

ENERGY FACILITY SITING COUNCIL

CINDY CONDON, CHAIR ~ ANN BEIER, VICE CHAIR
KENT HOWE, RICHARD DEVLIN, PATRICIA PERRY, DENICE CALDERON, LES WALTON

Energy Facility Siting Council August 20-21, 2026, Meeting Minutes

Thursday, August 20, 2026, 6:00 PM
Gronquist Community Center
1650 Railroad Ave
Arlington, Oregon

Friday, August 21, 2026, 9:30 AM
Columbia River Hotel Conference Room
3223 Bret Clodfelter Way
The Dalles, Oregon

- A. Oregon Trail Solar Amendment 2 – Proposed Order (Public Hearing)¹
- B. Big River Renewable Energy Project Notice of Intent (Informational Meeting)²
- C. Consent Calendar (Information and Action Item)³
- D. 2026 Carbon Dioxide Emissions Offset Rate Rulemaking (Public Hearing)⁴
- E. Klamath Cogeneration Project Amendment 6 - Proposed Order (Public Hearing)⁵
- F. Compliance Rulemaking (Public Hearing)⁶
- G. Public Comments (Information Item)⁷

¹ Audio/Video for Agenda Item A = 00:03:30 Part 1-2026-08-20-EFSC-Meeting-Audio/Video

² Audio/Video for Agenda Item B = 00:23:28 Part 1-2026-08-20-EFSC-Meeting-Audio/Video

³ Audio/Video for Agenda Item C = 00:04:30 Part 1-2026-08-21--EFSC-Meeting-Audio/Video

⁴ Audio/Video for Agenda Item D = 00:54:50 Part 1-2026-08-21-EFSC-Meeting-Audio/Video

⁵ Audio/Video for Agenda Item E = 01:04:00 Part 1-2026-08-21-EFSC-Meeting-Audio/Video

⁶ Audio/Video for Agenda Item F = 01:23:13 Part 1-2026-08-21-EFSC-Meeting-Audio/Video

⁷ Audio/Video for Agenda Item G = 00:00:00 Part 2-2026-08-21-EFSC-Meeting-Audio/Video

H. Radioactive Material Transport Fee Rulemaking (Action Item)⁸

I. Yellow Rosebush Energy Center review of the Proposed Order on ASC, Proposed Contested Case Order, Exceptions Hearing and Possible Material Change Hearing; Possible Final Order Adoption (Information and possible Action Item)⁹

The meeting materials presented to Council are available online at:

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

Thursday, August 20, 2026, 6:00 PM

Call to Order: Chair Condon called the meeting to order at 6:00 pm.

Roll Call

Energy Facility Siting Council Members present in person: Chair Cindy Condon, Vice Chair Ann Beier and Council Members Kent Howe, Richard Devlin, Patty Perry, Denice Calderson, and Les Walton.

A quorum was confirmed.

Oregon Department of Energy representatives present were Assistant Director for Siting/Council Secretary Todd Cornett, Senior Operations and Policy Analyst Sarah Esterson, Rules Coordinator Thomas Jackman, Senior Siting Analyst Chase McVeigh Walker, Senior Siting Analyst Breylen Ammen, and Administrative Assistant Nancy Hatch. Oregon Department of Justice Senior Assistant Attorney General Patrick Rowe was also present.

Agenda Modifications

Secretary Cornett reported no agenda modifications.

Announcements

Chair Condon provided standard meeting instructions regarding audio etiquette, muting, Webex participation, comment procedures, and reminders of respectful conduct pursuant to OAR 345-011-0080. She also reminded attendees that the meeting audio and video were being recorded and may be posted online following the meeting.

⁸ Audio/Video for Agenda Item H = 00:00:08: Part 2-2026-08-21-EFSC-Meeting-Audio/Video

⁹ Audio/Video for Agenda Item I = 00:06:07 Part 2-2026-08-21-EFSC-Meeting-Audio/Video

- A. Oregon Trail Solar Amendment 2 – Proposed Order (Public Hearing)¹⁰** – Chase McVeigh Walker Senior Siting Analyst, outlined that the agenda includes a presentation on Amendment Request 2 for the Oregon Trail Solar Facility, followed by a public hearing. He provided the following:
- Oregon Trail Solar LLC (a subsidiary of Avangrid Power LLC under parent company Iberdrola) holds the site certificate for the Oregon Trail Solar Facility, currently under construction.
 - The approved facility includes up to 16 wind turbines or up to 400 acres of solar PV within a 1,228-acre micrositing corridor, located about 7.5 miles south of Arlington. It includes supporting components, including up to 100 megawatts of battery energy storage.
 - Amendment Request 2 proposes splitting the facility into two separate site certificates: one retained by Oregon Trail Solar LLC, and one newly held by Shuttler Energy Storage LLC. The amendment request also seeks to remove wind turbines from the approved generating components and adjust several site certificate conditions accordingly.
 - The process is currently at the proposed order stage, which includes the hearing and public comment period. The public comment period is open, with comments due to the department by August 28, 2026, at 5:00 pm.

The Public Hearing was called to order at 6:10 pm.

Ms. Esterson, acting as Presiding Officer for the hearing explained requirements for commenters and the order in which commenters would speak, beginning with the certificate holder.

Certificate Holder

Ms. Marcy Patrick, Development Permitting Manager with Avangrid Power LLC, thanked Staff for the work on the amendment request. She noted that Avangrid Power agrees with all the recommendations contained in the staff report.

Public Comments

There were no comments received from members of the Public.

Council Comments

Council Member Calderon asked for clarification on the statutory basis that allows the site certificate to be split into two separate certificates. She requested details on how responsibility for shared infrastructure will be allocated between the two certificate holders, specifically regarding compliance, maintenance, mitigation, financial assurance, retirement, and restoration.

¹⁰ Audio/Video for Agenda Item A = 00:03:30 Part 1-2026-08-20-EFSC-Meeting-Audio/Video

Ms. Esterson provided some shared infrastructure such as a substation, may already be fully covered under one site certificate, including its decommissioning responsibilities. In those cases, a single certificate holder is responsible for that shared asset. However, under the organizational expertise standard, both site certificates are required to have a shared-use agreement. This agreement ensures that when infrastructure is shared, both certificate holders share responsibility, and if there's a problem, both must address it. Ultimately, responsibility depends on which infrastructure is shared and how it is allocated; sometimes it is divided, and sometimes one certificate holder remains solely responsible even for shared assets.

Secretary Cornett asked for clarification of the difference between the certificate holders and the parent company.

Ms. Esterson provided the existing and new site certificates each have their own LLC certificate holder, but both LLCs share the same parent company, Avangrid Power LLC. The ownership structure remains unchanged by the split, both before and after, it is simply an LLC reporting to the same parent company.

Council Member Calderon questioned if this amendment were not approved by council, could both the solar and battery components continue to be constructed and operated under the existing certificate.

Ms. Esterson provided all the equipment is already approved. The infrastructure is approved under the Oregon Trail site certificate now. Authorization would just extend to the new site certificate.

Chair Condon questioned whether the sharing agreement will be part of the record. Ms. Esterson provided it is a pre-operational condition requirement. Prior to the sharing of any infrastructure, the certificate holders must submit a shared use agreement as part of condition compliance.

The Public Hearing was closed at 6:20 pm.

B. Big River Renewable Energy Project Notice of Intent (Informational Meeting)¹¹

Chase McVeigh Walker, Senior Siting Analyst presented the agenda for the meeting which included an applicant presentation, an overview of the siting process, and time for public questions or comments. Comments will be accepted until September 25, 2026. Marissa Johnson and Julia McPherson, representing the applicant, EDP Renewables provided an overview of the proposed project. The meeting was opened for Public Comments:

Public Comments

¹¹ Audio/Video for Agenda Item B = 00:23:28 Part 1-2026-08-20-EFSC-Meeting-Audio/Video

Mr. Randy Davis

- As resident on Highway 19 has experienced years of noise, heavy traffic, and early-morning disturbances from wind and solar construction activity.
- Questioned how much project traffic will use Highway 19 and expressed concern about it becoming an ongoing industrial corridor.
- Raised concerns about repeated repowering.
- Emphasized that local governments and businesses see financial benefits, while nearby residents primarily experience noise, dust, and traffic with no direct benefit.

Ms. Johnson acknowledged many deliveries may come through Arlington via I-84 and Highway 19 and offered to review routing and property location with the resident. She explained typical lifespans and noted repowering usually wouldn't occur before 15–20 years.

Mr. Wendell Baskin

- He represents the Northwest Chapter of the Oregon-California Trails Association (OCTA). OCTA's mission: preserve, protect, and educate about the Oregon Trail. They do not oppose development in the area but want three historic trail routes near a known Oregon Trail campsite, Cedar Springs, formally recognized and protected:
 - **Rock Creek route** (least used).
 - **Middle route** on benches above Rock Creek (increasingly used over time).
 - **Ridge-top route**, where the solar installation is planned.
- He expressed appreciation for the applicant's proactive stance and for Bridget Boyle of Willamette Cultural Resources Associates for her collaborative and proactive work with OCTA.
- The trail segments in the solar project area include Class 1 and Class 2 trail sections, meaning they remain largely unaltered.
- Trail experts may identify additional trail extensions not yet documented.

Ms. Esterson questioned whether the information about the three routes and the sites are publicly available mapped information.

Mr. Baskin provided the information is not private. OCTA is actively working on creating current maps for all the trails.

Ms. Johnson stated her appreciation for OCTA's participation and noted the State Historic Preservation Office has been consulted regarding the proposed site area.

Mr. Stephen Allen, editor of the *Times Journal* in Gilliam County

- Noted the meeting was held in person because multiple project sites were being discussed.

- Expressed appreciation for holding meetings directly in affected communities rather than in Salem.
- Emphasized that large projects significantly impact local communities and landscapes, making on-site engagement important.

Mr. Les Poole - While not opposed to the project, Mr. Poole expressed his concern about the enormity of the development and the need to address key issues early:

- The project spans 30,000 acres, creating major environmental and logistical considerations.
- Early planning should address wildlife corridors, perimeter buffers, and setbacks instead of relying on fencing or hard barriers. The land is currently used for grazing and hunting, which indicates functional wildlife habitat that could be affected.
- Fire risk in the area is high, and local rural fire districts often lack the capacity or authorization to respond to fires within such facilities. Adequate buffer zones are needed to protect neighbors, support habitat, and allow fire response before fires spread off-site.
- Concerns exist about the ability of local roads to handle construction traffic, especially heavy loads like wind turbine components, concrete, and gravel. Clarity is needed regarding which roads can be used and which will be affected, since construction impacts will be ongoing.
- There is a question about how many property owners are involved and whether the project area is a single large tract.
- Community anxiety exists due to previous large projects where corners were perceived as being cut.
- The project size seems unusually large compared to the relatively small 3,000-acre solar component, prompting curiosity about the scale and design choices.

Ms. Johnson responded the following:

- *The applicant will coordinate with permitting experts to ensure wildlife corridors remain intact and there is no fencing planned for wind areas; fencing is mainly relevant to solar portions.*
- *County and state siting standards will determine required setbacks and buffer distances.*
- *Final layout will show fence locations, using the most conservative standards when possible.*
- *Developer typically avoids fences on property lines; solar, battery, and substation fences are set back internally.*
- *More detail on specific neighbor concerns is welcomed for follow-up discussion.*
- *Fire access is a priority; early coordination with fire officials has identified needed access routes, water-tapping options, and cul-de-sacs at turbine rows.*
- *Traffic impacts will be analyzed closely with ODOT and the local roadmaster under a forthcoming road agreement.*
- *Project involves about a dozen landowners; solar area (3,100 acres) belongs to one owner.*
- *Solar acreage is small relative to total area because solar uses land more intensively; wind uses vast acreage but only impacts about 1% of it.*

- *No plans for fencing the full 30,000 acres; wind areas remain open, while solar fencing will likely follow an “islanded” layout with wildlife corridors.*
- *Neighbor engagement encouraged; project team willing to meet directly and review maps.*
- *Emergency response planning, including coordination with first responders, is required for permitting and taken seriously.*

Ms. Esterson noted that Staff are coordinating with the Department of Fish and Wildlife on any site-specific recommendations they might have and will be discussing wildlife corridor opportunities if they are to be utilized for the proposed site.

Mr. Mike Aldrich

- Mr. Aldrich represents about 1,200 iron workers across Oregon and parts of Washington.
- They typically build these types of energy projects and want to partner early with developers.
- Expressed frustration that developers often give labor groups the runaround.
- Requesting early collaboration, noting they can support construction and project planning.
- Iron workers can help recruit apprentices in rural communities, offering good-paying jobs with benefits.

Ms. Johnson acknowledged the outreach and will pass information to the pre-construction team; labor decisions occur once a contractor is hired.

Mr. Clarence Wilson

- Speaker lives in the middle of the project area and is not opposed to solar generally, having worked on solar projects for years.
- Strong concern about fully fenced solar blocks with no wildlife corridors, based on what was done at the nearby 1,200-acre site.
- Emphasizes the need for better planning and clearer information on what the finished project will look like.
- Recently experienced a major fire that came within 30 feet of his home; owns 76 acres within the project area.
- He fears inadequate restoration and fire protection planning.
- Wants assurances that lessons from recent fires and past projects will inform better protections for residents.

Ms. Johnson acknowledged the concerns and stated plans to further direct communication regarding his property and access.

The August 2026 was recessed from 7:24 pm until August 21st at 9:30 am.

Friday, August 21, 2026, 9:30 AM

Call to Order: Chair Condon called the meeting to order at 9:31 am.

Roll Call

Energy Facility Siting Council Members present in person: Chair Cindy Condon, Vice Chair Ann Beier and Council Members Kent Howe, Richard Devlin, Patty Perry, Denice Calderson, and Les Walton.

A quorum was confirmed.

Oregon Department of Energy representatives present were Assistant Director for Siting/Council Secretary Todd Cornett, Senior Operations and Policy Analyst Sarah Esterson, Rules Coordinator Thomas Jackman, Senior Siting Analyst Chase McVeigh Walker, Senior Siting Analyst Breylen Ammen, and Administrative Assistant Nancy Hatch. Oregon Department of Justice Senior Assistant Attorney General Patrick Rowe and Oregon Department of Justice Senior Assistant Attorney General Jesse Ratcliffe were also present.

Agenda Modifications

Secretary Cornett reported no agenda modifications.

Announcements

Chair Condon provided standard meeting instructions regarding audio etiquette, muting, Webex participation, comment procedures, and reminders of respectful conduct pursuant to OAR 345-011-0080. She also reminded attendees that the meeting audio and video were being recorded and may be posted online following the meeting.

- C. Consent Calendar (Action & Information Item)**¹² - Approval of July 24, 2026, Draft Meeting Minutes; Council Secretary Report; and other routine Council business.

Approval of July 2026 Draft Meeting Minutes

Council Member Howe motioned Council approve the June 2026 meeting minutes as presented.

Council Member Devlin seconded.

¹² Audio/Video for Agenda Item C = 00:04:30 Part 1-2026-08-21--EFSC-Meeting-Audio/Video

Council Member Perry abstained from the vote, as she had not attended the previous meeting.

Motion carried.

Secretary Report

Secretary Cornett offered the following in the secretary report:

Site Inspections

On August 20th, ODOE staff and Council attended on-site inspections of Oregon Trail Solar Facility and the Pachwaywit Solar Facility. Council members present were Chair Cindy Condon, Vice Chair Ann Beier, Council Member Kent Howe, Council Member Denice Calderon, and Council Member Les Walton. While there were more than three members present, which establishes a quorum, ORS 192.610(a) states that a meeting does not include any on-site inspection of any project or program or the attendance of members of a governing body at any national, regional or state association to which the public body or the members belong. He stated for the record that Council members did not decide on or deliberate towards any decision while attending the on-site inspections.

Staff updates

Breylen Ammen – Welcome to Breylen Ammen, our newest Senior Siting Analyst. He comes to us from the California Coastal Commission where he reviewed projects consistent to their requirements.

Lindsey King – Our new Compliance Officer, Lindsey King starts on August 24th. She currently has her own business where she provides land use planning services to clients, including conducting floodplain assessments. She previously worked as a Land Use Planner with Marion County.

Project Updates

Wheatridge Energy Facility East Amendment 2

The Wheatridge Renewable Energy Facility East is an operating 200-MW wind project with another 100 MW that must be built by 2028. Its parent company, NextEra, has requested an amendment to divide the project into two separate site certificates, and the process is currently in the comment-response stage. After detailed comments were submitted, the certificate holder asked for more time to respond, and an extension to September 14 was granted.

Speedway Energy Facility

The Speedway Energy Facility submitted its preliminary application on July 24. It is a proposed 1,800-MW project in Sherman County combining solar, wind, and battery storage, owned by Brookfield Renewable.

ODOE now has five preliminary applications under review, representing a heavy workload.

Compliance Updates

Biglow Canyon Wind Farm

This project includes 450 MW of operating wind turbines and 150 MW of solar currently under construction in Sherman County. Recent compliance issues involve inadvertent archaeological finds that were reported properly, and a brief use of an unapproved water source that was quickly corrected. Two turbines experienced partial blade collars falling to the ground, prompting inspections and an ongoing engineering evaluation to determine corrective actions.

Stateline Wind Project

This 222-MW wind facility in Umatilla County reported a missing bolt at a turbine, tied to a known repower design flaw caused by heavier replacement blades. NextEra is working with ODOE and consultants on evaluating the issue and plans to replace all bolts in affected turbines within 90 days.

Wheatridge Renewable Energy Facility East

This operating 200-MW wind facility, with another 100 MW still to be built, received a complaint alleging non-compliance with restoration, reseeding, weed control, and erosion maintenance requirements. An inspection is scheduled to investigate the concerns.

Boardman to Hemingway Transmission Line

This major 500-kV transmission line is under construction across multiple eastern Oregon counties. A request for inspection was submitted regarding compliance with noise mitigation rules for affected landowners. ODOE is reviewing the allegations and will respond within 30 days.

Council Member Walton questioned whether the compliance issues at Biglow Canyon were consistent with some of the failures that were discovered in 2023.

Secretary Cornett stated there have been ongoing issues with bolt failures and parts falling from the facility. While the blade collar problem is relatively new and still in early evaluation, PGE has already been addressing bolt failures for several years. They have a plan in place and are working with contractors, with frequent meetings held to track progress and resolve these issues.

Chair Condon questioned whether there is any communication regarding failures or other equipment issues with other operating developers.

Secretary Cornett stated a parent company for multiple facilities would be aware of the issues. The Department has not made any specific attempt to cross from one parent company to another to explain the issues.

Budget Update

ODOE has a budget webpage, [Energy : Budget : About Us : State of Oregon](#), that contains the details of our current 2025-2027 budget. The 2027-2029 budget being worked on currently. The state budget process occurs on a two-year cycle. The next cycle runs from July 1, 2027, through June 30, 2029. Secretary Cornett presented the series of steps that begin more than a year in advance to establish agency budgets.

Vice Chair Beier questioned the number of employees and consultants that are included in the Siting budget.

Secretary Cornett provided there are currently 14 positions with 1 additional siting analyst position in the budget. He noted as the Siting Division is fee reliant with approximately 75% of the budget being paid for by fees, there is some flexibility in the budget for consultants and other contractors such as Department of Justice.

Council Member Devlin questioned as the division is fee reliant, has there ever been a circumstance when there were few applications or active projects that retaining current staff was put into question.

Secretary Cornett stated while that is a risk with fee reliance, there is more than enough work to bring on several new staff members and the Department will not have any problem finding meaningful and valuable work for Staff to do for the foreseeable future.

Council Member Devlin questioned whether siting staff can perform compliance work if necessary.

Secretary Cornett offered that while there are no shortage of application and amendment work for the foreseeable future, it is possible for the compliance officers to work on applications and that is built into their position descriptions. Similarly, the senior siting analysts have compliance built into their position descriptions as well.

Council Member Devlin questioned whether the compliance work is fee-driven the same as the application process.

Secretary Cornett provided the agency operates on a fee-for-service basis for applications, amendments, and compliance. For applications, Staff estimate the review cost and enter into a cost-reimbursement agreement with the applicant. For ongoing compliance, an annual assessment forecasts the cost based on past activity and expected needs. If incidents or extra inspections occur, costs may change. At year-end, the agency reconciles the actual cost: if they over-collected, funds are reimbursed or rolled forward; if they under-collected, the facility is billed for the difference.

Executive Order 25-29 Council Statement

As requested at the July meeting, Staff has compiled the comments and ideas from Council heard during and after the July meeting that Council may want to include in the final siting report related to Executive Order 25-29. Secretary Cornett presented the following to Council:

1. Projects that are reviewed by EFSC are not publicly funded; they are investments from private entities and groups. It is important that we not risk losing sight of the purpose of EFSC, which is to ensure that Oregon remains the Oregon we all love and want to pass on to future generations. If we try to narrow or simplify the state siting process too much, for the sake of making things a little easier for ~~corporations~~ **applicants**, we risk negative impacts to the landscape for us, and for those who come after us.
2. EFSC relies on comments from tribal, federal, state and local entities in reviewing application materials and in ensuring that evidence supports findings regarding permitting standards. These agencies have other responsibilities and commitments, and timing is outside ODOE jurisdiction.
3. EFSC supports ODOE's ambitious schedule of process improvements intended to clarify and streamline the permit application and review process.
4. Public participation is a foundational component of the state siting process. EFSC appreciates the time and effort associated with all public comments and evaluates them in a meaningful way. While the robust public participation opportunities may impact the timing of reviewing projects, no changes should be made to reduce those opportunities.
5. EFSC understands that outside influences dictate many of the decisions made by renewable energy developers including federal government dictates, market forces (Power purchase agreements, cost and availability of labor, goods and services) and transmission availability.

Council members expressed their support for the statements to be included in the report.

Chair Condon noted as there is confusion with respect to EFSC, Staff and ODOE's role in the Executive Summary, it would be helpful to provide additional information for how Council works with staff and provides them direction and delegations.

Vice Chair Beier inquired when the documents are to be submitted to the Governor.

Secretary Cornett stated the Department aims to finish a final version of its report in time for legislative and committee reviews, with an initial version due to the Governor by September 1 per the Executive Order. The Department has received many public and agency comments and are still evaluating them to determine whether changes to the report are needed. Because the agency is already operating at full capacity, incorporating these mandates and comments is challenging. Some comments propose significant changes to the siting

program, but they often lack detail, making it difficult to determine feasibility, resources required, and next steps. The agency is currently evaluating those comments.

Chair Condon expressed it would be useful for Council to review the comments that have been received.

Secretary Cornett stated he would provide comments to Council. He noted that there were numerous comments regarding not reducing the public participation in the EFSC process.

Chair Condon noted, as mentioned in the report, it is Council's desire to continue to have strong public participation in the process. She would also like to have the large amount of work done on the Compliance program noted in the report.

Rulemaking

Secretary Cornett and Mr. Jackman provided Council an update on the current rulemaking schedule.

- Council sets rulemaking priorities each year; the update reflects progress halfway through the year.
- Three rulemakings are completed: 1) Modernization; 2) Tribal communications; 3) Exemption
- Several rulemakings are currently active: 1) Radioactive material transport fee rulemaking; 2) Compliance and carbon dioxide monetary offset rulemakings; 3) Organizational expertise, retirement, and financial assurance rulemaking. Three advisory committee meetings held so far; fourth scheduled shortly; 4) Soil protection, structural and waste minimization
- Team is working to understand stakeholder interests and what they hope to see in the rulemaking.

Chair Condon stressed her interest in the review of the Organizational Expertise Standard and the rules governing such.

D. 2026 Carbon Dioxide Emissions Offset Rate Rulemaking (Public Hearing)¹³

Mr. Tom Jackman provided Council an overview and background for the rulemaking.

The Public Hearing was opened at 10:29 am by Mr. Jackman acting as Presiding Officer.

There were no public comments provided.

The Public Hearing was closed at 10:32 am.

¹³ Audio/Video for Agenda Item D = 00:54:50 Part 1-2026-08-21-EFSC-Meeting-Audio/Video

Chair Condon provided the Climate Trust selects carbon offset projects based on priorities set by the Council, focusing on projects in Oregon or the Pacific Northwest that offer community or environmental co-benefits. They also look for projects that carry the Core Carbon Principles label and are approved by the Integrity Council for the voluntary carbon market, which sets high ethical and sustainability standards. The Climate Trust seeks innovative projects to help grow the market, and because they review local projects first, this can influence pricing. They also share insights from their broader national work.

E. Klamath Cogeneration Project Amendment 6 - Proposed Order (Public Hearing)¹⁴

Ms. Esterson provided an overview of the existing operational facility and the proposed changes requested for Amendment 6. Amendment 6 seeks to change a condition that required boiler blow down water to be reused in cooling towers prior to the disposal through to the wastewater treatment plant at the city of Klamath Falls. The requested change is to remove that obligation to process the wastewater through the cooling towers and send it straight to the wastewater treatment facility.

The Public Hearing was opened at 10:34 am by Hearing Officer Breylen Ammen acting as Presiding Officer.

Derek Green

Mr. Green, attorney representing the certificate holder, and Jeffrey Durocher, Deputy General Counsel, stated their approval for the Staff's recommendations for approval of the amendment request.

There were no comments received from the Public.

Council Member Calderon questioned the amount of additional cooling tower make up water is required with the requested change.

Mr. Green and Mr. Durocher stated they would gather information from plant staff and provide the information to Council at a later date.

Council Member Calderon emphasized the importance of recognizing water reuse as part of resource management within the Council's waste minimization standard. The facility already shows strong beneficial reuse by using treated municipal effluent for cooling, highlighting how water systems are critical infrastructure. This amendment serves as a reminder that water management is integral to energy facility design and should be viewed not only as waste management but as a key resource consideration.

The Public Hearing was closed at 10:52 am.

¹⁴ Audio/Video for Agenda Item E = 01:04:00 Part 1-2026-08-21-EFSC-Meeting-Audio/Video

F. Compliance Rulemaking (Public Hearing)¹⁵ Mr. Jackman provided background and an overview of the compliance rulemaking and the process for the public hearing. Mr. Jackman, acting as Presiding Officer opened the public hearing for comments. There were no public comments received.

Chair Condon questioned the process for “encourage early correction” as noted in the pre-enforcement notice process.

Mr. Jackman stated while there is not a specific timeframe for corrections, it is a formal process. The compliance officer will exercise their discretion to determine the means for enforcement and timeframes for such.

Chair Condon encouraged the use of a follow-up deadline to prevent continuation of any issues that are not being corrected within a timely manner.

Secretary Cornett stated having good follow up has been a struggle while the Department lacked compliance resources. It is one of many reasons for the current increases in compliance staff and resources. Staff will determine what the reasonable “turn around” time is for corrections and will hold applicants accountable to that time frame.

Council Member Walton suggested generating an early notice that notes the Department is offering this service in an effort to work with certificate holders to make projects safer and fully compliant prior to having to issue a notice violation which could include penalties for failure to comply or for repeat issues. He suggested tightening and possibly increasing the penalties for non-compliance.

Secretary Cornett explained that the agency has long used a pre-enforcement process to encourage compliance before issuing a notice of violation, since such notices are severe and often criticized when used prematurely. The new rules simply formalize this existing approach. If a certificate holder is repeatedly unresponsive, the process will create a clear record that helps determine when a notice of violation becomes appropriate. The goal is to motivate proactive cooperation while preserving a structured path for enforcement when necessary.

The Public Hearing was closed at 11:10 am.

Chair Condon emphasized the importance of rulemaking hearings because outdated rules continue to influence current decisions, making updates essential. Staff now have clearer resources and deadlines, but the Council, who represent the public, needs sufficient information and well-defined requirements to make sound decisions. She appreciates Staff for considering past recommendations and incorporating them into current rule updates. Although

¹⁵ Audio/Video for Agenda Item F = 01:23:13 Part 1-2026-08-21-EFSC-Meeting-Audio/Video

the rulemaking process has been demanding for everyone, it has produced valuable and necessary improvements.

Vice Chair Beier encouraged other Council Members to join some of the Rulemaking Advisory Committees (RAC) and provide their areas of expertise and experience.

G. Public Comments¹⁶

Due to a technical error, the recording for the public comment period are not available. The following comments are from notes taken during the comment period.

Mr. Les Poole

Mr. Poole expressed his concern regarding wildlife corridors, perimeter buffers, and setbacks instead of relying on fencing or hard barriers. He also noted fire risk at facilities is high, and local rural fire districts often lack the capacity or authorization to respond to fires. Adequate buffer zones are needed to protect neighbors, support habitat, and allow fire response before fires can spread off-site. He expressed his appreciation for the work being done by ODOE Staff and EFSC.

H. Radioactive Material Transport Fee Rulemaking (Action Item)¹⁷ Mr. Tom Jackman, Mr. Max Woods and Mr. Matt Henderickson provided Council with an overview for the Radioactive Material Transport Fee.

Chair Condon questioned the reason for a four-year review as opposed to a two- year review.

Mr. Jackman provided there is a balance between the time and energy needed to evaluate the fees and the modest amount of increases allowed per review.

Chair Condon asked why the railways were opposed to the proposed changes, including the new training requirements in the rulemaking.

Mr. Hendrickson provided the key concerns were that railroads cannot predict shipment timing, making permitting difficult. They were unsure how fees would be assessed and paid and questioned how the overall program would be administered. They raised concerns about being charged additional fees. They also noted they already provide emergency responder training.

Council Member Howe motioned the Council adopt the proposed Radioactive Material Transport Fee rules as presented in the Staff Report.

Council Member Devlin seconded the motion.

¹⁶ Audio/Video for Agenda Item G = 00:00:00 Part 2-2026-08-21-EFSC-Meeting-Audio/Video

¹⁷ Audio/Video for Agenda Item H = 00:00:08: Part 2-2026-08-21-EFSC-Meeting-Audio/Video

The motion was passed unanimously.

I. Yellow Rosebush Energy Center – Review of the Proposed Order on ASC, Proposed Contested Case Order, Exceptions Hearing, and Possible Material Change Hearing (ORS 469.370(7)); Possible Final Order Adoption (Information Item & Possible Action Item)¹⁸

Ms. Sarah Esterson presented the format for the complex agenda item.

The agenda item began with a review of the proposed order, excluding issues related to the contested case.

- Applicant is Yellow Rosebush Energy LLC, a subsidiary of Savion LLC.
- Preliminary layout includes solar arrays, a substation, and potential battery energy storage.
- Proposed facility would include up to 800 MW of solar, up to 800 MW of battery storage, a substation, an O&M building, and a 500-kV gen-tie line with two routing options.
- Application timeline: preliminary application received August 2024; deemed complete after 13 months; draft proposed order issued October 2025; proposed order issued December 2025; one individual requested a contested case, ongoing for about nine months.
- Key issues raised in comments included soil protection, public services, wildfire, water quantity and source, and habitat impacts.
- No substantive changes were made to nine standards between the draft proposed order and proposed order.
- Substantive changes were made in the proposed order for standards involving soil protection, land use, public services, wildfire prevention and mitigation, and water rights.

Ms. Esterson and Ms. Tardaewether presented key findings of fact and recommended conditions to address the findings of fact.

General Standard of Review

- Recommendation for Council to delegate future review and approval of several not-yet-final mitigation plans.
- Justification based on impacts depending on final design, which may not be known for up to six years.
- Construction deadlines recommended: start within six years; completion within three years after commencement, consistent with new statute.

Organizational Expertise

- Applicant is a subsidiary of Savion LLC, part of Shell Group.
- Applicant requests reliance on parent company expertise and financial resources.
- Parent company letter states applicant will have access to necessary personnel and expertise.

¹⁸ Audio/Video for Agenda Item I = 00:06:07 Part 2-2026-08-21-EFSC-Meeting-Audio/Video

Structural Standards

- No active faults mapped in the Columbia Plateau analysis area.
- Non-seismic hazards include landslides, erosion, shrinking/swelling soils, volcanic risks.
- Condition recommended requiring a full geotechnical investigation and compliance with structural codes before construction.

Soil Protection

- Site soils have slight to moderate erosion risk.
- Recommended conditions require erosion and sediment control planning and a fugitive dust plan.

Land Use

- Solar project exceeds EFU acreage thresholds; applicant requests Goal 3 exception.
- Recommended approval based on minimal agricultural impact and locational dependency supporting grid connection.

Protected Areas

- No protected areas within the project boundary; no impacts identified.

Retirement and Financial Assurance

- Decommissioning estimate of \$46.2 million considered adequate.
- Applicant appears reasonably able to obtain a bond or letter of credit; Citibank letter indicates interest, not commitment.
- Recommended a condition requiring approved financial assurance prior to construction.

Threatened and Endangered Species

- One plant species could occur; none found in surveyed areas.
- Required pre-construction surveys in unsurveyed transmission corridor; avoid or seek amendment if impact unavoidable.

Scenic Resources

- No significant scenic resources identified, no impacts.

Historic, Cultural, and Archaeological Resources

- Multiple resources present.
- Conditions require avoidance, flagging, buffering, mapping, and an inadvertent discovery plan.

Recreation

- No important recreational opportunities identified, no impacts.

Public Services

- Conditions ensure legal water use and coordination on road impacts.

- Monthly coordination required with the Wasco County Sheriff due to past traffic enforcement issues.
- Condition requiring coordination on worker housing to ensure use of legal RV parks.

Wildfire Prevention and Mitigation

- Conditions require final wildfire mitigation plans for construction and operation.
- Plans include vegetation clearance, coordination with adjacent landowners, and onsite response capabilities.

Waste Minimization

- Conditions require finalized waste minimization plans for construction and operation.

Transmission Line Siting

- Mandatory requirement for compliance with National Electric Safety Code.

Noise Control

- Modeling shows exceedances at six sensitive receptors.
- Condition requires final acoustic modeling or obtaining waivers from affected receptors.

Removal-Fill and Water Rights

- All wetlands and waters avoided; no permit required.
- No water rights requested; exempt well for O&M building must remain under 5,000 gallons/day.
- Condition requires monitoring to maintain exempt status.

Chair Condon expressed her concern that the proposed order overstates the financial institution's commitment. The evidence shows only that the institution is willing to consider providing a bond or letter of credit, not that it has committed to doing so. She also note that the request came through the parent company, Shell, not Savion, and ask that the order clearly reflect the actual level of commitment presented in the record.

Ms. Esterson confirmed her understanding of the concern. She noted Staff will work on clarifying the language and the financial institution's commitment. The requirement will be that the bond or letter of credit, whichever instrument the applicant chooses if the project is approved, would have to be with the LLC.

Council Member Devlin, noting that Savion is a developer and seller of energy facilities, questioned whether selling the project was the intent of the developer.

Ms. Esterson stated not to her knowledge. She noted that is not part of the record base for the proposed order. If the project were to be sold, an amendment would be required.

Mr. Jesse Ratcliffe explained that he will guide the Council through the contested case process because when one attorney handles contested case advocacy on behalf of the Department

Council policy is to have a different attorney advise the Council regarding exceptions to a hearing officer's Proposed Contested Case Order. He stated that the process resembles a trial and encouraged questions as they proceed. Before diving into the contested case details, he noted that a straw poll on the unchallenged portions of the proposed order was planned.

Straw Poll

Council performed a straw poll for the findings of facts, conclusions of law or conditions of approval from the Proposed Contested Case Order minus the exceptions and Proposed Order with the modification of language for the Retirement & Financial Assurance standard noted below.

Retirement & Financial Assurance – We represented that Citi bank has provided a more firm commitment to providing a bond or letter of credit in the findings in the proposed order. Citi bank actually said they are highly interested in providing a bond or letter of credit. The modification will more clearly reflect what Citi bank said. But the finding will continue to conclude the standard is met.

Council approved the straw poll.

Contested Case Overview

Jesse Ratcliffe, Senior Assistant Attorney General

- Explained that the single issue properly raised in the contested case is whether the facility complies with the Council's Fish and Wildlife Habitat standard, which incorporates the Oregon Department of Fish and Wildlife Habitat Mitigation Policy.
- Alvin Alexanderson was the only eligible person to request a contested case. ODOE and the applicant filed motions for summary determination, and the hearing officer granted summary determination in their favor on the single contested issue.
- The hearing officer issued a combined ruling on summary determination and Proposed Contested Case Order. Mr. Alexanderson then filed 14 exceptions. The Department and applicant filed responses.
- Mr. Alexanderson sought leave to file a reply brief, arguing that ODOE's response included new evidence. Chair Condon provisionally granted leave to file the reply, subject to later Council ratification.

Exceptions Hearing - Oral Argument

Council allowed each party 15 minutes for oral argument, with questions generally held until the end of each presentation.

Alvin Alexanderson

- Argued that fencing approximately 5,000 acres of designated mule deer winter range is a significant habitat impact and that the mitigation sequence requires avoidance and minimization before compensatory mitigation.

- Contended that the applicant should have evaluated alternative locations outside mule deer winter range and could have used a transmission line to reach an interconnection point from another location.
- Disputed the acreage-based mitigation analysis and argued that conserving or enhancing 6,675 acres does not necessarily compensate for the loss of access to the habitat within the facility fence.
- Discussed ODFW mule-deer collaring information and argued that the affected deer have relatively small, localized home ranges. He asserted that 'in proximity' mitigation should benefit the animals actually affected by the project rather than mule deer elsewhere in the broader region.

Yellow Rosebush Energy Center LLC

Sarah Stauffer Curtis, attorney for the applicant, responded on behalf of Yellow Rosebush Energy Center LLC.

- Described the applicant's coordination with ODFW beginning before the Notice of Intent, including habitat mapping, wildlife surveys, and repeated consultation regarding avoidance, minimization, and mitigation.
- Stated that the facility layout was modified to reduce impacts to high-priority wildlife connectivity areas, canyon habitat, shrub-steppe habitat, and other higher-value areas.
- Described a draft habitat mitigation plan providing approximately 5,020 acres at Tygh Ridge Ranch and approximately 1,655 acres within the facility site boundary but outside the fence, for a total of approximately 6,675 mitigation acres. Mitigation would include conservation easements and habitat enhancement.
- Emphasized that ODFW recommended Tygh Ridge Ranch and had concurred with the applicant's mitigation approach.
- Argued that Category 2 habitat does not require an applicant to conduct an alternative-site analysis or avoid all impacts. The applicable sequence allows minimization and compensatory mitigation where impacts cannot practicably be avoided.
- Stated that the applicant would accept an additional condition requiring evidence, during finalization of the habitat mitigation plan, that the selected habitat mitigation area is 'in proximity' as required by ODFW's Habitat Mitigation Policy.

Oregon Department of Energy

Senior Assistant Attorney General Patrick Rowe presented the Department's response.

- Argued that the Council did not need to reopen the contested-case record or return the matter to the hearing officer to take additional evidence concerning whether Tygh Ridge Ranch is in proximity.
- Noted that final habitat mitigation plans are commonly approved before construction in consultation with ODFW because circumstances can change and a mitigation site identified in a draft habitat mitigation plan may not ultimately be available.
- Proposed revised condition language expressly requiring the final habitat mitigation plan to demonstrate, based on evidence and ODFW consultation, that the final habitat mitigation area is in proximity to the proposed facility site.

- Recommended correcting two portions of the Proposed Contested Case Order: removing language suggesting a rebuttable presumption that the Proposed Order is correct, and clarifying that Category 2 mitigation must result in no net loss of both habitat quantity and habitat quality and a net benefit to either quantity or quality.

Council Questions Following Oral Argument

- Council discussed the role of ODFW as the expert wildlife agency and the Council's independent responsibility to determine compliance with its Fish and Wildlife Habitat standard.
- Vice Chair Beier asked whether mitigation would benefit species other than mule deer and how the final habitat mitigation plan would be reviewed. The applicant stated that habitat enhancement is intended to benefit habitat generally, not a single species, and that the final plan would be subject to ODOE review in consultation with ODFW.
- Council Member Devlin asked about the distinction between Category 1 and Category 2 habitat and the role of avoidance. Counsel explained that Category 2 includes consideration of avoidance, followed by minimization and mitigation where avoidance is not possible, while Category 1 carries more restrictive requirements.
- Chair Condon asked whether avoidance had actually been considered during project development. The applicant stated that ODFW consultation resulted in significant layout revisions and setbacks from higher-value habitat before the project moved to minimization and mitigation.
- Council Member Perry asked how Council should weigh ODFW's conclusions. Counsel explained that the Council ultimately makes the finding under its own standard, but the standard directly incorporates consistency with ODFW's Habitat Mitigation Policy and ODFW's technical input is therefore significant.

Council Review of Exceptions and Proposed Material Change

Following a short break, Mr. Ratcliffe summarized the hearing officer's disposition of the contested-case arguments and began grouping the exceptions by issue. The first group concerned whether the proposed habitat mitigation area satisfies the 'in proximity' requirement, primarily Exceptions 8, 9, and a related portion of Exception 1.

Mr. Ratcliffe explained that ODFW had supported Tygh Ridge Ranch as a mitigation site and described its habitat value but had not expressly stated in the contested-case record that the site satisfied the rule's 'in proximity' requirement. He advised that the proposed ODOE language requiring an express pre-construction proximity determination would address that gap and recommended treating the change as a material change.

Council members discussed whether to proceed with a material-change hearing immediately or continue the matter to allow the parties and Council additional time to review the proposed language. Council expressed a preference to continue the material-change hearing and remaining exceptions to the September meeting.

Material Change Motion

Council Member Devlin moved that Council adopt the Proposed Order language, including condition language regarding the in-proximity requirement presented by ODOE counsel; treat the language as a material change; set a material-change hearing for September 18, 2026; and direct staff and counsel to provide a report identifying which exceptions are addressed by the modified language and which exceptions remain for Council determination.

Council Member Walton seconded the motion.

Motion carried unanimously.

Council agreed that, because it was proceeding with the proposed condition language, it would not rely on evidence submitted during the exceptions process that was not part of the hearing officer's closed contested-case record.

Ratification of Reply Brief

Council Member Howe moved to ratify Chair Condon's provisional decision granting Mr. Alexanderson leave to file a reply brief.

Vice Chair Beier seconded the motion.

Motion carried unanimously.

Remaining Exceptions and Next Steps

The remaining exceptions, including issues concerning cumulative impacts and interpretation of the no-net-loss requirement, were deferred for consideration at the September 18 meeting pursuant to the material-change motion. Council also requested additional written legal and staff analysis to assist with the remaining exceptions.

Council Member Calderon asked whether an ODFW representative could provide testimony at the continued meeting. Mr. Ratcliffe explained that new ODFW testimony would constitute new evidence and would require reopening the contested case record.

Senior Siting Analyst Kellen Tardaewether presented revised language for the Retirement & Financial Assurance findings to accurately reflect the wording of the Citibank letter. Chair Condon stated that the revision appropriately addressed the concern raised earlier in the agenda item.

Chair Condon adjourned the meeting at 4:09 pm.