streamline locating information requirements. It is possible that some standards could be combined as well as some of the miscellaneous information could be combined into existing standards during the rulemaking process.

Secretary Cornett noted that Council has the statutory authority to create standards. As the Phase 3 rulemakings move forward, if Council determines there is a need for an additional standard (water as an example), a new standard could be developed.

Council Member Imes noted having the exhibits easily accessible to the public to be able to utilize when they are providing comments is important. Water usage for projects is a big requirement and should be a relevant standard.

*Counselor Rowe suggested a change in the Staff recommended language from “To assist Council in determining **that** the standard outlined [above] has been met” to “To assist Council in determining **whether** the standard outlined [above] has been met” to provide better clarity of the Council review process.*

Council Member Grail agreed with Counselor Rowe’s suggestion noting her appreciation for the continued guidance provided to Council from Counselor Rowe, Staff and Secretary Cornett as it aids Council in making sound decisions.

Secretary Cornett reminded Council that a complete application does not necessarily mean a sufficient application. In order for an application to be approved, the applicant must have enough evidence to show that all of the standards have been met.

After discussion, it was determined that the motion for the adoption of the Application Process Phase 2 rulemaking would be tabled to allow for the requested changes in the language to be updated and presented to Council later in the meeting. Following the Public Comment period, Council returned to the discussion and decision on the rulemaking. The suggested changes are:

Regarding the first suggestion: Adding “applicable” to OAR 345-022-0130 to make it clearer that the Council is not responsible for things it is not responsible for.

345-022-0130 – State and Local Laws and Regulations

The suggested change; “To assist the Council in determining compliance with all state and local laws and regulations **applicable to EFSC and the siting process**, submit the following, as directed by the project order described in OAR 345-015-0160.”

Regarding the second suggestion: It is potentially confusing what to call the background information material in Division 21.

OAR 345-021-0010 - Contents of an Application

The suggested change; (3) In addition to the material required in OAR 345, divisions 22 through 24, the applicant must submit **in an exhibit called “Background Information Exhibit”** the following background information about the project to assist the Council in its review of the application.

Vice-Chair Condon suggested changing the second reference of “background information” to “information”.

*Secretary Cornett added that the third suggested change was changing the language “To assist Council in determining **whether** the standard outlined [above] has been met”.*

Mr. Jackman stated that there is some language to that effect included in each of the standards except for the Wildfire Standard as it is recently created standard with a new format which did not require any adjustments.

Council Member Beier questioned if the potential wildfire templates being later reviewed by Council would be referenced under the Wildfire Standard rather than this rulemaking.

Secretary Cornett stated using the template is not a requirement within the Standard or Rulemaking. The applicant has the burden of proof that they meet the Standards for a site certificate. The template is a tool. Circumstances may justify a different approach that still may be legally sufficient.

Vice-Chair Condon motioned the Council adopt the Application Process Phase 2 rules presented in the Staff Report with the following changes :

1. “To assist the Council in determining compliance with all state and local laws and regulations **applicable to EFSC and the siting process**, submit the following, as directed by the project order described in OAR 345-015-0160.”
2. In addition to the material required in OAR 345, divisions 22 through 24, the applicant must submit **in an exhibit called “Background Information Exhibit”** the following

background information about the project to assist the Council in its review of the application.

3. “To assist Council in determining ~~that~~ **whether** the standard outlined [above] has been met”

Council Member Devlin seconded the motion.

The motion was carried unanimously.

D. Public Comment Period (Information Item)¹² – This time was reserved for the public to address the Council regarding any item within Council jurisdiction that is not otherwise closed for comment.

Mr. Alex Joe - He has been following the rulemaking process related to the division movements and consolidation of some of the rulemaking procedures. He questioned how the movements and other changes related to the time involved in EFSC process for project approvals.

Secretary Cornett offered that while there is nothing specific or direct in terms of time, the Department believes the movements will create an opportunity to shorten the completeness review of an application. If applicants have a better understanding of what the standards are, and the application materials that are more directly related to those standards, the application requirements will be clearer and more understandable. The changes could also aid members of the public in making more targeted comments and connect their comments to Council standards. He further explained that as the proposed changes are fairly minor and not substantive, the Council will have the opportunity to approve or deny the changes during the current meeting.

The Public Comment Period was closed.

E. Exemptions Rulemaking Initiation (Action Item)¹³ – Tom Jackman, Rules Coordinator. The Council considered staff’s recommendation to initiate the Exemptions Rulemaking (OAR 345-015-0350 – 0380).

Council Member Devlin questioned, regarding the 50 MW exemption, in the scenario of an applicant being granted the exemption for a project and later requesting another exemption for another project which is close in proximity to the original site, what would be the action by the Council then; to theoretically approve the other exemption or to treat the facility as a larger facility that would need full approval.

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Secretary Cornett stated that the same owner and the two individual facilities which are in proximity does not necessarily mean they're functionally one facility. A review of the circumstances would be required to determine if it is indeed a single facility. Council has created rules related to when multiple solar projects, each that are less than EFSC jurisdiction, can be evaluated to determine if they are functionally a single solar facility that is subject to EFSC jurisdiction. There is no rule for other types of facilities currently.

Council Member Devlin asked if a facility is subject to any local or state regulations that would be applicable if the facility is exempt and not under EFSC jurisdiction.

Secretary Cornett stated that was correct. He noted that the statutes provide which types of facilities are subject to or available for an exception(as referred to in Statute) or an exemption (as referred to in Rule). Applicants would have to meet all other applicable requirements for approval, which typically includes those of the Oregon Department of Environmental Quality as well as local land use requirements.

Council Member Beier questioned what the goals of this rulemaking are. It seems to be multipurpose. Clearly articulating the goals of the rulemaking would be helpful.

Mr. Jackman agreed, noting this rulemaking is more comprehensive. Staff will be reviewing and analyzing everything that is related to the Exemption Rules thoroughly for what is needed, is anything missing, does it make sense and can EFSC enforce it.

Council Member Grail confirmed her understanding that for the focused work group proposed for the rulemaking Staff will reach out to a population of organizations and individuals but that does not preclude members of the public's ability to participate.

Mr. Jackman confirmed that was correct. If a member of the public is interested in the rulemaking, Staff would appreciate the additional input.

Secretary Cornett stated that there is not a legal requirement but in Rulemakings, the Department starts with the idea of a Rulemaking Advisory Committee (RAC). Staff then would need to justify why a RAC is not needed. There will be a public hearing in front of Council with a public comment period for members of the public to testify directly in front of Council on this rulemaking. He further noted there are several ways to track the progress and information for the rulemaking. If members of the public would like to provide information prior to EFSC directing the Department to file with the Secretary of State and initiate a public comment period and a public hearing from the Council, they are welcome to do so.

Vice-Chair Condon questioned if the members of the focus work group are made public as the members of the RAC are.

Mr. Jackman stated the Governor recently included in a letter to state agencies a request for greater transparency with respect to rulemaking. One of the requirements is to make public RAC comments. In addition to making comments publicly available, the members of a RAC and/or a focus workgroup will be made public also.

Vice-Chair Condon noted as the rulemaking is about exemptions, EFSC needs to be as transparent as possible. Members of the public are curious about the development of the exemptions.

Secretary Cornett provided when the Department initiates formal rulemaking, the draft language in the Staff Report will show which organizations Staff reached out to, which organizations responded and the comments that were received.

Council Member Beier noted that the word “exemption” may entice people to the focus workgroup that have not been involved previously. It will be important to represent what the Statute says even as there still may be local and/or state requirements. As an administrative agency, the Department is addressing the rulemaking in an effort to make the intent of the Statute clearer.

Secretary Cornett stated that as part of the rulemaking process, Staff will provide all the background and the history of exemptions that the council has approved in the past, and their current status.

Vice-Chair Condon motioned the Council initiate informal proceedings on the Exemptions Rulemaking, with the scope and objectives recommended in the staff report, approve the creation of a focused work group, and delegate to the Department the authority to reach out to stakeholders to obtain feedback on this rulemaking.

Council Member Grail seconded the motion.

The motion was carried unanimously.

F. Modernization Rulemaking Initiation (Action Item)¹⁴ – Tom Jackman, Rules Coordinator.

The Council considered staff’s recommendation to initiate the Modernization Rulemaking.

Council Member Beier suggested the modernization include the criteria for GIS data to include enhanced scale for better access for the public.

Secretary Cornett provided this is still a conceptual rulemaking with many potential specific proposed changes. With regards to maps, they can be difficult as those that are submitted as part of the application are analog and the scale is limited. This is one of the reasons the

¹⁴Audio/Video for Agenda Item F = 02:56:55 – 2025-03-21-EFSC-Meeting-Audio/Video

Department has created the ORESA tool, to aid the public with the mapping information of projects.

Council Member Imes asked if the proposed rulemaking includes language or consideration regarding resources utilized for data for site certificates.

Secretary Cornett stated that type of information would be applicable during Phase 3 of rulemaking. He noted there are a tremendous amount of different data sets for the resources. Council can specifically evaluate the issue within either a standard or a subset of standards during the next phase of Rulemaking.

Council Member Devlin motioned the Council initiate informal proceedings on the Modernization Rulemaking, with the scope and objectives recommended in the staff report.

Council Member Grail seconded the motion.

The motion was carried unanimously.

G. Wildfire Mitigation Plan Templates (Information Item)¹⁵ – Kellen Tardaewether, Senior Siting Analyst presented draft construction and operational Wildfire Mitigation Plan Templates that may be used under the Wildfire Prevention and Risk Mitigation Standard (OAR 345-022-0115).

Secretary Cornett noted this agenda item is the Department's effort to decrease the number of lessons learned by questioning how we can better improve the Wildfire Prevention and Risk Mitigation Standard for the certificate holders and the Department and the Public.

Council Member Grail suggested encouraging developers to identify an individual who is the "fire boss." As the demand for better wildfire prevention increases, the job requires a large amount of responsibilities which cannot be met by a construction site manager who already has a large workload.

Secretary Cornett noted the large amount of responsibilities required for the mitigation plans for site certificates is the reason for the Department's need to add additional resources to the compliance program. While it is the applicant's responsibility to meet the standards, the Department must have the resources to monitor their availability to provide the adequate resources to do all of the requirements included in the mitigation plans.

Council Member Grail added that it is important for EFSC to be vigilant regarding wildfire mitigation. The weather indicates that there should be concern.

¹⁵Audio/Video for Agenda Item G = 03:11:47 – 2025-03-21-EFSC-Meeting-Audio/Video

Ms. Tardaewether noted every major developer has an emergency and safety response plan which includes a designated order of those in responsibility for protocol. She offered further review of the template for language ensuring a specific individual being the responsible “fire manager” during the construction process.

Secretary Cornett stated that when Council adopted the Wildfire Standard it was known that there would be a learning curve. This is a specific example of the Department moving along the learning curve. Applicants do not have to follow the template, but it is Staff’s evaluation of what is needed and how to meet the standards. It goes a long way in the understanding and knowledge about how to implement the Wildfire Standard. The Department often does not have the time to commit to these types of tools. Recognizing the value and the effort that was put into the template, he noted his appreciation of Staff and their hard work.

Vice-Chair Condon questioned what the process is for updating Wildfire Mitigation plans already in place as additional lessons are learned regarding wildfires.

Chair Howe questioned what the process for updating the Wildfire Mitigation plan would be given the scenario of a site being devastated by fire.

Ms. Tardaewether provided there is an annual review of Wildfire Mitigation Plans which will represent the performance of the Wildfire Mitigation Plan. If there is an issue on the site or new information for prevention of wildfires, the mitigation plan can be updated.

Vice-Chair Condon questioned, given the experience of other facilities with fire, can the lessons learned from other’s experience be brought forward to established wildfire mitigation plans.

Ms. Tardaewether stated there is a table of future best management practices that is utilized by the certificate holder which is updated with current information for wildfire mitigation and prevention. The table of the future best practices intent is to provide a resource for the adaptability of wildfire mitigation plans.

Vice-Chair Condon stated that Council is much in the same place as an insurer. Health and safety is a primary concern for EFSC and with insurers. Insurers encourage adaptation to different standards by fees. EFSC does not have the same mechanism.

Secretary Cornett responded the Standard is what the Standard is when approved. It remains the same unless there is an application for an amendment that is applicable to the entire facility which could open the Standard for changes. There are some adaptive management aspects to the mitigation plans. The question is how much can be built into the operational management plan in response to changes. There are limitations. It is an important element for Council to consider when reviewing the plans for future applications and how much adaptive management is built into that for the various changes in

circumstances. He further noted if there were drastic changes to the environment and the risks became significant, and Council did not review those circumstances for the facilities and there is a legitimate risk to public health and safety, there is an opportunity to utilize the application of later adopted laws for public health and safety provision.

Vice-Chair Condon noting the Wildfire plan is very specific, she asked if it could be changed or adapted should new information be available.

Secretary Cornett stated when Council approves a facility, it is subject to conditions and subject to plan. Council has the authority to build adaptive management plans in the framework or parameters in the plan at the time of execution.

Council Member Beier advised that it is likely that in the next 10 to 15 years there will be new risk maps and Council may need to update mitigation plans. She stated that developers have an incentive to protect their facilities from wildfire. As Council wants to be able to take advantage of new data, new information on risk, developers would want that as well. She noted her appreciation for Staff's approach for "digging in" to the specifics of the Standard. It allows for Council to build better conditions.

Council Member Imes noted her appreciation for Staff's work on the template. She has requested some consistency with fire mitigation for the future, and this is an excellent first step in that pursuit. This is a great documentation tool and aids in setting up historical data for the Council. She further noted it is important, especially in rural communities, that local law enforcement and even county departments and emergency managers are involved in the Wildfire Prevention and Risk Mitigation plans.

Ms. Tardaewether agreed and made note to include law enforcement, county departments and emergency managers in the sharing of final site plan and contact information at facilities in addition to the fire departments.

H. Cascade Renewable Transmission Project (Action Item)¹⁶ – Christopher Clark, Senior Siting Analyst. The Council considered the applicant's request to extend the expiration of the Notice of Intent by one year per OAR 345-020-0060.

Council Member Beier noted the permitting process for this proposed project is complex as it involves a major water body, tribal governments and federal agencies.

Council Member Beier questioned if there is an opportunity for the applicant to request an additional extension for the NOI in the future.

¹⁶ Audio/Video for Agenda Item H = 04:18:20 – 2025-03-21-EFSC-Meeting-Audio/Video

Mr. Clark advised there is not. He further noted that the applicant has indicated that they expect to be able to submit an application later this year. The applicant needs to submit their preliminary application before the expiration date.

Council Member Grail expressed her appreciation for the clear explanation and additional detail to show why the Department recommends that the request demonstrates good cause. It will be a complicated process for the applicant as Council Member Beier noted.

Vice-Chair Condon motioned the Council find that the petition by the applicant to extend the expiration date of the Notice of Intent for the proposed Cascade Renewable Transmission Project demonstrates good cause, as recommended in the staff report; and further moved that the Council approve the extension of the expiration date of the Notice of Intent for the Cascade Renewable Transmission Project by one year, for a new expiration date of March 7, 2026.

Council Member Beier second the motion.

The motion was carried unanimously.

The March 2025 EFSC meeting was adjourned at 1:29 pm
