



Oregon

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To: Energy Facility Siting Council

From: Christopher M. Clark, Senior Siting Analyst

Date: May 30, 2025

Subject: Agenda Item B (Action Item): Obsidian Solar Center, Review of Proposed Order and Possible Final Decision on Request for Amendment 2, for the June 13, 2025, EFSC Meeting

Attachments: Attachment 1: Proposed Order on Request for Amendment 2

STAFF RECOMMENDATION

The Oregon Department of Energy (Department) recommends the Energy Facility Siting Council (EFSC or Council) approve the requested site certificate amendment and grant issuance of the Second Amended Site Certificate for the Obsidian Solar Center, subject to compliance with the existing, recommended amended, and recommended new site certificate conditions described in the Proposed Order.

APPROVED FACILITY

The Obsidian Solar Center (facility) is an approved but not yet-constructed solar photovoltaic power generation facility with up to 400 megawatts (MW) of generating capacity to be located within a 4,091-acre site in Lake County. The certificate holder is Obsidian Solar Center LLC, a subsidiary of Obsidian Renewables, LLC and Lindgren Development, Inc.

PROPOSED FACILITY MODIFICATIONS

In Request for Amendment 2 of the Site Certificate (RFA2) the certificate holder seeks the Council's approval to extend the construction commencement deadline by 3 years, from February 25, 2025, to February 25, 2028. The request would also extend the completion deadline, which is established in the site certificate as three years from the commencement date.

No changes to the site boundary, or to the design, construction, operation, or retirement of the facility are proposed; however, RFA2 includes several proposed changes to plans and site certificate conditions intended to ensure conformity with the deadline extension and address changes in fact and law that have occurred since the site certificate was executed.

RFA2 also included a request for the amendment to be processed under the Type B amendment review process. On February 26, 2025, the Department issued a determination that the Type B process was justified based on its evaluation of the factors listed under OAR 345-027-0357(8).

PROCEDURAL HISTORY

November 20, 2024	Department received preliminary RFA2 with Type B Amendment Determination Request
November 27, 2024	Department issued Public Notice of Receipt of RFA2
December 3, 2024	Department requested comments from reviewing agencies and Tribal government staff
December 11, 2024	Department notified the certificate holder that pRFA2 was incomplete and provided a first set of Requests for Additional Information (RAI1)
January 23, 2025 & February 21, 2025	Certificate holder provided responses to RAI1
February 24, 2025	Department issued second set of RAIs (RAI2)
February 26, 2025	Department issued determination that Type B review process was justified.
March 27, 2025	Certificate holder provided responses to RAI2
April 1, 2025	Department notified the certificate holder that RFA2, with RAI responses, was complete and requested consolidated request with all information.
April 11, 2025	Department received complete RFA2
April 16, 2025	Department issued Draft Proposed Order on RFA2 and issued Public Notice of the Complete Request for Amendment and Draft Proposed Order
May 16, 2025	Public Comment Period ended at 5:00 pm Pacific Time
May 29, 2025	Department issued Proposed Order on RFA2 and issued Public Notice of the Proposed Order

AMENDMENT PROCESS, PUBLIC COMMENTS, AND SCOPE OF COUNCIL REVIEW

This request is being processed under the Council's Type B amendment review process. The Type B review process includes an opportunity for the public to review and provide written public comment on a Draft Proposed Order (DPO) issued by the Department but does not include a public hearing or opportunity for contested case proceeding.

As described above, the public comment period on the DPO concluded on May 16, 2025. Under the Type B process, the Department must consider any written comments received before the close of the record on the draft proposed order and any agency consultation and issue a proposed order recommending approval, modification or denial of the request for amendment to the site certificate no later than 21 days after the written comment deadline.

Three public comments were provided on the record of the DPO. The first comment was provided by the Lake County Planning Director on May 9, 2025, and expresses the County's support for the project. The two other comments, provided by Leeroy Horton and Jeremiah Thorsted on May 16, 2025, are identical in content and express general opposition to the

project and the requested time extension. Exact copies of the comments are included as Attachment B to the Proposed Order, which is attached to this staff report. While general support for and opposition to the project was expressed, none of the comments raised a significant issue of fact of law regarding the facility's compliance with applicable standards with sufficient specificity for the Department to respond, and as such, no material changes were made to the Proposed Order based on the comments. As noted in the section below, the Department made some non-substantive updates to recommended findings and condition language.

After reviewing the Proposed Order, the Council may adopt, modify or reject the proposed order based on the considerations described in OAR 345-027-0375. Under OAR 345-027-0375(2)(b) and (e), in making a decision to grant or deny a request for an amendment to extend the deadlines for beginning or completing construction, the Council must determine that the preponderance of evidence on the record supports the following conclusions:

- After considering any changes in facts or law since the date the current site certificate was executed, the facility 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.

Following review of the proposed order, the Council must issue a final order granting or denying issuance of an amended site certificate. Judicial review of the Council's final order is as provided in ORS 469.403.

DEPARTMENT EVALUATION OF RFA2

In the Proposed Order the Department recommends the Council find that subject to existing, recommended amended and new conditions of approval to address changes in facts and law since the date the current site certificate was executed, the preponderance of evidence on the record supports the conclusion that the facility would comply with all laws and Council standards applicable to an original site certificate application.

The Department recommends that there were no changes in fact or law that would affect the facilities compliance with the following standards:

- Structural Standard (Section III.C., pg. 19-22)
- Protected Areas (Section III.F., pg. 34-40)
- Scenic Resources (Section III.J., pg. 58-61)
- Recreation (Section III.L., pg. 65-67)
- Public Services (Section III.M., pg. 67-76)
- Waste Minimization (Section III.O., pg. 85-87)
- Noise Control Regulations (Section IV.A., pg. 88-97)
- Water Rights (Section IV.C., pg. 98-99)

As such, there are no recommendations to amend conditions of approval associated with these standards. A summary of standards for which the Department recommends changes in fact or law could affect compliance are presented below.

Organizational Expertise (Section III.B., pg. 15-18)

The Department recommends the Council amend Organizational Expertise Condition 5 (GEN-OE-04) to provide additional specificity regarding the requirements for reporting incidents and taking corrective actions.

Soil Protection (Section III.D., pg. 22-24)

The Department recommends the Council impose a new Soil Protection Condition 3 (OPR-SP-01) to address the need for ongoing inspection and maintenance of roads and erosion best management practices during operation of the facility. The condition is recommended, in part, to address findings in a 2023 Geotechnical Report provided by the certificate holder that indicate that the proposed use of compacted native silt and clay soils for access roads at the site of may result in erosion issues due to the potential for those soils to pump and yield in wet conditions. The report recommends that scarification, moisture treatment, and recompaction of road surfaces will likely be needed as roadways deteriorate. As discussed in the Wildfire Prevention and Risk Mitigation section, the report also recommended that gravel or other surfacing would likely be required to support appropriate loading and all-weather access for fire trucks and emergency vehicles.

Land Use (Section III.E., pg. 25-34)

The Department recommends the Council continue to rely on its previous findings and conditions regarding the requirements of the Lake County Comprehensive Plan and Zoning Ordinance; however, the Department recommends the Council make administrative amendments to Land Use Condition 5 (GEN-LU-01) to authorize phased compliance based on applicability of any permits needed for the construction of the facility.

Retirement And Financial Assurance (Section III.G., pg. 40-44)

No changes to the design, construction, or operation of the facility are proposed in RFA2, and the Department recommends the unit costs of labor, equipment, or other rates produced for the initial retirement estimate prepared in 2018 continue to be appropriate for retirement cost estimation. The Final Order on RFA1 used these unit costs and rates to reflect the changes approved in RFA1 and adjusted the estimated total amount of financial assurance in Retirement and Financial Assurance Condition 5 (PRE-RF-02) to Q3 2023 dollars. Since the certificate holder will need to use the 2018 units and rates to produce the final retirement estimate based on final facility design, the Department recommends the Council amend the condition to revert the estimated financial assurance amount to unadjusted Q3 2018 dollars. The amount will be adjusted to current dollars at the time the bond is provided and adjusted annually for inflation thereafter. The Department also recommends the Council add language to the condition clarifying that additional contingencies may be applied if the Department or Council determines they are necessary to reflect the costs to protect public health and safety and the environment and ensure the certificate holder's financial assurance instrument is adequate to restore the site as required by OAR 345-022-0050.

Fish And Wildlife Habitat (Section III.H., pg. 44-55)

No Sage-grouse habitat was identified in the site during the review of the ASC and RFA1; however, revised Oregon Sage-grouse Core and Low-Density Habitat Maps approved by the Oregon Fish and Wildlife Commission on December 15, 2023 identify approximately 1,478 acres of low-density sage-grouse habitat that overlaps with the approved site. As such, the Department recommends the Council find that facility must now comply with the requirements of OAR 345-022-0060(2) and the Greater Sage-Grouse Conservation Strategy for Oregon. The Department recommends the Council continue to rely on its previous findings and conditions with regards to the requirements of the general fish and wildlife habitat mitigation goals and standards.

The certificate holder proposed and ODFW has confirmed that the mitigation actions proposed under the Working Lands Improvement Program included in the approved draft Habitat Mitigation Plan (HMP) are generally appropriate mitigation under both sets of rules, although additional acres or requirements may be needed to satisfy the sage grouse specific requirements. The Department recommends the Council amend Fish and Wildlife Condition 2 (GEN-FW-02) to require the certificate holder to finalize the draft HMP in a manner that satisfies both the general and sage-grouse specific habitat mitigation requirements. The certificate holder also provided a revised draft HMP with changes reflecting the requirements of the amended condition. A copy of the revised draft HMP, with additional non-substantive edits made by the Department, is included as Attachment D of the Proposed Order.

Threatened And Endangered Species (Section III.I., pg. 55-58)

On June 8, 2023, and February 27, 2024, the Oregon Department of Agriculture amended the State List of Threatened and Endangered Plant Species to list additional plant species, including three previously unevaluated species with the potential to occur in Lake County: Lemmon's milkvetch (*Astragalus lemmonii*), Whitebark pine (*Pinus albicaulis*), and Columbia yellowcress (*Rorippa columbiae*). Columbia yellowcress had been identified within 15 miles of the site, the other two newly listed species are not known to occur within the vicinity of the site.

The Department recommends the Council amend the draft Revegetation and Noxious Weed Control Plan to require incidental observations of Columbia yellowcress, as well as previously evaluated species, Bogg's Lake Hedge Hyssop, Crosby's Buckwheat, and Grimy Ivesia, to be recorded during pre-construction noxious weed surveys, and to require avoidance of impacts to areas where any threatened and endangered species are encountered until appropriate mitigation can be determined by the Department, in consultation with Oregon Department of Agriculture.

Historic, Cultural, And Archaeological Resources (Section III.K., pg. 61-65)

The certificate holder requested that the Council amend Historic, Cultural and Archeological Resources Condition 2 (GEN-HC-02) to allow an extension of archaeological permits that were included in, and governed by, the site certificate under the Final Order on the ASC. The Department recommends the Council amend the condition to authorize the administrative extension of the permits and incorporate the new requirements of OAR chapter 736, division 051.

Wildfire Prevention and Risk Mitigation (Section III.N., pg. 76-85)

In RFA2, the certificate holder provided updated draft Construction and Operation Wildfire Mitigation Plans based on templates prepared by the Department. The updated plans contain the provisions of the previous Wildfire Mitigation Plan with new and additional detail related to best management practices (BMPs) to minimize fire risk from vehicle travel, equipment use, and fueling activities, activities restrictions to be implemented during times of heightened fire risk, and procedures for vegetation management and facility inspections.

The draft plans prepared by the certificate holder also contain some revisions to previous representations regarding design features to mitigate wildfire hazard within the site including representations regarding fire access roads, which the Department recommends are not likely to ensure adequate fire access to the site. Specifically, the certificate holder indicates that under current facility designs, the facility would not include perimeter access roads, and internal access roads would be 12-foot wide and made from compacted native soils. The Department recommends the Council find the current plans would likely not provide adequate emergency access to the site based on the requirements of Oregon Fire Code Section 503 and a 2023 Geotechnical Study of the site which indicates that roads should be graveled to provide all-season access for emergency vehicles.

The Department recommends the Council include modifications to the certificate holder's draft plans as shown in Attachments F-1 and F-2 of the Proposed Order to ensure that the certificate holder consults with local fire officials regarding appropriate design criteria for fire access roads prior to beginning construction of the facility. The Department also recommends the Council amend Wildfire Prevention Conditions 1 to 4 (PRE-WP-01, CON-WP-01, PRO-WP-01, OPR-WP-01) to incorporate the updated draft plans, and reflect more standardized condition language.

Removal-Fill (Section IV.B., pg. 97-98)

There are no changes proposed to facility design or construction that would result in different or greater impacts to wetlands waters of the state, including several seasonal playas that were previously delineated at the site. The certificate holder maintains that no removal-fill permit is needed for the site; however, the Department of State Land's jurisdictional determination and concurrence with the certificate holder's current wetland delineation will expire in May 2025. The Department recommends the Council impose a new Removal-Fill Condition 1 (PRE-RM-01) requiring the certificate holder to provide a valid jurisdictional determination from the Department of State Lands prior to construction.

General Standard of Review (Section III.A., pg. 12-15)

Based on the evaluation of Council Standards summarized in the sections above, the Department recommends the Council find that the certificate holder continues to comply with all standards, laws, rules, and ordinances that would be applicable to an original site certificate application and that the certificate holder timely requested an extension of the deadline for beginning construction. The Department further recommends the Council amend General Standard Condition 1 (GEN-GS-01) to reflect the extended construction commencement deadline requested by the certificate holder (February 25, 2028) and to make administrative updates clarifying the criteria for construction commencement.

STAFF RECOMMENDATION

The Department recommends the Council adopt the Proposed Order as the Final Order, and issue an amended site certificate, subject to the recommended findings, conclusions, and conditions of approval in the Proposed Order.